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SENATE—*Thursday, October 1, 1970*

The Senate met at 11 a.m. and was called to order by Hon. PAUL J. FANNIN, a Senator from the State of Arizona.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Most merciful and gracious God, as we pause to pray, may we be blessed by a stronger and steadier faith in Thee and be inclined to commit ourselves unreservedly to Thy leading. May we never feel impotent when Thy strength is near, nor be discouraged in finding sound solutions when Thy word has promised that "If any of you lack wisdom, let him ask of God, that giveth to all men liberally, and upbraideth not; and it shall be given him." Impart to us that wisdom Thou hast promised. Grant us perseverance and power for daily work and the confirmation that as we work here we fulfill the divine vocation.

In the name of Him who went about doing good. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication from the President pro tempore of the Senate (Mr. RUSSELL).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 1, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. PAUL J. FANNIN, a Senator from the State of Arizona, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. FANNIN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, September 30, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce and the Committee on Finance both be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of unobjected to items on the calendar, order Nos. 1264 and 1267.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DISPOSITION OF EXCESS REAL PROPERTY

The Senate proceeded to consider the bill (S. 2867) to amend section 202(a) of the Federal Property and Administrative Services Act of 1949 to remove a preference accorded to the District of Columbia over State governments in the disposition of excess real property, which had been reported from the Committee on Government Operations with amendments on page 1, line 9, after the word "Rico,", insert "or in the territory of the Virgin Islands,"; and on page 2, after line 2, insert a new section, as follows:

SEC. 2. Clause (H) of section 203(e)(3) of that Act (40 U.S.C. 484(e)(3)(H)) is amended by inserting therein, immediately after the word "States", the words "the municipal government of the District of Columbia".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 202(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)) is amended by inserting therein, immediately after the words "in section 109(f)", a comma and the following: "except that excess real property situated within any State of the United States or within the Commonwealth of Puerto Rico, or in the territory of the Virgin Islands, shall not be transferred under this subsection to the municipal government of the District of Columbia."

SEC. 2. Clause (H) of section 203(e)(3) of that Act (40 U.S.C. 484(e)(3)(H)) is amended by inserting therein, immediately after the word "States", the words "the municipal government of the District of Columbia".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1245), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 2867 would amend the Federal Property and Administrative Services Act of 1949, to remove a preference now accorded to the District of Columbia over State governments in the disposition of excess real property. As reported by the committee, S. 2867 would prohibit the transfer of excess real property located within any State of the United States, or within the Commonwealth of Puerto Rico, or in the territory of the Virgin Islands, to the government of the District of Columbia, under section 202(a) of the Federal Property and Administrative Services Act of 1949. The bill would also place the government of the District of Columbia on an equal basis with the State under section 203(e)(3)(H) of the Federal Property and Administrative Services Act of 1949, which authorizes the acquisition of surplus Federal real property on a negotiated basis.

BACKGROUND

When the bill S. 2867 was introduced, the sponsor, Senator William B. Spong, of Virginia, explained the need or justification, as follows:

Under existing provisions of the Federal Property and Administrative Services Act of 1949, as amended, federally owned property in any State of the Union, declared surplus to the needs of a Federal agency may be claimed by the government of the District of Columbia, prior to the claim of the State in which the property is located. The responsibility of the Federal Government to the Federal City is recognized, but I doubt that the residents of any State would consider such preferential treatment to be justified.

The inequity of this provision became clear when the Army announced recently that it was inactivating a transmitter station in Virginia and was declaring the land, which had been acquired by condemnation in 1951 from private owners, surplus to the needs of the Army. The State and the county in which the land is located have indicated an interest in acquiring the land for public use and a portion of the land in question lies in the path of a projected parkway. Even the former owners have indicated an interest in reacquiring the property. Yet, under existing law, the municipal government of the District government has first refusal. Admittedly, this situation from a practical standpoint is faced more by the States of Maryland and Virginia than any other State. But conceivably the District could file claim for surplus Federal lands in West Virginia, Tennessee, Pennsylvania, Delaware, Kentucky, or for that matter, in any State of the Union or the Commonwealth of Puerto Rico before the State in which the land is located even had an opportunity to refuse it.

HEARINGS

The ad hoc subcommittee of the Committee on Government Operations held hearings on this and several related bills on October 9, 1969, at which time Senator William B. Spong, Jr., testified that (*a*) he wanted to remove the preferential status which the

District of Columbia has over the disposition of excess real property and (b) the States should be placed on a parity with the District of Columbia government for acquisition of surplus real property.

The General Services Administration, expressed no objection to enactment of the bill and concluded that the determination as to whether the government of the District of Columbia should be treated as a Federal agency, or the same as a State, was a policy decision which it would defer to the views of Congress.

By letter dated October 27, 1969, to Senator James B. Allen, the sponsor of S. 2867 indicated that he had no objection to amending the bill so as to provide that the District of Columbia be included with other public bodies as eligible to acquire surplus real property on a negotiated sale basis, as long as the preferential treatment afforded in section 202(a) is eliminated. The amendment to accomplish that purpose has been incorporated in the bill as reported by the committee.

EXTENSION OF AUTHORITY TO MAKE APPROPRIATIONS TO CARRY OUT SECTION 3 OF THE ACT OF NOVEMBER 2, 1966

The bill (H.R. 12943) to amend section 3 of the act of November 2, 1966, to extend for 3 years the authority to make appropriations to carry out such act was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 91–1248), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE LEGISLATION

The purpose of H.R. 12943 is to extend for an additional 3 years the program to provide for the control or elimination of jellyfish and other such pests in the coastal waters of the United States.

NEED FOR THE LEGISLATION

The need for the legislation arises from the fact that thousands of vacationers are being deprived of water-recreational activities due to the presence of jellyfish. This in turn has an adverse effect on hundreds of businessmen who cater to citizens seeking such recreation. In addition, studies in Mississippi have shown that some jellyfish species consume large quantities of larval menhaden, an important commercial resource in the Atlantic Ocean and Gulf of Mexico.

Most importantly, it is essential that the law be extended to provided advance time for States to secure funds and to plan sound project activities.

GENERAL STATEMENT

Although no method has yet been discovered to control or eliminate the jellyfish problem during the 3 years the law has been in effect, six States and Puerto Rico have participated in the 50–50 matching fund program carried out jointly by the Federal Government and the States, and considerable knowledge toward solution of the problem has been developed. H.R. 12943 would allow these studies and experimental programs to continue.

COST OF THE LEGISLATION

The bill does not alter the total dollar amount authorized to be appropriated. The act authorized to be appropriated not to exceed $500,000 for fiscal year 1968, $750,000 for fiscal year 1969, and $1 million for fiscal year 1970. Actual appropriations have been $100,000 in fiscal year 1968, $225,000 in fiscal year 1969, and $267,000 in fiscal year 1970.

The net effect of H.R. 12943 would be to authorize to be appropriated the residual amount authorized for fiscal year 1970 (i.e., $733,000) during the 3-year period beginning July 1, 1970, and ending June 30, 1973.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to conduct routine morning business.

AN ACCOLADE FOR AMERICA

Mr. PASTORE. Mr. President, Every once in a while—above all the discord that seems to pervade our everyday existence—there is found a note of harmony.

Such a pleasant item of inspiration comes from the activity in my State of Rhode Island—of the women of the Emblem Clubs whose symbol of citizenship is our flag itself.

With all the patriotism shared through their nearness to the Benevolent and protective Order of Elks, these ladies are dedicated to Americanism in their hearts and in their homes.

Indeed, "Americanism" was the theme of a contest recently held among the Clubs of the State—this to be "Americanism" as an anagram poem.

A prize winner from Rhode Island Warwick Emblem Club No. 416 was Mary Appleton. Because of the inspiration of the anagram itself and the incentive that it may be to other organizations and other States, I should like to read it to the Senate, as I believe it will do us all a lot of good.

This is the anagram:

AMERICANISM

A—is for America, the land of the brave
M—stands for her Mercy, for she never will enslave
E—is for Equality, for all men black and white
R—means our Republic—a beacon in the night
I—is for Inspiration she gives to one and all
C—is for her Capitol, a temple strong and tall
A—stands for her Army, for freedom must be sure
N—is for her Navy, her waters to secure
I—means Independence, for each man must be free
S—stands for her fifty States, conceived in liberty
M—stands for her Majesty, on land, in air, on sea

Mr. President, I think that is a lovely poem by a lovely girl. It should serve as an inspiration to all Americans.

I want to thank the Acting President pro tempore, the Senator from Arizona (Mr. Fannin), the majority leader, the minority whip, the Senator from Michigan (Mr. Griffin), and the assistant majority whip, the Senator from West Virginia (Mr. Byrd), for listening to me this morning as I read the anagram.

EXTRAORDINARY LOBBYING BY THE SECRETARY OF AGRICULTURE AGAINST THE AMERICAN FARMER

Mr. SYMINGTON. Mr. President, it is hard to understand why there is such a degree of effort being made by Secretary of Agriculture Hardin, whose responsibility is presumed to be to protect and improve farm income, to nevertheless oppose Senate proposals now being considered in the Senate-House conference on agricultural legislation.

By a series of six letters, all dated September 23, 1970, and all addressed to Congressman W. R. Poage, chairman of the House Agriculture Committee, Secretary Hardin opposes practically all Senate provisions of the bill, including the Senate provision relating to a minimum feed grain price support level of 75 percent of parity or $1.35 per bushel which I sponsored on the Senate floor.

All of the Secretary's recommendations are designed to give him and any other Secretary of Agriculture unprecedented discretionary authority to set farm price supports on food and fiber at extremely low levels, the effect of which could virtually eliminate any price supports at all.

The Senate should not permit this to happen, especially when we now know that farm production costs are increasing at such an alarming rate.

There follow but two examples of these increases:

First. For every $10 that farmers paid in taxes in 1957–59, last month they paid $22.90.

Second. Interest paid on borrowed capital last month average $33.70 for every $10 spent on the same size loan just 10 years earlier.

If American agriculture is to survive these inflationary times, the Congress must enact workable farm legislation which will not only maintain, but actually improve net farm income.

Mr. MANSFIELD. Mr. President, will the distinguished Senator from Missouri yield to me?

Mr. SYMINGTON. I am happy to yield to the Senator from Montana.

Mr. MANSFIELD. I want to express my accord with what the distinguished Senator from Missouri has just said.

May I say for the Record that had the Senate been faced with the farm bill which the House, I would have had to vote against it because it was a monstrosity.

What the Senate did was a good job—not as good as I would like to have seen done—but at least it laid down a base of $1.25 on the wheat which, with the certificates, would bring it up to about $2. That is about the price the farmers have received for the past two decades to my knowledge.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may yield to the Senator from my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, during that period the farmers' costs have gone up and up and up. During that period the cost of bread has gone up and up and up. During that time the farm population of this country has been on a downward slide, numbering between 5 and 6 percent of the population today, whereas the population of the urban and congested areas have gone up to about 76 percent. The trend is up.

So I think we had better stick very tightly to what the Senate has done in passing what on the whole is a good farm bill.

I certainly hope that the Senate conferees will stand firm. If they do not, we can look for a further slide down in the farm economy of this Nation. That disturbs me, because it was the farms, the farmers, and the people living in the small towns of this Nation that gave to this Nation the stability and the strength which is rapidly disappearing because of the changing course of events.

I commend the distinguished Senator from Missouri and state emphatically that I am in accord with his views. I hope that the Senate conferees will not give a single inch.

Mr. SYMINGTON. Mr. President, I do thank the able majority leader. The provisions of the measure are especially punitive to my State. With respect to cotton, the law is most unfortunate as recommended by this administration and later passed by the House. With respect to feed grains, which, of course, also have a primary effect on ultimate price of hogs and cattle, the concept of parity would be entirely eliminated under this proposed bill.

Mr. MANSFIELD. Mr. President, would the Senator yield at that point?

Mr. SYMINGTON. I yield.

Mr. MANSFIELD. Mr. President, I recall that when we tried to increase the percentage to 77 percent during the debate on the agricultural bill, that the chairman of the committee, the Senator from Louisiana (Mr. ELLENDER)—probably the most knowledgeable man on this side of the aisle—stated that he would be willing to accept 75 percent amendment, proposed by the Senator from Missouri (Mr. SYMINGTON) because he had assurances that the administration would be agreeable to it.

Mr. SYMINGTON. Mr. President, I thank the majority leader. As he stated, the 75 percent proposal was my amendment.

Mr. MANSFIELD. The Senator is correct. I had forgotten.

Mr. SYMINGTON. Mr. President, I was very glad that the distinguished senior Senator from Louisiana, the chairman of the Committee on Agriculture and Forestry, said he would accept that amendment.

I understand that, for the first time since the days of the deep depression of the thirties, there has been no formal agricultural bill actually presented to the Congress by the Department of Agriculture, just first considerable discussion with some of the members of the Agricultural Committee of the House.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that I may have 1 additional minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SYMINGTON. Mr. President, as I mentioned, what this bill would actually do is place the future of the American farmer entirely in the hands of the Secretary taking it away from the Congress. I cannot imagine anything more potentially dangerous to the future income of our farmers.

Mr. ALLEN subsequently said: Mr. President, I commend the distinguished Senator from Missouri (Mr. SYMINGTON) and the distinguished majority leader for their support of the Senate version of the agriculture bill. I commend the distinguished majority leader for his statement that he believes that the Senate conferees should stand firm and not agree to any change in the Senate bill. I commend our conferees, and I commend in particular the distinguished chairman of the Committee on Agriculture and Forestry, the Senator from Louisiana (Mr. ELLENDER) for his leadership and for the devising of the formulas contained in the Senate bill.

The distinguished Senator from Missouri has pointed out that under the House bill the parity concept is discarded. That concept must not be discarded. We must retain the parity concept of support of agriculture prices.

Mr. President, a most significant feature of the bill, as it was passed by both Houses, is the fact that there is a payment limitation of $55,000 per crop. Under the present law there was no limitation on payments. We have read in the newspapers where various large organizations, large farm combines, received payments of several hundred thousand dollars for planting, and for not planting crops.

The Senate version of the new bill, which is necessary because the 1965 act was for 5 years, does provide for liimtation of $55,000 per crop.

Another important feature of the Senate version is not in the House bill, but it is a part of the Senate version of the farm bill, and that is that there will be no payment for not planting cotton. All payments would be to encourage planting and to maintain adequate price support, which makes a vast difference.

It is absolutely impossible for the cotton farmer to grow cotton at the world price of around 20 cents per pound, so it is necessary that the Government supplement the price that he can receive in the world market. That is what the Senate version would do—not to pay for not planting cotton, but to maintain a price that will enable the farmer to plant cotton.

At the time the 1965 act became law there was a surplus of around 16.5 million bales of cotton. There is no surplus now; the carryover now is down to below 6 million bales.

So there has been a great change in the situation regarding cotton. There is no surplus. There is a shortage of cotton. So unless we have a farm bill—unless we have the Senate version of the farm bill—we are not going to have sufficient cotton grown in this country to keep our mills busy, to support the agricultural economy of our small cities and towns.

Under the House bill, Mr. President, there is a great land retirement program which would result in the drying up of small towns, small counties, and an exodus of people from the farm. Also, we will go back to the 1958 act if we do not get a farm bill during this session of Congress.

The speeches of the distinguished majority leader and the distinguished senior Senator from Missouri give emphasis to the vital ned to enact a sound farm bill.

It is painfully evident that the American farmer is caught in a vicious cost-price squeeze and that his plight becomes worse with each passing day.

On September 15 the Senate passed its version of the farm bill and, in my opinion, this bill—the Senate version—attempts a constructive approach toward restoring purchasing power in agriculture.

I am sorely distressed over the adamant opposition of the Nixon administration to the bill as passed by the Senate. I would hope that the economic experts at the White House and the Budget Bureau and the Department of Agriculture will soon come to realize that a strong and viable agriculture is essential to the continued economic strength and security of our Nation.

Let me point out that if we do not enact the farm bill this year we will revert to the outmoded 1958 farm program. This would mean that we would be returning to the disastrous era of huge Government investments in loans. It would also mean bulging warehouses again with all the attendant expense to the Commodity Credit Corporation, which ran to more than $7 billion in 1958, more than twice the budget request for the Agriculture Department for the 1971 fiscal year. History tells us that such conditions would not benefit the farmer, the consumer, nor the taxpayer.

I should like to make the observation that President Nixon, perhaps more than anyone else down at the other end of Pennsylvania Avenue, should recognize the necessity of avoiding a return to the unworkable 1958 farm program inasmuch as he was serving as Vice President of the United States during the time when farms throughout the Nation were being liquidated by the thousands and the Public Treasury was being depleted by the billions.

That is what we face if we do not get a farm bill in this session of Congress. We will automatically revert to the 1958 law, which would provide practically the same amount of money to the individual farmer—but it will be in the form of loans at a high level, far above the world market. This would cause the farmer to place his produce into a loan, rather

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than to sell it on the market. If it were dumped on the market by the Government, it would further depress the market.

So we would have the Government ending up with millions of bales of cotton, and millions of bushels of wheat and corn, under the loan programs.

The Senate version of the farm bill will provide an incentive to the farmer to plant cotton, to provide fiber with which the mills can run, and it will not result in filling every warehouse in the country with Government cotton.

I applaud the plea of the distinguished majority leader (Mr. MANSFIELD) that the Senate conferees stand firm behind the Senate version of the farm bill, feeling that it is in the best interest of the Nation, the best interest of the farmers, the best interest of the consumer, and the best interest of the public generally.

I hope that before many days have passed, a conference report embodying the Senate version of the farm bill will be before us for final action.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ALLEN. I am delighted to yield.

Mr. MANSFIELD. I am glad the Senator emphasized cotton, which, of course, is of tremendous importance to his part of the country, just as I have endeavored to emphasize wheat, which is very important to the State of Montana and in general to the Midwest and the Northwestern part of the country.

I would point out that several months ago, while the President was on a trip, he stopped in Fargo, N. Dak. I happened to see some TV clips that evening. As he was shaking hands with the crowd, as is his custom, it seems to me I recall his saying twice distinctly that he was for 100-percent parity for wheat.

So I would hope that the Secretary of Agriculture would pay heed to the words of the President, because, after all, he is only the agent of the President; that he would not continue to exert the pressure which I understand he has been exerting on the House conferees and the House Agriculture Committee; and would recognize that a situation of crisis proportions affects a declining farm economy and a declining rural population and that if something is not done along the lines of the bill the Senate has already agreed to—and that to my mind is a minimum—the consequences may well be disastrous and will bode no good for the future of our country.

I commend the Senator from Alabama for his cogent and forthright remarks.

Mr. ALLEN. I thank the Senator.

PAYMENTS IN LIEU OF TAXES FOR FORMER RECONSTRUCTION FINANCE CORPORATION PROPERTIES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of an unobjected-to bill, Calendar No. 1262, H.R. 4599.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

The bill (H.R. 4599) to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1243), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of this bill is to extend for 2 years from December 31, 1968, the period for which payments in lieu of taxes may be made to State and local taxing authorities by the Federal Government with respect to certain real property on which payments were authorized by Public Law 388, 84th Congress, and to repeal the authorizing statute at the end of that period. H.R. 4599 was reported favorably by the House Committee on Government Operations on March 18, 1970 (H. Rept. 91–926), and was approved by the House of Representatives on April 27, 1970.

Public Law 388, which became law on August 12, 1955, was designed to furnish temporary relief for local taxing authorities which were under an undue and unexpected burden as the result of the transfer of taxable real property from the Reconstruction Finance Corporation, or its subsidiaries, to another Federal agency or department, which transfer operated to take such property out of taxation. The act authorized payments in lieu of taxes with respect to such property only if it was transferred by the RFC, or one of its subsidiaries, to another Federal agency or department on or after January 1, 1946, and only if title to such property has been held continuously by the United States since such transfer.

With respect to real property meeting these conditions, the Government department having custody or control was required by Public Law 388 to pay the local taxing authority for the period commencing on January 1, 1955, and terminating on December 31, 1958, an amount equal to the real property tax which would have been payable on any date on which such taxes would have been due during the specified period if the property were privately owned. Bills extending the program for 2-year periods have been approved by this committee and enacted into law in the 85th, 86th, 87th, 88th, and 90th Congresses. The present extension expired on December 31, 1968, and no further payments have been authorized for periods after that date. Tables showing the payments made, budgeted or allocated by the Department of Defense and the General Services Administration on each property for fiscal years 1967, 1968, and 1969 are set forth in appendix A.

H.R. 4599 would authorize payments under the program for the period commencing January 1, 1969, and terminating December 31, 1970, following which, the program would be terminated. According to information furnished by executive branch agencies, the extension of this program to cover calendar years 1969 and 1970 will involve annual estimated expenditures of approximately $3,100,000 or a total of $6,200,000 for the 2-year period. These payments would be made to 28 cities and counties, one school district and one township, on 26 properties located in 15 States.

BACKGROUND

Basic legislation authorizing or establishing certain Government corporations included provisions subjecting the real property of such corporations to local taxation or requiring that these agencies make payments to local taxing authorities in lieu of taxes. Thus, the real property of the Reconstruction Finance Corporation was specifically made subject to special assessments for local improvements and to State and local taxation to the same extent according to its value as other real property (15 U.S.C. 607).

In addition, the Congress authorized payments in lieu of taxes on real property declared to be surplus by Government corporations when legal title to such property remained in the Government corporations. This authority was continued by section 210(a)(9) of the Federal Property and Administrative Services Act of 1949, as amended (64th Stat. 581), but only as to property declared surplus under the Surplus Property Act of 1944, prior to July 1, 1949. The General Services Administration followed the established policy and practice of leaving legal title to such property in the Government corporation when such property was declared surplus to the needs of such Government corporation and was transferred to another Government agency.

As a result of this practice, local taxing authorities were protected against losses which they would otherwise have incurred when such property was transferred to another Government agency (thus becoming tax exempt); and when the property was finally disposed of to private interests, it was then subject to taxation again, as in the case of any other property.

This procedure worked well until July 15, 1952, when the Court of Claims, in a case involving a subsidiary of the Reconstruction Finance Corporation, held that, although no change in the tax status of property owned by a Government corporation occurs by the mere declaration that it is surplus, when the transferee agency accepts accountability for such property, even though the corporation retains title, it is immediately taken out of taxation. This was based upon the theory that unless the Federal Government specifically consents to waive its immunity from local taxation, its property cannot be taxed. Although such consent had been given in the case of the Government corporation, the court found that the retention by the corporation of legal title, without any retention of control, did not operate to continue the property in a taxable status, so long as it appeared that the transferee agency was the true user and was accountable for such property (*Board of County Commissioners of Sedgwick County v. United States*, 123 Ct. Cls. 304).

In October 1952, the Comptroller General of the United States issued an opinion in a similar situation which resulted in barring payment of taxes by any transferee agency once accountability for the transferred property has been accepted (32 Comp. Gen. 164). The immediate result of the decision and the ensuing opinion of the Comptroller General was to cut off a source of revenue upon which the local taxing authorities had come to rely.

AGENCY COMMENTS

The agency comments received by the committee were made with respect to S. 1184, a companion bill to H.R. 4599, both of which provide for an extension of the program from January 1, 1969, through December 31, 1970. As approved by the House of Representatives, H.R. 4599 was amended to provide for the termination of the program and the repeal of the authorizing statute, as of January 1, 1971. Accordingly, the comments summarized below are directed only to those provisions which would authorize a 2-year extension of the program.

The Bureau of the Budget, the Department of Defense, and the General Services Administration all oppose enactment of this bill. The Comptroller General, noting a basic objection to a piecemeal approach to the general problem of the extent to which Federal property should be subject to State or local taxation, declined further comment on the ground that enactment was a matter of congressional policy.

The Bureau of the Budget, pointing out that the purpose of the original law was to furnish temporary relief from an unexpected burden, stated that the continuation of the program for 14 years has accomplished this objective; that continued extensions may have the unintended effect of causing local taxing authorities to rely increasingly on regular payment of these revenues; and that the Bureau was unable to recommend continuance of the program or favorable consideration of the bill.

The Department of the Army, on behalf of the Department of Defense, advises that the original program provided ample opportunity for State and local taxing authorities to develop alternative sources of revenue; that there is no assurance that continuance of the program would result in a final resolution of the problem; and that, since its extension cannot be supported on the basis of defense requirements, it opposes enactment.

The General Services Administration opposes enactment of the bill and any further extension of the program, noting that (1) it was enacted as a temporary measure in 1955, to alleviate hardships to a number of communities created by the removal of Reconstruction Finance Corporation properties from the tax rolls of State and local taxing authorities, and (2) that the 14-year period of the operation of the program has been more than adequate in duration to permit local authorities concerned to rearrange their tax bases to accommodate the loss of revenue involved. (Comments submitted by the departments and agencies involved on a companion bill, S. 1184, are set forth in appendix B.)

CONCLUSION

Public Law 388 was enacted in 1955 as a 4-year emergency program, designed to alleviate the hardship and unexpected burden to a number of communities throughout the country resulting from the removal of Reconstruction Finance Corporation property from the tax rolls of State and local taxing authorities. During the first 4 years of operation, the owning Federal agencies paid out in lieu of taxes a total of $11,727,834 on 86 properties, and it was anticipated that these properties would be disposed of ultimately by the owning agencies and restored to the tax rolls.

At present, 26 properties remain; of this number, the General Services Administration owns three, and the Department of Defense, 23, distributed, as follows: Air Force, 11; Navy, five; and Army, seven. One Air Force plant in Indiana was sold in 1967; another Air Force plant in Ohio has been declared excess to the General Services Administration for sale to the using contractor; and a Navy plant in Massachusetts has been declared excess to the General Services Administration for sale to the current lessee, subject to a 10-year recapture clause.

Although, since the inception of the program, there has been a substantial reduction in the number of properties upon which payments have been made, and five have been disposed of since 1966, it appears that most of those remaining will probably be retained indefinitely by the owning agencies.

With respect to cost, since the enactment of Public Law 388, in 1955, as of December 31, 1968, total payments under this program have amounted to approximately $46 million. Of this amount, $9,453,000 represents payments made in fiscal years 1966, 1967, and 1968. If the program is extended to cover fiscal years 1969 and 1970, a total of approximately $15,250,000 will have been expended for the 5 fiscal years—1966–70; and when the program terminates on December 31, 1970, total expenditures will have amounted to slightly less than $50 million during the 16-year period, beginning in 1955 and terminating in 1970.

It is the view of the committee, fully supported by the owning Federal agencies, that after 14 years, the affected taxing authorities have had ample opportunity to rearrange their respective tax bases so as to eliminate the unexpected tax hardship which resulted from the original transfers. In the 90th Congress, the committee reluctantly approved legislation to extend this program "in order to afford an additional opportunity to the local taxing authorities involved to rearrange their tax bases." It is difficult to justify or recommend any further extension of a program which, in effect, provides special benefits for 28 cities and counties, one township, and one school district, located in 15 States, which benefits are based solely on the fact that the property for which payments are made were once owned by the Reconstruction Finance Corporation and therefore subject to local taxation.

In this instance, however, the bill, as approved by the House of Representatives, contains a provision which would terminate the program and repeal the authorizing statute, as of January 1, 1971. In order to insure the permanent termination of a program which has long since accomplished the objectives for which it was established, the committee recommends favorable action on H.R. 4599.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may proceed for an additional 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE REPORT OF THE COMMISSION ON OBSCENITY AND PORNOGRAPHY

Mr. BYRD of West Virginia. Mr. President, I rise to express my indignation at the report made by the Commission on Obscenity and Pornography. The recommendations that laws dealing with obscene materials be repealed should be rejected out of hand.

It is disgusting that a Commission authorized by the Congress and appointed by a President of the United States should publish a conclusion that there is no harm in pornography. This is a shameful report. Its only effect will be to further encourage immorality and debauchery in what most Americans wish to cherish as a heretofore clean, decent, and religious land.

There is already far too much filth on display in theaters, bookstores, and newsstands. The report of this outrageously permissive Commission is another indication of how far our Nation has traveled down the road toward moral degeneration.

I am glad that a few members of the Commission had the moral courage to oppose the majority recommendations. I praise them for their courage, and I hope that their dissent will be as widely disseminated as the majority findings are sure to be.

I agree thoroughly with the statement made by Charles H. Keating, Jr., of Cincinnati, a member of the Commission, who said in his dissent:

> For a Presidential Commission to have labored for two years at the expense to the taxpayers of almost $2 million and arrive at the conclusion that pornography is harmless must strike the average American as the epitome of government-gone-berserk.

I think Mr. Keating hit the nail on the head when he said further:

> Credit the American public with enough common sense to know that one who wallows in filth is going to get dirty. This is intuitive knowledge. Those who will spend millions of dollars to sell us otherwise must be malicious or misguided, or both.

No one needs to tell any person of taste, or discrimination, or just plain good sense, Mr. President, what is offensive and obscene. There is a built-in feeling about these things, and the effort of this Commission to tell the Nation otherwise is an insult to the intelligence of the Nation.

This report should be totally disavowed by the White House—as I feel that it will be—and it should be totally disavowed by the Congress. I am confident that it will be rejected by the overwhelming majority of the American people.

What Government ought to do is to put the smut peddlers out of their dirty business, instead of opening the flood gates further to their degrading, corrupting influence. I applaud the Vice President for his statement of last evening that the views of the Commission "do not represent the thinking of the Nixon administration."

Let me say that I believe this smutty report may have the opposite effect of what its authors intend it to have. It may polarize opinions on this subject to the point that some good can yet come out of it. Polarization in this area might be good for the Nation. The country may be brought to its senses sufficiently by the audacity of the proposals to realize that more control—not less—should be exercised over salacious films, magazines, pictures, and all of the other paraphernalia of pornography.

The idea that Government should withdraw from the scene completely and let the sex merchants run completely wild is repugnant and preposterous. What repeal of antiobscenity laws would mean, in effect, would be that Government was protecting the smut peddlers in their ugly trade. That is unthinkable, especially at this time when we face so many related problems, such as the spreading use of drugs, the rejection of religion, the flouting of authority, and the general erosion of the American character.

I hope, Mr. President, that the publishing of this report and its recommendations will have the effect of toughening the attitude of the Congress and other lawmaking bodies—and, indeed judicial bodies—toward the whole question of obscenity and pornography.

Mr. GRIFFIN. Mr. President, I commend the distinguished Senator from West Virginia on his remarks, and I wish to associate myself with what he has said. As usual, he is very fair and objective. Not only did he take occasion the other day to sharply criticize a report concerning campus unrest which was submitted by a Commission appointed by the incumbent President, President Nixon, but he has not hesitated

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today to speak out sharply in criticism of this report by the Commission on Obscenity—a Commission which was appointed by a President of his own party.

I am sure that Vice President AGNEW was speaking not only for the administration but for many, many Americans of both parties in and out Congress when yesterday he paid his respects in most appropriate language to the Commission report. Furthermore, I want to say that I am particularly pleased with the vigorous dissent filed by Mr. Keating, who was the only member of that Obscenity Commission appointed by President Nixon.

I hope, as does the Senator from West Virginia, that this report will, if anything, spur Congress on to the enactment of more legislation in this field—legislation which would move in the direction of tightening regulation and control over pornography consistent with the Constitution, rather than moving in the direction recommended by a majority of the Commission.

I thank the Senator for yielding.

Mr. BYRD of West Virginia. I thank the Senator. I wish to express appreciation to the able majority leader who has vigorously urged action by the Senate with respect to laws dealing with pornography. I wish to express appreciation also to the Senator from Michigan, the able assistant minority leader, for his support and leadership.

Mr. MANSFIELD. Mr. President, I join in the remarks made by the distinguished Senator from West Virginia and the distinguished Senator from Michigan.

For the RECORD I think it should be pointed out that the Senate has faced up to its responsibility on the basis of the only two opportunities it has had. It passed the so-called Goldwater-Mansfield amendment, which was made a part of the postal reform bill and is now law. It passed as well the bill having to do with unsolicited salacious and obscene literature through the mails, which was passed unanimously in this body last week. That was S. 3220, the so-called Mansfield antipornography bill.

Sending those materials through the mails to the unsuspecting was, without any question, an invasion of privacy which is as sacred as any right under the Constitution. It was deplorable that such use was being made of the U.S. Government through its postal service, acting as a handmaiden, in picking up this literature, carrying it to its destination, and depositing it at the homes of individuals who did not seek it, did not request it and did not want that material in their homes.

I commend the Senate for what it has done already; and I commend the distinguished Senator from West Virginia (Mr. BYRD) and the distinguished Senator from Michigan (Mr. GRIFFIN), the acting minority leader, for their leadership and for making their views so clear.

I only wish again to emphasize that the Senate has faced up to its responsibilities insofar as this issue is concerned. It will continue to do so.

Mr. BYRD of West Virginia. Mr. President, not only has the Senate faced up to its responsibilities, but in doing so, it has responded to the repeated urgings of the distinguished majority leader that it act in such direction.

PROPOSED AMENDMENTS TO THE AGREEMENTS FOR COOPERATION WITH THE UNITED KINGDOM AND WITH SWEDEN CONCERNING CIVIL USES OF ATOMIC ENERGY—STATEMENT BY SENATOR GORE

Mr. BYRD of West Virginia. Mr. President, at the request of the able Senator from Tennessee (Mr. GORE), I ask unanimous consent to insert in the RECORD a statement by Mr. GORE entitled "Proposed Amendments to the Agreements for Cooperation with The United Kingdom and with Sweden Concerning Civil Uses of Atomic Energy," and I request unanimous consent, at the request of the able Senator from Tennessee (Mr. GORE), that there be included in the RECORD the text of the proposed amendments to the agreements for cooperation with the United Kingdom and with Sweden concerning civil uses of atomic energy, together with supporting correspondence.

There being no objection, Senator GORE's statement and the material were ordered to be printed in the RECORD, as follows:

PROPOSED AMENDMENTS TO THE AGREEMENTS FOR COOPERATION WITH THE UNITED KINGDOM AND WITH SWEDEN CONCERNING CIVIL USES OF ATOMIC ENERGY

Mr. GORE. Mr. President, as Chairman of the Subcommittee on Agreements for Cooperation of the Joint Committee on Atomic Energy, I wish to advise my colleagues in the Senate that in compliance with section 123 c. of the Atomic Energy Act of 1954, as amended, the Atomic Energy Commission placed before the Joint Committee proposed amendments to the Agreements for Cooperation between the Government of the United States and the Governments of the United Kingdom and Sweden concerning civil uses of atomic energy. These amendments were submitted by letters dated September 10 and 18 respectively. The Atomic Energy Act requires that such proposed amendments lie before the Joint Committee for 30 days while Congress is in session before becoming effective.

The existing Agreement with the U.K. provides for cooperation between the two nations in research activities relative to applications of nuclear energy for civil uses. The proposed amendment links aspects of that Agreement with the Agreement relative to Civil Power Applications, permitting interchange of materials under the two Agreements. The amendment would also authorize either country to send special nuclear materials to the other for conversion and fabrication into fuel elements and return to the country of origin.

The Agreement with Sweden combines the research and civil power applications of atomic energy. It came into effect in September, 1966, and runs for a period of thirty years. The proposed amendment more than doubles the amount of special nuclear material the U.S. can provide for Sweden's nuclear power program which is being increased from six to twelve nuclear power plants. The amendment also includes some current standard provisions incorporated in new agreements with other countries executed since entry into the original Agreement with Sweden. The amendment also contains provisions reflecting the transfer of safeguards responsibilities for materials, equipment and facilities received by Sweden under the Agreement to the International Atomic Energy Agency either under a trilateral agreement with that agency and the U.S. or through U.S. acceptance of an IAEA agreement for safeguarding Sweden's entire program pursuant to the Treaty on Nonproliferation of Nuclear Weapons. The international agency would undertake its responsibility for such safeguards with the rights of the United States being suspended during the time and to the extent that the international agency safeguards are in effect.

In keeping with the general practice of the Joint Committee, I ask unanimous consent that there be included in the Congressional Record, for the information of interested members of the Congress, the texts of the proposed amendments to the Agreements for Cooperation with the U.K. and Sweden together with supporting correspondence.

ATOMIC ENERGY COMMISSION,
Washington, D.C., September 10, 1970.
Hon. CHET HOLIFIELD,
Chairman, Joint Committee on Atomic Energy, Congress of the United States.

DEAR MR. HOLIFIELD: Pursuant to Section 123c of the Atomic Energy Act of 1954, as amended, copies of the following are submitted with this letter:

a. An amendment to the "Agreement for Cooperation on the Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland," which was signed in 1955;

b. a letter from the Commission to the President recommending approval of the amendment; and

c. a memorandum from the President containing his determination that its performance will promote and will not constitute an unreasonable risk to the common defense and security, and approving the amendment and authorizing its execution.

The enclosed amendment modifies paragraph (c) of Article IV of the 1955 Agreement for Cooperation. A principal purpose of the amendment is to permit transfers of special nuclear material, on a reciprocal basis between the United States and the United Kingdom, for performance of fabrication and conversion services and, after completion of such services, return to the country of origin. It thus expands the provision which heretofore limited disposition of U.S.-supplied material (which currently would be only enriched uranium) to retention in the United Kingdom under the 1955 Agreement or transfer to third countries having appropriate bilaterals with us. By permitting returns to the United States of the material fabricated or converted in the United Kingdom, we would be extending to the United Kingdom the authorization which has already been given to Canada and Japan in their Agreements for Cooperation.

The amendment would also serve the purpose of bringing Article IV, paragraph (c) up to date in view of the fact that the 1966 U.S.-U.K. Civil Power Agreement was concluded subsequent to the date when the current provisions of paragraph (c) were included in the 1955 Agreement. Thus, the amendment permits the United Kingdom to retain the fabricated and converted products deriving from material directly supplied by the United States, as well as the irradiated special nuclear material of U.S. origin which it may now receive from third countries for treatment, for applications not only within the scope of the 1955 Agreement but also for applications within the scope of the 1966 Agreement. The authority for the United

Kingdom to transfer such end products to third parties having appropriate bilaterals with us remains unchanged. The flexibility accorded to the United Kingdom in its disposition of material received under the 1955 Agreement, while appropriately preserving U.S. interests in such transactions, avoids the cumbersome procedures which currently could be employed to redirect the material received from the United States or third countries to the coverage of the 1966 Agreement.

It is not intended that special nuclear material irradiated in the United States will be transferred to the United Kingdom for chemical processing in the absence of a further amendment to the 1955 Agreement which would permit reprocessing and return of such material to the United States.

The amendment will enter into force on the date in which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for entry into force.

Cordially,

W. E. Johnson,
Acting Chairman.

Atomic Energy Commission,
Washington, D.C., September 10, 1970.

His Excellency
The Right Honorable John Freeman, M.B.E.,
Ambassador of Great Britain,
Washington, D.C.

Dear Mr. Ambassador: Pursuant to discussions during the negotiation of the Amendment to the 1955 Agreement for Cooperation signed today to permit transfers of special nuclear material for the performance of fabrication services and return to the country of origin, I wish to set forth the position of the USAEC with respect to several matters pertinent to the Amendment.

The language of the Amendment regarding transfers of special nuclear material for fabrication services reads, "On such terms and conditions as may be agreed by the Parties, transfers may also take place between their respective countries of special nuclear materials for the performance in the country of the recipient of conversion or fabrication services or both . . ."

As was discussed during the negotiations, it is the intent of both Parties that opportunities for fabricators in each of our countries to supply services for customers in the other country will be available on a reciprocal basis. This consideration was a significant factor in the mutual acceptability of the Amendment, and it was emphasized on our part that the implementation of the expanded fabrication provision would depend upon the existence of such reciprocal opportunities on a realistic basis. Consequently, should it develop that U.S. suppliers of fabrication services are not being afforded realistic opportunities to provide such services to consumers in the U.K., it should be understood that we would not be in a position to approve transfers of special nuclear material to the U.K. for the performance of fabrication services and return to the U.S.

I wish also to recall that the 1963 Amendment was originally requested in order to permit the U.K. to reprocess irradiated special nuclear material supplied by the U.S. to third countries. We understand that the U.K. accepts for reasons which have previously been explained that the U.S. is not now in a position to agree to the transfer to the U.K. for reprocessing of special nuclear material irradiated in the U.S. Any change in this position would be reflected in an appropriate amendment to our Agreement for Cooperation providing for the transfer for reprocessing and return to the U.S. of special nuclear material irradiated in the U.S.

Finally, I wish to note that the terms of the 1955 Agreement for Cooperation will expire in July 1976. It can be expected, assuming a continuing need for the Agreement, that our two Governments will consult with respect to amending and extending the Agreement. In our own review of the Agreement at that time, we shall, in considering the various provisions from the aspect of continuing them in an extended agreement, look specifically at whether or not, in the light of circumstances existing at that time, the provision in the current Amendment for the return of fabricated special nuclear material to the country of origin should be continued.

Sincerely,

W. E. Johnson,
Acting Chairman.

British Embassy,
Washington, D.C., September 10, 1970.

Dr. Glenn T. Seaborg,
Chairman, U.S. Atomic Energy Commission,
Germantown, Md.

Dear Dr. Seaborg: I am writing in reply to Commissioner Johnson's letter of today's date commenting on various matters pertinent to the current Amendment of the 1955 Agreement for Cooperation between our two countries.

As we explained during the negotiations, we believe that United States suppliers of fabrication services are under no greater disability as regards obtaining business in the United Kingdom than the U.K. suppliers will be with the current Amendment, as regards business in the U.S. I am glad to confirm that there are no statutory or other bars to U.S. entry to the U.K. market. Whether or not our respective fuel fabricators can convince prospective customers in the other's country that they can supply an acceptable product on acceptable commercial terms is a problem common to both countries and the failure of one to achieve his object should not affect the rights of the other.

It is, therefore, our expectation that the U.S.A.E.C. would not refuse to approve transfers of special nuclear material to the U.K for the performance of fabrication services and return to the U.S. in the event of U.S. fabricators failing, for normal commercial reasons, to obtain business in the U.K.: and that no action would be taken to jeopardize the performance of signed contracts between U.S. utilities and U.K. fuel fabricators, on which the U.S.A.E.C. had been consulted

As Commissioner Johnson says, the overall terms of the bilateral Agreement will need to be reviewed not later than July, 1976, when it expires, but we hope that it will be possible well before then for the Commission to recommend that the Agreement be answered to make possible the transfer to the U.K. of U.S.-irradiated fuel for re-processing in the U.K. and return to the U.S., as has been discussed in the past.

Yours sincerely,

John Freeman.

The White House,
Washington, September 5, 1970.

Memorandum for: Dr. Glenn T. Seaborg, Chairman, Atomic Energy Commission.
Subject: Proposed Amendment to the Agreement for Cooperation with the United Kingdom Concerning Civil Uses of Atomic Energy.

The proposed Amendment to the "Agreement for Cooperation on the Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland", submitted for my approval with the Acting Chairman's Letter of August 12, 1970, has been received.

Pursuant to the provisions of Section 123b of the Atomic Energy Act of 1954, as amended, and upon the recommendation of the Atomic Energy Commission, I hereby:

a. Approve the proposed Amendment, and determine that its performance will promote and will not constitute an unreasonable risk to the common defense and security of the United States of America; and

b. Authorize the execution of the proposed Amendment on behalf of the Government of the United States of America by appropriate authorities of the Department of State and the Atomic Energy Commission.

Richard Nixon.

Atomic Energy Commission,
Washington, D.C., August 1, 1970.

The President,
The White House.

Dear Mr. President: Enclosed is a proposed amendment to the "Agreement for Cooperation on the Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland," which was signed in 1955. The amendment has been negotiated by the Department of State and the Atomic Energy Commission pursuant to the Atomic Energy Act of 1954, as amended. With the Department's support, the Atomic Energy Commission recommends that you approve the proposed amendment, determine that its performance will promote and will not constitute an unreasonable risk to the common defense and security, and authorize its execution.

The purpose of the amendment is to modify paragraph (c) of Article IV of the 1955 Agreement which was incorporated through an amendment in 1963.

This paragraph, among other things, provides for the transfer to the United Kingdom of irradiated special nuclear material of United States origin for the performance of reprocessing services. Material recovered from the reprocessing operation may be subsequently converted in the United Kingdom or fabricated into fuel elements, or both. After completion of the services, the United Kingdom may retain the material for applications otherwise permitted under the 1955 Agreement, or may transfer the material, with United States consent, to another nation or group of nations having an Agreement for Cooperation with the United States within the scope of which the transfer could take place.

This authority would be modified by the proposed amendment to permit the United Kingdom to retain the special nuclear material so processed for applications within the scope of either the 1955 Agreement, as heretofore, or within the scope of the separate United States-United Kingdom Agreement for Cooperation in the Civil Power Applications of Atomic Energy signed in 1966. This latter agreement permits the transfer of 8,000 kilograms of U–235 to the United Kingdom for fueling reactors in its civil nuclear power programs. The added authority which the amendment would provide, to retain under the 1966 Agreement material of United States origin received for reprocessing, would thus give the United Kingdom greater flexibility in disposing of material so reprocessed. Such material would come from third countries since it is not intended that special nuclear material irradiated in the United States will be transferred for reprocessing in the United Kingdom in the absence of further amendment of the 1955 Agreement which would permit transfer for reprocessing and return of such material to the United States.

Article IV, paragraph (c), of the 1955 Agreement also permits the transfer of enriched uranium directly from the United States to the United Kingdom for the performance of conversion or fabrication services and use in the United Kingdom for purposes permitted under the 1955 Agreement or transfer with consent of the United States to third countries which have an Agreement for Cooperation with the United States within the scope of which the transfer would fall. The proposed amendment would authorize two additional end uses of material transferred from the United States to the United Kingdom for the performance of conversion or fabrication services. These additional uses would be (1) return to the United States of the converted or fabricated products or (2) their retention in the United Kingdom under the 1966 Agreement. Additionally, the type of material which could be transferred for conversion and fabrication services in the United Kingdom would be changed from enriched uranium to any type of special nuclear material.

The modification is in reciprocal form and would permit each of the parties to receive special nuclear material from the other and to return it after performing conversion or fabrication services. The United States would thus be extending to the United Kingdom the authorization which has already been given to Canada and to Japan in their Agreements for Cooperation with the United States. This authorization to permit the return of special nuclear material after fabrication and conversion is in accordance with the policy objectives which the Commission has been following to make special nuclear material generally available abroad for peaceful purposes in a manner consistent with the interests of the United States Government and of industry.

Following your approval, determination, and authorization, the proposed amendment will be formally executed by appropriate authorities of the Government of the United States of America and the United Kingdom of Great Britain and Northern Ireland. In compliance with Section 123c of the Atomic Energy Act of 1954, as amended, the amendment will be submitted to the Joint Committee on Atomic Energy.

Respectfully yours,

JAMES T. RAMEY,
Acting Chairman.

AMENDMENT TO AGREEMENT FOR COOPERATION ON THE CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

The Government of the United States of America (including the United States Atomic Energy Commission) and the Government of the United Kingdom of Great Britain and Northern Ireland, on its own behalf and on behalf of the United Kingdom Atomic Energy Authority,

Desiring to amend further the Agreement for Cooperation on the Civil Uses of Atomic Energy (hereinafter referred to as the "Agreement for Cooperation") signed between them at Washington on June 15, 1955, as amended by the Notes signed October 20, 1955 and November 3, 1955, as amended by the Agreement signed at Washington on June 13, 1956, as modified by the Agreement signed at Washington on July 3, 1958, as amended by the Agreement signed at Washington on June 5, 1963, as amended by the Agreement signed at Washington on June 29, 1964, as amended by the Agreement signed at Washington on July 15, 1965, and as amended by the Agreement signed at Washington on June 2, 1966;

Have agreed as follows:

ARTICLE I

Article IV of the Agreement for Cooperation, as amended, is amended as follows:

1. Paragraph (c) is redesignated as paragraph C 1, sub-paragraphs (1), (2), (3) and (4) are redesignated (a), (b), (c) and (d) respectively, and paragraph (d) is redesignated as paragraph D;

2. The last two sentences of redesignated paragraph C 1 are revised to read as follows:

"Upon completion of any of the services mentioned in this paragraph C 1, such transferred material may be transferred to another nation or group of nations pursuant to the terms of Article IX hereof, or retained in the United Kingdom for applications otherwise within the scope of this Agreement or the Agreement between the Parties for Cooperation in the Civil Power Applications of Atomic Energy, signed at Washington on June 2, 1966."

3. The following paragraph C 2 is added:

"On such terms and conditions as may be agreed by the Parties, transfers may also take place between their respective countries of special nuclear material for the performance in the country of the recipient of conversion or fabrication services or both. Upon completion of such services, such transferrable material may be retained in the recipient country for applications otherwise within the scope of this Agreement or the Agreement between the Parties for Cooperation in the Civil Power Applications of Atomic Energy, signed at Washington on June 2, 1966; transferred to another nation or group of nations pursuant to the terms of Article IX hereof; or returned to the country of origin."

ARTICLE II

This Amendment, which shall be regarded as an integral part of the Agreement for Cooperation, shall enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for the entry into force of this Amendment and shall remain in force for the period of the Agreement for Cooperation, as amended.

In witness whereof, the undersigned, duly authorized, have signed this Amendment.

Done at Washington this tenth day of September, 1970 in two original texts.

For the Government of the United States of America:

GEORGE S. SPRINGSTEEN,
Deputy Assistant Secretary of State for European Affairs.

WILFRID E. JOHNSON,
Acting Chairman, U.S. Atomic Energy Commission.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

JOHN FREEMAN, M.B.E.,
Ambassador of Great Britain.

Certified to be a true copy:

WILLIAM L. YEOMANS,
Assistant Director for Agreements and Liaison (DIA).

ATOMIC ENERGY COMMISSION,
Washington, September 18, 1970.

Hon. CHET HOLIFIELD,
Chairman, Joint Committee on Atomic Energy, Congress of the United States.

DEAR MR. HOLIFIELD: Pursuant to Section 123c of the Atomic Energy Act of 1954, as amended, copies of the following are submitted with this letter:

a. a proposed amendment to the 1966 "Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy;

b. a letter from the Commission to the President recommending approval of the amendment; and

c. a memorandum from the President containing his determination that its performance will promote and will not constitute an unreasonable risk to the common defense and security, and approving the amendment and authorizing its execution.

The main purpose of the amendment is to permit the transfer to Sweden of an increased quantity of enriched uranium to cover the fuel requirements of six additional nuclear power projects which Sweden plans to place under construction through 1973. The appendix listing power projects covered by the 1966 Agreement has been revised to include U-235 requirements for the six new projects, as well as to account for modified requirements of the six projects currently listed. Transfer of such revised fuel requirements is to take place over the remaining life of the agreement (until 1996).

The net quantity of U–235 estimated to be necessary for fueling the twelve power reactors listed in the revised appendix is 121,800 kilograms. This quantity plus 500 kilograms allocated for fueling research reactors and other purposes permitted under the agreement comprises the overall net ceiling of 122,300 kilograms established in Article IV. It is estimated that revenues on the order of one-half billion dollars would accure to the United States through supply of the material covered by the modified agreement. Other significant features of the amendment are discussed below.

Article I recasts, in the preferred form utilized in other agreements since 1967, the existing provision permitting privately arranged transfers of special nuclear material between the United States and Sweden.

Pursuant to Articles II and III, the current "fuel" article (Article VII) has been divided into the format common to our recent long-term power agreements. The division serves to distinguish the supply obligations of the United States and methods of supply from the implementing terms and conditions governing supply.

The significant modifications incorporated in Article II of the amendment are as follows:

(a) According to our now standard approach, toll enrichment is established as the normal method of fuel supply with respect to power reactors, with sale possible at the United States' election. Nevertheless, because the Government of Sweden wishes to retain the undertaking in the current agreement for power reactor fuel to be supplied for the original six projects either by sale or by toll enrichment at its election, the formula in subparagraph A(2) of Article II has been devised so that such assurance of sale, if requested, would be limited to the first 49,776 kilograms of U–235 required for power projects—the total set forth in the present appendix. This quantity will soon have been placed under contract.

(b) Concerning enriched uranium required for fueling research, materials-testing, and experimental reactors. Article II continues the existing provision that such material may be transferred under agreed terms and conditions, but it adds the stipulation common to other long-term agreements that, in the event of transfer of title to such material, the United States shall have the option of limiting supply arrangements to provision of toll enrichment services.

(c) Paragraph D of Article II has been included to indicate expressly that, in the event United States enrichment facilities should not be owned and operated by the Atomic Energy Commission at a future date, the Commission may transfer to a person or persons under the jurisdiction of the United States such of its responsibilities under the agreement with respect to the supply of special nuclear material, including provision of enrichment services, as it deems desirable, and thus the Commission would not itself be the actual supplier of the material.

Significant changes in Article III of the amendment concern reprocessing and two United States options. Under this article, reprocessing may be performed in facilities acceptable to both parties upon a joint determination that safeguards may be effectively applied, instead of being limited to facilities of the Atomic Energy Commission

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or those the Commission approves, as provided in the current agreement. This approach has been used in a number of agreements, including recently the Japanese, Argentine, Austrian and Finnish Agreements. As has also been done under recent agreements, such as the first three just cited, the amendment discontinues the options granted to the United States under the present Swedish Agreement to acquire special nuclear material produced in material obtained from the United States. Nevertheless, transfers of such produced material from Sweden to any other nation or group of nations would be subject to United States approval (under paragraph H).

Articles V and VI, the "peaceful uses guarantee" and "bilateral safeguards" articles, have been edited to delete the cross-references to the discontinued options on produced special nuclear material.

Article VII affirms the parties' agreement that the International Atomic Energy Agency will be requested to assume safeguards responsibilities respecting materials, equipment and facilities subject to the bilateral safeguards of the Agreement for Cooperation. This is to be accomplished either through a normal safeguards transfer agreement among the parties and the Agency or as provided in an agreement between Sweden and the Agency pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons. United States safeguards rights will be suspended during the time and to the extent the United States agrees that the need to exercise such rights is satisfied by a safeguards agreement as contemplated in the article. This approach is similar to the one followed in the recent Finnish Agreement.

The steps necessary for transfer of safeguards responsibilities to the International Atomic Energy Agency under either alternative above have been initiated. However, since Sweden is committed by its ratification of the Non-Proliferation Treaty to undertake the negotiation of a safeguards agreement with the Agency, it is likely that the transfer of safeguards responsibilities envisaged in the amendment would be accomplished through the Treaty alternative.

The amendment will enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for entry into force.

Cordially,

THEOS J. THOMPSON,
Acting Chairman.

THE WHITE HOUSE,
Washington, September 15, 1970.

Memorandum for: Dr. Glenn T. Seaborg, Chairman, Atomic Energy Commission.

Subject: Proposed Amendment to the Agreement for Cooperation with Sweden Concerning Civil Uses of Atomic Energy.

The proposed Amendment to the "Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy," submitted for my approval with the Acting Chairman's letter of August 20, 1970, has been reviewed.

Pursuant to the provisions of Section 123b of the Atomic Energy Act of 1954, as amended, and upon the recommendation of the Atomic Energy Commission, I hereby:

a. Approve the proposed Amendment, and determine that its performance will promote and will not constitute an unreasonable risk to the common defense and security of the United States of America; and

b. Authorize the execution of the proposed Amendment on behalf of the Government of the United States of America by appropriate authorities of the Department of State and the Atomic Energy Commission.

RICHARD NIXON.

ATOMIC ENERGY COMMISSION,
Washington, D.C. August 20, 1970.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: Enclosed is a proposed amendment to the "Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy," which was signed on July 28, 1966. The amendment has been negotiated by the Department of State and the Atomic Energy Commission pursuant to the Atomic Energy Act of 1954, as amended. With the Department's support, the Commission recommends that you approve the proposed amendment, determine that its performance will promote and will not constitute an unreasonable risk to the common defense and security, and authorize its execution.

The main purpose of the amendment is to permit the transfer to Sweden of an increased quantity of enriched uranium to cover the fuel requirements of six additional nuclear power projects which Sweden plans to place under construction through 1973. The appendix listing power projects covered by the 1966 Agreement would be revised to include U–235 requirements for the six new projects, as well as to account for modified requirements of the six projects currently listed. Transfer of such revised fuel requirements would take place over the remaining life of the agreement (until 1996).

The net quantity of U–235 estimated to be necessary for fueling the twelve power reactors to be listed in the revised appendix would be 121,800 kilograms. This quantity plus 500 kilograms allocated for fueling research reactors and other purposes permitted under the agreement would comprise the overall net ceiling of 122,300 kilograms established in proposed Article IV. Other significant features of the proposed amendment are discussed below.

Article I would recast, in the preferred form utilized in other agreements since 1967, the existing provision permitting privately arranged transfer of special nuclear material between the United States and Sweden.

Pursuant to Articles II and III, the current "fuel" article (Article VII) would be divided into the format common to our recent long-term power agreements. The division serves to distinguish the supply obligations of the United States and methods of supply from the terms and conditions governing supply.

The significant modifications incorporated in proposed Article II are as follows:

(a) According to our now standard approach, toll enrichment would be established as the normal method of fuel supply with respect to power reactors, with sale possible at the United States' election. Nevertheless, because the Government of Sweden wishes to retain the undertaking in the current agreement for power reactor fuel to be supplied for the original six projects either by sale or by toll enrichment, the formula in subparagraph A(2) of proposed Article II has been devised so that sale, if requested, would be limited to the first 49,776 kilograms of U-235 required for power projects—the total set forth in the present appendix. This quantity will soon have been placed under contract and, for subsequent quantities, toll enrichment would be the normal method of supply.

(b) Concerning enriched uranium required for fueling research, materials-testing, and experimental reactors, proposed Article II would continue the existing provision that such material may be transferred under agreed terms and conditions, but it would add the stipulation common to other long-term agreements that, in the event of transfer of title to such material, the United States shall have the option of limiting supply arrangements to provision of toll enrichment services.

(c) Paragraph D of Article II has been included to indicate expressly that, in the event United States enrichment facilities should not be owned and operated by the Atomic Energy Commission at a future date, the Commission may transfer to a person or persons under the jurisdiction of the United States such of its responsibilities under the agreement with respect to the supply of special nuclear material, including provision of enrichment services, as it deems desirable, and would not itself be the actual supplier of the material.

Significant changes in proposed Article III concern resprocessing and two United States options. Rather than requiring performance of reprocessing in facilities of the Atomic Energy Commission or those the Commission approves; proposed Article III, paragraph F would permit reprocessing to be undertaken in facilities acceptable to both parties upon a joint determination that safeguards may be effectively applied. This approach has been used in a number of agreements, including recently the Japanese, Argentine, Austrian and Finnish Agreements. As has also been done under recent agreements, such as the first three just cited, the amendment would discontinue the options granted to the United States under the present Swedish Agreement to acquire special nuclear material produced in material obtained from the United States. Nevertheless, transfers of such produced material from Sweden to any other nation or group of nations would be subject to United States approval (under paragraph H).

Articles V and VI, the "peaceful uses guarantee" and "bilateral safeguards" articles, would be edited to delete the cross-references to the produced special nuclear material subject to the discontinued options.

Article VII would affirm the parties' agreement that the International Atomic Energy Agency will be requested to assume safeguards responsibilities respecting materials, equipment and facilities subject to the bilateral safeguards of the Agreement for Cooperation. This is to be accomplished either through a normal safeguards transfer agreement among the parties and the Agency or as provided in an agreement between Sweden and the Agency pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons. United States safeguards rights would be suspended during the time and to the extent the United States agrees that the need to exercise such rights is satisfied by a safeguards agreement as contemplated in the article. This approach is similar to the one followed in the recent Finnish Agreement.

The steps necessary for transfer of safeguards responsibilities to the International Atomic Energy Agency under either alternative above have been initiated. However, since Sweden is committed by its ratification of the Non-Proliferation Treaty to undertake the negotiation of a safeguards agreement with the Agency, it is likely that the transfer of safeguards responsibilities envisaged in the proposed amendment would be accomplished through the Treaty alternative.

Following your approval, determination and authorization, the proposed amendment will be formally executed by appropriate authorities of the United States and Swedish Governments. In compliance with Section 123c of the Atomic Energy Act of 1954, as amended, the amendment will be placed before the Joint Committee on Atomic Energy.

Respectfully yours,

C. E. LARSON,
Acting Chairman.

AMENDMENT TO AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF SWEDEN CONCERNING CIVIL USES OF ATOMIC ENERGY

The Government of the United States of America and the Government of Sweden,

Desiring to amend the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy signed at Washington on July 28, 1966 (hereinafter referred to as the "Agreement for Cooperation"),

Agree as follows:

ARTICLE I

Article VI of the Agreement for Cooperation is amended to read as follows:

"A. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party for the transfer of equipment and devices and materials other than special nuclear material and for the performance of services with respect thereto.

"B. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party for the transfer of special nuclear material and for the performance of services with respect thereto for the uses specified in Articles IV and VII and subject to the relevant provisions of Article VII Bis and to the provisions of Article VIII.

"C. The Parties agree that the activities referred to in paragraphs A and B of this Article shall be subject to the limitations in Article II."

ARTICLE II

Article VII of the Agreement for Cooperation is amended to read as follows:

"A. During the period of this Agreement, and as set forth below, the Commission will supply to the Government of Sweden or, pursuant to Article VI, to authorized persons under its jurisdiction, under such terms and conditions as may be agreed, all of the requirements of Sweden for uranium enriched in the isotope U–235 for use as fuel in the power reactor program described in the Appendix to this Agreement, which Appendix, subject to the quantity limitation established in Article VIII, may be amended from time to time by mutual consent of the Parties without modification of this Agreement.

(1) The Commission will supply such uranium enriched in the isotope U–235 by providing, to the same extent as for United States licensees, for the production or enrichment, or both, of uranium enriched in the isotope U–235 for the account of the Government of Sweden or such authorized persons. (Upon timely advice that any natural uranium required with respect to any particular delivery of enriched uranium under such service arrangements is not reasonably available to the Government of Sweden or any such authorized person, the Commission will be prepared to furnish the required natural uranium on terms and conditions to be agreed.)

(2) Notwithstanding the provisions of paragraph A(1) of this Article, if the Government of Sweden or authorized persons under its jurisdiction so request, the Commission will, with respect to the first 49,776 kilograms of U–235 transferred under this Article, sell uranium enriched in the isotope U–235 under such terms and conditions as may be agreed; further, notwithstanding the provisions of paragraph A(1) of this Article, if the Government of Sweden or authorized persons under its jurisdiction so request, the Commission, at its election, may sell additional quantities of uranium enriched in the isotope U–235 under terms and conditions to be agreed.

"B. As may be agreed, the Commission will transfer to the Government of Sweden or to authorized persons under its jurisdiction uranium enriched in the isotope U–235 for use as fuel in defined research applications, including research, materials testing, and experimental reactors and reactor experiments. The terms and conditions of each transfer shall be agreed upon in advance, it being understood that, in the event of transfer of title to uranium enriched in the isotope U–235, the Commission shall have the option of limiting the arrangements to undertakings such as those described in paragraph A(1) of this Article.

"C. The Commission may also transfer to the Government of Sweden, under such terms and conditions as the Parties may agree, special nuclear material for the performance in Sweden of conversion or fabrication services, or both, and for subsequent transfer to another nation or group of nations with which the Government of the United States of America has an Agreement for Cooperation within the scope of which such subsequent transfer falls.

"D. It is understood that the Commission may transfer to a person or persons under the jurisdiction of the Government of the United States of America such of its responsibilities under this Agreement with respect to the supply of special nuclear material, including the provision of enrichment services, as the Commission deems desirable."

ARTICLE III

The Agreement for Cooperation is amended by adding after Article VII the following new Article:

"ARTICLE VII BIS

"A. With respect to transfers by the Commission of uranium enriched in the isotope U–235 provided for in Article VI, paragraph B and Article VII, it is understood that:

(1) Contracts specifying quantities, enrichments, delivery schedules, and other terms and conditions of supply or service will be executed on a timely basis between the Commission and the Government of Sweden or persons authorized by it, and

(2) Prices for uranium enriched in the isotope U–235 sold or charges for enrichment services performed will be those in effect for users in the United States of America at the time of delivery. The advance notice required for delivery will be that in effect for users in the United States of America at the time of giving such notice. The Commission may agree to supply uranium enriched in the isotope U–235 or perform enrichment services upon shorter notice, subject to assessment of such surcharge to the usual base price or charge as the Commission may consider reasonable to cover abnormal costs incurred by the Commission by reason of such shorter notice.

"B. Should the total quantity of uranium enriched in the isotope U–235 which the Commission has agreed to provide pursuant to this Agreement and other Agreements for Cooperation reach the maximum quantity of uranium enriched in the isotope U–235 which the Commission has available for such purposes, and should contracts covering the adjusted net quantity specified in Article VIII not have been executed, the Commission may request, upon appropriate notice, that the Government of Sweden or persons authorized by it execute contracts for all or any part of such uranium enriched in the isotope U–235 as is not then under contract. It is understood that, should contracts not be executed in accordance with a request by the Commission hereunder, the Commission shall be relieved of all obligations with respect to the uranium enriched in the isotope U–235 for which contracts have been so requested.

"C. The enriched uranium supplied hereunder may contain up to twenty percent (20%) in the isotope U–235. A portion of the uranium enriched in the isotope U–235 supplied hereunder may be made available as material containing more than twenty percent (20%) in the isotope U–235 when the Commission finds there is a technical or economic justification for such a transfer.

"D. It is understood, unless otherwise agreed, that in order to assure the availability of the entire quantity of uranium enriched in the isotope U–235 allocated hereunder for a particular reactor project described in the Appendix, it will be necessary for the construction of the project to be initiated in accordance with the schedule set forth in the Appendix and for the Government of Sweden or persons authorized by it to execute a contract for that quantity in time to allow the Commission to provide the material for the first fuel loading. It is also understood that, if the Government of Sweden or persons authorized by it desire to contract for less than the entire quantity of uranium enriched in the isotope U–235 allocated for a particular project or terminate the supply contract after execution, the remaining quantity allocated for that project shall cease to be available and the maximum adjusted net quantity of U–235 provided for in Article VIII shall be reduced accordingly, unless otherwise agreed.

"E. Within the limitations contained in Article VIII, the quantity of uranium enriched in the isotope U–235 transferred under Article VI, paragraph B or Article VII and under the jurisdiction of the Government of Sweden for the fueling of reactors or reactor experiments shall not at any time be in excess of the quantity necessary for the loading of such reactors or reactor experiments, plus such additional quantity as, in the opinion of the Parties, is necessary for the efficient and continuous operation of such reactors or reactor experiments.

"F. When any special nuclear material received from the United States of America pursuant to this Agreement or the superseded Agreement requires reprocessing, or any irradiated fuel elements containing fuel material received from the United States of America pursuant to this Agreement or the superseded Agreement are to be removed from a reactor and are to be altered in form or content, such reprocessing or alteration shall be performed in facilities acceptable to both Parties upon a joint determination of the Parties that the provisions of Article X may be effectively applied.

"G. Special nuclear material produced as a result of irradiation processes in any part of the fuel leased by the Commission under this Agreement or the superseded Agreement shall be for the account of the lessee and, after reprocessing as provided in paragraph F of this Article, title to such produced material shall be in the lessee unless the Commission and the lessee otherwise agree.

"H. No special nuclear material produced through the use of material transferred to the Government of Sweden or to authorized persons under its jurisdiction, pursuant to this Agreement or the superseded Agreement, will be transferred to any other nation or group of nations, except as the Commission may agree to such a transfer.

"I. Some atomic energy materials which the Commission may be requested to provide in accordance with this Agreement, or which have been provided to the Government of Sweden under the superseded Agreement, are harmful to persons and property unless handled and used carefully. After delivery of such materials, the Government of Sweden shall bear all responsibility, insofar as the Government of the United States of America is concerned, for the safe handling and use of such materials. With respect to any special nuclear material or fuel elements which the Commission may, pursuant to this Agreement, lease to the Government of Sweden or to any person under its jurisdiction, or may have leased pursuant to the superseded Agreement to the Government of Sweden, the Government of Sweden shall indemnify and save harmless the Government of the United States of America against any and all liability (including third party liability) for any cause whatsoever arising out of the production or fabrication, the ownership, the lease and the possession and use of such special nuclear material or fuel elements after delivery by the Commission to the Government of Sweden or to any person under its jurisdiction."

ARTICLE IV

Article VIII of the Agreement for Cooperation is amended by deleting the number "50,000" and substituting in lieu thereof the number "122,300".

ARTICLE V

Article IX of the Agreement for Cooperation is amended to read as follows:

"A. The Government of Sweden guarantees that:

(1) Safeguards provided in Article X shall be maintained.

(2) No material, including equipment and devices, transferred to the Government of Sweden or authorized persons under its jurisdiction by purchase or otherwise pursuant to this Agreement or the superseded Agreement, and no special nuclear material produced through the use of such material, equipment or devices, will be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose.

(3) No material, including equipment and devices, transferred to the Government of Sweden or to authorized persons under its jurisdiction pursuant to this Agreement or the superseded Agreement will be transferred to unauthorized persons or beyond the jurisdiction of the Government of Sweden except as the Commission may agree to such a transfer to another nation or group of nations, and then only if, in the opinion of the Commission, the transfer of the material is within the scope of an Agreement for Cooperation between the Government of the United States of America and the other nation or groups of nations.

"B. The Government of the United States of America guarantees that no equipment or devices transferred from the Government of Sweden to the Government of the United States of America or authorized persons under its jurisdiction pursuant to this Agreement or the superseded Agreement will be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose."

ARTICLE VI

Paragraph B(3) of Article X of the Agreement for Cooperation is amended to read as follows:

"(3) To require the deposit in storage facilities designated by the United States Commission of any of the special nuclear material referred to in paragraph B(2) of this Article which is not currently utilized for civil purposes in Sweden and which is not transferred pursuant to Article VII B is or otherwise disposed of pursuant to an arrangement mutually acceptable to the Parties;".

ARTICLE VII

Article XI of the Agreement for Cooperation is amended to read as follows:

"A. The Parties, recognizing the desirability of making use of the facilities and services of the International Atomic Energy Agency, agree that the Agency will be requested to assume responsibility for applying safeguards to materials, equipment and facilities subject to safeguards under this Agreement.

"B. The application of Agency safeguards pursuant to this Article will be accomplished either by means of an agreement among the two Parties and the Agency or by means of arrangements made a part of an agreement between the International Atomic Energy Agency and the Government of Sweden pursuant to Article III of the Treaty on the Non-Proliferation of Nuclear Weapons. It is understood that, without modification of this Agreement, the safeguards rights accorded to the Government of the United States of America by Article X of this Agreement will be suspended during the time and to the extent that the Government of the United States of America agrees that the need to exercise such rights is satisfied by an agreement as contemplated in this paragraph.

"C. In the event the applicable "safeguards agreement referred to in paragraph B of this Article is not concluded as therein provided, or should be terminated prior to the expiration of this Agreement and agreement is not reached promptly upon a resumption of such Agency safeguards, either Party may, by notification, terminate this Agreement. In the event of termination by either Party, the Government of Sweden shall, at the request of the Government of the United States of America, return to the Government of the United States of America all special nuclear material received pursuant to this Agreement or the superseded Agreement and still in its possession or in the possession of persons under its jurisdiction. The Government of the United States of America will compensate the Government of Sweden or the persons under its jurisdiction for their interest in such material so returned at the Commission's schedule of prices then in effect in the United States of America. Before making such request, the Government of the United States of America will carefully consider the economic effects of the action and will provide sufficient advance notice to permit arrangements by the Government of Sweden for an alternative source of power."

ARTICLE VIII

This Amendment shall enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for the entry into force of such Amendment.

In witness whereof, the undersigned, duly authorized, have signed this Amendment.

Done at Washington in duplicate this —— day of ————————, 1970.

For the Government of the United States of America:

DONOVAN Q. ZOOK,
Director, Office of Atomic Energy Affairs, Bureau of International Scientific and Technological Affairs, U.S. Department of State.

BARBARA H. THOMAS,
Foreign Affairs Officer, Division of International Affairs, U.S. Atomic Energy Commission.

For the Government of Sweden:

ANDERS OLANDER,
Second Secretary, Embassy of Sweden.

Initialed: August 19, 1970.

Certified to be a true copy.

BARBARA H. THOMAS.

APPENDIX—SWEDEN'S NUCLEAR POWER PROGRAM

Reactor	Power MW net electrical	Start of construction	Criticality date	Total Kgs. U–235 required
A. Marviken	135	1963	1974	3,000
B. Oskarshamn I, BWR	440	1966	1970	8,400
C. Ringhals I, BWR	760	1968	1973	12,200
D. Ringhals II, PWR	820	1969	1974	12,800
E. Oskarshamn II, BWR	580	1969	1974	9,200
F. Barseback I, BWR	580	1970	1975	9,100
G. Forsmark I	800	1971	1976	12,300
H. Ringhals III	800	1972	1977	11,700
I. Stockholm I	600	1972	1977	8,800
J. Barseback II	800	1972	1977	11,700
K. Forsmark II	800	1973	1978	11,300
L. Oskarshamn III	800	1973	1978	11,300
Total				121,800

ORDER FOR RECOGNITION OF SENATOR PERCY AND SENATOR SCHWEIKER TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, at the conclusion of the disposition of the reading of the Journal and any items on the legislative calendar that are not objected to, the able Senator from Illinois (Mr. PERCY) be recognized for not to exceed 15 minutes and that he be followed by the able Senator from Pennsylvania (Mr. SCHWEIKER) for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, at the conclusion of the orders for recognition of Senators on tomorrow, there be a period for the transaction of routine morning business with statements limited therein to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

WORLD WAITS FOR ACTION ON PRISONERS OF WAR

Mr. GRIFFIN. Mr. President, much has been said about the most recent Communist proposals at the Paris conferences which for the first time include the possibility of discussing the Prisoner of War issue. However, the manner in which this aspect of negotiations was placed on the table leaves much doubt as to the sincerity of the North Vietnamese.

If the Communists are serious about negotiating an agreement embodying either a political or military settlement in Vietnam they could show good faith by taking some steps that are already required by treaty.

Our hope would be to gain their freedom through prisoner exchange, but there are other steps on the way to that goal which could and have been taken. For instance, the Communists—as International Law requires—should provide the United States with a list of the prisoners being held. They could also bring their policy into line with their treaty commitment by allowing international Red Cross investigations to assure that proper care is being provided for the prisoners—as well as permitting them at least minimal communications with their families.

The world waits to see if the Communists are sincere in their offer to negotiate on this subject or whether it is but another of their many propaganda ploys.

AMENDMENT TO THE TENNESSEE VALLEY AUTHORITY ACT OF 1933

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1271.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 18104) to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1251), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

H.R. 18104 has a single objective: to increase from $1.75 billion to $5 billion the amount of revenue bonds which TVA may have outstanding to finance additions to its power system. Its enactment will not change in any way any of the other provisions of the Tennessee Valley Authority Act.

PUBLIC HEARING

The Subcommittee on Flood Control—Rivers and Harbors, held a hearing on August 11, 1970, on H.R. 18104. Testimony was received from interested Members of Congress, and officials of the Tennessee Valley Authority.

(The following pertinent information has been extracted from House Committee Report No. 91–1278.)

GENERAL STATEMENT

Thirty-seven years ago the Tennessee Valley Authority was created as, in the words of the Presidential message recommending its creation: "* * * a corporation clothed with the power of Government, but possessed of the flexibility and initiative of a private enterprise. It should be charged with the broadest duty of planning for the proper use, conservation, and development of the natural resources of the Tennessee River drainage basin and its adjoining territory for the general social and economic welfare of the Nation. This authority should also be clothed with the necessary power to carry these plans into effect."

Today, the TVA regional resource development program is known and acclaimed as one of the most successful governmental public improvement projects ever undertaken. The whole world knows of TVA's work in harnessing a great river for navigation, power production, and other uses such as recreation; in preventing devastating floods; in helping through the introduction of new fertilizers and farm practices to transform a soil-depleting row-crop agriculture into an agriculture emphasizing the production of cattle and small grains and the use of scientific soil-conserving farm practices; in encouraging the conservation and proper utilization of a great forest resource; in providing adequate supplies of economical electric power; and, through all these activities, in helping an economically depressed region to take advantage of its opportunities to industrialize and to make the best use of its resources in improving its economy. This is an American success story, nurtured over the years by the Congress on a bipartisan basis. It has been regarded throughout the world as a model from whose experience many countries have borrowed.

Where in 1933 the per capita income of the people of the Tennessee Valley region was two-thirds of the national average, it is today three-fourths. Where in 1933 some 62 percent of the region's people depended on agriculture for a living, the figure today is 11 percent. Where in 1933, only 12 percent of the region's employment was in manufacturing, today it is 33.4 percent. While much remains to be done, much has been accomplished.

Electric power is one of the great resource tools provided by TVA within the region in which it conducts its operations. TVA is the power supplier for an area of about 80,000 square miles containing about 6 million people. TVA generates, transmits, and sells power to 161 distribution systems, which in turn retail power to their own customers. It also supplies power directly to 43 industries which have large or unusual power requirements and to 11 federal installations, including the AEC plants at Oak Ridge, Tennessee, and Paducah, Kentucky. The distribution systems which are dependent on TVA for their power include 109 municipalities, 50 rural electric cooperatives, and two small private systems. These distribution systems which purchase their power at wholesale from TVA serve more than 2 million electric customers, including homes, farms, businesses, and most of the region's industries.

But the importance of the TVA power system is by no means limited to electric consumers in the area which TVA supplies directly. The TVA system, which with 19.4 million kilowatts of presently installed generating capacity is the Nation's largest, is interconnected at 26 points with neighboring systems with which TVA exchanges power. The TVA system is in effect part of a huge power network. In a time of power emergency, operation of the TVA power system could have a definite impact on power supply conditions from the Great Lakes to the Gulf of Mexico and from New England to Oklahoma and Texas. The experience in the Northeast during the power blackout which occurred there a few years ago demonstrates the interdependence of interconnected power systems, and the need for insuring that all such systems provide their share of needed capacity and other facilities necessary to insure reliable electric service.

NEED FOR THE LEGISLATION

For the Nation as a whole, electric power requirements have been growing on an average of 7 percent per year, which means that they are doubling about every 10 years. In the Tennessee Valley region, power requirements of homes, farms, businesses and industries have been increasing at an average annual rate of 8 percent in recent years. Continually increasing power needs in the region are expected to require at least a doubling of the capacity of the TVA system in the next ten years.

TVA is now constructing 10.3 million kilowatts of additional generating capacity to be in service by the end of 1975. Of its existing $1,750,000,000 revenue bond authorization, it has presently utilized $1,155,000,000. Virtually all of the remainder will be required for completion of the capacity now being constructed. Meanwhile, TVA must begin now to construct additional capacity which will be required after 1975, in order that the region's power needs can continue to be met. In fact, TVA has recently opened bids for two additional generating units, under the terms of which it would also have options for two or more such units. It cannot, however, award firm contracts for any of these units until its present revenue bond authorization is increased. Lead times for new generating units are now about six years, and it is obvious that firm contracts for new units should be awarded and construction should begin without delay if the region's power requirements beyond 1975 are to be met. The need for legislation is urgent.

TVA'S PAST USE OF ITS REVENUE BOND AUTHORIZATION

The initial authorization to TVA to issue revenue bonds was granted by an amendment to the TVA Act adopted in 1959, in the amount of $750 million. In 1966, this amount was increased to $1.75 billion. TVA's experience with the issuance of revenue bonds since 1959 has been highly successful. Its long-term bonds have received the highest ratings from the principal rating agencies, and have sold at interest rates comparable to those on the highest grade private utility issues.

"The same 1959 legislation which authorized TVA to issue revenue bonds also directed it to make payments into the Treasury each year from its net power proceeds as a return on the Government's $1.2 billion appropriation investment in the TVA power system, plus amounts in repayment of $1 billion of such investment. The payments made as a return in any fiscal year are computed by applying the Government's cost of money on its total marketable public obligations at the beginning of the fiscal year to the then outstanding appropriation investment in the TVA power system. The repayment amounts were fixed at $10 million for each of the first 5 years, $15 million for each of the next 5 years, and $20 million per year thereafter until the $1 billion total is reached. TVA is required by the legislation to charge rates for power which will produce gross revenues sufficient to provide funds for operation, maintenance, and administration of its power system; payments to States and counties in lieu of taxes, as provided by section 13 of the TVA Act; debt service on outstanding bonds; the required payments to the Treasury; and such additional margin as the TVA Board may consider desirable for investment in power system assets and other purposes, having due regard for the primary objectives of the act, including the objective that power be sold at rates as low as are feasible.

Since 1959 when the initial bond legislation was enacted, TVA has increased the generating capability of its system from 11 million kilowatts to over 19 million, and it has also increased the size of its transmission system. While thus building the new facilities which the growth of power loads in its area required, it has also made all of the payments to the Treasury which the 1959 legislation contemplated. During the fiscal year ending June 30, 1970, TVA will pay the Treasury $15 million as a repayment on the appropriation investment, plus $57.65 million as a return. In all, by the end of the 1970 fiscal year TVA will have paid to the Treasury from net power proceeds since 1959 a total of approximately $573 million.

AMOUNT OF THE PROPOSED INCREASE IN THE REVENUE BOND AUTHORIZATION

So far as the Committee is aware, no question has been raised by anyone as to the need for an increase in the TVA revenue bond authorization. The only question is

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what the amount of the increase should be. The Bureau of the Budget recommended, in a letter to the Chairman of the Committee, that the authorization be increased to $3.5 billion. The bill as reported by the Committee provides for an increase to $5 billion. The Committee's approval of the latter amount is based on the following considerations:

1. An increase in the authorization to only $3.5 billion would require that TVA seek a further increase in from two to four and one-half years, thus quite possibly requiring further legislation in the 92nd Congress.

That an increase from the present $1.75 billion to $3.5 billion would provide for TVA's needs only for this period of time is due to a number of factors. As TVA's system increases in size, so must the annual additions to capacity increase to keep up with the relatively constant annual percentage increase in demands for electricity from the homes farms, businesses and industries in its area. Lead time for construction of plants has lengthened over the last decade from four years to six, and is likely to become still longer; and as already pointed out, TVA must have sufficient bond authority to enable it to complete a plant before it can place firm orders for the necessary components. The costs of labor, materials, and money have increased substantially, and future construction costs per kilowatt of capacity are expected to be higher than the costs of units presently in service or now under construction. Finally, environmental considerations are adding substantially to construction costs. TVA is committed to the proposition that its power system should be constructed and operated in such a way as to protect the quality of the environment. This approach is highly commendable and is in accord with evolving national policy; but its effect on costs must be recognized.

An increase in the authorization to $5 billion as recommended by the Committee would provide authority adequate for from five to seven years.

2. When the original bond authorization of $750 million was provided in 1959, it was expected to last for from five to seven years. H. Rep. No. 271, 86th Cong., 1st sess., p. 6. The increase in the authorization to $1.75 billion voted in 1966 was expected to last for six years. H. Rep. No. 1559, 89th Cong., 2d sess., p. 2. It has actually provided for two years less than that because of the cost and other factors mentioned above.

It would make no sense, in the Committee's view, to provide for a shorter period of system growth now than Congress sought to provide in 1959 and 1966. The practicability of the revenue bond financing method has been demonstrated by TVA's record of eleven years of successful operation under it. The Committee believes that this record warrants sufficient Congressional confidence to justify an increase that will last at least as long as the original authorization was intended to last; that is for from five to seven years.

3. Sufficient authorization should be provided to leave no question concerning TVA's ability to meet the growing demands on its power system for a reasonable period. TVA can provide for these demands only if it has enough borrowing capacity to make firm contracts for required new generating capacity. If growth in demands for power should be at a higher rate than now estimated, a $3.5 billion authorization might not even last two years. The homeowners and businesses dependent on TVA for power are entitled to plan with confidence on a longer-range basis. So, too, are homeowners and businesses in other areas of the country who in a power emergency could be directly affected by the power supply situation on the TVA system with which their own systems are interconnected. On May 5 of this year, the Office of Emergency Preparedness, Executive Office of the President, published a Survey of Electric Power Problems, in which it pointed out that electric generating capacity to meet peak loads will be in tight supply this summer in various sections of the nation. Of the Southeast, the Survey stated:

"This area has insufficient reserve capacity from Virginia through the Carolinas, Georgia, Alabama, and Mississippi. The CARVA pool (Virginia, North Carolina and South Carolina) has reserves of only 6.5%, more than 50% of which are in one unit. The Southern Company utilities serving Georgia, Alabama, Mississippi have reserves of only 8.6%. On the other hand, TVA and the Florida pool are in reasonably good position with reserves of upwards to 15%, *but one-half of TVA's reserves is equal to the rating of one unit,* and there are tight power supply areas within the Florida pool (i.e., Jacksonville has only 10.6% reserves). [italic added]"

The Survey also pointed out a factor that should be considered in relation not only to the coming summer but to future periods as well:

"It should be recognized that some reserve capacity estimates are dependent on new large units whose reliability is uncertain, and a large number of small units which are past retirement age. The estimates also assume a normal summer. Peak loads could be several percent higher than utility estimates. A combination of an intense heat wave and poorer-than-expected power system performance could result in the elimination of reserve margins and a failure to meet peak loads."

The Survey also emphasized the interdependence of TVA and other interconnected systems by pointing out, in discussing available capacity for the coming summer in the South Central and Western regions, that:

"There appear to be no serious capacity problems in these regions. However, the South Central region is depending on 1500 MW, from TVA this summer. Without this, the South Central reserve is 12.7%."

This 1500 MW is made available by TVA under a seasonal interchange arrangement, and will be returned to it during the winter months—the period of TVA's peak power loads.

Further, in a statement which accompanied the release of the Survey, the Director of the Office of Emergency Preparedness, The Honorable George A. Lincoln, emphasized a point that cannot be made too often:

"Electricity is the lifeblood of our high energy civilization. It is imperative that industry and government work together in order to avert disruptions to the consuming public."

The Committee is in full accord with this statement, and believes that it would be shortsighted in the extreme for the Congress to deny to a federal agency responsible for operating the country's largest single power system adequate bond authority to assure that it can do its part in contributing to reliability of the Nation's power supply.

4. The 1959 legislation provides expressly that the principal of an interest on bonds issue by TVA shall be paid solely from TVA's net power proceeds, and that such payment is not an obligation of or guaranteed by the United States. Accordingly, the bonds are not part of the public debt, and an increase in the bond authorization to $5 billion would have no effect on the debt ceiling.

5. There are no disadvantages that the Committee can see in providing an authorization of $5 billion rather than $3.5 billion. If growth in power demands in the TVA system should for any reason be less than now anticipated, the only result would be that TVA would slow down its construction program and its issuance of bonds, and the authorization would last somewhat longer. For example, one of the variables in the present estimates of how long an increase to either $3.5 billion or $5 billion would last is the extent to which future power purchases from TVA by the AEC plants at Oak Ridge and Paducah may grow beyond the purchases for which AEC has already contracted.

TVA would not, however, build capacity to supply any additional power for these plants unless and until firm contracts covering such additional power supply have been entered into. Hence, the provision of a $5 billion rather than a $3.5 billion bond authorization to TVA will in no way affect future decisions concerning the desirability of an increase in power takings by the AEC plants.

6. In summary, the Committee is convinced that an increase in the authorization to less than $5 billion would be inadequate, that strong reasons exist for an increase to at least this amount, and that such an increase would have no important disadvantages as compared to a lesser amount.

The Committee therefore recommends the $5 billion figure.

COMMITTEE VIEWS

The committee is aware that in order for the Tennessee Valley Authority to provide sufficient electric energy to meet the growing needs of the area it must have access to adequate capital to finance the facilities which will be needed over the next several years. Therefore, an increase in the bonding authority of the TVA should be made at this time. The committee accordingly recommends early enactment of this legislation.

Mr. COOPER subsequently said: Mr. President, earlier today the Senate passed H.R. 18104. The Public Works Committee held hearings on August 14, on H.R. 18104, a bill to increase the amount of bonds which the Tennessee Valley Authority could sell from the present limitation of $1.75 to $5 billion.

The Bureau of the Budget, however, had proposed an increase of the lesser amount of $3.5 billion as compared with the bill and the committee's recommendation of $5 billion. Although I did not oppose the bill in committee, it was my view that the administration's recommendation of the lower amount was adequate and realistic in meeting the financing needs of the Authority for the near future and I supported the Bureau of the Budget's request.

In the course of these hearings the Honorable Aubrey J. Wagner, Chairman of the Board of Directors of the TVA, raised important questions concerning the various problems the TVA is currently facing in meeting the power requirements of its service area. One of the chief problems testified to concerns TVA's dwindling coal supply for its steamplants and the alarming shortages of coal in the area. It was Chairman Wagner's testimony that the causes of the present coal shortage are basically fourfold: First, the effect of the recent coal mine health and safety legislation in closing small mines with a resulting loss of production; second, the lack of an adequate number of railcars; third, the increased export of coal abroad, thus removing this supply from the domestic market; and fourth, the growing concentration of ownership of the country's largest coal companies among a few large operators who own competing sources of fuel such as oil and gas and the effect on production.

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Chairman Wagner's testimony on the coal situation together with many complaints that I received from Kentucky prompted me to introduce on August 25 Senate Resolution 457 calling on the Committee on Interior and Insular Affairs to conduct a study and investigation concerning the shortage of coal existing in the United States with special emphasis on the above enumerated causes. This resolution is cosponsored by 14 Members.

Because of the increased demand for coal and of recent increases in coal prices, there has been a substantial increase in strip mining this year in Kentucky and, I believe, also in Tennessee. In the early 1960's, I had urged that the TVA—an agency whose basic purpose, as set forth in the original TVA Act of 1933, is conservation of our natural resources—to require in their coal contracts with coal companies engaged in strip mining that these companies agree to reclaim the land strip mined and that this requirement be made a condition of all TVA's contracts. This practice was inaugurated in 1965, and Chairman Wagner's testimony provides current information on this important subject.

In conclusion, I should note that I have received correspondence from residents in the Kentucky TVA service area complaining of the proposed rate increase of some 23 percent in power rates previously announced by the TVA. During the hearings, I requested the TVA to document the financial basis upon which the rate increase was proposed. Chairman Wagner's testimony points out that such an increase is necessary if TVA is to meet the requirements of section 15d(f) of the TVA Act, and also section 3.4 of the Authority's bond resolution under which certain conditions must be met before the Authority may issue additional bonds.

Because of the wide interest of many Members of the Senate in these subjects discussed by Chairman Wagner, I ask unanimous consent that his testimony be printed in the RECORD at this point.

I want to congratulate Senator BAKER, of Tennessee, who was the principal sponsor of the amendment in the Senate and upon whose motion in the Senate Committee on Public Works, the amendment was agreed to by the committee and reported to the Senate. He is familiar with TVA legislation and the needs of the TVA—certainly in his State of Tennessee—and is a strong supporter of the Tennessee Valley Authority.

I ask unanimous consent that Chairman Wagner's testimony be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF A. J. WAGNER, CHAIRMAN, BOARD OF DIRECTORS, TENNESSEE VALLEY AUTHORITY; ACCOMPANIED BY FRANK SMITH, MEMBER, BOARD OF DIRECTORS, TVA; JAMES E. WATSON, MANAGER OF POWER, TVA; ROBERT MARQUIS, TVA GENERAL COUNSEL; JACOB VREELAND, TVA WASHINGTON REPRESENTATIVE

Senator JORDAN. Will you introduce your associates?

Mr. WAGNER. Yes, sir; I will be glad to do that.

We have this morning, Mr. Frank Smith, a member of the TVA Board, Mr. James Watson, who is TVA's manager of power, Robert Marquis, TVA's general counsel, and Jake Vreeland, our Washington representative.

Mr. Chairman, we do appreciate this opportunity to review with the subcommittee TVA's need for an increase in its power revenue bond authority as proposed in S. 3967 and H.R. 18104. These bills, which as Senator Baker said are identical, would continue in effect all of the basic provisions of the 1959 bond financing amendment to the TVA Act, but would increase the ceiling on the amount of bonds we are permitted to have outstanding.

The 1959 bond amendment, which is incorporated in section 15d of the TVA Act, authorized us originally to issue power revenue bonds up to a maximum amount of $750 million outstanding at any one time. Section 15d provides specifically that the bonds are not obligations of or guaranteed by the United States, but are backed solely by TVA's power revenues.

In additions to authorizing our issuance of bonds, section 15d provides for two types of payments by TVA to the U.S. Treasury. One of these is in reduction of the appropriation investment in the TVA power system which stood at $1.2 billion when section 15d was enacted. The payments required by section 15d in reduction of this appropriation investment were $10 million a year for the first 5 years and $15 million a year for the next 5 years, and will be $20 million a year hereafter until a total of $1 billion has been paid.

The second type of payment required by section 15d is a return or dividend. Such payments are determined by applying to the appropriation investment outstanding as of the beginning of each fiscal year the computed average interest rate payable at that time by the Treasury on its total marketable public obligations.

Last year, for example, we paid to the Treasury $15 million in reduction of the appropriation investment and $57.6 million as a return. In all, since the 1959 amendment was enacted, we have made payments to the Treasury of $125 million in reduction of the appropriation investment and $448.2 million as a return, a total of $573.2 million.

It was recognized when the 1959 legislation was enacted that power demands in the area TVA supplies would continue to grow, and that the $750 million bond authorization for which the legislation provided would be sufficient for only a relatively few years and would thereafter need to be increased.

In 1966 the ceiling was accordingly raised to $1.75 billion, again with the expectation that further increases would be required as power demands in the area and the amount of generating capacity required to supply them continued to increase. Such demands and capacity needs have grown and are continuing to grow, and that is why we are appearing before you today.

TVA's power program is a part of its overall regional economic development program. This overall program involves supplying basic economic tools—economical transportation on the Tennessee River and connecting waterways, protection against major floods, an abundant supply of electric power, improved fertilizers for use in a soil-conserving type agriculture, opportunities for recreational and other development—which the people of the region can use in developing their economy.

We believe the program has been highly successful. The region in which we operate is in many respects far different that it was in 1933 when TVA was created.

There are many factors at work in the TVA area besides TVA's own operations, but in the period since 1933, per capita incomes have increased from less than half the national average to nearly three-fourths of it today. Employment has shifted for its reliance from an agricultural base to an industrial base. We are delighted to be able to report to you that in recent years particularly, much of our industrial development is taking place in the smaller communities and in the rural areas, rather than in the metropolitan areas with their population and industrial concentrations.

The region for which TVA is a power supplier contains 80,000 square miles and 6 million people. TVA furnishes power at wholesale to 110 municipalities, 50 rural electric cooperatives and one small private company which own and operate distribution systems representing assets of over $1 billion. These 161 distributors resell the power to over 2 million electric customers—homes, farms, businesses, and most of the industries.

TVA also supplies power directly to 11 Federal installations, including the atomic energy plants at Oak Ridge, Tenn., and Paducah, Ky., and to 43 industries which have large or unusual power requirements.

Power loads in the Nation have been growing at an average annual rate of approximately 7 percent. This means that loads are doubling about every 10 years. In the Tennessee Valley region, power requirements of the homes and farms and businesses and industries have grown at an average annual rate of about 8 percent in recent years. The load growth in the region is expected to require at least a doubling of capacity in the coming 10 years.

The generating capacity of the TVA power system is now 19.4 million kilowatts, and we have an additional 10.3 million kilowatts of capacity under construction. This includes three nuclear units of 1,150 megawatts each at our Browns Ferry plant near Athens, Ala.; two coal-fired units of 1,300 megawatts each at our new Cumberland plant west of Nashville; two additional nuclear units of 1,220 megawatts each at the Sequoyah site north of Chattanooga; 16 gas turbine units having a total of 350 megawatts to be installed at the Allen Plant at Memphis; and a 1,350 megawatts pump storage plant at Raccoon Mountain west of Chattanooga.

These units now under construction are scheduled for completion on various dates, but all of them are scheduled to be in service by the end of 1975. The 30 million kilowatts of capacity which we will then have on our system is the amount which our forecasts indicate will be needed by the end of 1975 to supply the region's growing power requirements then.

Meanwhile, we need to begin promptly construction of additional capacity to meet projected further growth in power loads beyond 1975. During the 1970's we face the need for beginning an additional 30 million kilowatts of new generating capacity in order that we may continue to meet the growing demands for electric power in the region.

Large amounts of capital obviously will be required to finance this kind of construction program. Some of the funds required can be provided from power proceeds, but the greater portion will have to come from additional borrowings.

At the present time, under the authority of the 1959 amendment, we have a total of $1,106 million of such borrowings outstanding out of the total of $1.75 billion which is authorized. This includes $675 million of long-term bonds sold to the general public, $331 million of short-term notes sold to the general public, and $100 million of short-term notes sold to the Treasury.

These borrowings have helped finance the 8.4 million kilowatts of generating capacity additions we have made to the power system since the 1959 amendment to the TVA Act and the work done thus far on the 10.3 million kilowatts of additional generating ca-

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pacity now under construction and to be in service by the end of 1975.

Virtually all of the remainder of the $1.75 billion of borrowings now authorized will be required to complete the 10.3 million kilowatts of capacity now under construction, together with the related transmission facilities and nuclear fuel requirements. I think this is important to understand, because when we start a new generating unit, we must have available to us the authority to borrow whatever funds will be needed to complete its construction, so that while we have not yet completely exhausted or borrowed the $1.75 billion, we are committed to work which will use it up.

We have just opened bids on two additional nuclear units, with options on additional units, and we will need an increase in our borrowing authority in order to award firm contracts for these units. The leadtime for constructing new generating units is now about 6 years as compared with 4 years only a few years ago.

So we should make awards without delay for the two new units if they are to be completed in 1976 when they will be needed. The need for an increase in our bond ceiling is therefore of the utmost urgency to us and to the region.

As to the amount by which TVA's borrowing authority should be increased, the administration has recommended an increase in the ceiling to $3.5 billion, and we of course support the recommendation. We estimate that with such an increase we could go forward from 2 to 4½ years before coming back to Congress with a request for a further increase in our borrowing authority.

I should perhaps make clear why a doubling in our bond ceiling to $3.5 billion would provide funds only for the period of time I have indicated, that is, 2 to 4½ years. A number of factors are responsible. First, with power use doubling every 10 years, we are having to provide larger and larger capacity additions each year to keep up with the demands. Second, as I have already noted, the leadtime on new units is now about 6 years and we need enough bond authority to finish units before we begin constructing them.

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Third, construction costs per kilowatt of capacity have increased drastically, despite the efforts we have made to take advantage of economies of scale by constructing large-size units. The average cost of the completed steam capacity now installed on the TVA system is about $125 per kilowatt. We estimate that the capacity now under construction will cost considerably more than this, and the cost of future capacity will be still greater—perhaps double the cost of presently completed capacity, so that our dollars do not go as far as they did 10 years ago.

The increased costs of generating units reflect increases that have taken place in the costs of labor, materials, and money. Another factor is the costs which result from the need to protect the environment. TVA has a responsibility, both as a conservation agency and the operator of a large power system, to assure that its powerplants do not adversely affect the air or water and their quality.

The problems of fly ash and sulfur dioxide contained in stack gases at coal-fired plants must be solved, and heated water discharged at both coal and nuclear plants must be controlled so that aquatic life will not be harmed. Technology has found the answers to some of these problems, as in the case of the electrostatic precipitators which we are installing—incidentally, at a cost of about a hundred million dollars—to remove 99 percent of the fly ash at our coal-fired plants, and we are confident that technology will ultimately solve these other problems as well.

Although the exact costs which will be required to protect the environment are not known, it is clear that both TVA's capital and operating costs will be greatly increased by these requirements and that this, in turn, will increase our need for additional borrowings.

We are deeply committed to the principle that our operations shall not damage the environment, and believe the added costs of assuring that they do not do so must be accepted, whatever those costs turn out to be.

One final point I would like to mention is the need for providing adequate generating capacity in the Tennessee Valley region not only for its own benefit but to assure that we do our part in providing power reliability for the Nation as a whole. The TVA power system interconnects at 26 points with neighboring power systems for the economical exchange of power and to safeguard the reliability of power supply.

For example, we have agreements with interconnected groups of systems to the south and west for the exchange of power on a seasonal basis. We exchange 1,800,000 kilowatts of capacity. These systems receive power from TVA to help meet their peak-loads during summer air conditioning season. In winter, TVA gets back similar amounts of power to help meet peak demands that result from electric heating.

In the case of an emergency, it is possible, through transfers of power under exchange arrangements between adjacent and interconnected power systems, in effect to ship power hundreds of miles from one system that has a reserve supply to another that may have experienced a failure at one or more of its plants and is in dire need of an additional supply.

This is, of course, what happened a couple of weeks ago when several systems, including TVA, began making power available to Consolidated Edison to meet the emergency situation which developed in New York. Transfers of this kind are possible only if there is reserve capacity available, as well as adequate transmission interconnections.

This is one more reason why TVA, as well as other systems, must provide adequate generating capacity in their respective areas if they are to fulfill their responsibilities as power suppliers.

I should add that these interconnection arrangements and these seasonal interchanges also effect very substantial economies for both partners in the interchange arrangements. They eliminate the necessity for building generating capacity on each system that otherwise would be necessary, and they are a real efficiency device in the operation of a system.

Mr. Chairman, that completes my statement. We will be glad to answer your questions, of course.

Senator JORDAN. Mr. Wagner, what is the highest voltage that you are transmitting now?

Mr. WAGNER. Our highest voltage now is 500,000 volts, Mr. Chairman.

Senator JORDAN. I just wondered if you had reached that voltage capacity—if that had become necessary for long-range transmission, for instance, to New York City.

Mr. WAGNER. Some of it went on high voltage transmission. The transmission to New York City was really a displacement of power—we were providing power to our neighbors, they to their neighbors, and so on.

Senator JORDAN. Are you having any problem getting coal?

Mr. WAGNER. Yes, sir; we are having a very serious problem getting the coal, due to quite a number of factors, and we are distressed by the fact that our stockpiles are now down to about a 10-day supply, in spite of everything that we can do to get coal. We are paying prices at the present time that are approximately double what we were paying as recently as a year ago, and we still are not able to get as much as we need.

There is also a problem of getting coal delivered, even though we have it bought, and it is available at the mines. There is a shortage of railroad cars that we have tried to get corrected, but so far, we have not succeeded. This problem is a serious one. I think it is a serious one not only for us, but for the entire electric utility industry.

Senator JORDAN. Are you using any gas at any of your plants?

Mr. WAGNER. One of our plants is equipped to use gas, but it is off-peak gas, and the plant burns gas or coal intermittently. We can't always get the gas when we want it.

Senator JORDAN. Well, is it gas and coal or gas and oil?

Mr. WAGNER. Gas or coal.

Senator JORDAN. Gas or coal. Well, I know a number of the power companies are seriously affected by a shortage of coal, partly due to the vast amount we are exporting, and there is an effort being made here now to see if that can't be corrected in one way or another. I also understand that a number of the coal mines, particularly small ones, have been unable to meet some of the requirements set up under the Mine Safety Act, and have just closed down, rather than try to do it. That is also contributing to the shortage.

Mr. WAGNER. Yes, sir; that is correct.

On the matter of export coal, we have had at least one instance in which coal where we were buying under a contract that lasted for several years, for a price of about $5 a ton, was not available to us when the contract expired. It was sold instead for the export market at a price of something over $11 a ton.

The costs involved in that $11 were greater; coal had to be washed, while we were buying it unwashed, but nevertheless, it was denied to us.

The export coal problem also ties up numbers of rail cars. The coal moves to the ports, and then because the demurrage charges on rail cars are very low, it is stored in the cars for days, and there are trainloads of coal sitting at the ports, whereas the cars, if they were available for moving coal for use in this country, would help to alleviate the coal shortage.

The mine safety laws to which you referred have caused several of the smaller producers who have been supplying us with coal to close down. The costs involved for them would have been too great in relation to their total operations, and these requirements are adding to the costs of coal that we are getting from some of our larger producers.

Now I should say that we favor mine safety, Mr. Chairman, and whatever is required for realistic mine safety, we believe must be borne as a part of the cost of producing and selling the coal. It is true, however, as you have said, that this legislation now has added both to the scarcity of supply, by stopping it from some of the smaller mines, and to the cost of the coal supply, by adding to the costs from the larger suppliers.

Senator JORDAN. Of course, I am hearing that same thing from Duke and Carolina Power, in my own State. They have got the same problem.

Mr. WAGNER. Yes; this is a nationwide problem for the electric utilities business.

Senator JORDAN. It is a nationwide problem, which we are going to have to solve. I know something about the reason for this shortage of coal cars too. It is cheaper to let the coal sit in the cars at what they are charging for demurrage, than it is to have a storage basin——

Mr. WAGNER. Unfortunately, that is true.

Senator JORDAN (continuing). Established wherever they happen to be shipping from; that is, the large ports.

Mr. WAGNER. That is true. Demurrage charges need to be legally established on a more realistic basis.

Senator JORDAN. Senator Cooper?

Senator COOPER. I will yield to Senator Baker for the time being.

Senator BAKER. Thank you, Mr. Chairman. I have a strange feeling that the Senator from Kentucky just wants the last word.

Mr. Chairman, you spoke a moment ago about export coal, and certain supplies that you have been deprived of because of their commitment, after a contract expired, to the export market.

Do you know of substantial reserves of unmined coal that have been acquired by companies, formerly under contract to domestic users, for foreign interests, especially Japanese interests?

Mr. WAGNER. Senator, I do not know, but Mr. Watson might.

Do you want to comment on that?

Mr. WATSON. Well, Senator Baker, as you are aware, with your knowledge of the coal industry, most of the coal in our area is not low-sulfur enough to be in the metallurgical market, so you have to get into the southern Tennessee coals, or the really——

Senator BAKER. Southwest Virginia coal.

Mr. WATSON. Yes, southwest Virginia, and we draw very little of our coal from southwest Virginia. Really the only coal in our region that had low enough sulfur for the metallurgical market was in the southern Tennessee area, and that is the coal we just lost. Our biggest problem with export coal is the fact that it ties up rail cars for weeks at a time, that could make a round trip from our normal sources of supply to our plant and back, in, say, 2 days or something like that.

Senator BAKER. The reason I asked the question is because I have reports from time to time—which I am careful to say I have not verified—that not only is the export trade calling heavily on reserve of metallurgical quality coal, but that foreign interests, especially Japanese interests, have advanced substantial sums of money for the construction of new plants, largely for the mining of metallurgical grade coal, but also tying up vast expanses of unmined coal, both metallurgical and nonmetallurgical, which might be then beyond the reach of the domestic steam coal market.

Do you know of any such situations?

Mr. WATSON. Well, in the particular case that Mr. Wagner was talking about, where we had been buying the coal for about 10 years, the Japanese offered to supply $2.6 million interest-free——

Senator BAKER. To build a washing plant, and they are approximately doubling the output of the mines. This in effect drains off the reserves of this company twice as fast as before.

Senator BAKER. And this was coal that you have used for the general TVA steam requirement?

Mr. WATSON. It all went to the Widows Creek Steamplant.

Senator BAKER. And $2.6 million was advanced by the Japanese Government, interest-free, in order to process it and wash it to make it available to them as metallurgical coal.

Mr. WATSON. To reduce the sulfur content to something around a half of 1 percent. It normally runs in the neighborhood of about seven-tenths to eight-tenths of a percent.

Also, washing removes some of the ash, so they don't have to ship it to Japan.

Senator BAKER. On a slightly different subject: You were speaking of a reduction in the availability of hopper cars or coal cars by reason of their standing in the export cities. Has the unit train concept reduced the availability of mine cars, especially for the smaller operators?

Mr. WATSON. No, I really think the unit train concept makes more cars available. Usually unit trains, like the one that I am sure you are familiar with, that comes out of Hazard, Ky., and goes to Bull Run Steamplant, which is right close to your hometown there; are made up of cars that were all provided especially for that movement. They are hundred-ton cars, special automatic dumping equipment, and really do not have any effect on the car supply situation.

The fact remains, however, that the railroads, the principal railroads that serve our area, have approximately the same number of cars now that they had 5 years ago.

Senator BAKER. Including the unit train.

Mr. WATSON. Including the unit train.

Senator BAKER. Well, the recurrent complaint comes to my office that the railroads tend to favor and supply the unit train operators, and tend either not to replace or not to expand the supply of coal cars available to non-unit train operators.

Mr. WATSON. Well, I think both the railroads and the utilities feel that a unit train is dedicated to a certain movement, and should be kept in that movement.

Senator BAKER. Well, I think it should, too, but the point of the matter if, if you have the same number of cars now that you had a few years ago, and if you have now dedicated a great number of those cars to unit train operation, then you probably have fewer cars that are non-unit train cars than you had, say, 10 years ago.

Mr. WAGNER. Senator, I think the situation of understanding here is that these unit trains are usually specially designed and built at the time they are established. They don't take old coal cars and set them up in a unit train, and the problem has been that the standard type coal cars, in normal operation, have not been replaced as they should, nor has the fleet been added to as it should have been in view of the expanding market and need for them.

Senator BAKER. I think that is right, Mr. Chairman, and the point I am struggling to establish is that while unit trains are not made up of old coal cars, thus depriving other operators of their use, it is nonetheless true, is it not, that since the total number of cars, of all types available is roughly the same as it was a few years ago, there are relatively fewer conventional cars available to nonunit train operators than there have been in the past?

Mr. WAGNER. That is correct.

Senator BAKER. Well any way you put it—we have managed to get that fairly complex, but any way you put it, there is a coal car shortage. Is that right?

Mr. WATSON. There certainly is. For coal that originates on railroads for delivery to our plants, we have been averaging between a hundred thousand tons and one hundred thirty thousand tons shortage every week, for more than a year.

Now you can't say that this was all due to the rail car shortage, because maybe there were cars placed too late in the evening to be loaded, or the coal producer had problems at his mine that day, or something like that, but most of that is due to a shortage of coal cars.

Senator BAKER. On another subject: it is my observation in Tennessee that since the passage of the mine safety bill, there has been a great resurgence of interest in very large stripping operations. There has been a great deal of activity in exploration and prospecting and the like.

Does TVA have any policy respect to restraint or conditions on the nature of coal stripping operations as a condition to accepting the coal?

Mr. WAGNER. Yes, Senator Baker, we do have. We require in our contracts with coal producers who supply us with strip mine coal that the land be reclaimed, and we believe that this program has been working very satisfactorily. We now have reclamation provisions in all of our coal contracts that we entered into in the last 5 years, at least, and this means 154 contracts that require reclamation, and under those contracts, more than 8,000 acres of land have been reclaimed, and, of course, all of it that is being strip mined for us now will be reclaimed.

The program we believe is working very well, and we keep watching it and looking for methods to improve reclamation, so that the land is not only preserved, but returned to useful purposes.

Senator BAKER. Is the degree of restoration required by your coal purchase contract comparable to the requirement of, say, the Kentucky Statute for restoration of strip mines?

Mr. WAGNER. It is generally comparable with Kentucky. Kentucky has, we believe, a very good statute. In most of the States where we operate, I believe our requirements are more stringent than the State requirements. We are mining some coal reserves now that we bought several years ago, doing this in an effort to try to get coal at lower prices; and in that area, we are trying some new ideas that would reach even higher standards of reclamation than we are requiring in our general contract.

We want to try these out, and see if they are practical and feasible, and if they are they would be written into our new contracts.

Senator BAKER. This is another observation that was suggested to me in Tennessee recently, in connection with stripping: that in years past, when there were few, if any, restrictions on the nature of coal stripping, a great deal of damage was done in terms of potential restoration, in that after a coal strip pit stands for a few years, it is virtually impossible to do much with it, seed it, or drain it effectively, or the like.

Therefore, the suggestion has been made in some quarters that one of the most practical restoration steps that might be taken for old strip pits, especially in mountain areas, is to hope that they might be re-stripped now in a more controlled manner, with an opportunity to start afresh with the restoration.

Do any of you have any comment on that?

Mr. WAGNER. Well, I don't know about that as a general policy, Senator Baker. There are some instances where I am sure it would provide an opportunity for better restoration than you otherwise might get. We have two places where the coal is being stripped in areas that have been previously opened, and there we are getting reclamation to new standards. It is true that it is much easier to do a good reclamation job, and at much less cost, if you have it in mind at the time you mine the coal.

At the same time, while it is difficult to go back to some of these old areas, we believe that it should be done, and can be done at reasonable cost. We have some proposals that we are working on in that direction.

Senator BAKER. Well, this is a subject that I won't burden the committee with further, nor you, Mr. Chairman, but it is a subject that I intend to give a great deal more attention to in the future. I feel that a Federal policy on the restoration of strip pits and the manner of the recovery of coal by stripping must be examined, and possibly enacted into standards.

Mr. WAGNER. We have a number of research and demonstration projects in this direction. On the specific point that you mention, some of these coal reserves that we own and are now mining have been stripped in the past, and we are working in those areas. This operating and cost experience is valuable in determining the feasibility of this kind of operation and we will have it.

Senator BAKER. This last question, Mr. Chairman, if I may.

XUM

On the particular subject at hand, which is of course, the amendment to the TVA Act to increase your bond authorization, the bill I introduced, together with cosponsors, and the bill passed by the House provide for an authorization increase from $1,750 million to $5 billion, which is, frankly, my preference, because I feel that on the basis of projected power needs for the future, and on the basis of our national underestimate of our power needs for the last several years, that we ought to put TVA in a position to commit or be in a position to commit its generating and transmission capacity, without having to come back at an early date for additional authority.

I don't ask you to comment on that, but I would simply say that notwithstanding the fact that you are here asking for $3.5 billion, I would urge, Mr. Chairman, that the committee approve the full authorization of $5 billion.

Thank you very much.

Senator YOUNG (presiding). Mr. Chairman, it is with regret that I was not able to be here at 10 o'clock, and I know that Senator Jordan from North Carolina feels the same, because he and I were both over in the Senate Chamber, working, at 10 o'clock. Fortunately, he was able to leave earlier than I, and now I am very glad to be here and it is my intention to read your testimony very thoroughly, and may I say that it is a very happy personal recollection that in the first administration of Franklin D. Roosevelt, my vote helped create the Tennessee Valley Authority, and during years following service in the House of Representatives, I was also glad to vote for legislation supporting the TVA.

Mr. WAGNER. Well, thank you very much, Mr. Chairman. We know of your long interest and support for TVA, and the interests of the great Tennessee Valley region, and we know that you gentlemen are busy. We were delighted to wait for the few moments that were required, and it is good to see you again.

Senator YOUNG. Senator Cooper, do you have questions?

You may proceed.

Senator COOPER. Yes, Mr. Chairman.

Senator Baker has mentioned that $5 billion was authorized by the House, and that his bill, S. 3967, would call for $5 billion instead of the present authorization level of $1,750 million. Is that correct?

Mr. WAGNER. Yes, sir, that is correct.

Senator COOPER. Do you still hold to that position? I understand that $5 billion is the amount you require?

Mr. WAGNER. Senator Cooper, our position is that $3.5 billion will permit us to continue for 2 to 4 years, depending on the way some of the loads grow.

As long as we have authorization when we need it, this is the important thing to us. As I indicated in my statement, the administration has felt that the doubling of the present authorization of $1,750 million to $3.5 billion is sufficient for this time, and we support that position.

Senator COOPER. The last increase was for $1 billion; is that correct?

Mr. WAGNER. That is correct; yes.

Senator COOPER. Has all of that amount been obligated?

Mr. WAGNER. It has been obligated to the extent that to complete the capacity which we now have started and under construction will take all of this authorization to do that, so that if we wanted to start, or we want to place a firm contract, as we must have soon, for some additional generating capacity, we would need to have the additional authorization available, so that we would know we could sell the bonds needed to complete that capacity.

Senator COOPER. You mentioned certain facilities that are now being constructed—nuclear plants, and, I believe, one coal-fired plant. Do you have an authorization sufficient to borrow the money, to complete the construction of these facilities?

Mr. WAGNER. Yes; the authorization that we have now would enable us to complete the construction of facilities that are now under construction. It would not permit us to start construction of additional facilities.

Senator COOPER. I note that Mr. Shultz, in his letter, states:

"Now because of the tenuous nature of projecting the growth of peak demand, coupled with the uncertainty of AEC's future power needs which are served by TVA, we believe that an increase as large as 2.35 billion should not be made that point."

Do you consider that your estimate of future TVA power needs may be of a tenuous nature?

Mr. WAGNER. Well, Senator Cooper, any estimate is an estimate. You can't be sure that it is going to come out the way you anticipate, but we make these estimates based on fairly firm data. We have the trends of the past, and we know something about the plans of our existing customers for their expansions in the future, and the estimates are as good as we can make them.

Our experience in the past has been more often that we have underestimated than overestimated, I believe. It goes both ways, but in general, our estimating has been pretty good.

One of the criticisms being leveled nationally at the electric utilities industry now is that it is not doing or has not done its advance planning. We have tried to do that in TVA, and so far, quite successfully.

And this is where our estimates fit in. It is why we have the capacity now that we need; it is why we need the additional bonding authority, so that we can start the capacity now that we are going to need in 1976 and the years beyond.

The question of the amount of leadtime that is required is a little hard to estimate. At the present time, we think it will be 6 years. Not very long ago, 4 years was enough but this is a problem that affects the estimates.

Another problem that affects them is what will happen to interest rates, and that affects not only us but consumers in the region.

Senator COOPER. Well, your statement noted that TVA is providing power for 11 Federal plants. I assume that the largest would be the AEC plants at Oak Ridge and at Paducah?

Mr. WAGNER. That is correct.

Senator COOPER. Do you have a term contract to provide those installations with power for a number of years ahead?

Mr. WAGNER. Yes; we have contracts with them, and we start capacity to serve them only when we have firm contracts at hand.

Now, they do indicate to us what their planning is for the future, and when I said that the $3.5 billion would last us from 2 to 4½ years, a part of that range is accounted for by this situation. If AEC continues to take power only under the present contracts, the longer period of time would be applicable, somewhere in the neighborhood of 4.5 years.

If, however, they should require power to meet the largest planning programs that they have discussed with us, we could run out of bonding authority in 2 years or a little more.

Senator COOPER. I have information that you are currently providing 1,340 megawatts to Oak Ridge and Paducah, and that this load will increase by the spring of 1976 to 3,165 megawatts. Is that correct?

Mr. WAGNER. Yes; that is correct.

Senator COOPER. Well, there is a steady increasing demand for power from those two plants.

Mr. WAGNER. That is correct. And the capacity that we now have under construction will enable us to meet that demand.

Senator COOPER. Will the facilities you intend to construct to meet your future power requirements be all atomic plants?

Mr. WAGNER. No, sir; we have under construction two large atomic plants, a large coal-burning plant, and we are beginning construction of a pump storage facility. Those are the large ones that are now under construction.

Senator COOPER. From here on out, do you expect to build only nuclear plants?

Mr. WAGNER. I didn't get the question, sir.

Senator COOPER. Looking ahead, with respect to new facilities that must be built to supply power, will they be only nuclear plants?

Mr. WAGNER. I don't think we would say that at this point, Senator. It depends on what the relative competitive position is. We will build whatever kind of plant that will provide energy for the consumers at the lowest cost.

When we undertook our first large nuclear plant at Brown's Ferry, we took alternate bids on a coal-burning plant and its fuel supply and a nuclear plan and its fuel supply, and in that instance, the nuclear plant came out cheaper, and so we went nuclear.

Subsequently, when we looked at our next nuclear plant, the costs were about a standoff, and in view of our capacity need, we started to build both a nuclear plant and a coal-burning plant.

We now have bids before us for two more nuclear units, with options for additional units. At the time we took those bids, we also invited bids on a coal supply, to see if we could make a comparison again. We got no bids for the coal.

So the direction we go in the future will depend on the availability of alternate sources of fuel, and the relative cost. I think it is generally believed that nuclear technology, being relatively new, will improve, can be improved to a greater extent than fossil fuel technology, and that consequently, a substantial part of the additions in the future will be nuclear plants, but at this point in time, and looking at the figures that come to us, I don't think you can say positively it is going one way of the other.

Senator COOPER. Congress has passed strict legislation dealing with water pollution.

Mr. WAGNER. Yes, sir.

Senator COOPER. And soon will pass a bill much stricter than any we have had thus far.

Mr. WAGNER. Yes.

Senator COOPER. Let me turn to thermal pollution. Are you taking any steps now to refit or requip your existing facilities so that they will meet these standards?

Mr. WAGNER. On thermal pollution, did you say?

Senator COOPER. Yes.

Mr. WAGNER. Or on general pollution?

Senator BAKER. Thermal.

Mr. WAGNER. On the question of thermal pollution, our existing plants have not created any problem. We did have some difficulty at the Paradise plant in western Kentucky, and there we added cooling towers, so that the water temperatures in the river would not be raised to a harmful degree. With our new plants, we are going to great lengths to deal with warm water, and we believe that these will take care of the problem adequately.

If they don't, we will do whatever it takes to take care of it.

Senator COOPER. Concerning the expenditures required to reequip the old plants, do the funds come from operating revenues or from the sale of bonds?

Mr. WAGNER. Well, the money to equip our old plants, and there we are doing some reequiping by putting in electrostatic precipitators to clean the air out, and we will ultimately, I am sure, develop some equipment to take the sulfur oxides out. That equipment will be paid for partly from power revenues and partly from borrowed funds both, but the bulk of our funds for capital improvements of that kind now must come from borrowings, Senator Cooper, so that as we run into these added costs for environmental protection, both atmospheric and water, it will add substantially to our needs for borrowing authority.

Senator Cooper. I have some questions concerning coal.

Normally, what reserves of coal stock does TVA have on hand?

Mr. Wagner. Well, we would like to have a 60-day supply in our stockpiles, so that if we run into difficulties of any kind, we can keep going.

Senator Cooper. What is your current supply?

Mr. Wagner. The supply now is down to 10 days, if we had it uniformly distributed between our plants, but at some plants we are down to 4 days.

Mr. Watson. The lowest one is 3.1.

Mr. Wagner. Mr. Watson reminds me that as of this morning we are down to 3.1 days at one plant, 4.1, 5.1, 4.7, and 5.5 days at others.

Senator Cooper. Do you have any assurances that you will be able to get enough coal to keep these plants running?

Mr. Wagner. Well, this is where you hope and pray, I think, Senator.

Senator Cooper. You mean you haven't contracted for all your requirements?

Mr. Wagner. We have contracts, but let me tell you, when we get word that a rail strike is threatened, or that there is trouble in any of our coalfields, our blood pressure goes up considerably. We are in a very tenuous position in this regard.

Senator Cooper. Would you say, then, you do not have contracts to provide you with sufficient coal?

Mr. Wagner. Oh, yes, sir, we have the contracts, but we are currently getting about 70 percent—is it, Mr. Watson?—of the coal that we have under contract.

One of the problems is that the railcars are not available to deliver it, and another problem is that it just doesn't come out of the mines, for one reason or another.

Senator Cooper. Didn't the TVA bring a suit against one coal company to require them to live up to their term contract and provide the coal?

Mr. Wagner. Yes, sir, we did.

Senator Cooper. What does it state?

Mr. Wagner. Let me ask Mr. Marquis.

Mr. Marquis. That case was settled, Senator, and we are now getting coal deliveries from that company, after they first stopped. But we are not getting as much coal from them as we once did.

Senator Cooper. I believe that the TVA is the largest purchaser of coal in the United States; is that correct?

Mr. Wagner. I think that is correct, yes, sir.

Senator Cooper. Your testimony will be very helpful in giving us information on what you consider are the reasons for this short supply of coal. Now we have had problems in securing adequate numbers of coal cars ever since World War II. Every time there has been a coal shortage, we talk about insufficient cars.

Do you consider that as one element contributing to the coal shortage?

Mr. Wagner. Yes, sir; and in the immediate picture, a very important element.

Senator Cooper. Does the TVA own any cars?

Mr. Wagner. No, sir; we do not own any coal cars.

Senator Cooper. You do own coal reserves?

Mr. Wagner. Yes, sir.

Senator Cooper. I recall the last time that you came before the committee when you testified that the TVA owned about 129,000 acres of coal reserves. Have you added to the reserves since then?

Mr. Wagner. We have only two large reserves, Senator, one in east Tennessee and one in western Kentucky, and—

Senator Cooper. The old Camp Breckenridge?

Mr. Wagner. Yes, sir; we bought these reserves on a competitive bidding basis when the General Services Administration sold them, and we are moving now to get those reserves mined.

Senator Cooper. The last time you testified, you stated that TVA owns about 129,000 acres of coal reserves. You state you are getting ready to have this coal mined on the old Camp Breckenridge site?

Mr. Wagner. That is correct, we have a contract for it with the Peabody Coal Co., and they will open the mines and mine the coal.

We are also mining some of the coal in east Tennessee, on the former Koppers property, and I should add that we are continuing to look for coal reserves. They are extremely hard to find. And this gets to another one of the long-term problems in the coal supply.

Senator Cooper. Is the Paradise steam plant operating in Muhlenburg County?

Mr. Wagner. Yes, sir, the Paradise steam plant is operating, and we have there a very good coal supply.

Senator Cooper. Would this coal from the Camp Breckenridge site be transported to the Paradise steam plant?

Mr. Wagner. No, the Camp Breckenridge coal will essentially go to the new plant that we are building at Cumberland City. This is the one that is now under constuction.

Senator Cooper. Where is that?

Mr. Wagner. It is on the Cumberland River, in Tennessee, near the town of——

Mr. Watson. Fifty miles west of Nashville.

Senator Cooper. Are there any other reasons why you can't get coal?

Mr. Wagner. Yes.

Senator Cooper. Have a number of small mines closed down in eastern Tennessee?

Mr. Wagner. Some of the small mines have closed down because they were unable to meet the requirements of the mine safety legislation. The larger mines are meeting it. It is adding to their cost, and also, it is reducing the rate at which they can produce coal for us.

There is another important factor, we think; when we used to buy coal, we would invite bids, and if we were going to buy a hundred thousands tons a week, we would get offerings of maybe two, three, four, or five times that amount, and we would take the low bids, and go on.

We have reached a point now, though, as in the case I indicated where we were trying to buy coal to assess the competitive position of nuclear and coal for these new units we are weighing, we invite bids and we don't get any bids, or we get just a very small amount offered. One of the problems that we think is contributing to this is that the coal companies, the large ones, are being bought up by oil companies and a couple of large metal companies. Eight of the 10 largest coal-producing companies in the country now are owned by either oil companies or large metal companies.

And we are told by some of their management that they are not interested in selling coal at profit margins that were considered satisfactory by the old coal companies, that they want profit margins that are more comparable with what they are making on their other products. As a consequence of that, coal which was costing us, a year ago, maybe $4.50 a ton, is now offered to us on a negotiated basis at $7 or $8 or $9 a ton, and with our stockpiles as low as they are, you can see that we have no alternative but to buy it.

In other terms, Senator Cooper, we operated for years at coal costs of about 18 to 19 cents per million B.t.u. We buy our coal on a heat content basis. This gradually crept up through normal price rises and inflationary pressures to about 21.5 cents last year. Now for coal we recently had to buy we paid 35 cents a million B.t.u. for some of it, and 38 cents for some more of it.

We bought some yesterday at 40 cents, and we even had one offer, which we are not going to accept, at 68 cents.

Now we have some general ideas about what has happened to the cost of producing coal. We have them because of our work on mining the reserves that we own ourselves, and also because under a gross-inequities provision in some of our long-term contracts, we have had to go back and renegotiate prices. The companies in these cases have to demonstrate to us what their increased costs are.

Now, excluding the mine safety costs, those costs have gone up, and we have had to add maybe 50 or 75 cents a ton, but not $3 or $4 or $5 a ton. Mine safety costs will add more money; we don't know at the moment how much. We are getting demands anywhere from 75 cents to $1.40.

We have not yet been able to examine those claims to see how much fat there may be in them, but even those, added to the 50 or 75 cents a ton that we have renegotiated, do not justify, in our minds, the kind of prices that we are being asked to pay now.

We think this is extremely important, not only to TVA but to the whole Nation, because this country lives and breathes on electric energy. We have looked at alternate sources of fuel—oil, gas, uranium. The oil companies, of course, own the oil and gas reserves now, and they are buying into uranium reserves and uranium fuel processing. This is a situation which can become very difficult, and which concerns us, Senator.

Senator Cooper. I beg the indulgence of the committee, in taking up this subject of coal supplies. I know Senator Baker is, very interested in this matter. Your testimony will give us a good chance to find out what some of the causes are for the present coal shortage.

Now, first you have noted the old question of shortage of coal cars. Secondly, some mines are shut down, because of the Mine Safety law. I know that has happened in my State.

Third—and I am very glad you brought this out—I have heard comments about this, too—that a great number of the big coal companies are now owned by oil companies, and there is a serious question, whether those companies want to increase their production of coal, or whether they want to limit production because of their oil business.

I think it is a subject that will have to be investigated and should be investigated by the Congress.

Concerning the effects of the Mine Safety Act on coal production I must state that what we predicted has come true, particularly in Kentucky and Tennessee, where we have what we call nongassy mines. Many of these small mines have closed down, because it wouldn't be economically possible for them to re-equip the mine as required by the new law. And now many of them have gone into strip mining which is what I predicted would happen.

Senator Baker questioned you about the provisions you place in your contracts with mining companies from whom you purchase coal requiring them to reclaim the land. This policy has been in effect since 1965, hasn't it?

Mr. WAGNER. That is correct.

Senator COOPER. I know that you require that the supplier reclaim the land within a period of 24 months after the contract is completed.

Mr. WAGNER. Yes, sir.

Senator COOPER. Now, what means do you have of enforcing that contract?

Mr. WAGNER. Well, all I can say is that so far we have been able to get compliance. It is written into the contract. Generally, these contracts require the contractor to provide a performance bond. No doubt this would provide TVA considerable leverage in obtaining compliance with the reclamation provisions. Moreover, the State strip mine reclamation laws require the operator to post a bond as a condition of obtaining a mining permit.

We could refuse to take subsequent bids from operators who violate the reclamation clauses in future instances. I would say, Senator, that fortunately, we have not had to resort to those methods. I think that we have found that the coal producers, if they realize they are going to be paid for it, are willing to do the job.

Senator COOPER. Can you state to the committee that the coal companies have carried out these provisions of their contracts and have reclaimed the land?

Mr. WAGNER. I asked the man who inspects reclamation. He is a very able individual who is not in our office of power, but is a conservationist in our forestry organization, so that we have a sort of an independent check on this thing.

He says that the reclamation results so far vary all the way from poor to excellent, but the ones that are poor, we are working on, and even there, we are getting, by what is normally understood to be reclamation, pretty good results. This is adding to the cost of coal.

Senator COOPER. It ought to.

Mr. WAGNER. Yes, sir; that is right.

Senator COOPER. Under the Kentucky law, which is considered to be one of the best in the country, the State authorities carry on a continuing inspection of these operations.

Does the TVA carry on a continuing inspection to see that the companies are living up to the contract?

Mr. WAGNER. Yes, we do. Yes, sir.

Senator COOPER. And they close them down in Kentucky, if they are not. Do you ever cancel a supplier's contract if he isn't living up to his contract?

Mr. WAGNER. We have not yet canceled any because of reclamation violations. I should point out that these are long-term contracts, and a contractor usually gets equipment committed for the life of the contract. If we look at the mined area and say, "Look, you have got to do some more work here," he generally does it.

Senator COOPER. Does he reclaim the land as he proceeds with his stripping operations?

Mr. WAGNER. As closely following it as can be done; yes, sir, and a part of it, you realize, is done almost as a part of the mining operations. For instance, one of the requirements is that the strip bench be graded so that the water that falls on it will flow toward the high wall, and is then carried to the natural drains, down the mountainside.

He is required to cover the iron pyrites promptly so that sulfuric acid isn't formed, and you don't get acid drainage. The extent to which material can be dumped over the outside bank is controlled, and then he is required to revegetate this area quite promptly.

Senator COOPER. In 1966, you testified and provided the committee with a statement describing the requirements for reclamation included in your contracts. Would you furnish the committee with this information together with a list of companies the contracts of which contain this information?

Mr. WAGNER. Yes, sir; I will be glad to.

Senator COOPER. What I am saying is that if you do not enforce these provisions day by day, or at least period by period, over the life of your contracts—which are long-term contracts—then the damage will be done. It will certainly be done as far as the water levels are concerned.

Mr. WAGNER. We will be glad to provide you with a copy of the requirement in the contract, and I would want to add that we do make continuing inspections, Senator, and we work also with the States on this, very closely.

(The information subsequently furnished follows:)

RECLAMATION PROVISION IN TVA COAL PURCHASE CONTRACT

Strip Land Reclamation. Contractor agrees to perform in accordance with the following standards and to the satisfaction of TVA reclamation and conservation work upon all the lands which are affected by the strip mining (including surface auger) of any coal supplied under this contract.

a. Contractor shall, as closely as practicable following the mining operation, cover coal faces and bury all toxic materials including coal wastes and strongly acid shales.

b. Contractor shall seal off any breakthrough to former underground mines.

c. Contractor shall conduct the mining in such manner as to keep the drainage free of spoil.

d. Contractor shall control water from the mines and haul roads by:

(1) Channeling runoff into drainage either naturally non-eroding or made that way through construction of checks, or

(2) By impoundments, or

(3) A combination of (1) and (2).

e. Contractor shall cover all holes at the face that have been made by augers.

f. Contractor shall grade the spoil banks as necessary to provide for the reestablishment of vegetation.

g. Contractor shall conduct mining and reclamation so that any spoil placed on the slope below the bench will be handled with the objective of preventing landslides. This provision will generally control the bench width of the first cut in relation to the steepness of slope, the total volume of overburden which may be cast downslope, and the natural and proposed drainage pattern.

h. Contractor shall revegetate the disturbed area with trees (but with TVA's approval grasses, legumes, and shrubs may be substituted) so as to ensure that the disturbed area will be covered by vegetation well distributed throughout the entire area.

i. To the maximum extent practicable, the foregoing work shall be performed at the same time the mining operation is taking place, and all the above work shall be completed no later than 24 months after the delivery of all the coal supplied under this contract unless TVA agrees to a longer period of time.

TVA shall have the right to inspect the Contractor's mining operation and the lands involved from time to time to determine the Contractor's compliance with the foregoing standards. TVA shall at all times be the sole judge as to whether Contractor is complying with the standards above set out. TVA, in its discretion, may accept as fulfillment of the requirements of this contract compliance by the Contractor with applicable reclamation laws having standards comparable to the foregoing.

Terms and Conditions. The attached Terms and Conditions and Conditions of Bid constitute parts of this contract.

COAL SUPPLIERS COVERED BY TVA RECLAMATION REQUIREMENTS

Contractor	County	Mine
Tennessee, Southeast:		
Allen Bros. Coal Co	Van Buren, Sequatchie, Bledsoe	No. 7, No. 9.
Arnold Coal Co	Van Buren	Arnold, Van Buren.
C. R. & B. Coal Co	do	No. 11.
L. P. Phipps & Son	Grundy	Commando.
Walden Ridge Coal Co	Van Buren, Bledsoe, Sequatchie	No. 1, No. 2.
Waters Coal and Construction Co.	Van Buren	R-8.
Tennessee, East:		
Blue Diamond Coal Co	Campbell	Sou. Imperial, Emerald.
Abe Cofer Coal Co	do	Abe Cofer.
Crass Coal Co	Anderson	Crass.
Dean Coal Co	Campbell	Red Ash.
Farco Co., Inc	do	Farrell.
G. & F. Coal Co., Inc.	Morgan	G. & F.
Kew Mining Co	do	Kew.
H. & B. Construction Co	do	H. & B.
H. & B. and Lueking Coal Co	Morgan, Anderson	Lueking.
Jackson Mining Co	Anderson	Jackson.
Lueking Coal Co	Anderson, Morgan	Lueking No. 2.
Mountain Mining Co	Anderson	Mountain.
Price Coal Co	Morgan, Campbell	Price.
Radar Coal Co	Anderson	Radar.
W. B. Spradlin	Campbell	W. B. Spradlin.
Tedder Coal Co	Morgan, Cumberland	Tedder.
Tennco, Inc	Anderson	Tennco.
Tennessee Auger	do	New River.
Fred Walt Coal Co	Morgan	Fred Walt Nos. 3, 4.
Wolf Ridge Coal Co	Anderson	W. & S.
W. R. Coal Co	Anderson, Morgan	W. R.
Premium Coal Co., Inc	Anderson	Premium.
Alabama:		
Ramsey Coal Co., Inc	Jackson	No. 1.
Farco Co., Inc	do	Fies No. 1.
Arch Mineral Co., Inc	do	Do.
Kentucky:		
Adventure Coal Co	Bell	No. 1, No. 2.
Carbon Coal Co., Inc	Bell, Ohio	Carbon.
Kentucky Oak Mining Co	Perry, Letcher, Breathitt, Knott, Leslie.	Various.
Pioneer Fuel Sales	Bell	Do.
Scotia Coal Co	Letcher	Sou. Imperial.
PeeWee Mining Co	McCreary	West.
West Coal Corp	do	Do.
West Kentucky:		
Arel Coal Sales, Inc	Hopkins	Arel.
Burge Coal Co	Ohio	Burge.
Cherokee Coal Co	do	Do.
Hazel Creek Coal Co	Muhlenberg	Hazel Creek.
Island Creek Coal Sales Co	Hopkins	Boone, Pleasant View, Shamrock.
Cimarron Coal Co	do	Volunteer.
Kirkpatrick Coal Co	Muhlenberg	Wright, Caney Creek.
Pittsburg & Midway	Hopkins, Muhlenberg	Colonial, Paradise.
Peabody Coal Co	Muhlenberg, Ohio	Sinclair, River Queen, Ken, Homestead, Gibraltar.
O'Keefe Bros. Coal Co	Ohio	Salem.
Randall Fuel Corp	do	Williams Creek.
Royal Fuel Corp	Hopkins, Christian	Arel.
Russell Badgett, Jr. Coal Co	Hopkins	Little Jose.
Walker & Sons	Ohio	Walker.
Weskol Mining Co	Hopkins	Weskol No. 2.
American Metal Climax	Muhlenberg	Ayrgem.

XUM

COAL SUPPLIERS COVERED BY TVA RECLAMATION REQUIREMENTS—Continued

Contractor	County	Mine
Illinois:		
Peabody Coal Co	Gallatin	Eagle.
Eads Coal Co	Jefferson	Eads.
Virginia:		
Blair Fork Coal Co	Wise	Sou. Imperial.
Kentucky-Virginia Coal Co	Lee	No. 1.
Wright Mining Co	do	Wright No. 1.
Victory Coal Co	Wise	No. 2.
Dean Jones Coal Co	Lee	No. 5.

Senator Cooper. Is the Paradise plant on the Green River, considered to be the largest of its type in the world?

Mr. Wagner. The generating station, you mean?

Senator Cooper. The Peabody Coal Co. stripped acres and acres of land there before your conservation requirements came into effect in 1965.

Mr. Wagner. That is correct.

Senator Cooper. I don't know that I can say that it is your fault, but one of the purposes, as I understand it, of the TVA is that it deals with conservation and tries to make a better environment. Yet in Muhlenberg County and Ohio County, where Peabody Coal strip mines—I think it is the second-largest coal company in the United States—those counties look like what we once thought the surface of the moon would look like—terrible. And the TVA did take that coal, and did nothing about reclamation or conservation.

Is there any way you can help now to repair the damage that was done in those two counties?

Mr. Wagner. Senator, let me take just a few minutes on that point.

We did not buy all of that coal. We bought some of it. One of the reasons that we did not require reclamation in our contracts until 1965 was because in the States where we bought coal—at the time we were buying only about 17 percent of the total strip-mined coal, and we felt that what was required was State legislation that would go to all of the coal that was stripped for all consumers. We felt that if TVA required it, people would say the problem was solved, and it wouldn't be, so we worked very hard to try to get State regulations to require reclamation.

Now some of it was strip mined for us, that's correct. All I can say is that at the present time we do require reclamation there and everywhere else. We have made some proposals, and will continue to make proposals, for reclamation of the strip-mined areas.

Our current proposal does not go to west Kentucky, but certainly work should be done there, and we agree that that land ought to be reclaimed, and ways must be found to do it.

Senator Cooper. One other subject: TVA is announcing an increase in its rates.

Mr. Smith. Senator, if I may interrupt at that point, one of the reasons that the reclamation clause is in the TVA contract is because of some discussions that you had with some of the members of the TVA Board.

Mr. Cooper. Well, I would hope the clause has had some effect. I am going to look at it again.

Mr. Wagner. I hope we got into it what you wanted, Senator.

Senator Cooper. I will repeat what I said, when you set up your requirement procedures, then—and I do want to study them—is there any way we can protect these areas and be sure that reclamation has been performed as required by the contract? I think we ought to do it. I am talking about my own State. I know that you don't get all your coal from Kentucky. I also know there is going to be a lot of coal mined at the site of Camp Breckenridge. I recall the long dispute among the residents there as to who owned the coal rights.

Mr. Wagner. Camp Breckenridge coal will be produced by underground mining, Senator. It is not going to be strip mining.

Senator Cooper. Now TVA has recently announced an increase in its power rates, quite a large increase, as I recall.

Mr. Wagner. That is true.

Senator Cooper. Is it about 26 percent?

Mr. Wagner. It is about a 23-percent average increase, Senator. This increase is not as large in comparison with other figures as one first might think. The percentage is as large as it is because our base rates are so low now.

Electricity in the Tennessee Valley costs the average residential consumer about a cent a kilowatt-hour. In the Nation as a whole, it costs about 2 cents, or a little better, for a kilowatt-hour, so if we were applying the TVA increase to the national average electric bill, it would be an 11½-percent increase instead of a 23-percent increase.

Senator Cooper. How do your rates compare with the privately owned companies in the area?

Mr. Wagner. The average cost to the residential consumer for electricity before this increase has been about 1 cent per kilowatt-hour in TVA, about 2.1 cents in the Nation. So our rates are about half, and they will still be substantially below, even after this increase goes into effect.

Senator Cooper. Will you supply to the committee a statement comparing your rates with the rates of other utilities in the area?

Mr. Wagner. Yes, we will be glad to do that, Senator.

(The information later supplied follows:)

Comparability of TVA Rates With Those of Utilities in Surrounding Areas

The three attached tables contain a summary comparison of TVA's rates for residential and general power consumers with those applied by neighboring utilities.

Residential rate comparison

Table 1 shows a comparison of residential consumer costs for selected monthly and annual energy uses. Costs under the TVA middle schdule (R–4) after the August and October 1970 increases are compared with those under the rates now being applied by neighboring utilities. Over half of the residential consumers in the Tennessee Valley are being served on this or a lower rate schedule.

Industrial power rate comparison

Table 2 compares the unit power costs to industrial customers using a range of load sizes and load factors. For the Tennessee Valley costs were determined under the basic TVA general power rate (C–2) after the August and October 1970 increases. This schedule was selected for comparison purposes because all TVA schedules are identical for loads in excess of 5,000 kw and this schedule also applies to directly served customers with prevailing rate contracts. The currently effective rates of neighboring utilities were used and information is included on the amount of fuel adjustments that were included in the unit price calculations.

Increases proposed by neighboring utilities

Table 3 contains detailed data concerning proposed rate increases by neighboring utilities during fiscal year 1970. The last line indicates comparable data for TVA.

TABLE 1.—COMPARISON OF RESIDENTIAL POWER COSTS—TVA AND NEIGHBORING UTILITIES—BASED ON RATES PUBLISHED IN FPC NATIONAL ELECTRIC RATE BOOK OR LATER RATES OBTAINED FROM STATE UTILITY COMMISSIONS

Use kilowatt-hour	Tennessee Valley Authority		Alabama Power Co.	Appalachian Power Co.	Carolina Power & Light Co.	Georgia Power Co.	Kentucky Utilities Co.	Mississippi Power Co.	Mississippi Power & Light Co.
Designated rate schedule	R-4		FD	R.S.[1]	R-4B[1]	A-12[1]	RS-1	R-2	RD-18C[1]
Effective date of schedule	Feb. 1969	Sept. 1970[2]	Sept. 1968	Nov. 1966	Dec. 1965	Dec. 1968	July 1967	Jan. 1970	Feb. 1970
A Monthly bills:									
50	$1.38	$1.65	$2.15	$2.31	$1.95	$2.03	$2.70	$2.45	$2.44
100	2.56	3.04	3.25	3.84	3.40	3.58	4.20	4.17	4.24
250	5.18	6.16	6.25	7.01	6.50	6.16	7.40	7.66	6.97
500	7.71	9.21	9.65	10.80	9.00	8.76	11.90	10.69	9.50
750	9.60	11.46	12.65	12.79	12.00	11.37	15.65	13.50	12.05
1,000	11.48	13.71	15.65	16.08	15.38	14.48	19.40	16.28	14.58
1,500	15.25	18.21	21.65	22.16	22.13	21.74	26.90	21.89	19.66
2,000	19.02	22.71	27.65	28.04	28.88	28.48	34.40	27.48	24.74
3,000	26.56	31.71	39.65	38.19	42.38	41.96	49.40	38.67	34.89
4,000	34.10	40.71	51.65	48.35	55.88	55.44	64.40	49.87	45.04
Designated rate schedule	R-4		FDE	R.S.[1]	R-2E	TE-2	FERS-1	RA-2	RS-17E
Effective date of schedule	February 1969	September 1970	June 1969	November 1966	December 1965	December 1968	July 1967	January 1970	February 1970
B Annual bills (all-electric home): 24,000	$228.21	$272.52	$329	$328.21	$304.30	$326.75	$376.80	$298.72	$269.02
Fuel and money cost adjustments used:									
Cents per kilowatt-hour	0.074			0.01575		0.02		0.0664	0.00625
Date of adjustment	(3)			(4)		(5)		(6)	(7)
Other adjustments used									

[1] Includes water heater and/or high use discounts.

[2] Modified rates effective Oct. 2, 1970.

[3] August 1970.

[4] December 1969.

[5] April 1970; rate 2.172 percent (Dec. 18).

[6] August 1970; tax 0.262 percent (August 1970).

[7] August 1970; tax 0.9 percent (August 1970).

TABLE 2.—COMPARISON OF INDUSTRIAL POWER COSTS—TVA AND NEIGHBORING UTILITIES, BASED ON RATES PUBLISHED IN FPC NATIONAL ELECTRIC RATE BOOK OR LATER RATES OBTAINED FROM STATE UTILITY COMMISSIONS[1]

[In mills per kilowatt-hour]

		Tennessee Valley Authority		Alabama Power Co.	Appalachian Power Co.	Carolina Power & Light Co.	Georgia Power Co.	Kentucky Utilities Co.	Mississippi Power Co.	Mississippi Power & Light Co.
PEAK DEMAND 1,000 KILOWATTS AND 1,176 KILOVOLT-AMPERES										
Designated rate schedule		C-2	C-2	LPL	LPC	G-2D	C-9	HLF	LP-2	C-111
Effective date of schedule		February 1969.	September 1970.	Sept. 1, 1968	Nov. 1, 1966	Feb. 4, 1965	Dec. 16, 1968	Jan. 1, 1967	Jan. 20, 1970	Feb. 1, 1970.
Percent load factor	100	5.62	6.78	7.19	7.86	7.60	8.47	7.91	9.72	8.15.
Do	90	5.87	7.12	7.52	8.20	7.89	8.73	8.37	10.02	8.52.
Do	80	6.18	7.54	7.93	8.61	8.25	9.04	9.92	10.40	8.98.
Do	70	6.58	8.07	8.46	9.15	8.72	9.45	9.58	10.89	9.58.
Do	60	7.09	8.75	9.16	9.86	9.31	9.99	10.46	11.54	10.40.
Do	50	7.79	9.07	10.15	10.85	9.97	10.75	11.65	12.46	11.08.
Do	40	8.84	11.13	11.63	12.68	10.97	11.88	13.36	13.80	12.12.
Fuel cost adjustment used		0.29		0.02	0.21		0.27	0.30	0.664	0.0625.
Money cost adjustment used		[2] $0.15								
Effective date of adjustments		August 1970		April 1970	December 1969.	July 1969	April 1970	April 1970	August 1970	August 1970.
PEAK DEMAND 5,000 KILOWATT AND 5,790 KILOVOLT-AMPERES										
Designated rate schedule		C-2	C-2	LPL	LCP	HLF-1D	C-10	HLF	LP-2	C-11
Effective date of schedule		February 1969	September 1970	Sept. 1, 1966	Nov. 1, 1966	Feb. 4, 1965	Dec. 16, 1968	Jan. 1, 1967	Jan. 20, 1970	Feb. 1, 1970
Percent load factor	100	5.26	6.42	6.40	7.18	6.81	7.13	7.66	8.91	7.13
Do	90	5.47	6.71	6.65	7.44	7.12	7.40	8.09	9.13	7.53
Do	80	5.73	7.08	6.95	7.76	7.51	7.74	8.62	9.40	8.02
Do	70	6.06	7.55	7.34	8.17	8.01	8.18	9.23	9.74	8.65
Do	60	6.51	8.18	7.86	8.72	8.68	8.76	10.05	10.20	9.40
Do	50	7.13	9.05	8.58	8.50	9.62	9.44	11.16	10.84	10.23
Do	40	8.07	10.36	9.68	10.98	11.02	10.24	12.75	11.81	11.33
Fuel cost adjustment used		0.29		0.02	0.21		0.27	0.30	0.664	0.0625
Money cost adjustment used		[2] 0.15								
Effective date of adjustments		August 1970		April 1970	December 1969	July 1969	April 1970	April 1970	August 1970	August 1970
PEAK DEMAND 20,000 KILOWATTS AND 21,579 KILOVOLT-AMPERES										
Designated rate schedule		C-2	C-2	LPL	LCP	HLF-ID	C-10	HLF	LP-2	C-11.
Effective date of schedule		February 1969.	September 1970.	Sept. 1, 1968	Nov. 1, 1966	Feb. 4, 1965	Dec. 16, 1968	Jan. 1, 1967	Jan. 20, 1970	Feb. 1, 1970.
Percent load factor	100	4.92	6.08	6.22	6.66	6.71	6.63	7.23	8.75	6.95.
Do	90	5.12	6.37	6.45	6.86	7.01	6.85	7.61	8.95	7.24.
Do	80	5.37	6.72	6.73	7.11	7.38	7.13	8.08	9.19	7.78.
Do	70	6.68	7.17	7.08	7.43	7.86	7.48	8.62	9.51	8.38.
Do	60	6.11	7.77	7.56	7.86	8.51	7.94	9.33	9.93	9.24.
Do	50	6.70	8.62	8.23	8.46	9.41	8.66	10.29	10.52	10.03.
Do	40	7.59	9.87	9.23	9.67	10.76	9.58	11.67	11.40	11.65.
Fuel cost adjustment used		0.29		0.02	0.21		0.27	0.30	0.664	0.0625.
Money cost adjustment used		[2] $0.15								
Effective date of adjustments		August 1970		April 1970	December 1969.	July 1969	April 1970	April 1970	August 1970	August 1970

[1] The above rates were computed on the basis of a 730-hour month, and minimum power factors permitted under TVA's C-2 rate without penalty so as to be more comparable to TVA's rate. The lowest rate was used for comparison in cases where 2 or more rates might apply to industries of the same size load.

[2] Kilowatts.

TABLE 3.—RATE INCREASES PROPOSED BY NEIGHBORING UTILITIES DURING FISCAL YEAR 1970

Utility	Date announced	Reported amounts (millions)	Percent increase	Installed capacity (megawatts)	Sales billions (kilowatt-hours)	Customers (thousands)	Increase mills/kilowatt-hours (sales)
Mississippi Power Co.	Jan. 19, 1970	1.9	3.70	887	3.0	132	0.6
Duke Power Co.	May 26, 1970	55.64	18.00	5,053	24.6	1,005	2.3
Georgia Power[1]	June 4, 1970	12.2	34.00	3,510	4.8		2.5
Carolina Power & Light	do	23.5	14.00	2,671	11.3	525	2.1
Virginia Electric & Power	June 11, 1970	22.4	9.00	4,039	17.0	946	1.3
Cincinnati Gas & Electric	June 5, 1970	6.7	14.00	1,560	7.2	398	.9
Missouri Public Service Co.	July 28, 1969	5.3	20.00	177	1.1	92	4.8
Kansas City Power & Light	Aug. 4, 1969	7.3	7.20	1,108	3.2	207	2.3
Union Electric	Nov. 10, 1969	10.2	4.90	2,986	13.2	682	.8
Tennessee Valley Authority	July 17, 1970	[2] 99.4	2.43	19,395	89.0	2,100	1.3

[1] Applicable to wholesale customers only.

[2] Increase effective October 1970—Reported amount is for 9 months ending June 1971.

Sources: Electrical World, FPC News Digest, Wall Street Journal, Congressional Record, Utility Reports, other trade and news publications. Statistics from FPC reports and McGraw-Hill Directory of Electric Utilities.

Senator **Cooper**. I understand that the TVA Act itself requires that your rates shall be sufficient to cover operations and maintenance, payments in lieu of taxes, debt service, payments to U.S. Treasury, and a certain margin. Was this rate required to meet the provisions of section 15d(f)?

Mr. **Wagner**. Yes, sir; this rate increase is precisely required to meet that requirement of the TVA Act.

Senator **Cooper**. The second requirement of section 15d(f) provides that a 5-year aggregate net power income at least equal the total of your Treasury dividend payments during the same 5 years.

Mr. **Wagner**. If this rate increase is granted, we will be able to meet both requirements.

Senator **Cooper**. While not a part of the law, I understand that you have a covenant in the bonds themselves which requires before you can issue additional bonds that your net power income over the preceding 5 years must at least equal $200 million, plus $15 million for each one-quarter percent that the U.S. Treasury interest costs averages in excess of 3¼ percent?

Mr. **Wagner**. That is correct.

Senator **Cooper**. Now will you be able to meet this requirement?

Mr. **Wagner**. Senator Cooper, preliminary figures that we have for 1970, the year just back of us, indicate that we apparently failed to meet that test by a very narrow margin.

Senator **Cooper**. Having failed you would not be able to sell bonds in fiscal 1971?

Mr. **Wagner**. Yes, sir. But if the final audited figures confirm that, they will indicate that we did fail on that test, in the past year. And this again is one of the matters that concerns us very greatly.

Senator **Cooper**. I will ask that you submit for the record the past results and your estimates concerning these three tests or requirements together with the applicable provision of the statute or bond covenant.

Mr. WAGNER. Yes, sir; we will be glad to do that.

(The information requested follows:)

RATE TEST (SECTION 15D(F) TVA ACT AND SECTION 3.2 OF BOND RESOLUTION)

The Corporation shall charge rates for power which will produce gross revenues sufficient to provide funds for operation, maintenance, and administration of its power system; payments to States and counties in lieu of taxes; debt service on outstanding bonds, including provision and maintenance of reserve funds and other funds established in connection therewith; payments to the Treasury as a return on the appropriation investment pursuant to subsection (e) hereof; payment to the Treasury of the repayment sums specified in subsection (e) hereof; and such additional margin as the Board may consider desirable for investment in power system assets, retirement of outstanding bonds in advance of maturity, additional reduction of appropriation investment, and other purposes connected with the Corporation's power business, having due regard for the primary objectives of the Act, including the objective that power shall be sold at rates as low as are feasible. (16 U.S.C. sec. 831n–4.)

	1965	1966	1967	1968	1969	1970	[1] 1971
Revenues	$296.0	$326.8	$351.1	$383.7	$403.4	$479.6	$523.5
Less:							
Operation and maintenance excluding depreciation	165.7	197.2	216.8	222.5	243.7	282.7	352.2
Payments in lieu of taxes	9.1	10.4	11.9	13.1	14.5	16.1	20.0
Debt service	14.6	17.8	23.5	30.2	41.2	60.7	118.4
Treasury payments:							
Dividend	42.6	43.9	47.1	46.8	53.1	57.7	66.1
Repayment	10.0	15.0	15.0	15.0	15.0	15.0	20.0
Margin	54.1	42.5	36.8	56.1	35.9	47.4	(53.2)

[1] 1971 estimates are without rate increase scheduled for Oct. 1, 1970.

PROTECTION OF BONDHOLDER INVESTMENT TEST (SECTION 15D(F) TVA ACT AND SECTION 3.3 OF BOND RESOLUTION)

In order to protect the investment of holders of the Corporation's securities and the appropriation investment as defined in subsection (e) hereof, the Corporation, during each successive five-year period beginning with the five-year period which commences on July 1 of the first full fiscal year after the effective date of this section, shall apply net power proceeds either in reduction (directly or through payments into reserve or sinking funds) of its capital obligations, including bonds and the appropriation investment, or to reinvestment in power assets, at least to the extent of the combined amount of the aggregate of the depreciation accruals and other charges representing the amortization of capital expenditures applicable to its power properties plus the net proceeds realized from any disposition of power facilities in said period. (16 U.S.C. sec. 831n–4.)

In effect this requires that successive (beginning with FY 1961) five-year aggregate of net power income be at least equal to the total of Treasury dividend payments during the same five-year period.

1. This test applies in successive five-year periods. Following is a table showing the results of the five-year block ending in 1970. The next time this test will be controlling will be in 1975.

[In millions of dollars]

Fiscal year	Return on appropriation investment	Net power income
1966	$43.9	$47.9
1967	47.1	40.7
1968	46.9	59.1
1969	53.1	50.7
1970	57.6	74.6
Total	248.6	27.30

Note: In the 5-year period ending in 1970 the margin under this test was $24.4 million.

2. Although the test will not be applied until 1975, following is the estimated result of the first year (Fiscal 1971) of that five-year block. The estimate does not include income from the rate increase proposed for October 1, 1970.

	Millions
Net power income	$16.3
Less return on appropriation investment	−66.1
Margin	−49.8

Thus without the rate increase TVA would start the next five-year period under this test with a minus balance.

LIMITATION ON ISSUANCE OF ADDITIONAL BONDS

(Section 3.4 of Bond Resolution)

"The amount of Bonds outstanding may not be increased at any time unless, as evidenced by a certificate of the Comptroller of the Corporation filed with the Trustee, net power income (after interest expenses and depreciation charges but before payments as a return on or in reduction of the Appropriation Investment) for the latest five fiscal years has aggregated at least $200,000,000, plus $15,000,000 for each ¼ percent or major fraction thereof by which the average for those five years of the computed average interest rate payable by the United States Treasury upon it total marketable public obligations as of the beginning of each of such years has exceeded 3¼ percent." ("Bonds" as used in this test means bonds of equal rank to those issued under authority of this resolution.)

I. Application: FY 1969 (governs ability to sell bonds in FY 1970):

1. 5-year average U.S. interest:

	Percent
Cost	4.103
Less	3.250
Excess of average interest cost over 3¼ percent	.853

0.853 ÷ ¼ percent = 3.4; 3 increments.

$200 million + 3 × 15 = $245 million net power income required.

2. 5-year net income (millions of dollars):

Fiscal year:	*Net power income*
1965	55.0
1966	47.9
1967	40.7
1968	[1] 59.1
1969	50.7
Total	253.4

[1] Adjusted to exclude Hales Bar Writeoff.

3. Margin: $253.4 million—$245 million = *$8.4 million.*

II. Application: FY 1970 (governs ability to sell bonds in FY 1971):

1. 5-year average U.S. interest:

	Percent
Cost	4.418
Less	6.250
Excess of average interest cost over 3¼ percent	1.168

1.168 ÷ ¼ percent = 4.67+; 5 increments.

$200 million + 5 × $15 million = $275 million net power income required.

2. 5-year net income (millions of dollars):

Fiscal year:	*Net power income*
1966	47.9
1967	40.7
1968	[1] 59.1
1969	50.7
1970	74.6
Total	273.0

[1] Adjusted to exclude Hales Bar Writeoff.

3. Margin: $273.0 million — $275 million = *$(2.0) million.*

III. Application: FY 1971 (governs ability to sell bonds in FY 1972):

1. 5-year average U.S. interest:

	Percent
Cost	4.855
Less	3.250
Excess of average interest cost over 3¼ percent	1.605

1,605 percent ÷ ¼ percent = 6.42; 6 increments.

$200 million + 6 × $15 million = $290 million net power income required.

2. 5-year net income (million of dollars):

Fiscal year:	*Net power income*
1967	40.7
1968	[1] 59.1
1969	50.7
1970	74.6
1971	[2] 16.3
Total	241.4

[1] Adjusted to exclude Hales Bar Writeoff.

[2] Estimated (without rate increase scheduled for Oct. 1, 1970).

3. Margin: $241.4 million — $290.0 million = *$(48.6) million.*

Senator COOPER. Mr. Chairman, I have taken a long time, and I certainly thank you for your indulgence.

Senator YOUNG. Senator Jordan? Do you have some questions?

Senator JORDAN. Just two or three, Mr. Chairman.

Senator YOUNG. Take your time.

Senator JORDAN. Who determines the rate that you do charge? You put this increase in, and I am certain it is justified. Let me go back. North Carolina has a utilities commission, and the power people recently applied for a rate increase under the coal clause and I believe the utilities commission turned it down. Now who sets yours?

Mr. WAGNER. Well, under the provisions of the TVA Act, the rates are set by the TVA Board. This is done after extensive consultations with our distributors, and of course, the advice and calculation by our distributors, and of course, the advice and calculation by our own power people. We operate essentially on a non-profit basis. The requirements of the law, as Senator Cooper has cited, say that we must meet certain costs, and in order to meet those costs, we know where the rate level has to be set, and the TVA Board has under the law final responsibility for setting those rates.

Now this has occasioned some comment, I might say. It seems to us that the final test of the effectiveness of any rate-setting device, or rate regulation is the cost to the consumer, since the purpose of regulating rates is to protect the consumer interest. It seems to me that the fact that rates are still about half the national average in the Tennessee Valley would indicate that the control device is working.

Senator JORDAN. Well, there is no question about the rates being way lower in Tennessee than they are in North Carolina. No argument about that, I know that.

Mr. WAGNER. I should add, Senator Jordan, that the TVA Act says that we shall set these rates, with due regard for the primary objectives of the act including the objective that power shall be sold at rates as low as are feasible, so that we have a legal compulsion to sell power at the lowest feasible rates.

Senator JORDAN. But you are supposed to break even on your power.

Mr. WAGNER. We have to.

Senator JORDAN. Yes. When you sell these bonds, do you have to compete with the private power companies in the interest rate that these bonds bring?

Mr. WAGNER. We sell them in the same market that they do, and generally, our interest rates will be just a shade below what they pay.

How much below, Mr. Watson?

Mr. WATSON. Well, the last $50 million issue of 25-year bonds, we sold at a cost to us of about 9.3, and on the same day, the New Jersey Bell Telephone Company sold one at 9.35, so they are very comparable.

Senator JORDAN. You are comparable.

Mr. WAGNER. Yes.

Senator JORDAN. You sell them to the same people?

Mr. WAGNER. That is correct.

Senator JORDAN. Well, I presume your increase in rates which you are now putting in or proposing to put in is due largely to your coal cost?

Mr. WAGNER. It is due largely to our coal cost. About 18 percent of it is interest costs, money costs, our payments to Treasury, and our interest on our bonds. Fifteen percent of it is due to delay in getting one of our large nuclear plants into operation. We had trouble with deliveries of equipment there, and so we have to buy more power to replace what that plant would have produced. And about 9 or 10 percent of it is general cost increases in equipment and materials and labor, and so forth.

Senator JORDAN. The Federal Power Commission sets the price at which the oil companies can sell or the gas people can charge for their gas. Is that correct?

Mr. WAGNER. Wholesale prices.

Senator JORDAN. I am talking about wholesale prices, at the wells.

Mr. WAGNER. That is correct.

Senator JORDAN. If I am not mistaken, the Utilities Commission of North Carolina—I know they were up here, because they met with me and some others—is trying to get more gas. There is a shortage of gas in North Carolina as well as in some other places, too, and the reason that the oil companies or the gas companies say they can't supply more or won't supply more is that the Federal Power Commission won't grant an increase in rate to them. They are just not going to produce gas just for the fun of producing it, and I can understand that thoroughly. I am just wondering if the Federal Government is getting in the way of the consumer that they are claiming to protect.

Mr. WAGNER. I don't know whether I am qualified to give you a comment on that, Senator. I know that there are pressures to increase the price of gas. I have read just recently a statement, I believe it was in the August 1 issue of Business Week, that the people in the gas business were saying that they were not willing to sell gas unless they could get the prices up to where their profit margin was comparable with what they were making on other commodities. I don't really have the facts to know where truth and justice lie in this instance, but from our standpoint, we regret any increase in the cost of raw energy sources of any kind used in the production of electric power, which is essential to the growing economy and the security of this country.

Senator JORDAN. Well, I think there is no question about that. As long as wages are increasing and costs are rising for everything you buy, the consumer is going to have to pay for it or else Uncle Sam is going to have to dig it up out of his taxes, because you can't do that under your contract.

Now you spoke about some of these oil companies buying big coal mines. I am certain they are just like any other individual that has got a business; they are not going to mine coal and sell it at a loss, or not make any money. They would be plain foolish and stupid to do that.

Mr. WAGNER. I am sure that is right.

Senator JORDAN. So I think some effort has got to be made to see that they are not tied down to the extent that they don't make any profit. The same thing with gas. I am sure they would produce all the gas everybody wanted it they could sell it at a profit. It is a natural, ordinary way to run a business.

That is all I have, Mr. Chairman.

Senator YOUNG. Senator Baker, do you have any further questions?

Senator BAKER. Mr. Chairman, thank you very much. Senator Cooper very kindly let me put my questions before he proceeded with his very excellent line of questions, and I have no further questions, except to say that I am impressed with the thoroughness with which Senator Cooper explored the reasons for the increase of coal costs, and the understanding of the general situation that the distinguished Chairman of TVA has shown in his testimony.

I would make this final observation, apropos the remarks by Senator Jordan. Frequently there are unintended results of Federal legislation, and as Senator Cooper pointed out in his questioning a moment ago, there are only a few of us on the floor of the Senate who warned of adverse consequences of some of the provisions of the Mine Safety Act. Everybody is for mine safety, but some of the provisions of the Mine Safety Act are so uncertain, so vague, and, in some cases, so impossible of performance, that many, many coal operators, to my own certain personal knowledge, have simply gone out of the coal business, rather than try to comply with the impossible or uncertain situation.

I put this last question. Would it be fair to say, Mr. Chairman, that the increases in the costs of coal are attributable in whole or in part to these factors? No. 1, as Senator Cooper said, a shortage of mine cars; No. 2, the dedication of some coal reserves, and the export of coal, to foreign markets; No. 3, the Coal Mine Health and Safety Act, with its uncertainty and rigid requirements; No. 4, the requirements for restoration of strip coal production; No. 5, general inflation; No. 6, the failure of delivery of nuclear capacity on schedule. Would those generally encompass the factors that contribute to the increase in coal prices?

Mr. WAGNER. That, as well as concentration of coal ownership, certainly gets the major ones.

Senator BAKER. Is the uncertainty or the difficulty of performance of provisions of the Mine Safety Act a significant factor in the increases of the costs of coal and the shortage of coal?

Mr. WAGNER. The Mine Safety Act?

Senator BAKER. Yes, sir.

Mr. WAGNER. It is a significant factor; yes, sir. Certainly it is a significant factor in the availability of coal. We don't yet know precisely what it will add to costs, but as I indicated earlier, the requests that we have before us run from 50 cents to $1.40 a ton, something like that.

Senator BAKER. Thank you, Mr. Chairman.

Senator JORDAN. Mr. Chairman, may I ask one more question?

Senator YOUNG. Yes.

Senator JORDAN. For my own information—and I think the Congress in general would like to know—is it your opinion that Congress should take some action to restrict the amount of coal that can be exported? To anybody. I know what has happened to the large tonnage of coal just leaving. I know that, because you are not the only people that are in trouble because of the shortage. I am seriously concerned about what is happening to the coal that is being exported while our own people are doing without power.

Mr. WAGNER. Well, Mr. Chairman, I wouldn't be so presumptuous as to try to advise the Congress, and my knowledge of all the problems related to coal and export market is limited, of course. I can say that from the standpoint of producing the electric power requirements of this country, the coal that is being exported is limiting the ability of TVA and other utilities to meet those demands, and if the coal going into export was available here for use in this country, we would have less of a problem with fuel supply than we have.

Now as I say, whether you limit exports or not, I am sure, depends on factors that I am not familiar with, and with which you are familiar, so I could only advise you from our standpoint.

Senator JORDAN. Well, this is no factor that is entirely your problem. It is a problem to all the people who are producing power by steam. Is that correct?

Mr. WAGNER. Yes, sir.

Senator JORDAN. All of them?

Mr. WAGNER. Yes, sir; that is correct, and I think to many of them it is a greater problem than it is to us.

Senator JORDAN. I am sure of that, because I have been into that situation with the people who are consumers of coal in the vast quantities which you are familiar with, and it is a very serious situation. I don't think that we ought to shut off air conditioning units in this country and cut out lights to light something up in Japan. I am just not sold on that, up to this point. I think we ought to look after ourselves first, and then if we have got some to spare, let them have it.

Senator BAKER. Mr. Chairman, may I make a remark in that respect? It is really not a question to the Chairman of TVA, because I am sure he doesn't want to get embroiled in this, but I point out that Senator Jordan and I have had similar and mutually supporting words about the restraint of imports into the United States, especially of textiles, but now exports are a little different horse, and what we have here is a reflection of the nationwide hunger for fuel and energy, and the fact that somebody abroad will buy our coal, at a high price, or that they will loan money, interest-free as the Japanese Government is doing, in order to get coal from the United States, really reflects the fact that the law of supply and demand is making the cost of energy go up and up. The answer to it, it seems to me, is not necessarily to restrict output, or export, but rather to get the volume of energy up, by increasing capacity, so that we won't have that choice.

Senator JORDAN. Well, of course, I am just as interested in our exports, because that is where we get dollars.

Senator BAKER. We are both fond of them.

Senator JORDAN. That is right. But I can't believe that we should export anything that we have to the extent we are seriously hurt-

XUM

ing the economy of this country or the people of this country. The same thing goes for the imports.

Senator YOUNG. Chairman Wagner, Senator Thomas Eagleton of Missouri, a member of the Public Works Committee, will address a number of questions in writing to the TVA and as soon as you receive those questions, the Chair expresses the hope that you and your associates will answer them as promptly as possible, so that we may complete this record.

Mr. WAGNER. I can assure you we will be prompt, Mr. Chairman, because this legislation is of urgent importance to us.

Senator YOUNG. And then at that time, should there be anything further you wish to add to the testimony given today, you may just include that in that communication.

Mr. WAGNER. Thank you very much.

(Subsequent to the hearing the following exchange of correspondence occurred:)

U.S. SENATE, COMMITTEE ON LABOR
AND PUBLIC WELFARE,
Washington, D.C., August 19, 1970.

Hon. AUBREY J. WAGNER,
Chairman, Tennessee Valley Authority,
Washington, D.C.
(Attention: Mr. Jacob Vreeland).

DEAR MR. CHAIRMAN: I regret that previous commitments made it impossible for me to clarify the matters raised in this letter with representatives of TVA at the hearing before the Subcommittee on Flood Control and Rivers and Harbors of the Public Works Committee on the proposed amendments to Section 15(d) of the Tennessee Valley Authority Act.

The matters which I would appreciate your clarifying for me relate to the recent transfers of TVA electric power to the Consolidated Edison Company of New York City and the Commonwealth Edison Company of Chicago, and reported transfers to other privately-owned utility companies. However, they may take on a broader significance in terms of the allocation and distribution of benefits from publicly-owned facilities, if the low reserve situation which reportedly exists in those and other privately-owned power systems persists or worsens, and requests are made of TVA for power to serve the customers of privately-owned systems in the future.

Under Section 12 of the TVA Act, surplus TVA power which is not sold to preference customers defined in section 10 of the Act may be sold to persons or corporations engaged in the distribution and resale of electricity for profit. Section 12 provides, however, that any such sales shall be on condition that any resale of such electric power by such persons or corporations shall be made to the ultimate consumer of such power at prices that do not exceed a schedule fixed by the Board of Directors of the Tennessee Valley Authority as just, reasonable, and fair. Contracts between the Board and the distributor of such electricity are made voidable at the election of the Board if a person or corporation charges the ultimate consumer of TVA power rates in excess of those fixed by the Board.

The final proviso to section 12 also authorized the Board to contract with other power systems for the mutual exchange of unused excess power, upon suitable terms, for the conservation of stored water, and as an emergency or breakdown relief.

Taking the transfer of power to Consolidated Edison as an example, I understand that there was no contract between Consolidated Edison and TVA for the power made available to that company, but that the power was transmitted through the Appalachian Power Company and Allegheny Power Company systems and the Pennsylvania-New Jersey Power Pool to Consolidated Edison Company pursuant to the existing interconnection agreement between Appalachian Power Company and the Tennessee Valley Authority.

The agreement between Appalachian Power and TVA defines the types of emergency situations with which it deals as "any temporary conditions on the system of the party affected arising from causes beyond its control which interfere with or jeopardize its ability to meet adequately the requirements of *its system.*" (Emphasis supplied.) In your view, then, was the transfer of power to Appalachian Power for the ultimate benefit of Consolidated Edison the kind of "emergency" situation contemplated by the agreement between Appalachian Power and TVA?

Remarks attributed to Mr. Donald C. Cook, President of the American Electric Power Company (which is the parent company of the Appalachian Power Company), suggest that there was no power shortage situation in his companies' systems at the time of the transfer of TVA power to Consolidated Edison Company. Moreover, he is reported to have said that there was at that time sufficient reserve capacity existing in the privately owned power pools from which Consolidated Edison can draw power to serve Consolidated Edison's power needs with an accepted safety reserve.

In view of the foregoing, I would appreciate your views as to whether the transfer of power to Consolidated Edison should have been conditioned upon its sale to the ultimate consumer at rates no higher than those approved by the Board of Directors of TVA. If it is your conclusion that the transfer was an emergency transfer of power within the meaning of section 12 of the TVA Act and the agreement between TVA and the Appalachian Power Company or that the transaction otherwise was exempt from the requirements of the third proviso of section 12 of the TVA Act, I would appreciate your describing the basis for that conclusion.

I would also appreciate your views as to whether the provision of service to Consolidated Edison Company indirectly through Appalachian Power Company and intervening systems is fully consistent with the letter and spirit of both the restrictions on sales and delivery and on exchanges of power contained in section 15(d) of the TVA Act, as amended.

Press accounts of the transfer of TVA power to Consolidated Edison indicate that some or all of the power furnished to Consolidated Edison was delivered from Atomic Energy Commission facilities. I understand that the reduction in power to the AEC facilities may have resulted in some decrease in the operating efficiency of those facilities and that AEC may seek recourse against TVA for resulting losses which may have been incurred by AEC or its contractors. If the AEC or its contractors should bill or otherwise seek recourse against TVA for any losses incurred as the result of reductions in power available to the AEC facilities, I would appreciate your identifying the source against which any such bill or charge would be satisfied. Would the charge be passed on to Consolidated Edison under the interchange agreement with Appalachian Power, or would it be charged against TVA's operating revenues, or would it be satisfied in some other way?

In view of recent reports that the Bureau of Reclamation may have reduced the amounts of electricity available to its preference customers in order to assist a power-short private power company in the midwest, I would appreciate your advice whether any of TVA's preference customers sustained power reductions at the time power was being transfererd to Appalachian Power Company for the ultimate benefit of Consolidated Edison Company.

Additionally, I would appreciate your identifying the specific authority under the applicable portions of section 12 or any other pertinent sections of the TVA Act under which the classes of power to be furnished by TVA pursuant to the Service Schedules attached to the TVA-Appalachian Power Company Agreement will be made available to Appalachian Power.

The authority for Service Schedule A seems clear, but I am unclear about the authority for transfers under Service Schedule B (which deals with "Economy Interchange" and "Non-replacement energy"), Service Schedule C (which deals with "short-term power"), and Service Schedule D (which deals with "Diversity Capacity power"). I am particularly interested in the authority for Service Schedule D in view of its section 3.7 which indicates that each party's (including TVA's) obligation to make diversity capacity and energy associated with it available under the Schedule is deemed to be equivalent to such party's obligation to supply power and energy to its firm power consumers.

Finally, I have been unable to find in the TVA-Appalachian Power Company contract any reference to the condition concerning rates to ultimate consumers of surplus TVA power made available to persons and corporations engaged in the distribution and resale of electricity for profit which is contained in the third proviso to section 12 of the TVA Act. Is there no "surplus power" being sold by TVA to Appalachian Power?

I realize that power interchanges are complex transactions, and I greatly appreciate your assistance in clarifying these matters for me.

Sincerely,

THOMAS F. EAGLETON,
U.S. Senator.

(Mr. Wagner's response follows:)

TENNESSEE VALLEY AUTHORITY,
OFFICE OF THE BOARD OF DIRECTORS,
Knoxville, Tenn., August 25, 1970.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: This is in response to your letter of August 19, 1970, requesting clarification of TVA's power exchange arrangements with privately owned utility companies, particularly from the standpoint of the use of such arrangements to meet recent emergency power needs of Consolidated Edison Company of New York City and power needs of Commonwealth Edison Company of Chicago. We are pleased to have this opportunity to furnish you information about our power exchange arrangements and the legal basis for such arrangements. We believe that some discussion of the pertinent provisions of the TVA Act to which you referred in your letter will be helpful in clarifying the matters which you have discussed.

Section 10 of the TVA Act authorizes TVA to enter into long-term contracts for sales of power to states, counties, municipalities, corporations (which would include utility companies), partnerships, or individuals, but both section 10 and section 12 of the Act place certain restrictions upon such sales contracts with private companies purchasing power for resale. Such contracts must provide for cancellation by the TVA Board upon five years' written notice and must require that the resale of such power to the ultimate consumers be at prices determined by the TVA Board to be reasonable, just and fair. Following these provisions of sections 10 and 12 of the Act which relate specifically to long-term contracts for sales of power, there is a further specific proviso in section 12 which authorizes TVA to enter into contracts with other power systems for exchanges of unused excess power upon suitable terms, for the conservation of stored water, and as an emergency or breakdown relief. This authorization for exchange power arrangements is separate from that for power sales contracts and there is no requirement that an exchange power arrangement include the resale provisions referred to above. In fact, the inclusion of such provisions would not be practicable. A privately owned company

XUM

could hardly be expected to bind itself to maintain specific rates in exchange for those benefits which it might derive from an exchange arrangement with TVA.

Section 15d of the TVA Act (16 U.S.C. Sec. 831n–4), which was added to the Act in 1959, recognized and reaffirmed this distinction between power sales contracts and exchange arrangements, while at the same time placing limitations on TVA's entering into such contracts and arrangements. This section provides in part:

"Unless otherwise specifically authorized by Act of Congress the Corporation shall make no contracts for the sale or delivery of power which would have the effect of making the Corporation or its distributors, directly or indirectly, a source of power supply outside the area for which the Corporation or its distributors were the primary source of power supply on July 1, 1957 * * *.

* * * * *

"Nothing in this subsection shall prevent the Corporation, when economically feasible, from making exchange power arrangements with other power-generating organizations with which the Corporation had such arrangements on July 1, 1957 * * *.

We think it is clear from the above-quoted provisions that Congress recognized that TVA's participation in exchange power arrangements and the use by privately owned companies of the power received from TVA under such arrangements do not have the effect of making TVA "directly or indirectly" a source of power supply outside the area to which TVA service is limited by section 15d.

TVA's power exchange arrangements with neighboring utility companies have effected savings of millions of dollars to the parties, and to their ultimate consumers, by enabling TVA and the companies to avoid construction of additional generating capacity to meet summer or winter peak loads on their systems. In addition, mutual savings have also resulted from interchanging power produced by the most economical generating units on the interconnected systems and from assistance to each other during emergencies so that each will need less reserve capacity for that purpose.

When the loss by Consolidated Edison of its 275-mw Indian Point unit and its 1,000-mw Ravenwood unit caused a projected shortage of power in Consolidated Edison's area, the Atomic Energy Commission received a request from the Office of the President of the United States that it reduce its loads at Oak Ridge, Paducah, and Portsmouth to release power for transfer to the New York area. In response to this request, AEC and TVA arranged for a reduction in the AEC loads served by TVA and for the delivery of equivalent amounts of power to the Appalachian Power Company to facilitate the transfer of power by Appalachian Power Company to other companies with which it is interconnected. Thus, TVA's exchange of power is with Appalachian Power Company, not Consolidated Edison. This arrangement is implemented by the delivery of TVA power to Appalachian Power Company as nonreplacement energy under Article IV of Service Schedule B of the interchange agreement between TVA and Appalachian Power Company. Under the circumstances, we believe that it is appropriate to deliver such power to Appalachian Power Company under this service schedule and that such deliveries are fully consistent with the letter and spirit of the pertinent provisions of the TVA Act. Such deliveries certainly do not constitute the kind of long-term sales of power which are subject to the restrictions on term and resale rates discussed above.

We are unfamiliar with the factual situation relating to Mr. Cook's statements about the availability of sufficient reserve capacity in privately owned pools to relieve the capacity shortage of Consolidated Edison. We can only assume that if the private companies had so informed Consolidated Edison or the Office of the President, that the request for AEC load reductions could not have been made.

We understand, as your letter suggests, that the reduction in AEC's load has resulted in a decrease in the operating efficiency of its facilities, resulting in financial losses to AEC. However, TVA's arrangements with AEC do not in any way obligate TVA to pay for these losses. It was our understanding that the losses would be picked up by Consolidated Edison and TVA's obligation is limited to paying over to AEC any payments received with respect to such losses.

With regard to your further questions about the effects of the transfer of power to Consolidated Edison upon the consumers of TVA power, no customers of TVA with the exception of AEC's reduction, or TVA's municipal or cooperative distributors sustained reductions or curtailments of power supply in any way caused by or related to the delivery of power to Appalachian Power Company in connection with the transfer of power to Consolidated Edison.

The transfers of power to Commonwealth Edison Company referred to in your letter also have been handled by transferring the power from one interconnected system to another. In this case, however, the available blocks of power existed on the system of Public Service Company of Oklahoma instead of the TVA system. TVA's position in connection with this transaction is much the same as Appalachian Power Company's position in the transfer to Consolidated Edison.

Finally, you have requested that we establish the specific authorization for the various service schedules attached to the TVA-Appalachian Power Company exchange agreement. The authorization for the agreement and service schedules is, as indicated above, the last proviso of section 12 of the Act as reaffirmed by section 15d. TVA has always interpreted these provisions of the TVA Act as authorizing participation in all of the types of power exchange arrangements used in the utility industry generally. We believe the legislative history of these provisions establishes that Congress intended to authorize such exchange arrangements. Without such authorization TVA's ability to contribute to the development of arrangements for the reliability of bulk power supply would be seriously hampered. Moreover, we believe that power exchange arrangements such as TVA now has are appropriate because they result in benefits to the TVA power system and its consumers and enables us to achieve the objectives of providing an abundant and reliable supply of electricity at the lowest possible cost. The purpose of the provision in Schedule D which equates the parties' obligations thereunder to their obligation to supply energy to their firm power consumer is for the specific purpose of indicating the extent to which the parties expect to rely upon one another for exchange of seasonal capacity. This reliance is necessary if the agreement is to accomplish the desired purpose of avoiding the necessity of construction of additional generation facilities.

We hope that we have answered to your satisfaction the questions which you have raised. We appreciate, as you do, that power exchange arrangements are complex transactions. We will be happy to provide you with further information if you should desire it.

Sincerely yours,

Aubrey J. Wagner,
Chairman.

Senator Young. If there is nothing further, this committee will adjourn subject to call.

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Later in the day the order was changed to provide for the Senate to adjourn until 10 a.m. tomorrow.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Fannin) laid before the Senate the following letters, which were referred as indicated:

Proposed Electric Power Environmental Policy Act of 1970

A letter from the Chairman, Federal Power Commission, transmitting a draft of proposed legislation to secure electric power supplies adequate to the demands of the Nation compatible with environmental quality (with accompanying papers); to the Committee on Commerce.

Proposed Designation of Legal Public Holidays To Be Observed in the District of Columbia

A letter from the Commissioner, District of Columbia, Washington, D.C., transmitting a draft of proposed legislation to designate the legal public holidays to be observed in the District of Columbia (with an accompanying paper); to the Committee on the District of Columbia.

Report on Purchases and Sales of Gold

A letter from the Acting Secretary of the Treasury, transmitting, pursuant to law, a report on purchases and sales of gold, for the period January 1 through June 30, 1970 (with an accompanying report); to the Committee on Foreign Relations.

Report on Activities Under Federal Property and Administrative Services Act of 1949

A letter from the Acting Director, U.S. Information Agency, transmitting, pursuant to law, a report on activities under the Federal Property and Administrative Services Act of 1949, for the fiscal year 1970 (with an accompanying report); to the Committee on Government Operations.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Fannin):

A joint resolution of the Legislature of the State of California; to the Committee on Aeronautics and Space Sciences:

"Senate Joint Resolution No. 16—Relative to Edwards Air Force Base

"Whereas, The hub of NASA's future space plans is the earth-orbited manned space station, from which interorbital ferries and planetary expeditions will depart, and hopefully, it will prove to be the precursor for the module that will eventually carry men to Mars and back; and

"Whereas, In order to support the station and its subsequent additions, an earth-to-orbit shuttle is required; and

"Whereas, Together, the space station and shuttle are the keystones to the next major accomplishments of the nation's space program; and

"Whereas, The year-round climatic conditions are ideal at Edwards Air Force Base, in Kern County, California, for the earthside operations of the so-called "shuttle ship" to the future United States space station; and

"Whereas, The many dry lakebeds in the vicinity provide the best possible physical conditions for receiving such a craft in any event of an emergency reentry landing; and

"Whereas, There already exists the necessary open space, uncluttered by suburban congestion, for all phases of the project to launch and receive the vehicle; and

"Whereas, The basic facilities for the project are already installed there; and

"Whereas, Existing West Coast aerospace manufacturing firms can supply project components at the lowest possible transportation cost; and

"Whereas, Sufficient technical personnel required for the project already reside on or near the West Coast, thus providing the necessary project manpower with the least degree of dislocation of workers' families and the attendant least private and governmental expense to locate them there; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States, and requests the National Aeronautics and Space Administration, to permanently locate the launch and reentry facilities for the space station shuttle ship project at Edwards Air Force Base in Kern County, California; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California, in the Congress of the United States, and to the National Aeronautics and Space Administration."

A joint resolution of the Legislature of the State of California; to the Committee on Appropriations:

"Senate Joint Resolution No. 32—Relative to the 1971 White House Conference on Aging

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California memorializes the Congress of the United States to appropriate sufficient funds for the scheduled 1971 White House Conference on Aging, including funds for use by local committees which will attend the White House Conference in order that such local committees may hold local conferences in preparation for the national conference; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California; to the Committee on Armed Services:

"Senate Joint Resolution No. 28—Relating to the Battleship U.S.S. Missouri.

"Whereas, 1970 marks the 25th anniversary of the end of World War II; and

"Whereas, The citizens of Martinez, California, have undertaken the creation of a peace shrine and a living memorial to the veterans of World War II with the organization of a committee to bring the U.S.S. Missouri to that city; and

"Whereas, This famed ship upon whose decks the documents ending hostilities with Japan were signed on September 2, 1945, bringing peace to a war-weary world, now languishes in the Bremerton, Washington, Navy Yard; and

"Whereas, Battleships of this class are fitted with every type of facility that serves a community such as a bakery, carpentry shop, plumbing and pipefitting shop, paint shop, machine shop, theater and even a hospital, all resources that well might be utilized for federal or state job-training programs; and

"Whereas, Such a ship has great potential in disaster relief as it is able to produce vast amounts of fresh water and electric power; and

"Whereas, The harbor of the City of Martinez is an appropriate site for the location of this ship because Camp Stoneman (later Parks Air Force Base) and Camp Shoemaker in Contra Costa County were the principal points of embarkation for the Pacific Theater both in World War II and the Korean conflict, because Port Chicago has served for 28 years as the major Pacific Coast naval ammunition depot, and because nearby are other military installations that also played vital roles in the World War II victory effort; and

"Whereas, The committee organizing the citizen effort behind this project envisions the creation of a nonprofit foundation to raise the necessary funds to move the vessel from its present moorings to San Francisco Bay, prepare a site offered by the City of Martinez, and fit the vessel for public inspection, the revenue from tours and sale of souvenirs making the ship self-supporting with profits going to the U.S. Navy Relief Fund; and

"Whereas, This project has been endorsed by the Martinez Chamber of Commerce, the Martinez City Council, the Contra Costa County Board of Supervisors, the City-State Waterfront Committee and the Contra Costa Council of the Navy League; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the citizens of Martinez are to be commended for their initiative and leadership in endeavoring to bring this renowned "fighting ship" to San Francisco Bay, and their project is hereby endorsed by the California Legislature; and be it further

"*Resolved,* That the appropriate local, state and federal agencies whose sanction is required to move this vessel to the City of Martinez are urged to give speedy approval to this proposal so that the anniversary of the conclusion of World War II may be appropriately commemorated by the anchoring of this flagship of the United States Navy in Carquinez Straits; and be it further

"*Resolved,* That the Secretary of the Senate is directed to transmit a copy of this resolution to the President and Vice President of the United States, the Secretary of Defense, Secretary of the Navy, Chief of Naval Operations, the commandants of the 12th and 13th Naval Districts, the Members of the United States Senate and House of Representatives from California, and to the Battleship "Missouri" Committee of the Martinez Chamber of Commerce."

Two joint resolutions of the Legislature of the State of California; to the Committee on Finance:

"Senate Joint Resolution No. 21—Relative to Federal Income Tax Deduction

"Whereas, The people of the United States, through all levels of government, have placed great emphasis on the maintenance of a free public education system; and

"Whereas, Through the years these public schools have provided the opportunity for many great leaders to develop, regardless of their family background; and

"Whereas, The modern industrial complex is demanding young people of ever increasing knowledge and training to the point where a baccalaureate degree has become almost a necessity; and

"Whereas, The cost of higher education has forced the various states to impose increasing fees and tuition for attendance at public institutions of higher learning; and

"Whereas, The middle income taxpayers are suffering more than any other group in this inflationary period and are experiencing increasing difficulty in providing funds for the college education of their sons and daughters; and

"Whereas, Because statistics show that the average college graduate earns far more during his working years than the high school graduate and pays correspondingly higher taxes; and

"Whereas, For many other reasons it is greatly to the advantage of the federal government to encourage the higher education of our youth in every way possible; now, therefore, be it

"*Resolved by the Senate and the Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation providing relief from the increasing cost of higher education, including but not limited to making a portion of the cost of tuition at institutions of higher learning deductible under the Federal income Tax Law; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

"Senate Joint Resolution No. 22—Relative to Veterans' Unemployment Compensation Benefits

"Whereas, Returning veterans who receive upon separation from the armed forces, pay for unused accrued leave are being denied unemployment compensation benefits for a period of time equal to the number of days of accrued leave as per Section 8524 of Title V of the U.S. Code; and

"Whereas, A returning serviceman who has bravely defended his country, returns home, and finds it difficult to find a job has enough difficulties without being penalized for being prudent in his use of leave time while in the service; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend the present law so that our returning servicemen will not be denied unemployment compensation benefits under the circumstances described above; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California to the Committee on Foreign Relations:

"Senate Joint Resolution No. 13—Relative to the Release of Prisoners of War

"Whereas, North Vietnam is holding many Americans as prisoners of war; and

"Whereas, North Vietnam is not honoring the terms of the Geneva Convention and is abusing these prisoners; and

"Whereas, Almost one-fourth of the total number of prisoners and personnel missing in action are from California; and

"Whereas, Many thousands of Americans are expressing their concern and mobilizing world public opinion to urge North Vietnam to honor the spirit of the Geneva Convention and end abuse of prisoners; now, therefore, be it

"***Resolved by the Senate and Assembly of the State of California, jointly,*** That the

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Governor of this State, the President of the United States, and the Congress of the United States are requested to do all that can be done to obtain the release or better treatment of prisoners held by North Vietnam; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to Governor Ronald Reagan, President Richard M. Nixon, the Vice President, the Speaker of the House of Representatives, and each Member of the Congress of the United States from California."

Three joint resolutions of the Legislature of the State of California; to the Committee on Interior and Insular Affairs:

"Senate Joint Resolution No. 33—Relative to Guaranteed Minimum Water Flow for the Lower American River

"Whereas, The lower American River is a unique combination of a beautiful river in the midst of a highly urbanized area, and provides recreation and aesthetic value to the people of northern California; and

"Whereas, In October, 1964, Sunset Magazine published a six-page report commending the dedicated community effort to preserve a natural parkway along the American River, and millions of dollars of both public and private funds have been invested to establish parks and other recreational facilities along the river; and

"Whereas, There is deep concern that the proposed Folsom South Canal will reduce the water level below the minimum necessary to maintain fishlife, aesthetic beauty, and boating safety on the river; and

"Whereas, Sunset Magazine, in a postscript to its 1964 article, has recently observed that, although the American River Parkway had received nationwide acclaim as a working blue-print for a successful community program of environmental control, projected water withdrawal demands on the reservoirs that provide the river's downstream flow endanger not only the fisheries, wildlife, and recreational opportunities of the river but also the ecological integrity of the entire parkway; and

"Whereas, The City of Sacramento, by resolution of the Sacramento City Council, dated May 14, 1970, voiced its concern that the construction of the proposed Folsom South Canal, with its resultant diversion of water from that portion of the river below Nimbus Dam, posed a grave threat to the maintenance of the necessary minimum water flow; and

"Whereas, Numerous organizations, such as the Audubon Society, California Fly Fishermen Unlimited, the Save the American River Association, cosponsored by 129 organizations, the Sierra Club, and the Valley Council of Diving Clubs, consisting of 14 organizations, have similarly expressed their alarm; and

"Whereas, Year-around operational criteria for Nimbus Dam will need to be established and such criteria will necessarily include minimum flow releases for the lower American River; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California memorializes the Bureau of Reclamation of the Department of the Interior to establish and guarantee the minimum water flow for the lower American River necessary in order to protect and maintain the recreational and aesthetic values of the river, taking into account the water supply requirements of the Folsom-South Canal service area; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of the Interior, and to the Commissioner of Reclamation."

"Senate Joint Resolution No. 35—Relative to the San Francisco Bay Conservation and Development Commission

"Whereas, The citizens of California, particularly those living in the San Francisco Bay area, have repeatedly expressed their strong belief that the bay must be protected from gradual and needless destruction through unnecessary filling and development of the bay shoreline that is not in the best public interest; and

"Whereas, The California Legislature last year adopted, and Governor Reagan signed into law, legislation requiring that any person or governmental agency wishing to place fill in San Francisco Bay or make a substantial change in the shoreline use must first obtain a permit from the San Francisco Bay Conservation and Development Commission; and

"Whereas, Although this requirement may not legally apply to agencies of the federal government, it is nevertheless the intent of the Legislature that, unless there are overriding reasons of national security or other national interest involved, federal agencies should be asked to comply with the provisions of state law regarding bay filling and shoreline use; and

"Whereas, The National Environmental Policy Act of 1969, Public Law 91–190, requires that a detailed statement be prepared for the public on federal actions significantly affecting the quality of the human environment; and

"Whereas, The President's Council on Environmental Quality has issued interim guidelines which provide that, to the fullest extent possible, the National Environmental Policy Act of 1969 (P.L. 91–190) should be applied to major federal actions having a significant effect upon the environment even though they arise from projects initiated prior to the enactment of Public Law 91–190 on January 1, 1970; and

"Whereas, California law requires any person or government agency wishing to place, fill, or extract materials from the bay or make any substantial change in the bay or in the 100-foot shoreline band around San Francisco Bay to first secure a permit from the San Francisco Bay Conservation and Development Commission; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the members request all federal agencies to cooperate with the San Francisco Bay Conservation and Development Commission by submitting any plans for projects that would affect the bay or the shoreline within the jurisdiction of the commission to the same review by the commission that would be required by any other similar project within the jurisdiction of the commission; and be it further

"*Resolved*, That no action be taken by a federal agency until the San Francisco Bay Conservation and Development Commission completes such a review; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the Secretary of the Navy, to the Secretary of the Army, to the Secretary of Defense, to the Secretary of the Interior, to each Senator and Representative from California in the Congress of the United States, and to all federal agencies within the area under the jurisdiction of the San Francisco Bay Conservation and Development Commission."

"Senate Joint Resolution No. 36—Relative To Open Hearings

"Whereas, The Los Padres National Forest is a valuable land owned and operated by the federal government in the State of California; and

"Whereas, The U.S. Gypsum Co. has applied for a mineral extraction lease on certain portions of the forest in the Sespe Creek Watershed of Ventura County under terms of the Federal Mineral Leasing Act of 1920 and proposes to excavate approximately 400 acres within a 2,434-acre lease to a depth of 50 to 400 feet and a length of four or more miles for open-pit mining of phosphate compounds; and

"Whereas, There is much public concern that the proposed mining operation and associated roads, processing plants and other facilities may adversely affect the environment, water purity, air quality, and wildlife and recreation use of the forest; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the Congress of the United States and the Secretary of the Interior to order the Bureau of Land Management to hold public hearings into the matter of the proposed lease for open-pit mining by the U.S. Gypsum Co. in the Sespe Creek Watershed of the Los Padres National Forest; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of the Interior, and to each Senator and Representative from California in the Congress of the United States.

A joint resolution of the Legislature of the State of California; to the Committee on the Judiciary:

"Senate Joint Resolution No. 20—Relative To Pledge of Allegiance to the Flag

"Whereas, The right of school children to voluntarily salute the Flag of the United States in the public schools is being threatened; and

"Whereas, The children of this country, now more than ever, need the right to voluntarily reaffirm their love and respect for the flag of this country; and

"Whereas, In our proper concern for the rights of minorities we must not ignore the fact that patriotism is a privilege which may not be taken away from the majority; and

"Whereas, It is in the public interest to amend the Constitution of the United States to specifically insure that the children of this country shall have the right to salute the Flag of the United States in public schools; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to utilize all their powers to bring about the passage of an amendment of the Constitution of the United States which shall assure to every child the right to voluntarily pledge allegiance to the Flag of the United States in any public school; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California; to the Committee on Public Works:

"Senate Joint Resolution No. 37—Relative to Air Pollution Financing

"Whereas, California has pioneered in the research and development of controls for motor vehicular and other sources of air pollution; and

"Whereas, This pioneering and continuing effort has established California's reputation as the national and worldwide leader for scientific and technical expertise in air pollution research and control; and

"Whereas, The financial burden for air pollution research and control has been largely borne by the citizens of the State of California and its motor vehicle owners and operators; and

"Whereas, The benefits of this research and control have been made available to and received by the citizens of all of these United States; and

"Whereas, Air pollution is an acute and serious nationwide problem, as witnessed by recent smog alerts in other major urban areas of the country; and

"Whereas, California is allocating a disproportionate amount of its resources and funds in its efforts to reduce this menace to the health and welfare of mankind, notwithstanding the fact that 90 percent of the nation's motor vehicles are owned and operated by residents of other states; and

"Whereas, The federal government, as well as these other states, should be called upon to bear a more appropriate share of this burden whose benefits are received by the citizens of all states; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and the Congress of the United States to augment and increase its funding for research and development being carried out by California's many highly qualified scientists and institutions, both public and private, engaged in this activity; and be it further

"Resolved, That the Secretary of the Senate transmit a copy of this resolution to the President and Vice President of the United States, to the Secretary of Health, Education, and Welfare, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, with amendments:

S. Res. 399. A resolution relating to the creation of a World Environmental Institute to aid all the nations of the world in solving common environmental problems of both national and international scope (Rept. No. 91-1255).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

S. 3389. A bill to provide for the protection, development, and enhancement of the public recreation values of the public lands (Rept. No. 91-1256).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

H.R. 18731. A bill to increase from $20 to $40 per day the per diem allowance authorized in lieu of subsistence for members of the American Battle Monuments Commission when in a travel status (Rept. No. 91-1257).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 140. An act to authorize the establishment of the Andersonville National Historic Site in the State of Georgia, and for other purposes (Rept. No. 91-1258); and

H.R. 15012. An act to authorize a study of the feasibility and desirability of establishing a unit of the national park system to commemorate the opening of the Cherokee Strip to homesteading, and for other purposes (Rept. No. 91-1259).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with amendments:

S. 4090. A bill to preserve and promote the resources of the Connecticut River Valley, and for other purposes (Rept. No. 91-1260).

By Mr. MAGNUSON, from the Committee on Commerce, with amendments:

H.R. 10634. An act to amend the Interstate Commerce Act and the Federal Aviation Act of 1958 in order to exempt certain wages and salaries of employees from withholding for income tax purposes under the laws of States or subdivisions thereof other than the State or subdivision of the employee's residence (Rept. No. 91-1261).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. GOLDWATER, from the Committee on Armed Services:

Richard J. Borda, of California, to be an Assistant Secretary of the Air Force.

By Mr. MAGNUSON, from the Committee on Commerce:

George Frank Mansur, Jr., of Texas, to be Deputy Director of the Office of Telecommunications Policy; and

Willard J. Smith, of Michigan, to be an Assistant Secretary of Transportation.

Mr. MAGNUSON. Mr. President, from the Committee on Commerce, I report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and ask unanimous consent, to save the expense of printing them on the Executive Calendar, that they lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER (Mr. SAXBE.) Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Michael J. Schiro, and sundry other persons, for promotion in the Coast Guard.

BILLS AND A JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and by unanimous consent, the second time, and referred as follows:

By Mr. MONDALE:

S. 4420. A bill for the relief of Elisabeth Mueller; to the Committee on the Judiciary.

By Mr. COTTON (by request):

S. 4421. A bill to secure electric power supplies adequate to the demands of the Nation compatible with environmental quality; to the Committee on Commerce.

By Mr. MAGNUSON (by request):

S. 4422. A bill to revise and improve the laws relating to the documentation of vessels; to the Committee on Commerce.

(The remarks of Mr. MAGNUSON when he introduced the bill appear below under the appropriate heading.)

By Mr. FANNIN:

S. 4423. A bill to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and penalties with respect thereto, and for other purposes; to the Committee on the Judiciary.

(The remarks of Mr. FANNIN when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. ERVIN:

S.J. Res. 239. Joint resolution proposing an amendment to the Constitution of the United States to abolish legal discrimination against women in respect to education or employment; to the Committee on the Judiciary.

S. 4422—INTRODUCTION OF VESSEL DOCUMENTATION ACT

Mr. MAGNUSON. Mr. President, at the request of the Secretary of Transportation, I introduce for appropriate reference, a bill to revise and improve the laws relating to documentation of vessels. I ask unanimous consent that the bill, the letter of transmittal from the Secretary of Transportation, the accompanying section-by-section analysis and comparative text, and the text of statutes repealed by the bill, be printed in the RECORD.

The PRESIDING OFFICER (Mr. ALLOTT). The bill will be received and appropriately referred; and, without objection, the bill, and other material will be printed in the RECORD.

The bill (S. 4422) to revise and improve the laws relating to the documentation of vessels, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 4422

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Vessel Documentation Act".

SEC. 2. Definitions. As used in this Act—

(1) "documented vessel" means a vessel for which a certificate of documentation has been issued under this Act; and

(2) "Secretary" means the head of the department in which the Coast Guard is operating.

SEC. 3. Port of documentation. The Secretary shall designate ports of documentation in the United States where vessels may be documented and instruments affecting title to, or interest in, documented vessels may be recorded. The Secretary shall specify the geographic area to be served by each designated port, and he may discontinue, relocate, or designate additional ports of documentation.

SEC. 4. Vessels eligible for documentation. Any vessel of at least 5 net tons, which is not registered under the laws of a foreign country, is eligible for documentation if it is owned by—

(1) an individual who is a citizen of the United States;

(2) a partnership or association whose members are all citizens of the United States;

(3) a corporation created under the laws of the United States, or of any State, territory or possession thereof, or of the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands; whose president or other chief executive officer and chairman of its board of directors are citizens of the United States and no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum;

(4) the United States Government; or

(5) the government of any State, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands.

SEC. 5. Home Ports. (a) The port of documentation selected by an owner for the documentation of his vessel shall, with the approval of the Secretary and subject to such regulations as he may prescribe, be the vessel's home port.

(b) Once a vessel's home port has been fixed as provided in subsection (a), it may only be changed with the approval of the

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Secretary and subject to such regulations as he may prescribe.

Sec. 6. Name of vessel. (a) At the time of application for initial documentation of a vessel, the owner shall provide a name for the vessel. Subject to the approval of the Secretary, that name shall, upon the issuance of a certificate of documentation, become the vessel's name of record.

(b) Once a vessel's name of record has been fixed as provided in subsection (a), it may only be changed with the approval of the Secretary and subject to such regulations as he may prescribe.

(c) The Secretary may prescribe a reasonable fee for changing a documented vessel's name of record.

Sec. 7. Certificate of documentation; application; issuance; form; exhibition. (a) Upon application by the owner of any vessel eligible for documentation, the Secretary shall issue a certificate of documentation of a type specified in section 10, 11, 12, 13, or 14 of this Act.

(b) The Secretary may prescribe the form, manner of filing, and the information to be contained in, applications for certificates of documentation

(c) Each certificate of documentation shall—

(1) contain the name, the home port, and a description of the vessel for which it is issued;

(2) identify its owner; and

(3) be in such form and contain such additional information as the Secretary may prescribe.

(d) The Secretary shall, by regulation, prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation issued under this Act.

(e) The owner and the master of each documented vessel shall make the vessel's certificate of documentation available for examination by such persons and at such times and places as may be required by law and as the Secretary may prescribe.

Sec. 8. Numbers; signal letters; identification markings. (a) The Secretary shall maintain a numbering system for the identification of documented vessels and assign a number to each documented vessel.

(b) The Secretary may maintain a system of signal letters for documented vessels.

(c) The owner of each documented vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary, the number assigned under subsection (a) and such other identification markings as the Secretary may prescribe.

Sec. 9. Purpose of documentation. A certificate of documentation issued under this Act is—

(1) conclusive evidence of nationality for international purposes, but not in any proceeding conducted under laws of the United States;

(2) in the case of a license, evidence of qualification to be employed in a specific trade; and

(3) not conclusive evidence of ownership in any proceeding in which ownership is in issue.

Sec. 10. Certificate of documentation: registry. (a) A registry may be issued for any vessel which is eligible for documentation.

(b) A vessel for which a registry is issued may be employed in foreign trade or trade with the Islands of Guam, Tutuila, Wake, or Midway or Kingman Reef.

(c) The Secretary may, upon application of the owner of any vessel which qualifies for a coastwise license under section 11 of this Act, a Great Lakes license under section 12 of this Act, or a fishery license under section 13 of this Act, issue a registry appropriately endorsed authorizing the vessel to be employed in the coastwise trade, the Great Lakes trade, or the fisheries, as the case may be.

Sec. 11. Certificate of documentation; coastwise license. (a) A coastwise license, or, as provided in section 10(c) of this Act, an appropriately endorsed registry, may be issued for any vessel which—

(1) is eligible for documentation;

(2) was built in the United States; and

(3) qualifies under laws of the United States to be employed in the coastwise trade.

(b) A vessel for which a coastwise license or an appropriately endorsed registry, is issued may, subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade; and

(2) the fisheries.

Sec. 12. Certificate of documentation: Great Lakes license.

(a) A Great Lakes license, or, as provided in section 10(c) of this Act, an appropriately endorsed registry, may be issued for any vessel which—

(1) is eligible for documentation;

(2) was built in the United States; and

(3) qualifies under the laws of the United States to be employed in the coastwise trade.

(b) A vessel for which a Great Lakes license or an appropriately endorsed registry is issued may, on the Great Lakes and their tributary and connecting waters and subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade;

(2) trade with Canada; and

(3) the fisheries.

Sec. 13. Certificate of documentation; fishery license.

(a) A fishery license, or, as provided in section 10(c) of this Act, an appropriately endorsed registry, may be issued for any vessel which—

(1) is eligible for documentation;

(2) was built in the United States; and

(3) qualifies under the laws of the United States to be employed in the fisheries.

(b) A vessel for which a fishery license, or an appropriately endorsed registry, is issued may, subject to the laws of the United States regulating the fisheries, be employed in that trade.

Sec. 14. Certificate of documentation: yacht license. A yacht license may be issued for any pleasure vessel which is eligible for documentation.

Sec. 15. Vessel limited to trade covered by certificate of documentation; exemptions; penalty. (a) A documented vessel may not be employed in any trade other than a trade covered by the certificate of documentation issued for that vessel. However, any certificate of documentation may, under regulations prescribed by the Secretary, be exchanged for any other type of certificate of documentation, or appropriately endorsed for any trade, for which the vessel qualifies.

(b) A non-self-propelled vessel which is qualified to be employed in the coastwise trade may, without being documented, be employed in trade exclusively within a harbor or on the rivers or inland lakes of the United States, or on the internal waters of any State.

(c) Whenever a documented vessel is employed in a trade that is not covered by the certificate of documentation issued for that vessel, the vessel, together with its equipment is liable to seizure and forfeiture to the United States.

(d) A documented vessel may not be placed under the command of a person other than a citizen of the United States.

Sec. 16. Falsification in documentation; fraudulent use of document; penalty. (a) Whenever the owner of a vessel knowingly falsifies or conceals a material fact, or makes a false statement or presentation in connection with the documentation of his vessel under this Act, in addition to any other penalty provided by law, that vessel, together with its equipment, is liable to seizure and forfeiture to the United States.

(b) Whenever a certificate of documentation is knowingly and fraudulently used for any vessel, that vessel, together with its equipment, is liable to seizure and forfeiture to the United States.

Sec. 17. Certificate of documentation; termination of validity.

(a) A certificate of documentation becomes invalid if the vessel for which it is issued—

(1) no longer meets the requirements in this Act and the regulations prescribed under it pertaining to that certificate of documentation; or

(2) is placed under the command of a person who is not a citizen of the United States.

(b) Except as provided by section 961(a) of title 46, an invalid certificate of documentation shall be surrendered to the Secretary in accordance with regulations prescibed by him.

Sec. 18. Provisional Registry. (a) The Secretary and the Secretary of State, acting jointly may provide for the issuance of a provisional registry for any vessel procured outside the United States which meets the ownership requirements of section 4 of this Act.

(b) A vessel for which a provisional registry is issued may proceed to the United States and, subject to such limitations as the Secretary prescribes, engage en route in the foreign trade or trade with the Islands of Guam, Tutuila, Wake, or Midway or Kingman Reef. Upon the vessel's arrival in the United States the provisional registry shall be surrendered to the Secretary.

(c) A vessel for which a provisional registry is issued is subject to the jurisdiction and laws of the United States. However, the Secretary may suspend the application of any vessel inspection law administered by him, or any regulation thereunder, if he considers the suspension to be in the public interest.

Sec. 19. Recording of U.S. built vessels. The Secretary may provide for the recording and certifying of such information pertaining to vessels built in the United States as he finds to be in the public interest.

Sec. 20. Registration of funnel marks and house flags. The Secretary shall provide for the registration of funnel marks and house flags by owners of vessels.

Sec. 21. List of documented vessels. The Secretary shall publish periodically a list of all documented vessels together with such information pertaining to them as he considers pertinent and useful.

Sec. 22. Reports. To ensure compliance with this Act and the laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners and masters of documented vessels to submit reports in such form and manner as the Secretary may prescribe.

Sec. 23. Violations; penalty. (a) Whoever violates any provision of this Act or any regulation thereunder for which no other penalty is specifically provided, is liable to a civil penalty of not more than $500 for each violation.

(b) The Secretary may compromise any civil penalty provided for in this Act.

Sec. 24. Delegations and regulations. The Secretary may—

(1) delegate, and authorize successive redelegations of, any of the duties or powers conferred on him in this Act; and

(2) prescribe regulations to carry out this Act.

Sec. 25. Related terms in other laws. Whenever used with respect to the documentation of a vessel in any law, regulation, document, ruling, or other official act—

(1) "certificate of registry", "registry", and "register" are considered to mean a registry as provided for in section 10 of this Act;

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(2) "license", "enrollment and license", "license for the coastwise (or coasting) trade", and "enrollment and license for the coastwise (or coasting) trade" are considered to mean a coastwise license as provided for in section 11 of this Act;

(3) "enrollment and license to engage in the foreign and coastwise (or coasting) trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea" is considered to mean a Great Lakes license as provided for in section 12 of this Act;

(4) "license for the fisheries" and "enrollment and license for the fisheries" are considered to mean a fishery license as provided for in section 13 of this Act; and

(5) "yacht license" and "yacht enrollment and license" are considered to mean a yacht license as provided for in section 14 of this Act.

SEC. 26. Amendments to other laws. (a) Section 4131 of the Revised Statutes, as amended (46 U.S.C. 221), is amended to read as follows:

"No person who is not a citizen of the United States may serve as master, chief engineer, or officer in charge of a deckwatch or engineering watch on any vessel documented under the laws of the United States. However, if a documented vessel is deprived of the services of any officer, other than the master, while on a foreign voyage, a person who is not a citizen of the United States may, until the vessel's first return to a United States port where a United States citizen replacement can be obtained serve in—

(1) the vacancy; or

(2) any vacancy resulting from the promotion of another to fill the original vacancy."

(b) Section 4148 of the Revised Statutes, as amended (46 U.S.C. 71), is amended by striking out the first sentence of subsection (a) and inserting in place thereof:

"The Secretary of the Department in which the Coast Guard is operating shall provide for the admeasuring of each vessel documented under the Vessel Documentation Act and each vessel recorded under section 19 of that Act. Except in cases where the Secretary of the Department in which the Coast Guard is operating has, by regulation, otherwise provided, a vessel must be admeasured before a certificate of documentation or a certificate of record is issued for that vessel".

(c) Section 4311 of the Revised Statutes, as amended (46 U.S.C. 251), is amended by striking out the first sentence of subsection (a).

(d) Section 4320 of the Revised Statutes, as amended (46 U.S.C. 262), is amended by—

(1) striking out the word "licensed" in the first sentence and inserting in place thereof the word "documented"; and

(2) striking out the last sentence.

(e) Section 4377 of the Revised Statutes, as amended (46 U.S.C. 325), is amended by striking out the second sentence.

(f) Section 7 of the Act of June 19, 1886, as amended (24 Stat. 81; 46 U.S.C. 319); is amended by—

(1) striking out the first sentence and inserting in place thereof:

"Whenever a vessel is employed in a trade for which certificates of documentation are issued under the Vessel Documentation Act, other than a trade covered by a registry, the vessel is liable to a civil penalty of $30 for each port at which it arrives without the proper certificate of documentation, and it has on board any merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, the vessel, together with its equipment and cargo is liable to seizure and forfeiture."; and

(2) striking out the last sentence.

SEC. 27. *Repeals.* The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act:

Revised statutes section	Revised statutes section	Revised statutes section
4132	4167	4318
4136	4168	4319
4137	4169	4321
4138	4170	4322
4139	4171	4323
4141	4174	4324
4142	4176	4325
4143	4177	4326
4144	4178	4327
4146	4179	4328
4147	4180	4329
4150	4182	4330
4155	4183	4331
4156	4187	4333
4157	4189	4335
4158	4190	4337
4159	4191	4338
4160	4214	4339
4161	4217	4372
4162	4312	4384
4163	4313	4385
4164	4314	4495
4166	4315	4498

Date	Chapter	Section	Statutes at Large	
			Volume	Page
Apr. 17, 1874	106		18	30
Feb. 27, 1877	69	[1] 1	19	251
Jun. 30, 1879	54		21	44
Mar. 3, 1883	133	1	22	566
Jun. 26, 1884	121	21	23	58
Jul. 5, 1884	221	4	23	119
Jun. 19, 1886	421	6	24	81
Feb. 21, 1891	250	1	26	765
Jan. 16, 1895	24	2, 4	28	624, 625
Jan. 20, 1897	67	1, 2	29	491, 492
Jun. 24, 1902	1, 155	1, 2	32	398, 399
Mar. 3, 1905	1, 457	9	33	1, 032
Apr. 24, 1906	1, 865	1, 2	34	136
May 28, 1908	212	7	35	426
Feb. 29, 1912	47		37	70
Jul. 9, 1912	220		37	189
Aug. 20, 1912	307	1	37	315
Aug. 24, 1912	390	[2] 5	37	562
Aug. 18, 1914	256	1	38	698
Feb. 24, 1915	57		38	812
Mar. 4, 1915	172	1	38	1, 193
Do	184	5	38	1, 218
Feb. 19, 1920	83	1, 2, 3	41	436, 437
Feb. 16, 1925	235	1	43	947
Aug. 5, 1935	438	310	49	528
May 20 1936	434		49	1, 367
May 24, 1938	265		52	437
May 31, 1939	159		53	794
Do	160		53	795
Jan. 2, 1939	168		53	798
Aug. 17, 1961	(3)		75	392
Sept. 29, 1965	(4)	10	79	892

[1] Only the part amending R.S. 4315, 4318 and 4319.

[2] Only the part amending R.S. 4132.

[3] Public Law 67–157.

[4] Public Law 69–219.

Note.—Sec. 28. Effective date. This act becomes effective on the 1st day of the 6th month following the month in which it is enacted.

The material presented by Mr. MAGNUSON is as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., August 20, 1970.

Honorable SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill "To revise and improve the laws relating to documentation of vessels", together with a section-by-section analysis.

This proposed bill would supplant the statutes pertaining to the documentation of American vessels, other than motorboats, now administered by the Coast Guard.

One of the earliest Acts of the First Congress was the establishment of a system of vessel documentation. The procedures spelled out in the Act of September 1, 1789, are still the foundation of our vessel documentation program today. Succeeding Congresses added to that foundation additional laws intended to meet the variety and change of conditions attending our waterborne commerce.

From its inception until 1967, documentation of vessels was supervised by a succession of Federal agencies although during those 178 years field activities were continuously performed by local officials of the Bureau of Customs. On February 24, 1967, by virtue of Treasury Department Order No. 167–81, full responsibility for vessel documentation was transferred to the Commandant of the Coast Guard in anticipation of the pending transfer of the Coast Guard from the Treasury Department into the new Department of Transportation on April 1, 1967.

When the Coast Guard assumed responsibility for vessel documentation there were 124 separate locations throughout the United States where documents were being issued. A few of those locations, where the volume of activity is low, are being discontinued as "ports of documentation" and their activities consolidated with those of more active nearby "ports of documentation". At present 126 Coast Guard employees are performing over 100,000 transactions a year in connection with nearly 70,000 American documented vessels. The annual budget for vessel documentation is slightly in excess of $1,000,000.

During the three and one half years that the Coast Guard has been responsible for its administration we have examined the procedures and public transactions involved in the vessel documentation process with a view to cost-reduction, modernization, and improvement. Unfortunately, most of the procedural changes that could produce improvements and increase efficiency are legally barred under the existing accumulation of laws.

Amendment of selected portions of the existing laws could, of course, allow implementation of specific procedural improvements. However, this sort of limited treatment would fall far short of producing a coherent and rational body of law. A number of the existing obstacles to modern and efficient administration are directly attributable to the piecemeal amending that has resulted in today's patchwork of statutes.

The proposed bill would extract from the existing laws, and restate in a concise and orderly arrangement, the purposes and objectives of vessel documentation and the related substantive policies. It would abandon the restricting administrative detailedness of the existing law. Instead it would delegate responsibility, and co-extensive authority, for administration of the vessel documentation program, within specific guidelines.

Enactment of the proposed bill would not result in any increased Government costs. It would, moreover, allow introduction of modern procedures and business techniques commonly used elsewhere in the Government. This would in turn, lead to more effective use of funds budgeted for this program and possible cost reductions in subsequent years.

The Office of Budget and Management advises that from the standpoint of the Administration's program there is no objection to the submission of this draft legislation for the consideration of the Congress.

Sincerely,

JOHN A. VOLPE.

Enclosures.

SECTION-BY-SECTION ANALYSIS OF A BILL

To revise and improve the laws relating to the documentation of vessels.

Sec. 1. *Short Title.* This section cites the Act as the "Vessel Documentation Act".

Sec. 2. *Definitions.* This section defines the terms "documented vessel" and "Secretary" for the purpose of their use in this Act.

Sec. 3. *Ports of Documentation.* This section provides for the designation by the Secretary of ports of documentation in the United States where vessels may be documented and instruments of title recorded and for the designation of the geographic area to be served by each designated port. It also authorizes the discontinuance and relocation of ports of documentation and the designation of additional ports of documentation. This section is a general re-statement of the existing law concerning the authority of the Secretary in regard to ports of documentation. The authority of the Secretary in regard to ports of documentation derived through reorganization plans, implication from related statutes, intradepartmental delegation orders, and transfers of functions from other governmental agencies is made more explicit.

Sec. 4. *Vessels Eligible for Documentation.* This section is a clarification and general restatement of existing law providing that vessels of at least 5 net tons, not registered under the laws of a foreign nation, are eligible for documentation if owned by citizens, partnerships, or corporations of the United States or by the Federal or State Governments. It expressly prescribes the 5 net ton limitation on vessels eligible for documentation rather than leaving it to implication.

Sec. 5. *Home Ports.* This section defines a vessel's home port as the port of documentation selected by an owner for the documentation of his vessel with the approval of the Secretary and provides that a vessel's home port may only be changed with the approval of the Secretary. It is a general re-statement of existing law but leaves the detailed procedures for fixing and changing a vessel's home port to regulations to be prescribed by the Secretary.

Sec. 6. *Name of Vessel.* This section provides that the name of record of the vessel to be documented will be the name provided by the owner subject to the approval of the Secretary and that the name may only be changed with approval of the Secretary. It is a re-statement of existing law except to the extent that the procedural details of the transactions now in the statute, such as the publication of notices of change of name in newspapers, will be governed by regulations prescribed by the Secretary. The authorization for a reasonable fee, to be prescribed by the Secretary, for changing a documented vessel's name of record takes the place of the graduated fee schedule now set forth in detail in the existing statute and allows the fee to be specified in regulations.

Sec. 7. *Certificate of Documentation; Application; Issuance; Form; Exhibition.* This section provides that a certificate of documentation shall be issued upon application by the owner of any vessel eligible for documentation on the form and in the manner prescribed by the Secretary and that such certificate of documentation shall be available for examination. The entire text of registers, enrollments and licenses, and licenses are now set forth at length in existing statutes. To provide flexibility and take advantage of savings afforded by modern forms and record keeping procedures this section provides only that each certificate of documentation shall contain the name, the home port, the description of the vessel; identity of its owner; and be in such form and contain such additional information as the Secretary may prescribe. The provision in this section that the Secretary shall, by regulation, prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation will provide a means for updating vessel documents through the submission of occasional reports rather than continue the presently required annual endorsement of renewals of licenses and enrollments and licenses and the endorsements of changes of master.

Sec. 8. *Numbers; Signal Letters; Identification Markings.* This section provides for continuing the present system of assigning official numbers, signal letters, and identification markings to documented vessels.

Sec. 9. *Purpose of Documentation.* This section does not modify existing law but for clarity contains express provisions that a certificate of documentation is conclusive evidence of nationality but not conclusive evidence of ownership in any proceeding in which ownership, determined by State law, is in issue. It also gives express recognition to the special nature of "license" type documents.

Sec. 10. *Certificate of Documentation Registry.* This section provides that the issuance of a certificate of documentation in the form of a registry may be issued to any vessel meeting the requirements of section 4 entitling it to be employed in the same foreign trade in which it may now be employed under existing law.

Sec. 11. *Certificate of Documentation; Coastwise License.* This section provides for the issuance of a certificate of documentation in the form of a coastwise license for any vessel which is eligible for documentation, built in the United States; and qualifies under the laws of the United States to be employed in the Coastwise Trade. This license takes the place of the "Consolidated Certificate of Enrollment and License" and the "License of Vessel Under 20 Tons" now issued under existing law for the coastwise Trade and also for the Coastwise Trade and Mackerel Fishery when appropriately endorsed.

Sec. 12. *Certificate of Documentation; Great Lakes License.* This section provides for the issuance of a Certificate of Documentation in the form of a Great Lakes License to take the place of the "Consolidated Certificate of Enrollment and License (Northern and Northwestern Frontiers of the United States Other Than by Sea)" now issued under existing law.

Sec. 13. *Certificate of Documentation; Fishery License.* This section provides that a certificate of documentation in the form of a fishery license may be issued for any vessel which is eligible for documentation, was built in the United States, and qualifies under the laws of the United States to be employed in the fisheries. This license takes the place of a "Consolidated Certificate of Enrollment and License" and a "License of Vessel Under Twenty Tons" now issued under existing law for the trades of whale fishery, cod fishery, and mackerel fishery.

Sec. 14. *Certificate of Documentation; Yacht License.* This section provides for the issuance of a yacht license to any vessel which is eligible for documentation and is to be used exclusively for pleasure. The yacht license takes the place of the "Consolidated Certificate of Enrollment and Yacht License" and the "License of Yacht Under Twenty Tons" now issued under existing law.

Sec. 15. *Vessel Limited to Trade Covered by Certificate of Documentation; Exemption; Penalty.* This section which is a re-statement of existing law provides that a vessel is limited to the trade covered by her certificate of documentation; exempts certain non-self-propelled vessels from documentation; requires that the master must be a citizen; and continues the present penalty for violations.

Sec. 16. *Falsification in Documentation; Fraudulent Use of Document; Penalty.* This section continues the existing penalty of seizure and forfeiture in existing law for false statements of representations in connection with the documentation of vessels and for fraudulent use of a certificate of documentation.

Sec. 17. *Certificate of Documentation; Termination of Validity.* This section continues the provisions of existing law providing that a certificate of documentation becomes invalid if the vessel for which it is issued no longer meets the requirements for issuance of the certificate or is placed under the command of a person who is not a citizen of the United States. It also continues the requirement for the surrender of invalid certificates but recognizes the protection accorded preferred mortagagees by section 961(a) of title 46.

Sec. 18. *Provisional Registry.* This section authorizes the Secretary of Transportation and the Secretary of State to provide for the issuance of a provisional registry for a vessel procured by a citizen outside of the United States. This enables the vessel to proceed directly to the United States and to trade en route with the requirement that the provisional registry shall be surrendered upon the vessel's arrival in the United States. The present statutory authority of Consular Officers and persons designated by the President to issue provisional registers which are automatically valid for a period of six (6) months or until arrival in the United States is eliminated. This section does not continue the present automatic statutory exemption of a vessel with a provisional registry from laws relating to officers, inspections, and admeasurement but it authorizes the Secretary to suspend application of those vessel inspection and admeasurement laws if he considered the suspension to be in the public interest.

Sec. 19. *Recording of U.S. Built Vessels.* This section authorizes the Secretary to provide for the recording and certifying of such information pertaining to vessels built in the United States as he finds to be in the public interest. It thereby continues provisions in the existing law providing for the recording and certifying of essential information pertaining to vessels built in the United States for foreign owners.

Sec. 20. *Registration of Funnel Marks and House Flags.* This section continues the provisions of the existing law providing for the registration of funnel marks and house flags by owners of vessels.

Sec. 21. *List of Documented Vessels.* This section continues the requirement for publication of a list of all documented vessels.

Sec. 22. *Reports.* This section authorizes reports to be required of owners and masters of documented vessels to ensure compliance with this act and the laws governing the qualification of vessels to engage in the coastwise trade and fisheries. These reports will also keep the vessel data current and certificates of documentation up to date. They will take the place of annual endorsements of renewals of enrollments and licenses and endorsements of changes of masters on the certificate of documentation.

Sec. 23. *Violations, Penalty.* This section provides a civil penalty of not more than $500.00 for each violation of this act. It takes the place of numerous specific statutory penalties now included in the individual statutes. This section also authorizes the Secretary to compromise any civil penalty provided in order that only the appropriate penalty need be assessed. The assessment of the maximum penalty in minor cases where the penalty will later be mitigated will no longer be required.

Sec. 24. *Delegations and Regulations.* This section retains the provisions of existing law by authorizing the Secretary to delegate and authorize successive re-delegations of any of the duties or powers conferred in him in this act. It also authorizes the Secretary to prescribe regulations to carry out this act.

Sec. 25. *Related Terms in Other Laws.* This section defines the new types of certificates of documentation provided for in this act to ensure that their changed names have no legal effect.

Sec. 26. *Amendments to Other Laws.*

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Sec. 26(a) restates the existing 46 U.S.C. 221 in terms of "vessels documented under the laws of the United States" to conform to the terminology of this bill.

Sec. 26(b) authorizes the Secretary to prescribe conditions under which a vessel may be documented before being admeasured until such time as the vessel is available for complete admeasurement. This amends the existing statutory requirement that a vessel must be admeasured before being documented.

Sec. 26(c) eliminates the references in 46 U.S.C. 251 to statutes pertaining to documentation that will be repealed by this bill and eliminates the provisions in that statute that only documented vessels shall be deemed vessels of the United States.

Sec. 26(d) eliminates the detailed statutory language prescribing oaths now required for the issuance of licenses.

Sec. 26(e) eliminates the provision of 46 U.S.C. 325 that vessels licensed for the "mackeral" fishery to be employed in other fisheries since section 13 provides for a single fishery license covering all fisheries.

Sec. 26(f) restates the first sentence and eliminates the last sentence of 46 U.S.C. 319 to conform to the terminology of this bill.

Sec. 27. *Repeals.* The corresponding sections of the United States Code are listed below for each of the Revised Statutes and Statutes at Large repealed by this section.

Revised statutes section	Title 46, United States Code section
4137	15
4138	16
4139	20
4141	17
4142	19
4143	21
4144	22
4146	23
4147	24
4150	74
4155	25
4156	26
4157	27
4158	28
4159	29
4160	30
4161	31
4162	32
4163	33
4164	34
4166	35
4167	36
4168	37
4169	38
4170	39
4171	40
4174	43
4176	44
4177	45
4178	46
4179	50
4180	54
4182	55
4183	56
4187	58
4189	60
4190	61
4191	62
4214	103
4217	105
4312	252
4313	253
4314	254
4315	255
4318	258
4319	259
4321	263
4322	264
4323	265
4324	266
4325	267
4326	268
4327	269
4328	270
4329	271
4330	272
4333	275
4335	276
4337	278
4338	279
4339	280
4372	318
4384	334
4385	335
4495	493
4498	496

STATUTES AT LARGE

Volume	Page	Title 46, United States Code Section
18	30	270
19	251	255, 258, 259
21	44	332
22	566	103
23	58	47
23	119	55
24	81	45
26	765	46
28	624, 625	23
29	491, 492	46
32	398, 399	20
33	1, 032	496
34	136	260
35	426	49
37	70	260
37	189	63
37	315	103
37	562	11
38	698	11
38	812	14
38	1193	12
38	1218	496
41	436, 437	51
43	947	18
49	528	60
49	1367	263
52	437	11
53	794	276
53	795	267
53	798	496
75	392	35
79	892	74

Sec. 28. Effective date. This section prescribes the effective date of the act as the 1st day of the 6th month following the month in which it is enacted.

COMPARATIVE TEXT OF STATUTES FOR AMENDMENT BY A BILL

To revise and improve the laws relating to the documentation of vessels.

(Omissions are indicated by brackets and additions are underscored).

Section 26(a) of the Bill amends Revised Statute 4131, as amended (46 U.S.C. 221).

Comparative text—

[Vessels registered pursuant to law and no others, except such as shall be duly qualified according to law for carrying on the coasting or fishing trade, shall be deemed vessels of the United States; and entitled to the benefits and privileges appertaining to such vessels; but no vessel shall enjoy such benefits and privileges longer than it shall continue to be wholly owned by a citizen or citizens of the United States or a corporation created under the laws of any of the States thereof, and be commanded by a citizen of the United States. And all of the officers of vessels of the United States who shall have charge of a watch, including pilots, shall in all cases be citizens of the United States. The word "officers" shall include the chief engineer and each assistant engineer in charge of a watch on vessels propelled wholly or in part by steam; and no person shall be qualified to hold a license as a commander or watch officer of a merchant vessel of the United States who is not a native-born citizen, or whose naturalization as a citizen shall not have been fully completed. In cases where on a foreign voyage, or on a voyage from an Atlantic to a Pacific port of the United States, any such vessel is for any reason deprived of the services of an officer below the grade of master, his place, or a vacancy caused by the promotion of another officer to such place, may be supplied by a person not a citizen of the United States until the first return of such vessel to its home port; and such vessel shall not be liable to any penalty or penal tax for such employment of an alien officer.] *No person who is not a citizen of the United States may serve as master, chief engineer, or officer in charge of a deckwatch or engineering watch on any vessel documented under the laws of the United States. However, if a documented vessel is deprived of the services of any officer, other than the master, while on a foreign voyage, a person who is not a citizen of the United States may, until the vessel's first return to a United States port where a United States citizen replacement can be obtained serve in—*

(1) the vacancy; or

(2) any vacancy resulting from the promotion of another to fill the original vacancy.

Section 26(b) of the Bill amends Revised Statute 4148(a), as amended (46 U.S.C. 71 (a)).

Comparative text—[Before a vessel is documented under the laws of the United States or issued a certificate of record she shall be admeasured by the Secretary of the Treasury as provided in subsection (b) or (c) of this section.] *The Secretary of the Department in which the Coast Guard is operating shall provide for the admeasuring of each vessel documented under the Vessel Documentation Act and each vessel recorded under section 19 of that Act. Except in cases where the Secretary of the Department in which Coast Guard is operating has, by regulation, otherwise provided, a vessel must be admeasured before a certificate of record is issued for that vessel.* A vessel which has been admeasured need not be readmeasured solely to obtain another document, unless it is a vessel admeasured under subsection (b) of this section which is required to be readmeasured under subsection (c) of this section; but a vessel which is intended to be used exclusively as a pleasure vessel may at the owner's option be readmeasured under subsection (b) of this section.

Section 26(c) of the Bill amends Revised Statute 4311(a), as amended (46 U.S.C. 251 (a)).

Comparative text—[Vessels of twenty tons and upward, enrolled in pursuance of sections 251–255, 258, 259, 262–280, 293, 306–316, 318, 321–330 and 333–335 of this title, and having a license in force, or vessels of less than twenty tons, which, although not enrolled, have a license in force, as required by such sections, and no others, shall be deemed vessels of the United States entitled to the privileges of vessels employed in the coasting trade or fisheries.] Except as otherwise provided by treaty or convention to which the United States is a party, no foreign-flag vessel shall, whether documented as a cargo vessel or otherwise, land in a port of the United States its catch of fish taken on board such vessels of the high seas or fish products processed therefrom, or any fish or fish products taken on board such vessel on the high seas from a vessel engaged in fishing operations or in the processing of fish or fish products.

Section 26(d) of the Bill amends Revised Statute 4320, as amended (46 U.S.C. 262).

Comparative text—No *documented* vessel shall be employed in any trade whereby the revenue laws of the United States shall be defrauded. [The master of every such vessel shall swear that he is a citizen of the United States and that such license shall not be used for any other vessel or any other employment than that for which is was specially granted, or in any trade or business whereby the revenue of the United States may be defrauded; and if such vessel be less than twenty tons burden, the husband or managing owner shall swear that she is wholly the property of citizens of the United States; whereupon it shall be the duty of the collector of the district comprehending the port whereto such vessel may belong to grant a license.]

Section 26(e) of the Bill amends Revised Statute 4377, as amended (46 U.S.C. 325.)

Comparative text—Whenever any licensed vessel is transferred, in whole or in part, to any person who is not at the time of such transfer a citizen and resident within the United States, or is employed in any other trade than that for which she is licensed, or is employed in any trade whereby the revenue of the United States is defrauded, or is found with a forged or altered license, or one granted for any other vessel, or with merchandise of foreign growth or manufac-

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ture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, such vessel with her tackle, apparel and furniture, and the cargo, found on board her, shall be forfeited. [But vessels which may be licensed for the mackerel fishery shall not incur such forfeiture by engaging in catching cod or fish of any other description whatever.] For the purposes of this section, marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found upon any vessel, shall be prima facie evidence of the foreign origin of such merchandise.

Section 26(f) of the Bill amends Section 7 of the Act of June 19, 1886, as amended (24 Stat. 81; 46 U.S.C. 319).

Comparative text—[Every vessel of twenty tons or upwards, entitled to be documented as a vessel of the United States, other than registered vessels found trading between district and district, or between different places in the same district, or carrying on the fishery, without being enrolled and licensed, and every vessel of less than twenty tons and not less than five tons burden found trading or carrying on the fishery as aforesaid without a license obtained as provided by this chapter, shall be liable to a fine of $30 at every port of arrival without such enrollment or license, and if she have on board any merchandise of foreign growth or manufacture (sea stores excepted, or any taxable domestic spirits, wines or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, she shall, together with her tackle, apparel and furniture, and the lading found on board, be forfeited.] *Whenever a vessel is employed in a trade for which certificates of documentation are issued under the Vessel Documentation Act, other than a trade covered by a registry, the vessel is liable to a civil penalty of $30 for each port at which it arrives without the proper certificate of documentation, and it has on board any merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, the vessel, together with its equipment and cargo is liable to seizure and forfeiture.* Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found on board such vessels, shall be prima facie evidence of the foreign origin of such merchandise. [But if the license shall have expired while the vessel was at sea, and there shall have been no opportunity to renew such license, then said fine or forfeiture shall not be incurred.]

TEXT OF STATUTES FOR REPEAL BY A BILL

To revise and improve the laws relating to the documentation of vessels.

Section 27 of the Bill repeals the following laws:

REVISED STATUTES

Sec. 4132: Vessels built within the United States, and belonging wholly to citizens thereof, and vessels which may be captured in war by citizens of the United States, and lawfully condemned as prize, or which may be adjudged to be forfeited for a breach of the laws of the United States, being wholly owned by citizens, and no others, may be registered as directed in this Title.

Sec. 4136: The Secretary of the Treasury may issue a register or enrollment for any vessel built in a foreign country, whenever such vessel shall be wrecked in the United States, and shall be purchased and repaired by a citizen of the United States, if it shall be proved to the satisfaction of the Secretary that the repairs put upon such vessel are equal to three-fourths of the cost of the vessel when so repaired.

Sec. 4137: Registers for vessels owned by any incorporated company may be issued in the name of the president or secretary of such company and such register shall not be vacated or affected by sales of any shares of stock in such company.

Sec. 4138: Upon the death, removal, or resignation of such president or secretary of any incorporated company owning any vessel, a new register shall be taken out for such vessel.

Sec. 4139: Previously to granting a register for any vessel, owned by any company, the president or secretary thereof shall swear to the ownership of the vessel, by such company, without designating the names of the persons composing the company; and the oath shall be deemed sufficient, without requiring the oath of any other person interested or concerned in such vessel.

Sec. 4141: Every vessel, except as is hereinafter provided, shall be registered by the collector of that collection-district which includes the port to which such vessel shall belong at the time of the registry, which port shall be deemed to be that at or nearest to which the owner, if there be but one, or, if more than one, the husband or acting and managing owner of such vessel, usually resides.

Sec. 4142: In order to the registry of any vessel, an oath shall be taken and subscribed by the owner, or by one of the owners thereof, before the officer authorized to make such registry, declaring, according to her best of the knowledge and belief of the person so swearing, the name of such vessel, her burden, the place where she was built, if built within the United States, and the year in which she was built; or that she has been captured in war, specifying the time, by a citizen of the United States, and lawfully condemned as prize, producing a copy of the sentence of condemnation, authenticated in the usual forms; or that she has been adjudged to be forfeited for a breach of the laws of the United States, producing a like copy of the adjudication of forfeiture; and declaring his name and place of abode, and if he be the sole owner of the vessel, that such is the case; or if there be another owner, that there is such other owner, specifying his name and place of abode, and that he is a citizen of the United States, and specifying the proportion belonging to each owner; and where an owner resides in a foreign country, in the capacity of a consul of the United States, or as an agent for and a partner in a house or copartnership consisting of citizens of the United States, actually carrying on trade within the United States, that such is the case, that the person so swearing is a citizen of the United States, and that there is no subject or citizen of any foreign prince or state, directly or indirectly, by way of trust, confidence, or otherwise, interested in such vessel, or in the profits or issues thereof; and that the master thereof is a citizen, naming the master, and stating the means whereby or manner in which he is a citizen.

Sec. 4143: If any of the matters of fact alleged in the oath taken by an owner to obtain the registry of any vessel, which within the knowledge of the party so swearing are not true, there shall be a forfeiture of the vessel, together with her tackle, apparel, and furniture, in respect to which the oath shall have been made, or of the value thereof, to be recovered, with the costs of suit, of the person by whom the oath was made.

Sec. 4144: If the master of a vessel is within the district where a registry thereof is to be made; when application is made for registering the same, he shall, himself instead of the owner, or of the agent or attorney, as hereinafter mentioned, make oath touching his being a citizen, and the means whereby or manner in which he is a citizen; in which case, if the master shall knowingly swear to anything untrue, no forfeiture of the vessel, on account of such false oath, shall be incurred, but the master shall be liable to a penalty of one thousand dollars.

Sec. 4146: The conditions of the bond given to obtain the registry of a vessel shall in each case be that the certificate of such registry shall be solely used for the vessel for which it is granted, and shall not be sold, lent, or otherwise disposed of, to any person whomsoever; and that, in case such vessel shall be lost, or taken by an enemy, burned, or broken up, or shall be otherwise prevented from returning to the port to which she may belong, the certificate, if preserved, shall be delivered up, within eight days after the arrival of the master or person having the charge or command of such vessel, within any district of the United States, to the collector of such district; and that if any foreigner, or any person for the use and benefit of such foreigner, shall purchase or otherwise become entitled to the whole or any part or share of or interest in such vessel, the same being within a district of the United States, the certificate shall, in such case, within seven days after such purchase, change, or transfer of property, be delivered up to the collector of the district; and that if any such purchase, change, or transfer of property shall happen when such vessel shall be at any foreign port or place, or at sea, then the master or person having the charge or command thereof, shall, within eight days after his arrival within any district of the United States, deliver up the certificate to the collector of such district.

Sec. 4147: In order to the registry of any vessel built within the United States, it shall be necessary to produce a certificate, under the hand of the principal or master carpenter, by whom or under whose direction the vessel has been built, testifying that she was built by him or under his direction, and specifying the place where, the time when, and the person for whom, and describing her build, number of decks and masts, length, breadth, depth, tonnage, and such other circumstances as are usually descriptive of the identity of a vessel; which certificate shall be sufficient to authorize the removal of a new vessel from the district where she may be built to another district in the same or an adjoining State, where the owner actually resides, provided it be with ballast only.

Sec. 4150: The registry of every vessel shall express her length and breadth, together with her depth and the height under the third or spar deck, which shall be ascertained in the following manner: The tonnage-deck, in vessels having three or more decks to the hull, shall be the second deck from below; in all other cases the upper deck of the hull is to be the tonnage-deck. The length from the fore part of the outer planking on the side of the stem to the after part of the main stern-post of screw-steamers, and to the after part of the rudder-post of all other vessels measured on the top of the tonnage-deck, shall be accounted the vessel's length. The breadth of the broadest part on the outside of the vessel shall be accounted the vessel's breadth of beam. A measure from the under side of the tonnage-deck plank, amidships, to the ceiling of the hold (average thickness), shall be accounted the depth of hold. If the vessel has a third deck, then the height from the top of the tonnage-deck plank to the underside of the upper-deck plank shall be accounted as the height under the spar-deck. All measurement to be taken in feet and fractions of feet; and all fractions of feet shall be expressed in decimals.

Sec. 4154: When the several matters hereinbefore required, in order to the registering of any vessel, have been complied with, the collector of the district comprehending the

XUM

port to which she belongs shall make and keep in some proper book a registry thereof, and shall grant a certificate of such registry, as nearly as may be, in the form following:

In pursuance of chapter one, Title XLVIII, "Regulation of Commerce and Navigation," of the Revised Statutes of the United States (inserting here the name, occupation, and place of abode of the person by whom the oath was made), having taken and subscribed the oath required by law, and having sworn that he or she, and if more than one owner, adding the words, "together with," and the name or names, occupations, place or places of abode, of the owner or owners, and the part or proportion of such vessel belonging to each owner) is (or are) the only owner (or owners) of the vessel called the (inserting here her name), of (inserting here the port to which she may belong), whereof (inserting here the name of the master) is at present master, and is a citizen of the United States, and that the said vessel was (inserting here when and where built), and (inserting here the name and office, if any, of the person by whom she shall have been surveyed or measured) having certified that the said vessel has (inserting here the number of decks) and (inserting here the number of masts), and that her length is (inserting here the number of feet), her breadth (inserting here the number of feet), her depth (inserting here the number of feet), and that she measures (inserting here the number of tons); that she is (describing here the particular kind of vessel, whether ship, brigantine, snow, schooner, sloop, or whatever else, together with her build, and specifying whether she has any or no galley or head); and the said (naming the owner, or the master, or other person acting in behalf of the owner or owners, by whom the certificate of measurement has been countersigned, as aforesaid) having agreed to the description and measurement above specified, and sufficient security having been given, according to law, the said vessel has been duly registered at the port of (naming the port where registered). Given under my hand and seal, at (naming the said port), this (inserting the particular day) day of (naming the month), in the year (specifying the number of the year, in words, at length).

Sec. 4156: When the master of such vessel himself makes oath touching his being a citizen, the wording of the certificate shall be varied so as to be conformable to the truth of the case. When a new certificate of registry is granted in consequence of any transfer of a vessel, the words shall be so varied as to refer to the former certificate of registry for her measurement.

Sec. 4157: It shall be the duty of the Secretary of the Treasury to cause to be provided blank certificates of registry and such other papers as may be necessary, executed in such manner and with such marks as he may direct. No certificate of registry shall be issued, except such as shall have been so provided and marked.

Sec. 4158: The Secretary of the Treasury shall cause to be transmitted, from time to time, to the collectors of the several districts, a sufficient number of forms of the certificates of registry, attested under the seal of the Treasury and the hand of the Register thereof, with proper blanks, to be filled by the collectors, respectively, by whom also the certificate shall be signed and sealed, before they are issued; and where there is a naval officer at any port, they shall be countersigned by him; and where there is a surveyor, but no naval officer, they shall be countersigned by him. A copy of each certificate issued shall be transmitted to the Register, who shall cause a record to be kept of the same.

Sec. 4159: Whenever any citizen of the United States purchases or becomes owner of any vessel entitled to be registered, such vessel being within any district other than the one in which he usually resides, such vessel shall be entitled to be registered by the collector of the district where she may be, at the time of his becoming owner thereof, upon his complying with the provisions hereinbefore prescribed, in order to the registry of vessels. And the oath which is required to be taken may, at the option of such owner, be taken either before the collector of the district within which such vessel may be, either of whom is hereby empowered to administer such oath.

Sec. 4160: Whenever any vessel, registered in pursuance of the provisions of the preceding section, shall arrive at the district comprehending the port to which she belongs, the certificate of registry so obtained, shall be delivered up to the collector of such district, who, upon the requisites of this Title in order to the registry of vessels, being complied with, shall grant a new one in lieu of the first. The certificate so delivered up shall forthwith be returned by the collector who receives the same, to the collector who granted it. If the first-mentioned certificate of registry is not delivered up, as above directed, the owner and the master of such vessel, at the time of her arrival within the district comprehending the port to which she may belong, shall severally be liable to a penalty of one hundred dollars, and the certificate of registry shall be thenceforth void.

Sec. 4161: Whenever any vessel entitled to be registered is purchased by an agent or attorney for or on account of a citizen of the United States, such vessel being in a district of the United States more than fifty miles distant, taking the nearest usual route by land, from the one comprehending the port to which, by virtue of such purchase, and by force of this Title, such vessel ought to be deemed to belong, it shall be lawful for the collector of the district where such vessel may be, and he is hereby required, upon the application of such agent or attorney, to proceed to the registering of the vessel, the agent or attorney first complying, on behalf and in the stead of the owner thereof, with the requisites prescribed by this Title in order to the registry of vessels, except that, in the oath taken by the agent or attorney, instead of swearing that he is agent or attorney for the owner thereof, and that he has, in good faith, purchased the vessel for the person whom he names and describes as the owner thereof.

Sec. 4162: Whenever any vessel registered in pursuance of the provisions of the preceding section, shall arrive within the district comprehending the port to which she belongs, the certificate of registry so obtained shall be delivered up to the collector of such district, who, upon the requirements of this Title in order to the registry of vessels being complied with, shall grant a new one in lieu of the first. The certificate, so delivered up, shall forthwith be returned to the collector, who shall transmit the same to the collector who granted it. If the first-mentioned certificate of registry is not delivered up, as above directed, the owner and the master of such vessel, at the time of her arrival within the district comprehending the port to which she may belong, shall severally be liable to a penalty of one hundred dollars, and the certificate of registry shall be thenceforth void.

Sec. 4163: If any of the matters of fact alleged in the oath taken by an agent or attorney to obtain the registry of a vessel which are within the knowledge of the party so swearing, are not true, there shall be a forfeiture of vessel, together with her tackle, apparel, and furniture, in respect to which the same was made, or of the value thereof, to be recovered, with costs of suit, of the person by whom such oath was made.

Sec. 4164: Whenever it appears, by satisfactory proof, to the Secretary of the Treasury, that any vessel has been sold and transferred by process of law, and that the register of such vessel is retained by the former owner, the Secretary may direct the collector of the district to which such vessel may belong to grant a new register, under such sale, on the owners complying with such terms and conditions as are by law required for granting such papers; excepting only the delivering up of the former certificate of registry. But nothing in this section shall be construed to remove the liability of any person to any penalty for not surrendering the papers belonging to any vessel, on a transfer or sale of the same.

Sec. 4166: When any vessel, registered pursuant to any law of the United States, shall, while she is without the limits of the United States, be sold or transferred in whole or in part to a citizen of the United States, such vessel on her first arrival in the United States thereafter, shall be entitled to all the privileges and benefits of a vessel of the United States: Provided, That all the requisites of law, in order to the registry of vessels, shall be complied with, and a new certificate of registry obtained for such vessel, within three days from the time at which the master or other person having the charge of command of such vessel is required to make his final report upon her first arrival afterward.

Sec. 4167: Whenever the certificate of the registry of any vessel is lost, destroyed, or mislaid, the master, or other person having the charge or command thereof, may make oath before the collector of the district where such vessel shall first be after such loss, destruction, or mislaying, in the form following. "I, (inserting here the name of the person swearing), being master (or having the charge or command) of the ship or vessel called the (inserting the name of the vessel), do swear (or affirm) that the said vessel hath been, as I verily believe, registered according to law, by the name of (inserting again the name of the vessel), and that a certificate thereof was granted by the collector of the district of (naming the district where registered), which certificate has been lost (or destroyed, or unintentionally and by mere accident mislaid, as the case may be); and (except where the certificate is alleged to have been destroyed) that the same, if found again, and within my power, shall be delivered up to the collector of the district in which it was granted." Such oath shall be subscribed by the party making the same; and upon such oath being made, and the other requisites of this Title in order to the registry of vessels being complied with, it shall be lawful for the collector of the district before whom such oath is made, to grant a new register, inserting therein that the same is issued in lieu of the one lost or destroyed.

Sec. 4168: Whenever a register is granted in lieu of one lost or destroyed, by any other than the collector of the district to which the vessel actually belongs, such register shall, within ten days after her first arrival within the district to which she belongs, be delivered up to the collector of such district, who shall, thereupon, grant a new register in lieu thereof. And in case the master or commander shall neglect to deliver up such register within the time above mentioned, he shall be liable to a penalty of one hundred dollars; and the former register shall become null and void.

Sec. 4169: In every case in which a vessel is required to be registered anew, if she shall not be so registered anew, she shall not be entitled to any of the privileges or benefits of a vessel of the United States. And if her former certificate of registry is not delivered up, except where the same may have been destroyed, lost, or unintentionally mislaid, and an oath thereof shall have been made, as hereinbefore prescribed, the owner of such vessel shall be liable to a penalty of

XUM

five hundred dollars, to be recovered with costs of suit.

Sec. 4170: Whenever any vessel, which has been registered, is, in whole or in part, sold or transferred to a citizen of the United States, or is altered in form or burden, by being lengthened or built upon, or from one denomination to another, by the mode or method of rigging or fitting, the vessel shall be registered anew, by her former name, according to the directions hereinbefore contained, otherwise she shall cease to be deemed a vessel of the United States. The former certificate of registry of such vessel shall be delivered up to the collector to whom application for such new registry is made, at the time that the same is made, to be by him transmitted to the Register of the Treasury, who shall cause the same to be canceled. In every such case of sale or transfer, there shall be some instrument of writing, in the nature of a bill of sale, which shall recite, at length, the certificate; otherwise the vessel shall be incapable of being so registered anew.

Sec. 4171: When the master or person having the charge or command of a registered vessel is changed, the owner, or one of the owners, or the new master of such vessel, shall report such change to the collector of the district where the same has happened, or where the vessel shall first be after the same has happened, and shall produce to him the certificate of registry of such vessel, and shall make oath, showing that such new master is a citizen of the United States, and the manner in which or means whereby he is so a citizen. Thereupon the collector shall indorse upon the certificate of registry a memorandum of such change, specifying the name of such new master, and shall subscribe the memorandum with his name; and if other than the collector of the district by whom the certificate of registry was granted, shall transmit a copy of the memorandum to him, with notice of the particular vessel to which it relates; and the collector of the district, by whom the certificate shall have been granted, shall make a like memorandum of such change in his book of registers, and shall transmit a copy thereof to the Register of the Treasury. If the change is not reported, or if the oath is not taken, as above directed, the registry of such vessel shall be void, and the master or person having the charge or command of her shall be liable to a penalty of one hundred dollars.

Sec. 4174: Every certificate of registery which is delivered up to a collector on the loss, destruction, or capture of a vessel, or the transfer thereof to a foreigner, shall be forthwith transmitted to the Register of the Treasury, to be canceled; who, if the same shall have been delivered up to a collector other than of the district in which it was granted, shall cause notice of such delivery to be given to the collector of such district.

Sec. 4176: The collector of each district shall progressively number the certificates of the registry by him granted, beginning anew at the commencement of each year, and shall enter an exact copy of each certificate in a book to be kept for that purpose; and shall, once in three months, transmit to the Register of the Treasury copies of all the certificates which shall have been granted by him, including the number of each.

Sec. 4177: The Secretary of the Treasury shall have the power, under such regulations as he shall prescribe, to establish and provide a system of numbering vessels so registered, enrolled, and licensed; and each vessel so numbered shall have her number deeply carved or otherwise permanently marked on her main beam; and if at any time she shall cease to be so marked, such vessel shall be no longer recognized as a vessel of the United States.

Sec. 4178: The name of every registered vessel, and of the port to which she shall belong, shall be painted on her stern, on a black ground, in white letters, of not less than three inches in length. If any vessel of the United States shall be found without having her name and the name of the port to which she belongs so painted, the owner or owners shall be liable to a penalty of fifty dollars; recoverable one-half to the person giving the information thereof, the other half to the use of the United States.

Sec. 4179: No master, owner, or agent of any vessel of the United States shall in any way change the name of such vessel, or by any device, advertisement, or contrivance to deceive or attempt to deceive the public, or any officer or agent of the United States, or of any State, or any corporation or agent thereof, or any person or persons, as to the true name or character of such vessel, on pain of the forfeiture of such vessel.

Sec. 4180: Every vessel built in the United States, and belonging wholly or in part to the subjects of foreign powers, in order to be entitled to the benefits of a ship built and recorded in the United States, shall be recorded in the office of the collector of the district in which such vessel was built, in the manner following: The builder of every such vessel shall make oath before the collector of such district in manner following: "I, (inserting here the name of such builder), of (inserting here the place of his residence), shipwright, do swear (or affirm) that (describing here the kind of vessel, as whether ship, brig, scow, schooner, sloop, or whatever else) named (inserting here the name of the ship or vessel), having (inserting here the number of decks), and being in length (inserting here the number of feet) in breadth (inserting here the number of feet), in depth (inserting here the number of feet), and measuring (inserting here the number of tons), having (specifying whether any or no) galley, and also (specifying whether any or no) head, was built by me or under my direction at (naming the place, county, and State), in the United States, in the year (inserting here the number of the year)." Which oath shall be subscribed by the person making the same, and shall be recorded in a book to be kept by the collector for that purpose.

Sec. 4182: A certificate of the record, attested under the hand and seal of the collector, shall be granted to the master of every such vessel, as nearly as may be, of the form following: "In pursuance of chapter one, Title XLVIII, 'Regulation of Commerce and Navigation,' of the Revised Statutes of the United States, I (inserting here the name of the collector of the district), of (inserting here the name of the district), in the United States, do certify that (inserting here the name of the builder), of (inserting here the place of his residence, county, and State), having sworn (or affirmed) that the (describing the ship or vessel, as in the certificate of record) named (inserting here her name), whereof (inserting here the name of her master) is, at present, master, was built at (inserting here the name of the place, county and State where built), by him or under his direction, in the year (inserting here the number of the year); and (inserting here the name of the surveyor, or other person, by whom the measurement shall have been made) having certified that the said ship or vessel has (inserting here her number of decks), is in length (inserting here the number of feet), in breadth (inserting here the number of feet), in depth (inserting here the number of feet), and measures (inserting here the number of tons): And the said builder and (naming and describing the owner, or master, or agent for the owner or owners, as the case may be, by whom the said certificate shall have been countersigned) having agreed to the said description and admeasurement, the said vessel has been recorded, in the district of (inserting here the name of the district where recorded), in the United States. Witness my hand and seal this (inserting here the day of the month) day of (inserting here the name of the month), in the year (inserting here the number of the year)." Which certificate shall be recorded in the office of the collector, and a duplicate thereof transmitted to the Register of the Treasury to be recorded in his office.

Sec. 4183: Whenever the master or the name of a vessel so recorded is changed, the owner, part owner, or consignee of such vessel shall cause a memorandum thereof to be indorsed on the certificate of the record, by the collector of the district where such vessel may be, or at which she shall first arrive if such change took place in a foreign country; and a copy thereof shall be entered in the book of records, a transcript whereof shall be transmitted by the collector to the collector of the district where such certificate was granted, if not the same person, who shall enter the same in his book of records, and forward a duplicate of such entry to the Register of the Treasury; and in such case, until the owner, part owner, or consignee shall cause the memorandum to be made by the collector, in the manner above prescribed, such vessel shall not be deemed a vessel recorded, in pursuance of this Title.

Sec. 4187: Every collector or officer who knowingly makes, or is concerned in making, any false register or record, or who knowingly grants or is concerned in granting, any false certificate of registry or record of or for any vessel, or any other false document whatever touching the same, contrary to the true intent and meaning of this Title, or who designedly takes any other or greater fees than are by this Title allowed, or who receives any voluntary reward or gratuity for any of the services performed, pursuant thereto; and every surveyor or other person appointed to measure any vessel, who willfully delivers to any collector or naval officer a false description of such vessel, to be registered or recorded, shall be punishable by a fine of one thousand dollars, and be rendered incapable of serving in any office of trust or profit under the United States.

Sec. 4189: Whenever any certificate of registry, enrollment, or license, or other record or document granted in lieu thereof, to any vessel, is knowingly and fraudulently obtained or used for any vessel not entitled to the benefit thereof, such vessel, with her tackle, apparel, and furniture, shall be liable to forfeiture.

Sec. 4190: No sea-letter or other document certifying or proving any vessel to be the property of a citizen of the United States shall be issued, except to vessels duly registered, or enrolled and licensed as vessels of the United States, or to vessels which shall be wholly owned by citizens of the United States, and furnished with or entitled to sea-letters or other custom-house documents.

Sec. 4191: Every person who knowingly makes, utters, or publishes any false sea-letter, Mediterranean passport, or certificate of registry, or who knowingly avails himself of any such Mediterranean passport, sea-letter, or certificate of registry, shall be liable to a penalty of not more than five thousand dollars, and, if an officer of the United States, shall thenceforth be incapable of holding any office of trust or profit under the authority of the United States.

Sec. 4214: The Secretary of the Treasury may cause yachts used and employed exclusively as pleasure-vessels, and designed as models of naval architecture, if entitled to be enrolled as American vessels, to be licensed on terms which will authorize them to proceed from port to port of the United States, and by sea to foreign ports, without entering or clearing at the customhouse. Such license shall be in such form as the Secretary of the

XUM

Treasury shall prescribe, conditioned that the vessel shall not engage in any unlawful trade, nor in any way violate the revenue laws of the United States, and shall comply with the laws in all other respects. Such vessels so enrolled and licensed shall not be allowed to transport merchandise or carry passengers for pay. Such vessels shall, in all respects, except as above, be subject to the laws of the United States, and shall be liable to seizure and forfeiture for any violation of the provisions of this Title.

Sec. 4217: For the identification of yachts and their owners, a commission to sail for pleasure in any designated yacht belonging to any regularly organized and incorporated yacht club, stating the exemptions and privileges enjoyed under it, may be issued by the Secretary of the Treasury, and shall be a token of credit to any United States official, and to the authorities of any foreign power, for privileges enjoyed under it.

Sec. 4312: In order for the enrollment of any vessel, she shall possess the same qualifications, and the same requirements in all respects shall be complied with, as are required before registering a vessel; and the same powers and duties are conferred and imposed upon all officers, respectively, and the same proceedings shall be had, in enrollment of vessels, as are prescribed for similar cases in registering; and vessels enrolled, with the masters or owners thereof, shall be subject to the same requirements as are prescribed for registered vessels.

Sec. 4313: Enrollments and licenses for vessels owned by any incorporated company may be issued in the name of the president or secretary of such company; and such enrollments or licenses shall not be vacated or affected by any sale of shares of stock in such company.

Sec. 4314: Previously to granting enrollment and license for any vessel, owned by any company, the president or secretary of such company shall swear to the ownership of such vessel, by such company, without designating the names of the persons composing such company; which oath shall be deemed sufficient, without requiring the oath of any other person interested or concerned in such vessel.

Sec. 4315: Upon the death, removal, or resignation of the president or secretary of any incorporated company owning any steamboat or vessel, a new enrollment and license shall be taken out for such steamboat or vessel.

Sec. 4318: Any vessel of the United States, navigating the waters on the northern, northeastern, and northwestern frontiers, otherwise than by sea, shall be enrolled and licensed in such form as other vessels; such enrollment and license shall authorize any such vessel to be employed either in the coasting or foreign trade on such frontiers, and no certificate of registry shall be required for vessels so employed. Such vessel shall be, in every other respect, liable to the regulations and penalties relating to registered and licensed vessels.

Sec. 4319: The record of the enrollment of a vessel shall be made, and an abstract or copy thereof granted, as nearly as may be in the following [form]: Enrollment. In conformity to Title L, "Regulation of vessels in Domestic Commerce," of the Revised Statutes of the United States (inserting here the name of the person, with his occupation and place of abode, by whom the oath or affirmation is to be made) having taken and subscribed the oath (or affirmation) required by law, and having sworn (or affirmed) that he (or she, and if more than one owner) adding the words "together with," and (the name or names, occupation or occupations, place or places of abode of the owner or owners, and the part of proportion of such vessel belong to each owner) is (or are) a citizen (or citizens) of the United States, and sole owner (or owners) of the ship or vessel called the (inserting here her name) of (inserting here the name of the port to which she may belong), whereof (inserting here the name of the master) is at present master, and is a citizen of the United States, and that the said ship or vessel was (inserting here when and where built), and (inserting here the name and office, if any, of the person by whom she shall have been surveyed and measured), having certified that the said ship or vessel has (inserting here the number of decks), and (inserting here the number of masts), and that her length is (inserting here the number of feet), her breadth (inserting here the number of feet), her depth (inserting here the number of feet), and that she measures (inserting here her number of tons); that she is (describing here the particular kind of vessel, whether ship, brigantine, scow, schooner, sloop, or whatever else together with her build, and specifying whether she has any or no galley or head) and the said (naming the owner or master, or other person acting in behalf of the owner or owners) by whom the certificate of measurement shall have been countersigned, having agreed to the description and measurement above specified, and sufficient security having been given, according to the said title, the said ship or vessel has been duly enrolled at the port of (naming the port where enrolled). Given under my hand and seal, at (naming the said port), this (inserting the particular day) day of (naming the month), in the year (specifying the number of the year, in words. at length)."

Sec. 4321: The form of a license for carrying on the coasting-trade or fisheries shall be as follows:

"License for carrying on the (here insert 'coasting trade,' 'whale-fishery,' 'mackerel-fishery,' or 'cod-fishery,' as the case may be).

"In pursuance of Title L, 'Regulation of vessels in Domestic Commerce.' of the Revised Statutes of the United States (inserting here the name of the husband or managing owner, with his occupation and place of abode, and the name of the master, with the place of his abode), having given bond that the (insert here the description of the vessel, whether ship, brigantine, scow, schooner, sloop, or whatever else she may be), called the (insert here the vessel's name), whereof the said (naming the master) is master, burden (insert here the number of tons, in words) tons, as appears by her enrollment, dated at (naming the district, day, month, and year, in words at length, but if she be less than twenty tons, insert, instead thereof, 'proof being had of her admeasurement'), shall not be employed in any trade, while this license shall continue in force, whereby the revenue of the United States shall be defrauded, and having also sworn (or affirmed) that this license shall not be used for any other vessel, or for any other employment, than is herein specified, license is hereby granted for the said (inserting here the description of the vessel) called the (inserting here the vessel's name), to be employed in carrying on the (inserting here 'coasting-trade,' 'whale-fishery,' 'mackerel-fishery,' or 'cod-fishery,' as the case may be), for one year from the date hereof, and no longer. Given under my hand and seal, at (naming the said district), this (inserting the particular day) day of (naming the month), in the year (specifying the number of the year, in words, at length)."

Sec. 4322: The collectors of the several districts may enroll and license any vessel that may be registered, upon such registry being given up, or may register any vessel that may be enrolled, upon such enrollment and license being given up.

Sec. 4323: When any vessel shall be in any other district than the one to which she belongs, the collector of such district, on the application of the master thereof, and upon his taking an oath that, according to his best knowledge and belief, the property remains as expressed in the register or enrollment proposed to be given up, and upon his giving the bonds required for granting registers, shall make the exchange of an enrollment for a register or a register for an enrollment; but in every such case, the collector to whom the register or enrollment and license may be given up shall transmit the same to the Register of the Treasury; and the register, or enrollment and license, granted in lieu thereof, shall, within ten days after the arrival of such vessel within the district to which she belongs, be delivered to the collector of the district, and be by him canceled. If the master shall neglect to deliver the register or enrollment and license within such time, he shall be liable to a penalty of one hundred dollars.

Sec. 4324: No license, granted to any vessel, shall be considered in force any longer than such vessel is owned, and of the description set forth in such license, or for carrying on any other business or employment than that for which she is specially licensed.

Sec. 4325: The license granted to any vessel shall be given up to the collector of the district who may have granted the same, within three days after the expiration of the time for which it was granted, in case such vessel be then within the district, or if she be absent at that time, within three days from her first arrival within the district afterward, or if she be sold out of the district, to the collector of such district, taking her cerificate therefor; and if the master thereof shall neglect or refuse to deliver up the license, he shall be liable to a penalty of fifty dollars.

Sec. 4326: If such license, however, shall have been previously given up to the collector of any other district, as authorized by this Title, and a certificate thereof under the hand of such collector be produced by such master, or if such license be lost, or destroyed, or unintentionally mislaid, as he verily believes, and that the same, if found, shall be delivered up, as is herein required, then the penalty prescribed in the preceding section shall not be incurred. If such license shall be lost, destroyed, or unintentionally mislaid, before the expiration of the time for which it was granted, upon the like oath being made and subscribed by the master of such vessel, the collector, upon application being made therefor, shall license such vessel anew.

Sec. 4327: The owner of any licensed vessel may return such license to the collector who granted the same, at any time within the year for which it was granted; and thereupon the collector shall cancel the same, and shall license such vessel anew, upon the application of the owner, and upon the conditions hereinbefore required being complied with.

Sec. 4328: Whenever it becomes necessary for the owner of any vessel of the United States navigating the western rivers or the waters on the northern, northeastern, and northwestern frontiers of the United States otherwise than by sea, and being in a district other than that to which such vessel belongs, to procure her enrollment and license, or license, or renewal thereof, the same proceedings may be had in the district in which the vessel then is, as are required by law on application for such enrollment and license, or license, or renewal thereof, as the case may be, in the district to which such vessel belongs, excepting the giving of bond and the enrollment and issuance of license; and the officer before whom such proceeding is had shall certify the same to the collector of the district to which such vessel belongs, who shall thereupon, on the owner giving bond as required in other cases, duly enroll the vessel and issue license in the same form as if the application had originally been made in his office; and shall either deliver the license to the owner, or forward it by

XUM

mail to the officer who certified to him the preliminary proceedings; and in the latter case, such officer shall deliver the license to the owner or master of the vessel.

Sec. 4329: Whenever it appears, by satisfactory proof, to the Secretary of the Treasury that any vessel has been sold and transferred by process of law, and that the certificate of enrollment or license of such vessel is retained by the former owner, the Secretary may direct the collector of the district to which such vessel belongs to grant a new certificate of enrollment or license, on the owner's, owner such sale, complying with such terms and conditions as are by law required for granting of such papers, excepting only the delivering up of the former certificate of enrollment or license. But nothing in this section shall be construed to remove the liability of any person to any penalty for not surrendering up the papers belonging to any vessel, on a transfer or sale of the same.

Sec. 4330: No license, or enrollment and license, or renewal of either, shall hereafter be issued to any vessel until the collector to whom application is made for the same is satisfied, from the oath of the owner or master, that all equipments and repairs, made in a foreign port within the year immediately preceding such application, have been duly accounted for, and the duties accruing thereon duly paid; and if such owner or master shall refuse to take such oath, or take it falsely, the vessel shall be seized and forfeited.

Sec. 4331: Before any vessel, of the burden of five tons, and less than twenty tons, shall be licensed, the same measurement shall be made of such vessel, and the same provisions observed relative thereto, as are to be observed in case of measuring vessels to be registered or enrolled; but in all cases, where such vessel or any other licensed vessel shall have been once measured, it shall not be necessary to measure such vessel anew, for the purpose of obtaining another enrollment or license, unless such vessel shall have undergone some alteration as to her burden, subsequent to the time of her former license.

Sec. 4333: The collector of each district shall progressively number the licenses by him granted, beginning anew at the commencement of each year, and shall make a record thereof in a book, to be by him kept for that purpose, and shall, once in three months, transmit to the Register of the Treasury copies of the licenses which shall have been so granted by him; and also of such licenses as shall have been given up or returned to him, respectively, in pursuance of this Title. Whenever any vessel is licensed or enrolled anew, or being licensed or enrolled is afterward registered, or being registered is afterward enrolled or licensed, she shall, in every such case, be enrolled, licensed, or registered by her former name.

Sec. 4335: Whenever the master of any licensed vessel, ferry-boats excepted, is changed, the new master, or, in case of his absence, the owner or one of the owners thereof, shall report such change to the collector residing at the port where the same happens, if there be one; otherwise, to the collector residing at any port where such vessel next arrives, who, upon the oath of such new master, or, in case of his absence, of the owner, that such master is a citizen of the United States, and that such vessel shall not, while such license continues in force, be employed in any manner whereby the revenue of the United States may be defrauded, shall indorse such change on the license, with the name of the new master. Whenever such change is not reported, and indorsed, as herein required, such vessel, if found carrying on the coasting-trade or fisheries, shall be subject to pay the same fees and tonnage as a vessel of the United States having a register, and the new master shall be liable to a penalty of ten dollars.

Sec. 4337: If any vessel, enrolled or licensed, shall proceed on a foreign voyage, without first giving up her enrollment and license to the collector of the district comprehending the port from which she is about to proceed on such voyage, and being duly registered by such collector, every such vessel, together with her tackle, apparel, and furniture, and the merchandise so imported therein, shall be liable to seizure and forfeiture.

Sec. 4338: If the port from which any vessel, so enrolled or licensed is about to proceed on a foreign voyage, is not within the district where such vessel is enrolled, the collector of such district shall give to the master of such vessel a certificate, specifying that the enrollment and license of such vessel has been received by him, and the time when it was so received; which certificate shall afterward be delivered by the master to the collector who may have granted such enrollment and license.

Sec. 4339: All vessels which may clear with registers for the purpose of engaging in the whale fishery shall be deemed to have lawful and sufficient papers for such voyages, securing the privileges and rights of registered vessels, and the privileges and exemptions of vessels enrolled and licensed for the fisheries.

Sec. 4372: If any vessel be at sea at the expiration of the time for which the license was given, and the master of such vessel shall swear that such was the case, and shall also, within forty-eight hours after his arrival, deliver to the collector of the district in which he shall first arrive the license which shall have expired, the forfeiture prescribed in the preceding section shall not be incurred, nor shall the vessel be liable to pay the fees and tonnage therein required.

Sec. 4384: All vessels subject to enrollment or license shall be liable to the payment of the fees established by law for services of customs offices incident thereto.

Sec. 4385: Nothing in this Title shall be construed to extend to any boat or lighter not being masted, or if masted and not decked, employed in the harbor of any town or city.

Sec. 4495: Every steam-vessel of the United States, in addition to having her name painted on her stern, shall have the same conspicuously placed in distinct, plain letters, of not less than six inches in length, on each outer side of the pilot-house, if it has such, and in case the vessel has side-wheels, also on the outerside of each wheel-house; and if any such steamboat be found without having her name placed as required; she shall be subject to the same penalty and forfeitures as provided by law in the case of a vessel of the United States found without having her name, and the name of the port to which she belongs, painted on her stern.

Sec. 4498: No license, register, or enrollment shall be granted, nor any other papers be issued, by any collector or other chief officer of the customs, to any vessel propelled in whole or in part by steam, until he shall have satisfactory evidence that all the provisions of this Title have been fully complied with.

STATUTES AT LARGE

Apr. 17, 1874, ch. 106, 18 Stat. 30: That the provisions of the act relating to the enrollment and license of vessels navigating the western rivers and the waters on the northern, northeastern, and northwestern frontiers of the United States, otherwise than by sea, approved February twenty-eighth, eighteen hundred and sixty-five, are hereby extended to include all vessels of the United States navigating the waters of the United States.

Feb. 27, 1877, ch. 80, Sec. 1 (part amending sections 4315, 4318, and 4320 of the Revised Statutes), 19 Stat. 250:

Section forty-three hundred and fifteen is amended by inserting, in the second line, before the word "vessel," the words "steamboat or."

Section forty-three hundred and eighteen is amended by striking out, in the sixth line, the word "register," and inserting the word "registry."

Section forty-three hundred and nineteen is amended by inserting, in the third line, after the word "following," the word "form;" and by striking out, in the thirty-first line, the word "act," and inserting the word "title."

Section forty-three hundred and twenty is amended by striking out, in the last line, the words "the duty of six cents per ton being first paid."

June 30, 1879, ch. 54, Stat. 44: That the provisions of title fifty of the Revised Statutes of the United States shall not be so construed as to require the payment of any fee or charge for the enrolling or licensing of vessels built in the United States and owned by citizens thereof, not propelled by sail or by internal motive power of their own, and not in any case carrying passengers, whether navigating the internal waters of a state or the navigable waters of the United States, and not engaged in trade with contiguous foreign territory, nor shall this or any existing law be construed to require the enrolling, registering or licensing of any flat boat, barge or like craft for the carriage of freight, not propelled by sail or by internal motive power of its own, on the rivers or lakes of the United States.

Mar. 3, 1883, ch. 133, Sec. 1, 22 Stat. 566: That section forty-two hundred and fourteen of the Revised Statutes of the United States be amended so as to read as follows:

"Sec. 4214. The Secretary of the Treasury may cause yachts used and employed exclusively as pleasure vessels or designed as models of naval architecture, if built and owned in compliance with the provisions of sections forty-one hundred and thirty-three to forty-one hundred and thirty-five, to be licensed on terms which will authorize them to proceed from port to port of the United States, and by sea to foreign ports, without entering or clearing at the customhouse, such license shall be in such form as the Secretary of the Treasury may prescribe. The owner of any such vessel, before taking out such license, shall give a bond in such form and for such amount as the Secretary of the Treasury shall prescribe, conditioned that the vessel shall not engage in any trade, nor in any way violate the revenue laws of the United States: and shall comply with the laws in all other respects. Such vessels, so enrolled and licensed, shall not be allowed to transport merchandise or carry passengers for pay. Such vessels shall have their name and port placed on some conspicuous portion of their hulls. Such vessels shall, in all respects, except as above, be subject to the laws of the United States, and shall be liable to seizure and forfeiture for any violation of the provisions of this title: Provided, That all charges for license and inspection fees for any pleasure vessel or yacht shall not exceed five dollars, and for admeasurement shall not exceed ten cents per ton."

June 26, 1884, ch. 121, Sec. 21, 23 Stat. 58: That the word, "port," as used in sections forty-one hundred and seventy-eight and forty-three hundred and thirty-four of the Revised Statutes, in reference to painting the name and port of every registered or licensed vessel on the stern of such vessel, shall be construed to mean either the port where the vessel is registered or enrolled, or the place in the same district where the vessel was built or where one or more of the owners reside.

July 5, 1884, ch. 221, Sec. 4, 23 Stat. 119: That the Commissioner of Navigation shall annually prepare and publish a list of vessels of the United States belonging to the commercial marine, specifying the official num-

XUM

ber, signal letters, names, rig, tonnage, home port, and place and date of building of every vessel distinguishing in such list sailing-vessels from such as may be propelled by steam or other motive power. He shall also report annually to the Secretary of the Treasury the increase of vessels of the United States, by building or otherwise, specifying their number, rig, and motive power. He shall also investigate the operations of the laws relative to navigation, and annually report to the Secretary of the Treasury such particulars as may, in his judgment, admit of improvement or may require amendment.

June 19, 1886, ch. 421, Sec. 6, 24 Stat. 81: That from the close of section forty-one hundred and seventy-seven of said statutes the following word shall be stricken out, to wit: "Such vessel shall be no longer recognized as a vessel of the United States;" and in lieu thereof there shall be inserted the words following: "Such vessel shall be liable to a fine of thirty dollars on every arrival in a port of the United States if she have not her proper official number legally carved or permanently marked."

Feb. 21, 1891, ch. 250, Sec. 1, 26 Stat. 765: That section forty-one hundred and seventy-eight, of the Revised Statutes be, and the same is hereby, amended to read entire as follows:

"Sec. 4178. The name of every documented vessel of the United States shall be marked upon each bow and upon the stern, and the home port shall also be marked upon the stern. These names shall be painted, or carved and gilded, in Roman letters in a light color on a dark ground, or in a dark color on a light ground, and to be distinctly visible. The smallest letters to be used shall not be less in size than four inches. If any vessels of the United States shall be found without these names being so marked the owner or owners shall be liable to a penalty of ten dollars for each name omitted; Provided, however, that the names on each bow may be marked within the year eighteen hundred and ninety-one.

Jan. 16, 1895, ch. 24, Sec. 2, 4, Stat. 624, 625: Sec. 2. That section forty-one hundred and forty-six of the Revised Statutes is hereby amended so as to read:

"Sec. 4146. A certificate of registry shall be solely used for the vessel for which it is granted, and shall not be sold, lent, or otherwise disposed of, to any person whomsoever; and in case the vessel so registered shall be lost, or taken by an enemy, burned, or broken up, or shall be otherwise prevented from returning to the port to which she may belong, the certificate, if preserved, shall be delivered up within eight days after the arrival of the master or person having the charge or command of such vessel within any district of the United States, to the collector of such district; and if any foreigner, or any person for the use and benefit of such foreigner, shall purchase or otherwise become entitled to the whole, or any part or share of, or interest in such vessel, the same being within a district of the United States, the certificate shall, within seven days after such purchase, change, or tranfer of property, be delivered up to the collector of the district; and if any such purchase, change, or transfer of property shall happen when such vessel shall be at any foreign port or place, or at sea, then the master or person having the charge or command thereof shall, within eight days after his arrival within any district of the United States, deliver up the certificate to the collector of such district. Any master or owner violating the provisions of this section shall be liable to a penalty of not exceeding five hundred dollars, and the certificate of registry shall be thenceforth void. The Secretary of the Treasury shall have the power to remit or mitigate such penalty if in his opinion it was incurred without willful negligence or intention of fraud."

Sec. 4. That no bond shall be required on the licensing of yachts; no licensed yacht shall engage in any trade, nor in any way violate the revenue laws of the United States; and every such yacht shall comply with the laws in all respects. Section one of the Act approved March third, eighteen hundred and eight-three, amending section forty-two hundred and fourteen, Revised Statutes, and so forth, is amended accordingly.

Jan. 20, 1897, ch. 67, Sec. 1, 2, 29 Stat. 491, 492: That the Act entitled "An Act to amend section forty-one hundred and seventy-eight, Revised Statutes, in relation to the marking of vessels' names at bow and stern, and also to provide for marking the draft," approved February twenty-first, eighteen hundred and ninety-one, is hereby amended to read as follows:

"That section forty-one hundred and seventy-eight of the Revised Statutes be, and the same is hereby amended to read entire as follows:

"Sec. 4178. The name of every documented vessel of the United States shall be marked upon each bow and upon the stern, and the home port shall also be marked upon the stern. These names shall be painted or gilded, or consist of cut or carved or cast roman letters in light color on a dark ground, or in a dark color on a light ground, secured in place, and to be distinctly visible. The smallest letters used shall not be less in size than four inches. If any such vessel shall be found without these names being so marked the owner or owners shall be liable to a penalty of ten dollars for each name omitted: Provided, however, that the names on each bow may be marked within the year eighteen hundred and ninety-seven.

"Sec. 2. That the draft of every registered vessel shall be marked upon the stem and stern post, in English feet or decimeters, in either arabic or roman numerals. The bottom to each numeral shall indicate the draft to that line."

June 24, 1902, ch. 1155, Sec. 1, 2, 32 Stat. 398, 399: That section forty-one hundred and thirty-nine of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

Sec. 4139. Previous to granting a register for any vessel owned by any incorporated company, or by an individual or individuals, the president or secretary of such company, or any other officer or agent thereof, duly authorized by said company in writing, attested by the corporate seal thereof, to act for the company in this behalf, or the managing owner, or his agent duly authorized by power of attorney, when such vessel is owned by an individual or individuals, shall swear to the ownership of the vessel without designating the names of the persons composing the company, when such vessel is owned by a corporation, and the oath of either of said officers or agents shall be deemed sufficient without requiring the oath of any other person interested and concerned in such vessel."

Sec. 2. That section forty-three hundred and fourteen of the Revised Statutes of the United States be, and the same is hereby, amended so as to read as follows:

"Sec. 4314. Previous to granting enrollment and license for any vessel owned by an incorporated company, or by an individual or individuals, the president or secretary of such company, or any other officer or agent thereof, duly authorized by said company in writing, attested by the corporate seal thereof, to act in its behalf, or the managing owner, or his agent duly authorized by power of attorney, when such vessel is owned by an individual or individuals, shall swear to the ownership of such vessel without designating the names of the persons composing such company, when such vessel is owned by a corporation, which oath shall be deemed sufficient without requiring the oath of any other person interested or concerned in such vessel."

Mar. 3, 1905, ch. 1457, Sec. 9, 33 Stat. 1032; That section forty-four hundred and ninety-eight of the Revised Statutes of the United States be, and it is hereby, amended to read as follows:

"Sec. 4498. A register, enrollment, or license shall not be granted or other papers be issued by any collector or other chief officer of customs to any vessel subject by law to inspection under this title until all the provisions of this title applicable to such vessel have been fully complied with and until the certificate of inspection required by this title for such vessel has been filed with said collector."

Apr. 24, 1906, ch. 1865, Sec. 1, 2, 34 Stat. 136: That under the direction of the Secretary of Commerce and Labor the Commissioner of Navigation is hereby authorized and directed from time to time to consolidate into one document in the case of any vessel of the United States of twenty net register tons or over, the form of enrollment prescribed by section forty-three hundred and nineteen of the Revised Statutes and the form of license prescribed by section forty-three hundred and twenty-one of the Revised Statutes, and such consolidated form shall hereafter be issued to a vessel of the United States in lieu of the separate enrollment and license, now prescribed by law, and shall be deemed sufficient compliance with the requirements of laws relating to the subject.

Sec. 2. That section forty-three hundred and twenty-five of the Revised Statutes is hereby amended to read:

"Sec. 4325. The license granted to any vessel shall be presented for renewal by endorsement to the collector of customs of the district in which the vessel then may be within three days after the expiration of the time for which it was granted, or, if she be absent at that time, within three days from her first arrival within a district. In case of change of build, ownership, district, trade, or arrival under temporary papers in the district where she belongs the license shall be surrendered. If the master shall fail to deliver the license he shall be liable to a penalty of ten dollars, which shall not be mitigated."

May 28, 1908, ch. 212, Sec. 7, 35 Stat. 426: That thirty days after the passage of this Act if a shipowner desires to use for the purpose of a private code any rockets, lights, or other similiar signals, he may register those signals and house flags and funnel marks with the Commissioner of Navigation, who shall give public notice from time to time of the signals, house flags, and funnel marks so registered in such manner as he may think requisite for preventing those signals from being mistaken for signals for distress or signals for pilots. The Commissioner of Navigation may refuse to register any signals which in his opinion can not easily be distinguished from signals of distress, signals for pilots, or signals prescribed by laws for preventing collisions.

Feb. 29, 1912, ch. 47, 37 Stat. 70: That section one of the Act entitled "An Act to simplify the issue of enrollments and licenses of vessels of the United States," approved April twenty-fourth, nineteen hundred and six, is hereby amended by striking out the words "of twenty net register tons or over," so that it will read as follows:

"That under the direction of the Secretary of Commerce and Labor the Commissioner of Navigation is hereby authorized and directed from time to time to consolidate into one document in the case of any vessel of the United States the form of enrollment prescribed by section forty-three hundred and nineteen of the Revised Statutes and the form of license prescribed by section forty-three hundred and twenty-one of the Revised Statutes, and such consolidated

XUM

form shall hereafter be issued to a vessel of the United States in lieu of the separate enrollment and license now prescribed by law, and shall be deemed sufficient compliance with the requirements of laws relating to the subject."

July 9, 1912, ch. 220, 37 Stat. 189: That upon affidavit by a reputable shipbuilder of the United States than an unrigged wooden vessel of the United States has been rebuilt, giving the date and place of such rebuilding, is sound and free from rotten or doted wood in structural parts, properly fastened and calked and in strength and seaworthiness as good as new, the Commissioner of Navigation shall include in the List of Merchant Vessels a notation to that effect.

Aug. 20, 1912, ch. 307, Sec. 1, 37 Stat. 315: That sections forty-two hundred and fourteen and forty-two hundred and eighteen of the Revised Statutes be, and the same are hereby, amended to read as follows:

"Sec. 4214. The Secretary of Commerce and Labor may cause yachts used and employed exclusively as pleasure vessels or designed as models of naval architecture, if built and owned in compliance with the provisions of sections forty-one hundred and thirty-three to forty-one hundred and thirty-five, to be licensed on terms which will authorize them to proceed from port to port of the United States and to foreign ports without entering or clearing at the customhouse; such license shall be in such form as the Secretary of Commerce and Labor may prescribe. Such vessels, so enrolled and licensed, shall not be allowed to transport merchandise or carry passengers for pay. Such vessels shall have their name and port placed on some conspicuous portion of their hulls. Such vessels shall, in all respects, except as above, be subject to the laws of the United States, and be liable to seizure and forfeiture for any violation of the provisions of this title."

"Sec. 4218. Every yacht, except those of fifteen gross tons or under, visiting a foreign country under the provisions of sections forty-two hundred and fourteen, forty-two hundred and fifteen, and forty-two hundred and seventeen of the Revised Statutes shall, on her return to the United States, make due entry at the customhouse of the port at which, on such return, she shall arrive: Provided, That nothing in this act shall be so construed as to exempt the master or person in charge of a yacht or vessel arriving from a foreign port or place with dutiable articles on board from reporting to the customs officer of the United States at the port or place at which said yacht or vessel shall arrive, and deliver in to said officer a manifest of all dutiable articles brought from a foreign country in such yachts or vessels."

Aug. 24, 1912, ch. 390, Sec. 5 (part), 37 Stat. 562: *Sec. 5* * * * That section forty-one hundred and thirty-two of the Revised Statutes is hereby amended to read as follows:

"Sec. 4132. Vessels built within the United States and belonging wholly to citizens thereof; and vessels which may be captured in war by citizens of the United States and lawfully condemned as prize, or which may be adjusted to be forfeitured for a breach of the laws of the United States; and seagoing vessels, whether steam or sail, which have been certified by the Steamboat-Inspection Service as safe to carry dry and perishable cargo, not more than five years old at the time they apply for registry, wherever built, which are to engage only in trade with foreign countries or with the Philippine Islands and the islands of Guam and Tutuila, being wholly owned by citizens of the United States or corporations organized and chartered under the laws of the United States or of any State thereof, the president and managing directors of which shall be citizens of the United States or corporations organized and chartered under the laws of the United States or of any State thereof, the President and managing directors of which shall be citizens of the United States, and no others, may be registered as directed in this title. Foreign-built vessels registered pursuant to this Act shall not engage in the coastwise trade: Provided, That a foreign built yacht, pleasure boat, or vessel not used or intended to be used for trade admitted to American registry pursuant to this section shall not be exempt from the collection of ad valorem duty provided in section thirty-seven of the Act approved August fifth, nineteen hundred and nine, entitled 'An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes.' That all materials of foreign production which may be necessary for the construction or repair of vessels built in the United States and all such materials necessary for the building or repair of their machinery and all articles necessary for their outfit and equipment may be imported into the United States free of duty under such regulations as the Secretary of the Treasury may prescribe: Provided further, That such vessels so admitted under the Act of March third, eighteen hundred and ninety-one, entitled 'An Act to provide for ocean mail service between the United States and foreign ports, and to promote commerce,' so long as such vessels shall in all respects comply with the provisions and requirements of said Act."

Aug. 18, 1914, ch. 256, Sec. 1, 38 Stat. 698: That the words "not more than five years old at the time they apply for registry" in section five of that Act entitled "An Act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone," are hereby repealed.

Feb. 24, 1915, ch. 57, 38 Stat. 812: That section forty-one hundred and thirty-six of the Revised Statutes of the United States be reenacted and revised to read as follows:

"Sec. 4136. The Secretary of Commerce may issue a register or enrollment for any vessel wrecked on the coast of the United States or her possessions or adjacent waters, when purchased by a citizen or citizens of the United States and thereupon repaired in a shipyard in the United States or her possessions, if it shall be proved to the satisfaction of the Secretary of Commerce, if he deems it necessary, through a board of three appraisers appointed by him, that the said repairs put upon such vessels are equal to three times the appraised salved value of the vessel: Provided: That the expense of the appraisal herein provided for shall be borne by the owner of the vessel: Provided further, That if any of the material matters of fact sworn to or represented by the owner, or at his instance, to obtain the register of any vessel are not true, there shall be a forfeiture to the United States of the vessel in respect to which the oath shall have been made, together with tackle, apparel, and furniture thereof."

Mar. 4, 1915, ch. 172, Sec. 1, 38 Stat. 1193: That consular officers of the United States and such other persons as may from time to time be designated by the President for the purpose are hereby authorized to issue provisional certificates of registry to vessels abroad which have been purchased by citizens of the United States, including corporations, as defined in section forty-one hundred and thirty-two, Revised Statutes, as amended by the Panama Canal Act and the Act of August eighteenth, nineteen hundred and fourteen.

(a) Such a provisional certificate shall entitle the vessel to the privileges of a vessel of the United States in trade with foreign countries or with the Philippine Islands and the islands of Guam and Tutuila until the expiration of six months from its date or until ten days after the vessel's arrival at a port of the United States, whichever first happens, and no longer. On arrival at a port of the United States the vessel shall become subject to the laws relating to officers, inspection, and measurement, as amended by the Act of August eighteenth, nineteen hundred and fourteen.

(b) The Secretary of Commerce shall prescribe the conditions in accordance with which such provisional certificates shall be issued and the manner in which they shall be surrendered in exchange for certificates of registry at ports of the United States.

(c) The form of such provisional certificate shall be prescribed by the Commissioner of Navigation and shall include the name of the ship and of the master, time and place of purchase and names of purchasers, and the best particulars respecting her tonnage, build, description, and inspection or survey which the consular officer is able to obtain.

(d) Copies of such provisional certificates shall be forwarded as soon as practicable by the issuing officer to the Commissioner of Navigation.

Mar. 4, 1915, ch. 184, Sec. 5, 38 Stat. 1218: That section forty-four hundred and ninety-eight of the Revised Statutes of the United States be, and the same is hereby, amended so as to read as follows:

"Sec. 4498. A register, enrollment, or license shall not be granted, or other papers be issued by any collector or other chief officer of customs to any vessel subject by law to inspection under this title until all the provisions of this title applicable to such vessel have been fully complied with and until the copy of the certificate of inspection required by this title for such vessel has been filed with said collector or other chief officer of customs."

Feb. 19, 1920, ch. 83, Sec. 1–3, 41 Stat. 436, 437: That the Commissioner of Navigation shall, under the direction of the Secretary of Commerce, be empowered to change the names of vessels of the United States on application of the owner or owners of such vessels when in his judgment there shall be sufficient cause for so doing.

Sec. 2. That the Commissioner of Navigation, with the approval of the Secretary of Commerce, shall establish such rules and regulations and procure such evidence as to age, condition, where built, and pecuniary liability of the vessel as he may deem necessary to prevent injury to public or private interests; and when permission is granted by the Commissioner of Navigation, he shall cause the order for the change of name to be published at least in four issues in some daily or weekly paper at the place of documentation, and the cost of procuring evidence and advertising the change of name to be paid by the person or persons desiring such change of name.

Sec. 3. That for the privilege of securing such changes of name the following fees shall be paid by the owners of vessels to collectors of customs, to be deposited in the Treasury by such collectors as navigation fees: for vessels ninety-nine gross tons and under, $10; for vessels one hundred gross tons and up to and including four hundred and ninety-nine gross tons, $25; for vessels five hundred gross tons and up to and including nine hundred and ninety-nine gross tons, $50; for vessels one thousand gross tons and up to and including four thousand nine hundred and ninety-nine gross tons, $75; for vessels five thousand gross tons and over, $100.

Feb. 16, 1925, ch. 235, Sec. 1, 43 Stat. 947: That for the purposes of the navigation laws of the United States and of the Ship Mortgage Act, 1920, otherwise known as section 30 of the Merchant Marine Act, 1920, every vessel of the United States shall have a "home port" in the United States, including Alaska, Hawaii, and Puerto Rico, which port the owner of such vessel, subject to the approval of the Commissioner of Navigation of the Department of Commerce, shall spe-

XUM

cifically fix and determine, and subject to such approval may from time to time change. Such home port shall be shown in the register, enrollment and license, or license of such vessel, which documents, respectively, are hereinafter referred to as the vessel's document. The home port shown in the document of any vessel of the United States in force at the time of the approval of this Act shall be deemed to have been fixed and determined in accordance with the provisions hereof. Section 4141 of the Revised Statutes is hereby amended to conform herewith.

Aug. 5, 1935, ch. 438, Sec. 310, 49 Stat. 528: Section 4189 of the Revised Statutes (U.S.C., title 46, sec. 60) is amended by striking out the words "not entitled to the benefit thereof".

May 20, 1936, ch. 434, 49 Stat. 1367: That section 4321, Revised Statutes of the United States (U.S.C., title 46, sec. 263), be, and is hereby, amended to read as follows:

"The form of a license for carrying on the coasting trade or fisheries shall be as follows:

"License for carrying on the (here insert 'coasting trade', 'whale fishery', 'mackerel fishery', or 'cod fishery', as the case may be).

"In pursuance of title L (Revised Statutes 4311–4390), 'Regulation of Vessels in Domestic Commerce,' of the Revised Statutes of the United States (inserting here the name of the husband or managing owner, with his occupation and place of abode, and the name of the master, with the place of his abode), having sworn that the (insert here the description of the vessel, whether ship, brigantine, scow, schooner, sloop, or whatever else she may be), called the (insert here the vessel's name), whereof the said (naming the master) is master, burden (insert here the number of tons, in words) tons, as appears by her enrollment, dated at (naming the district, day, month, and year, in words at length, but if she be less than twenty tons, insert, instead thereof, 'proof being had of her admeasurement') shall not be employed in any trade, while this license shall continue in force, whereby the revenue of the United States shall be defrauded, and having also sworn (or affirmed) that this license shall not be used for any other vessel, or for any other employment, than is herein specified, license is hereby granted for the said (inserting here the description of the vessel) called the (inserting here the vessel's name), to be employed in carrying on the (inserting here 'coasting trade,' 'whale fishery', 'mackerel fishery,' or 'cod fishery,' as the case may be), for one year from the date hereof, and no longer. Given under my hand and seal, at (naming the said district), this (inserting the particular day) day of (naming the month), in the year (specifying the number of the year in words at length);": Provided, That vessels of five net tons and over entitled under the laws of the United States to be enrolled and licensed or licensed for the coasting trade may be licensed for the "coasting trade and mackerel fishery," and shall be deemed to have sufficient license for engaging in the coasting trade and the taking of fish of every description, including shellfish: Provided further, That the provisions of sections 4364 and 4365, Revised Statutes of the United States (U.S.C., title 46, secs. 310 and 311), shall be, and are hereby, made applicable to vessels so licensed: And provided further, That vessels operating on the Great Lakes and their connecting and tributary waters under enrollment and license issued in conformity with the provisions of section 4318, Revised Statutes of the United States (U.S.C., title 46, sec. 258), shall be deemed to have sufficient license for engaging in the taking of fish of every description within such waters without change in the form of enrollment and license prescribed under the authority of that section.

May 24, 1938, ch. 265, 52 Stat. 437: That the first sentence of section 4132 of the Revised Statutes as amended (U.S.C., 1934 edition, title 46, sec. 11), is hereby amended to read as follows:

"Vessels built within the United States and belonging wholly to citiezns thereof; and vessels which may be captured in war by citizens of the United States and lawfully condemned as prize, or which may be adjudged to be forfeited for a breach of the laws of the United States; and seagoing vessels, whether steam or sail, which have been certified by the Bureau of Marine Inspection and navigation as safe to carry dry and perishable cargo, wherever built, which are to engage only in trade with foreign countries, with the Philippine Islands, the Islands of Guam, Tutuila, Wake, Midway, and Kingman Reef, being wholly owned by citizens of the United States or corporations organized and chartered under the laws of the United States, or of any State thereof, the president and managing directions of which shall be citizens of the United States, and no others, may be registered as directed in this title."

May 31, 1939, ch. 159, 53 Stat. 794: That section 4335 of the Revised Statutes (U.S.C. 1934 edition, title 46, sec. 276) is hereby amended to read as follows:

"(a) Whenever the master of any licensed vessel, ferryboats excepted, is changed, the new master, or, in case of his absence, the owner or one of the owners thereof, shall report such change to the collector residing at the port where the same happens, if there be one: otherwise, to the collector residing at any port where such vessel next arrives, who, upon the oath of such new master, or, in case of his absence, of the owner, that such master is a citizen of the United States, and that such vessel shall not, while such license continues in force, be employed in any manner whereby the revenue of the United States may be defrauded, shall endorse such change on the license, with the name of the new master. Whenever such change is not reported, and endorsed, as herein required, such vessel, if found carrying on the coasting trade or fisheries, shall be subject to pay the same fees and tonnage as a vessel of the United States having a register, and the new master shall be liable to a penalty of $10: Provided. That the Secretary of Commerce may authorize the endorsement of not more than two alternate masters in addition to the one already endorsed on the license, whenever in his judgment the condition of employment of the vessel warrants such action: Provided further, That in the case of vessels navigated within the limits of the harbor of any town or city, the name of the owner or some responsible person acting for the owner who otherwise meets all requirements of the laws of the United States with regard to masters, may be endorsed on the license of such vessel, although not actually employed thereon, in accordance with rules and regulations prescribed by the Secretary of Commerce: And provided further, That in the case of unrigged vessels which are not required by law to have on board a certificate of inspection, the name of the owner or any responsible person acting for the owner who otherwise meets all requirements of the laws of the United States with regard to masters, may be endorsed on the license of such vessel, although not actually employed thereon, in accordance with rules and regulations prescribed by the Secretary of Commerce: And provided further, That in the case of unrigged vessels which are not required by law to have on board a certificate of inspection, the name of the owner or any responsible person acting for the owner who otherwise meets all requirements of the laws of the United States with regard to masters, may be endorsed on the license of such unrigged vessel although not actually employed on board the vessel.

"(b) In the case of those vessels on the licenses of which there are endorsed the names of more than one master, the master actually in charge of the vessel shall assume all of the duties and responsibilities imposed by any statute upon masters of vessels, and incur the liabilities provided by any law against masters of vessels during any period in which he is in charge of the vessel.

"(c) The term 'unrigged vessel' as used herein, means any vessel that is not self-propelled."

May 31, 1939, ch. 160, 53 Stat. 795: That section 4325 of the Revised Statutes, as amended (U.S.C., 1934 edition, title 46, sec. 267), is hereby amended to read as follows:

"The license granted to any vessel shall be presented for renewal by endorsement to the collector of customs of the district in which the vessel then may be within three days after the expiration of time for which it was granted, or, if she be absent at that time, within three days from her first arrival within a district. In case of change of build, ownership, district, trade, or arrival under temporary papers in the district where she belongs the license shall be surrendered. If the master shall fail to deliver the license he shall be liable to a penalty of $10. Such penalty on application may be mitigated or remitted by the Secretary of Commerce."

June 2, 1939, ch. 168, 53 Stat. 798: That section 4498 of the Revised Statutes, as amended (U.S.C., 1934 edition, title 46, sec. 496), is hereby amended to read as follows:

"A register, enrollment, or license shall not be granted, or other papers be issued by any collector or other chief officer of customs to any vessel subject by law to inspection under this title (R.S. 4399–4500) until all the provisions of this title applicable to such vessel have been fully complied with and until the copy of the certificate of inspection required by this title for such vessel has been filed with said collector or other chief officer of customs: *Provided,* That the license granted to any vessel, if presented to any collector of customs at any time within thirty calendar days prior to the date of expiration shown thereon, may be renewed by the endorsement by the collector of customs for a period of one year from the date of expiration shown on the license, if there be on file in the office of the collector at that time a copy of the certificate of inspection required by title LII of the Revised Statutes, which is in force on the date renewal is made."

Aug. 17, 1961, Pub. L. 87–157, 75 Stat. 392: That section 4166 of the Revised Statutes (U.S.C., 1958 edition, title 46, sec. 35) is amended to read as follows:

"A vessel of the United States which, while outside the limits of a customs collection district of the United States and not in any port designated as a port of documentation outside any such customs collection district, is sold or transferred in whole or in part to a citizen of the United States, may be documented anew as a vessel of the United States in such manner and upon such conditions as may be prescribed by the Secretary of the Treasury: *Provided,* That, if any vessel so sold or transferred is not redocumented while abroad, it shall nevertheless be entitled to all the privileges and benefits of a vessel of the United States up to and for the purpose of its first arrival thereafter within a customs collection district or within a designated port of documentation outside any such customs collection district.

Sept. 29, 1965, Pub. L. 89–219, Sec. 10, 79 Stat. 892: Section 4149 of the Revised Statutes (46 U.S.C. 72) is amended to read as follows:

"Sec. 4149. The Secretary of the Treasury shall prescribe how evidence of admeasurement shall be given."

ADDITIONAL COSPONSORS OF BILLS

S. 4044

At the request of the Senator from Michigan (Mr. GRIFFIN), the Senator from Illinois (Mr. SMITH), was added as a cosponsor of S. 4044, to establish an independent commission to evaluate and assess developments in the fields of commerce and technology and to accumulate and disseminate data relevant thereto.

S. 4325

At the request of the Senator from New Jersey (Mr. WILLIAMS), the Senator from Nevada (Mr. BIBLE), the Senator from Washington (Mr. JACKSON), and the Senator from New York (Mr. JAVITS), were added as cosponsors of S. 4325, to prohibit flight in interstate or foreign commerce to avoid prosecution for the killing of a policeman or fireman.

S. 4348

At the request of the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Utah (Mr. BENNETT), and the Senator from Illinois (Mr. SMITH) were added as cosponsors of S. 4348, to make assaults on State and local law-enforcement officers, firemen, and judges a Federal crime.

S. 4404

At the request of the Senator from Colorado (Mr. DOMINICK), the Senator from Ohio (Mr. SAXBE) was added as a cosponsor of S. 4404, to assure safe and healthful working conditions for working men and women; by providing the means and procedures for establishing and enforcing mandatory safety and health standards; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes.

XUM

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, October 1, 1970, he presented to the President of the United States the following enrolled bill and joint resolution:

S. 3730. An act to extend for 1 year the act of September 30, 1965, as amended by the act of July 24, 1968, relating to high-speed ground transportation, and for other purposes; and

S.J. Res. 110. Joint resolution to amend the joint resolution entitled "Joint resolution to establish the first week in October of each year as National Employ the Physically Handicapped Week," approved August 11, 1945 (59th Stat. 530), so as to broaden the applicability of such resolution to all handicapped workers.

PROPOSED AMENDMENT OF THE CONSTITUTION RELATIVE TO EQUAL RIGHTS FOR MEN AND WOMEN—AMENDMENT

AMENDMENT NO. 1001

Mr. ERVIN submitted an amendment, in the nature of a substitute, intended to be proposed by him, to the joint resolution (H.J. Res. 264) proposing an amendment to the Constitution of the United States relative to equal rights for men and women, which was ordered to lie on the table and to be printed.

DEPARTMENT OF TRANSPORTATION APPROPRIATION BILL, 1971—AMENDMENT

AMENDMENT NO. 1002

Mr. PROXMIRE (for himself, Mr. BYRD of Virginia, Mr. COOK, and Mr. PERCY) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 17755) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes, which was ordered to lie on the table and to be printed.

TREATMENT AND REHABILITATION OF DRUG ABUSERS AND DRUG DEPENDENT PERSONS—AMENDMENTS

AMENDMENT NO. 1003

Mr. HUGHES submitted amendments, intended to be proposed by him, to the bill (H.R. 18583) to amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse, which were ordered to lie on the table and to be printed.

IMPROVEMENT OF OPERATION OF THE LEGISLATIVE BRANCH—AMENDMENT

AMENDMENT NO. 1004

Mr. PACKWOOD submitted an amendment, intended to be proposed by him, to the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes, which was ordered to lie on the table and to be printed.

FEDERAL-AID HIGHWAY ACT OF 1970—AMENDMENTS

AMENDMENTS NOS. 1005 THROUGH 1007

Mr. COOPER submitted three amendments, intended to be proposed by him, to the bill (S. 4418) to authorize appropriations for the fiscal years 1972 and 1973 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, which were ordered to lie on the table and to be printed.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 905 TO SENATE JOINT RESOLUTION 1

At the request of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. TYDINGS), was added as a cosponsor of amendment No. 905 to Senate Joint Resolution 1, proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

AMENDMENT NO. 932 TO S. 4268

At the request of the Senator from Illinois (Mr. PERCY), the Senator from Illinois (Mr. SMITH), and the Senator from New York (Mr. GOODELL) were added as cosponsors of amendment No. 932 to S. 4268, to authorize Export-Import Bank credits for military sales to Israel.

NOTICE OF HEARINGS ON CORRECTIONAL REFORM

Mr. BURDICK. Mr. President, the National Penitentiaries Subcommittee of the Senate Judiciary Committee will conduct hearings on correctional reform October 7 and 8.

The purpose of these hearings will be to review the major findings of recent commissions and task forces on correctional reform and to determine what Congress can do to stimulate implementation of appropriate proposals and to give correctional reform the high priority it deserves.

Some of the witnesses who have accepted invitations to testify are: Norman Carlson, Director, Bureau of Prisons; Richard Velde, Associate Administrator, Law Enforcement Assistance Administration; Dr. Preston Sharp, executive director, American Correctional Association; Milton Rector, Executive Director, National Council on Crime and Correction; Richard J. Hughes, chairman, ABA Council on Correctional Reform; Norval Morris, director, Center for Studies in Criminal Justice, the University of Chicago; and Robert Kutak, former member of the President's Task Force on Prisoner Rehabilitation.

The hearings will be held in room 3106, New Senate Office Building, commencing at 10 a.m.

ADDITIONAL STATEMENTS OF SENATORS

NEW YORK TIMES MAGAZINE ARTICLE ON THE EQUAL RIGHTS FOR WOMEN AMENDMENT

Mr. ERVIN. Mr. President, very few people have studied the House-passed Equal Rights for Women Amendment in depth. Thus, it was with great interest that I recently read the article entitled "That Equal-Rights Amendment—What, Exactly, Does It Mean?" written by Robert Sherrill and published in the New York Times Magazine of September 20.

Mr. Sherrill has surveyed the entire history of the amendment and the arguments made for and against it. In his article, Mr. Sherrill prepared a case study on the dangers of legislating in haste, and he has done a magnificent job.

Because of the urgency with which the Senate is preparing to consider the Equal Rights for Women Amendment, I respectfully ask that if a Senator has time to read only one article on the subject, he read Mr. Sherrill's.

I ask unanimous consent that Mr. Sherrill's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THAT EQUAL-RIGHTS AMENDMENT—WHAT, EXACTLY DOES IT MEAN?

(By Robert Sherrill)

The great question that has never been answered, and which I have not yet been able to answer despite my 30 years of research into the feminine soul, is: What does a woman want?—SIGMUND FREUD

WASHINGTON.—Last month, the United States House of Representatives, in one of its irregular fits of conscience or regular fits of opportunism, voted 346 to 15 for an amendment designed to give women equal rights, just in case they don't already have them. This month the Senate will be asked to follow the House. With 81 of the 100 Senators co-signing the bill, odds are that it will soon be on its way to the state legislatures, and if three-fourths of them ratify it, the Constitution will be patched for the 26th time.

What a very strange job of legislating it has been. Ordinarily the work of Congress is done in committee, where staff members have time to research important issues and both sides are given a chance to call expert witnesses. The House held no hearings on this amendment, which was rushed to a vote after only one hour of floor debate. Proponents got 45 minutes and opponents 15. That, needless to say, isn't much time, but considering their preparation, it would have been embarrassing for either side to have had more.

The Senate is in little better shape. Its last flurry of interest was in the early nineteen-fifties—before most of the current Senators were elected, much less familiar with the problem. In the last four months, Judiciary Committee members have thrown together a total of six days of hearings distinguished by such insights as this from Gloria Steinem, the writer and thinker: "Penis envy is clinically disappearing. Just as black people envied white skins, 19th-century women envied penises." The Senators were left to do with that what they could.

Whatever else can be said of it, the equal-rights amendment's journey down the corridors of Congress has so far been an impressive demonstration of what can be achieved through almost total ignorance. No one in Congress can make even a reasonably good guess as to the amendment's probable effect on laws covering such matters as wife support, child support, military conscription and property division. According to the American Law Division of the Library of Congress, "no definitive legal analysis has ever been made" to find out what effects such an amendment would have.

"Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex." That's how the House amendment reads. It sounds simple, but what does it mean?

Proponents of the amendment say it means women will have as much chance as men for fun, travel and adventure in the armed services. But when it gets right down to the pinch, they begin to wobble. The chairman of the Woman's party, Mrs. Marjorie Longwell, a cheerful, grandmotherly Californian, was asked if she really wanted her sex to be subject to military conscription. "Why, certainly, she replied. "If I were between the ages of 18 and 26 I'd be ashamed if I weren't willing to fight for my country against the Communists."

Did she mean that women should actually be drafted for the front lines? "Well," she said, "I don't think any lady would want to shoot another lady's son."

Proponents of the amendment say it will mean that laws prohibiting women from being bartenders, miners, bellhops and truck drivers will be declared unconstitutional—permitting the ladies to upgrade themselves through those jobs—as will laws that impose minimum wages, maximum hours and maximum weight-lifting requirements on women workers in some states. They say women want to be free of this protective legislation. But they might appreciate a few exceptions. Says Congresswoman Catherine May, a supporter of the bill: "No one questions special laws for veterans or for the blind or for various segments of our society. It would certainly not be inconsistent to still have special laws for mothers or mothers-to-be."

This kind of talk, is beside the point, as the proponents will generally admit if you talk to them long enough. Vigorous action on the part of the Equal Employment Opportunities Commission in obtaining compliance with Title VII (no sex discrimination in jobs) of the Civil Rights Act has outlawed restrictive job statutes in many states, and the rest seem ready to follow suit shortly—prodded by Federal Court decisions.

Amendment or no amendment, the military is not likely to move much further than it has already; the Navy recently bowed to a court ruling that to discharge a pregnant unmarried Wave would be unfairly discriminatory since the Navy does not discharge unmarried impregnators. As for the likelihood of front-line combat for women, every serious advocate of the equal-rights amendment concedes that the Federal judiciary is not likely to interpret any law in such a way that it does not coincide with what the armed forces indicate are their personnel needs. So that's all rhetoric.

The proponents can hardly be accused of hard-sell reasoning. Says Congresswoman Shirley Chisholm of New York: "The direct economic effects of the amendment would be minor. Social and psychological effects will be initially more important than legal or economic results." Senator Eugene McCarthy, the chief sponsor of the amendment on his side of the Capitol, agrees with Mrs. Chisholm that the major blessings would come, if at all, with the long-term erosion of old social attitudes. "It won't have a revolutionary effect," he says. "It will just put pressure on state legislatures and on courts in some cases, and I think also on extra-governmental activities—corporations, big insurance companies and so on—all those places where there is discrimination which can't be explained in any terms of sex—the essence of sex, not a state of life or professional training or whether you are strong or weak."

Congresswoman Martha Griffiths of Detroit, the mastermind of the strategy that whisked the legislation through the House, also says that the main thing she is shooting for is psychological uplift. Indeed, she adds, the "1964 Civil Rights Act granted far more rights to women and other minorities than this amendment ever dreamed of." Pressed to think up possible benefits other than the psychological, she discloses that one of her main reasons for pushing the amendment is preventative: "It will mean that you cannot go backward. Oh yes, we could go backward—Germany did, you know. If this is enacted into law and you started to go backward, started to have discriminatory laws against women, then the Supreme Court would have to stop it. Didn't Hitler come along and say, 'Every woman into the kitchen'? In the Depression, one of the standard regulations of school boards throughout the country was that a married woman couldn't teach school. This morning, unemployment in Michigan is 9.1 per cent, so we are always running this risk, and the real freedom in any country, as the Supreme Court said in 1915, is the right to make a living at the occupation of your choice."

Opponents, on the other hand, argue that the imagined hardships that could befall women without the amendment under a dictator or in a major depression are few indeed, compared to the damages that will result from the amendment in normal times. Paul Freund, a Harvard professor of law who has been among the most outspoken foes of the equal-rights proposal for a quarter century, warns: "It will open a pandora's box of legal complications. The amendment expresses noble sentiments, but I'm afraid it will work much mischief in actual application. Once you open the door, where will it lead? Boston has a Girls' Latin School and a Boys' Latin School. They are very prestigious, and the city is very proud of them. Would this amendment force them to blend?" Some legal scholars believe the measure would breed "endless litigation," in the words of Soia Mentschikoff, a University of Chicago law professor. Even Senator Birch Bayh, a stubborn backer of the amendment, agrees in part: "The women are underestimating the size of the job. It may not have to be pursued through the courts case by case, but I think it will be by each class of discrimination." The same fear has been expressed since the amendment was bouncing around the United States Senate in the early fifties. At that time a dozen such legal pashas as Roscoe Pound and Charles Warren signed a statement predicting that the amendment would force "every provision of law concerning women" down the long, long trail to the U.S. Supreme Court.

"It is difficult if not impossible to compress all the relationships of men and women into one brief formula, one motto or slogan, like this amendment," says Freund. "Some will argue, 'Well, we worked it out for the blacks, so let's follow that formula for women, too.' It isn't that simple. Jail cells can no longer be segregated along racial lines. Does this mean we would no longer be able to segregate jail cells along sex lines?"

Shortly before the House acted, Rita E. Hauser, U.S. representative to the United Nations, told an American Bar Association gathering that the amendment might kill state laws banning marriages between homosexuals. Her statement was immediately denounced by Congressman Clement Zablocki of Wisconsin as "an example of the moral rot infecting the nation," but in fact she was theorizing no more wildly than have a number of law-school professors, Freund included.

Senator Sam Ervin of North Carolina, who is sometimes considered a constitutional authority, at least by Senate standards, adds other spooks to the line-up: "This would absolutely destroy the law in every state which makes it the primary duty of the husband to support the wife and children. For a person to have a right, it means somebody else must have a corresponding legal duty. To say the right of man and woman, husband and wife, should be equal in respect to who's going to support the other—that destroys any responsibility on either one of them's part, and consequently neither one of them has any right.

"This amendment would destroy all state alimony laws and all child-custody laws. In addition to that, we have laws requiring separate restrooms for boys and girls in public schools. These would be annulled."

And what about rape? Mrs. Griffiths assured the House: "This law does not apply to criminal acts capable of commission by only one sex. It does not have anything to do with the law of rape or prostitution. You are not going to have to change those laws." That's not the way Senator Ervin understands either biology or the statutes of his home state, which he says are much like the laws in every state.

North Carolina law decrees that anybody convicted of raping a "female of the age of 12 or more" or sexually abusing "any female child" under 12 should be executed. Ervin

XUM

is fairly certain that if the equal-rights amendment passes, a man convicted under that statute could justifiably appeal on the grounds of discrimination. But, says Ervin, that does not end this line of complexities because at present an adult male who lives with a 14-year-old girl can be convicted of statutory rape while an adult female found in a similar love nest with a boy would be convicted only of contributing to the delinquency of a minor. In which direction does one correctly equalize, if it can be done at all?

Besides, say Ervin and the others, this amendment is useless because it does nothing but repeat the essence of the 14th Amendment's equal-protection guarantees.

You get the idea. Everything is up in the air. At this point neither side really knows what it is talking about because, as a February release of the Labor Department's Women's Bureau acknowledged, "There are a great many questions concerning the equal-rights amendment, but very few answers."

Having failed to canvass the 50 state attorneys general for their opinions and having failed in every other way to balance the good or evil that will come from the new law, why did the House act with such flashy abandon.

Ervin makes one guess that some others share: "I wouldn't say it's happening because Congressmen are frightened exactly, but I would say that they are fidgety. If we need any new constitutional amendment, it would be to ban Congress from passing any legislation in election years."

A Congressman who understandably asks anonymity explains his own uneasiness: "The amendment is of no great concern to me, one way or the other. But what you're dealing with here is some women with time on their hands, and nothing can be more dangerous than an idle woman. She loves a cause. She loves to ring doorbells. She loves to get on the telephone. And I don't want that kind of woman working against me."

This may be mainly an imagined threat, but the advocates of the amendment naturally encouraged Congressional belief in it. After Representative Florence Dwyer of New Jersey acknowledged in a speech to the House that "the women of America are not beating on the doors of Congress demanding passage of the equal-rights amendment," she warned: "But do not be misled. Women are as sensitive to their rights as men, and I cannot imagine that American women will welcome being repudiated by Congress." Later, the warning was spelled out more clearly by Mrs. Lucille Shriver, national director of the Business and Professional Women. "If this amendment is defeated," she said, "we would cooperate with other major women's groups in trying to get rid of those Congressmen who fought us. That's where we would direct our campaign this fall." But she conceded that she really didn't know how much clout the women's groups would have.

The source of the Congressional fidgets is obvious—the Women's Liberation movement. Until recently, the Congressional concept of "militant women" was shaped by such things as the annual gathering of ex-suffragettes around the statue of Susan B. Anthony in the basement of the Capitol on that gallant lady's birthday. Otherwise the almost quiescent feminist movement came to the legislators' attention only through small delegations from polite women's organizations who continued to prowl the Senate and House office buildings over the years, lobbying for more rights and being received like Puerto Ricans who want independence.

To be sure, every year at least 100 or so Congressmen popped women's rights bills into the hopper, but this perfunctory gesture was easily forgotten. In the last couple of years the legislators had become vaguely aware of guerrilla fighting in more barbarous parts of the nation, such as New York City, where amid the smoke of burning brassieres and shrill cries for free abortions, the clash of armies was heard by night; but all that, our Congressmen were confident, would never reach their doors. To them, the movement was still centered in the old Woman's party, which maintained its headquarters in the Belmont House, two blocks away, through the graciousness of Senators who have not yet torn the place down to extend a parking lot.

Then came the Lib movement, which even Mrs. Longwell, the party chairman, admitted "has helped rather than hindered us, though they have done some rather embarrassing things like—well, you know what they've done—burn those things." That's putting it mildly. The Liberation movement absolutely ignited the old Establishment outfits like Business and Professional Women, and they in turn began to put the heat on Congress as never before. Suddenly it was difficult to find a member of either house of Congress who didn't think that NOW (the National Organization for Women) meant him and right now, and never mind the deliberation.

For 47 years, even since the ratification of the 19th Amendment gave women the right to vote, militant feminists have been trying to write into the Constitution something that would force the courts to recognize all their rights as being on a par with men's. The hangup was not in the Senate, which has passed the amendment three times in the last 20 years, though not in a version that was satisfactory to the women. The hangup was in the House; to be precise, in the Judiciary Committee, which for 23 years has been ruled by white-haired Emanuel Celler of New York, a foe not only of all efforts to legislate female rights but also, on at least two occasions, of proposals to write them into the national Democratic platform.

Every year for 23 years somebody in the House introduced an equal-rights resolution, which automatically went to Celler's committee for burial without ceremony. Since 1959, Congresswoman Griffiths had been one of those who engaged in the futility. "I never went to Mr. Celler formally and requested that he hold hearings, but I would see him in the hall and bring up the matter. He would just laugh." Then came the spring of 1970, and Congresswoman Griffiths began to notice a new stirring among her colleagues. Instead of the usual 100 to 150 *pro forma* introductions of equal-rights amendments, the count began to climb toward and then past 200.

At that point, she started thinking crafty thoughts about bypassing Celler with a discharge petition. It is a hard trick to pull off, and especially hard to do in the committee controlled by the House's dean. In the past 60 years, 825 discharge petitions have been filed to free legislation from committee bottlenecks, but only 34 received enough signatures. Of these, only 15 passed the House.

On June 11 (noticing by then that an amazing 254 similar resolutions for women's rights had been introduced by other members), an undaunted Mrs. Griffiths filed her petition for discharge, fearing only that "If I filed it, and failed, I would be giving the Supreme Court aid and comfort. The Supreme Court could have made this whole thing unnecessary 100 years ago. If I couldn't get enough signatures on the discharge petition, would I hurt my cause? I was risking an awful lot, and I knew how much."

Six days later, she sent out a "Dear Colleague" letter to all members, asking their support. She got it overwhelmingly. There is ordinarily a fatal ebb and flow in discharge-petition signatures. The first 150 come easy; but once the movement goes much beyond that, many of the first signers, who didn't really mean it, began to withdraw their names. With Mrs. Griffiths' petition, it was just the opposite: Once past the 150 mark the signing picked up and not one signer removed his name. To measure the full size of Mrs. Griffiths' victory, one must also consider that among the signers were 12 committee chairmen, who never openly turn on a brother chairman except under the most unusual pressures. It did not exactly hurt her cause that Wilbur Mills, Chairman of Ways and Means and possibly the most powerful man in the House, helped solicit names for the petition, as did Charles Vanik of Ohio, James Byrne of Pennsylvania and, according to Mrs. Griffiths, "all the California delegation." She says Republican Leader Gerald Ford "supplied some real moxie, too: He lined up 15 or 16 names right at the end."

Mrs. Griffiths was also busy elsewhere. "The minute I filed the dicharge petition," she says, "I began getting women's organizations involved. They responded immediately with an avalanche of letters to Congress. The Business and Professional Women were tremendously helpful. Right at the end of the filing, they were having a convention in Hawaii, and it was announced every day how many new names had been added. NOW was especially helpful. Also, I went out and talked to all the state presidents at an American Association of University Women convention."

The letters arrived in such quantities that some Congressmen asked Mrs. Griffiths to "call off the women" (at any rate, that's what her staff says). One Congressman got so much mail that he was forced to answer by Robotype—a kind of mass production that House members rarely have to resort to for "issue" mail. One should understand, however, that Congressmen scare rather easily. Fifty letters a day on one subject is enough to convince almost any Congressman—if he is ready to be convinced—that he is hearing the thunderous, unified *vox populi*.

Exactly one month after Mrs. Griffiths launched her juggernaut, Celler surrendered—announcing that he would hold hearings on the amendment—but by this time Mrs. Griffiths, apparently feeling that she deserved some vengeance after all the years of waiting, did not want to stop. And so, on Aug. 10, the House heard the debate.

It often resembled something picked up in pieces from the floor of the M.G.M. cutting room. Mrs. Griffiths pleaded that all she wanted was to lift women to the level of equality to which the Supreme Court had long ago raised a Chinese laundryman, an alien Japanese fisherman and an alien Austrian cook (referring to three court cases, none more recent than 1948, the oldest going back to 1886). Congressman Ford said that, judging from the years of delay in passing the amendment: "You would almost think there had been a conspiracy." Against insinuation that women are less stable than men, Congressman John Anderson of Illinois inserted in the record his courtly irritation: "I found it disturbingly ironic that in a nation which put three men on the moon, we should somehow be concerned with the mental aberrations of women because of the so-called lunar cycle." And so it went.

Some prominent women's organizations—the National Council of Jewish Women, the National Council of Negro Women and the National Council of Catholic Women, for example—are actively opposing passage of the amendment. The United Auto Workers favor it, but several powerful A.F.L.-C.I.O. unions, including the Communications Workers of America and the Amalgamated Clothing Workers, oppose it. Of notable individual opponents, Mrs. Leon Keyserling, former head of the Women's Bureau, is typical. She buttresses her position by quoting Mrs. Eleanor Roosevelt, who opposed a special amendment because she believed the Constitution as it stood gave women equal rights.

But most of the 72 million American women over the age of 16 do not take sides; they respond to the Congressional debate with an interest that equals the enthusiasm Spiro Agnew might be expected to show at a hairdressers' convention.

The excitment of the crusade is generated by a leadership representing probably less than 2 per cent of women. The power behind the drive is supplied by professional élitists, women who can afford the luxury of crusades. Whom do they speak for except others at their level? This was the question put to Bayh's Constitutional Amendments subcommittee by Myra Wolfgang, vice president of the Hotel and Restaurant Employes and Bartenders International Union. She was furious that the militant feminists were proposing an end to all protective labor laws for women. "My concern," she told Bayh, "is for the widowed, divorced mother of children who is the head of her family and earns less than $3,500 a year for working as a maid, laundry worker, hospital cleaner or dishwasher. There are millions of such women. Only one out of ten women in the work force has had four or more years of college. The rights of women who are unable to work excessive overtime, who are not covered by the equal-employment-opportunities provision of the civil-rights act and who consider overtime a punishment, not a privilege, must also be protected. The equal-rights amendment will make it impossible to do so."

Until this year, the commissions appointed by every President of the sixties had recommended working through the Supreme Court with test cases to expand the coverage of the 14th Amendment rather than seeking another amendment. President Kennedy's Commission on the Status of Women was made up of a broad spectrum of interests, including wage-earners. Its successor, the present Citizens' Advisory Council on the Status of Women, picked by Nixon, is made up solidly *of* Establishment types, women who have been so successful that one may understandably wonder what they are complaining about: the president of a gas-pipeline company, an executive of a petroleum corporation, the vice president of a dairy and ice-cream company, a newspaper publisher, a couple of university professors, three attorneys, the vice president of a drug-store chain and several who are identified only as "civic leaders." There isn't a working stiff or a representative of working stiffs in the bunch.

The Nixon-appointed Task Force on Women's Rights and Responsibilities, which reported back this year in angry tones, is broader in its make-up, but it is dominated by college presidents, telephone-company executives and attorneys.

Yet both groups are far more militant and far less responsive to Presidential whim than the women Kennedy picked. An executive in the Department of Labor's Women's Bureau who worked closely with these groups tells why:

"The movement picked up tremendous steam when President Nixon came in and didn't do the things he promised. The women really got mad. A lot of Republican Establishment women are real leaders in this. Most of the women on the Presidential task force have been state Republican committeewomen or on committees for Nixon and Agnew. The Citizens' Advisory Council is also a very political outfit. But the White House has been completely intransigent—please dont' use my name—and that intransigence has built up anger and support for the amendment. The Johnson Administration knew they had a problem. They were much more sensitive politically. They gave just enough to keep women from really getting uptight. When the Republicans came in, they didn't know they had a problem; they wouldn't even approve a bill to extend equal pay to executive and professional administrative women. That kind of thing gets around, and it made women so damned mad they wanted to do something."

One of the things they did was turn out sometimes inaccurate poop sheets. Probably the most persuasive of these, since it had little competition, was the 18-page memorandum put out in March by the Citizens' Advisory Council. A copy wound up in just about every Congressional office and served as the basis for a number of the speeches given in the debate. Not that the women propagandists can be blamed entirely for what was said in the House; much of it was also the result of sloppy Congressional staff work and the customary failure of members to do their homework.

It might all be chalked up as no more important than just another day of orations, but in this case it is more than that. If the sex amendment is eventually ratified, the Federal courts will have to interpret the law according to "Congressional intent," and to do this they will have to be guided at least in part by the statements made in the House on Aug. 10.

Some guidance *that* was.

Mrs. Griffiths, for example, emphasized in offering her resolution that it would "restrict only governmental action, and would not apply to purely private action." Among other things, she said, it would shape laws affecting government employment, but it would have no direct bearing on private policies, as the 1964 Civil Rights Act did. The 1964 measure, she insisted, "applies against private industry. This amendment applies only against government."

That's clear enough, yet along comes Minority Leader Ford a few minutes later to tell the House: "This amendment will give [women] those most valued of rights—the rights to a job, to a promotion, to a pension . . . to all the fringe benefits of *any* job."

Such bungling male help was not appreciated. An executive of the Women's Bureau said: "One of our biggest problems is that people don't know what they're talking about, but I understand from people who are up on the Hill a lot that this is generally true, and it makes me sick. Ford is absolutely wrong. The only employment situation—hiring and promotion—the amendment will have any effect on is public employment. It would affect Federal and state government jobs and school teachers."

For another example, Mrs. Griffiths assured the House that "for 26 years both parties in their political conventions have endorsed it; the Republican party has endorsed it for 30 years." Sorry, that's wrong. In recent conventions the issue has been treated as no longer pertinent. Researchers at Republican National Headquarters say that as late as 1956 the party's platform contained a plank urging Congress to pass an equal-rights amendment for *men and women*, but in 1960 it was cut down to an amendment for women alone and the 1964 and 1968 G.O.P. platforms dropped all mention of it. Officials at Democratic National Headquarters acknowledged without apparent guilt that their '64 and '68 platforms also ignored the issue.

One of the claims made by the Citizens' Advisory Council and repeated in the House was that state colleges and universities, either by law or practice, discriminate against women applicants. The council gives no supporting data. I called Dr. Todd Furniss, director of the American Council on Education's Office of Academic Affairs, and asked about such discrimination. "I personally certainly don't know of any," he said. "I doubt that it exists. So far as practices are concerned, the only kind of controls that would exclude women would be availability of dormitories—sort of a controlled exclusion—but that's a pretty thin thread to hold up a discrimination complaint. Last spring my daughter, who will be applying for college this year, got a lot of flak from seniors in her school about being turned down by colleges. I suggested she do a paper on it. But it turned out to be a very complicated thing, and the discrimination picture just didn't come together. I've had some complaints from professional schools where women felt they had been turned down. But apparently what they had run into was some tough, realistic advice: 'This profession is a hard one for women. It's traditionally a man's profession and you will run into walls.' That sort of thing: They interpreted the advice as refusal."

One of the legislators who argued that college and university registrars turn away women in arbitrary waves was Mrs. Edith Green, Oregon's influential voice on the House Education Committee. Mrs. Green told the House: "I am advised that last year in Virginia 21,000 girl applicants for college were rejected. Not one single boy was rejected."

Pretty impressive statistics.

I called Dr. Daniel Marvin, associate director of the Virginia Council of Higher Education, to verify them. "In the fall of 1969," he said, "of the 29,708 male freshmen who applied to all state colleges and universities, 22,410 were accepted. The state schools received 22,234 applications from girls, and 16,567 were accepted. In other words, about 75 per cent of the men were accepted and about 75 per cent of the women were accepted. They have been accepted at that rate for several years."

How had Mrs. Green been so misinformed? "I really can't explain it," she said, being too kind to accuse a staff member of stupidity; the statistical information she used had come from a six-year-old report of the Virginia Commission of Education.

One of the favorite outrages of pro-amendment Congressmen is that some state laws require heavier penalties for females than for males convicted of the same crime. Congresswoman Shirley Chisholm was so smitten by that alleged injustice that she mentioned it twice in the same speech, apparently borrowing the information from the Citizen's Advisory Council's memorandum. The Presidential Task Force also repeats it.

Is there any factual basis for the claim? One of the Congressmen who used the charge in floor debate was Paul Findley of Illinois. I asked his administrative aide, Robert Wichser, what states and what laws Findley was talking about. Wichser said, "I think it's prostitution, but where, I don't know. My wife wrote that speech. I'll ask her and call you back." He did; prostitution, it turned out, was not the crime. Neither he nor his wife nor Findley knew what crimes were involved; as for the states, they had been referring to Pennsylvania and Connecticut—but both states had repealed the offending laws two years ago. Wichser said one state, Arkansas, still discriminates against women by sending them to prison for as long as three years for dope addiction and drunkenness, whereas men cannot be imprisoned as users. But he admitted that this isolated example from one of the most backward states hardly adds up to a national pattern. Even the Arkansas Commission of Corrections acknowledges the unconstitutionality of the law and is encouraging a test case.

But that is not the way the Congressional Record reads on this point.

Since Findley had been guided by the Citizens' Advisory Council's memorandum, I telephoned Miss Sarah Jane Cunningham, chairman of the council's study group, which supervised the writing of the propaganda booklet. Miss Cunningham practices law in McCook, Neb. Our conversation will indicate the kind of scholarship that went into the sex amendment:

Q. Miss Cunningham, where do they give women stiffer jail sentences than men for the same crime?

XUM

A. As I recall, the biggest offender was Pennsylvania.

Q. But they've changed that law, haven't they?

A. I couldn't tell you.

So much for the chairman. She recommended that I talk to Mary Eastwood because "the report was actually compiled back there." So the question was put to Miss Eastwood, a lawyer for the Justice Department who was borrowed by the Women's Bureau for 20 hours, she says, to write the booklet. Her answer: "Pennsylvania and Connecticut used to. I think there are still some other states, but I don't know which ones." So much for the technical expert.

When the Supreme Court gets around to reading the record, it will find Congressmen arguing that one of the principal examples of sex discrimination is shown in "dual pay schedules for men and women public-school teachers." That's right out of the memorandum, too, so I asked the chairman of the council's study group, Miss Cunningham, to name the states that have double pay standards. She said: "I think you'd find it in nearly every state, so far as I know." The council's legal expert, Miss Eastwood, said: "I understand it's quite common. I know it's still in use in the state of Wisconsin because I have friends who teach school there. They have a separate pay schedule for women than for men, on the theory that men have families to support. But you'd better double-check that. Ask the N.E.A."

I did. The National Education Association's spokesman told quite a different story: "In the 1968–1969 school year, we found that only five out of the nation's 1,200 school systems surveyed—and these would be the larger systems—had dual pay schedules. That's such a small percentage we didn't even bother to resurvey last year. As I recall the dual pay schedules tended to be in Kansas and Wisconsin.

XUM

Dr. C. T. Whittier, Kansas Commissioner of Education, responded, "That has all been cleared up." And William Kahl, Wisconsin School Superintendent, said: "I've been in the state department 20 years, and I can't recall a dual pay schedule ever being the state policy. There might have been scattered situations where the school boards negotiated individual contracts with teachers, but for the past five years the rule has been collective bargaining with men and women getting equal pay for the same work."

There were some rather yeasty lumps of demagogy on both sides of debate. Poor old Celler, failing to equip himself with much factual opposition to the amendment, cranked out wisecracks like, "There's as much difference between men and women as between horse chestnuts and chestnut horses." Matching that on the proponents' side was Congressman Roman Pucinski's plea that to refuse the amendment would be yet another smudge on the nation's record. "It is a sad mark in our history," he complained, "that the United States was the last of the so-called enlightened governments in the world to recognize women as human beings fully entitled to participate in electing officials to public office."

As a matter of fact, while Australia had preceded us by 18 years and New Zealand by 27, the United States gave the full vote to women eight years before Britain took that step. France didn't get around to it until 1946, Italy not until 1947, and a number of other major countries that Pucinski might not consider "enlightened" (China and Japan, for instance) also withheld the vote from their women until after World War II. Switzerland, the only Central European country to avoid participation in any modern wars, still does not permit its women to vote. (It is possible, of course, that there is no connection.)

Taking it all in all, it was a remarkable hour in the life of Congress. And the legislative history written during that time, under the guidance of Congresswoman Griffiths and the Citizens' Advisory Council and Presidential Task Force, gives ample proof that when it comes to preparing jerry-built debate, women are indeed the equal of men.

A word should also be said to the credit of Mrs. Griffiths as a floor tactician. She was superb. Knowing that the liberals in the House were almost obliged to go along with any amendment sounding so helpful as this one, her opening remarks were apparently aimed at nailing down the conservative votes, especially those from the South. That region and Mrs. Griffiths had accidentally worked well together once before, though not for the same purpose, in inserting the sex antidiscrimination wording of the 1964 Civil Rights Act. The Southerners had pushed it partly as a joke and partly as a diversionary tactic, but they had been momentarily useful nonetheless. Now Mrs. Griffiths was ready to use her strange allies again.

What arm of Government is most detested by Southern Congressmen? Exactly. So Mrs. Griffiths, within the first minute, drew the lines accordingly. "It is time," she said, "that in this battle with the Supreme Court, that this body and the legislatures of the states come to the aid of women by passing this amendment." And lest any of the allies she sought were still asleep, as was unlikely, she elaborated: "We will show you that the Supreme Court, *which has readily moved to change the boundaries of your school district,* has not on one single occasion granted to women the basic protection of the 5th and 14th Amendments."

Right in on cue came some of the rowdies of the old civil-rights fight, such men as Albert Watson of South Carolina, needling Celler for helping blacks but not women and sonorously calling for passage of the amendment as tribute due the "pioneering spirit" of American women, "the backbone of the American family" to whom "the nation owes its very life."

Next stop, the Senate. From that chamber we will doubtless once again hear of well-documented injustices.

Gerald Ford told the House, "Men are not generally speaking antiwomen, it simply appears to work out that way." It sure does. Whether in private or public employment, women get shorted. Women who spend four years in college may hope, on the average, to earn about $1,200 a year less than men who quit after high school. Women have little trouble getting jobs in the Federal Government as secretaries, but above that level their difficulties begin. They hold 30 percent of the jobs with a beginning salary of $6,548, but up at the program-management level where pay is around $15,000, they hold only 6.9 percent of the positions. Women fill less than 1 percent of the top career jobs paying $35,000. Civil service officials insist that antiquated masculine attitudes account for only a fraction of the fall-off; often, they say, women prefer to drop out for marriage or to raise families rather than to stay around for promotions. But the statistics clearly indicate that, even with a new constitutional amendment for leverage, women would have trouble dislodging official deadweight resistance.

The attitude creating this situation begins at the top. Every President since Franklin Delano Roosevelt has talked a good line, but only twice were they moved to appoint woment to their Cabinets: Frances Perkins, Secretary of Labor under F.D.R., and Oveta Culp Hobby, Secretary of Health, Education and Welfare under Eisenhower.

Once beyond statistics like that, the Senate will doubtless plunge into guesswork. But one pleasant change awaits the observer in the upper chamber: A member who is candid about his own ignorance and who is willing to assign the same characteristics to his colleagues, though it violates protocol.

"Frankly," said Ervin shortly before the Senate Judiciary Committee's hearings opened 10 days ago, "I'm not supposed, as a Senator, to say anything derogatory about the House, but I doubt if anybody except the chief proponent of the bill gave more than 15 minutes' study and research to this business before they voted. And when we hold our hearings I'm not going to be as prepared as I would like. To tell you the truth, I never expected this thing to ever come up, and consequently I didn't make any preparation to fight it. I was astounded when the thing passed the House.

"This is a tremendous thing. I've written to the attorneys general of all the states asking what the amendment will do to their laws, but I won't have many of the answers by then. I won't be able to offer a national view of what this will do to our laws. All I can do is hit the high spots of a few states and point out a few things—like, if the amendment becomes law we'll either have to close down West Point, Annapolis and the Air Force Academy or convert them into co-educational war colleges. Someone told me that the Attorney General of Arizona said that if the House-passed amendment becomes law, his state would have to rewrite its Constitution, and it would take 10 years of litigation to find out what in the devil this thing meant. I agree with that."

Of Ervin, Mrs. Griffiths said: "I trust that he goes down to a graceful and gracious defeat." Well, in some ways Ervin is a very gracious fellow, but at present he shows it best in the way he cuts down women lobbyists. He enjoys it. "I had two very charming ladies in my office the other day," he says, "trying to persuade me to withdraw my opposition. They told me that women wanted to be drafted into the Army, I said, 'Ladies, I always try to be a gentleman, and I never make any reference to a lady's age. But despite your apparent youthfulness, I would have to draw the conclusion you were a few months or a few years above the draft age. Now, if you want to convince me that ladies desire to be drafted, you send me some sweet young things in here of draft age and let them tell me that.' "

When the women tell Ervin that because the amendment has languished without attention in Congress for 47 years it should be passed immediately, without further study, "I tell them," says Ervin, "I tell them, 'Why, ladies, any bill that lies around here for 47 years without getting any more support than this one has got in the past obviously shouldn't be passed at all. Why, I think that affords most conclusive proof that it's unworthy of consideration.' "

Does Ervin stand a chance of stopping the amendment, at least until some national view of the problem and the probable effect of the amendment can be obtained? It's a long shot. If he can persuade the Senate to add enough new language to the amendment, it would have to go to a conference committee for compromising the differences between the House and Senate versions. That could do it, for the conference committee would be presided over by that famous executioner, Congressman Celler. But in the Senate Ervin's support seems light. Some are telling him privately that they think he's right, but not many are volunteering to stand beside him publicly. One of the bold ones is Senator Edward Kennedy, who, like Ervin, fears the chaos that could be dealt to state laws.

Undismayed by the odds, Ervin is preparing a number of stratagems. Most important is his own amendment, which he hopes to substitute for the House version. It is somewhat reminiscent of the amendment once offered by former Senator Carl Hayden of Arizona. Ervin recalls with pleasure: "It was before I got to the Senate, but Senator Hayden told me about it. He said he was sitting back there when the amendment came up in the Senate, and he got to thinking about the law in Arizona that barred women from working in the mines and he thought that was a pretty good law, so he scribbled off his change with a pencil and a piece of paper and sent it up and it was unanimously adopted. Of course, the Hayden insertion nullified the entire amendment because it said that no law now in effect or hereafter passed giving women any rights, privileges or exemptions shall be affected by this amendment. That nullified the whole thing."

Women militants still talk of the Hayden amendment with deep bitterness. And if Ervin has his way, they will in future years speak darkly of the one he has written.

Not that Ervin's sounds bad, in fact, the power of it is that it sounds, and indeed is, very good. It reads: "Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex. This article shall not impair, however, the validity of any law of the United States or any state which exempts women from compulsory military service or which is reasonably designed to promote the health, safety, privacy, education or economic welfare of women, or to enable them to perform their duties as homemakers or mothers."

Which leaves the men, theoretically at least, still one ahead, not in rights but in creativity. The women may have the votes in this affair, but that is a gross accomplishment. On an individual basis, *mano a mano*, where is the women, in Congress or out, with the talent to write a lovingly deadly amendment like that?

SENATOR SCOTT SPEAKS OUT FOR ITALIAN-AMERICANS

Mr. SCOTT. Mr. President, I am distressed by the use of the terms "Mafia" and "Cosa Nostra" in discussions on organized crime. Italian-Americans have made a tremendously rich contribution to the fabric of American society and I have emphasized this fact to those who carelessly overshadow this record of achievement by associating Italian-Americans with the underworld.

Several years ago, I led the Senate floor fight during the antidefamation campaign. At that time I wrote both the Attorney General and the Secretary of the Treasury, insisting that the Government cease making unfounded discriminatory charges.

Last year, I was a sponsor of the legislation that created a national holiday in commemoration of Christopher Columbus. The day on which Columbus discovered this new world is now receiving the respect and prestige it deserves from our entire Nation. I am gratified that 37 States have already voted to celebrate Columbus Day under this Federal legislation.

Recently, I joined as a sponsor of the Ethnic Heritage Studies Center Act. With me when I announced this legislative action were Mr. Guy V. Mendola, national president, Italian Sons and Daughters of America, and other ethnic leaders from Pittsburgh, Pa. This proposed act would authorize grants to public and private nonprofit educational agencies and organizations to study our Nation's rich ethnic heritage and to distribute information on our ethnic groups to elementary and secondary schools. I strongly support the concept of ethnic studies. A person who is proud of his heritage and that of his fellow citizen is proud of himself and his country.

I have now urged Senators and the Government to avoid using the expressions "Mafia" and "Cosa Nostra" in reports and speeches dealing with organized crime. I was delighted to announce several weeks ago that, following my recommendations, Attorney General Mitchell instructed his Department to discontinue this use of these repugnant expressions. Italian-Americans want an end to crime as much as any other American. To connect these fine Americans with the criminal underworld, however unintentionally, is a gross injustice.

PROBLEMS OF THE GHETTOS

Mr. GOLDWATER. Mr. President, on Wednesday, September 30, it was my distinct pleasure to appear before the Washington Booksellers Association. During the course of the meeting several of us who have recently written books discussed the subjects of our different writings.

I was extremely impressed by the remarks made by a young man, John Hough, who has written an excellent book entitled, "A Peck of Salt." This young man who was a volunteer in VISTA, a program that I have confidence in, even though it has had its ups and downs. He spent a year in the west side of Detroit in what he calls a neglected, impoverished, and savage neighborhood.

In listening to his exceedingly fine presentation, I scribbled on the flyleaf of his book which was before me, "There has to be an answer." Frankly, I do not think we have found the answer, and I do not know whether we are even headed in the right direction, because it should be obvious to all by now that money alone is not going to solve the problems of our ghettos. I have always felt that as much as money is needed in these projects, it must be accomplished by understanding, sympathy, and love, for only in this way can man ever live in peace with his brothers. I have often stated that legislation cannot create these three ingredients; that they must come from the heart. I know that some day these things will come to pass, but that "some day" will more quickly come if each of us determines to contribute the needed help from our own hearts and lives.

So that people who read the Congressional Record might have the opportunity to read what this brilliant young author had to say, I ask unanimous consent that his remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Problems of the Ghettos

My book is called A Peck of Salt. It's about the year I spent as a Vista volunteer in a school on the West Side of Detroit in a neglected, impoverished, and savage neighborhood. That year I worked in and lived in what white Americans call a black ghetto.

I left Detroit late in the summer of 1969, and that fall I came to Washington to work for a United States Senator. I was here for six months.

Tonight I'd like to describe briefly how it felt to spend back to back seasons of my life in the ghetto and on Capitol Hill.

I grew up on Cape Cod. My family and friends treated me with love and decency, and taught me to treat others the same. They taught me that it was a pleasant world. In school there was a slight variation on this lesson. In school, I learned that there was a disproportionate quantity of pleasantness in America. America had been built on the most just war of all, and as soon as that war had ended, America had decided to set an example to the rest of the world. America from then on had made it her business to deal freedom and plenty to everyone who lived here, and to take all the leftover freedom and plenty and deal them to the people of other, less reliable countries. I figured this was true, for America had handed me all the freedom and plenty I could use.

To support this, there was the poem by Emma Lazarus which is inscribed on the base of the Statue of Liberty. It was printed in my American history book. It goes like this:

Give me your tired, your poor,
Your huddled masses yearning to breath free,
The wretched refuse of your teeming shore,
Send these, the homeless, tempest-tost to me,
I lite my lamp beside the golden door!

In 1968 I went into Vista and began a year in which very little of my past was useful to me. Least of all, Emma Lazarus's poem.

The old people were tired. I remember a mother who had five children and no husband. Her legs were arthritic and she had trouble walking. Every month she received a welfare check for $175. She lived in a decrepit tenement building, and all day she sat and stared at the traffic in the street below. She spoke timidly to me when I came, and always called me Sir. She was tired.

I found myself in a position to use some government money to hire kids for a summer tutoring program. This is from my book:

"You had to be poor to join the Neighborhood Youth Corps. If there were three in your family and the annual income was more than $2,500, you were too rich to qualify. If there were six in your family and the income was more than $4,200, you were too rich. You were too rich if there were nine in your family and you made more than $5,800 a year."

"Almost all of the kids who came to me were poor enough. I had to tell most of them that all the jobs were taken. There were hundreds of them below the poverty line, unable to find work."

The kids were not tired, but they were poor.

This also is from my book:

"On a Friday in midwinter I asked Robert if he would like to go with me to the Zefirelli movie of *Romeo and Juliet*.

" 'Where's it at?' Robert asked.

" 'The Studio Eight Theater,' I said.

" 'What kind of neighborhood?' Robert asked. 'Colored or white'

" 'White,' I said.

Robert lifted his head and stared into the shadows at the end of the hall. 'I don't want to go,' he said.

" 'Why not?'

" 'I'm scared.'

I came to Washington for the same innocent reasons I joined Vista. I was curious, and I believed I could accomplish something. I liked Washington. I spent a graceful and regenerative season here. I accompanied the Senator as he went to make speeches and to visit his constituents. I went to committee hearings, was allowed onto the Senate floor. I worked on some legislative projects and helped the Senator's press secretary.

I got a glimpse of the machinery of our government. And this is what it looked like to me. It looked like a monstrous machine composed of some of the finest intellects and quickest wits I've ever encountered. Everyone worked long and hard. It was a sophisticated community, both ideological and pragmatic.

This was the machine that my high-school history book had taught me was the greatest, fairest, most humane government in the history of the world. And it might be.

But something worries me. For while this splendid and powerful machine rumbles in Washington, while men struggle with their obligations, their judgments, and their integrities, while the decisions are made and the acts are passed, nothing is changing on the West Side of Detroit.

I know that now, a year later, I could go back to Detroit and this is what I would find:

I would find Robert, age 16, with his wife and child, still afraid to go to school, still afraid to leave his own savage neighborhood to go where there are white people.

I would find Jamie, age 11, still out on the street all night, splitting his days among school, sleeping, and babysitting his six brothers.

I would find Jamie's mother still earning $75 a week for her family of seven.

I would find Taylor, age 16, selling drugs, because it is still the surest, most honorable way of making money.

I would find the rats and cockroaches and the unendurable heat.

I spent a year there, and I was able to change none of these things. I didn't have the power and the money to change them—That power and that money are here in Washington.

Publisher's Weekly, which didn't like my book, called it disheartening. I think this is wrong, and I hope you think so too. If you expect, as I expected at the beginning, to see me transform lives and yearly incomes, then you will be disheartened. If you expect to hear that the ghetto is a pretty place, you will be disheartened. But if you are surprised, as I was, by the courage and resolution amidst this brutality and poverty and desolation, you will not be disheartened.

I'd like to leave you with a few of the things I've written about. I want you to know that they are out there, and that if some of us or all of us would try harder than we are, these things could help fulfill our greatest hopes.

I remember little Jamie, who had never learned to read, struggling through tears and tantrums and fatigue to finish a 6th grade book about King Arthur.

I remember Robert, who hadn't finished 8th grade, demanding a chance to read Shakespeare. I gave him a paperback of *Macbeth*, and he carried it in his hip pocket till it was shredded. It took him two weeks to read all of it.

I remember parents streaming in by the dozen to sign up their children for the summer reading program.

I remember Karl the morning after he had seen his father stabbed to death, telling me calmly that everything would be all right, that he could take care of his mother.

I remember the ecstasy and purity of their dancing and basketball, exuberant celebrations of living.

These things, I think, make my book heartening. They are symptoms of a determination to try. And that is what the book is about—people who tried when there was almost nothing to try for. I hope I'm around when there is something to try for on the West Side of Detroit. I'd hate to miss it.

PRESIDENT NIXON'S DECISION NOT TO ATTEND PRESIDENT NASSER'S FUNERAL

Mr. DOLE. Mr. President, earlier this week, the Washington Post ran an emotional editorial in which it lashed out at President Nixon for his decision not to attend the funeral of Egypt's President Nasser.

It seems to me that the editorial was ill-considered for two reasons. First, was the obviously insurmountable security problems that would attend a Presidential appearance in the emotionally charged atmosphere of Cairo.

Second, was the importance of the President's visit to Yugoslavia which would have been necessarily canceled by a diversion to Egypt. This importance was underscored by the decision of President Tito—a close friend of President Nasser—not to attend the funeral either.

The President's visit to Yugoslavia is serving to point out dramatically American support for that country's independence. President Nixon's decision to hold to his original itinerary was a wise one from the point of view of our national interest.

THE UNITED STATES SHOULD RATIFY GENOCIDE CONVENTION IN COMMEMORATION OF THE 25TH ANNIVERSARY OF THE UNITED NATIONS

Mr. PROXMIRE. Mr. President, later this month we will join the other 120 member nations in commemorating the 25th anniversary of the United Nations. Recently the President's Commission for the observance of this anniversary released an interim report. The report said that the U.N. "has facilitated the independence of hundreds of millions of people formerly under colonial rule; it has, through its developmental programs contributed to the economic and social advancement of many nations; and has produced conventions on human rights."

It is obvious to me from this report that many of the successful endeavors of the United Nations have been in the field of human rights.

The report also pointed out that the United States is one of the principal founders of the U.N. and the host state. But above all else, the United States is the largest financial contributor to the organization.

Yet, despite the fact that we are the major supporter of the U.N., we have not given the U.N. our full support in its work in the field of human rights.

It is true that we were very active in the drafting of the human rights documents of the U.N., in particular the Genocide Convention. In 1948, the then Assistant Secretary of State, Ernest Gross, in a speech to the U.N. General Assembly said:

> It seems to the U.S. delegation that, in a world beset by many problems and great difficulties, we should proceed with this convention before the memory of recent horrifying genocidal acts has faded from the minds and conscience of man. Positive action must be taken now. My government is eager to see a genocide convention adopted at this session of the Assembly and signed by all member states before we quit our labors here.

However, the United States has yet to ratify this major human right convention.

I cannot think of a better way to commemorate the 25th anniversary of the U.N. than for us to ratify the first human rights document produced by the U.N. By ratifying the Genocide Convention we would effectively nullify the disparity between our words and our action. I urge the Foreign Relations Committee to bring the Genocide Convention to the floor of the Senate for ratification in the near future.

PRESIDENT NIXON'S VISIT TO YUGOSLAVIA

Mr. HANSEN. Mr. President, President Nixon's trip to Yuogoslavia is an exercise in personal diplomacy of which all Americans can be proud. The warm greeting extended to an American President by President Tito and his countrymen is indicative of the value they place on this trip.

Yugoslavia has successfully retained its independence from Moscow for 22 years, and President Nixon aptly pointed out the importance of this achievement in a state dinner in Belgrade when he said:

> The great question today is not whether a nation is aligned or nonaligned, but whether it respects the rights of others to choose their own paths—and Yugoslavia, by its example, has given heart to those who would choose their own paths.

President Tito is rightfully proud of his country's independence, and American support for his position can only bolster his determination to keep his country free. President Nixon made a wise decision in choosing to demonstrate openly our support for this Balkan nation.

POLITICAL VIABILITY IN VIETNAM

Mr. THURMOND. Mr. President, an editorial entitled "Political Viability in Vietnam" was published in the Greenville News of September 16, 1970. The Greenville News is recognized as one of the leading newspapers throughout the South and is well respected by those acquainted with it.

This very fine editorial presents encouraging evidence that the democratic process is taking hold in Vietnam.

The editorial staff of the Greenville News should be commended for their outstanding work and contributions toward informing the public. I recommend the editorial to every Member of the Congress and ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Political Viability in Vietnam

Recent senatorial elections in South Vietnam offer encouraging evidence that democratic processes are taking hold in that tortured land.

For one thing, the resounding success of the militant Buddhist party (which opposes the government) gives the lie to the oft-repeated charge that the duly-elected government is "totalitarian."

If President Thieu were a dictator the Buddhists could not have been on the ballot, let alone finish first in a field of 16 slates. Could any opposition party get on a ballot in Communist North Vietnam (even if the Reds would permit any sort of election)?

So much for the "totalitarianism" propaganda constantly drummed up by Vietnam's critics in the United States.

XUM

More important, active participation by the Buddhists in the electoral process is quite an accomplishment in itself. Militant Buddhists boycotted Vietnam's first elections. The turnout this time is definite indication of a growing faith in democracy on the part of the South Vietnamese.

The facts are these:

The Thieu government has managed to give South Vietnam a greater sense of security, enabling Vietnamese to move about and get together for political purposes.

The Vietnamese are beginning slowly to sort themselves out into viable parties, developing the political dialogue and healthy competition which make democracy work.

—Despite its critics, the Thieu government is becoming an increasingly responsible government, confident in itself and at the same time open to legitimate political challenge.

Although Communist terrorism and continued military harassment from North Vietnam continues to threaten South Vietnam, what more could be asked of any struggling young nation than what happened in the recent senatorial voting?

THE PRESIDENT'S TRIP

Mr. DOLE. Mr. President, I do not believe it is possible to overestimate the significance of the President's trip abroad.

For once again this President is making it clear to the world that the United States now has a leader who is willing to face up to America's proper role in the world.

At the same time he is telling the world that the United States is not so preoccupied with Vietnam that it cannot also pay attention to the cause of peace and understanding in the Mideast, the Mediterranean, and in Eastern Europe.

From this trip, the world also receives a further message. It is being told plainly that the President of the United States once again dares to move about the world just as he once again dares to move about his country.

Mr. President, I believe none of this is wasted on our friends, on those who would like to be our friends, or on those who wish us ill.

What the President has done is to show America's strength—not just the strength of the 6th Fleet, but her strength of will; her determination to take what steps must be taken, both in displaying the flag and in extending the hand of friendship; to insure not only peace but also the rights of other free and independent nations to remain free and independent.

Mr. President, in less than 2 years President Nixon has twice penetrated the Iron Curtain with good will gestures that in no way have sacrificed American principles or have weakened our ties with our allies in Western Europe.

The effect of this in lessening world tensions is inestimable.

At the same time, the President's desire to lessen world tensions has not led him to take the kinds of actions and make the kinds of statements the rest of the world can take for weakness or timidity.

In fact, just the opposite. The world knows America remains strong. It knows the American President will not be bluffed or intimidated.

In sum, President Nixon continues to make it clear that the United States stands for peace, but not peace at any price; for friendship, but not for servility; and for keeping her commitments to her allies.

We have come a long way, Mr. President, in the last 21 months.

ADDITIONAL DEATHS OF CALIFORNIANS IN VIETNAM

Mr. CRANSTON. Mr. President, between Friday, August 28, and Thursday, September 10, 1970, the Pentagon has notified 8 more California families of the death of a loved one in Vietnam and Southeast Asia.

Those killed: Sgt. Richard A. Bowers, son of Mr. and Mrs. James W. Bowers of Long Beach.

WO1 Patrick G. Fitzsimmons, son of Mr. and Mrs. Wilbert G. Fitzsimmons of Ventura.

Sp4 Joe Luna, Jr., son of Mrs. Vera R. Luna of Azusa.

Capt. Michael J. McGerty, husband of Mrs. Karen J. McGerty of Fullerton.

Pfc. Michael L. Morgan, son of Mrs. Eileen M. Morgan of Encino.

Sgt. Luis Ramos, husband of Mrs. Luis Ramos of Colton.

Sp4c. Jerrold L. Vesey, son of Mr. and Mrs. Virgil L. Vesey of Palo Alto.

Pfc. Duane E. Waldron, son of Mrs. Catherine C. Waldron of Inglewood.

They bring to 4,214 the total number of Californians killed in the war.

CAMPUS VIOLENCE

Mr. THURMOND. Mr. President, there is much dissension today concerning the report of the President's Commission on Campus Unrest. Views differ as to who is responsible and what steps should be taken to rectify the growing dissent and violence on our Nation's campuses.

Those who place the blame for recent campus turmoil with the Nixon administration display a profound distortion of the historical steps leading to these events. An excellent editorial entitled "Remember Riots at Berkeley?" was published in The Columbia Record, S.C., on September 28, 1970. The editorial clearly depicts the sad history of the disruptions on our campuses.

I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Remember Riots at Berkeley?

To blame President Nixon, Vice President Agnew, the Vietnam War or the draft for campus turmoil and violence is an act of intellectual dishonesty, rabid rationalization, and deliberate distortion of history.

The whole sad and sordid history of this brief chapter in America's academe can be traced back to minor rumblings under President Kennedy, serious disruptions amidst excessive permissiveness by bewildered administrators in 1963 and 1964, and a spiraling series of riots culminating in the 1969–70 academic year.

In 1963 and 1964, troubles on the swollen campus of Berkeley began in earnest. In March of 1964, F.B.I. director J. Edgar Hoover warned University of California President Clark Kerr, Penn State President Eric A. Walker and other administrators to expect violence on their campuses. Hoover was right. It came.

Violence came to the campus and both administrators and faculty acted with tender care in chastising young revolutionaries who occupied buildings, shed blood and committed crimes against person and property. "If only we had better lines of communications," the faculty and administrators said in those distant years, "everything would be all right." They reckoned on the radical students observing the fundamental niceties of reason, whereas the students were determined to destroy the university—by whatever means possible.

In October of 1964 there was a terrible riot at Berkeley with "free speech" and off-campus "involvement" as the surface issues. The issues were flimsy. Remember that at that time, and in 1963, President Johnson was an immensely popular man on the campus, the Vietnam War wasn't really a "talking point" and the draft—although always an obnoxious botherance to students—wasn't that nettlesome. Destroying the university was the singular purpose of the small group of radicals, who attracted larger groups of students under the false banners to their "popular fronts."

Before President Nixon even became an official candidate, universities and colleges stared in astonishment as students broke into buildings, destroyed files, burned buildings and classrooms, threatened faculty members and presidents with assassinations, physically attacked faculty members on campus, disrupted classes, injured campus and off-campus police (some for life). San Francisco State? Does the name of the school ring an alarm bell?

Try Duke. It's closer. There the students drove President Douglas Knight to the hospital and to resignation; Taylor Cole to resign as provost and return to the security of teaching.

Radical students began their threat to academic freedom as early as 1962. Reform and change, within reason, has given the student a greater voice than ever before in affairs behind America's ivied walls. But radicals still will pursue their goals: destruction of American society (and universities as part of the "Establishment") by whatever means are at hand.

Academic freedom can be and will be preserved by contemplative faculties and administrators who are willing to discipline, with meritorious degrees of harshness, the radicals within the college community—whether they be students or faculty.

IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT

Mr. JACKSON. Mr. President, since the enactment of the National Environmental Policy Act of 1969 less than 9 months ago a great many departments and agencies of the Federal Government have undertaken comprehensive reviews of the policies and procedures under which they operate. On August 13 the Senate Interior and Insular Affairs Committee reviewed with the Council on Environmental Quality the progress that is being made in implementation of the act.

The Department of Transportation has, in my view, worked especially hard to incorporate the philosophy of the new act into their decisionmaking procedures. The most recent issue of the American Institute of Planners newsletter and a recent speech by Mr. Michael Cafferty, Deputy Assistant Secretary for Environ-

XUM

ment and Urban Systems, discuss the Department's efforts to make the quality of man's environment an integral part of transportation policy. Mr. President, I ask unanimous consent that both the articles and the speech be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

DOT'S OFFICE OF ENVIRONMENT AND URBAN SYSTEMS WORKS FOR MORE RESPONSIVE TRANSPORTATION POLICIES

Coordination and evaluation of some major concerns of planners today are responsibilities of the Office of the Assistant Secretary for Environment and Urban Systems in the federal Department of Transportation. This office is DOT's central point for the department's responsibilities under the Environmental Policy Act of 1969 which requires all federal agencies to consider the effect of their activities on the environment with these environmental considerations a part of the basic planning and decisionmaking process.

The office is also in charge of the current major evaluation of Section 134 of the Highway Act of 1962 which requires a Cooperative, Comprehensive and Continuing transportation planning process in metropolitan areas.

Also, this office has a major responsibility for coordinating the resources of DOT to achieve balanced, intermodal urban transportation systems.

It is the interrelationship of the above three responsibilities which makes this new office of special interest to planners. And, it is generally within this context that AIP is working with the Office of Environment and Urban Systems on this fall's workshops on metropolitan transportation planning.

COORDINATOR AND EVALUATOR

The Assistant Secretary of DOT's Office of Environment and Urban Systems is James D. Braman, former Mayor of Seattle. Creation of this office was DOT Secretary John Volpe's first official act when he assumed responsibilities as Secretary of Transportation in 1969. (DOT itself was established under federal legislation in 1967.) Its stated purpose was to make the offices and agencies within DOT more responsive to the needs of local governments and more sensitive to the need for the protection and enhancement of the environment.

Secretary Volpe also is a former elected official. He was Governor of Massachusetts prior to his appointment to head DOT. Both Volpe and Braman, therefore, had had recent first hand experience with transportation controversies involving environmental, social and intergovernmental issues.

Braman has said, "Our office becomes by definition a coordinator and evaluator of the major operating administrations of the department—highways, rail, urban mass transportation, aviation and the Coast Guard . . .

"Our office is also designed to be a focus for research in the environmental aspects of transportation system development. We have a clear mandate to improve the state of knowledge on the relationship between transportation and urban and environmental goals and problems. Further, we will be developing planning methods to assure that national urban and environmental policies are effectively implemented through federal transportation programs . . ."

The office was already in existence when President Nixon signed the Environmental Policy Act of 1969 on January 1, 1970. It was immediately charged with DOT's implementation of this Act, and to date this is the only federal department with these responsibilities assigned specifically to a single Assistant Secretary. This office represents DOT on the Environmental Quality Council set up by the Act, and it was DOT's representative to the Urban and Rural Affairs Councils. It will continue this role with the White House Domestic Council formed by the President through Reorganization Plan No. 2 this year. The office also serves as DOT's prime coordinator on the Model Cities Program, which includes working with HUD on the Model Cities Program, which includes working with HUD on the programs and the commitment of the department's resources to specific Model Cities.

ENVIRONMENTAL CONCERNS

The environmental concerns are probably the major workload at present in Assistant Secretary Braman's office. Because so much in planning and other programs is tied to environmental considerations today, it is hard to attempt to delineate as separate many of the responsibilities of this office. However, the functions discussed in this section are primarily attached to the environmental responsibilities of this office.

The Office of Environment and Urban Systems is responsible for DOT's implementation of Section 4(f) of the Highway Act of 1966 and of the Environmental Policy Act of 1969.

SECTION 4(f)

Section 4(f) of the 1966 Act which created DOT says that the Secretary shall not approve any transportation project which requires the use of any publicly owned land from a public park, recreation area or wildlife refuge, or any land from an historic site unless there is no feasible alternative to the use of such land and that such a project includes all possible planning to minimize harm to these lands.

The Office of Environment and Urban Systems is working to develop policies, criteria and methodology to insure full consideration of non-quantitative values—for example, the value of a park as a park. Resolving such conflicts during the earliest planning stages of a transportation project would be less expensive and less divisive within the community than last-minute confrontations.

In implementation of Section 4(f), the Office has been something of a crisis center for highway projects already underway which have come up against serious opposition on environmental grounds. The office is called in upon request and after discussion with local officials, planners or other groups worried about the impact of a proposed highway. Three major examples of the intervention of the Office of Environment and Urban Systems are:

Federal funds were withdrawn from the expansion of the Miami, Florida, Jetport beyond its use as a training facility. Expansion of the facility into an international airport, plus related commercial development, would have had an adverse and perhaps irreversible effect on the rare and unique wildlife of the Everglades National Park, including alligators in danger of eventual extinction.

The Department refused to approve Interstate Highway construction through the scenic and historic Franconia Notch in New Hampshire's White Mountain National Forest. The Highway would have impinged on the quality of the whole area which includes the famous Old Man of the Mountain, one of the scenic treasures of New England.

Federal funds were withdrawn from the Riverfront Expressway in New Orleans, Louisiana, effectively stopping its construction. Completion of the expressway would have unfavorably and irreparably affected the appearance, atmosphere and environment of the Vieux Carré, the historic French Quarter of the city.

ENVIRONMENTAL POLICY ACT

The purposes of The Environmental Policy Act of 1969 (Public Law 91–190) are "To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the nation; and to establish a Council on Environmental Quality."

Section 102 of the Act states, in part:

"The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the federal government shall—

"(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

"(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

"(C) include in every recommendation or report on proposals for legislation and other major federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on (i) the environmental impact of the proposed action, (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented, (iii) alternatives to the proposed action, (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

"Prior to making any detailed statement, the responsible federal official shall consult with and obtain the comments of any federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, state, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public . . . and shall accompany the proposal through the existing agency review processes;

"(D) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources . . .

"(F) make available to states, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

"(G) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

"(H) assist the Council on Environmental Quality established by this Act."

Section 103 of the Act states:

"All agencies of the federal government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act."

XUM

Largely in an effort to improve DOT's response to the Act, as related to improved urban transportation planning, the Office of the Assistant Secretary for Environment and Urban Systems is in the process of directing seven technical studies, all of which are to be finished by about mid 1971. In addition to the grant to AIP (see page one story), the study grants and the recipient groups are:

Study of the impact of the Environmental Policy Act on DOT policy, programs and structure, partcularly inter-disciplinary planning Arthu D. Little, Inc. of Boston.

Simulation of inter-disciplinary transpormental Policy Act. Applied Systems Developtation planning as called for in the Environment, Inc. of Cambridge, Mass.

An analysis of the state-of-the-art in urban transportation planning, particularly how social and environmental values should be weighed in transportation decisions. Real Estate Research Corp, of Chicago.

Study of a joint planning process, stressing student participation, for transit station design. Temple University, Philadelphia.

Case studies in transit planning focused on identifying urban areas on the brink of transit investment. (Not yet let.)

Study of environmental factors in airport and airport access planning. (Not yet let.)

INTERMODAL SYSTEMS

DOT must report to the Congress next year with a national transportation policy recommendation, under the new Airport and Airways Development Act of 1970 (Public Law 91–258). President Nixon also asked DOT for such a recommended policy. Secretary Volpe has often said this year that he and his department are tending toward the goals of common funding and balanced intermodal transportation systems.

Assistant Secretary Braman's office has a key role in development of such a national transportation policy. Based on work done during the past year and preliminary results of the evaluation of Section 134, the office currently intermodal transportation planning at the metropolitan level, with perhaps a single grant application and unified funding. This approach would be possible in many present and future DOT programs, but could not, of course, change the use of the Highway Trust Fund monies without a change in the Congressional mandates. (See June *AIP Newsletter*.) This might also be tied to a single focus in the Department itself for administering and monitoring the urban transportation planning process.

A key focus of the office now is DOT's major evaluation of urban transportation planning as it exists, with emphasis on Section 134 of the Highway Act of 1962. (See May *AIP Newsletter*.) Some of the preliminary results of the 134 evaluations indicate a response from the mayors generally in favor of more local planning control in transportation matters as well as more intermodal flexibility.

Since the aim of the transportation evaluation is to come up with an ideal comprehensive urban transportation planning process, the consideration of national transportation policy alternatives is closely related to the study. An ideal urban transportation planning process, as seen by the Office, might well be through a single metropolitan agency responsible for consideration of the environmental, social and land use factors of transportation planning. It would also serve as a coordinator for an area's total transportation system.

Some of the concerns and questions which are part of the study include:

What should be the DOT strategy to rationalize the separate modal planning assistance programs and how can true multimodal planning be assured?

What kind of local institution should be encouraged to assume the leading role in managing the planning process and acting as a forum for all transportation decisions?

What kind of state organization is best suited to administer DOT planning assistance?

How can DOT be assured that regional and community goals and objectives, both for land-use and social welfare, are clear before federal-aid transportation decisions are made irrevocably?

What can DOT do to assure that new technology demonstrations are built into the urban transportation planning process?

How can DOT assure that citizens are meaningfully involved in the grass-level transportation decisions, before project confrontations?

How can DOT assure that all of its transportation planning funds are used to further orderly growth?

"The Urban Transportation/Innovation Problem: Can New Concepts Help?—The Institutional Response"

(By Michael Cafferty)

Many of the discussions of the American Society of Civil Engineers Transportation Conference, and especially those of its panel on the question, "Can New Concepts Help?" have been directed toward technological innovation and its promise as a solution, or even the solution to today's worsening urban transportation problem.

Unquestionably many of the solutions to the transportation problems which confront cities and transportation experts will come through the development and application of new systems, new technology for moving people and goods in the urban areas. There is talk of tracked air cushion vehicles, personal rapid transit systems, dual mode vehicles, automated guideways, new propulsion systems—the possibilities are enormous.

Technology in transportation can only be successful when it is a component of a total system, a system which incorporates economic, social and environmental factors into the end product. It is a cliche in transportation today that we can get men to the moon but in most of our metropolitan areas, we cannot move men across town with any degree of predictability, to say nothing of comfort or choice as to the way in which we do it. The situation is simply (or not so simply) that the traffic problems which one encounters between here and the moon are not like the traffic problems between downtown and the suburbs at any rush hour. And city dwellers aren't even wearing space suits.

Moon vehicles aside, on earth transportation problems are problems stemming from failures in the processes by which society and technology interact and from failures in the institutions which have been created to promote or, in some cases, to deter such interaction. And I suggest that many of our problems are subject to institutional solutions. Among areas in which institutional innovation offers promise, I should include the way transportation systems work, the way they are used and, most important, the way they are planned.

There are three important new considerations, new concepts, which affect the programs of the Department of Transportation, all institutional by nature.

First of these is the new focus on the environment and on the national desire to preserve and enhance the quality of the environment with whatever tools we may adapt to serve that goal. This effort is supported by the Environmental Policy Act of 1969, signed by the President on January 1, 1970. It is also supported by Secretary Volpe's own concern about environmental quality and by steps which he has taken to establish within the Department of Transportation new mechanisms for coping with the need to assign a high priority to environmental factors in transportation planning, policy and programs.

Second, the Bureau of the Budget came to the Department last year with a request that we evaluate the urban transportation planning process to see where and how it might be improved. Here again many of the improvements will probably be institutional. Here again technological solutions alone cannot serve the need completely.

Third and finally, when Secretary Volpe came to Washington, he identified another problem area—the need for urban systems—which he considered subject to institutional rather than solely to technological solutions. The Department of Transportation itself was created in an effort to bring together and to rationalize into a system a collection of transportation modes, techniques, methods of funding. Nowhere was the need greater than in the Nation's urban areas which were reacting to the impact of a variety of factors including urban freeways and urban freeway revolts, Interstate highways funded 90% by the trust fund, faltering and failing municipal and private transit systems, increasing reliance on airports and increasing concern about aircraft noise, and an automobile population explosion which matched the people-population explosion.

These new considerations, these institutional innovations, have already been reflected in transportation philosophy at the Federal level. Secretary Volpe, upon his arrival in Washington, created the new Office of Assistant Secretary for Environment and Urban Systems, headed by J. D. Braman, until then Mayor of Seattle. Mayor Braman is the highest subcabinet Presidential appointee in Government whose responsibilities, by title, include environmental concerns.

Secretary Volpe established this new Office because his own experience as Governor of this State and, before that, as Commissioner of Public Works convinced him of the importance of the impact of transportation on the physical environment in which we live.

Too often in the past, transportation planners have devoted their efforts solely to considerations of balancing cost and benefit. Too often in the past such planners have given more thought to eliminating the problems of automobile congestion than they have given to the need for eliminating the effects of automotive pollution. They have given more thought to transportation efficiency in the narrow sense than they have given to transportation as an environmental consideration which might profoundly affect the quality of life.

The efforts of Secretary Volpe within the Department of Transportation have been reinforced substantially by the directives resulting from the Environmental Policy Act. In signing the Act, President Nixon said, "its literally now or never." He added "we are determined that the decade of the 70's will be known as the time when this country regained a productive harmony between man and nature . . ."

In the National Environmental Policy Act of 1969, Congress directed all Federal agencies to improve and coordinate their planning functions, programs and resources in order to:

(1) "fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;"

(2) "assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;"

(3) "attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;"

(4) "preserve important historic, cultural, and natural aspects of our national heritage, and maintain, whatever possible, an environment which supports diversity and variety of individual choice;"

(5) "achieve a balance between population and resource use which will permit high

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standards of living and a wide sharing of life's amenities;" and

(6) "enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources."

With this legislation, the Congress has, for the first time, attempted to treat governmental actions and their relationship to a broad range of environmental values. The policies, regulations and public laws which Departments propose are required to give positive consideration to their impact upon the environment in which they operate. To this end all agencies of the Federal establishment are required to:

(1) "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment."

(2) "identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations."

The Council on Environmental Quality has been working with all agencies in an effort to identify and develop those methods and procedures which will make it possible to insure that what we call "unquantified environmental amenities and values" are given equal consideration in design planning equal to that given to cost benefit and technological feasibility. Further, in proposing legislation or in "other major Federal actions" which significantly affect the environment, Federal agencies must prepare and submit to the Council on Environmental Quality statements on environmental impact before they submit legislation to the Congress or before they approve or move forward on Federal programs and projects. This is called "the 102 statement" and it is designed to factor environmental considerations into the process early enough to make intelligent choice a possibility. This "102 statement" must set forth:

(1) the environmental impact of the proposed action;

(2) any adverse environmental effects which cannot be avoided should the proposal be implemented;

(3) alternatives to the proposed action;

(4) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(5) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Obviously, this is pervasive legislation. Federal agencies are just now taking steps to incorporate these very specific environmental considerations into their planning and their programs. There will be cases where implementation of the Environmental Policy Act will require painful readjustments in the old ways of doing business. The Department of Transportation, under the leadership of Secretary Volpe, has been a prime mover among Federal agencies in terms of response to the Act's statutory requirements for action. Because the Department created an Office of Assistant Secretary with environmental responsibilities, it has a one year lead over other Federal departments in this very important area.

The second institutional innovation, another major effort of the Department which the Office of the Assistant Secretary for Environment and Urban Systems is also directing, is an evaluation of the comprehensive urban transportation planning process. There seems to be almost common agreement about the need for something better than that which exists today.

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The Department's evaluation is based on the process as outlined in Section 134 of the 1962 Highway Act which called for "a continuous coordinated comprehensive transportation planning process" for those metropolitan areas with more than 50,000 population. This evaluation is aimed at rationalizing all Departmental planning assistance programs in urban areas. It involves all elements of the Department—not just the Office of the Secretary, but also the Federal Aviation Administration, the Federal Highway Administration, the Urban Mass Transportation Administration, and in some cases, the Federal Railroad Administration. It is the first such effort, the first attempt, to rationalize Federal planning assistance programs for transportation. Once such urban transportation planning is rationalized, the Department of Transportation will have made a significant step toward allowing local government to establish intermodal *urban systems*. Further, the Department will have made a significant response to a charge of the Congress at the time the Department of Transportation was established—the establishment of transportation systems, rather than the transportation fragments or the transportation segments which have characterized efforts in the past.

In evaluating the urban transportation planning process, the Department has sent questionnaires to 40 Mayors, 25 Councils of Government, 50 State Highway Departments, and 250 urban transportation planning agencies and other groups as well. While focusing on structure, financing, and organization, the questionnaire also allowed for a free flow of opinion on and evaluation of the planning process based on the perspective of the respondent.

Through the study participants, the Department hopes to gain the benefit of a first-hand local perspective on urban transportation planning. We believe that responses to the questionnaire * will help the Department build a concept of an ideal urban transportation planning process. Perhaps more important, the study may lead to a melding of existing highway planning policies and procedures with other planning assistance programs in the FAA and in the Urban Mass Transportation Administration. The goal—a metropolitan development agency with planning and programing authority for all modes of transportation in urban areas, not just streets and highways, not just airports and airport access routes, not just bus and rail rapid transit facilities, but all of them.

The Office of Environment and Urban Systems has already reached some very preliminary conclusions as a result of the early returns on its questionnaire.

The major strengths in the urban transportation planning process which has resulted from Section 134 include its serving as the first major Federal stimulation of functional planning for highway, transportation and land use planning in most urban areas. It has enabled planners to gather economic data to use in highway forecasting.

Further, it has provided a formal structure by which State highway departments and local governments can relate to each other and cooperate on highway planning projects. In general, in spite of its shortcomings, it has provided the best highway transportation planning process which has been developed up until this time.

Preliminary findings as to weaknesses in the process have indicated that in most urban areas intermodal transportation planning as a part of area-wide planning is largely a fiction because planning is dominated by the availability of funds for highway programs. Citizens groups and committees seem to have had little impact on coordinating and guiding transportation planning in most urban areas especially in those early stages when many of the major decisions are reached. Questionnaires indicate that existing planning procedures give too little consideration to new technology and to experimentation with new transportation techniques. Further, most urban transportation study groups do no comprehensive transportation planning and give too little attention to problems relating to public transportation, airport development, transportation by water, and to parking and pedestrian problems. Responses indicate that at this time environmental factors play little part in the transportation planning process. Most urban transportation planning groups lack capability to evaluate their own programs because they have neither standards nor goals for their planning activities. And, finally, replies to the questionnaire seem to indicate that many urban transportation study groups are confused about the roles of the Department of Transportation and the Department of Housing and Urban Development in financing planning and planning for transportation.

From the standpoint of the Department itself, responses to the questionnaire have made it possible to reach certain conclusions also. *First, the Secretary of Transportation may well wish to consider the possibility of establishing within the Department of Transportation a single focus for administering and nurturing intermodal urban transportation planning.*

A new concept of urban transportation planning, emphasizing the transportation system as an urban development and environmental tool, is badly needed. Urban transportation planning in many areas has developed into a complex and technical process of self-fulfilling prophesies and demand forecasting techniques rather than into a process promoting new systems by which urban areas use transportation to meet other goals for land use, growth, and life-style.

The various elements of the Department are now examining alternatives, aiming at a single DOT policy statement and guidelines for all Federal-aid urban transportation planning.

Second, the Department of Transportation may also wish to consider the establishment of a single urban transportation planning assistance fund and program. The fund would have no modal identification and would be used to finance urban transportation planning by single metropolitan planning agencies with basic responsibility for comprehensive physical and social planning in their urban areas.

The central target of DOT urban transportation planning assistance should be the development of metropolitan institutions capable of dealing effectively with increasing Federal aid for airports, airport access, highways, and public transportation. Criteria for receipt of Federal-aid urban transportation planning funds may well include:

(2) Capability within one metropolitan institution to reflect accurately the political majorities of each participating local jurisdiction in a uniform and reasonable way and to maintain a viable metropolitan forum for bargaining and decision-making to occur.

(3) Capability of staff to deal with intermodal urban transportation planning and systems planning and to reflect balanced staff capability to deal with performance and external characteristics of various modes and systems.

Those knowledgeable in urban transportation planning will quickly point out that few such metropolitan institutional mechanisms exist at this time. However, alternative strategies to identify and promote viable metropolitan institutions which may have the capability to meet such needs are now being developed. Federal planning aid can help to bring about this institutional response.

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* A copy of the questionnaire is given at the end of this article.

In any new urban transportation planning effort, the States will have a central role. Intermodal planning funds administered by the Secretary would be allocated to States on the basis of population and reallocated to metropolitan agencies based on a formula yet to be devised but relying heavily on growth, population, and other indices of transportation problems. Some method for measuring the degrees of congestion would need to be a part of the process, giving the DOT a better idea of relative degrees and mixes of problems.

Current transportation planning funds appropriated to the Secretary for use by the various modal Administrations represent the source of the Department's new urban transportation Planning Program. Based on the premise that balanced, intermodal planning should be no modal distortion of local decisions on transportation by federal aid, it may develop that any planning fund should avoid modal identification or association.

A new impetus for urban growth through transportation and land use planning and control could be provided by this new program. Since urban form is shaped by transportation systems, each mode having its peculiar effect on land use, then metropolitan areas should have the opportunity to plan and achieve more diversity and opportunity for their people. A larger more flexible transportation planning fund, accompanied by carefully conceived federal criteria and data on the potential growth and environmental effects of various modes in each the unique situation, would give new life to the urban planning process.

In addition, the Department's 1972 National Transportation Plan now being launched will represent still another stimulus for beginning now to build truly intermodal planning at the metropolitan level. This exercise will require a central focus for articulating metropolitan transit, airport and highway needs. Again a metropolitan planning and development authority or mechanism is necessary to deal with this problem if the sort of haphazard Federal investment in transportation which has characterized past efforts is to be avoided.

The study of Section 134 and the planning process is being tied to the other research efforts which the Office of Environment and Urban Systems has undertaken which also seek to relate the articulation of transportation goals to urban needs and desires for transportation *systems*. Such systems should give full consideration to the service which they provide, to the environment in which they operate and to their interrelationship with other metropolitan programs and agencies such as housing, the need for medical and hopefully facilities, and educational programs.

Among these research efforts are:

EDUCATION PACKAGE FOR TRANSPORTATION PLANNING

The purpose of this project is to provide an educational package useful to DOT as a mechanism to improve communication among planners and other professionals engaged in the metropolitan planning process, and to insure that all those engaged in the planning process become aware of the implications of the Environmental Policy Act for planning.

The contractor, the American Institute of Planners, will develop an educational package for an interdisciplinary approach to urban/regional transportation planning based upon research involving the following six cities: San Jose, Denver, Indianapolis, Cleveland, Miami, and Springfield, Massachusetts. The product will include a profile on each metropolitan area, background on the metropolitan transportation planning process in each area, and information on the coordination of the input of local professionals generated by the study in each area.

DOT POLICY AND PROCEDURES ON ENVIRONMENTAL POLICY

The objective of this project is to analyze and report on the impact of the National Environmental Policy Act of 1969 on DOT, particularly with regard to its transportation assistance and grant programs. The study is designed to produce a set of alternative recommended actions which the Secretary can utilize to execute the Act. Also to be included is an evaluation of the role and appropriate structure of Office of Environmental and Urban Systems, both for its functions in DOT and for its external relationships.

The contractor, Arthur D. Little Company of Boston, will conduct an analysis of the Act and other current DOT legislation, identifying basic inconsistencies and common points, and prepare a tabular comparison. He will prepare a written report discussing policy alternatives available for consideration, and a draft manual for gathering groups related to transportation, on the definition and interpretation of the Act, and prepare a list of groups to be contacted.

ENVIRONMENTAL, SOCIAL AND AESTHETIC FACTORS IN URBAN TRANSPORTATION PLANNING

The purpose of this project is to develop a recommended system of methods and procedures for fostering a representative and comprehensive transportation planning process for urban communities, incorporating consideration of presently unquantified values such as environmental, aesthetic, and social factors, and maximizing the opportunity and scope for citizen participation in the planning process.

The contractor, Real Estate Development Corporation of Chicago, will provide direct on-site study of transportation planning in four cities, to be selected by the Government from a list of 15 cities chosen by the contractor. He will prepare a manual and graphic layouts, and presentation materials summarizing pertinent experience in the four selected cities and developing systematic recommended procedures and techniques to improve the transportation planning process and provide for informed and effective participation by citizens, groups, and local decision-makers. This should include general conclusions pertinent to other cities facing similar transportation planning situations.

CASE STUDIES IN TRANSIT PLANNING

The purpose of this study is to provide case studies of the rapid transit planning process and systems design in selected North American cities that have mass transit systems in operation or in cities where city officials are considering various proposals for transit. The study shall also identify the environmental effects and the economic and physical development impacts of these systems.

The contractor will conduct a study in two parts. Part one will involve case studies of 25 cities, including the transit planning process and the actual transit system and how it relates to comprehensive planning programs of each city. This will be done in coordination with the DOT study of the effectiveness of Section 134 of the 1962 Highway Act. The second part of the study will consist of an examination of the current transit planning process in North America from a standpoint of broad applicability to numerous localities.

TRANSPORTATION PLANNING SIMULATION

The objective of this project is to develop a transportation planning simulation (game) that simulates the activities, procedures, and decisions involved in transportation planning as it affects the environment of a city such as New Orleans or Cleveland.

The contractor, Applied Decision Systems Incorporated of Boston will develop and furnish a transportation planning game, in the form of a program design. He will prepare and furnish a film of significant sessions of the game, and train three to five individuals to conduct subsequent plays of the game.

A STUDY TO PRODUCE A JOINT PLANNING PROCESS STRESSING PARTICIPATION FOR THE REDESIGN OF A SUBWAY STATION

The purpose of this study is to demonstrate joint transportation planning efforts which involve students, and to develop an advanced, yet practical, approach to transit station and related development. This will be used by DOT as an aid for planning similar facilities.

The contractor, Temple University, will perform studies and analyses of techniques appropriate to the redesign of the subway station at the intersection of Broad and Columbia in Philadelphia. With the aid of university students in appropriate disciplines, he will develop a joint planning process and a group to implement it. He will also prepare media to present to interested groups produce a display for the subway station, and prepare a report discussing in detail the activities and procedures involved in planning.

ENVIRONMENTAL FACTORS IN AIRPORT SITE SELECTION

The purpose of this study is to identify and describe environmental factors which should be considered in connection with airport planning. This will be in the form of a handbook for airport planners that identifies and quantifies the effects on intermodal transportation planning problems, water and air pollution, noise pollution, aesthetics, community disruption, and the surrounding land-use and development.

The contractor will produce a handbook which indicates awareness of the effects on residential, community, and commercial facilities and which identifies methodolgy and suggests procedures that deal with the aspects of airport planning mentioned above, in addition to a description of environmental control techniques to be considered and a description of institutional participants in the airport planning process. The subject will be researched in an interdisciplinary context, using case studies where relevant.

The Department of Transportation and its Office of the Assistant Secretary for Environment and Urban Systems do not suggest that these research projects and studies will establish new urban transportation systems in the near future but the Office of Environment and Urban Systems is confident that new factors have been brought to bear on transportation planning and on the use of transportation as a tool for urban development.

Further, the Department is confident that it is closer to the development of urban transportation *systems* than it has been possible to be in the past.

And the Department and its leadership are confident that progress has been made toward the development of tools which will make it possible to consider environmental factors in all transportation planning and in all transportation programs.

None of these efforts is narrowly technological. All of these efforts are broadly focused on the process of the institution within which the process works. All of these considerations are very important to all those who are engaged in transportation planning at whatever level. Further, they promise to have even greater significance for those who care about the quality of life in our America's cities and its towns.

U.S. DEPARTMENT OF TRANSPORTATION, QUESTIONNAIRE—AN EVALUATION OF THE CONTINUING COMPREHENSIVE TRANSPORTATION PLANNING PROCESS REQUIRED BY THE 1962 FEDERAL-AID HIGHWAY ACT

I. GENERAL

A. Regional Transportation Planning Agency Name: Area population, Reporting Official. Central City, Year Agency Established.

B. Has an areawide transportation plan been publicly issued? When? Yes, No.

C. Are there existing or planned arrangements for reviewing transportation improvement programs for conformity with the plan as issued? Has a process been established for such review? Yes, No.

D. Does the transportation plan include priorities for improvement? If so, how were the priorities developed? Briefly define priorities. Yes, No.

E. How will the transportation plan or system recommendation be reviewed and approved by each of the following?

Affected local governments, metropolitan planning or development agency, county governments, State highway department, Council of Governments.

F. Does a short-term multi-year program (up to 10 years) of areawide transportation capital improvements result from the urban transportation planning process? Yes, No.

G. Has the region or its communities issued a statement of goals and objectives? Yes, No.

H. Is there an official areawide development plan reflective of regional goals and objectives? Yes, No.

II. ADMINISTRATION

A. Please indicate which of the following best describes the principle or core group responsible for conducting the operations of the transportation planning process.

1. Special Organization for Transportation Planning.
2. Regional or Metropolitan Planning Commission.
3. State Highway Department Unit.
4. Consultant(s).
5. Coordinated Multi-Agency Arrangement.
6. Council of Government.
7. Other (please specify).

B. Which of the above arrangements will be utilized for the continuing phase of the planning process (after initial transportation plan is developed). How is the plan updated?

C. Which of the following committees have been established to provide guidance and coordination of the transportation planning process: Policy Committee, Coordinating Committee, Technical Advisory or Coordinating Committee, Citizens Committee. Other Citizen's Committees (please identify).

D. How is the study director chosen? To what group does the study director normally report study affairs and from whom does he receive direction? Policy Committee, Coordinating Committee, Technical Committee, State Highway Department, Planning Commission, Other (please specify).

III. STUDY FINANCING

A. What has the total cost been for conducting the transportation study up to the present time?

B. What is the estimated cost of advancing the transportation planning process through the initial plan stage?

C. What is the estimated annual cost for the continuing transportation planning program after the initial plan is developed?

D. What are the current allocations of cost among the financial participants of the transportation planning process—for what period?

Local Government, City, Other $———.

State Government, Highway Dept. Other agencies $———.

Federal Government, Highway Adm., HUD, Other $———.

For what period are above costs cited?

E. If a formula is used to pro-rate the cost of the transportation study among local governments, which of the following characteristics are used to determine financial shares?

Land area, population, property valuation, motor vehicle registrations, other (please specify).

IV. ORGANIZATION AND APPROACH

A. Does the transportation planning study agency also act as the areawide agency under Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966? If not, what is the Section 204 agency? Yes, no.

B. Describe how the following elements are incorporated into the urban transportation planning process: 1. Highways, 2. Airports and Airport Access, 3. Public Transportation, 4. Water Transportation, 5. Parking, 6. Other.

C. Describe how citizen groups are incorporated into the planning process:

D. Please indicate current or planned approaches to interdisciplinary planning by showing the number of regular or consultant staff with the following disciplines: Urban Transportation Planners, Highway Engineers, Urban Planners, Economists, Sociologists, Mathematician-Statisticians, Architects, Ecologists, Lawyers, Psychologists, Other Disciplines.

E. What formal mechanisms have been established for securing the advice and participation of elected local government officials on a continuing basis? If none, how is such advice and participation secured?

F. Describe how environmental or ecological considerations such as noise, aesthetics, air and water pollution are involved in the urban transportation planning process. Are data and guidelines available or generally lacking in these areas?

V. EVALUATION

Does the urban transportation planning process, as it has evolved under the 1962 Highway Act, need change? How, from your perspective, should it be changed? Is the process adequately financed? Does the process produce good urban transportation planning? Yes, No.

QUESTIONNAIRES TO 40 CITIES AND COUNCILS OF GOVERNMENT

CITIES

Albuquerque, N. Mex., Arlington, Tex., Atlanta, Baltimore, Birmingham, Boston, Cincinnati, Chicago, Cleveland.

Dallas, Denver, Detroit, Flint, Greensboro, N.C., Hartford, Conn., Houston, Tex., Indianapolis, Jackson, Miss., Jacksonville.

Los Angeles, Madison, Memphis, Tenn., Miami, Milwaukee, Minneapolis, Nashville, New Haven, New Orleans, Norfolk.

Omaha, Nebr., Philadelphia, Phoenix, Portland, Oreg., Rochester, N.Y., San Antonio, San Diego, San Jose, Seattle, Springfield, Washington, D.C.

COUNCILS OF GOVERNMENT

Birmingham Metropolitan Planning Commission, Birmingham, Alabama, Maricopa Association of Government, Phoenix, Arizona, Association of Bay Area Government, Berkeley, California, Sacramento Regional Area Planning Commission, Sacramento, California, Denver Regional Council of Governments, Denver, Colorado, Capital Regional Planning Agency, Hartford, Connecticut, Metropolitan Washington Council of Governments, Washington, D.C., Atlanta Region Metropolitan Planning Comm., Atlanta, Georgia, Greater Portland Council of Governments, Portland, Maine.

Baltimore Regional Planning Commission, Baltimore, Maryland, Metropolitan Area Planning Council, Boston, Massachusetts, Southeast Michigan Council of Governments, Detroit, Michigan, Metropolitan Council, Twin Cities, Minnesota, Omaha-Council Bluffs Metropolitan Area Planning Agency, Omaha, Nebraska, Middle Rio Grande Council of Governments, Albuquerque, New Mexico, Genesee Finger Lakes Regional Planning Board, Rochester, New York, Piedmont Traid Council of Governments, Greensboro, North Carolina, O-I-K Regional Planning Authority, Cincinnati, Ohio.

Miami Valley Regional Planning Commission, Dayton, Ohio, Columbia Region Association of Governments, Portland, Oregon, Delaware Valley Regional Planning Commission, Philadelphia, Pennsylvania, North Central Texas Council of Governments, Arlington, Texas, Alamo Area Council of Governments, San Antonio, Texas, Southeastern Virginia Planning District Commission, Norfolk, Virginia, Puget Sound Governmental Conference, Seattle, Washington.

STATEMENT BY JOE HIGGINS AT AIR FORCE ASSOCIATION NATIONAL CONVENTION

Mrs. SMITH of Maine. Mr. President, recently the Dodge sheriff, Joe Higgins, made a statement that I wish every American would read—a statement that I wish every television station would carry.

It needs to be repeated many, many times.

I know it will be of interest to the Members of this body.

I ask unanimous that the address by Joe Higgins at the luncheon of the Air Force Association's National Convention on September 22, 1970, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REMARKS BY JOE HIGGINS

Ladies and gentlemen—this is a real pleasure. I have participated in many Air Force and AFA events over the years—from Dining Ins to Dining Outs—but to officiate, so to speak, at this annual luncheon for the Chief of Staff—with so many Air Force Commanders present . . . well, it is a great thrill.

I am on the road constantly these days—appearing in major cities and small towns—meeting and talking with people—seeing the so-called "revolution," and hearing its protests at close range.

Yes—and seeing and hearing something else . . .

I find a wave of reaction . . . yes, a negative response to the protestors—but more than that—a strong positive wave of . . . well, I can't say it any other way . . . a wave of fundamental Americanism.

I say that this convention—what we say and how we feel—represents, by a wide margin, the prevailing mood in America today—despite the louder, more publicized chants of the dissenters.

Of course, our nation is caught up in strong cross-currents.

Of course, our government and its people are up tight over diverse priorities.

But, these priorities . . . ranging from defense to ecology and back again . . . are being treated as "either-or" propositions by the anti-militarists.

As they would have it, we are building a garrison state bristling with arms but foundering in social and economic decay. Hogwash!

And let's face it—a social utopia incapable of defending itself is an even greater negation of the American dream.

The dawn of positive reaction is appearing without the rank and file of our people realizing that world balance of power is, in fact, tilting toward the other side . . . without recognizing, except through gut feelings, the true nature of the Soviet threat.

Is it any wonder they don't feel the threat?

Year after year they were told, over and over again, that if the Russians didn't wear white hats, they were, at worst, slightly gray in color . . . that technology as well as people could be manipulated to achieve a stand-off—"detente" was the fancy word for it—between Soviet Russia and the United States. So, Mr. and Mrs. America, enjoy yourselves . . . all is well in the international arena.

That was the frightful message that came out of those seven long, dark years of the civilian junta under the Whiz Kids . . .

Is it any wonder we were lulled to the soft and dangerous sleep of complacency.

But—my message is—Mr. and Mrs. America are waking up. And they need our help.

They need what is said in the Statement of Policy adopted yesterday at this convention.

The Statement addresses itself to the growing threat posed by the military buildup of the Soviet Union. The Statement contends that the solution to America's internal problems cannot be paid for by retreating from external realities. And the Statement challenges America—in the case of freedom both home and abroad—to tighten its fist once again as a world power.

I encourage all of you to read AFA's latest policy statement. It is one more reason why I am so proud to be a part of the Air Force Association.

MIGRANT AND SEASONAL FARMWORKER HEALTH STATUS DOCUMENTED

Mr. MONDALE. Mr. President, on July 20, the members of the Migratory Labor Subcommittee were exposed to a shocking experience that I hope we will never have to go through again.

We had learned that a team of renowned medical doctors and technicians, sponsored by the Field Foundation, had conducted an extensive investigation of the general health and living conditions of migrant and seasonal farmworkers in various sections of the country. They were invited to appear before the subcommittee on the basis of their preliminary reports which indicated terribly shocking survey results.

As chairman of the Migratory Labor Subcommittee, I wish to share the doctors' statements. Dr. Raymond M. Wheeler, as chief spokesman for the team, described conditions generally prevalent in areas of farmworker concentration in Florida and Texas. Dr. Harry Lipscomb, director of the institute for health services research at the Baylor College of Medicine in Houston described the details of the doctors' findings in Texas. He documented the polio epidemic in Texas, and the existence of nutritional and degenerative diseases, dental problems, and speech, hearing, and vision defects that were all too common. Dr. Ramiro Casso, who has dedicated himself to serving farmworkers on a day to day basis in the Rio Grande Valley confirmed the validity of the findings of the team of physicians.

And finally, Dr. Gordon Harper, a young resident just completing his medical training, told of his experience traveling in the stream with immigrant farmworker families, and how medical care delivery systems are just as highly inadequate in the home base areas as they are in the stream States.

I wish that all of my colleagues could have been in the hearing room as these doctors testified, for it is impossible to recount to you the hushed silence as they enumerated their findings. It is impossible to capture today their rage at having to recount their own experiences. There were few men and women that could sit through the testimony with dry eyes, insensitive to the realities of how we are daily destroying human beings. The muffled clapping of hands that followed each doctor's statement reflected the shocked emotions of all compassionate human beings—emotions mixed with outrage over the injustices perpetrated on farmworkers—emotions harboring the hope that something will be done.

The words of Dr. Wheeler are worth special mention:

> I doubt that any group of physicians in the past thirty years has seen, in this country, as many malnourished children assembled in one place as we saw in Hidalgo county.
>
> The children we saw that day have no future in our society. Malnutrition since birth has already impaired them physically, mentally, and emotionally. They do not have the capacity to engage in the sustained physical or mental effort which is necessary to succeed in school, learn a trade, or assume the full responsibilities of citizenship in a complex society such as ours.
>
> The younger children, especially, were undersized, thin, anemic, and apathetic. The muscles of their arms were the size of lead pencils—a sign of gross protein malnutrition.
>
> What is different in Florida and Texas from the rest of the rural South is the deliberate, cruelly contrived, and highly effective system which has been devised to extract the maximum work and productivity from other human beings for the cheapest possible price.
>
> How can the Congress and our nation's leadership pretend to be related in any sane way to the world around them when they spend their time and the nation's wealth building roads and guns and planes and elaborate governmental buildings while families live 10 or 12 in one room without water, heat, ventilation or even a place to wash their hands?
>
> They have not given up the hope that we, who can help, will some day raise our voices and say that there are some things in our country which are intolerable, that these things can be changed, and must be changed. Our time is running out.

In view of the great public interest concerning the testimony of the doctors, and the importance of this testimony to the work of the Congress if we are to act positively on a legislative program to insure that such a report never again has to be presented, I ask unanimous consent that their statements be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF RAYMOND M. WHEELER, M.D.

My name is Raymond M. Wheeler. I am a physician engaged in the private practice of Internal Medicine in Charlotte, N.C. I am a member of the American Medical Association, a Fellow of the American College of Physicians, and am certified as a specialist in Internal Medicine by the American Board of Internal Medicine. I am also President of the Southern Regional Council, an organization of black and white Southerners, who for twenty-five years have sought and worked for equal opportunity for all citizens of our region.

During the past three years I have studied the health and living conditions of the poor in North Carolina, Mississippi, Alabama, Florida, Southwest Texas, Appalachia, and in the ghettoes of Northern cities. I have examined children, talked to their parents, and visited their homes and schools. I have served as a member of the Citizens' Board of Inquiry into Hunger in the United States which published the report entitled *Hunger, U.S.A.* I have testified before committees of both the House and Senate of the United States concerning the existence of hunger and malnutrition throughout this country.

In January and again in April of this year I traveled with other medical colleagues in Southern Florida observing the health and living conditions of migrant farm workers. In March of this year, my colleagues here today and I visited Hidalgo county in Southwest Texas. We were part of a medical team of about twenty-five physicians, medical students and technicians. There we spent five days examining farmworkers and their families, talking with them and other members of the community, and visiting homes and labor campus in which the people live.

Beginning with our visits to Mississippi and Alabama in 1967 and including our trips to Florida and Southwest Texas this year, the efforts of all the physicians involved in this work have been sponsored and encouraged by the Field Foundation. The purpose of our studies and our reports has always been the same. We have sought to observe and study the life situations of children of the poor, in order to bring their condition to national attention. Their condition is one of sickness and poverty, isolation and neglect, indifference and exploitation, resulting in tens of thousands of children who exist in our country today without hope, denied their basic rights as human beings, and condemned to lives of pain, frustrations, and despair. In our minds there can be no question about this fact. It seems equally certain that this tragic situation is directly related to another. In our affluent, money-oriented society, human needs of children have been subordinated to political and economic interests.

It would not be consistent with our beliefs or our purpose to portray those interest as intrinsically evil. Rather, we see them as basically uninformed, insensitive, and uncaring about the vast and irreparable harm that is being done not only to children, but to the very fabric of a society in which these children must live and take their places as adult citizens.

Wherever we went, in the South, the Southwest, Florida, or Appalachia the impact was the same—varying only in degree or in gruesome detail.

We saw countless families with large numbers of children, isolated from the mainstream of American culture and opportunity, possessing none of the protections of life and job and health which other Americans take for granted as rights of citizenship.

If the farmworker is injured in the field or if he becomes ill from exposure to pesticides (we heard of and saw many instances of both situations), he does not receive Workmen's Compensation. If he is sick or cannot find work (and there are many days when work is not available) he does not receive unemployment insurance. There is no realistic minimum wage to guarantee him adequate pay for his work. If Social Security payments are deducted from his wages, few records are kept by the crew boss on which he can later base a claim. He has no health or hospital insurance to provide him with minimal medical care and he does not earn enough to purchase it. The farmer is not even pro-

XUM

hibited from working young children in the fields if the parents, desperate for enough money to buy food and shelter, choose to take their children out of school or bring along their pre-school age children to pick the vegetables.

We saw housing and living conditions horrible and dehumanizing to the point of our disbelief. In Florida and in Texas, we visited housing projects, built with public funds, which defy description. We saw living quarters constructed as long cinder-block or wooden sheds, divided into single rooms by walls which do not reach to the ceilings. Without heat, adequate light or ventilation, and containing no plumbing or refrigeration, each room (no larger than 8 x 14 feet) is the living space of an entire family appropriately suggesting slave quarters of earlier days. I doubt if the owners of fine racing horses or dogs along the East Florida coast would think of housing their animal property in such miserable circumstances.

We saw many different kinds of housing and perhaps some of the worst from the standpoint of structural soundness (owned by those who lived there) did not create in me the feeling of outrage that some of the "better" housing did. For example in Dade County we looked at quarters operated by the Homestead Housing Authority with public funds. There someone had sat down at a drawing board and deliberately and callously designed a living unit which consisted of a single room with concrete block walls, divided partially by a block partition which jutted out in the center of the room. There was one door and one small window high up under the ceiling. The room was dark and damp at mid-day. There was nothing in that unit to make it habitable. There was not one gesture toward providing either comfort or basic human needs—no source of water, no toilet, no refrigeraton, no heat, and the lighting was so dim that no child could have possibly been able to read or study. This was the creation of a public authority, a place in which it was willing for other human beings to live.

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Can you imagine the effects on a child of living in such a situation—the physical discomfort of the heat, the cold, the dampness? The absence of fresh air and the crowding greatly increases the likelihood of transmission of contagious diseases. This is why so many have tuberculosis as well as chronic respiratory infections. How is it possible for a child to study and perform in school when it is impossible for him to read by the light available to him? How can he possibly be emotionally well-adjusted when he has no privacy—when he lives in a cage? How can he possibly stay awake in school the following day when he has attempted to sleep in a bed with three or four of his brothers and sisters?

How can this be, in a society such as ours, with the values we are presumed to cherish?

In all of the areas we visited, the nearly total lack of even minimally adequate medical care and health services was an early and easily documented observation. Again, that which most Americans now agree to be a right of citizenship, was unavailable to most of the people whom we saw. The standard procedure of requiring cash for services and a cash deposit before hospital admission, places an impossible burden upon those least able to afford the high cost of being sick. Documentation of discrimination in medical services and denial of medical care will be described during the course of the hearings.

We saw hundreds of people whose only hope of obtaining medical care was to become an emergency which could not be turned away. We heard countless stories of driving 50 or 100 miles to a city general hospital after refusal of care at a local hospital. Mexican-American citizens of the U.S. told us of crossing the border into Mexico for dental and medical treatment which was less expensive and for care which was kinder, more humane than they could obtain in their own communities. We heard of diagnoses and treatment by nurses, endless waiting for simple procedures such as immunization of small children, and degrading treatment by medical personnel.

A few statistics substantiate our observations. The migrant has a life expectancy twenty years less than the average American. His infant and maternal mortality is 125% higher than the national average. The death rate from influenza and pneumonia is 200% higher than the national rate and from tuberculosis, 250% higher than the national rate. The accident rate among migrant farmworkers is 300% of the national rate.

We know from these statistics alone that the migrant and seasonal farmworkers live shorter lives, have more illnesses and accidents, lose more babies, and suffer more than the rest of us. Everything that we saw and heard in Florida and Southwest Texas bore out this knowledge.

From the moment we set foot in Hidalgo County until we departed, our medical team was engulfed by a seemingly endless procession of distraught and anxious parents, bringing their elderly relatives and their families of six, eight, or ten children—seeking medical treatment which they could not obtain in their own communities. Most of these people live constantly at the brink of medical disaster, hoping that the symptoms they have or the pain they feel will prove transient or can somehow be survived, for they know that no help is available to them. Only two groups have any hope for relief: Those who are somewhat better off financially and those who are most critically ill. Some of the people we say were not seriously ill, or perhaps not ill at all, but none of them knew, and most had never had the opportunity to find out, if they were healthy or whether tomorrow might bring disaster. Our group was not equipped to offer very much in the way of definitive treatment for the vast amount of illness we saw. Perhaps the most constructive and most helpful acts that we performed involved the opportunities to assure some, who had never seen a physician before, that they were, indeed, well and could continue their struggle to survive without the nagging fear of physical disability or death.

For the rest, the majority of the hundreds of people we examined, it was a different, frustrating, and heartbreaking story. We saw people with most of the dreadful disorders that weaken, disable, and torture, particularly, the poor.

High blood pressure, diabetes, urinary tract infections, anemia, tuberculosis, gallbladder and intestinal disorders, eye and skin diseases were frequent findings among the adults.

Almost without exception, intestinal parasites were found in the stool specimens examined. Most of the children had chronic skin infections. Chronically infected draining ears with resulting partial deafness occurred in an amazing number of the smaller children. We saw rickets, a disorder thought to be nearly abolished in this country, and every form of vitamin deficiency known to us that could be identified by clinical examination was reported.

I doubt that any group of physicians in the past thirty years has seen, in this country, as many malnourished children assembled in one place as we saw in Hidalgo County.

There is one place I remember particularly—a labor camp in Weslaco, a small town East of McAllen.

As we walked between the rows of dwelling units, many small children played around us, running about barefooted through mud and pools of stagnant, refuse-filled water—the perfect culture medium for intestinal parasites, polio, and bacteria causing infectious diarrhea which kills so many children.

We stopped and examined children at random and almost every child had some preventable physical defect. We saw tiny youngsters drinking rice water out of bottles because their mothers had no milk to give them. Chronic skin infections, both fungae and bacterial, were practically a "normal" finding. Rickets is supposed to be a rather rare disease these days but we saw one child after another with deformed ribs and legs, thickened wrists which are the classical landmarks of the disease. One youngster, standing apathetically near a group of playing children, had all the stigmata of advanced protein deficiency—sparse, thin, reddish hair, thin drawn face, protuberant abdomen, and thin, wasted extremities.

We stepped into one single-room dwelling unit where lived parents and six children. Amazingly, it was spotlessly clean in spite of the fact that the nearest source of water was a block away.

On the bed lay a 3-month-old infant who weighed less than the average newborn. It was emaciated, restless, wailing, and occasionally pulling at a bottle which we soon discovered contained sour milk. There was no refrigerator in which to keep formula. The child had been ill for weeks, according to its mother but at its last visit to the clinic, a day or two earlier, no medication had been prescribed. A very quick examination disclosed pus pouring from its right ear. We made arrangements for the child to have penicillin and individually packaged feedings of formula which the mother could not afford. I suspect we were too late and I doubt if the child survived.

What I have just attempted to describe in Weslaco is documented on film taken by Martin Carr of NBC. When the decision was made to confine the documentary on the migrant to Florida, that film was not used and remains in the possession of NBC. It is my hope that it will be preserved and made available to the nation, for it portrays conditions which cannot be adequately described by mere words.

Because of the tremendous numbers of people who sought our help in a limited time, we interviewed and examined entire families as a unit. In one tiny rural settlement, with a medical student assisting me, I spent an entire day examining one family after another. It was a shattering experience.

Their dietary histories were all the same—beans, rice, tortillas, and little else. The younger children, especially, were undersized, thin, anemic, and apathetic. The muscles of their arms were the size of lead pencilles—a sign of gross protein malnutrition. Many had evidence of multiple vitamin deficiences and almost without exception, their skins were rough, dry, inelastic with the characteristic appearance of Vitamin A deficiency. I remember vividly the shock I received when one young boy was brought in who was well nourished and I touched his skin—warm, soft, resilient—unlike any I had seen all day and I called to the student with me to come and put his hand on that child in order that he might refresh his memory of what a healthy skin feels like.

The children we saw that day have no future in our society. Malnutrition since birth has already impaired them physically, mentally, and emotionally. They do not have the capacity to engage in the sustained physical or mental effort which is necessary to succeed in school, learn a trade, or assume the full responsibilities of citizenship in a complex society such as ours.

In 1967, my medical colleagues and I traveled through the Mississippi Delta and rural Alabama. There, we saw hunger and poverty and human misery to a degree that we had not dreamed possible in affluent America. In 1970, two and one-half years later, we have found in Florida and Texas, rich and fertile states, other forgotten Americans, living and working in near slavery, their children living and dying in conditions as dreadful as any we had previously encountered.

It is not likely that we saw more malnutrition or more human misery than we had seen in the Delta. Perhaps, in the time that we were there, we did not experience as much hostility expressed by the white community as we had sensed in Mississippi and Alabama.

In the Delta, mechanization of the huge farm industries had rendered thousands of people useless to the economy, and they were left to die or to survive as best they could. In some instances, it seemed clear that there was an unspoken conspiracy to solve the problem by making life so intolerable that people were forced to flee the land and the state in which they could no longer earn a living. No longer needed and unable to secure help from the white community, the black Mississippian at least had the freedom to leave, if he were able, and to seek a better life elsewhere.

In Florida and Texas, the farm worker remains a valuable asset to the owners and operators of the huge farms which produce food and fruit for the nation. Without them, corn and tomatoes would rot in the fields and oranges and grapefruit would shrivel on the trees. There is no way that these farms can be operated without the migrant work force which moves about the area, harvesting the beans and squash this week, moving on to gather the avocadoes another week, in another county. Mechanization has not yet devised a way to replace them.

What is different in Florida and Texas from the rest of the rural South is the deliberate, cruelly contrived, and highly effective system which has been devised to extract the maximum work and productivity from other human beings for the cheapest possible price. Every effort is directed toward isolating the farmworker from the rest of society, maintaining him at the lowest level of subsistance which he will tolerate—then making certain that he has no means of escape from a system that holds him in virtual peonage. And to that end, the grower has the full cooperation of the Federal government, the state, and the local community.

At this point in my report, in order that what I say next will not be misinterpreted, I would like to express my high regard and respect for the members of the Subcommittee on Migratory Labor and my admiration for the hard work, the commitment, and the efforts of all of you in your attempt to better the life of the migrant. No one has done more.

At the same time, I have questions which I feel must be raised or I will not have carried out my responsibility to you or to the people about whom we are both concerned. These questions relate to the reasons for this hearing and the many hearings which have preceded it on the same and related subjects. You are perhaps even more aware than I of the volumes of information and the days of testimony which are already available to you and to the Congress, documenting the fact of children in our midst who are stunted physically, dulled mentally, and warped emotionally—children who are deprived of all opportunity to become productive citizens—children who will grow up to become wards of society or worse—perhaps hostile, alienated, and destructive.

I have here a copy of a report of the President's Commission on Migratory Labor, written and submitted to President Truman in 1951. Even a cursory examination of its pages will reveal that the plight of the migrant has not changed significantly during the intervening nineteen years.

What does it take to make us care about our children? The picture we saw is one of a society thriving on greed, cruelty, alienation, and fear—a society which either never had or has completely abandoned the concerns, the ethics, the ideals which make dignity and freedom possible.

What has to be done to convince the Congress of the United States, the most powerful group of men in the world, that the time has come to put aside its greed, its prejudice, its concern for personal power and prestige—and to be concerned for the kind of society in which our children must live together?

You, and only you, can change all this. How is it possible to justify the endless words and the devious political maneuvers which have delayed and withheld meaningful aid to children who don't have enough to eat, children whose parents have no jobs and no money for food or medical care? How can the Congress and our nation's leadership pretend to be related in any sane way to the world around them when they spend their time and the nation's wealth building roads and guns and planes and elaborate governmental buildings while families live 10 or 12 in one room without water, heat, ventilation or even a place to wash their hands?

And children die—even worse—most of them live, numbed by hunger and sickness, motivated only by an instinct for survival, crowded into the ghettoes of horror which abound in our country which produce desperation and loss of faith in our system. Our answer seems to be more police, more guns, and more punitive laws whenever they protest.

We came away from Florida and Texas with tremendous admiration for the leaders of the people we met. These men, often at great risk, were working to give their people hope and leadership which would dispel their apathy and despair. In many respects these people were stronger than most of us. They endure what seemed to me to be the unendurable, with patience, humor, and understanding. Remarkable in view of the misery which surrounds them and the powerlessness they experience. They have not given up the hope that we, who can help, will someday raise our voices and say that there are some things in our country which are intolerable, that these things can be changed, and must be changed. Our time is running out.

TESTIMONY SUBMITTED BY HARRY S. LIPSCOMB, M.D.

Senator Mondale, distinguished members of the Subcommittee, I am Harry S. Lipscomb, M.D. I am Director of the Institute for Health Services Research, Baylor College of Medicine, Houston, Texas, and member of the Citizens Board of Inquiry into Health Care Services.

You have requested that we tell you of the findings of a group of physicians who recently surveyed the health conditions of migrant and seasonal farmworkers in South Texas.

I do so with reluctance, because I am ashamed, as an American, of what we saw, and concerned, as a physician, that my colleagues and I have failed to act as leaders in the face of demonstrated need, to structure the delivery of our services so as to reach every man, woman, and child in our Nation. Dr. Wheeler has given a broad overview of what our team saw in Texas and Florida. I will now document our findings in the Rio Grande Valley.

From March 3rd through March 8th of this year, our health team examined patients in clinics and "barrios" of Hidalgo and Starr Counties, Texas. Histories and physical examinations were performed on 1400 individuals, the majority of whom were Mexican-Americans living in and around the city of McAllen, Texas. Our health team, which consisted of fifteen physicians, ten medical students, four technicians, and two nurses, saw patients from early morning until midnight for four consecutive days. On a limited number, we performed blood counts, urinalyses, chest X-rays, pelvic examinations, and stool cultures. Additionally, we collected drinking water from 8 "barrios" for bacteriological examination.

It had been our intention to examine 50 families in great depth, but were confronted on March 4th by over 900 people lining the streets around the small clinic in which we worked. We had intended to document, but not treat illness. Within the first hour it became clear that the people had come for treatment, and their manifest need was so overwhelming that we hastily arranged with a neighboring pharmacy to provide medications and vitamins. In four days we prescribed and administered in excess of $6,000 worth of drugs, which were subsequently paid for by the Field Foundation.

The region which we chose was selected in part because of an expressed need of the community and because of an earlier well-documented nutritional study, in the same region, reported to the Select Committee on Nutrition and Human Needs of the U.S. Senate (90th Cong., 2nd Sess., and 91st Cong., First Sess.: "Nutrition and Human Needs", part 3, the National Nutrition Survey, pp. 880–922).

Two years later, 15 months after the inauguration of the Surplus Commodities program, one year after the passage of the Migratory Health Act, little has changed. Disease and malnutrition and human suffering continue. This in the face of over $6 million in farm subsidies, significant civic improvements, new highways and roads, and new hospital construction assisted by Hill-Burton funding.

In short, the Mexican-American is still a disenfranchised person.

This report will simply describe what we were able to document from our clinical impressions, X-rays, and other supporting laboratory data. It would be impossible to identify a specific cause for many of the conditions: We will describe a child with a cleft palate which has not been surgically repaired, a patient who needs glasses and has not gotten them, a mother with cervical infection who has not been treated, or a person who has not had adequate dental care, which all constitute documentable evidence of disease. On the other hand, that these conditions have occurred, or have not been remedied may be ascribed to ignorance, to lack of awareness, to lack of availability of services, or to economic barriers which cannot be identified, in all cases, with certainty. We simply cannot link disease to the reason for the disease except in a few isolated instances. We would like to say that all the malnutrition which we saw was due to an inadequate commodity program in Hidalgo County, or that poor dental care was due to a limited number of dentists and the high initial cost for care, but I do not believe that a survey of this sort can be so used. For every case of health hardship we saw involving lack of physicians or inadequate funds or improper food, we saw a balance of patients who, for sociocultural reasons or lack of educated health "awareness", *failed to seek* care. Perhaps in the culture of poverty, failure to seek reflects the hopelessness of poverty, the apathetic despair of a culture which has done without for so long that even the aspiration for care is lost. This very apathy and despair which has characterized every poor community I have visited is, unfortunately, used as evidence that the poor will not avail themselves of our services if they are provided. I believe the overwhelming turnout of the people of the Valley to our accessible clinic gives the lie to this popular misconception. These people are *hungry* for care. They are dying for want of it.

In analyzing the results of our study, we have been able to classify the conditions which we saw into the following categories:

1. Infectious disease:
   (a) bacterial.
   (b) viral.

(c) spirochaetal.
(d) fungal.
(e) parasitic.
2. Toxic disorders.
3. Metabolic disease.
4. Nutritional disease.
5. Neoplastic disease:
(a) benign.
(b) malignant.
6. Traumatic injury.
7. Congenital disease.
8. Degenerative disease.
9. Dental disease.
10. Speech, hearing, and vision defects.
11. Mental, emotional, developmental and learning disorders.

1. INFECTIOUS DISEASE

The *bacterial* infections which we observed included otitis media, bronchitis, laryngotracheobronchitis in children, conjunctivitis, uveitis, acute and chronic follicular tonsillitis, pyelonephritis, cervicitis, urethritis, and impetigo. Associated inflammatory conditions, perhaps of non-bacterial origin, included cholecystitis, gastritis, and esophagitis. In regard to hygiene, we found nursing mothers with mastitis, and on two occasions we examined bottles of milk for infants, which were contaminated and the milk soured.

Viral diseases were common and many children and entire families were suffering from upper respiratory infections. A number of communicable childhood diseases were seen including rubella. It is of some significance that shortly after we left, an epidemic of poliomyelitis occurred in the Valley resulting in three deaths. This is the only poliomyelitis reported in the United States in 1970. If it is reasoned that the open border into Mexico is an open seeding source, then our very protection lies in immunization. In this population we have failed to provide this protection. A number of patients were reported to have syphilis and this was confirmed by serology.

Fungous infections were common, particularly monilial vaginits, stomatitis, and tinea corporis. Chest X-rays revealed the presence in at least 3 individuals of healed histoplasmosis, and at least two cases of previously undetected active pulmonary tuberculosis were discovered. Sarcoidosis, a disease of uncertain etiology, has been linked to some of the respiratory fungal diseases.

Intestinal parasites were the rule. We personally saw under the microscope pin worms, hook worms, round worms, and amoeba, often occurring in combination in a single patient, and invariably occurring in several members of the same family, when present in one. Of the eight drinking-water sources which we cultured, six were contaminated with fecal organisms. (See picture in text showing two old oil barrels serving as water reservoir for four families—23 people.) Cramped living quarters combined with contaminated drinking water virtually assure the spread of any communicable or parasitic disease.

2. TOXIC DISORDERS

We had reason to suspect that a certain percentage of the migrant workers were exposed to toxic materials, notably pesticides used in the agricultural industry. Acute pesticide poisoning is easily diagnosed. We saw no evidence for this. On the other hand, many patients gave us a history of having been sprayed or been in fields shortly after a rain at which time they suffered numbness and tingling of hands and feet, and many described a seasonal skin rash associated with the use of pesticides, notably organophosphorous compounds and chlorinated hydrocarbons.

3. METABOLIC DISEASES

Metabolic disease in this population included diabetes/mellitis which occurs in high incidence in the Mexican-American. We feel that the examination of urine alone, while relatively unsatisfactory as a diagnostic procedure, uncovered 14 patients with previously undetected glycosuria. These patients must now be studied with glucose tolerance tests to confirm the presence of diabetes. Thyroid disease was common, and several cases of thyrotoxicosis were observed and at least two cases of myxedema (thyroid deficiency) were seen. We were impressed with the palpably enlarged thyroid glands. The McGanity report had earlier emphasized the presence of endemic goiter in this population, and this we confirmed by clinical examination. It is not absolutely certain that the genesis for this is iodine deficiency alone. The possibility exists that this population may have a diet that is itself goiterogenic.

4. NUTRITIONAL DISEASE

Nutritional disease was common and consisted primarily of protein malnutrition. Caloric malnutrition was not seen, and the pathetic wasting of prisoners of war and individuals in certain far eastern countries was absent. On the other hand, extreme obesity due to a predominantly carbohydrate diet and associated changes in hair, skin, and nails reflected significant protein malnutrition. It is a point of pride among the people that they claim to provide meat for their families, but the physical manifestations of protein malnutrition seen in the children do not support this contention. We suspect that meat, like milk, is only available on post-pay weekends. Vitamin deficiencies were extremely common. Evidence of ariboflavinosis, rickets, and pellagra were confirmed by the two nutritionists with us, and painful chewing and swollen bleeding gums suggestive of scurvy were seen in several children.

5. NEOPLASTIC DISEASE

Neoplastic disease was not common. It is not likely that we made a primary diagnosis of malignant disease in any person, and the Papanicolaou smears of cervical mucosa in 27 individuals failed to reveal malignant change, though bacterial and mycotic infections were common. Basal cell carcinomas of the skin was suggestive on several older individuals with heavy actinic exposure. We did examine three patients who were known to have malignant disease, one of whom had been treated intensively for lymphosarcoma and was in a terminal state. Prostatic carcinoma, resected carcinoma of the stomach, and a number of breast malignancies which had been operated were seen.

6. TRAUMATIC INJURIES

Traumatic injuries were common and head injuries, injuries to the cervical and lumbar spine, and thoracic injuries, resulting in fractured ribs, were seen or confirmed on X-ray. It was remarkable how few of these had received what would be considered adequate follow-up care.

7. CONGENITAL LESIONS

Congenital lesions were seen with some frequency. Most commonly, harelip, cleft palate, pilodinal cysts, and two children were seen with congenital cataracts, the genesis of which was not clear. Four children with congenital strabismus were seen. We were disturbed by the fact that one six-year old child with cleft palate had not been operated, and had experienced continuous feeding problems, including reflux of food and liquids through the nose.

8. DEGENERATIVE DISEASE

Degenerative disease in older individuals was common, including arteriosclerotic heart disease, arteriosclerosis obliterans, and osteoarthritis, particularly of the hips, knees and hands. Degenerative and actinic changes of the skin were often associated with small, basal-cell carcinomas which we could document by clinical examination, but which were not biopsied.

9. DENTAL PROBLEMS

Dental problems existed in every individual we examined. These included advanced dental caries, pyorrhea alveolaris and other evidence of periodental and root-canal disease.

10. SPEECH, HEARING, VISION

Speech, hearing and vision defects were common, particularly in children. Congenital and acquired strabismus and cataracts were seen, and the survey team was impressed by the high incidence of hearing loss in children with chronic ear infections which had been untreated.

11. MENTAL, EMOTIONAL, DEVELOPMENTAL, AND LEARNING DISORDERS

Mental and emotional disorders were common, though difficult to assess during our brief examinations. Developmental, behavioral, and learning disorders were also difficult to assess, but we commonly saw children far behind in school, in some cases in which we were able to document previously unrecognized hearing loss or loss of visual acuity.

From the combination of our history and physical examination, coupled to the laboratory and X-ray studies and our overall clinical impression, the following general observations can be made:

1. Malnutrition in adults, particularly the aged and in growing children and infants, was commonplace. This was manifest clinically by the presence of rhagades, chelosis, hyperkeratosis, night blindness, keratitis, blapharitis, photophobia, and skin lesions resembling those of an exfoliative deramatitis. These observations confirm and extend earlier findings by the "Select Study on Nutrition" made in this same community two years earlier. Manifest evidence of vitamin A, D and B-complex deficiencies were clinically observed.

2. Chronic skin disease, including superficial fungal infections, impetigo, and exfoliated dermatitis occurred in a significant number of patients. Many of the older individuals who had worked in the sun most of their life had multiple superficial skin tumors, several of which were thought clinically to be basal-cell carcinoma. We did not see lesions of squamous cell carcinoma.

3. We found a high incidence of visual and hearing loss, particularly in the aged and in school-aged children. Growing evidence suggests that hearing loss in children, arising from untreated or inadequately treated otitis media, may serve as a "tracer" disease reflecting inadequacy of health care. For this reason the National Science Foundation has inaugurated a long-term study of hearing loss.

4. Intestinal parasitism was extremely common and had, in most instances, never been treated, except with home remedies by "curanderos."

5. Metabolic disease, including diabetes mellitis and thyroid disease was frequent, and we were particularly impressed by the number of palpably enlarged thyroids representing endemic goiter.

6. Invariably, the mothers showed evidence of the "multiple pregnancy syndrome," which includes chronic anemia, weakness, in many cases, and evidence of unrepaired cervical lacerations. This is an empiric syndrome which is diagnosed retrospectively in a mother with multiple births over a short span of time. This is largely an intuitive diagnosis, but was commented upon repeatedly by the examining physicians.

7. One of the most disturbing aspects of our survey was the evidence of neglect of dental hygiene and proper oral care. Furthermore, in the presence of this destruction of teeth and gums, we saw little evidence of repair of carious teeth and no evidence of prostheses. Pyorrhea alveolaris was common.

8. We saw uncorrected congenital deformities which would have responded well to appropriate surgical therapy.

9. Rehabilitation of patients with nerve injuries, with fractures, and with strokes

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leading to hemiplegie and hemiparesis was unknown. Not one single individual with a residual impairment of gait or motor function had enjoyed the benefits of rehabilitative care, aside from that associated with return to work at a lower level of productivity.

10. We saw patients with a history of seizures. During our clinic visit, one young man of 16 had a grand mal seizure which started as a Jacksonian march, suggesting localization, but no neurological workup had been performed.

11. Multiple back deformities were seen, including scoliosis and kyphosis, occasionally due to injury, but in a number of cases no explanation was forthcoming from the patients as to the genesis of their deformity. Undiagnosed back, hip, and lower-extremity pain was a common symptom in young individuals, but was difficult to document on physical examination. Symptomatically this pain resembled that of degenerative osteoarthritis, usually found in older people.

12. Active pulmonary tuberculosis was discovered by X-ray, as well as sarcoidosis, a pulmonary disease of uncertain etiology.

13. Degenerate diseases of the heart and great vessels was extremely common, as was hypertension.

14. Anemia was not a common finding in these individuals. When it was observed, it was usually due to a combination of iron deficiency, protein malnutrition, and intestinal parasitism. The "multiple pregnancy syndrome" may also have been important in some of the anemia we observed.

In this recounting, it is difficult to convey the overall impression of our group in an objective fashion. Four consecutive days of an endless parade of illness, deformity, disability, and human suffering exerted a profound and demoralizing effect upon our team. While we had reason to question the wisdom of having brought students with us, the demoralizing effect was as profound on older physicians as on young medical students.

The people whom we examined represent an almost "pure culture" of a society totally peripheral to the influence of American health care. In a nation where levels of specialty care in medicine have achieved laudable heights, this group has not yet found its way to our most rudimentary care facilities. Such simple necessities as glasses, false teeth, braces, hearing aids, dental repair, rehabilitation, plastic surgery, repair of congenital deformities, maintenance of simple hygiene, and repair of cervical lacerations following childbirth, this population—uniquely—seems to have never attained. The specialties of plastic surgery, obstetrics and gynecology, pediatrics, surgical ophthalmology, and otorhinoloryngology have no meaning to these people, for they have never had access to this high level of professional care.

The health survey team would wish to stress once more the relative ease with which we were able to document the presence of disease, and the absolute impossibility of ascribing cause to these conditions. This is an important distinction, for if we are to correct these conditions, we must know and understand where the defect lies. If medical and dental care is too expensive, we need to know this. If there are simply not enough physicians and dentists and other health facilities in this region, this must be emphasized. If socio-cultural barriers exist, we need to learn to work within these limits. If religious ethic prevents planned parenthood, we need to find ways to reasonably approach such structures. If there are injustices and cruelties which throw up insurmountable hurdles to the acquisition of food, of transportation to and from health facilities, and of entry into hospitals, we need to know of this.

Of one fact we have become convinced. If we make significant strides in the delivery of health care to these individuals and do not change the social environment in which they exist, including food, clothing, housing, education and sanitization, we will have done little to change the fundamental situation. Because the major causes of these manifold social ills are largely economic in nature, any effort we make must be tempered with an understanding of the deficiencies of our entire social structure, which tend to punish, selectively, the poor of our society. If this Committee addresses itself to medical care problems, specifically the doctor-patient relationship, and fails to grasp the complexity of the deficiency in the total life style and needs of this population, then our myopic attempts to achieve good health care will fail.

In an attempt to achieve objectivity in this report, charges will be linked to suggestions for change. I feel that physicians, and other health providers are individually responsible for a form of apathy and indifference which is generated by long association with illness. Each physician must retain his sensitivity to illness and its effect on the community as a whole. He must be willing to stand up and call attention to urgent local health needs. It requires courage to refuse to tolerate these conditions. He and his colleagues must search for ways to more effectively participate in community health programs. Furthermore, in every poor community I have visited in the past two years, the physician's primary or follow-on fee constitutes the single most significant barrier in the minds of the poor to their seeking early medical help. Physicians collectively, throughout their county, state, and national medical associations, both black and white, are responsible for failing to exert leadership in our country for the development of health care programs which would, at a local level, bring resolution to these problems.

I feel that elected officials, particularly county judges sitting on commissioner courts or in other administrative occupations, hold the key over local options, both in the solicitation of state and federal funds, and more importantly, *how these monies are spent in their counties.*

I believe that hospitals, operating as nonprofit, tax-exempt corporations, both public and private, have failed to exercise innovation and courage in the development of community programs which would reach out to the poor and almost-poor, and eliminate such hurdles to care as the "means" test.

We believe that the Federal Government, through well-intentioned legislation, has in some cases, created absolute barriers to better health care. A recent case in point involves Medicare legislation which requires that registered nurses be on duty on all shifts in hospitals receiving Medicare funds. This has recently resulted in the imminent closing of at least six hospitals serving the Rio Grande Valley, which, while giving limited health care, nevertheless provided a critical service for the migrant worker and his family. Additionally, Medicare legislation does not specifically pay for immunization for those individuals and we are now reaping the harvest of this shortsightedness in our current polio epidemic.

Finally, many corporations in our country have placed self interest too far above community concern and have failed to exert that leadership which their economic strength could have allowed. Insurance carriers have set patterns for health care compensation which have encouraged *over utilization* of our hospitals, and increased costs in insurance premiums, which have become prohibitive for the poor. The renewed attempts of the valley migrants to unionize may provide them the strength to bargain collectively to force such issues as a fair wage and decent living conditions and adequate health care insurance. The recent pressures to develop a form of National Health Insurance and group, pre-paid health coverage may provide a direct, and overdue, remedy for these injustices.

In a wholly different vein, and, perhaps, to move the cynic, a pragmatic approach to the nutritional and health problems of the poor may have greater impact than an appeal to altruistic sentiments. What we are doing to the poor in our country today is simply *bad business*. We are losing valuable man-hours of productive labor by allowing this human wastage to continue. In a recent study, Correa and Cummins (Am.J/Clin. Nutrition; 23:560–565, May 19) demonstrate that increased caloric consumption accounted for 5% of the growth of the nation product, in nine Latin American countries, a contribution nearly as great as education. We have failed to conduct the business of the nation in a businesslike fashion.

The findings described here are not limited to the Rio Grande Valley, to the Mexican-Americans, or to the migrant worker. Disease of this magnitude we have seen in the ghettoes of American cities, and in rural areas throughout the nation. I would state emphatically that enough evidence is now at had for us to roll up our sleeves and get to work.

STATEMENT OF DR. RAMIRO R. CASSO

Senator Mondale, members of the Senate Subcommittee on Migratory Labor, I am Dr. Ramiro R. Casso of McAllen (Hidalgo County), Texas. I am a Doctor of Medicine and have been in the general practice of medicine and surgery in McAllen, Texas, for the past 13 years.

My medical practice consists in treating from 50 to 100 patients per day, the vast majority of whom are poor people. Probably as many as 80% of my patients are farmworkers, some migrants and others ex-migrants who now do farmwork, packing shed labor, or other similar seasonal work locally.

Suffice it to say that my people are among the poorest in this affluent society. Because of their wretched earnings our people suffer all of the consequences of being poor. There is severe malnutrition among large numbers of them and this enhances their susceptibility to all forms of disease. It is no mystery that nutritional anemia, protein malnutrition, diarrheas, tuberculosis, skin infections, influenzas, pneumonia, birth defects, prematurity and neonatal deaths are much more prevalent among the farmworkers' families than among the general population.

Mr. Chairman, the health survey conducted in March 1970, in Hidalgo County by the very eminent physicians assembled by the Field Foundation was a milestone in the area of health in South Texas for several reasons. First, it documented the high incidence of malnutrition, vitamin deficiencies, and disease which was suspected by many to exist. Secondly, a very excellent presentation of the findings was made by Dr. Harry Lipscomb of Baylor Medical College to a meeting of the Hidalgo-Starr County Medical Society. Thirdly, and most important of all, Dr. Lipscomb was successful in challenging the Medical Society and Dr. Carl Love of McAllen, his former student and presently the president of the Hidalgo-Starr County Medical Society, to take the lead in mobilizing the medical community in search of solutions to the enormous medical problems of the area.

Those solutions, if they are implemented, will include ending the present hesitancy of our hospitals to serve all of the people, rich and poor alike. At the McAllen Hospital, where I work, we have the latest x-ray and laboratory equipment, very excellent surgical suites and a completely equipped coronary care unit. Hopefully, in the future more poor patients will be able to avail themselves of these facilities.

Those solutions, if they are implemented, will include an expansion of the public health activities in Hidalgo County. At present, these activities are limited to Tuberculosis detection, follow-up on contagious diseases, and immunization of children. The inadequacy of our immunization program

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was pointed out during the past two months when in Hidalgo and Cameron Counties, we had nearly all the suspected to have been due to poliomyeitis. Beyond the efficient carrying out of these activities, we hope the public health officials will provide forms of treatment, outreach, and care which serve the poverty community.

Those solutions, if they are implemented, will also include the expansion of the Migrant Health Program in this area of Texas.

In the meantime, those of us who are concerned, do what we can.

I have been personally operating a Charity Clinic at the Farmworkers Service Center in McAllen at the invitation of Tony Orendain who also heads the Farmworkers organization for Cesar Chavez in the Rio Grande Valley. With the aid of Sister Sharon Stanton, a Catholic nun who is also a Registered nurse, we hold a two-hour clinic 3 times a week. We treat from 40 to 120 patients a week, but are limited by the lack of adequate equipment, examining rooms, and the absence of x-ray or laboratory facilities. At this clinic we treat only those who do not have Medicare, Medicaid or Migrant Health Coverage, and who have no money to see a private physician.

It is very discouraging and depressing to attempt to operate a charity medical clinic with very limited resources. I want to tell you something about how the Farmworkers clinic was started.

Last year, when I received the first letter that Tony Orendain wrote to all the members of the Hidalgo-Starr County Medical Society, asking us to start a medical clinic, I visited the United Farm Workers Service Center in McAllen and discussed the matter with him at length. As it turned out, Tony was able to spare a corner 10 feet wide by 12 feet long and that was where the clinic was started. Tony obtained an old table that I used for an examining table and with a few sheets of sheetrock constructed partitions to provide the necessary privacy for physical examinations.

I obtained some medications and medical supplies from my office and we began to treat the sick. By word of mouth the word was passed in the Colonias, and though many of the sick do not have transportation or do not even know that the clinic exists, yet during the January, 1970, influenza epidemic we were seeing from 45 to 50 patients each day. It became obvious that we couldn't continue this operation out of a 10′ by 12′ locale, so I offered Tony Orendain that I would personally pay the first month's rent in an adjoining building if he would assume the responsibility thereafter.

He accepted and we moved to our present location which is grossly inadequate in all respects, but which at least gives us 4 to 5 times more space than we had before.

Gentlemen, the lighting in the clinic is very poor. Somebody has to go clear across the room to plug in the single examining lamp that we have. We have no examining tables per se, we have no medical cabinets. We do not have a certain supply of injectable medications except those that I bring from my private office; we have no refrigerator to keep our medicines in; we do not have a laboratory to do a simple blood count or urinalysis or an x-ray machine to take a chest x-ray. Needless to say, a lot of diagnostic guess work takes place in this clinic, but this is better than no clinic at all. I rely heavily on the use of injectables, Gentlemen, because very frequently the medication that I inject into their bodies is the only medication they will receive, since they very frequently do not have the money to fill a written prescription.

The diseases most frequently seen in the Farmworkers Clinic are those seen in any general practice office where poor people are treated, namely, many nutritional anemias, protein malnutrition, upper respiratory infections, draining ear infections, pneumonias, diarrheas with all degree of dehydration, and many skin infections.

Mr. Chairman, we need to attract more physicians to the many pockets of poverty throughout the country. We need to deemphasize specialization in medicine and encourage more medical graduates to go into general practice. We need a total commitment from the Congress and the Executive to provide the facilities and the manpower to treat the ailments of all of our citizens regardless of their ability to pay. We pray that you, Mr. Chairman, and your colleagues will search for the legal machinery that can bring this about.

STATEMENT OF GORDON HARPER, M.D.

My name is Gordon Harper. I am a physician, in the second year of pediatric training in Boston. I participated in the March trip to McAllen, Texas, and, because the Northerner sojourning and muckraking in the South is legitimately suspect in both Southern and Northern eyes, I have since visited other areas where migrants live and work in Connecticut and Michigan.

Much testimony has already been presented about the number of patients we saw in McAllen, the kinds of diseases they presented, and how these conditions arise from poverty and discrimination. I would like to present a particular case to illustrate what we are talking about.

A BABY WITH CELLULITIS

The first day we were working in Dr. Casso's clinic, a young mother from Pharr brought in a baby, perhaps a year and a half old, complaining that his head and neck were swollen. He had been well, she told us, until three days previously, when insect bites on his scalp became infected. During the succeeding days, the infection spread and the baby grew less active and was not eating well. He developed a fever and now just lay about, showing no interest in those around him. Examining the baby, we found him well developed and fairly well nourished, but acutely ill, "toxic" as we say lying motionless on the examining table. His temperature was 106, his pulse was rapid and his respirations labored. One side of his scalp and neck were red-hot, swollen, and weeping. Huge lymph nodes were palpable in the adjacent areas. Pustules in his scalp, the likely location of the insect bites to which the mother referred, seemed to be the source of the infection. This was cellulitis, a bacterial infection of the skin and subcutaneous tissues, with probably spread of the infection throughout the baby's body—sepsis. We had a very sick baby on our hands.

What had this infection to do with migrant labor? First of all, it began with insect bites, a familiar summer affliction for all of us, but much more common among children who live in substandard housing. In Texas, all of us saw windows without screening, open latrines, inadequate garbage disposal, standing water, and gaping holes in floors and walls. We saw carrot chips used as ground cover—garbage in the front yard. In Michigan I visited a migrant camp, near the Aunt Jane Pickle Factory, a Borden subsidiary, built literally right next to a municipal sewage pool and garbage dump. The stench was suffocating. On all these conditions, insects and rodents thrive and attack the children playing or sleeping nearby. Moreover, once exposed to such bites, babies are much harder to keep clean, and the bites more likely to be infected, if homes have no running water. Not surprisingly, then, both in Texas and Michigan, infected bites are one of the most frequent conditions found in migrant children, directly related to the conditions they must live in. And so was this baby's initially trivial infection. Secondly, the infection,

Secondly, the infection, developing over two days, received no medical attention until the mother came to us on the third day. Superficial skin infections are common problems in children in Boston or Washington as in Texas, especially when the weather is warm as it is most of the year in the Rio Grande Valley. Treated promptly, with good cleansing, a clean dressing, and antibiotics as indicated, such an infection should never reach the proportions we found in McAllen. But we learned there, as you are hearing today, how seldom poor people there see doctors. A visit to a private doctor can cost $10, plus charges for medicines. Dr. Casso has been one of the few physicians in McAllen who would see patients who could not pay, and we have seen under what a heavy case load he functions. This mother, like so many, knew of no free dispensary; there was no outpatient department or free emergency ward like those which we take for granted in the rest of the country, to which she could go. And the mother was reluctant to travel to Mexico, where many obtain cheaper and more sympathetic care, with a baby so ill. I would like you all to understand how it was very difficult for us to believe, as this mother had long since learned, that there was no place, convenient and close by, where she could take her baby when he was sick and she had no money. That was how a minor infection became a life-threatening one.

The third part of this baby's case now unfolds: what could we do about it? Again, in any of the emergency wards where we have worked, where we have been on hand to treat whoever came in, without asking who could pay or how much any indicated therapy would cost, this baby would have been hospitalized and antibiotic therapy begun without delay. But in McAllen we had to ask who could pay. The answer was that there is no Medicaid program in Texas for those not already covered under categorical welfare programs, that there are no free beds in the local hospital only one block away, and that a deposit is required for a patient's admission to that hospital. Many people in McAllen, as we will document, have been told after the birth of a child in hospital: "You pay the bill or we keep the baby." What did we do? The baby received antipyretics and a large intramuscular injection of antibiotics and was observed for six hours in the office. He then looked much better, was given another dose, and was sent home to return next day. This therapy, good bush medicine dictated by expendiency, "worked" this time, but is hard to justify one block from a general hospital, the McAllen General Hospital.

Every parent of a critically ill child, faced with a disease beyond the control of aspirin and cough syrup, feels helpless and alone; for this baby's mother, however, such helplessness was compounded by three facts equally beyond her control, which should have had nothing to do with her baby's getting sick or being treated—and yet which, as we have seen, had everything to do with both: the family was poor, they were migrants, and they were Chicanos in Texas.

THE WAGES OF CONCERN

That was a piece of our experience in Texas. In Michigan, one week ago, I visited several counties where families from the Lower Rio Grande Valley—some of the same families we had seen in March in McAllen—have been picking the strawberries, are now working in the cherries, and soon will begin work with the cucumbers and tomatoes destined for our tables. In several ways, life is a bit less harsh for them there: they have some work; a food stamp program makes it more likely that they and their children may have enough to eat and several counties have programs of medical care. But their housing, in camps maintained by the growers, is often worse than they knew in Texas; I visited a camp on the Old Mission Peninsula where 17 people were living, sleeping, cooking and eating in two rooms 8 by 18 feet under a leaking roof. Most importantly, however, the feeling of not being at home, of not belonging, of not being a part of the counties where they work, or of the country which enjoys the fruits of their labor—that feeling is still there.

The efforts of the state of Michigan and of many voluntary organizations to improve the migrants' lot is at this time, even last week when I was there, being actively opposed by those who control most aspects of the migrants' lives, the growers. The facts are simple. Federal and state housing codes set standards for migrant camps which must be met before a camp can be licensed to receive migrant-tenants. A federally funded program sponsors law students who act as legal advocates for the migrants in housing and other areas. By reporting alleged violations of the codes to a county health department, a law student earned the wrath of a grower who regarded such action (not only legal but sponsored by the government) as a challenge to his right to run "his" camps and make a profit from the work of "his" migrants as he wishes. The night before I arrived in Michigan this grower, finding the student in question in one of his camps, where he was visiting friends who were tenants there, assaulted him physically. When the student escaped with his friends, leaving his car, the grower broke all the windows in the car with a steel pipe. The atmosphere the next day was tense: "For the first time in five years," said one veteran of the migrant programs, "I'm afraid someone's going to get killed."

The next day I got a taste of the same treatment. I was speaking to migrants at the side of a road, on the edge of a camp, when a grower drove up and ordered me off the premises. He boasted that he had known within three minutes of my arrival, via a fleet of cars with two-way radios which the growers maintain for surveillance, that a stranger was visiting one of his camps. He accused me of trying to ruin his business by "snooping" among the workers, and threatened me with physical harm should I make any more visits to "his" migrants' camps without his approval. "If those do-gooders come on any of my land," he said, "they're never going to make it back to Lansing."

The attitudes of these rough-and-ready growers toward the workers on whose labor their profits depend, and will continue to depend, despite their headlong and much touted rush to mechanized harvesting ("We won't need all these hands a year or two from now," they argue, with the self-appointed plausibility characteristic of the man trying to justify the saving of money at the expense of human health or dignity: "And so why should we invest a lot of money in housing for them now?" are the same as the committee has heard before, and will hear again today and tomorrow, from the dominant classes in Texas and Florida. All of these attitudes serve one selfish purpose: to absolve the grower of any responsibility for the obvious and infamous short life expectancy and apathy which are the migrant's share of the American way of life. The grower will be absolved, of course, if the migrant can be successfully banished from the circle of our sympathy for such is the outcome of prejudice, whether racial, cultural, or economic in the case of Chicano migrants in Michigan, of course, it is all three.

To serve such a purpose, the migrants are dismissed as slovenly. "They live like animals," say growers who give them shacks to live in.

Or again, the growers tell us, "The migrants *like* to travel; they like to drive around and see the country, to get out of the heat of Texas in the summer, to come up to the Midwest to swim." Migrants, of course, can be found who will say they like to travel, but too many mothers show despair as they tell of having to take children out of school in early May, to begin again only in November, to believe the myth of the happy gypsy. How that myth can withstand the image of 33 people and their belongings traveling 1500 miles in an enclosed truck, with children who need rest stops every 45 miles, to pick cherries for eight dollars a day, is a wonder of public relations beyond my comprehension.

Or the migrants, they say, are deadbeats. "I've seen one mail a money order for $500 to Texas the same day he buys $100 worth of food stamps," complains a grower whose indignation at the spectacle of government subsidies does not extend to the payments he and his fellow growers do not hesitate to cultivate.

With the migrants excluded by all these devices from the range of their sympathies, growers are able to indulge in self-pity; they have a huge personal sense of grievance, of being put upon, of not getting what they believe they are entitled to, but the scale of these grievances can only be called grotesque compared to the wasted bodies, destroyed spirits, and shortened lives which are the migrants' lot. One complains, "With what I've got invested, and what I could earn on my own, shouldn't I be getting $60,000 a year, not just $40,000?"

With such an acute sense of personal grievance, a grower may have little sympathy left over for those around him. "Babies die all the time," says one grower, when asked about a notorious case of a nine-month-old who died last year of diarrhea and dehydration, after being refused admission to a hospital in Southwest Michigan; "why should they get so excited when one dies here?"

From this testimony and that presented today from Texas, a picture emerges of the channel in which the migrant stream flows from Texas to the Middle West: it is a hard journey through a land where money and profit move men's hearts more than does human misery, and where all kinds of self-serving rationalizations and spurious slurs on the migrants themselves seek to conceal the fundamental facts of human poverty and need, and justify indifference to them or support active interference with those who come to act on the migrant's behalf.

The kind of information the self-styled vigilantes would keep us from gathering, and the kind of tragedies which mark the migrant's travels, are illustrated by the following case history.

AN IRRITABLE BABY

In Traverse City, I learned from a young father of the illness last month of his three-month-old son. While traveling through Indiana en route to Michigan, where his family would begin the strawberry season, this baby developed diarrhea, fed poorly, and became irritable. Diarrhea and poor feeding are common pediatric symptoms, especially in the Chicano population, where infantile gastroentitis still accounts, as it did one generation ago in the population at large, for the largest part of infant mortality. This very month, when the rest of the country has been congratulating itself on the fact that no one died last year from poliomyelitis, the most serious of the enteric viral infections, three deaths from polio have occurred in South Texas. In the absence of immunization, polio has the same epidemiology, the same relation to poor sanitation, as the less dramatic forms of viral diarrhea. The unprotected outhouses, homes without plumbing, contaminated water supplies, and fields without toilet facilities already mentioned explain the frequency of these diseases; poor nutrition—the protein and vitamin deficiencies we have reported—and lack of adequate care account for the death rate in the easily treated simple diarrhea.

But the other complaint, irritability, is one that gives every doctor pause, because of the possibility of meningitis. Small babies often do not show the physical findings, like stiff neck or resistance of flexion of the leg, which we look for when adults have infections of the meninges, and often the characteristic sign in infants, the bulging fontannel or soft spot, is absent despite the presence of infection. To make the diagnosis, therefore, the doctor has to be suspicious, to size up the baby as a whole, (asking, "Does he look sick?") and perform a spinal tap whenever there is any doubt at all. Anyone who's taken care of children has agonized over this decision many times, for the disease, despite the terror it strikes into parents' hearts, is treatable. Ten days of intravenous therapy with the appropriate antibiotics usually will save a three-month-old baby who would otherwise die.

In this case, however, before a doctor had a chance to consider this diagnosis, another hurdle had to be crossed: the father had to pay. At the beginning of the season, there was only enough money to get to the fields in Michigan, and the father and the hospital people argued about money. In the end, a nurse gave the father an oral medicine to give the baby, and they went out, no doctor having seen the child. They returned the next night, the baby listless and febrile, and he was admitted. Even so, the father said, no doctor saw the baby for several hours and when the diagnosis was made then, it was indeed meningitis. Intensive therapy was begun, but the baby went on to die.

The father spoke this way: "You've got to leave a down payment before you even leave the baby there; but he was sick, man he was going to die. His mother, she suffered a lot. You know, we come over here to help these folks out with the crops, and we help a lot, picking cherries, and planting tomatoes, but they don't help us. And sometimes we need some help, too. That doctor didn't do anything, he knew the baby was going to die, and he didn't want to waste the money. I like white people, black people, but I don't know, man, I don't know."

FDA VERSUS PHYSICIAN

Mr. HATFIELD. Mr. President, a respected professor at the University of Oregon Medical School, Dr. Paul H. Blachly, has written a provocative article in Psychiatric Opinion entitled "FDA Versus Physician: Does the Physician Have a Moral Obligation to Civil Disobedience?"

Senators are aware of my long efforts to see the FDA approve DMSO, the drug developed in Oregon that has been the subject of nationwide research and testing.

Dr. Blachly raises some interesting points in this article. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FDA VERSUS PHYSICIAN: DOES THE PHYSICIAN HAVE A MORAL OBLIGATION TO CIVIL DISOBEDIENCE?

(By P. H. Blachly, M.D.)

It is almost a contradiction in terms to think of civil disobedience by physicians, for such activity is associated in the minds of most with underprivileged minorities. Yet in the past six years, interpretations by the Food and Drug Administration (FDA) of legislation passed in 1962 have seriously curtailed the activities of physicians, have limited patients in their ability to obtain treatment, have increased the cost of medical care to taxpayers, and have slowed the acquisition of scientific knowledge.

Physicians are rarely political activists. It is only after five years of fruitless efforts to "go thru channels" that I have looked into legal methods to resolve these difficulties. My interest in civil liberties began quite innocently at the time in a curious way:

By 1963 an impressive body of scientific studies dating from 1949 was unanimous in showing that a simple chemical, lithium carbonate, was extremely effective for the treatment of the manic phase of manic-depressive illness. There was additional if less well-documented evidence (since confirmed) that the regular use of the chemical was of prophylactic value for depressive cycles in manic-depressive illness. Although not the commonest mental illness, accounting for perhaps only 2 to 5 percent of admissions to state hospitals in Oregon, manic-depressive illness is important, for often it episodically strikes competent people at the height of their socially-productive years. It appears to result from an incompletely-understood disorder of the metabolism of sodium, potassium and adrenalin-like chemicals in the brain. Until it was found that lithium carbonate was highly effective for the treatment of this condition, the only treatment was electroshock therapy and tranquilizing drugs, both entailing side effects and considerable expense.

Lithium carbonate is a very old drug, having been used as early as 1841 for the dissolution of certain kidney stones. At the turn of the century when no better drugs were available, lithium in the form of lithium bromide was widely used for the treatment of epilepsy. Lithium received a bad name in the late 1940's when its extensive, uncontrolled use as a salt substitute in food for patients with heart disease resulted in considerable toxicity. In 1949 an Australian physician, J. F. J. Cade, showed that lithium had special value for the treatment of the extreme hyperactivity of manic depressive illness. By 1960 more than 18 studies had been reported showing a consistently beneficial result in manic patients. To my knowledge not one report has indicated that the drug is ineffective for this purpose, nor has it been a dangerous drug when used as recommended. Indeed, Dr. Paul Baastrup, co-investigator in Denmark with Dr. Mogen Schou (who has done the most to show the value of this drug), reports that there are now some 2,000 Danish patients on lithium carbonate with no fatalities and few cases of toxicity.

As Director of the Psychopharmacology Clinic at the University of Oregon Medical School, in 1964 I took steps to bring this inexpensive treatment to our patients by having reagent grade lithium carbonate placed in the recommended sized capsules by a local pharmaceutical manufacturer, and by arranging to have our clinical laboratory do the blood studies necessary when this treatment is used. Being cognizant of recently enacted legislation strengthening the powers of the Food and Drug Administration, I thought it would be wise to first get a statement in writing that the FDA did not consider lithium carbonate a new or experimental drug.

To my surprise, they did state that they considered it an experimental drug and that I could use it provided I completed the necessary forms. Inspection of the forms revealed that it would require a full-time staff and well-financed research project to carry this out. I was also aware that other investigators in this country had already gone to such trouble. But there are only a few such patients in Oregon and they are widely distributed in the state, and my time was largely occupied by other research on projects where, unlike lithium carbonate, the answers were not yet known. There then followed further correspondence with the FDA in an effort to seek a way of treating these patients without violating the law. My argument that the drug was not covered by the FDA regulations—since it had never moved in interstate commerce—was met with the answer that if the chemical had ever moved in interstate commerce it would be covered by the law and that, further, my action would violate the *intent* of the law.

Unlike most new drugs which are commercially sponsored because they are patentable, lithium carbonate is an old and pure inorganic chemical which would bring no profit to a pharmaceutical house. Funds for the active promotion of this drug with the Governmental authorities simply were not available.

Thinking that there was some crucial unanswered point about the use of lithium carbonate that needed further research, I requested of the FDA that they supply reasons why they had not yet given approval for its use. Perhaps I could set up a project to answer some of the remaining questions. But instead of posture suggestions I received only the answer that an anonymous body of experts had not yet deemed it ready. No statement was given supplying reasons for not making it available, no mention was made of when a body of experts had ever met to discuss the matter, if indeed they had, but only the salve that I was free to go ahead and repeat all of the expensive research done elsewhere once I had completed the forms. This just did not make scientific sense.

Appeals to senators and congressmen to get the FDA to change its stand met with sympathy, but they, too, seemed powerless. Indeed, Mr. Bernard Fensterwald, Jr., Chief Council, Senate Subcommittee on Administrative Practice and Procedure, states:

"Can one conceive that the value of vaccination, digitalis, anesthesia, penicillin, or mass polio vaccination, could have been discovered with present regulations of the Food and Drug Administration? The answer most certainly is 'No.' Even one of FDA'S own doctors testified before this Subcommittee that with today's regulations and requirements even aspirin would never be approved by the FDA.

"Changes in the law are needed. I think a step in the right direction is your own Congressman Wendall Wyatt's bill to turn over all drug approval functions from the FDA to the National Academy of Sciences. Another needed change is to provide for a right of appeal from FDA's termination of an IND. As your legal memorandum points out, such a right does not now exist.

"Until such legislative changes are made, however, we will all have to live with this intolerable situation . . .

"Your third alternative would be to restrict your use of lithium carbonate to residents of Oregon, so as to stay outside of the FDA's legal jurisdiction. From what I have seen this is completely unworkable. The FDA would be sure to swoop down on you the first time they could find that the drug moved into interstate commerce. How can you protect yourself from the lying patient who says he lives in Oregon, but really doesn't? What do you do about a former patient who moves out of state but returns to you for treatment and takes the drug back home with him?

"Also, don't forget that the FDA is very vindictive. If they feel that you are trying to get around the Act, they are not above putting pressures on the University, financial or otherwise. They are not above using phony names to try to trap you into shipping the drug interstate."

The restrictive interpretation emerged following the birth of deformed children to mothers who had ingested thalidomide. Perhaps as many as 6,000 children were affected. No one can question the intent of legislation that would prevent such tragedies. Yet legislation is a two-edged sword. More than 20,000 persons commit suicide each year in this country, of whom perhaps 6,000 to 11,000 suffer from the type of depressive illness which is treatable with lithium. One might estimate that since the evidence on the effectiveness of lithium became available, 24,000 persons, four times the number of those crippled by thalidomide, have had needless suicide, not to mention the larger numbers who have experienced the subjective misery and economic and social disruption of manic-depressive illness.

If lithium were the only drug affected, the matter might be of less import. But many drugs are involved. For example:

Gastroenterologists since 1956 have used a simple natural sugar, xylose, for diagnosing defects in absorption from the intestine. About a year ago it was announced that it could no longer be used without an investigator completing a new drug application. No reason was given for this action, and inquiries attempting to discover the testing desired by the FDA met with no satisfactory answer. There was no effort to harass investigators, no apparent malice, but only the endless morass of bureaucratic red tape conducted by persons less scientifically trained than the physician. It has been suggested that if the investigators had referred to xylose as a natural sugar instead of a chemical, then the present investigational requirements would not have been necessary.

Part of the squabble regarding marihuana stems from insufficient medical evidence of benefit or danger from this drug. A major reason for such lack of evidence is that the law dealing with the drug makes medical experimentation extremely difficult.

One of the major breakthroughs in the treatment of heroin addicts is the finding that a drug, methadone, blocks the action of heroin. One of the drawbacks of methadone, however, is that its effects last only 24 hours. Thus, the addict must return to the clinic daily or be given a supply for a few days. But one of the major drawbacks to outpatient treatment of addicts is that one cannot give the addict narcotics for self-administration because he may sell his supply or seduce non-addicts. Yet, there is another drug, 1-acetyl-methadol, known for the past 15 years, whose effects last 72 hours, which would obviate many of the drawbacks of methadone. But use of this drug for treatment of this one, small, otherwise highly-destructive population would require all of the prohibitively-expensive testing necessary for drugs used on larger, more healthy populations. The present costs for development of a new drug and for sending it through the FDA gauntlet are estimated in seven figures. Few companies are willing to invest these sums for a drug which will be limited to a small population. The FDA seems unable or unwilling to feasibly weigh the merits of extensive routine tests against the hazards of the illness. Fortunately, the powers of the FDA have not yet been extended to include medical devices or organs, for if such powers had been in existence we would not now be benefiting from prosthetic heart valves, artificial kidneys, nor from transplanted organs.

The issue in point is that physicians are experiencing de facto control of their traditional right to do what scientific evidence deems best for the patient, and patients suffer from lack of availability of these treatments. If by excessive and unnecessary controls on manufacturers, drugs can not be made available to the doctors, the control over the doctor's right to prescribe is no less complete.

The dilemma of the doctor faced with a treatment which is scientifically proven but governmentally unblessed is that:

If he uses the treatment anyway he may be prosecuted by the government.

If he doesn't use the treatment he is not doing what is best for the patient.

If he attempts to make a governmentally-blessed research project out of an area where scientific information is already adequate he is hypocritical and it takes time and resources away from other areas of service and research.

The basis upon which the FDA makes its decisions is not public information and there is no system of appeal.

Probably these dilemmas will be resolved through judicial review of a test case, but there is considerable question as to how a test case should be presented. It is conceivable that a wealthy relative of a person who suicided and suffered from manic depressive illness could seek damages on the grounds that the government withheld a proven medication by an arbitrary and capricious decision. Alternatively, a physician could deliberately have himself indicted by sending lithium carbonate across state lines for treatment of his patient, but few physicians wish to spend their days or funds in court. Morally, should the physician be civilly disobedient, treat his patients as he deems best, and await government prosecution to test the law?

If any moral is evident from this sorry tale, it is that laws prohibiting traditional activities should be passed with great caution, for no matter how noble their intent, their long-term effect may be destructive. Surely, Congress had no intent to limit effective treatment; it is in the excessively-literal administrative interpretation of the law, often by laymen and so far untested in the courts, to which physicians must rebel. Few responsible physicians would seek abolition of the FDA, but its actions should be limited to cases where there is a clear and present danger, or there should be a system by which a scientist could get the agency to show cause for its action. In demanding proof of innocence for a drug instead of showing guilt, the FDA has taken a position opposite to that of our judiciary system, which assumes innocence until guilt is proven.

There are many examples outside of medicine where laws passed with laudable intent have been struck down because their evils in the long run outweighed their values. Laws regarding censorship, wire-tapping and the obtaining of confessions are only a few. A similar fate must surely await those laws which presently restrict the physician's right to practice medicine.

There have been other efforts by government to control the traditional relation between doctor and patient. In the famous case in which the State of Connecticut attempted to limit prescription of contraceptives the Supreme Court ruled:

"In other words the State may not, consistently with the spirit of the First Amendment, contract the spectrum of available knowledge. The right of freedom of speech and press includes not only the right to utter or to print, but the right to distribute, the right to receive, the right to read . . . and freedom of inquiry, freedom of thought and freedom to teach . . . indeed the freedom of the entire university community . . .

"The present case, then, concerns a relationship lying within the zone of privacy created by several fundamental constitutional guarantees. And it concerns a law, which in forbidding the use of contraceptives (lithium carbonate), rather than regulating their manufacture or sale, seeks to achieve its goals by means having a maximum destructive impact upon that relationship. Such a law cannot stand in light of the familiar principle, so often applied by this court, that a 'governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms . . .'

"In determining which rights are fundamental, judges are not left at large to decide cases in light of their personal and private notions. Rather, they must look to the 'traditions and conscience of our people' to determine if a principle is 'so rooted . . . as to be ranked as fundamental.' "

I submit that the modern, scientifically-trained physician has a deeply-rooted fundamental right, indeed responsibility, to use that treatment which he feels is best. Medical malpractice decisions are quite adequate to control his excesses. As the late Judge Learned Hand stated, "For myself it would be most irksome to be ruled by a bevy of Platonic Guardians, even if I knew how to choose them, which I assuredly do not."

Since this article was written, Lithium has been marketed, exactly ten years after Gershon and Yuwiler published their classic paper in this country, "Lithium Ion: A Specific Psychopharmacological Approach to the Treatment of Mania," Journal of Neuropsychiatry, 1:229–241, May–June, 1960.

A long-acting isomer of methadone, 1-alpha acetylmethadol, is now being investigated, formally delayed perhaps only six months by the FDA, but psychologically delayed for this purpose four or five years. By psychological delay we mean fear in the mind of the investigator that it is useless to even try because of all of the paper work involved.

A REPORT THAT FAILS

Mr. HANSEN. Mr. President, on Saturday, the President's Commission on Campus Unrest submitted its report to President Nixon. Since that time, many of us have had an opportunity to review the report and there has been much public comment on the report itself.

On Monday, the junior Senator from West Virginia (Mr. Byrd) made what I believe to be one of the most noteworthy analyses of that report. On the Senate floor Senator Byrd eloquently and forthrightly expressed the deep disappointment that many of us have experienced on reading the report. The report fails to give central focus to law and order, and all too often seeks excuses for the conduct of a very few who have managed to bring terror and destruction to the campuses of our Nation.

The Scranton report fails to reassure the American workingman that the sacrifice which he makes to pay taxes and support higher education in this Nation is a worthwhile sacrifice. The American people deserve the assurance that their Government will not permit their investment in education to be destroyed by a few radicals who burn, loot, and terrorize in an effort to force their will on society. In pursuing their goals the radicals deny the opportunity for higher education to those who wish to pursue that goal rather than engage in militant activities.

While the Commission condemns violence and terrorism and those who engage in such activity, it condemns with equal force the actions of those persons and institutions which it expects to control and oust the forces of violence. It asks that the weapons used to maintain order be limited in the face of an enemy that at a moment's notice and unexpectedly uses weapons ranging from rocks to bombs, from words to rifles, and from placards to fire.

Mr. President, President Nixon has provided strong leadership to restore peace to the campuses of America. At Kansas State University, where the President was cheered by students he said:

> The time has come for us to recognize that violence and terror have no place in a free society, whatever the purported cause or the perpetrators may be. And this is the fundamental lesson for us to remember: In a system like ours which provides the means for peaceful change, no cause justifies violence in the name of change.

The President's Commission on Campus Unrest would have done well to provide the same strong leadership as the President, rather than qualifying and diluting its report with contradictory and incongruous recommendations and findings.

THE CAMPUS AND THE NEW ACADEMIC YEAR

Mr. HATFIELD. Mr. President, not alone among university and college presidents this fall, Dr. Robert D. Clark of the University of Oregon faces a new academic year, and in light of the past year, the myriad issues that lie ahead.

The University of Oregon, under the direction of Dr. Clark, has coordinated efforts that preceded and aline with the recommendations of the Scranton Commission. His programs may provide a vanguard for other institutions of higher learning as they seek to define their roles in society and assimilate the diverse elements that our troubled society has thrust upon them.

A great strength of our Nation lies in the fact that our learning is autonomous and free. In speeches both sensitive and relevant, Dr. Clark addressed the new students and the faculty at the University of Oregon last week.

I ask unanimous consent that the texts of those two speeches be printed in the Record.

There being no objection, the speeches were ordered to be printed in the Record, as follows:

Address to New Students

(By Robert D. Clark)

I am pleased to welcome you to the University of Oregon for the beginning of your studies on this campus. This promises to be a good year, an exciting one—not too exciting, I hope.

Many good things have happened to us in recent months: in another week or two we shall have a new foot bridge across the Willamette River that will give you access not only to the stadium, but to the undeveloped park on the north bank; Thirteenth Street has been closed to traffic, at least temporarily; students in architecture last winter led a campaign to clean up the Mill Race and developed plans to increase the flow of water. I hope that we can implement those plans and that we can develop an outlet so that you can paddle your own canoes from the Mill Race to the Willamette River; we have a new urethane surface all-weather track, available not only to the varsity team, but to P.E. classes and unnumbered faculty and student joggers; the grandstands were renovated at minimum cost through the services of friends of the University, including students.

We have a new and beautiful Clinical Services Building, completed last year, a handsome new Law School building opened only this fall. Last year the University of Oregon was elected to membership in the Association of American Universities, a highly selective organization of 48 American universities with programs of recognized excellence. I could go on, but you must already think me unnecessarily boastful.

A month ago I visited the new campus of the University of Guadalajara in Mexico. On the facade of the auditorium for the social sciences is a huge mural, extending across the entire width of the building—typical of Mexico and the splendor of its achievement

XUM

in art. The left panel shows mankind distorted in body and spirit, a few with uplifted arms struggling to release themselves from the darkness of ignorance and slavery. The next panels depict the rise of learning, its benign and liberating influence, the brilliant dawn of science, the receding shadows of ignorance. But alas, the final panels show the triumph of technology and bureaucracy, the shattering of art, the breaking of the human spirit and the enslavement of mankind to a new and terrible tyrant.

It is a parable for our times and for your generation. You know it well without having seen the mural. Happily for us, our last panel is yet to be painted and it is in your power to help draw the design. If I understand it correctly, this is what the worldwide "rebellion of the young" is all about. You assert human values and you are determined to achieve them. In the pursuit of that end, I am with you.

It is my intention to comment briefly on several items:

1. An affirmation: I have thought much about your generation—you have given me plenty of reason for reflection—and I think that you are not only the best prepared and most sophisticated generation of students in my university experience, but that you are also more sensitive to humane values, more alert to many of the dangers that threaten our society, more committed to meaningful social change than any of your predecessors whom I have known. This is not simply ritualistic faith or optimistic rhetoric. I know your shortcomings as well as any man, perhaps better than most. But you are going to make a profound change in this society—if you don't muff your chance.

2. I speak of you collectively, as if you were one body. It is true that you do hold some characteristics in common: you are young, and you are university students—or at least you are about to sign up for a course of study. Yet I know that individually you differ widely in your purposes, your abilities, your beliefs. Some of you have your professional or vocational goal clearly in view and will move steadily toward it. Some of you are searching, trying to find your way. A few of you may be here for the rites of passage from youth to adulthood. Some of you who have come not really knowing why, may one day find that something has happened and there is a purpose. And some, I must add, may find that this university—or any university—is not for you, and that the door marked exit is the shortest route to your goal.

In all of these particulars you are like your fathers and mothers and their fathers and mothers before you. But there are among you some who differ from past generations of college students in being more critical of the established order and more sensitive to political and tactical means of change than has been traditional on the American academic scene. Even here you differ widely among yourselves. A graduate student at the University last spring, in a sample poll, found that a big plurality of students thought themselves "moderate", with the remainder scattered right and left, with only a handful committed to the radical tactics of violence. National polls confirm these conclusions for students generally. But both local and national polls show that a large percentage of students agrees with the radicals in many of their goals for social change. That is a remarkable fact about your generation, a fact that sometimes leads to unfortunate exploitation of the majority by the radicals.

3. Let me say that social change—the means of reaching the goals to which you aspire—is a very complex process—one widely discussed by philosophers and bitterly debated by partisans. I shall not go into that—other than to say this: the young, of every generation, have a way of putting all their money on one toss of the coin: Win this election or the world falls apart. Not so. Social change may sometimes result from the cataclysm of war or depression or revolution but even then it is still a matter of bits and pieces, of gain and loss, of unrelenting struggle. You can establish a legal right with a stroke of the pen but it takes a mighty effort, and perhaps several generations, to change human behavior.

Despite your understandable sense of frustration with the world, that same world has seen remarkable social change in the last fifteen years and young people have been in the vanguard: civil rights, the shift in opinion on the war in Vietnam, the electrifying awakening to the dangers of pollution and the urgent need for preservation of the environment. We have a long and tortuous way to go, particularly in extending equal opportunity and equal benefits of our society to minority groups—the number one problem in our nation today. But we have begun and enough of you are sufficiently sensitive and committed to get the job done if you will stand by your commitment.

4. I am frank to say that in effecting change, violence is not an acceptable or useful tool—not for this University or for higher education generally. If opinion polls on this campus and in the nation are representative, the overwhelming majority of you agree with me. The *Oregon Daily Emerald* in its last issue of the summer said it bluntly and truly. "Those who believe that violence can stop the terrible injustice being committed by this country may be sincere; but they are wrong . . ." "Engaging in physical violence and destruction of property", said the *Emerald*, "will only hurt the cause by further alienating the great bulk of Americans."

That does not mean that you should not express your opinions—not at all. Nor, if you cannot otherwise be heard, that you should not demonstrate or protest. But it does mean that wanton and irresponsible attacks on persons or property will be met with reprisals. It does mean, as the *Emerald* said, that "only a non-violent protest will be effective!" Not only non-violent, but one that does not disrupt the legitimate functions of this university.

5. Students—your predecessors—have demanded change not only in the society but in the University. They have told us they want university education to be more meaningful. Relevant is the term—and I judge *that* to mean an education that is meaningful to them—to you—now and in the future—one that helps you to establish a value system, to get your bearings in *this complex society*, and one that prepares you not simply to take a job in the establishment, but that will help you to build a better society.

To accomplish these ends students have demanded a greater participation in the functioning of the University. The University has responded, sometimes reluctantly, not always to the satisfaction of the students, but it has responded. At the University of Oregon, students now sit on nearly all committees of the general faculty, they serve on advisory committees to deans and other administrators and on many school and department committees. Students have taken the initiative in creating a highly imaginative, if occasionally somewhat troublesome curricular program called SEARCH, which permits them to initiate courses of special interest to them through appropriate departmental sponsorship.

I am in favor of these changes. I believe that they will make the University of Oregon a more vital institution, one better able to provide the kind of education young people need. More changes are to come. Some of them may come out of a special committee of faculty and students I have appointed to study and make recommendations on the government of the University.

I have two more items to discuss, both of them more immediate and programmatic.

6. First, the State Board of Higher Education this summer passed a new Code of Conduct, applicable to both faculty and students, proscribing behavior that is disruptive of university functions, destructive of property, or injurious to persons.

With respect to students, nearly every particular is already covered in the University Code, a copy of which is in your handbook. Moreover, the National Student Association, in cooperation with American Association of University Professors, and two organizations of student deans, several years ago recommended that colleges and universities develop specific codes, spelling out precisely behavior that was not acceptable on the campus. Prior to that time, and even to this day, discipline codes contained such vague phrases as conduct "in poor taste," or conduct not "conforming to the requirements of good manners and good morals," or "conduct prejudicial to the school," or "conduct unbecoming a student,"—all actual phrases from discipline codes. The University of Oregon Student Conduct Code, developed before the NSA report was published, and now largely affirmed by the State Board of Higher Education, has become a model for many colleges and universities.

One proposed regulation of the Board, to be acted upon next month, does, however, represent a sharp departure in procedures. This regulation provides that if the disciplinary procedures of any college or university in the Oregon State System of Higher Education break down, the President is instructed to appoint a hearing officer and proceed with the case outside the jurisdiction of the student-faculty courts. That is a procedure already adopted by many universities and required by the legislature in one or two states.

I doubt that we shall have reason to need this procedure. It is true that our student court system broke down almost completely last spring. But that was the first time it had been put to the test of handling cases of disruptive behavior. Students and faculty have been at work since spring on changes in the procedures designed to make the courts effective. I believe they will be.

What this all adds up to is this: A university as a center of inquiry and learning must be free. A university must be open to the expression of ideas, even if some—even many—believe those ideas to be wrong. It must combat error with reason and not with violence or coercion or disruption. There is no other way for a university to maintain its integrity. If there are those within the community who would destroy the university or impair its orderly functioning, then the University community must act. That is what the discipline code is all about.

7. Finally, I want to say a word about political activities for the fall term. The tragedies of last spring—Kent State, Jackson State, and the invasion of Cambodia, stirred students across this nation as they have never before been stirred. Some campuses erupted in protest and violence. Oregon was among the universities to respond with a positive program—discussions on campus and in the community, a petition drive that netted 60,000 signatures in a week's time. And students began to look forward to the fall election campaign.

The so-called "Princeton plan" calls for the closing of that university for two weeks before the November election. Only a few schools, mostly private, have adopted it. Requiring an early beginning or late closing of the fall semester, it is too costly for most students who attend our public institutions, and the two-week break is too interruptive for the short term of the quarter system. The University of Oregon will not close its classrooms or its doors for the campaign. Nonetheless, with the cooperation of the

XUM

student body president I have appointed a faculty-student committee to plan a program for fall term. The details will be made known to you shortly. It is enough to say now that the University is conscious both of student interest in public events and of its obligation to proceed with its educational program.

But let me add this word: many members of the general public are very anxious about the prospective events; indeed, many persons throughout our state were quite upset with the University and with the students who conducted the petition campaign last spring. I have tried to say to people, whenever the occasion permitted, that whether they agree or not, they ought to applaud the students' effort to make the American system work. The right to petition the government for the redress of grievances is clearly working within the system; it is one of the rights set forth in the First Amendment to the Constitution. But if your objective is to effect change, and not simply to assert your rights or to defy your elders, you will devote some of your effort this fall to evaluating the means to effect change.

I welcome you to the University of Oregon for what I hope will be a great year and a great experience for you. One of the great joys of life is discovery and of all discoveries in this world the discovery of knowledge is among the most exciting and rewarding. And so may it be with you.

REMARKS TO THE FACULTY

I am glad to welcome you at the beginning of this new year. As an old schoolmaster, I find that my pulse still quickens to the return of students to the campus and, despite the anxieties and tribulations of recent years, it is not a pulse that beats loud with anger or faint with trepidation. These have been troublesome years but exciting ones, and out of the student unrest, I believe, will emerge a stronger and better university—one more responsive to student and societal needs, but one no less committed to the search for truth and the acquisition and use of knowledge for humane purposes.

Perhaps these words are patently cant, but I do not think of myself as a Dr. Pangloss declaiming optimism in the face of disaster. The fact is that the University which nourished us and which we secretly cherish in the now unspoken and slightly embarrassing sentiment, *alma mater*, is not the University we serve today, and neither institution, past or present, is competent to meet the demands society has placed upon it. The University has changed much in the last three or four years, and undoubtedly it will change more in the years ahead. How, I do not know. I suspect, and fervently hope, that it will hold fast and enlarge its passionate search for knowledge, not for conspicuous consumption, not as Newman said to acquire "mere repertories of miscellaneous and officious learning," but, as he insisted, for the exercise of thought or reason on knowledge, in a way that will engage the energies of the student. And beyond that, the application of knowledge for humane purposes—long a practice of the university in the traditional fields of law, medicine, architecture, engineering and applied science, pedagogy and others.

We must improve our curriculum and instruction in all these areas, with particular concern for the public welfare. But we must reach beyond them to a more effective application of knowledge to the nearly insuperable problems the technological age has brought upon us—not simply as reformers whom later generations may applaud for their zeal and forgive for the little damage they have done—but as practitioners, skilled in the means to effect change, to transmit and implement the values we have professed but have not fully realized in our democratic society. We have made a modest beginning in the applied social sciences in our School of Community Service and Public Affairs and elsewhere. We need to enlarge and improve the enterprise.

I do not mean to suggest that we should politicize the University or that we should simply give credit for field work. Even if the central purpose of a college is defined as "socialization," as two eminent writers have recently defined it, the axis about which the socialization takes place remains the exercise of thought on knowledge. Field work or even political activity may serve as a laboratory exercise to be analyzed and evaluated. We have begun to develop the theoretical base and methodology necessary to serve that purpose. But to politicize the university is to subvert it. For once the university is perceived or used as a political tool or weapon, it will be seized by the strongest power and very likely that power will not be within the university.

This topic may well be an urgent issue this fall. The events of last spring—Kent State, Jackson State, Cambodia—have sensitized our students to political action. Of the many prospective institutional programs, the most widely known is the Princeton plan which calls for the closing of the university for two weeks before the November election. Only a few schools—mostly private—have adopted it. The plan, requiring an early beginning or late closing for the fall semester, is too costly for most students who attend our public institutions. The University of Oregon will not close its classrooms for the campaign. But it will have a program. With the cooperation of the president of the Associated Students, I have appointed a faculty-student committee to develop plans. The committee's recommendations will be announced this week.

We begin this fall term with mixed feelings of apprehension and confidence—apprehension because of the events of last spring, and confidence because of the manner in which our students and faculty responded.

The public reaction ranges from anxiety to anger. Against that background, and perhaps in anticipation of the forthcoming report of his Commission on Campus Unrest, President Nixon, according to the press, has addressed a letter to more than one thousand college and university presidents, charging them with the responsibility of maintaining order on the campus. I have not received, or have not yet received, a copy of the letter. I agree with the President that the university cannot tolerate disruption or violence and maintain its integrity. And I further agree that the university itself, and not the government, is the more competent agent to deal with disorder. But I concur also with the reported conclusions of the Scranton committee which not only condemn violence and disruption on the campus, but urge the President to ally himself with the American youth, to make a full commitment "to crucial domestic reforms to aid the poor, the blacks, the cities, and the environment."

The President in his Kansas State address urged colleges and universities to stand up and be counted. The University of Oregon has stood up to be counted against violence and disruption. It will continue to do so. But I want to emphasize that members of this University community will also stand up in alliance with students who are earnestly pressing for a reduction of the evils in our society which breed violence. All of us hope, I am sure, that President Nixon will stand up with us.

Certainly the President of the United States, more than any other person, can set the tone and lead the way for change.

I regret to spend so much time on the topic of campus disruption and violence, but events of the last year, and public concern make further comment necessary. Last spring and this summer students and faculty have worked together to make significant changes in our procedures for enforcement of the rules of conduct. Not only from the demands of the public, but on the recommendation of the University, and with its cooperation, the State Board of Higher Education has taken action to make the rules of conduct clear to all.

The procedural change adopted last spring was written by a member of our faculty. Our faculty submitted many of the specific provisions written into the code this fall and participated actively in modification and improvement of all of its sections. The specific procedure, including the definition of "cause' as recommended by our faculty was, regrettably, not adopted by the Board. When the faculty and board were so nearly in agreement on the new provisions, I regretted that they could not reach an accord on this and two or three other issues. But the board did reaffirm its long-standing commitment to faculty participation in the procedures and in the determination of penalty. And it did draw a distinction between speech, which it protected and disruptive action or speech unequivocally linked with riotous action, both of which it proscribed.

I believe that the action of the Board provides us a basis for adequate controls on the campus, for defense of the rights of faculty members, and for protection from the imposition of unjust and oppressive regulation by an angry public. Last summer I attended a special meeting of the National Association of State Universities and Land-Grant Colleges. It was a grim session. Institution after institution reported the same pattern; inadequate discipline code, collapse of the disciplinary procedures, precipitant action taken outside the code, or on the basis of vague and unconstitutional provisions, intervention of the courts, failure to repair the code, intervention of the legislature.

In one state the regulations of the Board of Regents now have the force of law and the student guilty of infraction is subject to trial in the criminal courts; in the same state the courts are empowered to expel a student from the university for infraction of a law; in one state the legislature authorized the withholding of funds from any institution that cancels its classes because of student disruption; in several institutions the regents or the legislature have ordered the use of a hearing officer who, in some instances, will function outside the jurisdiction of the university or its president. Thirty-two states last year passed restrictive or repressive legislation; I do not know the count for this year. Given these circumstances, and given the very nature and integrity of the university, I believe it wise that the faculty of this institution, and the State Board of Higher Education have moved to deal with the problem in a context that is appropriate to the academy.

Unhappily, there are other by-products of campus disruption. Robert Nisbet, professor of sociology at Riverside, has said in a recent statement that "Although most persons tend to think of *freedom* as the consequences of eroding authority in a culture, this is not the case, for freedom cannot exist save in circumstances of accepted authority." In times of stress the failure, or even the apparent failure, of the University to exercise its authority will result in the assumption of that authority by other agencies. "The first and crucial manifestation," he says, "will be increased participation of boards of trustees . . . in academic, including curricular affairs on campus."

We have, I believe, an unusually good governing board, one that has tried to act responsibly and not vindictively, a board that has sought to protect the welfare of the institutions it governs and at the same time to meet its obligations to the citizens of Oregon. Yet it showed uncertain and uneasy confidence in the management of academic affairs in some of the institutions when it refused to give more than tentative approval

XUM

to projected curricular and administrative changes. Three of these were at the University of Oregon: the new legislation on group requirements, the reduction of' the English composition requirement from nine to six credits, and the change in the grading system.

More significant is this fact: in years past, the secretary of the faculty informed me, changes of this order were not referred to the Board for action. I know that many years ago the University required only six hours of English composition, and I believe that it did not refer the matter to the Board when it increased the requirement to nine credits. I was a member of the committee that recommended a substantial increase in group requirements, a change not referred to the Board. I know that the Honors College was legislated without reference to the Board, and that an earlier and less imaginative plan—in which I had a part—to reward a student for his achievement rather than to punish him for his failures was not referred—nor was it referred some years later when it was dropped as an abortive and unsuccessful experiment. The University had some sense of freedom to experiment, evaluate, confirm or retract.

Given this understanding I did not refer last spring's legislation to the Board. But a concerned member asked that it be placed on the agenda for discussion and possible action. I do not for one moment question the Board's authority to act. But I do regret the erosion or seeming erosion of confidence. In these times when change and experimentation are essential to the well-being of higher education we require also a climate of confidence that will make change possible. We cannot always expect that our several publics will agree with us, we may have to fight for programs we believe educationally sound. The public will more easily endure such struggles if they are persuaded that the University, indeed, acts within the context of authority and not as a consequence of its diminution. But in saying all of this we must not overlook the fact that the Board does allow us considerable latitude for experimentation in course offerings—and I am confident that satisfactory lines for the exercise of authority in curricular matters will be drawn.

I could tell you a much happier story of what I believe to be a growing sense of confidence in the University. It seemed a strange thing to me last year when I returned to the campus that this university so highly respected in all parts of the country should be held in low esteem by some of the citizens of the State, including, unfortunately, some of our own alumni. My mail in these past months has not been a litany of praise. But I believe that we have turned the corner. I have tried to answer every inquiry, complaint, and commendation. I have sometimes written angrily, bluntly, aggressively, but I have also tried to understand the other man's point of view, to interpret events in a larger context, to be conciliatory where it was possible, without apology or improper concession, and to furnish facts that speak for themselves. Largely through the efforts of the Development Fund Office, I have spoken in many communities of the State, in Portland a dozen times, a self-constituted group of local citizens has met with me frequently to acquaint themselves with the issues, the Alumni Association, Oregon Mothers, Oregon Dads have rallied to our support.

From these groups we have developed a limited mailing list of persons to whom we have sent special letters, circulars, documents. Some of these many people have done much to interpret the university to a larger public; some of them have devoted much time and effort in our behalf; some of them have been fiercely supportive of the University. My mail has begun to look better. In these times of financial stress, contributions of unrestricted dollars to the Development Fund increased appreciably last year. The Report from the President, sent to some 50,000 people, has prompted many favorable responses. One man wrote "You have met many of my arguments against higher education. You have turned me around. Please send fifty more copies for me to distribute to my friends."

Many of you, professors, administrators, counsellors, dormitory staff, and students, have been intimately involved in many ways, sometimes with an enormous investment of energy. On behalf of the University, I thank you.

I have one more topic to discuss: last year we gave much attention to the thorny question of the government of the University. I said to you at the first meeting of the faculty that I favored a delegate legislative body and a higher degree of student participation. I still hold those views and I suspect that the issue is still a thorny one. In consequence, I have, on recommendation of the Advisory Council, appointed a special faculty-student committee to study the question and make recommendations.

I believe that we can profit from student insights and that our government ought to provide an adequate means to make their judgments, interests, and wants known and felt. I believe also, that faculty as professionally trained men and women have special responsibility for university government, for the development of the curriculum, the content and method of instruction and evaluation, the selection, retention, and advancement of professional colleagues.

Further, I believe that an abridgement of the faculty's ultimate professional responsibility would lessen the quality of the University education and will invite intrusion into and direction of university business by outside forces. We shall have some differences over these questions. The discussion of differences, I trust, will lead to a clearer definition of roles and an accommodation that will be most beneficial to the University.

What more shall I say?—with Eliot:

"Now, we come to discover that the moments
of agony—are likewise permanent
With such permanence as time has—
People change, and smile: but the agony
abides."

183D ANNIVERSARY OF SIGNING OF THE U.S. CONSTITUTION

Mr. ALLEN. Mr. President, representatives of the Thirteen Original Colonies met in Washington, D.C., on September 17, 1970, to participate in ceremonies at the Washington Monument commemorating the 183d anniversary of the signing of the U.S. Constitution. This anniversary date is recognized throughout the land as Constitution Day.

Mr. President, I was distressed that the local press and the national media in general gave so little attention to this important event. In contrast I am particularly proud of the attention given Constitution Day in Alabama. The Birmingham News observed the event with a very fine editorial which I commend to the thoughtful consideration of Senators and members of the public.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MEN, NOT ANGELS

Today is Constitution Day, an appropriate time to reflect upon the document which has allowed this nation nearly 200 years of continuous government.

With one tragic exception, the political character of our nation has been blessed with stability amidst peaceful change. And even in the case of the Civil War, the unity of the nation emerged intact; the great experiment of government of the people, by the people and for the people continued to be a model for the world.

The Constitution and the government it established are not perfect; and neither did its framers pretend that it was. Yet, in nearly two centuries it has been amended only 23 times—10 of these amendments being the original Bill of Rights.

The strength of the Constitution has been not in rigidly spelling out the minute functions and powers of governmental departments, but in setting forth broad principles upon which the government is founded.

Ironically, some of these principles have been so taken for granted in the course of the years that their genius has been obscured.

Lest it be forgotten, the form of government established by the Constitution is a *republican* government—not a *democratic* government.

Go back to the *Federalist Papers*, the collection of essays written by Alexander Hamilton, John Jay and James Madison in defense of the newly-drafted document.

These men, who signed their papers "Publius," were aware of the distinction. A *democracy* to them was a form of government in which the people themselves met to conduct affairs of state. The nature of direct participation necessarily limits its exercise to a very small geographical area: A town, perhaps; a large and growing country, impossible.

James Madison wrote that, "we may define a *republic* to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior."

Another neglected principle underlying the Constitution—one which nowadays we may ignore at our peril—is the principle of *federalism*.

The Constitution is The *Federal* Constitution. It is not a *national* constitution. The *federal* government was not intended to be a *national* government of consolidated powers.

In a federal republic, the powers surrendered by the people are divided between the state and federal governments in certain expressed proportions. Under a federal system, the states retain their sovereignty and are departments separate and distinct from the federal government.

"Hence," wrote Madison, "a double security arises to the rights of the people. The different governments will control each other; at the same time that each will be controlled by itself."

In another essay, Madison painstakingly reviewed each function of the government provided in the then-proposed Constitution and demonstrated that in some respects the operation of the government is national in character, but that for the most part the federal nature prevails. Even the method of ratification of the Constitution was devised so as to be a federal, not a national act.

"It is of great importance in a republic," Madison wrote, "not only to guard the society against the oppression of its rulers; but to guard one part of the society against the injustice of the other part."

The federal system does this, he continued, by breaking the society down into so many departments (the states) that "the minority will be in little danger from interested combinations of the majority" within the society.

And yet today we find many who are will-

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ing to forego the protections of the federal system for an ever more powerful national government.

As a practical matter, the power of the federal government has already grown to such an extent that it looms over the once-sovereign states, treating them as mere subdivisions of a national government.

This erosion of federalism has been hastened by the effects of constitutional amendments, judicial interpretations—even by acts of Congress.

An all-powerful national government, if benevolent, has vast powers, it is true, to solve problems for the people. But without the checks of the federal system, this awesome power can also menace the rights of the people.

"It may be a reflection on human nature," Madison wrote, "that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external or internal controls on government would be necessary."

But much of the extremely liberal idealism today naively assumes angelic benevolence is a characteristic of a massive central government. It ignores the safeguards of federalism for the mathematical formula of the popular majority. It shuns our republican roots in search of pure democracy.

It is an ideology ignorant of how the governmental system functions, yet quick to condemn and eager to change for change's sake.

But it is the very system the radical-change-seekers deplore which succeeded well enough to nourish their ambitious expectations of how things should be.

And if made safe from undue tampering, the system under the Constitution will continue to work well. Not perfectly. But remarkably well.

JACK KOLE POINTS OUT THE HIGH COST OF NONRETURNABLE BOTTLES

Mr. NELSON. Mr. President, this country is faced with a mounting pile of solid wastes which are overburdening our local community facilities and causing serious environmental and health problems all across the Nation. A major component of solid wastes is discarded packaging materials. Whereas every person in the United States produced 404 pounds a year of discarded packaging in 1958, in 6 years it is estimated that this figure will be 661 pounds per year of packaging—paper, glass bottles, metal cans, wood, plastics, and textiles—for every man, woman, and child in this country.

In addition to the massive quantitative burden these discarded bottles, jars, cans, and paper place on our environment, their one-time use is extremely costly to the consumer. Mr. Jack Kole, Washington correspondent for the Milwaukee Journal, recently pointed out "that the American public could save a startling total of $600 million a year by purchasing soft drinks in returnable bottles" instead of throwaway cans and bottles. And another $840 million could be saved by the consumers of this country if they purchased their beer in returnable containers instead of throwaways. Thus the purchase of two items—soft drinks and beer—in returnable containers would save the American public $1,440,000,000 each year. And this direct savings does not reflect the additional savings of public moneys which would not have to be spent to attempt to dispose of these containers.

Mr. President, I invite the attention of the Senate to Mr. Kole's comments and ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ACCENT ON THE NEWS

John W. Kole, Washington Correspondent—Based on price differentials in Washington and Richmond, Va., the Crusade for a Cleaner Environment has calculated that the American public could save a startling total of $600 million a year by purchasing soft drinks in returnable bottles.

For example, it found that a six pack of Coca-Cola in 12 ounce throwaway cans retails here for 89 cents, compared to 69 cents for returnable 12 ounce bottles. That's a 20 cent saving per six pack. In Richmond, the savings is 24 cents.

It then applied a 4 cent per container savings to the estimated 15 billion cans and returnable bottles of soft drinks purchased in the United States each year. The organization said that if similar savings could be made on 21 billion throwaway cans and bottles of beer, another $840 million could be kept by consumers.

JOHN SCHMITT, PRESIDENT OF THE WISCONSIN STATE AFL–CIO, WRITES ON LABOR'S POINT OF VIEW

Mr. NELSON. Mr. President, labor in Wisconsin has had remarkable leaders over a long period of years. The spirit of the old European craft guilds was brought along to this country, found fertile ground, grew, and formed the basis for a flourishing American labor movement in Wisconsin.

Since those early beginnings, unionization in the craft and industrial trades within Wisconsin has multiplied and prospered and the workingman today is much more economically secure than his father and grandfather were.

An article in the September 28, 1970, issue of the Milwaukee Journal has some interesting comments about organized labor which are well worth reading.

The author, John W. Schmitt, is one of the most thoughtful and dedicated labor leaders in America. As president of the Wisconsin State AFL–CIO, he discusses some aspects of the labor movement which deserve careful consideration.

No matter whether the reader is in agreement or opposition with these views, I recommend John Schmitt's article to the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MYTHS ABOUT ORGANIZED LABOR CAN HARM PUBLIC AS WELL AS UNIONS, SAYS SCHMITT

I'd like to correct some of the moth eaten myths about organized labor that have been floating around for too many years.

In view of the fact that these myths have been perpetuated to a large degree by inadequate, inaccurate and even biased reports of labor activities by much of the general news media, the press must be the first target of our efforts to place these myths in the ashcan.

These myths have become potentially very harmful to the general public as well as to labor unions. The labor movement has much to contribute to our communities, state and nation in this period of social unrest and disunity. It can do this job better if the public is not confused by antilabor mythology.

One myth is the widespread belief that labor unions have been the cause of a large amount of industrial strife. It is fed by the widespread publicity given to strikes. The facts are, of course, that labor unions have been this nation's most effective instrument for promoting and maintaining peaceful human progress and stability in our industrial world.

MOST CONTRACTS RUN COURSE WITHOUT STOPPAGE

This is demonstrated emphatically in the statistics of the US Department of Labor. During the 1960s, for example, more than 98% of the 150,000 labor-management agreements in the nation ran their course without a strike or work stoppage of any kind.

Even more impressive, man-hours lost due to strikes during the decade amounted to less than a quarter of 1% of the total worked. By contrast, time lost due to industrial accidents and illness was about 10 times as great. It should be obvious that the real signifiance of collective bargaining in our economy should be the peaceful and orderly progress that it has made possible. However, this is not the impression the public gets from the news media.

In this period of rising living costs, another myth that has received widespread and distorted attention in the press is the so-called role of union negotiated wage increases as a factor in causing inflation. The fact is, of course, that labor union members along with all workers actually took a cut in real wages in the period from 1965 through 1969 when corporate prices, profits and dividends were soaring to record highs.

Labor unions generally have been in the position of having to catch up with inflation this year. On the basis of the increase in the cost of living in 1969 and thus far in 1970, unions have had to negotiate for increases of more than 10% just to catch up with the level of real wages that prevailed in 1965.

Any competent, honest economist will admit that wages have traditionally trailed price and profit increases. Yet the myth that wage increases are a major factor in inflation is continually repeated in news reports about major wage negotiations and settlements.

By contrast, I've read or heard very little about the inflationary impact of the record high interest rates charged by banks, yet these affect the cost of living of every man, woman and child in the country.

BIG UNIONS DWARFED BY BIG BUSINESS

Another myth, promoted primarily by spokesmen for such organizations as the U.S. Chamber of Commerce and the National Manufacturers Association, is that unions have become too large and too powerful. To anyone familiar with the increasing trend of the concentration of more and more of the economic wealth of this nation in fewer and fewer corporate giants, this so-called concern is not only a myth but a joke.

A recent study by Dr. Willard Mueller, University of Wisconsin economics professor, has disclosed that corporate conglomerates multiplied and grew faster in the decade of the 1960s than in any previous period in history. His study showed that by the first quarter of 1970 a small elite of 102 corporations, each with assets exceeding a billion dollars, controlled 48% of the assets and 53% of the profits of all corporations engaged primarily in manufacturing. The remaining assets were divided among more than 198,000 corporations.

Right now, the UAW, one of the largest

unions in the nation, is on strike against General Motors, the largest manufacturing corporation in the world. How do they compare in terms of economic power? The UAW went into the strike with a strike fund of about $120 million, enough to pay its striking GM members $30 to $40 a week in benefits for a period of six or seven weeks. GM in 1969 had consolidated assets of $14.8 billion and another $9 billion in its wholly owned subsidiary, General Motors Acceptance Corp.

The problem of bargaining effectively with these huge conglomerates is one of the most serious challenges confronting organized labor. It is obviously going to require larger unions and stronger co-operation by all labor unions than ever before. And it certainly explodes the myth that labor unions have become too large and too powerful.

"BOSSES" HAVE NO PLACE IN DEMOCRACY

Finally, I'd like to deal with the related myth—the one that attributes all labor problems to the power and influence of the so-called "labor bosses." This myth is not only completely inaccurate, but it's an insult to the intelligence and character of the millions of rank and file members of the labor movement. The fact is that labor unions at all levels are the most democratically run organizations in our nation. No union leader is any stronger than the support he can count on from the rank and file membership.

Two Harvard professors recently published a book on this subject. Their conclusion was that many business and industrial leaders like to believe this myth because they prefer to blame their labor troubles on "some opportunistic union leader" rather than to face the facts that their employes are dissatisfied with their wages or working conditions.

Labor leaders who don't recognize and respond to the needs of their rank and file members don't have very long careers as "labor bosses." Every successful labor leader understands this. We could eliminate many of the problems confronting our society today if all leaders in government, business, industry and other organizations had to be half as responsive to the people they're supposed to serve as labor leaders must be to their members.

JOHN W. SCHMITT.

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CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The legislative clerk read as follows: Calendar No. 1135, Senate Joint Resolution 1, proposing an amendment to the Constitution of the United States relating to the election of the President and the Vice President.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT

Mr. BYRD of West Virginia. Mr. President, under the order of yesterday, I ask unanimous consent that the unfinished business be temporarily laid aside, and that the Senate proceed to the consideration of the pending EEOC bill.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows: Calendar No. 1153, S. 2453, a bill to further promote equal employment opportunities for American workers.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there may be a quorum call, with the time charged equally to both sides on the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Under the previous unanimous-consent agreement, all time is now under control.

PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the same committee staff members who had the privilege of the floor yesterday be given the privilege of the floor today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I should like to state that I should like to have a rollcall on some of my amendments. Of course, we cannot legislate unless a quorum is present.

I do not care to speak at great length on this matter.

The PRESIDING OFFICER. Does the Senator yield time to himself?

Mr. ERVIN. I yield 10 minutes to myself, Mr. President.

The PRESIDING OFFICER. On the bill?

Mr. ERVIN. I am going to offer an amendment.

Mr. President, I call up my amendment. In it I move to strike the following: Subsection (1), which appears on lines 1, 2, and 3 on page 26. What I move to strike is this language:

> (1) In subsection (a) insert "governments, governmental agencies, political subdivisions," after the word "individuals".

The purpose of this amendment is to perpetuate the right of the States and their subdivisions, which has existed ever since George Washington took his first oath as President of the United States, to hire their own employees without interference on the part of the Federal Government.

Yesterday I made some remarks in which I pointed out that this bill constitutes a most drastic assault upon our federal system of government; that it would give to the Equal Employment Opportunities Commission the power to tell the States, the power to tell counties, the power to tell municipalities, the power to tell townships, the power to tell school boards, the power to tell sanitation districts, and the power to tell all other subdivisions of the State government whom they could hire, fire, and promote.

Not only that, it would give the Commission the power, for all practical purpurposes, to fix the compensation of those employees. Under this bill, the Commission could find that the States and their political subdivisions had practiced discrimination on the basis of race, color, religion, national origin, or sex. For all practical purposes, the Commission's findings would be final. This is true because the bill prostitutes the judicial process by denying the courts any effective procedure to change the findings of fact of the Commission. And by finding that the State or one of its political subdivisions had discriminated on one of the prescribed grounds in respect to terms of employment or compensation, the Commission could effectively prescribe the terms of employment or the compensation of an employee whom it found had been treated differently from other employees on the grounds enumerated. By the bill Congress empowers the Commission to say to an employer, "You cannot refuse to hire A, whom you have refused to hire and whom we have found, despite your evidence cogent to the contrary, you are discriminating against on one of the specified grounds." When the Commission has the power to say, "You cannot refuse to hire A," the Commission has the power to say, "You must hire A."

Thus, the bill would empower an agency of the Federal Government, composed of men who are not elected by anyone, and who cannot be held responsible to anyone, to assume control of the employment practices of all the States and all the political subdivisions of the States. Not only that, the bill would bring within the compass of the jurisdiction of the EEOC every educational institution in the United States. The bill would give the Commission the power to tell every educational institution whom it must hire to teach mathematics, philosophy, sociology, history, and so forth. The Commission could even command a college which is supported by a religious denomination to hire an infidel to teach any subject not of a religious nature.

I say, Mr. President, this bill is probably the most tyrannical proposal which has ever been made to a legislative body in this country. The bill shows a contempt for the fundamental liberties of all the American people.

Yesterday I pointed out that the bill

constitutes a gross prostitution of the judicial process; that it would unite in the Commission the power to prefer charges, the power to investigate charges, and the power to determine whether the charges should be made the subject of quasi-judicial action. And when it determines that the charges are to be made the subject of quasi-judicial action the commission would act as judge and jury, and, I might add, the executioner.

Mr. President, the bill provides for the financing of one side of the controversy and denies it to the other. It brings within its orbit every person in the United States who employs as many as eight persons. This Federal Commission would take charge of hiring practices of virtually every small businessman in the Nation and deny them the right, in the ultimate analysis, to make their own contracts of employment. It deems it wholly immaterial that these men invest their talents and their money in their business enterprises, and denies them the ultimate right to hire or to promote those whom they think will make their undertakings successful.

The bill would, in effect, take away from them, in the ultimate analysis, the power to determine whom they shall hire, whom they shall promote, whom they shall discharge, and what compensation they shall pay to these persons. Under the broad power to enforce whatever it considers to be discrimination within the purview of the bill, the commission would succeed to all these powers in the final analysis.

Hence, it seriously impairs essential ingredients of the free enterprise system.

Not only that, but the bill is so drafted that it is virtually impossible for the courts to give an independent appraisal of the factual decisions of the commission. Since the law arises out of the facts, the power which finds the facts—in this case the Commission—really controls the ultimate legal decision.

Mr. President, the bill robs little businesses in America of their rights to select their employees; it robs the States and their subdivisions of their rights to employ their employees; and it robs the educational institutions of the country of their rights to determine who shall constitute their faculties. Moreover the bill is so drafted as even to rob the courts of the right to make an independent determination of the facts in the case.

The bill will give the Commission the power to find the facts and will make those findings of fact binding on every court in the land, if those findings are supported, as the bill provides, by "substantial evidence." Five percent of the evidence is substantial. The evidence can be 5 percent one way and 95 percent the other, but the Commission could make its own findings of fact, on the basis of the 5 percent, and no power on earth, including the Supreme Court of the United States, could interfere with those findings of fact.

Mr. President, I would say, Let me write the verdict and I care not who writes the judgment. The verdict—the facts—determines the judgment. By its provision giving the Commission the virtually unreviewable power to find the facts, the bill constitutes a gross prostitution of the judicial process. It contains so many inequities in it that in an effort to cure a few of them, I have submitted amendments Nos. 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 998, and 999, in an effort to give some legislative respectability to the bill.

Mr. GRIFFIN. Mr. President, will the Senator from North Carolina yield?

The PRESIDING OFFICER (Mr. CRANSTON). Does the Senator from North Carolina yield to the Senator from Michigan?

Mr. ERVIN. I yield.

Mr. GRIFFIN. It is not clear to me whether an amendment by the Senator from North Carolina is now pending.

Mr. ERVIN. Yes. I offered an amendment——

Mr. GRIFFIN. I believe it has not been stated, however, is that not correct?

The PRESIDING OFFICER. The Senator is correct, it has not yet been reported.

Mr. GRIFFIN. It might be appropriate if the amendment were to be stated and identified.

Mr. ERVIN. I stated at the beginning of my remarks that I moved to strike lines 1, 2, and 3 on top of page 26 which constitutes a part of section 2 of the bill. Those are provisions in the bill which would give the Commission jurisdiction over so-called discrimination charges in respect to hiring of the employees of all States and all political subdivisions of States.

Mr. GRIFFIN. Is it a printed amendment?

Mr. ERVIN. No, it is not printed.

The PRESIDING OFFICER. Does not the Senator from North Carolina mean on the top of page 26?

Mr. ERVIN. Page 26; that is right, Mr. President.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows: On page 26, strike out lines 1, 2, and 3.

Mr. ERVIN. Mr. President, my proposed amendment in the form of a motion to strike is, in effect, exactly the same as amendment No. 975 which was submitted originally by the distinguished Senator from Colorado but not called up for Senate action by him.

Mr. President, I ask unanimous consent that the amendments I have previously enumerated be printed in the RECORD at this point.

There being no objection, amendments Nos. 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 998, and 999 were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 985

On page 32, subsection g(1), strike the third sentence and insert "After the Commission issues a complaint it may, upon application by the person aggrieved or the respondent, appoint an attorney for such person in any case in which it determines that the aggrieved party or the respondent is unable to pay for an attorney without undue hardship, or in any case in which the interests of justice and fair play would be served thereby."

AMENDMENT No. 986

On page 28, line 20, strike the period and insert "or any other person.".

On page 29, line 6, after "employee," insert "or any other person.".

On page 29, line 9, after "Commission," insert "or any other person.".

AMENDMENT No. 987

On page 33, lines 3 through 12, strike subsection g(2) and insert: "After the Commission issues a complaint, it may, upon application by the person aggrieved or the respondent, compensate such person for reasonable expenses in connection with the preparation for the hearing and in connection with participation in the hearings, including the cost of expert witness fees, transcripts, and copying. Not more than $1,000 will be allocated in any single proceeding to carry out the provisions of this paragraph. The Commission may perform the services for which such party would otherwise seek reasonable expenses under this subsection."

AMENDMENT No. 988

On page 28, line 5, strike "or on behalf of"; on lines 6 through 8, strike "or by an officer or employee of the Commission upon the request of any person claiming to be aggrieved,".

On page 29, line 18, strike "or on behalf of".

On page 30, beginning with line 16, strike all through line 5 on page 31; and renumber the following subsections as appropriate.

AMENDMENT No. 989

On page 27, line 22, strike the period and insert the following: "or to an educational institution with respect to the employment of individuals to perform work connected with the educational activities of such institution.".

AMENDMENT No. 990

On page 33, line 23, beginning with "and" strike all through "Commission".

On page 34, line 1, and on page 34, line 12, insert the following new sentence: "In any action or proceeding under this title the Commission in its discretion may allow the prevailing party a reasonable attorney's fee as part of the cost. If the Commission determines that the complaining party is financially unable to pay such fees, the Commission shall pay such reasonable fees out of its own funds."

AMENDMENT No. 991

On page 39 strike subsection (m), lines 9 through 19, and renumber the following subsections as appropriate.

On page 40, lines 3 through 5, strike the last sentence of subsection (n).

AMENDMENT No. 992

On page 40, strike lines 6 through 10 and insert the following new subsection:

"(o) The Attorney General shall conduct litigation to which the Commission is a party in or in which the Commission has an interest."

AMENDMENT No. 993

On page 54, beginning in line 10, strike all through line 14 on page 55.

AMENDMENT No. 994

On page 41 strike subsection (q) beginning on line 13 through page 43, line 19, and renumber the succeeding subsections as appropriate.

AMENDMENT No. 995

Subsection (q) on page 41 is amended to read as follows: "If a charge filed with the Commission pursuant to subsection (b) is

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dismissed by the Commission, or if within sixty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d), whichever is later, the Commission has neither issued a complaint under subsection (f) nor entered into an agreement under subsection (f) or (i) which is acceptable to the Commission and to which the person aggrieved is a party, the Commission shall so notify the person aggrieved and such person may, within thirty days thereafter petition the court for an appropriate order. If the court finds that there is reasonable cause to believe that the facts alleged are true, and that the Commission has abused its power in dismissing the charge or has not been acting with due diligence on the charge, the court shall issue an order directing the Commission to issue a complaint. If, in the case of an agreement pursuant to subsection (i) to which the person aggrieved was not a party, the court finds that the acceptance of such an agreement was an abuse of discretion by the Commission or that the interests of justice are not served by the agreement, it shall issue an order dissolving the agreement and directing the Commission to proceed forthwith with further consideration of the charge or to issue a complaint."

AMENDMENT No. 996

On page 44, line 24, add the following new sentence at the end of subsection c(1): "If the Attorney General thereafter determines that the Commission no longer has the capability or the intention to carry out the functions set forth in this section or that a transfer under this subsection no longer contributes to the carrying out of objectives under title VII of this Act, he shall so certify to Congress. Ninety days after such certification, the Attorney General shall resume his functions under this section unless the Congress upon joint resolution shall object to such resumption."

AMENDMENT No. 998

Subsection (p) on pages 40–41 is amended to read as follows: "The Commission shall have the power, upon the issuance of a complaint as provided in subsection (f) of this section charging that any person has engaged or is engaging in an unlawful employment practice, to bring in action for appropriate temporary or preliminary relief pending its final disposition of such charge, or until the filing of a petition under subsection (k), (l), (m), or (n) of this section, as the case may be, in the United States district court for any judicial district in the State in which the unlawful employment practice concerned in alleged to have been committed, or the judicial district in which the aggrieved person would have been employed but for the alleged unlawful employment practice, but, if the respondent is not found within any such judicial district, such an action may be brought in the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28, United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a judicial district in which such action might have been brought. Upon the bringing of any such action, the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law. Rule 65 of the Federal Rules of Civil Procedure, except paragraph (a)(2) thereof, shall govern proceedings under this subsection."

AMENDMENT No. 999

Strike out all after the enacting clause and insert in lieu thereof the following:

"That (a) the Congress hereby declares that in order to restore an appropriate division of governmental authority between the three coordinate branches of the Federal Government in the area of equal employment opportunities and to preclude encroachment upon the legislative powers and functions of the Congress through the issuance of Executive orders in this area, it is necessary to provide that the remedies enacted by Congress to secure equal employment opportunities shall be the exclusive Federal remedies available in this area.

"(b) The actions, endeavors, investigatory proceedings, and other remedies provided by title VII of the Civil Rights Act of 1964 shall be the exclusive means under Federal law of enforcing the equal employment opportunities secured by such Act.

"(c) Executive Order Numbered 11246, as amended, title VI of the Civil Rights Act of 1964, and any other law or Executive order of the United States securing equal opportunities, and all rules or regulations issued thereunder, are hereby superseded to the extent that they provide any actions, endeavors, investigatory proceedings, or other remedies with respect to any act or practice prohibited therein which would also constitute an act or practice made an unlawful employment practice under title VII of the Civil Rights Act of 1964. Nothing in this Act shall relieve any person of any obligation assumed or imposed under or pursuant to any such law or Executive order prior to the enactment of this Act.

"(d) Nothing in this section shall apply with respect to any law of any State or political subdivision of a State."

Mr. ERVIN. Mr. President, I do not expect to call up all of my amendments. I should like to have these all printed to demonstrate to my constituents and to the rest of the American people that I am aware of the innumerable iniquities in the bill.

If I could get the time in these harried and hurried days of the session to call up these amendments, I would do so. But if they are printed in the RECORD as a part of my remarks, the House Members will have the benefit of them, when they consider this matter in what I hope will be a more leisurely atmosphere than prevails in the Senate at this time.

Mr. WILLIAMS of New Jersey. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. I yield.

Mr. WILLIAMS of New Jersey. I have asked the Senator to yield to me so that I may understand the procedure better here.

It was my understanding on yesterday that several amendments that have been spoken of this morning by the Senator from North Carolina were to be voted on en bloc. Was that in error?

Mr. ERVIN. I am not going to ask that all of these amendments be voted on en bloc. I had originally intended to do so. Copies of these amendments have been inserted in the RECORD. All of them are very important and I will ask for rollcalls on some of them.

Mr. WILLIAMS of New Jersey. Mr. President, I have not examined all of these amendments, of course. I would like to ask to have included in the RECORD my observations on the amendments after I have had an opportunity to read them.

Mr. ERVIN. Mr. President, I certainly would have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, for the information of the distinguished Senator from New Jersey, I would say that I expect to offer several amendments: in addition to the amendment, which I am now offering in the form of a motion to strike, I shall offer, for example, another amendment to strike the provisions which bring educational institutions within the purview of the jurisdiction of the Commission.

Mr. WILLIAMS of New Jersey. Mr. President, I certainly appreciate the clarification by the distinguished Senator from North Carolina.

Mr. ERVIN. Mr. President, I do have another amendment, amendment No. 984 which would have established the Office of General Counsel of the Commission. I ask unanimous consent that this amendment also be printed at this point in the RECORD.

There being no objection, the amendment (No. 984) was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 984

On page 27 following line 22 insert the following new section 4 and renumber the succeeding sections as appropriate:

SEC. 4. Section 705 of the Civil Rights Act of 1964 is amended by adding a new subsection "d" as follows, and redesignating the succeeding subsection as appropriate:

"(e) There shall be a General Counsel of the Commission who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel of the Commission shall exercise general supervision over all attorneys employed by the Commission (other than trial examiners and legal assistants to Commission members) and over the officers and employees in the regional offices. He shall have final authority, on behalf of the Commission, in respect of the investigation of charges, the entry into conciliatory agreements, and issuance of complaints under subsections (b) and (f) of section 706, and in respect of the prosecution of such complaints before the Commission, and shall have such other duties as the Commission may prescribe or as may be provided by law. In case of a vacancy in the office of the General Counsel the President is authorized to designate the officer or employee who shall act as General Counsel during such vacancy, but no person or persons so designated shall so act (1) for more than forty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted."

Mr. ERVIN. Mr. President, the distinguished Senator from Ohio (Mr. SAXBE) yesterday afternoon offered a somewhat similar amendment which accomplishes the same purpose. For this reason, I will not press for action on my amendment which was designed to establish the Office of General Counsel.

Mr. WILLIAMS of New Jersey. Mr. President, I was advised that there would be offered today one amendment dealing with the situation where a respondent was unable to finance counsel fees, thus presenting undue hardship, and that the amendment would have provided that counsel could be appointed by the Commission.

Is that one of the amendments?

Mr. ERVIN. That is one of the amendments.

Mr. WILLIAMS of New Jersey. Mr.

President, there is one other that I would like to mention. That concerns an amendment that would specify that the Commission's findings must be by a preponderance of the evidence.

Mr. ERVIN. That is another one of the amendments. If the Senator from New Jersey is willing to accept those amendments, I will offer them for action after the pending amendment is acted on.

Mr. WILLIAMS of New Jersey. Mr. President, I was advised that they would be offered. Both seem highly reasonable and to have merit. I believe they would strengthen the bill. For myself, I would say that if they were offered, I would be willing to accept those amendments.

Mr. ERVIN. Mr. President, I will present them right after the vote on the pending amendment. I appreciate the willingness of the Senator from New Jersey to accept them. I will not go so far as to say that they would improve the bill, but I will say that they would render it slightly less obnoxious to the Senator from North Carolina.

Mr. WILLIAMS of New Jersey. Mr. President, I was impressed. I think they have a great deal of merit. The Senator from North Carolina improves so much of the legislation as it passes through that I certainly want to accept those amendments that prove not particularly obnoxious to me.

Mr. ERVIN. Mr. President, perhaps I could get unanimous consent to withdraw the pending amendment temporarily and let these two be agreed upon and then go back to the pending amendment.

The PRESIDING OFFICER. The Senator does not need unanimous consent. He has the right to withdraw his own amendment.

Mr. ERVIN. Mr. President, I temporarily withdraw the pending amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 997

Mr. ERVIN. Mr. President, I call up amendment No. 997.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 33, line 13, following "fines" insert "by preponderance of the evidence taken by the Commission".
>
> On page 35, line 2, strike "on the record." and insert "by a preponderance of the evidence of the record.".

Mr. WILLIAMS of New Jersey. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. WILLIAMS of New Jersey. Mr. President, I misspoke myself a while ago. This amendment is most important in my judgment. This describes the legal burden of proof in many areas of administrative law, as I understand it. I think I should express my enthusiasm at this point for the RECORD, rather than just acquiesce in it.

Mr. ERVIN. Mr. President, it lays down the measure of proof that prevails in civil actions in the courts, the meaning of which is well understood.

Mr. WILLIAMS of New Jersey. Mr. President, I yield back the remainder of my time.

Mr. ERVIN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

AMENDMENT NO. 990

Mr. ERVIN. Mr. President, the other amendment which the distinguished Senator from New Jersey has announced that he is willing to accept is amendment No. 990. I call up the amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 33, line 23, beginning with "and" strike all through "Commission".
>
> On page 34, line 1, and on page 34, line 12, insert the following new sentence: "In any action or proceeding under this title the Commission in its discretion may allow the prevailing party a reasonable attorney's fee as part of the cost. If the Commission determines that the complaining party is financially unable to pay such fees, the Commission shall pay such reasonable fees out of its own funds."

Mr. ERVIN. Mr. President, I am privately advised by the distinguished Senator from New Jersey that this is not one of the amendments he is willing to accept, and for this reason I withdraw amendment No. 990.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 985

Mr. ERVIN. Mr. President, I call up amendment No. 985, which I understand is the other amendment that the Senator from New Jersey is willing to accept. I identified the wrong amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 32, subsection g(1), strike the third sentence and insert "After the Commission issues a complaint it may, upon application by the person aggrieved or the respondent, appoint an attorney for such person in any case in which it determines that the aggrieved party or the respondent is unable to pay for an attorney without undue hardship, or in any case in which the interests of justice and fair play would be served thereby."

Mr. ERVIN. Mr. President, the amendment applies to both sides of the controversy. Therefore, it is impartial. I believe that it strengthens the bill.

Mr. WILLIAMS of New Jersey. Mr. President, I do support the amendment. It is a worthy addition and preserves the parity of the situation.

Mr. ERVIN. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS of New Jersey. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. ERVIN. Mr. President, I had completed the argument in favor of my amendment to strike the provision of the committee substitute which would bring within the jurisdiction of the Equal Employment Opportunity Commission, State employees and employees of local political subdivisions of States. I, therefore, reserve the remainder of my time.

The PRESIDING OFFICER. Does the Senator call back up his amendment?

Mr. ERVIN. Yes; I thank the Chair. I again call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

> On page 26, strike lines 1 through 3.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS of New Jersey. Mr. President, as the floor manager of the bill that has been reported to the Senate, I strongly oppose the amendment of the Senator from North Carolina.

Employees of State and local government are entitled to the same benefits and protections in equal employment as the employees in the private sector of the economy.

At present there are approximately 9.5 million persons employed by 81,000 governmental units in the United States. Unfortunately, most of these jurisdictions do not have effective equal job opportunity programs, and the limited Federal requirements in the area—such as merit systems—reach only a portion of the employees of State and local governments.

The problem is particularly acute in those governmental activities which are most visible to the minority communities, notably education, law enforcement, and the administration of justice, with the result that the credibility of Government's claim to exist "for all the people—by all the people" is called into serious question.

In its 1969 report on equal opportunity in State and local government employment, the Civil Rights Commission found that minorities are denied equal access to State and local government jobs through both institutional and overt discriminatory practices. In this respect, there was little difference between governments as employers and the private sector. Perpetuation of past discriminary practices through de facto segregated job ladders, invalid selection techniques, and stereotyped supervisory opinions as to the capabilities of minorities as a class were found to be widespread, and if anything, more pervasive than in private employment.

This alone would seem sufficient to justify expansion of title VII's coverage to State and local government employment, but when the special nature of the activity involved is considered, the argument becomes even more compelling. As the Commission pointed out in the introduction to its report:

> State and local governments are the nearly constant companions of every citizen of the United States. Most personal contacts with governments—so routine as to be taken for granted—are with State and local governments. Food served in the home or in a restaurant probably has been inspected by a State or local government. Policemen, firemen, and garbage collectors are included in its work force. From the time a birth is re-

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> corded at the city or county health department, to the time a burial permit is issued by the city or county, the daily activities of the citizen—education, employment, commerce, recreation—bring him into constant contact with State and local governments.

The 14th amendment to the Constitution recognized the importance of this close and constant interplay between the citizenry and its most immediately visible governmental institutions. The intent of the amendment is to insure the ability of all of the people to participate as equals in the operation of our political society. Since Americans—traditionally and rightly—measure the quality of their democracy by the opportunity they have to participate in the governmental process, it is not difficult to see why minority groups feel alienated when they are largely excluded from the bureaucracy. Their sociopolitical disability is made quite clear to them in a very unsubtle way.

Too often the last sentence of the amendment, enabling Congress to enforce the article's guarantees "by appropriate legislation" is overlooked and the plain words of the Constitution allowed to lapse. Legislation to implement this aspect of the 14th amendment rights is long overdue, and I believe that an appropriate remedy is contained in the bill making State and local governments subject to the requirements and processes of title VII in the same manner as any other employer.

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Moreover, under the proposed bill, there is every effort made to give State fair employment practices agencies an opportunity to act first in those situations where there is an adequate State law covering State and local government employees.

The history of State FEPC activity since the 1964 act suggests that the backup of Federal power in the event of a failure of local action to resolve a discrimination complaint has substantially strengthened the effectiveness of State and Local FEPC's. Thus, the increased coverage contemplated by this bill should provide more than ample opportunity and incentive for States to resolve their existing problems of discrimination against their own employees before it becomes necessary to pass them on to the Federal Government.

Once again, it becomes a matter of recognizing that a pure voluntary approach to ending employment discrimination is as ineffective in the public sector as it has been overwhelmingly demonstrated in the private sector.

Mr. President, I suggest that this part of the bill now before us is a needed extension of the great hope of the 1964 act and it is a vital part of the legislation which will have a profound meaning for our Nation.

Mr. ERVIN. Mr. President, I wish to ask the Senator a question. There is nothing in the bill that makes any distinction or points out what distinction, if any, exists between an employee of a State and an officer of a State, is there; is that correct?

Mr. WILLIAMS of New Jersey. An officer of a State or an employee? It does not spell it out as a difference, no.

Mr. ERVIN. Does the Senator from New Jersey recognize that there is a valid distinction between one who is an officer of a State and one who is an employee of a State?

Mr. WILLIAMS of New Jersey. I know that certainly we think of elected officers of a governmental unit. Is the Senator referring to elected officers?

Mr. ERVIN. I am talking about officers. In North Carolina we have fulltime special judges who are appointed by the Governor.

I would like to know if the Equal Employment Opportunities Commission is empowered by the bill to hold that if the Governor discriminates in respect to one of these appointments he will have to designate somebody else for the job. Also we have district judges appointed under North Carolina law by the resident Superior Court judges in the State.

Mr. WILLIAMS of New Jersey. I do not see anything in the bill telling a Governor of North Carolina whom he must appoint to be a judicial officer of the State.

Mr. ERVIN. There are a great many people who exercise a part of the legislative, the executive, or judicial authority of a State, and this bill does not make any distinction which will enable one to determine whether they are State officers or State employees.

Certainly, a judge who holds court is, in a sense, an employee of the State. He is pursuing State employment. This illustrates one of the dangers in bringing State employees under the bill.

I would like to ask the Senator another question. Were any of the States given any notice of the pendency of this bill? Were their officials invited to testify before the committee?

Mr. WILLIAMS of New Jersey. I will ask to have the hearing record reviewed right now. Yes, they were. If we can have some specificity here, I will point it out to the Senator from North Carolina.

Mr. ERVIN. I do not know of any State official in North Carolina who was advised of the pendency of the bill or who was given an opportunity to testify in respect to it. I do not know anybody in North Carolina who heard of the bill while it was being considered by the committee. If the only witnesses who testified before the committee were the ones designated in the committee report as having testified, it appears that State officials were conspicuous by their absence.

Mr. WILLIAMS of New Jersey. The Senator has a copy of the hearings on the desk before him. The States as a group have an organization called the Council of State Governments. On this, as they do on others, it is the center for information. They were fully advised by this bill, the hearings, and the whole business, and they were represented fully at the hearings.

Mr. ERVIN. I look at the list of witnesses and note that most of them seem to have been witnesses who represent minority groups or who are anxious to secure special privileges for minority groups, regardless of what such action will do to our constitutional system of government or to the rights of other people in America. The remainder of the witnesses seem to have been Federal officials who, like all officials, have an insatiable thirst for the increase of their powers. I do not find the name of a single person representing a State who testified before the committee.

Mr. WILLIAMS of New Jersey. From any State?

Mr. ERVIN. Representing any State. There are witnesses from State human rights commissions who are special pleaders for minority groups and who would like to have special privileges for minority groups at the expense of the rest of the American people.

Mr. WILLIAMS of New Jersey. I know that all the people who expressed a desire to be heard by the committee were heard. It was my impression that we had broad geographic representation at the hearings. Institutionally, the hearings had representatives from States, municipalities——

Mr. ERVIN. Frankly, in the list of witnesses I cannot find a single witness testifying in behalf of any State or any subdivision of a State government.

Mr. WILLIAMS of New Jersey. I would say with all the usual processes available to us that the usual notices were made and published. The CONGRESSIONAL RECORD was replete with notices of hearings.

What is the other official document of notification?

Mr. ERVIN. The Federal Register.

Mr. WILLIAMS of New Jersey. Did the Federal Register have it?

Mr. ERVIN. There is no rule requiring notice of hearings of a congressional committee in the Federal Register.

I would say to the Senator from New Jersey that I do not think there is a single human being on the face of the earth, and, if there be human beings out in the solar spaces, I do not think a single human being there, reads the CONGRESSIONAL RECORD in full. If a person did that, he would not do anything else in this life. I do not read all of it myself; I do not have the time to do so.

Mr. WILLIAMS of New Jersey. I agree. The requirement to publish in the Federal Register is not effective in fact. It is almost a guarantee that the notice will be hidden. We did not rely on that. We relied on the U.S. best seller publication—the CONGRESSIONAL RECORD. Full notice appeared in the CONGRESSIONAL RECORD.

Mr. ERVIN. It is the most unread publication in the United States, by and large.

Mr. WILLIAMS of New Jersey. The CONGRESSIONAL RECORD?

Mr. ERVIN. It is not even read in full by Members of Congress.

Mr. WILLIAMS of New Jersey. I never made a mistake which, when it was printed in the RECORD, everybody did not find out about.

Mr. ERVIN. I am glad to say I have had better luck than that.

Mr. WILLIAMS of New Jersey. All the good goes unnoticed, or most of the good goes unnoticed.

Mr. ERVIN. Of course, the Federal Register is not required to carry notices of committee hearings. I would say the Federal Register is worse than the CON-

GRESSIONAL RECORD because it is all gobbledygook. From my experience with the Federal Register, I am constrained to say that even if one reads it, he cannot understand it. Every sentence contains words or phrases that result in several cases of incurable mental indigestion.

Mr. WILLIAMS of New Jersey. I am glad we did not rely on the Federal Register to let word go out to the public that we are considering further enforcement authority for the Equal Employment Opportunity Commission, which is what this bill is all about.

In the amendment before us, we are dealing with coverage of employees who, in the committee's judgment, should be covered under the provisions of the bill.

Mr. ERVIN. Without meaning any criticism of the committee, I would say that with respect to a bill like this, which would affect every one of the 50 States, the Governor of every State should have been given notice of the bill, and the attorney general of every State should have been given notice of the bill. I infer from the fact that none of them testified that this legislation, which is now being considered and which constitutes an assault on the federal system, is being considered by the Senate without anybody in the States knowing anything about it.

Mr. WILLIAMS of New Jersey. I am sure than no personal notice went to every State attorney general, but we did rely on the institution to which all the States contribute—the Council of State Governments. They knew all about it and were given every opportunity to disseminate the notice and the information. We sat at the hearings and were willing to hear any witness. We would have sat in the hearings as long as anyone wanted to come and be heard on this legislation.

I am just trying to say, finally, that this measure was not in any degree rushed through quietly, without any desire to have it fully known. It was known to all, through the institutions that were advised, and we were there, ready, and always willing to hear any witnesses who wanted to come before the committee.

Mr. ERVIN. I think I have made my position clear. I would like to have a rollcall so that Senators who want the Federal Government to swallow the States to the extent that this bill provides may express themselves pro and those who do not may express themselves con on the subject.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, will the Senator yield to me for one-half minute to put in a quorum call, which I shall call off immediately, to try to get some more Senators on the floor?

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time? Time is being charged against both sides equally. Who yields time?

Mr. GRIFFIN. Mr. President, I wonder if I might have some time from the distinguished Senator from North Carolina?

Mr. ERVIN. Mr. President, I yield the Senator from Michigan 5 minutes, if I have 5 minutes remaining under the time limitation agreement.

Mr. GRIFFIN. Mr. President, I intend to vote for the amendment of the distinguished Senator from North Carolina to strike out the coverage of State and local governmental employees. But I wish to make clear for the Record that I would vote against this amendment if the Dominick amendment had carried. Under that amendment, if one of the States of the Union were charged with discrimination in connection with the hiring of an employee, it would at least be accorded the dignity and respect of having the case heard in a court.

Frankly, I disagree with the Senator from North Carolina concerning some of the arguments that he has advanced to justify the exclusion of covering employees of State and local governments. I believe, in accordance with the recommendations of the Civil Rights Commission, not only that there has been a good deal of discrimination in the employment practices of State and local governments but also that appropriate remedies should be provided.

But, Mr. President, in line with one point made by the distinguished Senator from North Carolina about the mutual respect and comity that should be observed between the Federal Government and the several States, it seems to me that it would be a very demeaning to establish a procedure under which a State would be hauled before an administrative agency of the Federal Government, which would then proceed to act as investigator and prosecutor, and also as judge and jury. I find it difficult to approve such a procedure for handling a complaint filed with the Federal Government against a State. If the Federal Government is going so far as to regulate the employment practices of State government, then at the very least a State ought to have its case heard in court.

Mr. ERVIN. I yield myself 30 seconds.

It is apparent to me that the States either did not receive notice or that any notice given them miscarried.

I believe this provision should be stricken from the bill and that an opportunity should be afforded to the States to be heard on this matter, because I cannot imagine 50 States letting this matter pass without a single representative appearing in opposition to this provision.

Mr. GRIFFIN. The Senator from North Carolina is a very knowledgeable student of the law. I wonder whether he is aware of any other Federal statute governing State and local employees under which an alleged violation would be handled in this way. I am aware that Congress did bring State and local governmental employees under the Fair Labor Standards Act, as I recall. And I believe the Supreme Court has held that action by Congress was constitutional.

Mr. ERVIN. I am not sure that they are under the Fair Labor Standards Act.

Mr. GRIFFIN. That is my recollection. I will have to check.

Mr. ERVIN. My recollection is to the contrary, but I do not guarantee it to be accurate.

Mr. GRIFFIN. I want to point out, however, that under that particular law, complaints are not adjudicated by an administrative agency but rather are handled by the Federal courts.

Mr. ERVIN. I think the National Labor Relations Act applies only to business organizations which are engaged in matters that affect interstate commerce.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRIFFIN. Is there some time on the bill?

The PRESIDING OFFICER. There is plenty of time on the amendment.

Mr. ERVIN. I yield to the Senator from Michigan, if I have any more time.

Mr. GRIFFIN. I should like a couple of minutes to clear up this question.

Mr. WILLIAMS of New Jersey. I yield a couple of minutes, in order to have the question cleared up.

Mr. ERVIN. I know of no bill that hails States before administrative agencies of the Federal Government.

Mr. GRIFFIN. It is my understanding that employees of State and local governments are not covered by the National Labor Relations Act, commonly called the Taft-Hartley Act, but that they are covered by the minimum wage provisions of the Fair Labor Standards Act.

Mr. ERVIN. Which is enforced in courts and not through any Federal agency.

Mr. GRIFFIN. That is the point I wanted to make. Although the Fair Labor Standards Act applies to State employees, that law is enforced in courts and not by an administrative agency. I know of no other existing situation in which Congress has attempted to impose regulations upon State and local government and then denying access to the courts for adjudication of an alleged violation. I believe it is unfortunate to apply such a procedure to any individual, business or union. But it is particularly demeaning to apply to such a procedure in the case of a complaint against one of the States of the Union.

Mr. ERVIN. I have just been informed that the employment agency of the State of Virginia, which is situated right across the Potomac River, in Alexandria, never heard of this bill and that, so far as it knows, the officials of Virginia know nothing about this provision.

Mr. WILLIAMS of New Jersey. The hearing record was open for many weeks. Alexandria is right across the river. These were public hearings.

Mr. DOMINICK. Mr. President, the Senator from Illinois feels particularly strong about this amendment. He certainly would have voted with the sponsor of the amendment had he been able to be present.

The Senator from Illinois (Mr. SMITH) has individual views appearing on page 75 of the report commenting on this and on the problems in the bill by virtue of the coverage of State employees. I ask unanimous consent that his views be printed in the RECORD.

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There being no objection, the additional individual views were ordered to be printed in the Record, as follows:

Additional Individual Views of Mr. Smith

In addition to joining Senators Dominick and Murphy on the previous issues, I wish to state a further objection. Testimony offered during the hearings on the bill by the U.S. Commission on Civil Rights makes inescapable the conclusion that a drastic change in the traditional legitimate operation of Government hiring will be required if this act is adopted as it now stands. The Commission's testimony showed the prevailing brief to be that many State and local government job requirements are *unrelated to the job* and ought, therefore, to be abolished. Chief among these were requirements of citizenship, residency, voter registration and party affiliation. Again, with respect to the very worthy objectives of the bill's sponsors, it seems fair to point out that such conditions of employment are, patently, neither inherently discriminatory nor unrelated to the fitness of the applicant for the job. Furthermore, denying the victorious party the authority to hire its supporters would certainly weaken the two party system of political accountability and turn over the affairs of Government entirely to bureaucrats.

It would be, in my view, both unwise and unworkable to impose such a novel "no-requirement requirement" on State and local governments.

Ralph T. Smith.

Mr. **WILLIAMS** of New Jersey. Mr. President, I yield back the remainder of my time on the amendment.

The **PRESIDING OFFICER**. Does the Senator from North Carolina yield back the remainder of his time?

Mr. **ERVIN**. I yield back the remainder of my time on this amendment.

The **PRESIDING OFFICER**. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. **FULBRIGHT** (when his name was called). On this vote I have a pair with the distinguished Senator from Maine (Mr. Muskie). If he were present and voting he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. **KENNEDY**. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Cannon), the Senator from Connecticut (Mr. Dodd), the Senator from Tennessee (Mr. Gore), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Long), the Senator from Minnesota (Mr. McCarthy), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), and the Senator from Maryland (Mr. Tydings) are necessarily absent.

I further announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Rhode Island (Mr. Pell), the Senator from Alabama (Mr. Sparkman), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) are absent on official business.

Mr. **GRIFFIN**. I announce that the Senator from Vermont (Mr. Aiken), the Senator from Utah (Mr. Bennett), the Senator from New York (Mr. Goodell), the Senator from Nebraska (Mr. Hruska), the Senator from California (Mr. Murphy), the Senator from Vermont (Mr. Prouty), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) is absent on official business.

The Senator from New York (Mr. Javits) is necessarily absent to observe a religious holiday.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Kentucky (Mr. Cooper) and the Senator from Maryland (Mr. Mathias) are detained on official business.

On this vote, the Senator from Kentucky (Mr. Cooper) is paired with the Senator from New York (Mr. Goodell). If present and voting, the Senator from Kentucky would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from Illinois (Mr. Smith) is paired with the Senator from New York (Mr. Javits). If present and voting, the Senator from Illinois would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from Texas (Mr. Tower) is paired with the Senator from South Dakota (Mr. Mundt). If present and voting, the Senator from Texas would vote "yea" and the Senator from South Dakota would vote "nay."

The result was announced—yeas 30, nays 37, as follows:

[No. 343 Leg.]

YEAS—30

Allen
Anderson
Baker
Bible
Byrd, Va.
Cook
Cotton
Curtis
Dole
Eastland
Ellender
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Holland
Hollings
Jordan, Idaho
McClellan
Miller
Russell
Smith, Maine
Spong
Stennis
Talmadge
Thurmond
Williams, Del.
Young, N. Dak.

NAYS—37

Allott
Boggs
Brooke
Burdick
Byrd, W. Va.
Case
Church
Cranston
Dominick
Eagleton
Fong
Harris
Hart
Hatfield
Hughes
Jackson
Kennedy
Magnuson
Mansfield
McGovern
McIntyre
Metcalf
Mondale
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Stevens
Symington
Williams, N.J.

PRESENT AND ANNOUNCING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Fulbright, for.

NOT VOTING—32

Aiken
Bayh
Bellmon
Bennett
Cannon
Cooper
Dodd
Goodell
Gore
Gravel
Hartke
Hruska
Inouye
Javits
Jordan, N.C.
Long
Mathias
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Muskie
Pell
Prouty
Smith, Ill.
Sparkman
Tower
Tydings
Yarborough
Young, Ohio

So Mr. Ervin's amendment was rejected.

Mr. **ERVIN**. Mr. President, I send to the desk an amendment and ask that it be stated.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

On page 27, line 20, insert a period after the word "religion" and strike the rest of line 20 through line 22.

Mr. **ERVIN**. Mr. President, I would like to make a statement to those Senators who are present. I am perfectly willing to agree to a time limitation of 5 minutes to each side on the amendment.

The amendment is very simple. Under the bill the EEOC would have jurisdiction of all of the employees of religious corporations, associations, educational institutions, and societies with respect to the employment of all individuals except those that directly participate in its religious activities.

Mr. **STENNIS**. Mr. President, may we have order?

The **PRESIDING OFFICER**. The Senator from Mississippi (Mr. Stennis) correctly calls the attention of the Presiding Officer to the fact that we need better attention from those in the Senate during the remarks of the Senator from North Carolina. Senators will cooperate. The Senator may proceed.

Mr. **ERVIN**. Mr. President, first, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. **ERVIN**. Mr. President, under this bill, if a religious educational institution wanted to employ a professor of mathematics it could be compelled by the Commission to employ an infidel as professor of mathematics. In other words, the only exemptions are extended to those actually participating in the religious activities of the religious institution.

Justice Douglas has said, in connection with a school prayer case, that you could not separate secular and nonsecular activities of a religious institution. If that is true, this bill trespasses on the first amendment right to religious freedom.

Apart from that, as a matter of policy, I think people who establish a religious institution and people who establish a church should be allowed to select a janitor or a secretary who is a member of the church in preference to some infidel or nonmember. However, they could not do that under this bill. My amendment would exempt religious organizations from the control of the State. If that is not in line with the letter of the law, it certainly is in line with the spirit of the law.

I hope all those who believe in religious freedom will support the amendment. We ought not to let Caesar undertake to control what belongs to God.

Mr. **WILLIAMS** of New Jersey. Mr. President, I yield myself 3 minutes.

The **PRESIDING OFFICER**. The Senator is recognized for 3 minutes.

Mr. **WILLIAMS** of New Jersey. Mr. President, the exemption of the bill was designed for the objective stated by the Senator from North Carolina. The

XUM

amendment would strike all after the word "religion" in line 20 of page 27 so that it will be precise and crystal clear that religion will not be used as a subterfuge for the other discriminations that are prohibited under this act.

I would propose an amendment as a substitute for the amendment of the Senator from North Carolina, and this would strike all after the word "religion" on line 20 through line 22, and insert a semicolon and the words:

> *Provided*, That this section shall not exempt any person otherwise subject to this Act who engages in religious exemption as a subterfuge to avoid coverage under this Act.

The **PRESIDING OFFICER**. The substitute amendment offered by the Senator from New Jersey will be stated.

The amendment offered as a substitute for the amendment of the Senator from North Carolina, was read as follows:

> On page 27, line 20, strike the language after the word "religion" through line 22, insert a semicolon and the proviso: "; *Provided*, That this section shall not exempt any person otherwise subject to this Act who engages in religious exemption as a subterfuge to avoid coverage under this Act."

Mr. **ERVIN**. Mr. President, it is going pretty far——

The **PRESIDING OFFICER**. Before the Senator proceeds, the amendment offered as a substitute is not in order without unanimous consent until time is yielded back on the original amendment of the Senator from North Carolina.

Mr. **MANSFIELD**. Mr. President, could we have the amendment read again so that we will know what it is? I ask unanimous consent to that effect.

The **PRESIDING OFFICER**. The amendment offered as a substitute will be read.

The amendment offered as a substitute for the amendment of the Senator from North Carolina was read as follows:

> On page 27, line 20, strike the language after the word 'religion" through line 22, insert a semicolon and the proviso:
>
> "*Provided*, That this section shall not exempt any person otherwise subject to this Act who engages in religious exemption as a subterfuge to avoid coverage under this Act."

The **PRESIDING OFFICER**. Does the Senator ask unanimous consent for consideration of his amendment? That must be done or time yielded back.

Mr. **WILLIAMS** of Delaware. Mr. President, I ask unanimous consent for consideration of the substitute amendment.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **ERVIN**. Mr. President, I think Congress will have reached the height or the depth of absurdity if it empowers a Federal agency to say whether religious corporations, religious associations, religious educational institutions, and religious societies in the United States are hypocrites. That is what the amendment would do.

I ask that the amendment to the amendment be rejected.

The **PRESIDING OFFICER**. Who yields time?

Mr. **WILLIAMS** of New Jersey. I yield back my time.

The **PRESIDING OFFICER**. All time is yielded back. The question is on agreeing to the amendment of the Senator from New Jersey (Mr. Williams) in the nature of a substitute for the amendment of the Senator from North Carolina (Mr. Ervin). (Putting the question.)

The "nays" appear to have it in the opinion of the Chair. The "nays" have it.

The amendment in the nature of a substitute for the amendment of the Senator from North Carolina was rejected.

The **PRESIDING OFFICER**. Now, the question recurs on the amendment offered by the Senator from North Carolina.

Mr. **ERVIN**. Mr. President, I yield back my time on the amendment.

The **PRESIDING OFFICER**. All time having been yielded back, the question recurs on the amendment offered by the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. **KENNEDY**. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Cannon), the Senator from Connecticut (Mr. Dodd), the Senator from Tennessee (Mr. Gore), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senator from Minnesota (Mr. McCarthy), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), and the Senator from Maryland (Mr. Tydings) are necessarily absent.

I further announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Rhode Island (Mr. Pell), the Senator from Alabama (Mr. Sparkman), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) are absent on official business.

Mr. **GRIFFIN**. I announce that the Senator from Vermont (Mr. Aiken), the Senator from Utah (Mr. Bennett), the Senator from New York (Mr. Goodell), the Senator from Nebraska (Mr. Hruska), the Senator from California (Mr. Murphy), the Senator from Vermont (Mr. Prouty), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) is absent on official business.

The Senator from New York (Mr. Javits) is necessarily absent to observe a religious holiday.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting the Senator from South Dakota (Mr. Mundt) would vote "yea."

On this vote, the Senator from Illinois (Mr. Smith) is paired with the Senator from New York (Mr. Javits). If present and voting, the Senator from Illinois would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from Texas (Mr. Tower) is paired with the Senator from New York (Mr. Goodell). If present and voting, the Senator from Texas would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 43, nays 28, as follows:

[No. 344 Leg.]

YEAS—43

Allen
Anderson
Baker
Bible
Burdick
Byrd, Va.
Byrd, W. Va.
Church
Cook
Cooper
Cotton
Curtis
Dominick
Eastland
Ellender
Ervin
Fannin
Fulbright
Goldwater
Gurney
Hansen
Hatfield
Holland
Hollings
Jackson
Jordan, Idaho
Long
Magnuson
Mansfield
McClellan
McIntyre
Metcalf
Miller
Pastore
Randolph
Russell
Smith, Maine
Spong
Stennis
Symington
Talmadge
Thurmond
Williams, Del.

NAYS—28

Allott
Boggs
Brooke
Case
Cranston
Dole
Eagleton
Fong
Griffin
Harris
Hart
Hughes
Kennedy
Mathias
McGovern
Mondale
Nelson
Packwood
Pearson
Percy
Proxmire
Ribicoff
Saxbe
Schweiker
Scott
Stevens
Williams, N.J.
Young, N. Dak.

NOT VOTING—29

Aiken
Bayh
Bellmon
Bennett
Cannon
Dodd
Goodell
Gore
Gravel
Hartke
Hruska
Inouye
Javits
Jordan, N.C.
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Muskie
Pell
Prouty
Smith, Ill.
Sparkman
Tower
Tydings
Yarborough
Young, Ohio

So Mr. Ervin's amendment was agreed to.

Mr. **ERVIN**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **GRIFFIN**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the joint resolution (S.J. Res. 223) to authorize and request the President to issue annually a proclamation designating the month of January of each year as "National Blood Donor Month," with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 18679. An act to amend the Atomic Energy Act of 1954, as amended, to eliminate the requirement for a finding of practical value, and for other purposes; and

H.R. 19444. An act to authorize for a temporary period the expenditure from the airport and airway trust fund of amounts for the training and salary and expenses of guards to accompany aircraft operated by the U.S. air carriers, to raise revenue for such purpose, and to amend section 7275 of the Internal Revenue Code of 1954 with respect to airline tickets and advertising.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker had affixed his signature to

XUM

the following enrolled bills and joint resolutions, and they were signed by the Acting President pro tempore (Mr. Fannin):

S. 3730. An act to extend for 1 year the act of September 30, 1965, as amended by the act of July 24, 1968, relating to high-speed ground transportation, and for other purposes;

H.R. 14485. An act to amend sections 501 and 504 of title 18, United States Code, so as to strengthen the law relating to the counterfeiting of postage meter stamps or other improper uses of the metered mail system;

S.J. Res. 110. Joint resolution to amend the joint resolution entitled "Joint resolution to establish the first week in October of each year as National Employ the Physically Handicapped Week," approved August 11, 1945 (59th Stat. 530), so as to broaden the applicability of such resolution to all handicapped workers;

H.J. Res. 236. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the week of August 1 through August 7, 1971, as "National Clown Week"; and

H.J. Res. 1154. Joint resolution authorizing the President to proclaim National Volunteer Firemen's Week from October 24, 1970, to October 31, 1970.

HOUSE BILLS REFERRED OR PLACED ON CALENDAR

The following bills were each read twice by their titles and referred or placed on the calendar, as indicated:

H.R. 18679. An act to amend the Atomic Energy Act of 1954, as amended, to eliminate the requirement for a finding of practical value, and for other purposes; placed on the calendar.

H.R. 19444. An Act to authorize for a temporary period the expenditure from the airport and airway trust fund of amounts for the training and salary and expenses of guards to accompany aircraft operated by the U.S. air carriers, to raise revenue for such purpose, and to amend section 7275 of the Internal Revenue Code of 1954 with respect to airline tickets and advertising; referred jointly to the Committees on Commerce and Finance, by unanimous consent.

EQUAL OPPORTUNITIES ENFORCEMENT ACT

The Senate continued with the consideration of the bill (S. 2453) to further promote equal employment opportunities for American workers.

AMENDMENT NO. 989

Mr. ERVIN. Mr. President, I call up my amendment No. 989, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 27, line 22, strike the period and insert the following: "or to an educational institution with respect to the employment of individuals to perform work connected with the educational activities of such institution.".

Mr. ERVIN. Mr. President, I think we can proceed to vote on this amendment in short order. I had promised to yield at this point to the Senator from Kentucky.

Mr. COOK. Mr. President, when the Senator finishes explaining his amendment, I wonder if he would give me 5 minutes on the bill, and then I shall be through.

Mr. ERVIN. Maybe we can vote on the amendment and then yield time on the bill.

Mr. President, this is a very simple amendment. The pending bill, for the first time, proposes that the Equal Employment Opportunity Commission have jurisdiction over the hiring of professors in educational institutions.

I think that the exemption of educational institutions insofar as their teaching personnel are concerned ought to be continued. I think it absurd to set up a Government agency like the Equal Employment Opportunity Commission and give them jurisdiction, in effect, to judge the competency of every teacher and every professor in every educational institution in the United States.

I do not think we can accuse our educational institutions of practicing discrimination to such an extent that Congress ought to adopt a law which would, in effect, let a Federal agency take charge of passing on the proficiency of every teacher of mathematics, every teacher of philosophy, every teacher of economics, and every teacher of trigonometry in this Nation. I think it is absurd to assume that such a Commission would have any competency for that purpose. How can educational institutions have academic freedom if Congress subjects their employment of teachers to the jurisdiction of the Equal Employment Opportunity Commission, which has no competence to judge their educational proficiency?

I hope we will not impede the educational institutions of this Nation in their employment of professors, by subjecting their actions to the supervision of a Federal agency which has no competency to select those who are best qualified to teach in the institutions of this land.

Mr. President, this is the last amendment I shall propose. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. WILLIAMS of New Jersey. Mr. President, I yield myself 2 minutes.

The bill came to us with a religious exemption. That was clarified by the last amendment. That is an area where we tend to feel there is obvious reason for exemption from this antidiscrimination act.

But this amendment deals with school systems. It seems to me that if employment discrimination is improper anywhere, it is certainly improper in educational institutions. For that basic reason, the committee included the coverage in this bill, upon the testimony and the statements from the administration.

I oppose the amendment.

Mr. ERVIN. Mr. President, one further word.

This amendment would merely continue the exemption which educational institutions have always enjoyed in this field. A vote against my amendment is a vote which says that a Senator thinks that the Equal Employment Opportunities Commission is better qualified to say who is competent to teach in the educational institutions of our land than the institutions are themselves. I submit that an educational institution selects a professor of mathematics because it thinks he is more proficient than other applicants. It should be entitled to give him the job. If the EEOC is to find discrimination, it must find that the professor of mathematics hired by the institution is inferior in capacity to the one the Commission orders the institution to hire.

I respectfully submit that the Senate ought to maintain freedom of education on the campuses of this land by letting the institutions select their own professors, instead of empowering an agency of the Federal Government, which has no competency in this field, to do so.

I yield back the remainder of my time.

Mr. WILLIAMS of New Jersey. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FULBRIGHT (when his name was called). On this vote I have a pair with the Senator from Maine (Mr. Muskie). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Cannon), the Senator from Connecticut (Mr. Dodd), the Senator from Tennessee (Mr. Gore), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senator from Minnesota (Mr. McCarthy), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Georgia (Mr. Russell), and the Senator from Maryland (Mr. Tydings), are necessarily absent.

I further announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Rhode Island (Mr. Pell), the Senator from Alabama (Mr. Sparkman), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) are absent on official business.

Mr. GRIFFITH. I announce that the Senator from Vermont (Mr. Aiken), the Senator from Utah (Mr. Bennett), the Senator from New York (Mr. Goodell), the Senator from Nebraska (Mr. Hruska), the Senator from California (Mr. Murphy), the Senator from Vermont (Mr. Prouty), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) is absent on official business.

The Senator from New York (Mr. Javits) is necessarily absent to observe a religious holiday.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting the Senator from South Dakota (Mr. Mundt) would vote "nay."

On this vote, the Senator from Illinois

XUM

(Mr. SMITH) is paired with the Senator from New York (Mr. JAVITS). If present and voting, the Senator from Illinois would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from New York (Mr. GOODELL). If present and voting, the Senator from Texas would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 30, nays 38, as follows:

[No. 345 Leg.]

YEAS—30

Allen
Anderson
Baker
Bible
Byrd, Va.
Cook
Cotton
Dole
Eastland
Ellender
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Holland
Hollings
Jordan, Idaho
Long
McClellan
Miller
Randolph
Smith, Maine
Spong
Stennis
Talmadge
Thurmond
Williams, Del.
Young, N. Dak.

NAYS—38

Allott
Boggs
Brooke
Burdick
Byrd, W. Va.
Case
Church
Cooper
Cranston
Curtis
Dominick
Eagleton
Fong
Hart
Hatfield
Hughes
Jackson
Kennedy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Mondale
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Ribicoff
Saxbe
Schweiker
Scott
Stevens
Symington
Williams, N.J.

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Fulbright, for.

NOT VOTING—31

Aiken
Bayh
Bellmon
Bennett
Cannon
Dodd
Goodell
Gore
Gravel
Harris
Hartke
Hruska
Inouye
Javits
Jordan, N.C.
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Muskie
Pell
Prouty
Russell
Smith, Ill.
Sparkman
Tower
Tydings
Yarborough
Young, Ohio

So Mr. ERVIN's amendment was rejected.

Mr. ERVIN. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, the Equal Employment Opportunity Commission was created by title VII of the Civil Rights Act of 1964. EEOC is responsible for investigating charges of discrimination and determining if there is a reasonable cause to believe that a charge is true. If it finds reasonable cause, it attempts to settle the case by means of voluntary conciliation.

While the EEOC has worked diligently to eliminate employment discrimination, the machinery of title VII does not enable the Commission to totally alleviate or even substantially decrease the grave problems which deny many men and women the right to equal opportunity.

When Congress created the Commission, it anticipated that the caseload would not be excessive because the enactment of the civil rights law would cause employers, employment agencies, and labor unions to comply of their own volition. Furthermore, we sincerely hoped that when the Commission found reasonable cause to believe that an employer was violating title VII, the conciliation scheme would resolve the problem.

Neither possibility was proved true. Despite the Federal statute forbidding employment discrimination on the basis of race, color, religion, sex, or national origin, thousands of charges come to the Commission alleging employment discrimination. It should be emphasized that of 24,065 charges recommended for investigation, reasonable cause was found in 63 percent of the cases that completed the decision process. It is obvious that the law is not being obeyed, and that Commission efforts are not curtailing the abuse.

Under the present Commission scheme, the cases in which reasonable cause is found go on to conciliation; however, in less than half of the conciliation attempts is the Commission able to achieve either a partially or totally successful conciliation.

What becomes of the employment problems presented in the other cases? How many men and women continue to be denied their rights to equal opportunities? The act provides that charging parties can file suits in Federal district court if conciliation does not resolve their problem, but reports emphasize that the number of cases actually filed in court is not significant in relation to the problem. The NAACP Legal Defense and Educational Fund, which handles a substantial portion of all litigation filed under the act, reports that since title VII became effective in 1965, the NAACP filed about 70 cases in the U.S. district courts.

Of that small number of cases that actually reach court, the majority follow the classic pattern of prolonged and difficult litigation. Every procedural technicality imaginable must be gone through before the case comes to trial. Cases are delayed on such technical-procedural questions as: Exhaustion of administrative remedies; statute of limitations; propriety of filing class actions; argument on whether conciliation is a precondition to filing suit and similar issues. It has taken more than 3 years just to get court determinations in many of these cases. Finally, many large defendants involved in employment litigation are employing some of the most vigorous and skillful counsel in the country, and a great deal more protracted and difficult litigation is in prospect.

We must recognize that public rights cannot be effectively enforced by leaving them solely to private litigants. Before us is the bill S. 2453, the Equal Employment Opportunity Enforcement Act. In this bill is the machinery necessary to attack the employment discrimination problem. Here we find a way to fill the gap between the problem and its resolution. Here is the potential to assert the public rights that private litigation is too slowly working to restore.

If the Commission were granted cease-and-desist power as in this bill, the burden of enforcement would shift to the Government, which could then implement the policies of title VII in a meaningful and consistent manner, as befits any national commitment to the public good. The conciliatory functions of the Commission would in no way be derogated, since the prospect of an enforceable order would operate to make respondents more receptive to informal procedures.

Also, equipping the Commission with such powers would serve to bring it into line with the frameworks of other regulatory agencies entrusted with the enforcement of substantive law. Advantages of uniform interpretation and efficiency of effort will follow, while preserving the traditional oversight function of the courts.

Mr. President, as a member of the Committee on Labor and Public Welfare I had the privilege of working closely on the development of this bill. I offered several amendments which were accepted in committee, and for the sake of the legislative record, I would like to clarify the background and intent of these and some of the other critical provisions.

RIGHT OF PRIVATE SUIT

The proposed new section 706(q) of the Civil Rights Act of 1964 includes my amendment to protect the right of an aggrieved party to institute a private suit if the Commission does not act promptly after issuing a complaint. The section provides that if the Commission has not issued a final order within 180 days after its issuance of a complaint, the aggrieved party may bring a civil suit at any time thereafter until the Commission does issue such a final order.

The section further provides that in exceptional cases only the Commission may petition the court to delay commencement of the suit for a short period of time. In particular, during the period from 180 days to 1 year after issuance of the complaint, if a charging party brings a civil action against the respondent he must notify the Commission. The Commission may then petition the court not to proceed with the suit if the Commission can show that it has been acting with due diligence and speed on the complaint, that it will conclude action within a reasonable period of time, and that extension of the Commission's exclusive jurisdiction and postponing the right to private action are warranted by exceptional factors in the proceedings of the case.

I and most members of the committee feel strongly that the aggrieved party should have the option of choosing to start civil action if the Commission has not acted within 6 months of issuance of the complaint. In rare and exceptional cases only, the Commission could have up to a year to take final action before the private suit route was open to the aggrieved party.

In essence, then, the right to private suit should not be cut off forever once the Commission issues a complaint. If the aggrieved party feels that the Commission is not acting promptly, because of negligence or too heavy a backlog or for any other reason, he should have the option of proceeding on his own in the district courts.

I am convinced that 6 months is a reasonable period for the Commission to move from complaint to final order, especially if the Commission is given ade-

XUM

quate resources and vigorously pursues unlawful discrimination in employment. I certainly hope that both the administration and the Congress will seek the necessary budget resources to make the Commission effective, and that the Commission will establish the practice of prompt action right from the start of its activity under the new authorities in this bill.

The effect of the time limit on Commission action before the option of private suit is open once again is expected to be twofold. First, there is an overall limit on the time an aggrieved party must be kept waiting for the Commission to act without any other recourse. The individual is protected after 6 months—or in exceptional cases after no later than 1 year—no matter what the reason for the Commission's delay. Second, there is additional pressure on the Commission to act speedily.

In most cases where the Commission has not taken final action within 6 months, the aggrieved party may very well decide that the Commission's delay is excusable and continue to pursue the Commission route, rather than commence a private suit in the courts. He would not be inclined to start over again, and the additional time and expense of bringing his case in the courts, if he feels that the Commission is acting with due diligence and fairness on his case.

It is in no way intended that postponements of the right of private suit for up to 6 additional months, until 1 year has elapsed from the issuance of a complaint, will be frequent or usual. On the contrary, it was the understanding in the committee discussion in reaching a compromise on this provision that such postponement should occur only in exceptional and unusual circumstances, such as cases of general public importance where even concentrated effort by the Commission has not enabled them to complete a thorough and responsible job within 6 months.

It is definitely not intended that the Commission can receive postponements simply because backlogs and inadequate resources have delayed its work. For after 6 months the right of the individual should be paramount. There should be an outside limit on delays no matter what their cause.

The bill also contains a related amendment I offered in committee to give Federal employees or applicants the right to file a civil action in the courts if no final action has been taken on their complaint within 90 days from the filing of an initial charge. The Federal Government should set a first-rate example for the swift and fair handling of discrimination complaints. Employees and applicants should be saved from long delays in which no action is taken and no other recourse is open.

"PATTERN OR PRACTICE" CASES IN THE DEPARTMENT OF JUSTICE

I feel that broad-scale action against any "pattern or practice" of discrimination is essential to achieving equal employment opportunity. Such actions by the Department of Justice, under section 707 of the Civil Rights Act of 1964, have been an integral and important component of the Federal effort to combat discrimination.

I believe further that transfer of the section 707 authority to the Commission would be unwise, at least at the present time.

Immediate transfer would add a whole new burden on the Commission at the same time that it will have enough temporary delay and disruption simply in revamping to use its new authority with "cease and desist" powers.

At present, the Civil Rights Division of the Department of Justice has a number of very able lawyers with the expertise and experience in "pattern or practice" cases which the Commission lacks.

And I might add that it would be difficult in the immediate short run to transfer over the budget amounts which presently are allocated to the Department of Justice for section 707 activity.

In general, retaining Department of Justice activity would give the Department flexibility to combat overall discrimination in a geographical area—enabling it to develop a general attack which would include discrimination in schools, voting rights, public accommodations, and employment.

Finally, one benefit of the "pattern or practice" activity of the Department of Justice at this time is the development and clarification of the law on job discrimination. The Department has concentrated on cases with broad implications, in contrast to the high number of cases involving just individual complaints which the Commission will continue to handle. The Department has been able to achieve prompt determination of these general cases in the courts.

It would be disastrous to delay the speedy development and clarification of title VII through premature transfer to the Commission before it is fully ready to handle the added responsibility.

For these reasons, I offered and the committee accepted section 5 of the bill. It provides for the continuation of the authority to bring "pattern or practice" suits in the district courts, as spelled out in section 707 of present law. For 3 years after passage of the bill, the Attorney General shall continue to exercise such authority.

At any time later than 3 years after passage, such authority may be transferred from the Attorney General to the Commission if and only if the Attorney General and a majority of the Commissioners certify in writing to Congress that in their judgment the Commission has the capability and intent to commence and prosecute such "pattern or practice" cases, and that transfer would be in the best interest of carrying out and furthering the policies and objectives of title VII.

The transfer sometime in the future of the "pattern or practice" authority should not be a burden on the already meager resources of the Commission. It is expected, therefore, that along with the transfer of authority there would be a transfer of the funds and the personnel positions previously budgeted for this work in the Department of Justice. Whether or not it appears that the administration and the Congress will be willing to provide this transfer of budget resources should be one of the many factors considered by the Attorney General and the members of the Commission in determining the advisability of transfer.

OFFICE OF FEDERAL CONTRACT COMPLIANCE

Mr. President, along with the Senator from California (Mr. CRANSTON), with the support of the Senator from New York (Mr. JAVITS), I also sponsored an amendment to retain the present organizational status of the Office of Federal Contract Compliance under the Department of Labor.

I should emphasize, however, that I am not happy with the performance of the OFCC to date. Early last year, as chairman of the Judiciary Subcommittee on Administrative Practice and Procedure, I chaired hearings on discrimination by textile manufacturers holding contracts with the Department of Defense. The lack of strong Government enforcement and sanctions—including the failure to terminate contracts—against discriminating contracters was appalling then, and is appalling now.

I emphasize the views of the committee on page 20 of the report on this bill:

> The committee also believes that an adequate job of providing equal employment opportunity has not, and is not, being provided through the Federal procurement function. There has been far too much nonpublic discussion and negotiation and far too few understandable results. In many instances the Department's claim that something major happened, when measured against the demonstration that something actually happened, is grossly lacking in the clarity that the public and minorities can understand.
>
> In short, OFCC is still suffering from a paucity of credible achievements, and developments in the last year have not met the promises of the Department of Labor for improvement nor eased the doubts shed on the program by the Civil Rights Commission and other critics.

Because the OFCC needs to greatly expand the scope and vigor of its activity, I am opposed to transfer to the Commission at this time. For the Commission simply will not have the resources to handle OFCC work.

Already the Commission has a backlog of about 4,000 cases, with a waiting time of about 20 to 24 months. Its work load will be drastically increased with the acquisition of "cease and desist" powers. It will not be able to gear up quickly to meet these new responsibilities as well. And it is not clear that all budget resources would be transferred and approved along with a shift of the OFCC.

I do feel, however, that both Congress and the administration should keep an open mind on this matter. If it is clear in the future that the Commission does have the ability and resources to accept the OFCC responsibilities, then transfer would be acceptable.

In the meanwhile, I urge as strongly as possible that greater coordination among the Commission, the OFCC, and the Department of Justice be developed. In testimony before the committee on this bill, Mrs. Thomas E. Harris, associate general counsel of the AFL–CIO, noted the difficulty, inefficiency, and unfairness of "duplicative and overlapping enforcement procedures which are unduly and unnecessarily burdensome to our unions."

XUM

Mr. Harris has raised an important and valid point, both for unions and employers, and I would hope that greater coordination and cooperation among the various governmental agencies with equal employment responsibilities would minimize these difficulties.

RIGHT TO COUNSEL

In the committee, the Senator from Minnesota (Mr. MONDALE) and I also offered several amendments with regard to compensation and appointment of attorneys for proceeding before the Commission. After a full discussion in committee—in the course of which both the Senator from Colorado (Mr. DOMINICK) and the Senator from New York (Mr. JAVITS) suggested some constructive modifications—the following sections were accepted to protect the rights of individuals to be adequately represented by counsel.

Section 706(g)(1). This subsection reflects the basic policy of the legislation to include the person aggrieved as a party, with full rights of participation, in enforcement proceedings before the Commission. The Commission is authorized by this subsection to appoint an attorney to represent the aggrieved party in situations in which the Commission determines that the person aggrieved is "unable to pay for an attorney without undue hardship." This provision is similar to the language of existing section 706(e), which authorizes Federal district courts to appoint an attorney for the complainant in private enforcement actions.

The language of the bill makes clear the criteria under which the determination as to whether or not to appoint counsel is to be made. The report language on page 18 spells out the standard to be applied:

> In establishing a standard of "undue hardship" for appointment of counsel before the Commission, the committee avoided the adoption of a "poverty" or "indigency" standard, in recognition of the frequent complexity of Title VII cases and the substantial attorneys fees that would be involved in private representation. Thus, the issue for the Commission is not whether or not the aggrieved party is indigent, but the degree of financial hardship that would result from retaining counsel.

Section 706(g)(2). In an effort to assure full and effective participation by counsel for the person aggrieved, this section establishes alternative procedures by which discovery efforts thought necessary by counsel for the person aggrieved can be undertaken, in situations in which the person aggrieved is without the financial resources necessary for that purpose. This is an effort to correct a serious deficiency which has developed in private enforcement in title VII proceedings. Specifically, under the existing act, the court may appoint counsel and may permit the initiation of the action without the prepayment of costs, but there is no authority and no funds available to assist the plaintiff in undertaking necessary discovery. While there are some relatively simple title VII actions, in which extensive discovery is not necessary, many cases, and certainly the more important cases, have required depositions, the copying of documents, the retention of experts and other preparatory efforts that involve out-of-pocket expenditures. Because there is no provision in title VII for the compensation of these expenditures, at least until the conclusion of the proceedings, the result has been that private title VII enforcement has been limited to simple cases and cases in which civil rights law organizations, such as the NAACP Legal Defense Fund, Inc. or the Lawyers Constitutional Defense Committee, have been willing and able to underwrite the costs. Section 706(g)(2), as amended, provides that the aggrieved person may apply to the Commission for an order which would either, first, make available to him Commission funds, up to a maximum of $1,000, for the purpose of preparing for the hearing, upon a showing that the expenditures in question will aid in the full and effective presentation of the issue at the hearing; or second, upon the same showing, require that the discovery or preparatory efforts suggested by the aggrieved person be undertaken.

Section 706(x). Section 706(k) of title VII—redesignated section 706(x) by the bill—authorizes district courts, in their discretion, to award attorneys fees to the prevailing party in private enforcement litigation. Our amendment extends this authorization to the commission in the case of proceedings before it.

In Newman against Piggy Park Enterprises, Inc., in 1968, the Supreme Court of the United States interpreted an identical provision of the Public Accommodations Act (42 U.S.C. § 2000a–3(b)), relating to the recovery of attorneys fees to mean that:

> One who succeeds in obtaining an injunction under that Title should ordinarily recover an attorney's fee unless special circumstances would render such an award unjust.

This interpretation has been followed by several district courts in interpreting section 706(k). After much discussion, the committee agreed to retain the present discretionary language, rather than to make it mandatory, on the assumption that this judicial interpretation as to the circumstances in which a fee should be awarded will be adhered to.

With extension of the same protection to commission proceedings, when the commission finds an unlawful employment practice by the respondent, the existing judicial practice of ordering the respondent to pay the attorneys fee to the private party is continued. The authority which the courts now have to include an award of attorneys fees as part of its order against the respondent is simply extended to the commission.

In situations in which an attorney is appointed by the commission and in which the complaint is resolved in favor of the respondent, the bill provides that the commission shall pay reasonable attorneys fees to the person aggrieved. Under this authority the commission will, of course, find it necessary to establish standards to be applied in assessing this compensation. In situations in which the proceeding has been resolved adversely to the respondent it seems appropriate that what appears to be the existing judicial practice—that of awarding attorneys fees to the aggrieved party's attorney on a scale roughly equivalent to the fees paid by respondents for similar work—should be continued. Thus, not the exact amount that the specific respondent has paid to its attorneys, but an amount that would be customary and reasonable for that purpose, should be awarded to the attorney for the private party.

On the other hand, when the respondent is successful in the proceeding and the attorney is to be compensated by the commission, a standard appropriate to compensation of Government attorneys ought to be applied. One point of reference for the commission might be the scale of compensation set forth in 18 U.S.C. § 3006A(d) for the compensation of appointed counsel in criminal cases.

PRELIMINARY OR TEMPORARY RELIEF

Section 706(p) provides that the Commission may obtain a preliminary junction or other temporary relief to protect employees while their case is being further investigated and considered by the Commission. This is an extremely important provision, and the standard set by the committee, on page 12 of the report, should be clearly understood. It is the standard set in the Hayes International case. The key point is that irreparable injury does not have to be shown in order to obtain preliminary relief.

The provision permits the Commission to sue for preliminary or temporary relief. I considered introducing a further amendment in committee that would have spelled out that same right for the individual. I refrained from offering the amendment, however, on the understanding that the Commission would act swiftly to seek such relief and would widely use this authority. I am satisfied that in actual practice, in virtually all cases in which an individual employee claiming to be aggrieved would seek preliminary or temporary relief, the Commission will do the same. We want employees to be fully protected.

FULL NOTICE AND EXPLANATION OF ALL RIGHTS

Finally, Mr. President, let me emphasize that aggrieved persons should be fully informed, in clear and understandable fashion both at the time they file a charge and throughout the proceedings, of all procedural rights and steps open to them. This is critical. I am informed that in many cases a person files a charge but then blunders along lost in the bureaucratic process. Often he does not fully understand his possibilities for court action.

Especially in light of the further safeguards in this bill, the Commission should exercise its responsibility to take affirmative action in advising aggrieved persons of their options. The Commission should develop positive programs to be sure that those who have a grievance do not fail to follow through because they are unclear of their rights. Only vigorous commitment by the Commission can protect employees in this regard. I know that the Commissioners share this view, and I am confident that effective new programs will be developed in response to this new legislation.

XUM

Mr. President, those are some of the concerns and thoughts we had in committee when considering the bill. This is the background of the bill as we consider it on the floor today. I have discussed the background at length so the record will be clear. For I know that all of us in committee—and the Senators who have considered the bill here on the floor—have great hope and great expectation that title VII of the Civil Rights Act of 1964, as amended by this bill, can bring a swift and effective end to discrimination in employment.

Mr. President, when we are talking about employment, we are actually talking about food on the table, and shoes on the children's feet, and even more significantly we are discussing a man or woman's recognition of his or herself as a productive human being.

We as legislators must recognize that the enactment of this amendment to title VII will not instantly end employment discrimination in this country. The bill will not automatically reinstate the rights denied countless men and women over the years, but this bill does revive the hopes of the Civil Rights Act of 1964. The bill does reiterate that this Congress—this Government—this Nation—is seriously striving to eradicate the disappointment and discouragement that the weakness of title VII has evoked.

I urge the adoption of S. 2453.

Mr. STENNIS. Mr. President, I wish to express my complete and absolute opposition to the provisions of S. 2453, the Equal Employment Opportunities Act. It is a dangerously oppressive bill. It infringes on the freedoms of individuals, of groups, of businesses, institutions, and State and local governments. It is fundamentally unsound on a number of counts.

Among the most evident faults of the bill are the vesting of cease and desist powers in the Equal Employment Opportunities Commission rather than utilization of Federal courts; the granting of authority to Commission members or employees to file charges; and the inclusion of State and local government employees under the provisions of the bill. These elements are basically unsound and intolerable in their effects.

I would point out that the bill as it is before us did not have the support of the administration, nor of the Equal Employment Opportunities Commission, nor of the Department of Justice; nor is it supported by any elements of the business community, so far as I am aware. This opposition is for good cause.

First, it seems not only illogical and unreasonable to give the Commission cease and desist powers, but impractical as well. It is illogical and unreasonable because this function belongs in the Federal district courts, which are there for such purposes. The Commission could take their cases to the courts, and with temporary or injunctive processes obtain action as quickly as might be wished. The cease and desist provision is impractical because a massive and unwieldy administrative organization would have to be created, manned, trained, and superimposed on a Commission structure that is already overloaded. It is a tremendously expensive, slow, and ponderous task to create such a bureaucracy—impractical in every aspect, when the Federal court system is available now.

Second, I find it unthinkable that the Commission and its employees should have power to file charges. To vest in a single body the prerogatives of bringing a charge, then investigating it, then trying the case, and then enforcing the findings is clearly contrary to our system of protecting the freedom and liberties of our people. It is in absolute contradiction of all that our constitutional system defends.

Third, and clearly a fault that has constitutional questions built into it, the bill would vest in a Federal administrative agency the jurisdiction over State and local governmental employees. This is wrong. It is intolerable, and it has implications of concentrated Federal power that could be devastating in the ultimate effect.

Two amendments were offered yesterday by the distinguished Senator from Colorado which would have corrected some of these faults in the bill, but they were rejected. I wish the record to show that I was unavoidably absent yesterday, but if I had been able to be present I would have strongly support those amendments.

Mr. President, this bill should be voted down, as a measure which would erode the fundamental processes under which our Nation was created and has thrived.

If our concept of true liberty and freedom ever really fails, history will record that the passage of this bill was one of the major milestones on the road to that destruction.

Mr. HARRIS. Mr. President, as a cosponsor of S. 2453, I rise to urge its passage by the Senate. The 1964 Civil Rights Act was enacted out of recognition of the prevalence of long-standing discriminatory employment practices in this country and the need for legislation to remedy such discrimination. In the 5 years the legislation has been in existence, the Commission has received more than 40,000 charges. Better than 24,000 charges were recommended for investigation. Reasonable cause was found in 63 percent of these cases. However, the Commission was able to achieve partial or total success with less than half of the cases.

The Commission has not been more successful because the 1964 act was deficient in that it did not provide the Commission with the authority to issue judicially enforceable cease and desist orders to back up its findings of discrimination.

Under the provisions of S. 2453, title VII of the existing act would be revised so that the Commission could continue to seek voluntary compliance through conciliation and persuasion, but if a point were reached wherein the Commission determined that such efforts were unproductive, it would be empowered to issue cease and desist orders and could go into court for enforcement of its orders. Such orders could include appropriate affirmative relief, such as reinstatement and payment of back wages, and could also require the respondents to make reports at various intervals on the extent of compliance. Of course, any respondent or person aggrieved by a commission order could also obtain review of such orders in court.

On several occasions Clifford Alexander during his tenure as Chairman of the Commission requested legislation granting this new authority. He, along with many other persons, including persons representing the AFL-CIO, NAACP, NAACP Legal Defense and Education Fund, the Leadership Conference on Civil Rights, and the National Urban League, testified in support of the need for the Commission to have cease and desist powers. The Kerner Commission, on which I served, also endorsed it.

The administration has stated its preference for a procedure under which the Commission would go into court to seek redress of discriminatory unemployment practices when conciliatory efforts fail. In testimony before the Labor Subcommittee, the chairman of the Commission, William Brown, stated that it would take at least 2 years to "tool up" for the machinery required in the cease and desist legislation, whereas the administration's proposal could easily be accommodated within the existing structure and procedures of the Commission by adding 75 additional lawyers over a period of 2 years. He further stated that the Commission had a backlog, at that time, of over 2,500 investigations awaiting disposition.

But, Mr. President, one of the reasons the Commission has such a tremendous backlog is because it must wait to act until the Attorney General concludes that a pattern or practice of discrimination exists. Otherwise, the individual must go into court as a private party in order to secure his rights. With cease-and-desist powers every complaint would have the backing of a Federal administrative agency with an order enforceable in court, thereby eliminating the necessity for private litigation which in most cases works a hardship on the complainant. Cease-and-desist legislation would also permit the consistency needed in the review of unlawful employment practices, rather than the variety of interpretations which might be handed down by judges from various geographical regions of the country.

Mr. President, women's rights organizations are exerting pressure on the Congress for passage of the equal rights amendment. These women come from all walks of life and many are employees of the Federal Government. They are rightly concerned about the equal application of pay scales and promotional opportunities within both the private and public sectors.

There is still much work to be done if we are to make equal employment opportunity a reality for millions of minority group citizens in this country. Token and inconsistent enforcement will not accomplish this goal.

It is regretful that we have not been able to make equal employment opportunity a reality even within the Federal civil service. As of November 1967, black people comprised 10.5 percent of all classified employees, but less than 2 percent of those rating above GS-11. "A Study of Employment of Women in the

XUM

Federal Government," 1966, prepared by the Civil Service Commission showed that women at that time fared little better than black employees. Of 1,837,000 white-collar employees in the Federal service, about 34 percent were women. Eighty-nine percent were in grade 8 and below. Clearly, we can change this condition by establishing an effective national policy which would assure the citizens of this Nation a firm and unequivocal commitment to the principle of equal employment opportunity.

I also think that it is important that we retain section 701(b) of this bill which would extend coverage to employers with eight or more employees after a period of 2 years.

Finally, Mr. President, let me say that S. 2453 provides a procedure which would assure that every American has an equal opportunity for a job and at the same time safeguard the rights of employers. During the past several months we have had much discussion in the Congress on the subject of jobs in connection with the manpower bill recently passed by the Senate and in regard to the welfare reform legislation. If we are to eliminate poverty in this country, people must be able to get jobs. That right to a job must not be limited because of race, sex, religion, or nationality.

Therefore, Mr. President, I am pleased to be a cosponsor of this bill. I urge its passage by the Senate.

Mr. COOK. Mr. President, it was my intention to vote for an equal employment opportunity enforcement act, and after a total review, I wish to place some remarks in the RECORD.

One of the things that bothers me a great deal about this measure is that apparently we are in a movement here, as we are with a bill that is presently before the Committee on the Judiciary relative to consumer class actions. I feel about the draftsmanship of this bill as did a professor who testified about that bill, who said:

> This is the worst piece of drafting of legislation to come out of a major committee since the first draft of the Sherman Antitrust Act in 1899.

I would like to give the reasons why I say that. On page 28, under section (b) there is provision for almost a star chamber action on the part of the Commission, with no information being given to anyone, with no one being able to talk about any exhibit or any of the testimony taken. It is so secret that if anyone discloses any information or makes public any information from such hearings to secure a conciliatory agreement, which may be done by conference, conciliation, and persuasion, the indvidual is subject to a fine of $1,000 and up to 6 months in jail.

It goes even further, because on page 31, at the bottom of the page under section (f) it states:

> If the commission determines after attempting to secure voluntary compliance under section (b)—

The section to which I just referred.

> that it is unable to secure from the respondent a conciliation agreement acceptable to the commission, which determination shall not be reviewable in any court.

Mr. President, listen to this language: "which determination shall not be reviewable in any court" in these United States.

I then go to page 36 where it is provided that when a review is finally allowed from a final order, it is not a review de novo, that the court does not have the opportunity of review de novo, but it must take the record in toto and the same is conclusive if there is a preponderance of evidence. Who determines that preponderance? I expect it is the Commission.

It goes on to say that if there is a need for more information, if there is a need for more study, it is not within the purview of the Federal courts to try that issue, but it must go back to the Commission and the Commission may add to its record in the Federal court and it can make any findings of fact and new conclusions and bind the Federal court, where the case has already been appealed, by its new findings. In essence, the Commission can be taken into court and by reason of its own hearings walk itself right out of court.

I feel a little sad that I cannot vote for the bill because, as Senators may recall, when I discussed the postal reform bill and tried to get the provisions of title VII into that bill, I made reference to the Equal Employment Opportunities Act and I made reference to the fact that cease-and-desist orders should have been provided for, because this was one of the problems they were having under civil service.

I regret that I shall not be able to vote for the bill, but I cannot substitute to a Commission, the entire legal actions of a court. I can give preliminary hearings to a Commission. I can authorize a Commission. But I cannot bind the hands of the Federal courts of the United States, and deny the right of review on any and all matters pertaining to the subject matter of the Commission's findings.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), the Senator from Maine (Mr. MUSKIE), the Senator from Ohio (Mr. YOUNG), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Alaska (Mr. GRAVEL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. GOODELL), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY), the Senator from Vermont (Mr. PROUTY), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from New York (Mr. JAVITS) is necessarily absent to observe a religious holiday.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), and the the Senator from Vermont (Mr. PROUTY) would each vote. "yea."

On this vote, the Senator from New York (Mr. GOODELL) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from New York would vote "yea" and the Senator from Texas would vote "nay."

On this vote, the Senator from New York (Mr. JAVITS) is paired with the Senator from Utah (Mr. BENNETT). If present and voting, the Senator from New York would vote "yea" and the Senator from Utah would vote "nay."

The result was announced—yeas 47, nays 24, as follows:

[No. 346 Leg.]

YEAS—47

Allott
Anderson
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Case
Church
Cranston
Curtis
Dole
Dominick
Eagleton
Fong
Fulbright
Griffin
Harris
Hart
Hatfield
Hughes
Jackson
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Miller
Mondale
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith, Maine
Stevens
Symington
Williams, N.J.

NAYS—24

Allen
Baker
Byrd, Va.
Cook
Cooper
Cotton
Eastland
Ellender
Ervin
Fannin
Goldwater
Gurney
Hansen
Holland
Hollings
Long
McClellan
Russell
Spong
Stennis
Talmadge
Thurmond
Williams, Del.
Young, N. Dak.

NOT VOTING—29

Aiken
Bayh
Bellmon
Bennett
Cannon
Dodd
Goodell
Gore
Gravel
Hartke
Hruska
Inouye
Javits
Jordan, N.C.
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Muskie
Pell
Prouty
Smith, Ill.
Sparkman
Tower
Tydings
Yarborough
Young, Ohio

So the bill (S. 2453) was passed, as follows:

S. 2453

An act to further promote equal employment opportunities for American workers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Employment Opportunities Enforcement Act of 1970".

SEC. 2. Section 701 of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e) is amended as follows:

(1) In subsection (a) insert "governments, governmental agencies, political subdivisions," after the word "individuals".

(2) In subsection (b) strike out all before "*Provided further*", and insert in lieu thereof the following:

"(b) The term 'employer' means a person engaged in an industry affecting commerce who has eight or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of title 5 of the United States Code), (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954: *Provided,* That during the first year after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1970, persons having fewer than twenty employees (and their agents) shall not be considered employers, and during the second year after such date, persons having fewer than fifteen employees (and their agents) shall not be considered employers:"

(3) In subsection (c) beginning with the semicolon strike out through the word "assistance".

(4) In subsection (e) strike out between "(A)" and "and such labor organization", and insert in lieu thereof "twenty or more during the first year after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1970, (B) fifteen or more during the second year after such date, or (C) eight or more thereafter,"

(5) At the end of subsection (h) insert before the period a comma and the following: "and further includes any governmental industry, business, or activity".

SEC. 3. Section 702 of the Civil Rights Act of 1964 (78 Stat. 253, 42 U.S.C. 2000e-2) is amended to read as follows:

"EXEMPTION

"SEC. 702. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion."

SEC. 4. (a) Subsections (b) through (j) of section 705 of the Civil Rights Act of 1964 (78 Stat. 258, 259; 42 U.S.C. 2000e-4 (a)-(i)) and references thereto are redesignated as subsections (c) through (k), respectively.

(b) Section 705 of such Act is amended by inserting the following new subsection (b):

"(b) There shall be a General Counsel of the Commission who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel of the Commission shall exercise general supervision over all attorneys employed by the Commission (other than trial examiners and legal assistants to Commission members) and over the officers and employees in the regional offices. He shall have final authority, on behalf of the Commission, in respect of the investigation of charges, conference, conciliation, and persuasion endeavors, issuance of complaints, the prosecution of such complaints before the Commission, and the conduct of litigation as provided in sections 706 and 707 and shall have such other duties as the Commission may prescribe or as may be provided by law. In case of a vacancy in the Office of the General Counsel, the President is authorized to designate the officer or employee who shall act as General Counsel during such vacancy, but no person so designated shall so act (1) for more than forty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted."

SEC. 5. (a) Subsections (a) through (e) of section 706 of the Civil Rights Act of 1964 (78 Stat. 259; 42 U.S.C. 2000e-5 (a)-(e)) are amended to read as follows:

"(a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 703 or 704 of this title.

"(b) Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by an officer or employee of the Commission upon the request of any person claiming to be aggrieved, alleging that an employer, employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a copy of the charge on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the 'respondent') as soon as practicable thereafter and shall make an investigation thereof. Charges shall be in writing, signed under oath, and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such informal endeavors may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any officer or employee of the Commission who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) or (d), from the date upon which the Commission is authorized to take action with respect to the charge.

"(c) In the case of a charge filed by or on behalf of a person claiming to be aggrieved alleging an unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall take no action with respect to the investigation of such charge before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated: *Provided,* That such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered or certified mail to the appropriate State or local authority.

"(d) In the case of any charge filed by an officer or employee of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days: *Provided,* That such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law, unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

"(e) A charge under this section shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred and a copy shall be served upon the person against whom such charge is made as soon as practicable thereafter, except that in a case of an unlawful employment practice with respect to which the person aggrieved has initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, such charge shall be filed by or on behalf of the person aggrieved within three hundred days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

"(f) If the Commission determines after attempting to secure voluntary compliance under subsection (b) that it is unable to secure from the respondent a conciliation agreement acceptable to the Commission, which determination shall not be reviewable in any court, the Commission shall issue and cause to be served upon the respondent a complaint stating the facts upon which the allegation of the unlawful employment practice is based, together with a notice of hearing before the Commission, or a member or agent thereof, at a place therein fixed

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not less than five days after the serving of such complaint. Related proceedings may be consoliated for hearing.

"(g) (1) A respondent shall have the right to file an answer to the complaint against him and with the leave of the Commission, which shall be granted whenever it is reasonable and fair to do so, may amend his answer at any time. Respondents and the person aggrieved shall be parties and may appear at any stage of the proceedings, with or without counsel. After the Commission issues a complaint it may, upon application by the person aggrieved or the respondent, appoint an attorney for such person in any case in which it determines that the aggrieved party or the respondent is unable to pay for an attorney without undue hardship, or in any case in which the interests of justice and and fair play would be served thereby. The Commission may grant such other person a right to intervene or to file briefs or make oral arguments as amicus curiae or for other purposes, as it considers appropriate. All testimony shall be taken under oath and shall be reduced to writing. Any such proceeding shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the United States under the Rules of Civil Procedure for the district courts of the United States.

"(2) After the Commission issues a complaint, it may, upon application by the person aggrieved, compensate such person for reasonable expenses in connection with the preparation for the hearing and in connection with participation in the hearings, including the cost of expert witness fees, transcripts, and copying. Not more than $1,000 will be allocated in any single proceeding to carry out the provisions of this paragraph. The Commission may perform the services for which the aggrieved party would otherwise seek reasonable expenses under this subsection.

"(h) If the Commission finds by preponderance of the evidence taken by the Commission that the respondent has engaged in an unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on the respondent and the person or persons aggrieved by such unlawful employment practice an order requiring the respondent to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without backpay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), and including payment of attorney's fees pursuant to section 706 (w), if the person aggrieved was represented by counsel in the proceedings before the Commission, as will effectuate the policies of this title: Provided, That interim earnings or amounts earnable with reasonable diligence by the aggrieved person or persons shall operate to reduce the backpay otherwise allowable. Such order may further require such respondent to make reports from time to time showing the extent to which he has complied with the order. If the Commission finds that the respondent has not engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on the respondent and the person or persons alleged in the complaint to be aggrieved an order dismissing the complaint.

"(i) After a charge has been filed and until the record has been filed in court as hereinafter provided, the proceeding may at any time be ended by agreement between the Commission and the respondent for the elimination of the alleged unlawful employment practice, approved by the Commission, and the Commission may at any time, upon reasonable notice, modify or set aside, in whole or in part, any finding or order made or issued by it. An agreement approved by the Commission shall be enforceable under subsections (l) through (n) and the provisions of those subsections shall be applicable to the extent appropriate to a proceeding to enforce an agreement.

"(j) Findings of fact and orders made or issued under subsections (h) or (i) of this section shall be determined by a preponderance of the evidence of the record. Sections 554, 555, 556, and 557 of title 5 of the United States Code shall apply to such proceedings.

"(k) Any party aggrieved by a final order of the Commission granting or denying in whole or in part the relief sought may obtain a review of such order in any United States court of appeals for the circuit in which the unlawful employment practice in question is alleged to have occurred or in which such party resides or transacts business, or in the Court of Appeals for the District of Columbia Circuit, by filing in such court within sixty days after the service of such order, a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and to any other party to the proceeding before the Commission, and thereupon the Commission shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon the filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant to the petitioner or any other party, including the Commission, such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. Any party to the proceeding before the Commission shall be permitted to intervene in the court of appeals. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Commission. No objection that has not been urged before the Commission, its members, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court thta such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or its agent, the court may order such additional evidence to be taken before the Commission, its members, or its agent, and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

"(l) The Commission may petition any United States court of appeals for the circuit in which the unlawful employment practice in question occurred or in which the respondent resides or transacts business, for the enforcement of 'ts order and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that its order be enforced and for appropriate temporary relief or restraining order. The Commission shall file in court with its petition the record in the proceeding as provided in section 2112 of title 28, United States Code. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the Commission. Upon the filing of such petition, the court shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant to the Commission, or any other party, such temporary relief, restraining order, or other order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. Any party to the proceeding before the Commission shall be permitted to intervene in the court of appeals. No objection that has not been urged before the Commission, its members, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or its agent, the court may order such additional evidence to be taken before the Commission, its members, or its agent, and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new finding, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any for the modification or setting aside of its original order. Upon the filing of the record with it the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

"(m) If no petition for review, as provided in subsection (k), is filed within sixty days after service of the Commission's order, the Commission's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the Commission under subsection (l) after the expiration of such sixty-day period. The clerk of the court of appeals in which such petition for enforcement is filed shall forthwith enter a decree enforcing the order of the Commission and shall submit a copy of such decree to the Commission, the respondent named in the petition, and to any other parties to the proceeding before the Commission.

"(n) If within ninety days after service of the Commission's order, no petition for review has been filed as provided in subsection (k), and the Commission has not sought enforcement of its order as provided in subsec-

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tion (1), any person entitled to relief under the Commission's order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the unlawful employment practice in question occurred, or in which a respondent named in the order resides or transacts business. The provisions of subsection (m) shall apply to such petitions for enforcement.

"(o) The Attorney General shall conduct all litigation to which the Commission is a party in the Supreme Court of the United States pursuant to this title. All other litigation affecting the Commission, or to which it is a party, shall be conducted by attorneys appointed by the Commission.

"(p) Whenever a charge is filed with the Commission pursuant to subsection (b) and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to preserve the power of the Commission to grant effective relief in the proceeding, the Commission shall, after it issues a complaint, bring an action for appropriate temporary or preliminary relief pending its final disposition of such charge, or until the filing of a petition under subsections (k), (l), (m), or (n) of this section, as the case may be, in the United States district court for any judicial district in the State in which the unlawful employment practice concerned is alleged to have been committed, or the judicial district in which the aggrieved person would have been employed but for the alleged unlawful employment practice, but, if the respondent is not found within any such judicial district, such an action may be brought in the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28, United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a judicial district in which such an action might have been brought. Upon the bringing of any such action, the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law. Rule 65 of the Federal Rules of Civil Procedure, except paragraph (a)(2) thereof, shall govern proceedings under this subsection.

(q)(1) If a charge filed with the Commission pursuant to subsection (b) is dismissed by the Commission, or if within sixty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d), whichever is later, the Commission has neither issued a complaint under subsection (f) nor entered into an agreement under subsection (f) or (i) which is acceptable to the Commission and to which the person aggrieved is a party, the Commission shall so notify the person aggrieved and such person may, within thirty days thereafter, bring a civil action against the respondent named in the charge. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon the commencement of such civil action, the Commission shall be divested of jurisdiction over the proceeding and shall take no further action with respect thereto; except that, upon timely application, the court in its discretion may permit the Commission to intervene in such civil action if the Commission certifies that the case is of general public importance.

"(2) The right of an aggrieved person to bring a civil action under paragraph (1) of this subsection shall terminate once the Commission has issued a complaint under subsection (f), or has entered into an agreement under subsection (f) or (i) which is acceptable to the Commission and to which the person aggrieved is a party: *Provided*, That if after issuing a complaint the Commission enters into an agreement under subsection (i) without the agreement of the person aggrieved, or has not issued an order under subsection (h) within a period of one hundred and eighty days of the issuance of the complaint, the Commission shall so notify the person aggrieved and a civil action may be brought against the respondent named in the charge at any time prior to the Commission's issuance of an order under subsection (h) or, in the case of an agreement under subsection (i) to which the person aggrieved is not a party, within thirty days after receiving notice thereof from the Commission: *Provided further*, That where there has been no agreement under subsection (i) if the person aggrieved files a civil action against the respondent during the period from one hundred and eighty days to one year after the issuance of the complaint such person shall notify the Commission of such action and the Commission may petition the court not to proceed with the suit. The court may dismiss or stay any such action uopn a showing that the Commission has been acting with due diligence on the complaint, that the Commission anticipates the issuance of an order under subsection (h) within a reasonable period of time, that the case is exceptional, and that extension of the Commission's jurisdiction is warranted.

"(3) With respect to any charge filed prior to the effective date of the Equal Employment Opportunities Enforcement Act of 1970, the Commission, if unable to secure a conciliation agreement from the respondent after determining that there is reasonable cause to believe that the charge is true, may bring a civil action against the respondent named in the charge."

(b) Subsections (f) through (k) of section 706 of such Act and references thereto are redesignated as subsections (r) through (w), respectively.

(c) Section 706(u) and (v) of such Act, as redesignated by this section, are amended (1) by striking out "(e)" and inserting in lieu thereof "(q)", and (2) by striking out "(i) and inserting in lieu thereof "(u)".

(d) Section 706(w) of such Act, as redesignated by this section, is amended by inserting after the word "discretion," the words "and, in the case of any action or proceeding before the Commission, the Commission, in its discretion,", and by adding at the end thereof the following new sentence: "Whenever the person aggrieved has an attorney appointed by the Commission and the Commission and the Commission finds that the respondent has not engaged in an unlawful employment practice the Commission shall pay a reasonable attorney's fee to the person aggrieved."

SEC. 6. Section 707 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(c)(1) Effective three years after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1970, the functions of the Attorney General under this section shall be transferred to the Commission if the Attorney General and at least three of the members of the Commission certify to the Congress that the Commission has the capability and the intention to carry out the functions set forth in this section and that a transfer under this subsection would contribute to carrying out the objections of title VII of this Act.

"(2) In all suits commenced prior to the date any transfer occurs, proceedings shall continue without abatement, all court orders and decrees shall remain in effect, and the Commission shall be substituted as a party for the United States of America or the Attorney General, as appropriate."

SEC. 7 (a) Subsections (b), (c), and (d) of section 709 of the Civil Rights Act of 1964 (78 Stat. 263; 42 U.S.C. 2000e–8(b)–(d)) are amended to read as follows:

"(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may, for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, engage in and contribute to the cost of research and other projects of mutual interest undertaken by such agencies, and utilize the services of such agencies and their employees, and, notwithstanding any other provision of law, may pay by advance or reimbursement such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

"(c) Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applicants were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, have jurisdiction to issue to such person an order requiring him to comply.

"(d) In prescribing requirments pursuant to subsection (c) of this section, the Commission shall consult with other interested State and Federal agencies and shall endeavor to coordinate its requirements with those adopted by such agencies. The Commission shall furnish upon request and without cost to any State or local agency charged with

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the administration of a fair employment practice law information obtained pursuant to subsection (c) of this section from any employer, employment agency, labor organization, or joint labor-management committee subject to the jurisdiction of such agency. Such information shall be furnished on condition that it not be made public by the recipient agency prior to the institution of a proceeding under State or local law involving such information. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests pursuant to this subsection."

(b) Section 709 of the Civil Rights Act of 1964 is amended by: (1) redesignating section 709(e) as 709(f) and (2) by adding immediately after section 709(d) as amended, the following subsection (e):

"(e) Any record or paper required by section 709(c) of this title to be preserved or maintained shall be made available by inspection, reproduction, and copying by the Commission or its representative, or to the Attorney General or his representative in connection with his authority under section 707, upon demand in writing directed to the person having custody, possession, or control of such record or paper. Unless otherwise ordered by a court of the United States, neither the members of the Commission nor its representative shall disclose any record or paper produced pursuant to this title, or any reproduction or copy, except to Congress or any committee thereof, or to a governmental agency, or in the presentation of any case or proceeding before any court or grand jury. The United States district court for the district in which a demand is made or in which a record or paper so demanded is located, shall have jurisdiction to compel by appropriate process the production of such record or paper."

Sec. 8. Section 710 of the Civil Rights Act of 1964 (78 Stat. 264; 42 U.S.C. 2000e–9) is amended to read as follows:

"INVESTIGATORY POWERS

"Sec. 710. For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 11 of the National Labor Relations Act (49 Stat. 455; 29 U.S.C. 161) shall apply: *Provided,* That no subpena shall be issued on the application of any party to proceedings before the Commission until after the Commission has issued and caused to be served upon the respondent a complaint and notice of hearing under subsection (f) of section 706."

Sec. 9. (a) Section 703(a)(2) of the Civil Rights Act of 1964 (78 Stat. 255; 42 U.S.C. 2000e–2(a)(2)) is amended by inserting the words "or applicants for employment" after the words "his employees".

(b) Section 703(c)(2) of such Act is amended by inserting the words "or applicants for membership" after the word "membership".

(c)(1) Section 704(a) of such Act is amended by inserting "or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs," after "employment agency" in section 704(a).

(2) Section 704(b) of such Act is amended by (A) striking out "or employment agency" and inserting in lieu thereof "employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs,", and (B) inserting a comma and the words "or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee" before the word "indicating".

(d)(1) The second sentence of section 705(a) is amended by inserting before the period at the end thereof a comma and the following: "and all members of the Commission shall continue to serve until their successors are appointed and qualified: *Provided,* That no such member of the Commission shall continue to serve (1) for more than sixty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted".

(2) The fourth sentence of section 705(a) of such Act is amended to read as follows: "The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, such officers, agents, attorneys, hearings examiners, and employees as he deems necessary to assist it in the performance of its functions and fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates: *Provided,* That assignment, removal, and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5, United States Code."

(e) Section 705(g)(1) of such Act is amended by inserting at the end thereof the following: ", and to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))".

(f) Section 705(g)(6) of such Act is amended to read as follows:

"(6) to intervene in a civil action brought by an aggrieved party under section 706."

(g) Section 713 of such Act is amended by adding at the end thereof the following new subsections:

"(c) Except for the powers granted to the Commission under subsection (h) of section 706, the power to modify or set aside its findings, or make new findings, under subsections (i), (k), and (l) of section 706, the rulemaking power as defined in subchapter II of chapter 5 of title 5, United States Code, with reference to general rules as distinguished from rules of specific applicability, and the power to enter into or rescind agreements with State and local agencies, as provided in subsection (b) of section 709, under which the Commission agrees to refrain from processing a charge in any cases or class of cases or under which the Commission agrees to relieve any person or class of persons in such State or locality from requirements imposed by section 709, the Commission may delegate any of its functions, duties, and powers to such person or persons as the Commission may designate by regulation, including functions, duties, and powers with respect to hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter: *Provided,* That nothing in this subsection authorizes the Commission to provide for persons other than those referred to in clauses (2) and (3) of subsection (b) of section 556 of title 5 of the United States Code to conduct any hearing to which that section applies.

"(d) The Commission is authorized to delegate to any group of three or more members of the Commission any or all of the powers which it may itself exercise."

(h) Section 714 of such Act is amended by striking out "section 111" and inserting in lieu thereof "sections 111 and 1114".

Sec. 10. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new clause:

"(55) Chairman, Equal Employment Opportunity Commission."

(b) Clause (72) of section 5315 of such title is amended to read as follows:

"(72) Members, Equal Employment Opportunity Commission (4)."

(c) Section 5315 of such title is amended to add, as a new clause (73), the following:

"(73) General Counsel of the Equal Employment Opportunity Commission."

The remaining clauses, beginning with old clause (73), are redesignated accordingly.

(d) Clause (111) of section 5316 of such title is repealed.

Sec. 11. The amendments made by this Act to section 706 of the Civil Rights Act of 1964 (except those subsections designated by this Act as (o) and (q)(3) thereof) shall not be applicable to charges filed with the Commission prior to the enactment of this Act.

Mr. WILLIAMS of New Jersey. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS of New Jersey. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections in S. 2453, as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICABLE DISEASE CONTROL AMENDMENTS OF 1970—CONFERENCE REPORT

Mr. KENNEDY. Mr. President, on behalf of the Senator from Texas (Mr. Yarborough), chairman of the Committee on Labor and Public Welfare, who is absent on official business, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2264) to amend the Public Health Service Act to provide authorization for grants for communicable disease control and vaccination assistance. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. Jordan of Idaho). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(For conference report, see House proceedings of September 23, 1970, page 33279, Congressional Record.)

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I wish to indicate to my colleagues that I do not think there will be extensive debate on this conference report. I would expect a vote in about 15 minutes.

Almost 1 year ago the Senate passed unanimously a comprehensive communicable disease control and vaccination assistance bill, S. 2264. The bill would authorize a program of project grants to continue Federal programs to combat a host of diseases such as rubella, diphtheria, venereal disease, tuberculosis, Rh disease, and many others. While great strides have been made in recent years in combating these diseases, it is essential for us to continue our efforts in order to prevent an unraveling of the significant progress that has been made.

Perhaps the most urgent need in this area is the need to prepare ourselves against the ominous prospect of an epi-

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demic of rubella—or German measles, as it is better known—that is likely to occur within the next year.

For most people, this common childhood disease is innocuous. For a pregnant woman, however, the impact may be devastating. If she contracts rubella during the first 3 months of her pregnancy, the effects upon the fetus can be catastrophic. She may lose the child. The child may be stillborn. Or, even more tragic, the child may be born with one or more severe congenital abnormalities, such as deafness, mental retardation, or heart disease.

In the past, epidemics of rubella have occurred on approximately a 7-year cycle. The last such epidemic was in 1964. There is a very real prospect that another rubella epidemic will be visited on the Nation in the spring of 1971, less than 6 months from now.

In the epidemic of 1964, health professionals in the Nation were powerless to avert the tragic consequences of the birth of 20,000 severely deformed and handicapped children. Today, our hands are no longer tied. Medical science has developed a vaccine against rubella which, when administered to young children on a systematic, nationwide basis, is capable of eradicating the disease, thereby preventing a repetition of the disastrous consequences of the 1964 epidemic.

Time, however, grows short. It has been almost a full year since the Senate took affirmative action on this legislation. In less than a year, we may be in the midst of the new epidemic.

On September 10, 1970, the House passed S. 2264, on a rollcall vote of 312–1, after having substituted the language of the companion House bill, H.R. 11913. On Monday, the House approved the conference report by the overwhelming vote of 292–2. Today, the Senate has the opportunity to reiterate its support for this important and popular legislation.

The House-passed bill is essentially identical to the Senate bill. It covers the same diseases. It uses the same grant mechanism to achieve the purposes of the bill.

The only substantial difference between the two bills is that the House version authorizes slightly more money than the Senate-passed bill—$75 million for fiscal year 1971, and $90 million for 1972. Therefore, in conference last week, the Senate yielded to the House version of S. 2264, in the interest of expediting this important legislation and securing the higher authorization. The other differences between the two bills are insignificant.

To those who argue that this bill is unnecessary, let me say that I strongly disagree.

At the time of the passage of the Partnership-for-Health Act in 1966, it was hoped that the rubella and other vaccination programs could be effectively supported under the bloc grant subsection of that act—section 314(d). That hope has been in vain, and for good reason, because the original concept was in error.

Communicable diseases obviously do not respect geographical or political boundaries. In a highly mobile society such as ours, it makes little sense to attempt the systematic and effective control of communicable diseases by allowing each of the 50 States to decide whether or not to have such a program with their bloc grant funds. Clearly, for example, if 40 States choose to use their section 314(d) funds for a rubella program, and the other 10 States do not, then the entire national program may fail, and all the moneys will be wasted.

The same reasoning applies to many other diseases against which successful nationwide vaccination programs could be launched. We know, for example, that the incidence of common measles is now increasing in many States. A few short years ago, we thought we were well on the way to successful eradication of this well-known childhood scourge. Now, years of progress are in danger of being lost, unless we make a greater and more concerted national effort.

Recognizing the logic of this argument, especially in the case of rubella, the administration has been forced to fund these vaccination programs from a completely different section of the partnership-for-health program—section 314(e). This is a project grant authority, and the administration is using it for precisely the purposes that S. 2264 would accomplish.

However, the legislative history of section 314(e) makes clear that its principal purpose is to support comprehensive programs dealing with the organization and delivery of health services. Restructuring the overall health delivery system of the Nation is one of the most difficult social problems we now face in the Nation. It is a problem that lies at the heart of the major health care crisis that confronts the country. It is a problem we must confront and solve.

Obviously, the modest funds authorized and appropriated under section 314(e) cannot begin to grapple effectively with this problem, when the majority of such funds continue to be diverted to communicable disease control and vaccination assistance.

In this connection, let me quote from the recent report of the Senate Committee on Labor and Public Welfare, discussing the Health Services Improvement Act of 1970, S. 3355:

> The Committee notes with concern the fact that a large proportion of the programs funded under section 314(e) continue to be too narrowly focused, rather than focused upon the broader area of the organization and delivery of health services. In large part, of course, this is attributable to the fact that the states have not been as willing as the Congress had hoped in funding these vitally important though narrower projects with funds made available under the bloc grant program, 314(d). The Congress is in the process of responding to this problem. The Senate has passed, and the House will soon take up, the Communicable Disease Control and Vaccination Assistance Amendments of 1970 which, if enacted, would authorize separate categorical project grant authority for these programs. At that time the Committee intends that HEW will, as rapidly as possible, insure that the projects funded under section 314(e) be primarily intended to grapple with the organization and delivery of comprehensive health services.

In other words, the authority in existing law does not adequately deal with the problem of communicable diseases today. The existing programs are not suited to the job. They are intended by both Congress and the administration to fulfill other important purposes.

When I first introduced this vaccination assistance legislation nearly 18 months ago, at the beginning of the 91st Congress, the urgent need for Federal assistance to State and local vaccination programs was already abundantly clear. Subsequent events have served only to underscore that need. Again and again, in comprehensive hearings on this legislation in both the Senate and House, health leaders of the Nation emphasized the importance of this program and its significance for the future of the Nation's health.

The pending legislation is therefore both vital and necessary. Unless it is enacted, we shall accomplish neither of our goals—effective eradication of communicable disease, and reorganization of the health delivery system.

I urge the Senate to approve the conference report on S. 2264.

Mr. President, I ask unanimous consent that a statement by the distinguished Senator from Texas (Mr. YARBOROUGH) be include at this point in the RECORD.

There being no objection, Senator YARBOROUGH's statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR RALPH W. YARBOROUGH

Mr. President, after almost a year the Senate now has the opportunity to complete legislative action on a bill of paramount importance, the Communicable Disease Control Amendments of 1970.

Let me briefly retrace the legislative history of this bill. The Senate passed S. 2264 on October 20, 1969. The House passed a bill which was virtually identical to the Senate-passed version on September 10th of this year. Last week the Senate-House conferees reached agreement, and just the other day the House overwhelmingly adopted the Conference Report by a vote of 292–2. I urge the Senate to agree to the Conference Report so that this bill can be promptly sent to the President.

Mr. President, I now would like to briefly describe the principal purposes encompassed within S. 2264. S. 2264 would authorize a two-year program of project grants to combat a host of communicable diseases such as rubella, diptheria, venereal diseases, tuberculosis, RH disease and measles. While enormous progress has been made in recent years in combatting these diseases, it is necessary that we continue our efforts in order to forestall an unravelling of that progress. Perhaps the best example in this regard concerns the need to forestall a likely epidemic of rubella in the next year or so. This means that during the next year, unless action is taken by all concerned, we will be faced with a repeat of the 1964 epidemic which saw more than 20,000 children born with congenital abnormalities. In addition to deafness, these abnormalities include heart defects, blindness, and mental retardation. Approximately one-fourth of those pregnant women who contract the disease either abort or bear infants with these congenital anomalies. It goes without saying that the human suffering as well as the very special and expensive burden that these children place upon their families and society in terms of their education and rehabilitation are incalculable.

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Mr. President, in 1964 there was little we could do to prevent what happened. That unfortunate circumstance no longer obtains! In the intervening years a vaccine has been developed which, if comprehensively and systematically administered to the prepubertal youngsters of this nation, can create what the medical people call a "herd-immunity", which will all but wipe out rubella and thereby prevent a repetition of 1964. However, let me sound a caution.

Rubella, like any communicable disease, knows no geographic boundaries. In a highly mobile society such as ours we cannot rely upon a hit-or-miss program. Nor can we rely exclusively upon the private sector. To have an effective vaccination program in one State, city, or county but not in another will not suffice. In order to insure a coordinated, national attack on rubella, as well as other communicable diseases, special Federal assistance will be required. S. 2264 is that special assurance.

Finally, Mr. President, I want to draw my colleague's attention to the relationship between this bill and existing legislative authority under sections 314(d) and 314(e) of the Partnership-for-Health program. At the time of the passage of the Partnership-for-Health Act in 1966, it was hoped that these communicable disease programs would be funded under the bloc grant portion of that Act—section 314(d). That hope has been in vain. And for good reason. As I have said, communicable diseases obviously do not respect geo-political boundaries. In a highly mobile society such as ours, it makes little sense to attempt to systematically and effectively control communicable diseases by decentralizing the choice of having such a program to the 50 States. Clearly, if, for example, 40 States choose to use their 314(d) funds for a rubella program, and the other 10 States do not, then the overall program will likely fail and the monies will have been wasted. While not necessarily recognizing the logic of this, both the Nixon Administration and the Johnson Administration before it have been forced to fund these programs from another portion of the Partnership for Health Program—section 314(e). This is a flexible project grant authority. However, the legislative history of section 314(e) makes clear that its principal purpose is to support comprehensive programs dealing with the organization and delivery of health services. Rationalizing the health delivery system is an intractable problem, and it lies at the heart of the health care crisis which confronts the country. Obviously, the modest funds authorized and appropriated under 314(e) cannot grapple with this gargantuan crisis when the majority of those funds continue to be programmed for Communicable Disease Control. In that regard, let me quote from the Senate Labor Committee's report on the Health Services Improvement Act of 1970, S. 3355:

HEALTH SERVICES DEVELOPMENT SECTION 314(e)

"The Committee notes with concern the fact that a large proportion of the programs funded under section 314(e) continue to be too narrowly focused rather than focused upon the broader area of the organization and delivery of health services. In large part, of course, this is attributable to the fact that the states have not been as willing as the Congress had hoped in funding these vitally important though narrower projects with funds made available under the bloc grant program, 314(d). The Congress is in the process of responding to this problem. The Senate has passed and the House will soon take up the Communicable Disease Control and Vaccination Assistance Amendments of 1969 which, if enacted, would authorize separate categorical project grant authority for these programs. At that time the Committee intends that HEW will, as rapidly as possible, insure that the projects funded under section 314(e) be primarily intended to grapple with the organization and delivery of comprehensive health services."

Mr. President, this is a good bill. It is an effective response to a host of illnesses which can be prevented. Contrasted to the skyrocketing costs of medical care generally, preventive programs such as these are highly cost effective. They emphasize preventive programs which, by the way, was one of the major points made by the Under Secretary of HEW in his testimony last week with regard to National Health Insurance before the Senate Labor Committee. He said, "In the long run, a healthy Nation depends more on the steps we take to prevent illness and accidents than it does on those to cure it."

Mr. President, this has not been and should not be a partisan measure. Rather, it is one which my colleagues on both sides of the aisle can support with enthusiasm. I urge the Senate to agree to the Conference Report.

Mr. KENNEDY. Mr. President, an article in today's Washington Evening Star by Judith Randal, who is one of the most perceptive writers on health in our Nation today, makes as strong a case as I have seen for the passage of this legislation. Miss Randal cites recent data on the increased incidence of various communicable diseases, and she makes a strong argument for enactment of this legislation. I urge my colleagues to read this article, and I ask unanimous consent that it may be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WASHINGTON CLOSE-UP: DO NOT VETO THE DISEASE CONTROL BILL

(By Judith Randal)

Time and again, when testifying on health matters in the House or Senate, administration witnesses have said they neither want nor need special authority to carry out a given program because legal authority already exists.

To have Congress single out some particular problem for money and attention, they argue, would undermine broad-gauged legislation permitting states to decide for themselves how to use their share of federal health funds. If this so-called "Partnership for Health" is to work, they insist, if red tape is to be cut to a minimum and local needs met, Congress should leave well enough alone.

So it is that one of the measures President Nixon soon may veto is a bill—passed by Congress with only a single dissenting vote—that would authorize $165 million over the next 21 months for the control of communicable disease.

To put it bluntly, it is hard to imagine anything that would make less sense from any point of view.

For one thing, although the Partnership for Health legislation was passed during the Johnson administration, the states have been so slow to plug into the program that it will be at least two more years before their plans for communicable disease control are ready to render service to any meaningful extent.

For another, even if plans already were in place, money is so scarce these days that seemingly mundane matters like vaccinations against polio, diphtheria and measles—not to mention prophylactic measures to control the spread of tuberculosis and venereal disease—likely would fall to the bottom of the priority heap or be dealt with in a manner short of the known need. Authority and the means to implement it are simply not the same thing.

Meanwhile, there is abundant evidence that communicable disease is a growing public health problem. There has been twice as much diphtheria this year as last, with outbreaks in Chicago, Miami and three Texas cities, principally San Antonio where 108 cases had been reported as of yesterday. Sample surveys show that while most people over 40 have been immunized, many younger people have not.

Polio is up, too. An estimated 4 million Americans under 20 have not received the vaccine, and the Center for Disease Control in Atlanta has no funds to stockpile it should there be an epidemic. Half a million cases of gonorrhea were reported last year, 200,000 more than in 1965.

When tuberculosis was discovered among congressional dining room employes not long ago and free detection tests were offered, 25 percent of those screened were found to be latently infected. And 23 million across the country are thought to be susceptible. This despite the fact that a year of medication in such cases will prevent the threatened onset of active TB.

Assuming that budgetary constraints underlie the potential presidential veto, it is important to consider the inflationary effect of neglect. For every 10,000 children who get measles, for example, 60 will develop complications requiring hospitalization at $50 to $100 a day (one of these will die) and three will become mentally retarded at an eventual cost to their families and society of $100,000 each for special training and custodial care.

All this could be avoided by an outlay of $20,000 for every 10,000 children immunized. Yet reported cases of measles—always lower than the actual number—have doubled since the vaccine assistance act expired in 1969 and an estimated 11 million youngsters are now risking the disease.

Similarly, many infants are requiring expensive treatment and some are dying or permanently impaired because their mothers do not have access to a vaccine which prevents the life-threatening anemia known as Rh disease. (Though not a communicable disorder in the classic sense—being due to genes rather than germs—provisions for it are included in the proposed bill.)

The list could go on and on.

An epidemic of baby-damaging rubella, or German measles, is expected within a year. If, in accord with the administration's present plan, only 10 million of the 50 million children who should be vaccinated to prevent the spread of the disease to pregnant women are treated, the first of these babies—blind, deaf, retarded or with a combination of these and other defects—should be born just in time for the 1972 election.

The estimated lifetime cost of caring for children born after the 1964 epidemic, when no vaccine had yet been developed, is $2.6 billion. The implications are obvious.

Millions of dollars and the working lives of many scientists have been invested in finding ways to prevent communicable disease. Germs respect neither state boundaries nor social class—in an air age, they are dispersed more rapidly than ever before.

What seems to have been forgotten by the administration, in its zeal to trim the budget, is that tired but still apt adage: An ounce of prevention is worth a pound of cure.

Mr. KENNEDY. Mr. President, I have in my hand a chart showing the incidence of the major childhood diseases in the United States. The chart was prepared by Dr. James E. Bowes, who is one of the most distinguished epidemiologists in the Nation. Unfortunately, the chart cannot be printed in the RECORD. Its figures are dramatic. It demonstrates very clearly, for example, that the incidences of diphtheria, measles, and polio has actually doubled in 1970, as compared to

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1969, and the incidence of German measles and mumps has increased substantially.

When we realize that the original Vaccination Assistance Act ended in mid-1968, we can see the heavy price we are paying for our failure to continue this program in the past 2 years.

Mr. President, I also ask unanimous consent to have printed in the Record a list of areas where there have been epidemic outbreaks of tuberculosis, diphtheria, and measles from 1968 through 1970. This material was also supplied by Dr. Bowes. It indicates where the epidemics took place, and the number of cases involved. I believe it will be of interest to all Senators.

There being no objection, the list was ordered to be printed in the Record, as follows:

EPIDEMIC OUTBREAKS, 1968–70

Location	Date	Cases
TUBERCULOSIS		
Kentucky	May 1970	([1])
DIPHTHERIA		
Florida, Madison County	August 1968	([2])
Texas, Austin	October 1968	17
Phoenix	November 1968–May 1969	12
Florida	1968	16
Do	1969	22
Miami	November	6
San Antonio	Summer 1970	108
Chicago	January 1970	16
Washington		
Oregon		
MEASLES		
Chicago	March 1968	139
Montana, Rockport	do	48
Nashua, N.H	do	52
Terrebonne Parish, La	July 1968	21
Rhode Island	October 1968	49
Dallas	October–November 1968	116
Philadelphia	do	124
Portsmouth, Va	do	109
Rocky Mount, N.C	November 1968	38
Oregon and Idaho	January 1969	69
Florida, Jacksonville	do	325
Wake County, N.C	do	36
New York City	February 1969	73
Baltimore	April 1969	11
Cleveland	June 1969	14
Chicago	September 1969	163
District of Columbia	October 1969	261
Oregon	May 1970	51

[1] 4 schools.

[2] Not available.

Mr. KENNEDY. Mr. President, if there is no further discussion of the measure, I move the adoption of the conference report.

The PRESIDING OFFICER (Mr. Jordan of Idaho). The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Cannon), the Senator from Connecticut (Mr. Dodd), the Senator from Tennessee (Mr. Gore), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senator from Minnesota (Mr. McCarthy), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), and the Senator from Maryland (Mr. Tydings) are necessarily absent.

I further announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Rhode Island(Mr. Pell), the Senator from Alabama (Mr. Sparkman), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) are absent on official business.

I further announce that, if present and voting, the Senator from Ohio (Mr. Young), the Senator from Texas (Mr. Yarborough), and the Senator from Rhode Island (Mr. Pell) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. Aiken), the Senator from Utah (Mr. Bennett), the Senator from New York (Mr. Goodell), the Senator from Nebraska (Mr. Hruska), the Senator from California (Mr. Murphy), the Senator from Vermont (Mr. Prouty), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) is absent on official business.

The Senator from New York (Mr. Javits) is necessarily absent to observe a religious holiday.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Utah (Mr. Bennett), the Senators from New York (Mr. Goodell and Mr. Javits), the Senator from South Dakota (Mr. Mundt), the Senator from California (Mr. Murphy), the Senator from Vermont (Mr. Prouty), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) would each vote "yea."

The result was announced—yeas 71, nays 0, as follows:

[No. 347 Leg.]

YEAS—71

Allen
Allott
Anderson
Baker
Bible
Boggs
Brooke
Burdick
Byrd, Va.
Byrd, W. Va.
Case
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Harris
Hart
Hatfield
Holland
Hollings
Hughes
Jackson
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGovern
McIntyre
Metcalf
Miller
Mondale
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Russell
Saxbe
Schweiker
Scott
Smith, Maine
Spong
Stennis
Stevens
Symington
Talmadge
Thurmond
Williams, N.J.
Williams, Del.
Young, N. Dak.

NAYS—0

NOT VOTING—29

Aiken
Bayh
Bellmon
Bennett
Cannon
Dodd
Goodell
Gore
Gravel
Hartke
Hruska
Inouye
Javits
Jordan, N.C.
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Muskie
Pell
Prouty
Smith, Ill.
Sparkman
Tower
Tydings
Yarborough
Young, Ohio

So the report was agreed to.

RAILROAD SAFETY AND HAZARDOUS MATERIALS CONTROL—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1933) to provide for Federal railroad safety, hazardous materials control, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. Jordan of Idaho). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(For conference report, see House proceedings of September 24, 1970, pages 33602–33603, Congressional Record).

Mr. GRIFFIN. Mr. President, the able Senator from Vermont (Mr. Prouty) has a deep personal interest in this particular legislation. Unfortunately, he had to leave to catch a plane to Vermont a short time before this conference report on railroad safety was called up.

On his behalf, I ask unanimous consent that a statement which he would like to have delivered in person be printed in the Record.

There being no objection, Senator Prouty's statement was ordered to be printed in the Record, as follows:

Mr. Prouty. Mr. President, I am convinced that S. 1933 represents the most significant piece of safety legislation for surface transportation enacted in this century.

For the first time in the nation's history, the Federal Government will be able to make rules and regulations relating to all aspects of railroad operations so as to insure maximum safety.

Railroad accidents can occur anywhere and too often do. In the past ten years the number of train accidents has more than doubled. The number of deaths resulting from railroad accidents has continued to increase at an alarming rate. Mr. President, it has been a miracle that all of those train accidents have occurred in relatively low populated areas. If any one of those accidents had occurred in a large metropolitan area, the resulting death and destruction would have been catastrophic.

The bill we are passing today represents months of hard work by Members of the Senate and House and incorporates a meaningful concept of creative federalism. Participation by the States in carrying out the provisions of this Act is insured by making it possible for States who are able to carry out the day to day surveillance and inspection necessary for the effective enforcement of the Act. As soon as a State has ben certified by the Secretary of Transportation as being capable of carrying out the provisions of the Act, the Federal Government will pay up to 50% of the expenses incurred by the State for the necessary inspection to insure safe railroad operations. Certified States themselves can go into Federal District Court to enforce compliance with the Act if the Department of Transportation has failed to do so within 90 days. This feature of this legislation not only insures a close working partnership between Federal government and State government but also creates a new effective check and balance by permitting States to act when the Federal Government fails to do so and by permitting the Federal Government to certify or decertify States based on the effectiveness of their performance.

Title II of this legislation is often overlooked by many. In my view it is equally as important as Title I. Title II establishes the Hazardous Materials Transportation Control Act of 1970.

This Act authorizes the Secretary of Transportation to evaluate and determine the safest means for transporting hazardous materials. Literally millions of shipments on our nation's highways and our nation's rails involve the transportation of hazardous materials. Hazardous materials run the gamut from explosive gases to poisonous chemicals.

Whenever an accident occurs involving dangerous substances fires often result and those fires must be put out by local fire departments throughout the country. It is unrealistic to assume that every local fire department know every aspect of putting out chemical fires involving thousands of chemicals used in America today. Under this Act the Secretary of Transportation is directed to establish a central information center so that in the event of emergency a local fire department can call a central number to obtain correct information as to the best method of extinguishing a chemical fire or preventing additional explosions.

Mr. President, all my colleagues in the Senate and the House are to be congratulated on this particular piece of legislation which indeed represents a meaningful step forward in our national effort to insure safety for all Americans.

Mr. COTTON. Mr. President, I want to echo the remarks of my distinguished colleague from Vermont, Senator Winston Prouty. This measure indeed is a landmark piece of legislation and truly represents the most comprehensive and far reaching piece of surface transportation safety legislation ever passed by Congress.

At the beginning of this Congress I, too, felt that the chances of getting this worthwhile piece of legislation through Congress were minimal. However, the distinguished Senator from Vermont is too modest in pointing out why this Congress has succeeded in enacting the first comprehensive Federal railroad safety legislation in history. The primary reason that we are able to pass this piece of legislation today is the skilled and dedicated work by the distinguished junior Senator from Vermont.

While many were talking, Senator Prouty was working. He almost singlehandedly wrote this entire piece of legislation.

Last November, when the various parties interested in this legislation found it impossible to agree on a sensible railroad safety bill, Senator Prouty called them together in his office. He called railroad labor. He called railroad presidents. He lit a fire under our own administration and he worked closely with the public utility commissioners in the various States. Within several weeks he had hammered out a piece of legislation which was far stronger than the bill that was originally considered by the committee. He offered it as a substitute to the bill pending before our committee and the committee unanimously accepted the Prouty substitute. In December, with able floor leadership by Senator Prouty, the bill passed the Senate. All spring and part of the summer the House deliberated concerning the merits of the bill. Some of the Members of the House attempted to weaken the bill. Senator Prouty personally persuaded them that a strong bill was necessary.

Today we can see the results of the extraordinary legislative skill characteristic of Senator Winston Prouty.

As ranking minority member on the Senate Commerce Committee, I have a thorough knowledge of what has been done in the field of surface transportation legislation. In this Congress the dedication and hard work by the distinguished Senator from Vermont has resulted in the enactment of more meaningful legislation originating in the Surface Transportation Subcommittee, on which he is the ranking minority member, than occurred in the entire decade of the sixties.

Mr. MAGNUSON. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES—CONFERENCE REPORT

Mr. STENNIS. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. Jordan of Idaho). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(For conference report, see House proceedings of September 28, 1970, pages 33942–33926, Congressional Record.)

Mr. STENNIS. Mr. President, it is likely that this matter will not take very much time. I have a statement about the bill, which discusses the main subject matters and makes reference to some of the Senate amendments that did not prevail in conference.

As I see the situation now, Mr. President, there will not be any extended debate with reference to the conference report. I should, however, like to reserve the right—as any other Senator does, I am sure—to ask for a rollcall vote if it seems proper at the end of this discussion; but as I see it now, it will not require a rollcall vote.

GENERAL COMMENTS

Mr. President, this conference was hard fought on the part of both the House and Senate conferees. The final product is a bill as a result of the work of the conferees. The Senate did not prevail in all of its provisions but neither did the House. This conference report represents the product of extremely hard work by both the Senate and House conferees and, in my opinion, provides for an excellent procurement and research and development program for fiscal year 1971. I shall discuss the highlights of the conference action and shall be prepared to answer any questions members may have.

FUNDING COMPARISONS

The bill as presented to the Congress by the President totaled $20,605,489,000. The bill as passed by the House totaled $20,571,489,000. The bill as passed by the Senate totaled $19,242,889,000.

The bill, as agreed to in conference, totals $19,929,089,000.

The figure arrived at by the conferees is $642,400,000 less than the bill as it passed the House, $686,200,000 more than the bill as it passed the Senate, and $676,400,000 less than the bill as it was presented to the Congress by the President.

SAFEGUARD ABM SYSTEM

Mr. President, the Senate position on on the Safeguard ABM system prevailed exactly as it passed the Senate, both in terms of funds and the restrictive language limiting this system to the protection of our deterrent. I would emphasize that the House reluctantly accepted this position after having urged several changes in the Senate position.

SHIPS

The bill as passed by the House contained lead funds for the nuclear carrier, CVAN–70, as well as an additional authorization of $435 million for new ship construction not in the Senate version. The Senate version did not contain funds for any of these items. The House acceded to the Senate position with respect to the carrier. The Senate agreed to the House position with respect to the additional ships, all of which are set forth in the conference report. I would emphasize that the basis for the final conference position on the nuclear carrier is due to the fact that a firm position has not been forthcoming from the executive branch on this matter. I should also like to point out that even though the new ships listed in the conference report are not in the budget, they have the highest priority with respect to Navy needs. Moreover, the Secretary of Defense has indicated that funds for these ships will be obligated if made available by the Congress.

M60A1E2 TANK

Mr. President, the Senate bill deleted the $12.1 million for additional research funds for the so-called E–2 tank which has represented an effort over the years to adapt the Shillelagh missile to the standard A–1 tank. Even though this program has encountered great difficulties with respect to time and cost, the House was insistent that the funds be authorized for one last attempt to solve the technical problems for this tank.

PRIOR YEAR FUNDS

Mr. President, I would like to note that the House agreed with the Senate position in reducing the new obligational authority in this bill by $334.8 million in recognition of certain prior year appropriations which will not be obligated during fiscal year 1971 and which will therefore be available for use in 1971 in lieu of new financing.

RESEARCH AND DEVELOPMENT WEAPONS

Mr. President, I shall not dwell at great length on the research and development items since Senator McINTYRE intends to discuss these matters in some depth. I would observe that in terms of the money differences on R. & D., the House version totaled $7,265.6 million, the Senate version totaled $7,016.5 million, and the final version totaled $7,101.6 million. The conference amount was $164 million below the House version and $164.1 million above the Senate version.

Furthermore, with respect to the specific weapons systems in R. & D. the House was adamant in insisting on the restoration of the funds for the Cheyenne helicopter development in the amount of $17.6 million which the Senate had deleted.

With respect to the B–1 advanced bomber, the final figure was $75 million as compared to $50 million approved by the Senate and $100 million by the House.

There were a number of lesser items which were subject to adjustment on both sides all of which are set forth in the conference report.

LANGUAGE ADJUSTMENTS

Mr. President, I would now like to discuss some of the results of the adjustments in language in the conference with respect to the two versions of the bill.

FINAL ACTION ON HOUSE LANGUAGE PROVISIONS

The House bill contained five language provisions. Three of these relating to the shipbuilding and conversion program were dropped in conference. The remaining provision mandating three active production sources for the M–16 rifle during fiscal year 1971 was retained in the final report.

XUM

The one other House provision related to the barring of R. & D. grants for colleges where military recruiting is barred on the campus. This provision was compromised with the result that this prohibition will not apply unless military recruiting is barred by the policy of the institution.

SENATE LANGUAGE PROVISIONS

C–5A

Mr. President, the Senate language provision insuring that the $200 million appropriated for the C–5A would be strictly used for C–5A purposes only was accepted by the House. The House would not accept in its exact Senate form the provision requiring approval by the two Armed Services Committees of the plan for the use of the $200 million contingency funds for the C–5A. The final language requires the submission of the plan by the Secretary of Defense to the two Armed Services Committees and prohibits any obligation of expenditures until the expiration of 30 days. It was the position of the House that the so-called committee approval provision was unconstitutional.

FUNDING SUPPORT FOR FREE WORLD FORCES IN SOUTHEAST ASIA

Mr. President, the Senate version of the provision authorizing the use of Defense appropriations for the support of free world forces in Southeast Asia with two exceptions prevailed in conference. The exceptions were: First, the raising of the ceiling from $2.5 billion to $2.8 billion in order to provide flexibility for Vietnamization and second, the insertion of additional language which would exclude any present agreements from the limitation of overseas pay now being received by foreign troops out of U.S. funds.

TRANSFER OF MILITARY EQUIPMENT TO ISRAEL

The Senate amendment on the transfer of aircraft and related equipment to the State of Israel under certain conditions was accepted by the House with one slight modification which provides that the transfer authority will expire on September 30, 1972. The Congress will be in a position at that time to examine the need for the extension of this authority.

REQUIREMENT FOR ANNUAL AUTHORIZATION FOR ACTIVE DUTY PERSONNEL

Mr. President, the House accepted the Senate provision which will require beginning in fiscal 1972 that the active duty strength of the Armed Forces be authorized as a condition precedent for the appropriation of funds for this purpose.

PREMATURE DISCLOSURE OF DEFENSE CONTRACT AWARDS

The House accepted the Senate provision which precluded the Secretary of Defense from providing advance notification to any Member of Congress of a defense contract award.

LIMITATION ON PERMANENT CHANGE OF STATION ASSIGNMENTS

The provision placing limitations on permanent change of station assignments for military personnel was not acceptable to the House in the form approved by the Senate. A compromise version was reached which directs the Secretary of Defense to initiate new procedures but omits the explicit limitations contained in the Senate version.

INDEPENDENT RESEARCH AND DEVELOPMENT PROVISIONS

Mr. President, Senator McINTYRE will comment at length on the final provision with respect to I.R. & D. The key feature of the Senate provision was the $625 million ceiling which would have been imposed on the level of effort in this activity. The House would accept no dollar limitation on this matter. Certain language was agreed to, however, which does require advance agreements between the Department of Defense and the contractor.

Mr. President, I greatly respect the position of the House but at the same time I exceedingly regret that more progress could not be made in the control of the so-called I.R. & D. activity. It is my observation that this program has not been properly managed in the Department of Defense for the past few years and much needs to be done to prevent abuse in this program which is now at an estimated cost of about $700 million a year.

I firmly believe that this entire matter should be kept under continual and intensive oversight by the Congress and I wish to give notice at this time that I intend to pursue this course of action. No program, however important, is not properly managed if managed in such a way that effective legislative oversight is impossible.

We had some sharp disagreement with reference to the language that goes to the research problem and the independent research problem. It is an important matter, but it is a problem to get it in such shape that Congress can give it proper legislative surveillance, because proper legislative surveillance is something which is more important than the exact amount we might appropriate for items. We can well disagree as to amounts, but we should all agree that an item is not to be approved unless we can have some semblance of a reasonable legislative surveillance and supervision over it, varying according to degree to the subject matter.

We got the best we could with reference to this research. The conferees did everything they could. Someone asked me: "Why did not the House conferees agree more than they did with reference to the amendments?" I am sure they were as honest and sincere as we were, but I remember that our former colleague from Arizona, Carl Hayden, gave a mighty good answer here, one time, on a conference report, where he was sharply questioned by someone as to why the Senate did not get a better agreement and specifically why the House would not agree on that point. He said, "Well, they were opposed to it."

I cannot improve on that. They were just opposed to a lot of these provisions. And, as I say, I am sure it was in all sincerity.

I think it is something that can be and should be worked on more. We should keep on, and we will get a better system out of it.

I am going to insist on the Secretary of Defense and Dr. Foster, the Assistant Secretary of Defense in charge of research and development, helping to formulate a better plan that, regardless of the amount of money, can be handled in such a way as to have this surveillance on independent research and development. I fully recognize its importance. But I think that we must have a better system.

SECTION 204—RELEVANCY OF DEFENSE RESEARCH ACTIVITIES

Mr. President, as the Senate knows, the Senate version of the bill contained a provision, also in last year's act, which required that defense research be conducted only on work having a direct and apparent relationship to a specific military operation or function. The House would not accept the language this year in the form passed by the Senate mainly on the argument of the great difficulty in applying such standards to basic research. A compromise version was agreed to which limits the use of Department of Defense research unless the project has "in the opinion of the Secretary of Defense, a potential relationship to a military function or operation."

Mr. President, Senator McINTYRE will discuss this provision in some detail.

SUMMARY

Mr. President, I have outlined the principal provisions of this conference action and I urge the Senate to approve this conference report for the authorization of military procurement and research and development for the fiscal year 1971.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. STENNIS. Mr. President, I am glad to yield at this point to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, first I congratulate the Senator with regard to the retention of two of the amendments I sponsored. I am very pleased that those prohibiting the financing of South Vietnamese or Thai military operations in support of the Cambodian or Laotian Governments and the payment of excessive bonuses to mercenary troops were retained.

The Senator did a great service in maintaining the Senate's position. The principles involved in these amendments are quite important. I believe that we should make it clear that our Government's policy is that we are not going to underwrite the security of the Lon Nol government.

Although the Senate failed to set a deadline for the termination of our involvement in the war, it has taken action to prevent our being sucked further into the conflict in Southeast Asia.

I do regret that the prohibition on payments of bonuses to mercenary troops was changed so that it does not affect agreements now in effect. However, perhaps the Congress' action will have the effect of bringing about a faster liquidation of the pay agreements that are outstanding.

The item I wish to ask the Senator about specifically is that for $30 million for the International Fighter project which the Senate Armed Services Committee had not approved.

As the Senator knows, this aircraft is to be built solely for the purpose of giving and selling it to foreign countries. It is the first time, I think, that such a development project has been undertaken, aimed solely at markets in foreign countries. Heretofore, weapons and planes have been developed for our own defense purposes and if we wished to do so, we could also sell them abroad.

The Committee on Foreign Relations is interested in this matter. The Senator will recall that when Congress approved an authorization of $28 million last year for the development of this plane, it was justified in the Senate on the grounds that the plane was needed by the South Vietnamese in connection with the Vietnamization program and to expedite the withdrawal of our troops.

I would like to ask the Senator from Mississippi a few specific questions. The conference report states that no final action has yet been taken by the Department of Defense to go forward on this project. Does that mean that the $28 million appropriated last year has not been used?

Mr. STENNIS. The Senator is correct. That amount has not been used.

Mr. FULBRIGHT. Has the contract been awarded?

Mr. STENNIS. No, there has been no contract award.

Mr. FULBRIGHT. Did the administration budget this year request any funds for this project?

Mr. STENNIS. No. The $28 million was not in the budget last year. It was authorized by the Congress. But there was a $30 million recommendation this year. The Senate committee left that out.

Mr. FULBRIGHT. The $28 million has not been used?

Mr. STENNIS. The Senator is correct.

Mr. FULBRIGHT. No contract has been awarded?

Mr. STENNIS. The Senator is correct.

Mr. FULBRIGHT. And the only difference was that the Senator says that this year, while the budget recommended an additional $30 million, the Senate committee left it out and the Senate left it out.

Mr. STENNIS. The Senator is correct.

Mr. FULBRIGHT. I do not know why if they have not used the $28 million, $30 million additional is needed?

Mr. STENNIS. Mr. President, here were the facts that we were confronted with last week when the report was agreed to. That is the position we took, that the $28 million was still available and that no contract had been let. We went into this question fully with the Department of Defense and found a very strong position there that they were planning to let a contract and that they would need this $30 million to carry out the plan that had been formulated following our authorization last year.

The Senate conferees insisted that that figure be reduced, if it was going to be allowed at all. We had not allowed it. But we made every effort to get a determination of the amount needed. The only position the Department of Defense ever gave was that they would need that full $30 million if they were going to carry out the plan they had formulated.

In the final analysis, we agreed to the $30 million on that basis.

I had become convinced in the course of the consideration that over the course of years we can save considerable money, assuming that we continue this policy of backing a plane of lesser cost. It would not be an inferior plane. However, it would be far less complicated, the upkeep would be far simpler and less expensive, and if the Department of Defense can do what they now think they can do with it moneywise, it would save considerable money. Militarywise, it would be a sound investment.

We agree to it on that basis.

Mr. FULBRIGHT. Mr. President, I do not understand why, after a year, if they have not been able to use the $28 million, they need an additional $30 million before letting the contract.

Is it not a fact that the Department of Defense did not originate this? It originated in the House committee, specifically by Chairman Rivers, and represents his views on how to supply foreign military equipment.

Mr. STENNIS. Mr. President, all the way through, the Secretary of Defense has given every evidence of strong support to this project.

Mr. FULBRIGHT. Mr. President, actually if the chairman of the House committee committed himself to the project, it would be most unusual for the Secretary to disagree with him.

This project did not originate with the Department of Defense. It is a special project that was initiated in the House committee. The facts about this matter have been publicized. There is no secret about them.

In view of that, I do not understand why, if they have been unable to use the $28 million already appropriated, they now want to have an additional $30 million before they let the contract. They have not let the contract or done anything to use the money available.

This project is unprecedented. Never before has any previous administration undertaken to develop a plane specifically for foreign countries, a plane that has no relevance to our own Armed Forces.

This kind of authorization should not be handled through the Armed Services Committee. The authorization for giving or selling this plane should be through the military aid and sales programs. So this is not only being profligate in the spending of money, but it also violates the jurisdictional rules of the Senate.

This is really backdoor foreign aid. That is all it is. It is backdoor foreign aid to get around the restrictions that have been initiated by the Committee on Foreign Relations and approved by the Congress to curb profligate spending on foreign aid. Now a new foreign aid program is being started under the aegis of the House. I regret the Senate is going along with that procedure. This project is not only a waste of the taxpayers' money but it violates the jurisdictional rules of the Senate. This matter could lead to very serious consequences.

The military sales bill is already in conference. The House does not show a disposition to go forward with reaching an agreement on that bill. So it looks now as if under some understanding, at least, that the Committee on Armed Services is trying to take over foreign military aid. This could lead to unlimited spending for military aid and complete disregard for the traditional jurisdictional rules of the Senate.

Mr. STENNIS. We could endlessly argue where the line of strict jurisdiction is between the Committee on Foreign Relations and the Committee on Armed Services. There are clauses in the rules that will support either side. I say that frankly.

But at the same time, over the years, the custom was to refer these matters to both committees. I think we had some joint hearings on this military aid in some of the years. I know the bills were referred to both committees in some of the years that I remember.

We have gotten into arguments about these matters. This year—and it is burning up time just to recall it—on the Ship Sales Act, the Committee on Foreign Relations, thinking they had jurisdiction, of course, to do so, sponsored a resolution with respect to the actual conduct of the war, as many of us saw it. That was debated here. It is still a matter of contention, one might say.

Here is a matter where these planes are becoming much more expensive, and a cheaper and simpler plane is thought to be adequate. I am not interested in what any individual wants to sponsor. I am not a party to it and I am not interested in it. But as a practical matter, I was impressed with some of these facts

XUM

about less cost and less upkeep and less involvement. We have to send men to these countries to keep these sophisticated planes in repair. The first tracks we made in South Vietnam were Air Force mechanics going in there to maintain these planes we had loaned them. I think as a practical matter if we can get one of these knockdown planes cheaper it would be justified.

I do not meticulously hew the line about this jurisdictional matter.

Mr. MANSFIELD. Mr. President, will the Senator yield so that I may interpolate there?

Mr. STENNIS. Yes, but first I wish to finish my statement. I have concepts about jurisdiction. I wish we could scrupulously maintain them but as a practical matter it is impossible to do it.

Mr. MANSFIELD. Just as a historical footnote, I recall at the time they sent those mechanics in, the Senator from Mississippi rose on his "hind legs," so to speak, and protested and foretold then what would happen if this thing was carried through; and it has come to pass. The record should show that.

Mr. STENNIS. I thank the Senator.

We want to lessen the occurrences under which we will send mechanics in. We want a simpler plane, with which we will not have to help in the maintenance and upkeep.

Mr. FULBRIGHT. I say to the Senator that under the foreign military aid program it is not customary to send in men to keep them in operation. If you give them planes, you give them planes, but they are responsible for their maintenance and operation.

XUM

Does the Senator contend there is any authorization for giving these planes to any country other than South Vietnam in the existing law?

Mr. STENNIS. I think this one may be—this one is not limited to any one application.

Mr. FULBRIGHT. Just by virtue of this bill. If we ignore existing jurisdiction and authority under the Foreign Military Sales Act, Aid and Sales Acts, and the Senate rules and practices with regard to jurisdiction—if that happens to be convenient—the Senator seems to think it is all right for the Committee on Armed Services to take jurisdiction.

Mr. STENNIS. The Senator should not put words in my mouth.

Mr. FULBRIGHT. Under all practices prior to this year, until this issue came up, the Foreign Relations Committee has had jurisdiction over all military aid and sales matters; the Senator now says jurisdiction is not significant.

Mr. STENNIS. I did not say that. I emphasized it was important. I said it is often difficult to draw exact lines. I think the Senator finds it difficult himself sometimes to draw exact lines.

Mr. FULBRIGHT. That is true but not in this case. Many cases are clear and many are marginal. This is not marginal by any stretch of the imagination. It is clear you have authority to use Department of Defense funds to pay for assistance to South Vietnam. You do not have authority, do you, to give away these planes, say, to Pakistan, India, Turkey, Greece, or Korea?

Mr. STENNIS. Those countries are beyond the ordinary concept of military aid, as has been handled by our committee.

Mr. FULBRIGHT. The Senator is——

Mr. STENNIS. Let me finish, please. But under conditions as they are now I do not see how we can split hairs over just where the line may be.

If the Senator wants to, really wants to actually restrict this to any country, he still has the high prerogative to do it, the power to consider it, and bring in any bill, anything of that nature he may desire.

But my concept of this matter is not necessarily limited to Southeast Asia. The Secretary of Defense may consider it in that light, but he has not made me any promise to that effect.

Mr. FULBRIGHT. The military sales bill, passed by the Senate, contains provisions which says that Department of Defense funds cannot be used to give this plane to any country other than South Vietnam. It now looks as if, with the reluctance of the House to proceed with that bill, and the action of the conference committee in this instance, and also the action of the Senate and the committee on the Jackson amendment, which gives open ended, unlimited authority for military assistance to Israel, that a process is developing where the Committee on Armed Services is beginning to try to take over all foreign military assistance programs. I assume they are doing that because the administration and the Committee on Armed Services are impatient with the fact that the Committee on Foreign Relations has, in recent years, shown a disposition to try to cut down on and give Congress better control over military assistance, and foreign aid in general, for that matter.

I think this approach, if pursued, would represent a very serious change in policy. I think the Senate should be aware of what is taking place; that this attempt should not be allowed to develop piecemeal, a little at a time, where it ends in the Armed Services Committee having taken over foreign military aid. This has been one of the areas which has been very controversial. There has been much progress in cutting back on foreign aid. But now an attempt is being made to revive it in this disguised form. I do not think many people are aware what is taking place and what it means, or that what it will lead to is very bad for the country.

I cannot support this move at all, not only because of jurisdiction, but because I am opposed, in principle, to unlimited foreign aid, the giving away of taxpayers funds on an unrestricted basis, especially as proposed in this bill.

In this case $28 million has already been appropriated. You want $30 million more and that will give you $58 million before you turn a tap. I cannot support that.

Mr. STENNIS. The Senator's words were "you want $30 million." I am not particularly wanting anything.

Mr. FULBRIGHT. I am talking about the conference report. I did not mean the Senator personally.

Mr. STENNIS. We looked into the money part. The $30 million is provided in order to let them proceed. This gives them what we call preproduction money for the manufacture of this product, whoever gets the contract. That has not been decided. So it is not one of those things where we could delay with profit. If we were going to proceed with the program, we decided they need that much money.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. STENNIS. Yes; I yield to the Senator from Arizona.

Mr. GOLDWATER. I will try to clear this up a bit. I might say that I can see the point of the Senator from Arkansas. I can understand the point of the committee. I personally do not think it has reached the place yet where the Foreign Relations Committee would even want to take jurisdiction.

But let me go back a bit and try to trace the development of this matter. When the U.S. Air Force stopped the purchase of the F-104, we, in effect, stopped the purchase of any interceptor aircraft. Today we do not, in truth, have a plane that can successfully compete for air superiority against any sophisticated equipment of the Soviets, or even what the French are producing. We did give the F-5, which is a single-place version of the T-38 trainer to the South Vietnamese as their interceptor aircraft—in fact, tactical support aircraft. It was not successful at first. It is now.

I do not remember exactly when it was—it must have been about 3 years ago—the Air Force, I believe, consulted with other foreign countries, because really the only people in the world today who are making what one would call sophisticated interceptor aircraft would be the Soviets, unless the French Mystere might be able to compete—which I do not think it could in this particular field. It was decided then that it would be wise to encourage American manufacturers to compete with a low-cost interceptor that could be sold to foreign countries.

I realize that the airplanes can be given away, but it is my understanding, having known of this for some time, that the competition was to provide an interceptor aircraft easy to maintain, relatively inexpensive, and the competition, if I am correct, was completed some time either in June or July, and the decision has not been made to whom to award the contract.

The money that is in question is money, as the Senator from Mississippi has said, for preproduction costs, for allowing the aircraft companies that are successful, or the one that is successful, to go ahead with production of a prototype of this interceptor aircraft, which would then be offered for sale to different countries in the world which might want to buy it. I must say that if we want to give it away, we can.

I think at that point, when the prototype has been finished and we have decided it is successful and we go ahead with an actual procurement contract, the Foreign Relations Committee would have a very definite place in it, because at that time it would come under the Foreign Military Sales Act. But at the present time we are actually talking about something which comes under research and development.

I think it was unfortunate that statements were made to the effect that it was to be given to South Vietnam. The impression was left that only South Vietnam would get the aircraft. The truth of the matter is that we want to get into the foreign market and see if we cannot compete with the Russians in the field of air superiority.

I might say, in closing, inasmuch as we do not have today in our inventory a strictly termed interceptor aircraft, this might provide us with something that our Air Force is in very bad need of at this time and that we are not producing.

That is my understanding of the whole matter.

Mr. FULBRIGHT. Mr. President, may I say, in reply, that last year this was all justified on the basis of Vietnamization. We did not need the plane for our own defense. If we needed it, it would be funded in the regular defense appropriation, and the question would never have arisen. But this is a peculiar way of changing the justification. It was for Vietnamization; nothing was said in the authorization about selling it around the world. If that is the purpose of developing it, the Government has no business developing it. Let McDonnell-Douglas, or whoever it is, go ahead and pay for the development costs. This is a strange mixture of socialism and private enterprise. We have no business developing something for McDonnell-Douglas—using it as a symbol for the whole industry; it would be any one of them—when they could make money out of selling it. Other countries, I assume, do this on a private enterprise basis.

This change in the justification for the project is virtually the same as what happened with ABM. One never can come to grips with the arguments for it. Every time one argument is made, we come up against another justification. The justification in this case was said to be giving it to South Vietnam to aid in the Vietnamization program. That was the reason for this authority. Now there is another $30 million, and that totals $58 million, and they want to give it to anybody, anywhere, as they see fit.

This is an invasion of the jurisdiction of the Foreign Relations Committee. It goes against all the practices and rules of the Senate. I do not think it ought to be in this bill.

In reply to the Senator from Arizona, I know very well that if this item goes through and later another followup proposal comes up, we will certainly be met with the argument, "Well, look, the precedent has already been made. This project is already in Defense. What are you talking about? You lost your jurisdiction last year."

We are met with that kind of argument in treaties. Once we lose jurisdiction, there is little chance of regaining it.

For that reason, I am not about to be a party to this loose interpretation of our rules and jurisdiction.

This action is based upon the fact that the Foreign Relations Committee has not been sympathetic to giving away all the money of this country. I am not going to support such a policy. Just as soon as Congress begins to be more prudent and careful with military and—I think it should have been long ago—there is an attempt to make an end run around us. The same principle was involved in the Jackson amendment. I made the same points then. My amendment was voted down. I do not think it was understood, but it was defeated by a number of votes. I did not have the votes to do anything about it. But it is still a bad practice.

Mr. GOLDWATER. Mr. President, will the Senator from Mississippi yield for a clarification?

Mr. STENNIS. I yield.

Mr. GOLDWATER. Mr. President, I might say that these companies have proceeded under their own funds. I cannot name all of them. McDonnell-Douglas had a version of the F–4. Lockheed has a later version of the F–104. The particular participant is Northrup, with a new version of the F–5. So they are ready to go. Why the Air Force has not made the contract, I cannot understand. I have asked the officials for the last 2 or 3 months why they did not make it when it was manifest that it would be made the next week, either in June or early July. I have not received a satisfactory answer as to why they have not proceeded with the contract, but the contract is awardable right now, and the money the Senator is concerned about would be spent by the Air Force when the firm that is to build the airplane is decided on. The company would build this aircraft, and, I would assume from discussions I have had, although they said it could definitely become a part of our inventory, the intention is to give it or to sell it. At that point I think the committee of the Senator from Arkansas would have definite jurisdiction. But right now the money is for preproduction costs necessary to build the airplane.

Mr. FULBRIGHT. Does the Senator from Mississippi agree with what the Senator from Arizona said?

Mr. STENNIS. Had the Senator from Arizona finished?

Mr. GOLDWATER. I have finished.

Mr. FULBRIGHT. Does the Senator from Mississippi agree with the Senator from Arizona?

Mr. STENNIS. Mr. President, I do not yield now. Let me make a statement here.

In the first place, Mr. President, this bill does not authorize any planes to go to any country. There is not a thing like that in the bill. This is just money to produce a new plane, the prospective use of which can be for South Vietnam, or any of those countries in Southeast Asia, or any other country.

There is no money in the bill to pay for a plane that is going to South Vietnam or anywhere in Southeast Asia—this type of plane, I mean—or any other country. This is just money to build a new plane. And it cannot be built this fiscal year. At very best, I am advised, it would take 18 to 24 months before we could produce a plane of this type.

So this is just money for preproduction effort. It is the beginning of procurement.

Mr. MAGNUSON. It is just authorization; it is not money.

Mr. STENNIS. Yes; authorization. So hereafter, if some planes like this are going to be given to any Southeast Asian country, it will have to be approved right here on this floor, and if that is done——

Mr. FULBRIGHT. Is this——

Mr. STENNIS. May I finish?

Mr. FULBRIGHT. I thought the Senator had finished.

Mr. STENNIS. I am just stating facts. If there are any hereafter authorized for South Vietnam, as I say, it would have to be done here on this floor, presumably in a bill like this for some future fiscal year.

Then, if there are to be any planes authorized for Pakistan, it would have to be done on this floor, too; and I assume the Senator from Arkansas would claim that his committee had jurisdiction, and he would have a very strong point; perhaps it would not even be contested by the Committee on Armed Services.

Mr. FULBRIGHT. The Senator from Arizona, as I understood, said that is where he thought it would be.

Mr. STENNIS. I am just trying to bring this into focus here, that the Senator from Arkansas is not surrendering anything now. This is a continuation of what we passed last year, and this plane may be used by any country. There are no restrictions on it. When it comes to authorizing the sale of planes, it will have to be done by legislation from one committee or the other. We are not wanting to get into anything more right now, but I would not want to waive jurisdiction; it depends on the circumstances.

Mr. FULBRIGHT. The Senator wants to postpone that argument.

Mr. STENNIS. No; that is just the fact. That is as far as this authorization goes.

Mr. FULBRIGHT. That is true.

Mr. STENNIS. That will come up some year in the future.

Mr. FULBRIGHT. Having appropriated this money to spend, they will want to go ahead with the contract. Of course, the Senator knows there will be established a precedent which will probably operate in his favor.

Mr. STENNIS. I think not.

Mr. FULBRIGHT. As the Senator from Arizona suggested a moment ago, there are four or five companies interested in this plane, and he did not understand why they had not let the contract. Does not the Senator think perhaps they ought to wait until after the elections, and not alienate any of those companies?

Mr. GOLDWATER. Oh, no. I do not think that enters into it at all.

Mr. FULBRIGHT. That does not enter into it?

Mr. GOLDWATER. No; I do not think any contract for that amount of money is going to get political. I think if we were talking about another C–5 or something like that, perhaps.

I might say we do not make any of these planes in my State of Arizona, and none of them are made in the State of Arkansas, nor in the State of Mississippi.

The terminology used to describe this fighter, I think, is the disturbing point. It is called the International Fighter.

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Mr. FULBRIGHT. That is correct, the International Fighter.

Mr. GOLDWATER. It was intended for that purpose, to build a plane in this country we could supply to NATO countries. In fact, the NATO countries were among those who asked for such a project to be initiated in this country, because about the only other place they can go today for this type of aircraft is the Soviet Union.

Mr. FULBRIGHT. Does not Sweden make a very good interceptor?

Mr. GOLDWATER. Sweden has made a little Saab which was a good interceptor, but the NATO countries did not buy it. The French have made several good tactical fighters, but none that can climb fast enough or high enough, or carry enough cannon to gain air superiority.

This is what we are talking about. We do not even have this type aircraft in our inventory today. We have been fortunate in Vietnam in that the enemy has had an extremely limited number of Soviet-made Mig's; otherwise we would have been in real trouble over there.

But I think the term "International Fighter" is what has gotten us into this squabble.

Mr. FULBRIGHT. Representative RIVERS was reputed in the press last year to have originated this idea and proposal.

But I want to go on to one further item.

On this matter of the ships, the Senator made the statement, "The House gave up a nuclear aircraft carrier," and then he substituted—I think it was—$435 million worth of ships that the Department of Defense had not asked for; is this correct?

Mr. STENNIS. That is correct. That is not all the story, though.

Mr. FULBRIGHT. Was that just to soften the blow to the House of Representatives because they gave up a nuclear aircraft carrier, that the conferees gave them these other ships?

Mr. STENNIS. Mr. President, I do not think it is necessary to answer that kind of question. But I say to the Senator from Arkansas that if there should be someone here who would give it such a sectional interpretation. Our position was announced earlier this year on the carrier. I liked the carrier idea, myself, but there had not been a firm enough request from the executive branch.

But these ships are altogether in a different category. These are one of the modern, fast submarines that are coming up next year in the budget request, and a destroyer tender, and also a submarine tender and two small oceanographic ships. There are also some smaller service and landing craft for a very small amount.

They were agreed to as a part of the conference. It was before us in the House bill, and was agreed to as a part of composite matters before us.

I do not know whether funds will be appropriated or not. But the Department said if they got the money, they would go on with the building of the ships. The Secretary of Defense has indicated that funds for these ships will be obligated if made available by Congress.

So it leaves no doubt about the need for them, or about their being a part of the Department of Defense program. I did not agree to this, myself, until I had checked it out fully with the Navy and with the Department of Defense.

So these are firm requirements, and we recommend their approval.

Mr. FULBRIGHT. While sitting on the appropriations conference with the House of Representatives on State and Justice, my senior colleague from Arkansas (Mr. MCCLELLAN), the chairman of that subcommittee, sat there all day trying to persuade the House conferees to accept a small item, in terms of dollars—which incidentally, I think, affects the Senator's State of Mississippi, and it certainly affects Arkansas—for regional development funds.

What really confounded me was that Senator MCCLELLAN fought all day to get the House conferees to agree to provide $6 million more for this program, which is basic to the development of States like those of the Senator from Mississippi and the Senator from Arkansas. He wanted them to recede and accept the full $16 million voted by the Senate.

No, they were hard-nosed; they were so concerned about the solvency of this country that they would not think of providing any more money for that purpose, and they fought and fought.

Senator MCCLELLAN is a very stubborn man when it comes to defending Arkansas' interests, as Senators know. He was committed, as I was also, to getting the full $16 million. We could only get $10 million. But what disturbs me is the difference in attitude on something that goes for the economic development of the underdeveloped areas of this country, where they are so careful and so parsimonious; but yet here the conferees came up with an item of $435 million for ships that were not in the budget. I congratulate the Senator on the nuclear carrier; the committee was absolutely correct on that. They are utterly obsolete and useless.

But why in the world is not the committee concerned about saving a little money in this area? Here is $435 million, in contrast to $16 million which went to the economic development of this country. What shocks me and distresses me is that whenever it is associated with anything military, we can anticipate what will happen. Here is a program they were not even wanting until next year. The Defense Department had not even asked for it, and $435 million is given for this kind of project. Yet, Members of the House Appropriations Committee in conference, fight like tigers against a little item for economic development.

This is what bothers me. It is not just this specific thing. It is an attitude on the part of both Houses that whenever it is for the military, the sky is the limit. If the Defense Department says, "We can use it, if you insist on giving it to us," it is given to them. That is what happened here. They had not asked for it.

Mr. President, I am about at the end of my rope when it comes to voting on bills of this kind. I do not think I can continue to vote for this bill, when it is so profligate and so out of consonance with the real needs of this country.

The Senator from Mississippi, personally, has done a good job. He is not responsible for this attitude of the Congress as a whole.

This is the general attitude that has prevailed in the Congress for a long time. I certainly mean no criticism directly of the chairman of the committee. He has already said that the other House does not agree. I know that he cannot get his way. My criticism goes to the general attitude about these matters that is prevalent in Congress, not to anything that the Senator from Mississippi has done. I have no reason to believe that he has not done the best he possibly can in his position. But I cannot vote for this bill.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. MANSFIELD. Mr. President, the conference report contains language with respect to section 204 which reads:

> None of the funds authorized to be appropriated to the Department of Defense by this or any other Act.

Although I believe the language is clear, I would like, for the purpose of legislative history, so that there will be no misunderstanding as to application of this language, to ask the chairman of the committee to state the intention of the conference committee with respect of the scope of the prohibition. In particular, I hope the chairman can state whether it acts only prospectively for funds to be appropriated by future acts of Congress and will have no effect on funds heretofore appropriated, but unexpended. I ask this question because the Senate-passed bill contained a prohibition that applied solely to funds to be appropriated by Congress this year, whereas the House bill contained no prohibition whatsoever.

Is my understanding correct, that this prohibition is prospective only, and in no way retroactive to upset the standards required last year in the funding of research?

Mr. STENNIS. Mr. President, I was already familiar with the substance of the Senator's inquiry and had looked into the matter myself. I think that unquestionably the language in the bill before the Senate acts prospectively only and will not affect funds for fiscal year 1970, the fiscal year just closed, funds that have not been expended.

The entire discussion in conference was about the prospective funds for fiscal 1971. It was agreed, of course, as was the law, that the Senator's amendment of last year was the law, and there was no discussion about repealing that as it applied to fiscal 1970 funds. But I think it is very clear that this language applies only to funds in this bill and not to those of the fiscal year that is closed. To have made it apply to fiscal year 1970, for example, we would have had to use the word "heretofore" or something talking about funds to be appropriated, or "heretofore appropriated." If those words had been used, it would have applied to fiscal 1970. Without their use, it applies to 1971.

XUM

Mr. MANSFIELD. Mr. President, I appreciate the answer given by the distinguished chairman of the committee, and I am most appreciative that Congress has regained a little of its sovereignty, a little of its equality, in its relationship with the executive branch.

I am greatly distressed by the change made in this conference to section 204, the prohibition on the sponsorship by the Defense Department of research in no way related to its military function or operation. I understand fully the difficulties that the Senate conferees experienced in attempting to uphold Senate positions at variance with the House during this joint conference between the two bodies. I understand fully the extraordinary price that the Senate conferees had to pay to maintain the modest restriction on the expansion of the Safeguard ABM.

However important and significant that restriction was strategically, the price seems inordinate. I say this not as a reflection upon Senate conferees, but rather the unreasonableness of the conferees of the other body. Congress as a coequal branch of Government will exercise its equality as a branch only if it is willing to accept the responsibility of hard decisions on questions of policy. The notion of deterring the difficulty of the hard decisions to the executive branch on matters of policy and procedure is a total abdication of congressional responsibility. The notion of representing a client—namely, an executive branch of the Government—by Members of Congress in their committees, is going to have to be abandoned and the burden of independent factfinding and judgmentmaking assumed, for Congress to make the type of contribution the Constitution envisioned.

I believe that what took place with respect to section 204, although a very small part of this bill, is very indicative of the general malaise to which I refer. The language of last year's act incorporated by the Senate into the bill which ultimately became a part of the law read as follows:

> None of the funds authorized to be appropriated by this Act may be used to carry out any research project or study unless such project or study has a direct and apparent relationship to a specific military function or operation.

That Senate amendment was eliminated this year by the House Armed Services Committee. No vote was ever taken by the full House of Representatives on that issue when the bill was considered in the House. When this military procurement authorization of 1971 was considered this year on the Senate floor, the Senate voted to back its Armed Services Committee's decision to retain last year's language. The Senate vote this year to reinstate this amendment was unanimous, 68 to 0.

In my opinion, the language of this amendment has stimulated a much-needed focus on establishing a coherent, national science policy. It has inhibited during the past year to some degree the heretofore unlimited jurisdiction of the Defense Department in the sponsorship of research, research that should more aptly be sponsored by a civilian agency of the Government. The version that came out of conference and contained in this bill is not likely to continue that realignment of research sponsorship. The final version contained in this bill reads as follows:

> None of the funds authorized to be appropriated to the Department of Defense by this or any other Act may be used to finance any research project or study unless such project or study has, in the opinion of the Secretary of Defense—

I emphasize there, "in the opinion of the Secretary of Defense"—

> a potential relationship to a military function or operation.

In my opinion, the modified language is worse than would be the elimination of the amendment totally. The amendment last year emerged from a congressional realization that for 25 years it had omitted the establishment of any guidelines with respect to the sponsorship of research by the Department of Defense. In the absence of Congress' fulfilling its responsibility of establishing policy, the Department of Defense made the determinations on its own, as well it should under those circumstances. Last year's amendment attempted to reestablish some congressional guidelines for the sponsorship of this research. The language contained in this conference report, in my opinion, regresses beyond the mere failure to impose guidelines. It affirmatively states that the Department of Defense will solely determine what research is beneficial to it. This language, in my opinion, is a legislative act of abdication to the Secretary of Defense by Congress of the Congress constitutional obligation to establish basic policy.

I am pleased, at least, by the fact that the language of this amendment will not affect funds heretofore appropriated, as the distinguished Chairman, the Senator from Mississippi has so indicated in response to a question, and its application, if any, will be under the terms laid down by future appropriations acts.

I thank the distinguished chairman for allowing me this opportunity to get something off my mind and to state that the fight is far from ended. As a matter of fact, it has begun again.

Mr. STENNIS. Mr. President, I appreciate the remarks of the Senator from Montana. I do not altogether agree with some of the points he has made. I do not think that this is an entire abdication of any legislative responsibility with reference to this question. I think it means something to require the Secretary of Defense, for instance, to make a special finding with reference to these matters, projects, and studies, and that it at least has a potential relationship to a military function.

We tried to get the word "relevance" kept in. That was in the original amendment of the Senator from Montana. We were not able to do that.

As I said, they were against it. We had plenty of discussion on it.

Mr. President, now I should like to yield to the distinguished Senator from New Hampshire (Mr. McINTYRE), who is mighty well versed in this subject, and has done a tremendous amount of work and made a significant contribution to the Senate and the conference.

Mr. McINTYRE. Mr. President, I thank the Senator from Mississippi. I should like to have the attention of the Senator from Montana——

Mr. MANSFIELD. Yes, indeed. I am delighted.

Mr. McINTYRE. Regarding sections 204, 205, and 207, the conferees had a great deal of difficulty with the distinguished conferees from the House. One of the questions that plagued us, to which we did not seem to have a good answer, was: How do we apply a relevancy test to basic research? Everyone agreed that a relevancy test was quite proper for applied research.

Mr. STENNIS. Mr. President, if the Senator will yield briefly to me, let me suggest that we wait until the distinguished Senator from Montana has a chance to listen to the Senator from New Hampshire.

Mr. McINTYRE. I think the Senator from Montana realizes how long and how hard the Subcommittee on Research and Development took a look at the problem of relevancy——

Mr. MANSFIELD. If I may interject there, not only do I realize it, but I deeply appreciate it.

Mr. McINTYRE. But we found great difficulty in the conference on the subject of basic research which, by its very nature, is a program that is started with no one quite knowing where or how it will come out.

I wonder whether the Senator from Montana would have any good answer to the question raised to us by the House conferees; namely, how can we apply a relevancy test to basic research?

Someone said it is like fishing in a pool. We throw in the line but we do not know whether we are going to catch a trout or what.

Mr. MANSFIELD. It should be brought out and made apparent in the RECORD that the distinguished Senator from New Hampshire, chairman of the subcommittee dealing in research and development, did make a very reasonable proposal in the conference which would have been quite acceptable, and which would have defined the areas and which would have applied a proper standard to each category.

Mr. STENNIS. Mr. President, the Senate is not in order. Could we have quiet so that we can hear what the Senator is saying?

The PRESIDING OFFICER. The Senate will please be in order.

Mr. MANSFIELD. Mr. President, I have no fault to find with any Senators who sat in on the committee, certainly not the chairman of the subcommittee who has personally developed an interest in this, and certainly not the chairman of the full committee, nor any Members on either side.

But, why was not the formula which the Senator offered in good faith, found acceptable?

In the face of a unanimous Senate recommendation and without any indication of a contrary view by the other body it appears a bit out of the ordinary to have such a reasonable proposal as was tendered by the distinguished Senator from New Hampshire rejected.

It is time to face up to one's responsibility, instead of kowtowing and giving in to the Department of Defense without question, as has been done year after year after year?

Is Congress going to abdicate its responsibilities?

Is the military going to tell us what to do?

Is the civilian segment of this Government going to stand up and assert its responsibility and its authority.

I think it is about time. I think it is long overdue. I thought we were taking steps in that direction, but every now and again something happens which makes us regress.

All I can say is, steps will continue to be taken because the Constitution of the United States will be observed. It is the Constitution of the United States that counts, not the whims of any department or the whims of any man—and I am not speaking of the Secretary of Defense or of the President of the United States or any Member of the House or Senate.

Mr. McINTYRE. I thank the distinguished Senator from Montana. We will continue the struggle because I think it is important.

Let me just make clear for the record the nature of the proposal we offered to the House. It was a proposal which tried to distinguish between applied and basic research, using a strict relevancy test on the former and a test of "clear potential relevancy" on the latter.

I think that test should have been acceptable to the House conferees.

XUM

Mr. MANSFIELD. May I say that I have nothing but a feeling of gratitude and thankfulness towards all the Senate conferees, including the chairman of the subcommittee and the chairman of the full committee, and those who sat on both sides of the aisle, because I am certain that the Senate, with what time limitations it had at its disposal, did everything that could be done to achieve the unanimous will of the Senate which passed the amendment offered by the distinguished Senator from New Hampshire and myself by a vote of 68 to 0. I want to emphasize that zero because it is more significant than the 68.

Mr. PROXMIRE. Mr. President, will the Senator from Mississippi yield on the same subject the Senator from Montana is talking on?

Mr. STENNIS. I am happy to yield to the Senator from Wisconsin, and to any other Senator, to ask any questions they have, and then to yield the floor. I hope that the Senator from New Hampshire can get the floor at that time. However, I previously promised to yield to the Senator from Illinois (Mr. PERCY) first.

Mr. PERCY. I am happy to yield to the Senator from Wisconsin. Please go right ahead.

Mr. PROXMIRE. I thank the Senator from Illinois and the Senator from Mississippi.

Mr. President, I should like to call attention to a related matter on this same subject that the Senator from Mississippi and the Senator from Montana are discussing, and that is, as I understand it, the Senator from New Hampshire, in referring to the question of relevancy, a point that was not agreed to by the House, they felt, on pure research, there was no way in which we could get the relevancy—

Mr. McINTYRE. What does the Senator mean by "pure research"? Research covers a wide ground.

Mr. PROXMIRE. One reason I am raising it is that the Mansfield amendment, plus the independent research and development amendments which the committee put in, were affected by this decision on the part of the conference to agree to the relevancy question and left it in the hands of the Secretary of Defense to act pretty much within his own discretion. My reference to pure research, or fundamental or basic research, was that it could be done better by the National Science Foundation. It is my understanding that is what the National Science Foundation was created for.

Let me get a little further into the independent research. This was, in my view, gutted by the action of the conference committee. The bill as it emerged from the Senate Armed Services Committee, and as it passed the Senate, established a ceiling of $625 million on independent research. That represented a reduction from 1969 when there was a $759 million expenditure on research and development. That was one distinct contribution to limit independent research and development.

In the second place, the Senate required the Defense Department to negotiate an advance agreement with independent contractors with respect to research and development.

Third was the attempt by the Senate to close loopholes whereby funds disallowed for one category could be used in another category.

Is it correct that the conference committee eliminated the ceiling?

Mr. McINTYRE. The Senator is correct.

Mr. PROXMIRE. Mr. President, is the Defense Department required to negotiate advanced agreements with contractors?

Mr. McINTYRE. The Defense Department is required under the conference report to negotiate advanced agreements. The second part makes certain that the technical evaluation is performed. That is not a cursory matter as we have seen in the past, but is an intelligent searching through the brochures so that we will know as best we can what the particular company is doing on ongoing research.

Mr. PROXMIRE. How about the capacity to shift funds from one category to another?

Mr. McINTYRE. Funds may be identified as I.R. & D. or B. & P., as appropriate but, under the language as agreed in conference, the category of OTE was eliminated.

Mr. PROXMIRE. It was my understanding that the ceiling that the Senate adopted of $625 million was left out and no ceiling was included by the conference committee.

Mr. McINTYRE. That is correct.

Mr. PROXMIRE. That was the ceiling we agreed on.

Mr. McINTYRE. That $625 million was overall. That is gone.

Mr. PROXMIRE. It is my understanding that the $625 million referred to 50 large contractors.

Mr. McINTYRE. The Senator is correct.

Mr. PROXMIRE. That is gone?

Mr. McINTYRE. That is gone, the overall ceiling.

Mr. PROXMIRE. But there is a ceiling with respect to certain contractors. Which contractors are they?

Mr. McINTYRE. There is a ceiling to establish those contractors who are subject to advance agreements. It applies to those contractors who receive more than $2 million from DOD for independent research and development or bid and proposal.

Mr. PROXMIRE. But there is no overall dollar ceiling. So, the Senate conferees gave in on the relevancy factor, leaving the judgment to the Secretary of Defense, and they eliminated the dollar ceiling on independent research and development.

Mr. McINTYRE. The Senator is correct.

Mr. PROXMIRE. Mr. President, once again I pay tribute, as I have so often, to the Senator from New Hampshire. I think that he did a marvelous job in the committee and on the floor on this matter. However, I am greatly disappointed and depressed that the conference committee did not stand hard and fast on this matter.

It seems to me that we never get a satisfactory explanation, and neither does the public as to this enormous amount of money that the Federal Government pays every year for something vaguely called independent research and development. It has never been defined. We find that contractors are spending this money on various things that have not the slightest reference to military expenditures. We find that we are spending some of it on strictly commercial activities.

What these people with the big corporations are doing is having the Federal Government provide the money to maintain a stable of engineers that they can use in any way they wish. It is very unfair when they are competing with other private firms that do not have the advantage of having a defense contract.

I am happy that the Senator from New Hampshire has assured us that he is not giving up and that he will attempt in the future to get a clear definition and have some definite understanding on the part of Congress as to what is done with the money of the taxpayers of this country.

Mr. McINTYRE. Mr. President, let me say to the Senator from Wisconsin, since the Senator brought this to the attention of the committee last year, I believe, that we feel even with the disappointment of having to abandon this and having it watered down, we are nevertheless on the right track.

The Department of Defense has admitted to some of their failings. They are hard at work trying to get the matter under control.

We got a feeling of mutuality from the

House Committee when it came to technical evaluation.

Our committee will try to keep a sharp eye on it. We are making some progress along the lines that my friend, the Senator from Wisconsin, had hoped for when he brought this matter to our attention.

Mr. PROXMIRE. Mr. President, I have some other questions to ask on the C–5A. However, I will defer them at this time because the Senator from Illinois was kind enough to defer to me.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. PERCY. Mr. President, I shall be very brief. I would like to comment on three particular sections of the conference report.

The first is with respect to the ABM. I congratulate the Senate conferees. Even though the conference report goes further on the Safeguard than I feel reasonable at this time, considering the possibility of an agreement in the SALT talks, I am pleased that the conferees have accepted the Senate provision on construction authority and the Senate language on limitation of deployment. I commend them for prevailing in this area.

Second, I would like to comment on the action of the conference report dealing with chemical and biological agents and their disposal. The conference report is very clear. The conference has accepted the amendment of the Senate that I had the pleasure of introducing. It had the general support of the chairman of the Armed Services Committee and the minority members of that committee as well.

I think we made a fine step forward here. Even though Secretary Laird has pledged that he would not dispose of chemical agents in the future without first detoxifying them, administrations do change. It is important to put this provision in the law.

I have a question with respect to section 508, on page 9 of the conference report. This section indicates that the Secretary of Defense is directed to initiate promptly new procedures with respect to domestic and foreign permanent change of station assignments for military personnel under which the length of permanent change of station assignments will, whenever practicable and consistent with national security, be made for longer periods of time.

The original amendment I introduced—which was agreed to by a vote of 69 to nothing—called for a 25 percent reduction or approximately a $140 million reduction in fiscal year 1972.

The question I would like to direct to the distinguished chairman is asked because I have had since passage of the amendment such an overwhelming response from servicemen. Some have said that if we had instituted this procedure earlier, they would not have had to resign from the service and could have maintained a stable situation with their families.

In view of the favorable reaction I have received, does the Senator feel that by leaving out the specific 25-percent target, we could actually achieve a target greater than this figure and that the Secretary of Defense might not look on this as a limitation at all, but might try to achieve even greater permanency of duty stations so that the end result might be to reduce the budget by even more than the $140 million the Senate amendment would have provided for?

Mr. STENNIS. Mr. President, the Senator's exact question now is whether I think the Secretary of Defense's efforts here, as set forth, might even exceed the 25 percent reduction.

Mr. PERCY. The Senator is correct.

Mr. STENNIS. That involves a brief discussion of what we had before us in conference. There was considerable sympathy with the Senator's amendment. There were two things that mitigated against its being adopted, though, as hard law.

The first was the changes due to the situation in South Vietnam and the winding down of the program and how long it would take.

Frankly, I do not want to think about sending troops, but as the Senator knows, there is the Mideast matter. There is smoke there. The main thing was how sound was the figure of 25 percent. Before writing it into law the House conferees would not yield at all on that point but they did make the agreement I have reflected here, and it was thought that hearings diligently pursued would provide a sound basis for something specific, if that proved to be necessary. How far the Secretary of Defense can go or will go I cannot say, but certainly we made a start on this matter and I think we will be able to continue it.

I thank the Senator again for his interest in this matter and the contribution he made here in presenting his amendment.

Mr. PERCY. Can the senior Senator from Illinois expect that the committee will follow this matter closely and ask the Secretary of Defense for detailed proposals on how to implement more economical change of duty station practices and insure that we will have sufficient followup. We are deeply interested. This amendment was agreed to in the Senate by a vote of 69 to nothing. I think the evidence was overwhelming, not only the evidence I presented, but there was the Fitzhugh report which corroborates this. It had made a study over many months. I have not found anyone in the military who disagreed with me. It seems a small change with respect to military assignments. This relates only to areas outside of Vietnam and combat areas.

Mr. STENNIS. I promise the Senator continued interest in this matter and to do what we can. We have already had a lot of large outstanding promises, though. I have found that a year is a mightly short time to redeem a great many promises, especially in the reform area. But I am interested in this matter and I think we will continue our efforts and hope for more results and certainly, we will continue our efforts.

The Senator mentioned the 69-to-0 vote. That is very true, but it was a 69-to-0 vote without any real tangible evidence on the effect of these matters and how it would operate and what problems would be created. So it is one of those things everyone is for until they get down to the nuts and bolts and see how it works. I hope the Secretary of Defense will push this matter and I think he will. We have a basis to make a contribution that is worthwhile.

Mr. PERCY. Last week I talked to the Secretary of Defense and he indicated one of the great problems is that 54 percent of the military budget goes for personnel costs and only 15 percent is available for strategic weapons system.

Mr. STENNIS. Yes.

Mr. PERCY. I am trying to find ways to reduce this tremendous cost where you cannot tangibly see an end result. If we can put the pressure on these items I think we can find better ways to spend our defense dollars.

Mr. STENNIS. I thank the Senator.

Mr. PROXMIRE. Mr. President, I wish to ask the Senator from Mississippi about the C–5A. But first I would like to ask an independent research and development whether he thinks it would be practical and possible to move toward making independent research and development a line item in the budget. One of the reasons we have not been able to get at it is that nobody knew there was this huge amount for independent research and development. We cannot get control over something that is this big—it is hundreds of millions of dollars—unless we have it designated in the budget specifically.

Mr. STENNIS. That concerns me, too. I shall read to the Senator the few words I said with respect to that point:

> I firmly believe this entire matter should be kept under continual and intensive oversight by the Congress and I wish to give notice at this time that I intend to pursue this course of action.

I am trying to get to the point that we can have effective legislative oversight. I think that is more important than the dollars we spend. But I must say at this stage I do not think we could write in a line item requirement until we know more about the situation.

Mr. PROXMIRE. Certainly one way to get effective oversight is to have line items. Then we have testimony on it as to whether it should be higher or lower. We can demand and secure specific justification.

Mr. STENNIS. We discussed that and I think the Senator from New Hampshire will discuss it.

Mr. PROXMIRE. With regard to the C–5A, the Senator is well aware of the debate we had in the Senate on the C–5A and the fact that there would have been an overrun, in the judgment of the Air Force, of $2 billion; if we had gone ahead with the originally intended 120 C–5A's. It has become a matter of scandalous proportions in the eyes of many persons. Even Assistant Secretary of Defense Packard referred to it as badly handled procurement.

The Senator from Pennsylvania (Mr. SCHWEIKER) and I offered an amendment which was rejected by the Senate, largely on the grounds the committee had written in very tough language, which provided the $200 million to be given Lockheed over and above what was in the contract would not be obligated until the Secretary of Defense had presented a plan to the Senate committee and the House committee and they had had an opportunity to discuss and consider the plan and give their advice and take whatever position they wished to with respect to that plan.

I understand that particular requirement has been dropped and the Secretary of Defense now simply has to announce what he is going to do, and in 30 days put it into effect.

There is no consultation with the Armed Services Committee of the Senate or of the House. In view of the make up of these committees and the highly competent Congressmen and Senators who are members of them, I think it is a reasonable provision that the appropriate committees have a chance to look at these things. In light of the history of the C–5A it seems most unfortunate.

Mr. STENNIS. There are two amendments on the C–5A funds. One just tied the money down exclusively to use on the C–5A itself and no other projects in which the Government could be involved. That restriction was kept; every word of it.

Mr. PROXMIRE. On that provision, how do we have any control if the plan with respect to spending this money is not submitted to the committee?

Mr. STENNIS. It is the duty of the Department of Defense to follow that money in the way the law says it shall be expended. I will answer that in a moment.

XUM

The second amendment said the plan had to be submitted back to the Committees on Armed Services of the two Houses. It was discovered by the House conferees that a similar provision had been vetoed by the late President Eisenhower on the ground that it was unconstitutional. It was further found that the Senator from Mississippi was the author of that amendment that President Eisenhower had vetoed. I had overlooked that. In the meantime we had them reporting back to the committees. They can only report back to Congress and that is the way it is changed. In the executive function of the committee, it is rather clear it cannot be delegated congressional authority.

Mr. PROXMIRE. Is it the interpretation of the chairman of the Committee on Armed Services that when this report is made the committee will examine the plan of the Department of Defense with respect of the C–5A; that the committee, if it chooses to do so, will have hearings on it and consider in hearings whether or not the $200 million is going to be spent entirely on the C–5A and whether it is justified?

Mr. STENNIS. Certainly we will have responsibility in that field but not a veto power unless we initiate something. We cannot just disapprove it and kill it. We have that responsibility to go into it, but not as strong as it was in the original Senate amendment.

Mr. PROXMIRE. What bothers me is I have been trying hard to get the Department of Defense to comment on a proposal for a new contract proposed by the Pentagon with Lockheed that would convert this from the present contract they have into cost plus contract.

This, of course, would result in an enormous loss to the taxpayer and would be a very, very bad precedent. It would mean in the future that if any defense contractor got into difficulty, he would be bailed out. The Defense Department, if that contractor got into trouble, because he bought in with a low bid could convert the contract into a cost-plus proposition.

I wonder, in view of the record that the Air Force has with respect to the C–5A, if the Senator from Mississippi could assure the Senate that when this plan comes before the Congress and 30 days are allowed before action by the Air Force, public hearings could be held so that some confidence could be established that the contract is a fair and honest one and is not to be at the expense of the taxpayer.

Mr. STENNIS. Until a showing can be made on this matter, I do not think I should be promising public hearings. Certainly, the committee has some responsibility to look into this matter and use its judgment.

Two things the Senator should remember: first, we have Mr. Packard in on this matter; and, second, the Defense Department and Lockheed know they are going to come back here next year for more money right along this line. I think that is a very practical part of it. I am expecting a very reasonable plan of some kind that will certainly protect the $200 million.

Mr. PROXMIRE. At any rate, the conference report provides that the $200 million will be provided to the Lockheed Corp. if the Defense Department thinks it should be; and there is no veto power on our part. The only action we will be able to take is with respect to the $600 million necessary to complete the C–5A program, and we will have an opportunity to act in the future on that portion of the C–5A funds.

Mr. STENNIS. Yes; Congress has that assurance as a minimum. We are not running out on anything, but I cannot promise now what the committee will do except to try to use our judgment.

Mr. PROXMIRE. Let me finally urge on the distinguished chairman that when this plan comes to the Congress, in view of the record, in view of what has happened on the C–5A, in view of its fantastic cost, in view of the fact that it has become a cause celebre throughout the country, the chairman give consideration to holding public hearings on the proposal made by the Air Force.

Mr. STENNIS. I thank the Senator.

Mr. President, I wonder if the Senator from New Hampshire is ready to proceed? I yield the floor.

Mr. McINTYRE. Mr. President, I would like to comment on the actions of the House and Senate conferees as they pertain to the research, development, test, and evaluation portion of the fiscal year 1971 military procurement authorization bill. As you know, I was privileged to act as chairman of the Armed Services Committee's Ad Hoc Subcommittee on Research and Development, which conducted extensive and exhaustive reviews of this portion of the defense budget. Let me summarize the actions taken by the conferees in this area.

The Department of Defense requested $7,401,600,000 for R.D.T. & E. The House reduced this request by $136 million. The Senate reduced it by $464 million. In conference, a reduction of $300 million, halfway between the House and Senate reductions, was finally agreed on, resulting in an authorization of $7,101,600,000. At the insistence of the Senate, each of the reductions made was in the form of specified dollar cuts in individual programs, not in the form of the discretionary overall cuts favored by the House.

Measured in terms of the total dollars involved, the Senate got an even bargain.

When this bill was first reported to the floor over 2 months ago, I attempted to highlight the major actions taken by the committee in the research and development area. I cited eight budgetary cuts and three legislative provisions as worthy of individual treatment.

A number of these actions were indeed preserved in conference:

First. We eliminated the $15.7 million requested by the Army and Air Force for Project Mallard, thus terminating this terribly expensive and overly ambitious international communications program.

Second. We effected a $20 million reduction in the budget of the Advanced Ballistic Missile Defense Agency, thus insuring that our research on programs at the frontiers of ABM technology will be concentrated on high-priority projects, with special emphasis on hardsite development.

Third. We brought back our full reduction in the foreign area research programs of the Department of Defense, thus completing the 2-year restructuring of this portion of the defense budget in which we have been engaged. Now that Department of Defense activities in this area have been rationalized, future efforts will have to be directed at enhancing the role of the Department of State instead.

Fourth. And we also won conference approval of the dollar reductions and new curbs which we had placed on the Defense Department's chemical and biological warfare programs.

In addition to these Senate actions which were preserved, some other actions were compromised, and in such a way that the basic thrust of the Senate position was not completely lost.

First. While our reduction of $27 million in the Air Force's Minuteman rebasing program was completely restored, the restoration was made with the clear understanding that the money would not be used for the hard-rock silo program, our opposition to which had been the primary grounds for our cut.

Second. While our reduction of $15 million in the Army SAM–D missile development budget was reduced to only $6.2 million, this reduction in itself will serve to make clear the Senate's continuing concern both over the costs and also the ultimate need for this particular program. It will serve as a prelude to a further in-depth study of the program next year before engineering development is approved.

Third. And while our reduction of $33.6 million in the Air Force's SCAD, or Subsonic Cruise Armed Decoy, development was reduced to $23.6 million, our only purpose here had been to take away from the Air Force a substantial number of dollars which it was clear to us all along they would not be able to use during fiscal 1971.

But on the four most important issues facing the conference in the R. & D. area, decisions were reached which undercut the original Senate position. Let me emphasize that I in no way agree with the decisions reached by the conference in these matters, and that I argued very strongly and at length for the original Senate position.

First. The Cheyenne helicopter—the agreement to restore funding for the Cheyenne opens Pandora's Box. What is at stake here is far more than the $17.6 million requested by the Army for the program this year. Far more important are the $115 million of overall R. & D. funds still to be sunk in this program, the bail-out of the aircraft which Secretary Packard now intends as a result of Lockheed's failure to develop it under the present contractual terms, and the possible ultimate expenditure of over $1.5 billion for procurement of an aircraft we simply do not need. This is a helicopter whose cost will be $4.5 million each, whose survivability in the theater of operations for which it is programed is questionable, and whose availability will add little to our defense capability which would not be achieved by complementing our fixed-wing close support aircraft with Cobras configured with TOW missiles. I fully intend to continue my opposition to this system in the days ahead.

Second. The B–1 bomber—the restoration of $25 million of the $50 million cut by the Senate from the Air Force's B–1 request also bodes ill for the future. The purpose of the Senate reduction was to cause a slowdown in the plane's development, a slowdown which would have in no way jeopardized the plane's presently planned IOC date, but which would have insured a careful review of the aircraft's specifications before full-scale engineering development was initiated. Such a slowdown and review were justified, I believe, because the B–1, as presently configured, simply can not be built for the $29.0 million estimate per copy which the Air Force presented to us during briefings earlier this year. It was my hope that changes in the plane's specifications would result from the intended review and that these changes, while not affecting the B–1's ability to perform its mission, would significantly reduce its costs. Special attention needed to be directed, in my opinion, to the possibilities of reducing the aircraft's supersonic speed capability, increasing its stand-off missile launching capability, and decreasing its presently planned payload capacity.

There was another aspect, also, to the concern I felt over the B–1's long-range costs—the magnitude of the tanker costs likely to be associated ultimately with the B–1 program. My concern in this regard had been awakened by the request of the Air Force, in its initial budget presentation, for $500,000 to pursue further studies on its new tanker needs. This concern was by no means put to rest by the Air Force contention, at the time of floor debate on this bill, that the KC–135's service life would last until the late 1980's and that my fears about the need for a new tanker were the product of a misunderstanding.

Recent events have only served to underscore the validity of my earlier concerns.

As far as B–1 unit costs are concerned, the Armed Services Committee has just received the latest selected acquisition report—SAR—on the aircraft, dated September 14, 1970. In that report, issued only 3 months after the award of an engineering development contract on the aircraft to North American Rockwell, the Air Force estimate of total program cost has increased from $9.3 billion to $10.1 billion, with unit production cost estimates rising from $29.2 million to $30.8 million. If this is the product of 3 months work, what is going to occur over the remainder of the year, and during the next several years remaining before a production decision is required? I deeply fear that this is not the end, that these are only points on a steadily rising curve.

Light has been shed recently on the tanker problem also. The Armed Services Committee, in view of the Air Force contention that a misunderstanding existed on the tanker problem, eliminated the new tanker study funds originally requested. In its reclaim to the conferees, the Department of Defense asked for a restoration of these funds, claiming that studies of new tanker possibilities were essential after all.

The conferees restored these funds for tanker studies. I hope that they will provide a more accurate picture of our tanker needs when the next budget cycle begins. I hope, too, that the Air Force will not regard the restoration of $25 million of the Senate's $50 million B–1 cut as an invitation to proceed full steam ahead on the aircraft's engineering development. I hope that its attention will be focused instead on the $25 million cut which was sustained and that this cut will lead to a careful program review while changes in the aircraft's specifications can still quite easily be made.

The B–1 may well turn out to be an essential strategic system. We must certainly proceed now with its orderly development. But we must also do all we can to assure its availability at a cost within our means.

Third. The conferees also made several changes in the language contained in the Senate bill pertaining to Department of Defense funding of its contractors' independent technical efforts program. The most significant change made was an elimination of the $625 million overall ceiling contained in the Senate bill.

Whether the elimination of this ceiling bodes well or ill, only time will determine. I have no doubt that the ceiling, had it been retained, would have saddled the Defense Department with a significant new administrative burden. I have no doubt either, however, that the ceiling could have been satisfactorily administered and that some action is required to curtail the runaway growth in overall program costs which has occurred over the last 5 years.

Elimination of the ceiling will give the Defense Department another opportunity to set its own house in order. The committee has been told that the services' estimates of total program costs for calendar year 1970 are $656 million. The committee will watch carefully to determine whether this goal is met when 1970 figures are reported to it next March. The provision passed by the conference is such that a ceiling could be incorporated in it next year should such action then appear warranted.

In determining whether further legislation is warranted in this area next year, the committee will watch also the progress made by the Department of Defense in putting into operation the plan it proposed during its testimony to Congress this year. Nothing in the conference-approved legislation is inconsistent with this plan.

Fourth. Finally, the conferees made major changes in sections 204, 205, and 207 of the Senate bill, all of which were designed to influence our national science policy.

The relevancy test contained in section 204 was greatly watered down. While some change in the section's language might well have been warranted in light of the misunderstandings it had occasioned over the past year, the change actually made can be construed as an abdication of serious congressional interest in this particular matter.

Perhaps more important is the elimination of the Interagency Council on Domestic Applications of Defense Research, provided for in section 205 of the Senate bill. This Council could have made a major contribution to converting the resources of defense industry, many of them languishing amidst the present budget cutback, to the solution of unmet domestic needs.

And also very disappointing is the modification of section 207, the NSF research amendment, in such a manner that the call for an increased NSF role is reduced from a clear congressional mandate to the executive branch to a muted statement of an incontestable basic principle.

Basic scientific research is essential to the long-range security and prosperity of our country. Continual concern with the course of our national science policy will be required of all Members of Congress in the days ahead.

Mr. President, I have dwelled at length on these last four issues, on which the Senate view did not prevail, because I regard them as issues which cannot be allowed to fade into oblivion at this time. We will hear more about each of them, I am sure, during the course of next year's budget cycle.

The R. & D. subcommittee has focused on these issues, Mr. President, not solely—or even primarily—out of a desire to effect large dollar reductions in our overall defense spending. If this were the prime objective, it could be achieved far more readily and with far less work simply by calling for a broad spending

XUM

slash, its implementation to be discretionary with the Defense Department.

But while our defense spending must be reduced, it must be reduced wisely, in a manner which will assure us an adequate national defense. And the secret of such a defense—to a very large degree—depends less on the amount of money we spend than how we choose to spend it. If we choose wisely, I think we can make further reductions in our present defense budget which will not jeopardize one whit our vital national interests. But if we chose poorly, we could actually endanger our security while increasing defense spending.

I fear that too much attention has been focused in recent years on the size of our defense budget and too little on the composition of it. To an extent, this is the natural aftermath of our frustration with the Vietnam war and our newfound tendency to question and even distrust the military.

But understandable as this tendency may be, it is also dangerous. We still live in a hostile world environment, as recent Soviet activities in the Middle East and Cuba demonstrate only too well. It would be wishful thinking of the worst sort to assume that we do not need a strong defense posture in order to meet this threat.

A fully adequate defense posture at the minimum reasonable cost—this has been and will be the goal to which the R. & D. subcommittee is devoted. We will continue to probe strongly at defense programs of questionable merit, knowing that hard decisions are necessary and that when their real cost implications are recognized, we cannot hope to support all the programs now in the R. & D. pipeline. But we will not hesitate either to defend those pipeline programs which on their completion we will badly need.

In conclusion, Mr. President, I would like to make clear that the disappointments I have just expressed are in no way a reflection on the leadership provided in conference by the distinguished chairman of our committee (Mr. STENNIS). The Senator from Mississippi had an arduous and difficult task which, as always, he performed quite admirably. He argued long and hard for the Senate position on each of the important issues which I have just discussed. He could not reasonably hope, any more than I could, to prevail on all of the issues on which the Senate had stated its case. And when the pressures of time loom large, the advantage always lies on the side of those who seek a preservation of the status quo. I am sure that my chairman remains, as I am, dedicated to the task of an even better effort in the year ahead.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. McINTYRE. I yield.

Mr. MANSFIELD. Mr. President, I want to commend the distinguished Senator from New Hampshire for the outstanding work he has done in the subcommittee having to do with research and development. I know how meticulous, how careful, how conscientious, how patriotic he has been, and I just want to state for the RECORD how much I admire his integrity and his dedication.

I also want to thank the distinguished chairman of the committee, who has worked long and hard, who also has been very meticulous in his application, who has established new procedures through the setting up of subcommittees to consider certain important areas specifically and in detail.

Under the chairmanship of the distinguished Senator from Mississippi since he has assumed that responsibility, we have seen decided cuts in the budget proposals made by the administration and more time spent in hearing witnesses and carrying on surveys and making inquiries.

As far as I am concerned, I am going to vote for the conference report. Naturally, I am disappointed in what happened on the research and development amendment. I blame no one for it. The effort has not ended and I still expect that we will be more successful and bring about an alinement not only in what is necessary for military and scientific development—and a lot of it is—but also in that which can be allocated to the National Science Foundation and other civilian agencies engaged in basic research, in that way carrying out the basic purposes and intent of Congress, as I am sure all my colleagues in this Chamber will agree.

Again, my sincere thanks to the distinguished Senator from New Hampshire and also the distinguished Senator from Mississippi, chairman of the committee, as well as all members of the committee, who I think have worked so diligently on this matter.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. STENNIS. Mr. President, the Senator from New Hampshire has the floor; has he not?

The PRESIDING OFFICER. The Senator relinquished the floor.

Mr. PROXMIRE. Mr. President, just one question.

Mr. STENNIS. Mr. President, I yield to the Senator from Wisconsin.

Mr. PROXMIRE. This will take only a minute or two.

Mr. President, I have discussed the possibility of providing for a line item authorization for independent research and development. I realize the difficulty, but I am very hopeful that the ingenuity of the Senator from Mississippi and his committee will find a way to do that.

I ask the Senator if it would be possible to line-item the entire bill, weapon by weapon and item by item. I know that the chairman of the committee (Mr. STENNIS) inquired of the Defense Department about writing a bill in line-item fashion some time ago, but the Defense Department said that under their current accounting system, it would create a hardship to immediately impose a line-item bill upon them.

But I wonder if it would be possible to look forward, perhaps next year, to a line-item bill, with weapons systems specified by line-item, similar to every other authorization bill that we have before the Senate. It seems to me this would give us far greater opportunity for effective oversight, by enabling us to pick up the various weapons systems and discuss what we wanted to do with reference to specific amounts.

Mr. STENNIS. Mr. President in response to the Senator from Wisconsin—and I have to be brief, because others want the floor—he has certainly correctly stated the situation. I wish we could have a line item system also; but I am convinced that the line item system would not be as simplified as it is in the ordinary bill, or as the Senator from Wisconsin might think.

The preparation of the bill is tied to this accounting system, as the Secretary of Defense has now made it clear, and it would require some time to make a change. But as a substitute, we deliberately set out, in effect, to give every Senator a line item lead and line item information in the testimony and in the committee report; and I think we have made some considerable headway on that. This we expect to continue to do, and will follow it up even further next year.

Our report this year, just by quick reference, was 121 pages in length, and had many, many pages of these itemized, detailed dollar amounts spelled out, not only for this year but for last year's program.

Mr. PROXMIRE. The report was very helpful and highly competent, but I, once again, want to emphasize the fact that there is no substitute for a line-item bill. I think this would afford much better possibilities for effective oversight, and I do hope that the Senator will work with the Defense Department along that line. I realize they have an accounting problem, but this is giving them a notice of 6 or 8 months, and I would think they could adjust their acounting system in that length of time and present a line-item bill, so that Congress can do its proper job, which is to control the purse. This is, after all, by far the biggest and most important authorization bill we have.

Mr. STENNIS. Mr. President, I am hopeful something can be done along that line. It would be helpful to the Senate, without question.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, I am confident that the conference committee brought in an excellent report. It is not everything the Senate wanted, and not everything the House wanted. A conference report is generally a compromise.

In order to save time, I ask unanimous consent that a brief statement by me be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR STROM THURMOND

Mr. President, I rise in support of the Conference Report on H.R. 17123 which authorizes appropriations for Fiscal Year 1971 to cover the costs of military procurement and research and development.

The conferees selected Rep. L. Mendel Rivers, Chairman of the House Armed Services Committee, as chairman of the conference. The Senate conferees were headed by our distinguished chairman, Mr. Stennis of

XUM

Mississippi, and fought hard for the provisions of the bill as approved by the Senate.

Of course, Mr. President, it was not possible for all of the provisions of the Senate bill to be upheld, but in my opinion we have brought back to the Senate a good bill.

The bill, as agreed to in conference, totals $19.9 billion. This represents $676 million less than the bill as it was presented to the Congress by the Defense Department.

Mr. President, I urge the Senate to approve this legislation. In my opinion it represents the bare minimum to preserve the national security of this country. Frankly, the Congress is moving perilously close to crippling our military establishment. I just pray that we are doing enough in national defense, and that generations to come will not suffer as the result of any mistakes which may be made today in the area of military preparedness.

Mr. THURMOND. Mr. President, the managers on the part of the House made a rather complete statement setting out the controversial points, stating the position of the House and the position of the Senate, the final action taken, and the reasons for such final action. That statement appears in the conference report beginning on page 11 and ending on page 33. I ask unanimous consent that that portion of the report be printed in the RECORD at this point.

There being no objection, the excerpt from the conference report was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

TITLE I—PROCUREMENT

Prior-year funds

Included in the Department of Defense fiscal year 1971 authorization request were items identified as "Prior Programs to be Justified" involving both procurement and R.D.T. & E. accounts for each of the several Services and Defense Agencies.

The bill as passed by the House of Representatives deleted the $334,800,000 of new authorization requested by the Departments for these various older programs. The Senate concurred in the House action in denying the Department's new request for new authorization in the amount of $334,800,000. However, in addition to concurring with the House action, the Senate was of the view that the Department of Defense had failed to identify or rejustify these various prior year programs for which these amounts had previously been made available but not yet obligated. Further, it was established that these unobligated funds would not be used until some time after Fiscal Year 1971.

In view of these circumstances, the Senate in addition to agreeing with the House reduction, also reduced the requested new obligational authority by the same amount in view of the availability of these prior year funds for use during fiscal year 1971.

Although the Department of Defense objected to this Senate action as representing a departure from the "full funding" concept to the "incremental funding" concept, it was unable to persuade the conferees that this action would adversely affect procurement or research and development of the Department. Therefore, the House accepted the Senate action.

The various reductions in affected programs had previously been outlined in the Senate Report, No. 91-1016, and result in a reduction in the authorizations provided for departmental programs throughout titles I and II of the bill as agreed to by the conferees.

AIRCRAFT

Navy and Marine Corps

For the Navy, the House authorized $79 million for the procurement of the S-3A ASW aircraft. The Senate deleted all procurement funds for the S-3A but provided a corresponding amount, $79 million, for research and development on the aircraft.

The conferees agreed to restore the $79 million to the procurement account. This matter is discussed further below in the review of the conferees' action on Navy research and development programs.

The Senate recedes.

Air Force

The House bill had provided a $30,000,000 authorization for appropriations for Fiscal Year 1971 for an international fighter aircraft. The Senate denied this request. However, after considerable discussion, the Senate receded from its position and the conferees restored the $30,000,000 authorization.

The Congress, in the fiscal year 1970 weapons authorization law (Public Law 91-121) authorized to be appropriated $28,000,000 to initiate procurement of a Free World fighter aircraft. The intention of the Congress was to make available a fighter aircraft to meet the needs of the Free World Forces in Southeast Asia, and to accelerate the withdrawal of United States Forces from South Vietnam and Thailand.

The statutory language authorizing the initiation of this procurement stipulated that the Air Force shall "prior to the obligation of any funds appropriated pursuant to this authorization, conduct a competition for the aircraft which shall be selected on the basis of the threat as evaluated and determined by the Secretary of Defense."

The conferees, in taking this action last year, emphasized their support of the request of the Deputy Secretary of Defense that "necessary adjustments" be made in "the military procurement authorization bill in order to permit the Department of Defense to proceed expeditiously with the development of a new Free World fighter aircraft by the Air Force."

The Secretary of Defense, at that time, also emphasized his conviction that this type of aircraft should be made available as quickly as possible to Free World Forces when he said:

"For some time the Department of Defense has been studying the issues incident to the development of an improved International Fighter Aircraft. Such an aircraft should (*a*) have adequate capabilities to handle the existing threat, (*b*) be as inexpensive as feasible, and (*c*) be simple to maintain and operate. When the military budget was presented to Congress earlier this year, the Department of Defense consideration of the issues involved had not proceeded sufficiently to justify making a request for resources to meet the objectives cited.

"Our continuing review over the past few months, however, has validated the objectives, and a draft concept for an International Fighter Aircraft has been completed. The concept highlights, inter alia, the utility our allies, particularly in the Asian theater, might find for a new fighter aircraft and alternative programs which might be undertaken to make such an aircraft available.

"In particular, we now believe it is desirable to consider an appropriate aircraft the South Vietnamese might use, as part of the Vietnamization process, defending against the potential North Vietnamese MIG threat."

In view of these circumstances, the Congress endorsed the action requested by the Department of Defense and provided the necessary authority for the initiation of this vital program in fiscal year 1970. However, despite the fact that the need for this type of aircraft has grown more acute, no final action has yet been taken by the Department of Defense to go forward with this procurement action.

The conferees neither appreciate nor understand the "foot dragging" that is evidently taking place in both the Department of Defense and the Air Force on this vital program.

It should not be necessary to point out that the Nixon Doctrine for providing independent nations with the equipment and weapons necessary to guarantee their independence, requires that we have available a simple and relatively inexpensive fighter aircraft. Such an air weapons system must be made available at the earliest practicable date if we are to safely withdraw United States Forces now operating and maintaining our own fighter aircraft in Southeast Asia. The availability of this type of aircraft is, in the view of the conferees a matter of the greatest urgency and should, in our national interest, be accomplished as expeditiously as possible.

The conferees, therefore, in authorizing an additional $30 million for this program, suggest and urge the Secretary of Defense to personally resolve whatever remaining problems may have heretofore prevented the Air Force from going forward with this procurement action so that these aircraft can be made available to our Free World allies as soon as humanly possible.

The conferees are unaware of any legal or procedural problem that would prevent the Secretary of Defense from reaching a final decision on this procurement action. Therefore, it is expected that such a decision will be forthcoming from the Secretary without further delay.

MISSILES

Army

The House bill in its authorization of funds for procurement of missiles for the Army provided $660.4 million for the SAFEGUARD antiballistic missile system. The House authorization included $25 million for the advance preparation of five sites for the Modified Phase II deployment. The Senate bill provided $650.4 million for procurement for SAFEGUARD and added language which prohibits the expenditure of funds for initiating deployment of an antiballistic missile system at any site other than Whiteman Air Force Base, Knobnoster, Mo., except that funds could be authorized for initiating advance preparation for an antiballistic missile system site at Francis E. Warren Air Force Base, Cheyenne, Wyo. The Senate provision specified that it was not to be construed as a limitation on further obligation or expenditure of funds in connection with the continued deployment of the ABM system at Grand Forks Air Force Base, N. Dak., or Malmstrom Air Force Base, Great Falls, Mont., the two sites where deployment was commenced under the authority of the fiscal 1970 authorization and will be continued under the authorization in the present bill. The Senate language in effect prohibits the advance preparation for four sites as authorized by the House bill and limits the deployment of the Safeguard system to the protection of strategic missile deterrent. The

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Senate conferees were adamant in their position.

In accepting the Senate amendment, the House conferees want to make very clear and to emphasize their belief that adequate protection of the national command and control function is essential to our security, and the House conferees interpret the conference action as not prohibiting follow-on studies of present and future programs to assure the survivability of this vital element of our national defense.

Section 401 of the Senate bill included authorization for military construction in connection with the Safeguard system in the amount of $334 million, of which $8.8 million is for 400 units of family housing (200 at Malmstrom and 200 at Grand Forks), $322 million for Safeguard-related construction at the approved Safeguard sites and other installations, and $3.2 million for construction at Kwajalein. The House bill contained no such construction authorization. However the House has already approved identical dollar amounts for military construction in connection with Safeguard in its passage of the military construction authorization bill, H.R. 17604. Therefore, the House recedes.

The House bill authorized $90.3 million for procurement of the Improved Hawk missile. The Senate bill reduced the authorization for the Improved Hawk to $53.3 million, a reduction of $37 million. The conferees agreed to an authorization of $81.4 million, a restoration of $28.1 million of the proposed Senate reduction.

The Senate reduction would have deleted all of the funds for procurement of missiles during fiscal 1971, leaving only the funds for continued modification of ground-support equipment and separate engineering services.

Such action might well have resulted in a 6-month break in production, with added program costs. At the urging of the House conferees, therefore, the Senate agreed to the restoration of the $28.1 million, which is consistent with the Army's requirements under a revised procurement plan which calls for a stretchout of the initial production rate to reduce concurrency to the minimum.

In agreeing to the restoration of these funds, it is the intention of the conferees that the procurement for the fiscal 1971 buy not be consummated until the successful completion of a testing program to ensure the operational readiness of the missile subject to the approval of the Secretary of Defense.

In its request for missile funding the Army included an amount of $106 million for the Tow which is one of the Army's heavy antitank weapons. The Army has in its inventory another heavy antitank weapon (the Shillelagh missile) which, in range and lethality, is equal to or superior to the Tow and is presently in production at a price less than the Tow. Although the Shillelagh was developed to be fired from tanks, it can be adapted to a ground mode for the use of infantry troops or to a heliborne mode.

The House Committee felt that if this adaptation could be accomplished within a reasonable timeframe and at an acceptable cost, it would result in an eventual significant savings in present and future procurement of such a weapon. Therefore, the Committee approved an amount of $106 million, not specifically for the Tow, but for a *heavy antitank weapon*, provided the Army (1) conducted tests to determine the adaptability of the Shillelagh to the infantry and heliborne modes, and (2) if affirmative results were obtained, awarded a contract for the Army's total requirement for such missiles to the low bidder in a competition between the producers of the Tow and the producers of the Shillelagh.

Although the Army did not perform the aforesaid tests, they advised the Committee that they had conducted a special and intensive reevaluation of the Tow and Shillelagh systems for the infantry and helicopter roles. The results of this review established to the satisfaction of the Army that each of these weapons should be continued in their presently developed modes. Therefore, at the request of the Senate conferees, the House recedes from its provisional approval of the $106 million for a *heavy antitank weapon* and agrees to authorize that amount for Tow funding.

Navy and Marine Corps

The House bill authorized $52.7 million for the procurement of the Sparrow missile for the Navy. The Senate bill authorized $46 million, a reduction of $6.7 million.

The House recedes.

The House bill authorized $25.6 million for the procurement of the Improved Hawk missile for the Marine Corps. The Senate bill authorized $10.8 million, a reduction of $14.8 million. The missile is procured for the Marine Corps by the Army. In view of the recently revised procurement program under which the Army is proceeding, procurement of the Improved Hawk missiles for the Marine Corps could not be reasonably expected to commence until well into FY 1972. Therefore, since it appeared that money would not actually be required until 1972 for the Marine Corps the House conferees agreed to the Senate position.

The House recedes.

Air Force

The House bill eliminated all procurement funds for the Maverick missile and called for extending the development phase for another year to allow further development prior to procurement. The Senate restored $3.1 million of the House reduction. The $3.1 million will allow retaining present contract options and the production price advantages of the current contract while additional testing is performed.

The House recedes.

The House bill authorized $15 million in procurement funds for modification of the Falcon missile. The Senate bill had denied the $15 million. The conferees agreed to a restoration of $6 million.

Naval Vessels

The House included $152 million for the advance procurement of the third *Nimitz*-class nuclear-powered aircraft carrier (CVAN–70). The Senate bill deleted these funds because the President in submitting the budget indicated that funds would not be obligated until completion of a study in process to assess future requirements for attack carriers. The Conference Committee reaffirmed the findings of a Joint House-Senate Subcommittee on CVAN–70 that this new carrier is needed. However, because of the singular treatment of this carrier in the President's budget message by making a condition of the building of the carrier dependent upon the outcome of a study being undertaken by the National Security Council and because the Administration, despite many pleas, has failed to make a final decision on the carrier, the Conference decided not to include the advance procurement for the CVAN–70 in this year's authorization bill. This is without prejudice to any action in future years.

The House recedes.

The House added on to the Naval vessel construction request of the President an additional $435 million for new construction for the Navy. These additional funds will provide: one fast submarine (SSN–688 class), $166 million; long lead time procurement for an additional such submarine, $22.5 million; one submarine tender, $102 million; one destroyer tender, $103 milion; two oceanographic research ships, $7.5 million; and landing crafts, $10 million and service craft, $24 million. The Senate bill contained no such additions but approved a Naval construction program as requested by the President with the exception of the aforementioned CVAN–70 funds which were deleted by the Senate.

The additional ship construction items authorized by the House bill were designated by the Secretary of Defense as the first priority should additional funds be made available by the Congress for the Department of Defense.

The House conferees were able to convince the Senate conferees of the necessity for this additional ship construction program in view of the critical state of the Navy, and this additional $435 million was therefore retained in the bill.

The Senate recedes.

The House bill included language which would have required that $600 million of the funds authorized for Naval vessels would be authorized to be appropriated only for expenditure in Naval shipyards. The Senate bill contained no such provision. In view of the fact that the Department of Defense and the Navy strongly objected that the limitation was unworkable, the Conference Committee agreed to eliminate this provision.

The House recedes.

The House bill included a provision that no funds should be spent for shipbuilding until the National Security has made its report to the President with respect to the nuclear attack aircraft carrier CVAN–70. The Senate bill had no such provision. In view of the elimination of the funds for the advance procurement for the CVAN–70, there is no further necessity for this provision.

The House recedes.

The House bill included a provision that would require the construction of the new DD–963 class destroyer at the facilities of at least two different United States shipbuilders. The Senate bill had no such provision. The addition of this language was designed to make the Navy aware of the Congressional intent that the private shipbuilding industry be encouraged on the Atlantic Coast, the Gulf Coast and the Pacific Coast. The Senate conferees were adamant in their opposition to this provision.

The House recedes.

Tracked combat vehicles

The M60A1E2 tank is a modification of the M60A1. This modification consists primarily of a new turret and barrel which permits the firing of the Shillelagh missile and the 152mm caseless round. This is the same basic firepower to be incorporated in the Main Battle Tank presently being developed.

The Army has invested more than a quarter of a billion dollars in the M60A1E2 development and the program has been plagued with problems of stability and maintainability for the past five years. However, recent test results suggest that fixes for these problems have been found, and that this can be finally determined by the Engineering and Service Testing which the Army has scheduled for the near future.

The Senate deleted the $12.1 million which the Army requested this year to continue the testing of the M60A1E2. This action would have ended the program just when there is reason to believe that it may prove successful. The House conferees felt that such action would result in the loss of almost a quarter of a billion dollars plus five years of effort and might deny the Army an interim missile firing tank which it states it urgently needs pending the deployment of the new Main Battle Tank during the late seventies and early eighties. Therefore, at the request of the House conferees the Senate conferees receded from their position and the $12.1 million was restored. However, it was the decision of the conferees that there should be no further funding of the M60A1E2 unless the Engineering and Service Testing to be completed in 1971 establishes that the fixes proposed for this tank meet the needs of the Army.

XUM

The Army requested $67.6 million for fiscal 1971 for M60A1 procurement. The Senate reduced that amount by $10.9 million which represents the cost of 150 tank chasses which was expected to be recoverable from the M60A1E2 program which would have been terminated by the Senate action discussed above.

With the restoration of the M60A1E2 program by the conferees, the 150 tank chasses were no longer available for the M60A1 program. Therefore, at the request of the House conferees, the $10.9 million was restored.

The Senate recedes.

The House approved a Marine Corps request in the amount of $1.3 million for a training device to be used in connection with a new amphibious vehicle under development. Subsequently, the Marine Corps recommended deferral of this $1.3 million because development of the training device has not been completed. Therefore, the Senate deleted this amount and the House conferees agreed to such deletion for the above-stated reason.

Other weapons

The House bill contained a provision that none of the funds authorized shall be obligated for the procurement of M–16 rifles until the Secretary of the Army has certified to the Congress that at least three active production sources will continue to be available in the United States during fiscal year 1971. The Senate bill contained no such provision.

The Senate conferees agreed to the position of the House with the understanding that in the coming year, both Houses will give attention to developing permanent policy looking beyond fiscal year 1971 on the question of having an adequate industrial capacity for meeting procurement requirements of this kind, taking into account contingencies that might arise.

TITLE II—RESEARCH AND DEVELOPMENT

General

Both the Senate and House modified the Research and Development budget request submitted by the Department of Defense. The original request of the Department of Defense totaled $7,401,600,000. The conferees agreed upon $7,101,600,000, or a reduction of $300 million below the amount requested by the Department of Defense. The amount agreed upon is $164 million less than that previously approved by the House and is $164.1 million above the amount recommended by the Senate.

ARMY

For the Army, the conferees agreed upon a total of $1,635,600,000. This reflects a reduction of $100,300,000 below the departmental request and is $10 million less than was authorized by the Congress last year.

In its initial consideration, the House reduced the Army Research and Development authorization by $88 million, leaving flexibility with the Department of Defense to apply the reductions on the basis of military priorities.

The Senate, in its review, reduced the Army authorization by $126.7 million, specifying reductions to be taken in some sixteen projects. The specific program reductions are spelled out in the Senate Report (No. 91–1016). The conferees agreed to accept the Senate reductions on all of these projects except the Cheyenne helicopter and the SAM–D missile.

In the case of the Cheyenne, the Senate receded from its position and restored the full $17.6 million requested by the Department.

For the Sam-D, the Senate receded on $8.8 million of the $15 million in disagreement. The conferees authorized appropriations totaling $83.1 million for the Sam-D program.

Close Air Support—Roles and Missions

During the conference it was brought to the attention of the conferees that a roles and missions question has arisen concerning close air support for the Army. The allegation has been made that there is competition for this mission between the Harrier aircraft, the Cheyenne helicopter and the proposed AX aircraft. The House conferees want to make their position perfectly clear and state unequivocally that they see no competition among these aircraft. The House conferees agree with the decision of the Deputy Secretary of Defense that these weapon systems are complementary and not competitive.

Main Battle Tank (MBT–70)

While not an item in disagreement, the House conferees are concerned about the austere support proposed by the Army for the gas turbine engine development for the Main Battle Tank (MBT–70/XM803). The proposed engine program for this tank of the future supports a "derated" diesel engine. Diesel engines of the type being developed for this important weapon system are based on technologies of the 1950's, or early 1960's, rather than the technology of this decade.

The House conferees question the wisdom of relying on past technology for weapons systems of the future rather than capitalizing on the latest technology available and that which offers greater growth potential in the future. For this reason, the House conferees strongly urge the Army to proceed with the development of the gas turbine engine for the Main Battle Tank on a basis at least equal to that of the derated diesel engine development program.

NAVY AND MARINE CORPS

The conferees agreed on $2,156,300,000. This amount is $56 million below the Departmental request and is $41 million below the amount previously recommended by the House.

In its report, the Senate identified some thirteen programs for adjustment. In the case of the S–3A aircraft, $79 million submitted in the Procurement authorization request was transferred to Research and Development because the two aircraft which the funds would buy are required initially for development and test. The Senate expressed concern that ". . . concurrency of research and development and procurement is to be avoided, and that a more orderly progression is to be achieved to insure that technical problems have been minimized by the time production is started."

The conferees agreed to leave the $79 million in the Procurement authorization with the clear understanding that these two aircraft were to be treated as Research and Development test aircraft and the action is not to be interpreted as approval for release to production of the S–3A aircraft.

The conferees urge that the Secretary of Defense consider the use of the transfer authority to transfer $79 million for the S–3A from Procurement to the R.D.T. & E. appropriation consistent with the use of these funds.

Of the remaining 12 programs adjusted by the Senate, the conferees agreed to restore the following amounts to the programs indicated:

	Millions
Defense research sciences	+$2.3
Destroyer helicopter system	+5.0
F–14B/C	+5.2
Air launched/surface launched anti-ship missile (Harpoon)	+14.0
Point defense system development	+3.8
Advanced surface ship sonar development	+.7
Surface effect ships	+10.0

The funds restored for the F–14 aircraft program are to support the development of the advanced technology engine and are not to be used for the development of the avionics package for the F–14C aircraft.

AIR FORCE

For the Air Force, the conferees agreed on an authorization totaling $2,806,900,000. This reflects a reduction of $120,800,000 from the amount requested by the Department of Defense. The amount agreed upon by the conferees is $102.8 million below that previously authorized by the House.

The Senate, in its report, identified sixteen programs for reduction in authorization amounts. The conferees agreed to restore all or portions of the reductions on ten programs as follows:

	Millions
Innovations in education and training	+$0.2
Advanced fire control/missile technology	+2.8
Subsonic cruise armed decoy (SCAD)	+10.0
Advanced tanker	+.5
B–1	+25.0
F–111 squadrons	+6.4
Short range air-to-air missile	+5.0
Minuteman rebasing	+27.0
Armament/ordnance development	+7.0
Truck interdiction	+5.0

During the past year, there has been widespread criticism, discussion and debate concerning the schedule slippages and cost overruns of military hardware contracts. While some of the criticism has been justified, it is important for everyone to obtain a better understanding of some of the reasons why cost overruns sometimes occur and by reasons beyond the control of the parties immediately concerned.

The contract that best serves both the public and contractor interest is that one which is funded at a rate which produces the maximum return for each dollar spent. When a contract is funded at either a greater or lesser level than the optimum, waste inevitably results and that waste is accompanied by schedule slippage. That is the beginning of the cost overrun.

Thus, in the case of the B–1, the House supported a Defense Department recommended funding level of $100 million for fiscal year 1971. That sum was reduced to $50 million by the Senate. In spite of urging by the House conferees, the Senate conferees did not agree to the restoration of the full sum. Thus the seeds of cost overrun have now been sown in this weapons system and the House conferees, therefore, give fair warning of this unfortunate fact.

The $6.4 million for the F–111 had been deleted by the Senate because these funds had been identified for use on the AIM–7G missile, which was later determined not to be required in fiscal year 1971. The Senate agreed to restore these funds to support development of the F–111 Aircraft.

In the case of the Short Range Air-to-Air Missile, a total of $13 million was agreed upon by the conferees to be authorized. This amount will enable the Air Force to pursue three alternatives to meet their requirement resulting from the recent Air Force cancellation of the AIM–82 program.

The Senate Conferees agreed to the full restoration of $27 million for Minuteman rebasing with the understanding that the reoriented program would exclude efforts previously planned for hard rock development.

In the case of Armament/Ordnance Development, the Secretary of Defense advised that technical difficulty has precluded development of the Hard Structure Munition in Fiscal Year 1971 but that the funds would be applied to other munitions development. The Senate conferees agreed to restore these funds upon the redirection of this program.

DEFENSE AGENCIES

For Defense Agencies, the conferees agreed on an authorization totaling $452,800,000. This amount is $22.9 million less than that requested by the Department of Defense and is $7.9 million below the amount previously recommended by the House.

XUM

In its earlier report, the Senate identified several program areas for reduction. The conferees agreed to restore $7.8 million of these reductions to the Advanced Research Projects Agency (ARPA). This restoration of authorization would be applied to the Defense Research Sciences program in the amount of $4.8 million and to the Advanced Engineering Program in the amount of $3 million.

Independent Research and Development

The Senate adopted language in Section 203 which provided for the following:

(*a*) Restricted payments to contractors for independent research and development (IR&D), bidding and proposal (B&P) and other technical effort (OTE) work which is relevant to Defense functions and operations.

(*b*) Required negotiation of advance agreements with all contractors who received more than $2 million in IR&D, B&P, or OTE in their last preceding year.

(*c*) Required that negotiations of advance agreements be based on submitted plans and a technical evaluation of the IR&D portion of those agreements.

(*d*) In the event negotiations are held with any company required to enter into an advance agreement, but no agreement is reached, reimbursement would be made in an amount substantially less than the contractor otherwise would have been entitled to receive.

(*e*) The Department of Defense was required to report to Congress with regard to IR&D, B&P and OTE expenditures.

(*f*) Established a ceiling of $625 million on payments to be made pursuant to advance agreements negotiated under the act, and

(*g*) Repeal of Section 403 of the fiscal year 1970 act which limited payments for IR&D, B&P and OTE to 93 percent of the total cost contemplated by the Department.

The House version of the bill contained no comparable language.

Early this year a House Armed Services Subcommittee held hearings and issued a report on IR&D. The Subcommittee concluded that the control of defense expenditures for IR&D, B&P and OTE could be achieved through improved administration, coupled with adequate oversight, rather than through legislation. The recommendations of the Subcommittee were similar to the Senate language with the exception of the establishment of a ceiling and the section regarding relevancy.

The Senate conferees maintained that greater congressional oversight was necessary to assure adequate controls over governmental payments for IR&D, B&P and OTE to defense contractors. The House conferees acceded to the Senate where the language coincided with its subcommittee recommendations. However, in the opinion of the House conferees, specific ceilings on the total DOD reimbursement and the language with respect to relevancy were not acceptable.

Control through restrictive congressional ceilings

The provisions of the Senate language established a ceiling of $625 million for the DOD reimbursement of IR&D, B&P and OTE costs to approximately 50 major contractors and was applicable to payments under cost type contracts only. The House conferees considered this provision as a line item in the authorizing procedure. During its hearings, it was established that such a line item provision was administratively impractical. Moreover, upon examination of the computation of the Senate ceiling amount, in the view of House conferees, it was found that it was, at best, an arbitrary amount, and there were questions as to the relationship of the ceiling with costs incurred by the affected contractors and contracts. The Senate conferees conceded to the House position and the language related to the establishment of a ceiling was deleted.

Relevancy

The House conferees agreed with the basic aim of the Senate language which required that payments should be made only for IR&D, B&P and OTE that was related to department functions or operations. However, with respect to basic research conducted as IR&D it cannot always be directly related to a DOD operation or function. Basic research is that type of research which is directed toward increase of knowledge in science rather than an application to a specific product. The development of such fundamental achievements in science is vital to military research and national interests. The House conferees were of the opinion that the relevancy phrase in the Senate language would unduly inhibit the conduct of needed basic research. The conferees agreed to delete the reference to relevancy and substitute the words "in the opinion of the Secretary of Defense, a potential relationship to a military function or operation" to assure a broad interpretation of the relationship of basic research to military requirements.

Other Technical Effort (OTE)

The conferees agreed to eliminate legislative references to OTE because of the lack of specific definition of this category of cost. The Department in its testimony before the House Subcommittee on IR&D stated that OTE as a category of cost would no longer be used and that greater efforts would be made to correctly classify "OTE" costs as IR&D or B&P, or otherwise in the negotiation of agreements and contracts.

Relevancy of Research to DOD Activities

Section 204 of the Senate bill provided language identical to that contained in the fiscal year 1970 procurement act. It required that research would be conducted only on work having a direct and apparent relationship to a specific military function or operation.

The House version of the bill contained no comparable provision this year. After considering the findings in the House Subcommittee Report on R. & D., it was unanimously concluded that a comparable section should not be included because of the adverse impact of narrow interpretations of relevancy in the conduct of *basic* research. Accordingly, House conferees maintained that the criteria of "direct and apparent relationships" should not be used as a determining factor in the support of basic research efforts of contractors, universities, or non-profit institutions. However, the conferees agreed that applied research should have a demonstrable relevance to a military requirement.

The Senate agreed to delete the phrase "direct and apparent relationship" and substitute "in the opinion of the Secretary of Defense, a potential relationship" to offer greater assurance that *basic* research activities may be conducted to provide the broadest body of scientific knowledge to support future military needs.

Interagency Council on Domestic Applications of Defense Research

The Senate amendment contained a provision in Section 205 which, if enacted, would have established an interagency advisory council to be known as the Interagency Advisory Council on Domestic Applications of Defense Research. The Council was to be composed of eight members of various governmental departments, which would have the objective to encourage and support cooperative Department of Defense-domestic research projects.

The House bill contained no comparable provision.

The House conferees pointed out that there appears to be no need for a statutory council of this type in view of the existence of the research coordinating mechanisms of the existing Federal Council for Science and Technology and, in particular, the Department of Defense-domestic agency study group formed under the Federal Council to accomplish this particular objective. The House conferees also pointed out that no hearings had been conducted by the House Committee on Armed Services on this particular provision and therefore were unwilling to accept the Senate language without a more persuasive justification of a requirement for the creation of this new statutory body.

The Senate therefore reluctantly receded from its position and agreed to delete Section 205.

Permissive Authority for Research on Single Reentry Systems for Minuteman III and Poseidon

Section 206 of the Senate bill provided permissive authority for the Secretary of Defense to initiate a program of research on a single reentry vehicle system for Minuteman III and Poseidon. The section provided no additional funds but stipulated the funds would be transferred from other projects. The House bill contained no such provision.

The Senate recedes.

Increase in the Level of Domestic Research Effort

The Senate amendment included a provision as section 207 expressing the sense of Congress that an increase in government support of basic scientific research is necessary to preserve and strengthen the Nation's technology base, which in turn is essential both to the protection of the national security and the solution of unmet domestic requirements.

The resolution further provided that a larger share of the increased support that should be forthcoming should be provided through the National Science Foundation.

The language of the Senate provision also stipulated that the National Science Foundation should be provided with a 20% increase in the amount of research funds made available to it for the fiscal year beginning July 1, 1971.

The House bill contained no comparable provision.

The House conferees were generally sympathetic to the objectives reflected in the sense of Congress provision on domestic research effort. However, the House conferees pointed out that this matter had not been the subject of House Committee hearings, and therefore was not a matter on which the House members were prepared to act. The House conferees, however, were sympathetic to the objectives of this provision, and therefore agreed to accept the Senate language with an amendment reflecting the House position.

Reports To Be Submitted on Request to Senate and House Committees

Section 208 of the Senate bill contained language requiring agencies of the Federal Government to submit to the House and Senate Committees on Armed Services and the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations, a copy of any report, study, or investigation requested by such committee if the report, study, or investigation was financed in whole or in part with Federal funds and was prepared by a person outside the Federal Government. The only exception provided by the language of the Senate section would be with respect to the exercise of Executive Privilege by the President. The House bill contained no such provision.

While conferees of both houses agreed that a greater effort was advisable in the surveillance of reports prepared by outside persons or agencies financed by the Department of Defense, it was agreed that the language of the section is unnecessary as a means of obtaining compliance with requests for copies of reports and studies.

The Senate recedes.

XUM

TITLE III—RESERVE FORCES

The House bill provided that for the fiscal year ending June 30, 1971, the Selected Reserve of the Coast Guard Reserve would be programmed to attain an average strength of not less than 16,590. The corresponding section of the Senate bill provided for an average strength of the Coast Guard Reserve of 15,000.

The minimum Coast Guard Selected Reserve strength required to carry out early response wartime missions is 16,590, as determined by the Coast Guard's "Force Analysis Study" and discussed in detail in House Report No. 91-1022. Budgetary limitations have forced a reduction in the actual Selected Reserve strength from approximately 17,000 to a current level of about 15,000. The budget request of $25.9 million for fiscal year 1971, and recruiting and training capabilities, will not permit the Coast Guard to reach a Selected Reserve strength of 16,590 during fiscal year 1971. In view of this situation, the conferees have agreed on an authorized strength of 15,000 for fiscal year 1971.

However, it is the belief of the House conferees that Coast Guard Selected Reserve strength should be adjusted upward next year to the 16,590 minimum required for wartime missions, and every effort should be made by the Coast Guard to plan and fund for the attainment of that level at the earliest possible date.

The House recedes.

TITLE IV—ANTI-BALLISTIC MISSILE CONSTRUCTION AUTHORIZATION: LIMITS ON DEPLOYMENT

The Senate bill contained a separate title IV which authorized military construction in connection with the Safeguard anti-ballistic missile system and included language limiting the deployment of the Safeguard to specified sites in connection with the defense of our strategic missile deterrent. The House bill contained no such separate title. For reasons indicated earlier, the House agreed to the Senate provisions of construction authority in the present bill and the inclusion of Senate language on the limitation of deployment. Therefore, the House recedes on the inclusion of a separate title in regard to the ABM.

TITLE V—GENERAL PROVISIONS

Authority for the transfer of military equipment to the State of Israel

The Senate amendment to H.R. 17123 included a new Section 501 providing the President with authority to transfer military equipment to the State of Israel. There was no comparable position in the House-passed bill.

The Senate Committee on Armed Services, in recommending this provision of law, explained its action in its Committee report as follows:

"The Committee action arises out of a recognition of the deteriorating military balance and the threat to world peace resulting from the deepening involvement of the Soviet Union in the Middle East, particularly their support of a war of attrition against Israel.

"The Committee believes that the sale to Israel of aircraft, and equipment necessary to use, maintain and protect such aircraft, should be authorized at once to facilitate action by the administration consistent with our policy of support for the security of Israel. The rapidity with which the military balance in the Middle East is being adversely affected by direct Soviet intervention calls for an authority in law that would make possible the sale of arms necessary to offset any past, present or future increased military assistance to other countries of the Middle East.

"In Section 501 the Committee affirms its view that the restoration and subsequent maintenance of the military balance in the Middle East is essential to the security of Israel and to world peace. In recognition of the severe economic burden presently borne by Israel in providing for its own defense, the Committee further provides that the credit terms upon which the authorized arms should be transferred be not less favorable than the terms extended to other countries receiving the same or similar armaments."

The managers on the part of the House fully concur in the urgent need for Presidential authority of this kind. However, notwithstanding the Senate action, it is the feeling of the Conferees that an expiration date should be provided in this authorization in order that the customary periodic authorization surveillance by Congress will be maintained as in other authorizations.

In order to effect this intention of the Conferees, language was added to the original Senate language which now provides that "the authority contained in the second sentence of this section shall expire September 30, 1972."

The Congress and the Committees responsible for the granting of this authority will be required to review the need for possible extension of this authority beyond September 30, 1972.

It is further understood that the Executive Branch will provide the Congress and the Committee responsible for this authorization with a semi-annual report on the implementation and utilization of the authority provided by this new section of law.

In order to insure that there is no doubt as to the interpretation of the Senate language, the Managers on the part of the House, the Senate Conferees concurring, reiterate their understanding that the language of the Senate amendment covers ground weapons, such as missiles, tanks, howitzers, armored personnel carriers, ordnance, etc., as well as aircraft. Further, it is intended that the words "equipment appropriate to * * * protect such aircraft" in the original Senate amendment be construed broadly and that they not be narrowly interpreted by the Executive Branch as imposing a requirement that only those ground weapons which are to be deployed by Israel in the physical proximity to airfields may be acquired by Israel under the authority of this section.

Support of Southeast Asia forces

The House bill contains a provision, Section 401, providing that funds authorized under this or any other act may be used in support of Vietnamese and other Free World forces in Vietnam and local forces in Laos and Thailand and for related costs on such terms and conditions as the Secretary of Defense may determine.

The corresponding section of the Senate bill, Section 502, provides a ceiling of $2,500,000,000 on such funds and provides amendments to:

1. Provide support to Vietnamese and other Free World forces "in support of Vietnamese forces." This amendment removed the geographical limits imposed by the phrase "in Vietnam" for the purpose of border sanctuaries and related operations.

2. Provide that no funds may be used in the form of additional pay for other Free World forces in Vietnam if the amount of such payment was greater than the amount of special pay authorized to be paid, for an equivalent period of service, to members of the United States armed forces. The purpose of this amendment was to insure that funds provided by the section would not provide additional pay for other Free World forces in excess of the $65 per month hostile fire pay provided for U.S. forces.

3. Prohibit the use of funds authorized in this section to support Vietnamese or other Free World forces "in actions designed to provide military support or assistance to the governments of Cambodia or Laos."

4. Provide that no defense article be furnished to the South Vietnamese or other Free World forces in Vietnam or local forces in Laos or Thailand with funds authorized pursuant to this section unless the government of those forces has agreed that such defense articles will not be transferred to a third country without notification to and the consent of the President of the United States.

The House receded from its position and accepted the amendments of the Senate, with further amendments to provide a dollar limitation of $2,800,000,000 for fiscal year 1971 and to provide that the restriction on use of funds for additional pay for other Free World forces shall not apply "to the continuation of payments of such additions to regular base pay provided for in agreements executed prior to July 1, 1970."

The conferees would like it understood that the change in the dollar limitation to $2,800,000,000 from the Senate ceiling is solely for the purpose of supplying flexibility to the Department of Defense should it be determined that additional money, if made available, would have the effect of speeding up Vietnamization with the resulting possibility of more rapid withdrawal of U.S. troops.

The exception provided under the limitation of additional pay to other Free World forces is to assure that the U.S. will not renege on agreements already signed with the governments of such forces.

Requirement of certification by the Department of Defense on the structural integrity of the F-111 as a prior consideration for the obligation of funds

Section 503 of the Senate bill provides that of the funds authorized for the procurement of the F-111 aircraft, $283 million may not be obligated until the Secretary of Defense has determined that the F-111 has been subjected to and successfully completed a comprehensive structural integrity test program and has approved a program for the procurement of the aircraft and has certified the approved programs and findings to the Committees on Armed Services. The House conferees were satisfied that this provision would in no way delay the further procurement of this vitally needed aircraft; and, in fact, the Department of Defense has advised the conferees that it has no objection to this requirement and was prepared to provide the needed certification as to the readiness of this aircraft. Therefore, the House recedes.

The House conferees wish to reiterate that the agreement upon language in the bill in no way reflects agreement with the position stated in the Senate report to the effect that the procurement authorized in the present bill represents the final increment of the F-111 procurement.

It is pointed out that the funds available for the F-111 for fiscal year 1971 will not even complete the fourth wing. The House conferees are unswerving in their belief that four full wings of F-111's should be procured; and it is clear, as the earlier House report indicates, that the Air Force believes six wings are required but such have been precluded for budgetary reasons. The House conferees believe that future decisions should be made in the future, and *not* made now on an arbitrary basis. A present decision on all future requirements for the F-111 is both unnecessary and unwise.

As the report of the Senate Committee makes clear, "no other aircraft in the Air Force inventory can compete with the F-111." The House conferees, therefore, will not accept the imposition of constraint on future procurement of this aircraft and shall insist that the Department of Defense consider further procurement for fiscal year 1972 if necessary for defense requirements and that no prohibition should be placed on the Air Force in planning studies for a fifth or sixth wing.

XUM

LIMITATIONS AND CONTROLS ON THE C-5A PROGRAM

Section 504 of the Senate amendment contained language which would prohibit the obligation or expenditure of $200 million authorized to be appropriated for the procurement of the C-5A aircraft unless the Secretary of Defense submitted a plan for its expenditures to the Committees on Armed Services of the Senate and House of Representatives and such Committees approved the plan.

The House bill contained no comparable restriction or prohibition.

The conferees on the part of the House pointed out that they share the concern of the Senate in this matter. However, the action recommended by the Senate raises serious Constitutional questions in requiring that the Executive Branch come into agreement with the respective Committees on Armed Services before going forward with a discretionary action of this kind. Moreover, the Senate provision would, if enacted, have the effect of putting the Armed Services Committees in a position of acting as joint program managers on a matter which in the view of the House conferees should more properly be the final responsibility of the Department of Defense.

In view of these House reservations, the conferees agreed to amend the Senate language to require the submission of a proposed plan of expenditure to the Committees on Armed Services of the Senate and House of Representatives with the further requirement that none of the $200 million could be obligated or expended until after the expiration of 30 days from the date upon which the plan had been submitted to the Congress.

The balance of the Senate language containing the various prohibitions and restrictions remained unchanged. The House, therefore, recedes from its position and accepts the Senate amendment with an amendment.

Requirement of authorization legislation on naval torpedoes beginning in fiscal year 1972

Section 505 of the Senate bill would provide that after December 31, 1970, no funds will be appropriated for use by the Navy for the procurement of torpedoes and related support equipment unless the appropriations of such funds has been authorized by legislation enacted after such date. The House bill contained no such provision.

The Senate amendment is consistent with language adopted by the House last year but stricken from the conference report at the insistence of Senate conferees.

The House recedes.

Chemical and biological warfare

The Senate amendment included in Section 506, language which reaffirmed the prohibition on the procurement of CBW delivery systems contained in P.L. 91-121. However, the Senate amendment contained three additional provisions not previously appearing in the language relating to CBW last year.

Briefly, these three additions are as follows:

I. Subsection 506(b) amended last year's permanent provisions on CBW activities by making more rigid the provisions on disposal of any biological or lethal chemical agent.

II. Subsection 506(c) of the Senate language provided that the Secretary of Defense shall enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the danger inherent in the use of herbicides and the ecological and physiological effects of the defoliation program in South Vietnam, and

III. Section 506(d) barred future disposition of chemical and biological agents unless they have been detoxified or made harmless.

There was no comparable House provision.

The Department of Defense advised the Conferees that it had no objection to the language of the Senate amendment but was concerned over the possibility that situations could arise where immediate disposal of quantities of CBW agents or munitions would be required to assure safety to individuals. Thus, it was pointed out that the delays in disposal actions caused by the notification requirements in Section 506 could in such cases jeopardize the safety of individuals. Additionally, the disposal of small laboratory quantities of lethal agents is a daily recurring action in research and development and in such instances notification for each action through the Department of Defense to HEW and the Congress would not be feasible.

The Conferees concurred in this reservation of the Department of Defense and, therefore, agreed to amend the Senate language to overcome these problems. The amended language appears as a new paragraph (g) and is self-explanatory.

The language is as follows:

"(g) Nothing contained in this section shall be deemed to restrict the transportation or disposal of research quantities of any lethal chemical or any biological warfare agent, or to delay or prevent, in emergency situations either within or outside the United States, the immediate disposal together with any necessary associated transportation, of any lethal chemical or any biological warfare agent when compliance with the procedures and requirements of this section would clearly endanger the health or safety of any person."

The House, therefore, recedes from its position and accepts the Senate language with an amendment.

Premature disclosure of defense contract awards

Section 507 of the Senate bill precludes the Secretary of Defense from furnishing information in advance of any public announcement to any individual concerning the identity or location of a person or corporation receiving a Defense contract. The House bill contained no such provision.

The House recedes.

Employment priority for persons affected by reductions-in-force

Section 508 of the Senate bill provides a sense of the Congress Resolution that the various executive departments will give priority in filling vacant positions with career Civil Service employees who are being displaced in the Department of Defense or other departments through reductions-in-force.

The House conferees were in agreement that this amendment had no place in the Military Procurement bill and insisted that regulations or legislation regarding Civil Service employees was properly the jurisdiction of the Post Office and Civil Service Committee. Furthermore, it should be noted that the Executive Branch is already implementing the policy proposed by the provison.

The Senate recedes.

Limitation on permanent change of station assignments

Included in the Senate language as Section 509 was a Senate floor amendment which directed the Secretary of Defense to initiate new procedures aimed at reducing the expenditures in connection with permanent changes of station for military personnel.

The language of the Senate amendment also directed that there be effected "not less than a 25-percent reduction" in expenditures for permanent changes of station assignments beginning July 1, 1971, "and in each fiscal year thereafter."

The Department of Defense, in commenting on this Senate action, maintained that the enactment of this provision would "present extreme administrative and budgetary problems, as well as problems in manpower programs, especially considering the short time allowed for compliance and the turbulent situation with respect to military manpower."

The Navy advised the conferees that enactment of this provision would have a devastating impact on its already austere ship to shore rotation policy. Among other things, the Navy pointed out that—

"The Navy is a sea duty oriented force and must provide a relatively equitable opportunity for shore assignments because of the privations associated with duty at sea. There are approximately 335,000 enlisted and 37,000 officer sea billets compared to 151,000 enlisted and 41,000 officer shore billets. Increasing tour lengths of duty ashore would require disproportionate extensions at sea. There are 36 "deprived" enlisted ratings, comprising 46% of the enlisted population. Men in these ratings now spend 12 to 16 years at sea during a normal 20-year career."

The House conferees fully concur in the general objectives of the Senate language. The conferees were unanimous in their view that the Armed Services frequently require military members to change duty assignments without any genuine military requirement for such transfer. These frequently unnecessary permanent changes of assignment are essentially due to either outmoded service policy or poor management, and simply result in unnecessary expenditures of millions of dollars while at the same time causing great inconvenience and hardship to service families.

On the other hand, the House conferees concede that lack of stability in the size of the Military Establishment and the personnel movements required by our commitments in Southeast Asia and other parts of the world make acceptance of the Senate language impractical at this time. Therefore, that portion of the Senate language requiring specified reductions in expenditures was deleted by the conferees.

The House therefore recedes from its objection to the Senate amendment, with an amendment that reflects the sense of Congress that the Department of Defense must initiate promptly new procedures with respect to domestic and foreign permanent change of station assignments for military personnel.

Requirement for the annual authorization for the number of active duty personnel

Section 510 of the Senate bill provides that beginning on July 1, 1971, an authorization for the average annual active duty strength of the Armed Forces would be required as a condition precedent to the appropriation of funds for this purpose.

There was no comparable House provision.

The House conferees had no objection to the Senate language, and therefore accepted the Senate amendment.

Encouragement of contractors to use closed military facilities

Section 511 of the Senate bill requires the Secretary of Defense to encourage recipients of defense contracts to use military installations being closed and to offer employment to former employees of military installations who are unemployed as a result of such closures. House conferees believed that such a proposed policy would introduce serious complications to the Department of Defense procurement program. Most defense installations are constructed for specialized purposes and would require substantial rearrangement for production purposes, House conferees insisted on a deletion of this section.

The Senate recedes.

No change in the command structure of U.S. Armed Forces

Section 512 of the Senate bill provides that no modification or change in the command structure of the United States armed forces shall be made until the Senate and House Committees on Armed Services of the 92nd Congress shall have had 60 days to examine the document known as the Fitzhugh Report. The House bill contained no such provision.

The House conferees opposed the language as unnecessary and subject to misinterpretation.

The Senate recedes.

MILITARY RECRUITING AT COLLEGES

The bill as recommended by the Armed Services Committee and passed by the House contained language in Section 402 which would have prohibited the use of funds authorized for appropriation, to be used for grants to any institution of higher learning when the Secretary of Defense or his designee determines that recruiting personnel of the armed forces were being barred from the premises or property of such institution.

The language provided that the prohibition would not apply under circumstances in which the Secretary of Defense or his designee determines the expenditure is a continuation or renewal of a previous grant to such institution which is likely to make a significant contribution to the defense effort.

The language of the section also provided that the Secretaries of the military services are required to furnish to the Secretary of Defense the names of any institutions of higher learning which the Secretary determines are barring military recruiters from the campus of the institution.

The Senate amendment contained no similar provision.

The Senate conferees expressed support of the objectives of the House language but expressed concern that the language of the provision might, under certain circumstances, result in a denial of federal funds to a college or university despite the fact that neither the students nor the faculty were responsible for denying military recruiters the opportunity to be located on campus.

In view of these reservations, the House conferees agreed to modify the House language to provide that this prohibition would apply when military recruitment was "barred by the policy of the institution."

The Senate therefore recedes and accepts the House position with an amendment.

SUMMARY

The bill as presented to the Congress by the President totaled $20,605,489,000. The bill as passed the House totaled $20,571,489,000. The bill as passed the Senate totaled $19,242,889,000.

The bill as agreed to in conference totals $19,929,089,000.

The figure arrived at by the conferees is $642,400,000 less than the bill as it passed the House, $686,200,000 more than the bill as it passed the Senate, and is $676,400,000 less than the bill as it was presented to the Congress by the President.

The House recedes from its disagreement to the amendment of the Senate to the title of the bill and agrees to the same.

L. Mendel Rivers,
Philip J. Philbin,
F. Edward Hébert,
Melvin Price,
Charles E. Bennett,
Samuel S. Stratton,
Leslie C. Arends,
Alvin E. O'Konski,
William G. Bray,
Bob Wilson,
Charles Gubser,
Managers on the Part of the House.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. FULBRIGHT. Mr. President, I have already made some points on this matter. I wish to say that I hope the Senator from Mississippi will agree about the line item matter that the Senator from Wisconsin mentioned. We have discussed this before. This is the most important bill that is presented in this fashion.

It would be much easier for the Senate and the country to understand what we are doing if it were presented by line items, and I hope the Senator from Mississippi will urge that the Defense Department develop this procedure. It would be much more understandable. I doubt that we will ever get any degree of control over the military appropriations until the bill is reduced to line items, so that we will know much more about what is actually being bought, and how much it costs.

Awhile ago, in his opening remarks, the distinguished chairman of the committee stated that he was very much in favor of legislative supervision. I, too, am in favor of that. But one item taken out of the Senate's bill was the provision concerning access to what are called "think tank" reports.

The Foreign Relations Committee has asked the Pentagon for these reports on a number of occasions—reports made by such organizations as the Institute for Defense Analysis, the Rand Corp. and others. One I specifically had reference to was requested a long time ago: The study of the command and control decisions in connection with the Tonkin Gulf affair, a very sad affair in our history. That affair happened during in the previous administration, of course; it had nothing to do with this administration.

But the Defense Department has adamantly refused to supply that report, although it was not prepared within the Department, and it was not an internal working paper. It was prepared by the Institute for Defense Analysis, a private organization which gets practically all its funds from the Defense Department. I still do not see any valid reason for this type of study not being made available to Congress. It was paid for by public funds.

But they classify everything that does not suit their current policy line. I mean if any study casts reflections upon their current policy, they classify it.

Incidentally, in that connection, I was very pleased that the Scranton committee report on students was not classified, because I understand the recommendations of that report are not compatible with Mr. Agnew's views on what should be said today. If anything comparable happened in the military, they would classify it.

How does one exercise legislative supervision over agencies of the executive branch? The Senator says he is for it. How are we going to do that job, if studies made under contract by the experts—such as they are—are not available to the committees?

Perhaps the Armed Services Committee can get access to these reports. I am not sure whether the Senator has ever been refused or not. But certainly the Committee on Foreign Relations is denied a report whenever they do not want us to see it. They will say that it is only for the eyes of certain people or give some such excuse, there is no effective way that I know of to break that down. I have thus far been unable to do it, in any case. The Foreign Relations Committee has been turned down in a number of instances.

They have been extremely reluctant to cooperate in furnishing information in a number of areas. The Senator from Missouri (Mr. Symington), for nearly 2 years, has held certain hearings dealing with our commitments abroad. In some cases, they have been cooperative, and in many others they have not. It is a very capricious business; whenever something becomes sensitive, for example, concerning nuclear weapons—for reasons that are not quite clear to me, they are extremely sensitive about nuclear weapons—they do not want to testify. They have testified some; the barrier is not complete. But if, all of a sudden, they become apprenhensive about something, they will, without any, to me, reasonable reason, make a distinction and refuse to testify.

Of course, I am bound to say that this is not peculiar to the Pentagon. This also happens with the State Department. So I do not mean to say it is only the Military Establishment. But it makes legislative supervision extremely difficult, even impossible to make effective.

I do not know what the Senator from Mississippi had in mind when he was speaking about that. He was very enthusiastic, and thought it was important to have effective legislative supervision. Surely he will agree that unless we have cooperation by the executive branch, unless we have available all the material relevant to the matters we are responsible for and interested in, it is extremely difficult, if not impossible, to carry out proper legislative supervision.

Finally, Mr. President, this is such a big bill, involving almost $20 billion, that I am very reluctant to cause any pain to the majority leader or any Senator, but, especially since I am opposed to several things which I have already mentioned and shall not repeat, I should like the opportunity to vote against this bill, simply to make positive my disapproval of a number of the procedures that have been followed, and some of the substantive changes that have been made—above all, the one which I have already belabored or talked about with regard to the international fighters. It involves both the jurisdiction of the committee of which I am a member, and a great deal of money. There is no precedent for that kind of action.

I would like to have a record vote on this matter, if the majority leader feels that it is not impossible. We have had a number of record votes recently on bills of far less consequence than this. This involves almost $20 billion and is a peculiar bill without line items. Most of the country does not know what is in it. I do not know whether the majority leader feels that we can have a record vote.

Mr. MANSFIELD. We can, if the Senator desires, and he knows that. But we have already voted on this bill once, when it was brought before the Senate.

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I am thinking of the schedule that confronts the Senate. I would appreciate it if there were no roll call vote, but if the Senator wants one, I would join him in asking for it.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the yeas and nays be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FULBRIGHT. Mr. President, I do not want to be arbitrary about it. I appreciate what the Senator says. This bill has been voted on before, in a different form. I have no doubt that the position of the conference committee and the Senator from Mississippi will be sustained. Therefore, I will not insist upon a record vote. But I want the Record to show that I do not approve of various items I have mentioned and others. I do it not because I criticize the Senator from Mississippi. I appreciate his position as chairman, and I know the difficulty with the House and how difficult they are in conference.

I just want to make it perfectly clear that these procedures involve not just $20 billion—that is this bill—but the overall Military Establishment, which follows similar practices in its other activities. The total budget for the Defense Department amounts to well over $70 billion. I think it is high time that we begin to reform these procedures, and that we make it possible to exercise legislative oversight along the lines the Senator has mentioned.

I would hope the Senator from Mississippi would cooperate in bringing some pressure to bear upon the Pentagon to make these studies available. It is my understanding that the conference report states that the provision voted by the Senate was not necessary and that is the reason why they took it out. I think it is necessary. I do not know why it can be said not to be necessary, when I have specific instances in which the studies from the "think tanks" have been refused to the Committee on Foreign Relations.

So I would hope that the Senator from Mississippi would lend his good offices to requesting the Pentagon to make available these relevant studies, so that we can at least be informed upon how our constituents' money is being spent.

In any case, I will not insist upon a rollcall vote for the reasons given, although I want the Record to be quite clear that I vote against this measure orally.

Mr. STENNIS. Mr. President, I want to emphasize what I have already said. This report in many ways is better and more explicit and more informative than a so-called line item bill could possibly be. Nothing is withheld. It is all reflected in this 121-page printed report.

I appreciate the Senator's position on his amendment. I am sorry to have not made law. He excepted the executive privilege point from the amendment, which I thought was commendable, and we tried to get agreement on this. I do not know whether the Senator was in the Chamber when I quoted our former colleague Senator Hayden.

Mr. FULBRIGHT. And I have experienced it.

Mr. STENNIS. I yield the floor.

Mr. EAGLETON. Mr. President, the 91st Congress will claim its place in history, I believe, as the first postwar Congress which scrutinized the military budget as closely as it did domestic requests.

Although I have argued for an overall limitation on defense and against certain provisions, I have generally supported the action of the Senate Armed Services Committee. The committee's responsibilities are heavy, yet it managed to prune $1.329 billion from the Pentagon's $20.237 billion military procurement request. As I stated on August 27 of this year:

> Although there are some sections of this bill with which I disagree, I believe that the Committee's overall efforts are highly deserving of praise.

Defense appropriations will be acted on later this month, but in large part the debate over military spending and national priorities has centered on the military procurement authorization bill. We now have the conference report before us.

It recommends $686.2 million more than the original Senate bill—an amount greater than many of us would have hoped, but less than it would have been in times past.

The Senate receded to the House and added the following amounts for the following items:

	Millions
Freedom Fighter	+2.3
Hawk missile	+28.1
Maverick	+6.0
Cheyenne	+17.6
SAM–D	+8.8
Defense research sciences	+2.3
Destroyer helicopter system	+5.0
F–14B/C	+5.2
Air launched/surface launched anti-missile (HARPOON)	+14.0
Point defense system development	+3.8
Advanced surface ship sonar development	+0.7
Surface effect ships	+10.0
Innovations in education and training	+0.2
Advanced fire control/missile technology	+2.8
Subsonic cruise armed decoy (SCAD)	+10.0
Advanced tanker	+0.5
B–1	+25.0
F–111 squadrons	+6.4
Short-range air-to-air missile	+5.0
Minuteman rebasing	+27.0
Armament/ordnance development	+5.0
ARPA	+7.8

And, in addition to money restorations, restrictive language pertaining to independent research and development was dropped, as was the spending ceiling for such efforts which had been rightly imposed by the Senate Armed Services Committee.

The conference also deleted the Senate provision which required reports, studies, or investigations financed with Federal funds and prepared by persons outside the Federal Government be supplied on request to the House and Senate Committees on the Armed Services and the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations.

Section 502, which provides a ceiling of $2.5 billion on funds authorized to be expended under this or any other act in support of Vietnamese or other free world forces in Vietnam and local forces in Laos and Thailand, was raised by $300 million to $2.8 billion in conference.

Further, the Senate provision directing "not less than a 25-percent reduction" in expenditures for permanent changes of station assignments beginning July 1, 1971, was deleted, as was the congressional committee oversight over the expenditure of the $200 million Lockheed "contingency fund."

The most important concession in terms of dollars came on Chairman Rivers annual demand that Congress authorize $435 million for shipbuilding—over and above the President's budget request. The Rivers booty will be used to build:

> One fast submarine (SSN–688 class), $166 million; long lead time procurement for an additional such submarine, $22.5 million; one submarine tender, $102 million; one destroyer tender, $130 million; two oceanographic research ships, $7.5 million; landing crafts, $10 million, and service craft, $24 million. The Senate bill contained no such additions but approved a Naval construction program as requested by the President with the exception of the aforementioned CVAN–70 funds which were deleted by the Senate.

As we pass on this additional $435 million which the administration did not request, it is interesting to reflect on the education bill the President vetoed because it was $453,321,000 over his request. We can safely predict that the legislation before us will not be vetoed, but I trust that the administration will be prepared to answer to taxpayers and their children who pay for Mr. Rivers' largesse.

The second item with which I take strenous exception is less costly to the taxpayer, but it is representative of the problems we face in controlling military spending. The Senate receeded, and authorized the expenditure of $12 million more for the M60AE2 tank. This means that the $10.9 million the Senate cut for 150 M60A1 chassis which would have been returned from the parking lots of Detroit where they have moldered for years, will also be restored.

The Senate Armed Services Committee wisely canceled the M60A1E2 program this year. As the committee report states:

> The Committee recommends denial of the $12.1 million for this tank. Work on the M60A1E2 started in 1965 and was to be a product improvement to the M60A1, primarily by adding a new turret and the 152mm gun SHILLELAGH main armament system. Funds were provided in 1966 and 1967 for production, but the tanks were never assembled because of technical problems. The Army has requested $12.1 million to continue effort toward solution of the problems. The current investment in 300 tanks and 243 turrets total almost $260 million and the Army estimates that about $110 million more is required to field 543 of these tanks for an ultimate cost of about $684,400 each.
>
> In spite of the substantial investment in the M60A1E2 program and the optimism of the Army that the fix has been identified, the Committee believes that further funding

> of the program is not warranted and the $12.1 million requested in 1971 is denied. As explained under the M60A1 program, $10.9 million of the $57.3 million in recoverable assets will be used for that program. The remainder will offset other future requirements.

Continuously bungled since 1965, the M60A1E2 remained to be the object of unrealistic and persistant optimism by its project managers when testifying before Congress.

The "Detroit tank," as Senator STENNIS calls it, has never left the parking lots there where it stands unfinished because of technical difficulties. It exemplifies what Secretary Packard referred to when he stated earlier this year, "Frankly in defense procurement, we have a real mess."

This slightly upgraded tank will cost over three times what our present M60A1 costs—$684,400 each. It will be even more expensive than the new super dream tank, the MBT–70, which is itself a dubious investment.

How the House Armed Services Committee managed to foist this tank on the Senate and the public—even against the advice of some high military officials in Europe where it is to be used—is totally incomprehensive to me.

Obviously, those of us who have fought what we consider unnecessary military spending are disappointed that the conference committee brought back a bill $686.2 million more than the Senate passed.

But, in fairness, the conference bill is $642.4 million less than the bill originally passed by the House, and $676.4 million less than the administration request.

The Senate position on the ABM was upheld. There will be no area defense.

The House agreed to the Jackson amendment granting authorization to the President to transfer military equipment to Israel, and defining "aircraft and equipment necessary to use, maintain, and protect such aircraft," broadly.

And, importantly, the provision which prohibits "the use of funds—to support Vietnamese or other free world forces in action designed to provide military support or assistance to the governments of Cambodia or Laos" has been retained.

After 2 years of continuous scrutiny and heated debate, this conference report is not all that many of us would desire. And yet, I believe it reflects a change in the way Congress views military spending which this 91st Congress has spearheaded.

Some provisions in this bill are obnoxious to me but on final passage it is necessary to weigh the bill in its entirety.

I have done so, and will vote for final passage.

Mr. JACKSON. Mr. President, the Senate will shortly vote to approve the conference report on the Defense Procurement Act, thus sending to the President for signature a measure which includes a provision vitally affecting the security of Israel and the peace of the Middle East.

Section 501 of the act contains a clear statement of congressional policy, soon to be part of our public law, that expresses the grave concern of the Congress at the deepening involvement of the Soviet Union in the Middle East. The language of section 501 articulates, in a mere 11 lines, 110 words, the crucial center of American policy in the Middle East.

The Congress has said, by its overwhelming support for section 501, that the deepening involvement of the Soviet Union in the Middle East presents a "clear and present danger to world peace."

The Congress has said that this involvement "cannot be ignored by the United States."

The Congress has pledged that the President shall have the authority to restore the military balance in the Middle East.

The Congress has pledged that the President shall have the authority to maintain the military balance in the Middle East.

The Congress has provided for military credits to Israel to counteract past Soviet action in providing military assistance to other countries of the Middle East.

The Congress has provided for military credits to Israel to counteract any present military assistance to other countries of the Middle East.

The Congress has provided for military credits to Israel to counteract any future increased military assistance to other countries of the Middle East.

Mr. President, I first drafted section 501 in June of this year and introduced it in the Senate Committee on Armed Services on June 17. It seemed to me even then that the restraint exercised by the administration, expressed in the decision to hold in abeyance the sale of jet aircraft to Israel, might fail to induce similar restraint on the part of the Soviet Union. Indeed, I was concerned at the unrelenting buildup of Soviet forces in Egypt, and at the dangers arising out of that buildup in combination with the declared policy of the UAR to wage a war of attrition against Israel.

My concern was deepened when, in August, the United States sought to initiate negotiations in which I felt our position was seriously prejudiced by apparent doubts as to the solidity of the American position resulting from our prior restraint. Had the provision of an adequate level of military aid to Israel preceded the abortive peace initiative, the calculated and disingenuous violations of the cease-fire provisions might not have resulted. But result they did, and as section 501 came to the floor of the Senate the fragility of the balance in the Middle East was more precarious than ever before. The Soviets and Egyptians had succeeded in accomplishing by clandestine behavior, under the cover of darkness and self-imposed Western restraint, what they had failed to accomplish by overt military means: they had degraded Israel's first line of defense, the unchallenged supremacy of her air force in the skies above the Suez Canal.

To many who read of the agreement of the House to section 501, a Senate measure, it seemed that the timing of the Congress in adopting a clear statement of policy and granting vital legislative authority had been fortuitous indeed.

However, in spite of my obvious pleasure at the affirmative response to this important congressional initiative, I cannot help but wonder whether our interests, and the interests of world peace, might not have been better served had we recognized sooner the urgent necessity for determination in the face of adversity and the danger of irresolution under challenge.

Final passage of this measure comes at a time when the Sphinx no longer can pronounce "Gamal Abdel Nasser" to the imponderables of the future of the Arab world. One would have been tempted, a short week ago, to say of Nasser's passing, "the center cannot hold." Whether mere anarchy will be loosed upon the world of the Middle East will depend, now more than ever, on our determination. It will depend on the success with which we can discourage the Soviets from sharing the vacuum Nasser has left behind with an even greater presence than they have thus far managed to build upon the exploitation of the tragic conflict between Arabs and Israelis. Success in this goal—the discouragement of the Soviet appetite for further influence in Egypt—will depend upon our capacity to demonstrate that continued exploitation of local conflict in the Middle East is a dangerous and unprofitable proposition.

The assistance available to Israel under the terms of section 501 will be a crucial element in this endeavor. The authority is broad, virtually all inclusive, as the conference report makes clear. The terms upon which credits will be extended are generous, including very long periods of repayment and negligible interest charges.

The broad authority and generous terms are an essential element of section 501, sharing with a clear and direct policy statement in the importance of the measure as a whole. The provisions and terms are exceptional because they are required for an adequate response to an exceptional situation.

Section 501, Mr. President, represents more than aid to a brave ally whose survival is threatened by a Soviet policy of expansion. It is equally an affirmation that the United States will act decisively to assure the security of a progressive and democratic nation anxious to live in peace and to survive in freedom.

Mr. HATFIELD. Mr. President, we know that our democratic system is based upon a complex and interrelated balance of powers, both between the branches of Government and within them. The final decisions which we reach involve compromises and mitigating influences which make them never wholly acceptable to all, yet tolerable to a sufficient number.

The convictions of those who speak and act in dissent from proposed or prevailing policies find reasonance within the councils of decisionmaking—at least, such is the design of our system. Thus, although the holders of contrary opinion may not prevail, our structure provides that they are to be heard and in at least minimal terms, make some impression.

During the past 2 years, throughout

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the country and within Congress, a deepening concern over the extent and wisdom of our Government's military expenditures has emerged. In congressional debate that progressively has become more focused, and in public convictions which have become more intense, the purpose and degree of our expenditures in the name of defense have been scrutinized.

A majority of the public, and a significant force within Congress, have grown to believe that our present expenditures, for a mulitude of reasons, are excessive and not wholly justified by the legitimate demands of our Nation's security.

Some believe that the appropriate offices of Government have acknowledged this concern—that our defense spending has been reduced and our priorities reordered. Yet, careful examination of our budget expenditures finds this difficult to reveal.

Reductions which have been accomplished seem largely the result of a lowered number of troops in Vietnam, rather than a decisive choice to reallocate the thrust of Government spending by curtailing the defense budget. The past 2 years may have yielded certain accomplishments, but one is hard pressed to enthusiastically enumerate them.

However, whatever limited impact that might have resulted from those who have called for rational restraint of military spending is nearly disintegrated by the results of the conference committee report on the military authorization bill.

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Its substance causes one to wonder whether 2 years of penetrating debate have ever been heard—or have ever been genuine dialog.

Consider briefly the facts. The difference in money between the House and Senate authorization requests—about $1.3 billion—was divided about evenly, as would be expected. Thus, the final bill is below the original request made by the Defense Department. Although we can be certain this is no surprise to the Pentagon budget planners, who allow for such contingencies, yet it is a movement in at least the right direction.

However, on issues of procedure and substance, it seems that the modifications made by the Senate were sacrificed to the House version, with only certain exceptions—such as—the Senate's position on the ABM question, and the decision to withhold funds for the new carrier until the National Security Council completes its review.

Those positions, further, were not contrary to the wishes of the administration. In particular, nearly half of the Senate believed that the committee's ABM position was not justifiable. Yet, the cost of preserving these positions, it appears, was the emasculation of an inordinate portion of all the other provisions favored by the Senate.

Others have enumerated their positions given up in the conference committee, including a ceiling on Department of Defense reimbursements to major contractors for independent research and development, the limitations on nonmilitary related research sponsored by the Department of Defense, the establishment of an Interagency Council on Domestic Applications of Defense Research, the Brooke amendment relating to a research on a single reentry system for Minuteman III and Poseidon, and the provision requiring reports done for Federal agencies, such as the Department of Defense, to be submitted to the appropriate House and Senate Committees if requested—as well as several other provisions on which the Senate receded to the House.

But most costly, and most distressing to me, are the authorizations maintained in the conference committee report, at the insistence of the House, that were not even requested by the Department of Defense.

Most noticeable is the authorization of $435 million in new construction for naval vessels above the amount requested by the President and the Department of Defense.

I have no idea as to how the House conferees could convince the Senate conferees that the Navy needed $435 million more for ship construction than the Navy themselves requested and the President believed necessary.

Also authorized are funds for the Cheyenne helicopter, a program which the Pentagon announced it was canceling a year ago.

Further, $17.6 million is authorized for the so-called Freedom Fighter, a plane which the Air Force has not requested and sees no need of developing.

It is unbelievable to me that in a time of inflation, when the President has already vetoed bills that were above the President's requests, that the House conferees should insist, and the Senate agree, to authorize $480 million for projects that are not, in the judgment of the President and the Department of Defense, necessary for the security of our country.

I can only trust that the Appropriations Committee will see fit not to fund these inflationary and needless authorizations.

There has been extensive discussion about the need to reorder priorities, and the progress that has been made in that regard. Yet, the evidence of the conference committee's report indicates that if priorities are to be affected, they will be tipped in favor of increased, unregulated military spending.

When one considers the total effect of the actions taken by the conference committee, examining not only the differences in funding, but also the changes in the substantive and procedural provisions, it is clear that even the most modest attempts to assert some control and direction over defense spending have been almost completely to no avail.

The viability of our system depends upon its responsiveness to all the voices that are raised in the final decisions that are reached.

There must be accommodation in some manner to these various voices if our system—if the process of decisionmaking—is to merit the support of its participants.

With regret, I conclude that the action of the conference committee illustrates a total unresponsiveness to those who in any way feel that the requests and wishes of the Defense Department can be legitimately questioned and safely altered.

Thus, I shall vote against acceptance of the conference committee report, and do so for two reasons: First, because I continue to believe that the level of military spending is not in the best interests of our Nation and can be safely reduced. Second, and perhaps more crucial, because the report illustrates a basic failure of our legislative system to be responsive and adaptive to the variety of viewpoints that are reflected and represented. That, in the long run, is perhaps the most pressing threat to the real security of our country. It is ironic that the report authorizing billions for national defense should be such an illustrative symbol of why so many people believe that our own internal security, and the faith in our institutions, is eroding, jeopardizing our future.

Mr. MAGNUSON. Mr. President, I do not want to delay the Senate, but there has been much talk about line items. I do not want the misimpression to go abroad that these line items are not looked at. This is an authorization bill; when the Defense Department budget comes before the Appropriations Committee, as members of the Appropriations Committee well know, it comes in line items, and each item is scrutinized individually. The Appropriations Committee can get whatever reports it needs, and we double check each item at that time. The Appropriations Committee has not been mentioned much in this discussion.

So I hope the impression will not be created that Congress does not look at each of these items, one by one, including those that are classified. In the latter case we still get the information, and we determine whether to keep it classified.

Mr. FULBRIGHT. About a month ago I asked for one of these studies. I got a letter back saying, "No," and they even classified the letter that said "No."

Mr. MAGNUSON. They sometimes do that. The Appropriations Committee gets classified information, as much as it wants. There is always an argument on the Senate floor and in the committee as to what we should leave classified or what we should not leave classified. But the full Appropriations Committee gets this information, and then we pass on it. Some of it has to be classified. I have been very disappointed sometimes, as has the Senator from Arkansas, about the way in which the Defense Department puts the classified stamp on, and in the way in which they use the word "restricted." But the point is that every expenditure is scrutinized in the Defense Appropriations Subcommittee.

The PRESIDING OFFICER. The question is on agreeing to the conference report. [Putting the question.]

Mr. FULBRIGHT. I vote "no."

The conference report was agreed to.

Mr. STENNIS subsequently said: Mr. President, earlier today the Senate voted to adopt the conference report on H.R. 17123.

I now move that the vote by which the conference report was agreed to be reconsidered.

Mr. THURMOND. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

FORMER SENATOR CARL HAYDEN'S 93D BIRTHDAY

Mr. MANSFIELD. Mr. President, inasmuch as the name of our former colleague, Senator Hayden, has been mentioned, I should like to remind Senators that tomorrow is Senator Hayden's 93d birthday. I hope that Senators will keep that in mind and be prepared to pay their respects in some small way to a long-time colleague, a great man.

REORGANIZATION PLAN NO. 4 OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1261, Senate Resolution 433, to disapprove Reorganization Plan No. 4 of 1970.

The PRESIDING OFFICER (Mr. ALLOTT). The resolution will be stated.

The assistant legislative clerk read the resolution, as follows:

> *Resolved*, That the Senate does not favor the Reorganization Plan Numbered 4 transmitted to the Congress by the President on July 9, 1970.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MAGNUSON. Mr. President, I am pleased to speak again in favor of Reorganization Plan No. 4. I support this proposal wholeheartedly, and trust that others will join me in opposing Senate Resolution 433 disapproving the reorganization plan.

The proposed plan is smaller than I had hoped the President might recommend. I have expressed on many occasions the desire that the Coast Guard be placed in any reorganization plan of this nature and that the oceanic and atmospheric program might well be housed in an independent agency. But these two exceptions should not be allowed to detract from the many merits of the proposal, and after waiting 10 years to see a strong oceans program developed in the United States, I do not feel that we can wait any longer.

This is a great step forward. The Senator from South Carolina is chairman of a subcommittee of the Committee on Commerce, and he is in agreement with this proposal and knows the urgency of it.

The national oceanic and atmospheric program has been thoroughly studied in the last 10 years. Rejection of the President's proposal now in order to study the alternatives would be redundant and would cause inexcusable delay. The President's proposal has the support from Dr. Stratton and all of the other members of the Commission on Marine Science, Engineering and Resources who originally recommended the creation of NOAA.

I was a congressional adviser to that Commission. The Commission put in long hours and long weeks of work. It has the unequivocal support of Dr. Edward Wenk, the former Executive Secretary of the National Council on Marine Resources and Engineering Development. And it has my complete support.

Approval of this plan will provide an important first step enabling this Nation fully and wisely to use and understand the oceans and the atmosphere. Wisely administered, NOAA will greatly enhance the quality of our environment, our security, our economy, and our ability to meet increased demands for food and raw materials. I am confident that the Secretary of Commerce will give NOAA the support and backing which are absolutely essential if the visions and hopes of the Stratton Commission are to become a reality for the Nation.

Some of the opponents to the creation of a NOAA have objected to the placement of a resource development function and an environmental protection function in the same agency. They have pointed out what has happened historically when resource development and environmental protection are placed in the same department or agency. The establishment of the Environmental Protection Agency is an attempt to create a separation of those two functions, and I think it can work in that case. But the argument implies that it is impossible to have both resource development and environmental protection in the same department. If that is the case, we are going to have to reorganize the Department of Defense, the Department of Health, Education, and Welfare, the Department of Agriculture, the Department of Transportation, the Atomic Energy Commission, the Department of the Interior, and every other agency that has developmental as well as environmental protection responsibilities. The argument also ignores the political climate that has been created in the last year or so. The political concern, awareness, and pressure to protect and enhance our environment simply has not been a real political force until the last year. But it is a real presence now.

If history is prolog, then we must learn from the history of those departments and agencies that have developed resources at the expense of environmental quality. But the real question is whether it is desirable in all cases to separate the resource development and the environmental protection functions. Every serious environmentalist that I know of who has looked at the problems has found that we cannot simply stop all development to protect the environment. And clearly we cannot tolerate resource development at the complete expense of environmental quality. Rather, we seek a proper mixture of the two. And that is what René Dubos and other prominent ecologists mean by the term "wise use."

Creation of the National Oceanic and Atmospheric Administration will enhance the possibility that we will use the marine environment wisely. It will have scientific capability; technological skill to work in the oceans; the experience to improve international programs in the marine and atmospheric sciences; the capability to monitor and predict weather and a growing understanding of the problems of weather modification; the biological, economic, legal, and political skills not only to rehabilitate our fisheries but also to enhance them; and they will have the experience of the ably managed national sea grant and college program. None of the programs coming into the National Oceanic and Atmospheric Administration have been administered in the past with callous neglect of the environment. Just the opposite is true. Most of the leaders of the agencies that would comprise NOAA were expressing concern for the quality of a marine and atmospheric environments long before we in the Congress developed our environmental awareness. There is no reason to believe that the mere placement of NOAA in the Department of Commerce will change that awareness or direction.

As I mentioned earlier, Mr. President, we have waited more than 10 years for this opportunity. No more delay can be tolerated. The matter has been thoroughly studied and well thought out both with respect to the executive and the legislative branches of Government. The time to move is now. I urge that we in the Senate join our colleagues in the House in rejecting Senate Resolution 433.

Mr. NELSON. Mr. President, on July 28, I introduced Senate Resolution 433, which if agreed to by the Senate, would constitute congressional rejection of Executive Reorganization Plan 4 which proposes to establish a National Oceanic and Atmospheric Administration—NOAA—in the U.S. Department of Commerce.

On July 28, August 11, August 21, and September 23, I made Senate floor statements regarding my concern with plan 4. Further, on July 28 and on September 1, I testified before the Senate Government Operations Subcommittee on Executive Reorganization regarding the NOAA plan.

Thus, today, I will summarize my position and comment on what I believe is very significant language in the Government Operations Committee report on the reorganization plan.

At the outset, let me make clear my strong support for plan 3, which creates the Environmental Protection Agency. This plan clearly demonstrates the President's commitment to restoring the quality of the environment and the introduction of Senate Resolution 433 has in no way been intended to be critical of the President's environmental efforts.

Also, the Subcommittee on Executive Reorganization, chaired by Senator ABRAHAM RIBICOFF, and the full Government Operations Committee have been very helpful in hearing and carefully considering all the various views on the reorganization plans.

My concern with plan 4 is based not on the question of its merits, but on its timeliness. For the future of our environment and of the human race itself, one of the most chilling forecasts imaginable is being made by marine scientists, who now say that if we continue to pollute the sea at the present accelerating

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pace, all productive ocean life will be destroyed in 25 to 50 years.

At this late stage in history we are still ill-prepared to meet the challenge of properly protecting the marine environment. In the past 20 years, 900 square miles of U.S. coastal wet lands, a vital link in the chain of ocean life, have been drained and filled for all kinds of development. But as yet, there is no meaningful national program to protect the coastal environment. Each year, tens of millions of tons of solid wastes—from garbage and trash to junked automobiles—are dumped into the sea off U.S. coasts. Yet, no Federal agency is setting tough environmental regulations to halt this ecologically destructive practice. And though pollution control standards programs are established for close-in coastal waters, nowhere in the Federal Government is there an effort of any significance for pollution control beyond the 3-mile zone offshore. It is, in effect, frontier days on the high seas.

Each year, 3,000 to 5,000 new oil wells are drilled in the oceans off the U.S. coast. Yet last year, reports by the President's Panel on Oil Spills confirmed that we do not have the technology at present to control a major marine oil spill, and further estimated that with foreseeable drilling and accident rates, we can expect a Santa Barbara-scale disaster once a year by 1980. Floating airports are being discussed for waters in the Great Lakes and the oceans off the coast of several of our major cities. Yet, nowhere in the Federal Government is there a program to develop comprehensive environmental plans and regulations to protect against possibly disastrous consequences of these and other massive intrusions into the sea.

Reorganization Plan 4 would not resolve these questions. Instead, in this Nation's first major oceans policy step this decade, it would establish a NOAA in a department whose mission the 1969–70 U.S. Government Organization Manual describes as "to promote full development of the economic resources of the United States."

Almost every national conservation organization has expressed serious reservation about the creation of NOAA by plan 4 without agreements on where the responsibilities for protecting the coastal and marine environments will be placed.

I ask unanimous consent that a list of the organizations that have gone on record in this regard, along with some of their statements, be printed in the RECORD at the conclusion of my remarks, along with other materials pertaining to this matter.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

(See exhibit 1.)

Mr. NELSON. Mr. President, further, none of the several very comprehensive reports that have been done in recent years on marine affairs have recommended placing a NOAA in the development-oriented Department of Commerce. The January 1969 report of the Commission on Marine Science, Engineering, and Resources—the Stratton Commission—recommended an independent NOAA. The Ash Council, appointed by the President to study and recommend government reorganization, reportedly recommended a new marine environment agency under the Secretary of the Interior.

And, the administration bill introduced last year would put the coastal zone management program in the Department of the Interior. The bill by Senator MUSKIE first proposing an environmental protection agency would have transferred the Environmental Science Services Administration from the Department of Commerce to EPA. And legislation I introduced this year would establish a comprehensive program for marine environment protection in the Department of the Interior.

The implementation of any of these proposals would represent a more timely step toward establishing a national policy on the oceans than plan 4. All would give much greater emphasis at this important stage to ocean environmental protection.

Sound arguments can be made for putting NOAA in Commerce, as plan 4 does. And though many thoughtful people would prefer an independent NOAA or a new marine affairs agency in the Department of the Interior, NOAA in Commerce may well prove to be a workable step. However, it would have been even better if we had waited to settle the very important marine environmental questions before establishing the Commerce Department NOAA.

Thus, it is my position that NOAA should not be established at this time. And by introducing Senate Resolution 433, it has been my purpose to create a constructive dialog about the implications of plan 4, so that it would not be given a blanket approval without any discussion and without a clear understanding of what NOAA in Commerce is expected to do and how it is expected to relate to other agencies.

And I believe that the hearings by the Senate Government Operations Subcommittee on Executive Reorganization, along with those on the House side, have carefully delineated the distinctions between development and environmental standard setting and the importance of keeping these functions separate.

Further, I believe the Government Operations Committee has very carefully reviewed the implications of establishing this new agency now along with EPA and has clearly spelled out in its committee report the important principles and conclusions which must be observed if plan 4 is allowed to go into effect.

First, the Senate committee report clearly identifies ocean resource development as the primary mission of NOAA in Commerce. It describes NOAA as "an agency whose major concern is the development of a national oceanic and atmospheric program of research and development."

The evidence that this is the design of NOAA in plan 4 is very convincing. Describing the mission of NOAA, President Nixon said in his message to Congress:

> I expect that NOAA would exercise leadership in developing a national oceanic and atmospheric program of research and development.

And the Stratton Commission report, from which much of the thinking for NOAA is derived, stated that the mission of such an agency would be "to insure the full and wise use of the marine environment in the best interests of the United States."

Second, the committee report makes it clear that NOAA in Commerce would have to comply fully with the provisions of the National Environmental Policy Act, as do all Federal agencies. It said:

> Though the primary mission of NOAA will be oriented toward research, technology and resource development, the Agency of course must, as must all Federal agencies, comply with all applicable provisions of the National Environmental Policy Act of 1969.

I would expect many of NOAA's activities to pose major environmental effects and thus to require section 102 reports under the act.

Third, the committee report recognized and strongly concurred in the principle that programs to protect the environment should be separated, in separate departments, from programs for resource development. The report said:

> As the central question of the hearings, the committee finds consistency in the principle that in our oceans policies, environmental standard-setting and enforcement should be kept separate from other Federal activities. As such, the committee firmly believes that Reorganization Plans 3 and 4 preserve this position by placing environmental standard-setting functions in EPA and marine research technology and development functions in NOAA.

This very important principle was cited by President Nixon in proposing EPA. A major reason for EPA, he said, would be that—

> It will insulate pollution abatement standard-setting from the promotional interests of other departments.

As we have seen from the sad history of built-in conflicts of interest in many Federal agencies charged with both development and environmental protection, this is a wise and necessary course.

In this testimony before the Senate subcommittee on September 1, Mr. Andrew M. Rouse, Executive Director of the President's Advisory Council on Executive Reorganization—the Ash Council made it clear this principle should apply in our oceans policies as well. He said:

> Our view is that any authority created by Congress that deals with setting pollution control standards is not to be in a resource using or promoting agency; so that, if Congress creates authority to set standards with regard to ocean pollution control, that authority should be placed in the Environmental Protection Agency and not in a resource using agency.

Responding to a question on whether this same principle should apply in any coastal zone management program, the Ash Council representative said that although the Council has not studied coastal zone management proposals because they are now in pending legislation, his view is that—

> If there is authority in that bill which gives standard setting and enforcement functions, those functions should be in EPA.

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Fourth, the committee report clearly identified EPA as an independent agency with broad environmental responsibilities, and also made it clear that NOAA's research and data-gathering activities would be only one source for EPA in the latter's environmental protection plans, programs and actions. The report said:

> In summary, EPA was described as an agency which would be responsible for standard-setting and enforcement for all aspects of the environment—for sea-related concerns as well as earth and air problems—and the committee shares this view.

Further, the committee report saw EPA as having the mandate to carry out environment standard setting and enforcement "respecting the coastal and ocean environments as well as other important areas." And it added that NOAA would be "one important element to formation of a strong, permanent marine environment policy by the Environmental Protection Agency."

Fifth, the committee report made clear that its position on plan 4 did not indicate support for coastal zone management being assigned to NOAA. It said:

> During the committee hearings, mention was made by several witnesses, including the Secretary of Commerce, of the coastal zone management program proposed in legislation now pending before Congress. The committee does not intend that its endorsement of Plan No. 4 should in any way be interpreted as a position for or against administration of the coastal zone management program, if enacted, in NOAA. Indeed, the Administration has not finally determined its position with respect to this question, as Secretary Stans told the subcommittee.

And at another point, the report said:

> There is a natural tendency in newly created Government agencies to expand their jurisdiction as far as possible and to assume new duties at every opportunity. This tendency will require careful scrutiny by the Office of Management and Budget in NOAA's early years of existence if inefficiency is to be avoided.

And:

> The committee desires to emphasize the fact that approval by the committee of this plan does not in any way modify, enlarge, or diminish the legislative jurisdiction of standing committees of the Senate.

Ocean environment programs such as solid waste dumping control, environmental regulation of offshore facilities and resource use, pollution control of any sort, or any ocean environment standard-setting, enforcement, planning and management program should not in my judgment be assigned to NOAA in the Department of Commerce.

In sum, if the Congress permits plan 4 to go into effect, the report of the Senate Government Operations Committee will serve as an important guide not only for the roles and the conduct of NOAA and EPA in our national oceans policies—making very clear that environment programs are in EPA and development is in NOAA—but for future congressional decisions on the coastal zone and the sea. This is my view, and I believe it is the view of the national environmental organizations that have opposed plan 4.

And the report goes far to clear up the important question as to whether NOAA is envisioned as a "development" agency, an "environmental protection" agency, or both. It is development—that is its mission—and environmental protection programs should be kept separate.

Finally, in view of the significant environmental impact that many of NOAA's activities will undoubtedly will pose, and in view of the complexity and vulnerability of our ocean environmental systems, it is important, in my view, that whoever is appointed as the administrator of NOAA be an individual with broad experience and expertise in environmental matters.

EXHIBIT 1

LIST OF CONSERVATION ORGANIZATIONS EXPRESSING RESERVATIONS REGARDING REORGANIZATION PLAN 4

American Forestry Association.

American Institute of Biological Sciences.

American Scenic and Historic Preservation Association.

Association of Midwest Fish and Game Commissioners.

Izaak Walton League.

National Association of Conservation Districts.

National Audubon Society.

National Wildlife Federation.

Sport Fishing Institute.

Trout Unlimited.

Western Association of State Game and Fish Commissioners.

Western Division of the American Fisheries Societies.

Wildlife Management Institute.

The Wildlife Society.

International Association of Fish and Game Commissioners.

STATEMENT OF ANDREW M. ROUSE, EXECUTIVE DIRECTOR, PRESIDENT'S ADVISORY COUNCIL ON EXECUTIVE ORGANIZATION, AT SENATE SUBCOMMITTEE HEARING SEPTEMBER 1

Mr. ROUSE. That is correct, Senator Nelson.

Senator NELSON. And what was your rationale for the establishment of EPA?

Mr. ROUSE. I think, in your opening remarks, you stated the gist of it, but I think it would be useful to go over how the Council arrived at an independent Agency for Environmental Protection, because it touches on matters that concern you.

The Council started out with a predilection to place in one agency all of those activities which would enable the head of that agency to make all the necessary policy trade offs that apply to the area of cognizance of the agency. And they leaned in their deliberations toward doing that with the whole area of natural resources and their development.

They found, however, that it was not feasible to do that, in this case for two fairly important reasons.

POLLUTION ABATEMENT

The first was that pollution abatement, the problem with which they were concerned, is a problem which permeates all of the activities of government and the instrumentalities that use resources in one way or another.

The second reason was that these concerns were universal to many of the agencies of Government. It would seem totally inappropriate to place the pollution control function in any one agency which would give that agency control over certain activities of other agencies involved in resource use or promotion the area and would probably induce a bias towards the interests of the managing agency.

The Council concluded that they would make an exception to the general rule they had set for themselves and to recommend to the President that a separate agency be created for environmental protection.

The gravamen of that reasoning was that you should not place an activity which was universal to the activities of all other agencies, most of them resource promoting, or resource using, or resource exploiting agencies, in an existing agency, and that you should create a new one for it in order to deal specifically with the standard-setting enforcement problem.

Now, the question that they were then faced with, Senator, was how much could they put into an environmental protection agency without seriously damaging the missions of existing agencies that had primary interests in certain areas which were at the same time resource using, and, on the other side of the coin, pollution creating activities.

"WHERE YOU BREAK THE JOINTS PROBLEM"

And that problem, which we called the "Where you break the joints problem," is the one that we had to wrestle with in putting together Reorganization Plan 3.

The general rule is to put in as much as was necessary to insure the central standard-setting function would have teeth.

Senator NELSON. Do I understand it was the fundamental position of the Council that you favored separating the environment aspects from the development aspects as a matter of principle?

Mr. ROUSE. That is exactly right, sir; that is, the pollution abatement and control aspects.

OCEAN WATERS DETERIORATING

Senator NELSON. As I know you are well aware, many of the marine scientists are alarmed about the rapidly deteriorating quality of ocean waters, particularly in those critical places of our marine estuaries, breeding ground for much of the life of the entire sea. They are concerned that at the presently accelerating pace we will rather dramatically pollute this limited, especially fragile area of the marine environment in the next 25 to 50 years with serious threats to the continued productivity of the oceans.

Thus, what concerns me about it is where the responsibility for coastal zone management would go, the responsibility respecting control of pollutants going into the oceans, the responsibility in the whole marine environmental effort, and that issue remains unresolved at the moment.

Do you have any view about where that aspect of environmental responsibility should be put?

Mr. ROUSE. Our view is that any authority created by Congress that deals with setting pollution control standards should not be placed in a resource using or promoting agency; so that, if Congress creates authority to set standards with regard to ocean pollution control, that authority should be placed in the Environmental Protection Agency and not in a resource using agency.

Senator RIBICOFF. Will the Senator yield? Do you conceive then that this Environmental Protection Agency would take precedence over NOAA when it came to matters of pollution-setting standards?

Mr. ROUSE. I guess the short answer to your question, Senator, is "Yes." The question of precedence bothers me a little, but our belief is that the standard-setting activity ought not to be in a resource using, promoting or exploiting agency.

OCEAN AND SHORELINE MUST BE PROTECTED

Senator RIBICOFF. In other words, you agree with the position that Senator Nelson takes, that we must do everything possible to protect the ocean and the shoreline, and that if we do create NOAA which has development aspects we must make sure that the overdevelopment in NOAA does not do to the environment what overdevelopment in this Nation has done to the entire environment?

Mr. ROUSE. I agree, entirely.

Senator RIBICOFF. So, when Senator Nelson makes a statement that he would hope that the report would make this very clear, irrespective of if we decide to vote favorably on the report, you would feel that it would cer-

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tainly be appropriate for the report to have very strong language as to the intention of the Senate as to the role of the environment in NOAA?

Mr. Rouse. I agree with you. I think it should.

Senator Nelson. Just so I am clear on this, you think the Environmental Protection Agency would be a more appropriate place than any other Federal agency for this responsibility, coastal zone management, and so forth; is that correct?

Mr. Rouse. Let me say, first, that we did not study the coastal zone bill or the authorities created in it simply because it was pending legislation and our mandate related primarily to existing legislation.

But my view on that, Senator Nelson, is that those activities associated with grants to States proposed in the coastal zone bill, both to establish organizations for coastal management and then the operating grants subsequent to that probably need not be in EPA. But if there is authority in that bill which establishes standard setting and enforcement functions, those functions should be in EPA. That is, it is possible to separate a grant-giving activity from a standard-setting activity.

Senator Nelson. But so far as the environmental aspect of the oceans are concerned then, standard setting and enforcement respecting the environment, you believe this ought to go in the Environmental Protection Agency?

Mr. Rouse. Yes, sir.

Senator Nelson. Thank you, Mr. Chairman.

Senator Ribicoff. Thank you very much.

Excerpt From September Newsletter of the Conservation Foundation

THE ROLE OF THE COMMERCE DEPARTMENT

What are the responsibilities and constituency of the Department of Commerce—in law and in practice?

The basic charter which established the department in 1903 states that its primary mission is: "To foster, promote and develop the foreign and domestic commerce, the mining, manufacturing, shipping, and fishery industries, and the transportation facilities of the United States." (15 U.S. Code 1512)

A 1969 department brochure states that this historic mission "has evolved . . . to encompass broadly the responsibility to foster, serve and promote the nation's economic development and technological advancement."

Commerce has shown an environmental awareness in some aspects of its regional programs under the Economic Development Administration. But its performance is not uniformly reassuring; and one can expect that NOAA will be the subject of considerable pressure from the oceanographic industry. (In seeking funds for fiscal 1968 from the Senate Appropriations Committee, ESSA described its Marine Environment Program as a portion of the "national effort . . . to establish a vigorous oceanographic program with the prime objective of exploiting the mineral and biological resources of the oceans.")

According to a staff official of the Council on Environmental Quality, Commerce's performance during eight months of complying with the mandates of the National Environmental Policy Act of 1969 is very disappointing—the most disappointing of any departmental or agency in the government.

A review of Commerce's record under that act through mid-September shows that (1) Commerce has been the slowest federal agency to comply with the act and with the Council's guidelines for administering it; (2) the Secretary of Commerce's internal instructions to department units and officials for complying with the act are weaker than those of other departments and agencies; (3) the Secretary of Commerce has designated what is regarded as the most "commercial" agency in the department, the Business and Defense Services Administration, to have overall responsibility for department compliance with the act; and (4) Commerce had not as of September 16 filed a single one of the required statements on the impact of proposed "major federal actions significantly affecting the quality of the human environment." The Commerce procedures were "vague, unresponsive to our guidelines and generally unsatisfactory," said the Council staff member.

The Commerce Department's procedures for implementing the act merely repeat the act's generalized description of actions to be covered. In contrast to other department and agency heads, the Secretary of Commerce's instructions authorize the "heads of operating units" to determine which of their actions require environmental impact statements. Also, while the heads of most departments and agencies have retained in their own offices responsibility for compliance with the act, or have delegated it to an under secretary or assistant secretary, Secretary Stans' August 19 order says that the "focal point for coordinating the department's efforts to improve environmental quality," including review of environmental statements and their transmission to the Council, is the Business and Defense Services Administration.

BDSA's mission, a 1969 Commerce brochure states, is to "provide information, services, and assistance essential to business growth and technical development," to apply "the considerations of importance to American business in the policy-making process of the federal government," and to present "in light of national objectives, the considered views of business in administering government programs." The administrator of BDSA, William D. Lee, is an engineer who joined the department in 1969 after 28 years with the General Electric Company, most recently in its marketing division.

Commerce has commented on one environmental statement filed by another agency. This involved a Long Island Lighting Co. application to the Atomic Energy Commission for a permit to build a controversial nuclear power plant at Shoreham, on the eastern shore of Long Island Sound.

The Commerce Department's comments: "Since we have no direct jurisdiction in law with respect to the proposal, the department will defer commenting on its merits at this time . . . Our only general interest at this time is to state our full support for timely action on this and any other similar application for expanded power generation facilities. The urgent need for increased national power capacity requires that these proposals be reviewed and decided as quickly as feasible to allow earliest possible construction if approved, or sufficient lead time to develop acceptable alternatives. As we are all aware, undue delay in administrative review can only further contribute to potential power failures and 'brown-outs' which the nation can ill afford."

What role did ESSA play in developing Commerce's comments on the Shoreham application to the AEC? Explained an ESSA official: "We were invited to comment and we said that we feel there is need for an evaluation of the tradeoffs between the economic benefits of the site and the environmental impacts on Long Island Sound. But our views did not prevail at the department level and were not reflected in the department's comment to the AEC."

The first report of the Council on Environmental Quality in August said simply that NOAA "provides new opportunities to improve understanding of oceanic and atmospheric resources." Council chairman Train, testifying at an August 12 hearing of the House Merchant Marine and Fisheries Committee, was asked these questions by Congressman Dingell:

"Tell us what philosophical qualifications, what clientele, what ability, what in-house capacity would justify turning NOAA over to the Department of Commerce? What has the department ever done in the field of conservation of resources, or resource management, that would justify them having that agency in their tender clutches?"

Statement of Louis S. Clapper on Behalf of the National Wildlife Federation on Reorganization Plan No. 4

Mr. Chairman, I am Louis S. Clapper, Conservation Director for the National Wildlife Federation which has its national headquarters at 1412 Sixteenth Street, N.W., here in Washington, D.C.

Ours is a private organization which seeks to attain conservation goals through educational means. The Federation has independent affiliates in all 50 States and the Virgin Islands. These Affiliates, in turn, are made up of local groups and individuals who, when combined with associate members and other supporters of the National Wildlife Federation number an estimated 2½ million persons.

We welcome the invitation and opportunity to comment upon proposed Reorganization Plan No. 4 of 1970, creating a new National Oceanic and Atmospheric Administration within the Department of Commerce.

Mr. Chairman, throughout its existence, the National Wildlife Federation has stood for the conservation of natural resources. In this context, we construe conservation as being "wise use" rather than pure preservation. Wise use, of course, requires sound management. And to be sound, management must be predicated upon principles which can be ascertained only through sound basic research. So, in our opinion, management and development is so closely interrelated with research that the functions are inseparable.

As a responsible organization representing responsible citizens, the National Wildlife Federation is interested and concerned with efficient government. We have analyzed the President's proposed reorganization plan No. 4 and recommend that the Committee render an advrese report upon it because we do not think it will result in more efficient government. In fact, we think it will promote inefficiency and may result in dangerous depletion of valuable public natural resources.

I should point out, Mr. Chairman, that we have applauded a basic principle in reorganization plan No. 3—that the regulatory functions of the Federal Government relating to pesticides and radiation be separated from those agencies which promote development and use. For example, we feel that public confidence is shaken when the Department of Agriculture is reluctant to ban the use of DDT because it has not been proven that dangers from them are imminent. In a similar manner, we fear AEC is biased in regulating tolerances of radiation. Therefore, we feel that it is entirely consistent for us to oppose Reorganization Plan No. 4 for the same basic reason—that management and research of the basic marine fisheries resources should be separated from the development of exploitive functions of the Federal Government. There are serious concerns on our part that these basic resources would be subordinated to exploitation.

I suppose this can be considered as a charge of conflict of interest.

We note from the most recent Annual Report of the Department of Commerce that: "The historic mission of the Department is to 'foster, promote, and develop the foreign and domestic commerce' of the United States. This has evolved, as a result of legislative and administrative additions, to encompass broadly the responsibility to foster, serve and promote the nation's economic development and technological advancement." Further, the same Annual Report describes

XUM

the Environmental Science Services Administration and says: "The mission of ESSA is to ensure the safety and welfare of the public, to further the Nation's agriculture, industry, transportation, and communications, and to assist those Federal departments and agencies that are concerned with the national defense, the exploration of outer space, the management of the Nation's mineral and water resources, the protection of the public health against environmental pollution, and the preservation of the Nation's wilderness and recreation areas."

Now, we are confident that these are laudable and highly desirable functions. We agree that the Nation's economic development and technological advancement should be promoted. And, we have no objection whatever to Federal funds being allocated to these purposes. However, we simply feel that *protection* of important natural resources will come out second best in an agency with the primary mission of promotion.

In fact, Mr. Chairman, I should like to emphasize this point: we likely would not be here today to speak in opposition to Plan No. 4 if only the promotion aspects of the program of the Bureau of Commercial Fisheries were transferred to the Department of Commerce. We long have felt that efforts to promote the harvest and sale of fish and shellfish truly is a function of the Department of Commerce, and so advised the Administration before Plan No. 4 was announced. However, we are equally convinced that management of the marine fisheries resources, and the related research efforts, should remain in the same agency and coordinated with the Bureau of Sport Fisheries and Wildlife.

I should not like for any confusion to exist about an attitude of the National Wildlife Federation. Our organization stands for conservation as defined by wise use and not for preservation for preservation's sake. We do not intend that commercial fisheries be abandoned or abolished so long as a sustained yield can be maintained. It was my privilege to participate in the direction of the administration of fish and wildlife resources in Tennessee prior to assuming my present responsibilities more than a decade ago. I am well aware of how aquatic resources can be husbanded and managed for the maximum production and ultimate public benefit. I am also aware of the difficulties and shortcomngs in managing and developing oceanic resources, and speaking frankly, we fear the fisheries well may be sacrificed to ocean farming or aquaculture and ocean engineering—that long-time objectives and values for the many will be sacrificed for short-time benefits for a few.

Secretary Maurice H. Stans has testified that 60 per cent of the Commerce Department personnel are assigned to scientific and research work. However, we hope and trust the Subcommittee will investigate to find out how many of these efforts are oriented principally toward improved exploitation and development rather than protection of the resources.

What assurance could the good Secretary provide us that the biological research and management programs on marine fisheries would receive funding equitable with promotional and developmental activities?

We are more than a little concerned that some people are saying: "NOAA is better than nothing." Is this true? We find little assurance that the new alignment would be an improvement over the present organization whereby the two bureaus work together well within the Fish and Wildlife Service. If there is so much merit in collecting together in one agency all Federal functions relating to the oceans, why shouldn't offshore oil leasing and regulation be transferred to the new agency from Interior? What about regulation of the dumping of wastes outside the U.S. territorial limit of three miles, a function currently the responsibility of the Corps of Engineers? Or pollution law enforcement now split between the Federal Water Quality Administration and the Coast Guard? Why aren't these functions being lodged in NOAA?

And, the Congress currently is considering proposals for coastal zone management. Questions arise about whether this program is to be administered as part of NOAA or Interior? The Administration has testified that it would be located in the Interior Department. To us, this would make sense because many of the problems relating to the sea have their origins on the adjacent lands: pollution of a myriad sort, siltation, and filling and draining of estuarine areas which provide nursery areas for fish and shellfish as well as homes for furbearers and waterfowl.

To conclude, Mr. Chairman, I might say that we are terribly concerned about national priorities—priorities that say the construction of dams, canals, highways, space ships and supersonic transports are more important than solving the Nation's environmental ills, that one moon shot is more valuable to society than providing for the Nation's outdoor recreational needs, that a weapon's development is considered more important than air and water pollution abatement projects. We contend that now is the time to give first consideration to the ocean environment rather than to its exploitation. Otherwise, the rape of the sea may follow the pattern of the rape of the land; in our haste to reap the benefits of these resources, we will damage or destroy their values forever and thereby further diminish the quality of life on earth.

One cannot help but think of how man has so relentlessly pursued the great whales that their actual existence is threatened, of how the United States right now is trying to protect both Atlantic and Pacific salmon from international overexploitation, and of how the offshore oil "blows" or "spills" have highlighted the precarious predicament of marine resources. And, then, we inevitably must conclude as responsible citizens that the long-term costs of putting "exploitation" or "development" before "environmental management" are too great to be tolerated.

It is in this context of priorities, Mr. Chairman, that we recommend that the Congress vote to reject Reorganization Plan No. 4.

Again, we offer our thanks for the privilege of making these observations.

STATEMENT OF ROLAND C. CLEMENT, VICE PRESIDENT, NATIONAL AUDUBON SOCIETY, SEPTEMBER 1, 1970

Senator, I appreciate this opportunity to join my conservation colleagues in discussing the implications of the Executive Branch's Reorganization Plan No. 4 (NOAA). As I believe you know, the National Audobon Society has already filed a comment on this plan, in which, essentially, we urge that the Congress give this much more study before consenting to its passage.

Mr. Chairman, as the Audubon Society's chief scientist I wish to share additional views prompted by my own examination of this plan, since I was not present when our first statement was drafted.

I call particular attention to the fact that NOAA, as outlined by the President, would be almost wholly oriented toward the physical aspects of the marine environment. These are important elements of our planet, but I would, for this very reason, question including the biologically-oriented Bureau of Commercial Fisheries—it would become a mere appendage. This Bureau has been no special champion of conservative resource use—having been dominated by exploitation-minded interests from the first—but it would be completely swamped in NOAA, especially if NOAA is put under the Department of Commerce.

Mr. Chairman, what I am saying is that NOAA would make more sense without a diminutive biological appendage. As an experienced biologist, I urge the Congress to leave fisheries and marine mammal research in the Department of Interior, at least for the time being.

One reason for my view is that at least ⅔ of our marine fish are dependent on the estuarine zone for part of their life cycle—so it makes more sense to keep fisheries and coastal zone management together in a biologically-oriented Department like Interior. Research is not just data collecting, but thinking about the implications of these data, and this is best done in conjunction with like-minded colleagues since it is a matter of asking questions.

I think Mr. Nixon was misinformed when he justified his inclusion of fisheries work in NOAA on the basis that "food from the oceans will increasingly be a key element in the world's fight against hunger." Ninety percent of the ocean's surface is of very low biological productivity, and we are already overexploiting many fisheries resources because the oceans remain a "commons" over which neither we nor the U.N. have succeeded in imposing responsibility. And even if there were signifiacnt untapped resources there—which I question—we are up against the same economic obstacle, called "effective demand" that plagues food production on land.

Mr. Chairman, we are sensitive to your suggestion that there is indeed a new climate of opinion regarding the importance of the environment today, and we try never to be doctrinaire about new opportunities for cooperation and leadership. But our own long experience with governmental policy implementation has taught us to insist on additional safeguards where land use questions are involved. After all, the organic act of 1898 which created the U.S. Army Corps of Engineers charged it with preventing the dumping of wastes in navigable waters; and it took ten long years after the passage of the Wildlife Coordination Act, in 1958, before the Corps really undertook to decide a dredge-and-fill case on environmental criteria! Finally, we are told that the Department of Commerce was the last agency to file a report with the Environmental Quality Council under section 102 of the Environmental Quality Act of 1969. This may be nothing reprimandable but neither does it speak for that Department's enthusiasm for environmental controls.

Mr. Nixon has urged moving a step at a time in reorganizing government departments. We agree heartily with this recommendation and suggest that the Congress take an even shorter step than it was asked to take, and defer action on NOAA until all of us have studied its implications more fully.

STATEMENT OF THE NATIONAL AUDUBON SOCIETY ON REORGANIZATION PLAN NO. 4

The National Audubon Society appreciates this opportunity to comment on Reorganization Plan Number 4.

Although we are not opposed to the establishment of a National Oceanic and Atmospheric Administration *per se*, we have serious reservations about this plan. We believe there are a great many questions that should be asked before setting up this agency which will have such an important impact on two vital resources—the oceans and the atmosphere—and indeed the whole environment. Unless these questions can be answered satisfactorily in the remaining days Congress has in which to act, we believe the plan should be shelved.

One of the first questions the Committee should explore is the wisdom of placing NOAA in the Commerce Department, instead of making it an independent agency as the Stratton Commission recommended. In a dialogue with the House Subcommittee on Re-

XUM

organization, Congressman Alton Lennon admitted that he would have preferred an independent NOAA, but said he felt the problem was too important to delay acting upon. We agree that the problem of our oceans and atmosphere is important, but should expediency rather than wisdom be the criterion for enacting this plan.

Although proponents of NOAA have scoffed at conservationists' reservations about placing NOAA under Commerce, they have never satisfactorily resolved our doubts.

We are not casting a slur upon the Commerce Department, nor are we judging it by its name. Whatever its title, the fact is that historically and statutorily this is the agency whose function is to promote economic development, and this is certainly a legitimate function. Although in recent years, scientific-technological programs such as those of ESSA have constituted a large portion of the Department's activities, we can only assume that the Department is still charged with responsibility to the commercial or business segment of our economy. Given this dual thrust, what priority will NOAA and environmental problems have? Presumably, the Secretary of Commerce will have ultimate authority over decisions made by the Administrator of NOAA. Given human nature, the Secretary's judgment will reflect the total Department's philosophy and, we believe, its institutional biases.

In testimony on Plan 4, Dwight A. Ink, Assistant Director of the Office of Management and Budget, said, "The President noted his objection in principle to the creation of new agencies in his message transmitting Plans No. 3 and 4. He stated that he was making an exception to that principle in creating the Environmental Protection Agency mainly to avoid the institutional biases that the primary missions of existing Departments were almost certain to bring to bear on environmental decisions generally and on the critical matter of standard-setting in particular."

We find it difficult to believe that the Department of Commerce is the only federal agency free of institutional bias. Incidentally, we are supporting Plan 3 (EPA) primarily because of the problems which have been evident in the past caused by institutional biases in the regulation of pesticides and other pollutants.

Through ESSA's and other programs, the Commerce Department has a strong base in technology and science, according to the Secretary. We agree. But if our nation has learned one thing in recent years, it is that technology alone—without careful consideration of its impact on the environment—can be a mixed blessing. We submit that a broad base in science and technology and expertise in data-gathering does not automatically guarantee the wisdom and sensitivity needed to make critical decisions about the environment.

One of the arguments advanced for placing NOAA in the Commerce Department is that ESSA will be the new agency's largest component. This argument might be acceptable if you considered only the number of personnel to be shuffled, but is has no bearing on philosophical and policy questions. It is understandable that no Secretary wants to lose 40% of his personnel to another agency, but is that any reason to place additional personnel in the agency?

Another important question which should be asked by this Committee is: What is NOAA and what will it become? Obviously, whatever decision is made about NOAA will have repercussions on important existing programs and proposed programs, such as coastal zone management.

We understand that during this Committee's hearings on this plan, Secretary Stans said that he expected NOAA to grow. He also said that the Administration has not decided whether coastal zone management should be put into NOAA if it is enacted. This is somewhat surprising since the Administration's coastal zone bill, written months before the reorganization plan was submitted to Congress, puts the coastal zone program under the jurisdiction of the Secretary of Interior. But it now appears obvious that the Secretary of Commerce would like to have it in NOAA.

This points out the vagueness of just what NOAA will encompass, and what dominos will fall if it is enacted now. According to the President's message on Plan Number 4, "NOAA would exercise leadership in developing a national oceanic and atmospheric program of research and development. . . ." According to Dwight Ink, "the bulk of its activities will involve research, monitoring and data-gathering on various aspects of the environment." What is it then? We believe the limits and responsibilities of NOAA need to be better defined. Its components are a mixture, since much of the Bureau of Commercial Fisheries' activities are promotional and concerned with harvesting, while on the other hand the Sea Grant program involves research grants, and ESSA is a data-gathering agency. We wonder whether this is the best combination of functions?

If coastal zone management winds up in the Commerce Department which we hope it will not—how will it fit into NOAA? Where does jurisdiction over the oceans stop—at the water's edge, at the 12-mile limit, or somewhere else?

The environmental health of our coastal zone is inextricably tied to land use, and our estuaries are among the most critical and threatened segments of our nation. Estuaries are the nursery for a great percentage of our fish and wildlife and are a vital part of our eco-system, yet miles and miles of them have been dredged, filled and developed already. In other words, they have been destroyed. Management of the coastal zone will certainly involve regulatory functions, which do not appear to be part of NOAA's mandate. The Congress should consider carefully whether coastal zone policy should ultimately be controlled by the Commerce Department or some other agency, for the type of decisions which it will involve require a different type of expertise than data-gathering. We are not convinced that the sensitivity to ecological relationships that will be needed to make wise use of our coastal zone, as well as the oceans, is inherent in the philosophy of the Commerce Department.

Because of the importance of our oceans and atmosphere, we respectfully urge this committee to give thoughtful consideration to the long-range effects of approving Plan Number 4 as constituted without further, very careful study.

Statement of J. W. Penfold, Conservation Director, the Izaak Walton League of America, With Respect to Reorganization Plan No. 4

Mr. Chairman: I am J. W. Penfold, conservation director of the Izaak Walton League of America. The League is a nationwide organization of volunteer citizens who are dedicating their time, energies and resources to the protection and restoration of environmental quality. We believe our membership represents a good cross section of the public. We appreciate the privilege of expressing our views on Reorganization Plan #4 to establish within the Department of Commerce a National Oceanography and Atmospheric Administration.

Very quickly and briefly, Mr. Chairman, we oppose the Plan as being premature and unresponsive to the needs of the American public for a truly meaningful national oceanographic and marine program. We respectfully urge that your Committee and the Congress reject the plan.

We are not opposed to the transfer of some of the agencies in Plan No. 4 to the Department of Commerce (many of them belong there). Nor are we opposed to having the Department of Commerce administer their programs in a way which is responsive to the needs of the environment. In fact, from our conversations with Department representatives, they should be commended for giving such consideration more attention than would have been possible a few years ago. We are opposed because NOAA is being held out as *the* national environmental program for our oceans and estuaries. Quite frankly, we don't see how the American public can be expected to believe that any more than any other agency of government can be considered an "environmental" agency simply because it relies on, administers, regulates, or has control over some of the basic resources which the environment provides.

In our view, approval of Reorganization Plan #4 would be tantamount to making the decision that the basic ocean and marine policy of the United States is first and foremost to develop and exploit these resources. We do not believe that this was the intent of Congress when, over the years, it authorized the various programs and agencies which would be transferred to Commerce. They were individual responses to specialized moods and while many of them belong in Commerce, some do not. Consolidating them in NOAA at this time, particularly in the absence of a legislatively determined comprehensive marine policy, would be doing by executive indirection what Congress has yet to decide. The current debate over a Coastal Zone Management Plan illustrates that point rather conclusively. In fact, we believe that the issues raised by the Coastal Zone Management Plan are central to the development of a comprehensive marine policy and that matter should be disposed of first before we assign scientific and technological capability to any agency of government.

Even the Stratton Commission Report (and this in no way disparages the importance of that document) stated rather clearly that there should be an independent NOAA, among other things, to "serve marine industry and the marine interests of the American public." Yet Reorganization Plan #4 hardly takes into account the totality of those interests. Side by side with the Stratton Commission Report and the proposals for NOAA we have available the equally important Estuary Study by the Bureau of Sport Fisheries and Wildlife, just as Congress has also authorized for the Nation's direction, the Fish and Wildlife Coordination Act, the Estuarine Protection Act, legislation to establish River Basin Commissions, the Environmental Policy Act of 1969 and other marine and marine-oriented programs.

Further, the outstanding decision by the U.S. Court of Appeals in Zabel V. Tabb raises new hopes and challenges with respect to the Army Corps of Engineers whose own programs have a tremendous impact on our estuarine and deep sea resources.

In short, Mr. Chairman, Plan #4 is premature and incomplete in essential ways. Even the Stratton Commission Report, on which the proponents of Plan #4 rely so heavily, appears to have recognized this fact when it recommended an "independent" agency reporting directly to the President. According to the report, the case "for independent status is compelling." The Commission specifically rejected the idea of consolidating all Federal marine and atmospheric functions into a single, massive organization at this time. Yet the reasons for denying consolidation to the Interior Department or to a Department of Natural Resources one year ago are being swept aside in difference to the Department of Commerce—the critical difference being that the cart of commerce will be pulling the horse of the marine environment, including any coastal management plan which Congress may authorize.

XUM

The issues in Reorganization #4 go beyond any controversy between sport or commercial fisheries and beyond whether the Commerce Department can muster teams of expert biologists in marine ecology. Plan #4 is saying that at a time when the marine environment is threatened as never before, the Nation should engage in a program for its development—and it is saying it without a clear declaration of Congressional intent.

Mr. Chairman, we strongly recommend that Congress reject Plan #4 at this time until Congress has an opportunity to articulate a national marine policy and to develop a comprehensive program to implement it. This could begin with consideration of the Coastal Zone Management Plan and such other proposals. The argument is being made that such considerations and further reorganizations will follow NOAA. We believe they should come first. Our experience has been that in the race for these environmental resources, the exploiter and the developer reach them before the biologist, the ecologist and social scientist have an opportunity to understand them and their implications for the betterment of man. The result has almost universally been increased burdens, both on the public and on government.

Further, we recommend that Congress, in establishing a basic marine policy, consider the following recommendations of the National Council on Marine Resources:

1. That the Nation "preserve the ocean environment by accelerating scientific observations of the oceans and its interactions with the coastal margin to provide a basis for (a) assessing and predicting man-induced and natural modifications of the character of the oceans, (b) identifying damaging or irreversible effects of waste disposal factors at sea, and (c) comprehending the interaction of various levels of marine life to prevent depletion or extinction of valuable species as a result of man's activities."

We append to this brief statement a copy of our Washington Newsletter for August which discusses in somewhat more depth, for the information of our membership, our rationale for opposing Reorganization Plan #4. We submit this for the record or for the Committee files as is appropriate.

We appreciate the privilege of expressing our views.

[From the Washington Star, Aug. 8, 1970]

Environmental Blunder

A while back, we had some kind words to say for the President's plan to put most of the government's environmental watchdog activities under a single officer. The creation of the Environmental Protection Agency does not guarantee the success of the fight against pollution. But the independent agency, if it is backed by sufficient determination and adequate funds, makes that vital victory possible.

When EPA was introduced to Congress it was accompanied by a related environmental reorganization plan, involving the creation of the National Oceanic and Atmospheric Administration within the Department of Commerce. And it must regretfully be said that NOAA—despite the appropriate acronym—shows nothing of the bright promise of its organizational sibling.

The chief argument favoring the creation of EPA—the unification of the effort to preserve the threatened environment—is the strongest argument against NOAA. If the concept of consolidation is right—and it is—then it must be wrong to crack off two of the chief components of the environment and treat them as separate entities.

The fact is that the environment cannot truly be separated into component parts. It is a unity. That which affects the land, the air or the rivers affects the oceans as well. Logic demands that the oceans and the atmosphere be placed under EPA's sheltering roof.

Why that demand was disregarded is not clear. Still more obscure is the rationale for placing NOAA within the Department of Commerce. It is an administrative decision somewhat akin to appointing the undertaker as lifeguard at the beach. Fairness dictates that there must be no assumption of a conflict of interest. But prudence whispers that no swimmer will venture far beyond his depth.

Congress, which must give tacit approval to the reorganization plans, should hail the birth of EPA and should scuttle NOAA. The President should then put the official concern for the oceans and the atmosphere under the independent agency, where it belongs.

[From The Washington Post, Aug. 11, 1970]

British Expert Cites Peril if Ocean Beds Are Polluted

(By Stuart Auerbach)

A leading expert on food and population problems warned yesterday that the world's last great untapped food resource—the ocean beds—is being ruined by pollution.

The food from the ocean floor, both animal and vegetable, is needed if man is to feed the estimated 7 billion persons who will inhabit the earth by the year 2000, Lord Ritchie-Calder told the third annual Congress of Food Science and Technology meeting here.

"I still believe we can husband the creatures of the sea as we have husbanded the creatures of the land," he said.

"I still believe we can enhance the world's food supply from the ocean, but we are rapidly reducing our options if we tolerate the kind of irresponsible and avaricious ignorance which is threatening the living waters of the sea as it has destroyed so much of the living waters of the land."

Ritchie-Calder said "grim warnings about the impairment of marine biology" were given at a conference on the international uses of sea resources held at Malta.

He said the thin film of oil spreading over all the world's ocean is cutting the amount of sunlight reaching the bottom depths and disturbing the natural process of photosynthesis—the way land and sea plants grow.

He called the Army's plan to dump 66 tons of deadly nerve gas on the ocean bottom "shocking" and "reckless." Using the ocean bottom as a dumping ground for munitions, he added, could interfere with future mining activities.

The British peer, a professor at the University of Edinburgh in Scotland, long has advocated the cultivation of "the food riches of the seas" with "sea pastures, sea farms, sea ranches and sea stud farms."

He proposed putting electric fences around areas of the ocean as big as Texas to form huge ranches to grow fish, which could be bred specially, much the way cattle are now bred. These areas, he said should be under international control.

With the world's population growth—a doubling of the present 3.6 billion in 20 years—these resources will be needed to feed residents of the earth. And the ocean's resources must be shared, he said, since three-fourths of all the people on earth will live in underdeveloped countries by 1980.

While he praised the "green revolution" that is producing greater grain yields across the world, Ritchie-Calder said cereals can't fill nutritional needs.

Saying that people need more protein, he declared, "There is a great danger that this belly-filling will be regarded as the answer to the food problem to the disadvantage of better nutrition."

But Dr. George W. Irving Jr., administrator of the U.S. Department of Agriculture's Research Service, said that new foods with protein supplementation are winning favor all over the world.

Agriculture Secretary Clifford M. Hardin told the conference that the United States is beginning to win its fight against hunger. He said 10.4 million Americans—50 per cent more than a year ago—are now on food assistance programs and food stamp distribution has risen 64 per cent in six months.

There are now only 15 counties or independent cities in the nation without federal food supplement programs for the poor, he said.

[From The Washington Post, Aug. 14, 1970]

Marine Scientists Cite Dangers of Cancer Buildups by Oil Spills

(By David Hoffman)

A team of marine scientists charged yesterday that no federal agency monitors, nor is any equipped to monitor, the buildup of cancer-causing petroleum byproducts in the flesh of edible sea creatures.

Testifying before the Senate antitrust subcommittee, the three scientists from Woods Hole Oceanographic Institution recommended that oil at sea be considered a powerful poison. They said perhaps ten million tons are being dumped each year in the ocean and that pollution is on the increase as companies move drill rigs farther out to sea.

Drs. John M. Hunt, Max Blumer and Howard Sanders based their report on first-hand study of a 650-ton oil spill off the southern coast of Cape Cod, a few miles from Woods Hole.

They concluded that the oil killed almost 95 per cent of all bottom creatures immediately and that ten months after the spill the oil, though invisible, is still spreading outward. Hydrocarbons of the sort known to cause cancer in man and animals remains, odorless and invisible, in the tissues of oysters and mussels—even after frying.

As marine scientists see it, dumping nerve gas off the coast of Florida poses a lesser health hazard than spillage of oil.

Hunt points out that nerve gas in liquid form has a 12-hour half life, that 30 per cent of it will decay in five days. By comparison, he said, the half life of hydrocarbons in crude oil, while not precisely known, can be measured in years. Hunt is chairman of the Woods Hole chemistry department.

The scientists also came down hard against the use of chemical detergents or dispersants in dissolving oil slicks.

It was recommended at the hearing that oil companies contribute a percentage of their revenues to a research fund that could study long and short-term effects of petroleum pollution.

Sanders, a senior Woods Hole scientist, called for controlled oil spills "in selected localities where the biology has been carefully monitored beforehand." He grew quite emotional in pleading for a moratorium on deep drilling and dumping of waste below "the thermocline."

Beginning approximately 1,200 feet below the surface, and extending to the bottom, is a layer of water in which temperature changes hardly at all. The fauna below the 1,200-foot thermocline is believed too fragile to survive the stress of waste or petroleum pollution.

We're Making a Cesspool of the Sea

(By Gaylord Nelson, a U.S. Senator from Wisconsin, taken from National Wildlife magazine, August 1970)

In the Atlantic Ocean, about 7000 feet off the sunshine and salt-spray wonderland of Miami Beach, there is a manmade phenomenon known as the "Rose Bowl". Mockingly named for its unpleasant fragrance, the "bowl" is a large, bubbling splotch of ugly brown sprawling over those famous blue-green waves.

The "bowl" is caused by raw, untreated sewage piped into the Atlantic from the fabulous hotels and other Miami Beach facilities and from three other nearby communities. The wind and the tide have to be just right, however, to wash the wastes and debris back in from the sea and onto the beaches. And for those who can stand the strench, fishing around the "bowl" is excellent.

Ordered ten years ago by Florida's health department to treat its sewage, Miami Beach is now taking its first step—extending the discharge pipe one mile further out to sea in hopes the wastes will be picked up by the offshore Gulf Stream and carried away to the mid-Atlantic. But scientists question whether this will do any good. Dr. Durbin Tabb, marine biologist at the University of Miami, says that because of prevailing winds, extending the pipe means the sewage is just going to be blown back in-shore on somebody else's beach.

With a southeast Florida megalopolis of 10 million people predicted in 20 years, Dr. Tabb and other scientists believe the "Rose Bowl" is one more ominous sign that big trouble lies ahead for that supposedly limitless resource on which the booming Florida economy is built, the sea and the beaches.

Fishermen, professional divers and marine scientists, whose lives are entwined with the sea, report similar situations all along America's coastlines.

Filter cigarette butts, bandages and bubblegum have been found in stomachs of fish caught near New York City's sewage sludge dumping ground 8 to 10 miles out in the Atlantic.

NIGHTMARISH BEACH SCENES

Some northern New Jersey beaches near the Atlantic shipping lane into New York Harbor have been turned into a nightmarish scene of tar from oil slicks, plastic bottles, broken dolls, even dead animals thrown into garbage somewhere.

People are sometimes driven from their waterfront homes in Galveston Bay in Texas near the Gulf of Mexico by the stench from thousands of decaying fish killed by pollution.

In the Panacea, Florida, area on the Gulf Coast, one of the state's last national frontiers, crab fishermen are coming in with only a tenth of their catch of five years ago, while real estate and land developers fill in and destroy hundreds of acres of fertile marsh areas, the Army Corps of Engineers is planning to cut new waterways, and industry pours poisonous wastes down once wild rivers into the Gulf.

Batches of mackerel caught in Pacific Ocean waters off central California last year contained so much DDT that they were impounded by federal health officials as unfit for human consumption, while in the sea off a southern U.S. coast, scientists have found miles-long slicks containing pesticide levels 10,000 times higher than surrounding waters.

"If only I could get the majority of Americans under the surface of the sea to witness what's going on," says Dr. Rimmon C. Fay, a collector of marine specimens who has been diving in the Pacific off Los Angeles for years. When he turns over rocks now in that undersea wasteland caused by sewage and industrial pollution, he finds "it's foul and putrid underneath".

Throughout history we've believed that at the sea's edge man's power to destroy stopped and nature's invincibility began. In her 1951 book *The Sea Around Us,* even Rachel Carson saw the oceans as one last haven, safe forever. How could it be otherwise, when the oceans are so vast the continents are just islands in their midst, so deep a Mount Everest could be lost beneath their surface, so powerful their waves have tossed a 2600-ton breakwater around like a cork? How does one pollute the volume of the sea, 350 million cubic miles? How poison an environment so rich it harbors 200,000 species of life?

Yet last year Stanford University ecologist Paul Ehrlich projected the end of all important life in the sea by 1979, and the probable end of the human species shortly thereafter, in a grim scenario based on current trends. I've talked to Dr. Ehrlich and other ecologists since, and there is no disagreement among them that the oceans are on the way to destruction. The only issue is when. Some scientists say that it will take perhaps 50 years at the present rate.

The vulnerability of the marine environment becoems dramatically clear when we realize that even though the oceans blanket three-fourths of the earth, their productivity is mostly limited to the rich waters over the continental shelves, narrow bands of undersea lands extending from our coastlines. Eighty percent of the world's saltwater fish catch is taken from these shallow coastal waters that make up only a tiny fraction of the total sea area. In addition, almost 70 percent of all usable fish and shellfish spend a crucial part of their lives in the estuaries—the coastal bays, wetlands and river mouths—that are 20 times more fertile than the open sea, seven times more productive than a wheatfield.

Cut the chain of life in the coastal marshes and bays, destroy the myriad bottom organisms and pollute the waters above the continental shelves, and inevitably we will eliminate the great ocean fisheries that are vital in feeding an exploding world population.

Pollution or overfishing, and sometimes both, have gouged fisheries around the world. Several bottom fish species off the Pacific Northwest have been virtually exhausted by Russian fleets with factory ships that take the bounty home all canned and labeled. The once-mammoth sardine fishery off California is now gone. The croaker, a popular food fish, has virtually disappeared from much of its native East Coast waters. Off New York, fish are becoming afflicted with a strange disease that rots away fins and tails, and in dirty Pacific waters off Southern California, fish are being found with high rates of deformities and disease.

THE HIGH PRICE OF PROGRESS

Today our accelerating exploitation of the marine environment in the name of "progress" at any price is aimed directly at the continental shelf and its coastal resources, the tiny Achilles Heel of the sea. In our greedy rush to create more land, vital United States coastal wetlands are being dredged and filled for highways, industry, bridges, waterfront homes—to the tune of almost 900 square miles in 20 years. In spite of scientists' warnings, this continues at an accelerating pace from Galveston to Chesapeake Bay. Meanwhile, our remaining estuaries are fed 30 billion gallons of sewage and industrial wastes every day, poisoning fish, choking out oyster and clam beds, and rendering the bays and wetlands unfit for almost any use.

While the vise tightens on the critical inshore areas that lace our coastlines, the pressure builds on the ocean itself. More and more, the continental shelf waters and beyond are a tempting dumping ground for our garbage, especially for those cities and industries looking for a new way to ease the burden of the national cleanup push on inland waters.

In 1968 alone, 37 million tons of solid wastes were dumped in ocean waters off the United States. The wastes—taken out to sea by barge and ship—include garbage and trash, waste oil, dredging spoils, industrial acids, caustics, cleaners, sludges and waste liquor, airplane parts, junked automobiles, spoiled food, and even radioactive materials. During his papyrus boat trip in the Atlantic last year, author-explorer Thor Heyerdahl sighted plastic bottles, squeezes tubes, oil and other trash that had somehow been swept on the currents to mid-ocean.

One big new proposal calls for piping the concentrated wastes of up to 50 industries in the Delaware River Valley more than 80 miles out to sea. But Dr. Howard Sanders of the Woods Hole Oceanographic Institute in Massachusets says wastes could wreck even more havoc on low tolerance life in the ancient, almost unvarying environment of the deep sea than in a little stream in our backyard.

LOOSE DUMPING REGULATIONS

Regulations on ocean dumping and other activities are so loose now that it amounts to every-man-for-himself on the high seas. A chief regulator, the United States Army Corps of Engineers, recently confirmed that it didn't even know how many ocean-dumping permits it has issued. And "letters of permission" handed out by the Corps for dumping more than three miles off our coasts are, the agency admits, "really an acknowledgement that anyone can do anything they please when outside our jurisdiction."

As yet, no one really knows who has what rights and responsibilities in the ocean environment, and state, federal and international jurisdictions remain in their historically chaotic tangle. The origin of national sovereignty over the first three miles of sea bed was the range of a cannon shot in the 17th Century.

Perhaps more than any other problem, the dramatic, sudden oil-well blowouts in the sea and the oil tanker breakups have begun to awaken us to the total inadequacy of our present ocean policies. The list of places where oil has blackened beaches, killed untold thousands of birds, and posed lingering threats to marine animal and plant life already includes many of the great recreational areas of this nation and the world: Florida, the Gulf Coast, New England, New Jersey, Puerto Rico, Southern California, southern England.

What famous coastline will be next? According to a report last year by the President's Panel on Oil Spills, we can expect a Santa Barbara-scale disaster every year by 1980 if present trends continue. Yet in a shocking invitation for trouble, we will be drilling 3,000 to 5,000 new undersea oil wells worldwide each year by 1980, even as the experts confirm we do not possess the technology to contain the oil from ocean disasters. And oil-carrying tankers are being built to monumental scales, cutting transportation costs but increasing the risks of gigantic spills.

How many more oil spills like the one in the Santa Barbara Channel and the breakup of *Torrey Canyon* off England will it take before all nations realize the human race is now so populous and generates so much waste that we can no longer treat the environment as if it were created for our limitless plunder?

Radioactivity from nuclear fallout can be found in any 50-gallon sample of water taken anywhere in the sea. Investigators of a massive die-off of sea birds off Britain last year found unusually high counts of toxic industrial chemicals used in making paints and plastics. Because of the use of toxic, persistent pesticides worldwide, species of sea birds such as the brown pelican have been pushed to the brink of extinction over large portions of their ranges, and there is evidence these poisons can attack phytoplankton, a food fundamental in the chain of ocean life.

Ironically, while we continue the gruesome process of polluting the sea, we are laying big new hopes on ocean space for everything from floating jetports to housing developments. The conclusion is unavoidable. If tough, intelligent action is not taken now, we will make the same wreckage of the oceans as we have of the land and of our sprawling, decaying cities. There will be more reckless exploitation, user conflicts, gigantic oil spills and other environmental disasters, and the ultimate destruction of marine life.

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And the greatest losers of all will be the people of America and the world—the hundreds of millions of people to whom the coastlines and the sea mean recreation, or a home, or a livelihood, or peace and inspiration, or—because of the food provided for whole nations by the great fisheries—survival itself. Destroy this vital frontier, and in effect we will be slamming the door on our last chance for a livable world and for a decent future for generations to come.

STEPS TO SURVIVAL

The day is already tragically late, but there is still reason to hope. As astronaut Neil Armstrong expressed it, "We citizens of earth, who can solve the problems of leaving earth, can also solve the problems of staying on it." But make no mistake, it is going to be a tremendous task. Turning back the massive assault on the sea and meeting our other staggering environmental problems will mean dramatic modifications in our present policies and priorities, including, at the very least, the following three steps:

1. We must end, by 1975, all dumping of wastes into the sea, the Great Lakes and the coastal areas of our rivers and bays, except for liquid wastes treated at least to levels equal to the natural quality of the ocean waters.

Rather than using the sea as a last-ditch catchall for our wastes, our only rational choice now is to put our sophisticated technology to work finding ways to recycle our wastes back into the economy as useful new products. As Dr. Athelstan Spilhaus, president of the American Association for the Advancement of Science, said, "We are running out of an 'away' to throw things away."

2. We must prohibit any new activity—from building offshore jetports to the drilling of additional oil wells—until we set tough, new controls to avoid the chaos and destruction in the sea that is everywhere apparent on the land.

And for once the public must be fully informed and consulted at every step in decisions on whether cities are built off our coasts, whether a new sea horizon is created with the paraphernalia of marine industry, whether huge new super-tankers whose wrecks could smear whole coastlines with oil will be allowed.

We should never have permitted oil drilling anywhere under the sea until we understood and could control the dangers. Stricter enforcement of regulations for offshore oil wells is not a sufficient answer. Now, the only logical course is to halt *all* drilling in ecologically sensitive areas—such as the Santa Barbara Channel—and to prohibit new drilling *anywhere,* until there is convincing evidence it will not harm the marine environment, and until we have the technology to contain oil spills. Until we know more, all our untapped oil and mineral deposits under federal jurisdiction in the sea should be held unexploited in a National Marine Resources Trust, which should be established immediately.

3. We must halt the reckless dredging and filling of priceless wetlands and the carving up of ocean front in the name of "progress".

Faced with a coastal environment crisis, Maryland, Massachusetts and the San Francisco Bay area, among others, have taken first steps toward outlawing the "right to destroy" that has in effect been claimed by private interest lobbies, and set new standards to protect remaining wetlands.

Curtailing these long-standing practices is not easy. But the framework for these desperately needed new national standards could—and should—be taken in this session of Congress. The Marine Environment and Pollution Control Act which I introduced earlier this year would do this. Under its provisions, the Secretary of the Interior would take on major new responsibilities to protect that part of the ocean environment under his jurisdiction, at the same time setting a model which the states could well follow in their own parts of the seabed. This kind of legislation would be only a beginning in saving our oceans.

These "environmental quality" policies will be adopted only when the majority of Americans demand them in a sustained political action drive at every level of this society. There will be action in the public interest only when the land developers, the oil interests, Congress and local governments know the public means business. Citizens must take a stand now for their friend, the sea. They must use every device within the political process to see that it is protected.

Finally, all nations must together establish an International Policy on the Sea that sacrifices narrow self-interests for the protection of this vast domain that is a common heritage of all mankind. It is a challenge that will test our intelligence as a species, but a task of highest priority for the future of the human species. We must acknowledge our interdependence with all of nature, including the sea, rejecting the prevailing philosophy of Western civilization that man can dominate the planet while ignoring the works and forces of nature. For as Thoreau said: "What is the use of a house if you haven't got a tolerable planet to put it on?"

[From the Stevens Point Daily Journal]

COUSTEAU SAYS OCEANS ARE DYING

MONTE CARLO.—"The oceans are dying. The pollution is general."

That's the appraisal of Jacques Yves Cousteau, back from 3½ years' exploration and movie-making around the world.

"There was a mountain of talk about the sinking of the Torrey Canyon but the oil that polluted the sea at the time was only 1 per cent of the normal annual pollution," the underwater explorer said.

"People don't realize that all pollution goes to the seas. The earth is less polluted. It is washed by the rain which carries everything into the oceans where life has diminshed by 40 per cent in 20 years. Fish disappear. Flora too."

Cousteau and his crew aboard the Calypso returned Tuesday after covering more than 155,000 miles.

"An excess of fishing is also pollution," Cousteau said. "The oceans are being scraped. Eggs and larvae are disappearing. In the past, the sea renewed itself. It was a complete cycle. But this balance was upset with the appearance of industrial civilization. Shrimps are being chased from their holes by electric shocks. Lobsters are being sought in impossible places. Coral itself is disappearing."

But Cousteau said he had hope. "Very strict action must be taken," he declared. "The United States and the Soviet Union are making considerable efforts in this direction. The European nations are starting to act."

I again commend the Committee on Government Operations and the chairman of the subcommittee who conducted the hearings and wrote, I think, a very fine report which draws a distinction very carefully between the development activities and the standard setting and enforcement of environmental standards.

I would hope that the chairman is considering printing in the RECORD in full the rather short committee report. I think it summarizes the whole matter. I would ask unanimous consent to have it done myself. However, I think the chairman of the committee wishes to do it.

Mr. President, I yield the floor.

Mr. RIBICOFF. Mr. President, Senate Resolution 433 would disapprove Reorganization Plan 4 of 1970 submitted by President Nixon to the Congress on July 9. The plan will create a National Oceanic and Atmospheric Administration within the Department of Commerce.

This plan was referred to the Committee on Government Operations where hearings were held by the Subcommittee on Executive Reorganization and Government Research, which I chair. Subsequently, the full committee considered the disapproval resolution and reported it to the Senate with the recommendation that it not be agreed to, thereby supporting the reorganization plan. The action of the committee was unanimous.

The purpose of this reorganization is to pull together in one place the facilities, personnel, and authority necessary to develop and safeguard marine resources and the atmospheric environment. With this concern, NOAA is designed to provide for the first time a unified approach to the problems of the oceans and atmospheric environment. The principal parts of the new agency—accounting for 94 percent of its budget and 97 percent of its personnel—will be:

First, the Environmental Science Services Administration which we created by reorganization plan in 1965 and which is already a part of the Department of Commerce;

Second, most of the Bureau of Commercial Fisheries, now in the Department of the Interior;

Third, the Office of Sea Grant Programs of the National Science Foundation.

Other units of NOAA are:

Fourth, the marine minerals technology program of the Bureau of Mines in the Department of the Interior;

Fifth, the marine sports fishing program of the Bureau of Sports Fisheries and Wildlife in the Department of the Interior;

Sixth, elements of the U.S. Lake Survey of the Department of the Army.

Upon the establishment of NOAA, the following programs are to be transferred to it by executive action:

Seventh, the National Oceanographic Data and Instrumentation Centers of the Department of the Navy; and

Eighth, the national data buoy program of the Department of Transportation.

NOAA, upon absorbing all these functions and authorities, will be headed by an official who will hold a rank comparable to that of Undersecretary and who will report to the Secretary. The new agency will have an estimated 1971 budget of about $270 million and over 12,000 personnel. The President justifies the drawing together of these activities as making possible "a balanced Federal program to improve our understanding of the resources of the seas, and permit their development and use while guarding against the sort of thoughtless exploitation that in the past laid waste to so many of our precious natural assets."

The new agency is a result of a recommendation of the Commission on Marine Science, Engineering, and Resources appointed by President Johnson and headed by Dr. Julius A. Stratton. Without taking time to review the Stratton Commission's history and its landmark report, I will just say today that the new agency closely parallels the recommendations of that distinguished study panel and that Dr. Stratton gives his unqualified support to Reorganization Plan No. 4.

The principal issue concerning Plan No. 4—and the major objection raised by the junior Senator from Wisconsin—centered on the possible conflict between NOAA's research and developmental mission and environmental protection of the oceans. During the hearings, the committee took a very serious view of this objection and one day of hearings was devoted to this question and other points raised by the junior Senator from Wisconsin.

Although the facts may have been slow emerging, I believe the administration has now made clear its intent to establish the Environmental Protection Agency as chief standard-setter and enforcer of antipollution laws, while NOAA's basic mission will be focused toward research, technology and resource development of the oceans and atmosphere. Through this dual—but certainly not incompatible—thrust, the committee agrees that EPA, as outlined in Reorganization Plan No. 3, should indeed be the autonomous agency in the arrangement and hold overall responsibility for environmental protection—for sea-related concerns as well as earth and air problems. A large majority of witnesses shared this view.

The agency faces an almost impossible task of satisfying everyone from the public to Congress, plus bringing order to the current fragmented approach to pollution control. But its purpose and mandate is to unify the fragmented attack on this critical ecological problem.

The Congress has, over the years, enacted a considerable body of legislation concerning the oceans and the atmosphere, and additional legislation in these areas is pending. The success of these programs depends, in large measure, upon the manner in which they are administered, and improvement in their management is definitely needed. The committee believes that NOAA, under its proposed structure and organization and with the missions and responsibilities assigned to it, constitutes, at the very least, a good beginning.

Reorganization Plan No. 4 is certainly not the ultimate solution to the question of preserving and developing our oceans. But it is an important step forward. It is responsible progress. It should be approved.

Again, because this is a resolution of disapproval, those who vote on this plan who are for the plan will vote "no" on the disapproving resolution and that automatically will be a vote for the plan. I urge adoption of Reorganization Plan No. 4.

I ask unanimous consent that an excerpt from the committee report be printed at this point in the Record.

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There being no objection, the excerpt from the report (Rept. No. 91-1242) was ordered to be printed in the Record, as follows:

HEARINGS

Hearings on Plan No. 4 were held by the Subcommittee on Executive Reorganization and Government Research on July 28 and 29 and September 1, 1970. On July 28, a resolution of disapproval (S. Res. 433) was filed in the Senate by Senator Gaylord Nelson.

Testifying in support of Plan No. 4 were Senator Ernest F. Hollings; Maurice H. Stans, Secretary of Commerce; Rocco C. Siciliano, Under Secretary of Commerce; Dwight Ink, Assistant Director, Office of Management and Budget; and Andrew M. Rouse, Executive Director, Advisory Council on Executive Organization. Testifying in opposition to the plan were Senator Gaylord Nelson, Roland C. Clement, vice president, National Audubon Society; Louis S. Clapper, conservation director, National Wildlife Federation; and Joseph W. Penfold, conservation director, Izaak Walton League. Senator Frank E. Moss submitted a statement in support for the record.

In addition, numerous interested organizations and individuals submitted their views for insertion in the record of the hearings.

MAJOR ISSUES

What will NOAA's value be as a separately established agency? If a major new oceanic agency should be formed, then why should not all existing ocean- and atmosphere-related activities come under its authority?

A central issue before the committee was how many Federal sea and atmosphere functions should come under a single administration and what type of authority would this new administration hold over marine affairs?

Reorganization Plan No. 4 is essentially a regrouping of existing entities and programs within a new functional division. Any proposal to reorganize around a specific function must necessarily result also in some breaking up of the functional structure of the existing organizations involved.

It is clear that, given the complexity of modern society, there can be no comprehensive and mutually exclusive set of functions into which governmental activities can be divided. The objective of sound public management must be to strive for an organization that emphasizes those functions which require special attention, support, and control. Because the problems and priorities of society are constantly in transition, it is necessary from time to time to reexamine the structure of government. When adjustments are found to be required to bring organizational strength to bear on new, or newly perceived, problems or needs of society, they should be made.

Reorganization Plan No. 4 has been recommended by the President to strengthen the ability of the executive department to deal with research and development of oceanic and atmospheric resources. The need for greater and more comprehensive emphasis upon this function was pointed out by both the President's Advisory Council on Executive Organization and by the Commission on Marine Science, Engineering, and Resources.

The atmospehric and oceanic environments have a fundamental and pervasive influence upon the activities of society. It must be recognized that it would be impracticable to include every governmental entity and program which has oceanic or atmospheric implications within a single functional organization. To do so would result in the fragmentation of other functional organizations which meet equally important needs of society.

The President's decision to omit the Coast Guard from the proposed reorganization was made in recognition of the fact that the Coast Guard has important duties with regard to the functions of the Department of Transportation. The disfunctional effect of removing those duties from the Department of Transportation was deemed to exceed the benefits of closer Coast Guard association with NOAA's functions.

Obviously, defense oriented activites also will have implications in the area of atmospheric and oceanic resources, and coordination between the defense agencies and the proposed NOAA will have to be achieved by other than direct organizational control.

Another example of particular significance is that of offshore mineral and oil development. While the reorganization plan proposes to transfer the limited research activities of the Marine Technology Center of the Bureau of Mines to NOAA, there will remain in the Department of the Interior the responsibility for the administration of the development of oil and other minerals in the publicly owned offshore lands. The committee believes that this is appropriate. There is an intimate association between the development of mineral resources on the outer continental shelf and on the continental public lands. There is an obvious need for uniform policies and controls concerning the development of publicly owned resources. There is also a need for comprehensive consideration of the supplies of particular resources from all sources when developmental decisions are made. Furthermore, the actual operations involved in offshore oil development are closely related to the technological expertise which exists in the Department of the Interior because of its broad responsibilities regarding energy resources.

The committee believes that in view of these considerations it is clear that these and many other programs which have significant and important relationships to oceanic and atmospheric resources must nevertheless continue to be administered by agencies other than NOAA if previously established goals are to be attained and if congressional mandates are to be carried out. It is the committee's view that coordination between these activities and those of NOAA can be achieved without fundamental organizational changes.

The committee recognizes that Plan 4 creates a number of uncertainties and leaves many questions unanswered. Some of these uncertainties are due to the nature of the reorganization plan procedure which makes no provision for congressional amendment or revision. Accordingly, as experience demonstrates the need for changes in the structure or mission of NOAA, necessary amendments will have to be handled by the congressional committees having legislative jurisdiction over the subject matter. In this connection, the committee desires to emphasize the fact that approval by the committee of this plan does not in any way modify, enlarge or diminish the legislative jurisdiction of standing committees of the Senate.

This committee has a longstanding policy that the creation of new agencies and organizations, whether by legislation or by reorganization plan, should not result in, or create, the stage for any unnecessary or inefficient duplication of programs or functions. There is a natural tendency in newly created Government agencies to expand their jurisdiction as far as possible and to assume new duties at every opportunity. This tendency will require careful scrutiny by the Office of Management and Budget in NOAA's early years of existence if inefficiency is to be avoided.

While further organizational changes may be desirable in this very complex area of marine science and development, the committee agrees, for at least the present, with the President's recent observation: "* * * that in practical terms, in this sensitive and rapidly developing area, it is better to proceed a step at a time—and thus be sure that we are not caught up in a form of organizational indigestion from trying to rearrange too much at once."

Both the Secretary and Under Secretary of the Department of Commerce testified before the subcommittee on the purposes expected to be achieved from the proposed reorganization. In his statement, the Secretary of Commerce stressed that NOAA, by combining in a single administration the major Federal programs dealing with the seas and atmosphere, could better achieve a balanced Federal program to enable us more effectively to research and develop the environment, and in some cases, to exercise some degree of control over it. Probably the most immediate benefit, Secretary Stans suggested, is that in NOAA the Department of Commerce "will have brought together in one organization an outstanding and competent group of people, including the scientifically trained ESSA commissioned officer corps, which will provide a vital resource in developing a responsive national oceanic and atmospheric program.

"A force of some 13,000 people," he continued, "with its impressive spectrum of talent, represents a formidable national capability to move forward."

Other witnesses from the Department of Commerce emphasized how the disparate efforts of the many government agencies concerned with marine and atmospheric matters have led to a large variety of research programs, but with very special aims and with almost no cohesion. As such, the committee believes a newly formed NOAA is the major component necessary to meet the Nation's needs for developing and wisely utilizing the Nation's ocean and atmosphere resources. Moreover, it is one important element to formation of a strong, permanent marine environment policy by the Environmental Protection Agency.

If NOAA is placed under the Department of Commerce, will its effectiveness be impaired? Would it not be in the public interest to form NOAA under an agency other than the Department of Commerce?

Of vital interest to the committee was the question of how wisely placed is NOAA under the Department of Commerce, if it is to effectively carry out the functions vested in it by Congress?

In administrative terms, NOAA would bring together eight related sea and atmospheric programs from five departments and agencies.

By designating the Administrator of the proposed NOAA a level III official, the administration has given that position high ranking within the Commerce Department.

Thus, the Administrator of NOAA would have equal rank with the Under Secretary of the Department, an arrangement which suggests the NOAA leader will have recognized stature. Certainly, this position level satisfied those who feared the oceanic function would subserve several layers of Cabinet authority.

It should also be noted that, if the plan becomes effective, the largest element of the National Oceanic and Atmospheric Administration will be the Environmental Science Services Administration (ESSA), whose functions were vested in the Secretary of Commerce by Reorganization Plan No. 2 of 1965. By assuming the activities of ESSA, NOAA's responsibilities will include observing and predicting the state of the oceans and lower and upper atmosphere. And since ESSA with its 10,000 employees would become the nucleus of NOAA, it was also suggested by Commerce Department witnesses that very little disruption would be caused by forming NOAA under Commerce. In this connection, it was pointed out that more than 80 percent of the personnel in the proposed agency are already in the Department of Commerce.

A more compelling argument for assigning the agency to Commerce, however, was Secretary Stans' testimony before the subcommittee that NOAA in this Department represented "a logical extension of our scientific and technological activities." Noting that this Department already has the "solid base of science and technology" which will "buttress the foundations of an exciting and vigorous NOAA," the Commerce Secretary underscored the strong science capability of his Department while describing the depth and scope of several other of his agency's technological activities which already contribute to marine and atmospheric objectives.

As Commerce Under Secretary Rocco C. Siciliano separately observed:

"We have said publicly but apparently it is not too well known yet, that more than 60 percent of our people and more than 60 percent of the budget in the Department of Commerce are concerned with science and technology."

In addition to ESSA, which comprises 74 percent of NOAA's budget and 83 percent of its personnel, the hearing record provides a long list of scientific and research activities the Department supports as part of its oceans and atmospheric function. Thus the committee feels that NOAA, set within a Commerce Department framework, enjoys invaluable scientific assistance in developing a broad and comprehensive national program in marine and atmospheric matters. Importantly, it is from these research-based efforts that program directions for the wise utilization of marine resources must be derived.

Senator Hollings reinforced this view in his appearance before the subcommittee when he declared:

"Another point that should be emphasized is that somehow when you get to the Department of Commerce this is the Department in government that would only be concerned with developmental and economic issues and that somehow the other environmental concerns will take a back seat and not be considered whatsoever. The fact is the opposite. In the Department of Commerce, you have the Coast and Geodetic Survey which does not work for profit interests; you have the Environmental Science Services Administration which does not work for profit interests and is not just mission-oriented toward business development. You have the Bureau of Standards."

Continuing he said:

"The fact of the matter is that the environmental and statistical information employed by all of the U.S. Senators and Congressmen alike is obtained from the Bureau of Standards in that particular department. Sixty percent of the Department of Commerce at the present time has its budget or its personnel in science and technology."

The committee finds convincing the testimony of Secretary Stans and Senator Hollings that the assignment of NOAA to the Department of Commerce will in no way impair the effectiveness of the new agency, but, rather, could enhance it. According to the testimony of the Secretary of Commerce and other Administration witnesses, considerable machinery now exists for the coordination of the scientific and technological activities of the Department of Commerce with those of other Federal agencies having related responsibilities. In addition, it appears that additional coordinating machinery will be developed to meet requirements as they arise, and the committee is satisfied that the need for coordination will be met.

To what extent does NOAA fulfill the function that the Commission on Marine Science, Engineering and Resources (Stratton Commission) outlined in oceanography?

It was noted in testimony that the proposal for a NOAA was advanced in early 1969 in the report "Our Nation and the Sea," which was prepared by the Commission on Marine Science, Engineering and Resources under the chairmanship of Dr. Julius A. Stratton. The Commission did not advocate drawing together all Federal marine and oceanic programs. Rather, it preferred that many activities—such as the Corps of Engineers' program for the protection of the Coasts and the Geological Survey—maintain their identities and be strengthened in their current locations. However, the Commission did conclude that present Federal marine activities have developed over the years in unplanned fashion and with a highly fragmented program impact.

The Commission's proposal was a NOAA, similar to that outlined in Reorganization Plan No. 4, bringing together a number of interrelated marine and atmospheric programs under tighter coordination and more unified management.

Certain committee testimony, however, reflected concern that the Stratton Commission advocated NOAA as an independent agency and implied that the presently proposed agency does not entirely follow the study panel's recommendations.

The committee was therefore anxious to learn from Administration witnesses how the NOAA advocated by the Stratton Commission differs from the NOAA proposed in Reorganization Plan No. 4.

An examination of the proposed organization and structure of NOAA and the testimony of principal administration witnesses reveals that it follows the recommendations of the Stratton Commission, with two exceptions. The Commission recommended that NOAA be established as an independent agency and that the Coast Guard be transferred to it. Following additional study, the President decided that it would be preferable to place NOAA within an existing agency—the Department of Commerce. With respect to the Coast Guard, the national data buoy development project which is administered by the Coast Guard will be transferred to NOAA by executive action. However, it was felt that since the basic functions of the Coast Guard relate to law enforcement, maritime safety, navigation aid, military readiness, etc., it would be inappropriate to place it in an agency whose major concern is the development of a national oceanic and atmospheric program of research and development.

It was further suggested that such independence as NOAA would enjoy should be preserved or possibly increased to the point of making the agency an independent body, as the Stratton Commission had recommended. The committee feels that the "independence" factor is of no real consequence in evaluating the performance of NOAA since its principal function is to research, monitor and develop a broad information base for ocean and atmosphere resources, primarily to strengthen the capability of the United States to utilize the resources of the sea. The proposed Environmental Protection Agency, EPA, to which NOAA will report these baseline findings and results, will be the standard-setting mechanism for environmental matters.

Since the EPA, as outlined in Reorganization Plan No. 3, has the basic and overall responsibility for environmental protection, the committee feels the two agencies are entirely complementary and that only the EPA need remain autonomous. Further, as noted, to create an independent NOAA at this time could well deprive the new agency of an opportunity for the closest support, guidance and assistance from the Department of Commerce's outstanding and already established research apparatus.

The committee feels that NOAA is in an excellent position in the Department of Commerce to perform its statutory responsibilities. The present distribution of Federal ocean and atmosphere responsibilities clearly indicates that the activities of NOAA would fit most appropriately in this department.

Is the purpose of NOAA to assist in developing the resources of the sea? Is its primary

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environment function that of promotion or protection, or possibly, both?

Concern was voiced by committee members Senator Muskie and Harris that it might be unworkable to house development or promotion activities under the same roof as enforcement responsibilities. In supporting the need for a NOAA, opposition was expressed by Senator Nelson, who appeared as a witness, to an oceanic agency which would combine these possibly incompatible functions.

But the committee, after listening to administration witnesses, felt that streamlining our environmental structure to bring it up to date would be only half the task. The committee accepts the administration thesis that NOAA and EPA will have separate, though complementary functions, with NOAA serving as an important resource for EPA by assisting and providing information for marine environment protection programs. Additionally, NOAA strengthens our marine resource development capabilities. This jurisdictional distinction, while at first unclear, was much better clarified through subsequent subcommittee testimony and a response by the Department of Commerce to eight committee questions submitted by Senator Nelson.

Mr. Dwight Ink, assistant director of the Office of Management and Budget, noted in his testimony before the subcommittee that the type of program to be carried out by NOAA differs considerably from EPA. NOAA will not be setting standards affecting the programs of other agencies; it will not be an enforcement agency; the bulk of its activities will be of a research, monitoring and data gathering nature on various aspects of ocean systems.

A separate EPA, on the other hand, was said by Mr. Ink to be "Justified on the grounds that its programs might be buried in the massive on-going efforts in which cabinet departments are involved and not receive the attention it requires at top levels of government. There is no such danger in the case of NOAA, especially in the Department of Commerce, where it will constitute almost half of the resources of the Department and be headed by an officer having a rank equivalent to an under secretary."

In summary, EPA was described as an agency which would be responsible for standard-setting and enforcement for all aspects of the environment—for sea-related concerns as well as earth and air problems—and the committee shares this view.

In response to one of Senator Nelson's questions on this point, the Commerce Department letter said:

"The reasoning that pollution abatement standard-setting should be insulated from the promotional interests of other departments is consistent with the concept of NOAA being placed in the Department of Commerce. We would expect EPA within its authority to set necessary pollution abatement standards for the seas. NOAA will monitor, observe, try to predict the physical environment of the air, oceans, and the live resources of the seas. NOAA intends to work closely with EPA in the same fashion that ESSA does today with the Department of Health, Education, and Welfare on air pollution problems. ESSA monitors and predicts air pollution potential for the air quality control regions which in turn implement control actions. EPA will be an enforcement agency."

As the central question of the hearings, the committee finds consistency in the principle that in our oceans policies, environmental standard-setting and enforcement should be kept separate from other Federal activities. As such, the committee firmly believes that Reorganization Plans No. 3 and 4 preserve this position by placing environmental standard-setting functions in EPA and marine research technology and development functions in NOAA.

CONCLUSIONS

Objections to Reorganization Plan No. 4 have been based on practical considerations but, with the evidence of the hearings record, a clearer explanation of the correlative functions of NOAA and EPA has been given. The matter of whether NOAA was essentially development or enforcement-focused was explained by Administration witnesses. And it was brought out that NOAA, while perhaps a less visible agency than EPA, would certainly be a no less vital one.

Yet as important as looking to the future is the need—right now—to fashion a flexible oceanic and atmospheric agency, especially when so much in the oceanic field remains undiscovered and unpredictable. In the past decade we have experienced improbable advances in space exploration automation technology and the management sciences. We may reasonably expect in the coming decade no less startling breakthroughs and discoveries on the oceanic frontier. Accordingly, we must assure that the Government is organized to deal effectively with the environmental challenge to the seas our country now faces.

Though the primary mission of NOAA will be oriented toward research, technology, and resource development, the Agency of course must, as must all Federal agencies, comply with all applicable provisions of the National Environmental Policy act of 1969. The Agency must, also, pursuant to Section 102 of the Act, annually review its existing statutory authority, administrative regulations, policies, and procedures. This legislation specifies that the annual report propose to the President and to the Congress whatever new executive or legislative authority it finds necessary to make its authority consistent with the provisions and purposes of this act.

The committee expects that NOAA will diligently pursue this review and that appropriate legislative recommendations will be prepared for presentation to the Congress within 1 year's time.

During the committee hearings, mention was made by several witnesses, including the Secretary of Commerce, of the coastal zone management program proposed in legislation now pending before Congress. The committee does not intend that its endorsement of Plan No. 4 should in any way be interpreted as a position for or against administration of the coastal zone management program, if enacted, in NOAA. Indeed, the Administration has not finally determined its position with respect to this question, as Secretary Stans told the subcommittee.

With respect to Reorganization Plan No. 4 itself, it must also be noted that chapter 9 of title V of the United States Code sets forth the conditions and requirements upon which the measure has been submitted. The committee believes these conditions are satisfied and that the plan meets the statutory test.

It has been demonstrated to the satisfaction of this committee that the establishment of NOAA is vitally necessary and that the place for the proposed agency is in the Department of Commerce. NOAA can be most effective there because it will be associated with the Department already having primary responsibility for research, monitoring, and development regarding the sea and atmosphere. And EPA is properly established as an independent agency, with the mandate to carry out environmental standard-setting and enforcement responsibilities, respecting the coastal and ocean environments as well as other important areas.

Although reasonable men may differ with respect to the activities and programs which should be brought together within NOAA, the committee believes that the evidence presented fully supports the President's contention that NOAA, under its proposed structure and organization, will constitute, at the very least, a good beginning to the achievement of the ultimate goal of the development of a unified, consolidated approach with respect to policies and programs relative to the oceans and the atmosphere.

Based upon its long experience in the field of executive reorganization and management, as well as upon the evidence presented, the committee believes that a convincing case has been made for Reorganization Plan No. 4. Accordingly, the committee recommends that Senate Resolution 433 be rejected thereby allowing Reorganization Plan No. 4 of 1970 to become effective.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. NELSON. Mr. President, I again commend the Senator from Connecticut for the hearings he conducted and for the very fine report that the committee wrote.

I emphasize, as I have stated from the beginning in my testimony before the subcommittee and in all the statements I have made since that my concern has been over the matter of timeliness and if the issues of the settlement of the coastal zone management program and other marine environment aspects were already settled, it would then be timely to establish NOAA. Many conservationists would prefer that NOAA be an independent agency. It is not my position that it is inappropriate per se to have NOAA with its functions in the Department of Commerce.

That may very well be as good a place to put it as to make it an independent agency, though I would have some preference for the latter.

My purpose was to be sure that we had a vehicle, which was the resolution I introduced, so that hearings could be conducted and so that those who had a viewpoint to express on this matter would have an opportunity to be heard. The conservationists were heard, as well as representatives of the administration, and a representative of the Stratton Commission, and a representative of the Ash committee.

I think it has been a fruitful discussion and that the hearings were very useful. And I think the dialog and the committee report set a predicate for what I am interested in discussing at a subsequent date when the proposals come to the Senate floor for the assignment of the responsibilities for coastal zone management and other marine environment responsibilities.

On that score, I know that some very distinguished authorities, including the Senator from South Carolina (Mr. HOLLINGS), who has studied this matter as thoroughly as anyone in either House of the Congress, may have a different belief about where the responsibility for coastal zone management ought to be placed. However, when that issue is before the Senate, that will be the appropriate time to further discuss the issues which have been raised by the introduction of this resolution, where we have discussed the maintenance of a separation of this resolution, where we have environmental standard setting enforcement.

Mr. RIBICOFF. Mr. President, I understand the question raised by the distinguished Senator from Wisconsin. The Senator from Wisconsin, as well as the

Senator from South Carolina (Mr. HOLLINGS), testified at length. Their testimony was of the highest order.

Both Senators have a deep understanding and commitment to the problems of the ocean and the protection of the ocean and also a desire to develop the ocean for commerce and for its natural resources, as well as the problems of preserving our environment.

I understand that the coastal zone management bill is now before the Commerce Committee and the subcommittee chaired by the distinguished Senator from South Carolina.

Since it has not been reported in the Senate, there was absolutely no way in which our committee could make a determination on what should happen to the coastal zone management proposal.

At a subsequent date, the Senator from South Carolina and the Commerce Committee, under the chairmanship of the Senator from Washington (Mr. MAGNUSON), will undoubtedly report out a bill.

At that time, the Senate will have an opportunity to discuss what will happen with coastal zone management. I cannot imagine, when that bill is reported out, that either the Senator from South Carolina or the Senator from Washington are going to do violence to the preservation of our environment.

We can be sure that the oceans will be kept as free of pollution as possible.

I further point out to the Senator from Wisconsin that I agree with him. I, too, feel that we must preserve our environment in every phase and not destroy our oceans and turn them into dead seas.

We have, I think, Reorganization Plan No. 3 which goes into effect tomorrow, as well, giving the supervision and control.

So, when plan No. 4 is adopted, establishing NOAA in the Commerce Department, NOAA will take actions in the field of the oceans and all its phases, but it will also be subject to the rules and regulations and to the mandates of EPA, which goes into effect at the same time.

I would have preferred, perhaps, a much broader program in handling our natural resources. I have thought for a long time there should be a department for the environment and natural resources, but if we could not get that, NOAA is definitely a step forward and it does bring together many agencies and programs that do have things in common affecting the development of our oceans.

Consequently, while I understand the point the Senator from Wisconsin is making, it would be most unfortunate if we turn down this reorganization plan. I believe it is a step forward in progress, better management, and more effective use of taxpayer's dollars, as well as developing our oceans with an overall program.

Mr. HOLLINGS. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, first I want to thank our distinguished friend, the Senator from Connecticut, for his understanding and the comprehensive coverage given this important subject of NOAA to be implemented as an administration within the Department of Commerce.

We have over the years expended annually $800 million in oceanic and atmospheric programs and we have over 55,000 personnel in some 22 agencies and departments serving these programs. This is a very fine step forward. It is not all that we wanted. President Nixon should be commended for having taken this step, at least even without the Coast Guard, to put about 13,000 people, with a budget of about $300 million under the Department of Commerce to provide an excellent beginning for a national oceanic and atmospheric program. Part of their program will be development of ocean resources.

I say in the same breath when I talk about the development of the ocean resources in the Department of Commerce that I know of no other department or agency in the United States more concerned environmentally than our Department of Commerce.

I have the greatest respect and admiration for our distinguished colleague, the Senator from Wisconsin. He is a leader in environmental affairs. Yet, when he or I make a talk on the environment, where does he go? To the Bureau of Standards in the Department of Commerce, or to ESSA, the Environmental Science Services Administration, or to the Coast and Geodetic Survey, or to the Weather Bureau. Sixty percent of the personnel and budget of the Department of Commerce are oriented toward science and technology. They are concerned with the environment.

I can see our distinguished colleague from Illinois (Mr. PERCY) who went to the heart of the nerve gas problem we had in connection with defense appropriations, so they would adhere to the environmental concerns we had.

It was the leadership of the distinguished Senator from Washington (Mr. MAGNUSON) that called the hand on nerve gas. He held hearings and assumed responsibility. Since that time we have learned there are 238 waste disposal sites in the oceans and Great Lakes approved by our Government for dumping. Our Subcommittee on Oceanography is going to go into that after the elections in November. I feel we are concerned with our environment. I do not want to go along with the idea that the Department of Commerce is solely development oriented.

The Senator from Wisconsin talks about timeliness. Everyone knows that after 12 years it is time to do something. We have talked about it, we have discussed it, and we have studied it.

The Senator from Washington (Mr. MAGNUSON) told me that at one time he had two rooms up there full of nothing but studies and reports. We tried under President Kennedy and President Johnson to get a strong oceans programs, and now under President Nixon we are getting something done on this score.

With respect to timeliness and other matters concerning coastal zone management, this is far too early to start the debate. While we have had these hearings, environmentalists have testified on coastal zones. The distinguished mayor from Newport Beach, Calif., testified for the National League of Cities in support of a coastal zone bill. We had extensive hearings by the Subcommittee on Oceanography, but the full committee will not take that up until after the November elections, at which time we will have more than sufficient time to give the matter every bit of consideration and report back to the Senate a coastal and estuarine zone management bill, and it will be discussed in full.

I do not want to mislead the Senator from Wisconsin. I support assignment of the coastal zone management responsibility to NOAA, which will be in the Department of Commerce. The Stratton Commission recommended that it be in NOAA. So I am not trying to mislead and say we do not know. Our Commerce Committee bill calls for it to go into NOAA.

What does the coastal zone bill do? The coastal zone bill is a grant-in-aid program to the States to assist the coastal States in planning and implementing their plans. The coastal States need planning and development, but planning particularly with respect to environmental problems.

There is an entire chapter in the Stratton Commission report devoted to the coastal zone. This was 2 years before everyone got the environmental bug. The Stratton Commission studied this and that was one of their main concerns. They stated to the States, "We want to implement a grant-in-aid program to be controlled by the States, to bring about development with environmental counsel in protecting our coastal and estuarine environment."

Since Reorganization Plan No. 4 takes away many of the capabilities of the Department of Interior—their inhouse fisheries capability has been removed and Federal Water Quality Administration has been moved to the Environmental Protection Agency, which the Senator from Wisconsin said he approved. It is only natural we put coastal zone management in NOAA.

But as the Senator from Connecticut stated, that will come at the appropriate time after the election when we come back in November. By way of timeliness, it is certainly not timely now to inject into this debate what may happen.

The Senator should be commended. The Senator from Washington (Mr. MAGNUSON) worked long and hard. I am sure there will be a statement placed in the RECORD by the Senator from Tennessee (Mr. BAKER). We have been working together and we have been traveling together. We have had hearings with testimony by environmentalists and many other interests. This is not untimely. It is not done quickly. It is done after everyone has gotten consideration, particularly the environmentalists.

Mr. PERCY. Mr. President, will the Senator yield so we can ask for the yeas and nays?

Mr. HOLLINGS. I yield to the Senator from Illinois to request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HOLLINGS. Mr. President, I have

XUM

the privilege of speaking today on behalf and in support of the President's Reorganization Plan No. 4, establishing the National Oceanic and Atmospheric Administration in the Department of Commerce, and to speak in opposition to Senator NELSON's resolution of disapproval of plan No. 4. I address my comments to the area of environment that has raised some of the most difficult questions that have been asked about the proposed reorganization.

Not long ago I supported Senator Moss' attempt to have a Department of Natural Resources and Environment created. As you know, many thought that creation of such a department would neatly package all environmental concerns and that department would have almost sole responsibility and authority for combating environmental problems. But creation of a single, large department of Natural Resources and Environment proved to be impossible. It would take years to obtain such a department in Congress.

What is necessary then is the strengthening of the authority and responsibility of certain existing departments, such as the Department of the Interior, the Department of Defense, the Department of Agriculture, and the Department of Health, Education, and Welfare, only to name a few, and to consolidate functions and capabilities where we can. That is what the President has proposed with Reorganization Plan No. 3 to create an independent Environmental Protection Agency. And that is what he proposes by the establishment of the National Oceanic and Atmospheric Administration in the Department of Commerce.

But these two new organizations will not be the only Federal organizations still having responsibilities. I have just begun looking at the problems of ocean pollution and of waste management, and when you look at these problems, you find that the Department of the Interior has a responsibility that will continue after this reorganization; the Department of Health, Education, and Welfare has responsibility that will continue; the Atomic Energy Commission has responsibility that will continue; the Environmental Protection Agency will take on the responsibilities of the Federal Water Quality Administration and the Bureau of Solid Waste Management; the National Oceanic and Atmospheric Administration will continue monitoring and research functions that the Environmental Science Services Administration presently carries on; and the Corps of Engineers and the Department of Housing and Urban Development will continue their responsibilities. Not all of those agencies are known as environmental agencies. But they all have developmental programs that have environmental impacts, and because they are not known as environmental agencies does not disqualify them or take away from them the responsibility for acting to protect the quality of our environment. Nor would it disqualify the Department of Commerce.

Whatever may have been the reputation of the Department of Commerce during the 1930's as the Department of Big Business, clearly that is not the case now. And certainly none of the elements that the President proposes to place in the National Oceanic and Atmospheric Administration could be called the tools of big business. The Environmental Science Services Administration with the Weather Bureau and the Coast & Geodetic Survey provide monitoring services and mapping and charting services for the Nation as a whole.

No one has ever called American fisheries, serviced by the Bureau of Commercial Fisheries, big business. The Tiburon facility of the Bureau of Mines has an important marine minerals technology program that will be important to the Nation as we develop our ability to work in the oceans and resolve some of the international problems related to that work. But it is not a tool of big business. Nor is the sea grant program, which has benefitted so many universities and other marine programs around the United States. The U.S. Lakes Survey is a counterpart of the Coast & Geodetic Survey in the Great Lakes, and the data buoy program from the Coast Guard is another technology program that could hardly be accused of operating solely for the profit motive.

Granted there are business functions that the Department of Commerce performs. The Economic Development Administration and the Regional Planning Commissions, the Business and Defense Services Administration, all provide economic advice and assistance. But these are also available to the National Oceanic and Atmospheric Administration to complement some of the roles that the NOAA will have. The fact is that over 60 percent of the budget and personnel of the Department of Commerce are presently devoted to science and technology. And these capabilities in science and technology in the Maritime Administration, in the National Bureau of Standards, in the Clearinghouse for Scientific and Technical Information can be of great assistance to the new NOAA.

When Senator MAGNUSON began his attempts in 1959 to strengthen our Nation's oceanographic programs he and the rest of Congress found that the Federal organization was in complete disarray. Administrative steps to correct the problems through the Interagency Committee on Oceanography proved insufficient, and when we established the Cabinet-level National Council on Marine Resources and Engineering Development in 1966 we did so only as a temporary expedient until a more permanent structure could be created. We also created the Commission on Marine Sciences, Engineering and Resources in 1966, and after 2 full years of study and hearing over a thousand witnesses, the Marine Science Commission recommended the creation of an independent National Oceanic and Atmospheric Agency that would have the components that we are now concerned with plus the Coast Guard.

The Marine Science Commission benefited greatly from the studies that had preceded their study: From the National Academy of Sciences; from the Panel on Oceanography of the President's Science Advisory Committee; from the hearings in both the Senate and the House in 1965; and finally from the studies that its own seven panels conducted. All of these studies showed a strong concern for the quality of the marine environment. The Stratton Commission report is permeated with environmental concern. Every page of the report indicates that concern. And the Marine Science Commission report is also the "Bible" on which an exciting program is being proposed by the Department of Commerce to be presented to the Office of Management and Budget for the coming fiscal year.

When I had the privilege of testifying before the Subcommittee on Executive Reorganization I stated:

> Essentially we need an agency with a broad range of responsibilities and capabilities in the marine and atmospheric environments. NOAA is not conceived solely as an oceanographic agency, devoted only to the science of the ocean. NOAA is conceived as a socially and scientifically relevant agency. The development of scientific and technological capabilities and services for the nation will be important functions for the new Administration. But equally important are the economic, environmental, legal, political, diplomatic, and other social activities relevant to NOAA's responsibilities. Marine programs have been in such disarray that to attempt to harvest the riches of the oceans without better Federal organization and national programs for wise resource management will only lead to environmental disaster.

Mr. President, the time to face the issue whether this Nation will create a strong oceanic and atmospheric program is now. It has been well studied. It has broad environmental concerns. And lest there be any question in anyone's mind that the legislative intent of the Senate was when it approved the National Oceanic and Atmospheric Administration, I want to state clearly that the NOAA will have scientific, technological, resource development, monitoring, mapping, and charting services among its many duties. But sound resource management techniques and concern for the quality of the marine and atmospheric environments are inseparable parts of the proposed program. And let anyone who is looking at the intent of the Senate in approving this organization know that this is what we intend and this is what we expect of NOAA.

Mr. President, I want to try to dispel some of the misunderstandings and misgivings about coastal zone management that have been expressed during the debate on NOAA.

The idea originated with the Commission on Marine Science, Engineering, and Resources as a response to the burgeoning population and conflicting and competing uses of the coastal and estuarine zones of the United States. They suggested that NOAA administer a program of coastal zone management. Senator MAGNUSON and Senator TYDINGS subsequently introduced bills which would have assigned the responsibility to the National Council on Marine Resources and Engineering Development in the absence of NOAA, but it was intended that if NOAA came into being, the bills would be amended to place the responsibility there.

Last year the administration introduced its coastal zone management bill, and proposed to amend the Federal Water Pollution Control Act. This bill would then have been assigned to the Federal Water Quality Administration. As we all know, the Federal Water Quality Administration now goes to the new Environmental Protection Agency. And if the administration still intends the program to be administered by the Department of the Interior, it will have to redraft its bill to place it there, otherwise it would go to the Environmental Protection Agency.

On September 16 the Subcommittee on Oceanography reported a redrafted coastal and estuarine zone management bill to the full Committee on Commerce. We hope that the full committee will meet in executive session on it soon. As presently redrafted the bill would assign the responsibility to the Department of Commerce, to be administered by the NOAA.

There seems to be a major misconception of what the coastal and estuarine zone bill is all about. Essentially it is a Federal grant-in-aid bill with two major parts: The one for planning purposes, the other for implementing those plans. The first part would provide grants-in-aid to the States to assist them in developing coastal and estuarine zone management plans and programs. Once the State has developed an acceptable plan and program, it would then be qualified to receive grants to help them implement the plan and program.

The bill we are proposing to the full committee does not change the jurisdiction of any Federal department or agency. Rather, we strengthen the roles of Federal, State, and local governments by insisting that they all participate in the planning process. We think that all interests, Federal, State, local, and public must be taken into consideration in the planning.

The principal function of the Department of Commerce would be to administer a grant-in-aid program under our proposed bill, and to assist the States in performing the planning function. But in no way is it proposed that it be a Federal takeover of control, nor an encroachment on the existing jurisdiction of Interior, Defense, and the Corps of Engineers, Housing and Urban Development, Health, Education, and Welfare, and the other Federal departments and agencies that have authority and responsibility in the coastal zone.

Specifically, the proposed bill defines the outer extent of the coastal zone as the outer limit of the territorial sea—three nautical miles at present. The Outer Continental Shelf Lands Act begins its jurisdiction at 3 nautical miles or farther out if the historical boundary of the State extended beyond 3 miles. Thus, this proposed bill would in no way encroach on the jurisdiction of the Department of the Interior under the Outer Continental Shelf Lands Act.

Mr. President, I would hope everyone would oppose this resolution. I counsel once more as the Senator from Connecticut pointed out: To unanimously disapprove the resolution, and vote in behalf of the President's Reorganization Plan No. 4, would be a "no" vote.

Mr. ALLOTT. Mr. President, I do not know whether there are enough Senators on the floor to have the yeas and nays ordered, but I request the yeas and nays.

The yeas and nays were ordered.

Mr. PERCY. Mr. President——

The PRESIDING OFFICER. The question is on the adoption of the resolution. The yeas and nays have been ordered——

Mr. PERCY. Mr. President, I have a statement to make.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, in the absence of the Senator from South Dakota (Mr. MUNDT) and the Senator from New York (Mr. JAVITS), first and second ranking Republican members of the committee, who are necessarily absent, I would like to make a statement on behalf of the minority members, which will actually state the administration's position. The distinguished Senator from New York (Mr. JAVITS) has participated actively in all of the proceedings in connection with this reorganization plan and is in full accord with the comments I now make.

Mr. President, I oppose Senate Resolution 433 which is now before the Senate. While I have the utmost respect for the work of the junior Senator from Wisconsin, especially in the area of environmental quality control, I think the resolution he has offered in opposition to the President's Reorganization Plan No. 4 threatens to block a critically needed new agency and set back the efforts to develop important new data for improving the environment.

Having served on the Executive Reorganization Subcommittee of the Government Operations Committee and having participated in the hearings and executive deliberations on this plan, I have heard the full range of arguments—pro and con—on its merits. I remain fully persuaded that the President's proposal is sound. Charges that the Department of Commerce, because of its interest in commercial affairs, will neglect environmental considerations simply do not hold water today in light of the Department's contemporary programs and activities. Furthermore, the plan has the support of people who have been very close to the problems including the members of the Stratton Commission, and the House and Senate Subcommittees on Oceanography. And, it should be said at this point, that the Government Operations Committee voted unanimously to disapprove the resolution which we are now debating.

Reorganization Plan No. 4, to create a National Oceanic and Atmospheric Administration within the Department of Commerce, represents the second major plank in the President's proposal to reorganize the government more effectively in the use of our Nation's resources. There is widespread agreement that the reorganization and centralization proposed in the plan before us will be an important step toward realizing the oceans benefits.

Under this plan, programs and functions now scattered among four separate departments and one agency are to be transferred to NOAA. Of the various components of NOAA, the Environmental Science Services Administration, already located in the Department of Commerce, will constitute about 73 percent of the budget and 83 percent of the personnel of NOAA. These elements of ESSA include the Weather Bureau, Coast and Geodetic Survey, Environmental Data Service, National Environmental Satellite Center, and ESSA Research Laboratories. From the Interior Department will come the Bureau of Commercial Fisheries functions related to the marine environment, marine sports fish activities, and the Marine Minerals Technology Center. From the Department of the Army will come the U.S. Lake Survey of the Corps of Engineers. From the National Science Foundation will come the Office of Sea Grant program. Other components include the National Oceanographic Data Center and National Oceanographic Instrumentation Center of the Department of the Navy, and the national data buoy program of the Coast Guard.

The purpose of the reorganization is to pull together, on a unified basis, research, exploration, development, conservation, monitoring, and educational activities as they relate to oceanic and atmospheric functions.

Congress took the first initiative in this area when it passed the Marine Resources and Engineering Development Act in June of 1966, setting forth in an unprecedented statement our national purpose of advancing not only our study of the oceans, but our beneficial use of them. Congressional support for a stronger ocean policy is today, and has been through the years, strongly bipartisan. This support is based on the conviction that important national needs can be met in the oceans and that action is required. The reorganization plan submitted by the President is clearly intended to implement this philosophy, and provide a sound basis for action.

Dr. Edward Wenk, Jr., one of the Nation's most renowned experts in the field of oceanography, in his testimony before the House Government Operations Committee, was asked, "What would the National Oceanic and Atmospheric Administration proposed in Reorganization Plan No. 4 give us?" His response:

> We would gain an efficiency in our study of the oceans by combining the technological capabilities of ships, buoys and spacecraft with biological and atmospheric research.
>
> We would cut down the wastage involved in interagency competition.
>
> We would have at last in the Federal civilian structure, a focal point of attention and operating ability in one visible place.
>
> We would have a high-level spokesman within the Government to insure that civilian marine matters receive adequate attention in the setting of priorities.
>
> We would gain uniform standards for research and exploration.
>
> We would have built-in recognition that the proper focus of our ocean program is on the multiplicity of uses in contrast to research and development.
>
> We would have a unity in budget presentation and consideration.

XUM

> For persons seeking ocean technical data, for businessmen wanting to know the direction and content of Federal civilian oceanographic activities, and for the student wanting basic information, the existence of a centralized civilian oceanic "home" in Washington will cut down on confusion and delay.

In urging approval of Reorganization Plan No. 4, Dr. Wenk warned that its defeat would deal a profound setback—to both advocates of better knowledge and use of the oceans, and persons interested in our environment.

There has been some criticism of the President's decision to place NOAA within the Department of Commerce. These arguments contend that the need exists today to preserve rather than exploit such resources and that such preservation is less likely to occur in the Commerce Department because of its commercial activities.

I believe those who make such argument, and I regret that some conservation groups are among them, are not giving due credit to the Department and its present head, Maurice Stans, himself a strong conservationist.

The Department of Commerce is, and has been for some time, a multiservice agency with general purpose responsibilities in science and technology. Examples are the National Bureau of Standards, whose services extend across lines to all Federal agencies, the Census Bureau, whose activities contribute to the programs of virtually every department of Government, and the Weather Bureau, whose activities serve a much larger constituency than just Commerce. ESSA, which will make up almost three-fourths of NOAA, already has many environmental responsibilities and performs them very well. ESSA, for example, works very closely with HEW in monitoring and measuring air pollution. More than half the Department's personnel and budget are concerned with science and technology, and Secretary Stans has pointed out that he regards economic development in a much more sophisticated manner than merely to exploit today and forget tomorrow.

Furthermore, there have been a lot of mistaken assumptions about the role of NOAA in regard to pollution.

The reasoning that pollution abatement standard-setting should be insulated from the promotional interests of other departments is consistent with the concept of NOAA being placed in the Department of Commerce. We would expect EPA, created by Reorganization Plan No. 3, to set necessary pollution abatement standards for the seas. NOAA will monitor, observe, try to understand and predict the physical environment of the air, oceans, and the live resources of the sea.

NOAA is intended to work closely with EPA in the same fashion that ESSA does today with the Department of Health, Education, and Welfare on air pollution problems. ESSA monitors and predicts air pollution potential for the Air Quality Control Regions which in turn implement control actions. EPA will be a standard-setting and enforcement agency whereas the role of NOAA will be to describe, predict, explore, develop technology and generate greater understanding of the oceans and atmosphere.

To those who of late question the rationale of putting this responsibility in the Department of Commerce, I refer them to words of another President, who 5 years ago submitted the reorganization plan which created ESSA. At that time, President Johnson said:

> ESSA will then provide a single national focus for our efforts to describe, understand and predict the state of the oceans, the state of the lower and upper atmosphere and the size and shape of the earth. Establishment of ESSA (in Commerce Department) will mark a significant step forward in the continual search by the Federal Government for better ways to meet the needs of the nation for environmental science services.

Reorganization Plan 4 is a logical, rational, and well-conceived extension of the proposal which President Johnson submitted in 1965 and which this Congress properly accepted.

I commend President Nixon for submitting an excellent organizational plan. I urge my colleagues to give the plan their unqualified support by voting down the resolution of disapproval. The views of your Committee on Government Operations would thereby be endorsed and the country would be permitted to get on with the job of advancing our knowledge of and ability to use beneficially the oceans and the atmosphere.

Mr. NELSON. Mr. President, I want to take only 2 minutes. I think perhaps the distinguished Senator from Illinois, was not aware of what I said about the reason for introducing the resolution. I do not criticize the creation of NOAA and it's placement in the Department of Commerce, per se, I do not criticize it as bad per se. What I have been critical of, and what almost every major conservation organization in America that has made a statement on it and those who testified before the committee have been concerned about is the failure to settle the issue of where the responsibility for coastal zone management and other marine environment responsibilities would go prior to the creation of NOAA.

I think all of the conservationists that made any comment expressed the concern that I do regarding joining together the coastal zone management program on other marine environmental programs with NOAA. I realize that that is the big point. The Senator from South Carolina (Mr. HOLLINGS), who went into the matter of coastal zone management, and who probably knows more about this subject than any other Member of Congress, feels confident that the appropriate place for coastal zone management would be in NOAA.

I want to make clear to the Senator from Illinois that I am not critical of the President for having created NOAA and putting it in Commerce. I am concerned about the timeliness of it. I proposed a resolution so we would have an opportunity to have a hearing. A thorough one was conducted by the Senator from Connecticut (Mr. RIBICOFF). The purpose was to have a hearing record, a dialog, and a discussion of that issue prior to deciding where to put coastal zone management and other marine environment responsibilites, a decision which, I realize as a practical matter, has to come at a later date. I had no expectation at all of defeating the plan. I wanted the issue discussed and debated. However, because of the question of timeliness. I intend to vote for the resolution I introduced.

I have on numerous occasions commended the President for creating an environmental protection agency, which is a step in the right direction, and which should have been taken a long time ago. I think EPA has great potential for improving the Nation's environmental standard and enforcement programs, and the President is to be congratulated for it. My only reservation is about the timeliness of plan 4 to establish NOAA.

Mr. PERCY. Mr. President, I appreciate that further explanation. It has been my feeling that Reorganization Plan No. 4 is a logical, rational, and well conceived extension of the proposal which President Johnson submitted in 1965 and which this Congress properly accepted.

I have confidence that the Secretary of Commerce, who has great responsibilities, and whose responsibilities will be further accentuated by the comments of the distinguished Senator from Wisconsin, being a strong conservationist, will implement this program with conservation uppermost in mind.

I think the dialog and the contribution which the Senator has made has caused our committee to take an extra hard look at this matter. We have great confidence that it can be pursued.

I commend President Nixon for the organizational plan he has proposed. I expect the Senate to approve the reorganization plan, but I think in our colloquy the Senator from Wisconsin has made another contribution to this subject.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. MAGNUSON. Mr. President, I know the subject of ecology is popular now, but I used to talk about it before and I was whistling in the wind. For many years we had programs for research and development in fish, wildlife, and coastal matters. We had many programs on bank construction. We had programs on wave research and most of the subjects that go with this whole matter.

Most of them have been handled, way in the beginning, by the old Coast and Geodetic Survey. They handled most of the oceanographic research that was done.

They worked under the Department of Commerce. Then the only other argument that was made was that the Fish and Wildlife Service had been, years ago, put into the Department of the Interior.

As to wildlife, they had exercised great responsibility and done a good job, but there was another department that split that department in half, and there was a constant argument with commercial fisheries—people dealing with the oceans, mainly—because the bays, the

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places like Puget Sound and Chesapeake Bay had their own State rules.

We thought this would be a good way to have the Department of the Interior do the job that relates literally to their name, interior, because the Department of Commerce has done most of the work in this field in years past; and now we thought we would have a better chance, as the Senators point out, to tie all this together and see where we can go from here.

I personally have always favored, as the Senator from Colorado has heard me say on many occasions, the idea that we ought to have a separate agency for oceanography. If we had only one-twentieth of what has been spent on the space program over the years—which we have approved, too—we would have gotten a lot farther in this effort.

I must say that most of the Presidents have done a good job. President Eisenhower increased the budget amount for oceanography, as have President Kennedy, President Johnson, and now President Nixon; but when we started this, oceanography—which is a many-splendored thing; it is not any exact science, it includes everything—was in 22 different agencies, and when they had an interagency committee, whoever was running the Navy program usually controlled it, because they had the big money and they were doing the most research.

We have made great strides, and when we talk about "environmental fields," we are also talking about research on the uses of the ocean. For example, we do not know yet how to talk under water very well. As to fish life, the State Department was always in that business, and we never could get anyone in the State Department with a title who had any status to deal with conservation of fish in the oceans. He was always the head of the commercial fisheries department, and he would go to some of these international meetings and sit across the table from, in every case, a Cabinet officer, who had a right to make a decision right then and there.

These are all the things we are trying to put together here a little bit, and that is why I said that, while this plan is not exactly all I wanted, or all that other Senators wanted, it is a big step forward, and I, too, compliment the committee on their work on this measure.

We will turn over to the new department the warehouse we have full of reports. They can have them for free.

THE WET FRONTIER OF INNER SPACE

Mr. HATFIELD. Mr. President, "The Wet Frontier of Inner Space" was the title of an editorial in an Oregon newspaper discussing the need for this country to accelerate its efforts in the area of oceanography. I entered the editorial in the RECORD some time ago, and quoted from it in another speech.

I am committed to the idea that our country must focus its attention on our oceans. Naturally, this takes many shapes. My earliest contact came on the area of sea-grant college work, where, as Governor of Oregon at the time, I assisted Oregon State University as it established its program. The current concern over our oceans' environmental protection is warranted, for pollution of the oceans can be as deadly, and with more long-range effects, than is the pollution of our Nation's rivers and streams. In addition to oceanographic education and pollution, we need to move ahead in the areas of food research and development—both in protecting our fish supply and developing commercial food substitutes from ocean life. We also need increased attention on assessing the ocean's potential as a source of minerals. We must see what mineral wealth is available—and I know it to be great—and how we can utilize it in harmony with protecting the current life and ecological balances.

These comments, Mr. President, are a prelude to a few of my thoughts on the matter before us today. I cosponsored two NOAA proposals, with my good friends Senator TOWER and Senator MURPHY, which would have carried out some aspects of the current proposal. I met with White House staff as the they developed this plan.

I am not totally satisfied with the finished product, but I will support it. All legislation is compromise, and this is no exception. What is important about this is that these vital functions are brought together where they can receive increased public attention. Our country's oceanographic efforts need and deserve to be before the public. I feel much of the Federal effort in this area has returned benefits far above their initial dollar costs. In fact, I recently said in a speech in Portland, Oreg., that my listeners should go to the campus of Oregon State University to examine their oceanography program, and I called it "one of the best investments of our tax dollars that I know."

There are those who question the assignment of this program to the Department of Commerce. I, too, have some questions in my mind as to whether this is the proper spot. I will support this program, though, with the comment that I intend to follow its course closely. If it appears that the focus is too one-sided, and proper attention is not being given to all facets of our ocean-related efforts, then I will be among the leaders of those trying to correct the situation. I hope that this never will occur.

I believe that this Nation must move ahead—our fishing industry suffers every day from a lack of attention to the problems of fish production, fish retrieval, and the many other interrelated areas. We need more Federal assistance to our sea-grant colleges, and I will do anything possible to assist that worthwhile program's growth. Pure research is needed, as is applied research. Our future mineral needs will call for development of our sea resources. We should act before the pressures of the moment are so great that adequate protections cannot be developed to protect the fragile marine ecology.

Mr. McCLELLAN. Mr. President, Reorganization Plan No. 4 is essentially a regrouping of existing entities and programs within a new functional division. Any proposal to reorganize around a specific function must necessarily result also in some breaking up of the functional structure of the existing organizations involved.

It is clear that, given the complexity of modern society, there can be no comprehensive and mutually exclusive set of functions into which governmental activities can be divided. The objective of sound public management must be to strive for an organization that emphasizes those functions which require special attention, support, and control. Because the problems and priorities of society are constantly in transition, it is necessary from time to time to reexamine the structure of government. When adjustments are found to be required to bring organizational strength to bear on new, or newly perceived, problems or needs of society, they should be made.

Reorganization Plan No. 4 has been recommended by the President to strengthen the ability of the executive department to deal with research and development of oceanic and atmospheric resources. The need for greater and more comprehensive emphasis upon this function was pointed out by both the President's Advisory Council on Executive Organization and by the Commission on Marine Science, Engineering, and Resources.

The Committee on Government Operations recognizes that Plan No. 4 creates a number of uncertainties and leaves many questions unanswered. Some of these uncertainties are due to the nature of the reorganization plan procedure which makes no provision for congressional amendments or revision. Accordingly, as experience demonstrates the need for changes in the structure or mission of NOAA, necessary amendments will have to be handled by the congressional committees having legislative jurisdiction over the subject matter. In this connection, the committee desires to emphasize the fact that approval by the committee of this plan does not in any way modify, enlarge or diminish the legislative jurisdiction of standing committees of the Senate.

Mr. President, the idea of change—the concept of reorganizing—whether on a personal or governmental level creates a paradox in most situations. It may augur good on the one hand and yet may bode visions of ill in the minds of others. In any event most of us approach change with some trepidation. Such is the case with Reorganization Plan No. 4, to establish a National Oceanic and Atmospheric Administration in the Department of Commerce.

The catfish farmers of America, for example, are quite concerned over the proposed realinements of governmental functions contained in Reorganization Plan No. 4.

Catfish farming is a fledgling, bustling and intriguing industry of the South. It is also in the happy position of being unable to supply the increasing demands for its product. In 1965 there were 2,000 acres in production of catfish. Today, 5 short years later, there are 55,000 acres committed to this new industry. Like most new industries, however, it is not without its problems.

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There are grave—sometimes crippling—problems of diseases, which may destroy a whole crop of catfish. Governmental assistance, especially through continued research, is essential to the growth and prosperity of this novel endeavor. Governmental aid and assistance has, thus far, been very helpful to the industry and it is hoped that it will continue to be forthcoming.

Catfish farmers are, however, concerned that the inclusion of the Bureau of Commercial Fisheries and the Bureau of Sport Fisheries and Wildlife, which has provided a high priority to the development of the catfish farming industry, into the National Oceanic and Atmospheric Administration in the Department of Commerce, may adversely affect their best interests.

I am hopeful that this will not be the case and am quite sure that the new administration, as well as the Secretary of Commerce, will insure that the move does not in any way diminish the Federal Government's efforts on behalf of the catfish farming industry. In this connection, the senior Senator from Arkansas fully intends to follow the administration of this new organization quite closely to see if the catfish farmers are adequately serviced by NOAA.

Meanwhile, I have also received expressions of concern about Reorganization Plan No. 4 from the American Congress of Surveying and Mapping of Little Rock, Ark.

This organization is concerned about the effect that the new plan will have on the U.S. Coast and Geodetic Survey which, as a part of the Environmental Sciences Services Administration—ESSA—will become an element of NOAA. Actually, ESSA will constitute the largest segment of the newly proposed agency and, as such, will, I am sure, make every effort to see that the integrity of the U.S. Coast and Geodetic Survey is protected and maintained. As is the case with the catfish farmers, however, I will see that the Secretary of Commerce, and the newly created National Oceanic and Atmospheric Administration, are fully advised regarding the expressions of concern over this new arrangement. And, in so doing, I will strongly urge that every effort be made to conduct the new administration in such a fashion as to dispel these expressions of apprehension that have been made from the two sources to which I have referred.

Mr. CASE. Mr. President, today our environment is in grave danger. With the aid of technological and scientific developments we have accelerated the pollution of the soil, the air, and the waters to a point where irreparable harm to the health and livability of our surroundings is a distinct possibility.

The choice before our Nation is clear: We can reverse the tide of environmental destruction while there still is time, or we can permit apathy, ignorance or downright stupidity to bring on a nightmare that could rival nuclear warfare in its horrors.

I am certain that most, if not all, Americans will opt for saving our environment while there still is a chance to do it.

If this is the course we choose, as I believe we should, we must make sure that there is no conflict between decisions designed to protect our environment and those designed to develop new resources.

It was with this purpose in mind that I introduced more than a year ago, S. 2312, a bill to create a new Department of Conservation and the Environment. My bill was designed specifically to eliminate the disarray and confusion which exists between, and even within, Federal agencies over their role in protecting our environment.

In my view, Reorganization Plan No. 4 contains some elements which could lead in directly the opposite direction.

Among other things, I am concerned about the inclusion of the Bureau of Sports Fisheries in the National Oceanic and Atmospheric Administration which would be created within the Commerce Department through Reorganization Plan No. 4.

The Bureau of Sports Fisheries, particularly through its marine laboratories such as the one located at Sandy Hook in my State, has contributed a great deal to the protection of our marine environment. There is some question over whether it would be able to continue to make this contribution if it were to be placed under the Commerce Department, which has primary responsibility for development of our resources.

At a press conference announcing submission of Reorganization Plan No. 4, Russell Train, Chairman of the Council on Environmental Quality, was asked why the National Oceanic and Atmospheric Administration was not incorporated in the Environmental Protection Agency proposed by Reorganization Plan No. 3.

He replied that the Environmental Protection Agency is "intended to focus on the control of pollution while oceans programs, obviously, go far beyond that, development efforts of all sorts."

Experience has shown that no man, no Government agency, can serve two masters effectively. We cannot provide adequate protection of the environment by placing responsibility for this function upon agencies which also are charged with the development and exploitation of natural resources.

It seems to me, therefore, that the Bureau of Sports Fisheries is being incorporated into the wrong agency. It is oriented to the environment and should be included in the Environmental Protection Agency, not NOAA, which has development efforts of all sorts. Therefore, I shall oppose Reorganization Plan No. 4 and continue to press for a reorganization of the environmental functions of the Federal Government into an agency singly devoted to environmental protection.

Mr. EAGLETON. Mr. President, President Nixon's Reorganization Plan No. 4 would establish a National Oceanic and Atmospheric Administration in the Commerce Department. Senator Nelson's Senate Resolution 433 would disapprove that plan. I support Senate Resolution 433.

Right now a number of important, far-reaching proposals are before Congress concerning coastal zone management, offshore marine resource protection and use and protection of the Great Lakes. The question of whether NOAA should be placed under the Commerce Department aside, it seems to me that there is little sense in leaping ahead to approve an organizational structure when we have yet to determine what form and what direction these important new programs will take.

The administration and Congress should work together in fitting structure to function. But until we know what those functions will be, and how they will be discharged, I think it both unwise and untimely to create in advance a structure that may not prove to be responsive to the needs of the future.

Mr. BAKER. Mr. President, as a member of the Air and Water Pollution Subcommittee of the Committee on Public Works, and as ranking Republican member of the Commerce Committee's Subcommittee on Oceanography and Subcommittee on Energy, Natural Resources and the Environment, I am vitally interested in the acceptance of the President's Reorganization Plan No. 4. I believe that it is essential to recognize the President's initiative in this area, and approve his plan to establish a unified and effective approach to the problems of the oceans and atmosphere.

I would like to review, in response to some of the criticism which has been leveled against NOAA, some of the background which has led to its creation.

As those who share a concern for the welfare of our oceans and their resources must know, the question of organization of a national oceanographic program has been thoroughly considered and discussed, particularly in recent years. In 1966 this body passed legislation establishing a Commission on Marine Science, Engineering and Resources. After a most exhaustive study of the problem, that Commission, which has come to be known by the name of its illustrious Chairman, Dr. Julius Stratton, as the Stratton Commission, submitted its report entitled "Our Nation and the Sea" in January of 1969.

Immediately upon taking office, the Nixon administration turned its attention to this very significant problem. A task force was established under the leadership of Dr. James Wakelin to study the recommendations of the Stratton Commission and the results of that task force's study were forwarded to the President. Independently, the Ash Committee on Executive Reorganization was instructed, among other things, to consider what would be the most effective organization for our oceans and atmospheric program.

In short, nothing could be further from the fact than the suggestion that Reorganization Plan No. 4 has been hastily conceived or is not based upon a thorough study of the problem by the most knowledgeable and concerned individuals both within and outside government. In this connection, it should be noted that the Subcommittee on Oceanography of the Commerce Committee under the able chairmanship of the Senator from South

Carolina (Mr. HOLLINGS) has held 8 days of hearings on his bill, S. 2841, which embodied the Stratton Commission recommendations for a National Oceanographic and Atmospheric Agency.

The President has followed closely in Reorganization Plan No. 4 the recommendations of the Stratton Commission, including their recommendation that the Bureau of Commercial Fisheries and the marine and anadromous fisheries functions of the Bureau of Sport Fisheries and Wildlife in the Department of Interior be transferred to an Oceanographic and Atmospheric Agency. It differs from the recommendations of the Stratton Commission in only two respects, neither of which are presently controversial.

First, instead of establishing an independent Oceanographic and Atmospheric Agency, that agency will be lodged within the Department of Commerce under the leadership of an Under Secretary.

Second, only the data buoy program of the Coast Guard will be transferred to the agency.

Reorganization Plan No. 4 and the motion of disapproval presently before this body have been given thorough consideration by the Committee on Government Operations. One entire day of hearings was devoted to hearing from proponents of the disapproval resolutions. In a most comprehensive report, which I commend to the attention of any Senator who has not already had occasion to read it, the Committee on Government Operations recommended approval of Reorganization Plan No. 4 and an adverse vote on the pending resolution, S. Res. 433, which would disapprove that plan. Just this past Monday the House of Representatives voted down a similar disapproval resolution.

In addition, the reorganization plan has been carefully analyzed by the numerous organizations most directly involved both within and outside of government, and has met with the approval of virtually all of them. For example, on June 22 the board of directors of the National Oceanography Association issued a statement reading in part as follows:

> The organization being proposed by the Nixon Administration to lead Federal civilian oceanographic affairs appears to be a good one. While many would have preferred a National Oceanic and Atmospheric Agency independent of any existing department, the planned assignment of a NOAA-like organization to the Department of Commerce is a workable compromise.
>
> It is important to keep in mind the basic objectives of reorganization. It is the NOAA board's belief that the national need for a stronger oceanographic effort requires better Federal focus, more attention and improved coordination. All of these basic aims will be well-served by the proposed National Oceanic and Atmospheric Administration in the Department of Commerce. On balance, the Nixon Administration organization recommendations for oceanography merits our support as serving the national interest.

I am told that Dr. Julius Stratton supports the plan, as does Edward Wenk, Jr., former Executive Secretary of the National Council on Marine Resources and Engineering Development. Chairman MAGNUSON and Senator COTTON, the ranking minority member of the Senate Committee on Commerce, which was responsible for the legislation establishing the Stratton Commission and the National Council on Marine Resources and Engineering Development, both support the reorganization plan. You have already heard from Senator HOLLINGS in support of Reorganization Plan No. 4.

I am pleased to be able to add my name to that list of distinguished Members of this body and of the oceanography community who support Reorganization Plan No. 4. I cannot too strongly urge this body to reject Senate Resolution 433 so that we can proceed with the important business of establishing a National Oceanographic and Atmospheric Administration and, under its leadership, a national oceanographic and atmospheric program.

RETIREMENT OF REAR ADM. O. D. WATERS, JR., OCEANOGRAPHER OF THE NAVY

Mr. MAGNUSON. Mr. President, Rear Adm. O. D. Waters, Jr., for the past 5 years commander of the world's largest marine science activity as Oceanagrapher of the Navy, retired Wednesday, September 23.

At impressive change of command ceremonies aboard the oceanographic research ship U.S.S. *Lynch* at the Washington Navy Yard, Admiral Waters was succeeded by Rear Adm. W. W. Behrens, Jr. A large assembly of military and civilian leaders attended the ceremony.

My colleagues in the Congress will agree that Admiral Waters leaves a magnificent and unprecedented record of accomplishment, and extend to Admiral Behrens a warm welcome and their best wishes for similar success.

Military oceanography was effectively unified under the command of the Oceanographer of the Navy in August 1966, soon after Congress enacted the Marine Resources and Engineering Development Act, calling for a coordinated, comprehensive and long-range program in marine science, and listing certain policy objectives.

It is to the great credit of the Department of Defense, the Navy, and to Admiral Waters as Oceanographer of the Navy, that the act and its objectives, insofar as they apply to our Nation's defense and security, have been efficiently and with dedication carried forward.

The administration and the Navy gave appropriate recognition to Admiral Waters' distinctive record as Oceanographer of the Navy. Dr. Robert A. Frosch, Assistant Secretary of the Navy for Research and Development presented the admiral with the President's Distinguished Service Medal and read the citation from the Secretary of the Navy which stated:

> For exceptionally meritorious service to the Government of the United States in duties of great responsibility as Oceanographer of the Navy from September, 1965 to September, 1970.
>
> Admiral Waters came to his job at a time when the Navy's oceanographic effort was widely distributed among various elements of the Naval establishment. More than any one individual, he was responsible for carrying through a program to bring all of these oceanographic efforts under centralized direction. As a result, the Oceanographer now supervises all of the oceanographic efforts from planning phases to final execution. This has included the work of 27 field activities, more than 30 survey and research ships, and such other platforms as submarines, deep research vehicles, helicopters, buoys, fixed towers and manned bottom habitats. His centralized direction has made it possible to provide the Navy and its Fleet with a more efficient support program and to cooperate actively with other government agencies and civilian interests in the oceanographic field. By his personal skill and resourcefulness, his dedication and his effective leadership, he has enhanced the scientific and military posture of the Navy while making the most effective utilization of limited resources of men and money. By his dynamic leadership and skill in management, Rear Admiral Waters has reflected great credit upon himself, the Office of the Oceanographer of the Navy, and the Navy service.

Mr. President, the Navy first assured a coordinated and comprehensive oceanographic program by a major reorganization, similar to that contemplated for many nonmilitary marine activities in Reorganization Plan No. 4, now pending in Senate and House Committees on Government Operations.

In the Navy, in August 1966, a new Office of the Oceanographer of the Navy was established as an independent command and with the designation of high ranking Assistant Oceanographers. The Chief of Naval Research was assigned additional duty as Assistant Oceanographer for Ocean Science. The Deputy Chief of Naval Material was appointed Assistant Oceanographer for Ocean Engineering and Development. An Assistant Oceanographer for Operations was authorized but has not been named, and Admiral Waters has directed operations while that billet has been vacant. Since the initial reorganization, the commander, Naval Weather Service Command, has been appointed Assistant Oceanographer for Environmental Prediction, of particular importance to antisubmarine warfare and to the optimum ship routing program.

Admiral Waters has used his expanded authority to advance objectives of the Marine Resources and Engineering Development Act, including: Preservation of the United States as a leader in marine science. Effective utilization of the scientific and engineering resources of the Nation. Encouragement of private enterprise in exploration, technological development, marine environment. Development and improvement of the capabilities, performance, use and efficiency of vehicles, equipment, and instruments for use in exploration, research, surveys, and the transmission of energy in the marine environment.

To expedite the Navy's oceanographic program, Admiral Waters created four divisions: Science, Engineering, Operations, and Environmental aspects.

The Science Division includes acoustics, geophysical research chemical processes and factors influencing the propagation of sound in the marine environment such as ocean circulation, internal waves and marine organisms.

Ocean engineering is designed to provide the Navy with technical capability

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to operate at any time, place, and depth within the ocean that national defense may require, and includes a deep ocean technology program and deep submergency systems projects initiated by Admiral Waters.

The Operations Division conducts oceanographic surveys in support of the fleet on a worldwide basis and has an active role in amphibious operations, mining and mine countermeasures, and prediction of ice formation and movement in polar seas.

Last year Admiral Waters received the Navy League award for making the outstanding contribution in any field of science that has furthered the development and progress of the Navy and Marine Corps.

A year before that the Public Relations Society of America presented Admiral Waters with its highest award, the Silver Anvil, for his work in stimulating public awareness of the importance of oceanography and the education and training of future oceanographers.

One of Admiral Waters' major acts was to declassify 90 percent of the Navy's voluminous raw data, making it available to legitimate users. The fisheries and oil industries have been two of the beneficiaries. The admiral has visited all universities now granting degrees in oceanography, and has worked directly with Governors of States in strengthening State oceanographic programs.

Each year the Oceanographer of the Navy has held a 3-day symposium of military oceanography, where Navy or institutional scientists, engineers and technicians have reviewed accomplishments and reported on progress on the Navy's numerous projects.

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This year the symposium was held at Annapolis, Md., with the Naval Ship Research and Development Laboratory as host, and with the Naval Research Laboratory and Naval Ordnance Laboratory close by.

Last year the symposium was at Seattle, where the Applied Physics Laboratory of the University of Washington was host and where the Department of Oceanography of the university maintains a separate laboratory.

Mr. President, if I may digress a moment I would like to state activities of these two laboratories as officially summarized by the Navy and which give a concept of the type of marine science activity in progress there.

Applied Physics Laboratory—APL—research and development effort in the areas of underwater acoustics, transducers, and instrumentation required for guidance and control systems and for underwater ranges. Detailed measurements of internal waves and their effect on sound propagation.

Under the direction of Dr. Joseph E. Henderson, APL also developed in previous years an unmanned research vehicle, capable of operating at a depth of 12,000 feet, and at a 5-knot speed for 6 hours, recording data on magnetic tape, and its track subject to acoustic command from a boat or shore station many miles away.

Meanwhile the Department of Oceanography at the university separate from APL, conducts, the Navy advises, research on inshore, coastal and open sea areas with emphasis on physical and chemical oceanography and model studies; physical and biological oceanography of the Arctic Ocean; geomagnetism as it affects mine warfare, and studies of nutrient and trace element distributions.

One of the two oldest oceanographic institutions in the United States, founded 40 years ago, the Department and its laboratories have graduated some of the Nation's foremost oceanographers, among them scientists holding prominent posts in universities or Government agencies in many parts of the United States.

Admiral Waters held previous symposiums at the Navy Ship Research and Development Laboratory, with its emphasis on mine and antisubmarine warfare, Panama City, Fla., and at the Naval Research and Development Center, San Diego, with its mission:

> Naval analysis, research, development, test, evaluation, systems integration, and fleet engineering support in undersea warfare and ocean technology.

Mr. President, I would be remiss if I did not note two distinctive projects developed in Puget Sound during Admiral Waters' administration as Oceanographer of the Navy.

One is the new, large catamaran research and rescue vessel, the Navy's first, built in Seattle, recently launched, and now being outfitted. Admiral Waters attended the launching of this unique giant twin-hulled craft that will provide recovery and escort services for submarines, recover weapons, and carry trained divers to provide rescue and salvage when needed.

The other is the Navy's hydrofoil development program, also centered in Puget Sound. Three of the Navy's operating hydrofoils were constructed in Seattle and two continue to operate there as part of the development program. One, a 60-ton water jet-propelled gunboat, designed and built by Boeing, has been assigned to the Pacific fleet for evaluation. It and a second hydrofoil gunboat, the latter built in the East, have "demonstrated outstanding performance capabilities in excess of design requirements," the Navy has advised.

Major projects inaugurated by Admiral Waters while serving as Oceanographer of the Navy include the marine geophysical survey program, commenced in 1966 and still underway, the deep submergence systems project, and the deep ocean technology program, top priority for the latter being the development of reliable, long-edurance power sources for deep diving vehicles. Emphasis is being placed on fuel cells which will fill the gap between short endurance batteries and heavy nuclear reactors, but Admiral Waters concedes there is much development work still to be done.

One of the most satisfying accomplishments of the Navy while Admiral Waters has been its oceanographer, is two survey ships, the U.S.S. *Silas Bent*, operational since 1967, and the U.S.S. *Kane*, delivered in 1968. Both are fitted with a radically new shipboard survey system for automatic collection of oceanographic, hydrographic, and geophysical data. Each has 16 different winch systems and can anchor in 4,000 fathoms. On station they can lower an instrument package that measures temperature, sound velocity, salinity, ambient light and depth, and underway they can measure water depth, gravity, magnetism, seismic profiles, surface temperature and take precise navigational fixes.

Admiral Waters has stated:

> Russia has a larger number of research ships than the U.S. fleet, but our ships, at least our newest ones, are better equipped. U.S. oceanographic shore facilities, inadequate as they are, are much superior to Russia's.

Mr. President, some of the accomplishments which ably indicate naval capabilities in science and technology were the aftermath of accidents or catastrophes.

In October 1968, the submersible *Alvin*, built by the Navy for ocean science and operated by the Woods Hole Oceanographic Institution, sank well out in the Atlantic, when cables attaching her to her mother ship parted. A year later she was located in water almost a mile deep and brought to the surface in remarkably good condition.

The tragic loss of the U.S.S. *Scorpion* in May 1968, demonstrated even more spectacularly Navy deep ocean capabilities. The submarine disappeared while en route from the Mediterranean to Norfolk, Va., and presumably somewhere in the vicinity of the Azores.

In October of that year a naval research vessel using certain sophisticated instruments and electronic devices located debris of the stricken submarine at a depth of more than 11,000 feet 450 miles from the Azores. Photographs were taken by equipment capable of withstanding a pressure of 4 tons per square inch, and more than a year after the *Scorpion* went down there were additional fragmentary findings which are being analyzed by the Navy in an effort to determine the cause of the catastrophe.

The Navy's great oceanographic program is so organized that it will continue to expand under the new Oceanographer of the Navy. As the Navy concedes, its action in 1966 of providing the Oceanographer with centralized authority has strengthened the Navy's overall oceanographic program and substantially enhanced Navy's cooperation and coordination with the national program projected by the Marine Resources and Engineering Development Act.

Mr. President, appropriate committees of Congress are now considering Reorganization Plan No. 4, designed to establish a National Oceanic and Atmospheric Administration which would include some of our major nonmilitary programs of marine science, technology, and training in an integrated, comprehensive, and well-coordinated organization.

In other words, under Reorganization Plan No. 4, civilian oceanography would, in large measure, attain cohesion and leadership similar to that which has been advancing military oceanography since August 1966.

Military oceanography would remain in the Department of Defense, essentially in the Navy Department under the command of the Oceanographer of the Navy.

The National Oceanic and Atmospheric Administration would be in the Department of Commerce, which has the major scientific and technological administrative capability.

It would include the Environmental Science Services Administration which monitors atmospheric, oceanic, and geophysical phenomena on a worldwide basis, the Bureau of Commercial Fisheries and Marine Sport Fisheries, Office of Sea-Grant Programs, the Marine Minerals Technology Center, and the U.S. Lake Survey.

The National Oceanographic Data Center and National Oceanographic Instrumentation Center would be transferred to NOAA. Both were created to serve national purposes and serve many Government agencies and the public. The Navy has perhaps been the greatest user and was given what has been described as "housekeeping" duties, which will now be undertaken by NOAA. This will not interfere with the naval oceanographic program which, as stated before, already makes 90 percent of its oceanographic data available to whoever may have use for it.

Two other oceanographic activities will be transferred to NOAA, the U.S. Lake Survey and the national data buoy development project, the latter from the Department of Transportation.

Assuming that Reorganization Plan No. 4 goes into effect—it has my support and that of the ranking minority member of the Committee on Commerce and of the chairman of the Subcommittee on Oceanography—a major responsibility devolves upon the President to appoint a qualified administrator.

I am hopeful that it may be a civilian who has the long-range vision, the dedication, and the administrative capability of our retiring Oceanographer of the Navy.

Mr. President, if I may add one further word—the Navy's Oceanographic Advisory Committee, which includes retired admirals of great distinction, civilian oceanographers, and industrial leaders concerned with Navy efficiency and superiority, recommended at a recent meeting that the Oceanographer of the Navy be upgraded to vice admiral.

The committee declared this recommendation well justified "as a consequence of the vastly increased responsibilities of the Oceanographer in recent years and the importance of the Navy's oceanographic efforts in the national interest."

A bill to carry out this recommendation was introduced by Senator HENRY M. JACKSON, Senator ERNEST F. HOLLINGS, and myself, and referred to the Armed Services Committee. It has not been acted on by the committee.

Mr. President, we will continue to press for enactment of this legislation. If not enacted during the present session of Congress, it will be reintroduced in the 92d Congress.

The Oceanographer of the Navy, with his numerous and complex responsibilities on which, to a material extent, the security and perhaps survival of the Nation depends, merits one of the highest ranks in the Navy.

The United States has been fortunate in having had three able and distinguished rear admirals as Oceanographer of the Navy, each of whom advanced the Navy's capabilities to operate in the deep ocean.

The first was Rear Adm. E. C. Stephan, the second Rear Adm. Denys W. Knoll, and the third, who served longer than his predecessors, is Rear Adm. O. W. Waters, Jr. Each brought to the Oceanographic Office a distinguished background in science and technology and a high dedication to the Navy and its mission.

Time does not permit me to deal with the careers of each of these three officers, but I do want to say a few words about the rear admiral who is now retiring.

Admiral Waters entered the U.S. Naval Academy in 1928 after graduating from the Strayer Business College in Washington. As a midshipman, he was managing editor of the Academy year book, "Lucky Bag." He graduated with the class of 1932, ninth in his class.

Subsequently he served as gunnery and fire control officer aboard the flagship of the commander in chief, Asiatic Fleet then attended the Naval Postgraduate School at Annapolis, where he majored in Ordnance Engineering.

Early in World War II and before Pearl Harbor, he served in the American Embassy in London, both as a naval attaché and as technical observer in mine recovery operations. Back in the United States he established the U.S. Navy's first mine disposal school, where he was officer in charge until early in 1943. Later during the war he was assistant operations officer and war plans officer on the staff of the commander in chief, Atlantic Fleet, contributing to prosecution of the antisubmarine campaign.

In the final months of the war and for a year after, he commanded the U.S.S. *Laffey* in the Pacific and participated in "Operation Cross-Roads," the atomic bomb tests at Bikini. Later, as senior technical officer and mine development project officer at the Naval Ordnance Laboratory, the future admiral was engaged in the design of atomic weapons.

Other billets prior to becoming Oceanographer of the Navy in September 1965, included service on the staff of the Supreme Allied Commander, Atlantic; commander of Destroyer Squadron 2 in the Near East; commander of the Naval Weapons Station at Yorktown; commander of the Mine Force, Pacific Fleet; and commander of the Naval Base, Long Beach, Calif.

Admiral Behrens, Jr., who succeeds Admiral Waters, also has had a distinguished Naval career, which includes direction of naval amphibious operations in Southeast Asia, submarine service, nuclear power management and assignments in international affairs.

Mr. HOLLINGS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HOLLINGS. A Senator who favors the present plan, Reorganization Plan No. 4, would vote "nay"; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HOLLINGS. Let us vote.

The PRESIDING OFFICER (Mr. CRANSTON). The question is on agreeing to the resolution. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. EAGLETON (when his name was called). On this vote I have a pair with the Senator from Louisiana (Mr. ELLENDER). If he were present and voting, he would vote "nay." If I were permitted to vote I would vote "yea." I therefore withhold my vote.

Mr. BYRD of West Virginia (after having voted in the negative). On this vote I have a pair with the junior Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Missouri (Mr. SYMINGTON), the Senator from Georgia (Mr. TALMADGE), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. YARBOROUGH) and the Senator from Ohio (Mr. YOUNG) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Missouri (Mr. SYMINGTON) and the Senator from New Jersey (Mr. WILLIAMS) would each vote "nay."

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I also announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. GOODELL), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY), the Senator from Vermont (Mr. PROUTY), the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from New York (Mr. JAVITS) is necessarily absent to observe a religious holiday.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Tennessee (Mr. BAKER), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER) and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. JAVITS), and the Senator from South Dakota (Mr. MUNDT) would each vote "nay."

On this vote, the Senator from Illinois (Mr. SMITH) is paired with the Senator from California (Mr. MURPHY). If present and voting, the Senator from Illinois would vote "yea" and the Senator from California would vote "nay."

On this vote, the Senator from New York (Mr. GOODELL) is paired with the Senator from Colorado (Mr. DOMIMICK). If present and voting, the Senator from New York would vote "yea" and the Senator from Colorado would vote "nay."

The result was announced—yeas 5, nays 47, as follows:

[No. 348 Leg.]

YEAS—5

Case
Mansfield
Metcalf
Nelson
Proxmire

NAYS—47

Allen
Allott
Boggs
Brooke
Byrd, Va.
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Eastland
Ervin
Fannin
Fong
Griffin
Gurney
Hansen
Harris
Hart
Hatfield
Holland
Hollings
Hughes
Jordan, Idaho
Long
Magnuson
Mathias
McGovern
McIntyre
Miller
Packwood
Pearson
Percy
Ribicoff
Russell
Saxbe
Schweiker
Scott
Smith, Maine
Spong
Stennis
Stevens
Thurmond
Tower
Williams, Del.

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Mr. Eagleton, for.
Mr. Byrd of West Virginia, against.

NOT VOTING—46

Aiken
Anderson
Baker
Bayh
Bellmon
Bennett
Bible
Burdick
Cannon
Dodd
Dominick
Ellender
Fulbright
Goldwater
Goodell
Gore
Gravel
Hartke
Hruska
Inouye
Jackson
Javits
Jordan, N.C.
Kennedy
McCarthy
McClellan
McGee
Mondale
Montoya
Moss
Mundt
Murphy
Muskie
Pastore
Pell
Prouty
Randolph
Smith, Ill.
Sparkman
Symington
Talmadge
Tydings
Williams, N.J.
Yarborough
Young, N. Dak.
Young, Ohio

So the resolution was not agreed to.

NABISCO-ASTRA BREAKTHROUGH ON FISH PROTEIN

Mr. MAGNUSON. Mr. President, within the next few weeks, the first federally sponsored plant for processing fish protein will become operational. This plant is located in Aberdeen, Wash., in the great Pacific Northwest.

With population increasing at a geometric progression rate, while the world's food supply only increases arithmetically, we are faced with a problem that seems unsurmountable. This is but one of the reasons why we have such a keen interest in the development of fish protein. Another reason is the realization that protein deficiency can be just as pernicious in its effects as starvation.

The nutrition that is available from the sea is one of the most promising aspects known today for alleviation of protein deficiency through the processing of fish to produce fish protein. Any attempt to utilize these resources commands scrutiny. This is why my interest in the development of fish protein brought the recent development by National Biscuit Co., and Astra Nutrition to my attention.

Early in 1970, the National Biscuit Co. and Astra Nutrition of Sweden conceived a joint effort and formed the Nabisco-Astra Nutrition Development Corp.

These firms have pioneered a revolutionary breakthrough in processing herring by evisceration, deboning, solvent extraction, drying, and milling to produce a fine, tasteless and odorless, powder-like material that is 93 percent to 94 percent pure protein. The product, known as EFP 90, is available now in reasonable quantities.

Nabisco has taken on the task of developing new food products or in modifying other products to provide greater nutrition through the use of this essential substance, which is so high in the protein which is required for all life processes. This constitutes a truly comprehensive approach to this pervasive problem.

I ask unanimous consent to have printed in the RECORD an article from Food Engineering, August 1970, describing in detail the nature of the revolutionary new process, product characteristics, including a nutritive analysis along with worldwide feeding potential.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PURE FISH PROTEIN

(By Frank K. Lawler)

With the aid of technical and marketing innovations, a new approach to bridging the protein gap in world nutrition is being taken by Nabisco-Astra Nutrition Development Corp.

The innovations are many and important. They range from raw material procurement through processing and quality control, to marketing techniques. And production of EFP—fish protein concentrate from eviscerated fish rather than whole fish—is one of the important achievements. So also is the supply of fresh fish for a high-quality product. This is achieved by a factory ship and 11 trawlers that go where the fish are.

Equally important in the new approach is the teaming of Astra's protein processing achievements with the food product development, production and marketing knowhow of National Biscuit Co. Main marketing thrust of the team will be toward developing countries, where protein is in critical shortage. But it is recognized that there also is an important need for upgrading foods in developed countries by raising protein levels.

Nabisco is developing food products that lend themselves to protein enrichment and that are formulated to suit eating habits and buying power in developing countries.

Nabisco is well prepared for this assignment. It now manufactures and markets foods in 13 countries outside the United States, encompassing an area with more than 400 million people. So it knows how to formulate foods that appeal to widely diverse preferences.

Astra is no neophyte, either. Its group consists of six product divisions, pharmaceuticals being the biggest. It is concerned with corrosion inhibitors, household articles, leisure and sports items, plant protectants, feeds, medical electronics, nursing requisites and nutrition.

The nutrition division has been researching food since the mid-50's. It built a pilot plant to produce eviscerated-fish protein in 1961, and converted it to full-scale production five years later. Another land-based factory in Sweden began producing large quantities of the fish protein early this year. At the same time, a 25,000-ton ship was converted into a floating protein factory.

EFP TOP QUALITY PROTEIN

EFP meets new quality concepts. It will not offend anyone's food sensibilities. The product has 92–94% protein, with a solvent residue less than 100 ppm and as low as 50 ppm. It is produced on the factory ship virtually from live fish, with processing equipment that meets dairy sanitation standards.

With its superior quality, EFP is expected to command a price at least 20% higher than the price of protein from whole fish. Higher price is indicated by the fact that it takes 8½ lb. of fish to produce 1 lb. of EFP. Only 6½ lb. of fish is required for 1 lb. of FPC from whole fish. The latter is only 81–82% protein compared to more than 90% for EFP 90 (Astra's trade name).

"EFP undoubtedly will be the best protein buy in the market on the basis of protein yield." That is the opinion of a Nabisco-Astra executive. It is better, for example, to pay say 50c/lb. for a 94% protein than 30c/lb for a 40% protein.

EFP can stand on its own in nutrition values, as can be seen from the table comparing essential amino acid content of EFP with casein, egg and beef. If used alone as a protein enriching ingredient, EFP comes close to meeting all amino acid requirements. It even exceeds some of those requirements. The combination of EFP and soya flour gives even better than recommended amino acid levels.

Added to EFP's nutritional values are the very important attributes of being tasteless and odorless. It also is quite stable when stored in a cool dry place. And shelf-life of products containing it are determined by other ingredients rather than by the protein.

Nor is that all. Important functional values likely will be engineered into the protein. Such are being pursued in the research laboratories of both Nabisco and Astra. This research can make a major contribution to the

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performance of the ingredient by achieving properties such as wettability, solubility and whippability, as well as crumb structure, or texture. EFP is free of grittiness as produced, and it can be used as an ingredient even in soft candies.

CHALLENGING OPPORTUNITIES

EFP has excellent potential in developed nations as an ingredient in foods for which protein enrichment is desired. Among such foods may be snacks, meat analogs, products for institutional feeding as in school lunch programs, emergency military rations, and civilian survival rations.

To dream a little, "Fish in Chips" could be made by adding EFP to the formula for chip-type snacks made from dehydrated potatoes. More importantly, meat analogs can be made nutritionally equal, or better, than the meat itself by supplementing EFP with textured vegetable protein.

There is the opportunity, too, for vegetable protein suppliers to add fish protein to their products, and vice versa. They then can offer ingredient protein that equals or exceeds nutritional requirements for amino acid balance. In fact, such combinations are in the pilot-plant stage.

With potential sales of textured vegetable protein estimated in billions of dollars by 1980, the future for eviscerated fish protein and for combination vegetable-fish proteins truly is tremendous.

PROCESS IS SOPHISTICATED

Innovations in the EFP process were developed by Astra researchers. Then efficient, sanitary equipment to carry out the various steps of the process was built—mostly by Alfa Laval in Sweden, with other firms making important contributions. Alfa Laval is world-famous for its advanced dairy processing equipment.

Equipment is made of stainless steel to resist corrosion and prevent metal contamination of product. It is designed to avoid places where bacteria can build up. And it is arranged for efficient in-place cleaning.

The major process innovation, evisceration, is performed mechanically by equipment for which patent application has been made. Bone also is mechanically separated from the fish.

To avoid an explosion hazard, apparatus containing solvent, or its vapors, is ventilated over inert-gas condensers. And means of rinsing with nitrogen or blanketing with carbon dioxide are provided where sparks could ignite an explosive atmosphere.

OPERATIONS STEP BY STEP

Steps in the preparation of the fish and the extraction of fat are illustrated in the flow diagrams. Eviscerated fish are cut into segments, washed to remove viscera and blood, pulped in water, and boiled. Then the material goes through a deboner a desludging centrifuge, a hot-water treatment and a second centrifuge.

Now it enters a continuous extractor where neutral fat and phospholipids are dissolved out. The fat solvent flows countercurrent to the fish pulp through the extractor, and it is centrifuged on discharge to clarify it for return to the recovery plant. Protein material from the extractor goes into a tank where solvent is added, then it is centrifuged to separate the solvent for reuse in the extraction process. Now the fish pulp passes through a steam-heated agitating desolventizer where any remaining solvent and odorous substances are removed. Drying in a steam-heated unit, milling, and bagging of finished protein complete the operation.

Fat solvent used in the process is isopropyl alcohol. The extracting agent is removed from the fats by boiling off in an evaporator, then is deodorized and concentrated.

Patents covering process arrangement, method, and apparatus have been applied for in most industrialized countries and fishing nations.

Astra considers some of the earlier fish protein concentrating techniques to be superficial and incomplete. Successful production of FPC involves many intermingled biotechnical and biochemical problems. These had to be solved by well coordinated research and development, technical studies, knowledge of advanced techniques in chemical processing equipment and construction, and experience in sea fishing on a large scale.

Successful processing requires continous operations carried out at the lowest possible temperatures for best quality. Continuous checks must be made on the purity and concentration of new and distilled solvent. And continuing analysis for bacteria, on both material being processed and finished product, is required.

Still other factors in successful processing are minimizing loss of solvent, automatic process control, centralized supervision, and high standards of sanitation.

In its land-based operations in Sweden, Astra has produced the high-quality protein from herring, which are in good supply in Scandinavian waters. And having used fat fish, the extraction process has demonstrated good capability and versatility.

FDA has recognized only hake as raw material for producing fish protein for human consumption. Canada, however, approves herring and similar fat fish such as pilchards, sardines and anchovies.

DEVELOPS PRODUCTS MARKETS

National Biscuit Co. had for some time been seeking a way to help relieve the world protein shortage. It found the answer in Astra and its high quality protein from eviscerated fish. So Nabisco-Astra Nutrition Development Corp. was set up on a 50-50 ownership basis. Astra is producing the protein, and Nabisco is developing products enriched with it and market testing those products.

The big challenge to Nabisco is to develop protein-enriched foods that are compatible with the eating habits, tastes and pocketbooks of potential markets in developing nations. Furthermore, these products are preferably made primarily from raw materials indigenous to the area involved.

To date Nabisco's R&D lab has come up with 34 potential protein-enriched foods for developing countries. These incorporate EFP at an average level of 20%. Now the company is appraising the food habits in potential markets so as to refine the products to suit ethnic tastes. Quite a variety of foods have been developed, ranging from pasta to meat analogs, and including sandwich spread, cookies and crackers.

In marketing such foods, Nabisco will approach a market as a whole. It will not zero-in on any one group of people. The last thing it wants to do is create the image of a "poor man's food" for any product. That would very seriously impair acceptance among those who need it most.

None of the EFP-enriched items is on the market yet. But Nabisco hopes to have a few representative products going by the end of this year. Some research projects are nearing a conclusion.

There is real urgency behind this project. Protein is seriously short now. And the equivalent of another world in terms of population will develop in the 35 years between 1965 and 2000, with population doubling from 3½ billion to 7 billion.

DEVELOPING MARKETS

Highly experienced in international operation. Nabisco is approaching potential markets cautiously. It is exploring possibilities through classical market research techniques. Actual product samples are handed out to determine consumer reactions and preferences as precisely as possible. The researchers will find out which type of product will be bought by the greatest number of people with the greatest frequency. Local market research organizations and local people are utilized when feasible.

In its moves to introduce popular, low cost, protein-rich foods in the nations that need them most, Nabisco will work with any organization that can help. It is utilizing the cooperation of UNICEF, FAO, the U.S. State Department (including AID), and businessmen in developing countries.

ASTRA RESEARCHES USES

Research by Astra has shown cereals and bread to be suitable for EFP enrichment. Addition of 5% fish protein to flour brought bread protein content from 11 to 15%. A strong enrichment effect is attained even in the presence of reducing sugar. Enrichment of hard bread has given a nutritional value equivalent with casein.

A critical test is the use of the protein in faffa, an Ethiopian baby food. Faffa with powdered milk or fish protein as the sole source of animal protein is being tested in a study of child growth. Tests also are under way with gruel containing fish protein, and with enriched foods integrated into a complete diet.

Top executive of Nabisco-Astra Development Corp. is Per E. Hoel, who also is head of Astra Nutrition U.S.A., Inc. (marketing firm for EFP 90) and who serves as vice-president of Astra Pharmaceutical Products, Inc., Boston. Executive Vice-President of Nabisco-Astra is Harry J. Watson, National Biscuit Co., New York City. (End)

HOW EFP COMPARES NUTRITIONALLY

[Essential amino acid content expressed in grams per 16g nitrogen]

Amino acid	Animal ingredients					Vegetable ingredients			
	FAO Std.	Astra EFP 90	Casein	Egg	Beef	Wheat	Soya	Corn	Cottonseed
Lysine	4.2	9.8	8.1	7.2	8.4	2.3	6.3	2.8	4.4
Leucine	4.8	8.5	10.1	8.8	8.4	7.2	7.7	13.0	5.9
Isoleucine	4.2	5.1	6.6	5.7	5.1	3.2	5.3	4.6	3.8
Methionine	2.2	3.6	3.1	3.8	2.3	1.4	1.3	1.8	1.4
Phenylalanine	2.8	4.6	5.4	5.7	4.0	4.8	4.8	4.4	5.2
Threonine	2.8	5.1	4.3	5.3	4.0	2.9	3.8	4.0	3.6
Tryptophane	1.4	1.6	1.3	1.3	1.1	1.1	1.3	0.6	1.2
Valine	4.2	6.2	7.4	8.8	5.7	3.9	5.2	5.2	4.9

TOTAL ANALYSIS OF EFP (RAW MATERIAL USED FOR PROTEIN CONCENTRATE IS EVISCERATED HERRING)

	Percent
Crude protein	92.6
True protein	92.2
Undigestible true protein	1.3
Digestible true protein	90.9
Amides	.4
Water-soluble crude protein	3.9
Ammonium nitrogen, N	.04
Available lysine of crude protein	10.3
Lysine of crude protein	10.3
Fat according to the chloroform methanol method (2:1 v/v)	.072
Water	4.73
Ash	6.4
Calcium, Ca	1.84
Phosphorus, P	1.20
Chloride, NaCl	.67
Traces of solvent	.002
Iron, Fe	.008

AMINO ACID ANALYSIS OF EFP

	g/100g substance	g/16gN	g/16gN essential amino acids
Aspartic acid	9.84	10.76	
Threonine	4.45	4.95	4.95
Serine	4.19	4.92	
Glutamin acid	14.60	15.95	
Proline	3.66	4.02	
Glycine	4.08	4.47	
Alanine	5.97	6.52	
Valine	5.95	6.63	6.63
Methionine	3.55	3.85	3.85
Isoleucine	4.68	5.28	5.28
Leucine	8.27	9.03	9.03
Tyrosine	3.66	4.06	
Phenylalanine	3.84	4.23	4.23
Lysine	9.38	10.28	10.28
Histidine	2.60	2.83	
NH^{3}	1.43	1.41	
Arginine	6.39	6.98	
Cystine [1]	1.16	1.25	
Tryptophane [2]	1.65	1.78	1.78
Total	99.35	109.20	46.03

[1] Stanford Moore, J. Biol. Chem. 238 (1963) p. 235.

[2] Spies & Chambers' method, Analytical Chem. 1984. vol. 20, p. 30; and 1949, vol. 21, p. 1249.

Note: Essential amino acids per total amino acids equal 42.2 percent.

AUTHORIZATION FOR AN ADDITIONAL PRINTING OF COMMITTEE REPORT NO. 91-1231 TO CORRECT ERRORS

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from California (Mr. CRANSTON), I make the following statement:

On September 23, the Committee on Labor and Public Welfare filed a report on S. 3657 authorizing the veterans educational assistance allowance payments for eligible veterans to begin the new school year to assist such veterans in meeting educational and living expenses during the first 2 months of school, and to establish a veterans' work-study program through cancellation of such advance repayment obligations under certain circumstances.

Since the report was printed, a number of errors have been found by the committee in the report. Therefore, at the request of the Senator from California (Mr. CRANSTON), I ask unanimous consent that an additional printing be authorized of Senate Report No. 91-1231, correcting the errors.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 4423—INTRODUCTION OF A BILL RELATING TO BOMBINGS

Mr. FANNIN. Mr. President, after a spring and summer of shocking violence and senseless bombings, there seems to be a welcome respite.

That, at least, is what one must gather from the newspapers, radio, and television.

Hopefully, the lull comes because those who have encouraged or condoned violence are having second thoughts in the wake of the University of Wisconsin tragedy.

Perhaps that explosion did more than murder 33-year-old Robert Fassnacht, cause $6 million damage and destroy irreplaceable research material. Perhaps that explosion has shaken the conscience of enough people to put a damper on such cowardly acts.

I would hope so.

It would be wrong, however, to rely on wishful thinking to curb the activities of bomb-prone extremists. We must have positive action.

The Justice Department says that 333 bombing incidents were reported to the FBI from January 1 through September 11 of this year. Of these, 25 were on college campuses and 11 were near campuses or in college towns.

FBI Director J. Edgar Hoover has reported that during the last school year there were 14 bombings and 246 incidents of arson or attempted arson on campuses.

These statistics—bad as they are—are only a small part of the over-all bombing picture. Not all bombings and threats are reported to the FBI.

Eugene T. Rossides, Assistant Secretary of the Treasury, probably gave a more complete picture when he appeared before the permanent Subcommittee on Investigations of the Committee on Government Operations.

He said that in a 15-month period ending last April there were 4,330 bombings in the Nation. There were an additional 1,475 attempted bombings and a reported 35,129 threatened bombings.

Mr. Rossides said the figures graphically reveal that terrorist acts of violence and anarchy by bombing have reached menacing proportions in our country.

And this testimony came even before Robert Fassnacht died at Wisconsin and before Policeman Larry Minard died as the result of an explosion in Omaha.

President Nixon has called on Congress to enact new antibombing measures to help put an end to these horrible acts. Some of these measures have now passed the House, but are not yet law.

Mr. President, I introduce and send to the desk a bill to make it a Federal crime to bomb businesses engaged in interstate commerce or buildings where federally assisted programs are carried out. I ask that it be appropriately referred.

The PRESIDING OFFICER (Mr. HOLLINGS). The bill will be received and appropriately referred.

The bill (S. 4423) to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes, introduced by Mr. FANNIN, was received, read twice by its title, and referred to the Committee on the Judiciary.

Mr. FANNIN. Mr. President, my bill would make it a Federal crime to bomb the property of any business involved in interstate commerce. It defines the businesses covered as those hiring five or more employees—the standard gage for determining what business is in interstate commerce.

The bill makes it a crime to bomb any property used in connection with any federally assisted program.

Violation of this act would carry a minimum mandatory prison term of 5 years or fine of not less than $5,000. Maximum penalty would be 10 years in prison or $10,000 fine, or both.

I feel that a crime as vicious as bombing should carry tough mandatory sentences.

In addition, this bill provides for more stringent penalties for bombings which result in injury or death in buildings where federally assisted programs are in operation. In such cases, capital punishment or imprisonment for any term of years could be imposed.

Other provisions of this bill are similar or identical with proposals made by President Nixon last March 25.

Anyone transporting explosives with knowledge or intent that they will be used to kill, injure, or intimidate persons or blow up buildings illegally would be subject to up to 10 years in prison and $10,000 fine. If involved in a bombing which caused personal injury, the sentence could run up to 20 years and $20,000 fine. For a bombing in which someone is killed, the maximum penalty is death or life imprisonment.

Unauthorized possession of explosives in federally owned or leased buildings would be punishable by up to a year in prison and a fine of up to $1,000.

Persons making bomb threats could be sentenced to up to 5 years in prison, compared with the current 1-year maximum.

This bill would provide new authority for Federal officers to move against those who are plotting violent overthrow of our Government.

But local and State authorities are not deprived of jurisdiction. This bill does not relieve local responsibility to investigate bombings and find the bombers.

Hopefully, it will give new impetus to State and local authorities. It should encourage close cooperation between all levels of law enforcement.

Terrorism has no place in America.

Mr. President, our Nation is dedicated to the rule of law. When any group tries to subvert freedom through terrorism, we must strengthen the law to meet that challenge.

The bill I am introducing will help to accomplish that objective.

Mr. President, I yield the floor.

STATUS OF UNFINISHED BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of morning business on tomorrow, the unfinished business, Senate Joint Resolution 1, be laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when Senate Joint Resolution 1, the unfinished business, is temporarily laid aside tomorrow, it remain in that status until the conclusion of morning business on Monday next, October 5, 1970.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL-AID HIGHWAY ACT OF 1970

Mr. BYRD of West Virginia. Mr. President, for the purpose of making it the pending business, with the understanding that there will be no action thereon tonight, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1272, S. 4418.

The PRESIDING OFFICER (Mr. HOLLINGS). The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 4418), to authorize appropriations for the fiscal years 1972 and 1973 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PERCY. Mr. President, the Federal-Aid Highway Act of 1970 is the pending business, and will be before the Senate tomorrow. Members will be interested in the highway apportionments authorized by the bill, S. 4418, for each State for the fiscal years 1972 and 1973.

I ask unanimous consent, on behalf of Senator COOPER, ranking minority member of the Committee on Public Works, that there be printed in the RECORD tables showing the apportionments authorized by the bill for fiscal years 1972 and 1973, together with the apportionments for fiscal year 1971, as made under existing law by the 1968 Highway Act.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION

APPROXIMATE APPORTIONMENT OF FEDERAL-AID INTERSTATE, ABC, AND URBAN HIGHWAY FUNDS FOR FISCAL YEAR 1972, PURSUANT TO S. 4418

[Thousands of dollars]

State	Interstate ($4,000,000)	ABC ($1,050,000)	Urban ($375,000)	Total ($5,425,000)
Alabama	77,773	20,718	4,895	103,386
Alaska		50,540		50,540
Arizona	77,498	13,812	3,660	94,970
Arkansas	20,384	15,791	1,227	37,402
California	312,581	50,560	43,380	406,521
Colorado	68,482	17,293	3,679	89,454
Connecticut	108,702	8,508	5,553	122,763
Delaware	19,600	4,978	537	25,115
Florida	106,232	21,446	7,569	135,337
Georgia	77,851	24,820	5,332	108,003
Hawaii	53,038	4,928	1,654	59,620
Idaho	19,600	11,277		30,877
Illinois	209,602	38,249	25,743	273,594
Indiana	58,761	23,274	7,865	89,900
Iowa	51,234	23,310	3,723	78,267
Kansas	43,747	22,783	2,786	69,316
Kentucky	58,526	18,375	2,885	79,786
Louisiana	125,832	16,509	5,954	148,295
Maine	20,384	7,840	408	28,632
Maryland	102,743	10,389	6,733	119,865
Massachusetts	109,564	13,502	13,351	136,417
Michigan	156,094	32,158	17,497	205,749
Minnesota	75,107	26,612	5,354	107,073
Mississippi	35,006	17,573	812	53,391
Missouri	84,594	27,885	8,504	120,983
Montana	47,902	17,822	606	66,330
Nebraska	19,600	17,688	2,414	39,702
Nevada	19,600	10,687	650	30,937
New Hampshire	19,600	5,072	496	25,168
New Jersey	108,662	16,706	10,499	135,867
New Mexico	37,593	15,268	1,128	53,989
New York	226,263	43,378	56,738	326,379
North Carolina	71,893	26,692	4,083	102,668
North Dakota	19,600	13,102		32,702
Ohio	113,876	36,142	20,573	170,591
Oklahoma	30,380	20,589	3,638	54,607
Oregon	92,434	16,048	2,378	110,860
Pennsylvania	181,574	39,996	22,223	243,793
Rhode Island	43,512	5,213	2,381	51,106
South Carolina	29,949	14,690	1,290	45,929
South Dakota	19,874	13,793	368	34,035
Tennessee	49,784	21,813	5,112	76,709
Texas	166,169	60,323	24,567	251,059
Utah	57,467	10,526	1,459	69,452
Vermont	21,991	4,878		26,869
Virginia	107,330	20,876	7,019	135,225
Washington	110,191	16,813	4,980	131,984
West Virginia	126,969	11,270	1,253	139,492
Wisconsin	38,102	24,390	6,813	69,305
Wyoming	29,988	10,989		40,977
District of Columbia	56,762	4,631	4,289	65,682
Puerto Rico		6,475	3,352	9,827

APPROXIMATE APPORTIONMENT OF FEDERAL-AID A-B-C FUNDS FOR FISCAL YEAR 1972, PURSUANT TO S. 4418

[In thousands of dollars]

State	55 percent primary ($577,500)	35 percent secondary ($367,500)	10 percent urban ($105,000)	Total ($1,050,000)
Alabama	11,159	8,114	1,445	20,718
Alaska	30,714	19,675	151	50,540
Arizona	8,231	5,093	488	13,812
Arkansas	8,520	6,431	840	15,791
California	28,059	12,201	10,300	50,560
Colorado	9,993	6,196	1,104	17,293
Connecticut	4,420	2,335	1,753	8,508
Delaware	2,830	1,801	347	4,978
Florida	11,018	6,537	3,891	21,446
Georgia	13,262	9,625	1,933	24,820
Hawaii	2,830	1,801	297	4,928
Idaho	6,406	4,384	487	11,277
Illinois	21,124	11,018	6,107	38,249
Indiana	12,261	8,499	2,514	23,274
Iowa	12,922	9,182	1,206	23,310
Kansas	12,880	8,583	1,320	22,783
Kentucky	9,436	7,614	1,325	18,375
Louisiana	8,852	6,060	1,597	16,509
Maine	4,170	3,027	643	7,840
Maryland	5,322	3,174	1,893	10,389
Massachusetts	7,090	2,967	3,445	13,502
Michigan	17,274	10,341	4,543	32,158
Minnesota	14,739	9,903	1,970	26,612
Mississippi	9,182	7,313	1,078	17,573
Missouri	15,508	10,128	2,249	27,885
Montana	10,529	6,971	322	17,822
Nebraska	10,220	6,954	514	17,688
Nevada	6,459	4,100	128	10,687
New Hampshire	2,830	1,801	441	5,072
New Jersey	7,836	2,519	6,351	16,706
New Mexico	8,842	5,694	732	15,268
New York	25,466	10,515	7,397	43,378
North Carolina	13,536	11,512	1,644	26,692
North Dakota	7,481	5,217	404	13,102
Ohio	18,870	11,197	6,075	36,142
Oklahoma	11,584	7,691	1,314	20,589
Oregon	8,957	5,969	1,122	16,048
Pennsylvania	20,377	12,458	7,161	39,996
Rhode Island	2,830	1,801	582	5,213
South Carolina	7,360	6,116	1,214	14,690
South Dakota	7,985	5,514	294	13,793
Tennessee	11,583	8,673	1,557	21,813
Texas	34,806	21,001	4,516	60,323
Utah	6,064	3,753	709	10,526
Vermont	2,830	1,801	247	4,878
Virginia	11,049	8,201	1,626	20,876
Washington	9,147	5,900	1,766	16,813
West Virginia	5,650	4,831	789	11,270
Wisconsin	13,299	8,993	2,158	24,390
Wyoming	6,498	4,219	272	10,989
District of Columbia	2,830	1,810		4,631
Puerto Rico	2,830	3,006	639	6,475

APPROXIMATE APPORTIONMENT OF FEDERAL-AID INTERSTATE, ABC AND URBAN HIGHWAY FUNDS FOR FISCAL YEAR 1973, PURSUANT TO S. 4418

[Thousands of dollars]

State	Interstate ($4,000,000)	ABC ($1,050,000)	Urban ($450,000)	Total ($5,500,000)
Alabama	77,773	20,718	5,874	104,365
Alaska		50,540		50,540
Arizona	77,498	13,812	4,392	95,702
Arkansas	20,384	15,791	1,473	37,648
California	312,581	50,560	52,056	415,197
Colorado	68,482	17,293	4,414	90,189
Connecticut	108,702	8,508	6,664	123,874
Delaware	19,600	4,978	644	25,222
Florida	106,232	21,446	9,190	136,868
Georgia	77,851	24,820	6,399	109,070
Hawaii	53,038	4,928	1,984	59,950
Idaho	19,600	11,277		30,877
Illinois	209,602	38,249	30,892	278,743
Indiana	58,761	23,274	9,437	91,472
Iowa	51,234	23,310	4,467	79,011
Kansas	43,747	22,783	3,343	69,873
Kentucky	58,526	18,375	3,462	80,363
Louisiana	125,832	16,509	7,144	149,485
Maine	20,384	7,840	490	28,714
Maryland	102,743	10,389	8,079	121,211
Massachusetts	109,564	13,502	16,022	139,088
Michigan	156,094	32,158	20,996	209,248
Minnesota	75,107	26,612	6,425	108,144
Mississipp	35,006	17,573	975	53,554
Missouri	84,594	27,885	10,205	122,684
Montana	47,902	17,822	728	66,452
Nebraska	19,600	17,688	2,897	40,185
Nevada	19,600	10,687	781	31,068
New Hampshire	19,600	5,072	595	25,267
New Jersey	108,662	16,706	12,599	137,967
New Mexico	37,593	15,268	1,354	54,215
New York	226,263	43,378	68,086	337,727
North Carolina	71,893	26,692	5,900	103,485
North Dakota	19,600	13,102		32,702
Ohio	113,876	36,142	24,687	174,705
Oklahoma	30,380	20,589	4,366	55,335
Oregon	92,434	16,048	2,853	111,335
Pennsylvania	181,574	39,996	26,667	248,237
Rhode Island	43,512	5,213	2,858	51,583
South Carolina	29,949	14,690	1,548	46,187
South Dakota	19,847	13,793	441	34,108
Tennessee	49,784	21,813	6,134	77,731
Texas	166,169	60,323	29,481	255,973
Utah	57,467	10,526	1,751	69,744
Vermont	21,991	4,878		26,869
Virginia	107,330	20,867	8,423	136,629
Washington	110,191	16,831	5,976	132,980
West Virginia	126,969	11,270	1,504	139,743
Wisconsin	38,102	24,390	8,176	70,668
Wyoming	29,988	10,989		40,977
District of Columbia	56,762	4,631	5,146	66,539
Puerto Rico		6,475	4,022	10,497

APPROXIMATE APPORTIONMENT OF FEDERAL-AID ABC FUNDS FOR FISCAL YEAR 1973 PURSUANT TO S. 4418

[In thousands of dollars]

State	55 percent primary ($577,500)	35 percent secondary ($367,500)	10 percent urban ($105,000)	Total ($1,050,000)
Alabama	11,159	8,114	1,445	20,718
Alaska	30,714	19,675	151	50,540
Arizona	8,231	5,093	488	13,812
Arkansas	8,520	6,431	840	15,791
California	28,059	12,201	10,300	50,560
Colorado	9,993	6,196	1,104	17,293
Connecticut	4,420	2,335	1,753	8,508
Delaware	2,830	1,801	347	4,978
Florida	11,018	6,537	3,891	21,446
Georgia	13,262	9,625	1,933	24,820
Hawaii	2,830	1,801	297	4,928
Idaho	6,406	4,384	487	11,277
Illinois	21,124	11,018	6,107	38,249
Indiana	12,261	8,499	2,514	23,274
Iowa	12,922	9,182	1,206	23,310
Kansas	12,880	8,583	1,320	22,783
Kentucky	9,436	7,614	1,325	18,375
Louisiana	8,852	6,060	1,597	16,509
Maine	4,170	3,027	643	7,840
Maryland	5,322	3,174	1,893	10,389
Massachusetts	7,090	2,967	3,445	13,502
Michigan	17,274	10,341	4,543	32,158
Minnesota	14,739	9,903	1,970	26,612
Mississippi	9,182	7,313	1,078	17,573
Missouri	15,508	10,128	2,249	27,885
Montana	10,529	6,971	322	17,822
Nebraska	10,220	6,954	514	17,688
Nevada	6,459	4,100	128	10,687
New Hampshire	2,830	1,801	441	5,072
New Jersey	7,836	2,519	6,351	16,706
New Mexico	8,842	5,694	732	15,268
New York	25,466	10,515	7,397	43,378
North Carolina	13,536	11,512	1,644	26,692
North Dakota	7,481	5,217	404	13,102
Ohio	18,870	11,197	6,075	36,142
Oklahoma	11,584	7,691	1,314	20,589
Oregon	8,957	5,969	1,122	16,048
Pennsylvania	20,377	12,458	7,161	39,996
Rhode Island	2,830	1,801	582	5,213
South Carolina	7,360	6,116	1,214	14,690
South Dakota	7,985	5,514	294	13,793
Tennessee	11,583	8,673	1,557	21,813
Texas	34,806	21,001	4,516	60,323
Utah	6,064	3,753	709	10,526
Vermont	2,830	1,801	247	4,878
Virginia	11,049	8,201	1,626	20,876
Washington	9,147	5,900	1,766	16,813
West Virginia	5,650	4,831	789	11,270
Wisconsin	13,299	8,933	2,158	24,390
Wyoming	6,498	4,219	272	10,989
District of Columbia	2,830	1,801		4,631
Puerto Rico	2,830	3,006	639	6,475

FEDERAL-AID HIGHWAY FUNDS APPORTIONED FOR THE FISCAL YEAR 1971

[In thousands of dollars]

State	Interstate ($4,000,000)	ABC ($1,100,000)	TOPICS ($200,000)	Rural ($125,000)	Total ($5,425,000)
Alabama	74,558	20,529	2,675	2,566	100,328
Alaska		44,173	131	6,695	50,999
Arizona	59,271	13,674	1,488	1,770	76,203
Arkansas	24,265	14,568	1,084	1,991	41,908
California	353,819	64,623	21,539	5,335	445,316
Connecticut	70,678	10,194	3,134	897	84,903
Colorado	54,723	16,915	2,026	2,151	75,815
Delaware	9,604	4,671	457	613	15,345
Florida	67,228	23,007	5,595	2,333	98,163
Georgia	77,655	24,443	3,224	3,047	108,369
Hawaii	51,627	5,058	739	613	58,037
Idaho	28,185	10,006	421	1,435	40,047
Illinois	216,031	45,569	12,777	4,266	278,643
Indiana	76,322	24,281	4,465	2,763	107,831
Iowa	39,984	22,245	2,127	2,942	67,298
Kansas	31,909	21,432	1,952	2,854	58,147
Kentucky	66,836	17,657	1,986	2,273	88,752
Louisiana	94,707	17,312	3,115	1,985	117,119
Maine	26,695	7,221	675	958	35,549
Maryland	78,674	12,359	3,598	1,129	95,760
Massachusetts	98,666	18,183	6,866	1,333	125,048
Michigan	160,642	36,499	9,024	3,670	209,835
Minnesota	86,201	26,012	3,262	3,278	118,753
Mississippi	40,611	16,044	1,169	2,198	60,022
Missouri	75,930	28,467	4,422	3,409	112,228
Montana	74,323	15,912	456	2,326	93,017
Nebraska	16,386	16,582	1,147	2,284	36,399
Nevada	24,265	9,631	300	1,403	35,599
New Hampshire	21,913	4,766	526	613	27,818
New Jersey	109,995	20,735	8,550	1,369	140,649
New Mexico	40,690	14,014	962	1,932	57,598
New York	188,003	62,782	22,918	4,767	278,470
North Carolina	51,078	25,529	2,610	3,342	82,559
North Dakota	23,559	11,577	350	1,689	37,175
Ohio	167,815	41,690	11,245	3,997	224,747
Oklahoma	29,596	19,853	2,195	2,563	54,207
Oregon	84,162	15,323	1,662	1,985	103,132
Pennsylvania	198,274	46,067	12,664	4,366	261,371
Rhode Island	20,306	5,688	1,196	613	27,803
South Carolina	42,493	13,760	1,425	1,797	59,475
South Dakota	22,736	12,294	362	1,796	37,188
Tennessee	95,413	21,614	2,834	2,698	122,559
Texas	192,746	63,898	11,059	7,415	275,118
Utah	55,743	9,995	1,038	1,304	68,080
Vermont	27,479	4,336	213	613	32,641
Virginia	92,590	21,578	3,450	2,564	120,182
Washington	113,366	17,231	2,977	2,001	135,575
West Virginia	132,966	10,621	1,047	1,398	146,032
Wisconsin	34,261	24,714	3,850	2,958	65,783
Wyoming	23,089	9,681	235	1,424	34,429
District of Columbia	71,932	5,760	1,249		78,941
Puerto Rico		7,227	1,529	779	9,535

APPORTIONMENT OF FEDERAL-AID HIGHWAY FUNDS AUTHORIZED FOR THE FISCAL YEAR 1971

State	Primary highway system	Secondary or feeder roads	Urban highways	Subtotal	Interstate system	Total
Alabama	$9,565,055	$7,286,194	$3,678,182	$20,529,431	$74,558,400	$95,087,831
Alaska	26,325,916	17,667,140	179,635	44,172,691	----------	44,172,691
Arizona	7,055,252	4,573,269	2,045,342	13,673,863	59,270,400	72,944,263
Arkansas	7,302,957	5,774,356	1,490,829	14,568,142	24,264,800	38,832,942
California	24,050,373	10,956,278	29,616,744	64,623,395	353,819,200	418,442,595
Colorado	8,565,670	5,563,629	2,785,582	16,914,881	54,723,200	71,638,081
Connecticut	3,788,737	2,096,639	4,308,657	10,194,033	70,677,600	80,871,633
Delaware	2,425,500	1,617,000	628,107	4,670,607	9,604,000	14,274,607
Florida	9,443,679	5,870,183	7,693,306	23,007,168	67,228,000	90,235,168
Georgia	11,367,192	8,642,525	4,433,497	24,443,214	77,655,200	102,098,414
Hawaii	2,425,500	1,617,000	1,015,527	5,058,027	51,626,400	56,684,427
Idaho	5,490,839	3,936,991	578,330	10,006,160	28,184,800	38,190,960
Illinois	18,106,508	9,893,857	17,568,790	45,569,155	216,031,200	261,600,355
Indiana	10,509,502	7,632,064	6,139,235	24,280,801	76,322,400	100,603,201
Iowa	11,075,707	8,244,692	2,924,797	22,245,196	39,984,000	62,229,196
Kansas	11,040,396	7,707,350	2,684,676	21,432,422	31,908,800	53,341,222
Kentucky	8,088,184	6,837,328	2,731,412	17,656,924	66,836,000	84,492,924
Louisiana	7,587,141	5,442,049	4,282,544	17,311,734	94,707,200	112,018,934
Maine	3,574,380	2,718,180	928,470	7,221,030	26,695,200	33,916,230
Maryland	4,561,422	2,849,929	4,947,319	12,358,670	78,674,400	91,033,070
Massachusetts	6,077,357	2,664,530	9,441,234	18,183,121	98,666,400	116,849,521
Michigan	14,805,999	9,285,616	12,407,820	36,499,435	160,641,600	197,141,035
Minnesota	12,633,818	8,892,670	4,485,468	26,011,956	86,200,800	112,212,756
Mississippi	7,870,293	6,566,962	1,606,836	16,044,091	40,611,200	56,655,291
Missouri	13,292,747	9,094,106	6,079,937	28,466,790	75,930,400	104,397,190
Montana	9,025,281	6,259,811	626,345	15,911,437	74,323,200	90,234,637
Nebraska	8,759,685	6,244,521	1,577,767	16,581,973	16,385,600	32,967,573
Nevada	5,536,248	3,682,076	412,773	9,631,097	24,264,800	33,895,897
New Hampshire	2,425,500	1,617,000	723,732	4,766,232	21,912,800	26,679,032
New Jersey	6,716,829	2,261,551	11,756,224	20,734,604	109,995,200	130,729,804
New Mexico	7,578,494	5,112,920	1,322,696	14,014,110	40,689,600	54,703,710
New York	21,828,231	9,441,638	31,512,190	62,782,059	188,003,200	250,785,259
North Carolina	11,602,769	10,337,723	3,588,805	25,529,297	51,077,600	76,606,897
North Dakota	6,412,046	4,684,715	480,653	11,577,414	23,559,200	35,135,614
Ohio	16,174,554	10,054,045	15,461,387	41,689,986	167,815,200	209,505,186
Oklahoma	9,928,791	6,905,972	3,018,054	19,852,817	29,596,000	49,448,817
Oregon	7,677,226	5,360,004	2,285,932	15,323,162	84,162,400	99,485,562
Pennsylvania	17,466,472	11,186,862	17,413,525	46,066,859	198,273,600	244,340,459
Rhode Island	2,425,500	1,617,000	1,645,051	5,687,551	20,305,600	25,993,151
South Carolina	6,308,724	5,491,862	1,959,488	13,760,074	42,492,800	56,252,874
South Dakota	6,844,730	4,951,706	497,435	12,293,871	22,736,000	35,029,871
Tennessee	9,928,633	7,787,791	3,897,406	21,613,830	95,412,800	117,026,630
Texas	29,833,764	18,858,317	15,205,462	63,897,543	192,746,400	256,643,943
Utah	5,198,198	3,369,807	1,42 ,203	9,995,208	55,742,400	65,737,608
Vermont	2,425,500	1,617,000	293,068	4,335,568	27,479,200	31,814,768
Virginia	9,470,383	7,363,935	4,743,500	21,577,818	92,590,400	114,168,218
Washington	7,839,994	5,298,008	4,092,869	17,230,871	113,366,400	130,597,271
West Virginia	4,842,593	4,338,206	1,439,970	10,620,769	132,966,400	143,587,169
Wisconsin	11,399,169	8,021,511	5,293,638	24,714,318	34,260,800	58,975,118
Wyoming	5,569,562	3,788,950	322,832	9,681,344	23,088,800	32,770,144
District of Columbia	2,425,500	1,617,000	1,717,521	5,760,021	71,932,000	77,692,021
Puerto Rico	2,425,500	2,699,532	2,102,198	7,227,230	----------	7,227,230
Total	485,100,000	323,400,000	269,500,000	1,078,000,000	3,920,000,000	4,998,000,000

ADJOURNMENT UNTIL 10:00 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10:00 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 9 minutes p.m.) the Senate adjourned until tomorrow, Friday, October 2, 1970, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, October 1, 1970*

The House met at 12 o'clock noon.

Rev. James E. Coates, Bethlehem Baptist Church, Washington, D.C., offered the following prayer:

O God, we beseech Thee ever to guide our Nation in the way of Thy truth and peace, so that we may never fail in the blessing which Thou hast promised to that people whose God is the Lord.

Forgive those national sins which do so easily beset us: Our wanton waste of the wealth of soil and sea; our desecration of natural beauty; our love of money; our complacency; and our neglect of our brethren—some black, some white, and some red—who suffer poverty and prejudice.

Grant the safe return of our President who has gone forth seeking peace and brotherhood among the nations.

Comfort with the hope that new leadership inspires that "cradle of civilization" now frozen in grief for its beloved defender, mourned also by world leaders.

Most gracious God, we humbly beseech Thee, especially for the Representatives in Congress assembled: that Thou wouldst be pleased to direct and prosper all their deliberations to the good, safety, honor, and welfare of the people. Grant these public servants, in their dedication to the people, the wisdom and courage to meet the challenges of these difficult times; through Jesus Christ our Lord. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4599. An act to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments; and

H.R. 12943. An act to amend section 3 of the act of November 2, 1966, to extend for 3 years the authority to make appropriations to carry out such act.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 15424, AMENDING MERCHANT MARINE ACT, 1936, UNTIL MIDNIGHT FRIDAY

Mr. CLARK. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until midnight Friday night to file a conference report on H.R. 15424, to amend the Merchant Marine Act, 1936.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REASONS FOR OBJECTION TO UNANIMOUS-CONSENT REQUEST FOR CONSIDERATION OF CONFERENCE REPORT ON STATE, JUSTICE, AND COMMERCE APPROPRIATION BILL

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, yesterday I objected to immediate consideration by unanimous consent of the conference report on the State, Justice, and Commerce appropriation bill. I did so because the conference report had not yet been made available to the Members and because I knew that the conferees were recommending that for the first time the United States deliberately go into default on legally binding internation financial obligation.

This House originally approved full payment of the U.S. assessment for the International Labor Organization for this year in the amount of some $7.5 million. Upon recommendation of the Senate Appropriation Committee the Senate voted to reduce that item by some $3.75 million, being the total amount of the assessment not already paid. The managers on the part of the House agreed to the Senate action.

Mr. Speaker, I will communicate further with the Members on this important matter. Suffice it to say for the moment that this action is rightly opposed by the administration; it will put the United States right into the category with the Soviet Union and France as willful defaulters on financial obligations to international organizations.

COAL: THE HUMAN SIDE

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, for the RECORD there follows an exchange of correspondence I have had with the President of the United States on the subject of coal mine safety. This includes my letter to the President on June 26, 1970, which was answered on August 19, 1970, by Richard K. Cook, Special Assistant to the President. Unfortunately, the problems which I raised concerning deaths and injuries in the coal mines have worsened, as indicated in my remarks on September 25, 1970, which follow:

JUNE 26, 1970.

Hon. RICHARD M. NIXON,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: Since the safety provisions of the Federal Coal Mine Health and Safety Act went into effect on April 1, more coal miners have been killed than during a comparable period last year. It is clear that these deaths are the result of a failure by the Bureau of Mines to enforce the law.

I appeal to you as the Chief Executive, sharing my concern for law and order, to see that the letter and the spirit of the law are enforced. I appeal to you to give positive meaning to your eloquent support of coal mine safety, in your special message to the Congress on March 4, 1969, when you so well stated: "Acceptance of the possibility of death in the mine has become almost as much a part of the job as the tools and the tunnels. The time has come to replace this fatalism with hope by substituting action for words. Catastrophes in the coal mines are not inevitable. They can be prevented, and they must be prevented."

I appeal to you to end the "benign neglect" which has apparently gripped those charged with enforcing the mine safety law. The coal miners of the nation are once again trapped by the system, as the goal of production outweighs protection. The one agency charged with protecting the public interest has lost its backbone, its will, and even brushes aside its express authority granted by Congress to protect those human beings who labor in the coal pits of the nation.

Perhaps the most flagrant violation of the law which Congress passed and you signed on December 30, 1969, is the requirement for one spot inspection per week of coal mines with a history of hazardous conditions. This provision covers some 200 mines throughout the nation, but instead of 200 inspections per week since the safety provisions became effective, there have been an average of scarcely 20 per week. Coal miners have gone to their deaths in many uninspected mines. The record of injuries is mounting.

As a Representative of one of the largest coal-producing counties in the nation, I can report to you that the coal miners in my area are angry, restless and bitter over this benign neglect. Their hopes were raised after the Farmington disaster of November 20, 1968, when a shocked nation demanded that positive steps must be taken to protect those working in the mines. The Congress acted, and declared as national public policy that "the first priority and concern of all in the coal mining industry must be the health and safety of its most precious resource—the miner."

Please, Mr. President, don't let this dangerous situation get completely out of hand. The rumblings of revolt in the coal fields are real. Right now the coal industry is mounting heavy pressure to revise and weaken the law in order to put even greater emphasis on production rather than protection. The Bureau of Mines has adopted a posture of complete neutrality, bending to the pressure for production instead of aggressively moving to enforce the law and protect the miners who have little voice.

In this crisis, it is my feeling that only the President of the United States can effectively step in and insist that the law be enforced for the protection of the coal miners of the nation. When you signed the Federal Coal Mine Health and Safety Act on December 30, 1969, you stated: It represents a crucially needed step forward in the protection of America's coal miners." Nearly 150,000 coal miners throughout the nation eagerly await your decision.

Sincerely,

KEN HECHLER.

THE WHITE HOUSE,
Washington, D.C., August 19, 1970.

Hon. KEN HECHLER,
House of Representatives,
Washington, D.C.

DEAR MR. HECHLER: This is in further response to your letter pertaining to implementation of the Federal Coal Mine Health and Safety Act of 1969. In checking I have been informed that:

The number of coal mine fatalities did increase during the period April through June 1970, but the record for the first six months of 1970 shows an improvement over the same period for 1969.

The Act made new and drastically different demands on the inspection force of the Bureau of Mines since regular inspections were increased from one to four yearly, and about 10,000 spot inspections each year were required at mines considered hazardous. This increased work demand placed on the Bureau was made without any allowance in time for recruiting and training personnel. If the workload of a group is quadrupled, it is generally necessary to increase the work force accordingly and this could not be done immediately.

Expansion of the Federal coal mine inspection force was started six months prior to enactment of the Act, and examination and training procedures have been streamlined to meet the urgent need for a full complement of inspectors and engineers at the earliest possible date. The Bureau of Mines has employed 89 coal mine inspectors and engineers since August 1969, making a total force of 360 as a July 17, 1970. The papers for 134 additional inspectors are now being processed, and 125 inspector candidates were selected from the Civil Service Register on July 28, 1970.

Spot inspections of the 200 hazardous mines are being made as often as the limited force of trained inspectors will permit, but the thousands of other mines that also need attention cannot be neglected.

The so-called more hazardous mines, which include the very gassy mines and those where ignitions have been experienced, make headlines when an explosion happens, but the roof, rib, and face-fall accidents are the persistent and continuous killers of miners and may occur in any mine.

We can certainly understand your interest and, I trust that the foregoing will assure you that the Administration is doing everything possible to implement the Act.

Sincerely,

RICHARD K. COOK,
Special Assistant to the President.

COAL: THE HUMAN SIDE

(Statement of Representative KEN HECHLER)

To many of us, coal means the source of power which is in short supply, resulting in lights out in the Capitol corridors and air conditioning units powered down.

Some of us recall the human side of coal expressed in the disaster at Farmington, W. Va. on November 20, 1968, which took 78 lives.

How many people really know that since Farmington 360 coal miners have been killed on the job, more than 11,000 coal miners crippled or injured in mine accidents. and God knows how many thousands condemned to the coal dust disease known as pneumoconiosis, or "black lung"?

Today, the halls of Congress and the Executive Mansion reverberate with outcries about the energy crisis, yet how many voices are raised for those human beings who are still being crushed, burned, gassed, trapped, buried, crippled or sentenced to a breathless, wheezing living death? Where is the national leadership on behalf of human values, instead of what we hear from the White House to serve comfort, combines and commercialism? In all this talk about the energy crisis, including the frequent comments that the excellent Federal Coal Mine Health and Safety Act of 1969 may actually contribute to the crisis by slowing down production, has anybody answered the basic question: how much is a human being actually worth?

It's not easy to pass a law to protect coal miners. President Harry S. Truman found that out in 1952. When he reluctantly signed the rather weak 1952 Act, he zeroed in on the loopholes and exemptions and stated acidly: "I am advised that these exemptions were provided to avoid any economic impact on the coal mining industry." Numerous attempts to improve the 1952 Act were for the most part blocked, but on September 11, 1968, President Lyndon B. Johnson sent a strong message to Congress on behalf of a comprehensive new Federal Coal Mine Health and Safety Act. Unfortunately, the subject did not have nationwide support and only three Congressmen introduced the President's mine safety bill—Reps. John H. Dent (D-Pa.), Daniel J. Flood (D-Pa.), and myself.

Following the Farmington disaster, nationwide attention was focused on the human problems of coal mining and there was a strong and insistent demand for protection of those who mine the coal. The Federal Coal Mine Health and Safety Act of 1969 was landmark legislation, constituting a monument to Congressional initiative. Behind the scenes, the Nixon Administration tried in vain to weaken the coal dust standards, to retain the coal operator-dominated Board of Review, and to water down tougher health and safety provisions up and down the line. But the Congressional leadership of men like Senator Harrison Williams of New Jersey, and Congressmen Carl Perkins of Kentucky and John Dent of Pennsylvania helped insure a bill which became stronger and stronger as it moved through the legislative process.

When Congress sent the bill to the White House on December 18, 1969, Republican leaders and White House aides grumbled that it was "inflationary", and interfered with states' rights. It appeared likely that President Nixon would veto the bill. As each day dragged on toward the ten-day limit, a spirit of revolt spread in the coal fields, directed against President Nixon's frosty attitude toward this landmark legislation. Shortly after Christmas, hundreds of miners began walking out in protest of the President's delay in signing the bill. A group of widows of the Farmington disaster made a pilgrimage to Washington and called at the White House to plead with President Nixon to sign the bill. The President refused to see the Farmington widows, but while they were waiting to see him, he sent out word that he would sign the bill.

This historic piece of legislation was then signed in secret, almost surreptitiously, and when airborne from Washington, D.C. to San Clemente, California, the President's press assistant announced that he had signed the bill before he left for sunny California. The expressions of joy and relief from thousands of coal miners were blunted by the shocking discovery of the murders of Joseph A. Yablonski, his wife and daughter, over New Year's Day. The coal miners have lost their greatest champion, a tireless and fearless fighter for human values, and a major force behind passage of effective mine health and safety legislation.

Angered by the failure of their traditional lobbying tactics which had failed to weaken the mine safety bill as it moved through Congress, the coal operators turned their attention to blocking or weakening its enforcement. The assault on enforcement of the law met a firm road block in the Director of the Bureau of Mines, John F. O'Leary, who had served admirably since his appointment by President Johnson exactly one month before the Farmington disaster. Director O'Leary had insisted on an even-handed enforcement of the law, had attempted to clean some of the dead wood out of the Bureau, and moved up those who were genuinely dedicated to enforcement. He also set up many reform procedures, enabling miners to report safety violations directly to him, and banning the time-honored practice of inspectors tipping off the coal operators prior to visiting their mines. When a successor was actually picked in a move to dump Director O'Leary in February, 1969, a storm of public protest and a well-timed visit to Secretary of Interior Hickel by a group of the Farmington widows helped save his job.

Scarcely a crusader, Director O'Leary simply raised protection to the same level as production, and got the axe for his efforts. On Saturday, February 28, 1970, he was hard at work at his desk drafting the new mine safety regulations which were to take effect April 1, 1970. A telephone call came from the White House, asking if he would be at his office for a little while, since a special messenger was coming over. Opening the White House envelope, Mr. O'Leary found a peremptory note accepting the pro forma resignation he had submitted January 29, 1969. The Director of the Bureau of Mines was told to clear out by March 1, 1970—indecent haste on a Saturday morning when you consider that over six months have since elapsed and the Bureau of Mines is still without a Director.

Since March, the Bureau of Mines has been a leaderless shambles of chaos and confusion. The axe has fallen on many dedicated public servants who showed signs of being infected with human values, and party hacks with little experience have moved into positions of power. Responding to public pressure, President Nixon trotted out a coal industry consultant as his nominee for the critical position of Director of the Bureau of Mines. The nomination was withdrawn in the face of strong opposition from rank and file miners among others. Fifty days have now passed since officials of the Department of the Interior testified before Senator Williams' Senate Labor Subcommittee that a new Director of the Bureau of Mines would quickly be announced. And still there is no action.

Conscientious and dedicated mine inspectors and others in the Bureau of Mines, who are genuinely interested in protecting the safety of the men, have been disillusioned and their morale shattered by the insistence of "top management" that production is more important than protection. When a law suit was filed by 77 plaintiffs against the Federal Coal Mine Health and Safety Act, Under Secretary of the Interior Fred J. Russell ordered that Department of the Interior legal and technical experts must not even attend the hearing on a preliminary injunction. Airplane reservations which had already been made had to be cancelled. The result was that the injunction was granted. Ten days later the injunction was made permanent. The administration waived its right to a hearing on that.

The Solicitor of the Department of the Interior generously decided that the injunction should be extended nationwide. Thus, coal operators who were not plaintiffs were given the fruits of the suit free-of-charge. The point of all this is that everything is being done to help the operators, and very little is being done to protect the health and safety of the miners.

There are many other examples of failure to enforce the letter and spirit of the Federal Coal Mine Health and Safety Act. Coal miners have gone to their deaths in many uninspected mines. The record of injuries is mounting. Since the safety provisions of the new law became effective on April 1, 1970 the Bureau of Mines reports that 94 coal miners have been killed, as contrasted with 82 during the same five-month period in 1969. In the same period of 1970 there have been 920 miners suffering non-fatal accidents compared with 875 in 1969.

It is just as important to enforce the law to curb violence in the coal mines, as it is to enforce the law to prevent violence on the streets and on the campuses. When human lives are at stake, it is outrageous that there is a double standard for law and order.

"Benign neglect" has apparently gripped those charged with enforcing the mine safety law. The one agency charged with protecting the public interest has lost its backbone, its will to enforce the law, and even brushes aside its express authority granted by Congress to protect those human beings who labor in the coal pits of the nation. The lobbyists, encouraged by production-oriented officials in the Department of the Interior, claim that the new mine health and safety law is too harsh. What about the harsh fact that men are being killed in the mines?

I hope that this Committee on the Human Environment will reiterate the policy so clearly expressed by the Congress in the preamble to the Federal Coal Mine Health and Safety Act of 1969. The very first words of that Act are these: "Congress declares that the first priority and concern of all in the coal mining industry must be the health and safety of its most precious resource—the miner." The marvels of onrushing technology, the magic of new production machinery and the public debate over the energy crisis must not obscure the human problem of the men who are dying in increasing numbers in the coal mines. We have heard and read a vast amount of publicity about "blackouts" and "brown-outs" of electric power, but very little about the blackouts of human beings killed in the mines, or brownouts of men suffering from pneumonoconiosis.

When are we going to start to place the priority where it belongs—on the value of a human life?

THE FUEL CRISIS: A NEW APPROACH

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, this Nation is faced with an increasingly severe shortage of power and fuel to meet our legitimate needs. We must quickly find ways to prevent future brownouts and blackouts. If we tarry longer, we will, I am afraid, suffer the consequences. Yet this must be done without sacrificing the health and safety of those who labor, and with full protection of consumers and customers.

This is not an easy problem to solve. America is heavily dependent on electric power. We need it, not only for our air conditioners, can openers, frying pans, toasters, clothes and hair dryers, and copying machines, but also for our hospitals and their intricate equipment, to start our furnaces, to aid our police, firemen, and rescue squads, to light our homes, schools, and businesses, to run the gasoline pumps, and for many other essentials.

A NEW TYPE OF COMMISSION

For this purpose, I have today introduced a bill to establish a 21-member Commission to study and report on this problem within 15 months. The composition and emphasis of this Commission differs somewhat from other proposals to study the fuel crisis.

Under my bill, the President would appoint 12 members from the Federal agencies to the new study Commission. This would include a representative from the Justice Department—antitrust problems and their avoidance should be a major concern of this study—The Council on Environmental Quality, and the new Environmental Protective Agency, as well as from Defense, Interior, State, Commerce, HEW, FPC, AEC, and others.

Most importantly, the President would also appoint nine members from the public, five of which cannot be persons who have economic interests in the fuels, energy, and related industries. There are many dedicated, public-minded people from labor, consumer, environmental, public health, and other groups who could and should contribute to this study.

I do not include on this Commission congressional representation, because we are already heavily burdened with a legislative load that requires our full attention. We cannot adequately and effectively participate in the proceedings of a Commission like this and give it the attention it deserves, and indeed needs. Further, I believe we should be able to look at the finished report as legislators who did not write it, and give it careful scrutiny so that the final results will truly benefit the public.

CHARTER OF THE COMMISSION

The study must evaluate all possible alternative methods of energy production and the relative merits of all energy sources, including fossil fuels, synthetic fuels derived from natural fossil fuels, nuclear, and any other practical sources. The Commission must then recommend those programs and policies which are most likely to insure, through maximum use, consistent with national policies to enhance the environment, control air, water, and noise pollution, and protect the health and safety of workers, of indigenous resources, that the Nation's rapidly expanding requirements for low-cost energy to the consumer will be met.

This study, I believe, must be conducted in full recognition that our national environmental, pollution control, public health, and worker health and safety policies are given the highest priority. Our fuel and energy needs must be provided in a manner compatible to those policies. It is not a study to find ways to show that we must turn our heads to some of those policies to meet these other needs.

If we are determined, I am sure it will be done. The belief that we can continue to utilize, often indiscriminately, our resources and promote greater use of our energy sources where we do not need them is, I believe, an illusion. We must make sacrifices, or be hobbled by our own efficiency.

ANTITRUST POLICIES OF JUSTICE DEPARTMENT

(Mr. TIERNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. TIERNAN. Mr. Speaker, the current antitrust policies of the Justice Department, especially as they apply to so-called conglomerates, have raised some interesting and important questions among the business and legal fraternities. I recently read a very interesting and perceptive piece on the subject which I would like to call to the attention of my colleagues. I would like to insert in the RECORD a story on a speech by Lee Loevinger, former head of the Antitrust Division and former FCC Commissioner, to the Congress Club of the Minneapolis Chamber of Commerce. Judge Loevinger, now in private law practice, is a respected attorney and is considered a foremost authority on antitrust and communications law. The article appeared in the September 22 edition of the Daily Report for Executives, published by the Bureau of National Affairs.

ANTITRUST: FORMER ANTITRUST DIVISION CHIEF ATTACKS CURRENT CONGLOMERATE MERGER POLICY

It used to be said that nothing succeeds like success, but there is at least one person, former Antitrust Division Chief Lee Loevinger, who believes the Department of Justice seeks to negate the statement. The present attack on conglomerate mergers and aggregate concentration, with its emphasis on "potential competition," is, Mr. Loevinger warned the Congress Club of the Minneapolis Chamber of Commerce, "not only illogical but dangerous."

Putting it bluntly, Mr. Loevinger insisted that the department's attack on business under the potentiality theory "carries a much more immediate threat of government tyranny than any threat of business monopoly against which this attack could be directed."

To begin with, Mr. Loevinger suggested, the government's trepidation over modern economic concentration is exaggerated, if not misplaced. The contention that the economy is becoming more concentrated, that a few large corporations are getting more control over our economic life, and that mergers and acquisitions are inexorably causing such "super-concentration" is not, Mr. Loevinger explained, a new theory, but was discovered in the early 1930s and has been proclaimed ever since.

Despite the longevity of this theory and the many serious and responsible efforts undertaken to test the hypothesis, he said, "reliable objective economic data" has yet to give this theory complete support. In fact, Mr. Loevinger pointed out, "one of the most recent, careful and scholarly reviews of this subject concluded that monopolistic control of manufacturing industry actually declined from 32 percent in 1899 to 20 percent in 1958."

Basic to any rational analysis of the subject, Mr. Loevinger explained, "is the fact that both practical significance and theoretical ability to measure require us to deal with markets rather than vague abstractions such as the whole economy. Both economics and law have traditionally recognized this, and have dealt with market power rather than with what is now called 'aggregate concentration.' "

However, he said, when defining markets and gathering statistical data, reasonable approximations are all that can be hoped for. Then, when dealing with great vague abstractions like the whole economy, or all manufacturing industry, he said, both definitions and data become so fuzzy and inexact that they are worthless for rigorous analysis.

"Thus sweeping generalizations about increase in aggregate concentration of manufacturing in this country indicate more about the emotional condition of their authors than they do about the economic position of the country," Mr. Loevinger stated.

Distortions exist, he said, because of reliance on percentages of business control by a small number that are only crude indications of actual market conditions, statistics gathered from census figures that attribute all shipments from a plant or business to the industry in which it is primarily engaged, exclusion of imports but inclusion of exports, and basing such concentration figures upon industry classifications established for census purposes by product differentiation that may or may not correspond to actual competitive markets.

Statistical trends are also, Mr. Loevinger pointed out, influenced by selection of the starting point and the kind of data gathered. Furthermore, the question of whether there has been an increase in concentration, even without regard to all defects in the data, depends entirely upon the business group examined. "For example," he said, "taking the 10 largest industrial companies by asset size, in 1954 they had 27.4 percent of the assets of the largest 500, but by 1968 held only 24.3 percent of all such assets. Taking the largest 50 industrial corporations, in 1954 they held 54.6 percent of all the assets of the largest 500, while this percentage dropped to 52.2 percent by 1968."

Assuming the presence of "aggregate concentration," Mr. Loevinger continued, the legal basis of attack on such concentration is not only illogical but dangerous.

He added: "The purpose of the antitrust laws is to protect free enterprise by forbidding mergers, acquisitions, or other combinations that unduly restrain competition. But the Department of Justice has been unable to show that conglomerate mergers restrain competition. Instead, it has alleged that these mergers eliminate something termed 'potential competition' and involve potential abuse of economic power by reciprocity."

The basic fallacy in this new, admittedly extended theory, he said, "is that it disregards the difference between reasonable probability and remote possibility." If prosecutions are brought or cases are decided on the basis of potentiality—in the sense of mere possibility—"then there is no law or principle at all except the whim of the prosecutor or judge," Mr. Loevinger declared.

This "emotional attack on business size and diversification" ignores the many benefits to be derived from industrial expansion, he said. First, although not necessarily foremost, is the economic advantage.

He then said: "The most rapidly growing economy since World War II has been that of Japan. Analysis of the Japanese economy indicates that its growth is not based, as some think, on cheap labor or on exports, but on its own independent research and development effort. This, in turn, is the result of business firms with very large capital made available through government guaranties and highly diverse or conglomerate activities."

Japanese, as well as West German, industrial growth, he said, confronts American industry with "a very real and immediate challenge." Although some demand tariff protection and others seek non-tariff trade restrictions, "these measures are at best dubious," he asserted. "However, there should be agreement that before we institute trade barriers to protect American industry against foreign competition we should at least give American industry opportunity and freedom to compete without imposing arbitrary limitations and restrictions on its growth. . . . If American industry is to survive in the world market and compete equally even in the American market, it must have freedom to build size, diversity, and financial strength as a foundation for its activity."

Although the economic function of business is its obvious and primary role, the broader responsibility of business to society in general is rapidly gaining widespread recognition. One of its important social roles, too often overlooked, is "to act as a counterpoise or check" to the unlimited power of government, Mr. Loevinger said.

There are few forces in society capable of offering any effective check to unlimited expansion of governmental power, he stated. Historically, business has been the strongest and most effective of these. It is interesting, Mr. Loevinger noted, that historically monopoly has been the result of government action and that the earliest cases and law against monopoly were directed not against business, but against government power.

"We have now lived so long with the notion that business is limited in power and that we will not tolerate monopoly that we have almost forgotten the original source of economic abuse was in government power,"

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he said. The continued maintenance of the American democracy "depends upon our ability to sustain a delicate balance among the elements and forces within society. As the size and the power of government grows we must have other institutions similarly growing in size and power to insure that the balance within society is maintained."

This delicate social balance, Mr. Loevinger warned, is threatened by the current antitrust policy. The attack on conglomerates, he said, is not simply an effort to limit the size of a few large corporations but, whether intentionally or not, is a threat to subordinate all business, large and small, to arbitrary government control."

AMERICAN INVESTMENT ABROAD

(Mr. ADAIR asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ADAIR. Mr. Speaker, I have followed with mounting alarm the increasingly critical threats to American investment abroad. According to the State Department there are now expropriation cases pending in 16 foreign countries affecting properties owned by American nationals. I have asked the Department to furnish complete information regarding each of these cases and I intend to study each of the individual cases in detail. However, pending receipt of the State Department's report I have concluded that the Algerian situation is so serious that action should be taken immediately.

As many Members of the House will recall Algeria terminated diplomatic relations with the United States upon the outbreak of the Arab-Israel war in June of 1967. It did so on the pretext that the United States had intervened in that war on the side of Israel. At the same time it took under protective custody all American-owned property in the country, which was largely oil and gas properties. Although some of the American owners have reached settlements regarding compensation for this property, substantial claims are still outstanding which apparently the Government of Algeria has no intention of honoring. Indeed,the Algerian Government has gone so far as to refuse to participate in the arbitration of certain of these claims. The Algerian seizures affect not only American-owned property but also oil and gas properties owned by nationals of other countries.

Recently the Algerian Government has stepped up its demands against the French-owned companies and at the request of Libya has placed an embargo on further supplies of natural gas to Esso, although such deliveries are required by its contract with Esso for servicing consumer demands in Spain and Italy. It seems clear to me, and I believe it should be clear to anyone who studies the matter objectively, that Algeria is prepared to use whatever leverage it can against American interests.

Despite this, however, applications are being made to the Federal Power Commission for authority to import liquefied natural gas from Algeria into the U.S. market. The initial applications were for relatively small qualities and on this theory some elements of the administration have appeared disposed to authorize the importations. Now, however, the initial application has been amended so as to embrace a substantially larger quantity of gas and fresh applications have been filed which, if approved, would call for the importation of the equivalent of 1 billion cubic feet of natural gas per day for 25 years. It is idle to pretend that authorization of Algerian gas on this scale would not create an economic dependence by the United States on Algeria. I believe these applications should be denied until such time as there has been a convincing demonstration that the Algerian Government is prepared to assume responsibility for its numerous acts of expropriation and that it is a dependable trading partner for the United States.

It should not be assumed that Algeria does not have the funds with which to pay the compensation claims. Since the 1967 expropriations of foreign oil and gas properties enormous revenues have accrued to the Algerian treasury. Recently, the Ministry of Finance announced a 4-year $900 million hydrocarbon investment program which is to be carried out before the end of 1973. While the Ministry of Finance acknowledged that foreign capital was being sought to help finance this program, it nevertheless stated that half the total required to finance this ambitious plan is "already in the Algerian treasury." As a minimum, this means that Algeria has on hand $450 million, which is many times the amount required to pay its obligations to the expropriated owners as required by international law.

Furthermore, it cannot be said that the approval of the applications before the Commission will alleviate the fuel shortage which many expect this winter. The applications provide for long-term commitments of 20 to 25 years. Facilities involving a substantial investment must still be constructed to receive these shipments, and the gas to be delivered pursuant to these commitments would begin at the end of 1971 at the earliest.

In view of the foregoing, it is inconceivable to me that the proposed importations from Algeria could be found to be in the public interest. Nevertheless, since I regard the situation as critical, I am introducing a measure which if enacted would establish beyond any question of doubt the policy of the United States in this area. It would provide that in cases of wholesale expropriation of oil and gas properties the Federal Power Commission could not authorize further importations of similar products from the expropriating country so long as the seizures of American-owned property remained uncompensated. While the bill I now propose is limited to wholesale seizures of oil and gas properties, the same policy might reasonably be applied in other fields of enterprise. I am frank to say that I have not made up my mind whether the legislation should be broadened to other industries. Suffice it to say that the situation is sufficiently acute in the petroleum field to require an immediate clarification of policy by the Congress on this subject. As further information becomes available from the State Department regarding other uncompensated expropriations it may become appropriate to propose additional legislation to cover these situations.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. In 1950, 26 percent of our citizens 18 through 21 years of age were in institutions of higher education compared to approximately 47 percent enrolled today.

FROM WAR TO PEACE: INCENTIVES FOR CONVERSION OF THE ECONOMY

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, I am today introducing, with my good friend and associate from Massachusetts (Mr. MORSE), improved and expanded legislation to enable this Nation to move from war to peace with maximum protection for the financial security of both working people and industry. This new legislation, which has been developed by Senator MCGOVERN with assistance from my own and Congressman MORSE's staff, goes beyond the economic conversion legislation we introduced earlier in this Congress in a number of important respects.

Like our earlier legislation, this bill would create a National Economic Conversion Commission. It provides that Commission, however, with new operational authority. In general terms, this operational authority would enable the Commission to provide real incentives to industry and nonprofit enterprises, like universities, to develop and implement plans to convert from defense and space-oriented activities to other types of production and research. The bill would create a conversion fund, held in trust by the Commission, by requiring major defense and space contractors to deposit 12½ percent of before-tax profits from defense or space work, enabling the Commission to help industry with the conversion process and even to pay retraining and relocation benefits to displaced workers.

Contractors would be able to borrow against the "conversion trust fund" in order to move into nondefense activities in accord with their conversion plans, and would receive their full conversion deposit back with interest, tax free, upon successful completion of conversion plans—a very real incentive that should end the current hesitation by many industrial leaders to think seriously about conversion.

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Similar arrangements are provided in this bill for nonprofit institutions, except that conversion reserves for them would be contributed by the Federal Government by appropriation, and no refund would be provided.

Mr. Speaker, prompt enactment by the Congress of legislation of this kind is essential for a number of compelling reasons. Employment in the defense and defense-related sectors of the economy has already declined by some 700,000. We hear and read every day of whole communities which have suddenly become unemployed where highly trained technical experts and unskilled laborers find themselves sharing the same soup kitchens. Manpower experts tell us we can expect reductions in defense and space employment approaching 5 million workers as we reorient our national priorities, as we surely must, from war and space adventurism to major efforts to solve our domestic problems.

We simply cannot afford to permit the burden of our reorientation of national priorities to fall upon the shoulders of working people. We must provide them with the means and the assurance that they will not suffer economically or psychologically should they be caught in the forces of economic change. We must provide them with effective assistance and direction to find new employment and income. Such is the intent and, I believe, the potential effect of this legislation should it be enacted.

Many who recognize the need for conversion planning and assistance feel that it should be entirely the responsibility of the defense and space industries themselves. As a practical matter, however, that is no solution. The simple fact is that most business leaders are not engaging in such planning, and are not about to do so. That impression was reinforced by the results of a survey of major businesses reported last week by the Senate Subcommittee on Executive Reorganization and Government Research, chaired by Senator ABRAHAM RIBICOFF. The subcommittee concluded:

> In general, the responses indicated that private industry is not interested in initiating any major attempts at meeting critical public needs. Most industries have no plans or projects designed to apply their resources to civilian problems. Furthermore, they indicated an unwillingness to initiate such actions without a firm commitment from the government that their efforts will quickly reap the financial rewards to which they are accustomed. Otherwise, they appear eager to pursue greater defense contracts or stick to proven commercial products within the private sector.

Prompt and decisive intervention by the Federal Government to promote orderly economic conversion is clearly required to save the defense industries, and more importantly their employees, from this kind of myopia. Such action is necessary, in the broader context, to disprove what Marxist leaders around the world have been saying about our economy for decades—that it thrives upon war and will collapse without it.

Mr. Speaker, I commend Senator McGOVERN for his leadership on this legislation, and I hope that it will receive wide support and attention in the House.

THE NATIONAL ECONOMIC CONVERSION ACT

(Mr. MORSE asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. MORSE. Mr. Speaker, I am introducing legislation today designed to facilitate our transition to a peacetime economy and to alleviate the problems which many of our industries and communities throughout the Nation are facing as a result of declining levels of defense and space spending. A companion bill is scheduled to be filed in the Senate tomorrow by Senator GEORGE McGOVERN.

Since 1964, when I first proposed the establishment of a National Economic Conversion Commission to study and plan for an orderly and gradual move away from economic dependence on military procurement programs, I have continued to urge proper attention to concrete planning for our long-range economic health. Last year, as the effects of a winding down of the Vietnam war on our economy were becoming increasingly visible, I was gratified that some 48 Members of the House joined Congressman JONATHAN BINGHAM and myself in reintroducing that bill.

Today, in 1970, however, the problem of conversion is directly before us, and the kind of action envisaged by the legislation I first proposed in 1964 is no longer adequate. We need to do more than conduct studies of the Government's role in the conversion process. Concrete action is imperative.

I am, therefore, joining with Mr. BINGHAM today to offer new legislation, entitled "The National Economic Conversion Act", which supersedes earlier efforts and goes beyond my previous proposals. It incorporates the original provision for the creation of a National Economic Conversion Commission, but broadens its operational authority to aid in implementing conversion plans and to protect those workers who lose their jobs because of reduced levels of space and military expenditure. It seeks to provide compelling incentives for military contractors to start planning for conversion and implementing a shift of their capital and labor force to civilian needs as rapidly as possible. It establishes a trust fund to cover some of the costs of conversion.

There is a critical need for an orderly program since the predictable downward trend of military and space spending, combined with the effect of current anti-inflationary restrictions, could result in a loss of employment for millions of American workers. Effective action must be taken now to prevent these individuals, firms, and the communities in which they are located, from suffering extreme financial discomfort at best, and economic disaster in many instances.

Every single citizen will benefit enormously, furthermore, as the technology, the resources, and the management skills developed by so many of our defense and aerospace-related industries are increasingly channeled into areas urgently needing the Nation's attention —areas such as improving our transportation systems and facilities, developing ways to solve our urban decay and housing needs, expanding research efforts in health and medical technology, effectively controlling air and water pollution, and developing new sources of power, to name but a few.

The possibility of impending peace poses a vast potential for progress, and we must move now if we are to take full advantage of it. The national economic conversion bill, the text of which follows, will, I strongly believe, insure that we are heading in that direction:

H.R. 19557

A bill to facilitate and encourage cooperation between the United States and certain defense contractors engaged in the furnishing of defense material to the United States in providing for an orderly conversion from defense to civilian production, and to assure, through such cooperation, that the United States and such defense contractors will be able to meet the challenge arising out of the economic conversion and diversification required by reason of the changing defense needs of the United States to provide for such an orderly conversion in an effort to minimize, to the extent possible, the hardships and other disruptive factors likely to be encountered by defense workers and their families as a result thereof

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Economic Conversion Act."

DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares that the United States has during the past two decades made heavy economic, scientific, and technical commitments for defense; that careful preparation and study are necessary if wise decisions on future allocations of such resources are to be possible; that the economic ability of the Nation and of management, labor, and capital to adjust to changing security needs is consistent with the general welfare of the United States; and that the economic conversion and diversification required by changing defense needs presents a great challenge and opportunity to the American people.

(b) It is the purpose of this Act to provide the means through which the United States can determine the public policies which will promote an economic conversion which will (1) assure an orderly transition from defense to civilian production with a minimum of dislocation to families and communities, and (2) encourage conversion of technologies and managerial and worker skills developed in defense production to the service of high-priority civilian purposes.

DEFINITIONS

SEC. 3. As used in this Act the term—

(1) "defense agency" means the Department of Defense, the Atomic Energy Commission, or the National Aeronautics and Space Administration.

(2) "defense contractor" means any person having not less than fifty workers engaged in the furnishing of defense material pursuant to the terms of a defense contract, or a subcontract entered into for the performance of any such contract or part thereof; except that the term "defense contractor" shall not include any person whose total number of workers so engaged in the furnishing of such material is less than 5 per centum of his total work force within a defense facility.

(3) "nonprofit contractor" means any nonprofit organization having not less than fifty workers engaged in the furnishing of defense material pursuant to the terms of a defense

contract, or a subcontract entered into for the performance of any such contract or part thereof; except that the term "nonprofit contractor" shall not include any nonprofit organization whose total number of workers so engaged in the furnishing of such material is less than 5 per centum of his total work force within a defense facility.

(4) "defense contract" means any contract entered into between a person or nonprofit organization and a defense agency to furnish defense material to such agency.

(5) "defense material" means any item of weaponry, munitions, equipment, supplies or services intended for use in the establishment, maintenance, training, or operation of any element of the armed forces of the United States or of any other country or in the conduct of the United States Space Program.

(6) "defense facility" means any plant or other establishment (or part thereof) engaged in the production, repair, modification, maintenance, storage, or handling of defense material.

(7) "person" means any corporation, firm, partnership, association, individual, or other entity, but shall not include a nonprofit organization.

(8) "nonprofit organization" means any corporation, firm, partnership, association, or other entity not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(9) "short workweek" means any workweek of less than 40 hours, or in the event a defense facility has a regular workweek payable at straight-time wage rates other than 40 hours, any workweek less than such regular workweek.

(10) "downgraded" or "downgrading" means any action taken by a defense contractor or nonprofit contractor with respect to a worker which results in such worker receiving a lower rate of pay, or less fringe benefits, or both.

(11) "displaced" or "displacement" means with respect to any worker of a defense facility or defense agency the separation, on a permanent or temporary basis, of such worker from his employment with such facility or agency.

(12) "State agency" means the agency of a State which administers its unemployment compensation law, approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

(13) "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(14) "Fund" means the Defense Facility Conversion Reserve Trust Fund established by section 302(a) of this Act.

(15) "Nonprofit fund" means the fund established by section 302(c) of this Act.

TITLE I—ESTABLISHMENT OF THE COMMISSION

SEC. 101. (a) There is hereby established, in the Executive Office of the President, the National Economic Conversion Commission (hereafter referred to as the "Commission"), which shall be composed of—

(1) The Secretary of Defense;

(2) The Secretary of Agriculture;

(3) The Secretary of the Interior;

(4) The Secretary of Commerce, who shall be Chairman of the Commission (referred to hereinafter as the "Chairman");

(5) The Secretary of Labor;

(6) The Secretary of Health, Education, and Welfare;

(7) The Secretary of Housing and Urban Development;

(8) The Secretary of Transportation;

(9) The Chairman of the Atomic Energy Commission;

(10) The Administrator of the National Aeronautics and Space Administration;

(11) The Director of the United States Arms Control and Disarmament Agency;

(12) The Chairman of the Council of Economic Advisers;

(13) Three persons, appointed by the Chairman of the Commission, who are representative of labor; and

(14) Three persons, appointed by the Chairman of the Commission, who are representative of management.

(b) The Secretary of Commerce shall preside over meetings of the Commission; except that in his unavoidable absence he may designate a member of the Commission to preside in his place.

(c) The Commission may invite additional individuals to serve as members of the Commission, either on a temporary or permanent basis, except that the membership of the Commission shall not exceed twenty-three members at any time.

(d) (1) The Commission is authorized to appoint a staff in accordance with paragraph (2) of this subsection, and to establish one or more task forces to assist the Commission in carrying out its duties under this Act. The staff shall be headed by an Executive Secretary who shall be appointed by the President of the United States (after consultation with the Commission) and who shall be compensated at the rate provided for grade 18 of the General Schedule. The members of such staff and task forces shall include, among others, marketing specialists, production engineers, plant layout men, and manpower training experts. It shall be the duty of the staff and any task force established by the Commission, at the request of the Commission, to assist defense contractors and non-profit contractors with the development of conversion plans submitted by them pursuant to this Act, to review and evaluate such plans, to provide assistance in connection with their executive, and to carry out such other duties as the Commission may prescribe.

(2) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable in accordance with the applicable provisions of title 5, United States Code. The Commission may also procure temporary and intermittent services to the same extent as authorized for the departments by section 3109 of title 5, United States Code.

(3) The Commission shall take all reasonable steps to encourage, and give preference in assigning its staff and task forces to assist, defense contractors and non-profit contractors to convert their defense facilities to production useful for the attainment of national priority goals, such as housing and urban rehabilitation, educational and health facilities and equipment, and elimination of environmental pollution.

(4) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this Act, and each department, bureau, agency, board, commission, office, independent establishment, or instrumentality, is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission upon request made by the Chairman.

(e) Members of the Commission who are officers or employees of the Federal Government shall receive no additional compensation by virtue of membership on the Commission. Other members of the Commission shall receive compensation at the rate of not to exceed $100 per diem when engaged in the performance of duties of the Commission. Each member of the Commission shall be reimbursed, as authorized by law (5 U.S.C. 73b-2), for travel and subsistence and other necessary expenses incurred by him in carrying out the duties of the Commission.

DUTIES OF THE COMMISSION

SEC. 102. It shall be the duty of the Commission to—

(1) define appropriate policies and programs to be carried out by departments and agencies of the Federal Government for economic conversion capability, which shall include with respect to various degrees of economic conversion schedules of civilian public and private investment and education and retraining for occupational conversion, and to report to the President and the Congress on such policies and programs within one year of the date of enactment of this Act;

(2) convene a National Conference on Industrial Conversion and Growth, within one year after the date of enactment of this Act, to consider the problems arising from appropriate planning and programing by all sectors of a conversion to a civilian economy, and to encourage action to facilitate the Nation's economic conversion capability;

(3) consult with the Governors of the States and the Commissioner of the District of Columbia to encourage appropriate studies and conferences at the State, local, and regional level, in support of a coordinated effort to improve the Nation's economic conversion capability, and make available to the Governors of the States and the Commissioner of the District of Columbia such funds, appropriated pursuant to title VI of this Act, as shall constitute not more than 50 per centum of the total costs associated with the preparation of such studies or the holding of such conferences;

(4) collect and disseminate to defense contractors and nonprofit contractors engaged in the furnishing of defense material to any defense agency information (other than information concerning proprietary trade secrets) useful to such contractors in preparation for conversion of their productive facilities to other uses consistent with policies and programs developed in accordance with the provisions of this Act;

(5) consult with trade and industry associations, labor unions, and professional societies, to encourage and enlist their support for a coordinated effort to improve the Nation's economic conversion capability;

(6) perform the duties imposed upon the Commission by this Act, and promulgate such regulations as may be necessary to carry out the provisions of this Act; and

(7) make such recommendations to the President and to the Congress as will further the purposes of this Act.

ADDITIONAL DUTIES OF THE COMMISSION AND STAFF

SEC. 103. (a) It shall be the duty of the Commission to review any conversion plan submitted to the Commission pursuant to section 201 of this Act with a view to (1) determining whether such plan conforms to the requirements of title II; (2) assessing the feasibility of such plan; (3) ascertaining whether the defense contractor or nonprofit contractor submitting such plan has made a reasonable effort to coordinate his plan with subcontractors and other firms in the same labor market area; and (4) determining whether such plan is generally consistent with plans submitted by other defense contractors and nonprofit contractors within such labor market area pursuant to title II of this Act. In reviewing any such plan, the Commission shall consult with the union representing the employees of the defense contractor or nonprofit contractor submitting such plan, and with representatives of the appropriate State and local governments.

(b)(1) Following the review of a conversion plan of a defense contractor or nonprofit contractor under this section, the Commis-

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sion shall notify such contractor, in writing of the results of its review of his plan, including any weaknesses or deficiencies therein. The notice shall further contain, where appropriate, a statement directing his attention to opportunities which he may have overlooked to convert his defense facilities to civilian production useful for the attainment of national priority goals.

(2) If, on the basis of such review, the Commission determines that a conversion plan submitted by a defense contractor does not meet the requirements of title II of this Act, the Commission shall notify the appropriate defense agency of that fact, and such agency shall, upon receipt of that notification, withhold not to exceed 15 per centum of any payment owed to such contractor on account of any defense contract entered into on or after the date of the enactment of this Act between such contractor and agency until the agency has been further notified by the Commission that such plan has been modified by the contractor so as to bring it into conformity with the provisions of such title. If, on the basis of such review, the Commission determines that a conversion plan submitted by a nonprofit contractor does not meet such requirements, the Commission is authorized to withhold any further payments to such contractor from the Non-Profit Fund until the Commission has determined that such plan has been modified by the contractor so as to bring it into conformity with such requirements.

(c) The Commission shall, from time to time, publish, and make available to the public, a written report concerning its activities under this section. Such report shall contain information and other data sufficient to inform interested persons and nonprofit organizations as to production opportunities likely to result from the execution of conversion plans reviewed by it pursuant to this section, and the dangers of possible overproduction or underproduction of certain goods and services which might result from the execution of such plans.

TITLE II—ECONOMIC CONVERSION PLANS

Sec. 201. (a) No defense agency shall enter into any defense contract with any person or nonprofit organization involving the furnishing of defense material to such agency unless the contract contains a provision under which the defense contractor or nonprofit contractor is required, subject to the provisions of section 202 of this Act, to file with the Commission, and thereafter keep current, a plan (referred to in this Act as a "conversion plan") setting forth how he intends to convert his defense facility into a facility capable of providing employment for his workers engaged in the furnishing of defense material to a defense agency when such workers are no longer required for that purpose because the need for such material no longer exists or is substantially reduced.

(b) Each conversion plan filed pursuant to subsection (a) shall contain such information and other data as the Commission may prescribe, including the following:

(1) The type of product or service to be produced or provided.

(2) A statement setting forth the basis for such contractor's belief that a market for the proposed product or service is available, including details of any marketing studies or surveys made.

(3) A description of efforts undertaken and preparations made by the contractor to market the proposed product or service, including contacts established with market outlets and potential customers.

(4) A list of the machinery and equipment used, at the time of the filing of such plan, by such contractor in connection with the furnishing of defense materials which may be directly converted to the proposed civilian production; a list of machinery and equipment so used at such time that would require modification for that purpose; a list of additional machinery and equipment which would have to be procured by any such contractor for that purpose; a description of the nature and extent of plant layout changes which would be required for such proposed civilian production; and a detailed description of the nature and amount of manpower retraining that would be necessary for conversion to such production.

(5) The estimated costs, at current prices, of the physical conversion and manpower retraining referred to in paragraph (4) of this subsection.

(6) An estimate of the time period required from the initiation of the conversion process to its completion, and of employment levels during each month of such period.

(7) In the case of prime defense contractors or prime nonprofit contractors, a detailed description of contacts and arrangements made with subcontractors to facilitate the maximum possible degree of coordination of their respective conversion plans.

(8) In the case of prime defense contractors and nonprofit contractors, and their subcontractors, a detailed description of contacts and arrangements made by them with other firms in the same labor market area designed to facilitate maintenance of employment levels in that area.

(9) A statement as to how the foregoing elements in the conversion plan would be affected, and to what extent they would have to be modified, in the event defense production is gradually reduced rather than totally eliminated at a single point in time.

(c) (1) Moneys deposited in the special reserve account of the Fund and earmarked to the credit of a defense contractor in accordance with section 302(a) (1) of this Act shall be available for use by such contractor in meeting expenses incurred by him in developing and carrying out his conversion plan submitted pursuant to section 201 of this Act.

(2) Moneys appropriated to the Non-Profit Fund pursuant to section 302(c) of this Act shall be available for use, in accordance with this Act, by any nonprofit contractor in meeting expenses incurred by him in developing and carrying out his conversion plan under this Act.

Sec. 202. (a) In any case in which a defense contractor or a nonprofit contractor determines that his defense facility cannot be converted to civilian production he shall notify the Commission, in writing, of that fact. Such notification shall set forth the basis on which that determination was made, together with such other information and data as the Commission may require. If the Commission determines that such defense facility cannot be so converted, it may authorize such contractor to file with the Commission, in lieu of the conversion plan required under section 201, copies of one or more contracts, approved by the Commission, entered into between such defense contractor or nonprofit contractor and any other person or nonprofit organization under which such person or nonprofit organization agrees to undertake to attempt to provide employment, including such retraining as may be necessary, for employees displaced from such defense facility. No such contract filed by a defense contractor under this section shall be approved by the Commission unless it contains a provision under which the moneys in the special reserve account in the Fund earmarked to the credit of such contractor in accordance with the provisions of section 302(a) (1) of this Act shall be available for payment of employee conversion benefits under title V of this Act and of all costs incurred by such person or nonprofit organization arising out of the absorption (including retraining) by such person or organization of such displaced workers.

(b) In any case involving any such contract entered into between a nonprofit contractor and any person or nonprofit organization under which such person or organization agrees to undertake to attempt to provide employment, including such retraining as may be necessary, for employees of such contractor so displaced, moneys appropriated to the Nonprofit Fund pursuant to section 302(c) of this Act shall be available for payment or reimbursement of all costs incurred by such person or nonprofit organization arising out of the absorption (including retraining) by such person or organization of such displaced workers.

Sec. 203. (a) In any case in which a defense contractor fails to execute the conversion plan (or any part thereof) submitted by him in accordance with section 201 of this Act with respect to his defense facility, the Commission is authorized to take over, convert, and operate such facility, or take over and arrange, by contract or otherwise, for the conversion and operation by another person of such facility, in accordance with the conversion plan submitted by such defense contractor or a conversion plan recommended by the Commission or, with its approval, by the Commission's staff and task forces. The Commission shall pay to the defense contractor whose facility is taken over pursuant to this section a reasonable rent out of any moneys in the special reserve account in the Fund earmarked to the credit of the defense contractor in accordance with the provisions of section 302(a) (1) of this Act. Employee conversion benefits under title V of this Act, and all costs arising out of the development and execution of any such conversion plan in accordance with this section by the Commission or such person, shall be paid out of such moneys in such account so earmarked.

Sec. 204. (a) With respect to any amounts authorized to be paid under this title out of moneys in the special reserve account of the Fund, the Commission shall, from time to time, certify to the Secretary of the Treasury (1) the name of the defense contractor or other person entitled to receive such payment, (2) the amount thereof, and (3) the name of the defense contractor whose earmarked moneys in such account is to be charged in connection with such payment. With respect to any amounts authorized to be paid to the Commission pursuant to section 203 of this title out of moneys in the special reserve account of the Fund, the Commission shall, from time to time, certify to the Secretary of the Treasury (1) the amount thereof, and (2) the name of the defense contractor whose earmarked moneys in such account is to be charged in connection with such payment. The Secretary of the Treasury shall make such payments from the special reserve account of the Fund to such contractor, person, or Commission in accordance with such certification.

(b) With respect to any amounts authorized to be paid under this title out of the Nonprofit Fund, the Commission shall, from time to time, certify to the Secretary of the Treasury (1) the name of the nonprofit contactor or other person or nonprofit organization entitled to receive such payment, and (2) the amount thereof. The Secretary of the Treasury shall make such payments, from the nonprofit Fund, to such nonprofit contractor, person, or organization in accordance with such certification.

Sec. 205. (a) Each defense agency shall file with the Commission, and keep current on not less than an annual basis, a conversion plan with respect to each of its facilities in the United States (including agreements or arrangements entered into by such agency contemplating the operation of such facility by another Federal agency or pri-

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vate organization) setting forth how that agency intends to convert such facility into a facility capable of providing employment for its workers when such workers are no longer needed for defense purposes. Such plan shall be filed at such time and contain such information as the Commission may prescribe.

(b) In any case in which a defense agency determines that any of its facilities cannot be converted to a nondefense use, such agency shall, with respect to any such facility, file with the Commission, on an annual basis, plans (including details of arrangements made with other Federal agencies) designed to facilitate the employment of workers of such facility displaced because they were no longer needed by such facility for defense purposes.

(c) In addition to the other requirements of this section, the Department of Defense shall report to the Commission, on an annual basis, with respect to action taken by such Department, including training for civilian employment, to facilitate the absorption into the civilian economy of individuals released from the armed forces of the United States.

Sec. 206. The Commission shall by such means as it determines appropriate, inform Federal and State governmental and private manpower training agencies with respect to the training and retraining needs which the Commission estimates may result on account of the execution of conversion plans pursuant to this Act.

Sec. 207. On and after the date of the enactment of this Act, each defense contract entered into between a defense agency and a defense contractor or nonprofit contractor shall contain a provision under which such contractor is required to notify the appropriate State employment service of all vacant jobs to be filled by new hires (as distinguished from vacant jobs to be filled by promotion, transfer or recall of laid off workers) by such contractor.

TITLE III—ECONOMIC CONVERSION RESERVES

Sec. 301. No defense agency shall enter into any defense contract with any person involving the furnishing of defense material to such agency unless the contract contains a provision under which the defense contractor is required to pay to the Commission an amount equal to 12½ per centum of all profits (determined prior to any exclusions for Federal or State taxes) resulting from such contract. Profits payable to the Commission pursuant to this section shall be computed in such manner, and paid at such time, as the Commission, after consultation with the Comptroller General, shall by regulation prescribe. In no case, however, shall payments required to be made by a defense contractor pursuant to this section be considered as a cost item in the negotiating or bidding of any defense contract, or in determining profit for purposes of this section or any provision of law relating to the renegotiation of defense contracts.

Sec. 302. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the "Defense Facility Conversion Reserve Trust Fund" (referred to in this Act as the "Fund"). The Fund shall consist of two parts, one of which shall be known as the "special reserve account" and the other as the "general pool reserve account." Amounts paid by a defense contractor to the Commission pursuant to section 301 of this Act shall be deposited in the Fund as follows:

(1) 90 per centum of such amounts shall be deposited in the special reserve account and earmarked to the credit of the defense contractor making such payments; and

(2) 10 per centum of such amounts shall be deposited in the general pool reserve account.

(b) There is authorized to be appropriated to the general pool reserve account in the Fund such amounts as may be necessary to enable the Secretary of the Treasury to make the payments and other disbursements authorized by sections 403 and 504 of this Act.

(c) There is hereby established in the Treasury of the United States a fund to be known as the "Nonprofit Fund." There is authorized to be appropriated to the Nonprofit Fund such amounts as may be necessary to enable the Secretary of the Treasury to make loans pursuant to section 402, and payments authorized to be made in accordance with sections 201(c)(2) and 202(b) of this Act.

Sec. 303. (a) It shall be the duty of the Secretary of the Treasury to invest such portion of the moneys in the Fund as is not, in the judgment of the Secretary, required to meet current withdrawal requirements. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(b) Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(c) Any interest earned by reason of the investment pursuant to this section of any moneys of a defense contractor in the fund shall be deposited in the account from which the moneys so invested were acquired and shall be available for disbursement in accordance with this Act.

Sec. 304. (a)(1) Upon written application of any defense contractor, the Commission is authorized, if such contractor has not engaged in the furnishing of defense material to a defense agency during any period of twenty-four consecutive calendar months following the date of the enactment of this Act, to provide for the return of all unexpended moneys (including interest credited thereon) of such contractor remaining to his credit in the special reserve account as of the date of such application, if all of his obligations under this Act have been satisfied.

(2) Upon written application of any defense contractor, the Commission is authorized, if the number of his workers engaged in the furnishing of defense material to a defense agency during the twenty-four calendar month period immediately preceding such application was continuously more than 20 per centum below the peak annual average number of his workers engaged in the furnishing of such materials during the period commencing on the date of the enactment of this Act and ending on the date immediately preceding the date of such application, to provide for the return to such contractor of a portion of his unexpended moneys (including interest credited thereon) remaining to his credit in the special reserve account of the fund as of the date of such application. Such portion to be so returned to such contractor shall be an amount equal to the excess of his unexpended moneys (including interest credited thereon) so remaining to his credit in such account as of the date of such application over the same percentage of his total deposits therein (including interest credited thereon) as his average defense employment during such two-year period preceding his application as of his aforementioned peak annual average defense employment. No more than one such application under this paragraph shall be approved with respect to any one defense contractor within any twelve calendar month period.

(b)(1) Upon written application of any defense contractor, the Commission is authorized, if such contractor has not engaged in the furnishing of defense material to a defense agency during any period of twenty-four consecutive calendar months following the date of the enactment of this Act, to provide for the return to such contractor of a portion of the moneys (including interest credited thereon) in the general pool reserve account. Such portion to be so returned to such contractor shall be an amount equal to the percentage of such money (including interest credited thereon) so remaining in such account as of the date of such application, equal to the percentage which his total deposits therein (including interest credited thereon) formed of all moneys paid into or credited to the general pool reserve account.

(2) Upon written application of any defense contractor, the Commission is authorized, if the number of his workers engaged in the furnishing of defense material to a defense agency during the twenty-four calendar month period immediately preceding such application was continuously more than 20 per centum below the peak annual average number of his workers engaged in the furnishing of such material during the period commencing on the date of the enactment of this Act and ending on the date immediately preceding the date of such application, to provide for the return to such contractor of a portion of the moneys (including interest credited thereon) remaining in the general pool reserve account. Such portion to be so returned to such contractor shall be an amount equal to a percentage of his total deposits (including interest credited thereon) in such general pool reserve account equal to the percentage reduction in his defense employment, adjusted by the ratio of the total amount (including interest) remaining in such general pool reserve account at the date of such application to the total of all deposits (including interest credited thereon) made by defense contractors to such account pursuant to this Act.

(3) Notwithstanding any other provision of this subsection, no moneys shall be returned to any such defense contractor pursuant to this subsection if the total amount expended from such Fund in order to meet his obligations and other expenses under this Act equals or exceeds the total amount of his deposits to the Fund (including interest credited thereon).

(4) All amounts returned to a defense contractor pursuant to this section shall be exempt from the Federal income tax laws.

TITLE IV—DEFENSE CONTRACTOR BENEFITS

Sec. 401. (a) Any defense contractor requiring funds to carry on, expand, or initiate a civilian business or other civilian activity in the same labor market as his defense operations may be authorized by the Commission to borrow from funds in the special reserve account and earmarked to his credit in accordance with section 302 (a) (1) of this Act, at a rate of interest equivalent to the current prevailing rate on long term Treasury bonds.

(b) No loan shall be made pursuant to subsection (a) of this section unless the defense contractor requesting such loan has—

(1) obtained or arranged to obtain, from a reputable private lending agency, a loan, equal to at least 10 per centum of the amount requested pursuant to subsection (a), for use for the same purpose as that for which a loan is requested under such subsection, and such lending agency has agreed to share proportionately in any losses which might be incurred on the combined loans; and

(2) included in this conversion plan submitted pursuant to section 201 of this Act provisions for employing workers, displaced from any defense facility operated by such defense contractor, in such civilian business or activity to the extent that employment opportunities are available for such workers under a seniority or other arrangement which is fair to workers in both such operations.

(c) Interest owing on such loan referred to in subsection (a) shall be paid by the defense contractor to the Commission for deposit by it in the special reserve account of the Fund. Such interest payments shall be earmarked to the credit of such contractor in accordance with section 302 (a) (1) of this Act and shall be available for disbursement in accordance with the provisions of this Act.

SEC. 402. (a) Any nonprofit contractor requiring funds to carry on, expand, or initiate a civilian business or other civilian activity in the same labor market as his defense operations may be authorized by the Commission to borrow from moneys in the Nonprofit Fund at a rate of interest equivalent to the current prevailing rate on long term Treasury bonds.

(b) No loan shall be made pursuant to subsection (a) of this section unless the nonprofit contractor requesting such loan has—

(1) obtained or arranged to obtain, from a reputable private lending agency, a loan, equal to at least 10 per centum of the amount requested pursuant to subsection (a), for use for the same purpose as that for which a loan is requested under such subsection, and such lending agency has agreed to share proportionately in any losses which might be incurred on the combined loans; and

(2) included in his conversion plan submitted pursuant to section 201 of this Act provisions for employing workers, displaced from any defense facility operated by such nonprofit contractor, in such civilian business or activity to the extent that employment opportunities are available for such workers under a seniority or other arrangement which is fair to workers in both operations.

(c) Interest owing on such loans referred to in subsection (a) of this section shall be paid by the nonprofit contractor to the Commission for deposit by it in the Nonprofit Fund and shall be available for disbursement in accordance with the provisions of this Act.

SEC. 403. In any case in which a defense contractor, after meeting costs of conversion benefits for his workers in accordance with title V of this Act, is unable to meet the costs involved in carrying out his conversion plan submitted pursuant to section 201 of this Act out of his earmarked funds in the special reserve account of the Fund, the Commission is authorized to direct the Secretary of the Treasury to guarantee up to 90 per centum of any loan obtained by such contractor from a reputable private lending agency for that purpose and to pay, out of moneys appropriated pursuant to section 302(b) of this Act, three-fourths of the interest charges on such loan in excess of 5 per centum per annum; except that the guarantee and interest subsidy shall be available only for a loan not in excess of an amount that the Commission determines might reasonably be required to provide employment for the number of such contractor's workers to be transferred, by reason of their displacement, from defense to civilian production in accordance with such conversion plans.

TITLE V—EMPLOYEE CONVERSION BENEFITS

SEC. 501. (a) Any defense contract entered into between a defense contractor or a nonprofit contractor and a defense agency shall contain a provision under which such contractor is required to report to the Secretary of Labor, or, in the case of a State which has entered into a contract with the Commission pursuant to section 503 of this Act, with the appropriate State agency, all displacements, short workweeks, or downgradings affecting workers employed by such contractor in a defense facility in connection with the furnishing of defense materials to a defense agency pursuant to such contract, and to specify, with respect to each affected worker, whether or not his displacement, short workweek, or downgrading was attributable, in whole or in part, to a reduction of the volume of defense work in such facility. Any worker listed in any such report as having been affected by a reduction in the volume of defense work conducted by such facility, including any worker found upon appeal in accordance with subsection (b) of this section to have been so affected, shall be certified by the Secretary of Labor or State agency, as the case may be, as a worker eligible for conversion benefits in accordance with section 502 of this Act.

(b) Any worker (or union representing such worker) of a defense contractor or nonprofit contractor aggrieved by any matter contained in a report filed by such contractor pursuant to subsection (a) of this section (or by any matter relating to his certification, or failure to be so certified, or his eligibility for such conversion benefits, or the kind or amount thereof), shall be entitled to appeal such matter to the Secretary of Labor, or, if such worker is in a State which has entered into a contract with the Commission pursuant to section 503 of this Act, to the appropriate State agency.

SEC. 502. (a) Any worker certified pursuant to section 501 of this Act as eligible for conversion benefits by reason of his displacement from a defense facility shall be entitled, for the two-year period following his displacement, to whichever of the following benefits are applicable:

(1) Compensation, on a weekly basis, in an amount which, when added to any benefits which such worker receives or is entitled to receive for such weekly period under any Federal or State unemployment compensation program (or any plan of his employer providing for such benefits) by reason of his displacement, and any earnings during such weekly period from other employment, equals the amount of such worker's regular weekly wages (for a 40-hour workweek or, in the event a defense facility has a regular workweek payable at straight-time wage rates other than 40 hours, for such regular workweek) prior to his displacement.

(2) If such worker is otherwise employed during any such displacement period, compensation, in addition to that provided for in paragraph (1), in an amount equal to the difference between the costs incurred by him in connection with his meals, transportation, and other matters on account of such employment, and the costs which he would have incurred for such meals, transportation, and other matters on account of his prior employment if he had not been displaced.

(3) Vested pension credit under any applicable pension plan maintained by the defense facility from which he was displaced, for the period of his employment with such facility, and the two-year period following his displacement; except that pension credit during such two-year period shall be reduced to the extent of vested pension credit earned with another employer during such two-year period.

(4) Maintenance of any hospital, surgical, medical, disability, life (and other survivor) insurance coverage which such individual (including members of his family) had by reason of his employment by such defense facility prior to such displacement; except that if such worker so displaced is otherwise employed during such two-year period, such worker shall be entitled to receive benefits under this paragraph to the extent necessary to provide such worker with the same aforementioned protection as he (including members of his family) would have had if he had not been displaced.

(5) Retraining for civilian work in the defense contractor's or nonprofit contractor's defense facility providing pay and status as comparable as possible to the employment from which he was displaced.

(6) Subject to the provisions of section 504(b) of this Act, retraining approved by the Secretary of Labor, or, in the case of a worker in a State which has entered into a contract with the Commission pursuant to section 503 of this Act, by the State agency, and reimbursement for all reasonable relocation expenses incurred by such worker in moving himself and his family to another location in order to take advantage of an employment opportunity to which he is referred, or which is determined to be suitable, by the Secretary of Labor or, in the case of a worker in a State which has entered into a contract with the Commission pursuant to section 503 of this Act, by the State agency.

(b) Any worker certified pursuant to section 501 of this Act as eligible for conversion benefits by reason of his having been placed on a short workweek by a defense facility shall be entitled, during the two year period following such certification, to compensation, on a weekly basis, in an amount which, when added to any earnings from his defense facility or other employment, during such weekly period, equals the amount of such worker's regular weekly wages (for a 40-hour workweek or, in the event a defense facility has a regular workweek payable at straight-time wage rates other than 40 hours, for such regular workweek) prior to his having been placed on a short workweek.

(c) Any worker certified pursuant to section 501 of this Act as eligible for conversion benefits by reason of his employment with a defense facility being downgraded shall be entitled, during the two year period following such certification, to compensation, on a weekly basis, in an amount which, when added to any other earnings, during such weekly period, from his employment, equals the amount of such worker's regular weekly wages (for a 40 hour workweek, or in the event a defense facility has a regular workweek payable at straight-time wage rates other than 40 hours, for such regular workweek) prior to such downgrading.

SEC. 503. (a) The Commission is authorized, on behalf of the United States, to enter into an agreement with a State, or with any agency administering the unemployment compensation law of any State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954, which shall include the provisions described in paragraphs (1) and (2) of this subsection:

(1) Such State agency will, as agent of the Commission, make certifications and other determinations required in section 501 of this Act, make such payments and provide such benefits as are authorized by section 502 of this Act, on the basis provided for in this Act, and will otherwise cooperate

XUM

with the Commission and other State agencies in carrying out the provisions of sections 207, 501, and 502 of this Act; and

(2) Such State agency shall be reimbursed for all benefits paid pursuant to such agreement, and all administrative costs incurred in carrying out such agreement.

(b)(1) There shall be paid to each State agency which has an agreement under this section, either in advance or by way of reimbursement, as may be determined by the Commission, such sum as the Commission estimates the agency will be entitled to receive under such agreement for each calendar month, reduced or increased, as the case may be, by any sum by which the Commission finds that its estimates for any prior calendar month were greater or less than amounts which should have been paid to the agency. Such estimates may be made upon the basis of such statistical, sampling, or other method as may be agreed upon by the Commission and the State agency.

(2) The Commission shall from time to time certify to the Secretary of the Treasury for payment to each State agency which has an agreement under this section sums payable to such agency under paragraph (1) of this subsection. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the agency, in accordance with such certification, from the Fund or the Nonprofit Fund in such manner as is authorized by section 504 of this Act.

(3) All money paid a State agency under any such agreement shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned, at the time specified in such agreement, to the Treasury. Monies paid from the Fund and so returned shall be redeposited in the Fund to the credit of the appropriate defense contractor. Monies paid from the Nonprofit Fund and so returned shall be redeposited in such Nonprofit Fund.

(c) In any case involving a worker entitled to benefits under section 502 who is in a State with respect to which there is no agreement pursuant to this section, the Secretary of Labor shall, under regulations prescribed by him, administer such benefits on behalf of such worker. The Secretary of Labor, in administering such benefits, shall, from time to time, certify to the Secretary of the Treasury for payment to such worker the amounts of such benefits to which he is entitled, and the Secretary of the Treasury shall make payments to such worker, in accordance with such certification, from the Fund or the Nonprofit Fund in such manner as is authorized by section 504 of this Act.

SEC. 504(a)(1). All conversion benefits payable or provided to a worker of a defense contractor in accordance with this title shall be chargeable against moneys of such contractor deposited in the special reserve account of the Fund and earmarked to his credit in accordance with section 302(a)(1) of this Act. In any case in which such moneys so earmarked are insufficient to pay or provide such benefits, moneys in the general pool reserve account of the Fund shall be available to the extent of such insufficiency for that purpose. To the extent that such moneys in the general pool reserve account are insufficient to pay or provide such benefits, moneys appropriated to the general pool reserve account pursuant to section 302(b) of this Act shall be available for that purpose.

(2) All conversion benefits payable or provided to worker of a nonprofit contractor in accordance with this title shall be paid from moneys available in the Nonprofit Fund.

(b) Notwithstanding the provisions of subsection (a) (1) of this section, conversion benefits payable or to be provided to any worker of a defense contractor pursuant to section 502 (a) (6) on this Act shall not be charged against any moneys of such contractor in the special reserve account of the Fund as provided for in subsection (a) (1), unless the Commission has first determined that the worker is unlikely to be reemployed by such contractor within a period of one year following his displacement, and that retraining or relocation, or both, is required to enable such worker to obtain employment comparable in pay and status to that from which he was displaced. In the event no such determination is made, such benefits authorized under section 502 (a) (6) of this Act shall be payable or provided from moneys in the general pool reserve account of the Fund.

SEC. 505. In no case shall any displaced worker be eligible for benefits under section 502 (a) of this Act unless such worker agrees (1) to maintain, on a current basis, during the period of his displacement, an active registration with the Secretary of Labor or an appropriate State employment agency, as the case may be, and (2) to accept any employment, determined by the Secretary of Labor or agency, as the case may be, to be suitable, to which he is referred by the Secretary of Labor or such agency. No such benefits shall be paid under this Act to any worker who fails to maintain such registration or to accept such employment.

SEC. 506. In no case shall any conversion benefits paid pursuant to this Act be taken into consideration in determining eligibility for unemployment compensation under any Federal or State unemployment compensation law or in determining the amount of entitlement thereunder.

TITLE VI—APPROPRIATIONS

SEC. 601. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

LEGISLATIVE PROGRAM FOR WEEK OF OCTOBER 5

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, I take this time for the purpose of inquiring of the majority leader the contemplated schedule for next week.

Mr. ALBERT. Will the gentleman yield?

Mr. KYL. I yield to the distinguished majority leader.

Mr. ALBERT. Mr. Speaker, in response to the inquiry of the gentleman from Iowa, the acting minority leader, the program for next week is as follows:

Monday is Consent Calendar day. There are 16 suspensions:

House Joint Resolution 1388, making continuing appropriations, fiscal year 1971;

S. 3619, Disaster Relief Act of 1970;

H.R. 18012, to amend the Foreign Service Buildings Act;

House Joint Resolution 1162, U.S. participation in South Pacific Commission;

H.R. 12061, oleomargarine identification in public eating places;

H.R. 14301, to implement Convention on Offenses on Board Aircraft;

S. 1461, relating to representation of criminal defendants;

S. 4247, to amend the Bankruptcy Act;

H.R. 15008, to establish the Plymouth-Provincetown Celebration Commission;

H.R. 17901, to provide for a judicial circuit executive;

H.R. 15770, Water Bank Act;

S. 3822, to provide insurance for accounts in credit unions;

H.R. 19172, Lead-Based Paint Elimination Act of 1970;

H.R. 19342, Chesapeake & Ohio Canal Development Act;

H.R. 10482, to establish the Voyageurs National Park, Minn.; and

S. 368, Geothermal Steam Act of 1970.

For Tuesday and the balance of the week the program is as follows:

Tuesday is Private Calendar day.

Also there is for the consideration of the House the bill, S. 30, the Organized Crime Control Act of 1970, subject to a rule being granted;

H.R. 11547, to increase the loan limitation on certain Farmers Home Administration Loans, under an open rule with 1 hour of debate; and

H.R. 15560, economic poison standards for imported agricultural commodities, under an open rule with 1 hour of general debate.

Of course, this announcement is made subject to the usual reservations that conference reports may be brought up at any time and that any further program may be announced later.

We do know, however, that the gentleman from New York (Mr. ROONEY) will call up the conference report on H.R. 17575, Departments of State, Justice, and Commerce, and the Judiciary, and related agencies appropriation bill, 1971, on Tuesday of next week.

Mr. KYL. I thank the distinguished majority leader.

DISPENSING WITH BUSINESS IN ORDER UNDER THE CALENDAR WEDNESDAY RULE ON WEDNESDAY NEXT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. GROSS. Mr. Speaker, reserving the right to object, I note that the trade bill is not among the bills that the distinguished majority leader announced for consideration next week.

Could the gentleman give us any idea as to when that bill will be programed?

Mr. ALBERT. Mr. Speaker, if the distinguished gentleman from Iowa will yield, I will advise him that I am not able to give him that information at this time.

We have several major bills to consider, most of them quite urgent, including the crime bill. We have the Defense Department appropriation bill. I do not know when the trade bill will be programed but I will advise the gentleman and the House as to the date of its consideration as soon as I am able to do so.

Mr. GROSS. Of course, the gentleman I am sure appreciates the fact that by indirection I was trying to find out whether we would adjourn sine die as of the end of next week or adjourn until——

Mr. ALBERT. Until a day certain?

Mr. GROSS. On November 9, after the election?

Can the gentleman enlighten those of us here today as to the future plans for the House of Representatives?

Mr. ALBERT. May I say to the gentleman that I think, without having spoken to the leadership on the other side, that he can be quite sure that we will not adjourn to a day certain or sine die at the end of next week.

Mr. GROSS. Does the gentleman mean, when he refers to the leadership on the other side, the other body or the minority leadership in the House of Representatives?

Mr. ALBERT. The leadership of the other body on the other side of the Capitol.

Mr. GROSS. We are in this position, that we do not know as of today when the House will adjourn or under what conditions it will adjourn. Some of us are trying to get some kind of a schedule worked out for appearances in our districts.

Mr. ALBERT. Mr. Speaker, if the gentleman will yield further, I should think, if I may say to the gentleman without making an announcement and without committing the leadership of the House, if the gentleman should make his plans for the week following next week to be home until after the election he would be safe.

Mr. GROSS. It would be almost futile to try to carry out any kind of an election campaign at the end of week after next. That would allow about 1 week or 10 days before the election. When one has to travel over 16 counties in the Midwest, mostly rural counties, it is almost impossible to do it.

Mr. ALBERT. What the gentleman is saying is true, but I imagine the gentleman is looking after his political interests in his district, and he has done so pretty successfully.

Mr. GROSS. Well, Mr. Speaker, the gentleman might have something there, but there have been occasions, you know, when that was not quite the case. I can remember a vote margin of 419 some years ago.

Mr. ALBERT. I am not talking about the outcome, I am talking about the diligence of the gentleman in looking after his own political interests. I cannot predict the outcome, I would not even undertake to do so, but I know the gentleman from Iowa well enough to know that he takes care of his political interests.

Mr. GROSS. I might wish I was in the situation of the gentleman from Oklahoma, and had no opposition at all.

Mr. ALBERT. The gentleman means he has no opponent in his campaign?

Mr. GROSS. Well, an opponent is opposition, and opposition is an opponent in this political game.

But I do wish that the leadership would find it in their hearts, including our distinguished Speaker, to put an end to House sessions at the end of next week if we are going to come back in session on or about November 9.

I think the gentleman from Oklahoma would admit, if he were free to do so at this time, that the trade bill will not come up until after the election. So why prolong the agony on those of us who would like to put on some kind of a campaign, and meet our people? Why continue the agony of staying here if we are coming back on November 9?

Mr. ALBERT. The gentleman from Iowa realizes that we have not passed the Department of Defense appropriation bill. It will be ready, but it cannot be ready next week. It will be ready the following week. I would say that this is one of the major reasons why we cannot hope to adjourn to a day certain next weekend.

Mr. GROSS. Of course, it still must go through the other body to be finally enacted into law, and if we waited for the other body to operate on that bill, and many others, we would have no time at all in which to campaign before the election.

I would hope that the leadership would find it possible, if we are coming back on November 9, to end this business.

I was glad to note a few minutes ago that the other body had completed action on the jellyfish bill, and sent it back to the House. It can expedite legislation that went through the House only a short time ago.

Mr. ALBERT. Maybe they will do the same thing with the Department of Defense appropriation bill.

Mr. GROSS. I beg the gentleman's pardon?

Mr. ALBERT. Maybe they will do the same thing with the Department of Defense appropriation bill.

Mr. GROSS. Well, with the gentleman, I can hope, but with the gentleman I am sure they will not.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. ANDERSON of Illinois. Mr. Speaker, reserving the right to object, I have listened with a great deal of interest to the colloquy that has taken place between the distinguished majority leader and the gentleman from Iowa (Mr. GROSS).

Mr. Speaker, I have noted in the last day or two some press releases to the effect that the majority leader in the other body has now indicated a willingness to at least try to achieve a sine die adjournment by the 16th or the middle of October.

I wonder if the distinguished majority leader, the gentleman from Oklahoma, could tell us this much: whether there would be a disposition on the part of the Democrat leadership to cooperate in achieving this goal if, indeed, the Senate can hold up its end of the bargain?

I for one am not resigned to the idea of a postelection session of this Congress. It would be, as I understand, the first such session in more than a score of years, and I do not believe we can legislate very effectively in the atmosphere of a "lameduck" session of any Congress. I for one would want to go very firmly on the record as hoping—as hoping—that we could make every conceivable effort, despite the difficulties outlined by the gentleman from Iowa, in a shortened campaign time, that we could make every effort to achieve a sine die adjournment by the middle of the month.

I wonder if the distinguished majority leader has anything he could tell us in that respect?

Mr. ALBERT. Of course, the majority leader like the gentleman from Illinois lives in constant hope—but I do not live in much anticipation of us finishing the program by the middle of October.

Mr. ANDERSON of Illinois. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma (Mr. ALBERT).

There was no objection.

ADJOURNMENT OVER TO MONDAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

BACK TO THE BRINK

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 30 minutes.

(Mr. GONZALEZ asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. GONZALEZ. Mr. Speaker, for several months there have been persistent reports that the Soviet Union has planned and may in fact have under construction a submarine base located at Cienfuegos Harbor on the island of Cuba.

At first the reports came from refugees; and then were given to the House Foreign Affairs Committee in hearings last July. Now the White House itself has leaked the reports, coupled with a warning that "Soviet Union can be under no doubt that we would view the establishment of a strategic base in the Caribbean with utmost seriousness." The Soviets have made no response to this warning—despite the obvious seriousness of it.

Mr. Speaker, it is clear that if the Soviets do begin construction of a submarine base on Cuba we will be confronted with a new Cuban missile crisis. This can be the most dangerous threat to world peace in the last decade, and our Government cannot afford to ignore that threat or to equivocate in its treatment of the situation. Having let the cat out of the bag, the White House cannot retreat.

Let there be no mistake about the nature of this problem. The construction of a Soviet submarine base on Cuba would violate the spirit and the intention of the agreement reached between President Kennedy and Mr. Khrushchev just 8 years ago.

Even though a submarine base is not

XUM

in itself an offensive weapon, it is indispensable as support for the deployment of missile carrying submarines, which themselves are a far greater threat than any land based missile system could ever be. With a cuban base, Soviet missile firing submarines could be deployed along the Atlantic and gulf coast in large numbers. They would be virtually undetectable, as invulnerable as our own Polaris submarines. And unlike our Polaris force, they would be too close to their targets to allow either early warning or effective defense.

We are confronted with the possibility that our entire defense network would be negated at one stroke, and at the same time our Polaris system checkmated.

A submarine force close to the Atlantic coast could destroy 18 percent of our population within the span of minutes. Moreover, its range could cover vast reaches of the Midwest and all of the Gulf Coastal regions. Certainly all these targets can be reached now by existing missiles—but the threat posed by submarine missiles which would be both invulnerable and impossible to defend against is incalculably greater.

The deployment of such a submarine force could conceivably take place without any base in Cuba. But the existence of such a base would make the deployment of that force far easier and far quicker—not to mention far more effective. And it would give the Soviets a threat that we could not conceivably match.

In view of persistent reports of this threat, both from in and out of Government, the White House a few days ago issued its somber, if veiled warning to the Soviet Union. But now there are conflicting stories coming from the White House and other sources, claiming that the threat is not substantiated. This clouds the issue, yet it does not conceal the fact that we have here a possibility that State Department and military planners apparently have never considered. Moreover, now that the possibility of the threat has been raised it is imperative to deal with it.

After all, the Soviets would not be violating the letter of their 1962 missile agreement by building a submarine base in Cuba. Yet by building such an installation they would create a situation that is far more intolerable than the one which led us to the very brink of nuclear war 8 years ago.

We cannot permit our own domestic distractions, our weariness with a frustrating war in Vietnam, our concern about mounting turmoil in the Middle East or anything else to distract us from our greatest concern, which is our own security. Direct threats to our security must be met with direct actions. It is impossible now for the President to say that he is unconcerned about the possibility of a strategic base in Cuba; he raised the issue and cannot now sweep it under the rug, or flee from it in Europe. A threat that we had not imagined now lies on the table, and it is impossible for our Government not to confront the Soviets with the issue and get a clear understanding as to their intentions. Either they will respect the letter and spirit of their 1962 agreement or they will not. But that is a matter that the President alone can determine, and he must determine it now.

Certainly there are those who will call me an alarmist. But the potential threat of a submarine base in Cuba can hardly be exaggerated.

If I were to see a man planting dynamite under the foundations of my house, and then were to see him stringing out the fuse leading to that dynamite, I would be a fool not to stop him. That is the exact situation we have here.

We claim that we have seen a man laying plans and perhaps even building a submarine base; it is the equivalent of having a bomb placed under the North American continent. We would be fools not to confront that man and demand that he remove his bomb.

We should not be misled into thinking that Soviet intentions have changed any in the past 8 years. They are not reducing their military power, not by the stretch of anyone's imagination. Indeed, even as the United States is scaling down its commitments abroad and planning to reduce the size of its military forces, the Soviets are expanding their own commitments. It is no accident that the Soviets are in the Middle East and it is plain that they will expand their military power in the Mediterranean and the Caribbean and anywhere else that they can, if there is any gain to be had from it.

We cannot let our concern for the problems of others obscure our primary interest, which is our own well-being. It would do us no good to defuse the Middle East only to find bombs on our own doorsteps.

Yet, this seems to be a very real possibility.

I think that it is time for the President to come home, for his Vice President to get off the banquet circuit, and for all of us to demand some answers

Is there a submarine base or is there not? Do we have an agreement with the Soviet Union or do we not? If there is a threat, what are we going to do about it? Is is time for some answers.

In the face of plain danger there can be nothing less than plain talk and plain action. Let there be no equivocation here, so that there can be no miscalculation. Plain words and plain actions might be unique to the diplomacy of this administration, but it is imperative here and now, lest we find ourselves in the hereafter.

I include the following article:

[From the New York Times, Sept. 30, 1970]

SOVIET SUB BASE IN CUBA?

It is curious that neither Moscow nor Havana has reacted publicly to the White House warning against construction of a Soviet strategic submarine base in Cuba. On occasion in the past the Soviet Government has been quick to deny much less serious accusations appearing even in obscure publications. But in this case, when a White House spokesman raised the possibility that the Kremlin had secretly begun work that would violate the spirit, if not the letter, of the 1962 Khrushchev-Kennedy agreement, there has not been a word of Soviet comment.

Pessimists will conclude that this silence confirms Washington's worst fears. Optimists will argue that Soviet leaders are taking another look at whatever plans may be underway for the Cuban port of Cienfuegos and have not yet decided what to do in the light of the White House statement.

The world was probably closer to thermonuclear war during the Cuban missile crisis of October 1962 than at any time before or since. In reporting the agreement which had resolved the crisis, President Kennedy said that the Soviet leaders had promised to remove all "weapons systems capable of offensive use" and "to halt the further introduction of such systems into Cuba." In return the United States agreed to lift its naval quarantine and to "give assurances against an invasion of Cuba." President Kennedy was thinking of land-based missiles capable of delivering nuclear weapons, but submarines having similar missiles and nuclear weapons are also "weapons systems capable of offensive use."

Violations of this understanding, coming on top of the current Soviet violations of the cease-fire pact in the Suez Canal zone, would certainly undermine any confidence in agreements with the Soviet Union. In this situation any Soviet move to create a submarine base in Cuba would only intensify tension between the two superpowers and strengthen retrogressive forces in both countries that would intensify the arms race.

ACCOMPLISHMENTS AND ACHIEVEMENTS OF THE 91ST CONGRESS IN THE FOURTH CONGRESSIONAL DISTRICT OF TENNESSEE AND THE NATION

The SPEAKER pro tempore (Mr. Adams). Under a previous order of the House, the gentleman from Tennessee, (Mr. Evins) is recognized for 45 minutes.

Mr. EVINS of Tennessee. Mr. Speaker, it has been my custom as Congress approaches adjournment, to take this means of reporting to the people of our district—the great Fourth Congressional District of Tennessee—on major actions of the Congress of interest to, and benefiting, our district.

My report this year is essentially a summary of the highlights of major projects and accomplishments in the Fourth Congressional District and for the State of Tennessee—as well as a summary of some of the highlights of legislation which I have sponsored and supported in the Nation's interest—the public interest.

The Fourth District—the heartland of Tennessee—is rich in history and tradition—rich in diversity—and rich in the dedication of its people to our American way of life.

This district remains large—8,261 square miles—with a population in excess of 425,000 in the 21 counties of the district.

Our great district is comprised of the following counties: Anderson, Campbell, Cannon, Clay, Coffee, Cumberland, DeKalb, Fentress, Grundy, Jackson, Morgan, Overton, Pickett, Putnam, Roane, Scott, Smith, Van Buren, Warren, White, and Wilson.

I have been both pleased and honored to represent all of the people of this great district—the largest in area in Tennessee.

Our district is a part of small town and rural America—the foundation of

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our American values and American system. Our people are all American.

They believe in our Nation—in our democratic system of government—in our way of life. They are dedicated to preserving, promoting, and perpetuating our cherished American way of life. They believe in law and order, and justice, and true Americanism.

The Committee on Appropriations, on which I serve, considers the President's budget annually. The Congress last year cut the President's budget by $7,043,833,080 after the President had submitted a $200 billion budget. Congress is in the process of making cuts and reductions in the current Federal budget before the Congress.

And may I say that during my period of service in the Congress and on the Committee on Appropriations, Congress has cut every President's budget request, regardless of the President's party affiliation. Congress is exercising its judgment as it sets some priorities of its own and funding levels for various programs for the American people.

As a member of the Committee on Appropriations of the House and as chairman of the Subcommittee on Independent Offices and Cities and acting chairman of the Subcommittee on Public Works Appropriations, it has been my privilege to work in securing appropriations for many important and needed projects beneficial to the people of our district, the State of Tennessee, and the Nation.

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I have favored—and have introduced legislation to accomplish—a system of vocational trade schools in every county in the Nation where such schools do not now exist, as an alternative to the proposed so-called guaranteed annual wage welfare program.

I have favored—and introduced legislation to implement—a system of tax credits for business and industry locating in or expanding in our smaller towns and rural areas.

I have favored—and have introduced legislation to accomplish—basic reforms in our income tax system. A number of the basic proposals contained in my bill were included in the final version of the income tax reform bill enacted by the Congress, eliminating loopholes for wealthy nontaxpayers, and providing for increased individual and family exemptions and other forms of tax relief.

I have favored reform of the Selective Service System to provide for a more equitable system of drafting our young men for military service.

As a Member of Congress concerned for the future of our country, I have fought in the public interest against power rate increases by Tennessee Valley Authority, against the takeover of the gaseous diffusion plants at Oak Ridge and other vital Atomic Energy Commission installations by private interests, against high interest rates and other inflation-creating policies and programs, and against efforts to destroy the independence of the Small Business Administration, among other legislation, proposals and policies which I have opposed in the public interest.

I have been a strong supporter of a strong national defense. America must maintain her military posture and military strength.

I have favored and supported an honorable settlement with strength in Vietnam keyed to the gradual withdrawal of American troops as South Vietnamese troops are trained to replace them. Certainly we all want to see this Vietnam conflict ended on honorable terms, at the earliest possible time so that our servicemen can return to their homes and families and resume normal civilian lives.

I have strongly supported legislation and appropriations to combat pollution of our environment. The Subcommittee on Public Works Appropriations, which I am honored to serve as acting chairman, has approved substantial appropriations for grants for waste treatment plants for our cities and communities. A total of $800 million was appropriated for this purpose this year and a billion has been recommended for 1971.

The Tennessee Valley Authority and the U.S. Corps of Engineers are also concentrating greater energies and resources on the war on pollution in our State and Nation.

I have assisted in securing appropriations for a vastly expanded research program into environmental and pollution problems by the Oak Ridge National Laboratory and the Atomic Energy Commission.

A special research laboratory has been approved for location on Center Hill Lake for special environmental studies by Tennessee Technological University at Cookeville.

I have supported increased benefits for our veterans by the Veterans' Administration and for our elderly from the Social Security Administration. Our older people with fixed incomes are especially hard hit by inflation and deserve assistance and consideration.

My Subcommittee on Independent Offices Appropriations is concerned with funding the many and varied veterans benefits programs, and has recommended increased appropriations for many programs of the Veterans' Administration as new returning veterans from Vietnam avail themselves of educational, housing and homeownership, and other benefits provided by a gratified Congress and Nation.

Appropriations for these and other veterans benefit programs this year reached a total of $9,065,528,000—with $105 million added to the President's budget for hospital and medical care for veterans. Regrettably, this bill was vetoed by the President and is again pending in the Congress.

I have supported legislation to assist local law enforcement agencies in combating crime, lawlessness, and violence. I was cosponsor of legislation which makes it a Federal offense to cross State lines to foment and incite riots. I have also supported the Crime Control and Safe Streets Act of 1968, which provides for Federal assistance to State and local law enforcement agencies to strengthen their manpower for combating crime and violence.

I have been a strong supporter of programs of education for our youth and for generous appropriations for educational programs at all levels.

In addition, as a member of the Committee on Appropriations, I have continued to work for the growth and progress of our district, State, and Nation.

In this connection appropriations have been secured for these important projects of recent date:

CORDELL HULL DAM AND LOCK ON THE UPPER CUMBERLAND

This project in the storied Upper Cumberland-Cordell Hull country in our district is a $50 million dam and lock—including a navigation lock costing $9 million. This project will contribute greatly to commerce and to the future growth of our district—with great benefits to the Upper Cumberland area and to Tennessee. This year's appropriation alone to advance this project is $9,500,000.

NORMANDY AND COLUMBIA DAMS ON THE UPPER DUCK RIVER

A total of $4,600,000 was appropriated to initiate land acquisition and construction of these important dams for flood control, water supply, and economic development of the Upper Duck Basin area. Total project cost is $73,500,000.

TIMS FORD DAM ON THE ELK RIVER

The first TVA Dam in Middle Tennessee is moving ahead in construction. A total of $6,223,000 was appropriated this year for continued construction of this $46 million facility on the Elk River.

TELLICO DAM IN EAST TENNESSEE

Continued construction of Tellico Dam is assured with this year's $4,897,000 appropriation for this $47 million dam which will provide great benefit to the people of East Tennessee.

EDGAR EVINS STATE PARK ON CENTER HILL LAKE

I have secured appropriations for the new State park on Center Hill Reservoir, of benefit to citizens of DeKalb, Putnam, and Smith Counties. This is a joint project by the U.S. Corps of Engineers and Tennessee Department of Conservation. Federal appropriations to date total $1,770,000 for work on this recreation complex and park. Senator Vernon Neal of Cookeville sponsored the resolution authorizing this park in the Tennessee General Assembly and Governor Ellington of Tennessee designated the park Edgar Evins State Park.

NEW AMERICAN MUSEUM OF ATOMIC ENERGY

An appropriation of $600,000 approved this year will assure construction of a new American Museum of Atomic Energy as part of a $10 million Nuclear Information and Museum Complex in Oak Ridge—a worldwide attraction and symbolic of the vital and crucial role which Oak Ridge played in the development of nuclear energy.

ATOMIC ENERGY COMMISSION
ARNOLD ENGINEERING DEVELOPMENT CENTER

Appropriations are secured annually for the continued work and activities of the Atomic Energy Commission at Oak Ridge and the Arnold Engineering Development Center at Tullahoma in our district. These important scientific centers are the anchors of technological progress cooperating with great State universities, including Tennessee Technological University at Cookeville, Tenn., Space Institute at Tullahoma, Cumberland University at Lebanon, Middle Tennessee State University at Murfreesboro, the University of the South at Sewanee, the University of Tennessee and other educational institutions. It is significant that both the AEC and the AEDC played vital roles in the space exploration program. The engines of the giant Apollo rockets were tested at the Arnold Center. Research and other scientific work benefiting the health of our citizens is underway at the Oak Ridge AEC facilities.

NORTH-SOUTH APPALACHIAN HIGHWAY

Congress has passed appropriations with my enthusiastic help and support to initiate and to continue construction on the vital North-South Appalachian Highway through our District, intersecting Interstate 40 near Cookeville, and providing important new access roads and opportunities for the people of our area.

APPALACHIAN DEVELOPMENT PROGRAM

The Appalachian Regional Development Commission, founded by my committee, has moved forward to construction of many new and needed public facilities in our district and Tennessee—including health centers, hospitals, airports, vocational trade schools, roads and highways, university buildings and equipment, sewage treatment facilities, libraries and water and sewer systems, among others.

FEDERAL BUILDINGS

In recent months I was pleased to participate in dedicating the new Federal office building in Oak Ridge, Anderson County, and the new post office and Federal building in Wartburg, Morgan County. Other new Federal buildings have been recently approved for Jacksboro, Campbell County; Kingston, Roane County; and Huntsville, Scott County. A GSA survey made at my request on behalf of the people has indicated the need for a new post office and Federal building in Clinton, also to be constructed. Virtually every county in our district now has a new or improved post office and Federal building—one of my primary goals and objectives while serving in the Congress.

DALE HOLLOW NATIONAL FEDERAL FISH HATCHERY

On my motion the Committee on Appropriations approved an appropriation for construction of the million-dollar Dale Hollow National Federal Fish Hatchery in Clay County, Celina, Tenn., for stocking our lakes and streams—benefiting our sportsmen.

Among many other important projects for which appropriations have been secured are loans and grants for watershed projects, REA electric and telephone loans, Appalachian roads, trade schools, airports, health centers, hospitals, parks, urban renewal projects housing for the poor and elderly, industrial development, as well as assistance to veterans, our elderly citizens, education, small business—and industries providing jobs and employment for our people.

Post offices and Federal buildings have recently been built in Byrdstown and Pickett County, Spencer and Van Buren County, Dixon Springs and Smith County, Rock Island and Smartt, Warren County, Lebanon and Wilson County, Wartburg and Morgan County.

While many needed new post office facilities have been built, others have been modernized, remodeled, renovated and expanded.

MANY CITIES ASSISTED

As chairman of the Subcommittee on Independent Offices and Cities Appropriations, I have secured appropriations for many projects to assist our cities and their excellent local leaders and officials in programs of growth and progress.

In some program areas, I am advised that our local leaders are participating in our district—the Fourth Congressional District of Tennessee—to a higher degree than many of the districts of the Nation.

Many local communities are demonstrating great initiative and great leadership in applying for Federal assistance because these grants and loans enable our cities and towns to build better communities and a better life for our people—better jobs, better opportunities, better highways, better schools, better housing, better hospitals, health centers, and nursing homes; greater economic benefits for our people and our communities.

Within the past 20 months alone, more than $20,000,000 has been secured for various programs of housing and assistance to our cities, towns, and communities from the Department of Housing and Urban Development, as follows:

Urban renewal: $6,790,972 for the 20-month period, pushing the total for urban renewal projects in the fourth district since this program was initiated to more than $18,000,000.

Public housing: $5,000,000 for more than 500 units of low-rent public housing, making a total of $45,000,000 for 75 public housing developments in our district since the program was initiated, providing low-cost housing for thousands of needy families.

Model cities: $7 million for the model cities programs in Cookeville and Smithville, providing new facilities on a comprehensive basis for these progressive communities through this innovative demonstration program of town uplift, growth and progress.

Water and sewer construction: More than $5,000,000 for water, sewer and gas systems and industrial assistance through the Economic Development Administration, Farmers Home Administration loans, to provide needed water and other public facilities for our people has been provided. Since these programs were initiated, an estimated $20,000,000 in Federal assistance has been allocated to our district.

Appalachian program: Millions of dollars have been allocated for the construction of the North-South Highway, other roads and highways, hospitals, health centers, nursing homes; facilities for schools, universities and colleges; libraries and vocational trade schools, through the Appalachian regional development program.

Health, education, assistance to children and the aged: In the last 20 months alone, more than $81,000,000 has been allocated to our district by the Department of Health, Education, and Welfare for many programs of education, health, assistance to the very young, elderly, blind and disabled; and other programs.

ASSISTANCE TO RURAL AREAS

As your representative, I have continued to emphasize nationally and in our district and Tennessee the importance of strong programs to develop and strengthen our smaller cities, towns, and rural communities.

Certainly the heart of this continuing program of basic improvement is the expansion and improvement of rural electric and telephone service—electricity for power and telephones for communication, two basic elements of growth and progress.

Citizens in every county have benefited from low interest rate loans for rural electrification and telephone service. It has been my privilege to assist in providing appropriations that have made possible new or improved telephone and electric service for 175,000 families in our area—at a total cost of $80,000,000.

Many loans and grants totaling millions of dollars have been approved for watershed flood control and conservation projects.

The people of our district have demonstrated a great ability and willingness to work together for growth and progress. In our east Tennessee counties, for example, the East Tennessee Economic Development District is working with local leaders in programs of growth and progress. In the Upper Cumberland area the Upper Cumberland Development District has been organized, with headquarters at Cookeville, and is moving ahead with important programs and projects for our people.

The Upper Duck River Development Association has provided constant leadership in the development of the Duck River Basin, and the first two dams on the Duck River—the Normandy and Columbia—are scheduled for early construction.

The Hull-York Lakeland resource, conservation, and development project—organized in 1966—has provided much assistance to the 11-county area it serves in increasing job opportunities, increasing family income and improving the environment of the area served.

All of these programs have helped to build a better life for our people, as they have provided many jobs and opportunities for our young people and advanced the progress of rural America.

There is a growing realization in Washington and throughout the country that employment and opportunities attractive to our people in rural and smalltown America are vital not only to areas like the fourth district—but to all America, including our larger cities.

Our Small Business Committee has continued to conduct hearings and investigations into the problems and progress of our smaller communities. Leading officials in government and industry have agreed on the need for progress in rural areas to reduce outmigration to our cities as well as improving the quality of life for our young people and all our citizens.

In addition, I am sponsoring legislation to encourage rural and small town development through tax incentives for business and industrial development and growth in our area.

These measures have drawn wide support throughout the Nation. The National Federation of Independent Business has reported overwhelming support for a principle of tax incentives to encourage industrial development in rural areas among small businessmen throughout the Nation.

EDUCATION ASSISTANCE

It is my strong belief that vocational education, as well as elementary, secondary and higher education, should be encouraged. There is no substitute for education and training. I believe strongly that every young person deserves the opportunity to develop his or her potential, whether an individual's aptitudes, talents, and abilities are in the area of trades and crafts, or whether an individual has the ability and potential in the professions of doctor, lawyer, or otherwise.

My bill to authorize a trade school in every county in the Nation received favorable response and comment from people throughout our State and Nation.

While great interest must continue in higher education—colleges, universities, and junior colleges—it has become increasingly apparent that vocational education must be greatly expanded to assist in training the 80 percent of our young people who do not attend college—to train adults who cannot find jobs—and retrain workers displaced by changes and advances in technology.

Many believe that rather than adopting some form of guaranteed annual wage, which would tend to dull individual initiative and incentive, the money would be better spent in vocational training to assure employment for many who might otherwise be on welfare rolls.

Chairman CARL D. PERKINS, of the House Committee on Education and Labor, has assured me of his cooperation in securing hearings and committee consideration of this bill.

In a recent letter Chairman PERKINS said:

> May I take this opportunity to express my appreciation to you for your continued interest in expanding vocational education so as to reach all young people who are in need of such training. I want you to know I will cooperate with you in every way possible, looking forward to early hearings.

Certainly our excellent colleges and universities deserve our continued strong support and assistance. I have worked with officials of Tennessee Technological University at Cookeville and Cumberland College in Lebanon in our district, as well as the University of Tennessee and our other colleges, in their programs of improvement, assisting in securing Federal assistance totaling more than $15 million for building college dormitories and other needed facilities, strengthening of curriculum, as well as scholarship loans and grants for our young people who require financial assistance to attend the college of their choice.

INDUSTRIAL DEVELOPMENT

Coupled with the need and necessity for strong programs of education and training is the vital importance of expanding business and industrial development to provide jobs and opportunities for our people.

During a period when the national administration has as a matter of policy slowed economic expansion, I have worked to assist our communities in securing Federal support to finance industrial parks, water and sewer facilities to serve industry, develop new businesses, expand other industries, and to modernize existing industry.

SMALL BUSINESS AIDED

As chairman of the House Select Committee on Small Business, I have assisted many of our small businessmen in securing financial assistance, management assistance, and assistance in obtaining a fair share of Federal contracts and procurement.

Congress has charged our committee with the responsibility of protecting and safeguarding the interests of small businessmen in the face of growing giantism, concentration, big business and other threats to our free enterprise-competitive economy.

Our committee recently concluded a series of hearings on the programs and policies of the Small Business Administration. These hearings developed some disturbing testimony and evidence concerning national priorities in the administration of SBA programs.

For example, it is evident from testimony that SBA's direct loan program—long the mainstay of the SBA program of financial assistance to small business—has been virtually abandoned.

Emphasis has been shifted in other programs and the Bureau of the Budget has withheld funds appropriated by the Congress for the loan programs of small business. In addition, arbitrary ceilings on loan amounts have been established by administrative action. Regrettably, there exists a House partisan atmosphere and attitude at SBA which has not been present in recent years.

Our committee is making recommendations to the SBA which, if adopted, will assure improvements in the administration of small business programs enacted by the Congress.

In Tennessee the Nashville regional SBA office has done an outstanding job with resources available. The community development loan program offers great promise for the development and expansion of business and industry in smaller communities and rural areas.

In Tennessee a total of 102 loans have been made under this program since the present Director, J. C. Loring, took office—totaling $20,500,000 and providing more than 7,000 new jobs in our district and in Tennessee.

This is an outstanding record and deserves commendation.

VETERANS PROGRAMS

As a veteran of 4 years service in World War II—2 years overseas—I pledged my support to be of every assistance possible to veterans when I was first elected to Congress.

It is my belief and philosophy that our veterans and their families deserve our gratitude and assistance for their patriotism and service to our country.

As a member of the House Committee on Veterans' Affairs in the early days of my service in the Congress, I helped to draft and support much of the postwar legislation in behalf of our veterans, including the Korean GI bill of rights.

In 1954 I was elected to membership on the Committee on Appropriations. At that time I asked for and received assignment to the Subcommittee on Independent Offices concerned with funding of all veterans programs of the Veterans' Administration.

In 1965 I became chairman of this subcommittee and I have continued to work for, encourage, and support legislation and appropriations for our vast programs of veterans benefits.

In this connection I must report that with the number of Vietnam veterans returning from service, the numbers of veterans eligible for compensation, pensions, education, rehabilitation, housing, and other benefits continue to increase and increased appropriations are being provided for the benefit of our veterans.

Appropriations approved by my committee and the Congress of $9,065,528,000 for veterans benefit programs—including $3 billion for hospital and medical care—regrettably were vetoed by the President. The increase in the budget for medical and hospital care was $105,000,000 and the need for these funds for better quality medical care for the Nation's veterans was clearly demonstrated in hearings.

The Veterans' Administration has advised me that during fiscal year 1970—which ended June 30 last—assistance to veterans in our district alone totaled $14,788,680, including:

For compensation and pensions, $11,318,210.

For educational assistance and vocational rehabilitation, $1,753,370.

For insurance and indemnity payments, $1,436,250.

In direct home loans, $280,850.

In my work for veterans, I assisted in securing improvements and expansion of veterans hospital facilities in Tennessee—the new veterans general medical hospital in Nashville and Memphis, expansion of the veterans hospital in Murfreesboro and improvements at the Mountain Home Veterans Center in east Tennessee serving our State's veterans.

I have sponsored and supported a number of bills for the benefit of our veterans, including legislation to increase compensation rates for veterans with service-connected disability; increasing the ceiling on home loans; increasing widows' dependency and indemnity compensation rates; increasing the rate of Federal payments for State hospital care for veterans; increasing educational training allowance, and in-

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creasing the maximum of Servicemen's Group Life Insurance.

Other recent legislation which I have supported includes:

The Veterans Pension and Readjustment Assistance Act of 1967 which provides an average cost-of-living rate increase of 5.4 percent for all veterans, widows, and children receiving pensions.

Veterans' Readjustment Benefits Act—Vietnam GI bill of rights—providing a continuing program of educational assistance to veterans serving in the Vietnam conflict and other veterans discharged after January 31, 1965.

Increases in vocational rehabilitation allowances for service-connected veterans, increases in the educational allowance for orphans of servicemen and veterans, and the Korean GI bill of rights.

As a special service to a great veteran, World War I hero, Sgt. Alvin C. York, I served on a special committee with the late Speaker Sam Rayburn and conducted a campaign to raise funds to pay off the income tax indebtedness of the late Sergeant York. This campaign not only raised the $25,000 necessary to pay off this indebtedness to the Government, but an additional sum of $25,000 in donations was received, which was placed in a trust fund for the benefit of the family of Tennessee's great World War I hero—the late Sgt. Alvin C. York of Fentress County.

NECESSITY FOR LAW AND ORDER

The Congress and the country have been greatly concerned over violence and lawlessness in our Nation. The 91st Congress has strengthened legislation and provided appropriations to assist the Department of Justice and State, county, and city law enforcement organizations in combating crime and violence.

Believing strongly in law and order and fair and impartial justice, I have supported or sponsored such legislation.

In the 90th Congress I joined in supporting the Anti-Riot Act which provided for a 5-year Federal penitentiary sentence or a $10,000 fine—or both—for conviction of crossing a State line with the intent to incite riots and insurrection.

Since passage of this act, certain types of violence involving incitement have appeared to decline.

I also strongly supported the Crime Control and Safe Streets Act of 1968 which provides assistance to local law enforcement agencies in Tennessee and throughout the Nation who have the major responsibility for preserving law and order. The act specifically directs that local law officers be trained and given support in riot control.

Certainly I subscribe to the constitutional doctrine of the right of dissent—but the right of dissent is not a license to bomb—to kill—to destroy—and to undermine our institutions and our system of government.

In this connection I strongly supported the measure passed by the House which makes it unlawful to desecrate the flag, and I deplore the fact that such a law is even needed in the public interest.

So my record is clear and my position strong for the maintenance of law and order in our great country. Let us insure that freedom and liberty, under law, are maintained and our American way of life is preserved and perpetuated.

RIGHT TO VOTE FOR 18, 19, AND 20-YEAR-OLDS

One of the most significant pieces of legislation enacted by the 91st Congress was the Voting Rights Act extending voting rights to 18, 19, and 20-year-olds. This bill—if upheld as constitutional—will provide our young people with a means of participating directly in the democratic process.

This bill will add more than 10 million young people to the voting rolls of the Nation. Some Members debated this legislation as an improper vehicle to use in assuring the expanded franchise—they favored a constitutional amendment process.

However, the bill as adopted provides for a direct decision on the issue by the U.S. Supreme Court on the constitutionality of the act and the U.S. Attorney General is taking the necessary steps to assure an early decision on this act as to its constitutionality.

A STRONG DEFENSE

I have always favored and supported a strong defense for our Nation. Certainly we must eliminate any waste and extravagance in the Department of Defense and our Armed Forces. However, we must not sacrifice a strong defense posture for a penny-wise pound-foolish defense policy.

In the nuclear-nerved world of today, to be a second in military capability could be disastrous.

I have supported—and will continue to support—the necessary appropriations to maintain our military strength and posture.

AGRICULTURE, THE BULWARK OF OUR ECONOMY

I have also consistently supported programs to assist our farmers in their important role in our economy. Although farmers, their families, and employees comprise only 5 percent of the Nation's population, the remaining 95 percent of Americans depend upon our farm economy for food, fiber, and shelter.

The Agriculture appropriations bill passed this year provides $7,531,000,000 for various farm programs, including:

For the Consumer and Marketing Service, $872,153,000, including the special milk program and the child nutrition program, among others.

For Soil Conservation Service, $276,490,000.

For Agricultural Research Service, $235,200,950.

For Agricultural Stabilization and Conservation Service, $301,896,000.

For Rural Electrification Administration, $460,423,000.

For direct loans, $326,900,000, and $113,775,000 for other programs of the Farmers Home Administration, including grants for water and sewer facilities.

The Department of Agriculture appropriations bill contribute to assuring that American farmers receive an equitable share of the Nation's income.

SOUND ECONOMY PRACTICED

While I have—as this report shows—supported measures for necessary and vital programs—I have opposed legislation which I considered was not in the national interest, and I have voted to cut and reduce appropriations which I considered wasteful, unnecessary, and not of the highest priority at this time of budgetary stringency.

In the Subcommittee on Independent Offices and Cities, we have cut and reduced the President's budgets by billions of dollars. In 1 year alone my committee cut and reduced the Federal budget by $3.2 billion in low-priority and nonessential proposed program expenditures.

In hearings before our Committee on Appropriations, each budgetary item is carefully weighed as to its necessity. Officials of some 22 agencies and departments of Government testify before my committee each year. They are extensively questioned with respect to their requests for appropriations and funding needs.

Every effort is made to cut and reduce nonessential programs and to continue programs vital to the growth and progress of our communities and our people.

MY PHILOSOPHY OF GOVERNMENT

My philosophy is keyed to moderation and reason, and I subscribe to the philosophies of these three great Presidents:

> Thomas Jefferson: "The care of human life and happiness is the first and only legitimate object of good government."
>
> Woodrow Wilson: "I believe in democracy because it releases the energy of every human being for growth and progress."
>
> Abraham Lincoln: "The legitimate object of government is to do for a community of people whatever needs to be done but which they cannot do or cannot do as well for themselves."

The philosophies of these great American President are appropriate today.

I believe that local leadership and local initiative can and should provide the keys to progress for our people. The Federal Government can assist in many ways, but the planning and leadership must begin with the people at the city, county, and local level.

I have found over the years that our district has possessed and developed magnificent local leadership in many of our communities. This leadership works with the State and Federal Government in improving their communities and in bringing greater opportunities for our people.

I believe that every American is entitled to education, training, and an opportunity. I do not believe that Government is obligated to support those who are able-bodied and able to work and who refuse to work and accept responsibility. For those who are aged, infirm, ill, disabled, and incapacitated—I believe our Government has a proper and humanitarian role to play in supporting the needy.

As our forefathers believed in a balanced form of government—steering clear of the extremes—I am a believer in a balanced philosophy of government.

It has been my policy to avoid ex-

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tremes and to adhere to a philosophy of reason and moderation. I believe in working with my colleagues in the Congress in achieving agreement and accord that represent the views of the great majority of Americans. I do not favor legislation that represents extremism.

I believe in sound fiscal economy and that taxpayers are entitled to a dollar's value for a dollar spent in the public interest. There are those who would give the Federal Government a blank check—there are others at the opposite extreme who would cut Government operations to the point that the functions of the Government would be stopped. I work to achieve a proper balance between the extremes in the mainstream of reason.

I believe like many conservatives that we must preserve our institutions, our freedoms, and basic values that form the foundation of our great democratic society. I also believe in progress and progressive government that is responsive to the needs of the people and the problems of our time—government that will work with local communities to solve problems and to build a better life for all Americans.

My record in the Congress, serving all our people, is cumulative with much accomplished and my constituents faithfully served in the public interest.

The 91st Congress has accomplished much. We have made substantial reductions in the budget and we have set some priorities and policies to achieve growth and progress for our people. Our district is sharing in this partnership of growth and progress.

INCREASE IN SOCIAL SECURITY PAYMENTS NEEDED IMMEDIATELY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDade) is recognized for 5 minutes.

Mr. McDADE. Mr. Speaker, on the 21st of May this House passed one of the most important bills of this Congress, a raise in social security payments, with an escalator clause that would take into consideration inflation, as recorded in the Consumer Price Index. It was vital to pass this bill, because our senior citizens, living on this modest income, have been the greatest victims of inflation.

This House did its work thoroughly and with dispatch. Yet, on this last day of September, that social security bill still has not come to the floor of the other body for a vote. It still rests with the chairman of the Finance Committee in that other body.

This is unconscionable. The senior citizens of this Nation must be treated with the decency and consideration they deserve. They are not receiving this when a bill that concerns them so vitally is treated with such indifference. These people are the ones who have done so much to build America's greatness. Surely, the least we owe them is the prompt passage of this legislation which concerns them so much.

I urge, in the strongest manner possible, the chairman of the Finance Committee to release this bill immediately for action on the floor of the Senate, and I ask that the bill be effective immediately. It is needed, and it is needed today.

HEALTH CARE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Anderson), is recognized for 15 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, the Washington Star carried a most significant and timely editorial entitled "Action Needed on Nation's Health" in its Sunday edition of September 27. The editorial charged that in the provision of health care—

> The United States is in a third-rate position among the industrial nations. It just muddles along, tolerating incredible disorganization, appalling inequities and financial ruin for people who get too sick for too long. For millions, adequate care simply is unavailable. Distribution of services is drastically uneven across the Nation.

Mr. Speaker, these are not the words of a newspaper known for its inflammatory rhetoric or congenital alarmism; indeed, its customary judiciousness leads one to doubt whether its editorial board is dominated by nay-saying radicals. So when it proclaims that a most serious and threatening health care breakdown is upon us we would do well to pay heed. The skyrocketing costs of physician and hospital services, the uneven, unbalanced, and gap-filled coverage of private health insurance, and the alarming shortage of primary health care physicians are painful facts of life for more and more Americans. The recent Gallup poll showing 54 percent of Americans endorsing national health insurance indicates the public patience with a health care "system" fast approaching a state of advanced entropy is reaching the breaking point. We cannot much longer avoid, therefore, a major redirection and overhaul of our health care arrangements.

Mr. Speaker, in light of the stinging indictment of the present nonsystem of health care in this country it is interesting to note that the editorial did not impulsively and uncritically endorse the proposal for compulsory national health insurance. Correctly perceiving that grand panaceas of the one-fell-swoop variety may do more harm than good the editorial warned:

> To place (National Health Insurance) in effect now would be like installing a jumbo jet engine on a Ford tri-motor plane; it would pull the whole fragile health works to pieces.

I find myself in close sympathy with these sentiments. It is indeed true that we need major new initiatives on the health care front; but it is also a harsh fact that we have neither the budgetary leeway, the trained medical manpower or sufficient understanding of the subtleties of something so vast and complicated as our $70 billion a year health care system to prudently undertake an intervention of the massive corporation contemplated by the national health insurance proposals.

Mr. Speaker, the editorial did not hesitate to chide the Nixon administration for its halting and uneven performance on the health care problem. As one member of the House Republican leadership I have tried to keep in close touch with key administration officials responsible for policy planning in this critical area. I have been deeply impressed by the concern and the commitment of the President and his advisers for the development of more adequate means of providing health care services for all Americans. But in the complex and difficult affairs of National Government, the good intentions of a President are not always easily and quickly transformed into concrete actions. Frankly, I must express the feeling that the unwieldy bureaucrats giant just down the Hill, the Department of Health, Education, and Welfare, is not fully measuring up to its responsibilities on this score. Rather than mobilizing and concentrating its great resources, manpower and expertise on the development of intelligent, constructive, workable solutions to our varied health care problems, HEW has displayed a rather unfortunate tendency to rest content with picking and snipping from the periphery. This, it seems to me, was epitomized by Under Secretary Veneman's statement at the national health insurance hearings last week. I have studied the NHI bill carefully, and am convinced that there are sufficient hard, substantive inadequacies in the proposal to obviate any need for resort to red herrings. These inadequacies need to be laid squarely on the table before an impatient public is stampeded into enactment of an ill-timed and potentially hazard-fraught measure.

Mr. Speaker, rather than recklessly wielding the withering bludgeon of massive intervention, as the NHI advocates would have us do, we would do better to circumspectly employ the fine-honed surgical scalpel of limited and strategically targeted initiatives in seeking solution to the health care crisis. I believe the Star editorial wisely pointed to a number of these limited but nonetheless high priority fronts: First, we must substantially expand the output of our medical schools, especially of primary care physicians. Second, we need to secure a more appropriate regional and socioeconomic distribution of medical personnel through the employment of various incentives to encourage doctors to practice in physician shortage areas. Third, there must be increased efforts to improve the productivity of physicians through more effective and widespread use of paramedical personnel. Fourth, we must provide aid and encouragement to the development of group practice and other more efficient and effective forms of comprehensive health care delivery.

To these I would add two more of my own. First, we must bridge the lacunae in our private health insurance system, perhaps through a Government sponsored insurance to cover "catastrophic costs" and tax credits to individuals or families for the purchase of comprehensive, full-coverage private health insurance. And second, we must speed efforts to achieve effective peer or utilization review panels at the local level in all areas of the country. In this regard the Bennett amendment to the social security bill is a most promising initiative.

Mr. Speaker, action on the health care front can no longer be delayed. This Star editorial has provided a valuable public service by alerting us to the urgency of the problem and pointing in the direction of viable solutions. I commend it to all of my colleagues and that the full text be inserted at this point in the RECORD:

ACTION NEEDED ON NATION'S HEALTH

Fourteen months after he said the country was facing a "massive crisis" and possible breakdown in health care, President Nixon has called for the drafting of a remedial program. And the word is out that he won't settle for just shoring up the present rickety health services system. He has ordered a blueprint for making Americans the healthiest people on earth, which they now decidedly are not.

If that is indeed his goal, he deserves every encouragement. This is a mission of necessity upon which the nation should have embarked many years ago. In this field, the United States is in a third-rate position among the industrial nations. It just muddles along, tolerating incredible disorganization, appalling inequities and financial ruin for people who get too sick for too long. For millions, adequate care simply is unavailable. Distribution of services is drastically uneven across the nation.

Officials of HEW are reported to be working nights and on weekends on Mr. Nixon's program, and a bundle of recommendations should shortly be on his desk. He will need to sit down when he reads the cost projections. If the formulators come up with a plan scaled to actual needs, the price will be jolting. It will make the welfare reform legislation he is now trying to push through Congress look like a penny's worth of peanuts. No doubt that is why he has delayed so long in acting on his own health-care crisis alarm, sounded in July of last year. A glimmer of what may be expected was given by Dr. Roger O. Egeberg, an assistant HEW secretary: ". . . as I see the problems, they are awful. Our needs for money are almost insatiable."

Before any hallelujahs are heard, it should be noted that no real movement is visible, except backward. All that is promised is a plan, and that has come not directly from the President but from a third-level administrator, Dr. Egeberg. The doctor has long been agonizing over the deteriorating health-care situation and trying to direct the President's attention to it. Now he vouches for Mr Nixon's interest and we hope he is correct. We also hope that another year will not elapse before a comprehensive, sensible graduated program is laid before Congress and the people.

This is a cause to which the public would rally. Most people are gravely concerned about the cost and uncertainty of medical care, and most still have not been exposed to the more shocking evidence which the President could offer.

There is abundant evidence of that concern. For example, on Labor Day the AFL–CIO president delivered a most untypical speech. It wasn't about labor itself, but rather was a statement of labor's No. 1 goal for the Seventies. That, George Meany said, "is to upgrade America's standard of health, to establish a new and better system for delivering health care and health services to the people who need them." He strongly endorsed the national health insurance program now before Congress.

Fifteen senators are sponsoring the insurance bill, which will not and should not be passed in this session. To place it in effect now would be like installing a jumbo jet engine on a Ford Tri-motor plane; it would pull the whole fragile health works to pieces. It is the only logical long-run objective, but preparations must be made. Crippling deficiencies of manpower, money and planning must be dealt with.

The administration, though, has shown no inclination to come to grips with the core problems, and its shotgun assault Wednesday on the health insurance bill bespoke too strong an attachment to the status quo. It revealed an affection for the private health insurance system that seems out of all proportion to that system's achievement record. Indeed the health needs picture drawn by HEW Assistant Secretary John G. Veneman, who presumably was speaking for the administration, was depressing in its narrowness.

He said national health insurance would cost too much (which it probably would if it were immediately implemented), and that it would "radically restructure the health financing and health service industry" with untested new processes. Certainly the present processes have been tested, and in view of the sorry state of health services, some radical restructuring seems inevitable.

Most discouraging, however, was Veneman's conclusion that, over-all, "the best investments that we can make as a nation in improved health are those directed toward assuring sufficient food and an adequate income, and a healthy environment for all." That was a platitudinous evasion of the health-care issue—about on the level of prescribing an apple a day to keep the doctor away. But people more zealous to assure first-rate health services for everyone, regardless of income, are hamstrung until some expensive foundations are laid.

A major expansion and upgrading of services is out of the question until the medical personnel shortage is relieved. The Nixon administration has avoided confronting that primary obstacle which, as a result, is growing larger. New York hospitals now are so desperate for nurses that they are advertising in Europe, Canada and Australia. Probably a fourth of the nursing stations in the country are unfilled. The doctor shortage stands at more than 50,000 and is worsening daily, yet U.S. medical schools turned away 15,000 well-qualified applicants this year. Faced with this predicament, the administration has trimmed federal assistance to medical schools and many are staggering financially. Two of the three here in the District are threatened with closing if they do not receive emergency grants. Johns Hopkins at Baltimore is in serious difficulty.

The President's first concern in the health field should be the rescue of the medical schools, and then their enlargement. The government also should set up improved machinery for measuring their efficiency and for obtaining the largest possible output of new doctors and nurses for the dollars spent.

And some way must be found to improve the dispersal of physicians. More med school graduates must be gotten into practice out among the populace, in localities where they are desperately needed, instead of adding to the urban concentration of specialists. There has been no planning for distribution of medical manpower in relation to needs. Hence some whole counties have been without general-practice doctors, while more attractive areas and specialties have been overloaded. Location incentives can be provided and the fadeout of the general practitioner can be reversed.

Another urgent need is for commitment by the profession to increased use of medical assistants—to the training of a new grade of personnel who in effect would be supernurses. These aides—extensions of the doctor but at a level just below him—could contribute immeasurably to the creation of an efficient, full-service system. Professional obstinance has suppressed this concept, but there have been recent encouraging experiments.

Action is needed to extend prepaid group practice services to more Americans. About five million now are covered by group plans, which assure treatment at minimal cost. Again, there is resistance in the medical profession, but the AMA president recently voiced strong support for group practice and urged his organization and the federal government to promote it.

The President has been accused of giving health care a low priority rating, and we hope he will soon lay that charge to rest. If his administration can put together a program to create efficiency and sufficiency where there is now chaos and paucity, he will be long remembered. The pattern for advancement should be drawn to culminate with cradle-to-grave national health insurance, when the services structure can support it. Whether health services are a right or a privilege is an old argument, but Americans have settled it in their minds, and George Meany asserted that decision: "We must stop restricting the right to life and death to those who can pay, and denying it to those who cannot."

MAGNIFICENT VICTORY BY EWING TOWNSHIP BABE RUTH BASEBALL TEAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON), is recognized for 30 minutes.

Mr. THOMPSON of New Jersey. Mr. Speaker, it gives me great pleasure to call to the attention of my constituents, our colleagues and the whole world the magnificent victory won by the Ewing Township Babe Ruth baseball team in the 19th annual Babe Ruth League world series held in Brawley, Calif.

Like true champions, Ewing Township finished first in the tournament by recovering from its only loss to sweep five straight games. I am particularly pleased that the most valuable player award for the series went to Fritz Sickles who tied a series record by pitching three victories. He was joined in this feat by Frank Cipullo who also won three games. Frank also had the honor of pitching the team's final 7-to-2 victory over a very strong Mount Healthy, Ohio, team. It was this same Mount Healthy team that defeated Ewing Township 6 to 4 earlier in the tournament before Ewing Township began its victory streak.

I want to congratulate all of the youngsters who participated in the tournament and, especially, the young heroes from Ewing Township who brought great honor to themselves, their parents, their very capable manager, Joe Sgro, their community, and their home State of New Jersey.

Mr. Speaker, so that the players may have a complete record of their victory in the Babe Ruth world series, I set forth herewith the box scores of the eight games in which the team participated:

1970 BABE RUTH WORLD SERIES

GAME NO. 1

Brawley, Calif. (0)	AB	R	H	RBI	Ewing Township, N.J. (5)	AB	R	H	RBI
Cato, rf	2	0	0	0	Cammarata, 2b	2	0	0	0
Cook, rf	1	0	0	0	D. Henley, cf	3	1	2	1
Huyler, cf	3	0	2	0	Krenchicki, ss	3	0	2	1
Ulloa, 1b	2	0	0	0	Sickels, p	3	0	0	0
Lucio, ss	2	0	0	0	Holzhammer, 1b	3	0	1	0
Benson, ph	1	0	0	0	R. Henley, rf	3	1	1	0
Robinson, pr	0	0	0	0	Festa, lf	1	1	0	0
Vandiver, c	3	0	0	0	Rafalski, c	3	1	2	1
Magin, lf	2	0	0	0	Pageau, 3b	2	1	1	1
Hodges, ph	1	0	0	0					
Orff, 3b	2	0	0	0					
Banaga, 2b	2	0	0	0					
Ruiz, p	2	0	0	0					
Totals	23	0	2	0	Totals	23	5	9	4

Score by innings:

Brawley	000	000	0—	0-2-5
Ewing Township	000	050	x—	5-9-1

E—Lucio, Vandiver 2, Ruiz, Magin, Cammarata, 2B— Pageau. 3B—D. Henley. SB—Krenchicki. DP—Brawley 1. LOB—Brawley 1, Ewing 1.

	IP	H	R	ER	BB	SO
Ruiz (L)	6	9	5	0	3	4
Sickels (W)	7	2	0	0	1	14

Umpires—Katusz, Froelich, Moore, Zielich. Time—1:59.

GAME NO 5

Honolulu, Hawaii (0)	AB	R	H	RBI	Ewing Township, N.J. (2)	AB	R	H	RBI
Yamashiro, ss	3	0	1	0	Camaratta, 2b	2	1	0	0
Hirata, cf	3	0	0	0	D. Henley, cf	2	1	1	0
Persons, 1b	3	0	0	0	Krenchicki, ss	3	0	1	1
Tatupu, c	3	0	0	0	Sickels, lf	2	0	0	1
Nakaya, lf	2	0	0	0	Hoizhammer, 1b	3	0	2	0
Kira, 3b	2	0	0	0	R. Henley, rf	2	0	0	0
Ho, rf	2	0	0	0	Cipullo, p	3	0	0	0
Kitamura, 2b	2	0	0	0	Rafalski, c	3	0	0	0
Pacarro, p	2	0	0	0	Pageau, 3b	3	0	1	0
Total	22	0	1	0	Total	23	2	5	2

Score by innings:

Honolulu	000	000	0—	0-1-3
Ewing Township	100	010	x—	2-5-2

E—Pacarro, Pageau 2, Hirata, Persons. SB–Pageau, Yamashiro, D. Henley. SF–Sickels. LOB—Honolulu 2. Ewing 7.

	IP	H	R	ER	BB	SO
Pacarro (L)	6	5	2	1	2	4
Cipullo (W)	7	1	0	0	0	7

HP—Pacarro 1 (R. Henley). Cipullo 1. (Nakaya). Umpires—Zielich, Johnson Froelich, Moore. Time 1:49.

GAME NO. 8

Mt. Healthy, Ohio (6)	AB	R	H	RBI	Ewing Township, N.J. (4)	AB	R	H	RBI
Daugherty, 1b	4	1	1	0	Cammarata, 2b-ss	3	1	1	0
Herbert, 2b	4	1	3	2	D. Henley, cf	4	0	2	0
Jacoby, p	2	0	0	0	Krenchicki, ss-p	3	1	2	2
Scheidt, cf	4	0	0	0	Sickels, lf	3	1	1	0
Bass, c	4	0	1	0	Holzhammer, 1b	3	0	2	1
Telinda, ss	1	1	0	0	R. Henley, p-rf	3	0	0	0
Tippenhaur, ss	1	1	0	0	Festa, rf	1	0	0	0
Schenke, lf	2	1	0	1	Goeke, 2b	2	0	0	0
Heber, rf	1	0	1	1	Rafalski, c	3	0	1	0
Hasselbush, 3b	1	0	0	0	Pageau, 3b	1	1	0	0
Green, pr	0	1	0	0					
Gamble, 3b	2	0	0	0					
Total	26	6	6	4	Total	26	4	9	3

Score by innings:

Mt. Healthy, Ohio	010	005	0—	6-6-1
Ewing Township, N.J	000	200	2—	4-9-5

E—Pageau 3, Rafalski, Bass, Krenchicki. 3b—Krenchicki. SB—Telinda, Heber, Sickels, Rafalski, Scheidt, Bass. Sacrifice—Schenke 2. LOB—Mt. Healthy 9, Ewing 6.

	IP	H	R	ER	BB	SO
Jacoby (W)	7	9	4	3	5	4
R. Henley	3⅓	2	1	0	3	4
Krenchicki (L)	3⅔	4	5	1	2	4

HP—R. Henley 1 (Jacoby). Krenchicki—1 (Telinda). WP—R. Henley, Jacoby. PB—Rafalski. Umpires—Froelich, Zielich, Katusz, Johnson. Time—2:41.

GAME NO. 11

Nashville, Tenn. (1)	AB	R	H	RBI	Ewing Township, N.J. (4)	AB	R	H	RBI
Cartwright, cf	3	0	1	0	Camarate, 2b	2	2	0	0
Carpenter, 1b	4	0	1	0	D. Henley, cf	2	1	0	0
Latimer, c	3	0	1	0	Krenchicki, ss	3	1	1	2
Thomas, 3b–p	3	0	0	0	Sickels, p	3	0	1	2
Morgan, p–3b	3	0	1	0	Holzhammer, 1b	3	0	0	0
Whittaker, rf	2	1	1	0	R. Henley, rf	2	0	1	0
Primm, lf	1	0	0	0	Pageau, 3b	3	0	0	0
Stinson, ss	3	0	1	1	Rafalski, c	2	0	1	0
Dean, 2b	2	0	0	0	Festa, lf	2	0	0	0
Gray, lf–rf	3	0	1	0	Cipulla, lf	0	0	0	0
Total	27	1	7	1	Total	22	4	4	4

Score by innings:

Nashville, Tenn.	000	100	0—	1-7-1
Ewing Township N.J	103	000	x—	4-4-1

E—Morgan, Sickels. SB—Camarata 2, D. Henley, Krenchicki 2, R. Henley. SacF—Sickels. LOB—Nashville 7, Ewing 3.

	IP	H	R	ER	BB	SO
Morgan (L)	3	2	4	3	3	3
Thomas	3	2	0	0	0	3
Sickels (W 2–0)	7	7	1	0	2	6

Umpires—Katusz, Froelich, Moore, Zielich. Time—1:57.

GAME NO. 13

Darien, Conn. (2)	AB	R	H	RBI	Ewing Township, N.J. (3)	AB	R	H	RBI
Seyferth, 2b	4	0	0	0	Cammarata, 2b	2	1	1	0
Costello, c	4	0	1	0	D. Henley, cf	2	1	1	1
Case, p	3	0	1	0	Bombara, lf	1	0	0	0
Tracy, 1b	3	0	1	0	Krenchicki, ss	3	1	1	0
Nadriczny, lf	3	1	0	0	Sickels, lf–cf	1	0	0	2
Wright, rf	2	0	0	0	Holtzhammer, 1b	3	0	0	0
Lacount, cf	1	1	1	0	R. Henley, rf	2	0	0	0
Harrington, ss	3	0	1	1	Cipullo, p	2	0	0	0
Bruno, 3b	3	0	1	1	Rafalski, c	2	0	0	0
					Pageau, 3b	2	0	0	0
Total	26	2	6	2	Total	20	3	3	3

Score by innings:

Darien, Conn	010	100	0—	2-6-3
Ewing Township, N.J	002	001	x—	3-3-2

E—Pageau, Krenchicki, Bruno, Tracy, Costello. 2b—D. Henley. SB—Cammarta, Krenchicki, Lacount, R. Henley. Sacrifice—Sickels. DP—Ewing 1. LOB—Darien 6. Ewing 4.

	IP	H	R	ER	BB	SO
Case (L)	6	3	3	2	3	3
Cipulla (W 2–0)	7	6	2	1	3	5

WP—Cipulla 1. Balk—Cipulla 1. Umpires—Freelich, Zielich, Katusz, Johnson. Time—2:05.

GAME NO. 15

Ewing Township, N.J. (4)	AB	R	H	RBI	Pine Bluff, Ark. (2)	AB	R	H	RBI
Cammarata, ss	4	1	1	0	Wallace, ss	2	0	0	0
D. Henley, cf	4	0	1	0	Rhodes, lf	3	1	1	0
Krenchicki, p	2	1	2	1	Burleson, p	3	0	1	0
Sickels, lf	3	1	1	1	Chambliss, c	3	0	2	1
Holzhammer, 1b	4	0	1	0	Haywood, rf	3	0	1	0
Cipullo, 3b	2	0	0	0	DeMoss, cf	3	0	0	0
R. Henley, rf	3	0	1	0	Lunsford, 1b	3	0	0	0
Goeke, 2b	2	1	1	0	Seale, 2b	3	0	0	0
Rafalski, c	3	0	0	0	McCullough, 3b	3	1	0	0
Total	27	4	8	2	Total	26	2	5	1

Score by innings:

Ewing Township	000	012	1—	4-8-2
Pine Bluff	101	000	0—	2-5-3

E—Wallace 2, Rafalski, D. Henley, Burleson. 2b—R., Henley. SB—Cammarata 2, D. Henley Krenchicki. Sac—Wallace. LOB—Ewing, 7, Pine Bluff 4.

	IP	H	R	ER	BB	SO
Krenchicki (W)	7	5	2	1	0	4
Burleson (L)	7	8	4	3	4	9

WP—Krenchicki, Burleson. Umpires—Zielich, Johnson, Freelich, Moore. Time—1:56.

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1970 BABE RUTH WORLD SERIES—Continued

GAME NO. 16

Mount Healthy	AB	R	H	BI	Ewing	AB	R	H	BI
Daugherty, 1b	3	0	1	0	Camaratta, 2b	3	0	1	0
Herbert, 2b	3	0	0	0	D. Henley, cf	3	0	1	0
acoby, p	3	0	0	0	Krenchicki, ss	2	0	0	0
Scheidt, cf	2	0	0	0	Sickels, p	3	1	1	0
Bass, c	3	0	1	0	Holzhammer, 1b	2	0	1	1
Telinda, ss	3	0	0	0	Cipullo, 3b	2	0	0	0
Schenke, lf	3	0	0	0	Goeke, 3b	0	0	0	0
Heber, rf	2	0	0	0	R. Henley, rf	2	0	0	0
Gamble, 3b	1	0	0	0	Festa, lf	2	0	0	0
					Bombera, lf	0	0	0	0
					Rafalski, c	2	0	0	0
Totals	23	0	2	0	Totals	21	1	4	1

Mt. Healthy	000	000	0—	0
Ewing	000	100	x—	1

E—Telinda 2, Cipullo. 2B—Cammarata. 3B—Sickels. WP—Sickels. LP—Jacoby.

GAME NO. 17

Mount Healthy	AB	R	H	RBI	Ewing	AB	R	H	RBI
Daugherty, p	3	0	0	0	Cammarata, 2b	3	0	0	0
Herbert, 2b	4	0	0	0	D. Henley, lf	3	0	1	1
Jacoby, 1b	3	1	3	0	Krench'ki, ss	4	0	0	0
Scheidt, cf	3	0	0	0	Sickels, lf	2	0	1	0
Bass, c	2	1	1	0	Holzha'er, 1b	3	2	1	0
Telinda, ss	3	0	0	0	Cipulla, p	1	1	0	0
Schenke, lf	2	0	0	0	R. Henley, rf	2	2	1	2
Tipp'hauer, p	1	0	1	2	Goeke, 3b	2	1	0	0
Heber, rf	3	0	0	0	Rafalski, c	3	1	0	0
Gamble, 3b	2	0	0	0					
Green, pr	1	0	0	0					
Totals	27	2	5	2	Totals	23	7	4	3

Score by innings (2d game):

Mount Healthy	000	002	0—	2
Ewing	010	501	x—	7

E—Gamble, Herbert, Bass 2, Daugherty, Krenchicki. 2B—Holzhammer. 3B—R. Menley. WP—Cipullo. LP—Daugherty. Umpires—Johnson, Moore, Zielich, Katusz.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. EVINS of Tennessee, for 45 minutes, today.

(The following Members (at the request of Mr. KYL) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. MCDADE, for 5 minutes, today.

Mr. ANDERSON of Illinois, for 15 minutes, today.

Mr. THOMPSON of New Jersey (at the request of Mr. ROBERTS), for 30 minutes, today, and to revise and extend his remarks and include extraneous matter.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PATMAN in five instances and to include extraneous matter.

Mr. ADAIR in five instances and to include extraneous matter.

(The following Members (at the request of Mr. KYL) and to include extraneous matter:)

Mr. RIEGLE.
Mr. MCCLURE.
Mr. PELLY.
Mr. ADAIR.
Mr. ANDERSON of Illinois.
Mr. POFF.
Mr. BROWN of Ohio.

(The following Members (at the request of Mr. ROBERTS) and to include extraneous matter:)

Mr. CORMAN in five instances.
Mr. RODINO.
Mr. PIKE.
Mr. GRIFFIN in two instances.
Mrs. SULLIVAN in three instances.
Mr. BINGHAM.
Mr. PICKLE in two instances.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 14485. An act to amend sections 501 and 504 of title 18, United States Code, so as to strengthen the law relating to the counterfeiting of postage meter stamps or other improper uses of the metered mail system;

H.J. Res. 236. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the week of August 1 through August 7, 1971, as "National Clown Week"; and

H.J. Res. 1154. Joint resolution authorizing the President to proclaim National Volunteer Firemen's Week from October 24, 1970, to October 31, 1970.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The Speaker announced his signature to an enrolled bill and a joint resolution of the Senate of the following titles:

S. 3730. An act to extend for 1 year the act of September 30, 1965, as amended by the act of July 24, 1968, relating to high-speed ground transportation, and for other purposes; and

S.J. Res. 110. Joint resolution to amend the joint resolution entitled "Joint resolution to establish the first week in October of each year as National Employ the Physically Handicapped Week," approved August 11, 1945 (59 Stat. 530), so as to broaden the applicability of such resolution to all handicapped workers.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on September 30, 1970 present to the President, for his approval, bills and joint resolutions of the House of the following titles:

H.R. 11953. An act to amend section 205 of the Act of September 21, 1944 (58 Stat. 736), as amended;

H.R. 14373. An act to authorize the Secretary of the Navy to convey to the city of Portsmouth, State of Virginia, certain lands situated within the Crawford urban renewal project (Va.-53) in the city of Portsmouth, in exchange for certain lands situated within the proposed Southside neighborhood development project;

H.R. 18127. An act making appropriations for public works for water, pollution control, and power development, including the Corps of Engineers—Civil, the Panama Canal, the Federal Water Quality Administration, the Bureau of Reclamation, power agencies of the Department of the Interior, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1971, and for other purposes;

H.J. Res. 589. A joint resolution expressing the support of the Congress, and urging the support of Federal departments and agencies as well as other persons and organizations, both public and private, for the international biological program;

H.J. Res. 1178. A joint resolution authorizing the President to proclaim the month of October 1970 as "Project Concern Month"; and

H.J. Res. 1366. A joint resolution to provide for the temporary extension of the Federal Housing Administration's insurance authority.

ADJOURNMENT

Mr. ROBERTS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 40 minutes p.m.) under its previous order, the House adjourned until Monday, October 5, 1970 at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2416. A letter from the Acting Director, U.S. Information Agency, transmitting the Agency's annual report for fiscal year 1970 on disposal of excess foreign property, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949; to the Committee on Government Operations.

2417. A letter from the Acting Secretary of the Treasury, transmitting a semiannual report on U.S. purchases and sales of gold and the state of the U.S. gold stock, and on International Monetary Fund discussions on the evolution of the international monetary system; to the Committee on Banking and Currency.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of New York: Committee on the Judiciary. H.R. 6114. A bill for the relief of Elmer M. Grade; with amendments (Rept. No. 91-1550). Referred to the Committee of the Whole House.

Mr. MANN: Committee on the Judiciary.

H.R. 10233. A bill for the relief of Comdr. Albert G. Berry, with an amendment (Rept. No. 91-1551). Referred to the Committee of the Whole House.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 10482. A bill to authorize the establishment of the Voyageurs National Park in the State of Minnesota, and for other purposes; with an amendment (Rept. No. 91-1552). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 19342. A bill to establish and develop the Chesapeake and Ohio Canal National Historical Park, and for other purposes; with amenments (Rept. No. 91-1553). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR:

H.R. 19551. A bill to provide for the establishment of a council to be known as the National Adivsory Council on Migratory Labor; to the Committee on Education and Labor.

H.R. 19552. A bill to amend the Natural Gas Act of 1938; to the Committee on Interstate and Foreign Commerce.

By Mr. CLARK:

H.R. 19553. A bill to authorize the Secretary of Commerce to provide subsidy for the construction of a river passenger vessel; to the Committee on Merchant Marine and Fisheries.

By Mr. GRIFFIN:

H.R. 19554. A bill to amend the Internal Revenue Code of 1954 to provide an additional income tax exemption with respect to certain children; to the Committee on Ways and Means.

By Mr. HECHLER of West Virginia:

H.R. 19555. A bill to establish a Commission on Fuels and Energy to recommend programs and policies intended to insure that U.S. requirements for low-cost energy will be met, consistent with national environmental quality policy requirements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. McCLURE:

H.R. 19556. A bill to encoruage States to establish motor vehicle disposal programs and to provide for federally guaranteed loans and tax incentives for the acquisition of automobile scrap processing equipment; to the Committee on Ways and Means.

By Mr. MORSE (for himself and Mr. BINGHAM):

H.R. 19557. A bill to facilitate and encourage cooperation between the United States and certain defense contractors engaged in the furnishing of defense material to the United States in providing for an orderly conversion from defense to civilian production, and to assure, through such cooperation, that the United States and such defense contractors will be able to meet the challenge arising out of the economic conversion and diversification required by reason of the changing defense needs of the United States to provide for such an orderly conversion in an effort to minimize, to the extent possible, the hardships and other disruptive factors likely to be encountered by defense workers and their families as a result thereof; to the Committee on Interstate and Foreign Commerce.

By Mr. ROBISON:

H.R. 19558. A bill to deter aircraft piracy by invoking a commercial air traffic quarantine against countries abetting aircraft piracy or offering sanctuary to air pirates; to the Committee on Interstate and Foreign Commerce.

By Mr. SHIPLEY:

H.R. 19559. A bill National Public Employee Relations Act; to the Committee on Education and Labor.

By Mr. MAHON:

H.J. Res. 1388. Joint resolution making further continuing appropriations for the fiscal year 1971, and for other purposes; to the Committee on Appropriations.

By Mr. FULTON of Pennsylvania:

H. Con. Res. 762. Concurrent resolution expressing the sense of Congress with respect to sanctions against Rhodesia; to the Committee on Foreign Affairs.

H. Con. Res. 763. Concurrent resolution to express the sense of Congress on international measures to discourage hijacking; to the Committee on Foreign Affairs.

H. Con. Res. 764. Concurrent resolution urging the President to determine and undertake appropriate actions with respect to stopping armed attacks on aircraft and passengers engaged in international travel; to the Committee on Foreign Affairs.

By Mr. ROBISON:

H. Con. Res. 765. Concurrent resolution urging the President to determine and undertake appropriate actions with respect to stopping armed attacks on aircraft and passengers engaged in international travel; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. McFALL introduced a bill (H.R.19560) for the relief of Kwong Kam Choiand Kwong Ka-Hop; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause I of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

609. By the SPEAKER: Petition of Anthony Matioska, chairman, Lithuanian-American Community of the U.S.A., Inc., Dorchester, Mass., relative to the liberation of Lithuania; to the Committee on Foreign Affairs.

610. Also, petition of H. S. Swartz, Lexington, Mass., et al., relative to the highway trust fund; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

THE DOUBLE STANDARD OF THE NIXON ADMINISTRATION

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. GRIFFIN. Mr. Speaker, I would like to call to the attention of the House some rather strange administrative actions recently taken by the Commissioner of Internal Revenue.

Without authority under the law, in my opinion, the tax-exempt status of private schools recently organized in Mississippi and other Southern States was revoked unless certain IRS-imposed admission policies were advertised.

Yet, the IRS has granted tax exemption to the Social Education Foundation of New York through which are channeled royalties received by the revolutionist Jerry Rubin.

According to information made available to me, 350,000 white children attend private schools in New York City. The IRS has made no effort to deny tax advantages to those schools.

All of this is more evidence of the double standard of this administration which imposes certain conditions on the people of the South which are not imposed in the rest of the Nation.

On this subject, I include an editorial by James M. Ward which recently appeared in the Jackson Daily News. It follows:

QUESTIONS RAISED ON TAX STATUS FOR PRIVATE SCHOOLS

Here is a disclosure that will probably make Mississippians who give money to private schools without tax exempt privileges—as indicated by the Internal Revenue Service in light of white private schools springing up across the nation—more than passing alarm. It is found in an article in the Aug. 12 issue of The Review of the News magazine.

Starting off with comment on the current fad (if that is the proper word) by big publishing houses to give full support and promotion to radical leftists and criminals who write books, the magazine says, "Bookstore shelves all over the country have been weighed down, this year, by an enormous crop of works described by one reviewer as 'devoted to the destruction of the existing order. well-packaged handbooks on how to annihilate the Establishment,' distributed by at least a dozen supposed 'responsible' publishers in the United States."

Among those, Review of the News cites "Soul On Ice" by the criminal Communist terrorist Eldridge Cleaver, who is living in Red Algeria. The article quotes Newsweek as saying publisher McGraw-Hill has offered the fugitive Cleaver a $350,000 advance for a Sequel. Zap!

Other books being peddled are by Black Panther Bobby Seale, on trial for murder in Connecticut; Abbie Hoffman's "For the Hell of It" and Jerry Rubin's "Do It!" All three of these, as most literate Americans know, put on that disgraceful performance in the Chicago conspiracy trial that produced a threat to this nation's Judicial Foundation.

Now to the tax-exempt subject.

The Review of the News article points out that Jerry Rubin is a Walking Tax-Free Foundation and is spared the pain of paying income taxes on his book royalties through the creation of a mysterious thing known as the Social Education Foundation in New York. "Royalties are paid by Simon & Shuster to Jerry's agent, Carl Brandt, who, of course, funnels them to the entity which holds all existing property rights in the book, the aforementioned foundation," the article says.

Author Susan L. M. Huck tracked down the foundation, she being directed to the Exempt Organization Master File at the Mid-Atlantic Service Center in Philadelphia. Master File told her there was no record as such an organization. However, she reported, IRS publication No. 78, Supplement 1969-6

XUM

lists the foundation as having been granted tax-exemption.

Research tracked the foundation offices to a desk drawer in Apartment 6E, 40 East 10th Street, New York, which happens to be the home of Sidney M. Gewanter, one of the four officers of the foundation, another being Jerry Rubin himself.

The article says if you want a "grant" from the foundation you will have to call Mr. Gewanter at night for his foundation chores is a "moonlighting" affair. By day, he works for Gulf & Western Oil Corporation.

Jerry Rubin is one of these flaming revolutionaries whose chief goal in life is the destruction of the United States of America, a destruction he seeks at the taxpayers' expense. Book publishers, who are well-qualified as members of the "Establishment", are helping finance their own destruction with plush advances and royalties to those who would destroy the whole works.

While this is going on, if any person contributes money to a private school that may house white children in Dixie he had better prepare himself to be denied the privileges of tax-exempt status, a right that seems perfectly permissible for thuggish, Red revolutionaries.

Makes one scratch his head in wonderment, doesn't it?

ENERGY FOR THE FUTURE

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Thursday, October 1, 1970

Mr. METCALF. Mr. President, we in Congress look to the jurior Senator from Utah (Mr. Moss) both for wise advice and followup action in the energy field. Senator Moss was instrumental during his first 2 years in the Senate in formulation of the Kennedy natural resource program. Since attaining the chairmanship of the Senate Subcommitte on Minerals, Materials, and Fuels, Senator Moss has built a broad record of information upon which sound energy policy can be based.

As one example, national attention is focusing on the factual data which the Moss subcommitee has developed recently. This regards use of emerging energy technology which will reduce pollution and secondly, the integration of low-sulphur Western coal-fired energy with Eastern load centers, through an improved transmission system.

This week, in an address to the Western States Water and Power Consumers Conference in Salt Lake City, Senator Moss summarized his thoughts on an energy policy for the future, discussing environmental problems, fuels and fuel supply, utility responsibilities and the role which the West can play in meeting national needs.

I believe that all of us who are in part responsible for providing energy requirements within the context of a safe environmental policy can benefit from the information provided by Senator Moss in his Salt Lake City address. I endorse two amendments he proposed regarding the National Commission on Fuels and Energy, which more than 60 of us cosponsored in the Senate, and which was the subject of prompt hearings by the Moss subcommittee.

The Moss amendments would: first, require that the Commission have adequate consumer representation, and second, require a review by the Antitrust Division of the Department of Justice to determine if present trends in the fuels and energy situation might subject our people and our economy to the dangers of monopoly control over this vital aspect of our lives.

These amendments reflect the mature seasoning which an able chairman adds to well-intentioned legislation. The concentration of unchecked power in the energy field is ominous; with each new conglomerate, both ratepayers and stockholders are removed another step from the decisionmaking process. I hope the Senate will concur in the amendments when the bill is considered and commend to all the address by Senator Moss. I ask unanimous consent that the text of his speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ENERGY FOR THE FUTURE

Four years ago, at the Western States Water and Power Conference in Billings, Montana, I spoke about water for a thirsty West. Today the problem is even more broad, even more complex. Today, I must speak to you about energy for a power-needy Nation.

This nation has an insatiable appetite for electric energy. Demand for electricity is doubling every eight to ten years. Growth in use of electricity has been greater than growth in population, growth in gross national product, or growth in total energy demand.

This rate of growth means that in 1980, we will require twice the amount of generating capacity that exists today. By 1990, we will require four times and by the year 2000, eight times, the generating capacity that exists today.

Unless we are to face rationing of electricity or massive brownouts and blackouts, this schedule must be met.

For example, as you all know, only last week a combination of unseasonably hot weather and broken generation equipment caused an electrical power shortage that swept the East Coast from the Canadian border through Washington, D.C. and into the Carolinas, and surged westward to Ohio.

With unexpected emergency situations such as this becoming commonplace in the electric industry, it is virtually impossible that the required capacity can be installed without improved planning.

Two fundamental problems raise important questions about future availability and reliability of electric energy: environmental protection and fuel supply.

ENVIRONMENTAL PROBLEMS

Nobody planned pollution. The problem is that nobody planned maintenance of environmental quality, either. In the last decade, as environmental problems became more visible, the public became concerned—and vocal.

Today, aesthetics, air and water quality, land use, or ecological questions now arise with virtually every major generation or transmission proposal. Public concern has resulted in new regulatory approaches at all levels of government.

Critics claim that all power pollutes—that fossil fuel-fired powerplants pollute the air and water, that nuclear powerplants cause thermal pollution and radiation problems, and that hydroelectric projects flood lands and are, therefore, aesthetically objectionable.

And they are right.

If we cannot effectively manage this pollution problem, survival will compel us to limit use of electricity.

But electricity can assist in creating environmental quality.

Electric vehicles—their motive power generated in clean power plants—would eliminate to a very great extent automotive pollution, which is far and away the largest contributor to air pollution.

Electricity is clean at its point of use in other applications, including heating, cooking, and air conditioning. Centrally located powerplants have more potential to solve environmental problems than scattered residences or businesses using some other forms of energy.

Methods of waste disposal, of recycling resources, of stack gas removal all require considerable quantities of electricity.

While opposition to new generation and transmission, per se, can and is having unnecessary and detrimental effects, refusal by some electric utilities to consider environmental problems and aspects can and is creating much more serious problems.

I believe we can have both the necessary additional electrical power to maintain our American life style and at the same time protect and enhance our environmental quality. Attainment of this goal will require that the energy industries, the environmetalists, and the general public all learn to talk with each other and to plan together. Before we resort to drastic solutions respecting either energy or environment, we should honestly try to meet both needs.

This is one of the reasons I have cosponsored legislation to create a national land policy with assistance to states for developing statewide land use plans. Future generations and transmission facilities would be included in such plans. They can and must be located so as to cause the least adverse environmental impact.

Such a national land use policy could eliminate many of the hang-ups electric utilities have in meeting future power demands. But this policy would be impotent if there were inadequate fuels to use for electric generation.

FUELS

In recent weeks, discussion in Congress of fuel shortages has been almost as extensive as discussion of environmental control problems.

For this nation faces a short-term fuels and energy crisis that could turn into a long-range fuels and energy disaster.

Presently, the situation on fossil fuels—oil, gas, and coal—used to fire electric generating plants, is characterized by high prices and short supply.

Electric utilities on the East Coast, which use quantities of residual fuel oil, are not receiving bids for a future supply of this fuel. Those who do receive bids are required to pay premium prices for the fuel.

The Tennessee Valley Authority is down to a 10–12 day supply of coal, and, at some plants, a four day supply, compared with the normal 60-day supply. Cost of coal to TVA has doubled since January. Coal companies are failing to meet contracts for coal. Many electric utilities are finding that their coal supplier is delivering less coal, at a later date, at increased cost, with higher sulfur content.

Natural gas service for powerplants is being interrupted or threatened with interruption while prices are increasing. The municipal utility in Trinidad, Colorado, for example, is faced with an interruption of its gas supply, after receiving a 99.85 percent increase in the cost of its natural gas since last January.

Even residential consumers of natural gas, normally considered preferential users, are affected by this gas shortage. Earlier this month, Virginia Electric Power Company, which retails both gas and electricity, requested permission from the State Corporation Commission to refuse gas service to new customers, claiming that it could not get the increased supplies. The utility said it was simply a question of curtailing existing cus-

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tomers usage or refusing to serve new customers.

WHY A SHORTAGE?

Many theories have been advanced as to the why of these shortages. Coal representatives have blamed the Coal Mine Safety Act, air pollution control regulations, lack of railroad cars, projected nuclear power use and strikes of mineworkers for the shortage. They have suggested increased depletion allowance for coal as a solution.

Oil spokesmen have blamed the lack of stability of import regulations for shortage of residual fuel oil. Noting that residual fuel oil is imported without restriction on the East Coast and citing Middle East problems in support of stricter oil import quotas, they urge the rapid leasing of the outer continental shelf to explore for oil and gas, and ask tax incentives for oil exploration.

Natural gas producers blame Federal Power Commission regulation and point to the limitation of area rate profits to 12 percent for the shortage of natural gas. They call for increased prices, elimination of FPC rate regulation, as well as the leasing of outer continental shelf oil and gas.

Others have suggested that increased exports of coal approximately equal the coal shortages of electric utilities, and that coal production is down in hopes of escaping some provisions of the mine safety law.

Senator Hart of Michigan, chairman of the Senate Subcommittee on Energy, Natural Resources, and the Environment, recently wrote the Federal Trade Commission, requesting an independent investigation of gas reserves before the Federal Power Commission moves to increase area rates for natural gas producers or alters FPC jurisdiction over natural gas producers. Organizations such as Consumer Federation of America have questioned whether the gas shortage is legitimate or a fabrication to gain increased rates.

And there has been much speculation as to whether the fuels shortage and price boosts are caused by increased concentration of all energy forms—coal, oil, gas, and uranium—in the hands of large oil companies.

OBTAINING ADEQUATE FUEL SUPPLY

Whether caused by monopoly manipulation or legitimate reasons, the fuel shortage problem demands a solution.

Unless we can expand our supplies, the only immediate solution would be to establish priorities and allocate scarce fuels in accordance with public interest considerations. And this policy would have to be combined with price stabilization to prevent runaway prices due to short supply.

Controlling prices and allocating fuels are not desirable means of dealing with the fuels shortage. The fact that they are the only means at hand shows a lack of proper planning in the past.

We must be prepared to turn sommersaults to prevent such an emergency in the future. And we must have a plan to deal with such a crisis if it ever strikes us again.

For this reason, I held hearings in my Subcommittee on Minerals, Materials and Fuels earlier this month on legislation to establish a National Commission on Fuels and Energy.

Under this bill, in which more than 60 Senators joined as co-sponsors, a Commission would be established consisting of three members of the Senate, three members of the House, 15 members appointed by the President from Executive Agencies concerned with fuels and energy, and six members from the public. This Commission would make a thorough investigation of the nation's fuel and energy resources, requirements, and policies and tell us what we must do to fulfill future energy needs while at the same time prevent the rape of our environment.

I well realize there is a danger that special interests might dominate the Commission. I therefore will offer an amendment to (1) require that the Commission have adequate consumer representation, and (2) require a review by the Antitrust Division of the Department of Justice to determine if present trends in the fuels and energy situation might subject our people and our economy to the dangers of monopoly control over this vital aspect of our lives.

Any fuels and energy commission should consider the following tough questions:

1. What is the best allocation of Federal research funds for development of fuels and energy? While the Federal government has spent about $2.5 billion on research into atomic energy development, it has spent relatively little on other forms of fuel.

Recently, Federal research has been initiated into new projects. This year, the Government is spending $600,000 for research into magnetohydrodynamics—MHD—a process which we examined in hearings before my Minerals Subcommittee. This process would allow more efficient utilization of fuels in powerplants, and could make excellent use of Western coal resources with relatively little pollution and minor use of precious water.

2. What role should industry play in research funding? The American Public Power Association has recommended a Federal assessment of each electric utility, on a kilowatt-hour basis, to obtain funds for essential research projects. Projects to be funded would be determined by a joint industry-government board. Perhaps it would be appropriate to assess each fuel company on a similar basis to fund such research as desulfurization of coal or oil, production of synthetic fuels, prevention of oil spills, and elimination of particulate emissions. On the other hand, there are those who point out, with some cogency, that the fuels and energy industry is dragging its feet waiting for the Federal government to take the lead and to pick up the tremendous tab.

3. What is the potential of new fuels? And what should be done with fuels under Federal lands?

The Government owns vast oil shale lands, most of which are located in the Colorado-Utah-Wyoming area. Much of the Western coal deposits are under Federal lands. In addition, great amounts of oil and gas are located on the Outer Continental Shelf which is under Federal jurisdiction.

One witness at the fuels and energy commission hearings suggested that increased prices of other fuels would make economical the immediate production of synthetic fuels, especially gassified coal and oil from shale. He added that development of synthetic fuels would allow desulfurization during processing.

Geothermal steam is another potential source of non-polluting energy for electric generation. Last week, the Senate passed legislation which I cosponsored, calling for leasing of this resource under Federal lands. Geothermal steam has valuable by-products in many areas, including minerals and fresh water.

Shale oil, coal, geothermal steam, and oil and gas located on Federal lands, have the potential of providing a most highly significant addition to supplies of energy for this nation far into the distant future. The potential of these resources should be considered as well as who should develop them.

4. What should be the Federal role vis-a-vis the fuels industry? Present systems of benefits, subsidies, tax advantages, import restrictions, and the like should be reexamined. It should be determined whether environmental costs of fuels should be built into consumer cost or taxpayer cost.

5. What is the relationship between fuels production and electricity production?

I have advocated a national land use plan, including siting of powerplants and transmission facilities. I would hope that the commission would recommend locating powerplants near source of fuel in combination with an extensive national transmission system.

This would assure the strong interconnections required for reliability with opportunity for interchange of electricity over different time zones and different temperature zones. Access by all utilities to this transmission grid would eliminate duplication of facilities and enhance reliability and the public would benefit.

WESTERN ROLE

The West can have a decisive hand in assuring adequate, reliable and abundant supplies of energy to the Nation in the future.

Hydroelectric projects in the State of Washington are already benefiting power consumers in California.

We may yet see the day when hydroelectric projects in Washington State can benefit consumers in New York.

Or the day when mine-mouth coal or oil shale fired powerplants in Utah can benefit consumers in Massachusetts.

We have the resources here in the West. We can supply future energy needs. But we must be sure that the public interest is projected through wise location of large generation and transmission facilities, through careful development and use of our natural resources, through protection of the public from monopoly domination of those resources, and through assurance of a strong, interconnected national grid system to bring electricity from where it is abundant to where it is needed, any place in the country.

The Department of the Interior has taken one step which, it appears, heads us in the right direction. In the Missouri Basin, the Bureau of Reclamation has announced a study to determine future power needs for this region and, hopefully, to suggest the best sources for meeting these needs.

I would hope, however, that in pursuing this study the Interior Department will be sensitive to the consumer's interest and to the threat of monopoly. The Department's procedure has already raised questions in some quarters. At the outset, only the "giants" of the industry were to take part. After objecting loudly, the small, consumer-owned systems belatedly were allowed to participate.

Similar misgivings have been expressed about the Department's apparent willingness to consign the people's precious water in the Upper Missouri River to the rapidly growing "energy companies." My distinguished colleague, Senator Metcalf, has pointed out how great amounts of water have been silently committed to the very companies which already have the coal fuel reserves of Montana and Wyoming tied up. This dangerous concentration of resource control, against a national backdrop of concentration of control of fuels, must be watched.

UTILITIES' RESPONSIBILITIES

Now where do you representatives of consumer-owned utilities come in?

You can help by promoting environmental quality through *positive action*, rather than the usual *reaction*.

The Basin Electric Cooperative in North Dakota is doing exactly this.

Basin Electric urged and supported legislative proposals for strong air pollution control and strip mine reclamation legislation in North Dakota.

It refused to pollute water with powerplant ash, even when it was permissible.

It is working with a manufacturer and the U.S. Bureau of Mines to develop methods of more efficient fly ash removal for powerplants burning Western coals.

It supports research on uses of fly ash for various purposes, including highway construction and building materials.

And it was the first power producer in the Missouri Basin voluntarily to require coal

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suppliers to grade the spoil banks so as to return them to the contours of rolling countryside.

You should also continue to initiate in the area of power planning.

For example, the recently-released Missouri Basin Systems Group study on integrating large scale thermal generation with hydro-peaking generation by connecting Great Plains and Pacific Northwest areas emphasizes the benefits of proper inter-connection. Under the plan, nearly three million KW of diversity and $400 million in diversity benefits could aid both the Northwest and Rocky Mountain-Great Plains regions. Mine-mouth powerplants and dry cooling towers would be used, which would minimize adverse environmental effects while utilizing limited amounts of water.

Again, in the Pacific Northwest, through existing organizations and the creation of a Public Power Council, consumer-owned systems are engaged in one of the nation's most ambitious efforts to plan and produce low-cost power for an entire region with minimal environmental impact. The hydro-thermal accord which they seek to implement is of interest and importance to utilities in all parts of the country.

I am aware also that many other programs and projects aimed at providing electric power and environmental protection are underway in other parts of the West by consumer-owned systems.

As the West moves necessarily toward more reliance on thermal, rather than hydroelectric generation, and the Nation looks to larger powerplants and interconnected grids, we must not lose sight of the importance of continuing to grant preference in allocation of power from Federal hydroelectric projects to public and cooperative agencies. Through the "preference clause" as embodied in reclamation law, we have prevented private monopolization of power resources and provided a yardstick for judging power costs. In this era, when "big" so often means "concentration of control" and "monopoly," it is essential to continue the preference policy which has provided diversification of control and competition.

Sale of Federal power at low rates insures that the advantages of government development are passed on to the people. This principle must be protected.

I hear rumors about rate increases by the Bureau of Reclamation in the Missouri River Basin. Any such proposal must be rigorously and publicly scrutinized before it is accepted. Actual investment and revenue figures must be factored into payout studies. New approaches to cutting operation and maintenance expanses should be explored. Further arrangements for profitably combining Bureau hydro power and consumer-owned thermal generation deserve study. Only if there is no recourse to a rate rise to cover repayment requirements should this inflationary alternative be adopted.

It has been said that the price of liberty is eternal vigilance. That statement also applies to the price of power.

I assure you that I'll be keeping watch in Washington.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,500 American prisoners of war and their families.

How long?

MRS. MARIE NORTON HARRIMAN 1903–70

HON. HUGH L. CAREY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1970

Mr. CAREY. Mr. Speaker, I learned with deep sadness of the passing of Mrs. Marie Norton Harriman, wife of W. Averell Harriman, former Governor of New York, on September 26.

Mrs. Harriman was a woman of many talents and accomplishments. She will be remembered by most Americans as the helpmate of her husband during the many diplomatic assignments and cabinet posts he held during his long and eventful career. New Yorkers will always remember Marie Harriman as the charming and gracious First Lady of the Governor's Mansion in Albany from 1955 to 1959.

In memory of this outstanding American lady I include the account of her passing, which appeared in the September 27 issue of the New York Times, at this point in the RECORD:

MRS. W. AVERELL HARRIMAN DIES; FORMER GOVERNOR'S WIFE WAS 67

HUMOR AND HOSPITALITY AIDED HUSBAND IN HIS NUMEROUS GOVERNMENT ASSIGNMENTS

WASHINGTON, Sept. 26.—Mrs. Marie Norton Harriman, wife of W. Averell Harriman, former Governor of New York and a former Under Secretary of State, died today after a heart attack in George Washington University Hospital. She was 67 years old and lived in Georgetown.

Surviving, besides her husband, are two children by her former marriage to Cornelius Vanderbilt Whitney, Harry Payne Whitney of New York and Mrs. Pierre Lutz of Redding, Conn.; a sister, Mrs. William Gayley Lord of New York; two stepdaughters, Mrs. Shirley C. Fisk and Mrs. Stanley G. Mortimer Jr., and seven grandchildren.

A memorial service will be held Tuesday at 9:30 A.M. in the Great Choir of the National Cathedral. The funeral service will be held Tuesday at 5 P.M. in St. John's Episcopal Church, Arden, N.Y.

A VALUABLE HELPMATE

As a hostess of charm and wit, Mrs. Harriman was a valuable helpmate to her husband in his diplomatic and official activities. She was with him in Paris when he was chief United States negotiator at the Vietnam peace talks. Her fluent French was a great asset.

She also made a gracious mistress of the Governor's Mansion in Albany from 1955 to 1958.

In her late teens she was described as "the prettiest girl in New York." Her voice was low-pitched and husky in the manner of a blues singer. Her humor was irrepressible and irreverent.

When Mr. Harriman was Ambassador-at-Large and returned home late from the States Department with reports that United States relations with France were worsening, she told him:

"Oh, for gosh sakes, Ave, de Gaulle doesn't know his arm from his elbow."

She was popular with the so-called in set, including Truman Capote and the Kennedy family, and retained a youthfulness of manner that endeared her to young people, particularly her grandchildren.

Mrs. Harriman was born April 10, 1903, in New York. She studied art, history and architecture at Miss Spence's School and graduated in 1922.

After their first marriages ended in divorce, the Harrimans were married in 1930. For the next 12 years Mrs. Harriman continued her career as one of New York's busiest art dealers.

The Marie Harriman Gallery on East 57th Street took special interest in American artists and brought many previously unknown to the attention of the public.

"It was Ave's idea," she said. "He said I should be doing something."

Her husband's confidence in her artistic ability went back to the nineteen-thirties, when he was revitalizing the Union Pacific Railroad. She designed the interiors of its first streamlined trains. When Mr. Harriman developed a year-round resort at Sun Valley, Idaho, his wife decorated many of its accommodations and public rooms.

Shortly after Pearl Harbor, Mrs. Harriman closed her art gallery to devote herself to the war effort. While her husband was directing lend-lease in England as President Roosevelt's representative, she busied herself on the Navy's Ship Service Committee. That volunteer group had charge of welfare and recreation programs for all enlisted men in the Allied fighting fleet whose ships put in at New York.

Her son joined the Seabees in 1943 and her daughter served as a nurses' aide. Mrs. Harriman "adopted" for the duration two English girls sent here to escape the Nazi bombings. In 1937 she had taken over the rearing of Peter Duchin, the son of her friend, Mrs. Eddie Duchin, who died in childbirth.

When the war was over, she wanted to reopen her gallery, but she said: "After 1946 we were never long enough in any one place." They shuttled between London, Washington and Paris.

In 1953 they returned to New York and she resumed volunteer work with many charities. In the 1954 gubernatorial contest for New York's governorship, although she said it's "impossible for anyone to keep up with Ave," she proved a good campaigner in her own right.

As the Governor's wife, she put new life into the big Victorian Executive Mansion. She redecorated the downstairs, hanging portraits by Whistler, Gilbert Stuart and Copley together with Walt Kuhn.

She welcomed thousands of women at the Mansion, presiding over teas, receptions and open houses.

In recent years Mrs. Harriman was most active in support of the Robert F. Kennedy Memorial Foundation in Washington and The Lighthouse, the New York Association for the Blind.

CONGRESSMAN PIKE REPORTS TO HIS CONSTITUENTS

HON. OTIS G. PIKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. PIKE. Mr. Speaker, I am submitting my 10th annual report at this time because although Congress has not yet completed its legislative tasks for the year I feel that my constituents have a right to study my voting record before they express their opinion of it and of me in November.

XUM

There were great emotional and political tides sweeping the Nation this year, and they were clearly reflected in the actions of the House of Representatives. This year 1970 has been a year in which the tide was clearly turned on our effort in Vietnam, with the administration presenting a defense budget substantially reduced from that of 2 years earlier, and the Congress cutting it even further. The year 1970 has been a year in which the decay of our environment has moved Congress into action, and in which the Nation as a whole has demanded even greater action. It has been a year of unprecedented inflation and substantial recession and the debate over what could be done about the recession without adding to the inflation occupied much of our time.

The second session of the 91st Congress in the history of our Nation has been unconscionably slow in getting its work done, and yet in the 9 months which have elapsed since January it has accomplished some very important work.

The House of Representatives met on January 19 and had its first vote on January 27. Demonstrating our slow pace, this was a vote to appropriate funds for our foreign aid program for the fiscal year 1970, which was already more than half over on the day we voted. For the fiscal year 1971, which began on July 1, the same situation is prevailing, and as of this date with the fiscal year one-fourth over, 11 of our major appropriations bills for the year have still not been passed. One of the reasons for the difficulty in funding was demonstrated very early in the year when President Nixon on January 26 vetoed the fiscal 1970 appropriations for the Departments of Labor and Health, Education, and Welfare. On January 28 the House voted on the question of overriding the veto, and although a majority of 226 Members of the House voted to override, 191 voted not to, and since under the Constitution a two-thirds vote is required for that purpose, the veto was not overriden.

This vote and three others like it during the year continually showed a cleavage between the President, who threatened to veto every appropriation which exceeded his budget, and the Congress, which felt that more money was necessary in certain areas and voted less money than the President requested in others.

The first vote of the year, for example, was the appropriation for foreign aid, in which the Congress appropriated $2.5 billion, $897,000,000 less than the President had requested for this purpose. The appropriation for Labor, Health, Education, and Welfare, on the other hand, was in the total sum of $19.7 billion, $1,139,000,000 over the President's budget. After the President's veto was sustained Congress approved another appropriation for the Departments of Labor and Health, Education, and Welfare which was $675 million over the President's budget, and this bill the President signed.

My own reasons for voting to override the President's veto had to do with the fact that I would much rather reduce appropriations for such things as foreign aid, agricultural crop subsidies, and certain wasteful defense procurements than for items pertaining to the education of our children and the health of all our citizens.

Suffolk County receives the largest proportion of any county in New York of the so-called impacted areas aid, which comes from the Federal Government to areas with large Federal installations and large numbers of Federal employees. There was $398 million extra in the vetoed bill for aid to the impacted areas. Any sums which the Federal Government fails to provide under this program will have to be made up by the local taxpayers, and school administrators all around Suffolk County pointed out that they had already relied on these sums in preparing their annual school budget. Accordingly I voted to override both of the two vetoes which occurred during the year on appropriations for education. While Federal taxes were actually reduced on July 1 when the surtax expired, local real estate taxes have been skyrocketing and will be even worse in many of our school districts without the impacted areas aid, or with lessened impacted areas aid.

Congress meandered on at a slow pace through January, February, March, and April. In January we had only four record votes on public bills; in February only 10; in March only 16; in April only 18. Many of these votes were trivial, as, for example, a record vote on a motion to adjourn.

A few of them, on the other hand, were important to the Nation as a whole or to eastern Long Island in particular. In March the Nation was threatened with a massive railroad strike, and Congress passed emergency legislation barring such a strike. In March also the House authorized $429 million for shipbuilding subsidies in an effort to upgrade our Nation's deteriorating merchant marine. Toward the end of the month, in the first major piece of environmental legislation the House passed—unanimously—the Water Quality Improvement Act of 1970 to set legal requirements for cleaning up our Nation's waterways.

This legislation is of particular interest to the thousands of boatowners on Long Island, for it will establish Federal standards for marine toilets. While New York State has adopted very stringent standards in this regard, many of our boats move from State to State. Not only has the New York law kept other visitors out of New York, it has prevented New York boats from going into other States. This is an area in which Federal standards clearly seem called for.

In April we increased by 15 percent the benefits paid to persons retired under the Railroad Retirement Act, bringing them in line with social security retirees. This, too, passed unanimously. Shortly thereafter unanimity ended as the House entered into a bitter debate on the administration's Family Assistance Act, which provided a guaranteed annual income for our Nation's poor families. While it was billed as a measure designed to encourage people to get off welfare, its immediate effect would have been to add millions of people to our Nation's welfare rolls. All in all, it provided a nationwide system too similar to the system which has been such a disaster in New York, and I was unable to support it.

In April also we authorized $3.6 billion for the National Aeronautics and Space Administration. While I have always supported our space program in the past, this seemed to be one area which was not of such a high priority that we should exceed the President's budget. The bill did exceed the President's budget by $267,875,000, and I voted against it for that reason.

During the slow legislative months of January, February, March, and April my committee, the Armed Services Committee, was holding meetings frequently to consider the military procurement authorization requests of the administration for aircraft, missiles, ships, tracked combat vehicles, and research and development. Here again, in my opinion, we went overboard in adding to the administration's request by $435 million for ship construction, in authorizing $544 million merely to cover cost overruns on the C-5A aircraft, in authorizing $1.6 billion for the ABM, and making no real cuts whatsoever except in the realm of research and development. The total authorization contained in the bill was for $20.6 billion. It was my opinion that certain of the items in the bill should be eliminated, and both in the committee and on the floor I supported several amendments which would have reduced the bill by $1.4 billion. The amendments were defeated, and on final passage I voted against the entire bill as excessive. Later in the year the Senate did cut the bill by $1.4 billion; the final compromise cut it by $676 million, and I voted for the compromise figure. The compromise bill also contained a provision authorizing the President to transfer combat aircraft to Israel by sale or credit sale.

During the remainder of May we remained busy as the legislative pace almost doubled and the House had 28 record votes. Among them was legislation increasing social security benefits by an additional 5 percent and tying future increases to the costs of living.

In June we had our second foreign aid appropriation of the year, this one for fiscal 1971. Like the delayed appropriation for 1970 with which we started the year, this one was cut well below the administration's request, almost 25 percent. The administration had requested $2,876,000,000; the House cut $656,000,000. In June, also, by the almost unanimous vote of 374 to 1 we passed our second major environmental bill, the Clean Air Act Amendments of 1970, authorizing the Secretary of Health, Education, and Welfare to establish nationwide air pollution standards.

One of the major actions of the year came in June with the adoption of the amendments to the Voting Rights Act of 1965. These amendments extended the basic act for 5 years, but in addition lowered the voting age to 18 for all elec-

XUM

tions beginning January 1, 1971. The next day the House passed another milestone piece of legislation in converting the Post Office Department into an independent U.S. Postal Service.

In June, also, the House had to consider a second presidential veto. This was the veto of the extension of the program of Federal aid for the construction and modernization of hospitals and health facilities, more commonly known as the Hill-Burton Act. Most, if not all, of the new general hospitals on Long Island have been built under this program, and this is an area in which I believe we should devote a larger share of our national resources. The rapidly escalating cost of medical care can only be aggravated if there are not enough hospital beds, or if hospital facilities are old and inefficient. The President's veto was overridden. June ended with almost unanimous support for the President on the subject of authorizing $3.15 billion in Federal funds for law enforcement and crime control.

July was a busy month, with 29 record votes, but most of the issues were relatively minor. Concerned about the devastating effect of our inflationary spiral, we gave the President standby authority to freeze wages and prices.

In August the House took a 3-week recess, but before doing so it passed several major and controversial measures. We passed a bill prohibiting using the mails and other interstate facilites for unsolicited salacious advertising. We established a new program of grants for environmental education, our third major environmental legislation of the year. We extended for 3 years our very expensive program of agricultural price supports, but we did impose for the first time a limit on the amount of money a farmer could receive—$55,000 per crop.

With some misgivings, some seriousness, and some hilarity we passed a constitutional amendment prohibiting discrimination on account of sex. We allowed the District of Columbia to have a delegate in the House of Representatives and the Senate, but did not give him the right to vote. We passed a bill limiting the amounts candidates could spend on radio and television broadcasting in major elections. On August 13 we considered two presidential vetoes, one the Office of Education appropriation bill of $4,420,145,000, which was $453 million over the President's budget, the other the Housing and Urban Development Appropriation bill of $18,009,525,000, which was $541 million over the President's budget. I voted to override both of these vetoes, the first for the reasons given earlier in this report—over 75 percent of the increase was in aid to impacted areas and grants for elementary and secondary education which would have the effect of reducing local school taxes—and the second for other reasons peculiarly important to Suffolk County.

First, our local economy is very dependent on our building and construction trades, yet no area of our economy has seen a higher percentage of unemployment. Second, the people in the western end of our district are about to be faced with a drastic increase in their local taxes for the construction of sewer systems. The only way these taxes can be reduced is if there is a larger share of Federal and State funding for that purpose. Three hundred and fifty million dollars of the increase in that bill was for Federal aid to sewer districts. Another $105 million was for increased support for our veterans hospitals. Not only do we have a very major veterans hospital in Suffolk County, but a recent Life magazine article portrayed all too dramatically the poor facilities and shabby treatment some veterans have been subjected to. It takes real money to make real improvements. The veto of the education bill was overridden; that of the housing and urban development bill was sustained.

Congress returned in September after the recess to almost the same issue. One of the first votes we had was a bill authorizing an additional $1 billion in fiscal 1971 for the construction of water and sewer facilities. This too, can be considered an environmental vote. This passed by the lopsided vote of 281 to 32. It is important, in this connection, to understand the difference between "authorizing" a billion dollars and "appropriating" a billion dollars. Authorizing a billion dollars does not cost a dime. Appropriating a billion dollars costs a billion dollars. Congressmen who feel comfortable being on both sides of an issue can tell the folks back home who want more money for water and sewer construction that they voted to authorize a billion dollars extra for that purpose. Then they can tell the people who do not want to spend an extra dollar for anything that they did not vote to spend an extra dollar for anything. Usually, they get away with it because the folks back home get taken in by the word "authorize."

In September we tackled and finished a very important bill which will help take some of the secrecy and mystery and confusion out of our congressional procedures. It was called the Legislative Reorganization Act of 1970 and it makes many worthwhile changes in our operations, including making formerly secret votes in committee and during the amendment process matters of public record, and opening up some committee meetings to radio and television coverage. I missed an important vote on a bill which I wanted to support pertaining to drug abuse, but the bill sailed through by a count of 341 to 6. We passed, late in September, a bill greatly increasing Federal aid to mass transit systems under a $10 billion, 12-year program after cutting the amount to be spent immediately from the $5 billion, recommended by the committee, to $3.1 billion over 5 years, recommended by the President.

The final vote cast before the filing of this report was on the question of taxing all aircraft passengers to pay for the cost of protection against hijackers. This is one which I voted against. It seems to me that hijacking is a crime from which people deserve protection just as they do for other crimes without having to pay a special tax to get it.

As this is written, substantial legislation remains to be accomplished. The President's crime proposals, for example, have taken too long to reach the House for a vote. Many of the appropriations bills have still not been passed for the present fiscal year. With the year one-fourth over, even the Defense Department is still operating on a month-to-month basis. This situation is due almost entirely to the Senate, which spent a major part of the year discussing two Supreme Court nominations.

My committee activities have been rewarding this year. Despite occasional disagreements with the chairman of the Armed Services Committee, who is substantially more hawkish than I am, I took a very active part in our procurement and research and development hearings. In this position I have an opportunity to help our Long Island defense contractors who, at the moment, certainly need all the help they can get. Chairman RIVERS appointed me chairman of a special 11-member subcommittee to look into the question of the adequacy of benefits paid to the widows and children of deceased career military personnel, the committee met for several weeks, filed a lengthy report, and a proposed bill has been introduced by me and cosponsored by 12 other members implementing our recommendations.

Our office continues to handle the many problems of the largest constituency in the State of New York with a staff smaller than that of many districts half its size. I cannot praise too highly the devoted and untiring efforts of my six full-time secretaries in Washington, Barbara Anderson in Riverhead and the part-time efforts of Aaron Donner, Bay Shore, Joseph Quinn, Smithtown, and Robert Waldbauer, Patchogue. For our almost 800,000 constituents they have eased the way and cut through the red-tape of servicemen's cases, lost social security checks, delayed income tax refunds, dilemmas of small business, missing children, immigration cases, and all of the manifold problems that bring an average of 200 letters, telegrams, phone calls, and visits to our offices every single day. We try to help. Sometimes we fail, but we try.

On a more personal note, I missed six votes this year, the most I have ever missed. The reasons were many—being at a Congressional Medal of Honor ceremony in the White House, being at a daughter's graduation from college, being at a more important meeting in the district, being stuck by air traffic control problems in a plane. Still, that was only six votes out of 186, and that is still the best record in the State of New York. In the 10 years I have had the honor to serve as your Representative there have been 1,707 record votes, and I have been present and voting on all but 41 of them. Obviously, I like the job.

The following is a tabulation of my votes on the more important, interesting, and controversial votes of this year. As always, not all of them will please everybody and, as always, I shall welcome your views on this record:

XUM

Date	Issue	Pike vote
1970		
Jan. 27	Appropriate foreign aid funds for fiscal 1970, $897,640,000 below the President's request (yea 202; nay 162)	Yea.
	Amend Labor-Management Relations Act to permit employer contributions for joint industry promotion of products (yea 190; nay 186)	Yea.
28	Override President Nixon's veto of fiscal 1970 appropriations for Departments of Labor and Health, Education, and Welfare (yea 226; nay 191)	Yea.
Feb. 16	Conserve anadromous fishing resources (yea 301; nay 19)	Yea.
19	Appropriate $19,400,000,000 for fiscal 1970 Departments of Labor and Health, Education, and Welfare (yea 315; nay 81)	Yea.
24	Authorize study of arena as a memorial to the late President Eisenhower (yea 136; nay 230)	Yea.
26	Adopt conference report extending through fiscal 1973 the Community Mental Health Centers Construction Act (yea 369; nay 0)	Yea.
Mar. 4	Pass resolution to prohibit strikes or lockouts in rail labor dispute (yea 343; nay 15)	Yea.
5	Provide additional funds for Library of Congress James Madison Memorial Building (yea 209; nay 133)	Nay.
11	Authorize $429,300,000 in fiscal 1971 to build and operate American merchant ships (yea 370; nay 12)	Yea.
16	Establish program for preservation of additional historic property throughout the United States (yea 317; nay 9)	Yea.
23	Authorize loans of 11 surplus U.S. Navy ships and submarines to foreign countries (yea 281; nay 66)	Nay.
24	Extend Foreign Military Sales Act through fiscal 1972 (yea 351; nay 26)	Yea.
25	Adopt resolution authorizing expenditure of $450,000 by the House Internal Security Committee (yea 307; nay 52)	Yea.
Apr. 7	Increase by 15-percent benefits paid to retired workers under the Railroad Retirement Act of 1937 (yea 379; nay 0)	Yea.
9	Provide 6-percent pay increase for Federal postal and other civil service employees, military personnel, and legislative employees (yea 372; nay 7)	Yea.
13	Appropriate $9,492,702,000 for Treasury and Post Office Departments, Executive Office of the President, and certain independent agencies for fiscal 1971 (yea 333; nay 3)	Yea.
15	Replace the aid to families with dependent children program with a family assistance plan to provide guaranteed Federal payments to poor families (yea 243; nay 155)	Nay.
20	Establish National Commission on Libraries and Information Sciences (yea 261; nay 11)	Yea.
23	Authorize $3,600,875,000 for National Aeronautics and Space Administration (yea 229; nay 105)	Nay.
27	Authorize increased appropriations for National Park Service to encourage travel in the United States (yea 238; nay 94)	Yea.
28	Recommit Arms Control and Disarmament Agency authorization with instructions to reduce funds from $17,500,000 to $13,100,000 (yea 49; nay 120)	Nay.
	Prohibit mailing of obscene material to persons under 17 and permitting persons who object to receiving such mail to list their names with the Post Office Department (yea 375; nay 8).	Yea.
May 6	Authorize $20,237,489,000 for military procurement (yea 326; nay 69)	Nay.
13	Airport and Airway Development Act of 1970 authorizing long-range program of improvement of U.S. aviation system to be financed in major part by user taxes (yea 362; nay 3)	Yea.
14	Appropriate $3,106,956,500 for Departments of State, Justice, Commerce, the Judiciary and related agencies (yea 321; nay 14)	Yea.
	Amend International Travel Act to expand and intensify U.S. Government efforts to attract foreign tourists (yea 173; nay 88)	Yea.
20	Authorize $1,999,634,000 for military construction (yea 334; nay 47)	Yea.
21	Increase social security benefits by 5 percent, liberalize certain other benefits, improve Federal health programs (yea 344; nay 32)	Yea.
	Establish 10-year merchant marine ship construction subsidy program (yea 307; nay 1)	Yea.
25	Require reporting of certain transactions in monetary instruments to the Treasury Department to prevent use of financial institutions and foreign bank accounts in criminal activity (yea 302; nay 0)	Yea.
	Establish Joint Committee on the Environment (yea 286; nay 7)	Yea.
26	Require House Members to report certain honoraria and loans in annual statements to the Committee on Standards of Official Conduct (yea 335; nay 1)	Yea.
June 3	Raise debt limit from $377,000,000,000 to $395,000,000,000 (yea 236; nay 127)	Yea.
4	Appropriate $1,294,950,000 for foreign economic assistance; $350,000,000 for military assistance (yea 191; nay 153)	Yea.
10	Hospital construction bill extending program another 3 years and adding new programs of federally guaranteed loans and direct loans (yea 378; nay 0)	Yea.
	Authorize Secretary of HEW to establish nationwide air pollution standards under Clean Air Act Amendments of 1970 (yea 374, nay 1)	Yea.
11	Appropriate $1,997,037,000 for military construction and family housing (yea 308; nay 57)	Absent.
15	Increase disability compensation rates to liberalize certain criteria for determining eligibility of veterans' widows for benefits (yea 313; nay 0)	Yea.
	Set up 3-year pilot Youth Conservation Corps program to employ 3,000 youths aged 16 through 18 in summer jobs in Interior and Agriculture Departments (yea 225; nay 54)	Yea.
17	Extend for 5 years Voting Rights Act of 1965 and lower voting age to 18 (yea 272; nay 132)	Yea.
18	Convert Post Office Department into an independent U.S. Postal Service (yea 359; nay 24)	Yea.
22	Restore Golden Eagle program to land and water conservation fund (yea 314; nay 1)	Yea.
23	Extend and amend the Solid Waste Disposal Act (yea 339; nay 0)	Yea.
25	Override President Nixon's veto of hospital construction bill (yea 279; nay 98)	Yea.
	Provide additional funds for the home mortgage market through Emergency Home Financing Act (yea 323; nay 2)	Yea.
30	Table motion to instruct House conferees to accept Senate amendments to education appropriations bill deleting provisions prohibiting use of funds to force busing or closing of schools and provide for freedom-of-choice plans (yea 191; nay 157).	Nay.
	Amend omnibus Crime Control and Safe Streets Act of 1968 to authorize $3,150,000,000 in Federal law enforcement assistance funds through 1973 (yea 343; nay 2)	Yea.
	Authorize funds through 1973 for National Foundation on the Arts and Humanities (yea 262; nay 78)	Yea.
July 6	Amend Federal Meat Inspection Act to permit custom slaughterers to engage in the retailing and wholesaling of meat (yea 296; nay 2)	Yea.
7	Authorize $98,800,000 for Peace Corps (yea 316; nay 46)	Yea.
	Establish penalty for misrepresentation of quality of articles composed partly or wholly of gold and silver (yea 351; nay 9)	Yea.
8	Grant House Committee on Standards of Official Conduct jurisdiction over lobbying practices and campaign contributions, and require investigation of lobbying and campaign contributions before end of 91st Congress (yea 382; nay 0).	Yea.
	Exempt from antitrust laws certain joint operating arrangements between newspapers (yea 292; nay 87)	Yea.
9	Table motion instructing House conferees to concur in Senate-passed Cooper-Church amendment to the Foreign Military Sales Act (yea 237; nay 153)	Yea.
	Instruct House conferees to insist on right-to-work provision in House-passed version of the postal reorganization bill (yea 226; nay 159)	Yea.
	Increase Federal Government's maximum contribution under Federal Employees Health Benefits program to 50 percent of total premium charge (yea 284; nay 57)	Yea.
15	District of Columbia Court Reform and Criminal Procedure Act of 1970 (yea 332; nay 64)	Yea.
	Authorize $537,730,000 for National Science Foundation plus $2,000,000 in excess foreign currencies (yea 311; nay 76)	Yea.
16	Office of Education appropriations bill in amount of $4,420,145,000 (yea 359; nay 30)	Yea.
20	Increase availability of guaranteed home loan financing for veterans and of national service life insurance fund (yea 326; nay 0)	Yea.
	Improve administration of National Park Service by Secretary of the Interior (yea 325; nay 0)	Yea.
22	Appropriate $2,028,524,700 for Interior Department and related agencies (yea 387; nay 3)	Yea.
23	Extend coverage of unemployment compensation program to additional employees (yea 388; nay 3)	Yea.
	Appropriate $18,824,663,000 for Departments of Labor and HEW, OEO and related agencies (yea 362; nay 14)	Yea.
	Recommit conference report on independent offices-HUD appropriations bill (yea 156; nay 227)	Nay.
30	Extend for 3 years programs of assistance for training in the allied health professions (yea 343; nay 1)	Yea.
	Amend Mental Retardation Facilities and Community Health Centers Construction Act of 1963 (yea 339; nay 0)	Yea.
	Extend Defense Production Act until 1972, establishing 5-member board to set up a standard for uniform accounting practices for defense contractors and enabling the President to freeze wages, salaries, rents, and interest to their level of May 25, 1970, until Feb. 28, 1971 (yea 257; nay 19).	Yea.
	Authorize $45,000,000 through fiscal 1973 to establish programs on environmental education (yea 289; nay 28)	Yea.
	Prohibit use of interstate facilities, including the mails, for transportation of unsolicited salacious advertising (yea 322; nay 5)	Yea.
Aug. 3	Withhold from salaries of Federal employees income taxes imposed by certain cities (yea 145; nay; 184)	Yea.
	Provide 3-year price support programs for wool, wheat, feed grains and cotton, and limiting subsidy payments to $55,000 per crop (yea 212; nay 171)	Nay.
6	Postal Reorganization Act of 1970, making Post Office Department an independent agency (yea 388; nay 29)	Yea.
	Establish uniform Federal rail safety standards and guidelines for transporting hazardous materials (yea 358; nay 0)	Yea.
10	Adopt resolution providing for a constitutional amendment banning discrimination on account of sex (yea 352; nay 15)	Yea.
	Establish nonvoting delegate from the District of Columbia in each of the House and Senate (yea 338; nay 23)	Yea.
11	Amend Public Health Service Act to extend assistance program to States and localities for comprehensive health planning (yea 376; nay 1)	Yea.
	Repeal Communications Act of 1934 with respect to equal time provisions for major party candidates and establishing limitations on campaign spending for political broadcasting (yea 273; nay 98)	Yea.
	Extend and improve Public Health Service Act of 1965 in fields of heart disease, cancer, stroke and other major diseases (yea 365; nay 0)	Yea.
13	Override President Nixon's veto of Office of Education appropriations of $4,420,145,000 for fiscal 1971 (yea 289; nay 114)	Yea.
	Override President Nixon's veto of Independent Offices-HUD appropriations for fiscal 1971 (yea 204; nay 195)	Yea.
	Extend Defense Production Act creating a uniform cost-accounting board for defense contracts and granting President discretionary authority to control wages and prices (yea 216; nay 153).	Yea.
Sept. 9	Revise system for fixing rates of pay for blue collar Federal employees paid at prevailing wage rates for comparable work in private industry (yea 231; nay 90)	Yea
	Restrict mailing of unsolicited credit cards (yea 302; nay 0)	Yea.
10	Authorize additional $1,000,000,000 for fiscal 1971 for Federal grants for construction of water and sewer facilities (yea 281; nay 32)	Yea.
14	Require National Advisory Council on International Monetary and Financial Policy to include information in annual report on loans made by the International Financial Institutions and authorize General Accounting Office to audit the Exchange Stabilization Fund (yea 177; nay 140)	Yea.
17	Approve Legislative Reorganization Act of 1970 to improve operation of Congress (yea 326; nay 19)	Yea.
21	Allow purchase of additional systems and equipment for Government passenger vehicles over statutory price limitation (yea 265; nay 41)	Nay.
	Strengthen penalties for illegal fishing in the Territorial waters and contiguous fishing zone of the United States (yea 315; nay 0)	Yea.
	Increase rates and income limitations relating to payment of pensions and parents' dependency and indemnity compensation to veterans (yea 315; nay 0)	Yea.
	Authorize guaranteed and direct loans to veterans for mobile homes if used as permanent dwellings (yea 297; nay 0)	Yea.
23	Cite Arnold S. Johnson for contempt of Congress in refusing to be sworn and testify (yea 337; nay 14)	Yea.
24	Approve Comprehensive Drug Abuse Prevention and Control Act of 1970 (yea 341; nay 6)	Absent.
28	Authorize grants for communicable disease control (yea 292; nay 2)	Yea.
	Provide for Federal railroad safety and hazardous materials control (yea 310; nay 0)	Yea.
29	Agree to conference report on the military procurement bill (yea 341; nay 11)	Yea.
	Cut authorization for immediate spending for urban mass transportation from $5,000,000,000 to $3,100,000,000 (yea 200; nay 145)	Yea.
	Provide long-term financing for expanded urban mass transportation (yea 327; nay 16)	Yea.
30	Amend Atomic Energy Act of 1954 (yea 345; nay 0)	Yea.
	Impose tax on air passengers to pay for hijack prevention (yea 323; nay 17)	Nay.

XUM

JUDICIAL CONTEMPT SHOWN FOR THE FLAG

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1970

Mr. RARICK. Mr. Speaker, as an indication of the extent to which censorship and suppression of pride and culture has depreciated in the United States, one need only look at the escalation of attacks against the music "Dixie" and the Confederate flag.

Those who live outside the South and do not cherish the southerner's traditions should not feel unconcerned with the present contempt for our flags because their appointed judges, are already encouraging similar contempt for the flag of the United States; strangely enough in most instances under the same populistic reasons which have no basis at law or precedent.

Mr. Speaker, I include a copy of the Federal judge's order in a Louisiana case and several related newsclippings:

U.S. DISTRICT COURT, EASTERN DISTRICT OF LOUISIANA, NEW ORLEANS DIVISION

[Thomas J. Smith, et al. versus St. Tammany Parish School Board, et al.]

MEMORANDUM OPINION AND ORDER

This cause came on for hearing on a previous day on the motion of the plaintiffs for supplemental relief and for modification of the Court order. Plaintiffs seek supplemental relief in the form of an injunction requiring the defendant school board, its employees and agents to remove from the system's schools, and in particular from Covington High School, all Confederate battle flags and any other symbols or indicia of racism displayed by the faculty or staff of the schools and prohibiting the official display of such flags or symbols at all school functions, and further prohibiting defendants, their employees and agents, from taking any disciplinary action against any students as a result of protests against the continued display of Confederate battle flags at Covington High School.

Plaintiffs further seek modification of this Court's order of July 2, 1969, by the addition of the following paragraphs to the "General Provisions" of that order:

"All Confederate flags, banners, signs expressing the school board's or its employees' desire to maintain segregated schools, and all other symbols or indicia of racism shall be removed from the schools and shall not be officially displayed at school functions of any kind. This shall not prevent individual students from wearing or displaying buttons, signs, or symbols.

"Bi-racial committees shall be formed for each ward of the parish prior to the beginning of the 1970–71 school year. Half the members of each committee shall be chosen by the school board and half by the Negro community in each ward. These committees should consider and make recommendations on such matters as means of easing tension in the community, ways to make desegregation work more effectively, and solution to racial problems arising in the schools. The board shall report to the Court and to counsel for the plaintiffs and the United States by September 1, 1970, the names and race of the members of each committee."

and by the addition of the following provision to paragraph C(6) of the "Specific Provision" of the order:

"Prior to the 1970–71 school year a Negro Assistant Principal shall be appointed for Covington High School."

Prior to the 1969–70 school year, the St. Tammany Parish School Board operated a racially segregated dual school system. In February 1969 we ordered the school board to formulate a plan for a racially unitary school system to be effective for the 1969–70 school term. On July 2, 1969, the Court entered an order which approved in most respects a plan submitted by the Board pursuant to the February order.

The language and intent of the Court's order was and is crystal clear. Not only is the school board to operate a unitary system but the system must be racially non-discriminatory. This Court does not intend to act as an administrator of schools. However, we can and must prohibit racial discrimination in the operation of the school system. The right to operate schools in any manner it sees fit belongs to the school board as long as the operation does not violate the Constitution. Concomitant with this right is the constitutional duty to effectively establish a unitary school system in every respect. See United States v. Montgomery County Board of Education, 395 U.S. 225 (1969); Green v. County School Board, 391 U.S. 430 (1968); Monroe v. Board of Commissioners, 391 U.S. 450 (1968) and Hall v. St. Helena Parish School Board, 417 F. 2d 801 (5th Cir. 1969).

The principal of Covington High School displays a Confederate battle flag in his office next to the American flag and the Louisiana State flag. Some of the Negro students at Covington High requested that the Confederate flag be removed from the principal's office, as well as from any other place in the school. Their request was not honored, and subsequently the Negro students protested against the continued display of the Confederate battle flag at Covington High School.

The Confederate battle flag, since the decision by the U.S. Supreme Court on May 17, 1954 in *Brown* v. *Board of Education*, 347 U.S. (Brown I), has become a symbol of resistance to school integration and, to some, a symbol of white racism in general. In this connection, the principal of the Covington High School understands today's symbolism of the Confederate battle flag as well as he understands the symbolism of a Black Panther or a Black Power flag. But none of these flags are constitutionally permissible in a unitary school system where both white and black students attend school together. At the moment, the Covington principal insists on the display of the Confederate battle flag; but the display of that flag is an affront to every Negro student in the school, just as the display of the Black Panther flag would be an affront to every white student in a school whose principal was a negro. In *Green, supra*, at 473–38, the Supreme Court stated:

"School boards such as the respondent . . . were . . . clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch."

The retention of Confederate flags in a unitary school system is no way to eliminate racial discrimination "root and branch" from the system. The Confederate battle flags *must* be removed from all schools in the St. Tammany Parish School system. Accordingly,

It is the order of the court that the previous order of this Court dated July 2, 1969, be, and the same is hereby, amended by adding the following to the "General Provisions" of that order:

"All Confederate flags, banners, signs expressing the school board's or its employees' desire to maintain segregated schools, and all other symbols or indicia of racism shall be removed from the schools and shall not be officially displayed at school functions of any kind. This shall not prevent individual students from wearing or displaying buttons, signs, or symbols."

"A Bi-racial committee shall be formed prior to October 10, 1970. The bi-racial committee will be composed of two members from each ward of the parish, one member to be chosen by the school board and one member by the Negro community in each ward. The chairmanship is to alternate annually between a white chairman and a Negro chairman. The membership must be divided equally between whites and Negroes. This committee should consider and make recommendations on such matters as means of easing tension in the community, ways to make desegregation work more effectively, and solution to racial problems arising in the schools. The board shall report to the Court and to counsel for the plaintiffs and the United States by November 1, 1970, the names and race of the members of each committee. The bi-racial committee is to make bi-annual reports—on December 15 and April 1 of each year—to the Court on the maintenance of a unitary school system."

It is further ordered that the previous order of this Court dated July 2, 1969, be, and the same is hereby, amended by adding the following provision to paragraph C(6) of the "Specific Provision" of the order:

"On or before September 10, 1970, a Negro Assistant Principal shall be appointed for Covington High School."

"DIXIE" AND CONFEDERATE FLAG IRRITATE NEGRO STUDENTS

ATLANTA.—As school desegregation accelerates across the Southland, the song "Dixie" and the Confederate flag, which still stir a fervor for the past, are running head-on into black consciousness in high schools and universities.

At Valdosta High School in south Georgia, Negroes objected to the song and the school compromised by approving a medley combining "Dixie," "The Battle Hymn of the Republic," the school pep song and "We Shall Overcome."

The compromise was rejected by both whites and blacks, and the band is back to playing "Dixie" at pep rallies and ball games.

A Negro girl at Albany High School burned a copy of "Dixie" sheet music under the spectators' stand last spring at a football game and joined nine other black band members in refusing to play the song.

The 10 Negroes were removed from the band and the school closed for one day to allow angry white students to cool their tempers.

SONG AND FLAG

For whites, the song and flag are traditions not easily surrendered.

For many black students, they are insulting and demeaning symbols.

There are examples of compromise. At Covington, Ga., black and white high school student leaders met recently and agreed that the song and Confederate symbols would be abandoned when Negroes entered the former all-white high school this fall.

But many schools are stubbornly clinging to these anachronistic symbols.

More than 400 black students walked out of classes at Valdosta High School last spring to demand that "Dixie" be eliminated from the school band repertoire and the Confederate flag retired.

The students were suspended for three days "for this flagrant act of disrespect for order at school."

In a full-page newspaper ad, principal Charles H. Green explained: "The song 'Dixie' is a song of the South and any racial overtones have been attached to the song rather than being an integral part of the song. The students at Valdosta High School

XUM

have thought of the song and flag as symbols of pride in our Southland and in our school and not as racist symbols."

COMPROMISE MEDLEY

As a compromise, Valdosta band director Frank Butenschon worked out the compromise medley that included "Dixie" and "We Shall Overcome."

"We caught it from both sides, so we dropped it," he said. "I think it was an honest effort to let the white students retain their traditional songs and at the same time bring in songs related to our Negro students."

The American Civil Liberties Union is asking a federal court to rule that Negroes cannot be excluded from a school band for refusing to play "Dixie."

The suit was filed in behalf of 14-year-old Charles Caldwell, who was kicked out of the Lebanon, Tenn., High School band last year for refusing to play "Dixie."

When his mother, Mrs. Marcus Caldwell, the school's only Negro teacher aide, complained, she was dismissed.

TESTIMONIAL DINNER FOR FRANCIS T. JOHNS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. GAYDOS. Mr. Speaker, it is always gratifying to me to learn of an individual who is being honored by a group, an organization, or a community in appreciation of the time and effort he, or she, has spent in the service of their fellow man.

I was particularly pleased, therefore, to be invited to a testimonial dinner for Francis T. Johns, business manager of Plumbers Local Union No. 27 in Pittsburgh, Pa. Mr. Johns has spent most of his adult life working on behalf of his union's members and a considerable part of his career on behalf of the citizens of Pittsburgh and Allegheny County.

His union activities have been far reaching. He served as business agent for local No. 27 for 16 years prior to being elected to his present post in 1967. He also is in his 11th consecutive year as president of the Pennsylvania State Association of Plumbers and Steamfitters of the United Association, and has represented local No. 27 at every United Association national convention since 1951. Mr. Johns is a member of the steering committee of the Mechanical Trades Industry Legislative Committee, and is the president of the Western Pennsylvania Pipe Trades District Council.

His abilities in this craft, however, have not been restricted to the benefit of union workers alone. For 16 years Mr. Johns has served as a member and secretary of the Pittsburgh Housing Authority, and also sits on the Allegheny County Plumbing Code Authority, serving also as a member of the Authority's Examination and Appeals Committee.

Mr. Speaker, I believe it is most commendable to take part in honoring a gentleman and a labor official who does not hesitate in sharing his experience, ability, and knowledge with his neighbors. Mr. Johns well deserves the recognition given him by local No. 27, and I join them in paying tribute to this outstanding labor leader.

THE NIXON POLICY COURSE TOWARD PEACE—NOT WAR

HON. RICHARD H. POFF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. POFF. Mr. Speaker, in a recent editorial the Nashville Banner writes that the majority of American people prefer an administration that does not just talk about deescalating wars and settling them, but works at it. It further states that the Nixon administration, in both the Southeast Asia conflict and the Middle East situation, has taken positive steps which have, in turn, been supported by the public.

I commend the editorial, "The Nixon Policy Course Toward Peace—Not War" to all my colleagues:

THE NIXON POLICY COURSE TOWARD PEACE—NOT WAR

It obviously is true that the American people, by a large majority prefer an administration that doesn't just talk about deescalating wars and settling them, but works at it. The fact shows in the opinion polls taken, reflecting favor for the Nixon policies—and never stronger than following the positive steps taken, as in the Southeast Asia conflict, and in the Middle East.

The people are aware that the incumbent policy, from the outset of President Nixon's tenure, has been to reduce America's military involvement in Vietnam, and to withdraw American forces systematically; Vietnamizing the conflict, which is to say by preparedness and training letting that people fight their own war. By the definite schedule, this nation's fighting men are being called home.

That is in remarkable contrast to the policies of preceding administrations, under which a small cadre of military trainers was multiplied, hundreds of thousands of American men sent to the combat in which we had become involved—and the force growing, not reduced, in the years preceding the Nixon election.

That is one of the facts of which the U.S. constituency at home is profoundly conscious. It is a fact that is appreciated—and which Senate doves and their ideological kinsmen find undeniable as they strive to make political capital of contrary policies.

The American people also have approved the administration's attitude toward the conflict in the Middle East—the smouldering fires of which centuries old, have fanned into new flames, which, apart from a reasoned course of settlement by negotiation, could become a major conflagration.

The United States has not been indifferent to that danger.

It has followed no inflammatory course of its own. It has not incited conflict, nor recklessly thrown around its weight or its words at the fringes. It has worked in behalf of a settlement. To that end it has prevailed on the two hostile parties to declare a ceasefire, and negotiations now are going on.

The American people are thankful that this nation has not become involved in that war. They can remember policy instances and previous administrations under whom—as gauged by the precedents set—we would have been at war now in the Middle East.

As a further attestation of policy, Vice President Agnew has been in Southeast Asia—a straight-talking emissary, always, conveying for the President this nation's conviction concerning developments here.

What the Vice President told them again was that the President meant exactly what he said in the policy of deescalation, of withdrawing American forces, and settling that war honorably, preferably at the peace table.

The American people know it, too, and they agree with the policy. That has shown whenever public sentiment is measured. On foreign policy as on domestic policy, the President's program—for the people—is on solid ground.

THEME SONG OF THE SILENT MAJORITY

HON. JAMES A. McCLURE

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. McCLURE. Mr. Speaker, I am deeply indebted to a constituent of mine, Mr. Les Randall of Wallace, for sending me a copy of an address by Pat Michaels in Oakland, Calif. last March. If ever I read a statement that captured the feelings of the people in my district, it is this one. During the August recess, I talked to dozens of Idahoans—some of them at public gatherings, some enjoying a few leisure moments at the county fair and others who stopped by to pass the time of day. Almost without exception they are fed up with what Mr. Randall calls the Government's "sympathetic concern for the misfit, the pervert, the drug addict, the drifter, the ne'er-do-well, the maladjusted, the chronic criminal or the one who demonstrates loudly against our society rather than trying to solve its problems."

The speech of Pat Michaels might well be called the "theme song of the silent majority":

I AM SICK

And there are those who claim that ours is a "sick" society. That our country is sick, our government is sick, that we are sick.

Well, maybe they're right. I submit that maybe I am sick . . . and maybe you are too.

I am sick of having policemen ridiculed and called "pigs" while cop-killers are hailed as some kind of folk hero.

I am sick of being told that religion is the opiate of the people . . . but marijuana should be legalized.

I am sick of being told that pornography is the right of a free press . . . but freedom of the press does not include being able to read a bible on school grounds.

I am sick of commentators and columnists canonizing anarchists, revolutionists and criminal rapists but condemning law enforcement if it brings such criminals to justice.

I am sick of paying more and more taxes to build schools while I see some faculty members encouraging students to tear them down.

I am sick of Supreme Court decisions which turn criminals loose on society—while other decisions try to take the means of protecting my home and family away.

I am sick of being told policemen are mad dogs who should not have guns—but that criminals who use guns to rob, maim and murder should be understood and helped back into society.

I am sick of being told it is wrong to use napalm to end a war overseas . . . but if it's a bomb or molotov cocktail at home, I must understand the provocations.

I am sick of not being able to take my family to a movie unless I want them exposed to nudity, homosexuality and the glorification of narcotics.

I am sick of pot-smoking entertainers

deluging me with their condemnation of my moral standards on late-night television.

I am sick of riots, marches, protests, demonstrations, confrontations, and the other mob temper tantrums of people intellectually incapable of working within the system.

I am sick of hearing the same phrases, the same slick slogans, the *pat patots* of people who must chant the same things like zombies because they haven't the capacity for verbalizing thought.

I am sick of reading so-called modern literature with its kinship to what I used to read on the walls of public toilets.

I am sick of those who say I owe them this or that because of the sins of my forefathers—when I have looked down both ends of a gun barrel to defend their rights, their liberties and their families.

I am sick of cynical attitudes toward patriotism. I am sick of politicians with no backbones.

I am sick of permissiveness.

I am sick of the dirty, the foul-mouthed, the unwashed.

I am sick of the decline in personal honesty, personal integrity and human sincerity.

And most of all, I am sick of being told I'm sick. And, I'm sick of being told my country is sick—when we have the greatest nation man has ever brought forth on the face of the earth. And fully fifty percent of the people on the face of this earth would willingly trade places with the most deprived, the most underprivileged amongst us.

Yes, I may be sick. But, if I am only sick, I can get well. And, I can help my society get well. And, I can help my country get well.

Take note, you in high places. You will not find me under a placard. You will not see me take to the streets. You will not find me throwing a rock or a bomb. You will not find me ranting to wild-eyed mobs.

But you will find me at work within my community. You will find me expressing my anger and indignation in letters to your political office.

You will find me canceling my subscription to your periodical the next time it condones criminal acts or advertises filth.

You will find me speaking out in support of those people and those institutions which contribute to the elevation of society and not its destruction. You will find me contributing my time and my personal influence to helping churches, hospitals, charities and those other volunteer backbones of America which have shown the true spirit of this Country's determination to ease pain, eliminate hunger and generate brotherhood.

But, most of all, you'll find me at the polling place. There, you'll hear the thunder of the common man. There, you'll see us cast our vote . . . for an America where people can walk the streets without fear . . . for an America where our children will be educated and not indoctrinated . . . for an America of brotherhood and understanding . . . for an America no longer embarrassed to speak its motto "In God We Trust."

NIXON'S TRIP TO MEDITERRANEAN AREA VERY TIMELY

HON. E. ROSS ADAIR

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. ADAIR. Mr. Speaker, President Nixon's trip to the Mediterranean area is meeting with continuing editorial support not only for its stated purpose of the furtherance of peace initiatives, but also for its timeliness. I include for today's RECORD editorials from the Christian Science Monitor, the Boston Herald Traveler, and the Philadelphia Inquirer:

[From the Christian Science Monitor, Sept. 29, 1970]

THE NIXON TRIP

President Nixon's journey to the Mediterranean appears designed to have and can have two important results. It can firm up the world's effort to bring peace and stability to the shores of that strategically critical sea. And it can clarify American thinking at home on the role which the United States must continue to play abroad if peace and stability anywhere are to be achieved.

Although the President's pledge to maintain sufficient force in the Mediterranean to deter aggression was clearly designed as a warning to Russia and a guidance to the Arabs, it also has its domestic implications. It was a forceful but indirect warning to both Congress and public opinion of the continuing vital importance of America's international role.

This warning was necessary for at least two major reasons. The first is that, with the growth of isolationist and withdrawal sentiment at home, the American trumpet had begun to give forth an uncertain sound. The second is that Moscow has been showing signs—in the violation of the cease-fire along the Suez Canal, and in its plans for a nuclear submarine station in Cuba—of trying to take advantage of America's seeming change in resolution.

While no president is ever loath to draw political advantage from a trip abroad (above all to such countries as Italy and Ireland which sent so many sons and daughters to America), today's international situation alone fully justifies such a presidential visit. The world has just passed through a most peril-fraught period in the Middle East. That it did so successfully is due in no small part to Washington's show of resolution. But the danger remains. And the recognition in key quarters abroad that the United States is determined to show a strong hand for peace can have good effect.

Perhaps the most important task before the world today is to see that the movement of cooperation between the United States and the Soviet Union, although recently badly shaken by the several Russian acts already mentioned, be not only maintained but broadened. We believe that an essential factor in this must be Moscow's conviction that Washington's willingness to cooperate does not imply either weakness or irresolution. The Nixon trip is designed to transmit just this message to the Kremlin.

Indeed, reports that the Russians have now advanced a new Middle Eastern peace formula, envisaging a joint American-Soviet peace-keeping force, would bear out the well-known truth that the Kremlin recognizes and respects resolution in its rivals.

[From the Boston Herald Traveler, Sept. 26, 1970]

A PRESIDENT ON THE MOVE

On the eve of his third major trip abroad in less than two years, President Nixon gives further indication of following the script of his Feb. 18 foreign affairs message to Congress.

"This nation occupies a special place in the world," he declared then. "Peace and progress are impossible without a major American role."

Our role, he continued, requires that we help provide a durable structure of international relationships through partnership, strength and willingness to negotiate.

The President's visit to Great Britain, Spain, Italy and Ireland should underline the principle of partnership which, in its Nixonian definition, means a genuine sharing of responsibility. The stopover in Yugoslavia will emphasize the administration's goal to make the Seventies "an era of negotiation." Much as the Soviet Union may be uneasy about U.S. overtures in East Europe, our main strategy is not to sow discord among Communists, for that may prove to be futile. Rather, the signal from Washington via Yugoslavia and Romania (where the President visited last year) is that if Moscow wishes coexistence, it can have it both in the Soviet sphere and outside that area.

Mr. Nixon's brief visit to the flagship of the Sixth Fleet in the Mediterranean is in keeping with the third requirement for "a durable peace," America's strength. It should reassert U.S. interest and influence along the Mediterranean basin, where the Soviets have been making threatening noises.

There is, of course, another aspect of this nine-day journey. It comes only a month before the elections, and presidents are politicians as well as statesmen. Lyndon Johnson, for example, made a highly publicized Asian tour just before the congressional elections of 1966.

Peace and politics, of course, are not mutually exclusive objectives, and there is nothing wrong with a president going abroad in the interest of both. For surely it is good politics to work for peace.

[From the Philadelphia Inquirer, Sept. 29, 1970]

NIXON ON MEDITERRANEAN

There is a high degree of both appropriateness and timeliness in President Nixon's emphasis on the Mediterranean area in his current visit to Europe.

It is appropriate because all signs point to the Mediterranean as the focal point of moves by the Soviets to extend their sphere of political and economic and military influence—especially in the Middle East and in North Africa, on Europe's southern flank.

It is timely because explosive events of the past week in Jordan have underscored anew the importance of a strong American military presence in the Mediterranean if the United States is to exercise an effective role for peace in the Mideast.

President Nixon's itinerary leaves no doubt of his determination to reaffirm America's vital interests in the Mediterranean.

The first three countries he is visiting—Italy, Yugoslavia and Spain—not only border on that strategic sea but each, in its own way, performs a vital function in challenging Soviet aspiration to dominate the Mediterranean.

In his public statements, as well as in his itinerary, President Nixon is conveying the message of U.S. Mediterranean policy in unmistakable language. As he said in Rome:

"One of the primary, indispensable principles of American foreign policy is to maintain the necessary strength in the Mediterranean to preserve the peace against those who might threaten the peace. . . . The Mediterranean is the cradle of many great civilizations of the past and we are determined that it shall not be the starting place of great wars in the future."

Thus the mission is one of peace, not war, but President Nixon well knows that successful guardians of peace must act from strength.

We may be certain that they are watching closely, and not too happily, from the Kremlin. Escalation of the Russian Navy's presence in the Caribbean and in the Atlantic may be intended as a counter to American moves in the Mediterranean. There should be clear understanding in Moscow that the United States and NATO allies have no intention of allowing the Mediterranean to become a Red sea.

XUM

PERSPECTIVE OF STATESMANSHIP

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. ANDERSON of Illinois. Mr. Speaker, in a recent editorial, the Chicago Sun Times writes that President Nixon is dealing with both foreign and domestic problems from a long-range approach rather than a short term politically expedient approach.

Although the day-to-day decisions and actions might not be readily acceptable to some Americans, I am in agreement with the Sun Times that the President is correct in preparing our Nation for its proper and positive position of security and well being in the world. Therefore, I include "Perspective of Statesmanship" in the RECORD:

PERSPECTIVE OF STATESMANSHIP

There is an old saying that a politician thinks of the next election but a statesman thinks of the next generation. In talks with the President and others of his official family during their visit last week to Chicago, the impression is strong that they are conscientiously trying to look beyond the election of 1972 or even of 1976 and are taking stances and actions that anticipate the state of the world beyond that time and that will prepare America to influence and cope with it.

The immediate future is acknowledged as rough and dangerous indeed, particularly in the unpredictable Middle East, where world politics are entangled with the passions that have torn the area since the establishment of Israel. But current events are lined up with the long-range perspective and there is a recurring theme of how the world will be later in this decade or in the 1980s and beyond. This is the focus, whether the subject be foreign policy, international armaments, foreign trade, transportation or pollution.

The White House approach to the crisis in Jordan and the entire Middle East is typical of this approach. In the long run, the United States must remain a force in the Middle East; its interests there are more important than any it has in Vietnam. In the short run this long-range interest is best served by a chessboard approach. All possible options are coldly faced, even the possibility that U.S. intervention may become necessary if chaos in Jordan threatened the hope of eventual peace in the area. However, just as in chess, it is considered that the possibility of intervention itself will influence the attitudes and actions of others in the area, making it unnecessary.

As David Murray points out in his analysis in this section, the President's upcoming trip to Yugoslavia and the 6th Fleet are such strong chessboard moves. The Russians, able practitioners of the game as well as the theory, should appreciate the Nixon moves.

The White House has similar long-range views for the Far East and the Vietnam situation. American troop withdrawal is to proceed apace with the hope that the North Vietnamese will come to the conclusion soon that they may be able to strike better peace terms now than later, when they will face only the South Vietnamese, stronger militarily and even less inhibited by the moderating American presence.

Down the road of the '70s, there is a plan to continue to support the non-Communist Asian governments, particularly in Korea and Vietnam, with dollars and aid other than troop support. The American presence will be in conformity with treaty obligations.

These smaller nations are figuring less and less in American calculations, however, as the 21st Century approaches. There will be only four other superpowers with which the United States must deal: Russia, China, Japan and a Western European federation. Thus America's present relations with these states are measured against what those states will be a decade or more in the future.

What this entails in day-to-day decisions and actions may not be readily acceptable to many Americans. There is a general feeling that an American withdrawal from world affairs would please many citizens who not long ago regarded themselves as citizens of the world. But popular or not, the President must make the decisions that prepare this nation for its proper and positive position of security and well being in the world that whoever comes after Mr. Nixon in the White House must deal with.

There is a great deal of the politician in Mr. Nixon which shows through with the enjoyment he obviously takes in his role as a handshaking campaigner. But we are reassured by the statesmanlike concern that is evident in the President's philosophy toward the historical perspective against which he measures the problems of the moment.

HIGH INTEREST RATES HIT TOWNS AND CITIES HARD

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. PATMAN. Mr. Speaker, for many months, I have warned the Congress and the administration that high interest rates and tight money were placing thousands of America's towns and cities in serious jeopardy.

Time after time, bond issues needed to finance vital projects have been cancelled because of high interest rates. As a result, schools, water, and sewer plants, parks, streets and other improvements have not been built.

On September 29, the Associated Press carried a survey of the problem and it is obvious from this news story what high interest rates have done to so many of our communities.

Citing high interest rates as the core of the problem, the AP writer, John Cuniff, states:

> The evidence may be seen in many towns and cities throughout America: overcrowded schools, potholed roads, poor water supplies and otherwise inadequate municipal facilities.

Mr. Speaker, the Nation has created a tremendous backlog of facilities and this is just more evidence of the highly destructive nature of high interest rates. The cost of this neglect—created by the high interest policies—will have to be borne by the American taxpayer.

Mr. Speaker, I place in the RECORD a copy of the article "Tight Money Policy Shows in Shabby Cities and Towns" which appeared in the September 29 issue of the Washington Evening Star:

TIGHT MONEY POLICY SHOWS IN SHABBY CITIES AND TOWNS

(By John Cunniff)

NEW YORK.—The evidence may be seen in many towns and cities throughout America: overcrowded schools, potholed roads, poor water supplies and otherwise inadequate municipal facilities.

State and local governments have had a hard time of it in the financial markets during 1969 and most of 1970. Borrowing costs were up, money was tight. And though the situation has eased lately, the physical evidence remains.

PROBLEMS OUTLINED

Moreover, a good many financial analysts speculate that the situation may become chronic and suggest that new methods of borrowing must be devised for nonfederal governments, perhaps even involving subsidies of some sort.

This is the situation that has produced a somewhat shabby appearance in more than a few cities and towns today:

Inflation during the late 1960s grew so dangerously that the federal government was forced into action. Stringent monetary policies were put into practice in order to stifle demand that was overstraining the economy.

This meant upward pressure on borrowing costs, and that meant that cities and towns were forced to pay steadily increasing yields in order to induce buyers to purchase their bonds.

As the prices rose, shocked controllers faced their highest borrowing costs in history. And finally, as bond buyers continued to demand higher inducements, one town after another was forced to delay or postpone projects.

PROFITS SHAVED

These decisions weren't always arrived at arbitrarily. In many instances, legal ceilings prevented town fathers from paying the going rates. And so, no matter how necessary the project, it was shelved.

Other sections of the bond market apparatus were being hurt also. The profits of underwriters were being shaved thin, and some of them began losing. It was difficult to sell bonds when money rates were higher elsewhere.

One of the main attractions of municipal bonds, the tax-exemption feature, also came under attack, and the House Ways and Means Committee announced it would re-examine the traditional policy. Buyers were frightened.

Investors in tax-exempt municipal bonds now must balance the rewards of tax-exemption against the possibility that sometime during the life of purchases the tax policy might indeed be changed.

The total effect of this was devastating to the plans of many cities. With a federal tight money policy in effect, and with some investors frightened away by the question of tax-exemption, there just wasn't enough money available for the most necessary projects in some of the most financially sound municipalities.

BANKS LACK DESIRE

The question now being argued in financial circles is whether the structure will ever be able to accommodate the borrowing needs of local and state governments.

Commercial banks, which have been traditional buyers of state and local government securities, have indicated less enthusiasm lately about committing their funds for extended periods so long as interest rates tend to be violatile.

They feel, in other words, that they can better protect themselves against turbulence in the market by investing in securities with shorter maturities than municipal bonds. And it isn't too difficult to find such investments.

What will the remedy be? Some proposals call for federal subsidies to investors. And some suggestions call for subsidies to lenders, so as to permit them to offer more attractive yields.

The more optimistic seers still maintain that the market will straighten itself out and that the financing needs of governments will be handled without chronic problems—if inflation is contained. It's a very big "if."

XUM

FORCED BUSING—AN AMERICAN TRAGEDY

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. GRIFFIN. Mr. Speaker, with the coming of fall the school children in the South and their parents, particularly in Mississippi's Third Congressional District, are being subjected to a concept as un-American as has ever been forced on citizens of the United States. I refer to the forced assigning and busing of children to schools far distant from their neighborhoods for the purpose of racial balance.

Forced busing is, also, in direct violation of the law of the land as enacted by Congress in the 1964 Civil Rights Act.

I call the attention of this House to the following articles which clearly show the effect of these plans on the citizens involved, as they tell it in their own words, and which indicate the nationwide scope of this problem.

The first of these articles is from the Clarion Ledger of Jackson, Miss., September 26, 1970, written by Mr. Billy Skelton and is the result of many personal interviews and conversations. The second is a statement by the Governor of California, Ronald Reagan, outlining his opposition to forced busing of children at the time he signed into law a measure of the California legislature prohibiting busing to achieve racial balance.

The articles follow:

TRAVEL PROBLEMS: IT'S EARLY TO RISE TO GET TO SCHOOLS

(By Billy Skelton)

It's early to bed and early to rise for Jackson youngsters who have to travel several miles to school under the current zoning and pairing plans decreed by the U.S. Fifth Circuit Court of Appeals in its school desegregation rulings.

The difficulties of getting to school are more numerous in the black communities than in the white areas due to the fact that more mothers work, leaving fewer to take children to school, fewer available automobiles and less money to pay car and bus fare.

Take the case of Mrs. Ernestine Wilson, a mother of nine who lives in the Isable School area in south central Jackson.

"I'm just barely making it," Mrs. Wilson said this week, being out of work due to illness.

Even though four of her children walk to Isable School, sending the other five to school by bus costs $10 a week (the fare is 20 cents per child per day one way).

Mrs. Wilson, who formerly worked in a nursing home, said she got her last check on Sept. 15 and she doesn't know what she is going to do now.

Three of her children go to Peeples Junior High School one is in Key Elementary School and the other one is in Lester Elementary School.

The children who formerly were in the fifth and sixth grades at Isable School have been distributed this year to Key, Marshall, Lee, Sykes and Lester Schools in south Jackson.

Mrs. Preston McLaurin, who lives in the same area, takes her first grader to Isable, but her 10th grade child walks to Hill. She takes her sixth grader and three children of neighbors to Lee School, the district's southernmost attendance center about three or four miles away. The lack of arterial streets makes access to nearly all the south Jackson schools indirect, and Mrs. McLaurin drives to Lee via Interstate 55.

Another mother, Mrs. Lula Varnado, works, and she has had to work out a rather complicated arrangement to get her four children to the four different schools they attend. It costs $8 a week, about the same as lunches, she said.

She pays a neighbor $4 a week to take one child to Lee and one to Lester. This is the same as bus fare, and Mrs. Varnado considers it a bargain because of the distance of Lee.

One child catches a bus to Wingfield, while the other, at Peeples, is taken to school in a car by a working mother who reports for duty in the afternoon and catches the bus home.

Mrs. Varnado said children catching the bus have to leave at 7 a.m. to get to school at 8:30.

As for the financial burden of transportation, she said she didn't know how families were accomplishing it, and that she also had two older children at Jackson State. One of these goes to school on a grant, she said.

BUS FARE FIRST

But she said she takes out the school transportation money "before we get groceries."

Mrs. Geraldine Watts has children in Lake, Johnson, Enochs and Brinkley. The two children in Jackson walk, while Mrs. Watts carries the others and as many more as can get in her car, she said.

A group of black parents asked the Board of Trustees of the Jackson Municipal Separate School District to devote part of the $1.3 million grant it received from the federal government to help with desegregation problems to help alleviate the transportation problem of hard pressed parents in the black residential areas, and was told the request would be taken under advisement.

Dr. Aaron Shirley said that hundreds of black children were not in school due to the problem although no canvass has been made by any agency to determine how many children are not in school, and some principals believe some white children also are not in the classroom yet this semester. The progress of enrollment shows that as the school year advances more children are appearing. Late enrollment is not unusual in some black communities.

Dr. Harry S. Kirshman, superintendent, said Friday he does not expect the board of trustees to make a decision on the request for emergency assistance funds for transportation purposes before the next meeting of the body on Oct 5. Two of the black parents said they did not expect the school board to help them.

LATE ENROLLEES

In some families, children stayed at home the first few days, then just "up and walked to school," regardless of the distance, one mother said.

However, the reports of some principals support Dr. Shirley's statement about black children not being in school. They say that in several instances fewer Negro children have enrolled than were assigned to their schools.

The longest distance any child has to go to an elementary school (excepting children in the district but outside the city limits who are bused) is 3½ to 4 miles, according to school authorities. The distance is somewhat higher for some secondary students.

However, the transportation problem is much more serious for the smaller children.

Additional traffic hazards have been posed by large numbers of children walking longer distances and across more heavily traveled streets. Safety talks have received new emphasis at schools.

Deputy Chief L. V. Warren of the Jackson Police Department traffic division said that the department has the same number of crossing guards as last year. He said 84 crossings are served by crossing guards and park patrolmen and that patrolmen are stationed at four other crossings.

Asked what schools where sixth grades were eliminated by pairings were doing in the absence of the safety patrol boys (who must be sixth graders), he said they "are doing without."

He thinks because of the greater distances elementary children have to go to get to school has probably reduced the number of walkers and increased the clogged traffic patterns at the schools.

The chief asserted that in his candid opinion that a child is safer walking than riding with his mother.

Jacksonians for Public Education, a biracial but predominantly white group of parents supporting the public schools, is trying to assist in the transportation problem, and some of its representatives appeared at the school board meeting Sept. 21 to back up the request of the black parents.

Jackson Transit Corp. is sending 14 buses on 25 runs to 20 of the district's 55 schools, and large numbers of children ride on the bus company's regular routes.

Jim Gibson, manager, said the company had filled "all but one or two legitimate requests" for bus service.

UNSERVED "POCKETS"

However, there are some "pockets" of the city where not enough children ride to support a bus run.

However, even where a bus is accessible, many families have trouble scraping up bus fare.

Speaking of children in one black neighborhood, a mother said the children go when they have bus fare and stay at home when they don't.

Yet principals report attendance so far, and the good weather has been a factor, has been good.

One black father last semester solved the transportation problem for the kids in his neighborhood by loading 20 or 25 of them on his pickup truck and hauling them to a previously white school. He had to come about an hour before classes began to get to work, but the children got there.

Chief Warren says pickup trucks are being used again this semester, and that many packed station wagons are making school hauls.

Both white and black parents seem determined to get their children to school, although it poses more problems now than it probably has since they went to school by mule back and ox wagon a half century ago.

OPPOSITION TO FORCED BUSING

(By Ronald Reagan)

Governor Ronald Reagan today signed into law AB-551, Wakefield, the so-called anti-busing bill, at a special ceremony in his office.

In a statement at the signing, the governor said:

"Over the past four years, I have had the opportunity to talk with countless thousands of Californians about the major issues which face us as a society.

"And, no single issue has produced a greater overall expression of deep concern—from every ethnic segment of our citizenry—than that of forced bussing of school children.

"Judicial rulings intended to force compulsory bussing on parents and families—against their wishes and without their consent—have distressed the vast majority of our citizens who strongly oppose racial discrimination, but who understandably view mandatory bussing as a ridiculous waste of time and public money, which could seriously

XUM

undermine all efforts to improve the quality of our public schools.

"Besides hampering the quality of education our children need and deserve—by siphoning off millions of dollars in school funds which could otherwise be used for books, new classrooms, teachers and maintenance—forced bussing would also deprive them of the natural environment of the neighborhood school.

"Indeed, compulsory bussing shatters the very concept of the neighborhood school as the cornerstone of our educational system.

"Last February, I pledged to the people of California that this administration would vigorously oppose the forced bussing of school children by every legal means.

"In line with this policy, I am today signing into law Assembly Bill 551 by Assemblyman Floyd Wakefield of South Gate which prohibits the governing board of any school district in California from requiring that any student or pupil be transported for any purpose, or for and reason, without the permission of the parent or guardian.

"I am aware, of course, that this new law will be immediately challenged in the courts. In this connection, I do not believe that in the separation of powers, the judiciary was intended to legislate or run our public schools. Moreover, the 1964 Civil Rights Act is very explicit in its denial of compulsory bussing to achieve social balance.

"Now, I know that there are those who charge that opposing compulsory busing is somehow equivalent to encouraging discrimination. But those who make this charge lack understanding of the real needs of our children, whatever their race or ethnic background.

"This was best explained to me by a mother who told me that what she really wanted was a better education for her child in the neighborhood school he was attending. She said, 'We want teachers to keep our children in a grade until they learn what they are supposed to learn in that grade. We want an end to passing them simply because they've come to the end of the year.'

"Forced busing is *not* a promise of improved education. On the contrary, it can only promise to jeopardize educational quality by diverting public funds which would otherwise be used for true educational purposes.

"Moreover, mandatory busing could imperil some of the most innovative and worthwhile projects for minority children ever instituted in our public schools—vital bilingual teaching programs in neighborhood schools located in Spanish-speaking areas where, for example, youngsters of Mexican descent are getting special help in resolving language problems.

"As I said earlier this year, forcing children to be herded onto buses and carted across town each day—away from their familiar home environments—represents a vast and dehumanizing manipulation of school populations.

"The legislation I am about to sign will go a long way towards helping to assure that this does not happen."

JEWISH HIGH HOLIDAYS

HON. EMILIO Q. DADDARIO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. DADDARIO. Mr. Speaker, today, October 1, begins one of the most important religious observances of the Jewish faith. Rosh Hashana, the Jewish New Year, starts today, initiating a 10-day period of commemoration which ends with Yom Kippur, the holiest of Jewish holidays. Let us take this opportunity to reflect on the heritage symbolized by this religious observance.

Beginning on the first day of the 7th month of the Jewish calendar, Rosh Hashana marks the Jewish New Year of 5730. On this day, it is traditional that each individual introspectively examines and evaluates his deeds of the past year. Accordingly, it is a time of deep meditation and sincere repentance, culminating in a determination to improve the quality of one's life in the coming year.

Perhaps most important, this day inaugurates a 10-day period of preparation for Yom Kippur, the Jewish Day of Atonement. By scrutinizing their past transgressions and asking for forgiveness on this day, the Jewish people resolve to pursue a life of peace, truth, and holiness.

The cleansing process embodied in this religious holiday is particularly relevant in 1970. The State of Israel, which represents the cultural birthplace of the Jewish people, has been engaged for some time in hostilities with surrounding nations. Faced with such a critical posture in the Middle East today, it would be wise for all men to heed the call of this holiday, by disaffirming the sins of the past, and rededicating their efforts to seek world peace and harmony. I call on all Americans to join with those of the Jewish faith on this solemn occasion, to compensate for past wrongdoings by striving to eliminate inequities from our future conduct.

HORTON PRAISES MISS LOUISE LYNIP AND HER 30 YEARS OF WORK IN THE PHILIPPINES

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. HORTON. Mr. Speaker, there is a great humanitarian from my 36th Congressional District in Rochester, N.Y., who deserves special recognition. Her name is Miss Louise Lynip, who for 30 years has provided a home for orphans in the Philippines.

On October 9, there will be a dinner in Rochester honoring Miss Lynip. It will also mark the 20th anniversary of the founding of Bethany Home, an orphanage and school founded by Miss Lynip in Talakag, Bukidon, Philippines.

Miss Lynip's reputation for good work has spread internationally and I would like to tell my colleagues a little of her life.

A glance at her formative years in Rochester, at her home, church, friends, and schooling would tell us why she could begin and carry on her enormous task. The real story might be told by the many children who have been nourished over the years and have been influenced by her care of them.

Possibly a view of the neat and well cared for compound with its 13 homes, grammar and high schools, with its library and administration building, medical dispensary, recreation building, hobby shop, utility plant, and other buildings as well as a thriving farm with crops, rice paddies, and fruit trees would give a good picture of what Bethany Home is.

The real Bethany is people, the 100 or more children living there with a dedicated staff of teachers, houseparents, medical doctors, farmworkers, maintenance men, and others.

Many residents of the surrounding area have been touched and influenced by this unique home and they would say Bethany is a story of a small group of dedicated Christians who have ministered to the physical and spiritual needs of the community and have helped many needy persons.

I am sure the girls living there would say Bethany is going to a new school and enjoying a modern library, or learning to sew, or of taking classes in homemaking, maybe spending an evening in the hobby shop. The boys might say it is the basketball court or sports, Christian Service Brigade activities, vocational training, learning mechanics or animal husbandry.

As a child in Sunday school at Brighton Community Church, under the preaching and encouragement of her pastor, Rev. Dean Bedford, and his wife, in hearing missionaries speak, in the home of her parents, Charles and Jessie Lynip, Miss Lynip realized her life's work.

After graduating from Monroe High School in Rochester, Miss Lynip enrolled in Moody Bible Institute in Chicago and then began nurse's training at Booth Memorial Hospital in New York City. Upon completion, she left for the mission field in the Philippines. When World War II came to the country she was in charge of a girl's work and dispensary at a tiny mission station in the interior of Mindanao Island, under Reverend and Mrs. Henry deVries, a pioneer missionary couple who had started the work.

For 2 years Miss Lynip lived in the mountain forests to evade capture. Finally, she was evacuated by submarine, narrowly missing capture by an enemy gunboat as she was approaching the American submarine.

In 1946, she returned to the field and started caring for orphans in her home, and in 1950 moved the small orphanage to a home in the village of Talakag, and then in 1962, moved to the present location, a 60-acre site 1 mile outside the village.

Mr. Speaker, I have attempted to tell in a capsule of this marvelous place and this wonderful woman who has represented our country well over the years. I know Miss Lynip, at the commemoration of Bethany's 20 years, would not point to herself to show any accomplishments.

On this happy occasion for Miss Lynip and the children at Bethany, I would like to sum up with a word in a dialect of Bukidnon, "Maayad"—"It is good."

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CONGRESSMAN RODINO REPORTS ON HIS MAJOR LEGISLATIVE ACTIVITIES

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. RODINO. Mr. Speaker, now that we are nearing the end of the 91st Congress, I think it is appropriate to report to my constituents on some of the most important legislative actions of the House Judiciary Committee of which I am a member:

CRIME CONTROL

Of the nineteen areas of legislative responsibility conferred upon the Committee, undoubtedly the one of greatest public interest in this Congress is that of crime prevention and control. As ranking member of the Subcommittee to which the majority of major anti-crime measures is referred, I am proud to have had a leading role in the development of a wide variety of significant crime control bills. The most important in recent years include:

The Anti-Racketeering Act of 1961.—This law prohibited interstate commerce in furtherance of racketeering enterprises and provided a major weapon for the use of Federal law enforcement officials in the war against organized crime. Subsequent laws directed at organized crime have been the outgrowth of the principles established in this legislation.

The Law Enforcement Assistance Act of 1965.—This act initiated modernization of the nation's entire criminal justice system and authorized the Justice Department to assist state, local and private groups to strengthen crime control programs. It also provided grants to local and state agencies to improve police work, correctional systems, courts and prosecutors. A National Crime Information Center, coordinated by the FBI, was established by a grant.

The Prisoner Rehabilitation Act of 1965.—This law provided a step toward more effective ways to assist former convicts to reenter society, seeking to reduce the "repeater" rate.

Establishment of the National Commission on Reform of Federal Criminal Laws in 1966.—This Commission is charged with studying the problems and proposing of Federal criminal laws. It has already submitted a study report to Congress.

Gun Control Act of 1968.—This measure channeled firearms through Federally licensed dealers and prohibited mail order sales of guns. It imposed reasonable requirements to keep guns out of the hands of drug addicts, mental incompetents, felons, fugitives, individuals considered dangerous and minors. It is similar to New Jersey's more stringent and comprehensive law, which is considered a model gun control law. In the 17 months following the Federal Act's effective date, the Treasury Department reports that it had 1,482 cases resulting in 926 arrests. Compared with the 17-month period preceding enactment of the Act, this is an increase of 342.4 percent in cases and 313.4 percent in arrests. The Department's records clearly show that there have been at least as many cases of crime prevention under the Act as of detection after a crime has been committed.

Omnibus Crime Control and Safe Streets Act of 1968.—This is probably the most significant vehicle for Federal assistance to responsible state and local law enforcement agencies, and it established the concept of sharing of Federal funds in this important area. The Act created the Law Enforcement Assistance Agency (LEAA) to administer a grants program that distributes crime fighting funds to states on a population basis. It provides funds to create coordinated planning agencies in states, improve recruiting procedures, construct law enforcement facilities, improve community-police relations, and encourage education in law enforcement and crime prevention. Other provisions of the Act permit police wiretapping in the investigation of crime and allow a trial judge to determine admissability of confessions regardless of whether a suspect had been warned. In Fiscal Year 1970, New Jersey received $641,000 in planning grant funds and $6,372,000 in action grants. Some very valuable programs have been undertaken in New Jersey during the two years of the program's operations, including a narcotics education project, a project to improve the response time of police to radioed calls and formation of a statewide Organized Crime Unit.

In the 91st Congress the House Judiciary Committee has approved the following major anti-crime bills:

Omnibus Federal District Judgeship Bill of 1970.—This measure provides 61 additional Federal judges—one of the largest increases in history. It is considered as the most significant step toward eliminating the excessive backlog of criminal cases in Federal courts, particularly in metropolitan areas.

1970 Amendments to the Omnibus Crime Control and Safe Streets Act (passed House, awaiting Senate action).—This most important anti-crime measure provides vital improvements to the original Act, including the allocation of priority funds to urban high-crime areas that most need financial aid to prevent the robberies, rapes and attacks that menace every citizen. In addition, it authorizes increases in funds desperately needed to aid local and state law efforts. The Attorney General recommended only $480 million for Fiscal Year 1971, but after evaluating the testimony presented during 12 days of intensive hearings, my Committe authorized $650 million for 1971, $1 billion for 1972, and $1.5 billion for 1973.

Anti-Obscenity Bill (passed House, awaiting Senate action).—This bill makes it a Federal offense to use interstate facilities, including the mails, for the transportation of unsolicited obscene or salacious advertising. It also increases substantially the penalties for offenses under the bill and supplements legislation approved earlier to prohibit delivery of obscene material to children and to enable citizens to prevent the receipt of sex-oriented advertising.

Explosives Control and Anti-Bombing Bill (Rodino Bill, H.R. 18476 amended by Committee and included as provision of S. 30, now awaiting House action).—My bill to establish strong regulation of explosives and bombs, with Committee amendments, has been approved. It establishes licensing and record-keeping regulations for dealers in explosives, prohibits mail order sales to individuals, and the sale to anyone under 21 years of age. It also broadens and increases existing Federal penalties for the unlawful transportation of explosives and use of the mails or telephone to convey bomb threats or false, malicious bomb scares. It would not interfere with lawabiding citizens with legitimate reasons for acquiring and using explosives.

Organized Crime Control Bill (S. 30, passed by Senate, approved with House Judiciary Committee amendments and now awaiting House action).—This complex and controversial measure, which the Senate considered for over a year, stems from efforts to implement recommendations of the Presidential Commission on Law Enforcement and the Administration of Justice. It contains 12 substantive titles to improve Federal authority to deal with organized crime and to help prevent it. It strengthens the legal means of obtaining usable evidence, brings any major illegal gambling operation within Federal jurisdiction, makes it a crime to use income from organized crime or racketeering to acquire or establish a legal business, and authorizes increased sentences for habitual criminals who pose a continuing danger to society.

NARCOTICS CONTROL—THE RODINO PLAN

To a large extent, the very core of the nation's crime problem is narcotics addiction. In urban high crime areas, such as Newark and its surrounding communities, over 50 percent of crimes are committed by addicts as a means of feeding their desperate need for drugs. Traffic in narcotics finances organized crime on an international scale. Pushers of heroin and other hard narcotics prey on our children. Narcotics addiction has become truly a national epidemic.

For this reason, I have formulated and vigorously advocated a comprehensive, three-pronged attack on narcotics.

Narcotic Addict Rehabilitation Act of 1970 (Rodino bill, H.R. 17269).—This bill would reduce the demand for drugs by requiring medical supervision and control of every person known to be an addict, with mandatory confinement if necessary. Such treatment would be under Public Health Service jurisdiction but would not interfere with or operate to suspend the criminal prosecutions of addicts who are charged with crimes. My bill has the support of law enforcement officials, as well as the American Medical Association, and is currently under active consideration by the House Judiciary Committee.

Under the second phase of my program, use of Public Health officials to control narcotics addicts, as provided for in H.R. 17269, would free law enforcement officials to conduct vigorous crackdowns on one of the most heinous criminals in our society—the narcotics pusher.

Sanctions Against Countries Permitting Illegal Narcotics Exports (Rodino Bill, H.R. 18379).—The third step in my program is strong action to eliminate the supply of illegal narcotics entering our country from abroad. My bill would impose economic sanctions on foreign governments that fail to take adequate measures to curb illegal production and processing of such drugs as heroin, opium and cocaine. Some 140 Members of the House are now actively supporting my bill as cosponsors, and I am pressing for action on it by the House Foreign Affairs Committee, to which it was referred.

STATE TAXATION OF INTERSTATE COMMERCE

Public Law 86-272, enacted 10 years ago, directed the House Judiciary Committee to make full studies of the interstate tax problem and to formulate appropriate legislative proposals. Since then, the Special Subcommittee on State Taxation of Interstate Commerce, of which I am Chairman, has worked assiduously to provide an equitable and workable system. We spent 7 years on a detailed analysis and study of the problem and developed a bill that passed the House in the last Congress. Unfortunately, it was not acted on by the Senate. In this Congress, my bill has passed the House by an even greater margin. The broad support for my Interstate Taxation Act in the House, as well as the nationwide support from business groups across the country, is an indication of the extent to which American businessmen simply must have relief from the present impossible system. I have been urging early action by the Senate Finance Committee on this essential measure.

IMMIGRATION AND NATIONALITY ISSUES

Another of my major responsibilities on the Judiciary Committee is on immigration and naturalization and refugee policy. As ranking member of the Subcommittee that handles this legislation, I can report with pride that we have made significant improvements in these laws. Our objective is a flexible immigration system that will meet the needs of the United States, not only domestically but in our foreign relations. The 1965 Immigration and Nationality Act, which repealed the national origins system, was a giant step toward achievement or our basic policy—to reunite families, give preference to aliens whose skills we need, and recognize the plight of refugees.

However, as in the case of any law as vast and complicated as the Immigration Act, unforeseen inequities and problems have arisen. Since 1965 we have concentrated our efforts on amendatory legislation to eliminate them.

In the 91st Congress, my Subcommittee developed a bill, now law, that solves some of the problems. Its major features are: (1) to facilitate the entry into the United States of certain nonimmigrant aliens of distinguished merit and ability to perform services of a highly skilled nature, such as executives of companies engaged in international trade, doctors, professors and nurses; (2) to permit the fiancees of citizens to enter as nonimmigrants; and (3) to eliminate the two-year foreign residence requirement for exchange visitors whose skills are not needed in their native countries and whose participation in exchange programs was not financed by the U.S. or their own governments.

Current problems that require action are: (1) development of an improved preference system, applicable to the Western Hemisphere as well as the Eastern Hemisphere; (2) perfection of the labor certification procedures in a fair, uniform and orderly manner; (3) the decline in Irish and Western European immigration; and (4) the backlog in immigration of brothers and sisters, particularly from Italy.

My bill, H.R. 17370, contains provisions to remedy all of these problem areas, and extensive hearings have been held on it and other proposals. I am hopeful that with the good start we have made, action can be taken in the next Congress.

Intergovernmental Committee for European Migration—The World Refugee Problem.—I was pleased to be reappointed as Senior Adviser to the U.S. Delegation representing the Congress at the 1970 meetings of the Intergovernmental Committee for European Migration. This 31-member nation committee, to which I have been a representative for 8 years, has resettled over 1,600,000 refugees and migrants since its inception in 1951. It is expected that ICEM will move over 80,000 refugees during 1970 to countries of asylum and also to assist in the movement of migrants to Latin America.

North Atlantic Assembly—International Environmental Cooperation.—As a result of my efforts in the foreign relations area, I have been honored for the past 8 years to be designated as a House delegate to the NATO North Atlantic Assembly, composed of members of the parliaments of the NATO member nations. I serve on the Scientific and Technical Committee, of which I am Vice Chairman. Our Committee has had a continuing, special concern about environmental problems that know no national boundaries, such as air and water pollution, oceanographic research and fisheries resources. My Committee has also worked on important international problems such as desalination of water, global hunger and the exchange of information on drugs. The Committee has always been particularly interested in U.S. activities to solve environmental problems. Two years ago I presented a survey of air pollution in the United States, last year I reported on the Santa Barbara Oil Spill, and for this year's meeting later this fall I am preparing a study of U.S. water pollution control policies.

THE FUTURE OF THE PAST

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. BROWN of Ohio. Mr. Speaker, during the past few years America has become accustomed to a wide range of idealistic expressions from our youth, exhorting us as a nation to "change the system" to make it more responsive to what are their goals for a better world. For the vast majority of our youth, those ideals are little different than those of their fathers and grandfathers. Our goal as a nation has always been to produce a better world for the present and future generations of society. I hope it always will be. But history has taught us a valuable lesson: Change takes time, and can only very seldom come overnight.

This was the subject of an excellent sermon recently delivered to the congregation of the National Presbysterian Church by guest preacher Dr. Harold Blake Walker, minister emeritus of the First Presbysterian Church of Evanston, Ill., and chairman of the General Assembly's Council for the National Presbyterian Church and Center. In order to share with my colleagues Dr. Walker's deep perception of some of today's problems and his sound advice to youth for reaching new goals as a nation, I am inserting his sermon in the RECORD:

THE FUTURE OF THE PAST

(By Harold Blake Walker)

(Wash yourselves, make yourselves clean; remove the evil of your doings from before my eyes; cease to do evil, learn to do good; seek justice, correct oppression.—Isaiah 1: 16–17.)

When I stood on Connecticut Avenue in Washington the night of May 9th watching streams of young people flowing by after the peace rally before the White House, my mind slid back to January 1924. I was a college junior then, a delegate to the Student Volunteer Convention in Indianapolis. The theme of the convention was "Christian Students and World Problems." The student mood then was one of idealistic rebellion. The war to end all wars had ended in disillusionment and it was clear that the Treaty of Versailles had sowed the seeds of another war.

The seven thousand of us who met at Indianapolis were resolved to change the world. Our motto, emblazoned on banners around the convention hall, was simple: "The evangelization of the world in this generation." We highly resolved to make our Christian faith effective in the world. We were determined to end racial injustice; to support the growing labor movement, and to put an end to war. We were angry because those Woodrow Wilson called "willful old men" had blocked entrance of the United States into the League of Nations.

When the convention ended we went home intending to make our influence felt in the churches and in society. We soon discovered, however, that nobody was listening to us. Thereafter, we marched in parades in support of Norman Thomas, the Socialist Candidate for President; made speeches against war, and joined the pacifist movement.

The emotional climate and the mood in Washington on May 9th and that of 1924 were the same, and yet different. There were fewer of us, for one thing. Again, we met in faith and hope within the context of the Christian faith; Washington, that May day, seemed more angry and less hopeful. Those who spoke to us, men like Sherwood Eddy, Robert E. Speer and G. Studdert-Kennedy, the poet preacher of England, were eloquently provocative and challenging; those who spoke in Washington were bitter and often obscene. There was, however, one thing my generation and the young of today had in common—a passionate desire for peace and for a just society.

I

Like those who met to protest in Washington, we thought in 1924 that "The Establishment," we spoke of "the men in power," had made a shambles of the world. Without quite being aware of it, the "now generation" and my generation, inherited one of the most persistent and undiscourageable ideals of the past, namely, the dream of a peaceful and a just society. The anger of those who shouted toward the White House May 9th was more than matched in the Eighth Century B.C. by the prophet, Amos, who denounced the sins of Israel's Establishment in words dripping with vinegar. Isaiah, his anger blazing, uttered his protest against the rulers of Judah in the name of God:

"Wash yourselves; make yourselves clean; remove the evil of your doing from before my eyes; cease to do evil, learn to do good, seek justice, correct oppression."

Plato, dreaming of the good society, fashioned its pattern in "The Republic"; Augustine caught a vision of "The City of God" and called men to create and inhabit it. Indeed, from the beginning of time Utopias have been a human aspiration.

So, to suggest the stirrings of social protest today are altogether new is quite unhistorical. Nevertheless, we are in a time in which wisdom seems to require a current dateline. Charlotte Gilman understood the mood when she wrote:

"The little front wave dashed upon the beach,
And frothed there, wildly elated.
I am the tide," said the little front wave.
And the waves before me are dated."

There is plenty of "front wave froth" around us. It splashes indiscriminately in all directions, but it is only part of the ancient tide.

The ideal of a peaceful and a just society flung upon us from the past is an impossible dream, I suppose, but at the same time progress toward it depends on those who refuse to believe that it is impossible. Our own Declaration of Independence was an affirmation of an impossible dream: "We hold these truths to be self-evident: That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness." There is nothing self-evident about the rights affirmed or the equality announced in the great Declaration. They were affirmations of faith and hope, nothing more nor less. Whatever progress we have made toward implementing the "inalienable rights" proclaimed by those who signed the document in Independence Hall has been made possible by those who refused to believe the impossibility of their impossible dream.

It is suggestive to notice that when representatives of the colonies came together to write a Constitution for the new nation they were at least a little skeptical about the unselfishness and the goodness of human kind. They erected a system of government with checks and balances to guard against the usurpation of power. With somewhat the same suspicion of human nature, Plato doubted the wisdom of democracy, as he said, democracy gives the individual more freedom than he can manage.

Those who wrote the Constitution were fearful lest The Establishment usurp power without check; Plato was suspicious of the masses, of what we call "People Power." He was aware that power in the hands of people is hazardous because too many people are disposed to exercise their freedom destructively. People, whether they represent The Establishment, the revolutionaries or the "silent majority" all are infected by the original sin of self-centeredness and self-interest and as a consequence people are in danger of destroying themselves. Not systems, but people who can't manage their freedom, threaten our era.

Any system known to mankind is liable to corruption by human cussedness, whether it be capitalistic, socialistic, communist or what not. Wreck the system and you still have people on your hands. "Smash this sorry scheme of things entire," and you still have to build again on people who do not manage their freedom in the interests of the common good. Isaiah put the onus where it belongs: "Wash you; make yourselves clean . . . cease to do evil, learn to do good."

II

When John Calvin was struggling to create a just and peaceful society, he recognized clearly that the good society rested on men and women of moral competence and spiritual commitment. He was acutely aware that either we discipline our emotions and manage ourselves with integrity and wisdom as discipels of Christ or we will be coerced and disciplined by external authority at the expense of our freedom.

The impossible dream of the good society, therefore, involves an endless struggle to nourish men and women of character worthy of freedom. There are no easy short-cuts on the way; no simple solutions to the complex problems of society. As John Milton wrote in Paradise Lost:

> "Long is the way and hard,
> That out of hell,
> Leads up to light."

If my generation has failed in the struggle, it is we who are to blame, not the system that has undergirded our common life.

The "now generation" cherishes the impossible dream, even as we did when we were young. I dare say we handed the young of today the dream along with some of the obstacles to it. As one young man said to the Cox Commission investigating the Columbia University disturbances:

"Today's students take seriously the ideals taught in schools and churches, and often at home, and then they see a system that denies its ideals in actual life. Racial injustice and war in Vietnam stand out as prime illustrations of our society's deviation from its professed ideals and the slowness with which the system reforms itself. That they seemingly can do so little to correct the wrongs through conventional political discourse tends to produce in the most idealistic and energetic students a strong sense of frustration."

In fact is, however, that the system can be changed by people who care enough to work within its context in season and out of season.

I am sure my grandfather would turn over in his grave if he were to come back to a world of income taxes, Social Security, Civil Rights, welfare programs, medicare, medicade, the regulation of utilities, stock markets, railroads, airlines and a host of other innovations designed to create a more just and equitable society. People who were ethically and spiritually motivated worked within the system and changed it.

The "now generation" wants things to change immediately, if not sooner. Many of the young are persuaded that time is running out and their future is at stake. Pollution and urban decay, war and social injustice threaten the promise of tomorrow and they want things changed now. It is not difficult to understand their sense of frustration when "the mills of the gods grind slowly," and they are not sure that "they grind exceeding sure" to create a social grain adequate to nourish the future.

In their frustration, the young attack the "system," seemingly unaware that no system, however good it may be, will bring the good society without men and women of character and high courage to undergrid it. It is suggestive to notice that the "good man" in the Communist system is the man who is pliable, who can be managed by the managers, by the Establishment, and persuaded to accept the judgments of the party without question. A free society, on the other hand, requires men and women of independent integrity dedicated to Jesus Christ as Lord. The Soviet system requires people who can be managed; a free society needs people who in their loyalty to the highest are capable of their own ethical management.

When we were graduated from the university, the commencement speaker told us, "You are the hope of the world." We believed him, but somehow, either the world did not get the message, or we did not live up to the billing. I hope and pray that the "now generation" will be more worthy than we to be "the hope of the world," with faith, integrity and courage enough to implement the impossible dream they have inherited. "Wash yourselves; make yourselves clean. . . . cease to do evil, learn to do good; correct oppression." We leave to the young the dream, the impossible dream.

III

What will they do with the dream? That will depend on what they believe. If they think life is only a charade without meaning or purpose, the dream will die with them. If they are persuaded that God is dead, and the ground of their being is nothing but shifting sand, they will have no dependable foundation on which to stand while they struggle. If they have concluded there is nothing in life more ultimate than themselves, their idealism will run off like sweat along the dusty road ahead.

If, on the other hand, they believe that the shadows of individual existence come and go against a background that holds together, they will find meaning in their toil to achieve the impossible dream. If they know in their hearts that their dream is God's dream too, they will know they do not stand alone when they stand against the uncaring crowd.

Happily, along with the dream, the young have inherited a sublime faith wrought in the fires of human experience. The faith the past bequeathed to them affirms that the dignity of man is anchored in the love of God; the freedom of man in his spiritual worth, and his other concern in the Master's affirmation that "inasmuch as you do it unto one of these least . . . you do it unto me." It makes clear that, in spite of disasters, something magnificent is going on here, and the challenge is "to do justice, to love kindness, and walk humbly with your God."

We have been charged with hypocrisy. We plead guilty in the sense that our works have not matched the faith we accepted from the hands of the past. Let it be said, however, that our dream was no less sublime than the dreams of today's youth. When we were young we sang, "I ain't gonna learn war no more, no more." We thought we were "climbing Jacob's ladder" and building a better world. But when the chips were down, and we were caught in the struggle for survival in the midst of an agonizing economic depression, we began to look out for ourselves; our other-concern faltered.

There was nothing wrong with our inherited faith. It was simply that our private preoccupations dulled its cutting edges. We were left without resolution to cut through the barriers to justice and peace. We retreated into a private piety that betrayed the social passion of the prophets and Jesus. We felt the weight of disillusionment and frustration.

Many of us who have passed the midstream of life understand youth better, perhaps, than they think. We remember the impossible dream that once stirred us, the anger we felt when it ran into road-blocks, our resentment against the men in power. We wonder if today's youth will have what it takes, faith enough for the long haul ahead. Demonstrations, marches and strikes are of short duration, here today, gone tomorrow. They require very little stamina or staying power. I wondered, however, as I stood on Connecticut Avenue May 9th: Would the young men and women I saw have what it takes to work through the years at the grass-roots, in precincts, in their own homes, in business offices and in government to effect changes to bring the world closer to the impossible dream?

If we didn't have what it took to keep us faithful to our dream, maybe today's young will be better, wiser and more courageous than we. God grant that may be so. Possibly their own spiritual experience, wrought in the stress of their need for meaning for life will lead them to a new promised land of faith and hope and a new dynamic for creative life and service. But surely it will take new and inspired men and women of high faith to push on toward the impossible dream.

Without faith in God revealed in Jesus Christ as the ground of our being and life, the dream of a just and peaceful society is an illusion; with a steadying faith the impossible dream can be approximated. The future of that ancient dream of the past is in the hands of all of us. "Wash you; make yourselves clean; remove the evil of your doings . . . cease to do evil; learn to do good; seek justice, correct oppression."

THE NATIONAL SECURITY ISSUES POLL

HON. JOE SKUBITZ

OF KANSAS
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 1, 1970

Mr. SKUBITZ. Mr. Speaker, the Emporia, Kans., Gazette recently published the results on an interesting and valuable poll on national security issues. It was similar to the poll distributed by the American Security Council.

More than 200 Gazette subscribers went to the trouble of answering the somewhat complex questions on our defense and foreign policies.

Whether one agrees or disagrees with the opinions of the majority, no one can doubt their patriotism, love for America, and their willingness to stand up and be counted.

Here are the results of the Emporia Gazette poll:

[From the Emporia (Kans.) Gazette, Sept. 21, 1970]

THE NATIONAL SECURITY ISSUES POLL

Below we print returns from the more than 200 Gazette subscribers who went to the trouble of filling out and then clipping the ballot, signing it, and then hunting down the envelope and stamp needed for mailing. All of this requires considerable brains and determination, so it should surprise no one to find that the answering voice to these questions is firmly patriotic. Whatever may be wrong with these people, no one dare doubt that they love our country and mean to save it.

XUM

	Agree	Disagree	Undecided
1. The Safeguard Anti-Ballistic Missile Defense System (ABM) is necessary for the defense of the United States	148	25	22
2. The United States should maintain military strength greater than that of the Soviet Union and Red China	165	23	19
3. Communists and other revolutionaries should be permitted to teach in tax-supported educational institutions	2	204	4
4. Communists and other revolutionaries should be permitted to hold sensitive positions in defense facilities	7	209	4
5. The United States should have a national objective of victory in the Cold War	162	28	14
6. The United States needs a "Freedom Academy" to train leaders for new forms of non-military conflict	89	62	61
7. The United States should help the people of Czechoslovakia, Hungary, Cuba, and other captive nations in their struggle for freedom	101	63	52
8. The United States should have a national objective of victory in Vietnam	154	31	13
9. The United States should give economic aid to foreign governments even if they are Communist or pro-Communist	10	193	8
10. The United States should extend diplomatic recognition to Red China	49	105	40

ILO APPROPRIATION

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. BINGHAM. Mr. Speaker, the gentleman from California (Mr. MAILLIARD), the gentleman from Massachusetts (Mr. MORSE), the gentleman from Minnesota (Mr. FRASER) and I have today sent the following letter to all Members of the House:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, October 1, 1970.

DEAR COLLEAGUE: Early next week the Conference Report on the State, Justice and Commerce Appropriations Bill will be brought up. It includes a Senate-passed cut of some $3.75 million constituting a deliberate refusal to pay up on a legal obligation to an international organization. If the bill is enacted in this form, this will be the first time that the United States has joined the ranks of willful defaulters in the United Nations and its affiliated organizations.

When this appropriation bill first passed the House, it included the full amount of the U.S. assessment for the International Labor Organization's budget in the sum of $7.5 million. Subsequently, the responsible House subcommittee reviewed this particular item and, at a hearing held on July 31, received testimony from Mr. George Meany, President of the AFL–CIO, and others which directed sharp criticism at the ILO. Apparently, the subcommittee concluded that the United States should refuse to pay its assessment.

A corresponding Senate subcommittee later recommended a cut of $3.75 million, the amount of the assessment not already paid, and after some debate, the Senate approved that cut by a vote of 49–22. The conferees accepted the reduced figure.

The record should be clear that Mr. Meany, while very critical of the ILO, did *not* urge the cut at the present time but said, as reported by the record of the hearing held by the House subcommittee, "I think that is a decision which will have to be made a little farther down the road."

The Administration strongly opposes the cut both as a violation of an international legal obligation and as a step which will seriously weaken the United States influence with the ILO.

We are very disturbed by the proposed cutoff of dues payments to the ILO. We hope the matter can be thoroughly discussed when the Conference Report is brought to the Floor, since the reduction in ILO funds will put the U.S. into the category of the Soviet Union and France as deliberate defaulters on international financial obligations within the U.N. system of organizations.

We believe Members are entitled to know whether it is the intention of the conferees that the U.S. default should lead to U.S. withdrawal from the ILO.

We are not at this time attempting to pass on the merits of the serious charges leveled by Mr. Meany and others against the ILO. We believe they should be thoroughly investigated by the appropriate substantive committee in hearings similar to those held in 1963 by the Subcommittee on International Organizations then chaired by Mr. Fascell of Florida.

BRAD MORSE.
DON FRASER.
WM. MAILLIARD.
JONATHAN BINGHAM.

The position of the Administration on the proposed cut in the ILO assessment was set forth in a letter from the Deputy Under Secretary of State for Administration, William B. Macomber Jr., to Senator MCCLELLAN. This letter was inserted in the RECORD at page 29879 but its content was apparently not brought to the attention of the Senate during the debate on the item. The letter reads as follows:

DEPUTY UNDER SECRETARY OF
STATE FOR ADMINISTRATION,
Washington, August 24, 1970.

Hon. JOHN L. MCCLELLAN,
Chairman, Subcommittee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: The Senate Committee on Appropriations has recommended a cut in the appropriation of the Department of State which would result in the United States not meeting its financial obligations under the Constitution of the International Labor Organization.

Serious legal consequences will follow on non-payment of the United States, assessments if such a recommendation is adopted. The Constitution of the I.L.O. was approved by the Congress by Joint Resolution on June 30, 1948, and consequently has the effect of a treaty. Article 13 of the Constitution empowers the General Conference of the I.L.O. to create legally binding financial obligations on Member States by levying assessments for the expenses of the I.L.O. Paragraph 3 of Article 13 states:

"The expenses of the International Labour Organization shall be borne by the Members in accordance with the arrangements in force in virtue of paragraph 1 or paragraph 2(c) of this article."

It is therefore clear that the United States has undertaken an international legal duty to pay the share of the budget that has been voted by the I.L.O. General Conference and that we would be in violation of that obligation if we did not pay our full assessment.

As you know, the United States has always stood at the forefront of those who have insisted on the necessity of nations to fulfill their legal duty to pay obligatory dues in international organizations. And principally at the urging of the United States, the International Court of Justice made a ruling in the 1962 United Nations Assessments Case favorable to our position.

Non-payment of our dues to the I.L.O. could, of course, lead to the question being raised again in the International Court of Justice.

Moreover, aside from broader foreign policy implications, failure to pay our obligatory assessment would seriously weaken the ability of the United States to exert influence within the organization.

Yours sincerely,
WILLIAM B. MACOMBER.

Both in the hearings before the House subcommittee and in the record of the Senate debate the text of an article entitled "Lenin and Social Progress" which appeared in the April issue of International Labor Review, a publication of the ILO, was introduced. The article, which follows the orthodox Communist line, was described as "a sample of the attitude of the Office of the ILO toward the Soviet Union." However, the records also show that the authors of the article were not ILO officials but two Soviet faculty members from Moscow State University. The International Labor Review publishes articles representing many different points of view. Its July issue, for example, carried articles by two Americans, one of whom is an official of the Department of Health, Education, and Welfare.

The ILO was the recipient in 1969 of the Nobel Peace Prize, as noted by the New York Times in the following recent editorial:

[From the New York Times, Sept. 28, 1970]

UNDERMINING THE ILO

When the Soviet Union and France refused to pay their share of the costs of United Nations peace-keeping missions, the United States properly pointed out that such selective use of money power as a lever for political pressure undermined hope for a world society built on law. The World Court formally upheld that view in a decision requiring nations to honor their financial obligations as members for the U.N. and its constituent agencies.

Now the United States is on the verge of putting itself alongside Russia and France on the dishonor roll of international defaulters. A conference committee of the Senate and House, scheduled to meet tomorrow, will consider a cut-off of $3.7-million in funds for the International Labor Organization. Present indications are overwhelming that the cut will go through as a result of a weird alliance in which the key figures as George Meany of the A.F.L.-C.I.O., and two of the most conservative legislators on Capitol Hill, Sen. John L. McClellan of Arkansas and Representative John J. Rooney of Brooklyn, co-chairmen of the conference committee.

The "sin" of the I.L.O., as viewed by this triumvirate, is that its new Director-General, Wilfred Jenks of Great Britain, has appointed a Russian as one of its five Assistant Directors, Mr. Meany, forgetting all the kind things he himself said about the I.L.O. less than a year ago when it won the Nobel Peace Prize, sees that appointment as the last straw in a process that has turned the organization into a transmission belt for anti-American propaganda.

The House had already routinely approved the United States appropriation for the I.L.O. before Mr. Meany leaped into battle. Mr. Rooney called a special hearing before his committee for the primary benefit of the A.F.L.-C.I.O. chief. The Administration spokesmen at the hearing meekly concurred in virtually all his indictments of the world organization. This testimony provided the foundation for a successful drive by Senator McClellan to kill the appropriation in the Senate.

XUM

> This country cannot even hide behind tenuous legal objections of the kind Moscow and Paris raised against the U.N. peace-keeping missions in the Congo and the Middle East. Washington has a clear contractual commitment to meet its share of the I.L.O. budget, a commitment from which there is no valid escape in law. But this should not be a matter of legal compulsion. The United States has no moral right to use money as an instrument for bludgeoning any international agency.
>
> The best hope for getting that thought through to the conference committee lies in a direct and urgent message from Secretary of State Rogers. Or has Mr. Meany taken over that post in the Administration's current eagerness to court blue-collar votes?

The proposed refusal by the United States to pay its assessment has received adverse comment abroad as well. The following is an excerpt from an editorial appearing in the Geneva Tribune of August 21, 1970, entitled "An Unfortunate Application of Dollar Politics":

> The initiative proposed by the Subcommittees of Congress would certainly weaken the position of the United States in the United Nations system and, at the same time, place them in an untenable position in the ILO.
>
> In the United Nations, where the USSR refuses to pay its share of the expenditure involved in the "peace-keeping operations" in the Congo and along the Suez Canal, the United States professes the doctrine that the contribution to the expenditures incurred by the United Nations is binding on all member States. By refusing to pay their dues to the ILO household on the pretext that the appointment to the Directorate of a particular person displeases them, the United States would be adopting a contradictory position. Moreover, this form of pressure—which revives the classical formula of dollar diplomacy—is not in accordance with the Constitution of the ILO.

Until now the United States has consistently and vigorously upheld the view that members of international organizations should pay their legal obligations. The following is an excerpt from a statement on the subject made by Ambassador Adlai E. Stevenson at the U.N. on January 26, 1965:

> I do not have to draw a picture of the uncertainties, the delays, the frustrations, and no doubt the failures that would ensue were Members able to decide with impunity which activities they, unilaterally, considered to be legal or illegal and which, unilaterally, they chose to support or not to support from year to year. . . .
>
> My Nation, most nations represented here, have paid their assessments and have kept their accounts in good standing. My Government, most Governments represented here, have accepted the principle of collective financial responsibility. . . .

DRUG ABUSE EDUCATION PROGRAM OF TARS

HON. HENRY C. SCHADEBERG

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. SCHADEBERG. Mr. Speaker, the United States has seen a great step forward in medical technology but with it has come a Pandora's box of troubles for the people in this country.

I refer to the wide variety of substances which if correctly utilized, help an individual accept pains of illness or anguish. The medicine of nature has been supplemented by man.

These helpful medicines, or drugs, have a history dated back to the early inhabitants of Asia, Africa, and other parts of the world.

Many of these medicines, natural and manmade, are helpful in the world of medicine for the repairs of physical and mental damage. The trouble lies in the abuse of these drugs and today the situation is at a critical level.

On September 14, 1970, Barbara Wells, national teenage Republican director, appeared before the New York State Association of Real Estate Boards, and outlined in graphic fashion a new approach to combating the growing drug problem in our Nation.

I hope the message is heeded by students and their leaders since it is their future we are striving to improve.

In order that a large audience that reads the RECORD may be familiar with this well-mapped program, I include it in the RECORD at this point:

SPEECH GIVEN BY BARBARA WELLS

Thank you, John Nagle, President Bob Loehfelm, Executive Vice President Chuck Starro.

I am extremely pleased and appreciative of the opportunity to speak to you today about a problem which affects each of us daily. The problem is rampant Drug Abuse in our Communities, particularly among our young people. I am also here to propose to you a way in which you can effectively help in combating this growing problem.

The number of persons who have tried Marijuana at least once is estimated between 8–12 million—probably closer to 20 million.

Some surveys have put drug consumption in High Schools as high as 85% with a common figure in suburban areas ranging from 35–65%.

The Bureau of Narcotics and Dangerous Drugs points out that less than 2% of our nation's hard-core addicts ever "kick" the habit.

The Drug Abuse problem is costing Americans 2 Billion dollars a year.

In New York City, between 20–30% of all crimes against property are committed by Heroin addicts.

Nation-wide, it is estimated that "Junkies" steal more than 3 million dollars worth of goods each year.

Federal officials report the number of drug-related offenses has increased 325% in the last decade in the U.S.

Among persons under 18 there has been a 1820% increase in drug-related offenses in the last 10 years. Juvenile arrests outnumber adults by 6–1.

These are just a few statistics. Let's look at some individual cases:

We read in the *N.Y. Post* of a 10 year old girl on Lennox Ave. who offers herself to passing men for $10 or $5 or whatever she can get to support her habit. There are plenty of customers.

In the *N.Y. Times* we read of three boys—aged 11, 13, and 15 who were arrested on charges of selling heroin in Coney Island.

In the *Staten Island Advance* we hear of a 16 year old boy who sneaks out through a window, hides under a stairway and shoots heroin into his veins during a gym class.

The 9 year old who lies in a coma in a nearby hospital after popping pills.

The Hypodermic needle discovered taped to a toilet bowl in a Catholic High School.

The teenager sprawled on a street near death after taking an overdose of LSD.

Headlines from other recently clipped articles read:

"Drug Addict Dies—at 12."

"Cough Syrup is Believed Death Cause of 16 Year Old."

"15 Year Old Girl Dies of Drug Overdose."

"16 Year Old Youth Dies After Sniffing Hair Shampoo."

"'Flying' on LSD, Student Plunges to Death in Greenwich Village."

"Glue Fumes Cited in Death of Youth."

"14 Year Old Youth Collapses, Dies After Sniffing Gasoline From Car."

(Here, a tape recording is played, illustrating 2 teenaged boys sniffing gasoline from a can. One boy, while "high", pours gasoline overhimself. The other boy, while "high" lights a match and the boy is severely burned.)

Dr. Michael Baden, Associate Medical Examiner for N.Y. City estimates that there are at least 20,000 teenage opiate addicts in N.Y. City alone! He also stated that there is much evidence that children are beginning to use Heroin at the age of 9 and 10. He says, "Kids appear to be using dope because of peer group pressures just like kids used to start smoking cigarettes."

There used to be some small measure of relief in the understanding that the "Drug problem" was pretty much a city phenomenon and not really a concern of the suburbs. In fact, the relief which resulted from this identification of drug abuse with city life became so necessary to our suburban image that it seems we neglected or refused to see the rapid and cancerous growth of drug use in our own communities. It was the grimy, garbage-strewn city streets that "Junkies" populated, not the tree-lined, split-level suburban communities. Because of our adamant ostrich-like posture, we were ill prepared to meet and deal with this newly discovered, yet always present lethal threat. It is as though our make believe world—where no one mainlines, drops acid or smokes grass—burst open with a new sense of reality.

We can no longer continue our self-delusion. The reality of drug abuse has finally made an impression throughout the country. Some are inclined to lessen or ignore their own responsibility by casting blame for drug abuse on agencies outside of the home. While the local police and Federal authorities do have responsibility, they can only do their part of the job. Parents, teachers, and civic leaders must do their share. *Drugs kill suburban, middle-class kids, too.*

Every one of us is affected by drug abuse right now. We either have young children of our own, or young nieces or nephews, or a family with teenage children lives next door. In your occupation, you come across young families every day. Do you ever stop to think that one or more of these families has a child who is presently experimenting with drugs? The statistics now show that drug abuse is a problem which has left no community untouched. Drug abuse is everybody's hang-up.

(Here, a 60 second film spot is shown, "Neighborhood Junkie").

The alarming number of teenage deaths attributed to drugs over the past two years has become of increasing concern to teenagers as well as parents. I think a majority of young people today are deeply concerned with this problem which is affecting so many of their peers. Almost every teenager you talk to today has had some personal experience—some first hand knowledge of the drug problem.

I like to think we can do something about it. I like to think the young people themselves will want to do something about it. The big job is really peer education. Preaching won't do it, but student-to-student teaching might.

The current drug problem is very much like a forest fire. It is self-expanding. Each inflamed goof-baller, psychedeliç, and speed freak tries to inflame and involve his friends. And like a forest fire, it is also self-destroying, leaving in its wake the ugly burned-out and disfigured fragments of what used to be promising human beings. It is not the professional pusher who usually gets a person to try something new, but his closest friends, or combinations of peer pressure. Ironically, the answer to the drug problem can also be found through these very means. In other words, through student-to-student education of the *facts*, this same peer pressure can become a positive force in curbing the drug epidemic.

I've had the opportunity to work closely with teenagers for the past 8 years. Our organization has mushroomed to over 101,000 strong and continues to grow rapidly. TAR groups are organized on a state, district, county, and local high school level. With this active army of over 100,000 teenagers, TARS is in a unique position to carry this all-encompassing Stop Drugs Program into every high school and junior high in America. It is not our concern that TARS get the credit for sponsoring the Drug Abuse Program within the school. In fact, official sponsorship is often shared with a coalition of student organizations, or the school itself. The content, not the credit, is the important factor.

I have great faith in our young people. I feel that through education, we can get our youth to see the futility of drugs—the stupidity of it all.

(Here, a 60 second film spot is shown, "Speed Kills".)

The National TAR Drug Abuse Education program is aimed at the student leaders. The program was conceived, and developed by students. The program is conducted by students. This unique student-to-student approach has already proved to be tremendously successful in areas all over the country. Without exception, the High School Administrators have been more than cooperative in letting the TARS conduct programs *within* their high schools, in setting up large assembly programs, and in working with small groups within the classroom. Presentations have been given by TAR groups to their high school faculty meetings, P.T.A. meetings, civic meetings, and to numerous other student and youth groups in and out of their high schools.

The response to the TAR Drug Abuse Education program has been tremendous and we have received literally thousands of requests for information and materials. When we first organized our Drug program, we were shocked to find that much of the information on the Drug problem is contradictory. In fact, there is so much literature on the subject of Drug Abuse that the whole field is in danger of paper pollution. You constantly hear many proclamations, for example, on the dangers of marijuana. The truth is that very little is known as yet about the long range effects.

(Here, a 60 second film spot is shown, "The Truth About Marijuana.")

Many claims are made about the dangers of using LSD. There are many indications that the use of LSD may lead to chromosome damage, as well as psychological damage. The one thing that we do know for sure is that there is no way of knowing whether an LSD trip will be good or bad.

(Here, a 60 second film spot is shown, "LSD.")

Obviously, in carrying out a drug abuse program, what's right for N.Y. City isn't necessarily the best approach for Monticello, N.Y. So our program also allows for flexibility. Our Drug Abuse Information Kits contain brochures, pamphlets, books, charts and other factual information on the medical, legal, physical and psychological aspects of drugs. Also included is a Drug Abuse Seminar Manual giving the "How-to's" of utilizing the materials in the Kit, and setting up a Drug Abuse Education program to suit the needs of an individual community.

Also available from National TAR Headquarters is an assortment of catchy posters which can be used during the program for Display in High Schools, and other community areas. New materials are constantly being reviewed as they become available and are added to the Drug Kits when applicable. Other services provided by our National Headquarters to assist the local drug abuse education efforts include our film library in which recommended films and short spots are loaned to local groups free of charge for their use. We also maintain a speakers bureau which includes not only a number of well qualified experts in the Drug abuse field, but also, former addicts.

In depth training sessions in Drug abuse education were held at all our State and National TAR Camps. These recently completed TAR summer camps involved close to 10,000 High School students and they are now well versed in the techniques of how to set up Drug Abuse Education seminars within their own High Schools. These TAR leaders will be teaming up with other student leaders and organizations in a joint effort to curb drug abuse.

The overall aim of the program is to provide the facts, eliminating the scare tactics and the appeal to the emotions too often used. It is only through early Drug Education that we will finally be able to slow the traffic in drugs which is rising at such an alarming rate and claiming the lives and futures of our nation's young people.

(Here, a 60 second film spot is shown, "Where are You then?")

Our Goal is to get the information kits and other materials into the hands of the student leaders in all of our Nation's 30,965 High Schools and the 8,290 Junior High Schools.

The Cost of sending an information Kit to one student leader amounts to just under $10.00. As you can see—by simple arithmetic—the cost factor of under-writing this much needed program is overwhelming . . . *but so is the problem*.

It is impossible to estimate the cost of drug addiction itself. How does one estimate the cost of twisted, ruined lives; the sorrow of grieving parents; the lost opportunity to brilliant young people who get hooked? We need your help in promoting this program—in reaching out young people before they become another tragic statistic.

I hope that you will be able to help us get this information to the student leaders throughout your state of N.Y. Your help is desperately needed. A considerable portion of our country's youth is at stake.

Thank you.

[From the Westchester Realtor, September 1970]

WCBR COSPONSORS CONVENTION PLAN TO HELP TEENAGERS FIGHT DRUG ABUSE

BOOTH TO DISPLAY YOUTH CAMPAIGN

The Westchester County Board of Realtors will join New York State's teenagers in the fight on drug abuse by way of a unique project which will be a feature of the State Convention at Kiamesha Lake September 12–16, it was announced by Murray Sachs, chairman of the Make America Better Committee of the WCBR.

The Board, in cooperation with the New York City real estate firm of Ely-Cruikshank & Co., Inc., will provide a booth at the convention for use by the National Teen Age Republicans for presentation of their Drug Abuse Program. Half the cost of the installation will be born by the WCBR, the other half by Ely-Cruikshank and personally by Robert S. Curtiss, national chairman of the Make America Better Committee.

The booth will be manned by members of the Teen Age Republicans (TARS) who will explain the scope of the Drug Abuse Program and how it is to be put into operation in the schools. One of the chief items will be the display of the special kit containing, among other things, specific information about the harmful effects of drug abuse. Cost of the kit is about $10, and the WCBR will ask its members individually to contribute this amount to help finance the program. Each donor may designate the school for which the kits are to be provided. The State Association will make a similar appeal on a state-wide basis.

"STUDENT-TO-STUDENT"

Commenting on the TARS project, WCBR President John J. Nagle, state chairman of the MAB, said:

"The objective of the program—which is being conducted exclusively by teenagers for teenagers—is to reach the youngsters before they become addicts. It is a student-to-student communication, designed not only to operate at the high school level but at the junior high school level as well.

"If enough support is forthcoming, the program may be expanded to reach the elementary school level. The ultimate aim, of course, is to make the program nation-wide."

An additional feature relative to the Drug Abuse Program concerns plans for a convention General Session to be called "What's Right With America." Scheduled as speaker is Prof. William S. Banowsky, executive president of Pepperdine College in Los Angeles, whose subject will be "Freedom Is Not Free." It is felt that Professor Banowsky's presentation can be effectively correlated with the Drug Abuse Program for the benefit of convention delegates.

MEETING THE NEEDS OF OUR SENIOR CITIZENS

HON. ALBERT W. WATSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. WATSON. Mr. Speaker, senior citizens have been conducting forums throughout the United States recently to lay the groundwork and gather information for the White House Conference on Aging to be held next year in Washington. As I have pointed out on numerous occasions, never have we needed more the experience and good counsel of our older Americans in helping to solve the problems of modern society.

At the same time, these forums have shown we must move forward on all fronts to find ways to relieve the increased financial burden that senior Americans face. Tragically, there has been a trend in recent times by some to forget our senior citizens and their financial plight. It is difficult enough to cope with the loss of friends, the loneliness, and isolation often experienced when reaching the twilight years as well as the fear that comes with facing an unknown future, but to compound these things with financial insecurity is cruel, and, I believe, unnecessary.

Certainly we have an obligation to help older people plan for a future free of financial worry, because while inflation hits us all pretty hard, it works its greatest hardships on those with fixed incomes. Now, I believe that statistics will show that one in five senior citizens is still in the labor market, but most of these jobs are part time or low paying. Yet, the working senior citizens brings in one-third of the aggregate income of all older people.

Mr. Speaker, there are a number of ways to help close the gap between the income of elderly citizens and that of younger people. This is a gap which I believe is widening. Something must be done.

Of course, this House took a step in the right direction on May 21 when we voted to raise the ceiling on the amount social security recipients may earn without losing all or part of their social security benefits. But, I feel that the increase simply was not enough.

Therefore, this week I introduced a bill, H.R. 19534, which would amend title II of the Social Security Act to increase from the current $1,680 to $3,000 the amount of outside earnings permitted each year without any deductions from benefits thereunder.

As the law now stands, no limit is set on the amount of income a retired person may receive from tax exempt bonds. However, certain wages are deducted from social security benefits. Therefore, the man or woman who has labored long and hard all his life and who has not been able to put away money in such bonds and who works to supplement a meager social security income is really penalized. Passage of my bill will help to correct this inequity.

Mr. Speaker, my philosophy of government has always been that the maximum use must be made with a minimum of taxes, and that government, whether it be Federal, State, or local, should only do those things for people that they cannot do for themselves. This is why we must offer fiscally sound programs to protect the elderly who, through no fault of their own, are in real and dire need of positive assistance.

In Columbia, S.C., a forum of senior citizens was held on September 27. About 300 citizens attended, and at this point I want to list priority needs that they discussed and which should be fairly typical of the needs that older Americans have throughout the United States. They include: first, passage of the homestead tax exemption amendment for persons over 65 years of age; second, a need for more nursing homes for the aged; third, more income; fourth, tax exemptions for the aged on "essentials of life;" fifth, reduced cost in transportation for elderly; sixth, a "meals on wheels" program for shut-ins; seventh, more research into gerontology, a scientific study of the process of growing old; eighth, more adequate housing for the elderly; ninth, recreational facilities; tenth, an end to job discrimination, and eleventh, more adult education programs for the elderly at less cost.

Mr. Speaker, just as Presidents of the United States have consistently turned to retirees for advice, so must we, as elected officials seek out our senior citizens for their experience and wisdom in finding solutions to the problems of pollution, housing, rising costs, race relations and the like. We must bring older Americans back into the mainstream of American life and mobilize them for an expanded role of service to their communities. It was Oliver Wendell Holmes who, upon reaching the age of 90 said: "The work never is done while the power to work remains. For to live is to function—that is all there is to living." Helping our senior citizens plan for a future free of financial worry is a goal of Congress, but it is up to all public officials to make certain that the Nation continues to benefit from their counsel once they have reached the retirement years.

POLITICAL EXTREMISM AND THE SCRANTON REPORT ON STUDENT UNREST

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. RIEGLE. Mr. Speaker, the President's Commission on Campus Unrest has done an excellent job and deserves the appreciation of every American. I congratulate the President, and his Commission, for the commitment and effort that has produced these findings and recommendations. In its overall impression it is precise, consistent, and unequivocal—as acknowledged yesterday by Presidential adviser Finch and the overwhelming body of editorial opinion across the country. I would add that I think it is balanced, accurate, and persuasive.

Those who aim reflex criticism at the President's Commission on Campus Unrest—whether they realize it or not—are slapping the President in the face. After all, the men who wrote this report were selected by the President; given their charter of responsibility by the President; and their findings are the direct responsibility of the President.

The report suggests that all of us—including the President—can do more to help the country understand and solve the campus unrest problem. What reasonable man can challenge this commonsense observation?

Some have challenged the report contending that the President should not be asked, or expected, to do more to help solve this problem. However, the President, himself, has not said that he can not or will not respond—on the contrary, I believe he will respond with new initiatives. So I urge our young people not to be swayed by these negative voices. I urge them to have faith that our governmental system can and will respond in an affirmative manner. I hope our young people will do likewise—I believe they will.

We should note that under our system the President of the United States has the greatest opportunity, and responsibility, to provide moral leadership for the country. He asked for that responsibility, the voters gave it to him in good faith, and we do him no favors when we suggest otherwise. I believe this President wants the full measure of that responsibility.

This leads to my second point. The President's Commission has said that the current divisions in our Nation are the deepest since the Civil War—and there is an urgent need for national reconciliation. The report calls for tolerance, understanding, and mutual respect. It urges the President to use his preeminent national position of moral leadership to help bring us together. And wisely it notes that "divisive and insulting rhetoric is dangerous" regardless of its source—and that no one should "play irresponsible politics" with this crisis issue in the current political campaign. Finally it says that "harsh and bitter rhetoric" from public officials "can encourage violence."

These are wise warnings—and prudent men who care about their country will now follow President Nixon's inaugural request to "lower our voices" and work to "bring the country together". Any public person—in office or out—regardless of party or position—who cannot put this theme to practice in these critical days, before November 3 and after, ought to do America a favor and leave the political arena without delay.

I ask every citizen, and every member of the press to expect no less from every politician out on the campaign trail. Those who would hurt America just to win this election, vent their own spleen, punish the other party, or exercise every acid barb in their vocabulary—have no place in American politics in so tortured and volatile a period.

So those who would heal—must call to account those who continue to wound. Those who wish to unite our people, must expose those who foster, and capitalize on, division. Those who have already lowered their voices must exercise greater moral restraint on those angry men who continue to drown out reasoned public dialog with their own self-righteous, self-serving demagoguery.

Those in the public arena who appeal to the base emotions of hate, fear, and anger must be exposed, called to account, and voted into political oblivion.

Frankly, I am sick and tired of seeing America being pulled apart by those who shout the loudest, practice the most outrageous behavior, use the most acerbic rhetoric, and who have an obvious self-interest axe to grind. Those who promote violence—within our institutions, or within our spirit—whether by deeds or by words—are the greatest threat to our Nation at this hour. All of us should pledge ourselves to truly "bringing our country together"—now, while there still is time.

OCTOBER AT THE SMITHSONIAN

HON. JAMES G. FULTON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. FULTON of Pennsylvania. Mr. Speaker, it is a pleasure to place in the RECORD a copy of the October 1970 calendar for the excellent series of events, exhibitions, classes, tours, and services of the Smithsonian Institution here in the Nation's Capital. The calendar follows:

OCTOBER AT THE SMITHSONIAN

CALENDAR OF EVENTS

Thursday, October 1

Exhibition: *The Watercolors of William Henry Holmes.* Archaeologist, writer, museum director, and artist, Dr. Holmes (1864–1933) is being honored by an exhibition of some 60 of his delicate, traditional watercolors. Mostly landscapes, they show him to be a keen observer of nature, of its atmosphere and changing qualities of light. Director at one time of the Smithsonian's Bureau of American Ethnology, Dr. Holmes switched careers from science to art when he became curator and later director of the original National Gallery of Art (now the National Collection of Fine Arts). Associative objects show facets of his remarkable career. On display indefinitely. National Collection of Fine Arts.

Lecture: Kenneth Hudson, University of Bath, discusses with illustrations preservation and industrial archaeology in Europe. 8:30 p.m., auditorium, Museum of History and Technology.

Exhibition: *Crafts of Georgia.* A sales exhibition showing the work of Georgia craftsmen including rugs, pottery, macrame, jewelry, wood carvings and stitcheries. Museum Shop, Arts and Industries Building through October 31.

Creative Screen: *Emak Bakia* (France-1927), directed by Man Ray during the twenties when Paris was the headquarters for European experimental films; *A Boy Alone* (France-1967), a moving, sensitive story of a young boy in Paris seeking contact with other human beings. Continuous half-hour showings beginning 11 a.m.; last showing at 2:30 p.m. National Collection of Fine Arts.

Exhibition: *Historic Nantucket.* A photographic exhibition tracing the development of the architecture of the island and the over-all design of the town of Nantucket since first settlement in 1670. Based on the work of Historic American Buildings Survey and the Nantucket Historical Trust, and sponsored by the Smithsonian Traveling Exhibition Service. The Octagon House, 1799 New York Avenue, N.W., through October 31.

Friday, October 2

Curtain raiser: Benefit preview of the Renwick Gallery (now in the process of restoration) sponsored by the Ladies Committee of the Smithsonian Associates for its children's scholarship fund. $25 per person, by prior subscription only.

Saturday, October 3

Lecture: Mrs. Adelyn Breeskin, Curator of Contemporary Art, NCFA, discusses *H. Lyman Sayen, 1870–1918,* 3 p.m., Lecture Hall, National Collection of Fine Arts.

Creative screen: *Emak Bakia; A Boy Alone.* Repeat. See Oct. 1 for details.

Sunday, October 4

Lecture: *Problems in Historical Portraiture.* Dr. Roy Strong, Director of the National Portrait Gallery in London, will discuss difficulties encountered in research concerning portraiture, including problems of copies, overprinting, and misidentification. 3 p.m., National Portrait Gallery, 8th & F Sts., N.W.

Wednesday, October 7

Exhibition: *South Carolina Paper Money, 1770–1933.* Museum of History and Technology, 3rd floor.

Saturday, October 10

Concert: *The Music of Erik Satie,* featuring Konrad Wolff, pianist, Anthony Piccolo, pianist; Franklyn Noll, mezzo soprano; George Brown, narrator. Program includes "Sports et Divertissements," "Gymnopedies," "Three Pieces in the Shape of a Pear." 3 p.m., National Collection of Fine Arts.

Wednesday, October 14

Informal concert: 45-minute performance using instruments from the Smithsonian collection. 1:30 p.m., Hall of Musical Instruments, Museum of History and Technology.

Thursday, October 15

Creative screen: *Labyrinth* (Poland-1961), the greatest work of Jan Lenica, internationally renowned animator who develops his artistic philosophy with combined techniques of animated cartoons, cutouts of graphic art, and photographic montage; *Hobby* (Poland-1968), a formidable and haunting film on the everlasting war of the sexes, by Daniel Szczechure. Continuous half-hour showings beginning 11 a.m.; last showing at 2:30 p.m. National Collection of Fine Arts.

Exhibition:*Finish Design: Tapio Wirkkala.* Wirkkala, probably Finland's most versatile international designer, has personally selected nearly 300 objects of his design in stainless steel, plastic, glass, silver, and porcelain. His work for German, Italian and Finnish firms has earned him many major European design awards, including seven Grand Prix citations at the Milan Triennale. Arts and Industries Building, through Jan. 2, 1971.

Friday, October 16

Lecture: Dr. Stephen B. Young, of the Institute of Polar Studies, Ohio State University, will discuss and illustrate with slides the ecological contrasts between the north and south polar regions, the importance of conservation in high latitudes, and the special problems of environmental protection at the poles. Dr. Young has recently conducted scientific expeditions to the Antarctic and sub-Antarctic Chile. 8 p.m., Auditorium, Museum of Natural History.

Saturday, October 21

Creative screen: *Labyrinth; Hobby.* Repeat. See Oct. 15 for details.

Saturday jazz, featuring George Benson. 8 p.m., auditorium, Museum of Natural History. $3 tickets may be purchased at the door. Co-produced by the Division of Performing Arts and the Left Bank Jazz Society. For further information call 581–5407.

Tuesday, October 20

Lecture: *Gandhara and Mathura: A Study in Relationships.* Prof. Dr. J. E. van Lohuizen de Leeuw, University of Amsterdam, discusses the two main schools of art in northern India and Afghanistan during the Kusana period, and their influence on each other. 8:30 p.m. Freer Gallery of Art.

Thursday, October 22

Concert: Chamber music recital by the U.S. Air Force Ensemble. 8:30 p.m., Museum of Natural History.

Wednesday, Octobe- 28

Informal concert: 45-minute performance using instruments from the Smithsonian collection. 1:30 p.m., Hall of Musical Instruments, Museum of History and Technology.

Saturday, October 31

Saturday jazz, featuring Lee Morgan. 8 p.m., auditorium, Museum of Natural History, $3, tickets may be purchased at the door. Co-produced by the Division of Performing Arts and the Left Bank Jazz Society. For further information call 381–5407.

CONTINUING EXHIBITIONS

Arts and Industries Building

Vibrating World. Fifty black and white photographic enlargements show the odd and beautiful effects vibration has on various materials. Through Oct. 11.

Early Bird Replica. An operating backup model for the world's first communication satellite. On display indefinitely.

Woman. The Second World Exhibition of Photography depicts all aspects of the feminine experience, from birth to old age, in traditional and contemporary pursuits. Through Nov. 8.

The Genteel Female. Lithographs from the Smithsonian's Harry T. Peters America on Stone Collection depict the romantic view of the American woman of the 19th century. On display indefinitely.

Beechcraft. The history of the Beech Aircraft Co. is traced through the use of scale models. On display indefinitely.

Freer Gallery of Art

Whistler's Landscapes and Seascapes. Forty paintings show Whistler in his forgotten role as an avant garde artist. On display, indefinitely.

Whistler's Etchings. Twenty-six drawings and 16 canceled copper plates. On display indefinitely.

Museum of History and Technology

Women and Politics. Woman's "traditional" role, her activities against slavery, and her efforts at gaining the vote and political record since are documented. On display indefinitely.

Textile Hall. Milestones in the history of textile making, including the Jacquard mechanism and the Slater carding machine, along with textiles and needlework. A permanent exhibition.

Mohandas Karamchand Gandhi. Photographs and handcrafts capture the life and times of the Indian political leader. Through Oct. 12.

Polacolor Abstracts. Vibrant photographs by Stephen Whealton, Through Nov. 17.

Janine Niepce. This fifth in a series of exhibitions of the work of famous woman photographers presents the vision of a French photojournalist. Through Nov. 17.

Iron and Steel Hall. Prepared in consultation with many firms in the industry, this exhibit of the American iron and steel business deals with modern practices and some of the historical background. On display indefinitely.

What Is Labor Day? The background and significance of Labor Day and its place in modern American life. On display indefinitely.

Museum of Natural History

Indian Images. Historic photographs of North American Indians (1847–1928). On display indefinitely.

Moon Rock Research. Findings of research on lunar samples by Smithsonian scientists. On display indefinitely.

National Collection of Fine Arts

Winslow Homer. Fifty-one oils, watercolors, drawings, and graphics, mostly from the artist's popular early period. On display indefinitely.

H. Lyman Sayen. A Philadelphia scientist-inventor who became an expatriate painter in Paris following the turn of the century. Sayen (1875–1918) died young and without recognition as an artist. He is being accorded a long overdue first major exhibition of his colorful, semi-abstract work. Forty oils, watercolors, and drawings are being displayed.

A Look at the World: Mid-Century. Twenty-six paintings and small sculptures, all American and all from the NCFA's collection, give an individualist view of the 1950s. Artists represented include Wyeth, Burchfield, Sheeler, Hopper, Lawrence, Dickinson, Shahn, and Rivers. On display indefinitely.

National Portrait Gallery

Along This Way. Portraits, photographs, death mask, and other artifacts of black culture exponent James Weldon Johnson. A teaching exhibition. Through June 30, 1971.

CLASSES AND TOURS

(Sponsored by the Smithsonian Associates)

Fall classes for adults and young people begin in October and continue for 10 weekly sessions. All are by subscription only (call 381–6159). Classes and beginning dates are:

XUM

October 5: Photograms and Photo Design; Chinese Art; Entomology; The Inventors.

October 6: Stitchery I; Stitchery II; The Wonder of Flight.

October 7: Human Osteology; Basic Photography; Stitchery I; Stitchery II.

October 8: Intermediate Photography; Entomology; Fabric Design and Decoration; The World of Painting.

October 9: Photography Workshop; Basic Photography; Intermediate Film Making.

October 10: Special-Interest Photography; Basic Film Making. Young People's Beginning and Advanced Classes start (for separate listing of young people's classes, call 381-6159).

October 11: Basic Film Making.

October 23: Beaded Flowers Workshop (two days only, October 23-24).

Tours. By subscription only (call 381-5159). Nov. 11-14 *Beachcombing on Santibel Island.* A collecting trip designed for those who would like to explore the world of shells. Three and a half days along the shores of an island in the Gulf of Mexico under the leadership of Dr. Joseph P. E. Morrison, Associate Curator, Division of Mollusks.

Nov. 14-17 *Strawbery Banke and Portsmouth, N.H.* Three days through historic Portsmouth and Strawbery Banke Restoration, under the guidance of Peter Smith, Administrator of Chesterwood and Research Associate of the Smithsonian Institution.

FOREIGN STUDY TOURS

The Smithsonian Institution has organized several special tours concerned with archaeology, the arts, museums, private collections, and natural history, for members of the Smithsonian Associates, both national and local.

1970

Mexico: A quick pre-Christmas trip for relaxation and Christmas shopping. Second week of December.

1971

Sicilian Archaeological Sites & Opera in Italy: February 1-22, with visits to the opera houses of Palermo and Catania in almond-blossom time; Venice, Naples, Rome, Parma and Milan. Good seats assured and backstage visits. Under the direction of Mrs. Constance Mellen of the Washington Opera Society.

East African Safari and Cruise: March 20 to April 15. Five days in game reserves; two-week cruise to the Seychelles Islands, Aldabra Island, and other islands in the Indian Ocean; sailing from and returning to Mombasa (under the direction of Dr. George Watson, ornithologist and chairman of the Division of Vertebrate Zoology, Smithsonian Institution).

Cyprus and Turkey: May 10 for 21 days, visiting archaeological sites in central and southern Turkey, as well as better-known excavations near the west coast; an extended itinerary fanning out from three centers (with comfortable hotels): Izmir, Side and Ankara.

Palladian Architecture in Ireland and Scotland: May 31 to June 15. Visits to private properties, in conjunction with the Irish Georgian Society and the Scottish National Trust, with a two day visit to Wales. Under the direction of Dr. Richard H. Howland, Special Assistant to the Secretary of the Smithsonian Institution.

"No-Tour" Tour: Air France Excursion: Dulles/Paris/Dulles. 3 weeks in June. Members make their own arrangements for travel in Europe. [Because of air fare changes expected in 1971, application forms will not be available until November.]

South America: August 2 for 25 days; a tour of Venezuela, Brazil, Peru, Ecuador and Colombia, with emphasis on archaeology, old and new architecture, museum and private collections, plus a short visit to the upper Amazon.

Russia: September 20 to October 12. An unusual tour that includes Armenia, Samark and, Kiev, Vladimir, and Novgorod besides extended visits to Moscow and Leningrad.

For itineraries and details, please write to Miss Susan Kennedy, Smithsonian Institution, Washington, D.C. 20560.

RADIO SMITHSONIAN

Radio Smithsonian is broadcast every Sunday night from 7:30-8 p.m. on radio WGMS (570 AM and 103.5 FM). This weekly program presents conversation and music growing out of the Institution's exhibits, research, and other activities and interests. Program schedule for October.

4th—Erwin Swann: *Thomas Nast: Influential Political Cartoonist or Artist?;* Robert M. Vogel, Curator of Mechanical Engineering *Our Inventive Past.*

11th—His Excellency Lakshmi Jha, the Ambassador of India: *Gandhi.*

18th—Lucy Kavaler, author of "Freezing Point": *She Ventured in the Cold;* Dr. Gordon Gibson, Curator of Old World Anthropology: *Scientific Safari.*

25th—Dr. Lee Talbot, of the President's Council on Environmental Quality: *Environment: What Are You Doing?;* Dr. Joshua Taylor, Director of the National Collection of the Fine Arts: *What Have We Created?*

Also heard on WAMU-FM (88.5) Tuesdays at noon; WETA-FM (90.0), Mondays at 9:30 p.m.; and on WNYC-AM/FM in New York City.

Dial-A-Museum—737-8811 for daily announcements on new exhibits and special events.

DEMONSTRATIONS

Museum of History and Technology

Musical Instruments—from the Smithsonian's collection—Monday, Wednesday, Friday, 3 p.m., Hall of Musical Instruments, 3rd floor

Power Machinery—steam engines and pumping engines—Wednesday, Thursday and Friday, 2-3:30 p.m., Saturday and Sunday, 10:30-noon and 1-3:30 p.m., Power Machinery Hall, 1st floor

Printing—19th Century Columbia Printing Press, Thursday, 2-4 p.m., Graphic Arts Hall, 3rd floor

Spinning and Weaving—Thursday and Saturday, 10 a.m.-4 p.m., Tuesday and Friday, 10-noon, Special Exhibits, 1st floor

MUSEUM TOURS

Tours for schools and other groups are available for most Smithsonian museums: For the Museum of History and Technology, Museum of Natural History and the Air and Space Museum, call 381-5680; National Collection of Fine Arts, call 381-5680 or 381-5189; National Portrait Gallery, call 381-6105.

HOURS

Smithsonian Museums: 10 a.m.-5:30 p.m. 7 days a week.

Cafeteria: 10 a.m.-5 p.m. daily: Museum of History and Technology

National Zoo buildings: Weekdays 6 a.m.-4:30 p.m. Weekends and holidays 6 a.m.-6 p.m.

Dial-Phenomenon—737-8855 for weekly announcements on stars and planets and worldwide occurrences of short-lived natural phenomena.

Mailing list requests and change of address should be sent to the Smithsonian Calendar, 107 Smithsonian Institution Bldg., Washington, D.C. 20560.

The Smithsonian Monthly Calendar of Events is prepared by the Office of Public Affairs, 381-5911. Deadline for November Calendar: October 7.

THE SOVIET THREAT

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 28, 1970

Mr. HÉBERT. Mr. Speaker, those of us who labor in this vineyard of the Lord's work are men who still believe in the power of the spoken word. But we know those occasions are rare when, by the power of his logic and the force of his rhetoric, a man can change the course of a nation. Such an occasion is an historic event, a critical turning point in history.

I preface my brief remarks with this observation because I think we are witnessing today what will prove to be an historic event. I think we are witnessing what Ph. D. candidates decades hence will call a critical turning point in the history of the U.S. Navy and in the course of our national security. I think the speech that the chairman of the Armed Services Committee, L. MENDEL RIVERS, has made here on the floor of this House will prove to be one of the most important ever made in the House of Representatives.

For years the Armed Services Committee, and especially the chairman of the Armed Services Committee, have been warning of gaps and shortcomings in our national defense. We have been Casandras whose dire warnings went unheeded.

But at this hour the chairman of the House Armed Services Committee, MENDEL RIVERS, has done something very special. He has, in the idiom of the TV commercials, put it all together. He has marshaled all of the facts in an address so impressive in its research, so clear in its presentation, and so irrefutable in its logic that the warning can no longer be ignored. He has taken the initiative in a manner and to a degree rare in the legislative branch in our generation. Only a few of us know of the painstaking research that went into this speech. Only a few of us are aware of the courage it took to force the declassification of information so the facts could be given to the American people. Only a few know of the endless checking and rechecking to assure that there would not be one unprovable sentence in this long oration.

The result is the presentation of evidence so compelling that I truly believe today will mark the beginning point where the restrengthening and modernization of our Navy began; and where there began, also, a rededication to the task of seeing that the Soviets do not strategically outflank us in the world.

In the face of such evidence there are no hawks or doves here, no internationalists or isolationists, no military establishmentarians or antimilitary establishmentarians. There are only men who love their country and are prepared to meet any threat to her survival.

Mr. Speaker, during the decade of the 1960's there have developed many theories designed to assure stability in an age where man has developed the power to utterly destroy himself. One of these theories was that of mutual deterrence. The theory said simply that if both great powers in the world, the United States and the Soviet Union, achieved invulnerable nuclear deterrent capability, the possibility of one making an attack would be unlikely.

It, therefore, followed that the world was to be more stable if both had invulnerable nuclear capability than if one had clear superiority. Out of this belief grew such ideas as nuclear parity and the search for strategic sufficiency as opposed to strategic superiority.

Nuclear parity has been reached.

The United States 15 years ago had a nuclear superiority and a military superiority over the rest of the world unmatched at any time in history. The Soviets have drawn up to a position of nuclear parity.

But one development was unforeseen by the theorists of a decade ago. They presumed that when the Soviets achieved parity they would be content there. Instead, the Soviets have pushed forward with a greater zeal than at anytime in the past until it has become quite clear that they are striving for strategic superiority. As the chairman of the Armed Services Committee has had the courage to admit: They are well on the road to achieving their aims.

When this development first began to appear, there were those who could not, or who wished not, to believe it. It upset their theory. And, quite simply, it upset those who were tired simply of survival and who wanted with commendable and understandable motives, to turn their attention inward to other ills of the Nation. There are those who still refuse to believe.

The great service that **Mendel Rivers** has performed for the country at this hour is to present the evidence all in one place, and to present it in such unmistakable fashion that to deny it would be like attempting to deny a belief that babies cry, that women are beautiful, that the sun rises in the east.

From this time on, only the ostriches disbelieve.

The Soviets have recognized that once nuclear superiority has been achieved, nonnuclear strategic positions in the world become more important. And no such strategic position becomes more important than control of the seas. The tyrants of modern Russia hunger for mastery of the oceans as the tyrants of Czarist Russia yearned for an opening to the seas in the centuries past.

The Soviets have built a Navy of frightening proportions which can bring the Russian nuclear and conventional capability by swift undersea passage to within sight of our shores.

The chairman of the Armed Services Committee has reminded us here as he has reminded us on past occasions of what so many have somehow forgotten: That the United States of America is a maritime power. And all of our positions on all the continents of the world depend and have always depended on the free use of the seas.

We must be prepared to meet the Soviet threat to our naval power or retreat from the world. We must modernize our Navy or face an unbearable threat to our national survival.

I commend **Mendel Rivers** for his great speech. I am grateful to him, and I think our children's children will be grateful also.

THE NATIONAL SCIENCE FOUNDATION AND THE HOLES IN PANTY HOSE

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mrs. SULLIVAN. Mr. Speaker, the issues which confront and disturb the American people are not always or necessarily those which Congress and the executive department accord the highest priorities, but the people concerned nevertheless hope that we at least care about these possibly lesser issues. A case in point: what to do about the high cost and also the high mortality rate of panty hose.

The Wall Street Journal yesterday carried an excellent story on this subject written by Ronald G. Shafer entitled "Sagging Panty Hose, Fragile Nylons Rouse the Wrath of Women." The anguish is real, but solutions seem to be elusive, and many women understandably believe the Government should be doing more—or at least doing something—about it.

Some of us have been trying. I have appealed to the Federal Trade Commission to investigate the honesty of guaranteed-not-to-run advertising claims for panty hose which nevertheless goes into holes; the answer seems to be that a "hole" is not necessarily a "run," or vice versa. I then appealed to the National Science Foundation to include among its research projects, along with the '"Morphogenesis of Higher Fungi" and "Trophic Niches for Neritic Microcrustacea" a study into methods for saving the American woman's budget, peace of mind, and chic in the purchase and use of panty hose.

The answer there is that no one has come forward as yet with a proposal the Foundation could consider for reseach on better-wearing panty hose. Let us hope that Mr. Shafer's excellent Wall Street Journal article, plus the information I have been able to obtain from the National Science Foundation, might stimulate some action in this regard.

The National Science Foundation has not considered this matter one of the most serious confronting the scientific community, but perhaps they have not been hearing from—or listening to—the right scientists. I am sure there are many women scientists who would consider this indeed a serious problem—those who wear panty hose.

Mr. Speaker, for background purposes, I submit an exchange of correspondence first with the former Chairman of the Federal Trade Commission, the Honorable Caspar W. Weinberger, and then an exchange of correspondence with Dr. William C. McElroy, director of the National Science Foundation, followed by Mr. Ronald G. Shafer's article in yesterday's Wall Street Journal.

CORRESPONDENCE WITH THE FEDFRAL TRADE COMMISSION

First, my letter to the FTC Chairman and his reply:

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 25, 1970.

Hon. CASPAR W. WEINBERGER,
Chairman, Federal Trade Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: Here is a tough one, growing out of complaint of a teacher of English at one of our St. Louis colleges about the meaning of words in advertisements by Chadbourn Hosiery Company of Charlotte, North Carolina for their Chadbourn panty hose. After reading the ads in *Women's Wear Daily* and hearing the television spot announcements on the durability of the product, "guaranteed not to run" she purchased a pair. In a copy she sent me of her letter of complaint to the company, requesting not "free replacement" but return of her money she wrote:

"Thus, my greatest anger is at myself for not interpreting 'guaranteed not to run' to imply nothing beyond itself—not my immediate snags nor the several holes which sprang into your stockings by the end of their first day of wear."

The question her letter raises in my mind is: do the words constitute misleading advertising if the stockings "guaranteed not to run" go into holes?

Sincerely yours,
LEONOR K. (MRS. JOHN B.) SULLIVAN,
Member of Congress,
Third District, Missouri.

FEDERAL TRADE COMMISSION,
Washington, D.C., March 5, 1970.

Hon. LEONOR K. SULLIVAN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSWOMAN SULLIVAN: This is in response to your letter of February 25, 1970, concerning a representation made by Chadbourn, Inc., that its stockings are "guaranteed not to run," which was called to your attention by a constituent. The question presented for consideration is whether these words are deceptive if, although holes develop in the stockings, they do not run.

The hosiery purchased by your constituent appears to be of the sort which is woven at intervals with a type of stitch known as a lock stitch. Where a break occurs in hosiery of conventional weave, the application of tension will frequently cause the hosiery to unravel for its entire length. The lock stitch forms a barrier against such runs. When a thread is broken in such hosiery, it disengages only as far as the lock stitch unless unusual pressure is applied. The Commission considered this question in a matter involving Holeproof Hosiery Company, Volume 47, Federal Trade Commission Decisions, page 1668, in 1951, and it was concluded that the evidence did not establish that a hole in hosiery of a length permitted by this type of construction is considered by the purchasing public to be a run.

In the absence of evidence to the contrary, action concerning this matter is not contemplated at this time. However, should we receive indications that consumers are being deceived by representations such as that employed by Chadbourn, Inc., we will, of course, consider it further with a view to taking such corrective action as the public interest may require.

It has previously been brought to the attention of the staff that advertisements disseminated by Chadbourn, Inc., for its panty hose do not in all instances disclose the com-

XUM

plete terms, conditions, and limitations of the guarantee and the manner in which the guarantor will perform thereunder in conformance with the Commission's Guides Against Deceptive Advertising of Guarantees, copy enclosed. The Chadbourn guarantee, which appears in some of its advertisements, reads as follows:

"The entire leg portion of this garment is guaranteed not to run. If you are not completely satisfied, please return the garment (with sales slip) to the point of purchase and you will be given a free replacement."

The guarantee advertising practices of Chadbourn, Inc., are presently receiving the attention of the staff with the view to having such advertising clearly state the material provisions of the guarantee when the guarantee is mentioned.

I hope the above information will be helpful and if I may be of further assistance, please do not hesitate to let me know.

With kind personal regards,

Sincerely,

CASPAR W. WEINBERGER,
Chairman.

LETTER TO NATIONAL SCIENCE FOUNDATION AND REPLY

Next, Mr. Speaker, I submit my letter to Dr. McElroy at the National Science Foundation, and his reply; as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 2, 1970.

HON. WILLIAM C. MCELROY, Ph. D.,
Director, National Science Foundation,
Washington, D.C.

DEAR MR. MCELROY: One of the favorite (and always attention-getting) diversions of some Members of Congress is to go through the titles of research projects financed by government grants to find some which sound so esoteric as to be seemingly ridiculous. I have never tried to second-guess the value of National Science Foundation research projects because I know that no matter how far-fetched a project may sound to some of us, it has been reviewed by qualified experts who believe it may have far-reaching and worthwhile results. Hence when I saw a recent announcement of your agency on some of your grants and contract awards for such things as the "Morphogenesis of Higher Fungi" and "Trophic Niches for Neritic Microcrustacea" along with one on "Polymeric Solids Under Pressure" my reaction was that these undoubtedly serve a high scientific purpose, but—what about holes in panty hose?

A constituent of mine has been conducting a running battle with some of the major hosiery manufacturers over their advertised claims that their products are "run-proof." Apparently—and the Federal Trade Commission has had its semantic problems with this too—run-proof panty hose is guaranteed only against unraveling for its entire length, as happens frequently with conventional weave but not with the lock stitch type. But the lock stitch type will nevertheless go into holes and just as quickly destroy the value or usability of a $3.50 product as the hateful run destroys conventional hosiery.

Perhaps the dictates of fashion will soon obsolete short skirts and end the heavy dependence of women on panty hose. But I doubt it. Thus I am wondering if the National Science Foundation, while financing research into so many other areas of scientific knowledge, could perhaps also underwrite some research into one of the major economic problems of American women by encouraging the development of hosiery—and particularly the panty hose type of garment, whose initial cost is far higher than the price of a regular pair of hose—which will wear better.

Perhaps some work is already going on in this area at the Bureau of Standards or within the hosiery industry itself. If so, I imagine the National Science Foundation would either know about it or have the ability to find out about it. If hosiery were made out of agricultural commodities, I imagine the Department of Agriculture might be looking into it. But outside of your agency, which government department would be logically interested in investigating possible improvements in the design, engineering or fabrication of an item made out of coal, air and water? The more I think about it, the more I am convinced that American womanhood must turn to your agency for relief from the economic and aesthetic frustrations of the no-run hose which goes into holes or the no-hole hosiery which goes into runs. Can science devise panty-hose or any hose—which not only fits but lasts long enough to survive the hazards of normal use and eventually wear out with reasonable longevity?

I know this is far removed from most of the areas of research your agency has been fostering. But I can think of many millions of reasons why a research project such as I have suggested would represent an outstandingly intelligent use of federal scientific inquiry to this vexatious and expensive dilemma of American women?

Sincerely yours,

LEONOR K. (Mrs. John B.) SULLIVAN,
Member of Congress, Third District of Missouri.

NATIONAL SCIENCE FOUNDATION,
Washington, D.C., July 7, 1970.

HON. LEONOR K. SULLIVAN,
House of Representatives,
Washington, D.C.

DEAR MRS. SULLIVAN: I am responding to your letter of June 2, 1970, to Dr. McElroy, Director of the National Science Foundation, concerning the possibility of the Foundation's supporting research applied to the problem of producing a more durable kind of panty hose for women.

There may be Federal agencies which are considering or actually supporting research of the type that you refer to, although we have not been able to locate them. We have inquired concerning this matter of the National Bureau of Standards; the President's Committee on Consumer Interest; and the Office of Textiles of the Division of Business and Defense Services, Department of Commerce.

Apparently industrial groups are the ones conducting any research which may be in progress on durability of panty hose, although the ladies in my office suggest as you do that demand for this item by women consumers may change drastically as fashion demands change the length of skirts. Notwithstanding that, the basic problem of textile durability remains to plague the consumer. The usual solution to a strength of materials problem, which is to increase the weight and size of the material used, probably would encounter consumer resistance in this case and a new idea seems needed.

The following organizations are places where you might open useful discussion on research of the type you refer to:

The Textile Research Institute, Princeton, N.J.

The Institute of Textile Technology, Charlottesville, Va.

The National Association of Hosiery Manufacturers, Charlotte, N.C.

The National Science Foundation does not itself undertake research, but supports research at academic and academically related institutions. In some cases, research may be supported in industry-related research organizations as well. A research scientist or engineer interested in problems of textile (or panty hose) durability would apply to the Foundation for support through his employing institution. We would give careful consideration to such a proposal; to date such proposed research has not been received by the Foundation. While the Government is becoming more involved in research activities involving industrial processes and consumer materials where the national interest is concerned, it is not clear yet whether research into the particular problem to which you refer would be appropriate for the National Science Foundation to undertake. There are rapidly increasing pressures on our fiscal resources to support high quality research, formerly supported by others, and for which funds have become increasingly scarce. Undertaking research into immediate problems related to consumer interests has great appeal but could, we believe, lead us rather quickly into a vast array of such problems, and this could divert our support from our constant effort to develop new knowledge and train skilled manpower in basic scientific research.

We are very hopeful that the obviously increasing attention to problems directly confronting the consumer will lead to a significant increase in the applied research conducted in such areas. We would hope also that this might be a part of the evolving programs of agencies charged specifically with protecting the interests of the consumer. Although we have not been able to pledge direct support of research on the problem that you have presented, we hope that this letter may offer some suggestions which will assist you.

Sincerely yours,

THEODORE W. WIRTHS,
Deputy for Government Liaison, Office of Government and Public Programs.

ARTICLE IN WALL STREET JOURNAL

Finally, Mr. Speaker, I submit the page 1 article from yesterday's Wall Street Journal, which contains a catalog of complaints and disillusioning experiences by women who buy and wear panty hose and whose common message, according to Mr. Shafer's article is "See how they run."

[From the Wall Street Journal,
Sept. 30, 1970]

SAGGING PANTY HOSE, FRAGILE NYLONS ROUSE THE WRATH OF WOMEN

(By Ronald G. Shafer)

Do you suppose that women's hose
Are made for just one wear?
Then women should rebel but good
And let their legs go bare.

WASHINGTON.—That's the poetic protest Naomi Barnard of Augusta, Ga., fired off recently to her Congressman. It was another salvo in a growing women's revolt against nylon hosiery that develops runs almost as soon as it is donned and against expensive panty hose that don't fit.

This movement may not rank with women's lib, but it is gathering steam—and getting some results. Irate women have been showering their Congressmen and officials like Virginia Knauer, the President's consumer adviser, with poetry, suggestions, demands and sometimes even their defective hosiery itself. The common message: See how they run.

This is serious business, declares Linda Armstrong, a Congressional press aide. She says nylons are so "ultrasensitive to runs" that she wears out two or three pairs a week. And she puts her annual panty hose bill at more than $300.

One Chicago woman who recently wrote Mrs. Knauer is deadly serious, too. She explained that she had purchased panty hose supposedly designed for her five-foot-seven-inch frame. But "when I tried them on at home," her letter continued, "lo and behold, there was two inches of slack in the body."

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Besides that, she said, "I ripped a hole trying to get the hose on."

DROOPING AT THE ANKLES

Even the First Lady seems to have hosiery problems.

A Michigan woman recently sent the White House a newspaper picture showing both Mrs. Nixon and her press secretary, Connie Stuart, with their hose decidedly drooping at the ankles. "I know that I have trouble with my support hose bagging at the ankles, but I couldn't believe my eyes when I saw these two ladies with wrinkled hose," the letter said.

Complaints are especially shrill about panty hose because, at typical prices of $1.50, to $3.50 a pair, they cost about twice as much as regular nylons. Yet many women, miniskirt wearers in particular, prefer such hose because they eliminate the need for such visible and uncomfortable "hardware" as garters. U.S. women this year are expected to snap up 960 million panty hose, compared with only 240 million just two years ago.

Help may be on the way—for panty hose wearers at least, if not for wearers of nylons. Spurred by the protests, some members of the hosiery industry have moved to develop uniform panty hose sizing standards. (The Federal Government also is thinking about developing voluntary industry-wide standards.)

Last year the National Association of Hosiery Manufacturers formed a "panty hose sizing standards subcommittee," which made a 14-month study of the problem. After poring over studies based on the measurements of 10,000 women, the subcommittee recommended that all hosiery companies standardize their sizes by test-fitting their hose on 12 mannequins of varying sizes (and on "live models," too.) In addition, the companies should print new and more detailed sizing charts on each panty hose package, the subcommittee said.

BLAMING POLLUTION

Some major hose makers plan to adopt the standardized charts as early as this fall. Eventually, any woman who knows her correct height and weight can count on a proper fit, promises Sam Berry, president of the hosiery association. The uniform sizing could help prevent runs because ill-fitting hose are "more susceptible to runs," he adds.

The hosiery people, however, don't expect the running hosiery controversy to end. The big problem, they contend, is that women today demand sheer nylons, which naturally are more prone to runs. There also is the factor of air pollution. "We know that in foggy or excessively damp weather mixed with smog, women's hosiery develops excessive holes and runs," the association explains. "We have found the trouble to be greater in New York than, for example, in Los Angeles."

Some other reasons hose "mysteriously fail" are "hits and bruises" from sharp objects, cigaret burns and "snags and pulls" from fingernails or rough hands, says the hosiery division of Hanes Corp.

All of these explanations leave at least some women unimpressed. Confronted with the "rough hands" theory, for example, a West Seneca, N.Y., housewife asks incredulously: "I should wear gloves or cold cream" to put on hose? And the complaints and suggestions keep coming in.

A Connecticut woman recently wrote Mrs. Nixon to suggest that she has it within her power to do "something as great as any President's wife, greater." What Mrs. Nixon should do, the letter urged, is use her influence to help bring back "the nylons we could buy before World War II that didn't run."

If Mrs. Nixon can accomplish this, the letter promised, unmatched glory will be hers. "On the front page of every newspaper, I can see the headline now—'Pat Brought Them Back.' "

DRESSING FOR THE MOON WAS SOLVED

Mr. Speaker, as I mentioned to the director of the National Science Foundation, "perhaps the dictates of fashion will soon obsolete short skirts and the heavy dependence of women on panty hose. But I doubt it." Dr. McElroy also mentions the fact that:

> The ladies in my office suggest as you do that demand for this item by women consumers may change drastically as fashion demands change the length of skirts.

And he suggests that in "the evolving programs of agencies charged specifically with protecting the interests of the consumer" some solution for this problem might develop.

In the meantime, the panty hose which do not "run" go into holes and others that may resist holes go into runs and millions of American women would like to see the Nation which can dress men in the garments necessary to withstand the hostile environment of the moon help women to get through a day without bag, sag, wrinkle or tear in an expensive and frequently essential article of wearing apparel here on earth.

DR. GUNNAR MYRDAL, SWEDISH POLITICAL ECONOMIST, SEES DRUG ADDICTION AS JEOPARDIZING SURVIVAL OF MANKIND

HON. HUGH L. CAREY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1970

Mr. CAREY. Mr. Speaker, a column by Henry Raymont in the September 28 issue of the New York Times describes Dr. Gunnar Myrdal, the well-known Swedish political economist, as viewing drug addiction as another of the serious ills that mankind must conquer if it is to survive.

Because of Dr. Myrdal's extensive studies in the areas of race and economic underdevelopment, his efforts and those of Mrs. Myrdal in the cause of world disarmament, I commend to my colleagues this article which sets forth his views regarding the dangers of drug addiction:

MYRDAL TERMS DRUG ADDICTION BIG THREAT TO HUMAN SURVIVAL

(By Henry Raymont)

FRANKFURT, WEST GERMANY, Sept. 27.—The Swedish political economist Dr. Gunnar Myrdal today added "the epidemic proportions of drug addiction" to his grim catalogue of social and natural ills mankind must control if it wanted to survive.

International agreements for drug control, he said, are "an absolute necessity," but he warned that such agreements would not be effective without research to prevent the misuse of "highly dangerous drugs that emerge from our laboratories in increasing quantities."

Dr. Myrdal listed drug addiction along with air and sea pollution, the population explosion and the proliferation of modern weapons as the major elements that threaten to extinguish "half of the earth's population by the year 2,000."

He said that this calculation had been made by the late philosopher Bertrand Russell shortly before his death and that he agreed with it.

BOTH RECEIVED PRIZE

Dr. Myrdal, author of celebrated studies on race and economic underdevelopment, spoke as he and his wife Alva, Sweden's Minister for Disarmament, accepted the Peace Prize of the 22d Frankfurt Book Fair in a ceremony at the Paulskirche, a 19th-century church used for special occasions.

Dr. Myrdal's characteristically gloomy speech, and his wife's plea that the big powers set an example by halting the world's armaments race, were delivered before an audience that included Dr. Gustav Heinemann, the West German President, Mayor Walter Möller of Frankfurt, numerous Government officials and publishers from the 66 countries represented at the fair.

Only a few policemen stood outside the church where the first German Socialist republic was established briefly in 1848 and where two years ago Daniel Cohn-Bendit, the radical student leader, led a demonstration of thousands of German leftists that disrupted the ceremony at which the Peace Prize was awarded to President Leopold Senghor of Senegal.

Today only half a dozen youngsters distributed pamphlets by right-wing and neo-Nazi groups.

LOCAL SPORTS GROUP HONORS OLDTIMERS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. GAYDOS. Mr. Speaker, America has produced many outstanding athletes over the years. Some of them have gone on to win an everlasting niche in the world of sports. Because they were recognized as the best of the best, their names became household words through the headlines on the sports pages of our Nation's newspapers. Because of their skills and the accompanying fame, these athletes have a profound effect on untold millions of American youth who seek to emulate them in and out of competition.

Fame, of course, is fleeting and once the talents of these men are drained by the passage of time, they often fade into obscurity. Nonetheless, their day in the sun has been something of a reward for their efforts.

But there are thousands upon thousands of men who never have the chance to bask in that sun, although they abound with talent. These men, perhaps because of economics, finances, and so forth, do not hit the "big time" and, instead, become "hometown heroes," where they exert even more influence on American boys than do their famous contemporaries. They are the first to come in contact with boys who dream of athletic fame and fortune. They are the first to develop skills, mold character, and instill the competitive will to win.

McKeesport, a third class city in my 20th Congressional District, has its share of such athletes, and recently a grateful community paid public recognition to some of them. Merrill W. Granger, a sports editor for the Daily News in McKeesport, called attention to these men and their achievements in one of his

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articles. I would like to insert the article in the RECORD and I invite the attention of my colleagues to it:

LOCAL SPORTS GROUP HONORS OLDTIMERS

(By Merrill W. Granger)

The McKeesport Athletic Sports Association is a local group of sports enthusiasts banded together for the purpose of honoring old time athletes. Guiding lights behind the MASA are Eddie Stanko, "Pee Wee" Lesko and a number of other sports-minded individuals. Tomorrow at 6:30 p.m. at the Swedish Singing Society, the group will hold its first annual banquet honoring 20 old time sports figures of the district. The club realizes, Stanko says, that many deserving individuals have been passed up for the first affair, but he says the club had to start somewhere and members hope to make the fete an annual event, with different old timers to be honored each year.

Here is a thumbnail sketch of some of the old timers to be honored tomorrow night.

Al Duffy—Sponsored athletic teams in the Third Ward for years and was an athlete himself in his younger days.

John "Duke" O'Hara—Long time boxing trainer and manager in the district in the 20's, 30's and 40's when boxing was popular here.

Jock Simco—Veteran boxer here who often took on foes much heavier than himself in his heyday. Also served as boxing judge. Still follows sports closely.

Jimmy Velter—Popular softball player who performed for Sixth Ward teams. Was star shortstop for Glassport Griffin Oilers and was touted as a coming baseball star, but gave it up for softball.

Frank "Flash" Leonard—Mushball and softball pitcher who was one of best. Also good at basketball.

Abby Fallquist—Former McKeesport High School baseball coach for 40 years who produced seven WPIAL baseball champions at MHS, the most for any coach.

Walter Willig—Sponsored the Willig basketball teams in the mid-30's, which beat such teams as the New York Celtics, Cleveland Rosenblums and Brooklyn Jewels.

John "Yank" Ruscin—Long time billiards star in McKeesport. Has had runs of nine in three-cushion billiards.

Glenn Kughen—Now 80, Glenn was a distance runner in his youth and claims to have raced an ostrich, motorcycle and a horse. Also claims he competed in the 1912 Olympics as a distance runner.

Dave Jenkins—Former Third Ward athlete who now sponsors various athletic teams there and is always willing to lend a helping hand to young athletes.

Charley Moon—Former McKeesport High football and baseball star, whose career was cut short by polio. Member of McKeesport High's 1938 championship football team.

Ed Ramsay, Jim Sharp and George Vukmanic—Three regular members of McKeesport High's 1921 state championship basketball team, which defeated Williamsport 24–21 in title game at State College.

Clyde Elder, Paul McAllister and Ralph McAllister—Members of that same MHS championship basketball squad.

Frank Todd—Organizer of Todd Boys Club and McKeesport Boys and Girls Club before World War II.

Dr. J. C. Kelly—Still playing golf at 88, he has been a long time sports fan and in his youth was an athlete, once catching the great Rube Waddell in an exhibition game for Butler against the Pirates.

And another former athlete, Sam Vidnovic, will act as master of ceremonies. Incidentally, Sam is in his 22nd year of sportscasting, starting it back when McKeesport High played Miami in the Orange Bowl.

AN 8-YEAR-OLD DESCRIBES GRANDMA

HON. JOE SKUBITZ

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. SKUBITZ. Mr. Speaker, sometimes we are kidded about the trite or insignificant things that we place into the CONGRESSIONAL RECORD. However, I sometimes think the simple things that take place in America may help cause its greatness. That is why I think you will enjoy what an 8-year-old had to say about grandmothers:

AN 8-YEAR-OLD DESCRIBES GRANDMA

An eight-year-old wrote this: "A grandmother is a lady who has no children of her own, so she likes other people's boys and girls.

"Grandmas don't have anything to do except be there. If they take us for walks, they slow down past pretty leaves and caterpillars.

They never say, "Hurry up."

"Usually they are fat but not too fat to tie our shoes. They wear glasses, and sometimes they can take their teeth out.

"They can answer questions like why dogs hate cats and why God isn't married. They don't talk "visitors' talk" like visitors do because it is hard to understand. When they read to us they don't skip words or mind if it is the same story again.

"Everybody should try to have a grandma, especially if you don't have television, because grandmas are the only grown-ups who always have time."

SENATE—*Friday, October 2, 1970*

The Senate met at 10 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God whose love is boundless and whose grace is sufficient for all our need, bring our spirits in harmony with Thy spirit. Be Thou the strength and guide of every Member of this body. Grant to each one here fidelity to the truth, perseverance in the right, and submission to Thy will. Strengthen those who serve the Senators in ways great and small, anoint us all with the spirit of servanthood, and bind us together in a warm comradeship of heart and mind for the completion of the work before us.

Be with us at the end of the day, O Lord, that we may hear Thee say, "Well done, good and faithful servant." Watch over us in our separation and bring us back safely in newness of life.

In the name of Him whose name is above every name. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication from the President pro tempore of the Senate (Mr. RUSSELL).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 2, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, October 1, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on the Status of Forces of the Committee on Armed Forces, the Committee on Foreign Relations, and the Committee on Finance all be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

DEPARTMENT OF DEFENSE

The assistant legislative clerk read the nomination of Richard J. Borda, of California, to be an Assistant Secretary of the Air Force.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

OFFICE OF TELECOMMUNICATIONS POLICY

The assistant legislative clerk read the nomination of George Frank Mansur, Jr., of Texas, to be a Deputy Director of the Office of Telecommunications Policy.

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The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.'

DEPARTMENT OF TRANSPORTATION

The assistant legislative clerk read the nomination of Willard J. Smith, of Michigan, to be an Assistant Secretary of Transportation.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE COAST GUARD

The assistant legislative clerk proceeded to read sundry nominations in the Coast Guard which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

PLANT VARIETY PROTECTION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1265, S. 3070, an unobjected-to item on the calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 3070) to encourage the development of novel varieties of sexually reproduced plants and to make them available to the public, providing protection available to those who breed, develop, or discover them, and thereby promoting progress in agriculture in the public interest, which had been reported from the Committee on Agriculture and Forestry, with an amendment; and reported from the Committee on the Judiciary, with amendments. The amendment of the Committee on Agriculture and Forestry was to strike out all after the enacting clause and insert:

INDEX

	Section
TITLE I—Plant Variety Protection Office	1
TITLE II—Protectability of Plant Varieties and Certificates of Protection	41
TITLE III—Plant Variety Protection and Rights	101

TITLE I—PLANT VARIETY PROTECTION OFFICE

Chapter	Section
1. Organization and Publications	1
2. Legal Provisions as to the Plant Variety Protection Office	21
3. Plant Variety Protection Fees	31

Chapter 1.—ORGANIZATION AND PUBLICATIONS

Section 1. Establishment.

There is hereby established in the Department of Agriculture a bureau to be known as the Plant Variety Protection Office, which shall have the functions set forth in this Act.

Sec. 2. Seal.

The Plant Variety Protection Office shall have a seal with which documents and certificates evidencing plant variety protection shall be authenticated.

Sec. 3. Organization.

The organization of the Plant Variety Protection Office shall, except as provided herein, be determined by the Secretary of Agriculture (hereinafter called the Secretary). The office shall devote itself substantially exclusively to the administration of this Act.

Sec. 4. Restrictions on Employees as to Interest in Plant Variety Protection.

Employees of the Plant Variety Protection Office shall be ineligible during the periods of their employment, to apply for plant variety protection and to acquire directly or indirectly except by inheritance or bequest, any right or interest in any matters before that office. This section shall not apply to members of the Plant Variety Protection Board who are not otherwise employees of the Plant Variety Protection Office.

Sec. 5. Bond of Employees.

Such employees as the Secretary designates, before entering upon their duties, shall severally give bond, with sureties, in sums prescribed by the Secretary, conditioned for the faithful discharge of their respective duties and that they shall render to the proper officers of the Treasury a true account of all money received by virtue of their offices.

Sec. 6. Regulations.

The Secretary may establish regulations, not inconsistent with law, for the conduct of proceedings in the Plant Variety Protection Office after consultations with the Plant Variety Protection Board.

Sec. 7. Plant Variety Protection Board.

(a) APPOINTMENT.—The Secretary shall appoint a Plant Variety Protection Board. The Board shall consist of individuals who are experts in various areas of varietal development covered by this Act. Membership of the Board shall include farmer representation and shall be drawn approximately equally from the private or seed industry sector and from the sector of government or the public. The Secretary or his designee shall act as chairman of the Board without voting rights except in the case of ties.

(b) FUNCTIONS OF BOARD.—The functions of the Plant Variety Protection Board shall include:

(1) Advising the Secretary concerning the adoption of Rules and Regulations to facilitate the proper administration of this Act;

(2) Making advisory decisions on all appeals from the examiner. The Board shall determine whether to act as a full Board or by panels it selects; and whether to review advisory decisions made by a panel. For service on such appeals, the Board may select, as temporary members, experts in the area to which the particular appeal relates; and

(3) Advising the Secretary on all questions under section 44.

(c) COMPENSATION OF BOARD.—The members of the Plant Variety Protection Board shall serve without compensation except for standard government reimbursable expenses.

Sec. 8. Library.

The Secretary shall maintain a library of scientific and other works and periodicals, both foreign and domestic, in the Plant Variety Protection Office to aid the officers in the discharge of their duties.

Sec. 9. Register of Protected Plant Varieties.

The Secretray shall maintain a register of published specifications of United States protected plant varieties and a file of such other scientific and technical information as may be necessary or practicable.

Sec. 10. Publications.

(a) The Secretary may publish, or cause to be published, in such format as he shall determine to be suitable, the following:

(1) The specifications for plant variety protection including drawings and photographs.

(2) The Official Journal of the Plant Variety Protection Office, including annual indices.

(3) Pamphlet copies of the plant variety protection laws and rules of practice and circulars or other publications relating to the business of the Office.

(b) The Plant Variety Protection Office may print the heading of the drawings or photographs for protected plant varieties for the purpose of photolithography and may provide suitable copy for any lithography to appear on the same page.

(c) The Secretary may (1) establish public facilities for the searching of plant variety protection records and materials, and (2) from time to time, as through an information service, disseminate to the public those portions of the technological and other public information available to or within the Plant Variety Protection Office to encourage innovation and promote the progress of the useful arts.

(d) The Secretary may exchange any of the publications specified for publications desirable for the use of the Plant Variety Protection Office. The Secretary may exchange copies of specifications, drawings, and photographs of United States protected plant varieties for copies of specifications, drawings, and photographs of applications and protected plant varieties of foreign countries.

Sec. 11. Copies for Public Libraries.

The Secretary may supply printed copies of specifications, drawings, and photographs of protected plant varieties to public libraries in the United States which shall maintain such copies for the use of the public.

Chapter 2.—LEGAL PROVISIONS AS TO THE PLANT VARIETY PROTECTION OFFICE

Sec. 21. Day for Taking Action Falling on Saturday, Sunday, or Holiday.

When the day, or the last day, for taking any action or paying any fee in the United States Plant Variety Protection Office falls on Saturday, Sunday, a holiday within the District of Columbia, or on any other day the Plant Variety Protection Office is closed for the receipt of papers, the action may be taken or the fee paid, on the next succeeding business day.

Sec. 22. Form of Papers Filed.

The Secretary may by regulations prescribe the form of papers to be filed in the Plant Variety Protection Office.

Sec. 23. Testimony in Plant Variety Protection Office Cases.

The Secretary may establish regulations for taking affidavits, depositions, and other evidence required in cases before the Plant

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Variety Protection Office. Any officer authorized by law to take depositions to be used in the court of the United States, or of the State where he resides, may take such affidavits and depositions, and swear the witnesses. If any person acts as a hearing officer by authority of the Secretary, he shall have like power.

Sec. 24. Subpenas, Witnesses.

(a) The clerk of any United States court for the district wherein testimony is to be taken in accordance with regulations established by the Secretary for use in any contested case in the Plant Variety Protection Office shall, upon the application of any party thereof, issue a subpena for any witness residing or being within such district or within one hundred miles of the stated place in such district, commanding him to appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpena. The provisions of the Federal Rules of Civil Procedure relating to the attendance of witnesses and the production of documents and things shall apply to contested cases in the Plant Variety Protection Office insofar as consistent with such regulations.

(b) Every witness subpenaed or testifying shall be allowed the fees and traveling expenses allowed to witnesses attending the United States district courts.

(c) A judge of a court whose clerk issued a subpena may enforce obedience to the process or punish disobedience as in other like cases, on proof that a witness, served with such subpena, neglected or refused to appear or to testify. No witness shall be deemed guilty of contempt for disobeying such subpena unless his fees and traveling expenses in going to, and returning from, one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpena; nor for refusing to disclose any secret matter except upon appropriate order of the court which issued the subpena or of the Secretary.

Sec. 25. Effect of Defective Execution.

Any document to be filed in the Plant Variety Protection Office and which is required by any law or regulation to be executed in a specified manner may be provisionally accepted by the Secretary despite a defective execution, provided a properly executed document is submitted within such time as may be prescribed.

Sec. 26. Regulations for Practice Before the Office.

The Secretary shall prescribe regulations governing the admission to practice and conduct of persons representing applicants or other parties before the Plant Variety Protection Office. The Secretary may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before the Office of Plant Variety Protection any person shown to be incompetent or disreputable or guilty of gross misconduct.

Sec. 27. Unauthorized Practice.

Anyone who in the United States engages in direct or indirect practice before the Office of Plant Variety Protection while suspended or excluded under section 26, or without being admitted to practice before the Office, shall be liable in a civil action for the return of all money received, and for compensation for damage done by such person and also may be enjoined from such practice. However, there shall be no liability for damage if such person establishes that the work was done competently and without negligence. This section does not apply to anyone who, without a claim of self-sufficiency, works under the supervision of another who stands admitted and is the responsible party; nor to anyone who establishes that he acted only on behalf of any employer by whom he was regluarly employed.

Chapter 3.—PLANT VARIETY PROTECTION FEES

Sec. 31. Plant Variety Protection Fees; Appropriations.

The Secretary shall, under such regulations as he may prescribe, charge and collect reasonable fees for services performed under this Act. The fees authorized by this section shall be established to substantially cover the costs or administration of this Act. Such fees shall be deposited into a fund to be available, without fiscal year limitation, for the administration of this Act. The initial capital of the fund shall consist of appropriations, which are hereby authorized to be made. Until such time as the Secretary prescribes fees as provided by this section, a fee of $50 shall be charged for filing each application, subject to such adjustment as may be appropriate after fees are prescribed by the Secretary hereunder.

Sec. 32. Payment of Plant Variety Protection Fees; Return of Excess Amounts.

All fees shall be paid to the Secretary, and the Secretary may refund any sum paid by mistake or in excess of the fee required.

TITLE II—PROTECTABILITY OF PLANT VARIEITIES AND CERTIFICATES OF PROTECTION

Chapter Section
4. Protection of Plant Varieties 41
5. Applications: Form, Who May File, Relating Back, Confidentiality 51
6. Examination: Response Time, Initial Appeals 61
7. Appeals to Courts and Other Review .. 71
8. Certificates of Plant Variety Protection 81
9. Reexamination After Issue, and Contested Proceedings 91

Chapter 4.—PROTECTABILITY OF PLANT VARIETIES

Sec. 41. Definitions and Rules of Construction.

The definitions and rules of construction set forth in this section apply for the purposes of this Act.

(a) The term "novel variety" may be represented by, without limitation, seed, transplants, and plants, and is satisfied if there is:

(1) Distinctness in the sense that the variety clearly differs by one or more identifiable morphological, physiological or other characteristics (which may include those evidenced by processing or product characteristics, for example, milling and baking characteristics in the case of wheat) as to which a difference in genealogy may contribute evidence, from all prior varieties of public knowledge at the date of determination within the provisions of section 42; and

(2) Uniformity in the sense that any variations are describable, predictable, and commercially acceptable; and

(3) Stability in the sense that the variety, when sexually reproduced or reconstituted, will remain unchanged with regard to its essential and distinctive characteristics with a reasonable degree of reliability commensurate with that of varieties of the same category in which the same breeding method is employed.

(b) The terms "United States" and "this country" mean the United States of America, its territories and possessions, and the Commonwealth of Puerto Rico.

(c) The term "kind" means one or more related species or subspecies singly or collectively known by one common name, for example, soybean, flax, carrot, or radish.

(d) The term "date of determination" means the date when there has been at least tentative determination that the variety has been sexually reproduced with recognized characteristics, whether or not the novelty of those characteristics has been determined.

(e) The term "breeder" shall mean the person who—

(1) directs the final breeding creating the novel variety, or

(2) discovers the novel variety, and makes the tentative determination described in subsection (d). Where such actions are conducted by an agent on behalf of his principal, the principal, rather than the agent, shall be considered the breeder. The terms "breed", "develop", "originate", and "discover", and derivatives thereof shall each include the other.

(f) The term "sexually reproduced" shall include any production of a variety by seed.

(g) The term "basic seed" means the seed planted to produce certified or commercial seed.

(h) The term "testing" means testing or experimental use of a variety before any sale thereof. Sale for other than seed purposes of seed or other plant material produced as the result of testing shall not constitute a sale for the purpose of the preceding sentence or for the purpose of the following subsection.

(i) The term "public variety" means a variety sold or used in this country, or existing in and publicly known in this country; but use for the purpose of testing, or sale, or use as individual plants not known to be sexually reproducible, shall not make the variety a public variety.

(j) A variety described in a publication as specified in section 42(a)(1(B) is "effectively available to workers in this country" if a source from which it can be purchased as indicated in such publication or readily determinable or if such publication teaches how to produce the variety from source-material effectively available to workers in this country.

Sec 42. Right to Plant Variety Protection; Plant Varieties Protectable.

(a) The breeder of any novel variety of sexually reproduced plant (other than fungi, bacteria, or first generation hybrids) who has so reproduced the variety, or his successor in interest, shall be entitled to plant variety protection therefor, subject to the conditions and requirements of this title unless one of the following bars exists:

(1) Before the date of determination thereof by the breeder, or more than one year before the effective filing date of the application therefor, the variety was (A) a public variety in this country, or (B) effectively available to workers in this country and adequately described by a publication reasonably deemed a part of the public technical knowledge in this country which description must include a disclosure of the principal characteristics by which the variety is distinguished.

(2) An application for protection of the variety based on the same breeder's acts, was filed in a foreign country by the owner or his privies more than one year before the effective filing date of the application filed in the United States.

[(3) Another is entitled to an earlier date of determina-]

(3) Another is entitled to an earlier date of determination for the same variety and such other (A) has a certificate of plant variety protection hereunder or (B) has been engaged in a continuing program of development and testing to commercialization, or (C) has within six months after such earlier date of determination adequately described the variety by a publication reasonably deemed a part of the public technical knowledge in this country which description must include a disclosure of the principal characteristics by which the variety is distinguished.

(b) The Secretary may, by regulation, extend for a reasonable period of time the one year time period provided in subsection (c) for filing applications, and may in that event provide for at least commensurate reduction of the term of protection.

Sec. 43. Reciprocity Limits.

Protection under the Act may, by regulation, be limited to nationals of the United States, except where this limitation would violate a treaty and except that nationals of a foreign state in which they are domiciled shall be entitled to so much of the protection here afforded as is afforded by said foreign state to nationals of the United States for the same genus and species.

Sec. 44. Public Interest in Wide Usage.

The Secretary may declare a protected variety open to use on a basis of equitable remuneration to the owner, not less than a reasonable royalty, when he determines that such declaration is necessary in order to insure an adequate supply of fiber, food, or feed in this country and that the owner is unwilling or unable to supply the public needs for the variety at a price which may reasonably be deemed fair. Such declaration may be, with or without limitation, with or without designation of what the remuneration is to be; and shall be subject to review as under section 71 or 72 (any finding that the price is not reasonable being reviewable), and shall remain in effect not more than two years. In the event litigation is required to collect such remuneration, a higher rate may be allowed by the court.

Chapter 5.—APPLICATIONS: FORM, WHO MAY FILE, RELATING BACK, CONFIDENTIALITY

Sec. 51. Application for Recognition of Plant Variety Rights.

(a) An application for a certificate of Plant Variety Protection may be filed by the owner of the variety sought to be protected. The application shall be made in writing to the Secretary, shall be signed by or on behalf of the applicant, and shall be accompanied by the prescribed fee.

(b) An error as to the naming of the breeder, without deceptive intent, may be corrected at any time, in accordance with regulation established by the Secretary.

Sec. 52. Content of Application.

An application for a certificate recognizing plant variety rights shall contain:

(1) The name of the variety except that a temporary designation will suffice until the certificate is to be issued.

(2) A description of the variety setting forth its novelty and a description of the genealogy and breeding procedure, when known. The Secretary may require amplification, including the submission of adequate photographs or drawings or plant specimens, if the description is not adequate or as complete as is reasonably possible, and submission of records or proof of ownership or of allegations made in the application. An applicant may add to or correct the description at any time, before the certificate is issued, upon a showing acceptable to the Secretary that the revised description is retroactively accurate. Courts shall protect others from any injustice which would result. The Secretary may accept records of the breeder and of any official seed certifying agency in this country as evidence of stability where applicable.

(3) A declaration that a viable sample of basic seed necessary for propagation of the variety will be deposited and replenished periodically in a public repository in accordance with regulations to be established hereunder. This declaration may be added by amendment.

(4) A statement of the basis of applicant's ownership.

Sec. 53. Joint Breeders.

(a) When two or more persons are the breeders, one (or his successor) may apply, naming the others.

(b) The Secretary, after such notice as he may prescribe, may issue a certificate of plant variety protection to the applicant and such of the other breeders (or their successors in interest) as may have subsequently joined in the application.

Sec. 54. Death or Incapacity of Breeder.

Legal representatives of deceased breeders and of those under legal incapacity may make application for plant variety protection upon compliance with the requirements and on the same terms and conditions applicable to the breeder or his successor in interest.

Sec. 55. Benefit of Earlier Filing Date.

(a) An application for a certificate of plant variety protection filed in this country based on the same variety, and on rights derived from the same breeder, on which there has previously been filed an application for plant variety protection in a foreign country which affords similar privileges in the case of applications filed in the United States by citizens of the United States, shall have the same effect as the same application would have if filed in the United States on the date on which the application for plant variety protection for the same variety was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed. No application shall be entitled to a right of priority under this section, unless the applicant designates the foreign application in his application or by amendment thereto and, if required by the Secretary, furnishes such copy, translation or both, as the Secretary may specify.

(b) An application for a certificate of plant variety protection for the same variety as was the subject of an application previously filed in the United States by or on behalf of the same person, or by his predecessor in title, shall have the same effect as to such variety as though filed on the date of the prior application if filed before the issuance of the certificate or other termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

(c) A later application shall not by itself establish that a characteristic newly described was in the variety at the time of the earlier application.

Sec. 56. Confidential Status of Application.

Applications for plant variety protection and their contents shall be kept in confidence by the Plant Variety Protection Office, by the Board, and by the offices in the Department of Agriculture to which access may be given under regulations. No information concerning the same shall be given without the authority of the owner, unless necessary under special circumstances as may be determined by the Secretary, except that the Secretary may publish the variety names designated in applications, stating the kind of which each applies.

Sec. 57. Publication.

The Secretary may establish regulations for the publication of any pending application when publication is requested by the owner.

Chapter 6.—EXAMINATION, RESPONSE TIME, INITIAL APPEALS

Sec. 61. Examination of Application.

The Secretary shall cause an examination to be made of the application and if on such examination it is determined that the applicant is entitled to plant variety protection under the law, the Secretary shall issue a notice of allowance of plant variety protection therefor as hereinafter provided.

Sec. 62. Notice of Refusal; Reconsideration.

(a) Whenever an application is refused, or any objection or requirement made by the examiner, the Secretary shall notify the applicant thereof, stating the reasons therefor, together with such information and references as may be useful in judging the propriety of continuing the prosecution of the application; and if after receiving such notice the applicant requests reconsideration, with or without amendment, the application shall be reconsidered.

(b) For taking appropriate action after the mailing to him of an action other than allowance, an applicant shall be allowed six months, or such other time as the Secretary in exceptional circumstances shall set in the refusal, or such time as he may allow as an extension. Without such extension, action may be taken up to three months late by paying an additional fee to be prescribed by the Secretary.

Sec. 63. Initial Appeal.

When an application for plant variety protection has been refused by the Plant Variety Protection Office, the applicant may appeal to the Secretary. The Secretary shall seek the advice of the Plant Variety Protection Board on all appeals, before deciding the appeal.

Chapter 7.—APPEALS TO COURTS AND OTHER REVIEW

Sec. 71. Appeals.

From the decisions made under sections 44, 63, 91, 92, and 128 appeal may, within sixty days or such further time as the Secretary allows, be taken under the Federal Rules of Appellate Procedure. The Court of Customs and Patent Appeals and United States Courts of Appeals shall have jurisdiction, with venue in the case of the latter as stated in 28 U.S.C. 2343.

Sec. 72. Civil Action Against Secretary.

An applicant dissatisfied with a decision under section 63 or 91 of this title, may, as an alternative to appeal, have remedy by civil action against the Secretary in the United States District Court for the District of Columbia. Such action shall be commenced within sixty days after such decision or within such further time as the Secretary allows. The court may, in the case of review of a decision by the Secretary refusing plant variety protection, adjudge that such applicant is entitled to receive a certificate of plant variety protection for his variety as specified in his application as the facts of the case may appear, on compliance with the requirements of this Act.

Sec. 73. Appeal or Civil Action in Contested Cases.

(a) A party to a proceeding under section 92 of this title, dissatisfied with the decision, may take an appeal under section 71 or may have remedy by civil action if commended within sixty days after such decision or within such further time as the Secretary allows. A party contemplating appeal as provided herein shall notify all adverse parties of his intention and any such adverse party, not the Secretary, shall have the right, by notice served within ten days of the notice to him, to elect that any review shall be by civil action. In such suits the record in the Plant Variety Protection Office shall be admitted on motion of any party upon the terms and conditions as to cost, expenses, and the further cross-examination of witnesses, as the court imposes, without prejudice to the right of the parties to take further testimony. The testimony and exhibits of the record in the Plant Variety Protection Office when admitted shall have the same effect as if orginally taken and produced in the suit.

(b) Such suit may be instituted against the party in interest as shown by the record of the Plant Variety Protection Office at the time of the decision complained of, but any party in interest may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same State, or an adverse party residing in a foreign country, the United States District Court for the District of Columbia, or any United States district court to which it

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may transfer the case, shall have jurisdiction and may issue summons against the adverse parties directed to the marshal of any district in which any adverse party resides. Summons against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs. The Secretary shall not be made a party but he shall have the right to intervene. Judgment of the court in favor of the right of an applicant to plant variety protection shall authorize the Secretary to issue a certificate of plant variety protection on the filing in the Plant Variety Protection Office of a certified copy of the judgment and on compliance with the requirements of this Act.

Chapter 8.—CERTIFICATES OF PLANT VARIETY PROTECTION

Sec. 81. Plant Variety Protection.

(a) If it appears that a certificate of plant variety protection should be issued on an application, a written notice of allowance shall be given or mailed to the owner. The notice shall specify the sum, constituting the issue fee, which shall be paid within one month thereafter.

(b) Upon timely payment of this sum, and provided that deposit of seed has been made in accordance with section 52(3), the certificate of plant variety protection shall issue.

(c) If any payment required by this section is not timely made, but is submitted with an additional fee prescribed by the Secretary within nine months after the due date or within such further time as the Secretary may allow, it shall be accepted.

Sec. 82. How Issued.

A certificate of plant variety protection shall be issued in the name of the United States of America under the seal of the Plant Variety Protection Office, and shall be signed by the Secretary or have his signature placed thereon, and shall be recorded in the Plant Variety Protection Office.

Sec. 83. Contents and Term of Plant Variety Protection.

(a) Every certificate of plant variety protection shall certify that the breeder (or his successor in interest) his heirs or assignees, has the right, during the term of the plant variety protection, to exclude others from selling the variety, or offering it for sale, or reproducing it, or importing it, or exporting it, or using it in producing (as distinguished from developing) a hybrid or different variety therefrom, to the extent provided by this Act. If the owner so elects, the certificate shall also specify that in the United States seed of the variety shall be sold by variety name only as a class of certified seed and, if specified, shall also conform to the number of generations designated by the owner. Any rights, or all rights except those elected under the preceding sentence, may be waived; and the certificate shall conform to such waiver. The Secretary may at his discretion permit such election or waiver to be made after certificating and amend the certificate accordingly, without retroactive effect.

(b) The term of plant variety protection shall expire seventeen years from the date of issue of the certificate in the United States. If the certificate is not issued within three years from the effective filing date, the Secretary may shorten the term by the amount of delay in the prosecution of the application attributed by the Secretary to the applicant.

(c) The term of plant variety protection shall also expire if the owner fails to comply with regulations, in force at the time of certificating, relating to replenishing seed in a public repository: Provided, however, That this expiration shall not occur unless notice is mailed to the last owner recorded as provided in section 101(d) and he fails, within the time allowed thereafter, not less than three months, to comply with said regulations, paying an additional fee to be prescribed by the Secretary.

Sec. 84. Certificate of Correction of Plant Variety Protection Office Mistake.

Whenever a mistake in a certificate of plant variety protection, incurred through the fault of the Plant Variety Protection Office, is clearly disclosed by the records of the Office, the Secretary may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of plant variety protection. A copy thereof shall be attached to each copy of the published specifications or certificate of plant variety protection and such certificate of correction shall be considered as part of the original certificate of plant variety protection. Every such certificate of plant variety protection shall have the same effect as if the same had been originally issued in such corrected form. The Secretary may issue a corrected certificate of plant variety protection without charge in lieu of and with like effect as a certificate of correction.

Sec. 85. Certificate of Correction of Applicant's Mistake.

Whenever a mistake of a clerical or typographical nature, or of minor character, or in the description of the variety, which was not the fault of the Plant Variety Protection Office, appears in a certificate of plant variety protection and a showing has been made that such mistake occurred in good faith, the Secretary may, upon payment of the required fee, issue a certificate of correction in the manner and with attachment of copies as in section 84, if the correction unquestionably could have been made before the certificate issued. Such certificate of plant variety protection shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form.

Sec. 86. Correction of Named Breeder.

An error as to the naming of a breeder in the application, without deceptive intent, shall not affect validity of plant variety protection and may be corrected at any time by the Secretary in accordance with regulations established by him or upon order of a federal court before which the matter is called in question. Upon such correction the Secretary shall issue a certificate accordingly. Such correction shall not deprive any person of any rights he otherwise would have had.

Chapter 9.—REEXAMINATION AFTER ISSUE, AND CONTESTED PROCEEDINGS

Sec. 91. Reexamination After Issue.

(a) Any person may, within five years after the issuance of a certificate of plant variety protection, notify the Secretary in writing of facts which may have a bearing on the protectability of the variety, and the Secretary may cause such plant variety protection to be reexamined in the light thereof.

(b) Reexamination of plant variety protection under this section and appeals shall be pursuant to the same procedures and with the same rights as for original examinations. Abandonment of the procedure while subject to a ruling against the retention of the certificate shall result in cancellation of the plant variety certificate thereon and notice thereof shall be endorsed on copies of the specification of the protected plant variety thereafter distributed by the Plant Variety Protection Office.

(c) If a person acting under subsection (a) makes a prima facie showing of facts needing proof, the Secretary may direct that the reexamination include such interparty proceedings as he shall establish.

Sec. 92. Priority Contest.

(a) If the Secretary determines that two applications of different applicants may be based on the same variety, he may:

(1) Initiate a priority contest on his own motion whether or not one of the applications may have been certificated; or

(2) Issue a certificate on the application having the earliest effective filing date, with notice to all; or

(3) Issue a certificate naming alternative owners, under a single variety name acceptable to both.

(b) On request of any person when a certificate has been issued naming another as an owner or alternative owner, both having applied for protection on the same variety, the Secretary shall institute a priority contest, except that any person shall have forfeited his right to assert priority for the purpose of obtaining plant variety protection when an adverse certificate has issued if he fails to make the request within one year of the mailing of notice specified in part (2) above or if he fails to make the request within the period for taking action after refusal of his application on the basis of the adverse certificate.

Sec. 9. Effect of Adverse Final Judgment or of Non Action.

(a) A final judgment under section 92 adverse to an application from which no appeal or other review had been or can be taken or had shall constitute cancellation of any certificating on that application, and notice thereof shall be endorsed on copies of the specifications of the protected plant variety thereafter distributed by the Plant Variety Protection Office.

(b) Any person who has not proceeded in accordance with the provision of this chapter shall not be foreclosed or in any way prejudiced with respect to the defense of an infringement suit or affirmative relief under declaratory judgment proceedings.

(c) No person subject to an adverse decision in a proceeding under this chapter shall be foreclosed with respect to asserting comparable grounds in defense of an infringement suit or as a basis for affirmative relief under declaratory judgment proceedings.

Sec. 94. Interfering Plant Variety Protection.

The owner of a certificate of plant variety protection may have relief against another owner of a certificate of the same variety by civil action, and the court may adjudge the question of validity of the respective certificates, or the ownership of certificate. The provisions of section 73(b) of this title shall apply to actions brought under this section.

TITLE III—PLANT VARIETY PROTECTION AND RIGHTS

Chapter	Section
10. Ownership and Assignment	101
11. Infringement of Plant Variety Protection	111
12. Remedies for Infringement of Plant Variety Protection, and Other Actions	121
13. Intent and Severability	131
14. Temporary Provision and Related Enactments; Exempted Plants; Miscellaneous	141

Chapter 10.—OWNERSHIP AND ASSIGNMENT

Sec. 101. Ownership and Assignment.

(a) Subject to the provisions of this title, plant variety protection shall have the attributes of personal property.

(b) Applications for certificates of plant variety protection, or any interest in a variety, shall be assignable by an instrument in writing. The owner may in like manner license or grant and convey an exclusive right to use of the variety in the whole or any specified part of the United States.

(c) A certificate of acknowledgement under the hand and official seal of a person authorized to administer oaths within the United States, or in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, shall be prima facie evidence of the execution of an assignment, grant, license, or conveyance of plant variety

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protection or application for plant variety protection.

(d) An assignment, grant, conveyance or license shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it, or an acknowledgement thereof by the person giving such encumbrance that there is such encumbrance, is filed for recording in the Plant Variety Protection Office within one month from its date or at least one month prior to the date of such subsequent purchase or mortgage.

Sec. 102. Ownership During Testing.

An owner who, with notice that release is for testing only, releases possession of seed or other sexually reproducible plant material for testing retains ownership with respect thereto; and any diversion from authorized testing, or any unauthorized retention, of such material by anyone who has knowledge that it is under such notice, or who is chargeable with notice, is prohibited, and violates the property rights of the owner. Anyone receiving the material tagged or labeled with the notice is chargeable with the notice. The owner is entitled to remedy and redress in a civil action hereunder. No remedy available by State or local law is hereby excluded. No such notice shall be used, or if used be effective, when the owner has made identical sexually reproducible plant material available to the public, as by sale thereof.

Chapter 11.—INFRINGEMENT OF PLANT VARIETY PROTECTION

Sec. 111. Infringement of Plant Variety Protection.

Except as otherwise provided in this title, it shall be an infringement of the rights of the owner of a novel variety to perform without authority, any of the following acts in the United States, or in commerce which can be regulated by Congress or affecting such commerce, prior to expiration of the right to plant variety protection but after either the issue of the certificate or the distribution of a novel plant variety with the notice under section 127:

(1) sell the novel variety, or offer it or expose it for sale, deliver it, ship it, consign it, exchange it, or solicit an offer to buy it, or any other transfer of title or possession of it;

(2) import the novel variety into, or export it from, the United States;

(3) sexually multiply the novel variety as a step in marketing (for growing purposes) the variety; or

(4) use the novel variety in producing (as distinguished from developing) a hybrid or different variety therefrom; or

(5) use seed which had been marked "propagation prohibited" or progeny thereof to propagate the novel variety; or

(6) dispense the novel variety to another, in a form which can be propagated, without notice as to being a protected variety under which it was received; or

(7) perform any of the foregoing acts even in instances in which the novel variety is multiplied other than sexually, except in pursuance of a valid United States plant patent; or

(8) instigate or actively induce performance of any of the foregoing acts.

Sec. 112. Grandfather Clause.

Nothing in this Act shall abridge the right of any person, or his successor in interest, to reproduce or sell a variety of developed and produced by such person more than one year prior to the effective filing date of an adverse application for a certificate of plant variety protection.

Sec. 113. Right To Save Seed. Crop Exemption.

Except to the extent that such action may constitute an infringement under subsections (3) and (4) of section 111, it shall not infringe hereunder for a person to save seed produced by him from seed obtained, or descended from seed obtained, by authority of the owner of the variety for seeding purposes and use such saved seed in the production of a crop for use on his farm, or for sale as provided in this section: *Provided*, That without regard to the provisions of section 111(3) it shall not infringe any right hereunder for a person, whose primary farming occupation is the growing of crops for sale for other than reproductive purposes, to sell such saved seed to other persons so engaged, for reproductive purposes, provided such sale is in compliance with such State laws governing the sale of seed as may be applicable. A bona fide sale for other than reproductive purposes, made in channels usual for such other purposes, of seed produced on a farm either from seed obtained by authority of the owner for seeding purposes or from seed produced by descent on such farm from seed obtained by authority of the owner for seeding purposes or from seed produced by descent on such farm from seed obtained by authority of the owner for seeding purposes shall not constitute an infringement. A purchaser who diverts seed from such channels to seeding purposes shall be deemed to have notice under section 127 that his actions constitute an infringement.

Sec. 114. Research Exemption.

The use and reproduction of a protected variety for plant breeding or other bona fide research shall not constitute an infringement of the protection provided under this Act.

Sec. 115. Intermediary Exemption.

Transportation or delivery by a carrier in the ordinary course of its business as a carrier, or advertising by a person in the advertising business in the ordinary course of that business, shall not constitute an infringement of the protection provided under this Act.

Chapter 12.—REMEDIES FOR INFRINGEMENT OF PLANT VARIETY PROTECTION, AND OTHER ACTIONS

Sec. 121. Remedy for Infringement of Plant Variety Protection.

An owner shall have remedy by civil action for infringement of his plant variety protection under section 111. If a variety is sold under the name of a variety shown in a certificate, there is a prima facie presumption that it is the same variety.

Sec. 122. Presumption of Validity; Defenses.

(a) Certificates of plant variety protection shall be presumed valid. The burden of establishing invalidity of a plant variety protection shall rest on the party asserting invalidity.

(b) The following shall be defenses in any action charging infringement and shall be pleaded: (1) noninfringement, absence of liability for infringement, or unenforceability; (2) invalidity of the plant variety protection in suit on any ground specified in section 42 of this title as a condition for protectability; (3) invalidity of the plant variety protection in suit for failure to comply with any requirement of section 52; (4) that the asserted infringement was performed under an existing certificate adverse to that asserted and prior to notice of the infringement; and (5) any other fact or act made a defense by this Act.

Sec. 123. Injunction.

The several courts having jurisdiction of cases under this title may grant injunctions in accordance with the principles of equity to prevent the violation of any right hereunder on such terms as the court deems reasonable.

Sec. 124. Damages.

(a) Upon finding an infringement the court shall award damages adequate to compensate for the infringement but in no event less than a reasonable royalty for the use made of the variety by the infringer, together with interest and costs as fixed by the court.

(b) When the damages are not determined by the jury, the court shall determine them. In either event the court may increase the damages up to three times the amount determined.

(c) The court may receive expert testimony as an aid to the determination of damages or of what royalty would be reasonable under the circumstances.

(d) As to infringement prior to, or resulting from a planting prior to, issuance of a certificate for the infringed variety, a court finding the infringer to have established innocent intentions, shall have discretion as to awarding damages.

Sec. 125. Attorney Fees.

The court in exceptional cases may award reasonable attorney fees to the prevailing party.

Sec. 126. Time Limitation on Damages.

(a) No recovery shall be had for that part of any infringement committed more than six years (or known to the owner more than one year) prior to the filing of the complaint or counterclaim for infringement in the action.

(b) In the case of claims against the United States Government for unauthorized use of a protected variety, the period between the date of receipt of written claim for compensation by the department or agency of the Government having authority to settle such claim, and the date of mailing by the Government of a notice to the claimant that his claim has been denied shall not be counted as part of the period referred to in the preceding paragraph.

Sec. 127. Limitation of Damages; Marking and Notice.

Owners may give notice to the public by physically associating with or affixing to the container of seed of a novel variety or by fixing to the novel variety, a label containing the words "Propagation Prohibited" and after the certificate issues, such additional words as "U.S. Protected Variety". In the event the novel variety is distributed by authorization of the owner and is received by the infringer without such marking, no damages shall be recovered against such infringer by the owner in any action for infringement, unless the infringer has actual notice or knowledge that propagation is prohibited or that the variety is a protected variety, in which event damages may be recovered only for infringement occurring after such notice. As to both damages and injunction, a court shall have discretion to be lenient as to disposal of materials acquired in good faith by acts prior to such notice.

Sec. 128. False Marking; Cease and Desist Orders.

(a) Each of the following acts, if performed in connection with the sale, offering for sale, or advertising of sexually reproducible plant material, is prohibited, and the Secretary may, if he determines after an opportunity for hearing that the act is being so performed, issue an order to cease and desist, said order being binding unless appealed under section 71:

(1) Use of the words "U.S. Protected Variety" or any word or number importing that the material is a variety protected under certicate, when it is not.

(2) Use of any wording importing that the material is a variety of which an application for plant variety protection is pending, when it is not.

(3) Use of the phrase "propagation prohibited" or similar phrase without reasonable basis, a statement of this basis being promptly filed with the Secretary if the phrase is used beyond testing and no application has been filed. Any reasonable basis expires one year after the first sale of the variety except as justified thereafter by a pending application or a certificate still in force.

(b) Anyone convicted of violating a binding cease and desist order, or of performing any act prohibited in subsection (a) of this section for the purpose of deceiving the public, shall be fined not more than $10,000 and not less than $500.

(c) Anyone whose business is damaged or is likely to be damaged by an act prohibited in subsection (a) of this section, or is subjected to competition in connection with which such act is performed, may have remedy by civil action.

Sec. 129. Nonresident Proprietors; Service and Notice.

Every owner not residing in the United States may file in the Plant Variety Protection Office a written designation stating the name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the plant variety protection or rights thereunder. If the person designated cannot be found at the address given in the last designation, or if no person has been designated, the United States District Court for the District of Columbia shall have jurisdiction and summons shall be served by publication or otherwise as the court directs. The court shall have the same jurisdiction to take any action respecting the plant variety protection, or rights thereunder that it would have if the owner were personally within the jurisdiction of the court.

Chapter 13.—INTENT AND SEVERABILITY

Sec. 131. Intent.

It is the intent of Congress to provide the indicated protection for new varieties by exercise of any constitutional power needed for that end, so as to afford adequate encouragement for research, and for marketing when appropriate, to yield for the public the benefits of new varieties. Constitutional clauses 3 and 8 of article I, section 8 are both relied upon.

Sec. 132. Severability.

If this Act is held unconstitutional as to some provisions or circumstances, it shall remain in force as to the remainder and other circumstances.

Chapter 14.—TEMPORARY PROVISION AND RELATED ENACTMENTS; EXEMPTED PLANTS; MISCELLANEOUS

Sec. 141. Effective Date.

This Act shall take effect upon enactment. Applications may be filed with the Secretary and held by him until the Office of Plant Variety Protection is organized and in operation.

Sec. 142. Amendment of Federal Seed Act.

The Federal Seed Act (53 Stat. 1275) is amended as follows:

(a) By adding at the end thereof:

"TITLE V—SALE OF UNCERTIFIED SEED OF PROTECTED VARIETY

"Section 501.

"(a) It shall be unlawful in the United States or in interstate or foreign commerce to sell by variety name seed not certified by an official seed certifying agency when it is a variety for which a certificate of plant variety protection under the Plant Variety Protection Act specifies sale only as a class of certified seed: Provided, That seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owner of the variety."

(b) By adding at the end of section 102 the following wording: "Seed a variety for which a certificate of plant variety protection under the Plant Variety Protection Act specifies sale only as a class of certified seed shall be certified only when

"(1) the basic seed from which the variety was produced was furnished by authority of the owner of the variety if the certification is made during the term of protection, and

"(2) it conforms to the number of generations designated by the certificate, if the certificate contains such a designation.".

Sec. 143. Amendment of Judicial Code.

Title 28 of the United States Code, entitled Judicial Code and Judiciary, is amended as follows:

(a) After section 1544 add:

Sec. 1545. Decision of the Plant Variety Protection Office.

"The Court of Customs and Patent Appeals shall have nonexclusive jurisdiction of appeals under section 71 of the Plant Variety Protection Act."

(b) In section 1338 after "Patents" in the heading, after "patents" and after "patent" (both occurrences) insert ", plant variety protection".

(c) After section 2351 add:

2353. The Court of appeals has nonexclusive jurisdiction to hear appeals under section 71 of the Plant Variety Protection Act.

Sec. 144. Exempted Plants.

The provisions of this Act shall not apply to the seeds, plants, or transplants of okra, celery, peppers, tomatoes, carrots, and cucumbers.

Sec. 144. Sec. 145. Short Title.

This Act may be cited as the "Plant Variety Protection Act.".

The amendments of the Committee on the Judiciary are as follows:

On page 53, line 16, after the word "costs", strike out "or" and insert "of"; on page 55, line 18, after the word "flax," strike out "carrot,"; on page 58, line 3, strike out "(3) Another is entitled to an earlier date of determina-"; on page 60, line 5, after the word "with", strike out "regulation" and insert "regulations"; on page 62, line 8, after the word "by", strike out "citizens" and insert "nationals"; on page 85, line 3, after the word "the", strike out "remainder" and insert "remaining provisions"; and on page 87, at the beginning of line 6, change the section number from "144" to "145".

Mr. MILLER. Mr. President, I ask the Senate to approve S. 3070, the Plant Variety Protection Act, which I introduced on October 23, 1969. I wish to extend my appreciation to Senator JORDAN of North Carolina, the chairman of the Subcommittee on Agricultural Research and General Legislation, and Senator ELLENDER, chairman of the Senate Agriculture Committee, and to Senator EASTLAND, chairman of the Senate Judiciary Committee, for their cooperation in getting the committee work accomplished without which this bill could not have reached the calendar.

All should be interested in the growth and well-being of agriculture, the world's largest industry. One of the smallest but most vital raw materials for this industry is seed. American farmers spend approximately three-quarters of a billion dollars for seed each year. The Plant Variety Protection Act is designed to encourage the development of new varieties of sexually reproduced plants by providing protection for those who breed and develop them, thus promoting the growth and well-being of agriculture.

Breeding programs, whether public or private, require substantial investments in research, facilities, land, and labor. A private company cannot afford to make such investments unless it has the opportunity to make a profit. Heavy commercial investments in research have already produced new varieties of corn and sorghum hybrids. One of the most well-known discoveries of recent years is high lysine corn, the inbred lines of which would be covered by this bill. Hybrids have their own built-in protection for their developer, since he can control the inbred or parental stocks and the hybrid cannot be reproduced from hybrid seed. Therefore, hybrids are excluded from the bill.

The constitutional authority for providing plant variety protection is found in the authors and inventors clause of the U.S. Constitution—article I, section 8, clause 8—which gives Congress the power to secure "for limited times to authors and inventors the exclusive right to their respective writings and discoveries"; and also in the commerce clause—article I, section 8, clause 3. The Constitution clearly intended recognition of inventors and discoverers for their work in all segments of industry, including agriculture. Therefore, it is entirely proper to extend some form of rights to plant breeders of sexually reproduced plants.

Mr. President, this legislation will serve as a stimulus for investment of private funds in variety research and development of seed. Agricultural producers will benefit from the new and improved varieties providing larger yields, greater disease and insect resistance, increased protein, oil and fiber strength, and other crop improvements. The ultimate consumer will also benefit from the greater efficiency of crop production.

New and improved varieties of high-quality seed must be developed to keep our farmers competitive, both at home and abroad. American agriculture constantly needs new crop varieties, because the hazards from disease and insect pests are constantly changing. For example, some plants which are immune to certain diseases, such as rusts, are not immune to new strains of those diseases. We cannot afford to stand still. Passage of this bill will help us move forward.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3070

An act to encourage the development of novel varieties of sexually reproduced plants and to make them available to the public, providing protection available to those who breed, develop, or discover them, and thereby promoting progress in agriculture in the public interest

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

INDEX

Section
TITLE I—Plant Variety Protection Office.. 1
TITLE II—Protectability of Plant Varieties and Certificates of Protection 41
TITLE III—Plant Variety Protection and Rights 101

TITLE I—PLANT VARIETY PROTECTION OFFICE

Chapter *Section*
1. Organization and Publications...... 1
2. Legal Provisions as to the Plant Variety Protection Office.......... 21
3. Plant Variety Protection Fees......... 31

Chapter 1.—ORGANIZATION AND PUBLICATIONS

Section 1. Establishment.

There is hereby established in the Department of Agriculture a bureau to be known as the Plant Variety Protection Office, which shall have the functions set forth in his Act.

Sec. 2. Seal.

The Plant Variety Protection Office shall have a seal with which documents and certificates evidencing plant variety protection shall be authenticated.

Sec. 3. Organization.

The organization of the Plant Variety Protection Office shall, except as provided herein, be determined by the Secretary of Agriculture (hereinafter called the Secretary). The office shall devote itself substantially exclusively to the administration of this Act.

Sec. 4. Restrictions on Employees as to Interest in Plant Variety Protection.

Employees of the Plant Variety Protection Office shall be ineligible during the periods of their employment, to apply for plant variety protection and to acquire directly or indirectly, except by inheritance or bequest, any right or interest in any matters before that office. This section shall not apply to members of the Plant Variety Protection Board who are not otherwise employees of the Plant Variety Protection Office.

Sec. 5. Bond of Employees.

Such employees as the Secretary designates, before enthering upon their duties, shall severally give bond, with sureties, in sums prescribed by the Secretary, conditioned for the faithful discharge of their respective duties and that they shall render to the proper officers of the Treasury a true account of all money received by virtue of their offices.

Sec. 6. Regulations.

The Secretary may establish regulations, not inconsistent with law, for the conduct of proceedings in the Plant Variety Protection Office after consultations with the Plant Variety Protection Board.

Sec. 7. Plant Variety Protection Board.

(a) APPOINTMENT.—The Secretary shall appoint a Plant Variety Protection Board. The Board shall consist of individuals who are experts in various areas of varietal development covered by this Act. Membership of the Board shall include farmer representation and shall be drawn approximately equally from the private or seed industry sector and from the sector of government or the public. The Secretary or his designee shall act as chairman of the Board without voting rights except in the case of ties.

(b) FUNCTIONS OF BOARD.—The functions of the Plant Variety Protection Board shall include:

(1) Advising the Secretary concerning the adoption of Rules and Regulations to facilitate the proper administration of this Act;

(2) Making advisory decisions on all appeals from the examiner. The Board shall determine whether to act as a full Board or by panels it selects; and whether to review advisory decisions made by a panel. For service on such appeals, the Board may select, as temporary members, expects in the area to which the particular appeal relates; and

(3) Advising the Secretary on all questions under section 44.

(c) COMPENSATION OF BOARD.—The members of the Plant Variety Protection Board shall serve without compensation except for standard government reimbursable expenses.

Sec. 8. Library.

The Secretary shall maintain a library of scientific and other works and periodicals, both foreign and domestic, in the Plant Variety Protection Office to aid the officers in the discharge of their duties.

Sec. 9. Register of Protected Plant Varieties.

The Secretary shall maintain a register of published specifications of United States protected plant varieties and a file of such other scientific and technical information as may be necessary or practicable.

Sec. 10. Publications.

(a) The Secretary may publish, or cause to be published, in such format as he shall determine to be suitable, the following:

(1) The specifications for plant variety protection including drawings and photographs.

(2) The Official Journal of the Plant Variety Protection Office, including annual indices.

(3) Pamphlet copies of the plant variety protection laws and rules of practice and circulars or other publications relating to the business of the Office.

(b) The Plant Variety Protection Office may print the heading or the drawings or photographs for protected plant varieties for the purpose of photolithography and may provide suitable copy for any lithography to appear on the same page.

(c) The Secretary may (1) establish public facilities for the searching of plant variety protection records and materials, and (2) from time to time, as through an information service, disseminate to the public those portions of the technological and other public information available to or within the Plant Variety Protection Office to encourage innovation and promote the progress of the useful arts.

(d) The Secretary may exchange any of the publications specified for publications desirable for the use of the Plant Variety Protection Office. The Secretary may exchange copies of specifications, drawings, and photographs of United States protected plant varieties for copies of specifications, drawings, and photographs of applications and protected plant varieties of foreign countries.

Sec. 11. Copies for Public Libraries.

The Secretary may supply printed copies of specifications, drawings, and photographs of protected plant varieties to public libraries in the United States which shall maintain such copies for the use of the public.

Chapter 2.—LEGAL PROVISIONS AS TO THE PLANT VARIETY PROTECTION OFFICE

Sec. 21. Day for Taking Action Falling on Saturday, Sunday, or Holiday.

When the day, or the last day, for taking any action or paying any fee in the United States Plant Variety Protection Office falls on Saturday, Sunday, a holiday within the District of Columbia, or on any other day the Plant Variety Protection Office is closed for the receipt of papers, the action may be taken or the fee paid, on the next succeeding business day.

Sec. 22. Form of Papers Filed.

The Secretary may by regulations prescribe the form of papers to be filed in the Plant Variety Protection Office.

Sec. 23. Testimony in Plant Variety Protection Office Cases.

The Secretary may establish regulations for taking affidavits, depositions, and other evidence required in cases before the Plant Variety Protection Office. Any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where he resides, may take such affidavits and depositions, and swear the witnesses. If any person acts as a hearing officer by authority of the Secretary, he shall have like power.

Sec. 24. Subpenas, Witnesses.

(a) The clerk of any United States court for the district wherein testimony is to be taken in accordance with regulations established by the Secretary for use in any contested case in the Plant Variety Protection Office shall, upon the application of any party thereof, issue a subpoena for any witness residing or being within such district or within one hundred miles of the stated place in such district, commanding him to appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpoena. The provisions of the Federal Rules of Civil Procedure relating to the attendance of witnesses and the production of documents and things shall apply to contested cases in the Plant Variety Protection Office insofar as consistent with such regulations.

(b) Every witness subpoenaed or testifying shall be allowed the fees and traveling expenses allowed to witnesses attending the United States district courts.

(c) A judge of a court whose clerk issued a subpoena may enforce obedience to the process or punish disobedience as in other like cases, on proof that a witness, served with such subpoena, neglected or refused to appear or to testify. No witness shall be deemed guilty of contempt for disobeying such subpoena unless his fees and traveling expenses in going to, and returning from, one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpoena; nor for refusing to disclose any secret matter except upon appropriate order of the court which issued the subpoena or of the Secretary.

Sec. 25. Effect of Defective Execution.

Any document to be filed in the Plant Variety Protection Office and which is required by any law or regulation to be executed in a specified manner may be provisionally accepted by the Secretary despite a defective execution, provided a properly executed document is submitted within such time as may be prescribed.

Sec. 26. Regulations for Practice Before the Office.

The Secretary shall prescribe regulations governing the admission to practice and conduct of persons representing applicants or other parties before the Plant Variety Protection Office. The Secretary may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before the Office of Plant Variety Protection any person shown to be incompetent or disreputable or guilty of gross misconduct.

Sec. 27. Unauthorized Practice.

Anyone who in the United States engages in direct or indirect practice before the Office of Plant Variety Protection while suspended or excluded under section 26, or without being admitted to practice before the Office, shall be liable in a civil action for the return of all money received, and for compensation for damage done by such person and also may be enjoined from such practice. However, there shall be no liability for damage if such person establishes that the work was done competently and without negligence. This section does not apply to anyone who, without a claim of self-sufficiency, works under the supervision of another who stands admitted and is the responsible party; nor to anyone who establishes that he acted only on behalf of any employer by whom he was regularly employed.

Chapter 3.—PLANT VARIETY PROTECTION FEES

Sec. 31. Plant Variety Protection Fees; Appropriations.

The Secretary shall, under such regulations as he may prescribe, charge and collect reasonable fees for services performed under this Act. The fees authorized by this section shall be established to substantially cover the costs of administration of this Act. Such fees shall be deposited into a fund to be available, without fiscal year limitation, for the administration of this Act. The initial capital of the fund shall consist of appropriations, which are hereby authorized to

XUM

be made. Until such time as the Secretary prescribes fees as provided by this section, a fee of $50 shall be charged for filing each application, subject to such adjustment as may be appropriate after fees are prescribed by the Secretary hereunder.

Sec. 32. Payment of Plant Variety Protection Fees; Return of Excess Amounts.

All fees shall be paid to the Secretary, and the Secretary may refund any sum paid by mistake or in excess of the fee required.

TITLE II—PROTECTABILITY OF PLANT VARIETIES AND CERTIFICATES OF PROTECTION

Chapter *Section*
4. Protection of Plant Varieties 41
5. Applications; Form, Who May File, Relating Back, Confidentially 51
6. Examination: Response Time, Initial Appeals 61
7. Appeals to Courts and Other Review.. 71
8. Certificates of Plant Variety Protection 81
9. Reexamination After Issue, and Contested Proceedings 91

Chapter 4.—PROTECTABILITY OF PLANT VARIETIES

Sec. 41. Definitions and Rules of Construction.

The definitions and rules of construction set forth in this section apply for the purposes of this Act.

(a) The term "novel variety" may be represented by, without limitation, seed, transplants, and plants, and is satisfied if there is:

(1) Distinctness in the sense that the variety clearly differs by one or more identifiable morphological, physiological or other characteristics (which may include those evidenced by processing or product characteristics, for example, milling and baking characteristics in the case of wheat) as to which a difference in genealogy may contribute evidence, from all prior varieties of public knowledge at the date of determination within the provisions of section 42; and

(2) Uniformity in the sense that any variations are describable, predictable and commercially acceptable; and

(3) Stability in the sense that the variety, when sexually reproduced or reconstituted, will remain unchanged with regard to its essential and distinctive characteristics with a reasonable degree of reliability commensurate with that of varieties of the same category in which the same breeding method is employed.

(b) The terms "United States" and "this country" mean the United States of America, its territories and possessions, and the Commonwealth of Puerto Rico.

(c) The term "kind" means one or more related species or subspecies singly or collectively known by one common name, for example, soybean, flax, or radish.

(d) The term "date of determination" means the date when there has been at least tentative determination that the variety has been sexually reproduced with recognized characteristics, whether or not the novelty of those characteristics has been determined.

(e) The term "breeder" shall mean the person who—

(1) directs the final breeding creating the novel variety, or

(2) discovers the novel variety, and

makes the tentative determination described in subsection (d). Where such actions are conducted by an agent on behalf of his principal, the principal, rather than the agent, shall be considered the breeder. The terms "breed", "develop", "originate", and "discover", and derivatives thereof shall each include the other.

(f) The term "sexually reproduced" shall include any production of a variety by seed.

(g) The term "basic seed" means the seed planted to produce certified or commercial seed.

(h) The term "testing" means testing or experimental use of a variety before any sale thereof. Sale for other than seed purposes of seed or other plant material produced as the result of testing shall not constitute a sale for the purpose of the preceding sentence or for the purpose of the following subsection.

(i) The term "public variety" means a variety sold or used in this country, or existing in and publicly known in this country; but use for the purpose of testing, or sale or use as individual plants not known to be sexually reproducible, shall not make the variety a public variety.

(j) A variety described in a publication as specified in section 42(a)(1)(B) is "effectively available to workers in this country" if a source from which it can be purchased is indicated in such publication or readily determinable or if such publication teaches how to produce the variety from source-material effectively available to workers in this country.

Sec. 42. Right to Plant Variety Protection; Plant Varieties Protectable.

(a) The breeder of any novel variety of sexually reproduced plant (other than fungi, bacteria, or first generation hybrids) who has so reproduced the variety, or his successor in interest, shall be entitled to plant variety protection therefor, subject to the conditions and requirements of this title unless one of the following bars exists:

(1) Before the date of determination thereof by the breeder, or more than one year before the effective filing date of the application therefor, the variety was (A) a public variety in this country, or (B) effectively available to workers in this country and adequately describe by a publication reasonably deemed a part of the public technical knowledge in ths country which description must include a disclosure of the principal characteristics by which the variety is distinguished.

(2) An application for protection of the variety based on the same breeder's acts, was filed in a foreign country by the owner or his privies more than one year before the effective filing date of the application filed in the United States.

(3) Another is entitled to an earlier date of determination for the same variety and such other (A) has a certificate of plant variety protection hereunder or (B) has been engaged in a continuing program of development and testing to commercialization, or (C) has within six months after such earlier date of determination adequately described the variety by a publication reasonably deemed a part of the public technical knowledge in this country which description must include a disclosure of the principal characteristics by which the variety is distinguished.

(b) The Secretary may, by regulation, extend for a reasonable period of time the one year time period provided in subsection (a) for filing applications, and may in that event provide for at least commensurate reduction of the term of protection.

Sec. 43. Reciprocity Limits.

Protection under the Act may, by regulation, be limited to nationals of the United States, except where this limitation would violate a treaty and except that nationals of a foreign state in which they are domiciled shall be entitled to so much of the protection here afforded as is afforded by said foreign state to nationals of the United States for the same genus and species.

Sec. 44. Public Interest In Wide Usage.

The Secretary may declare a protected variety open to use on a basis of equitable remuneration to the owner, not less than a reasonable royalty, when he determines that such declaration is necessary in order to insure an adequate supply of fiber, food, or feed in this country and that the owner is unwilling or unable to supply the public needs for the variety at a price which may reasonably be deemed fair. Such declaration may be, with or without limitation, with or without designation of what the remuneration is to be; and shall be subject to review as under section 71 or 72 (any finding that the price is not reasonable being reviewable); and shall remain in effect not more than two years. In the event litigation is required to collect such remuneration, a higher rate may be allowed by the court.

Chapter 5.—APPLICATIONS: FORM, WHO MAY FILE, RELATING BACK, CONFIDENTIALITY

Sec. 51. Application for Recognition of Plant Variety Rights.

(a) An application for a certificate of Plant Variety Protection may be filed by the owner of the variety sought to be protected. The application shall be made in writing to the Secretary, shall be signed by or on behalf of the applicant, and shall be accompanied by the prescribed fee.

(b) An error as to the naming of the breeder, without deceptive intent, may be corrected at any time, in accordance with regulations established by the Secretary.

Sec. 52. Content of Application.

An application for a certificate recognizing plant variety rights shall contain:

(1) The name of the variety except that a temporary designation will suffice until the certificate is to be issued.

(2) A description of the variety setting forth its novelty and a description of the genealogy and breeding procedure, when known. The Secretary may require amplification, including the submission of adequate photographs or drawings or plant specimens, if the description is not adequate or as complete as is reasonably possible, and submission of records or proof of ownership or of allegations made in the application. An applicant may add to or correct the description at any time, before the certificate is issued, upon a showing acceptable to the Secretary that the revised description is retroactively accurate. Courts shall protect others from any injustice which would result. The Secretary may accept records of the breeder and of any official seed certifying agency in this country as evidence of stability where applicable.

(3) A declaration that a viable sample of basic seed necessary for propagation of the variety will be deposited and replenished periodically in a public repository in accordance with regulations to be established hereunder. This declaration may be added by amendment.

(4) A statement of the basis of applicant's ownership.

Sec. 53. Joint Breeders.

(a) When two or more persons are the breeders, one (or his successor) may apply, naming the others.

(b) The Secretary, after such notice as he may prescribe, may issue a certificate of plant variety protection to the applicant and such of the other breeders (or their successors in interest) as may have subsequently joined in the application.

Sec. 54. Death or Incapacity of Breeder.

Legal representatives of deceased breeders and of those under legal incapacity may make application for plant variety protection upon compliance with the requirements and on the same terms and conditions applicable to the breeder or his successor in interest.

Sec. 55 Benefit of Earlier Filing Date.

(a) An application for a certificate of plant variety protection filed in this country based on the same variety, and on rights derived from the same breeder, on which there

XUM

has previously been filed an application for plant variety protection in a foreign country which affords similiar privileges in the case of applications filed in the United States by nationals of the United States, shall have the same effect as the same application would have if filed in the United States on the date on which the application for plant variety protection for the same variety was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed. No application shall be entitled to a right of priority under this section, unless the applicant designates the foreign application in his application or by amendment thereto and, if required by the Secretary, furnishes such copy, translation or both, as the Secretary may specify.

(b) An application for a certificate of plant variety protection for the same variety as was the subject of an application previously filed in the United States by or on behalf of the same person, or by his predecessor in title, shall have the same effect as to such variety as though filed on the date of the prior application if filed before the issuance of the certificate or other termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

(c) A later application shall not by itself establish that a characteristic newly described was in the variety at the time of the earlier application.

Sec. 56. Confidential Status of Application.

Applications for plant variety protection and their contents shall be kept in confidence by the Plant Variety Protection Office, by the Board, and by the offices in the Department of Agriculture to which access may be given under regulations. No information concerning the same shall be given without the authority of the owner, unless necessary under special circumstances as may be determined by the Secretary, except that the Secretary may publish the variety names designated in applications, stating the kind to which each applies.

Sec. 57. Publication.

The Secretary may establish regulations for the publication of any pending application when publication is requested by the owner.

Chapter 6.—EXAMINATION, RESPONSE TIME, INITIAL APPEALS

Sec. 61. Examination of Application.

The Secretary shall cause an examination to be made of the application and if on such examination it is determined that the applicant is entitled to plant variety protection under the law, the Secretary shall issue a notice of allowance of plant variety protection therefor as hereinafter provided.

Sec. 62. Notice of Refusal; Reconsideration.

(a) Whenever an application is refused, or any objection or requirement made by the examiner, the Secretary shall notify the applicant thereof, stating the reasons therefor, together with such information and references as may be useful in judging the propriety of continuing the prosecution of the application; and if after receiving such notice the applicant requests reconsideration, with or without amendment, the application shall be reconsidered.

(b) For taking appropriate action after the mailing to him of an action other than allowance, an applicant shall be allowed six months, or such other time as the Secretary in exceptional circumstances shall set in the refusal, or such time as he may allow as an extension. Without such extension, action may be taken up to three months late by paying an additional fee to be prescribed by the Secretary.

Sec. 63. Initial Appeal.

When an application for plant variety protection has been refused by the Plant Variety Protection Office, the applicant may appeal to the Secretary. The Secretary shall seek the advice of the Plant Variety Protection Board on all appeals, before deciding the appeal.

Chapter 7.—APPEALS TO COURTS AND OTHER REVIEW

Sec. 71. Appeals.

From the decisions made under sections 44, 63, 91, 92, and 128 appeal may, within sixty days or such further time as the Secretary allows, be taken under the Federal Rules of Appellate Procedure. The Court of Customs and Patent Appeals and United States Courts of Appeals shall have jurisdiction, with venue in the case of the latter as stated in 28 U.S.C. 2343.

Sec. 72. Civil Action Against Secretary.

An applicant dissatisfied with a decision under section 63 or 91 of this title, may, as an alternative to appeal, have remedy by civil action against the Secretary in the United States District Court for the District of Columbia. Such action shall be commenced within sixty days after such decision or within such further time as the Secretary allows. The court may, in the case of review of a decision by the Secretary refusing plant variety protection, adjudge that such applicant is entitled to receive a certificate of plant variety protection for his variety as specified in his application as the facts of the case may appear, on compliance with the requirements of this Act.

Sec. 73. Appeal or Civil Action in Contested Cases.

(a) A party to a proceeding under section 92 of this title, dissatisfied with the decision, may take an appeal under section 71 or may have remedy by civil action if commenced within sixty days after such decision or within such further time as the Secretary allows. A party contemplating appeal as provided herein shall notify all adverse parties of his intention and any such adverse party, not the Secretary, shall have the right, by notice served within ten days of the notice to him, to elect that any review shall be by civil action. In such suits the record in the Plant Variety Protection Office shall be admitted on motion of any party upon the terms and conditions as to costs, expenses, and the further cross-examination of witnesses, as the court imposes, without prejudice to the right of the parties to take further testimony. The testimony and exhibits of the record in the Plant Variety Protection Office when admitted shall have the same effect as if originally taken and produced in the suit.

(b) Such suit may be instituted against the party in interest as shown by the record of the Plant Variety Protection Office at the time of the decision complained of, but any party in interest may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same State, or an adverse party residing in a foreign country, the United State District Court for the District of Columbia, or any United States district court to which it may transfer the case, shall have jurisdiction and may issue summons against the adverse parties directed to the marshal of any district in which any adverse party resides. Summons against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs. The Secretary shall not be made a party but he shall have the right to intervene. Judgment of the court in favor of the right of an applicant to plant variety protection shall authorize the Secretary to issue a certificate of plant variety protection on the filing in the Plant Variety Protection Office of a certified copy of the judgment and on compliance with the requirements of this Act.

Chapter 8.—CERTIFICATES OF PLANT VARIETY PROTECTION

Sec. 81. Plant Variety Protection.

(a) If it appears that a certificate of plant variety protection should be issued on an application, a written notice of allowance shall be given or mailed to the owner. The notice shall specify the sum, constituting the issue fee, which shall be paid within one month thereafter.

(b) Upon timely payment of this sum, and provided that deposit of seed has been made in accordance with section 52(3), the certificate of plant variety protection shall issue.

(c) If any payment required by this section is not timely made, but is submitted with an additional fee prescribed by the Secretary within nine months after the due date or within such further time as the Secretary may allow, it shall be accepted.

Sec. 82. How Issued.

A certificate of plant variety protection shall be issued in the name of the United States of America under the seal of the Plant Variety Protection Office, and shall be signed by the Secretary or have his signature placed thereon, and shall be recorded in the Plant Variety Protection Office.

Sec. 83. Contents and term of Plant Variety Protection.

(a) Every certificate of plant variety protection shall certify that the breeder (or his successor in interest) his heirs or assignees, has the right, during the term of the plant variety protection, to exclude others from selling the variety, or offering it for sale, or reproducing it, or importing it, or exporting it, or using it in producing (as distinguished from developing) a hybrid or different variety therefrom, to the extent provided by this Act. If the owner so elects, the certificate shall also specify that in the United States seed of the variety shall be sold by variety name only as a class of certified seed and, if specified, shall also conform to the number of generations designated by the owner. Any rights, or all rights except those elected under the preceding sentence, may be waived; and the certificate shall conform to such waiver. The Secretary may at his discretion permit such election or waiver to be made after certificating and amend the certificate accordingly, without retroactive effect.

(b) The term of plant variety protection shall expire seventeen years from the date of issue of the certificate in the United States. If the certificate is not issued within three years from the effective filing date, the Secretary may shorten the term by the amount of delay in the prosecution of the application attributed by the Secretary to the applicant.

(c) The term of plant variety protection shall also expire if the owner fails to comply with regulations, in force at the time of certificating, relating to replenishing seed in a public repository: *Provided, however,* That this expiration shall not occur unless notice is mailed to the last owner recorded as provided in section 101(d) and he fails, within the time allowed thereafter, not less than three months, to comply with said regulations, paying an additional fee to be prescribed by the Secretary.

Sec. 84. Certificate of Correction of Plant Variety Protection Office Mistake.

Whenever a mistake in a certificate of plant variety protection, incurred through the fault of the Plant Variety Protection Office, is clearly disclosed by the records of the Office, the Secretary may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of plant variety protection. A copy thereof shall be attached to each copy of the published specifications or certificate of plant variety protection and such certificate of correction shall be consid-

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ered as part of the original certificate of plant variety protection. Every such certificate of plant variety protection shall have the same effect as if the same had been originally issued in such corrected form. The Secretary may issue a corrected certificate of plant variety protection without charge in lieu of and with like effect as a certificate of correction.

Sec. 85. Certificate of Correction of Applicant's Mistake.

Whenever a mistake of a clerical or typo graphical nature, or of minor character, or in the description of the variety, which was not the fault of the Plant Variety Protection Office, appears in a certificate of plant variety protection and a showing has been made that such mistake occurred in good faith, the Secretary may, upon payment of a required fee, issue a certificate of correction in the manner and with attachment of copies as in section 84, if the correction unquestionably could have been made before the certificate issued. Such certificate of plant variety protection shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form.

An error as to the naming of a breeder in the application, without deceptive intent, shall not affect validity of plant variety protection and may be corrected at any time by the Secretary in accordance with regulations established by him or upon order of a federal court before which the matter is called in question. Upon such correction the Secretary shall issue a certificate accordingly. Such correction shall not deprive any person of any rights he otherwise would have had.

Chapter 9.—REEXAMINATION AFTER ISSUE, AND CONTESTED PROCEEDINGS

Sec. 91. Reexamination After Issue.

(a) Any person may, within five years after the issuance of a certificate of plant variety protection, notify the Secretary in writing of facts which may have a bearing on the protectability of the variety, and the Secretary may cause such plant variety protection to be reexamined in the light thereof.

(b) Reexamination of plant variety protection under this section and appeals shall be pursuant to the same procedures and with the same rights as for original examinations. Abandonment of the procedure while subject to a ruling against the retention of the certificate shall result in cancellation of the plant variety certificate thereon and notice thereof shall be endorsed on copies of the specification of the protected plant variety thereafter distributed by the Plant Variety Protection Office.

(c) If a person acting under subsection (a) makes a prima facie showing of facts needing proof, the Secretary may direct that the reexamination include such interparty proceedings as he shall establish.

Sec. 92. Priority Contest.

(a) If the Secretary determines that two applications of different applicants may be based on the same variety, he may:

(1) Initiate a priority contest on his own motion whether or not one of the applications may have been certificated; or

(2) Issue a certificate on the application having the earliest effective filing date, with notice to all; or

(3) Issue a certificate naming alternative owners, under a single variety name acceptable to both.

(b) On request of any person when a certificate has been issued naming another as an owner or alternative owner, both having applied for protection on the same variety, the Secretary shall institute a priority contest, except that any person shall have forfeited his right to assert priority for the purpose of obtaining plant variety protection when an adverse certificate has issued if he fails to make the request within one year of the mailing of notice specified in part (2) above or if he fails to make the request within the period for taking action after refusal of his application on the basis of the adverse certificate.

Sec. 93. Effect of Adverse Final Judgment or of Non Action.

(a) A final judgment under section 92 adverse to an application from which no appeal or other review had been or can be taken or had shall constitute cancellation of any certificating on that application, and notice thereof shall be endorsed on copies of the specifications of the protected plant variety thereafter distributed by the Plant Variety Protection Office.

(b) Any person who has not proceeded in accordance with the provision of this chapter shall not be foreclosed or in any way prejudiced with respect to the defense of an infringement suit or affirmative relief under declaratory judgment proceedings.

(c) No person subject to an adverse decision in a proceeding under this chapter shall be foreclosed with respect to asserting comparable grounds in defense of an infringement suit or as a basis for affirmative relief under declaratory judgment proceedings.

Sec. 94. Interfering Plant Variety Protection.

The owner of a certificate of plant variety protection may have relief against another owner of a certificate of the same variety by civil action, and the court may adjudge the question of validity of the respective certificates, or the ownership of the certificate. The provisions of section 73(b) of this title shall apply to actions brought under this section.

TITLE III—PLANT VARIETY PROTECTION AND RIGHTS

Chapter	*Section*
10. Ownership and Assignment	101
11. Infringement of Plant Variety Protection	111
12. Remedies for Infringement of Plant Variety Protection, and Other Actions	121
13. Intent and Severability	131
14. Temporary Provision and Related Enactments; Exempted Plants; Miscellaneous	141

Chapter 10.—OWNERSHIP AND ASSIGNMENT

Sec. 101. Ownership and Assignment.

(a) Subject to the provisions of this title, plant variety protection shall have the attributes of personal property.

(b) Applications for certificates of plant variety protection, or any interest in a variety, shall be assignable by an instrument in writing. The owner may in like manner license or grant and convey an exclusive right to use of the variety in the whole or any specified part of the United States.

(c) A certificate of acknowledgment under the hand and official seal of a person authorized to administer oaths within the United States, or in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, shall be prima facie evidence of the execution of an assignment, grant, license, or conveyance of plant variety protection or application for plant variety protection.

(d) An assignment, grant, conveyance or license shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it, or an acknowledgement thereof by the person giving such encumbrance that there is such encumbrance, is filed for recording in the Plant Variety Protection Office within one month from its date or at least one month prior to the date of such subsequent purchase or mortgage.

Sec. 102. Ownership During Testing.

An owner who, with notice that release is for testing only, releases possession of seed or other sexually reproducible plant material for testing retains ownership with respect thereto; and any diversion from authorized testing, or any unauthorized retention, of such material by anyone who has knowledge that it is under such notice, or who is chargeable with notice, is prohibited, and violates the property rights of the owner. Anyone receiving the material tagged or labeled with the notice is chargeable with the notice. The owner is entitled to remedy and redress in a civil action hereunder. No remedy available by State or local law is hereby excluded. No such notice shall be used, or if used be effective, when the owner has made identical sexually reproducible plant material available to the public, as by sale thereof.

Chapter 11.—INFRINGEMENT OF PLANT VARIETY PROTECTION

Sec. 111. Infringement of Plant Variety Protection.

Except as otherwise provided in this title, it shall be an infringement of the rights of the owner of a novel variety to perform without authority, any of the following acts in the United States, or in commerce which can be regulated by Congress or affecting such commerce, prior to expiration of the right to plant variety protection but after either the issue of the certificate or the distribution of a novel plant variety with the notice under section 127:

(1) sell the novel variety, or offer it or expose it for sale, deliver it, ship it, consign it, exchange it, or solicit an offer to buy it, or any other transfer of title or possession of it;

(2) import the novel variety into, or export it from, the United States:

(3) sexually multiply the novel variety as a step in marketing (or growing purposes) the variety; or

(4) use the novel variety in producing (as distinguished from developing) a hybrid or different variety therefrom; or

(5) use seed which had been marked "propagation prohibited" or progeny thereof to propagate the novel variety; or

(6) dispense the novel variety to another, in a form which can be propagated, without notice as to being a protected variety under which it was received; or

(7) perform any of the foregoing acts even in instances in which the novel variety is multiplied other than sexually except in pursuance of a valid United States plant patent; or

(8) instigate or actively induce performance of any of the foregoing acts.

Sec. 112. Grandfather Clause.

Nothing in this Act shall abridge the right of any person, or his successor in interest, to reproduce or sell a variety developed and produced by such person more than one year prior to the effective filing date of an adverse application for a certificate of plant variety protection.

Sec. 113. Right to Save Seed; Crop Exemption.

Except to the extent that such action may constitute an infringement under subsections (3) and (4) of section 111, it shall not infringe any right hereunder for a person to save seed produced by him from seed obtained, or descended from seed obtained, by authority of the owner of the variety for seeding purposes and use on his farm, or for sale as provided in this section: *Provided*, That without regard to the provisions of section 111(3) it shall not infringe any right hereunder for a person, whose primary farming occupation is the growing of crops for sale for other than reproductive purposes, to sell such saved seed to other persons so engaged, for reproductive purposes, provided such sale is in compliance with such State laws governing the sale of seed as may be applicable. A bona fide sale for other than reproductive purposes, made in channels usual for such other purposes, of seed produced on a farm either from seed obtained by authority of the owner for seeding pur-

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poses or from seed produced by descent on such farm from seed obtained by authority of the owner for seeding purposes shall not constitute an infringement. A purchaser who diverts seed from such channels to seeding purposes shall be deemed to have notice under section 127 that his actions constitute an infringement.

Sec. 114. Research Exemption.

The use and reproduction of a protected variety for plant breeding or other bona fide research shall not constitute an infringement of the protection provided under this Act.

Sec. 115. Intermediary Exemption.

Transportation or delivery by a carrier in the ordinary course of its business as a carier, or advertising by a person in the advertising business in the ordinary course of that business, shall not constitute an infringement of the protection provided under this Act.

Chapter 12.—REMEDIES FOR INFRINGEMENT OF PLANT VARIETY PROTECTION, AND OTHER ACTIONS

Sec. 121. Remedy for Infringement of Plant Variety Protection.

An owner shall have remedy by civil action for infringement of his plant variety protection under section 111. If a variety is sold under the name of a variety shown in a certificate, there is a prima facie presumption that it is the same variety.

Sec. 122. Presumption of Validity; Defenses.

(a) Certificates of plant variety protection shall be presumed valid. The burden of establishing invalidity of a plant variety protection shall rest on the party asserting invalidity.

(b) The following shall be defenses in any action charging infringement and shall be pleaded: (1) noninfringement, absence of liability for infringement, or unenforceability; (2) invalidity of the plant variety protection in suit on any ground specified in section 42 of this title as a condition for protectability; (3) invalidity of the plant variety protection in suit for failure to comply with any requirement of section 52; (4) that the asserted infringement was performed under an existing certificate adverse to that asserted and prior to notice of the infringement; and (5) any other fact or act made a defense by this Act.

Sec. 123. Injunction.

The several courts having jurisdiction of cases under this title may grant injunctions in accordance with the principles of equity to prevent the violation of any right hereunder on such terms as the court deems reasonable.

Sec. 124. Damages.

(a) Upon finding an infringement the court shall award damages adequate to compensate for the infringement but in no event less than a reasonable royalty for the use made of the variety by the infringer, together with interest and costs as fixed by the court.

(b) When the damages are not determined by the jury, the court shall determine them. In either event the court may increase the damages up to three times the amount determined.

(c) The court may receive expert testimony as an aid to the determination of damages or of what royalty would be reasonable under the circumstances.

(d) As to infringement prior to, or resulting from a planting prior to, issuance of a certificate for the infringed variety, a court finding the infringer to have established innocent intentions, shall have discretion as to awarding damages.

Sec. 125. Attorney Fees.

The court in exceptional cases may award reasonable attorney fees to the prevailing party.

Sec. 126. Time Limitation on Damages.

(a) No recovery shall be had for that part of any infringement committed more than six years (or known to the owner more than one year) prior to the filing of the complaint or counterclaim for infringement in the action.

(b) In the case of claims against the United States Government for unauthorized use of a protected variety, the period between the date of receipt of written claim for compensation by the department or agency of the Government having authority to settle such claim, and the date of mailing by the Government of a notice to the claimant that his claim has been denied shall not be counted as part of the period referred to in the preceding paragraph.

Sec. 127. Limitation of Damages; Marking and Notice.

Owners may give notice to the public by physically associating with or affixing to the container of seed of a novel variety or by fixing to the novel variety, a label containing the words "Propagation Prohibited" and after the certificate issues, such additional words as "U.S. Protected Variety". In the event the novel variety is distributed by authorization of the owner and is received by the infringer without such marking, no damages shall be recovered against such infringer by the owner in any action for infringement, unless the infringer has actual notice or knowledge that propagation is prohibited or that the variety is a protected variety, in which event damages may be recovered only for infringement occurring after such notice. As to both damages and injunction, a court shall have discretion to be lenient as to disposal of materials acquired in good faith by acts prior to such notice.

Sec. 128. False Marking; Cease and Desist Orders.

(a) Each of the following acts, if performed in connection with the sale, offering for sale, or advertising of sexually reproducible plant material, is prohibited, and the Secretary may, if he determines after an opportunity for hearing that the act is being so performed, issue an order to cease and desist, said order being binding unless appealed under section 71:

(1) Use of the words "U.S. Protected Variety" or any word or number importing that the material is a variety protected under certificate, when it is not.

(2) Use of any wording importing that the material is a variety for which an application for plant variety protection is pending, when it is not.

(3) Use of the phrase "propagation prohibited" or similar phrase without reasonable basis, a statement of this basis being promptly filed with the Secretary if the phrase is used beyond testing and no application has been filed. Any reasonable basis expires one year after the first sale of the variety except as justified thereafter by a pending application or a certificate still in force.

(b) Anyone convicted of violating a binding cease and desist order, or of performing any act prohibited in subsection (a) of this section for the purpose of deceiving the public, shall be fined not more than $10,000 and not less than $500.

(c) Anyone whose business is damaged or is likely to be damaged by an act prohibited in subsection (a) of this section, or is subjected to competition in connection with which such act is performed, may have remedy by civil action.

Sec. 129. Nonresident Proprietors; Service and Notice.

Every owner not residing in the United States may file in the Plant Variety Protection Office a written designation stating the name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the plant variety protection or rights thereunder. If the person designated cannot be found at the address given in the last designation, or if no person has been designated, the United States District Court for the District of Columbia shall have jurisdiction and summons shall be served by publication or otherwise as the court directs. The court shall have the same jurisdiction to take any action respecting the plant variety protection, or rights thereunder that it would have if the owner were personally within the jurisdiction of the court.

Chapter 13.—INTENT AND SEVERABILITY

Sec. 131. Intent

It is the intent of Congress to provide the indicated protection for new varieties by exercise of any constitutional power needed for that end, so as to afford adequate encouragement for research, and for marketing when appropriate, to yield for the public the benefits of new varieties. Constitutional clauses 3 and 8 of article I, section 8 are both relied upon.

Sec. 132. Severability.

If this Act is held unconstitutional as to some provisions or circumstances, it shall remain in force as to the remaining provisions and other circumstances.

Chapter 14.—TEMPORARY PROVISION AND RELATED ENACTMENTS; EXEMPTED PLANTS; MISCELLANEOUS

Sec. 141. Effective Date.

This Act shall take effect upon enactment. Applications may be filed with the Secretary and held by him until the Office of Plant Variety Protection is organized and in operation.

Sec. 142. Amendment of Federal Seed Act.

The Federal Seed Act (53 Stat. 1275) is amended as follows:

(a) By adding at the end thereof:

"TITLE V—SALE OF UNCERTIFIED SEED OF PROTECTED VARIETY

"Section 501.

"(a) It shall be unlawful in the United States or in interstate or foreign commerce to sell by variety name seed not certified by an official seed certifying agency when it is a variety for which a certificate of plant variety protection under the Plant Variety Protection Act specifies sale only as a class of certified seed: *Provided*, That seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owner of the variety."

(b) By adding at the end of section 102 the following wording: "Seed of a variety for which a certificate of plant variety protection under the Plant Variety Protection Act specifies sale only as a class of certified seed shall be certified only when

"(1) the basic seed from which the variety was produced was furnished by authority of the owner of the variety if the certification is made during the term of protection, and

"(2) it conforms to the number of generations designated by the certificate, if the certificate contains such a designation.".

Sec. 143. Amendment of Judicial Code.

Title 28 of the United States Code, entitled Judicial Code and Judiciary, is amended as follows:

(a) After section 1544 add:

"Sec. 1545. Decision of the Plant Variety Protection Office.

"The Court of Customs and Patent Appeals shall have nonexclusive jurisdiction of appeals under section 71 of the Plant Variety Protection Act."

(b) In section 1338 after "Patents" in the heading, after "patents" and after "patent" (both occurrences) insert ", plant variety protection".

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(c) After section 2351 add:

2353. The Court of appeals has nonexclusive jurisdiction to hear appeals under section 72 of the Plant Variety Protection Act.

Sec. 144. Exempted Plants.

The provisions of this Act shall not apply to the seeds, plants, or transplants of okra, celery, peppers, tomatoes, carrots, and cucumbers.

Sec. 145. Short Title.

This Act may be cited as the "Plant Variety Protection Act".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1246), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

This bill as amended provides for the issuance of "certificates of plant variety protection" assuring the developers of novel varieties of sexually reproduced plants of exclusive rights to sell, reproduce, import, or export such varieties, or use them in the production (as distinguished from the development) of hybrids or different varieties, for a period of 17 years. A Plant Variety Protection Office would be established in the Department of Agriculture to administer the law. Similar protection is now provided for sexually reproduced varieties through patents issued by the Patent Office.

STATEMENT

During the hearings by this committee's Subcommittee on Patents, Trademarks, and Copyrights on the legislation providing for a general revision of the patent laws, consideration was given to an amendment of the plant patent section of the patent law. Under the patent law, patent protection is limited to those varieties of plants which reproduce asexually, that is, by such methods as grafting or budding. No protection is available to those varieties of plants which reproduce sexually, that is, generally by seeds. Thus, patent protection is not available with respect to new varieties of most of the economically important agricultural crops, such as cotton or soybeans. The Patent Subcommittee conducted hearings on February 1, 1968, on an amendment to broaden the scope of plant patent protection so as to apply to sexually reproduced plants. A number of objections to this proposal were advanced during the hearings, and no further action in that area has been taken by the subcommittee.

Subsequently, legislation was introduced to encourage the development of novel varieties of sexually reproduced plants by the issuance of certificates of plant variety protection by the Department of Agriculture. S. 3070, to establish such protection, was reported by the Committee on Agriculure and Forestry, and on August 24 this legislation was referred to this committee for the purpose of reviewing its impact on the plant patent statute. The committee accordingly has examined S. 3070 and finds that it does not alter protection currently available within the patent system. The committeee recommends the bill, S. 3070, favorably as amended.

THE SENATE SETS A RECORD ON ROLLCALL VOTES

Mr. MANSFIELD. Mr. President, the vote completed earlier this week on the military construction authorization bill marks the 322d rollcall vote of the second session of the 91st Congress.

Insofar as I have been able to ascertain, that is the highest number of rollcall votes ever registered by the Senate in any session of Congress in the Nation's history. During the years 1933 through 1969, the years in which the Senate has come closest to approaching that number were 1967 when there were 315 rollcall votes, 1964 when the total was 312, and 1968 when 280 votes were taken.

I ask unanimous consent, Mr. President, that at the conclusion of my remarks a list of the rollcall votes since 1933, by year and by session, be printed in the RECORD.

The **ACTING PRESIDENT** pro tempore. Without objection it is so ordered.

(See exhibit 1.)

Mr. MANSFIELD. In my opinion, the Senate has been—and continues to be—in the process of forming a most respectable record of legislative accomplishments this year. That there have been thus far in 1970 322 issues on which the votes of Senators have been counted in an unimpeachable way is, I believe, a strong indication of the attentiveness Senators have given to the agenda of the 91st Congress.

May I say, furthermore, that at the second session of the 91st Congress the average hours of attendance for the 162 days we have been in session has been 7 hours a day. This is in addition to looking after the needs of constituents, meeting with various groups, performing chores downtown, meeting in committees, and attending to the numerous other duties and responsibilities which happen to be a Senator's lot.

EXHIBIT I

TOTAL ROLLCALL VOTES

Year	Congress	Session	Total votes
1969	91st	1st	245
1968	90th	2d	280
1967	90th	1st	315
1966	89th	2d	238
1965	89th	1st	259
1964	88th	2d	312
1963	88th	1st	229
1962	87th	2d	227
1961	87th	1st	207
1960	86th	2d	207
1959	86th	1st	216
1958	85th	2d	202
1957	85th	1st	111
1956	84th	2d	135
1955	84th	1st	88
1954	83d	2d	181
1953	83d	1st	88
1952	82d	2d	129
1951	82d	1st	202
1950	81st	2d	229
1949	81st	1st	226
1948	80th	2d	110
1947	80th	1st	137
1946	79th	2d	142
1945	79th	1st	105
1944	78th	2d	95
1943	78th	1st	120
1942	77th	2d	95
1941	77th	1st	96
1940	76th	2d	151
1939	76th	1st	112
1938	75th	3d	81
1937	75th	1st and 2d	91
1936	74th	2d	67
1935	74th	1st	132
1934	73d	2d	122
1933	73d	1st	98

Mr. SCOTT. If the distinguished majority leader will yield, I think, too, that the Senate has done a great deal of work in this session and has passed a great many bills. There are some things which still remain to be done with some matters pending between the two Houses, as well as some matters which we may not be able to finish, much as we would like to.

But I detect, I think, in the sentiment of the public some of the same feeling expressed by Cromwell at the end of the long Parliament that he had attended when he said something like this: "Gentlemen, in the name of God, go."

I rather think that the public is in Cromwell's position in wishing that, in the name of God, we would go home.

Mr. MANSFIELD. I would agree with the distinguished Republican leader with only this stipulation, that the people's business be done first, and I am sure that it will be.

Mr. SCOTT. So far as the people's business can be effectively transacted, I am in sympathy.

ORDER OF BUSINESS

The **ACTING PRESIDENT** pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Illinois (Mr. PERCY) for not to exceed 15 minutes.

NATO BURDENSHARING

Mr. PERCY. Mr. President, yesterday in Brussels, the defense ministers of European NATO countries agreed in principle that they will have to assume a greater share of NATO's costs if a large-scale withdrawal of U.S. troops from Europe is to be prevented. They agreed that burdensharing would be necessary.

This recognition is long overdue. For 25 years the United States has provided an exorbitant share of the men and money to defend Europe. Today, 25 years after the end of World War II, 300,000 American troops plus several hundred thousand dependents are still in Western Europe at an annual cost in Europe of $3 billion, of which $1.5 billion is a balance-of-payments loss to the United States. The total allocation of the Department of Defense budget to NATO forces is $14 billion a year, including both troops in Europe and those stationed here assigned for NATO backup.

As it stands now, each European NATO country will decide what it can contribute. These contributions will be put together into a total package at the next meeting of the NATO defense ministers in November, and then presented to our Government as a basis for discussion.

However, there is one part of the report coming out of Brussels that is totally unrealistic. Although no specific dollar figures were agreed upon, sources at the defense ministers' meeting were quoted as saying that a "realistic" figure would be in the neighborhood of $300 million annually. This figure is so totally inadequate that it would seem to insure a substantial withdrawal of U.S. troops from NATO after July 1, 1971, when current financial arrangements come to an end. The $300 million would cover only one-fifth of the U.S. balance-of-payments drain alone associated with NATO and

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only one-tenth of our direct costs in Europe. It represents 2.2 percent of our total NATO commitment.

Unless European NATO countries contribute a minimum of $1.5 billion to at least cover the balance-of-payments costs of U.S. forces in Europe beginning July 1, 1971, I shall support reduction of our commitment in Europe. For 2 years I have been urging greater European financial assistance for U.S. forces in Europe on the basis that if such help was not forthcoming, the United States would be forced to withdraw troops. I have been withholding support for moves to reduce troops now in hopes of getting a realistic financial arrangement. But the offer of $300 million is grossly inadequate.

There are two courses open at the moment. Either European countries substantially up the ante at their next meeting in November or the U.S. Congress will solve the financial problem in the fiscal 1972 budget of the Department of Defense next year.

Mr. President, I ask unanimous consent that an article from this morning's Washington Post be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALLIES PLAN EXPANDED NATO AID

(By John M. Goshko)

BRUSSELS, October 1.—European members of NATO agreed today in principle that they will have to assume a greater share of the alliance's defense burden as a means of preventing large-scale withdrawal of U.S. troops from Europe.

However, the informal meeting of defense ministers from ten NATO nations did not achieve a common definition of what they mean by "burden sharing" or the best way of translating it into action. There seemed to be two schools of thought about how to approach the problem.

One, led by West Germany, favors a system of financial contributions to help defray the costs of stationing more than 300,000 U.S. servicemen in Europe. The other idea, advanced chiefly by Britain, is that the European NATO members should increase their own individual contributions of men and materiel to the total NATO force.

In the end, the participants decided on a compromise formula that would round up the specific contributions each is willing to make into an overall package and then present it to Washington as a basis for further discussion.

While conceding that the formula is somewhat vague and diffuse, sources at the meeting argued that it represents a necessary first step in coming to grips with the problem of burden sharing.

They outlined a plan under which representatives of the participating countries and NATO Secretary General Manlio Brosio would work out a draft of the package proposal.

The tentative idea is to have this draft reviewed and approved at another ministerial-level meeting in November and then to communicate it to U.S. Defense Secretary Melvin R. Laird for Washington's reaction by the beginning of December.

Although conference spokesmen insisted it was still too early to say how much money might be involved, some sources said it would be "realistic" to talk in terms of a joint European commitment totaling up to $300 million.

Whatever the final figure, it is generally expected that the biggest share will be assumed by West Germany, which has most of the U.S. troops in Europe on its soil. The Bonn government is known to be especially anxious to prevent any sizable reduction of U.S. forces, and some German sources hinted that Bonn would be willing to pay half of the $300 million figure being mentioned.

Today's meeting was brought about largely through the initiative of West German Defense Minister Helmut Schmidt. The West Germans, aware of growing pressures in the U.S. Congress for force reductions in Europe, have come around to the idea that direct budget support for U.S. troops is essential if NATO strength is to be kept close to present levels.

The West Germans envision a system under which NATO members would either make direct payments toward the upkeep of U.S. troops or increase the percentage they pay in so-called infrastructure costs—those relating to salaries for European civilian employees, installations and utilities.

The British counter by arguing that the demand in the United States for reductions is dictated less by budgetary considerations than by a feeling that the Europeans are not making the maximum possible contribution to their own defense.

The British say this objection can best be overcome by individual NATO members contributing more of their own armed forces personnel and equipment. British sources said the Heath government was studying how Britain could best fulfill this aim.

Referring to the differences, the Netherlands defense minister, Willem den Toom, who chaired today's meeting, said: "We don't want to strengthen our defense if it means a reduction of the U.S. presence in Europe.

"There is agreement among us that the U.S. must be kept in Europe, and we know that we should lighten their burden. Some elements in the United States are urging a cut down of the U.S. effort in Europe. It is also known that the administration is against this, but we have found the situation imperative enough to get together on the cost problem.

"We have reached no decision, but the result is that everybody is positive toward burden sharing—even those who cannot go beyond a symbolic gesture."

Taking part in today's meeting were West Germany, Britain, Italy, the Netherlands, Denmark, Norway, Greece, Belgium, Turkey and Luxembourg. Neither Portugal nor France, which has withdrawn from participation in the military aspects of NATO, attended.

U.S. sources estimate that the over-all annual cost of the U.S. commitment to NATO, including forces both in Europe and the United States, is $14 billion. The total cost to the United States for that portion of its NATO forces actually stationed in Europe comes to approximately $7 billion annually.

LEAD PAINT POISONING

Mr. PERCY. Mr. President, during the past week, the Select Committee on Nutrition and Human Needs, of which I am a member, has been studying the problem of lead paint poisoning.

At least 40 children have died in Chicago since 1966 from lead paint poisoning, mostly children living among the broken and crumbling walls of tenements. Every week about 10 new lead poison victims are discovered in Chicago. There are more cases of brain damage from lead poisoning in New York City than there were from measles before immunization programs began. There are more deaths and permanent cripples from it each year than there were in an average polio year prior to widespread immunization against that disease.

Because of this grave problem, I would like to share with my distinguished colleagues some enlightening articles on the subject of lead poisoning written by Mrs. Lois Wille of the Chicago Daily News. Mrs. Wille was recently named winner of the Illinois Associated Press Editors Association's top award for writing the best feature series of 1969. Mrs. Wille's work is a credit not only to her paper and her profession, but a great service to public information.

I ask unanimous consent to have these informative and thought-provoking articles printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

LEAD POISONING CASES: SLUMLORD PROSECUTION URGED

(By Lois Wille)

A housing official Tuesday urged State's Atty. Edward V. Hanrahan to prosecute landlords who refuse to repair lead-poisoned buildings.

"Some of these fellows ought to be jailed, said Victor Spallone, director of housing for the Cook County Public Aid Department.

A 1966 state statute provides that a landlord found guilty of criminal housing management can be fined $1,000 and sent to jail for six months.

"It has never been used in a lead poisoning case," Spallone said. "Yet there are many examples of an owner's gross carelessness and greed destroying a child."

In the five years since the law was passed, at least 39 Chicago children have died from eating lead-based paint and plaster in deteriorating buildings.

Many more were left mentally retarded or with severe behavoir problems from the brain-crippling lead chips.

Lead-based paint on interior walls and peeling paint and plaster are city housing code violations, but Housing Court has had little success in forcing owners to comply with the law.

A recent investigation by The Daily News showed that walls were repaired in only one of 20 lead poisoning cases, some dating back to 1967.

"At the same time Building Department officails send these lead poisoning cases to Housing Court, they should also send them to the state's attorney for prosecution," Spallone said.

But the only long-range method of wiping out the disease is massive new construction, he added, "to get people out of dangerous housing."

The mother of one of the lead-poison victims interviewed by The Daily News has been on a waiting list to get into public housing for seven years.

City health Comr. Murray C. Brown said that Housing Court, with its backlog of 9,500 cases, "is a completely dissatisfactory method" of preventing lead poisoning.

"STEP TOWARD COMMUNISM": HITS TALK OF FIXING POISONED WALLS

(By Lois Wille)

Any city program to repair lead-poisoned buildings could be "one more step toward communism." Building Comr. Joseph Fitzgerald said Wednesday.

He warned of the dangers he sees in New York's new policy of covering peeling walls in flats where children have been poisoned.

"'If the city is going to start doing repairs on buildings—I don't think our forefathers would have intended this," Fitzgerald said.

Chicago Health Department crews make emergency repairs in rat-infested buildings,

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but Fitzgerald said he would not want them to branch out into repair of lead-poisoned walls.

"It seems one more step toward communism or socialism—another step in that direction," he explained.

In general, according to Fitzgerald, there is little that can be done to remove the source of the brain-crippling disease.

He is opposed to city-initiated repair work, and when asked if he had any suggestions for forcing owners to repair their slums, he replied:

"That would be the answer to the whole housing problem. If I had that answer, I'd be running for President."

Pediatricians, backed by the American Academy of Pediatrics and the U.S. Public Health Service, maintain that lead poisoning will continue to destroy the minds of thousands of children unless slums are repaired.

Young children with "pica"—abnormal appetite—are likely to nibble paint and plaster chips. The lead is stored in their brains, and eventually can cause retardation or severe behavior problems.

In Chicago, 5 to 10 lead poison cases are discovered every week. Pediatricians complain that after treatment most of the children return to homes with broken, lead-poisoned walls.

Peeling walls and lead-based paints on interior walls are violations of the city housing code, but Housing Court has little success in forcing owners to comply with the law.

The Daily News studied 20 lead poison cases, some dating back to 1967, and found that adequate repairs had been made in only one case. Several have been in Housing Court for two or three years but are given monthly continuances.

West Side Boy, 3, Dies From Paint Poisoning

(By Lois Wille)

A three-year-old boy has died from massive brain damage caused by lead poisoning, physicians at Cook County Hospital said Friday.

His grieving mother, Mrs. Phillip Bryant Jr., said she saw him put paint chips in his mouth several times.

"But I thought I got them out before he swallowed them," she said.

Mrs. Bryant, widowed in April, lives in a basement flat at 2919 W. Lexington. The walls are badly cracked and broken, with huge holes in the bedroom and entranceway.

Building inspectors reported the hazard last December, but no repairs were made. Mrs. Bryant says no one warned her of the danger in lead-based paint.

The dead child was Phillip Bryant III.

"Named after his father," the mother said. "Now there's nothing left of them."

The little boy seemed fine until Aug. 10, when he "got sick all of a sudden, and fell into a kind of daze," Mrs. Bryant said.

His body grew rigid and she couldn't arouse him. His older sisters April, 4, and Rhonda, 5, started to cry and call their brother's name to waken him, the mother said, but he was stiff and motionless.

"I got a cab and took him to County, but I don't think he ever really woke up again.

"Doctors said he tried real hard. He tried to breathe, and they did everything to help him with a respirator machine. But he just couldn't make it."

The child died Aug. 13. Dr. Ira Rosenthal, chairman of pediatrics at County Hospital, confirmed that death was caused by lead poisoning.

It was the second suspected lead death within a month. The coroner's office said Stephanie Johnson, 2, of 4922 W. Jackson, died of lead poisoning on July 27, but chemical tests have not yet been completed.

In Stephanie's case, as in the case of Phillip Bryant, building inspectors found and reported the peeling paint and plaster—but repairs were not made.

Broken walls painted before 1940, when lead-based paint was commonly used, are an extreme hazard to small children. If they chew bits of the peeling paint, the lead will accumulate in their brain and may cause swelling and hemorrhaging—and death. Children who survive often are retarded or have behavior disorders.

On Dec. 12, 1969, a city building inspector reported 16 violations in the stone two-flat where Phillip Bryant lived. They include illegal conversion, rats, defective stairs, defective window frames, defective heating and broken walls and ceilings.

After five months and no response from the owners, the city sued, naming Joseph D. Berke and Bernard Friedman as defendants. They hold the building through a trust in Lawndale National Bank, and give "P.O. Box 45043" as their only address, according to city records.

Deputies were not able to find them to serve a summons, so the case was continued in Housing Court on July 13 and again on Aug. 10, the day little Phillip Bryant entered into a coma.

The next court date is Sept. 14.

The Bryant family has lived in the $70-a-month basement flat for five years. Mrs. Bryant said her late husband, a construction laborer, never was able to find enough steady work to enable them to move to better housing.

He died in April of a heart attack.

Lead Paint Toll: Our Poisoned, Crippled Kids

(By Lois Wille)

Every morning, cherubic little Lisa May Roy, 2, and her brother Dennis, 1, make a long, hot trip across the city for injections that suck the poisonous lead from their bodies.

Two tiny Chippewa Indians from Uptown—and how will they grow?

Doctors don't know, yet. But the paint and plaster they have eaten in their slum flat could ruin their brains.

The damage takes a while to show up. Mrs. Annette Dukes knows. Only now, two years after her son Daryl was poisoned in the Dukes' Englewood flat, she is seeing the ominous signs: Periodic convulsions, temper tantrums, extreme irritability.

When he starts school, will he be able to learn? Or will he forever be labeled "underachiever" because when he was 19 months old he ate peeling lead-poisoned plaster?

The worst of it is, his parents say, the plaster still is crumbling, despite clear city laws requiring repairs. His father's makeshift patches can't hold it. And his landlord, plus all the might of the city government, haven't put the walls together again.

Chicago is half-way to victory in its fight against lead poisoning, the brain-crippling disease of little children in bad housing.

No other city in the nation, according to experts with the U.S. Public Health Service, is doing such a good job of finding and treating the poisoned children.

But the second half of the job—fixing the poisoned walls—remains undone. And, so far, city officials have no firm plans for tackling it.

"We had a meeting recently to talk about it—people from the Building department, the Health Department and judges," says Franklin I. Kral, supervising judge of Housing Court.

"Quite truthfully, as of this moment we don't have any solutions."

As a result, thousands of children in poor housing may develop learning problems or behavior disorders.

No one knows how many already have been hurt, although pediatricians think the 506 children treated for lead poisoning here in 1969 may be only one-fourth to one-half of those who were stricken.

"What we worry about," says Dr. Frederick Burg, pediatrician at Children's Memorial Hospital, "is undetected minimal brain damage—the irritable, cranky child who will be a poor achiever in school."

The danger is enormous. Physicians who have done follow-up studies on their lead patients reported that 25 to 50 per cent who showed initial symptoms of nervous system damage—convulsions, extreme irritability—will have permanent handicaps.

"I think many cases are missed," says Dr. Ira Rosenthal, chairman of pediatrics at Cook County Hospital. Despite everything physicians can do to find and treat the poisoned children, he says, "we're never going to get to the roots until we improve housing."

Judge Kral thinks the city's law, building and health officials "are not pushing too strongly" to force housing repairs because crumbling buildings with poisoned walls "are so widespread, such a mammoth problem."

He estimates that most of the 9,500 buildings with code violations now waiting action in Housing Court have loose paint and plaster poisoned with lead.

And, probably, most of them have small tenants who might nibble on the deadly chips.

Before 1940, lead-based paint was commonly used for interior walls, so every building more than 30 years old and not in good condition is a potential hazard.

If the old paint was not removed but merely covered with nonlead paint, cracks and flakings eventually will expose the poisonous layers.

If the plumbing is poor, the lead-soaked plaster will rot and crumble.

Children with "pica," the medical term for an abnormal appetite, will nibble the paint and plaster chips—just as they will nibble dirt, cigaret butts or paper. Doctors don't know what causes pica, but they do know that well-fed children seem as susceptible as undernourished children.

Some suspect it is rooted in anxiety—in response, perhaps, to an anxious or absent mother.

If a child nibbles lead-soaked paint and plaster chips over a period of several months, the lead is deposited in his bones and brain. The brain may swell—particularly in summer, although physicians are not sure why. As it presses against the skull, some brain cells may be destroyed.

If the pressure is severe, the child may suffer convulsions, lapse into a coma and die.

Officially, this hazard should not exist.

Loose lead and paint has been a city housing code violation for years, and on Oct. 9, 1968, the City Council authorized the Building Department "to order immediate repairs" of all housing units where lead-based paint is found.

Yet every week about 10 new lead-poison victims are discovered and treated, most of them at the Health Department clinic in the old, largely abandoned Municipal Contagious Disease Hospital, 3026 W. California.

Community representatives from the city's Urban Progress Centers fan out through rundown neighborhoods, urging mothers to bring their toddlers to the centers at least every six months for blood tests to detect lead.

Last year 48,000 tests were given to children, by far the biggest program of its kind in the nation.

There is evidence the tests are preventing deaths.

In 1966, when the program began, seven Chicago children died of lead poisoning. One child died in 1969. So far this year, there has been one suspected death, 2-year-old Stephanie Johnson, but chemical tests have not yet been completed by the coroner's office.

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The lead that poisoned Lisa May Roy and her brother Dennis was detected in blood tests at Montrose Urban Progress Center, 901 W. Montrose. Every morning, a city minibus picks them up at their home and drives them to the West Side hospital for their daily injections from Dr. Henrietta Sachs, the Health Department pediatrician who directs the city's treatment program.

She gives out suckers and loving pats with every shot, which somewhat mollifies the howls that echo through the old halls.

"She's a female Albert Schweitzer," says Dr. Burg, who surveyed lead poisoning with the U.S. Public Health Service for three years.

"She's the outstanding pediatrician in the country treating lead poisoning."

In the steaming hot, isolated setting of the old hospital, his comparison seemed particularly appropriate.

Dr. Sachs held an X-ray of Dennis Roy to the light and pointed to the white spots in the colon—the most recent paint he has eaten.

The white lines in his leg bones are lead deposited over months of nibbling.

The medication she injects, she said, "bonds itself to the lead and is excreted through the kidneys, taking the lead with it."

A new patient arrived, a chubby 2-year-old blond girl also sent by the Montrose center because of the high lead content in her blood. Through Dr. Sachs' questioning of her nervous young mother, the tell-tale symptoms were revealed:

Yes, said the mother, she sleeps a lot. She "walks funny." She is irritable and cranky, and she vomits almost every day.

"Have you ever seen her eat paint?" asks Dr. Sachs.

"Well, she chews on the windowsill, and there's plaster falling down from the bathroom and the kitchen and sometimes I've caught her with it in her mouth. . . ."

For several weeks, the mother will bring her little girl to the hospital for daily injections to force the lead from her body.

And how will the mother make certain the child never again eats the poisonous plaster and paint?

That, according to physicians, is the point at which the city's fine treatment program collapses.

POISONED KIDS RETURN TO PERIL

(By Lois Wille)

June, 1967: Paricia Ann Ligon, 2, collapsed from a kitchen chair in a seizure, her brain swollen with lead from the plaster chips she had swallowed.

August, 1970: Now 5, Patricia no longer eats the lead-soaked plaster, but the chips still fall from the walls of her East Garfield Park home, endangering her little sister.

Patricia's eyes are crossed and her vision is very weak, probably from lead-induced damage to her optic nerve.

March, 1968: Daryl Dukes, 18 months old, lapsed into a coma as his mother fed him supper. Doctors at Michael Reese Hospital said he was suffering from "acute lead intoxication."

August, 1970: The plaster still crumbles from gaping holes in the bedroom walls, the bathroom and front hall of his family's Englewood flat. As old holes are patched, new ones appear.

July, 1968: Michael Maynard, 2, died of lead poisoning after nibbling paint and plaster in his Uptown home.

August, 1970: City inspector Jerry Sullivan reports the building's walls are peeling, and there is sewage in the basement and an abandoned refrigerator on the rear porch.

He called the building "too dangerous for habitation." After futile attempts to get the owner to Housing Court, Judge Raymond E. Trafelet ordered it vacated.

The next step is demolition, the 19-flat building at 1128 W. Sunnyside will be leveled and that's how the city's housing shortage grows.

These three cases are typical of the frustrations facing pediatricians who treat lead poisoning, the brain-crippling disease that strikes about 10 Chicago children every week. It can result in mental retardation and behavior disorders.

The victims are usually under 4 and live in a "lead belt" (areas of decaying housing with broken, peeling walls painted before 1940, when leadbased paint was common.)

At Cook County Hospital, where 35 lead-poisoned children have been treated so far this year, chief social worker Helen Jaffee says the little patients play a deadly "game of musical chairs."

"We try to get the family into better housing," she says, "but housing is so scarce that often they move into another bad building And another family with small children moves into their old building."

Lead poison victims have pica, the medical term for an abnormal appetite. "So it is extremely difficult for parents to keep them from eating more lead, if they go back to the same bad housing," says Dr. Ira Rosenthal, chief of pediatrics at County.

Several weeks ago he wrote to Health Comr. Murray C. Brown, urging that city officials insure safe housing for poisoned children.

Dr. Brown, appointed last fall is faced with the massive job of bringing the backward city Health Department into the modern medical age. He is concentrating on developing community clinics and immunizing children, but recognizes the lead problem.

"Some of my own physicians treating these cases get very frustrated and agitated," he said.

"It's true—there's no point in running a detection and treatment program unless we have a complete closed circuit that includes fixing up the housing."

At present, the circuit is wide open.

An investigation by The Daily News of 20 lead poison cases selected at random, some dating back to 1967, revealed that adequate repairs were made in only one case.

One building was demolished after Housing Court judges tried for 18 months to force repairs. Two have been ordered vacated and are likely to be demolished, both of them buildings in which children died of lead poisoning.

One of these buildings has been in court for three years and the other for two years.

The remaining 16 still have peeling paint and plaster, according to reports from the city building inspectors. Most are either in court, scheduled to appear before Building Department compliance boards or waiting to get to court, now jammed with a backlog of 9,500 cases.

The records for the most part show the diligence of Building Comr. Joseph Fitzgerald's staff of inspectors.

In 11 of the 20 cases, inspectors reported the peeling paint and plaster long before the child was stricken.

In the others, inspectors checked within days after the illness was discovered and reported the violations.

At that point, the machinery breaks down.

Some cases were taken to court immediately, and then languished month after month with continuances.

These are typical reasons for the delays: The building changed owners. The owner changed attorneys. The owner was on vacation. His attorney was on vacation. The owner made a few repairs and promised more, soon.

Often, the owner couldn't be found. One landlord, jailed earlier for contempt of court when he missed a number of hearings, is missing again. A city attorney has asked for a contempt citation against another chronic absentee, a woman also wanted for passing phony checks.

In a few cases the inspectors did seem to exaggerate the extent of the landlord's repairs. After 11 court hearings, the three-flat building, at 3354 W. Fulton where Patricia Ligon was poisoned was dismissed on June 13, 1969. The inspector reported that on June 12 "all plaster work was completed."

Twelve days after the dismissal, an inspector returned and reported peeling walls and ceilings in the building.

One point revealed by court records seems particularly significant: In only one of the 20 cases was the physician who treated the poisoned child asked to testify.

In most of the 20, there is nothing in the records to show a child was poisoned in the building. It is likely the judges and the overworked city attorneys who prosecute as many as 70 housing cases a day may not know the poisoning occurred.

Franklin I. Kral, supervising judge of Housing Court, concludes that "the city hasn't been pushing" lead-poison cases.

"It is rarely mentioned in court as evidence," he said.

PLASTER, PAINT—AND PATRICIA: A POISON WARNING FAILS

(By Lois Wille)

The city's warning system to save little Patricia Lawson from lead poisoning failed—so the only safe haven for her, right now, is a hospital.

The pale tow-headed 5-year-old spends her days in the sunny playroom at Children's Memorial Hospital, riding a tricycle in circles and bouncing on a hobby horse.

In a small flat at 2732 N. Racine, her mother pushes putty into cracks in the ceilings and walls, preparing for Patricia's homecoming.

"This place isn't too bad," says Mrs. Delores Lawson. "The place we had before, where Patricia got poisoned, was awful.

"An electrician put in new wires and never filled in the walls. The plaster fell all around. The junk and garbage was never picked up."

That was at 2143 W. Division. And city housing authorities knew how bad it was.

On Feb. 18 a city inspector reported that the building had "loose walls and ceilings," plus accumulated refuse and garbage and defective stairs.

A hearing was set for July 1.

Late in June, four months after the inspector's warning, the little girl was rushed to the hospital with high fever and convulsions and a stomach full of poisonous plaster and paint chips. She also had worms from eating dirt and garbage—another common affliction of children with pica, the medical term for an abnormal appetite.

"I had always heard that what children ate couldn't hurt them," says Mrs. Lawson, a slender, red-haired woman with a soft Kentucky voice.

"I had a baby-sitter watch her while I worked, and I guess the baby-sitter didn't know, either."

Frightened about her daughter's future—lead poisoning can cause brain damage—Mrs. Lawson has quit her job and receives public aid. Her husband, unemployed, went back to Kentucky.

HOW SYSTEM OPERATES

Officially, it couldn't have happened. According to procedures described by city authorities, Patricia's building should have been fixed long before she got sick.

When a building inspector finds loose paint and plaster in old housing, he takes samples that are sent to health department laboratories in the Civic Center. (If the paint dates back to 1940 or earlier, it is likely to have a lead base.)

Within a day, according to health department officials, the test results are "hand carried" to the chief sanitation officer, who forwards them to the building department.

If the samples show more than 1-per cent

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lead content, the building commissioner is empowered to order immediate repairs. This ordinance was approved by the City Council on Oct. 9, 1968.

The inspector also determines if small children live in the building, according to James Jung, deputy building commissioner.

"And if they do, we send the names to the health department so they can test them for lead poisoning," he says.

If the owner doesn't voluntarily fix the walls soon after the violation is reported, Jung says, "we take him to court."

The machinery sounds fast and efficient. But in the case of Patricia Lawson and others checked by The Daily News, it didn't work.

Mrs. Lawson says no one asked her to have Patricia tested, or told her of the danger in the peeling walls.

And, although the building had not been repaired by the July 1 hearing, suit still has not been filed against the owners.

In 8 of 10 recent lead poisoning cases selected at random for investigation, the peeling paint and broken plaster had been reported by building inspectors months before the children were stricken.

One was reported repeatedly over a three-year period, and two over two-year periods.

But none of the eight mothers was warned of the danger, and none of the apartments repaired.

DOCTORS COMPLAIN

Pediatricians who treat lead-poisoned children at Cook County Hospital and private hospitals have additional complaints:

After they report a lead poison case to the health department, they are not given the results of the paint and plaster tests. But they say the results are essential to their treatment procedures.

They are not told if and when the violations are corrected, or what happens to the building in Housing Court.

"When I called the building department to check on one case that worried me, I was told it was none of my business," said one pediatrician.

Even health department officials don't get this information.

Dr. Herbert Slutsky, who directs the city's lead poison control program, said he gets "some feedback" from the building department on owners' compliance, "but not in all cases."

"I think that the majority we send over, because of the legal atmosphere in court, do not get immediate compliance," Slutsky said. That is probably correct. The Daily News studied 20 lead poison cases dating back to 1967, selected at random, and found that only 1 of the 20 buildings had been adequately repaired.

The prevalence of lead-poisoned walls throughout the city is well documented in the files of James A. Meany, chief sanitary officer of the health department. But he says he can do little about it.

He is the man who gets results of the paint and plaster tests and forwards them to the building department about once a week.

He showed his most recent list: 74 buildings tested over an 11-day period—and 26 with more than 1-per cent lead in paint or plaster.

A number of the samples registered as high as 20-to-30 per cent lead—deadly for a small child.

IT'S A BUILDING PROBLEM

What happens after he forwards the list to the building department?

"That's the last I hear," Meany says. "They are the code enforcement officers in these cases."

Some health department staff members have complained that they are rebuffed when they attempt to find out what happens to the poisonous buildings. But Meany says he never asks.

"They're the enforcement agency," he says. "I have my problems and they have theirs. It's a building problem, not a health problem."

Dr. Frederick Burg, pediatrician at children's memorial hospital, surveyed lead poison problems in three years with the U.S. Public Health Service and has high praise for the city's efforts at finding and treating the sick children.

"But from that point on," he says, "we're in a bind. This is a form of environmental pollution that right now, here, is hurting people.

"The problem is: How to change this dangerous environment? We can't control it. We have to change it."

How Chicago Can End Lead-Poison Peril

(By Lois Wille)

For $1,263, New York public health officials say they can prevent a child from eating poisonous paint chips which may cripple his brain.

The money buys plasterboard to cover crumbling walls, new paint and four men working five days each: Enough to repair one lead-poisoned flat.

"We've been able to really do something to get the housing fixed since we started this a few months ago," says Dr. Vincent Guinee, director of the city's Bureau of Lead Poisoning Control.

"Fixing the housing is the only way to stop lead poisoning."

Chicago pediatricians, frustrated because the poisoned children they treat usually go back to the same home with the same rotting walls, have urged city officials to adopt a similar plan.

Unless the poisonous paint and plaster are safely covered, they say, a child with pica—an abnormal appetite—is likely to eat more lead.

"It is virtually impossible to keep children from getting it," says Dr. Agnes Lattimer, chief of ambulatory pediatrics at Michael Reese Hospital.

"The lead chips are so rampant in some apartments that mothers tie their babies to chairs while they cook and iron. I know one who tied her child to her back while she did the chores—and still he got more lead."

Sen. Edward M. Kennedy (D-Mass.), sponsor of a bill to give federal money to cities for programs to eliminate lead poison hazards, told a Senate committee last month of the threat to repeat poisoning.

"After treatment, the young survivors have at least one chance in four of suffering brain damage," he said.

"When they get back home from hospital treatment, many children resume their paint-eating habits. If they come down with lead poisoning again, the risk of permament brain damage increases to virtually 100 per cent.

"Too many of these tiny victims simply become vegetables."

Chicago already has the first half of the program Kennedy has suggested. The city Health Department tests 600 to 1,000 children a week in the city's "lead belts," areas of old, dilapidated housing.

If the blood test shows a high lead count, the child is sent to the city's lead clinic at Municipal Contagious Disease Hospital for injections to draw the lead from his body.

Last year about 500 children were treated for lead poisoning at the clinic and other hospitals.

But Chicago has not started to work on the other half of the problem: Repairing the poisonous walls.

Peeling walls and lead-base interior paint are illegal in Chicago, so eventually the case gets to Housing Court—where it languishes in the backlog of 9,500 other cases.

Progress is painfully slow. The Daily News checked the outcome of 20 lead poisoning cases dating back to 1967, and found that adequate repairs had been made in only one case.

"What we need is an economical approach for immediate relief," says Franklin I. Kral, supervising judge of Housing Court.

New York officials believe they have such an approach.

Started last January, it works like this:

After a case of lead poisoning is discovered, the New York Health Department tests samples of the wall paint and plaster for lead, as Chicago does.

If the tests are positive, the Health Department orders the landlords to begin removing the lead source—or covering it adequately—within five days.

On the fifth day, a city inspector visits the apartment.

If the landlord has not complied, a city emergency repair crew does the work and the Health Department bills the landlord.

If the landlord does comply, he gets a real estate tax rebate. About half the owners are complying within the five-day period, considered a remarkably good record for housing code offenders.

"If the landlord doesn't reimburse us, we take him to court," says Dr. Guinee. "That may mean a long hassle, but at least the child is safe and the housing repaired while the hassling goes on."

Dr. Guinee expects New York will find about 2,500 lead poison cases this year, and will have to appropriate about $3,157,000 for repairs.

Last year Chicago found 506 cases, which would have cost $639,078 to repair—money that probably could have come from Model Cities funds.

A number of bills before Congress would give federal aid to cities with this type of antilead repair program.

Rep. Roman C. Pucinski (D-Chicago) and Rep. Abner J. Mikva (D-Chicago) are among the sponsors of bills in the House that would appropriate $13 million a year to help cities "eliminate the causes of lead-based paint poisoning."

Another of their bills would withhold federal money for public housing and urban renewal unless the cities have an "effective plan for eliminating the causes" of lead poisoning.

Sen. Kennedy's bill is similar. Sen. Richard S. Schweiker (R-Pa.) wants to get tough with the owners. His bill empowers the federal Department of Housing and Urban Development to levy a $1,000 fine on a landlord who doesn't repair poisoned walls.

All these bills are resting in committees, some for more than a year—a pace that annoys Sen. Kennedy.

"There is a critical need for immediate attention to this problem," he says, "and I hope that the Senate Committee (on Labor and Public Welfare) will schedule hearings on lead paint poisoning before the summer is out."

Committees of the American Academy of Pediatrics and the U.S. Public Health Service also are deeply concerned about the lack of action to prevent a disease that causes mental retardation and serious learning problems among children of the slums.

A pamphlet being prepared by the U.S. Public Health Service warns that repainting the poisoned walls won't remove the danger. Plaster soaked with old layers of lead-base paint wil continue to crumble, forcing the new paint to peel and exposing the deadly surface.

Instead, the pamphlet suggests covering the old plaster and paint with gypsum board (about 5 cents a square foot), fiberglass wall covering (10 cents), ¼-inch plywood (10 cents) or ⅛-inch hardboard (6 cents). The wood can be nailed directly to wall studs.

But, to prevent new lead poison cases, a much more widespread renewal program is needed. That would be expensive, but Sen. Kennedy notes that "the cost of lead poisoning already is high in terms of wasted human resources." Dr. Lattimer, who has formed a Chicago Committee Against Lead Poisoning, adds:

"How can we put a price tag on a child's mind?"

OVERPOPULATION

Mr. PERCY. Mr. President, my main purpose in asking for time this morning was to deal with the problem of overpopulation.

When I list the domestic problems which disturb my constituents most, the list invariably includes crime, pollution, poor housing, and high taxes. None of these problems is caused by any one factor alone; and yet one factor aggravates each. That factor is overpopulation.

So that we can understand why environmentalists are shouting, "There are too many people," let us look at a few statistics: Not until 1917, after three full centuries of growth, did the population in this country reach 100 million. Only 50 years later, in 1967, the United States had accumulated 200 million people; that is, we had doubled our population in one-sixth of the time it had previously taken to produce 100 million people. And now, we are told that if we continue to reproduce at the present annual growth rate of 1.1 percent, our population will rise to somewhere between 260 and 320 million by the year 2000—30 years from now.

Yet in terms of the capacity of our social institutions to serve the present population, and of our environment to support 200 million people, this country is already overpopulated.

Our universities are bursting under the pressure of trying to accommodate the post-World War II babies. Students on many campuses feel their identity has become synonymous with the numbers on their IBM registration cards—not to be folded, stapled, or mutilated so the machines which process their 20,000 fellow students will not break down.

Our medical schools are so crammed and inadequate they are turning away highly qualified candidates. Meanwhile, the need for doctors, nurses, and hospitals grows ever more acute.

Our crime rate is mounting, as is evidence that overcrowding fosters violence. When packed too closely together, people become tense, uneasy, aggressive—and, ironically, lonely. These characteristics magnify themselves in an unstable person. And no matter how hard-working and dedicated, police forces cannot provide adequate citizen protection in densely populated areas which not only breed crime, but make it easier for the criminal to escape as well.

Ten years from now we will need an additional 26 million housing units if we are to achieve our goal of providing decent, adequate homes for every citizen. Yet already we are falling short of this goal at an annual rate of 200,000 units or more.

As we increase in population, so, too, do the demands on our natural resources. We depend upon natural resources not only for our high stndard of living, but for our very survival. Without water, tin, zinc, coal, and oil, we could not have jet airplanes, air-conditioners, private automobiles, central heating, electric can-openers, and paper towels. Some of these resources are scheduled to run out within the next two generations. Technology will help us stretch and replace certain resources: It will not create raw materials. If the United States, with a population of 200 million, consumes resources 35 to 50 times as fast as the people of less developed lands, how much and how fast will 300 million people consume resources?

Several weeks ago, residents of Tokyo were shown on television purchasing oxygen, so bad had the air over Tokyo become. At about the same time in this country, old people and those with respiratory ailments were warned to stay inside—so polluted had the air over our National Capitol and New York City become. The costs estimated for cleaning up the air over Chicago and Peoria are, respectively, $801,300,000 and $25,000,000 over the next 5 years.

The figure of 200 million people takes on added significance when one considers that 50 years ago the average American generated about 3 pounds of trash per day. The figure is now 6 pounds, and in 1980 will rise to an estimated 8 pounds. How do we dispose of this waste without further polluting our rivers? Ninety percent of the Calumet River in Illinois is polluted today; 80 percent of the Illinois River; an 70 percent of Lake Michigan.

As our numbers grow, we seem to need more and more laws. There are more and more regulations governing when we can make noise, whether we can fly private planes, when we can burn leaves, and where we can drive cars. Thirty years ago who would have dreamed it necessary to post "Polluted water—No swimming allowed" signs next to such a large number of our lakes and rivers?

The fact that we now have to worry about the necessities of life comments sadly on our esthetic values and our appreciation for the wonders of nature. Is it not until we face an acute power or housing shortage that we begin to worry about forest depletion and water pollution caused by too many people? Do we place no value at all on what Rachel Carson termed "the sense of wonder"? What about those things which give life meaning: The little robin who lets us know spring has come; the brilliantly colored leaves which signal the end of summer? Must we pave over the entire country until every last leaf has gone? Bulldoze every tree? Kill our fish with mercury and DDT? Surely we care about maintaining a few secluded spots, which provide some escape from the strains of urban living.

Several weeks ago the Census Bureau released its latest projections on population growth, indicating that our birth rate has dropped. It may conceivably take 40 instead of 30 years for our population to increase by another hundred million. This is somewhat heartening news, but it provides no basis for complacency. The population crisis is here. The longer we wait to reduce our rate of population growth, the greater will be the need for more drastic means of solving population-related problems in the future.

We can eliminate the possibility of drastic solutions if every American couple decides to have no more than two children; to do no more than reproduce itself.

I was quite encouraged when my young daughter, who is 17 years of age and studying ecology, said:

> Daddy, you love a family with a large number of children. But I have decided that when I get married, I am going to limit my family to two children, and I am going to adopt any more children after that.

I was rather proud that this young girl had made that decision.

The distinguished Senator from Oregon has introduced, and I am today cosponsoring, legislation which would encourage Americans to have smaller families. It would limit to two the number of personal income tax exemptions allowable for children in one family. The bill, S. 3632, as now drawn would take effect on January 1, 1973. It would not affect children born prior to that date, multiple births, or adopted children.

I want to also add that it would not affect the increased tax exemption that has been voted by Congress. They would continue to receive a $750 exemption. The bill that I introduced in the Senate last December calls for an increase in the personal tax exemption from $600 to $750 because one cannot raise a child on $600 any more.

In effect, what this bill says is that couples may continue to have five, 10, or 15 children if they so desire, but such proliferation will no longer be encouraged and subsidized by the tax code. Though it is widely misunderstood, the bill takes away no personal freedom; it merely removes tax bonuses for the extra children beyond two. It removes them because those extra children "tax" our resources and social institutions more than society as a whole can afford.

Since the third and fourth children of one family are essentially depriving the first and second children of another family of open spaces, government services, fresh air and water, it seems only fair that the first family should not be rewarded for having them.

I cosponsor this legislation for the sole purpose of injecting a new idea into the arena of public and congressional debate in our search for appropriate answers. I would offer amendments to the bill as now drawn myself. I do not know if the lack of deductibility of an additional child would actually act as a negative incentive to parents. But the concept deserves thought and study.

I commend my colleague, the Senator from Oregon (Mr. PACKWOOD) for his initiative and, I might say, for his considerable courage and pioneering in this area. He has proven himself already to be one of the most valuable, creative, and innovative Members of this body. I was proud, indeed, that he was selected by the President and the Senate to serve as

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a member of the Commission on Population and America's Future under the chairmanship of John D. Rockefeller III. Already his contributions and thinking in that connection have been great, indeed.

We all realize, of course, that at best, providing economic incentives for smaller families is not enough. Many large families are primarily the result of inadequate education in family planning. Therefore, we must act to help prevent the birth of unwanted children, who constitute a major part of our population problem. This is an area in which I do not have the slightest uncertainty or hesitancy. Through birth control education we have already brought down the population explosion occurring among women served by our Cook County Hospital in Chicago by 10 percent in just 1 year.

Dr. Charles Westoff of Princeton University, who directed the 1965 National Fertility Study, has learned from his research that between 1960 and 1965, about one million unwanted children were born each year—445,000 to the poor and 540,000 to the nonpoor. In light of our overpopulation problems, as well as the special hardships inflicted upon unwanted children, it seems imperative that we do something about the births of those children whose parents do not wish, or cannot afford, to support them.

In his message to Congress on population growth, President Nixon remarked:

> No American woman should be denied access to family planning assistance because of her economic condition.

There are presently about 5 million women who cannot now afford, or who do not have access to, family planning services. On July 14, the Senate moved toward achieving the President's goal when it passed legislation to expand and improve family planning services. I was proud to have cosponsored this bill, S. 2108, which authorizes $991.25 million over the next 5 years for family planning and birth control research activities. An important feature of the bill is that it provides these services on a voluntary basis only. The Government should, I believe, respect the individual or moral values held by its citizens. S. 2108, if passed by the House and signed by the President, will not infringe upon these values. It is urgent that the House act, and act now.

Most of us over 30 can look back with pleasure upon specific memories of our childhood: Running through the wet grass on a warm summer evening; splashing away in a pond; climbing an apple tree—and eating its fruit. Will our grandchildren be able to experience moments such as these?

I believe we have a responsibility in this body to take into account that our children and grandchildren have a right to the same kind of heritage we have had, and an even improved one if it is possible to create it.

Mr. PACKWOOD. Mr. President, will the Senator yield?

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senator's time be extended 5 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, let me take this opportunity to welcome the Senator from Illinois to the frying pan on this subject. I can assure him that is what he is getting into, if not the fire.

We will be coming to this legislation in this country at some time. There is no doubt about it, at least if one talks to the youth of our country and studies the problem of population growth. The great movement is toward the legislation which I have introduced and which the Senator from Illinois has cosponsored.

The Senator from Illinois made a pointed comment about life as he remembered it. Most of us can recall in our childhood finding a wooded glen where the noise of chainsaws could be avoided. Most of us can remember places of tranquillity. This will be just a memory and not an actuality unless we do something about population growth in this country.

The Senator did not point out that when the income tax laws in this country were first passed there were no child dependency deductions. They were added later. Ironically, one of the principal reasons they were added was to encourage population expansion in this country because at that time we were an underpopulated country and we still had great frontiers in the West that needed people.

All the Senator from Illinois is asking and all that I am asking now is that we reverse what was the traditional reason for the passage of laws allowing child dependency deductions, and limit them to two, so that we might encourage smaller families and a slowing down of the growth of this country because, surely, if we do not we are going to realize one day that this is a finite planet and even the United States is a finite country.

I hate to think what might be the compulsory laws that might be passed 50 years or 100 years from now if we do not have the foresight on a voluntary basis—and that is what this is—to attempt to restrain and limit ourselves in terms of human reproduction now.

I am delighted to welcome as an ally the distinguished Senator from Illinois. This is the first time we have joined together and I hope that over the years it will not be the last time, because I regard him as one of the outstanding leaders, not only in the Senate but also in the country. With the Senator's cosponsorship of the bill, it is possible it will not be long before other Senators join and finally Congress adopts this legislation.

Mr. PERCY. Mr. President, I thank my distinguished colleague. Misery does love company. I know this is a highly controversial matter, but the misery we are going to have in this country and all over the world if we do not do something about this problem is the point of the argument. I think the creativity, courage, and sound thinking of the Senator from Oregon in this field is going to focus public attention on this problem.

There are controversies within our religious organizations, such as within the Catholic Church, and I know this measure will not find high favor with it, just as our family planning measures have not found favor. But the fact that there is dialog going on and discussion within groups to adjust to what must be done is encouraging.

This is the greatest deliberative body in the entire world. It is right and proper that we deliberate this question which so vitally affects the future of mankind and the environment in which we live and work. I thank the Senator from Oregon for his comments.

Mr. President, I yield the floor and I thank the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) for permitting us to proceed.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized at this time under the previous order for not to exceed 15 minutes.

S. 4424—INTRODUCTION OF VETERANS DRUG ABUSE REHABILITATION ACT OF 1970

Mr. SCHWEIKER. Mr. President, I introduce today the Veterans Drug Abuse Rehabilitation Act of 1970, to authorize use of Veterans' Administration medical facilities for treatment of veterans who have been discharged from active duty under conditions other than honorable for reason of drug abuse.

This bill will put into law the recommendation of the Department of Defense Task Group on Drug Abuse Policy by amending the section of the United States Code dealing with the duties and responsibilities of the Veterans' Administration, and I ask that the bill be appropriately referred.

The ACTING PRESIDENT pro tempore (Mr. ALLEN). The bill will be received and appropriately referred.

The bill (S. 4424) to amend chapter 17 of title 38, United States Code, to authorize the treatment of certain veterans suffering from drug addiction or drug dependency, introduced by Mr. SCHWEIKER, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

Mr. SCHWEIKER. Mr. President, we have all become gradually aware that in addition to the grave drug abuse problem within our society today, there is also a serious drug abuse problem within the military. A number of Senators have made significant contributions to our understanding of this problem. To the great credit of the administration, Secretary of Defense Melvin Laird has for some time also been aware of this serious problem, and has taken significant steps to deal with it. In April of this year, he created a special Task Group on Drug Abuse Policy to examine the entire drug and drug abuse problem, and to recommend appropriate revisions in DOD policy on drug abuse.

On July 24, 1970, this task group made an impressive, forthright report, containing many recommendations. I commend this report to any Senator interested in this problem.

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The task group refers to many of the outstanding programs which have begun within the Department of Defense in the areas of drug treatment, rehabilitation services, and amnesty programs to encourage servicemen using drugs to seek medical treatment.

However, the report also indicates a serious weakness in our system that the bill I am introducing is designed to eliminate.

Veterans benefits are not granted to servicemen discharged under dishonorable conditions, or to servicemen receiving undesirable and bad conduct discharges as a result of offenses involving moral turpitude or willful and persistent misconduct. Since a drug user is considered by the military to have rendered himself unfit for further service, his discharge falls under one of these categories, and he is barred from using veterans facilities for drug abuse treatment and rehabilitation.

My bill will change this policy by adding a new section to the United States Code, providing that the Veterans Administrator "within the limits of Veterans Administration facilities, may furnish hospital care and medical services for the treatment of drug addiction or drug dependency to eligible veterans who request such care or services."

To insure that a full rehabilitation program can be carried out, the bill authorizes the Administrator to first, require the veteran seeking treatment to agree in writing to a minimum period of time he will be required to undergo treatment, second, set any "terms and conditions for effective treatment to insure a thorough and effective rehabilitation program, and third, refuse further treatment of any veteran who violates the terms of any agreements and conditions under which the treatment began.

I want to emphasize that this is a voluntary program for the individual veteran. We are not forcing drug abusers onto veterans facilities. We are, however, opening the resources of our veterans program to those individuals who seek help in eliminating drugs, and the need for drugs, from their lives.

The task group considered a proposal to modify the general discharge regulations by allowing drug abusers to receive a general discharge for unsuitability which does not bar veterans benefits. However, the report concluded that:

> The Discharge System now in effect in the Armed Forces represents a fair and proper method of categorizing service. Rather than lower the standards and criteria within the military for discharge, a better solution would be to amend existing law, to permit treatment of drug abusers discharged under less than honorable conditions.

My bill carries out this recommendation.

Drug abuse is not limited to civilian or military environments. It is a serious problem in both, and in fact, crosses back and forth into both. Vice Adm. William P. Mack, chairman of the DOD task group, told me that about 15 percent of men entering the service today are prior drug users. He also said that the combination of combat pressures and the availability of drugs in Vietnam is one situation that leads to use of drugs by servicemen who were not prior drug users. It is clear that both civilian and military authorities must utilize their full resources to deal with this serious problem, and provide necessary rehabilitation facilities.

The military cannot, under these conditions, simply ignore the problem of the serviceman who is unfit for military duty because of drug abuse. The military has a responsibility to share efforts to help its men. That is why, when the vast resources of the Veterans' Administration are already available to provide medical and rehabilitative attention to these unfortunate veterans, we must not let statutory technicalities in the law deprive them of necessary medical treatment.

Just as military emphasis on amnesty programs rather than ironclad disciplinary action can help control the spreading of drug abuse, so can use of veterans rehabilitation facilities be helpful in removing servicemen from dependency on drugs.

My amendment makes only a small change in the law governing veterans hospitals. However, it can have an enormous effect on the lives of men who have served and fought for their country. I urge the support of all my colleagues, and speedy action on this bill.

I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 4424

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans Drug Abuse Rehabilitation Act of 1970".

SEC. 2. Subchapter II of Chapter 17 of Title 38, United States Code, is amended by adding at the end thereof a new section as follows: "620A. Hospital and medical care for veterans suffering from drug addiction or drug dependency.

"(a) As used in this section the term 'eligible veteran' means any person who served on active duty for a period of more than 60 days and who was discharged therefrom under conditions other than honorable for reasons of drug abuse.

"(b) Notwithstanding any other provision of this Title, the Administrator, within the limits of Veterans' Administration facilities, may furnish hospital care and medical services for the treatment of drug addiction or drug dependency to eligible veterans who request such care or services.

"(c) If the Administrator determines it necessary to the effective treatment of any eligible veteran applying for treatment under the provisions of this section, he may require, as a condition to providing such treatment, that such veteran agree in writing to make himself available for such treatment for such minimum period of time and on such terms and conditions as the Administrator may prescribe. The Administrator may refuse further treatment under this section to any veteran who violates the terms of any agreement entered into with the Administrator under this section.

SEC. 3. The table of sections at the beginning of Chapter 17 of Title 38, United States Code, is amended by inserting

"620A. Hospital and medical care for veterans suffering from drug addiction or drug dependency."

immediately after

"620. Transfers for nursing home care."

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, under previous order, the Senate will proceed to the transaction of routine morning business, with a 3-minute limitation on speeches.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

OPERATION ALERT?

Mr. PROXMIRE. Mr. President, recently I received a letter from John M. Fisher, who is president of the American Security Council. The letter was addressed to "Honorable W. PROXMIRE, 4327 Sen Ofc Bl, Washington, D.C.," and asked me to serve on the Operation Alert Board of the American Security Council. In the course of the letter, it said that what the American Security Council would particularly like to do would be to defeat certain U.S. Senators, and those Senators were listed as GOODELL, HART, KENNEDY, PROXMIRE, TYDINGS, and WILLIAMS of New Jersey.

I was, of course, rather nonplused at being invited to serve on a board—and, incidentally, also asked to contribute $1,000 or so—to help in the defeat of these Senators, including myself. It was a rather astonishing invitation, and it seemed to me the best course I could follow would be to accept the invitation of the American Security Council to serve on their Operation Alert Board, because they certainly need some alertness.

The fact is that their index on which they assess Senators is about as wrong as it could possibly be. The National Security Index is based on 10 rollcalls out of the 600 or so we have had in the 91st Congress. I am convinced that if Senators have voted against the position of the American Security Council on each of these rollcalls, it would have represented a far better contribution to the strength of our country than if they had voted the way the American Security Council would have had them vote.

It just happened that two of these 10 rollcalls were on my own amendments. The two amendments involved the C-5A transport plane and the Subversive Activities Control Board.

They picked the Subversive Activities Control Board vote as a crucial vote—one of the 10 most important votes in determining whether or not a Senator really believed in establishing this Nation's security.

The fact is that a vote to support my amendment was simply a vote to save more than $400,000 of the taxpayers' money which was utterly wasted on a do-nothing Board with cushy $36,000 a year jobs for friends of the country's top politicians.

Mr. President, the other proposal, on the C–5A transport, was also very misguided. That amendment was offered in September of 1969, and would have provided for a reduction of some $500 million in the amount for the C–5A. It would have cut back the number of C–5A's from 120 to 58. That amendment was defeated by the Senate, but within 3 weeks after the amendment was offered, the Defense Department went two-thirds of the way along with those of us who proposed the amendment, because the Defense Department announced that instead of procuring 120 C–5A's, they would procure only 81 C–5A's.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. PROXMIRE. I ask unanimous consent to proceed for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE. So I am convinced that on both of these amendments, the Nation would be better served and the taxpayer would certainly have been better served by Senators who supported the amendments, rather than voting with the American Security Council.

Mr. President, let me just briefly touch on the other amendments.

The other eight amendments generally delineate the difference between those who believe that we should not waste our military funds on deployment of weapons that have not been tested—ABM—or are unnecessary—the AMSA or B–1 bomber—or should restrain our military activity—by congressional action in the Far East.

The opposition, incidentally, by the American Security Council to the McGovern-Hatfield amendment as one of the key national security votes puts it in opposition to the solid majority of the American people on the basis of a Gallup poll reported just last Sunday, September 27, 1970. That survey reported support for the amendment from the American people in every single category Dr. Gallup could find: men, women, grade school, high school, college educated, East, Midwest, Far West, South. Consistent and universal support was found for setting a December 31, 1971, date and getting out of Indochina by then.

Mr. President, I wish to say, finally, that I do agree with the last sentence in the letter which I received from the American Security Council, that "working together we can make America Number one again and pass on to our children a secure America." But we cannot do this if we fritter away our resources on wasteful procurement as we did in the C–5A scandal, or on do-nothing boards like the Subversive Activities Control Board, or in military adventures in the Far East that do not involve America's vital interests.

Mr. President, I ask unanimous consent to have the entire letter from Mr. Fisher, and also my letter to him printed at this point in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

First Letter

Nominated by the Cooperating Institute for American Strategy

Honorabl W Proxmire (sic)
4327 Sen Ofc Bl
Washington, D.C. 20510

Dear Fellow American: We urgently need your help in Washington right now and invite you, Honorabl W Proxmire, to serve on our Operation Alert Board during the elections.

The 1970 elections may be the most important ever held in the United States. The results will, in a very real sense, decide the outcome of the Communist drive for world domination.

Why? Because the United States is now Number 2 in strategic military power. Already the Soviet Union has gained a 6 to 1 superiority in missile megatonnage, and, unless we try harder, the Soviets will soon be able to have their way regardless of our wishes.

Secretary of Defense Laird said on April 20, 1970, ". . . from 1965 to 1970, the Soviet Union has virtually quadrupled the total megatonnage in its strategic offensive force. In that same period the United States reduced its metaonnage by more than 40%."

Yet, in the face of this clear threat, a coalition of Republican and Democratic Senators and Congressmen have organized to force reductions in our defense budget and to abandon Vietnam.

If these Senators and Congressmen are reelected, they will have a clear mandate to reduce our military strength further!

Is that what Americans want? To find out we conducted a nationwide poll on vital national security issues—115,599 people participated! We found that the overwhelming majority *do* want the security of military superiority.

We then prepared a National Security Index which compares the voting record of each Member of Congress with the poll . . . and the result shows there are 18 Senators who have a National Security Index of zero! Among the zero-rating Senators are these six running for re-election: Goodell, Hart, Kennedy, Proxmire, Tydings and Williams (N.J.).

In several elections, the voter has a clear choice. For example, for California Senator, it is Murphy with an Index of "100" against Tunney with "0". In New York State both Goodell (R) and Ottinger (D), who score "0", are opposed by Buckley, the security-minded Conservative candidate.

There is still time for you to take positive action—now, before election day. This may be the last election where you, as a U.S. voter, can influence the outcome of the conflict between the U.S.S.R. and the U.S.—so please lend a hand!

Here is what you can do to make the massive Operation Alert voter education program a success:

Sign and return the enclosed card to let President Nixon know that *you* will not be silent—that *you* will vote for security-minded candidates and back him in an emergency effort to make America Number 1 again. We'll deliver it to the White House.

Order copies of the enclosed Operation Alert folder for your friends, relatives and other social and business associates.

Join the *Operation Alert* Board—any contribution will make you a Board member, $25 or more will give you the American Security Council's newsletter and copies of studies as they are published.

To alert all Americans, we plan 200 full page newspaper ads, prime time TV spots, distributing millions of Operation Alert folders through cooperating organizations, and other major public information efforts. This will cost at least $238,000 beyond our present budget.

We need immediate help and must turn to you for financial support. You, and others I am writing today, will determine by your contribution how effective *Operation Alert* will be.

What is a strategically secure America worth to you? $1,000, $200, $25, $10? You can't put a price tag on security. But you can help by sending as much as you can afford. Working together we can make America Number 1 again, and pass on to our children a secure Nation.

Sincerely,

(s) John M. Fisher, *President*.

P.S. If there were ever a time to stand up and be counted, this is it! Will you try harder?

Second Letter

Dear Mr. Fisher: I have just received your letter of September 25th addressed to the Honorable W. Proxmire at my address and asking for a contribution of a $1000 or so to help defeat certain United States Senators up for re-election including one named Proxmire, and asking me to serve on your "Operation Alert Board." I'm happy to accept your invitation to serve on your Operation Alert Board because as you can see from this letter you sure need help in the alertness department.

It just happens, Mr. Fisher, that the Honorable W. Proxmire of 4327 Senate Office Building and Senator Proxmire and I are all the same person.

And I must say that if I believed even half of what you claim in your letter I would be happy to contribute at least $1000 to defeat that rascal Proxmire.

But how can I believe you?

You developed what you call a National Security Index for the United States Senate on the basis of ten roll calls. Now it just happens that two of those ten roll calls are my own amendments.

And I can assure you, Mr. Fisher, that with respect to those two Proxmire amendments and the other eight votes we would have a stronger and more secure country militarily as well as economically and socially, if you had rated them precisely opposite than the way you did.

Let us take the two Proxmire amendments which your organization has selected as indicative of what we need to make a more secure America.

The first one you select was the amendment I offered on September 9, 1969 with respect to the C–5A transport plane. Your roll call analysis calls a vote against the amendment a vote for the national security.

My amendment would simply have cut the Pentagon's proposal to buy 120 C–5A planes to 58, and called for a study by the Comptroller General—the Congress' spending watchdog—before we went farther.

It just happens that the Pentagon itself had second thoughts on my amendment just three weeks after we acted on it on the Senate floor. The Pentagon unilaterally cut the number of C–5A's back to 81. This represented more than two thirds of the cut I had proposed.

Furthermore the Air Force's own invention of the need for the plane as reflected the Whitaker report showed that only 40 of these planes were needed to meet the principal purpose for their construction—the carrying of outsize military cargo of an armored division by air-lift. Airlift capacity for other purposes is in heavy surplus and is likely to be for many years.

My amendment was of course based on the facts that my subcommittee had pressured out of the Air Force in Congressional hearings that the plane was running a fantastic $2 billion above its originally estimated cost.

So the amendment would not in any sense have reduced our national security. It would have maintained that security and saved more than a half a billion dollars for the American taxpayer in the process.

Now consider the second Proxmire amendment you selected as a key national security vote in the Senate. This was my proposal to cut off funds for the Subversive Activities Control Board.

You call a vote against this amendment and for continuing funding the Subversive Activities Control Board a vote for national security.

But my amendment would have deleted funds for an agency that has been in existence for twenty years and has been charged with the responsibility for registering and identifying communists.

And how many communists has it registered in that twenty year period—exactly none. This is the Board that pays each of its five commissioners $36,000 a year for doing nothing. It is the board to which President Johnson appointed the 28-year-old husband of one of his private secretaries, a man with no qualifications, but yet perfectly qualified because the job has no functions.

If this Board has contributed one jot to the Security of this country I challenge you to name what it was. In debating this committee's existence many times on the floor of the Senate I have yet to hear a single achievement cited for it by any defender.

A vote to support my amendment was simply a vote to save more than $400,000 of the taxpayers' money which was utterly wasted on a do-nothing Board with cushy $36,000 a year jobs for friends of the country's top politicians.

Frankly I am amazed, Mr. Fisher, that with more than five hundred roll call votes in the two years of the 91st Congress your committee couldn't do any better than that one as *key* vote on national security.

With respect to your other national security votes they generally simply delineate the difference between those who believe that we should not waste our military funds on deployment of weapons that have not been tested (ABM), or are unnecessary (the AMSA or B–1 Bomber), or should restrain our military activity—by Congressional action in the Far East.

Incidentally your opposition to the McGovern-Hatfield Amendment as one of your key national security votes puts you in opposition to the solid majority of the American people on the basis of a Gallup Poll reported just last Sunday, September 27, 1970. That survey reported support for the amendment from the American people in every single category Dr. Gallup could find: men, women, grade school, high school, college educated, east, mid-west, far west, south. Consistent and universal support was found for setting a December 31, 1971 date and getting out of Indo-China by then.

I agree with your last sentence that "working together we can make America Number one again and pass on to our children a secure America." But we cannot do this if we fritter away our resources on wasteful procurement as we did in the C–5A scandal, or on do-nothing Boards like the Subversive Activities Control Board, or in military adventures in the Far East that do not involve America's vital interests.

Sincerely,

WILLIAM PROXMIRE,
U.S. Senator.

XUM

STATE INCOME TAXATION OF INTERSTATE CARRIER EMPLOYEES

Mr. BYRD of West Virginia. Mr. President, in behalf of the Senator from Nevada (Mr. CANNON), I ask unanimous consent to have printed in the RECORD a statement prepared by Mr. CANNON relative to the State income taxation of interstate carrier employees.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HOWARD CANNON

I take this opportunity to applaud the action of the Senate Committee on Commerce in approving far reaching legislation which will alleviate to a large extent an unfair burden on interstate carriers as well as their employees. The action by the Committee is long overdue, but I believe that the result was perhaps worth waiting for.

The bill originally considered by the Senate and the House was directed at the problems created by state income tax withholding and reporting laws. Employers and employees of interstate carriers are constantly bedeviled by confusion and uncertainty created by multiple taxing jurisdictions with widely varying taxing withholding or income reporting practices. Some employees of airlines, for example, bear the brunt of unfair practices by certain states to the end that in many instances more than one state is withholding on the basis of the employee's entire income. This action deprives several employees of a substantial portion of their income throughout the year. In addition to airline employees; truckers, railroad employees and water carrier operators experience hardship as a result of these withholding practices.

During the Committee's consideration of the legislation it became apparent that if the Senate were to do an effective job in addressing the problem of state income taxation as a burden on carriers and employees that it should go beyond the withholding or reporting aspect. While the original bills stated that only the state of residence could withhold or require reporting, these bills in no way touched upon the tax liability of the employees. So while a state might not withhold an employee's wages, he might still find himself at the end of a year with a substantial tax liability for which he was unprepared. Indeed, he might be in worse shape than before the bill was enacted. With this in mind, the Senate Committee on Commerce decided that withholding, reporting, as well as taxation must be considered. Accordingly, the bill reported does three things: (1) limits power to tax income of interstate carrier employees to the employee's state of residence and/or any state in which he earns more than 50% of his income; (2) limits power to withhold for tax purposes from income of interstate carrier employees to either the state of residence *or* the state in which he earned more than 50% of his income; and (3) limits the power to require the filing of information returns to the State of residence and the state by which withholding may be required. The Committee proposal enjoys the unusual position of being supported by all management and labor groups which have indicated an interest in the problem. The states would, of course, prefer no Federal action but the Multistate Tax Commission has indicated that if Federal action in this area is inevitable, the language of the reported bill is acceptable.

In conclusion I just want to say that I am delighted the Committee has taken this action and I urge that the Senate act to approve the measure as soon as possible.

TRIBUTE TO SENATOR YARBOROUGH ON SENATE ADOPTION OF COMMUNICABLE DISEASE CONFERENCE

Mr. MANSFIELD. Mr. President, the Senate is greatly indebted to the able chairman of the Senate Labor and Public Welfare Committee, the distinguished Senator from Texas (Mr. YARBOROUGH) for the excellent work he and his committee did on the communicable diseases measure. That proposal was cleared for the President yesterday with the Senate's adoption of the conference report.

All of us are keenly aware of the importance of this measure to the overall high standards of health which we seek for everyone in this Nation. No one has worked as capably and as diligently as Senator YARBOROUGH on behalf of the people to insure these high standards. We appreciate the excellent job performed by Senator YARBOROUGH, as chairman of the vitally important Labor and Public Welfare Committee. His great expertise has again been applied to promote the general welfare of all Americans.

If Senator YARBOROUGH had been able to be in attendance yesterday for the unanimous vote on this conference report, he, of course, would have been one of its most outspoken advocates. Had he been here, he would have voted in the affirmative. I ask unanimous consent that the permanent CONGRESSIONAL RECORD reflect his position accordingly.

Thet ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask uanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

REPORT ON DISBURSEMENTS MADE AGAINST DEFENSE CONTINGENCIES ACCOUNT

A letter from the Deputy Secretary of Defense, reporting, pursuant to law, that disbursements made against the Defense contingencies account during fiscal year 1970 were valued at $2,272,899; to the Committee on Appropriations.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a confidential report on a purchase commitment made to an international organization prior to availability of funds (with an accompanying report); to the Committee on Government Operations.

ADMISSION INTO THE UNITED STATES OF CERTAIN DEFECTOR ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting admission into the United States of certain defector aliens (with accompanying papers); to the Committee on the Judiciary.

Suspension of Deportation of Certain Aliens

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens, together with a statement of the facts and pertinent provisions of law pertaining to each alien, and the reasons for ordering such suspension (with accompanying papers); to the Committee on the Judiciary.

Temporary Admission Into the United States of Certain Aliens

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting temporary admission into the United States of certain aliens (with accompanying papers); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. **MAGNUSON**, from the Committee on Commerce, without amendment:

S.J. Res. 222. Joint resolution granting the consent of Congress to the States of New Jersey and New York for certain amendments to the Waterfront Commission Compact and for entering into the Airport Commission Compact, and for other purposes (Rept. No. 91–1262); rereferred to the Committee on the Judiciary.

By Mr. **BIBLE**, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 18776. An act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes (Rept. No. 91–1263).

S. 4432—ORIGINAL BILL REPORTED, BUDGET AND ACCOUNTING IMPROVEMENT ACT OF 1970—REPORT OF A COMMITTEE (S. REPT. NO. 91–1264)

Mr. **RIBICOFF**, from the Committee on Government Operations, reported an original bill (S. 4432) to revise and restate certain functions and duties of the Comptroller General of the United States; to change the name of the General Accounting Office to "Office of the Comptroller General of the United States," and for other purposes, and submitted a report thereon, which bill was placed on the calendar and the report was ordered to be printed.

PRINTING OF REPORT ON EDGARTOWN HARBOR, MARTHA'S VINEYARD, MASS. (S. DOC. NO. 91–108)

Mr. **BYRD** of West Virginia. Mr. President, on behalf of my colleague, the senior Senator from West Virginia (Mr. Randolph), I present a letter from the Secretary of the Army, transmitting a favorable report dated May 15, 1970, from the Chief of Engineers, Department of the Army, together with accompanying papers and illustration, on Edgartown Harbor, Martha's Vineyard, Mass., requested by a resolution of the Committee on Public Works, U.S. Senate.

I ask unanimous consent that the report be printed as a Senate document with illustrations, and referred to the Committee on Public Works.

The **PRESIDING OFFICER** (Mr. Schweiker). Without objection, it is so ordered.

EXECUTIVE REPORTS OF A COMMITTEE

As in executive session, the following favorable reports of nominations were submitted:

By Mr. **FULBRIGHT**, from the Committee on Foreign Relations;

William M. Rountree, of Florida, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary to Brazil;

Horace G. Torbert, Jr., of the District of Columbia, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary to Bulgaria;

Turner B. Shelton, of California, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary to Nicaragua; and

Luis A. Ferre, of Puerto Rico, and Charles W. Robinson, of California, to be members of the Board of Directors of the Inter-American Social Development Institute.

BILLS AND A JOINT RESOLUTION INTRODUCED OR REPORTED

Bills and joint resolutions were introduced or reported, read the first time and, by unanimous consent, the second time, and referred or placed on the calendar as follows:

By Mr. **SCHWEIKER**:

S. 4424. A bill to amend chapter 17 of title 38, United States Code, to authorize the treatment of certain veterans suffering from drug addiction or drug dependency; to the Committee on Labor and Public Welfare.

(The remarks of Mr. Schweiker when he introduced the bill appear earlier in the Record under the appropriate heading.)

By Mr. **HOLLINGS**:

S. 4425. A bill for the relief of Alberto Mattioli; to the Committee on the Judiciary.

By Mr. **McCLELLAN**:

S. 4426. A bill to amend the act of June 1, 1948, to increase the jurisdiction and policing power of General Services Administration special policemen, to increase the penalties for violations of rules and regulations promulgated thereunder by the General Services Administration for the protection of public buildings, and to prohibit certain conduct in or near offices of the Government; to the Committee on Government Operations.

(The remarks of Mr. McClellan when he introduced the bill appear below under the appropriate heading.)

By Mr. **NELSON**:

S. 4427. A bill to declare that certain federally owned land is held by the United States in trust for the Lac Corte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. Nelson when he introduced the bill appear below under the appropriate heading.)

By Mr. **GOLDWATER** (for Mr. Murphy and himself):

S. 4428. A bill to amend chapter 73 of title 10, United States Code, to establish a Survivor Benefit Plan; to the Committee on Armed Services.

(The remarks of Mr. Goldwater when he introduced the bill appear below under the appropriate heading.)

By Mr. **ALLOTT** (for Mr. Murphy):

S. 4429. A bill to provide for the control and prevention of further pollution by oil discharges from Federal lands off the coast of California, and to provide for the improvement in the State of the art with respect to oil production from submerged lands; to the Committee on Interior and Insular Affairs.

By Mr. **McGOVERN**:

S. 4430. A bill to facilitate and encourage cooperation between the United States and certain defense contractors engaged in the furnishing of defense material to the United States, in providing for an orderly conversion from defense to civilian production, and to assure, through such cooperation, that the United States and such defense contractors will be able to meet the challenge arising out of the economic conversion and diversification required by reason of the changing defense needs of the United States, to provide for such an orderly conversion in an effort to minimize, to the extent possible, the hardships and other disruptive factors likely to be encountered by defense workers and their families and by communities dependent upon defense industry as a result thereof; to the Committee on Commerce, and if reported by that Committee to be referred to the Committee on Government Operations, by unanimous consent order.

(The remarks of Mr. McGovern when he introduced the bill appear below under the appropriate heading.)

By Mr. **BYRD** of West Virginia (for Mr. Magnuson):

S. 4431. A bill to amend the Fish and Wildlife Coordinating Act to provide additional protection to marine and wildlife ecology by requiring the designation of certain water and submerged land areas where the depositing of certain waste materials is prohibited, to require the establishment of standards with respect to such deposits in all other areas, and for other purposes; to the Committee on Commerce.

(The remarks of Mr. Byrd of West Virginia when he introduced the bill which appear below in the Record under the appropriate heading.)

By Mr. **RIBICOFF**:

S. 4432. A bill to revise and restate certain functions and duties of the Comptroller General of the United States; to change the name of the General Accounting Office to "Office of the Comptroller General of the United States," and for other purposes; placed on the calendar.

(See reference to the bill when reported by Mr. Ribicoff, which appears under the heading "Reports of Committees".)

By Mr. **FANNIN** (for himself, Mr. Allen, Mr. Allot, Mr. Baker, Mr. Bellmon, Mr. Cook, Mr. Cooper, Mr. Curtis, Mr. Dole, Mr. Eastland, Mr. Ervin, Mr. Goldwater, Mr. Gurney, Mr. Hansen, Mr. Hatfield, Mr. Hollings, Mr. Holland, Mr. Hruska, Mr. Jordan of Idaho, Mr. Miller, Mr. Murphy, Mr. Pearson, Mr. Saxbe, Mr. Stennis, Mr. Talmadge, Mr. Thurmond, Mr. Tower, Mr. Williams of Delaware, and Mr. Young of North Dakota:

S.J. Res. 240. Joint resolution proposing an amendment to the Constitution of the United States requiring the submission of balanced Federal funds budgets by the President and action by the Congress to provide revenues to offset Federal funds; to the Committee on the Judiciary.

(The remarks of Mr. Fannin when he introduced the joint resolution appear later in the Record under the appropriate heading.)

XUM

S. 4426—INTRODUCTION OF A BILL RELATING TO PROTECTION OF PUBLIC BUILDINGS

Mr. McClellan. Mr. President, at the request of the Administrator of General Services, I introduce for appropriate reference a bill to amend the act of June 1, 1948, to increase the jurisdiction and policing authority of special policemen appointed by the Administrator of General Services, to increase the penalties for violations of rules and regulations promulgated thereunder by the General Services Administration for the protection of public buildings, and to prohibit certain conduct in or near offices of the Government.

The basic purpose of this bill is to strengthen the authority of the Administrator of General Services in carrying out his assigned duty relative to the care and protection of property of the United States, and to give additional protection to Government employees in the performance of their duties.

Under existing law, the jurisdiction and policing power of GSA special policemen is limited to Federal property over which the United States has acquired exclusive or concurrent criminal jurisdiction. This limitation, according to the Administrator of General Services, severely restricts the authority of such policemen in property located in areas over which the United States has only proprietorial jurisdiction and over leased space. In addition, although the Administrator is authorized to promulgate rules and regulations and to fix the penalty for violations thereof, that authority is limited to a maximum fine of $50 or imprisonment for not more than 30 days, or both. Furthermore, there is presently no general criminal statute covering disruptive conduct in or near Government offices.

This bill would, first, enlarge the jurisdiction and policing powers of General Services Administration special policemen to cover all property owned or occupied by the U.S. Government which is under the charge and control of the General Services Administration, without regard to whether the United States has acquired exclusive or concurrent criminal jurisdiction over such property; second, increase the penalty for violations of rules and regulations promulgated by the Administrator to a maximum fine of $500, or imprisonment for not more than 6 months, or both; and third, provide specific language detailing the prohibited acts, to include loud, threatening, and abusive language, disorderly or disruptive conduct within or near U.S. Government offices under the control of the General Services Administration, impeding the orderly conduct of Government business in such offices and engaging in acts of physical violence therein, including assault or threat of inflicton of death or bodily harm to individuals, or destruction of real or personal property; and provide the same criminal penalties for such conduct as are provided for violations of the General Services Administration's rules and regulations. This latter provision is similar to that enacted in the 90th Congress for the protection of the U.S. Capitol buildings and grounds.

Mr. President, I ask unanimous consent that the correspondence from the General Services Administration transmitting the proposed legislation be printed in the Record following the conclusion of my remarks, along with the text of the proposed bill.

The PRESIDING OFFICER (Mr. Miller). The bill will be received and appropriately referred; and, without objection, the bill and correspondence will be printed in the Record.

The bill (S. 4426) to amend the act of June 1, 1948 to increase the jurisdiction and policing power of General Services Administration special policemen, to increase the penalties for violations of rules and regulations promulgated thereunder by the General Services Administration for the protection of public buildings, and to prohibit certain conduct in or near offices of the Government introduced by Mr. McClellan, was received, read twice by its title, referred to the Committee on Government Operations, and ordered to be printed in the Record, as follows:

S. 4426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318) is amended to read as follows:

"That the Administrator of General Services or officials of the General Services Administration duly authorized by him may appoint uniformed guards of said Administration as special policemen without additional compensation for duty in connection with the policing of public buildings and other areas owned or occupied by the United States and under the charge and control of the General Services Administration. Such special policemen shall have the same powers as sheriffs and constables upon such property to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rules and regulations made and promulgated by the Administrator or such duly authorized officials of the General Services Administration for the property under their charge and control. The jurisdiction and policing powers of such special policemen shall not extend to the service of civil process.".

Sec. 2. Section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c) is amended to read as follows:

"Sec. 4. Whoever violates any rule or regulation promulgated pursuant to section 2 of this Act shall be fined not more than $500, or imprisoned not more than 6 months, or both.".

Sec. 3. The Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318) is amended by adding at the end thereof the following new section:

"Sec. 6. (a) Whoever knowingly and willfully—

"(1) utters loud, threatening or abusive language, or engages in disorderly or disruptive conduct, within or near any office of the United States Government situated upon premises under the charge and control of the General Services Administration with intent to impede, disrupt, or disturb the orderly conduct of Government business within that office;

"(2) obstructs or impedes ingress or egress to or from any such office; or

"(3) engages in any act of physical violence within such office or upon such premises.

shall be fined not more than $500, or imprisoned not more than six months, or both.

"(b) Nothing contained in this section shall forbid any act of any officer or employee of the United States which is performed in the lawful discharge of his official duties.

"(c) As used in this section, the term 'act of physical violence' means any act involving (1) an assault or any other infliction or threat of infliction of death or bodily harm upon any individual, or (2) damage to or destruction of any real property or personal property.".

The correspondence presented by Mr. McClellan is as follows:

United States of America,
General Services Administration,
Washington, D.C., August 5, 1970.

Hon. Spiro T. Agnew,
President of the Senate,
Washington, D.C.

Dear Mr. President: There is transmitted herewith, for referral to the appropriate committee, a draft of legislation "To amend section 4 of the Act of June 1, 1948, to increase the penalty provisions for the violation of rules or regulations promulgated under authority of said Act, and to make restrictions on disruptive occurrences in and near premises upon which offices of the United States Government are located and to fix penalties for breach."

The purpose of the bill is to strengthen the authority of the Administrator of General Services in his assigned duty of the care and protection of the property of the United States, and will have the further effect of giving additional protection to Government employees in the performance of their duties.

Under the Act of June 1, 1948, the Federal Works Administrator was authorized to appoint special policemen for duty upon Federal property and to make all needful rules and regulations for the government of the Federal property under the charge and control of the Federal Works Agency, and to fix the penalty for the violation of any such rules or regulations.

By the Federal Property and Administrative Services Act of 1949, all functions of the Federal Works Agency, together with all functions of the Federal Works Administrator, were transferred to the Administrator of General Services.

The first proposed change increases the maximum penalty for the violation of the published rules and regulations from a maximum of $50 or imprisonment for not more than 30 days, or both, to a maximum of $500 or imprisonment for not more than six months, or both. The "than" is included to correct an apparent inadvertent error in the bill which was originally passed in 1947. The present penalty and punishment is so minor as to classify the most aggravated or most gross infraction as a petty offense. Such a classification has the further limiting effect upon the degree of enforcement which can be legally exerted by the authorized General Service Administration special policemen. The proposed increased penalty is not absolute but is merely a maximum and allows the Court a latitude of sentence commensurate with the circumstances of the offense. Increased penalty provisions are necessary to act as a deterrent to the breach of the rules and regulations, yet would be such a reasonable punishment as to make the enforcement of the rules and regulations more effective. This same reasoning is applicable to the degree of punishment and penalty included in the new section 6, which is proposed to be added.

Section 6 proposed to be added is designed to control the situation that has developed in many Government offices where the actions and presence of individuals in varying

XUM

numbers in or about the premises interrupts and impedes the normal governmental functions.

GSA recommends prompt and favorable consideration of this draft bill.

The enactment of the bill would not require the expenditure of additional Federal funds.

The Office of Management and Budget has advised that there is no objection to the submission of this legislative proposal to the Congress and that its enactment would be consistent with the Administration's objectives.

Sincerely,

Rod Kreger,
Assistant Administrator.

United States of America,
General Services Administration,
Washington, D.C., August 4, 1970.

Hon. John L. McClellan,
Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: On August 5, I transmitted to the President of the Senate a draft of legislation "To amend section 4 of the Act of June 1, 1948, to increase the penalty provisions for the violation of rules or regulations promulgated under authority of said Act, and to make restrictions on disruptive occurrences in and near premises upon which offices of the United States Government are located and to fix penalties for breach." On August 10, this draft legislation was referred to the Committee on Government Operations.

The purpose of the legislation is to strengthen the authority of the Administrator of General Services in his assigned duty of the care and protection of the property of the United States. Further, it will have the effect of giving additional protection to Government employees in the performance of their duties. The authority contained in this draft legislation is sorely needed in view of the increasing number of demonstrations, bombings, and bomb threats involving buildings owned or leased by the Federal Government.

I would sincerely appreciate it if you would introduce this draft legislation and take such additional steps as are required to permit its early consideration by the Senate.

Sincerely,

Rod Kreger,
Assistant Administrator.

United States of America,
General Services Administration,
Washington, D.C., September 18, 1970.

Hon. John L. McClellan,
Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: On August 5, I transmitted to the President of the Senate a draft of legislation "To amend section 4 of the Act of June 1, 1948, to increase the penalty provisions for the violation of rules or regulations promulgated under authority of said Act, and to make restrictions on disruptive occurrences in and near premises upon which offices of the United States Government are located and to fix penalties for breach." On August 10, this draft legislation was referred to the Committee on Government Operations.

Subsequent conversations with your Committee staff, and a review of the draft legislation submitted, have convinced me that further amendment of the Act of June 1, 1948, is essential if the General Services Administration is to carry out adequately its functions regarding the protection of Government property under its charge and control.

The jurisdiction and policing powers of GSA special policemen, appointed pursuant to section 1 of the Act of June 1, 1948 (40 U.S.C. 318), is currently limited by that section to "Federal property over which the United States has acquired exclusive or concurrent criminal jurisdiction." This limitation severely restricts the authority of such special policemen in areas over which the United States has only proprietorial jurisdiction and over leased space. Such a limitation is, in our opinion, unnecessary and results in a confusion of the authority granted such special policemen by section 1. I therefore recommend that section 1 of the Act of June 1, 1948, as amended, be further amended (1) by deleting the words "under the jurisdiction" appearing in the first sentence, and inserting in lieu thereof the words "owned or occupied by the United States and under the charge and control"; (2) by deleting the word "Federal" in the second sentence and by changing the word "jurisdiction" in this sentence to "charge and control"; and (3) by placing a period after the word "process" in the proviso and striking the remainder of the section.

A similar change in existing legislation, applicable to the authority of the United States Park Police, was enacted by the Congress this year as section 4 of Public Law 91-383.

Sincerely,

Rod Kreger,
Assistant Administrator.

S. 4427—INTRODUCTION OF A BILL RELATING TO LANDS FOR CERTAIN INDIANS

Mr. NELSON. Mr. President, I introduce for appropriate reference, a bill to declare that 5 acres of federally-owned land be held in trust for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians in Wisconsin and request that the measure be printed in the Record at the end of these remarks.

This property, which was originally owned by the Indians then changed hands several times, would strengthen local economic and employment opportunities for the Indians by aiding them in attracting industry to the reservation.

The measure was recommended by the U.S. Department of the Interior.

The PRESIDING OFFICER (Mr. Miller). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the Record.

The bill (S. 4427) to declare that certain federally-owned land is held by the United States in trust for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, introduced by Mr. Nelson, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the Record, as follows:

S. 4427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to valid existing rights-of-way, all rights, title and interest of the United States in and to the W ½ NW ¼ NW ¼ NW ¼ section 21, T. 40 N., R. 8 W., 4th Principal Meridan, Sawyer County, Wisconsin, containing five acres, more or less, including improvements thereon, are hereby declared to be held by the United States in trust for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin.

Sec. 2. The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the beneficial interest conveyed by this Act should or should not be set off against any claim against the United States determined by the Commission.

S. 4428—INTRODUCTION OF A BILL RELATING TO ESTABLISHMENT OF A SURVIVOR BENEFIT PLAN

Mr. GOLDWATER. Mr. President, on June 23, the senior Senator from California (Mr. Murphy) introduced a bill, S. 4015, to provide for an equitable and adequate survivor annuity program for career members of the uniformed services. I was pleased to join with 22 other Senators as a cosponsor of that important measure.

Today, Senator Murphy has asked me to introduce, on his behalf, a new revised approach to the present lack of an adequate annuity for military widows. Again, I am happy to join as a cosponsor of widow's equity legislation. The bill I now send to the desk is the most comprehensive approach to this serious problem to date.

We are introducing a new version of our proposal in order to take account of the comprehensive recommendations which have now been published by the Special Subcommittee on Survivor Benefits of the House Committee on Armed Services. The House subcommittee has just completed exhaustive studies of the problems that confront the military man, alone, among all Federal employees, in attempting to provide security for his family, and this bill thereby reflects the result of the most current, informed thinking available in this field.

Mr. President, I urge Senators to support this equitable measure.

The PRESIDING OFFICER (Mr. Schweiker.) The bill will be received and appropriately referred.

The bill (S. 4428) to amend chapter 73 of title 10, United States Code, to establish a survivor benefit plan, introduced by Mr. Goldwater (for Mr. Murphy and himself), was received, read twice by its title, and referred to the Committee on Armed Services.

S. 4430—INTRODUCTION OF THE NATIONAL ECONOMIC CONVERSION ACT

Mr. McGOVERN. Mr. President, I introduce a bill entitled the National Economic Conversion Act. I ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. Schweiker). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the Record, as requested by the Senator from South Dakota.

The bill (S. 4430) to facilitate and encourage cooperation between the United States and certain defense contractors engaged in the furnishing of defense material to the United States, in providing for an orderly conversion from defense to civilian production, and to assure, through such cooperation, that the United States and such defense contractors will be able to meet the challenge arising out of the economic conversion and diversification required by reason of the changing defense needs of the United States, to provide for such an orderly

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conversion in an effort to minimize, to the extent possible, the hardships and other disruptive factors likely to be encountered by defense workers and their families and by communities dependent upon defense industry as a result thereof, introduced by Mr. McGOVERN, was received, read twice by its title, and referred to the Committee on Commerce.

Mr. McGOVERN. Mr. President, I offer this proposal with the assertion that we are long overdue in moving to avoid the grave dislocations which now confront the industries, workers, and communities which have grown dependent upon military orders for their economic well-being.

In his inaugural address on January 20, 1969, President Nixon promised that—

> We shall plan now for the day when our wealth can be transferred from the destruction of war abroad to the urgent needs of our people at home.

Now some of that wealth is being released, but we find that if there has been planning for the transition it has been woefully inadequate.

The consequences are lost opportunities, wasted resources, idle workers, sinking communities, and—on top of it all—the probable disappearance of the peace dividend we have waited so long to reap.

THE NATURE OF THE PROBLEM

The concerns to which this proposal is addressed are not new in our society. At least three times in this country—World Wars I and II and Korea—we have shifted from war to peacetime production. Each time there have been painful adjustments.

We have good reason to expect, however, that for some areas of the country the depression this time will be more severe, and the recovery more difficult, than all of our previous postwar experiences.

One major complicating factor is the sophistication of today's methods of waging war. Murray Weidenbaum, now Assistant Secretary of the Treasury, estimated in 1963 that at least 80 percent of the military equipment in use at the beginning of World War I consisted of standard goods produced by normal peacetime production lines. The special purpose portion was up to almost 50 percent in 1941 and had climbed to 90 percent in 1963. Military suppliers are that much less capable today of simply shifting markets when they see declining defense demands. They must accomplish the much more complicated task of shifting products and production lines.

The nature of civilian markets has also changed. During World War II, for example, we imposed tight rationing on consumer goods needed for the war effort—tires, gasoline, foodstuffs, and other items. This stored demand was released when hostilities ended, providing a sudden increase in aggregate demand and giving converting industries vast opportunities for peacetime production. By contrast, output has been available throughout the Vietnam war to meet virtually every consumer need. New markets now must be created.

Another critical difference lies in the planning of war industries themselves. The problem after World War II and, to some extent, after Korea, was one of reconversion rather than conversion. The war was abnormal—a disruption of business as usual. Contractors welcomed the opportunity to return to familiar civilian markets. Today the situation is reversed, and the free civilian marketplace is a mystery for businesses that have produced almost exclusively for the military for nearly 30 years.

These characteristics of today's outlook describe the complexity of the conversion problem. We must also be concerned about its size, about the total impact of the military cutbacks we should expect within the next several years. It is likely to be fueled by pressures from no less than five directions, each amplifying the other.

First, the winding down of the Vietnam war will eliminate hundreds of thousands of jobs, both civilian and military, within the Government establishment. Meanwhile it will have a similar effect in the private sector with the decline in orders for products consumed by the war—ammunition, aircraft, uniforms, weapons, and a long list of others.

Second, we have hopeful signs that both the United States and the Soviet Union have recognized the futility of the deadly arms competition which has depleted our resources since the end of World War II. It seems to be almost a foregone conclusion that the strategic arms limitation talks will produce an agreement to limit nuclear forces. If they do not it will be an historic diplomatic failure. When they do, the arms industry will be confronted with another shrunken market.

Third, regardless of the outcome of SALT, both the Congress and the executive branch have in recent years begun to apply much more rigorous scrutiny to all military projects and programs. Contractors can expect greater demands for efficiency, and the armed services should plan on meeting more healthy skepticism when they request elaborate new weapons systems. All of this will add up to a less lucrative arms industry.

Fourth, aerospace industries are already finding that the space program no longer stands ready to pick up the slack in defense work. Instead, defense cutbacks are coinciding with declining space demands. While there are pressures to embark quickly on another major venture, I suspect that we will, upon completion of the Apollo program, concentrate on consolidating the enormous knowledge accumulated during the moon missions. The resulting layoffs have already begun.

Fifth, and finally, the economic environment for all of these changes is one of governmental policies aimed at slowing growth across the board. We still have not checked the persistent inflation borne by the war, and the Nixon administration is still trying. We thus cannot even pursue steps to bolster the aggregate demand, in the hopes that such imperfect tools might provide at least some help to beleaguered communities. On the contrary, rising unemployment is official Government policy.

Because of these pressures I submit that it is a grave mistake to assume that the economic costs of peace will be nationally inconsequential. We are, I believe, in danger of swinging to the opposite extreme of the economic distortion the war has brought.

If all public and private manpower employed as a consequence of Vietnam is released, a total of nearly 2.4 million workers will enter the job market. They will be accompanied by workers displaced by cutbacks unrelated to Vietnam—the space program, Pentagon efficiency moves, and others. And we must also account for the multiplier effect—the loss of local nondefense business when the local defense plant shuts down. It could easily double the total job decline.

The preliminary cutbacks announced on February 2 were expected to reduce military and industrial employment by 1.3 million in 1969 and 1970, due at least in part to the $5.3 billion congressional reduction in the fiscal 1970 military budget.

The Nixon administration in June reportedly asked the Secretary of Defense to cut military spending by another $7 billion. Meanwhile the space program has been pruned by almost $500 million.

We are on the downward slope and it is getting steeper. From this general area alone, the job loss could easily run more than 5 million, in an economy where over 5 percent of the work force already cannot find jobs.

But if the national prospect is disturbing, we should be even more alarmed about the outlook for the communities and regions which will bear the greatest share of the burden—some 5,200 towns and cities where military projects are concentrated. The impact will, after all, be spread unevenly, striking the hardest in the areas which are most heavily dependent upon military orders.

Statistics from the Department of Defense and Labor show that 11 States—Alaska, Hawaii, the District of Columbia, Virginia, Maryland, Utah, Georgia, Colorado, California, Connecticut, and Arizona—have more than 9 percent of their work force employed in jobs generated by defense and space spending. But the grim future is most apparent at the community level. All 50 States and the District of Columbia have some defense work and we can all expect reductions seriously affecting one or more communities. In California, for example, five major metropolitan areas—Los Angeles and Long Beach; Santa Clara County; Anaheim, Santa Ana, and Garden Grove; San Diego County; and San Francisco-Oakland—accounted for 92.7 percent of all of that State's defense-aerospace jobs. In New York it is Long Island, where 35 percent of total factory employment is dependent on defense contracts. In Connecticut, which has led the Nation in per capita defense contracts since the Civil War, it is Bridgeport-Stratford. Defense contracts there doubled between 1964 and 1968.

Without a major effort to create alternative sources of growth, these communities and hundreds more must see peace as a mixed blessing. It will mean economic depression, declining business

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opportunities, a deteriorating tax base, and a big share of the work force unemployed.

CONVERSION OPPORTUNITIES

What I have said thus far is more than a prognosis for the future; in a sense it is a description of the past—part of the reason why we have accumulated weaponry far beyond any rational need, while neglecting so many perplexing domestic problems. Economic dependence is the core of the political power of the so-called military-industrial complex.

A primary benefit of sound and successful conversion planning, therefore, will be to free national decisionmakers from the pressures of military pork-barrel. It will allow both Congress and the executive branch to base force levels on sound assessments of military needs. The absence of such planning to date, on the other hand, is a central reason why many observers in both Government and private industry are predicting that there will be no "peace dividend" when the Vietnam war ends. Unless alternatives for war industry are found, we may find ourselves 1 or 2 years from now casting routine votes for more outlandish military devices than anything we can even conceive today, done with the usual proclamations about "national security," but with an even keener sense of the potential for economic collapse among our constituencies.

Preparations for economic conversion, then, are one means of assuring that we will really establish new national priorities, that the public funds so thoroughly occupied by past, present, and potential wars can at last be applied to housing, schools, pollution, hunger, and other needs at home.

But more than money is involved. We must also plan to make maximum beneficial use of the technology, the skills, and the capital goods to be freed, both to avoid their waste and to hasten their application to more hopeful concerns.

On this aspect of the issue I fear that the administration has adopted a sadly fatalistic attitude.

In his economic address last June the President suggested that—

> We must deal with the problems of a nation in transition from a wartime economy to a peacetime economy . . . The cuts in defense spending mean a shift of job opportunities away from defense production to the kind of production that meets social needs. This will require adjustment for many employees and businesses.

This statement implies, and the record suggests, a belief that government's role is limited to simply pulling money out of defense and, perhaps, applying it elsewhere, with some small measure of help to impacted people and areas. By and large, workers must continue to seek out the job opportunities in production that meets social needs. They must hope that if and when the jobs do come they have at least some relationship to existing skills, and that they do not require a move clear across the country. Defense industries are encouraged to write off and close down their surplus productive capacity, and the communities involved are left almost entirely on their own in a quest for new business.

Our society should not tolerate such incredible waste. We should instead be searching out every possible means to employ the manpower and facilities where they exist. Through the cooperation of government, industry, labor and other concerned groups, I am convinced that we can find new products, new services and new markets that will avoid serious dislocation for many, if not most, of existing defense enterprises. In the process resources that might otherwise be idled can be quickly transferred to productive peacetime uses.

THE FEDERAL RESPONSIBILITY

Today's huge Defense Establishment is a creature of government. It is a tool of governmental policies. Government called it into being.

I believe, therefore, that government has a special obligation to assist the transition when parts of the establishment become surplus to our needs.

That principle is recognized in a number of existing programs bearing on the conversion problem. With White House coordination, the Pentagon, the Labor and Commerce Departments and the Veterans' Administration are now seeking to train and find work for laid-off workers and returning veterans. Loans are available to distressed communities. Some attempts are being made to find alternative uses for closing military bases.

But one element is almost entirely missing, and I think it is the most critical need. We have yet to find the means of motivating the defense industry to seek its own alternatives. Clearly no one else can make such plans. Without the active involvement of industry there can be no conversion of industrial resources to peacetime use.

Beyond this, the need for Government retaining and relocation programs for workers, and for community assistance, arises precisely because industry in not directly concerned. The programs we have now seek to soften a blow which could be prevented to a large extent if the arms contractors were developing plants and workers as well.

A little less than 2 years ago Mr. Bernard Nossiter of the Washington Post, after extensive surveys in the arms industry, wrote that—

> The shrewd and skillful men who direct large, sophisticated defense firms look forward to a post-Vietnam world filled with military and space business. . . . For them the war's end means no uncomfortable conversion to alien civilian markets. Quite the contrary, and with no discernible exception, they expect handsome increases in the complex planes and missiles, rich in electronics, that are at the heart of their business.

Last week Senator RIBICOFF's Executive Reorganization Subcommittee released a study which updates that discouraging conclusion. The Senator's summary statement notes—

> In general, the responses indicated that private industry is not interested in initiating any major attempts at meeting critical public needs. Most industries have no plans or projects designed to apply their resources to civilian problems. Furthermore, they indicated an unwillingness to initiate such actions without a firm commitment from the government that their efforts will quickly reap the financial rewards to which they are accustomed. Otherwise, they appear eager to pursue greater defense contracts or stick to proven commercial products within the private sector.

This is an exact statement of the problems which my bill seeks to remedy.

THE NATIONAL ECONOMIC CONVERSION ACT

The bill I have introduced today builds upon proposals I have offered in past sessions. The original was introduced in 1963, and it was offered again, with some revisions, in March of last year, as S. 1285. Its essence is to obligate defense and space contractors to undertake conversion planning as a condition of doing business with the Government.

I want to make special note of the fact that in drafting the current version I have drawn heavily upon the excellent suggestions made by United Auto Workers President Walter Reuther in testimony before the Senate Committee on Labor and Public Welfare last December 1st. Much of this language should quite properly be considered as part of his great legacy to American public policy.

The basic provision of the bill requires that 12½ percent of each contractor's profits from defense and space work shall be set aside as a conversion reserve, to be held in trust by the National Economic Conversion Commission. The funds would be used for two purposes: to finance the implementation of conversion plans developed by the contractor, and to pay benefits to workers who might suffer hardship during the transfer to civilian production.

The first incentive to the contractor, therefore, would be that his own profits are involved. If he failed to develop and implement an effective conversion plan, it is possible that his entire reserve might be used up in the payment of employee benefits.

But the bill includes a highly significant carrot along with the stick. It provides that after the contractor has converted to civilian production, he may reclaim all of the funds remaining in his reserve, with interest, and that the funds will be returned free of tax. Thus, if he planned his conversion well enough so that no benefits, or only a small amount, were required to be paid to his workers, he could get back the equivalent of nearly twice as much as he put into the reserve—his own deposit, plus the amount which would normally have been charged to him as taxes.

This feature of the proposal is similar to the Swedish Investment Reserve Plan, which is used to influence the timing of business investment. Under that system, a firm is allowed to place part of its profits into a reserve fund upon which no taxes are charged. If the funds are then withdrawn and invested when desired by the Government, again no taxes are charged. This bill requires the deposit of profits—but it also holds them for prudent business purposes to the benefit of the contractor.

During the transition process a contractor could borrow all of his impounded profits to finance civilian production operations in his existing labor market area. He would, therefore, be encouraged to use the same facilities and the same workers to the greatest extent possible, thereby preserving the strength of the local economy. Interest paid on such loans would, of course, be returned to him along with his remaining reserves when they are reclaimed. The probable reduction in employee benefits paid out would also encourage the contractor to continue in the same location.

The benefits to workers who are displaced, downgraded or assigned to shortened workweeks would be based on preserving their purchasing power at the same level as when they were fully employed. In addition to protecting workers, this provision would help avert serious disruptions in the local economy. The benefits would run for not more than 2 years, and would be conditioned upon the worker's willingness to accept suitable employment. Administration of the benefit plan would be by contract with State agencies administering unemployment compensation laws, in the same fashion as the existing unemployment compensation program for Federal employees.

Similar provisions would apply to nonprofit defense contractors, including academic institutions. In their case, however, the funding would come entirely from Federal appropriations, and the amount not used for payment of employee benefits and implementation of the conversion plans would revert to the Treasury.

Overall administration of the program would be entrusted to a National Economic Conversion Commission, made up of members of the Cabinet, the Administrator of NASA, the Chairman of the Atomic Energy Commission, the Director of the Arms Control and Disarmament Agency, the Chairman of the Council of Economic Advisers, and three representatives each from business and labor. It would be chaired by the Secretary of Commerce, and could invite additional public members to serve. The executive secretary would be appointed by the President.

The Commission would be charged with evaluating and approving the conversion proposals submitted by companies in compliance with the terms of defense and space contracts. In cases where satisfactory plans were not filed, the appropriate defense agency would be directed to withhold up to 15 percent of any payments then due to the contractor until he complied with the requirements of the conversion act.

In addition, the Commission has broad authority to assist in conversion planning, including the definition of appropriate policies and programs to be carried out by the Federal Government, consultation with the States and assistance in the financing of State-level conversion studies, and the collection and dissemination to defense contractors of information that might be useful in formulating conversion plans.

Mr. President, I hope this proposal will receive serious attention during the remaining weeks of this Congress. It is a constructive alternative to the congressional complaints about local defense cutbacks which are philosophically inconsistent in many cases and nearly always ineffective in any case.

Let us move forthrightly to welcome peace, to minimize its problems, and to grasp its great opportunities.

The bill (S. 4430) is as follows:

S. 4430

A bill to facilitate and encourage cooperation between the United States and certain defense contractors engaged in the furnshing of defense material to the United States, in providing for an orderly conversion from defense to civilian production, and to assure, through such cooperation, that the United States and such defense contractors will be able to meet the challenge arising out of the economic conversion and diversification required by reason of the changing defense needs of the United States, to provide for such an orderly conversion in an effort to minimize, to the extent possible, the hardships and other disruptive factors likely to be encountered by defense workers and their families and by communities dependent upon defense industry as a result thereof

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Economic Conversion Act."

DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares that the United States has during the past two decades made heavy economic, scientific, and technical commitments for defense; that careful preparation and study are necessary if wise decisions on future allocations of such resources are to be possible; that the economic ability of the Nation and of management, labor and capital to adjust to changing security needs is consistent with the general welfare of the United States; and that the economic conversion and diversification required by changing defense needs presents a great challenge and a significant opportunity to the American people.

(b) It is the purpose of this Act to provide means through which the United States can determine the public policies which will promote an economic conversion which can (1) assure an orderly transition from defense to civilian production with a minimum of dislocation to families and communities and (2) encourage conversion of technologies and managerial and worker skills developed in defense production to the service of high-priority civilian purposes.

DEFINITIONS

SEC. 3. As used in this Act the term—

(1) "defense agency" means the Department of Defense, the Atomic Energy Commission, or the National Aeronautics and Space Administration.

(2) "defense contractor" means any person having not less than fifty workers engaged in the furnishing of defense material pursuant to the terms of a defense contract, or a subcontract entered into for the performance of any such contract or part thereof; except that the term "defense contractor" shall not include any person whose total number of workers so engaged in the furnishing of such material is less than 5 per centum of his total work force within a defense facility.

(3) "non-profit contractor" means any nonprofit organization having not less than fifty workers engaged in the furnishing of defense material pursuant to the terms of a defense contract, or a subcontract entered into for the performance of any such contract or part thereof; except that the term "non-profit contractor" shall not include any nonprofit organization whose total number of workers so engaged in the furnishing of such material is less than 5 per centum of his total work force within a defense facility.

(4) "defense contract" means any contract entered into between a person or nonprofit organization and a defense agency to furnish defense material to such agency.

(5) "defense material" means any item of weaponry, munitions, equipment, supplies or services intended for use in the establishment, maintenance, training, or operation of any element of the armed forces of the United States or of any other country or in the conduct of the United States Space Program.

(6) "defense facility" means any plant or other establishment (or part thereof) engaged in the production, repair, modification, maintenance, storage, or handling of defense material.

(7) "person" means any corporation, firm, partnership, association, individual, or other entity, but shall not include a nonprofit organization.

(8) "nonprofit organization" means any corporation, firm, partnership, association, or other entity not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(9) "short workweek" means any workweek of less than 40 hours, or in the event a defense facility has a regular workweek payable at straight-time wage rates other than 40 hours, any workweek less than such regular workweek.

(10) "downgraded" or "downgrading" means any action taken by a defense contractor or nonprofit contractor with respect to a worker which results in such worker receiving a lower rate of pay, or lesser fringe benefits, or both.

(11) "displaced" or "displacement" means with respect to any worker of a defense facility or defense agency the separation, on a permanent or temporary basis, of such worker from his employment with such facility or agency.

(12) "State agency" means the agency of a State which administers its unemployment compensation law, approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

(13) "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(14) "Fund" means the Defense Facility Conversion Reserve Trust Fund established by section 302(a) of this Act.

(15) "Non-Profit Fund" means the fund established by section 302(c) of this Act.

TITLE I—ESTABLISHMENT OF THE COMMISSION

SEC. 101. (a) There is hereby established, in the Executive Office of the President, the National Economic Conversion Commission (hereafter referred to as the "Commission"), which shall be composed of—

(1) The Secretary of Defense;

(2) The Secretary of Agriculture;

(3) The Secretary of the Interior;

(4) The Secretary of Commerce, who shall be Chairman of the Commission (referred to hereinafter as the "Chairman");

(5) The Secretary of Labor;

(6) The Secretary of Health, Education, and Welfare;

(7) The Secretary of Housing and Urban Development;

(8) The Secretary of Transportation;

(9) The Chairman of the Atomic Energy Commission;

(10) The Administrator of the National Aeronautics and Space Administration;

(11) The Director of the United States Arms Control and Disarmament Agency;

(12) The Chairman of the Council of Economic Advisers;

(13) Three persons, appointed by the

Chairman of the Commission, who are representative of labor; and

(14) Three persons, appointed by the Chairman of the Commission, who are representative of management.

(b) The Secretary of Commerce shall preside over meetings of the Commission; except that in his unavoidable absence he may designate a member of the Commission to preside in his place.

(c) The Commission may invite additional individuals to serve as members of the Commission, either on a temporary or permanent basis, except that the membership of the Commission shall not exceed twenty-three members at any time.

(d)(1) The Commission is authorized to appoint a staff in accordance with paragraph (2) of this subsection, and to establish one or more task forces to assist the Commission in carrying out its duties under this Act. The staff shall be headed by an Executive Secretary who shall be appointed by the President of the United States (after consultation with the Commission) and who shall be compensated at the rate provided for grade 18 of the General Schedule. The members of such staff and task forces shall include, among others, marketing specialists, production engineers, plant layout men, and manpower training experts. It shall be the duty of the staff and any task force established by the Commission, at the request of the Commission, to assist defense contractors and non-profit contractors with the development of conversion plans submitted by them pursuant to this Act, to review and evaluate such plans, to provide assistance in connection with their execution, and to carry out such other duties as the Commission may prescribe.

(2) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable in accordance with the applicable provisions of title 5, United States Code. The Commission may also procure temporary and intermittent services to the same extent as authorized for the departments by section 3109 of title 5, United States Code.

(3) The Commission shall take all reasonable steps to encourage, and give preference in assigning its staff and task forces to assist, defense contractors and non-profit contractors to convert their defense facilities to production useful for the attainment of national priority goals, such as housing and urban rehabilitation, educational and health facilities and equipment, and elimination of environmental pollution.

(4) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this Act, and each department, bureau, agency, board, commission, office, independent establishment, or instrumentality, is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission upon request made by the Chairman.

(e) Members of the Commission who are officers or employees of the Federal Government shall receive no additional compensation by virtue of membership on the Commission. Other members of the Commission shall receive compensation at the rate of not to exceed $100 per diem when engaged in the performance of duties of the Commission. Each member of the Commission shall be reimbursed, as authorized by law (5 U.S.C. 73b-2), for travel and subsistence and other necessary expenses incurred by him in carrying out the duties of the Commission.

DUTIES OF THE COMMISSION

SEC. 102. It shall be the duty of the Commission to—

(1) define appropriate policies and programs to be carried out by departments and agencies of the Federal Government for economic conversion capability, which shall include with respect to various degrees of economic conversion schedules of civilian public and private investment and education and retraining for occupational conversion, and to report to the President and the Congress on such policies and programs within one year of the date of enactment of this Act;

(2) convene a National Conference on Industrial Conversion and Growth, within one year after the date of enactment of this Act, to consider the problems arising from appropriate planning and programing by all sectors of a conversion to a civilian economy, and to encourage action to facilitate the Nation's economic conversion capability;

(3) consult with the Governors of the States and the Commissioner of the District of Columbia to encourage appropriate studies and conferences at the State, local, and regional level, in support of a coordinated effort to improve the Nation's economic conversion capability, and make available to the Governors of the States and the Commissioner of the District of Columbia such funds, appropriated pursuant to title VI of this Act, as shall constitute not more than 50 per centum of the total costs associated with the preparation of such studies or the holding of such conferences;

(4) collect and disseminate to defense contractors and nonprofit contractors engaged in the furnishing of defense material to any defense agency information (other than information concerning proprietary trade secrets) useful to such contractors in preparation for conversion of their productive facilities to other uses consistent with policies and programs developed in accordance with the provisions of this Act;

(5) consult with trade and industry associations, labor unions, and professional societies, to encourage and enlist their support for a coordinated effort to improve the Nation's economic conversion capability;

(6) perform the duties imposed upon the Commission by this Act, and promulgate such regulations as may be necessary to carry out the provisions of this Act; and

(7) make such recommendations to the President and to the Congress as will further the purposes of this Act.

ADDITIONAL DUTIES OF THE COMMISSION AND STAFF

SEC. 103. (a) It shall be the duty of the Commission to review any conversion plan submitted to the Commission pursuant to section 201 of this Act with a view to (1) determining whether such plan conforms to the requirements of title II; (2) assessing the feasibility of such plan; (3) ascertaining whether the defense contractor or nonprofit contractor submitting such plan has made a reasonable effort to coordinate his plan with subcontractors and other firms in the same labor market area; and (4) determining whether such plan is generally consistent with plans submitted by other defense contractors and nonprofit contractors within such labor market area pursuant to title II of this Act. In reviewing any such plan, the Commission shall consult with the union representing the employees of the defense contractor or nonprofit contractor submitting such plan, and with representatives of the appropriate State and local governments.

(b)(1) Following the review of conversion plan of a defense contractor or nonprofit contractor under this section, the Commission shall notify such contractor, in writing, of the results of its review of his plan, including any weaknesses or deficiencies therein. The notice shall further contain, where appropriate, a statement directing his attention to opportunities which he may have overlooked to convert his defense facilities to civilian production useful for the attainment of national priority goals.

(2) If, on the basis of such review, the Commission determines that a conversion plan submitted by a defense contractor does not meet the requirements of title II of this Act, the Commission shall notify the appropriate defense agency of that fact, and such agency shall, upon receipt of that notification, withhold not to exceed 15 per centum of any payment owed to such contractor on account of any defense contract entered into on or after the date of the enactment of this Act between such contractor and agency until the agency has been further notified by the Commission that such plan has been modified by the contractor so as to bring it into conformity with the provisions of such title. If, on the basis of such review, the Commission determines that a conversion plan submitted by a nonprofit contractor does not meet such requirements, the Commission is authorized to withhold any further payments to such contractor from the Non-Profit Fund until the Commission has determined that such plan has been modified by the contractor so as to bring it into conformity with such requirements.

(c) The Commission shall, from time to time, publish, and make available to the public, a written report concerning its activities under this section. Such report shall contain information and other data sufficient to inform interested persons and nonprofit organizations as to production opportunities likely to result from the execution of conversion plans reviewed by it pursuant to this section, and the dangers of possible overproduction or underproduction of certain goods and services which might result from the execution of such plans.

TITLE II—ECONOMIC CONVERSION PLANS

SEC. 201. (a) No defense agency shall enter into any defense contract with any person or nonprofit organization involving the furnishing of defense material to such agency unless the contract contains a provision under which the defense contractor or nonprofit contractor is required, subject to the provisions of section 202 of this Act, to file with the Commission, and thereafter keep current, a plan (referred to in this Act as a "conversion plan") setting forth how he intends to convert his defense facility into a facility capable of providing employment for his workers engaged in the furnishing of defense material to a defense agency when such workers are no longer required for that purpose because the need for such material no longer exists or is substantially reduced.

(b) Each conversion plan filed pursuant to subsection (a) shall contain such information and other data as the Commission may prescribe, including the following:

(1) The type of product or service to be produced or provided.

(2) A statement setting forth the basis for such contractor's belief that a market for the proposed product or service is available, including details of any marketing studies or surveys made.

(3) A description of efforts undertaken and preparations made by the contractors to market the proposed product or service, including contacts established with market outlets and potential customers.

(4) A list of the machinery and equipment used, at the time of the filing of such plan, by such contractor in connection with the furnishing of defense materials which may be directly converted to the proposed civilian production; a list of machinery and equipment so used at such time that would require modification for that purpose; a list of additional machinery and equipment which would have to be procured by any such contractor for that purpose; a description of the nature and extent of plant layout changes which would be required for such

XUM

proposed civilian production; and a detailed description of the nature and amount of manpower retraining that would be necessary for conversion to such production.

(5) The estimated costs, at current prices, of the physical conversion and manpower retraining referred to in paragraph (4) of this subsection.

(6) An estimate of the time period required from the initiation of the conversion process to its completion, and of employment levels during each month of such period.

(7) In the case of prime defense contractors or prime nonprofit contractors, a detailed description of contacts and arrangements made with subcontractors to facilitate the maximum possible degree of coordination of their respective conversion plans.

(8) In the case of prime defense contractors and nonprofit contractors, and their subcontractors, a detailed description of contacts and arrangements made by them with other firms in the same labor market area designed to facilitate maintenance of employment levels in that area.

(9) A statement as to how the foregoing elements in the conversion plan would be affected, and to what extent they would have to be modified, in the event defense production is gradually reduced rather than totally eliminated at a single point in time.

(c)(1) Moneys deposited in the special reserve account of the Fund and earmarked to the credit of a defense contractor in accordance with section 302(a)(1) of this Act shall be available for use by such contractor in meeting expenses incurred by him in developing and carrying out his conversion plan submitted pursuant to section 201 of this Act.

(2) Moneys appropriated to the Non-Profit Fund pursuant to section 302 (c) of this Act shall be available for use, in accordance with this Act, by any nonprofit contractor in meeting expenses incurred by him in developing and carrying out his conversion plan under this Act.

Sec. 202. (a) In any case in which a defense contractor or a nonprofit contractor determines that his defense facility cannot be converted to civilian production he shall notify the Commission, in writing, of that fact. Such notification shall set set forth the basis on which that determination was made, together with such other information and data as the Commission may require. If the Commission determines that such defense facility cannot be so converted, it may authorize such contractor to file with the Commission, in lieu of the conversion plan required under section 201, copies of one or more contracts, approved by the Commission, entered into between such defense contractor or nonprofit contractor and any other person or nonprofit organization under which such person or nonprofit organization agrees to undertake to attempt to provide employment, including such retraining as may be necessary, for employees displaced from such defense facility. No such contract filed by a defense contractor under this section shall be approved by the Commission unless it contains a provision under which the monies in the special reserve account in the Fund earmarked to the credit of such contractor in accordance with the provisions of section 302(a)(1) of this Act shall be available for payment of employee conversion benefits under title V of this Act and of all costs incurred by such person or nonprofit organization arising out of the absorption (including retraining) by such person or organization of such displaced workers.

(b) In any case involving any such contract entered into between a nonprofit contractor and any person or nonprofit organization under which such person or organization agrees to undertake to attempt to provide employment, including such retraining as may be necessary, for employees of such contractor so displaced, moneys appropriated to the Non-Profit Fund pursuant to section 302(c) of this Act shall be available for payment or reimbursement of all costs incurred by such person or nonprofit organization arising out of the absorption (including retraining) by such person or organization of such displaced workers.

Sec. 203. (a) In any case in which a defense contractor fails to execute the conversion plan (or any part thereof) submitted by him in accordance with section 201 of this Act with respect to his defense facility, the Commission is authorized to take over, convert, and operate such facility, or take over and arrange, by contract or otherwise, for the conversion and operation by another person of such facility, in accordance with the conversion plan submitted by such defense contractor or a conversion plan recommended by the Commission or, with its approval, by the Commission's staff and task forces. The Commission shall pay to the defene contractor whose facility is taken over pursuant to this section a reasonable rent out of any moneys in the special reserve account in the Fund earmarked to the credit of the defense contractor in accordance with the provisions of section 302(a)(1) of this Act. Employee conversion benefits under title V of this Act, and all costs arising out of the development and execution of any such conversion plan in accordance with this section by the Commission or such person, shall be paid out of such moneys in such account so earmarked.

Sec. 204 (a) With respect to any amounts authorized to be paid under this title out of moneys in the special reserve account of the Fund, the Commission shall, from time to time, certify to the Secretary of the Treasury (1) the name of the defense contractor or other person entitled to receive such payment, (2) the amount thereof, and (3) the name of the defense contractor whose earmarked moneys in such account is to be charged in connection with such payment. With respect to any amounts authorized to be paid to the Commission pursuant to section 203 of this title out of moneys in the special reserve account of the Fund, the Commission shall, from time to time, certify to the Secretary of the Treasury (1) the amount thereof, and (2) the name of the defense contractor whose earmarked moneys in such account is to be charged in connection with such payment. The Secretary to the Treasury shall make such payments from the special reserve account of the Fund to such contractor, person, or Commission in accordance with such certification.

(b) With respect to any amounts authorized to be paid under this title out of the Non-Profit Fund, the Commission shall, from time to time, certify to the Secretary of the Treasury (1) the name of the nonprofit contractor or other person or nonprofit organization entitled to receive such payment, and (2) the amount thereof. The Secretary of the Treasury shall make such payments, from the Non-Profit Fund, to such nonprofit contractor, person, or organization in accordance with such certification.

Sec. 205. (a) Each defense agency shall file with the Commission, and keep current on not less than an annual basis, a conversion plan with respect to each of its facilities in the United States (including agreements or arrangements entered into by such agency contemplating the operation of such facility by another Federal agency or private organization) setting forth how that agency intends to convert such facility into a facility capable of providing employment for its workers when such workers are no longer needed for defense purposes. Such plan shall be filed at such time and contain such information as the Commission may prescribe.

(b) In any case in which a defense agency determines that any of its facilities cannot be converted to a nondefense use, such agency shall, with respect to any such facility, file with the Commission, on an annual basis, plans (including details of arrangements made with other Federal agencies) designed to facilitate the employment of workers of such facility displaced because they were no longer needed by such facility for defense purposes.

(c) In addition to the other requirements of this section, the Department of Defense shall report to the Commission, on an annual basis, with respect to action taken by such Department, including training for civilian employment, to facilitate the absorption into the civilian economy of individuals released from the armed forces of the United States.

Sec. 206. The Commission shall by such means as it determines appropriate, inform Federal and State governmental and private manpower training agencies with respect to the training and retraining needs which the Commission estimates may result on account of the execution of conversion plans pursuant to this Act.

Sec. 207. On and after the date of the enactment of this Act, each defense contract entered into between a defense agency and a defense contractor or nonprofit contractor shall contain a provision under which such contractor is required to notify the appropriate State employment service of all vacant jobs to be filled by new hires (as distinguished from vacant jobs to be filled by promotion, transfer or recall of laid off workers) by such contractor.

TITLE III—ECONOMIC CONVERSION RESERVES

Sec. 301. No defense agency shall enter into any defense contract with any person involving the furnishing of defense material to such agency unless the contract contains a provision under which the defense contractor is required to pay to the Commission an amount equal to 12½ per centum of all profits (determined prior to any exclusions for Federal or State taxes) resulting from such contract. Profits payable to the Commission pursuant to this section shall be computed in such manner, and paid at such time, as the Commission, after consultation with the Comptroller General, shall by regulation prescribe. In no case, however, shall payments required to be made by a defense contractor pursuant to this section be considered as a cost item in the negotiating or bidding of any defense contract, or in determining profit for purposes of this section or any provision of law relating to the renegotiation of defense contracts.

Sec. 302. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the "Defense Facility Conversion Reserve Trust Fund" (referred to in this Act as the "Fund"). The Fund shall consist of two parts, one of which shall be known as the "special reserve account" and the other as the "general pool reserve account". Amounts paid by a defense contractor to the Commission pursuant to section 301 of this Act shall be deposited in the Fund as follows:

(1) 90 per centum of such amounts shall be deposited in the special reserve account and earmarked to the credit of the defense contractor making such payments; and

(2) 10 per centum of such amounts shall be deposited in the general pool reserve account.

(b) There is authorized to be appropriated to the general pool reserve account in the Fund such amounts as may be necessary to enable the Secretary of the Treasury to make the payments and other disbursements authorized by sections 403 and 504 of this Act.

(c) There is hereby established in the Treasury of the United States a fund to be known as the "Non-Profit Fund." There is authorized to be appropriated to the Non-Profit Fund such amounts as may be necessary to enable the Secretary of the Treasury

XUM

to make loans pursuant to section 402, and payments authorized to be made in accordance with sections 201 (c) (2) and 202 (b) of this Act.

Sec. 303. (a) It shall be the duty of the Secretary of the Treasury to invest such portion of the monies in the Fund as is not, in the judgment of the Secretary, required to meet current withdrawal requirements. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(b) Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary of the Treasury at the market prices, and such special obligations may be redeemed at par plus accrued interest.

(c) Any interest earned by reason of the investment pursuant to this section of any moneys of a defense character in the Fund shall be deposited in the account from which the moneys so invested were acquired and shall be available for disbursement in accordance with this Act.

Sec. 304. (a)(1) Upon written application of any defense contractor, the Commission is authorized, if such contractor has not engaged in the furnishing of defense material to a defense agency during any period of twenty-four consecutive calendar months following the date of the enactment of this Act, to provide for the return of all unexpended moneys (including interest credited thereon) of such contractor remaining to his credit in the special reserve account as of the date of such application, if all of his obligations under this Act have been satisfied.

(2) Upon written application of any defense contractor, the Commission is authorized, if the number of his workers engaged in the furnishing of defense material to a defense agency during the twenty-four calendar month period immediately preceding such application was continuously more than 20 per centum below the peak annual average number of his workers engaged in the furnishing of such materials during the period commencing on the date of the enactment of this Act and ending on the date immediately preceding the date of such application, to provide for the return to such contractor of a portion of his unexpended moneys (including interest credited thereon) remaining to his credit in the special reserve account of the fund as of the date of such application. Such portion to be so returned to such contractor shall be an amount equal to the excess of his unexpended moneys (including interest credited thereon) so remaining to his credit in such account as of the date of such application over the same percentage of his total deposits therein (including interest credited thereon) as his average defense employment during such two-year period preceding his application is of his aforementioned peak annual average defense employment. No more than one such application under this paragraph shall be approved with respect to any one defense contractor within any twelve calendar month period.

(b)(1) Upon written application of any defense contractor, the Commission is authorized, if such contractor has not engaged in the furnishing of defense material to a defense agency during any period of twenty-four consecutive calendar months following the date of the enactment of this Act, to provide for the return to such contractor of a portion of the moneys (including interest credited thereon) in the general pool reserve account. Such portion to be so returned to such contractor shall be an amount equal to the percentage of such moneys (including interest credited thereon) so remaining in such account as of the date of such application, equal to the percentage which his total deposits therein (including interest credited thereon) formed of all moneys paid into or credited to the general pool reserve account.

(2) Upon written application of any defense contractor, the Commission is authorized, if the number of his workers engaged in the furnishing of defense material to a defense agency during the twenty-four calendar month period immediately preceding such application was continuously more than 20 per centum below the peak annual average number of his workers engaged in the furnishing of such material during the period commencing on the date of the enactment of this Act and ending on the date immediately preceding the date of such application, to provide for the return to such contractor of a portion of the moneys (including interest credited thereon) remaining in the general pool reserve account. Such portion to be so returned to such contractor shall be an amount equal to a percentage of his total deposits (including interest credited thereon) in such general pool reserve account equal to the percentage reduction in his defense employment, adjusted by the ratio of the total amount (including interest) remaining in such general pool reserve account at the date of such application to the total of all deposits (including interest credited thereon) made by defense contractors to such account pursuant to this Act.

(3) Notwithstanding any other provision of this subsection, no moneys shall be returned to any such defense contractor pursuant to this subsection if the total amount expended from such fund in order to meet his obligations and other expenses under this Act equals or exceeds the total amount of his deposits to the fund (including interest credited thereon).

(4) All amounts returned to a defense contractor pursuant to this section shall be exempt from the Federal income tax laws.

TITLE IV—DEFENSE CONTRACTOR BENEFITS

Sec. 401. (a) Any defense contractor requiring funds to carry on, expand, or initiate a civilian business or other civilian activity in the same labor market as his defense operations may be authorized by the Commission to borrow from funds in the special reserve account and earmarked to his credit in accordance with section 302 (a) (1) of this Act, at a rate of interest equivalent to the current prevailing rate on long term Treasury bonds.

(b) No loan shall be made pursuant to subsection (a) of this section unless the defense contractor requesting such loan has—

(1) obtained or arranged to obtain, from a reputable private lending agency, a loan, equal to at least 10 per centum of the amount requested pursuant to subsection (a), for use for the same purpose as that for which a loan is requested under such subsection, and such lending agency has agreed to share proportionately in any losses which might be incurred on the combined loans; and

(2) included in his conversion plan submitted pursuant to section 201 of this Act provisions for employing workers, displaced from any defense facility operated by such defense contractor, in such civilian business or activity to the extent that employment opportunities are available for such workers under a seniority or other arrangement which is fair to workers in both such operations.

(c) Interest owing on such loan referred to in subsection (a) shall be paid by the defense contractor to the Commission for deposit by it in the special reserve account of the Fund. Such interest payments shall be earmarked to the credit of such contractor in accordance with section 302 (a) (1) of this Act and shall be available for disbursement in accordance with the provisions of this Act.

Sec. 402. (a) Any nonprofit contractor requiring funds to carry on, expand, or initiate a civilian business or other civilian activity in the same labor market as his defense operations may be authorized by the Commission to borrow from moneys in the Non-Profit Fund at a rate of interest equivalent to the current prevailing rate on long-term Treasury bonds.

(b) No loan shall be made pursuant to subsection (a) of this section unless the nonprofit contractor requesting such loan has—

(1) obtained or arranged to obtain, from a reputable private lending agency, a loan, equal to at least 10 per centum of the amount requested pursuant to subsection (a), for use for the same purpose as that for which a loan is requested under such subsection, and such lending agency has agreed to share proportionately in any losses which might be incurred on the combined loans; and

(2) included in his conversion plan submitted pursuant to section 201 of this Act provisions for employing workers, displaced from any defense facility operated by such nonprofit contractor, in such civilian business or activity to the extent that employment opportunities are available for such workers under a seniority or other arrangement which is fair to workers in both such operations.

(c) Interest owing on such loans referred to in subsection (a) of this section shall be paid by the nonprofit contractor to the Commission for deposit by it in the Non-Profit Fund and shall be available for disbursement in accordance with the provisions of this Act.

Sec. 403. In any case in which a defense contractor, after meeting costs of conversion benefits for his workers in accordance with title V of this Act, is unable to meet the costs involved in carrying out his conversion plan submitted pursuant to section 201 of this Act out of his earmarked funds in the special reserves account of the fund, the Commission is authorized to direct the Secretary of the Treasury to guarantee up to 90 per centum of any loan obtained by such contractor from a reputable private lending agency for that purpose and to pay, out of moneys appropriated pursuant to section 302 (b) of this Act, three-fourths of the interest charges on such loan in excess of 5 per centum per annum; except that the guarantee and interest subsidy shall be available only for a loan not in excess of an amount that the Commission determines might reasonably be required to provide employment for the number of such contractor's workers to be transferred, by reason of their displacement, from defense to civilian production in accordance with such conversion plan.

TITLE V—EMPLOYEE CONVERSION BENEFITS

Sec. 501. (a) Any defense contract entered into between a defense contractor or a nonprofit contractor and a defense agency shall contain a provision under which such contractor is required to report to the Secretary of Labor, or, in the case of a State which has entered into a contract with the Commission pursuant to section 503 of this Act, with the appropriate State agency, all displacements, short workweeks, or downgradings affecting workers employed by such contractor in a defense facility in connection with the furnishing of defense materials to a defense agency pursuant to such contract, and to specify, with respect to each affected worker, whether or not his displacement, short workweek, or downgrading was attributable, in whole or in part, to a reduction of the volume of defense work in such facility. Any worker listed in any such report as having been affected by a reduction in the volume of defense work conducted by such facility, including any worker found upon appeal in accordance with subsection (b) of this section to have been so affected, shall be certified by the Secretary of Labor or State agency, as the case may be, as a worker eligible for conversion benefits in accordance with section 502 of this Act.

(b) Any worker (or union representing such worker) of a defense contractor or nonprofit contractor aggrieved by any matter contained in a report filed by such contractor pursuant to subsection (a) of this section (or by any matter relating to his certification, or failure to be so certified, or his eligibility for such conversion benefits, or the kind or amount thereof), shall be entitled to appeal such matter to the Secretary of Labor, or, if such worker is in a State which has entered into a contract with the Commission pursuant to section 503 of this Act, to the appropriate State agency.

Sec. 502. (a) Any worker certified pursuant to section 501 of this Act as eligible for conversion benefits by reason of his displacement from a defense facility shall be entitled, for the two-year period following his displacement, to whichever of the following benefits are applicable:

(1) Compensation, on a weekly basis, in an amount which, when added to any benefits which such worker receives or is entitled to receive for such weekly period under any Federal or State unemployment compensation program (or any plan of his employer providing for such benefits) by reason of his displacement, and any earnings during such weekly period from other employment, equals the amount of such worker's regular weekly wages (for a 40-hour workweek or, in the event a defense facility has a regular workweek payable at straight-time wage rates other than 40 hours, for such regular workweek) prior to his displacement.

(2) If such worker is otherwise employed during any such displacement period, compensation, in addition to that provided for in paragraph (1), in an amount equal to the difference between the costs incurred by him in connection with his meals, transportation, and other matters on account of such employment, and the costs which he would have incurred for such meals, transportation, and other matters on account of his prior employment if he had not been displaced.

(3) Vested pension credit under any applicable pension plan maintained by the defense facility from which he was displaced, for the period of his employment with such facility, and the two-year period following his displacement; except that pension credit during such two-year period shall be reduced to the extent of vested pension credit earned with another employer during such two-year period.

(4) Maintenance of any hospital, surgical, medical, disability, life (and other survivor) insurance coverage which such individual (including members of his family) had by reason of his employment by such defense facility prior to such displacement; except that if such worker so displaced is otherwise employed during such two-year period, such worker shall be entitled to receive benefits under this paragraph to the extent necessary to provide such worker with the same aforementioned protection as he (including members of his family) would have had if he had not been displaced.

(5) Retraining for civilian work in the defense contractor's or nonprofit contractor's defense facility providing pay and status as comparable as possible to the employment from which he was displaced.

(6) Subject to the provisions of section 504(b) of this Act, retraining approved by the Secretary of Labor, or, in the case of a worker in a State which has entered into a contract with the Commission pursuant to section 503 of this Act, by the State agency, and reimbursement for all reasonable relocation expenses incurred by such worker in moving himself and his family to another location in order to take advantage of an employment opportunity to which he is referred, or which is determined to be suitable, by the Secretary of Labor or, in the case of a worker in a State which has entered into a contract with the Commission pursuant to section 503 of this Act, by the State agency.

(b) Any worker certified pursuant to section 501 of this Act as eligible for conversion benefits by reason of his having been placed on a short workweek by a defense facility shall be entitled, during the two-year period following such certification, to compensation, on a weekly basis, in an amount which, when added to any earnings from his defense facility or other employment, during such weekly period, equals the amount of such worker's regular weekly wages (for a 40-hour workweek or, in the event a defense facility has a regular workweek payable at straight-time wage rates other than 40 hours, for such regular workweek) prior to his having been placed on a short workweek.

(c) Any worker certified pursuant to section 501 of this Act as eligible for conversion benefits by reason of his employment with a defense facility being downgraded shall be entitled, during the two-year period following such certification, to compensation, on a weekly basis, in an amount which, when added to any other earnings, during such weekly period, from his employment, equals the amount of such worker's regular weekly wages (for a 40-hour workweek, or in the event a defense facility has a regular workweek payable at straight-time wage rates other than 40 hours, for such regular workweek) prior to such downgrading.

Sec. 503. (a) The Commission is authorized, on behalf of the United States, to enter into an agreement with a State, or with any agency administering the unemployment compensation law of any State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954, which shall include the provisions described in paragraphs (1) and (2) of this subsection:

(1) Such State agency will, as agent of the Commission, make certifications and other determinations required in section 501 of this Act, make such payments and provide such benefits as are authorized by section 502 of this Act, on the basis provided for in this Act, and will otherwise cooperate with the Commission and other State agencies in carrying out the provisions of sections 207, 501, and 502 of this Act; and

(2) Such State agency shall be reimbursed for all benefits paid pursuant to such agreement, and all administrative costs incurred in carrying out such agreement.

(b) (1) There shall be paid to each State agency which has an agreement under this section, either in advance or by way of reimbursement, as may be determined by the Commission, such sum as the Commission estimates the agency will be entitled to receive under such agreement for each calendar month, reduced or increased, as the case may be, by any sum by which the Commission finds that its estimates for any prior calendar month were greater or less than amounts which should have been paid to the agency. Such estimates may be made upon the basis of such statistical, sampling, or other method as may be agreed upon by the Commission and the State agency.

(2) The Commission shall from time to time certify to the Secretary of the Treasury for payment to each State agency which has an agreement under this section sums payable to such agency under paragraph (1) of this subsection. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the agency, in accordance with such certification, from the Fund or the Non-Profit Fund in such manner as is authorized by section 504 of this Act.

(3) All money paid a State agency under any such agreement shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned, at the time specified in such agreement, to the Treasury. Moneys paid from the fund and so returned shall be redeposited in the fund to the credit of the appropriate defense contractor. Moneys paid from the Non-Profit Fund and so returned shall be redeposited in such Non-Profit Fund.

(c) In any case involving a worker entitled to benefits under section 502 who is in a State with respect to which there is no agreement pursuant to this section, the Secretary of Labor shall, under regulations prescribed by him, administer such benefits on behalf of such worker. The Secretary of Labor, in administering such benefits, shall, from time to time, certify to the Secretary of the Treasury for payment to such worker the amounts of such benefits to which he is entitled, and the Secretary of the Treasury shall make payments to such worker, in accordance with such certification, from the Fund or the Non-Profit Fund in such manner as is authorized by section 504 of this Act.

Sec. 504. (a) (1) All conversion benefits payable or provided to a worker of a defense contractor in accordance with this title shall be chargeable against monies of such contractor deposited in the special reserve account of the fund and earmarked to his credit in accordance with section 302(a) (1) of this Act. In any case in which such moneys so earmarked are insufficient to pay or provide such benefits, monies in the general pool reserve account of the fund shall be available to the extent of such insufficiency for that purpose. To the extent that such monies in the general pool reserve account are insufficient to pay or provide such benefits, monies appropriated to the general pool reserve account pursuant to section 302(b) of this Act shall be available for that purpose.

(2) All conversion benefits payable or provided to a worker of a nonprofit contractor in accordance with this title shall be paid from moneys available in the Non-Profit Fund.

(b) Notwithstanding the provisions of subsection (a) (1) of this section, conversion benefits payable or to be provided to any worker of a defense contractor pursuant to section 502(a) (6) of this Act shall not be charged against any moneys of such contractor in the special reserve account of the fund as provided for in subsection (a) (7), unless the Commission has first determined that the worker is unlikely to be reemployed by such contractor within a period of one year following his displacement, and that retraining or relocation, or both, is required to enable such worker to obtain employment comparable in pay and status to that from which he was displaced. In the event no such determination is made, such benefits authorized under section 502(a)(6) of this Act shall be payable or provided from moneys in the general pool reserve account of the fund.

SEC. 505. In no case shall any displaced worker by eligible for benefits under section 502(a) of this Act unless such worker agrees (1) to maintain, on a current basis, during the period of his displacement, an active registration with the Secretary of Labor or an appropriate State employment agency, as the case may be, and (2) to accept any employment, determined by the Secretary of Labor or agency, as the case may be, to be suitable, to which he is referred by the Secretary of Labor or such agency. No such benefits shall be paid under this Act to any worker who fails to maintain such registration or to accept such employment.

SEC. 506. In no case shall any conversion benefits paid pursuant to this Act be taken into consideration in determining eligibility for unemployment compensation under any Federal or State unemployment compensation law or in determining the amount of entitlement thereunder.

TITLE VI—APPROPRIATIONS

SEC. 601. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. BYRD of West Virginia subsequently said: Mr. President, I ask unanimous consent that the bill introduced by the Senator from South Dakota (Mr. MCGOVERN) be referred to the Committee on Commerce and if and when reported by that committee, it be referred to the Committee on Government Operations.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

S. 4431—INTRODUCTION OF A BILL TO AMEND THE FISH AND WILDLIFE COORDINATION ACT

Mr. BYRD of West Virginia. Mr. President, the able Senator from Washington (Mr. MAGNUSON) wishes to introduce a bill to amend the Fish and Wildlife Coordination Act to provide additional protection to marine and wildlife ecology by requiring the designation of certain water and submerged land areas where the depositing of certain waste materials is prohibited, to require the establishment of standards with respect to such deposits in all other areas, and for other purposes.

He wishes his statement to appear in the RECORD and he wishes the bill to be be printed in full in the RECORD.

I therefore ask unanimous consent that I may be permitted to have printed in the RECORD the statement by Mr. MAGNUSON and that I be permitted to introduce the bill in his behalf and that the bill be printed in full in the RECORD.

The PRESIDING OFFICER (Mr. SCHWEIKER). The bill will be received and appropriately referred; and, without objection, the bill and statement will be printed in the RECORD.

The bill (S. 4431) to amend the Fish and Wildlife Coordination Act to provide additional protection to marine and wildlife ecology by requiring the designation of certain water and submerged land areas where the depositing of certain waste materials is prohibited, to require the establishment of standards with respect to such deposits in all other areas, and for other purposes, introduced by the Senator from West Virginia (Mr. BYRD), for the Senator from Washington (Mr. MAGNUSON), was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 4431

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) is amended by inserting immediately following section 5A thereof the following new sections:

"SEC. 5B. (a) The Secretary of the Interior, acting through the United States Fish and Wildlife Service, shall designate those portions of the navigable waters of the United States and those portions of the waters above the Outer Continental Shelf as defined in the Outer Continental Shelf Lands Act, and those portions of the submerged lands beneath the navigable waters of the United States and beneath the waters above the Outer Continental Shelf into and onto which he determines sewage, sludge, spoil, landfill, heated effluents, or any other waste or substance (solid, liquid, or gas) cannot be safely discharged.

"(b) In making such designation the Secretary of the Interior shall—

"(1) consider the overall effect on the marine and wildlife ecological balance which discharging of such materials has had or will have in the area,

"(2) consider all effects of such discharges which he may find to be dangerous to the mating, spawning, and other necessary life processes of species of fish, shellfish, and all other forms of marine animal and plant life,

"(3) consider all other ecological and environmental factors, including, but not limited to, the ecological effect of discharging heated effluents into the area, and

"(4) consult with the appropriate Federal, State, and local agencies and officials, and with public or private organizations, institutions, agencies, and individuals with expertise in the sciences of ecology, marine biology, oceanography, and other related disciplines in the physical and biological sciences.

"(c) No designation shall be made by the Secretary of the Interior under authority of subsection (a) of this section during the one-year period beginning on the date of enactment of this section. During such one-year period the Secretary of the Interior, in cooperation with the Secretary of the Army acting through the Chief of Engineers, shall make a full and complete investigation and study of potential water and submerged land areas for designation and shall identify those areas most suitable for such designation.

"(d) Upon the designation of areas under subsection (a) of this section, all licenses, permits, or authorizations which have been issued by any officer or employee of the United States under authority of any other provision of law shall be terminated and of no effect to the extent they authorize any activity prohibited by subsection (e) of this section. Thereafter no license, permit, or authority shall be issued by any officer or employee of the United States which would authorize any activity prohibited by subsection (e) of this section.

"(e) Whoever discharges, spills, leaks, pours, emits, empties, dumps, or in any other way introduces, any sewage, sludge, spoil, landfill, heated effluents or any other waste or substance (solid, liquid, or gas) into or upon any of the waters designated under subsection (a) of this section shall be fined not more than $10,000 for each offense.

"(f) The Secretary of the department in which the Coast Guard is operating, acting through the Coast Guard, shall enforce this section.

"SEC. 5C. (a) Within one hundred and eighty days after the designation of areas under subsection (a) of section 5B of this Act, the Secretary of the Interior shall establish standards which, after notice, shall be applicable to the discharge of any sewage, sludge, spoil, landfill, heated effluents, or any other waste or substance (solid, liquid, or gas) within any area not designated under subsection (a) of section 5B of this Act. Such standards shall be for the purpose of insuring that no damage to, or loss of, any marine life or wildlife or other resources necessary for the ecological balance of the area or pollution of the navigable waters of the United States will result from any such activity. Such standards shall require, in part, that any person before depositing or discharging such materials into the navigable and coastal waters of the United States must present sufficient evidence that discharging such materials in the location in which they are to be deposited will not endanger the natural environment and ecology of these waters. Such standards shall further include the following:

"(1) No sewage or industrial waste shall be discharged (directly or indirectly) into any area subject to standards issued under subsection (a) of this section after January 1, 1972, unless such sewage or industrial waste has received primary treatment in accordance with standards and regulations established by the Secretary of the Interior.

"(2) No sewage or industrial waste shall be discharged (directly or indirectly) into any area subject to standards issued under subsection (a) of this section after January 1, 1974, unless such sewage or industrial waste has received primary and secondary treatment in accordance with standards and regulations established by the Secretary of the Interior.

"(3) No sewage or industrial waste shall be discharged (directly or indirectly) into any area subject to standards issued under subsection (a) of this section after January 1, 1976, unless such sewage or industrial waste has received primary, secondary, and tertiary treatment in accordance with standards and regulations established by the Secretary of the Interior.

In addition, such person, prior to such discharging, must meet such additional requirements as the Secretary of the Interior may deem necessary for the orderly regulation of such activity. Such standards shall be applicable to all of the departments, agencies, and instrumentalities of the United States Government. Except as otherwise provided in this section, in the case of an area containing any submerged lands within the jurisdiction of the States, such standards shall be applicable to the States and their agencies, including any person having any license, permit, or other authorization from such State or agency for any such activity with respect to any of such submerged lands.

"(b) Every department, agency, and instrumentality of the Federal Government and of the States, and every person applying for a license, permit, or other authorization from the United States or from any State to discharge or otherwise dispose of any material in any area subject to standards issued under subsection (a) of this section shall establish and maintain such records, make such reports, and provide such information as the Secretary of the Interior may reasonably require to assist him in establishing standards under this section and

XUM

in determining whether such department, agency, instrumentality, or person has acted or is acting in compliance with this section. Upon request, the Secretary of the Interior shall, at reasonable times, have access to examine and copy such records. All information reported to, or otherwise obtained by, the Secretary of the Interior, or his representative, pursuant to this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out the provisions of this section. Officers or employees duly designated by the Secretary of the Interior, upon presenting appropriate credentials to the department, agency, instrumentality or person in charge, are authorized to enter at reasonable times, for the purpose of inspecting any plant, establishment or other property of such department, agency, instrumentality, or person to determine whether such department, agency, instrumentality, or person has acted or is acting in compliance with this section.

"(c) The Secretary of the Interior is authorized to issue new standards and to amend existing standards from time to time as he determines necessary. Such new or amended standards, after notice, shall be considered as initial standards issued under subsection (a) of this section for the purpose of their application to the States under this section.

"(d) If a State, within one year of the date that a Federal standard is established under subsection (a) of this section, establishes its own standard with respect to the activity covered by such Federal standard which the Secretary of the Interior determines, after public hearing, is equal to or more stringent than such Federal standard, and if the Secretary of the Interior determines that there are adequate State enforcement procedures for such State standard, then such State standard shall apply to such activity within the State's jurisdiction, and the Federal standard shall not apply. If the Secretary of the Interior determines that such State standard is not as stringent as the Federal standard, then the Federal standard shall apply to such activity in such State.

"(e) Whenever a State's standard is applicable within the jurisdiction of that State it shall continue to be applicable until the Secretary of the Interior, after public hearing, determines either that it is not as stringent as the comparable Federal standard or that there is not adequate State enforcement of such standard. He shall review all of the standards of each State for this purpose at least once during each calendar year.

"(f) Upon the issuance of standards under subsection (a) of this section applicable to any area, all licenses, permits, or authorizations which have been issued by any officer or employee of the United States under authority of any other provision of law with respect to discharges in an area shall be terminated and of no effect to the extent they authorize any activity prohibited by subsection (g) of this section.

"(g) Whoever discharges any waste or substance in violation of the standards established under subsection (a) of this section shall be subject to a civil penalty of not more than $10,000 for each violation. In the case of a continuing violation, each day of violation shall be considered a separate offense for the purposes of this subsection. The Secretary of the Interior may assess and may mitigate, remit, or compromise any such penalty. In taking any penalty action for violation of a standard, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by the Secretary of the Interior.

"(h) The Secretary of the Interior shall enforce subsection (g) of this section.

"(i) The district courts of the United States shall have jurisdiction to restrain violations of this section and of section 5B of this Act. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpena upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof."

There being no objection, Senator MAGNUSON's statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR MAGNUSON

Mr. President, the Senate last week passed a landmark air pollution measure calling for bold steps to combat what has become a crisis of national proportions. With regard to the equally important crisis of water pollution, however, we, as a body, have done little this year of significance. Rarely a day goes by during which we are not reminded in the press of the problems of the nation's waters—of mercury pollution, of waste heat discharges, of untreated sewage, and of pesticide runoff, to name a few. In light of these problems our inactivity in this area is truly inexcusable, and the Administration's criticisms of us in this regard are certainly justified.

On the other hand, the Administration, I would argue, is also largely to blame for these problems. It has failed to enforce one of the most powerful water pollution laws on the books, the old Refuse Act of 1899, and has been reluctant to request the appropriations that would be needed for adequate enforcement. Initially it slept at the switch while mercury pollution devastated many of the nation's water resources. And, while moving aggressively on the mercury pollution problem in the last several months, it has failed to take similar action with regard to pollution by other toxic metals or even to recommend procedures by which such action could be taken.

Thus we are all to blame and we will all continue to be blameworthy until major changes in the situation are forthcoming. In an effort to promote what I hope will be the kind of changes needed, I am today introducing amendments to the Fish and Wildlife Coordination Act, a piece of legislation which moved through the Senate Commerce Committee and the Congress years before water pollution was a widely recognized problem. I am grateful for the substance of this proposal to the distinguished Congressmen from Florida and Michigan respectively, Mr. Rogers and Mr. Dingell, who have introduced similar legislation in the House.

The bill I introduce today also borrows several concepts from the air pollution bill which the able Senator from Maine, Mr. Muskie, guided through the Senate last week. One parallel between them is the recognition that in areas of such vital national importance it is essential that the federal government assume leadership. Just as the Muskie bill would prescribe national air quality standards, designed to serve as floors for supplementary state action, my bill would provide for federally-set effluent standards from which states could deviate by only setting more stringent standards.

It seems clear to me that we no longer rely upon the states to provide primary leadership in this area. For some time now state standards and enforcement procedures have revealed themselves to be unequal to the task of controlling water pollution problems. At this time all 50 states have on the books permitting procedures which are designed to ensure compliance with applicable water quality standards. Yet we have seen numerous examples of inadequate standards, of industries without permits, of industries which ignore permits, and of permits which ignore standards—all of these deficiencies working to the disadvantage of the citizen who desires merely to fish, to swim, and to drink without fear. In some waters the situation is so grave that it is clear that no substance can any longer be safely discharged. My bill would direct the Department of the Interior to designate such waters and to provide for the imposition of penalties on those who continue to discharge into them.

My bill would parallel the new air pollution bill in another important respect, namely in its requirement that Congress become involved in the standard-setting process. Traditionally pollution legislation has farmed out standard setting to administrative agencies subject to legislative oversight. It seems clear, however, that some decisions which are essentially of a standard-setting nature are so basic to the future of our nation that it is essential that Congress address them directly. It is the conclusion of the Muskie bill that decisions regarding auto emissions are within that category. It is the theory of my bill that decisions governing waste-treatment facilities must also be included.

Thus my bill would require primary treatment for all sewage and industrial waste by January of 1972, secondary treatment by 1974, and tertiary treatment by 1976. While I would argue that Congress is in fact competent to set standards of this sort, I feel much less secure in suggesting that the standards I propose today are the ones that ought to be set. I have been somewhat arbitrary in choosing the dates referred to, but it is my hope that through the committee hearing process we will be able to arrive at better-considered determinations in this sphere.

ADDITIONAL COSPSONORS OF BILLS

S. 3927

At the request of the Senator from Michigan (Mr. HART), the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 3927, to revise and clarify the Federal Aid in Wildlife Restoration Act and the Federal Aid in Fish Restoration Act, and for other purposes.

S. 4404

At the request of the Senator from Colorado (Mr. DOMINICK), on behalf of the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. SMITH) was added as a cosponsor of S. 4404, to assure safe and healthful working conditions for working men and women; by providing the means and procedures for establishing and enforcing mandatory safety and health standards; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and

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training in the field of occupational safety and health; and for other purposes.

PROPOSED AMENDMENT OF THE CONSTITUTION RELATIVE TO EQUAL RIGHTS FOR MEN AND WOMEN—AMENDMENT

AMENDMENT NO. 1008

Mr. ERVIN submitted an amendment, in the nature of a substitute, intended to be proposed by him, to the joint resolution (H.J. Res. 264) proposing an amendment to the Constitution of the United States relative to equal rights for men and women, which was ordered to lie on the table and to be printed.

SOCIAL SECURITY AMENDMENTS OF 1970—AMENDMENT

AMENDMENT NO. 1009

Mr. THURMOND. Mr. President, I send to the desk a copy of the Mills bill as reported to the House by the Ways and Means Committee, which is designated H.R. 18970, entitled a bill to amend tariff and quota laws of the United States, and for other purposes.

I ask unanimous consent that the bill be printed and referred to the Committee on Finance as an amendment intended to be proposed by me to the Social Security bill, H.R. 17550.

The PRESIDING OFFICER. The amendment will be received and printed, and will be referred to the Committee on Finance.

LEGISLATIVE REORGANIZATION ACT OF 1970—AMENDMENTS

AMENDMENT NO. 1010

Mr. RIBICOFF submitted amendments, intended to be proposed by him, to the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes, which were ordered to lie on the table and to be printed.

AMENDMENTS NOS. 1011 THROUGH 1016

Mr. METCALF submitted six amendments, intended to be proposed by him, to House bill 17654, supra, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 1017

Mr. METCALF (for Mr. JORDAN of North Carolina) submitted an amendment, intended to be proposed by Mr. JORDAN of North Carolina, to House bill 17654, supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 1018

Mr. McCLELLAN submitted amendments, intended to be proposed by him, to House bill 17654, supra, which was ordered to lie on the table and to be printed.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 1002 TO H.R. 17755

At the request of the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Maine (Mr. MUSKIE), and the Senator from New York (Mr. GOODELL) were added as cosponsors of Amendment No. 1002 to H.R. 17755, which would strike all funds for SST development from the Department of Transportation appropriations bill for fiscal year 1971.

ADDITIONAL STATEMENTS OF SENATORS

TRIBUTE TO CHAIRMEN, MEMBERS, AND STAFFS OF SENATE AND HOUSE COMMITTEES ON ARMED SERVICES

Mrs. SMITH of Maine. Mr. President, in connection with the passage of the 1971 Defense Procurement Authorization bill, I wish to commend the Chairman of the Senate Armed Services Committee and the Chairman of the House Armed Services Committee. Last year the Chairman of the Senate committee presided as chairman of the conference on the bill and did an excellent job. This year the Chairman of the House committee presided as chairman of the conference and did an excellent job. When these two distinguished legislators from the South work together—the distinguished junior Senator from Mississippi (JOHN C. STENNIS) and the distinguished Representative from Charleston, S.C. (L. MENDEL RIVERS), constructive results are quickly attained.

The conference this year was a harmonious give-and-take compromise operation in which differences between the House and Senate on this legislation were constructively, positively, and amicably resolved, item by item. There are provisions of the final version of the bill with which I do not agree. But, as a Senate conferee, I was representing the will and desire of the Senate rather than my own personal wishes.

This, I think, was the spirit of the conference this year. It was 3 days of hard and intensive work that followed months of work by the Senate committee and the House committee on this legislation.

For the work of the chairman, members, and committee staff of the Senate committee all this year I have nothing but the highest praise. The American people are, indeed, fortunate to have such dedicated and capable public servants in them. I wish to also extend my commendation to the chairman, Members, and staff members of the House committee for their superior service.

It is a great honor and privilege to be associated with all of them.

REDUCTION OF U.S. FORCES IN EUROPE

Mr. PEARSON. Mr. President, President Nixon's trip to Europe serves to remind us of the special bonds which unite the countries of the Atlantic community. This sense of community rests on the commonality of historical experience and cultural achievement, and more recently strengthened by the challenges and adversity in the post World War II period. Indeed, it is during these past 2½ decades that the Atlantic family has become united in an active sense after centuries of factionalism.

The catalytic agent for this renewed sense of unity has been the common threat of imperialistic communism. In response to this threat the community created the North Atlantic Treaty Organization. NATO has served not only as a vehicle of defense but also as a vehicle for increasing cooperation at all levels throughout the Atlantic community.

Without question NATO has been enormously significant and enormously successful. But while recognizing these tremendous accomplishments we should not allow this or the special bonds of friendship with the Western European nations to become barriers to change in our relations with NATO.

Mr. President, all responsible persons within the Atlantic community believe that NATO must be maintained. However, many believe that certain changes are needed. For my own part, I became convinced several years ago that one of the needed changes was a significant reduction in the United States conventional military commitment to NATO. I am all the more convinced today that we should withdraw a substantial number of our forces from Europe.

At the present, we have approximately 310,000 American troops assigned to NATO, 210,000 of this number are stationed in Germany. This is the equivalent of about 5 divisions. In addition to the military personnel, there are approximately 14,000 civilian employees and over 230,000 dependents, for a total of between 550,000 and 560,000 Americans in Europe who are in some way or another connected with our NATO commitment. Although there has been some reduction from the peak level associated with the Berlin crisis in 1962, our troop commitment has remained relatively stable for the past 2 decades.

To better understand why we can and should reduce the number of troops assigned to NATO it is useful to review the functions of NATO's conventional force in general and America's contribution to that force in particular and to discuss how those functions have changed over a period of time.

First. Originally, a strong conventional NATO force was needed as a concrete deterrent to a direct Soviet assault on Western Europe. During the late 1940's and early 1950's there was a very distinct possibility that the Soviets would unleash the vast and powerful Red Army on Western Europe. Today, the possibility of a major Soviet assault remains, but all agree that the probability of such action is slight.

Second. Thus, the principal function of the NATO conventional force today is that it provides a symmetry of power by which piecemeal aggression may be successfully resisted. That is, a conventional NATO force has to be of a size and of a flexibility sufficient to maintain a credible deterrent against possible localized probing actions by the Soviets. Without a credible conventional force NATO would be compelled to rely entirely on the American nuclear power as a deterrent to even small scale actions of aggression by the Soviets. A strong NATO conventional force assures the Atlantic commu-

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nity that in an East-West confrontation it will have a choice between holocaust or humiliation.

Third. At the political level, the existence of a strong NATO conventional force is necessary to prevent political aggression by the Soviets. From a militarily strong NATO the countries of Western Europe derive a sense of common security which they can draw upon in resisting attempts at political blackmail. The Soviets may not want to militarily conquer Europe either as a whole or in bits but they would certainly like to make a Finland out of it. A strong conventional force gives the NATO countries the will to resist such political pressure.

Mr. President, I do not question the need for a strong NATO conventional force, but there are those of us who do question the necessity of the United States maintaining the equivalent of a five-division contingent within the NATO structure. What is at question here is not the NATO conventional force as such, but our contribution to it.

At the time of the initial American commitment to NATO the possibility of a direct Soviet assault was very real. Moreover, the economies of Western Europe were weak and unstable. Recently ravished by World War II, Western Europe needed direct and significant military assistance.

Over the years, and in no small part due to our economic aid programs, this situation has changed dramatically. By the end of the 1950's Western Europe had fully recovered and during the 1960's it has moved dramatically ahead to new high points in economic strength and prosperity. With a gross national product of over $600 million and producing one quarter of the world's total industrial output, Western Europe is a great economic power.

But as Western Europe has regained its economic strength, it, unfortunately, has not increased its military contribution to NATO. None of the countries of Western Europe spend as high a percentage of their GNP as does the United States. The European members of NATO and Canada spend about 4 percent of their GNP on defense. The United States on the other hand, has defense expenditures representing about 9 percent of our GNP.

Mr. President, every NATO country would like to spend less on defense, but no one can seriously argue anymore that the West European nations are not economically capable of supporting a larger defense establishment if the need exists. Make no mistake about it, the West Europeans can afford to replace American conventional forces with their own if the NATO high command concluded that security needs necessitated such action.

It is appropriate to emphasize here that regardless of the number of U.S. conventional forces we will always maintain a credible nuclear defense of Western Europe because it is clearly in our interest to do so. And it is the American nuclear umbrella over Western Europe which is the principal deterrent to overt Soviet aggression.

Thus, in the final analysis, the value of an American conventional contingent within NATO is more political than military. An American presence is a clearly visible symbol of our identification with the Atlantic community and our commitment to assist in the defense of Western Europe.

However, Mr. President, I severely question the argument that we need to maintain over 300,000 troops in Western Europe to assure West Europeans of the credibility of our commitment to assist in their defense. Now this was not the case during the formative years of NATO. Given the long isolationist history of the United States, Western Europeans could not help but be doubtful of the credibility of our commitment. This a large conventional American force in Europe was desirable and necessary, not only because the Soviet military threat was great and the Western European economies were weak, but, also, because our credibility had not yet been fully tested and proved.

But time and deeds have erased this skepticism, or, at least, should have. If the creditbility of our pledge to resist the spread of communism in Europe is still not established, there is little hope it ever will be.

Closely linked to the argument that the present commitment is needed to assure the Western Europeans of our credibility to assist in their defense, is the argument, advanced by a number of officials of the present and past administrations, that the present force level somehow acts as a special glue binding NATO together. They argue that a reduction in our forces of anything beyond a token 10,000 or 15,000 troops would start an unraveling process which would ultimately destroy NATO. Many of those who advance this argument also claim that any reduction in the United States troop commitment would prompt the Western Europeans to reduce their own force levels.

Mr. President, I simply reject the notion that the political bonds of NATO are so weak that they will be broken by the withdrawal of a substantial number of American troops. If, indeed, NATO is so fragile then it is, then, inherently too weak and too ineffective to be of any great value, even if our present force level were to be doubled.

As to the argument that a reduction of the American force level would be followed by reductions in the Western European contingent, I would say that if this be the case, then it only serves to demonstrate the need for an American withdrawal. For this would seem to indicate that they have such low regard for NATO and so little concern about any threat from the Soviet Union that the whole NATO concept needs to be reevaluated.

I would mention one other political function of the American contingent. In the early years following the end of World War II there was a great deal of uneasiness and concern about the role of West Germany. This was certainly understandable. Thus, a major and dominant American presence was necessary to help ease the way for the emergence of the West German Federal Republic as a strong and acceptable partner in the Atlantic community. But today, most of the difficulties and uncertainties associated with West Germany's role in Europe have either been removed or substantially reduced and the maintenance of the American troop commitment at its present level is no longer needed for this purpose.

But, Mr. President, simply challenging the arguments for maintaining the status quo is not enough. It is incumbent upon those who urge a substantial withdrawal of our forces to identify positive, productive reasons why this should be done. I would cite two economic reasons and two political reasons.

First. Our military deployment in Europe results in a balance-of-payments drain of approximately $1.5 billion a year. The impact of this enormous balance-of-payments deficit is partially reduced by offset agreements that we have with the NATO countries. For example, these agreements have provided for the purchase of American military equipment. However, as the West Europeans have begun to produce more of their own weapons these purchases have declined.

The offset agreement with West Germany is of particular importance because the balance-of-payments deficit attributable to our forces there runs almost $1 billion a year. Under the current agreement, West Germany is to provide a total offset of $1.5 billion for fiscal years 1970 and 1971—$750 million annually. Thus the agreement covers only 75 to 80 percent of the deficit. But even this is deceiving, for $250 million of this is in the form of purchases of U.S. Treasury certificates. These are, in effect, loans which must be paid back, and with interest. Thus we are, in effect, borrowing to pay current bills. This is essentially, then, a financial sleight-of-hand operation.

Our overall balance-of-payments problem is a serious one. And our military deployment in Europe is a major source of the deficit.

Second. The budget cost of the American NATO contingent is approximately $14 billion annually. Now returning troops to this country would not result in a net budget savings unless those forces, or their equivalent, were demobilized. I am not prepared to argue that all troops returned from Europe should be demobilized. But certainly it is the case that a significant reduction in our NATO commitment would make it at least possible to reduce the total size of our military forces and it is, of course, in the reduction of personnel that we can achieve the greatest savings in the defense budget.

Third. A reduction in our NATO troop commitment would, it seems to me, be a logical step in implementing the Nixon doctrine of lowering our profile abroad and putting greater emphasis on helping others to help themselves. It is, indeed, ironic that while many of the Western European countries argue that the Americans should reduce their presence in

XUM

Asia, they are asking us to maintain a high profile in Western Europe.

Fourth. I would suggest that a reduction of the American force level would serve to strengthen NATO politically rather than weaken it. There is a real danger that the American presence has become too paternalistic. This is good neither for Western Europe nor for the United States. It is absolutely essential that we continue to participate actively in NATO but we should no longer continue to so dominate. A partial withdrawal could well serve to energize the Europeans to solidify their political bonds.

Mr. President, all things considered, I would suggest that a force of somewhere in the neighborhood of one half the present contingent—and ultimately possibly as low as 50,000—is not only adequate, but much more appropriate to the conditions of the 1970's. Given the fact that we will continue to maintain our nuclear umbrella over Europe, which after all, is the ultimate deterrent to Soviet aggression, a conventional force of this size would one, represent a fair and equitable American share of the cost of defending Western Europe against Soviet pressures and two, would be sufficient to insure the credibility of our pledge for a full and unqualified defense of Western Europe. We are no more likely to sacrifice the lives of, say, 50,000 military personnel than we are to sacrifice the lives of 500,000.

Precisely which units should be withdrawn would, of course, be left to negotiation between American defense officials and their NATO counterparts. However, it would appear that the most significant reductions could be achieved with the conventional ground forces now concentrated in the central region. Moreover, if the need exists, ground forces are the most easily replaced by the Western Europeans. In regards to our air and naval contingents assigned to NATO, it may well be that very little, if any, reductions would be desirable or justified.

It also needs to be stressed that all who argue for a troop reduction also recognize that we need to maintain a flexibility in our overall defense posture so that we can beef up our commitment to NATO whenever necessary. For example, given present conditions in the Middle East, it may well be desirable for us to strengthen our commitment to the Mediterranean section of the NATO command.

Indeed, this need for flexibility can be cited as one of the reasons for reducing our commitment in those areas where it is not wholly justified. Thus it is likely, Mr. President, that if the burdens of our commitment in the central region were not so great we would be in a better position today to deal with the circumstances in the Mediterranean region.

Mr. President, most of those who argue against a reduction of United States forces in Europe concede when pressed, that such a withdrawal is inevitable at some future date. However, they argue the time is not yet right. But this becomes a delaying tactic simply without end. The time never seems to be right. And thus, today, we still maintain virtually the same force level that was established at the close of the Korean War, when the Soviet threat to Western Europe seemed particularly great.

Recently, however, there have been some slightly encouraging signs. The Nixon administration, while defending the status quo, has let it be known that the status of our commitment beyond July first of 1971 is not certain. Particularly because of this, and also because European officials apparently have come to finally recognize the growing congressional concern, the NATO ministers are presently conducting a fresh review of alliance defense needs, with particular emphasis on finding ways in which Western Europe can carry a greater share of the burden. Hopefully, they will come forward with genuinely productive recommendations. There is a likelihood, however, that they will come up with half-way measures which really would not solve the problem, but will have the effect of further encouraging delay in the withdrawal of U.S. forces. We will have a much clearer notion of the intentions of the Western Europeans when the NATO ministers meet this December.

It is also to be noted, that the NATO council has officially offered to enter into negotiations with the Warsaw Pack for a mutual reduction of military forces on both sides of the Iron Curtain. Departing from past behavior, the Warsaw Pact has indirectly indicated an interest in negotiations. There is no solid evidence yet, however, that the Warsaw Pact is really serious about this. But, if the members of the pact do prove to be seriously interested in negotiation, then a further delay of the beginning of an American troop reduction might possibly be justified. However, I want to emphasize here that I do not accept the argument, maintained by some, that the initiation of an American troop withdrawal would destroy the chances of a negotiated mutual reduction. This argument would hold only if all NATO countries proceeded simultaneously to reduce their force levels as American troops were withdrawn. But this seems most unlikely.

Also, given the current status of Sino-Soviet tensions, and the status of the Russian economy, it can be argued that a reduction in American force levels would prompt a similar reduction in Soviet troop concentrations in Eastern Europe.

The argument that there should be no withdrawal until negotiated mutual reductions are achieved has been used and abused for a decade. Given the fact that the United States is a part of, and not the whole of NATO, this argument has never been all that persuasive. And it has worn increasingly thin over the years.

In any case, Mr. President, the continuation of the status quo very much longer is simply not tolerable in my judgment. Changing realities in Europe and changing priorities here at home require that the beginning of a phased withdrawal of a substantial portion of our NATO contingent be initiated at the earliest practical date.

THE TRADE BILL AND QUOTA PROTECTION

Mr. SCOTT. Mr. President, the House Democratic leadership has apparently made a decision to postpone action on the pending trade bill until after the November elections. Unwilling and afraid to stand up for the American workers whose industries have taken a vicious beating, the House decision can only be viewed as one that will cost them dearly in the coming elections. There seems to be a feeling on the other side of the Hill that the pressure for this vital legislation will diminish after November 3. I want to put them on notice, however, that the pressure is on right now for this bill, and they should consider it immediately.

Specifically, the bill would limit the import of shoes and textiles next year to their average annual volume in the 1967–69 period. After 1971, these quotas would increase or decrease in proportion to domestic consumption. However, such quotas would be waived for any country agreeing to voluntary limitations on its exports to the United States.

The bill also makes it easier for other industries facing import competition to obtain quota protection. This would be accomplished by broadening the escape clause, which permits quotas, tariff increases, and other relief measures.

I support these provisions but believe we ought to go further to include other industries that have been hurt by imports. Steel, for example, is literally pouring into this country under a voluntary system which is far from adequate. I am a sponsor of legislation to provide specific quotas for steel, and will seek to add such protection if the Senate considers the bill this session. Specialty steel is experiencing similar difficulty and should receive similar consideration.

Going further, why should we then exclude electronic products, all types of glass, and mushrooms? Have these industries not suffered from the rising levels of imports? And what about metal slide fasteners, mink, and fabric for ties? Has not Pennsylvania's economy been hurt by import problems here? I make these points only to signify that no one industry deserves special treatment here. All have been injured and all are entitled to some relief. The present trade bill offers relief, but does not necessarily provide it. We need a stronger bill. I intend to work for one.

Several Senators have informed me of their intentions to offer the trade bill as an amendment to either the social security or welfare reform measures. Although I would prefer to have full scale hearings held by the Finance Committee, time is short and I will support any move to bring the trade bill directly to the floor of the Senate. At that time, I will work closely with other Senators, who feel as I do, that we have got to put a stop to this exporting of U.S. jobs. I find it difficult to understand how Congress cannot support its own domestic industries when, for example, a foreign legislature directs its negotiators to resist any move by our Government to limit their export to us. It is about time we stood

XUM

up for our industries. Immediate House passage of the trade bill would be a good first step. For my part, I will urge the Senate to consider the bill at the earliest possible moment. I urge Senators to support this effort.

LAWRENCEVILLE SUMMER INTERN PROGRAM A SUCCESS

Mr. PROXMIRE. Mr. President, this year, for the second year in a row, I was pleased to have a Lawrenceville summer school intern working for me in a volunteer capacity. For 2 weeks this young man, Mitch Garrett, together with two young ladies who also participated in the program, combined hard work with a series of impressive interviews with prominent Washington figures—learning and doing at the same time.

This is the type of program that is most beneficial to all concerned. It helps Members of Congress who are fortunate enough to have summer interns to get their difficult job done. And it helps the interns themselves by giving them insights into our Federal Government that it would be mighty hard to pick up in any other way.

I was particularly impressed by the caliber of the interviews these Lawrenceville interns had with figures both within and outside Government.

I ask unanimous consent that a list of these sessions be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF SESSIONS

August 8—Reception for members of Congress and Staff.

August 11—Briefing, Department of Defense.

August 12—Lecture, Georgetown University, member, Center for Responsive Law.

August 13—Briefing, Federal Trade Commission.

August 13—Seminar, Franklin Nofziger, Deputy Assistant to the President for Legislative Affairs.

August 18—Seminar, Marvin Zim, reporter, Time, Inc., Washington Bureau; Hugh Sidey, Bureau Chief, Washington Bureau, Time-Life, Inc.

August 19—Seminar, Clark Clifford, former Special Assistant to President Truman, former Secretary of Defense.

August 20—Tour and Briefing, Department of State.

August 20—Critique of Washington Intern Program and Dinner.

COMMUNIST PERFIDY APPARENT IN POW SITUATION

Mr. SCHWEIKER. Mr. President, never in modern annals has the perfidy of those who guide the destinies of Communist nations become more apparent than in the treatment given American prisoners of war held in North Vietnam.

The North Vietnamese are signatories of the Geneva accords on prisoners of war. These accords guarantee basic protections for prisoners. Among them are proper shelter, proper feeding, adequate medical care, notification of the governments involved, and a legitimate channel of communications between the prisoners and their familes.

The North Vietnamese have never honored these commitments. They have adopted the peculiar rationale that they, the North Vietnamese, are not really involved in the fighting in South Vietnam and, therefore, have no prisoners of war. This cynical semanticism is duly accepted by many of the other Communist powers in the world as entirely proper.

However, world opinion has been growing solidly in support of the United States and our position that at least minimal care must be afforded these men. The world is not blinded by the Communist reasoning.

We must continue our efforts to bolster world support for these unfortunate Americans and their brave families here at home.

CATHOLIC CLERGYMEN OPPOSE VIETNAM WAR

Mr. McGOVERN. Mr. President, on September 24, I had the honor of meeting with a group of distinguished leaders of the Catholic Church on the occasion of the public announcement of a "Statement of Commitment" signed by more than 3,000 priests in opposition to the war in Vietnam.

This was a particularly moving occasion for me, because it came on the seventh anniversary of my first statement on the floor of the Senate in opposition to our deepening military involvement in Vietnam.

This occasion marked the first time that a major group of Catholic leaders have spoken out on the moral cost of the war.

Mr. President, I ask unanimous consent that the following items in connection with today's announcement be printed at this point in the RECORD:

First. A letter to clergymen—the invitation to Catholic priests to sign the statement of commitment.

Second. The statement of commitment together with some responses to the appeal and four articles on the morality of the war by Catholic leaders.

Third. Statement by Senator McGOVERN on September 24, 1970.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

A LETTER TO CLERGYMEN

We are sending the enclosed statement of commitment to every Catholic clergyman in the United States. We feel that the time is now to express our position on one of the chief moral problems of the country, our involvement in the Vietnam war.

In addition to objecting to the indiscriminate killing of civilians, we deplore the devastation and death that have been inflicted on the people of Vietnam, it bears no proportion to the benefits we hope to insure as a result of the war. We fear, moreover, that the damage we are bringing about abroad is paralleled by the disunity and destructive tensions that have developed at home as a result of our involvement.

We appeal to you, our brothers in Christ, to read the enclosed statement of commitment and if you agree with it, to sign it and use the enclosed envelope before July 15. "Divine Providence urgently demands of us that we shake off the age-old slavery of war," (Constitution on the Church in the Modern World)

In July we will call a press conference announcing the number of Catholic clergymen who have signed the commitment. If you desire the names of the clergy in your state, for a local press conference, notify us in your return.

In order to defray the expense of $8,000.00 or more for this opportunity to express our belief we ask you to send us a donation if at all possible. $5.00 or more ought to cover the cost.

Rev. William F. Nerin, Coordinator; Rev. Frank J. Bonnike, Rev. Henry Browne, Rev. Charles Curran, S.T.D., Msgr. Charles O. Rice, Rev. Robert F. Drinan S.J., and Rev. Eugene J. Boyle, Chairman of Comm. on Social Justice, Archdiocese of San Francisco.

Rev. John Sheerin C.S.P., Chairman; Msgr. John J. Egan, Rev. Richard P. McBrien S.T.D., Rev. Patrick J. O'Malley, Rev. Shawn Sheehan, Rev. Gerard S. Sloyan Ph.D., and Rev. Patrick McDermott S.J., Asst. Director of Division of World Justice and Peace.

THE STATEMENT OF COMMITMENT

Signed by more than 2,800 Catholic clergymen—"We hold that the American participation in the war in Vietnam is wrong, unjustified, and unjustifiable. Fidelity to conscience and love of country demand that we, as leaders in the Catholic community, publicly deplore, the American policy in Vietnam. As moral leaders we will continue to teach this in our communities."

A CATHOLIC BISHOP SPEAKS ABOUT THE WAR IN INDOCHINA

On June 25, 1970, Victor J. Reed, Bishop of the Diocese of Oklahoma City and Tulsa, addressed a letter to the people of God in his diocese:

"I write to you because of inaccurate reporting of the facts by our newspapers. . . .

"Briefly, I have come to believe for several years that our involvement in the Indochina War is a great mistake. When we became involved, I was satisfied to accept as better judgement the decision of our government, but not now. I do not ignore the fact that our original commitment there was humanitarian and judged to be preventive of greater evil. Neither do I fail to recognize that atheistic communism is our enemy.

" I am not a pacifist, principally because I never considered myself that perfect. I believe that resort to war can be just under certain recognized ethical conditions. So far as I know, I have never been accused of cowardice. I love my country and would give my life in its defense. . . .

"Contrary to the idea that disagreement with our involvement in Indochina is unpatriotic and a let-down to our boys there, I believe that augmented public disagreement will aid our President and his government in their declared effort to bring our men home.

"True Christianity must alway struggle for a world of increased justice and peace for all peoples. . . ."

The bishop spoke briefly about larger issues, the causes of war and the dangerous mentality which tempts men to choose war over other means for settling differences:

"Because of the world danger of unlimited atomic conflict, the kind of limited war the major powers are forced to fight today is bound to last a long time—as long, in fact, as men and 'permitted' weapons last, because to attack the real sources of power is either practically impossible or 'out of bounds'. I believe that, unless we can change the traditional and generally held idea that a government can obtain its desires through armed conflict, instead of through diplomacy, economic and social assistance to have-not peoples, there can be no peace in the world. The knowledge of what richer peoples possess and enjoy, made real today by modern communication and transportation, makes this quite understandable.

XUM

"To obtain a greater measure of world justice and peace, our beloved country and other well-off nations must be willing to spend generously in order to help the poverty peoples to help themselves. Up to this time, we and our world peers have been willing to spend big on war only. Such is the tragic state of common world opinion."

In the letter, the bishop communicated to his people that he, as an individual citizen, had joined 48 priests of his diocese to sign a protest regarding the involvement of the United States in the Indochina War. Using his own personal funds and not those of the diocese, he helped underwrite a mass mailing to priests throughout the country so that other priests could express opposition to the war in a tangible way.

CLERGYMEN RESPOND TO THE APPEAL

A letter bearing the names of 14 prominent Catholic priests went out to clergymen throughout the nation asking them to sign a Statement of Commitment and to return this signed Statement to the coordinators. The Statement was unqualified and unambiguous.

The statement of commitment

We hold that the American participation in the war in Vietnam is wrong, unjustified, and unjustifiable. Fidelity to conscience and love of country demand that we, as leaders in the Catholic community, publicly deplore the American policy in Vietnam. As moral leaders we will continue to teach this in our communities.

(Signed) ——— ———.

Many responded positively to the appeal, and expressed their opposition to the war. Not all signed the Statement because they felt that they were not well enough informed about the war to make a univocal judgment. Or, they felt that the Statement itself should have contained reasons why the signators oppose the war.

What is significant in this action is the fact that a substantial number of Catholic priests, over 2800, including 2 bishops, signed this Statement *without qualification*. Among the signers were: Bishop Victor J. Reed, of Oklahoma City, Oklahoma; Bishop Charles Buswell, of Pueblo, Colorado; Msgr. John Tracy Ellis, church historian at the University of San Francisco; Fr. Robert Drinan, S.J., dean of the law school at Boston College; Fr. Charles Curran, professor of moral theology at Catholic University of America; Fr. Henry Browne of New York City; Fr. Frank Bonnike, president of the National Federation of Priests' Councils, Fr. Patrick McDermott, S.J., assistant director of the Division of World Justice and Peace of the United States Catholic Conference; Fr. John A. O'Brien of Notre Dame University; Fr. John McKenzie, scripture authority, Chicago Illinois; Fr. Thomas Stransky, head of the Paulist Fathers; Fr. Richard McSorley, S.J., professor of theology at Georgetown University.

Fr. John Reedy, C.S.C., summed up the thoughts of many in a July 12 editorial in *A.D. 1970,* a national Catholic weekly:

"All the Roman Catholic priests of the country are being asked to express a moral judgment on the continuation of our military activity in Vietnam. While the opinions being sought are personal, they will be presented publicly as a cumulative judgment of men who have been given specialized training in the formulation of ethical judgments.

"On most of the early protest statements, I was very hesitant to offer my signature—partially because I was suspicious of facile judgments, partially because I doubted that many people would care whether I signed or not.

"However, I shall offer my signature to this statement . . . and because much of my pastoral activity has expressed itself in the work of religious journalism, I'll use this column to express my judgment.

"At this time, because I can't see that there is any reasonable doubt about the moral question, I must identify myself with the group of priests who state:

" 'We hold that the American participation in the war in Vietnam is wrong, unjustified, and unjustifiable. Fidelity to conscience and love of country demand that we, as leaders in the Catholic community, publicly deplore the American policy in Vietnam. As moral leaders we will continue to teach this in our communities.'

"I don't accept or endorse much of the protest rhetoric which insists on judging the consciences of the leaders. Nor am I interested in attributing malicious motives to our national effort of recent years.

"But whatever were our motives in the past, whatever considerations influenced the consciences of our leaders, the basic moral issue today seems unmistakable. Any kind of a continuation of this war has become morally indefensible. It simply offers no promise of producing a value proportionate to the continuing devastation of life, land, moral sensitivity.

"At this writing, I have no estimate whatever of the number of Roman Catholic priests who will sign that declaration of conscience. A few years ago, it would have been a small proportion of the 40,000 total. Today, I just don't know.

"I *do* know that I have to be among them."

WHY THE WAR IS WRONG

(By Fr. Richard McSorley, S.J.)

INTRODUCTION

Christians belong to a Church that for its first three centuries followed a pacifist tradition. Many early Christians believed that their baptism forbade them from killing in wars. Many suffered death at the hands of the Roman Empire for this reason.

The Christian tradition of limited acceptance of war began with Augustine, who first formulated the "just war" theory in the fourth century. The theory tries to reconcile Jesus' doctrine of love with the abomination of war by placing rigid, limiting conditions on warefare. The divine commandment "Thou shalt not kill," the example of Jesus' life and death, his teaching that the way to peace and salvation is the way of suffering accepted—not suffering inflicted—all of the components of the Christian message seemed to oppose war.

Augustine argued that war, waged under certain rigid conditions, would not be a violation of the Gospel teachings, but rather be an exception to them.

Briefly, the Augustinian argumentation is that war is permissible only when the certain conditions are all fulfilled, namely:

(1) War must be declared only as a last resort, after all peaceful efforts have failed;

(2) The purpose or intention must be just, e.g., a nation defending itself;

(3) Immunity of non-combatants must be maintained, i.e., no direct killing of the innocent;

(4) The principle of proportionality must be applied, i.e., the good hoped for should be proportionately greater than the evil allowed.

From a moral point of view these conditions form a unity; all of the conditions must be fulfilled during the entire war. Any substantial defect in any one of them means the war is not an "exception" to the Gospel but a violation of the Gospel's essential message of peace.

LAST RESORT

During the years 1947–54, the United States aided France's efforts, economically and militarily, to re-establish its colonial power in Vietnam. After the Geneva conference (1954), the United States government did not call upon the Geneva guarantor-power to assume its proper role in resolving the difficulty that arose with regard to the agreements. In fact, U.S. policy constituted a repudiation of that agreement. We did not sign the agreement or recognize the international authority it established. Nor did we refer to the United Nations an issue which so obviously threatened the peace of the world. In failing to do this, we violated our obligations under the United Nations Charter, Chapter 6, Art. 33 and 37, which require every other peaceful means of settlement and a submission of disputes to the Security Council before recourse to military action.

On January 31, 1966, long after we had become militarily involved, President Johnson announced that the United States would place the Vietnam war before the Security Council of the United Nations. Ten days later, Ambassador Goldberg said that the United States had no intention of pressing for action on its own Security Council resolution.

Our long delay in bringing the matter to the Security Council put us in flagrant violation of the United Nations Charter and makes it very clear that we did not enter this undeclared war as a last resort.

OUR PURPOSE

In 1965, President Johnson said, "We are there first because a friendly nation asked us for help against communist aggression." At other times, our public officials have said we were in Vietnam to honor our treaty commitments, to check Chinese communist expansion, to provide for our own security, to protect our own troops and, finally, to preserve our honor in the face of defeat. The United States has never lost a major military engagement, and, we are told, she must not do so in the present conflict. The history of our actions, however, casts doubt on our real intentions.

From 1947–54, we were aiding French efforts to re-colonialize Vietnam. We were not trying to help a small nation gain its independence. What legal basis did we have for dispatching over a half-million troops to Vietnam? The circumstances are dubious at best. In October 1969, Senator Fulbright noted while reading a report on the war submitted by General Westmoreland that there was no documentation to show that we had been invited into Vietnam by a friendly government. Since many of our political leaders claimed that we were there by invitation, Senator Fulbright asked the State Department for more information. The reply indicated that no such document ever existed. Talks had gone on between the governments and this was assumed to be equivalent to an invitation.

Even if we had been formally invited to war by Premier Diem, it might well be asked if this was not a self-invitation since we had helped Diem obtain his position. It might also be asked how many of the Vietnamese people Diem represented. What seems to be nearer to the truth is that we barged into a civil war where Vietnamese were fighting Vietnamese. In our efforts to halt Chinese expansionism, we have contributed to the destruction of Vietnam itself. Do we have to destroy a land and its people in order to save it? Our express purposes for being in Vietnam conflict with the history of our actions. This is why many Americans are confused about why we are in Vietnam.

NONCOMBATANT IMMUNITY

Are we allowing the deliberate killing of the innocent? Vietnam is a guerrilla war. It is the nature of such a war that the guerrilla moves among the people as a fish in the water. As we try to destroy the guerrillas, we have targeted our firepower on the peasantry of Vietnam, using massive quantities of napalm and anti-personnel bombs. We

XUM

have bulldozed entire villages, uprooted whole sections of the people, sprayed entire areas with defoliant poisons. We have created more terror among the people of Vietnam, south and north, than the selective terror which we allege is inflicted by the Vietcong. Three million Vietnamese, one out of every eight, is a refugee in his own land.

It has been seductively easy to escalate our firepower till we have dropped more tonnage on Vietnam than we dropped on the entire European theatre during World War II. It is not at all clear that these weapons have been aimed with precision and care only at enemy soldiers. Reports from Vietnam would indicate otherwise.

A study by the Senate Committee on Refugees estimated that civilian casualties alone run about 125,000 per year, and that the bulk of the casualties are due to United States firepower. Can this number of civilian casualties be reconciled with our obligation to protect the lives of the innocent?

PROPORTIONALITY

When a nation begins to inflict punishment on another nation, if that punishment is out of proportion to the good that might be hoped for, the nation inflicting the punishment becomes guilty of immorality on the principle that its action is doing more harm than good.

This argument means that a proportion is to be kept between the good desired and the evil allowed; good and evil must be weighed. With the application of this principle to Vietnam, we find this result: 50,000 American soldiers dead, twice that number hospitalized, thousands of others imprisoned or exiled because they could not in conscience support this war; 93,000 South Vietnamese dead, twice that number hospitalized; over a half-million North Vietnamese and members of the Liberation Front dead. Civilian casualties are over 125,000 per year. Three million Vietnamese are refugees. Two million acres in Vietnam have been defoliated, one fourth of all the usable land. We have spent over $120 billion on the war while at home we have seen the poor become more frustrated, more angry at the hopelessness of their conditions. We have seen the nation divided, black against white and old against young. Abroad we see our old friends turn from us. We wage war almost alone; only a few client states are forced by their dependence to support us.

What is the good we hope for from this war? Officially we hope for a negotiated settlement with the participation of a government that is not able to win the allegiance of its people, and is successor to many military dictatorships. If we agree to the negotiations, we will agree to what we refused to do in 1954 and could have accepted on many occasions since then.

Clearly, when one weighs the good we hope for against the evil we have allowed, there is no proportion.

CONCLUSION

When the principles of the just war are applied to Vietnam, we find that the Vietnam war does not fulfill the conditions. If it failed to fulfill even one of these conditions, we would, according to this theory, have to judge it immoral. We believe that the Vietnam war essentially violates at least three of these conditions, perhaps all of them. This is why we hold that it is "wrong, unjustified, and unjustifiable."

THE WAR IN VIETNAM IS IMMORAL

(By the Editors of U.S. Catholic)

The war in Vietnam mocks Christmas this year as no war perhaps has ever before. Our celebration of the birth of the Prince of Peace cannot shut out the sounds of the bitter, dirty struggle that is tearing our country apart. So acidulous, in fact, has this controversy among Americans become that to take a stand, to judge, is willy nilly to take sides. But so ugly, in fact, has the Vietnam crisis become that to avoid judgment for fear of taking sides is to shrink from responsibility.

The war, in its totality is surely a can of worms and to make a political judgment, for example, without impinging on military judgment is difficult, perhaps impossible. In the same way, it is hard to isolate the social, economic and moral aspects of Vietnam. But responsible citizens must run the risk of criticism for a partisanship they do not intend or else stand accused of silence in the face of serious wrong.

The Vietnam question is at heart a moral question. The Detroit priest who spoke from his pulpit in opposition to the war was accused by some of "speaking politics," and not knowing the full text of his remarks, he may indeed have been "speaking politics." But at least some of his arguments against the war were moral arguments and moral arguments are the prerogative of moral man. Each of us must speak out against what he believes is wrong.

It is our contention that the war in Vietnam is wrong, is unjust, is immoral. We in no way impugn the sincerity or good will of those who believe that the war is just and moral, even righteous. But for reasons we will try to set out here, we believe that the present course of the United States in Vietnam cannot be justified.

We believe in the first place that some of the means we are using in Vietnam are hard or impossible to justify. Among these are the use of napalm, an inflammable jelly that cruelly injures and permanently scars the unfortunate people it falls on and is a substance that cannot be used with precision but only indiscriminately, afflicting both combatants and non-combatants alike in a no-front war; defoliation, the stripping away of all growth that could possibly shelter enemy troops, a tactic that must necessarily take innocent lives and destroy homes of non-combatants; the arbitrary uprooting of people and relocation of them for a number of reasons but all in violation of their bodily integrity and without any real regard for the effect that such relocation has upon the families concerned.

The morality of aerial bombing is a more complex and subtle question. Some theologians were willing to defend the World War II bombing of civilian populations in Dresden and Hiroshima but at least as many find such bombing immoral. Some who find such bombing not necessarily immoral in itself are willing to condemn such bombing today arguing that a great-power exchange of such bombing raids would inevitably escalate to a nuclear holocaust and the probable destruction of civilization.

There is no great-power exchange of bombing raids in Vietnam, of course. The North Vietnamese are supplied by Soviet Russia and China but there is, fortunately for us, not yet a reciprocity of Russian bombers in response to ours. It is true, too, that our bombing, in the north at least, is theoretically precision bombing seeking only targets of military value. But Vietnam is a small country and military targets are not always easy to separate from non-military even if precision bombing were 100% accurate, something no air force could achieve.

Beyond these unjust or questionable means are three terrible consequences of the war that might alone make it unjustifiable.

The first of these consequences is the brutalizing effect of the war on the combatants directly and indirectly on those at home. Both world wars and Korea were hard, brutal wars with heavy loss of life. But fortunately for the combatants in these wars, much of the fighting was remote and impersonal. In Vietnam, "hand-to-hand" combat and person-to-person killing is the rule rather than the exception. The ever-present danger seems to justify almost any counter measure and the practice of "shooting into the undergrowth until the leaves stop moving" seems only common sense. Further, the inability to distinguish combatant from non-combatant Vietnamese leads most inevitably to inhuman torture to separate the men from the boys.

At home, we slip from one rationalization into another. If precision bombing doesn't seem to be bringing Hanoi to its knees, let's bomb them back into the Stone Age. If Vietnamese civilians fail to heed our warnings to flee their homes and move into the concentration camps we have thoughtfully provided, it's not our fault if some of them get killed when our B-52's, out of sight in the sky, begin their saturation bombing to clear an area.

A second consequence of our Vietnamese involvement is the growing polarization of the American people, a separation symbolized by the hawk and the dove. Increasingly, Americans are leaving the neutral middle ground and opting for one of the opposing positions. And as this polarization grows, bitterness and hostility between the groups grows, too. Leaders who had been able to cooperate find themselves unable even to associate with one another and the community suffers.

Perhaps the most tragic of the war's consequences is the deadly drain of our national resources, not only our material resources, the billions of dollars so desperately needed to feed the hungry, clothe the naked and shelter those in need of shelter, but our mental resources as well. Beginning with President Johnson and extending through governmental leaders to the universities and into industry, the physical and social sciences and communications, the preoccupation with Vietnam is sapping our national strength in the face of problems that may be greater than any our civilization has faced.

If the consequences of our Vietnamese involvement are terrible and many of the means we employ there unjust, toward what ends is our part of the war directed?

Here, for the first time, we mention the enormous and most important cost of the war, the loss of lives, the men who will go through life handicapped and the grief and awful strain that their families must undergo. We do not argue that this cost cannot possibly be justified. While we sympathize with the pacifist argument, we do not espouse it here. But only a clear and evident good can justify the terrible cost of such a war.

It is difficult to pinpoint the arguments in favor of our participation in Vietnam. Hardly a month passes without President Johnson or Secretary Rusk presenting a new argument in its favor. For awhile we were told that we must press forward the Vietnamese war because we must honor "a promise" made to the Vietnamese people. This argument is feeble in the first place because no one knows who speaks for the Vietnamese people. The promise, if it can be called that, was made to the Diem government and our government subsequently agreed, tacitly or otherwise, to the overthrow of the Diem government because we felt that Diem had no real support among the people of his unfortunate country. A number of governments have since succeeded that of Diem and despite the recent elections, it is impossible to say if the present Thieu-Ky regime represents the aspirations of the Vietnamese.

Beyond the question of representative government is the fact that many commentators believe that the Vietnamese are terribly sick of the war and would if they had a free choice elect to end it.

To this we add that no "promise" is indiscriminately binding. A man may not jeopardize the welfare of his family, for example, to honor a promise made to his father to quit

XUM

his job in order to operate the latter's failing business.

It is also argued that the United States would "lose face" if it failed to persevere in Vietnam. This argument is really a romantic hangover from the days when wars were thought to be dashing and glamorous. Soviet Russia under Stalin backed off in Iran, and under Khrushchev withdrew under fire from Cuba, and there is surely no indication that Russia has lost anything by this behavior.

It is obvious, to the contrary, that American prestige throughout the world has all but drained away because of Vietnam and that the United States has long since surpassed Russia as the most hated country.

More recently Secretary Rusk has warned in inflammatory prose that would have warmed the heart of the late William Randolph Hearst of the billion Chinese who will, he said, confront us if we do not "win" in Vietnam. Secretary Rusk has denied that his remarks implied a renewal of the discredited "yellow peril" school of diplomacy but without that threat this argument cuts no ice at all.

While we spend our resources in lives, materiel and billions of dollars, Red China is untouched. For a relatively tiny cost, the Chinese Communists can watch with delight as the United States beats its head against the Vietnamese wall.

The argument most often heard in defense of the war is that it is intended to penalize aggression. This argument is sometimes presented jingoistically as when President Johnson told American troops that they must "bring the coonskin back and nail it to the wall." Mercifully it is also presented responsibly, contending that we must make the Communists realize that aggression does not pay or they will overrun all of Asia. Aside from the fact mentioned previously that cost, as between the United States and China, is almost all on our side, this argument is terribly vulnerable.

For example, do those who argue this way maintain that the United States must wage a major war every time China chooses to build up insurgent groups in nations such as Korea, Burma, Thailand or Malaysia? Do they really believe that even as rich and powerful a nation as the United States could continue to engage in multiple "Vietnam's" while China sits back and says "Let's you and him fight?"

On the other hand, by what right does any nation say as we are presently (domestically at least), "I would rather fight my enemies in your back yard than in mine"? A mindless imperialism that is willing to lay waste to another country to safeguard its own can hardly be justified.

The attempt by Secretary Rusk and others to equate the aggression of Ho Chi Minh (or of Mao Tze-tung for that matter) with the aggression of Hitler is another jingoism, one that would be laughable were it not so serious. At the time of Munich the Axis powers were militarily superior to the whole free world, were in imminent danger of overrunning the democracies of Europe and a clear and present threat to the national integrity of the United States. No realistic person can believe that the United States or the free world is today so endangered. And as a matter of fact, the Vietnamese war is the principal obstacle to the thawing of relations between the United States and Russia. The latter, a bitter, natural enemy of the Red Chinese, has moved increasingly toward the West in recent years and only a stubborn, doctrinaire insistence on fighting the Vietnamese war precludes relations, based on mutual self-interest, that might bring world peace closer than it has been in centuries.

The overarching fallibility of the "we must penalize aggression" argument is its dependence on the naive belief that wars today can be "won," that ultimately they settle anything. Pope Paul was assailed as naive when he pleaded at the UN for "no more war, never again" but he was in fact the wisest of men in saying this. For modern wars settle nothing. To the contrary, they sow the seeds of future wars.

Secretary Rusk has argued that we must persevere in Vietnam or be prepared to fight other wars in Asia. But as Walter Lippmann has pointed out we have in fact fought three wars in Asia in this generation! World War II in which we completely destroyed the power of the Japanese Empire only made possible the rise of Red China and necessitated the Korean War. Our terrible sacrifices in Korea did nothing to prevent the present holocaust but rather contributed to it.

Even if we obliged General LeMay and "bombed North Vietnam back into the Stone Age," Red China would be untouched. And even if we obliged the madmen who would have us destroy Red China with nuclear weapons, it is utter folly to believe that the remainder of the world would see things as we do and that aggression would no longer threaten us. The more terrible the war we sow, the more bitter the harvest we will reap.

We reject as utterly specious the argument that it is unpatriotic to oppose the war policy of our government. We surely do not accept the moral irresponsibility of "my country, right or wrong" and while we do not for a minute equate the policies of our government with those of Nazi Germany, we do find a similar responsibility among the people of Hitler's Germany and among the American people today. Just as it was then the responsibility of the Germans to speak out against the immoral policies of the Nazis, it is, we believe, the responsibility of Americans who see the Vietnam war as immoral to speak out.

We reject as beneath contempt the argument that to oppose the war is to betray the Americans who are fighting there. Far from betraying them, we want to defend them, to save them from fighting a barbarous, fruitless war that is morally wrong.

What is the alternative to the war, then, for the United States?

A number of alternatives seem to us to be practical but judging these requires political, diplomatic and military expertness that we do not claim. A number of these may be worth pursuing: a recalling of the Geneva Conference, total commitment of the problem to the UN, direct, open-minded negotiation with Russia, the principal supplier to North Vietnam but a nation almost as anxious to end the war as is the United States.

But it is not for us to debate these proposals here. We know that the American people believe overwhelmingly that they are not being told the whole truth about Vietnam, and for that reason there is widespread belief that none of the alternatives are really being tried. More than this, many believe that our government, for reasons of its own, continues to insist on preconditions that prevent a solution to the war.

We believe that the war in Vietnam must be ended before it does irreparable harm to our nation. We believe that it is immoral and that the American people, imploring the grace and mercy of Almighty God, must insist that it be concluded without delay.

Vietnam and the Just War

(By Gordon C. Zahn)

Let me begin by confessing that my personal opposition to the American military operations in North and South Vietnam derives from a broader commitment to religious pacifism. I regard the acts being performed by our government and its forces as a direct violation of the letter and the spirit of the Christian revelation. To the extent that they are conducted "in my name," so to speak, without affording me or the others who share my convictions some effective and still legal way to dissociate myself from this immorality, my rights as a citizen to live according to my religious beliefs are also being violated. And if some have already been forced into illegal protest, this should neither surprise nor offend those who have witnessed these protests. Instead, the offenders deserve honor and respect for keeping alive the American traditions of dissent and even disobedience to unjust or immoral acts on the part of men holding political power and authority. However much one may disapprove of the specific means chosen, whether it be burning their draft cards or burning themselves, this must not be permitted to prejudice or obscure the point the protesters are trying to make.

But I do not propose here to praise those who have raised their voices in opposition to the American policies in Vietnam. Instead, this essay seeks to pose the question of why others (certain "others" in particular) have not joined in this opposition. It is, of course, predictable that religious pacifists would take a stand against the war, just as it is predictable that their opposite numbers, the dedicated anti-Communist crusaders, would be open and fervent in its support. What is less predictable (except, perhaps, to a few cynics like myself) is the course of action followed thus far by the "moral realists" in between, the men who hold, on the one hand, that war cannot be excluded from the range of Christian options but who also insist, on the other, that only the so-called "just defensive war" can be reconciled with Christian values and behavior.

Many of us have waited, but in vain, for these most respected theologians and their supporting journalists to apply their talents to the crucial question of whether or not the present conflict does actually meet the test of the well-known conditions of the just war set forth in the standard moral guidance handbooks. One would think that the war in Vietnam offers a handy opportunity to demonstrate the continued validity of these teachings. After all, if (as some of these writers have gone to great lengths to declare) it is possible to justify even some types of nuclear war, a relatively limited conventional war should not be too serious a challenge for them.

Indeed, the current hostilities do more than offer an opportunity to test the applicability of the old traditions to war as we know it today; in a very real sense they present an *obligation* for those who have insisted that these teachings are still relevant to nations and wars in the modern world to do so. Readers of this journal may already be aware that I have argued elsewhere and often that these conditions are no longer relevant and that Christians must finally reject the whole structure of the "just war" morality as a potential source of serious moral scandal. Now, some prominent Catholic spokesmen at the Vatican Council—including Cardinal Alfrink, Patriarch Maximos, and even so conservative a moralist as Cardinal Ottaviani—seem to be taking a somewhat similar position, and this is clearly another reason for the more traditional thinkers to realize that the time has now arrived, as the crude phrase has it, to "put up or shut up."

I have observed, of course, in recent conferences I have attended, that many of these moralists have taken an openly pro-Administration stand. This, I suppose, might be taken by some as the answer I am demanding here. Yet one must not be too quick to accept this as *prima facie* evidence that the test has been made and that all the conditions of the just war have been fulfilled. It is at least equally possible that the long and consistent pattern of history is being repeated, for it has always been the case that those who are most devoted to the development and dissemination of just war theories in the abstract have usually been lamentably reticent about applying their fine theories to actual wars-in-progress. German theologians of all Christian persuasions would probably agree today that Adolf Hilter's wars

XUM

of aggression were certainly not the "just wars" set forth in Scholastic theology. Unfortunately, none of them seem to have bothered to turn to their elaborately formulated rules and principles at the time when one national boundary after another was being crossed by invading Nazi armies.

The point I am making here was given its sharpest illustration in a little pamphlet prepared by one of those same German theologians in 1940 and intended for the instruction of the ordinary Catholic called to service in those armies. His answer to their question, "What is there to do?" was simple and direct:

"Now there is no point in raising the question of the just war and introducing all sorts of 'ifs,' 'ands,' or 'buts.' A scientific judgment concerning the causes and origins of the war is absolutely impossible today because the prerequisites for such a judgment are not available to us. This must wait until a later time when the documents of both sides are available. Now the individual has but one course open to him: to do his best with faith in the cause of his *Volk*."

That is why, when I see American theologians, Catholic and Protestant, loyally supporting the nation's cause in Vietnam, I am not satisfied with what appears to be the obvious conclusion to be drawn. I strongly suspect that they, too, have decided that now is simply not "the time" to raise the question of whether this war is just or not; they, too, are merely going ahead with faith in the good character and intentions of our national leaders. Later, perhaps, when it is all over, we may get a few scholarly articles or books on the subject. But only perhaps. Twenty-five years have passed without the German theologians producing the answers those young Catholics of the Nazi era were promised.

I must proceed with some caution here. I am told that writings of mine were criticized at a recent conference in America by a distinguished scholar who declared that I will not be "satisfied" until I convince people that America is just as bad as Hilter's Germany. Strictly speaking, of course, this is sheer nonsense, but there is one sense in which his charge does contain more than a kernel of truth. No one could hold seriously that even the atrocities of, let us say, Hiroshima or Nagasaki matched in scope or intent the atrocities committed by the Hilter regime—just as one could not say that a man guilty of a single murder in a moment of weakness or despair is "as bad" as another who can boast of a long series of killings for the sheer pleasure of killing. Once this has been granted, however, one must also insist that each separate act of calculated murder is in itself equally bad, that the essential evil is not changed substantially by considerations of the number of victims or gradations of malicious intent. Thus it can be held that every nation which involves itself in an unjust war is "as bad" as every other nation so involved, regardless of how much we may choose to distinguish between differing degrees of injustice once the awful threshold has been crossed.

The point of all this is that I believe that threshold has been crossed in Vietnam because the American war effort violates or ignores at least four of the conditions of the just war. To say this does not mean, of course, that I consider the war "just" for the other side. But since we should be concerned first with our own moral stance, I will limit myself to the American operations. The war is unjust, I submit, because it has *not* been declared or initiated by legitimate authority. It was *not* undertaken as a last resort after all other avenues to a just solution had been tried without success. It has employed weapons and strategies which have *not* discriminated between combatant and non-combatant (and which have exceeded all proper limits even as far as the actual combatants are concerned!). Finally, it has violated the principle of proportionality which requires that the evil committed be no greater than the good achieved. The failure to meet even one of the conditions of a just war is enough to render a given war unjust; the failure to meet four of them ought not to be passed over in silence, patriotic, prudential, or otherwise.

The first objection is not based, as one might at first assume, on the doubtful legitimacy of the succession of South Vietnamese governments created and sustained by American power, though this could be viewed as a separate objection deserving serious consideration. The real violation lies rather in the fact that there has been no formal declaration of war (something taken for granted under Scholastic tradition) coupled with the fact that the Executive, by waging such an undeclared war, is acting in open contravention of established constitutional processes. To revert to the guilt/punishment framework traditionally employed to establish the validity of "just war" conceptualization, this means that the "execution" of the adversaries in Vietnam has been undertaken by Mr. Johnson and his Administration without "sentence" being passed (the declaration of war) in conformity with "due process" (the formal approval of Congress required by the Constitution).

Let no one impatiently protest that this is an exercise in sterile legalism; after all, this is really what the whole "just war theology" involves. It was introduced into Christianity as a laboriously constructed device intended to free the believer from the strictures of an earlier, more pacifist tradition which relied mainly upon a literal interpretation of the Fifth Commandment and forbade the bearing of arms and the killing of one's fellow man. As such it necessarily took shape as a carefully and rigidly defined "exception" and, though later generations have elaborated the definitions, it remains just that: a legalistic formula covering an "exception" to the general proscription against killing. It should follow that whenever these rules are violated by a given war—or once the nature of war itself has developed so that the rules can no longer apply—the "exception" no longer holds and Christians must again revert to the Commandment and its general proscription. To hold otherwise, to suggest that when the rules no longer fit they can be modified or rewritten to serve the new conditions, would be to introduce a degree of relativism into morality which would make a mockery of Christ's teachings and example. Sadly enough, there are some who seem ready to do just that, who would propose a kind of "situation ethics" which could serve as an elastic ruler that can be stretched to "justify" any and all wars a nation might choose to wage.

The second objection, however, is more concerned with the substance than with the form of our national involvement. The principle has always been recognized that war, to be regarded as just, must be a last resort and every alternative approach to a just solution must have been tried and must have failed before military action can begin. No one could seriously argue that this condition has been met with respect to the war in Vietnam. Our government did not call upon the Geneva guarantor powers to assume their proper role in resolving the difficulties that had arisen with respect to the Geneva Agreements of 1954: in fact, our entire policy constituted a repudiation of that agreement (to which we refused our assent from the very beginning) and the international authority it established. Nor did we refer to the United Nations an issue which so obviously threatened the peace of the entire world; here, too, we made it quite clear that U.N. interference would not be welcomed or tolerated. True, once we found ourselves bogged down in a losing battle, some gestures were made to the U.N. as a possible intermediary, but this cannot mask the fact that these and other alternatives were not considered at the outset. To make matters worse, we have now learned that "peace feelers" were advanced by Hanoi at least twice and were repulsed (in one case, ignored altogether) by the American government at the very time it decided to escalate the war in scope and intensity. The patent hypocrisy of our self-righteous complaints that the adversary is now refusing our invitation to come to the peace table merely aggravates the original failure on our part to seek some peaceful solution under international auspices before resorting to open military operations in what thereby became an unjust war.

Once hostilities were in progress in violation of these first two conditions, we proceeded to permit the use of means (whether by our own forces or by those of the South Vietnamese allies we equip and direct) that are an affront to human decency and will remain a source of lasting shame to our nation. The accidental bombing of a "friendly" village has given tragic evidence of the kind of casualties produced by our blankets of napalm and "lazy-dog" bombings. The attacks upon the territory of North Vietnam are aggressive acts of war which disregard the long-standing distinction in international law between "belligerent" and "non-belligerent." We should be familiar enough with this distinction, having used it in the past to protest German actions against our vessels which were aiding Hitler's adversaries in much the same way that North Vietnam is aiding the insurgent forces of the NLF. Or are we now prepared to say that Hitler would have been "justified" in bombing Detroit factories or port installations at New York to disturb the contributions we were making as "the Arsenal of Democracy" in the years preceding our entry into World War II? Even our use of gas, harmless though it may be, did constitute a violation of the Geneva Convention against the use of any form of gas in warfare. The fact that we did not sign these conventions is no excuse. They have become a recognized part of the corpus of international law, and we are morally bound to observe them.

My fourth, though not necessarily final, objection centers upon the question of proportionality. It is difficult to even conceive of any real proportion between the *certainty* of the injury and destruction our forces are working in Vietnam and the *hypothetical* (at best, possible) evil results that *might* follow the increase of Communist influence we foresee in the event that the two Vietnams are reunited under Hanoi's jurisdiction. The latter must remain a debatable set of evils, an outcome by no means certain as men like Hans Morgenthau, Walter Lippmann, and others have pointed out. On the other hand, the evils we are already committing or permitting are all too real and grimly demonstrable in the daily news dispatches from Vietnam covering the fighting now in progress.

If one prefers to shift the focus a bit to introduce the much revered "principle of the double effect," the case against the war is no less strong. The principle, again as traditionally understood and applied, requires first that the good that is intended (presumably that of halting the possible spread of Communist influence) must be at least as certain and as great as the evil permitted (the war and its dreadful effects upon the population and land of the wartorn country). Secondly, this good effect is not to be contingent upon or produced by the evil effect. It should require no great elaboration to show that the Vietnam war lacks justification on both of these counts.

It is important to note, too, that with the possible exception of the objection in terms of proportionality, the case I have presented

XUM

here is not open to criticism on the grounds of a lack of information. The facts are simply not open to challenge: the war has not been declared in accordance with constitutional provisions; there was no recourse to existing international agencies prior to our military involvement, and subsequent interventions by such agencies have been ignored or rejected by our government; and the methods employed have not discriminated between the combatant and non-combatant, between the innocent and the guilty.

In short, the burden of proof should lie with those who accept the "just war/unjust war" distinction and who hold that it is possible for the Christian to accept and support the continuing hostilities. Since, as I have made clear, my rejection of the war is based on other grounds, my interest is largely that of the curious onlooker. But it goes much deeper than that too. For one who has been critical, as I have been, of the failure of Christians in other countries to recognize the injustice of their nations' wars and to dissociate themselves from these injustices, it cannot be a matter of indifference to see the Christians of his own nation duplicating that tragic failure. If, as I have argued here, the American involvement in Vietnam violates or ignores the required conditions for the just war, the logical conclusion would seem to be that each of us has an obligation to refuse his direct support, and even more, to do what he can to persuade his government leaders to bring a speedy end to our nation's unjust and immoral military operations.

THE MORAL EFFECTS OF THE WAR ON THE LIFE OF OUR COUNTRY

(By John C. Bennett)

The recent revelation of the massacres at Song Mai makes vivid the nature of this war as no other single event has done but it differs only in degree from many less publicized episodes involving the killing of noncombatants and the torture of prisoners either by our own people or by proxy by the South Vietnamese. One of the most significant developments in the discussion of Song Mai was the tendency of journalists to raise the question as to the difference between killing helpless people, including children, on the ground at short range when they are seen and the killing of them from the air, at longer range, when they may not be seen in so-called "fire-free" zones. I realize that the psychological difference is very great but how great is the moral difference when it is well known that there will often be many of the same helpless victims?

The most obvious effects of this war on the life of our country are that it has bitterly divided our people and that it has so diverted our attention and so used our national resources that we make no progress in solving national problems that cry to heaven for solution. The decay of our cities continues and tens of millions of our people remain victims of a culture of poverty and many of these of an oppressive racism. At home we seem to be a "pitiful helpless giant" while we try to prove to the world that we are not one by a compulsive aggressiveness.

I shall emphasize here three quite specific effects of the war and I choose these because they are not discussed as often as the two that I have just mentioned.

The first is that our government has set an example of massive and brutal violence to the nation. I know no way of estimating the extent to which the violence on the streets and other forms of violence that have been so much noted is the result of the government's official violence but the only question is the degree to which private violence is the result of the official violence. In this war pictures of violence are brought into our homes, sometimes pictures of such American or South Vietnamese atrocities as the torture of prisoners. Undoubtedly there is a countereffect in that people in large numbers are outraged by what they see. Who knows how much violence will be brought back to this country by those who have been trained in it in Vietnam? The effect of the war in increasing violence at home needs to be combined with some less tangible results: all degrees of callousness and brutalization among people who will never become involved in overt violence of any kind. The collection of ears of Viet Cong by Americans is a symbol of the effect of the war upon people who would often be otherwise normal. This is connected with a habit of seeing people who are different from ourselves in color, size and culture as "gooks," as something less than human: The reports of the attitudes of a majority of Americans (65% in a survey reported in Time) was discouraging because they seemed to shrug their shoulders rather than express moral shock. I know that much of this was a self-protective reaction stemming from a desire not to become emotionally involved and I do not believe that most Americans will be radically changed in character. There may well be growth in insensitivity to the inflicting of suffering balanced by the moral revulsion that I have mentioned. Sometimes the two may be combined and a small and much publicized minority, in their hatred of the war, may use violence to bring down the system responsible for it.

As background it may be helpful to raise the question as to the point at which the war itself becomes a matter of morality. When do we move beyond the judgment that it is a mistake of giant proportions to the judgment that it is an immoral war? In what I say I am not passing judgment or the personal motives of the various leaders who have initiated or escalated our involvement in Vietnam. However, good intentions based upon illusions can create an objective situation of moral horror and one that leads innumerable individuals into callous or brutal conduct and undermines the moral fiber of a nation and its institutions.

I do not see how we can draw an absolute line between an intellectual mistake and moral failure because when the nation and its leaders persist in the mistake for years, after its consequences for people in this country and in Vietnam are fully revealed, and when it becomes patent that this persistence in destructive error is a concession to the pride of a nation that has never been defeated, it is time to see even the mistake in a context that calls for moral judgments.

The traditional thinking about the difference between a just and an unjust war in the churches has always placed great emphasis on two considerations and I believe that both of these are relevant to the discussion of this war. The first is really a commonsense view of the degree to which the injury done to societies by the war is out of proportion to the good that can be achieved. One criterion of the just war, which may seem on the surface to suggest a rather craven caution, is that there should be a reasonable chance of success. But seen in the light of the principle of proportionality, this means that a nation should not sacrifice its sons or slaughter the people on the other side or ravage their country when the purpose for doing this cannot be realized. It seems to me that our leaders should have come to see that no amount of fire power from the air or from the land can create a nation in South Vietnam and establish a government around which that nation can rally.

The other emphasis in the discussion of the difference between a just and an unjust war has to do with the conduct of the war by means of policies and acts which are normally wrong in themselves, and here we should have in mind especially the treatment of civilians or helpless persons such as prisoners.

As we look at the record of what has happened in Vietnam, there are these two levels of immorality. One is the cumulative destruction of persons and communities and even nature itself by acts of war which might in individual cases be regarded as inevitable if there is to be a war at all. The body count, the destruction of towns and villages, the uprooting of people from their homes, turning them into refugees by the millions, the ecological damage which is now being seen to have long term effects on the land—these over a period of six years add up to a terrible accumulation of disproportionate evil. This is an evil for both sides but it has a new dimension when we see how the most powerful nation in the world has kept inflicting it on the helpless people of Vietnam and now the people of Laos and Cambodia must be added. The United States seems to be a captive of the momentum of its own destructive power.

When we move from this cumulative evil to particular acts which in any circumstances are immoral in themselves it is even clearer what the fighting of the war has done.

The second effect of the war upon the life of America is that more than any other single factor it has destroyed the confidence of a large part of our youth in the best institutions of our nation. This effect has been greatly enhanced by the contempt for youth who are critical, expressed by the President and the Vice President. I realize that the widespread alienation of young people has many causes and that some of these are deeply rooted in the culture and even without the war they would have produced some degree of revolt. The war, however, has been responsible for the intensity of emotion that unites so many hundreds of thousands of American youth in their alienation from what they think of as the "system." The feelings of moral outrage against the war on the part of the generation that is expected to do the fighting is by no means a fringe phenomenon but among students it extends from the left to the center. The recent editor of the Yale Daily News, Lanny Davis, said recently that "the war changed the whole atmosphere of the campus. It seemed an immoral enterprise." Former Vice President Truman of Columbia University at the time of the troubles there in 1968 said that there was a question whether university communities could survive if the war had to continue on. (Cox Commission Report, p. 10.) Moral rejection of the war has led to disillusionment about the institutions that have made it possible. The whole political process is now deeply distrusted because no matter who is elected and no matter how much a presidential candidate may be committed to ending the war, the war continues and processes of escalation continue. This disillusionment has had powerful confirmation because of the extension of the war into Cambodia.

The third effect of the war that is closely related to the second is that so many thousands of our young men have been forced to face an intolerable dilemma in their own lives. Should they allow themselves to be drafted and be sent to fight in a war which they regard as gravely immoral or should they run the risk of going to prison for a period of two to five years or should they choose exile in Canada or in some other country. Again this is not a fringe phenomenon. In April 1969 two hundred and fifty-three campus leaders, student body presidents or editors, declared that they would not "participate in a war which we consider immoral and unjust." They were on record as choosing either prison or exile. This is an incredible development among those who can be expected to be leaders in the mainstream of American life in the future. There are tens of thousands of exiles in Canada. What does it mean for America to have so many political prisoners or exiles? It has been all

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too common in many times and places for a nation to punish its finest and most conscientious citizens as well as its' thieves and murderers. But we have always hoped that this would never be a common experience in our country. It will greatly increase the allienation of youth and it will undermine respect for our institutions. It would help to re-establish confidence in the best of our traditions and ways of life if amnesty were to be declared for all who have been so affected by the war.

It may be a summary of all that I have emphasized as the effects of the war on our own national life to say that the tragedy of Indo-China is also the tragedy of America.

STATEMENT BY SENATOR GEORGE MCGOVERN AT PRESS CONFERENCE WITH LEADING CATHOLIC CLERGYMEN, SEPTEMBER 24, 1970

The action by so many leading members of the Catholic clergy in taking a forthright stand on the war is heartening. They understand that the waste of human life in the war and the divisions in our country which result from that war present our Nation with a moral crisis. I am honored that they have come to consult with me today about their plans.

On this day seven years ago, I warned on the floor of the Senate about our Vietnam policy. I said then: "This is scarcely a policy of 'victory'; it is not even a policy of 'stalemate.' It is a policy of moral debacle and political defeat." I added in those remarks: "The trap we have fallen into there will haunt us in every corner of this revolutionary world if we do not properly appraise its lessons."

The activities of this distinguished group of Americans represents the best in constructive action against continued American involvement in the Vietnam war. They join with the millions of Americans who supported the McGovern-Hatfield Amendment to End the War and who continue to favor an early end to American military involvement in Indochina.

Community action, messages to the White House and to members of Congress, and the nomination of candidates opposed to the war are appropriate means of citizen protest. I deeply regret that those who have followed these courses have not been heeded by the Administration. They are, according to available polls, the majority of Americans.

Violent and disruptive protest betrays the honest and diligent efforts of responsible citizens and of public officials who have struggled for months and years to bring about a change in American policy in Indochina. And those who could corrupt the democratic process by hindering free expression of opinion, by preaching and performing violent acts, and by wantonly waving the Viet Cong flag can have no effect on American policy; they harm the cause they profess to champion.

On October 4, thanks to the efforts of thousands of Catholic priests, many Americans will take part in a reasoned and responsible criticism of our Indochina policy. On that day, in Catholic churches across the country, priests will preach their convictions on the war.

On October 3, pro-war groups headlined by Rev. Carl McIntire and Marshall Ky will seek to rally a larger war effort in Asia. We have Mr. McIntire's pledge that Marshall Ky will "out-Agnew Agnew."

I personally view this Ky-McIntire call for a bigger and bloodier war as an incredible blunder. Nevertheless, I hope and pray that any Americans planning to demonstrate in Washington against the pro-war speakers will take the time to reflect on the consequences of their actions and will organize them in a manner to avoid needless conflict. In that way, the October 3–4 weekend can mark a renewed commitment to ending the war.

Meanwhile, I salute these courageous priests who love their Nation enough to call us to a higher standard—a standard of peace and an end to a senseless war.

THE PENN CENTRAL METROLINER

Mr. ALLOTT. Mr. President, in the early summer of 1968, I made the statement that the Federal Government's participation in Metroliner demonstrations might well be delayed for 2 years. I was wrong but only by way of underestimation.

The demonstration contract has finally been concluded 2 years and 3 months after I made my comments in 1968 and fully 3 years after the project was originally scheduled to begin, the fall of 1967.

Throughout this entire period of time, I was concerned about warnings regarding the alleged negative attitude of the Penn Central Railroad regarding passenger service. There was no question in my mind that such an attitude would prevent the Penn Central from putting its best efforts into the demonstration.

Of course, since I made my original statements, the management of that railroad has been changed as a result of the bankruptcy action of several months ago. At the time of the bankruptcy proceedings, the Federal court appointed trustees. The trustees in turn elected a new president, Mr. William H. Moore, who had been with the Southern Railway System as executive vice president.

I was hopeful that Mr. Moore would signal a change in thinking on the part of the Penn Central. I was hopeful that he would inject some positive ideas into the operation of that railroad. Therefore, I was not only shocked and disappointed but extremely dismayed to read Mr. Moore's comments on the Metroliner in an article by the Washington Star reporter, Stephen M. Aug, in the Wednesday, September 30, 1970, edition of the Star.

Moore is quoted as saying:

> I do not think there is any profitable future for the Metroliner.

He is further quoted as saying that "We are not making any money on the Metroliner," at this time.

Ironically, Moore made these comments within hours after the Department of Transportation and the Penn Central announced jointly the formal beginning of the 2-year demonstration program which has been so long delayed. What a beginning.

The purpose of the demonstration is to determine whether the high speed Metroliner can lure passengers back to rail travel in the New York-Washington corridor.

The kind of statements attributed to Mr. Moore hardly inspire confidence that the Penn Central will try to make the demonstration work. I was disappointed, as I said, because while I might have expected such a statement from the previous Penn Central management, I was led to believe that things would be different under Mr. Moore.

I find his comments extremely interesting for a number of reasons.

First, there have been widely circulated reports, never denied by the Penn Central, that Penn Central wanted to exclude the Metroliners and possibly other New York-Washington service from the Railpax program, if this bill becomes law. The reports indicated that the Penn Central did not want the Metroliners included in the Railpax Corp., because these trains were bringing in cash to the rail treasury.

Second, the Department of Transportation has maintained that it needed the 2-year Metroliner demonstration, despite the fact that the Metroliner has been operated voluntarily by the railroad for a year and a half, because the railroads did not compute cost data on the Metroliner.

Department of Transportation officials have told me that while they believed that the Metroliners were profitable, they were not sure, because the railroad maintained no separate data on the Metroliners during the past year and a half.

The Department of Transportation said that if the railroad did not know the financial status of the Metroliners, the Government certainly did not know, so the demonstration was necessary.

I thought the argument was logical. Now, however, apparently Mr. Moore has some cost data on the Metroliners that enabled him to make the very positive statement that its trains were not making money at this time. If he has such data, he should come forth with it immediately since the Federal Governmnet has already contributed money to the project and, in my judgment, is entitled to it.

If indeed he does not have such data as the Department of Transportation maintains, then obviously his statement about the Metroliners is without basis in fact.

Third, Mr. Moore's statement contradicts the petition of the Penn Central trustees before the court in their bankruptcy proceedings on September 11, 1970, just 3 weeks ago.

The petition states the following:

> The debtor has already made expenditures of approximately $50 million under the aforesaid agreement. These expenditures were primarily for the upgrading of track and the acquisition of new cars. Upon commencement of the test period, no major additional expenditures will be required of the debtor and such commencement will permit the payment of $4.6 million to the trustees by the Government followed by additional monthly payments totalling at least $2.5 million. *The trustees are of the opinion, and therefore allege, that implementation of the aforesaid agreement of April 15, 1966, as amended, would be in the best interests of the debtors' estate and of ultimate reorganization.*

The court affirms that the trustees were authorized to execute the agreement. Now, in a bankruptcy proceeding, for the Penn Central to say that execution of the demonstration would be in the best interests of the debtors' estate and the ultimate reorganization, if these trains are indeed losing money, would be sheer folly.

If these trains are losing cash, then continued operation cannot possibly be in the best interests of a bankrupt railroad.

It is one thing for a financially healthy corporation to maintain that the continued operation of a nonprofitable train would be in its best interest. Such an operation might be charged to advertis-

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ing, public relations, or good will. But a railroad in bankruptcy may not consider such factors. The Metroliners either are or are not financially profitable for the railroad.

The demonstration does not change the situation because, in effect, most of the money given to the railroad is a loan to be repaid.

If Mr. Moore's attitude is in any way typical of the continued posture of the Penn Central, then the Department of Transportation ought to take a long, hard look at the contract it has just signed. What could the Government possibly gain by running trains on a railroad that really does not want to run them?

Mr. Moore says that the trains have been operating at only 62 percent occupancy. The figures I have received from the Department of Transportation indicate a considerably higher rate of occupancy than 62 percent. One or the other figure must be incorrect.

Mr. President, I hope that my reading on the attitude of the Penn Central is incorrect. This is one of those cases where I would like to be wrong. However, unfortunately my record of predictions on the Metroliner has been frighteningly accurate. Virtually every problem I foresaw with this project, beginning nearly 4 years ago, has materialized.

I would hate to see the fate of our needed passenger service in the United States resting with the success, or lack of it, of the Metroliner. I said in 1967 that if the Metroliner experiment failed, other passenger trains in this country were doomed automatically. Obviously, if passenger service cannot be successful in the densely populated New York-Washington corridor, it cannot be successful anywhere.

At this point, Mr. President, I question whether Mr. Moore is correct in his statement. If so, then I contend that somebody, somewhere—either the Congress or the Department of Transportation, has been misled when told that no specific data was available on profitability, or lack of it, relative to the Metroliner. If Mr. Moore cannot back up his statement, then I question whether the Penn Central, under his administration, is the proper operational agency.

Mr. President, I ask unanimous consent that the Washington Star article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Evening Star, September 30, 1970]

PENNSY HEAD DOUBTS PROFIT IN METROLINER

(By Stephen M. Aug)

ALBANY, N.Y.—The new president of the bankrupt Penn Central Transportation Co. sees no future for intercity rail passenger service as a profitable operation—and he includes the 110 mile-an-hour Metroliner.

William H. Moore, Penn Central president, said at a news conference, "We're not making money on the Metroliner," and "I don't think there's any profitable future for the Metroliner."

Moore held the news conference after inspecting Penn Central facilities between Springfield, Mass., and Albany yesterday. His comments came within hours after the Department of Transportation and Penn Central announced jointly the formal start of a two-year government-sponsored project to determine whether efficient, clean, fast, trains—the Metroliners—can lure passengers back to the railroads in the densely populated corridor between New York and Washington.

The Pennsy has been operating the Metroliners since January 1969 on its own as a means of recouping some of its $58 million investment in the sophisticated high-speed equipment.

Mechanical and electrical problems plus differences between the company and DOT have delayed until now the official start of the two-year demonstration, which was to have begun in 1967.

ABOUT 62 PERCENT OF CAPACITY

Moore said also that the Metroliners are operating on time about 90 percent of their trips—but that occupancy is only about 62 percent of capacity. "The volume of business on the Metroliners in the past three months has started going down for the first time since they were inaugurated," he said.

Despite his pessimism that the Metroliners could never show a profit, Moore said, "At the same time, we're going to do everything" to make the project a success.

Moore said later that the Metroliners ought to be successful. "It's certainly the type trip that should be conducive to rail travel, and an area where it can be competitive with the airlines. But the Penn Central Railroad will not be able to operate the Metroliners on a profitable basis without help."

The Penn Central is operating 7 Metroliner round trips a day weekdays between Washington and New York. The original contract with DOT had called for at least 9 and possibly 11. Because of mechanical and electrical problems, however, the Metroliner cars are undergoing repairs about 40 percent of the time.

MONEY NEEDS CITED

On other matters, Moore reiterated Penn Central's urgent need for cash, saying, "Before the year is over, we will have to have some money." But he declined to say how much it would take to keep the railroad running. He added, "We are still losing money," but, "We are improving."

Penn Central had been losing about $1 million a day operating the railroad.

Moore, 55, came to Penn Central nearly a month ago from the Southern Railway System, where he was executive vice president. During the news conference, he listed two reasons why he believes Southern is profitable and Penn Central is not:

1. Southern serves an area "growing rapidly industrially."

2. Southern has always tried to have enough freight cars to move cargo. This has cut down on rental payments Southern would normally have to make to other railroads for using their cars, and it has given shippers service which competitors have been unable to match.

ART HOPPE PUTS THE SST IN PROPER PERSPECTIVE

Mr. PROXMIRE. Mr. President, Art Hoppe has done it again. Writing in the San Francisco Chronicle of September 20, 1970, Hoppe compares the American effort to build an SST with our effort to build a better GCS than the Russians.

GCS, for the uninitiated, stands for giant crockery smasher. And it seems that the Russians already have one. Worse still, the British and the French are pooling their efforts to corner the free world market in crockery smashers.

It is clear that we cannot allow other countries to get the better of us. For years, this Nation has been No. 1 in crockery smashing. Not only must we get into the race, but we will build a bigger and better crockery smasher—a second generation GCS—that will outsmash everything in sight.

What happens? Needless to say, U.S. technology succeeds in constructing a GCS prototype for the Government, at a cost to Uncle Sam of $1.2 billion. It is indeed the best GCS in the world—so effective, in fact, that it cannot be used. After much deliberation, the President decides to throw the American GCS into the sea, and other nations quickly follow suit. But the important thing is that America's leadership in crockery smashing has been firmy reestablished.

Mr. President, Arthur Hoppe's allegory about the SST is extremely timely. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CROCKERY CRISIS

(By Art Hoppe)

The news that the Russians were developing a Giant Crockery Smasher (GCS) caught Washington completely by surprise.

A worried President immediately called an emergency session of the National Security Council.

"It's worse than we thought at first, Mr. President," Henry Kissinger reported gravely. "The Russian GCS is 90 per cent complete. When installed in the Kremlin, its supersonic beam will create a 50-milewide swath of smashed crockery, broken windows and jangled nerves stretching from Moscow to the Urals."

"Worse yet, sir," said Mr. Kissinger. "Even when operating at subsonic levels, the noise from the Russian GCS will drive strong men up the walls. Moreover, its emissions into the upper atmosphere will raise temperatures 13 per cent, thereby melting the polar ice caps and sending huge tides to destroy the coastal cities of the world."

"We must stem the rising tides of Communism!" muttered the President grimly.

"Let me make one thing perfectly clear, gentlemen," said the President with determination. "We must at all costs maintain America's world leadership in crockery smashing."

When the issue was put to Congress on this patriotic basis, a bill to appropriate $63.2 million for initial designs passed without a dissenting vote.

With America already several years behind the Russians, French and British, there was obviously no point in attempting to build the first GCS. Thus the designers concentrated on creating the biggest, noisiest and most powerful GCS the world had ever seen.

Its specifications called for a supersonic beam that would smash dentures in a 100-mile swath from Bangor to Chula Vista in only 43 minutes; a noise level twice that of the Jefferson Airplane; and atmospheric emissions guaranteed to bring on a new Ice Age.

Congress, flags waving, quickly appropriated another $1.2 billion for a prototype. After years of failures and set-backs, the first American GCS was unveiled on the grounds of the Washington Monument.

"This shows, my friends," said the President happily, "what we Americans can accomplish when we are faced, in my opinion, with a great challenge. As I push this button on this historic occasion, let me say that . . ."

Unfortunately, when the President pushed the button starting the GSC, the rest of his historic remarks could not, of course, be heard. But there was no question the GCS worked. And the spectators, from their glassy-eyed looks, were clearly deeply impressed.

At this point, a littly boy at the edge of the throng cupped his hands to his mother's ear and shouted: "Who needs it?" She frowned and asked the man next to her. The question fanned out through the crowd and eventually spread across the Nation.

After much deliberation, the President announced to thunderous applause that now America had proved its leadership in crockery smashing, he was throwing the GCS into the sea. The French, the British and the Russians, after much discussion, followed suit.

Relative peace and quiet returned to the earth.

It was then, unfortunately, that word reached Washington the Russians were developing a Giant Garbage Maker (GGM) that would treble overnight the Soviet garbage output and * * *.

AIR, WATER, AND LAND POLLUTION

Mr. BYRD of Virginia. Mr. President, the preservation and enhancement of our environment are major national goals. The air, water, and land have been so long neglected and have become so polluted that some say our very existence on this earth is being threatened.

The growing concern for our environment in all segments of our society indicates that we are faced with a very serious problem. Everyone recognizes this seriousness, but there is a danger that America may not dedicate itself to the continued hard work which is necessary.

I sincerely hope that our concern for the environment does not prove to be just a fad. If we are to win the war on pollution, there must be a continuing commitment to conserve the resources on which we depend.

Each bill enacted has been a step toward a more livable environment. The Air Quality Act of 1967, the Clean Air Act of 1970, the Federal Water Pollution Control Act Amendments of 1966, the amendments to the Federal Water Pollution Control Act of 1969, and the establishment of an Office of Environmental Quality in the Executive Office of the President, are major pieces of legislation designed to improve our environment. I voted in favor of all these measures.

But we must search for new approaches to old and neglected problems.

The Environmental Protection Agency, proposed by President Nixon, can be a step toward more efficient administration of environmental programs.

A similar proposal advanced by Senator MUSKIE also provides a workable approach to this administrative problem.

I am also impressed with the list of pending environmental legislation before the Congress, and I hope that each of these problems will be given careful consideration.

A few of these proposals include the international biological program, the Technology Assessment Act of 1970, the Water Bank Act, the Joint Committee on Environment and Technology, and the Federal Lands for Recreation Act.

In addition, I cosponsored a bill to stimulate the development, production, and distribution in interstate commerce of low-emission motor vehicles, which has passed the Senate. I also cosponsored an amendment that will insure that environment considerations — including noise problems—will be incorporated into hearings on airport expansion. This also was approved.

In the scientific and technological fields, more and continued research is necessary to devise and test new methods for combating pollution.

For example, many solid waste disposal facilities are obsolete. New methods are needed to handle the increased volume of solid waste, and to do so in a way that will not adversely affect the quality of our air and water.

Congress has come to recognize the necessity for more research and development. This year, for example, the House and Senate passed the Resource Recovery Act of 1970, which stresses studies of resource recovery, demonstration projects, and local planning grants. Such research-oriented legislation is vital and commendable. It is important that science and the Government move together in the battle against pollution.

Yet, despite the gravity of our environmental problems, we cannot afford to approach these problems in isolation.

The Nation needs cleaner water and air; but at the same time, it needs economic development to provide job opportunities for the young men and women graduating from our high schools and colleges.

A proper balance between industrial development and pollution control is necessary in order for our Nation to provide a prosperous and healthy life for its citizens.

For example, automobile exhaust emissions are a major source of air pollution. But an economic tragedy could result if the Congress were to legislate an immediate ban on the use or production of the internal combustion engine.

The Clean Air Act of 1970, recently passed by the House and Senate, provides a workable compromise to achieve reductions in automobile exhaust emissions, by allowing adequate time to meet required standards. Science, business, and the Government must work and move forward together toward workable, acceptable, and timely solutions.

We can no longer ignore the problems of our environment. We must move ahead in the effort to protect our air, water, and land. Our actions must not be taken in panic, but we cannot afford to stand still.

THE 1925 GENEVA PROTOCOL FOR PROHIBITION OF GAS AND BACTERIOLOGICAL METHODS OF WARFARE

Mr. FULBRIGHT. Mr. President, on August 19, 1970, President Nixon transmitted the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or other Gases, and of Bacteriological Methods of Warfare to the Senate for its advice and consent. Since that time the committee has received numerous inquiries regarding its plans for hearings on the protocol. The committee would like to proceed with these hearings as soon as possible. Indeed, last November when the President first announced his intention to resubmit the protocol, I was hopeful that the Senate might complete action on the protocol during the current session of Congress.

Ten months have elapsed since the President's announcement during which time there has been considerable discussion, primarily within the executive branch, regarding the interpretation of the protocol with respect to tear gas and herbicides. Within the same period the Committee on Disarmament of the United Nations also engaged in an intensive debate on the meaning of the protocol. The work of the committee led ultimately to the adoption of a resolution by the United Nations General Assembly endorsing an interpretation that tear gas and herbicides are prohibited by the protocol.

In light of these considerations the Committee on Foreign Relations feels an obligation to conduct its own careful inquiry into current U.S. policies with regard to chemical and biological warfare including the military, moral, legal, and scientific implications of the use of tear gas and herbicides in warfare. In this connection the committee will wish to hear the views of the numerous private groups and individuals who have already expressed a desire to testify on the protocol.

It is my understanding that some Members of the Senate are contemplating the introduction of understandings to the protocol which, if adopted by the Senate, could affect the meaning of U.S. ratification. If such proposals are introduced they should also be given careful consideration by the committee.

In order to accomplish these tasks before making recommendations to the Senate regarding its advice and consent to the protocol the committee hopes to begin public hearings on the protocol during the current session of Congress. I have written to the Secretaries of State and Defense asking them to fix dates convenient to them to testify on behalf of the protocol. At the same time I am inviting other interested parties to submit their views on the protocol so that the committee staff may have an opportunity to study them before hearings are held.

The Geneva protocol was originally an American initiative. It is regrettable that 45 years have elapsed without our having ratified this important undertaking. During the intervening years the provisions of the protocol have generally been observed by most nations of the world including the United States.

Unfortunately, our conduct of the Vietnam war has led to decisions on the part of the U.S. Government which have raised serious questions with regard to the future of the protocol. While I personally regret the necessity to examine them, these questions should be resolved before the protocol is brought to the floor of the Senate. We cannot ignore the fact that the U.S. interpretation of the protocol will be a critical factor in determining whether the protocol will continue to constitute an effective deterrent to the horrors of chemical and biological warfare or whether, by virtue of our own actions, it will be undercut.

ADDRESS BY JOHN H. BUNZEL, PRESIDENT, SAN JOSE STATE COLLEGE

Mr. McGOVERN. Mr. President, on September 14, John H. Bunzel, the new president of San Jose State College, in California, addressed some thoughtful remarks to the faculty of that institution. His comments constitute a realistic appraisal of the challenges to academic leaders as the new year opens on American campuses.

Dr. Bunzel has had a distinguished academic career, much of it in the institutions in California. He has been a practical professor and moderated his own television program and has been active in politics.

In his remarks, Dr. Bunzel says:

> A democratic society requires all of its institutions, including the university, to be responsive to the needs of the people. But the pressures of democracy which are welcome in the political arena must be distinguished from those which operate in the university.

Dr. Bunzel goes on to refute forcefully some of the myths which have grown up around the need for the university to remain "relevant." He adds:

> Colleges are one place where the free pursuit of truth is a primary obligation. None of us has a right to abandon it.

This statement represents one carefully considered answer to the extremists of the left and right who would destroy our Nation's academic institutions. I commend Dr. Bunzel for his remarks and ask unanimous consent that the text of his remarks be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

ADDRESS TO THE FACULTY BY PRESIDENT JOHN H. BUNZEL, SAN JOSE STATE COLLEGE, SEPTEMBER 14, 1970

We begin this academic year at a most unhappy time in California higher education. There is no reason to pretend otherwise. Our list of grievances is long and real. The faculty has been denied a cost of living salary increase, which is only a small part of the harassment it is suffering. We have seen cuts in sabbaticals and other leaves, the withdrawal of funding for the enrichment of our graduate programs, a continuing disregard for the need to obtain a reduction in an excessive teaching load, a diminishing interest in the future of scholarly research, to mention but a few. The general tone on our campuses is tense, worried, dispirited, frustrated. Stated simply, our colleges and universities have been dealt a severe blow by the state legislature, and all of us are going to pay a terrible price for this kind of punitive economy. Many of our representatives in Sacramento have not yet learned the meaning of H. G. Wells' warning that "human history becomes more and more a race between education and catastrophe."

I make one pledge to you now. I shall take advantage of every opportunity afforded me to remind the Chancellor's office, the Board of Trustees, the Governor, the members of the Legislature, and the people of this State that our goal is a free community of scholars, teachers and students, that we do not look upon academic freedom as a minor conceit, and that we will resist unwarranted political interference from outside the campus as strongly as we will oppose those who would use power, pressure and muscle from within.

If I stand before you not overwhelmed with optimism—underwhelmed is perhaps the better word—I nonetheless believe there is reason to be hopeful. The basis for this belief stems from what I have already seen in the four short weeks I have been here: a deep sense of loyalty and attachment to this institution, a tradition of academic excellence, and a remarkable richness of talent and human resources.

This tradition spans more than a century, yet has always been marked by change. Responsive to needs of the state and community, the college has evolved from a normal school to a multi-purpose institution with a wide range of professional programs in the liberal arts while retaining its teacher education and vocational area strengths. This evolutionary process continues as we move into new areas of curricular concern.

I am pleased to be associated with the institution of higher education which has established the first graduate department in the nation which confers a Master of Arts degree in Mexican American Studies. I expect that the department will contribute important leadership in the continuing search to find better methods to link our educational efforts to community educational needs. The Committee on Mexican American Affairs has helped in planning for a Master's program in Social Work with a Chicano emphasis. I know that the Department of Black Studies is well on its way to becoming one of the most highly respected degree programs in the country.

We should recognize that these efforts are but a beginning. But they deserve our support not only to help assure their academic success but because the time is late in providing for the educational needs and opportunities of minorities in our country. If we are successful in our response to the revolution of rising expectations, then perhaps we will be able to thwart those who thrive on the expectation of rising revolutions.

It would be a hazardous undertaking to predict what lies ahead this year on our college campuses. It would also be foolish. I am therefore heeding the advice of a certain Episcopal Bishop in Virginia who was asked by a parishioner whether a non-Episcopalian could enter the Kingdom of Heaven. "Frankly," he said, "the idea had never occurred to me; but if he is a gentleman, he will not make the attempt."

Having just arrived, I am aware that there are many people in this audience who are better informed than I am about the complex problems which lie at the level of Schools and Departments. There will be other occasions to talk about them. We will meet on other grounds, and I look forward to it.

Today I would like to share with you what is more a statement of personal credo. I thought I might begin by bringing to your attention three of the many questions which, in being interviewed by different committees during the weeks I was under consideration for this position, regularly vented the most urgent concerns. It also gives me a chance to collect some of my thoughts on matters in which we have a common interest.

1. One frequent question was stated with an unusual economy of words: "What are your ideas about academic authority and responsibility?" On more than one occasion there was an additional request: "Please be specific about the role of the faculty."

I am not one who believes that freedom is automatically increased as a consequence of eroding or shattered authority. What emerges is not more freedom, but power. What kinds of power, who will use it, and for what purposes are serious and disturbing questions. During the long spasm at San Francisco State two years ago the student militants kept shouting, "Power to the People!" I remember how depressed I got when I thought of the people who really have the power.

I am very much the product and proponent of a faculty academic tradition and therefore sensitive to faculty attitudes and values. I have been a persistent advocate of institutional protection against the intrusion of outside forces. But I also believe that the decreasing esteem for higher education in California and elsewhere is traceable in part to adverse public judgment about administrators and faculty—in short, about how we have governed, or mis-governed, ourselves. It seems an inescapable conclusion that faculties have not always shown themselves capable of formulating and enforcing the standards of professional ethics and performance. I am beset by a grave apprehension that if we default in our own responsibilities, rising outside pressures, including Boards of Trustees, will take over that job—and presumably will do it in less enlightened fashion than faculties would prefer.

There has been much confusion about the role and limits of academic administration. Too often administrators are dealt with in an irresponsible way by opportunistic critics who oppose them in the interest of "majority rule" or "equality." Many decisions, certainly most of those having to do with scholarship, teaching and research, do not lend themselves to the plebiscitary process. In times of crisis there is a paramount need for rapid and expert administrative judgment.

After years of struggle to achieve some degree of autonomy and power, faculties are right in jealously guarding their prerogatives. Further, a collaborative and cooperative role for faculty and administrators is the only sensible alternative to an increasingly fragmented institution subject to enlarging external and internal pressures. My concern is that faculties do not seek to take on executive, legislative, and judicial roles to the detriment of the sound executive of legitimate executive leadership.

None of us can afford to be entrapped by cliche-ridden biases against authority itself. The clamor of extremists for instant solutions to impossible demands must not be allowed to exhaust and destroy the responsible leadership of a college community by creating rampant mistrust and internecine denunciation. It is my own conviction that a division of labor is appropriate to the conduct of academic affairs as long as principles of accountability can be exercised to guarantee the responsiveness of the administration to basic faculty priorities and values.

2. I was asked many times about my attitude towards the police. Within the last month I received a telephone call from a member of this faculty urging me to announce that under no circumstances would I call the police onto this campus. "Tell them," he said, "you will not dance to the Governor's tune of repression." I reject that advice, but I would not want this to be taken as an argument that we encourage governmental authority to intrude into the affairs of the college.

One of the difficult questions facing our universities today is how they can defend themselves against the tactics of violence. Officials who must deal with this problem face a real dilemma: If they take the attitude of benevolent sufferance, they know the violent elements on campus will run rampant; if they call in the police, they know they run the risk of radicalizing the student body and swelling the ranks of the student militants. There are some indifferent faculty and students who are willing to let the militants have their way, either because they want to get on with their work or because they feel the issues at stake are not of concern to them. I am not in sympathy with that position. It occurs to me that to refuse to take whatever action is necessary would mislead the

XUM

militants into believing that violence succeeds.

I do not like to see the police on a college campus. It is not their natural habitat. But I must tell you that I have no ideological reservations about calling them if they are needed to make secure our belief that ideas are our most potent weapons.

There have been (and presumably will continue to be) instances of police excesses. This should not obscure the fact, however, that the police are not the criminal elements in our midst who have tried to justify the use of the campus as a sanctuary for vandals and terrorists. Police presence on a campus is almost invariably "reactive," occasioned by acts of force against individuals or property, threats of coercion or intimidation, or actual outbreaks of physical violence.

It is time to reaffirm some basic truths about police power in a democracy. It is not designed to enforce a particular solution to a problem, but rather to help preserve the basic rules of law without which any solution is impossible. If the police are called, it will not be to settle intellectual, educational or other issues, but to preserve the college so that the processes by which decisions are arrived at in an academic community can be made to work.

Once and for all, let it be established that violence, terrorism, and illegal activities on the campus will not be condoned and will be met with appropriate measures of self-defense. If force is temporarily necessary to protect our needs for order and freedom, we must assert that this use of force, far from being used as an instrument of repression, exists solely in order to insure our survival.

We need also to say, to ourselves and to the public: in the fate of one institution lies that of each of us.

3. I come now to the question which transcends all others in importance. In its most succinct form it comes to this: "Higher education in this country is in serious trouble. There are mounting signs of student unrest spilling over into mindless behavior. The public is increasingly impatient and angry. The political atmosphere is highly combustible. What, then, is the future of the University?"

It is appropriate, I think, to begin an answer by putting before you in broad outline two different views about what a university should be.

(a) The first is of a politicized university whose role is to perform as an institution of social activism to bring about change in national policies. Its primary concern is with political action and social reform. It is committed to using its total resources as a university for what it deems to be worthy political goals—to stop the war, to oppose racism and injustice, and so on. Repelled by the surrounding culture, it rejects its fundamental character and seeks to transform it, or, if need be, destroy it. Its stance is political because it believes that the time has come for the university to become a base for decisive action for those of high moral purpose who reject our corrupt society.

Internally, the "new university" wants to become an egalitarian political institution. All distinctions of rank and status would be removed. Teachers and students would be "mutual learners." There are differences over details. For some, degrees and grades would disappear. For others, questions of course content, the granting of faculty tenure and promotion, and other academic matters would be decided in open assemblies of students and faculty on a one-man, one-vote basis.

(b) There is another view of what a university should be. Its primary focus is its major concern—the life of the mind. Among the special values it represents none is more paramount than the right to free intellectual inquiry in the pursuit of truth and knowledge. It is not to be mistaken as an institution solely concerned with social activism, and it will resist those who want it to become exclusively an instrument of political action or revolution. Its tasks are more varied because it is many things. It is a place for people who want to teach and learn, where people can do research and speculate about the past and look into the future, where ideas are sometimes explored and exchanged for their own sake, and where current fashions of social reform can be criticized.

It is not a political democracy. Its essential role is to discover and transmit knowledge and develop powers of criticism and judgment, not to represent the people or to govern. The relationship between students and faculty is not completely or inherently equal. The faculty has the major responsibility to maintain control over academic matters.

These are sketches, admittedly incomplete, of two different models of a university. Neither of them comes in pure form. The differences between them, however, are profound and serious. The question before us, and, in my judgment, the critical question before every faculty in the country, is easily stated: Which university do we choose for ourselves?

I must speak for myself. I worry about politicizing the life of a university. If it is said that the university is already a political instrument of the establishment, it must be replied that the way to diminish this harmful situation is to refuse to contribute to it by more actions of the same sort.

No college or university can be completely non-political. There is a political dimension to all human institutions and to most human problems. But it does not follow that all basic problems are essentially political, and we must reject out of hand any notion that the issues within the university must be settled by power. It is simply not the case that power is the root of all our problems and must be the solution to them. If the university should become the plum for those who are struggling for power, it will be dead in a very short time.

A democratic society requires all of its institutions, including the university, to be responsive to the needs of the people. But the pressures of democracy which are welcome in the political arena must be distinguished from those which operate in the university. In civil society people join pressure groups, support political parties, and vote to indicate their demands and preferences. These are not the methods of the university. Further, a university cannot simply "reply" to people's demands as a city Mayor might in a hastily called press conference. It has its own special manner of response. The university is not merely another pressure point in the political community.

The university must always welcome pressures. It needs to know them and must demonstrate a willingness to have them registered. But it cannot permit its response to those pressures to violate the integrity of its principal function. In the university community important decisions are regularly made through established consultative procedures and by responsible authorities, not by a show of hands. We need to remind the public and ourselves that while the university is part of the civil order, it is not coterminous with it.

It is easy to anticipate at least one argument that will be made in dissent from this view. It has many variations, but its central theme is this: "In *your* university the 'real needs' of students will not be met. They want a curriculum which will see to it that 'a human being can become more human and more himself'. In your university education will not be relevant."

I would wish that "relevant" could be struck from the English language. The prospect, however, is not good. The alternative, then, is to set our thinking straight on what education is all about. I submit the following items:

(a) the classroom should not be a place where we simply discuss the student's inner life or what he may feel are his immediate needs. This is not to suggest that emotional responses to experience are unimportant. It is simply to say that group therapy or encounter sessions are not a substitute for rigorous and rational thought. Education must be something more than a "happening."

(b) the criteria of relevance is often a thinly disguised contemptuous attack on virtually any study of the past. Yet the truth is that none of us *has* any existence or reality without a past. One function of the university is to help discover what is new. But another is to preserve and reclaim the old for each new generation. These dual tasks create continuous tension between the demands of continuity and the demands of change.

(c) the university cannot be immediately relevant like the morning newspaper. That would be its ruination. Let the news media take care of the headlines and the fast-breaking story. A college education should be relevant in providing the perspective necessary to sort out what is trivial or momentarily useful. It should provide the grounding by which grievances and needs can be scrutinized and understood. Our concern as educators should be to make the pursuit of knowledge as objective as possible so that we come to see revelance not simply in personal terms but as part of the larger world in which we live. It is in this sense that relevance should show us our common humanity.

(d) the university cannot permit questions of scholarship or aesthetic taste to be resolved by popular vote. I have heard it said that if students in English voted to remove Shakespeare from the curriculum because he is no longer relevant, the faculty should go along. There are a lot of things wrong with that sentiment. Putting Shakespeare to a vote indicates confusion not only about democracy but the ballot box. Asking students to vote on something they have not thought very long or heard about is to put ignorance on a par with knowledge and the inexperience of youthful judgment against the experience of professional and cultivated taste. Furthermore, the principle, once legitimized, will not stop with Shakespeare. In Mississippi the plebiscite will damn Walt Whitman and Carl Sandburg; in Orange County it will damn John Stuart Mill and Bertrand Russell.

The smug conventionalism about this position is the most obvious thing about it. What may not be quite so obvious, when it is advocated by a university scholar, some one (in this instance) who presumably is a professional student of literature, is its special character: it is a way of betraying knowledge for ideology, the universal for the particular, the relatively timeless for the merely fashionable. In short, assertions about the "irrelevance" of Shakespeare, Beethoven or whomsoever might well be seen as a sectarian blow against part of the idea of the university itself.

I believe in the university which feels it has an obligation, not just a right, to protect the fragile understandings upon which it rests and depends. In the eloquent words of Professor Robert Rosenzweig: ". . . the university as the place of openness, of person, of persuasion, of the sharpened mind, and the free imagination. I believe the continued strength of the university to be more important to the future of man than ROTC, low-income housing, student power, faculty power, trustees responsibility, or any particular issue or set of issues that confronts us now."

I believe in the university which also recognizes how closely our freedoms resemble our obligations. The idea of academic freedom is a delicate and complex notion. Because of university violence it is now endangered. Because it is in danger many other things are endangered than just the university.

Academic freedom is not simply a college right. It is also a social right from which every one benefits. No one is entitled to be cavalier about it.

Academic freedom is the right to free intellectual inquiry in the pursuit of truth, and all of us have a responsibility to preserve it, not just because it is good for us, but because it is the process of inquiry itself that is essential to the maintenance of democracy. It is the method by which a society looks critically at its own values. No free society can afford to do without it.

Colleges are one place where the free pursuit of truth is a primary obligation. None of us has a right to abandon it. We who believe in academic freedom will defend it against attacks by the extremists of the far left and the far right. We will be tolerant and long-suffering in its defense, but we will not give it away. We do not have that right.

It is a time of decision. I think we can—and must—choose. I have described the university to which I am deeply committed and for which I have the most tender regard. In the final analysis what will count is the choice we are prepared to make. The unpardonable crime will be to make no choice at all. Should that happen, someone else will make it for us.

Here, at the end, but also at a beginning, you will understand perhaps why the opening lines of Charles Dickens, "A Tale of Two Cities" have come back to me: "It was the best of times, it was the worst of times, it was the age of wisdoms, it was the age of foolishness . . . it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair."

The trouble with the defense of the university is the same as with defending freedom: it takes up so many of one's mornings.

I thank you for permitting me to spend this one with you.

TRAGEDIES IN THE WAR IN VIETNAM

Mr. MILLER. Mr. President, I have personally received and also been shown many letters from men serving our country in the tragic and difficult war in South Vietnam. One which was recently brought to my attention was written by a young officer, 1st Lt. Donald F. Wood, a member of the Iowa National Guard, to the officers of the 69th Brigade, Iowa National Guard. Shortly after this was written, Lieutenant Wood was killed in action.

His letter expresses the dedication and commitment to duty, honor, country which characterize the conduct of the vast majority of those who have served and are serving in that far-off, troubled land.

I believe this letter merits the attention of Senators and all others who read the Congressional Record. I ask unanimous consent that it be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

To The Officers of the 69th Brigade:

Well, a lot of time has passed and I have had a lot of missions. I have done myself to the end at times. I have made a lot of people dislike me, but I have always done my job and always been devoted to my commander and who ever he is, I always shall be. I have had the honor of working for some very important people who I have used as my example of the type of officer I want to be, My Battalion Commander and My Brigade Commander. I have no ill feelings for those of superior rank who scorned me and my men. I feel I was right and for the best of the Brigade I had to do what I did. I have felt important to this Brigade. I feel part of this Brigade belongs to me. She is a beautiful sight to one who really works for her, you grow to love and live for her. She stands tall in any military environment. I feel proud that I was part of it. We helped to prove something—National Guard can be tops with our type of leaders and men, it was done. Times as UMMT Chief I have turned in reports that were razor sharp. I have been cut down severely for keeping the Commander informed honestly—no punches pulled, calling it the way it was—every report was evaluated impartially and fair. I have nothing but respect for every man that disagreed with me. I have been wrong but I hope I have been man enough to admit it. One thing I have learned from all of my leaders is make a decision and stick to it until you're proven wrong. Drive on hard. I have learned to face every situation squarely and grab it by the stack and swivel and stay in there until it is solved regardless of the circumstances.

I feel I have accomplished a lot working my way up to Assistant Brigade S4. With the guidance of an outstanding S4 (CPT Barber) I learned a lot of things. I only wish I could have stayed there to become proficient and more effective. To he who reads this—you may laugh, maybe it is what you call flag waving— you damn right it is flag waving, and I am proud of it. I was only a pebble in a rock slide, but as time grows short and I look over the 69th Brigade area I feel I did my best and in my little world I felt I was a big boulder in that rock slide—this is important to a man. This is the way I have tried to make my men feel—this has proven to be effective—*every mans job is one of the most important, regardless of rank.*

With the guidance I have received in the 69th Bde I feel confident I can handle any situation and try any position that is available—never backing down from responsibility. I feel that any officer should take the time to listen to his subordinates, they have many ideas which have helped me, along with just listening to my commanders talk.

Well, I am down to four hours now—I will be in Vietnam before long—I am leaving the 69th, but I am going where I belong, this is where our men have gone, now its my turn—I only hope and pray when I lead my men into combat I can have the confidence in my leaders backing me up as the leaders in the 69th have. With the confidence I have gained here I know I will get the maximum amount possible of my men back to their mothers and wives. Thank you, Sir, it was an honor, I hope to serve under you again someday. And to all new Lieutenants the opportunity is here—make maximum use of it and you will feel what I do about this Brigade. You can walk away and say, I did my best.

1st Lt. Donald F. Wood,
69th Infantry Brigade.

RATIFICATION OF GENOCIDE CONVENTION FOLLOWS IN OUR TRADITION

Mr. PROXMIRE. Mr. President, for 20 years, we have kept the world waiting for our ratification of the Genocide Convention. It is time that we assume our rightful place as leaders in the struggle for human rights for all people. Ratifying the Genocide Convention will make our intentions clear to all men.

There can be no mistaking the fact that our inaction on this important human rights convention has resulted in diplomatic embarrassment and misunderstanding. The inaction has also been exploited by our adversaries.

Our history emphasizes our basic belief in the dignity of man. The U.S. Constitution guarantees basic human rights of men. Yet, we have not ratified the Genocide Convention.

No longer should we delay in taking action on this convention. Ratification would follow in the great tradition of this country and would reaffirm our belief and support of basic human rights. I urge the Senate to ratify the 1948 Genocide Convention of the U.N. as soon as possible.

ADDRESS BY SENATOR THURMOND TO VETERANS OF FOREIGN WARS NATIONAL CONVENTION

Mr. TOWER. Mr. President, the Veterans of Foreign Wars of the United States recently held its 71st annual national convention in Miami Beach, Fla., from August 14 to 21, 1970. This organization of over 1,600,000 overseas veterans was honored to have as one of its guests the distinguished Senator from South Carolina, Strom Thurmond.

Because he is a long-time senior member of the Armed Services Committee, Senator Thurmond's speech on the necessity to maintain our strength throughout the world in the face of the many threats now facing this Nation was indeed a most timely and significant message.

So that all Senators will have the opportunity to read and study this most important speech on a subject of great interest to all Americans, I ask unanimous consent that the complete text of Senator Thurmond's speech to the Veterans of Foreign Wars national convention banquet be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by Senator Strom Thurmond

Ladies and gentlemen: Every so often a Nation stands on the brink of a decisive period in history. There are only a few such periods given to a Nation, and each time its destiny depends upon the proper response of its people.

America stood at such a moment in 1776. Our forefathers had both a vision of freedom, and the will to make it a reality.

Today America stands at such a moment again. We are entering a period which is unlike any experience we have had in history. It is new, it is strange, and it is hard to comprehend. We do not know exactly what to expect, but we do know that there will be great demands on our people. In these times of crisis it is comforting to know that there are a few groups of strong, level-headed patriots who will rise willingly to the challenge.

The Veterans of Foreign Wars is such a group. I can think of no body of men that love their country more than those who fought its battles overseas. None have made a greater investment in the future than you who fought in the past.

Before we examine our present period of decision and the possible demands on us, let us look to some of the responses of past generations of Americans to the challenge of their time. Perhaps we will find in these

XUM

backward glances a key to what we need today.

In 1789 we had a remarkable moment when the Constitution was completed and proposed for ratification. Our forefathers again had a vision of political freedom, a vision in which force of arms would *not* be necessary to impose the government upon the people. It was to be a government freely accepted.

But in 1860 when men shuddered at the impending drama in which the hopes of our Founding Fathers would be obscured by a clash between brothers, the great Constitutional issues were settled not by reason, logic, and precedent, but by superior force of arms.

In 1917 the United States entered a great World War in which the future of Europe was at stake. We were unprepared, but we rallied, and we used our superior force of arms in order to bring about the reorganization of Europe. But while our leaders dallied with impractical plans for the League of Nations, we allowed the very practical Bolshevik leaders to consolidate their power in Russia, and to impose their will upon the remnants of the Russian Empire, even though we had troops in Siberia.

In 1941 we entered a war in the Pacific and the Atlantic. We were fighting against an alliance of totalitarian governments which sought to impose their warped vision on the world. Our men in uniform fought bravely. Those who have fought for America in foreign lands are *more* responsible for the survival of freedom today than *any* other single group. We owe our liberty to those who made the sacrifices in meeting the enemy on foreign soil—sacrifices which for too many included the ultimate. I was among those who went ashore on D-Day, and I can say that I have never known a group of more dedicated, patriotic, loyal Americans, selflessly devoted to the American cause, than those who have worn the uniform of their country.

XUM

1941 was a great moment in our history, and 1945 brought victory. But it was a victory made hollow by politicians who had *needlessly* aligned our nation with a ruthless totalitarian government. We went to war against tyranny, but we allowed the Communist tyrant to march at our shoulder. We were fighting for freedom, but we granted the Soviet Union a full partnership, sustained her, and strengthened her. At war's end, we looked the other way while the Soviets imposed Communist control upon half of Europe. We had the power to affect the organization of the world to support freedom, but we lost our will before the job was done.

In 1945 we were the most powerful nation on earth. But so far were we from any thoughts of aggression that we demobilized our armies and left our equipment to rot on the beaches of the Pacific. We were the only country that had atomic weapons, and then nuclear weapons. We had the power to back up our moral force. We could have used the threat of our power to open up the Soviet captive republics, and to guarantee that *every* nation on earth had the opportunity to choose its own destiny. But that moment passed. We used our power neither for evil nor for good. Then the Soviets acquired atomic weapons, and ultimately more advanced nuclear weapons.

With the introduction of strategic nuclear weapons, a whole new element was added to strategic thinking. With nuclear weapons in the hands of an aggressive, totalitarian dictatorship, the possibility of a nuclear confrontation overshadowed the international arena. The Soviets respected our nuclear might, but they found us vulnerable to limited probes. And they continued to probe wherever they could, through the use of subversion, guerrilla warfare and conventional warfare.

The lesson we learn from history is that it is not enough to have truth and justice on our side. We must always be prepared with strength to back up your position. When we are not prepared, we invite aggression. Unpreparedness is provocative; preparedness is the guarantee of peace. Since World War II, the only times we have successfully stopped Communist aggression is when we unashamedly declared ourselves for freedom, and displayed the force to back it up.

The Communists backed down in Greece and Turkey in 1947.

The Communists backed down in the Berlin blockade of 1948.

The Communists were stymied by the formation of NATO in 1949.

The Communists quit in Korea in 1953 when President Eisenhower clearly said that we would not restrict our targets.

The Communists left Taiwan alone when we moved in the Seventh Fleet in 1954.

The Communists quit shelling Quemoy in 1958 when we made it clear that the offshore islands were within our defense perimeter.

The Communists gave up threatening Lebanon in 1958 when we swiftly sent in our troops—even though not a shot was fired.

The Communists backed down again in Berlin in 1958.

The Communists backed down from nuclear confrontation in Cuba in 1962.

The Communists melted away when we attacked their sanctuaries in Cambodia. Only our vountary withdrawal has made possible their return.

When we were firm, our cause flourished. When we hesitated—I have only to mention Hungary, the Berlin Wall, Laos, the Bay of Pigs, the Pueblo, and, of course, the long, drawn out tortuous course in Vietnam—our cause has suffered.

Now the year is 1970. We are at the threshold of another decisive period in our history. Like the other periods to which I have referred, this era is a time when the future configuration of world politics is at stake.

Let us face some simple facts. For the first time in the last half of this Century, we face an enemy whose military strength is nearly equal to ours. In 1968, we could not make that statement. In the early part of 1969, we could not make that statement. But some time toward the end of 1969, the Soviets came abreast of us in the number of strategic weapon delivery vehicles; and, now, in 1970, Pentagon authorities admit that the Soviets have more strategic missiles than we do.

This fact alone lessens our ability to be a force for world peace. It affects not only our military capability, but it also undercuts our persuasive power with our allies, and casts doubt upon the estimate of our abilities which the uncommitted nations are making. We are handicapped in standing up for freedom when there is doubt that we can back up our promises.

I do not think that it is any coincidence that the Soviets have moved into a dominant position in the Middle East at the same time that they have achieved parity in strategic weapons systems. For the first time in history the Soviets have put their most sophisticated military equipment and put Soviet military advisers in combat situations outside the territory of the Soviet and satellite Communist nations.

I do not think it is any coincidence that the Soviets have signed a so-called "nonaggression" pact with West Germany at the same time that they have achieved parity. For this is a pact which practically ratifies the Communist occupation of East Germany. This pact settles for the foreseeable future the artificial boundaries imposed by Communists in Eastern Europe. It casts a cloud over future Western rights in Berlin, and paves the way for the future dissolution of NATO, unless appropriate guarantees are written into the body of the agreement.

All this comes about not from the firing of nuclear weapons, but from the possession of an equal capability in nuclear weapons. The leveling off of the strategic balance will have untold consequences unless the United States responds correctly. The most important consequence is that the Soviets are already beginning to surpass us and may do so if they choose.

Let us take a look at what the next five years could bring in the military balance. I say could bring, because I am making no predictions. I will merely give you conservative estimates of what is within the reach of the Soviet Union by 1975. Recent experiences on the Armed Services Committee have made me plainfully aware of disturbing developments.

The Soviet Armed Forces are chiefly divided into five services as opposed to our three. Like us, they have the Army, Navy, and Air Force—but they have separate services under separate commands for their strategic nuclear rockets and for their anti-air defenses, including ABM.

In addition, the Soviets have a Tactical Air Force, and a Naval Air Force each of considerable size under the air and naval commanders, respectively. They have also developed an orbital bombing system, possibly using elements of the giant SS–9 rocket, and they have a broader mix of megatonnages and capabilities than we do in their rockets. This gives them a flexibility in planning, which we lack.

We must remember that the Soviets have accomplished this feat with a far greater effort than the United States is putting forth. The Soviet Gross National Product is only half that of the United States. The Soviet economy is more bureaucratic and far less open to creative development than that of the U.S. The needs of the Soviet people have been deliberately sacrificed to pay for this long-range aggressive plan. With so much already sacrificed, it seems a futile illusion to believe that the Soviets will turn away from achieving military superiority when it is almost within their grasp. The Soviets have demonstrated that they have the will to win. Whether they can win depends upon our response.

What is the situation? The situation is this: While the enemies, including the Red Chinese, do not have the equipment, the production base, nor the means of delivery to make them a real threat in strategic nuclear weapons. The one threat, the only meaningful threat at present, comes from the Soviet Union.

I do not expect a nuclear confrontation with the Soviet Union. But the Soviets will use their great power to push for every advantage possible. With the knowledge that they speak as equals, and perhaps as superiors, they will demand more and more concessions and ratification of their past conquests. They will lure us to the conference table to discuss peace on a formal level while they unleash subversion in every corner of the globe.

We must never forget that the Soviets constantly work on two levels. With the diplomatic apparatus of the Soviet government they speak to our government about the terms of peace. But basically they consider a free government to be illegitimate, and they work through subversion to undermine that government and to destroy the morale of its people. If you think that is too harsh a criticism to level at the Soviet Union, I invite you to look at what happened to Hungary and Czechoslovakia.

Let's not kid ourselves. We know that the main conduits of the so-called "Peace Movement" in this country reach directly into the inner councils of Hanoi.

We know that Hanoi gives information about our prisoners of war, suffering in North Vietnamese prison camps, only to those groups that are in close collaboration with the Communists.

We know that Communists will not deal with free governments, but only with those peacenik groups which they consider to be the leaders of the vanguard of socialism.

We know that the hippies and the peaceniks, and even the starry-eyed idealists, are merely unwitting window dressing for a hard-boiled subversive movement aimed at destroying our Nation.

Ladies and Gentlemen, the threat facing this country cannot be divided. It is both external and internal—a total threat. The Soviets are aiming for technological superiority in their arms build-up outside our shores, but they are taking no chances. They know that the easiest way to attack our defenses is to build up a climate of opinion in which we no longer have the will to use our weapons.

It does us no good to have power, and be paralyzed when it comes time to use it.

The United States ought not to go to war unless it has to. But if we do go to war, it should be an all-out fight to win.

We cannot ask for the sacrifice of American lives unless we are willing to take every military step possible to protect the lives of those who are doing the fighting. Not one American life is expendable.

We should not fight a war, and leave a stalemate behind.

We should not fight a war, and leave a coalition government to deliver territory stained with American blood into the hands of the enemy.

We should not fight a war and lose 40,000 troops, and then simply withdraw; the sacrifice of all those American lives demands nothing less than an honorable peace.

Unfortunately, there is a movement in Congress which would tie down our ability to defend ourselves. It is attempting to cut back every defense program, to restrict the freedom of action of our Commander-in-Chief, and to unilaterally disarm this country by killing the most important new developments in armament design.

This movement is supported by those who ignore the changed military balance between the Soviet Union and the United States. This movement is supported by those who talk about changing our national priorities. They say that we have to spend more money on domestic programs, and that we can't afford what the Commander-in-Chief says is necessary to defend this country.

To talk about changing priorities at this moment is like the shipwrecked man in a lifeboat who can't decide whether to shine his shoes or to start rowing.

Instead of worrying about more pork-barrel programs, we should be concerned about our preparedness for survival. When we already are supporting able-bodied people who won't work, we should be studying how to cut down on such expenses, not planning more ways to have a guaranteed annual something-for-nothing.

Shouldn't we be worrying more about government programs that promote militancy and revolution than about programs that break up schools and neighborhoods?

Shouldn't we be equally as worried about the pollution that comes from the Supreme Court-approved pornography as about the industrial pollution we all abhor?

Shouldn't we be as concerned with the so-called "drug culture", which sets a style of life for many of our youngsters, as about the drugs themselves?

Shouldn't we be looking after our fine young people to educate them about the hard-core militants seeking the destruction of all the values of our Christian civilization?

We are told by some who have impressive degrees and questionable education that those youths most prominently featured in the news media have high ideals; but are those ideals so high when they advocate treason and the hauling up of the Viet Cong flag? My answer is an emphatic "No!"

Now I am not attacking the majority of our youth. I speak on college campuses frequently, and I feel that most of the students are sincere in their quest for knowledge. Yet we must make our young men and women realize that there is a movement afoot to undercut the foundations of stability in our country.

Many of the universities have been taken over by hard-core revolutionaries who know full well what they are doing. They are inciting inexperienced students to violent acts which will compromise their future as decent citizens. They are introducing drugs to destroy them physically and to make them outlaws who will be forever distrustful of the police. They urge the students to make hatred a way of life, so that they will never become broadly educated in the fullest sense.

Our newspapers and other media told you about the violence at Kent State University. But did they tell you that Kent State University had been singled out months in advance as a center for promoting revolution? Did they tell you that the investigating committees of Congress had already taken extensive testimony about subversion at Kent State weeks before the riot occurred? Did they tell you that the campus was visited by the convicted criminal, Jerry Rubin, who urged the students at Kent State to kill their parents?

Clausewitz, the greatest writer on classical military strategy, said that war is an extension of politics, and this is war—war against America!

When I think of America, I think of a country that is proud to be strong, and proud to be right.

When I think of America, I think of a country that is not afraid to back up its stand for freedom, with the authority that comes from power in reserve.

When I think of America, I think of a people who are willing to make the sacrifices to be upright and true.

Ladies and gentlemen, we have to get our goals back in order again. We've got to have the fortitude and courage to stand fast for the principles of our forefathers that established this nation.

We are in a battle to preserve America. This is a battle which pertains to our own minds and hearts. The decade of the 70's is a decade in which we are no longer unchallenged as the strongest power in the world, and we are sorely divided internally.

We must work together to keep America strong. We must have not only the military strength, but the moral strength. We must be willing to fight for our principles, bearing witness to our youth and our fellow citizens.

Our forefathers fought gallantly to win freedom. You have battled valiantly to preserve it. We must not forget that freedom can be lost through apathy. Preserving freedom is more difficult than winning it!

As I look into your faces tonight, I am forcefully reminded that your service to your country sets you apart as patriotic and dedicated Americans. Now that the very existence of our form of government is at stake, I challenge you to come forward once more and give support to our country as you have never done before. If you do, future generations will rise up and call you blessed!

THE CHALLENGE OF CORRECTIONS—ARTICLE BY SENATOR CHARLES McC. MATHIAS

Mr. COOK. Mr. President, the distinguished Senator from Maryland (Mr. MATHIAS) has recently written for the University of Maryland Law Forum an article entitled "The Challenge of Corrections." Senator MATHIAS is uniquely able to speak with knowledge of this subject, as he is a lawyer of distinction and a member of the Senate Judiciary Subcommittee on National Penitentiaries upon which we both serve.

If I were asked to name the most effective and intelligent Members of the Senate, "MAC" MATHIAS would be among them. This article is just another in a long series of accomplishments by the Senator from Maryland. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CHALLENGE OF CORRECTIONS

(By Senator CHARLES MATHIAS)

(EDITOR'S NOTE.—As a Republican Senator from a predominantly Democratic state, Mr. Mathias has achieved political success despite the odds. A product of the Frederick County Public Schools, Mr. Mathias went on to graduate from Haverford College, Yale University, and the University of Maryland. Senator Mathias has served as an assistant attorney general of Maryland and city attorney of Frederick. In 1958, he was elected to the Maryland House of Delegates from Frederick County. Two years later, he was elected to the U.S. House of Representatives where he remained for four terms. In 1968, Maryland voters elected "Mac" Mathias to the Senate, giving him a 96,000 vote plurality over the incumbent in a threeway race. In the Senate, he serves on the Judiciary, District of Columbia, and Government Operations Committees. He is also a member of the Judiciary Subcommittees on juvenile delinquency and national penitentiaries.)

Each night in the Manhattan House of Detention for Men (The Tombs), dozens of prisoners sleep three to a cell, with one man on the cement floor. The cells, designed for one man, measure six feet by seven feet, nine inches. A comparison of this 15½ square feet per man with 396 square feet allotted the Bronx Zoo's male spotted hyena must give us pause. Not only are we treating human beings worse than animals, but the hyena will never be released into society. The safety of the public will never depend on the Bronx Zoo's ability to rehabilitate its charge and prepare him for a useful, law-abiding life in the community. Virtually all of the men in The Tombs will, on the other hand, eventually be freed to resume life on the outside. Their experience in jail will be a primary determinant of their behavior upon release.

CRIME AND DOMESTIC TRANQUILITY

Less than a year ago, the Commission on the Causes and Prevention of Violence reported as a major conclusion that—

"The time is upon us for a reordering of national priorities and for a greater investment of resources in the fulfillment of two basic purposes of our Constitution—to 'establish justice' and to 'insure domestic tranquility.' "

Crime and fear of crime have been major components in the erosion of domestic tranquility perceived by the Commission.

The Uniform Crime Reports released last month by the Federal Bureau of Investigation disclose that nine serious reported crimes occurred each minute of 1969. A violent crime—murder, forcible rape, robbery, or assault to kill—occurred every 48 seconds. In Baltimore alone, 61,355 instances of the seven "index offenses" were reported to the police in 1969. Nationally, the crime rate has risen 120 percent from 1960 to 1969, while population has increased only 13 percent.

But statistics are less convincing than experience. Hardly any citizen has escaped the direct effects of some criminal act. Particularly in our large metropolitan areas, crime and fear of crime poison the atmosphere as surely as any chemical pollutant.

A society which can send a man to the moon and back in safety should be able to do as well for a trip to the corner grocery. The inability to accomplish the latter task has prompted agonizing reappraisal of our system of criminal justice. Foremost in this reappraisal should be the corrections process in America.

ANCIENT CORRECTION FACILITIES

On any given day, about one and one-half million Americans are being handled by our correctional system. About one-third of those are in institutions; the remainder, under supervision in the community.

Institutionalized offenders exist, for the most part, under appalling conditions. As James V. Bennett, distinguished former Director of the Federal Bureau of Prisons, recently remarked of our state and local institutions, "[a]ll but a handful are archaic, grim, and devoid of all but token facilities for training and rehabilitating their inmates." A federal district court has recently gone so far as to declare that confinement in one state's penitentiary system in certain respects violates the eighth amendment proscription against cruel and unusual punishment.

Many jails and prisons are of ancient vintage. The federal prison at Leavenworth, Kansas, was built in 1895; the Atlanta institution, only seven years later. Other compounds, such as McNeil Island, Washington, and The Ohio State Penitentiary at Columbus, date back to the Civil War. Buildings designed only with warehousing in mind stifle intentions of even the most dedicated correctional authorities. A choice between a cell and a mess hall for a group counseling session is no choice at all.

It has been estimated that 95 per cent of the billion dollars spent annually on corrections is devoted solely to custody or dead storage. Under such circumstances, rehabilitation becomes an accidental byproduct rather than a carefully-sought end result. Oscar Wilde phrased it well in his poignant "Ballad of Reading Gaol":

> I know not whether Laws be right,
> Or whether Laws be wrong;
> All that we know who be in gaol
> Is that the wall is strong;
> And that each day is like a year,
> A year whose days are long.
>
> The vilest deeds like poison-weeds
> Bloom well in prison-air:
> It is only what is good in Man
> That wastes and withers there:
> Pale Anguish keeps the heavy gate
> And the Warder is Despair.

The picture is no brighter for the million persons who have been released on parole or probation to the community. Since we devote but 20 per cent of the corrections budget to the 67 per cent under supervision in the community, it is hardly surprising that probation officers face insuperable obstacles. Caseloads of 100 or more, three times the recommended maximum, are commonplace. The process of reintegrating an offender into the community is critical. To attempt such a task when one's workload limits officer-offender contact to one 15-minute interview per month is to display remarkable optimism and dedication.

For many years, the million and a half Americans under correction could attract public attention only by participating in a riot or a jail break. That pattern is changing. We have begun to recognize that a massive commitment to improving our correctional system will be required to interrupt the revolving-door of our criminal justice system. For about 60 per cent of the individuals who are convicted, and committed, a stay in prison is nothing more than a way station on the road to further serious crime. Far from rehabilitating, the present system all too frequently embitters individuals and trains them further in the criminal professions.

The extraordinarily high percentage of inmates who are eventually released into society—and the sobering percentage of those who ultimately return to prison—force us to reassess our view of rehabilitation. It may be time to view rehabilitation as a right demanded for the protection of society rather than as a privilege granted an individual violator. We get what we pay for: the question is not one of "coddling criminals," it is one of intelligent return on our invested resources.

SAFE STREETS ACT

In 1967, the President's Commission on Law Enforcement and Administration of Justice issued an historic report on each aspect of our system of criminal justice. It pointed out in meticulous detail the shortcomings of our corrections "system," which is really a fortuitous collection of a federal system, 50 state systems, and several thousand local systems.

In 1968, in response to the kinds of needs highlighted by the Commission, the Congress passed the Omnibus Crime Control and Safe Streets Act of 1968. That measure was an unprecedented commitment of federal resources to aid state and local governments in combatting crime. As a member of the House Judiciary Committee, where the omnibus bill began its legislative journey, I was privileged to participate in its formulation.

The Act created the federal Law Enforcement Assistance Administration (LEAA) and charged it with assisting state and local governments in the control of crime and administration of justice. Under its provisions, each of the 50 states has adopted a comprehensive law enforcement plan. Considerable federal sums have been granted for implementation of those plans. Funds have been made available for further professional training of law enforcement officers. A National Institute of Law Enforcement and Criminal Justice has been established to develop new and improved techniques and instruments of law enforcement, to disseminate information about law enforcement science and technology, and to operate a criminal justice information and statistical center.

Experience under the 1968 Act, as well as other projects and studies, has demonstrated several promising avenues for reducing criminal recidivism.

COMMUNITY-BASED CORRECTIONS

The pioneer work of John Augustus in 1841 first demonstrated the value of community treatment—parole and probation. Such alternatives to confinement had the obvious advantage of confronting an individual's problems in the environment where almost all offenders must eventually succeed or fail. By 1961, the community-based corrections had become far more sophisticated than simple parole or probation. In that year, the Bureau of Prisons established its first comprehensive Community Treatment Center (CTC) to assist young offenders in reintegration into the community. Four years later, Congress extended such authority to include centers for adults as well.

Today the Bureau operates CTCs in eight metropolitan areas: Atlanta, Chicago, Detroit, Houston, Kansas City, Los Angeles, New York, and Oakland. They provide a place of residence and intensive supervision and counseling for individuals who are soon to be released from custody. Trained caseworkers, correctional counselors, employment specialists and other staff members provide guidance and employment assistance during the difficult transition period between incarceration and release. Psychological and psychiatric services are available and each offender has daily contact with appropriate corrections professions.

During the past year some 1200 federal offenders were assigned to Centers prior to release. Others were placed in similar facilities operated by state and local governments and private organizations. The Bureau of Prisons is presently conducting an exhaustive study of 3,000 persons who were released through Centers during the period 1962–1968. Preliminary studies have indicated the superiority of such graduated release to direct release from prison.

The report of President Nixon's Task Force on Prisoner Rehabilitation, released last April, accurately summarized the value of community-based treatment:

"[W]hat is wrong with most offenders is that for any number of good or bad reasons they are unable or unwilling to respect the standards of the community, to adhere to its customs, to fulfill their obligations to it, or use to advantage the opportunities it provides. Hence 'correction' or 'rehabilitation' or 'reintegration'—use what polysyllable you will—is at bottom a process intended to give offenders the ability and the desire to be good citizens. The difficulty of pursuing this objective in the authoritarian, monotonous, and above all, artificial environment of a jail or prison is obvious; you do not train aviators in submarines. The way to learn how to solve the problems of community living is to tackle them where they exist."

The task force therefore concluded that "any offender who can safely be diverted from incarceration—or in some cases even adjudication—should be."

The question of whether we should make broad utilization of community-based treatment has, of course, already been decided. With two-thirds of our offenders on parole or probation, we must bend our efforts toward providing the intensive supervision and guidance so desperately needed to rehabilitate offenders and protect society. This is particularly so with offenders who have a history of narcotics addiction.

We must insure that sufficient numbers of adequately-trained professionals are available to staff community centers. We must expand the roles of probation and parole officials to include active intervention with community institutions—such as schools, employers, health facilities, and public agencies—on behalf of offenders. We must distinguish among the different types of offenders in determining type and intensity of treatment. We should examine the experiences of Holland and the Scandinavian countries, where "after-care" societies of concerned volunteer laymen have existed for centuries. We should consider demonstration projects to test the effectiveness of using former offenders as counselors to probationers and parolees.

In sum, community-based treatment holds considerable promise. Properly administered, it can be both less costly and more effective for many offenders. But we must provide it with resources sufficient to insure that released offenders reenter the community not only in body but also in spirit.

JURISDICTIONAL FRAGMENTATION

Our correctional system, like our overall system of criminal justice, suffers from jurisdictional fragmentation. Many towns and rural counties are too small to provide any significant programs for criminal offenders. Even our less populous states are pressed to provide any kind of specialized treatment. Conversely, many major state and city systems are so crowded that sheer custody is difficult, let alone rehabilitation.

Some states are much more generous than others in their support of corrections. Financial disparities are combined with policy differences: for example, some states are much more restrictive than others in granting probation and parole. Misdemeanants in one jurisdiction may sit idly by while their counterparts in the next county perform useful work.

The one correctional institution that directly affects more human lives than any other is generally the most inadequate. Our county and city jails are even worse than our prisons. As the President's task force stated—

"A jail can be anything from a two-cell hovel in a small rural county to a concrete and glass skyscraper in a big city. Whether it is one or the other of those or, more likely, something in between, more often than not the living conditions within it are squalid, whether because of obsolescence or overcrowding or just plain indifferent housekeeping by the staff. And the vocational, counseling, educational, psychological and even medical services and programs it offers its inmates range from skimpy to nonexistent."

The jail population consists mainly, of course, of minor offenders. But the anomalous result of our neglect of jails is harsher custody and less stress on rehabilitation for those who are most deserving of and susceptible to it. The President's Crime Commission found that only 3 per cent of the total staff of our 3,500 local jails performed rehabilitative duties (and some of those were part time).

The constitutional, financial, and political problems involved in ameliorating these circumstances cannot be gainsaid. One way to overcome these side effects of fragmentation is to establish regional jails for misdemeanants. In this way, several states could combine resources to institute programs and construct facilities that each could not otherwise justify or afford.

The regional approach has been suggested for other categories of offenders for whom programs now tend to be inadequate—women offenders, juvenile offenders, and narcotics addicts. The President has especially requested the Attorney General to explore the feasibility of such regional centers and I support those efforts wholeheartedly.

JOB TRAINING AND EMPLOYMENT

The President's Crime Commission analyzed personal characteristics of offenders and came to this conclusion:

"Offenders themselves differ strikingly. Some seem irrevocably committed to criminal careers; others subscribe to quite conventional values; still others, probably the majority, are aimless and uncommitted to goals of any kind."

The Commission did establish, however, one common denominator of many offenders: unstable work records and lack of adequate vocational skills. It may, in fact, be fair to infer that many offenders first turned to crime because they lacked either the opportunity or ability to earn a legal living.

It thus seems axiomatic that society give careful attention to the work experiences of institutionalized offenders. Vocational training while incarcerated and assurance of a decent job upon release should be high-priority correctional goals.

Too often, however, inmates are idle or perform menial chores unrelated to securing employment in the outside world. And even where meaningful vocational programs are available, as in much of the federal system, special effort must be made to encourage participation. A typical inmate, under-educated and under-trained, may not be able to grasp the importance of long-term rewards such as increased employability upon release.

Seeking employment after release is often a humiliating experience. For example, the very entities charged with rehabilitating have harsh requirements for employing former offenders. Most states have policies, unwritten or statutory, which totally bar former offenders. The federal government requires the employing agency to go through an elaborate process of justifying to the Civil Service Commission its desire to hire any former offender.

If government is to successfully urge private enterprise to adopt enlightened hiring policies for former offenders, it must surely demonstrate its willingness to do likewise. The President's task force has recommended that (1) the Civil Service Commission devise a plan to stimulate federal employment of former offenders and (2) the National Institute of Law Enforcement and Criminal Justice frame guidelines on hiring former offenders for state and local government use. This is certainly the direction in which we must move.

The task force made a further suggestion worthy of the most careful consideration: creation of a national agency to stimulate adoption of programs for employment and training of criminal offenders.

We must give persons convicted of crime, particularly minor offenders and youngsters, the desire and the means to pursue careers that are not criminal.

BROADER CHANGES NECESSARY

Strengthening community-based corrections, adopting regional approaches where appropriate, and providing effective job training and employment for offenders will help slow the revolving door which leads from crime to prison to release to further crime.

In the last analysis, however, success or failure in corrections may depend on the success or failure of the American experiment. We must continue to work to make America's benefits available to all Americans. As President Nixon's Task Force said of its own proposals for community treatment, offender employment, regional centers, and the like—

"They must be viewed as tactical maneuvers that can lead to no more than small and short-term victories unless they are executed as part of a grand strategy of social reform, with particular emphasis on reducing poverty and racial discrimination."

FUTURE PROSPECTS

There are encouraging signs that the legal profession and public at large are recognizing the critical role of corrections in stemming the tide of crime. Chief Justice Warren E. Burger has played a major role in bringing the problem into the public and professional eye. The American Bar Association has formed a Commission on Correctional Facilities and Services to inventory existing corrections resources and make recommendations for improvement. And more importantly, the Commission's charter includes responsibility to "enlist the active support of state and local bar associations, corrections organizations, labor, industry and commercial groups, and citizen organizations in coordinated campagns" for correction reform. These enlightened efforts are to be lauded.

It has been said that the best measure of a societys quality is the way it treats those who are incarcerated. Dostoevsky wrote that "It is with the unfortunate, above all, that humane conduct is necessary." And Mr. Chief Justice Burger has poignantly reminded us that—

"When a sheriff or a marshal takes a man from a courthouse in a prison van and transports him to confinement for two or three or ten years, this is our act. We have tolled the bell for him. And whether we like it or not, we have made him our collective responsibility. We are free to do something about him; he is not."

Conviction without correction is neither wise nor humane. If we fail in that, we fail in our human responsibility to him as well as in our practical responsibility to ourselves.

In 1870, the American Prison Association declared that "reformation, not vindictive suffering, should be the purpose of penal treatment." A century later, as we reflect on correctional problems, past and future, I think it appropriate that we rededicate ourselves to that visionary declaration.

AMERICAN PRISONERS OF NORTH VIETNAM

Mr. ALLEN. Mr. President, I am increasingly concerned at the political machinations by the North Vietnamese at the expense of American prisoners of war being held by them.

The Communists have recently held out a twig of hope that they would be willing to negotiate release of the POW's, but they pin such negotiations on prior conditions. They speak of agreements, but how can we trust them when they refuse to abide by the Geneva Convention on prisoners of war, which Hanoi agreed to in 1957? The U.S Government has asked that Americans held in POW camps be given humane treatment in accordance with the Geneva Convention, and the wives and families of these men have beseeched Hanoi for compassion. But Hanoi continues to deny even an exchange of messages between husband and wife, between father and children, between son and parents.

Mr. President, the cause of the prisoners of war must remain as top priority for the U.S. Government. We must continue to do everything possible to ease the life of those men held by the enemy, and we must do everything possible to bring them home.

In their syndicated column "Inside Washington," nationally known writers Robert Allen and John Goldsmith recently addressed themselves to the problems of the prisoners of war. This column was published in newspapers throughout the United States.

Mr. President, I ask unanimous consent that the column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT ABOUT VIETNAM POW'S?

WASHINGTON.—President Nixon and his top advisers must soon come to grips with the question of what happens to Americans held as prisoners of war, as the Vietnamization program goes forward.

The question is now being asked privately by POW families. By its nature, however, it is a question which cannot be muted for an indefinite period and will ultimately require a full and forthright answer.

The issue is simple enough: President Nixon, in Vietnamizing the war in Southeast Asia, is gradually drawing down U.S. combat forces. What are the hopes for more than 1,500 Americans now prisoners or "missing" if the war winds down without a negotiated settlement?

The administration provided a simple answer last spring in POW hearings before a House Foreign Affairs subcommittee. On that occasion Rep. Clement J. Zablocki, D-Wis., commented that the Vietnamization program offered a bleak prospect for POWs and their families.

F. Warren Nutter, assistant secretary of defense for international security affairs, replied that President Nixon and Defense Secretary Melvin R. Laird have repeatedly stated that "These men will not be abandoned."

Some U.S. prisoners have already been held by the Viet Cong and North Vietnamese for several years. What is wanted now, by some POW families, is a rationale and elaboration of the administration's pledge.

If the talks continue to be fruitless in Paris (where the POW issue has now been forcefully raised) and troop withdrawals continue, does there come a time when Vietnamization halts pending a settlement of the prisoner issue?

POW DAY

The POW families continue to escalate their drive to dramatize the plight of the prisoners.

Currently, the National League of Families of American Prisoners and Missing in South-

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east Asia is focusing on Nov. 11. The idea is to make Veterans Day something of a war prisoners' day in public ceremonies this year.

Under the leadership of Mrs. Sybil Stockdale, wife of a captured Navy captain, the league has also been spearheading the campaign for a joint session of the House and Senate on the prisoner-of-war issue. Most of the House and Senate leadership have approved the idea of such a session.

The league has been trying to have such a joint session scheduled in early October to coincide with its first national convention which has been scheduled here in Washington. The convention itself is calculated to attract extensive media coverage.

With assistance from H. Ross Perot, the Texas multi-millionaire, the POW families arranged months ago to highlight the prisoner issue for the tourists who troop to Washington each summer. An exhibit was strategically located on the ground floor of the Capitol Building.

Thousands of tourists file each day past a spotlighted simulated prison cell and a bamboo POW "cage" similar to those which, according to the handful of returned prisoners, are used to confine Americans in Southeast Asia.

UNANSWERED PROBLEM

The campaign for support by the POW families has probably been more effective than is generally realized. That is particularly true with respect to congressional sentiment.

The pages of the Congressional Record bear testimony to the fact that "hawks" and "doves" alike think something must be done to secure better treatment—and, eventually, release—for the American POWs. Many of the speeches delivered in the House and Senate are short and attract no attention on a day-to-day basis. The cumulative effect is considerable, however.

In one such recent speech—less than 200 words—Sen. Howard Baker, R-Tenn., flayed the Communist regime in North Vietnam for refusing to abide by the requirements of the Geneva convention.

"It must remain a matter of top priority with the government of the United States to ease the lot of these men and to continue every possible avenue of negotiation for their safe return to their waiting families," said Baker.

He called the plight of the POWs "one of the great unanswered problems of the year."

That is certainly how it is shaping up for President Nixon who will come under increasing pressure to explain how release of the prisoners can be obtained from the intransigent North Vietnamese as U.S. forces in Vietnam and Southeast Asia become progressively weaker.

POLICY STATEMENT AND RESOLUTIONS OF AIR FORCE ASSOCIATION

Mr. THURMOND. Mr. President, the Air Force Association recently issued a policy statement and resolutions which deserve the attention of the Congress and the Nation.

This group has constantly been at the forefront in military affairs which affect the Air Force and the Nation's defense posture in general.

The policy statement of the Association for 1970 is of particular importance in that it comes down hard on the point that the United States is gradually abandoning its strategic nuclear superiority to the Soviet Union.

Mr. President, as I have often stated here on the Senate floor, I am deeply concerned that the United States is allowing our military strength to deteriorate to an unacceptable degree.

Some of us in the Congress are fighting this trend, but I do not believe the danger of declining U.S. military strength can be dealt with successfully until the American people have the facts. Once we accomplish that goal, it is my view they will demand of their elected representatives in the Congress a reversal of this dangerous and deadly trend.

The Air Force Association is to be commended for their efforts to bring the issues to the attention of the Congress and the American people. I ask unanimous consent that the policy statement of the Association and the resolutions adopted at their September 21, 1970, meeting be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

AFA Statement of Policy—1970

The fruits of a quarter century of American sacrifice in the name of peace and freedom hang in precarious balance.

Five years ago, the United States held a wide margiin of strategic nuclear superiority over the Soviet Union. Today, the USSR has surpassed the United States both in number of strategic missiles and in missile-deliverable megatonnage, has preceded the U.S. in deployment of an antiballistic missile defense system, has challenged American supremacy on the high seas, and has vastly improved the quality and global mobility of its general-purpose force. The Soviet investment in military research and development has overtaken our own declining research and development budgets, and shows no sign of leveling off, much less of decreasing.

Once the U.S. nuclear deterrent was regarded by both ally and adversary as the guarantor of the security of Western Europe and other areas of the Free World. Now, the umbrella of extended strategic deterrence that has protected ourselves, our friends, and our allies, is being quietly folded with little public notice or concern. Even the capacity to respond to a direct attack on the United States itself is losing its credibility. The danger of the United States becoming a second-class power is both clear and present.

This unprecedented shift in the balance of military power is a hard fact, not a guess or an uncertain extrapolation. Satellite observations, electronic intelligence, and other techniques verify beyond doubt the alarming growth of Soviet strategic striking power. Evidence is mounting that achievement of a first-strike capability is their ultimate goal.

As US nuclear strength, once clearly superior, steadily approaches insufficiency, an emboldened USSR tightens its grip on the Warsaw Pact nations, moves in force into the Mediterranean, assumes an increasingly dominant position in the Middle East, and expands its influence in North and East Africa, the Persian Gulf, the Indian Ocean area, and in Asia.

All this provides clear evidence that Soviet leaders are pursuing with new vigor their historic quest for world domination.

The aggressive expansionism of the USSR stands in strong contrast to trends in our own nation, trends supported by vocal and often influential individuals and groups. Increasingly, their refusal to recognize the existence of a genuine threat is eroding public concern over the security of the United States and the Free World. The need to solve America's internal problems is offered as a reason for withdrawing from world leadership and the responsibilities that go with it. Such a retreat from reality can only lead us, as it has in the past, to the ultimate disaster of global war.

The members of the Air Force Association fully recognize the urgency of improving the quality of life in our own country. With that there can be no argument, nor can there be argument over the magnitude of the task. The evidence is constantly before our eyes, easier to see and understand than is the external threat.

But at best, a better life for all Americans cannot be attained on an island of freedom in an expanding sea of despotism. At worst, we face total engulfment by refusing to recognize the explosive growth, and the purpose, of the military power presently arrayed against us.

The Air Force Association urges our national leadership to disclose—fully, frankly, and publicly—the deteriorating defense posture of the United States as it relates to the expanding power of the Soviet Union. The American public's need-to-know must be the paramount consideration.

We believe that Americans must be authoritatively informed of the facts and given a clear statement of national strategy and objectives so that they will sacrifice as actually needed to maintain a world environment of security, freedom, and peace.

Air Force Association—1970

POLICY RESOLUTION NO. 1: PRISONERS OF WAR AND MISSING IN ACTION

Whereas, Department of Defense reports state that more than 1,500 American servicemen are either Missing in Action or Prisoners of War in Southeast Asia; and

Whereas, the government of North Vietnam is deliberately and cynically exploiting, for purposes of propaganda and political pressure, the tragedy and anguish of these men and their families by refusing to comply with the requirements for prisoner-of-war treatment prescribed by the Geneva Convention to which they are a signator; and

Whereas, repeated efforts by the U.S. government and appeals on the part of wives, children, parents, and relatives of those unfortunate victims of Communist violence have proven ineffective;

Now, therefore, be it resolved that the Air Force Association, together with other organizations, continue to support, in the name of humanity and decency, the efforts of the United States government at the Paris Peace Talks, within the United Nations, and bilaterally with governments of other nations, to demand full adherence by the government of North Vietnam to the provisions of the Geneva Convention covering treatment of Prisoners of War.

POLICY RESOLUTION NO. 2: AIR FORCE DEFENSE OF MINUTEMAN

Whereas, deterrence of global conflict must be accorded the highest priority in national affairs; and

Whereas, protection of our strategic forces is essential to this deterrent posture; and

Whereas, the Air Force Association is on record in support of the President's decision to proceed with the development and deployment of an antiballistic missile program to protect our strategic forces; and

Whereas, the Air Force Association has recognized the need for a review of the ABM program based on "changes in the threat as reflected in intelligence reports"; and

Whereas, our strategic posture is a Triad of the land-based Minuteman ICBM, land-based bombers and submarine-launched ballistic missiles; and

Whereas, a survivable and secure Minuteman missile, equipped with advanced methods for multiple warhead delivery, is fundamental in maintaining sufficiency of the Triad; and

Whereas, protection of the Minuteman missile, under the President's ABM program, requires reenforcement to cope with "changes in the threat"; and

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Whereas, a collocated and integrated Hard-Point defense system has been recognized as the most effective means for such reenforcement;

Now, therefore, be it resolved that the Air Force Association calls upon the Administration and the Congress to authorize Air Force development and deployment of a Minuteman Hard Point defense system as a key element in the President's antiballistic missile program.

POLICY RESOLUTION NO. 3: B–1

Whereas, under current planning the manned bomber force through the late 1970s will consist of only B–52 and FB–111 aircraft; and

Whereas, the FB–111 will not be capable of meeting all strategic requirements; and

Whereas, the B–52s remaining in the late 1970s will be from sixteen to eighteen years old, technically obsolete, and expensive to maintain; and

Whereas, the Air Force Association has consistently urged the development and procurement of an advanced manned strategic aircraft to ensure that the United States maintains a balanced strategic capability in the years ahead; and

Whereas, the Congress has appropriated funds for engineering development of the B–1 and the Air Force has awarded engineering development contracts for the airframe, systems, and engines of the B–1;

Now, therefore, be it resolved that the Air Force Association urges the Administration and the Congress to support production and deployment of the B–1 bomber at the earliest possible date in order that our defense posture not be degraded or put at risk by total reliance on unmanned strategic weapons systems.

POLICY RESOLUTION NO. 4: ADVANCED FIGHTER AIRCRAFT (F–15)

Whereas, the history of military conflicts has confirmed that superiority in the air is essential to winning on the ground; and

Whereas, the Soviet Union has already displayed new fighter aircraft estimated to have maximum speeds of about 2,000 mph; and

Whereas, to gain and maintain air superiority we are relying largely on aircraft which are tailored to interdiction and close support roles; and

Whereas, these aircraft were designed from ten to fifteen years ago; and

Whereas, Air Force officials have proposed the development and production of an advanced fighter, the F–15, for the air-superiority role as a program of the highest priority; and

Whereas, in early 1970 the Air Force awarded contracts for systems acquisition and engine development of the F–15;

Now, therefore, be it resolved that the Air Force Association urges the Administration and the Congress to continue to support the development and production of the F–15 advanced air-superiority fighter aircraft, with the goal of having such aircraft operational in the Air Force inventory early in the 1970s.

POLICY RESOLUTION NO. 5: CLOSE AIR SUPPORT AIRCRAFT

Whereas, the history of warfare during the past thirty years has demonstrated consistently that close air support is essential to the effectiveness of ground force operations; and

Whereas, many of the aircraft now used in this role are obsolete and difficult to support and maintain; and

Whereas, the Secretary and Chief of Staff of the Air Force have stated an urgent requirement for an aircraft specifically designed to provide effective close air support for highly mobile ground forces in the 1970s; and

Whereas, the Air Force has proposed the development of the A–X, a simple and relatively inexpensive aircraft specifically designed for close air support;

Now, therefore, be it resolved that the Air Force Association urges the Administration and the Congress to support the development and production of the A–X close air support aircraft without delay with the goal of achieving operational status in the mid-1970s.

POLICY RESOLUTION NO. 6: AEROSPACE DEFENSE

Whereas, the Soviet Union maintains a stabilized force of long-range bombers; and

Whereas, the number of flights by these bombers into the North American airspace, including recent flights to Cuba, has increased; and

Whereas, the aerospace defense forces of the United States are rapidly falling behind in capability to meet a continually growing requirement; and

Whereas, these urgent requirements include an advanced manned interceptor, airborne warning and control system, over-the-horizon forward and backscatter radars, advanced sensors, space-borne surveillance systems, boost and midcourse destruct antiballistic missiles systems, plus a terminal homing interceptor and a direct interceptor system;

Now, therefore, be it resolved that the Air Force Association urges the Administration and the Congress to provide programs and funds adequate to meet the aerospace defense needs of this nation.

POLICY RESOLUTION NO. 7: IMPROVEMENT OF BALLISTIC MISSILE POSTURE

Whereas, land-launched strategic missiles are a major element of the U.S. strategic deterrent force; and

Whereas, the need for continued improvement of our strategic missile capability has been reflected in the development, testing, and deployment of advanced versions of the Minuteman missile, the major element of the U.S. land-launched missile force; and

Whereas, further improvement in strategic missile systems undoubtedly will be required to meet an evolving threat; and

Whereas, either improvement of existing missiles or the possible future development of a follow-on to the Minuteman III missile can be achieved most rapidly if developmental work on advanced subsystems technology is completed;

Now, therefore, be it resolved that the Air Force Association urges the Administration and the Congress to support expanded programs for development of ballistic missile subsystems technology applicable to refinement of existing missiles or that may be needed in the development of new missiles to meet a future threat.

POLICY RESOLUTION NO. 8: AMERICAN SPACE ACTIVITIES

Whereas, the continuity of American space activities and the advancement of American space science is of vital importance to the United States; and

Whereas, this continuity of effort depends on the retention of highly skilled scientific specialists, especially trained technical personnel, and specifically space-oriented production facilities; and

Whereas, recent curtailment of national space funding has had a deleterious effect on American space programs;

Now, therefore, be it resolved that the Air Force Association urges the Administration and the Congress to reevaluate fiscal actions affecting American space activities so as to provide adequate funding for a continuity of development and progress in the national space effort.

POLICY RESOLUTION NO. 9: SUPERSONIC TRANSPORT

Whereas, the Soviet TU–144 supersonic transport has already met its Mach 2 design objective, and the British-French Concorde is progressing with its flight-test program; and

Whereas, the German Federal Republic plans to add its enormous economic and technological resources to a trinational program to develop an improved, follow-on version of the Concorde; and

Whereas, airlines traditionally have leaned toward single-source fleet procurement with the likely result that the absence of an American supersonic transport will substantially impair future sales of US-manufactured subsonic jet transports; and

Whereas, the long-time American preeminence in the world commercial aviation market and aeronautical technology stands in danger of being forfeited unless the United States proceeds with its often-delayed SST development program; and

Whereas, the benefits from such a program to the United States are estimated to include a worldwide sales potential of $20 billion by 1990, as well as direct and indirect advantages to the national security of this country; and

Whereas, all departments of the federal Government, without exception, have now fully endorsed the US SST program as vital to the national interest of the United States; and

Whereas, the United States trunk airlines have unanimously affirmed their need for a US SST and testified that the cancellation of the program would seriously compromise the meaningful development of US aeronautical technology;

Now, therefore, be it resolved that the Air Force Association urges the Congress to support, without further delay, a full-scale American SST prototype construction program leading to an actual production aircraft to retain this nation's aeronautical lead in the decades to come.

POLICY RESOLUTION NO. 10: SUPPORT OF THE ROTC PROGRAM

Whereas, the primary source of new officers for the active duty establishment continues to be the Reserve Officer Training Corps programs on the campuses of the nation; and

Whereas, the profession of arms is one of the oldest and most honored professions, and is an established and academically accepted curriculum in hundreds of colleges and universities in support of the defense of our nation; and

Whereas, ROTC programs are essential to the defense posture of our nation; and

Whereas, ROTC has become a prime target of disaffected students and faculty in a growing number of colleges and universities; and

Whereas, several colleges and universities have taken steps either to downgrade ROTC or to eliminate it altogether; and

Whereas, the best interests of our government and the people of the United States are served by support of ROTC programs in our colleges and universities; and

Whereas, the Air Force Association, through its affiliation with the Arnold Air Society, has consistently supported and endorsed the Air Force ROTC program;

Now, therefore, be it resolved that the Air Force Association strongly reaffirms its support of the ROTC program in general, and supports the current efforts of the Department of Defense and the Department of the Air Force leading to improved academic relationships with the colleges and universities where ROTC units are located.

POLICY RESOLUTION NO. 11: INCREASED SUPPORT FOR GUARD AND RESERVE FORCES

Whereas, under law and by tradition the National Guard and Reserve Forces exist to augment and supplement the active military forces of the United States; and

Whereas, past failures to so utilize the Guard and Reserve have resulted in undue dependence on the Selective Service System to fulfill the military manpower requirement; and

Whereas, the Secretary of Defense, in a Memorandum dated August 21, 1970, recognizes the Guard and Reserve as the "initial

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and primary source for augmentation of the Active Forces in any future emergency requiring a rapid and substantial expansion of the Active Forces";

Now, therefore, be it resolved that the Air Force Association commend the Secretary of Defense for his recognition of the vital contribution the Guard and Reserve can make to the Active Forces and, further, for directing the provision of the resources required to man and equip the Guard and Reserve at a level consonant with their increased responsibilities, and

Be it further resolved that the Air Force Association pledge its support in this effort.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows: Calendar No. 1135, Senate Joint Resolution 1, proposing an amendment to the Constitution of the United States relating to the election of the President and the Vice President.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

FEDERAL-AID HIGHWAY ACT OF 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside and, in accordance with the order of yesterday, that the Senate proceed to the consideration of Calendar No. 1272, S. 4418, the Federal-Aid Highway Act.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. Calendar 1272, a bill (S. 4418) to authorize appropriations for the fiscal years 1972 and 1973 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia?

The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. RANDOLPH. Mr. President, I ask unanimous consent that during the consideration of this bill, additional staff members of the Committee on Public Works be given the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, today, the Senate considers S. 4418, the Federal Aid Highway Act of 1970. This bill was reported to the Senate as a clean bill, in lieu of others, S. 4260 and S. 4055, that were considered in the committee. The report of a clean bill with cosponsors, had that been possible under the Senate rules, would have shown the cosponsorship of all the members of the Committee on Public Works, Senators COOPER, YOUNG of Ohio, MUSKIE, JORDAN of North Carolina, BAYH, MONTOYA, SPONG, EAGLETON, GRAVEL, BOGGS, BAKER, DOLE, GURNEY, and PACKWOOD in the reporting of this legislation for the consideration of the Members in this Chamber. The Senator from Utah (Mr. MOSS) has requested I ask unanimous consent that his name be added as a cosponsor of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, also I would want to give opportunity now, and during debate, for other Senators, if they so desire, to associate themselves with the purposes of this legislation by cosponsorship.

The Subcommittee on Roads, Mr. President, conducted 18 days of hearings on the measure that is before us today. These hearings were comprehensive and they were thorough, and covered a period of 5 months. We brought together witnesses from a broad spectrum of concern, interest, expertise, and knowledge, these persons represented Government, not only the Federal Government but State governments, and those representing organizations and, in some instances, so that we might have the feel of people generally, citizens who spoke for themselves, and presumably they addressed themselves to the interests of the public at large.

We heard testimony from 107 witnesses and we had filed with the subcommittee an additional 175 statements. Our witnesses, and I was grateful for this interest expressed by Senators, included 16 Members of the Senate. There were three Members of the House of Representatives. There were two State Governors. There were two territorial Governors, and there were mayors from two major cities.

We had representatives of industry, professions, trades, governmental and citizen organizations who helped us in the consideration of this legislation. In fact, even after the hearings had been formally concluded, we gave opportunity, as I believe we should when certain departures are made from the first bill presented, cause people to wish clarification. I want the record made very clear on this point, that I believe the dialog of democracy is well served when we continue as committees of the Senate to provide the opportunity for those persons who have an interest in the subject matter which later is to come before this Chamber, to have the opportunity of counseling not only other members of the subcommittee or the committee but also with the staff of the Committee on Public Works.

I think, from time to time, there has been criticism or implied criticism that when we have concluded the formal hearings, we close the door.

We have not done that in the Committee on Public Works, and it is not our purpose to do that.

Hearing all opinions, sharing with people their concerns, is the responsibility of a committee and the staff of a committee.

What we have done in the preparation of this legislation, as we develop the transportation of our country, we have done in the Committee on Public Works in reference to amendments to water pollution laws, to air pollution laws, and to solid waste disposal laws.

I use this time perhaps to press a point that I believe we often need to press; namely, it is understandable that in a committee we have executive sessions where members have the opportunity to finalize measures which are brought before us.

During that process, which may run several days, weeks, or months, I believe, that it is in the interest of the dialog of democracy and the workings of the legislative system that we provide those persons who want to talk with us and counsel with us the opportunity to do so.

Mr. President, this legislation, S. 4418, is a response to the new and the larger concept of highways as an increasingly important factor in shaping not only our transportation system but our national life.

The highway systems of our country, of varying sizes and types and extent, are the principal means of transportation millions of people on a continuing basis.

The movement of products from the factory, the movement of agricultural products from the farms, the commerce of the United States—people and products—all move over these roads.

The men and women who toil in the cities, often living in the country or the suburban areas, move to their jobs over roads.

The children in the mountains of West Virginia who come down out of the hills and the hollows move by bus which picks them up and then takes them to the school where they study.

The uses for our highway transportation system in this country are multiplying, and each Member of the Senate will have a specific case or specific cases for the value of roads, of highways, of transportation in the State he serves.

The Federal Aid Highway Act of 1970 is a continuation of Federal aid highway legislation. However, I would like to think of it not just as a continuation, Mr. President, but as a refinement of legislation that has been enacted into law during prior years. It recognizes—and I think quite properly so—the contemporary problems that are increasingly associated with highways.

The approaches that we are making in this legislation embody a sense of new thinking, of new ideas, and of purpose that has perhaps not been to emphasized to such a degree in measures that have been enacted in the past.

Mr. President, I want to underscore these words. I think it is absolutely necessary that we begin now to lay the groundwork for Federal aid highway programs in the years ahead, after we have completed the Interstate Highway System, which is now being constructed in the United States.

Mr. President, the Interstate System, the largest public works project which has ever been undertaken, is not expected to be finished until approximately 1977, possibly in 1978.

The pending bill attempts to avoid a prolonged period for completion of that system by establishing a deadline beyond which Federal participation in interstate construction at the present level will not be available. The committee received substantial testimony indicating that some highly controversial and expensive sections of interstate highways in our urban areas will not be built, thus reducing the cost and shortening the possible completion time for the entire system.

Members of the Committee on Public Works believe that the universal influence of highways requires that responsibility for their planning and construction be as broadly based as possible. The pending bill implements that conviction by giving to the Governors, to the mayors, and to the local authorities a greater voice in highway decisions, just as we gave a greater voice to people generally in the Federal Aid Highway Act of 1968 by the hearing process through which roads were programed for subsequent construction.

Mr. President, at this time I ask unanimous consent that the name of the Senator from Alabama (Mr. ALLEN) be listed as a cosponsor of the pending bill.

The PRESIDING OFFICER (Mr. EAGLETON). Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, as I stated at the beginning of my remarks, it is our hope that Senators not now listed as cosponsors request that they be so listed. We now have two Senators who have expressed their desire to cosponsor this legislation.

The influence of highways certainly extends to their effect on the environmental, the social, and the economic lives of all communities and all people of this country. The adverse impacts resulting from highway construction are dealt with in this legislation because we believe that that is our responsibility to the Congress and to the American people. We seek to assure that these impacts be minimized, overcome, and avoided.

Mr. President, there are innovative features in S. 4418. There are provisions to finance the highway beautification and safety programs from the highway trust fund.

This is a matter that the chairman felt was very important. That concern was felt equally by the very able ranking minority member of the Senate Committee on Public Works, the Senator from Kentucky (Mr. COOPER).

We are gratified that the committee followed the action of the subcommittee in the consideration of this matter and brought within the framework of the pending bill for the first time the financing of highway safety and beautification from the trust fund.

The committee believes that utilizing the resources of the trust fund will help both of these programs to have effective implementation.

What else does S. 4418 wish to accomplish? We extend authorization for the Interstate System through 1976, although it is believed that the system will not be completed before 1977 or 1978.

We maintain the funding at the present level of $4 billion a year.

This extension was approved with the full understanding that the Interstate System cannot be completed by 1976.

Senators will recall that when the Interstate System was brought into being, it was in the anticipation of the Congress that the system—41,000 miles, which has been since supplemented by an additional 1,500 miles—be completed by 1972.

There is no criticism implied because that target date cannot be accomplished. We have had increased costs of the manpower with which the roads are constructed. Machinery which is used has increased in cost. There have been increased costs for rights-of-way, for the necessary land acquisition. As with every public works project or with every private works program, it is necessary to extend the target date to a date beyond that originally set forth.

I think it is important also for Members of the Senate to know that by Presidential order we have had four cutbacks of the interstate highway program. The Senate has felt this is wrong; I feel it is wrong. I feel that the funds from the trust fund cannot be withheld, and so-called cushions established, because these cutbacks, rather than lessening the costs of our highways, will ultimately increase them. The Senate has seen fit to set forth its sense of disapproval of this action, an action which has been taken by both Democratic and Republican Presidents. These cutbacks, as I have indicated, have taken place over the past 4 years.

I think it is also interesting to note that originally we thought of the cost of this program as being much less than that which will now be necessary to bring it to completion. I recall so very well, as do my colleagues, that the original cost figure was $27 billion. It will cost more than $70 billion to do this job before we have completed the work. Just as it costs more and more for a Senator to operate his household, educate his children, and do all the necessary tasks that come to him in the rearing of a family, and as it is so in the case of persons who conduct businesses, who operate and manage plants, these prices escalate. I have no criticism. I think it is an understandable increase which has been necessary.

We know how important it was to have the trust fund, I say to the Senator from Kentucky (Mr. COOPER), because we have talked about this over and over again, as have members of the subcommittee and the committee. We would have had no splendid system of roads in this country had we not created the trust fund. Roads of all types, an inferior, hodgepodge, hit-and-miss system of roads would have crisscrossed America. This would not have served the purpose of the people of any State or any section of this country.

Mr. President, I have stated that there are varying dates when we think the Interstate Highway System can be completed. It is about 71 percent completed at the present time. Of course, much mileage is under construction and much mileage is in design stage. The information necessary for fixing a firm completion date, however, is not available as we talk about this measure today. Additional data will be provided to the Congress in 1973, and we should be able at that time to set the final completion date.

The bill also recommends authorizations, not only for the Interstate System, but for the ABC, or primary and secondary, roads program. The ABC authorizations will be at the present level of $1.05 billion for fiscal years 1972 and 1973, and authorizations for what we call Federal domain roads.

Another of the major provisions of S. 4418 is that creating the urban highway system, a new category of Federal-aid highways. The majority of the American people now reside in urban areas. I listened very carefully, as did some of my colleagues on the floor at the time, to the discussion of the population problem. The most recent census indicates that as the population continues to increase the people continue to live in urban and suburban areas. That is the reason that this innovative feature of the bill creates the urban program in the system of Federal-aid highways.

It is necessary to create an urban highway system in addition to what we have done in the past. In so doing I think we are responsive to the particular traffic problems and the requirements of those areas of concentrated population.

The urban highway system would be established in metropolitan areas of 50,000 persons or more, to better serve the internal flow of traffic within these areas.

To facilitate the completion of the Interstate System, S. 4418, proposes a 1973 deadline for States to decide on the construction or deletion of controversial segments of the system. This is something that needs attention.

Congress is aware—and we are going to have to be much more aware—of the inadequate and the unsafe condition of many of the highway bridges in this country. Frankly, there is an inability on the part of the States to embark on extensive replacement programs of these antiquated bridges. There are approximately 24,000 bridges that we can lump together in the category of inadequate, unsafe bridges. We can see, therefore, the seriousness of the problem. Therefore, in this legislation we have provided $150 million a year for a program of bridge replacement that is to last over a period of 3 years. We are not going to construct new bridges, but are going to replace unsafe and inadequate bridges, those which were not constructed for the present flows of traffic.

We have also felt that we should come

to grips with a related concern in our highway program. This is a particular concern of the cities, the metropolitan areas, the congested sections of our country. We have in the bill a provision that would give to the States authorization to provide housing for people. People certainly are the concern of this committee just as cement and mortar are a concern of the committee. We recognize our obligation to people because with every mile of road we lay, we lay a mile of road for people, to cement communities, to strengthen the fabric of our country. So when people are displaced by road construction, it creates a problem.

There are particular problems concerned with transportation, which were brought before the committee and the subcommittee, having to do with American Samoa. I hope I may be pardoned, when I think of American Samoa, for telling this story. Robert Louis Stevenson was a man of frail health, and upon the advice of physicians he went to live in those islands. It was believed that the temperature, the surroundings, the very air he would breathe, the quietude of that section could, if not restore his health, extend the years he would be privileged to be on this good earth. He lived there. He worked with people. And when the hour had come for him to stop his work, thought was given by the people to whom he had been a friend as to what kind of a memorial they could leave to Robert Louis Stevenson.

I think they decided on the right type of memorial. They constructed a highway in his memory. They called it the Road of the Loving Heart.

You know, Mr. President, there are people in this country, for reasons I am sure they believe pertinent and accurate, who think in terms of stopping the construction of highways. I think they do themselves a disservice. I think they do a disservice to this country as a whole when they believe that we must stop the road construction program of the United States—a program, I repeat, which serves people, which serves the movement of products to market, which serves our economy, and a good economy, which has resulted from the road programs of the United States.

We have the same problems in the territory of Guam and in the Virgin Islands as in American Samoa.

So we felt that we should create a reasonable and, we hope, a well-balanced territorial highway program.

Mr. President, the bill also authorizes the designation, under certain conditions, of primary highways as part of the Interstate System. A member of our subcommittee, the Senator from New Mexico (Mr. MONTOYA), especially knowledgeable in this field, may address remarks to this subject later in the debate.

To improve the supply of trained men in the highway construction industry, the Secretary of Transportation is authorized in S. 4418 to develop, to continue, and to administer equal employment opportunity programs.

At this point, I emphasize that charges have been made that in the construction industry and in the State highway commission, there has been resistance to programs that would give equal opportunity for employment in our highway program.

I think the charges are inaccurate. I do know that there has been concern, and understandably so. How can such a program be fitted into the type of construction involved in highways, where you gear up for a job to be done, and you work to complete it?

These are matters which have caused understandable concern, as there has been an attempt to widen and to strengthen equal employment opportunities within this program.

We have had a problem in this country which has been with us for a long time—the problem of our toll roads and the improvement of these facilities. There are toll roads in 15 States, with a total mileage of 1,153 miles, which have been designated a part of the Interstate System.

When the toll roads become a part of the Interstate System, they must be brought to interstate standards, as we can understand. So, in this legislation, we have done something that we believe is necessary. We considered it very carefully. We would authorize the use of Federal highway funds to improve those toll roads that I have mentioned in the 15 States when there is agreement to remove the toll as soon as existing indebtedness is retired.

Now I come to Washington, D.C., the National Capital city. The able Senator from Kentucky (Mr. COOPER) will discuss this problem in detail. I shall only review it lightly in this opening statement.

There are problems and controversies surrounding the construction of the interstate highways in the Washington, D.C., area. I think, if there is any subject that is well known to Members of the Senate as involving problems in the District of Columbia, it is this subject and its ramifications.

The committee hopes these problems can be resolved, and interstate construction can be completed in this growth area. In S. 4418 we include a section repealing that part of the Federal Aid Highway Act of 1968 which directed that specific segments in the District of Columbia be constructed.

We do not do that with States, and we in the past, and now with this provision continue to believe that highways in the District of Columbia should be considered as highways in States in matters of this type, and there should not be a mandate by Congress that a road go here or there. As Senator COOPER well knows, we did not wish to do that in the Federal-Aid Highway Act of 1968 in the Senate. That was in the House bill. But in the conferences, which extended over a long period of time, had we not yielded on this point—I did not want to yield, and the Senator from Kentucky did not want to yield—we would have had no Federal-Aid Highway Act of 1968. We would not have brought into being the features which give people a greater opportunity, in the terms of road construction. We would not have given to people the aid that we gave them as to relocation assistance when there was construction of a road and they had to be moved.

Within the District of Columbia, in the selection of routes and the determination of projects to be constructed, perhaps this will help to resolve the situation.

We would seek to revise the law dealing with this subject by repealing a part of the 1968 act.

Mr. President, we have also given additional thought to the problems of outdoor advertising, and of junkyards. We think that there could be more effective controls, and therefore in this bill we attempt to implement, those controls.

Our bill is based on extensive information, as I indicated at the outset, and we have directed attention to these highway programs during the past 12 months. The measure, Mr. President, attempts to cope with the highway construction program of the present. It looks to the future, when the Interstate System will be completed and we can focus our attention fully on the accumulated needs of this country.

I ask that Senators give very careful consideration to this bill. I ask that because I can say that never has there been a highway bill, that I have been concerned with, to which I have given more careful consideration. It was so when I was a member of the Roads Committee before the reorganization of Congress, as a Member of the House of Representatives, and it has been so as I have worked within the subcommittee and full committee on bringing this bill to the Senate today.

I know that the bill will have the thoughtful consideration, as it should, of the Members of the Senate, and I trust that the bill can be approved generally in the way we have brought it to the floor. I do not, of course, mean that amendments should not be considered and discussion should not take place. But I want Senators to know that in bringing this measure, S. 4418, before the Senate, we have something on which there has been detailed and extensive consideration.

It is my hope, and the hope of Senator COOPER, the ranking minority member of this committee, and all the members of the Subcommittee on Roads and the Committee on Public Works, that this measure be passed in the Senate.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. PROXMIRE. I have some questions with respect to this bill that I should like to ask the manager of the bill. But, first, I commend the Senator from West Virginia (Mr. RANDOLPH) on doing an excellent job in many respects with reference to this bill.

I understand that there is a potential saving of $4 billion, for example, if controversial segments of the Interstate Highway System are eliminated. That is part of the action taken by this committee and reflected in the bill. Is that correct?

Mr. RANDOLPH. Yes; the Senator from Wisconsin is correct. The $4 billion would be the saving.

Mr. PROXMIRE. It is also my understanding that there is an effort in this bill to meet the serious problem of air pollution, which is raised so well in the minority statement by the Senator from Maine (Mr. MUSKIE).

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On page 16 of the bill, lines 18 through 24, are some of the principal provisions in this respect. I will read them:

> The Secretary, after consultation with the Secretary of Health, Education, and Welfare, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for the implementation of any ambient air quality standard for air quality control region designated pursuant to the Clean Air Act, as amended.

What this provision seems to require is that, as these highways are proposed, there will be an analysis by the Secretary of Transportation, in consultation with HEW, to determine whether or not the construction of these highways would be consistent with the air quality standards.

What concerns me is that, as I understand it, we already have a very serious air pollution problem in our big cities. For example, as I understand it, in Chicago the analysis of the air indicates that the carbon monoxide during an average 8-hour period is about 45 parts per million and that any air quality standard would be between eight and 10 parts per million. This would suggest that any additional freeways constructed to serve Chicago would aggravate that problem. This would be true not only with respect to Chicago but also, I would think, with respect to virtually every city in the country—Los Angeles, New York, Philadelphia, Pittsburgh—almost all our cities.

So I wonder whether this is going to become an effective part of the act, whether the air-pollution problem is really going to be met here, whether the committee has any findings, any opinion on the part of the Secretary of Transportation or other experts, as to how strict a standard or effective a standard could be promulgated.

Mr. RANDOLPH. I am grateful that the Senator stresses this problem, because it is a problem not only in connection with this bill but one which we also face constantly in our committee in reference to air pollution legislation, to which, as the Senator knows, we have given very careful consideration through the subcommittee headed by Senator MUSKIE. Senator MUSKIE's thoughts in reference to this matter were incorporated in the pending measure.

There is some reason to believe that, at least at times, the construction of a freeway, rather than compound the problem, would relieve the problem. This is a matter which is not in controversy but on which there are varying viewpoints. There is a realization of the subcommittee and the committee that we cannot think in terms, as I said several times in my remarks, of the road-construction program without taking into account all these factors; and the point that the Senator is raising is a very important consideration.

I want to assure the Senator, as I am sure Senator MUSKIE would assure him if he were in the Chamber, that, insofar as possible, we are attempting to work not with the Federal Highway Administrator, not with the Department of Transportation, but with the agencies and departments of Government in the cooperative effort to lessen the air pollution which is, let us say, in degree an indirect result—and I spoke of it as the impact—which is not good, which often comes from congested areas, the urban areas, the metropolitan sections of our country.

Mr. PROXMIRE. I appreciate the Senator's answer very much.

What concerns me is that if we already have air pollution which is four to five times higher than a standard which is likely to be developed, it would seem to me to be difficult to justify additional freeways going in to serve the city. The Senator says that air pollution may be relieved by building freeways. I suppose if they are around the city, that could be true, perhaps. It results in faster moving traffic, and I understand that some elements of carbon monoxide are diminished as cars move faster, but nitrogen and lead are increased. But, as highways continue to be constructed, we are likely to have an aggravating problem unless in some way we can get at the air pollution problem not only by restraining the number of automobiles but also by some kind of positive contribution, perhaps made out of the highway trust fund, to help finance the diminution of air pollution which is caused so overwhelmingly by automobiles.

We did pass a good, tough, strong bill unanimously in the Senate a week ago, requiring the automobile industry to reduce pollution by 90 percent in the next 5 years, and I think that is going to be very helpful. But I think it would be shortsighted if at the same time we authorized a program that is going to cost billions of dollars that could counteract that, to some extent at least, by increasing the number of cars that would use our cties, that would move into our cities, that would surround our cities, which would tend to increase air pollution.

Mr. RANDOLPH. There is much validity in what the Senator says. I believe he would agree, however, that there is a certain measure of local traffic control which has to be fitted into any problem. This cannot be done from a point far away. The city itself, the governing body there, the cooperation of all units and semi-official citizen groups, must come together and think in terms of the uses to which such roads are put.

In the bill, we are giving special attention to the problem of our cities. This is done, I say to my colleague from Wisconsin, for the first time, really. Thus, we are conscious of what the Senator is saying, and saying most appropriately and helpfully.

Mr. PROXMIRE. I want to commend the Senator from West Virginia on the provision with respect to the District of Columbia. Inasmuch as I am chairman of the Subcommittee on the District of Columbia, I am interested, of course, in the District of Columbia—all of us are, as Senators—and I understand that the bill would restore to the residents of the Washington, D.C., metropolitan area the same prerogatives with respect to highway construction enjoyed by residents in other localities. There is needed improvement here and a fine contribution has been made to that need in this respect by the Senator from West Virginia.

Mr. RANDOLPH. I thank the Senator from Wisconsin. We know of his interest and his attention through the appropriation processes to matters of interest to the District of Columbia. It is a continuing interest. We are zeroing in on it as never before, as regards the problems of the National Capital.

Mr. PROXMIRE. The Subcommittee on Economy and Government, of which I am chairman, held hearings recently on the Nation's transportation problems, and issued a report. Our committee came to some conclusions on the highway program. In that connection, I have two brief recommendations of our subcommittee I should like to read and ask the Senator's reaction on.

First. We recommend that the executive branch provide Congress with more comprehensive analysis of the social costs and benefits of the Federal transportation program.

We did this because we felt that inasmuch as we have a trust fund, there has been a tendency to ignore the serious consequences of devoting the tremendous amount of resources, billions of dollars a year, to a highway program without knowing its social and economic consequences. We should evaluate those consequences in terms of the needs and resources in other areas.

We also recommended that Congress improve its capability for evaluating such information. Since existing authorizations for interstate highways extend to fiscal 1974, Congress would be well advised to defer consideration, to postpone action on further authorizations until more adequate analysis of social costs and benefits of further interstate highway expenditures could be made available.

We are concerned with the effect on housing, and of moving people required to be moved because of the highway system. We are also concerned with the effect that this could have on further deterioration of the cities. As we know, the cities have deteriorated badly since the Interstate Highway System has been developed. We are concerned with allocation, as I say, of billions of dollars to highway building, when housing and many other urgent needs of society are being neglected.

Mr. RANDOLPH. I know the Senator would not want to say that we are neglecting matters of housing and reallocation. We are coming to grips with those problems in this legislation. I do not say that we are doing enough. However, I do say that we are approaching the problems without timidity because we realize the problems and the needs.

I think the language we have used on page 15 of the bill, for example, stresses this where it states:

> Not later than two years after the publication of such guidelines, the Secretary shall not approve any plans and specifications for any such proposed project unless such plans and specifications are accompanied by a comprehensive analysis identifying the associated economic, social, environmental, and other adverse impacts of such proposed project and the plans and specifications include adequate measures for avoiding, minimizing or otherwise overcoming such adverse impacts in compliance with such guidelines.

We explored the questions of transportation finance, not just for highways, but in depth. The able Senator from Wisconsin is helpful in this discussion. We thought in terms of the bus transit pro-

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posal. This would have provided immediate relief. We have supported mass transit programs. We need something more than comprehensive planning or just a shifting of funds. There are many, many new highway needs that have to be met as we go along. The Secretary of Transportation is requested—and this is in the bill—to study the relationship of mass transit to highways. This would give us a truer picture of needs of roads and other forms of transportation. In other words, strike a balance between highways and mass transit.

It is very helpful, what the Senator is bringing to our attention.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I am going to propound a unanimous-consent request which has been cleared with the principal parties, I believe.

I ask unanimous consent that debate on any amendment, motion, or appeal, with the exception of a motion to lay on the table, and with the further exception of an amendment, possibly in the nature of a substitute, which may be offered by the Senator from Washington (Mr. MAGNUSON), be limited to 30 minutes, the time to be equally divided between the mover of the amendment and the manager of the bill, the Senator from West Virginia (Mr. RANDOLPH); there being one further exception, I believe, that exception being amendment No. 1005, to be offered by the Senator from Kentucky (Mr. COOPER), in which case the time be limited to 40 minutes, with the time to be equally divided between the mover of the amendment and the manager of the bill; to be ordered further, that time on passage of the bill be limited to 1 hour, with the time to be equally divided and controlled between the ranking minority member, the Senator from Kentucky (Mr. COOPER), and the manager of the bill; and provided further, that those Senators, or either of them, may allot from such time on passage of the bill additional time to any Senator during consideration of any amendment.

XUM

Mr. RANDOLPH. Reserving the right to object—and I shall not object—it has been my privilege to discuss this proposed limitation of time for amendments and for discussion of the measure. I ask my colleague from Kentucky if this arrangement is agreeable to him.

Mr. COOPER. Yes. I have discussed it with the Senator from West Virginia (Mr. BYRD) and I have told him that it would be agreeable to me, if it would be agreeable to the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. I thank the Senator from Kentucky.

The ACTING PRESIDENT pro tempore (Mr. METCALF). Is there objection to the request of the Senator from West Virginia (Mr. BYRD)? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I wish to thank the able manager of the bill, the ranking minority member, the minority leader, and the Senator from New Mexico (Mr. MONTOYA) for their cooperation.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. RANDOLPH. Mr. President, I am now giving opportunity for the Senator from Wisconsin (Mr. PROXMIRE) to question me on the bill.

Mr. PROXMIRE. I will make these further questions as brief as I can. I believe that the answer the Senator from West Virginia has given me is most helpful but what concerns me is that what is provided in the bill is prospective, before we will go ahead and authorize the sums and will authorize the programs to continue. But we will be asked in the future that some kind of guidelines, some analysis with respect to the social and economic impact, and so forth, be made available. But what I was concerned about is that we already have a program, going through 1974. I was hopeful that we would be able to get an analysis before we had votes on the pending bill. I am not going to vote against the bill or try to hold it up.

But I think that if we are going to move ahead and provide more billions of dollars for highway construction, we ought to know what we are doing, what effect it will have on housing, what effect it will have on our cities, and what effect it will have in many other areas, knowledge that we do not have at this time.

The ACTING PRESIDENT pro tempore. The Chair is in doubt of where the time is coming from. Is the time coming from the bill?

Mr. RANDOLPH. Mr. President, I ask unanimous consent that 5 minutes be taken from the time on the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, we believe that analysis will be completed under the terms of the bill, I would say to my helpful friend, the Senator from Wisconsin, before 1974. That is our belief. I am certain that would be true.

Mr. PROXMIRE. Mr. President, I would hope that this analysis would provide for the kind of benefit-cost analysis that is reducible as much as possible to figures so that we can determine whether we should go ahead or whether costs will exceed benefits and we should not proceed. We have nothing of that kind now.

This kind of analysis is not engaged in by the Transportation Department. I would hope they would give us that kind of analysis. We would then know when we go ahead with this kind of program in the future what we are doing. We could invest the public money with knowledge not blindly.

Mr. RANDOLPH. Mr. President, the chairman would seek to impress those who do have the analysis within their control that they should do their best.

Mr. PROXMIRE. Mr. President, finally, our committee recommended that transportation expenditures should be subjected to all the usual procedures of budgetary review. Congress should take such legislative action as is required to provide for the orderly but expeditious phasing out of the highway trust fund and the return to the financing of transportation expenditures out of general revenues.

This was disputed by some members of the committee. It was not the unanimous recommendation of the committee. Maybe there is some way in which we can do this without ending the highway trust fund, but we need some way in which we can balance our priorities and determine whether we should go ahead with this program.

Maybe it is a better investment than health or housing or education. Maybe it is not. Our decision is based on an analysis through which we can compare the wisdom of going ahead with the highway program or not going ahead with it. Should these funds stay with the taxpayer, should they be expended for some other purpose or should we go ahead with the highways?

I wonder if the Senator could suggest some way in which we could do that.

Mr. RANDOLPH. Mr. President, I wish I could be definitive. I suggest there is this total need. There is a need for a commitment to many facets of our society and the well-being of our people. I share with the Senator the need for a reordering of our priorities.

I have been thinking in terms, as I know he has been, of what will happen if defense plants shut down and there are hundreds and thousands of persons unemployed. There should be available on the shelf those projects that could be moved quickly to construction and fruition.

Oftentimes that should take the form of health facilities, hospitals, and a wide range of programs of construction. There might be reason also to construct many forms of transportation other than highways. However, it would be my feeling that we had better be prepared in this country for something that could happen more quickly than we think and cause tremendous unemployment.

In the public works program, and not just the highway program, we have of course dozens of programs, as the Senator knows.

I appreciate the scrutiny with which the Senator examines these programs. I think we should evaluate what we are doing in the highway program.

Mr. PROXMIRE. Mr. President, the Senator could not speak at a more appropriate time. The fact is that 45 minutes ago the Bureau of Labor Statistics released the information that 5.5 percent of our people are out of work. That is the largest number of people who have been out of work since 1964.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. RANDOLPH. Mr. President, I yield myself an additional 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator is recognized for an additional 2 minutes.

Mr. PROXMIRE. Mr. President, this is a time when we should be concerned with how we are going to put these people to work. I do not make any suggestion here that we should stop the highway program. That would be counterproductive in view of the unemployment in our economy. However, we ought to have some way.

The Senator from West Virginia suggested in the committee that bus lanes be constructed and other mass transportation assistance be provided. This would be a way of helping to move into the mass transportation area without really deteriorating in any way the highway trust fund. That suggestion was rejected by the committee.

Mr. RANDOLPH. The Senator is correct.

Mr. PROXMIRE. I hope that the committee will take another look at that suggestion.

Mr. RANDOLPH. I also hope so.

Mr. PROXMIRE. That was a constructive proposal. Unless we can find some way of meeting these very real and badly neglected priorities in our cities——

Mr. RANDOLPH. Mr. President, I must interrupt the Senator at that point. I do not want the Senator to be under a misapprehension.

I had a two-pronged proposition. The bus lanes are provided in the bill. The subsidization features relating to the upgrading of the equipment was not approved.

Mr. PROXMIRE. I felt that the original proposal of the Senator from West Virginia was a very sound proposal. I hope that the committee will accept it next year.

I want to thank the Senator very much as I think he has done a fine job on the bill. I intend to vote for it. But I hope that in the future we realize that if we evaluate the priorities sensibly and rationally, we should find some way to get at effective economic analysis of the enormous amount of money we are spending in this bill. We are not doing it at the present time.

Mr. RANDOLPH. Mr. President, the chairman of the committee—and I hope I speak for the members of the committee—is generally in agreement with what the Senator from Wisconsin has expounded here in the Senate. I promise that I shall give increased attention to the subject matter he has discussed. I hope that I may be able to discuss it more fully with him in person than I have in the past.

I think these are matters that we cannot lightly put aside. I think they are matters of genuine concern. We cannot run away from the problems the Senator has presented. There is no sanctuary in which we can hide. We must come to grips with the problems.

I want to join with the Senator from Wisconsin in doing that job.

Mr. PROXMIRE. Mr. President, the Subcommittee on Economy in Government of the Joint Economic Committee has recently conducted a study of the way in which we make our transportation expenditure decisions. In August we issued a report on this subject. One of our recommendations was that there be no further authorizations for the interstate highway system at this time. We made this recommendation for the following reasons:

First, existing authorizations already extend into fiscal 1974, which seemed to us ample time for advance planning of an efficient highway program.

Second, we have at this time totally inadequate information regarding the social costs and benefits of the remaining segments of the interstate system. There is no question that some of the remaining segments are inordinately expensive and that more efficient and more socially desirable ways of meeting our transportation needs are available. But we have far from a complete picture of which remaining parts of the designated interstate system can really be justified and what they will actually cost. By authorizing funds so far in advance, we remove any incentive to really come to grips with the difficult questions of sorting out necessary from unnecessary highways.

I continue to find the arguments against further interstate authorizations at this time persuasive. I expressed these views to the Roads Subcommittee of the Public Works Committee when I testified before them last June. The subcommittee afforded me a most cordial reception. I know that the members of that subcommittee share my concern for developing a highway program which is less costly, more efficient, and more in keeping with what our communities really want. This concern is reflected in the many fine provisions of the bill which is presently before us.

However, I do not share the committee's conclusion that it is necessary to authorize funds through 1976. I would have liked very much to have introduced an amendment to limit the authorizations to a shorter period of time. I recognize, however, that because it is late in the session, because we have had so little time to study this bill and, above all, because the economic interests behind the highway program are so powerful, so aggressive, and so effective, such an amendment would have been a futile gesture.

In the next session of Congress it is imperative that we begin early in the session to work vigorously on the measures we must take in order to develop a balanced national transportation system. We must do something about the highway trust fund, which has become, in my opinion, a monstrous barrier both to a balanced transportation system and to a sensible fiscal policy. We must develop means of financing transportation investment which will give us the flexibility to make intelligent choices between different kinds of transportation. This means we must stop segregating funds and marking them "for new highway building only." I know that Senator RANDOLPH and other members of the Public Works Committee attempted to provide in this bill for at least some modest broadening of the uses of trust fund money, so as to give some support to public transportation systems. But this effort was beaten back, which only illustrates again how powerful are the forces behind the highways.

The Subcommittee on Economy in Government has recommended phasing out the highway trust fund and financing transportation investment out of general revenues, as we did before 1956. This seems to me the best way of bringing expenditures back under congressional control. Other Members of Congress, I know, have other proposals they wish to see fully considered. This whole question must be faced up to urgently in the next Congress. There is starting to be much talk of "the post-interstate highway program." This is the wrong approach. We must think in terms of the "post-interstate transportation program." We must recognize that there are alternatives to highways, alternatives which our citizens, especially those in urban areas, desperately long to see introduced, evaluated, and funded on an equal footing with highways.

At the same time that we plan for post-interstate transportation needs, we must also be sure that the interstate program is brought to an end. There are some who would like to see it go on forever. Better to pave the country solid, they believe, than to cause any painful readjustments in the cement industry. I want to commend the Public Works Committee for introducing into this bill a definite timetable for planning and construction of the remainder of the Interstate System. I hope the timetable will be strictly adhered to, and that it will have its intended effect of getting some of the more horrendously expensive and environmentally destructive segments of the system eliminated. The committee points out in its report that there is a potential saving of $4 billion if controversial segments of the system are eliminated. I hope this saving will be realized. We in Congress must be alert to see that it is.

The committee is also to be commended for introducing provisions requiring highway plans to adequately solve problems of environmental impact. I am disappointed, however, that this provision will not become fully effective before July 1974. Perhaps I might inquire of my distinguished colleague from West Virginia (Senator RANDOLPH) whether there is not some way this timetable could be speeded up?

I want to further commend the committee for the provisions in the bill which would restore to residents of the Washington, D.C., metropolitan area the same prerogatives respecting highway construction which are enjoyed by residents of other localities. This provision is badly needed.

Because this bill contains these several very fine provisions, I intend to vote for it, even though I continue to regard the interstate authorization provisions as, at best, unnecessary at this time, and, at worst, an added incentive to inefficiency and overinvestment in highways.

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. RANDOLPH. Mr. President, I was engaged in a discussion with other Senators at the time the unanimous-consent agreement was entered into. Would the Chair inform me of the unanimous-consent agreement?

The ACTING PRESIDENT pro tempore. Any amendment or motion has 30 minutes, 15 minutes to a side.

The amendment of the Senator from Kentucky (Mr. COOPER), amendment No. 1005, will have 40 minutes, 20 minutes to the side.

In the event the Senator from Washington (Mr. MAGNUSON) offers a possible substitute, there will be no time limitation on his amendment.

On the bill there is 1 hour. That time can be used on amendments or after third reading or in any other way.

Mr. RANDOLPH. Mr. President, I yield the floor.

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Mr. PEARSON. Mr. President, in June of this year I introduced the Rural Development Highways Act—S. 3986. The objective of this proposed legislation is to encourage a more balanced geographical distribution of the Nation's people and industry, and to generally promote the economic development of our rural communities through more effective use, location, and design of the federally aided highways system.

We have come to realize that the migration of more and more people into the already overcrowded and overburdened metropolitan centers will magnify the crisis that plagues the great cities. We cannot solve the problems of urban America unless we also solve the problems of the farm and smalltown America. We must expand the economic, social, and cultural opportunities in rural communities so that more people will have the choice or living outside the metropolitan centers.

The Rural Development Highways Act—S. 3986—is based on the proposition that the location and design of highways can be an important factor in rural community development.

Mr. President, I am pleased that the Senate Public Works Committee has taken note of the importance of rural community development by providing in section 10(h) of the Federal-Aid Highway Act of 1970 that priority be given to projects on the Federal-aid secondary system which will encourage the economic and social development of rural communities.

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The rural development section of the bill before us today does not go as far as I would like but, nevertheless, the fact that such a provision is included in the bill represents another forward step in the overall rural development effort that reflects a recognition of the special importance of highways in the economic growth of small communities. It serves to dramatize the needs of rural areas and provides a basis for a more comprehensive rural development highways program in the future. Therefore, I commend the committee for adding this provision to the bill.

Mr. MONTOYA. Mr. President, before this bill moves to final passage I want to take the opportunity to commend the distinguished Senator from West Virginia (Mr. RANDOLPH) and the distinguished Senator from Kentucky (Mr. COOPER) for the exceptionally fine work they have put forth on this bill as chairman and ranking Republican, respectively, of the Public Works Committee. They have worked long and hard, have held extensive hearings, have suffered criticism and questioning with great patience, and have produced a good bill. The Subcommittee on Roads is a dedicated subcommittee, and all of its members have worked diligently to produce this bill. Members traveled all over this country to hold hearings and discuss the needs of our Nation's people.

I want to point out the close cooperation we on this side of the aisle have had from the Senator from Kentucky (Mr. COOPER). He has displayed great cooperation with all of us. In fact, I should point out that the relations among all members of the subcommittee and full committee have been most amiable. This is one of the outstanding characteristics of the Public Works Committee, and I am pleased to be a member of such a group.

The hearings and committee sessions have been as detailed and informative as any I have participated in. All members of the committee are to be congratulated on their efforts in forming this bill and bringing it to the floor.

AMENDMENT NO. 1005

Mr. COOPER. Mr. President, I call up my amendment No. 1005 and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from Kentucky (Mr. COOPER) proposes amendment No. 1005 as follows:
>
> On page 36, beginning on line 16 strike out all through line 5 on page 38.

The language sought to be stricken is as follows:

> ADDITIONS TO INTERSTATE SYSTEM
>
> SEC. 24. The existing language of section 139 of title 23, United States Code, shall be designated as subsection (a) and a new subsection (b) added as follows:
>
> "(b) Whenever the Secretary determines that a highway on the Federal-aid primary system would be a logical addition or connection to the Interstate System and would qualify for designation as a route on that system in the same manner as set forth in paragraph 1 of subsection (d) of section 103 of this title, he may upon the affirmative recommendation of the State or States involved designate such highway as part of the Interstate System. Such designation shall be made only upon the written agreement of the State or States involved that such highway will be constructed to meet all the standards of a nighway on the Interstate System within twelve years of the date of the agreement between the Secretary and the State or States involved. The mileage of any highway designated as part of the Interstate System under this subsection shall not be charged against the limitations established by the first sentence of section 103(d) of this title. The designation of a highway as part of the Interstate System under this subsection shall create no Federal financial responsibility with respect to such highway except that Federal-aid highway funds otherwise available to the State or States involved for the construction of Federal-aid primary system highways may be used for the reconstruction of a highway designated as a route on the Interstate System under this subsection. In the event that the State or States involved have not substantially completed the construction of any highway designated under this subsection within the time provided for in the agreement between the Secretary and State or States involved, the Secretary shall remove the designation of such highway as a part of the Interstate System. Removal of such designation as result of failure to comply with the agreement provided for in this subsection shall in no way prohibit the Secretary from designating such route as part of the Interstate System pursuant to subsection (a) of this section or under any other provision of law providing for addition to the Interstate System."

Mr. COOPER. Mr. President, I yield myself 3 minutes on the bill, to speak generally and to comment upon the chairman's statement.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 3 minutes.

Mr. COOPER. Mr. President, the chairman made a very constructive and comprehensive statement on the bill, S. 4418. I commend him for his thorough discussion of the bill. Our committee, under the chairmanship of the Senator from West Virginia, conducted the best and fullest hearings I can remember in all the years I have been on the committee.

Senator RANDOLPH deserves great credit for his leadership and for the guidance which he provides us and all involved in the highway program, from the benefit of his experience and, I may say, his keen awareness of the changing moods of the country and the expressed desires to reorder national priorities. All members of the committee have made a contribution, and the committee staff, both majority and minority, has devoted conscientious effort to the development of this bill.

As the chairman noted, this bill has several new and innovative sections which will deal with problems in the highway program which must be met. I call especial attention to one provision Senator RANDOLPH discussed at some length, the Federal-aid urban system, which would enable the cities to study their own transportation problems and make initial recommendations to improve the flow of traffic throughout the cities.

There are many other sections of the bill about which I would like to speak but the chairman has done such a thorough job I will not do so at this time. I know some Members of the Senate have appointments and they are anxious to meet them. The provisions of the bill are well described in the Committee report. And I may say that in my individual views and supplemental views contained in the report I discuss several of the problems which are met in this bill.

I would mention also that I see in the Chamber Mr. Berry Meyer, Committee counsel, and Miss Adrien Waller, professional staff member, who have worked hard for months on this bill.

Now, Mr. President, I yield myself 5 minutes on the amendment, No. 1005.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 5 minutes.

AMENDMENT NO. 1005

Mr. COOPER. Mr. President, my amendment would strike section 24 of the bill. Section 24 of the bill would authorize the Secretary of Transportation to designate as an interstate highway, any existing road which would be a logical addition or connection to the Interstate System and make the State responsible for rebuilding such a road to Interstate System standards within 12 years. No financial obligation would be established on the part of the Federal Government, beyond that which is required for primary road construction.

My opposition to section 24 grows from the fact that this amendment to title 23, the Federal-aid highway law, would permit the interstate designation of roads which have not been constructed to interstate highway standards. There is no assurance other than the statement of the State that it would, if it could, build the road to those interstate standards within 12 years.

Mr. President, there is a section in the law now, which is a very proper one. Section 16 of the Federal-Aid Highway Act of 1968, Public Law 90–495, provides that "Whenever the Secretary determines that a highway on the Federal-aid primary system—and this is the important thing—meets all of the standards of a highway on the Interstate System and that such highway is a logical addition or connection to the Interstate System, he may, upon the affirmative recommendation of the State or States involved, designate such highway as a part of the Interstate System. The mileage of any highway designated as part of the Interstate system under this section shall not be charged against the limitation established by the first sentence of section 103(d) of this title. The designation of a highway as part of the Interstate System under this section shall create no Federal financial responsibility with respect to such highway."

Originally there were 41,000 miles of limited-access highways established as the Interstate System. Some 200 miles were allowed to make necessary changes, particularly around our cities. In 1968, Congress added 1,500 miles to the Interstate System. The law requires that these highways shall be constructed to certain specifications, with the highest quality construction, that they include safety features such as four lanes divided by a median, limited access, wide shoulders, which have made the Interstate System a much safer system than the primary, secondary, or urban highways. The law is that if a State, using its own money, builds a highway to interstate standards, the Federal Government can then accept that section as part of the Interstate System and so designate it.

The section of the bill which I opposed in committee and have moved to strike out, would enable a State to have a segment of road designated as an interstate highway, and as part of the Interstate System when, in fact, it is not. It would enable a State to have a portion of its road system designated and represented as being built to interstate highway standards when, in fact, it would not meet such standards.

The Department of Transportation opposes this section on several grounds: First, that it would be a danger, in that people using our national road systems to travel through the country look at their maps and see a section of road designated as an interstate road and expect the same safety features on that section as the law now provides on a true interstate highway. Instead, they would find themselves on a road that does not meet the safety standards of the Interstate System.

Further, while under the section as here presented, there is no obligation upon the part of the Federal Government to provide any funds to build that section as a part of the Interstate System, in fact there would be increasing pressure from the States to add so-called interstate mileage—and then to federally finance its reconstruction. That would happen.

Mr. President, it will be at least 1978 or 1979 before the present designated mileage can be constructed and the National System of Interstate and Defense Highways completed, even without extensions. I do not think this section should be allowed to remain in the bill.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. COOPER. Mr. President, I yield myself an additional 2 minutes.

To mark 10 miles or 15 miles, or 50 or 100 miles, of a State highway as being on the Interstate System, and to lead people to believe it has been constructed to Interstate standards, would simply be saying to people something which is not true. That is exactly what this section would do.

In addition, it could create additional danger for travelers and motorists.

Also, the section requires no firm commitment on the part of a State to ever bring it up to standards and make it truly part of the Interstate System.

Mr. President, that is all I have to say on the subject at this time. But I say again that if we put into law statements which mislead the traveling public, I think we venture on a very bad course.

Mr. MONTOYA. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. I yield 7 minutes to the Senator from New Mexico.

Mr. MONTOYA. Mr. President, I fully appreciate the position taken by my good friend from Kentucky with respect to this particular provision. I know how jealous he has been of the original concept with respect to the Interstate system and of retaining it. I, too, have tried to be jealous about this provision in the hope we could retain the original concept substantially.

But it was in 1947 that this concept was developed, and reaccentuated in the act of 1956, I believe. During the consideration of this bill, we had some public hearings in different parts of the country. I presided over many of those hearings. We had hearings here in Washington.

It was the general feeling, reflected in those hearings, that the existing act now on the statute books locked the Interstate System so that there was no flexibility and no opportunity for many communities which had grown and which were or could be a part of a Federal system. They could not come in because of the inflexible, locked situation presented by the existing law.

Because of that fact and because of the hearings, we provided and drafted section 24 of the proposed bill. This section has importance for all of the Nation, and particularly for U.S. 70 in my own State of New Mexico. Many other areas and States would be involved—New York, Georgia, Nevada, Texas, Pennsylvania, and many others.

The designation of highways as interstate highways under the present law is of crucial economic importance for communities, yet the mileage limitations of the present law do not allow for expansion of the Interstate System. In 1968 the law was amended, but only 1,500 miles of road were added. There is simply not enough to meet the legitimate growing needs of our country.

So what avenue has been open to States and communities who desperately needed to have highways designated as interstate so that they might make the economic plans and reap the economic benefits of such designation? Under present law, the highway can be built to interstate standards and then, years after the effort, the planning, the expense, have been expended by the State and these communities—then and only then can these roads be designated as interstate highways.

In other words, under the present system, millions upon millions of dollars have to be expended by the States, hoping they will qualify after they petition the Secretary of Transportation to designate these highways as interstate highways.

Under this provision, the States petition the Secretary of Transportation to designate these highways as interstate highways and a certain plan is submitted for construction and upgrading of that particular highway. If within 12 years that is not done to the satisfaction of the Secretary of Transportation, that designation is eliminated.

I say the present system in the existing law is unfair. These people should be able to enjoy the economic benefits now, not in 12 or 15 years. Such benefits and plans can be crucial to the development of communities. If a State is willing to use regular Federal funds and its own State funds to upgrade a section of highway to meet the standards of an interstate highway, and makes an agreement to do so, then it should enjoy the benefits of entering into this agreement now, not later.

The Subcommittee on Roads heard testimony from all parts of this Nation in support of this section of the bill. Georgia, Nevada, New York, Texas, and Pennsylvania all expressed their desire to see this portion of the bill enacted. I am sure that many other States might choose to use the provisions of this section, and they will do so to the benefit of all involved.

No one loses from the provisions of this section. I want to make that very clear. States are merely given some flexibility in deciding the best expenditure of their Federal and State Highway funds. No new highways will come under the 90-percent Federal funding of the Interstate System.

There have been some complaints that this provision would lead to deception toward the public, and that they would be deceived into believing that the highways that would be brought into the Interstate System by this section of the bill are now presently built to meet the interstate standards. But the committee has already made provision for this. Page 8 of the committee report recommends that such highways be given a special road sign and marked accordingly on road maps. This allows us to deal honestly with the public and also allows

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the communities along the highways to attract industry and benefit from the fact that they will be upgrading their highway.

The ACTING PRESIDENT pro tempore (Mr. METCALF). The time of the Senator has expired.

Mr. MONTOYA. Mr. President, I ask unanimous consent to have 1 additional minute.

Mr. RANDOLPH. I yield 1 minute to the Senator from New Mexico.

Mr. MONTOYA. Mr. President, there seems to be little reason to object to this provision. In fact, the provision put in the bill by the committee is an incentive to the States to upgrade their highways so they can qualify as interstate highways, whereas right now, without that particular designation, the highway departments are going to have to dedicate their funding to other interstate highways that cross the States.

I say a good incentive is provided by this section in the bill. I hope the rest of my colleagues will agree that the committee action is sound; that the provision will help many parts of the country; that the provision will be of benefit to many communities that are now far away from the existing Interstate System. I hope the Senate will concur in the action and recommendation of the full committee.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. COOPER. Mr. President, I yield myself 2 minutes.

I can only repeat the statements I have already made in opposing this provision. I have regard for my friend from New Mexico. He is so interested in maintaining this section in the bill that he flew back to Washington to be here today to speak for it. Yet I must oppose the section for the reasons I have stated.

There is an Interstate Highway System which has been designated by the States and the Federal Government. Additions to that system have been made from time to time—1,500 additional miles in the bill of 1968.

I would suggest that a better way to answer the problem of the Senator from New Mexico would be for us to take forthright action and add mileage to the Interstate System—increase the mileage of roads to be built on a 90–10 basis—90 percent to be paid for by the Federal Government and 10 percent by the State. But we will not take that course at present, I believe, because the system originally designed to be constructed in full by 1972, will not be finished until 1978, if at that time. Also, the costs have risen tremendously.

A provision added to the law in 1968 enables a State to add certain mileage to the Interstate System if the highway is constructed to the standards of the Interstate System. The Senator from New Mexico (Mr. MONTOYA) says that if we merely designate some of those roads as interstate roads, they will attract traffic and business. But I do not think they will, if the tourists, and the motorists that go to such a stretch of road, hoping to find an interstate road, simply find a primary or secondary road. I cannot see how that would really help a State at all. I should think it could be harmful to the reputation of a State for good roads, and very dangerous to motorists.

I cannot see the logic of adding sections of State roads to the Interstate System when, in fact, such roads do not need the interstate highway standards.

I do not like to see the Committee on Public Works, or the Senate or the House, placing in a Federal-Aid Highway Act provisions which really, as I said a while ago, do not represent a correct statement of the nature and construction of a highway. I think it would be a disservice to the Senate to retain this section of the bill, because it would constitute a bad precedent.

So, with all due regard to my good friend from New Mexico, I urge that this section be stricken.

Mr. President, I ask for the yeas and nays on the vote.

Mr. COOK. Mr. President, will the Senator yield?

Mr. COOPER. I yield 2 minutes to my colleague from Kentucky.

Mr. COOK. Mr. President, I would like to ask, if this section stays in the bill and the Senator's amendment is not successful, would it not then logically follow that all road maps that would be printed and distributed through all of the filling stations, the American Automobile Association, and all of the other associations that drivers belong to, would show all of these roads marked as interstate roads, if they are accepted and so designated, and that literally hundreds of millions of the traveling public would read these maps and see them marked as part of the Interstate System, and rely on their being up to the standards and caliber of the portions of the Federal system they are used to traveling throughout the country today?

Mr. COOPER. The Senator is correct. They would be labeled as part of the Interstate System, but would not, in fact, be part of the high-speed, limited-access Interstate System.

Mr. COOK. And the States could continue to have hundreds of miles of two-lane roads that would be designated as part of the Interstate System, and the traveling public could really be given a fast shuffle for almost 12 years?

Mr. COOPER. That is correct. Carried to its logical conclusion, though, I doubt it would happen, as the Senator has said, the States could just keep on requesting designation of roads they like, roads they think would induce development if designated as part of the Interstate System. It would make a shambles of the whole National Highway System—interstate, primary, secondary, and all.

I think the Senator's question is a very apt one, and he has illustrated the problem very well.

Mr. COOK. I thank the Senator.

Mr. RANDOLPH. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has 12 minutes remaining.

Mr. RANDOLPH. I yield myself such time as I may require.

Mr. President, I have great respect for my colleague the senior Senator from Kentucky. I also have, of course, great respect for the junior Senator from Kentucky (Mr. COOK). But what has been going on here is inaccurate colloquy, and I say that very kindly.

When the junior Senator from Kentucky asked the senior Senator from Kentucky if such and such was not true, the general agreement seemed to be that it was true, in reference to these so-called inadequate roads being scattered all over the country.

We have made a specific provision here in the report, to which I call attention, on page 8, and I shall read it:

> In order to avoid confusion to the traveling public, the Committee directs the Secretary when he agrees to such additions to require that maps and other references to such routes carry a special designation so that such prospective additions to the system will not be referred to as completed and up-to-standard portions of that system.

Mr. COOK. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. COOPER. Will the Senator yield one moment to me, on my time?

Mr. COOK. Go ahead.

Mr. COOPER. Mr. President, the Senator and I work together, and we have the highest regard for each other, but I must insist that what I have said is correct.

Of course, the Department of Transportation could put different signs on segments designation under section 24. I did not say anything about signs in discussing my amendment to strike that section. What I have said is that we would be telling the people of the country that they are on an interstate highway, or can get to an interstate highway, when in fact that is not the case.

The very language my good friend quoted just illustrates the problem:

> In order to avoid confusion to the traveling public, . . .

It is not only the signs which cause confusion; it is the fact that people believe they will be on the Interstate System.

The language of section 24 speaks of the designation of highways as a part of the Interstate System. The Senator from New Mexico described them that way. I think the question of the junior Senator from Kentucky was to the point, and I agree with him.

Mr. RANDOLPH. Mr. President, I yield myself 2 additional minutes. I want to be very much in good humor on this matter. I never said that such and such would take place. I simply referred to what Senator COOK had said and had implied, that we would be constructing such a system of roads, designating such a system of roads throughout the country.

In the language of the report, we say:

> The amendment which the Committee recommends for approval does not require any particular additions. It does, however, give an opportunity for the people of various communities to seek through their State Governments additional designations of Interstate routes. This provision follows the adoption of an amendment in the Federal Aid Highway Act of 1968, which allows highways built to Interstate standards to be added, when the Secretary of Transportation finds that such additions are in keeping with the purposes of the basic authorizing legislation.

I now read, with special emphasis, this language:

> It should be stressed that no Federal commitment to fund construction of these specific new routes would be made and that the States would have to agree to build such routes to proper geometric and design standards within twelve years of their being added to the system.

Mr. COOK. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield, gladly.

Mr. COOK. The reason that I asked the Senator to yield is because he just stated that the Federal Government could take into the system an interstate highway that had been constructed by a State, that met all the criteria, that came up to all the standards. That is a positive thing. That is an affirmation of a fact. It is there already put down; we can take it in because we can utilize it the minute we designate it, because it is built to all the standards.

This is a negative approach. It says we are going to designate something which has not been there, that we have no logical reason, other than that, in a 12-year period, a State might be able to do that.

In my State, that would be through the terms of three Governors, because a Governor cannot succeed himself. We would undertake to make a designation of a highway as to which we really have no honest knowledge whether it will ever be built to those standards.

I get back to my question about the maps. What do we do? Designate them with an additional letter, mark them yellow, mark them amber, or how do we do this on a map, for the traveling public?

Mr. RANDOLPH. Mr. President, I yield myself 2 minutes.

I do not think that the approach of those of us who favor this language in the bill and are against the amendment is negative in any sense. I ask my colleague, the junior Senator from Kentucky, to hear what I now say, because he has directed certain questions to me.

Mr. COOK. Yes, sir.

Mr. RANDOLPH. It is not a problem in the Eastern and urban sections of the United States. In the more rural sections of the Northwest, the Southwest, and the Middle West, however, there are areas where the isolation is very real, where communities have been left out of the Interstate System. They need the opportunity—and I use the word very advisedly—to be economically competive, at least in part, as we think in terms of the future in reference to the continuation of the highway program.

Mr. COOPER. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 6 minutes remaining.

Mr. COOK. Mr. President, will the Senator yield me 2 minutes?

Mr. COOPER. I yield 2 minutes to the Senator.

Mr. COOK. I say in reply to the Senator from West Virginia that I could agree with him. I think my State finds itself in that position. It has floated hundreds of millions of dollars worth of bonds to build toll parkways, and we live in that kind of State. But I think what is being done is to make something out of the National Defense Interstate Highway System that was never intended, when we talk about the problems of those communities, and many of those communities are in my own State.

I dislike to use the word, but I think the apparent subterfuge in this in the language starting on page 37, at line 19:

> In the event that the State or States involved have not substantially completed the construction of any highway designated under this subsection within the time provided for in the agreement between the Secretary and State or States involved, the Secretary shall remove the designation of such highway as a part of the Interstate System.

What that really says is that a State can have some of its secondary and primary roads designated as part of the Interstate System for 12 years and, having done nothing about it, they are automatically removed. The only people who really have been fooled in all this are the millions of traveling Americans who see a designation of an interstate highway, who take it, and find themselves on a two-lane road, with culverts on each side, with no guardrails, with stop signs, with speed traps, with everything in creation, across the United States; and in essence they have been sold a bill of goods.

Mr. RANDOLPH. I do not believe there is subterfuge in the provision within the committee bill. I do know that during the period of the construction of the Interstate system there has been growth in many of these areas of the Southwest and other sections, where the only reason why a community or an area is not on an interstate system is that there is no more mileage in the Interstate System.

Why is this not then a very reasonable way to accomplish what we seek? It does not vitiate the strength of the Interstate System, but it does bring about a certain flexibility during a period of years of transition which I think is very important and which will help areas of this country.

Mr. COOPER. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. TALMADGE. Mr. President, I rise in opposition to the pending amendment.

I wish to congratulate the chairman, Mr. RANDOLPH, and the other members of the Public Works Committee on the fine job they have done in reporting S. 4418. Their action demonstrates a full awareness of the need to expand our Interstate System while, at the same time, adapting it to the changing economic, social, and environmental considerations of the coming decades.

The committee has removed the major barrier to an effective beautification program by providing financing through the highway trust fund. Also, the committee has recognized the need to aid our cities in developing better urban highway systems. These are but a few of the progressive and farsighted improvements that the committee bill would make in our Interstate Highway System.

Mr. President, it has become fashionable in many circles to attack the Interstate Highway System as an unwise use of tax dollars. The phrase, "building roads to nowhere" has become a popular one. I believe that such a view is extremely shortsighted and against our national interest.

While I feel that we must devote more of our resources to urban mass transit and other pressing social problems, I do not feel that we can afford to do less for our Interstate Highway System.

On September 17, the Senate passed H.R. 18546, which commits the Congress to achieve a sound rural-urban balance. In approving title IX of the general farm bill, an amendment offered by Senator DOLE and myself, it recognized that continued congestion of our urban areas is making them unliveable as well as ungovernable. A pertinent part of title IX reads:

> The Congress is, therefore, committed to a sound balance between rural and urban America. The Congress considers this balance so essential to the peace, prosperity, and welfare of all our citizens that the highest priority must be given to the revitalization and development of rural areas.

Our Government will have to do a great many things if we are to achieve a sound rural-urban balance, if we are to reverse the trend of rural outmigration. Certainly, one of the most fundamental and basic requirements of population dispersal is a transportation system which will allow the fastest possible movement of people, goods, and services between urban centers and outlying areas.

Each time I travel down Interstate 75 in my own State, I am impressed by the tremendous economic growth which is occuring in the small towns and communities that are in close proximity to this newly constructed interstate highway.

If we are to make a serious effort in population dispersal and in the development of the potential for economic growth in rural areas in Georgia and other States, we are going to need a great many more four-lane, limited access highways. We will have to build numerous connectors and extensions of the Interstate Highway System.

For this reason, I believe the Senate should reject the pending amendment which would strike from the committee bill the authority for the Secretary of Transportation to approve the applications of State governments for additional designations of interstate routes.

A group from my own State testified before the committee in favor of this provision. This group, the Tri-State Interstate Connector Association, seeks to gain designation of an interstate route between Columbia, S.C., and Tallahassee, Fla. In my statement for the committee hearing record, I emphasized that this route would be a boon to the economic development of an area that lags well behind the national average in per capita income. As I stated, it would be a tremendous stimulus for growth for several small towns which are struggling to attract industry that is badly needed to provide employment for displaced farmworkers.

Of course I recognize that there is a pressing need not only to gain designation of new interstate routes, but to fund routes already designated. For a number of years, the citizens of Columbus, Ga., which is the site of Fort Benning, have

XUM

sought construction of an interstate route through their city. It is indeed unfortunate that this route has not yet been funded.

Mr. President, I urge that the Senate reject the pending amendment and affirm the committee's position on the expansion and improvement of our Interstate System.

Mr. COOPER. Mr. President, I yield back the remainder of my time.

Mr. RANDOLPH. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Kentucky. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. Bayh), the Senator from North Dakota (Mr. Burdick), the Senator from Nevada (Mr. Cannon), the Senator from Connecticut (Mr. Dodd), the Senator from Mississippi (Mr. Eastland), the Senator from Louisiana (Mr. Ellender), the Senator from Tennessee (Mr. Gore), the Senator from Michigan (Mr. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Iowa (Mr. Hughes), the Senator from Hawaii (Mr. Inouye), the Senator from Washington (Mr. Jackson), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from New Hampshire (Mr. McIntyre), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), the Senator from Georgia (Mr. Russell), the Senator from Virginia (Mr. Spong), the Senator from Missouri (Mr. Symington), the Senator from Maryland (Mr. Tydings), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I also announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Rhode Island (Mr. Pell), the Senator from Alabama (Mr. Sparkman), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) are absent because of official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. Cannon), the Senator from Louisiana (Mr. Ellender), the Senator from Washington (Mr. Jackson), the Senator from New Hampshire (Mr. McIntyre), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), the Senator from Missouri (Mr. Symington), and the Senator from New Jersey (Mr. Williams) would each vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senator from Utah (Mr. Bennett), the Senator from New Hampshire (Mr. Cotton), the Senator from Colorado (Mr. Dominick), the Senator from Hawaii (Mr. Fong), the Senator from New York (Mr. Goodell), the Senator from Florida (Mr. Gurney), the Senator from Maryland (Mr. Mathias), the Senator from Nebraska (Mr. Hruska), the Senator from California (Mr. Murphy) and the Senator from Illinois (Mr. Smith) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) is absent on official business.

The Senator from New York (Mr. Javits) is necessarily absent to observe a religious holiday.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from South Dakota (Mr. Mundt) and the Senator from California (Mr. Murphy) would each vote "nay."

The result was announced—yeas 21, nays 35, as follows:

[No. 349 Leg.]

YEAS—21

Allott
Baker
Boggs
Brooke
Case
Cook
Cooper
Curtis
Dole
Goldwater
Griffin
Hansen
Hatfield
Jordan, Idaho
Pearson
Percy
Saxbe
Smith, Maine
Thurmond
Tower
Williams, Del.

NAYS—35

Allen
Anderson
Bible
Byrd, Va.
Byrd, W. Va.
Church
Cranston
Eagleton
Ervin
Fannin
Fulbright
Harris
Holland
Hollings
Long
Magnuson
Mansfield
McCarthy
McClellan
McGovern
Metcalf
Miller
Mondale
Montoya
Nelson
Packwood
Proxmire
Randolph
Ribicoff
Schweiker
Scott
Stennis
Stevens
Talmadge
Young, N. Dak.

NOT VOTING—44

Aiken
Bayh
Bellmon
Bennett
Burdick
Cannon
Cotton
Dodd
Dominick
Eastland
Ellender
Fong
Goodell
Gore
Gravel
Gurney
Hart
Hartke
Hruska
Hughes
Inouye
Jackson
Javits
Jordan, N.C.
Kennedy
Mathias
McGee
McIntyre
Moss
Mundt
Murphy
Muskie
Pastore
Pell
Prouty
Russell
Smith, Ill.
Sparkman
Spong
Symington
Tydings
Williams, N.J.
Yarborough
Young, Ohio

So Mr. Cooper's amendment (No. 1005) was rejected.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIBLE. Mr. President, I applaud the Senate's decision to support the Public Works Committee's inclusion in this Federal-Aid Highway Act of 1970 of section 24 authorizing additions to the Interstate System.

The record before the Subcommittee on Roads includes a strong appeal by the National Highway 50 Federation and representatives of my State of Nevada for legislative authority to permit the extension of Interstate Highway 70 from its deadend in western Utah through points in Nevada to Sacramento, Calif., and a compelling proposal to upgrade transcontinental U.S. Highway 50 in any future highway improvement program.

Testimony establishing a strong case for these developments was presented at hearings held in Carson City and Ely, Nev., which included support for these projects by many representatives not only from Nevada but from California, Utah, and Colorado as well.

I will not detail the reasons why these projects should be moved forward promptly. The details are in the hearing record, and available to the Department of Transportation. I am convinced that the record demonstrates beyond doubt that enormous economic good would result from the proposed extension of Interstate 70 and the inclusion in the Interstate System of U.S. Highway 50.

Section 24 of S. 4418 recognizes that but for the mileage limitations imposed by the basic law many communities which were not eligible for interstate connections when the system was laid out in 1947 and revised in 1956 and 1968 would now be eligible for such connections. It recognizes that location on or near an interstate route has a major effect on the future of communities and their social, economic, and industrial growth. And it recognizes the importance of permitting communities and States to request and have designated the inclusion of highway segments in the Interstate System in aid of and to properly facilitate their growth and development.

Section 24 of this bill is without question an overdue step in the right direction. Again, I applaud its retention in the bill. I realize that the bill does not require the designation of any particular additions to the Interstate System. However, in view of the strong case that has been made for the extension of Interstate 70 from western Utah to California, and for the designation of U.S. Highway 50 as a part of the Interstate System, I call upon the Department of Transportation to recognize the compelling advantages of these proposals, and to move with dispatch to make them a reality.

Mr. BOGGS. Mr. President, I wish to express my support for S. 4418, the Federal-Aid Highway Act of 1970. This bill serves as another step in making the world's best highway transportation system even better.

Senators Randolph and Cooper, the distinguished chairman and ranking minority member of our Committee on Public Works, have been most eloquent in detailing the thoughts of the committee, on which I have the honor to serve. They have discussed the creation of a Federal-aid urban highway system, which is an important concept. They have discussed the need to evaluate more effectively the economic, social, and environmental aspects of highway projects.

Their leadership on these points and many more has been most helpful to the Members. This leadership has enabled the committee to find which, I believe, to be the most reasonable approaches to an extension of the highway legislation. I commend them.

There are two aspects of the bill that I wish to comment on briefly. The first involves section 27 of the bill, altering the formula under which allocations are made to the States for support of highway safety programs.

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This is an excellent program and the proposed addition placing the primary emphasis on population within a State for setting the allocation is a reasonable one. The committee also establishes a minimum allocation to any State of one-third of 1 percent of the funds available for this program. This language was added to assure that our smaller States can cover certain basic costs for an effective highway safety program. Specifically, the minimum of one-third of 1 percent will increase funds available to the States of Alaska, Delaware, Hawaii, and Vermont, as well as the District of Columbia.

For the first time, the funds for the highway safety program will come from the highway trust fund, rather than general revenues. This also is an important step. Highway safety is an integral and necessary aspect to any highway construction program; it is only logical that the trust fund be utilized to make our roads safe.

The minimum allocation and the use of the trust fund will guarantee that smaller States, such as my own, will be able to plan ahead from year to year toward implementing an effective safety program. This has not been so in the past.

During the current fiscal year, Delaware's allocation under the safety program was slashed by $40,000. This reduction forced a discontinuation of new funds for emergency medical services, a sharp curtailment of efforts to improve driver education, and a slowdown in other programs.

Personally, I have been very encourager by Delaware's progress with its highway safety efforts in the past several years. The program has led to improvements in the driver education programs available in schools throughout my State. It has supported the training of many law-enforcement officers in courses in accident investigation and traffic safety. It has financed the training of emergency medical teams to save lives on our highways. It has helped finance the purchase of a helicopter for use as an ambulance, in accident investigation, and highway patrol work, and in other traffic-safety-related projects.

Such highway-safety expenditures, matched dollar for dollar by the State and other Delaware agencies, are wise expenses. By insuring a viable program in each of our States through use of a minimum allocation formula and funding from the trust fund, we make certain that this money will be spent well.

A similar concept is incorporated into section 5 of the bill, which amends section 104(b)(5) of title 23. This provision insures that no State will receive in a single year less than one-half of 1 percent of the total funds appropriated for the interstate program. This will assist a number of States, which otherwise would find it difficult to maintain a meaningful level of construction activity in coming years, largely because of the rapid progress these States have made in building their share of the Interstate System. States that will benefit from this new formula include, Delaware, Idaho, Nebraska, Nevada, New Hampshire, and North Dakota.

Again, Mr. President, I wish to express my strong support for S. 4418. The improvements it brings to the Federal Highway program are important ones. I commend this legislation to my colleagues.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT—CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I send to the desk a cloture motion and ask that it be read.

The ACTING PRESIDENT pro tempore. Under rule XXII, the clerk will state the motion.

The legislative clerk read the cloture motion, as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the pending resolution of the Senator from Indiana (Mr. BAYH)—proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

Hugh Scott, Mike Mansfield, William Proxmire, Philip A. Hart, Joseph M. Montoya, Thomas F. Eagleton, James B. Pearson, George McGovern, Lee Metcalf, Jennings Randolph, Marlow W. Cook.

Robert P. Griffin, Gaylord Nelson, Edward W. Brooke, Richard S. Schweiker, W. B. Saxbe, Walter Mondale, Eugene McCarthy, Clifford P. Case, Warren G. Magnuson.

FEDERAL-AID HIGHWAY ACT OF 1970

The Senate continued with the consideration of the bill (S. 4418) to authorize appropriations for the fiscal years 1972 and 1973 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

Mr. MANSFIELD. Mr. President, I yield 5 minutes on the bill to the junior Senator from Alaska.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized for 5 minutes.

Mr. STEVENS. Mr. President, I would like to support the Federal Aid Highway Act of 1970 as a bill of great importance to our Nation. The authorization provided in the pending bill would move us ever nearer to completing the greatest network of highways ever conceived, our Interstate Highway System.

I particularly want to pay a debt of gratitude on behalf of the State of Alaska to the chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH), the ranking minority member of the committee, the Senator from Kentucky (Mr. COOPER), and also particularly to my good friend, the Senator from Delaware (Mr. BOGGS).

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The ACTING PRESIDENT pro tempore. The point of order is well taken. The Senate is not in order. The Senator will not continue until the Senate is in order.

The Senator from Alaska may continue.

Mr. STEVENS. Mr. President, I thank the Chair.

In addition to authorizing funds for the Interstate System, the 1970 Highway Act contains provisions of significance to my State of Alaska. Alaska is the only State in the Union in which there are no interstate highways. As a result we have not participated in the major portion of highway funding over the past several years. This year the Public Works Committee included a provision which would allow each State to receive at least one-half of 1 percent of the interstate funds. However, because Alaska had no interstate highways on which to spend the money, we would not have been able to use our share. I wrote to Senator RANDOLPH on August 12 and explained this inequity to him. I asked the chairman if it would be possible to include in the Highway Act a special authorization equal to our share of interstate money—approximately $20,000,000 annually. The Highway Act of 1970 provides for a special authorization for Alaska of $20 million for each of the fiscal years 1972 and 1973. This money is critically important to my State, which has more land and fewer miles of highway than any State in the Union. I am very pleased that the chairman has seen fit to accept that recommendation.

I also explained to the chairman in a letter of August 28 that the State commissoner of highways was very interested in obtaining equality for our State under this new Highway Act.

Mr. President, because of the rugged terrain and extensive inland waterways of the Alaskan southeast, we rely on a system of ferries—called the Alaskan marine highway system—to handle the traffic that would normally ride the highways. I have been working ever since I came to the Senate to have the Alaska marine highway system included in the Federal-aid highway program. On February 2 of this year I asked the Senate to include the marine highway system in the urban mass transit bill. I was told at that time that the system should be in the highway program. So I cosponsored a bill with my colleague, Senator GRAVEL, to include the ferries in the Federal-aid highway program. That bill was introduced on August 5 and has been incorporated in the Highway Act now before us.

I also cosponsored legislation to pave the remainder of the Alaska Highway. That bill was introduced June 12, 1969. Provision for negotiation between the Canadian and U.S. governments on paving the Alaska Highway is made in the Highway Act.

The Federal-Aid Highway Act of 1970 contains the most comprehensive treatment of Alaska's highway problems ever attempted by Congress. It is a great bill because of the evenhandedness and fairness with which it treats all States, including my State of Alaska.

I wish to support the bill again and to commend the members of the committee. The people of Alaska owe their thanks to the great work done in this committee, Senator RANDOLPH, Senator COOPER, and Senator BOGGS on this landmark bill. I am certain that were my colleague from Alaska present today, he

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would join me in thanking the members of the committee. As a member of this committee, he deserves a great deal of credit for the work that it has done.

Mr. President, I ask unanimous consent that my letters of August 12 and August 28, 1970, to the chairman of the Committee on Public Works and a copy of my bill S. 933 be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

August 12, 1970.

Hon. Jennings Randolph,
Chairman, Committee on Public Works, U.S. Senate, Washington, D.C.

Dear Jennings: Thank you for your recent letter inviting my cosponsorship of the Federal-Aid Highway Act of 1970. I am most happy to join with you in cosponsoring this measure.

After reviewing the bill, I noticed that the interstate program will now carry with it a requirement that a minimum of one-half of one percent of the total funding go to each state. I certainly consider the goal of this provision laudable; however, the State of Alaska will be the only state which will not participate in these funds. This results, of course, in the fact that we do not have any interstate highways on which to spend the money.

It would seem logical, therefore, that a special provision permitting Alaska to use its allocation on its primary and secondary systems should be included. This was done in the Highway Act of 1966, which included a special provision authorizing appropriations of $14 million annually for each of the fiscal years 1968 through 1972. Our share of the interstate funds of $4 billion per year would be approximately $20 million annually. It would therefore seem appropriate to include a special authorization of an additional $6 million for fiscal year 1972 thus bringing the total for that year to $20 million and an authorization of $20 million for fiscal 1973.

I would very much like to see this special authorization included in the bill you will introduce next Monday.

With best wishes,
Cordially,

Ted Stevens,
U.S. Senator.

August 28, 1970.

Hon. Jennings Randolph,
Chairman, Public Works Committee,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I recently wrote to you concerning a special authorization for the State of Alaska in lieu of participation in the Interstate Highway System. At the same time, I wrote to the State of Alaska's Department of Highways for material explaining why this authorization was needed and how the funding, if made available, would be used.

I enclose a letter from Commissioner Robert L. Beardsley, explaining our highway program for the next two fiscal years. In particular, the specific jobs for fiscal 1971 have been set out for your information.

At the conclusion of Commissioner Beardsley's letter, he quotes a telegram he sent me explaining how he would like to see the State of Alaska's participation authorized. I would appreciate the Committee considering the Commissioner's proposal. If that is not acceptable, I would appreciate consideration of the proposal made in my letter of August 12, a copy of which is attached.

I am looking forward to hearing from you on this matter soon.

With best wishes,
Cordially,

Ted Stevens,
U.S. Senator.

S. 933

A bill to vacate and relinquish the reservation of rights-of-way for certain purposes made pursuant to section 321(d) of title 48, United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any right-of-way for roads, roadways, highways, tramways trails, bridges, and appurtenant structures reserved by section 321(d) of title 48, United States Code (61 Stat. 418, 1947), not utilized by the United States or by the State or territory of Alaska prior to the date of enactment hereof, shall be and hereby is vacated and relinquished by the United States to the end and intent that such reservation shall merge with the fee and be forever extinguished.

Mr. GRIFFIN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. Nelson). The amendment will be stated.

The legislative clerk read as follows:

On page 21, between lines 8 and 9 insert a new Section 15 as follows and renumber succeeding sections:

Sec. 15. Section 129 of Title 23, United States Code, is amended by adding new subsection (g)(1) and (2):

"(g)(1) The amount of Federal Aid Highway funds paid to the State of Michigan for the construction of the bridge and approaches thereto over the St. Clair River at Port Huron, Michigan, shall, prior to the collection of any tolls thereon be repaid to the Treasurer of the United States. The amount to be repaid shall be deposited to the credit of the appropriation for 'Federal Aid Highways (Trust Fund.' Such repayment shall be credited to the unprogramed balance of Federal Aid Highway funds of the same class last apportioned to the State of Michigan. The amount so credited shall be in addition to all other funds then apportioned to said State and shall be available for expenditure in accordance with the provisions of Title 23, United States Code, as amended.

"(2) Upon the repayment by the State of Michigan of the Federal Aid Highway Funds received for the said Bridge project, the Bridge and its approaches shall become and be free of any and all restrictions contained in Title 23, United States Code, as amended, or in any regulation thereunder, with respect to the imposition and collection of tolls or other charges thereon or for the use thereof, provided such tolls or charges do not exceed the amount necessary for the proper maintenance, repair and operation of the bridge and its approaches under economical management."

Mr. GRIFFIN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. GRIFFIN. Mr. President, I have discussed this amendment with the distinguished Senator from West Virginia (Mr. Randolph) and the ranking minority member of the committee, the Senator from Kentucky (Mr. Cooper).

Both have indicated to me that they see merit in the amendment and are willing to accept it.

Mr. President, I have a letter from the Office of the Secretary of Transportation addressed to Representative James Harvey of Michigan, who represents the district which includes the Blue Water Bridge, which explains the amendment and indicates that the Department of Transportation has no objection. I ask unanimous consent that the text of the letter be printed at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Office of the Secretary of Transportation,
Washington, D.C., May 5, 1970.

Hon. James Harvey,
House of Representatives,
Washington, D.C.

Dear Mr. Harvey: This is in response to your letter of April 13 to Mr. Baker requesting a further clarification of our position on H.R. 6001, a bill which would permit the State of Michigan to reimpose tolls on the Blue Water Bridge during any period when Canada imposes tolls.

Our major objection to the measure was, and continues to be, its conflict with long-standing United States bridge policy, now embodied in 23 U.S.C. 129. This policy provides that direct Federal participation in the cost of constructing a toll bridge or its approaches is conditioned on the bridge becoming toll free when the construction bonds have been repaid.

The project agreement of June 8, 1938, between Michigan and the Federal Government, contained a provision substantially identical to the provision of law in 23 U.S.C. 129. Thus, Federal participation was conditioned on the bridge becoming toll-free after amortization. Nevertheless, the legislation authorizing the bridge (49 Stat. 1067) provides that after amortization of the cost of the bridge and its approaches, "such bridge shall thereafter be maintained and operated free of tolls, *or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management*". (Emphasis supplied)

It would appear, then, that if the State of Michigan were to authorize the repayment of the Federal highway funds involved in the project, the reason for the inclusion of the toll-free condition in the project agreement would no longer exist. In that case, we would have no objection to the reimposition by Michigan of tolls on the bridge during periods when Canada imposes tolls, and no additional legislation would seem to be necessary to enable the State of Michigan to so reimpose such limited tolls.

The repaid amount would be credited to the Highway Trust Fund and added to the unprogrammed balance of highway funds available to Michigan for projects of the same class. A similar procedure was followed in the State of New Jersey to allow for the reimposition of tolls on sections of the Garden State Parkway (section 20, Federal-Aid Highway Act of 1968, 82 Stat. 815).

I trust this clarifies our position on your measure, but if you have any further questions, please do not hesitate to contact me.

Sincerely,

James A. Washington, Jr.

Mr. GRIFFIN. Mr. President, as I indicated earlier to the Senator from West Virginia, I have discussed this matter with the ranking minority member of the committee (Mr. Cooper) and he is willing to accept it.

I yield now to the chairman of the committee.

Mr. RANDOLPH. Mr. President, the able Senator, the assistant minority leader of the Senate, has explained the reasons for his amendment. It is a unique problem but not an unprecedented one and it is a matter that we, as a Senate Committee, would agree to take to conference. Therefore, I support the amendment. The Congress has on other occasions in the past permitted the return of Federal funds in such situations. Two

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which come to mind, involved the State of Connecticut and the States of Maryland and Delaware.

Mr. GRIFFIN subsequently said: Mr. President, I want to make this statement at this time, only because it has to do with the debate and deliberations of the Senate earlier today on S. 4418.

It will be recalled that the junior Senator from Michigan offered an amendment on page 21 to add language with reference to a bridge over the St. Clair River at Fort Huron, Mich. I want to ask unanimous consent that my senior colleague from Michigan (Mr. HART) be added as a cosponsor of that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I also want to indicate that although my colleague from Michigan (Mr. HART) is absent from the Senate today, he very much supports the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. GRIFFIN. I yield back the remainder of my time.

Mr. RANDOLPH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

Mr. BOGGS. Mr. President, I send to the desk an amendment on behalf of the Senator from New York (Mr. JAVITS) and the Senator from Maine (Mr. MUSKIE).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BOGGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment offered by Mr. BOGGS, on behalf of Mr. JAVITS and Mr. MUSKIE, is as follows:

On page 51, line 24, insert the following as a new section:

"SEC. 35. Notwithstanding any other provisions of title 23 to the contrary, the Governor of a State may utilize any funds apportioned to that State for any fiscal year under this title for construction of Interstate highways within an urban area with a population of fifty thousand or more in such State, to construct alternative public transportation systems to serve such area, if the Governor determines that such alternative public transportation systems are necessary in the public interest. Federal participation in the cost of constructing such alternative transportation systems shall not exceed the Federal pro rata share applicable to the construction of Interstate highways. Funds shall not be expended for such alternative public transportation systems if after public hearing the Governor receives negative recommendation of any major or city council, county board or other equivalent duly constituted authority with jurisdiction over such area, or if the alternative public transportation system is not consistent with any applicable comprehensive transportation plan for the area. Funds available under this section may be expended for acquisition of land rights-of-way, construction or acquisition of track, buildings, or other facilities, and acquisition of rolling stock, vehicles or other equipment for publicly owned systems.

"(b) The Secretary of Transportation shall promulgate regulations prescribing what shall constitute an urban area with a population of fifty thousand or more."

Mr. BOGGS. Mr. President, the amendment I have sent to the desk is submitted to S. 4418 on behalf of the distinguished senior Senator from New York (Mr. JAVITS), who is necessarily absent to observe a religious holiday. The amendment which the Senator from New York has prepared, and on which the Senator from Maine (Mr. MUSKIE) has joined, authorizes the diversion of certain funds in the highway trust fund for use in the construction of such things as mass transportation systems. This amendment is similar to one that was offered in committee by the Senator from Maine (Mr. MUSKIE). That amendment was considered by committee, but not included in the bill.

The amendment the Senator from New York (Mr. JAVITS) has suggested would allow construction of an alternative public transportation system if a Governor makes the determination that such an alternative is necessary in the public interest and important to a more efficiently balanced transportation system for the area.

It is the thought of the Senator from New York (Mr. JAVITS) that the transportation needs of many of our urban areas could, in some cases, be more effectively met by the use of highway funds on such things as mass transit systems.

Mr. President, I have discussed the amendment with the chairman of the committee and the ranking minority member, the Senator from Kentucky (Mr. COOPER). I would appreciate the comments of the distinguished chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I yield myself such time as I may desire.

The PRESIDING OFFICER. The Senator is recognized.

Mr. RANDOLPH. Mr. President, the knowledgeable Senator from Delaware, a member of the Committee on Public Works, presents this amendment not for himself, as he indicated, but for the Senator from New York (Mr. JAVITS) and the Senator from Maine (Mr. MUSKIE). The Senator from Maine is an active member of our committee.

The individual views of the Senator from Maine (Mr. MUSKIE) are incorporated in the report to the Senate on S. 4418, Senate Report 91–1254. We went into this matter very thoroughly in the committee, as the Senator from Delaware knows. I do not wish to deprecate the efforts of the Senator from Maine (Mr. MUSKIE) but he had no support in the committee at the time, so he accepted the situation. But the Senator from Maine and the Senator from New York, and perhaps others, wished that the matter be made a part of the colloquy here and the proposal has been introduced as an amendment. I would hope the amendment would be withdrawn.

I would like to read for the RECORD what the Senator from Maine said in the conclusion of his individual views in the report:

> During the first session of the 92d Congress, I shall propose major revisions in the Federal highway program—intended to make the program more responsive to the transportation needs of all Americans. I hope other members of the Senate will offer similar suggestions, and that the committee will consider ways of making the highway program more consistent with efforts to insure a livable environment.

Mr. President, what the Senator from Maine said is what all members of the Committee on Public Works would and do say. As we make these changes, as we are creative and innovative, we recognize we cannot do the job all at once, so we are attempting to approach it in steps in a constructive way.

I am grateful to the Senator from Delaware for pursuing the matter as he has during the debate.

Mr. BOGGS. I thank the distinguished chairman. I wish to ask the chairman if in the next session of Congress it is contemplated we will have hearings in committee on this subject.

Mr. RANDOLPH. I would not want to say categorically we will have hearings in the next session but I will certainly say in the next Congress, although it could well be in the first session.

Mr. BOGGS. I thank the distinguished Senator for those words of assurance that hearings on the subject covered by this amendment undoubtedly will be held in the next Congress, and very likely in the next session. Secretary of Transportation Volpe has in the past expressed the thought that the idea of a broad transportation trust fund needed to be explored, and I believe Senator JAVITS would consider that hearings by the Committee on Public Works would be most useful and helpful in evaluation of this subject.

Mr. President, I therefore ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment.

The amendment is withdrawn.

Mr. BOGGS. I thank the Senator.

AMENDMENT NO. 1006

Mr. COOPER. Mr. President, I call up my amendment No. 1006.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. COOPER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 33, line 6, insert "(a)" following "SEC. 20." and after line 13 add a new subsection (b) as follows:

"(b) Section 134 of title 23, United States Code, is further amended by adding '(a)' at the beginning thereof and a new subsection (b) as follows:

"'(b) The Secretary shall, as soon as practicable, define those contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation systems to efficiently accommodate present transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary shall by regulation designate, for administrative and planning purposes, as a critical transportation region or a critical transportation corridor each of those areas which he determines most urgently require the accelerated deveolpment of transportation systems embracing various modes of transport, in accordance with purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary shall, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, including highway planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and shall provide assistance including financial assistance to such bodies. Funds authorized pursuant to section 307 of this title for research and planning may be utilized for the purposes of this subsection.'"

Mr. COOPER. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 5 minutes.

Mr. COOPER. Mr. President, I am joined in offering this amendment by the chairman of our committee, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maine (Mr. MUSKIE), and the Senator from Kansas (Mr. DOLE).

For the last several years there has been a great deal of discussion in the Committee on Public Works, and I am sure in other committees of the Congress, about the necessity of devising means to solve the problems of duplication, waste, and lack of efficient transportation.

This year in our hearings in the Committee on Public Works, Secretary of Transportation Volpe said that the Department is conducting studies and making surveys, and he hoped that by 1972 at the latest he would be prepared to suggest legislation to Congress to meet the urgent question of the necessity of a balanced system of transportation, taking into account all modes of transportation, and the formulation of a national transportation plan and policy.

The Federal-aid highway law now provides, in section 134 of title 23, that the Secretary shall, in cooperation with the States, conduct surveys and make studies to plan comprehensive transportation systems in metropolitan areas of over 50,000 population, these critical areas of our country where over 70 percent of the population resides. After hearing this testimony, not only from the Secretary of Transportation, but also from Senators and Members of Congress, from officials of the State of New York and New Jersey, and others along the Atlantic seaboard, among them the Governor of Maryland, it seemed to me we should not be required to wait before making a start on this very serious problem.

I offered to introduce the amendment, which I shall read, in the committee. But being advised that there might be a question of appropriate jurisdiction, as between the Public Works Committee and the Committee on Commerce, out of courtesy, I decided not to pursue it in committee, but rather to introduce it on the floor.

I want to read the amendment, because I think it clearly states the purpose and the objective which we are trying to reach:

> (b) The Secretary shall, as soon as practicable, define those contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation systems to efficiently accommodate present transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary shall by regulation designate, for administrative and planning purposes, as a critical transportation region or a critical transportation corridor each of those areas which he determines most urgently require the accelerated development of transportation systems embracing various modes of transport, in accordance with purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary shall, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, including highway planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and shall provide assistance including financial assistance to such bodies. Funds authorized pursuant to section 307 of this title for research and planning may be utilized for the purposes of this subsection.

Mr. President, I am not from an urban area. I am from a rural area. I do not claim to understand the problems of our great urban centers, but for several years I have heard Governors of States such as New York, Maryland, Illinois, and other urban States speak of the duplication of the modes of transportation. If studies could be made to determine whether a highway or a busline or an interurban system or a rail system could be utilized in a balanced way to better meet the needs of that area, there could be a great saving. It would eliminate duplication and waste, and would provide the best possible means of bringing persons and goods into and out of urban areas.

Mr. President, my amendment is a modest start. The authority resides in the act today for the Secretary to require planning and surveys but only in metropolitan areas, not in corridors which could include both urban and rural segments. This proposal carries it a step further to provide that he shall immediately consult with officials of broader areas which have critical transportation needs and then establish planning bodies to begin to tackle this problem.

I do not believe we can wait 2 years. I think the time to act is now, and I believe this is the way in which we can really begin to make some progress on this problem. I think all of us would admit, it is one of the most serious in our country today.

Mr. MAGNUSON. Mr. President, I offer a substitute amendment to the amendment of the Senator from Kentucky, on behalf of myself and the distinguished Senator from Kansas (Mr. PEARSON). Other members of the Committee on Commerce who joined with me at cosponsors when this bill was originally introduced as S. 2425 were the Senator from Indiana (Mr. HARTKE), the Senator from Michigan (Mr. HART), and the Senator from Louisiana (Mr. LONG). Unfortunately, the distinguished Senator from New Hampshire (Mr. COTTON) the ranking minority member of the Committee on Commerce is unavoidably absent. I know that he would have wanted to be present because of the great importance attached to transportation planning and development by the Committee on Commerce.

Mr. President, it is apparent to all members of the Committee on Public Works, and to all members of the Committee on Commerce—which has primary jurisdiction in transportation matters—that the transportation system of this Nation is in disarray and in desperate need of rationalization. I share the sense of urgency expressed by the Senator from Kentucky (Mr. COOPER) that our transportation system needs immediate improvement.

Mr. President, the pending amendment embodies the concept of developing transportation systems along regional lines, and this is an urgently-needed concept, since transportation is primarily a regional phenomenon. The Committee on Commerce has studied the regional transportation concept very intently in connection with S. 2425, the National Transportation Act, which I introduced and which is cosponsored by many members of the committee. The National Transportation Act would authorize the Secretary of Transportation to designate major transportation regions throughout the Nation, and contains extensive provisions for the comprehensive planning, development, and funding of transportation on a regional basis.

The Committee on Commerce has held extensive hearings on the National Transportation Act and the regional transportation concept. This year we had 5 full days of hearings on this legislation—February 26 and 27, April 14 and 15, and May 12. Several members took an active role in these hearings including particularly the Senator from Indiana (Mr. HARTKE), chairman of the Subcommittee on Surface Transportation and the Senator from New Hampshire (Mr. COTTON).

We heard more than two-dozen witnesses, including several recognized national experts in the transportation field, and including transportation officials from every section of the Nation and from every level of government.

We compiled a hearing record of more than 400 pages.

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Many Senators appeared before our committee during these hearings, and many others sat in on the hearings and listened to witnesses. To the best of our knowledge, no member of the Committee on Public Works nor a member of our committee attended our hearings, and none testified.

I do know, however, that if the Senators have read our hearings or our legislation, or if they have sought the advice of the witnesses that appeared to testify on the National Transportation Act, they recognize the inadequacies of this amendment, number 1006. These inadequacies could have been pointed out by members of the Commerce Committee or by the committee staff, since we have studied this matter in depth.

The inadequacies of this amendment, Mr. President, were apparent to me when I first read S. 4260, the Federal-Aid Highway Act of 1970, which initially contained a different scheme for transportation planning. For this reason, Mr. President, I wrote to the Senator from West Virginia (Mr. Randolph), the chairman of the Committee on Public Works, on September 17 of this year. I pointed out not only that such a proposal fell within the jurisdiction of the Committee on Commerce, and in fact overlapped with the National Transportation Act, S. 2425, but also that the language contained in S. 4260 initially, and now in this amendment number 1006, is inadequate to deal properly with the need for better transportation planning and development.

Amendment No. 1006 contains no standards, guidelines, or criteria for the establishment of transportation regions or regional transportation systems. It takes no account of the extremely important question of which bodies, groups, and governmental entities should be represented, and in what manner, on the planning bodies. It contains no provision for the implementation, evaluation, or funding of the plans that may be developed for a particular region. This one shortcoming would be sufficient to warrant my personal opposition, as a member of the Transportation Appropriations Subcommittee, even if I did not object as the chairman of the Committee on Commerce and as one who has spent a considerable amount of time drafting and refining the most comprehensive piece of regional transportation legislation ever offered in the U.S. Congress.

Mr. President, there is a very simple reason why the regional transportation concept has come to the floor in the form of an amendment rather than in the form of the National Transportation Act, of which I am the author. That reason is that after all our hearings and extensive study, the Committee on Commerce was not quite satisfied that the National Transportation Act was yet in optimum form. We feel it may still need improvement.

But if the Senate feels that it should act on the regional transportation concept, there is no question in my mind that the National Transportation Act is a lot more desirable piece of legislation than the pending amendment. It is quite comprehensive, has been worked out in extensive consultation with all recognized transportation authorities, and has the benefit of very extensive exhaustive hearings.

Consequently, Mr. President, I am now offering a substitute amendment to the Federal-Aid Highway Act, in place of Amendment No. 1006. My amendment is the National Transportation Act of 1970, with appropriate alterations. I urge that my amendment be adopted in place of Amendment No. 1006, if the Senate desires to act now on the regional transportation concept and if the Senate desires to aid, rather than to confuse, our efforts to improve the transportation system of the United States.

The PRESIDING OFFICER. Did the Senator from Washington send his amendment to the desk?

Mr. MAGNUSON. I sent it to the desk.

The PRESIDING OFFICER. The amendment offered by the Senator from Washington, in the nature of a substitute for the amendment of the Senator from Kentucky, will be stated.

The legislative clerk read the amendment offered to the amendment, as follows:

On page 33, between lines 13 and 14 insert the following:

NATIONAL TRANSPORTATION PLANNING

Sec. 21. (a) The Congress finds—

(1) that the development of a balanced and efficient transportation system adequate to meet the current and future transportation needs of the United States is essential to the commercial life, national defense, and general welfare of the people of the United States;

(2) that present transportation facilities, transportation planning, and transportation development are inadequate to meet the minimum current and future transportation needs of the people of the United States;

(3) that the preservation and enhancement of the environment, the conservation of natural resources, including scenic, historic, and recreation assets, and the strengthening of long-range land-use planning is vital to the health and welfare of the people of the United States, and that the planning and development of transportation facilities should be consistent with these goals; and

(4) that systematic and coordinated planning and development of balanced transportation facilities within and between all regions of the United States must be encouraged and should be vigorously pursued as provided in this section.

(b) The primary purpose of this section is to provide for the planning and development of a balanced transportation system throughout the United States. In furtherance of this purpose this section is designed to encourage the major regions, geographic and economic, of the United States to plan for and provide, with the aid and support of the Federal Government, coordinated transportation planning and development within and between such regions. It is the intent of this section to encourage such regions to undertake planning, research and development programs, and demonstration projects which will lead to improved and compatible transportation capabilities related to the needs of regional development and also to encourage diversity of approaches and experimentation which will be suitable and productive for the regions of the country.

(c) The Secretary of Transportation (hereinafter in this section referred to as the "Secretary") is authorized and directed, within six months of the effective date of this section, to designate appropriate "major transportation regions" within the United States with the concurrence of the Governors of the States and the authorized representative of the District of Columbia in which such regions will be located, provided that there is a relationship between the areas within each such region geographically, demographically, and economically. As used in this section, the terms "State", "States", and "United States" include the several States, the District of Columbia, and Puerto Rico.

(d)(1) Upon designation of major transportation regions, the Secretary shall invite and encourage the States wholly or partially located within such regions to establish appropriate multistate regional commissions.

(2) Each such commission shall be composed of one member from each participating State in the region and one Federal member, hereinafter referred to as the "Federal cochairman" who shall be the Secretary or his designee. Each State member may be the Governor, or a person who shall be appointed by and serve at the pleasure of the Governor, or such other person as may be provided by the law of the State which he represents. The State members of the commission shall elect a cochairman of the commission from among their number. Notwithstanding the foregoing provisions relating to State membership, in the event the Secretary finds that an existing regional commission embraces within its functions and purposes the field of transportation development, the Secretary may, at the request or with the consent of the participating States, accept such regional commission as the transportation regional commission for the purposes of this section.

(3) Decisions by a regional commission shall require the affirmative vote of the Federal cochairman and of a majority or at least one if only two, of the State members. In matters coming before a regional commission, the Federal cochairman shall, to the extent practicable, consult with the Federal departments and agencies having an interest in the subject matter and the State members shall consult with representatives of appropriate local subdivisions within their respective States.

(4) Each State member of a regional commission shall have an alternate, appointed by the Governor, or as otherwise may be provided by the law of the State which he represents. The Secretary shall appoint an alternate for the Federal cochairman of each regional commission. An alternate shall vote in the event of the absence, death, disability, removal, or resignation of the State or Federal cochairman for whom he is an alternate.

(5) If any one State is designated a major transportation region, the Secretary may establish a commission for such State in a manner agreeable to him and to the Governor of each State.

(e) In carrying out the purposes of this section each regional commission shall with respect to its region—

(1) develop plans, research and development programs, and demonstration projects for balanced and coordinated regional transportation developments, and establish a priority ranking for such plans, programs, and projects, and in accomplishing the objectives of this clause each regional commission shall—

(A) evaluate the relative benefit of the plan, program, or project in serving the essential transportation needs of the affected area;

(B) evaluate the prospects that the plan, program, or project on a continuing rather than a temporary basis will improve the economic, environmental, and social development of the area served by the plan, program, or project; and

(C) with respect to its planning function—

(i) initiate and coordinate the preparation

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of long range overall transportation plan for such region, such plan to designate the priority of transportation needs of the affected area and identify transportation resources of the affected area;

(ii) develop comprehensive and coordinated plans utilizing the long range overall transportation plan as a guide, and establish priorities thereunder, that give due consideration to other Federal, State, and local transportation planning in the region; and relate transportation development to other planning and development activities and needs of the region, including but not limited to preservation and enhancement of the environment;

(iii) prepare specific plans for the development of improved and compatible transportation systems within such region; and

(iv) conduct investigations, research, surveys, and studies to provide data required for the preparation of plans;

(D) with respect to research and development programs—

(i) initiate research and development of intercity systems aimed at immediate improvements in intercity passenger service using existing facilities and available equipment;

(ii) initiate research and development of safe and reliable high speed prototype intercity passenger systems, susceptible of early demonstration;

(iii) initiate research and development of equipment for use in urban areas for the purpose of providing at an early date a prototype demonstration system providing high speed passenger transportation for such areas;

(iv) initiate research and development of transportation systems that provide compatibility between urban and intercity systems; or

(v) initiate research and development of and other transportation systems essential to the needs of the affected area;

(E) with respect to demonstration projects, insure that such projects reflect the priority of the transportation needs of the affected area as determined by the commission in accordance with this section; and

(F) cooperate with Federal, State, and local agencies in the conducting or sponsoring of research and development programs and demonstration projects required to improve regional transportation;

(2) review and study, in cooperation with the appropriate agencies involved, Federal, State, and local public and private transportation plans, programs, and projects and, where appropriate, recommend modifications or additions which will increase their effectiveness and compatibility in the region;

(3) provide a form for consideration of transportation problems of the region and proposed solutions and establish and utilize, as appropriate, citizens and special advisory councils and public conferences;

(4) formulate and recommend, where appropriate, interregional compacts and other forms of interstate and interregional cooperation to carry out recommended programs for improved transportation, and work with Federal, State, and local agencies in developing appropriate model legislation;

(5) prepare legislative and other recommendations with respect to both short-range and long-range transportation programs and projects for Federal, State, and local agencies and the methods of their implementation; and

(6) provide for and encourage financial participation by State and local governments and private industry to the maximum extent practicble including, but not limited to the provision of land to conduct prototype demonstrations.

(f) To carry out its duties under this section, each regional commission is authorized to:

(A) adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business and the performance of its functions;

(B) accept, use, and dispose of gifts or donations of services or property, real, personal, or mixed, tangible or intangible; and

(C) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in carrying out its functions and on such terms as it may deem appropriate, with any department, agency, or instrumentality of the United States or with any State, or any political subdivision, agency, or instrumentality thereof, or with any person, firm, association, or corporation.

(2) In order to obtain information needed to carry out its duties, each regional commission shall:

(A) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable, a cochairman of such commission, or any member of the commission designated by the commission for the purpose, being hereby authorized to administer oaths when it is determined by the commission that testimony shall be taken or evidence received under oath;

(B) arrange for the head of any Federal, State, or local department or agency (who is hereby so authorized, to the extent not otherwise prohibited by law) to furnish to such commission such information as may be available to or procurable by such department or agency; and

(D) keep accurate and complete records of its doings and transactions which shall be made available for public inspection.

(g) (1) Not to exceed 90 per centum of the administrative expenses of each regional commission as approved by the Secretary may be paid by the Federal Government. The remaining 10 per centum of such costs or expenses shall be paid by the States included in each region. The share to be paid by each such State shall be determined by the regional commission. The Federal cochairman shall not participate or vote in such determination. In determining the amount of the non-Federal share of such costs or expenses, the Secretary shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services.

(2) Each regional commission may appoint an executive director, who shall be responsible for the day-to-day management of the operations conducted by the commission. The executive director shall receive compensation at a rate not to exceed $30,000 per annum.

(3) Each regional commission may employ, in addition to an executive director, such technical, clerical, or other personnel on a regular, part-time, or consulting basis as may be necessary for the discharge of its functions. Regional commissions for regions comprising two or more States shall not be bound by any statute or regulation of any participating State in the employment or discharge of any officer or employee.

(h) (1) Except as permitted by paragraph (2) hereof, no State member or alternate and no officer or employee of a regional commission shall participate personally and substantially as a member, alternate, officer, or employee, through decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization (other than a State or political subdivision thereof) in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest. Any person who shall violate the provisions of this subsection shall be fined not more than $10,000, or imprisoned not more than two years, or both.

(2) Paragraph (1) hereof shall not apply if the State member, alternate, officer, or employee first advises the regional commission involved of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the commission may expect from such State member, alternate, officer, or employee.

(3) No State member of a regional commission, or his alternate, shall receive any salary, or any contribution to or supplementation of salary for his services on such commission from any source other than his State. Any person who shall violate the provisions of this subsection shall be fined not more than $5,000, or imprisoned not more than one year or both.

(4) Notwithstanding any other provisions of this subsection, the Federal cochairman and his alternate on a regional commission shall not be subject to any such provisions but shall remain subject to sections 202 through 209 of title 18, United States Code.

(5) A regional commission may, in its discretion, declare void and rescind any contract or other agreement pursuant to this section in relation to which it finds that there has been a violation of paragraph (1) or (3) of this subsection, or any of the provisions of sections 202 through 209, title 18, United States Code.

(i) There are hereby authorized to be appropriated out of the Highway Trust Fund $100,000,000 for the fiscal year ending June 30, 1971, and for the fiscal year ending June 30, 1972, for the purposes of carrying out the provisions of this section. Appropriations authorized under this section shall remain available until expended.

(j) (1) The Secretary shall apportion the sums appropriated pursuant to this section for each fiscal year among the major transportation regions in the following manner:

(1) one-third in the ratio which the total area of each region bears to the total area of all regions;

(2) one-third in the ratio which the total population of each region bears to the total population of all the regions as shown by the latest available Federal census; and

(3) one-third in the ratio which the population in municipalities and other urban places, of five thousand or more, in each region bears to the total population in municipalities and other urban places of five thousand or more in all the regions, as shown by the latest available Federal census. For the purpose of this provision, Connecticut and Vermont towns shall be considered municipalties regardless of their incorporated status.

(2) In no case shall the total Federal contribution to the cost of any plan, program, or project hereunder be more than 90 per centum of the total cost of such plan, program, or project. In determining the amount of the non-Federal share of such costs, the Secretary shall give due consideration to all contributions, both in cash and in kind, fairly evaluated, including but not limited to land, space, equipment, and services.

(3) The Secretary shall authorize the release of funds hereunder to a region on the

basis of the establishment of an acceptable regional commission and the existence of plans, programs, or projects, which are approved by such commission and comply with this section. Any funds which are apportioned to a region under paragraph (1) of this subsection which, by agreement between the regional commission and the Secretary, are not needed by that region may be expended for plans, programs, or projects in another region, as determined by the Secretary, except that no region shall receive more than 25 per centum of the total funds appropriated pursuant to this section for any fiscal year.

(4) Funds available for expenditure hereunder for any region may be utilized for plans, programs, or projects involving only such region or in cooperation with other regions, or through payment of funds authorized hereunder to departments or agencies of the Federal Government for conducting such plans, programs, or projects.

(5) Each regional commission is authorized in its discretion to transfer not to exceed 10 per centum of any funds which are apportioned to the region under paragraph (1) of this subsection to the Secretary for the conduct of such research and development in the field of transportation as he may deem desirable. In utilizing such funds the Secretary is authorized to enter into contracts with public or private agencies, institutions, organizations, corporations and individuals without regard to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5a).

(k)(1) Each regional commission receiving assistance under this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the plan, program, or project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the plan, program, or project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this section.

(l)(1) Each regional commission established pursuant to this section shall make a comprehensive and detailed annual report each fiscal year to the Secretary with respect to such commission's activities and recommendations for plans, programs, and projects. The first such report shall be made for the first fiscal year in which such commission is in existence for more than three months. Such reports shall be transmitted to the Secretary not later than September 30 of the calendar year following the fiscal year with respect to which the report is made.

(2) The Secretary shall make a comprehensive and detailed annual report to the Congress of his operations under this section for each fiscal year beginning with the fiscal year ending June 30, 1971. Such report shall be printed and shall be transmitted to the Congress not later than January of the year following the fiscal year with respect to which such report is made.

(m) In performing his duties under this section, the Secretary is authorized to—

(1) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics needed to carry out the purposes of this section; and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary;

(2) call together and confer with, from time to time, any persons, including representatives of labor, management, transportation, and government, who can assist in meeting the problems of area, regional, or national transportation, and make provisions for such consultation with interested departments and agencies of the Government as he may deem appropriate in the performance of the functions vested in him by this section;

(3) employ experts and consultants or organizations therefor as authorized by section 3109 of title 5 of the United States Code, compensate individuals so employed at rates not in excess of $100 per diem, including traveltime, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistance) as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently, while so employed: *Provided*, That contacts for such employment may be renewed annually; and

(4) establish such rules, regulations, and procedures as he may deem appropriate in carrying out the provisions of this section.

(n) (1) Except as may be otherwise expressly provided in this section, all powers and authorities conferred by this section shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing.

(2) Funds authorized to be appropriated under this section may be transferred between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated.

(3) All financial and technical assistance authorized under this section shall be in addition to any Federal assistance previously authorized and no provision hereof shall be construed as authorizing or permitting any reduction or diminution in the proportional amount of Federal assistance to which any region, State or other entity eligible under this section would otherwise be entitled under the provisions of any other section.

Redesignate the succeeding sections of the bill accordingly.

Mr. MAGNUSON. Mr. President, we have for a long time discussed what we call the National Transportation Act, which I think covers most of the matters the Senator from Kentucky is suggesting. This problem has been before us for a long time. We are about ready to take some action on it. It would authorize the Secretary of Transportation to designate major transportation regions throughout the Nation and it contains extensive provisions for the comprehensive planning, development, and funding of transportation on a regional basis.

I think the only difference between the proposal of the Senator from Kentucky and that of the Committee on Commerce is that we take it on a regional basis. The Senator from Kentucky is more concerned with the urban aspect. For that reason, I have offered my amendment as a substitute for the amendment of the Senator from Kentucky.

We have had long hearings on this question. There is a problem of jurisdiction as between the Public Works Committee and the Commerce Committee. I am hopeful that the Senator from Kentucky and the Senator from West Virginia, and all the rest of the Senators who have done such a good job on the bill, will accept this substitute and, when a conference is held, discuss it with the House Members and see what the conferees think about it. I think we are trying to achieve the same goal. Our proposal is a little more comprehensive than the proposal of the Senator from Kentucky.

I am anxious to get the bill passed and over to the House for conference. So there will be no delay, I hope the substitute amendment will be accepted.

Mr. RANDOLPH. Mr. President, I wish to commend the able Senator from Washington as well as the able Senator from Kentucky on their discussion of this matter. There is in some degree conflict. I shall not stress it, because I think it is minimal; but more importantly, there is the element of one program complementing the other.

As the Senator from Washington has said, his program is broader in scope, whereas in our Public Works Committee, we thought in terms of the critical transportation regions to be set forth.

The Senator from Kentucky, of course, and others of us interested in this matter, have discussed with the Senator from Washington his proposal. I am agreeable to accepting the substitute, if the Senator from Kentucky is agreeable, for the amendment that has been offered, to taking the matter to conference, and going further into the problems presented at that time.

Mr. COOPER. Mr. President, I appreciate very much the statement of the Senator from Washington, and also the statement of our chairman, the Senator from West Virginia. I do not wish any action or statement I make to be considered as a yielding of committee jurisdiction. As I stated a while ago, section 134 of the Transportation Act authorizes the Secretary to require that highway projects in urban areas over 50,000 population conform to a comprehensive transportation plan developed by the State or States, and local officials of that metropolitan area.

The purpose of my amendment was to get some action in areas of critical need now, areas larger than those covered by section 134. In his testimony before the committee, the Secretary stated that some of his proposals for this kind of planning might be ready in 6 months, but some might not be ready for 2 years.

I have read the bill which the Senator from Washington has offered as a substitute amendment. It is a very good and broad bill, which would provide for the study of transportation needs in regions of the United States, and continuing work upon them, because it provides for commissions to be established in each of those regions.

I am concerned that, if we fail to act now, it would only postpone work upon, as the Senator has stated, one of the most critical problems facing the country. This bill and my amendment could also affect, in a large degree, the Air Quality Act which we passed a few days ago, because unless some efficient mode or modes of transportation in our great urban areas can be established, perhaps automobile transportation will have to be sharply restricted or even discontinued at times in the cities, in order to meet the air quality standards. It is imperative that we take action now.

I would say to the Senator that I do not believe the amendment which I, and those who have joined me, have offered today is as broad as his bill. I do not see how it could deny what his fuller study and his larger proposal would provide. My proposal would apply only to those areas which are most critical now.

I wonder if the Senator from Washington would agree to his proposal being accepted as a separate amendment, rather than as a substitute for mine.

Mr. MAGNUSON. As a plain amendment?

Mr. BOGGS. And take a vote?

Mr. COOPER. Yes.

Mr. MAGNUSON. I have no objection to that, because I think we are both trying to do the same thing, and I would be hopeful that, although our proposal is much broader, they might zero in jointly on certain problems. The Senator's objective is very worthwhile, and is urgent.

So, if the Parliamentarian will advise us as to how we can do that, I would be glad to do it.

The PRESIDING OFFICER (Mr. NELSON). The Chair is advised by the Parliamentarian that if the Senator will withdraw his amendment and offer it after the adoption of the pending amendment, that could be accomplished.

Mr. MAGNUSON. Yes; we could offer our amendment, and then he could offer his amendment afterwards. Except, I would say to the Senator from Kentucky, that I think the substitute covers what he is trying to do.

Mr. COOPER. It covers it, but 2 years later.

The PRESIDING OFFICER. The Parliamentarian advises the Chair that to accomplish the purpose the Senators wish, the Senator from Washington could withdraw his amendment, the Senate could agree to the amendment of the Senator from Kentucky, and then the Senator from Washington could reoffer his amendment.

Mr. MAGNUSON. I think we have a drafting problem here which might interfere.

I think the amendment I have offered covers what the Senator from Kentucky wants to do. I think in conference we have a wide range for discussion with the House of Representatives on the matter.

Mr. COOPER. It could, in theory, cover what I want to do, but it is not as precise in its immediate application, and it just postpones any action for 2 years.

Mr. RANDOLPH. Let us take them both.

Mr. MAGNUSON. Mr. President, I suggest that I move the adoption of the substitute, and then the Senator from Kentucky can offer his amendment right afterward, and the two of them will be before the conference.

Mr. RANDOLPH. I think that is agreeable.

Mr. MAGNUSON. I move the adoption of the substitute amendment.

Mr. CASE. Mr. President, the Chair is undoubtedly going to tell us what is going on.

The PRESIDING OFFICER. The Senator from Washington is moving the adoption of his substitute amendment.

Mr. CASE. Yes. Would the Chair advise the Senator from New Jersey and his colleagues how after that, if it is agreed to, the amendment of the Senator from Kentucky can be voted on?

The PRESIDING OFFICER. The Senator from Kentucky can reoffer his amendment.

Mr. COOPER. Yes, it can be reoffered.

Mr. CASE. I understood the Chair first suggested that the Senator from Washington do the withdrawing and reoffering. Was that correct?

The PRESIDING OFFICER. That was the suggestion of the Chair, but the Senator from Washington did not accept that suggestion.

Mr. CASE. And this will, no more than the other course, prejudice the alternative?

Mr. MAGNUSON. Mr. President——

Mr. CASE. Mr. President, I am asking the Chair a question, if I may.

Mr. MAGNUSON. Yes.

The PRESIDING OFFICER. I am advised by the Parliamentarian that if the substitute offered by the Senator from Washington is agreed to, then the Senator from Kentucky may offer his amendment, and it may be agreed to.

Mr. CASE. And no prejudice would result?

The PRESIDING OFFICER. No prejudice respecting the amendment of the Senator from Kentucky.

Mr. MAGNUSON. Mr. President, I move the adoption of the substitute amendment.

The PRESIDING OFFICER (Mr. NELSON). The question is on agreeing to the substitute amendment offered by the Senator from Washington.

The substitute amendment was agreed to.

The PRESIDING OFFICER. Is all time yielded back on the amendment of the Senator from Kentucky?

Mr. RANDOLPH. I yield back the remainder of my time.

Mr. COOPER. Mr. President, I call up amendment No. 1006, and ask that it be read.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky (Mr. COOPER), as amended by the substitute amendment.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. I call up my amendment No. 1006 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

Mr. COOPER's amendment is as follows:

On page 33, line 6, insert "(a)" following "SEC. 20." and after line 13 add a new subsection (b) as follows:

"(b) Section 134 of title 23, United States Code, is further amended by adding '(a)' at the beginning thereof and a new subsection (b) as follows:

"'(b) The Secretary shall, as soon as practicable, define those contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation systems to efficiently accommodate present transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary shall by regulation designate, for administrative and planning purposes, as a critical transportation region or a critical transportation corridor each of those areas which he determines most urgently require the accelerated development of transportation systems embracing various modes of transport, in accordance with purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary shall, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, including highway planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and shall provide assistance including financial assistance to such bodies. Funds authorized pursuant to section 307 of this title for research and planning may be utilized for the purposes of this subsection'."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. ELLENDER. Mr. President, I have been so busy with the farm bill that I have been unable to study the pending bill very carefully, and I should like to ask a few questions of the manager of the bill.

Mr. RANDOLPH. I would be very happy to engage in a colloquy with the able Senator from Louisiana.

Mr. ELLENDER. How many more miles does this bill add to the Interstate System?

Mr. RANDOLPH. There is no additional mileage.

Mr. ELLENDER. It is 41,000 miles?

Mr. RANDOLPH. No; it is 42,500 miles. The Senator will recall that it was 41,000, but in the 1968 act, in conference, there was an agreement on 1,500 additional miles, making 42,500 miles in the Interstate System.

Mr. ELLENDER. Then, the additional mileage is presently in the law?

Mr. RANDOLPH. The Senator is correct.

Mr. ELLENDER. How will it be financed—in the same manner as the 41,000 miles?

Mr. RANDOLPH. Yes, the same manner. There will be no change.

Mr. ELLENDER. Has an allocation been made of the extra 1,500 miles?

Mr. RANDOLPH. All the mileage has been allocated, except perhaps a mile or two.

Mr. ELLENDER. I thank the Senator.

Mr. RANDOLPH. I appreciate the interest of the Senator from Louisiana, who has been very active in the development of our highway program.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1007

Mr. COOPER. Mr. President, I call up my amendment No. 1007.

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The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read the amendment, as follows:

> On page 29, line 20, following "ites" insert the following: "lawfully in existence on the date of enactment of this section".

Mr. COOPER. Mr. President, this amendment deals with junk yards. Under present law, the Highway Beautification Act of 1965, junk yards must be screened, with the exception of those that are established in industrial zones, that is, areas which are zoned industrial under authority of State law, or—and this is rather imprecise language—areas which are used for industrial activities.

As Senators will recall, we have been dealing with the problem of junkyards and billboards along the Interstate and primary systems since about 1958. I have supported the beautification bills, in many sessions here, urged billboard and junkyard control, and fought to secure and maintain an effective program.

With respect to my amendment today, I recall the argument made during consideration of the 1965 act, that these junkyards were established before standards were set. I do not believe they have the right to make that argument when they establish new junkyards along the roads, particularly the interstate system, and then fall within some exemption and a relief from screening the junkyard.

My amendment would change the law in this respect: Screening would be required in every case on the primary system or the interstate system from the time of the enactment of this measure.

If we do not do something like this, there is just no end to it. They will be establishing junkyards along the roads, primary and interstate, wherever it can be called an "industrial use" area. Why should there be any right to establish new junkyards, auto graveyards, garbage dumps or sanitary fills anywhere along the interstate system?

I want to make it clear that my amendment would apply to junkyards established along and visible from the interstate and primary systems after the enactment of this measure—and in all cases they must be screened.

Mr. RANDOLPH. Mr. President, I support the amendment offered by the able Senator from Kentucky. The amendment is in concert, as it were, with the purposes of the prior legislation with respect to highway beautification, and requiring the screening of junkyards, and advancing the scenic development of our highway system. I am very happy to accept the amendment.

Mr. COOPER. I yield back the remainder of my time on the amendment.

Mr. RANDOLPH. I yield back the remainder of my time.

The **PRESIDING OFFICER**. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

Mr. BOGGS. Mr. President, on behalf of the distinguished Senator from Tennessee (Mr. Baker), a member of the committee, I wish to make a brief statement and propound a question to the chairman of the committee.

Mr. President, I should like to ask just one question of the distinguished chairman of the Public Works Committee, if I may, so as to make entirely clear for the record the intention of this legislation with respect to new language on the control of outdoor advertising.

Section 16 of S. 4418, beginning at page 22, line 16, would make certain changes in section 131 of title 23, United States Code.

Section 131(b), as amended by the pending bill, would require that the States provide for effective control of the erection and maintenance along the interstate and primary systems of outdoor advertising signs which are visible from the main traveled way of the systems and which are not otherwise permitted by section 131(d). Section 131(d) would permit only the erection and maintenance of those outdoor advertising signs that are within zoned and unzoned commercial or industrial areas adjacent to the interstate and primary systems.

For the purpose of establishing legislative history, my question of the distinguished chairman of the Public Works Committee is this: Is it intended that signs lawfully erected in commercial or industrial areas not adjacent to the interstate and primary systems are to be considered "controlled" under this section, simply because such sign structures may also be visible from these systems? Put another way, is it not a fact that it is not the intent of this legislation to declare illegal signs in business areas designed primarily to be viewed by traffic on streets and roads other than the interstate and primary systems but which may be incidentally visible from such systems?

Mr. RANDOLPH. Mr. President, the answer is "Yes." In the report, the committee stated quite clearly that the exception from the new nobility would extend to all signs lawfully erected and located.

Mr. President, I am delighted that the able Senator from Delaware (Mr. Boggs) a member of the Public Works Committee has, on behalf of the able Senator from Tennessee (Mr. Baker) also—a member of our committee—focused attention on this matter, because we need to continue to zero in on this problem.

Mr. BOGGS. I thank the chairman.

Mr. COOPER. I yield myself 3 minutes on the bill.

Mr. President, I ask unanimous consent to have printed in the Record excerpts from my individual views and supplemental views which are part of the committee report on S. 4418, Senate Report 91–1254.

The **PRESIDING OFFICER**. There being no objection, the views of Senator Cooper were ordered to be printed in the Record, as follows:

Excerpts From the Individual Views of Senator John Sherman Cooper

Great credit is due Secretary Volpe and the administration for the amendments they have developed to make the highway beautification program work. His recommendations, that the costs of sign removal and junkyard screening be paid from the highway trust fund, and to restrict the waiver of penalties now permitted, are most significant improvements in this program. It is a difficult field, and a program which has been frustrated by lack of funds and by administrative complexities growing from the nature of the task. I am certain the people of the country want this program to go forward, and to succeed, and hope very much that the provisions of the bill will be enacted into law.

DISTRICT OF COLUMBIA HIGHWAYS

I am very pleased with the action of the committee in reporting a Federal-Aid Highway Act of 1970 which includes repeal of section 23 of the Federal-Aid Highway Act of 1968—the section which was the cause of my refusal to sign the report of the Senate-House conference in 1968 and my subsequent vote against final passage.

In section 23 the Congress for the first time—and the only time to my knowledge—directly interceded in the process of planning and approving specific projects in the Federal-aid highway program. Section 23 directed the District of Columbia and the Department of Transportation to construct all projects included in the District 1968 cost estimate "in accordance with all applicable provisions of title 23 of the United States Code." As to four projects, section 23 directed that work commence within 30 days following enactment. Remaining projects were to be given further study and a report "including any recommended alternative routes or plans" made to Congress within 18 months.

Section 23 contradicted the principles of federalism underlying the Federal-aid highway program. Under title 23 the District of Columbia is defined as a State, and the States are given responsibility for initiating the planning and approval of specific projects. The Federal Government then approves the plans and the process of their local development at a number of stages, and reimburses a portion of the cost of construction. Local initiative and execution is essential. I said in 1968 that I believed Members of Congress lacked the expertise, experience and authority necessary to determine the need, desirability, location, and design of specific highway projects. The major objection which I raised was that the section effectively superseded local responsibility and initiative in the District of Columbia and created a dangerous precedent for similar action with controversial highways in the several States.

Section 23 has created confusion and dismay in the District of Columbia. It has, in my opinion, been misinterpreted by some, to require the construction of all highways included in the 1968 cost estimate without regard to any local or Federal laws. In fact, however, its directive was specifically qualified by a clause requiring that all action be taken according to all applicable provisions of title 23. Judge Skelly Wright of the U.S. Court of appeals pointed out in an opinion involving one of the projects included in section 23, an interpretation which "would result in discrimination between District residents * * * and all other residents affected by highway projects in their localities" would condemn section 23 as unconstitutional.

Section 23 was not included in the Senate version of the Federal-Aid Highway Act of 1968. Much of the confusion about its meaning has resulted from the statement of House managers, which accompanied the conference bill, and which set forth detailed location and design instruction. I do not believe that the manager's statement reflected the views or the understanding of the Senate conferees.

A great deal of the confusion created by section 23 has resulted from conflicting interpretations by the same District and Federal officials. At President Johnson's direction, the National Capital Planning Commission and the District of Columbia developed and adopted, in December of 1968, a comprehensive highway plan that omitted

XUM

two of the most controversial projects included in section 23 and modified the location and design of others. But last summer, faced with the threat of discontinuing the rail rapid transit system construction for the District because of blocked appropriations, the District government and the Department of Transportation decided, in effect, to follow the directions in the statement of House managers without regard to any other laws. Citizens' lawsuits have not resulted in stopping construction of two of the projects included in section 23—the Three Sisters Bridge and the east leg of the inner loop—until all applicable provisions of title 23, United States Code, are complied with.

Mr. President, rather than solve the controversy in the District of Columbia, section 23 has inflamed it. Events in the Nation's Capital in the past 2 years have confirmed the Senate's wisdom in not attempting to approve construction of specific highway projects. Section 23 of the Federal-aid Highway Act of 1968 should be repealed.

The Department of Transportation has acted with care and concern in fulfilling the study requirements of section 23. I included their report in the Congressional Record of February 24, 1970, and applauded the report of the Secretary of Transportation for its goals and direction. The Department has not, however, in my view dealt according to their own procedures in requiring the adherence to all the planning and approval requirements of title 23, with respect to the most controversial segments of the District's highways. They have, rather, accepted the judgment of Congress, which in this case, in my judgment, is neither qualified, nor authorized by law, to make such decisions.

The action of the committee in repealing section 23 does not express support or opposition to any highway system or specific part of a system for the District of Columbia. It expresses the principle which had been adhered to by the Congress prior to 1968. That principle is, that it is not the function of the Congress to prescribe and force upon the citizens of a State or the District of Columbia a particular highway construction program. It is certain that the Congress would not attempt to direct the highway program of the 50 States for local initiative is crucial to the success of the Federal-aid highway program—it should not be ignored in the Nation's Capital.

ADDITIONAL INTERSTATE DESIGNATIONS

In the committee, I oppose section 24 of the bill. The section authorizes the Secretary to designate as an interstate highway any existing road which would be a "logical addition or connection to the Interstate System," and would establish with the State responsibility to rebuild such a road to interstate standards within 12 years. No Federal financial responsibility, beyond that required under primary road construction, would be created by the section.

My opposition to the section grows from the fact that it would permit interstate signing and interstate designation of highways which are not limited access highways, and which are not built to the interstate standards the public has a right to expect from interstate designation. The road would not, in fact, be an interstate highway, but would be designated as one.

In 1968 the Congress included in the Federal-Aid Highway Act, Section 16, which reads as follows:

"Whenever the Secretary determines that a highway on the Federal-aid primary system meets all of the standards of a highway on the Interstate System and that such highway is a logical addition or connection to the Interstate System, he may, upon the affirmative recommendation of the State or States involved, designate such highway as a part of the Interstate System. The mileage of any highway designated as part of the Interstate System under this section shall not be charged against the limitation established by the first sentence of section 103(d) of this title. The designation of a highway as part of the Interstate System under this section shall create no Federal financial responsibility with respect to such highway."

Under this section, designation as part of the Interstate System follows construction to interstate standards, rather than precedes it.

The public, because of the generally excellent job done in interstate mileage construction, expects an interstate route to be a fast, limited-access highway without driveways and traffic lights. If the language which is in the bill is allowed to stand, map designations will be made which may not be altogether truthful for as much as 12 years, if ever.

If States believe that interstate connections and additions are crucial to their economic development, they should proceed with the improved construction of those segments as quickly as possible. The provision in the bill could bring confusion, generate traffic beyond the capacity of the segments, and endanger safety.

The Department of Transportation opposes the proposal primarily on the grounds of highway safety. In a letter presenting views on this provision as a separate piece of legislation, the Department stated in part:

"With deference to the sponsors of the proposed legislation, we think it unnecessary and inadvisable. The language of 23 U.S.C. 139 is sufficiently broad to permit general agreement between the Secretary of Transportation and a State highway department to designate a selected Federal-aid primary segment as part of the Interstate System, subject to the State reconstructing the highway to meet all Interstate standards before formal approval. Such an agreement, however, would not permit installation of Interstate signs until the route actually met Interstate standards. By contrast, S. 3281 would permit immediate designation as part of the Interstate System before the State has reconstructed the highway to the standards of that system, with implied permission to install Interstate signs before the route is upgraded.

"The Interstate System, by virtue of the geometric design standards approved for its construction, is a system of national freeways. That is to say that opposing directions of travel are separated, all crossings of other highways or railroads are separated, and access to the highway and right-of-way is restricted to designated points. A freeway provides fast, safe and efficient movement of traffic because of these features. * * *

"As a result a driver identifies interstate highway markings with a fast, safe controlled-access highway and unconsciously drives faster than on a highway marked with a U.S. or State route shield. This induced sense of safety leaves him unprepared for slower moving traffic which enters or leaves the highway by a grade level side road or other traffic moves normally absent from freeways. As can readily be appreciated, it would be dangerous to allow interstate signs on a highway which does not fully meet interstate standards. Since this bill could permit such a result, we must oppose its enactment.

"If 3281 were enacted in its present form there would be inevitable community pressures to add highways to the Interstate System for reasons of prestige. * * *

"To avoid these unnecessary problems, we think that any further consideration of expansion of the Interstate System would best await the results of the current highway needs and functional classification studies. We note that the American Association of State Highway Officials also has taken this position."

I consider that enactment of this section would be a mistake and expect to move that it be struck from the bill.

SUPPLEMENTAL VIEWS OF SENATOR JOHN SHERMAN COOPER, JOINED BY SENATORS JENNINGS RANDOLPH AND EDMUND S. MUSKIE

I have presented my individual views, included elsewhere in this report, comments on the Federal-Aid Highway Act of 1970 as reported by the Committee on Public Works which, with the exception of one section, I support. For the purpose of this statement, I would note that I presented in the committee two amendments, which were discussed and sympathetically received and which, because they were new proposals, I agreed to offer in the Senate. The first amendment is directed to coordinated transportation planning in critical transportation regions. The second amendment would require the screening of new junkyards located in industrial zones, and visible from the interstate and primary system, just as junkyards in other areas along the interstate and primary system are required to be screened.

CRITICAL TRANSPORTATION REGIONS

The pattern of development of our country and the growth of urban areas has resulted, we know, in great areas and corridors which depend absolutely on the efficient movement of people and goods, which without question will continue to develop, and for which it is essential to plan integrated and coordinated transportation systems. It seems to me that certain transportation modes are better suited to convey different types of cargo, and to carry people for different purposes. And the quality difference of the transporting function becomes critical in urban areas under the constraints of numerous people and limited space. It is not satisfactory that highway, mass transit, railroad, and airway planning proceed separately. Rather, we recognize the urgent need to coordinate the use of these systems to reduce duplication, pollution and waste, so that they can serve the needs of these regions and their people most effectively—which was one of the purposes in establishing the Department of Transportation.

When Secretary Volpe appeared before the committee, he emphasized the importance of coordination between transportation modes, planning for the better utilization of our interrelated transportation systems, and expressed his great interest in directing the immediate efforts of the Department toward this problem. At that time I discussed with the Secretary the concept embraced by my amendment. While we expect the Department, which is developing information, to have recommendations at a later time, I consider it important to provide the Secretary with authority to make a beginning now, and to establish a framework in which State and local governments can start to work on coordinated regional transportation planning. Other witnesses also expressed concern about the necessity of providing better systems of mass transportation in heavy traffic use areas.

The amendment would authorize the Secretary of Transportation to designate critical transportation regions, and provide assistance to planning bodies established within those regions. Such planning agencies could develop comprehensive integrated transportation plans for the region, according to guidelines developed by the Secretary.

The amendment would be an addition to section 134 of title 23, United States Code, which requires the "3–C" continuing, coordinated comprehensive transportation planning in urban areas of over 50,000 population.

While the goals of existing section 134 and my proposal are compatible, their thrust is different. Under my amendment, regions as large as the corridor which stretches from

XUM

Washington to Boston, or from San Diego to Seattle—areas which include both urban and rural segments, but which are vital corridors to commerce and travel in those regions—could be designated critical transportation corridors. The orderly development and future growth of these areas will be better assured if careful transportation planning can begin now.

The proposal places specific emphasis on consultation by the Secretary with the Governors of States which would be affected by a "critical transportation region" designation. Although the purpose of existing section 134 is to plan comprehensive systems of transportation "embracing various modes of transportation," the regulations implementing that section specify that initial agreements for establishing planning agencies be between State highway departments. I believe the effort must be more broadly based if integrated, rather than competing, interstate transportation planning is to be achieved—planning directed to regional goals, objectives, and future growth.

Chairman Randolph and Senator Muskie, who participated in the committee's discussion of the amendment and expressed their support for it, are joining me in these views.

The text and an explanation of the amendment I expect to offer in the Senate follows:

Section 134 of Title 23, United States Code, is amended by adding thereto:

"(b) The Secretary shall, as soon as practicable, define those contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation systems to efficiently accommodate present transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary shall by regulation designate, for administrative and planning purposes, as a critical transportation region or a critical transportation corridor each of those areas which he determines most urgently require the accelerated development of transportation systems embracing various modes of transport, in accordance with purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary shall, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, including highway planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and shall provide assistance including financial assistance to such bodies. Funds authorized pursuant to section 307 of this title for research and planning may be utilized for the purposes of this subsection."

Explanation.—Existing section 134 of title 23 declares it to be in the national interest to encourage and promote the development of transportation systems, *embracing various modes of transport*, in a manner that will serve the States and local communities efficiently and effectively. It directs the Secretary to cooperate with the States in the development of long range highway plans properly *coordinated* with plans for improvements in *other* forms of transportation, with consideration to the future development of urban areas. It further prohibits approval of projects in urban areas (50,000 population) unless the Secretary finds they are based on the so-called 3–C continuing, cooperative, comprehensive transportation planning. However, the Department regulations for interstate 3–C planning give the initiative to State highway departments, and as a practical matter this planning has been dominated by highway departments and consists of highway plans. The purpose of the amendment adding a new subsection (b) would be to strengthen section 134, to emphasize intermodal coordination, and to begin a concentrated effort in the regions and corridors facing the most critical transportation problems.

JUNKYARDS

The Highway Beautification Act of 1965, while generally requiring that junkyards within 1,000 feet of the right-of-way along the interstate and primary systems be screened, made an exception permitting their operation without screening in industrial zones. That provision is maintained in the committee bill, conforming to the change which will now require screening of other junkyards "visible from the main traveled way of the system" rather than only those within 1,000 feet of the right-of-way.

The argument was made during the discussion of earlier legislation that we not require the screening of junkyards and scrapyards which have been in existence and operating for years along the primary system or even the Interstate System, and which are located not in commercial areas—where, for example, the size and spacing of signs is controlled—but in a zoned industrial area. They are unsightly in any event, and we would hope that through the solid waste recovery effort there will finally be recycling of automobile hulks.

But I am concerned that the provision would also permit establishing *new* junkyards or garbage dumps visible from the Interstate System and the primary system, so long as the area is zoned industrial. It would seem to me a shame to permit junkyards to grow up along the Interstate System in any area.

I raised this question in committee, and expressed my intention to offer an amendment in the Senate which would limit the exception permitting the operation of junkyards in industrial zones to those already in existence.

Several members of the committee expressed interest in supporting such a provision, and I hope it would be adopted by the Senate.

Mr. COOPER. Mr. President, I thank the Senator from West Virginia for expressing his support of the amendment dealing with junkyards. He was one of the authors of the amendment, and I know how great an interest he has in this subject.

The Presiding Officer, the Senator from Wisconsin (Mr. NELSON), also has been very much concerned about the beautification section, as has the Senator from New Jersey (Mr. CASE), the Senator from Maine (Mrs. SMITH), and many other Senators.

Mr. President, I want to take this opportunity to make a statement about section 23 of the Federal Aid Highway Act of 1968. The Senator from West Virginia referred to it in his opening statement and said, very correctly, that section 23 was not a part of the Federal Aid Highway Act when it was passed by the Senate in 1968.

The Senate acted first in 1968, as it is doing this year. The Senator from West Virginia stated that when the Senate went to conference with the House, section 23 had been made a part of the bill by the House. The Senate conferees worked hard in the conference to secure deletion of that section. But after several days we had to accept it, because otherwise it would have been impossible to have had a highway bill in 1968—the House conferees were that adamant.

In section 23 the Congress substantially lays out a road system for the District of Columbia. That went against all precedent, because Congress never attempts to tell a State how its road system should be laid out. However, the House demanded it, and because there would otherwise have been no bill at all, we finally had to give in.

Now we have voted in the Senate Committee on Public Works, and when this bill is passed the Senate will have voted, to strike section 23 of the 1968 act. In doing so, we are not attempting to approve or disapprove any segment of a highway system in the District of Columbia. We are saying that as a matter of law, as a matter of principle, and as a matter of justice to the people of the District of Columbia, Congress should not attempt to become highway engineers and impose on the District of Columbia, or any State, its idea of a highway system.

Mr. President, I want to make that very clear, because I think that to act otherwise is wrong. I said so in 1968 on the floor of the Senate. I voted against adoption of the conference report then. I think it is wrong if this kind of action continues.

Iforesee a very controversial conference with the House. I do not know what will be worked out there, but I am very glad that the Senate at least, has expressed its will on this subject.

Mr. RANDOLPH. Mr. President, I yield myself 3 minutse on the bill.

The PRESIDING OFFICER (Mr. FANNIN). The Senator from West Virginia is recognized for 3 minutes.

Mr. RANDOLPH. Mr. President, I do not want to labor the District of Columbia discussion further, except to reiterate what I said during my opening statement today. I recounted to Senators the experiences we had in 1968, when the Senate committee did not attempt to direct the building, within the District of Columbia, of highways or bridges. But, as I indicated in the conference, we yielded on that point. I disagreed with my friend from Kentucky at that time in one degree. He voted against the conference report. I voted for the conference report. The reason I did so was not that I felt any less that we had a proper position than did he, but I felt it was my responsibility, along with others, I am sure shared by the Senator from Kentucky, that we should continue the Federal-aid highway program throughout the United States. That is the reason I reluctantly agreed. But now we are taking further action and are spelling it out.

I hope, even though we will have difficulty in the conference with the House that, somehow or other, we will realize that the District of Columbia, with respect to the Federal aid highway program is a State, and we do not attempt to tell any other State what to do, and should not attempt to tell the District of Columbia what to do in respect to a specific project, or a specific route.

This is the basic concept we have of the orderly way in which the highway

XUM

program, a Federal-State cooperative effort should function.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The bill is open to further amendment.

Mr. MILLER. Mr. President, may I ask the Senator from West Virginia, does he contemplate the yeas and nays on final passage?

Mr. RANDOLPH. We do not contemplate the yeas and nays. Hopefully we would like to get the bill passed within the next few minutes. There are reasons for some of our colleagues being in their own States today. We had an earlier vote, when 56 votes were cast on a rollcall. I shall not ask for a rollcall on final passage and I believe the Senator from Kentucky, the ranking minority member, will not ask for it either.

Mr. MILLER. I understand the feelings of the Senator from West Virginia, but we have been having a lot of rollcalls lately with many Members absent. I have been among those absent on occasion. This is a very important bill. I commend the chairman of the committee and the committee for doing an outstanding job on this most important bill. I do not see why we cannot have a rollcall vote on it. We are going to have rollcall votes on other bills, which we have been having. If anyone is absent necessarily, they can list themselves in favor of or against the measure, and they will have built their record.

Mr. President, I ask for the yeas and nays.

Mr. RANDOLPH. If the Senator will withhold that just a moment.

Mr. MILLER. Yes.

Mr. RANDOLPH. I say to my able colleague from Iowa that, of course, if there is not a quorum, why the bill will have to go over until next Monday and I am wondering whether the Senator would want that to happen.

Mr. MILLER. Well, Mr. President, I would guess that there will be a quorum——

Mr. RANDOLPH. I hope so. The Senator wants me to take a chance with him on that?

Mr. MILLER. I will.

Mr. RANDOLPH. All right.

Mr. MILLER. Mr. President, I renew my request for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. I yield.

Mr. NELSON. I want to ask the Senator a question. Perhaps it has already been answered. On page 5 of the report, there is a short paragraph which I do not quite understand. It says:

> Provisions of the Environmental Policy Act concerning highways will remain in effect until the provisions of the Federal-Aid Highway Act of 1970 becomes effective.

Will the Senator tell me what that means?

Mr. RANDOLPH. While guidelines governing the ways and means to avoid, overcome, or minimize adverse impact are being developed, we intend that the Environmental Policy Act apply fully, the sentence was included to stay any premature application of section 105 of the Environmental Policy Act.

Mr. NELSON. It is not removing any environmental guidelines at all?

Mr. RANDOLPH. No, indeed, sir.

Mr. NELSON. All right.

Mr. RANDOLPH. We will not do that.

Mr. NELSON. I am sure the Senator would not, but I did not understand that part.

Mr. RANDOLPH. I appreciate this colloquy with the Senator from Wisconsin, that he brings this matter to the attention of the Senate so that we may clarify that point.

Mr. PERCY. Mr. President, I wish to speak briefly on the pending bill.

REPLACEMENT HOUSING

I am most pleased that the Federal-Aid Highway Act of 1970 recognizes the problem of persons dislocated by Federal highway construction. The bill gives the Secretary of Transportation authority to approve the use of highway funds to construct or rehabilitate replacement housing for persons dislocated by highway projects if no other housing is available.

The Government's right of eminent domain has long been recognized. Finally, we as a body are facing up to the responsibility that this right imposes. The Government has the obligation to provide a house comparable to the one it destroys. No family should be forced to leave its home until it is provided with a suitable alternative.

I am pleased that the Public Works Committee has adopted as part of this bill legislation that I earlier introduced, S. 3992, which made provision for paying for replacement housing out of highway trust funds. As Chairman RANDOLPH knows, the need for this provision was brought home to me clearly in a visit I made to Charleston, in his State of West Virginia, where the lack of replacement housing is delaying construction of an interstate highway. Charleston is not the only place with this problem. In other areas projects also have been brought to a standstill because replacement housing cannot be found. The committee recognizes that this problem must be solved and provides the means by which decent, safe and sanitary housing can be provided where it is otherwise not available.

The bill improves upon my original legislation by further providing that where an individual would be required to finance replacement housing at a higher interest rate than that which he currently pays, payments from highway trust funds would compensate him for the increased interest cost. This is an important addition to the legislation.

I commend the committee for this very important addition to the Federal-Aid Highway Act of 1970.

FOREST HIGHWAYS

I am also pleased by the committee action which provides $33 million in fiscal year 1972 and $33 million in fiscal year 1973 out of the highway trust fund for forest highways.

As I pointed out on the floor of the Senate on August 14 of this year, in the past interstate highway trust funds have not been used to build the connecting parts of interstate highways that go through public lands. Additional funds have had to be appropriated in the past to build the connecting link of roads through public lands to join two sections of interstate highways. This has been an unnecessary expenditure of general revenue funds in the past and I am pleased that these expenditures in the future will come out of the highway trust fund.

HIGHWAY TRUST FUND

I am disappointed that the committee did not make a greater commitment to the problems of our cities by providing increased flexibility in the use of highway trust funds to use them to meet overall urban transportation needs.

The committee considered a proposal to allow urban areas to use urban highway funds for the support of public transportation operations. This proposal would have made highway funds available in standard metropolitan statistical areas for alternative public transportation systems if the Governor determined that such alternative public transportation systems were necessary to implement any applicable air quality standards for that area. Funds would have been available for land, construction or acquisition of track, and acquisition of rolling stock or other equipment.

I am sorry that this provision was not included in the bill reported out of the committee. Our urban areas have acute transportation problems that cannot be solved by use of the automobile alone. In Chicago, for example, to replace the Chicago Transit Authority track would require 70 lanes of highways just to move the same number of people. In cities that depend on buses the problem is just as acute. As the committee itself points out in its report, for want of less than $200,000 the city of Peoria, Ill., lost its bus service.

We must have increased flexibility in the expenditure of transportation funds for urban areas to meet their transportation needs in the way best designed to help that particular area, not just allocate funds for one particular mode of transportation.

I shall be working in the next session of Congress to establish an overall transportation trust fund so that States can use available funds to build whatever forms of transportation are most needed.

Mr. DOLE. Mr. President, I support S. 4418, the Federal-Aid Highway Act of 1970. This legislation represents a timely and constructive response to the changing transportation needs of our Nation. It recognizes that, while highways are our principal means of surface transportation, they must be part of an integrated transportation system. As we continue construction of that system, this bill requires that we minimize the adverse social, economic, and environmental import of highway construction on our communities.

Of particular interest to Kansas is section 14, authorization for the improvement of toll roads. Portions of the Kansas turnpike are part of the Interstate Highway System, which means they must meet the standards established for the Interstate System. Our turnpike was built prior to the authorization of the system, and portions of the turnpike

XUM

totaling 131.8 miles need improvements to bring them up to standards. This legislation will permit the turnpikes that are part of the Interstate System to use Federal funds for upgrading, subject to the condition that tolls be removed as soon as existing obligations have been retired.

Section 10 is also important to those States which need to encourage the growth of industry in their rural areas. In our rush to aid urban America, we often overlook the economic plight of our rural areas. Because their young people cannot find employment, we see an ever-increasing number moving to the cities. This movement compounds our urban problems and contributes to the economic decline of rural areas. Efficient transportation is often an important consideration when an industry is deciding on the location of a new plant. We must give more help to providing modern transportation systems for our rural areas. Establishing a priority for secondary road projects that will encourage development is only a first step.

I join Senator Cooper in his proposal for designation of critical transportation regions. This is a first step toward a national transportation system. The proposal recognizes the need to start with those metropolitan areas where the demands on our transportation system are so great.

I commend the chairman of the Public Works Committee, Senator Randolph, Senator Cooper, and the Members of the Subcommittee on Roads for their untiring efforts to meet our highway needs in the seventies.

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the Record a statement on the pending bill prepared for delivery by the distinguished Senator from California (Mr. Murphy).

There being no objection, Senator Murphy's statement was ordered to be printed in the Record, as follows:

Statement by Senator Murphy

Mr. Murphy. Mr. President. I support the Federal Aid Highway Act of 1970. This bill authorizes a two-year extension of the interstate system through 1976 and provides an additional $9.775 billion from the highway trust fund for this purpose. In addition, the measure provides a new authorization for the federal-domain roads such as our forest highways, public lands highways, forest development roads and trails.

I am pleased that the bill adds a new category of federal assistance, federal aid to our urban systems. We certainly must solve the transportation problems of our nation's metropolitan areas. On February 3 of this year, the Senate passed the Urban Mass Transportation Act, a major federal program to encourage and help finance urban mass transportation. This was a vital measure in the nation's effort to build a balanced and optimum transportation system. I ask unanimous consent that my statement strongly supporting the Urban Mass Transportation bill be printed following my remarks.

The Mass transportation legislation, coupled with the new category of federal highway assistance to the nation's urban areas, should be a big help to states and cities as they attempt to cope with their transportation problems.

I also supported the special $150 million program designed to replace the nation of our unsafe bridges. I was a member of the Senate Public Works Committee when the tragedy occurred on the Silver Bridge, which runs across the Ohio River, on December 15, 1967. Senator Randolph and the Committee are to be congratulated for leading this effort to survey the nation's many bridges and to assist in their correction where it proves necessary.

Also, I am pleased with the changes that teh Committee recommends to further assure that justice is done to those individuals who are displaced because of highway construction. While one may justify taking private property for the benefit of the community at large, we must make certain to the extent possible, that the citizens affected do not suffer as a result of the public taking. The Federal Aid Highway Act of 1968, which I helped to shape, took significant steps to relieve the hardship on individuals because of highway construction. This measure makes two additional improvements, first by giving states authorization to provide housing for displaced individuals if no other housing is available; and, secondly, the bill adds to the relocation assistance benefits a new provision designed to help in those cases where an individual was forced to finance a home as a result of a highway program at a higher interest rate than he was paying on the displaced home. Without the same interest rates or additional payment to reflect the additional interest cost, the individual in my judgment does not receive just compensation. This provision will help to assure that he does.

I am particularly pleased and grateful to Senator Randolph and the Committee for adopting my recommendation with respect to the apportionment factor so as to reflect the new increased cost estimates of the Century Freeway. This will mean an additional $20 million a year or approximately $110 million to the State of California. My staff and the State of California have been working with the Public Works Committee with respect to these new cost estimates, and I am delighted with the Committee's action. I was a member of the Public Works Committee in 1968, and I successfully sponsored an amendment which brought about the inclusion of the Century Freeway within the apportionment formula.

The Century Freeway is an excellent addition to the interstate system both to the country and to California. It serves numerous vital defense industries, ends at one of the nation's most important airports—Los Angeles International—and will ease serious congested problems over an extended area. It is estimated that the highway will carry more than 150,000 vehicles daily. In addition, the highway will serve an important function of helping to make jobs in other sections of the city of Los Angeles available to the minority community, who presently find transportation difficult.

The original estimate that had been submitted by the Department of Transportation for allocation of the funds among the states deleted approximately $110 million from the estimated amount required to complete the Century Freeway in California. This was because the Department was not allowing any increased cost for the Century Freeway. I felt that this was wrong for the Century Freeway, like other highway programs, has had to contend with rising costs. Additional requirements of the Bureau of Public Roads, such as a very wide median strip for the future use of mass transit or exclusive bus lanes, were imposed.

The Century Freeway then desires only to be treated in the same manner as any other interstate route and I am certainly glad that the Committee did just that.

Mr. STENNIS. Mr. President, since 1949, I have strongly supported efforts to strengthen the Federal program for improvement of county highways.

Beginning with the committee report on the Federal-Aid Highway Act of 1950, the Senate Public Works Committee emphasized that a portion of the secondary highway funds should be used on rural roads and to develop a county system of improved roads to serve local communities. Discretion has been vested in the Federal Highway Administrator and the State highway commissions.

I have been assured by the chairman of the committee that in this bill the secondary Federal-aid funds are carried down into the county level roads so as to help serve the rural communities for which all-weather roads are much needed. It is a very important program to the State of Mississippi. Since 1950, the secondary rural road system in Mississippi has been improved by investment of over $214 million. A little less than half of this was in Federal funds.

I wish to congratulate the distinguished chairman of the Public Works Committee on the Federal-aid highway bill of 1970 which I am supporting.

Mr. RANDOLPH. Mr. President, before the Senate proceeds to the vote on the final passage of S. 4418, I wish to express my deep appreciation to the members of the Committee on Public Works, Senators Young, Muskie, Jordan, Bayh, Montoya, Spong, Eagleton, Gravel, Cooper, Boggs, Baker, Dole, Gurney, and Packwood, for their excellent contributions to the committee's deliberation and consideration of this important bill. Special commendation is due Senator John Sherman Cooper, the ranking minority Member, for his work in helping to refine and strengthen this measure. As always the members all participated in the development of legislation which all could support. I also wish to commend the able staff of the committee and the legislative aides of the Members for their assistance in the development of this bill. The contributions of Richard B. Royce, staff director, J. B. Huyett, assistant staff director, M. Barry Meyer, counsel, Bailey Guard, minority clerk, and professional staff members, John Yago, Adrien Waller, and Harold Brayman, enabled us to understand and resolve the complex issues confronting us.

The PRESIDING OFFICER (Mr. Miller). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

All time has been yielded back.

On the question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. Bayh), the Senator from North Dakota (Mr. Burdick), the Senator from Virginia (Mr. Byrd), the Senator from Nevada (Mr. Cannon), the Senator from California (Mr. Cranston), the Senator from Connecticut (Mr. Dodd), the Senator from Mississippi (Mr. EASTLAND), the Senator from Tennessee (Mr. GORE), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Virginia (Mr. SPONG), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are absent on official business.

I further announce that, if present and voting, the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from California, (Mr. CRANSTON), the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Virginia (Mr. SPONG), the Senator from Missouri (Mr. SYMINGTON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Ohio (Mr. YOUNG) and the Senator from New Mexico (Mr. MONTOYA) would each vote yea.

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from Florida (Mr. GURNEY), the Senator from Maryland (Mr. MATHIAS), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY), and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from New York (Mr. JAVITS) is necessarily absent to observe a religious holiday.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Colorado (Mr. ALLOTT), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Utah (Mr. BENNETT), the Senator from Kansas (Mr. DOLE), the Senator from Hawaii (Mr. FONG), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. SMITH), and the Senator from North Dakota (Mr. YOUNG) would each vote "yea."

The result was announced—yeas 51, nays 0, as follows:

[No. 350 Leg.]

YEAS—51

Allen
Anderson
Baker
Bible
Boggs
Brooke
Byrd, W. Va.
Case
Church
Cook
Cooper
Curtis
Eagleton
Ellender
Ervin
Fannin
Fulbright
Griffin
Hansen
Harris
Hatfield
Holland
Hollings
Jordan, Idaho
Long
Magnuson
Mansfield
McCarthy
McClellan
McGovern
Metcalf
Miller
Mondale
Nelson
Packwood
Pearson
Percy
Proxmire
Randolph
Ribicoff
Russell
Saxbe
Schweiker
Scott
Smith, Maine
Stennis
Stevens
Talmadge
Thurmond
Tower
Williams, Del.

NAYS—0

NOT VOTING—49

Aiken
Allott
Bayh
Bellmon
Bennett
Burdick
Byrd, Va.
Cannon
Cotton
Cranston
Dodd
Dole
Dominick
Eastland
Fong
Goldwater
Goodell
Gore
Gravel
Gurney
Hart
Hartke
Hruska
Hughes
Inouye
Jackson
Javits
Jordan, N.C.
Kennedy
Mathias
McGee
McIntyre
Montoya
Moss
Mundt
Murphy
Muskie
Pastore
Pell
Prouty
Smith, Ill.
Sparkman
Spong
Symington
Tydings
Williams, N.J.
Young, N. Dak.
Yarborough
Young, Ohio

So the bill (S. 4418) was passed.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD of West Virginia. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 4418, and that the bill be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, the Senate's unanimous approval of this measure marks another outstanding achievement for the distinguished senior Senator from West Virginia (Mr. RANDOLPH). As the chairman of the Committee on Public Works he has labored tirelessly in behalf of a responsible highway program for this Nation. He has succeeded. His success is due in large measure to the outstanding legislative skill and ability he applies to every proposal that gains his support. His leadership on this measure demonstrates that fact clearly. The Senate is again deeply grateful. Senator RANDOLPH again has earned its highest commendation.

The Senate is indebted as well to the distinguished senior Senator from Kentucky (Mr. COOPER). As the ranking minority member of the committee he joined in typical fashion to assure the Senator's approval. His cooperation and strong support were indispensable.

To the Senate as a whole goes equally high praise. This proposal was disposed of efficiently and expeditiously. The cooperation of every Member was necessary and each Senator may share in the achievement.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

PROGRAM—DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT—ORDER FOR ADJOURNMENT TO MONDAY

Mr. GRIFFIN. Mr. President, for the benefit of the Senate I take this time to inquire of the distinguished majority leader whether he can advise us concerning the schedule for the remainder of the day and for as far in the future as he may be able to indicate.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. There is no pending business before the Senate.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Senate Joint Resolution 1 be laid before the Senate and made the pending business at this time.

The PRESIDING OFFICER. The resolution will be stated by title.

The title of the resolution was read, as follows:

A joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to the election of the President and the Vice President.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the joint resolution.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Alabama.

Mr. GRIFFIN. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. GRIFFIN. Mr. President, before he yields I wonder if the distinguished majority leader is inclined to advise the Senate concerning the schedule.

Mr. MANSFIELD. Mr. President, I shall be delighted to do so. I was attempting to initiate a procedure which I understood had been cleared or nearly cleared by all concerned.

It is the intention of the leadership to lay before the Senate this evening the bill on legislative reorganization, Calendar No. 1237, H.R. 17654, an act to improve the operation of the legislative branch of the Federal Government, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent at this time that the Senate convene at 12 noon on Monday October 5, 1970, and that on Tuesday, October 6, 1970, the Senate convene at 11 o'clock a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. That will accommodate the Republican conference luncheon and the Democratic Policy Committee meeting, both of which are scheduled.

The PRESIDING OFFICER. Does the Senator wish that the Senate adjourn or recess?

Mr. MANSFIELD. Adjourn.

The PRESIDING OFFICER. Without objection, it is so ordered.

XUM

Mr. MANSFIELD. Mr. President, it is anticipated that nearly all of Monday, if not all of Monday, will be devoted to the consideration of Senate Joint Resolution 1; that amendments will be offered; and that, in all likelihood, there could be votes on amendments that day.

After the cloture vote on Tuesday, 1 hour after the Senate convenes, it would be the intention of the leadership, should cloture fail, to turn to the consideration of the legislative reorganization bill at an appropriate time. If cloture carries, of course, the Senate will proceed with Senate Joint Resolution 1. To try to state all of the possible contingencies now is not possible. But that is a general description of what the leadership expects on Monday and possibly Tuesday.

Thereafter, the equal rights for women constitutional amendment must be considered, the class action measure, which is to be reported on Monday; the drug bill which is now on the calendar, and the four crime bills which are on the calendar. Then there are the various appropriation bills. Of course they will be considered on a priority basis when they become available. Hopefully, social security legislation will soon be reported so that the Senate may proceed to its consideration before the middle of the month.

This is a very flexible schedule. It is the best I can do on such short notice. I ask for the understanding of the Senate for not being more definitive. I am confident that there are a number of other measures that I did not mention, but which will be considered in the remaining weeks along with those specifically referred to.

Mr. ERVIN. Mr. President, I wonder if the Senator from Michigan will yield to me without losing his right to the floor?

Mr. GRIFFIN. Mr. President, I believe there was some misunderstanding. Which was not the fault of the majority leader. Some Senators may have been under the impression that I plan to withdraw my proposed amendment to Senate Joint Resolution 1. I am not in a position to do that yet, although I did indicate that I shall give consideration to the possibility—particularly if I become convinced that the Senate is not going to adopt the direct popular election plan.

As I understand it, what the Senator from North Carolina intends to do is offer an amendment to my amendment, or a substitute thereto. Of course, he would be within his rights.

Now I yield to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I might state to the distinguished Senator from Michigan that it is my purpose to call up my amendment No. 942, which is an amendment to his amendment and would take precedence over it.

For the information of the Senate, this amendment would provide, in lieu of the Griffin amendment, a proportional voting system. Therefore, we would have a vote on that.

I hope, however, that on consideration, the distinguished Senator from Michigan will withdraw his amendment and let me then offer a proportional voting system in lieu of my present amendment, because my present amendment, if it prevailed, would have to be followed by a motion to strike out the rest of Senate Joint Resolution 1. It would be more direct to have a direct vote on the proportional amendment than on the substitute itself.

I can understand why the Senator from Michigan is not prepared to take that action at the present moment, but I hope, on further consideration, he will do it. It would simplify procedures.

As it is I want to call up my amendment to his amendment, and ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment: Senators HOLLAND, HOLLINGS, BYRD of Virginia, FULBRIGHT, THURMOND, STENNIS, ALLEN, SPARKMAN, MCCLELLAN, BYRD of West Virginia, and ELLENDER.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

The PRESIDING OFFICER. Is the Senator from North Carolina calling up his amendment?

Mr. ERVIN. Mr. President, as soon as I get the floor, I would like to call up my amendment No. 942. I have asked unanimous consent that the Senators whose names I have mentioned be made cosponsors.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows: The Senator from North Carolina (Mr. ERVIN) for himself and other Senators, proposes amendment No. 942 in the nature of a substitute.

Amendment No. 942 is as follows:

AMENDMENT NO. 942

In lieu of the language proposed to be inserted by amendment No. 711, insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution only if ratified by three-fourths of the legislatures of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected as provided in this Constitution.

"The office of elector of the President and Vice President, as established by section 1 of article II of this Constitution and the twelfth and twenty-third articles of amendment to this Constitution, is hereby abolished. The President and Vice President shall be elected by the people of the several States and the district constituting the seat of Government of the United States. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature, except that the legislature of any State may prescribe lesser qualifications with respect to residence therein. The electors in such district shall have such qualifications as the Congress may prescribe. The places and manner of holding such election in such district shall be prescribed by the Congress. Congress shall determine the time of such election, which shall be the same throughout the United States. Until otherwise determined by the Congress, such election shall be held on the Tuesday next after the first Monday in November of the year preceding the year in which the regular term of the President is to begin. Each State shall be entitled to a number of electoral votes equal to the whole number of Senators and Representatives to which such State may be entited in the Congress. Such district shall be entitled to a number of electoral votes equal to the whole number of Senators and Representatives in Congress to which such district would be entitled if it were a State, but in no event more than the least populous State.

"Within forty-five days after such election, or at such time as Congress shall direct, the official custodian of the election returns of each State and such district shall make distinct lists of all persons for whom votes were cast for President and the number of votes for each, and the total vote of the electors of the State or the district for all persons for President, which lists he shall sign and certify and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. On the 6th day of January following the election, unless the Congress by law appoints a different day not earlier than the 4th day of January and not later than the 10th day of Januray, the President of the Senate shall, in the presence of the Senate and House of Representatives, open all certificates and the votes shall then be counted. Each person for whom votes were cast for President in each State and such district shall be credited with such proportion of the electoral votes thereof as he received of the total vote of the electors therein for President. In making the computation, fractional numbers less than one one-thousandth shall be disregarded. The person having the greatest number of electoral votes for President shall be President, if such number be a majority of the whole number of electoral votes. If no person has a majority of the whole number of electoral votes, then from the persons having the two greatest numbers of electoral votes, for President, the Senate and the House of Representatives sitting in joint session shall choose immediately, by ballot, the President. A majority of the votes of the combined authorized membership of the Senate and the House of Representatives shall be necessary for a choice.

"The Vice President shall be likewise elected, at the same time and in the same manner and subject to the same provisions, as the President, but no person constitutionally ineligible for the office of President shall be eligible to that of Vice President of the United States.

"The Congress may by law provide for the case of the death of any of the persons from whom the Senate and the House of Representatives may choose a President whenever the right of a choice shall have devolved upon them, and for the case of death of any of the persons from whom the Senate and the House of Representatives may choose a Vice President whenever the right of cohice shall have devolved upon them. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 2. This article shall take effect on the 10th day of February next after one year shall have elapsed following its ratification."

Mr. MANSFIELD. Mr. President, if the Senator will yield, is the leadership correct in its previous statement to the effect that the Senate can very well expect to have votes on amendments to Senate Joint Resolution 1 on Monday next?

Mr. ERVIN. Yes. This would be the first, because it is an amendment to the pending amendment. I hope, however, we can make arrangements for the Senator to withdraw the pending amendment and vote directly on proportional voting, which is what is incorporated in this amendment.

Mr. MANSFIELD. Mr. President, will the Senator yield further?

Mr. ERVIN. I yield.

Mr. MANSFIELD. Would the Senator consider the possibility on Monday of a time limitation on amendments which may be offered?

Mr. ERVIN. Yes.

Mr. MANSFIELD. I thank the Senator.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. May I inquire who has the floor at this time?

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BAKER. Mr. President, will the Senator from North Carolina yield to me quite briefly so that I may ask him if I understand him correctly?

Mr. ERVIN. I yield.

Mr. BAKER. Is it the Senator's intention that we should vote on Monday on his amendment in the nature of a substitute for the Griffin-Tydings amendment?.

Mr. ERVIN. My amendment is a perfecting amendment, technically, for the Griffin-Tydings amendment, but it is the proportional amendment. I hope the Senator from Michigan will withdraw his amendment and let us vote on this one and have a direct vote on this amendment. But I am willing to have a vote on either one.

Mr. BAKER. The reason I made the inquiry is that I am pleased to see that we will at last vote on the merits, but I must say there are those of us who feel that what we must have in the final analysis is direct popular election, and I am not prepared to say I can say we will want to vote on Monday. It may be that the consideration of the merits of the Senator's plan as opposed to the direct popular vote plan will require more time. So that my silence does not mislead anyone, I want to say there probably will be discussion on the amendment in the nature of a substitute, or on the amendment directly in the event the Senator from Michigan (Mr. GRIFFIN) withdraws his amendment. There may be a vote on Monday, but the Senate should not feel certain that there will be a vote then.

Mr. ERVIN. I was not undertaking to say whether the Senator would be ready to vote, but what I was saying was that I will be ready to vote on my amendment as a substitute for the Griffin amendment, or, if that is withdrawn, on my amendment directly.

Mr. BAKER. I wonder if the Senators would be agreeable to a vote on Senate Joint Resolution 1, just as it is?

Mr. ERVIN. I think if we would cross each bridge as we got to it we would do better and make better progress.

Mr. BAKER. If the Senator will yield, the great difficulty has been in getting to a vote on Senate Joint Resolution 1. Two cloture motions have been filed against debate on it, without success.

So on Monday next, I shall repeat my request that the Senator from North Carolina and the rest of our colleagues consider voluntarily setting a time to vote on Senate Joint Resolution 1, or at least to vote on the Griffin-Tydings amendment to Senate Joint Resolution 1.

Mr. ERVIN. The Senator from Tennessee does not seem to be willing to vote next Monday on the proportional voting proposal, so I doubt that he is in a position to take someone else to task for not being willing to vote on something else, when he is not willing to vote on the proportional voting proposal.

Mr. BAKER. Of course, the Senator from Tennessee harbors some of the same instinct and feeling as well, because I have been trying to get to a vote for a long time, and I just want to make sure that a compromise or accommodation does not just mean me giving up.

So I wish to put the Senate on notice that we may have to discuss this matter a little farther than next Monday.

Mr. ERVIN. Yes. Mr. President, I would like, for clarification, to state, as I have stated—and I am sorry that the Senator from Tennessee was not present—to the distinguished Senator from Indiana several days ago that I would be perfectly willing to vote on the Katzenbach proposal or the Katzenbach amendment, or upon a proportional voting amendment. Unfortunately we have not been able to do that because the pendency of the Griffin amendment made the Griffin amendment the order of business, and we could not call up another amendment prior to that time.

I would say to the distinguished Senator from Tennessee that the natural order of voting would be to vote on substitutes for Senate Joint Resolution 1 before we ever vote on Senate Joint Resolution 1. We have not been able to do that, but we offer to do that now, and we offer to have the vote on Monday.

Mr. BAKER. Mr. President, if the Senator will yield for a parliamentary inquiry, may I address the Chair?

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. I ask whether or not the pending amendment in the nature of a substitute for the Griffin-Tydings amendment is in itself open to amendment?

The PRESIDING OFFICER (Mr. HANSEN). The substitute may not, but the language proposed to be stricken out of the committee amendment in the nature of a substitute would be open to amendment.

Mr. BAKER. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Do I correctly understand that the amendment in the nature of a substitute now proposed by the distinguished Senator from North Carolina could be adopted as a substitute by a simple majority vote, and not require a two-thirds vote?

The PRESIDING OFFICER. That is right.

Mr. BAKER. And by the same token, a new substitute to the resolution itself, striking the amendment in the nature of a substitute, could also be adopted by a majority vote?

The PRESIDING OFFICER. Any amendment to the substitute of the pending resolution could be adopted by a simple majority vote.

Mr. BAKER. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Just to make sure that I fully understand the Chair——

Mr. ERVIN. Mr. President, I think, if the Senator from Tennessee will pardon me, he is making a mistake in calling my pending amendment a substitute. It is a perfecting amendment.

Mr. BAKER. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Is the amendment of the Senator from North Carolina at the desk?

The PRESIDING OFFICER. The amendment offered by the Senator from North Carolina is at the desk.

Mr. BAKER. Could the Chair inform the Senator from Tennessee as to whether it is an amendment in the nature of a substitute or a perfecting amendment?

The PRESIDING OFFICER. It is not a substitute for the bill. It is language in lieu of that proposed by the Senator from Michigan.

Mr. BAKER. Does that constitute a substitute for the Griffin-Tydings amendment?

The PRESIDING OFFICER. That is right.

Mr. BAKER. Is it amendable further?

The PRESIDING OFFICER. At this stage, the amendment submitted by the Senator from North Carolina is not further amendable.

Mr. BAKER. But Senate Joint Resolution 1 could be amended to delete the Ervin amendment's effect, by a simple majority vote?

The PRESIDING OFFICER. The amendment submitted by the Senator from Michigan (Mr. GRIFFIN) proposes to strike out the language on page 5, including lines 1 through 7, and insert new language in lieu thereof.

Then the Ervin amendment proposes to substitute new language in lieu of the language of the Griffin amendment; and this language in the committee substitute, proposed to be stricken out by the Griffin amendment, is open to amendment. That is the only other amendment in order at this time, except the original language of the bill proposed to be stricken by the committee amendment.

Mr. BAKER. Not wishing to unduly impose on my colleague from North Carolina, who has the floor, but just to make sure that I do understand: If the amendment offered by the Senator from North Carolina, whether it be an amendment in the nature of a substitute or a perfecting amendment, is agreed to by a simple vote, would it have the effect of modifying the pending amendment, which is the Griffin-Tydings amendment to Senate Joint Resolution 1?

The PRESIDING OFFICER. It would eliminate that.

XUM

The Chair should further observe that other sections of Senate Joint Resolution 1, not dealt with by the amendment offered by the Senator from Michigan and further perfected by the amendment of the Senator from North Carolina, would be open to further amendment after disposition of the pending amendments.

Mr. BAKER. But the point I wanted to reach—and I hope this will be my final parliamentary inquiry—is this: If the Ervin amendment is adopted, would another amendment to Senate Joint Resolution 1 to delete the Ervin amendment be in order, and could such an amendment be adopted by a majority vote?

The PRESIDING OFFICER. If the Ervin amendment were agreed to and the Griffin amendment were agreed to as amended, then the whole substitute would be open to amendment as agreed to, except that exact language that had been agreed to. Even another substitute for the entire bill would be in order.

Mr. BAKER. I thank my colleague for yielding.

Mr. ALLEN. Mr. President——

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Alabama yield?

Mr. ALLEN. I yield. I was going to ask if the Senator from North Carolina would yield to me.

Mr. ERVIN. Yes. I yield to the Senator from Iowa.

Mr. MILLER. I thank the Senator. Following on the Chair's last ruling, do I correctly understand that the substitute that could be offered in lieu of the matter pending—and the matter pending would be the Griffin amendment, as modified by the Ervin amendment—do I understand that a further substitute could be offered to replace it, and could include language which would delete the Ervin amendment?

The PRESIDING OFFICER. If the Ervin amendment and the amendment by the Senator from Michigan were disposed of, then a complete substitute for the committee amendment in the nature of a substitute would be in order.

Mr. MILLER. Notwithstanding the fact that that complete substitute would delete the language of the Ervin amendment?

The PRESIDING OFFICER. It could delete the entire amendment that had been adopted.

Mr. MILLER. I thank the Chair.

Mr. ALLEN. Mr. President, will the Senator from North Carolina yield?

Mr. ERVIN. Yes, I am delighted to yield to the Senator from Alabama.

Mr. ALLEN. I commend the distinguished Senator from North Carolina for his statesmanship in proposing this perfecting amendment to the Griffin-Tydings amendment. I commend him further on offering an amendment which is the very amendment that the junior Senator from Alabama understands was once approved by the U.S. Senate, and it would not be any departure at all from precedent if the Senate should agree to this amendment and it should be approved by the House of Representatives and submitted to the States.

I have been somewhat amused at the consternation that has been caused in the ranks of those proposing Senate Joint Resolution 1 by the statement of the distinguished Senator from North Carolina that he would be happy to see a vote on his amendment and possibly other amendments, such as the district plan and the Katzenbach plan—formerly the Bayh plan—also on Monday. He recalls the occasions when the distinguished Senator from Indiana would challenge the distinguished Senator from North Carolina to agree on a vote. Now the distinguished Senator from North Carolina states that, so far as he is concerned, we can vote on his amendment on Monday, vote on the Katzenbach-Bayh plan, vote on the district plan.

Now some of the proponents of Senate Joint Resolution 1 say, "No, no, we may want to talk some ourselves." So that would seem to indicate that on Tuesday, if the proponents of Senate Joint Resolution 1 want to talk some more, that gives a pretty dim outlook on the cloture vote on Tuesday, does it not?

Mr. ERVIN. I would certainly welcome support on my proposition.

I should like to say, for the information of the Senate, that, as the Senator from Alabama has so well said, my amendment incorporates what was known some years ago as the Lodge-Gossett amendment. It may not be in exactly the same words, but it would have exactly the same effect. It would retain the federal system. In other words, it would recognize that the States have a direct interest in the election of the President. It would retain the electoral votes as they now exist. But it would abolish the office of elector and thus do away with the defaulting or disloyal elector. He would be relegated to the scrap heap of history, if this proposal were adopted.

The next thing it would do is that it would let every voter in every State and in the District of Columbia vote directly for President and Vice President. In other words, he would not have to vote through an intermediary, in the form of a presidential elector. It would divide the electoral vote of each State in accordance with the popular vote received by the candidates in the election.

It would also still require a majority of the electoral vote as thus determined to elect a President. I do not believe in 40 percent Presidencies, as I have stated on the floor of the Senate. It would do away with the present method of electing the President in the event no candidate for President gets a majority of the electoral vote.

Instead of having the President elected by the House, with each State having one vote, this proposal would provide that in the event that no candidate received a majority of the whole number of electoral votes, apportioned in accordance with the popular vote in each State, Congress, sitting in joint session, with each Senator and each Representative having a single vote, would elect the President, he being the choice of the majority of the Senators and of the Representatives in that event.

This would do away with what I consider every valid objection to the present method of electing Presidents, without going to the drastic extreme of converting the 184,000 voting precincts throughout the length and breadth of the United States into one vast election precinct. It would be a decided advantage over the present system of electing the President, without fleeing to the perils we know not of in respect to the popular election.

Mr. ALLEN. Does the junior Senator from Alabama correctly understand, then, that it would do away with the so-called unit rule—the winner-take-all rule—in respect to States?

Mr. ERVIN. Yes.

Mr. ALLEN. It would do away with that?

Mr. ERVIN. It would do away with that.

Mr. ALLEN. It would do away with the issue of the faithless elector?

Mr. ERVIN. That is correct.

Mr. ALLEN. It would provide for the direct election in the sense that one could vote for the President and Vice President rather than for the electors themselves?

Mr. ERVIN. That is correct.

Mr. ALLEN. Then, if no candidate got a majority in the electoral college, the election would go into the new Congress, with each Member of the House and Senate having one vote.

Mr. ERVIN. That is correct.

Mr. ALLEN. So it would then eliminate the present provision of the top three going before the House of Representatives only, with each State delegation casting one vote.

Mr. ERVIN. That is correct.

Mr. ALLEN. Actually, then, there would be no possibility of a tieup in the House of Representatives, because the issue would just be between two candidates rather than three and before the whole Congress with each Member having one vote.

Mr. ERVIN. Yes.

Furthermore, I think that in all probability the States would ratify this amendment if it should be submitted to them. I have grave doubt as to whether the States would ratify an amendment for popular election of Presidents, because it would deprive 34 States of the 50 States in the Union of some of their voice in the election of the President at this time.

Mr. ALLEN. The plan that the distinguished Senator from North Carolina has introduced, which he says he hopes—and I know that he does—will receive a vote on Monday, has features of the automatic plan.

Mr. ERVIN. It is automatic in the sense that the electoral votes of each State will be divided automatically among the candidates in proportion to their respective popular vote.

Mr. ALLEN. But what the junior Senator from Alabama has reference to is that it has features of the so-called automatic plan.

Mr. ERVIN. Yes.

Mr. ALLEN. And it has features of the direct plan, in that one would vote for the President and Vice President directly, rather than for electors.

Mr. ERVIN. That is correct.

Mr. ALLEN. It has features of the one-man, one-vote theory, in that it is not subject to the objection that in each State the losing voters lose their votes and they are added to the winning candidate, so that each winning voter and each losing voter has his pro rata part of the electoral vote counted, Is that not correct?

Mr. ERVIN. That is correct.

Mr. ALLEN. So that it would seem to cover all the features of the desirable democratic methods proposed by the other plans.

Mr. ERVIN. It covers every desirable change that should be made, without converting 184,000 separate election precincts into one great election precinct, where in every close election the probability is that there is going to be controversy, litigation, doubt, and uncertainty for months after the election, as to whether anybody has been elected President at all.

Mr. ALLEN. If the amendment of the distinguished Senator from North Carolina is adopted, then, the Senator from North Carolina would support Senate Joint Resolution 1 as amended, let it go back to the House, and be agreed on there, or in conference, and then submit it to the States.

Mr. ERVIN. Yes.

Mr. ALLEN. Does the distinguished Senator from North Carolina feel that the proportional plan would stand a better chance of being ratified by 38 States than the direct plan?

Mr. ERVIN. I do, because it preserves the federal system of government. It preserves the electoral voting system. It does not deprive 34 of the States of their present voice in the election of a President.

Mr. ALLEN. I thank the distinguished Senator from North Carolina for this information. I am happy to be one of the cosponsors of the Senator's amendment, and I pledge that if this amendment is adopted, I will vote for this electoral reform on final passage of the measure.

Senate Joint Resolution 1, then, would remain as the vehicle by which this electoral reform is accomplished, would it not?

Mr. ERVIN. That is what it is designed to do.

Mr. ALLEN. I thank the Senator from North Carolina.

Mr. BYRD of West Virginia. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia will state it.

Mr. BYRD of West Virginia. Do all amendments to Senate Joint Resolution 1 now at the desk qualify under rule XXII?

The PRESIDING OFFICER (Mr. SCHWEIKER). The Chair would state that there is no precedent to that effect because a new cloture motion has been filed.

Mr. BYRD of West Virginia. So, Mr. President, if I am to understand the Presiding Officer's response correctly, the pertinent unanimous-consent request made prior to the second previous cloture motion does not necessarily carry over beyond the action of the Senate on that cloture motion.

The PRESIDING OFFICER. That is a questionable point.

Mr. BYRD of West Virginia. Mr. President, in order that there shall be no question, I ask unanimous consent that all amendments now at the desk and all amendments submitted at the desk up to the time the vote begins on the motion to invoke cloture on Tuesday next——

Mr. ERVIN. If the Senator from West Virginia will yield for a question there, as I understand the Senator's unanimous-consent request, all amendments proposed, down to and prior to the cloture motion vote, shall be considered as presented and read for all practical purposes under rule XXII in the event cloture is voted.

Mr. BYRD of West Virginia. Yes. That is my intention.

The PRESIDING OFFICER. Will the Senator from West Virginia please restate his unanimous-consent request?

Mr. BYRD of West Virginia. I ask unanimous consent that all amendments now at the desk and all amendments submitted at the desk up until the time the vote commences under rule XXII on Tuesday next be considered as having been presented and read under the provisions of rule XXII.

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Does the Senator desire to speak on this question?

Mr. BAKER. Yes, Mr. President. The import of the request of the Senator from West Virginia, as I understand it, would be to reinstate the amendments that have already been offered at the table for presentation under rule XXII but which are no longer at the table after disposition of the previous cloture motion. Is that correct?

The PRESIDING OFFICER (Mr. SCHWEIKER). That would be the intent of the unanimous-consent request according to the Chair's understanding.

Mr. BAKER. So that the effect would be to reinstate, for the purposes of qualification under rule XXII, all amendments at the desk at the time of voting on the last cloture motion, and including all those filed and presented at the desk prior to voting on the cloture motion on Tuesday.

The PRESIDING OFFICER. That is the Chair's judgment as to the effect of the unanimous-consent request.

Mr. BAKER. Mr. President, I have no objection.

Mr. GRIFFIN. Mr. President, reserving the right to object, as I understand it, under rule XXII, every amendment must be germane. Is that the case?

The PRESIDING OFFICER. That is correct.

Mr. GRIFFIN. And agreement to the unanimous-consent request will not waive or change the requirement, that each amendment must be germane?

The PRESIDING OFFICER. It would have no effect on that consideration.

Is there objection to the unanimous-consent request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ERVIN. Mr. President, in the printing of the pending amendment (No. 942), there is an error on line 7 on page 4. On line 5, it reads, "In making the computation, fractional numbers less than one one-thousandth shall be disregard."

It should be "disregarded."

Mr. President, I modify the pending amendment (No. 942) accordingly, to change the verb "disregard" to the verb "disregarded."

The PRESIDING OFFICER. The amendment will be so modified.

Mr. GRIFFIN. Mr. President, because the amendment which I have cosponsored with the Senator from Maryland (Mr. TYDINGS), seems to be an important item in this discussion, I wish to speak for a moment or two about the situation which confronts the junior Senator from Michigan.

I wish to indicate that next to that, if the Senate cannot adopt the direct popular election proposal, then I hope the Senate will move toward reform and, if possible, will then adopt the proportional plan.

In the past, President Nixon has indicated support for the proportional plan. I am convinced it has widespread support and would have a good chance of being ratified by the several States.

But as we approach the possibility of a vote in the Ervin substitute for the Griffin-Tydings amendment, I am in a difficult and awkward position. It will be diffcult to vote for the proportional plan embodied in the Ervin substitute so long as I believe the direct popular election proposal has any chance.

I must say, however, after two cloture votes, that the junior Senator from Michigan has about arrived at the conclusion that the Senate is just not going to approve the direct popular election proposal. I realize that there are many who have been fighting with me for the direct popular election proposal who still think there is a chance to prevail.

If the Senator from Tennessee (Mr. BAKER) takes steps to make sure we do not come to a vote on Monday, he may be performing a valuable service. Perhaps we should go to a third cloture vote. Then, if cloture is not invoked, I will be in a position to withdraw my amendment and make the amendment of the Senator from North Carolina (Mr. ERVIN) a direct substitute for the resolution itself.

At the present time, I am inclined toward that course of action.

Mr. BAKER. May I say, along that same line, I do not believe anyone doubts where I stand with respect to support of the direct popular election proposal. I do not believe anyone misunderstood me when I indicated there was some doubt about us voting on Monday on the distinguished Senator's amendment. I do not mean to imply that I am opposed to his amendment. I am not. I share the sentiment of the Senator from Michigan that if we cannot get the direct popular election proposal there are two or three other plans that appeal to me, and which we have discussed. I would hope that we have time enough to consider those aspects, some of which are hybrid ones— the direct popular vote, maybe the proportional plan, the Gossett plan, the district plan, eliminating the runoff, or a half-dozen other things.

The point is that I did not file the cloture motion. I did not know it was going to be filed. I am not forcing this vote on the question. I am in no way criticizing

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the distinguished majority leader for filing it. It simply means that we will come to grips with the cloture motion on Tuesday.

The point is that I have some considerable reluctance about foreclosing, from a practical standpoint, the over several variations of plans that have been discussed from the time of the last cloture motion before the cloture vote on Tuesday. Therefore, it is not my intent on Monday to be an obstructionist when I indicate that I doubt that we will vote on the proportional plan, but rather to indicate that I want to fully explore the several possibilities that I know are still under consideration.

Mr. President, I make this pledge to my colleagues, that I am a realist, and if I am convinced that the direct popular vote proposal will not be passed, I will move on to find out the next plan that can be passed in order to get electoral reform. But I do not think we are there now. I do not think we will be there on Monday.

My statement was made to clarify my previous statement.

Mr. ERVIN. Mr. President, I understand the Senator's statement very clearly. I would say that the proportional voting plan, like the so-called Katzenbach plan, has the virtue of simplicity, unlike the proposal here which seems to me to be rather complicated.

I think that whatever system we have, it ought to be very simple of operation. Of course, Senate Joint Resolution 1, outside of the complications arising from converting all precincts into one precinct, is simple. So is the proportional vote system. So is the Katzenbach plan.

Mr. President, some of the plans are rather complicated. I think that whatever system we have, it should be a simple and understandable plan.

Mr. HOLLAND. Mr. President, I have listened with a great deal of interest to the statement of the distinguished Senator from Tennessee, because he states exactly the way I felt about this matter when I very strongly opposed cloture, as we had it up twice before.

The Senator from Tennessee says that he thinks all plans ought to be fully explored and fully debated and fully understood. That is exactly what those of us who are opposed to cloture have been contending for all along.

May I say to my friend, the Senator from Michigan, that the withdrawal of his amendment—and he said that he would think about it over the weekend—would at least permit a direct vote on the proportional plan without any other obstruction whatever. If it is voted up and adopted, we would be on our way to the submission of an amendment. If it is voted down, there would still be available not only Senate Joint Resolution 1, but also the amendment offered by the Senator from Michigan and the Senator from Maryland which could again be reoffered.

I am hoping that we get a chance to vote on Monday and vote on something that is meaningful and might be passed or might not be. But I strongly share the feelings of the distinguished Senator from Tennessee that if we do not agree on anything on Monday, all plans that are proposed should be fully discussed. That has been exactly my feeling all the way through, as cloture has been proposed twice heretofore already.

Mr. BAKER. Mr. President, I entirely agree. I would hope that this matter would be accomplished not by a cloture motion, but by an agreement to give us a time certain to vote on every proposal, including the popular vote.

Mr. DOLE. Mr. President, I was not present earlier. I understand that there could still be a substitute to the Ervin substitute offered on Monday.

I might say at this time that there is some chance that I might have such a substitute amendment to offer, No. 957, which does contain at least the principle of direct election.

Any candidate receiving 50 percent of the votes would be elected President. If that measure failed, then we would have the so-called Katzenbach plan, or the Ervin plan, which would provide automatically that if no candidate had a majority of 270, there would be a joint session of the House and Senate, with each Member having one vote.

It is much like the Tydings-Griffin plan. That sets forth a 50-percent requirement.

The point has been raised, and quite properly, many times by the Senator from North Carolina that we should not have a 40-percent President. We all agree that the man receiving the most votes, if there is a 50-percent requirement, should be President.

I state at this time that I will be studying this possibility over the weekend and will be here on Monday.

Mr. BAKER. Mr. President, I thank the Senator from Kansas. He has been very helpful in seeking to get some sort of accommodation with regard to this matter.

I believe that all of us are dedicated to the idea that there must be a test of the several proposals for electoral reform. All I ask is that the direct popular vote be considered on its merits as one of those proposals.

Mr. President, I yield the floor.

Mr. ALLEN. Mr. President, I appreciate the comments of the distinguished Senator from Tennessee and the distinguished Senator from Michigan when they say that if they cannot get the direct election method, they will then be pleased to have the proportional election system.

The junior Senator from Alabama would like to point out, however, that if they go the route they suggest—and that is to wait until the cloture vote on Tuesday before making up their minds to take the proportional plan—that plan might not be available to them if the cloture motion fails. In other words, there is a likelihood that it will be necessary, in order to have a compromise reached, to give up at this time the idea of getting the direct election method and agreeing on the proportional plan. If the cloture motion fails on Tuesday, there is an extremely good likelihood that some of those now willing to support the proportional plan and see it on through to approval by two-thirds of the Senate might not be so enthusiastic about going that route if the cloture motion fails on Tuesday.

So it does seem to the junior Senator from Alabama that it would be more appropriate, if we hope to get meaningful electoral reform, to vote here on Monday for the proportional plan. If that measure does not carry, then we could vote on the district plan, the automatic plan, and the various alternatives to the direct election to see if the majority of the Senate does want some alternative to the direct system. Then, if those alternatives, all of them, are separately voted down, there would be the opportunity on Tuesday to explore the possibility of forcing the direct election method to a vote.

But as things now stand, some of those who are willing to support a proportional plan on Monday might not be willing to do that if the direct election system fails through the refusal of the Senate to invoke cloture on Tuesday.

So if we are going to have electoral college reform, it does seem to the junior Senator from Alabama that the best plan would be the plan that the Senate tried—I believe in 1956—when it submitted the proportional plan and the district plan as alternate routes.

The junior Senator from Alabama is hopeful that on Monday the proponents of Senate Joint Resolution 1, who have been saying, "Let us have a vote on something," will have had their challenge accepted.

So far as those who have been discussing the language of this proposal are concerned, they are willing to see a vote on the proportional plan on Monday.

The junior Senator from Alabama is hopeful that the distinguished Senator from Tennessee will not stand in the way of a vote on Monday on the proportional plan. Now, if the distinguished Senator from Tennessee and others of like mind who are pushing direct election take the position on Monday that these plans need more discussion, then what would be the logic on Tuesday of them voting to apply cloture? So if they feel on Monday we need more debate, let us see whether on Tuesday they will be of the same mind.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Tuesday next, immediately following the disposition of the reading of the Journal and until the beginning of the automatic quorum call under rule XXII, the time be equally divided between the able Senator from Indiana (Mr. BAYH) and the able Senator from Nebraska (Mr. HRUSKA).

The PRESIDING OFFICER. Without objection, it is so ordered.

THE LEVEL OF UNEMPLOYMENT HAS BECOME INSUFFERABLE

Mr. PROXMIRE. Mr. President, the level of unemployment has become insufferable. The unemployment figure for September was released at 11:45 this morning. It showed unemployment of 5.5 percent. That is bad news. But more important, worse news is yet to come unless there is constructive action now.

The time has come for the President and the Congress to act. Unemployment is the one misfortune that Americans overwhelmingly feel to be cruel, unjust, and wholly unnecessary.

Not only is 5.5 percent the highest monthly figure since January 1964, but a whole series of facts clearly indicate that joblessness will continue to rise.

The Pollyannish prediction by Chairman McCracken of the Council of Economic Advisers, that unemployment would average 4.3 percent this year, has long ago been overtaken by events.

There are a number of reasons, both short term and long term why things will get worse before they get better.

First, unemployment almost always continues to rise at the end of a recession. It lags behind the upswing. The Federal Reserve Bank of St. Louis, for example, projects that the unemployment rate will rise to 6.2 percent by mid-1971 even if we continue an expansionary monetary policy.

Second, hours of work are now very short. They have been as low as 37 hours a week. Employers will use their workforce more intensively before hiring new workers in a period when they have been squeezed by both increased costs and lower profits.

Third, many employers in the inflationary period we have experienced, have been hoarding labor. With wages and prices rising, employers are reluctant to let their work force go. Consequently, productivity dropped, and dropped sharply. Now the same work force will be employed more intensively and productivity should rise. This should happen before new workers are hired and will be a major factor why unemployment will persist.

Fourth, there has been a cutback in defense spending due almost entirely to the cutback in Vietnam war spending. This has affected technical and engineering employees especially, and the transition which they will make from defense and space industry into civilian work may well take longer than most people anticipate.

Finally, there are long-term forces at work which will most likely affect the unemployment levels of the decade to come. The estimates of Peter Bernstein, who heads a New York investment service, are that if the economy grows at a 3.4 percent rate—which was the growth rate in the 1950's—unemployment in 1975 would be 10 million or 12 percent. To get below 5 percent unemployment by 1975, the growth rate would have to exceed 4 percent. And there is nothing in the administration's program to indicate that economic growth is likely to achieve this level.

For all these reasons, the September unemployment figure is bad news. But this is probably just the beginning of more bad news, if not next month, in the months to come.

Since President Nixon took office, unemployment has gone up by 2.2 percent. Each 1-percent increase in the unemployment rate means about 800,000 men and women lose their jobs. Thus, over 1,760,000 Americans are jobless today who had a job 20 months ago.

It is time for the Nixon administration to act. It must act to increase jobs, lower interest rates, and stimulate housing. To put idle men to work on idle machines is the way to increase production and decrease unemployment without inflation.

This administration has fought inflation by increasing unemployment. Its fight on inflation has been disappointing. The consequences in increased unemployment have been disastrous for those Americans now without work.

We need a new game plan and one that is not so insensitive to the plight of the unemployed.

I have said previously that when the level of unemployment reaches 5.5 percent that the Federal Government should consider becoming the employer of last resort.

There may be debate on whether or not the Government should provide a family assistance plan or an improved welfare program for those who do not work. But there can be no justification for the Federal Government not to provide adequate employment opportunities for those who are able to work, yet cannot find jobs.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from today's Wall Street Journal on the subject of unemployment and a release from the Department of Labor entitled "The Employment Situation: September 1970."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 2, 1970]

ECONOMIC SOFT SPOT: JOBLESSNESS IS LIKELY TO PERSIST, EVEN GROW DESPITE BUSINESS RISE—ANALYSTS CALL PATTERN NORMAL DURING RECOVERY; DEFENSE CUTBACKS HEIGHTEN PROBLEM—SOME LONG-TERM OPTIMISM

(By Alfred L. Malabre, Jr.)

At long last, things seem to be really improving on the economic front. Inflation is easing. Fears about a liquidity crisis continue to recede. Stock prices have been rising.

There's only one little problem:

Unemployment is up and probably will continue to increase.

The September jobless rate, to be announced in Washington today, is expected to be up sharply from August's already worrisome level of 5.1%. Some insiders say the figure, which is based on a survey taken before the General Motors strike began, may be as high as 5.5%. That would be higher than any month since January 1964. At the start of this year, the jobless level was below 4%.

Many economists believe the situation will get even worse before it gets better. A reasonably typical forecast comes from Alan Greenspan, president of Townsend-Greenspan & Co., a New York economics consultant. The nation's jobless rate will rise slowly in coming months, Mr. Greenspan predicts, reaching about 6% by the summer of 1971. Beyond that, he looks for only a very gradual decline, to about 5.7% by the end of next year.

MR. STEIN'S VIEW

Even normally sanguine officials of the Nixon Administration, with a worried eye on the approaching election, concede that the employment picture is far from bright. Earlier this week Herbert Stein, a member of the President's Council of Economic Advisers, forecast further increases in the jobless rate. He added, however, that "we don't forecast getting to 6%," the level that Mr. Greenspan and many other private seers anticipate.

Forecasting the jobless trend, to be sure, is hazardous. In September 1969 unemployment jumped to 3.8% from 3.5% in August. But then in November, after remaining at 3.8% in October, the rate dropped right back down again to 3.5%. Nobody rules out the possibility of another drop in the monthly unemployment rate soon. But there is wide agreement that the trend will be in the direction of more joblessness—even after the General Motors strike has been settled and even though such major business yardsticks as industrial production and corporate profits will probably be on the rise.

The belief that unemployment will continue to climb even in the face of improving general business is based partly on the lessons of economic history. Economists say this is what has generally happened in the past, and they see no reason why things should work differently now.

"Recent history clearly shows that the general level of unemployment has tended to keep on going up for a while after overall business activity has started to pick up momentum," declares an economist at the National Bureau of Economic Research, a nonprofit organization in New York that studies business trends.

AFTER PAST RECESSIONS

The 1957–58 recession ended in April 1958, the economist recalls, but the unemployment rate did not begin to come down until September of that year. In fact, between March and July, the jobless level jumped from 6.7% of the labor force to 7.5%. A similar development occurred after the 1960–61 recession. When the recession ended in February 1961, unemployment stood at 6.99%. But as late as July 1961 the rate was at 7%.

Unemployment is slow to decline in recovery periods, economists explain, largely because employers are often slow to increase their payrolls until they are certain that business really has begun to improve. Indeed, some employers try to keep right on trimming their work forces after business has clearly turned around, analysts contend. "Occasionally, a businessman is among the last to recognize that the business climate has changed and that he should be hiring instead of firing," declares an economist at the Conference Board, formerly known as the National Industrial Conference Board, a nonprofit research group based in New York.

There comes a point, of course, at which employers are compelled to increase their work forces or lose business. But that point has not nearly been reached, in the view of many analysts. When the long economic expansion of the 1960s finally ended last year, these economists say, many companies had more employes than they really needed. Consequently, when general business activity slowed late last year and in the early months of 1970, many employers found they were able to trim their work forces extra sharply.

PRODUCTIVITY BEGINS TO GROW

Clear evidence that employers are getting more work out of fewer people shows up in Government figures that report the output per man-hour of employes in private nonfarm businesses. These workers were less productive at the start of 1970, the figures show, than a full two years earlier—despite the increased use of computers and other labor-saving equipment in the interim. Since the first quarter of this year, however, productivity has risen substantially. In the second quarter output per man-hour rose at an annual rate of 3.2%, and most analysts predict further, and very possibly larger, increases in subsequent quarters.

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Many analysts fear that unemployment in the present business recovery will prove even harder to bring down than in the 1958 and 1961 periods.

A prolonged General Motors strike, of course, would tend to keep joblessness high. Also, unemployment during the 1969–70 business slowdown remained substantially below levels reached in the full-fledged recessions of 1957–58 and 1960–61. Layoffs were not as widespread in 1969–70 as in the earlier periods, economists note, and therefore hiring can be expected to increase less dramatically now.

The planned reduction of the U.S. armed forces, promised by the Nixon Administration, would also tend to keep unemployment relatively high for a long time, many economists say. The Administration has plans to cut troop strength by more than 200,000 during the fiscal year ending June 30, 1971, and another 400,000 reduction may be made during the following fiscal year. In addition, the Administration has been trimming defense and space spending, with the result that thousands of engineers and other skilled personnel are struggling to find jobs.

A PAINFUL TRANSITION

Eventually, such persons should manage to find work in nondefense industries, analysts claim. But they warn that the transition is likely to be longer and more painful than is generally realized, and it will probably keep unemployment at abnormally high levels.

On top of these considerations, unusual demographic developments in coming years will tend to aggravate unemployment, some economists say.

The young working-age segment of the U.S. population will grow at an abnormally rapid rate in the years ahead. During the decade, the overall U.S. population is expected to increase about 12%, roughly the same rate as in the 1960s. But the segment of the population that will be entering the labor force and seeking work in coming years—the bumper post-World War II baby crop—will grow spectacularly. Projections show that during the decade the age group between 18 and 24 will expand by some 25%, and the 25-to-24 group will grow nearly 50%.

Economists have made various estimates of how rapidly the country's economy will have to grow in the years ahead in order to provide jobs for this flood of young job-seekers. Most point a gloomy employment picture. A study by Peter L. Bernstein, the head of New York investment advisory service, finds that if the economy expands during the next few years at an annual rate of 3.4%—the rate that prevailed during the 1950s—unemployment in 1975 would total about 10 million persons, or 12% of the projected labor force. Mr. Bernstein reckons that economic growth will have to exceed 4% a year—close to the rate at which the economy grew during the record-breaking 1960s expansion—if unemployment is to get under the 5% level by 1975.

COMMISSIONER MOORE'S VIEW

Some economists claim that such forecasts are unnecessarily gloomy. They don't take into full account, it's argued, the stimulus to economic growth that a burgeoning young adult population—who will be consumers as well as job-seekers—should provide. "The economy should be able to grow rapidly enough to offer the necessary jobs," says Commissioner of Labor Statistics Geoffrey H. Moore.

Many analysts, however, question whether such growth can be maintained, particularly if significant headway is to be made in restoring price stability. They worry, moreover, that even if Government officials pursue economic policies sufficiently expansionary to accommodate all the job-seekers, in the process dangerous inflation could be produced. "Coping with unemployment will be the big problem of the 1970s," predicts Mr. Bernstein, adding that this means inflation will also be a problem.

Ironically, Mr. Bernstein concludes in a recent letter to his clients that the unemployment problem could prove beneficial to stock prices. He reasons that the sort of expansionary policies that Government officials will be forced to pursue because of unemployment pressures traditionally have served as "powerful ingredients for bull markets."

[From the U.S. Department of Labor, Oct. 2, 1970]

The Employment Situation: September 1970

Employment remained essentially unchanged in September, while unemployment increased, the U.S. Department of Labor's Bureau of Labor Statistics announced today.

The increase in unemployment was concentrated among 16–24 year-olds (seasonally adjusted) and brought the overall unemployment rate to 5.5 percent in September.[1] The increase among young workers may have partly reflected the earlier-than-usual survey week, which included Labor Day, and which occurred before many young people had given up summertime jobseeking efforts to return to school. Jobless rates for men 25 years and over were unchanged over the month at 3.0 percent, while the rate for women 25 and over edged up from 4.1 to 4.4 percent.

Nonagricultural payroll employment, after seasonal adjustment, remained unchanged in September at 10.4 million. This marked the first month since April that payroll employment did not show a decline. Total civilian employment (based on the household survey) also remained unchanged over the month.

UNEMPLOYMENT

The number of unemployed persons totaled 4.3 million in September. Unemployment usually falls substantially between August and September, but this September it failed to drop. As a result, after seasonal adjustment, unemployment was up by 375,000 over the month with four-fifths of the increase occurring among workers in the 16 to 24 age group, largely males. The sharp rise in joblessness among young workers partly reflected the impact of an earlier-than-usual survey week this September which included the Labor Day holiday. As a result, the September figures may not have fully reflected the usual exit of youths from the labor market to begin the fall school term. Employment of 16–24 year-olds rose by 300,000 in September (seasonally adjusted), but there was an increase of 600,000 in their labor force.

Primarily as a result of the increased unemployment among young workers, the overall unemployment rate rose to 5.5 percent in September, the highest level since January 1964. The jobless rate for men 20–24 years old, at 11.0 percent, was up significantly from the 8.5 percent in August and reached its highest point since July 1961. By way of contrast, the unemployment rate for men 25 years and over was unchanged over the month at 3.0 percent; the rate for married men (2.9 percent) was also virtually unchanged from its August level. For all adult males (20–24 and 25 years and over combined), the jobless rate rose from 3.7 to 4.0 percent.

The unemployment rate for teenagers, at 16.8 percent in September, was up from 15.9 percent in August, reaching its highest point since January 1965. Jobless rates rose for both male and female youths.

For adult women, the jobless rate rose from 4.8 to 5.1 percent over the month. Unlike the unemployment increase among males, however, the increase for women was mostly among those 25 years and over, whose rate rose from 4.1 to 4.4 percent in September. The jobless rate for 20–24 year-old women, at 8.4 percent in September, was little changed over the month.

Nearly two-thirds of the September increase in unemployment was among workers who had reentered the labor force or were new entrants, reflecting the increase in unemployment among young workers and adult women. However, unemployment also increased among persons who lost their last job, as their number moved up to 2.5 percent of the labor force in September, slightly above the levels registered in 3 of the last 4 months.

The number of persons unemployed for 15 weeks or longer continued to rise in September, moving up to 790,000; this was twice the level of last September and at the highest point since mid-1965. Long-term unemployment was 1.0 percent of the labor force. Because of the increased short-term joblessness among youths, however, the average duration of unemployment at 8.9 weeks, showed little change in September following declines in August and July. Since last September, the average duration has risen by 1 full week, although the September average still remained well below the levels of most of the early and mid-1960's.

Unemployment rates for both full-time and part-time jobseekers rose in September. The full-time rate rose to 5.0 percent, after holding relatively steady for the past 4 months. The part-time rate reached 8.6 percent, its highest point since the series began in 1963. Over the year, the rate for full-time workers has increased more rapidly than for part-time workers.

Rates of unemployment for both white and Negro workers were up in September. The white rate rose from 4.8 to 5.1 percent, the highest level since July 1963. The Negro rate, at 9.0 percent, was slightly above the highs reached earlier this year. September marked the eleventh month out of the last 13 in which the ratio of Negro-to-white joblessness was below the 2-to-1 pattern that has prevailed for many years.

Among the occupation groups, the jobless rate for blue-collar workers rose from 7.0 to 7.5 percent in September, due entirely to increased unemployment among craftsmen and nonfarm laborers. The jobless rate for white-collar workers, at 2.8 percent, remained relatively unchanged over the month, after declining in August from its 9-year high reached in July.

The unemployment rate for persons whose last job was in the construction industry rose sharply over the month to 13.8 percent, the highest rate since March 1963. The rise in construction unemployment also partly reflected the increased joblessness among young workers over the month.

The unemployment rate for workers covered by State unemployment insurance programs rose substantially in September, from 3.7 to 4.2 percent. Since the September survey week included Labor Day, the increase was partly the result of administrative procedures used by State employment security agencies to count insured unemployment during weeks including a holiday.

The number of persons employed part time for economic reasons in nonagricultural industries declined by 190,000 in September to 2.1 million. Despite this drop, the increase in joblessness resulted in a rise in labor force time lost; this is a measure of man-hours lost to the economy through unemployment and involuntary part-time employment as a percent of total man-hours available from those in the labor force. The percent of labor force time lost rose from 5.5 to 6.0 percent in September.

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[1] When the seasonal factors are revised early in 1971 to take the recent data into account, the increase in the unemployment rate for September will probably be reduced, as it was last year. Such revisions normally reduce sharp month-to-month changes in the seasonally adjusted figures. (See the February 1970 issue of *Employment and Earnings*.)

XUM

Over the year, unemployment has risen by 1.3 million—650,000 adult men, 395,000 adult women, and 290,000 teenagers. Four-fifths of the increase was among full-time workers, mostly those who had lost their last jobs.

LABOR FORCE AND TOTAL EMPLOYMENT

There were 82.5 million persons in the civilian labor force in September, about 1.6 million fewer than in August. The decline was less than usual for this time of year, however, possibly reflecting the effects of the earliness of the survey week. After seasonal adjustment, the labor force was up 355,000 over the month, with the increase occurring primarily among young men and teenagers. Compared with September 1969, the civilian labor force has risen by 1.6 million, with nearly three-fifths of the increase occurring among adult full-time workers. The male labor force growth reflected the net reduction in the number of young men in the Armed Forces over the past year.

Total employment, at 78.3 million, declined in September in line with seasonal expectations, and after seasonal adjustment was unchanged over the month. Since last September, total employment has risen by 230,000, with the increase occurring largely among part-time workers.

PAYROLL EMPLOYMENT

Nonagricultural payroll employment rose in line with seasonal expectations in September to 70.8 million and, after seasonal adjustment, was unchanged from the August level. This marked the first month since April that payroll employment did not decline. However, the September level was 200,000 below a year ago.

Over the month, a 70,000 decline in employment in contract construction (seasonally adjusted) countered moderate increases in trade and services (20,000 each) and State and local government (30,000). The cutback in contract construction brought employment in this industry to 220,000 below last year.

Employment in manufacturing, at 19.3 million (seasonally adjusted) in September, was unchanged from August following 5 consecutive months of substantial declines. Factory employment was unchanged in both the durable and nondurable goods industries. Employment cutbacks in machinery (15,000) and transportation equipment (10,000) were offset by widespread gains elsewhere in the durable goods sector. Since September 1969, factory employment has declined by 975,000, with nearly all of the reduction occurring in durable goods.

HOURS OF WORK

The average workweek for all rank-and-file workers on private nonagricultural payrolls dropped 0.6 hours between the August and September survey weeks. Average weekly hours usually rise between these two months, but this September hours were affected by the earlier-than-usual survey week which included the Labor Day holiday. As a result, after seasonal adjustment, the average workweek fell 0.4 hour to 36.8 hours. The average workweek was lower in most major industries. (In the payroll employment series, hours of work relate to hours paid for by employers during the survey week; therefore, only persons not being paid for the holiday are reported as having reduced weekly hours.)

EARNINGS

Average hourly earnings of production and nonsupervisory workers on private payrolls rose 3 cents in September to $3.28. Hourly earnings usually rise in September, as many of the young people returning to school leave jobs with comparatively low hourly rates. Compared with a year ago, average hourly earnings were up 17 cents, or 5.5 percent.

As a result of the reductions in the workweek, average weekly earnings declined by 84 cents over the month to $121.36. In manufacturing, however, average weekly earnings rose by $2.04 over the month to a record $136.17, due to a 6-cent increase in hourly earnings. Compared with September 1969, weekly earnings for all rank-and-file workers increased by $3.49, or 3.0 percent.

Over the year ending in August 1970, average weekly earnings rose by 4.8 percent; after adjustment for consumer price changes, however, earnings were down by 0.8 percent.

THIRD QUARTER DEVELOPMENTS

Civilian labor force and total employment. In the third quarter, the labor force averaged 82.8 million (seasonally adjusted), up 325,000 from the second quarter following a 100,000 advance in the previous quarter. The increase in the July–September period was largely among adult women, in contrast to the second quarter increase which was entirely among adult men.

Total employment, after declining by 460,000 between the first and second quarters, remained relatively unchanged in the third quarter at 78.5 million. An employment increase among adult females over the quarter was offset by declines among adult males and teenagers. (Total employment includes persons employed in agriculture, private household service, as self-employed and unpaid family workers, and those on unpaid absences, in addition to nonagricultural wage and salary workers.)

Unemployment. In the third quarter of 1970, the number of unemployed persons averaged 4.3 million (seasonally adjusted), up 355,000 over the quarter and the highest average since first quarter 1964. Although substantial, the third quarter increase in joblessness was somewhat smaller than the increases in the second and first quarters of this year (565,000 and 495,000, respectively).

Nearly three-fifths of the unemployment increase in the third-quarter occurred among workers who had reentered the labor force, mainly adult women and 20-24 year-old men. This contrasted with the increases in the 2 previous quarters, which were primarily due to higher joblessness among persons who had lost their last job. Furthermore, over two-fifths of the third quarter increase in unemployment occurred among part-time workers; in the earlier 2 quarters, the unemployment increases took place almost entirely among full-time workers.

The overall unemployment rate, which had risen from 3.6 to 4.8 percent over the first 2 quarters, moved up to 5.2 percent in the July–September quarter. Jobless rates for most groups of workers continued to increase in the third quarter but at a less rapid pace than earlier in the year. The third quarter jobless rates averaged 3.8 percent for adult men, 5.0 percent for adult women, and 15.6 percent for teenagers—all were at their highest points in over 5½ years.

While workers accounted for all of the third quarter rise in joblessness, as their rate rose from 4.4 to 4.9 percent. The jobless rate for Negroes, at 8.5 percent, was about the same as in the second quarter. As a result, the ratio of Negro-to-white jobless rates moved down to 1.7-to-1 in the third quarter, the lowest ratio since 1953.

Industry employment. Nonagricultural payroll employment, at 70.4 million in the third quarter (seasonally adjusted), was down by 440,000 from the second quarter. This compared with a reduction of 250,000 between the first and second quarters. The third quarter reduction in payroll employment reflected a continued cutback in goods-producing industries, along with a small downturn in the service-producing sector. Since the first quarter of 1970, employment in the goods-producing industries has declined by 820,000, with nearly four-fifths of the cutback occurring in manufacturing. Over the same period, employment in the service-producing industries rose by 130,000.

TABLE A-1: EMPLOYMENT STATUS OF THE NONINSTITUTIONAL POPULATION BY SEX AND AGE

[In thousands]

Employment status, age, and sex	September 1970	August 1970	September 1969	Seasonally adjusted				
				September 1970	August 1970	July 1970	June 1970	May 1970
Total:								
Total labor force	85,656	87,248	84,527	86,140	85,810	85,967	85,304	85,783
Civilian labor force	82,547	84,115	80,984	83,031	82,676	82,813	82,125	82,555
Employed	78,256	79,894	78,026	78,424	78,445	78,638	78,225	78,449
Agriculture	3,525	3,782	3,629	3,399	3,420	3,519	3,554	3,613
Nonagricultural industries	74,730	76,112	74,397	75,025	75,025	75,119	74,671	74,836
On part time for economic reasons	2,044	2,697	1,887	2,110	2,298	2,326	2,105	2,249
Usually work full time	1,071	1,390	1,089	1,029	1,329	1,240	1,126	1,253
Usually work part time	973	1,307	798	1,081	969	1,086	979	996
Unemployed	4,292	4,220	2,958	4,607	4,231	4,175	3,900	4,106
Men, 20 years and over:								
Civilian labor force	47,324	47,652	46,620	47,439	47,178	47,294	47,154	47,226
Employed	45,762	46,030	45,706	45,522	45,424	45,524	45,521	45,593
Agriculture	2,578	2,614	2,663	2,510	2,523	2,593	2,603	2,625
Nonagricultural industries	43,184	43,416	43,043	43,012	42,901	42,931	42,918	42,968
Unemployed	1,562	1,622	914	1,917	1,754	1,770	1,633	1,633
Women, 20 years and over:								
Civilian labor force	28,310	27,690	27,711	28,200	28,447	28,500	28,026	27,885
Employed	26,712	26,229	26,509	26,750	27,092	27,073	26,772	26,476
Agriculture	573	581	605	507	514	545	573	567
Nonagricultural industries	26,138	25,648	25,904	26,243	26,578	26,528	26,199	25,909
Unemployed	1,598	1,461	1,202	1,450	1,355	1,427	1,254	1,409
Both sexes, 16 to 19 years:								
Civilian labor force	6,913	8,772	6,653	7,392	7,051	7,019	6,945	7,444
Employed	5,782	7,635	5,811	6,152	5,929	6,041	5,932	6,380
Agriculture	374	587	362	382	383	381	378	421
Nonagricultural industries	5,408	7,048	5,449	5,770	5,546	5,660	5,554	5,959
Unemployed	1,131	1,137	842	1,240	1,122	978	1,013	1,064

XUM

TABLE A-2: FULL- AND PART-TIME STATUS OF THE CIVILIAN LABOR FORCE BY SEX AND AGE

[Numbers in thousands]

Full- and part-time employment status, sex, and age	September 1970	September 1969	Seasonally adusted					
			September 1970	August 1970	July 1970	June 1970	May 1970	September 1969
Full time:								
Total, 16 years and over:								
Civilian labor force	71, 329	70, 350	71, 445	71, 086	71, 132	70, 653	71, 116	70, 308
Employed	68, 186	68, 275	67, 900	67, 778	67, 855	67, 585	67, 742	67, 993
Unemployed	3, 143	2, 075	3, 545	3, 308	3, 277	3, 068	3, 374	2, 315
Unemployment rate	4. 4	2. 9	5. 0	4. 7	4. 6	4. 3	4. 7	3. 3
Men, 20 years and over:								
Civilian labor force	45, 156	44, 657	45, 120	44, 896	45, 042	44, 966	45, 061	44, 482
Employed	43, 750	43, 872	43, 403	43, 339	43, 403	43, 476	43, 554	43, 524
Unemployed	1, 406	875	1, 717	1, 557	1, 639	1, 490	1, 507	958
Unemployment rate	3. 1	1. 8	3. 8	3. 5	3. 6	3. 3	3. 3	2. 2
Women, 20 years and over:								
Civilian labor force	22, 472	22, 098	22, 233	22, 439	22, 295	22, 050	21, 937	21, 878
Employed	21, 271	21, 204	21, 102	21, 309	21, 211	21, 046	20, 736	21, 036
Unemployed	1, 201	894	1, 131	1, 130	1, 084	1, 004	1, 201	842
Unemployment rate	5. 3	4. 0	5. 1	5. 0	4. 9	4. 6	5. 5	3. 8
Part time:								
Total, 16 years and over:								
Civilian labor force	11, 218	10, 634	11, 641	11, 944	11, 640	11, 455	11, 425	11, 072
Employed	10, 069	9, 751	10, 638	10, 984	10, 775	10, 685	10, 689	10, 301
Unemployed	1, 149	883	1, 003	960	865	770	736	771
Unemployment	10. 2	8. 3	8. 6	8. 0	7. 4	6. 7	6. 4	7. 0

NOTE: Persons on part-time schedules for economic reasons are included in the full-time employed category; unemployed persons are allocated by whether seeking full- or part-time work.

TABLE A-3: MAJOR UNEMPLOYMENT INDICATORS

[Persons 16 years and over]

Selected categories	Thousands of persons unemployed		Seasonally adjusted rates of unemployment					
	September 1970	September 1969	September 1970	August 1970	July 1970	June 1970	May 1970	September 1969
Total (all civilian workers)	4, 292	2, 958	5. 5	5. 1	5. 0	4. 7	5. 0	3. 8
Men 20 years and over	1, 562	914	4. 0	3. 7	3. 7	3. 5	3. 5	2. 4
Women 20 years and over	1, 598	1, 202	5. 1	4. 8	5. 0	4. 5	5. 1	3. 9
Both sexes 16–19 years	1, 131	842	16. 8	15. 9	13. 9	14. 6	14. 3	12. 9
White	3, 529	2, 400	5. 1	4. 8	4. 7	4. 2	4. 6	3. 5
Negro and other races	762	558	9. 0	8. 4	8. 3	8. 7	8. 0	6. 7
Married men	892	514	2. 9	2. 8	2. 7	2. 5	2. 6	1. 7
Full-time workers	3, 143	2, 075	5. 0	4. 7	4. 6	4. 3	4. 7	3. 3
Part-time workers	1, 149	883	8. 6	8. 0	7. 4	6. 7	6. 4	7. 0
Unemployed 15 weeks and over [1]	655	324	1. 0	. 9	. 9	. 8	. 7	. 5
State insured [2]	1, 646	848	4. 2	3. 7	3. 5	3. 7	3. 6	2. 2
Labor force time lost [3]			[6] 6. 0	5. 5	5. 4	4. 9	5. 4	4. 3
Occupation: [4]								
White-collar workers	1, 258	932	2. 8	2. 7	3. 1	2. 6	2. 8	2. 2
Professional and technical	279	196	1. 9	1. 9	2. 2	1. 5	2. 1	1. 4
Managers, officials, and proprietors	130	83	1. 5	1. 3	1. 7	1. 5	1. 1	1. 0
Clerical workers	651	516	3. 9	3. 9	4. 4	4. 0	3. 9	3. 2
Sales workers	198	137	3. 9	4. 0	4. 0	3. 4	4. 4	2. 8
Blue-collar workers	1, 804	1, 064	7. 5	7. 0	6. 6	6. 3	6. 2	4. 4
Craftsmen and foremen	402	175	5. 8	4. 4	4. 4	4. 0	4. 2	2. 6
Operatives	1, 007	646	7. 6	7. 9	7. 2	6. 8	6. 7	4. 7
Nonfarm laborers	395	246	11. 7	10. 2	9. 9	10. 4	9. 1	7. 6
Service workers	598	463	5. 8	5. 5	5. 3	5. 0	4. 9	4. 8
Farm workers	115	55	4. 1	2. 8	2. 7	2. 0	3. 5	1. 9
Industry: [4]								
Nonagricultural private wage and salary workers [5]	3, 503	2, 106	6. 0	5. 5	5. 6	5. 2	5. 2	3. 9
Construction	360	182	13. 8	12. 2	11. 0	10. 9	11. 9	7. 4
Manufacturing	1, 189	730	6. 1	5. 7	6. 0	5. 3	5. 2	3. 7
Durable goods	723	379	6. 3	5. 5	5. 9	5. 1	4. 9	3. 2
Nondurable goods	446	351	5. 8	5. 9	6. 2	5. 6	5. 7	4. 3
Transportation and public utilities	129	92	2. 8	3. 1	3. 3	3. 3	3. 3	2. 0
Wholesale and retail trade	754	538	6. 0	5. 4	5. 3	5. 4	5. 1	4. 5
Finance and service industries	868	564	5. 0	4. 4	4. 8	4. 1	4. 2	3. 4
Government wage and salary workers	300	283	1. 9	2. 1	2. 0	1. 9	2. 2	1. 9
Agricultural wage and salary workers	113	67	10. 2	8. 2	8. 6	5. 5	9. 2	6. 5

[1] Unemployment rate calculated as a percent of civilian labor force.

[2] Insured unemployment under State programs—unemployment rate calculated as a percent of average covered employment.

[3] Man-hours lost by the unemployed and persons on part time for economic reasons as a percent of potentially available labor force man-hours.

[4] Unemployment by occupation includes all experienced unemployed persons, whereas that by industry covers only unemployed wage and salary workers.

[5] Includes mining, not shown separately.

[6] The labor force time lost rate is adjusted to allow for the effects of the Labor Day holiday on hours worked in the September survey week.

TABLE A-4: UNEMPLOYED PERSONS 16 YEARS AND OVER BY DURATION OF UNEMPLOYMENT

[In thousands]

Duration of unemployment	September 1970	September 1969	Seasonally adjusted					
			September 1970	August 1970	July 1970	June 1970	May 1970	September 1969
Less than 5 weeks	2, 473	1, 863	2, 331	2, 206	2, 061	1, 961	2, 219	1, 756
5 to 14 weeks	1, 163	771	1, 501	1, 320	1, 334	1, 303	1, 214	995
15 weeks and over	655	324	792	736	711	685	612	392
15 to 26 weeks	400	191	501	479	470	450	352	240
27 weeks and over	255	133	291	257	241	235	280	152
Average (mean) duration, in weeks	8. 3	7. 4	8. 9	8. 8	9. 3	9. 5	9. 0	7. 9

XUM

TABLE A-5: UNEMPLOYED PERSONS BY REASON FOR UNEMPLOYMENT

[Numbers in thousands]

Reasons for unemployment	September 1970	September 1969	Seasonally adjusted: September 1970	August 1970	July 1970	June 1970	May 1970	September 1969
Number of unemployed:								
Lost last job	1,698	823	2,048	1,946	1,833	1,928	1,912	993
Left last job	675	586	556	570	600	569	550	483
Reentered labor force	1,404	1,105	1,371	1,296	1,284	1,036	1,168	1,079
Never worked before	514	445	572	495	439	468	464	495
Percent distribution:								
Total unemployed	100.0	100 0	100.0	100.0	100.0	100.0	100.0	100.0
Lost last job	39.5	27.8	45.0	45.2	44.1	48.2	46.7	32.6
Left last job	15.7	19.8	12.2	13.2	14.4	14.2	13.4	15.8
Reentered labor force	32.7	37.4	30.2	30.1	30.9	25.9	28.5	35.4
Never worked before	12.0	15.0	12.6	11.5	10.6	11.7	11.3	16.2
Unemployed as a percent of the civilian labor force:								
Lost last job	2.1	1.0	2.5	2.3	2.1	2.3	2.3	1.2
Left last job	.8	.7	.7	.7	.8	.7	.7	.6
Reentered labor force	1.7	.4	1.7	1.5	1.6	1.3	1.4	1.3
Never worked before	.6	.5	.7	.6	.5	.6	.6	.6

TABLE 1A-6.—UNEMPLOYED PERSONS BY AGE AND SEX

Age and sex	Thousands of persons: September 1970	Thousands of persons: September 1969	Percent looking for full-time work: September 1970	Seasonally adjusted unemployment rates: September 1970	August 1970	July 1970	June 1970	May 1970	September 1969
Total, 16 years and over	4,292	2,958	73.2	5.5	5.1	5.0	4.7	5.0	3.8
16 to 19 years	1,131	842	47.4	16.8	15.9	13.9	14.6	14.3	12.9
16 and 17 years	544	430	22.6	19.6	17.4	15.2	16.0	15.6	16.1
18 and 19 years	587	412	70.4	14.6	14.7	13.2	13.3	13.8	10.6
20 to 24 years	998	625	83.4	9.8	8.3	8.6	7.4	8.1	6.5
25 years and over	2,162	1,491	82.1	3.5	3.4	3.5	3.2	3.3	2.4
25 to 54 years	1,753	1,202	82.5	3.6	3.6	3.7	3.3	3.4	2.5
55 years and over	410	288	80.0	3.1	2.7	2.9	3.0	3.3	2.2
Males, 16 years and over	2,142	1,321	77.4	5.0	4.6	4.5	4.3	4.4	3.2
16 to 19 years	580	407	43.4	16.7	15.8	14.1	14.8	15.0	12.0
16 and 17 years	297	227	24.6	19.6	17.2	15.2	16.6	16.4	15.0
18 and 19 years	283	180	62.9	14.1	14.6	13.6	13.2	14.6	9.4
20 to 24 years	535	282	85.0	11.0	8.5	9.1	7.2	7.7	6.4
25 years and over	1,027	632	92.6	3.0	3.0	3.0	2.9	2.9	1.8
25 to 54 years	785	474	95.0	2.9	3.0	3.0	2.9	2.8	1.8
55 years and over	242	157	84.7	3.1	2.9	2.8	2.8	3.1	2.0
Females, 16 years and over	2,150	1,638	69.1	6.4	5.9	5.9	5.5	5.9	5.0
16 to 19 years	552	435	51.4	16.9	16.0	13.7	14.3	13.4	14.2
16 to 17 years	247	204	20.2	19.6	17.6	15.1	15.3	14.6	17.7
18 and 19 years	304	231	77.0	15.1	14.9	12.7	13.4	12.9	12.0
20 to 24 years	463	343	81.4	8.4	8.0	8.1	7.7	8.7	6.6
25 years and over	1,135	859	72.6	4.4	4.1	4.5	3.8	4.2	3.4
25 to 54 years	967	728	72.5	4.8	4.6	4.8	4.1	4.3	3.7
55 years and over	168	131	73.2	3.2	2.5	3.1	3.2	3.6	2.5

TABLE B-1.—EMPLOYEES ON NONAGRICULTURAL PAYROLLS, BY INDUSTRY

[In thousands]

Industry	September 1970[1]	August 1970[1]	July 1970	September 1969	Change from: August 1970	Change from: September 1969	Seasonally adjusted: September 1970[1]	August 1970[1]	July 1970	Change from August 1970
Total	70,760	70,534	70,602	70,964	226	−204	70,380	70,384	70,546	−4
Mining	621	637	635	630	−16	−9	614	620	618	−6
Contract construction	3,468	3,601	3,572	3,687	−133	−219	3,232	3,301	3,314	−69
Manufacturing	19,508	19,454	19,325	20,482	54	−974	19,276	19,276	19,402	0
Production workers	14,210	14,110	13,958	15,041	100	−831	13,996	13,978	14,090	18
Durable goods	11,203	11,104	11,156	12,030	99	−827	11,137	11,133	11,217	4
Production workers	8,093	7,966	7,993	8,767	127	−674	8,036	8,015	8,082	16
Ordnance and accessories	232.5	238.2	242.6	305.8	−5.7	−73.3	233	239	243	−6
Lumber and wood products	582.3	589.5	589.0	616.7	−7.2	−34.4	572	568	570	4
Furniture and fixtures	454.9	456.1	446.2	486.8	−1.2	−31.9	452	452	454	0
Stone, clay, and glass products	648.3	647.6	643.8	669.0	.7	−20.7	636	629	628	7
Primary metal industries	1,306.9	1,307.4	1,316.6	1,373.9	−.5	−67.0	1,313	1,300	1,301	13
Fabricated metal products	1,399.2	1,384.3	1,370.0	1,459.6	14.9	−60.4	1,392	1,386	1,387	6
Machinery, except electrical	1,921.1	1,936.7	1,969.3	2,032.9	−15.6	−111.8	1,929	1,943	1,969	−14
Electrical equipment	1,918.4	1,911.1	1,913.2	2,057.4	7.3	−139.0	1,911	1,905	1,934	6
Transportation equipment	1,850.9	1,746.4	1,795.0	2,096.5	140.5	−245.6	1,827	1,839	1,853	−12
Instruments and related products	456.1	456.3	457.2	476.8	−.2	−20.7	456	453	458	3
Miscellaneous manufacturing	432.4	430.8	412.9	454.9	1.6	−22.5	416	419	420	−3
Nondurable goods	8,305	8,350	8,169	8,452	−45	−147	8,139	8,143	8,185	−4
Production workers	6,177	6,144	5,965	6,274	−27	−157	5,960	5,963	6,008	−3
Food and kindred products	1,915.1	1,930.7	1,826.4	1,928.8	−15.6	−13.7	1,786	1,791	1,786	−5
Tobacco manufactures	82.3	87.8	71.8	97.6	−5.5	−15.3	70	81	81	−11
Textile mill products	957.2	958.3	948.2	997.2	−1.1	−40.0	[illegible]	951	955	1
Apparel and other textile products	1,384.3	1,391.6	1,346.8	1,421.4	−7.3	−37.1	1,372	1,375	1,393	−3
Paper and allied products	711.3	712.5	709.8	718.0	−1.2	−6.7	708	704	706	4
Printing and publishing	1,108.0	1,104.5	1,104.8	1,098.5	3.5	9.5	1,109	1,103	1,105	6
Chemicals and allied products	1,057.8	1,066.0	1,066.0	1,063.9	−8.2	−6.1	1,058	1,053	1,054	5
Petroleum and coal products	193.7	196.5	197.3	191.9	−2.8	1.8	191	191	191	0
Rubber and plastics products, nec	573.9	571.3	569.7	599.0	2.6	−25.1	571	569	578	2
Leather and leather products	321.4	330.4	328.0	336.1	−9.0	−14.7	322	325	333	−3
Transportation and public utilities	4,576	4,576	4,593	4,508	0	68	4,526	522	4,539	4

[In thousands]

Industry	September 1970[1]	August 1970[1]	July 1970	September 1969	Change from August 1970	Change from September 1969	Seasonally adjusted September 1970[1]	Seasonally adjusted August 1970[1]	Seasonally adjusted July 1970	Seasonally adjusted Change from August 1970
Wholesale and retail trade	14,906	14,867	14,924	14,714	39	192	14,931	14,910	14,933	21
Wholesale trade	3,853	3,889	3,902	3,781	—36	72	3,834	3,843	3,856	—9
Retail trade	11,053	10,978	11,022	10,933	75	120	11,097	11,067	11,077	30
Finance, insurance, and real estate	3,686	3,730	3,738	3,595	—44	91	3,675	3,668	3,676	7
Services	11,545	11,642	11,698	11,300	—97	245	11,533	11,515	11,514	18
Government	12,450	12,027	12,117	12,048	423	402	12,593	12,572	12,550	21
Federal	2,598	2,675	2,700	2,733	—77	—135	2,611	2,623	2,627	—12
State and local	9,852	9,352	9,417	9,315	500	537	9,982	9,949	9,923	33

[1] Preliminary.

TABLE B-2: AVERAGE WEEKLY HOURS OF PRODUCTION OR NONSUPERVISORY WORKERS[1] ON PRIVATE NONAGRICULTURAL PAYROLLS, BY INDUSTRY

Industry	September 1970[2]	August 1970[2]	July 1970	September 1969	Change from August 1970	Change from September 1969	Seasonally adjusted September 1970[2]	Seasonally adjusted August 1970[2]	Seasonally adjusted July 1970	Seasonally adjusted Change from August 1970
Total Private	37.0	37.6	37.6	37.9	—0.6	—0.9	36.8	37.2	37.3	—0.4
Mining	42.4	42.6	42.9	43.4	—.2	—1.0	42.1	42.1	42.5	0
Contract construction	35.8	38.5	38.5	39.3	—2.7	—3.5	34.7	37.3	37.4	—2.6
Manufacturing	39.7	39.8	39.9	41.0	—.1	—1.3	39.4	39.8	40.1	—.4
Overtime hours	3.0	3.0	2.9	4.0	0	—1.0	2.7	3.0	3.0	—.3
Durable goods	40.4	40.2	40.3	41.7	.2	—1.3	40.1	40.3	40.7	—.2
Overtime hours	3.0	2.9	2.9	4.2	.1	—1.2	2.7	2.9	3.1	—.2
Ordnance and accessories	40.0	40.1	39.8	40.6	—.1	—.6	39.7	40.3	40.3	—.6
Lumber and wood products	39.5	40.2	39.7	40.3	—.7	—.8	39.2	39.9	39.8	—.7
Furniture and fixtures	39.1	39.5	38.8	40.7	—.4	—1.6	38.5	39.0	39.3	—.5
Stone, clay, and glass products	41.3	41.5	41.3	42.4	—.2	—1.1	40.8	41.0	41.2	—.2
Primary metal industries	41.1	40.4	40.6	42.1	.7	—1.0	41.1	40.5	40.7	.6
Fabricated metal products	40.6	40.6	40.9	42.1	0	—1.5	40.0	40.5	41.3	—.5
Machinery, except electrical	40.0	40.4	40.6	42.7	—.4	—2.7	39.9	40.9	41.1	—1.0
Electrical equipment	39.2	39.8	39.8	40.7	—.6	—1.5	38.9	39.9	40.4	—1.0
Transportation equipment	42.7	40.0	40.7	42.3	2.7	.4	42.0	40.7	41.2	1.3
Instruments and related products	38.7	39.8	39.9	41.2	—1.1	—2.5	38.5	40.0	40.3	—1.5
Miscellaneous manufacturing	37.9	38.4	38.4	39.2	—.5	—1.3	37.7	38.4	39.1	—.7
Nondurable goods	38.8	39.4	39.3	40.0	—.6	—1.2	38.5	39.2	39.3	—.7
Overtime hours	2.8	3.1	2.9	3.7	—.3	—.9	2.5	3.0	2.9	—.5
Food and kindred products	40.7	41.3	40.7	41.8	—.6	—1.1	39.9	40.8	40.2	—.9
Tobacco manufactures	38.8	37.8	37.5	39.0	1.0	—.2	37.2	37.5	37.9	—.3
Textile mill products	39.1	39.9	39.9	41.0	—.8	—1.9	38.8	39.8	40.3	—1.0
Apparel and other textile products	34.1	35.5	35.4	35.8	—1.4	—1.7	34.1	35.1	35.5	—1.0
Paper and allied products	41.6	41.8	41.7	43.3	—.2	—1.7	41.2	41.6	41.7	—.4
Printing and publishing	37.4	37.9	37.8	38.6	—.5	—1.2	37.1	37.7	37.9	—.6
Chemicals and allied products	42.0	41.2	41.4	41.8	.8	.2	42.0	41.3	41.5	.7
Petroleum and coal products	43.4	43.1	43.4	42.6	.3	.8	43.0	43.0	42.6	
Rubber and plastics products, nec	39.9	40.5	40.4	41.5	—.6	—1.6	39.4	40.4	40.8	—1.0
Leather and leather products	35.5	36.9	37.9	36.8	—1.4	—1.3	35.8	36.7	37.6	—.0
Transportation and public utilities	40.5	49.9	41.1	41.0	—.4	—.5	40.3	40.6	40.7	—.9
Wholesale and retail trade	35.2	36.3	36.2	35.7	—1.1	—.5	35.1	35.4	35.4	—.3
Wholesale trade	39.6	40.1	40.3	40.3	—.5	—.7	39.6	39.9	40.0	—.3
Retail trade	33.8	35.0	34.9	34.2	—1.2	—.4	33.9	33.9	33.9	3
Finance, insurance, and real estate	36.8	36.9	36.8	37.0	—.1	—.2	36.9	36.9	36.8	0
Services	34.5	35.0	34.9	34.6	—.5	—.1	34.6	34.7	34.6	—.0 1

[1] Data relate to production workers in mining and manufacturing; to construction workers in contract construction; and to nonsupervisory workers in transportation and public utilities; wholesale and retail trade; finance, insurance, and real estate; and service. These groups account for approximately ⅚ of the total employment on private nonagricultural payrolls.

[2] Preliminary.

TABLE B-3.—AVERAGE HOURLY AND WEEKLY EARNINGS OF PRODUCTION OR NONSUPERVISORY WORKERS[1] ON PRIVATE NONAGRICULTURAL PAYROLLS BY INDUSTRY

	Average hourly earnings						Average weekly earnings					
					Change from						Change from	
	September 1970[2]	August 1970[2]	July 1970	September 1969	August 1970	September 1969	September 1970[2]	August 1970[2]	July 1970	September 1969	August 1970	September 1969
Total private	$3.28	$3.25	$3.23	$3.11	$0.03	$0.17	$121.36	$122.20	$121.45	$117.87	—$0.87	$3.49
Mining	3.88	3.84	3.82	3.65	.04	.23	164.51	163.58	163.88	158.41	.93	6.10
Contract construction	5.34	5.29	5.20	4.92	.05	.42	191.17	203.17	200.20	193.36	—12.50	—2.19
Manufacturing	3.43	3.37	3.37	3.24	.06	.19	136.17	134.13	134.46	132.84	2.04	3.33
Durable goods	3.64	3.58	3.57	3.44	.06	.20	147.06	143.92	143.87	143.45	3.14	3.61
Ordnance and accessories	3.65	3.62	3.60	3.46	.03	.19	146.00	145.16	143.28	140.48	.84	5.52
Lumber and wood products	3.02	3.05	2.98	2.84	.03	.18	119.29	122.61	118.31	114.45	—3.32	4.84
Furniture and fixtures	2.82	2.81	2.78	2.68	.01	.14	110.26	111.00	107.86	109.08	—.74	1.18
Stone, clay, and glass products	3.46	3.43	3.42	3.25	.03	.21	142.90	142.35	141.25	137.80	.55	5.10
Primary metal industries	4.11	3.99	3.94	3.87	.12	.24	168.92	161.20	159.96	162.93	7.72	5.99
Fabricated metal products	3.62	3.56	3.54	3.40	.06	.22	146.97	144.54	144.79	143.14	2.43	3.83
Machinery, except electrical	3.81	3.77	3.77	3.63	.04	.18	152.40	152.31	153.06	155.00	.09	—2.60
Electrical equipment	3.35	3.31	3.32	3.13	.04	.22	131.32	131.74	132.14	127.39	—.42	3.93
Transportation equipment	4.13	4.10	4.08	3.94	.03	.19	176.35	164.00	166.6	166.66	12.35	9.69
Instruments and related products	3.43	3.37	3.33	3.19	.06	.24	132.74	134.13	132.87	131.43	—1.39	1.31
Miscellaneous manufacturing	2.85	2.82	2.82	2.68	.03	.17	108.02	108.29	108.29	105.06	—.27	2.96
Nondurable goods	3.13	3.08	3.09	2.95	.05	.18	121.44	121.35	121.44	118.00	.09	3.44
Food and kindred products	3.18	3.12	3.16	2.97	.06	.21	129.43	128.86	128.61	124.15	.57	5.28
Tobacco manufactures	2.84	2.79	3.03	2.51	.05	.33	110.19	105.46	113.63	97.89	4.73	12.30
Textile mill products	2.45	2.44	2.43	2.41	.01	.04	95.80	97.36	96.96	98.81	—1.56	—3.01
Apparel and other textile products	2.45	2.41	2.39	2.34	.04	.11	83.55	85.56	84.61	83.77	—2.01	—.22
Paper and allied products	3.53	3.49	3.47	3.31	.04	.22	146.85	145.88	144.70	143.32	.97	3.53
Printing and publishing	3.98	3.94	3.92	3.75	.04	.23	148.85	149.33	148.18	144.75	—.48	4.10
Chemicals and allied products	3.79	3.73	3.71	3.52	.06	.27	159.18	153.68	153.59	147.14	5.50	12.04
Petroleum and coal products	4.32	4.25	4.25	4.04	.07	.28	187.49	183.18	184.45	172.10	4.31	15.39
Rubber and plastics products, nec	3.22	3.22	3.21	3.13	0	.09	128.48	130.41	129.68	129.90	—1.93	—1.42
Leather and leather products	2.50	2.47	2.48	2.38	.03	.12	88.75	91.14	93.99	87.58	—2.39	1.17

	Average hourly earnings						Average weekly earnings					
	September 1970[2]	August 1970[2]	July 1970	September 1969	Change from		September 1970[2]	August 1970[2]	July 1970	September 1969	Change from	
					August 1970	September 1969					August 1970	September 1969
Transportation and public utilities	$3.90	$3.89	$3.87	$3.71	$.01	$.19	$157.95	$159.10	$159.06	$152.11	$-1.15	$5.84
Wholesale and retail trade	2.75	2.72	2.71	2.59	.03	.16	96.80	98.74	98.10	92.46	-1.94	4.34
Wholesale trade	3.45	3.44	3.42	3.28	.01	.17	136.62	137.94	137.83	132.18	-1.32	4.44
Retail trade	2.48	2.44	2.44	2.33	.04	.15	83.82	85.40	85.16	79.69	-1.58	4.13
Finance, insurance, and real estate	3.08	3.08	3.06	2.93	0	.15	113.34	113.65	112.61	108.41	-.31	4.93
Services	2.91	2.86	2.83	2.67	.05	.24	100.40	100.10	98.77	92.38	.30	8.02

[1] See footnote 1, table B-2.

[2] Preliminary.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday next, immediately following the disposition of the reading of the Journal and the disposition of any unobjected to items on the Legislative Calendar, there be a period for the transaction of routine morning business, with statements limited therein to 3 minutes.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

SENATE JOINT RESOLUTION 240—INTRODUCTION OF A JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION REQUIRING THE SUBMISSION OF BALANCED FEDERAL FUNDS BUDGETS BY THE PRESIDENT

Mr. FANNIN. Mr. President, sometimes politicians act as though tax revenues flow from a magic, never-ending fountain. But you and I know that tax revenues really represent the sweat and toil of the people.

The big spenders in Government forget, or refuse to recognize, that since taxes come from the people, the revenue should be spent with the same great care that workers and businessmen use in spending their own income.

When the Federal Government miscalculates or purposely overspends, it is the American taxpayers who suffer. And they are suffering.

There is inflation, there is a threat to our international trading position, and there is a soaring national debt.

I am deeply concerned about these problems. It worries me when the Government pays off $3 billion a week in notes, but borrows another $3.1 billion. A little simple math shows that at this rate, we slip about $100 million a week—or some $5 billion a year—additionally deeper into national debt.

That is why I am introducing today a constitutional amendment which would require the Congress to show fiscal responsibility.

Mr. President, I send to the desk a Senate joint resolution and I ask that it be appropriately referred.

Mr. President, I introduce the joint resolution for myself and Senators ALLEN, ALLOTT, BAKER, BELLMON, COOK, COOPER, CURTIS, DOLE, EASTLAND, ERVIN, GOLDWATER, GURNEY, HANSEN, HATFIELD, HOLLINGS, HOLLAND, HRUSKA, JORDAN of Idaho, MILLER, MURPHY, PEARSON, SAXBE, STENNIS, TALMADGE, THURMOND, TOWER, WILLIAMS of Delaware, and YOUNG of North Dakota.

The **PRESIDING OFFICER** (Mr. SCHWEIKER). The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 240) proposing an amendment to the Constitution of the United States requiring the submission of balanced Federal funds budgets by the President and action by the Congress to provide revenues to offset Federal funds, introduced by Mr. FANNIN (for himself and other Senators), was received, read twice by its title, and referred to the Committee on the Judiciary.

Mr. FANNIN. Mr. President, I have already discussed this proposal on the Senate floor several times.

What I am proposing, briefly, is this: Congress would be required to balance the budget over a 2-year period. In other words, Congress could vote to spend more than the Government collects in revenue one year, but it would have to make up the difference the next year.

This would allow the Government to make prudent use of its credit, operating at a temporary deficit for 1 year where necessary. The next year Congress would either have to cut back on spending or raise taxes to pay off the previous year's debt. Conversely, it might be possible for Congress to program a budget surplus for 1 year and where necessary a matching deficit in the next.

What would happen if Congress misjudged or purposely failed to come out with a balanced budget or surplus at the end of a 2-year period?

In this case, under my amendment, Congress could not pass any appropriations bills until it took action on revenue measures to pay off the deficit. Any appropriations bills Congress might try to pass would not be constitutional.

I am not requiring that the Federal Government cut back on any current program. But under my amendment, Congress would have to pass tax legislation to provide revenue to pay for these programs immediately. Taxpayers would have an almost instant gage of the cost of their Government, and they could vote accordingly in the next election.

The amendment is practical; it is flexible; it is enforceable.

And there are indications we will have a good deal of bipartisan support in the drive to put this amendment across.

On August 15 I sent out letters to the Nation's State Governors asking for their opinions and suggestions concerning the proposed amendment. One of the most enthusiastic replies came from Gov. Preston Smith of Texas.

Governor Smith said he endorses the principle heartily.

The Governor went on to note that like Arizona, Texas is on a pay-as-you-go basis in its State Government operations. Texas is one of the majority of States which have constitutional provisions making it difficult if not impossible to have a deficit any year.

Governor Smith observed:

> Our Federal colleagues might learn something of value from the experience of State governments.

To that, I can only say, amen.

As Governor of Arizona for three terms I managed to live with the requirement that the State budget be balanced every year.

Citizens may rightfully ask just why in the world we should need to force Congress to act in a fiscally responsible manner. You would think that the men elected to Congress—for the most part intelligent, mature individuals, many with at least some experience in business—would be fully aware of the dangers of huge deficit spending.

Yet the spending goes on.

President Nixon is trying to reverse the trend of deficit spending that has marked the past four decades. In the fiscal year which ended just over 2 months ago, the Federal Government showed good departmental management of expenditures.

But efforts to halt the inflation the administration had inherited caused a falloff in revenues. The drop was about $5½ billion. So President Nixon found himself with a $2.9 billion deficit instead of a small surplus he had planned.

Unfortunately, there are predictions from some quarters that there could be a $5 billion to $10 billion deficit in the current fiscal year.

While the administration has been struggling to put the budget in balance and at the same time curtail inflation, the big spenders in Congress have been going their own way.

During the past fiscal year, the Congress voted $1.1 billion more than the President asked for Labor, Health, Education, and Welfare.

It is not that I am opposed to programs for health, education, labor, housing, space, veterans, or hospitals.

I have sponsored and worked for legislation in all these areas. I wish we had the resources to do even more. But I feel that it is wrong for Congress to promise the solution of current problems through means that will result in severe economic problems in the future.

Right now we are feeling the effects of policies which resulted in almost $38 billion in Federal deficits during the last 3 years of the Johnson administration.

The $2.9 billion deficit of the just concluded fiscal year is certainly an improvement, but we must improve on that record.

It is unfortunate, of course, that the Government was not able to turn the corner completely in fiscal 1970.

Deficits are wrong economically and cost the Nation many times the apparent amount.

Deficit financing is costly in terms of interest, adding many billions to future tax burdens.

Continued deficits are costly in terms of the loss of housing and of business investments which will result from high interest rates that accompany the Government's heavy borrowing. Anyone who has tried recently to finance a home or expand a business is all to painfully aware of the high interest legacy left from the free-spending 1960's era.

These deficits are costly to American consumers and exporters. Large deficits put American businesses in a disadvantageous position in dealing with other nations.

It is apparent that deficits have been attended by gold outflows and balance of payments deficits, and this eventually brings attacks on the value of the dollars.

Deficits bring inflation. While the Nation was becoming mired in an additional $60 billion in debt this past decade, the dollar's purchasing power plummeted. The dollar which bought 97 cents worth of goods in 1961 was worth only 83 cents in 1968.

The lesson of history is plain to see.

Failure to hold expenditures within the Nation's resources bring higher prices both domestically and on imports. It brings great burdens of interest on the debt and high interest rates on all borrowing. It forces other nations to act in ways which cheapen the dollar.

Despite these lessons, the trend continues.

Federal spending totaled $196.8 billion last year. President Nixon had estimated in February that the Federal spending this fiscal year would be just under $201 billion.

Congress has raised this figure by almost $2 billion. Uncontrollable items such as interest on the huge Federal debt and social security payments will add about $3 billion to previous estimates.

Thus, we now have an estimated $205.7 billion budget for the current year. Imagine, the Federal Government is spending about $1,000 for every man, woman, and child in the Nation.

There are several things the President has asked Congress to do to ease the deficit that is looming for this year. He has proposed a new tax on leaded gasoline, a speedup in gift and estate tax collections, and extension of excise taxes on telephones and automobiles.

These measures would make up as much as $4.5 billion of the anticipated deficit.

As an alternative or additional step, Congress should take a good second look at the myraid of programs it has approved in the past decade and begin to trim away some of the fat.

Unfortunately, the national debt ceiling has been no deterrent to deficit spending.

The national debt was $1.4 billion at the turn of the century; it was only $55.3 billion even after the Roosevelt pump-priming efforts of the great depression. In 1946 following World War II, the debt limit stood at $275 million. Between 1960 and 1966 the Congress approved 13 so-called temporary debt limit increases. The latest increase put the permanent ceiling at $395 billion.

Three hundred and 95 billion dollars.

Compare that with the $11.5 billion debt limit—the first official debt limit—set in 1917.

Obviously the debt ceiling has been no deterrent to deficit financing. Congress simply raises the ceiling by a majority vote in each House when the summit is about to be reached. Members have no real choice.

The constitutional amendment I propose would be a deterrent. Congress would have no option but to balance spending with revenues for each 2-year period. National debt could not be increased as a result of any 2-year segment simply by the action of Congress.

There would be an escape clause to give flexibility in genuine emergencies. The constitutional provision would be suspended in time of war, or when the President declares a national emergency.

Perhaps, with closer budget control, we could prevent or at least slow the shrinkage of the dollar.

As Governor Smith said in his letter to me on the proposed constitutional amendment:

> Inflation is the cruelest, most insidious form of taxation. It robs the value of savings by prudent citizens.

The Governor continued:

> It unnecessarily adds to the critical problems of State and local governments for which public service demands have risen more rapidly than revenue capabilities.

Governors and local government officials have special cause to be alarmed. Most of them agree that the Federal Government should share its vast revenues with the States and cities.

President Nixon proposed such a program—which would give more than $50 million to Arizona—but the heavy spending hand of Congress has doomed that plan for the time being.

Mr. President, in closing, let me sum up a few things:

The administration is struggling to put an end to irresponsible deficit spending. But Congress has shown no indication it is willing to balance the budget voluntarily.

We need some effective control, and I think a constitutional amendment is the answer.

Mr. HANSEN. Mr. President, I thank the distinguished Senator from Arizona. I want to express my appreciation to the senior Senator from Arizona (Mr. FANNIN) for the leadership he has exhibited in taking the initiative in proposing steps that I think can be most meaningful in returning this country to a position of fiscal responsibility which, more than any other one thing, can help dampen the fires of inflation.

Despite what some detractors say, the record seems clear to me that government expenditures exceeding incomes have been the primary and most important factor contributing to inflation.

So if we are going to come to grips with the real problem that has been plaguing all our citizens for all too long a time, I think what has been proposed by the distinguished Senator from Arizona will do precisely that. I am delighted and privileged to be a cosponsor.

Mr. FANNIN. Mr. President, I thank the distinguished Senator from Wyoming. By his own record, he exemplifies exactly what he has been saying. As a distinguished Governor of his State of Wyoming, he did abide by the same rules we are talking about in this particular amendment. In his work on the Committee on Finance, I have observed his continuous fight and drive to bring fiscal responsibility to the Federal Government. I know that his work has been very productive and successful, and I am very pleased that he has joined me in this effort, and that Senator GOLDWATER and others have joined in this effort to bring about fiscal responsibility in our Federal Government.

Mr. GOLDWATER. Mr. President, before I begin the remarks with which I intend to address the Senate this afternoon, I commend my senior colleague (Mr. FANNIN) for the presentation of this proposed constitutional amendment, which I think we should have had long ago. If we really mean to bring inflation under control, and to protect the dollar, we in Congress have to be more mindful of the people's money and the way it is spent.

I am very happy to join as a cosponsor of the amendment, and I feel we are going to have every success with it.

Mr. FANNIN. Mr. President, I thank my distinguished colleague. Certainly he has, over the years, worked toward this objective, and I commend him for it. He has fought many battles to accomplish the fiscal responsibility that we desire to accomplish with this amendment, and I know that his work has in the past produced and is at the present time producing results in this effort. I very much appreciate his support.

THE FACTS ON SST

Mr. GOLDWATER. Mr. President, as so often is the case with an issue of far-reaching importance, a large amount of confused, misleading and, I believe, downright erroneous information is being passed around these days about the administration's program to develop a U.S. supersonic transport.

I should like to make clear at the very beginning that I believe very strongly in the need for such a plane and for the need of the United States to participate in its development. I say this regardless of all the alarming and frightening predictions that have been made by oppo-

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nents to the program. Because I do not believe, Mr. President, that American technology and know-how is so deficient that it must bow to the Russian and the French and the British in this area of air supremacy.

We are confronted today, Mr. President, by a nationwide campaign promulgated on a series of hypotheses, all of which are designed to alarm the American people and bring pressure on the Congress to deny the Department of Transportation the money required for the SST program. For example, we are told by some alarmists that development of supersonic transports could decrease the supply of ozone in the upper atmosphere and thereby expose the surface of the earth to the full force of solar radiation. The result would be the destruction of all life on earth except that which exists in the oceans. Other alarmists argue that a fleet of SST's might put out enough water in the atmosphere to change the temperature in the atmosphere and result in a melting of the polar ice cap and the consequent flooding of large areas of the civilized world. Of course, it is also true that you can find scientists who will tell you that the amount of water placed in the atmosphere by a fleet of 400 SST's in a single day is about equal to the amount injected into the upper atmosphere by one thunderstorm. And there are sound scientists who will dispute the claim of SST opponents that a change of 5 degrees in the atmospheric temperature might melt the ice cap. They point out that between 1880 and 1940 the temperature in the upper atmosphere increased by 9 degrees, but no ice melted. They also recall that back in 1883, when the Pacific Island of Krakatoa blew up, it put a cubic mile of sea water into the upper atmosphere at one time without changing the atmospheric temperature of the world. The Krakatoa phenomena was so tremendous that the volcanic explosion was heard for 3,000 miles and the dust in the atmosphere gave some parts of the world green sunsets for an entire year. But even this development—certainly one more tremendous than could be produced by any kind of an enormous SST fleet than men might build in our lifetime—did not melt the polar ice cap.

Mr. President, I can recall, as many people can, the 1,000-plane raids over Germany in World War II, and I just did a little quick calculating here. Those 1,000 planes represented 5 million horsepower. One SST represents 390,000 pounds of thrust, which is the modern way of expressing horsepower, and while they are not precisely the same in power, they are very closely related.

Those raids over Germany, with the long trails produced by the superchargers emitting warm air, which produced molecules of water which froze and made the long wide trails, plus the compression of the air at the wingtips of the aircraft, which did the same thing whenever there was moisture in the air, did not change the weather in Europe one bit, during the raids or after them.

I cite these fantastic tales which are being spread about what a few airplanes might do to the atmosphere to give you an example of how far the opponents of this program are willing to go to support their cause. It has been pointed out by Mr. William Magruder, Director of the SST development program in the Department of Defense, that all the scare predictions are based on "iffy" hypotheses.

Magruder says:

> There is no evidence of any kind to verify that the temperature of the atmosphere will rise because of water vapor in it. It is true that it's increasing, and we should know more about why it is increasing. We do have large research and development programs looking into the problem but not just because of the SST. There is just as much evidence to say that this is a good development as there is to say that it is a bad development. But if you've made up your mind to shoot at the SST, you can turn all your "ifs" against it.

Magruder pointed out that more than $27 million has been proposed to study the question although no knowledgeable person is predicting major environmental problems will result from the SST operation.

The scare techniques such as those suggestions that the sun will burn up life on earth or melt the polar ice cap are similar to those used years ago in connection with the atom bomb. For example, at the time of the Bikini A-bomb tests in the Pacific in 1946, all kinds of fantastic predictions were made—and many of them by reputable members of the scientific community. As I recall, there was one suggestion that the underwater explosion of nuclear fission might blow a hole in the earth's crust causing the sea water to rush into the molten core of our planet and result in a tremendous explosion or a steam vapor that would not quit. At the same time some oceanographers predicted that the underwater A-bomb explosion would jar loose from the sides of the Bikini atoll centuries of lava deposits causing such a displacement of mass that tidal waves a thousand feet high would shoot out across the Pacific. There were other predictions equally as wild and which received a degree of credence merely because they dealt with an enormous natural force about which all knowledge was extremely limited.

Of course, none of these horrendous results occurred at Bikini. Men who witnessed it were greatly impressed with the force and power of the underwater explosion, and there is no question that the test added greatly to our knowledge of nuclear reaction and related scientific questions. But, no tidal waves occurred and the earth's crust remained undamaged, and about all that came out of the predictions of catastrophe was a vast supply of sorely needed scientific information that we never would have gotten had we turned all the "ifs" in that situation against Operation Crossroads, as the Bikini tests were known.

More recently and somewhat along the same line were the reports of what might happen if a dam were constructed across the Colorado River in the Grand Canyon. I was in that controversy up to my neck, and I know how far and how wide the opponents to dams were able to spread the report that the project would result in the flooding of the Grand Canyon and make an inland lake of one of the world's greatest natural wonders. Those of us who knew the situation argued almost in vain that there was not enough water in all the rivers in the entire world to flood the Grand Canyon. Our arguments that the dam would be so small that it would be almost impossible to see it from most parts of the Canyon rim were very often received with complete disbelief. Even when we quoted the official statistics—the height of the Canyon versus the proposed size of the dam, and so forth—the going was still very difficult. I might point out, Mr. President, that some of the same groups that were responsible for the propaganda myth about flooding the Grand Canyon are among those contending that development of the SST would pollute the atmosphere. I refer particularly to one of the Nation's great organizations, an organization of which I am very proud to be a member, the Sierra Club, which has been dedicated, throughout its history, to the prevention of pollution and the preservation of our environment and the preservation of our natural resources. They were opposed to the building of a dam across the Grand Canyon.

I got a friend of mine with a computer he was not using to find out how much concrete it would take to build a dam approximately 12.5 miles long, a mile high, and proportionately deep, at the base and the top, to hold back the water. The computer indicated that there is not much concrete in the world. I am happy to say that we did not build the dam; I am happy that we are proceeding without it. But I do not think the Sierra Club or any other organization has a right to improperly inform the people of this country on any subject.

I should like to point out that I yield to no Member of the Senate in my concern over the problem of pollution. I have a new book coming out which devotes many thousands of words to the great need for maintaining a healthy atmosphere regardless of what it costs. Consequently, I say here that I am absolutely convinced that far from endangering the atmosphere, the SST will generate less pollutants per passenger mile than most other transportation alternatives.

It is interesting to go back and trace the genesis of the environmental objection. In the beginning, the SST critics virtually rested their case on the dramatic and attractive argument that sonic booms produced by SSTs in the country would rock millions of people back on their heels 10 to 20 times everyday. One group, called the Citizens League Against the Sonic Boom, even published a handbook on the subject entitled "The SST and the Sonic Boom." Interestingly enough, the handbook was published by Ballantine Book Publishers of New York City in cooperation with the Sierra Club. I might point out that it was the Sierra Club that played a major role in promoting the myth about flooding the Grand Canyon. The handbook contains an introduction by author William A.

Shurcliff, and appropriately enough it begins with one capitalized word—"if." The introduction goes on to point out:

> If overland supersonic flight is permitted, 500 million people in America, Europe and Asia will be jolted every hour, day and night, by sonic booms from hit and run SSTs.

I think we all know, Mr. President, that the opponents of the SST were gaining great mileage from their sonic boom argument until the Department of Defense announced that no SST would be permitted to exceed the sound barrier—thereby creating a sonic boom—within 100 miles of the American coast.

I might say that since that time there has been an international agreement reached that no supersonic transport will fly supersonically over any land mass in the world.

From that time on, the SST critics began shifting their arguments to the hypothetical conclusions about polluting the atmosphere, melting the ice cap and turning the direct rays of the sun loose on all living forms which inhabit the earth. In other words, they lost the sonic boom argument and immediately shifted to new ground and laid all their bets on the fact that because the atmospherics of the situation are unknown in some respects their arguments about catastrophe could not be finally and conclusively contradicted.

Mr. President, just to divert a moment, a word about the sonic boom. This airplane will not go supersonic until it is a hundred miles from the American coast. It will be climbing when it goes into this configuration, and the boom, while it could be heard by ships at sea, would be directed upward, into the atmosphere. On the other side of the ocean, or when the aircraft is preparing to land, it would be reduced to subsonic speed, and the reentry, as we call it, would not be heard at all. So there is nothing at all to the argument about the sonic boom.

I happen to live in a part of the United States over which three times a day are flown aircraft capable of mach 3.1, or three times the speed of sound, and it is very difficult to hear or feel the shock wave which is generated at about 80,000 feet.

I have flown that airplane myself, and a passenger would experience no feeling at all as the sonic barriers were met.

Mr. President, as I have already pointed out, there is no—let me repeat—no evidence presently available that STT operations will be environmentally offensive or constitute any kind of a danger to life on earth. All that we have in this area of the controversy at the present time are theories. I am sure I do not have to explain to this body of intelligent legislators that one can always find theories to fit almost any situation he wants to encompass. Thus, the opponents of the SST program have all kinds of theories which they too often offer as established fact. Included, of course, are the theories that SST operations will pollute the atmosphere, alter the weather, or induce the radiation dangers by disrupting the ozone in the atmosphere. Very seldom do the purveyors of these contentions point out that the vast weight of scientific opinion refutes such theories.

In view of all of this, I believe it is highly commendable that the advocates of a supersonic transport plane are taking nothing for granted. Thus, despite all assurances that the effects of the SST flight on the atmosphere will be inconsequential, a research program is underway to produce full data on this situation. Right here I should like to point out that the frightening theories advanced by opponents to the U.S. program have to apply just as strongly to the operation of supersonic aircraft produced by foreign countries. It stands to reason that if the theories about environmental effects have any basis in fact, they would, by their very nature, have to be universal. But we find that other nations, including the Russians and the French, are operating supersonic aircraft at high altitudes at this very time.

Now, Mr. President, for the sake of argument, let us give full weight to the possibility of environmental effects stemming from SST operations. The present administration request is for $290 million to further this program in the fiscal year 1971. Contrary to the impression being left with the people of this Nation, the request now before us contains no element of danger. It would provide the funds necessary to produce the machinery that will tell us once and for all what kind of effects supersonic transportation might result in. This major point has been made repeatedly, most recently, I believe, by the distinguished Senator from Texas (Mr. TOWER). He pointed out that in the case of the SST, we are not risking damage to the environment for the simple reason that our program, as presently drawn, calls only for the development of prototype aircraft. Consequently, as research on the prototype progresses, so will research on its environmental effects. And we can not possibly know the full story of what, if any, lasting effects SST operations might have until after full testing of the prototype plane.

It is too often misunderstood that approval of the request now before us does not in any way commit this Nation to the development of a full fleet of commercial SST's. Yet, if we do not test our own SST prototype, we will not know what effects the Russian or the French/British supersonic transports are likely to have on the environment.

Interestingly enough, the foreign producers do not seem to be testing the effects of their planes on the environment. And it must be remembered that while the environment covers all nations, the authority of this Congress to speed up or stop the development of supersonic transports does not extend beyond our own borders.

This brings us to an interesting point. Suppose, for the sake of argument, that we vote down the present request and reject all future measures aimed at the development of an SST. That will have absolutely no effect on the dangers if the arguments of the SST opponents are true. Nothing we do, either in this Chamber or in the House, is likely to slow down the development of the British/French Concorde or the Soviet TU-144. I doubt if it would make any difference if we were to reject this request and then approve a resolution calling upon our State Department to acquaint the British, French and Soviets of an American concern for contamination of the environment, a melting of the ice cap, or the destruction of all nonoceanic life on earth.

Whether we like it or not, it is about time that we understand that the objections being raised to the U.S. SST program have very little validity. No matter what we do here, there is going to be supersonic transportation in the world and on a large globe-circling basis in a very few years. That is as certain as the development of the automobile was in the early part of this century. The development of an SST program is a measure of transportation progress. It will come as quickly as it is feasible. In Europe it already is feasible. Not only the Soviets but the French and British are busy testing SST's prototypes which will shortly be moved into production and placed in operation on regularly scheduled world airlines.

As I say, the SST is already here. Versions of it are now being test flown in Europe. The only question remaining, therefore, is whether the United States will play a leading role in its commercial development. This is vitally important from a strategic standpoint. We must maintain the air superiority which we have enjoyed since World War II. But it is just as important to the traveling public. It is rarely explained by the opponents of the SST that its development will bring about a virtual revolution in cheap subsonic air travel. The high speed SST will provide the expensive flights. Eventually they will become equivalent perhaps to today's first-class accommodations. But as more and more SST's take to the air, the slower version of subsonic jets like those flying today will be able to offer cutrate fares on international travel. Some experts believe the day is coming before too many years when a traveler will be able to fly round trip from New York to London for about $150. Our stake in this development is enormous. It should not be lost for the very weak reasons which currently are being raised by its critics.

One more point I should like to make, relative to the demand for SST travel, is that the only economic area in which the United States still dominates the world is in the construction of aircraft—the only one. When the airlines reach the point that they have to have supersonic transportation to meet competition from overseas, they will buy that airplane. They will buy it from the Soviets, or the French, or the British if we are not able to provide it.

Mr. President, as surely as I am standing here speaking today, when that day comes, and we are no longer able to build or able to compete with supersonic aircraft which will be making inroads into the market, inroads which are still being made, the Lord help us when the Japanese decide to get into the field.

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From listening to some of the arguments on the floor of the Senate during the past few months, a casual observer would get the impression that it is within our power to decide whether the world is to have this tremendous escalation in its traveling and transportation potential. The only things we can decide here is whether the United States is going to play any significant role in this enormous development.

Mr. President, I should like to emphasize that there is not a lot of time left. The foreign producers are not going to wait for our pseudo-scientists in the Halls of Congress to decide this matter on the basis of possible environmental effects or domestic spending priorities. They are competitors who have come in second best too often and too long in the history of commercial affairs to pass up the opportunity they have right now to assume leadership over the United States in the matter of air superiority.

When I listen to Senators and House Members complaining that we can not build an SST that will not pollute the atmosphere and jolt the entire earth with its sonic boom, I sometimes wonder what happened to that fine old boast about Yankee knowhow. I would remind the Members that for many years our Nation was able to overcome competition from foreign countries using cheap labor by the simple expedient of being able to build a "better mousetrap." And in the "mousetrap" business we were unchallenged. Whether the "mousetrap" involved tanks, guns and planes to defeat the Axis, or housing materials to overcome postwar shortage or automobiles of a superior nature, we always came up with the better product. In space today, our "mousetrap" is one that was capable of landing men on the moon before any other nation or collection of nations. And against this backdrop we have Members of this body telling us that in the SST development, we not only cannot build a better mousetrap, we cannot even build one.

Even so, Mr. President, that is not the strangest thing to come out of the wide-ranging debate over the development of the SST. For openers, I should like to quote some remarks made by Prof. John Kenneth Galbraith, of Harvard University, a former chairman of Americans for Democratic Action and a self-styled "alarmed conservative," I might say, parenthetically, that if he is an alarmed conservative, I really am. Professor Galbraith is using an old familiar argument. He sees in the administration's request for the development of the SST an evidence of creeping socialism. Perhaps that is not fair, because Professor Galbraith did not use the word "creeping," but he told a breakfast meeting with reporters at the National Press Club that Government sponsorship of the SST is a manifestation of what he calls the Socialist drive. Professor Galbraith also saw some significance in the fact that the SST program is being spearheaded by the Secretary of Transportation John A. Volpe, whom he described as "an old-line Socialist."

Mr. President, keeping tabs on the views of the card-carrying liberals in this debate is a bit confusing. As I have pointed out, Professor Galbraith has taken a rather interesting and uncharacteristic stand. And in the same week my distinguished colleague from Wisconsin, Senator PROXMIRE, charged on the Senate floor that the Department of Transportation is engaging in something he calls SST McCarthyism. As I say, the whole thing is a bit confusing. We seem to number among the opponents of this measure of progress those very liberals who have staked their entire political lives on demands for change and progress in our society. It seems to me when we have one liberal charging socialism and another alleging McCarthyism, the whole thrust of this opposition is a matter of sponsorship. It strikes me that the liberal community is bound and determined that a Republican Nixon administration should never be credited with having advocated and developed a major move in the direction of progress. Perhaps if a liberal Democrat were in the White House, the opponents of the SST would be less fearful of melting ice caps and Socialists' threats and more confident of American technological ability.

Mr. Galbraith, in his newly found ideological role, seemed concerned less Government sponsorship of the SST would lead to nationalization of the entire transportation industry. He failed to point out, of course, that the program is a joint venture designed to meet the enormous cost of providing this type of transportation. The program calls for a total Government commitment of $1.3 billion. In addition to this, the SST contractors will put up about $3.2 billion, $54 million of it in facilities. And finally the airlines themselves are putting money on the line. They already have invested $60 million in risk capital and $22 million more in reservation position deposits.

Of course, critics of the SST continually overlook the fact that the program has a built-in system by which the Government will be repaid for its expenditures. Royalties will be paid the Government on every SST sold and the rate of payment will assure full reimbursement of the Government's investment when 300 American SST's are sold Thus, it will be seen that Mr. Galbraith's newly developed fear of Government ownership is completely without foundation.

Mr. President, I might point out that, if my memory is correct, it was Professor Galbraith some time within the last 12 months who suggested that the Government take over the whole business of constructing military weapons and equipment. I am glad to see that he has seen the error of his ways.

Mr. President, one of my great concerns in this matter lies in the fact that the determined drive to make sure the United States plays no part in the development of the SST is in line with other moves designed to reduce America to the status of a second- or third-rate power. The people who are spearheading the drive against the SST are many of the same people who have been attempting, through every possible device, to bring about a reduction in American arms.

More than anything else, I believe it is the timing of these endeavors which bothers me. The concerted, many-faceted campaign to slash defense funds coincided precisely with a period of massive armaments buildup in the Soviet Union. While we are being urged to slash overall defense funds and eliminate many types of weapons systems, the Russians have been rapidly stockpiling more and more intercontinental ballistic missiles, deploying an ABM system, building new fighter planes and developing a wartime navy capable of dominating every major waterway in the world. Now we have a drive to prohibit the United States from even developing two prototype SST's while three other nations, including the Soviet Union, are already testing aircrafts of this type.

Mr. President, these moves aimed at our defense capabilities and our transportation potential appear for all the world like unrelated developments. I hope this is the case. But I do not like the overall picture which shows a determined group of Americans working night and day to reduce our capability in areas of direct and strategic competition with other nations. I repeat, regardless of the motivation, the result if all these drives are successful will be to end this country's leadership of the free world and reduce us to the status of a second- or third-class power. This result, strangely enough, comes at a time when liberals in this country are making full use of the Nation's weariness and frustration over Vietnam to develop a new brand of isolationism for this country.

If we are second best in the air and second or third best in military capability and isolationist in our foreign affairs, America's time of greatness and promise will be forever ended.

ORDER FOR RECOGNITION OF SENATOR JAVITS ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the disposition of all unobjected-to items on the Legislative Calendar on Monday next, and prior to the period for the transaction of routine morning business, which has already been ordered, the able Senator from New York (Mr. JAVITS) be recognized for not to exceed 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the unfinished business now be temporarily laid aside, that it remain in that status until the conclusion of morning business on Monday morning next, and that the Senate proceed at this time to the consideration of Calendar No. 1237, the legislative reorganization bill, with the understanding that there will be no action on this measure today.

The PRESIDING OFFICER (Mr. SCHWEIKER). The bill will be stated by title.

The assistant legislative clerk read as follows:

Calendar No. 1237, H.R. 17654, to improve the operation of the legislative branch of the Federal Government, and for other purposes.

The **PRESIDING OFFICER**. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. BYRD of West Virginia. Mr. President, as the majority leader stated a little earlier today, it is the intention of the leadership to discuss Senate Joint Resolution 1 throughout Monday next, but if perchance it appears feasible later in the day on Monday to take up some other measure, it will be the Legislative Reorganization Act.

The purpose of laying H.R. 17654 before the Senate today is to be sure to put Senators on notice that it may be considered if the situation on Monday next should develop wherein action on Senate Joint Resolution 1 were completed at a reasonable hour.

ADJOURNMENT UNTIL NOON MONDAY, OCTOBER 5, 1970

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 4 o'clock and 15 minutes p.m.) the Senate adjourned until Monday, October 5, 1970, at 12 o'clock noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 2, 1970:

DEPARTMENT OF DEFENSE

Richard J. Borda, of California, to be an Assistant Secretary of the Air Force.

OFFICE OF TELECOMMUNICATIONS POLICY

George Frank Mansur, Jr., of Texas, to be Deputy Director of the Office of Telecommunications Policy.

DEPARTMENT OF TRANSPORTATION

Willard J. Smith, of Michigan, to be an Assistant Secretary of Transportation.

IN THE COAST GUARD

The nominations beginning Michael J. Schiro to be lieutenant commander and ending Roy E. Henderson to be lieutenant commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on Sept. 24, 1970.

EXTENSIONS OF REMARKS

SUBVERSION BY THE NUMBERS BY ORDER OF SECRETARY RESOR

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 1970

Mr. RARICK. Mr. Speaker, for those Members who do not understand the revolutionary changes and attitudes on our military posts one need only examine the "Guidance on Dissent" regulations issued May 28, 1969, by the Department of the Army by order of the Secretary of the Army, Stanley Resor.

Mr. Resor's "Guidance on Dissent" rationalizes that the question of soldier dissent is linked with the constitutional right of free speech. Further, that "complaining personnel must not be treated as 'enemies of the system'."

Since Mr. Resor's guidance on dissent establishes "the mission of the Army is to execute faithfully, as ordered, policies and programs established in accordance with law by duly elected and appointed Government officials" we may wonder if the new army of dissent was Mr. Resor's idea or if he has proselyted the New Mob's petition for grievances.

Many of us so-called out-of-step Americans who are accused of living in the past, which includes, by the way, most workers and taxpayers, have always understood that the prime mission of the Army was to maintain a well-disciplined force of men to preserve and defend our Constitution and to protect our people from all enemies, both foreign and domestic, from within and without.

Now we learn of an additional accommodation to the dissidents and defectors through an alteration of AR 840–10, paragraph 105, with regard to the display of the U.S. flag on military installations. The headquarters, Fifth U.S. Army letter—ALFGA–SP—dated July 30, 1970, refers to the display of the U.S. flag during "incidents." The order authorizes that during any threatened invasion or activities by antimilitary mobs, the commander or senior officer present may remove the U.S. flag to prevent desecration or violence.

We know who Mr. Resor is, but his mission as Secretary of the Army appears to foster insubordination if not subversion.

Mr. Speaker, I ask that the "Guidance on Dissent" letter and the April 3, 1970 Herald of Freedom follow my remarks.

The items follow:

DEPARTMENT OF THE ARMY,
OFFICE OF THE ADJUTANT GENERAL,
Washington, D.C. 20310
AGAM–P(M) (27 May 69) DCSPER–SARD
28 May, 1969.

SUBJECT: GUIDANCE ON DISSENT

See distribution

1. In the past few weeks there have been press reports suggesting a growth in dissent among military personnel. Questions have been raised concerning the proper treatment of manifestations of soldier dissent when they occur. The purpose of this letter is to provide general guidance on this matter. Specific dissent problems can, of course, be resolved only on the basis of the particular facts of the situation and in accordance with provisions of applicable Army regulations.

2. It is important to recognize that the question of "soldier dissent" is linked with the Constitutional right of free speech and that the Army's reaction to such dissent will—quite properly—continue to receive much attention in the news media. Any action taken at any level may therefore reflect—either favorably or adversely—on the image and standing of the Army with the American public. Many cases involve difficult legal questions, requiring careful development of the factual situation and application of various constitutional, statutory, and regulatory provisions (See Appendix A). Consequently, commanders should consult with their Staff Judge Advocates and may in appropriate cases confer with higher authority before initiating any disciplinary or administrative action in response to manifestations of dissent. The maintenance of good order and discipline and the performance of military missions remains, of course, the responsibility of commanders.

3. "Dissent," in the literal sense of disagreement with policies of the government, is a right of every citizen. In our system of government, we do not ask that every citizen or every soldier agree with every policy of the Government. Indeed, the First Amendment to the Constitution requires that one be permitted to believe what he will. Nevertheless, the Government and our citizens are entitled to expect that, regardless of disagreement, every citizen and every soldier will obey the law of the land.

4. The right to express opinions on matters of public and personal concern is secured to soldier and civilian alike by the Constitution and laws of the United States. This right, however, is not absolute for either soldier or civilian. Other functions and interests of the Government and the public, which are also sanctioned and protected by the Constitution, and are also important to a free, democratic and lawful society, may require reasonable limitations on the exercise of the right of expression in certain circumstances. In particular, the interest of the Government and the public in the maintenance of an effective and disciplined Army for the purpose of National defense justifies certain restraints upon the activities of military personnel which need not be imposed on similar activities by civilians.

5. The following general guidelines are provided to cover some of the manifestations of dissent which the Army has encountered.

(a) *Possession and distribution of political materials.*—(1) In the case of publications distributed through official outlets such as Post Exchanges and Post Libraries, a commander is authorized to delay distribution of a specific issue of a publication in accordance with the provisions of para. 5–5 of AR 210–10. Concurrently with the delay, a commander must submit a report to the Department of the Army, ATTN: CINFO. A commander may delay distribution only if he determines that the specific publication presents a clear danger to the loyalty, discipline, or morale of his troops.

(2) In the case of distribution of publications through other than official outlets, a commander may require that prior approval be obtained for any distribution on post. Distribution without prior approval may be prohibited. A commander's denial of authority to distribute a publication on post is subject to the procedures of para. 5–5, AR 210–10, discussed above.

(3) A commander may not prevent distribution of a publication simply because he does not like its contents. All denials of permission for distribution must be in accordance with the provisions of para. 5–5, AR 210–10. For example, a commander may prohibit distribution of publications which are obscene or otherwise unlawful (e.g., counselling disloyalty, mutiny, or refusal of duty). A commander may also prohibit distribution if the manner of accomplishing the distribu-

tion materially interferes with the accomplishment of a military mission (e.g., interference with training or tropp formation). In any event, a commander must have cogent reasons, with supporting evidence, for any denial of distribution privileges. The fact that a publication is critical—even unfairly critical—of government policies or officials is not in itself, a grounds for denial.

(4) Mere possession of a publication may not be prohibited; however, possession of an unauthorized publication coupled with an attempt to distribute in violation of post regulations may constitute an offense. Accordingly, cases involving the possession of several copies of an unauthorized publication or other circumstances indicating an intent to distribute should be investigated.

(b) *Coffee Houses.*—The Army should not use its off-limits power to restrict soldiers in the exercise of their Constitutional rights of freedom of speech and freedom of association by barring attendance at coffee houses, unless it can be shown, for example, that activities taking place in the coffee houses include counselling soldiers to refuse to perform duty or to desert, or otherwise involve illegal acts with a significant adverse effect on soldier health, morale or welfare. In such circumstances, commanders have the authority to place such establishments "off limits" in accordance with the standards and procedures of AR 15–3. As indicated, such action should be taken only on the basis of cogent reasons, supported by evidence.

(c) *"Servicemen's Union".*—Commanders are not authorized to recognize or to bargain with a "servicemen's union." In view of the constitutional right to freedom of association, it is unlikely that mere membership in a "servicemen's union" can constitutionally be prohibited, and current regulations do not prohibit such membership. However, specific actions by individual members of a "servicemen's union" which in themselves constitute offenses under the Uniform Code of Military Justice or Army regulations may be dealt with appropriately. Collective or individual refusals to obey orders are one example of conduct which may constitute an offense under the Uniform Code.

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(d) *Publication of "Underground Newspapers".*—Army regulations provide that personal literary efforts may not be pursued during duty hours or accomplished by the use of Army property. However, the publication of "underground newspapers" by soldiers off-post, on their own time, and with their own money and equipment is generally protected under the First Amendment's guarantees of freedom of speech and freedom of the press. Unless such a newspaper contains language, the utterance of which is punishable under Federal law (e.g., 10 U.S.C. Sec. 2387 or the Uniform Code of Military Justice), authors of an "underground newspaper" may not be disciplined for mere publication. Distribution of such newspapers on post is governed by para. 5–5, AR 210–10, discussed in para. 5a above.

(e) *On-Post Demonstrations by Civilians.* A commander may legally bar individuals from entry on a military reservation for any purpose prohibited by law or lawful regulation, and it is a crime for any person who has been removed and barred from a post by order of the commander to re-enter. However, a specific request for a permit to conduct an on-post demonstration in an area to which the public has generally been granted access should not be denied on an arbitrary basis. Such a permit may be denied on a reasonable basis such as a showing that the demonstration may result in a clear interference with or prevention of orderly accomplishment of the mission of the post, or present a clear danger to loyalty, discipline, and morale of the troops.

(f) *On-Post Demonstrations by Soldiers.*—AR 600–20 and 600–21 prohibit all on-post demonstrations by members of the Army. The validity of these provisions is currently being litigated. Commanders will be advised of the results of this litigation.

(g) *Off-Post Demonstrations by Soldiers.*—AR 600–20 and 600–21 prohibit members of the Army from participating in off-post demonstrations when they are in uniform, or on duty, or in a foreign country, or when their activities constitute a breach of law and order, or when violence is likely to result.

(h) *Grievances.*—The right of members to complain and request redress of grievances against actions of their superiors is protected by the Inspector General system (AR 20–1) and Article 138, UCMJ. In addition, a soldier may petition or present any grievance to any member of Congress (10 U.S.C. Sec. 1034). An open door policy for complaints is a basic principle of good leadership, and commanders should personally assure themselves that adequate procedures exist for identifying valid complaints and taking corrective action. Complaining personnel must not be treated as "enemies of the system." Even when complaints are unfounded, the fact that one was made may signal a misunderstanding, or a lack of communication, which should be corrected. In any system as large as the Army, it is inevitable that situations will occur giving rise to valid complaints, and over the years such complaints have helped to make the Army stronger while assuring compliance with proper policies and procedures.

6. It is the policy of the Department of the Army to safeguard the service member's right of expression to the maximum extent possible, and to impose only such minimum restraints as are necessary to enable the Army to perform its mission, in the interest of National defense. The statutes and regulations referred to above (as well as some other provisions of law and regulations) are concerned with these permissible restraints and authorize a commander to impose restrictions on the military member's right of expression and dissent, under certain circumstances. However, in applying any such statutes and regulations in particular situations, it is important to remember that freedom of expression is a fundamental right secured by the Constitution. Furthermore, it is important to remember that the Commander's responsibility is for the good order, loyalty and discipline of all his men. Severe disciplinary action in response to a relatively insignificant manifestation of dissent can have a counter productive effect on other members of the Command, because the reaction appears out of proportion to the threat which the dissent represents. Thus, rather than serving as a deterrent, such disproportionate actions may stimulate further breaches of discipline. On the other hand, no Commander should be indifferent to conduct which, if allowed to proceed unchecked, would destroy the effectiveness of his unit. In the final analysis no regulations or guidelines are an adequate substitute for the calm and prudent judgment of the responsible commander.

7. The mission of the Army is to execute faithfully, as ordered, policies and programs established in accordance with law by duly elected and appointed Government officials. Unquestionably, the vast majority of service members are prepared to do what is required of them to perform that mission, whether or not they agree in every instance with the policies the mission reflects.

By order of the Secretary of the Army.

KENNETH G. WICKHAM,
Major General, USA,
The Adjutant General.

(Sent to Commanders in Chief, U.S. Army, Europe, U.S. Army, Pacific; Commanding Generals, U.S. Continental Army Command, U.S. Army Materiel Command, U.S. Army Air Defense Command, U.S. Army, Alaska; Commander, U.S. Army Forces Southern Command; copies furnished to Commanding Generals, CONUS Armies, Military District of Washington, U.S. Army.)

(The Herald of Freedom, Box 3, Zarephath, N.J., April 3, 1970)

OFFICIAL SANCTION OF SUBVERSION

In spite of years of conditioning and brainwashing, a majority of Americans, we believe, are still unwilling to surrender their country to the world government which the planners have been developing and expanding behind their United Nations screen. Scientific, economic and technological cooperation has moved ahead quite nicely for the internationalists but politically the world still remains divided. To unite the world politically will require a United Nations police force to coerce those nations and individuals within nations who will refuse to surrender their sovereignty and nationalistic feelings. While the average American does not realize it, our country has been acting under orders from the U.N. for many years. The implementing of "civil rights" legislation was probably in response to a U.N. directive while seemingly brought about by pressure from "below" in the form of the various "civil rights" organizations and their much publicized leaders. Other strange U.S. activities are also undoubtedly as a result of U.N. orders.

World government has been the goal of important and powerful individuals and groups for many years. It would have been further developed had the original instrument through which it was to operate (League of Nations) been joined by the United States. Woodrow Wilson dedicated himself to that project but failed. His mentor, Col. E. Mandel House, was a persistent man, however, and finally saw elected the man who laid the foundation for America's participation in the new edition of the League, the United Nations. House wrote a book outlining his political plans which were carried out by the hero, "Philip Dru, Administrator." It may be a bit far-fetched but we can't help but notice some significance in the name since House had already become interested in F. (ilip) D. R. (u) and had long been a friend of his mother. Franklin D. Roosevelt may have been selected for his job of leading our country into socialism and world government many years before he was presented to the American public as their saviour after the planned Wall Street "crash" and depression.

While the net of the United Nations has been lying quite loosely over the world for many years and we have begun to think of it as "ineffective," the fact is that not too many more strings have to be pulled to tighten the net. Quiet studies of the number of men needed to subdue South Africa and to disarm and cope with uncooperative persons have not been made simply as an intellectual exercise. Only last year a panel, headed by Dr. Kingman Brewster and including Cyrus R. Vance, Gen. Mathew B. Ridgeway, Charles Yost, J. Irwin Miller, Najeeb Halaby and Joseph Block, suggested a U.N. army and detailed its number and groups of approximately 5,000 men each, of which 3,000 would be active ground forces with 2,000 men in air, naval, logistics and staff support. The large powers would be expected to supply to aircraft, ships and communications facilities. It would seem that our peaceful world republic will be kept "peaceful" only with the use of force. In his introduction to the report of the Brewster panel, Arthur Goldberg stated that the lack of "a more vigorous peacemaking machinery (army) has been one of the main impediments in the peacekeeping process."

Many informed observers believe that it is the mission of President Nixon to allow the net of the United Nations to tighten once and for all over the United States, without upsetting and arousing the American public, of course. His administration is heavily weighted on the world government side with smooth operators who know enough not to "upset the apple cart." One official whose lack of concern for American interests is becoming a bit too apparent is reportedly on the way out, however. He is Stanley R. Resor, the hold-over Johnson appointee as Secretary of the Army. Although appointed by Johnson, Resor is a Republican but one who supported Pennsylvania Governor William Scranton for the 1964 presidential nomination as opposed to Goldwater. Resor has come under criticism from the House Armed Services Committee for his over-zealous desire to prosecute in the alleged Green Beret and MyLai incidents as well as a 1969 directive which "invited dissent" among the military personnel. When Defense Secretary-designate Melvin Laird announced on January 6, 1969 that Resor had been asked to remain as Secretary of the Army, an article in the Washington Post stated that some Army officials "privately doubted how strong an advocate he was for their pet causes before the civilian hierarchy." His subsequent actions would seem to have made these doubts most legitimate.

Stanley Rogers Resor was born in New York City December 5, 1917, the son of Stanley Burnet Resor and the former Miss Helen Lansdowne. His father was the head of the J. Walter Thompson Advertising Agency and a pioneer in modern market research methods. The elder Resor was a graduate of Yale University as was his son who continued his education at Yale Law School, obtaining his L.L.B. in 1946, after having served in World War II. He left the service January 16, 1946 and, resuming his studies, graduated from Yale Law School in June 1946. He then joined the New York law firm of Debevoise, Plimpton, Lyons and Gates, becoming a partner in the firm in 1955.

On April 4, 1942 Resor married Jane Lawler Pillsbury, daughter of John Pillsbury, former board chairman of the Pillsbury Flour Co.; they have seven sons.

On February 1, 1965 Resor resigned from his law firm to become Under Secretary of the Army, an appointee of President Johnson who crossed party lines to nominate the Republican Resor. Shortly after he was sworn in on April 5, 1965, the Secretary of the Army resigned and Resor was selected to replace him. After having been confirmed by the Senate on June 30, 1965, Resor was sworn in as Secretary of the Army on July 6 by Secretary of Defense Robert S. McNamara.

By coincidence one of Resor's immediate predecessors as Secretary of the Army was Cyrus Vance who had been his roommate at Yale Law School. Vance had been picked by the Adam Yarmolinsky screening group at the beginning of the Kennedy Administration to be General Counsel for the Department of Defense and then hand-picked by McNamara to be Secretary of the Army. Vance went on to assist Averell Harriman at the Paris Peace Talks with the North Vietnamese until a change of administration caused the substitution of Henry Cabot Lodge for Harriman. Vance and Resor are both members of the Council on Foreign Relations as is Resor's brother-in-law, Gabriel Hauge.

Hauge is married to Resor's sister, Helen Lansdowne Resor, and is a top world planner. He met with a secret group at Buxton, England in 1958 which included Dean Acheson and George Ball; during the Eisenhower Administration he was a top assistant to Eisenhower in the White House. Resor's other sister is married to James Laughlin whose interests are also international.

After the Nixon Administration decided to retain Resor as Secretary of the Army his name became much more well known to the general public than during the Johnson era when he had worked quietly behind the scenes and avoided press conferences. About the only thing he had made headlines with in his pre-Nixon days was his announcement that the Army would not take part in the 1969 national rifle matches which had been heavily subsidized by the military since 1903. This was interpreted by observers as a political move to chastise the National Rifle Association, sponsor of the matches, because of its opposition to Administration-sponsored gun control legislation. Being the son of an advertising man, Resor was well aware of the publicity value of such an act.

He is also well aware of the bad publicity now being received by the Armed Forces because of the constant barrage of "massacre," "murder," "dereliction of duty," and other such charges being announced at his press conferences. Although Resor was all for prosecution of the officers involved in the Green Beret elimination of a suspected double agent, the charges had to be dropped because of secrecy surrounding C.I.A. involvement. The incident ruined the careers of the officers involved and called public attention to possible improper actions on the part of the U.S. Armed Forces in Vietnam. The Green Beret incident pales, however, before the enormity of the propaganda prospects of the "Songmy Case" or the "Massacre at MyLai 4". Military morale and discipline, already seriously weakened by the peacenik agitators inside and out of the service, will sink to such a dangerously low level that continued fighting in Vietnam by American forces will be rendered almost impossible. This is, of course, what the internationalists, Communists and revolutionaries want. Their activities will be aided by the "massacre" scandal now drawing in high Army officers, as they were by directive of Secretary Resor last May ordering special attention to the "constitutional rights" of dissenters and agitators. The ability of commanding officers to cope with "dissent" problems was seriously hampered by the receipt of the memorandum on Guidance on Dissent (dated 28 May 1969).

With this kind of "guidance" Army officers will be having an upsurge of complainers and dissenters as they have had of "conscientious objectors." In 1969 34 officers asked for discharge as conscientious objectors as did 943 soldiers, while 924 more asked for noncombatant status. There has been a ten-fold increase in such applications in the last five years and the other services show a similar increase. A new procedure has been instituted to handle discharge applications from soldiers who become "conscientious objectors" because the former low rate of acceptance had come under criticism from such organizations as the American Civil Liberties Union. As the number of draft-dodgers, objectors, complainers, dissenters, etc. keeps increasing, the effectiveness of our Armed Services will keep decreasing.

The decision of the top Army echelons to take action against Maj. Gen. Samuel W. Koster, who commanded the American Division in Vietnam at the time of the "Songmy Massacre," as well as a brigadier general, three colonels, two lieutenant colonels, three majors and four captains, was announced at a Pentagon news conference on March 17, 1970. Participating were Army Secretary Resor, Army Chief of Staff, Gen. William C. Westmoreland, and Lieut. Gen. William R. Peers, who headed a panel which investigated the incident. The charges against the officers included dereliction of duty, failure to obey lawful regulations and false swearing. Previously the number of accused had been expanded from the original two (Lt. William Calley, Jr. and Sgt. David Mitchell) to include Capt. Thomas K. Willingham, Capt. Eugene M. Kotouc and Capt. Ernest L. Medina (all charged with murdering two or more "civilians") as well as other sergeants and privates charged with varying acts such as rape, murder, assault, etc. Clearly the "My Lai Hoax" is getting official sanction.

The N.Y. Times of March 22, 1970 contained a long analysis of the situation by Edward F. Sherman, asst. professor of Law at the University of Indiana Law School, who noted that this was "clearly a serious blow to the Army whose image is already tarnished," and stating:

"The Army's decision to take this action, despite the adverse effect it will probably have on the military image and morale, indicates its concern over the enormity of the alleged massacre and the breakdown in proper command reporting procedures. The failure of so many high-ranking officers to investigate and report possibly the most serious atrocity ever committed by American troops strikes at the foundation of the military command system. . . . The decision last week was a hard one to make, for there is little precedent for the prosecution of one's own servicemen for criminal acts against foreign civilians in a combat zone, and the few cases in which countries have undertaken to punish their own servicemen for combat crimes have not been successful in the past."

The professor seemed to have hope that this prosecution of "war crimes" would be more successful and was obviously unhappy that the officers charged only with "dereliction of duty," etc., had not been charged as accessories. He stated:

"Since it appears that some of the 14 officers may have had direct knowledge of the massacre and either intentionally suppressed it or made false statements intended to cover it up, the question arises as to why they have not been charged as accessories after the fact to the murders. Military law gives a broad application to the offense of being an accessory . . . From a legal point of view those who 'wittingly' suppressed information would appear to come dangerously close to being accessories, particularly if the suppression took place shortly after the murders and was aimed at shielding offenders from detection. Filing of accessory charges against high-ranking officers who did not participate in the crime would be an even greater blow to military morale, but if the evidence supports such charges, the decision to charge only these lesser offenses may be viewed as something less than a genuine attempt by the Army to clean its own house."

This guy is really out for blood and the blood of the top officers. He makes it clear that they have no out, at least on the lesser charges: "Although the charges against the 14 officers are connected with the actions of other defendants being tried for murder, conviction of the murder defendants is not necessary for the cases to stand against the 14." This is the type of "brilliant mind" which is at work night and day to undermine the U.S. military as a prerequisite for our withdrawal from Vietnam in defeat and entrance into the world "community of nations" as just another unimportant (as well as immoral and evil) country:

"Breathes there the man, with soul so dead,
Who never to himself hath said,
This is my own, my native land . . .?

Unfortunately today the answer is "yes, there are lots of them." But we must mark them well and see that they go down, "Unwept, unhonour'd, and unsung."

SERIOUS CONDITION IN THE MILITARY ESTABLISHMENT

HON. BARRY GOLDWATER

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Friday, October 2, 1970

Mr. GOLDWATER. Mr. President, Mr. Nick Thimmesch, who writes for Newsday, has written a column entitled "The

XUM

Military's Troubled Soul," which, in my opinion, describes a very serious situation existing in the military in a very understandable way.

I ask unanimous consent that the article be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

The Military's Troubled Soul

(By Nick Thimmesch)

WASHINGTON.—An Army General assigned to the White House told me that one of the reasons President Nixon visited the Sixth Fleet was to take soundings on the morale of officers and seamen. The President, I was told, wanted to make sure that our men felt a sense of purpose and had good spirit.

Well, every Commander-In-Chief hopes for such feeling in the military, and President Nixon, with his questions about sports and hometowns, makes an earnest, if transient effort to probe morale, and by his visit, tries to improve it. But if the President had the time and opportunity to make a deeper study, he would learn that, at this point in history, the American military has a troubled soul.

The U.S. has the best fed, best clothed, best housed and best equipped military in the world. A long discussion would result from considering whether it is the best trained. But superlatives don't insure quality in the military; morale and espit d'corps do.

Today, officers and men are scorned by most of the public and taunted by youth. Publicity-seeking politicians whack away at the military as mindlessly as jingoists worship it. Senior officers fearful of the times, retreat to the old concept of military bearing which bespeaks *duty, honor,* country. Younger officers and service academy cadets have increased misgivings about the military, and retention of career people is a serious problem. Discipline among enlisted men is only fair. The A.W.O.L. rate is high. Draftees run to Canada and Sweden. Military bases are assaulted by half-witted protestors, and anti-war coffee houses lure soldiers and sailors.

XUM

This is a bad period for the military, and many professionals feel disgust and resentment over the way they have become the fall guys. Now we have Ward Just's brilliant article in the current *Atlantic* to bolster the conclusion.

Just spent many months interviewing an entire range of Army men, from West Point cadets to those hapless soldiers (some with I.Q.'s of 80) who seemed destined to become Vietnam "cannon fodder." He learned that cadets on leave sometimes lie about where they go to school; that there are no heroes or crusades to inspire cadets and young officers and fewer and fewer decide to become career men; that the military is now confronted by the same problems afflicting other young people—drugs, racial conflict, dissent, aimlessness; that once college-boy draftees arrived in Vietnam, battlefield dissent developed, some of it televised for the whole nation to see as though it were some student protest; and that most professionals and cadets as well believe the Vietnam war turned out to be a bad job for the military, largely because civilians ran it. There is a good case to be made that "Nam," as the Vietnam war is called, has not only corrupted West Point and the other service academies, but the whole military as well.

When I was a boy in World War II, Purple Heart veterans came home to respect, compassion, some breaks, and free drinks in the bars. Today the wounded veteran feels a rejection worse sometimes than his physical pain. He is surrounded by anti-war movies, rock music, literature, pictures, and sometimes even by hostile draft-exempted youths.

It wasn't that way eight years ago, when the Kennedys, in their smart, hairy-chested way, hooked onto the dashing General Maxwell Taylor and his notions of anti-guerrilla warfare. That was new and lively and so were the Peace Corps and the space program pushed by JFK and the clean-cut astronauts. So President Kennedy put 18,000 green berets into Vietnam, and the New Frontiersmen thought it marvelous that a new way had been found to deal with Communism that was more imaginative than want the Eisenhower administration and John Foster Dulles had practiced.

One of the best witnesses to the popular wisdom about Vietnam in the early sixties is Daniel Patrick Moynihan, one of the bright young New Frontiersmen who in 1967; said: "The Vietnam war was thought up and is being managed by the men John F. Kennedy brought to Washington to conduct American foreign and defense policy. They are persons of immutable conviction on almost all matters we could consider central to liberal belief . . . men of personal honor and the highest intellectual attainment."

Today, some of those same people major and minor, can be heard at cocktail parties hollering about militarism and a war they didn't fight in, but have many opinions on. Last week, I had one tell me that he couldn't understand why a $70 billion a year Defense Department was so inept that it couldn't put planes into Jordan to rescue Americans there. Had American military intervened in Jordan, the fighting would have spread over the Arab world. But my friend will stomp on the military, no matter what.

The sick feeling in the American military today reflects the sick feeling in the nation. Hard-hats angrily emerge in civilian life, and seasoned officers corps types take the hardline in the military. When the quality of national morale improves, so will the quality of military morale. In actuality, the United States is healthy economically and militarily though both the civilian population and the military feel a case of the blahs.

AIR POLLUTION

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1970

Mr. RHODES. Mr. Speaker, the following article appeared in the Phoenix, Ariz., Gazette of August 4, 1970. Since air pollution is such a serious problem to all of us, I felt the suggestion in the article that all of us must share in its solution would be of interest to my colleagues.

The article follows:

"They" Acted—Nobody Cared

Could it be that the American people have had things done for them for so long that they can no longer act of their own volition?

When a greasy smog settled over Phoenix last year, the cry was heard, " 'They' ought to do something about it!" The same outcry for the "theys" to act was heard last week from an obliterated New York and other cities on the eastern seaboard.

One of the "theys" heeded the cry. General Motors Corp. developed a used-car pollution-control kit and made Phoenix the test market, spending $50,000 in our Valley for advertising.

GM says the kit can reduce emissions from older cars by as much as 50 per cent. It sells for $9.95 and requires about an hour of a mechanic's time to install, which brings the total outlay to about $20. It is estimated that there are some 334,000 pre-1968 cars in the Valley, and those are the cars without smog control.

So what happened when "they" acted? Practically nothing. The kits went on sale at GM dealers and in many other places on May 15, and at last count owners of only 528 autos had bought the device. This means that it cost General Motors almost $100 for every one of the kits it sold when all expenses are figured. The Wall Street Journal quotes a GM executive as saying, "It's discouraging."

GM, naturally, has a decision to make: whether to continue to manufacture and promote the sales of the kit—or to forget about it. Most states have no laws concerning emission-control equipment on the pre-1968 cars, so nobody's being forced to buy it. Other auto manufacturers who have announced the manufacture of similar devices face the same decision. The Phoenix test was a flop, and our city is considered to be a prime testing area.

This piece is not a pitch for GM products; just a reminder that when "they" did something to help control smog—almost nobody cared.

McNAMARA ON DEVELOPMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1970

Mr. HAMILTON. Mr. Speaker, Robert S. McNamara, President, World Bank Group, in his address to the Board of Governors at Copenhagen on September 21 concluded:

> If there were only a 5-percent shift from arms to development we would be within sight of the Pearson target for official development assistance.

Having recently received the President's message on foreign aid and shortly being called upon to consider the fiscal 1971 defense appropriation bill, I commend Mr. McNamara's address to my colleagues:

Address to the Board of Governors by Robert S. McNamara, President, World Bank Group, Copenhagen, Denmark, September 21, 1970

The year that has passed since we last met has been a pivotal one. It marked the beginning of the second quarter-century of the Bank's existence, and prefaced the opening of the Second Development Decade. In our meeting twelve months ago I sketched out our plans for maintaining the momentum of the Bank Group's accelerated activity, stressed the need for fashioning a more comprehensive strategy for development, and welcomed the publication of the Pearson Commission Report.

Today, I would like to:

Report to you on the Bank Group's operation in the fiscal year 1970.

Review progress toward meeting the projected goals of our Five-Year Program.

Discuss the responses to the key recommendations of the Pearson Commission.

And comment upon the objectives of development in the Seventies.

I. THE BANK GROUP'S OPERATIONS IN FISCAL YEAR 1970

Let me begin by touching upon our operations during the past fiscal year. For that period, new loans, credits, and investments totalled $2.3 billion. This compares with $1.88 billion in 1969 and $1.0 billion in 1968.

The Bank's cash and liquid security balances continued to rise and on June 30 of this year totalled $2.1 billion, up $250 million from June 30, 1969 and $700 million from June 30, 1968.

As I indicated to you at our last meeting, we believe that our plans for expanded operations—particularly at a time of uncertainty in the world's capital markets—ought to be backed by a high level of liquidity. This provides greater flexibility in our financing, and enables us to ride out market fluctuations over which we have no control. We propose to continue that policy.

The Bank's administrative expense are, of course, rising as operations expand and as price inflation continues. But despite increases in operating costs, profits in FY 1970 amounted to $213 million: the highest in the Bank's history, and up 25% over 1969. Approximately one-half of the net income is to be retained in the Bank to support future concessionary lending and $100 million is recommended for transfer to the International Development Association.

II. THE FIVE-YEAR PROGRAM

The Bank's Group's performance in 1970 was that of a vigorous and growing organization. But as I stressed last year, I believe the organization should hope its strategy to a longer time frame than year-to-year planning can provide. For that purpose, we have developed a Five-Year Program and in measuring any given year's performance, we should look to the larger framework of that Plan to assess our progress.

One objective is to double the Bank Group's operations in the five-year period 1969–1973, as compared with the period 1964–1968. Should we succeed, it will mean that we will have approved loans, credits, and investments during these five years that aggregate $12 billion for high-priority development projects—projects whose total cost will approximate $30 billion.

We have now completed the first two years of that Five-Year Program, and I can report to you that we are on schedule, and that I remain confident that we can reach our goals, formidable as they are.

They are formidable not merely, or even mainly, because of their quantitative magnitude, but because of their qualitative character. The Bank Group over the past two years has not simply been trying to do "more"—but to do more of what will best contribute to the optimal development of the developing nations.

Over the past 24 months we have made specific and significant shifts in that direction:

We have intensified our efforts in the agricultural sector—to guarantee more food for expanding populations, to promote agricultural exports, and to provide a necessary stimulant to industrial growth. Our agricultural projects in 1969 and 1970 alone totalled half as many as in the entire previous history of the Bank.

We have substantially increased our financing of education projects—projects designated to reduce the drag of functional illiteracy on development. Lending for education in these past two years was more than the total of all prior years put together.

We have broadened our geographical scope considerably so that we could be of service to more developing countries and in particular to more small and very poor countries. In each of the years 1969 and 1970 we lent to a total of 60 countries, 75% more countries in each year than in the average year 1964–1968. Further, in the same two-year period, we have served 14 countries (including such very poor countries as Indonesia, Rwanda, Chad, Dahomey, Democratic Republic of the Congo, and Nepal) which had received no loans or credits in the previous five years.

We have begun work in the field of population planning—admittedly more modestly than the urgency of the problem demands—at the specific request of countries such as India, Indonesia, Jamaica, and Tunisia.

We have made a start at broadening the concept of development beyond the simple limits of economic growth. The emerging nations need, and are determined to achieve, greater economic advance. But as I will state more fully later, we believe economic progress remains precarious and sterile without corresponding social improvement. Fully human development demands attention to both. We intend, in the Bank, to give attention to both.

We have initiated a new and expanded program of Country Economic Missions in order better to assist the developing nations in their formulation of overall development strategies, and at the same time to provide a foundation for the donor nations and international agencies to channel their technical and financial assistance in as productive a manner as possible. Practical planning in the development field calls for current and comprehensive socio-economic data. The World Bank Group will gather, correlate, and make available this information to the appropriate authorities. As this program gains momentum we will schedule regular annual reports on the 30 largest of our developing member countries—we recently issued the first in this new series—and biennial or triennial reports on another 60 countries.

III. THE PEARSON COMMISSION RECOMMENDATIONS

I want to turn now to the attention given to the recommendations of the Pearson Commission. As you know, the Commission's work was financed by the Bank, but with the stringent safeguard that it should be completely independent in its investigations, and that its conclusions should represent the candid consensus of the Commissioners themselves, speaking their minds frankly. The Report was addressed not to the Bank itself, but to the world at large, and its purpose was to take a fresh and impartial look at every significant factor in the global development scene.

A. RECOMMENDATIONS RELATING SPECIFICALLY TO THE BANK

At our last annual meeting, which coincided with the publication of the Report, I indicated that we in the Bank would undertake a thorough analysis of each of the Commission's recommendations that touched upon our own activities. There were 33 such recommendations. After giving the most careful consideration to these proposals, I have so far submitted to the Executive Directors detailed memoranda on 31 of them for discussion and review. In the great majority of instances, I expressed agreement with the Commission's recommendations.

The Commission, for example, recommended that the policies of the International Finance Corporation should be reoriented to give greater emphasis to the development implications of its investments, and should not simply stress their profitability. I fully agreed with that viewpoint, and, after review by the Executive Directors, the IFC issued in January a new Statement of Policies which reflects the recommended shift in emphasis.

The Commission was concerned, as well, over the danger of the excessive use of export credits—a practice that has led a number of countries to assume external debt of unmanageable proportions. To guard against this hazard the Commission recommended that the Organization for Economic Cooperation and Development and the Bank develop what it termed "a strong early warning system" which can help developing countries avert sudden debt crises. We agree that there is a role here for the Bank: we are working, therefore, with the OECD to improve the scope and quality of information on external debt and with the International Monetary Fund to identify debt problems and help developing countries work out solutions.

Another recommendation dealt with the issue of establishing new multilateral groupings which could provide for annual reviews of the development performance of recipients and help to assure that external aid is closely linked to their economic objectives. I concur, and with the approval of the governments concerned, we are currently organizing new groups for the Republic of the Congo, Ethiopia, and the Philippines, and reactivating the groups for Thailand and Nigeria.

The Commission felt that the Bank should participate in discussions of debt-servicing problems, with a view to searching out new solutions to that increasingly complicated question. We agree and have initiated a series of studies of the debt-servicing difficulties facing a number of our member nations. The external public debt of developing countries has increased fivefold since the mid-1950s, and debt-service payments have grown at a rate of 17% annually while foreign exchange receipts from exports have risen only 6% per year. Obviously such trends cannot be allowed to continue indefinitely.

The Commissioners, in another proposal, suggested that international centers should be established within developing countries for essential scientific and technological research that could be practically applied to urgent problems. The case of agriculture is particularly important, since the work on new wheat and rice strains, for use on irrigated land, has dramatically demonstrated what can be achieved. But as encouraging as these discoveries have been, it is clear that a food crisis in the 1980s and 90s is unlikely to be avoided unless additional research is devoted now—in the 70s—to the improvement of rain-fed cultivation of rice and wheat, as well as to other essential food resources such as sorghum, maize, oilseeds, grain legumes, and livestock.

What we require is not simply incremental improvements in agriculture, but whole new technologies adaptable to the conditions of the developing countries. The Bank is seeking to find ways in which it can assist in stimulating and supporting such a program.

Among the very few recommendations of the Commission with which I disagreed, there is one on which I should comment. This was the suggestion that the International Development Association may require reorganization. By implication, the Commission appeared to be saying the Bank would operate as a bank and not as a development agency, and therefore IDA should be set up independently to go its separate way.

Such a conclusion appears to reflect the view that because the Bank obtains its funds by borrowing in the world's capital markets whereas IDA is financed by appropriations from governments, the two will of necessity follow different lending policies. But this is not the case. Subject only to creditworthiness considerations, I believe the two organizations should lend on the basis of identical criteria. The source of the funds to be lent is irrelevant to the economic case for their investment. *What contributes most to the development of the borrowing country should be the decisive factor in both Bank and IDA operations.*

If the Bank were in fact subordinating the development interest of its borrowers to other considerations, the proper solution, in my opinion, would be to change the Bank's policies—not to reorganize IDA. Any policy which can be justified for IDA as consistent with its development function can, I believe, be equally justified for the Bank, and the Bank should adopt it.

There is occasional criticism of both our Bank loans and IDA credits because of the stringent conditions on which they are negotiated. But those very conditions are specifically designed to assist the borrowing country. Their purpose is to insure that the Bank Group's resources are used for the optimum development of our borrowers. Economic losses and financial waste are, after all, of no benefit to any country's development. Our standards of prudence and performance should be just as strict for IDA credits as they are for Bank loans. Indeed, it is the poorest countries, those who benefit most from IDA, who can least afford losses or waste.

B. RECOMMENDATIONS TO OTHERS

As I have noted, the Pearson Commission Report was addressed not specifically to the Bank, but to the world at large. And it is clear that three of its most far-reaching recommendations dealt with:

Establishing and meeting a realistic target for the flow of external assistance to the developing countries.

The design of better criteria and the creation of new machinery to measure and assess the performance of both donor and recipient nations in the development field.

And the urgent need to find acceptable and effective measures to reduce excessive rates of population growth in those countries where the promise of a better future is being swept away by a tidal wave of unwanted births.

The first of these recommendations—the formulation and achievement of a realistic target of development assistance—is making encouraging progress. Action by the development community on the other two issues is far from satisfactory.

Let me discuss for a moment the first.

C. THE AID TARGET

Not only is the Pearson Commission's proposal on the matter one of its most important recommendations for the 1970s, but the whole background of the question is worth recalling.

In 1960 the UN General Assembly adopted a resolution to the effect that "the flow of international assistance and capital should be increased substantially so as to reach as soon as possible approximately 1% of the combined national incomes of the economically advanced countries." The concept was elaborated by the United Nations Conference on Trade and Development in 1964, and was endorsed as well by the Development Assistance Committee of the Organization for Economic Cooperation and Development. At the second meeting of UNCTAD in 1968 the target was reformulated to call for 1% of Gross National Product, and was adopted again by resolution.

As the Pearson Commission points out, the irony is that although the 1% target was in fact exceeded during the five years prior to its formal adoption by the DAC in 1964, it has not been fully met in any year since.

What is perhaps not fully understood by the public is that the target of 1% of GNP has not, in the strict sense, been an aid target at all. In practice, it has described the total flow of financial resources from the richer nations to the poorer nations, and has not distinguished between conventional commercial transactions, and concessional, development-oriented aid as such. Commercial transactions can contribute to the development process. But private capital flows are simply not available on the terms required for many of the priority projects—schools, for example, or roads, or irrigation—which the developing countries need so badly. The Commission concluded, therefore that the flow of official development aid was indispensable. And yet in relation to GNP in the developed world, official development aid fell by a third during the 1960s.

It was for these reasons that the Commission strongly recommended that a separate target be established for official development assistance—a target equivalent to 0.7% of GNP—and urged that this target be reached by approximately the middle of the decade, but in no case later than 1980.

This is a target calling for a very substantial effort. Since the total official development aid of the member governments of DAC amounted in 1969 to 0.36% of their combined GNPs, the Commission was in effect recommending that government aid, in relation to GNP, be doubled in the Seventies.

What has been the response to this recommendation?

To the surprise, perhaps, of the skeptics, it has on the whole been very positive. With but a single exception, no member government of DAC has rejected the target, and several—including Belgium, the Netherlands, Norway and Sweden—have fully accepted it. Canada and the United Kingdom have agreed in principle on the size of the commitment, but have not set a firm date for its achievement. France is already meeting the target, and both the Federal Republic of Germany and Japan have stated they will move toward it.

Among the first consequences of the decisions of governments to increase their official development aid, and reflecting their concern over the growing burden of debt, was their agreement to support a Third Replenishment of IDA, for the years 1972, 1973, and 1974 at a rate of $800 million per year, as compared to $400 million per year in the previous period.

Though it is true that the United States has noted that it cannot commit itself to specific quantitative aid targets, the U.S. Administration provided strong support to the substantial increase in the replenishment of IDA and has stated it intends to propose expanding the flow of U.S. aid from the present low levels.

In 1949, at the beginning of the Marshall Plan, American economic aid amounted to 2.79% of GNP and 11.5% of its federal budget. In 1970, the AID programs constitute less an 0.3% of GNP, and less than 1% of the budget. The United States now ranks eleventh, among the 16 DAC members, in the proportion of GNP devoted to aid.

No one can question that American domestic problems—particularly in the social and economic fields—require increased attention and financial support. But it is wholly unrealistic to suppose that this can only be achieved by cutting off aid to desperately poor nations abroad. Economists have pointed out that in the next ten years the U.S. will increase its income by 50% and that the GNP in 1979, at constant prices, will be $500 billion greater than in 1969. It would appear that the country is wealthy enough to support a just and reasonable foreign aid program, and at the same time deal effectively with domestic needs. And to me it is inconceivable that the American people will accept for long a situation in which they—forming 6% of the world's population but consuming almost 40% of the world's resources—contribute less than their fair share to the development of the emerging nations.

As I have noted elsewhere, the decision to respond both to the pressure of domestic problems, and the urgency of essential foreign assistance, will in the end be dependent upon the response to a far more basic and searching question—a question that must be faced not in the U.S. alone, but in every wealthy, industrialized country of the world. And that question is this. Which is ultimately more in a nation's interest: to funnel national resources into an endlessly spiraling consumer economy—with its by-products of waste and pollution—or to dedicate a more reasonable share of these same resources to improving the fundamental quality of life both at home and abroad?

Following the end of World War II, the world witnessed a massive transfer of resources from the wealthy nations to both the war-torn and the less-developed countries. This began as an unprecedented act of statesmanship. Over the years, however, this capital flow was increasingly influenced by narrow concepts of national self-interest. Some nations saw it as a weapon in the cold war; others looked upon it mainly as a means to promote their own commercial gain.

Today these narrow views are waning. More and more, the concept of economic assistance is being accepted as a necessary consequence of a new philosophy of international responsibility. It is a philosophy which recognizes that just as within an individual nation the community has a responsibility to assist its less advantaged citizens, so within the world community as a whole the rich nations have a responsibility to assist the less advantaged nations. It is not a sentimental question of philanthropy. It is a straightforward issue of social justice.

A growing number of governments are accepting this conclusion and there are, therefore, solid grounds for concluding that the decade of the Seventies will witness a substantial increase—both in absolute amounts, and in proportion to the GNP—of the critical flow of official development aid from the wealthier nations to the poorer nations.

D. BETTER COORDINATION AND ASSESSMENT OF EFFORT

But as the Commission points out, the global development effort is currently fragmented into an almost bewildering number of overlapping and uncoordinated activities. This leads inevitably to duplication of effort, inefficient planning, and a scattering of scarce resources. What is required is organizational machinery that can effectively and authoritatively monitor and assess the performance of donor and recipient countries alike, reduce the proliferation of unstandardized reporting, and effect more coherent, cooperative and purposeful partnership throughout the entire development community.

This is particularly important if we are to rally the necessary public understanding and support in the industrialized countries for the critical task of global development that lie before us.

The Commission recommended that the President of the World Bank call an international conference on this matter this year. However, within the United Nations system, of which the Bank is a part, these functions are the responsibility of the Economic and Social Council. That body is presently considering proposals for new machinery for review and appraisal of development programs at the national, regional, and international levels. Under the circumstances it would be premature for the Bank to take action at this time. The problem itself, however, remains and we must find ways—and find them soon—to secure a far greater measure of coordinated management of the combined capabilities of the national and international agencies participating in the development process. Such an objective is, in itself, one of the most productive goals we could pursue as the new decade begins.

But if the issues of an official development aid target, and improved management within the development community, are among the most important recommendations of the Pearson Commission for the short-term, the most imperative issue for the long-term is population planning.

E. POPULATION PLANNING

The Commission faced this problem squarely, without hedging its views. "No other phenomenon," it stated flatly, "casts a darker shadow over the prospects for international development than the staggering growth of population. . . . It is clear that there can be no serious social and economic planning unless the ominous implications

XUM

of uncontrolled population growth are understood and acted upon."

Are the "ominous implications of uncontrolled population growth" being acted upon effectively? If one is to be candid, the answer would have to be *no*. With the exception of Singapore and Hong Kong, which are special cases, in only two developing countries, Taiwan[1] and Korea, is there clear evidence that the rate of population growth has been significantly reduced by family planning programs.

It is worth asking why.[2]

One prominent authority in the population field has pointed out that the prospects for the success of family planning throughout the world are at one and the same time promising, and dubious: promising if we do what in fact can be done; dubious if in fact we continue as we are.

The task is difficult for many reasons but primarily because of its sheer overwhelming size. Consider the magnitude of the factors involved: there are dozens of countries plagued with the problem—each of them different, each of them possessing their own particular set of social and cultural traditions. There are thousands of clinical facilities to be established; hundreds of thousands of staff workers to be recruited, trained and organized in the administration of the vast national programs; hundreds of millions of families to be informed and served; and well over one billion births to be averted in the developing world alone, if, for example, by the year 2000 the present birth rate of 40 per 1000 population were to be reduced to 20 per 1000. What we must understand is that even if an average family size of two children per couple is achieved, the population will continue to grow for an additional 65 or 70 years and the ultimate stabilized level will be far greater than at the time the two-per-couple rate is achieved.[3]

Thus, even with gigantic efforts, the problem is going to be with us for decades to come. But this fact, rather than being an excuse for delay, is all the more an imperative for action—and for action now. Every day we fail to act makes the task more formidable the following day.

What must we do?

First, we must have a feasible goal. I suggest that goal should be to gain a few decades on what would occur to fertility in the absence of population planning. The achievement of this goal would mean a substantial increase in the quality of life for both the parents and the children of the developing countries—in better health, better education, better nutrition, and in many other ways—as a direct result of populations totalling some 6 billion less than would otherwise be the case.

And what must be done to achieve this goal? Five ingredients are needed:

1. The political will to support the effort.
2. The required understanding and the willingness to act on the part of the people.
3. The availability of effective, acceptable birth control methods.
4. An efficient organization to administer the program.
5. Demographic data and analyses to evaluate results and point to program weaknesses requiring correction.

Where do we stand on each of these?

To begin with, there has recently been a dramatic increase in political support for population planning. The latest example is the Philippines, a country with a severe population problem, but a country in which it has been understandably difficult to take the open, public decisions that are required. President Marcos faced the delicate issue frankly in his State of the Nation message to his Congress a few months ago:

"With a soaring birth rate, the prospects for a continued economic development are considerably diminished. Indeed, there is a strong possibility that the gains which we have carefully built up over the years may be cancelled by a continuing population explosion. . . . After a careful weighing of factors, I have decided to propose legislation making family planning an official policy of my Administration."

His Minister of Foreign Affairs put the matter with equal candor:

"The control of population is essentially an economic, cultural, and political problem. One of the most hopeful means of bringing the birth rate down to near replacement level is the Department of Education's plan to introduce this entire subject into the curricula of schools and colleges. . . . Underlying this approach is a clear recognition that education has the twofold obligation to reinforce, and where necessary, to help change public mores. Educational institutions, from the elementary to the postgraduate years, can perform no more useful service in the seventies than to illuminate the principles of human survival and to dedicate themselves to preserving and enhancing the quality and diversity of life."

In 1960 only three countries had population planning policies, only one government was actually offering assistance, and no international development agency was working in the field of family planning.

In 1970 (as indicated in the attached table) 22 countries in Asia, Africa, and Latin America—countries representing 70% of the population of those continents—have official population programs. More than a dozen other countries, representing a further 10% of the population, provides some assistance to family planning, though they as yet have no officially formulated policy. And among the international agencies, the UN Population Division, UNDP, Unesco, WHO, FAO, ILO, UNICEF, OECD, and the World Bank have all stated a willingness to participate in population planning activities.

There are geographical differences (in Asia, some 87% of the people live in countries with "favorable family planning policies," while in Latin America and Africa the figure is only 20%), but political acceptance of family planning programs is widespread. Even where the political support is currently more apparent than real, it is becoming stronger with each passing year.

If, then, the first requirement for the success of family planning is political support at the top—and that is improving—where are the roadblocks?

The first is that the citizenry lacks access to the information and assistance required. Surveys indicate that the interest in family planning among people everywhere is high, but that their understanding is often tenuous at best and tragically erroneous at worst. Millions of parents, even in remote areas of the world, want fewer children, but they simply lack the knowledge to achieve this. Programs must be developed to provide them with the information they seek.[4]

But political support and widespread knowledge are still not enough. The techniques of family planning must, themselves, be adequate, appropriate, and available. The means we currently have at hand are much better than those of a decade ago, but are still imperfect. They can be used to accomplish much more than has been already achieved, but concurrently a massive program to improve them must be initiated. Our knowledge in this field is so incomplete that though we know that certain techniques do work, we still do not completely understand how or why they work. The fact is that compared to what we need to know, our knowledge remains elementary, even primitive.

The clear consequence of this is that there must be a greatly expanded research effort in basic reproductive biology. At present, I know of only seven locations in the world in which as many as five full-time senior researchers are working in this field. Some $275 million a year is spent on cancer research. But less than $50 million a year is spent on reproductive biology research, and this includes all the funds allocated, worldwide, by public and private institutions alike. The estimate is that an optimal program of research and development in this field would require $150 million a year for a decade. That is an insignificant price to pay in the face of a problem that—if left unsolved—will in the end exact social and economic costs beyond calculation.

Finally, a population planning program to be successful requires a strong administrative organization and a comprehensive data analysis and evaluation service. With but one or two exceptions, none of the developing countries has established adequate support in either of these areas. I know, for example, of only one location in the world where as many as three senior researchers are working full-time on the evaluation aspects of population planning. A number of governments have made a start at strengthening the organizational structure of family planning, but progress is thwarted by bureaucratic difficulties, lack of technical assistance, and inadequate financial support. It is in these areas that the international institutions can be most effective. Additional effort is required from all of us, including the Bank. Many of our members are appealing for greater support. They want our advice as well as our financial help, and I propose to organize our capability to provide them with more of both.

The additional funds required to attack the population problem on all fronts—for reproductive biological research, for social science research, and for better organization and administration—are relatively small, less than 50¢ per capita per year. But the time that will be required to achieve results will be greater than many have realized. This is all the more reason for accelerating our pace. An OECD study concluded that in 1968 family planning programs in developing countries accounted for only 2½ million averted births, compared to the total of over one billion that must be averted in the next three decades if the rate of growth is to be reduced to 1% by the year 2000. If we are to achieve an average fifteenfold increase in the effectiveness of the program over the next 30 years, we must accelerate our efforts now.

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[1] Even Taiwan, which through a most effective population planning program has reduced its growth rate from 2.8% in 1965 to 2.3% in 1969, will—if it succeeds by 1985 in reaching a point where couples only replace themselves—see its present population of 14 million rise to 35 million before it becomes stationary.

[2] I am indebted to Bernard Berelson, President of the Population Council, for a number of the points in this section.

[3] If, for instance, by the year 2000, the developed countries were to reach the point at which couples only replace themselves, and the developing countries were to reach that point by the year 2050—and both these achievements appear unlikely—the world's present population of 3.5 billion would not become stationary before the year 2120, and would then stand at fifteen billion.

[4] In only a handful of developing countries is there a significant percentage of women of reproductive age following fertility control practices. The percentage of women in developed countries who are doing so is six times as great.

XUM

The Pearson Commission emphasized that the population problem will not go away. It will be resolved in one way or another: either by sensible solutions or senseless suffering. If we want a sensible solution, with the corresponding enhancement of the quality of life for hundreds of millions of children, as well as for their parents—all of whom clearly have the intrinsic right to something more than a degrading subsistence—then we must get on with it.

IV. THE OBJECTIVES OF DEVELOPMENT IN THE SEVENTIES

I want to emphasize the last point and relate it to the objectives of development in the Seventies. The profound concern we must feel for the rapid growth of population stems precisely from the menace it brings to any morally acceptable standard of existence. We do not want fewer children born into the world because—to quote the more extreme critics of population policy—we do not like their color, or fear their future enmity, or suspect that they will in some unspecified way encroach upon the high consumption standards of already industrialized lands. This is not, as is sometimes claimed, an exercise is concealed genocide, perpetrated by the already rich on the aspiring poor. It has one source and one only—the belief that without a slowing down and control of the population explosion, the life awaiting millions upon millions of this planet's future inhabitants will be stunted, miserable, and tragic or, if you prefer the hackneyed but fitting phrase of the philosopher Hobbes, "nasty, brutish and short."

This fact takes us far beyond the population explosion. We have to see population as part—a vital, critical part but still only a part—of a much wider social and political crisis which grows deeper with each decade and threatens to round off this century with years of unrest and turbulence: a "time of troubles" during which the forces of historical change threaten to disintegrate our frail twentieth-century society.

We cannot divert these forces. They are an essential part of the process by which mankind is adapting the whole of its life to the advances in science and technology. About one-third of humanity has moved far in the transfer toward modernization and relative affluence. Now the rest of the human species jostle behind. They certainly have no intention of renouncing or missing the wealth and prosperity, above all, the power locked up in modern technology.

"Modernization" is a central thrust throughout the still-developing lands, but they are seeking to modernize under quite unprecedented conditions. Technological and scientific modernization is now more complicated, more hazardous than it was for the industrial nations a century ago. This is in fact the real root of the crisis.

Mr. Lester Pearson in a speech at the Columbia University Conference in February this year, gave a cogent and relevant résumé of the historical differences between nineteenth- and twentieth-century development. He emphasized the contrast between the balanced and fundamentally progressive character of economic, social, and technological change in the nineteenth century, and the growing evidence of fundamental imbalance and hence regressive forces at work in the unfolding of the same processes of modernization today.

In the nineteenth century, population—held down by epidemics and poor public health—caused the work force to grow by less than 1% per year. This was just about the amount which the technology of the times could usefully absorb and employ. Agricultural productivity rose and temperate land was opened up for European use all around the globe. The cities grew as centers of manufacturing, and by the time technology demanded fewer and more sophisticated workers, and public health had lowered the death rate, education and city-living had produced a more stable population. In addition, the vast migration of Europeans to new lands was a further safety valve.

Today, every one of the nineteenth-century conditions is reversed.

Just as the censuses of the 1950s first alerted the world to the scale of the population explosion, so today surveys made in the 1960s of unemployment, of internal migration, of city growth, begin to lay bare for us a new world topography of vast social imbalance and deepening misery.

Advances in public health have resulted in a growth of population which increases the work force by at least 2% per year. At the same time technology becomes steadily more capital-intensive and absorbs steadily fewer men. Although agricultural productivity is now on the rise, the new techniques are destabilizing in the sense that they widen income inequities and release still more workers from the overcrowded land.. And where today can the rural migrants go? The world is already allotted, the land occupied by the nineteenth-century modernizers.

So the cities fill up and urban unemployment steadily grows. Very probably there is an equal measure of worklessness in the countryside. The poorest quarter of the population in developing lands risks being left almost entirely behind in the vast transformation of the modern technological society. The "marginal" men, the wretched strugglers for survival on the fringes of farm and city, may already number more than half a billion. By 1980 they will surpass a billion, by 1990 two billion. Can we imagine any human order surviving with so gross a mass of misery piling up at its base?

Let us for a moment look at this misery in the developing world in the realities of human suffering and deprivation:

Malnutrition is common.

The FAO estimates that at least a third to a half of the world's people suffer from hunger or nutritional deprivation. The average person in a high-standard area consumes four pounds of food a day as compared with an average pound and a quarter in a low-standard area.

Infant mortality is high. Infant deaths per 1000 live births are four times as high in the developing countries as in the developed countries (110 compared with 27).

Life expectancy is low. A man in the West can expect to live 40% longer than the average man in the developing countries and twice as long as the average man in some of the African countries.

Illiteracy is widespread. There are 10 million more illiterates today than there were 20 years ago, bringing the total number to some 800 million.

Unemployment is endemic and growing. The equivalent of approximately 20% of the entire male labor force is unemployed, and in many areas the urban population is growing twice as fast as the number of urban jobs.

The distribution of income and wealth is severely skewed, and in some countries becoming more so.

In India, 12% of the rural families control more than half of the cultivated land. In Brazil, less than 10% of the families control 75% of the land. In Pakistan, the disparity in per capita income between East and West, which amounted to 18% in 1950, became 25% in 1960, 31% in 1965, and 38% in 1970.

The gap between the per capita incomes of the rich nations and the poor nations is widening rather than narrowing, both relatively and absolutely.

At the extremes that gap is already more than $3,000. Present projections indicate it may well widen to $9,000 by the end of the century. In the year 2000, per capita income in the United States in terms of today's prices is expected to be approximately $10,000; in Brazil, $500; and in India, $200.

At least a quarter of the human race faces the prospect of entering the twenty-first century in poverty more unacceptable by contrast than that of any previous epoch. Frankly I do not see this as a situation in which any of our shared hopes for a long peace and steady material progress are likely to be achieved. On the contrary, I agree with Lester Pearson's somber belief that "a planet cannot, any more than a country, survive, half-slave, half-free, half-engulfed in misery, half-careening along towards the supposed joys of almost unlimited consumption." In that direction lies disaster, yet that is our direction today unless we are prepared to change course—and to do so in time.

How then should we react to these deepening risks? I must assume that we will react, for to carry on any of our activities as political leaders, government officials, business and labor leaders or responsible citizens, we must take for granted a certain minimum rationality in human affairs. And it is not rational to confront historical pressures on a far greater scale than those of the revolutionary periods of the eighteenth and nineteenth centuries without accepting the consequences.

So I would like to end my report to you with four possible points for your agenda.

The first is that we accept the full scale of the world crisis. Over the last decade the developing nations have achieved the historically unprecedented rate of growth of 5% a year. This has been made possible in part by a reasonably sustained level of external assistance. Yet as the 1970s open, the evidence accumulates that economic growth alone cannot bring about that steady social transformation of a people without which further advances cannot occur. In short, we have to admit that economic growth—even if pushed to the 6% annual rate proposed as a target for the '70s both by the Pearson Commission and by the United Nations Committee on the Second Development Decade—will not, of itself, be enough to accomplish our development objectives. Growth is a necessary but not a sufficient cause of successful modernization. We must secure a 6% growth rate. We must deploy the resources necessary for it. But we must do more. We must ensure that in such critical fields as population planning, rural renewal, fuller employment, and decent urbanism, positive policies support and hasten the social transformation without which economic growth itself becomes obstructed and its results impaired.

This brings me to my second point. I have already discussed at some length the difficulties attendant upon any strategy for family planning. I think we have to admit that in other equally critical fields as well we still lack the necessary understanding and expertise. It must be our prime purpose in research and analysis to close these gaps.

We do not want simply to say that rising unemployment is a "bad thing" and something must be done about it. We want to know its scale, its causes, its impact and the range of policies and options which are open to governments, international agencies and the private sector to deal with it.

We do not want simply to sense that the "green revolution" requires a comparable social revolution in the organization and education of the small farmer. We want to know what evidence or working models are available on methods of cooperative enterprise, of decentralized credit systems, of smaller-scale technology, and of price and market guarantees.

We do not want simply to deplore over-rapid urbanization in the primary cities. We want the most accurate and careful studies of internal migration, town-formation, decentralized urbanism and regional balance.

These issues are fully as urgent as the proper exchange rates or optimal mixes of the factors of production. The trouble is that we do not know enough about them. As we enter the '70s we have in field after field more questions than answers. But this only adds to the urgency and determination with which we must intensify our intellectual attack.

This urgency in turn is related to my third point. I need not belabor it. It is simply that we cannot allow the fundamental task of developing the undeveloped nations of this planet to fail for lack of resources—both the resources needed for research and experiment, and the much larger resources needed to back the policies which we already feel to be successful.

Let us look for a moment at this question of resources. For the so-called security of an ever spiraling arms race, the world is spending $180 billion annually and the figure steadily goes up.

Four years ago in a speech in Montreal, I tried to point out that more and more military hardware does not provide more and more security. There is a point of diminishing returns beyond which further financial expenditure on military power does not yield increased returns and does not provide greater strength. I believed then, and I believe today, that most of the nations of both the developed and the developing world are beyond that point of diminishing returns.

If that is true, it is tragic that for the fundamental security of societies progressive enough not to explode into lethal revolution, the developed nations hesitate to maintain even the present $7 billion of public aid expenditure. That twenty times more should be spent on military power than on constructive progress appears to me to be the mark of an ultimate, and I sometimes fear, incurable folly. If there were only a 5% shift from arms to development we would be within sight of the Pearson target for official development assistance. And who among us, familiar with the methods and audits of arms planning, would not admit that such a margin could be provided from convertible waste alone?

This brings me to my last point. There are really no material obstacles to a sane, manageable, and progressive response to the world's development needs. The obstacles lie in the minds of men. We have simply not thought long enough and hard enough about the fundamental problems of the planet. Too many millennia of tribal suspicion and hostility are still at work in our subconscious minds. But what human society can ultimately survive without a sense of community? Today we are in fact an inescapable community, united by the forces of communication and interdependence in our new technological order. The conclusion is inevitable: we must apply at the world level that same moral responsibility, that same sharing of wealth, that same standard of justice and compassion, without which our own national societies would surely fall apart.

Thus the challenge of the scientific revolution is not a tremendous technological conundrum like putting a man on the moon. It is much more a straightforward moral obligation, like getting him out of a ghetto, out of a favella, out of illiteracy and hunger and despair. We can meet this challenge if we have the wisdom and moral energy to do so. But if we lack these qualities, then I fear, we lack the means of survival on this planet.

CLASSIFICATION OF DEVELOPING COUNTRIES IN RELATION TO GOVERNMENTAL POPULATION PLANNING POLICIES [1]

Population size (millions)	Governments with official population policy	Governments providing assistance to family planning but without an official population policy	Governments with no population planning policy and no assistance to family planning
400 and more	India (27), Mainland China (35).		
100–400	Pakistan (21), Indonesia (24).		
50–100		Nigeria (27).	Brazil (25).
25–50	Philippines (21), Thailand (21), Iran (24), UAR (25), Turkey (26), South Korea (28).		Mexico (21), Burma (31).
15–25	Morocco (21).	Colombia (21).	Sudan (22), Afghanistan (28), Congo (DR) (32), Ethiopa (33), North Vietnam (33), South Vietnam (33).
10–15	Kenya (23), Malaysia (25), Ceylon (29), Republic of China (31), Nepal (32).	Venezuela (21).	Algeria (22), Peru (23), North Korea (25), Tanzania (27).
Less than 10	Dominican Republic (21), Ghana (24), Tunisia (24), Mauritius (28), Singapore (29), Jamaica (33).	Costa Rica (19), Ecuador (21), El Salvador (21), Hoduras (21), Panama (21), Nicaragua (24), Dahomey (27), Hong Kong (28), Chile (31), Botswana (32).	Kuwait (9), Iraq (21), Jordan (21), Paraguay (21), Syria (21), Libya (23), Cambodia (24), Guatemala (24), Guyana (24), Lebanon (24), Niger (24), Rwanda (24), Zambia (24), Saudi Arabia (25), Yemen (25), Madagascar (26), Togo (27), Uganda (27), Haiti (28), Laos (28), Malawi (28), Bolivia (29), Chad (29), Ivory Coast (29), Mali (29), Senegal (29), Somalia (29), Burundi (31), Guinea (31), Sierra Leone (31), Cameroon (32), CAR (32), Congo (B) (32), Mauritania (32), Upper Volta (33).

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[1] Only developing countries with population growth rates in excess of 2.0 percent are listed on this table. The number of years in which their population will double, at current growth rates, is indicated in parentheses after each country. Since the growth rates for most of these countries are not known with great precision, the "doubling times" are necessarily approximations.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 2, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,500 American prisoners of war and their families.

How long?

HOUSE OF REPRESENTATIVES—*Monday, October 5, 1970*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Where two or three are gathered together in My name, there am I in the midst of them.—Matthew 18: 20.

O merciful God, give to us quiet minds and loving hearts as we wait upon Thee in this our morning prayer. Grant us wisdom as we seek to solve the problems that confront us, courage to do what we believe to be right, and the faith to keep us faithful in the performance of our duties.

In these days when the souls of men are tried and tempted, when so much is demanded of those who would lead our Nation, grant us courage in serving this present age that we may prove worthy of the positions we hold and ready for the tasks committed to us.

Guide our Nation and all nations into the ways of justice and truth, and establish among us all that peace which is the fruit of righteousness: To the glory of Thy holy name. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, October 1, 1970, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 18104. An act to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1933) entitled "An act to provide for Federal railroad safety, hazardous materials control, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2264) entitled "An act to amend the Public Health Service Act to provide authorization for grants for communicable disease control and vaccination assistance."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17123) entitled "An act to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes."

The message also announced that the Secretary of the Senate be directed to notify the House of Representatives that Senate Resolution 433, disapproving Reorganization Plan Numbered 4, transmitted to Congress by the President on July 9, 1970, failed in passage.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2453. An act to further promote equal employment opportunities for American workers;

S. 2867. An act to amend section 202(a) of the Federal Property and Administrative Services Act of 1949 to remove a preference accorded to the District of Columbia over State governments in the disposition of excess real property;

S. 3070. An act to encourage the development of novel varieties of sexually reproduced plants and to make them available to the public, providing protection available to those who breed, develop, or discover them, and thereby promoting progress in agriculture in the public interest; and

S. 4418. An act to authorize appropriations for the fiscal years 1972 and 1973 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

RELATING TO THE JURISDICTION OF THE DISTRICT COURT OF PUERTO RICO

Mr. CELLER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 4235) relating to the jurisdiction of the District of Puerto Rico and ask for its immediate consideration.

Mr. Speaker, I take this action after receiving the consent of the majority and minority leaders and that of Mr. McCULLOCH, who is the ranking Republican member of the Committee on the Judiciary. Of course, I approve, also.

Mr. Speaker, I ask unanimous consent that we may be permitted to take that bill from the Speaker's table for its immediate consideration.

The Clerk read the title of the bill.

The **SPEAKER.** Is there objection to the request of the gentleman from New York?

Mr. GROSS. Mr. Speaker, reserving the right to object, are copies of this bill and the accompanying report available to Members of the House? Does the gentleman intend to take a minute or two to explain the bill?

Mr. CELLER. I will be glad to explain it. I will do it now.

Mr. GROSS. I would appreciate it.

Mr. CELLER. Mr. Speaker, an identical measure (H.R. 18761) has been approved by the Committee on the Judiciary.

The purpose of this bill is to enact a savings clause for certain cases pending in the U.S. District Court for the District of Puerto Rico on June 2, 1970.

The omnibus judgeship bill—Public Law 91-272—which was approved June 2, 1970, repealed a special jurisdictional grant for the U.S. District Court of Puerto Rico at the recommendation of the Judicial Conference. The jurisdiction involved suits between aliens where no Federal question is involved and where the amount in controversy is less than $10,000, but more than $3,000. The repeal was designed to bring the jurisdiction of that court into line with that of all other U.S. district courts.

However, apparently approximately 400 lawsuits were pending in the District Court of Puerto Rico on June 2, 1970, the date of the jurisdictional repeal. The Senate bill would enact a savings clause to permit the district court to hear and dispose of those pending cases.

The Department of Justice has indicated no objection to the bill.

Mr. GROSS. Well, then, this legislation in the mind of the gentleman is made necessary by virtue of a defect in the legislation previously passed by the House, is that correct?

Mr. CELLER. That is correct.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 4235

An act to continue the jurisdiction of the United States District Court for the District of Puerto Rico over certain cases pending in that court on June 2, 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13 of the Act entitled "An Act to provide for the appointment of additional district judges, and for other purposes," approved June 2, 1970 (Public Law 91-272; 84 Stat. 294), is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; however, nothing in this section shall impair the jurisdiction of the United States District Court for the District of Puerto Rico to hear and determine any action or matter begun in the court on or before June 2, 1970."

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL FIRE PREVENTION WEEK

(Mr. DORN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, it was my great honor and pleasure yesterday to attend the dedication ceremonies of the new headquarters building for the Easley, S.C., Fire Department, and by doing so to help commemorate the beginning of National Fire Prevention Week. Mr. Speaker, the firemen, law officers, veterans, and local political leaders who made this great occasion possible are typical of the dedicated and devoted Americans at the grassroots of our country who make this Nation the greatest on earth.

Mr. Speaker, our firefighters and law officers and, yes, our Armed Forces, need our support, backing, and encouragement today as never before. The firefighter plays a sometimes unnoticed role in our effort to protect the environment from waste and destruction; he, too, is on the firing line to preserve freedom. In addition to the usual hazards of fighting accidental fires, today's fireman must contend with the arsonist, with violence, and anarchy. It is fitting and proper that we honor this week and throughout the year our brave and courageous firemen, their volunteer workers, and the local government people who support them.

Mr. Speaker, this is the age of the arsonist. He is daily at his deadly work. On the campus he seeks to burn buildings and books and to destroy education. In the urban areas he sets fires and then attacks the firemen who do their duty. In rural areas he despoils the environment; he creates air pollution and destroys wildlife.

The arsonist is the ally of the subversive and the saboteur. The arsonist is a murderer and a criminal. Over 12,000 deaths were caused by fire last year. Many thousands more were injured. Fires caused $2½ billion in property damage. A large percentage of this increasing toll of damage is due to carelessness, but entirely too much is caused by the arsonist.

Mr. Speaker, property rights and human rights are inseparable. We cannot preserve our personal rights if our property rights can be made the easy prey of the arsonist. The Federal Government has a responsibility in this field. We should pass legislation to tighten and strengthen Federal laws to curb the arsonist operating across State lines. Tougher legislation is urgently needed to meet the trained arsonist, firebomber, and criminal who is seeking to create anarchy and thus destroy our democratic form of government.

THE ECONOMY OF SOUTH VIETNAM

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, the major emphasis of the report of the House Select Committee on U.S. Involvement in Southeast Asia was on the economy of South Vietnam. The committee noted that inflation must be slowed down in Vietnam if that country ever expected to survive. It was also noted that inflation hits military personnel and civil employees hardest of all segments of the population. Since we had made identical recommendations to President Thieu and to U.S. officials, it was with a great deal of encouragement for the committee to learn last week that Mr. Thieu and his administration had devalued the piaster to a more realistic level of 275 piasters for each U.S. dollar. Also the servicemen and civil servants of South Vietnam have been given a 20-percent pay increase. The devaluation of the piaster will not solve all South Vietnam's economic problems, but it is a step in the right direction.

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PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO FILE A REPORT ON H.R. 19519

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor may have until midnight tonight to file a report on the bill H.R. 19519, the comprehensive manpower bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

DEMOCRATS SIT ON LEGISLATION AND CRY

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, as expected, many of our colleagues from across the aisle are chortling gleefully over an increase in the unemployment figure of 0.4 percent in September. These same Democrats are sitting on a host of Nixon administration bills that would help put America back to full employment. It is interesting that many of these same Members who are demogoging about unemployment today were strangely silent about the same level during the J. F. K. and L. B. J. eras.

When are they going to pass the environmental bills that would launch a massive cleanup of air and water, and create thousands of jobs in Government and private industry?

When are they going to pass revenue sharing that would enable State and local governments to start hundreds of projects now on the drawing boards but stymied by lack of local financing?

When are they going to pass the maritime bills to build ships. When are they going to pass the mass transit program that would provide thousands of jobs rebuilding our urban transportation system? When are they going to pass the SBA extension which would help our small businesses that employ thousands of people? When are they going to pass manpower training which would upgrade skills and enable some of today's jobless to get those thousands of jobs in the classified pages now going begging because of a shortage of skilled workers?

We can perhaps excuse the political cleverness of Members who cry out for a slash in defense spending and then say "look what they've done to your defense jobs"—some dislocation is to be expected when you wind down a war. But, we cannot excuse bemoaning of the job situation by those whose main contribution to this Congress has been to build roadblocks for legislation that would help solve the unemployment problem.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar Day. The Clerk will call the first bill on the Consent Calendar.

U.S. PARTICIPATION IN THE 1972 UNITED NATIONS CONFERENCE ON HUMAN ENVIRONMENT

The Clerk called House Resolution 562, expressing the sense of the House of Representatives that the United States should actively participate in the 1972 United Nations Conference on Human Environment.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

RELEASING CONDITIONS IN DEED WITH RESPECT TO CERTAIN LAND HERETOFORE CONVEYED BY UNITED STATES TO SALT LAKE CITY CORPORATION

The Clerk called the bill (S. 1366) to release the conditions in a deed with respect to a certain portion of the land heretofore conveyed by the United States to the Salt Lake City Corporation.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

ACCOUNTING PROCEDURE FOR THE DISTRICT OF COLUMBIA

The Clerk called the bill (H.R. 13769) to amend the act entitled "An act to authorize any executive department or independent establishment of the Government, or any bureau or office thereof, to make appropriate accounting adjustment or reimbursement between the respective appropriations available to such departments and establishments, or any bureau or office thereof," approved June 29, 1966, so as to include within its coverage the municipal government of the District of Columbia."

There being no objection, the Clerk read the bill as follows:

H.R. 13769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to authorize any executive department or independent establishment of the Government, or any bureau or office thereof, to make appropriate accounting adjustment or reimbursement between the respective appropriations available to such departments and establishments, or any bureau or office thereof," approved June 29, 1966 (80 Stat. 221; 31 U.S.C. 628a), is amended by adding thereto a section 4 to read as follows:

"Sec. 4. The word 'Government,' as used in this Act, shall be construed to include the municipal government of the District of Columbia."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FEDERAL SHARE INSURANCE FOR CREDIT UNIONS

The Clerk called the bill (S. 3822) to provide insurance for member accounts in State and federally chartered credit unions and for other purposes.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. PELLY. Mr. Speaker, reserving the right to object, this seems to be a meritorious bill, but it occurs to me that it entails some loans of about $100 million and, therefore, does not meet the criteria which was set up by the Committee of Objectors. I ask unanimous consent that the bill be passed over without prejudice.

Mr. PATMAN. Mr. Speaker, will the gentleman yield for a brief statement on the bill?

Mr. PELLY. I certainly yield to the gentleman.

Mr. PATMAN. Mr. Speaker, this bill was passed by the Senate unanimously. It was initiated in the Senate by Senator Bennett.

It passed the committee unanimously. It passed the Senate unanimously.

The Committee on Banking and Currency of the House passed it unanimously and it has been carefully gone over for a long period of time.

Mr. PELLY. The Committee of Objectors have set up rules under which bills can be considered on the Consent Calendar.

This bill is listed under the suspension of the rules and will come up later. Therefore, I renew my request that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Washington (Mr. Pelly)?

There was no objection.

RENDERING THE ASSERTION OF LAND CLAIMS BY THE UNITED STATES BASED UPON ACCRETION OR AVULSION SUBJECT TO LEGAL AND EQUITABLE DEFENSES TO WHICH PRIVATE PERSONS ASSERTING SUCH CLAIMS WOULD BE SUBJECT

The Clerk called the bill (H.R. 15405) to render the assertion of land claims by the United States based upon accretion or avulsion subject to legal and equitable defenses to which private persons asserting such claims would be subject.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. JOHNSON of Pennsylvania. Mr. Speaker, reserving the right to object, may I interrogate one of the handlers of this bill? I see that the gentleman from Arizona (Mr. Udall) is present. Mr. Udall, I notice that the bill would toll the statute of limitations as far as the Government is concerned and would deny the defense of laches, and would permit the assertion of adverse possession by the property owners. Is that not correct? Is that not what the bill really provides?

Mr. UDALL. The gentleman is correct, but it is much more limited. There are six stiff requirements before these people can get into court and succeed. One of them is that the facts on which Government bases its defenses to which the gentleman refers must go back at least 40 years.

Mr. JOHNSON of Pennsylvania. Does the gentleman feel that this would be the first time, should the bill be passed, that we would deny to the Federal Government the right to assert the defenses of statutes of limitations and laches? Does the bill not take those defenses away from the Government?

Mr. UDALL. I have not made a study of the question the gentleman has asked. I suspect that over the years the Con-

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gress has intervened in a number of cases in which there were strong equities. In our committee the bill had bipartisan sponsorship, and the committee unanimously felt that the equities involved were such that the Government should not be allowed to assert those defenses.

Mr. JOHNSON of Pennsylvania. You think the equities in favor of the property owners are so great that this is a situation in which we should by statute take away the defenses of the Federal Government in this instance?

Mr. UDALL. I very strongly do. We are simply saying, "Let these people go to court with the Government and settle it as they would between private property owners." The Government waited 40 years and made no claim. We should let these people who occupied the land and built homes have this opportunity without the Government asserting those rigid technical defenses that a private party could not assert. The committee felt it was unconscionable for the Government to be able to have such an absolute technical defense.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

H.R. 15405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States shall be subject to all legal and equitable defenses which are available against a private party litigant under the laws of the State in which the subject real property is located on the date of enactment of this Act in any case wherein the United States seeks to establish title to land or seeks to obtain relief dependent on ownership of such lands and (1) such title or ownership is claimed on the basis of accretion or avulsion, (2) the lands to which the United States seeks title or ownership are not necessary to provide riparian frontage to other contiguous lands owned by the United States, (3) the facts upon which the United States bases its claim of accretion or avulsion occurred more than forty years prior to the effective date of this Act, (4) the defendant has paid real property taxes on the disputed lands on the same basis as other owners of free lands within the same taxing jurisdiction, (5) defendants claim title to the disputed lands or lands to which the disputed lands are claimed to have accreted by chains of title deriving from a conveyance from the State or Federal Government or a political agency or subdivision thereof, and (6) a reasonably prudent man would have believed that, when he acquired title to the real property in question, he had obtained title free of the likelihood of any claim by the United States Government, any State, or any private person.

SEC. 2. For purposes of determining the date of aquisition of title to the real property in question by a private party litigant, his date of acquisition of title shall be deemed that of the earliest date when he first acquired title to the real property and for purposes of determining said acquisition and ownership of stock or real property under this Act—

(A) ownership by any person related by blood or marriage to another shall be deemed ownership by the other;

(B) ownership by an estate or trustee shall be deemed ownership by the decedent or grantor of the trust, respectively;

(C) ownership by a corporation shall be deemed ownership by its transferor or transferors: *Provided,* That (1) at least 50 per centum of the stock of the corporation was owned by all transferors immediately after the transfer or (2) the corporation acquired the real property in question pursuant to a transaction where said real property was transferred solely in exchange for stock in such corporation and immediately after the transfer all corporations and persons transferring any property to the transferee corporation owned at least 80 per centum of the shares of the transferee corporation;

(D) ownership by a corporation shall be deemed ownership as tenants in common by each of its shareholders who own at least 10 per centum of the outstanding stock of the corporation; and

(E) property or stock acquired or held by tenants in common, joint tenants or persons associated together in business shall be deemed to be and have been entirely owned by either party so long as owned by any or all of them.

SEC. 3. The application of the attribution rules once shall not preclude any number of subsequent applications of the attribution rules set forth in section 2 of this Act.

SEC. 4. The provisions of this Act shall apply in any case with respect to which an action has been brought by the United States before the date of the enactment of this Act, only if such action has not been concluded by a final determination by the trial court or by such appellate courts as may review the action of the trial court in those actions wherein review by such courts is or has been timely sought.

With the following committee amendments:

Page 2, line 9, strike out "free" and insert "fee".

Page 2, line 18, strike out "person." and insert "person, but no event shall the provisions of this Act apply to any land other than that land situated in Riverside County, California, within three miles of any portion of the Colorado River between river points 13.00 and 13.17, as defined in the Interstate compact defining the Boundary Between the States of Arizona and California (80 Stat. 340)."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PAN AMERICAN RAILWAYS CONGRESS ASSOCIATION

The Clerk called the joint resolution (H.J. Res. 1077) to amend the joint resolution authorizing appropriations for the payment by the United States of its share of the expenses of the Pan American Railways Congress Association.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

Mr. MONAGAN. Mr. Speaker, reserving the right to object, I should like to ask the gentleman from Florida (Mr. FASCELL) if he would give us a brief description of the resolution.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. MONAGAN. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, House Joint Resolution 1077 is based upon an executive communication request, and would merely increase the statutory ceiling on the U.S. annual contribution to the Pan American Railways Congress Association from $5,000 to $15,000.

Mr. MONAGAN. Mr. Speaker, during the discussion of this resolution in the committee, some reservations were expressed about its advisability, particularly the aspect of the desirability of contributions by private commercial interests, for example. I do believe on the whole that because of diplomatic considerations the joint resolution should be passed, but I would like to ask the gentleman one additional question.

As the gentleman from Florida will recall, there was some discussion about the representative character of the U.S. delegation to the commission as to whether it was broad enough and general enough in including people outside the industry. Would the gentleman feel that in the future, if the joint resolution is passed, there would be a probability that there would be a broadening of the people in our delegation to this commission?

Mr. FASCELL. If the gentleman will yield further, the gentleman is correct that the question was raised in the discussion of this matter. I doubt whether there is any possibility for this association to be broadened. The reason I have a reservation is that the Pan American Railways Congress—and, by the way, we have been in it since 1948—includes railroads which are government owned in Latin America and private railroads in the United States and the U.S. Government.

I do not think the organization lends itself to expansion for nonrailroad groups or interests.

Mr. MONAGAN. I was thinking of the U.S. delegation rather than those of other countries.

Mr. FASCELL. The gentleman means expansion on the make up of the U.S. delegation?

Mr. MONAGAN. Yes.

Mr. FASCELL. I suppose that is possible. A principal function is to be able to talk government to government. But private U.S. railroads are members and United States business sells a tremendous amount of equipment to Latin America. So I guess a reasonable case could be made for additional representation.

Mr. MONAGAN. I think if it were broadened so that it is more representative, there would be more justification on the part of our own Government for supporting it, rather than confining it to the representatives of the industries involved.

Mr. FASCELL. I am sure American industry will take due note of the gentleman's colloquy.

Mr. MONAGAN. Mr. Speaker, I withdraw my reservation of objection.

Mr. GROSS. Mr. Speaker, further reserving the right to object, even though this is not a substantial amount of money, it is pretty hard to tolerate the tripling of our contribution to another international organization on the grounds on which it is requested.

As far as making this contribution for diplomatic reasons, Mr. Speaker, I would say we have made altogether too many contributions to international organizations in the past 25 years for purposes of buying our way diplomatically. That argument does not impress me at all; that we triple this contribution, this junket on the part of a few to Latin America.

Therefore, Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

RAINY RIVER BRIDGE, BAUDETTE, MINN.

The Clerk called the bill (H.R. 6240) to amend the act entitled "An act authorizing the village of Baudette, State of Minnesota, its public successors or public assigns, to construct, maintain, and operate a toll bridge across the Rainy River at or near Baudette, Minn.", approved December 21, 1950.

There being no objection, the Clerk read the bill as follows:

H.R. 6240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Act entitled "An Act authorizing the village of Baudette, State of Minnesota, its public successors or public assigns, to construct, maintain, and operate a toll bridge across the Rainy River, at or near Baudette, Minnesota", approved December 21, 1950 (64 Stat. 1115), as revised and reenacted by the Act approved June 16, 1955 (69 Stat. 159), is hereby amended by deleting that portion of the first sentence which reads, "but within a period of not to exceed thirty years from the completion thereof" and by deleting the entire second sentence.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ST. LAWRENCE RIVER BRIDGE, CAPE VINCENT, N.Y.

The Clerk called the bill (H.R. 15069) to authorize the Thousand Islands Bridge Authority to construct, maintain, and operate an additional toll bridge across the St. Lawrence River at or near Cape Vincent, N.Y.

There being no objection, the Clerk read the bill as follows:

H.R. 15069

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to facilitate the increased volume of international commerce, improve postal service, and strengthen the friendly relations between the United States of America and the Government of Canada and other purposes, the Thousand Islands Bridge Authority, its successors and assigns, the successor to the New York Development Association, Incorporated, which was authorized to construct, maintain, and operate toll bridges between the mainland of United States across the Saint Lawrence River to the mainland of Canada, pursuant to an Act entitled "An Act authorizing the New York Development Association, Incorporated, its successors and assigns, to construct, maintain, and operate a bridge across the Saint Lawrence River near Alexandria Bay, New York" approved March 4, 1929, be and is hereby authorized to construct, maintain, and operate an additional toll bridge and approaches thereto, across the easterly channel of the Saint Lawrence River, at or near Cape Vincent in the county of Jefferson, New York to some convenient point on Wolfe Island and also a bridge and approaches thereto, from the westerly side of Wolfe Island across the westerly or Canadian channel of the Saint Lawrence River to a point at or near Kingston, in the Province of Ontario, Canada, and to collect tolls for the use thereof, so far as the United States has jurisdiction over the waters of the Saint Lawrence River, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges across navigable waters," approved March 23, 1906, and subject to the approval of the proper authorities in Canada.

SEC. 2. The Thousand Islands Bridge Authority, its successor and assigns, is hereby authorized to enter into contracts and other agreements, with the appropriate governmental authorities in Canada, necessary or incidental to the construction, maintenance, and operation of its facilities.

SEC. 3. Notwithstanding the provisions of section 6 of the Act of March 23, 1906 (33 U.S.C. 496), this Act shall be null and void unless the Thousand Islands Bridge Authority, its successors, or assigns, shall commence construction of the bridge referred to in the first section of this Act within three years and shall complete the construction of said additional bridge within eight years from the date of enactment of this Act.

SEC. 4. The Thousand Islands Bridge Authority, its successors and assigns, is hereby authorized to fix and charge tolls for transit over such bridge and in accordance with any laws of the State of New York or the United States applicable thereto, and the rates of tolls so fixed shall be the legal rates until changed by the Secretary of Transportation under the authority contained in the Act of March 23, 1906.

SEC. 5. The enactment of this Act shall not be construed as repealing or amending the provisions of an Act entitled "An Act authorizing the New York Development Association, Incorporated, its successors and assigns, to construct, maintain, and operate a bridge across the Saint Lawrence River near Alexandria Bay, New York" approved March 4, 1929.

SEC. 6. The bonds or notes issued by the Thousand Islands Bridge Authority to finance the facilities authorized pursuant to this Act shall be deemed to be obligations issued by a political subdivision of the State of New York.

SEC. 7. The right to alter, amend, or repeal this Act is hereby expressly reserved.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEAD-BASED PAINT ELIMINATION ACT OF 1970

The Clerk called the bill (H.R. 19172) to provide Federal financial assistance to help cities and communities to develop and carry out intensive local programs to eliminate the causes of lead-based paint poisoning and local programs to detect and treat incidents of such poisoning, to establish a Federal demonstration and research program to study the extent of the lead-based paint poisoning problem and the methods available for lead-based paint removal, and to prohibit future use of lead-based paint in Federal or federally assisted construction or rehabilitation.

Mr. PELLY. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

AMENDING THE ACT AUTHORIZING THE USE OF JUDGMENT FUNDS OF THE NEZ PERCE TRIBE

The Clerk called the bill (H.R. 19000) to amend the act of April 24, 1961, authorizing the use of judgment funds of the Nez Perce Tribe.

There being no objection, the Clerk read the bill as follows:

H.R. 19000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 1 of the Act entitled "An Act to authorize the use of funds arising from a judgment in favor of the Nez Perce Tribe of Indians, and for other purposes," approved April 24, 1961 (75 Stat. 45), is amended by inserting after "180–A," the following: "and the funds deposited in the Treasury of the United States to pay the final judgment entered by the Indian Claims Commission on April 29, 1970 in docket 179,".

SEC. 2. The last sentence of section 2 of the aforesaid Act is amended by inserting after "175" a comma and "179".

(Mr. EDMONDSON asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. EDMONDSON. Mr. Speaker, the purpose of H.R. 19000 is to authorize a judgment of the Indian Claims Commission in Docket No. 179 to be divided between the Nez Perce Tribe of Idaho and the Confederated Tribes of the Colville Reservation, Wash., and to authorize the use of the money after it is divided.

The net amount of the judgment is $1,119,071, which has been appropriated and is invested in interest bearing securities.

The money may not be divided between the two groups of Indians and used by them until Congress has authorized the action.

The bill provides for a division of the money in the manner that was used in 1961 to divide an earlier judgment recovered by the same Indians. Under this formula 86.5854 percent will go to the Nez Perce Tribe of Idaho, and 13.4146 percent will go to the Colville Indians. Both groups have approved this division by the adoption of formal resolutions.

The Nez Perce Tribe plans to use its share of the judgment as follows: 17 percent for land acquisition, 8 percent for the revolving credit fund, 15 percent for scholarships, and 60 percent for per capitas. The bill permits the money to be used in this manner if approved by the Secretary of the Interior. The Department has not informed the committee whether it intends to approve.

The Colville Tribes plan to use their share of this judgment, together with other judgment funds when they become available, for per capita payments. The

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Department has not informed the committee whether it intends to approve.

Normally, the committee would not recommend the enactment of legislation until plans for use of the money are a little more firm. Also, the committee places great emphasis on programing adequate funds for education if at all available. The committee, therefore, directed the Secretary of the Interior not to approve any plan for the use of the judgment in Docket No. 179 until the plan has been submitted to and approved by the committee. A similar procedure was recently followed in connection with a Ute judgment—see H.R. 16833, 91st Congress.

In my personal view, this action should not result in any serious delay in tribal access to the funds, and both the Department and committee should move speedily with consideration and approval of tribal plans once submitted.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING EACH OF THE FIVE CIVILIZED TRIBES OF OKLAHOMA TO POPULARLY ELECT THEIR PRINCIPAL OFFICER

The Clerk called the bill (S. 3116) to authorize each of the Five Civilized Tribes of Oklahoma to popularly elect their principal officer, and for other purposes.

There being no objection, the Clerk read the bill as follows:

S. 3116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provisions of law, the principal chiefs of the Cherokee, Choctaw, Creek, and Seminole Tribes of Oklahoma and the governor of the Chickasaw Tribe of Oklahoma shall be popularly elected by the respective tribes in accordance with procedures established by the officially recognized tribal spokesman and/or governing entity. Such established procedures shall be subject to approval by the Secretary of the Interior.

SEC. 2. The Secretary of the Interior or his representative is hereby authorized to assist, upon request, any of such officially recognized tribal spokesman and/or governing entity in the development and implementation of such procedures.

SEC. 3. A principal officer elected pursuant to section 1 of this Act shall be duly recognized as the principal chief, or in the case of the Chickasaw Tribe, the governor, of that tribe.

SEC. 4. Any principal officer currently holding office at the date of enactment of this Act shall continue to serve for a period not to exceed twelve months or until expiration of his most recent appointment, whichever is shorter, unless an earlier vacancy arises from resignation, disability, or death of the incumbent, in which case the office of principal chief or governor may be filled at the earliest possible date in accordance with section 1 of this Act.

SEC. 5. Nothing in this Act shall prevent any such incumbent referred to in section 4 of this Act from being elected as a principal chief or governor.

With the following committee amendments:

Page 1, line 6, strike out "elected" and insert "selected".

Page 2, line 5, strike out "elected" and insert "selected".

The committee amendments were agreed to.

(Mr. EDMONDSON asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. EDMONDSON. Mr. Speaker, the purpose of S. 3116 is to permit the members of the Five Civilized Tribes of Oklahoma to select their own principal chiefs and governor. They are now appointed by the Secretary of the Interior.

The act of April 26, 1906 (34 Stat. 137), was intended to provide for a final disposition of the affairs of the Five Civilized Tribes. While the act severely limited the authorities of the principal officers, it recognized their continuing authority to dispose of tribal property. Section 6 of the act authorizes the President of the United States to remove these officers should they refuse to perform their duties under the act. The President is also authorized to fill any vacancy arising from removal, disability, or death by the appointment of a citizen by blood of the tribe. The President delegated his authority to the Secretary of the Interior in Executive Order 10250, dated June 5, 1951.

Changes in the circumstances surrounding the Five Civilized Tribes are not consistent with the continuation of the appointive process. The members of the Five Tribes are taking greater interest in the affairs of these tribes. Popular participation in the choice of the principal officers will encourage even greater involvement in tribal activities. The incumbent officers have announced their support of the bill.

The bill as introduced provided that the principal chiefs and governor must be popularly elected. The committee amended the bill to provide that they shall be selected by the tribes in accordance with procedures approved by the Secretary of the Interior. The committee felt that it would be unwise to impose on the tribes by statute a mandatory requirement that the principal officers must be popularly elected. The choice of the method of selecting the principal officers should be left to the tribes themselves. The fact that the Secretary of the Interior must approve the selection procedures should provide a safeguard against the adoption of undemocratic or inequitable regulations.

The bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To authorize each of the Five Civilized Tribes of Oklahoma to popularly select their principal officers, and for other purposes."

A motion to reconsider was laid on the table.

AUTHORIZING WOUNDED MEMBERS OF ARMED FORCES TO INFORM FAMILIES BY TELEPHONE AT GOVERNMENT EXPENSE OF INJURIES RECEIVED

The Clerk called the bill (H.R. 12650) to amend title 10 of the United States Code to allow wounded members of the Armed Forces to inform their families of such injuries by telephone at Government expense.

There being no objection, the Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1041. Telephone calls to families by wounded members

"Under uniform regulations prescribed by the Secretaries concerned, any member of the armed forces who, while eligible for hostile fire pay under section 310 of title 37, is wounded in line of duty shall be permitted to make, at Government expense and as soon as practicable after the wound is incurred, a telephone call for the purpose of informing his family of his injury."

SEC. 2. The analysis of chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following:

"1041. Telephone calls to families by wounded members."

With the following committee amendment:

Delete lines 6 through 10, page 1 and lines 1 through 2, page 2 and insert in lieu thereof the following:

"Under uniform regulations prescribed by the Secretaries concerned, a member of an armed force, who is wounded in line of duty while eligible for hostile fire pay under section 310 of title 37, may make a telephone call at the expense of the United States to inform his family of the injury."

The committee amendment was agreed to.

(Mr. O'NEILL of Massachusetts asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. O'NEILL of Massachusetts. Mr. Speaker, I appreciate the consideration being given to my bill, H.R. 12650. This measure is a small one: It makes no major changes in law. But, if enacted, this bill would mean a great deal to families all over our Nation.

Millions of Americans have been tragically affected by the war in Vietnam. We have lost 50,000 of the cream of American youth, and for each of those many more have been wounded.

The shock, the fear and the tremendous anxiety of the families of these servicemen is known to all of us. Each one of us has seen this firsthand: Each one of us has tried to comfort and reassure these families, while trying to get information on the condition of the serviceman.

This process takes days, sometimes weeks, before the family has any word of reassurance. The soldier is often too hurt to write home, and we all know that the wheels of bureaucracy turn slowly. When someone's son or brother or husband is seriously wounded, days without word seem like years. We all understand that at times, not knowing is a million times worse than knowing, even when it is bad news.

My bill is simple. It would permit wounded members of the Armed Forces, eligible for hostile fire pay, to make at Government expense as soon as practicable after the wound is incurred, a telephone call for the purpose of informing their families of their injuries. As I said, the bill is simple, it is clear and it is undramatic. But it would bring immeasurable relief to thousands of American families.

The people of America have given up much to pursue the war in Vietnam and our most precious resource is our children. The families of America have suffered much and they have anxiously awaited the safe return of their young men. All this bill asks is that they not be forced to suffer unduly. This measure calls for a simple method to prevent undue pain—a telephone call.

As I have said, it is not complex, but I believe it is fair, it is reasonable, and it would provide a good far beyond its cost and the effort required to administer it. I urge your favorable consideration.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING SHOWING OF DOCUMENTARY FILMS IN UNITED STATES DEPICTING CAREERS OF GENERALS OF U.S. ARMY

The Clerk called the bill (H.R. 18359) to authorize the showing in the United States of documentary films depicting the careers of General of the Armies John J. Pershing, General of the Army H. H. Arnold, General of the Army Omar N. Bradley, General of the Army Dwight D. Eisenhower, General of the Army Douglas MacArthur, General of the Army George C. Marshall, Gen. Lyman L. Lemnitzer, Gen. George S. Patton, Jr., Gen. Joseph Stilwell, Gen, Mark W. Clark, and Gen. James A. Van Fleet.

There being no objection, the Clerk read the bill as follows:

H.R. 18359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Defense may distribute and show to the public documentary motion picture films depicting the careers of General of the Armies John J. Pershing, General of the Army H. H. Arnold, General of the Army Omar N. Bradley, General of the Army Dwight D. Eisenhower, General of the Army Douglas MacArthur, General of the Army George C. Marshall, General Lyman L. Lemnitzer, General George S. Patton, Jr., General Joseph Stilwell, General Mark W. Clark, and General James A. Van Fleet.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WESTERN INTERSTATE NUCLEAR COMPACT

The Clerk called the bill (S. 1628) granting the consent of Congress to the western interstate nuclear compact, and related purposes.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. GROSS. Mr. Speaker, reserving the right to object, I should like to ask some Member who is knowledgeable concerning this legislation why it is called the western interstate nuclear compact, and whether there are other nuclear compacts representing other regional areas of the country?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I am glad to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I am happy to answer the gentleman.

This compact involves the 13 member States of the Western Governors Conference. This legislation follows very closely a similar piece of legislation enacted into law in 1962 for the southern interstate nuclear compact. This is done regionally to permit the States to cooperatively involve themselves in the development of the peaceful use of nuclear energy in their respective areas.

Mr. GROSS. This is not designed to be the only interstate nuclear compact to be entered into, nor is it the only one?

Mr. KASTENMEIER. No; it is not. Indeed, there could be and possibly will be others.

Mr. GROSS. The gentleman has answered my question. I thank him.

Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

S. 1628

An act granting the consent of Congress to the Western Interstate Nuclear Compact, and related purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is hereby declared to be the national policy to encourage and recognize the performance of functions by the States with respect to the peaceful use of nuclear energy in its several forms. The Federal Government recognizes that many programs in nuclear fields can benefit from cooperation among the States, as well as between the Federal Government and the States. The importance of the interstate compact as one means for promoting such cooperation is hereby declared as part of the intention of Congress, already expressed in part in Public Law 86–373 and 87–563, to facilitate the use of State jurisdiction in and over portions of the development and regulatory nuclear field.

SEC. 2. The Congress hereby consents to the Western Interstate Nuclear Compact, which compact is as follows:

"ARTICLE I. POLICY AND PURPOSE

"The party States recognize that the proper employment of scientific and technological discoveries and advances in nuclear and related fields and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the region, can assist substantially in the industrial progress of the West and the further development of the economy of the region. They also recognize that optimum benefit from nuclear and related scientific or technological resources, facilities, and skills requires systematic encouragement, guidance, assistance, and promotion from the party States on a cooperative basis. It is the policy of the party States to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the West and contribute to the individual and community well-being of the region's people.

"ARTICLE II. THE BOARD

"(a) There is hereby created an agency of the party states to be known as the 'Western Interstate Nuclear Board' (hereinafter called the Board). The Board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provisions therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

"(b) The Board members of the party states shall each be entitled to one vote on the Board. No action of the Board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the Board are cast in favor thereof.

"(c) The Board shall have a seal.

"(d) The Board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The Board shall appoint and fix the compensation of an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the Treasurer, and such other personnel as the Board may direct, shall be bonded in such amounts as the Board may require.

"(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

"(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party states, or its institutions or subdivisions, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the Board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

"(g) The Board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

"(h) The Board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this paragraph or upon any borrowing pursuant to paragraph (g) of this Article, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Board.

"(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

"(j) The Board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The Board shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appro-

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priate agency or officer in each of the party states.

"(k) The Board annually shall make to the governor of each party state, a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said state. The Board may issue such additional reports as it may deem desirable.

"ARTICLE III. FINANCES

"(a) The Board shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

"(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Each of the Board's requests for appropriations pursuant to a budget of estimated expenditures shall be apportioned equally among the party states. Subject to appropriation by their respective legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

"(c) The Board may meet any of its obligations in whole or in part with funds available to it under Article II(h) of this compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II(h) hereof, the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to the meet the same.

"(d) Any expenses and any other costs for each member of the Board in attending Board meetings shall be met by the Board.

"(e) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the Board.

"(f) The Accounts of the Board shall be open at any reasonable time for inspection to persons authorized by the Board, and duly designated representatives of governments contributing to the Board's support.

"Article IV. Advisory Committees

"The Board may establish such advisory and technical committees as it may deem necessary, membership on which may include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, State and Federal Government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

"Article V. Powers

"The Board shall have power to—

"(a) Encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields.

"(b) Ascertain and analyze on a continuing basis the position of the West with respect to the employment in industry of nuclear and related scientific findings and technologies.

"(c) Encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, by-products, and all other appropriate adaptations of scientific and technological advances and discoveries.

"(d) Collect, correlate, and disseminate information relating to the peaceful uses of nuclear energy, materials, and products, and other products and processes resulting from the application of related science and technology.

"(e) Encourage the development and use of nuclear energy, facilities, installations, and products as part of a balanced economy.

"(f) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

"1. Nuclear industry, medicine, or education, or the promotion or regulation thereof.

"2. Applying nuclear scientific advances or discoveries, and any industrial commercial or other processes resulting therefrom.

"(3) The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of nuclear energy, materials, products, by-products, installations, or wastes, or to safety in the production, use and disposal of any other substances peculiarly related thereto.

"(g) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific technological or industrial fields to which this compact relates.

"(h) Undertake such nonregulatory functions with respect to non-nuclear sources of radiation as may promote the economic development and general welfare of the West.

"(i) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields.

"(j) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or local laws or ordinances of the party states of their subdivisions in nuclear and related fields, as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency, with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to mete local conditions.

"(k) Consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, by-products, wastes, and any other nuclear or related substances, in such manner and under such conditions as will make their availability or disposal practicable on an economic and efficient basis.

"(l) Consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields.

"(m) Advise and consult with the federal government concerning the common position of the party states or assist party states with regard to individual problems where appropriate in respect to nuclear and related fields.

"(n) Cooperate with the Atomic Energy Commission, the National Aeronautics and Space Administration, the Office of Science and Technology, or any agencies successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

"(o) Act as licensee, contractor or subcontractor of the United States Government or any party state with respect to the conduct of any research activity requiring such license or contract and operate such research facility or undertake any program pursuant thereto, provided that this power shall be exercised only in connection with the implementation of one or more other powers conferred upon the Board by this compact.

"(p) Prepare, publish and distribute (with or without charge) such reports, bulletins, newsletters or other materials as it deems appropriate.

"(q) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents.

"The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

"Any nuclear incident plan in force pursuant to this paragraph shall designate the official or agency in each party state covered by the plan who shall coordinate requests for aid pursuant to Article VI of this compact and the furnishing of aid in response thereto.

"Unless the party states concerned expressly otherwise agree, the Board shall not administer the summoning and dispatching of aid, but this function shall be undertaken directly by the designated agencies and officers of the party states.

"However, the plan or plans of the Board in force pursuant to this paragraph shall provide for reports to the Board concerning the occurrence of nuclear incidents and the requests for aid on account thereof, together with summaries of the actual working and effectiveness of mutual aid in particular instances.

"From time to time, the Board shall analyze the information gathered from reports of aid pursuant to Article VI and such other instances of mutual aid as may have come to its attention, so that experience in the rendering of such aid may be available.

"(r) Prepare, maintain, and implement a regional plan or regional plans for carrying out the duties, powers, or functions conferred upon the Board by this compact.

"(s) Undertake responsibilities imposed or necessarily involved with regional participation pursuant to such cooperative programs of the federal government as are useful in connection with the fields covered by this compact.

"Article VI. Mutual Aid

"(a) Whenever a party state, or any state or local governmental authorities therein, request aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

"(b) Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.

"(c) No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

"(d) All liability that may arise either under the laws of the requesting state or under the laws of the aiding states or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

"(e) Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries and maintenance of officers, employees and equipment incurred in connection with such requests: provided that nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

"(f) Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employee was regularly employed.

"ARTICLE VII. SUPPLEMENTAL AGREEMENTS

"(a) To the extent that the Board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify the purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate.

"No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the Board.

"(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

"(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

"(d) The provisions to this Article shall apply to supplementary agreements and activities thereunder, but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

"ARTICLE VIII. OTHER LAWS AND RELATIONS

"Nothing in this compact shall be construed to—

"(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

"(b) Limit, diminish, or otherwise impair jurisdiction exercised by the Atomic Energy Commission, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress; nor limit, diminish, affect, or otherwise impair jurisdiction exercised by any officer or agency of a party state, except to the extent that the provisions of this compact may provide therefor.

"(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

"(d) Permit or authorize the Board to own or operate any facility, reactor, or installation for industrial or commercial purposes.

"ARTICLE IX. ELIGIBLE PARTIES, ENTRY INTO FORCE AND WITHDRAWAL

"(a) Any or all of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming shall be eligible to become party to this compact.

"(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law: *Provided,* That it shall not become initially effective until enacted into law by five states.

"(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

"(d) Guam and American Samoa, or either of them may participate in the compact to such extent as may be mutually agreed by or chargeable to a party state prior to the time of such withdrawal.

"(d) Guam and American Samoa, or either of them may participate in the compact to such extent as may be mutually agreed by the Board and the duly constituted authorities of Guam or American Samoa, as the case may be. However, such participation shall not include the furnishing or receipt of mutual aid pursuant to Article VI, unless that Article has been enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction affected. Neither Guam nor American Samoa shall be entitled to voting participation on the Board, unless it has become a full party to the compact.

"ARTICLE X. SEVERABILITY AND CONSTRUCTION

"The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof."

SEC. 3. Pursuant to Article II(a) of the Western Interstate Nuclear Compact, there shall be one representative of the Federal Government on the Western Interstate Nuclear Board. The representative shall be appointed by the President and he shall report to the President either directly or through such agency or official as the President may specify. His compensation shall be in such amount as the President shall specify: *Provided,* That if the representative be an employee of the United States, he shall serve without additional compensation. The compensation, travel expenses, office space, stenographic, and administrative services of the representatives shall be paid from any available appropriations selected by the head of such agency or agencies as may be designated by the President to provide such expenses.

SEC. 4. The Atomic Energy Commission; the National Aeronautics and Space Administration; the Secretary of Health, Education, and Welfare; the Secretary of Commerce; the Secretary of Labor; the Secretary of Agriculture; and the heads of other departments and agencies of the Federal Government are authorized, within available appropriations and pursuant to law, to cooperate with the Western Interstate Nuclear Board.

SEC. 5. Copies of the annual reports made by the Western Interstate Nuclear Board pursuant to article II(k) of the Western Interstate Nuclear Compact shall be transmitted to the President and to the Joint Committee on Atomic Energy of the Congress.

SEC. 6. The consent to the Western Nuclear Compact given by this Act shall extend to any and all supplementary agreements entered into pursuant to article VII of such Compact: *Provided,* That any such supplementary agreement is only for the exercise of one or more of the powers conferred upon the Western Interstate Nuclear Board by article V of such compact.

SEC. 7. The right to alter, amend, or repeal this Act is expressly reserved.

SEC. 8. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information or data by the Western Interstate Nuclear Board as is deemed appropriate by the Congress or any such Committee.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RESIDENTIAL COMMUNITY TREATMENT CENTERS

The Clerk called the bill (H.R. 2175) to amend title 18 of the United States Code to authorize the Attorney General to admit to residential community treatment centers persons who are placed on probation, released on parole, or mandatorily released.

The **SPEAKER**. Is there objection to the present consideration of the bill?

Mr. **GROSS**. Mr. Speaker, reserving the right to object, why are there no departmental reports? Do I have an incorrect copy of the report accompanying the bill?

Mr. **KASTENMEIER**. Mr. Speaker, will the gentleman yield?

Mr. **GROSS**. I am glad to yield to the gentleman from Wisconsin.

Mr. **KASTENMEIER**. The Department of Justice testified, and the gentleman should have a copy of the hearings, at which time the Department testified at some length in support of this legislation, along with others, including the Judicial Conference. There was no testimony, incidentally, in opposition.

Mr. **GROSS**. I have a supplemental report in hand. Is there another report accompanying thic bill?

Mr. **KASTENMEIER**. The gentleman should have in his hand the report No. 91–1520, and he might also have in his

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hand the hearings on the residential community treatment centers, in which there was additional testimony.

Mr. GROSS. I do not have a copy of the hearings. Does the gentleman say that the departments directly affected by this bill are in favor of it? Is the gentleman saying this, as presented by the testimony in the hearings?

Mr. KASTENMEIER. Yes. The Department of Justice is in strong support of this bill. In fact, it originally came to the Congress at the request of the Justice Department.

Mr. GROSS. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

H.R. 2175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3651 of title 18 of the United States Code is amended by inserting the following paragraphs before the last one:

"The court may require a person as conditions of probation to reside in or participate in the program of a residential community treatment center, or both, for all or part of the period of probation, provided the Attorney General certifies adequate facilities are available. The Attorney General may make application to the court for an order terminating the residence of a person who he considers has received the maximum benefits of residence and program or whose presence at the center he considers adversely affects the rehabilitation of other residents, and the court shall thereupon make such other provisions with respect to the person on probation as it deems appropriate.

"A person residing in a residential community treatment center may be required to pay such costs incident to residence as the Attorney General deems appropriate."

SEC. 2. Section (a) of section 4203 of such title is amended by inserting the following paragraphs between the second and third:

"The Board may require a parolee or a prisoner released pursuant to section 4164 of this title as conditions of parole or release to reside in or participate in the program of a residential community treatment center, or both, for all or part of the period of parole, provided the Attorney General certifies adequate facilities are available. The Attorney General may request that the Board of Parole terminate the residence of a person who he considers has received the maximum benefits of the program or whose presence at the center he considers adversely affects the rehabilitation of other residents, and the Board of Parole shall thereupon make such other provision with respect to the person as it deems appropriate.

"A person residing in a residential community treatment center may be required to pay such costs incident to residence as the Attorney General deems appropriate."

SEC. 3. Funds collected pursuant to section 3651 and section 4203 of title 18, as amended, shall be deposited in the Treasury of the United States as miscellaneous receipts.

With the following committee amendments:

Strike out the paragraph beginning on page 1, line 6 and ending on page 2, line 8 and insert in lieu thereof the following:

"The court may require a person as conditions of probation to reside in or participate in the program of a residential community treatment center, or both, for all or part of the period of probation, provided that the Attorney General certifies that adequate treatment facilities, personnel and programs are available. If the Attorney General determines that the person's residence in the center or participation in its program, or both, should be terminated, because the person can derive no further significant benefits from such residence or participation, or both, or because his such residence or participation adversely affects the rehabilitation of other residents or participants, he shall so notify the court, which shall thereupon, by order, make such other provision with respect to the person on probation as it deems appropriate."

Strike out the paragraph beginning on page 2, line 15 and ending on page 3, line 2 and insert in lieu thereof the following:

"The Board may require a parolee or a prisoner released pursuant to Section 4164 of this title as conditions of parole or release to reside in or participate in the program of a residential community treatment center, or both, for all or part of the period of parole, provided that the Attorney General certifies that adequate treatment facilities, personnel and programs are available. If the Attorney General determines that the person's residence in the center or participation in its program, or both, should be terminated, because the person can derive no further significant benefits from such residence or participation, or both, or because his such residence or participation adversely affects the rehabilitation of other residents or participants, he shall so notify the Board of Parole, which shall thereupon make such other provision with respect to the person as it deems appropriate."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING ORGANIC ACT OF VIRGIN ISLANDS RELATING TO VOTING AGE

The Clerk called the bill (S. 2314) to amend section 4 of the Revised Organic Act of the Virgin Islands relating to voting age.

There being no objection, the Clerk read the bill as follows:

S. 2314

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Revised Organic Act of the Virgin Islands (68 Stat. 497) is amended (1) by inserting "(a)" immediately after "SEC. 4."; and (2) by adding at the end thereof the following new subsection:

"(b) The legislature shall have authority to enact legislation establishing the voting age for residents of the Virgin Islands at an age not lower than eighteen years of age, if a majority of the qualified voters in the Virgin Islands approve in a referendum election held for that purpose."

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING MILITARY SUPPORT TO BOY SCOUTS OF AMERICA FOR WORLD JAMBOREE OF BOY SCOUTS, JAPAN, 1971

The Clerk called the bill (H.R. 15216) to authorize the Secretary of Defense to lend certain Army, Navy, and Air Force equipment and to provide transportation and other services to the Boy Scouts of America in connection with the World Jamboree of Boy Scouts to be held in Japan in 1971, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 15216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Defense is hereby authorized, under such regulations as he may prescribe, to lend to the Boy Scouts of America, for the use and accommodation of the approximately four thousand Scouts, Scouters, and officials who are to attend the World Jamboree, Boy Scouts, to be held in Japan in July and August 1971, such tents, cots, blankets, commissary equipment, flags, refrigerators, and other equipment and services as may be necessary or useful to the extent that items are in stock and available and their issue will not jeopardize the national defense program.

(b) Such equipment is authorized to be delivered at such time prior to the holding of such jamboree, and to be returned at such time after the close of such jamboree, as may be agreed upon by the Secretary of Defense and the Boy Scouts of America. No expense shall be incurred by the United States Government for the delivery, return, rehabilitation, or replacement of such equipment.

(c) The Secretary of Defense, before delivering such property, shall take from the Boy Scouts of America, good and sufficient bond for the safe return of such property in good order and condition, and the whole without expense to the United States.

SEC. 2. (a) The Secretary of Defense is hereby authorized under such regulations as he may prescribe, to provide, without expense to the United States Government, transportation from the United States or military commands overseas, and return, on vessels of the Military Sea Transportation Service or aircraft of the Military Air Transportation Service for (1) those Boy Scouts, Scouters, and officials certified by the Boy Scouts of America, as representing the Boy Scouts of America, at the jamboree referred to in the first section of this Act, and (2) the equipment and property of such Boy Scouts, Scouters, and officials and the property loaned to the Boy Scouts of America, by the Secretary of Defense pursuant to this Act to the extent that such transporation will not interfere with the requirements of military operations.

(b) Before furnishing any transportation under this section, the Secretary of Defense shall take from the Boy Scouts of America, a good and sufficient bond for the reimbursement to the United States by the Boy Scouts of America, of the actual costs of transportation furnished under this section.

SEC. 3. Amounts paid to the United States to reimburse it for expenses incurred under the first section and for the actual cost of transportation furnished under section 2 shall be credited to the current applicable appropriations or funds to which such expenses and costs were charged and shall be available for the same purposes as such appropriations or funds.

SEC. 4. Under regulations prescribed by the Secretary of State, no fee shall be collected for the application for a passport by or the issuance of a passport to, any Boy Scout, Scouter, or official who is certified by the Boy Scouts of America, as representing the Boy Scouts of America, at the jamboree referred to in the first section of this Act.

With the following committee amendments:

On page 2, line 2, after the second word "and", insert "without reimbursement, furnish".

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On page 2, line 2, after the word "services" insert "and expendable medical supplies,".

On page 2, line 3, after the word "and" insert "items or services are".

On page 2, line 3, after the word "available" insert a period.

On page 2, strike lines 4 and 5.

The committee amendments were agreed to.

Mr. RIVERS. Mr. Speaker, H.R. 15216 is a bill to authorize the Secretary of Defense to lend certain Army, Navy, and Air Force equipment and to provide transportation and other services to the Boy Scouts of America in connection with the World Jamboree of Boy Scouts to be held in Japan in 1971.

It has become traditional for the Government to assist the Boy Scouts of America in conjunction with their national and international jamborees by lending equipment needed at the site of the encampment and by providing certain services. Similar acts have been passed for several previous national jamborees and the past two world jamborees.

The 13th World Jamboree will be held in Japan during August 2–10, 1971. It is the first world jamboree to be held in Asia and is expected to be the largest, single international Scouting event ever conducted. More than 20,000 Scouts and leaders of 132 countries are expected to attend. The U.S. contingent will consist of approximately 4,000 boys and their leaders.

The bill before you today is similar to those we have passed before.

Mr. Speaker, this is our opportunity to do something constructive for the constructive youth of our country, and the Boy Scouts are certainly the cream of the youth movement.

Mr. ARENDS. Mr. Speaker, H.R. 15216 is a bill to assist the Boy Scouts of America in connection with the World Jamboree of Boy Scouts to be held in Japan in 1971.

The bill, as introduced, would authorize the "lending" of services and military equipment for the use of the Boy Scouts in the 1971 World Jamboree. The term "lending" is appropriate when applied to physical property which can be returned after use, such as cots and blankets. However, concern was expressed by Army medical and fiscal authorities as to the applicability of that term to medical services and to consumable medical supplies, such as medicines and bandages, which obviously cannot be returned after use. In the past, it has not been necessary to provide such services and supplies in any volume. Question has been raised as to the possibility, in the event of large-scale medical services being needed, that the General Accounting Office might require that reimbursement be sought from the Boy Scouts for such services and consumable supplies. To avoid any possibility that the Boy Scouts might have to be charged for these services, and to make it abundantly clear that reimbursement is not required, we amended the bill.

Most of the equipment will come from Department of Defense sources and will consist of camping gear such as cots and tents, commissary equipment, flags, vehicles, and so forth.

Services that may be authorized include health and safety, communications, engineering, protection, and logistical services.

All equipment and services will be provided at no expense to the Government, except medical supplies and equipment, subject to the following conditions:

First. Equipment will be on a loan basis.

Second. The Boy Scouts of America will pay for delivery and return, plus the cost of rehabilitation, replacement, or repair.

Third. The Boy Scouts of America will post a bond to insure the safe return of all Government property.

Although there is a provision for Government transportation in H.R. 15216, the 4,000 U.S. Scouts and their leaders will travel in commercial aircraft leased by the Boy Scouts of America. Provisions for Government air and surface transportation were included in the act as an emergency measure. All such travel by Government aircraft would be on a reimbursable basis.

Mr. Speaker, this is an important bill because it provides us an opportunity to assist a fine group of young men. I know every Member will want to support this bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR FLYING OF AMERICAN FLAG OVER REMAINS OF U.S.S. "UTAH" AT PEARL HARBOR, HAWAII

The Clerk called the bill (S. 583) to provide for the flying of the American flag over the remains of the U.S.S. *Utah* in honor of the heroic men who were entombed in her hull on December 7, 1941.

There being no objection, the Clerk read the bill as follows:

S. 583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy is authorized and directed to take such action as may be necessary to provide for (1) the erection and maintenance of a flagpole on the remains of the battleship United States ship Utah, (2) the flying of the American flag over the remains of such battleship, and (3) the raising and lowering of such flag each day, such action having been authorized in honor of the heroic men who were entombed in her hull on December 7, 1941.

SEC. 2. There is hereby authorized to be appropriated to the Secretary of the Navy such sums as may be necessary for the cost of erection, maintenance, and operation of said flagpole.

The bill was ordered to be read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

FURTHER CONTINUING APPROPRIATIONS, 1971

Mr. MAHON. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 1388) making further continuing appropriations for the fiscal year 1971, and for other purposes.

The Clerk read as follows:

H.J. RES. 1388

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (c) of section 102 of the joint resolution of June 29, 1970 (Public Law 91–294), as amended by Public Law 91–370, is hereby further amended by striking out "October 15, 1970" and inserting in lieu thereof "the sine die adjournment of the second session of the Ninety-first Congress."

The advance appropriation under the heading "FOOD STAMP PROGRAM" in the Second Supplemental Appropriation Act, 1970 (Public Law 91–305), chargeable to the amount appropriated under this head in H.R. 17923 when enacted, is hereby increased from "$300,000,000" to "$600,000,000" and the period of availability thereof is hereby extended from "October 31, 1970" to "January 31, 1971".

The SPEAKER. Is a second demanded?

Mr. BOW. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

GENERAL LEAVE TO EXTEND

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have permission to revise and extend their remarks in the RECORD in connection with this joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, this joint resolution extends the continuing resolution which we passed previously and which expires on October 15.

The pending resolution provides funds to continue operation of essential functions of Government on a minimum basis until the regular annual bills which are still pending in Congress are enacted, or at the very latest, until the sine die adjournment of this Congress.

We would hope and expect that this would be the final continuing resolution for the year.

Mr. Speaker, there is one special provision in the resolution which requires a word of explanation. It concerns the food stamp program. The food stamp program is being financed in the current fiscal year primarily under the terms of the second supplemental appropriation bill, but that authority and the funds under that authority are expiring at the end of this month. There is some very limited authority and funds under the terms of the continuing resolution itself, but the main source of funds in the interim, pending enactment of the regular bill, is the source I mentioned.

The second supplemental bill last July appropriated $300 million for the period July 1–October 31, with the general understanding that it would enable the program to continue at approximately the going rate permissible under the 1971 budget of $1.250 billion and the House version of the pending Agriculture appropriation bill, also $1.250 billion. The pending resolution adds another $300 million and extends the period 3 additional months. We understand that this is consistent with the current rate; it is

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consistent with the overall budget total; and it is consistent with the House bill figure. The Senate bill figure is $1.750 billion, which is subject to conference negotiation at a later date this session.

In reality, the provision amounts to a continuing resolution for the program.

Like all other expenditures under the continuing resolution, whatever is expended for food stamps under this provision is chargeable to whatever is appropriated in the regular Agriculture appropriation bill when it is enacted.

Mr. Speaker, may I add that, as with continuing resolutions of the past, the general thrust is to provide for operation of essential Government programs on a minimum basis pending decisions by the Congress on funds for the various programs and activities for the full year in the regular annual bills. It is the standard practice in the interest of expedition and orderly legislative processes to try to avoid controversy in continuing resolutions. They are in the nature of interim provisions pending final disposition of the regular annual bills. They are not suited to acceleration or reduction of programs in advance of actions in the regular annual bills.

Seven of the 14 regular annual appropriation bills for fiscal 1971 have cleared conference. Four of the remaining seven are pending in the other body; one, the agricuture appropriation bill, has been awaiting conference action pending disposition of the general farm bill now in conference; and two—Defense and Independent Offices-HUD—are yet to be reported to the House. Some of these bills propose increases in certain very necessary programs—programs which need to be adequately funded, and which doubtless will be adequately funded when final action is taken. But until final action can be taken on these bills, it would be impractical to undertake to do other than provide for continuation of the programs under the ground rules and guidelines of the existing continuing resolution.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the distinguished gentleman from Iowa.

Mr. GROSS. Now we are really issuing blank checks, are we not, insofar as this session of the Congress is concerned? Up to this time we have had firm dates for continuing resolutions. Now it can be any time until January 3, or conceivably until the convening of the next session. We might not even take time off for Christmas and New Year's. So we are really writing blank checks around here now insofar as this session of Congress is concerned. Would the gentleman agree?

Mr. MAHON. I would say to the gentleman from Iowa that it is true that under this resolution if the Congress does not adjourn before January 3, the resolution would remain in effect during that period of time, if necessary; that is, as each appropriation bill now pending is enacted into law, the continuing resolution ceases to apply to the agencies included therein. And it ceases altogether when the last bill is enacted into law, or in any event not later than the sine die adjournment date.

Mr. GROSS. Well, now, if the gentleman will yield further, the distinguished gentleman from Texas, I am sure, conferred with the leadership in the formulation of this resolution.

I wonder if the gentleman could give the Members of the House any possible information as to when we might expect sine die adjournment? Are we going to recess 2 weeks from now or are we going to continue in session right through and on election day?

Is there anything that the gentleman can give us by way of information as to what is going to transpire in this foot-dragging session of Congress?

Mr. MAHON. I am not authorized to speak for the leadership, but I can give the gentleman from Iowa my own horseback opinion, and that is that we will recess next week and then return after the election for the purpose of finishing up our work.

The Congress has not moved as fast as we would have preferred but we have done the best we could under all the circumstances. However, as to how long we may remain in session if and when we do come back after the November 3 election, no one knows at this time. I would hope it would not be too long a period of time.

Mr. GROSS. Mr. Speaker, if the gentleman would yield further, let nothing that the gentleman from Iowa has said be construed as in any way reflecting upon the appropriations subcommittees and the full Appropriations Committee of the House. I think the Appropriations Committee has done an excellent job in clearing its legislation this year. The foot-dragging has taken place elsewhere. However, I was in hopes the gentleman from Texas could give us some clue as to what we may look forward to in the future insofar as the continuing sessions of this House are concerned.

Mr. MAHON. I do appreciate the gentleman's complimentary reference to the work of the Committee on Appropriations, but I believe I have done the best I can with respect to that matter.

Mr. Speaker, I now yield 5 minutes to the distinguished gentleman from Mississippi, the No. 2 Democrat on the Appropriations Committee, Mr. WHITTEN.

Mr. WHITTEN. I thank the chairman very much for yielding this time to me.

Mr. Speaker, I am sure that I speak the view of most of the Members of the House and the members of the committee in expressing deep regret that circumstances make this continuing resolution necessary. Even with this resolution, we need help.

The Farmers Home Administration program for rural water and sewerage grants is presently operating at a level of $12 million a year, judging by approvals for the months of July, August, and September, the first quarter.

The FHA Administrator is doing a fine job and it is a fine agency. However, the budget limitations on personnel and restrictions on funds made available by Congress have prevented this program from reaching anywhere near the number of people the Congress intended.

For many months the Bureau of the Budget withheld $18 million of funds made available during the last fiscal year and never did release approximately $4 million appropriated by the Congress for this purpose. At the present time, although the earlier continuing resolution authorized $46 million, the amount made available for such grants was on the basis of $24 million for the year.

Mr. Speaker, in the appropriations bills for fiscal 1971 passed by the House and Senate, the smallest amount made available for this purpose was $100 million; yet as pointed out we continue at this low level. This is the situation, notwithstanding the fact that pending are some 2,100 applications for loans and 890 applications for grants.

This is one of the finest programs we have—not only to revitalize rural areas including cities of 5,000 or less—but to help meet the overcrowded conditions of our cities, which suffer so much from pollution.

It is to be hoped, therefore, Mr. Speaker, that the Bureau of the Budget will restudy this whole matter and within the limits of this continuing resolution will permit the enlargement of these programs in line with the basic law. Such action would be of real benefit to thousands and thousands of people and in the long run to the Nation, itself.

Mr. Speaker, there are other places where similar situations exist; but I know of none so desperate as this. In this instance we have been unable to get the bill to conference; and though I recognize the problems facing the leadership as we wait for a new farm bill, it is incumbent on all to act so far as the law permits if we are to meet the problems I have outlined. I feel sure the administrators of the Farmers Home Administration would make full and sound use of the funds released.

Mr. BOW. Mr. Speaker, I have no requests for time.

The SPEAKER. The question is on the motion of the gentleman from Texas that the House suspend the rules and pass the joint resolution (H.J. Res. 1388).

The question was taken.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 284, nays 9, not voting 136, as follows:

[Roll No. 326]

YEAS—284

Abernethy
Adair
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Arends
Ashley
Ayres
Barrett
Beall, Md.
Belcher
Bell, Calif.
Bennett
Bevill
Bingham
Blatnik
Boland
Bolling
Bow
Brademas
Brasco
Bray
Brinkley
Broomfield
Brotzman
Brown, Calif.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, Calif.
Byrnes, Wis.
Caffery
Camp
Carey
Carter
Cederberg
Celler
Clancy

XUM

Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohelan
Collier
Collins
Conable
Corman
Coughlin
Culver
Cunningham
Daniel, Va.
Davis, Ga.
Davis, Wis.
Delaney
Dellenback
Dent
Devine
Dickinson
Dingell
Donohue
Downing
Duncan
Dwyer
Eckhardt
Edmondson
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Fountain
Fraser
Frelinghuysen
Fulton, Pa.
Fuqua
Gallagher
Garmatz
Gaydos
Gibbons
Gonzalez
Goodling
Gray
Green, Oreg.
Green, Pa.
Grover
Gude
Hagan
Hamilton
Hammerschmidt
Hanley
Hansen, Wash.
Harrington
Harsha
Harvey
Hathaway
Hawkins
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Hogan
Holifield
Horton
Hosmer
Howard
Hungate
Hunt
Hutchinson
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keith
Kleppe
Kluczynski
Koch
Kyl
Kyros
Langen
Latta
Lennon
McCulloch
McDade
McDonald, Mich.
McEwen
Macdonald, Mass
Madden
Mahon
Mailliard
Mann
Marsh
Martin
Mathias
Matsunaga
May
Meeds
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Minish
Mize
Mizell
Mollohan
Monagan
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nelsen
Nichols
Nix
Obey
O'Hara
Olsen
O'Neill, Mass.
Passman
Patman
Patten
Pelly
Pepper
Perkins
Philbin
Pickle
Pike
Poage
Podell
Poff
Preyer, N.C.
Price, Ill.
Pryor, Ark.
Quie
Quillen
Railsback
Randall
Rees
Reid, Ill.
Reifel
Riegle
Rivers
Roberts
Robison
Rodino
Rogers, Colo.
Rogers, Fla.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roth
Roybal
Ruppe
Ryan
St Germain
Saylor
Schadeberg
Scherle
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Springer
Stafford
Staggers
Stanton
Stephens
Stokes
Stubblefield
Sullivan
Talcott
Taylor
Teague, Tex.
Thomson, Wis.
Tiernan
Udall
Ullman
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
Watts
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wyatt
Wylie
Wyman
Yatron
Young
Zablocki
Zion
Zwach

NAYS—9

Ashbrook
Crane
Gross
Montgomery
Price, Tex.
Rarick
Rousselot
Schmitz
Steiger, Ariz.

NOT VOTING—136

Abbitt
Aspinall
Baring
Berry
Betts
Biaggi
Biester
Blackburn
Blanton
Boggs
Brock
Brooks
Brown, Mich.
Brown, Ohio
Burlison, Mo.
Burton, Utah
Bush
Button
Byrne, Pa.
Cabell
Casey
Chamberlain
Chappell
Chisholm
Colmer
Conte
Conyers
Corbett
Cowger
Cramer
Daddario
Daniels, N.J.
Dawson
de la Garza
Denney
Dennis
Derwinski
Diggs
Dorn
Dowdy
Dulski
Edwards, Ala.
Edwards, La.
Fallon
Farbstein
Feighan
Fisher
Foreman
Frey
Friedel
Fulton, Tenn.
Galifianakis
Gettys
Giaimo
Gilbert
Goldwater
Griffin
Griffiths
Gubser
Haley
Hall
Halpern
Hanna
Hansen, Idaho
Hastings
Hays
Hébert
Henderson
Hull
Ichord
Jones, N.C.
Kee
King
Kuykendall
Landgrebe
Landrum
Leggett
Lloyd
Long, La.
Long, Md.
Lowenstein
Lujan
Lukens
McCarthy
McClory
McCloskey
McClure
McFall
McKneally
McMillan
MacGregor
Mayne
Melcher
Meskill
Mink
Minshall
Morse
Morton
Nedzi
O'Konski
O'Neal, Ga.
Ottinger
Pettis
Pirnie
Pollock
Powell
Pucinski
Purcell
Reid, N.Y.
Reuss
Rhodes
Roe
Roudebush
Ruth
Sandman
Satterfield
Scheuer
Snyder
Steed
Steiger, Wis.
Stratton
Stuckey
Symington
Taft
Teague, Calif.
Thompson, Ga.
Thompson, N.J.
Tunney
Van Deerlin
Watson
Weicker
Whalley
Wold
Wright
Wydler
Yates

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Rhodes.
Mr. Aspinall with Mr. King.
Mr. Thompson of New Jersey with Mr. Goldwater.
Mr. Dorn with Mr. Hall.
Mr. Boggs with Mr. Wydler.
Mr. Edwards of California with Mr. Watson.
Mr. Stratton with Mr. Button.
Mr. Daddario with Mr. Meskill.
Mr. Brooks with Mr. Steiger of Wisconsin.
Mr. McFall with Mr. Teague of California.
Mr. Byrne of Pennsylvania with Mr. Corbett.
Mr. Nedzi with Mr. Conte.
Mr. Daniels of New Jersey with Mr. Hastings.
Mr. Pucinski with Mr. Biester.
Mr. Griffin with Mr. Frey.
Mr. Giaimo with Mr. Gubser.
Mr. Gettys with Mr. Berry.
Mr. Fisher with Mr. Blackburn.
Mr. Chappell with Mr. Cowger.
Mr. Casey with Mr. Cramer.
Mr. Biaggi with Mr. Halpern.
Mr. Hull with Mr. Betts.
Mr. Cabell with Mr. Chamberlain.
Mr. Olsen with Mr. Hansen of Idaho.
Mr. Purcell with Mr. Brock.
Mr. Fulton of Tennessee with Mr. Denney.
Mr. Galifianakis with Mr. Brown of Ohio.
Mr. Wright with Mr. Bush.
Mr. Leggett with Mr. Reid of New York.
Mr. Blanton with Mr. Brown of Michigan.
Mr. Henderson with Mr. Dennis.
Mr. Long of Louisiana with Mr. Derwinski.
Mr. Burlison of Missouri with Mr. Wold.
Mr. Colmer with Mr. Burton of Utah.
Mr. O'Neal of Georgia with Mr. Edwards of Alabama.
Mr. Satterfield with Mr. Foreman.
Mr. Melcher with Mr. Roth.
Mr. Ichord with Mr. Kuykendall.
Mr. Abbitt with Mr. Whalley.
Mr. Reuss with Mr. Sandman.
Mrs. Griffiths with Mr. Roudebush.
Mr. Farbstein with Mr. Diggs.
Mr. Conyers with Mr. Friedel.
Mr. Hays with Mr. Haley.
Mr. McMillan with Mr. Landgrebe.
Mr. McCarthy with Mr. Pirnie.
Mr. Hanna with Mr. Lloyd.
Mr. Roe with Mr. Weicker.
Mr. Fallon with Mr. Morton.
Mr. Lowenstein with Mr. Yates.
Mr. Baring with Mr. Pollock.
Mr. Ottinger with Mrs. Chisholm.
Mrs. Mink with Mr. Powell.
Mr. Gilbert with Mr. MacGregor.
Mr. Landrum with Mr. Snyder.
Mr. Feighan with Mr. Pettis.
Mr. de la Garza with Mr. Lujan.
Mr. Scheuer with Mr. Morse.
Mr. Dowdy with Mr. Lukens.
Mr. Kee with Mr. Taft.
Mr. Steed with Mr. McClure.
Mr. Stuckey with Mr. O'Konski.
Mr. Dulski with Mr. McKneally.
Mr. Van Deerlin with Mr. Thompson of Georgia.
Mr. Tunney with Mr. McCloskey.
Mr. Long of Maryland with Mr. Mayne.
Mr. Jones of North Carolina with Mr. McClory.
Mr. Symington with Mr. Minshall.

Mr. SCHADEBERG changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

DISASTER RELIEF ACT OF 1970

Mr. JONES of Alabama. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3619) to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes, as amended.

The Clerk read as follows:

S. 3619

An act to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Disaster Relief Act of 1970".

SEC. 2. The Act entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes", approved September 30, 1950 (Public Law 875, Eighty-first Congress; 42 U.S.C. 1855–1855g), as amended, is amended as follows:

(1) The first section is amended by striking out "essential".

(2) Section 2(a) is amended (A) by striking out "disaster assistance under this Act" and inserting in lieu thereof "Federal disaster assistance", and (B) by striking out "(or the Board of Commissioners of the District of Columbia)".

(3) Section 2(c) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and the District of Columbia;".

(4) Section 2(e) is amended by striking out ", or the District of Columbia".

(5) Section 3(d) is amended to read as follows: "(d) by performing on public or private lands protective, emergency, and other work essential for the preservation of life and property; making repairs to and replacements of public facilities (including street, road, and highway facilities) of States and local governments damaged or destroyed in such major disaster, except that the Federal contributions therefor shall not exceed the net cost of restoring each such facility on the basis of the design of such facility as it existed immediately prior to the disaster in conformity with current codes, specifications, and standards; providing temporary housing or other emergency shelter, including, but not limited to, mobile homes or other readily fabricated dwellings for those who, as a result of such major disaster, require temporary housing or other emergency shelter, except that for the first twelve months of occupancy no rentals shall be established for any such accommodations, thereafter rentals shall be established, based upon fair market value of the accommodations being fur-

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nished, adjusted to take into consideration the financial ability of the occupant; and making contributions to States and local governments for the purposes stated in this clause."

(6) Section 3(b) is amended by inserting immediately after "Red Cross " a comma and the following: "the Salvation Army,".

SEC. 3. The Disaster Relief Act of 1969 (Public Law 91–79; 83 Stat. 125) is amended as follows:

(1) Section 6 is amended to read as follows:

"SEC. 6. (a) In the administration of the disaster loan program under section 7(b)(1), (2), and (4) of the Small Business Act, as amended (15 U.S.C. 636(b)), in the case of injury, loss, or damage resulting from a major disaster as determined by the President, a natural disaster as determined by the Secretary of Agriculture, and a disaster as determined by the Administrator of the Small Business Administration—

"(1) to the extent such injury, loss, or damage is not compensated for by insurance or otherwise, may grant any loan for repair, rehabilitation, or replacement of property injured, damaged, or destroyed, without regard to whether the required financial assistance is otherwise available from private sources.

"(2) may, in the case of the total destruction or substantial property damage of a home or business concern, refinance any mortgage or other liens outstanding against the destroyed or damaged property if such property is to be repaired, rehabilitated, or replaced, except that the amount refinanced shall not exceed the amount of the physical loss sustained. This clause shall apply only to loans made to cover injury, losses, and damage resulting from major disasters as determined by the President.

"(3) to the extent that repayment of a loan made under this section would constitute a hardship upon the borrower, may, on that part of any loan in excess of $500, cancel the principal of the loan, except that the total amount so canceled shall not exceed $2,500. This clause shall apply only to loans made to cover injury, losses, and damage resulting from major disasters as determined by the President.

"(4) may defer interest payments or principal payments, or both, in whole or in part, on any loan made under this section during the first three years of the term of the loan, except that any such deferred payments shall bear interest at the rate determined under subsection (b) of this section.

"(b) Any loan made under this section shall not exceed the current cost of repairing or replacing the disaster injury, loss, or damage in conformity with current codes and specifications. Any such loan (including any refinancing under clause (2) and any deferred payment under clause (4) of subsection (a)) shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of ten to twelve years reduced by not to exceed 1 per centum per annum. In no event shall any loan made under this section bear interest at a rate in excess of 6 per centum per annum.

"(c) A loan under this section shall not be denied on the basis of the age of the applicant."

(2) Section 7 is amended to read as follows:

"SEC. 7. (a) In the administration of the emergency loan program under subtitle C of the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1961–1967), and the rural housing loan program under section 502 of title V of the Housing Act of 1949, as amended (42 U.S.C. 1472), in the case of loss or damage resulting from a major disaster as determined by the President, or a natural disaster as determined by the Secretary of Agriculture, the Secretary of Agriculture—

"(1) to the extent such loss or damage is not compensated for by insurance or otherwise, may grant any loan for the repair, rehabilitation, or replacement of property damaged or destroyed, without regard to whether the required financial assistance is otherwise available from private sources.

"(2) may, in the case of the total destruction or substantial property damage of homes or farm service buildings and related structures and equipment, refinance any mortgage or other liens outstanding against the destroyed or damaged property if such property is to be repaired, rehabilitated, or replaced, except that the amount refinanced shall not exceed the amount of the physical loss sustained. This clause shall apply only to loans made to cover losses and damage resulting from major disasters, as determined by the President.

"(3) to the extent that repayment of such loan made under this section would constitute a hardship upon the borrower, may, on that part of any loan in excess of $500, cancel the principal of the loan, except that the total amount so canceled shall not exceed $2,500. This clause shall apply only to loans made to cover losses and damage resulting from major disasters, as determined by the President.

"(4) may defer interest payments or principal payments, or both, in whole or in part, on loans made under this section during the first three years of the term of the loan, except that any such deferred payments shall themselves bear interest at the rate determined under subsection (b) of this section.

"(b) Any loan made under this section shall not exceed the current cost of repairing or replacing the disaster loss or damage in conformity with current codes and specifications. Any such loan (including any refinancing under clause (2) and any deferred payment under clause (4) of subsection (a)) shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of ten to twelve years reduced by not to exceed 1 per centum per annum. In no event shall any loan made under this section bear interest at a rate in excess of 6 per centum per annum.

"(c) A loan under this section shall not be denied on the basis of the age of the applicant."

(3)(A) Subsection (a) of section 8 of the Act is amended by inserting "and local governments" immediately after "individuals".

(B) Subsection (c) of section 8 of the Act is amended to read as follows:

"(c) Any State desiring assistance under this section shall designate or create an agency which is specifically qualified to plan and administer a disaster relief program, and shall, through such agency, submit a State plan to the President, which shall (1) set forth a comprehensive and detailed State program for assistance to individuals and to local governments suffering losses as a result of a major disaster and (2) include provisions for the appointment of a State coordinating officer."

(C) Section 8 of the Act is further amended by adding a new subparagraph (f) as follows:

"(f) The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining, and updating State disaster assistance plans, except that no such grant shall exceed $25,000 per annum to any State."

(4) Section 14 is amended to read as follows:

"SEC. 14. (a) The President, whenever he determines it to be in the public interest, is authorized—

"(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters.

"(2) to make grants to any State or local government for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

"(b) No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal."

(5)(A) Section 15(a) is amended by striking out ", and on or before December 31, 1970".

(B) Section 15(b) is amended to read as follows:

"(b) Sections 2, 4, and 10 of this Act shall not be in effect after December 31, 1970.".

(C) The amendments made by this paragraph shall take effect on the date of enactment of this Act.

SEC. 4. Notwithstanding any other provision of law or regulation promulgated thereunder no person otherwise eligible for relocation assistance payments authorized under section 114 of the Housing Act of 1949 shall be denied such eligibility as a result of a major disaster as determined by the President.

SEC. 5. The President is authorized to make grants to any local government which, as the result of a major disaster, has suffered a substantial loss of property tax revenue (both real and personal). Grants made under this section may be made for the tax year in which the disaster occurred and for each of the following two tax years. The grant for any tax year shall not exceed the difference between the annual average of all property tax revenues received by the local government during the three-tax-year period immediately preceding the tax year in which the major disaster occurred and the actual property tax revenue received by the local government for the tax year in which the disaster occurred and for each of the two tax years following the major disaster but only if there has been no reduction in the tax rates and the tax assessment valuation factors of the local government. If there has been a reduction in the tax rates or the tax assessment valuation factors then, for the purpose of determining the amount of a grant under this section for the year or years when such reduction is in effect, the President shall use the tax rates and tax assessment valuation factors of the local government in effect at the time of the disaster without reduction, in order to determine the property tax revenues which would have been received by the local government but for such reduction.

SEC. 6. If the President determines that a major disaster is imminent, he is authorized to use Federal departments, agencies, and instrumentalities, and all other resources of the Federal Government to avert or lessen the effects of such disaster before its actual occurrence.

SEC. 7. The Director of the Office of Emergency Preparedness is authorized and directed to make in cooperation with the heads of other affected Federal and State agencies, a full and complete investigation and study for the purpose of determining what additional or improved plans, procedures, and facilities are necessary to provide immediate effective action to prevent or minimize losses of publicly or privately owned property and personal injuries or deaths which could result from fires (forest and grass), earthquakes, tornadoes, freezes and frosts, tsunami, storm surges and tides, and floods, which are or threaten to become major disasters. Not later than one year after the date of enactment of this Act the Director of the Office of Emergency Preparedness shall report to Congress the findings of this study and investigation together with his recommendations with respect thereto.

SEC. 8. (a) For the purposes of this Act, the Disaster Relief Act of 1969, and section 9 of the Disaster Relief Act of 1966, the terms "major disaster", "United States", "State", "Governor", "local government", and "Federal agency" shall have the same meanings as are given them in section 2 of the Act of September 30, 1950, as amended (42 U.S.C. 1855a).

(b) Section 7 of the Act of September 30, 1950, as amended (42 U.S.C. 1855f) is amended—

(1) by inserting in the first and second sentences therof after "this Act," each place it appears the following: "and section 9 of the Disaster Relief Act of 1966, the Disaster Relief Act of 1969, and the Disaster Relief Act of 1970,",

(2) by striking out in the third sentence thereof "specified in section 8." and inserting in lieu thereof "available to carry out this Act, section 9 of the Disaster Relief Act of 1966, the Disaster Relief Act of 1969, and the Disaster Relief Act of 1970."

(3) by inserting in the last sentence thereof immediately following "section 3" the following: "of this Act, section 9 of the Disaster Relief Act of 1966, the Disaster Relief Act of 1969, and the Disaster Relief Act of 1970,".

SEC. 9. The President may exercise any authority granted him by this Act, the Act of September 30, 1950 (42 U.S.C. 1855–1855g) the Disaster Relief Act of 1966, and the Disaster Relief Act of 1969, directly or through such Federal department or agency as he may designate and his authority shall include directing Federal departments or agencies to provide assistance by utilizing their equipment, supplies, facilities, personnel, and other resources for any other program, with or without compensation therefor, and he may reimburse Federal departments and agencies for expenditures under this Act, such Act of September 30, 1950, and such Disaster Relief Acts as he deems appropriate from funds appropriated for the purposes of this Act or such other Acts. All such reimbursements shall be deposited to the credit of the appropriations currently available for such services or supplies.

SEC. 10. Notwithstanding any other provision of law, temporary housing (including, but not limited to, mobile homes or other readily fabricated dwellings) acquired by purchase under authority of the Act of September 30, 1950 (42 U.S.C. 1855–1855g), the Disaster Relief Act of 1969, or any other provision of law, for dwelling accommodations for individuals and families requiring such accommodations as the result of a major disaster, may be sold directly to individuals and families who are occupants thereof at prices that are fair and equitable.

SEC. 11. In the administration of the Act of September 30, 1950 (42 U.S.C. 1855–1855g) the Disaster Relief Act of 1966, the Disaster Relief Act of 1969, and this Act, the President is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to the disaster. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser.

SEC. 12. This Act, and (except as otherwise provided in section 3(5)(C)) the amendments made by this Act, shall apply only to major disasters determined by the President pursuant to the Act entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes", approved September 30, 1950, as amended (42 U.S.C. 1855–1855g), natural disasters determined by the Secretary of Agriculture, and disasters as determined by the Administrator of the Small Business Administration, which disasters occur on or after December 1, 1968, except that in the case of any such disaster, natural disaster, or disaster which occurs on or after December 1, 1968, and before the date of enactment of this Act, whoever is eligible for Federal disaster relief assistance as a result of such a disaster shall make an election to receive benefits either under this Act (including the amendments made by this Act) or under the law applicable to such disasters occurring prior to December 1, 1968.

The SPEAKER. Is a second demanded?

Mr. DON H. CLAUSEN. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. JONES of Alabama. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during my tenure of service on the Public Works Committee I do not know of any bill that has had as careful consideration as the proposal now pending before the House. We have held extensive hearings on this legislation, S. 3619, the bill we are considering today was reported out by the unanimous vote of the members of the Committee on Public Works.

Mr. Speaker, not only did we hold extensive hearings on this bill, but in every major recent catastrophe the Public Works Committee has been on the scene. We have visited the disaster areas. We have held meetings with the local people whose lives have been affected by disaster. We have met their State and local governmental representatives. The information and experience we have gained over the years through these meetings has helped give us the needed background for the bill we have before us today.

Let me explain. Each catastrophe that we encountered, was somewhat different from the last one. Thus the accumulated information on the very nature of the catastrophies we inspected over the years plus the administrative problems we met in each case led us to the conclusion that to arm the Federal Government properly with the necessary legislation to deal with future disasters permanent law should be developed. This is what S. 3619 would do. The present 1969 act expires in December of this year.

Mr. Speaker, this is not a new legislative field. From the very inception of the Republic the Congress has responded when we have found the humanitarian interests were sufficient to justify a Federal investment in the rebuilding and in the repairs that are necessary for the proper relief of people in the affected areas.

Mr. GROSS. Mr. Speaker, if the gentleman will yield, when did the gentleman from Alabama say this act expires?

Mr. JONES of Alabama. The 1969 act expires in December of this year. S. 3619 is permanent law.

Mr. GROSS. December of this year?

Mr. JONES of Alabama. That is right as regards the 1969 act.

Mr. GROSS. I might say to the gentleman from Alabama that I am not opposed to the renewal of this legislation, but if it were not before the House today the gentleman would be right here in December to renew the request from the way this foot-dragging session of the Congress is being conducted.

Mr. JONES of Alabama. The gentleman from Alabama cannot respond to the gentleman's statement because he is not in a position to make policy decisions with respect to scheduling legislation.

Mr. GROSS. I thank the gentleman for yielding.

Mr. JONES of Alabama. Mr. Speaker, the bill before us has one basic purpose: To provide more and better help to people at a time when, because of a sudden calamity beyond their control, they cannot sufficiently help themselves.

Disasters respect no jurisdictional boundaries, no party affiliations, no political philosophies. All of us agree on the wisdom, the propriety, the necessity of the Federal Government lending a helping hand to our States, our communities, our citizens themselves, in time of disaster.

The members of the Public Works Committee are unanimous in their support of Federal disaster assistance and of the specific improvements provided by this legislation before us. We have worked closely with the administration, especially with General Lincoln and his Office of Emergency Preparedness, in considering their proposals and others. In this area, their actions have shown them to be most responsive to human needs, most receptive to change, and most cooperative with the Congress. As a result, we have in this bill provisions which will be readily implemented by the executive branch supplementing the efforts of local and State governments and of private relief agencies.

No area of the vast land of ours is immune from disaster. The districts of many—perhaps most—of the Members of this House have at one time or another suffered severely at the hands of nature. Just this year, in March, tornadoes ravaged parts of my Eighth District—and Federal help was sought and provided. You all know of the consequences of last year's Hurricane Camille, not only in my State of Alabama, but in Mississippi, Louisiana, West Virginia, and Virginia. Texas has felt the force of tornado and hurricane this year. Flooding has been a recurring problem all over the country; Maine, New York, Kentucky, Florida, Minnesota, North Dakota, Colorado, Arizona, California—and Alabama—all have had flood disasters within the past 12 months. The papers recently have told of the terrible fires sweeping southern California.

As I stated previously I and members of the committee have personally toured many of these disaster areas and have seen the destruction, and talked with the victims about their needs. And, believe me, when they want help, they want action, not promises.

In the legislation before us, by the simple expedient of amending existing law, we have the opportunity to provide that help more quickly, more abundantly, more effectively. There should be no requirement for special legislation after unusually severe catastrophes to provide additional benefits to a stricken area. This bill clarifies and updates programs and authorities now on the books. Moreover, it provides some new authority, breaks some new ground—as in tax revenue maintenance. And it looks ahead to insure that further improvements will be identified and considered.

Many of the amendments contained in this bill refine, broaden, or perfect the language in existing legislation, thereby making these measures more responsive to needs, but without opening the way to misuse of authorities or funds.

A year ago, the Congress, in the aftermath of Hurricane Camille, authorized a number of new assistance programs, such as grants for debris clearance from private property and for development of State disaster plans. Because some of these features were uncertain as to their efficacy, time limits were put on them. Now that they have been tested through several disasters, these provisions would be made permanent by the bill before us. Unemployment compensation, SBA and farm loans, food coupon allotments, and disaster planning aid are some examples. Let me thank all the members of the Flood Control Subcommittee for their fine work on this bill and in particular the ranking minority member, my friend from California, DON CLAUSEN. Let me also thank the gentleman from Mississippi (Mr. COLMER), the gentlemen from Texas (Mr. MAHON and Mr. YOUNG) each of whom have suffered major disasters in their areas in recent years for the benefit of their experiences so that we could present the legislation to the House.

SECTION 2

First. The limiting word "essential" has been stricken from section 1 of Public Law 81–875. This provides for greater latitude in the administration of the repair of public facilities; however, it is not intended to provide for repairs to facilities which are obsolete and not in use.

Second. The definition of "major disaster" has been changed by requiring the Governor of a State to certify the need for "Federal disaster assistance" instead of merely "disaster assistance under this act." The District of Columbia would also be listed as a State instead of a local government as is in the existing law.

Third. We have removed the authority for "clearing debris and wreckage" from section 3(d) of Public Law 81–875, and have extended the scope of Federal aid to permit making repairs and replacements of public facilities instead of only emergency repairs and temporary replacements. The Federal contribution would be limited to the net cost of restoring the facility using the basis of design of that facility as it existed immediately prior to the disaster, but in accordance with current codes, standards, and specifications. The intent here is to provide for Federal payment for a new facility that would provide the same capacity as the old facility if it were to be built today according to up-to-date standards. Two examples, first, if a 400-pupil school constructed in 1950 was designed on then existing criteria to provide a certain number square feet per student, a cafeteria and library, but no gymnasium or swimming pool, the Federal contribution would be available to the amount that would be required for a 400-pupil school with a cafeteria and library. It would not pay for a swimming pool and gymnasium even though such amenities would be required if the school were to be built now. Nor would the Federal Government pay for a 600-pupil school which would be called for if the school were to be designed new today. If, however, today's standards called for a greater number square feet per student, the Federal contribution would properly pay for space based on the new figure; similarly lighting levels, plumbing, and installed fixtures based on 1970 levels rather than 1950 criteria would be used in determining the Federal contribution. Example No. 2, an old bridge containing two 10-foot lanes without shoulders or sidewalks was washed out as a result of a disaster. Assuming that the average daily traffic would now justify a four-lane bridge, the Federal contribution would nevertheless be limited to 100 percent of the net cost of replacing two lanes. If current standards now require 12-foot lanes, shoulders, and sidewalks, the Federal contribution would properly include those costs. If the State or local government decided to build a four-lane bridge, is could do so but Federal contribution would be limited to the cost of a new two-lane bridge.

Further, if temporary housing or emergency shelter is provided, the first 12 months of occupancy would be rent-free. After that, rentals would be based on the fair market value of the accommodations furnished and would be comparable to those rentals charged locally for like facilities. Adjustment of the rentals charged to disaster victims occupying temporary housing may be made downward based upon the financial ability of the occupants to pay. There would be no limitation upon the type of acquisition available to the Federal Government in acquiring temporary housing or other emergency shelter, including but not limited to, mobile homes or other readily fabricated dwellings.

Fourth. The Salvation Army may act as a distribution organization in addition to the "Red Cross or otherwise." Nothing in this act should be construed as limiting the responsibilities of the Red Cross under the act appproved January 5, 1905 (33 Stat. 599) as amended.

Fifth. The Disaster Relief Act of 1969—Public Law 91–79, 83 Stat. 125—is amended by: First, amending section 6 to include as eligible for Small Business Act disaster relief loans losses, damage or economic injury resulting from a natural disaster as determined by the Secretary of Agriculture, a disaster as determined by the Administrator of the SBA as well as the now included major disaster as determined by the President. "Injury" is understood to be economic injury. "Loss or damage" is no longer property loss or damage.

The existing section 6(2) of Public Law 91–79 providing authority for the granting of any loan for repair, rehabilitation, or replacement of property damaged or destroyed is retained. However, the interest rate would be determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods of maturity of 10 to 12 years reduced by not to exceed 1 per centum per annum. However, the maximum allowable interest rate would be 6 percent. The existing statute requires the loan to bear an interest rate based upon all interest bearing obligations of the United States with maturities of 20 years or more.

Another change of note arises from the elimination of the requirement in section 6(2) of Public Law 91–79 to the effect that a loan may be granted without regard to whether the required financial assistance is otherwise available from private sources but would not be eligible for cancellation or deferral. The new section 6(a), subparagraphs (1), (3), and (4) would make such loans eligible for deferral or cancellation without regard to availability of financial assistance from private sources.

Existing section 6(1) provides that to the extent loss or damage is not compensated for by insurance or otherwise, the borrower of any loan in excess of $500 shall have the option to cancel the interest on the loan or the principal of the loan or any combination of interest or principal not to exceed $1,800 and the Small Business Administration may defer interest payments or principal payments or both during the first 3 years of the term of the loan without regard to the ability of the borrower to make such payments. The proposed bill eliminates the borrower's option—arising when and only when loss or damage is not compensated for by insurance or otherwise—but permits, in cases of hardship resulting from Presidentially determined disasters, the cancellation of the principal only of the loan in excess of $500 up to $2,500. This means that the borrower in such case would no longer be able to cancel the interest due but would have the advantage of canceling principal up to $2,500 rather than $1,800. Hardship as used herein is to be liberally interpreted.

The new section 6(4) retains provision for deferral of interest and principal payments during the first 3 years of the term of the loan but eliminates the existing language stating that the deferral shall be made "without regard to the ability of the borrower to make such payment." It further requires that the new interest rate based on 10- to 12-year obligations—but in no event to exceed 6 percent per annum—shall be used.

Sixth. The President is authorized to provide assistance to the States in developing disaster relief plans and programs to include assistance to "local governments," thus adding local govern-

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ments into the Disaster Relief Act of 1969 which now refers only to individuals. Section 8 of the 1969 act is made permanent by eliminating the deadline date of December 31, 1970, by which the States were to submit their State plans to the President.

In addition the President is authorized to make grants not to exceed 50 percent of the cost of improving, maintaining, and updating State disaster assistance plans. This is limited to $25,000 per annum per State.

Seventh. Section 14 of the existing 1969 act pertaining to debris removal would be changed to permit removal of debris or wreckage from both publicly and privately owned lands and waters. It also authorizes the President to use Federal departments, agencies, and instrumentalities to clear the debris; however, this authority shall not be exercised unless the State or local government first arranges for an unconditional authorization for removal of the debris or wreckage from public and private property. The existing authority to make grants to States for the purpose of debris removal from privately owned lands and waters is expanded to permit grants to local governments and also to cover both publicly and privately owned lands and waters. The authority of the State to make payments to any person for reimbursement of expenses actually incurred by such person for the removal of debris would be removed.

In the case of debris removal from private property, the State or local government must first agree to indemnify the Federal Government against any claim arising from the removal. The final date of eligibility for disasters under the act is eliminated by striking out December 31, 1970.

Eighth. Sections 2, 4 and 10 of Public Law 91-79 dealing with highway repairs, public land entrymen, and temporary dwellings, respectively, are repealed after December 31, 1970. This is no change from the existing law. However, this continues in effect sections (3)—timber sales contracts; (6)—SBA disaster loans, as amended; (7)—emergency farm loans, as amended; (11)—food coupon allotments; (12)—unemployment assistance; and (14)—debris removal, as amended—all of which would have been terminated as of December 31, 1970. Sections 5, 8, 9 and 13 would have remained in effect in any case. These amendments to the dates are to go into effect upon the date of enactment of this act.

Ninth. The President is authorized to make grants to any local government, which, as a result of a major disaster has suffered a substantial loss of property tax revenue—both real and personal. The limitations placed upon these grants are: First, they may only be made for the tax year in which disaster occurred and for each of the following 2 tax years. Second, the grant shall not exceed the difference between the annual average of all property tax revenues received during the 3 tax year period immediately preceding the tax year in which the major disaster occurred and the actual property tax revenue received for the tax year in which the disaster occurred and for each of the 2 succeeding tax years. Third, there must be no reduction in tax rates and tax assessment evaluation factors of the local government. If, however, there has been such a reduction, a grant may still be made for the year or years when such reduction is in effect, but, the President shall use the tax rates and tax assessment factors in effect at the time of the disaster without reduction in order to determine revenues which would have been received. These revenues will then be used in calculating the difference as the basis of determining the grant instead of the actual revenues.

Tenth. The President, if he determines that a major disaster is imminent, is authorized to use Federal departments, agencies, and instrumentalities to divert or lessen the effects of a disaster before it actually occurs. Furthermore, the Director of the Office of Emergency Preparedness is directed to study and investigate what can be done to provide effective action to prevent or lessen losses of property and personal injury or deaths which could result from forest or grass fires, earthquakes, tornadoes, freezes and frosts, tsunami, storm surges and tides and floods which are or threaten to become major disasters. The report is due not later than 1 year after enactment and is required to contain recommendations.

Eleventh. The definitions of major disaster and other definitions as used in the act of September 30, 1950, as amended (42 U.S.C. 1855a) to the Disaster Relief Act of 1969 and section 9 of the Disaster Relief Act of 1966 are retained.

In addition, the act of September 30, 1950, as amended 42 U.S.C. 1855 (f), is amended to include the Disaster Relief Act of 1969 and section 9 of the Disaster Relief Act of 1966 within the provision authorizing Federal agencies to accept and utilize local services and facilities of consenting States or local governments. It would also extend that act's provision authorizing Federal agencies to employ temporary additional personnel without regard to the civil service laws. Section 9 of the Disaster Relief Act of 1966 authorizes sums necessary to reimburse not more than 50 percent of eligible costs incurred to repair, restore, or reconstruct any State, county, municipality, or local government agency project for flood control, navigation, irrigation, reclamation, public power, sewage treatment, water treatment, watershed development, or airport construction. The 1950 act would be further amended to provide that obligations may be incurred by an agency in the amount as may be made available out of funds specified to carry out this act or section 9 of the Disaster Relief Act of 1966 and the Disaster Relief Act of 1969 instead of only the funds specified under section 8 of the 1950 act. A further amendment to section 7 of the September 1950 act would again add section 9 of the Disaster Relief Act of 1969 to expenditures under section 3 of the 1950 act as eligible for reimbursement to a Federal agency. Section 3 authorizes Federal assistance by utilizing or lending to States or local governments equipment, supplies, facilities, personnel, and other resources. The President is granted broad authority through which he can use Federal departments or agencies to the best advantage under varying conditions to exercise the authorities granted him by this act, the act of September 30, 1950 (42 U.S.C. 1855-1855g), the Disaster Relief Act of 1966 and the Disaster Relief Act of 1969.

Twelfth. Mobile homes or other readily fabricated dwellings used as temporary housing in major disasters may be sold directly to the occupants thereof at fair and equitable prices. The intent of this provision is to provide primary housing to persons who have lost their dwelling place as the result of a major disaster, not to provide secondary or recreational housing. It is intended that the purchaser would have the responsibility to provide a location where the dwelling could be placed which met current requirements of State or local zoning ordinances or other laws respecting such dwelling units, and for movement of such dwelling to that location.

Thirteenth. Grants as temporary assistance in the form of mortgage or rental payments are authorized to individuals who have suffered severe financial hardship caused by a major disaster and who have received written notice of dispossession or eviction from their residence because of foreclosure of a mortgage or lien, cancellation of a contract of sale, or termination of a lease. This assistance could be furnished for not in excess of 1 year or until the individual's financial hardship ended, whichever was the lesser.

Fourteenth. As a general provision, the amendments made by this act, would apply to major disasters as determined by the President, to any natural disasters as determined by the Secretary of Agriculture and as determined by the Administrator of the Small Business Administration; which disasters occur on or after December 1, 1968. A declaration by the Administrator or Secretary would make available only the benefits of the sections of this act with each administer. It is also intended that whoever is eligible for Federal disaster relief assistance as a result of such a declaration in any of the above types of disaster declarations which occurred on or after December 1, 1968, and before the date of enactment of this act shall have the opportunity to make an election to receive benefits either under this act—including the amendments made by this act—or under the laws applicable to such disasters occurring prior to December 1, 1968.

Obviously, this bill is a very human expression of concern for the victims of disaster, not merely a series of technical amendments. We of the Committee on Public Works and especially those of us on its subcommittee regard it as a real contribution to the American tradition of concern for one's fellow man, of pooling our resources to help our neighbor in time of need. And we urge its enactment by this House.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

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Mr. Speaker, I believe the distinguished chairman has generally explained the basic objectives and an outline of the legislation. This is, of course, the fourth time that we have considered disaster relief legislation, and in essence it tends to combine the 1950, 1966, and 1969 acts into the act of 1970, into permanent legislation.

Just consider the experience we have had in the State of California alone, where we have had some 14 presidentially declared disasters within the last 10 years, and the other experiences we have had where the Committee on Flood Control has had to visit numerous areas throughout the Nation to ascertain the damage in those areas, and then come back with special legislation.

It is our intent to equip the executive branch, which we believe is now hampered, with the kind of authority to move in the direction of a definite action program to give immediate relief to the people who need it at the most possibly important time in their life.

The bill before us today amends an existing law to clarify the scope and extent of Federal assistance that is authorized by Congress for the repair or restoration of facilities; for the provision of temporary housing to disaster victims; to require study and planning with the intention of ameliorating the effects of disasters by being prepared for them and by extending the provisions of certain disaster relief legislation to be broader in scope than existing law now provides.

On April 22, 1970, President Nixon, in the first special message to Congress on the subject of disaster assistance in 18 years, proposed far-reaching legislative and administrative changes to improve the Federal response to disaster emergencies. Our committee bill has many of the features of that proposal. Specifically, the following provisions of the administration bill, H.R. 17518, are included in the committee bill:

First. Liberalization of SBA and FHA disaster loans: The proposed legislation provides for forgiveness of up to $2,500 on losses or damage in excess of $500 on the principle of an SBA or FHA disaster loan.

Second. Tax revenue maintenance: This provision establishes a special fund in the Treasury to assist disaster-stricken communities suffering a substantial loss to the tax base.

Third. Public facility repairs or replacement: This relates to removal of the "Emergency Repair or Temporary Replacement" criteria of work on essential public facilities, with the proviso that the Federal cost of permanent repair or replacement not exceed the net worth of restoring the facility to its predisaster capacity.

Fourth. Coordination of relief organizations: It allows the President to contract or make agreements with private relief organizations in order that the activities of these organizations can be coordinated by appropriate officials.

Fifth. Predisaster assistance: In order to avert or diminish the impact of disasters in advance, the legislation authorizes the President to use Federal resources to assist any State or local government in circumstances which clearly indicate the imminent occurrence of a major disaster.

We anticipate that the bill before this House will provide for greater latitude in the administration for the repair of public facilities that is now available; would allow permanent repairs and replacement of public facilities to eliminate the practice of repeated temporary repairs resulting from inadequate facilities that are easily destroyed by subsequent disasters and serve very limited useful purpose during their life; would provide for rent-free occupancy of temporary housing or emergency shelter for a year; and permit the Federal Government to acquire this housing by any reasonable method, thus removing the limitation on leasing of facilities in existing law which has proven to be overly restrictive. In addition, provision is made for higher forgiveness features for Small Business Administration loans in cases of hardship. Hardship, of course, is to be interpreted liberally. In keeping with the higher cost of money to the United States, basic interest rate on such loan is made to be in conformance with current 10- to 12-year obligations of the United States. Local governments under the new law will be eligible for grants for debris removal. Another provision requires that no person otherwise eligible for relocation assistance payments authorized by the House act of 1949 shall be denied such eligibility as a result of a major disaster. Grants will be available to local governments that have suffered a substantial loss of tax revenue and the President would be authorized to use Federal resources to divert or lessen the effects of a disaster before it actually occurs.

I would like to address my final remarks to section 7 of the proposed bill. This section directs the Office of Emergency Preparedness to investigate and study what can be done to provide effective action to prevent or minimize property loss, deaths, and injuries which could result from forest or grass fires, earthquakes, tornadoes, freezes and frosts, tsunamis, storm surges and tides, and floods which are or threaten to become major disasters. This section requires that the Director, OEP, shall report to Congress, not later than 1 year after the date of enactment of this act, his findings together with his recommendations.

"An ounce of prevention is worth a pound of cure." It is an old adage but it makes a lot of sense. A year and a half ago, Operation Foresight proved the value of preparedness and preventive measures. For an expenditure of about $20 million for emergency dikes and levees, potential damages estimated at nearly $200 million were saved. I am sure that much more can be done in terms of prevention and preparedness. It will save funds in the long run and I want the OEP to study and identify the hazard reduction measures, the plans, procedures, and facilities, that will enhance disaster readiness and reduce disaster relief expenditures and requirements.

Mr. Speaker, I feel that this legislation is of great importance and is of necessity to prevent undue hardship to our citizens as a result of disasters. I, therefore, urge this body to adopt the Disaster Relief Act of 1970.

Mr. JOHNSON of California. Mr. Speaker, one of the strengths of this great Nation of ours has been the willingness of individuals to extend a helping hand to their neighbors in times of difficulty and emergency. In a complex 20th century such as we now live the need to help thy neighbor is no less than it was in the early days of this country. However, the means of achieving it are far more complex. The disaster relief legislation which has been on the books the last 20 years provides an opportunity to all the people of this Nation to assist their neighbors in all areas of the country to overcome and rebuild in the wake of natural disasters.

Since I have been a Member of Congress, we have had several major disasters—the Alaskan earthquake, the Christmas 1964 storms and floods in California and the Pacific Northwest, the Palm Sunday 1965 tornadoes which caused so much havoc in Illinois, Michigan, and Indiana, Hurricane Betsy, the California storms of January and February 1969, and the great grandmother of all hurricanes, Camille, which caused so much devastation throughout the Southern States and whose aftermath hit as far north as Virginia. And, as we meet here today, firefighters in California are cleaning up after one of the worst forest and brush fire disasters my State has ever experienced. In the past few days substantially more than 300,000 acres of land have been blackened, 500 homes have been burned to the ground, eight people have been killed, and more than 200 injured. Damage totals reach the hundreds of millions. Although accurate estimates of the loss cannot be made as yet, it is certain to exceed the 1969 storm totals which amounted to something more than $110 million.

The examples I have cited are the major storms and disasters which we have experienced, but there have been hundreds of other lesser disasters in which the resources of the Federal Government were required to help the people recover from brutal treatment on the part of nature. I should say these were lesser storms and disasters only in terms of scope and geography. For those people hurt or killed and for those whose homes and property were destroyed, there was no greater disaster than some of these. During the 20 years since Public Law 81-875, which is our basic disaster legislation, was enacted in 1950, the President has declared disaster emergencies and ordered mobilization of Federal relief agencies 280 times, an average of 14 times a year. During the last 5 years, there have been 100 of these disasters, an average of 20 a year. In 1969 we witnessed one of the worst years in history with 20 disasters including, of course, the storms of California which claimed some 100 lives and Hurricane Camille which cost us 262 lives and $1.5 billion in damage.

I would like to interject here, Mr. Speaker, a comment concerning the nature of disasters which I believe points

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up the need for streamlining our legislative authority for Federal assistance in these hours of need. At the turn of the century, the Galveston flood caused about $30 million worth of damage; however, 6,000 lives were lost. Compare this with Hurricane Camille in which $1.5 billion in damage was caused, but the death toll stood at 262. While one disaster death is one too many, I think this shows we are making great progress in the disaster forecasting and early warning alerts to give people an opportunity to seek adequate protection for their lives. It also points up the fact that as we build our cities, with more and more homes, public buildings, schools and other structures crowded closer and closer together, storms will take an increasingly higher toll in property damage. As property damage mounts, the ability of individuals, local and State governments to cope with reconstruction costs is reduced. Federal disaster legislation must reflect this change.

The Public Works Committee under the distinguished leadership of the gentleman from Maryland, Representative GEORGE FALLON, and with the farsighted guidance of the Flood Control Subcommittee chairman, the gentleman from Alabama (ROBERT JONES), has performed a great and humanitarian role over the years in providing Federal disaster assistance tailored to fit individual disaster situations.

As you will recall, the Alaskan earthquake, the Pacific Northwest disaster of 1965, Hurricane Betsy, all required special legislation to meet the problems in those devastated areas. None was permanent legislation, but through the legislative history and the administration of these bills, we built a tremendous store of knowledge concerning the needs for disaster relief.

In the 1969 act, the scope of the legislation was made general, broadened and refined. We had a good bill. Operations in the California storms and Hurricane Camille and other disaster situations which we have experienced throughout 1969 and this year prove this. And the legislation, I am pleased to report, will be of tremendous value to the people of California in the wake of the fire disaster.

However, most provisions of the 1969 act will expire at the end of this calendar year. It is time that we make permanent those provisions which have proven valuable and at the same time strengthen and refine them. It is with this in mind that I introduce H.R. 18608, the Federal Disaster Assistance Act of 1970, which I believe reflects not only the best of the recommendations proposed by the administration, but also the experience the Congress has had in disaster relief. I am pleased that most of the provisions of my proposal are incorporated in S. 3619 which we have before us today. I must also say the Public Works Committee, drawing upon its great experience and knowledge of disaster situations, has refined and expanded my original proposal.

The result is, I am convinced, a fine bill which is worthy of approval today by the House of Representatives. A brief summary of the proposal follows:

Section 2 titles the proposal the Federal Disaster Assistance Act of 1970.

Section 2 strengthens and broadens Public Law 81–875, the basic disaster assistance program first enacted in 1950, to make it more responsive to the needs of the decade of the 1970's. Basically this is accomplished through a more realistic definition of "public facilities" which can be rehabilitated and repaired under the provisions of this act, making it possible for the Federal Government to assist in the restoration of all public facilities.

Second, this section provides for permanent restoration of facilities under the provisions of Public Law 81–875. You will recall that initially the 1950 Disaster Act permitted only temporary replacements, which proved inadequate. The 1969 Disaster Act broke new ground in this area by providing that permanent restoration could be achieved on streets, roads, and highways. This has worked very well and proved most beneficial. Therefore, this legislation as drafted would extend this to all programs covered under Public Law 81–875. Protections are incorporated to prevent local government from obtaining a windfall by which the Federal Government would be financing expansion of facilities.

Section 2 also provides for temporary emergency housing and shelter, including the leasing of mobile homes, the need for which has been demonstrated in past disasters. It goes one step further than the 1969 act did in that it provides for no rentals to be charged for these emergency accommodations during the first 12 months. This may sound extremely generous, but the experience has been that with the head of the family out of work because of the disaster, his income has stopped and he is trying to keep his family alive on food stamps. Second, the administrative cost of collecting rents far exceeds the rents collected and, therefore, the net return is negligible. We do include a provision which requires the institution of rental charges after the first year just so that the disaster-stricken individual will learn to get back on his own feet and not make a habit of living in rent-free accommodations. This is rehabilitation legislation—not welfare legislation.

Section 3 of H.R. 18608 refines, strengthens and makes permanent many of the provisions of the Disaster Relief Act of 1969.

Touching first of all on the disaster relief program of the Small Business Administration and the Farmers Home Administration, it has been discovered over the years that the 3-percent disaster loan authorized for the Small Business Administration has not been available to the extent that it should be. We tried to make this mandatory by legislation, but actually it was an executive decision. The language we have before us today is more realistic. It provides that loans will be made without regard to whether private sources are available for such loans and the interest rate shall be 1 percent less than the average which the Treasury is paying for its outstanding marketable obligations with periods of maturity to 10 to 12 years. In no event shall any loan be made in excess of 6 percent. At the present time this would mean that the emergency disaster loans in these two programs—SBA and FHA—would be made at something less than 6 percent, which I believe is a realistic figure. Along with the increased interest rate, we have also increased the forgiveness, which follows a pattern first established for Hurricane Betsy. We propose to increase the maximum forgiveness to $2,500. We also specify that a loan under this section shall not be denied on the basis of the age of the applicant.

Section 3 also deals with the problem of clearance of debris and wreckage from publicly and privately owned lands and waters. The 1969 act authorized the State and local governments to assist in removing this type of debris. S. 3619 provides that the Federal departments and agencies also may do this. We found that last year on many occasions it would be most expeditious for the Federal agencies on the scene to take care of this rather than waiting for the State or local government equipment and/or personnel, which often were overextended. In each instance, however, we have specified that the State or local governments affected must arrange for permission to remove the debris or wreckage from the public or private property involved and also shall indemnify the Federal Government against any claims arising from such removal.

Section 3 of this bill also would make permanent several provisions of the 1969 act which otherwise would expire on December 31, 1970. This includes: First, the Small Business and Farmers Home Administration programs which I mentioned above; second, authority to expedite timber sales in areas of heavy loss to salvage downed timber and also to rebuild the lumber-based economies; third, assistance in reconstruction of timber sale roads; fourth, special unemployment compensation to those individuals jobless as a result of the major disaster; fifth, extension of emergency food stamp provisions to those disaster victims. In other words, we are making permanent all the better provisions of the 1969 act, which I feel was an outstanding piece of legislation.

Section 4 provides that no person eligible for relocation assistance under urban renewal programs of the Department of Housing and Urban Development shall be denied this as a result of a disaster.

Section 5 is a new approach but is one that is needed desperately. This provides assistance to local governments where property tax revenues have decreased dramatically due to a disaster. When a man's house is wiped out, you obviously cannot tax it. Hurricane Camille experience was such that many local governmental agencies bordered on bankruptcy because of the substantial loss of tax base. It is proposed that Federal grants be made to help finance local government during the 2 years immediately after a disaster. The amount of the grant would be based on the average of

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the property tax revenues received by the local government during the 3-tax-year periods preceding the disaster. The provisions state quite clearly that local government cannot reduce its rates in order to take advantage of this.

Section 6 provides the President with authority to mobilize Federal departments and agencies before a disaster strikes. This means that when a major disaster appears imminent, and we certainly are getting more and more advance warning due to our better weather forecasting provisions, the President may put to work the full resources of the Federal Government before the disaster strikes to avert or lessen the effects of such a disaster. This is the old philosophy that an ounce of prevention is worth far more than a pound of cure.

Section 7 directs the Office of Emergency Preparedness to conduct a 1-year study to determine additional ways to prevent or lessen property losses and personal injuries and deaths from forest fires, earthquakes, tornadoes, freezes and frosts, tsunami, storms, tides and floods which are or threaten to become major disasters.

Section 8 incorporates in the new legislation some of the definitions and provisions of the 20-year-old-Public Law 81–875, including such things as authorization for Federal agencies to accept and utilize local services and facilities of State and local governments, extension of liberalized Federal employment and contracting practices, and reimbursement from disaster funds of expenditures by Federal agencies.

Section 9 extends the earlier authority of the President to utilize resources of all Federal departments and agencies in a disaster.

Section 10 authorizes the sale to disaster victims at fair and equitable prices the mobile homes or other emergency housing they may be occupying.

Section 11 provides a program of mortgage assistance to families being evicted because of disaster caused financial hardships.

Section 12 makes the provisions of the act available to victims of any disaster which has occurred since December 1, 1968.

Mr. Speaker, this is an outline of the provisions of the legislation which I put before you. In conclusion, I do want to say it reflects the best of what Congress has done through past leadership in meeting the needs of our people in our local communities, including their State and local governments, in disaster situations. I think that it is a realistic bill and one which is truly in the American tradition of extending a helping hand to a neighbor in a time of trouble. May I again congratulate the Public Works Committee and its chairman for the work which they have done over the last 10 to 12 years in providing this type of assistance. Many a community would still be in ruins today if it had not been for the hard work, diligence, and wisdom of this committee and the Congress in providing the means whereby a stricken community could mop up, rebuild, and get back on its economic feet.

I urge my colleagues in the House of Representatives to continue this effort through enactment of S. 3619 today.

Mr. FALLON. Mr. Speaker, I rise in support of S. 3619, the Disaster Relief Act of 1970. At the outset may I commend the chairman of the Subcommittee on Flood Control, my good friend, the gentleman from Alabama (Mr. JONES), the ranking minority member of that subcommittee, the gentleman from California (Mr. DON CLAUSEN) and all the members of the subcommittee for the fine work they have done on this needed legislation.

The Committee on Public Works has moved expeditiously and rapidly through the years responding to disasters of all types which have stricken all sections of the country. On numerous occasions we have sent subcommittees to these areas to obtain first hand information on the disaster and to meet with our fellow citizens who have been afflicted by these disasters. In addition, we have enacted legislation over the years to help in these areas which can be seen from the acts of 1966 and 1969.

We have come to the conclusion in the committee that there is need for permanent legislation to embody into law those many sections of legislation we have passed in the past to help stricken areas which have proved so helpful in relieving the stricken area. The legislation before us makes permanent many of these needed sections so that immediately upon the declaration for Federal assistance under this legislation there will be available under the bill needed assistance provided at once. I think this bill is needed and I support it.

Mr. PICKLE. Mr. Speaker, since the beginning of this year, I have witnessed four major disasters in my own State, one of them—the floods at San Marcos—directly in my congressional district. Needless to say, we still have a long way to go to recover from these catastrophies, and many other States face similar situations.

As it is now proposed, S. 3619 not only improves our ability to recover from future natural disasters, but will greatly aid us in our continued efforts to recover from those disasters in our recent past. This legislation widens the aid offered to State and local governments to assist in their own recovery and to replace destroyed public facilities. It helps those who stand to lose their homes because their jobs were destroyed in the disaster.

And in a key provision, this bill takes into account our rising construction costs and property values by raising the amount of a disaster loan which may be canceled and by making this provision retroactive. This latter provision applies to loans administered in disasters declared by the President, by the Farmers Home Administration, or by the Small Business Administration. It will be a crucial factor in helping many homeowners and businessmen to recover. It is particularly the case where our low-income and middle-income homeowners and businessmen are concerned.

The previous law allowed loan cancellations of up to $1,800 on loans over $500 at 3 percent. This new legislation proposes upping the amount eligible for cancellation to $2,500 at no more than 6 percent and makes this provision retroactive to December 1, 1968. The borrower is allowed to choose between the old and new rates, depending on which will be best for his individual needs. Although the interest rate is raised, the overall benefit will still weigh heavily with the borrower. And although this provision will create some additional work for the agencies lending the money, I do not think the additional trouble will be nearly enough to offset the good of this provision.

My colleague from Texas, Senator YARBOROUGH, led the battle for initiating the retroactive character of this provision on the Senate side. The Senate version of the disaster bill makes the loan cancellation provision retroactive to April 1, 1970. I am pleased to see that the House has picked up the ball and increased the number of disaster areas that would be included in this retroactive provision.

In summary, I would say that this is not only an important bill, it is a sound and balanced bill. I urge your support of this excellent piece of legislation.

Mr. BELL of California. Mr. Speaker, I join my colleagues today in support of S. 3619, legislation which will revise and expand Federal programs to deal with disasters such as the recent tragic forest and brush fires in the State of California.

These most disastrous fires in the history of the State of California cost 14 lives and over $200 million in damage.

About 800 homes were destroyed. Over 1,200 other structures, including four houses of worship, were decimated. Fourteen people were killed, and over 350 were injured. Thousands were forced to leave their homes to escape the blazes.

The California Disaster Office estimated private property loss at over $154 million and public damage of at least $11 million.

The fires were fanned by violent winds, and they cut a path nearly 40 miles long from Newhall in the San Fernando Valley through Malibu and Topanga Canyons down to the sea.

The magnitude of human suffering as a result of these disasters is unmeasurable.

Our firemen—over 2,000 of them—demonstrated magnificent courage. Working hour after hour with no sleep, firefighters battled the intense heat to save untold numbers of lives, homes, and valuable acreage.

The magnitude of these disasters calls for swift, efficient, and comprehensive action by the Federal Government to assist local and State efforts to remedy the effects of this holocaust. The legislation which I am supporting today would extend coverage offered by the Federal Government so that homes, businesses, highways, and other property damage and losses can be compensated.

This legislation provides for the temporary housing of disaster victims and authorizes the President to provide financial assistance in the form of mortgage or rental payments to individuals

XUM

or families who have suffered financial disaster caused by a major disaster.

It provides for relocation assistance payments and for the removal of debris from lands and waters with the aid of Federal agencies. Grants would be made to local governments to compensate for substantial loss of property tax revenues.

Finally, the act provides for studies by the Office of Emergency Preparedness to determine what plans, procedures, and facilities are needed to help prevent a recurrence of such a disaster.

Hopefully, the relief provided by this legislation will alleviate a portion of the enormity of suffering occasioned by the most disastrous fires in the history of the State of California.

Mr. ANDERSON of California. Mr. Speaker, I rise in support of S. 3619, a bill to revise and expand Federal programs for relief from the effects on major disasters.

My home State of California has been particularly hard hit by natural disasters over the last 2 years. In January 1969, heavy rain storms brought flooding and mudslides in their wake. Roads, bridges, dikes, and levees were destroyed. Residents were forced to move from their homes. On January 26, 1969, 37 of California's 58 counties were declared disaster areas. More recently, fires have wreaked havoc on major portions of California.

I am particularly pleased to be a member of the Public Works Committee which has primary responsibility for initiating legislation to aid those who have suffered from natural disasters, and to attempt to reduce the impact of disasters in the future.

Last year, our committee initiated the National Disaster Relief Act of 1969 primarily to relieve those communities which were hit in California by floods and to aid the victims of Hurricane Camille.

Due to this legislation and other action, California was the recipient of over $111 million in the form of Federal disaster assistance.

Mr. Speaker, while one disaster death is one too many, I feel that our efforts over the years to protect lives have been successful and the legislation should be extended and broadened. For example, at the turn of the century, the Galveston flood caused about $30 million worth of damage; however, 6,000 lives were lost. Compare this with Hurricane Camille in which $1.5 billion in damage was caused, but the death toll stood at 258. In addition, experts have estimated that $3 in losses have been prevented for $1 invested in flood control structures.

Mr. Chairman, the act before us (S. 3619) is a progressive step. Section 2 extends the scope of Federal aid to permit making permanent repairs and replacements of public facilities. The Federal contribution would be limited to the cost of restoring the facility using the basis of design of that facility as it existed immediately prior to the disaster.

Section 5 is designed to aid those communities which have lost property tax revenue when a substantial portion of a community's property tax base is destroyed by a natural disaster. Under this section, the President is authorized to make grants to any local government which, as a result of a major disaster, has suffered a substantial loss of both real and personal property tax revenue.

Last year, I introduced H.R. 14781 which would provide earthquake and earthslide insurance under the Housing and Urban Development flood insurance program. In order to implement this program, the Department of Housing and Urban Development feels that more knowledge and experience is needed in order to establish an actuarial insurance rate for earthslides and earthquakes.

Under section 7 of the Disaster Relief Act of 1970, the Director of the Office of Emergency Preparedness is directed to study ways to provide effective action to prevent or lessen losses of property and personal injury or deaths which could result from earthquakes, tsunami, storm surges and tides, and floods. This report should aid the Federal Insurance Administrator in making determinations for extending the present flood insurance program to other areas.

Again, Mr. Speaker, I commend you for your action in this field, and heartily endorse S. 3619, the Disaster Relief Act of 1970.

The SPEAKER. The question is on the motion offered by the gentleman from Alabama (Mr. JONES) that the House suspend the rules and pass the bill S. 3619, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks on the bill just passed, S. 3619.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

VOYAGEURS NATIONAL PARK, MINN.

Mr. TAYLOR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10482) to authorize the establishment of the Voyageurs National Park in the State of Minnesota, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the purpose of this Act is to preserve, for the inspiration and enjoyment of present and future generations, the outstanding scenery, geological conditions, and waterway system which constituted a part of the historic route of the Voyageurs who contributed significantly to the opening of the Northwestern United States.

ESTABLISHMENT

SEC. 101. In furtherance of the purpose of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish the Voyageurs National Park (hereinafter referred to as the "park") in the State of Minnesota, by publication of notice to that effect in the Federal Register at such time as the Secretary deems sufficient interests in lands or waters have been acquired for administration in accordance with the purposes of this Act: *Provided,* That the Secretary shall not establish the park until the lands owned by the State of Minnesota and any of its political subdivisions within the boundaries shall have been donated to the Secretary for the purposes of the park.

SEC. 102. The park shall include the lands and waters within the boundaries as generally depicted on the drawing entitled "A Proposed Voyageurs National Park, Minnesota," numbered LNPMW-VOYA-1001, dated February 1969, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. Within one year after acquisition of the lands owned by the State of Minnesota and its political subdivisions within the boundaries of the park the Secretary shall affix to such drawing an exact legal description of said boundaries. The Secretary may revise the boundaries of the park from time to time by publishing in the Federal Register a revised drawing or other boundary description, but such revisions shall not increase the land acreage within the park by more than one thousand acres.

LAND ACQUISITION

SEC. 201. (a) The Secretary may acquire lands or interests therein within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs. Land so acquired outside of the park boundaries may be exchanged by the Secretary for non-Federal lands within the park boundaries. Any portion of land acquired outside the park boundaries and not utilized for exchange shall be reported to the General Services Administration for disposal under the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended. Any Federal property located within the boundaries of the park may be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of the park. Lands within the boundaries of the park owned by the State of Minnesota, or any political subdivision thereof, may be acquired only by donation.

(b) In exercising his authority to acquire property under this section, the Secretary shall give immediate and careful consideration to any offer made by any individual owning property within the park area to sell such property to the Secretary. In considering such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring his property.

SEC. 202. (a) Any owner or owners (hereinafter referred to as "owner") of improved property on the date of its acquisition by the Secretary may, if the Secretary determines that such improved property is not, at the time of its acquisition, required for the proper administration of the park, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years, or, in lieu thereof, for a term ending at the death of the owner, or the death of his spouse, which ever is later. The owner shall elect the term to be retained. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(b) If the State of Minnesota donates to the United States any lands within the boundaries of the park subject to an outstanding lease on which the lessee began construction of a noncommercial or recreational residential dwelling prior to January 1, 1969, the Secretary may grant to such lessee a right of use and occupancy for such period of time as the Secretary, in his discretion, shall determine: *Provided*, That no such right of use and occupancy shall be granted, extended, or continue after ten years from the date of the establishment of the park.

(c) Any right of use and occupancy retained or granted pursuant to this section shall be subject to termination by the Secretary upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of this Act, or upon his determination that the property is required for the proper administration of the park. The Secretary shall tender to the holder of the right so terminated an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(d) The term "improved property," as used in this section, shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1969, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

SEC. 203. Notwithstanding any other provision of law, the Secretary is authorized to negotiate and enter into concession contracts with former owners of commercial, recreational, resort, or similar properties located within the park boundaries for the provision of such services at their former location as he may deem necessary for the accommodation of visitors.

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SEC. 204. The Secretary is authorized to pay a differential in value, as hereinafter set forth, to any owner of commercial timberlands within the park with whom the State of Minnesota has negotiated, for the purpose of conveyance to the United States, an exchange of lands for State lands outside the park. Payment hereunder may be made when an exchange is based upon valuations for timber purposes only, and shall be the difference between the value of such lands for timber purposes, as agreeable to the State, the Secretary, and any owner, and the higher value, if any, of such lands for recreational purposes not attributable to establishment or authorization of the park: *Provided*, That any payment shall be made only at such time as fee title of lands so acquired within the boundaries is conveyed to the United States.

ADMINISTRATION

SEC. 301. (a) Except as hereinafter provided, the Secretary shall administer the lands acquired for the park, and after establishment shall administer the park, in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535) as amended and supplemented (16 U.S.C. 1–4).

(b) Within four years from the date of establishment, the Secretary of the Interior shall review the area within the Voyageurs National Park and shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommendation as to the suitability or nonsuitability of any area within the lakeshore for preservation as wilderness, and any designation of any such area as a wilderness may be accomplished in accordance with said subsections of the Wilderness Act.

SEC. 302. (a) The Secretary shall permit recreational fishing on lands and waters under his jurisdiction within the boundaries of the park in accordance with applicable laws of the United States and of the State of Minnesota, except that the Secretary may designate zones where and establish periods when no fishing shall be permitted for reasons of public safety, administration, fish and wildlife management, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate agency of the State of Minnesota.

(b) The seining of fish at Shoepac Lake by the State of Minnesota to secure eggs for propagation purposes shall be continued in accordance with plans mutually acceptable to the State and the Secretary.

SEC. 303. The Secretary may, when planning for development of the park, include appropriate provisions for (1) winter sports, including the use of snowmobiles, (2) use by seaplanes, and (3) use by all types of watercraft, including houseboats, runabouts, canoes, sailboats, fishing boats, and cabin cruisers.

SEC. 304. Nothing in this Act shall be construed to affect the provision of any treaty now or hereafter in force between the United States and Great Britain relating to Canada or between the United States and Canada, or of any order or agreement made or entered into pursuant to any such treaty, which by its terms would be applicable to the lands and waters which may be acquired by the Secretary hereunder, including, without limitation on the generality of the foregoing, the Convention Between the United States and Canada on Emergency Regulation of Level and Rainy Lake and of Other Boundary Waters in the Rainy Lake Watershed, signed September 15, 1938, and any order issued pursuant thereto.

SEC. 305. The Secretary is authorized to make provision for such roads within the park as are, or will be, necessary to assure access from present and future State roads to public facilities within the park.

APPROPRIATIONS

SEC. 306. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, not to exceed, however, \$26,014,000 for the acquisition of property, and not to exceed \$19,179,000 (June 1969 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.

The SPEAKER. Is a second demanded?

Mr. SAYLOR. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. TAYLOR. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, the bill now before the House is H.R. 10482 by Representative BLATNIK and all of the Members of the House delegation from Minnesota. It provides for the creation of the Voyageurs National Park.

LEGISLATIVE BACKGROUND

Last year, several members of the Subcommittee on National Parks and Recreation had an opportunity to visit this beautiful part of the State of Minnesota. In the short time available to us, we viewed much of the area from the air, from the water, and on the ground. Needless to say, it is a magnificent part of the famous lake country of Minnesota.

During our visit in the area, we conducted a lengthy public hearing in the city of International Falls. At that time, we heard the views of opponents and proponents of the legislation and we were satisfied that every conceivable viewpoint was represented.

This summer, additional hearings were held in Washington. During the course of those hearings, three principal issues emerged:

First, should hunting be permitted in the area?

Second, should the State be compensated for lands which it owns within the park boundaries?

Third, should the Forest Service retain administrative jurisdiction over the so-called Crane Lake Addition?

On all of these questions, the committee decided in the negative. With respect to hunting, it was felt that no deviation from the usual prohibition should be permitted if the area is to become a national park. Almost everyone who recommended national recognition of the area indicated that national park status seemed most appropriate, though some witnesses did want to continue to permit hunting in the area.

As a general policy, of course, recreational hunting is not permitted in national parks and monuments. The members of the committee feel strongly that no exception should be made to this rule. While the annual deer harvest is substantial in this proposed park area, it is expected that the deer population will gradually adjust itself as parts of the area return to climax forest vegetation.

The State lands question became the most difficult one to resolve. At first, the Governor of the State seemed to insist that the State be compensated in dollars or land for the lands which it owned within the proposed park boundaries—even through the usual congressional policy has been to require the acquisition of State lands by donation only. In the weeks that followed our hearings, the Governor apparently reviewed this matter and determined that the State could make the lands available without cost to the Federal Government. With this understanding, the sponsor of the bill, the gentleman from Minnesota (Mr. BLATNIK) urged the committee to consider the proposed legislation in detail and suggested some of the revisions which the committee ultimately adopted.

PROVISIONS OF H.R. 10482, AS AMENDED

The most important elements of the bill recommended by the committee involve the issues which I have mentioned. First, the bill recognizes the value of this area as a potential national park. Few places in the country contain the attributes required to be designated as a national park, but those that do are best described in superlatives. The proposed Voyageurs National Park is worthy of national park status because it contains significant natural and geological features worthy of national recognition; because it possesses nationally significant scenic and recreation values; and because it offers an opportunity to interpret, for the edification of the public, the historic role of the Voyageurs in our cultural heritage.

The committee is recommending a national park comprising about 139,000 acres of land and 80,000 acres of water.

If approved by Congress, it will include the so-called Crane Lake Addition as proposed by every Member of the Minnesota delegation. Naturally, the Forest Service would rather retain this 35,000-acre area, but the committee felt that it should be managed in accordance with national park standards and it is the function of the Congress to determine how the public lands shall be used. While this area constitutes a substantial part of the proposed park, it is a relatively minor part of the existing 3-million acre Superior National Forest.

Because the committee believes that the area should be managed as a national park, the committee amendment makes it generally consistent with the usual standards applicable to national parks. It deleted provisions permitting hunting, trapping and commercial fishing, and all of the other provisions which would have deviated from standard national park policies.

To be sure that the State makes its lands available for the park without any cost of any kind, the bill explicitly requires the donation of all publicly owned lands prior to the establishment of the park—this includes the lands of the State and its political subdivisions. While a requirement such as this is not common it is not unprecedented. As at Guadalupe Mountains National Park, which the Congress authorized a few years ago, the State interests are essential to a viable national park. They are not now administered for park or recreation purposes as in some other cases; consequently, the members of the committee felt that some requirement should be incorporated into the bill which would assure the transfer of the publicly owned lands prior to the establishment of the park. On the basis of the interest expressed by all of the members of the Minnesota congressional delegation and on the basis of the assurances of the Governor and of the candidates for Governor, we feel certain that the necessary action will be taken by the State to enable the Secretary to establish the park.

Of course, the bill contains the usual provisions to protect property owners who may wish to retain a limited interest in their improved properties. It also makes it clear that recreational fishing is permissible and that snowmobiles, boats of all kinds, and seaplanes will continue to be permitted, subject to the development plans and regulations of the Secretary.

Because of the location of the park along the Canadian boundary, this bill specifically disclaims any intention to alter or modify the terms of any international agreements.

COSTS

As recommended by the committee, approximately 79,000 acres of privately owned land are involved in this proposal. Much of this is undeveloped, but there are some 400 or 500 improvements within the proposed park. Acquisition costs for the lands and improvements are estimated to be $26,014,000 and the bill limits the appropriation authorization to that amount.

The development plan presented to the committee did not include any cost estimates for the Crane Lake Addition, since the Interior Department deferred to Agriculture on this issue. As a consequence of this fact, the committee decided that it would be more appropriate to limit appropriations for development to those funds estimated to be needed for Kabetogama Peninsula and adjacent areas—$19,179,000. Within the next year, we expect to have detailed plans for the Crane Lake area, if H.R. 10482 is enacted. At that time implementing legislation can be introduced and considered on the basis of the facts presented. The committee was reluctant to add authorization for any appropriations which it could not justify.

CONCLUSION

Mr. Speaker, I feel that the committee has made a real contribution to the national outdoor recreation program by recommending this legislation in this form and I am pleased to urge its adoption by the House.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Iowa.

Mr. KYL. The gentleman has spoken of conflicts which arose because of this legislation. I believe we should go a little deeper into this matter. There is in the Kabetogama Peninsula area, where this new park is proposed, one of the largest herds of white-tailed deer. This is a nonmigrating deer. The deer flourish in that area probably because of some selective timber cutting and also because they have had a hunting season which does in some way control the general health of the deer herd.

Because there are deer there, there is also probably the largest pack of timber wolves that we have left in this country, the timber wolf being an endangered species.

So immediately we have a conflict among environmentalists, those who like to preserve animal life on the one hand, and those who like to preserve scenic values, natural conditions, and ecology on the other hand.

As we resolve that particular battle in this instance, the Department of the Interior, obviously in the interest of saving the wildlife, is going to have to institute some kind of well-planned, concerted program to control the size of the deer herd. Since this will not be done by public hunting as such, because it is a national park, I am sure there will be some criticism in the future because of the manner in which those deer will be harvested. I think probably the solution at which we arrived is the only one possible under the circumstances, and the public is just going to have to understand that there is no pure, simple, and easy answer to this kind of conflict. Therefore, as I say, I think this resolution is about the best that could be arrived at in the interest of saving all the values which are present.

I thank the gentleman for yielding.

Mr. TAYLOR. I thank the gentleman for his comments.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Do I correctly understand that some 67,000 acres will have to be acquired?

Mr. TAYLOR. The gentleman is correct.

Mr. GROSS. At a cost of $20,300,000, which seems to me to come close to $300 an acre. What is the fair market value of the land?

Mr. TAYLOR. I might state there are several improvements in the area that will have to be acquired. We are also hopeful that the land will not cost that much, but that is the safe appraisal.

Mr. GROSS. Of course, a letter from one Governor, and I do not question the intent of the Governor, but Governors come and go, as do legislators. I hope with the gentleman that the State will donate the land which they apparently now say they will donate. But, I say again, Governors come and go, and so do legislators. I hope the committee, to put it bluntly, will ride herd on this to see that Minnesota does donate the land as it is pledged to do.

May I ask the gentleman this question: Is there any favoritism being extended to Minnesota hunters, fishermen, and trappers, or will they be accorded the same treatment as those from other States who might want to come in and trap, hunt, and fish in this area?

Mr. TAYLOR. I believe the gentleman's colleague from Iowa can answer that question, and I am glad to yield to him.

Mr. KYL. Mr. Speaker, I would like to respond to my colleague in this fashion. There will be no preference shown to the residents of any State over any other State, and this being a national area, any hunting which is done will be controlled hunting which is under complete regulations of the Department of the Interior, and in no way would preference be given. As a matter of fact, I think it can be said that the hunters of Minnesota do give up a considerable bit in the passage of this legislation.

Mr. TAYLOR. Mr. Speaker, I might state to the gentleman, as a general policy hunting is not permitted in national parks. Fishing is permitted, and it will be permitted in this national park.

The bill specifically provides that the park cannot be created until after the State has donated the land. That is a condition precedent to the creation of the park.

Mr. SAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 10482, which would establish the Voyageurs National Park, was originally a bill cosponsored by all of the members of the Minnesota congressional delegation.

DESCRIPTION OF THE AREA

This proposed national park is located in northern Minnesota in the famous lake country. Basically, it will be a water-oriented park containing three prominent lakes—Rainy Lake, Namakan Lake, and Kabetogama Lake—in addition to numerous smaller lakes which were carved in the surface of this region during the Ice Age.

Geologically, this area contains many features of scientific interest, but its principal value is its relatively unde-

XUM

veloped natural character. In some places, it is anticipated that the area, when protected as a park, will gradually return to its original character as a climax forest. Naturally, the vegetation is a major factor for the animal community which it supports. The caribou and wolverine which were once found in this region have disappeared, but the subclimax forest which is now dominant supports moose, deer, some timber wolves, and many other large and small animals.

Of course, the scenery in this area is magnificient. From the water, the forested lands provide a beautiful backdrop and from the land, the clear water of the lakes provides a spectacular view.

An area such as this will undoubtedly provide a variety of outdoor recreation opportunities. Fishing, hiking, camping, and boating are all expected to be popular. In addition, the area features many important winter recreation opportunities. It is expected that this park, if authorized, will attract more than 1.3 million visits per year within 5 years after its establishment.

These people will come to see the beauty of this region and to enjoy the outdoors, but they will also come to grasp an experience which they can find nowhere else. Here, they can relive the life of the voyageurs who canoed along these waters long before the West was settled. The Park Service will undoubtedly tell this story of the voyageur in its presentation of the park for the edification of the visiting public.

CREATING THE PARK

Mr. Speaker, there is no question in my mind about the qualification of this area as a national park. It meets all of the criteria for a park:

It has been endorsed by the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments several times.

It is relatively undeveloped and can be managed in a manner to restore the area to its natural condition.

It contains a combination of natural, geological, scenic, and recreational features which makes its designation as a national park appropriate.

Originally this legislation contained several features which were not compatible with the usual policies for national parks. Because of the high standards required for these areas, the committee was reluctant—in fact it refused—to deviate from the standard requirements in other national park legislation.

The most important issue involved hunting within the park. As everyone knows, recreational hunting is not a permissible activity within a national park, even though it is permitted in national recreation areas. When asked by members of the committee whether they would rather have a park with no hunting or a recreation area with hunting, all of the members of the Minnesota delegation who testified indicated that they preferred a national park. The bill recommended by the committee contains no special provisions which would allow hunting in this park if it is authorized and established.

The committee made many other changes in the features of the bill to bring this legislation into conformity with national park policies. I will not burden you with a lengthy explanation of them, but I do want to point out that the bill provides for a review of the area under the provisions of the Wilderness Act to determine if any part of it might be suitably designated as wilderness.

LANDS QUESTIONS

Mr. Speaker, if H.R. 10482 is enacted as recommended by the committee, it will create a park comprising some 139,000 acres of land and 80,000 acres of water. For the most part, these lands are located on Kabetogama Peninsula, but some of them—about 35,000 acres—are within the so-called Crane Lake Addition.

The Crane Lake Addition consists primarily of lands located in the Superior National Forest, but only about half of the lands are federally owned. In its deliberations on this question, the members of the committee recognized that this area is administered by the Forest Service for recreation purposes and that the Forest Service did not desire to lose its jurisdiction over the region. On the other hand, we recognized that this addition to the national park could make a significant contribution to the park, that it met the same high standards of the other portion of the proposed park area, and that it should be made a part of the park. For those reasons, notwithstanding the fact that the Forest Service indicated its opposition to the inclusion of this area in the park, the committee recommends its inclusion at this time.

Finally, Mr. Speaker, the last issue that I want to discuss involves the State lands question. As everyone knows it has been the usual practice in recent years to require that any State lands acquired for national park purposes be acquired by donation only. We have written that language into most authorizing bills because we feel that the State has much to gain by having a unit of the national park system located within its boundaries. We also feel that in cases, like this one, where a large Federal investment is involved, that it is unreasonable to expect Uncle Sam to purchase publicly owned lands.

In this case, thanks to the persistent efforts of our colleague in the House, Representative BLATNIK, and to the Governor of the State of Minnesota Governor LeVander, we are reasonably confident that the publicly owned lands within the park will be donated. Because these holdings are substantial and scattered throughout the proposed park, their transfer to the United States is essential. There are more than 34,000 acres of State and county land within the proposed park. Without these lands, a meaningful national park would not be possible; therefore, the committee bill requires the donation of all publicly owned lands to the United States prior to the establishment of the park.

With the assurances of the incumbent Governor on this issue, and with the favorable disposition of both of the principal candidates for that office, we are convinced that these lands will be made available and that this park will be established by the Secretary within a reasonable period of time.

COST

This park, like many others which the Congress has created in the last decade, will involve the acquisition of some privately owned lands. A large percentage of the private holdings is used for timber production, but there are some seasonal residences and resort properties which may also be acquired. The total cost of the land and improvements for this entire area, including those in the Crane Lake Addition, is estimated to be $26,014,000.

The bill also provides for the development of public use facilities in the park. The amount estimated to be needed for this purpose is $19,179,000, but I want to point out that this does not include any funds for the development of the Crane Lake Addition. Since the National Park Service proposal did not include that area, it has not formulated a development plan for it. We expect the National Park Service to make the necessary studies and forward its recommendations to the committee within a reasonable period of time after this park is authorized. On the basis of this information, we can then consider legislation to implement this feature of the program, but we need not delay our consideration of this legislation, because development activities must always await the establishment of the area and the acquisition of sufficient lands to make the development program feasible. In any event this will not begin to occur for a year or two.

CONCLUSION

That, very briefly, summarizes the basic thrust of H.R. 10482, Mr. Speaker. The members of the committee on Interior and Insular Affairs considered this legislation carefully and recommended it without a dissenting vote. We feel the bill, as amended, is a sound, constructive approach which will result in the creation of an outstanding national park, and we urge its approval by the Members of the House.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. Mr. Speaker, I yield to the gentleman from Iowa.

Mr. KYL. The gentleman mentioned the jurisdictional dispute over the Crane Lake area. The reason in logic given by the Agriculture Department as opposing transfer was that this particular area was needed as a transition between the park and the wilderness type canoe area. As a matter of fact, that transitional area can be provided just as effectively by one department as by the other. What this amounts to ultimately is merely a jurisdictional dispute. There is nothing seriously at issue here.

Mr. SAYLOR. That is correct.

Mr. TAYLOR. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. BLATNIK).

Mr. BLATNIK. Mr. Speaker, this is a moment I have been looking forward to for many years, and I have not been alone in my hopes and expectations. For today, we of the Minnesota delegation and

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the distinguished and hard-working members of the Committee on Interior and Insular Affairs bring before you the Voyageurs Park bill.

This is a day of great satisfaction for me personally, because in working with the members of the Committee on Interior and Insular Affairs, particularly with their distinguished chairman, Wayne Aspinall, and with the outstanding chairman of the Subcommittee on National Parks and Recreation from North Carolina, Roy A. Taylor, I have seen a truly exemplary instance of the Congress at work—that committee and subcommittee, Mr. Speaker, have worked on this bill energetically, intelligently, idealistically.

From the moment that members of the subcommittee traveled to International Falls, Minn., for field hearings, through hearings held this summer, and through the executive session notable for the hard work of so many of the members of the subcommittee, to this very moment, when we present the bill to this distinguished House, they have not stinted in their enthusiasm and zeal to make this the best possible park for the most people.

In a time when our country is growing smaller with every passing minute, as every hour 228 new Americans are born, and as concrete and asphalt threaten to spread across the forests and plains of this country to its four corners, it is imperative that we take this small part of America that embodies so much of our history and preserve it for our children.

The Voyageurs Park proposal which we are considering today sets aside some 344 square miles of forests, lakes, and waterways, including the Kabetogama Peninsula, Kabetogama Lake, portions of Rainy Lake, Namakan and Sand Point Lakes, and part of the Crane Lake Recreation Area north of Crane Lake.

This legislation is the product of many years of frank, open discussion on the merits and drawbacks of locating a national park in northern Minnesota, during which time knowledgeable experts gave much consideration to the many suggestions from individuals, organizations, State, county, and local officials and private enterprise.

We have worked hard for the best possible and fairest proposal which would respond to local needs and wishes as much as possible, minimize adverse effects on cabin owners, resorts, and other businesses dependent upon the park area for their livelihood and the wood products and paper industry, which would be affected the most—while at the same time meeting the criteria required for a national park.

Every effort has been made to assure fair treatment to the people now living and working within the park area. In the long run, this park can, and, I believe it will, bring the most good to the largest number of people. It will be of significant economic benefit to the immediate area, as well as to all of northeastern Minnesota, the rest of the State, and will certainly be in the national interest.

VOYAGEURS AND THE FUR TRADE

The proposed Voyageurs National Park is a majestically appropriate tribute to the 18th century fur-trading voyageurs who quested the riches of the North, and in the process opened the vast heartland of the North American Continent.

These men came in search of furs—beaver, martin, mink, and ermine—for the Northwest, American Fur, and Hudson's Bay Companies, and built the vast lake, river, and portage highway of the voyageurs, which stretched from the eastern slopes of the Canadian Rockies to Montreal, and linked the buckskinned Indian with the fur-draped lady and beaver-hatted dandy of Europe.

They conquered this hostile land not by guns but by sheer physical strength and courage, as they paddled, poled, and portaged their frail canoes and heavy burdens up and down the fierce torrents and steep, rocky portages of the northland.

By disposition as wild as the surging waters they defied, they lived at peace with the Indians, who traded the rich furs for supplies and goods from the Eastern coast.

The Voyageur, with his red cap and gay sash, his boisterous song, bravado and Gaelic courtesy, is the true hero of Minnesota's early history. Paul Bunyan and the loggers have long overshadowed this Voyageur, even though he predates the logging era by some 20 years. Voyageurs National Park will restore him to the place in our national history and folklore which he so rightly deserves.

THE NATURAL SETTINGS

On a different historical scale, the area has some of the oldest, and some of the most modern, geological phenomena, from sedimentary rock dating back 2½ billion years, to the imprints of the last ice age, a mere 10,000 years ago.

The proposed Voyageurs National Park is not only replete in history, it is breathtaking in its natural beauty and wild scenery. Lakes and forests interlock in a lacework of greens and blues, with sparkling lakes, jeweled with lush islands, frothy torrents and steep gorges, forests of fir, spruce, pine and birch, and lush green meadows.

Moose, deer, black bear, timber wolves, beaver and smaller forest animals abound, and northern pike, trout, bass, and walleyes provide excitement for the fisherman—and the warmth of triumph for the ice fisherman.

Voyageurs is thus a haven for the city-dweller who thirsts for clear skies and clean water, and a chance to escape the pressures of urban life.

In addition to its natural beauty, the park will provide full, year-round recreational facilities. Water sports and camping will be at their peak in the summer months, with full facilities for swimming, motor boating, canoeing, camping and hiking.

Modern technology and man's need for nature have put an end to "seasonal" recreation. The recent boom in snowmobiling in northeastern Minnesota—there are more than 100,000 in the State now—as well as the growing popularity of snowshoing and cross-country skiing, assure that winter in Voyageurs will be as busy as the warmer months of the year.

Nature watching and photography will always be in season, whether the lakes and forests are draped in white, burgeoning with new spring life, in full summer foliage, or garbed in the flames of autumn.

The area will be fully accessible by car, boat, or seaplane, and will provide full recreational facilities for every variety of nature lover from car-driving tenderfoot to experienced backpacker and rough-it woodsman, with no danger of conflicts over land use.

The developed areas will comprise picnic and camping areas, marinas, visitors centers, and resort facilities, as well as hiking trails, some of which retrace the old portage routes of the Voyageurs themselves.

Beyond these areas stretches a vast expanse of land and water as pristine as when the first Voyageur put paddle into our lakes, and will slake the wilderness thirst of the most demanding outdoors purist.

ECONOMIC BENEFITS

But the advantages of Voyageurs National Park lie not only in its natural resources and unique recreational offerings. Both of these will combine to bring considerable economic benefits to the area and the State as a whole—once the park reaches full operation.

Various national park studies have shown that it takes approximately 5 years from establishment to full operation.

The study from which I quote the following statistics is based on National Park Service attendance estimates, and is the joint effort of the Minnesota State Planning Agency, the Minnesota Department of Conservation, and the Minnesota Department of Economic Development.

This study is a followup to the earlier Sielaff report of 1964—prepared by Dr. Richard Sielaff of the University of Minnesota, Duluth Branch—which covered only the estimated total tourist expenditures for resorts, motels, and hotels, and predicted an added income to the area of $4 million.

Since 1964, of course, travel and recreational needs have increased geometrically; the introduction of the snowmobile and general growth in popularity of all winter sports have already made northeastern Minnesota a year-round resort area.

The later study by the three departments of the Minnesota State government has predicted a total of 1,359,900 visitors during the park's first year of full operation. They will spend $26.7 million in the park area, and an additional $10.7 million in transit, for a total economic impact of $37.4 million that first year.

By its fifth year of full operation, the study predicts revenue of $41,600,000 in the State, of which $29.6 million will be spent in the park area, and $12 million in transit.

Most of the in-transit funds will be spent along the road from the Twin Cities to International Falls—a vital contribution to an area most of which is and has long been an economically deprived region, eligible for the full gamut of Federal assistance programs.

These figures may seem to be the product of wishful thinking, but they have been borne out by experience in other areas.

Studies made in several parks bear out our own predictions that commercial enterprises have expanded and new enterprises have grown up near the parks to meet the needs of increasing visitors to the area.

Tax receipts have increased with the rising value of adjacent properties, and employment usually rises significantly.

For example, the creation of Cape Hatteras National Seashore more than doubled the assessed valuation within its county in the 1950–58 period, while at the same time tax rates were reduced from $1 to 80 cents per hundred. Business from the tourist trade in the nearby area almost doubled within a 6-year period. Land which was not acquired by the seashore often increased in value 50 to 100 times as general economic activity increased in the area.

In Glacier National Park, Montana, way back in 1951 and long before today's tourism boom, visitors spent some $4 million in and around the park, and an additional $8 million in the State.

A 1956 study of the Great Smoky Mountains National Park showed that the 2.5 million people who visited the park that year spent more than $28 million within a 30-mile radius of the park.

In an 8-year period, between 1950 and 1958, total assessment values of real estate in Teton County, Wyo., location of Grand Teton National Park, went from $4.7 million to $8.2 million—almost doubling in an 8-year period.

This story of increased income, rising tax revenues, and multiplying valuation of land adjacent to a national park, is repeated in study after study, and bears out our own predictions for Voyageurs.

An additional source of economic benefit comes from what economists call the multiplier effect, which means simply that of every dollar brought into the area, some percentage is respent or reinvested a certain number of times by the local, year-round residents. Revenues are thereby increased by more than the amount brought into the area by tourists. In Teton County, for example, in 1964 the $13 million in tourist expenditures generated an extra $1.5 million in local business activity.

We must also remember that the visitor spends his money not only in and around the park, but en route as well, paying for food, transportation, lodgings, retail purchases, theater and amusements, tourist attractions along the way, laundry and other items.

And, these dollars are in turn respent for salaries and professional services, taxes and insurance, mortgages and interest, goods and services, food, and many other necessaries for solid and prosperous community life.

Our Minnesota study estimates that each additional $10,000 in sales creates another job—so the $36 million additional income per year in Minnesota could be a big boost to employment, especially in northeastern Minnesota, as well as throughout the State.

THE BILL

Mr. Speaker, these are the prospects opened by Voyageurs National Park to northeastern Minnesota, the entire State, and the Nation as well: preservation of a unique land and water resource; ample year-round recreation for an increasingly urbanized America; a thrilling page of our Nation's history revived, and economic benefit to our citizens.

Let me now turn to the legislation itself.

THE AREA: WATER ORIENTED

The Voyageurs most valued the western Great Lakes area for its connecting bodies of water and we have tried in this bill to keep these waters—each flowing into the next and making up an integral unit—the legendary Highway of the Voyageurs—as the focal point of the park.

There are about 140,000 acres of land included, and over 80,000 acres of water, about two-fifths of the area.

CRANE LAKE AREA

This computation includes part of the Crane Lake Recreation Area, which was a vital link in the passage of the Voyageurs out of the heartland to the St. Lawrence. The Kabetogama Peninsula and the Crane Lake area are united by continuous and contiguous waters, and are an integrated ecological unit.

The entire area offers the visitor a panorama of changing landscapes, from the rocky glacial coasts of the Kabetogama to the pine forests of Crane Lake. The experience of the traveler through the area parallels the experience of the Voyageurs—full of change, full of adventure, and full of the spectacular beauty of the Northland.

WATER USES

All of the area is linked by waterways, and we have emphasized and preserved the water-oriented nature of the park by providing that all types of watercraft, houseboats, cabin cruisers and seaplanes may use the park at any time of the year.

SAFEGUARDS

We have tried, as far as possible, to minimize any adverse effects of the establishment of this park on the people of the area.

RESORTS AND COMMERCIAL PROPERTIES

First, we have set boundaries so that acquisition of resorts and private homes will be kept to a minimum.

To encourage the Secretary to move ahead on acquisition of private property and to preclude any hardship caused by falling prices over a long period of delay, we have included a provision which would require the Secretary to take such hardship into account in arriving at a purchase price for the property. We have also authorized the Secretary to acquire and dispose of property outside the park in order to avoid severance costs to the Government and hardship to property owners.

STATE DONATION

The amended park bill contains explicit provisions authorizing acquisition of State-owned lands only by donation by the State.

HOMES AND CABINS

Private property owners will retain their rights of use and occupancy for life or for 25 years, whichever they choose. Lessees of State-owned property may remain on their improved property for a maximum of 10 years after establishment.

PLANNING

When the Voyageurs Park was in the initial stages of discussion, I proposed that an advisory board be set up as a means of establishing a continuing liaison between the Park Service and local authorities. I was delighted to see that the President in August signed this bill into law, and I was especially pleased with the provision for the creation of citizen advisory boards to advise the Park Service on citizen views on Park Service policies.

The committee report states:

> The Secretary . . . may appoint advisory committees to permit greater citizen participation in park policies and programs. It is anticipated that this authority will result in the establishment of advisory committees for each of the six regions. In addition, advisory committees may be appointed for specific areas, comparable to those created by law for the Cape Cod National Seashore, Indiana Dunes National Lakeshore, and others. Members of these committees will serve without compensation, but they are allowed necessary travel expenses as permitted by law.

This is a wonderful advance in citizen-Park Service cooperation. For a number of years the boundary waters canoe area of the Superior National Forest has had a board which has worked very effectively in ironing our local problems in administration of the BWCA, and has brought about better understanding between the people of northeastern Minnesota and the U.S. Forest Service. I am confident that under the new law, the same understanding can be reached between the Park Service and the residents of the Voyageurs Area.

ACCESS

The bill assures adequate access to the park by authorizing the Secretary of the Interior to construct such roads as are needed to allow easy access to public facilities. The intention of this provision is not to serve private facilities, but to assure that there will be connections within the park to State roads outside the boundaries.

FISHING

Sport fishing, long a custom and major sport in the Voyageurs area, will continue after the park is established, and a special provision is included for the muskellunge hatchery on Shoepac Lake, as the State's chief source of muskellunge eggs.

YEAR-ROUND PARK

Northern Minnesota is a year-round vacationland and our economy is geared to year-round use. If we are to have a park at all, it must also be developed for full-year use. To insure that plans will be made for both summer and winter activities, we have included language in the bill authorizing the Secretary to provide for all forms of recreation throughout the entire year.

Mr. Speaker, in developing this proposal over the past several years—and we have worked on its since 1962—we have kept these things in mind: The beauty and historic importance of the area, the necessity of preserving the area for posterity, and the corresponding necessity of preserving the rights and uses of the area to the people who live there and who will visit it.

We offer in this bill a precise outline of the bounds and features of the park, careful delineation of the conditions under which it would be established and administered, and explicit provisions protecting the State, the counties, who will be affected by its establishment. We have preserved the uses that have been its main attractions for so many years—fishing, sports, camping, snowmobiling.

CONCLUSION

In closing, I want to thank and compliment the Honorable WAYNE ASPINALL, the distinguished chairman of the committee, the Honorable ROY TAYLOR, the distinguished subcommittee chairman, and the ranking minority member of that subcommittee, the distinguished gentleman from Pennsylvania, JOHN SAYLOR. Without the superb cooperation of all these gentlemen, their unflagging work and their broad knowledge of matters dealing with national parks and conservation, this bill could not be before this House today. We offer you, through them, a classic national park, a precious piece of Americana, an unspoiled natural beauty that will serve Americans and their children well in the years to come.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. BLATNIK. I am pleased to yield to my distinguished colleague from southeastern Minnesota, who comes from the lovely Mississippi valley area. I yield to him with this additional comment. He was one of the leaders of the Minnesota delegation on his side of the aisle who helped generate such strong support for this bill. I am delighted to yield to the gentleman.

Mr. QUIE. I thank the gentleman for yielding.

I wish to commend him for his diligence in bringing a piece of legislation to us which meets the criteria of a national park, but especially I wish to commend for the way that he handled his own district. I know of the problems we have in my district, and I know that everyone in the country is in favor of a national park, but I recognize his particular problems, because, as he said, there was some reaction emotionally to this park being established because of what they thought it might mean in the way of economic impact. This is an economic plus, I believe, for the State of Minnesota, and I believe it will do the same for the entire Nation. We have recognized the fact that it will protect an area which is unique in our country. It will give an opportunity to people all over the country as well as the State of Minnesota to enjoy the beauties of this area. It is a unique area that should be set aside for a national park so that people can enjoy this type of country.

I agree with my colleague, the gentleman from Minnesota, in commending those on the Committee on Interior and Insular Affairs who gave us such a good hearing and who have supported this legislation throughout. We are indebted to you for it.

In passing I merely wish to say again how important it is that we all worked with the gentleman from Minnesota, the gentleman from the Eighth District, who gave us this fine leadership.

Mr. BLATNIK. Again may I express my deepest gratitude to the gentleman from Minnesota and to all of the gentlemen for the truly outstanding cooperation that I received from all of the members of the Minnesota delegation. This is one of the finest examples of cooperation that I have ever been privileged to witness in all of my tenure here in the House of Representatives.

Mr. ZWACH. Mr. Speaker, will the gentleman yield to me?

Mr. BLATNIK. I am pleased to yield to the gentleman from the Sixth District of Minnesota.

Mr. ZWACH. I thank the gentleman for yielding.

Mr. Speaker, I wish to associate myself with the remarks of the gentleman from Minnesota and highly compliment him on the long effort he made in working out the difficulties involved in this tremendous undertaking. My neighbor to the north has done a tremendous job not only for that area but for the whole United States, because, as has been said, this is a unique type of park that my people and all people will tremendously enjoy.

Mr. Speaker, a century and a half ago, when most of the great State of Minnesota was still a hundred years away from all but scattered settlement, there was a limited area of the State that knew a thriving enterprise.

I am speaking of the land of the Voyageurs, the northeastern arrowhead of Minnesota that rang with the song and the swish of the paddled trade canoes of the sprightly Frenchmen from Montreal.

Down the St. Lawrence River, through the Great Lakes to Lake Superior, up the rivers to the border lakes and beyond, these colorful tradesmen pushed their canoes loaded in with trade goods and loaded out with an untold bounty of furs.

The Voyageurs are long gone, but their land remains. Traveling that beautiful water-threaded, pine-covered paradise, one can almost hear the echoes of their happy voices. The land and the water routes are still there, some of it just as they left it.

Mr. Speaker, the Voyageurs National Park bill, now before us, would preserve the best of this area for the enjoyment of all of the people of the United States.

This is a unique area. There is no other like it, nor available, in our national park system.

There is a limit to the number of shorelines on our lakes and that limit is shrinking daily. There is a limit to our areas of mountain beauty, just as there is a limit to this Minnesota land of unmatched wild forest and water.

This natural scenic beauty, which God has made, should be the property of all the people.

We cannot measure in dollars and cents the esthetic renewal our people will derive from a visit to this land. We cannot reduce to a money basis the value returned to a visitor to this land of romantic beauty.

The Voyageurs National Park bill has universal support from the people of Minnesota and all of the State congressional delegation, as well as present State officials, and candidates from both parties.

Mr. Speaker, it is not enough for us to follow in the footsteps of those early-day Voyageurs, we must make our own imprints. We can do that by voting today to preserve for our children and our children's children this land of unmatched forest and water beauty, a land absolutely unique in the contiguous United States.

Mr. TAYLOR. Mr. Speaker, will the gentleman yield?

Mr. BLATNIK. I am glad to yield to the distinguished subcommittee chairman.

Mr. TAYLOR. I should like to commend the gentleman in the well for his constructive work and diligent efforts in helping us to resolve the difficult problems in connection with this legislation. Except for his work and diligence this bill would not be here today.

Mr. BLATNIK. I am deeply indebted to the chairman. He expended tremendous effort on this bill. He and his subcommittee made an on-the-spot tour of the parksite and also held a full day of hearings, on which he did a magnificent job.

Now, Mr. Speaker, I wish to yield to my friend from St. Paul, a great outdoorsman, a well-known conservationist in his own right, who played such an important role in giving us strong support for this park in Minnesota.

Mr. KARTH. Mr. Speaker, I think it is no longer necessary to give accolades to the distinguished gentleman in the well, but I must add to what has already been said by my other colleagues that the gentleman in the well, the gentleman from the northern part of Minnesota, did more than any other single human being to bring this bill before the House to create a national park in the northern part of Minnesota.

Mr. Speaker, I speak today in behalf of the Voyageurs National Park bill and strongly urge that it be approved by the House.

There is one very unusual aspect of this bill that has not fully been aired on the House floor. At the risk of being facetious, Mr. Speaker, this unusual aspect is that the entire Minnesota congressional delegation unanimously backs this bill.

This alone is certainly not a compelling reason to approve this legislation—but it does give one pause for thought.

A newspaperman once wrote that our delegation can agree on only one thing—to disagree. While we have our disagreements at times, as the Members of this

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House now we all respect each other as legislators and representatives of Minnesota.

What we also have in common is a firm commitment to the approval of Voyageurs National Park.

The unanimity among our delegation is significant, because we as a delegation represent a unique cross section of this country—the suburbs, the large urban areas, the productive farmlands, the workingman, and the manager. And as you well know, we all do not belong to the same party.

Despite our diverse constituency—or perhaps because of it—we all back the creation of this national park. I used the phrase "because of it" in reference to the conservationist nature of the people of our State. Perhaps that is the explanation for the unanimous attitude of the Minnesota delegation.

Mr. Speaker, this would be a unique part of the national park system—and a unique extension of the Park Service. It would open up to the National Park System a new frontier in relationship to other national parks.

Mr. Speaker, the members of the Minnesota delegation have put in many long hours working for the creation of this park. Through the dedicated leadership of my distinguished colleague, Congressman BLATNIK, we have spoken to the people of Minnesota about this project and we have spoken to you, our colleagues in the House.

You have seen the unique quality of unanimity in the Minnesota delegation in favor of this bill. The majority of the people of Minnesota want this park to be created, and we hope that the majority of the Members of the House will agree with them.

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Mr. QUIE. Mr. Speaker, the bill, H.R. 10482, which would establish the Voyageurs National Park, is the culmination of a longtime interest on the part of many people to preserve a part of Minnesota's unique and historic border country. It has the wholehearted support of the entire Minnesota congressional delegation and the Governor of the State of Minnesota.

The National Park System is dedicated to conserving, for the benefit and enjoyment of all people, areas of national significance which contain exceptional scenic, scientific, historical, and recreational resources. The proposed Voyageurs National Park, which incorporates the Kabetogama Peninsula, more than meets these criteria. The area possesses integrity; it represents a true, accurate, essentially unspoiled example of nature.

Voyageurs National Park is a spacious area of land and water, so outstandingly superior in quality and beauty as to make it imperative that the Federal Government preserve it for the enjoyment, education, and inspiration of all people. In fact, the Kabetogama region is one of the few remaining areas of the country which qualifies for national park status. The Kabetogama area is the most outstanding opportunity for a national park in the northern lake country of the United States. We should not pass up this opportunity to preserve one of the few remaining areas in the country that qualifies for national park status.

At the present time, Isle Royale National Park is the only national park in the northern lake country of the United States, even though that region is one of the most inspirational in the world. It should be kept in mind that Isle Royale National Park and the proposed Voyageurs National Park have many dissimilar qualities. Isle Royale is a forested island, the largest in Lake Superior, distinguished for its wilderness character. Voyageurs National Park is primarily a peninsula surrounded by a series of lakes, significant for its uniqueness as a historical, recreational, and scenic area. It is definitely an area that must be preserved.

Presently, Minnesota, Wisconsin, Illinois, Iowa, Missouri, Kansas, Nebraska, and North Dakota are all without a national park. National park facilities should be accessible to as many people as is possible. Voyageurs National Park would make a fantastic contribution to millions all year around, serving the citizens of the entire Nation, but especially those of States which, as yet, have no such facilities in close proximity.

In conclusion, I urge favorable action on H.R. 10482 to preserve as a national park an extremely beautiful area of the country, significant for its interesting geology, its superlative scenery, its magnificent waterway system, and the vital part which it played in the opening of the West.

Mr. LANGEN. Mr. Speaker, the bill presently under consideration, H.R. 10482, is a measure which I have cosponsored with my colleagues from Minnesota for the establishment of a Voyageurs National Park. This proposal, in spite of some considerable controversy associated with it, has received overwhelming support from most quarters. It is now obvious that this bill should become law.

The Kabetogama Peninsula, where this proposed park is to be located, is practically a virgin area with very few private installations. Since most of the area is privately owned, now is the time to preserve this area for the use of all our people.

No one will dispute that the Kabetogama Peninsula is a prime example of the pure, clean atmosphere, exciting scenery and variety of winter and summer recreational possibilities for which Minnesota has long been famous. Aside from meeting all of the National Park Service's rigid requirements for a national park, this lake area is geologically and historically unique in that it has no present counterpart in the national park system.

It is clear then that the Voyageurs National Park will become a superlative scenic resource. The peninsula and adjacent water and land offer an enchanting passageway to lakes, streams, and wooded islands. Unspoiled as it is, this park will conserve forever for posterity a vignette of primitive America with land and water as nearly as possible as they were when the first exploring "Voyageurs" saw them.

But this park will also become a splendid winter recreation area which will include cross-country skiing, snowmobiling, snowshoeing, ice fishing, winter photography, and camping. It will attract national publicity to Minnesota's tourist industry, thus greatly boosting Minnesota's economy. This multimillion dollar investment in Minnesota by the Park Service will be repaid many times over by the adventure, challenge, diversion, inspiration, recreation, contentment, and history which will have been rescued from oblivion.

No other place can serve America's unique needs so well. National parks have been a great source of inspiration for the American people. Increasing population and leisure time is putting severe pressures on existing parks and this will increase; more parks will be needed. Natural and unspoiled areas which meet the criteria of the National Park Service will disappear unless steps are taken now to preserve them. When such an area can be set aside now without injury, such as is the case with the Voyageurs National Park, it ought to be done.

Mr. Speaker, our Nation has conserved a mere 1 percent of its vast land mass for national parks, which have been referred to as "the crown jewels of our Nation's resources wealth." I urge my colleagues to join together in setting the Kabetogama Peninsula aside for the generations to come, as their rightful heritage, and yet as a monument to our generation's foresight and reverence for beauty.

Mr. MACGREGOR. Mr. Speaker, I wish to join with my colleagues in the Minnesota congressional delegation in support of H.R. 10482, the Voyageurs National Park bill. The solid bipartisan support which this proposal has enjoyed from the very beginning reflects the sentiments of the vast majority of Minnesotans who favor this bill.

Minnesota is justly famous for its year-round recreational facilities, with over 15,000 lakes and its ever-growing winter sports attractions. The purpose of H.R. 10482 would be to preserve the outstanding scenery, geological conditions, and waterway system in the Kabetogama Peninsula region of northern Minnesota. This is an area which boasts truly unique historic significance, for the park will contain within its boundaries a part of the historic route of the Voyageurs who contributed significantly to the opening of the Northwestern United States. It is an area which includes wildlife in abundance, including beaver, black bear, otter, mink, timber wolves, moose, deer, wildfowl, and many species of birds. The area is also famous for its outstanding fishing and boating waters.

In order to bring this bill to the floor of the House of Representatives today, compromises and accommodations have been reached with the various interests directly affected by the establishment of this park. The House Interior and Insular Affairs Committee under the leadership of Chairman WAYNE ASPINALL and Subcommittee Chairman ROY TAYLOR has done an excellent job. They are entitled to the thanks of all those who share my concern for the preservation and responsible development of our recreational resources.

Minnesota deserves to join the 22 other States which currently enjoy big-league national park facilities. Along with the other members of the Minnesota delegation, I urge my fellow Members of the House of Representatives to support passage of the Voyageurs Park bill.

Mr. NELSEN. Mr. Speaker, I rise in support of H.R. 10482, the bill giving congressional authorization for the establishment of Voyageurs National Park in Minnesota.

In the first session of this Congress, I joined with other members of the entire Minnesota congressional delegation in introducing this proposal. It should be emphasized that the establishment of Voyageurs National Park has received the support of both Minnesota political parties, Governor LeVander and countless governmental and community agencies.

This Voyageurs National Park proposal has received the endorsement of conservation groups throughout the Nation. Their support is vitally important to the approval of this bill today, and its passage will mean that the people of America through their elected Representatives have taken a great stride toward the preservation of one of our country's most beautiful and historic areas.

The proposed park would be located in forested lake country along the United States-Canadian border, once the scene of an epic chapter in North American history. For a century and a half, French-Canadian voyageurs made their way through this maze of lakes and streams in frail bark canoes. They were transporting great quantities of furs and goods between Montreal and the far Northwest. These hardy voyageurs became the mainstay of the fur trade when it was the chief industry of the North American Continent. Their bold enterprise opened the heartland of our country and propelled us onto the threshold of the industrial revolution. Obviously, therefore, there is much historic interest in this beautiful and rugged region.

There has been considerable controversy over the particular provisions of this bill, but every thoughtful observer has agreed on the need for the Voyageurs National Park in some form or other. The original bill I cosponsored differs in some respects from the measure before us today, but I can express full support of the bill as reported by the Committee on Interior and Insular Affairs. The proposal before us would establish park boundaries basically the same as those originally proposed by the National Park Service. The park would include 139,000 acres of land and 80,000 acres of water.

Consistent with the National Park Service policy, hunting would be prohibited in Voyageurs National Park. Recreational fishing, however, would be allowed. The bill would authorize the Secretary of the Interior to formulate appropriate regulations concerning the use of snowmobiles, seaplanes, and various types of boating activities. The bill authorizes the appropriation of $26,014,000 for acquisition and $19,179,000 for park development.

Widespread public interest in the preservation of our natural resources has led to far-reaching congressional actions leading toward the goal of preserving the quality of our environment. The establishment of Voyageurs National Park will be another example of congressional recognition of the importance of conserving our natural resources for our posterity.

I would like to point out that we would not be considering this bill on the floor of the House of Representatives today were it not for the great leadership shown by my good friend and colleague (Mr. BLATNIK) in whose congressional district this park would be established. The establishment of any national park is not without controversy, and JOHN BLATNIK has weathered many a storm in reaching this important landmark authorizing the establishment of the first national park in our State of Minnesota. During the course of the past 2 years, he has spent hours of his time meeting with groups of individuals in his district, with State and Federal agency officials, and he played a leading role in guiding the Voyageurs Park bill through committee. He has always been guided in his efforts by the basic philosophy that the provisions of this bill must assure fair treatment to people now living and working in the park area and that the establishment of the park should avoid disturbing use patterns as much as possible. I am proud to join him in urging passage of H.R. 10482 in this session of the Congress.

Mr. FRASER. Mr. Speaker, I join with my Minnesota colleagues today in support of the bill, H.R. 10482. Passage by the House of this bill is the necessary initial action needed in order to create the Voyageurs National Park. As a cosponsor of this proposal I strongly support its passage.

Centering on the Kabetogama Peninsula in Northern Minnesota and covering over 200,000 acres of unspoiled land and water, Voyageurs Park will provide the outdoorsman with the opportunity to travel virtually uninterruptedly by water from the northern edge of the park to the Boundary Waters Canoe Area, a distance of 38 miles. The park will provide space for family vacations and all the activities associated with those vacations.

This park will, in short, help meet the recreation and conservation needs of thousands of our citizens both now and in the anticipated water short decades of the future.

GENERAL LEAVE TO EXTEND

Mr. SAYLOR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the bill H.R. 10482.

The SPEAKER pro tempore (Mr. ALBERT). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion of the gentleman from North Carolina that the House suspend the rules and pass the bill H.R. 10482, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CLERK AUTHORIZED TO MAKE TECHNICAL CORRECTION IN ENGROSSMENT OF H.R. 10482

Mr. TAYLOR. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill H.R. 10482 the Clerk be authorized to make a technical correction.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

SOUTH PACIFIC COMMISSION

Mr. GALLAGHER. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 1162) to amend Public Law 403, 80th Congress, of January 28, 1948, providing for membership and participation by the United States in the South Pacific Commission.

The Clerk read as follows:

H.J. RES. 1162

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of Public Law 403, Eightieth Congress, entitled "Joint resolution providing for membership and participation by the United States in the South Pacific Commission and authorizing an appropriation therefor" as amended (22 U.S.C. 280b) is hereby amended to read as follows:

"(a) such sums as may be required annually not to exceed $325,000 per fiscal year for the payment by the United States of its proportionate share of the expenses of the Commission and its auxiliary and subsidiary bodies, in accordance with article XIV of the agreement establishing the South Pacific Commission, as amended."

The SPEAKER pro tempore. Is a second demanded?

Mr. ADAIR. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. GALLAGHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 1162 would increase from $200 thousand to not to exceed $325 thousand per year the ceiling on U.S. contributions to the South Pacific Commission.

This legislation is based on Executive communication dated April 6, 1970.

On April 29, 1970, the Subcommittee on International Organizations and Movements held an open hearing on House Joint Resolution 1162. Hon. Winthrop G. Brown, Deputy Assistant Secretary of State for East Asian and Pacific Affairs, and Col. William B. Taylor, U.S. Commissioner, South Pacific Commission, testified. Hon. PATSY MINK, Hon. SPARK MATSUNAGA, and Gov. John Burns submitted a supporting statement. Hearings have been printed.

The proposed increase is considered necessary to allow the South Pacific Commission to expand its work program over the next 4 to 5 years. Details of the Commission's budget appear on pages 18 and 19 of the hearings.

The South Pacific Commission is composed of governmental representatives of the United States, Australia, France, New

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Zealand, Nauru, United Kingdom and Western Samoa. The United States contributes 20 percent of the Commission's budget; Australia, 31 percent; United Kingdom, 17 percent; New Zealand, 16 percent; France, 14 percent and Western Samoa and Nauru, 1 percent each.

The South Pacific Commission staff consists of 68 persons. Its program and expenditures—and U.S. contributions—have grown substantially since the Commission was established in 1947. The ceiling on U.S. contributions was $20,000 until 1948; $75,000 until 1961; $100,000 until 1964; $165,000 until 1965; and $200,000 since the last mentioned date.

Mr. ADAIR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 1162 which would authorize appropriations for the U.S. share of the expenses of the South Pacific Commission.

This resolution would authorize an annual appropriation of up to $325,000 for the Commission each fiscal year.

The United States and the Governments of Austria, France, Nauru, New Zealand, the United Kingdom, and Western Samoa make up the South Pacific Commission, which was formed on February 6, 1947, to serve 16 territories of the Pacific with technical advice and assistance.

The Commission which serves 3 million people on islands scattered over an area of millions of square miles, is not a part of the U.N. system. It is the only international organization whose charter deals exclusively with the Pacific area.

The Commission's program complements the programs of participating governments. It carries out work in the areas of agriculture, livestock and fisheries, economic affairs, population studies, conservation and natural sciences, education, and health and social welfare.

The U.S. quota of the Commission's budget is a fixed 20 percent, which is less than the percentage contributed by the United States to the United Nations or the Organization of American States.

Mr. Speaker, the Commission is carrying forward its work in a quiet and effective manner. I urge approval of this resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey that the House suspend the rules and pass the joint resolution (H.J. Res. 1162).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

OLEOMARGARINE IDENTIFICATION IN PUBLIC EATING PLACES

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12061) to amend the Federal Food, Drug, and Cosmetic Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12061

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 407(c) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 347(c)), is amended by deleting the language thereof and substituting the following:

"(c) No person shall serve colored oleomargarine or colored margarine at a public eating place, whether or not any charge is made therefor, unless (1) a notice that olemargarine or margarine is served is displayed prominently and conspicuously in such place and in such manner as to render it likely to be read and understood by the ordinary individual being served in such eating place, or (2) a notice that oleomargine or margarine is served is printed or is otherwise set forth on the menu in type or lettering not smaller than that normally used to designate the serving of other food items, or (3) each separate serving bears or is accompanied by labeling identifying it as oleomargine or margarine.

The SPEAKER pro tempore. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, H.R. 12061 does not eliminate the existing Federal requirement of notification to patrons of public eating places that colored oleomargarine is being served; it merely simplifies the required notification by replacing the present dual notice requirement with a single notice requirement.

Under the provisions of the bill, notice that colored oleomargarine is being served may be given by any one of the following three methods: First, a notice displayed prominently and conspicuously and in such manner as to be likely read; second, a notice on the menu set forth in type not smaller than that normally used to designate the serving of other food items; or, third, a label on each separate serving identifying it as oleomargarine.

This is all the bill does, is to simplify it. I know of no objection to the bill.

Mr. SPRINGER. Mr. Speaker, the problem involved has been rather complicated, and I think all this bill does is to attempt to simplify it in order to make compliance much easier, and at the same time still give the public adequate notice.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. I yield to my distinguished colleague, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I want to express my appreciation to the committee for considering this legislation so expeditiously, so that we have the bill before us today.

The gentleman from Illinois (Mr. KLUCZYNSKI) and I were the original sponsors of the legislation. We are grateful to the subcommittee headed by the gentleman from Oklahoma (Mr. JARMAN), the chairman of the full committee; the gentleman from West Virginia (Mr. STAGGERS), the ranking majority member; the gentleman from Illinois (Mr. SPRINGER), and the other members of the committee, for helping us clear up the rather complicated business of notifying the public being served in restaurants that they are being served oleomargarine.

I wholeheartedly endorse the provisions of H.R. 12061 which provide for a simplified notification procedure where yellow margarine is served in public eating places.

The existing, complicated law has proven both unworkable and has not been enforced, even in some Government establishments.

The present law requiring a dual notice to restaurant customers that margarine is being served discriminates against U.S. soybean producers, U.S. margarine manufacturers, and especially those consumers who choose to enjoy margarine, as well as those who serve it.

At present, an individual serving margarine to the public must, first, post a sign on the wall or make a suitable statement on the menu and, second, label each dish on which margarine is served, or serve it in a triangular form.

The double requirement is not necessary. The wall or menu notification alone will let the customer know that margarine is being served. It is the more appropriate and usual means of making such a notification.

Having to stamp "margarine" on dishes or carriers, or cut the margarine into triangles is time consuming and expensive. Together, the two requirements make enforcement unnecessarily complicated.

The U.S. Food and Drug Administration, which is the enforcement agency, says it cannot supervise the present double law because of lack of funds. To reduce the requirement to wall or menu notification would make enforcement much simplier. And simplification of the Federal requirement would encourage uniformity among the various State laws on notification.

No reduction of protection to consumers is entailed in my bill. The real protection value of the law, it seems to me, is enhanced by making it simpler to understand and enforce. And restaurant managers would be relieved of a burdensome, unnecessary requirement on small business.

I should emphasize Mr. Speaker that this is not a bill to promote one product over another. But I think the public should have freedom of choice over whether they desire butter or margarine.

In conclusion, those who support H.R. 12061 feel that one method of giving notice is sufficient and that a requirement for giving dual notice is unnecessarily burdensome upon the restauranteur. To my knowledge margarine is the only food product that requires such duplicate notification that it is being served and this is unfair.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. KLUCZYNSKI).

Mr. KLUCZYNSKI. Mr. Speaker, the proposal, H.R. 12061, which I have the honor of sponsoring in company with my distinguished colleague from Illinois, Representative MICHEL, is a small but useful adjustment in section 407(c) of the Food, Drug, and Cosmetic Act. That statute now requires the restaurants serving colored margarine to post a double notice to that effect—a notice on the wall or on the menu, and second, some

XUM

identification of each serving, by means of labeling or a triangular shape.

The bill H.R. 12061, would require one of three kinds of notice—sign on wall, statement in menu, or labeling on the individual serving or its dish. This bill emphatically does not remove the principle of notification when colored margarine is served. It strengthens the present law by making it easier to comply with and easier to enforce. The consumer is better served.

As an old restaurant hand myself, I know I speak for the restaurant men of America when I say that the present double notification is not practicable. The restaurant people urge this bill and I am with them. No other food, not even imitation milk, has to go through the charade of a double notice. One is good enough.

We had a good hearing on this bill. It has been before the Interstate and Foreign Commerce Committee and Congress a long time. I thank the distinguished chairman of the committee and the distinguished members of the committee for their consideration of this little bill.

There has been no opposition to it. There has been substantial support of it, from the National and State restaurant people, from the nursing home, hotel, and motel people, from the soybean and cottonseed people, and from the American Heart Association. The enforcement agency is the Food and Drug Administration. It sees no objection. I do think it can do a much better enforcement job with the simpler form of notice for margarine. No objection was received either from the Department of Agriculture or other agencies consulted. We hear so much these days about the consumer. The patron of a restaurant is a consumer. He or she wants to know what she is getting. In not a few cases, the patron of a restaurant has been told by his doctor to use margarine. The existing law discourages restaurants from even having the product. This law will make it more feasible for them to make it available if it is wanted.

We hear also so much about small business. My friends, I can tell you from personal experience that most public eating places are small business. They have to watch their time and expense very, very closely. This bill will save them burdensome and unnecessary duplicate notification trouble and costs—yet will keep the patron informed. This bill does not conflict with or change any State law.

Some of you are from States that have special laws on this subject. Wisconsin and New York do, for example. These laws are not affected by this bill. It will not change things in those States that have such laws. It does put the Federal law more into uniformity with most State laws which have the single notification.

This bill says nothing about what a restaurant should serve. It should serve butter or margarine, or both, as it pleases. Our House cafeterias serve both. All this bill proposes is that the patron be notified by a single, direct method, and gives the manager three ways of doing it.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. KLUCZYNSKI. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, if I ever had the opportunity to visit the restaurant operated by the gentleman, and I ate a spread that came in triangles, I would know that I would be eating oleomargarine, is that correct?

Mr. KLUCZYNSKI. I will say to the gentleman from Iowa that if you were to come into my restaurant, Mr. GROSS, that I would serve you the very best spread. I serve pure butter, and also good oleomargarine. And after having been in the restaurant business for many years, I find that I have never been on a diet, and I feel that good food makes one feel better.

Mr. GROSS. Well, if the gentleman from Iowa were to arrive at that mecca of good food he would pay his money and take his choice.

Mr. KLUCZYNSKI. You could even bet on it, if you came in as a Congressman or a friend of a Congressman, you would get the best, as long as you pick up the check and pay the cashier the moola before you leave.

Mr. GROSS. That is exactly what I thought.

The SPEAKER pro tempore. (Mr. ALBERT). The question is on the motion offered by the gentleman from West Virginia that the House suspend the rules and pass the bill H.R. 12061, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

IMPLEMENTATION OF TOKYO CONVENTION

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2176) to implement the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, and for other purposes, which is identical to the House bill (H.R. 14301) to implement the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, and for other purposes.

The Clerk read as follows:

S. 2176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
That—

(1) A new subsection (32) be inserted in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301) as follows:

"(32) The term 'special aircraft jurisdiction of the United States' includes the following aircraft while in flight—

"(a) civil aircraft of the United States;

"(b) aircraft of the national defense forces of the United States; and

"(c) any other aircraft—

"(i) within the United States, or

"(ii) outside the United States which has its next scheduled destination or last point of departure in the United States provided that in either case it next actually lands in the United States.

"For the purpose of this definition, an aircraft is considered to be in flight from the moment when power is applied for the purpose of takeoff until the moment when the landing run ends."

(2) Existing subsections (32), (33), (34), and (35) are renumbered (33), (34), (35), and (36), respectively.

(3) Subsections 902 (i), (j), and (k) of such Act (49 U.S.C. 1472 (i), (j), and (k)) are amended by deleting the words "in flight in air commerce" wherever they appear in those subsections and substituting therefor the words "within the special aircraft jurisdiction of the United States."

The SPEAKER pro tempore. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, this bill is merely a clarification and expansion of the definition of U.S. jurisdiction over aircraft.

A draft of this bill was submitted by the Department of Transportation. Hearings were held by the Subcommittee on Transportation and Aeronautics on November 4, 1969. Testimony was received from the FAA, the Air Transport Association and the Department of State in support. A statement in support was also submitted for the record by the Air Line Pilots Association. Favorable reports were also received from the Bureau of the Budget, the CAB, the Department of Defense, the Department of Justice, the Department of State and the Department of Transportation.

Both the subcommittee and the full Committee on Interstate and Foreign Commerce unanimously reported the bill. The bill does not entail any cost to the Federal Government.

This is merely a language change sought by the Department of Transportation and the other agencies which I have mentioned to implement the Tokyo Convention which the United States ratified in September 1969. This is done by specifically defining the "special aircraft jursdiction of the United States." As the committee report indicates, that jurisdiction applies to three basic groups of aircraft while they are in flight.

First, civil aircraft of the United States;

Second, aircraft of the national defense forces of the United States; and

Third, aircraft that are not in the first two groups such as foreign aircraft. This category is based on contact with this country including any aircraft in flight within the United States, and any aircraft in flight outside of the United States when the flight either just left or was next scheduled to arrive in the United States and actually does land here.

I urge the passage of the bill, S. 2176.

Mr. SPRINGER. Mr. Speaker, the very title of the bill before us today would intimate that it deals principally with hijacking of aircraft. Certainly it does have some bearing on the subject, but it is not brought here at this time either because that particular subject matter is timely or because it pretends to be a solution. If no U.S. planes had ever been hijacked this bill would have come along in the same form and at just about the same time. It clarifies the jurisdiction the United States has over offenses committed on aircraft in furtherance of our international agreement on the subject.

In June 1950, the legal committee of the International Civil Aviation Organization began a study into the possible negotiation of a treaty that would establish rules respecting jurisdiction over crimes committed on board aircraft, and other related matters. Over the next 13 years, the United States of America actively participated in discussions of the many problems involved, and in negotiations to resolve them. On September 14, 1963, the convention was opened for signature at Tokyo, and the United States—a major supporter of the convention—signed.

The principal purpose of the Tokyo Convention is to promote aviation safety through establishment of continuity of jurisdiction over criminal acts occurring on board aircraft. Several features make the Tokyo Convention a desirable international agreement:

First, the convention establishes a positive rule of international law respecting jurisdiction as between the contracting states. Under this rule, the state of registry of an aircraft may exercise jurisdiction over offenses committed on board that aircraft when it is: (1) in flight; (2) on the surface of the high seas; (3) on any other area outside the territory of a state. Now, this is not a rule of exclusive jurisdiction. Rather, the convention insures that the state of registry of an aircraft, at least, is competent to exercise jurisdiction, and yet allows other states to exercise concurrent jurisdiction. The exercise of concurrent jurisdiction would depend on a state's interest in the offense, and the applicability of the traditional rules of international law regarding assertion of jurisdiction.

Second, the convention makes more certain the powers and authority of an aircraft commander. Without these provisions, his actions to apprehend and "off-load" an offender would be subject to the laws of the state where he lands the aircraft. Also, the correctness of his decisions might be judged under the national law of a country overflown. Finally, if their actions are reasonable and comply with the convention, each aircraft crew member and passenger, the aircraft owner or operator, and the person for whom the flight is made, all would have legal immunity. This immunity should enhance the proper attitudes and actions necessary to significantly contribute to safety of flight in international aviation.

Third, the convention establishes rules and procedures to "off-load", an offender. The aircraft commander may use them in the territory of the State where he lands his aircraft. The convention also authorizes the aircraft commander to deliver certain persons to the competent authorities of the state where he lands the aircraft. When he does, the convention obligates the receiving state to accept delivery and, if satisfied that the circumstances warrant, to take custody or other measures to insure the suspected offender's presence. In this regard, the convention has several provisions that are designed both to protect a suspected offender's rights and to insure his case is handled legally and expeditiously.

Fourth, the convention imposes a positive obligation on each contracting state to take every appropriate measure to restore control to, or preserve control in, the lawful commander of an aircraft. This measure minimizes the adverse impact that a hijacking has upon the passengers and crew of an aircraft. While not a complete solution to this serious problem, this provision does represent an important step toward a solution.

On May 12, 1969, the U.S. Senate gave its advice and consent to ratification of the Tokyo Convention. On September 5, 1969, the United States of America presented to the International Civil Aviation Organization the instrument of ratification of the convention, being the 12th nation to do so. Under article 21, paragraph 1, the Convention on Offences and Certain Other Acts Committed on Board Aircraft came into force on December 4, 1969. I might add parenthetically, the convention came into force by the deposit of the instrument of verification of the 12th signatory nation and passage of 90 days thereafter. The United States was that 12th signatory nation.

* * * * *

Under article 3, paragraph 2, of the Tokyo Convention, "Each Contracting State shall take such measures as may be necessary to establish its jurisdiction as the State of registration over offenses committed on board aircraft registered in such State." H.R. 14301 would carry out our responsibility to implement the Tokyo Convention.

The bill, then, creates the special aircraft jurisdiction of the United States over three classes of aircraft. The first of these is civil aircraft, the planes of U.S. registry and ownership such as our airlines which fly to other countries. While these planes are in flight we claim jurisdiction of any criminal offenses committed thereon. That does not mean that another country may not end up with concurrent jurisdiction if the flight lands there and its laws also apply. It does make sure that somebody's law applies.

The second group of planes covered by this jurisdiction are the national defense planes. Although this was not contemplated by the treaty it could become important if and when an offense is committed on a plane owned or operated by the Defense Department. Not all such planes are military and not all personnel aboard such planes are military personnel. In order to retain jurisdiction over them and the offenses this provision was required.

The third group of planes covered is somewhat harder to sort out. If a flight starts in another country, say an Air France flight originating in Africa, and is scheduled to land at Kennedy Airport in New York, and an offense is committed in flight, when that flight does land at New York we can take over and prosecute for the crime. Now it may very likely be that France or the country where the flight started—if it is a member of the Tokyo Convention—may have laws which apply also. That country may wish to try the matter if it involves its citizens. The United States can and probably would relinquish jurisdiction if no U.S. citizen were involved, but it would not be required to do so. We would have the plane in our hands and the people, so our jurisdiction would be complete if we saw fit to exercise it.

Let us look for a moment at the other side of this same coin. We do not claim any right to step in when a flight originates elsewhere and is scheduled for another country and actually goes somewhere else. When there is no flight over or contact with the United States we claim no rights to prosecute. That means that an American citizen on such a flight is subject to the laws of the country where the flight started and where it ended. This makes sense and the law so contemplates.

Obviously this bill deals in legal technicalities. They are important technicalities, however, and the time of Congress is well spent in carrying out the intentions of the international agreement which we have made with 43 other countries. We hope that the rest of those signers will formally ratify the treaty in the near future. It will not help us much with the maverick countries but there is no answer for that in legislation.

Since air commerce is the principal means of international travel today there are bound to be all sorts of criminal acts perpetrated aboard aircraft. We all think of hijacking, but on a plane the size of a small community such as the Boeing 747 one can imagine cases of assault and battery, murder, robbery, and even conspiracy. Without international agreements on the subject the rights of individuals and the country as well could become a legal quagmire. This bill implementing our agreement will help to avoid such impossible tangles.

I recommend that the House accept and pass H.R. 14301.

The SPEAKER pro tempore (Mr. ALBERT). The question is on the motion offered by the gentleman from West Virginia that the House suspend the rules and pass the bill S. 2176.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 14301) was laid on the table.

CRIMINAL JUSTICE ACT AMENDMENTS

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1461) to amend section 3006A of title 18, United States Code, relating to representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the United States, as amended.

The Clerk read as follows:

S. 1461

Be is enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That (a) subsections (a)–(f) of section 3006A of title 18, United States Code, are amended to read as follows:

"(a) CHOICE OF PLAN.—Each United States district court, with the approval of the judicial council of the circuit, shall place in operation throughout the district a plan for furnishing representation for any person financially unable to obtain adequate representation (1) who is charged with a felony or misdemeanor (other than a petty offense as defined in section 1 of this title) or with juvenile delinquency by the commission of an act which, if committed by an adult, would be such a felony or misdemeanor or with a violation of probation, (2) who is under arrest, when such representation is required by law, (3) who is subject to revocation of parole, in custody as a material witness, or seeking collateral relief, as provided in subsection (g), or, (4) for whom the Sixth Amendment to the Constitution requires the

XUM

appointment of counsel or for whom, in a case in which he faces loss of liberty, any Federal law requires the appointment of counsel. Representation under each plan shall include counsel and investigative, expert, and other services necessary for an adequate defense. Each plan shall include a provision for private attorneys. The plan may include, in addition to a provision for private attorneys in a substantial proportion of cases, either of the following or both:

"(1) attorneys furnished by a bar association or a legal aid agency; or

"(2) attorneys furnished by a defender organization established in accordance with the provisions of subsection (h).

Prior to approving the plan for a district, the judicial council of the circuit shall supplement the plan with provisions for representation on appeal. The district court may modify the plan at any time with the approval of the judicial council of the circuit. It shall modify the plan when directed by the judicial council of the circuit. The district court shall notify the Administrative Office of the United States Courts of any modification of its plan.

"(b) Appointment of Counsel.—Counsel furnishing representation under the plan shall be selected from a panel of attorncys designated or approved by the court, or from a bar association, legal aid agency, or defender organization furnishing representation pursuant to the plan. In every criminal case in which the defendant is charged with a felony or a misdemeanor (other than a petty offense as defined in section 1 of this title) or with juvenile delinquency by the commission of an act which, if committed by an adult, would be such a felony or misdemeanor or with a violation of probation and appears without counsel, the United States magistrate or the court shall advise the defendant that he has the right to be represented by counsel and that counsel will be appointed to represent him if he is financially unable to obtain counsel. Unless the defendant waives representation by counsel, the United States magistrate or the court, if satisfied after appropriate inquiry that the defendant is financially unable to obtain counsel, shall appoint counsel to represent him. Such appointment may be made retroactive to include any representation furnished pursuant to the plan prior to appointment. The United States magistrate or the court shall appoint separate counsel for defendants having interests that cannot properly be represented by the same counsel, or when other good cause is shown.

"(c) Duration and Substitution of Appointments.—A person for whom counsel is appointed shall be represented at every stage of the proceedings from his initial appearance before the United States magistrate or the court through appeal, including ancillary matters appropriate to the proceedings. If at any time after the appointment of counsel the United States magistrate or the court finds that the person is financially able to obtain counsel or to make partial payment for the representation, it may terminate the appointment of counsel or authorize payment as provided in subsection (f), as the interests of justice may dictate. If at any stage of the proceedings, including an appeal, the United States magistrate or the court finds that the person is financially unable to pay counsel whom he had retained, it may appoint counsel as provided in subsection (b) and authorize payment as provided in subsection (d), as the interests of justice may dictate. The United States magistrate or the court may, in the interests of justice, substitute one appointed counsel for another at any stage of the proceedings.

"(d) Payment for Representation.—

"(1) Hourly Rate.—Any attorney appointed pursuant to this section or a bar association or legal aid agency or community defender organization which has provided the appointed attorney shall, at the conclusion of the representation or any segment thereof, be compensated at a rate not exceeding $30 per hour for time expended in court or before a United States magistrate and $20 per hour for time reasonably expended out of court, or such other hourly rate, fixed by the Judicial Council of the Circuit, not to exceed the minimum hourly scale established by a bar association for similar services rendered in the district. Such attorney shall be reimbursed for expenses reasonably incurred, including the costs of transcripts authorized by the United States magistrate or the court.

"(2) Maximum Amounts.—For representation of a defendant before the United States magistrate or the district court, or both, the compensation to be paid to an attorney or to a bar association or legal aid agency or community defender organization shall not exceed $1,000 for each attorney in a case in which one or more felonies are charged, and $400 for each attorney in a case in which only misdemeanors are charged. For representation of a defendant in an appellate court, the compensation to be paid to an attorney or to a bar association or legal aid agency or community defender organization shall not exceed $1,000 for each attorney in each court. For representation in connection with a post-trial motion made after the entry of judgment or in a probation revocation proceeding or for representation provided under subsection (g) the compensation shall not exceed $250 for each attorney in each proceeding in each court.

"(3) Waiving Maximum Amounts.—Payment in excess of any maximum amount provided in paragraph (2) of this subsection may be made for extended or complex representation whenever the court in which the representation was rendered, or the United States magistrate if the representation was furnished exclusively before him, certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the chief judge of the circuit.

"(4) Filing Claims.—A separate claim for compensation and reimbursement shall be made to the district court for representation before the United States magistrate and the court, and to each appellate court before which the attorney represented the defendant. Each claim shall be supported by a sworn written statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the United States magistrate and the court, and the compensation and reimbursement applied for or received in the same case from any other source. The court shall fix the compensation and reimbursement to be paid to the attorney or to the bar association or legal aid agency or community defender organization which provided the appointed attorney. In cases where representation is furnished exclusively before a United States magistrate, the claim shall be submitted to him and he shall fix the compensation and reimbursement to be paid. In cases where representation is furnished other than before the United States magistrate, the district court, or an appellate court, claims shall be submitted to the district court which shall fix the compensation and reimbursement to be paid.

"(5) New Trials.—For purposes of compensation and other payments authorized by this section, an order by a court granting a new trial shall be deemed to initiate a new case.

"(6) Proceedings Before Appellate Courts.—If a person for whom counsel is appointed under this section appeals to an appellate court or petitions for a writ of certiorari, he may do so without prepayment of fees and costs or security therefor and without filing the affidavit required by section 1915(a) of title 28.

"(e) Services Other Than Counsel.—

"(1) Upon Request.—Counsel for a person who is financially unable to obtain investigative, expert, or other services necessary for an adequate defense may request them in an ex parte application. Upon finding, after appropriate inquiry in an ex parte proceeding, that the services are necessary and that the person is financially unable to obtain them, the court, or the United States magistrate if the services are required in connection with a matter over which he has jurisdiction, shall authorize counsel to obtain the services.

"(2) Without Prior Request.—Counsel appointed under this section may obtain, subject to later review, investigative, expert, or other services without prior authorization if necessary for an adequate defense. The total cost of services obtained without prior authorization may not exceed $150 and expenses reasonably incurred.

"(3) Maximum Amounts.—Compensation to be paid to a person for services rendered by him to a person under this subsection, or to be paid to an organization for services rendered by an employee thereof, shall not exceed $300, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is certified by the court, or by the United States magistrate if the services were rendered in connection with a case disposed of entirely before him, as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit.

"(f) Receipt of Other Payments.—Whenever the United States magistrate or the court finds that funds are available for payment from or on behalf of a person furnished representation, it may authorize or direct that such funds be paid to the appointed attorney, to the bar association or legal aid agency or community defender organization which provided the appointed attorney, to any person or organization authorized pursuant to subsection (e) to render investigative, expert, or other services, or to the court for deposit in the Treasury as a reimbursement to the appropriation, current at the time of payment, to carry out the provisions of this section. Except as so authorized or directed, no such person or organization may request or accept any payment or promise of payment for representing a defendant."

(b) Subsections (g), (h), and (i) of such section are redesignated as subsections (i), (j), and (k), respectively, and the following new subsections (g) and (h) are inserted before subsection (i) as redsignated by this subsection:

"(g) Discretionary Appointments.—Any person subject to revocation of parole, in custody as a material witness, or seeking relief under section 2241, 2254, or 2255 of title 28 or section 4245 of title 18 may be furnished representation pursuant to the plan whenever the United States magistrate or the court determines that the interests of justice so require and such person is financially unable to obtain representation. Payment for such representation may be as provided in subsections (d) and (e).

"(h) Defender Organization.—

"(1) Qualifications.—A district or a part of a district in which at least two hundred persons annually require the appointment of counsel may establish a defender organization as provided for either under subparagraphs (A) or (B) of paragraph (2) of this subsection or both. Two adjacent districts or parts of districts may aggregate the number of persons required to be represented to establish eligibility for a defender organization to serve both areas. In the event that adjacent districts or parts of districts are located in different circuits, the plan for

XUM

furnishing representation shall be approved by the judicial council of each circuit.

"(2) TYPES OF DEFENDER ORGANIZATIONS.—

"(A) FEDERAL PUBLIC DEFENDER ORGANIZATION.—A Federal Public Defender Organization shall consist of one or more full-time salaried attorneys. An organization for a district or part of a district or two adjacent districts or parts of districts shall be supervised by a Federal Public Defender appointed by, the judicial council of the circuit without regard to the provisions of title 5 governing appointments in the competitive service, after considering recommendations from the district court or courts to be served. Nothing contained herein shall be deemed to authorize more than one Federal Public Defender within a single judicial district. The Federal Public Defender shall be appointed for a term of four years, unless sooner removed by the judicial council of the circuit for incompetency, misconduct in office, or neglect of duty. The compensation of the Federal Public Defender shall be fixed by the judicial council of the circuit at a rate not to exceed the compensation received by the United States attorney for the district where representation is furnished or, if two districts or parts of districts are involved, the compensation of the higher paid United States attorney of the districts. The Federal Public Defender may appoint, without regard to the provisions of title 5 governing appointments in the competitive service, full-time attorneys in such number as may be approved by the Judicial Council of the Circuit and other personnel in such number as may be approved by the Director of the Administrative Office of the United States Courts. Compensation paid to such attorneys and other personnel of the organization shall be fixed by the Federal Defender at a rate not to exceed that paid to attorneys and other personnel of similar qualifications and experience in the office of the United States attorney in the district where representation is furnished or if two district or parts of districts are involved, the higher compensation paid to persons of similar qualifications and experience in the districts. Neither the Federal Public Defender nor any attorney so appointed by him may engage in the private practice of law. Each organization shall submit to the Director of the Administrative Office of the United States Courts, at the time and in the form prescribed by him, reports of its activities and financial position and its proposed budget. The Director of the Administrative Office shall submit similarly as under title 28, United States Code, section 605, and subject to the conditions of that section, a budget for each organization for each fiscal year and shall out of the appropriations therefor make payments to and on behalf of each organization. Payments under this subparagraph to an organization shall be in lieu of payments under subsection (d) or (e).

"(B) COMMUNITY DEFENDER ORGANIZATION.—A Community Defender Organization shall be a nonprofit defense counsel service established and administered by any group authorized by the plan to provide representation. The organization shall be eligible to furnish attorneys and receive payments under this section if its bylaws are set forth in the plan of the district or districts in which it will serve. Each organization shall submit to the Judicial Conference of the United States an annual report setting forth its activities and financial position and the anticipated caseload and expenses for the coming year. Upon application an organization may, to the extent approved by the Judicial Conference of the United States:

"(i) receive an initial grant for expenses necessary to establish the organization; and

"(ii) in lieu of payments under subsection (d) or (e), receive periodic sustaining grants to provide representation and other expenses pursuant to this section."

(c) A new subsection (l) is added as follows:

"(l) APPLICABILITY IN THE DISTRICT OF COLUMBIA.—The provisions of this Act, other than subsection (h) of section 1, shall be applicable in the District of Columbia. The plan of the District of Columbia shall be approved jointly by the Judicial Council of the District of Columbia Circuit and the District of Columbia Court of Appeals."

SEC. 2. A United States commissioner for a district may exercise any power, function, or duty authorized to be performed by a United States magistrate under the amendments made by section 1 of this Act if such commissioner had authority to perform such power, function, or duty prior to the enactment of such amendments.

SEC. 3. The amendments made by section 1 of this Act shall become effective one hundred and twenty days after the date of enactment.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **McCULLOCH**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. **KASTENMEIER**. Mr. Speaker, I yield myself such time as I may consume.

S. 1461 as amended by the committee is designed to improve the operation of the Criminal Justice Act of 1964—section 3006A of title 18, United States Code—which provides for the compensation of counsel appointed to represent defendants in criminal proceedings when they are financially unable to obtain an adequate defense. Several years of operation under the act have created a virtually unanimous consensus that its effective functioning is essential to any system of criminal justice in our democracy.

The function of the present legislation is to improve the operation of the Criminal Justice Act. This is done in three ways: First, the scope and coverage of the act are broadened; second, the maximum hourly rates of compensation payable to appointed counsel are rendered more realistic in terms of today's conditions; third, districts having more than 200 appointments of counsel annually are authorized to establish so-called public defender organizations with full-time legal staffs.

The legislation has been the subject of extensive hearings in the other body which passed S. 1461 on May 1 of this year. Two additional days of hearings were held by a judiciary subcommittee in the House. Both in the Senate and in the House hearings there has been an enthusiastic consensus, including the Department of Justice and the Judicial Conference, in favor of the salient features of the legislation.

The principal changes in scope proposed by the amended bill are these:

First. Persons charged with violation of probation are covered.

Second. Persons under arrest are covered when representation by counsel is required by law.

Third, Persons subject to termination of parole, material witnesses in custody, and persons seeking collateral relief are eligible for coverage if the court finds that the interest of justice so require.

Fourth. Persons for whom the Constitution or a statute requires the furnishing of counsel are covered.

The bill contains increases in hourly and per case maximum fees:

HOURLY MAXIMUM

Present law: In court, $15.

S. 1461 (subcommittee): In court $30*.

Present law: Out of court, $10.

S. 1461 (subcommittee): Out of court, $20*.

MAXIMUM

Present law: Felony, $500 per case.

S. 1461 (subcommittee): Felony, $1,000 per attorney.

Present law: Misdeameanor, $300 per case.

S. 1461 (subcommittee): Misdemeanor, $400 per attorney.

APPEAL

Present law: Felony, $500.

S. 1461 (subcommittee): $1,000 per attorney.

Present law: Misdemeanor, $300.

S. 1461 (subcommittee): $1,000 per attorney.

The public defender concept involves appointment by the Judicial Council with the advice of the district court of the head of the Public Defender Office for a 4-year term at a salary not to exceed that of the U.S. attorney of the district. He would appoint a full-time staff at salaries comparable to those of personnel employed in the U.S. attorney's office.

Notwithstanding the optional establishment of defender organizations, the judicial councils are required to make provisions for utilizing a substantial number of private attorneys.

Nothing in the legislation delegates the authority of Congress to determine rates of compensation to local bar associations. Rates of compensation and maximum amounts of compensation are to be fixed by the judicial councils within maximums prescribed by Congress—pages 5 and 6 of the bill. If in a particular case the judicial council feels that the hourly maximums are inadequate, it is nevertheless limited to minimum rate, if any, set by a bar association.

Comparably, where bar association minimums are lower than the $30 to $20 maximums, these bar association minimums should serve to remind the judicial council that in setting appropriate rates within the $30 to $20 maximums, the lower bar association rates are relevant.

Mr. **GROSS**. Mr. Speaker, will the gentleman yield?

Mr. **KASTENMEIER**. I yield to the gentleman from Iowa.

Mr. **GROSS**. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am intrigued by this language on page 5 of S. 1461, which pro-

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*In addition, the judicial council of the circuit may fix an hourly rate not to exceed the minimum hourly scale established by a bar association for similar services rendered in the district.

XUM

provides: "shall . . . be compensated at a rate not exceeding $30 per hour for time expended in court or before a United States magistrate and $20 per hour for time reasonably expended out of court, or such hourly rate, fixed by the Judicial Council of the Circuit, not to exceed the minimum hourly scale established by a bar association for similar services rendered in the district."

Why do you set up $30 an hour $20 an hour, and then turn around and say in the same breath that the Judicial Council can change it if it wants to?

Mr. KASTENMEIER. Mr. Speaker, let me say to the gentleman this is a good question and one that the committee considered at length. The committee decided that the Senate provisions of a maximum of $30 per hour either in or out of court were somewhat inflexible. We decided that there ought to be a differentiation between out-of-court preparation and the time spent in court. Incidentally, the change made by this bill in cutting back the maximum hourly rate for out-of-court services from $30 to $20 will save about $2 million annually.

The other amendment is an exceptional provision, not to be generally used. It provides that the Judicial Council of the Circuit, where literally the Criminal Justice Act is unworkable some sort of additional compensation, may fix a rate not more than the local bar association rate.

That, as I said, is an exceptional provision, but we regard it as a sort of safety valve for some cases to avoid an inequity and a disservice to the act.

I should like to yield to the author of the amendment, the gentleman from Pennsylvania.

Mr. BIESTER. Mr. Speaker, I thank the gentleman for yielding.

It is also a fact that the language of this amendment just referred to not only sets different figures, $30 for in-court time and $20 for out-of-court time, which differs from the Senate bill, but also, in providing for additional flexibility, calls for a determination by the Judicial Council of other fees, which may be substantially lower than the $30 or the $20 called for in the bill? The $30 and $20 are not set as the fee schedule in areas where the fee, as we found from the hearings, sometimes is lower.

This offers flexibility, and makes it possible to have a less frozen impact in some areas and offers the capacity for relief, both on the higher side and also on the lower side.

It should also be pointed out that the Judicial Council has the power under this language, and not a local bar association. The history with respect to the Judicial Council has shown it to be rather tight with respect to these fee figures.

I believe this flexibility is essential if we are to have a national act covering the practice of law in as many regions as this bill would cover.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Iowa.

Mr. GROSS. Could not the bar association establish a minimum above the figures set forth in the bill? The minimums might well be higher than the figures set forth in the bill.

Mr. KASTENMEIER. It could be higher, or it could be lower.

Mr. GROSS. We talk about minimums here, and about money savings. We could just as well be going the other way with this provision in the bill; that is, increasing the spending.

Mr. MIKVA. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. MIKVA. If I might respond to the gentleman from Iowa, I would call his attention to page 10 of the report, which reflects the jurisdictions that were surveyed. A large number of bar association minimum rates were below the maximum set here, and a large number were in fact above.

I believe the intention of the bill and the intention of the amendment is to see to it that the bill is neither a bonanza for some lawyers to get more than the going rate in that town, nor an empty shell which will not be used because the rates are below the going charge in those towns.

By leaving it flexible, with standards, the rate is left to the judges, not to the bar association, and it is hoped it will in fact reflect what the private practitioner charges in those jurisdictions, rather than trying to set a national standard which in some smaller areas would be too high and in some urban areas would be too low.

Mrs. GREEN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Under the war on poverty legislation we have an OEO legal services office in probably every city across the country. What relationship is there between this program and that? What study was given by the committee to this problem? How would the two be intermeshed?

Mr. KASTENMEIER. My understanding is that those employees are on salary. Furthermore, their relationship would be confined to the civil aspects of representation of indigents, while our proposal is confined exclusively to the criminal aspects of Federal law in terms of representation of a defendant. They do not cover the same areas.

Mrs. GREEN of Oregon. But we would be supporting legal aid for criminal defendants while we have the OEO legal aid in every town for the civil cases; is that correct?

Mr. KASTENMEIER. There is a possibility, in the case I cited, of 200 cases of establishing a community public defender for the purposes of representation in Federal criminal matters only.

Mrs. GREEN of Oregon. The provisions in this bill for the attorneys in terms of fees have no relationship to what attorneys in other legal aid work would get.

Mr. KASTENMEIER. That is true; they have none.

Mrs. GREEN of Oregon. They would be two separate operations entirely.

If the gentleman will yield for one other question, for some time I have had a bill introduced—H.R. 8383—that would give some aid to the victim of a crime. It seems to me we have reached a point in this country that if a person is accused of committing a criminal act there is absolutely no limit to which we will not go in seeing that that person has medical care, that he has legal care or attention, that he has psychiatric attention, or anything else if he needs it.

The unhappy victim of the crime is left entirely to his or her own resources to take care of all the necessary medical expenses, including psychiatric attention, which in many cases may be necessary after a criminal attack. All of these expenses come out of the victim's own pocketbook. Was any concern expressed or consideration given to the victim of the criminal attack as well as to the person who makes it?

Mr. KASTENMEIER. I must respond to the gentlewoman by suggesting that this particular subcommittee is dealing precisely with this subject. There is no such bill pending before us as the gentlewoman mentions that has been introduced. May I say personally, though, that I am in sympathy with the proposition that she stated.

Mrs. GREEN of Oregon. My bill, H.R. 8383, is before the Judiciary Committee—I would say to the gentleman, if I may ask one final question, why would it not make more sense to have one act rather than to have one coming under the war on poverty dealing with class action suits and individual suits—and to establish another in the Federal Legal Defenders Act for the criminal? Why would it not be better to combine them?

Mr. KASTENMEIER. In response I will say that that is not possible under this bill. This bill responds to the constitutional mandate to provide representation to those criminally charged in this Republic. I think the war on poverty establishes a completely different basis for representation and in a different field of law.

Mrs. GREEN of Oregon. If I may respond, the same arguments are given with regard to legal representation in the war on poverty; that is that it is the constitutional rights of poor people that must be defended.

Mr. KASTENMEIER. I am not as familiar with the war on poverty as the gentlewoman from Oregon is.

Mr. WHITE. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Texas.

Mr. WHITE. I wonder if you can give us a clarification of the language which appears on page 17 of the report. I do not know what the corresponding language is in the section of the bill, but it says, under choice of plan, subsection 2, "who is under arrest when such representation is required by law." Does that mean when an individual is arrested on suspicion of committing a crime he would then be entitled to the appointment of an attorney?

Mr. KASTENMEIER. Will the gentleman restate his question?

Mr. WHITE. The question is, is an individual under Federal law arrested for

XUM

suspicion of the infraction of a Federal law entitled to appointment of an attorney under this bill at the time of arrest?

Mr. KASTENMEIER. No; I would say to the gentleman, not necessarily. Only when he is charged or is interrogated or is required to appear in a lineup, or the like.

Mr. WHITE. I do not understand the language, then. It says "when arrested." Why would it not be in there, then, when you have a section above it which speaks of the charge. It says when he is under arrest, this is required by law. The earlier part says a person who is charged with a felony or misdemeanor. Why put this section in there at all, then?

Mr. KASTENMEIER. There are times when an individual, if he is put into a lineup or interrogated may not have been charged, but under the law he is entitled to a defense.

Mr. WHITE. Under what law? In other words, by the Constitution is he entitled to counsel?

Mr. KASTENMEIER. Yes.

Mr. WHITE. Or is it a specific law?

Mr. KASTENMEIER. Under the interpretation of his rights under the Constitution.

Mr. WHITE. Then, that means everybody arrested is entitled to the appointment of an attorney under your bill.

Mr. KASTENMEIER. No.

Mr. WHITE. Because then everyone is entitled to counsel under the law who is charged with a felony type of offense.

Mr. KASTENMEIER. I would just reply to the gentleman by saying that I would not state it quite that way.

Mr. WHITE. I wonder, then, could you clarify that language, please, so that when I vote on it I will have some understanding that a person who is arrested would not be able to have an attorney under the minimum charges of the local bar association.

Mr. MIKVA. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I am glad to yield to the gentleman.

Mr. MIKVA. I call the gentleman's attention to page 2 of the bill which recites the instances in which a person is entitled to representation. It makes it clear that the hypothetical example the gentleman from Texas poses would not require the appointment of an attorney. The bill states that one who is charged with a felony or misdemeanor is entitled to have an attorney appointed for him.

Mr. WHITE. Then, what is the No. 2 part?

Mr. MIKVA. No. 2 says "who is under arrest." The language was amended to make it clear that an appointment will be made only when such representation is required by law to make it clear that it did not apply to every arrest. There are only certain instances where the act will apply.

Mr. WHITE. Such as, for example?

Mr. MIKVA. I can evision one where the prosecutor has already prepared the charge, and the arrest is the first step in a process that has been decided upon.

I would point out that the language added in the subcommittee was to narrow the application and make it clear that it did not apply to every arrest.

Mr. WHITE. If the gentleman will yield further, every person under arrest, then, would be entitled to representation?

Mr. MIKVA. No; category 4 provides that where the sixth amendment of the Constitution requires the appointment of counsel or in a case in which a person faces loss of liberty, or where any Federal law requires the appointment of counsel.

Mr. WHITE. But there is that "or."

Mr. MIKVA. It says "for whom the sixth amendment to the Constitution requires the appointment of counsel—"

Mr. WHITE. However, just preceding that it says "or." So it is an alternative under the proposed amendment.

Mrs. GREEN of Oregon. Mr. Speaker, will the gentleman yield further?

Mr. KASTENMEIER. I yield further to the distinguished gentlewoman from Oregon.

Mrs. GREEN of Oregon. Under this legislation does an attorney who is going to participate in this system have to belong to the bar in the State in which he is practicing?

Mr. KASTENMEIER. There is no provision in this bill establishing that as a matter of practice, but that is normally the case.

Mrs. GREEN of Oregon. I would suggest to the gentleman that it is not necessarily a matter of practice in the OEO program.

When we had the OEO debate, one of the amendments I offered would have required a person who was in the legal services section of OEO to belong to the bar association in the State in which he practiced.

However, under this bill you are setting up another system whereby anyone who does not belong to the bar of record could practice and be reimbursed under the provisions of this bill.

Mr. KASTENMEIER. This would be a matter entirely up to the court.

Mrs. GREEN of Oregon. But, the Federal law would allow anyone to participate.

Mr. KASTENMEIER. It would not expressly prohibit such a representation.

Mrs. GREEN of Oregon. I thank the gentleman.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

What happened to the system that permitted judges to appoint and fix the fees of attorneys where they were representing indigents and others?

Mr. KASTENMEIER. May I say to the gentleman from Iowa that before 1964 under the federal system attorneys were not authorized to be paid anything by the order of judges under the federal system. After the original Criminal Justice Act was passed we did provide compensation be paid to lawyers representing dependents who are financially unable to obtain adequate representation and we are proposing to amend that act.

Mr. GROSS. Mr. Speaker, if the gentleman will yield further, what was wrong with that system?

Mr. KASTENMEIER. This is merely an extension of that system.

Mr. GROSS. Yes; I will say it is an extension of that system providing pay at $30 an hour, and under some language contained in this bill that I do not understand and I doubt that many others understand how it would work when it is put to the test.

Mr. KASTENMEIER. Well, I can only say that this bill is supported widely and is regarded by the Department of Justice as one of the most necessary items now pending before it in its efforts to assure criminal justice in America.

Mr. McCULLOCH. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. POFF).

Mr. POFF. Mr. Speaker, a man stands accused of a crime. A man's liberty is at stake. Arrayed against him are the immense complexities of the Federal law and the special experience and expertise of the Federal prosecutor, his vast investigative staff, and all of the machinery appurtenant to his office. But the accused stands there alone.

That is what this bill is all about.

Once the issue was put pretty much in focus by Mr. Justice Black in the case of Griffin versus Illinois, when he said:

> There can be no equal justice where the kind of trial a man gets depends on the amount of money he has.

I would substitute for the words "equal justice" the words "total justice". There can be no total justice, and the accused is entitled to no less than total justice, if he is unable to afford competent counsel to present his case fairly.

Mr. Speaker, this bill comes to the floor of the House without a single adverse vote out of the subcommittee, or a single adverse vote out of the full committee. It has the full and unequivocal support of the Department of Justice. It has the full and unequivocal support of the American Bar Association. It has the full and unequivocal support of the Judicial Conference of the United States. It has the full and unequivocal support of the national defenders project. It has the full and unequivocal support of the National Legal Aid and Defender Association.

I would like to recapitulate, if I may, the history behind the original act which I supported along with many other Members of this body.

The Criminal Justice Act of 1964—18 U.S.C. 3006A—which became effective in August 1965, grew out of a study conducted by the Attorney General's Committee on Poverty and the Administration of Federal Criminal Justice. The legislation recommended by this special committee and which originally passed the Senate in 1964, included a public defender system. The House version of the bill omitted this provision and the Conference Committee recommended passage of a bill without the public defender option—House Report 1709). However, the conferees also recommended that the Department of Justice revive its research and study further the need for a Federal public defender.

To give effect to this request of the 88th Congress, the Department of Justice and the Judicial Conference of the United States in 1967 commissioned Prof.

Dallin H. Oaks, of the University of Chicago Law School, to undertake a review of the operation of Criminal Justice Act with particular attention to the need for Federal public defenders. This study, entitled "The Criminal Justice Act in the Federal District Courts" was commenced in the summer of 1967 and completed in January 1968.

Passage of the Criminal Justice Act of 1964 recognized a fundamental right in our system of criminal justice, that is, the right to be provided counsel when a person is accused of a criminal offense and faces possible deprivation of liberty. This right is desirable in criminal cases both from the viewpoint of the accused and of society. This right was recognized in 1932 by the U.S. Supreme Court as part of the due process of law which every State owes to its citizens—*Powell* v. *Alabama*, 287 U.S. 45—the Supreme Court first defined the dimensions of this constitutional right for the Federal Government in *Johnson* v. *Zerbst*, 304 U.S. 458 (1938) and most recently for the States in *Gideon* v. *Wainwright*, 372 U.S. 335 (1963). In Gideon the Supreme Court stated:

> The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours.

The law does not yet hold nor does the Criminal Justice Act intend that a particular lawyer representing one side will be professionally equal to the one representing the other side. No law could make such a guarantee. However, what is more important and what is intended by the Criminal Justice Act of 1964 is that our system for providing representation and facilities for the defense be as good as the system which society provides for the prosecution.

The purpose of the Criminal Justice Act of 1964 is to secure an adequate defense for impoverished defendants. Since its effective date, August 20, 1965, more than 100,000 defendants have received assistance from its provisions. Annually, there are about 20,000 defendants represented by counsel appointed under the act with a total cost of approximately $3.5 million per year. The average cost per defendant is less than $100.

The maximum hourly compensation paid assigned counsel under the present act is $10 per hour for time spent on the case out of court and $15 per hour for time spent in court. In 1963, the Allen Committee suggested that $15 per hour was "the lowest statutory limit consistent with the objectives of reasonable compensation for the assigned lawyer and adequate representation for his client." Professor Oaks concluded that:

> It simply is not possible to pay experienced criminal lawyers a decent salary, and support an office on the $10.00 and $15.00 per hour Criminal Justice Act fee scale.

S. 1461, as it passed the Senate provided for compensation to counsel at a rate not to exceed $30 per hour for time spent on the case with no distinction between time expended in court and that reasonably expended outside the courtroom. This dollar figure would increase the annual cost under the Criminal Justice Act of 1964 by $9,800,000. Your committee amended this provision by providing that the rate of compensation for counsel should be determined by the court wherein representation was furnished and is not to exceed $30 per hour for time expended in court and $20 per hour for time reasonably expended out of court. The amendment maintains the historic and practical distinction between compensation for an attorney's time in court and his time spent in preparation and would work a savings in excess of $2.5 million over the Senate-passed bill.

There were a number of other committee amendments specifically designed to reduce expenditures from that provided in the Senate bill without reducing the quality of representation. These amendments will also tighten and strengthen personnel structure, making the act more functional, less costly, and hopefully more acceptable to this body.

S. 1461 would expand the coverage of the 1964 act to cover criminal procedure from the arrest stage to appeals, post-conviction proceedings, and ancillary proceedings relating to the criminal trial. This updates the act and makes it coextensive with the sixth amendment's right to counsel as now interpreted.

A basic change in the present law is contained in subsection (h) of this bill. This new addition to the Criminal Justice Act of 1964 would authorize the creation of public defender organizations. This provision would permit but not require a district or parts of a district in which 200 or more defendants are required to be represented annually by appointed counsel to create one or two types of defender organizations: Federal public defender or a community defender organization. Under the Federal public defender plan the public defender would appoint one or more full-time attorneys for a 4-year term and salaries paid to the defenders would be comparable to those paid the U.S. attorney's office in the District.

It is important to note that the defender organizations are optional. Their purpose is to supplement the appointment of private counsel that now takes place under the present Criminal Justice Act, thereby providing a "mixed" defender system. That is to say, that the use of private counsel is supplemented with and not replaced by an organizational defender plan. Research and study indicate that it is essential to maintain the interest and participation of the local attorneys and at the same time provide a full-time defender organization that would augment resources and efforts of the private assigned counsel systems in overburdened jurisdictions.

A public defender, for example, would reduce the Criminal Justice Act administrative burden on courts, magistrates, clerks and other court personnel. It would provide highly experienced defense counsel who would promote the efficiency of the Federal criminal justice system. A public defender could render more complete and more comprehensive service because he would be available to assist a needy defendant and commence preparation of his case prior to his appearance before a U.S. magistrate.

Mr. Speaker, this legislation has a broad base of support. President Nixon in his January 31, 1969, message on crime in the District of Columbia strongly endorsed the concept. At that time, our President noted that the District's defender project "has given every indication of success," and should be expanded into a full-fledged defender office. With the recent enactment of the District of Columbia Court Reform and Criminal Procedure Act of 1970, the District was given a full-time public defender service. For this reason, section (h) of S. 1461, public defender organizations, is not applicable to the District. Your committee felt that since Congress had taken the time to specifically design a public defender system for the District of Columbia that the similar provisions contained in S. 1461 would merely be an overlap and duplication of effort and an unnecessary expense.

In 1967, the President's Commission on Law Enforcement and Administration of Justice recommended the creation of State financed defender systems as well as compensated assigned counsel programs. The American Bar Association project on minimum standard of criminal justice in its 1967 publications, "Providing Defense Services," suggested that defender offices be made available on a local option basis. This legislation has also been endorsed by the Department of Justice, the Judicial Conference of the United States, the national defender project, and the National Legal Aid and Defender Association.

I am convinced that the defender organizations established in this bill provide the maximum flexibility for a sound criminal defense program with a minimum of interference with the local bar. Private defense attorneys remain vital and will continue to be used.

It is my hope, Mr. Speaker that this body approve what is, in my opinion, the final step in an effort which began in 1937 to provide meaningful defense assistance to the poor in Federal criminal cases.

Mr. Speaker, I urge the prompt approval of the legislation.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. McCULLOCH. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. GROSS) to ask a question of the gentleman from Virginia.

Mr. GROSS. Mr. Speaker, I find language on page 3 of the bill that is unclear to me, in line 3 on page 3, it says:

> The district court may modify the plan at any time with the approval of the judicial council of the circuit.

Again there is set up in this bill a formula, and then it is provided that at any time the district court may modify the plan.

What are we asked to do here again in connection with this subject? I wonder if someone knowledgeable on the bill can tell me what we are doing in establishing criteria and setting up formulas, and then providing that these may be changed, in this case at the instance of a judge, with approval of the judicial council of the circuit without further

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reference to Congress. Are we just giving them carte blanche to do about anything they want to do?

Mr. POFF. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Virginia.

Mr. POFF. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the language to which the gentleman points does empower the district court with the approval of the judicial council to modify the plan that has been fixed for representation of indigent defendants.

In order to understand the thrust and the consequences of that language it must be fully understood that this legislation authorizes a mix of three possible defender systems. If it becomes apparent after some experience with the use of the plan originally approved that some variation of that plan would better serve the cause of justice; would be more economical in its operation or for other reasons should be modified, it can be changed by the district court with the approval of the judicial council.

Mr. McCULLOCH. Mr. Speaker, I rise in support of S. 1461 as amended. This bill will improve the quality of criminal justice in the United States. This bill, which passed the Senate by unanimous consent on May 1, 1970, is, for the most part, similar to the bill in which I joined nine other members of the Judiciary Committee in introducing in April of last year.

This bill amends the Criminal Justice Act of 1964. That act, which I supported, is one of the most important pieces of legislation to come out of the Congress in recent years. The Criminal Justice Act of 1964 recognized three fundamental principles of criminal justice:

That a person accused of a crime who was financially unable to secure representation could acquire the assistance of an attorney;

That the interest of justice and adequate representation requires that appointed counsel be compensated for their services;

That in order to assure an adequate defense, eligible defendants should also be provided with necessary services other than counsel.

In my opinion, this act has done as much for our system of criminal justice as any law passed in the last quarter of a century. "Equal justice under law" is becoming a reality rather than a hope. It was Judge Learned Hand who said:

> If we are to keep our democracy, there must be one commandant: Thou shalt not ration justice.

This law was enacted to provide adequate representation for the poor. However, it is our adversary system of justice, rather than benevolence or gratuity to the poor that requires professional spokesmen for both sides. The Commission on the Causes and Prevention of Violence on which I had the privilege of serving recommended that "Federal and State governments take additional steps to encourage lawyers to devote professional services to meeting the legal needs of the poor."

The Commission also recommended that the Federal Government and the State provide adequate compensations for lawyers who act in behalf of the poor. I believe both of these recommendations are set forth in this legislation. I am of the opinion that this bill will encourage lawyers to actively assist impoverished defendants and encourage State governments to establish legal services for the indigent.

When the 88th Congress passed the Criminal Justice Act we chose not to include therein a provision for a public defender system, but rather we thought it wise to devote more time and study to the idea. Now, better than 4 years have passed and Prof. Dallin Oaks' study has been completed. S. 1461 embodies the recommendations of this study.

The Criminal Justice Act has been in effect for 5 years, and the experience gained has demonstrated its success as well as the need for its expansion and improvement. During the last 5 years great strides have been made in procuring satisfactory and meaningful representation for the poor. I am of the opinion that enactment of this bill will culminate a great effort which began in 1937 when the Judicial Conference of the United States recommended public defense assistance for indigent defendants in busy Federal districts.

The road leading to Federal financial assistance for poor defendants has been a long and difficult one and it gives me great satisfaction to be part of this landmark legislation. I urge all of my colleagues to vote favorably for its enactments.

Mr. RARICK. Mr. Speaker, the bill S. 1461, now before us for consideration presents an effrontery to justice. While advocated on the premise of making available equal justice to those defendants who are poor, it is a mockery to every law-abiding taxpaying citizen in our country. The people who are robbed, raped, assaulted, intimidated, and mugged are now being asked, not just to guarantee their assailant a defense by a legally trained attorney, but to pay a profitable wage to their wrongdoer's defense counsel.

Under the existing law, provision was made for competent defense counsel to receive remuneration. I do not feel it was ever intended that defense counsel for indigent offenders was to be paid by the taxpayers such a handsome fee that the enterprise would become a profitable venture.

The committee report indicates that under existing law indigent defense has been costing the American taxpayer $3 million per year.

Under the proposed amendments, we are now being asked to approve of a fee hike which will cost the taxpayers an estimated $14 million a year.

The fee scale in S. 1641 fixes a ceiling of $30 per hour for time in court and $20 per hour for pretrial investigation and other matters outside the courtroom. This, plus expenses "reasonably incurred" including the allowance for investigators, experts and other services.

In all due fairness, I dare suggest that what we are here being asked to establish is not merely a public defender fee system but rather a new national legal task force which will be ready on call to traipse around the counrty and make headlines defending so-called unpopular causes—like the Black Panthers—at the taxpayers' expense. Why else would attorneys contemplated payment under this bill need not even be members of the bar association of the State in which they will be practicing.

I know of very few lawyers from my State who plan on practicing in New York City, Chicago, and Los Angeles, but from past experience I am satisfied that the contrary is not equally true.

Likewise, the poor people in my State do not plan on being in New York, Chicago, or Los Angeles causing trouble because they are too busy at home working and trying to support their families and pay taxes to get involved in the "new" criminal mischief occupation in the first place.

I grow increasingly weary of constantly having all of the breakdowns in law and order blamed on the working people and the law-abiding citizens of our land and then to offer as the only solution more tax dollars to be squandered in order to pamper the criminal. The reason we have so many repeating criminals and the tremendous backlog of criminal cases awaiting trial cannot be blamed on society and our citizens, most of whom have never even been in a criminal court. I too have many lawyers in my district who dislike handling indigent defendants but who do so in the name of charity and because of their oath as attorneys.

We seem ready to bend over backward to blame everything on the people. Why should not our Federal judges accept their fair share for the mess we find our courts in today? I think the ends of justice in carrying this extra financial burden would be more equitably handled if instead of paying the public defenders solely from taxpayers' funds we assessed a portion of it against Federal judges appropriations. If the softhearted Federal judges had to pay for their fair share of the mistakes in rehabilitation they have made, I feel confident that society would have fewer cirminal repeaters and the law-abiding citizens would be better represented from the bench.

For these reasons, I see no benefit to be gained from this proposal for any criminal defendant except additional payola for his lawyer.

I intend to cast my people's vote "no."

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time.

The SPEAKER (Mr. SISK). The question is on the motion offered by the gentleman from Wisconsin that the House suspend the rules and pass the bill S. 1461, as amended.

The question was taken.

Mrs. GREEN of Oregon. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the

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point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 277, nays 21, not voting 131, as follows:

[Roll No. 327]

YEAS—277

Abernethy
Adair
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Arends
Ashley
Barrett
Beall, Md.
Belcher
Bell, Calif.
Bennett
Bevill
Biester
Bingham
Blatnik
Boland
Bolling
Bow
Brademas
Brasco
Bray
Brinkley
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burton, Calif.
Byrnes, Wis.
Caffery
Camp
Carter
Cederberg
Celler
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohelan
Collier
Collins
Conable
Corman
Coughlin
Culver
Cunningham
Daniels, N.J.
Davis, Wis.
Delaney
Dellenback
Dent
Devine
Dingell
Donohue
Downing
Duncan
Dwyer
Eckhardt
Edmondson
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Ford, Gerald R.
Ford, William D.
Fraser
Frelinghuysen
Fulton, Pa.
Fuqua
Gallagher
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Gilbert
Gonzalez
Gray
Green, Pa.
Griffin
Grover
Gude
Hamilton
Hammerschmidt
Hanley
Hansen, Wash.
Harrington
Harsha
Harvey
Hathaway
Hawkins
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hungate
Hunt
Hutchinson
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keith
Kleppe
Kluczynski
Koch
Kyl
Kyros
Langen
Latta
Lennon
Lloyd
Long, Md.
McCulloch
McDade
McDonald, Mich.
McEwen
Macdonald, Mass.
Madden
Mahon
Mailliard
Mann
Marsh
Martin
Mathias
Matsunaga
May
Meeds
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Minish
Mize
Mizell
Monagan
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nelsen
Nichols
Nix
Obey
O'Hara
Olsen
O'Neill, Mass.
Patman
Patten
Pelly
Perkins
Philbin
Pickle
Pike
Poage
Podell
Poff
Preyer, N.C.
Price, Ill.
Price, Tex.
Pryor, Ark.
Quie
Quillen
Railsback
Randall
Rees
Reid, Ill.
Reifel
Riegle
Rivers
Robison
Rodino
Rogers, Colo.
Rogers, Fla.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Ruppe
Ryan
St Germain
Sandman
Saylor
Schadeberg
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shriver
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Springer
Stafford
Staggers
Stanton
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stubblefield
Sullivan
Talcott
Taylor
Thompson, Ga.
Thomson, Wis.
Tiernan
Udall
Vander Jagt
Vanik
Vigorito
Wampler
Watts
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wyatt
Wylie
Wyman
Yatron
Zablocki
Zion
Zwach

NAYS—21

Abbitt
Ashbrook
Chappell
Daniel, Va.
Davis, Ga.
Dickinson
Dorn
Flynt
Fountain
Green, Oreg.
Gross
Hagan
Montgomery
Passman
Rarick
Roberts
Scherle
Schmitz
Sikes
Ullman
Waggonner

NOT VOTING—131

Albert
Anderson, Tenn.
Aspinall
Ayres
Baring
Berry
Betts
Biaggi
Blackburn
Blanton
Boggs
Brock
Brooks
Brown, Ohio
Burleson, Tex.
Burlison, Mo.
Burton, Utah
Bush
Button
Byrne, Pa.
Cabell
Carey
Casey
Chamberlain
Chisholm
Colmer
Conte
Conyers
Corbett
Cowger
Cramer
Crane
Daddario
Dawson
de la Garza
Denney
Dennis
Derwinski
Diggs
Dowdy
Dulski
Edwards, Ala.
Edwards, La.
Fallon
Farbstein
Feighan
Fisher
Foreman
Frey
Friedel
Fulton, Tenn.
Galifianakis
Goldwater
Goodling
Griffiths
Gubser
Haley
Hall
Halpern
Hanna
Hansen, Idaho
Hastings
Hays
Hébert
Henderson
Ichord
Jones, N.C.
Kee
King
Kuykendall
Landgrebe
Landrum
Leggett
Long, La.
Lowenstein
Lujan
Lukens
McCarthy
McClory
McCloskey
McClure
McFall
McKneally
McMillan
MacGregor
Mayne
Melcher
Meskill
Mink
Minshall
Mollohan
Morse
Morton
Nedzi
O'Konski
O'Neal, Ga.
Ottinger
Pepper
Pettis
Pirnie
Pollock
Powell
Pucinski
Purcell
Reid, N.Y.
Reuss
Rhodes
Roe
Roudebush
Ruth
Satterfield
Scheuer
Snyder
Stratton
Stuckey
Symington
Taft
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Tunney
Van Deerlin
Waldie
Watson
Weicker
Whalley
Wold
Wright
Wydler
Yates
Young

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Minshall.
Mr. Hébert with Mr. Wydler.
Mr. Hays with Mr. Ayres.
Mr. Byrne of Pennsylvania with Mr. Corbett.
Mr. Boggs with Mr. Morse.
Mr. Leggett with Mr. Gubser.
Mr. Biaggi with Mr. Pirnie.
Mr. Henderson with Mr. Burton of Utah.
Mr. Albert with Mr. Rhodes.
Mr. Long of Louisiana with Mr. Chamberlain.
Mr. Daddario with Mr. Meskill.
Mr. Edwards of Louisiana with Mr. MacGregor.
Mr. Fisher with Mr. Betts.
Mr. Teague of Texas with Mr. Hastings.
Mr. Young with Mr. Bush.
Mr. Burleson of Texas with Mr. McKneally.
Mr. Brooks with Mr. Morton.
Mr. Blanton with Mr. Brock.
Mr. Fulton of Tennessee with Mr. McCloskey.
Mr. Hanna with Mr. Teague of California.
Mr. Satterfield with Mr. Brown of Ohio.
Mr. Purcell with Mr. Roudebush.
Mr. O'Neal of Georgia with Mr. Blackburn.
Mr. Nedzi with Mr. Halpern.
Mr. McFall with Mr. Goldwater.
Mr. Cabell with Mr. Landgrebe.
Mr. Carey with Mr. King.
Mr. Melcher with Mr. Whalley.
Mr. Casey with Mr. Berry.
Mr. Burlison of Missouri with Mr. Hall.
Mr. Aspinall with Mr. Watson.
Mr. Jones of North Carolina with Mr. Snyder.
Mr. Mollohan with Mr. Lukens.
Mr. Pucinski with Mr. Taft.
Mrs. Griffiths with Mr. Pettis.
Mr. Stuckey with Mr. Derwinski.
Mr. Colmer with Mr. Ruth.
Mr. Pepper with Mr. Cowger.
Mr. Reuss with Mr. Denney.
Mr. Stratton with Mr. Button.
Mr. Waldie with Mr. Weicker.
Mr. Ichord with Mr. Cramer.
Mr. Anderson of Tennessee with Mr. Kuykendall.
Mr. Wright with Mr. Mayne.
Mr. Van Deerlin with Mr. Pollock.
Mr. Yates with Mr. Reid of New York.
Mr. Baring with Mr. Crane.
Mr. de la Garza with Mr. Wold.
Mr. Dowdy with Mr. Lukens.
Mr. Dulski with Mr. Conte.
Mr. Farbstein with Mr. Conyers.
Mr. Ottinger with Mr. Diggs.
Mr. Lowenstein with Mrs. Chisholm.
Mr. Landrum with Mr. Dennis.
Mr. Tunney with Mr. O'Konski.
Mr. Kee with Mr. Hansen of Idaho.
Mr. Feighan with Mr. Frey.
Mr. Galifianakis with Mr. McClory.
Mr. Haley with Mr. McClure.
Mr. Roe with Mr. Powell.
Mr. Fallon with Mr. Edwards of Alabama.
Mr. Friedel with Mr. Goodling.
Mr. McMillan with Mr. Foreman.
Mr. Symington with Mr. Scheuer.
Mr. McCarthy with Mrs. Mink.

Mr. **PATMAN** changed his vote from "nay" to "yea."

Messrs. **DAVIS** of Georgia, **HAGAN**, **ROBERTS**, **DANIEL** of Virginia, and **ABBITT** changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. **KASTENMEIER**. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to extend their remarks on the bill S. 1461, just passed by the House.

The **SPEAKER** (Mr. SISK). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

BANKRUPTCY ACT AMENDMENTS

Mr. **ROGERS** of Colorado. Mr. Speaker, I move to suspend the rules and pass the bill (S. 4247) to amend the Bankruptcy Act, sections 2, 14, 15, 17, 38, and 58, to permit the discharge of debts in a subsequent proceeding after denial of discharge for specified reasons in an earlier proceeding, to authorize courts of bankruptcy to determine the dischargeability or nondischargeability of provable debts, and to provide additional grounds for the revocation of discharges.

The Clerk read as follows:

S. 4247

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That clause (12) of subdivision a, section 2, of the Bankruptcy Act (11 U.S.C. 11(a)(12)) is amended to read as follows:

"(12) Discharge or refuse to discharge bankrupts, set aside discharges, determine the dischargeability of debts, and render judgments thereon;".

Sec. 2. Subdivision b of section 14 of the Bankruptcy Act (11 U.S.C. 32(b)) is amended to read as follows:

"b. (1) The court shall make an order fixing a time for the filing of objections to the bankrupt's discharge and a time for the filing of applications pursuant to paragraph (2) of subdivision c of section 17 of this Act to determine the dischargeability of debts, which time or times shall be not less than thirty days nor more than ninety days after the first date set for the first meeting of creditors. Notice of such order shall be given to all parties in interest as provided in section 58b of this Act. The Court may, upon its own motion or, for cause shown, upon motion of any party in interest, extend the time or times for filing such objections or applications.

"(2) Upon the expiration of the time fixed in the order for filing objections or of any extension of such time granted by the court, the court shall discharge the bankrupt if no objection has been filed and if the filing fees required to be paid by this Act have been paid in full; otherwise, the court shall hear such proofs and pleas as may be made in opposition to the discharge, by the trustee, creditors, the United States attorney, or such other attorney as the Attorney General may designate, at such time as will give the bankrupt and the objecting parties a reasonable opportunity to be fully heard."

Sec. 3. Section 14 of the Bankruptcy Act (11 U.S.C. 32) is amended by adding at the end thereof the following new subdivisions:

"f. An order of discharge shall—

"(1) declare that any judgment theretofore or thereafter obtained in any other court is null and void as a determination of the personal liability of the bankrupt with respect to any of the following: (a) debts not excepted from the discharge under subdivision a of section 17 of this Act; (b) debts discharged under paragraph (2) of subdivision c of section 17 of this Act; and (c) debts determined to be discharged under paragraph (3) of subdivision c of section 17 of this Act; and

"(2) enjoin all creditors whose debts are discharged from thereafter instituting or continuing any action or employing any process to collect such debts as personal liabilities of the bankrupt.

"g. An order of discharge which has become final may be registered in any other district by filing therein a certified copy of such order and when so registered shall have the same effect as an order of the bankruptcy court of the district where registered and may be enforced in like manner.

"h. Within forty-five days after the order of discharge becomes final the court shall give notice of the entry thereof to all parties in interest as specified in subdivision b of section 58 of this Act. Such notice shall also specify the debts, if any, theretofore determined by the court to be nondischargeable, the debts, if any, as to which applications to determine dischargeability are pending, and those contents of the order of discharge required by subdivision f of this section."

Sec. 4. Section 15 of the Bankruptcy Act (11 U.S.C. 33) is amended to read as follows:

"Sec. 15. Discharges, When Revoked.—The court may revoke a discharge upon the application of a creditor, the trustee, the United States attorney, or any other party in interest, who has not been guilty of laches, filed at any time within one year after a discharge has been granted, if it shall appear (1) that the discharge was obtained through the fraud of the bankrupt, that the knowledge of the fraud has come to the applicant since the discharge was granted, and that the facts did not warrant the discharge; or (2) that the bankrupt, before or after discharge, received or became entitled to receive property of any kind which is or which became a part of the bankrupt estate and that he knowingly and fraudulently failed to report or to deliver such property to the trustee; or (3) that the bankrupt during the pendency of the proceeding refused to obey any lawful order of, or to answer any material question approved by, the court. The application to revoke for such refusal may be filed at any time during the pendency of the proceeding or within one year after the discharge was granted, whichever period is longer."

Sec. 5. Clauses (2), (5), and (6) of subdivision a of section 17 of the Bankruptcy Act (11 U.S.C. 35(a) (2), (5), (6)) are amended to read as follows:

"(2) are liabilities for obtaining money or property by false pretenses or false representations, or for obtaining money or property on credit or obtaining an extension or renewal of credit in reliance upon a materially false statement in writing respecting his financial condition made or published or caused to be made or published in any manner whatsoever with intent to deceive, or for willful and malicious conversion of the property of another;"

"(5) are for wages and commissions to the extent they are entitled to priority under subdivision a of section 64 of this Act;"

"(6) are due for moneys of an employee received or retained by his employer to secure the faithful performance by such employee of the terms of a contract of employment;".

Sec. 6. Subsection a of section 17 of the Bankruptcy Act (11 U.S.C. 35(a)) is amended by adding at the end thereof the following new clauses:

"(7) are for alimony due or to become due, or for maintenance or support of wife or child, or for seduction of an unmarried female or for breach of promise of marriage accompanied by seduction, or for criminal conversation; or

"(8) are liabilities for willful and malicious injuries to the person or property of another other than conversion as expected under clause (2) of this subdivision."

Sec. 7. Section 17 of the Bankruptcy Act (11 U.S.C. 35) is amended by adding at the end thereof the following new subdivisions:

"b. The failure of a bankrupt or debtor to obtain a discharge in a prior proceeding under this Act for any of the following reasons shall not bar the release by discharge in a subsequent proceeding under the Act of debts that were dischargeable under subdivision a of this section in the prior proceeding: (1) discharge was denied in the prior proceeding solely under clause (5) or clause (8) of subdivision c of section 14 of this Act; the prior proceeding was dismissed without prejudice for failure to pay filing fees or to secure costs. If a bankrupt or debtor fails to obtain a discharge in a proceeding under this Act by reason of a waiver filed pursuant to section 14a of this Act or by reason of a denial on any ground under section 14c of this Act other than clause (5) or clause (8) thereof, the debts provable in such proceding shall not be released by a discharge granted in any subsequent proceeding under this Act. A debt not released by a discharge in a proceding under this Act by reason of clause (3) of subdivision a of this section 17 may nevertheless be dischargeable in a subsequent bankruptcy proceeding.

"(c). (1) The bankrupt or any creditor may file an application with the court for the determination of the dischargeability of any debt.

"(2) A creditor who contends that his debt is not discharged under clause (2), (4), or (8) of subdivision a of this section must file an application for a determination of dischargeability within the time fixed by the court pursuant to pargaraph (1) of subdivision b of section 14 of this Act and, unless an application is timely filed, the debt shall be discharged. Notwithstanding the preceding sentence, no application need be filed for a debt excepted by clause (8) if a right to trial by jury exists and any party to a pending action on such debt has timely demanded a trial by jury or if either the bankrupt or a creditor submits a signed statement of an intention to do so.

"(3) After hearing upon notice, the court shall determine the dischargeability of any debt for which an application for such determination has been filed, shall make such orders as are necessary to protect or effectuate a determination that any debt is dischargeable and, if any debt is determined to be nondischargeable, shall determine the remaining issues, render judgment, and make all orders necessary for the enforcement thereof. A creditor who files such application does not submit himself to the jurisdiction of the court for any purposes other than those specified in the subdivision c.

"(4) The provisions of this subdivision c shall apply whether or not an action on a debt is then pending in another court and any part may be enjoined from instituting or continuing such action prior to or during the pendency of a proceeding to determine its dischargeability under this subdivision c.

"(5) Nothing in this subdivision c shall be deemed to affect the right of any party, upon timely demand, to a trial by jury where such right exists.

"(6) If a bankruptcy case is reopened for the purpose of obtaining the orders and judgments authorized by this subdivision c, no additional filing fee shall be required."

Sec. 8. Clause (4) of section 38 of the Bankruptcy Act (11 U.S.C. 66), is amended by adding at the end thereof the following: ", determine the dischargeability of debts, and render judgments thereon".

Sec. 9. Subdivision b of section 58 of the Bankruptcy Act (11 U.S.C. 94(b)) is amended to read as follows:

"b. The court shall give at least thirty days' notice by mail of the last day fixed by its order for the filing of objections to a bankrupt's discharge and for the filing of applications pursuant to paragraph (2) of subdivision c of section 17 of this Act to determine the dischargeability of debts (1) to the creditors in the manner prescribed in subdivision a of this section; (2) to the trustee, if any, and his attorney, if any, at their respective addresses as filed by them with the court; and (3) to the United States attorney of the judicial district wherein the proceeding is pending. The court shall also give at least thirty days' notice by mail of the time and place of a hearing upon objections to a bankrupt's discharge (1) to the bankrupt, at his last known address as appears in his petition, schedules, list of creditors, or statement of affairs, or, if no address so appears, to his last known address as furnished by the trustee or other party after inquiry; (2) to the bankrupt's attorney, if any, at his address as filed by him with the court; and (3) to the objecting parties and their attorneys, at their respective addresses as filed by them with the court."

Sec. 10. The provisions of this amendatory Act shall take effect on and after sixty days from the date of its approval and shall govern proceedings in all cases filed after such date.

The SPEAKER. Is a second demanded?

Mr. WIGGINS. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

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Mr. ROGERS of Colorado. Mr. Speaker, the purpose of the proposed legislation is to effectuate more fully the discharge in bankruptcy by rendering it less subject to abuse by harassing creditors. Under present law creditors are permitted to bring suit in State courts after a discharge in bankruptcy has been granted and many do so in the hope the debtor will not appear in that action, relying to his detriment upon the discharge. Often the debtor in fact does not appear because of such misplaced reliance, or an inability to retain an attorney due to lack of funds, or because he was not properly served. As a result, a default judgment is taken against him and his wages or property may again be subjected to garnishment or levy. All this results because the discharge is an affirmative defense which, if not pleased, is waived.

The proposed legislation is meant to correct this abuse. Under it, the matter of dischargeability of the type of debts commonly giving rise to the problem, that is, those allegedly incurred as a result of loans based upon false financial statements, will be within the exclusive jurisdiction of the bankruptcy court. The creditor asserting nondischargeability will have to file a timely application in the absence of which the debt will be deemed discharged. The bill provides that at the same time notice is given to creditors of the date by which objections to discharge must be filed, creditors are also notified of the date by which applications to determine nondischargeability of their debts must be filed. When timely filed, the matter will be heard in the bankruptcy court and final disposition made of it.

The actual focus of the bill is to give greater effect to the discharge for those who need it most, that is, the ordinary wage earner. It is as to this type of bankrupt that the present abuse of the bankruptcy discharge occurs.

Section 4 of the bill also accords greater protection to creditors by expanding the causes in section 15 of the Bankruptcy Act for which a discharge, once granted, can be revoked. Additionally, section 17b of the act will be amended to clarify existing case law regarding the status of debts during two or more bankruptcy proceedings of the same bankrupt, the earlier of which did not result in the bankrupt's obtaining a discharge.

This bill was unanimously approved by our committee. It has the support of the Judicial Conference, the National Bankruptcy Conference, the National Conference of Referees, and a number of other groups. An identical bill has passed the Senate unanimously. I urge that we give this bill favorable consideration today.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, I rise in support of the bill, S. 4247.

This bill is identical to the bill introduced by all of the members of the bankruptcy subcommittee on the House side in August of this year.

The bill has the unanimous and bipartisan support of the bankruptcy subcommittee and it has the unanimous support of the House Committee on the Judiciary. The bill also is supported by the National Barkruptcy Conferee Conference and the National Conference of Referees in Bankruptcy.

Mr. Speaker, this is probably the most important piece of bankruptcy legislation which has been considered by the House in at least 5 years. This legislation, which has been 15 years in the making, would make the process of a discharge in bankruptcy a far more equitable proceeding than it is today.

S. 4247 would close some of the loopholes in current law by which creditors can unfairly harass a bankrupt, especially the "little guy" who is the subject of the typical "consumer" or nonbusiness bankruptcy. The bill also contains a number of provisions which will better protect the rights of the bankrupt's creditors as well as those of the bankrupt himself.

The present discharge provisions of the Bankruptcy Act authorize the bankruptcy court to determine the right to a discharge, but do not give the bankruptcy court jurisdiction to determine which debts were in fact discharged. Under S. 4247, the bankruptcy court would be vested with authority to determine not only the bankrupt's right to a discharge but also the effect of a discharge when granted.

Under present practice, debtors are frequently coerced by unscrupulous creditors into paying debts that have been discharged. Typically, the creditor will wait until the bankruptcy proceeding has been closed and then sue in State court on the discharged debt. Such creditors usually do not mention the discharge in bankruptcy in their complaint. If it is raised as an affirmative defense by the debtor, the creditor will often allege the applicability of section 17a(2), which provides that a discharge shall not release the debtor from liability for obtaining money or property by false pretense or obtaining credit by a materially false statement in writing respecting his financial condition.

When suit on a discharged debt is filed in a State court, the bankrupt must file an answer, pleading his discharge as an affirmative defense; otherwise judgment will go to the creditor by default. Many bankrupts do not realize the consequences of ignoring the State court proceeding. Others who do have great difficulty obtaining counsel because, having just gone through bankruptcy, they have no resources with which to pay an attorney's fee. This situation has been very embarrassing to members of the bar who, having represented the bankrupt in the bankruptcy proceedings, cannot continue to represent him in a series of State court proceedings without prospect of a reasonable fee. In yet other cases the service of process on the bankrupt is inadequate and he is never in fact notified of the State court suit against him, and thus he defaults.

In all of these instances the concept of a discharge in bankruptcy by which the Bankruptcy Act attempts to assure the honest but unfortunate person a fresh start and rehabilitation is defeated. This problem has become more acute year by year as the number of consumer-type bankruptcy cases has increased. For several years approximately 92 percent of all bankruptcy cases filed have been personal or nonbusiness cases.

One ground for opposition to some of the "dischargeability" bills introduced in earlier years is resolved in S. 4247. It was said that compelling either the bankrupt or the creditor to submit to the procedure contemplated in the bankruptcy court might constitute unjust deprivation of the right to trial by jury. Section 7 of the bill adds a new section 17c(5) to the Bankruptcy Act which specifically protects the right to trial by jury upon timely demand where such right presently exists.

An interesting innovation in S. 4247 is contained in section 3, which enacts a new section 14g of the Bankruptcy Act. Section 14g is an adaptation of 28 U.S.C. 1963, which permits the registration in other districts of Federal court judgments obtained for the recovery of money or property. When a bankrupt has moved out of the district where he obtained his discharge and is sued on a discharged debt in the State to which he moved, he should be able to enforce the discharge through the district court where he is currently residing. Section 14g permits the bankrupt access to his local U.S. district court by registering therein a certified copy of the order granting discharge.

I ask unanimous consent, Mr. Speaker, to insert in the RECORD following my remarks an excellent memorandum prepared by Prof. Lawrence King for the National Bankruptcy Conference which explains and analyzes the provisions of S. 4247.

Mr. Speaker, S. 4247 will substantially improve the quality and fairness of our bankruptcy law and I urge its adoption.

The memorandum follows:

MEMORANDUM

Explanatory memorandum to accompany S. 4247.

This bill proposes to amend sections 2a, 14, 15, 17, 38 and 58 of the Bankruptcy Act, adding to classes of dischargeable debts, extending the bankruptcy courts' jurisdiction to determine dischargeability of individual debts and effecting some change in the revocation of discharges.

The proposed addition of section 17b deals with debts in existence during two or more bankruptcy proceedings of the same bankrupt, the earlier of which did not result in the bankrupt's obtaining a discharge. Section 14 of the Bankruptcy Act sets forth the statutory and only grounds upon which a discharge may be denied. With the exception of the grounds specified in clauses (5) and (8), all such grounds have their foundation in some form and degree of dishonesty or lack of cooperation on the part of the bankrupt. On the other hand, the grounds listed in clauses (5) and (8) are entirely distinct from such type of activity and, in fact, are such that some conflict of application and interpretation has arisen among the courts. For example, clause (5) prevents a discharge in a proceeding commenced within 6 years after

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the commencement of a proceeding in which a discharge had been granted. Where there have been two such proceedings and the discharge is denied in the second one because of the 6-year limitation, the question has arisen with regard to the statue of debts not discharged in the second proceeding but still in existence in a third proceeding where a discharge may be granted. As stated in "1 Collier on Bankruptcy," (par. 14.53, p. 1423 (14th edition)): "Although the contrary has been held, the better view is that in the third proceeding the bankrupt can be discharged from debts scheduled in the second proceeding." Footnotes 14 and 15 exemplify the split of authority on this point as well as the need for statutory clarification. Accordingly, the proposal in section 17b(1) would adopt the "better view" and render such debts dischargeable in a third proceeding. There is no question but they would have been dischargeable had the second proceeding been commenced more than 6 years after the first one. The effect of the amendment would treat the third proceeding, assuming a discharge therein is otherwise obtainable, as if it were the second proceeding, only commenced beyond the 6-year limitation. It is difficult to see how creditors could be prejudiced by this proposal, considering that their debts would have been discharged had the debtor waited a while longer before filing the second petition.

Clause (8) of section 14c prohibits a discharge where the bankrupt failed to pay the filing fees in full. While there may be a sound basis for considering this failure as a ground barring discharge in one proceeding, for the reasons already expressed it should not bar a discharge of those same debts in a subsequent proceeding in which the filing fees have been paid in full.

Proposed section 17b in clause (2) would enable a bankrupt to obtain a discharge from debts existing in an earlier proceeding which was dismissed without prejudice for failure to pay filing fees or to secure costs. As long as the dismissal of the prior proceeding is without prejudice it should not be considered tantamount to the denial of a discharge having any res adjudicata effect upon debts then existing. There is also authority that dismissal without prejudice does not have the same effect. Certainly if debts can be discharged in a subsequent proceeding when the earlier discharge was denied for failure to pay the filing fees as proposed in new section 17b(1), then the same principle should apply where the earlier proceeding is dismissed without prejudice.

To clarify the position taken by the proposed changes affecting existing debts in a subsequent proceeding, the first unnumbered sentence was inserted after clause (2) in section 17b. This provision assures that failure to obtain a discharge in an earlier proceeding because of a waiver of the right, in writing filed with the court under section 14a, or because of one of the grounds in section 14c other than those in clauses (5) and (8), precludes discharge of then existing debts in a subsequent proceeding.

The second unnumbered sentence, being the last sentence of proposed section 17b relates to debts which were not scheduled in time for proof and allowance and for this reason were not discharged in an earlier proceeding although a discharge had been granted. If, in a subsequent proceeding the debt is duly scheduled and a discharge is granted, this debt will be subject to the discharge. This provision is in line with judicial authority in the instances where the issue has been raised but, as is true with the situations encompassed by the immediately preceding unnumbered sentence it is not presently controlled by specific statutory mandate.

The proposed amendments adding sections 14g and f and 17c and adding to sections 2a, 14b, 38 and 58 would empower the bankruptcy court, which would include the referee, to determine the dischargeability or nondischargeability of particular provable debts, upon application, and after notice and hearing.

The National Bankruptcy Conference has for many years been in favor of a bill such as this. It believes that one of the primary objectives of the Bankruptcy Act, to wit, to give the bankrupt a fresh start in life free from the burden of oppressive indebtedness, can best be achieved by legislation of this kind.

It has been the generally accepted rule that the bankruptcy court determines whether a discharge should be granted and the court in which a claim is sought to be enforced determines the effect of the discharge on that particular claim. In theory, this is an excellent division of labor, but in practice it does not work out well so far as bankrupts are concerned, and in many cases it does not work out well for the creditors.

It should be emphasized that the power to determine dischargeability of a particular claim upon the application of the bankrupt in the exceptional case presently resides in the bankruptcy court by virtue of the decision of the Supreme Court in *Local Loan* v. *Hunt*, 292 U.S. 234 (1934). That power, however, under the guidelines laid down by the Supreme Court in the *Local Loan* case should not be exercised unless exceptional circumstances exist. Consequently, this bill will not effect any startling changes in the law. It will permit the bankruptcy court to do as a matter of course what it would otherwise do only where exceptional circumstances exist.

One of the strongest arguments in support of the bill is that, if the bill is passed, a single court, to wit, the bankruptcy court, will be able to pass upon the question of dischargeability of a particular claim and it will be able to develop an expertise in resolving the problem in particular cases. The State court judges, however capable they may be, do not have enough cases to acquire sufficient experience to enable them to develop this expertise. Moreover, even under the present system in the last analysis, it is the U.S. Supreme Court which has the ultimate word on the construction of section 17 of the Bankruptcy Act. Section 17 makes provision for the debts to be released by a discharge and those which shall be excluded from a discharge. Since this is a Federal statute, the Federal courts necessarily have the final word as to the meaning of any terms contained therein.

It is true that the enactment of this bill will impose additional responsibilities upon the referees. However, these are responsibilities which should be imposed upon them since they are really the people who administer the Bankruptcy Act and by whose action the public makes a judgment as to whether the administration is good or bad.

The overwhelming majority of the cases in which dischargeability of claims is an issue are those on alleged false financial statements issued to finance companies. This bill in added section 17c(2) places in the bankruptcy court the exclusive jurisdiction to determine the issue of dischargeability with respect to those claims, claims for fraud, and claims allegedly arising from willful and malicious conversion of property.

Although it may be unnecessary in view of the little utilization made of it at the present time, the right to trial by jury is preserved in added section 17c(5). Where timely demand for jury trial is made, trial would be had in the U.S. district court under the policy enunciated by the Judicial Conference of the United States even though nothing in the Bankruptcy Act itself prevents a referee from conducting a jury trial.

To prevent the abuses inherent in the present system, the proposed amendment adopts the following procedure:

When the referee fixes a date for the filing of objections to a discharge he will at the same time fix a date for the filing of applications to determine the dischargeability of debts falling within the excepted classes of section 17a (2), (4), and (8). That date must be not less than 30 nor more than 90 days after the first date set for the first meeting of creditors. The fixing of the time is required in section 14b which will also require that notice thereof be sent to all parties in interest as provided in section 58b which section is correspondingly amended for the purpose of conformity. Thus, creditors asserting such claims are told that they must file applications within the time fixed, and added section 17c(2) renders such debt discharged if no application regarding it is so timely filed. Because of the nature of the action, liabilities falling within new section 17a(8), that is, those based upon willful and malicious injury to person and property other than conversion, need not be brought to the bankruptcy court if, in the pending action, a timely demand for trial by jury has been made by either party or a written statement of intention to do so timely is filed with the bankruptcy court by either party. As to all other debts not within the excepted classes of section 17a (2), (4), and (8), the bankruptcy court is given concurrent jurisdiction with the State courts under section 17c(1). Either the bankrupt or the creditor may apply to the bankruptcy court for a determination of dischargeability and these applications are not subject to the time limitations of section 14b.

In the ordinary course of events, the bankruptcy court will first determine whether or not the bankrupt is entitled to a discharge. If discharge is denied, there is no need to hear individual applications if any are filed. Only after the order granting the discharge has become final, will the court have to proceed to hearing, under section 17c(3), any filed applications to determine the dischargeability of those particular debts.

To effectuate the discharge, and render it unnecessary for a bankrupt to raise it as an affirmative defense in a later State court action in the multitude of cases where abuses have become apparent, the order granting the discharge will contain two directives: Any judgment previously or subsequently obtained in another court is null and void as a determination of personal liability with respect to debts not excepted from discharge under section 17a, debts for which applications were not timely filed as required by section 17c(2), and debts determined to be discharged after hearing upon notice pursuant to section 17c(3); creditors whose debts are so discharged shall be enjoined from commencing or continuing actions on such debts as personal liabilities of the bankrupt. These directives apply only to the personal liability of the bankrupt upon discharged debts and, therefore, would not apply in those situations where judgments may be necessary under State law to enforce valid secured claims upon particular collateral and to preserve or enforce certain rights against persons other than the bankrupt arising from guaranteed obligations. This proposed legislation also does not affect in any way a bankrupt's obligation upon a discharged debt which is subsequently revived by a new promise. In the absence of any statutory directive, the case law has permitted enforcement of such new promise made after the commencement of the bankruptcy proceeding. (1 "Collier on Bankruptcy," ¶¶17.33–17.38, pp. 1752–1764 (14th edition).)

After the order of discharge has become final and within 45 days of that date, notice thereof containing the directives of the order must be mailed to parties in interest specified in section 58b. The contents of the order and the requirement of notice are contained in added sections 14f, 14g, and 14h. In addition to the contents of the order, the notice should specify the debts already determined to the nondischargeable and those for which applications for such determinations are still-pending, if any. Thus creditors, in particular, are informed expressly that if their claims are discharged they may not thereafter seek to obtain personal liability upon them in another court and, in fact, are enjoined from doing so. Thus, harassment lawsuits should be eliminated and the bankrupt freed of the necessity to retain legal assistance in another court to assert his discharge and to be unburdened from the effects of judgments which today are not rightfully obtained either through default or "sewer service."

Section 14g is an adaptation of 28 U.S.C. section 1963 which permits the registration in other districts of Federal court judgments obtained for the recovery of money or property. When a bankrupt has moved out of the district where he obtained his discharge in bankruptcy and is sued by a creditor on a discharged debt in the State to which he moved, the bankrupt should be able to enforce the discharge and its injunctive provisions through the district court where he is currently residing. Section 14g is meant to permit the bankrupt access to his local U.S. court by registering therein a certified copy of the order granting the discharge. This provision for registration does not mean to validate a State court judgment obtained in the new State on a discharged debt which is otherwise void under proposed section 14f (1). Rather, it is intended merely to supplement and effectuate, in case of such removal, the enjoining feature of section 14f(2).

The other provisions of added section 17c are protective measures for bankrupts and creditors necessary in light of the new procedures. Under section 17c(3), when the court determines a debt to be nondischargeable, it shall complete the matter entirely by determining any remaining issues, rendering judgment and making the orders necessary for the enforcement of the judgment. But by filing an application to determine the dischargeability of his debt, a creditor does not subject himself to the jurisdiction of the court for any other purpose. Thus, for example, by filing such application, he does not subject himself to the summary jurisdiction of the bankruptcy court for the purposes of avoiding preferences, fraudulent transfers, and the like.

In those instances where it may be necessary to reopen a bankruptcy case for the purposes of utilizing section 17c, paragraph (6) thereof eliminates the necessity of paying an additional filing fee.

By their nature proceedings under the debtor rehabilitation chapters of the Bankruptcy Act are quite different from the liquidation proceeding in straight bankruptcy under chapters I to VII of the act. The proposed amendments are intended to relate solely to straight bankruptcy proceedings and have no application in proceedings under chapters X, XI, XII, and XIII. The same would be true for section 77 proceedings and chapter IX proceedings.

The proposed changes place in clause (2) of section 17a the claim for willful and malicious conversion of property and remove debts arising from willful and malicious injury to person or property other than conversion, alimony, maintenance, or support, seduction, breach of promise of marriage accompanied by seduction, and criminal conversation to new clauses (7) and (8) of section 17a. Clause (5) of section 17 is changed to correlate it with the wage priority in section 64a(2). Nondischargeable wages and wages entitled to priority would be the same in terms of maximum dollar amount and time within which they were earned.

The proposed changes in section 2a(12) and section 38 are merely complementary to the provisions of proposed section 17c both granting jurisdiction to the courts of bankruptcy to determine dischargeability of debts and render judgments thereon. Section 58b contains added language conforming it to new section 14b.

The proposed changes to section 15 of the Bankruptcy Act expand and make more explicit the causes for which discharges, once granted, may be revoked. Some proposed changes are merely stylistic. Revocation, under the proposal, would be proper in addition to the present ground of fraud, where the bankrupt withheld information with regard to, or failed to deliver property to which he became entitled before or after discharge which property rightfully was part of the bankrupt estate, and also where the bankrupt refused to obey a lawful order of the court or answer any material question approved by the court any time during the pendency of the action. For such refusal the time to apply for revocation is the present 1-year period or any time during the pendency of the proceeding, whichever is longer. This change would render it unnecessary for the bankruptcy court to delay determining whether the bankrupt is entitled to a discharge in order to make sure that the bankrupt complies with orders and responds to questions after granting of the discharge. Revocation of discharge rather than delay in granting would be a preferable procedure and is of sufficient strength to prevent abusive tactics by a bankrupt.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman.

Mr. GROSS. Is this legislation made necessary by virtue of the 1,000-percent increase in bankruptcies in this otherwise affluent Nation of ours?

Mr. WIGGINS. I will answer the gentleman by saying that the great increase in bankruptcies has in part occasioned this legislation.

These individual bankruptcies are burdening our State courts where the dischargeability of the individual's debts are tested. This legislation will not cost any money and, indeed, it will save money by relieving the State courts of the burden of trying these cases on an individual basis.

I will say to the gentleman—it is good legislation.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. ROGERS) that the House suspend the rules and pass the bill S. 4247.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PLYMOUTH-PROVINCETOWN CELEBRATION COMMISSION

Mr. ROGERS of Colorado. Mr. Speaker I move to suspend the rules and pass the bill (H.R. 15008), to establish the Plymouth-Provincetown Celebration Commission, as amended.

The Clerk read as follows:

H.R. 15008

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in recognition of the three hundred and fiftieth anniversary, in 1970, of the landing of the Pilgrims at Provincetown and Plymouth, which led to permanent settlements whose influence on our history, culture, law, and commerce extends through the present day, there is hereby established the Plymouth-Provincetown Celebration Commission (hereafter referred to as the "Commission"), for the purpose of developing suitable plans for such anniversary and conducting celebrations at appropriate times throughout the period beginning September 1, 1970, and ending November 30, 1971.

SEC. 2. (a) The Commission shall be composed of thirteen members as follows:

(1) four Members of the Senate, two from each of the two major political parties, to be appointed by the President pro tempore of the Senate;

(2) four Members of the House of Representatives, two from each of the two major political parties, to be appointed by the Speaker of the House of Representatives; and

(3) five members to be appointed by the President.

(b) The President shall, at the time of appointment, designate one of the members appointed by him to serve as Chairman.

(c) The members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(d) Within ninety days after the termination of such celebration, the Commission shall furnish a report of its activities, including an accounting of funds received and expended, to the Congress. Upon submission of such report to the Congress, the Commission shall terminate.

SEC. 3. In order to carry out the purposes of this Act, the Commission is authorized—

(1) to appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(2) to obtain the services of experts and consultants, in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed $100 per diem;

(3) to accept and to utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(4) to solicit and to accept gifts of money or property;

(5) to procure supplies, services, and property, and to make contracts, without regard to the laws and procedures applicable to Federal agencies;

(6) to request the assistance and advice of, and to cooperate with, civic, historic, and patriotic bodies, institutions of learning, and State and local governments;

(7) to request the cooperation and assistance of such Federal departments and agencies as may be appropriate;

(8) to invite the participation of such other nations as may be appropriate, with the assistance and advice of the Department of State; and

(9) to make such expenditures as it may deem advisable from funds appropriated or received as gifts.

SEC. 4. Any property acquired by the Commission remaining upon termination of such celebration is the property of the United States and may be used by the Secretary of the Interior for purposes of the national park system, or may be disposed of as surplus property. The net revenue, after payment of Commission expenses, is the property of the United States and shall be deposited in the Treasury of the United States.

SEC. 5. There is hereby authorized to be appropriated the sum of $100,000 to carry out the purposes of this Act.

The SPEAKER. Is a second demanded?

Mr. WILLIAMS. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. ROGERS of Colorado. Mr. Speaker, the purpose of this legislation is to create a Commission to develop plans for and to conduct the celebration of the 350th anniversary of the landing of the Pilgrims at Provincetown and Plymouth. As we all know, this landing led eventually to a permanent settlement whose influence on our history, culture, law, and commerce extends through the present day.

Under the bill as proposed, the Commission would consist of 15 members including: five Members of the Senate, five Members of the House of Representatives, and 5 public members to be appointed by the President, with one of the members designated by the President to serve as chairman.

The legislation provides for authorization of $100,000 of funds to carry out the Commission's purpose.

Hearings on this bill were held on July 22, 1970.

An identical bill, S. 2916, sponsored by Senator KENNEDY, passed the Senate on June 26, 1970.

After considering this bill, the Judiciary Committee agreed to recommend several amendments. One amendment is a clarifying amendment which makes it clear that the celebration, which begins in 1970, terminates on November 30, 1971. The other amendments relate to the number of congressional members of the Commission. In the bill as introduced, five Senators and five Representatives would be appointed. To assure that the congressional membership would be completely bipartisan, we are recommending that the number of Members from each House be reduced from five to four and that it be made clear that each party is to be equally represented.

Mr. Speaker, I believe that this proposal is meritorious and I urge that the bill be approved.

Mr. WIGGINS. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. KEITH).

Mr. KEITH. Mr. Speaker, the committee has, in my view, acted wisely in recommending establishment of a national commission to mark the 350th anniversary of the Pilgrims' landing in the New World.

It is an anniversary of special significance—not only to Provincetown, where the Pilgrims first landed, and to Plymouth, where they finally settled, but to the whole Nation.

The Pilgrim story has always been an inspiration to Americans, for it is a microcosm of the American Nation's experience. How they came to an unknown land, how they challenged and conquered a hostile wilderness, how they came to realize the need for unity and cooperation and the rule of law, and how they achieved these—this is the story that has inspired generations of Americans.

Such inspiration is sorely needed in the troubled times we face today. In the face of today's apparent adversities, the Pilgrim story reminds us that our ancestors faced far greater challenges, and overcame them. In the face of today's apparent lack of direction, the Pilgrim story serves to remind us of where we have been, and can help guide us in deciding where we are going.

The roots of America—religious freedom, individual liberty, government by consent of the governed, and the free enterprise system—all began, in part, with the Pilgrims. The Mayflower Compact was the first constitution set up by free men in America to govern themselves; Plymouth Plantation marked the place where free enterprise first flourished.

There is much in America's past which we seem to have forgotten and which we ought to remember. If this commission succeeds only in beginning to remind Americans of the heritage the history of their country holds, it will be well worth its cost.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. KEITH. I am delighted to yield to my colleague from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague from Massachusetts.

I wish to commend the gentleman for filing this legislation. As a Member of Congress representing part of the Plymouth area, I support this legislation.

Mr. KEITH. Mr. Speaker, I thank the gentleman from Massachusetts.

Mr. Speaker, I yield back the remainder of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Colorado that the House suspend the rules and pass the bill H.R. 15008, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

A motion to reconsider was laid on the table.

Mr. ROGERS of Colorado. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of a similar Senate bill (S. 2916) and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2916

An act to establish the Plymouth-Provincetown Celebration Commission

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in recognition of the three hundred and fiftieth anniversary, in 1970, of the landing of the Pilgrims at Provincetown and Plymouth, which led to permanent settlements whose influence on our history, culture, law, and commerce extends through the present day, there is hereby established the Plymouth-Provincetown Celebration Commission (hereafter referred to as the "Commission"), for the purpose of developing suitable plans for, and conducting the celebration of, such anniversary in 1970.

SEC. 2. (a) The Commission shall be composed of fifteen members as follows:

(1) five Members of the Senate, to be appointed by the President pro tempore of the Senate:

(2) five Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and

(3) five members to be appointed by the President.

(b) The President shall, at the time of appointment, designate one of the members appointed by him to serve as Chairman.

(c) The members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(d) Within ninety days after the termination of such celebration, the Commission shall furnish a report of its activities, including an accounting of funds received and expended, to the Congress. Upon submission of such report to the Congress, the Commission shall terminate.

SEC. 3. In order to carry out the purposes of this Act, the Commission is authorized—

(1) to appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(2) to obtain the services of experts and consultants, in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed $100 per diem;

(3) to accept and to utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(4) to solicit and to accept gifts of money or property;

(5) to procure supplies; services, and property, and to make contracts, without regard to the laws and procedures applicable to Federal agencies;

(6) to request the assistance and advice of, and to cooperate with, civic, historic and patriotic bodies, institutions of learning, and State and local governments;

(7) to request the cooperation and assistance of such Federal departments and agencies as may be appropriate;

(8) to invite the participation of such other nations as may be appropriate, with the assistance and advice of the Department of State; and

(9) to make such expenditures as it may deem advisable from funds appropriated or received as gifts.

SEC. 4. Any property acquired by the Commission remaining upon termination of such celebration is the property of the United States and may be used by the Secretary of the Interior for purposes of the national park system or may be disposed of as surplus property. The net revenue, after payment of Commission expenses, is the property of the United States and shall be deposited in the Treasury of the United States.

Sec. 5. There is hereby authorized to be appropriated the sum of $100,000 to carry out the purposes of this Act.

AMENDMENT OFFERED BY MR. ROGERS OF COLORADO

Mr. ROGERS of Colorado. Mr. Speaker, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Rogers of Colorado: Strike all after the enacting clause of S. 2916 and insert in lieu thereof the provisions of H.R. 15008, as passed.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 15008) was laid on the table.

ESTABLISHING CIRCUIT COURT EXECUTIVES

Mr. CELLER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 17901) to improve judicial machinery by providing for the appointment of a circuit executive for each judicial circuit, as amended.

The Clerk read as follows:

H.R. 17901

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 332 of title 28, United States Code, is amended (a) by designating each of the existing paragraphs thereof as subsections (a), (b), (c), and (d), respectively; and (b) by inserting new subsections (e) and (f) to read:

"(e) The judicial council of each circuit may appoint a circuit executive from among persons who shall be certified by the Board of Certification. The circuit executive shall exercise such administrative powers and perform such duties as may be delegated to him by the circuit council. The duties delegated to the circuit executive of each circuit may include but need not be limited to:

"(1) Exercising administrative control of all nonjudicial activities of the court of appeals of the circuit in which he is appointed.

(2) Administering the personnel system of the court of appeals of the circuit.

"(3) Administering the budget of the court of appeals of the circuit..

"(4) Maintaining a modern accounting system.

"(5) Establishing and maintaining property control records and undertaking a space management program.

"(6) Conducting studies relating to the business and administration of the courts within the circuit and preparing appropriate recommendations and reports to the chief judge, the circuit council, and the Judicial Conference.

"(7) Collecting, compiling, and analyzing statistical data with a view to the preparation and presentation of reports based on such data as may be directed by the chief judge, the circuit council, and the Administrative Office of the United States Courts.

"(8) Representing the circuit as its liaison to the courts of the various States in which the circuit is located, the marshal's office, State and local bar associations, civic groups, news media, and other private and public groups having a reasonable interest in the administration of the circuit.

"(9) Arranging and attending meetings of the judges of the circuit and of the circuit council, including preparing the agenda and serving as secretary in all such meetings.

"(10) Preparing an annual report to the circuit and to the Administrative Office of the United States Courts for the preceding calendar years, including recommendations for more expeditious disposition of the business of the circuit.

"All duties delegated to the circuit executive shall be subject to the general supervision of the chief judge of the circuit.

"(f) The standards for certification as qualified to be a circuit executive shall be set by a Board of Certification. These standards shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training. The Board of Certification shall consist of five members, three of whom shall be elected by the Judicial Conference of the United States, and at least one of these three shall be selected from among persons experienced in executive recruitment and selection. The additional two members shall be the Director of the Administrative Office of the United States Courts and the Director of the Federal Judicial Center. The members of the Board elected by the Judicial Conference shall each serve for three years except that upon appointment of the first members, one member shall serve for one year, one for two years, and one for three years. The Board shall consider all applicants who apply for certification, shall certify qualified applicants, shall maintain a roster of all persons certified, and shall publish the standards of certification. A person's name shall be removed from the roster after three years unless he is recertified. Three members of the Board shall constitute a quorum for purposes of fixing standards and for certifying applicants, but no action of the Board shall be taken unless three of the members are in agreement. The Director of the Administrative Office of the United States Courts shall provide staff assistance in support of the operation of the Board. Expenses of the Board of Certification shall be borne by the travel and miscellaneous expense funds appropriated to the Federal judiciary. Any member of the Board who is an officer or employee of the United States shall serve without compensation. Other members shall receive the daily equivalent of the rate provided for GS–18 of the General Schedule contained in section 5332 of title 5, United States Code, when actually engaged in service for the Board.

"Each circuit executive shall be paid at a salary to be established by the Judicial Conference of the United States not to exceed the annual rate of level V of the Executive Schedule pay rates (5 U.S.C. 5316).

"The circuit executive shall serve at the pleasure of the judicial council of the circuit.

"The circuit executive may appoint, with the approval of the council, necessary employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

"The circuit executive and his staff shall be deemed to be officers and employees of the judicial branch of the United States Government within the meaning of subchapter III of chapter 83 (relating to civil service retirement), chapter 87 (relating to Federal employees' life insurance program), and chapter 89 (relating to Federal employees' health benefits program) of title 5, United States Code."

The SPEAKER. Is a second demanded?

Mr. POFF. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. CELLER. Mr. Speaker, H.R. 17901, as amended, would authorize the creation of Federal circuit executives for the 11 Federal courts of appeals. The bill would permit, but not require, the judicial council of each of 11 circuits to appoint a circuit executive from among persons certified to be qualified by experience and training by a board of certification.

The circuit executives would be subject to removal by the judicial council at any time. His duties would include, but need not be limited to, administering the personnel system, maintaining property control, and administering the budget of the court of appeals of the circuit. The specific duties of the circuit executive would be determined by the judicial council and would be performed under the general supervision of the chief judge of the circuit.

The dissatisfaction with the operation of our courts is due in large measure to undue delays in the administration of justice. It has brought about a recognition of the urgent need to provide our Federal courts with persons trained and experienced in modern management techniques. The circuit executive could free the chief judge of the court of appeals from the day-to-day chores of managing the court's business and enable him to perform the duties for which he was appointed, that of adjudicating.

Chief Justice Warren Burger has deplored the use of "judge time" to accomplish administrative tasks for others with specific management training could do. Complaints have been offered to the judiciary committee that in the various circuits the chief judge has to devote one-third to one-half of his time in administrative work rather than the judicial work for which he has been appointed. This administrative load is most burdensome.

This bill would provide for the appointment of trained executive officer that would take the burden of administration from the shoulders of the chief judge.

He should have training or experience in administrative management. He should have familiarity with judicial procedure. He would have to be certified as qualified by a Board of Certification.

That Board of Certification would be composed of five members, three of whom would be chosen by the Judicial Conference of the United States, and at least one of these three shall be a person experienced in executive recruitment and selection. The other two members shall be the Director of the Administrative Office of United States Courts and the Director of the Federal Judicial Center.

These members shall serve for a period of 3 years. They shall prepare a roster of qualified men who can act as circuit executives.

A training program for this purpose has been sponsored by the American Bar Association, the American Juridical Society, and the Institute of Judicial Administration.

From this pool of trained personnel many circuit executives may be appointed. They may be appointed; there is no requirement that they shall be appointed.

There are 11 judicial circuits. It is not certain whether or not each of the Judicial Councils of these circuits will determine that a circuit executive should be appointed. One judicial circuit—I believe the first circuit—has indicated it has no present desire to appoint an executive. A number of the other circuits indicate that their administrative load is so heavy it is imperative that the executive be appointed.

The Chief Justice recently stated his opinion that the principal underlying cause of procedural delays was "a lack of up-to-date procedures and standards for administration or management and a lack of trained managers" for the Federal courts.

The cost of establishing the circuit executive including secretarial assistance per circuit is estimated to be not above $45,000 annually.

I anticipate the savings in the administration of the appellate courts should offset these expenditures.

The Department of Justice, the American Bar Association and the Judicial Conference of the United States all endorse the concept of a circuit executive.

The committee believes that creation of this officer in the appellate courts on a nonmandatory basis should contribute substantially to improved efficiency in our Federal appellate system. I urge my colleagues to support this measure. The growth in the judicial business of the courts of appeals is well illustrated by recent figures supplied by the Administrative Office of U.S. Courts.

The 11,662 appeals filed in the 11 courts of appeals continued an unrelenting decade of increase, rising most steeply during the last 3 years. The 1970 figure was 14 percent higher than last year's 10,248 appeals, and almost 200 percent over the 3,889 filed in 1960. In the meantime, appeals court judgeships increased 43 percent, from 68 in 1960 to 97 in 1970.

Terminations—up 19 percent over 1969—have also grown each year but in raw numbers they continue to be outnumbered by the new filings. Nevertheless, as the accompanying table and chart shows, despite the marked upward trend in new appeals, growth of the backlog has been somewhat abated. Last year it was 12 percent higher than a year ago, as opposed to a 19-percent growth for the comparable previous period.

As the table below shows, while this year's overall increase in appeals was up 14 percent, the 11 circuits registered increases from a low of 3 percent in the District of Columbia to a high of 57 percent in the third circuit. The fifth circuit's 2,014 appeals, accounting for 17 percent of all Federal appeals commenced in 1970, was 14 percent above that circuit's filings for last year—exactly in step with the national rate of increase.

APPEALS COMMENCED IN THE U.S. COURTS OF APPEALS, FISCAL YEARS 1960, 1967, 1968, 1969, AND 1970, BY CIRCUIT

Circuit	Fiscal year					Percentage change	
	1960	1967	1968	1969	1970	1970 over 1960	1970 over 1969
All circuits	3,899	7,903	9,116	10,248	11,662	199.1	13.8
District of Columbia	505	798	945	1,094	1,127	123.2	3.0
1st	154	193	213	221	277	79.9	25.3
2d	582	979	1,072	1,263	1,343	130.8	6.3
3d	296	693	658	671	1,053	255.7	56.9
4th	224	803	1,025	1,098	1,166	420.5	6.2
5th	577	1,173	1,378	1,763	2,014	249.0	14.2
6th	306	717	793	868	911	197.7	5.0
7th	329	554	691	712	854	159.6	19.9
8th	237	458	453	440	589	148.5	33.9
9th	455	935	1,182	1,494	1,585	248.4	6.1
10th	234	600	706	624	743	217.5	19.9

APPEALS FILED, TERMINATED, AND PENDING IN THE U.S. COURTS OF APPEALS, FISCAL YEARS 1960 THROUGH 1970

Fiscal years	Number of judgeships as of June 30	Appeals			Increase in appeals pending
		Filed	Terminated	Pending June 30	
1960	68	3,899	3,713	2,220	186
1961	78	4,204	4,049	2,375	155
1962	78	4,832	4,167	3,031	656
1963	78	5,437	5,011	3,457	426
1964	78	6,023	5,700	3,780	323
1965	78	6,766	5,771	4,775	995
1966	88	7,183	6,571	5,387	612
1967	88	7,903	7,527	5,763	376
1968	97	9,116	8,264	6,615	852
1969	97	10,243	9,014	7,849	1,234
1970	97	11,662	10,699	8,812	963
Percent change:					
1970 over 1960	42.6	199.1	188.1	296.9	
1970 over 1969	0	13.8	18.7	12.3	

The fact that appeals filings increased in a single year by 14 percent is consistent with the spectacular 200-percent increase since 1960. The part each of the 11 courts had in this decade of change is graphically shown in the accompanying table. The fourth circuit registered the most substantial increase—421 percent. The third circuit filings rose 256 percent while the fifth circuit recorded an increase of 249 percent, followed closely by the ninth circuit with 248 percent. Other circuits with more than double the number of filings in 1970 when compared to 1960 were the sixth—198 percent, the seventh—160 percent, the eighth—149 percent, the second—131 percent, and the District of Columbia—123 percent.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. CELLER. I am glad to yield to the gentleman from Iowa.

Mr. GROSS. This provides for the creation of still another board in Government, does it not, a certification board?

Mr. CELLER. Not exceeding 45,000.

Mr. GROSS. 45,000 what?

Mr. CELLER. It provides for a Board of Certification. I beg the gentleman's pardon.

Mr. GROSS. What does the 45,000 allude to?

Mr. CELLER. The estimated total cost of executive. The salary would be not to exceed $36,000, and it is anticipated there would be secretarial assistance, so that the cost would not exceed $45,000 a year for each executive. But I repeat, there is no requirement that the executive shall be appointed.

Mr. GROSS. But there is the requirement for 11 executive officers in 11 circuits.

Mr. CELLER. No, there is no requirement. Each judicial council is authorized to determine whether it shall or shall not have this executive.

Mr. GROSS. What is the meaning of this bill, then? If these judges need executive officers? They either need them or they do not need them. What is the purpose of the bill?

Mr. CELLER. Most of the circuits have made requests for this administrative assistance. Only one circuit has indicated it does not need such an executive. However, in this bill there is no requirement that the appointment be made. It is purely permissive. Now, when you consider the vast amount of administrative work required by the chief judge, the need for such a trained person must appeal to you. For example, the chief judge now is compelled to exercise administrative control over all nonjudicial activities of the court of appeals. He must administer the personnel system of that court. He administers the budget of the court of appeals and must maintain the accounting system. He establishes and maintains a property control record and undertakes the space management program. He must conduct studies relating to the business and administration of the courts within the circuit. He must prepare the appropriate recommendations and reports to the circuit council, and the Judicial Conference. He collects, compiles, and analyzes statistical data with a view to the preparation and presentation of reports based on such data. He represents the circuit as its liaison in the courts, just as the executive officer would be able to do. He represents the circuit as its liaison to the courts of various States in which the circuit is located—the marshal's office, the State and local bar associations, civic groups, and so forth. He arranges and attends meetings of the judges of the circuit and of the circuit council, including the preparation of the agenda, and serves as secretary at such meetings. He prepares an annual report to the circuit and to the Administrative Office of the United States Courts for the preceding year, including recommendations for more expeditious disposition of business. All these functions could be performed by the circuit court executive.

Mr. GROSS. Could I just ask the gentleman one simple question?

Mr. CELLER. Certainly. I will be glad to answer.

Mr. GROSS. What do the clerks of the courts do now?

Mr. CELLER. The clerk keeps the records of cases and supervises the care calendars and keeps a record of the assignment of cases. However, that type of work does not necessarily involve the management expertise that this executive would have to have.

Mr. GROSS. If it requires expertise in administration, in accounting, and bookkeeping, why does this individual have to be a lawyer? Why do you not go out and get executive officers who have expertise in administration and bookkeeping?

Mr. CELLER. There is no requirement that he be a lawyer. He has to have experience and training in administrative management and it would, of course, be an advantage if he is a lawyer.

Mr. GROSS. The gentleman from New York just got through saying that the executive officers would be lawyers.

Mr. CELLER. If I did say that, that was in error. I am sorry.

Mr. GROSS. How much more are you going to beef up these courts? Do you suppose an executive officer would take care of the judge who did not show up for 2 years to sit on a bench in the District of Columbia? Do you not think the chief judge here could have put pressure on that judge to discharge the responsibilities for which that individual was paid for 2 years and still did nothing? I am tired of beefing up the personnel of the courts only to find that it seems to make very litle difference.

It seems that every year the number of Federal judges has to be increased and now we have got to have executive officers to hold the hands of the judges.

Mr. CELLER. All I can say to the gentleman from Iowa is that there is nothing sacred in the status quo. There are changes everywhere.

Mr. GROSS. I should say there are.

Mr. CELLER. You never bathe in the same river twice.

Mr. GROSS. Yes, but all this does is to add additional debt on the citizens of America.

Mr. CELLER. You must expect these changes and you must meet these changes and provide for progressive reform. These are reforms which should help in the administration of justice in our courts.

Mr. POFF. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Ohio (Mr. McCulloch).

Mr. McCULLOCH. Mr. Speaker, I am pleased to join the chairman in support of H.R. 17901 which would permit, but not require, the judicial council of each of the 11 Federal judicial circuits to appoint a circuit court executive. This legislation was unanimously reported from the full committee and has the support of the administration, the Judicial Conference of the United States, and the American Bar Association.

The purpose of this legislation is to infuse modern managerial knowledge and experience into our Federal circuit courts. In August of last year, Chief Justice Burger, in an address delivered before the Institute of Judicial Administration in Dallas, said:

> The courts of this country need management which busy and overworked judges, with vastly increased caseloads, cannot give. We need a corps of trained administrators or managers, just as hospitals found they needed them many years ago, to manage and direct the machinery so that judges can concentrate on their primary professional duty of judging.

Management tasks and responsibilities oftentimes lie buried and sometimes unrecognized in the total job of a judge. Judges are chosen because of their judicial ability and not for their skills in management.

In May of this year, the House passed the omnibus district judgeship bill which is now Public Law 91–272. This law establishes 61 new Federal district judgeships which I believe are needed if our Federal courts are to cope with their ever-increasing workload.

However, increased "judgepower" alone will not solve the problems of congestion and delay. Since 1959, we have increased the number of Federal district judgeships by 40 percent and this has resulted in only a 9-percent increase in the number of civil and criminal dispositions.

I wish I could say that I had the solution to all of this—but I cannot. I do believe that the establishment of court executives is a step in the right direction. I do know that the process of litigation has frustrated many people and I submit that the patience of the American people is wearing thin.

Court management and the administration of justice are inseparable. We have all heard or said the truism that "justice delayed is justice denied," but delay and congestion in our Federal courts continues to grow. These conditions help to create disrespect for our laws and our legal institutions which in turn can increase the chances for disruption in our society. We must never forget that our courts are a crucial part of the peacekeeping operations of the Government. An efficient and effective court administration, with a feeling for all people who use or are connected with our courts, as well as a feeling for professional and constitutional values, will do much to better justice in America.

Chief Justice Warren E. Burger in his state of the judiciary address in August of this year stated:

> Efficiency must never be the controlling test of criminal justice but the work of the courts can be efficient without jeopardizing basic safeguards. Indeed, the delays in trials are often one of the gravest threats to individual rights.

I urge prompt enactment of this legislation.

Mr. POFF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as one of the original sponsors of H.R. 17901, I regard this legislation as an important court reform bill.

The bill which would permit, but not require, each judicial circuit to select a court executive from among persons certified by a board of certification. The board of certification would consist of five members, three of whom would be elected by the Judicial Conference of the United States. The additional two members would be the Director of the Administrative Office of the U.S. Courts and the Director of the Federal Judicial Center. The board would have two primary functions, one, to draft standards for certification, and two, to review all applicants who apply for certification and maintain a roster of all persons certified. These standards would take into account experience in administrative and executive positions, familiarity with court procedures, and special training.

I am sure that many Members are concerned as to the availability of qualified personnel to occupy the position of court executive. The American Bar Association has announced plans to establish the first comprehensive training program for the development of a corps of skilled executives for our Federal and State courts. This program contemplates a 2-year pilot course to train 60 court executives in three classes of 20 trainees each. The first class began its training this past June and will be graduated by mid-December 1970. This program will assure the availability of personnel to fill these positions.

The concept of the court executive is supported by the administration, the Judicial Conference of the United States, and the American Bar Association.

Mr. Speaker, I am of the opinion that much of the public dissatisfaction with the operation of our courts is caused by undue delays in the administration of its business. Deputy Attorney General Kleindienst, at hearings on the omnibus judgeship bill ventilated the problem with these words:

> Parties to litigation have become increasingly frustrated over their inability to secure prompt judicial determination of their rights and liabilities. On the criminal side . . . innocent persons must wait many painful months to clear their names; the general public is subjected to the risk of repeated criminal offenses committed by guilty persons free while awaiting adjudication of their cases.

I might add that there are other undesirable effects of delay and backlog: Witnesses give up in frustration after numerous canceled court appearances; jurors despair waiting endless hours only to go home without entering the jury

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box; and plaintiffs settle for less than they are legally entitled to receive because they cannot wait for the court to act.

Chief Justice Warren E. Burger in his "state of the Judiciary" address delivered before the annual meeting of the American Bar Association in St. Louis this past August stated that we are still trying to operate the courts with fundamentally the same basic methods, procedures and machinery that was not good enough in 1906. He stated:

> In the supermarket age we are like a merchant trying to operate a cracker barrel corner grocery store with the method and equipment of 1900.

The Chief Justice went on to point out that we have at least 58 astronauts capable of flying to the moon, but not nearly that many court administrators to assist judges in handling their many administrative tasks. This is so despite the fact that the 11 circuits and 93 Federal district courts processed a total of 115,000 cases in fiscal year 1969, and expended $106,000,000 on a system which employs 7,259 people.

Mr. Speaker, I believe that this legislation would modernize circuit court administrations and contribute greatly to the expedition of the Federal appellate courts' business.

The **SPEAKER**. The question is on the motion of the gentleman from New York that the House suspend the rules and pass the bill, H.R. 17901, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. **CELLER**. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to extend their remarks on the bill just passed, H.R. 17901.

The **SPEAKER**. Is there objection to the request of the gentleman from New York?

There was no objection.

WATER BANK ACT

Mr. **DINGELL**. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 15770) to provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Water Bank Act".

Sec. 2. The Congress finds that it is in the public interest to preserve, restore, and improve the wetlands of the Nation, and thereby to conserve surface waters, to preserve and improve habitat for migratory waterfowl and other wildlife resources, to reduce runoff, soil and wind erosion, and contribute to flood control, to contribute to improved water quality and reduce stream sedimentation, to contribute to improved subsurface moisture, to reduce acres of new land coming into production and to retire lands now in agricultural production, to enhance the natural beauty of the landscape, and to promote comprehensive and total water management planning. The Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") is authorized and directed to formulate and carry out a continuous program to prevent the serious loss of wetlands, and to preserve, restore, and improve such lands, which program shall begin on July 1, 1971.

Sec. 3. In effectuating the water bank program authorized by this Act, the Secretary shall have authority to enter into agreements with landowners and operators in important migratory waterfowl nesting and breeding areas for the conservation of water on specified farm, ranch, or other wetlands identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the lands are located, under such rules and regulations as the Secretary may prescribe. These agreements shall be entered into for a period of ten years, with provision for renewal for additional periods of ten years each. The Secretary shall reexamine the payment rates at the beginning of any such ten-year renewal period in the light of the then current land and crop values and make needed adjustments in rates for any such renewal period. As used in this Act, the term "wetlands" means the inland fresh areas (types 1 through 5) described in Circular 39, Wetlands of the United States, published by the United States Department of the Interior (including artifically developed inland fresh areas which meet the description of inland fresh areas, types 1 through 5, contained in such Circular 39). No agreement shall be entered into under this Act concerning land with respect to which the ownership or control has changed in the two-year period preceding the first year of the agreement period unless the new ownership was acquired by will or succession as a result of the death of the previous owner, or unless the new ownership was acquired prior to July 1, 1971, under other circumstances which the Secretary determines, and specifies by regulation, will give adequate assurance that such land was not acquired for the purpose of placing it in the program, except that this sentence shall not be construed to prohibit the continuation of an agreement by a new owner or operator after an agreement has once been entered into under this Act. A person who has operated the land to be covered by an agreement under this Act for as long as two years preceding the date of the agreement and who controls the land for the agreement period shall not be required to own the land as a condition of eligibility for entering into the agreement. Nothing in this section shall prevent an owner or operator from placing land in the program if the land was acquired by the owner or operator to replace eligible land from which he was displaced because of its acquisition by any Federal, State, or other agency having the right of eminent domain. The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments or compensation under this program. No provision of this Act shall prevent an owner or operator who is participating in the program under this Act from participating in other Federal or State programs designed to conserve or protect wetlands.

Sec. 4. In the agreement between the Secretary and an owner or operator, the owner or operator shall agree—

(1) to place in the program for the period of the agreement eligible wetland areas he designates, which areas may include wetlands covered by a Federal or State government easement which permits agricultural use, together with such adjacent areas as determined desirable by the Secretary;

(2) not to drain, burn, fill, or otherwise destroy the wetland character of such areas, nor to use such areas for agricultural purposes, as determined by the Secretary;

(3) to effectuate the wetland conservation and development plan for his land in accordance with the terms of the agreement, unless any requirement thereof is waived or modified by the Secretary pursuant to section 7 of this Act;

(4) to forfeit all rights to further payments or grants under the agreement and refund to the United States all payments or grants received thereunder upon his violation of the agreement at any stage during the time he has control of the land subject to the agreement if the Secretary determines that such violation is of such a nature as to warrant termination of the agreement, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the agreement;

(5) upon transfer of his right and interest in the lands subject to the agreement during the agreement period, to forfeit all rights to further payments or grants under the agreement and refund to the United States all payments or grants received thereunder during the year of the transfer unless the transferee of any such land agrees with the Secretary to assume all obligations of the agreement;

(6) not to adopt any practice specified by the Secretary in the agreement as a practice which would tend to defeat the purposes of the agreement; and

(7) to such additional provisions as the Secretary determines are desirable and includes in the agreement to effectuate the purposes of the program or to facilitate its administration.

Sec. 5. In return for the agreement of the owner or operator, the Secretary shall (1) make an annual payment to the owner or operator for the period of the agreement at such rate or rates as the Secretary determines to be fair and reasonable in consideration of the obligations undertaken by the owner or operator; and (2) bear such part of the average cost of establishing and maintaining conservation and development practices on the wetlands and adjacent areas for the purposes of this Act as the Secretary determines to be appropriate. In making his determination, the Secretary shall consider, among other things, the rate of compensation necessary to encourage owners or operators of wetlands to participate in the water bank program. The rate or rates of annual payments as determined hereunder shall be increased, by an amount determined by the Secretary to be appropriate, in relation to the benefit to the general public of the use of the wetland areas, together with designated adjacent areas, if the owner or operator agrees to permit, without other compensation, access to such acreage by the general public, during the agreement period, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

Sec. 6. Any agreement may be renewed or extended at the end of the agreement period for an additional period of ten years by mutual agreement of the Secretary and the owner or operator, subject to any rate redetermination by the Secretary. If during the agreement period the owner or operator sells or otherwise divests himself of the ownership or right of occupancy of such land, the new owner or operator may continue such agreement under the same terms or conditions, or enter into a new agreement in accordance with the provisions of this Act, including the provisions for renewal and adjustment of payment rates, or he may choose not to participate in such program.

SEC. 7. The Secretary may terminate any agreement by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of agreements as he may determine to be desirable to carry out the purposes of the program or facilitate its administration.

SEC. 8. In carrying out the program, the Secretary may utilize the services of local, county, and State committees established under section 8 of the Soil Conservation and Domestic Allotment Act, as amended. The Secretary is authorized to utilize the facilities and services of the Commodity Credit Corporation in discharging his functions and responsibilities under this program.

SEC. 9. The Secretary may, without regard to the civil service laws, appoint an Advisory Board to advise and consult on matters relating to his functions under this Act as he deems appropriate. The Board shall consist of persons chosen from members of organizations such as wildlife organizations, land-grant colleges, farm organizations, State game and fish departments, soil and water conservation district associations, water management organizations, and representatives of the general public. Members of such an Advisory Board who are not regular full-time employees of the United States shall be entitled to reimbursement on an actual expense basis for attendance at Advisory Board meetings.

SEC. 10. The Secretary shall consult with the Secretary of the Interior and take appropriate measures to insure that the program carried out pursuant to this Act is in harmony with wetlands programs administered by the Secretary of the Interior. He shall also, insofar as practicable, consult with and utilize the technical and related services of appropriate local, State, Federal, and private conservation agencies to assure coordination of the program with programs of such agencies and a solid technical foundation for the program.

SEC. 11. There are hereby authorized to be appropriated without fiscal year limitation, such sums as may be necessary to carry out the program authorized by this Act. In carrying out the program, the Secretary shall not enter into agreements with owners and operators which would require payments to owners or operators in any calendar year under such agreements in excess of $10,000,000.

SEC. 12. The Secretary shall prescribe such regulations as he determines necessary and desirable to carry out the provisions of this Act.

The SPEAKER. Is a second demanded?

Mr. PELLY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. DINGELL. Mr. Speaker, the purpose of H.R. 15770 is to preserve and improve habitat for migratory waterfowl and other wildlife resources. The bill also has as its purpose to reduce runoff, soil and wind erosion; to improve water quality and subsurface moisture; to reduce stream sedimentation; to promote comprehensive water management planning; and to encourage farmers to refrain from converting wetlands into croplands.

Mr. Speaker, the need for this legislation arises from the fact that valuable waterfowl lands are rapidly disappearing because of the accelerated pace in which marshes and swamps are being dredged, drained, filled, paved, and even polluted in order to meet the demands of civilization. H.R. 15770 would provide the owners and operators of these lands with an economic alternative to such uses.

Mr. Speaker, as many of my colleagues will recall, in 1961, the Congress enacted what is known as the Accelerated Wetlands Acquisition Act. That act had as its objective the acquisition of 2.5 million acres of waterfowl habitat. The act authorized to be appropriated $105 million over a 7-year period for the purpose of acquiring these vitally needed wetlands.

Because of considerable delay in getting the program started, local opposition in some key States, rising costs of land, and insufficient funding, the program never has proceeded at the rate anticipated. In 1967, the Congress extended the act for an additional 8 years and at the same level of funding. Unfortunately, only about half of the funds authorized to be appropriated have actually been appropriated. As I am sure my colleagues are aware, all of the funds appropriated pursuant to this act are to eventually be repaid out of duck stamp sales, which are now averaging close to $6 million per year.

Mr. Speaker, although the wetlands acquisition program has met with considerable success, the drainage of wetlands is still continuing at a rapid pace. In North Dakota alone, approximately 45,000 acres of wetlands are being lost to drainage programs each year. Unfortunately, the program with its permanent preservation of wetlands does not appeal to all farmers. However, the water bank program that would be authorized by H.R. 15770 would appeal to a large number of farmers since farmers in general seek to make their lands produce the maximum return on their investment and the water bank program will offer an economic alternative to drainage. The Secretary of Agriculture would be directed to carry out the program in harmony with other land and water conservation activities now carried out by the Department of Agriculture such as the soil conservation program, the drainage referral program, and the cropland adjustment program, as well as the wetlands acquisition program now carried out by the Department of the Interior.

Mr. Speaker, briefly explained, section 1 of the bill would cite the legislation as the Water Bank Act.

Section 2 of the bill would find that it is in the public interest to preserve, restore, and improve the wetlands of our Nation and beginning July 1, 1971, the Secretary of Agriculture would be directed to formulate and carry out a continuous program to accomplish such purposes.

Section 3 of the bill would authorize the Secretary of Agriculture to enter into 10-year agreements—with provision for renewal for additional periods of 10 years each—with landowners and operators in important migratory nesting and breeding areas for the conservation of water and specified farm ranch, or other wetlands identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the lands are located.

Landowners would be required to have owned the lands for a period of at least 2 years prior to entering into such an agreement. Wetlands eligible to be placed in a program would be only those lands directed as inland fresh areas, which would include seasonally flooded basins or flats, fresh meadows, both deep and shallow marshes, and open fresh waters. These areas occur principally in North and South Dakota and Minnesota and are often referred to as the pothole region.

Section 4 of the bill would specify certain conditions to which the owner or operator would have to agree in any agreement entered into with the Secretary of Agriculture. Among other things, such owners and operators would have to agree to place in the program certain designated wetlands and, if deemed desirable by the Secretary, certain adjacent areas; he would have to agree not to drain, burn, fill, destroy, or otherwise use such lands for agricultural purposes; he would have to agree to forfeit all rights to future payments and grants upon a violation of the agreement; also, should he transfer the land under contract during the agreement period, he would have to agree to forfeit all rights to future payments and grants and to repay all payments and grants received during the year of transfer, unless the transferee agrees to honor the agreement.

In return for such an agreement, the Secretary of Agriculture would be required to make reasonable annual payments to the owners or operators of such lands and in addition bear an appropriate part of the average cost of establishing and maintaining conservation and development practices on the lands and adjacent areas.

Section 6 of the bill would authorize the Secretary of Agriculture and the owner or operator at the end of the agreement period to extend the agreement for additional periods of 10 years.

Section 7 of the bill would authorize the Secretary of Agriculture to terminate or modify any agreement by mutual agreement with the owner or operator.

Section 8 of the bill would authorize the Secretary of Agriculture to utilize the services of local, county, and State committees established under the Soil Conservation and Domestic Allotment Act and to utilize the facilities and services of the Commodity Credit Corporation in carrying out his functions and responsibilities under the program.

Section 9 of the bill would authorize the Secretary of Agriculture to appoint an advisory board composed of various related interests to advise him on matters relating to his functions under the act.

Section 10 of the bill would require the Secretary of Agriculture to consult with the Secretary of the Interior and to take appropriate measures to insure that the program authorized by this act would be carried out in harmony with the wetlands programs administered by the Secretary

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of the Interior. To assure further coordination of the water bank program, the Secretary of Agriculture would be required to consult with and utilize the technical and related services of appropriate local, State, Federal, and private conservation agencies.

Section 11 of the bill would authorize to be appropriated such sums as may be necessary to carry out the program authorized by the legislation. However, the Secretary of Agriculture would not be authorized to enter into agreements that would require payments to owners or operators in any calendar year in excess of $10 million.

Section 12 of the bill would authorize the Secretary of Agriculture to prescribe such regulations as he may determine necessary to carry out the provisions of the act.

Mr. Speaker, H.R. 15770, as amended, was unanimously reported by the Merchant Marine and Fisheries Committee and has wide support from national conservation organizations throughout the Nation. In fact, just last week, 13 of these national organizations joined in a letter that was sent to all Members of the House strongly urging passage of this legislation. I would like to insert in the Record immediately following my remarks a copy of this letter together with the names of the sponsoring organizations. Also, I would like to call to the attention of my colleagues that, in addition to these organizations, this legislation is strongly supported by the American Farm Bureau Federation, the National Farmers' Union, and the National Farmers Association.

Mr. Speaker, in all fairness to my colleagues, I feel that I should point out that both the Department of the Interior and the Department of Agriculture opposed enactment of the legislation. The Department of the Interior in its report stated that it supported the objectives of the bill but opposed the establishment of a new wildlife habitat program that would be administered separately by the Department of Agriculture. The Department of Agriculture in its report stated that the preserving of habitat for migratory waterfowl is the responsibility of the Department of the Interior, which currently administers a program for this purpose, and therefore any new program should be established within the Department of the Interior.

Mr. Speaker, despite these adverse reports, the Committee on Merchant Marine and Fisheries was impressed by the wide range of witnesses testifying at the hearings in support of the legislation. The committee determined that the preponderance of evidence produced at the hearings was overwhelmingly favorable and that the water bank program authorized by the legislation—contrary to what the Departments said—would complement existing waterfowl programs now carried out in both the Department of the Interior and the Department of Agriculture.

Mr. Speaker, in closing I want to point out that the bill has wide bipartisan support and I think that this alone indicates the importance of this issue to our national interest. I would like to compliment the authors of the bill, Congressman Andrews of North Dakota, Congressman Kleppe of North Dakota, Congressman Zwach of Minnesota, and a valuable and distinguished member of my Subcommittee on Fisheries and Wildlife Conservation and a dedicated conservationist and one who worked so diligently and closely with me in bringing this legislation to the floor, my good friend and colleague, Congressman Karth of Minnesota.

Mr. Speaker, I urge prompt passage of H.R. 15770.

The letter referred to follows:

September 28, 1970.

Dear Congressman: The undersigned national conservation organizations have learned that the chairman of the House Committee on Merchant Marine and Fisheries has requested the Speaker to list the widely supported Water Bank bill, H.R. 15770, on the suspension calendar for Monday, October 5.

Much has been heard in recent years about the drainage and destruction of the natural wetlands needed by migratory waterfowl and other wildlife. Records of House and Senate committees bear out that a vast acreage of wetlands has been destroyed, much of it stimulated by federal technical and financial assistance.

The Water Bank offers the owners of wetlands an acceptable alternative to drainage. Operating through existing USDA agencies, it would authorize payments for wetlands preservation, thereby making it feasible for farmers, ranchers, and other landowners to resist the economic pressures that encourage wetlands destruction.

As shown by the House committee's hearing record, the Water Bank is endorsed by many of the country's leading conservation and farm organizations and agencies as a constructive approach to the proper management of land, wildlife, and water resources.

American Forestry Association, William E. Towell, Executive Vice President.

Friends of the Earth, George Alderson, Legislative Director.

Izaak Walton League of America, Joseph W. Penfold, Conservation Director.

National Assn. of Conservation Districts, Gordon K. Zimmerman, Executive Secretary.

National Audubon Society, Charles H. Callison, Executive Vice President.

National Rifle Association of America, Frank C. Daniel, Secretary.

National Wildlife Federation, Thomas L. Kimball, Executive Director.

The Nature Conservancy, Thomas W. Richards, President.

Sierra Club, W. Lloyd Tupling, Washington Conservation Representative.

Trout Unlimited, Ray A. Kotrla, Washington Representative.

The Wilderness Society, Stewart M. Brandborg, Executive Director.

Wildlife Management Institute, Daniel A. Poole, President.

The Wildlife Society, Fred G. Evenden, Executive Director.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I am happy to yield to my friend, the gentleman from Iowa.

Mr. GROSS. What is the gentleman's answer to the statement by the Department of Agriculture on page 15 of the report in which it is stated:

> We are not aware of any need for a new and separate program to promote conservation of waterfowl habitat.

Mr. DINGELL. The gentleman is aware, I am sure, of the Bureau of the Budget's long record of opposition to any new program and, particularly the programs which involve spending.

I would point out that their comments are at very wide variance with every national farm organization and the Governors of States and every national organization of game and fish conservation commissions.

I would point out that the views of the Bureau of the Budget are as usual at wide variance with the majority of the Members and, indeed, at wide variance with the views of all the Members who have considered this legislation and reported this legislation out unanimously.

I would point out to my good friend that the committee has gone into this matter with exquisite care. We have had the assistance of the technicians of the Department of Agriculture and the Department of the Interior in coming up with what is a technically correct and adequate piece of legislation. More importantly, I can tell you that the recommendations of the Department of Agriculture and the Department of the Interior that were sent to the Bureau of the Budget were that the bill be passed at an early time and it is one which has their enthusiastic support. I can tell the gentleman that their position changed when it got into the hands of the Bureau of the Budget.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I am glad to yield to the gentleman.

Mr. GROSS. I think I referred to the Department of Agriculture. I should have attributed that statement, which is to be found on page 15 of the report, to the Department of the Interior rather than to the Department of Agriculture. I think, if I recall correctly, the Department of Agriculture is likewise opposed to the bill.

Mr. DINGELL. I wish to answer my distinguished friend, the gentleman from Iowa by saying that the answer I just gave the gentleman would apply to the statements which you see here in the record by both the Department of the Interior and the Department of Agriculture.

Mr. ANDREWS of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. ANDREWS of North Dakota. I would like to state, in this colloquy with the gentleman from Iowa, that the gentleman from Michigan has raised an extremely good point.

It is my strong suspicion, Mr. Speaker, that the objections made by the Department of the Interior are more to the point that they do not want anyone else in this most important field than it is to the fact that the water bank program is not needed.

At the present time our farmers are caught in a price squeeze and they are draining every pothole they can to try to raise more at a lower cost.

The water bank program will encourage farmers through the local ASC, in

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whom he has confidence, to enter into the program, which he is not entering into now, because the Fish and Wildlife Service, which is presently administering conservation programs, has less acceptance.

Mr. DINGELL. The gentleman is correct.

I would point out again that there are thousands of acres of these wetlands each year being drained in the United States. Very shortly we are going to run out of this kind of wildlife habitat for migratory waterfowl.

This strikes me as being a very unwise use of our important and much needed precious natural resources.

Mr. GROSS. Do I understand that the enactment of this bill would authorize $10 million a year?

Mr. DINGELL. The gentleman is correct; $10 million a year is the figure we agreed upon.

Mr. GROSS. Is there no limitation as to the number of years?

Mr. DINGELL. This program is for 10 years.

Mr. GROSS. It is for 10 years?

Mr. DINGELL. Any agreement entered into can be extended by mutual agreement between the Department of Agriculture and the owners or operators for additional periods of 10 years each.

Mr. PELLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support the passage of H.R. 15770, legislation designed to conserve surface waters and to preserve and improve habitat for migratory waterfowl. This bill commonly referred to as the "Water Bank Act" was sponsored by our distinguished colleagues from North Dakota, Mr. ANDREWS and Mr. KLEPPE, and has received the unanimous and bipartisan support of your Committee on Merchant Marine and Fisheries.

The pothole regions of the Dakotas and Minnesota are vital to the survival of migratory waterfowl in the United States. The continued draining of these areas and their conversion for agricultural and commercial uses threatens to seriously diminish breeding grounds to the point where many species will soon be unable to find sufficient wetlands to sustain their numbers.

The 19th century witnessed the extinction of many species of American wild fowl due to unregulated hunting, often for commercial purposes. Almost too late, we imposed seasonal restrictions and bag limits to insure adequate propagation of our migratory waterfowl.

We are now confronted with a similar, but much more difficult problem of insuring that the unique wetlands environment of our waterfowl is maintained in balance. Land in its natural state is fast becoming a precious commodity in the United States.

As the committee report clearly indicates, our existing acquisition and easement programs have been underfunded and are lagging behind their anticipated goals.

Mr. Speaker, the Water Bank Act offers an intelligent and compatible alternative to the existing wetlands programs of the Interior Department. While the official reports of the Interior and Agriculture Departments express opposition to this legislation, the representatives of these departments who testified before your committee expressed their concern over the rapid destruction of waterfowl habitat in most eloquent terms.

I am certain that these departments will welcome this legislation and will work closely together to implement it in a forceful manner. I do not believe, therefore, that the official objections raised to this legislation should stand as a bar to its enactment.

The distinguished chairman of the Fisheries and Wildlife Subcommittee (Mr. DINGELL) has clearly explained the various sections of this bill, and I see no need to review them further.

Mr. Speaker, this is an important and much-needed bill. I urge my colleagues to support its enactment.

Mr. Speaker, I yield 5 minutes to the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. Mr. Speaker, I rise in support of this legislation and to commend the committee for the judicious way in which it expedited the handling of this most necessary legislation.

Mr. Speaker, the drainage and destruction of natural wetlands needed by migratory waterfowl and other wildlife has been so extensive that by 1950, approximately half of the wetlands of the prairie pothole regions of the United States had been drained. It has continued in North Dakota at the rate of approximately 45,000 acres of wetlands lost each year.

Our farmers, caught in a merciless cost-price squeeze, have had to take these steps to utilize every acre of the land they own—and on which they pay taxes.

Recognizing this problem, the Congress enacted the Wetlands Loan Act—Public Law 87-383—in 1961, which had as an objective the acquisition of 2.5 million acres of waterfowl habitat over a 7-year period. This program did not and has not proceeded at the pace anticipated and the act has subsequently been extended. It was slow in getting started, there was understandable opposition to it at the State and local level because of its impact on county tax revenues, it has never been fully funded and, meanwhile, the amount of wetlands available has been reduced drastically every year.

The failure of this act, the continuing difficulty experienced by our Nation's farmers and the deep concern of the wildlife conservation interests provided the impetus for the water bank proposal before the House today. This proposal offers the owners of wetlands an acceptable alternative to drainage. Operating through existing USDA agencies, it authorizes payments for wetlands preservation, thereby making it feasible for farmers, ranchers and other landowners to resist the economic pressures that encourage wetlands destruction.

As the principal sponsor of the water bank bill, I would like to pay tribute to the North Dakota Wildlife Advisory Committee for its important and essential contribution in putting this proposal together. Chaired by Arthur Schulz, dean and director of the Extension Service at North Dakota State University, the panel included representatives from every conservation, wildlife and agriculture group in North Dakota.

The broad support for this proposal is reflected by the diverse interests that testified in its behalf before the Committee on Merchant Marine and Fisheries, including the country's leading conservation and farm organizations.

After reviewing the purposes of H.R. 15770, as well as the steps to be taken to achieve these purposes, I urge my colleagues on both sides of the aisles to join in passing the water bank bill.

Mr. PELLY. Mr. Speaker, I yield 5 minutes to the gentleman from North Dakota (Mr. KLEPPE).

Mr. KLEPPE. Mr. Speaker, I merely wish to add to the remarks of my colleague from North Dakota (Mr. ANDREWS) and specifically point out the efforts of the subcommittee and the committee that handled this legislation under the leadership of the gentleman from Maryland (Mr. GARMATZ), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Washington (Mr. PELLY). The cooperation and the work that they put behind this piece of legislation was very exceptional, and I want to commend them.

Mr. Speaker, as a cosponsor of H.R. 15770, the Water Bank Act, I would like to point out to my colleagues that no piece of legislation with which I have ever been associated has received such broad and enthusiastic support. Never have we seen such cooperation from the country's leading conservation and farm organizations and agencies as we have experienced in developing the Water Bank Act.

To the best of my knowledge, no organization opposes it.

The Water Bank Act is a very creative piece of legislation. It represents a constructive approach to the proper management of land, wildlife, and water resources.

I believe it is important to note that wetlands loss is a national rather than a State or regional problem. Today, at least 40 percent of the Nation's inland wetlands have disappeared because of drainage, highway construction, flood control, reclamation projects, and urban and industrial sprawl. It is estimated that up to 90 percent of the Atlantic coastal marshes have been affected by man to a point where their natural and wildlife values have been drastically reduced.

Looking west, we find that severe demands in California for land and water have reduced the acreage of historical waterfowl habitat by 84 percent.

In the north-central region of the United States, the ice-age glaciers retreated northward to leave millions of depressions on the northern and central plains. The depressions are now lakes, marshes and potholes and make up the greatest waterfowl breeding area in North America, if not the world.

Drainage of wetlands was so extensive that by 1950, approximately half of the

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wetlands and the prairie pothole regions of the United States had been drained and this drainage has since continued. In North Dakota alone, nearly 45,000 acres of wetlands were drained during the years 1965 to 1967. With inflation, with land prices going up and with farm income on the decline, the farmer must, of necessity, attempt to produce more to increase his income. This usually dictates that he make fuller use of his land by draining his wetlands. This does not mean that farmers, ranchers, and other landowners are not concerned with conserving wetlands. They, perhaps more than any others, understand the tragedy of wetland loss since they see it firsthand. In fact, Mr. Speaker, I am sure you will find that more often than not farmers, ranchers, and other landowners have carried the financial burden of conserving wetlands until economic survival absolutely dictated the drainage of land.

The Water Bank Act was proposed to provide the farmer with an economic alternative to drainage. Under the bill, landowners could enter into contracts with the Federal Government to limit the use of wetlands and to leave them in their present condition.

When looking at this legislation, I think it is important to note once again the unanimity of opinion of the organizations involved. In North Dakota alone, it has the active support of the National Farmers Organization, North Dakota Farm Bureau, North Dakota Farmers Union, Greater North Dakota Association, North Dakota Stockmen's Association, North Dakota Wildlife Federation, North Dakota Water Users, the Garrison Conservancy District, and the North Dakota Association of Soil Conservation Districts.

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Whenever support of this nature takes place, I am convinced of the merit of the legislation, and I urge my colleagues' favorable support of this constructive proposal that has already received broad bipartisan support.

In conclusion, Mr. Speaker, I would like to express my sincere appreciation to the able chairman of the Subcommittee on Fisheries and Wildlife Conservation of the Merchant Marine and Fisheries Committee. The gentleman from Michigan (Mr. Dingell) has skillfully guided the progress of the Water Bank Act, and without his assistance, and that of the chairman of the committee, the gentleman from Maryland (Mr. Garmatz), we would not have the opportunity today to vote on a measure that has such far-reaching benefits in the preservation of our natural and irreplaceable wetlands and improving the quality of our environment.

Mr. PELLY. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. Zwach).

Mr. ZWACH. Mr. Speaker, Minnesota is known as the land of 10,000 lakes. In my youth, it was also the land of 100,000 ponds, potholes, and swamps. Waterfowl and furbearers abounded in these natural reservoirs.

When there was a heavy rain, or abnormal spring runoff, these ponds were natural reservoirs, holding the water on the land where it fell and allowing it to slowly work its way to the streambeds or to recharge the underground water supply.

Over the years, as the necessity for more tillable lands increased, when more land was taken for highway and building purposes, these swamps and potholes were drained, filled, or deprived of their feeder streams, they dried up.

In many areas, without the surface waters to recharge the underground aquifers, wells had to be sunk deeper or dried up entirely. Surface water was unavailable for irrigation or to water livestock.

Unless action is taken soon, the loss of our surface reservoirs will result in irreversible damage to our land.

This water bank legislation would authorize the Secretary of Agriculture to enter into long-term agreements with landowners to preserve their wetland acres.

One of the wisest moves we could make would be to compensate the landowners for preserving their wetlands.

There is no end to the dividends that would accrue from the passage of this bill. We would help to recharge our underground water supply; we would preserve our surface reservoirs, thereby providing insurance against recurring floods; we would maintain habitat for wildlife; and we would perpetuate the ecological balance built into our land by an all-wise Creator.

I thank you for your consideration of this legislation.

(Mr. **ANDERSON** of Illinois, at the request of Mr. Pelly, was granted permission to extend his remarks at this point in the Record.)

Mr. ANDERSON of Illinois. Mr. Speaker, I rise in support of H.R. 15770 which is known as "the Water Bank Act." The purpose of this legislation quite simply is to preserve, restore, and improve the wetlands of this Nation to protect migratory waterfowl and their natural habitats, and prevent runoff, soil and wind erosion, and in general, to enhance the natural beauty of the landscape and promote comprehensive water management planning.

Mr. Speaker, I think it is important to point out that this legislation received the unanimous approval of the Merchant Marine and Fisheries Committee and is endorsed by all the Nation's leading conservation and agricultural organizations. The need for this legislation becomes apparent when you begin to realize how much of our wetlands are being drained each year for conversion to agriculturally productive land. As the committee report so vividly puts it:

> Each year untold acres of valuable waterfowl habitat are lost forever. These lands are rapidly disappearing because of the accelerated pace in which marshes and swamps are being ditched, dredged, drained, filled, paved, and polluted in order to meet the demands of modern civilization. These encroachments are caused by the constant need for more agricultural lands, more industrial sites, more urban housing developments, more roads and more airports.

Mr. Speaker, while no one wants to halt or reverse the march of civilization, it is becoming increasingly apparent that we must take adequate safeguards to prevent the march of civilization from becoming a Shermanesque "March to the Sea." While no one would deny that we must expand food production and provide additional facilities to house and transport our growing population, it is becoming increasingly apparent that our future growth must be more planned, orderly, and balanced than it has been to date, and that we must give more attention to ecological and environmental considerations.

We have in this country a shrinking reservoir of natural beauty and resources and we must take special care not to consume and destroy these in a reckless rush to achieve what is loosely termed "progress." In the legislation before us today we recognize that our civilization will ultimately be judged in terms of quality as well as quantity, and that, in fact, its very survival may well depend on the emphasis we do give now to these qualitative considerations.

The Water Bank Act is a reasonable and responsible piece of legislation because it recognizes both the need to preserve and protect the Nation's wetlands and the need to provide the farmer with an economic alternative to drainage. Under the provisions of this bill, the Secretary of Agriculture would be authorized to enter into agreements with the owners and operators of wetlands in the migratory waterfowl nesting and breeding areas of the United States. Under these contracts, the owners or operators would agree not to drain, burn, fill, or otherwise destroy the wetland character of the lands under contract, and in return, the Secretary would be required to make annual payments to the owners or operators. The bill authorizes the Secretary of Agriculture to make payments up to a total of $10 million per year.

Mr. Speaker, I urge passage of this bill. I think it is a good bill, a reasonable bill, and a responsible bill, and, as I mentioned earlier, it has widespread support here in the Congress as well as among leading conservation and agricultural organizations.

Mr. PELLY. Mr. Speaker, in conclusion I would like very briefly to comment on the point raised by our colleague from Iowa (Mr. Gross). It has been my observation through the years that periodically we have very devastating floods, including floods of the Mississippi in Iowa, and the cost of those is incalculable. The more we drain off our potholes and our wetlands, the more reason we have for these devastating floods. I know that when certain rivers, the Red River and others, flood at the same time, these great floods occur, and it is my thoughts that many times over, by preserving our wetlands, we could avoid costly floods and actually the cost of this program would be minimal.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. Karth).

Mr. KARTH. Mr. Speaker, I rise in support of the bill H.R. 15770, of which I am a cosponsor.

I would like to take this opportunity to commend the Subcommittee on Fisheries and Wildlife Conservation, which, guided by the dynamic leadership of Congressman JOHN DINGELL, worked tirelessly, and with great competence and speed—to report this legislation to the floor of the House, and so it could be voted upon during this session of the Congress. I feel strongly that rapid enactment of this legislation is most important.

Mr. Speaker, untold acres of valuable migratory waterfowl habitat are rapidly disappearing from the face of our earth because of the accelerated pace in which they are being diverted to other uses to meet the demands of modern civilization. These encroachments are caused by the constant need for more agricultural lands, more industrial sites, more urban housing developments, more roads, and more airports. Once you encroach on these areas not only do you destroy the natural habitat, but you destroy the wildlife as well.

Mr. Speaker, as my distinguished subcommittee chairman just recently pointed out, the Accelerated Wetlands Acquisition Act has met with great success. However, I would like to point out that it would have met with more success if the Congress had fully funded the program as it was directed when the act was enacted in 1961. Only about one-half of the $105 million authorized to be appropriated has actually been appropriated. Consequently, we have been unable to achieve our original goal of acquiring 2.5 million acres of wetlands, which clearly points up the need for this legislation.

Mr. Speaker, H.R. 15770 is designed to provide the owners and operators of these valuable wetlands with an economic alternative to diverting these lands to other uses. It would be called a water bank program and it would be carried out in harmony with land and water conservation programs now carried out by the Secretary of Agriculture and the Secretary of the Interior.

The objectives of the water bank bill would be similar to and would complement the programs just mentioned; wildlife conservation, soil and water conservation, improved water quality, pollution abatement, and the reduction of the number of acres of converted land all would be encouraged by H.R. 15770.

Mr. Speaker, unfortunately the present waterfowl production area program with its permanent preservation of wetlands does not appeal to all farmers. A substantial number of these landowners can be expected to find a water bank program most attractive. Their participation in this program will afford temporary wetland protection and new wildlife benefits on many farms which would never have been reached under other programs.

Mr. Speaker, while these lands are being protected under the 10-year agreements provided under this legislation, I am most hopeful that the Congress will fully fund the Wetlands Acquisition Act which was extended for an additional 8 years in 1967 so that the Secretary of the Interior can proceed to achieve its goal of acquiring permanent ownership of these lands. It is only in this way that we can ever expect to provide the necessary protection that our valuable wildlife resources so badly need and so justly deserve.

Mr. Speaker, my State of Minnesota is one of the three States primarily affected by this legislation. The other States are North and South Dakota and they are commonly referred to as the "pothole region." As indicated at the subcommittee hearings on the legislation, drainage of wetlands has been so extensive that by the year 1950, approximately half of the wetlands of the prairie pothole regions of the United States had been drained. This drainage has since continued at an alarming rate. In my State alone, thousands of acres of wetlands are being lost to drainage programs each year.

Mr. Speaker, existing Federal and State programs to preserve wetlands are meeting with some success, but they are not completely satisfying the desired objectives. H.R. 15770 will fill in this gap and provide the necessary incentive for owners of wetlands to preserve these invaluable resources in their present status.

I join my colleagues in urging rapid passage of H.R. 15770.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Merchant Marine and Fisheries, whose assistance on this matter has been invaluable.

Mr. GARMATZ. Mr. Speaker, next to pollution, the greatest threat to our environment is the persistent demands of civilization for more and more land. Increased urbanization and industrial development results in a relentless encroachment upon our remaining land. Our wetlands, which comprise some of our most valuable and irreplaceable natural resources, are rapidly disappearing.

In addition to being things of great natural beauty, these precious wetlands—the marshes, swamps, and estuarine areas—provide the natural habitat for much of our fish and wildlife, including valuable waterfowl. These valuable nesting and breeding areas are being systematically and ruthlessly destroyed. They are being drained, burned, and filled in; they are paved and often polluted—all in the name of progress.

No one can dispute the need for the industrial sites, the housing developments, the roads and airports that our ever-growing civilization demands. But it is equally important to try to maintain a harmonious balance between the demands for economic expansion and the need to conserve our precious natural resources.

Mr. Speaker, the water bank bill, H.R. 15770 ,is designed to help maintain that balance by persuading owners of these valuable wetlands to retain them in their natural conditions instead of converting them for industrial, agricultural or other uses. This would be accomplished by 10-year agreements with the owners and operators of these lands, who would be financially compensated for preserving the wetlands.

Since Congressman JOHN DINGELL, my friend and colleague, and chairman of the Subcommittee on Fisheries and Wildlife Conservation, has already explained this legislation in detail, it will not be necessary for me to elaborate at this time.

I do, however, want to take this opportunity to compliment all the members of the Fisheries and Wildlife Subcommittee for reporting this worthwhile legislation. I especially want to commend the efforts of a distinguished member of that subcommittee, Congressman JOSEPH KARTH, of Minnesota. He is an author of the bill, and he worked diligently with the subcommittee to make sure that Congress acts swiftly to protect a vital part of America's precious heritage. Congressman KARTH is rapidly emerging as one of the country's leading conservationists, and I congratulate him for the valuable contribution he is making—both to the committee and to the Nation.

Mr. Speaker, H.R. 15770 is an excellent and important piece of legislation, and I urge its rapid passage.

The SPEAKER pro tempore (Mr. BURKE of Massachusetts). The question is on the motion of the gentleman from Michigan that the House suspend the rules and pass the bill H.R. 15770, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

POINT OF ORDER

Mr. ALEXANDER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

Mr. ALEXANDER. Mr. Speaker, I withdraw the point of order at this time.

FEDERAL SHARE INSURANCE FOR CREDIT UNIONS

Mr. PATMAN. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3822) to provide insurance for member accounts in State and federally chartered credit unions and for other purposes.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Credit Union Act, as amended (12 U.S.C. 1751–1775), is further amended—

(1) by inserting immediately above the heading of section 2 the following:

"TITLE I—FEDERAL CREDIT UNIONS";

(2) by redesignating sections 2 through 28 as sections 101 through 127, respectively; and

(3) by inserting the following new title after section 127, as redesignated by paragraph (2) of this section:

"TITLE II—SHARE INSURANCE

"INSURANCE OF MEMBER ACCOUNTS AND ELIGIBILITY PROVISIONS

"SEC. 201. (a) The Administrator, as hereinafter provided, shall insure the member accounts of all Federal credit unions and he may insure the member accounts of (1) credit unions organized and operated according to the laws of any State, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, and (2) credit unions organized and operating under the jurisdiction of the Department of Defense if such credit unions are operating in compliance with the requirements of title I of this Act and regulations issued thereunder.

"(b) Application for insurance of member accounts shall be made immediately by each Federal credit union and may be made at any time by a State credit union or a credit union operating under the jurisdiction of the Department of Defense. Applications for such insurance shall be in such form as the Administrator shall provide and shall contain an agreement by the applicant—

"(1) to pay the reasonable cost of such examinations as the Administrator may deem necessary in connection with determining the eligibility of the applicant for insurance: *Provided*, That examinations required under title I of this Act shall be so conducted that the information derived therefrom may be utilized for share insurance purposes, and examinations conducted by State regulatory agencies shall be utilized by the Administrator for such purposes to the maximum extent feasible;

"(2) to permit and pay the reasonable cost of such examinations as in the judgment of the Administrator may from time to time be necessary for the protection of the fund and of other insured credit unions;

"(3) to permit the Administrator to have access to any information or report with respect to any examination made by or for any public regulatory authority, including any commission, board, or authority having supervision of a State-chartered credit union, and furnish such additional information with respect thereto as the Administrator may require;

"(4) to provide protection and indemnity against burglary, defalcation, and other similar insurable losses, of the type, in the form, and in an amount at least equal to that required by the laws under which the credit union is organized and operates;

"(5) to maintain such regular reserves as may be required by the laws of the State, district, territory, or other jurisdiction pursuant to which it is organized and operated, in the case of a State-chartered credit union, or as may be required by section 116 of this Act, in the case of a Federal credit union;

"(6) to maintain such special reserves as the Administrator, by regulation or in special cases, may require for protecting the interest of members or to assure that all insured credit unions maintain regular reserves which are not less than those required under title I of this Act;

"(7) not to issue or have outstanding any account or security the form of which, by regulation or in special cases, has not been approved by the Administrator;

"(8) to pay the premium charges for insurance imposed by this title; and

"(9) to comply with the requirements of this title and of regulations prescribed by the Administrator pursuant thereto.

"(c)(1) Before approving the application of any credit union for insurance of its member accounts, the Administrator shall consider—

"(A) the history, financial condition, and management policies of the applicant;

"(B) the economic advisability of insuring the applicant without undue risk of the fund;

"(C) the general character and fitness of the applicant's management;

"(D) the convenience and needs of the members to be served by the applicant; and

"(E) whether the applicant is a cooperative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes.

"(2) The Administrator shall reject the application of any credit union for insurance of its member accounts if he finds that its reserves are inadequate, that its financial condition and policies are unsafe or unsound, that its management is unfit, that insurance of its member accounts would otherwise involve undue risk to the fund, or that its powers and purposes are inconsistent with the promotion of thrift among its members and the creation of a source of credit for provident or productive purposes.

"(d) If the application of a Federal credit union for insurance is rejected, the Administrator shall suspend or revoke its charter unless, within one year after the rejection, the credit union meets the requirements for insurance and becomes an insured credit union.

"(e) Upon the approval of any application for insurance, the Administrator shall notify the applicant and shall issue to it a certificate evidencing the fact that it is, as of the date of issuance of the certificate, an insured credit union under the provisions of this title.

"REPORTS OF CONDITION; CERTIFIED STATEMENTS; PREMIUMS FOR INSURANCE

"SEC. 202. (a)(1) Each insured credit union shall make reports of condition to the Administrator upon dates which shall be selected by him. Such reports of condition shall be in such form and shall contain such information as the Administrator may require. The reporting dates selected for reports of condition shall be the same for all insured credit unions except that when any of said reporting dates is a nonbusiness day for any credit union the preceding business day shall be its reporting date. The total amount of the member accounts of each insured credit union as of each reporting date shall be reported in such reports of condition in accordance with regulations prescribed by the Administrator. Each report of condition shall contain a declaration by the president, by a vice president, by the treasurer, or by any other officer designated by the board of directors of the reporting credit union to make such declaration, that the report is true and correct to the best of his knowledge and belief. Unless such requirement is waived by the Administrator, the correctness of each report of condition shall be attested by the signatures of three of the officers of the reporting credit union with the declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.

"(2) The Administrator may call for such other reports as he may from time to time require.

"(3) The Administrator may require reports of condition to be published in such manner, not inconsistent with any applicable law, as he may direct. Every insured credit union which willfully fails to make or publish any such report within ten days shall be subject to a penalty of not more than $100 for each day of such failure, recoverable by the Administrator for his use.

"(4) The Administrator may accept any report of condition made to any commission, board, or authority having supervision of a State-chartered credit union and may furnish to any such commission, board, or authority reports of condition made to the Administrator.

"(5) Reports required under title I of this Act shall be so prepared that they can be used for share insurance purposes. To the maximum extent feasible, the Administrator shall use for insurance purposes reports submitted to State regulatory agencies by State-chartered credit unions.

"(b) On or before January 31 of each insurance year, each insured credit union which became insured prior to the beginning of that year shall file with the Administrator a certified statement showing the total amount of the member accounts in the credit union at the close of the preceding insurance year and the amount of the premium charge for insurance due to the fund for that year, as computed under subsection (c) of this section. The certified statements required to be filed with the Administrator pursuant to this subsection shall be in such form and shall set forth such supporting information as the Administrator shall require. Each such statement shall be certified by the president of the credit union, or by any officer of the credit union designated by its board of directors, that to the best of his knowledge and belief the statement is true, correct, and complete and in accordance with this title and regulations issued thereunder.

"(c)(1) Except as provided in paragraphs (2) and (3) of this subsection, each insured credit union, on or before January 31 of each insurance year, shall pay to the fund a premium charge for insurance equal to one-twelfth of 1 per centum of the total amount of the member accounts in such credit union at the close of the preceding insurance year.

"(2) Each credit union which was in existence prior to the enactment of this title and which becomes insured under this title after January 1 of any insurance year shall pay to the fund, for the insurance year in which it becomes insured, a premium charge for insurance equal to one-twelfth of 1 per centum of the total amount of the member accounts in such credit union at the close of the month before the month in which it becomes insured, reduced by an amount proportionate to the number of calendar months elapsed since the beginning of such insurance year and prior to the month in which it becomes insured. Such payment shall be made within thirty days after the date on which the credit union receives the certificate of insurance issued to it under section 201 of this title.

"(3) Each credit union which is chartered after enactment of this title and which becomes insured under this title in the insurance year in which it is chartered shall pay to the fund, for the insurance year in which it is chartered, a premium charge for insurance computed in the following manner:

"(A) To the total amount of the member accounts in the credit union at the close of the month in which it becomes insured, add the total amount of such member accounts in the credit union at the close of each succeeding month of the insurance year and divide the total by the number of such months (including the month in which it becomes insured).

"(B) From the figure obtained under subparagraph (A), subtract $10,000.

"(C) Multiply the figure obtained under subparagraph (B) by one-twelfth of 1 per centum.

"(D) Reduce the figure obtained under subparagraph (C) by an amount proportionate to the number of calendar months elapsed since the beginning of such insurance year and prior to the month in which the credit union becomes insured. The figure obtained under this subparagraph is the amount of the premium charge for insurance due to the fund. Such premium charge shall be paid on or before January 31 of the insurance year following the year in which the credit union was chartered.

"(4) When any loans to the fund from the Federal Government and the interest thereon have been repaid and the amount in the fund equals or exceeds the normal operating level, the Administrator may reduce the premium charge for insurance, but not below the amount necessary, in his judgment, to maintain the fund at the normal operating level. Any such reduction shall be effective only so long as the amount in the

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fund equals or exceeds the normal operating level and no loan to the fund from the Federal Government is outstanding.

"(5) If in any year expenditures from the fund exceed the income of the fund, the Administrator may require each insured credit union to pay to the fund for such year, in addition to the regular premium charge for insurance payable under paragraph (1), (2), or (3) of this subsection, a special premium charge which shall not exceed an amount equal to the amount of the regular premium charge.

"(6)(A) An insured credit union which is closed for liquidation because of insolvency or otherwise is entitled to a rebate of premiums paid by it to the fund. Rebates shall be paid in accordance with regulations prescribed by the Administrator, but no payment of rebate shall be made during any period in which

"(i) a loan to the fund from the Federal Government is outstanding; or

"(ii) the Administrator determines that the payment would unduly jeopardize the financial condition of the fund.

A credit union otherwise entitled to a rebate of premiums shall not lose its entitlement because payment thereof cannot at any given time be made under the limitations prescribed in clause (i) or (ii).

"(B) The amount of rebate of premiums to which a credit union is entitled under subparagraph (A) shall be computed as follows: To the total amount of premiums paid to the fund by the credit union, plus interest on such payments at the average rate of interest earned by the fund on its assets during each of the years in which the payments were made; subtract the sum of

"(i) the credit union's prorata share of the fund's administrative expenses during the period in which the credit union had an insured status;

"(ii) the credit union's prorata share of the net insurance payments (other than those referred to in clause (iii) chargeable to the fund for claims arising during such period; and

"(iii) the net insurance payments chargeable to the fund for claims arising in connection with the liquidation of the credit union.

A credit union's prorata share of the fund's administrative expenses or net insurance payments for any year (or part thereof) shall be determined by dividing the total amount credited to member and nonmember accounts in the credit union at the end of such year (or part thereof), by the total amount credited to all such accounts in all credit unions having an insured status at the end of such year (or part thereof).

"(d)(1) Any insured credit union which fails to make any report of condition under subsection (a) of this section or to file any certified statement required to be filed by it in connection with determining the amount of any premium charge for insurance may be compelled to make such report or to file such statement by mandatory injunction or other appropriate remedy in a suit brought for such purpose by the Administrator against the credit union and any officer or officers thereof. Any such suit may be brought in any court of the United States of competent jurisdiction in the district or territory in which the principal office of the credit union is located.

"(2) Any insured credit union which willfully fails or refuses to file any certified statement or to pay any premium charge for insurance required under this title shall be subject to a penalty of not more than $100 for each day that such violation continues, which penalty the Administrator may recover for his use. The provisions of this paragraph shall not be applicable in any case in which the refusal to pay the premium charge for insurance is due to a dispute between the insured credit union and the Administrator over the amount of the premium charge due to the fund if the credit union deposits security satisfactory to the Administrator for payment of the premium charge upon final determination of the issue.

"(3) No insured credit union shall pay any dividends on its member accounts or distribute any of its assets while it remains in default in the payment of any premium charge for insurance due to the fund. Any director or officer of any insured credit union who knowingly participates in the declaration or payment of any such dividend or in any such distribution shall, upon conviction, be fined not more than $1000 or imprisoned not more than one year, or both. The provisions of this paragraph shall not be applicable in any case in which the default is due to a dispute between the credit union and the Administrator over the amount of the premium charge due to the fund if the credit union deposits security satisfactory to the Administrator for payment of the premium charge upon final determination of the issue.

"(e) The Administrator, in a suit brought at law or in equity in any court of competent jurisdiction, shall be entitled to recover from any insured credit union the amount of any unpaid premium charge for insurance lawfully payable by the credit union to the fund, whether or not such credit union shall have made any report of condition under subsection (a) of this section or filed any certified statement required under subsection (b) of this section and whether or not suit shall have been brought to compel the credit union to make any such report or to file any such statement. No action or proceeding shall be brought for the recovery of any premium charge due to the fund, or for the recovery of any amount paid to the fund in excess of the amount due it, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made. Where the insured credit union has made or filed with the Administrator a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of any premium charge, the claim shall not be deemed to have accrued until the discovery by the Administrator of the fact that the certified statement is false or fraudulent.

"(f) Should any Federal credit union fail to make any report of condition under subsection (a) of this section or to file any certified statement required to be filed under subsection (b) of this section or to pay any premium charge for insurance required to be paid under any provision of this title, and should the credit union fail to correct such failure within thirty days after written notice has been given by the Administrator to an officer of the credit union, citing this subsection and stating that the credit union has failed to make any such report or file any such statement or pay any such premium charge as required by law, all the rights, privileges, and franchises of the credit union granted to it under title I of this Act shall be thereby forfeited. Whether or not the penalty provided in this subsection has been incurred shall be determined and adjudged by any court of the United States of competent jurisdiction in a suit brought for that purpose in the district or territory in which the principal office of such credit union is located, under direction of and by the Administrator in his own name, before the credit union shall be declared dissolved. The remedies provided in this subsection and in subsections (d) and (e) of this section shall not be construed as limiting any other remedies against any insured credit union but shall be in addition thereto.

"(g) Each insured credit union shall maintain such records as will readily permit verification of the correctness of its reports of condition, certified statements, and premium charges for insurance. However, no insured credit union shall be required to retain such records for such purpose for a period in excess of five years from the date of the making of any such report, the filing of any such statement, or the payment of any premium charge, except that when there is a dispute between the insured credit union and the Administrator over the amount of any premium charge for insurance the credit union shall retain such records until final determination of the issue.

"(h) For the purposes of this section—

"(1) the term 'insurance year' means the period beginning on January 1 and ending on the following December 31, both dates inclusive; and

"(2) the term 'normal operating level,' when applied to the Fund, means an amount equal to 1 per centum of the aggregate amount of the member accounts in all insured credit unions.

"NATIONAL CREDIT UNION SHARE INSURANCE FUND

"SEC. 203. (a) There is hereby created in the Treasury of the United States a National Credit Union Share Insurance Fund which shall be used by the Administrator as a revolving fund for carrying out the purposes of this title. Money in the fund shall be available upon requisition by the Administrator, without fiscal year limitation, for making payments of insurance under section 207 of this title, for providing assistance and making expenditures under section 208 of this title in connection with the liquidation or threatened liquidation of insured credit unions, and for such administrative and other expenses incurred in carrying out the purposes of this title as he may determine to be proper.

"(b) All premium charges for insurance paid pursuant to the provisions of section 202 of this title and all fees for examinations and all penalties collected by the Administrator under any provision of this title shall be deposited in the National Credit Union Share Insurance Fund.

"(c) The Administrator may authorize the Secretary of the Treasury to invest and reinvest such portions of the fund as the Administrator may determine are not needed for current operations in any interest-bearing securities of the United States in any securities guaranteed as to both principal and interest by the United States or in bonds or other obligations which are lawful investments for fiduciary, trust, and public funds of the United States, and the income therefrom shall constitute a part of the fund.

"(d)(1) If, in the judgment of the Administrator, a loan to the fund is required at any time for carrying out the purposes of this title, the Secretary of the Treasury shall make the loan, but loans under this paragraph shall not exceed in the aggregate $100,000,000 outstanding at any one time. Except as otherwise provided in this subsection and in subsection (e) of this section, each loan under this paragraph shall be made on such terms as may be fixed by agreement between the Administrator and the Secretary of the Treasury.

"(2) Interest shall accrue to the Treasury on the amount of any outstanding loans made to the fund pursuant to paragraph (1) of this subsection on the basis of the average daily amount of such outstanding loans determined at the close of each fiscal year with respect to such year, and the Administrator shall pay the interest so accruing into the Treasury as miscellaneous receipts annually from the fund. The Secretary of the Treasury shall determine the applicable interest rate in advance by calculating the average yield to maturity (on the basis of daily closing market bid quotations during the month of June of the preceding fiscal year) on outstanding marketable public debt ob-

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ligations of the United States having a maturity date of five or less years from the first day of such month of June and by adjusting such yield to the nearest one-eighth of 1 per centum.

"(3) For the purpose of making loans under paragraph (1) of this subsection, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are hereby extended to include such loans. All loans and repayments under this section shall be treated as public debt transactions of the United States.

"(c) So long as any loans to the fund are outstanding, the Administrator shall from time to time, not less often than annually, determine whether the balance in the fund is in excess of the amount which, in his judgment, is needed to meet the requirements of the fund and shall pay such excess to the Secretary of the Treasury, to be credited against the loans to the fund.

"EXAMINATION OF INSURED CREDIT UNIONS

"SEC. 204. (a) The Administrator shall appoint examiners who shall have power, on his behalf, to examine any insured credit union, any credit union making application for insurance of its member accounts, or any closed insured credit union whenever in the judgment of the Administrator an examination is necessary to determine the condition of any such credit union for insurance purposes. Each examiner shall have power to make a thorough examination of all of the affairs of the credit union and shall make a full and detailed report of the condition of the credit union to the Administrator. The Administrator in like manner shall appoint claim agents who shall have power to investigate and examine all claims for insured member accounts. Each claim agent shall have power to administer oaths and affirmations, to examine and to take and preserve testimony under oath as to any matter in respect to claims for insured accounts, and to issue subpenas and subpenas duces tecum and, for the enforcement thereof, to apply to the United States district court for the judicial district or the United States court in any territory in which the principal office of the credit union is located or in which the witness resides or carries on business. Such courts shall have jurisdiction and power to order and require compliance with any such subpena.

"(b) In connection with examinations of insured credit unions, the Administrator, or his designated representatives, shall have power to administer oaths and affirmations, to examine and to take and preserve testimony under oath as to any matter in respect of the affairs of any such credit union, and to issue subpenas and subpenas duces tecum and, for the enforcement thereof, to apply to the United States district court for the judicial district or the United States court in any territory in which the principal office of the credit union is located or in which the witness resides or carries on business. Such courts shall have jurisdiction and power to order and require compliance with any such subpena.

"(c) In cases of refusal to obey a subpena issued to, or contumacy by, any person, the Administrator may invoke the aid of any court of the United States within the jurisdiction of which such hearing, examination, or investigation is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, records, or other papers. Such court may issue an order requiring such person to appear before the Administrator, or before a person designated by him, there to produce records, if so ordered, or to give testimony touching the matter in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or carries on business or wherever he may be found. No person shall be excused from attending and testifying or from producing books, records, or other papers in obedience to a subpena issued under the authority of this title on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to penalty or forfeiture, but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

"(d) The Administration may accept any report of examination made by or to any commission, board, or authority having supervision of a State-chartered credit union and may furnish to any such commission, board, or authority reports of examination made on behalf of the Administrator.

"REQUIREMENTS GOVERNING INSURED CREDIT UNIONS

"SEC. 205. (a) Every insured credit union shall display at each place of business maintained by it a sign or signs indicating that its member accounts are insured by the Administrator and shall include in all of its advertisements a statement to the effect that its member accounts are insured by the Administrator. The Administrator may exempt from this requirement advertisements which do not relate to member accounts or advertisements in which it is impractical to include such a statement. The Administrator shall prescribe by regulation the forms of such signs, the manner of display, the substance of any such statement, and the manner of use.

"(b)(1) Except with the prior written approval of the Administrator, no insured credit union shall—

"(A) merge or consolidate with any noninsured credit union or institution;

"(B) Assume liability to pay any member accounts in, or similar liabilities of, any noninsured credit union or institution;

"(C) transfer assets to any noninsured credit union or institution in consideration of the assumption of liabilities for any portion of the member accounts in such insured credit union; or

"(D) convert into a noninsured credit union or institution.

"(2) Except with the prior written approval of the Administrator, no insured credit union shall merge or consolidate with any other insured credit union or, either directly or indirectly, acquire the assets of, or assume liability to pay any member accounts in, any other insured credit union.

"(c) In granting or withholding approval or consent under subsection (b) of this section, the Administrator shall consider—

"(1) the history, financial condition, and management policies of the credit union;

"(2) the adequacy of the credit union's reserves;

"(3) the economic advisability of the transaction;

"(4) the general character and fitness of the credit union's management;

"(5) the convenience and needs of the members to be served by the credit union; and

"(6) whether the credit union is a cooperative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes.

"(d) Except with the written consent of the Administrator, no person shall serve as a director, officer, committee member, or employee of an insured credit union who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. For each willful violation of this prohibition, the credit union involved shall be subject to a penalty of not more than $100 for each day this prohibition is violated, which the Administrator may recover for his use.

"(e)(1) The Administrator shall promulgate rules establishing minimum standards with which each insured credit union must comply with respect to the installation, maintenance, and operation of security devices and procedures, reasonable in cost, to discourage robberies, burglaries, and larcenies and to assist in the identification and apprehension of persons who commit such acts.

"(2) The rules shall establish the time limits within which insured credit unions shall comply with the standards and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures.

"(3) An insured credit union which violates a rule promulgated pursuant to this subsection shall be subject to a civil penalty which shall not exceed $100 for each day of the violation.

"TERMINATION OF INSURANCE; CEASE-AND-DESIST PROCEEDINGS; SUSPENSION AND/OR REMOVAL OF DIRECTORS, OFFICERS, AND COMMITTEE MEMBERS

"SEC. 206. (a) Any insured credit union other than a Federal credit union may, upon not less than ninety days' written notice to the Administrator and upon the affirmative vote of a majority of its members within one year prior to the giving of such notice, terminate its status as an insured credit union.

"(b)(1) Whenever, in the opinion of the Administrator, any insured credit union is engaging or has engaged in unsafe or unsound practices in conducting the business of such credit union, or is in an unsafe or unsound condition to continue operations as an insured credit union, or is violating or has violated an applicable law, rule, regulation, order, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by the credit union, or is violating or has violated any written agreement entered into with the Administrator, the Administrator shall serve upon the credit union a statement with respect to such practices or conditions or violations for the purpose of securing the correction thereof. In the case of an insured State-chartered credit union, the Administrator shall send a copy of such statement to the commission, board, or authority, if any, having supervision of such credit union. Unless such correction shall be made within one hundred and twenty days after service or such statement, or within such shorter period of not less than twenty days after such service as the Administrator shall require in any case where he determines that the insurance risk with respect to such credit union could be unduly jeopardized by further delay in the correction of such practices or conditions or violations, or as the commission, board, or authority having supervision of such credit union, if any, shall require in the case of an insured State-chartered credit union, the Administrator, if he shall determine to proceed further, shall give to the credit union not less than thirty days' written notice of his intention to terminate the status of the credit union as an insured credit union. Such notice shall contain a statement of the facts constituting the alleged unsafe and unsound

XUM

practices or conditions or violations and shall fix a time and place for a hearing thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Administrator at the request of the credit union. Unless the credit union shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the termination of its status as an insured credit union. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any unsafe or unsound practice or condition or violation specified in the notice has been established and has not been corrected within the time above-prescribed in which to make such correction, the Administrator may issue and serve upon the credit union an order terminating its status as an insured credit union on a date subsequent to the date of such finding and subsequent to the expiration of the time specified in the notice.

"(2) Any credit union whose insured status has been terminated by order of the Administrator under this subsection shall have the right of judicial review of such order only to the same extent as provided for the review of orders under subsection (i) of this section.

"(c) In the event of the termination of a credit union's status as an insured credit union as provided under subsection (a) or (b) of this section, the credit union shall give prompt and reasonable notice to all of its members whose accounts are insured that it has ceased to be an insured credit union. It may include in such notice a statement of the fact that member accounts insured on the effective date of such termination, to the extent not withdrawn, remain insured for one year from the date of such termination, but it shall not further represent itself in any manner as an insured credit union. In the event of failure to give the notice as herein provided to members whose accounts are insured, the Administrator is authorized to give reasonable notice.

"(d) After the termination of the insured status of any credit union as provided under subsection (a) or (b) of this section, insurance of its member accounts to the extent that they were insured on the effective date of such termination, less any amounts thereafter withdrawn which reduce the accounts below the amount covered by insurance on the effective date of such termination, shall continue for a period of one year, but no shares issued by the credit union or deposits made after the date of such termination shall be insured by the Administrator. The credit union shall continue to pay premiums to the Administrator during such period as in the case of an insured credit union and the Administrator shall have the right to examine such credit union from time to time during the period during which such insurance continues. Such credit union shall, in all other respects, be subject to the duties and obligations of an insured credit union for the period of one year from the date of such termination. In the event that such credit union shall be closed for liquidation within such period of one year, the Administrator shall have the same powers and rights with respect to such credit union as in the case of an insured credit union.

"(e)(1) If, in the opinion of the Administrator, any insured credit union or any credit union any of the member accounts of which are insured is engaging or has engaged, or the Administrator has reasonable cause to believe that the credit union is about to engage, in an unsafe or unsound practice in conducting the business of such credit union, or is violating or has violated, or the Administrator has reasonable cause to believe that the credit union is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by the credit union, or any written agreement entered into with the Administrator, the Administrator may issue and serve upon the credit union a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged unsafe or unsound practice or practices or violation or violations and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the credit union. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Administrator at the request of the credit union. Unless the credit union shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any unsafe or unsound practice or violation specified in the notice of charges has been established, the Administrator may issue and serve upon the credit union an order to cease and desist from any such practice or violation. Such order may, by provisions which may be mandatory or otherwise, require the credit union and its directors, officers, committee members, employees, and agents to cease and desist from the same and, further, to take affirmative action to correct the conditions resulting from any such practice or violation.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the credit union concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein) and shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.

"(f)(1) Whenever the Administrator shall determine that the unsafe or unsound practice or practices or violation or threatened violation specified in the notice of charges served upon the credit union pursuant to subsection (e)(1) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union, or is likely to otherwise seriously prejudice the interests of its insured members, the Administrator may issue a temporary order requiring the credit union to cease and desist from any such practice or violation. Such order shall become effective upon service upon the credit union and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Administrator shall dismiss the charges specified in such notice or, if a cease-and-desist order is issued against the credit union, until the effective date of any such order.

"(2) Within ten days after the credit union concerned has been served with a temporary cease-and-desist order, the credit union may apply to the United States district court for the judicial district in which the principal office of the credit union is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the credit union under subsection (e)(1) of this section, and such court shall have jurisdiction to issue such injunction.

"(3) In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order, the Administrator may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the principal office of the credit union is located for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

"(g)(1) Whenever, in the opinion of the Administrator, any director, officer, or committee member of an insured credit union has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the credit union, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director, officer, or committee member and the Administrator determines that the credit union has suffered or will probably suffer substantial financial loss or other damage or that the interests of its insured members could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director, officer, or committee member, the Administrator may serve upon such director, officer, or committee member a written notice of his intention to remove him from office.

"(2) Whenever, in the opinion of the Administrator, any director, officer, or committee member of an insured credit union, by conduct or practice with respect to another insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to continue as a director, officer, or committee member, and, whenever, in the opinion of the Administrator, any other person participating in the conduct of the affairs of an insured credit union, by conduct or practice with respect to such credit union or other insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to participate in the conduct of the affairs of such insured credit union, the Administrator may serve upon such director, officer, committee member, or other person a written notice of his intention to remove him from office and/or to prohibit his further participation in any manner in the conduct of the affairs of such credit union.

"(3) In respect to any director, officer, or committee member of an insured credit union or any other person referred to in paragraph (1) or (2) of this subsection, the Administrator may, if he deems it necessary for the protection of the credit union or the interests of its insured members, by written notice to such effect served upon such director, officer, committee member or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. Such suspension and/or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by paragraph (5) of this subsection, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Administrator shall dismiss the charges specified in such notice or, if an order of removal and/or prohibition is issued against the director, officer, committee member, or other person, until the effective date of any

XUM

such order. Copies of any such notice shall also be served upon the credit union of which he is a director, officer, or committee member or in the conduct of whose affairs he has participated.

"(4) A notice of intention to remove a director, officer, committee member, or other person from office and/or to prohibit his participation in the conduct of the affairs of an insured credit union shall contain a statement of the facts constituting the grounds therefor and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice unless an earlier or a later date is set by the Administrator at the request of such director, officer, committee member, or other person, and for good cause shown, or at the request of the Attorney General of the United States. Unless such director, officer, committee member, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal and/or prohibition. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any of the grounds specified in such notice has been established, the Administrator may issue such orders of suspension or removal from office and/or prohibition from participation in the conduct of the affairs of the credit union as he may deem appropriate. Any such order shall become effective at the expiration of thirty days after service upon such credit union and the director, officer, committee member, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.

"(5) Within ten days after any director, officer, committee member, or other person has been suspended from office and/or prohibited from participation in the conduct of the affairs of an insured credit union under paragraph (3) of this subsection, such director, officer, committee member, or other person may apply to the United States district court for the judicial district in which the principal office of the credit union is located, or the United States District Court for the District of Columbia, for a stay of such suspension and/or prohibition pending the completion of the administrative proceedings pursuant to the notice served upon such director, officer, committee member, or other person under paragraph (1) or (2) of this subsection, and such court shall have jurisdiction to stay such suspension and/or prohibition.

"(h) (1) Whenever any director, officer, or committee member of an insured credit union, or other person participating in the conduct of the affairs of such credit union, is charged in any complaint authorized by a United States attorney or in any information or indictment, with the commission of or participation in a felony involving dishonesty or breach of trust, the Administrator may, by written notice served upon such director, officer, committee member, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union. Such suspension and/or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Administrator. In the event that a judgment of conviction with respect to such offense is entered against such director, officer, committee member, or other person, and at such time as such judgment is not subject to further appellate review, the Administrator may issue and serve upon such director, officer, committee member, or other person an order removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Administrator. A copy of such order shall also be served upon such credit union, whereupon such director, officer, or committee member shall cease to be a director, officer, or committee member of such institution. A finding of not guilty or other disposition of the charge shall not preclude the Administrator from thereafter instituting proceedings to remove such director, officer, committee member, or other person from office and/or to prohibit further participation in the affairs of the credit union pursuant to paragraph (1) or (2) of subsection (g) of this section.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a Federal credit union less than a quorum of directors not so suspended, al. powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a Federal credit union are suspended pursuant to this section, the Administrator shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the credit union and their respective successors have been elected by the members at an annual or special meeting and have taken office. Directors appointed temporarily by the Administrator shall, within thirty days following their appointment, call a special meeting for the election of new directors, unless during the thirty-day period (A) the regular annual meeting is scheduled, or (B) the suspensions giving rise to the appointment of temporary directors are terminated.

"(i) (1) Any hearing provided for in this section shall be held in the Federal judicial district or in the territory in which the principal office of the credit union is located, unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. Such hearing shall be private unless the Administrator, in his discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest. After such hearing, and within ninety days after the Administrator has notified the parties that the case has been submitted to him for final decision, he shall render his decision (which shall include findings of fact upon which his decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection (i). Unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (2) of this subsection, and thereafter until the record in the proceeding has been filed as so provided, the Administrator may at any time, upon such notice and in such manner as he may deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Administrator may modify, terminate, or set aside any such order with permission of the court.

"(2) Any party to the proceeding, or any person required by an order issued under this section to cease and desist from any of the practices or violations stated therein, may obtain a review of any order served pursuant to paragraph (1) of this subsection (other than an order issued with the consent of the credit union or the director, officer, committee member, or other other person concerned or an order issued under subsection (h) of this section) by filing in the court of appeals of the United States for the circuit in which the principal office of the credit union is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the Administrator be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Administrator, and thereupon the Administrator shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall, except as provided in the last sentence of said paragraph (1), be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Administrator. Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

"(3) The commencement of proceedings for judicial review under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Administrator.

"(j) The Administrator may in his discretion apply to the United States district court, or the United States court of any territory within the jurisdiction of which the principal office of the credit union is located, for the enforcement of any effective and outstanding notice or order issued under this section, and such courts shall have jurisdiction and power to order and require compliance therewith. However, except as otherwise provided in this section, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section or to review, modify, suspend, terminate, or set aside any such notice or order.

"(k) Any director, officer, or committee member, or former director, officer, or committee member, of an insured credit union or of a credit union any of the member accounts of which are insured, or any other person against whom there is outstanding and effective any notice or order (which is an order which has become final) served upon such director, officer, committee member, or other person under subsections (g) (3), (g) (4), or (h) of this section and who (i) participates in any manner in the conduct of the affairs of the credit union involved, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote, any proxies, consents, or authorizations in respect of any voting rights in such credit union, or (ii) without the prior written approval of the Administrator votes for a director, serves or acts as a director, officer, committee member, or employee of any credit union, shall upon conviction be fined not more than $5,000 or imprisoned for not more than one year, or both.

"(l) As used in this section (1) the terms 'cease-and-desist order which has become final' and 'order which has become final' means a cease-and-desist order, or an order issued by the Administrator with the consent of the credit union or the director, officer, committee member, or other person concerned, or with respect to which no petition for review of the action of the Administrator has been filed and perfected in a court of appeals as specified in paragraph (2) of sub-

XUM

section (i) of this section, or with respect to which the action of the court in which said petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in said paragraph, or an order issued under subsection (h) of this section, and (2) the term 'violation' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(m) Any service required or authorized to be made by the Administrator under this section may be made by registered mail or in such other manner reasonably calculated to give actual notice as the Administrator may by regulation or otherwise provide. Copies of any notice or order served by the Administrator upon any State-chartered credit union or any director, officer, or committee member thereof or other person participating in the conduct of its affairs, pursuant to the provisions of this section, shall also be sent to the commission, board, or authority, if any, having supervision of such credit union.

"(n) In connection with any proceeding under subsection (e), (f)(1), or (g) of this section involving an insured State-chartered credit union or any director, officer, committee member, or other person participating in the conduct of its affairs, the Administrator shall provide the commission, board, or authority, if any, having supervision of such credit union, with notice of his intent to institute such a proceeding and the grounds therefor. Unless within such time, as the Administrator deems appropriate in the light of the circumstances of the case (which time must be specified in the notice prescribed in the preceding sentence) satisfactory corrective action is effectuated by action of such commission, board, or authority, the Administrator may proceed as provided in this section. No credit union or other party who is the subject of any notice or order issued by the Administrator under this section shall have standing to raise the requirements of this subsection as ground for attacking the validity of any such notice or order.

"(o) In the course of or in connection with any proceeding under this section, the Administrator, or any designated representative thereof, including any person designated to conduct any hearing under this section, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum, and the Administrator is empowered to make rules and regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Any party to proceedings under this section may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena or subpena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by an insured credit union or a director, officer, or committee member thereof may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper, and such expenses and fees shall be paid by the credit union or from its assets.

"PAYMENT OF INSURANCE

"SEC. 207. (a)(1) Upon his finding that a Federal credit union insured under this title is bankrupt or insolvent, the Administrator shall close such credit union for liquidation and appoint himself liquidating agent therefor.

"(2) Notwithstanding any other provision of law, it shall be the duty of the Administrator as such liquidating agent to cause notice to be given, by advertisement in such newspapers as he may direct, to all persons having claims against such closed credit union, to present their claims within four months from the date such advertisement first appeared; to realize upon the assets of such closed credit union, having due regard to the condition of credit in the locality; and to wind up the affairs of such closed credit union in conformity with the provisions of law relating to the liquidation of bankrupt or insolvent Federal credit unions, except as herein otherwise provided. The Administrator as such liquidating agent shall pay to himself for his own account such portion of the amounts realized from such liquidation as he shall be entitled to receive on account of his subrogation to the claims of members, and he shall pay to members and other creditors the net amounts available for distribution to them. The Administrator as such liquidating agent, however, may, in his discretion, pay dividends on proved claims at any time after the expiration of the period of advertisement made pursuant to the first sentence of this paragraph, and no liability shall attach to the Administrator himself for as such liquidating agent by reason of any such payment for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

"(3) Notwithstanding any other provision of law, the Administrator as liquidating agent of a closed Federal credit union insured under this title shall not be required to furnish bond and shall have the right to appoint an agent or agents to assist him in his duties as such liquidating agent. All fees, compensation, and expenses of liquidation and administration thereof shall be fixed by the Administrator and may be paid by him out of funds coming into his possession as such liquidating agent.

"(b) Whenever any insured State-chartered credit union shall have been closed by action of its board of directors or by the commission, board, or authority having supervision of such credit union, as the case may be, or by a court of competent jurisdiction, on account of bankruptcy or insolvency, the Administrator shall accept appointment as liquidating agent therefor, if such appointment is tendered by the commission, board, or authority having supervision of such credit union, or by a court of competent jurisdiction, and is authorized or permitted by State law. With respect to any such State-chartered credit union, the Administrator as such liquidating agent shall possess all the rights, powers, and privileges granted by State law to a liquidating agent of a State-chartered credit union. For the purposes of this subsection, the term 'liquidating agent' includes a liquidating agent, receiver, conservator, commission, person, or other agency charged by law with the duty of winding up the affairs of a credit union.

"(c) Whenever an insured credit union shall have been closed for liquidation on account of bankruptcy or insolvency, payment of the insured accounts in such credit union shall be made by the Administrator as soon as possible, subject to the provisions of subsection (d) of this section. For the purposes of this subsection, the term "insured account" means the total amount of the account in the member's name (after deducting offsets) less any part thereof which is in excess of $20,000. Such amount shall be determined according to such regulations as the Administrator may prescribe, and, in determining the amount due to any member, there shall be added together all accounts in the credit union maintained by him for his own benefit either in his own name or in the names of others. The Administrator may define, with such classifications and exceptions as he may prescribe, the extent of the insurance coverage provided for member accounts, including member accounts in the name of a minor, in trust, or in joint tenancy. The Administrator, in his discretion, may require proof of claims to be filed before paying the insured accounts, and in any case where he is not satisfied as to the validity of a claim for an insured account, he may require the final determination of a court of competent jurisdiction before paying such claim.

"(d) In the case of a closed Federal credit union, the Administrator, upon the payment to any member as provided in subsection (c) of this section, shall be subrogated to all rights of the member against such closed credit union to the extent of such payment. In the case of any other closed insured credit union, the Administrator shall not make any payment to any member until the right of the Administrator to be subrogated to the rights of such member on the same basis as provided in the case of a closed Federal credit union shall have been recognized either by express provision of State law, by allowance of claims by the commission, board, or authorty having supervision of such credit union, by assignment of claims by members, or by any other effective method. In the case of any closed insured credit union, such subrogation shall include the right on the part of the Administrator to receive the same dividends from the proceeds of the assets of such closed credit union as would have been payable to the member on a claim for the insured account, but such member shall retain his claim for any uninsured portion of his account. The rights of members and other creditors of any State-chartered credit union shall be determined in accordance with the applicable provisions of State law.

"(e) Payment of an insured account to any person by the Administrator shall discharge the Administrator to the same extent that payment to such person by the closed insured credit union would have discharged it from liability for the insured account.

"(f) Except as otherwise prescribed by the Administrator, the Administrator shall not be required to recognize as the owner of any portion of an account appearing on the records of the closed credit union under a name other than that of the claimant any person whose name or interest as such owner is not disclosed on the records of such closed credit union as part owner of such account, if such recognition would increase the aggregate amount of the insured accounts in such closed credit union.

"(g) The Administrator may withhold payment of such portion of the insured account of any member of a closed credit union as may be required to provide for the payment of any direct or indirect liability of such member to the closed credit union or its liquidating agent, which is not offset against a claim due from such credit union, pending the determination and payment of such liability by such member or any other person liable therefor.

"(h) If, after the Administrator shall have given at least four months' notice to the member by mailing a copy thereof to his last-known address appearing on the records of the closed credit union, any member of the closed credit union shall fail to claim his insured account from the Administrator within 18 months after the appointment of the liquidating agent for the closed credit union, all rights of the member against the Administrator with respect to the insured account shall be barred, and all rights of the member against the closed credit union, or the estate to which the Administrator may have become subrogated, shall thereupon revert to the member.

"(i) (1) Liquidating agents of insured credit unions closed for liquidation on account of bankruptcy or insolvency may offer the assets of such credit unions for sale to the Administrator or as security for loans from the Administrator, upon receiving permission from the commission, board, or authority having supervision of such credit union, in the case of an insured State-chartered credit union, in accordance with express provisions of State law. The proceeds of every such sale or loan shall be utilized for the same purposes and in the same manner as other funds realized from the liquidation of the assets of such credit unions. The Administrator, in his discretion, may make loans on the security of or may purchase and liquidate or sell any part of the assets of an insured credit union closed for liquidation on account of bankruptcy or insolvency, but in any case in which the Administrator is acting as liquidating agent of a closed insured credit union, no such loan or purchase shall be made without the approval of a court of competent jurisdiction.

"(2) No agreement which tends to diminish or defeat the right, title, or interest of the Administrator in any asset acquired by him under this subsection, either as security for a loan or by purchase, shall be valid against the Administrator unless such agreement—

"(A) shall be in writing;

"(B) shall have been executed by the credit union and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the credit union;

"(C) shall have been approved by the board of directors of the credit union, which approval shall be reflected in the minutes of such board; and

"(D) shall have been, continuously, from the time of its execution, an official record of the credit union.

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"SPECIAL ASSISTANCE TO AVOID LIQUIDATION

"Sec. 208. (a) (1) In order to reopen a closed insured credit union or in order to prevent the closing of an insured credit union which the Administrator has determined is in danger of closing, the Administrator, in his discretion, is authorized to make loans to, or purchase the asests of, or establish accounts in such insured credit union upon such terms and conditions as he may prescribe. Such loans shall be made and such accounts shal be established only when, in the opinion of the Administrator, such action is necessary to protect the Fund or the interests of the members of the credit union. Such loans and accounts may be in subordination to the rights of members and creditors of the credit union.

"(2) Whenever in the judgment of the Administrator such action will reduce the risk or avert a threatened loss to the fund and will facilitate a merger or consolidation of an insured credit union with another insured credit union, or will facilitate the sale of the assets of an open or closed insured credit union to and assumption of its liability by another insured credit union, the Administrator may, upon such terms and conditions as he may determine, make loans secured in whole or in part by assets of an open or closed insured credit union, which loans may be in subordination to the rights of members and creditors of such credit union, or the Administrator may purchase any of such assets or may guarantee any other insured credit union against loss by reason of its assuming the liabilities and purchasing the assets of an open or closed insured credit union.

"(3) No agreement which tends to diminish or defeat the right, title, or interest of the Administrator in any asset acquired by him under this subsection, either as security for a loan or by purchase, shall be valid against the Administrator unless such agreement—

"(A) shall be in writing;

"(B) shall have been executed by the credit union and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the credit union;

"(C) shall have been approved by the board of directors of the credit union, which approval shall be reflected in the minutes of such board; and

"(D) shall have been, continuously, from the time of its execution, an official record of the credit union.

"(b) For the protection of the Fund, the Administrator, without regard to the Federal Property and Administrative Services Act of 1949, may—

"(1) deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, sell for cash or credit, or lease, in his discretion, any real property acquired or held by him under this section; and

"(2) assign or sell at public or private sale, or otherwise dispose of, any evidence of debt, contract, claim, personal property, or security assigned to or held by him under this section.

Section 3709 of the Revised Statutes of the United States shall not apply to any purchase or contract for services or supplies made or entered into by the Administrator under this section if the amount thereof does not exceed $1,000, or to any contract for hazard insurance on any real property acquired or held by him under this section.

"(c) In connection with the liquidation of any insured credit union, the Administrator shall have the power to carry on the business of and collect all obligations to the credit union, to settle, compromise, or release claims in favor of or against the credit union, and to do all other things that may be necessary in connection therewith, subject to the regulation of the court or other public body having jurisdiction over the matter.

"(d) Money received by the Administrator in carrying out this section shall be paid into the Fund.

"ADMINISTRATIVE PROVISIONS

"Sec. 209. (a) In carrying out the purposes of this title, the Administrator may—

"(1) make contracts;

"(2) sue and be sued, complain and defend, in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Administrator shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy. The Administrator may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect, except that any such suit to which the Administrator is a party in his capacity as liquidating agent of a State-chartered credit union and which involves only the rights or obligations of members, creditors, and such State credit union under State law shall not be deemed to arise under the laws of the United States. No attachment or execution shall be issued against the Administrator or his property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court. The Administrator shall designate an agent upon whom service of process may be made in any State, territory, or jurisdiction in which any insured credit union is located;

"(3) pursue to final disposition by way of compromise or otherwise claims both for and against the United States (other than tort claims, claims involving administrative expenses, and claims in excess of $5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials) which are not in litigation and have not been referred to the Department of Justice;

"(4) to appoint such officers and employees as are not otherwise provided for in this Act, to define their duties, fix their compensation, require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. Nothing in this or any other Act shall be construed to prevent the appointment and compensation as an officer or employee of the administration of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof;

"(5) employ experts and consultants or organizations thereof, as authorized by section 15 of the Administrative Expenses Act of 1946. (5 U.S.C. 55a);

"(6) prescribe the manner in which his general business may be conducted and the privileges granted to him by law may be exercised and enjoyed;

"(7) exercise all powers specifically granted by the provisions of this title and such incidental powers as shall be necessary to carry out the powers so granted;

"(8) make examinations of and require information and reports from insured credit unions, as provided in this title.

"(9) act as liquidating agent;

"(10) delegate to any officer or employee of the Administration such of his functions as he deems appropriate; and

"(11) prescribe such rules and regulations as he may deem necessary or appropriate to carry out the provisions of this title.

"(b) With respect to the financial operations arising by reason of this title, the Administrator shall—

"(1) prepare annually and submit a business-type budget as provided for wholly owned Government corporations by the Government Corporation Control Act; and

"(2) maintain an integral set of accounts, which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act.

"NONDISCRIMINATORY PROVISION

"Sec. 210. It is not the purpose of this title to discriminate in any manner against State-chartered credit unions and in favor of Federal credit unions, but it is the purpose of this title to provide all credit unions with the same opportunity to obtain and enjoy the benefits of this title."

Sec. 2. Section 101 of the Federal Credit Union Act, as redesignated by section 1 of this Act (formerly section 2 of such Act), is amended—

(1) by striking out the word "and" at the end of paragraph (2) thereof;

(2) by striking out the period at the end of paragraph (3) thereof and inserting "; and" in lieu thereof; and

(3) by adding the following new paragraphs after paragraph (3) thereof:

"(4) The terms 'member account' and 'account' (when referring to the account of a member of a credit union) mean a share,

share certificate, or share deposit account of a member of a credit union of a type approved by the Administrator which evidences money or its equivalent received or held by a credit union in the usual course of business and for which it has given or is obligated to give credit to the account of the member, and, in the case of a credit union serving predominantly low-income members (as defined by the Administrator), such terms (when referring to the account of a nonmember served by such credit union) mean a share, share certificate, or share deposit account of such nonmember which is of a type approved by the Administrator and evidences money or its equivalent received or held by such credit union in the usual course of business and for which it has given or is obligated to give credit to the account of such nonmember;

"(5) The terms 'State credit union' and 'State-chartered credit union' mean a credit union organized and operated according to the laws of any State, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, which laws provide for the organization of credit unions similar in principle and objectives to Federal credit unions;

"(6) The term 'insured credit union' means any credit union the member accounts of which are insured in accordance with the provisions of title II of this Act, and the term 'noninsured credit union' means any credit union the member accounts of which are not so insured;

"(7) The term 'Fund' means the National Credit Union Share Insurance Fund; and

"(8) The term 'branch' includes any branch credit union, branch office, branch agency, additional office, or any branch place of business located in any State of the United States, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, at which member accounts are established or money lent."

SEC. 3. Section 493 of title 18 of the United States Code (relating to bonds and obligations of certain lending agencies) is amended—

(1) by inserting the words "National Credit Union Administration," following the words "Federal Deposit Insurance Corporation,"; and

(2) by inserting the words "insured credit union," following the words "intermediate credit bank,".

SEC. 4. Section 657 of title 18 of the United States Code (relating to lending, credit, and insurance institutions) is amended—

(1) by inserting the words "National Credit Union Administration," following the words "Federal Deposit Insurance Corporation,"; and

(2) by inserting the words "or by the Administrator of the National Credit Union Administration" following the words "Federal Savings and Loan Insurance Corporation".

SEC. 5. Section 709 of title 18 of the United States Code (relating to false advertising and misuses of names to indicate a Federal agency) is amended by adding after the third paragraph thereof the following paragraph:

"Whoever falsely advertises or otherwise represents by any device whatsoever that his or its deposit liabilities, obligations, certificates, or shares are insured under the Federal Credit Union Act or by the United States or any instrumentality thereof, or, being an insured credit union as defined in that Act falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which shareholdings in such credit union are insured under such Act; or".

SEC. 6. Section 1006 of title 18 of the United States Code (relating to false entries in reports and transactions of Federal credit institutions) is amended—

(1) by inserting the words "National Credit Union Administration," following the words "Federal Deposit Insurance Corporation,"; and

(2) by inserting the words "or by the Administrator of the National Credit Union Administration" following the words "Federal Savings and Loan Insurance Corporation".

SEC. 7. Section 1014 of title 18 of the United States Code (relating to false statements in loan and credit applications) is amended by striking out the words "or a Federal credit union" and by inserting the words ", a Federal credit union, or an insured State-chartered credit union" in lieu thereof.

SEC. 8. Section 2113 of title 18 of the United States Code (relating to bank robbery and incidental crimes) is amended as follows:

(1) Subsections (a), (b), and (c) are each amended by inserting the words "credit union," following the word "bank," each place it appears therein.

(2) The following new subsection is added at the end thereof:

"(h) As used in this section the term 'credit union' means any Federal credit union and any State-chartered credit union the accounts of which are insured by the Administrator of the National Credit Union Administration."

SEC. 9. Section 116 of the Federal Credit Union Act, redesignated by section 1 of this Act (formerly section 17 of such Act), is amended to read as follows:

"SEC. 116. (a) Immediately before the payment of each dividend, the gross earnings of the credit union shall be determined. From this amount, there shall be set aside, as a regular reserve against losses on loans and against such other losses as may be specified in regulations prescribed under this Act, sums in accordance with the following schedule:

"10 per centum of gross income until the regular reserve shall equal 7½ per centum of the total of outstanding loans and risk assets, then

"5 per centum of gross income until the regular reserve shall equal 10 per centum of the total of outstanding loans and risk assets.

Whenever the regular reserve falls below 10 per centum or 7½ per centum of the total of outstanding loans and risk assets, as the case may be, it shall be replenished by regular contributions in such amounts as may be needed to maintain the reserve goals of 7½ per centum or 10 per centum.

"(b) In addition to such regular reserve, special reserves to protect the interests of members shall be established—

"(1) when required by regulation; or

"(2) when found by the Administrator, in any special case, to be necessary for that purpose."

SEC. 10. Section 107 of the Federal Credit Union Act, as redesignated by section 1 of this Act (formerly section 8 of such Act), is amended—

(1) by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) to receive from its members or other federally insured credit unions payments on shares, share certificates, or share deposits, and, in the case of credit unions serving predominantly low-income members (as defined by the Administrator), to receive payments on shares, share certificates, or share deposits from nonmembers;" and

(2) by adding at the end of paragraph (8) the following: "and (H) in shares, share certificates, or share deposits of federally insured credit unions;".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **WIDNALL**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. **PATMAN**. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the legislation before this body today, S. 3822, which would provide Federal share insurance for credit unions, is a unique legislative action. On two other occasions, this body has debated legislation that would provide Federal insurance for other financial institutions, specifically, banks and savings and loans. Those bills, however, were passed at a time when the future of the bank and savings and loan industry would have been grim had it not been for the establishment of Federal deposit insurance.

Today, we are considering similar insurance for credit unions, but we are taking this action, not at a time when credit unions are on their backs, but rather at a time when they are perhaps in their strongest financial position in history. This legislation is not being put forth to save the credit unions, as was the case with other financial institutions, but rather it is a reward for the more than 24,000 credit unions with over 20 million members in the United States for performing such a valuable service to our country. It is another step toward making credit unions full-fledged members of the financial community.

Before going further, let me briefly discuss the provisions of S. 3822. The legislation provides as follows:

First. Application for insurance: Every Federal credit union must obtain Federal share insurance or have its charter suspended or revoked, unless within 1 year the credit union meets requirements for insurance. State-chartered credit unions may be insured by the Administrator of the National Credit Union Administration. Four unchartered overseas military credit unions can be insured, provided that they comply with the provisions of the Federal Credit Union Act.

Second. Reserves: Federal credit unions would maintain a reserve based on a formula established by the Administrator of the National Credit Union Administration and spelled out in the legislation. State-chartered credit unions would maintain a reserve as established by State law and may be required to meet special reserves established by the Administrator of the National Credit Union Administration.

Third. Premium: Premium for insurance would be one-twelfth of 1 percent, with a special premium assessment of one-twelfth of 1 percent in the event expenses exceed income in any 1 year.

Fourth. Treasury Draw: Insurance fund would have a Treasury draw of $100 million.

Fifth. Payment of insurance: All accounts up to $20,000 will be insured. Credit unions which liquidate in a solvent condition will receive a pro rata share of its paid-in premiums.

Sixth Cease and Desist: Legislation provides Administrator of the National Credit Union Administration with cease-and-desist power over insured credit unions.

Mr. Speaker, if there were more time remaining in the 91st Congress, S. 3822, in its present form, might not have been

XUM

the legislation before this body today. When the legislation was originally introduced in the other body, I felt that it contained a number of points that would work hardships on credit unions. However, when the legislation was passed in the other body, many of these provisions were deleted, and the present bill is far more palatable than the bill as it was introduced in the other body.

At the same time, S. 3822 should be considered as a beginning and not an end to the question of share insurance. It is a suitable vehicle for beginning the share insurance program and, if problems arise within the program, I have stated that the Banking and Currency Committee will give prompt consideration to any amendments that would strengthen the program. The important thing at this point in the legislative calendar is to get a program of share insurance underway, and S. 3822 accomplishes that objective.

CAREFULLY DISCUSSED PREMIUMS

Your committee gave careful consideration to all legislative proposals on share insurance. The committee spent a great deal of time discussing the extent of the premium charged for credit unions. After much deliberation, the committee agreed to accept a premium of one-twelfth of 1 percent of shares, the same premium originally assessed banks, and savings and loans. Also considered was a premium rate of one-twentieth of 1 percent. If all credit unions were to enter the share insurance program, the one-twentieth rate would have placed $6.1 million in the fund in 1969. A premium rate of one-twelfth of 1 percent would provide $10.2 million in 1969. Roughly the same figures will hold true for 1970. Since Federal credit unions lost only $95,000 in 1969, and it is estimated that a similar amount was lost in State-chartered credit unions, it can easily be seen that both the one-twelfth and the one-twentieth premium would be more than adequate to meet any losses, cover administrative expenses, and place a substantial portion in reserves. However, since the one-twelfth premium will build up reserves on a more rapid basis, it was decided to use the higher premium. When the fund reaches 1 percent of the total shares of all insured credit unions, then the Administrator of the National Credit Union Administration is authorized to reduce the premium. This is in keeping with the premium structure of other financial institutions. For instance, commercial banks were originally required to pay one-twelfth of 1 percent for insurance premiums, but now that figure has been reduced to one-thirty-second of 1 percent. By using the one-twelfth premium charge, the credit union fund will reach the necessary reserve ceiling in a shorter time than by using the one-twentieth premium, thus bringing about a reduction in premium. In the long run, it may well be that the one-twelfth of 1 percent premium will work less of a financial hardship on credit unions than would the one-twentieth of 1 percent premium.

Historically, losses of credit unions over the years have been relatively small. For example, during the period 1934 to 1969, actual losses for Federal credit unions were $1,716,211. Net losses from scale downs have amounted to $1,643,330 during this same period. Donations to liquidated Fededal credit unions and Federal operating credit unions have totaled $1,016,467 and $606,337, respectively. Thus, total losses for all Federal credit unions for the last 36 years have amounted to less than $5 million but actual losses to members have amounted to only $3,359,541 because of donations and assistance from State leagues.

Since the start of the Federal credit union program if there were insurance, Federal credit unions would have paid $40 million into the insurance fund.

LEAGUE ASSISTANCE WOULD HELP

In 1970 the anticipated losses for Federal credit unions have been estimated by the National Credit Union Administration to be $389,179. This figure, however, assumes that no assistance would come from CUNA league stabilization programs to assist these credit unions. Significantly, credit union losses have been small compared with other financial institutions. In fact, most liquidated credit unions have paid at least 100 cents on the dollar. A study conducted by the National Credit Union Administration for the period 1964 to 1968 reveals that 1,220 Federal credit unions completed liquidation, representing $50 million in share capital and a total membership of 213,000. As a group, the liquidations were completed at a net gain of 5.8 percent. Only 164 credit unions of the total group returned less than 100 cents on the dollar. Over 50 percent—91—of the 164 credit unions had less than $50,000 in share capital; 133 of these credit unions paid less than 100 cents on the dollar and had share capital of less than $25,000. In addition, 23 percent—37—of these 164 liquidated credit unions were operative for less than 2 years. Also, 128 of the 164 had less than 200 members.

A good example of credit union safety occurred earlier this year when a Minnesota credit union was forced to liquidate because its sponsor closed the plant which the credit union served. The credit union paid out 198 cents on the dollar. That meant that every credit union member who had $100 in the credit union received a payment of $198.

PREMIUM WOULD BE PRORATED

S. 3822 contains a provision that allows credit unions liquidating in a solvent condition to receive a pro rata share of their insurance premiums when the liquidation is completed. It must be remembered that many credit unions liquidate, not because they are insolvent, but rather because their sponsor in an industrial situation has closed the plant or in a military credit union, the base or post has been deactivated. Since credit unions, by law, can serve only a specific field of membership, the credit unions in such situations are required to close their doors. It is felt in this case that the credit union deserves to receive a pro rata share of its premium paid out over the years, since it contributed to the fund without making any demands on the fund.

In another important area, this bill provides insurance protection for not only the shareholders of a credit union but for any account holder having a share, certificate or deposit account in the insured credit union. This could include deposits made by Government agencies, corporations, and other organizations which may place funds in credit unions. If we are to help credit unions in need, particularly the low income or poverty credit unions and the people they serve, it is essential to attract capital from outside their fields of membership. Currently, and in the foreseeable future, member share purchases in these credit unions will remain insufficient to meet loan demands.

The authority to insure deposits in these credit unions would significantly enhance their ability to attract funds from outside sources and thus increase their capacity for continued service to persons who otherwise would not be able to obtain credit at reasonable cost or who could not obtain credit at all.

Mr. Speaker, I am including a list of credit unions in the country by States and U.S. territory. There are roughly 20 million credit union members in the United States, comprising about 10 percent of the population. As a legislative body, representing the people, I urge that we unanimously adopt S. 3822, not only as an indication of our support for credit unions, but as an indication that the House of Representatives truly does serve the will of the people.

Active credit unions reported as of July 31, 1970

United States:	
Alabama	376
Arizona	164
Arkansas	157
California	1, 877
Colorado	336
Connecticut	501
Delaware	81
District of Columbia	190
Florida	667
Georgia	427
Hawaii	168
Idaho	176
Illinois	1, 732
Indiana	611
Iowa	422
Kansas	309
Kentucky	277
Louisiana	480
Maine	194
Maryland	242
Massachusetts	787
Michigan	1, 163
Minnesota	425
Mississippi	213
Missouri	518
Montana	144
Nebraska	157
Nevada	65
New Hampshire	72
New Jersey	601
New Mexico	135
New York	1, 217
North Carolina	325
North Dakota	124
Ohio	1, 448
Oklahoma	200
Oregon	269
Pennsylvania	1, 448
Rhode Island	136
South Carolina	185
South Dakota	116
Tennessee	580
Texas	1, 439
Utah	317
Vermont	78
Virginia	366
Washington	411

XUM

West Virginia	202
Wisconsin	776
Wyoming	55
	23,402
Commonwealth of Puerto Rico	439
	23,841
American Samoa	1
Canal Zone	[1] 7
Guam	4
Okinawa	2
Trust Territory of Pacific	41
Virgin Islands	3
Wake Islands	1
	59
Total United States, Possessions, Reservation and Commonwealth of Puerto Rico	23,900

[1] Reservation of the United States.

The **SPEAKER** pro tempore. The time of the gentleman from Texas has expired.

Mr. **PATMAN**. Mr. Speaker, I yield myself 2 additional minutes.

Mr. **BOW**. Mr. Speaker, will the gentleman yield?

Mr. **PATMAN**. I yield to the gentleman from Ohio.

Mr. **BOW**. An examination of the bill which the gentleman brings to the floor shows that on page 18 of the bill, under section 203(d)(1), the gentleman is asking us to approve $100 million of backdoor spending. Does the gentleman agree?

Mr. **PATMAN**. It is the same backdoor spending——

Mr. **BOW**. Is it backdoor spending?

Mr. **PATMAN**. I would not say it is backdoor spending.

Mr. **BOW**. What would the gentleman call it?

Mr. **PATMAN**. If it is, there is $10 billion of backdoor spending for the Federal savings and loans, the commercial banks and FNMA. Neither one is backdoor spending.

Mr. **BOW**. The gentleman, I take it, agrees that this is backdoor spending?

Mr. **PATMAN**. No, sir; I do not agree it is backdoor spending.

Mr. **BOW**. What does the gentleman think it is?

Mr. **PATMAN**. I do not think it is.

Mr. **BOW**. What does the gentleman think it is?

Mr. **PATMAN**. I think it is an obligation in the future if certain situations should arise that are not predicted now—if there is a wholesale calamity which strikes the credit unions over and above the insurance fund.

Mr. **BOW**. Mr. Speaker, will the gentleman yield further?

Mr. **PATMAN**. I yield further.

Mr. **BOW**. Is it not a fact that the Secretary of the Treasury can draw $100 million which becomes a liability, and that this amount can be drawn without an appropriation?

Mr. **PATMAN**. Why, certainly, if a condition should arise that would cause these institutions to have to close up and be liquidated or go into bankruptcy. But that is not contemplated. It will never be.

Mr. **BOW**. If it is never going to happen, why present us with a bill that authorizes an obligation upon the Government for $100 million?

Mr. **PATMAN**. I know, but that is so insignificant compared to $3 billion for the banks. They do not have to pay only a pittance for it.

Mr. **BOW**. I agree with the gentleman. I believe we have made mistakes in other cases. I believe we should discourage backdoor spending and should control the funds in the Treasury.

The gentleman has pointed out two other cases where his committee brought in bills with backdoor spending, and where we now do not have control of Treasury funds.

Mr. **PATMAN**. I did not say it was backdoor spending. It is just that the obligation is there if and when a deplorable situation should arise, a catastrophe when it would be needed. It is not contemplated it would be needed.

The **SPEAKER** pro tempore (Mr. BOLAND). The time of the gentleman from Texas has again expired.

Mr. **PATMAN**. Mr. Speaker, I yield myself 2 additional minutes.

It is not contemplated it will be needed at all, and it will not be needed.

Mr. **BOW**. I am delighted to hear the gentleman say that and to hear him express so much confidence in the future financial condition of the National Credit Union Share Insurance Fund. I have also heard the gentleman say other things here not long ago, but I still point out to the gentleman that in two other bills we have provided much larger sums, and again in this bill one we would provide the expenditure of $100 million, over which we have no control.

Mr. **PATMAN**. There is no expenditure here at all. The gentleman is way beyond us. This is no expenditure; it is merely an obligation.

Mr. **BOW**. What would the gentleman call it if there came a time when you required this $100 million? Your bill leaves this to the judgment of the administrator. Would it be an expenditure then?

Mr. **PATMAN**. Then it would be an expenditure.

Mr. **BOW**. And without an appropriation, is that not correct?

Mr. **PATMAN**. It would have to be appropriated.

Mr. **BOW**. Where does the gentleman find anything in here that says it has to be appropriated?

Mr. **PATMAN**. It would have to be.

Mr. **BOW**. That is the point I make to the gentleman.

Mr. **PATMAN**. I assure you there is nothing in here to appropriate any money. This is a standby provision in an emergency.

Mr. **BOW**. If the gentleman will yield further, the point I am trying to make is this: the gentleman said it would have to be appropriated, but the gentleman's bill gives the Treasury the authority to draw $100 million. There is nothing in this bill that says it must be appropriated.

Mr. **PATMAN**. It would have to be. It has to be paid, of course, and that goes through the Congress if it is paid.

Mr. **BOW**. If there were a loss of $100 million, would it come back to the Congress?

Mr. **PATMAN**. Let us quit talking about losses.

Mr. **BOW**. Let me finish my statement.

Mr. **PATMAN**. There are no losses in here. We have losses of $3 billion in the banks.

Mr. **BOW**. Then, the gentleman is wasting our time in bringing in a bill to provide for something that he does not anticipate will happen. I again go back to the fact that the gentleman has not explained how this can be considered as anything except backdoor financing.

Mr. **PATMAN**. This is the best financial institution in the land. It helps the people. There are over 20 million members in it. They are continuing to help them. Let us do something for people who are doing something for themselves. They are working for themselves and for the community.

Mr. **BOW**. Will the gentleman yield further?

Mr. **PATMAN**. I cannot yield further on the backdoor spending because I think we have covered it.

Mr. **BOW**. You have not covered a thing on the issue to backdoor spending.

Mr. **BARRETT**. Mr. Speaker, will the gentleman yield to me?

Mr. **PATMAN**. I yield to the gentleman from Pennsylvania.

Mr. **BARRETT**. Does the gentleman not think that the credit unions are worth $100 million for the good that they do?

Mr. **PATMAN**. Why, certainly. Even if you lost it, it would be worth several hundred million dollars. They have $15 billion in assets.

Mr. **BARRETT**. Is it not true that the credit unions have lost only one-twentieth of 1 percent in all of their activities?

Mr. **PATMAN**. In 36 years they lost $3 million.

The **SPEAKER** pro tempore. The time of the gentleman has again expired.

Mr. **PATMAN**. Mr. Speaker, I yield myself 1 additional minute.

I yield to the gentleman from Iowa.

Mr. **GROSS**. I am still waiting for the gentleman to answer the question of the gentleman from Ohio as to why you did not provide in this bill that the money be appropriated, rather than a backdoor raid on the Treasury Department. I, too, am a supporter of credit unions but I am absolutely opposed to backdoor spending.

Mr. **PATMAN**. This is a standby provision. We have authorized $3 billion for the banks. Would you authorize $3 billion for the banks, which are profit-making institutions, and which we all believe are worthwhile, because we could not get along without them, and we need them in time of peace and in war? We are willing for them to have $3 billion and we are willing for the savings and loans to have $2.5 billion in standby authority. We are willing for the FNMA, although it is privately owned, to have a standby authority of $2.5 billion. But an institution that is built up by its own bootstraps for the last 36 years and with the Government doing nothing for it and which has $15 billion of assets—are you going to deny

XUM

them a standby authority of $100 million?

Mr. WIDNALL. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I support the enactment of S. 3822. There are now more than 24,000 credit unions in which there are some 22 million Americans who have deposited over $14 billion in savings. Although it appears they have been generally well managed and losses to depositors have been small as a percentage of total deposits, they reflect a need for a shareholder insurance program in such a large and growing thrift system. First, there is a need because there is a small number of instances where mismanagement does result in losses for the credit union. In many unions shareholders may lose all or part of their savings resulting in real hardships to them. It is no consolation to the shareholders in such circumstances to know that they represent only a minute fraction of all the credit union shareholders. Their loss is a real loss which can be avoided through share insurance.

Second, there is a need because even in those cases where credit unions must terminate their activities for reasons other than mismanagement there may be losses and there are almost certain to be long delays before shareholders receive the full amount of their deposits. This is so because even when the assets of the credit union far exceed its obligations to shareholders recovery on those assets may be a lengthy process. A system of share insurance will facilitate the orderly liquidation of such credit unions and still permit the prompt return to shareholders of money which they had on deposit.

I urge enactment of S. 3822 which the committee has reported without amendment. This bill is practically identical to H.R. 17722 which I introduced on May 20, 1970. In drafting this legislation we drew upon 35 years of experience under the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. Throughout the years we have amended these programs numerous times as experience and changing conditions have suggested desirable improvements. S. 3822 is a good bill because a conscious effort was made in drawing it to incorporate the wisdom of this experience modifying it only to reflect the unique aspects of credit unions as opposed to banks and savings and loan associations.

We should enact this bill promptly in order to make this share insurance available without further delay. The administration supports this bill.

Mr. PATMAN. Mr. Speaker, will the gentleman yield?

Mr. WIDNALL. I yield to the chairman of the committee.

Mr. PATMAN. Is it not a fact that the bill passed the other body unanimously and was passed out of the Committee on Banking and Currency with 36 members voting for it, with the exception of one negative vote; that is correct, is it not?

Mr. WIDNALL. That is true, Mr. Chairman.

Mr. Speaker, I would like to also point out that in testimony before our committee given by Mr. Wilfred McKinnon, president of CUNA, he stated that in 1971 they anticipated losses of the Federal credit unions have been estimated by the National Credit Union Administration to be $452,272; the gross premiums to be received by the fund from Federal credit unions, based upon one-twentieth of 1 percent premium investment is estimated to be $4,012,000 in the year 1971.

Mr. Speaker, these figures indicate the situation as it exists today. That was the testimony before the committee. The bill as now written and presented to the House carries one-twelfth of 1 percent premium investment which would mean that the income would be higher than the estimate, $4 million.

Mr. Speaker, I now yield 5 minutes to the distinguished gentleman from Ohio (Mr. Bow).

Mr. BOW. Mr. Speaker, the great State of Texas has an impressive football team. I have watched them many times and observed them dodge, skirt around the ends, and run all over the place. Their play reminds me of the gentleman from Texas who just avoided answering the question which I addressed to him. He was dodging and running around the ends and doing everything but actually carrying the ball.

I would just like to point out that I think credit unions are great. I believe they do a magnificent job, and they play an important role in the financial structure of our country. But I also believe the House of Representatives has the responsibility of guarding the funds in the Treasury, and we should not authorize backdoor spending.

Now, the gentleman has mentioned two other cases that came out of the same committee in apparent disregard for the control of this Nation's funds. I think it is about time that we stopped this procedure.

I would suggest that if the Committee on Banking and Currency brings in any more bills like this, they ought to provide for some control by Congress over the funds. This is absolutely necessary if they have any regard for the Treasury of the United States.

I will not yield to the gentleman from Texas at this time; the gentleman did not answer my questions, so I do not know why I should yield to the gentleman.

The gentleman says it is not backdoor spending. This bill says in no uncertain terms that the Secretary of the Treasury shall make loans, and loans under this paragraph shall not exceed $100 million—and that is no small amount.

I call your attention to page 19, section 3:

> For the purpose of making loans under paragraph (1) of this subsection, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are hereby extended to include such loans.

Now, listen to this language:

> All loans and repayments under this section shall be treated as public debt transactions of the United States.

If and when these funds are used, they become a public debt transaction of the United States. This is backdoor spending, pure and simple, regardless of the attempts by the gentleman from Texas to avoid answering my direct questions.

May I point out, Mr. Speaker, that Congress has been on record for a long time in trying to avoid backdoor spending. It is one way we can protect the Treasury of the United States. Again I do not want anything I say to be construed as meaning that I am opposed to credit unions. I think they do an excellent job. My efforts here reflect no lack of concern about protecting credit unions, but reflect equal concern about protecting the Treasury of the United States. The proper legislative procedure to do that is to approve these loans and disbursements from the Treasury through the appropriations process.

The gentleman knows very well the Constitution provides that no funds shall be expended except by appropriation, so it seems to me that Congress has this responsibility.

Now, Mr. Speaker, I will be glad to yield to the gentleman from Texas.

Mr. PATMAN. Mr. Speaker, may I say to the gentleman our committee appreciates the fact that he is a supporter of credit unions, and I am sure he realizes the great work they are doing in this country, and we are very thankful to them, and they have never cost the government one penny.

Where the gentleman mentions backdoor spending, we have had that for over a period of years, and now and then we permit backdoor spending, and I know sometimes some Members do not like it. But in this case if the gentleman wants to say "appropriate," then offer an amendment and say "appropriate."

Mr. BOW. The gentleman knows that under suspension of the rules I cannot offer an amendment.

Mr. PATMAN. With that word in, then it will not be backdoor spending.

Mr. BOW. Mr. Speaker, if this was not a bill considered under suspension of the rules, I would have offered such an amendment. But we have this bill before us under suspension of the rules, which precludes the offering of amendments.

Mr. PATMAN. The gentleman is correct, but the gentleman can offer a bill right now, and it would go to our committee and we will give it consideration.

Mr. BOW. I wish I could live so long, my dear chairman, as to have you report out of your committee any bill that I introduced along that line. I would be older than Methuselah.

Mr. PATMAN. If you are for the credit unions, apparently there is no reason why you should not.

Mr. BOW. I would be glad to do it. But will the gentleman say to me now that if I introduce such a bill, he will bring it to the floor of the House and let the Congress vote on it?

Mr. PATMAN. I do not know.

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Mr. BOW. Of course, the gentleman does not know. He knows he would not do it. The gentleman knows he would not do it.

Mr. PATMAN. If you make a case for it.

But we would not bring it out if you had no case.

Mr. BOW. I have already made a case here today.

If what I have said about backdoor spending and the need to control it by appropriations is true, there should be no problem. If I offered a bill to put these funds under the appropriations process, would the gentleman at this time on this floor give me his word that he would have it reported out of his committee and give the Congress a chance to vote on it—something we cannot do under the suspension of rules procedure.

Mr. PATMAN. I think that would be very unreasonable. In other words, the gentleman is asking a promise to pledge his vote on something that he has not even seen.

Mr. BOW. The gentleman knows exactly what it would be. It would be in simple language, and I am sure the gentleman from Texas would understand it.

Mr. PATMAN. No; I think it is too often given as an excuse to be against something. The gentleman in this case, and I take his word, said that he was for the credit unions. Well, if he is, why does he not vote for this? Why give the excuse that backdoor spending is so big?

Mr. BOW. Because I am concerned about protecting the Treasury of the United States and I believe in orderly procedure here in the Congress. Apparently, the gentleman from Texas does not. The gentleman from Texas apparently believes it is acceptable to permit these funds to go out of the Treasury with no control and no real understanding of what use will be made of them. The gentleman says they are never going to be used. If they are never going to be used, why object to providing them through the appropriations process.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. PATMAN).

Mr. PATMAN. Mr. Speaker, oftentimes I have heard these excuses given about backdoor spending, and a lot of other similar excuses. But they are just plain excuses, the way I see it.

I do not think it should apply, I will say, to the gentleman from Ohio in this case because he knows it will affect the credit unions and he wants to help them. He wants to be for them.

A critic could very well point out, why in the world do you say then that you are for credit unions and yet you are not willing to do for them only a small percentage of what we have done for the banks and the savings and loan institutions and Fanny Mae under similar circumstances.

In the case of Fanny Mae—if the backdoor spending question was involved, why did not the gentleman bring it up then?

I am sure that when these matters came up, that was not mentioned—or when these others came up, it was not mentioned. When the banks, savings and loans and Fanny Mae—got a $10 billion obligation, they did not say a word about it.

But the poor little credit union with over 20 million members, who have worked their hearts out to have capital available for those individuals in an emergency at reasonable rates of interest—if they come in and just want a few small crumbs off the richman's table—they say, "Oh, no, that is backdoor spending. We cannot allow that. That is terrible—the budget would go wild, and inflated," "prices are going to go out through the roof and everything else."

We hear all kinds of excuses. This is just a very simple question that we are doing for the credit unions under similar and like circumstances and conditions what has already been done to the extent of $10 billion obligation to fewer people who are participants in the program than the credit unions.

The credit unions have more than 20 million members and they are only considering a loan of $100 million in the event they get in any trouble. Here is an example of where they might get in trouble. You seldom hear of the liquidation of a credit union where anyone loses a penny. There are very few instances where anyone loses a penny. Usually where a credit union is in existence, the type of a project where there are thousands of people employed, and the credit union, of course, depends on those employees to make their deposits and to get their loans. But suppose that project is closed down. The credit union closes down. It must be liquidated. Other credit unions take up the obligations and sell them, very seldom do they have one penny of loss.

This is just in the event there should be an exception to the rule and there should be some losses. Then they would be given the same opportunity under the same circumstances to protect themselves. The credit unions would have only $100 million draw compared to $10 billion of the others that I have mentioned.

The reasoning in opposition to the measure is really too ridiculous for adequate consideration here, or to take up time for adequate consideration and vote. The gentleman from Ohio, a great statesman here on the floor, is one of the great servants, and I am proud to know that his views and mine coincide oftentimes, especially on credit unions.

If he will introduce an amendment to this bill, it will be referred to the Committee on Banking and Currency by the Speaker through the Parliamentarian. It will receive consideration and fair consideration in the committee, and if the gentleman can make a case that will justify inserting the language that he wants inserted in this law, I will be for it and try to get it through. But there is no use saying in advance that you will be for something that you have not seen and you do not know how it will be affected and how it will affect this law.

It is fitting in the closing days of the 91st Congress, the Congress in which our beloved Speaker will retire, that there is a piece of credit union legislation on the floor. It should be pointed out that more credit union legislation was passed during the period when JOHN McCORMACK was Speaker of the House of Representatives than in any other period of history.

Speaker McCORMACK has been a strong and constant supporter of credit unions. And it is also fitting that the earliest credit unions in the United States were established in the Speaker's home State of Massachusetts and the man who was responsible for the big push behind credit unions in this country was Edward Filene of Boston. Thus, it would have been easy for the Speaker to have inherited his affection toward credit unions, but he adopted that devotion because he believed in the great work that could be done by these organizations. He believes strongly in the motto of CUNA International, the major credit union trade association, that credit unions are motivated "not for profit, not for charity, but for service."

Mr. Speaker, I salute you as a champion of all, but particularly of credit unions.

I cannot close my remarks, Mr. Speaker, without a word of praise for the distinguished majority leader, Mr. ALBERT, who, like yourself, has been a champion of credit union causes.

Whenever I meet with credit union people from Oklahoma, they are quick to point out the outstanding cooperation they have received from the gentleman from Oklahoma (Mr. ALBERT). He has been extremely helpful in scheduling credit union legislation for the floor and he has voted for every piece of credit union legislation that has come before this body since he first became a Member of the House.

I value his friendship and guidance and I know the credit union members across the country appreciate the time he has given to the credit union movement.

Mr. COHELAN. Mr. Speaker, I rise in support of S. 3822, the Federal share insurance for credit unions. This bill would provide Federal insurance for member accounts in State and federally chartered credit unions. This bill will also amend the Federal Credit Union Act to authorize credit unions serving low-income persons to accept deposits for nonmembers.

Mr. Speaker, the tremendous expansion of credit unions, as evidenced by the fact that the current level of assets for all credit unions is some $14 billion, is a valid indication of the increasing use being made of this form of financial institution.

Given the increased use of the credit union, it is necessary that these institutions have adequate Federal insurance. Many of our citizens have made increasing use of credit unions, and, therefore, there is a greater need for adequate protection. This bill meets such a need by allowing State and federally chartered credit unions to acquire Federal insurance.

I am also in support of the provision to authorize credit unions serving low-income persons to accept deposits from nonmembers. This provision will allow such credit unions to expand their available capital.

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Mr. Speaker, I urge the adoption of this bill.

The **SPEAKER** pro tempore (Mr. BOLAND). The question is on the motion offered by the gentleman from Texas that the House suspend the rules and pass the bill S. 3822.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. **PATMAN**. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to extend their remarks on the bill just passed and to include extraneous matter.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

LEAD-BASED PAINT ELIMINATION ACT OF 1970

Mr. **BARRETT**. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 19172) to provide Federal financial assistance to help cities and communities to develop and carry out intensive local programs to eliminate the causes of lead-based paint poisoning and local programs to detect and treat incidents of such poisoning, to establish a Federal demonstration and research program to study the extent of the lead-based paint poisoning problem and the methods available for lead-based paint removal, and to prohibit future use of lead-based paint in Federal or federally assisted construction or rehabilitation, as amended.

The Clerk read as follows:

H.R. 19172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Lead-Based Paint Elimination Act of 1970".

GRANTS FOR LOCAL ELIMINATION OF LEAD-BASED PAINT

SEC. 2. (a) The Secretary of Housing and Urban Development is authorized to make grants to units of general local government in any State for the purpose of assisting such units in developing and carrying out local lead-based paint elimination programs.

(b) The amount of any such grant shall not exceed 75 per centum of the cost of developing and carrying out a local program, as approved by the Secretary, during a period of three years.

(c) A local program should include—

(1) the development and carrying out of comprehensive testing programs to detect the presence of lead-based paints in interior surfaces of residential housing;

(2) the development and carrying out of a comprehensive program requiring that owners or landlords of residential housing units promptly eliminate lead-based paints from all physical structures or interior surfaces on which lead-based paints have been used as a surface covering, including those structures or interior surfaces on which non-lead-based paints have been used to cover surfaces to which lead-based paints were previously applied; and

(3) any other actions which will reduce or eliminate lead-based paint poisoning.

(d) Each such program shall afford, to the maximum extent feasible, opportunities for employing the residents of communities or neighborhoods affected by lead-based paint poisoning, and for providing appropriate training and education and any information which may be necessary to inform such residents of opportunities for employment in lead-based paint elimination programs.

FEDERAL DEMONSTRATION ANT RESEARCH PROGRAM

SEC. 3. The Secretary of Housing and Urban Development, in consultation with the Secretary of Health, Education, and Welfare, shall develop and carry out a demonstration and research program to determine the nature and extent of the problem of lead-based paint poisoning in the United States, particularly in urban areas, and the methods by which lead-based paint can most effectively be removed from existing buildings, structures, and surfaces. Within one year after the date of the enactment of this Act the Secretary shall submit to the Congress a full and complete report of his findings and recommendations as deveolped pursuant to such program, together with a statement of any legislation which should be enacted, and any changes in existing law which should be made, in order to carry out such recommendations.

PROHIBITION AGAINST USE OF LEAD-BASED PAINT IN FUTURE CONSTRUCTION AND REHABILITATION

SEC. 4. The Secretary of Housing and Urban Development shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in all future Federal construction and rehabilitation and in the construction or rehabilitation, after the date of the enactment of this Act, of any building or structure with Federal assistance in any form.

GRANTS FOR LOCAL DETECTION AND TREATMENT OF LEAD-BASED PAINT POISONING

SEC. 5. (a) The Secretary of Health, Education, and Welfare is authorized to make grants to units of general local government in any State for the purpose of assisting such units in developing and carrying out local programs to detect and treat *incidents* of lead-based paint poisoning. The amount of any such grant shall not exceed 75 per centum of the cost of developing and carrying out a local program for the detection and treatment of lead-based paint poisoning, as approved by the Secretary, during a period of two years.

(b) A local program for the detection and treatment of lead-based paint poisoning should include (1) educational programs intended to communicate the health danger and prevalence of lead-based paint poisoning among children of inner city areas, to parents, educators, and local health officials; (2) development and carrying out of intensive community testing programs designed to detect incidents of lead-based paint poisoning among community residents and to insure prompt medical treatment for such afflicted individuals; (3) development and carrying out of intensive followup programs to insure that identified cases of lead-based paint poisoning are protected against further exposure to lead-based paints in their living environment; and (4) any other actions which will reduce or eliminate lead-based paint poisoning.

(c) Each local program for the detection and treatment of lead-based paint poisoning shall afford opportunities for employing the residents of communities or neighborhoods affected by lead-based paint poisoning, and for providing appropriate training, education, and any information which may be necessary to inform such residents of opportunities for employment in local programs for the detection and treatment of lead-based paint poisoning.

CONSULTATION WITH OTHER DEPARTMENTS AND AGENCIES

SEC. 6. In carrying out his authority under this Act, the Secretary of Housing and Urban Development and the Secretary of Health, Education, and Welfare shall cooperate with and seek the advice of the heads of other departments or agencies regarding any programs under their respective responsibilities which are related to, or would be affected by, such authority.

DEFINITIONS

SEC. 7. As used in this Act—

(1) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(2) the term "unit of general local government" means (A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, (B) any combination of units of general local government in one or more States, (C) an Indian tribe, and (D) with respect to lead-based paint elimination, detection, and treatment activities in their urban areas, the territories and possessions of the United States; and

(3) the term "lead-based paint" means any paint containing basic white lead, leaded zinc oxide, red lead, litherage, lead acetate, and lead driers, singly or in combination, in excess of 1 per centum lead as metal in total nonvolatile.

APPROPRIATIONS

SEC. 8. (a) There is hereby authorized to be appropriated to carry out this Act (except section 5) not to exceed $10,000,000 for the fiscal year 1971 and $10,000,000 for the fiscal year 1972. Not less than 25 per centum of the amount available to carry out this Act as provided in the preceding sentence during each of such fiscal years shall be for the demonstration and research program under section 3.

(b) There is hereby authorized to be appropriated to carry out section 5 not to exceed $5,000,000 for the fiscal year 1971 and $5,000,000 for fiscal year 1972.

(c) Any amount appropriated under this section shall remain available until expended when so provided in appropriation Acts. Any amounts authorized for the fiscal year 1971 but not appropriated may be appropriated for the fiscal year 1972.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **WIDNALL**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. **BARRETT**. Mr. Speaker, I rise in support of my bill, H.R. 19172, to provide Federal assistance to local communities to develop programs to eliminate the causes of lead-based paint poisoning.

This bill, I believe, is one of the most humane and necessary measures which the House Banking and Currency Committee has ever reported. Basically, it provides, for the first time, for Federal financial assistance to local communities to carry out and develop intensive local programs to eliminate the causes of lead-based paint poisoning and local programs to detect and treat incidents of such poisoning. The bill would also establish a demonstration and research program to study the extent of lead-based paint

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poisoning and the methods available for lead-based paint removal. Also, it would prohibit the future use of lead-based paint in all federally assisted construction and rehabilitation programs. This bill authorizes a total of $20 million to be used by HUD and $10 million to be used by HEW.

The Subcommittee on Housing, of which I am chairman, heard considerable testimony on the whole problem of lead poisoning from representatives of HUD and the Public Health Service in HEW. We heard expert medical testimony from members of the medical profession, citizen groups working to eliminate the lead-based paint poisoning problem, and a number of public health officials in some of our large cities. The Members who attended these sessions were astonished to hear what the effects of lead poisoning in children are. The children who ingested this paint, if they manage to survive, would be mentally damaged for the rest of their lives. A number of doctors made the point that lead poisoning is nothing but a manmade disease as opposed to a disease which occurs in nature. It is a disease which is preventable. The doctors concluded that lead poisoning disease has no reason for existence. This bill intends to eradicate the existence of lead-based paint poisoning in children.

Testimony also received revealed that there is a tremendous increase in the incidents of lead poisoning of children in just the past 5 years. New York City reports incidents of lead poisoning in children between 1950 to 1965 of approximately 65 to presently over 200 reported cases a year since 1965. Of course, this does not reveal the extent of this disease which experts estimate to inflict hundreds of thousands in our cities.

This bill is not another bailout for our cities. Most of our large cities have extensive lead poisoning programs to teach parents and children the dangers of ingesting paint and plaster. What we are trying to do here is to assist these cities and local communities with Federal funds in their already on-going programs. We are also establishing a research and demonstration program, first of all to determine the nature and nationwide extent of lead-based paint poisoning in the United States and to come up with new methods to remove lead-based paints from existing buildings. This new demonstration and research program would be continued by both HUD and HEW who will report back their findings to Congress within 1 year. We also provide for a program to be conducted by the Secretary of Health, Education, and Welfare through the Public Health Service to make grants to local governments in their programs to detect and treat the incidents of lead-based paint poisoning. Of course, the HUD end of the program would go toward the development of programs to eliminate lead-based paint from existing residential structures and would prohibit, in all new Federal construction and rehabilitation, the use of lead-based paint.

Mr. Speaker, this bill is a noncontroversial bill which was approved by the Banking and Currency Committee unanimously. It is absolutely important that the Congress act on the bill quickly if we are to fight an increasingly difficult childhood disease which is manmade in origin. Mr. Speaker, I urge the adoption of this bill.

Mr. RYAN. Mr. Speaker, will the gentleman yield?

Mr. BARRETT. I yield to the gentleman from New York.

Mr. RYAN. Mr. Speaker, it is extremely pleasing to me that the Lead-Based Paint Elimination Act of 1970 is before the House today since during this session of Congress I have worked strenuously for Federal legislation to combat lead poisoning.

Although lead poisoning has been killing and crippling young children for many years, its causes and effects have become known only recently. And only recently has the extremely high incidence of lead poisoning become a matter of grave public concern. The problem is severe throughout the Nation. It is estimated that 225,000 urban children between the ages of 1 and 6 are afflicted with this preventable disease. And in New York City, where the problem is particularly acute, some 30,000 children suffer from lead poisoning.

After learning of the prevalence of this disease, and after studying the problem of detecting and treating lead poisoning, as well as eliminating its cause, I determined that Federal assistance was necessary for the development and implementation of local programs. Therefore, I introduced the Lead-Based Paint Elimination Act of 1969 and other legislation to deal effectively with lead poisoning, and I organized a concerted effort among my colleagues, pediatricians, and local health officials for prompt action.

I called upon the chairmen of the House Banking and Currency and Interstate and Foreign Commerce Committees to hold immediate hearings because of the great need to stem the disease.

On November 12, 1969, my office arranged an informational breakfast for Members of the House and Senate. It was attended also by local health officials, medical experts, and others interested in the lead poisoning problem. The program was conducted by the New York Scientists' Committee for Public Information.

At the breakfast meeting three highly qualified experts discussed various aspects of lead poisoning and its dangers. Dr. J. Julian Chisolm, associate professor of pediatrics at Johns Hopkins School of Medicine, presented clinical observations and consequences of the disease; Dr. Edmund O. Rothschild of the Sloan Kettering Institute reviewed the disease's epidemiology; and Dr. Joel Buxbaum of the Albert Einstein School of Medicine discussed the environmental aspects of lead poisoning.

In order to press the New York City administration to embark on a meaningful local program to combat lead poisoning, I organized the 20th District Committee to Wipe Out Lead Poisoning. In February of this year we sponsored a conference for residents of my congressional district on the problem of lead poisoning: its symptoms, its causes, and its cure.

The need for Federal legislation is reflected in the fact that 19 Members of the House joined me in cosponsoring my legislation aimed at eliminating lead poisoning: Congressmen BRASCO, BURKE of Florida, BURKE of Massachusetts, BURTON of California, BUTTON, DADDARIO, EDWARDS of California, HALPERN, HAWKINS, HORTON, KOCH, MCCARTHY, MIKVA, MURPHY of New York, PODELL, PUCINSKI, ROSENTHAL, SCHEUER, and WOLFF. And it was also introduced separately by 11 other Members: Congressman BARRETT, Congresswoman CHISHOLM, and Congressmen CONYERS, FARBSTEIN, FRASER, FULTON, GREEN, HELSTOSKI, MESKILL, MINISH, and REID.

Senator EDWARD KENNEDY, who joined me in cosponsoring the breakfast, introduced legislation similar to mine in the Senate with 19 cosponsors.

Since the introduction of this legislation I have received a large volume of correspondence from all over the country from State and local health officials, legislators, scientists, pediatricians, and other medical experts urging Federal action and expressing national concern about this environmental health hazard. This concern was also communicated to the House Committee on Banking and Currency, and in July the Subcommittee on Housing held hearings on this problem.

I would like to commend the distinguished chairman of the subcommittee (Mr. BARRETT) for recognizing the seriousness of the problem and steering this important remedial legislation through the Subcommittee on Housing and the full Banking and Currency Committee promptly. Seldom has Congress acted so swiftly in responding to a crucial problem. The fact that we have the Lead-Based Paint Elimination Act before us today is a tribute to the leadership of the chairman of the Housing Subcommittee (Mr. BARRETT). I know that the problem of lead poisoning in the city of Philadelphia, which he represents, is also acute. In that city, in 1969, 122 cases were reported, and there was one death. There were 12 deaths between 1964 and 1967.

The Lead-Based Paint Elimination Act offers an effective means to help combat the problem.

Section 2 of the bill authorizes the Secretary of Housing and Urban Development to make grants to local governments to develop and carry out programs designed to detect the presence of lead-based paints and to require that owners and landlords remove it from interior walls and surfaces. The amount of the grants would not exceed 75 percent of the cost of the local programs. This section is the same as my bill, H.R. 9192.

Section 3 provides for Federal demonstration and research programs to determine the nature and extent of the problem and to determine how presently existing lead-based paint can be removed from the interior surfaces of housing. That is a very sound provision which also

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requires that within a year of enactment the Secretary of HUD report to Congress on his findings and recommendations.

Section 4 prohibits the use of lead-based paint in the future construction and rehabilitation of any building or structure which receives any form of Federal aid.

Section 5 of the bill authorizes the Secretary of Health, Education, and Welfare to make grants to local governments to develop and carry out programs to identify and treat individuals afflicted with lead poisoning. Again the amount of the grant would not exceed 75 percent of the cost of the local program. This section is the same as my bill, H.R. 9191.

In both H.R. 9191 and H.R. 9192 I provided that:

> Local programs for the detection and treatment of lead poisoning and for the detection and elimination of lead-based paint afford, to the maximum extent feasible, opportunities for employing the residents of communities or neighborhoods affected by lead-based paint poisoning, and for providing appropriate training, education, and any information which may be necessary to inform such residents of opportunities for employment.

I am pleased that the bill before us recognized the importance of involving local community residents in resolving neighborhood problems.

Section 6, as does my legislation, provides for consultation of the Secretaries of Housing and Urban Development and Health, Education, and Welfare with other department and agency heads.

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And section 8 authorizes funds to carry out the purpose of the bill. The bill authorizes $10 million for fiscal years 1971 and 1972 to carry out the paint elimination provisions, of which $2.5 million would be used for demonstration and research. It provides $5 million for fiscal years 1971 and 1972 to carry out the case finding and treatment provisions of the bill.

My legislation provided $13.5 million per year for paint elimination programs, and it provided $7.5 million a year for case finding and treatment. I realize that these sums were not sufficient. The legislation before us provides even less, but it is a meaningful effort to initiate this crucial program.

My third bill, H.R. 11699, is not contained in the legislation before us today. That bill would have required that a local government submit to the Secretary of Housing and Urban Development an effective plan for the elimination of the cause of lead-based paint poisoning as a condition for receiving any Federal funds for housing code enforcement and rehabilitation. It also required that the plans be enforced. Thus, it set up a mechanism by which the Federal Government could be sure that lead-based paint was really being removed from the interiors of housing structures.

I strongly support the passage of this bill. Lead poisoning is not a disease whose origins and cure are unknown.

We know what causes lead poisoning—peeling paint and plaster from the interiors of slum housing.

We know why children become lead poisoned—because they eat the peelings.

We know the cure.

And we know that, unless the source of this disease is eliminated, children will continue to be poisoned.

Children in our urban centers have enough strikes against them as it is. I urge my colleagues to support the Lead-Based Paint Elimination Act and, by doing so, to save these children from the permanent damage and death which lead poisoning causes.

Mr. WIDNALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the enactment of H.R. 19172 as reported by the Committee on Banking and Currency.

The problem of lead-based paint poisoning is a tragedy of our own making which afflicts an unknown number of people. It occurs as a result of small children's propensity to put everything they get their hands on into their mouths. In older properties where chips of paint and plaster containing traces of lead are available these are the items they eat.

Testimony which we received from medical experts disclosed that lead ingested into the body accumulates and that once an accumulation reaches a harmful level there is little that can be done to correct the damage. It follows logically that to reduce or eliminate the probems of this disease we must concentrate on preventing it. The entire thrust of this bill is in that direction.

I think one of the most important provisions in this bill is the education programs which would be assisted under section 5(b). As you might well imagine the principal occupants of these older buildings with peeling paint and plaster are the economically and educationally deprived citizens. Testimony showed us that many local governments and private volunteer organizations are presently engaged in efforts to educate these people about this problem. There is no doubt that the majority of parents are willing and anxious to protect their own children but it was quite apparent that very few were aware of the danger. Some volunteer organizations are doing exemplary work in educating the people who live in these dilapidating structures. The $10 million authorized to be appropriated over the next 2 years will, if used wisely in conjunction with existing efforts, go a long way toward correcting the incidence of lead-based paint poisoning caused by ignorance.

I urge the enactment of H.R. 19172.

Mr. GROSS. Mr. Speaker, will the gentleman yield to me some time?

Mr. BARRETT. I yield the gentleman from Iowa 3 minutes.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to ask the gentleman to repeat the cost of this bill. He gave it once, but would the gentleman be good enough to repeat it?

Mr. BARRETT. It would cost $10 million for 1971 and $10 million for 1972, which would go to HUD. Then HEW would get $5 million in each of those years. That is a total of $30 million.

Mr. GROSS. Is that a total cost of $10 million a year for the next 2 years? Or is it $30 million for the next 2 years?

Mr. BARRETT. That would be $10 million to HEW and $20 million to HUD.

Mr. GROSS. Then it is $30 million.

Mr. BARRETT. Yes, sir.

Mr. GROSS. That is worse than I thought.

Let me ask the gentleman another question. Why do not the city health departments take care of this situation?

Mr. BARRETT. That is a very good point. The various cities throughout the country have on-going programs, and they are doing a job, but there has been a great increase in the lead-based paint poisoning of children. There are many children now consuming lead-based paint, causing brain damage and retardation. From our hearings we find there are approximately 200 children dying each year. We believe that there are many more such lead poisoning deaths that have gone unreported.

We came to the conclusion that something must be done and must be done immediately. The longer we stand idly by and not give it consideration, the more tragic the situation will be.

Mr. GROSS. All right. There is less lead-based paint used in this country today than ever in its history; is that not true?

Mr. BARRETT. That is not altogether true, but since World War II there has been a cutback on it.

Mr. GROSS. World War II ended almost 25 years ago.

Mr. BARRETT. If I may make a point for the gentleman, I am sure he would want to know this: Prior to World War II most all of the interiors were painted with lead-based paint. These houses are deteriorating now to the point where the paint is scaling and the plaster is peeling off also. The children have a desire to put things in their mouths, and they are picking up these particles and eating them. This is not detected until such time as they are brought in for a thorough examination, and then it is too late. The children are already suffering brain damage and retardation.

It costs the Government $250,000 to take care of that child through his entire life.

Mr. GROSS. How did we get along so well in this country all through the years and up to this point without spending $30 million on this sort of thing? The gentleman has not answered my question. Why do not the health departments in the cities where this is prevalent, if it is prevalent—and it cannot be very prevalent, on the basis of 200 out of a 200 million population—take care of this situation?

Mr. BARRETT. The cities are trying to take care of it to the best of their means. They are not able financially to take care of it adequately. This is the reason why we are stepping in. If we do not do this the damage will continue. I do not believe the gentleman would want to see these children, particularly in the ghettos where these houses are greatly deteriorated and where the paint is scaling and the plaster falling off, suffer this damage.

Mr. PATMAN. Mr. Speaker, H.R. 19172, the Lead-Based Paint Elimination Act of 1970, was reported by the Committee on Banking and Currency unanimously. This bill would provide Federal financial assistance through the Department of Housing and Urban Development to help cities and communities to develop and carry out intensive local programs to eliminate the causes of lead-based paint poisoning, and would also provide Federal financial assistance through the Department of Health, Education, and Welfare to detect and to treat the incidents of lead-paint poisoning. The bill would also provide for the establishment of a Federal demonstration and research program to study the extent of the lead-paint poisoning problem around the country and to consider new methods available for the quick removal of lead-based paint from the interior of residential structures. H.R. 19172 would prohibit all future use of lead-based paints in Federal or federally assisted construction or rehabilitation.

In order to remove some doubts as to what the proper definition of lead-based paint is, the committee added an amendment which defines the term lead-based paint. This bill would authorize $10 million for fiscal year 1971 and $10 million for fiscal year 1972 to be appropriated for the Department of Housing and Urban Development to be used for direct Federal grants to help cities and communities eliminate the causes of lead-paint poisoning. The bill also authorizes $5 million each for fiscal years 1971 and 1972 to be appropriated for the Department of Health, Education, and Welfare to provide financial assistance again to local cities and communities, to assist their health programs, to identify and treat incidents of lead-paint poisoning.

Mr. Speaker, I urge the adoption of the bill, H.R. 19172.

Mr. HORTON. Mr. Speaker, the lead-Based Paint Elimination Act, which has concerned me for almost 2 years, is before the House today for a vote. I urge my colleagues to approve this extremely important measure.

The Lead-Based Paint Elimination Act does not call for an extravagent expenditure, yet the good of this bill is immeasurable.

I first became aware of the hazards and the extent of lead-based paint poisoning in 1968 when it was called to my attention by the Urban League in Rochester. Then in July of 1969, I toured the inner-city of Rochester, and saw firsthand the dangers of lead poisoning.

I learned that lead poisoning was often found to be a disease of small children who eat peeled or chipped plaster. It can cause death, brain damage, convulsions, impaired walking and other serious and permanent disabilities. Although the disease can be cured and prevented, it has often gone undetected and there are few preventive programs.

When I returned from my tour, I immediately sponsored three bills to detect lead poisoning, to eliminate its source and to educate the public about its dangers.

In June of this year, I urged that the Lead-Based Paint Elimination Act be reported out of committee for I felt lead based paint poisoning was becoming more acute each day we let pass.

The bill before us today is a combination of two of my bills. It would authorize $30 million over a 2-year period to fight lead poisoning.

The Lead-Based Paint Elimination Act authorizes the Secretary of the Department of Housing and Urban Development to make grants to localities to develop and carry out lead-based paint elimination programs in housing. It also authorizes the Secretary of the Department of Health, Education, and Welfare to make grants to local governments for programs to detect and treat lead poisoning. Thus the bill deals with the source and the prevention of the disease.

In my district, the city of Rochester has taken the initiative in beginning a concerted attack on lead poisoning by organizing an interagency program, emphasizing strict code enforcement and public education. However, the city is hampered by lack of manpower and resources.

The Lead-Based Paint Elimination Act before us today would aid Rochester and other cities throughout the country which are battling with the problem of lead-paint poisoning.

Mr. Speaker, we can no longer allow our children to die or become permanently disabled from a disease that can be readily eliminated. I, therefore, ask my colleagues to approve this measure.

Mr. MINISH. Mr. Speaker, the legislation before us, of which I am a cosponsor, would authorize the Secretary of the Department of Housing and Urban Development to make grants to local governments to carry out intensive programs to eliminate the causes of lead-paint poisoning as well as to develop detection programs. The bill also prohibits the use of leaded paints in all federally assisted construction programs, and requires that communities develop plans for curtailing lead poisoning in order to remain eligible for other Federal housing assistance.

Lead poisoning among young children in our urban centers is a grave problem. These children often eat peeling and chipping paint from the walls of older apartments and houses. Brain damage, mental retardation, cerebral palsy, and even death can result.

Approximately 200 children die from lead poisoning every year, and more than 12,000 are treated by doctors and hospitals. Even these statistics, however, do not illustrate the full extent of the problem. It has been estimated that for every child treated for lead poisoning, 25 are injured, perhaps permanently, but never treated.

In my own congressional district, in the city of Newark, N.J., three children under the age of 6 died from lead poisoning this past summer, and over 60 percent of children tested in a recent city screening program were found to have a body lead content above the maximum safety level.

Mr. Speaker, I urge approval of the Lead-Based Paint Elimination Act of 1970.

Mr. WIDNALL. Mr. Speaker, I have no further requests for time.

Mr. BARRETT. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania that the House suspend the rules and pass the bill, H.R. 19172, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. BARRETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION FOR CLERK TO MAKE TECHNICAL CORRECTIONS

Mr. BARRETT. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make any technical corrections, such as punctuation and spelling, in the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK

Mr. TAYLOR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 19342) to establish and develop the Chesapeake and Ohio Canal National Historical Park, and for other purposes, as amended.

The Clerk read as follows:

H.R. 19342

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Chesapeake and Ohio Canal Development Act."

DEFINITIONS

Sec. 2. As used in this Act—

(a) "Park" means the Chesapeake and Ohio Canal National Historical Park, as herein established.

(b) "Canal" means the Chesapeake and Ohio Canal, including its towpath.

(c) "Secretary" means the Secretary of the Interior.

(d) "State" means any State, and includes the District of Columbia.

(e) "Local government" means any political subdivision of a State, including a county, municipality, city, town, township, or a school or other special district created pursuant to State law.

(f) "Person" means any individual, part-

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nership, corporation, private nonprofit organization, or club.

(g) "Landowner" means any person, local government, or State owning, or on reasonable grounds professing to own, lands or interests in lands adjacent to or in the vicinity of the park.

ESTABLISHMENT OF PARK

SEC. 3. (a) In order to preserve and interpret the historic and scenic features of the Chesapeake and Ohio Canal, and to develop the potential of the canal for public recreation, including such restoration as may be needed, there is hereby established the Chesapeake and Ohio Canal National Historical Park, in the States of Maryland and West Virginia and in the District of Columbia. The park, as initially established shall comprise those particular properties in Federal ownership, containing approximately five thousand two hundred and fifty acres, including those properties along the line of the Chesapeake and Ohio Canal in the State of Maryland and appurtenances in the State of West Virginia designated as the Chesapeake and Ohio Canal National Monument, and those properties along the line of the Chesapeake and Ohio Canal between Rock Creek in the District of Columbia and the terminus of the Chesapeake and Ohio Canal National Monument near the mouth of Seneca Creek in the State of Maryland. The boundaries of the park shall be as generally depicted on the drawing entitled "Boundary Map, Proposed Chesapeake and Ohio Canal National Historical Park" (in five sheets, numbered CHOH 91,000, and dated October 1969, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior: *Provided*, That no lands owned by any State shall be included in the boundaries of the park—

(1) unless they are donated to the United States, or

(2) until a written cooperative agreement is negotiated by the Secretary which assures the administration of such lands in accordance with established administrative policies for national parks, and

(3) until the terms and conditions of such donation or cooperative agreement have been forwarded to the Committee on Interior and Insular Affairs of the United States House of Representatives and Senate at least sixty days prior to being executed.

The exact boundaries of the park shall be established, published, and otherwise publicized within eighteen months after the date of this Act and the owners of property other than property lying between the canal and the Potomac River shall be notified within said period as to the extent of their property included in the park.

(b) Within the boundaries of the park, the Secretary is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, or exchange, but he shall refrain from acquiring, for two years from the date of the enactment of this Act, any lands designated on the boundary map for acquisition by any State if he has negotiated and consummated a written cooperative agreement with such State pursuant to subsection (a) of this section.

COOPERATIVE AGREEMENTS

SEC. 4. The Secretary shall take into account comprehensive local or State development, land use, or recreational plans affecting or relating to areas in the vicinity of the canal, and shall, wherever practicable, consistent with the purposes of this Act, exercise the authority granted by this Act in a manner which he finds will not conflict with such local or State plans.

ACCESS

SEC. 5. (a) The enactment of this Act shall not affect adversely any valid rights heretofore existing, or any valid permits heretofore issued, within or relating to areas authorized for inclusion in the park.

(b) Other uses of park lands, and utility, highway, and railway crossings, may be authorized under permit by the Secretary, if such uses and crossings are not in conflict with the purposes of the park and are in accord with any requirements found necessary to preserve park values.

(c) Authority is hereby granted for individuals to cross the park by foot at locations designated by the Secretary for the purpose of gaining access to the Potomac River or to non-Federal lands for hunting purposes: *Provided*, That while such individuals are within the boundaries of the park firearms shall be unloaded, bows unstrung, and dogs on leash.

ADVISORY COMMISSION

SEC. 6. (a) There is hereby established a Cheasapeake and Ohio Canal National Historical Park Commission (hereafter in this section referred to as the "Commission").

(b) The Commission shall be composed of nineteen members appointed by the Secretary for terms of five years each, as follows:

(1) Eight members to be appointed from recommendations submitted by the boards of commissioners or the county councils, as the case may be, of Montgomery, Frederick, Washington, and Allegany Counties, Maryland, of which two members shall be appointed from recommendations submitted by each such board or council, as the case may be;

(2) Eight members to be appointed from recommendations submitted by the Governor of the State of Maryland, the Governor of the State of West Virginia, the Governor of the Commonwealth of Virginia, and the Commissioner of the District of Columbia, of which two members shall be appointed from recommendations submitted by each such Governor or Commissioner, as the case may be; and

(3) Three members to be appointed by the Secretary, one of whom shall be designated Chairman of the Commission and two of whom shall be members of regularly constituted conservation organizations.

(c) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) Members of the Commission shall serve without compensation, as such, but the Secretary is authorized to pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under this Act.

(e) The Secretary, or his designee, shall from time to time but at least annually, meet and consult with the Commission on general policies and specific matters related to the administration and development of the park.

(f) The Commission shall act and advise by affirmative vote of a majority of the members thereof.

(g) The Commission shall cease to exist ten years from the effective date of this Act.

ADMINISTRATION AND APPROPRIATIONS

SEC. 7. The Chesapeake and Ohio Canal National Historical Park shall be administered by the Secretary of the Interior in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented.

SEC. 8. (a) Any funds that may be available for purposes of administration of the Chesapeake and Ohio Canal property may hereafter be used by the Secretary for the purposes of the park.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, not to exceed $20,400,000 for land acquisition and not to exceed $17,000,000 (1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAYLOR. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. TAYLOR. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, the bill now before the House is the last major park and recreation measure which the House will be considering this session. If enacted, it would authorize the establishment of the C & O Canal National Historical Park in the State of Maryland.

H.R. 19342, as recommended by the Committee on Interior and Insular Affairs, represents the constructive contributions of many Members of the House. No one deserves more credit for this bill than the gentleman from Pennsylvania (Mr. SAYLOR). He first introduced legislation dealing with this area during the 86th Congress and he has remained interested in it in the years that have elapsed since that time. It was his bill—H.R. 658—which served as the basic working document of the Subcommittee on National Parks and Recreation when it considered this matter.

Many others helped to formulate the details of the measure now before the House including the chairman of the full committee (Mr. ASPINALL) and the Members of the Committee on Interior and Insular Affairs. In this case, however, we also had the suggestions of Mr. STRATTON—the sponsor of H.R. 2134—and three of our colleagues from Maryland. We were pleased to have the helpful guidance of our friend and former committee colleague (Mr. MORTON)—author of H.R. 4836—and we were equally pleased to have the favorable testimony of the two Members of Congress most directly involved—Representatives GUDE and BEALL of Maryland—authors of H.R. 11988 and H.R. 17950, respectively.

BACKGROUND

Very briefly, Mr. Speaker, I want to discuss the circumstances which led to the presentation of this legislation today.

Long before the birth of this Nation, many men dreamed of a water route to the frontier. Among them was one George Washington who thought that the tidewaters of the Potomac could be extended westward. In fact, he helped to form the first company to accomplish this objective. Although that company ultimately failed, the idea remained and the Chesapeake & Ohio Co. was formed in 1828 to build the canal from Georgetown in the District of Columbia to Cumberland, Md.

The canal was never, really a financial success even though it persisted for nearly a century. Only in the years after the Civil War did it show any signs of being profitable and those meager profits were erased when a competitive railroad absorbed its most lucrative traffic. The demise of the canal as a business venture was slow, but conclusive. In 1924, the trustees in bankruptcy ceased all canal operations.

In 1938, the U.S. Government acquired title to the 184.5-mile canal corridor from the National Capitol to Cumberland. Since that time, the part closest to Washington has been partially restored and rewatered by the National Park Service and, in 1961, President Eisenhower established the C & O Canal National Monument under the authority of the Antiquities Act of 1906, but no appropriations for restoration or development have been authorized by the Congress.

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If enacted, H.R. 19342 will represent the first congressional sanction of that Presidential proclamation. It is an important measure because it authorizes the appropriation of the funds needed to make the area achieve its maximum outdoor recreation potential. First, it authorizes the appropriation of $20,400,000 from the Land and Water Conservation Fund for the acquisition of lands and interests in lands. Second, it authorizes the appropriation of $17 million for development and restoration activities in the area.

The members of the Committee on Interior and Insular Affairs agreed that this historic area is worthy of the investment which H.R. 19342 authorizes. Not only will it round out a park area with nationally significant historic values, but it will assure a park adequate to help meet the outdoor recreation demands of the future. Already, the relatively undeveloped area administered by the National Park Service is receiving approximately 2½ million visitor-days of use annually. As other features of the canal are restored and appropriate visitor-use facilities installed, this area will undoubtedly become even more popular.

The C & O Canal National Historical Park can be a place for everyone; the rich and the poor, the black and the white, and the old and the young. Here, visitors can relive a moment of history which itself reflects such a merging of people with different backgrounds. Likewise, visitors in this area can experience the wonders of nature in every season of the year or enjoy the atmosphere of a peaceful place for a multitude of recreational activities.

More and more we are realizing that we need parks near our urban centers. In the last decade, we have made considerable progress toward this end. Places like Fire Island National Seashore in the New York City area, Point Reyes National Seashore near San Francisco, and Indiana Dunes National Lakeshore near Chicago are just a few of the areas established by the Congress in recognition of this need. The C & O Canal National Historical Park is not unlike those areas because it will offer hiking, fishing, boating, canoeing, bicycling, and other recreation opportunities to the residents of the Washington-Baltimore region. In addition, when the historic attractions are restored, this will be a major visitor spot for people from all parts of the country.

FEATURES OF THE BILL

Mr. Speaker, the committee substantially rewrote this bill. We used H.R. 658, by our ranking minority member, as the basic framework of the legislation, but when we finished our deliberations, it seemed appropriate to introduce a clean bill for the consideration of the full committee—even though we knew that some amendments might be required. Basically, this is the bill that is now before the House.

Without going into too much detail, I do want to highlight a few features of the bill. As it is recommended by the committee, the bill establishes the historical park and provides that it shall include approximately 20,239 acres of land. The boundaries of the park are shown on the map, but none of the State lands are to be included unless they are donated or are administered, by agreement, in accordance with national park standards. Under the terms of the bill, the exact boundaries of the park are to be established within 18 months after the enactment of the legislation so that the property owners will know exactly where they stand—and, incidentally, the Federal Government should then know precisely what the State of Maryland will do.

Another important feature of the bill involves access across the park boundaries. Testimony before the committee by the Director of the National Park Service indicated that existing access agreements would be honored and the bill specifically protects valid existing rights. It authorizes the Secretary to issue other permits for utility crossings as long as they do not interfere with park values. Appropriate access to the river and nonpark properties by hunters is provided in the bill, subject, of course, to the prohibition of hunting within the park boundaries.

As has frequently been done, the bill authorizes the creation of an Advisory Commission which will consult with the Secretary. It will comprise 19 members who will serve without compensation, except for expenses incurred in connection with the business of the Commission.

As usual, the committee recommendation contains a maximum ceiling on the amount authorized to be appropriated for land acquisition. If all of the privately held lands are acquired in fee by the Federal Government—122,175 acres—then the total investment is estimated at $20,400,000, but we hope that this can be reduced by the cooperative action by the State of Maryland and by the acquisition of less-than-fee interests where negotiations permit.

The bill also contains a ceiling on the amount authorized to be appropriated for development purposes. As recommended, this amount has been reduced from $47 million to $17 million, because the members of the committee feel that this is the best method of exercising oversight over the program. We fully expect that it will be necessary to increase this authorization within the next 3 years if the proposed development plan is to be fully implemented, but this ceiling will give the committee and the Congress an opportunity to review the progress made with the funds appropriated before acting to increase the ceiling.

CONCLUSION

Mr. Speaker, that summarizes the importance of and features of H.R. 19342, as amended. The members of the Committee on Interior and Insular Affairs considered it carefully and we recommend its approval by the House, as amended.

Now, Mr. Speaker, this concludes my summary. The members of the committee studied this bill and passed it out unanimously.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

Did the gentleman say that 12,000 acres would cost $20 million?

Mr. TAYLOR. That is correct.

Mr. GROSS. Is there gold out there in those hills in Maryland? Is there gold or what?

Mr. TAYLOR. I might state to the gentleman from Iowa that I am not sure what type of gold he refers to, but there are some 389 improvements on the property and there are other improvements there. It depends upon what we mean by gold. If we are going to develop parks near the urban centers where they are really needed, we have got to pay high prices for land. We will not be buying only acres, but lots, a great many lots with beautiful views of the river and that will be rather expensive. This is the estimated cost of the land. I would hope we can reduce this cost by taking scenic easements instead of buying it in fee and by cooperating with the State of Maryland which intends to acquire 2,000 acres.

Mr. GROSS. Mr. Speaker, if the gentleman will yield further, do I understand that this 12,000 acres will require an expenditure of $47 million to develop?

Mr. TAYLOR. That was the estimate by the Department of the Interior. This is a long shoe string park, reaching more than 160 miles. A good portion of the canal will be restored because we want to emphasize the historical features. However, there will be a great many recreational areas, parking lots and picnic areas as well as other recreational facilities.

Mr. GROSS. Page 6, line 24, indicates it is $47 million for development; is that correct?

Mr. TAYLOR. That was the estimate of the Department of the Interior. This legislation authorizes a total appropriation for development of $17 million. The idea was that they would have to come back and justify any further expenditures for development.

Mr. GROSS. Where is the amendment to this bill? I am reading from page 6, beginning on line 21, that—

> There is authorized to be appropriated such sums as necessary to be appropriated not to exceed $20 million for land acquisition and not to exceed $47 million for development at 1970 prices.

Mr. TAYLOR. That has been reduced.

Mr. GROSS. The figure of $47 million

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has been reduced to $17 million for development?

Mr. TAYLOR. The committee amendment reduced that figure to $17 million.

Mr. GROSS. Well, the bill number from which I have just read is H.R. 19342 and the report accompanying that bill bears the same number.

At any rate, does the gentleman from North Carolina have any idea what the road to the poorhouse is going to be paved with? Asphalt, cement, gravel, or what? To put up this kind of money it seems to me at this time of financial crisis that faces this country is incredible. I am surprised that the committee keeps putting these bills out. Where do you propose to get the money to do all of this?

Mr. TAYLOR. Let me state to the gentleman from Iowa that the House of Representatives has approved legislation increasing the land and water conservation fund from $200 to $300 million. After this increase was made we saw the green light to authorize some additional recreational projects.

This has been studied thoroughly, and it will provide a great amount of benefit for a tremendous number of people.

I share the concern of the gentleman with respect to so much congressional spending. Every year since I have been in Congress I have voted to spend less total money than the President has recommended. But I do believe spending money for these conservation projects and recreational projects will prove to be in the interest of the people. As we develop parks near our urban centers it will go a long way toward solving the human problems that plague our Nation.

Mr. SAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today is a very memorable day as far as this piece of legislation affecting the C. & O. Canal is concerned.

Many years ago a group of men headed by the first President of the United States, George Washington, felt that it would be advisable for the people in this area to have a water route into the interior of our country, and particularly into the great Ohio Valley. So they drafted plans for the construction of a canal along the Potomac River until it came near to what is now Cumberland, Md. There it would go by means of a railroad across the mountains into the headwaters of the Monongahela River and down into Pittsburgh.

The canal was started and construction proceeded at a rapid rate. In fact, there were not enough people in this country at that time to even build the canal, and those who were in charge of it went to Ireland, put advertisements in all the Irish papers asking people to come to this country and work on a great project. Many of them came.

Unfortunately, the finances of our country and progress caught up to them. So they completed the canal only as far as Cumberland, Md. It never got as far as Pittsburgh, or the Monongahela River or to the Ohio Valley. But it was a canal that was actively used for a long, long time, and provided a great means of transportation throughout the Potomac Valley.

As the gentleman from North Carolina has stated, the Federal Government acquired this property in the midst of the depression. The B. & O. Railroad at that time was bankrupt. In an effort to solve and pay off some of the obligations to the Federal Government this tract of land was deeded under the Roosevelt administration and became Federal property. It remained Federal property, and still is Federal property.

In the closing days of the Eisenhower administration, President Eisenhower issued an executive order making the C. & O. Canal a national historic monument, and did this under the Antiquities Act. But unfortunately, Congress has had a policy for many, many years that we will not spend money on improvements unless it becomes a unit of the national park system by act of Congress.

When Glenn Beall, Sr., was a Member of the House of Representatives, he was a very, very moving force in attempting to have this canal made a part of the national park system. When he moved from the House to the Senate, he was still very much interested and he attempted to, and did on several occasions, have a bill passed by the other body to try to make this C. & O. Canal a unit of the national park system.

When his son, GLENN BEALL, JR., came to the Congress, he carried on this effort, as his father had, and he was one of the moving forces for a national park because a large portion of this canal is in his congressional district.

Another person who was a great force in this project is the Member of Congress who represents the district just adjacent to Washington, D.C., my good friend, the gentleman from Maryland (Mr. GUDE).

A portion of this canal, and probably the best used portion of this canal, runs through his district. On a number of occasions he has had meetings in his district, getting the people who live along the canal, and the people who own property along the canal, and the various towns and townships and the various county officials together to try to work out a proposition where we can have a viable unit of the national park system.

I am satisfied that without the work of these two men in the field in their own congressional districts, we would not have been able to have the unified support presented by the people of Maryland and the District of Columbia and the various conservation organizations who are in support of this legislation.

Our colleague, the gentleman from Iowa (Mr. GROSS), has called attention to the fact that the Park Service originally asked for $47 million for development. The members of the House Committee on Interior and Insular Affairs felt that this was actually too large a sum of money and too long a program to endorse at once. So we have reduced it by the sum of $30 million which will be enough to take care of the development for the first 5 years. After that, I am frank to tell you, I am sure the Park Service will be back to show our committee what they have done and they will be telling us what they need to complete the remainder.

We have worked out here, and of course in a large part due to the gentlemen from Maryland (Mr. GUDE and Mr. BEALL), an arrangement between the State of Maryland and the Federal Government whereby the State can keep their parks and operate them as units within the national park system.

I am satisfied at long last that we are on the threshold today of creating the C. & O. National Historic Park and would ask the rules be suspended and that the House pass this bill.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I yield to the gentleman.

Mr. KYL. The gentleman from Pennsylvania spoke about this first authorization for 5 years for development. I think there are a couple of other factors that ought to be mentioned here in that regard. The first is that we would need 5 years experience to see what portions of this area are just naturally going to be used more than other portions so that we would know where to put the kind of development that is needed.

But perhaps of even greater significance—we need some experience to show those places which we will have to protect from overuse lest we destroy what we are really trying to protect by this particular piece of legislation.

Mr. SAYLOR. That is correct and these are some of the reasons why we cut down the request from $47 million and made it only $17 million, at this time.

Mr. GUDE. I thank the gentleman for yielding. I would like to commend the gentleman from Iowa to whom the gentleman from Pennsylvania just yielded. I believe his remarks are very well taken. From the testimony which was gathered before your committee, from conservation and wildlife groups and others, I believe the Park Service is well aware that there must be a balance in this park between wild areas and recreation areas where there will be more intense development. I want to thank the gentleman from Pennsylvania for his leadership. It is typical of his record of service on behalf of the American environment and his long stewardship of our resources.

I also would like to thank the gentleman from North Carolina (Mr. TAYLOR), who conducted the comprehensive hearings, at which a great many individuals, conservation organizations, and representatives of State and local governments contributed their views and support to the park. I am sorry that the gentleman from Colorado, Chairman ASPINALL, cannot be here today, because he gave this legislation his usual careful review and gave it his enthusiastic support. I hope we are going to enact this bill today.

This legislation will create a 20,000-acre national park along the C. & O. Canal and towpath, stretching 184.5 miles along the Potomac River from Washington to Cumberland, Md. More than 7,000 acres are already in the Federal domain.

The canal is dotted with historic lockhouses and other structures dating from a unique chapter in the history of transportation. Indeed, much of our young Nation's history was written along the shores of the canal, where Americans marched westward and fought bloody battles of the Civil War.

Those Members of the House who have joined us on hikes and canoe trips on the canal can testify that the canal offers rich scenic beauty, and recreational opportunities for all ages and tastes. There are opportunities for hiking, jogging, bicycling, horseback riding, fishing, boating, picnics, and camping, as well as miles of uninterrupted wilderness for solitary walks.

And all this lies at the doorstep of a major metropolitan area. This park is not only tailor-made for Secretary Hickel's program of expanding recreational opportunities and open space in urban-suburban areas, but is in fact No. 1 on the list of open space park areas which the administration is proposing for the heavily populated regions of the United States. Local citizens and our visitors can leave the hot sidewalks of Georgetown, step onto the towpath, and stride into green open spaces as far as their energy will carry them. There is no other national park which can serve an urban-suburban area so well.

The bill would authorize $20 million for land acquisition along the canal and $17 million for restoration and necessary public facilities. I believe the committee has set its priorities wisely. The full authorization for the land acquisition program is vital, because land costs along the Potomac are increasing at the rate of 10 percent a year. The committee has reduced, by $30 million, the authorization for restoration and development recommended by the Interior Department. I think this decision was prudent, given budgetary constraints and the need to proceed with caution on further park development. Much of the great appeal of the park lies in the scenery and wildlife it offers undisturbed, in its long stretches of wilderness. Any restoration and development program must be undertaken with scrupulous attention to preserving the natural integrity of the landscape.

I am pleased, too, that the committee has approved provisions directing the Secretary of the Interior Department to take account of State and local development plans in administering the park. This provision, along with the Park Commission established under the bill, form the basis for a partnership which can assure that all jurisdictions and organizations interested in the canal area have a chance to cooperate and contribute to the best possible uses of the park. The Park Service should work in partnership with the State of Maryland, which has already begun the development of park and recreation areas such as Fort Frederick State Park and the Seneca Creek Watershed in Montgomery County.

This legislation has enjoyed the sustained and vigorous suport of a great many citizens and conservation organizations, many of whom have voted with their feet to preserve the canal, on 16 annual hikes of the C. & O. Canal. With your support today, we will be halfway home, and a long step toward a full program of preservation of the Potomac Basin for our children.

Mr. SAYLOR. Mr. Speaker, I yield to the gentleman from Maryland (Mr. BEALL).

Mr. BEALL of Maryland. I thank the gentleman from Pennsylvania for yielding. I, too, would like to join in paying tribute where it is so richly deserved, to the gentleman from Pennsylvania and to the gentleman from North Carolina (Mr. TAYLOR), for the hard work they have put in, both individually and collectively, and to the members of the subcommittee and the members of the full Committee on Interior and Insular Affairs for their support of this legislation.

I certainly appreciate the remarks made by the gentleman from Pennsylvania about my father, who worked for many years in trying to get a bill like this enacted. It is gratifying to me that I am able to be here when it finally passes the House of Representatives. It will be a park not only for a congressional district and for the State, but as a result of this bill today, we will have a new recreational facility available to many people up and down the eastern seaboard and the middle part of the United States of America. It is truly a conservationist's dream.

Perhaps of great significance, too, is the fact that we are preserving for posterity a very important part of our American heritage, and I appreciate all the hard work that has gone into preparing the legislation that is before the House today.

Today is an important one for Marylanders and all those who live and work in the Washington, D.C., area. The C. & O. Canal National Historical Park, as established in H.R. 658, will guarantee that the beautiful area along the canal will be preserved for the enjoyment of many future generations. The legislation is of particular interest to me because the Sixth District, which I represent, included that portion of the Canal lying between Montgomery County, Md., and Cumberland, Md., a distance of over 130 miles.

It is of significance to me also, because the efforts to establish this park area go back to the 1940's when my father was the Representative of the Sixth Congressional District. For years he, and my distinguished colleague from Pennsylvania, Congressman SAYLOR, tried their best to get the legislation through the House of Representatives. Later, Senator Charles MATHIAS, as the Representative of the Sixth District, took up the fight. And now, after so many years of hard work, the passage of this measure is being accomplished.

There is great historical significance in the canal. It is symbolic of an era in American history long since past. At one time it was one of the most important means of transportation because it was operative during a time when our Nation was looking westward for new frontiers.

The development of this historical park is certainly consistent with our national priorities of conservation, scenic preservation, and provision of recreational opportunities. The Potomac River represents an extremely valuable national asset and the establishment of this park is a desirable step toward preserving this great body of water in a State suitable for recreational purposes.

With respect to the bill itself, I want to point out that it creates a C. & O. Canal National Historical Park Commission, which will be composed of representatives of States and local government, as well as the Federal Government. This is extremely important because of the involvement of the people of this area in the history of the canal. It will also help to provide a means for working out access problems to the river which frequently arise.

Under other provisions of the bill, development of the great recreational potential of the canal area will take place. Millions of citizens in the Maryland, Virginia, West Virginia area will be able to take advantage of the new facilities for hiking, biking, boating, or fishing. It will, in addition, provide protection against commercial development of one of the most beautiful areas of the East Coast.

Mr. Speaker, I am delighted that this measure is moving ahead to enactment and I want to commend my colleagues on the Interior Committee for their efforts on this bill.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I am happy to yield to my colleague, the gentleman from Iowa.

Mr. GROSS. I would like to say something in behalf of posterity by way of a solvent United States of America. I wonder, if we continue what has been going on through the device of borrowing money and spending it and robbing the dollar of its value—we now have a 35-cent dollar—I wonder who is going to look to posterity and the solvency of this country? After all, there may be some virtue in this project and other projects like it in that it may provide a place in which I can pitch my pup tent, a place where I can eke out some kind of existence out there in the timber eating acorns. But the question I really wanted to ask the gentleman is whether the plush International Monetary Fund World Bank Country Club is close enough to be included in the land acquisition for this park?

Mr. SAYLOR. Just let me answer the second question that you have raised first. It is not close enough to be acquired. It was never intended to be acquired as a portion of this park.

Mr. GROSS. It will or it will not be?

Mr. SAYLOR. It will not be.

Mr. GROSS. I am sorry to hear that.

Mr. SAYLOR. I would like to say further to the gentleman from Iowa that he renders a great service to the country by his constant reminder of the condition of our Treasury. I would like to call to his attention a remark of one of our colleagues from the Midwest who a number of years ago came to be just as concerned as the gentleman from Iowa has been and began to question, "Why are we spending so much money on so many of these parks?"

I gave him the best explanation I could, that I thought it was for the betterment of not only the people who are living today but of generations to come.

The gentleman came back after that month's vacation which we had a short while ago. He called me and said he would like to come to my office. Members are always welcome in my office. He came in and said he wanted to apologize to me and through me to all Members of the Congress for the doubts that he had about the policies of the House Committee on Interior and Insular Affairs in creating national parks.

He said:

> You know, I have gone out and I have visited some of these national parks this month. I thought there was a great deal of money, but when I saw the parks, I realized it was the greatest investment that Congress has made since I have been a Member. All I can tell you is I will support you in every one you ask for, because you are building not just for today but you are building for the future.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, the gentleman had another illustrious colleague from the State of Pennsylvania and he well remembers that gentleman used to ask the House, "Where are you going to get the money?"

Mr. SAYLOR. I want to say that my good friend Bob Rich dead and gone, also used to say:

> Somehow this country seems to be going on, and the country seems to be in a little better shape every day.

This is a viable country. I am not worried about the future in the same way the gentleman from Iowa is.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I yield to the gentleman from Iowa.

Mr. KYL. Mr. Speaker, lest there be a misunderstanding about the very valuable colloquy in which we have been engaging, I think it should be pointed out once again the funds for acquisition and development of these parks do not come from tax funds. It has been the practice of the Appropriations Committee of the House and of the other body to appropriate funds only from the Land and Water Conservation Fund, which is built up, among other things, from the use of fees, so this money is appropriated in a manner different from other categories.

Mr. SAYLOR. Mr. Speaker, this is correct.

BACKGROUND

Years ago, I sponsored legislation recognizing the historical, cultural, and recreational values of the C. & O. Canal. At that time it seemed apparent to me that this valuable resource could provide a magnificent natural setting for the enjoyment, not only of the people living nearby, but for the people of the entire Nation.

Originally, the C. & O. Canal was to stretch from Washington to Pittsburgh, but the money ran out and progress outpaced its construction. Only a little more than halfway to its goal in Pennsylvania, construction of the canal ceased in 1850.

At one time, Mr. Speaker, this manmade intrusion on the Potomac Valley must have been an ugly scar on the landscape, but time and nature have healed the wounds so that this fine relic of the canal building era provides a peaceful and picturesque setting for people of all ages.

THE LEGISLATION

Mr. Speaker, H.R. 19342, if enacted, will establish the C. & O. Canal National Historical Park. Present plans call for an area totalling about 20,240 acres, of which more than 7,000 acres are presently in Federal ownership and almost 1,000 acres are owned by the State of Maryland. In some places, public ownership is confined strictly to the canal and its towpath at the present time; consequently for proper scenic and administrative purposes some lands will have to be acquired. Altogether, about 10,000 acres of privately owned lands are involved.

It is recognized that man has been a part of this scene for many years. In some cases, it will probably be unnecessary to acquire the fee title to a property, because its current use is compatible with the setting and harmonizes with the purposes which this legislation seeks to achieve. In these cases, the Secretary should seek an easement which will assure the continued use of the property in a manner consistent with the park. If it is possible to achieve the park objective with a less-than-fee interest, and if that can be accomplished at a reasonable price, then, by all means, the Secretary should effectuate that economy.

The bill contains the usual language which describes the area by reference to a map. Because of the relatively complex land ownership patterns involved, however, the committee bill also includes a provision requiring the Secretary to establish precise boundaries for the park and to publicize them within 18 months after the date of enactment of this act so that any private property owners involved will be adequately informed. This is not a common provision, Mr. Speaker, but it is one which the members of the committee feel is important, in fairness, to the landowners in this area.

Some of the lands, as I have pointed out, are presently owned by the State of Maryland. The committee understands that the State wishes to retain them and administer them for park and recreation purposes. We have no objection to the continued State operation of these areas as long as they are managed in conformity with national park standards, but we want a clear agreement to this effect before including any State lands within the park boundaries. For this reason, the committee has written into the bill a provision prohibiting the inclusion of any State-owned lands unless they are donated to the Federal Government or until the State and the Secretary enter into a written cooperative agreement with respect to the administration of any State-owned lands within the park. In either event, the committee expects to be advised of the details of the arrangement prior to the execution of any agreement.

No one likes to hunt more than I do, Mr. Speaker, but recreational hunting is not—and should not be—permitted in national parks. This bill is drafted to prohibit hunting on any lands within the park boundaries, but it does provide appropriate guidance for the regulation of hunters who are merely traversing parklands in order to get to the river. The Potomac River is not included in this legislation and will not be subject to administration by the Secretary under the terms of this bill.

Finally, Mr. Speaker, the committee approved the establishment of an advisory commission for this park. As has proven to be the case at many park and recreation areas, this commission can serve a valuable public purpose with a very nominal cost. Members serve without compensation, but they do receive reimbursement for expenses incurred as a result of commission activities.

COST

Land costs in this area will be substantial. Undoubtedly, if legislation like H.R. 19342 had been enacted when I first introduced a bill for this area 11 years ago, a great deal of money could have been saved, but there have been other priorities and problems which have intervened and made that impossible. The fact that it is now possible to give this legislation consideration means that future escalation will be arrested if this authorizing legislation and the appropriations to implement it are approved in the near future.

The committee has recommended a substantial reduction in the development authorization—from $47 to $17 million. We know that the costs for development of this area will exceed the amount contained in this bill, but we concluded that it would be appropriate for the Congress to review progress on the development plan before recommending additional appropriations. The amount contained in the bill is adequate authority for the funds needed for the first 3 years of the development program. I do not think it is good policy to allow a large backlog of authorizations to develop. Under this provision, the National Park Service will have to show us what has been done with the funds appropriated within a reasonable period of time.

CONCLUSION

Mr. Speaker, this legislation will serve two important needs. First, it will assure the preservation and restoration of a nationally significant historic area for all generations of Americans. And second, it will provide a place for the millions of Americans living in this region to enjoy a host of suitable outdoor recreation activities.

I strongly recommend the enactment of H.R. 19342, as amended, and I urge its approval by the Members of this House.

Mr. TAYLOR. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Speaker, I associate myself with those who support this legislation today.

Mr. Speaker, I would like to inform

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Members of the House that today I talked on the telephone with Mr. Thomas Hale Boggs, Jr., of Chevy Chase, Md. He requested that I inform the U.S. Congress of his strong support for H.R. 19342. At this point I include his statement, made part of the hearings record before the Subcommittee on National Parks and Recreation:

STATEMENT OF THOMAS HALE BOGGS, JR.

In the *Historic Preservation Act* of 1966, Congress declared it to be national policy, "that the spirit and direction of the Nation are founded and reflected in its historic past," and "that the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people." In the same year, in the *Model Cities Act* Congress declared ". . . there is a need for timely action to preserve and restore areas, sites, and structures of historic or architectural value in order that these remaining evidences of our past history and heritage shall not be lost or destroyed through the expansion and development of the Nation's urban areas."

It is clear that the expansion and development of the urban areas is now upon us. Because of this increased urbanization and because so many of our natural resources are becoming lost to us, I think it is of great importance that H.R. 658 and related bills be passed.

The Chesapeake and Ohio Canal was built during the great canal building era and is an example of one of the most interesting early phases of our national communication system. As early as 1754 George Washington envisioned a system of river and canal navigation along the Potomac Valley. Until then transportation was confined to the East along the rivers and bays, but with the extension of the frontier to beyond the Allegheny Mountains plans were made to connect the East and West by a navigable waterway. Through the efforts of Washington, the Potomac Company was organized in 1785 to carry out this plan.

Following the success of the Erie Canal, the popularity of the continuous canal idea increased rapidly. In the 1820's and 1830's, during the great canal-building period, more than 4,000 miles of waterways were planned or begun. However, the Potomac Company failed to provide a dependable water route to the West. This, together with the feverish canal building of the time, led to the successful organization of the Chesapeake and Ohio Canal Company in 1828. Anticipating a large share of the trade with the rapidly growing West, promoters in Maryland, Virginia and the District of Columbia planned a canal some 360 miles long. The canal was to connect Georgetown on the Potomac River with Pittsburgh on the Ohio River. President John Quincy Adams lifted the first shovelful of earth on July 4, 1828 and in 1831 water was admitted into the first completed division, the section between Georgetown and Seneca. Soon afterwards, the Chesapeake and Ohio Company encountered financial and legal difficulties. Thus, the proposed route beyond Cumberland which was to cross the Alleghenies to Pittsburgh had to be given up. Navigation of the Canal was begun as the divisions were completed: first, from Georgetown to Seneca in 1831; then to Harpers Ferry in 1833; to near Hancock, Maryland in 1839; and finally to Cumberland in 1850. Canal boats carrying coal, flour, grains, and lumber were seen on the canal until 1924 when loss of traffic to the more modern forms of transportation caused its abandonment.

The Canal is rich in historical significance. It stands as a landmark of early transportation when teams of two or three mules were used to pull the barges up and down the quiet stream. The 74 locks, the aqueducts, the 3,000 foot Paw Paw Tunnel blasted through a mountain, the trim stone lockhouses seen on the Georgetown Division are impressive examples of the architectural and engineering skills of the early canal builders. It was in Cumberland, Maryland, that General Braddock began his march to Pittsburgh during the French and Indian War. At Williamsport, Maryland, the main part of the Confederate Army crossed the Potomac in 1863 . . . on their way to Gettysburg. From the canal, visitors can view Antietam, the site of one of the most deadly battles of the Civil War. It deserves the same status and protection from the encroachments of a developing area such as heavy power lines and highways that these neighboring National Historical sites now enjoy.

With the end of operations in 1924, the canal was abandoned, its preservation left to the people living in the Potomac Valley. In the mid 1950's, there was a resurgence in interest in the shaded canal. Hikes, canoeists, campers, cyclists, wishing some respite from the hot and teeming concrete of the city were found along the quiet cool shady stretch of water. The interest in the canal has been building and last year 1.5 million people of all ages used some segment of the Canal. There is no reason to believe that this renewed interest will cease. The overwhelming growth of our cities and the spirit of the cities, crowded, noisy, pressure ridden—make it more than ever necessary that historical areas be protected and preserved. We need places were people can escape from the city, take quiet walks and sails, enjoy the unending cycle of nature and the historical traditions of the land. I heartily endorse the acquisition of land to make an historical park of the C and O Canal.

I agree with those who say that we must begin immediately to preserve and restore this historic area. The projected population growth of the Potomac Valley suggests an increase to 12 million people in 1985 from a population of 5.3 million today. The canal as it is today nowhere capable of hauling that many people. The Canal is in major need of restoration. Some of the locks are no longer working, the towpath has not been regularly repaired, fallen trees and underbrush are cluttering the area, the aqueducts are crumbling. In order to protect the historic sanctity of the canal these must be repaired.

In addition, more parking lots will be needed, more picnic areas must be made available, boat ramps and boat houses should be provided so that the people will better understand and appreciate the natural beauty and historical significance of the park. The work must begin now. If we delay in purchasing the land, the prices will soar, and the open space now readily available to us will shrink as the giant megalopolis expands.

The plan to restore the Canal must encompass all aspects of our ecological culture. I have purposely avoided using the phrase, "develop the canal" because I think that when discussing natural resources the word "develop" has a perjorative connotation. All aspects of the canal must be taken into consideration before work is started. Upper-most in the plans should be preservation of the total environmental quality of the park area. This would necessitate the cleaning up of the polluted water, the protection of the flowers and wildlife, the preservation of the existing trees and the planting of new ones to insure at least one desperately needed fresh air corridor in and out of the Metropolitan area. This quality and spirit of environment must be maintained and strengthened. In order to do this, all interested parties must be brought together. The architects, engineers, naturalists, historians, and conservationists should have a hand in planning with the National Park Service the Park's restoration and maintenance. The parking lots and other facilities to be added must be done quietly and made to be as unobtrusive as possible. The charm and attraction of the canal is that it is an oasis in the city. It is loved for its lack of pavement, its lack of modern development. What the people want is to look, feel, and be aware of the natural environment. The area between the canal and the Potomac River should be secured against concrete and pavement. Great care must be taken that this remain and become a people's park and not a traffic park. Shuttle services could be run from various points around the Metropolitan Area to reduce the need for expansive gleaming white parking lots and streets.

Today, more than ever before, it is imperative that what limited space we do have, what limited natural beauty we can still enjoy, what historical traditions we can still inspect and instill in others, should be preserved and enhanced and made accessible to a nation starving for a patch of green and a breath of air.

Mr. COHELAN. Mr. Speaker, I rise in full support of H.R. 19342, a bill to establish the Chesapeake & Ohio Canal National Historic Park.

I am most pleased to lend my support to this worthwhile legislation for I have personally enjoyed the beauty and recreational facilities of this area for many years. This bill would provide for the proper development and expansion of this area so as to provide a major attraction for citizens of the Washington area as well as for the millions of Americans who visit our Nation's Capital each year. Future development plans for this area will emphasize the historical aspects of this park as well as preserve the natural beauty of the canal.

This bill serves to make the Chesapeake & Ohio Canal area a meaningful unit of the national park system. Appropriate facilities will be expanded to accommodate the millions of visitors expected in this area annually. Authorized funds will be appropriated to properly develope this area as well as acquire those adjacent lands to the canal that will be needed to assure proper access to, and use and protection of the park.

Mr. Speaker, at this time in our national history when we must make every attempt to improve the quality of life for all Americans in this Nation, I fully support the establishment of the Chesapeake & Ohio Canal National Historic Park. It is my hope that we can establish this park so as to provide a place of beauty and recreation for our generation as well as for our children and grandchildren.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion of the gentleman from North Carolina that the House suspend the rules and pass the bill H.R. 19342, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. TAYLOR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to

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extend their remarks on the bill (H.R. 19342) just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

GEOTHERMAL STEAM ACT OF 1970

Mr. EDMONDSON. Mr. Speaker, I move to suspend the rules and pass the bill (S. 368) to authorize the Secretary of the Interior to make disposition of geathermal steam and associated geothermal resources, and for other purposes, as amended.

The Clerk read the bill as follows:

S. 368

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Geothermal Steam Act of 1970".

SEC. 2. As used in this Act, the term—

(a) "Secretary" means the Secretary of the Interior;

(b) "geothermal lease" means a lease issued under authority of this Act;

(c) "geothermal steam and associated geothermal resources" means (i) all products of geothermal processes, embracing indigenous steam, hot water and hot brines; (ii) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artifically introduced into geothermal formations; (iii) heat or other associated energy found in geothermal formations; and (iv) any byproduct derived from them;

(d) "byproduct" means any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with geothermal steam and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;

(e) "known geothermal resources area" means an area in which the geology, nearby discoveries, competitive interests, or other indicia would, in the opinion of the Secretary, engender a belief in men who are experienced in the subject matter that the prospects for extraction of geothermal steam or associated geothermal-resources are good enough to warrant expenditures of money for that purpose.

SEC. 3. Subject to the provisions of section 15 of this Act, the Secretary of the Interior may issue leases for the development and utilization of geothermal steam and associated geothermal resources (1) in lands administered by him, including public, withdrawn, and acquired lands, (2) in any national forest or other lands administered by the Department of Agriculture through the Forest Service, including public, withdrawn, and acquired lands, and (3) in lands which have been conveyed by the United States subject to a reservation to the United States of the geothermal steam and associated geothermal resources therein.

SEC. 4. If lands to be leased under this Act are within any known geothermal resources area, they shall be leased to the highest responsible qualified bidder by competitive bidding under regulations formulated by the Secretary. If the lands to be leased are not within any known geothermal resources area, the qualified person first making application for the lease shall be entitled to a lease of such lands without competitive bidding. Notwithstanding the foregoing, at any time within one hundred and eighty days following the effective date of this Act:

(a) with respect to all lands which were on April 4, 1962, subject to valid leases or permits issued under the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), or under the Mineral Leasing Act of Acquired Lands, as amended (30 U.S.C. 351, 358), or to existing mining claims located on or prior to April 4, 1962, the lessees or permittees or claimants or their successors in interest who are qualified to hold geothermal leases shall have the right to convert such leases or permits or claims to geothermal leases covering the same lands;

(b) where there are conflicting claims, leases, or permits therefor embracing the same land, the person who first was issued a lease or permit, or who first recorded the mining claim shall be entitled to first consideration;

(c) with respect to all lands which were on April 4, 1962, the subject of applications for leases or permits under the above Acts, the applicants may convert their applications to applications for geothermal leases having priorities dating from the time of filing of such applications under such Act;

(d) no person shall be permitted to convert mineral leases, permits, applications therefor, or mining claims for more than four geothermal leases; and

(e) the conversion of leases, permits, and mining claims and applications for leases and permits shall be accomplished in accordance with regulations prescribed by the Secretary. No right to conversion to a geothermal lease shall accrue to any person under this section unless such person shows to the reasonable satisfaction of the Secretary that substantial expenditures for the exploration, development, or production of geothermal steam have been made by the applicant who is seeking conversion, on the lands for which a lease is sought or on adjoining, adjacent, or nearby Federal or non-Federal lands.

(f) with respect to lands within any known geothermal resources area and which are subject to a right to conversion to a geothermal lease, such lands shall be leased by competitive bidding: Provided, That, the competitive geothermal lease shall be issued to the person owning the right to conversion to a geothermal lease if he makes payment of an amount equal to the highest bona fide bid for the competitive geothermal lease, plus the rental for the first year, within ten days after he receives written notice from the Secretary of the amount of the highest bid.

SEC. 5. Geothermal leases shall provide for—

(a) a royalty of not less than 10 per centum of the amount or value of steam, or any other form of heat or energy derived from production under the lease and sold or utilized by the lessee;

(b) a royalty of not more than 5 per centum of the value of any byproduct derived from production under the lease and sold or utilized or reasonably susceptible of sale or utilization by the lessee, except that as to any byproduct which is a mineral named in section 1 of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181), the rate of royalty for such mineral shall be the same as that provided in that Act and the maximum rate of royalty for such mineral shall not exceed the maximum royalty applicable under that Act;

(c) payment in advance of an annual rental of not less than $1 per acre or fraction thereof for each year of the lease. If there is no well on the leased lands capable of producing geothermal resources in commercial quantities, the failure to pay rental on or before the anniversary date shall terminate the lease by operation of law: *Provided, however,* That whenever the Secretary discovers that the rental payment due under a lease is paid timely but the amount of the payment is deficient because of an error or other reason and the deficiency is nominal, as determined by the Secretary pursuant to regulations prescribed by him, he shall notify the lessee of the deficiency and such lease shall not automatically terminate unless the lessee fails to pay the deficiency within the period prescribed in the notice: *Provided further,* That, where any lease has been terminated automatically by operation of law under this section for failure to pay rental timely and it is shown to the satisfaction of the Secretary of the Interior that the failure to pay timely the lease rental was justifiable or not due to a lack of reasonable diligence, he in his judgment may reinstate the lease if—

(1) a petition for reinstatement, together with the required rental, is filed with the Secretary of the Interior; and

(2) no valid lease has been issued affecting any of the lands in the terminated lease prior to the filing of the petition for reinstatement; and

(d) a minimum royalty of $2 per acre or fraction thereof in lieu of rental payable at the expiration of each lease year for each producing lease, commencing with the lease year beginning on or after the commencement of production in commercial quantities. For the purpose of determining royalties hereunder the value of any geothermal steam and byproduct used by the lessee and not sold and reasonably susceptible of sale shall be determined by the Secretary, who shall take into consideration the cost of exploration and production and the economic value of the resource in terms of its ultimate utilization.

SEC. 6. (a) Geothermal leases shall be for a primary term of ten years. If geothermal steam is produced or utilized in commercial quantities within this term, such lease shall continue for so long thereafter as geothermal steam is produced or utilized in commercial quantities, but such continuation shall not exceed an additional forty years.

(b) If, at the end of such forty years, steam is produced or utilized in commercial quantities and the lands are not needed for other purposes, the lessee shall have a preferential right to a renewal of such lease for a second forty-year term in accordance with such terms and conditions as the Secretary deems appropriate.

(c) Any lease for land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for five years and so long thereafter, but not more than thirty-five years, as geothermal steam is produced or utilized in commercial quantities. If, at the end of such extended term, steam is being produced or utilized in commercial quantities and the lands are not needed for other purposes, the lessee shall have a preferential right to a renewal of such lease for a second term in accordance with such terms and conditions as the Secretary deems appropriate.

(d) For purposes of subsection (a) of this section, production or utilization of geothermal steam in commercial quantities shall be deemed to include the completion of one or more wells producing or capable of producing geothermal steam in commercial quantities and a bona fide sale of such geothermal steam for delivery to or utilization by a facility or facilities not yet installed but scheduled for installation not later than fifteen years from the date of commencement of the primary term of the lease.

(e) Leases which have extended by reasons of production, or which have produced geothermal steam, and have been determined by the Secretary to be incapable of further commercial production and utilization of geothermal steam may be further extended for a period of not more than five years from the date of such determination but only for so long as one or more valuable byproducts are produced in commercial quantities.

If such byproducts are leasable under the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181, et seq.), or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–358), and the leasehold is primarily valuable for the production thereof, the lessee shall be entitled to convert his geothermal lease to a mineral lease under, and subject to all the terms and conditions of, such appropriate Act upon application at any time before expiration of the lease extension by reason of byproduct production. The lessee shall be entitled to locate under the mining laws all minerals which are not leasable and which would constitute a byproduct if commercial production or utilization of geothermal steam continued. The lessee in order to acquire the rights herein granted him shall complete the location of mineral claims within ninety days after the termination of the lease for geothermal steam. Any such converted lease or the surface of any mining claim located for geothermal byproducts mineral affecting lands withdrawn or acquired in aid of a function of a Federal department or agency, including the Department of the Interior, shall be subject to such additional terms and conditions as may be prescribed by such department or agency with respect to the additional operations or effects resulting from such conversion upon adequate utilization of the lands for the purpose for which they are administered.

(f) Minerals locatable under the mining laws of the United States in lands subject to a geothermal lease issued under the provisions of this Act which are not associated with the geothermal steam and associated geothermal resources of such lands as defined in section 2(c) herein shall be locatable under said mining laws in accordance with the principles of the Multiple Mineral Development Act (68 Stat. 708; found in 30 U.S.C. 521 et seq.).

Sec. 7. A geothermal lease shall embrace a reasonably compact area of not more than two thousand five hundred and sixty acres, except where a departure therefrom is occasioned by an irregular subdivision or subdivisions. No person, association, or corporation, except as otherwise provided in this Act, shall take, hold, own, or control at one time, whether acquired directly from the Secretary under this Act or otherwise, any direct or indirect interest in Federal geothermal leases in any one State exceeding twenty thousand four hundred and eighty acres, including leases acquired under the provisions of section 4 of this Act.

At any time after fifteen years from the effective date of this Act the Secretary, after public hearings, may increase this maximum holding in any one State by regulation, not to exceed fifty-one thousand two hundred acres.

Sec. 8. (a) The Secretary may readjust the terms and conditions, except as otherwise provided herein, of any geothermal lease issued under this Act at not less than ten-year intervals beginning ten years after the date the geothermal steam is produced, as determined by the Secretary. Each geothermal lease issued under this Act shall provide for such readjustment. The Secretary shall give notice of any proposed readjustment of terms and conditions, and, unless the lessee files with the Secretary objection to the proposed terms or relinquishes the lease within thirty days after receipt of such notice, the lessee shall conclusively be deemed to have agreed with such terms and conditions. If the lessee files objections, and no agreement can be reached between the Secretary and the lessee within a period of not less than sixty days, the lease may be terminated by either party.

(b) The Secretary may readjust the rentals and royalties of any geothermal lease issued under this Act at not less than twenty-year intervals beginning thirty-five years after the date geothermal steam is produced, as determined by the Secretary. In the event of any such readjustment neither the rental nor royalty may be increased by more than 50 per centum over the rental or royalty paid during the preceding period, and in no event shall the royalty payable exceed 22½ per centum. Each geothermal lease issue under this Act shall provide for such readjustment. The Secretary shall give notice of any proposed readjustment of rentals and royalties and, unless the lessee files with the Secretary objection to the proposed rentals and royalties or relinquishes the lease within thirty days after receipt of such notice, the lessee shall conclusively be deemed to have agreed with such terms and conditions. If the lessee files objections, and no agreement can be reached between the Secretary and the lessee within a period of not less than sixty days, the lease may be terminated by either party.

(c) Any readjustment of the terms and conditions as to use, protection, or restoration of the surface of any lease of lands withdrawn or acquired in aid of a function of a Federal department or agency other than the Department of the Interior may be made only upon notice to, and with the approval of, such department or agency.

Sec. 9. If the production, use, or conversion of geothermal steam is susceptible of producing a valuable byproduct or byproducts, *including commercially demineralized water for beneficial uses in accordance with applicable State water laws,* the Secretary shall require substantial beneficial production or use thereof unless, in individual circumstances he modifies or waives this requirement in the interest of conservation of natural resources or for other reasons satisfactory to him. However, the production or use of such byproducts shall be subject to the rights of the holders of preexisting leases, claims, or permits covering the same land or the same minerals, if any.

Sec. 10. The holder of any geothermal lease at any time may make and file in the appropriate land office a written relinquishment of all rights under such lease or of any legal subdivision of the area covered by such lease. Such relinquishment shall be effective as of the date of its filing. Thereupon the lessee shall be released of all obligations thereafter accruing under said lease with respect to the lands relinquished, but no such relinquishment shall release such lessee, or his surety or bond, from any liability for breach of any obligation of the lease, other than an obligation to drill, accrued at the date of the relinquishment, or from the continued obligation, in accordance with the applicable lease terms and regulations, (1) to make payment of all accrued rentals and royalties, (2) to place all wells on the relinquished lands in condition for suspension or abandonment, and (3) to protect or restore substantially the surface and surface resources.

Sec. 11. The Secretary, upon application by the lessee, may authorize the lessee to suspend operations and production on a producing lease and he may, on his own motion, in the interest of conservation suspend operations on any lease but in either case he may extend the lease term for the period of any suspension, and he may waive, suspend, or reduce the rental or royalty required in such lease.

Sec. 12. Leases may be terminated by the Secretary for any violation of the regulations or lease terms after thirty days notice provided that such violation is not corrected within the notice period, or in the event the violation is such that it cannot be corrected within the notice period then provided that lessee has not commenced in good faith within said notice period to correct such violation and thereafter to proceed diligently to correct such violation. Lessee shall be entitled to a hearing on the matter of such claimed violation or proposed termination of lease if request for a hearing is made to the Secretary within the thirty-day period after notice. The period for correction of violation or commencement to correct such violation of regulations or of lease terms, as aforesaid, shall be extended to thirty days after the Secretary's decision after such hearing if the Secretary shall find that a violation exists.

Sec. 13. The Secretary may waive, suspend, or reduce the rental or royalty for any lease or portion thereof in the interests of conservation and to encourage the greatest ultimate recovery of geothermal resources, if he determines that this is necessary to promote development or that the lease cannot be successfully operated under the lease terms.

Sec. 14. Subject to the other provisions of this Act, a lessee shall be entitled to use so much of the surface of the land covered by his geothermal lease as may be found by the Secretary to be necessary for the production, utilization, and conservation of geothermal resources.

Sec. 15. (a) Geothermal leases for lands withdrawn or acquired in aid of functions of the Department of the Interior may be issued only under such terms and conditions as the Secretary may prescribe to insure adequate utilization of the lands for the purposes for which they were withdrawn or acquired.

(b) Geothermal leases for lands withdrawn or acquired in aid of functions of the Department of Agriculture may be issued only with the consent of, and subject to such terms and conditions as may be prescribed by, the head of that Department to insure adequate utilization of the lands for the purposes for which they were withdrawn or acquired. Geothermal leases for lands to which section 24 of the Federal Power Act, as amended (16 U.S.C. 818), is applicable, may be issued only with the consent of, and subject to, such terms and conditions as the Federal Power Commission may prescribe to insure adequate utilization of such lands for power and related purposes.

(c) Geothermal leases under this Act shall not be issued for lands administered in accordance with (1) the Act of August 25, 1916 (39 Stat. 535), as amended or supplemented, (2) for lands within a national recreation area, (3) for lands in a fish hatchery administered by the Secretary, wildlife refuge, wildlife range, game range, wildlife management area, waterfowl production area, or for lands acquired or reserved for the protection and conservation of fish and wildlife that are threatened with extinction, (4) for tribally or individually owned Indian trust or restricted lands, within or without the boundaries of Indian reservations.

Sec. 16. Leases under this Act may be issued only to citizens of the United States, associations of such citizens, corporations organized under the laws of the United States or of any State or the District of Columbia, or governmental units, including, without limitation, municipalities.

Sec. 17. Administration of this Act shall be under the principles of multiple use of lands and resources, and geothermal leases shall, insofar as feasible, allow for coexistence of other leases of the same lands for deposits of minerals under the laws applicable to them, for the location and production of claims under the mining laws, and for other uses of the areas covered by them. Operations under such other leases or for such other uses, however, shall not unreasonably interfere with or endanger operations under any lease issued pursuant to this Act, nor shall operations under leases so issued unreasonably interfere with or endanger operations under any lease, license, claim, or

XUM

permit issued pursuant to the provisions of any other Act.

SEC. 18. For the purpose of properly conserving the natural resources of any geothermal pool, field, or like area, or any part thereof, lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of such pool, field, or like area, or any part thereof, whenever this is determined and certified by the Secretary to be necessary or advisable in the public interest. The Secretary may in his discretion and with the consent of the holders of leases involved, establish, alter, change, revoke, and make such regulations with reference to such leases in connection with the institution and operation of any such cooperative or unit plan as he may deem necessary or proper to secure reasonable protection of the public interest. He may include in geothermal leases a provision requiring the lessee to operate under such a reasonable cooperative or unit plan, and he may prescribe such a plan under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States. Any such plan may, in the discretion of the Secretary, provide for vesting in the Secretary or any other person, committee, or Federal or State agency designated therein, authority to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such plan. All leases operated under any such plan approved or prescribed by the Secretary shall be excepted in determining holdings or control for the purposes of section 7 of this Act.

When separate tracts cannot be independently developed and operated in conformity with an established well-spacing or development program, any lease, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, under a communization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the Secretary to be in the public interest, and operations or production pursuant to such an agreement shall be deemed to be operations or production as to each lease committed thereto.

The Secretary is hereby authorized, on such conditions as he may prescribe, to approve operating, drilling, or development contracts made by one or more lessees of geothermal leases, with one or more persons, associations, or corporations whenever, in his discretion, the conservation of natural products or the public convenience or necessity may require or the interests of the United States may be best served thereby. All leases operated under such approved operating, drilling, or development contracts, and interests thereunder, shall be excepted in determining holdings or control under section 7 of this Act.

SEC. 19. Upon request of the Secretary, other Federal departments and agencies shall furnish him with any relevant data then in their possession or knowledge concerning or having bearing upon fair and adequate charges to be made for geothermal steam produced or to be produced for conversion to electric power or other purposes. Data given to any department or agency as confidential under law shall not be furnished in any fashion which identifies or tends to identify the business entity whose activities are the subject of such data or the person or persons who furnished such information.

SEC. 20. All moneys received under this Act from public lands under the jurisdiction of the Secretary shall be disposed of in the same manner as moneys received from the sale of public lands. Moneys received under this Act from other lands shall be disposed of in the same manner as other receipts from such lands.

SEC. 21. (a) Within one hundred and twenty days after the effective date of this Act, the Secretary shall cause to be published in the Federal Register a determination of all lands which were included within any known geothermal resources area on the effective date of the Act. He shall likewise publish in the Federal Register from time to time his determination of other known geothermal resources areas specifying in each case the date the lands were included in such area; and

(b) Geothermal resources in lands the surface of which has passed from Federal ownership but in which the minerals have been reserved to the United States shall not be developed or produced except under geothermal leases made pursuant to this Act. If the Secretary of the Interior finds that such development is imminent, or that production from a well heretofore drilled on such lands is imminent, he shall so report to the Attorney General, and the Attorney General is authorized and directed to institute an appropriate proceeding in the United States district court of the district in which such lands are located, to quiet the title of the United States in such resources, and if the court determines that the reservation of minerals to the United States in the lands involved included the geothermal resources, to enjoin their production otherwise than under the terms of this Act: Provided, That upon an authoritative judicial determination that Federal mineral reservation does not include geothermal steam and associated geothermal resources the duties of the Secretary of the Interior to report and of the Attorney General to institute proceedings, as hereinbefore set forth, shall cease.

SEC. 22. Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to its exemption from State water laws.

SEC. 23. (a) All leases under this Act shall be subject to the condition that the lessee will, in conducting his exploration, development, and producing operations, use all reasonable precautions to prevent waste of geothermal steam and associated geothermal resources developed in the lands leased.

(b) Rights to develop and utilize geothermal steam and associated geothermal resources underlying lands owned by the United States may be acquired solely in accordance with the provisions of this Act.

SEC. 24. The Secretary shall prescribe such rules and regulations as he may deem appropriate to carry out the provisions of this Act. Such regulations may include, without limitation, provisions for (a) the prevention of waste, (b) development and conservation of geothermal and other natural resources, (c) the protection of the public interest, (d) assignment, segregation, extension of terms, relinquishment of leases, development contracts, unitization, pooling, and drilling agreements, (e) compensatory royalty agreements, suspension of operations or production, and suspension or reduction of rentals or royalties, (f) the filing of surety bonds to assure compliance with the terms of the lease and to protect surface use and resources, (g) use of the surface by a lessee of the lands embraced in his lease, (h) the maintenance by the lessee of an active development program, and (i) protection of water quality and other environmental qualities.

SEC. 25. As to any land subject to geothermal leasing under section 3 of this Act, all laws which either (a) provide for the disposal of land by patent or other form of conveyance or by grant or by operation of law subject to a reservation of any mineral or (b) prevent or restrict the disposal of such land because of the mineral character of the land, shall hereafter be deemed to embrace geothermal steam and associated geothermal resources as a substance which either must be reserved or must prevent or restrict the disposal of such land, as the case may be. This section shall not be construed to affect grants, patents, or other forms of conveyances made prior to the date of enactment of this Act.

SEC. 26. The first two clauses in section 11 of the Act of August 13, 1954 (68 Stat. 708, 716), are amended to read as follows:

"As used in this Act, 'mineral leasing laws' shall mean the Act of February 25, 1920 (41 Stat. 437); the Act of April 17, 1926 (44 Stat. 301); the Act of February 7, 1927 (44 Stat. 1057); Geothermal Steam Act of 1970, and all Acts heretofore or hereafter enacted which are amendatory of or supplementary to any of the foregoing Acts; 'Leasing Act minerals' shall mean all minerals which, upon the effective date of this Act, are provided in the mineral leasing laws to be disposed of thereunder and all geothermal steam and associated geothermal resources which, upon the effective date of the Geothermal Steam Act of 1970, are provided in that Act to be disposed of thereunder;".

SEC. 27. The United States reserves the ownership of and the right to extract under such rules and regulations as the Secretary may prescribe oil, hydrocarbon gas, and helium from all geothermal steam and associated geothermal resources produced from lands leased under this Act in accordance with presently applicable laws: *Provided*, That whenever the right to extract oil, hydrocarbon gas, and helium from geothermal steam and associated geothermal resources produced from such lands is exercised pursuant to this section, it shall be exercised so as to cause no substantial interference with the production of geothermal steam and associated geothermal resources from such lands.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAYLOR. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. EDMONDSON. Mr. Speaker, the purpose of S. 368 is to authorize the Secretary of the Interior to permit the exploration and development of geothermal steam and associated geothermal resources underlying certain public domain lands. Existing Federal law does not provide specific authorization for the development of geothermal steam.

The development of geothermal steam and associated geothermal resources involves the harnessing of the natural heat energy of the earth for the generation of electric power, the production of commercially important mineral byproducts, and, potentially, the development of new fresh water supplies.

In certain areas of relatively recent volcanic activity large pockets of earth heat are found sufficiently near the surface to be usable, with highly specialized equipment, for the production of electric energy. Under present technology, the near-surface heat pockets that have developed are those associated with underground water at high temperatures under great pressures. As these superheated waters are brought nearer the surface, the pressures drop and the water becomes steam energy capable of turning generators for the production of electric

XUM

power. In some instances the superheated waters contain valuable minerals in solution that are recoverable.

Further, there is a likelihood that the earth's exploitable, naturally occurring geothermal steam resources may be greatly expandable through use of nuclear technology. This concept envisages that in the absence of natural steam, hot rock formations deep beneath the surface of the earth may be safely penetrable, and by nuclear action produce superheated cavities into which a coolant could be artificially injected to produce high pressure energy usable for the production of electricity. Studies are presently underway to determine the feasibility of this concept, and should this approach prove to be practical and acceptable the potentialities of geothermally produced electricity would be enormously enhanced.

Beginning with the 87th Congress numerous bills to permit the leasing of geothermal steam and associated geothermal resources from Federal lands have been introduced and considered in both bodies of Congress. S. 368 is the latest in a long series of such proposals. The hearings on the present bill and the extensive record developed in connection with the earlier legislation demonstrate quite clearly that the geothermal resources underlying the public lands in the Western States represent a vast reservoir of untapped energy with a potential for relatively pollution-free, economical production of electric power to help overcome the increasingly critical power shortage confronting the Nation.

During the 89th Congress, both the House and Senate considered and passed legislation to make geothermal steam and associated resources on the public lands available for exploration and development. However, this proposal, S. 1674, was vetoed by the President. During the 90th Congress legislation was also considered but it was not presented to the President for approval. S. 368 represents the latest attempt to meet the objections previously raised by the President in his veto message of November 15, 1966. While S. 368 was not recommended by the Department of the Interior, it is, in my opinion, an eminently fair and workable proposal.

S. 368, as amended by the committee, provides statutory authority for the Secretary of the Interior to issue leases for the development of geothermal steam and the associated geothermal steam resources underlying the public lands in much the same manner as he is now authorized to lease land for the development of their oil and gas deposits under the Mineral Leasing Act of 1920.

Size leases: Each lease will embrace a reasonably compact area of not more than 2,560 acres, and the total that any lessee may hold in any one State is limited to 20,480 acres. After 15 years of experience under the legislation, the Secretary may by regulation increase the maximum holding in any one State to not to exceed 51,200 acres.

Based on testimony received by the committee, this acreage is not excessive if private enterprise is to be encouraged to explore for and develop this new resource. By way of contrast, existing law—30 United States Code 184—establishes acreage limitations for coal at 46,080 per lessee per State and at 246,080 in the case of oil or gas leases.

Issuance of leases: If the lands involved in a proposed lease lie within a known geothermal resources area, the lease must be issued to the highest responsible qualified bidder by competitive bidding under regulations formulated by the Secretary. Lands not within any known geothermal resources area—otherwise known as wildcat lands—will be leased to the first qualified person making application for the lease without competitive bidding.

This feature of the bill is patterned after the existing law governing the leasing of oil and gas deposits.

Grandfather provision: Section 4 of the bill, as amended by the committee, provides that with respect to lands which were on April 4, 1962, subject to valid leases or permits issued under the Mineral Leasing Acts, or subject to existing mining claims located on or prior to April 4, 1962, and with respect to lands which were on that date the subject of applications for leases or permits under such acts, the holders of such rights and applications who are otherwise qualified to hold geothermal leases shall have the right, within 180 days after the effective date of the act, to convert their leases, permits, claims, or applications into geothermal leases or applications for leases covering the same lands.

However, such conversion rights are narrowly circumscribed. No one would be permitted to convert existing leases or claims into more than four geothermal steam leases, making a maximum of 10,240 acres subject to such conversion. In addition, anyone seeking conversion of existing leases or claims, located within a known geothermal resource area, must meet the highest bonafide competitive bid for the geothermal steam lease.

In these respects S. 368, as amended by this committee, differs from the bill as passed by the Senate. The conversion date in the Senate bill was September 7, 1965, rather than April 4, 1962. The Senate bill restricted conversion to two leases per State and four leases in the United States, and it did not require one seeking conversion to meet the highest competitive bid.

In addition to the requirement to meet the highest competitive bid, the conversion rights granted by the bill would be exercisable only in accordance with regulations prescribed by the Secretary, and no right of conversion would accrue to any person unless he demonstrates to the Secretary's reasonable satisfaction that he has made substantial expenditures for the exploration, development, or production of geothermal steam on the lands for which he seeks a lease or on adjoining, adjacent, or nearby Federal or non-Federal lands.

This right for conversion has long been the principal point of disagreement between the legislative and executive branches, and it was one of the main reasons for the veto in the 89th Congress. The committee is of the opinion that those individuals who pioneered during the early years to develop geothermal steam under the existing law established equitable claims and should have a priority under any new legislation. S. 368, as amended, provides such a priority. However, by requiring one who is seeking conversion to meet the highest competitive bid there can be no charge of giveaway and the public interest is fully protected.

It appears appropriate to point out that the conversion provision in S. 368, as now amended, is in complete accord with the recommendations of the Public Land Law Review Commission.

Rent and royalties: As amended by the committee a lease issued pursuant to S. 368 provides for a royalty of not less than 10 percent of the amount or values of steam, or any other form of heat or energy derived from production under the lease. This is double the minimum rental provided for in the bill as passed by the Senate. While this is a substantial increase, the committee feels it justifiable in view of the customary minimum rental of 12½ percent for noncompetitive oil and gas leases issued under provision of the Mineral Leasing Act.

In the case of byproduct minerals, a maximum royalty of 5 percent is provided, except as otherwise provided by the Mineral Leasing Acts, which acts are made controlling as to the leaseable minerals. Each lease will also be subject to an annual rental of not less than $1 per acre, and a minimum royalty of $2 per acre after commencement of commercial production.

Duration of leases: The bill provides that each geothermal lease shall be for a primary term of 10 years. If steam is produced or utilized in commercial quantities within this term, the lease will continue for so long thereafter as such production or utilization continues, but not to exceed an additional 40 years. If at the end of such 40 years steam continues to be produced in commercial quantities, and the land is not needed for other purposes, the lessee is given a preferential right to a renewal of the lease for a second 40-year period in accordance with such terms and conditions as the Secretary deems appropriate. Leases extended by reason of production and later found to be incapable of further steam production but capable of commercially valuable byproduct production would be convertible to mineral leases under the Mineral Leasing Acts, or to location under the mining laws.

Readjustment of lease terms: The bill provides that the Secretary may readjust the terms and conditions, other than the rentals and royalties, of any geothermal lease at not less than 10-year intervals beginning 10 years after the date geothermal steam is produced. Rents and royalties, on the other hand, will be readjustable by the Secretary at not less than 20-year intervals beginning 35 years after the date geothermal steam is produced. In the event of a readjustment, neither the rental nor the royalty may be increased by more than 50 percent over the rental or royalty paid during the previous period, and in no event may the royalty exceed 22½ percent. Provision is made for notice to the lessee of any proposed readjustment of lease terms.

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Beneficial use of water: In recognition of the possibility that substantial amounts of usable water may, in certain areas, be associated with geothermal steam, the committee adopted an amendment which includes commercially demineralized water as one of the byproducts that may have value, and the Secretary may require its production or use in circumstances where warranted. Such use or production of water would be in accordance with applicable State water laws.

Ownership of geothermal steam in surface patents: In order to obtain an authoritative judicial determination of the ownership of geothermal resources in lands the surface of which has passed from Federal ownership with a reservation of minerals to the United States, a new section was adopted by the committee. This directs the Attorney General to initiate an appropriate proceeding to quiet the title of the United States to such resources if and when development of such resources occurs or is imminent. At issue is the ownership of geothermal steam on more than 35 million acres of land the surface of which has passed from Federal ownership but with a reservation of minerals to the United States. The development of geothermal resources in these lands will be retarded until the question of ownership is determined.

It is my considered opinion that the legislative branch has made every reasonable effort to work out a bill acceptable to the executive departments, that will permit development of this new resource, and that will at the same time afford full protection to the public interest. This new source of energy is needed and it is needed now. Enactment of legislation to permit development of this new energy resource should not be further delayed. I urge the enactment of S. 368, as amended.

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Mr. Speaker, this is a bill which has been before the Congress for some years. It is a bill with tremendous potential to help relieve a very serious power shortage we have in this country. It is a bill that should provide revenues to our Government at a time when we very seriously need additional revenues in order to reduce our deficits and to help meet the expenses of Government.

I believe the objections which were raised in the veto message which greeted the bill at the time of its last passage have been substantially met by the amendments that have been adopted by the committee, and I hope the bill can be overwhelmingly approved by the House.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. EDMONDSON. I am glad to yield to the distinguished gentleman from Iowa.

Mr. GROSS. Did I correctly understand the gentleman to say that this bill carries no authorization for funds?

Mr. EDMONDSON. The gentleman is absolutely correct. This is a bill to enable the Government to lease land for the purpose of geothermal steam development. It will produce revenue for the Government. It will require no outlay that I know of. It is a revenue producer.

Mr. GROSS. May I suggest to the gentleman, this would be a good way for the Committee on Interior and Insular Affairs to close out its business for this year, on a note of this kind. In the past 2 weeks, I do not know how many hundreds of millions of dollars the Committee on Interior and Insular Affairs has requested from the Federal Treasury. I just suggest that this might be a good place to end the activities of the committee, on the very happy note that in this bill at this time you are not asking for additional funds.

Mr. EDMONDSON. I thank the gentleman for his remarks. He is always constructive and he had a wonderful sense of timing. I believe he has made a very appropriate suggestion.

Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. Baring).

Mr. BARING. Mr. Speaker, I stand in support of legislation to develop geothermal steam resources in the United States and I am especially hopeful for scientific study to progress toward the use of this energy for industry and the general public.

I want to point out that there is evidence from Federal Government departments supporting the fact that the use of geothermal steam as a power resource is feasible and practical.

I feel there is a possibility that power generated from our underground steam resources could be vital as a backup power source for current power supply outlets. With the expanded growth in the Far West of these United States, I believe there is even a priority for this legislation to be approved by Congress in order to assist in the assurance of future possible sources of power supplies. Also, there are untold unknown uses for geothermal steam resources, of which Congress and the scientific community may become aware of with proper processing and approval of a viable geothermal steam development bill.

It is certain there would be accompanying byproducts which would evolve from this legislation which could result in an economically valuable power supply.

Approval of this legislation, of course, would involve the obvious use of the Public Lands of this Nation. In respect to that, today's geothermal steam bill provides for leases to private industry and/or individuals to be awarded by bidding. Royalties would be allowed the developers on the value of steam power resources located and a royalty could also be recognized on the value of any byproducts.

These geothermal steam leases would be authorized through the Office of the Secretary of the Interior.

I feel that this geothermal steam bill, as amended and as the form in which it was turned out of the House Interior and Insular Affairs Committee, is a proper bill. I feel it is imperative that it be enacted. Perhaps other modifications can be made later following analysis of initial investigations into the development of geothermal steam resources.

Mr. SAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take this opportunity to pay tribute to our colleague from California (Mr. Hosmer). The gentleman from California (Mr. Hosmer) has been a member of the Committee on Interior and Insular Affairs since he was elected in 1952. From that time down to the present he has been a member who has been very interested in geothermal steam. In fact, he has been, I believe, the moving force so far as our committee is concerned. It was his idea which was first passed by the House and then the Senate, and vetoed by the then President of the United States.

We passed another bill in the next session of Congress trying to correct the things which the President said in his veto message and once again it came up with a veto. This did not disturb our friend from California (Mr. Hosmer). He is one who firmly believes—and I am happy to concur with him—that geothermal steam is a resource of the United States which should be used. Other countries are putting it to beneficial use. Because of the vetoes of the prior President, this asset has been wasted from time immemorial and particularly in the last 5 years since we have had the two vetoes. I would suggest if there is any real credit to be given for this measure that it go to our colleague from California (Mr. Hosmer).

Mr. HOSMER. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I am happy to yield to the gentleman.

Mr. HOSMER. I wish to thank the gentleman for his very kind and overgenerous remarks. The bill itself in its present form may not be quite what all of us wish. Perhaps in the legislative process we might perfect it even further than it has been perfected at the present moment.

Again I thank the gentleman for his kind remarks.

Mr. SAYLOR. Mr. Speaker, I rise in support of S. 368. At the present time there is no statute that specifically provides for the development of geothermal steam on Federal lands. Some people have attempted to stretch the mining and mineral leasing laws and make them apply to geothermal steam, but the Department of the Interior has concluded that those laws do not apply. That is a proper conclusion, in my opinion, because those laws do not adequately cover the needs of a geothermal leasing program. We therefore need legislation such as this bill to handle a resource that is assuming increasing importance to the Nation as a whole.

The use of geothermal steam as a source of energy is not new. Italy, New Zealand, Japan, and Iceland have all successfully developed it. Italy, in particular, has had a going operation at Larderello for many years and has proven the feasibility of harnessing this unique power source and putting it to beneficial use. Other countries are rapidly expanding their knowledge and capability to utilize this resource.

In the United States, however, geothermal steam was not generally regarded as suitable for commercial development until quite recently. However, in the last 15 years there has been substantial interest in its potential for commercial development of electrical power and, secondarily, for the recovery of minerals associated with the steam. This interest has been centered in the Western States and particularly in California, where there is an on-going operation on privately owned land. Extensive exploration work has also been carried out in Nevada, and interest is extending to Oregon, Idaho, Utah, and other Western States which appear to have a potential for the development of geothermal energy. According to the Department of the Interior, the presently known geothermal resources of the Nation embrace an estimated 1,350,000 acres of land in the West.

The one significant commercial development of geothermal steam power in the United States is located at the Geysers in Sonoma County, Calif., some 90 miles north of San Francisco. There, some power companies have developed steam wells which now supply energy to generating facilities of the Pacific Gas and Electric Co. which, in turn, produce approximately 84,000 kilowatts of electric power. And, according to recent reports, Pacific Gas and Electric Co. expects to have over 600 megawatts of generating capability operating on natural steam from fumaroles at the Geysers by the end of 1975.

Geothermal power is assuming such significance as a feasible, available source of economical electric energy that a United Nations Symposium on the Development and Utilization of Geothermal Resources has just been held at Pisa, Italy. The United Nations is reported to have sent technical assistance missions to some 19 nations to assess their geothermal energy potentials.

Geothermal power, therefore, stands out as a potentially invaluable untapped natural resource. It becomes particularly attractive in this age of growing consciousness of environmental hazards and increasing awareness of the necessity to develop new resources to help meet the Nation's future energy requirements. The Nation's geothermal resources promise to be a relatively pollution-free source of energy, and their development should be encouraged.

Legislation similar to this was considered in both the 89th and 90th Congresses. The present bill has been developed in an effort to meet some of the objections raised by the executive branch, and I believe that it is both fair and workable. It will provide a carefully drafted framework to encourage industry to develop this new resource, and at the same time it will fully protect the public interest.

The bill is patterned after the Mineral Leasing Act of 1920, which applies to leases of oil, gas, and certain other minerals. It is, nevertheless, tailored to the needs of this new resource. The size of each lease is limited, and the number of leases that may be held by one person is restricted, in order to avoid monopolistic control of the resource.

Leases must be issued on the basis of competitive bids if the land is within a known geothermal resource area. This will assure payment to the Government of a fair price.

A minimum royalty is required both for steam and for any mineral byproducts that may be produced. Minimum rentals are also prescribed. Furthermore, in view of evolving technology for this new resource, and the lack of experience as a basis for formulating judgments, the bill specifically provides for a readjustment of lease terms at periodic intervals. In this manner, the legitimate interests of both the Government and the industry can be accommodated and reconciled.

Finally, the bill provides for the development and use of any mineral byproducts and any demineralized water that occur from the development of the geothermal steam resource.

One of the most controversial provisions in prior bills—and this provision was criticized by the former President in his veto message—was the so-called grandfather clause. This permits a person who had a mineral lease or a mining claim on April 4, 1962, to convert his lease or claim into a geothermal steam lease under this bill, if he is otherwise qualified. However, the provisions of the bill with respect to the number of leases, acreage limitations, and competitive bidding will apply. In the case of competitive bidding, the beneficiary of the grandfather clause will be required to meet the high bid. Moreover, before invoking this clause, a person must show that he has made substantial expenditures for the exploration or development of geothermal steam. I am satisfied that these provisions fully protect the public interest and prevent any semblance of a giveaway. It is only fair that these pioneers in developing the geothermal steam industry should be allowed to get the benefits of their early efforts if the public will not be prejudiced.

There has been a controversy about the cutoff date in this grandfather clause. The Interior and Insular Affairs Committee used the date of April 4, 1962, which is the date the first legislation on this subject was introduced in the House. After that date, everyone was on notice that no geothermal steam rights could be acquired under the mining and mineral leasing laws, and they therefore proceeded at their own risk, knowing that specific leasing legislation would ultimately be enacted. It is only fair that they receive no special protection after that date. Incidentally, this is the cutoff date recommended by the Public Land Law Review Commission.

The date used by the Senate was September 7, 1965, which was the date the first legislation on this subject passed either the House or Senate. I believe the industry was put on notice when the bill was introduced, and not when it passed one House.

Mr. Speaker, I believe the need for this legislation is clear, and that the provisions of the bill, as amended by our committee, are fair to all concerned. I urge the enactment of the bill, as amended.

Mr. EDMONDSON. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I am happy to yield to the gentleman from Oklahoma.

Mr. EDMONDSON. Mr. Speaker, I would like to join my colleague from Pennsylvania in acknowledging the leadership that the gentleman from California (Mr. HOSMER) has shown on this subject from the very first. Because of the position that he holds on the Committee on Interior and Insular Affairs and also on the Joint Committee on Atomic Energy, he has been one who has been endowed with a keen understanding of the power problems of this country and the need for solving them through the use of geothermal steam. He has made a great contribution with regard to this proposal from the very first.

I may say the same with regard to my colleague from Nevada, the Hon. WALTER BARING, who has been keenly interested pushing this legislation and constructively urging improvements to the legislation which has been advanced for many, many months.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I am happy to yield to my colleague from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I would like to thank the gentleman in the well, Mr. SAYLOR, Mr. EDMONDSON, Mr. BARING, Mr. ASPINALL and my California colleague, Mr. HOSMER, for advancing this very important energy conservation proposal through Committee and now to the floor of the House.

As the committee members know, I have the largest single operating production unit in the Nation in my California congressional district, just east of Geyserville, in Sonoma County. This geyser has been productive for some years and is currently producing sufficient power to generate some 84,000 kilowatts of electricity.

Quite frankly, I believe that this legislative proposal is one of the finest to be enacted by the Congress this session, since it will make possible the development of an economic power source, that will, in the course of time, provide electrical energy for our Nation's people without polluting the air or in any way adversely affecting the total environment.

This legislation tends to utilize a natural resource by converting its energy from steam wells into vitally needed electrical energy.

This type of pollution-free energy production must be encouraged on the over 1 million acres of Federal lands located in the Western United States, if that area is to avoid the power blackouts that have plagued the East in recent weeks. Without resorting to the construction of a number of other types of electrical producing units, which utilize fossil and other types of fuels that tend to pollute the air we breathe, there will simply not be sufficient generating capacity in the West in the years to come.

This legislation does not, I wish to emphasize, give the Department of Interior a "carte blanche" to develop all of the lands that fall under its purview, but that development is, of necessity, strictly limited, restricting it to other than parks, recreation areas, wildlife refuges, national monuments, and so forth.

Again, I want to strongly urge passage of the legislation now before us.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I am happy to yield to my good friend from Iowa.

Mr. KYL. Mr. Speaker, I thank the gentleman for yielding, because I think there is a unique opportunity this afternoon to pay a little tribute in another direction which is most deserving. We have had a gross number of bills on the suspension calendar this afternoon, and we have had some Gross comments on these various bills. It becomes necessary in reviewing legislation, as it is tested in the courts and in other places, to look at the legislative history of the bills as we pass them in the Congress. Today again the gentleman from the Third District of Iowa, Mr. H. R. GROSS, who has read the bills, who has read the reports, who has read much of the hearings on all of these bills covering a vast number of subjects, is here, diligent as always, asking questions and making comments so that there is indeed some legislative history of value to go with these bills. I think we have a great debt to pay to this fine gentleman from Iowa.

I thank the gentleman for yielding.

Mr. SAYLOR. Mr. Speaker, I would like to close by saying to my colleague from Iowa (Mr. GROSS) that this is the last bill that the House Committee on Interior and Insular Affairs will report in the second session of the 91st Congress, provided they will let us get out of here.

If we come back, we may have some more. But we close with a money maker and not a money spender.

Mr. EDMONDSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Speaker, I want to state that I certainly support this bill.

I am aware of these geothermal resources, particularly in the northern part of California up in the district of our colleague, the gentleman from California (Mr. DON H. CLAUSEN). There are also others available I think in other parts of California.

Mr. Speaker, my interest in this legislation is based upon my deep interest in an adequate supply of electricity.

I have said before on this floor and I say again today, we have got to double the capacity that we now have for generating electricity within the next 10 years. And, then, we have got to double that in the following 10 years. We have got to do this in order to supply the electrical energy that is necessary in this country.

Mr. Speaker, I am for the production of electrical energy, whether it be from geothermal sources, from underground heat pockets such as this bill deals with, whether it be from uranium, whether it be from coal, oil, or gas. In other words, we are going to need every kilowatt we can generate from all these basic resources of heat and energy.

Mr. Speaker, I also wish to compliment my friend and colleague, the gentleman from California (Mr. HOSMER) because I know of his long years of interest in this particular source of energy. Also, his deep feeling that we need to do what I have said, which is to utilize and develop every kilowatt of electricity that we can possibly do so from every source, including the geothermal source.

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Mr. EDMONDSON. I thank the gentleman from California.

Mr. Speaker, I would like to thank also another distinguished Californian, the gentleman from California (Mr. JOHNSON), for his interest in this legislation and the work he has put into it and the constructive suggestions he has made concerning it.

Mr. JOHNSON of California. Mr. Speaker, children often say "the third time is a charm." I sincerely hope this is true in the case of the legislation we have before us today.

In four consecutive Congresses—the 88th, the 89th, the 90th, and now the 91st Congress—we have had before us legislation which would promote the development on Federal public lands of a new and unique natural resource—geothermal steam.

This is a resource with great potential, but which remains untapped because of the lack of Federal enabling legislation.

We have tried to enact this legislation in the past. In the 89th Congress we almost succeeded, but were shot down by a Presidential veto. Today I rise as author of H.R. 7481 to support S. 368 which has been reported to the House of Representatives by the Committee on Interior and Insular Affairs.

The importance of such a move to the people of California—and especially to those whom I represent in Congress—can be demonstrated readily. You will recall that at the present time some 1 million acres of public land have been withdrawn from all entry because they are potentially valuable for geothermal resources. Of these 1,050,000 areas located in five Western States, 838,000 are in California. Of these 838,000 acres in California, 615,000 are in the Second Congressional District.

So you can see that when we talk about public lands with known geothermal value, approximately 60 percent of those so identified in the entire Nation are located in the Second Congressional District.

All this acreage has been withdrawn by the Department of Interior for any type of sale or entry, a move which could have an extremely serious impact upon the utilization of these lands and upon the economy of the region.

S. 368 is much the same as the legislation considered by this Congress before, so we are, in effect, plowing the same ground for the third time.

Congress has been plowing this ground since 1963 when it first conducted an extensive study of the geothermal resources of the United States. During the 89th Congress the Subcommittee on Mines and Mining held exhaustive hearings on the proposal and the result was a good bill—a bill that represented 5 years of discussion and debate among legislative and executive branches of Government and private industry. This bill was approved by both Houses of Congress, but was vetoed. I felt then the Preident was not advised correctly by his people concerning the history of the legislation or the development of geothermal resources. Nor, for that matter, was he informed accurately about the provisions of the legislation.

It was a good bill, and I sincerely hope the legislation we consider here today will be consistent with the traditional leasing policy relating to Federal lands as provided in the Mineral Leasing Act, as well as be acceptable to the executive branch of Government.

During the period Congress has considered proposals for utilizing geothermal resources, and in some instances for some years before, considerable interest has been shown in these resources by those in private industry. Several have been willing to cooperate and furnish the necessary capital and technical capabilities required to explore the potential of these resources in our public lands.

Pioneer exploration efforts which have been financed and undertaken heretofore by private citizens and firms have developed valuable early geothermal and geophysical data which will shorten the leadtime period which will be required before actual geothermal energy production can commence after Congress passes a geothermal leasing act—and Congress should appropriately recognize these early pioneering efforts.

In addition, earlier and more efficient development of geothermal resources on private lands will result from the inclusion of a "grandfather clause."

If we grant conversion rights to the pioneer operators, they will then be able to immediately begin to develop blocks of acreage theretofore acquired which included both Federal and privately owned land, interspersed.

It should also be noted that the Public Land Law Review Commission, headed by the distinguished chairman of the Interior and Insular Affairs Committee, came to the same conclusion in its comprehensive study of the situation. I quote the recommendations made by the committee on page 136 of its recently issued report:

> Congress should provide a specific policy of leasing geothermal resources in which fair and reasonable consideration is given to the equities of holders of asserted prior rights who expended money and effort.

State and local government support this legislation from the Governor and his full cabinet on down.

I, therefore, respectfully urge approval of legislation which will permit the geothermal resources of our public lands to offer our Nation new mineral wealth and a valuable new source of low-cost energy which may be developed economically and without contamination of our atmosphere, recognizing the contribution that geothermal industry pioneers have made in the past.

Thank you.

Mr. SAYLOR. Mr. Speaker, I have no further requests for time.

Mr. EDMONDSON. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. BOLAND). The question is on the motion offered by the gentleman from Oklahoma (Mr. EDMONDSON) that the House suspend the rules and pass the bill S. 368, as amended.

The question was taken and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. EDMONDSON. Mr. Speaker, I ask unanimous consent that all Members wishing to do so may have 5 legislative days in which to revise and extend their remarks in connection with this legislation.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

ADDITION TO LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I have taken this time for the purpose of asking the distinguished majority leader if there is any change in the program for this week.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Oklahoma.

Mr. ALBERT. Mr. Speaker, I am happy that the distinguished minority leader has made this inquiry, because I do want to announce an addition to the program for this week. We hope to start, as previously announced, the crime bill tomorrow, and will plan to take up the rule on that bill tomorrow, even though it requires a two-thirds vote, assuming of course, that a rule is granted.

We intend to follow the Organized Crime Control Act with the Department of Defense appropriations bill for fiscal year 1971. The committee did not think, when we announced the program last week, that it could be ready, but it has since determined that it can be ready with that bill. This is one of the major bills of the session, and we will immediately follow the crime bill with the Department of Defense appropriation bill.

Mr. GERALD R. FORD. Mr. Speaker, might I ask the distinguished majority leader if my understanding is correct, as follows:

First, tomorrow, I heard rumors that the maritime legislation conference report would be ready and brought up.

Mr. ALBERT. There are two conference reports that I know of, and that is one of them, and also the State-Justice-Commerce Departments appropriation conference report will be brought up tomorrow.

Mr. GERALD R. FORD. Both of those, if ready, would come up first; is that right?

Mr. ALBERT. That is correct.

Mr. GERALD R. FORD. Then the rule on the crime bill?

Mr. ALBERT. That is correct.

Mr. GERALD R. FORD. Then the crime bill general debate?

Mr. ALBERT. The crime bill, and if we should get through with the crime bill before the end of the day on Wednesday, we would go on with the program as previously announced. We will not reach the appropriation bill until Thursday.

Mr. GERALD R. FORD. And then finish that appropriation bill either Thursday or Friday?

Mr. ALBERT. Thursday or Friday, hopefully Thursday.

Mr. GROSS. Mr. Speaker, if the gentleman will yield, I am not clear as to what will require a two-thirds vote.

Mr. ALBERT. The adoption of the rule on the same day it is reported on the crime bill.

Mr. GROSS. I see. I thank the gentleman for yielding.

Mr. GERALD R. FORD. I yield back the balance of my time.

JOINT SESSION OF CONGRESS ON PRISONERS OF WAR MUST BE FOLLOWED BY DEEDS

(Mr. BRINKLEY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. BRINKLEY. Mr. Speaker, the words from the joint session of Congress on prisoners of war must be followed by deeds.

As I listened to the address of Frank Borman, I thought of the POW exhibits only a few dozen yards away in the crypt of the Capitol. They serve to emphasize to the American people the horrendous cruelty of the Vietcong and intensify the sense of urgency that so many of us feel.

In my Dateline Washington column for August, Mr. Speaker, I wrote of that urgency and would like to share my thoughts with my colleagues in the Congress:

Prisoners of War

It would be well if every American citizen could see an exhibit which is temporarily on display in the crypt of the Capitol. The crypt was originally designed to hold the remains of George Washington, but when he stated in his will that he wished to be buried at Mount Vernon with his wife, the nation acceded to his request. Now the crypt area is used for displays of historical matter, such as a permanent one on the structural development and additions to the Capitol.

Of the exhibits currently on display the one sponsored by H. Ross Perot, the Texas millionaire, is the one which captured my particular attention. Mr. Perot and a group of designers developed the idea of an exhibit realistically depicting the Vietcong prison camps. In conjunction with the Department of Defense, realism has been frighteningly achieved.

It is shocking to see how cruelly our men are treated. There are two displays in the exhibit: One shows an emaciated American GI, sitting on a cot in a cell too dirty for description. A bloody rat is on the floor and cockroaches climb the walls and eat at the meager food he is allotted. This American—he could be literally the boy next door, your son or mine—has been beaten till his legs are black, his hair has fallen out.

The second display is equally as horrifying: A man—one of our fellow Americans—lies in a Bamboo cage hardly large enough for a dog to stand in. His stomach is bloated and he has been incarcerated in the cage during rain, flies and heat for five years, without medical attention! This was once an average, healthy American boy with the prospect of a bright future. Needless to say, if he survives his confinement, his life will never again be the same.

Because of these atrocious conditions, I joined other Members of Congress in writing a joint letter to the North Viet Nam Chief of State, Pham Van Dong, as follows:

"As Members of the United States House of Representatives, we are directing an appeal to your humanity and that of your nation in the matter of our prisoners of war.

"It is with a growing sense of outrage that the American people and the Members of Congress view your nation's continued insensibility to the feelings of the families of these prisoners. You have disregarded basic standards of human decency and morality in your nation's continued refusal to abide by the terms of the Geneva Convention. That Convention requires you to publish the names of those prisoners in your custody, to provide them with proper food and medical care, to permit inspections of your prisoner of war facilities, and to allow the free flow of mail between prisoners and their families.

"As Members of the House of Representatives, we do not now attempt to debate the merits of present American policies in Southeast Asia. Many of us hold differing views on such policies but we are united in our insistence that you exercise compassion and humanity to those of our sons who are in your custody. This concern far transcends questions of international politics; it recognizes a kindred humanity apart from consideration of race, color, or political persuasion.

"The families of these men and a concerned American people look to you, as the leader of your nation, to respond to our plea."

If Pham Van Dong is not civilized enough to heed this urgent communication, then we should all resolve to use the strongest measures at our disposal to compel him to do so. These prisoners of war need their Nation's backing desperately and the need is sufficient to justify great risk in their behalf.

BEVILL PAYS TRIBUTE TO AMERICAN MEN AND WOMEN SERVING IN THE ARMED FORCES

(Mr. BEVILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEVILL. Mr. Speaker, many of my colleagues in this body are veterans of wars and conflicts and, even now, many are reservists representing various branches of military service.

This is the kind of patriotism that we share with our ancestors and a challenge that they accepted before us.

And, despite the clamor of a minority of youngsters, it is still being carried on in the finest tradition by a majority of our young people.

As an example, I want to cite the very proud and efficient pilots who are doing such a find job in Vietnam. They represent all services, but many of them are trained in helicopters and fixed wing aircraft at the Army Aviation Center at Fort Rucker, Ala.

My good friend, the Honorable GEORGE ANDREWS, is justly proud that Fort Rucker is in his district. But the thousands of young men who have been trained and are still being trained there are from all parts of this great Nation.

During a recent visit to this training facility, I saw how young men and their machines can take and control miles of enemy real estate in a very short period of time with a minimum loss of lives.

I saw how these men have the capability of carrying out this mission in any kind of weather, night or day. Natural land obstacles anywhere on earth can be overcome by these airmobile assault units.

Those of us who were involved in earlier wars will recall that these obstacles

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and the weather prompted much discussion.

A fact equally as significant, I think, is the new technology developed and being used by the officers and men at the Army Aviation Center. You frequently see it demonstrated in television news clips from Vietnam.

Incidentally, nearly every pilot who is graduated goes to Vietnam. When he returns, he is quite frequently used as an instructor or in a hardware development or tactical training role.

Is is amazing how rapidly these young men master the equipment.

I think, Mr. Speaker, that our military men from Alabama and from the other States are doing a splendid job in Vietnam and in other parts of the free world. They are fully aware of their obligation to the United States, they are aware of the political constraints, and they are responsive to the needs of the host country where they serve.

I want to pay tribute to these young men and women from across these United States who are serving so well.

REPRESENTATIVE FUQUA INTRODUCES BILL TO ELIMINATE EXISTING 6-PERCENT LIMITATION ON INTEREST PAID ON BONDS OR TEMPORARY BORROWINGS OF THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

(Mr. FUQUA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUQUA. Mr. Speaker, I am today introducing a bill that would eliminate an existing 6-percent limitation on interest which may be paid upon bonds issued or temporary borrowings of the Washington Metropolitan Area Transit Authority.

The Washington Metropolitan Area Transit Authority is an interstate compact agency created by agreement, with the consent of Congress, by and between Maryland, Virginia, and the District of Columbia pursuant to Public Law 89–774 approved November 6, 1966. In accordance with the terms of the compact as originally agreed to by the parties and consented to by the Congress, bonds issued by the authority, as well as its temporary borrowings, are expressly limited to an interest rate "not to exceed 6 percent per annum." In light of the climate existing in the financial community in recent times, this limitation imposed upon the authority has become unrealistic. With these factors in mind, the authority proposed earlier this year to the Virginia General Assembly that these interest rate limitations be removed in order that the authority might market its bonds on schedule under the most favorable current market conditions. This action was consistent with action taken by many State legislatures in the past year or two with respect to municipal bond issues in order to permit issuance of bonds for similar capital improvements. The Virginia General Assembly enacted such legislation in its last session and similar legislation is pending in the Maryland General Assembly. The legislatures of both Maryland and Virginia in their last session eliminated a similar statutory interest rate limitation upon borrowings of municipalities in those States. During the past few weeks, the voters of Fairfax County in Virginia approved the issuance of previously authorized bonds by the county at rates of interest in excess of 6 percent, if necessary, to provide funds in support of their obligations to the regional transit system.

Since an interstate compact, is essentially a contractual agreement between two or more States, an amendment of that agreement must be in substantially the identical form passed in each of the signatory jurisdictions. Virginia, having already passed such a compact amendment eliminating the interest rate restriction, it is essential that the State of Maryland and the District of Columbia enact legislation in substantially the same form.

Passage of the legislation will enable the authority, as part of its financial program, to issue, over a period of years, $880 million of revenue bonds to help finance construction of the regional rapid rail transit system. The initial issuance of these bonds is planned for spring of 1971 and the proceeds thereof are necessary in order to adhere to the existing schedule of construction of the regional rapid rail transit system.

Although current market conditions appear to be improved, it is considered prudent to remove the interest rate restriction so that the authority may be assured that regardless of market conditions at the time of any specific issue of its bonds or notes, it will not be precluded from consummating a sale solely due to an interest rate limitation.

In the interest of furthering the rapid transit objective, without delay, I urge the passage of this legislation.

UNEMPLOYMENT RISES TO A TOTAL AVERAGE OF 5.5 PERCENT

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous material.)

Mr. BURKE of Massachusetts. Mr. Speaker, as unemployment rises to a national average of 5.5 percent I believe it would be beneficial to the Members of the U.S. Congress to read some of the stories that are appearing in our national press. I am also including some facts and figures relating to nonrubber footwear imports. We hear some glib-tongued people attacking the trade legislation about to come up for debate on the House floor. At no time have any of these people expressed a concern for the plight of the American worker who has lost his job. In New England the footwear and textile industry face extinction, the electronic industry has been mortally wounded, the bicycle industry and candy firms are in trouble, over 170,000 people in Massachusetts are unemployed. The closing of firms continue, the figures on unemployment accelerate. Those who deal in fantasy, who disregard a drop in our trade balance from $7 billion in 1965 to $1.3 billion in 1969 are now about to play Russian roulette with our Nation's economy. The mild provisions in the trade bill, which attempt to bring order out of chaos, are being strongly attacked by those who have not taken the time to read the bill:

IMPORTS, JANUARY-AUGUST 1970

A total of 16,166,700 pairs of non-rubber footwear were imported into this country in August—22.1% above last August. Imports for the first eight months of 1970 totaled 168,753,100 pairs—an increase of 21.3% over the some period last year. The f.o.b. value to date of non-rubber footwear imports totaled $372,321,900—a 29.8% increase over the same period last year.

All major types of imports showed increases:

LEATHER AND VINYL FOOTWEAR FIRST 8 MONTHS

	Percent change 8 months 1970/1969	Average value per pair	Estimated retail value
Mens and boys, leather	+12.8	$4.38	$14.19
Mens and boys, vinyl	+66.5	1.14	3.69
Womens and misses, leather	+26.8	3.23	10.47
Womens and misses, vinyl	+11.7	.87	2.82
Childrens and infants, leather	+18.8	1.46	4.73
Childrens and infants, vinyl	+11.1	.76	2.46

OUTLOOK FOR THE YEAR

Based on the first eight months of 1970, imports of non-rubber footwear:

(1) Will total 237,200,000 pairs.

(2) Will be worth $557,500,000 at the f.o.b. level.

(3) Will be worth $903,150,000 at the wholesale level.

(4) Will be worth $1,806,300,000 at the retail level.

IMPORTS BULLETIN

TOTAL IMPORTS OF OVER-THE-FOOT FOOTWEAR

[In thousand pairs; in thousands of dollars

Type of footwear	August 1970, pairs	Percent change 1970/1969	8 months, 1970			Percent change, 1970/1969	
			Pairs	Dollar value	Average dollar value per pair	Pairs	Dollar value
Leather and vinyl—total	16,166.7	+22.1	160,661.9	360,549.1	2.24	+19.5	+27.7
Leather, excluding slippers	7,511.0	+20.6	85,020.8	292,487.3	3.44	+22.1	+26.3
Mens, youths, boys	2,271.0	+7.6	23,102.5	101,139.3	4.38	+12.8	+19.7
Womens, misses	4,687.4	+28.3	54,809.4	176,785.7	3.23	+26.8	+33.2
Childrens, infants	255.4	+40.6	4,854.5	7,085.3	1.46	+18.8	+11.8
Moccasins	44.7	−27.2	389.9	416.2	1.07	−13.5	−23.9
Other leather (including work and athletic)	252.5	+15.5	1,864.5	7,060.8	3.79	+36.0	−5.5

IMPORTS BULLETIN—Continued

TOTAL IMPORTS OF OVER-THE-FOOT FOOTWEAR—Continued

[In thousand pairs; in thousands of dollars]

Type of footwear	August 1970, pairs	Percent change 1970/1969	8 months, 1970			Percent change, 1970/1969	
			Pairs	Dollar value	Average dollar value per pair	Pairs	Dollar value
Slippers	21.3	−52.2	164.1	401.6	2.45	−26.8	−9.4
Vinyl supported uppers	8,634.4	+23.9	75,477.0	67,660.2	.90	+16.9	+34.6
Mens and boys	1,398.8	+75.4	11,005.4	12,548.7	1.14	+66.5	+68.1
Womens and misses	6,449.7	+18.3	56,978.4	49,543.5	.87	+11.7	+29.5
Childrens and infants	660.2	+19.8	6,391.1	4,875.9	.76	+11.1	+24.4
Soft soles	125.7	−23.5	1,102.1	692.1	.63	−10.7	+9.2
Other nonrubber types—total	1,298.2	+98.9	8,091.2	11,772.8	1.46	+74.3	+151.7
Wood	266.7	+200.0	3,079.4	7,790.6	2.53	+364.7	+393.5
Fabric uppers	953.1	+103.3	4,395.6	3,146.1	.72	+28.0	+27.0
Other, not elsewhere specified	78.4	−17.5	616.2	836.1	1.36	+13.0	+34.6
Nonrubber footwear—total	17,465.0	+25.7	168,753.1	372,321.9	2.21	+21.3	+29.8
Rubber soled fabric uppers	4,701.5	+44.6	32,208.4	27,122.7	.84	+4.7	+17.8
Grand total—all types	22,166.4	+29.3	200,961.5	399,444.6	$1.99	+18.3	+28.9

Note.—Details may not add up due to rounding. Figures do not include imports of waterproof rubber footwear, zories, and slipper socks. Rubber-soled fabric upper footwear includes non-American selling price types.

Source: American Footwear Manufacturers Association estimates from Census raw data. For further detailed information, address you inquiries to the association, room 302, 342 Madison Ave., New York, N.Y. 10017.

[From the Patriot Ledger, Oct. 1, 1970]

(By Dean C. Miller)

NEW YORK.—On percentage, the current business recession has hit the business executive harder than the blue collar worker.

An estimated 394,000 executives currently are unemployed, up 74 per cent from last year, according to a recent study by the Council of Better Business Bureaus, Inc., New York.

Many of them are in a state of job shock. They flounder around in an overcrowded job market.

[From the Wall Street Journal, Oct. 5, 1970]

NIXON HOPES DASHED: RISE IN SEPTEMBER JOBLESS RATE TO 5.5 PERCENT SHARPENS ELECTION ISSUE

[From Bay State Business, Sept. 30, 1970]

THIRTEEN SHOE FIRMS SHUT SINCE JANUARY IN SIX-STATE AREA

A total of thirteen shoe manufacturing plants in New England have been closed down in the January-September 1970 period, and the majority have gone out of business according to the New England Footwear Assn. These companies employed 2,655 workers at the time they ceased operations, and had peak employment of 3,670 workers.

Closings of shoe plants in the January-September 1970 period in the three major shoe states in New England amounted to: six companies in Massachusetts, employing 1,110 workers; four in New Hampshire employing 1,000 workers; and three in Maine, employing 545 workers.

"In virtually every closing, the heads of these companies stated that the major factor in their decision to cease operations was the extreme competition from imported foreign footwear," said Maxwell Field, NEFA's Executive Vice President.

[From the Boston Herald Traveler, Oct. 2, 1970]

SYLVANIA TO CLOSE FOUR NORTHEAST SEMICONDUCTOR PLANTS

Sylvania Electric Products, Inc., announced yesterday that it will phase out, over a three-month period, most of its semi-conductor manufacturing operations. The move will affect more than 1,000 workers in New England, including 685 at the company's Woburn and Waltham plants.

"The decision was made to terminate much of our semiconductor manufacturing," Sylvania's president Garlan Morse said, "because there is no indication that . . . stability will supplant the disorderly conditions that have characterized this branch of the electronics industry for many years."

Four plants will be shut by the production halt: Woburn, employing 550; Waltham, 135; Bangor, Me., 100, and Hillsboro, N.H., 450.

Morse said the phase-out would be completed by Dec. 1 when the plants will close.

"In pursuing this course, we are not unmindful of the impact which this action will have on our employes," Morse said. He added that Sylvania will enlist the assistance of appropriate governmental agencies at both state and community levels to augment in-company efforts to find suitable employment for employes who cannot be absorbed in other Sylvania facilities.

The semiconductor operations to be phased out represent slightly more than two per cent of Sylvania's total sales. The products to be discontinued are integrated circuits, diodes and rectifiers.

A statement released by the company did not elaborate on what the "disorderly conditions" were affecting the industry, but a spokesman for the Associated Industries of Massachusetts (AIM) said last night Morse was referring to competition from lower costing imports.

Robert A. Chadbourne, AIM's executive vice president, said the electronics industry has "for years" been fighting competition from foreign nations whose products are made more cheaply.

"Most people," he said, "haven't been thinking about this sort of competition—they've been watching the textile industry suffer—but the electronics industry is facing this same sort of problem."

The competition, Chadbourne said, comes primarily from the Far East—South Korea, Taiwan and Japan.

Despite efforts on the part of the industry, Congress has not raised tariffs or set import quotas on electronics imports, he said.

Chadbourne said he was "certainly dismayed to hear the news." He said 550 jobs was "a substantial payroll loss," but added that "these people have proven they are retrainable for work in other phases of the electronics industry." He said he wasn't sure, however, what job opportunities there were "in the short term."

Chadbourne said the Sylvania plant, located on Rte. 128, has a relatively new building on a substantial piece of property. "It's a prime location," he said, "Our challenge now is what to put in its place. It will take a long time to put something there that will generate that many jobs."

Latest figures from the Mass. Division of Employment Security show that some 40,000 jobs have been lost in the manufacturing sector between August, 1969 and August, 1970.

Of this number, 54 per cent have been lost because of defense spending cutbacks. The pending loss of the Sylvania jobs in Woburn and Waltham, will bring the figure of electronics jobs lost to more than 7,000 in the same time period.

ASSOCIATION OF FEDERAL INVESTIGATOR'S SEMINAR FOR INVESTIGATIVE AND ENFORCEMENT PERSONNEL

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FASCELL. Mr. Speaker, for the past year the Legal and Monetary Affairs Subcommittee of the House Committee on Government Operations, which I chair, has conducted a Government-wide inquiry into the adequacy of Federal training programs for investigative personnel. On August 12, 1970, the House Committee on Government Operations issued a report based on the subcommittee's investigation. The report—"Unmet Training Needs of the Federal Investigator and the Consolidated Federal Law Enforcement Training Center," House Report No. 91–1429—recommends fundamental changes in investigative training policy at the Federal level. Implementation of the report's recommendations will result in a greatly improved Federal investigative effort and resultant benefits to the causes of consumer and environment protection, control of organized crime, enforcement of health and safety laws, among many other vital Federal efforts.

The Association of Federal Investigators made substantial contributions to the committee's record. As part of its continuing education and training program, the association recently conducted its fourth annual investigative and enforcement seminar.

I am sure my colleagues will be interested in the scope of the program, which I include hereafter and the high quality of the persons who are presenting the seminar subjects. It is clear that enforcement and investigation is emerging as a special profession in which the Association of Federal Investigators are taking a leading part.

The program follows:

PROGRAM SCHEDULE

TUESDAY, SEPTEMBER 22, 1970

9:00 a.m. Welcome and Orientation.

9:15 a.m. Keynote Address.

Mr. Kimbell Johnson, director, Bureau of Personnel Investigation, U.S. Civil Service Commission.

10:00 a.m. "Communications: Written and Verbal Investigative Reports."

Dr. James Bostain, Foreign Service Institute, Department of State.

A discussion of communications as an integral part of the investigation decision process.

12:00. Luncheon.

1:30 p.m. "Suitability Factors."

Dr. Lee Buchannan, Psychiatrist, Department of Agriculture.

An Analysis of the factors considered in determining suitability for federal employment.

3:15 p.m. "Security Systems Planning" (Personnel Design-Devices).

Panel—American Society for Industrial Security.

Mr. Edward J. Kaiser, Manager of Government Relations, American District Telegraph Company.

Mr. Quinton N. Marsh, Auditor-Security Officer, American Security and Trust Company.

Mr. Carl C. Sims, Director of Security and Safety, Gallaudet College.

4:30 p.m. Adjournment.

WEDNESDAY, SEPTEMBER 23, 1970

9:00 a.m. "Organized Crime and Corrupt Practices."

Mr. Henry Petersen, Deputy Assistant Attorney General, Criminal Division, Department of Justice.

A review of the Federal Effort Against Organized Crime.

10:45 a.m. "A new Look at the Old Drug Laws."

Mr. Donald E. Miller, Chief Counsel, Bureau of Narcotics and Dangerous Drugs.

Brief Summary of old laws and an explanation of the new proposed law.

12:00 p.m. Luncheon.

1:30 p.m. "The Computer in Security and Investigations."

Mr. H. G. A. Hall, Marketing Representative, International Business Machine Company.

Data Processing as it relates to law enforcement and investigations with attention to the history and future of computers in investigations.

3:30 p.m. Integrity of Federal Agency Programs and Personnel.

Mr. Nathaniel E. Kossack, Inspector General, U.S. Department of Agriculture.

The image of a federal agency and its creditability with the public is established and measured by the integrity of its programs and personnel. Mr. Kossack will discuss some of the problems encountered and suggested solutions in achieving these goals.

4:30 p.m. Adjournment.

THURSDAY, SEPTEMBER 24, 1970

9:00 a.m. "Vital and Ever increasing contribution of Forensic Science in the Investigation and Prosecution of Criminal Cases".

Mr. John W. Gunn, Jr., Chief, Laboratory Operations Division, Bureau of Narcotics and Dangerous Drugs.

Discussion of what Forensic Science encompasses and what Forensic Scientist can and cannot do.

10:45 a.m. "Electronic Surveillance."

Mr. Frank J. Jameson, Vice President of Special Operations, Bell and Howell Company.

A Practical Demonstration of Electronic Equipment.

12:00 p.m. Luncheon.

1:30 p.m. "The Courts Focus on the Investigator."

Mr. Michael Sonnenreich, Deputy Chief Counsel, Bureau of Narcotics and Dangerous Drugs.

A discussion of the growing complexity of the area of consent searches, recent Supreme Court decisions defining items subject to seizure during the course of reasonable search. A review of the Supreme Court's last term regarding new trends in criminal law.

3:45 p.m. "Professionalism in Investigations and Enforcement."

Mr. John V. Moran, President, Association of Federal Investigators.

Developing the Concept that investigations and Enforcement is an Emerging Separate Profession.

4:30 p.m. Adjournment.

SEMINAR OBJECTIVES

This seminar will emphasize key areas and typical problems encountered in investigations and enforcement and provide a forum whereby participants may bring special problems to class and acquire new ideas and insights from the seminar leaders and other participants. The material discussed will focus on basic principals as well as recent issues and developments in each of the areas covered. This program is of especial value in developing concepts and practices that investigations and enforcement is an emerging separate profession.

AIR TRAGEDY BEING FULLY INVESTIGATED

(Mr. SHRIVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHRIVER. Mr. Speaker, a terrible air tragedy last Friday afternoon, October 2, 1970, involving the Wichita State University football team, has cast a pall of sorrow on the campus, the community of Wichita, and the State of Kansas. It has been described as the worst disaster in American sports history. Words are not adequate to bring consolation or comfort at this time to the families and loved ones of those who were killed or injured in Friday's crash.

Thirty-four persons were killed in the crash, and 10 are listed as injured, some seriously, as a result of the disaster involving the chartered Martin 4-0-4 twin-engine plane high in the mountains of Colorado.

Many of my friends were aboard that ill-fated flight. Among the dead were Head Coach Ben Wilson and Mrs. Wilson; Athletic Director Bert Katzenmeyer and Mrs. Katzenmeyer; State Representative Ray King of Hesston and Mrs. King; and Dr. Carl Fahrbach, dean of admissions at the university.

A second charter aircraft, carrying 22 players, six assistant coaches and six other persons landed safely at Logan Utah. Wichita State was to have played Utah State in Logan on Saturday.

This evening a memorial service has been planned by the Student Government Association and university officials in Cessna Stadium on the Wichita State University campus, and I plan to be present to pay honor to the brave young men and our other friends who were lost last weekend.

I have remained in close touch with officials of the National Transportation Safety Board which is responsible for the investigation of this crash. I also have discussed the investigation with officials of the Federal Aviation Administration. They have assured me that all aspects of this disaster, with its heavy loss of life, will be thoroughly investigated.

Mrs. Shriver and I were in Wichita over the weekend. We were on the campus Friday evening shortly after news of the tragedy reached home. At that time, we expressed our personal sorrow, shock, and sympathy to the families and to the university community. We pray that God will comfort them in their bereavement.

AUTO-SAFETY—BUMPERS

(Mr. SCHWENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SCHWENGEL. Mr. Speaker, at a time when much interest is being shown in the problems of highway safety, and the tremendous economic and social consequences of auto accidents, it is only appropriate that special attention be given to the problem of the bumpers being used on our motor vehicles. A recent study by the Department of Transportation indicates that approximately 40 percent of all accidents are the type classified as "rear end" collisions. Testimony by representatives of Allstate Insurance Co. translate this figure into dollars. Mr. Robert Leys, vice president of Allstate, testified before the National Highway Safety Bureau that upgrading of bumpers could result in ultimate savings to the American public of "almost $1 billion annually." Designing and constructing bumpers able to withstand an impact of 5 miles per hour would result in savings to Allstate policyholders alone of nearly $42,452,000.

Even more significant than the economic loss resulting from poorly designed bumpers if the physical and emotional damage suffered by passengers and drivers. One of the most frequent injuries sustained in rear end collisions is the one commonly referred to as "whiplash." We are all aware of the extreme pain and discomfort resulting from this type of injury, as well as the long healing period required. Because of the extremely painful and frustrating nature of this type of injury, the effect on family and co-workers is also a significant factor.

To return to the economic consequences, the Insurance Institute for Highway Safety has recently concluded tests on the damage suffered by 1970 autos as a result of various low speed crashes. These tests revealed that an average of $484.79 in damages was sustained in front to rear crashes at 10 miles per hour. At 5 miles per hour, the average damage for rear end crashes was $171.46 and $183.65 for front end crashes. Presumably, a bumper properly designed

XUM

to withstand crashes at this speed would at least significantly reduce, if not eliminate this senseless loss.

Mr. Speaker, in order to put an end to this senseless loss, both in terms of human suffering and economic loss, I recently introduced a bill, H.R. 19127, which will require the Secretary of Transportation to promulgate new safety standards which will require that motor vehicles be able to withstand crashes of 10 miles per hour without sustaining property damage or injury to the occupants of the vehicle. I introduce this bill somewhat reluctantly because I feel the Secretary of Transportation has sufficient authority to issue the necessary regulations. However, in view of the inaction by the National Highway Safety Bureau on this problem, I feel that mandatory legislation is the only way to get things moving on this important problem.

Let us look at the bureau's record on bumpers. On October 14, 1967, they issued an advance notice of proposed rulemaking with respect to a standard bumper height and bumper effectiveness. No further action was taken until April 2 of this year when a public meeting was held. The notice of the public meeting stated:

> It is expected that the information presented at the meeting will aid the prompt development of a final rule in this area.

Five months have passed since the meeting, and we still have no notice of proposed rulemaking. This problem is too important to sit on the shelf any longer. It is time to have bumpers become more a protection rather than more pretty. It is time to make our bumpers operational, not ornamental. It is time to have bumpers that will take bumps rather than take lives.

There are two ways to make this improvement. One is to get the great talent in the ranks of those who manufacture our automobiles applied and used to make bumpers be bumpers. The second way to assure action on the question is to pass H.R. 19127.

H.R. 19127

A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to require motor vehicle safety standards relating to the ability of the vehicle to withstand certain collisions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end thereof the following subsection:

"(i) The Secretary shall prescribe such motor vehicle safety standards under this section as may be necessary to insure that motor vehicles manufactured after January 1, 1972, will be able to withstand a collision (either front or rear) with an immovable object at speeds up to and including ten miles per hour without sustaining property damage or injury to the occupants of such vehicle."

ROGERS ASKS PRESIDENT TO SIGN COMMUNICABLE DISEASE BILL ON CHILD HEALTH DAY

(Mr. ROGERS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROGERS of Florida. Mr. Speaker, I was pleased to learn that the other body has unanimously passed by a vote of 74 to 0 the House-Senate Conference Report on the Communicable Disease Act Amendments of 1970, thus sending this very important measure to the President for his signature. The House had previously voted 292 to 2 in favor of the conference report.

I think that it is most appropriate that on Child Health Day the President has the opportunity to visably show his concern with the health of this Nation's children by signing into law the communicable disease amendments.

Because of this, I have wired the President and asked that he use this occasion to turn this legislation into law. In doing so, I join Dr. Paul B. Cornely, the president of the American Public Health Association, who has also sent such a message to our President.

In addition, I would like to include in the RECORD a column by Washington Star writer Judith Randal on the bill. I think that it sets out the importance that this measure has to the health of the children of our Nation.

DO NOT VETO THE DISEASE CONTROL BILL

(By Judith Randal)

Time and again, when testifying on health matters in the House or Senate, administration witnesses have said they neither want nor need special authority to carry out a given program becauses legal authority already exists.

To have Congress single out some particular problem for money and attention, they argue, would undermine broad-gauged legislation permitting states to decide for themselves how to use their share of federal health funds. If this so-called "Partnership for Health" is to work, they insist, if red tape is to be cut to a minimum and local needs met, Congress should leave well enough alone.

So it is that one of the measures President Nixon soon may veto is a bill—passed by Congress with only a single dissenting vote—that would authorize $165 million over the next 21 months for the control of communicable disease.

To put it bluntly, it is hard to imagine anything that would make less sense from any point of view.

For one thing, although the Partnership for Health legislation was passed during the Johnson administration, the states have been so slow to plug into the program that it will be at least two more years before their plans for communicable disease control are ready to render service to any meaningful extent.

For another, even if plans already were in place, money is so scarce these days that seemingly mundane matters like vaccinations against polio, diphtheria and measles—not to mention prophylatic measures to control the spread of tuberculosis and venereal disease—likely would fall to the bottom of the priority heap or be dealt with in a manner short of the known need. Authority and the means to implement it are simply not the same thing.

Meanwhile, there is abundant evidence that communicable disease is a growing public health problem. There has been twice as much diphtheria this year as last, with outbreaks in Chicago, Miami and three Texas cities, principally San Antonio where 108 cases had been reported as of yesterday. Sample surveys show that while most people over 40 have been immunized, many younger people have not.

Polio is up, too. An estimated 4 million Americans under 20 have not received the vaccine, and the Center for Disease Control in Atlanta has no funds to stockpile it should there be an epidemic. Half a million cases of gonorrhea were reported last year, 200,000 more than in 1965.

When tuberculosis was discovered among congressional dining room employes not long ago and free detection tests were offered, 25 percent of those screened were found to be latently infected. And 23 million across the country are thought to be susceptible. This despite the fact that a year of medication in such cases will prevent the threatened onset of active TB.

Assuming that budgetary constraints underlie the potential presidential veto, it is important to consider the inflationary effect of neglect. For every 10,000 children who get measles, for example, 60 will develop complications requiring hospitalization at $50 to $100 a day (one of these will die) and three will become mentally retarded at an eventual cost to their families and society of $100,000 each for special training and custodial care.

All this could be avoided by an outlay of $20,000 for every 100,000 children immunized. Yet reported cases of measles—always lower than the actual number—have doubled since the vaccine assistance act expired in 1969 and an estimated 11 million youngsters are now risking the disease.

Similarly, many infants are requiring expensive treatment and some are dying or parmanently impaired because their mothers do not have access to a vaccine which prevents the life-threatening anemia known as Rh disease. (Though not a communicable disorder in the classic sense—being due to genes rather than germs—provisions for it are included in the proposed bill.)

The list could go on and on.

An epidemic of baby-damaging rubella, or German measles, is expected within a year. If, in accord with the administration's present plan, only 10 million of the 50 million children who should be vaccinated to prevent the spread of the disease to pregnant women are treated, the first of these babies—blind, deaf, retarded or with a combination of these and other defects should be born just in time for the 1972 election.

The estimated lifetime cost of caring for children born after the 1964 epidemic, when no vaccine had yet been developed, is $2.6 billion. The implications are obvious.

Millions of dollars and the working lives of many scientists have been invested in finding ways to prevent communicable disease. Germs respect neither state boundaries nor social class—in an air age, they are dispersed more rapidly than ever before.

What seems to have been forgotten by the administration, in its zeal to trim the budget, is that tired but still apt adage: An ounce of prevention is worth a pound of cure.

CINCINNATI REDS WIN NATIONAL LEAGUE PENNANT

(Mr. CLANCY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. CLANCY. Mr. Speaker, I take this time to announce to the Member of the House that the Cincinnati Reds have just won the National League pennant. This is a great victory for a very, very fine young ball club. We offer them our sincere congratulations, and extend to them our best wishes in the World Series.

Everybody that can get away from this elongated session would be welcome in Cincinnati on the weekend.

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Mr. ARENDS. Mr. Speaker, will the gentleman yield?

Mr. CLANCY. I yield to the gentleman from Illinois.

Mr. ARENDS. Could the gentleman tell us where we can get tickets?

Mr. CLANCY. I understand you may get tickets by writing to the Cincinnati Baseball Club. If I would have an extra ticket I would be very happy to furnish one to the gentleman.

Mr. Speaker, I yield back the balance of my time.

FOOD STAMPS FOR STRIKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Ashbrook) is recognized for 20 minutes.

Mr. ASHBROOK. Mr. Speaker, the question is often raised "Why should the Government provide economic assistance in the form of food stamps for strikers?" The question can best be answered by the simple assertion, "Right or wrong, the U.S. Congress specifically authorized it." This is the only answer that you can give to those who question this seeming inappropriate use of taxpayers' money to subsidize one side of a strike that should be in the private, collective-bargaining sphere of our economy.

To put the Government on the economic side of either the striker or the business in such a dispute is unfair. I have always opposed this but, unfortunately, a majority of my colleagues have seen the issue differently. To give food stamps to strikers also seems to violate the basic argument which was originally given for the passage of the food-stamp law. Strikers are not on welfare, they are not indigent. They have suffered a cut in income but it is at their insistence, not the Government's, since they choose to use the economic weapon of a strike to enforce their demands in collective-bargaining negotiations. Why, then, put the Government on one side against the other?

The 1964 Food Stamp Act, Public Law 88–525, specified in its title that its principal goal was to "provide for improved levels of nutrition among low-income households." President Johnson, in his March 16, 1964, message on poverty, urged the Congress to adopt the food stamp program "to protect those who are especially vulnerable to the ravages of poverty."

The legislative intent of Congress was clearly directed toward the involuntary poor and needy.

When the House had before it the conference report on the 1968 food stamp amendments, Chairman Poage brought to the floor a report signed only by Democrats. None of the House Republican conferees signed the conference report, which I include at this point in the Record:

Conference Report (H. Rept. No. 1908)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3068) to amend the Food Stamp Act of 1964, as amended, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That subsection (a) of section 16 of the Food Stamp Act of 1964 is amended (A) by deleting from the first sentence the phrase "not in excess of $225,000,000 for the fiscal year ending June 30, 1969" and inserting in lieu thereof the following: "not in excess of $315,000,000 for the fiscal year ending June 30, 1969; not in excess of $340,000,000 for the fiscal year ending June 30, 1970; not in excess of $170,000,000 for the six months ending December 31, 1970"; (B) by changing the word "year" at the end of such first sentence to "period"; and (C) by adding at the end of the subsection the following sentence: "On or before January 20 of each year, the Secretary shall submit to Congress a report setting forth operations under this Act during the preceding calendar year and projecting needs for the ensuing calendar year."

And the House agree to the same.

W. R. Poage,
E. C. Gathings,
Graham Purcell,
Thomas S. Foley,
Managers on the Part of the House.

Allen J. Ellender,
Spessard L. Holland,
Herman E. Talmadge,
B. Everett Jordan,
George D. Aiken,
Milton R. Young,
J. Caleb Boggs,
Managers on the Part of the Senate.

Statement of the Managers on the Part of the House

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill, S. 3068, to extend the Food Stamp Act of 1964, as amended, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report.

1. *Expiration date.*—The Senate bill did not extend the expiration date of the appropriation authorization of the act beyond June 30, 1969. The House bill extended this authorization to June 30, 1972. The conference substitute extends this authorization to December 31, 1970.

2. *Authorization.*—The Senate bill increased the appropriation authorization in fiscal year 1969 by $20 million to $245 million. The House bill authorized "such sums as may be necessary" for fiscal year 1969 and each of the 3 subsequent fiscal years. The conference substitute provides for an increase in authorization of $90 million making a total authorization of $315 million for fiscal year 1969, an authorization of $340 million for fiscal 1970, and an authorization of $170 million for the first 6 months of fiscal 1971.

3. *Strikers and students eligibility.*—The House bill made strikers and students ineligible to participate in the food stamp program under certain conditions. The conference substitute deletes this House provision and leaves the determination of eligibility to be made under the existing law.

4. The Senate receded from its disagreement to the amendment of the House to require progress reports of the Secretary of Agriculture on or before January 20 of each year. The conference substitute requires reports to Congress by such date setting forth operations under the act during the preceding calendar year and projecting needs for the ensuing calendar year.

W. R. Poage,
E. C. Gathings,
Graham Purcell,
Thomas S. Foley,
Managers on the Part of the House.

As the report of the conference managers indicated, the original House bill made strikers and students ineligible to participate in the food-stamp program under certain conditions. The conference substitute deleted the House provision and made a wholesale authorization of payment to strikers and students for the first time.

As Representative Catherine May, one of the Republican conferees stated to the House:

> Mr. Speaker, in the conference committee, and I was a conferee, I supported two of the changes that were agreed to in conference between the House version and the Senate version of the bill. That was the 1½-year extension as opposed to a 3-year extension, and the amount of money we agreed on to appropriate for this program for that time.
>
> But I did not sign the conference report because of the removal of what is being referred to as the Teague amendment which excludes food stamps use for strikers and college students.
>
> Mr. Speaker, in 1964 Congress changed the status of the food stamp program from a pilot project authorized by the executive branch to a full-scale national program authorized by law. Even a cursory review of the debate on the bill at that time reveals that Congress intended the program to aid the involuntarily poor, not those who voluntarily, for one reason or another have temporarily reduced their short-run earning power to increase it over the long run. Congress did not intend to provide program benefits for students and strikers.
>
> Time and again during consideration of this legislation then, it was pointed out that the program was intended to help the needy—the unemployed, the unemployable, families on welfare, mothers with dependent children, the aged, the blind and disabled—in short, those people who through no fault or choice of their own are involuntarily the victims of incomes inadequate to provide them with the quality, quantity and kind of food necessary to assure a proper diet.
>
> Apparently, this was not spelled out clearly enough in the law itself in 1964, but the House recently took an important step toward rectifying this situation by approving on July 30 of this year, the provision prohibiting the use of food stamps either to aid education or to support labor disputes. Now, however, the House must again reaffirm this principle in order to achieve its incorporation into the law.

Mrs. May went on to point out, quite correctly I believe, the following:

> Students and those involved in labor disputes have far more alternatives for financial assistance than do mothers with dependent children, families on welfare, the unemployable, and other involuntarily poor and needy people. Strikers have access to special funds provided by their unions, and ordinarily, they have a salable skill and assurance of work in the future. Students have a multiplicity of sources of financial assistance—loans, fellowships, scholarships, GI programs, work-study programs, and many others. Every food stamp dollar provided to strikers and students means there is one less for someone more genuinely in need. It has been said that this amendment is a "cruel" one. Well, is it not cruel to reduce the help which can be offered to the aged, the blind, the disabled, widowed mothers with large families?

Congressman Charles Teague, another Republican conferee, told the House during this debate which, Mr. Speaker, is contained in the Congressional Record,

XUM

volume 114, part 21, pages 28001 through 28010:

Mr. Speaker, at the appropriate time I shall make a motion to recommit this conference report with instructions. The Members are all familiar with the issues, I believe, so I shall be very brief.

You may recall that when this measure was before us in the House bill I offered an amendment which was adopted on a teller vote, and stayed in the bill as we passed it, to prohibit distribution of food stamps to strikers and college students.

Primarily, I am interested in the use of this device to subsidize strikes. To me this is not an antilabor position at all. The strike may be entirely justified, but all unions, I believe, have funds they have accumulated designed to take care of their members who are in need when they are on strike.

The overall amount of money limit in the program, as it has been in the past, and as it will be in the future, is restricted, so if we use food stamps to allow strikers who may with good cause be trying to get their hourly wages raised from $3.75 to $4 per hour, we may be taking literally the food out of the mouths of people who are really in need. . . .

Mr. TEAGUE of California did offer his motion to recommit and the House retreated from its position of July 1968, when the bill originally passed on our side of the Capitol. The vote was a close 158 yea to 187 nay defeat on a record vote which I include at this point:

[From the Congressional Record, House, vol. 114, pt. 21, p. 28008]

Motion to Recommit Offered by Mr. Teague of California

Mr. Teague of California. Mr. Speaker, I offer a motion to recommit.

The Speaker. Is the gentleman opposed to to the conference report?

Mr. Teague of California. I am, Mr. Speaker, in its present form.

The Speaker. The Clerk will report the motion to recommit.

The Clerk read as follows:

"Mr. Teague of California moves to recommit the conference report on S.3068 to the Committee of Conference with instructions to the Managers on the part of the House to insist on the following provisions of the House amendment to such bill:

"Section 5(b) of such Act is amended by adding at the end thereof the following: 'Notwithstanding any other provision of law, any person who is engaged in a strike, labor dispute, or voluntary work stoppage shall be ineligible to participate in any food stamp program established pursuant to this Act; *Provided*, That if any such person was eligible for and was receiving food stamp assistance pursuant to the provisions of this Act prior to the existence of a strike, labor dispute, or voluntary work stoppage, such person shall not be ineligible for participation in the food stamp program solely as a result of engaging in such strike, labor dispute, or voluntary work stoppage. Notwithstanding any other provision of law, any person who is a student attending an institution of higher learning shall be ineligible to participate in any food stamp program established pursuant to this Act: *Provided further*, That if any such person was eligible for and was receiving food stamp assistance pursuant to the provisions of this Act prior to being enrolled as a student at an institution of higher learning, such person shall not be ineligible for participation in the food stamp program solely as the result of being a student attending an institution of higher learning.' "

The Speaker. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The Speaker. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. Teague of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The Speaker. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 158, nays 187, not voting 86, as follows:

[Roll No. 352]

YEAS—158

Abbitt, Abernethy, Adair, Andrews, Ala., Andrews, N. Dak., Arends, Ashbrook, Ayres, Bates, Belcher, Berry, Betts, Bow, Bray, Brinkley, Brock.

Brotzman, Broyhill, N.C., Broyhill, Va., Buchanan, Burke, Fla., Burleson, Bush, Byrnes, Wis., Cabell, Carter, Cederberg, Chamberlain, Clausen, Don H., Clawson, Del, Cleveland, Collier.

Collins, Colmer, Cramer, Davis, Wis., Dellenback, Denney, Derwinski, Devine, Dole, Dorn, Dowdy, Downing, Duncan, Edwards, Ala., Erlenborn, Esch.

Eshleman, Findley, Ford, Gerald R., Fountain, Fuqua, Galifianakis, Gardner, Gettys, Goodling, Griffin, Gross, Gubser, Hagan, Haley, Hall, Hammerschmidt.

Hardy, Harsha, Henderson, Hunt, Hutchinson, Jarman, Johnson, Pa., Jonas, Jones, N.C., Keith, King, N.Y., Kleppe, Kornegay, Kuykendall, Kyl, Langen, Latta, Lennon, Lipscomb, Lloyd.

McClory, McCloskey, McMillan, MacGregor, Mahon, Marsh, Martin, Mathias, Calif., May, Mayne, Meskill, Michel, Miller, Ohio, Mize, Montgomery, Myers, Nelsen, Nichols, O'Neal, Ga.

Passman, Patman, Pirnie, Poff, Price, Tex., Purcell, Quie, Quillen, Railsback, Reifel, Reinecke, Riegle, Roberts, Robison, Rogers, Fla., Roth, Rumsfeld, Schadeberg.

Scherle, Schneebeli, Schwengel, Scott, Selden, Sikes, Skubitz, Smith, Calif., Smith, N.Y., Smith, Okla., Springer, Steiger, Ariz., Steiger, Wis., Stephens, Stuckey, Taft, Talcott, Taylor, Teague, Calif.

Thompson, Ga., Tuck, Utt, Vander Jagt, Watkins, Watson, Whalley, Whitener, Whitten, Wiggins, Williams, Pa., Wilson, Bob, Winn, Wyatt, Wylie, Wyman, Zion.

NAYS—187

Adams, Addabbo, Albert, Anderson, Ill., Anderson, Tenn., Annunzio, Barrett, Bennett, Bevill, Bingham, Blatnik, Boland, Bolton.

Gray, Green, Oreg., Green, Pa., Griffiths, Grover, Gude, Hamilton, Hanley, Hanna, Harvey, Hathaway, Hechler, W. Va., Helstoski, Hicks.

O'Neill, Mass., Ottinger, Patten, Pelly, Pepper, Perkins, Philbin, Pickle, Pike, Poage, Podell, Price, Ill., Pryor, Pucinski.

Brademas, Brasco, Brooks, Brown, Mich., Burke, Mass., Burton, Calif., Button, Byrne, Pa., Cahill, Carey, Casey, Celler, Clark, Conable, Conte, Corbett, Culver, Cunningham, Daniels, de la Garza, Delaney, Dent, and Diggs.

Dingell, Donohue, Dulski, Dwyer, Eckhardt, Edmondson, Edwards, Calif., Eilberg, Evans, Colo., Everett, Fallon, Fascell, Feighan, Fino, Flood, Foley, Fraser, Frelinghuysen, Friedel, Fulton, Pa., Fulton, Tenn., Garmatz, Gathings, Giaimo, Gibbons, Gilbert, and Gonzalez.

Holifield, Horton, Howard, Hungate, Ichord, Irwin, Joelson, Johnson, Calif., Jones, Ala., Jones, Mo., Karth, Kastenmeier, Kazen, Kee Kelly, Kirwan, Kluczynski, Kupperman, Kyros, Long, Md., McCarthy, McDade, McEwen, and McFall.

Macdonald, Mass., Machen, Madden, Mathias, Md., Matsunaga, Meeds, Miller, Calif., Mills, Mink, Monagan, Moorhead, Morgan, Morris, N. Mex., Morse, Mass., Morton, Mosher, Moss, Murphy, Ill., Murphy, N.Y., Natcher, Nix, O'Hara, Ill., O'Hara, Mich., O'Konski, and Olsen.

Randall, Rees, Reid, N.Y., Reuss, Rhodes, Pa., Rodino, Rogers, Colo., Ronan, Rooney, N.Y., Rooney, Pa., Rosenthal, Roush, Roybal, Ruppe, St Germain, St. Onge, Sandman, Saylor, Scheuer, Shipley, Slack, Smith, Iowa, Stafford, Staggers, Stanton, and Steed.

Stubblefield, Sullivan, Tenzer, Thompson, N.J., Tiernan, Udall, Van Deerlin, Vanik, Vigorito, Waldie, Wampler, Whalen, White, Widnall, Wilson, Charles H. Wolff, Wydler, Yates, Young, Zablocki, Zwach.

NOT VOTING—86

Ashley, Ashmore, Aspinall, Baring, Battin, Bell, Biester, Blackburn, Blanton, Boggs, Bolling, Broomfield, Brown, Calif., Brown, Ohio, Burton, Utah.

Clancy, Cohelan, Conyers, Corman, Cowger, Curtis, Daddario, Davis, Ga., Dawson, Dickinson, Dow, Evins, Tenn., Farbstein, Fisher, Flynt.

Ford, William D., Gallagher, Gurney, Halleck, Halpern, Hansen, Idaho, Hansen, Wash., Harrison, Hawkins, Hays, Hébert, Heckler, Mass., Herlong, Hosmer, Hull.

Jacobs, Karsten, King, Calif., Laird, Landrum, Leggett, Long, La., Lukens, McClure, McCulloch, McDonald, Mich., Mailliard, Minish.

Minshall, Moore, Nedzi, Pettis, Pollock, Rarick, Reid, Ill., Resnick, Rhodes, Ariz., Rivers, Rostenkowski, Roudebush, Ryan, Satterfield, Schweiker.

Shriver, Sisk, Snyder, Stratton, Teague, Tex., Thomson, Wis., Tunney, Ullman, Waggonner, Walker, Watts, Willis, Wright.

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Fisher for, with Mr. Minish against.

Mr. Satterfield for, with Mr. Leggett against.

Mr. Ashmore for, with Mr. Moore against.

Mr. Flynt for, with Mr. Aspinall against.

Mr. Battin for, with Mrs. Heckler of Massachusetts against.

Mr. Brown of Ohio for, with Mr. Farbstein against.

Mr. Laird for, with Mr. Hull against.

Mr. Dickinson for, with Mr. Rostenkowski against.

Mr. Rhodes or Arizona for, with Mr. Stratton against.

Until further notice:

Mr. Cohelan with Mrs. Reid of Illinois.

Mr. Nedzi with Mr. Broomfield.

Mr. Evins of Tennessee with Mr. Mailliard.

Mr. Rivers with Mr. Thomson of Wisconsin.

Mr. Ford, William D. with Mr. Gurney.

Mr. Hébert with Mr. Minshall.

Mr. Hawkins with Mr. Bell.

Mr. Long of Louisiana with Mr. McClure.

Mr. Teague of Texas with Mr. Hansen.

Mr. Jacobs with Mr. Burton of Utah.

Mr. Blanton with Mr. Blackburn.

Mr. Brown of California with Mr. McDonald of Michigan.

Mr. Daddario, with Mr. Clancy.

Mr. Davis of Georgia with Mr. Curtis.

Mrs. Hansen of Washington with Mr. Halleck.

Mr. Dow with Mr. Snyder.

Mr. Hays with Mr. Roudebush.

Mr. Gallagher with Mr. Conyers.

Mr. Sisk with Mr. Hansen of Idaho.

Mr. Ryan with Mr. Pollock.

Mr. Landrum with Mr. Lukens.

Mr. Watts with Mr. Halpern.

Mr. Wright with Mr. Hosmer.

Mr. Willis with Mr. Pettis.

Mr. Tunney with Mr. Schweiker.

Mr. Walker with Mr. Shriver.

Mr. King of California with McCulloch.

Mr. Wellman with Mr. Boggs.

Mr. Baring with Mr. Ashley.

XUM

Mr. Corman with Mr. Conyers.
Mr. Resnick with Mr. Dawson.
Mr. Rarick with Mr. Herlong,

The result of the vote was announced as above recorded.

And so, Mr. Speaker, giving food stamps to strikers just did not happen. It is the result of a specific vote by a majority of our elected legislators. Those who see the issue differently should take note and make their views known to those who voted on the prevailing side.

The House then adopted the conference report by a 245-to-98 margin. While I still voted against the bill, it easily carried after our efforts to delete the striker and student authorization failed. Many have criticized those who voted for the bill on the final passage but I would point out that criticism, if due—and I think it is, should be directed at the vote on the Teague motion to recommit. Here the issue was clearcut. Here the overall life or death of the program was not at stake but rather its unwarranted expansion into questionable areas.

Today, the House by an overwhelming vote adopted House Joint Resolution 388. In fact, Mr. Speaker, I was one of only nine Members who opposed its passage. There were many issues involved and good and compelling reasons which it should have been supported. However, there was one clause that is most interesting in the light of what I have been saying this afternoon. In addition to providing for continuing appropriations, which may be justified, it made in order that the food-stamp program authorization in the Second Supplemental Appropriation Act of 1970, "chargeable to the amount appropriated under this head in H.R. 17923 when enacted, is hereby increased from $300 million to $600 million, and the period of availability thereof is hereby extended from October 31, 1970, to January 31, 1970."

One does not have to be too bright, Mr. Speaker, to recognize that this extra $300 million may very well be headed not for the poor and needy but for the General Motors strikers and others who may be out of work by their own voluntary action. The whole sordid picture is one which certainly has not done the U.S. Congress proud.

XUM

HOW LONG TO LICENSE A NUCLEAR POWERPLANT?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HOSMER) is recognized for 5 minutes.

Mr. HOSMER. Mr. Speaker, with the growing national awareness of our electric power shortage—occasioned by recent brownouts and blackouts on the east coast—the distinguished chairman of the Joint Committee on Atomic Energy, the gentleman from California (Mr. HOLIFIELD), and I have addressed a letter to the Chairman of the Atomic Energy Commission indicating our dismay over the time it takes to license a nuclear powerplant.

In this letter, the chairman and I indicate that we feel that this is a matter of significant national concern and that the staff of the Joint Committee will look into the matter in detail in the near future.

The letter follows:

JOINT COMMITTEE ON ATOMIC ENERGY,
Washington, D.C., September 24, 1970.

Hon. GLENN T. SEABORG,
Chairman, U.S. Atomic Energy Commission, Washington, D.C.

DEAR DR. SEABORG: We have been observing with dismay what appear to be indications of serious deficiencies in AEC's procedural and administrative mechanism for the licensing of nuclear power plants.

A few years ago a 7-to-9-month interval was the normal span between the submittal of an application for a construction permit and the regulatory decision regarding the issuance of the permit. Now the processing time is closer to 18 months and approaching 24 months in some cases.

At the operating license stage, when delays can be extremely costly in terms of dollars as well as the need to meet the energy requirements of large sections of this country, inordinate amounts of time seem to be consumed unnecessarily as a consequence of the licensing process or its implementation.

Of course we have in mind only delays that contribute nothing to health and safety, including environmental considerations.

We are concerned that orderly, beneficial licensing procedure appears to be degenerating, and perhaps even to have broken down. In contested cases all semblance of order seems to be disappearing. Procedural and legal questions appear to pop up at any time and at all stages, and to be treated by the Boards in such a way as to stymie required substantive presentations. We understand, for example, that ordinarily in contested cases large numbers of management and technical personnel have to waste hundreds of hours attending Board hearings in order to be on hand when, from time to time, safety or related technical issues are heard.

Our unease is intensified by the uncomfortable feeling we have from the apparent absence of any special consideration by the Commission of the current licensing situation and recent trends. The pounds of formal paper our staff receives and the information we get concerning the conduct of hearings seem to us to highlight a number of significant problem areas that ought to be examined critically.

We are not sure we appreciate the net contribution that can be derived from the miscellaneous comments made by all the various agencies pursuant to the National Environmental Policy Act. If comments from agency "B" affect the substance of the comments from agency "A", does agency "A" respond anew? Does anyone coordinate and capitalize on all the comments? What is the Commission planning to do about recommendations to amend the Atomic Energy Act in the light of environmental considerations and the National Environmental Policy Act?

We are instructing the Committee staff to look into this entire matter, and are assigning it a high priority in the tentative scheduling of Committee business. We would like to be brought up to date on the Commission's views and plans in regard to the licensing situation.

Sincerely yours,

CHET HOLIFIELD,
Chairman.
CRAIG HOSMER.

U.S. MARCH FOR VICTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. RARICK) is recognized for 30 minutes.

Mr. RARICK. Mr. Speaker, on Saturday, October 3, thousands of concerned Americans assembled in Washington, D.C., for a march and rally at the Washington Monument. Their purpose was to petition their Government for grievances by seeking an end to the war in Vietnam through victory.

I include a list of the speakers and the speech delivered by myself and that of Maj. Gen. Thomas A. Lane:

SPEAKERS FOR THE MARCH FOR VICTORY RALLY

Speakers are listed with the titles of speeches they gave.

A Congressman With the Issue: Hon. John Rarick, Representative, Louisiana.

Strategy for Victory: Thomas A. Lane, Major General, United States Army, Retired.

Death of a Nation: Mr. John Stormer, Author, None Dare Call It Treason.

The President Speaks: Mr. Edgar C. Bundy, Executive Secretary, Church League of America.

Russia as Usual: Mr. Peter Koltypin, Chairman, Freedom for Russia.

Righteousness in a Nation: Dr. Corbett Mask, President, America Baptist Association.

Victory Under God: Dr. Carl McIntire, Chairman, U.S. March For Victory; President, International Council of Christian Churches.

The Heart of America: Rev. Wes Auger, Representative of 20th Century Reformation Hour.

We Want To Go Home: Mr. John Kang of Taipei, Formosa; Vice-General Secretary, World Christian Anti-Communist Association.

Central America Wants Freedom: Mr. Edgar de Leon Vargas; Congressman, Guatemala.

Latin America Speaks: Dr. Israel Gueiros of Brazil; President, Latin American Alliance of Christian Churches; Vice-President, International Council of Christian Churches.

Africa Wants Victory: Rev. A. D. Obot of Nigeria, President, West Africa Council of Christian Churches; Executive Committee, International Council of Christian Churches.

Europe Can Fight: Ds. J. C. Maris of The Netherlands; General Secretary, International Council of Christian Churches.

SPEECH OF HON. JOHN R. RARICK, MEMBER OF CONGRESS, SIXTH DISTRICT OF LOUISIANA, OCTOBER 3, 1970, AT THE U.S. MARCH FOR VICTORY IN THE CITY OF WASHINGTON, D.C.

My Fellow Patriots: We are again assembled in our nation's capital, standing up for our country and demanding that something be done about Vietnam. We are here today to demand again an end to the war in the shortest time possible—with the least lost of additional lives—the least waste of additional tax dollars. That objective can only be obtained through victory. A victory policy at this time would be the greatest deterrent to the growing threat of war in the Middle East.

I believe in peace through victory and that is why I am standing with you here today for America. I refuse to believe that the love of our country has deteriorated so far that to be right one has to go left.

Since our last March for Victory in April—roughly six months ago—because there has been no change in the direction of our politically motivated leaders, 2,604 Americans have been reported killed in action in Vietnam, 17,618 men have been wounded, and 1,422 are reported missing in action—or prisoners of war. And because our leaders have refused to act decisively to end the war, we are no closer to peace today than we were six months ago.

We are led to believe that we can appease, compromise, and negotiate an honorable and just peace and a return of our POW's. Our past experience proves the contrary to be true. History has shown that a nation that does not win its wars, does not free or recover its POW's.

I'm glad my country believed in victory in World War II—I'd hate to think that I might still be in a German prison camp 25 years later while our diplomats talked peace and negotiated with Hitler.

In World War II the greatest morale builder we had was the promise that the sooner we won the war, the sooner we'd all get to go home. But our country quit winning when our leaders got into wars for peace rather than for freedom.

Today, our diplomats continue to talk and negotiate—and negotiate and talk, but American men still continue to die and will continue to die as long as we are willing to pay this price for appeasement and defeatism. Our diplomatic blunderers have become so defeatist conscious that in their directives they even discourage mention of the word "victory" because to them it sounds too militaristic.

Yet, our leaders continue to listen to their internationally oriented advisors, more concerned about what a handful of Communist dictators think of our world image rather than what we as Americans think of ourselves—or moreso what our red-blooded youth think of us parents for letting the decision-makers get away with.

Many collegiate solutions and rationalizations are offered for ending the Viet Nam conflict but all are idealistic rather than realistic because, for one reason, none can explain how we would ever regain our captured prisoners of war by retreating from the battlefield.

What is wrong with victory over atheistic Communism? What is wrong with winning a truly lasting peace? What is wrong with wanting other people to be free?

The answer to the Viet Nam war, in fact the answer to the Communist threat against the free world, is not in massive spending of taxpayers' dollars—more sophisticated weapons, more men under arms—the answer is a proper application of our God-given talents—American ingenuity and courage. All we need is for our leaders to show some intestinal fortitude—spelled G–U–T–S, guts!

Some have said that this March is held at the wrong time, for the wrong reason, in the wrong place, and sponsored by the wrong man.

With 50,000 American men already dead, leadership lacking in the courage to do what must be done, and with many elections only 30 days off—could there be a better time?

How many politicians up for election on November 3rd would invite our President who toasted the courage and independence of the Communist dictator of Yugoslavia, to come into his District or his State and tell his constituents, "I need this man to come to Washington to fight for me as a member of my team." That is, unless the members of the Republican party now intend to make a play for the New Mobe—Yippie Vote.

It is tragic that at this crucial time the Commander in Chief of our fighting forces may have become a handicap to his own party.

Mr. Nixon himself, in 1964, before he was elected President, declared that victory over Communism is essential for a survival of freedom. Nothing has changed but the President. We are told that the "dear friends of Hanoi" groups are mobilizing for political action to defeat Congressmen who will not pledge themselves to defeatism.

As Christian Americans we have a moral duty to defeat those candidates of defeatism who say that we must not win or can't win over Communism. Our March is for freedom—our cause is right.

The Communists in Hanoi, Moscow, and Peiping know full well that their battle for world conquest will not be won in wars of liberation in far-off jungles or deserts or in small insurrections. The Communist strategists know the world will be won at freedom's most vulnerable spot, and that spot is right here in Washington, D.C. This is where the decision makers, the Congressmen, and the Supreme Court judges work, even if most fear to live here. The Communists know this—the communications media know this. The place for the March is right. This is where victory will be won or lost.

As for the March being organized by a Christian minister, if our leaders have become so misguided by indecision that they cannot or will not lead, and if our politicians vascillate—lacking the courage of American conviction, then it's time—it's time for Christian people to awaken, to become evangelical, to use what freedom we have to come forward and stand up for our country. What other segment of our society fears no wrath of man, only fear of God? If those in our establishment have become captive, who else in our land can restore morality and respect to a country that has lost its direction—to the greatness that belongs not to our politicians but to our people?

I say that nothing is more fittingly proper and American than that a man of God, Dr. McIntire, accepted the role of leadership among Christian Patriots to lead this March.

As a young farm boy, I learned early in life that the only things to be found in the middle of the road are yellow lines and dead skunks.

Those of you present here today are not of the silent majority. A silent majority never saved any country—never won any freedom—never stopped tyranny. Where the flames of freedom still burn in our world it is because of small organized dedicated minorities of free men and not silent majorities.

The reason we are here today and the reason our country is at the crossroads is because of the silent majority. The silent majority remained silent when they should have spoken—the silent majority influenced elections because they did not turn out and vote. The silent majority was more afraid of losing personal vanity than of losing their freedom—the silent majority is also in government where it sits back and says nothing, goes along and votes with the crowd rather than rock the boat. The silent majority are those of our Judiciary who simply join in unconscionable decisions because they fear being made conspicious if they dissent or stand up for what is right. The silent majority have stood by while 50,000 of our men have been killed in Viet Nam.

In the words of Tom Anderson, "Silence at a time like this is not golden—it's yellow."

It was the silent majority of nations that did nothing when the armed might of imperialistic communism invaded and extinguished the flames of freedom in the nations of Estonia, Latvia, Lithuania, the Ukraine, Byelorussia, Armenia, Turkestan, Moldavia, Albania, Bulgaria, North Korea, North Vietnam, Rumania, Tibet, Czechoslovakia, Hungary, Poland, East Germany, and Yugoslavia. It was the silent majority that stood idly by and said nothing as Germany was taken over by the paper hanger Schickelgrubber. It was the silent majority that ridiculed Patrick Henry as an extremist and trouble maker. And it was the silent majority that did nothing as they watched Jesus Christ crucified.

The leadership and direction of our country is morally bankrupt—we have become a leaderless government reacting only to pressure groups—there will be no change unless it originates with you the people. The odds are high but so are the stakes—our freedom and the freedom of our children.

As Christians, we are taught not to be silent but to be vocal—we are commanded to love—to be *for*—God, Honor, Liberty, and Country. And we are for Victory, when we know our cause is just.

We are commanded to testify, to bear witness of our actions of love—to stand up and be counted.

What greater witness can we bear than this tremendous Rally for an end to the war in Viet Nam by Victory? We must remember that we live in a nation where public opinion molders are a part of the establishment and are hostile to the truth. We must, therefore, spread the word ourselves to every corner of our land. Our leaders must hear our voices—must know our common resolve, We again issue our call for victory.

We demand an end to the War in Southeast Asia. We demand peace through Victory, in Vietnam and Victory over Communist imperialism and tyranny and over Communist suppression of human rights wherever it is found.

With our prayers—with God's help, we shall not be denied.

A Strategy for Victory

(By Maj. Gen. Thomas A. Lane)

When General Douglas MacArthur warned the Congress nineteen years ago that in war, there is no substitute for victory, he spoke a truth confirmed by all human experience. He saw clearly that the Truman administration was then leading this country into a bloody stalemate in Korea which was to continue for two more years.

Just as a bullseye is surrounded by a thousand misses, every truth is surrounded by a thousand errors. In Korea, the Truman administration embraced the twin errors that the war could be moderated by our restraint and that it could be ended by negotiation. These two theses were sheer self-deception, the products of wishful thinking. There was no historical evidence to support them. The tragic experience of the Korean War once more condemned them.

When the Korean War was virtually ended by our great victory at Inchon, we threw that victory away by promising to allow sanctuary to the enemy in Manchuria. That imprudence precipitated the Red Chinese invasion and the years of slaughter which followed.

When our armies had once again turned the tide and were on the threshold of a new victory in Korea, President Truman stopped our offensive and began negotiations with the enemy at Panmunjon. For two years, while our men continued to die in a war they were forbidden to win, the dreary mockery of peace negotiations at Panmunjon continued.

As I observed these tragic events, I came to this conclusion: "The Democratic Party is unfit to govern this country." The lives of our youth and the substance of our people were being wasted in a war which General MacArthur had won in 1950 and which our political leaders had encouraged the enemy to renew. The bible says "When the leaders have no vision, the people perish." Americans were dying in Korea, but Russians were not dying there. From his post in the Kremlin, Stalin saw this war as it was—his victory.

The Democratic Party learned nothing from its experience in Korea. In 1961, I saw President Kennedy repeating step by step the very errors which President Truman had made in Korea. He neutralized Laos in the mistaken belief that our withdrawal from Laos would be emulated by North Vietnam. When instead the North Vietnamese used Laos as an avenue for the attack on South Vietnam, President Kennedy forbade South Vietnam to strike back at the aggressors in Laos. Like President Truman in Korea, he gave the enemy a sanctuary from which to attack South Vietnam. He made the defense of South Vietnam impossible. President Johnson sent half a million Americans to

XUM

South Vietnam but he never defended the country effectively because he never ended the enemy sanctuary.

The Johnson leadership was marked by a frantic and futile quest for peace. The President had failed to grasp the most elementary requirements of peace.

Because negotiations at the conclusion of past wars had been called peace conferences, our leaders grasped at the absurd notion that war could be ended simply by calling a peace conference. They misjudged and misrepresented history.

In the past, wars had been settled on the battlefield. The so-called peace conference was merely the meeting at which the victor imposed his terms on the vanquished.

In war, you don't ask for a "peace conference" unless you intend to surrender. This practical reality is apparent today at the Paris peace conference. Since we asked for the meeting, North Vietnam is dictating the terms of surrender. It tells us to get out of South Vietnam and to deliver our ally to communist rule. Leonid Breshnev warns us to accept the terms. Our own pacifists are screaming at our President to surrender.

Thus, the pretense of successive administrations that we are negotiating an honorable peace at Paris is cynical deception of the American people. Without prior military victory, the talks at Paris can produce only dishonorable surrender or continuing war.

Let it be clear to all Americans that never before in history has war been waged with such disastrous ineptitude as the United States has shown in Vietnam. We have faced an enemy across the western border of South Vietnam, in Laos and Cambodia. The enemy lines of communications came in from the flanks where they could easily be severed. But our political leaders have prohibited this simplest of battlefield actions, a move which would end the war quickly and finally.

In Vietnam, our fighting men have performed magnificently. They have won every battle. They have driven the enemy from every battlefield. But they are coming home defeated, their sacrifices wasted, because our country has been led by politicians who renounced victory.

This year we saw our combined American and South Vietnamese forces strike and destroy the enemy sanctuaries in Cambodia in a two-month campaign which also severed the enemy line of communications from Sihanoukville. The consequence of that campaign is that the war in the southern provinces of South Vietnam is virtually ended.

We know that in another two months our combined forces could similarly destroy the enemy bases in southern Laos, after our presidential protection of those enemy bases is lifted. Then the war in South Vietnam would be ended, the free countries of Southeast Asia would defend themselves and all American forces could come home.

President Nixon has chosen instead to continue the Laotian sanctuary, to continue the war of attrition, to continue the talks at Paris. He has now been in office twenty months. He has been talking at Paris almost as long as President Truman talked at Panmunjon. As in the Korean War, the fighting continues while diplomats talk. Our side is still having about 400 men killed in action every week, just as we did when Lyndon Johnson was President.

It is unconscionable to continue this slaughter while we hold the power to end it summarily with military victory. Only the President of the United States keeps our side from knocking out the enemy in Laos and ending the war.

Observing the present course of policy, we cannot escape the conclusion that the Republican Party too is unfit to govern this country. It lacks the vision or the courage to do what the security of our country requires.

Our country is indeed in a sad state when both political parties have proven unequal to the task of government. But that is our situation. That is why we are at war.

What can one citizen do in matters of such vital concern to our country? The opportunity is at hand. One month from today, we shall elect a new House of Representatives and one-third of the United States Senate. This is the citizens opportunity to give direction to government.

We have in the Congress men like John Rarick of Louisiana who are wise and courageous, men who are not subservient to the dictation of a misguided party leadership. This war continues only because we don't have enough such leaders in the Congress.

This year, let your single-minded purpose be to elect candidates who stand boldly for Victory in Vietnam. If a candidate does not stand squarely on this issue, there is nothing he can do for this country which would warrant sending him to Congress. If he does stand for victory, stand with him, for he is a man of vission and of courage.

The issue in this election is not one of political party. It is whether this nation will adhere to the wisdom which made it great or will decay in timidity and corruption. Only the American people can provide the answer.

On the battlefield at Gettysburg, President Lincoln prayed "that these honored dead shall not have died in vain." Let that be our resolution today for our men who died in Vietnam. Let us honor them with the victory for which they fought.

SHORTAGES BEING MANUFACTURED FOR HEATING OILS DISGRACEFUL PERFORMANCE

(Mr. BURKE of Massachusetts asked and was given permission to extend his remarks at this point in the RECORD and to include editorials.)

Mr. BURKE of Massachusetts. Mr. Speaker, may I take this opportunity to bring to the attention of the Members of the U.S. Congress an editorial that appeared in the Quincy Patriot Ledger on October 2, 1970. This editorial expresses my sentiments in their entirety. I also wish to include a news story that appeared in the same newspaper on September 5, 1970. The weak answers being handed out by the Nixon administration on the shortages being manufactured for heating fuels is one of the most disgraceful performances in the history of our great Nation.

I have been reliably informed that oil suppliers in Canada can furnish up to 300,000 barrels of oil a day for the United States without placing their own supplies in jeopardy.

Remove the quotas and the law of supply and demand will prevail, prices will drop and areas of our country now plagued with shortages will receive the kind of relief necessary.

The above-mentioned articles follow:

A BONE FOR NEW ENGLAND

Among the Nixon Administration's recommendations on easing the New England fuel shortage is an appeal to the consuming public to conserve the use of energy, promising that federal agencies will set an example.

They are.

In fact, there seems to be too little energy being expended in Washington on the New England fuel shortage.

Having previously set a limit on foreign competition for the home heating oil market at 9 per cent of the estimated total demand in New England when the price of foreign oil was much lower, the Administration now is increasing import quotas on a kind of "buy while you freeze" plan. That is, there will be an extension of the "special" quota of 40,000 barrels a day of No. 2 fuel oil used for home heating, and during the cold months New England can even import twice as much—provided the area "pays it back" by having lower imports during the warmer months.

This may or may not lead to an oil price free-for-all during the winter months. Industrial and commercial users, remember, will be competing with the homeowner for No. 2 oil, since the heavier residual oil is in short supply.

Domestic producers are pointing to the scarcity of residual oil as a nasty example of what happens when the nation becomes reliant on foreign sources of supply. Residual import quotas for several years have been so high that they are virtually free.

The fact is that domestic producers didn't care about producing residual oil because of its low price, and instead produced more of the higher-priced light oils.

The domestic industry, in short, abandoned the residual market to foreign producers, while being protected from foreign competition by import quotas on higher-priced lighter oils—skimming the top off the market.

Now that oil prices are up in general because of transportation and supply problems, coupled with increasing demand, the government is temporarily permitting New England to have more imports.

It's little wonder there is bipartisan grumbling from the New England congressional delegation. And why shouldn't there be grumbling when government policy has resulted first in higher prices here than in other areas of the country, and now shortage-plus-higher-prices? The delegation wants to meet with President Nixon soon to discuss the matter—and the sooner the better.

BURKE DEMANDS LIFT OF CANADIAN OIL IMPORT QUOTA

WASHINGTON.—Rep. James A. Burke, D-Milton, who last month asked the President's Oil Policy Committee what it planned to do to ease the danger of oil shortages in New England and received no answer, Friday "demanded" that the committee lift "all import quotas on all types of oil from Canada.

UNCONSCIONABLE

"The oil shortages facing New England during the coming winter months are unconscionable," he said in a telegram to Oil Policy Committee head George A. Lincoln. "And I demand that appropriate steps be taken to lift the Canadian quotas immediately," he added.

Burke wrote Lincoln Aug. 13, explaining that he and other New England congressmen were concerned about potential winter oil shortage. He asked the director to outline the steps his committee planned to take to avoid the shortage. His letter concluded with: "I am gravely concerned about this matter, and if the proper answers are not forthcoming I will urge termination of these quotas forthwith."

Lincoln did not reply to Burke's letter, and Burke kept his promise with the most strongly worded protest and demand made by any New England congressman in the delegation's year-long battle against the quotas.

In his most recent telegram, Burke said there is no justification for import quotas

XUM

on Canadian oil. He dismissed the argument that imports would endanger the national security. "In fact the removal of such quotas national security would be aided," his telegram said.

The administration has contended that the import quotas encourage domestic oil companies to find and produce their own oil, and dependence on foreign oil would weaken this country in time of war, because its oil supplies could be cut off.

Burke does not agree with this theory, but even if it were correct, he says, no war could cut oil supplies from Canada.

SPEAKER McCORMACK HONORED BY CAPITOL HILL FIRST FRIDAY CLUB

(Mr. BURKE of Massachusetts asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to share with my colleagues in the House an award which was presented to our beloved Speaker John W. McCormack by the Capitol Hill First Friday Club on Friday, October 2, 1970.

The Resident Commissioner of Puerto Rico, the Honorable Jorge L. Córdova, presented a plaque from the First Friday Club to the Speaker which read:

Capitol Hill First Friday Club,
Washington, D.C.

To the Honorable John W. McCormack, Speaker of the U.S. House of Representatives.

In recognition of his acclaimed dedication to God, country, family and his perservering lifetime objective "to improve the quality of life for his fellow men everywhere."

President Harry M. Livingston, of the Capitol Hill First Friday Club, presided, assisted by the Honorable Gilbert Gude.

Among the honored guests was the Most Reverend Luigi Raimondi, the apostolic delegate to the United States as well as the Honorable Frank Annunzio, whose remarks on this occasion follow:

Remarks of Hon. Frank Annunzio

Your Excellency, Reverend Fathers, Mr. Speaker, Honored Guests, my colleagues in the House, thank you for being here today.

I am delighted to have the honor today to introduce an outstanding and distinguished American. As one who has served in the Congress of the United States for the last six years and as one who regards himself as a younger member, I must in all candor say that Speaker McCormack's leadership and wise counsel have inspired me to do the best possible job for the people of my District and the people of America.

Mr. Speaker, your own example of hard work and dedication to your legislative responsibility was the example that I followed. The people of America will always remember your dedicated service to your country. You served our nation at a time when we were challenged by totalitarian forces throughout the world. You were the leader of your party. Because of your devotion to duty and your untiring efforts in a leadership role in the House of Representatives, today our country is stronger economically and militarily, and our people are better fed, better housed, and better educated.

It is a privilege for me to have this opportunity to pay tribute to you. You have always been fair, just and impartial. Your personal consideration for the members of the Congress has earned the gratitude of all of us and has, in turn, inspired our heartfelt affection and support.

All of us know of the deep religious faith of the Speaker, of his charity and compassion, of his devotion to his wife, to his church, his religion and his beloved country. He has been a tower of strength over the many, many years sponsoring and taking an active part in the functions of the First Friday Club.

Ladies and gentlemen, it is a genuine pleasure for me to present our distinguished Speaker—a great American who loves his country and loves the House of Representatives which for 42 years he has served so well—Speaker McCormack.

DISSENTING VIEWS ON S. 30, THE ORGANIZED CRIME CONTROL ACT

(Mr. RYAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, the House this week will undertake consideration of S. 30, the Organized Crime Control Act of 1970. My distinguished colleagues, Mr. Conyers from Michigan and Mr. Mikva from Illinois, and I have expressed our very serious reservations in our dissenting views on this bill. Since there has been some difficulty in obtaining copies of the committee report—House Report No. 91-1549—I am inserting our views in the Record.

S. 30 should not be passed. It is rife with provisions violative of the Constitution. It rides roughshod over due process. And what is more, it is an ineffectual tool with which to combat the very real problem of organized crime in America.

On behalf of myself and my colleagues with whom I joined in dissent—the gentleman from Michigan (Mr. Conyers) and the gentleman from Illinois (Mr. Mikva)—I urge the other Members of this House to read with the utmost care the views we have expressed. Even minimal consideration for the Constitution requires no less.

Our dissenting views follow:

Dissenting Views of Representative John Conyers, Jr., Representative Abner Mikva, Representative William F. Ryan, on the Organized Crime Control Act

This bill is another dreary episode in the ponderous assault on freedom. It employs the spirit of repression extant in some quarters as a substitute for the Constitution, custom, and reason. And if all that were not enough, it won't work: it is more likely to catch poachers and prostitutes than it is to catch pushers and pimps.

The statement that opposition to the Organized Crime Control Act can in no way be equated with softness on crime is so obvious that it virtually belies utterance. But given the climate of national vituperation in which this bill was bred, it merits iteration. We all react with outrage to the massive assault being leveled on decent citizens by both organized crime and by street criminals. We all are determined to defeat that assault. In fact, we, more than many of our colleagues, have particular knowledge of the depradations of crime: we all represent major metropolitan areas—the loci of crime in America. It is our constituents who are, with far more frequency than the citizens of the farms and towns and small cities of the Nation, the victims of violent crime—of muggings, robberies, extortion, and murder.

We are dismayed that this oversold bill does so little to redress this situation, even as it rips off large chunks of the Constitution. We are committed to the maintenance of constitutional liberties, and to the cultivation of a system of law enforcement which maximizes effectiveness and efficiency, rather than a repressive shotgun which shoots down innocent and guilty with equal diffidence. We think our Constitution and the needs of law enforcement need not be—and cannot be—at odds.

In opposing this bill, we act with a special sense of the needs of our constituents and with a particular awareness of the severity of crime in the streets. We believe that our constituents—and all Americans—are entitled to receive from their representatives cures and not placebos—particularly placebos wrapped in the coating of the offensive and even unconstitutional trappings that accompany the Organized Crime Control Act bill.

We want to make several points immediately clear about the Organized Crime Control Act bill.

This bill is not the answer to crime in the streets—the muggings, the robberies, the rapes.

This bill is not an answer to the complex problem of juvenile crime.

This bill is not an answer to the destructive penal system which breeds criminals.

This bill is not an answer to the massive backlog of cases besetting the courts—a backlog which in such large measure accounts for criminals roaming free.

In sum, the Organized Crime Control Act is no answer to the hundreds of thousands of criminal acts which are terrorizing this country. It is aimed—at least ostensibly—at organized crime, and any person who sees in its passage the turning of the tide against the street crime which is the vital, immediate concern of every American family suffers faulty vision.

Even so, were this bill an intelligent, reasonable approach to the problem of organized crime, we would gladly support it. As Government officials, we are especially offended at the frequent links between organized crime and politics; and we are deeply concerned about infiltration of legitimate business by organized crime. But, intentionally or otherwise, this bill directly assaults the liberties and rights of all Americans, while only ineptly flailing out at organized crime.

We commend the committee for having considerably improved upon the Senate version of this bill by modifying and deleting at least some of the offensive provisions of that piece of legislation. The result, however, is a "scissors and paste" cosmetizing job that cannot overcome the basic defects of the bill. As Mr. Justice Brandeis wrote in *Olmstead* v. *United States*, 277 U.S. 438, 485 (1928):

"Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example * * *. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the Government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution * * *."

Four titles of this bill are particularly egregious: Title I—Special Grand Jury, title VII—Litigation Concerning Sources of Evidence, title IX—Racketeer Influenced and Corrupt Organizations, and title X—Dangerous Special Offender Sentencing. Several other titles also raise serious problems.

TITLE I

Title I authorizes special grand juries to be created at the instance of the Attorney General. These special grand juries have the power not only to indict, but also to submit to the court of their district reports when

XUM

the evidence is insufficient to warrant an indictment. These reports are to be issued.

"(1) Concerning noncriminal misconduct, malfeasance, or misfeasance in office involving organized criminal activity by an appointed public officer or employee as the basis for a recommendation of removal or disciplinary action; or (2) regarding organized crime conditions in the district." (emphasis added)

In brief, this title proposes to create official bodies bedecked with the power to accuse, while leaving the accused bereft of any effective means of rebuttal. This is hardly less than sanctified calumny. And in case anyone might quarrel with our characterization of these special grand jury reporting powers, he might first ponder why the Senate version of this bill was amended by the House committee to exclude elected officials from the reach of these mini-star chambers.

Title I purports to erect procedural safeguards to protect the noncriminal accused—such as the right to appear before the grand jury and to bring witnesses; a right to respond, and a right to appeal. Anyone familiar with the way grand juries operate knows that these protections are illusory. The nature of the special grand jury makes this even more so.

Firstly, the district court is required to make an unchallenged report (or one sustained on appeal) public if it finds the report is supported by a "preponderance of the evidence." Presumably, any appeal which a named party can take will be adjudicated on this standard and on procedural regularity. In fact, this means that both the initial district court and the appellate court control over the reports is going to be practically nonexistent.

This is so because the bill does not require that only credible, or relevant, or legally admissible evidence be considered. The evidence can be made up of hearsay, unconstitutionally obtained evidence, opinions, unsubstantiated slander, and prejudicial casuistry. So a standard ostensibly geared to some appreciation of the rights of the noncriminal accused is really completely nebulous.

Moreover, the whole reason for providing the right of appeal is to quash smear campaigns. Yet, grand jury proceedings are notorious for the ease with which the press gains access to their conclusions. And even if the press should miss at that point, the taking of an appeal virtually will insure public disclosure that the appellant has been accused.

Still another procedural flaw—but again, one with very severe substantive ramifications—lies in the supposed safeguard of allowing the person whom the grand jury has decided to name as being guilty of noncriminal misconduct to appear and produce a "reasonable" number of witnesses. By the time this occurs, the jury has already made up its collective mind and so the accused carries the burden of convincing it to change its conclusion. Yet, he cannot confront the witnesses against him and subject them to cross-examination. Nor does it appear that he even has the right to be apprised of the evidence on which the special grand jury has based its conclusion that he is guilty of noncriminal misconduct. "Prove to us that you're not guilty of anything no matter what anyone has told us" seems to be the ground-rule of this frightening version of the game "I've Got a Secret."

No particular prescience is needed to forecast the public's reaction to a special grand jury's report that an appointed official—through official, but not criminal—misconduct has been helping organized crime. He is going to be branded as an accomplice of organized crime. As the New York Court of Appeals said in *Wood* v. *Hughes*, 9 N.Y. 2d 144, 154, 173 N.E. 2d 21, 26 (1961):

"In the public mind, accusation by report is indistinguishable from accusation by indictment and subjects those against whom it is directed to the same public condemnation and opprobrium as if they had been indicted."

The ordinary grand jury is permitted to sidestep many due process procedural guarantees—representation by counsel, confrontation, public hearing, and the like. But this is because it is only the start of the legal proceedings against a person. The regular grand jury can only return an indictment; the "grand jury merely investigates and reports. It does not try." *Hannah* v. *Larche*, 363 U.S. 420, 449 (1960). Mr. Justice Frankfurter, concurring in *Hannah* wrote:

"Were the Commission exercising an accusatory function, were its duty to find that named individuals were responsible for wrongful deprivation of voting rights and to advertise such finding or to serve as part of the process of criminal prosecution, the rigorous protections relevant to criminal prosecutions might well be the controlling starting point for assessing the protection which the Commission's procedure provides." *Id.*, 488.

We would particularly note the Court's opinion in *Greene* v. *McElroy*, 360 U.S. 474 (1959), which involved the validity of an inquiry conducted for the purpose of determining whether the security clearance of a particular person was to be revoked. A denial of clearance would shut him off from the opportunity of access to a wide field of employment, as well as causing him to lose his current job. The Court said:

"Certain principles have remained relatively immutable in our jurisprudence. One of these is that where governmental action seriously injures an individual, and the reasonableness of the action depends on fact findings, the evidence used to prove the Government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue. While this is important in the case of documentary evidence, it is even more important where the evidence consists of the testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice, or jealously. We have formalized these protections in the requirement of confrontation and cross-examination. This Court has been zealous to protect these rights from erosion. *It has spoken out not only in criminal cases . . . but also in all types of cases where administrative and regulatory actions were under scrutiny* . . . Nor, as it has been pointed out, has Congress ignored these fundamental requirements in enacting regulatory legislation. *Id.*, 496–97" (emphasis added).

Title I is very properly concerned with official corruption. But the avenue it chooses to combatting this vice deprives both the innocent and the "guilty" of basic rights of due process. Surely, we need not corrupt civil liberties in order to combat corruption in public office.

TITLE VII

Title VII has been considerably improved over the version which was included in the bill which passed the other body. However, philosophically, it remains perhaps the most distressing provision of this bill. It demonstrates an antipathy toward, and impatience with, the exercise of constitutional rights which reflects another grim chapter in the attempts to uplift expediency to the level of constitutional legitimacy.

The title imposes a statute of limitations on the exercise of the right to challenge the admissibility of illegally obtained evidence. It does this by adding a new section to chapter 23 of title 18 of the United States Code, which provides, in section 3504(3), that in any trial, hearings, or other proceeding.

"No claim shall be considered that evidence of an event is inadmissible on the ground that such evidence was obtained by the exploitation of an unlawful act occurring prior to June 19, 1968, if such event occurred more than 5 years after such allegedly unlawful act."

We are aware that, as a practical matter, this provision will not have great application, since it does not apply to acts involving the obtaining of evidence which occurred after June 19, 1968. But any essay at foreclosing the exercise of a constitutional right must be rejected, whether it is of wide applicability or otherwise. Both in terms of its own operation, and as precedent for subsequent efforts by the government, this encroachment is dangerous.

Statutes of limitations have validity because they bar stale claims; the provision here would bar defenses. As the report on the Organized Crime Control Act of the Association of the Bar of the City of New York states, at page 24:

"It may be reasonable to preclude the commencing of litigation after a given period of time—either because the defendant should not be forced to answer, nor the courts to hear, charges which can only be substantiated by evidence weakened by time, or because the plaintiff has been negligent in failing to bring suit earlier. It would be a novel application of this logic, however, to allow the defendant to be brought to trial and at the same time to hamper his defense by precluding him from raising constitutional issues which might otherwise be available to him."

Title VII represents the kind of insidious erosion of constitutional protections which is always justified by the contention that the diminution of liberty is negligible, or insignificant. We do not regard the fourth amendment as susceptible to characterization by either of these terms, nor do we regard this title as anything less than an invidious assault upon that amendment.

TITLE IX

Title IX, entitled Racketeer Influenced and Corrupt Organizations, seeks to stymie organized crime's growing infiltration of legitimate business.

But it runs amuck. It embodies poor draftsmanship, and it employs penalties and investigative procedures which are both abusive and pregnant with the potential for abuse.

Prohibited activites

Section 1962 of title IX defines prohibited activities. Subsection (a) provides that:

"It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce."

Thus, as to racketeering, the following must be established for a prohibited activity to exist: two or more separate acts of racketeering activity, thereby establishing the "pattern," and the direct or indirect use or investment of the gains derived therefrom. This burden imposed upon the prosecution seems perverse, since the very reason why we have thus far been so unsuccessful in striking at organized crime lies in the difficulty of even securing one conviction. Here, the prosecution, absent any prior conviction, would have to prove beyond a reasonable doubt two illegal acts in order to establish the "pattern." Yet, if it could secure even one conviction, it would not need this section.

What is more, the massive infiltration by organized crime of legitimate business is a consequence of the difficulty of tracing the path from illegal gains to investment of them. Yet, this burden of tracing is also im-

XUM

posed upon the prosecution by section 1962 (a)'s language. And, if this path could in fact be traced, then the investor could be prosecuted under existing Federal law, anyway, for income tax evasion, as well as for State offenses in many cases.

Thus, in their zealousness to get at organized crime, the drafters of this bill have employed language which may only succeed in erecting a procedure to insulate its operants from successful prosecution under this title.

Unlawful debt

Similar inept draftsmanship resides in the failure to provide a workable definition for one of the most important terms in title IX—"unlawful debt." Use or investment of funds collected on an unlawful debt constitutes a prohibited activity under section 1962, and is punishable under section 1963. But the definition of the term, as provided in section 1961(6) creates two problems. This section reads:

"(6) "unlawful debt" means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate; * * *"

This provision, by employing the words "a State," raises both very difficult jurisdictional problems, and substantive problems arising from the creation of a Federal law of gambling and of usury. For example, a transaction may have connections with two or more States; in one, it is legal, in another not. Innocent action in one State will be the premise for establishing the collection of an "unlawful debt" in another State under title IX. Which State's laws are to govern?

Then, there is also the problem that arises because the use of the words "a State" creates Federal laws of gambling and usury. The language implies a standard geared to the most stringent State law, and apparently will make collection and use of funds derived from a debt incurred in the business of gambling in Nevada the premise for establishing an unlawful act, because other States outlaw such businesses. Similarly, a loan at 12 percent interest may be legal in State Y, but because 6 percent is the maximum nonusurious interest rate in State X, collection of the debt in State X by a citizen of State Y from a fellow citizen of that State will constitute collection of an "unlawful debt."

This inept draftsmanship gives some indication of much of the quality of this bill. In observing the patchwork collection of these provisions—admirable in their intent to fight organized crime, but seriously compromised by virtue of the barriers they erect to effective implementation—we are reminded of Chief Justice Burger's admonition in his State of the Judiciary address of August 10. In noting the burdens the courts face, the Chief Justice said:

"The difficulty lies in our tendency to meet new and legitimate demands with new laws which are passed without adequate consideration of the consequences in terms of caseloads."

Undue penalties

Section 1962 opens the door to 20 years in prison, a $25,000 fine, and forfeiture of property, all because a man won $1,000 on two separate instances in a gambling game. It does so by prohibiting the use or investment of funds either directly or indirectly. The so-called racketeer need not directly use this $1,000 to buy a business in order to run afoul of the title. The mere fact that this $1,000 enabled him to utilize another, legally obtained $1,000 to buy the business, rather than necessary food and clothing, brings him within the ambit of "indirect" use.

The potential for abuse here by the most flimsy argumentation—abetted beforehand by newspaper notoriety that the defendant is an organized crime member—very seriously outweighs the benefits of convicting the man. Granted, we may welcome an organized crime member's conviction, but the title makes no discrete segregation of mobsters. It is a tool to be employed for all.

Indeed, another section of the title—section 1964(c)—provides invitation for disgruntled and malicious competitors to harass innocent businessmen engaged in interstate commerce by authorizing private damage suits. A competitor need only raise the claim that his rival has derived gains from two games of poker, and, because this title prohibits even the "indirect use" of such gains—a provision with tremendous outreach—litigation is begun. What a protracted, expensive trial may not succeed in doing, the adverse publicity may well accomplish—destruction of the rival's business.

The erection of the penalty of forfeiture represents similar over-reaching, made that much more severe by the "indirect use" bootstrap which can lift the prosecution into a conviction. The convicted offender is to be compelled to forfeit all interest, direct or indirect, in any enterprise which he has obtained, controls, or in which he participates, by use of funds derived from a "pattern of racketeering activity" or collection of an "unlawful debt."

Criminal forfeiture and corruption of blood were outlawed by the First Congress, in 1790. The present statute, 18 U.S.C. 3563, provides: "No conviction or judgment shall work corruption of blood or any forfeiture of estate." Under the broad gauged language of title IX, we leave that 180-year-old standard. We think the potential scope for deprivation of property by criminal forfeiture constitutes a threat to legitimate business far beyond what should be the ken of a bill aimed at organized crime.

Moreover, not only does criminal forfeiture unduly penalize the man who may simply have engaged in two separate poker games and thereby subjected himself to accusation for having engaged in a "pattern of racketeering activity." It also leaves far too uncertain the rights of entirely blameless citizens and organizations. A minor legislative bow in their direction is made in section 1963(c), which states that "The United States shall dispose of all such property (which has been forfeited to it) as soon as commercially feasible, making due provision for the rights of innocent persons." But the seizure and sale by the Government of property which was used as collateral by the offender for a legitimate loan may well leave an unsecured creditor out of luck, or sale by the Government of a forfeited business on a stagnant market may well undercut innocent competitors or customers.

Even the Justice Department's comment on this measure establishing criminal forfeiture—a measure which overturns an act of the same Congress which proposed to the States for ratification the Bill of Rights—is pallid endorsement, compared to its espousal of numerous other repressive features of this bill. By letter of August 11, 1969, from Richard Kleindienst, Deputy Attorney General, to the Honorable John L. McClellan, chairman, Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, U.S. Senate, the Justice Department's position was stated thusly:

"It is felt that this revival of the concept of forfeiture as a criminal penalty, limited as it is in section 1963(a) to one's interest in the enterprise which is the subject of the specific offense involved here, and not extending to any other property of the convicted offender, is a matter of congressional wisdom rather than a constitutional power."

We perceive little "wisdom" in reviving criminal forfeiture after its 180-year dormancy, particularly when it is couched in the loose language of title IX. We seem to fight corruption of business with corruption of blood, which is neither wise nor constitutional.

Administrative fishing expeditions

Finally, we find very significant potential for administrative abuse in section 1968 of title IX, which authorizes civil investigations. In effect, the Attorney General is given carte blanche to engage in fishing expeditions, unfettered even by the controls of a grand jury's proceeding. This section opens the books of virtually every business to Government search, and makes the Attorney General the Grand Chatelain of American enterprise.

Specifically, the language of section 1968 reads:

"(a) Whenever the Attorney General has reason to believe that any person or enterprise may be in possession, custody, or control of any documentary materials relevant to a racketeering investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such material for investigation."

It seems somewhat perverse that the widest type of faith in grand juries is reposed in title I's creation of special grand juries authorized to investigate noncriminal conduct, while at the same time, this provision of title IX totally ignores the role of the grand jury.

The grand jury, adopted as a safeguard against "hasty, malicious, and oppressive action," *Ex parte Bain*, 121 U.S. 1, 12, at least allows a citizen or enterprise which has opposed aganst it the power of the Federal Government to seek the protection of the supervising court. Section 1968 retracts that protection and makes every business subject to harassment and abuse. And, again, the so-called protective provisions of title IX are totally illusory.

Title IX should not be adopted. It both fails to do effectively what it sets out to do and succeeds in doing far too much what it should not do. The rights of property and person need not conflict with the effective combatting of crime, notwithstanding that title IX would have them do so.

TITLE X

Title X deploys the powers of the government to seek incarceration of so-called dangerous special offenders for up to 25 years. In doing so, due process is denied. Were mobsters the only victims of this assault on the Constitution, we would still object. The fact that all defendants are the prey of its provisions makes the title even more indefensible, since even the overzealousness of the drafters to stem organized crime fails as the minimal justification of good intentions it might otherwise provide.

As the report of the Association of the Bar of the City of New York states, at page 34–35:

"(S)ince the effect of this title might be to increase a sentence from 2 to * * * (25) years in an individual case, due process demands adequate protection for the defendant subject to such penalties. * * * We think that it is unlikely that the proposed procedures would pass constitutional muster.

It is unnecessary, however, to determine what constitutional protections are required in a proceeding such as this—whether a full adversary proceeding and jury trial or something less is required—because we believe that the safeguards contained in this title are patently inadequate."

The dangerous special offender procedure is initiated by the prosecutor filing with the

XUM

court, a reasonable time before trial or acceptance of a plea of guilty or nolo contendere on a felony charge, notice specifying that the defendant is a dangerous special offender. This allegation is not an issue before the trial court. After the plea or a guilty verdict, the court is to hold a hearing, and at this juncture, the issue of the defendant's subjection to title X comes to the fore.

Section 3575 provides a two-step definition for "dangerous special offender." First, special offender is defined in subsection (e) to be a defendant who (1) has been convicted of two or more offenses punishable by death or imprisonment for more than 1 year, one of which has occurred within the past 5 years, and for one of which he has been imprisoned; or (2) has committed the present felony as part of a criminal pattern of conduct which "constituted a substantial source of his income, and in which he manifested a special skill or expertise;" or (3) has committed the felony as part of a conspiracy with three or more to "engage in a pattern of conduct criminal under applicable law" and played some kind of active role, or used force or bribes in all of part of such conspiracy.

Then, a special offender may be deemed dangerous "if a period of confinement longer than that provided for such felony is required for the protection of the public from further criminal conduct by the defendant."

Despite the complexity of definitions in section 3575(e), and the complexity of verbiage in which the sentencing function of the court and the review function of the appellant court are couched, title X is, in blunt language, an end run around due process. Prof. Peter Low aptly stated the matter in his testimony before the Senate subcommittee on this bill:

"It may well be possible under this act to convict a defendant of a minor felony carrying only a 2-year maximum sentence, charge him at the same time with being a professional offender, find him to be such an offender on the basis of information to which he does not have access, and sentence him to * * * (25) years.

"* * * The whole proceeding smacks of one which is motivated by an inability to prove beyond a reasonable doubt to a jury in open court the facts on which the sentence is based."—Senate Hearings, 190–191.

The operative language for this grim gutting of liberty is provided in that portion of subsection (b) of section 3575 which reads:

"If it appears by a preponderance of the information submitted during the trial of such felony and the sentencing hearing and so much of the presentence report as the court relies upon, that the defendant is a dangerous special offender, the court shall sentence the defendant to imprisonment for an appropriate term not to exceed 25 years and not disproportionate in severity to the maximum term otherwise authorized by law for such felony."

To impose the special dangerous offender sentence, the judge will have to make a number of determinations—dangerousness, as determined by the need of the public for protection, and special offender status, as determined by any of the three definitions the title provides.

In doing so, the judge will in effect be ruling on a new charge leading to criminal punishment, *Specht* v. *Patterson*, 386 U.S. 605, 610 (1967), for far more is involved than the traditional assessment of whether the defendant engaged in a proscribed course of conduct. *Witherspoon* v. *Illinois*, 391 U.S. 510, 522, n. 20 (1968). The function of the judge in title X, although it may be disguised as a sentencing role, is in reality, to assess guilt. And this is the very function which is denied a judge acting outside the bounds of required rules of evidence. This eminently important point is explicated by a case which some have cited as support for title X's procedure—*Williams* v. *New York*, 337 U.S. 241 (1949)—where Mr. Justice Black delivered the majority opinion:

"In a trial before verdict the issue is whether a defendant is guilty of having engaged in certain criminal conduct of which he has been specifically accused. Rules of evidence have been fashioned from criminal trials which narrowly confine the trial contest to evidence that is strictly relevant to the particular offense charged. * * * A sentencing judge, however, is not confined to the narrow issue of guilt. His task, within fixed statutory or constitutional limits, is to determine the type and extent of punishment after the issue of guilt has been determined. * * *"—*Id.*, 246–47.

It is, in fact, guilt which the judge determines under title X. For he is authorized—encouraged—to look at the defendant's past acts to find a "pattern" of criminal conduct, and the only required nexus between the past acts and the present one need be "similar purposes, results, participants, victims, or methods of commission. * * *" He may take into account almost any past conviction—no matter how trivial—in reaching the conclusion that a pattern exists. He may consider the defendant's special skill and expertise—a phrase defined in the widest terms in section 3575(e)(3). He may take into account a conspiracy of which the felony was a part, even though the defendant may not have been convicted, or even charged with, that conspiracy.

This procedure might be less a parody of justice were the defendant accorded adequate due process rights. But he is not. A "preponderance of the information" is the standard by which the next 25 years of his life are to be geared. Again, the report of the Association of the Bar of the City of New York very precisely presents the problem, at page 35:

"The trial court is directed to base its findings on a "preponderance of the information," yet the sentencing decision may be far more critical than the initial determination of guilt or innocence which must be made on the basis of admissible evidence and beyond a reasonable doubt. "Information" of all kinds, not only hearsay and rumor but also, presumably, the fruits of unlawful searches or illegal wiretapping, could be used and the defendant sentenced to * * * (25) years without any of the real protections afforded by a jury trial."

To insure that the judge is aware that he may employ all sorts of data which would be inadmissible at trial, section 3577 provides that "no limitation shall be placed on the information concerning the background, character, and conduct" of the defendant.

The parody does not even stop at this point. For, despite the purported protections provided the defendant, the simple fact of the matter is that he may not even gain an opportunity to be apprised of the information on which the trial judge bases his conclusion that he is a dangerous special offender.

Granted, the defendant is accorded the rights of counsel, compulsory process, and cross-examination "of such witnesses as appear at this hearing." But, these are paper rights. Cross-examination of a probation officer who prepared a presentence report can hardly be equated with cross-examination of the sources of that report.

Finally, almost as a gratuitous final blow at due process, this title permits an inference of guilt to be drawn, by virtue of section 3575(e)(3), from the fact that the defendant "has had in his own name or under his control income or property not explained as derived from a source other than (criminal) conduct." This clearly violates the fifth amendment privilege against self-incrimination by penalizing the defendant for refusing to testify. See, generally, *Marchetti* v. *United States*, 390 U.S. 39 (1968). Moreover, there is simply insufficient constitutional nexus between unexplained income and the presumption that it must have come from an illegal source. Cf., *Leary* v. *United States*, 395 U.S. 6 (1969); *United States* v. *Romano*, 382 U.S. 136 (1965).

Section 3576 authorizes the defendant and the Government to appeal both the imposition and the length of a "dangerous special offender" sentence. When the government appeals, the appeals court is empowered to impose any sentence which the trial court could have imposed, including both increases in the length of the sentence and reversal of the decision that the defendant was not a dangerous special offender.

We do not believe that the Government should be given the power to have sentences increased on appeal. We strongly agree with the recommendations of the advisory committee of the American Bar Association's Project on Minimum Standards for Justice which, while endorsing appellate review, recommended that the appellate court have no power to increase the sentence on appeal, no matter which side initiates the appeal. ABA Standards on Appellate Review of Sentences 3.4 (tentative draft 1967).

The procedure contained in title X would raise serious constitutional problems of both due process and double jeopardy. Those who support title X cite *North Carolina* v. *Pearce*, 395 U.S. 711 (1969). We think they err.

The Court in *Pearce* did not hold that all sentence could be increased on appeal. It held only that:

"A judge is not constitutionally precluded * * * from imposing a new sentence, whether greater or less than the original sentence in light of events subsequent to the first trial * * * The reasons for his doing so must affirmatively appeal. Those reasons must be based on objective information concerning identifiable conduct on the part of the defendant occurring after the time of the original sentencing."—*Id.*, 723, 726.

Thus, *Pearce* pointed to posttrial actions. Title X points to pretrial actions.

Moreover, the central thrust of the *Pearce* decision was that the defendant must not be penalized for seeking appeal. Ostensibly, the provisions in title X which limit increase to those cases in which the Government appeals and require the Government to file its appeal 5 days before the defendant's time for appeal expires, preclude the possibility of penalty. Pragmatically, they do not. The defendant will still be subject to Government pressure, for there is nothing to prevent the Government from routinely filing appeals to be pursued only if the defendant appeals—thus evading the protective time limit entirely. But even more important is the bargaining leverage which this power would give the Government over the defendant's decision whether or not to plead guilty and whether or not to appeal both his conviction and his sentence. As the ABA advisory committee put it in the commentary on the draft standards:

"The existence of such a power could well have the effect of preventing the defendant from appealing even on the merits of his conviction. The ability to seek an increase could be a powerful club, the very existence of which—even assuming its good faith use—might induce a defendant to leave well enough alone." (ABA Standards on Appellate Review of Sentences 57 (1967)).

In addition to authorizing the Government to seek an increase in the length of the original sentence, title X permits the Government to appeal the "imposition" of the sentence. This would permit the Government to seek appellate reversal of the trial court decision that the defendant is not a dangerous special offender. As we have pointed out, the decision that a defendant is a dangerous special offender constitutes in fact a guilty verdict on substantive criminal charges. Viewed in this light, the decision that a

XUM

defendant is not such an offender cannot be distinguished in any meaningful way from an acquittal. It is crystal clear that the double jeopardy clause prohibits the Government from appealing an acquittal. *Kepner* v. *United States*, 195 U.S. 100 (1904) Cf., *Green* v. *United States*, 355 U.S. 184 (1957). The fact that this whole proceeding has been disguised as "sentencing" should not permit the Government to do so here.

Again, the impact on the "bargaining" would be enormous. Almost every defendant could be frightened out of an appeal no matter how meritorious, if the Government agreed to avoid seeking review on the "dangerous special offender" charge.

Title X, were it not such a dangerous special offender itself, would be ludicrous, the product of a caveman's course on the Constitution. As it is, it contravenes the Constitution, it substitutes revenge for reason, and it flaunts the concept of fair treatment. It is parody of justice made tragic by the damage it will do—to individuals, and more important, to our system of rule by law.

OTHER TITLES

The titles we have discussed above appear to be the most objectionable portions of the Organized Crime Control Act. However, there are aspects of the other titles which also raise serious questions which mandate rejection of this bill.

We think these, too, reflect the regrettable result of an eager gesture toward combating crime, divorced from sufficient consideration of the problems of implementation.

Title II

Title II proposes to supplant the absolute immunity granted to those forced to sacrifice their fifth amendment right to remain silent, for transaction, or use, immunity. This departure is premised on the views of some attorneys and legal scholars that *Counselman* v. *Hitchcock*, 142 U.S. 547 (1892) (which set the requirement at absolute immunity) has been overruled by *Murphy* v. *Waterfront Commission*, 378 U.S. 52 (1964).

Without arguing the merits of the dispute concerning the relationship of *Counselman* and *Murphy*, we seriously question the wisdom of legislative change in this field. The courts have fashioned the rules concerning immunity, and we feel the changes being molded should continue to reside within their purview.

Moreover, we question whether due regard has been given the constitutional protection of the fifth amendment in the fashioning of this title.

Title VI

Title VI likewise has a desirable aim—in this case, enabling the Government to preserve testimony in a criminal proceeding by authorizing the taking of pretrial depositions. However, as is so typical of much of this bill, inadequate regard for the defendant—and we emphasize that we are talking about the defendant who may well be innocent—is a hallmark. We think that the report of the Association of the Bar of the City of New York on the Organized Crime Control Act very aptly points out the problem:

"One of the most serious problems with title VI is that it fails to deal with the need of a criminal defendant, faced with cross-examining a Government witness in a deposition, for information as to the theory of the Government's case and some opportunity for pretrial discovery. We doubt whether a defendant can effectively cross-examine at a pretrial deposition with the limited discovery rights provided under the rules now governing criminal procedure. * * * At a minimum, the Government should be required to provide a statement of its theory and the expected testimony in sufficient detail to enable the defendant to appreciate the significance of the testimony." [Pp. 17–18.]

Title XI

Title XI reflects the deep distress that every member of the committee shares about the bombings shaking our streets and college campuses. These criminal acts have imperiled life and property, and must be stopped.

We can appreciate, then, the heat of emotion which has produced this title. However, we question whether it is wise or necessary. The limitation which burdens State and local authorities in their lack of adequate personnel and equipment. Instead of meeting this need, title XI proposes to erect another hierarchy of enforcement.

Rather than providing funds and training so that local authorities might possess the personnel and techniques safely and intelligently to curtail criminal bombings, the title opens the doors to prowling FBI agents, whether requested or not, and this encourages the aura of repression which provides the fuel upon which extremists feed and which they employ to solicit more moderate allies. Moreover, we think the September 24, 1970, editorial of the Los Angeles Times very correctly makes the point that, in fact, the FBI already has all the powers necessary in this area:

"We see no evidence that the local law enforcement authorities, with the considerable help that the FBI is now empowered to give them, are not as adequate to the task as the FBI. The FBI already furnishes local authorities valuable assistance in its fingerprint files and laboratories. Upon receiving a warrant from local authorities, the FBI can pursue a presumed fugitive, as it did in the recent fatal bombing at the University of Wisconsin. The FBI does not need more authority for more effective employment of its tools against terrorism—and must not be granted it unless the country wants the FBI to become a national police force usurping local law enforcement."

We also question very seriously the wisdom of adoption of the death penalty in title XI. We, like every reasonable citizen, condemn out of hand the violence of these criminal bombers. We find no conceivable condonation for the injuries and even deaths they have inflicted. But we are not led thereby to the conclusion that the death penalty will deter such violence. We would note, for example, that the general move in the Nation has been away from the death penalty. Title XI overrides that trend.

It is ironic that the death penalty is one of the very issues under consideration by the National Commission on Reform of Federal Criminal Laws—a Commission which is the creation of the Congress. Indeed, so are many other issues which this bill so summarily treats.

At the very least, we ought to await the conclusions—due in November of this year—of the very body we have created to "make a full and complete review and study of the statutory and case law of the United States which constitutes the federal system of criminal justice for the purpose of formulating and recommending to the Congress legislation which would improve the federal system of criminal justice." Instead, without any hearings whatsoever, the committee has dropped this title—which bears no relationship to organized crime—into the Organized Crime Control Act.

Laws born of passion of the moment rarely merit the approval of time.

CONCLUSION

Never has a bill masqueraded under false pretense more than the Organized Crime Control Act. From its title all the way through title XI, on bombing, it promises succor to an anxious nation. It will not deliver, because it seeks easy answers to hard and expensive problems. Even in its draftsmanship it would rather equivocate than fight. Thus one searches the bill in vain for a definition of "organized crime." In a criminal statue where the term "organized crime" is an operative device, it is not defined. When asked about the omission, the drafters explained that it was impossible to define, but everybody knew what it was.

On such shoals has the crime fight come a cropper. Wherever the real effort is to be made to remove crime, organized and otherwise, from the everyday fears of the American citizen, one will not find it in the Organized Crime Control Act. Like the defining of "organized crime," the drafters of the bill found the task too hard.

We oppose this bill. It should not be enacted into law. We must conclude with Mr. Justice Stewart, writing in *Elkins* v. *United States*, 364 U.S. 206 (1960), that "nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence."

JOHN CONYERS, Jr.
ABNER J. MIKVA,
WILLIAM F. RYAN.

AMERICA'S DIMINISHING SEAPOWER

(Mr. DON H. CLAUSEN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DON H. CLAUSEN. Mr. Speaker, with international attention presently focused on the Middle East crises and with increasing reliance being directed toward the U.S. 6th Fleet to protect American lives in that part of the world, I believe we, in the Congress, should face up to some very hard facts regarding our relative position as a seapower today.

In September 28, the chairman of the House Armed Services Committee revealed to us and to the American people a quotation from a secret report prepared by the Comptroller General's Office for the President and the Congress on the combat readiness of the Navy's Atlantic Fleet and the 6th Fleet which has responsibility for the Mediterranean area. I believe one of the key quotations from that report, made public by the chairman in his special order last week, bears repeating:

> Approximately 80% of the major ships in the Atlantic Fleet are over ten years old, and 50% are over 20 years. In April 1969, the average age of the ships of the Sixth Fleet was 18.3 years.

The sum total of the General Accounting Office's report on the readiness of the Atlantic and 6th Fleets may be found, I believe, in their use of the term "at best, marginal." This being the case, then, who can honestly disagree with the chairman when he says:

> If we are not already a second-rate naval power, we are perilously close to becoming so.

In fact, Mr. Speaker, I will go one step further by suggesting that we, in the Congress, better wake up to the fact that we have, indeed, become a second-rate naval power.

Throughout history, the United States has viewed the Atlantic and Pacific Oceans as defense buffers from foreign attack. That time, however, has long since passed and is now being compounded by the fact that our ability to even respond to a serious naval con-

XUM

frontation at sea is being eroded with each passing month and year.

We, from California, are particularly concerned with the Soviet Union naval merchant marine and fishing fleet buildup in recent years. It is for this reason that I take this means of speaking out for the people I represent and the employees at Mare Island Naval Shipyard concerned about their future.

I should point out here that I have supported reductions in the Defense budget where possible and I can understand and appreciate the fact that the United States has held back development and deployment of weapons to give the Salt talks every chance to succeed. Our Nation has not escalated the arms race—in fact, it has deliberately held back over the past few years in an effort to negotiate an agreement to limit nuclear weapons.

The essential issue, as I see it, is not whether we, as a nation, should give defense spending any priority over domestic spending—but how much is required to survive as a nation in a hostile world and where precisely the defense dollars should be spent? In the final analysis, national survival will depend on whether or not we are successful in avoiding or preventing a nuclear war. If we fail to do that, we will surely lose everything.

With our shores touching on the world's two largest oceans, most people in this country recognize the importance of the United States once again becoming a strong maritime nation. I have long advocated such a move and I believe we have made progress during the past 2 years in that direction, but with a long, long road still ahead of us. What disturbs me, very frankly, is the apparent so-what attitude when it comes to matching a rebuilt merchant fleet with an equally modern and potent Navy.

We who live on the north coast of California are well aware of the advances made in recent years by both the Soviet merchant and fishing fleets, and by their naval forces. Their frequent and continuing intrusions into our 12-mile fishing zone using advanced electronic detection and counting devices, have left no doubt in our minds as to their intent or capabilities.

By the same token, our idle shipyards in California remind us that there are no visible signs of real concern or alarm over the fantastic headway being made by the Soviet Union to modernize their entire naval forces. The specially trained and highly skilled workers at these yards, such as those at Mare Island, live in doubt about their future livelihood.

During the so-called Cuban missile crisis of 1962, President Kennedy issued a strong ultimatum to the Soviet Union to immediately remove their offensive nuclear weapons capability from Cuba, or they would, if necessary, be forcibly removed by the U.S. Navy. Today, a similar crisis is developing in the Caribbean with continuing reports of a possible Soviet nuclear naval base to be activated in Cuba.

Should this crisis develop into another confrontation with the Soviet Union in violation of the principle of the Monroe doctrine, I seriously question whether or not our President could repeat the ultimatum of 1962 from the same position of strength, make it stick as it did then, because of the Soviet naval buildup and the U.S. naval decline that took place during the 1960's.

We are all eye witnesses to a new crisis in the making. If not in the Caribbean or the Mediterranean, then somewhere else—but, surely it is coming.

Much has changed since 1962 when we had the power and the entire world knew it. In fact, it was just shortly following the Cuban missile crisis, that former Defense Secretary McNamara adopted the policy of halting U.S. weapons development, letting the Soviets catch up, believing they would stop when they reached parity. But, they did not stop and we got behind and that is precisely where we stand today—behind. This situation developed, in spite of our continuing and strong warnings.

We can reclaim America's naval seapower without a crash spending program or even an increase in the present defense budget, if the Congress acts. It is not a question of spending more, but spending wisely once the decision is reached to move in the direction of rebuilding our outmoded Navy. Secretary Laird is presently reviewing our foreign base and troop commitments with an eye to cutting their costs and, in accordance with President Nixon's policy, to call on other nations for greater efforts in providing the needed manpower and financing for their own security and defense.

Herein, in my judgment, lies the key. The only question remaining—is whether or not the American people are sufficiently informed and concerned to demand that the Congress act immediately to bridge the gap before it is too late.

ROGERS OF FLORIDA INTRODUCES MEDICAL DEVICE SAFETY ACT OF 1970

(Mr. ROGERS of Florida asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROGERS of Florida. Mr. Speaker, the rapidly advancing medical technology in the area of medical devices has brought 5,000 such devices to the consumer. The time for legislative action to insure the public that medical devices will be safe, reliable, and effective is overdue.

I am today introducing a bill adopting a new approach to the regulation and development of medical devices. Several distinguished colleagues of the Interstate and Foreign Commerce Committee are cosponsoring the bill with me. I am very pleased to have Mr. JARMAN, Mr. KYROS, Mr. PREYER of North Carolina, Mr. NELSEN, Mr. CARTER, Mr. SKUBITZ, Mr. HASTINGS, and Mr. BROWN of Ohio joining me on this important bill.

During the last few years several bills have been introduced in the Congress to regulate medical devices. They have either been criticized for establishing a multitude of commissions and advisory groups which would make extensive studies and reports only to have them probably fall along the wayside; or legislation has been criticized for permitting commissions to legislate specific standards for medical devices when they are not really qualified to do so.

The bill I am introducing, the Medical Device Safety Act of 1970, offers a chance for devices to first be studied by qualified experts to determine the necessity for regulation to avoid hasty unjustifiable and unwarranted actions. There would be a 1-year study and inventory of all medical devices to be accomplished by the National Academy of Sciences, the National Academy of Engineering, and other experts in the various fields of medical devices. These groups would categorize medical devices according to their necessity for regulation into three categories.

The first category would consist of devices which are generally accepted by the medical community as safe, reliable, and effective during their present stage of development and which should, therefore, be exempt from regulation at the present time.

The second category would consist of devices which are generally accepted by the medical community as safe, reliable, and effective but which need reasonable standards relating to their composition, design, properties, performance, and adeqate instructions for use and warnings of limitations in order to assure safety, reliability, and effectiveness.

The third category would consist of devices which are either not generally accepted by the medical community as safe, reliable, and effective, or which are generally accepted, but which are undergoing continual transformation through the development of new technology. Such devices would require a premarket clearance. Manufacturers would apply to the Secretary of Health, Education, and Welfare, submitting all relevant information about their proposed devices. The Secretary would then send applications to scientific panels either within or outside the Department for their recommendations on the merits of the applications. Much of the work would be done through contract in order to avoid establishing a new "superdevice bureaucracy" within the Food and Drug Administration.

I might note the fact that no particular types of devices have been specified to be placed in the standards category. This process will be the job of the scientific experts charged with the task of categorization of all devices. However, the bill specifically spells out the fact that standards will include those relating to the compatibility of medical devices with their power sources. On occasion, an expensive, complicated medical device has malfunctioned as a result of a defective cord or plug. It is obvious that some basic standards for electrical connections, cords, and plugs might be most appropriate as the first order of business in order to protect the consumer patients or doctors, who spend thousands of dollars for such devices.

The promulgation of standards by the

XUM

Secretary is carried out in a matter which will insure that the scientific community, industry, the practitioner, and the consumer all have an input.

The main thrust of the bill is to, first, give the public safe, reliable, and effective medical devices; and, second, to give the developers of medical devices ample opportunity to produce innovative devices for improved health care and treatment for the people.

One striking provision of the bill designed to protect the public is the authority given to the Secretary to publish interim standards for any device that he finds on the market to be an "imminent risk" to the consumer. This authority is vitally needed to protect the people from dangerous devices which sometimes slip into the market.

If an application of a manufacturer is not approved by the Secretary under the initial preclearance procedure, the manufacturer could appeal for reconsideration of the application by another panel of experts appointed by the Secretary. The Secretary could either allow his order of disapproval to stand, or he could set aside or modify his order.

At any rate, the Secretary would be required to give a written notice to the applicant of the basis and reasons for the disapproval of any application after any stage of appeal. In addition, if the applicant again received an order of disapproval of his application, he would have another alternative for appeal. He could then petition the courts for their consideration of the matter.

I might also add that the Secretary would have the authority to shift medical devices from one category to another if technological developments change the nature of certain devices. A device which might not be generally accepted by the medical community, thus requiring premarket clearance at the present time, might be developed to the point in the future where it may be accepted by all doctors as safe and effective, and therefore should be exempt from regulation.

The bill contains a provision that manufacturers and other individuals distributing devices are required to notify the purchaser of any defects discovered subsequent to distribution.

Finally, the bill establishes the National Advisory Council on Medical Devices, which will consist of scientists, doctors, engineers, and consumers appointed for 4-year terms to study and make recommendations on medical device policy and law to the President and Congress and to evaluate the achievements of the program on an annual basis.

The bill is designed to encourage the continuation of the development and research of medical devices but at the same time provide the public with protection from device hazards. Toward this end, devices used for research and investigational use are exempted from standards and premarketing clearance. If a device is to be used in an investigative capacity on humans within one institution, and is not generally distributed through commerce to hospitals across the country, the bill provides that devices used in such situations, when cleared by approved scientific peer groups within the institution where it will be used, can be exempted from the regulations, standards, and premarketing procedures established by the Secretary for the normal noninvestigative situation.

I believe that the Medical Device Safety Act of 1970 will be welcomed by the scientific community, the medical professions, the consumer, and industry as a reasonable, yet effective approach to the problem of insuring that the public will be protected from the hazards of medical devices, and I am hopeful that the Subcommittee on Health will be able to hold hearings at an early date.

THE NEW YORK TIMES: ALL THE NEWS FIT TO TINT

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, from time to time over the past 10 years I have brought to the attention of the membership some of the more obvious efforts of the New York Times to indoctrinate through its regular news columns. We all agree that it has every right to be as liberal as it wants in its editorial policy—and it is—but its news columns should be something else. I point out a few of these leftward tilts on occasion because of the almost universal brainwashing on the American campus in which professors hold the New York Times up to the students as an "objective" newspaper and "must" reading. It is not objective and has not been for as long as I can remember—as its own columns attest.

Just last week in a front-page story, Alden Whitman, Times reporter, put the usual leftist dig in, of all things, what should have been a rather straight story on the death of a man whom I was proud to count as a personal friend, novelist John Dos Passos. In recounting his life story, Whitman let his left-leaning pencil carry him away when referring to the evolution of the late John Dos Passos from a leftist rebel in his youth to a patriotic, conservative American spokesman in his later years.

Whitman noted this turn and in his own words—not those of Mr. dos Passos or anyone else, but his own words—in what was supposed to be a straight news story—front page, at that—he said and I quote:

> But in middle and old age, he turned against his former idealism, berating, liberals, Socialists and Communists with zeal.

Note that well. When he yearned to sing the Communist "International" in his youth, John dos Passos was an idealist but when he turned against the Reds he was no longer an idealist. No longer in the style of the New York Times possibly but in the minds and hearts of most Americans he became a true idealist, in the proper sense of the word when he became pro-American.

This new idealism was evidently too much for Alden Whitman who went on to lament:

> The one-time writer for the New Masses became a contributor to the National Review; the friend of Ernest Hemingway became that of William F. Buckley; and the supporter of William Z. Foster turned into the backer of Barry Goldwater.

Horrors to the New York Times. How could any rational, intelligent person turn his back on the idealism of his youth and take up with such a cabal as that? Once more, Mr. Speaker, the New York Times has let its leftist bias show.

This is not an uncommon occurrence, Mr. Speaker. It is a part of the daily diet that the New York Times feeds to the hungry liberals on campus who genuflect at its every subtle nuance, particularly when the conservatives are served to the lions. Never a protest from these do-gooders but the "right on" shout of the militant. The fact that I only point out these examples of "all the news fit to tint" several times each session should not be construed as evidence that this only happens on rare occasions in the Times. Rather, as I have said, it is a daily occurrence.

In September, for example, the Times let its bias show in a most blatant way. Again, it was in an obituary, this time on the infamous spy, Noel Field. New Yorkers were treated to a good example of the honesty of its two major papers by comparing the headlines of New York's two daily newspapers on September 14, 1970. Note the disparity:

"Spy Noel Field Dies at Age 67"—Daily News.

"Noel Field, Self-Exiled Former U.S. Aide, Is Dead"—New York Times.

As I have been saying all along—all the news fit to tint.

NDEA LOAN CANCELLATION BENEFITS EXTENDED TO NEW YORK HEADSTART TEACHERS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous material.)

Mr. KOCH. Mr. Speaker, I was informed today by the Office of Education that cancellation benefits under the national defense student loan program are being extended to teachers in prekindergarten programs in New York State's public schools. The Department has been working on this matter for a couple of months; I first raised this subject in this body on March 12, 1970.

The National Defense Education Act provides that partial cancellation shall be provided "for service as a full-time teacher in a public or other nonprofit elementary or secondary school in a State." The participant can cancel 10 percent of his loan for each year of teaching up to 50 percent; and since 1966 persons teaching in schools designated by the Commissioner as having a high concentration of students from low-income families are allowed up to 100 percent cancellation at a rate of 15 percent a year. A 12½ percent rate of cancellation per year up to 50 percent has been allowed persons in the Armed Forces since January 1970.

While prekindergarten classes have been included in many of New York State's elementary school programs for the past 3 years, teachers conducting these classes—although certified by the

XUM

State as elementary teachers—have been denied cancellation benefits.

This inequity has in great part been due to the fact that Headstart and much of the knowledge on the value of prekindergarten training was not with us in 1958 when the NDEA program was originally enacted. It is clear today that we need to attract quality teachers to instruct children during this most receptive stage of their lives.

The Department's new decision will mean considerable savings for many prekindergarten teachers. Under the NDEA program, a student can borrow up to $5,000 as an undergraduate, plus $2,500 a year for graduate studies; a ceiling of $10,000 is placed on the amount any one student can borrow under the program.

It should be noted that these new cancellation benefits are retroactive to the time a given prekindergarten class was included as part of the elementary school system. Benefits will also be extended to teachers in private prekindergarten programs meeting the same educational State requirements as those in public schools.

The Office of Education is now contacting the departments of education of all other States, requesting that they submit information concerning the definition of the term "elementary education" in their States as it appeals to section 103(g) of the National Defense Education Act.

Mr. Speaker, I would urge my colleagues to immediately take up this matter with their States' education departments so that the prekindergarten teachers of their States can also benefit under this program.

I would like to insert in the RECORD at this time the letter I received today from James W. Moore, Director of the Division of Student Financial Aid, of the Office of Education outlining the Department's decision. May I add that Mr. Moore and his office are to be commended for taking this step to update the administration of this program.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION,
Washington, D.C., October 1, 1970.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: Thank you for your letter of August 24, concerning the eligibility of New York pre-kindergarten teachers for partial cancellation of National Defense Student Loans.

I am pleased to be able to report at last that this issue has been resolved. As I mentioned in my letter of May 6, we were contacting the State Education Department in Albany to obtain additional information concerning the status of pre-kindergarten programs in New York. In response to our request Commissioner Nyquist forwarded a packet of descriptive material which was reviewed by the staff of the Loans Branch and also submitted to our Office of General Counsel for an opinion. It was the judgment of our legal counsel (concurred in by the Loans Branch) that this supporting data was sufficient to justify considering pre-kindergarten classes in the New York school system as elementary education for cancellation purposes. Commissioner Nyquist has been notified of this determination. Additionally, the following actions are being taken by the Loans Branch:

1. Each Chief State School Officer is being asked to submit information concerning the definition of the term "elementary education" in his state as it applies to Section 103(g) of the National Defense Education Act.

2. Several months ago the colleges and universities participating in the National Defense Student Loan Program were notified that the definition of "elementary education" as it relates to pre-kindergarten programs was under study. All participating institutions are being informed of the determinations which have been made with regard to New York (and Pennsylvania where this issue has also been raised and a response received from the Department of Public Instruction in Harrisburg).

3. Data concerning the definition of "elementary education" in other states will be disseminated to participating institutions after the necessary information has been received by the loans Branch and, if necessary, referred to our legal counsel for an opinion.

I should mention also that this cancellation benefit for pre-kindergarten teachers in New York is retroactive to the time a given pre-kindergarten class was included as part of the elementary school system. (If a pre-kindergarten program is not part of the public school system, it will have to meet the same state requirements as those in the public school to be considered as "providing elementary education as determined under state law.")

I am sure you will join with me in expressing satisfaction at the resolution of this problem. Thank you for your continued interest in the National Defense Student Loan Program.

Sincerely yours,
JAMES W. MOORE,
Director, Division of Student Financial Aid.

CONFERENCE REPORT ON H.R. 15424

Pursuant to an order of the House on Thursday, October 1, 1970, the conference report on the bill (H.R. 15424) to amend the Merchant Marine Act, 1936, is herewith printed, as follows:

[Submitted by Mr. GARMATZ]

CONFERENCE REPORT (H. REPT. No. 91-1555)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15424) to amend the Merchant Marine Act, 1936, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 12, 13, 14, 15, 16, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, and 97.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28, 29, 30, 32, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, and 96, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the Senate numbered 1, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "is amended by striking out the period at the end thereof and inserting a colon and the following: '*Provided, however,* That the Congress hereby finds and declares that the national policy set forth in section 101 of this Act requires that there should be authorized and appropriated for fiscal years 1971 through 1980 such sums as may be necessary to construct 300 ships of such sizes, types and designs as the Secretary of Commerce may consider best suited to carry out the purposes and policy of this Act.' "

And the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with amendments as follows: Strike out the matter proposed to be stricken out by the Senate amendment, and on page 12 of the House engrossed bill, after line 2 insert the following:

"(d) By inserting immediately before the period at the end of the second sentence the following: '; *Provided, however,* that with respect to other than major components of the hull, superstructure, and any material used in the construction thereof, (1) if the Secretary of Commerce determines that the requirements of this sentence will unreasonably delay completion of any vessel beyond its contract delivery date, and (2) if such determination includes or is accompanied by a concise explanation of the basis therefor, then the Secretary of Commerce may waive such requirements to the extent necessary to prevent such delay.' "

And the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment as follows: On page 4, line 5, of the Senate engrossed amendments strike out "(d)" and insert the following: (e); and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment as follows: On page 5, line 21, of the Senate engrossed amendments, strike out "crews"." and insert the following: "crews,". ; and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment as follows: On page 6, line 5, of the Senate engrossed amendments, insert a comma immediately after "maintenance"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with amendments as follows: Strike out the matter proposed to be stricken out by the Senate amendment, and on page 23 of the House engrossed bill, on line 15 insert immediately before "(a)" the following: Sec. 607; and the Senate agree to the same.

Amendment numbered 57: That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with amendments as follows: Restore the matter proposed to be stricken out by the Senate amendment, and omit the matter proposed to be inserted by the Senate amendment.

On page 38 of the House engrossed bill, on line 18 insert immediately before the period the following: "or comparable towing vessel or barge operated on the Great Lakes."

And the Senate agree to the same.

Amendment numbered 84: That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with amendments as follows: Restore the matter proposed to be stricken out by the Senate amendment, and on page 46, line 16, of the House engrossed bill, strike out "35" and insert the following: "41".

And the Senate agree to the same.

Amendment numbered 98: That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment as follows: On page 18, line 21, of the Senate engrossed

XUM

amendments, strike out "44" and insert the following: 43; and the Senate agree to the same.

Edward A. Garmatz,
Frank M. Clark,
Thomas N. Downing,
William S. Mailliard,
Thomas M. Pelly,
Managers on the Part of the House.
Warren G. Magnuson,
Russell B. Long,
John O. Pastore,
Norris Cotton,
Robert P. Griffin,
Managers on the Part of the Senate.

STATEMENT

The Managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15424), to amend the Merchant Marine Act, 1936, to provide for a long-range merchant shipbuilding program with special emphasis on the need to build and operate commercial bulk ocean carriers and modification of payment of operating-differential subsidy, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report.

The following Senate amendments made technical, clerical, clarifying, or conforming changes: 2, 3, 4, 5, 6, 7, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 64, 65, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 83, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, and 96. With respect to these amendments (1) the House either recedes or recedes with amendments which are technical, clerical, clarifying, or conforming in nature; or (2) the Senate recedes in order to conform to other action agreed upon by the committee of conference.

AUTHORIZATION FOR 300 SHIPS

Amendment No. 1. Section 2 of the House bill was intended to recognize the intent of the President and the Congress to build three hundred merchant vessels in the next ten years.

The Senate amendment also recognized this intention but made clear that the section was not intended to grant new obligational authority to the Secretary of Commerce. The Senate substituted a ten year authorization of appropriations for ship construction contrary to the intention of the House that the requirement for annual authorization of appropriations be continued. It was agreed, therefore, that the House and Senate versions should be consolidated to eliminate from the House version any indication that the Secretary of Commerce has new obligational authority and to eliminate from the Senate version the ten year authorization to appropriate funds for the construction of vessels.

The substitute language, therefore, restates the original policy intention to build three hundred ships in the next ten years. The House and Senate conferees agreed there is no intention to change existing law with respect to authorization of appropriations or the effect of the Anti-Deficiency Act (31 U.S.C. 665).

COMPUTATION—FOREIGN SHIPBUILDING COSTS

Amendments 8, 9, 10. The Senate amendment would require annual, rather than periodic, recomputation of foreign shipbuilding costs. Also, the amendments provide certain notice, comment and justification requirements concerning the determination of these foreign costs.

These changes will give the interested public a greater opportunity to participate in determinations that affect them.

The House recedes.

SHIPBUILDING COMMISSION

Amendments Nos. 12 and 84. The House bill created a Commission on American Shipbuilding to review the status of the American shipbuilding industry to determine if the industry can achieve a level of productivity by 1976 so that construction-differential subsidy payable will not exceed 35 percent of United States construction costs. The Commission, composed of seven members appointed by the President, would also recommend necessary steps by industry and government to improve the competitive position of the industry. Such Commission was proposed by the President in his message proposing a long-range shipbuilding program.

The Senate struck the provision creating a Commission and vested its functions in the Secretary of Commerce.

The Senate recedes.

BUY AMERICAN

Amendment No. 22. The Senate amendment would preserve the existing Buy American law in ship construction. The House bill would relax this requirement to permit the purchase of articles, materials and supplies from foreign sources, except with respect to the construction of major components of the hull and superstructure and any material used in the construction thereof, which must be of domestic origin.

At issue was the need to protect domestic sources of supply as against the need to relax Buy American protection to reduce the unit cost of ships built in U.S. shipyards. A compromise was agreed to that although Buy American would be the standard, the Secretary would have authority to waive the requirement with respect to certain items when the scheduled delivery date of the ship was threatened.

The House recedes with amendment.

PAYMENT OF OPERATING-DIFFERENTIAL SUBSIDY

Amendment No. 31. Existing law provides that operating subsidies "shall not exceed the excess of" parity with foreign operating costs. The bill as proposed by the Administration would have changed this language to provide that subsidy "shall equal" the difference between certain U.S. and foreign operating expenses. This change had the advantage of affording the operator greater certainty as to the level of subsidy and would have facilitated corporate planning and long-term financing. It was also consonant with the change to a new fixed index approach to collective bargaining costs which ultimately will afford operators greater incentives to reduce costs and make their operations more efficient. The House, however, decided to retain the "shall not exceed the excess of" language to retain flexibility in the administration of operating subsidy and in order not to indicate a Congressional position on the "Double Subsidy" proceeding, Docket S-244, now pending before the Maritime Subsidy Board.

The Senate amendment adopts the "shall equal" standard. This amendment, however, retains some of the flexibility favored by the House by providing for less than a full rate of subsidy upon agreement of the parties. By a related amendment to section 40, the Senate also met the House objective of making certain that this amendment is not interpreted as indicating a position in MARAD Docket S-244.

The House recedes.

GRANDFATHER CLAUSE

Amendment No. 63. The Senate amended the grandfather clause adopted by the House in one basic respect. The Senate limited the privilege to continue foreign-flag holdings to bulk cargo vessels rather than to all vessels. Liner vessels were specifically excluded from the grandfather privilege since newly subsidized U.S. operators who also operate foreign-flag liner vessels could have an unfair competitive advantage over exclusively U.S. liner operators in certain labor strike situations or in the ability of the dual-flag liner operator to adjust service and rates, depending on market conditions and the availability of preference cargoes.

The conferees are in agreement that the grandfather clause (which was added to the maritime bill by the House) is essential to induce U.S. shipping companies with foreign-flag vessels to build ships—at least bulk ships—in U.S. shipyards and operate those ships under the U.S. flag, with U.S. seamen. Further, the conferees intend that the Secretary will retain waiver authority affecting liner vessels in special circumstances. Since the Senate had a later opportunity to get the views of interested parties and consider the effect of this important and controversial provision, the House defers to the Senate in its amendment of the grandfather clause.

The House recedes.

CARGO PREFERENCE

Amendment No. 66. The Senate amendment authorizes the Secretary of Commerce to issue regulations under which agencies having responsibility to administer the cargo preference laws shall be governed. There was no corresponding provision in the House bill.

There is a clear need for a centralized control over the administration of preference cargoes. In the absence of such control, the various agencies charged with administration of cargo preference laws have adopted varying practices and policies, many of which are not American shipping oriented. Since these laws were designed by Congress to benefit American shipping, they should be administered to provide maximum benefits to the American Merchant Marine. Localizing responsibility in the Secretary of Commerce to issue standards to administer these cargo preference laws gives the best assurance that the objective of these laws will be realized.

The House recedes.

DEFINITION OF FOREIGN COMMERCE

Amendment No. 67. The Senate amendment would amend the definition of the term "foreign commerce" or "foreign trade" in section 905(a) of the Merchant Marine Act, 1936 to permit United States operators of dry and liquid bulk ships built with construction subsidy to engage in foreign-to-foreign carriage to the extent permitted by regulations issued by the Secretary of Commerce. There was no corresponding provision in the House version of this bill.

It was agreed that "foreign commerce" as presently defined was intended to apply to liner carriers operating from a point in the United States to a particular foreign destination. The term similarly applied to the operation of dry and liquid bulk cargo carriers would be unduly restrictive since such ships must move from area to area and sometimes from foreign to foreign destinations before returning to the United States in order to compete in the world trade. Since such foreign to foreign operations would be authorized only in accordance with regulations of the Secretary, it was considered that the interests of the United States were protected.

The Houses recedes.

AUTHORITY TO SETTLE CLAIMS

Amendment No. 82. There was contained in the House bill, a provision reading "Provided, That the Secretary of Commerce may, in order to facilitate the amendment of existing contracts, settle or compromise outstanding controversies under such contracts in such manner as he determines."

It was thought that such authority was necessary to facilitate the transition from the operating differential subsidy contracts in existence at the present time to new contracts authorized under the provisions of the present bill. The Senate amendment would delete this provision. This amend-

XUM

ment was based on advice of the Comptroller General that existing law in section 207 of the Act already confers this authority on the Secretary of Commerce.

The House recedes.

THE DELTA QUEEN

Amendment No. 97. The Senate amendment exempted the overnight passenger riverboat, *Delta Queen*, operating on inland rivers, from having to comply with certain fire prevention construction standards. There was no corresponding provision in the House-passed bill.

The House conferees were aware of the considerable public sentiment favoring the continued operation of this unique and tradition-laden river boat. But they were more persuaded by the views of the United States Coast Guard which is charged with responsibility for maritime safety. The Coast Guard advised that the *Delta Queen*, constructed largely of wood, did not meet applicable safety standards for the protection of passengers (many of whom on this boat typically were aged or infirm), and should not be operated further in overnight service in the interest of maritime safety.

It was determined, therefore, that the *Delta Queen* should not be exempted from applicable safety standards.

The House and Senate conferees expressed regret, however, that the *Delta Queen* could not continue to operate as the last large overnight passenger riverboat in the United States, and favored replacing that boat with one that will meet current safety standards. All conferees indicated, therefore, they would do what they could, through early and expedited hearings, to facilitate the replacement of the overnight service currently provided by the *Delta Queen*. In whatever aid might be provided in new legislation to assist in the building of a replacement riverboat, the conferees preferred that the boat be built in a shipyard of the United States with the aid of construction subsidy.

The Senate recedes.

SAINT LAWRENCE SEAWAY

Amendment No. 98. This Senate amendment of the maritime bill concerning the Saint Lawrence Seaway was made on the floor of the Senate. It is intended to amend the Act creating the Saint Lawrence Seaway Development Corporation to terminate the accrual and payment of interest on the obligations of the Corporation. The Senate amendment would amend the Seaway Act to delete provisions therein respecting the payment of interest on the Seaway debt and would add a new section to the Seaway Act providing that as of the date of enactment of that section the obligations of the Corporation shall bear no interest and that the obligation of the Corporation to pay the unpaid interest which has accrued on such obligations is terminated.

Further, the Senate amendment to H.R. 15424 would amend the Seaway Act to provide that any formula for the division of the revenues between the Seaway Corporation and the Saint Lawrence Seaway Authority of Canada which takes into consideration annual debt charges, shall include the total cost incurred by the United States in financing activities authorized by the Seaway Act, including both interest and debt principal, regardless of whether the Corporation itself is obligated to make payments thereon to the United States Treasury.

The action of the Senate on the Saint Lawrence Seaway amendment followed an executive communication on September 14, 1970 from the Secretary of Transportation to the President of the Senate recommending legislation to cancel the payment of interest on the obligations of the Seaway Corporation. The Secretary of Transportation had advised that some of the assumptions upon which the original Seaway debt payment plan was established were not warranted. Although the Seaway Corporation has paid all its normal operating and maintenance costs from revenues and has already paid to the United States Treasury more than $36 million, revenues were found not to be adequate to meet the interest on debt. The overall debt (including unpaid interest) now stands at nearly $156 million. The Department of Transportation concluded that a substantial revision in the debt payment plan for the Seaway was necessary. This view was based largely on the unacceptable alternative of an increase in the present tolls on the Seaway which would be required if the payment of interest on debt obligations were not forgiven.

The House recedes.

Edward A. Garmatz,
Frank M. Clark,
Thomas N. Downing,
William S. Mailliard,
Thomas M. Pelly,
Managers on the Part of the House.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. Morse (at the request of Mr. Gerald R. Ford), through October 13, on account of official business.

To Mr. Blanton (at the request of Mr. Jones of Tennessee), for today, on account of official business.

To Mr. Hall, tor October 5, 1970, on account of business in Seventh Congressional District of Missouri.

To Mr. Lowenstein (at the request of Mr. Ryan), for today, on account of official business.

To Mr. Byrne of Pennsylvania (at the request of Mr. Rosenthal), for Monday, October 5, 1970, on account of illness.

To Mr. Pettis (at the request of Mr. Gerald R. Ford), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Ashbrook, for 20 minutes, today; to revise and extend his remarks and to include extraneous matter.

Mr. Hosmer (at the request of Mr. Rousselot), for 5 minutes, today; to revise and extend his remarks and include therein extraneous matter.

Mr. Rarick (at the request of Mr. Mikva), for 30 minutes, today, and to revise and extend his remarks and include extraneous matter.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Rivers, during the consideration of H.R. 15216, the Boy Scout International Jamboree bill.

Mr. O'Neill of Massachusetts on H.R. 12650 during the call of the Consent Calendar.

Mr. Arends (at the request of Mr. Rivers) on H.R. 15216.

Mr. Flynt in two instances and to include extraneous matter.

Mr. Edmondson in two instances and to include extraneous matter.

(The following Members (at the request of Mr. Rousselot) and to include extraneous matter:)

Mr. Gubser.
Mr. Scherle in 10 instances.
Mr. Steiger of Wisconsin.
Mr. McKneally.
Mr. Minshall in three instances.
Mr. Bush in two instances.
Mr. Myers.
Mr. Mize.
Mr. Goodling.
Mr. Hosmer in two instances.
Mr. Broyhill of Virginia.
Mr. Zwach.
Mr. Michel.
Mr. Whitehurst.
Mr. Wyman in two instances.
Mr. Carter.
Mr. Erlenborn.
Mr. Pollock in five instances.
Mr. Riegle.
Mr. Findley.
Mr. Langen.
Mr. Ashbrook in two instances.
Mr. Bray in two instances.
Mr. Price of Texas in two instances.
Mr. Nelsen.

(The following Members (at the request of Mr. Mikva) and to include extraneous matter:)

Mr. Bolling.
Mr. Fisher in six instances.
Mr. Rodino in two instances.
Mr. Rarick in three instances.
Mr. Hungate in three instances.
Mr. Culver.
Mr. Ryan in four instances.
Mr. Eilberg.
Mr. Pepper.
Mr. Vanik in two instances.
Mr. Moorhead in two instances.
Mr. Nix.
Mr. O'Hara in two instances.
Mr. Edwards of California in two instances.
Mr. Minish.
Mr. Fraser in two instances.
Mr. Roybal in six instances.
Mr. Giaimo in 10 instances.
Mr. Donohue in two instances.
Mr. Hathaway in two instances.
Mr. Carey.
Mr. Bingham in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 28.67. An act to amend section 202(a) of the Federal Property and Administrative Services Act of 1949 to remove a preference accorded to the District of Columbia over State governments in the disposition of excess real property; to the Committee on Government Operations.

S. 3070. An act to encourage the development of novel varieties of sexually reproduced plants and to make them available to the public, providing protection available to those who breed, develop, or discover them, and thereby promoting progress in agriculture in the public interest; to the Committee on Agriculture.

ENROLLED BILLS SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4599. An act to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments;

H.R. 12943. An act to amend section 3 of the act of November 2, 1966, to extend for 3 years the authority to make appropriations to carry out such act;

H.R. 17123. An act to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize real estate acquisition and construction at certain installations in connection with the Safeguard anti-ballistic missile system, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes; and

H.R. 18104. An act to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1933. An act to provide for Federal railroad safety, hazardous materials control and for other purposes; and

S. 2264. An act to amend the Public Health Service Act to provide authorization for grants for communicable disease control and vaccination assistance.

BILL AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on October 2, 1970, present to the President, for his approval, a bill and joint resolutions of the House of the following titles:

H.R. 14485. An act to amend sections 501 and 504 of title 18, United States Code, so as to strengthen the law relating to the counterfeiting of postage meter stamps or other improper uses of the metered mail system;

H.J. Res. 236. A joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the week of August 1 through August 7, 1971, as "National Clown Week"; and

H.J. Res. 1154. A joint resolution authorizing the President to proclaim National Volunteer Firemen's Week from October 24, 1970, to October 31, 1970.

ADJOURNMENT

Mr. MIKVA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Tuesday, October 6, 1970, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2418. A letter from the Comptroller General of the United States, transmitting a report of a purchase commitment made to an international organization prior to the availability of funds, Department of Defense; to the Committee on Government Operations.

2419. A letter from the Deputy Secretary of Defense, transmitting a report of disbursements made during fiscal year 1970 against the appropriation for "Contingencies, Defense," pursuant to Public Law 91-171; to the Committee on Appropriations.

2420. A letter from the Commissioner of the District of Columbia, transmitting a draft of proposed legislation to designate the legal public holidays to be observed in the District of Columbia; to the Committee on the District of Columbia.

2421. A letter from the Secretary of the Interior, transmitting the annual report of the U.S. Government Comptroller for the Virgin Islands for fiscal year 1969, pursuant to Public Law 90-496; to the Committee on Interior and Insular Affairs.

2422. A letter from the Chairman, Federal Power Commission, transmitting a draft of proposed legislation to secure electric power supplies adequate to the demands of the Nation compatible with environmental quality; to the Committee on Interstate and Foreign Commerce.

2423. A letter from the Attorney General, transmitting a draft of proposed legislation to amend the Revised Organic Act of the Virgin Islands; to the Committee on the Judiciary.

2424. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

2425. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercized in behalf of certain aliens, together with a list of the persons involved, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

2426. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of orders suspending deportation, together with a list of the persons involved, pursuant to section 244(a)(1) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

RECEIVED FROM THE COMPTROLLER GENERAL

2427. A letter from the Comptroller General of the United States, transmitting a report on the opportunity to improve allocation of program funds to better meet the national housing goal, Department of Housing and Urban Development; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on Oct. 1, 1970, the following report was filed on Oct. 2, 1970]

Mr. FALLON: Committee on Public Works. H.R. 19504. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes (Rept. No. 91-1554). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on Oct. 1, 1970, the following conference report was filed on Oct. 2, 1970]

Mr. GARMATZ: Committee of conference. Conference report on H.R. 15424 (Rept. No. 91-1555). Ordered to be printed.

[Submitted Oct. 5, 1970]

Mr. PATMAN: Committee on Banking and Currency. H.R. 19436. A bill to provide for the establishment of a national urban growth policy, to encourage and support the proper growth and development of our States, metropolitan areas, cities, counties, and towns with emphasis upon new community and inner city development, to extend and amend laws relating to housing and urban development, and for other purposes; with amendments (Rept. No. 91-1556). Referred to the Committee of the White House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 19519. A bill to assure an opportunity for employment to every American seeking work and to make available the education and training needed by any person to qualify for employment consistent with his highest potential and capability, and for other purposes; with amendments (Rept. No. 91-1557). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia:

H.R. 19561. A bill to authorize the Administrator of General Services to contract for the construction of certain parking facilities on federally owned property; to the Committee on Public Works.

By Mr. FULTON of Tennessee:

H.R. 19562. A bill to amend the Internal Revenue Code of 1954 in relation to corporate reorganizations; to the Committee on Ways and Means.

By Mr. HELSTOSKI:

H.R. 19563. A bill to prohibit flight in interstate or foreign commerce to avoid prosecution for the killing or wounding of a policeman or fireman; to the Committee on the Judiciary.

By Mr. MIKVA (for himself and Mr. KOCH):

H.R. 19564. A bill; National Public Employee Relations Act; to the Committee on Education and Labor.

By Mr. MIKVA (for himself and Mr. MCCLOSKEY):

H.R. 19565. A bill to carry out the recommendations of the Presidential task force on women's rights and responsibilities, and for other purposes; to the Committee on the Judiciary.

By Mr. MILLS (for himself and Mr. BYRNES of Wisconsin):

H.R. 19566. A bill to amend the Renegotiation Act of 1951, and for other purposes; to the Committee on Ways and Means.

H.R. 19567. A bill to continue until the close of September 30, 1973, the International Coffee Agreement Act of 1968; to the Committee on Ways and Means.

By Mr. MOLLOHAN:

H.R. 19568. A bill to amend title II of the Social Security Act to provide in certain cases for an exchange of credits between the old-age, survivors, and disability insurance system and the civil service retirement system so as to enable individuals who have some coverage under both systems to obtain maximum benefits based on their combined service; to the Committee on Ways and Means.

By Mr. PELLY:

H.R. 19569. A bill to authorize the National Science Foundation to conduct research and educational programs to prepare the country for conversion from defense to civilian, socially oriented research and development ac-

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tivities, and for other purposes; to the Committee on Science and Astronautics.

By Mr. PEPPER:

H.R. 19570. A bill to amend the Library Services and Construction Act, and for other purposes; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. Anderson of Tennessee, Mr. Matsunaga, Mr. O'Neill of Massachusetts, and Mr. Sisk):

H.R. 19571. A bill to promote the public welfare; to the Committee on Rules.

By Mr. ROGERS of Florida:

H.R. 19572. A bill to amend the Public Health Service Act to prohibit the discharge of elemental mercury and its compounds into any waters of the United States which directly affect the public health; to the Committee on Interstate ond Foreign Commerce.

By Mr. SHIPLEY:

H.R. 19573. A bill to amend section 9 of the Postal Reorganization Act to grant the retroactive pay increases provided for postal employees by such section to persons on the rolls at any time in the period beginning June 30, 1970, and ending immediately before the date of enactment of such act but who left the service before such date of enactment; to the Committee on Post Office and Civil Service.

By Mr. BOLAND (for himself and Mr. Conte):

H.R. 19574. A bill to authorize the establishment of the Springfield Armory National Historic Site, Massachusetts, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GRAY:

H.R. 19575. A bill; National Public Employee Relations Act; to the Committee on Education and Labor.

By Mr. LENNON (for himself, Mr. Mosher, Mr. Garmatz, Mr. Mailliard, Mr. Pelly, Mr. Ashley, Mr. Keith, Mr. Downing, Mr. Dellenback, Mr. Rogers of Florida, Mr. Pollock, Mr. Ruppe, Mr. Goodling, Mr. Hathaway, Mr. McCloskey, Mr. Frey, Mr. Hanna, Mr. Leggett, and Mr. Jones of North Carolina):

H.R. 19576. A bill to establish the National Advisory Committee on the Oceans and Atmosphere; to the Committee on Merchant Marine and Fisheries.

By Mr. OLSEN:

H.R. 19577. A bill to make the provisions of the Vocational Education Act of 1963 applicable to individuals preparing to be volunteer firemen; to the Committee on Education and Labor.

By Mr. ROGERS of Florida (for himself, Mr. Jarman, Mr. Kyros, Mr. Preyer of North Carolina, Mr. Nelsen, Mr. Carter, Mr. Skubitz, Mr. Hastings, and Mr. Brown of Ohio):

H.R. 19578. A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety, reliability, and effectiveness of medical devices; to the Committee on Interstate and Foreign Commerce.

By Mr. SYMINGTON:

H.R. 19579. A bill to improve education in the United States; to the Committee on Education and Labor.

By Mr. TALCOTT (for himself and Mr. Sisk):

H.R. 19580. A bill to regulate and foster commerce among the States by providing a uniform system for the application of sales and use taxes to interstate commerce; to the Committee on the Judiciary.

By Mr. VANIK (for himself, Mr. Button, Mr. Fascell, Mr. Hechler of West Virginia, Mr. Podell, Mr. Price of Illinois, Mr. Scheuer, and Mr. Schwengel):

H.R. 19581. A bill to amend the Clean Air Act to provide for a more effective program to improve the quality of the Nation's air; to the Committee on Interstate and Foreign Commerce.

By Mr. FISH:

H.J. Res. 1389. Joint resolution authorizing the President to declare November 11 (also known as Veterans Day) as a National Day of Support of United States Prisoners of War in Southeast Asia; to the Committee on the Judiciary.

By Mr. PATMAN:

H.J. Res. 1390. Joint resolution to provide an additional temporary extension of the Federal Housing Administration's insurance authority; to the Committee on Banking and Currency.

By Mr. BROOMFIELD:

H. Con. Res. 766. Concurrent resolution regarding persecution of Jews in Russia; to the Committee on Foreign Affairs.

By Mr. BROWN of Michigan:

H. Con. Res. 767. Concurrent resolution expressing the sense of Congress with respect to an international Conference on the creation of an International Environmetal Agency; to the Committee on Foreign Affairs.

By Mr. PEPPER:

H. Res 1234. Resolution on dismissal of professional air traffic controllers by the Federal Aviation Administration; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. WILLIAMS introduced a bill (H.R. 19582) for the relief of Paulina Medrano Martinez, which was referred to the Committee on the Judiciary.

SENATE—*Monday, October 5, 1970*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. Russell).

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou, in whom we live and move and have our being, we thank Thee for Thy providential care which has brought us to this new day. We thank Thee for work and that it may be done in concert with men and women guided by high ideals and committed to the making of a better Nation.

Accept our dedication this day and grant that we may so follow the selfless ways of the Master that we may have a measure of His divine mind and heart and will.

In times of peril and uncertainty help us to lay hold of the eternal truth that underneath are the everlasting arms and Thou art our refuge and our strength.

And to Thee shall be the praise and the glory now and evermore. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, October 2, 1970, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR EAGLETON TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, pending the arrival of the distinguished Senator from New York (Mr. Javits), the distinguished Senator from Missouri (Mr. Eagleton) be recognized for not to exceed 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETING DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Parks and Recreation of the Department of the Interior be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

AMBASSADORS

The assistant legislative clerk proceeded to read sundry nominations of ambassadors.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

INTER-AMERICAN SOCIAL DEVELOPMENT INSTITUTE

The assistant legislative clerk proceeded to read sundry nominations in the Inter-American Social Development Institute.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President. I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the remarks by the distinguished Senator from New York (Mr. JAVITS) today, there be a period for the transaction of routine morning business with statements therein limited to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from Missouri (Mr. EAGLETON) is now recognized for not to exceed 15 minutes.

GOVERNMENT OF THE RICH, BY THE RICH, AND FOR THE RICH?

Mr. EAGLETON. Mr. President, over a century ago, a great Republican President questioned whether government of the people, by the people, for the people would perish from this earth. Abraham Lincoln had the courage and foresight to do what was right, and that government survived.

Over a hundred years later, another Republican President faces a decision which could, once again, bring that fundamental goal into question. For if, as is currently rumored, President Nixon vetoes the campaign spending bill which curbs excessive political spending on media, he will have taken a giant step toward insuring government of the rich, by the rich, for the rich.

Campaign financing has always been a problem. But with the advent of television and its enormous costs, that problem has become a threat to our form of government. The television blitz has become a new and expensive campaign phenomenon which threatens to exclude citizens of modest means from running for public office.

As Representative TORBERT H. MACDONALD, chairman of the House Interstate and Foreign Commerce Communications and Power Subcommittee, noted, campaign costs have increased 100 percent between 1952 and 1968, and by a whopping 50 percent between 1964 and 1968—and the growth is due almost entirely to media costs.

When private citizens need enormous sums to run for public office, they must either possess extreme wealth or know where the big money is found and how to bargain for it.

Apparently, Vice President AGNEW knows. In the Maryland gubernatorial race, the Vice President of the United States reportedly asked the Chairman of the Federal Maritime Commission, Mrs. Helen Bentley, to solicit contributions for his old friend, C. Stanley Blair. According to the September 22 edition of the Washington Post:

> Mrs. Bentley acknowledged to reporters over the week-end that she had called officials of about 10 shipping firms that her agency regulates to tell them Agnew "was personally interested in the election of C. Stanley Blair."

Is it acceptable in this country—dedicated to fair play and equality of opportunity—to force candidates of moderate means to depend on either extremely rich men or enormously wealthy companies? I think not. The implications of unlimited spending are grave.

Each of us must ask if an America, where more and more taxpayer money goes to build SST's and unneeded weapons, while less is allocated to education and our other pressing domestic needs is the America of the future?

Do we want an America where Government subsidizes the oil industry through oil import quotas and turns its regulatory back if large companies contribute as generously to political parties as to pollution?

Schoolteachers, concerned parents, and deprived children cannot buy elections, as can 46 of the wealthiest people in America, whose campaign contributions in 1968 came to $1.5 million—or as can officers of defense contracting firms who contributed $1.2 million.

Mr. President, this bill is not perfect. There is still much to be done. But, as Representative SPRINGER, the ranking Republican member of the Interstate and Foreign Commerce Committee, noted on August 11 of this year:

> All of the laws intended to curb political spending have seemed to accomplish little. Campaign spending has spiraled out of sight and the largest increase has been in radio and TV. This bill could do something about it. Our committee is not legally charged with a general overhaul of campaign practices. It has authority only with oversight and legislation dealing with communications. To this extent we have the most effective handle on the problem of mounting campaign costs and the overwhelming of a political opponent by drowning him in money.

Mr. President, this is not and should not be a partisan matter unless President Nixon chooses to make it one by vetoing the TV spending bill. Is it partisan to—

Allow the major networks to carry debates between presidential and vice-presidential candidates?

Require broadcast stations to provide candidates with time for the lowest fee charged commercial advertisers for the same time?

Limit TV and radio spending by candidates for President and Vice President, U.S. Senator and Representative, and Governor and Lieutenant Governor, to 7 cents per voter in the preceding election?

Include party primaries in the spending limitation as well as general elections?

Allow States to impose similar restrictions on spending for other States and local offices?

It affects Democrats and Republicans alike and goes a long way toward dealing with a major question, indeed a major challenge: How will we, this country, decide who governs?

It is, I believe, an important first step toward solving a national problem, which was eloquently stated by the distinguished Republican Senator from Kansas (Mr. PEARSON):

> We were all raised in the belief that any boy in America could eventually become President. Today, we know that belief, which used to be nearly true, is now a myth, unless the boy in question is extremely wealthy or has the support of well-heeled interest groups.
>
> Unfortunately, it has also become necessary to have or obtain the support of considerable wealth to successfully seek most important public offices ranging from county commissioner to U.S. Senator. This offends not only our sense of ethics but also threatens the basic premise upon which our representative democracy is founded: namely, equality of competition.

Mr. President, I ask unanimous consent that selected articles from the Washington Post, the St. Louis Post-Dispatch, and the Congressional Quarterly be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. SPONG). Without objection, it is so ordered.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 18, 1970]

AGNEW HITS WALL STREET FOR FUNDS

(By Philip Greer)

NEW YORK, Sept. 17.—Vice President Agnew made an unannounced visit to Wall Street today, addressing a luncheon of more than 60 financial executives in a search for campaign funds for Republican congressional candidates.

Surrounded by Secret Service agents, plainclothes detectives and city police, Agnew arrived at the Marine Terminal at LaGuardia Airport shortly before noon. From there he drove to the Bankers Club in the financial district, where the luncheon, arranged by the Republican National-Committee, was hosted by New York Stock Exchange chairman Bernard J. Lasker, a long-time friend of President Nixon.

There was no advance word of the vice president's appearance. Even some members of his own staff were apparently unaware of his plans, although one Wall Streeter who attended said he had been invited nearly a month ago.

Sources at the luncheon said Agnew reviewed his trip to Asia, reportedly saying American forces "are making great progress." He said, sources reported, that the Vietnamization plan is working in all parts of the country "except for one area near the demilitarized zone," where progress is slower.

Agnew reportedly asked for contributions to GOP war chests, but there was no solicitation at the luncheon. One source said Agnew told the group that "Bunny (Lasker) will be in touch with you later." He said he

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hoped the businessmen would help elect a Republican Congress which would give President Nixon money to support governments such as South Korea as American troops are withdrawn.

[From the St. Louis (Mo.) Post-Dispatch, Sept. 18, 1970]

Agnew, Bankers Meet in New York

New York, Sept. 18.—Vice President Spiro T. Agnew made an unannounced visit to New York yesterday and dined with Wall Street bankers and brokers before returning to Washington late in the day.

The Vice President checked in at the Waldorf Astoria and it was expected that he would spend the night there.

[From the Washington Post, Sept. 22, 1970]

No Probe Set On Maritime Chairman

(By John Hanrahan)

The Justice Department said yesterday that it is not investigating allegations that the Federal Maritime Commission chairman violated federal law by soliciting campaigning contributions from executives of the shipping industry she regulates.

"We have received no complaint," a Justice Department spokesman said. "We have nothing before us." He said that newspaper articles were not enough to cause an investigation to be initiated.

Allegations of violations of federal law were first made Saturday in Jack Anderson's syndicated column in The Washington Post. Anderson said Helen Delich Bentley, the commission chairman, "was asked by no less than Vice President Agnew to pass the hat in shipping circles for C. Stanley Blair. . . ."

Blair, a former aide to Agnew, is the Republican nominee for governor of Maryland against Democratic incumbent Gov. Marvin Mandel.

Mrs. Bentley acknowledged to reporters over the weekend that she had called officials of about 10 shipping firms that her agency regulates to tell them Agnew "was personally interested in the election of C. Stanley Blair."

The Anderson column and subsequent news reports prompted Lawrence F. O'Brien, the Democratic national chairman, to ask for a White House and Justice Department investigation.

O'Brien said the allegations, if true, violated the Federal Corrupt Practices Act. Anderson's column said that Mrs. Bentley's activity "would appear to violate federal laws which prohibit commissioners from soliciting or accepting favors from anyone in the industries they regulate."

$1.2 Million Given '68 Races by Officers of Defense Firms

(By Wayne Kelley)

Although federal law forbids corporations to donate money to presidential, vice presidential or congressional candidates, officials of 49 top defense, space and nuclear contractors in 1968 gave more than $1.2 million to political campaigns during that presidential election year. The gifts favored the Republicans nearly 6 to 1.

Seven officers and four directors of Litton Industries, Inc., for example, donated a total of $151,000 to Republican candidates. They gave nothing to the Democrats.

The donations were legal because the Corrupt Practices Act of 1925 does not prohibit corporate executives from contributing to political campaigns as individuals.

Moreover, although the act makes it illegal for any individual to donate more than $5,000 to any one national political campaign committee, the Republicans set up 46 committees and the Democrats 97.

So it was possible for Henry Salvatori, a Litton director, and his wife to contribute $90,000 to the Republican Party coffers during the presidential election year.

Political contributions by executives of the 25 top contractors in each of the three fields—defense, space and nuclear energy—were surveyed by the Citizen's Research Foundation of Princeton, N.J. Because some campanies operate in more than one field, there were duplications of names that brought the total to 56 companies, of which seven made no discernible donations.

Republicans received $1,054,852 compared to only $180,550 for the Democrats, according to the study. A total of 294 corporate officials from the 49 companies contributed an average of $4,202 per person.

LITTON AIDES LED LIST

Donations by officials of Litton Industries put that company at the top of the list of contributors. Ford Motor Co. was second with 19 of 47 executives giving a total of $140,100—$87,100 to the Republicans and $53,000 to the Democrats.

Henry Ford II, chairman of the board of Ford, gave the Democrats $30,000 and the Republicans $7,250. But Benson Ford, vice president of the company, gave all his contributions, totaling $41,000, to the Republicans.

Litton ranked 14th on the Defense Department contractor list in 1968 and Ford was 19th, Philco-Ford., a subsidiary of Ford Motor Co., placed 16th on the list of National Aeronautics and Space Administration contractors.

The 10 companies with the largest total contributions from executives, and the amounts given to Republicans (R) and Democrats (D), were: Lifton Industries, Inc., (R) $151,000; Ford Motor Co., (R) $87,100, (D) $53,000; International Business Machines Corp., (R) $104,250, (D) $32,000; General Motors Corp., (R) $114,675, (D) $1,000.

Also: Atlantic Richfield Co., (R) $65,000, (D) $1,000; Olin Mathieson Chemical Corp., (R) $58,300, (D) $3,000; Trans World Airlines, Inc., (R) $45,200, (D) $2,500; E. I. duPont de Nemours & Co., (R) $42,000; Westinghouse Electric Corp., (R) $38,500, (D) $1,500; Lockheed Aircraft Corp., (R) $38,880, (D) $1,000.

Savatori, a wealthy California oilman who supported Sen. Barry Goldwater (R-Ariz.) for the Presidency in 1964, was the top individual contributor.

2ND HIGHEST CONTRIBUTOR

Placing second among the executive donors was the late Richard King Mellon of Pittsburgh, a director of General Motors Corp. Mellon and his wife gave $65,000 to the Republicans and nothing to the Democrats.

Arthur K. Watson, vice chairman of the board and a director of International Business Machines Corp., was third among the individual givers. He contributed a total of $54,875 to the Republicans and ignored the Democrats.

However, Thomas J. Watson, IBM board chairman, gave the Democrats $21,000 and the Republicans only $7,875.

The reported total of $1,235,402 in contributions is only a minimum figure. The Citizens' Research Foundation made its compilation from reports to the clerk of the U.S. House and the secretary of the Senate as well as partial scrutiny of reports to secretaries of state in 15 states.

Many executives included in the study may have made other contributions that did not have to be reported under Federal law. The Corrupt Practices Act does not apply to state elections, primary campaigns or committees operating within one state.

Furthermore, the study covered only the top 25 DOD, AEC and NASA contractors and therefore represents only a portion of the total political donations by officials of all contractors in these fields. Hundreds of other companies also received sizable DOD, AEC and NASA contracts in 1968.

Disrespect for Law Laid to Agnew

(By Jack Anderson)

Vice President Agnew, who condemns "disrespect for law" in almost all his speeches, has shown his own disrespect for the laws governing regulatory agencies.

In his eagerness to install his former administrative assistant C. Stanley Blair, as governor of Maryland, Agnew at least has encouraged illegal conduct. He asked Federal Maritime Commission Chairman Helen Bentley to put the arm on shipping executives for contributions to Blair's campaign. It happens to be against the law for her to solicit favors from the industry she regulates.

Yet in an interview with my associate Brit Hume, as this column reported last weekend, Mrs. Bentley admitted checking the shipping rosters for the names of possible contributors and asking some of them for political donations—all at the Vice President's behest. She also flew to a Blair fund-raising meeting in the New York office of shipping magnate Spyros Skouras.

AGNEW CHANGES PLANS

Here are our latest findings:

Mrs. Bentley invited shipping executives to meet with the Vice President last Thursday at New York City's Metropolitan Club. Agnew also got on the phone himself to urge some executives to attend. Among those who received a personal call from the Vice President was John Lambros, one of the executives of Bethlehem Steel's Baltimore shipyard. Bethlehem Steel, of course, does a multimillion-dollar business in defense contracts. When Agnew heard we were checking into the shipping solicitations, he abruptly called off the Metropolitan Club meeting. He showed up in New York City on Thursday to talk to other GOP fatcats, but he carefully avoided the shipping executives.

The Vice President authorized his pal, J. Walter Jones, to solicit contributions in his name for the Blair campaign. Campaign workers, hired by Jones, identified themselves with the Vice President's office in calls to prospective contributors around the country.

Jones also mailed letters to a blue-chip list, soliciting contributions in the Vice President's name.

Agnew not only approved the use of his name but is personally directing the Blair campaign from behind the scenes. He is still smarting over his failure to deliver his home state in the 1968 presidential election. Therefore, say insiders, he is fiercely determined to restore Republican rule in Maryland.

NIXON'S VACATIONS

President Nixon is perturbed over Democratic criticism of his frequent vacations in California and Florida.

He recalled ruefully to a recent visitor that he had encouraged the late President Kennedy to relax from the awesome burdens of the presidency and had promised to intervene with any Republicans who criticized him.

The truth is that the President usually puts in an arduous day even at his vacation homes in San Clemente and Key Biscayne.

He has carefully divided every 24-hour period into two working days, separated by a rest period. He crowds as much work in each segment as any other executive would expect to complete in a full day. In other words, he literally accomplishes two days' work every day and his staff handles each segment as if it were a separate day.

When he is in Washington, the President sticks rigorously to this double-duty work schedule. But at the seashore, he tries to hold his schedule to one "work day" and one "rest day" every 24 hours.

During each "work day" of the President's two-in-one White House day, he handles a separate set of papers and gives his staff a separate set of instructions. He likes to have problems reduced to writing in "option

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papers," setting forth every possible course he could take. However, he is beginning to adopt former President Johnson's old telephone habits.

FUEL SHORTAGE

Industry officials have told Paul McCracken, the President's chief economic adviser, that coal, gas and oil prices should be permitted to rise sharply. Otherwise, they warned that producers would not have enough incentive to prevent fuel shortages across the country this winter.

McCracken heads an interagency task force which is investigating the threat of fuel shortages. This threat has been aggravated by the Middle East crisis and the anti-pollution campaign.

There's pressure upon building owners, for example, to burn low-sulfur fuel oil. The main source is the Middle East where Arab-Israeli tensions have disrupted shipments. Utility companies have also held back construction of fuel plants because of the clamor over pollution.

Meanwhile, our natural gas reserves are dropping low. Gas producers are petitioning the Federal Power Commission for huge price increases, which they claim are necessary to encourage them to explore for more reserves.

A major strike or transportation tieup or severe winter could leave a lot of homes and buildings short of heat during the cold months ahead.

The Rich Still Favor GOP With Gifts

(By Robert E. Cuthriell)

The adage that the Republican Party is the party of the rich has been reaffirmed by a study of 1968 presidential election campaign contributions. America's richest donors favored the GOP 13 to 1.

Forty-six of the wealthiest people in America contributed nearly $1.5 million to political campaigns during the 1968 election year. Each was estimated to have a fortune of $150 million or more in 1968.

Republican candidates received $1,377,313 to only $106,488 for the Democrats from the total $1,494,502 in campaign contributions. The average individual contribution was $32,489.

Gov. Nelson A. Rockefeller of New York made the largest single contribution in 1968 among the multimillionaires. He and his wife provided $483,500 to Republican causes in that year, $350,000 of which was for his own unsuccessful bid for the GOP presidential nomination.

Insurance executive W. Clement Stone of Chicago, a strong backer of Richard M. Nixon in 1968, made the second largest contribution, giving at least $200,000 to Republican committees. Stone's contributions may actually have amounted to more than three times the reported figure, according to estimates in Fortune magazine.

Because of loopholes in the Federal Corrupt Practices Act of 1925, these totals must be considered the minimum contribution for each individual. Reports are not required for primary election campaigns or from political committees operating within one state.

Placing third behind Rockefeller and Stone among the super-rich contributors was the late Richard King Mellon of Pittsburgh, a director of General Motors, and his wife who donated $65,000 to Republican candidates.

John Hay Whitney of New York, former publisher of the now defunct New York Herald Tribune and former Ambassador to Great Britain (1956–61), and his wife gave $57,000 to the Republicans.

Based on reported donations alone, the top four contributors proved to be a special bonanza for the Republicans in 1968—they all gave exclusively to the GOP.

Data on the campaign contributions of the 66 Americans estimated by Fortune to be the "richest of the rich" were compiled from federal and, where available, state records by Citizens' Research Foundation of Princeton, N.J.

Gifts by very wealthy donors to Democrats were small compared to those given the Republicans.

Xerography inventor Chester Carlson of Rochester, N.Y., gave the Democrats their largest contribution—$30,700. However, Carlson also contributed $1,000 to the Republicans.

William Clay Ford of Detroit, a Ford Motor Co. vice president, was second among contributors to Democrats with $20,000 while his wife gave $1,000 to Republicans.

The third largest donor for the Democrats was Jacob Blaustein of Baltimore, a director of Standard Oil Co. of Indiana. He and his wife gave $17,000 to Democratic committees and $1,000 to Republican ones.

Neither of the country's two billionaires, Howard Hughes or J. Paul Getty, was recorded as having contributed to political campaigns in 1968.

Of the families of great wealth in America, the Mellons stand highest in the rankings of political contributors. And, each of its five richest members gave only to the Republicans.

In addition to the $65,000 gift by Mr. and Mrs. Richard King Mellon, other donors in the family were: Mr. and Mrs. Richard Mellon Scaife ($55,462); Mrs. Cordelia Scaife May ($52,000); Paul Mellon ($47,000); and the late Ailsa Mellon Bruce ($30,000).

Close behind as Republican party patrons were the five Rockefeller brothers. Not counting Nelson Rockefeller's contributions to his own presidential primary campaign, the Rockefeller donors to Republican coffers were: banker David Rockefeller of New York ($20,500); businessman John D. Rockefeller III of New York ($17,500); Nelson Rockefeller ($133,500); and Gov. Winthrop Rockefeller of Arkansas ($6,500).

Other multimillionaires who contributed in 1968 included Deputy Secretary of Defense David Packard and comedian Bob Hope. Packard, then chairman and chief executive officer of the electronics firm Hewlett-Packard, and his wife gave $11,000 to Republican causes. Hope and his wife provided $16,000 for Republicans.

TV Campaign Spending Limit: Veto in Store?

The Republicans who are trying to induce the President to veto the bill limiting radio and television campaign expenditures are playing a very risky game. If the President should follow their advice, the veto would undoubtedly become a major issue in the congressional campaigns, with possibly highly damaging results for the GOP candidates. For it would suggest that the Republicans are more interested in giving wealthy candidates an advantage at the polls than in fair limitation of campaign spending in the area where it is needed most and where it can be made effective.

No one would be deceived by the argument being offered to the President—that the bill is not a comprehensive attack on the problem of excessive political spending. Its sponsors candidly acknowledge that it is half a loaf. The fact remains, however, that it is the most promising reform in the area of campaign spending since the passage of the Corrupt Practices Act nearly half a century ago. The remedy for an inadequate reform is not to reject what has been done and start afresh but to accept the first installment and build upon it.

If the President should veto this bill, regardless of what he might say in a veto message, everyone would assume that he acted for two reasons. The first is that the Republicans have been remarkably successful in filling their campaign coffers and will presumably have far more to spend in 1972 than the Democrats, who are still staggering under their big debt left over from 1968. The second reason that would be read into a veto of the bill is that Mr. Nixon does not intend to debate with his 1972 opponent and is therefore unhappy about the repeal of the "equal-time" provision of the Federal Communications Act (also included in the bill), which would put him under pressure to argue with his opponent face to face on the tube. But these are wholly partisan objections to the bill that have no bearing on its merit as a device for preventing the purchase of public office.

Actually the bill would not even the spending score between wealthy and poor candidates, except in the use of television and radio. Candidates would still be free to spend without effective limits for travel, mailing, telephone solicitation and printed advertising, because Congress has found no reliable way of limiting expenditures in these areas. In regard to the other partisan argument that is being made, the President would not have to debate his opponent in 1972 in order to take advantage of the "equal time" repealer. He could use some other format, if the broadcasting companies and his opponent would agree, for presentation of the issues on both sides to national audiences during free time. This section of the bill is a great asset to the cause of democratic government, and the President could not sacrifice it without a serious loss of public prestige.

The blow to the Republicans would be especially severe if the President should veto the bill and Congress should pass it over the veto, as well it might. Both houses passed the bill by more than the two-thirds vote needed to override a veto. Most of the members who favor the bill would doubtless stand firm because they fear unlimited TV spending by opponents in their own races. With the merits of the bill as strong as they are, a veto would be a terrific price to pay for a little partisan advantage.

Campaign '70: A Record TV Barrage

(By Bernard D. Nossiter)

New York.—On television here the other night, an earnest, sober, concerned Nelson Rockefeller stood in an empty classroom, said that the state had taught 10,000 teachers about drugs and urged parents to do their bit. The Republican Governor was neatly dressed in a business suit and wore glasses.

On another channel, an earnest, sober, concerned Richard Ottinger stood on a hill while some ships passed in the background. He said that the vessels bring in narcotics and promised to fight this in Washington. The Democratic Senate aspirant was neatly dressed in a business suit, his hair blowing a little in the wind.

In Detroit, an earnest, sober, concerned Philip Hart appeared on television film in a police station, confronting officers complaining of assaults. He said that only massive amounts of money in the neighborhoods could cure slum-bred crime. The Democratic senator was in shirtsleeves, his collar open and the knot of his tie loosened beneath it.

In home screens across the country, other candidates are doing much the same thing in what is almost certainly the greatest television campaign spending splurge in any off-year election. For congressional races alone, the candidates are laying out $100 million, according to a liberal fund raising group, the National Committee for an Effective Congress. Of this, between $40 million and $50 million, it is estimated, will go to produce and buy air time for television (and to a minor extent radio) commercials.

Rockefeller, it is said, is laying out at least $2.5 million to win his fourth term. Ottinger, in a three-way race, acknowledges plans to spend $750,000 but twice that figure is not regarded as improbable. And this after spending nearly $2 million to win his primary. The Senate campaigns by both parties in California, Texas and Ohio are likely to run around $4 million.

Of each dollar spent in the large states, 60 to 70 cents flows into television. The prevailing style this year is an incessant barrage of 30-second or 60-second "spots" sandwiched in between pitches for chewing gum, detergents, tires, hair sprays and breakfast foods.

"I prefer the discipline of 30 seconds," says Chester L. Posey, the New York advertising man who is manufacturing the Rockefeller ads. "It forces you to be specific, terribly clear, terribly simple. It takes you away from rhetoric in an arena fraught with too many words."

David Garth, a Gothamite who proclaims himself as a specialist in politics and media, says "a minute is pretty good."

Garth, director of the media campaigns for Ottinger and such other Democratic hopefuls as John Tunney in California, Adlai Stevenson III in Illinois and John Gilligan in Ohio, insists that "most political people have two paragraphs of meat and the rest is filler."

It has now become an article of faith that political success turns on such subtle distinctions, that an ample television budget and a skilled media man can rescue the obscure from darkness and corral the voters on election day.

In "The Selling of the President," Joe McGinnis quotes Roger Ailes, a Nixon television producer, as saying: "This is the beginning of a whole new concept. This is it. This is the way they'll be elected forevermore. The next guys will have to be performers."

The fact that Mr. Nixon went into his campaign with a comfortable margin, spent liberally on television and ended up with a thin seven tenths of one per cent edge is all but forgotten.

Indeed, politicians' enchantment with the little screen has reached such heights that a new craft of specialists like Garth, Harry Treleaven and John Deardourff for Republicans, Joseph Napolitan and Charles Guggenheim for Democrats earn handsome fees from every big campaign.

Most of the practitioners, naturally enough, have few doubts of their importance. Garth, a stocky, aggressive intense man who favors purple striped shirts and chocolate trousers, boasts of having "a whole methodology of organization that I paid for with my blood."

Posey, slender, silver haired, with a taste for white button-down shirts and conservative, pin-striped suits, insists that limits on television spending "would prevent anybody from doing a good communications job . . . it would diminish your effectiveness."

But even at the summits of the craft, a note of skepticism sometimes intrudes and outside it, the unbelievers multiply.

Guggenheim, a slim, expensively tailored maker of prize-winning documentaries, says in his Washington office that "the whole success" of the carefully plotted media campaigns "has been greatly exaggerated."

In special circumstances, he argues, it can be potent indeed. But the spectacular cases, he thinks, are largely limited to primaries "where the opposition is asleep or feels he has no race."

In some campaigns on which Guggenheim has worked, Milton Shapp scored a dramatic primary upset in 1966 but lost the Pennsylvania gubernatorial race; Gilligan similarly upset Frank Lausche two years ago in Ohio but lost the general election for the Senate.

Ottinger in New York and Howard Metzenbaum in Ohio (another Guggenheim client) spent heavily to become known and win primaries this year. Whether they succeed in November is another question.

Guggenheim observes that in a primary, a candidate can, to the extent that he commands money, largely control his appearance. In a general election, he and his opponent are followed by the media as a news story and his ads no longer monopolize the messages transmitted.

One of the few certified experts on voting behavior and the media is Paul F. Lazarsfeld, the Columbia sociologist. His studies of radio and the electorate were pioneering efforts and he deplores as "scandalous" the large claims and the absence of research into the consequences of television.

In his cramped office on Morningside Heights, Lazarsfeld, puffing away at a cigar, complains "that very little is really known."

But from his earlier work, he suspects that the little screen's influence has been oversold.

"Everyone projects into TV what he wants to see," Lazarsfeld said. "Thus, to liberal Democrats, Ottinger comes across as elegant. For hard hats, he's probably a slick Jew. There is a self-selective perception at work. Television tends to reinforce the stereotypes we already carry around in our heads."

Since most elections are decided by a few percentage points, Lazarsfeld attempted to determine the influences at work on the small group usually labeled "undecided." He found they are generally the unconcerned rather than the thoughtful, swayed more by friends than by anything they see and hear of candidates.

"If television has influence," he argues, "it's circuitous, on those able to persuade the undecided."

Lazarsfeld suspects that politicians generally are misusing the medium with brief ads, broadcast at large to lonely viewers in living rooms. The emotional effect of films, he says, is heightened when they are viewed by a compact group.

"Probably the most effective television," he suggests, "would be on a closed circuit to a small group that could then discuss what they have seen."

After all, he points out, this is the way the young are taught.

A reporter standing at the corner of 59th Street and Lexington Ave., a plausible Manhattan crossroads because of the low and medium-priced department stores nearby, finds that a thoroughly unstructured, unscientific poll of passersby supports Lazarsfeld's views. The poll was taken the morning after a television evening that displayed 10 spots for Ottinger, nine for Rockefeller and several more for their various, less well-heeled opponents.

Of 20 persons who acknowledged watching television the night before (in Fun City, there is some reluctance to acknowledge staying home before the little screen, most admitting to two-and-a-half hours viewing, fully half—10—said they never noticed a single political ad.

Six of the remaining 10 came away with a favorable impression of a candidate for whom they already intended to vote. One received neither a favorable nor an unfavorable impression. One disliked the candidate pictured in the ad. Two, who said they hadn't made up their minds, gained a favorable impression of a candidate.

Another 18 said they hadn't turned their sets on at all.

In other words, the enormous effort left a favorable impression on only two undecided voters in 38 and this was partially offset by the unfavorable impression reported by another. The net persuasive effect, then, was one in 38 and whether this would persist and be translated into votes is far from clear.

Posey, the chief at Jack Tinker & Partners, a firm that picked up the Rockefeller account because it is an offshoot of an agency started by a former advertising manager for the family's old Standard Oil company, would dismiss all this.

His firm also advertises cosmetics, aspirin and seeds among other things and this, he asserts, gives him insight into motivation.

"People successful in advertising," he says, "have proven they can sell highly competitive, mass produced products, generally packaged, in a national arena."

"Our primary skill is understanding what makes a market move and for that, you have to understand people, what makes them tick. The studies you make in a consumer market, how mothers feel about babies, how people feel about cars and drugs, for that you dig pretty deep."

"The techniques for finding out what makes them (consumers and voters) move are pretty similar, although I'd be the last to say that you package a candidate like a product. With a product, you try to pick a single characteristic. You plant one idea about it you think is most persuasive. You can't do that with a candidate. In politics, there are many different pockets of interest."

In fact, there appears to be less method than Posey and his fellow practitioners suggest. At least, there is a large gap between words and deeds.

Posey, for example, says that one of his objectives is to get across the impression that "The Governor is a very dynamic personality." In practice, Rockefeller appears in only four of the twelve TV commercials Posey has produced so far.

Garth, whose Fifth Avenue office walls are lined with "Andy Awards" from the Advertising Club of New York, says that "set pieces come across terribly phony" and he tries for "reality."

But one of Garth's ads poses Ottinger against a background of ships and planes, another against crowded subways and so on.

It is not clear how this fits Garth's conception that political commercials should show "the candidate doing his thing . . . you make it a very personal thing."

Guggenheim favors "confrontation," filming his client in "groups that disagree with him rather than agree. It tests the man's logic, commitment, ability to express himself."

Guggenheim is careful about the lengths to which confrontation shall go. A Hart, thought to be well out in front, can be turned lose in a suspicious police station. An Albert Gore, thought to be behind in his bid for re-election to the Senate in Tennessee, is "confronted" by polite business and professional men at a reception setting.

President Nixon is now deciding whether or not to sign a bill that would limit future outlays on political television to seven cents for each vote cast in a general election and three and a half cents in primaries. Republicans, usually better financed, are mostly against the bill and Democrats traditionally with somewhat leaner wallets, are for it.

In Lazarsfeld's view, they would all benefit by allocating more for precinct workers and other devices.

One small portent hinting that the point of diminishing returns has been reached came this past week in Florida. There, a relative

XUM

unknown, Lawton Chiles, swamped former Gov. Farris Bryant in their primary race for the Senate Democratic nomination. The relatively fundless Chiles had hiked 1,000 miles across the state to dramatize his lack of money for the television spots liberally employed by Bryant.

CONTRACTORS' OFFICERS FAVOR GOP 6–1 IN CONTRIBUTIONS

Officials of companies ranking among the top 25 defense, space and nuclear contractors in fiscal 1968 contributed at least $1,235,402 to political campaigns during the 1968 Presidential election year.

Officers and directors of these companies favored the Republicans over the Democrats by almost 6 to 1 in their donations, according to data gathered by the Citizens' Research Foundation of Princeton, N.J.

Republicans received $1,054,852 compared to $180,550 for the Democrats. The figures are based on a tabulation of contributions from 294 officials.

The Federal Corrupt Practices Act of 1925 forbids corporations from making political contributions. Officers or directors of corporations may make contributions as individuals.

The survey, one of the most comprehensive ever made of political contributions by corporate executives, covered the top 25 contractors in fiscal 1968 for the Department of Defense (DOD), Atomic Energy Commission (AEC) and National Aeronautics and Space Administration (NASA).

Because several companies appear on two or all three lists of the 25 top contractors, and two companies are subsidiaries of larger corporations, fewer than 75 separate contractors were included in the survey.

The study was based on 56 companies. Available records showed 49 companies had officials who made political donations. The average contribution was $4,202. No donations were reported for officials of seven companies.

The reported total of $1,235,402 in contributions is a minimum figure. Many executives included in the study may have made other large contributions that did not have to be reported because of loopholes in the Federal Corrupt Practices Act.

The Citizens' Research Foundation did not include all state reports on campaign contributions in its survey, and some information was not readily accessible for inspection.

Furthermore, the study covered only the top 25 DOD, AEC and NASA contractors and therefore represents only a portion of total political donations by officials of all contractors in these fields. Hundreds of other companies received sizeable DOD, AEC and NASA contracts in 1968.

DEFENSE CONTRACTOR DONATIONS

Twenty-four of the 25 top DOD contractors had officers or directors who made political contributions in 1968. Hughes Aircraft, number 24 on the list, was the lone exception.

Of the 856 officials serving in administrative positions or on boards of these 25 defense contractors, 178, or about 21 percent, showed up as contributors in available records.

Republicans got more than six dollars for every one received by the Democrats. The military contractor executives donated $671,252 to Republican party coffers and $110,000 to the Democrats. Another $5,501 went to miscellaneous committees without formal party ties.

Litton Industries, which ranked 14th on the DOD contractor list in 1968, led the givers with a total of $156,000. Eleven of Litton's 29 officers and directors made donations. The Republican party got $151,000. Democrats got nothing, and miscellaneous committees received $5,000.

Litton also supplied the most generous donors, Mr. and Mrs. Henry Salvatori, who contributed a total of $90,000 to the Republicans and $5,000 to miscellaneous committees. Salvatori, a Litton director, is a wealthy California oilman who supported Sen. Barry Goldwater (R Ariz.) for the Presidency in 1964.

Nineteen of the Ford Motor Company's 47 leading officials donated a total of $140,100 to political candidates in 1968. Republicans got $87,100 and Democrats received $53,000.

Henry Ford II, chairman of the board, gave the Democrats $30,000 and Republicans $7,250. On the other hand, Benson Ford, vice president of the company, gave all his contributions totaling $41,000 to the Republicans.

The Ford Motor Company ranked 19th among DOD contractors in fiscal 1968. A Ford subsidiary Philco-Ford was 16th on the list of NASA contractors in the same year.

LARGEST DEFENSE, AEC AND NASA CONTRACTORS FOR 1968–69

The following lists show the top 25 Defense Department, AEC and NASA contractors as they ranked in fiscal 1968. Numbers in parentheses indicate the company's rank in fiscal 1969. Companies appearing in these lists but not in the chart on p. 2292 did not have officers or directors who reported 1968 campaign contributions. (*List of top 100 defense contractors in fiscal 1969, 1969 Weekly Report p. 2388*).

Defense

1. General Dynamics (3).
2. Lockheed Aircraft (1).
3. General Electric (2).
4. United Aircraft (5).
5. McDonnell-Douglas (4).
6. American Telephone and Telegraph (6).
7. Boeing (9).
8. Ling-Temco-Vought (7).
9. North American Rockwell (8).
10. General Motors (10).
11. Grumman Aircraft (17).
12. Avco (13).
13. Textron (16).
14. Litton Industries (21).
15. Raytheon (11).
16. Sperry-Rand (12).
17. Martin Marietta (25).
18. Kaiser Industries (45).
19. Ford Motor (19).
20. Honeywell (18).
21. Olin Mathieson (20).
22. Northrop (36).
23. Ryan Aeronautical (22).[1]
24. Hughes Aircraft (14).
25. Standard Oil (N.J.).

AEC

1. Union Carbide (1).
2. Sandia Corp. (2).[2]
3. General Electric (5).
4. duPont (4).
5. Reynolds Electrical (3).
6. Westinghouse Electric (8).
7. Bendix (6).
8. Holmes and Narver (7).
9. Douglas United Nuclear (10).
10. Dow Chemical (11).
11. Goodyear Atomic (13).
12. Idaho Nuclear (9).
13. Aerojet-General (17).
14. Atlantic-Richfield (14).
15. E.G. and G. (12).
16. Gulf General Atomic (25).
17. Monsanto (15).
18. Kerr-McGee (21).
19. National Lead (22).
20. Mason and Hanger (19).
21. North American Rockwell (20).
22. Homestake-Sapin (24).[3]
23. United Nuclear (23).
24. Pan American (26).
25. Phillips Petroleum.

NASA

1. North American Rockwell (1).
2. Grumman Aircraft (2).
3. Boeing (3).
4. McDonnell-Douglas (4).
5. General Electric (5).
6. IBM (7).
7. Bendix (6).
8. Aerojet-General (8).
9. RCA (10).
10. Chrysler (12).
11. General Dynamics (16).
12. TRW (11).
13. General Motors (17).
14. Ling-Temco-Vought (23).
15. Lockheed Aircraft (13).
16. Philco-Ford (21).
17. Sperry-Rand (15).
18. Martin Marietta (9).
19. TWA (14).
20. Federal Electric (18).
21. Catalytic-Dow (22).
22. United Aircraft (19).
23. Brown Engineering (27).
24. Honeywell (35).
25. Control Data (38).

NASA CONTRACTOR CONTRIBUTIONS

Twenty-four of the 25 leading NASA contractors in fiscal 1968 had officials who contributed to 1968 political campaigns, according to the records. The exception was Brown Engineering which ranked 23rd on the list.

There were 856 officers and directors for these 25 companies of whom 165, or 19 percent, gave money to candidates in the Presidential election year.

But considerable duplication occurred between the top NASA contractors and companies on the DOD and AEC lists. Fourteen of the NASA contractors also ranked among the top 25 DOD contractors and two were on the AEC list.

If all 24 NASA companies with campaign contributors are counted, the Republicans received $502,102 compared to $129,000 for the Democrats.

Officials of the eight contractors appearing only on the NASA list donated a total of $300,750 with the Republicans getting $201,750 and the Democrats $99.000.

Of the eight companies appearing only on the NASA list, International Business Machines Corporation (IBM) registered the highest total in contributions—$136,250 from 12 of the company's 44 officers and directors.

Republicans got $104,250 from IBM officials and the Democrats received $32,000.

Arthur K. Watson, vice chairman of the IBM board of directors, made the largest donation—$54,875 to the Republicans. Thomas J. Watson, chairman of the board, gave the Democrats $21,000 and the Republicans $7,875.

Officials of Trans World Airlines Inc. (TWA), also among the group of eight NASA contractors not on the other lists, donated $47,700 to the candidates. Eight of 65 TWA executives contributed a total of $45,200 to the Republican party and $2,500 to the Democrats.

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[1] 1969 ranking is for Teledyne Inc., which now owns Ryan Aeronautical if still listed separately Ryan would have ranked 54th in fiscal 1969.

[2] Subsidiary of Western Electric, the manufacturing unit of A.T. & T.

[3] Now known as United Nuclear-Homestake Partners.

SOURCES.—Department of Defense, NASA, AEC.

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CONTRIBUTIONS BY OFFICIALS OF FEDERAL CONTRACTORS

Company	Number contributing	Republicans	Democrats	In millions of dollars: Net value prime military contract awards, fiscal years 1967	1968	1969	Total costs AEC prime industrial contractors, fiscal years 1967	1968	1969	Net value NASA direct contract awards,[1] fiscal years 1967	1968	1969
Aerojet-General Corp	2	$8,000	$15,000				$40.0	$34.8	$25.9	$95.7	$67.1	$64.9
American Telephone and Telegraph Co	9	16,500	1,000	$673.0	$775.9	$914.6	[2] 202.8	[2] 197.9	[2] 214.3	[3] 6.7	[3] 5.5	[3] 5.8
Atlantic Richfield Co	12	65,000	1,000			54.3		32.2	31.6			
Avco Corp	6	3,000	13,000	448.6	583.6	456.1				3.0	5.3	3.9
Bendix Corp	2	2,000		296.1	223.6	184.4	79.1	73.8	85.0	120.0	123.8	127.6
Boeing Co	4	5,000		911.7	762.1	653.6				273.5	296.7	228.7
Catalytic-Dow [4]	1		2,000								18.8	19.4
Chrysler Corp	20	30,550	5,500	164.7	146.6	121.8				76.6	62.6	42.5
Control Data Corp	3	4,000	1,000		56.8	56.9				7.1	15.5	7.2
Douglas United Nuclear Inc	1	1,000					39.4	52.8	44.8			
Dow Chemical Co	3	3,000	3,550	67.0			35.9	40.2	42.8	6.5		
E. J. duPont de Nemours and Co	11	42,800		179.6	170.6	212.0	105.8	90.2	99.1			
Federal Electric Corp	2	1,500	500							12.3	22.0	27.0
Ford Motor Co	19	87,100	53,000	403.8	381.3	396.3				[5] 32.1	[5] 32.0	[5] 22.4
General Dynamics Corp	9	17,265	1,000	1,831.9	2,239.3	1,243.1	13.7			61.0	54.4	34.0
General Electric Co	17	27,600	1,000	1,289.8	1,488.7	1,620.8	111.4	103.0	95.1	179.3	190.7	150.1
General Motors Corp	29	114,675	1,000	625.1	629.6	584.4				65.2	46.8	30.9
Grumman Aircraft Engineering Corp	4	6,500		487.7	629.2	417.1				481.1	394.1	369.2
Gulf General Atomic Inc	3	2,800						29.6	14.6			
Honeywell Inc	4	6,000	3,000	313.7	351.7	405.6				22.6	15.7	8.1
Idaho Nuclear Corp	1	2,000					27.9	36.5	48.4			
International Business Machines Corp	12	104,250	32,000	194.9	223.7	256.6				186.4	147.7	112.5
Kaiser Industries Corp	3	8,000	25,000	305.7	386.3	142.4				2.0		
Kerr-McGegg Oil Industries, Inc. [6]	3	2,500	1,000				24.5	24.2	20.9			
Ling-Temco-Vough. Inc	4	7,500	1,500	534.7	735.5	914.1				[7] 46.3	[7] 42.7	[7] 20.4
Litton Industries Inc. [8]	11	151,000		180.3	465.7	317.1						
Lockheed Aircraft Corp	5	38,880	1,000	1,807.2	1,870.2	2,040.2				42.0	40.5	39.8
Martin-Marietta Corp	5	3,500	4,500	290.2	393.5	264.3	1.21	9.0		12.8	26.8	56.0
McDonnell-Douglas Corp	5	26,432		2,214.6	1,100.8	1,069.7				243.9	209.0	207.5
Monsanto Co	4	4,500	2,500				27.8	27.4	30.4			
National Lead Co	2	6,000					23.2	23.8	20.6			
North American Rockwell Corp. [9]	8	20,500	2,000	[10] 688.1	668.6	674.2	[10] 29.2	21.1	23.2	[10] 983.8	838.7	680.9
Northrop Corp	2	23,500		306.4	310.3	178.9				8.8	15.4	12.4
Olin Mathieson Chemical Corp	7	58,300	3,000	154.3	329.4	354.4						
Pan American World Airways Inc	11	34,500		115.1	205.7	167.4	15.3	16.4	10.3			
Phillips Petroleum Co	1		500				10.6	13.5				
Radio Corporation of America	6	7,000	5,500	268.4	255.0	299.0				57.5	63.2	51.6
Raytheon Co	3	6,000		403.3	451.1	546.8						
Ryan Aeronautical Co	2	10,000		290.1	293.2	[11] 121.2						
Sperry Rand Corp	6	7,000		484.1	447.2	467.9				38.7	31.8	34.1
Standard Oil Co. of New Jersey	6	12,000		235.1	274.3	291.1						
Textron Inc	5	6,000		496.6	500.7	428.3					2.1	
Trans World Airlines Inc	8	45,200	2,500							25.1	25.3	35.4
TRW Inc	1	1,000		120.5	127.5	170.4				52.6	52.4	50.0
Union Carbide Corp	6	8,000	1,000	46.8			265.8	284.0	317.4	12.6	15.3	8.9
United Aircraft Corp	6	9,500		1,097.1	1,321.0	997.4				40.0	18.1	26.2
United Nuclear Corp	1	2,500					17.5	16.8	15.9			
United Nuclear-Homestake Partners	3	1,000	1,000				[12] 17.3	[12] 17.2	14.9			
Westinghouse Electric Corp [13]	14	38,500	1,500	453.1	251.0	429.6	65.6	73.8	75.9	10.4	7.4	6.9
Total	312	1,089,352	186,050	18,379.3	19,072.5	17,452.0	1,164.9	1,198.2	1,230.8	3,205.6	2,887.4	2,484.3
Less duplications [14]	18	34,500	5,500									
Adjusted total	294	1,054,852	180,550									

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[1] Data for individual companies include awards on research and development contracts of $1,000 and over and on all other contracts of $25,000 and over.

[2] Amounts listed are for Sandia Corp., a subsidiary of Western Electric Co., which is the manufacturing unit of American Telephone & Telegraph Co.

[3] Combined amounts for separate contracts let to American Telephone & Telegraph Co., and Western Electric Co.

[4] Joint venture of Catalytic Construction Co., and Dow Chemical Co.

[5] Amounts listed are Philco-Ford Corp., a subsidiary of Ford Motor Co.

[6] 1 officer of Kerr-McGee Oil Industries Inc., also made $700 in miscellaneous contributions.

[7] Combined amounts for separate contracts let to LTV Aerospace Corp., and LTV Electro Systems.

[8] 1 director of Litton Industries, Inc., also made $5,000 in miscellaneous contributions.

[9] 1 officer of North American Rockwell Corp., also made $501 in miscellaneous contributions.

[10] Amount is for North American Aviation, Inc., since merged with North American Rockwell Corp.

[11] Ryan Aeronautical Co., is now a subsidiary of Teledyne Inc. Amount listed does not reflect any Teledyne contracts except those let to Ryan Aeronautical Co.

[12] Amounts are for Homestake-Sapin Partners, since merged into United Nuclear-Homestake Partners.

[13] 1 director of Westinghouse Electric Corp., also made $3,250 in miscellaneous contributions.

[14] 18 individuals were listed as officers or directors of more than 1 of the above companies. The totals next to each company include the duplicate amounts.

AEC CONTRACTOR CONTRIBUTIONS

Twenty of the 25 top AEC contractors for fiscal 1968 showed officials contributing to political races in 1968.

The survey showed no contributors among the executives of five companies on the AEC list: Reynolds Electric Co. (5), Holmes & Narver Inc. (9), Goodyear Atomic Corp. (11), E. G. & G. (15) and Mason & Hanger-Silas Mason Co. (20).

Two of the AEC contractors also appeared on the DOD list. Of the 700 officials with the 25 leading AEC contractors, 106 or 15 percent, made contributions according to available records.

If all 20 AEC companies with contributors are counted, the company officials donated a total of $308,701 in 1968. The Republicans got $272,700, the Democrats $30,050 and miscellaneous committees $5,951.

Executives of the 18 AEC companies not duplicated on the DOD list contributed a total of $257,100 with the Republicans getting $224,600 and the Democrats $27,050 and miscellaneous committee $5,450.

The Atlantic Richfield Company recorded the largest amount of contributions, $66,000, among those 18 AEC contractors not also on the DOD list.

Twelve of 33 Atlantic Richfield executives donated money to political compaigns in 1968. The Republicans received $65,000 and the Democrats got only $1,000.

The top giver from Atlantic Richfield was Robert O. Anderson, chairman and chief executive officer of the company, who sent the Republicans $44,000 and the Democrats nothing.

E. I. duPont de Nemours & Company showed the second highest total for contributions among this group of 18 AEC contractors. Eleven of 35 chief duPont executives contributed $44,300—$42,800 to Republicans, none to the Democrats and $1,500 to miscellaneous groups.

GENERAL CONCLUSIONS OF SURVEY

One obvious deduction to be made from the study is that eight consecutive years in power (1961–1968) did little to sway major Federal contractors to the Democratic party cause in 1968.

From among the 49 top DOD, NASA and AEC contractors, officials of only seven companies donated more money to the Democrats than they did to the Republicans.

In each case these Democratic party financial triumphs were small. Kaiser Industries officials gave the Democrats the largest margin of contributions—$25,000 compared to $8,000 for the Republicans.

The six other companies with officials who gave more to the Democrats than to the Republicans were: Aerojet-General Corporation, Avco Corporation, Catalytic-Dow, Dow Chemical Company, Martin-Marietta Corporation and Phillips Petroleum Company. (*Chart, p. 2292*)

Donations Increase. Contributions from corporate executives to both major parties in 1968 were almost always larger than in either 1960 or 1964.

The top two individual contributors provided dramatic examples of increasing donations. Mr. and Mrs. Salvatori were listed as contributing $95,000 in 1968 and $6,000 in 1964. The late Richard King Mellon, a director of General Motors, gave $65,000 in 1968 compared to $18,000 in 1964. (*Forty-three top contributors listed below*)

Directors usually gave more money to political campaigns than the officers of companies, according to the data. These directors, many of them wealthy men serving on the boards of several companies, are frequently bankers, lawyers or Wall Street investors.

TOP 43 INDIVIDUAL CONTRIBUTORS

Forty-three officers or directors of companies among the top 25 DOD, NASA and AEC contractors in fiscal 1968 gave at least $5,500 to political campaigns in 1968.

The names of these officials follow in alphabetical order. After each name is the amount of the 1968 donation and the party, Republican (R) or Democrat (D), receiving the money. Donations, if any, in 1964 and 1960 also are listed.

The amounts below represent only those contributions listed on official state or Federal reports.

Robert O. Anderson, chairman and chief executive officer, Atlantic Richfield: 1968, $44,000 (R); 1960, $500 (R).

Roy L. Ash, president, Litton Industries: 1968, $8,500 (R).

Walker G. Buckner, director, IBM: 1968, $9,000 (D); 1964, $6,000 (D).

John S. Bugas, vice president, Ford Motor Co.: 1968, $20,000 (R); 1964, $3,000 (R).

William A. M. Burden, director, Lockheed Aircraft Co.: 1968, $14,500 (R); 1964, $1,000 (R); 1960, $3,500 (R).

Walter S. Carpenter Jr., honorary chairman, duPont: 1968, $7,000 (R); 1964, $6,500 (R); $500 miscellaneous; 1960, $12,000 (R).

Lammot duPont Copeland, president, duPont: 1968, $14,000 (R); 1964, $9,000 (R); 1960, $13,000 (R).

Paul L. Davies, director, IBM: 1968, $8,000 (R); 1964, $1,000 (R); 1960, $1,000 (R).

George P. Edmunds, director, duPont: 1968, $5,500 (R); 1964, $500 (R); 1960, $1,000 (R).

Edward F. Fisher, director, General Motors: 1968, $8,000 (R).

John C. Folger, director, IBM: 1968, $9,000 (R); 1964, $4,000 (R); 1960, $16,100 (R).

Benson Ford, vice president, Ford Motor Co.: 1968, $41,000 (R); 1960, $3,000 (R).

Henry Ford II, chairman, Ford Motor Co.: 1968, $7,250 (R), $30,000 (D); 1964, $3,600 (R); $39,500 (D); 1960, $6,000 (R).

William Clay Ford, vice president, Ford Motor Co.: 1968, $1,000 (R), $20,000 (D); 1960, $6,000 (R).

Amory Houghton Jr., director, IBM: 1968, $19,500 (R); 1960, $900 (R).

David S. Ingalls, director, Pan American World Airways: 1968, $12,000 (R); 1964, $1,500 (R); 1960, $2,000 (R).

Charles S. Jones, director, Atlantic Richfield: 1968, $9,000 (R); 1964, $1,000 (R).

Earle M. Jorgenson, director, Northrop Corp.: 1968, $22,500 (R).

Edgar F. Kaiser, president, Kaiser Industries: 1968, $25,000 (D); 1964, $6,000 (D).

Frederick R. Kappel, chairman of executive committee, A T & T; director, Standard Oil of New Jersey; 1968, $6,000 (R); 1964, $1,000 (R); 1960, $3,000 (R).

Willard W. Keith, director, Lockheed Aircraft Co.: 1968, $19,880 (R); 1964, $4,500 (R); 1960, $1,000 (R).

Dan A. Kimball, chairman of executive committee, Aerojet-General: 1968, $15,000 (D); 1964, $2,000 (D).

Barry T. Leithead, director, TWA: 1968, $17,200 (R); 1964, $500 (R); 1960, $1,000 (R).

Edward H. Litchfield, director, AVCO Corp. 1968, $10,000 (D).

Glen McDaniel, senior vice president, Litton Industries: 1968, $11,500 (R).

Jackson R. McGowen, corporate vice president, McDonnell Douglas Corp.: 1968, $18,700 (R).

Richard King Mellon, director, General Motors: 1968, $65,000 (R); 1964, $18,000 (R); 1960, $20,000 (R).

Andre Meyer, director, RCA: 1968, $1,000 (R), $5,500 (D); 1964, $35,500 (D).

Thomas S. Nichols, chairman of executive committee, Olin Mathieson Chemical Corp.: 1968, $4,000 (R); $3,000 (D); 1964, $4,000 (D); 1960, $7,000 (R).

Spencer T. Olin, director, Olin Mathieson Chemical Corp.: 1968, $12,500 (R); 1964, $11,900 (R); 1960, $24,500 (R).

John M. Olin, honorary chairman, Olin Mathieson Chemical Corp.: 1968, $31,500 (R); 1964, $31,000 (R); 1960, $12,000 (R).

M. G. O'Neil, chairman, Aerojet General: 1968: $8,000 (R).

David Packard, director, Ford Motor Co.: 1968, $11,000 (R).

Thomas L. Perkins, director. General Motors: 1968, $9,000 (R).

Willard F. Rockwell Jr., chairman, North American Rockwell: 1968, $7,000 (R).

Henry Salvatori (and Mrs. Salvotori), director, Litton Industries, 1968, $90,000 (R), $5,000 miscellaneous; 1964, $6,000 (R); 1960 $1,000 (R).

John M. Schiff, director, Westinghouse Electric: 1968, $24,500 (R); 1964, $10,000 (R); 1960, $11,500 (R).

Hugh A. Sharp Jr., director, duPont: 1968, $6,500 (R); 1960, $4,000 (R).

C. Arnholt Smith, director, Ryan Aeronautical Co.: 1968, $8,000 (R); 1960, $1,000 (R).

Vernon Stouffer, director, Litton Industries: 1968, $27,000 (R); 1964, $900 miscellaneous.

Charles B. Thornton, director, TWA: 1968, $19,500 (R): 1964, $3,000 (D); 1960, $1,000 (R).

Arthrus K. Watson, vice chairman, IBM: 1968, $54,875 (R); 1964, $13,000 (D); 1960, $7,500 (D).

Thomas J. Watson, chairman, IBM: 1968, $7,875 (R). $21,000 (D); 1964, $37,000 (D); 1960, $10,500 (D).

TOP CORPORATE CONTRIBUTORS

Following are the 10 companies among top defense, space and nuclear contractors, whose officers and directors were reported to have contributed the largest amount to election compaigns in 1968.

The totals are divided within the parentheses between donations to Republicans (R) and Democrats (D).

1. Litton Industries Inc., $151,000 ($151,000 R).
2. Ford Motor Company, $140,000 ($87,100 R; $53,000 D).
3. International Business Machines Corp., $136,250 ($140,250 R; $32,000 D).
4. General Motors Corporation $115,675 ($114,675 R; $1,000 D)..
5. Atlantic Richfield Company, $66,000 ($65,000 R; $1,000 D).
6. Olin Mathieson Chemical Corporation, $61,300 ($58,300 R; $3,000 D).
7. Trans World Airlines Incorporated, $47,700 ($45,200 R; $2,500 D).
8. E. I. duPont de Nemours & Company, $42,800 ($42,800 R).
9. Westinghouse Electric Corporation, $40,000 ($38,500 R; $1,500 D).
10. Lockheed Aircraft Corp., $39,880 ($38,880 R; $1,000 D).

ORDER OF BUSINESS

The PRESIDING OFFICER. At this time, in accordance with the previous order, the Senator from New York is recognized for not to exceed 15 minutes.

Mr. JAVITS. Mr. President, I wish to make some remarks today on the plight of the Jewish minority in the Soviet Union, a situation which is all too often forgotten and which continues to be a festering sore. I want to refer to unpublished documents which have been called to my attention in respect to this matter which I feel deserve the attention of the Senate.

Mr. President, I ask that the clerk advise me when I have consumed 12 minutes.

The PRESIDING OFFICER. The Chair announces that it was in error when it announced a time limitation of 15 minutes. I have subsequently been advised that the Senator from New York was to be recognized for a period of not to exceed 30 minutes.

Mr. JAVITS. Mr. President, I hope I will only take the 15 minutes.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. JAVITS. Mr. President, I yield to the Senator from West Virginia.

ORDER FOR RECOGNITION OF SENATOR TOWER

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, upon the conclusion of the remarks of the Senator from New York (Mr. JAVITS), the able Senator from Texas (Mr. TOWER) be recognized for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I again thank the distinguished Senator from West Virginia for his always unfailing courtesy in waiting for me.

Mr. BYRD of West Virginia. The Senator from New York is welcome.

THE U.S.S.R. AND ITS JEWISH MINORITY

Mr. JAVITS. Mr. President, the Soviet Union tells the world that it does not discriminate against Jews, or any other minority group. The Soviet Union tells us there is no anti-Semitism in Russia. Indeed, it is supposed to be against the law. The Soviet Union tells us that Jews are free to worship, free to study their religious heritage, free to speak their ancient language. The Soviet Union tells that its Jews are anti-Israel, anti-Zionist, and want to stay in the U.S.S.R. Yet we have found that these assertions are untrue. Why does the Soviet Union continue to propagate such falsehoods in the face of overwhelming evidence to the contrary?

Mr. President, I might say that I bear the greatest friendship to the Soviet Union and its people. I have labored for 21 years to bring about agreements and understanding between us. I will continue to labor in that vineyard. I have not been afraid of any labels that might be attached to me as a politician on that account. It is for that reason that I feel I have a right to speak out unequivocally and plainly, especially in view of the additional evidence which has been supplied to me of such a current peril in respect to this very deplorable situation.

Mr. President, I now refer to previously unpublished documents which have been brought to my attention. These documents reveal that discrimination against Jews continues to be a fact of life in the Soviet Union.

In one case, an engineer from Riga, named David Zilberman—I will be naming names with the permission of those to whom this relates—petitioned United Nations Secretary General U Thant to intercede and help him obtain an exit permit to Israel so that he might rejoin his father, aged 82, who had suffered a paralyzing stroke.

In another plea, an engineer named Peisakovich—Pie-sa-ko'-vich—from Vilna, laments that under present Soviet conditions, he cannot enjoy the fruits of Jewish heritage, and therefore wishes to go to Israel.

The same theme is iterate by A. Vilder, of Riga, in an unpublished letter to Izvestia, the official Soviet Government newspaper in Moscow. A Jew from Riga, named Rapoport, similarly implores the Minister of the Interior in the Latvian SSR to "permit me and my family to depart to my sister in Israel for permanent settlement."

These persons, and countless others, continue to reflect the suffering that is apparently the lot of Soviet Jewry. In June the press reported the alleged attempt to hijack a small airplane near Leningrad. Twelve persons were arrested in connection with the episode; nine of them were Jews. Subsequently there was a wave of roundups, questionings, and confiscations—all focused on Jews in Leningrad and Riga. This month a further alarm was sounded in connection with the hijack case when S. Y. Soloviov was the judge at the so-called trial of economic crimes which focused largely on Soviet citizens of the Jewish faith, and it was Soloviov who, for their alleged "economic crimes," sentenced three of the Jewish defendants to death.

In principle the U.S.S.R. confirms the concept of emigration, a basic human right acknowledged in the United Nations Universal Declaration of Human Rights, article XIII, which the Soviets support. It avows "a man's right to leave any country including his own." In addition, Premier Alexis Kosygin stated on December 3, 1966, in Paris, that "there will be no problem—concerning Jewish emigration. The doors will be open." Three years after Premier Kosygin's statement, on December 13, 1969, the New York Times published a story which said:

> The (Soviet) government newspaper Izvestia said today that Soviet Jews with relatives abroad could leave.

Nevertheless, despite these optimistic pronouncements, only a trickle of the tens of thousands who have had the courage to apply were in fact allowed to emigrate. In addition, requests for emigration were increasingly becoming causes for prosecution and persecution by Soviet Government agencies. I am informed that just an application for a permit is often followed by demotion, loss of job or worse. To date, 32 Jewish petitioners for emigration have gone not to Israel, but to a Soviet jail.

In some cases for the Soviet citizen who has made application to emigrate, simply waiting for a reply from his government is agony enough. For example, I am advised that no one receives a written denial of his emigration request. Instead, a postcard arrives in the mail which tells him to call a certain number. Then, on the telephone, he is curtly informed that his petition has been rejected—no reasons, no details, nothing. This is apparently done so that the rejections will be unrecorded and the petitioning Jews will not be able to send copies of the official rejections abroad where they further embarrass Soviet authorities.

Occasionally the petitioners are told to come to the office of the OVIR—the National Immigration Bureau of the U.S.S.R. Last December a Jewish citizen of Moscow, Dr. David Drabkin, responding to such a request, went to the OVIR office where an official berated him in no uncertain terms. He was told:

> You and others like you, will never receive a permit to leave the Soviet Union. We will not arrest you, we will not make martyrs of you, we will let you perish of hunger here.

Drabkin had carried a sensitive tape-recorder in his pocket and was able to record this tirade. He then sent copies of it to Soviet President Podgorny, President Kosygin, and to the editors of Pravda and Izvestia—but with no results.

Confusion and ambiguity regarding Soviet Jews are not limited to emigration policies. Although officially the Soviet constitution forbids anti-Semitism, high government officials and government propaganda agencies continue to grind out anti-Semitic, anti-Zionist vituperations which in effect are stifling Jewish cultural and spiritual development. Soviet authorities have suggested to me that there is a large, latent reservoir of historical anti-Semitism which might surface if "special treatment" is given to Soviet Jews to emigrate to Israel. My answer is: Is it worse to be discriminated against when you cannot leave or when you can?

A letter sent to Premier Kosygin June 6, 1969, signed by three Moscow Jews, describes the situation better than any words of mine:

> Our families were brought up in the Jewish cultural tradition," the three Muscovites said, "but in the present conditions of Soviet reality, our children are denied any possibility of learning their mother tongue, or becoming acquainted with the great heritage and spiritual values of our nation, because the Jewish nationality, unlike the other nationalities living in the USSR, is subject to cruel discriminations in the USSR. There are no Jewish schools or other educational institutions, no theatres, and . . . no Jewish periodicals with the exception of one monthly.
>
> Indeed, everything Jewish, is ignored . . . An author like (Trofim) Kitchko, a notorious anti-Semite, is allowed to publish a book which is no better than Czarist propaganda. All this injures our national feelings and our dignity as human beings. To remain in this atmosphere of anti-Semitic propaganda and discrimination has become unbearable to us. We regard ourselves as Jews, emotionally and spiritualy attached to the State of Israel.

The mention of Trofim Kitchko's book is just one reminder of how the Soviet Government, which owns and controls all publishing facilities, seems to violate its own prohibitions against anti-Semitism. In his latest anti-Semitic attack, Judaism and Zionism, Kitchko did not merely limit himself to distorting the political struggle in the Middle East, he concentrated on what he said was the intrinsic "aggressive and inhuman" policies of Judaism as a faith.

. He said:

> Judaism has always served the interest of the exploiting clases.

He continued:

> In our times, its most reactionary postulates have been taken up by the Zionists, the Jewish bourgeois nationalists.

To offset continuous criticism from abroad—and from within—on the charges in the letter from the three Moscovites, the Soviet Union paraded out more than 50 prominent Soviet Jews at a well-publicized press conference, this past March, and had them denounce Israel and Zionism, and strenuously deny all charges of anti-Semitism in the U.S.S.R.

One of the prominent personalities, who appeared at this March press conference was the Comedian Arkady Raikin—sometimes referred to as the Soviet Charlie Chaplin. His appearance and apparent compliance with the sentiments expressed that day caused David Zilberman—one of the men whose petitions I have—to write a truly heartrending letter expressing his shock and disappointment at what he calls Raikin's "shameful participation."

Zilberman wrote to Raikin on April 10, 1970:

> I had always believed in you fully, considered you one of the most democratic and upright representatives of the Jewish people.

But Zilberman said that as he listened to the rhetoric of the so-called spokesman of his people, his opinion of Raikin changed:

> Neither you (nor the others) have been empowered by anyone to speak in the name of the Jewish people and to "defend our interests."

Perhaps these 50 Soviet Jews were anti-Israel and anti-Zionist and never felt the sting of anti-Semitism. Certainly there are those in every minority group who find it easier to go along than to fight, who prefer identifying with the majority to reaping both the benefits and the problems of the minority.

However, they do not speak for all of the two and a half million Jews in the U.S.S.R. Americans who visit the U.S.S.R. regularly return with documents proving that Soviet Jews suffer discrimination: They are relegated to second-class jobs, they are forced to renounce any right to religious and ethnic development. In addition, the Soviet Jews themselves court great personal danger to send out hundreds of letters and documents such as the ones that have come to my attention. The risks these men and women have taken, as well as our own extensive concern, must impel us to reject the rhetoric of Raikin, Dymshitz and others as the authoritative voice of So-

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viet Jewry. Yet our protests must be as humanitarian as our ends; we cannot condone violence and anger here in the effort to condemn it elsewhere. I do not like to see tactics of confrontation politics used to advance so noble a cause as Judaism.

I might point out at this time that the Russians protested, in a protest I would like to make a part of the RECORD, that their representatives in this country have been insulted and shamed by those who would protest the policies which are discriminatory against Jews in the Soviet Union. I deplore such activity and hope it will cease because I think it gives added excuse to the Soviet Union for continuing such policies.

I would like to point out the tremendous mass meetings of youth, like those in New York and other cities throughout the country, one of which I addressed, involving 20,000 young Americans in front of the United Nations. These mass meetings are proper and magnificent examples of the sense of outrage and protest which properly animates these young people, and is properly communicated to the United States, the world, and the United Nations and, hopefully, will have some effect on the Soviet Union.

With the utmost desire to seek peace, nuclear arms limitation in the SALT talks and other instances of detente with the U.S.S.R., it is yet proper and necessary to ask these fundamental questions of the Soviet Government:

First. In the face of such anti-Semitic provocations as Trofim Kitchko, Yuri Ivanov, Ivan Shevtsov and others, is the Soviet Union living up to its own avowed prohibition of anti-Semitism?

I wish to interject at this point that certainly such books are published in this country as well, but also this country leaves open the freedom to publish many other books on different sides of the issue in order to enlighten the public, and to maintain schools and institutions, and other means for apprising the public of the case against the case of these anti-Semitic writers. In the Soviet Union, where the press is controlled by the State, only one side of the case is published. That is the basis for the protest, not the publication; but the fact it is by government dictate and so onesided.

The second question I ask is:

Second. Are the statements uttered at the March 4, 1970, press conference in Moscow concerning the supposed prosperity and happiness of Soviet Jews reliable, or are they a cynical ploy to confuse those in the West who are concerned?

Third. Does the Soviet Union adhere to the Universal Declaration of Human Rights, which allows free emigration as put forth in article XIII, or has it rejected this international principle?

Fourth. Is the Paris statement of Premier Kosygin about Jewish emigration actually the policy of the U.S.S.R. or was this simply a release for the Western press?

Fifth. Why do the leaders of the Soviet Union keep us guessing concerning their treatment of and policy toward the Jewish population of the U.S.S.R.?

The case of Boris Kochubiyevsky, a young engineer from Kiev, comes immediately to mind. In 1967, at a union meeting, Kochubiyevsky publicly challenged the allegation that Israel had been the aggressor in the 6-day war. The following year Kochubiyevsky attended memorial services at Babi Yar near Kiev, where 150,000 Jews—including his own father—had been massacred by the Nazis. No word of the Jewish tragedy is evident at Babi Yar and Kochubiyevsky protested this. His protest was overheard and duly recorded. Soon after, Boris and his wife applied for emigration to Israel. Suddenly, while his application was still pending, Kochubiyevsky was arrested and tried for "slandering the State." In May 1969, he was sentenced to 3 years at hard labor. After waiting 1 year in jail, he began, this June, his 3-year sentence in a labor camp outside of Kiev.

Why, on the one hand, are Jews like Boris Kochubiyevsky punished for speaking their minds and, on the other hand, Jews like Benjamin Dymshitz encouraged to denounce Israel and cynically dismiss anti-Semitism in the U.S.S.R. as a mere insinuation?

So the sixth question I ask is:

Sixth. Is petitioning for emigration in the U.S.S.R. now considered a criminal offense? If not—why cannot all those petitioners who are currently in jail be released?

Why cannot the U.S.S.R. permit Jews who have applied for emigration to Israel to leave within a reasonable time?

Seventh. Why cannot ethnic schools in Hebrew and Yiddish be permitted to teach the cultural and historical and heritage of the Jewish people to those who wish to learn, and thereby accord the Jews the rights allegedly guaranteed to them and all ethnic groups in the U.S.S.R.?

Other comparable minority groups do have such schools in the U.S.S.R. Why cannot those in the U.S.S.R. professing the Jewish religion have the same opportunities of expression and organization as the U.S.S.R. allows—even in a limited way—to members of the Christian and Muslim faiths?

Eighth. As a symbol of integrity, why cannot the U.S.S.R. rebuild the monument at Babi Yar so that it properly commemorates the 150,000 Jews slaughtered there during the Nazi occupation?

Why cannot what is seemingly a hate campaign carried on unremittingly—even if intermittently—against Jews, Israel, and Zionism—especially as anti-Zionist propaganda is often a guise for anti-Semitic, rather than only a political disagreement with Zionist philosophy—be discontinued as an act of good faith and as a demonstration of Soviet principles forbidding anti-Semitism? For, whether we like it or not, the nature of a nation's justice and humanity is often determined by the way it treats its minorities—especially the Jewish minority which has been traditionally marked for persecution by societies which are inhuman and unjust?

In short, will the Soviet Union remain "the riddle wrapped in a mystery inside an enigma" as Winston Churchill described it—or concerning its Jewish population—will it set forth clearly and positively its policy for the whole world to examine?

Ninth. At a critical moment in a tortured world, why cannot the U.S.S.R. vindicate the idealistic principle of its founding philosophy by redeeming its Jewish population from the fear, danger, and prejudice under which it has suffered?

Mr. PERCY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from Illinois.

Mr. PERCY. Thank you. The Senator from New York has been outspoken for many years against these injustices. On occasion I have been honored to join him.

As he was speaking today I could not help recalling to mind a trip I made a few years ago to Latvia and Lithuania and other Eastern European countries and the experiences I personally had there. One time I remember in a major city in the Baltic States I was accosted by officials who accused me of taking pictures that they thought might be used against the Soviet Union for propaganda purposes, and I was detained several hours in an attempt to prove that pictures taken by an amateur with an 8-millimeter camera in a market could hardly be used against the Soviet Union.

But the intimidation of a tourist, obviously an American, certainly was symbolic to me of what intimidation there must be of many people who would not have the protection that we have when we travel abroad.

Also I cannot forget the fact that I visited the concentration camp in Auschwitz and then went to Moscow and saw the tremendous attempt by the Soviet Union to continue to portray to the people, through exhibits at the Lenin Museum, that Nazism had been overcome by the Soviet Union and, by the force of arms, the terrible tragedies imposed upon people in concentration camps had been stopped. Yet I found, in talking with officials of the Soviet Union, their reluctance to consider what I regarded to be suppression of the same Jewish people who live in the Soviet Union.

It is this riddle I find exceedingly difficult to penetrate.

The distinguished senior Senator from New York has made a powerful and detailed indictment of official Soviet offenses against the freedom and security of Jews in the Soviet Union. We have both been speaking out about these offenses for several years, and today the need for speaking out seems more urgent than ever. I hope that many of our colleagues will join with us in an effort to bring all possible pressure on the Soviet leaders to allow full, first-class citizenship to Jews and other minorities in their country.

Today I will only say this: No matter how much we desire a relaxation of tensions between East and West, no matter how much we wish for agreements to end the arms race, no matter how much we want peace, we cannot foresake

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justice. As free men we have a responsibility to speak up for justice for all peoples. In the Soviet Union there is no justice for the Jews, no justice for Ukrainians or Armenians, no justice for Latvians or Lithuanians or Estonians, no justice for millions of Soviet citizens who wish to carry on their own cultural and religious traditions freely and without government restriction and control.

I urge the current leaders of the Soviet Union to review the question of State policy toward nationalities and religious groups. There is no reason why the Soviet Union of the 1970's must continue the short-sighted policies of the past. If the Soviet Union is self-confident enough to negotiate arms limitations with the United States, surely the Soviet Union can afford to allow first-class citizenship for all of its own people.

These are sentiments I have expressed to responsible Soviet leaders both in this country and in the Soviet Union. I am pleased to have the opportunity to do so again today. I thank the Senator from New York for yielding.

Mr. JAVITS. I am very grateful to the Senator.

The **PRESIDING OFFICER.** The Senator from New York wanted to be reminded of his time. He has an additional 5 minutes.

Mr. JAVITS. I thank the Chair.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from Texas.

Mr. TOWER. I thank the Senator for yielding, and I want especially to thank the Senator from New York for again bringing to the attention of the Senate, the American people, and the world the level of persecution of the Jews in the Soviet Union and the fact that anti-Semitism exists there, which I think renders false the contention that the Soviet Union purports to be an egalitarian government.

I do not have much optimism that the Soviet Union will do much about it, because the Soviets have shown themselves to be very slow to respond to moral pressure from any part of the world on any matter, but I think the Senator from New York is right in continuing to bring this situation to the attention of the Senate, the country, and the world.

Mr. JAVITS. I thank both my colleagues for their statements, which are extremely helpful. It is the support which one engenders in a body like this that really makes meaningful such efforts. Therefore, if I have reawakened consciences and given rise to a renewed burst of support, I think it can be very helpful. I do not believe the situation in the Soviet Union is closed at all. I deeply believe our views can have a profound effect upon them.

I repeat what I said before: There is no derogation of friendship or the desire to get together on the multitude of things we have to get together on; but they speak to us very frankly and often very sharply, and I think we have a perfect right to speak to them in the same way where the shoe fits, as I believe it does in this case.

I yield to the Senator from New Jersey.

Mr. CASE. Mr. President, I thank the Senator for yielding. I think that the Senate and the country are in the Senator's debt again, as they so often are in matters relating to his people, on these questions affecting Israel and the Jews. The very moderation and the very factual nature of the Senator's statement adds enormously to its strength, not only in this country but I am sure throughout the world, including Soviet Russia. I am grateful indeed for the leadership that he has again given us in this matter.

He is moderate in his statement but relentless in making the factual points that he has made and raising the questions that he has raised, which, by the weight of their rightness, will eventually demand an answer; and I believe help to bring about improvement.

The Senator has made an eloquent statement on the persecution of Soviet Jews. I share his deep concern.

For many years, I have joined with Senator JAVITS and many other Senators in protesting the reprehensible treatment of the Soviet Jews. Through public appearances and resolutions, my colleagues and I have tried to put some measures of pressure on the Soviets to change their policies. Unfortunately, little result has been evident.

Yet we must continue our efforts, for it seems that the Soviets will only alter their behavior when the onus of worldwide condemnation makes the political cost of not changing too great for the Soviets to bear.

Thus, I urge my colleagues here in the Senate, along with all other Americans, to make their voices heard in condemning the persecution of Soviet Jews. Such conduct has no place in the civilized world.

Mr. JAVITS. Mr. President, I thank the Senator from New Jersey for his kind intercession, and I point out that the moderation in my presentation comes out of my real, genuine desire, in the interests of all the people of my State and of the country, to find as many grounds of common agreement with the Soviet Union as possible. But I do feel that they are really perpetrating a great injustice here, and that it will help us, and help them, if it can be corrected.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, certainly it is most appropriate that the distinguished Senator from New York should lead off, as he has done so ably here this morning, in calling the attention of the world to a continuing injustice that is being visited upon the minorities of Russia. But I join him in saying that when he speaks for that minority, I think he speaks for all minorities everywhere. His voice is one recommending tolerance, urging the recognition of the fact that others can be right and others do have a place, and certainly I think he has made a most significant contribution toward the kind of world we hope someday to be able to live in, in calling for tolerance and recognition of the rights of minorities, as he has done so ably here this morning.

Mr. JAVITS. Mr. President, I am very grateful to my colleague. To hear him speak on this subject is like breathing a breath of the fresh air from his wonderful mountain State, and I thank him very much.

ORDER FOR RECOGNITION OF SENATOR GRIFFIN

The **PRESIDING OFFICER.** Pursuant to the previous order, the Senator from Texas (Mr. TOWER) is now recognized for not to exceed 10 minutes.

Mr. TOWER. Mr. President, I ask unanimous consent that at the conclusion of my remarks, the distinguished Senator from Michigan (Mr. GRIFFIN) be recognized.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object, for how long?

Mr. TOWER. For 3 minutes.

Mr. BYRD of West Virginia. No objection.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

S. 4434—INTRODUCTION OF A BILL TO DEREGULATE THE WELLHEAD PRICE FOR NATURAL GAS

Mr. TOWER. Mr. President, on July 29, 1970, I introduced Senate Resolution 435. This "Sense of the Senate" resolution, which was cosponsored by eight other Senators, stated, in essence, that shortage of natural gas existed in many areas of the United States and would probably spread to other areas unless corrective action were taken. The resolution continued that the primary cause of this shortage was the unrealistically low price of natural gas regulated by the Federal Power Commission. The resolution concluded that the free market mechanism was the best method for determining the price to be paid to the independent producer for his gas.

The Federal Power Commission has been in the process of redetermining the fair price of gas by normal rulemaking procedures. This is the third attempt in the past 15 years to arrive at a fair price. A decision based on this most recent procedure may result in a somewhat higher price to be paid to the independent producer.

Further, the FPC announced a rulemaking procedure to exempt from all FPC regulations those producers who sell into interstate commerce less than 10 billion cubic feet of gas per year. If enacted as a regulation this rule would exempt the producers of about 15 percent of the natural gas which flows into interstate commerce.

These are steps in the right direction but not a cure.

Since I introduced the resolution, shortages of gas have spread to virtually all areas of the United States and have become more severe.

Recognizing this worsening situation, I began to consider drafting legislation

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which would carry out the intent of Senate Resolution 435.

I recalled that the vice commissioner of the Federal Power Commission, Carl E. Bagge, had publicly stated in February and April 1970, that whether or not the FPC officially recognized the forces of the free market, these forces would, nevertheless, affect the domestic price of natural gas. In these statements, he characterized the past 20 years of FPC regulation based on cost analysis as "a regulatory dry hole." His conclusion was that the FPC should cease to regulate the price of natural gas paid to the independent producer and that legislation was the proper method by which to end this regulation.

In an effort to lessen the severity of the shortage, the FPC has approved prices of natural gas to be imported into the United States which were substantially higher than the well-head prices presently received by producers in the United States. For example, the FPC has approved paying 32 cents per thousand cubic feet—mcf—for gas imported from Canada and $1.72 per mcf for liquified natural gas imported from Algeria. Gas produced and transported from Prudhoe Bay, Alaska, is estimated to cost a minimum of 60–65 cents per mcf at the U.S. border.

Meanwhile, the maximum FPC approved price paid to domestic producers in west Texas is only 16.5 cents per mcf.

Another indication of the unrealistically low price is the disparity between inter- and intrastate prices. The intrastate price is the amount paid for gas which is produced and consumed in the same State and over which the FPC has no control. In west Texas, the intrastate price is substantially higher than the FPC regulated interstate price.

I believe that this unrealistically low FPC regulated price is the primary reason for our present shortage of natural gas. This low price does not afford the economic stimulus necessary to encourage the exploration for new supplies of vast but undiscovered reserves of gas. It is estimated that there remains undiscovered and recoverable approximately 1,200 trillion cubic feet of natural gas—enough to supply our present national needs for about 50 years.

Therefore, recalling Commissioner Bagge's statements, I asked him to submit to me his personal views concerning the specific language of a bill which would deregulate the price of natural gas.

Commissioner Bagge consented to draft such a bill and recently delivered the draft to me.

Before discussing the bill, I would like to stress that this legislation is forthcoming from the personal views of Commissioner Bagge only and not the views of the FPC as a body or from any of the other Federal Power commissioners.

Today, I am pleased to introduce this bill with my distinguished colleague the Senator from Wyoming (Mr. Hansen) as a cosponsor.

I would be less than candid if I claimed that this bill cures all the ailments of the natural gas industry or that this bill represents the only possible approach to correcting the present pricing situation. I do believe that deregulating the price of natural gas is the essential element to the maintenance of a sound and secure domestic natural gas industry. I believe that maintaining such an industry is in the best interests of the consumer.

It may be that we will be unable to actively consider and debate this measure during the remaining weeks of this Congress. Even so, I believe that real and substantial benefits will be derived by introducing this bill now so that both industry and Government may consider and discuss it.

The major elements of the bill are as follows:

First, prices of new gas contracted for between the independent producer and the pipeline company would no longer be determined or approved by the FPC.

Second, all prices and escalations would be stated in definite prices per unit terms.

Third, provisions of gas purchase contracts other than price would continue to be regulated by the FPC.

I shall introduce at the conclusion of my remarks the letter of transmittal from Commissioner Bagge to me. In this letter, Commissioner Bagge examines in some depth the unhappy results of past FPC price regulation. He states his conclusions that regulation of the price of natural gas is virtually an impossible task.

Another bill has gained wide acceptance in the natural gas industry. Known as the "Sanctity of Contract" bill, I would like to contrast it with the bill I am introducing today. The main difference is that the Sanctity of Contract bill provides that the price of natural gas would continue to be determined and approved by the FPC. Under the Sanctity of Contract bill, the FPC would be obliged to use an econometric model in determining the fair price for gas. This, in effect, would merely substitute economists for cost accountants. Quite possibly, another decade of fruitless, frustrating efforts would pass before this method, too, would be found unworkable.

I firmly believe that the best method for determining the price of natural gas is the free market mechanism without interference from or approval by the FPC.

I believe that enactment of the bill I am introducing today would provide the necessary economic stimulus to encourage exploration for badly needed new reserves of natural gas. In turn, this exploration and the additional supplies which it will provide, will constitute a significant and positive deterrent to future energy crises such as we are now experiencing.

Mr. President, I ask that my bill be printed at this point in the Record and that the bill be followed by Commissioner Bagge's letter of transmittal.

The PRESIDING OFFICER (Mr. Spong). The bill will be received and appropriately referred; and, without objection, the bill and the letter will be printed in the Record, as requested by the Senator from Texas.

The bill (S. 4434) to provide that certain provisions of the Natural Gas Act relating to rates and charges shall not apply to new sales of natural gas in interstate commerce for resale by persons engaged solely in the production, gathering, and sale of natural gas, introduced by Mr. Tower (for himself and Mr. Hansen), was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the Record, as follows:

S. 4434

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Natural Gas Act, as amended (52 Stat. 821, 56 Stat. 83, 61 Stat. 459, 68 Stat. 36, 72 Stat. 941, 947 and 76 Stat. 72; 15 U.S.C. 717–717w), is amended as follows:

Sec. 101. Section 2 of the Natural Gas Act, as amended, is amended by adding at the end thereof the following new subsections:

"(10) 'Independent Producer' means a natural gas company solely engaged in the production, gathering, processing, or sale of natural gas in interstate commerce for resale but not engaged in the distribution thereof for ultimate public consumption nor classified by the Commission as an interstate pipeline company.

"(11) 'Indefinite escalation provision' means a provision in a contract covering a sale of natural gas by an independent producer in interstate commerce for resale that provides for any change in price other than to a definite amount on a specific date or other than to reimburse the seller for all or any part of the changes in production, severence, or gathering taxes levied upon the seller."

Sec. 102. The Natural Gas Act, as amended is amended by adding at the end thereof the following new section:

"Sec. 24. Notwithstanding any other provision of the Natural Gas Act, as amended, the price, rate or charge demanded or made for the sale, between nonaffiliates, of natural gas in interstate commerce for resale shall not be subject to Commission consideration or approval when evaluating the present or future public convenience and necessity pursuant to Section 7(e) of the Act: *Provided, however,* That the sale of natural gas in interstate commerce for resale is made by an independent producer, as hereinbefore defined, from acreage dedicated to the interstate market for the first time on or after the effective date of this amendment; the amounts to be charged or demanded for said sale, either initially or pursuant to a subsequent escalation, shall be expressly set forth in the contract of sale in terms of a definite price per unit; any indefinite escalation provision, as hereinbefore defined, contained in contracts executed on or after the effective date of this amendment shall be inoperative and of no effect at law; the contract of sale shall expressly provide that, after acceptance by an independent producer of a certificate of public convenience and necessity issued by the Commission authorizing said sale pursuant to Section 7 of the Act, the definite unit prices specified therein shall not be increased by subsequent amendment to the contract; nothing contained in this Section should be construed as relieving the Commission of the obligation to consider and approve all of the other contract provisions, terms, requirements and conditions or any type of arrangement regardless of the effect they may have, either directly or indirectly, upon the definite unit prices specified in the contract: Furthermore, Sections 4, 5, 6 and 9 of the Act shall not be applicable to said sale if, with respect thereto, a certificate of public convenience and necessity has been issued by the Commission pursuant to Section 7 of the Act."

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The letter, presented by Mr. **Tower**, is as follows:

Federal Power Commission,
Washington, D.C., September 30, 1970.
The Honorable **John G. Tower**,
Old Senate Office Building,
Washington, D.C.

Dear Senator Tower: With reference to your letter to me of August 31, 1970, I submit for consideration, as an individual member of the Federal Power Commission, and not for the Commission, the enclosed draft of a bill to provide that the Commission's rate determination and review powers shall no longer be applicable to new sales by independent producers of natural gas for resale in interstate commerce. In my judgment, if enacted, the bill would be in the public interest by providing the necessary stimulus to encourage the accelerated exploration and development of this critical domestic energy source in order to meet the future demands of the consuming public. In addition it would provide the degree of certainty with respect to price which has been lacking in almost two decades of producer price regulation.

The concept of the public interest embodied in the regulatory enabling statutes passed thirty or more years ago was premised upon the need to prevent the exploitation of the consumer and, therefore, the price aspects of regulation were emphasized. However, in the intervening decades our national goals have been altered substantially and today extend more deeply and pervasively to include the preservation of our environment and a concern for the "quality of life." Indeed, there are many who urge corrective measures regardless of the price that must inevitably be borne by the ultimate consumer in a relatively affluent society. Regulation must today, therefore, assume a far broader perspective if it is to remain relevant to the attainment of these contemporary national goals.

It is particularly applicable to the regulation of natural gas which provides a unique weapon in the battle to combat air pollution and, through the technological development of the fuel cell, also provides a potential alternative to central station power generation with its long distance transmission lines. The need and the potential uses for this clean burning fuel is especially critical now and during the next two decades pending the operational development of the fast breeder reactor or other technological breakthroughs in power generation. In my opinion it is essential to the national interest that the gas industry now be stimulated to serve as an aggressive energy force during this transitional period.

Unfortunately, at the present time the natural gas industry is beset with gas supply problems. In a recent unanimous opinion in the Hugoton-Anadarko case,[1] the Commission pointed out that interstate pipelines have been unable to obtain desired gas supplies and in both 1968 and 1969 the national findings of natural gas have, for the first time, fallen below production. In many areas the intrastate market has successfully outbid interstate purchasers for such gas reserves as are available. As a result, some interstate gas pipeline companies have been forced to turn to substantially higher cost increments of gas from Canada and imported liquefied natural gas (LNG) from various foreign sources. Other pipelines who are not so favorably located have simply been unable to acquire additional new supplies in sufficient quantities to permit expansion to meet either the increased requirements of their existing customers or the demands of potential new market areas. The situation appears incongruous in view of the fact that the undiscovered potential reserves of natural gas in the United States are estimated at over 1,200 trillion cubic feet—enough to supply our present national needs for about fifty years.

The Commission itself in 1961 abandoned as unworkable the determination of producer prices on an individual company basis and turned to the present cost based area rate approach in order to fix the price of natural gas for each of the nation's major producing areas. In my judgment the area rate methodology that has developed is procedurally cumbersome and functionally unresponsive and, consequently, has contributed immeasurably to the problem in its present dimensions. If we are candid it must be acknowledged that the Commission has apparently failed the practical test which was established in the *Permian*[2] case, the first area rate determination, wherein the Commission stated:

> "The separate price we fix herein for new gas-well gas in the Permian Basin should serve to furnish a practical test of whether in fact it will result in bringing forth additional supplies."[3]

Since the issuance of the *Permian* Opinion, less and less gas has been committed to the interstate market until now the interstate pipeline companies report that they have been unable to contract at the existing area prices for any significant quantities of gas in this prolific producing area.

What occurred in the Permian Basin was the intrusion of dominant market forces over which the existing regulatory scheme was unable to exercise effectve control and, thus, permitted the available reserves to be diverted to the intrastate market. The emergence of these market forces were again evident when, just a few months ago, the Commission, in recognition of the interstate market's need for new supplies, authorized the importation of significantly higher priced Canadian gas into the Midwest and West Coast markets. It has also certificated imports of even higher priced gas in liquid form to the East Coast and New England. Several major LNG import proposals are now also pending before the Commission and several vast projects to obtain gas from Prudhoe Bay and the Northwest Territory of Canada have gone far beyond the conceptual stages. All of these projects, both pending and projected, involve substantially higher prices than those which presently are permitted to domestic producers of gas.

In view of the crucial period of transition which confronts us, it is most important that we do not ignore the admonishment of the Court of Appeals in reviewing the Commission's *South Louisiana* Area Rate Opinion. Justice Thornberry clearly indicated that blind adherence to the existing area rate methodology without giving consideration to market forces is unrealistic. I am in full agreement with the Court's reasoning but the question that still must be answered is how these market forces should be considered. Indeed the Commission has recently taken constructive action in this regard with respect to its proposed Permian Basin and nationwide rulemaking proceedings. I have joined without reservation in these efforts to repair the present regulatory scheme so that at least a responsive pricing method can be achieved. For regardless of any legislative amendments to the Natural Gas Act that might be proposed, we agency members are, of course, obliged to continue to work within the present statutory framework and should, therefore, take every step necessary to make it as effective as possible.

However, in my judgment the problem of producer price uncertainty and the problem of the protracted delays inherent in area rate regulation can be most effectively remedied by legislation. One approach to remedial legislation has been characterized as "sanctity of contract" which assures the producers that once a contract is approved and the sale certificated by the Commission there can be no rollback in any contract price, whether it be an initial or permissible escalation price. The benefits of such assurance in eliminating uncertainty to the producing industry would be substantial.

Protracted area rate proceedings extending over a period of five to seven years have created an unprecedented regulatory lag which has prolonged and therefore added to the existing uncertainties regarding price. These long delays and uncertainties also tie up funds collected by the producers which could be used for exploration and development. All of these uncertainties have inhibited the search for essential additional supplies of natural gas.

Any remedial legislation must, therefore, eliminate such regulatory lag and provide the degree of certainty regarding price which is essential to the development of critical new supplies. Both of these elements have been discussed for several years and have been incorporated in various forms of "sanctity of contract" legislative proposals. I am informed that recently the American Gas Association, after several years of debate, has now endorsed a type of "sanctity of contract" proposal which also incorporates certain market criteria, rather than cost, as the Commission standard for determining producer prices. As a result, at the present time the entire gas industry, through their respective associations, support this amendment to the Natural Gas Act.

This proposal for reform of the current regulatory method is most constructive. Unfortunately, it should have been introduced when it was proposed more than four years ago. The majority of the Commission publicly endorsed one such "sanctity of contract" proposal more than three years ago and its enactment at that time by Congress would have contributed substantially toward averting many of the problems now confronting us. In principle I endorse the "sanctity of contract" concept and the need to permit market forces to establish the price. However, in my opinion, the market forces should function outside the regulatory process so that producer prices can be established unfettered by regulation.

Whether imposed by statutory amendment or by Commission election to alter the existing area rate methodology, any approach requiring the determination of producer prices by the Commission on the basis of some subjective market standard or criteria would fall far short of a satisfactory solution. Such standards are extremely difficult to define and thus are usually couched in general terms and, as a result, the Commission would be compelled in all likelihood to define, qualify and quantify the innumerable factors that could affect the market and might have to be considered in each instance. To submit market forces to the subjective interpretation of a regulatory body, regardless of its expertise or good intentions, can only lead to a distortion of their effect with imprecise and unresponsive results. In the final analysis, at best, the prices approved by the Commission should approximate those that would have been derived in a free market without the need for regulatory anguish and the inherent delays. In addition, a strong tendency would probably exist to approve the proposed contract prices without modification because of the difficulty in justifying any change. The basic objective of this approach is the establishment by the Commission of a market value as the permissible price level. However, it is my opinion that this can be more readily and more accurately achieved by the free interplay of supply and demand dynamics unencumbered by any futile regulatory attempt to decipher the complicated considerations and the subtle interrelationships involved in a free market. Inject market forces into the administrative crucible and no one will recognize the results.

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[1] — F.P.C. — (Opinion No. 586, issued September 18, 1970).

[2] Permian Basin Area Rate Proceeding, 34 F.P.C. 159 (1965).

[3] 34 F.P.C. at 188.

It appears to me that sound public policy toward the natural gas industry today demands something more than remedial legislation which would require the Commission to approximate the dynamics of a free market. What is necessary in the context of the current available supply disequilibrium is something more satisfactory than a reform of the current regulatory method. Today Congress ought to consider a basic restructuring of regulation which will reflect the market value of gas by eliminating the Commission's rate determination and review powers with respect to new sales by independent producers while retaining regulatory control of contract terms in order to effectively monitor market structure and market behavior. Until the Congress acts, of course, I shall continue to apply the present Natural Gas Act, as interpreted by the Courts, to the cases which come before the Commission.

The draft bill transmitted herewith is submitted primarily to surface for consideration and study the concept of permitting market forces, unencumbered by regulation to establish the producer price level without the necessity of structuring a complicated regulatory scheme to interpret and analyze these forces in order to approximate the same result. In this way the price established by arm's length bargaining, as specifically set forth in the contract between the parties, would be controlling. A government policy to foster competition in the energy field by instituting policies to insure full development of all energy sources and easy access to the market will serve as a constant check on gas prices.

There are, of course, many ways in which the Natural Gas Act could be amended to permit market forces to freely determine prices and this bill should not be considered as incorporating the only effective approach for accomplishing this objective. Hopefully, by offering this possible alternative for consideration, the draft bill will serve as a constructive basis for further discussion and analysis which is so essential to the formulation of the most effective solution to the problem. Nor should it be considered as a panacea, for it focuses only on producer pricing and does not attempt to deal with many of the other unique problems such as pipeline production or sales between affiliates.

Permitting the market to determine the price of new gas does not require the dismantlement of all aspects of producer control. The major elements of the regulatory scheme under this proposal would include:

1. Only the contract prices for the sale of new gas by independent producers to nonaffiliates will no longer be determined or reviewed by the Commission.

2. Flowing gas will continue to be regulated by the Commission and, consequently, any rate impact on existing customers would be very gradual since it will take many years for new gas to become a significant portion of their gas supply.

3. All other contractual provisions and aspects of the sale, regardless of their effect upon the contract prices, will continue to be subject to Commission approval and review. It is essential that the Commission continue to pass upon such aspects as the quality standards, delivery pressure, rate of take, billing and prepayment arrangements as well as other provisions, which so signficantly affect the ultimate consumer.

4. Indefinite price escalations, except for certain taxes, will be prohibited and the contract prices, including any escalations, must be set forth as a definite price per unit since the consumer must be able to determine what price will be charged. If the producer believes that certain aspects of his contract have a value, it will be incumbent upon him to reflect that value in the unit price specified in the contract.

5. No unit price can be changed by subsequent amendment to the contract after acceptance of the certificates of public convenience and necessity issued by the Commission.

6. Any proposed abandonment of service will continue to be regulated by the Commission.

The enactment of the draft bill permitting the market to establish the price for new gas but which contains these elements of continuing regulation will assure continuity of service and permit the retention of control over the conditions and quality of service as well as the mechanism which translates costs into rates to the ultimate consumer. It would also allow the Commission to effectively monitor market structure and market behavior.

Also enclosed is a copy of my recent address before the American Asosciation of Oilwell Drilling Contractors in Dallas, Texas, in which I attempted to describe in more detail the considerations which, over the years, have led me to conclude that the enactment of legislation in this area is of critical national importance.

Respectfully submitted,
CARL E. BAGGE, *Commissioner*.

Mr. TOWER. Mr. President, I yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I am happy to join the able and distinguished Senator from Texas (Mr. TOWER) in introducing legislation which, I believe, is essential if this Nation continues to enjoy the abundance and dependability of one of its most vital energy sources.

As Commissioner Bagge pointed out in his remarks on the bill he drafted at the request of the Senator from Texas, the Commission has recognized the need of the interstate market for new supplies by its authorization of the importation of much higher priced Canadian gas and has also certified imports of even higher priced gas in liquid form to the east coast and New England.

The producers of that gas in Canada or Algeria, or wherever it comes from, are probably getting the same price for their gas whether it is old or new gas, and I believe that is one of our problems in the regulation process and in this bill. Commissioner Bagge, in fact, said in his letter to Senator TOWER that this bill should not be considered as the only effective approach for accomplishing this objective.

Rather, he said, the draft bill will serve as a constructive basis for further discussion and analysis.

Such analysis should, I believe, include a determination of the true economic value of natural gas as a fuel as compared with other fuels in terms of the energy or B.t.u. content.

Presently, the petroleum industry sells more energy—B.t.u.'s—in the form of natural gas than in oil. But natural gas now returns to the industry only about one-fourth of industry revenues.

This gross imbalance must be corrected if the industry is to generate the capital needed for a domestic exploration-development program adequate for the reserves of oil and gas we must have for the future—and the very immediate future.

This imbalance must be corrected and, to do this, all old—presently flowing—gas must also be freed from depressed prices established under FPC control.

I hope, therefore, that the further discussion and analysis of Commissioner Bagge's draft bill will include old as well as new gas. I commend Commissioner Bagge for the very thorough and painstaking job he has done in drafting the bill.

Mr. TOWER. Mr. President, I thank the distinguished Senator from Wyoming. He has been one of those who have been in the forefront in advocating the aodption of realistic energy policies for this country.

I think the Senator from Wyoming is well aware of the fact that virtually every tappable cubic foot of natural gas that now exists in this country is already committed, so new customers cannot get into the field.

This is an extremely popular fuel, because it has a very low pollutive value, and it seems to me that the consumers of this country would insist that the price be set at realistic market levels so that they would be assured of a continuing flow of this very vital commodity.

Mr. HANSEN. Mr. President, I thank the distinguished Senator from Texas for his very kind remarks.

I might add that right now, at this moment, there is a great demand for increased supplies of natural gas in order to permit additional significant trona development plant capacity in southwestern Wyoming. I do not know how these additional gas supplies will be found immediately. But I hope the additional gas supplies required can be found.

As the Senator from Texas knows, it is true that gas is our cleanest fuel. It pollutes the atmosphere less than any other source of energy we can use, and because of that, we already have in this country a number of new laws on the books that have hastened the shift from one or another of the older types of fuel to natural gas.

So it underscores the great wisdom that is inherent in the observations made by the Senator from Texas. I am pleased to join with him in the introduction of this bill. I hope it will be studied. I hope we will take the steps that are contemplated in it very shortly, in order that we can have a greater abundance of this universally desired fuel.

Mr. TOWER. I thank the Senator from Wyoming.

PRESIDENT NIXON'S EUROPEAN TRIP

Mr. GRIFFIN. Mr. President, today President Nixon returns to the United States from a very successful European trip. It is a most appropriate occasion to salute President Nixon for his coolness and adroitness which have protected U.S. interests in the Middle East during the troubled month of September just passed.

President Nixon returns today with the

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sound of cheering by Mediterranean throngs still ringing in his ears.

I believe this President, who has represented all the American people so well, deserves a bipartisan welcome here at home—a welcome as warm and enthusiastic as that which he received from the Italians, the Yugoslavs and the Spanish of Europe.

President Tito, the Communist leader of Yugoslavia, was prompted to comment on the warmth of the greeting President Nixon received in Yugoslavia.

> They say we can get people to come out, but you know, Mr. President,

The Yugoslav chief of state remarked:

> you cannot get them to smile or to show the warmth that they showed you.

As leader of the United States in world affairs, President Nixon continues to steer the course he set for the Nation 19 months ago: Out of an era of confrontation and into an era of negotiation.

To be sure, there have been challenges and setbacks—in the Middle East, for example.

But so far, at least, it has been possible to avoid the hideous consequences of big power confrontation, or prolonged civil war among Arabs in Jordan, of intra-Arab war, and of renewed Arab-Israel war. It is possible to say that we are still on course, moving toward negotiated peace.

While saluting the President, I wish also to pay tribute to fellow Senators for their willingness to permit the President's quiet diplomacy to do its work. During the last several weeks we have not heard the strident, carping criticism with respect to the Middle East that President Nixon has heard so frequently as he has gone about the job of winding down the inherited war in Southeast Asia.

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Not many days ago there was talk about the possibility of American intervention in Jordan to rescue American citizens; some were held hostage, others were caught in the crossfire of a tragic civil war. Our 6th Fleet was moved into a position of readiness and military air transports stood by for a possible evacuation effort.

Meanwhile, the President and his representatives worked quietly and effectively behind the scenes with leaders of Jordan, the Soviet Union, and Arab States—seeking release of U.S. citizens and the others who were in jeopardy.

We know now that, through the President's calm efforts as well as the efforts of others, American lives were saved, the innocent hostages of the Palestinian hijackers were released, and a cease-fire, uneasy though it is, continues in effect in Jordan and along the banks of the Suez.

In the Middle East, the President has followed a steady course of persuasion coupled with preparedness. He has consulted with the leadership in Congress. And the moderate tone of comments from Capitol Hill has been helpful; it has not been disruptive or undercutting. Angry comments or demands for harsh reprisals could have precipitated tragic results among the volatile contenders for power in the deserts of Jordan.

So, I salute the concert of moderation we have witnessed in Congress—and I cannot help commenting that it contrasts sharply with the caustic rhetoric of some who have been playing politics with the war in Southeast Asia.

I believe the process of American withdrawal from South Vietnam could be facilitated if there were a similar attitude of support and cooperation for the President in connection with the Vietnamese conflict.

Another Senator from Michigan, the late Arthur Vandenberg, used to say that, when the country's security is at stake, politics stops at the water's edge. The handling of the Jordan crisis by the President, with the quiet, nonpartisan support of Congress, reinforces the continuing validity of Senator Vandenberg's sage advice.

Mr. President, it may serve a useful purpose to review recent developments in the Middle East and to take stock of where things stand now.

It will be recalled that President Nixon launched his peace initiative in June when he concluded that the time was ripe. There seemed to be a convergence of interests which made it possible to move toward negotiation and away from hostilities.

As we know, during the summer, Egypt was taking a pounding from Israel bombing; Israel, in tight economic straits, felt the costs of aircraft losses and ammunition expenditure; the Soviet Union may have been a bit uneasy about its pilots' participation in Egypt's defense; the United States wanted to reduce the chances for big-power confrontation.

In these difficult and dangerous circumstances, the President, through quiet diplomatic efforts in Washington, Moscow, the United Nations, Cairo, Amman, and Tel Aviv sought to ease the tensions. His efforts contributed significantly to achievement of a cease-fire and a promised military standstill in a 50-kilometer zone on both sides of the Suez Canal.

Of course, we know about the slippage in the military standstill, and Israel's September 6 withdrawal from negotiations when Soviet-Egyptian violations of the standstill persisted.

The difficulties in the Middle East were multiplied dramatically by the Palestinians. Because of the cease-fire they apparently believed the world was preparing to write off their pleas for justice. One radical Communist group of Palestinians launched the series of hijackings which aroused the world. Another Palestinian group intensified its harassment of King Hussein's government in Jordan.

When the King moved against the Palestinian guerrillas, the Syrians attacked from the North. This provoked Israel to mass forces opposite the Syrians.

At this point, in the face of rapidly deteriorating conditions, President Nixon prudently made several preparatory moves, sending transport aircraft to Turkey, alerting forces in West Germany, the United Kingdom, and in this country, and ordering augmentation of the 6th Fleet in the eastern Mediterranean.

At the same time, he intensified his diplomatic efforts. Among other things, he requested the Soviet Union to use her good offices to persuade Syria to withdraw immediately from Jordan to avoid widening of the conflict. This appears to have been the turning point. A day or so later Syrian tanks began withdrawing.

As the crisis eased, speculation centered on just what influenced the Syrian forces to withdraw. According to the best information that seems to be obtainable, there were four principal factors:

First. Jordan's military opposition was much stiffer than anticipated.

Second. The Israel mobilization across the Jordan was menacing.

Third. The United States and other nations with closer Syrian contacts impressed on Damascus a sense of the consequences if it failed to withdraw.

Fourth. Soviet officials claim they talked to the Syrians after the American request, and it is possible that the Soviet approach had an effect on Syria's retreat.

King Hussein probably has emerged somewhat stronger than he was before. He has established that he is not going to give up his throne by default. But he has by no means scored a clear-cut victory. It is too early to say that his formula for compromise can be made to prevail.

One major new factor seems to have been the emergence of more world sympathy for the Palestinians, not the extremists or the hijackers, but the rank and file among the refugees.

Any Arab-Israel settlement will have to recognize, candidly and realistically, the Palestinian problem. I am convinced that we must deal with Palestinian grievances and frustrations with more sincerity, just as we must continue to see that Israel is not left in an inferior position militarily.

What have been the effects of recent events on prospects for peaceful settlements of the disputes in the Middle East?

On the negative side:

The momentum toward settlement of the Arab-Israel dispute has been slowed.

Those forces in the Arab world capable of making a settlement, unfortunately, have been weakened. There is uncertainty and even a near paralysis in Egypt and Jordan, the two principal Arab hopes for making an accommodation with Israel.

On the positive side, there have been these effects:

Opponents of a settlement have suffered setbacks. Palestinian guerrillas have been thrown into disarray. They will need time to reorganize, to replenish their supplies of ammunition and equipment. We can probably look forward to a brief period of a lower level of hostility, if not of inactivity.

The cease-fire still holds. Although the cease-fire agreement expires November 5, it could very well be prolonged, either by formal agreement or by tacit understanding.

In the diplomatic maneuverings before and after the cease-fire went into effect, Egypt, Jordan, and Israel have made accommodations in their positions which still stand. In other words, they are somewhat closer to an agreement than they were before August 7.

Egypt, Jordan, and Israel, the three principal parties in the dispute, continue at least to recognize the United Nations Security Council resolution of November 1967 which lays out the generally accepted route to permanent peace in the area.

The U.S. initiative of last June is still alive. It still offers a way out.

The Nixon administration, I am sure, intends to keep the dialog open with Egypt, Jordan, Israel, and the Soviet Union.

This is not a time when anyone can expect sudden and dramatic solutions in the Middle East. But there is room and hope for continued progress.

Rectification of Soviet-Egyptian violations of the standstill agreement, mainly the movement of defensive missiles on the west bank of the Suez, remains a major aim of U.S. policy.

The course ahead, in the new era of negotiations, does not promise to be easy.

But President Nixon's demonstrated ability and willingness to use U.S. power for peace with an even hand gives the world a sound basis for confidence and hope.

TRAGEDY FOR WICHITA STATE UNIVERSITY

Mr. DOLE. Mr. President, all Americans were stunned and saddened by the deaths of 30 men and women who died Friday in an airplane crash in the Colorado mountains en route to a football game with Utah State University.

To have so many lives lost in one accident is unbelievably tragic, but compounding the loss is the fact that those who died were young men at the height of their physical and intellectual development, and older men and women devoted to the young.

Thirteen who died were members of the Wichita State University football team. But there were others on board who were these young men's leaders and enthusiastic boosters. They loved football and the school. They worked, played and cheered; and this love and dedication makes this tragedy even more unbearable.

It was the Greeks who knew that within the great joy of life was the core of tragedy. It was the great poet Aeschylus who observed that it is an unnatural thing for parents to bury their young.

Now we citizens of Kansas grieve for those who bury their young, and because they belonged to all Kansans, we share their sorrow.

Nothing tests man more severely than these moments when the wishes of man and the will of God collide. It is as old as the story of Job; it is the cry on the lips of Christ when he asked why he was forsaken and it is as near as last Friday afternoon.

We may each find separate paths to solace. Perhaps there is some peace in knowing that those we mourn today, in the poet's words:

> Will not swell the route
> Of lads that wore their honors out.

And perhaps there is peace only in the strength that comes with resignation—when we say, as we all must say, "May God's will be done."

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER** (Mr. McGovern). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The **PRESIDING OFFICER** (Mr. McGovern). Pursuant to the previous order, there will now be a period for the transaction of routine morning business with a time limitation therein of 3 minutes.

UNANIMOUS-CONSENT REQUEST

Mr. ALLEN. Mr. President, I ask unanimous consent that I may be permitted to proceed for 10 minutes.

The **PRESIDING OFFICER.** Is there objection? The Chair hears none, and it is so ordered.

REPORT OF PRESIDENT'S COMMISSION FOR THE OBSERVANCE OF THE 25TH ANNIVERSARY OF THE UNITED NATIONS

Mr. ALLEN. Mr. President, the reports of the Commission on Obscenity and Pornography and the President's Commission on Campus Unrest have been highly publicized.

The President's Commission for the Observance of the 25th anniversary of the United Nations, chaired by former Senator and former Vice Presidential Candidate Henry Cabot Lodge, has recently made its report under date of September 14, 1970. It did not receive the publicity which was accorded the reports of the other commissions. For that reason, I would like to read excerpts from that report into the Record.

While generally holding out some hope for the United Nations organization, the Commission has made some constructive criticisms of the organization.

I read from the report:

> The Commission's initial sense of the problem is not that the UN is in danger of immediate collapse, but that it is becoming increasingly incapable of dealing with the grave issues troubling the world. Two major shortcomings of the Organization seem to have eroded much of its public support in the United States: first, the failure of its members to make it the paramount means for maintaining international peace and security as was intended in the Charter and second, its misuse as both an unwieldly and ineffective debating society and a propaganda platform.

I continue to read from the report:

> Still, for all its achievements the UN has fallen short of the world's hopes. In the face of towering international problems of security, poverty, overpopulation, refugees, human rights, and environmental degradation, it would be foolhardy to gloss over the deepseated weaknesses of the United Nations. Nor should we encourage unrealistic expectations that any conceivable international institution could provide instant solutions to problems of the magnitude and complexity of those we now face.
>
> Some of the difficulties of the Organization clearly stem from obsolescence: the United Nations today functions as a very different institution from that envisaged at San Francisco in 1945. The configuration of international power has fundamentally changed since the end of World War II and new terrible weapons of mass destruction threaten the world as never before; the concepts and priorities of economic development have been markedly altered; rapid advances of science and technology are challenging the adaptability of the world's political and legal institutions. The Commission believes that the United Nations system, as presently organized, seriously lacks both the means and vitality to cope with many emerging world problems.
>
> Many structural and procedural weaknesses of the United Nations are evident, such as the disparity between voting power and financial responsibility.

Mr. President, I have some statistics to put into the Record to bear out this criticism.

I continue to read:

> The excessive proliferation of agencies, commissions, and committees, and the frequent delays of meetings with repetitious debate. Such faults require investigation and remedy. But we shall not do justice to the Organization unless we candidly admit that the effectiveness of the United Nations is determined by its member-states. Too many national governments have given either lip-service to the principles of the Charter or interpreted them for petty advantage and narrow self-interest. Basic to the UN Charter provisions for maintaining peace and security is cooperation among the permanent members of the Security Council; the Organization cannot be expected to carry out any fundamental political decision without the concurrence of the great powers, particularly the United States and the Soviet Union. The UN record with respect to the situation in Vietnam illustrates the inability of the Organization to act when the interests of the superpowers clash.
>
> Whatever the causes, disillusionment with the United Nations and its activities has been directly reflected in a dramatic drop in public support for the United Nations in the United States. Opinion polls over the last five years show a decline from 84% to 51% in the number of Americans who agree that the UN is "the last best hope of peace." Media coverage of UN activities has diminished as the Organization has been increasingly bypassed by national governments in dealing with important international questions. Grants for research on international organizations and their problems have been reduced by both private and governmental agencies.

Mr. President, there are 126 member nations of the General Assembly of the United Nations. I ask unanimous consent that a tabulation from the New York Times of November 3, 1969, showing the

U.N. structure for 1969–70, be printed at this point in the RECORD.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

U.N. STRUCTURE FOR 1969–70

UNITED NATIONS, N.Y., November 1.—Following is a listing of the members of the United Nations for 1969–70, with officers, committees, specialized agencies and other bodies:

THE GENERAL ASSEMBLY—126 MEMBERS

Afghanistan, Albania, Algeria, Argentina, Australia, Austria, Barbados, Belgium, Bolivia, Botswana, Brazil, Britain, Bulgaria, Burma, Barundi, Byelorussia, Cambodia, Cameroon, Canada, Central African Rep., and Ceylon.

Chad, Chile, China, Colombia, Congo (Brazzaville), Congo (Kinshasa), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Ethiopia, Finland, France, Gabon, and Gambia.

Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, and Kenya.

Kuwait, Laos, Lebanon, Lesotho, Liberia, Libya, Luxembourg, Madagascar, Malawi, Malaysia, Maldive Islands, Mali, Malta, Mauritania, Mauritus, Mexico, Mongolia, Morocco, Nepal, Netherlands, and New Zealand.

Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Rumania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, South Africa, Southern Yemen, and Soviet Union.

Spain, Sudan, Swaziland, Sweden, Syria, Tanzania, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Republic, United States, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, and Zambia.

XUM

Mr. ALLEN. Mr. President, according to this tabulation, the continent of Africa has 42 member nations in the General Assembly out of a total membership of 126. Exactly one-third of the membership of the General Assembly, which consists of 126 members, is composed of African nations.

Mr. President, 28 member nations of the United Nations are on the continent of Asia. That means that the continents of Africa and Asia constitute a majority of the membership of the General Assembly of the United Nations.

Mr. President, I wish to show the inequality and unfairness of this representation. We talk about one man, one vote in this country and we talk about and we have read in history about the rotten boroughs in the English Parliament. How does one vote in the general assembly for the Maldive Islands, with a population of 106,000, stack up against one vote for the United States with a population of over 200 million? I point out that in Africa, Equatorial Guinea has a population of 300,000, Gambia has a population of 400,000, Gabon has a population of 500,000, and on and on.

Mr. President, I ask unanimous consent to have printed in the RECORD a table which I have prepared giving the membership by total number in the General Assembly from the continent of Africa and the continent of Asia, with the population for selected nations.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

UNITED NATIONS POPULATION DATA

AFRICA

Forty-two member nations of U.N.

Least populous nations:

Equatorial Guinea	300,000
Gambia	400,000
Swaziland	400,000
Gabon	500,000
Botswana	600,000
Ghana	900,000
Mauritius	900,000
Congo (Brazzaville)	900,000
Lesotho	1,000,000
Mauritania	1,200,000

ASIA

Member nations 28.

Least populous nations:

Maldive Islands	106,000
Cyprus	600,000
Kuwait	700,000

Mr. ALLEN. Mr. President, I feel that certainly the United Nations should have a full and complete reorganization; a full and complete revision of its charter at the very least. Actually, I feel the United States should give serious consideration to withdrawing from the United Nations.

I yield the floor.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATUS OF UNFINISHED BUSINESS WHEN TEMPORARILY LAID ASIDE TODAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at such time as the unfinished business is temporarily laid aside today, it remain in that status until disposition of the reading of the Journal tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON FINAL CONCLUSION OF JUDICIAL PROCEEDINGS IN THE CASE OF CERTAIN INDIANS

A letter from the Chairman, Indian Claims Commission, Washington, D.C., reporting, pursuant to law, on the final conclusion of judicial proceedings in relation to Docket No. 178, The Confederated Tribes of the Colville Reservation, plaintiff, against the United States of America, defendant (with accompanying papers); to the Committee on Appropriations.

REPORT ON DEPARTMENT OF DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Department of Defense Procurement from Small and Other Business Firms, for fiscal year 1970 (with an accompanying report); to the Committee on Banking and Currency.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the opportunity to improve allocation of program funds to better meet the national housing goal, Department of Housing and Urban Development, dated October 2, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Need to Determine the Most Economical Method For Obtaining Maintenance and Repair of Office Machines, Veterans' Administration, dated October 5, 1970 (with an accompanying report); to the Committee on Government Operations.

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classifications for certain aliens (with accompanying papers); to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A joint resolution adopted by the Congress of Micronesia, relating to the restoration and rehabilitation costs of Bikini Atoll; to the Committee on Armed Services.

A resolution adopted by the Senate of Micronesia, praying for the enactment of Senate bill 3176, providing funds for the development of new seining methods for Pacific Island tuna fisheries; to the Committee on Commerce.

A joint resolution adopted by the Congress of Micronesia, praying or the enactment of legislation to remove the tariff on importation into the United States of marine products processed in the Trust Territory; to the Committee on Finance.

A resolution adopted by the Brazoria County Transportation Planning Commission, Brazoria County, Tex., urging the early completion of the originally planned interstate system of highways; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 13125. An act to amend section 11 of the act approved February 22, 1889 (25 Stat. 676) as amended by the act of May 7, 1932 (47 Stat. 150), and as amended by the act of April 13, 1948 (62 Stat. 170) relating to the admission to the Union of the States of North Dakota, South Dakota, Montana, and Washington, and for other purposes (Rept. No. 91–1265).

By Mr. NELSON, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 4172. An act to authorize the Secretary of the Interior to provide financial assistance for development and operation costs of the Ice Age National Scientific Reserve in the State of Wisconsin, and for other purposes (Rept. No. 91–1266).

By Mr. ANDERSON, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 10837. An act to provide for the conveyance to Pima and Maricopa Counties, Ariz., and to the city of Albuquerque, N. Mex., of certain lands for recreational purposes under the provisions of the Recreation and Public Purposes Act of 1926 (Rept. No. 91–1267).

By Mr. CHURCH, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 12960. An act to validate the conveyance of certain land in the State of California by the Southern Pacific Co. (Rept. No. 91–1268).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 18410. An act to establish the Fort Point National Historic Site in San Francisco, Calif., and for other purposes (Rept. No. 91–1269).

By Mr. CHURCH, from the Committee on Interior and Insular Affairs, with amendments:

H.R. 12870. An act to provide for the establishment of the King Range National Conservation Area in the State of California (Rept. No. 91–1270).

By Mr. MATHIAS, from the Committee on Government Operations, with an amendment:

S. 60. A bill to create a catalog of Federal assistance programs, and for other purposes (Rept. No. 91–1271).

By Mr. BIBLE, from the Committee on the District of Columbia, without amendment:

H.R. 9548. An act to amend section 15–503 of the District of Columbia Code with respect to exemptions from attachment and certain other process in the case of persons not residing in the District of Columbia (Rept. No. 91–1273).

By Mr. BIBLE, from the Committee on the District of Columbia, with amendments:

H.R. 13564. An act to provide that in the District of Columbia one or more grantors in a conveyance creating an estate in joint tenancy or tenancy by the entireties may also be one of the grantees (Rept. No. 91–1272).

By Mr. EASTLAND, from the Committee on the Judiciary, without recommendation:

S. 3201. A bill to amend the Federal Trade Commission Act to provide increased protection for consumers, and for other purposes.

EXECUTIVE REPORTS OF A COMMITTEE

As in executive session, the following favorable reports of nominations were submitted:

By Mr. SCOTT, from the Committee on the Judiciary:

Max Rosenn, of Pennsylvania, to be a U.S. circuit judge for the third circuit.

By Mr. GRIFFIN, from the Committee on the Judiciary:

Cornelia G. Kennedy, of Michigan, to be U.S. district judge for the eastern district of Michigan.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. YOUNG of North Dakota:

S. 4433. A bill for the relief of Susanna Barbara Schmitt; to the Committee on the Judiciary.

By Mr. TOWER (for himself and Mr. HANSEN):

S. 4434. A bill to provide that certain provisions of the Natural Gas Act relating to rates and charges shall not apply to new sales of natural gas in interstate commerce for resale by persons engaged solely in the production, gathering and sale of natural gas; to the Committee on Commerce.

(The remarks of Mr. TOWER when he introduced the bill appear earlier in the RECORD under the appropriate heading.)

ADDITIONAL COSPONSORS OF A BILL

S. 4345

At the request of the Senator from West Virginia (Mr. BYRD), the Senator from Iowa (Mr. MILLER), the Senator from Florida (Mr. GURNEY), and the Senator from Minnesota (Mr. MONDALE) were added as cosponsors of S. 4345, to adjust the amounts of retirement income for which a tax credit is allowable under the Internal Revenue Code of 1954 in order to provide benefits thereunder comparable with tax benefits accorded social security recipients.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968—AMENDMENT

AMENDMENT NO. 1019

Mr. SPONG submitted an amendment, intended to be proposed by him, to the bill (H.R. 17825) to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes, which was ordered to lie on the table and to be printed.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT—AMENDMENTS

AMENDMENT NO. 1020

Mr. ERVIN (for himself, Mr. COOPER, and Mr. MCGEE) submitted an amendment, in the nature of a substitute, intended to be proposed by them, jointly, to Amendment No. 711 to the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 1021

Mr. ERVIN submitted an amendment, in the nature of a substitute, intended to be proposed by him, to Amendment No. 711 to Senate Joint Resolution 1, supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 1022

Mr. ERVIN submitted an amendment, in the nature of a substitute, intended to be proposed by him, to Amendment No. 711 to Senate Joint Resolution 1, supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 1024

Mr. HOLLAND submitted amendments, in the nature of a substitute, intended to be proposed by him, to Senate Joint Resolution 1, supra, which were ordered to lie on the table and to be printed.

(The remarks of Mr. HOLLAND when he submitted the amendments appear later in the RECORD under the appropriate heading.)

FAMILY ASSISTANCE ACT OF 1970—AMENDMENT

AMENDMENT NO. 1023

Mr. CRANSTON. Mr. President, I am submitting for printing an amendment I intend to propose to H.R. 16311, the administration's so-called family assistance plan bill. My amendment would amend one of the categories of exclusions from income for purposes of determining a family's financial eligibility for assistance under the plan. The provision in question is clause (7) in the proposed new Social Security Act section 443(b) contained in section 101 of H.R. 16311.

In the House-passed bill, this exclusion presently covers "any portion of a scholarship or fellowship received for use in paying the cost of tuition and fees at any educational institution." This language does not make clear whether or not the word scholarship would include GI bill educational assistance payments. I certainly think that such veteran's readjustment benefits to the extent they are received for use in paying tuition or fees under the GI bill should be treated the same as educational grants derived from other sources.

Under my amendment, it would be clear that educational assistance allowances paid by the VA to a veteran under the GI bill, to a widow or war orphan of a service-connected deceased veteran, or to a wife or child of a veteran totally disabled with a service-connected condition—as well as direct VA payments to educational institutions under the vocational rehabilitation program on behalf of a veteran with a 30-percent, or more, service-connected disability—would be excluded from a family's income to the same extent as scholarships or fellowships.

Mr. President, I ask unanimous consent that the text of this amendment be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. BOGGS). The amendment will be received and printed, and will be appropriately referred; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 1023) was referred to the Committee on Finance, as follows:

AMENDMENT NO. 1023

On page 10, strike out all appearing on line 8 and insert in lieu thereof:

"(7) any portion of a scholarship or fellowship (including an educational assistance allowance paid to a veteran or eligible person under chapters 34 or 35 of title 38, United States Code, and a payment to an educational institution on behalf of any veteran under chapter 31 of such title) which is".

LEGISLATIVE REORGANIZATION ACT OF 1970—AMENDMENT

AMENDMENT NO. 1025

Mr. JAVITS proposed an amendment to the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes, which was ordered to be printed.

AMENDMENT OF PUBLIC HEALTH SERVICE ACT—AMENDMENTS

AMENDMENTS NOS. 1026 THROUGH 1028

Mr. CRANSTON. Mr. President, the Senator from Iowa (Mr. HUGHES), had intended to submit today three amendments intended to be proposed by him and the other members of the Labor and Public Welfare Committee to H.R. 18583, the "Comprehensive Drug Abuse Prevention and Control Act of 1970."

Because of a serious illness in his family, the Senator is not able to be here today, and I would like to submit those amendments for him, and ask that they be printed in the RECORD.

One of the amendments, which is a substitute amendment to title I of the House-passed bill, is rather lengthy, and I submit a brief summary of it and ask unanimous consent that it be printed prior to the amendment in the RECORD.

The PRESIDING OFFICER (Mr. ALLEN). The amendments will be received and printed, and will lie on the table; and, without objection, the amendments and summary by Mr. HUGHES will be printed in the RECORD, as requested by the Senator from California.

The amendments (Nos. 1026 through 1028) are as follows:

AMENDMENT NO. 1026

In the table of contents of the bill, strike out all that part pertaining to title I and insert in lieu thereof the following:

"TITLE I—PREVENTION AND REHABILITATION PROGRAMS RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

"PART A—FINDINGS AND DECLARATION OF PURPOSES

"Sec. 101A. Findings.
"Sec. 102A. Declarations.

"PART B—DEFINITIONS

"Sec. 111. Definitions.
"Sec. 112. Additional definitions.

"PART C—NATIONAL INSTITUTE FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

"Sec. 121. Establishment of the Institute.
"Sec. 122. Administrative functions of the Secretary.
"Sec. 123. Planning functions of the Secretary.
"Sec. 124. Coordination functions of the Secretary.
"Sec. 125. Statistical functions of the Secretary.
"Sec. 126. Research functions of the Secretary.
"Sec. 127. Training functions of the Secretary.
"Sec. 128. Educational functions of the Secretary.
"Sec. 129. Reporting functions of the Secretary.

"PART D—PREVENTION AND TREATMENT FOR FEDERAL EMPLOYEES

"Sec. 131. Drug abuse and drug dependence among Federal Government employees.
"Sec. 132. Confidentiality of records.

"PART E—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

"Subpart I—Comprehensive State Plans

"Sec. 141. Comprehensive State Plans.

"Subpart II—Formula Grants

"Sec. 142. Authorization.
"Sec. 143. State allotment.
"Sec. 144. State plans.
"Sec. 145. Applications and conditions.

"Subpart III—Project Grants

"Sec. 146. Authorizations.
"Sec. 147. Grants and contracts for the prevention and treatment of drug abuse and drug dependence.
"Sec. 148. Application for financial assistance from units of local government and private organizations.
"Sec. 149. Approval by National Advisory Council on Drug Abuse and Drug Dependence.

"Subpart IV—General

"Sec. 150. General.
"Sec. 150A. Admission of drug abusers and drug dependent persons to private and public hospitals.

"PART F—THE NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"SEC. 151. Establishment of Council.
"SEC. 152. Approval by Council of certain grants under Community Mental Health Centers Act.

"PART G—INTERGOVERNMENT COORDINATING COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"SEC. 161. Establishment of Council.
"SEC. 162. Functions of Council.

"PART H—PROGRAMS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT RELATING TO DRUG ABUSE AND DRUG DEPENDENCY

"SEC. 171. Broader authority under Community Mental Health Centers Act.
"SEC. 172. Broader treatment authority in Public Health Service hospitals for persons with drug abuse and drug dependency problems.
"SEC. 173. Research under the Public Health Service Act in drug abuse and drug dependency.

"PART I—GENERAL

"SEC. 181. Saving provision.
"SEC. 182. Records.
"SEC. 183. Payments."

In the text of the bill, strike out all of title I and insert in lieu thereof the following:

"TITLE I—PREVENTION AND REHABILITATION PROGRAMS RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

"PART A—FINDINGS AND DECLARATION OF PURPOSES

"FINDINGS

"SEC. 101A. The Congress finds that—

"(a) Drug abuse and drug dependence are rapidly increasing throughout the country. Drug abuse can seriously impair health, and can lead to drug dependence. Drug dependence is an illness or disease, which requires a broad range of health and rehabilitation services for treatment.

"(b) Existing laws and their implementation have not been effective to prevent drug abuse and drug dependence or to provide sufficient education, treatment, and rehabilitation of drug abusers and drug dependent persons. Increasing education, treatment, and rehabilitation services, and coordination of efforts, offer the best possibility of reducing drug abuse and drug dependence. A major commitment of health and social resources and Government funds is required to institute an adequate and effective Federal program for the prevention and treatment of drug abuse and drug dependence.

"(c) There is a lack of authoritative information and creative projects designed to educate students and others about drugs and their abuse. High priority should be given to the development, evaluation, and dissemination of educational and informational materials.

"(d) Drug dependent persons commit a high percentage of the serious crime in many cities in order to secure funds with which to satisfy their habit. Criminal incarceration without appropriate treatment has proved ineffective to deter drug related crime. Effective treatment services and successful rehabilitation offer the best possibility of avoiding a high rate of recidivism.

"(e) Present Federal programs for drug abuse and drug dependence should have a high level of priority and should be closely coordinated within the Government. If Federal research, social, health, and rehabilitation laws are adequately used to attack drug abuse and drug dependence, this will contribute to the recognition of responsibility for meeting these problems by public and private State and local agencies.

"(f) Federal officials must effectively handle drug abuse and drug dependence among those for whom the Government has special responsibilities—civilian employees, military personnel, veterans, Federal offenders, American Indians, and Alaskan Natives.

"(g) Drug abusers and drug dependent persons can be best treated and rehabilitated through effective community-based programs, some of which provide a comprehensive range of services and which are integrated with and involve the active participation of a wide range of public and nongovernmental agencies, and some of which provide a more selective range of services arising from local initiative, educational, and peer group assistance programs. Existing treatment and rehabilitation programs are now inadequate to meet the growing demands for such services.

"(h) There is a critical shortage of professional, scientific, educational, and other personnel trained to deal effectively with drug abuse and drug dependence.

"DECLARATIONS

"SEC. 102A. The Congress declares—

"(a) There shall be established and maintained in the Public Health Service, a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence through which the Secretary shall coordinate all Federal health, rehabilitation, and other social programs related to the prevention and treatment of drug abuse and drug dependence and administer the programs and authorities established by this title.

"(b) An increased effort should be made to encourage the development of new and improved curriculums on the problems of drug abuse; to demonstrate the use of such curriculums in model educational programs, and to evaluate the effectiveness thereof; to disseminate curricular materials and significant information for use in educational programs throughout the Nation; to provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders; and to offer community education programs for parents and other adults on drug use and abuse.

"(c) Major Federal action and Federal assistance to State and local programs shall be undertaken to engage in and encourage planning, coordination, statistics, research, training, education, and reporting with respect to drug abuse and drug dependence, and to provide equal access to humane care, effective treatment, and rehabilitation for all drug abusers and drug dependent persons regardless of their circumstances.

"(d) Research relating to drug abuse and drug dependence and to controlled substances shall be fostered and assisted, and medical practitioners and other qualified investigators shall be encouraged and protected in their research efforts.

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"(e) In addition to the provisions of this title, all other Federal legislation providing for Federal or federally assisted State research, prevention, treatment, or rehabilitation programs in the fields of health, education, welfare, and rehabilitation shall be utilized to reduce drug abuse, drug dependence, and drug-related crime.

"PART B—DEFINITIONS

"DEFINITIONS

"SEC. 111. The definitions in title II of this Act shall also apply for purposes of this title.

"ADDITIONAL DEFINITIONS

"SEC. 112. As used in this title:

"(a) 'Court' includes all Federal courts, including any United States magistrate.

"(b) 'Department' means the Department of Health, Education, and Welfare.

"(c) 'Director' means the Director of the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence.

"(d) 'Drug abuser' means any person who uses any controlled substance under circumstances that constitute a violation of law.

"(e) 'Drug dependent person' means a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled substance on a continuing basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

"(f) 'Emergency care service' includes all appropriate short-term services for the acute effects of drug abuse and drug dependence which (1) are available twenty-four hours a day, (2) are community based and located so as to be quickly and easily accessible to patients, and (3) provide drug withdrawal and other appropriate medical care and treatment, professional examination, diagnosis, and counseling with respect to possible drug dependence, and referral for other treatment and rehabilitation.

"(g) 'Inpatient services' includes all treatment and rehabilitation services for drug abuse and drug dependence provided for a resident patient while he spends full time in a treatment institution.

"(h) 'Institute' means the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence in the Public Health Service.

"(i) 'Intermediate care services' includes all treatment and rehabilitation services for drug abuse and drug dependence provided for a resident patient while he spends part time in a treatment facility (including but not limited to a therapeutic community or halfway house which is community based and located so as to be quickly and easily accessible to patients.

"(j) 'Outpatient services' includes all treatment and rehabilitation services (including but not limited to clinics, social centers, vocational rehabilitation services, welfare centers, and job referral services) for drug abuse and drug dependence provided while the patient is not a resident of a treatment facility which are community based and located so as to be quickly and easily accessible to patients.

"(k) 'Peer group assistance' includes all prevention, treatment, and rehabilitation services (including but not limited to telephone counseling and information services, informal, open-admission facilities for support, guidance, referral, and temporary residence and therapeutic, self-help, residential facilities) for drug abuse and drug dependence primarily organized and operated by persons from similar social, cultural, and age backgrounds as those of the persons served under any such program, in facilities which are community based and located so as to be quickly and easily accessible to the persons served.

"(l) 'Prevention and treatment' includes all appropriate forms of educational programs and services (including but not limited to radio, television, films, books, pamphlets, lectures, adult education, and school courses); planning, coordinating, statistical, research, training, evaluation, reporting, classification, and other administrative, scientific, or technical programs or services; and screening, diagnosis, treatment (emergency care services, inpatient services, intermediate care services, and outpatient services), vocational rehabilitation care services, and outpatient services), vocational rehabilitation, job training and referral, and other rehabilitation programs or services; but does not include law enforcement activities.

"(m) 'Secretary' means the Secretary of Health, Education, and Welfare.

"PART C—NATIONAL INSTITUTE FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

"ESTABLISHMENT OF THE INSTITUTE

"SEC. 121. (a) There is hereby established within the Public Health Service a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence to administer the programs and authorities assigned to the Secretary by this title. The Secretary, acting through the Institute, shall develop and conduct a comprehensive health, education, research, and rehabilitation program for the prevention and treatment of drug abuse and drug dependence.

"(b) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

"(c) The Institute and its programs nad services shall be staffed with an adequate number of personnel, who shall possess appropriate qualifications and competence, and some of whom may formerly have been drug abusers or drug dependent persons. Prior drug related criminal arrests or convictions shall not be a bar to such employment.

"ADMINISTRATIVE FUNCTIONS OF THE SECRETARY

"SEC. 122. It shall be the duty of the Secetary, acting through the Institute, with respect to his administrative functions to—

"(a) assist Federal departments and agencies in the development and maintenance of appropriate prevention, treatment, and rehabilitation programs and services in accordance with section 124(a) of this title;

"(b) review and provide in writing an evaluation of the adequacy and appropriateness of the provisions relating to the prevention and treatment of drug abuse and drug dependence of all comprehensive State health, welfare, and rehabilitation plans submitted to the Federal Government pursuant to Federal law, including but not limited to those submitted pursuant to section 5(a) of the Vocational Rehabilitation Act, section 141 of this title, section 604 of the Public Health Service Act, section 1902 of title XIX of the Social Security Act, and section 204 of part A of the Community Mental Health Centers Act:

"(c) administer the grants and contracts authorized under part E of this title; and

"(d) provide assistance to any other service or program, or take any other action, consistent with the intent and objectives of this title.

"PLANNING FUNCTIONS OF THE SECRETARY

"SEC. 123. It shall be the duty of the Secretary, acting through the Institute, with respect to his planning functions to—

"(a) develop a detailed and comprehensive Federal drug abuse and drug dependence prevention and treatment plan to implement the objectives and policies of this title. The plan shall be sumitted to Congress as soon as practicable, but not later than one year after the enactment of this title. Other responsibilities of the Secretary, as set out in this title, shall not be interrupted or delayed pending the initial development of such a plan. It shall be reviewed annually and submitted to Congress with any appropriate revisions as part of the Secretary's annual report. The Secretary shall, in developing the comprehensive Federal plan, consult and collaborate with all appropriate public and private departments, agencies, institutions, organizations, and individuals. The plan shall specify how all available health, welfare, educational, and rehabilitation resources, and how funds, programs, services, and facilities authorized under existing Federal legislation, are to be utilized;

"(b) develop model drug abuse and drug dependence prevention and treatment plans for State and local governments, reflecting the social, geographic, and economic variables of drug and drug dependence problems, and utilizing the concepts incorporated in the comprehensive Federal plan. The model plans shall be reviewed on a periodic basis and revised to keep them current. They shall specify how all types of community resources and existing Federal legislation may be utilized.

"(c) provide assistance and consultation to State and local governments, public and private agencies, institutions, organizations, and individuals with respect to the prevention and treatment of drug abuse and drug dependence; and

"(d) develop models of drug abuse and drug dependence treatment and rehabilitation legislation for State and local governments, which utilize the concepts incorporated in this title.

"COORDINATION FUNCTIONS OF THE SECRETARY

"SEC. 124. It shall be the duty of the Secretary, acting through the Institute, with respect to his coordinating functions to—

"(a) upon request, assist the Civil Service Commission, the Department of Defense, the Veterans Administration, and other Federal departments and agencies in the development and maintenance of appropriate prevention, treatment, and rehabiliation programs and services for drug abuse and drug dependence pursuant to part D of this title;

"(b) serve in a consulting capacity to all Federal courts, departments, and agencies, and to be responsible for assisting in the development and coordination of a full range of programs, facilities, and services available to them for education, diagnosis, planning, counseling, treatment, and rehabilitation with respect to the drug abuse and drug dependence problems they encounter;

"(c) coordinate all Federal social, rehabilitation, and other efforts to deal with the problem of drug abuse and drug dependence;

"(d) encourage and assist State and local government programs and services, and programs and services of public and private agencies, institutions, and organizations, for the prevention and treatment of drug abuse and drug dependence;

"(e) stimulate more effective use of existing resources and available services for the prevention and treatment of drug abuse and drug dependence;

"(f) cooperate with the National Advisory Council on Drug Abuse and Drug Dependence, the Civil Service Commission, and other appropriate Federal departments and agencies, to develop a policy consistent with this title with regard to Federal employees who are drug abusers or drug dependent persons, involving appropriate programs and services for the prevention and treatment of drug abuse and drug dependence among such employees;

"(g) assist State and local governments in coordinating programs among themselves for the prevention and treatment of drug abuse and drug dependence; and

"(h) after consulting with national organizations representative of persons with knowledge and experience in the treatment of drug dependence, report from time to

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time to the Congress on appropriate methods of professional practice in the medical treatment of the narcotic addiction, of various classes of drug dependent persons.

"STATISTICAL FUNCTIONS OF THE SECRETARY

"SEC. 125. It shall be the duty of the Secretary, acting through the Institute, with respect to his statistical functions to—

"(a) gather and publish statistics pertaining to drug abuse, drug dependence, and drug related problems; and

"(b) promulgate regulations specifying uniform statistics to be obtained, records to be maintained, and reports to be submitted, on a voluntary basis by public and private departments, agencies, organizations, practitioners, and other persons with respect to drug abuse, drug dependence, and drug related problems. Such statistics and reports shall not reveal the identity of any patient or drug dependent person or other confidential information.

"RESEARCH FUNCTIONS OF THE SECRETARY

"SEC. 126. (a) It shall be the duty of the Secretary, acting through the Institute, with respect to his research functions to—

"(1) conduct and encourage all forms of research, investigations, experiments, and studies relating to the cause, epidemiology, sociological aspects, prevention, diagnosis, and treatment of drug abuse and drug dependence;

"(2) conduct, and encourage and assist others to conduct, all forms of research, investigations, experiments, and studies relating to the toxicology, pharmacology, chemistry, effects on the health of drug abusers, and danger to the public health, of controlled substances;

"(3) coordinate such research with research conducted by the Institute and with research conducted by other Federal, State, and local public and private nonprofit agencies, institutions, organizations, and individuals. To facilitate this activity, the Secretary shall establish and maintain a complete and current register of all medical practitioners and other qualified investigators engaged in any form of or research on controlled substances;

"(4) make available research facilities and resources of the Administration to appropriate authorities, health officials, and individuals engaged in investigations or research related to the purposes of this title. Such resources shall include the maintenance of an adequate supply of controlled substances for investigational and research purposes, and the establishment of criteria pursuant to which any registered investigator is to be authorized to manufacture or otherwise acquire sufficient controlled substances for his legitimate investigational and research needs;

"(5) make grants to public and private nonprofit agencies, organizations, and institutions, and contracts with public and private agencies, institutions, and organizations, and individuals for such research;

"(6) establish an information center on such research which will gather and contain all available published and unpublished data and information. All Federal departments and agencies shall send to the Institute any unpublished data and information pertinent to the cause, prevention, diagnosis, and treatment of drug abuse and drug dependence, and the toxicology, pharmacology, epidemiology, incidence of drug abuse and drug dependence, effects on the health of drug abuses, and danger to the public health of controlled substances and the Institute shall make such data and information widely available;

"(7) establish and maintain research fellowships in the Institute and elsewhere, and provide for such fellowships through grants to public and private nonprofit agencies, institutions, and organizations;

"(8) investigate methods for determining more rapid and precise methods for determining the extent of drug use by an individual in a given time period and the effects which individuals are likely to experience from such use, and publish on a current basis information concerning uniform methodology and technology for making such determinations;

"(9) evaluate existing and proposed new program and services for the prevention and treatment of drug abuse and drug dependence.

"(b) Any information obtained through investigation or research conducted pursuant to this title shall be used in ways so that no name or identifying characteristics of any person shall be divulged without the approval of the Secretary and the consent of the person concerned. Persons engaged in research pursuant to this section shall protect the privacy of individuals who are the subject of such research by withholding from all persons not connected wtih the conduct of such research the names or other identifying characteristics of such individuals. Persons engaged in such research shall protect the privacy of such individuals and may not be compelled in any Federal, State, civil, criminal, administrative, legislative, or other proceeding to identify such individuals.

"TRAINING FUNCTIONS OF THE SECRETARY

"SEC. 127. It shall be the duty of the Secretary, acting through the Institute, with respect to his training functions to—

"(a) establish interdisciplinary and bilingual training programs for professional and paraprofessional personnel with respect to drug abuse and drug dependence;

"(b) encourage the establishment of training programs, including interdisciplinary and bilingual training programs, for professional and paraprofessional personnel, including peer group assistance personnel, by State and local governments and by public and private educational institutions and agencies with respect to drug abuse and drug dependence; and

"(c) establish and maintain training fellowships in the Institute and elsewhere, and provide for such fellowships through grants to public and private nonprofit agencies, institutions, and organizations.

"EDUCATIONAL FUNCTIONS OF THE SECRETARY

"SEC. 128. It shall be the duty of the Secretary, acting through the Institute, with respect to his educational functions to—

"(a) develop, assist others to develop, and encourage the development, of curricula on the use and abuse of drugs for utilization in elementary, secondary, adult and community education programs. Such curricula should reflect the social, geographical, and economic variables of drug usage and abuse, include relevant data and other information, and include bilingual curricula;

"(b) develop, assist others to develop, and encourage the development of curricula on the use and abuse of drugs for utilization by parent-teachers associations, adult education centers, private citizen groups, community leaders and other parents and adults. Such curricula should reflect the social, geographical, and economic variables of drug usage and abuse, include relevant data and other information, and include bilingual curricula;

"(c) develop, assist others to develop, and encourage the development of a broad variety of informational and educational materials for use in all media to reach all segments of the population that can be utilized by public and private agencies, institutions, and organizations in informational and educational programs relating to drug use and abuse. Such information and materials should reflect the social, geographical, and economic variables of drug usage and abuse, include relevant data and other information, and include bilingual curricula;

"(d) establish educational courses, guides and units on the causes of, effects of, and treatment for, drug abuse and drug dependence, for Federal law enforcement officials (including prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officers, and other law enforcement personnel), Federal welfare, vocational rehabilitation, military, and veterans personnel, and other Federal officials who come in contact with drug abuse and drug dependence problems. Such courses, guides, and units should reflect the social, geographical, and economic variables of drug usage and abuse;

"(e) develop, assist others to develop, and encourage the development of educational courses, guides, and units on the causes of, effects of, and treatment for, drug abuse and drug dependence for use by appropriate State and local government and private agencies, institutions, and organizations, for State and local law enforcement officials (including prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officials, and other law enforcement personnel), State and local welfare, vocational rehabilitation, and veterans personnel, and other State and local officials and community leaders. Such courses, guides, and units should reflect the social, geographical, and economic variables of drug usage and abuse;

"(f) develop, assist others to develop, and encourage the development of a broad range of community-oriented education programs on drug abuse and drug dependence for all segments of the population, including interested and concerned parents, young persons, community leaders, drug abusers and drug dependents, and other individuals and groups within a community. Such programs shall include peer group assistance programs and utilization of former drug abusers, drug dependent persons, and persons with relevant backgrounds similar to those of the persons to be educated;

"(g) evaluate, assist others in evaluating, and encourage the evaluation of curricula, guidelines, units, and other informational and educational materials relating to the use and abuse of drugs. Such evaluations should include an examination of intended and actual impact of such informational and educational materials and the identification of strengths and weaknesses in the information and educational materials;

"(h) conduct, assist others in conducting, and encourage the conducting of preservice and inservice training programs on drug use and abuse for teachers, counselors, other educational personnel, law enforcement officials, and other public service and community leaders and personnel;

"(i) recruit, train, organize, and employ professional and other persons, including former drug abusers, and drug dependent persons, to organize and participate in programs of public education about drug usage and abuse;

"(j) serve as a clearinghouse for the collection, preparation, and dissemination of all information relating to drug abuse and drug dependence, including State and local drug abuse and drug dependence treatment plans, availability of treatment resources, training and educational programs, statistics, research, and other pertinent data and information;

"(k) coordinate activities carried on by all departments, agencies, and instrumentalities of the Federal government with respect to health and other educational aspects of usage and abuse; and

"(l) undertake such other activities as the Secretary may consider important to a national program of education relating to drug usage and abuse.

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"REPORTING FUNCTIONS OF THE SECRETARY

"Sec. 129. It still be the duty of the Secretary, acting through the Institute, with respect to his reporting functions to—

"(a) submit an annual report to Congress, which shall specify the actions taken and services provided and funds expended under each provision of this title and an evaluation of their effectiveness, and which shall contain the current Federal drug abuse and drug dependence prevention and treatment plan;

"(b) submit such additional reports as may be requested by the President or by Congress; and

"(c) submit to the President and to Congress such recommendations as will further the prevention and treatment of drug abuse and drug dependence.

"PART D—PREVENTION AND TREATMENT FOR FEDERAL EMPLOYEES

"DRUG ABUSE AND DRUG DEPENDENCE AMONG FEDERAL GOVERNMENT EMPLOYEES

"SEC. 131. (a) The Civil Service Commission shall be responsible for developing and maintaining, in cooperation with the Secretary and other Federal agencies and departments, appropriate policies and services for the prevention and treatment of drug abuse and drug dependence among Federal civilian employees, consistent with the purposes and intent of this title. Such policies and services shall make optimal use of existing governmental facilities, services, and skills. Federal civilian employees who are drug abusers or who are drug dependent shall retain the same employment and other benefits as other persons afflicted with serious health problems and illnesses, and shall not lose, solely because they are drug abusers or drug dependent persons, pension, retirement, medical, or other rights. A good faith attempt shall be made to find appropriate work within the Government which does not involve the national security during the employee's rehabilitative treatment, rather than placing him on sick leave.

"(b) The Secretary, acting through the Institute, shall be responsible for fostering similar drug abuse prevention, treatment, and rehabilitation services in State and local governments and in private industry.

"(c) No person may be denied or deprived of Federal employment or a Federal professional or other license or right solely on the ground of prior drug abuse or prior drug dependence, except with regard to positions involving national security as specified in regulations promulgated by the department or agency in which he is employed.

"(d) Nothing herein shall prohibit the dismissal from employment of a Federal civilian employee who, as a result of drug abuse or drug dependence and failure to accept appropriate treatment, cannot properly function in his employment.

"CONFIDENTIALITY OF RECORDS

"SEC. 132. (a) All patient records prepared or obtained pursuant to this title, and all information contained therein, shall remain confidential and may be disclosed, with the patient's consent, only to medical personnel and only for purposes of diagnosis and treatment of the patient, or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug dependence or, for research purposes, to public or private research organizations, agencies, institutions, or individuals whose competence and research programs have been approved by the Secretary. Disclosure may be made for purposes unrelated to such treatment, benefits, or research upon an order of a court after application showing good cause therefor. In determining whether there is good cause for disclosure, the court shall weigh the need for the information sought to be disclosed against the possible harm of disclosure to the person to whom such information pertains, to the physician-patient relationship, and to the treatment services, and may condition disclosure of the information upon any appropriate safeguards.

No such records or information may be used to initiate criminal charges against a patient under any circumstances.

"(b) All patient records and all information contained therein relating to drug abuse or drug dependence prepared or obtained by a private practitioner shall remain confidential, and may be disclosed only with the patient's consent and only to medical personnel for purposes of diagnosis and treatment of the patient or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug dependence.

"PART E—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

"Subpart I—Comprehensive Stae Plans

"COMPREHENSIVE STATE PLANS

"SEC. 141. Section 314(a)(2) of the Public Health Service Act is amended to add:

" '(L) provide for services for the prevention and treatment of drug abuse and drug dependence, commensurate with the extent of the problem, such plan to (i) estimate the number of drug abusers and drug dependent persons within the various areas within the State and the extent of the health problem caused, (ii) establish priorities for the improvement of the capabilities of State and local governments and public and private nonprofit agencies, institutions, and organizations with respect to prevention and treatment of drug abuse and drug dependence, and (iii) specify how all available community health, welfare, educational and rehabilitation resources, and how funds, programs, services, and facilities authorized under existing Federal and State legislation, are to be used for these purposes.'

"Subpart II—Formula Grants

"AUTHORIZATION

"SEC. 142. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1971, the sum of $10,000,000; for the fiscal year ending June 30, 1972, the sum of $20,000,000; for the fiscal year ending June 30, 1973, the sum of $25,C00,000; for grants to States to assist them in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with drug abuse and drug dependence.

"STATE ALLOTMENT

"SEC. 143. (a) For each fiscal year the Secretary shall, in accordance with regulations, allot the sums appropriated for such year pursuant to section 142 among the States on the basis of the relative population, financial need, and need for more effective prevention, treatment and rehabilitation of drug abuse and drug dependence; except that no such allotment to any State (other than the Canal Zone and the Trust Territory of the Pacific Islands) for any fiscal year shall be less than $200,000.

"(b) Any amount so allotted to a State (other than the Canal Zone and the Trust Territory of the Pacific Islands) and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount, remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Secretary determines will remain unobligated by the close of such next fiscal year may be reallotted by the Secretary, to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this title, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under subsection (a) to the Canal Zone or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such two additional years, which the Secretary determines will remain unobligated at the close of the second of such additional years may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such additional years, to any other of such four States which have need therefor, of such basis as the Secretary deems equitable and consistent with the purposes of this subpart, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.

"(c) At the request of any State, a portion of any allotment or allotments of such State under this subpart shall be available to pay that portion of the expenditures found necessary by the Secretary for the proper and efficient administration during such year of the State plan approved under this subpart, except that not more than 10 per centum of the total of the allotments of such State for a year, or $50,000, whichever is greater, shall be available for such purpose for such year.

"STATE PLANS

"SEC. 144. (a) Any State desiring to participate in this subpart shall submit a State plan for carrying out its purposes. Such plan must—

"(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

"(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) will have authority to carry out such plan in conformity with this subpart;

"(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations or groups, and of public agencies concerned with the prevention and treatment of drug abuse and drug dependence, to consult with the State agency in carrying out the plan;

"(4) set forth, in accordance with criteria established by the Secretary, a survey of need for the prevention and treatment of drug abuse and drug dependence, including a survey of the health facilities needed to provide services for drug abuse and drug dependence and a plan for the development and distribution of such facilities and programs throughout the State;

"(5) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

"(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

"(7) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (6);

"(8) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary;

"(9) provide reasonable assurance that Federal funds made available under this subpart for any period may be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the programs described in this subpart, and will in no event supplant such State, local, and other non-Federal funds; and

"(10) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions and purposes of this subpart.

"(b) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

"APPLICATIONS AND CONDITIONS

"SEC. 145. (a) For each project pursuant to a State plan approved under this subpart for which a grant is sought from an allotment under section 143, there shall be submitted to the Secretary, through the State agency designated in accordance with section 144, an application by the State or a political subdivision thereof or by a public or other nonprofit agency, institution or organization.

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"(b) The Secretary shall approve such application if (1) there remains sufficient balance in the allotment (available for the purpose) determined for such State; (2) the application is in conformity with the State plan approved under section 144; (3) he obtains assurances that any facility or portion thereof to be constructed or modernized and any program to be carried out will be available to all persons residing in the territorial area of the applicant; and (4) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require. The Secretary may to the extent he determines it would not interfere with the objectives of this subpart, base his findings and determinations under this subsection on certifications by the State agency.

"(c) No application under this section shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

"(d) Amendment of an approved application shall be subject to approval in the same manner as an original application.

"Subpart III—Project Grants

"AUTHORIZATIONS

"SEC. 146. There are hereby authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1971; $45,000,000 for the fiscal year ending June 30, 1972; and $70,000,000 for the fiscal year ending June 30, 1973, to carry out the provisions of this subpart. Any appropriated funds shall remain available until expended.

"GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

"SEC. 147. (a) The Secretary, acting through the Institute, is authorized to make grants to public and private nonprofit agencies, organizations, and institutions and enter into contracts with agencies, organizations, institutions, and individuals for the prevention and treatment of drug abuse and drug dependence to assist State and local governments and public and private agencies, institutions, organizations, and individuals to—

"(1)(a) meet the costs of constructing, equipping, and operating treatment and rehabilitation facilities, including but not limited to emergency medical, inpatient, intermediate care, outpatient, and peer group assistance facilities for drug abusers and drug dependent persons, and (b) to assist them to meet, for the temporary periods specified in subsection (c) of this section, a portion of the costs of compensation of personnel for the initial operation of such facilities, and of new services in existing facilities for drug abusers and drug dependent persons;

"(2) Carry out prevention and education projects and services, including:

"(a) projects for the development of curricula on the use and abuse of drugs, including the evaluation and selection of exemplary existing materials and the preparation of new and improved curricular materials for use in elementary, secondary, adult, and community education programs and conduct projects designed to demonstrate, and test the effectiveness of such curricula;

"(b) projects for the dissemination of curricular materials and other significant information regarding the use and abuse of drugs to public and private elementary, secondary, adult, and community education programs;

"(c) evaluations of the effectiveness of curricula tested in use in elementary, secondary, and adult and community education programs;

"(d) projects for the development, evaluation, and dissemination of a variety of informational and educational materials for use in all media to reach various segments of the population that can be utilized by public and private agencies, organizations and institutions in informational and educational programs relating to drug use and abuse;

"(e) preservice and inservice training programs on drug abuse (including courses of study, institutes, seminars, workshops, and conferences) for teachers, counselors, and other educational personnel, law enforcement officials, and other public service and community leaders and personnel;

"(f) community education programs on drug abuse (including seminars, workshops, and conferences) especially for parents and other adults in the community;

"(g) evaluations of the training and community education programs described in clauses (e) and (f), including the examination of the intended and actual impact of such programs, the identification of strengths and weaknesses in such programs, and the evaluation of materials used in such programs; and

"(h) community-oriented education programs on drug abuse and drug dependence, including development of a broad range of community-oriented education programs on drug abuse and drug dependence for all segments of the population, including interested and concerned parents, young persons, community leaders, drug abusers and drug dependents, and other individuals and groups within a community. Such programs shall include peer group assistance programs and utilization of former drug abusers, drug dependent persons, and persons with relevant backgrounds similar to those of the persons to be educated.

"(3) conduct research, demonstration, and evaluation projects, including surveys and field trials, looking toward the development of improved, expanded, and more effective methods of prevention and treatment of drug abuse and drug dependence;

"(4) provide education and training for professional personnel, including medical, psychiatric, vocational rehabilitation, and social welfare personnel, in academic and professional institutions and in postgraduate courses about the prevention and treatment of drug abuse and drug dependence, and provide training for such personnel in the administration, operation, and supervision of programs and services for the prevention and treatment of drug abuse and drug dependence;

"(5) recruit, educate, train, organize, and employ community drug abuse and drug dependence prevention and treatment personnel to serve with and under the direction of professional medical, psychiatric, vocational rehabilitation, and social welfare personnel in drug abuse and drug dependence prevention, treatment, and rehabilitation programs. Prior drug abuse or drug dependence and prior criminal arrests or conviction shall not be a bar to such recruitment, education, training, organization, and employment;

"(6) provide services in correctional and penal institutions for the prevention and treatment of drug abuse and drug dependence;

"(7) provide services, in cooperation with schools, law enforcement agencies, courts, and other public and private nonprofit agencies, institutions, and organizations, for the prevention and treatment of drug abuse and drug dependence among juveniles and young adults. These services, where feasible, shall include curricula for drug abuse education in elementary and secondary schools, and among parents and other adults;

"(8) provide programs and services in cooperation with local law enforcement agencies, the courts, and other public and private nonprofit agencies, institutions, and organizations, for the instruction of law enforcement officers, prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officials and legal aid, public defender, and neighborhood legal services attorneys with respect to the causes, effects, prevention, and treatment of drug abuse and drug dependence. Such programs and services shall include, where possible, a full range of services available to State and local courts for diagnosis, counseling, and treatment for drug abuse and drug dependence for persons coming before the courts; and

"(9) provide services for outpatient counseling of drug abusers and drug dependent persons to include employment, welfare, legal, education, and other assistance, in cooperation and coordination with welfare and rehabilitation personnel.

"(b) Projects for which grants and contracts are made under this subpart shall be community based, and shall include both those that provide a comprehensive range of services and are integrated with and involve the active participation of a wide range of public and nongovernmental agencies, organizations, institutions, and individuals, and those that provide a more selective range of services arising from local initiative, educational and peer group assistance programs.

"(c) The amount of any Federal grant made under subsection (a) of this section, except with regard to certain grants made under paragraph (1) of subsection (a), shall not exceed 100 per centum of the cost of the program or project specified in the application for such grant. The amount of any Federal grant made under paragraph (1)(a) of subsection (a) of this section to meet costs of constructing and equipping the facilities referred to in such paragraph shall not exceed 90 per centum of the cost of the program or project specified in the application for such grant. The amount of any Federal grant made under paragraph (1)(b) of subsection (a) of this section to meet the costs of compensation of personnel and other operating costs may be made only of the period beginning with the first day for which such a grant is made and ending with the close of eight years after such first day; and such grants may not exceed 90 per centum of such costs for each of the first two years after such first day, 80 per centum of such costs for the third year after such first day, 75 per centum of such costs for the fourth and fifth years after such first day, and 70 per centum of such costs for each of the next three years after such first day.

"(d) An amount, not to exceed 5 per centum of the amount appropriated pursuant to the provisions of this part for any fiscal year, shall be available to the Secretary to make grants to local public or nonprofit private organizations to cover up to 100 per centum of the costs (but in no case to exceed $100,000) of projects for assessing local needs for programs of services for drug abusers and drug dependents, designing such programs, obtaining local financial and professional assistance and support for such programs in the community, and fostering community involvements in initiating and developing such programs in the community. In no case shall a grant under this subsection be for a period in excess of one year; nor shall any grant be made under this subsection with respect to any project if, for any preceding year, a grant under this subsection has been made with respect to such project.

"APPLICATION FOR FINANCIAL ASSISTANCE FROM UNITS OF LOCAL GOVERNMENT AND PRIVATE ORGANIZATIONS

"Sec. 148. (a) In administering the provisions of this subpart, the Secretary shall require coordination of all applications for programs in a State and, in view of the local nature of the drug abuse problem, shall not give precedence to public agencies over private nonprofit agencies, institutions, and organizations, or to State agencies over local agencies.

"(b) Each applicant from within a State, upon filing its application with the Secretary, shall submit a copy of its application for review by the State agency designated in accordance with section 144, if such an agency exists, and if no such agency exists, by the State agency responsible for administering the State comprehensive plan for treatment and prevention of drug abuse and drug dependence, if such agency exists. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project set forth in the application. Such evaluation may include comments on the relationship of the project to other projects pending and approved and to the State comprehensive plan for treatment and prevention of drug abuse. The State shall furnish the applicant a copy of any such evaluation. A State, if it so desires, may, in writing, waive its rights under this section.

"(c) Approval of any application by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

"(1) provide that the activities and services for which assistance under this subpart is sought will be substantially administered by or under the supervision of the applicant;

"(2) provide for such methods of administration as are necessary for the proper and efficient operation of such programs or projects;

"(3) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

"(4) provide reasonable assurance that Federal funds made available under this subpart for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the program described in this subpart, and will in no event supplant such State, local, and other non-Federal funds.

"APPROVAL BY NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"Sec. 149. The Secretary, upon the recommendation of the National Advisory Council on Drug Abuse and Drug Dependence, is authorized to make grants under subpart III of this part.

"Subpart IV—General

"GENERAL

"Sec. 150. (a) Whenever the Secretary finds a failure to comply with the terms of a grant or contract made or entered into under this part, he shall, after reasonable notice and opportunity for a hearing, terminate payments until he is satisfied that there will no longer be any failure to comply.

"(b) The exclusive remedy of anyone adversely affected by a final action of the Secretary under subsection (a) of this section is to appeal to the United States court of appeals for the circuit in which it is located by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file with the court the record of the proceeding on which he based his action, as provided in section 2112 of title 28 of the United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or set it aside, in whole or in part, temporarily or permanently. Until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts shall be conclusive if supported by substantial evidence, but the court, for good cause shown, may remand the case of the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

"ADMISSION OF DRUG ABUSERS AND DRUG DEPENDENT PERSONS TO PRIVATE AND PUBLIC HOSPITALS

"Sec. 150A. (a) Drug abusers and drug dependent persons shall be admitted to and treated in private and public general hospitals on the basis of medical need and shall not be discriminated against solely because of their drug abuse or drug dependence. No hospital that violates this section shall receive Federal financial assistance under the provisions of this Act or any other Federal law administered by the Secretary. No such action shall be taken until the Secretary has advised the appropriate person or persons of the failure to comply with this section, and provided an opportunity for correction or a hearing.

"(b) Any action taken by the Secretary pursuant to this section shall be subject to such judicial review as is provided by subsection 150(b) of this title.

"PART F—THE NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"ESTABLISHMENT OF COUNCIL

"Sec. 151. (a) Section 217(a) of the Public Health Service Act is amended—

"(1) in the first sentence thereof, by inserting 'the National Advisory Council on Drug Abuse and Drug Dependence,' immediately after 'the National Advisory Mental Health Council,'; and

"(2) in the second sentence thereof, by inserting 'the National Advisory Council on Drug Abuse and Drug Dependence,' immediately after 'the National Advisory Mental Health Council,' and by inserting 'drug abuse and drug dependence,' immediately after 'psychiatric disorders.'

"(b) Section 217(b) of such Act is amended, in the second sentence thereof, by inserting 'drug abuse and drug dependence,' immediately after 'mental health,'.

"(c) Section 217 of such Act is further amended by adding at the end thereof the following new subsection:

" '(d) The National Advisory Council on Drug Abuse and Drug Dependence shall advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Service in the field of drug abuse and drug dependence. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of drug abuse and drug dependence and recommend to the Secretary, for prosecution under this Act, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of drug abuse and drug dependence, and (2) to collect information as to studies being carried on in the field of drug abuse and drug dependence and, with the approval of the Secretary, make available such information through the appropriate publications for the benefit of health and welfare agencies or organizations (public or private), physicians, or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Secretary, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of drug abuse and drug dependence; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council.'

"APPROVAL BY COUNCIL OF CERTAIN GRANTS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT

"Sec. 152. Section 266 of part E of the Community Mental Health Centers Act is amended—

"(1) by striking out "Grants" and inserting in lieu thereof:

" '(a) Except as otherwise provided in subsection (b), grants'; and

"(2) by adding at the end thereof the following new subsection:

" '(b) Grants made under this title which are primarily intended for use in the prevention or treatment of drug abuse and drug dependence may be made only upon recommendation of the National Advisory Council on Drug Abuse and Drug Dependence established by section 217(a) of the Public Health Service Act.'

"PART G—INTERGOVERNMENTAL COORDINATING COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"ESTABLISHMENT OF COUNCIL

"Sec. 161. (a) For the purpose of coordinating all Federal Government prevention, treatment, and rehabilitation efforts with respect to drug abuse and drug dependence, of coordinating such Federal efforts with State and local government efforts, and of developing an enlightened policy and appropriate programs for Federal employees for the prevention and treatment of drug abuse and the rehabilitation of drug dependent persons, there is hereby established an Intergovernment Coordinating Council on Drug Abuse Control consisting of the Secretary who shall serve as Chairman, the Attorney Gen-

XUM

eral of the United States, the United States Commissioner of Education, the Director of the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence, the Director of the National Institute of Mental Health, four representatives of State and local government departments or agencies.

"(b) The President shall designate the four representatives of Federal departments or agencies who shall serve on the Coordinating Council, and shall appoint the four representatives of State and local government departments or agencies. The State and local government representatives shall serve for terms of four years, staggered so that one vacancy occurs each year. A State or local government representative may be reappointed immediately after serving less than a full term, and may be reappointed after a four-year hiatus after serving a full term.

"(c) The Coordinating Council may appoint such technical consultants as are deemed appropriate for advising the Council in carrying out its functions. The services of consultants obtained under this section may be obtained in accordance with section 3109 of title 5, United States Code, at rates for individuals not in excess of the daily equivalent paid for positions in GS-18 of the General Schedule in section 5332 of title 5, United States Code.

"FUNCTIONS OF COUNCIL

"SEC. 162. The Coordinating Council is authorized and directed to—

"(a) assist the Secretary in carrying out its function of coordinating all Federal prevention, treatment, and rehabilitation efforts to deal with the problems of drug abuse and drug dependence;

"(b) assist the Secretary in carrying out its function of coordinating such Federal efforts with State and local governments;

"(c) engage in educational programs among Federal employees, and in other appropriate activities, designed to prevent drug abuse and drug dependence;

"(d) implement programs for the rehabilitation of Federal employees who are drug dependent persons; and

"(e) develop and maintain any other appropriate activities consistent with the purposes of this title.

"PART H—PROGRAMS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT RELATING TO DRUG ABUSES AND DRUG DEPENDENCE

"BROADER AUTHORITY UNDER COMMUNITY MENTAL HEALTH CENTERS ACT

"SEC. 171. (a) Part D of the Community Mental Health Centers Act is amended as follows:

"(1) Sections 251, 252, and 253 of such part (42 U.S.C. 2688k, 2688l, and 2688m) are each amended by inserting 'drug abusers and drug dependent persons' in lieu of 'narcotic addicts' each place those words appear in those sections.

"(2) Clauses (A) and (C) of section 252 of such part are each amended by inserting 'drug abuse and drug dependence' in lieu of 'narcotic addiction'.

"(3) The heading of such part is amended to read as follows:

" 'PART D—DRUG ABUSE AND DRUG DEPENDENCE PREVENTION AND REHABILITATION'

"(b) Part E of such Act is amended as follows:

"(1) Section 261(a) of such part is amended by inserting 'drug abuse and drug dependence' in lieu of 'narcotic addiction'.

"(2) Sections 261(c) and 264 are each amended by inserting 'drug abusers and drug dependent persons' in lieu of 'narcotic addicts'.

"(3) The section headings for sections 261 and 263 are each amended by striking out 'AND NARCOTIC ADDICTS' and inserting in lieu thereof ', DRUG ABUSERS AND DRUG DEPENDENT PERSONS'.

"BROADER TREATMENT AUTHORITY IN PUBLIC HEALTH SERVICE HOSPITALS FOR PERSONS WITH DRUG ABUSE AND DRUG DEPENDENCE PROBLEMS

"SEC. 172. (a) Part E of title III of the Public Health Service Act is amended as follows:

"(1) Section 341(a) of such part is amended by striking 'addicts' the second time it appears and inserting the following: 'drug abusers and drug dependent persons'.

"(2) (A) Sections 342, 343, 344, and 346 of such part are each amended by inserting 'drug abusers and drug dependent persons' in lieu of 'narcotic addicts' or 'addicts' each place they appear in those sections.

"(B) The section heading of section 342 of such part is amended by inserting 'DRUG ABUSERS AND DRUG DEPENDENT PERSONS' in lieu of 'ADDICTS'.

"(3) Section 342, 343, and 344 and of such part are each amended by inserting 'drug abuser or drug dependent person' in lieu of 'narcotic addict' or 'addict' each place they appear in those sections.

"(4) Sections 343, 344, and 347 of such part are each amended by inserting 'drug abuse or drug dependence' in lieu of 'addiction' each place it appears in those sections.

"(5) Section 346 of such part is amended by inserting 'or substance controlled under the Controlled Substances Act' immediately after 'habit-forming narcotic drug'.

"(6) The heading for such part is amended to read as follows:

" 'PART E—DRUG ABUSERS AND DRUG DEPENDENT PERSONS'

"RESEARCH UNDER THE PUBLIC HEALTH SERVICE ACT IN DRUG ABUSE AND DRUG DEPENDENCE

"SEC. 173. (a) Section 507 of the Public Health Service Act (42 U.S.C. 225a) is amended by striking out 'available for research, training, or demonstration project grants pursuant to this Act' and inserting in lieu thereof 'available under this Act for research, training, or demonstration project grants or for grants to expand existing treatment and research programs and facilities for alcohol abuse, alcoholism, drug abuse, and drug dependence, and appropriations available under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcohol abuse, alcoholism, drug abuse, and drug dependence facilities'.

"(b) By inserting immediately before the period at the end thereof the following: ', except that grants to such Federal institutions may be funded at 100 per centum of the costs'.

"PART I—GENERAL

"SAVING PROVISION

"SEC. 181. If any section, provision, or term of this title is adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, provision, or term of this title, and the remaining sections, provisions, and terms shall be and remain in full force and effect.

"RECORDS

"SEC. 182. (a) Each recipient of assistance under this title pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the grants or contracts entered into under the provisions of this title under other than competitive bidding procedures.

"PAYMENTS

"SEC. 183. Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine."

AMENDMENT NO. 1027

On page 87, between lines 12 and 13, insert the following new section:

"CLASSIFICATION OF CONTROLLED SUBSTANCES

SEC. 412. In order to provide relevant information to the judiciary for their discretionary consideration and use in determining appropriate sanctions in cases involving violations of sections 401 or 404 of this title, the Attorney General, utilizing the procedures established in section 201 of this title for the classification of controlled substances, shall classify every controlled substance within one of the following three classes:

"(1) Class A Controlled Substances.—This class shall include those controlled dangerous substances that have the most harmful effects on the health of drug abusers or that most significantly contribute to crimes of violence against persons or to other grave felonious conduct.

"(2) Class B Controlled Substances.—This class shall include those controlled dangerous substances that have intermediate harmful effects on the health of drug abusers or that make an intermediate contribution to crimes of violence against persons or to other grave felonious conduct."

"(3) Class C Controlled Substances.—This class shall include those controlled dangerous substances that have the least harmful effects on the health of drug abusers, or that least significantly contribute to crimes of violence against persons or to other grave felonious conduct."

On page 2, in that part of the Table of Contents relating to Part D of title II, insert immediately at the end of Part D the following:

Sec. 412. Classification of Controlled Substances."

AMENDMENT NO. 1028

On page 64, between lines 17 and 18, insert the following:

"(4) Any person who, in violation of this Act, distributes a small amount of marihuana for no remuneration shall be subject to the penalties provided in section 404 of this title."

The summary of Mr. HUGHES, presented by Mr. CRANSTON, is as follows:

SUMMARY OF SENATOR HUGHES' SUBSTITUTE AMENDMENT TO TITLE I OF H.R. 18583

Senator Hughes' substitute amendment to H.R. 18583 establishes the administrative structure necessary to mandate and carry out effective, coordinated and broadly based attack upon the drug epidemic in this country. It deals with the prevention, treatment, and rehabilitation side of the drug problem. (Titles II and III of H.R. 18583 deal with the law enforcement aspects of the problem, and the substitute amendment does not affect or change those two titles.) The substitute amendment, which is modeled after the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, which passed the Senate unanimously earlier this year, would:

1. Establish a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence within the Public Health Service of the Department of Health, Education, and Welfare. The Secretary of HEW, acting through the Institute, would have a comprehensive range of responsibili-

XUM

ties with respect to the prevention, treatment, and rehabilitation of drug abuse and drug dependence problems. Those responsibilities include administrative, educational, training, research, planning, coordinating, statistical, and reporting functions, all of which are spelled out in the amendment. These powers would be utilized and directed in accordance with a specific and comprehensive national drug abuse and drug dependence prevention, treatment, and rehabilitation plan, which would be designed and implemented by the Secretary, acting through the Institute, and which would be submitted annually to Congress for review.

(An Institute will have a stature commensurate with the magnitude of the health problem with which it will deal; the visibility necessary to attract strong financial support and to provide an effective program of public education and to develop public attention to and concern about this important problem; and a permanent status which will assist the development of the most qualified staff possible. In addition, it will provide the structure necessary to administer a state formula grant program, a community-based project grant program, and to attract a broad cross section of individuals who are able to assist in solving problems of drug abuse and drug dependence. Such a cross section would necessarily include persons interested in the medical, sociological, and biological aspects of drug abuse and drug dependence, as well as persons interested in practical and creative programs for education, training, and treatment.)

2. Authorize a formula grant program and a project grant program to assist states and communities in dealing with drug problems:

A. *Formula Grants:* Authorizations in the amounts of $10 million for fiscal 1971, $20 million for fiscal 1972, and $25 million for fiscal 1973, are made for grants to states to assist them in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with drug abuse and drug dependence. A minimum of $200,000 would be allocated to each state for each fiscal year.

B. *Project Grants:* Authorizations in the amounts of $20 million for fiscal 1971, $45 million for fiscal 1972, and $70 million for fiscal 1973, are made for grants to and contracts with state and local community organizations, agencies, institutions, and individuals to carry out a comprehensive range of activities in the drug education, prevention, treatment, and rehabilitation fields. These would include but would not be limited to: development and evaluation of curricula and curricula dissemination programs; training and education programs for medical schools, outreach workers, and other professional and para-professional persons; support of community planning and educational programs; organization of community personnel; support of services to juveniles and young adults; development of programs for correctional institutions; support of local initiative programs, such as peer group leadership programs, crisis intervention centers, clinics, etc.; and support of research, demonstration, and evaluation projects.

3. Establish an Intergovernmental Coordinating Council on Drug Abuse and Drug Dependence consisting of Federal, state, and local governmental officials, to assist the Secretary in achieving broad governmental coordination of and comment on prevention, treatment, and rehabilitation programs; and establish an independent National Advisory Council on Drug Abuse and Drug Dependence, consisting of 15 highly qualified persons, to advise and consult with the Secretary and to assist in carrying out the purposes of this title.

4. Require the establishment of programs of prevention and the recognition and encouragement of treatment and rehabilitation programs for all Federal civilian employees.

5. Retain (at various locations in the amendment), with minor modification, the provisions contained in Title I of H.R. 18583, as sent to the Senate by the House. These provisions broaden certain authorities under the Public Health Service Act, which now relate only to narcotic addiction, so that they relate to drug abuse and drug dependence generally; establish educational and special project programs; protect the privacy of individuals who are the subject of research; and authorize the Secretary to report to Congress on appropriate methods of professional practice in the medical treatment of narcotic addiction.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. HRUSKA. Mr. President, on behalf of the Senator from Mississippi (Mr. Eastland), I wish to announce that the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Benjamin F. Butler, of New York, to be U.S. marshal, eastern district of New York, for the term of 4 years, vice George J. Ward, term expired.

John William Mahan, of Montana, to be a member of the Subversive Activities Control Board for the term expiring March 4, 1975; reappointment.

Otto F. Otepka, of Maryland, to be a member of the Subversive Activities Control Board for the term expiring August 9, 1975; reappointment.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, October 12, 1970, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS OF SENATORS

PROFILE OF MIKE MANSFIELD, SENATE MAJORITY LEADER

Mr. METCALF. Mr. President, the current issue of Washingtonian magazine includes a profile of our majority leader, the distinguished senior Senator from Montana Mr. Mansfield.

In "Mike Mansfield: Straight Shooter in the Senate," editor Julius Duscha gives his impressions of one of the most powerful men in the free world. It is with pleasure that I call it to the attention of the Senate. I ask unanimous consent that excerpts from the article be printed in the Record.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Mike Mansfield: Straight Shooter in the Senate

(By Julius Duscha)

The sky behind the Capitol dome was turning from pink to blue when I arrived at the Old Senate Office Building shortly before seven to spend the day with Mike Mansfield, the Senate majority leader who has become the most important Democratic officeholder in the United States.

A sleepy policeman hardly noticed me as I entered the building and walked down a deserted first floor corridor to Mansfield's offices. When I tried the door, I found it locked. Light came through the transom; so I knocked, softly, I thought, but the noise echoed in the empty hall. A moment later Mansfield, dressed in a baggy black sportcoat and blue trousers, opened the door and let me in.

He was alone, as he is so much of the time. He invited me into his private office, motioned me to a chair, and without another word sat down and resumed signing the letters piled on his desk.

An early riser since his days as a young copper miner in Montana, Mansfield is generally the first Senator on Capitol Hill every morning. He had been at work half an hour by the time I arrived.

As I looked around the plainly furnished office with its Charles Russell sketches of Montana frontier life, I thought of the stories I had heard about Mansfield's stoicism. Like the time he sat on an airplane next to a staff member of the Foreign Relations Committee he knows well and said nothing for five hours as they flew across the Pacific. He just smoked his pipe and looked out the window.

Mansfield is the quiet man of the Senate. An Irish Catholic, he is reputed to have a dry wit, but none of his aides or friends can remember any Mansfied witticisms. "You see him really laugh maybe once or twice a month," an aide said.

Like so many quiet men—Ed Muskie for one—Mansfield has a temper, and when he loses it he is the talk of the Senate.

When Mansfield speaks out calmly, he is generally just as forthright and honest as he is when he gets mad. And above all he is a gentleman, a quality highly prized in that most exclusive gentleman's club on Capitol Hill.

"The only criticism you really hear of this guy," said one of Mansfield's aides, "is that he isn't enough of a bastard."

Perhaps, but he isn't a saint, either. Since President Nixon has been in the White House, Mansfield has emerged as an adroit politician and a surprisingly effective legislative tactician.

Now in his tenth year as majority leader, Mansfield acts as if he was liberated when Johnson returned to Texas. From 1955 to 1961, Mansfield was assistant Democratic leader when Johnson was majority leader, but Johnson ran the Senate himself and seldom had Mansfield do anything. When Johnson became Vice President in 1961 and Mansfield moved up to the Senate leadership, Johnson's influence in the Senate was still enormous. And when Johnson became President in 1963, Mansfield was relegated to a subordinate role, with Johnson making Democratic policy.

Mansfield also has benefited from a distinct lack of competition from other would-be Democratic leaders.

Mansfield also is cashing in on almost a decade of quiet Senate leadership. "Mansfield has complete respectability," a Senator told me, "and that's why he can get things done in the Senate.

Mansfield—whose political instincts are those of a 1930's liberal—forced a Democratic tax-reform bill through the Senate last year; insisted that an increase in social security benefits be voted in 1969 so that Nixon could not take credit for an increase he was planning to propose in 1970; and pushed through the Senate a resolution declaring that the United States should not take on national commitments like the war in Vietnam without Congressional approval.

This year Mansfield almost singlehandedly attached the eighteen-year-old-vote provision to the voting rights act, and he has led

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the Democratic attack on Nixon's economic policies.

Mansfield opposed the President's decision to invade Cambodia and was one of the leaders of the long Senate debate over Cambodia which ended in Senate approval of the Cooper-Church amendment limiting Presidential war-making power in Southeast Asia.

Tough and partisan as Mansfield has been on many issues, he has generally supported Nixon on Vietnam. An opponent of American intervention from the beginning, he nevertheless has backed Nixon's carefully phased withdrawal because he feels the President is moving in the right direction and should be given a chance.

However much the liberals in the Senate respect Mansfield, some feel that by failing to criticize the President's slow withdrawal of troops from Vietnam, Mansfield has lost a good deal of the moral authority he had built up on the Vietnam issue. These critics argue that Mansfield may think he is acting like a statesman but that in fact he has quieted his persuasive voice at a time when Nixon would seem to need more prodding than support from those who want to see us bite the bullet and get out of Vietnam.

Sitting in his office that morning, however, Mansfield resembled neither a leader nor a statesman. Although sixty-seven years old and a Capitol Hill veteran with ten years of service in the House of Representatives and seventeen in the Senate, he reminded me more of a freshman Senator diligently attending to his mail. Mansfield is up for reelection this year, but his political base is solid in Montana, where he was an Asian history professor at the state university for a decade before being elected to the House in 1942.

Six feet tall and trim at 173 pounds, Mansfield looks like a man straight out of the old West. His face is open and weathered, his features are clean cut, his eyes are clear, and he speaks with the deliberateness of a western sheriff. His black hair is greying at the temples, but he still looks like he could spend the day riding the range.

By 7:30, two of Mansfield's principal aides, Peggy DiMichele and Ray Dockstader, had arrived. Without so much as a "Good morning" from the Senator, they started bringing in the day's mail from Montana.

Mansfield got up from his desk and turned on a radio to catch the morning news. When he switched off the radio, I asked him why he spent so much time with the day's mail. Mrs. DiMichele had told me, "If there's anything number one in this office, it's the mail." She said Mansfield is probably the only Senator who does not use robotypewriters for form letters that are then signed by automatic signature machines.

"I never intend to forget the people who put me here and keep me here," Mansfield said. "If a man takes the time to write me, I think he deserves a real answer. I see all the mail from the state, and I read and sign every letter that goes out of this office to Montana."

By 8:00 Mansfield finished signing the mail left on his desk the evening before, and it was time for the most famous breakfast in Washington. Each morning at 8:00, Mansfield and George Aiken of Vermont, the senior Republican of the Senate, go through the cafeteria line in the New Senate Office Building and sit down together for breakfast. The breakfasts began in 1953 on Mansfield's first day in the Senate, when Aiken ran into him in the cafeteria and they ate together.

"They're just like two old buddies sitting around a potbellied stove in a country store every morning," a friend of Mansfield's said.

Aiken, a short, white-haired man in his seventies with the granite look of New England, is, like Mansfield, a man of few words, and they only spend fifteen minutes or so together at breakfast. Aiken is probably the most respected Republican member of the Senate, and he is quite protective of Mansfield among his colleagues. Aiken serves as a valuable antenna for Mansfield, picking up rumblings among Senators and passing them on to Mansfield.

Back in his office by 8:20, Mansfield looked over more Montana mail and then called in a secretary to dictate answers. His letters are chatty—"Dear Folks. . . . Must close now, but again thanking you for your good letter."

His letters are as candid as most of his speeches. When a schoolgirl wrote to ask whether he was concerned about the effects of DDT on plant and animal life, Mansfield replied, "Yes, but I have not been concerned enough."

By 9:30, when most Senators and Representatives are just arriving on Capitol Hill, Mansfield has signed 150 letters; read his mail, a couple of newspapers, and the Congressional Record; dictated some letters; turned other letters over to his staff; conferred with Mrs. DiMichele, his principal secretary, and Dockstader, his administrative assistant.

"Let's go over to the other joint," he said to me as he picked up a bundle of papers from his desk. He quickly walked downstairs, where a Capitol policeman pressed a buzzer three times to call a Senate subway car. As we rode to the Capitol, I asked Mansfield if he ever tired. "Oh, yes," he replied, "I find I don't have the vim and vigor I used to have."

When he arrived at the basement of the Capitol, Mansfield gave a crisp, "Good morning, men," to the college students who serve as elevator operators. One took us to the second floor, where Mansfield walked a few steps to the office right off the Senate chamber which he occupies as majority leader.

The office, presided over by Mrs. Salpee Sahagian, is one of those marvelous Capitol Hill suites redolent of the nineteenth century, with crystal chandeliers and a marble fireplace topped by a huge mirror trimmed in gold.

The three room suite includes a conference room which Capitol Hill reporters call "Mike's Jackie Kennedy room." Mansfield was close to John F. Kennedy and greatly admired both President and Mrs. Kennedy. Kennedy used the conference room as his Capitol office from when he was nominated for President in July 1960 until his inauguration in January 1961, and Mansfield still has three portraits of Kennedy as well as a picture of Mrs. Onassis in prominent places on the walls of the room.

The Senate was meeting early that day, at 10:30 rather than noon, and a few minutes before the session was to begin Mansfield left his office and walked into the Senate chamber where page boys were bustling about, straightening chairs and putting papers on desks.

As Mansfield entered from the rear, he saw a group of reporters clustered around Hugh Scott, the Senate Republican leader. Scott was standing at his desk, at the front of the chamber and across the center aisle from Mansfield's.

Mansfield went over to a side aisle to walk to the front of the chamber to avoid disturbing Scott. As soon as the reporters saw Mansfield, however, they broke off their questioning of Scott and went over to Mansfield to ask him about the effect of amendments to the education bill scheduled to be debated that day. Mansfield parried most of the questions.

A buzzer sounded, the reporters scurried, Mansfield said a few words to Scott, and the two of them bowed their heads as another Senate session started with a prayer.

"The majority leader has very little power," Mansfield told me later when we talked about his role in the Senate, "and what authority you have is on sufferance from your colleagues. I operate on the basis that I treat my colleagues, regardless of seniority or political differences, the way I would like to be treated. I don't desire power as such. I'd like to get away from it. I like to get by on cooperation, understanding, and mutual trust. I have no desire to be in a position where I can crack a whip. I don't want to tell people what to do.

"Senators are mature," Mansfield continued. "They can arrive at a judgment. I sometimes say to a man: "If you're in doubt, give your leader the benefit of the doubt.' But I have rarely specifically asked a man to vote a certain way."

Mansfield does have several levers of power, however. In addition to being chairman of the Democratic Policy Committee, he also heads the other two Senate bodies which represent Democratic interests: The Senate Democratic Steering Committee, which assigns Democratic Senators to committees, and the Senate Democratic Conference, which includes all Democratic Senators but which meets infrequently.

Of these institutional bases of power, the Steering Committee is the most important, and there is grumbling among younger Democrats over Mansfield's failure to try to defuse the power still exercised by the southern oligarchs on the committee. Mansfield has enlarged the committee, but it is still dominated by southern and western conservatives.

"The Steering Committee is the key to power in the Senate," a liberal Democratic Senator told me. "The committee has in its hands the modest matter of a Senator's career. It decides whether you're going to be on the Appropriations Committee or the Sioux Uprising Centennial Committee. The southern power structure still has altogether too much power there, and the South is sanctimonious about seniority only as long as it works for them.

As morning turned into afternoon, I could see from the gallery that Mansfield was becoming impatient with the progress being made on the bill under debate. He would leave the floor, go to the Democratic cloakroom for a few minutes, walk down the hall to his office, and then be back in the chamber, talking with Charles Ferris, counsel to the Policy Committee; Frank Valco, the secretary of the Senate; and Stanley Kimmett, who is secretary to the Democratic majority. Ferris, Valco, and Kimmett try to act as eyes and ears for Mansfield, and they also keep track of which Senators want to speak or offer amendments.

While debate continued to drone on, Mansfield moved around the Senate chamber. He spoke with Scott and the two most important southern oligarchs, Richard Russell of Georgia and John Stennis of Mississippi. As usual, Mansfield managed to get a consensus, and he soon was asking, and obtaining, unanimous consent for an agreement limiting debate on each amendment to twenty minutes.

Although the influence of the South has declined in the Senate during the last ten to fifteen years, southern senators still have more seniority than Senators from other parts of the country. Russell is chairman of the Appropriations Committee, Stennis is chairman of Armed Services, and Russell Long of Louisiana is chairman of Finance—the three most powerful Senate committees. Mansfield's relations with the southerners are good, even though his policy of letting a hundred flowers bloom in the Senate has tended to dilute southern senatorial power.

In midafternoon Mansfield went back to his office to sign some more mail, glance at the afternoon newspapers, and have lunch, by himself, at the end of his conference table. He quickly ate his usual lunch of well-done roast beef and sliced tomatoes. A bad day in the Senate? "Oh, so-so," he replied with some resignation, "but what the hell!"

His spirits seemed to revive later when a constituent dropped by for a visit. He turned out to be an old friend, Eugene Etchart of Glasgow, Montana, a cattleman who was in Washington for a meeting of the Public Land Review Commission. Mansfield greeted him warmly and ushered him into his conference room for a cup of coffee.

After asking Etchart about the weather back home, Mansfield started talking about two of his favorite topics—crime in Washington and the lack of it in Montana. Two Montanans have been killed in Washington street crimes during the last two years, and their deaths have led Mansfield to make several Senate speeches about the need for more policemen and other efforts to control crime.

"We don't know how lucky we are, Gene," Mansfield said. "Montana is an oasis in this world today. Watch your coffee, Gene, don't let it get cold."

Just then buzzers sounded in Mansfield's office, indicating another vote in the Senate, and after instructing one of his secretaries to take Etchart up to the Family Gallery to watch the vote, Mansfield was on his way back to the Senate chamber.

As Mansfield hurried off, it occurred to me that he had not been on the telephone all day, and that not once had I seen him surrounded by aides as he walked down Senate corridors. His staff is in fact unusually small, and he does not even have a press secretary.

Talking with Mansfield later in the afternoon in the conference room of his Capitol office, I asked him about his relations with President Nixon. Mansfield sat back in a leather chair and said: "He calls me very often, on legislative matters and situations, on Asia. Sometimes he asks for my views, sometimes I just give him the benefit of my views. I've had twelve or thirteen breakfasts alone with him. He seemed particularly interested in the follow-up trip to Asia and Rumania that I undertook for him last year and seemed to be appreciative of the private report I gave him on the trip. We're not intimate friends, but we have a decent and tolerant understanding of each other.

"My feelings about Vietnam," Mansfield explained to me, "came largely from the French defeat there. I always thought that if the French could not win there, what should make us think we could? I always thought the analogy with Korea was false, too. But very few people agreed with me. I warned President Johnson against going into Vietnam; Dick Russell warned him, too. But I can see the President's point of view. He had a lot of experts around him who thought we should go in."

His early warnings against American involvement in Vietnam have made Mansfield popular among students. He receives many invitations to speak on college and university campuses.

"I think the young people are great," Mansfield told me. "They're more intelligent and their eyes are open. We should not find fault with them. If they have faults, they are probably attributable to their parents. What we should do is encourage them to put their energies into useful channels. Both political parties, for example, need them. They'll learn through experience, and basically their intent is sound."

I had been talking with Mansfield for more than an hour, and he was becoming restless and obviously wanted to get back to the Senate chamber. When I thanked him and he started to excuse himself, he said, "That was a long one." Mansfield has a well-deserved reputation for giving unusually succinct answers for a politician. Whenever he is on a Sunday television interview program, his questioners are ready with twice as many topics as usual. He has answered sixty questions in a thirty-minute television program.

Mansfield's directness and the careful way he husbands his time are both strengths and weaknesses. Those who work closely with him say that often he trends to take a position on an issue before he thinks it through, but when he realizes he has made up his mind too quickly he sometimes will reverse himself. As for the husbanding of his time, this leads occasionally to his aides telling him what they think he wants to hear rather than presenting both sides of a question.

But by being direct and not wasting time, Mansfield manages to keep on top of one of the most difficult jobs in politics. And one has the feeling that he is still trying to make up for the time he lost as a youth and young man.

Born in Greenwich Village of Irish Catholic parents, Mansfield grew up in Great Falls, Montana. At fourteen, before he finished the eighth grade, Mansfield left home and joined the Navy. He was discharged when World War I ended in 1918, but he then enlisted in the Army for a year and, to make his tour of the services of that pre-Air Force time complete, finally enlisted in the Marines for two years. While in the Marines he served in China, and this was the beginning of his lifetime interest in Asia.

Returning to Montana in 1922, Mansfield settled in Butte, got a job in the copper mines, and married a school teacher. His wife encouraged him to take high-school equivalency tests which would make it possible for him to go to college. Mansfield attended the Montana School of Mines in Butte in the late 1920's while he was still working in the mines and then went on to the University of Montana in Missoula, where he got both a bachelor's and a master's degree. Upon graduation he took a job teaching Far Eastern and Latin American history at the university. Spurred on by his wife again, Mansfield became interested in politics. "There's a little bit of political blood in all the Irish," he says.

And even though it was now late in the afternoon, Mansfield hurried off to the Senate chamber to see whether his goal for the day—the passage of an education bill—would be met. And it was.

By the time the Senate had finished its final vote, it was getting on toward 6:30, and Mansfield had been on Capitol Hill for almost twelve hours. But it was not yet time to go home. Making one final check with Mrs. Sahagian in his Capitol office, Mansfield hurried off to catch an elevator and take the quick Senate subway ride back to his other office in the Old Senate Office Building to see what news the rest of the day's mail and telephone calls had brought from Montana before going home for a quiet dinner with his wife in his modest home off Foxhall Road.

SENATOR SCOTT DEPLORES CAMPUS VIOLENCE

Mr. SCOTT. Mr. President, as the new academic year begins, I call upon all college administrators to take a firm stand against campus violence and political disruption. We must assure that colleges and universities return to the role of providing an education.

We cannot ask the taxpayer to support educational institutions which do not educate. It is not fair to parents who sacrifice to pay for their son's or daughter's education to let a small minority deny them that education.

I stand firmly behind the right to peaceful disagreement. Many of the questions being asked by our college students need to be asked. Most are sincere in their concerns. We in government must work to convince these students that disruption is not an answer and that their actions serve only to further polarize our Nation.

But—the small minority who will continue to disrupt in pursuit of disruption, who are violent in pursuit of violence, and who destroy in pursuit of destruction, must be stopped.

Last year, I introduced legislation in the Senate which would allow a college president to seek a Federal court order to prevent the serious disruption of an institution assisted by Federal funds. I am confident that my proposal would protect the right of all students to pursue their education on a campus free from violent interruptions, and in an atmosphere free from harassment and coercion. My bill places the burden of maintaining campus order upon university administrators by giving them the discretion and authority to petition the Federal courts.

Under my proposal, any person refusing to leave a building included in the court's injunction order could receive a fine, or prison sentence, or both. My proposal provides stricter fines and longer terms of imprisonment for outside agitators who are not faculty members of students in good standing. The difference in penalties emphasizes the importance of separating the legitimate expressions of university community grievances from the attempt of a few ininerant anarchists to cause confusion for confusion's sake. Had my bill been law during the past academic year, I believe that much of the violence and property destruction suffered on our college campuses could have been averted.

Administrators, along with the great majority of responsible faculty and students must act now to rescue higher education from the chaos of raving radicalism and roving violence. It is time that the universities take steps to drive their own guerrillas out into the open and withdraw the protective sanctuary of the campus.

We all have a stake in the quality of education provided for those who will lead our Nation in the future, and I call upon the Congress to act immediately on the President's recent proposals to put a stop to the terroristic bombings on our university campuses. In addition, colleges and universities which receive, and expect to continue to receive, Federal funds should adopt effective procedures to deal with the violence and terror tactics which have swept our campuses.

ADDRESS BY MRS. FRED R. HARRIS TO UNITED STEEL WORKERS OF AMERICA

Mr. BAYH. Mr. President, Mrs. Fred R. Harris, wife of the distinguished senior Senator from Oklahoma, addressed the United Steelworkers of America at their national convention in Atlantic City on September 30, 1970.

Mrs. Harris, as president of Americans for Indian Opportunity, and as a member of the National Steering Committee of the Urban Coalition, has been most active in fighting for full citizenship rights for all Americans.

I think the Senators and other readers of the RECORD will find Mrs. Harris' remarks most interesting. Particularly appropriate is her plea for the progressive

XUM

forces in America to maintain their strength as a coalition.

I ask unanimous consent that the text of Mrs. Harris' address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

STATEMENT OF MRS. FRED R. HARRIS

I am deeply honored to be invited here.

Your President, I. W. Abel, is a close friend of mine and of my husband. And the United Steelworkers of America, under his leadership, is one of the most progressive forces in this country.

Without organized labor, not a single piece of the great domestic legislation of the 1960's could have been enacted into law.

And, today, labor is still the single strongest voice in America for health insurance, for housing, for consumer protection and for other progressive legislation.

Working men and women can and will decide the election and reelection of progressive Senators and Congressmen this November.

So, as a citizen, I commend you for what you have done and for what you are doing for our country.

And, as a woman and as a member of the Comanche Indian Tribe, I thank you for your invitation to appear before this great Convention.

There is much similarity between the struggle for recognition and power that labor unions went through in the first decades of this century and the fight that is going on today to secure full citizenship for black people, American Indians, Chicanos, Puerto Ricans and other Spanish-speaking Americans—and women.

I would especially like to speak about the needs and aspirations of two of these groups—Indians, who, as you know, are a minority in America today, but once were the majority; and women, who of course, are the real majority in America, though the men of this country will not yet admit it.

Most Americans have not thought much about discrimination against Indians—discrimination that is not quite as visible or overt as the kind that black people still experience. But it is no less harmful for being more subtle.

By every measure, the "first Americans" are still the *last* Americans. American Indians still rank far behind everyone else in health, education, housing, employment and income.

The average age of death of the American Indian is forty-four years—compared with sixty-four for all Americans. Infant mortality is three times as high. Unemployment is ten to twenty times greater.

Indian children complete an average of less than 9 years of school—compared with more than eleven years completed by non-Indian children. The average income of an Indian family in America is only $30 a week.

Why is the picture so bad? How did it happen that Indians, who once owned this continent, are even worse off today than black people, who were brought here as slaves?

To begin with, Indians are the only people in America that the government decided, consciously and purposefully, to wipe out—either through outright killing or by destruction of their food sources and by obliteration of their culture.

Those who survived were forced to settle on land that no white man wanted—at least at that time.

But, even then, the Indian was not left alone. His own way of life was destroyed. His children were made pitifully dependent upon the government, not allowed to make decisions for himself.

An eloquent book, *Our Brother's Keeper*, describes precisely the kind of life reservation Indians have endured. It states:

"The Indian is never alone. The life he leads is not his to control. That is not permitted. Every aspect of his being is affected and defined by his relationship to the Federal government."

But that is all changing. It is changing on the reservation. And it is changing in the cities, where nearly one-half of all American Indians now live.

Indians everywhere are beginning to organize in their own communities—just as workers did thirty and forty and fifty years ago. They are bringing political pressure to bear on the people in Washington.

They are rebuilding pride in Indianness. They want to throw out the degrading textbooks and bring their children home from faraway schools.

They are demanding compensatory attention to their health, housing, education and job needs.

They are insisting that they themselves must control their own schools and hospitals and other programs. They want to make their own decisions and do things their own way.

American Indians are asserting the basic American right to be different and still be entitled to the full promise of America.

In this struggle, we need the help—but not the control—of our friends and allies. That's why I am so proud of this great union and the interest you have shown in our cause.

Women, too, are beginning to assert their rights. A lot of men are beginning to understand that discrimination against women is no longer tolerable.

Women are excluded from many jobs they can perform as well as, or better than, men. They are paid less for the same jobs. Quotas keep them out of medicine and other professions. We are wasting human resources.

Discrimination against women must yield to new laws.

Day care centers must make real woman's right to a job. And day care must be more than caretaking. It can and must be an educational and warmly enriching experience for the children of working mothers.

Full equality for women and for American Indians, black people and other minorities is wholly compatible with the idea that the progressive forces in America must maintain their strength as a coalition. In fact, there is no other way to achieve our mutual goals.

There is great danger today that the progressive forces in America will be divided from each other for reasons that have nothing to do with their fundamental interests. If either reactionary or radical words are allowed to divide working people and their natural allies, we will all suffer.

America needs leaders who can carry messages of reconciliation across our no-man's-land. But reconciliation alone is not enough. Action, too, is required. We must work together to get action.

We need each other to make up a majority. There can be no mass movement without the masses. You need us, and we need you. The vested interests are our common adversary.

Chief Joseph of the Nez Perce might have been speaking for all Indians, for all minorities, as well as for working men and women, when he said in 1897:

"Let me be free—free to travel, free to stop, free to work, free to trade where I choose, free to choose my own teachers, free to follow the religion of my fathers, free to think and talk and act for myself."

AMERICAN WAR PRISONERS SHOW EXTRAORDINARY BRAVERY

Mr. HANSEN. Mr. President, for more than 5 years now there are Americans who have been held prisoner by the North Vietnamese. The treatment afforded them has been almost subhuman; their living quarters little better than hovels, their food almost at the starvation diet point, and what little medical attention they get is far from adequate.

And yet, these men have refused to allow themselves to become part of the Communist propaganda barrage against their homeland. They have, even under torture, refused to sign statements attacking the United States and its position vis-a-vis Vietnam. They have refused at all points to degrade themselves by denouncing their country.

The courage of these men is an inspiration to us all, and a mainstay of hope to their families here at home.

These brave and loyal men need our help, and we must do all that is possible for us to do if we are to ease their lot and return them safely to their homes and loved ones.

PRESIDENTIAL ELECTION IN CHILE

Mr. DOMINICK. Mr. President, on September 23, 1970, the Washington Post published a column on one of its editorial pages by Mr. Ralph Dungan, at present Chancellor of Higher Education in New Jersey and formerly Ambassador to Chile from 1964–67.

This article in effect says that the United States should not be concerned by the popular vote received by Mr. Allende for President of Chile, even though he was on the Socialist ticket and actively supported by the Chilean Communist Coalition.

It seemed to me that this article omitted a number of very pertinent facts which should concern the citizens of the United States, not the least of which is that a Soviet-influenced base in the continental South America might be a very disrupting influence in all the Western Hemisphere.

For such reasons, on September 25, 1970, I wrote a letter to Mr. Bradlee, executive editor of the Washington Post, reciting these adverse factors and asking that my letter be published in the editorial page.

As of this date, October 5, 1970, some 15 days after my letter to Mr. Bradlee, I have not had even the courtesy of an acknowledgment, much less any publication of my letter. Since I find this somewhat hard to understand, since it lends added credence to the charges that the Washington Post prints only one side of an argument; and since the Chilean Congressional election among the top three candidates is scheduled for October 15, 1970, I ask unanimous consent that Mr. Dungan's article and my letter reply be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHILE: TEST OF AMERICAN MATURITY

(By Ralph A. Dungan)

Whatever else follows, the recent Chilean election—in which a socialist, Salvador Allende, with some Communist Party support was the victor—provides an opportunity for the United States government to demonstrate a maturity in the conduct of its foreign relations which would be as refreshing as the Chilean situation is novel.

Several characteristics of the election can be acknowledged by almost any objective observer. As has been true historically in Chile,

XUM

the elections were as honest as elections are anywhere—perhaps more so. Participation was high, as usual, and proportionately higher than in most Western countries.

Demagoguery, last minute incidents or external events do not seem to have distorted the results. To the extent that there were seriously disturbing factors present, the urban terrorism attributed to and sometimes claimed by the MIR (Revolutionary Left Movement) was more likely to have benefitted center-right candidate Sr. Allesandri. The election by almost every standard was honest, orderly and in the best Chilean and Western tradition.

Therefore, there is every reason for us to adhere fully to our principle of self-determination and maintain strictly neutral posture as the Chilean people move to complete the constitutionally prescribed process on Oct. 24. On that date a joint session of the Chilean Congress will decide in a runoff ballot which of the three candidates will be president. If it adheres to tradition, Sr. Allende having the largest plurality, will be named.

It can be predicted safely that the period preceding the runoff will be marked by political jockeying as the Christian Democrats seek to gain whatever advantage their large number of seats in the Congress will yield after the poor third-place showing of their candidate, St. Tomic.

One can also expect some panic reaction on the part of the wealthy and relatively large petty bourgoisie. It will be difficult indeed to stem the flow of currency into foreign banks, the relatively unimportant capital market, like similar institutions in other countries, will no doubt be chaotic. These and other manifestations of unrest and anxiety are to be expected given Sr. Allende's rhetoric during this and previous campaigns.

And the reaction may be more than the fragile social and economic structure of Chile can stand. Some elements of the military might make a move, as they have promised, to prevent Allende's taking power. Or the MIR, taking advantage of the confusion, might make a desperate move. Or, less likely, one of Chile's neighbors might threaten.

But the democratic process does not guarantee stability; it only guarantees people free choice in the selection of their government. A majority (more than 60 percent) of the Chilean people, quite predictably, have indicated their desire for a government of the left and apparently at least a third of the electorate is not concerned with a Marxist label.

It is hoped that Chileans and Chile's friends outside the country will view the recent election in some perspective and will speak and act with restraint. Foreigners especially should recognize that despite the very substantial progress brought about under the Frei government, continued rising expectations, unsolved problems like inflation, and the desire for a change were important factors in the election.

Chile, like other modern democracies, has a large swing vote not clearly committed to party or ideology. This swing vote is young and left-leaning and looking for solutions. The choice of aging, rigid Jorge Allesandri as the candidate of the Conservatives was poorly calculated to attract center-left elements which could have made the difference in this close race.

Then there is Sr. Allende himself. A man historically in opposition, he has no recent governmental experience. He is intelligent and committed. Above all he is a Chilean and can be expected to look for, as he has suggested, solutions which will suit the Chilean character and spirit. He will inherit large problems including a huge external debt, a probable decline in copper prices, and endemic inflation. Taking nothing away from his ideological convictions, he is too intelligent and sophisticated an observer not to realize that doctrinaire solutions usually don't work.

In any event, the central fact is that the Chilean people have chosen and are in the process of completing a constitutional and free election. It would be most unfortunate if anything interrupted the process which will determine Chile's destiny.

SEPTEMBER 25, 1970.

Mr. BENJAMIN C. BRADLEE,
Executive Editor,
Washington Post,
Washington, D.C.

DEAR MR. BRADLEE: I would appreciate it if you carry this answer to some of the comments and implications set forth in Ralph A. Dungan's article, "Chile: Test of American Maturity," which appeared on your editorial page September 23.

Mr. Dungan's thesis is that Salvador Allende, Marxist candidate for President of Chile, who squeaked through to a thin plurality over two other opponents, should be confirmed in office. Mr. Dungan also states that Allende, a Socialist, "with some Communist Party support was the victor . . ."

Allende did not arrive at his thin plurality "with some Communist Party support." He was chosen specifically by the Communist Party to form the Popular Unitary Movement, a Communist-manipulated front. This is not the first time a Communist Party has used a front to destroy a democratic system.

In a post-election press conference, Allende said that he would tear up Chile's constitution, characterized by him as "bourgeoise and oligarchic," and replace it with one representative of a "peoples' government" incorporating a one-house legislature rubber stamp to be called a "peoples' assembly." This is pure Communist rhetoric known to all who follow the world scene.

It should be of considerable concern to people around the world that Allende also threatens to do away with Chile's free press and substitute "press cooperatives."

In foreign affairs, if confirmed in power on October 24, Allende said: "I have clearly stated that I will have relations with Cuba, North Korea, China and the Democratic Republic of Germany," and threatens to use the five-country Andean Pact to split the Organization of American States.

Mr. Dungan also implies that Allende came to power by plurality because of growing sympathy among Chile's electorate for Marxist programs. In fact, and despite showing up his Socialist-Communist combine with Radical Party and pro-Communist Christian Democrats, Allende's support dropped by three percent over what he received in 1964. The Christian Democrats by 1970 ran a very poor third, losing a whopping 575,000 votes over what they polled when they won in 1964. Therefore, Mr. Dungan's statement that the Christian Democrats made "very substantial progress" while in power the past six years is certainly not translatable into Chilean votes.

Where, then, did the votes go? To the conservative Nationalist Party which came in right behind Allende, only one and one-half percent off the pace. Translated into congressional seats (there was no election for Congress in 1970), the Nationalists would have dropped from his present total of 80 to somewhere around 74 or 75; the Christian Democrats would have fallen from 75 seats to fewer than what the Nationalists command today. And, the vote in Congress would "be something else" on October 24.

A word about the Christian Democrats. Mr. Dungan, as U.S. Ambassador to Chile from 1964–1967, must know that they played the role of "spoiler" in 1970. All the political indicators and polls showed six months ago that the Christian Democrats had no chance of winning. Yet, they fielded their candidate and siphoned off enough of the Democratic electorate to permit the Communists to slip into first place.

Mr. Dungan suggests that our government exercise its "maturity" in foreign relations by doing and saying nothing. I would suggest that a far more mature approach would be to reveal these facts positively and clearly and to urge the Christian Democrats to support second-place Alessandri where the "surge" clearly lies. Given this Christian Democrat support on October 24, Sr. Alessandri has stated that he would accept the presidency only to call new popular elections, would withdraw his party from those elections and resign, making the issue clearly one of Communism vs. Democracy.

The states are great and should be pointed out. Allende definitely "owes" the Communists—meaning, in fact, the Soviet Union which backs Chile's Communist Party. Only the incurable optimist can imagine the Soviets ignoring the opportunity provided by Chile's 2,700 mile coastline to lodge themselves in the Pacific. The Panama Canal would then be flanked on both oceans and our hemisphere security rendered very perilous.

If the Christian Democrats vote for a Communist on October 24, they will be responsible for bringing to power in Chile a regime that will see to it that 1970 is the last year of the free election in Chile. I do not believe that we exercise "maturity" by staying quiet in the face of these facts.

In short, an Allende endorsement by Chile's Congress on October 24 can only result in setting back decades of patient work trying to build hemispheric defense and hemispheric solidarity. None of these considerations are addressed by Mr. Dungan.

And then there is Castro's Cuba. Allende has been a frequent visitor to Havana, supports Fidel Castro's subversive Latin American Solidarity organization and finds in Castro-Communism a desirable model for Chile. A large group of Chileans, called "Chilean Residents for the Cuban Revolution," have been in Havana for years training themselves to build another Cuban revolution in their own country. Whether they stay in Havana or return to Chile to carry out their destructive purpose may well await the outcome of October 24.

Sincerely,

PETER H. DOMINICK,
U.S. Senator.

BOARD OF GOVERNORS OF U.S. POSTAL SERVICE

Mr. JAVITS. Mr. President, I take this opportunity to express my congratulations to those selected by President Nixon to serve on the Board of Governors of the new U.S. Postal Service.

These nine distinguished individuals represent a solid cross section of the country and have a broad variety of professional experience.

Mr. Nixon's nominees include. Mr. Theodore W. Braun, of California; Mr. Charles H. Codding, Jr., of Oklahoma; Mr. William J. Curtin, of Washington, D.C.; Mr. Patrick E. Haggerty, of Texas; Mr. Andrew D. Holt, of Tennessee.

Mr. George E. Johnson, of Illinois; Mr. Frederick R. Kappel, of New York; Mr. Crocker Nevin, of New York, and Mr. Myron A. Wright, of Texas.

These key men will have the responsibility for the overall operation of the new postal system.

Facing this tremendous challenge, I know enough members of this group to feel that as responsible and well qualified individuals they will make every effort

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and take every step essential to make the U.S. Postal Service the kind of mail system the Nation needs and deserves.

VISA FOR PROF. MING-MIN PENG, LEADER IN FORMOSAN INDEPENDENCE MOVEMENT

Mr. FULBRIGHT. Mr. President, on September 28, 1970, I was pleased to receive, in answer to an inquiry I made of the Department of State, their reply that Dr. Ming-min Peng, a noted proponent of the Formosan Independence movement, has been granted a nonimmigrant visa to enable him to accept a research position at the University of Michigan.

Dr. Peng was arrested on Formosa in 1946 for advocating the overthrow of Generalissimo Chiang Kai Shek and declaring the independence of Formosa. Earlier this year, he escaped from house arrest to Sweden.

Recalling my long and vain intercession in the early sixties on behalf of another Formosan, Dr. Liao, exiled then in Japan, it appears to me that the Department's action in Dr. Peng's case shows greater maturity and reality. I wish to commend it on its decision.

I ask unanimous consent to have printed in the Record an article from the New York Times of October 1, 1970, commenting on the case of Dr. Peng.

There being no objection, the article was ordered to be printed in the Record, as follows:

U.S. Admits a Foe of Chiang Regime—Professor Who Fled Taiwan Will Teach at Michigan

(By Robert M. Smith)

Special to The New York Times

Washington, Sept. 30.—The United States has issued a visa to Peng Ming-min, a member of the Taiwan independence movement who escaped from house arrest in Taiwan early this year and fled to Sweden.

American officials say the visa was granted to Mr. Peng, a law professor, over strong objections of the Chinese Nationalist Government, which regards him as a revolutionary bent on overthrowing President Chiang Kai-shek.

While American sources indicated that the decision had been made on the ground that there was no legal basis for refusing a visa, it is clear that the Taiwan independence movement will take encouragement from the move. It is known that the decision was made at a high level in the State Department.

The sources said the move did not signify a change in American attitudes toward the Chinese Nationalist Government. They indicated that, whatever friction developed, Taiwan must continue to rely on American support.

TO TEACH IN MICHIGAN

Mr. Peng will reportedly leave Stockholm soon for the University of Michigan, where he will teach. He is a graduate of McGill University and holds a law degree from the University of Paris.

The Taiwan independence movement holds that the island should be governed by the Chinese of Taiwan instead of by Chinese Nationalists who fled the mainland in 1949 after the Communist take-over. The Taiwanese constitute about 85 percent of the island's population.

The Taiwanese resent the mainlanders because the Taiwanese are excluded from high government and army jobs. The Chiang Government maintains that there is no discrimination.

Largely because of Taiwan's prosperity and the Government's secret police, the independence movement has remained weak. It is estimated that there are 3,000 or 4,000 political prisoners in Taiwan.

Mr. Peng was arrested in 1964 on charges of trying to overthrow the Government. He was sentenced to eight years in jail, but was released after he had served only 13 months and placed under house arrest. He managed to escape to Sweden in January and was granted asylum there.

Many of the Taiwanese students who come to the United States to study—about 1,500 each year—join the independence movement. One of the objections the Nationalists reportedly raised against Mr. Peng's admission was that he would become involved in the movement.

Last April, Chiang Ching-Ku son and heir apparent of General Chiang, was fired at by a gunman at the Plaza Hotel in New York. The police identified the gunman as a member of the Taiwan independence movement.

OREGON NEWSPAPER APPLAUDS CLEAN AIR LEGISLATION

Mr. HATFIELD. Mr. President, I was pleased to note an editorial by the East Oregonian of Pendleton, Oreg., applauding the Senate's recent passage, by unanimous consent, of the air quality standards legislation.

I invite particular attention to the editorial's assertion:

> That 73 to 0 vote in the Senate accurately reflects, we think, the temper of the American people.

I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Deadlines Essential

The Senate has passed, 73–0, legislation which sets a series of deadlines over a five-year period in which national air quality standards would be set and enforced. The most rigorous requirement would force automobile manufacturers to begin mass production of cars emitting 90 per cent less pollutants by no later than Jan. 1, 1975. The deadline could be extended one year if the manufacturers could show they had expended every effort in good faith and could not meet the earlier deadline.

The legislation came out of a committee of which Sen. Edmund Muskie of Maine is chairman. It goes far beyond pollution legislation enacted in the House and that points to a potential brawl within a conference committee.

Most of the auto manufacturers insist that they don't know how to build effective control devices. Sen. Muskie and many others in the Senate concluded that the manufacturers would make no effort unless they were faced with deadlines.

After hearing a lengthy discussion of this problem at a meeting of the American Society of Newspaper Editors this year we decided that only one of the big three auto builders is trying to solve the problem. The others have done virtually nothing and don't intend to unless forced to.

That 73 to 0 vote in the Senate accurately reflects, we think, the temper of the American people. A nation that has the technical knowledge to put a man on the moon can solve this problem. Auto manufacturers who resist tackling the problem need not be concerned with the expense of solving it. They will pass that on to the consumers. And the consumers are willing to pay.

DISCRIMINATION IN DISGUISE

Mr. DOMINICK. Mr. President, for years we have been expanding programs and spending billions of dollars of tax funds to fight poverty. Many citizens have enthusiastically supported these effects even though there have been recurring reports of failures, wasting of funds at all levels, overpayment of inadequate personnel, and increasing numbers of low-income people and poverty.

Recently I recieved a report from a young woman who had been a music supervisor and teacher's aide in a school for migrant children located in Colorado. This young lady, although only 16 years old, is obviously highly intelligent and very thoughtful. Her name is Vicki English, and she is presently working with "Up With People." She is the daughter of some very fine citizens in Wiggins, Colo., and would like to help people help themselves.

After her summer experience in this school for migrant children, Miss English comes to the conclusion that many of our idealistic and well-promoted programs in fact perpetuate minority groups, create instead of extinguish discrimination, multiply problems, and downgrade children.

This report is so well written and so poignant that I believe it should be considered by all Senators; hence I ask unanimous consent that it be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Discrimination in Disguise

(By Vicki English)

We all know that we can't get something for nothing. Right? Well, I happen to know quite a few people who might disagree with you.

I recently had the opportunity to work in a six-week summer migrant program. For years this give-away program has been promoted and carried through on a huge federal budget. The tiny rural town of Wiggins, Colorado, in which the school is located, is in the heart of sugar beet country. Every summer toward the last of May hundreds of Mexican-American laborers come to work the fields when the beets are ready to hoe, so naturally the bulk of children recruited for migrant school are the children of these workers. Actually, any child that has resided in Colorado for less than five years, and whose parents engage in any phase of agriculture is eligible, but many people are not aware of this.

It sounds great, doesn't it? The migrant school keeps the children out of the field, takes them swimming and to the zoo, allows them to watch "Sesame Street" in color, keeps them well fed, and just generally keeps them out of the way—"baby-sits" in other words.

In only two days working as a teachers' aid, I began to change my mind about the greatness of such a program. Besides witnessing a tremendous waste of money and food, it seemed to me I was witnessing a much sadder waste—the waste of little children's lives. Suddenly I realized we were not doing all the "good" the program was supposed to do for these so-called "disadvan-

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taged children". In reality, we were doing those children a great injustice, and in my mind, serving them one of the worst possible kinds of discrimination—treating them as though they really were "disadvantaged".

There are many free, give-away programs in America today that are destroying the very people the "do-good" liberals were supposed to "help". In the book, Learning On The Move, A Guide for Migrant Education, which is put out by the Colorado State Department of Education, there are sections that degrade the migrant person and add a little insult to injury. For example, there are statements about "The Internal Factors":

> Many migrants appear deficient in the will to *cause* events and *shape* events to their own advantage. Such characteristics may stem from either inherited or environmentally developed causes or a combination of both. He may not have inherited the ability of reasoning.[1]

And there are statements about his "attitudes and values":

> The lack of purpose is a characteristic from which important value concepts emanate. Among migratory people, the value concepts are generally not on a plane that is common in everyday American society. Some lower value standards seem to be possessed by migrant people in most all areas of human endeavor.[2]

And about his "personality traits":

> The migrant person may have the tendency to take the easiest course of action when a problem arises, decision is needed, or action required. This characteristic of weakness is associated with a lack of persistent life planning.

These statements really put the average migrant person at the bottom of the totem pole, and I won't agree with them and don't you either! If a migrant school teacher should read such a "guide" as this, how could she not help feeling defeated before she even begins? She develops the attitude, "Well, if these children are so disadvantaged, there is hardly anything I can do to change their 'inherited' traits." And that is exactly what she ends up doing—hardly anything.

When little innocent children of Mexican-American laborers are "saved" by migrant school programs and other government handouts, the children not only *acquire* undesirable traits, but these traits are actually nourished by the very same programs meant to "help" them. And do you know how they succeed doing this? They actually make the child feel as he really *is* disadvantaged and different from other children!

I used to think that making a minority person feel different and disadvantaged was exactly what this country was trying to eliminate. But instead of treating these children like the Americans they are, and instead of teaching them the ideals that built this country, (like *working* for a living or for a personal goal) we are treating these little impressionable children with the attitude, "Now don't you worry about a thing, you poor disadvantaged child. The government will take good care of you."

This attitude is not only being stressed to little migrant children in Wiggins, Colorado, but it is being stressed to blacks, Puerto Ricans, and other minority groups throughout the United States. These "something-for-nothing" programs stressing such philosophy are far from new, however. Roosevelt's "New Deal" of nearly 40 years ago was intended to help people get on their feet once again after staggering setbacks. But even in today's prosperous era we can see some people still using this "crutch" to unfair advantage. They didn't even try walking on their own—why bother?

I happen to be the daughter of a farmer. so I have seen other ways the "hand-out" programs have done more harm than good. These programs have nearly ruined the farmer and the field of agriculture, by making him subservient to the government. Instead of "helping", poverty programs have just succeeded in keeping people down and putting the "peons in their proper places."

I know that in the past there have been certain liberal "do-goooders" who have screamed the immortal words, "We are for human betterment. We are against poverty. Give to the poor, disadvantaged souls. Help them. Give them *everything*!

Well, fellows, we are *all* for human betterment. We are *all* against poverty. But I am beginning to think that behind all of your beautifully stated phrases and words, there lie a hideous plan and insidious conspiracy. Keep the minorities down. Turn the cards around, and instead of creating a desire within the poor person to better himself and work for himself, *give* him anything he needs to get by. Thus, the plan succeeds by destroying the minority person's spirit and his pride. Then the "do-gooders" will never have to give him another thought—except to see that he gets his monthly welfare check.

I thnk that this is really what saddens me most. During the six weeks I worked as an aid, I learned to love the migrant children, and in many of them I saw great promise and potential. However, if you had been brought up in migrant schools with the philosophy "Leave it to Uncle Sam", would you have bothered to make an effort to change your situation for the better? Of course not. It wouldn't make sense. Let Uncle Sam feed, house, and take care of you.

The average migrant is no different. And believe me, he's no dumbbell about government checks. He knows every single one entitled to him—and if he doesn't, the smiling welfare office girl will soon clue him in on the ones he's missing.

No doubt the people who will probably yell the loudest about this article, will be those in on the government "gravy-train". Strange the way programs against poverty seem to reduce the ordinary taxpayer's pocket book to almost nothing, and yet spell M-O-N-E-Y to a fortunate few. Oh yes, there were a lot of teachers in the migrant program who were genuinely concerned for the migrant child and his development. But I assure you there were those few who were concerned for their own development only—and how is $5.00 an hour, nine hours a day for developing? (I'll admit I was one of the fortunate. Not quite fortunate enough for $5.00 an hour, but it wasn't bad for a 16-year-old girl!)

Before I go further, I would be unfair to you and myself if it were not stressed that the migrant school program was effective in many ways. I saw many children put to good use what the government was giving them—what I did not see, however, was any sign of appreciation. Even a simple "thank you" was rare, and the general attitude was one of "Oh well, I deserve it".

For example, migrant school began at 8:00 a.m. The children were bused to and from school, so transportation was no problem to the parents. The first item on the agenda was breakfast. All a child could eat of cinnamon rolls or eggs, orange juice and butter. There was also lunch *and* a snack to look forward to, all free of course, with no token of any kind required of the child. This is where I feel the program failed most. If the children had been required to bring at least 10c from home, then he would have been learning that he had to work and pay for what he ate. The bulk of the children knew they were eating for nothing, and enjoyed heaping their plates as high as possible and then throwing away nearly half. Once I asked a little girl why she had not been more careful with her new tennis shoes. (They were also free, and she had just succeeded in spilling nearly half of her art paint on them.) The six-year old looked at me with puzzled surprise and replied, "But Miss English, they're *just* tennis shoes."

Why aren't we more concerned with creating a sense of value in people and treating them as constructive citizens? Why are we financing big money programs that give minority groups just enough spirit to beg "Give me"? I am so against these programs and the "something-for-nothing" ways they are run, and at the expense of everyone, you and I. But it's not just the money involved. Far from it. I don't believe we are doing right by a whole generation of children who someday will create problems. Not just to themselves, but to the society that helped create them.

MILTON H. BERGERMAN—CIVIC LEADER

Mr. JAVITS. Mr. President, early last month, New York lost one of its most civic-minded citizens when Milton Bergerman died at the age of 67. Mr. Bergerman, who was a lawyer by profession, spent most of his time working to improve conditions in New York City. He served as chairman for more than 20 years of the Citizens Union, a nonprofit organization founded in 1897 to serve the public interest. During his years with the Citizens Union, he constantly probed into the actions of the legislature and kept a close check on the public officials in the city to see that they were doing their job.

Mr. Bergerman was the personification of the interested and concerned citizen who devoted large amounts of time to serving the public. As Governor Rockefeller so aptly remarked at a memorial service for Mr. Bergerman at Carnegie Hall on September 21, 1970:

> Milton Bergerman kept us on our toes.

He did indeed and his country needs more like him. Mrs. Javits and I again extend our deepest sympathy to the members of the Bergerman family.

I ask unanimous consent that the transcription of the memorial services for Milton Bergerman on September 21, 1970, and an obituary published in the New York Times on September 9, 1970, be printed in the RECORD.

There being no objection, the transcript and obituary were ordered to be printed in the RECORD, as follows:

TRANSCRIPTION OF MEMORIAL SERVICE FOR MILTON M. BERGERMAN

Date: Monday, September 21, 1970.

Time: 10 a.m.

Place: Carnegie Hall, 154 West 57th Street, New York City.

Presiding: Ben Grauer.

Organ music: Organist: Vernon deTar.

Ben Grauer: On returning from the Labor Day holiday, we were all sorry to learn the sudden and very sad news of the passing of Milton Bergerman. The New York Times, in an extended obituary notice, spoke of Milton's extraordinary contributions to the community and to the wider audience that notes, records and reflects on the activities of citizens who enlargen their own community personally by their dedication and commitment. We felt that because of the wide-ranging nature of Milton's contribution to our scene that many would want to join us in a memorial tribute where we review his life very informally and from two aspects—one, from the area of his personality, expressed by a friend; and again, indicating his energies and dedication as a guardian of the community's values, by a most distinguished citizen. I have the pleasure—the sad duty and the pleasure—to recall through the 15 or more years in which we were associated, not only as friends but as colleagues on the WNBC radio program "Searchlight"—the incisiveness, the grasp, the range of Milton's knowledge—the very real sense, in the midst of his knowledge, of the ideals of government—of the realities, and sometimes the sordid nature of the activities that take place—and his undying courage to bring these facts forward. We're happy that you've gathered here—all friends of Miltons, including at the organ console his friend Vernon deTar, the distinguished organist of the Church of the Ascension—to express only a measure of what Milton Bergerman meant and has contributed. Let me then introduce a friend of many, many years of ours and of Miltons—distinguished New York lawyer, Marvin Lyons.

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[1] Neil W. Sherman, and Alfred M. Potts, 2d, Editors *Learning On The Move, A Guide For Migrant Education,* p. 3.

[2] Ibid., p. 4, 5.

Marvin Lyons: We are gathered in remembrance of Milton, whom we lost so surprisingly and so suddenly. He was my devoted friend for more than 40 years. I last saw him when my wife and I visited him and his lovely wife Ems in their home in Rowayton only a few days before he fell ill. He seemed to be in full vigor that day. We played several sets of tennis. We swam together, and he and Ems together prepared, and we enjoyed, one of their famous barbeques. So the news came only a few days later of his sudden illness and then of his death. I never had a greater shock. And I think all who knew him were greatly shocked. He was an extraordinary man. He was a talented lawyer with a searching and wide-ranging mind—a gift for advocacy. He was resourceful, bold, courageous. Above all, his integrity was unshakable. He was a wise counselor. He had an instinctive sense of balance—judgment—native wisdom. He had a tremendous capacity for work—thoroughly enjoyed the practice of law—and thoroughly enjoyed his many public activities. He loved sports. Tennis was his favorite game, and he threw himself into sports as he did in his professional and public activities, with great zest and intense concentration and with a striving perfection. Of course his over-riding interest and concern was with public affairs. The gracious participation of Governor Rockefeller in this memorial, as well as the presence of so many friends and admirers of Milton, attests the public acknowledgment and appreciation of his great contribution as a volunteer in the cause of good government. He devoted himself to this cause for more than 40 years. Today each of us is remembering Milton in particular ways. I remember him as a fun-loving, warm, generous and gentle man—and a delightful companion. I remember the day, just 31 years today, when he and Ems—Ems Wyleman then—were married. And I know how much they meant to each other in all the years that followed. I recall the pride and enthusiasm with which Milton and George Hourwich joined together more than 25 years ago to oganize their law firm. I remember Milton's job when his daughters Jane, and then Jill, were born; and the many glorious summers which our families spent together as our children were growing. And I remember how proud he was in the role of "Father of the Bride" at the weddings of his two girls and the pleasure it gave him to welcome two fine sons into his family. Milton was so vigorous—so strong—and he so loved life—that it is hard to believe that that staunch heart of his gave out. Yet his life was a full and rewarding one. And each of us here today has in some way shared what he gave in love—in loyalty—in companionship—in professional skill—and in his contribution to the public weal. We all share together the common loss of an uncommon man; and we share our deep sympathy with his beloved family, his sister and his brothers.

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Ben Grauer: It is only a small measure of the wide-ranging activities and the deep respect that is held in Milton Bergerman's life and career that our tribute is joined by the Governor of the State, who is here not only in his distinguished official capacity but also as a friend of many years of Milton Bergerman. We introduce Governor Rockefeller.

Governor Rockefeller: Milton Bergerman was not a man to congratulate himself very much. And so it might be consistent with his own way of doing things if we were to describe him simply as a good man. But that's not enough. For goodness is only one element of integrity. Milton Bergerman was a symbol of integrity. He was honest and consistent. He was intolerant of malfeasance and hypocrisy. He inspired confidence and idealism. He was described as the conscience of this City, and certainly he deserved that high compliment as much, or more, than anyone. During two decades as Chairman of the Citizens Union he made it clear to those in public office that there were ethics to be observed and morals to be honored. He asked very little of us. And—at the same time—he asked a great deal. He asked that public servants serve the public. He sought, moreover, to assure that this service be rendered with energy, rectitude and foresight. The Citizens Union, under his stewardship, was an enemy of special interests. He fought against anyone who viewed a public position as one of privilege rather than trust. I knew Milton Bergerman for most of the 20 years he headed the Citizens Union. Two years before I became Governor, he accepted my appointment to the temporary State Commission on Revision and Simplification of the State Constitution. We had many arguments—and a few disagreements. Milt was not a man to put political leaders on pedestals. He criticized us when he thought we were wrong. And he was equally quick to commend us when he felt we deserved it. On the "Searchlight" television program his incisive questions, delivered in his characteristically deep and husky voice, demanded nothing less than the facts. In this and in other ways, Milton Bergerman kept us on our toes. We, in turn, admired his knowledge of government and politics—his progressive attitudes—and his respect for sincerity—and his unrelenting struggle to induce government to do the right thing. And so we say goodbye to Milton Bergerman. We're grateful for his enormous contribution to this City—and this State. We will remember him for a long time. We will remember him because during his lifetime he taught all of us what it really means to be a citizen.

Ben Grauer: Our thanks to Governor Rockefeller and to Marvin Lyons and to Vernon deTar for joining us today. I would like to add just one small word. I'm thinking . . . in this Hall—where we were presenting the NBC Symphony Orchestra of blessed memory with Toscanini, on this very stage; and I was in that broadcast booth up there, which is now removed . . . Milton Bergerman was the Chairman of the Carnegie Hall Corporation at that time. It struck me, as we were sitting here, that I hadn't mentioned how enormously appropriate it is that we pay this very special and affectionate tribute to Milton and his memory here. I'd like to read just one sentence that came out of the heart of the extended obituary which William Freeman wrote in the New York Times: "Milton Bergerman was Mr. Average Citizen in person—with a quick mind, a sharp tongue, and a resonant voice—ready to duel, parry and thrust in behalf of better government. He acted as the conscience of New York." I sat as witness of that for 15 years. And to use the current civic phrase—Governor, and Marvin—in it's very best sense, Milton Bergerman really "gave a damn." I'm going to ask for all the audience to rise for a minute of meditation—of affectionate, loving memory of the spirit and unique qualities of Milton Bergerman.

Organ music as service ends.

MILTON H. BERGERMAN IS DEAD; CITIZENS UNION CHAIRMAN, 67

(By William M. Freeman)

NORWALK, CONN., September 8.—Milton M. Bergerman, chairman of the Citizens Union of New York, died last evening at South Norwalk Hospital after a brief illness. He was 67 years old and lived at 27 Bluff Avenue, Rowayton.

A SPUR TO OFFICIALS

Mr. Bergerman was John Q. Public or Mr. Average Citizen in person, with a quick mind, a sharp tongue and a resonant voice to duel, parry, feint and thrust on behalf of better government.

As chairman for more than 20 years of the Citizens Union, a nonprofit organization founded in 1897, he asked embarrassing questions of public officials, he probed for the reasons behind legislative decisions and he all but bullied public servants into doing their jobs as servants of the public.

Mr. Bergerman, a lawyer by profession, spent most of his time working to better New York City.

An authority on municipal government, he was one of the earliest supporters of Fiorello H. La Guardia, a Fusion Mayor. He advocated and supported the movement for charter revision and made the Citizens Union a participant on the "Searchlight" program over WNBC–TV.

A QUESTIONER ON ISSUES

He had appeared regularly each Sunday on the program since its inception in 1953, and each week he and members of a panel questioned a prominent official or other highly placed person who was in the news.

With Ben Grauer, the moderator, keeping tempers somewhere below boiling point, Mr. Bergerman and the other panelists, who varied from time to time, dug out reasons, pressed for the truth and fought for improvements in operations of the city, its laws and its methods.

Mr. Bergerman used many approaches in fighting for better government. Once, referring to the Citizens Union's wide-ranging influence, he commented:

"We have a prophylactic effect, just by our being there and keeping an eye open. I'd say we supply moral leadership in blowing the whistle on some poor moves by city officials from time to time. That's very necessary, because sometimes you run into a bunch of smart alecks who can confuse the public on the difference between right and wrong."

OPPONENT OF MOSES

His words had a direct reference to Robert Moses, the city planner, bridge and tunnel authority, World's Fair impresario and holder of a score or more allied positions.

Mr. Bergerman had suggested to Mayor Wagner that Mr. Moses should be dropped from the city's slum clearance committee. That was the first time—in 1959—that a respected and responsible civic organization had said, in effect, that Mr. Moses could be replaced.

Mr. Bergerman disclosed that the Citizens Union had authorized him to speak or to keep silent, although some members of the organization had backed Mr. Moses.

Mr. Moses took a full week to assess the blow. Then he made a sharp reply in which he referred to "Citizens Union smart alecks," picking up Mr. Bergerman's colloquialism.

ENTERED GAMBLING INQUIRY

On another occasion, when Brooklyn's racket-investigating grand jury and District Attorney Miles F. McDonald asserted that they would not be "intimidated" by outside pressure in investigating a possible link between the police and gamblers, Mr. Bergerman wrote to Mayor William O'Dwyer to suggest that a prominent person "with a background and standing to inspire public confidence" be appointed to conduct the investigation.

"You owe it not only to the public, but to the department itself," he wrote, "since it goes without saying that the great majority of the police are decent men, carrying out their difficult and dangerous duty with skill and fidelity."

The letter then became sharply worded:

"You have seized upon an individual tragedy and turned it into a theatrical demonstration of your disapproval of the District Attorney's activities." [The Mayor had attended the funeral of a police captain who killed himself while the investigation was going on.]

"That kind of display of sympathy, however well-intentioned, might have the effect of building up a backfire of hostility in the police force against the enforcement officials in Brooklyn. Yet, so far as can be judged, the District Attorney is simply doing what he is there for. He is making an investigation and he is getting somewhere."

MAYOR REFUSES COMMENT

Mr. O'Dwyer conceded that he had received the letter, but said he had not read it and therefore would not comment. The intended effect was accomplished: The gambling inquiry was on the front pages and Mr. Bergerman's letter was part of the day's big story, which meant that the public knew in detail the views of the Citizens Union.

Mr. Bergerman was not always the amicus curiae. He served as a member of the Special Legislative Committee on the Revision and Simplification of the Constitution, by appointment of Gov. W. Averell Harriman, and as a member of the Temporary State Commission on the Revision and Simplification, by appointment of Governor Rockefeller. He was named by Mayor Robert F. Wagner to the Mayor's Committee on Judicial Selection.

He served also as a member of a Lawyers Committee on Court Decorum and Allied Problems by appointment of Harold A. Stevens, Presiding Justice of the Appellate Division, First Department.

Mr. Bergerman was born in New York on May 20, 1903, and received his A.B. and LL.B. degrees from Columbia College and Columbia University in 1925 and 1927. The Class of 1925 of Columbia College presented him with its Distinguished Classmate Award.

He engaged in the practice of law in this city for the rest of his life, as a member of the firm of Bergerman & Hourwich.

He was a trustee of the New York Shakespeare Festival, a member and since 1965 president of the Lawyers Club as well as a member of the Association of the Bar of the City of New York and other professional organizations.

He was the co-author of "New York Real Property Forms, Annotated."

His home was at 863 Park Avenue and he had a summer home in Rowayton, Conn.

He leaves his wife, the former Ems Wyleman; two daughters, Mrs. Martin J. Usdan and Mrs. Gerald Demarest 3d, four brothers and a sister.

The funeral service will be private, with a memorial service to be held later.

WITHDRAWAL OF U.S. TROOPS FROM VIETNAM

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed in the RECORD the Gallup poll of September 27, 1970, which shows that 55 percent of the American people favor having Congress set a definite date for the withdrawal of all U.S. troops from Vietnam. The date is not later than December 1971.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PUBLIC FAVORS WITHDRAWAL FROM VIETNAM BEFORE 1972

(By George Gallup)

PRINCETON, N.J., September 26.—A majority of the U.S. public favors the Hatfield-McGovern plan which would end U.S. troop involvement in Vietnam by the end of 1971, according to findings in the most recent Gallup Poll.

The public's favorable vote, recorded in a September 11–14 survey, contrasts with the vote in the Senate on September 1, when by a 55 to 39 vote the upper house rejected the plan.

If the vote on withdrawal were left to the men of the nation, a fairly even division of opinion would be recorded. The scales are tipped dramatically in favor of withdrawal when the vote of women is taken into account. The latter favor getting out of Vietnam by the end of next year by the ratio of more than 2-to-1.

The difference in the views of men and women is one of the greatest recorded on any national issue in recent years.

The issue of Vietnam has acquired more and more partisan overtones during the last year, with rank-and-file Democrats now favoring withdrawal by a 61 to 29 ratio—while Republicans are almost evenly divided. Significantly, the Democrats in the Senate voted in favor of the plan by a 3-to-2 ratio.

One consolation for those who oppose a fixed-time withdrawal is that the best-educated group—with the highest voting turnout—is almost evenly divided.

SMOLDERING ISSUE

The Senate bill was sponsored by Oregon's Senator Mark Hatfield and South Dakota's Senator George McGovern and provides that the only military funds that could be spent in Vietnam after April 30, 1971, were those for the orderly termination of operations and the systematic withdrawal of armed forces by December 31, 1971. The House has not yet taken up the proposal.

The Vietnam issue lately has not loomed large in the minds of the voters compared to earlier days, but it does lie smoldering and could easily become a controlling issue between now and November 3.

To obtain the results reported today, a total of 1,513 adults were interviewed in person in more than 300 scientifically selected cities, towns and rural areas of the nation. This question was asked:

A proposal has been made in Congress to require the U.S. Government to bring home all U.S. troops before the end of next year. Would you like to have your congressman vote for or against this proposal?

The following table shows the results nationally and by key groups in the population:

HOW SHOULD CONGRESSMAN VOTE?

	Yes	No	No opinion
National	55	36	9
Men	46	45	9
Women	64	27	9
Republicans	48	43	9
Democrats	61	29	10
Independents	53	39	8
College	47	45	8
High school	57	35	8
Grade school	61	27	12
21–29 years	63	32	5
30–49 years	52	39	9
50 and over	55	34	11
East	62	29	9
Midwest	56	35	9
South	49	38	13
West	51	44	5

Persons in the survey who favor bringing home all U.S. troops before the end of next year feel the only way to make sure that the U.S. really gets out is to set a date, letting the South Vietnamese know they must stand on their own feet thereafter.

Those who oppose the plan believe that the President, by his troop withdrawals, is clearly moving to get the U.S. out of Vietnam and should be given the chance to deal with the war as he thinks best. Fixing a date for total withdrawal, they say, would tie the President's hands and make it more difficult to negotiate in Paris.

This group also feels that the North Vietnamese might wait until after our withdrawal and then wage a massive attack.

THE TEXTBOOK PRESIDENCY AND POLITICAL SCIENCE

Mr. ALLOTT. Mr. President, today I want to share with the Senate a most stimulating and important essay by Dr. Thomas E. Cronin, of the Brookings Institution.

The title of this essay is "The Textbook Presidency and Political Science." It was prepared for delivery at the 66th annual meeting of the American Political Science Association in Los Angeles, September 7 through 12.

Dr. Cronin is interested in the contribution which a more accurate political science can make to a more resilient civic culture. He feels that there is a pervasive inaccuracy in the prevailing textbook treatment of the office of President, and that this inaccuracy is debilitating to democracy.

His survey of the relevant literature has led him to the conclusion that most studies of the presidency involve "inflated and unrealistic interpretations of presidential competence and beneficence." As a result:

> American young people grow up expecting their presidents to be sufficiently powerful to win and end wars as well as cure the nation's socio-economic ills.

Dr. Cronin suggests that these expectations lead to myriad unfortunate consequences. For example, a myopic fixation on the presidency as the focus of all responsive governmental power "has costs for quality of citizen relationships with the presidency" and it also "can affect the way the presidents conceive of themselves and their jobs." It encourages citizens to feel awed by the "social distance" between them and the President; it makes it difficult for the President to maintain human contact with the people; it leads to a diminished stature for Congress—the real "first branch of government."

Clearly, many young people are being led into inflated expectations concerning the commodities governments can deliver. In addition, too many young people have over developed capacities for personalized politics and underdeveloped understandings of institutional operations. It is clear that the current textbook treatments of the presidency encourage all this.

Mr. President, I have frequently voiced my concern about the imbalance that today afflicts the classic balance of powers struck by the Founding Fathers. I am delighted to see serious scholars such as Dr. Cronin giving proper attention to the

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fundamental cause of this imbalance—the explosive growth of the Presidency since the New Deal.

It is well known that a large number of those who spent years advocating an ever-larger Presidency have now begun to have second thoughts. They are beginning to understand that an extensive Republic of 205 million free citizens cannot and should not be governed by a single institution such as the modern Presidency. And they are beginning to understand the absurdity of the notion that the American people need a Chief Executive to energize them or to get them moving in this or that direction.

First, it is absurd to think that this most energetic Nation derives its energy from political people. Second, it is absurd and dangerous to think that all Americans should be moving lockstep in the same direction.

I do not think Dr. Cronin is sufficiently generous in crediting Republicans with keeping the Founders' faith as regards legislative supremacy, federalism, decentralization, and other matters relating to the inadequacies of the Central Government bequeathed by those leaders who championed the cause of presidential government. For example, it is odd that Dr. Cronin fails to even mention Senator GOLDWATER, who has been a consistent spokesman for some of the ideas Dr. Cronin approves.

Perhaps we Republicans have been guilty of premature insight regarding the correct institutional order for this Republic.

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Still, Mr. President, I want to salute Dr. Cronin for a necessary job well done. He has surveyed the relevant literature; he has brought theory and practice together in a firm and conclusive critique of some current trends in academic political science; and he has given new momentum to a cause that I think involves the ultimate fate of this Republic—the battle on behalf of small and decentralized government.

So that all Senators may profit from this splendid essay, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

THE TEXTBOOK PRESIDENCY AND POLITICAL SCIENCE

(By Thomas E. Cronin of the Brookings Institution [1])

A few years ago Lawrence Herson suggested that serious attention be given to our textbook literature because "textbooks constitute the well spring of any stream of political science, for they serve not only to summarize the current state of the literature, but also to guide the work of future contributors to it." [2] And indeed it was while re-reading and exploring post New Deal treatments of the American presidency in government texts as well as in the general literature that I became increasingly aware of what I consider inflated and unrealistic interpretations of presidential competence and beneficence. My thesis here is that most recent textbook versions of the presidency overemphasize the policy change and policy accomplishment capabilities of the presidency. It is not that textbooks are wrong as much as they incline toward exaggerations about past and future presidential performance. If this is the case, we run the risk of misleading both students and leaders with respect to the invention and carrying out of civic and political roles.

In this paper I advance a general outline of the recently prevailing textbook orthodoxy. In the process I take liberties with many of the rich nuances in the literature—but I do so in the hope of crystallizing the pronounced propositions about the American presidency and its role in American political life. Second, I put forth several explanations for the persistence of the textbook presidency during the past fifteen years or so. Third, some consequences and costs of the textbook ideal type propositions about the presidency are suggested and discussed. In later sections, I present several countervailing propositions which challenge textbook orthodoxy. Some of these are now being affirmed or reaffirmed in several critiques of centralized leadership and post New Deal liberalism. Others are this author's interpretations based primarily on recent research findings about national policy politics. Together these contrary or revisionist viewpoints point in the direction of evidence indicating the shortcomings of textbook presidency views. But the need for further empirical analysis of both sets of these contrasting propositions is apparent.

I. THE TEXTBOOK PRESIDENCY: A RECENT VERSION

Franklin D. Roosevelt personally rescued the nation from the depths of the great Depression. Roosevelt, together with Harry Truman, brought World War II to a proud conclusion. Courageous Truman personally committed us to resist Communist aggression around the globe. General Eisenhower pledged that as President he would "go to Korea" and end that war—and he did. These are prevailing images that most American school children read and remember. For convenience, if not for simplicity, textbooks label certain periods as the "Wilson years," the "Hoover depression," the "Roosevelt revolution," the "Eisenhower period" and so forth.

Presidents are expected to perform as purposeful activists, who know what they want to accomplish and relish the challenges of the office. The student learns that the presidency is "the great engine of democracy," the "American people's one authentic trumpet," "the central instrument of democracy," and "probably the most important governmetal institutions in the world." With the New Deal Presidency in mind the textbook portrait states that presidents must instruct the nation as national teacher and guide the nation as national preacher. Presidents should be decidedly in favor of expanding the federal government's role in order to cope with increasing nationwide demands for social justice and a prosperous economy. The performances of Harding, Coolidge, and Hoover, lumped together as largely similar, are rejected as antique. The Eisenhower record of retiring reluctance elicits more ambiguous appraisal; after brief tribute to him as a wonderful man and a superior military leader, he gets categorized as an amateur who lacked both a sense of direction and a progressive and positive conception the presidential role. What is needed, most texts imply, is a man with foresight to anticipate the future and the personal strength to unite us; to steel our moral will, to move the country forward and to make this country governable. The vision, and perhaps the illusion, is that if only we can identify and elect *the right man*—our loftiest aspirations can and will be accomplished.

American young people grow up expecting their presidents to be sufficiently powerful to win and end wars as well as cure the nation's socio-economic ills. Studies in political socialization repeatedly stress the children's emerging views toward authority and government center on an American president who looms as a towering, "glittering mountain peak" of benevlence and veritable storehouse of power and wisdom.[3] It is a commonplace assumption, however, that as the child grows older and is exposed to textbooks and current events discussions, his parentally transmitted "regime norms" become more tempered and he becomes, perhaps, even cynical about government and political leaders. But introductory high school and college level textbooks and intermediate treatments mav reinforce rather than measurably refine youthful expectations about presidential leadership.[4] In a period when considerable stock is placed in opinion polls and much talk is made about the views of America's "great silent majority" it is appropriate to give closer scrutiny to the textbook knowledge and expectations about presidential performance.

An inspection of introductory American government and related political science texts indicates a strong endorsement of the activist-purposeful-progressive and powerful presidency. Approximately thirty standard college level textbooks or "presidency" treatments were reviewed, and quotations and illustrations used in this paper have been gathered almost exclusively from these sources.[5] The intended effect is a recognition of the tendency toward inflated propositions about the presidency rather than to devise specific indicators and calculate the degree to which exaggeration is or is not present in given texts.

With small variation, the college text includes two chapters on the presidency. Invariably, these stress that the contemporary presidency is growing dramatically larger in size, gaining measurably more responsibilities (often referred to metaphorically as more hats) and greater resources with which to discharge the increase in responsibility. A widely shared premise of most introductory analyses of presidential leadership postulates that more authority and policy determining discretion devolves to the president during war and crisis times, and since our country is now engaged in sustained international responsibilities such as the Cold War and Vietnam, presidents are consequently even more "powerful." Likewise as one text points out: "as the world grows smaller, he will grow bigger." The following have been taken from four best selling introductory texts:

> The President is the most strategic policy maker in the government. His policy role is paramount in military and foreign affairs.[6]

> He [John F. Kennedy] also became the most important and powerful chief executive in the free world. His powers are so vast that they rival those of the Soviet Premier or of any other dictator. . . . He is the chief architect of the nation's public policy; as President, he is one who proposes, requests, supports, demands, and insists that Congress enact most of the major legislation that it does.[7]

> He reigns, but he also rules; he symbolizes the people, but he also runs their government.[8]

> The President of the United States of America is, without question, the most powerful elected executive in the world. He is at once the chief formulator of public policy as embodied in legislation, leader of a major political party . . ., chief architect of American foreign policy . . . . And his power and responsibility are increasing.[9]

Footnotes at end of article.

Then, too, there is a tendency among textbook writers to underline the vast resources available for presidential decision-making. Extensive arrays of "experts," strategic support staffs and intelligence systems are pointed out. There follows a lengthy listing of a National Security Council, a Bureau of the Budget, and Office of Science and Technology, a Council of Economic Advisors, expanded White House staffs, and so forth. To the teenager or young adult, these discussions cannot help but convey the impression that a president must have just about all the inside information and sage advice possible for human comprehension. A casual reading of such chapters fosters the belief that contemporary presidents can both make and shape public policy directions and see to it that these public policies *work as intended.* Why not? For he is pictured as unusually well informed and constantly surrounded by this nation's ablest "experts."

The conviction that the "president knows best" and that his advisory and information systems are unparalleled is easily encouraged by passages such as the following taken from a leading American government text:

> The President has not only the authority but the *capacity* to act. For example, he has at his command unmatched sources of information. To his desk come facts channeled from the entire world. Diplomatic missions, military observers, undercover agents, personal agents, technical experts gather tons of material which are analyzed by experts in the State Department and elsewhere. Since the President draws on the informed thinking of hundreds of specialists, his pronouncements have a tone of authorty. The President and his experts are sometimes wrong, and many gaps appear in their information, but his sources of information give him a clear advantage over Congress.[10]

The capacity of the presidency for systematic thinking and planning is similarly described as awesome and powerfully suited to the challenges of the day. James M. Burns, for example, gives us this view:

> Presidential government is a superb planning institution. The President has the attention of the country, the administrative tools, the command of information, and the fiscal resources that are necessary for intelligent planning, and he is gaining the institutional power that will make such planning operational. Better than any other human instrumentality he can order the relations of his ends and means, alter existing institutions and procedures or create new ones, calculate the consequences of different policies, experiment with various methods, control the timing of action, anticipate the reactions of affected interests, and conciliate them or at least mediate among them.[11]

This same theme is also outlined in Theodore White's *The Making of The President 1960*, which often is used as a supplementary text:

> So many and so able are the President's advisers of the permanent services of Defense, State, Treasury, Agriculture, that when crisis happens all necessary information is instantly available, all alternate courses already plotted.[12]

Elsewhere in his prolific writings, White pays lavish tribute to America's "action-intellectuals," whom he designates as the "new priesthood" of national policy making. These select White House aides and presidential advisors recruited from prestigeous universities and research centers are credited with being a benign and "propelling influence" upon our government: "shaping our defenses, guiding our foreign policy, redesigning our cities, reorganizing our schools. . . ."[13]

Clinton Rossiter wrote one of the most lucid venerations of the American presidency. In the *American Presidency*, published in 1956, though still one of the most widely read introductory analyses of presidential leadership, he views the presidency as a priceless American invention which has not only worked extremely well but is also a symbol of our continuity and destiny as a people. His treatment is sympathetic and optimistic:

> Few nations have solved so simply and yet grandly the problem of finding and maintaining an office or state that embodies their majesty and reflects their character.
>
> There is virtually no limit to what the President can do if he does it for democratic ends and by democratic means.
>
> He is, rather, a kind of magnificent lion who can roam widely and do great deeds so long as he does not try to break loose from his broad reservation.[14]

Rossiter's rich prose and analogies can hardly reduce his readerships' awe and admiration, if not exactly reverance for the presidency. He was both fully aware of his own biases and seemingly quite convinced that the myth of presidential greatness and grandeur is to be cultivated. Hence, he could write about the Lincoln legacy:

> Lincoln is the supreme myth, the richest symbol in the American experience. He is, as someone has remarked neither irreverently nor sacrilegiously, the martyred Christ of democracy's passion play. And who, then can measure the strength that is given to the President because he holds Lincoln's office, lives in Lincoln's house, and walks in Lincoln's way? The final greatness of the Presidency lies in the truth that it is not just an office of incredible power but a breeding ground of indestructible myth.[15]

One of the best respected specialized treatments of the presidency is Richard E. Neustadt's *Presidential Power* (1960). Neustadt's point of view countered much conventional wisdom about the presidency by stressing the highly political administrative-bureaucratic context in which presidents must operate and the obstacles posed to presidential directives by Washington empire-builders. Yet Neustadt, at least in this earlier work, is also seemingly committed to much of the conventionally outlined textbook presidency norms.[16] He assumes that presidents can and should be powerful engines of change. Neustadt's recommendations aim to strengthen the presidency by protecting his options and enhancing his personal influence.

Neustadt applauds the FDR ideal type and details possible strategies that might promote similar presidential performance. While diagnosing the operational hazards of certain presidential influence tactics, he calls attention to critically important "personal" attributes necessary for effective presidential leadership. "The men who share in governing this country frequently appear to act as though they were in business for themselves. So in a real though not entire sense, they are and have to be."[17] In this latter sense, Neustadt actually elevates the image of a "proper" presidential performance to yet a higher stage of expectations. Hence, though sensitively dealing with the problematic variables involved in presidential bargaining, Neustadt's portrait of the presidency does little to reduce the image of a potentially powerful independent architect of United States public policy. And in many ways, his volume is a singularly period-piece treatise which indicts Dwight Eisenhower for failing to honor the power oriented activist-purposeful text ideal.

> Had Eisenhower been more purposeful as President his own sense of direction might have come to the rescue of his power sense. Occasionally this seems to have occurred, but not often. His purposes were not well suited to the task . . . Eisenhower's purposes seem tangible enough to have kept such a man in motion without being so precise as to impel him down blind alleys or to turn him against history. Their very imprecision, though, made them unsuitable to sharpen a dull power sense. If anything, they dulled it more. Eisenhower often seemed to mistake generalities for concrete undertakings; when he did pursue a concrete aim he often seemed to lose sight of his broad objectives.[18]

It is as though he was rescuing and reclaiming the New Deal presidential image *and* the textbook presidency from the Eisenhower Reformation.

Recently written or revised government textbooks similarly emphasize the importance of personal attributes:

> The President's values, his qualities of character and intellect, his capacity for leadership, his political skills, his definition of his own role, and the way he performs it—*these are fundamental determinants* of the working of the American government and of American Politics.[19] [italics mine]

There is little doubt that emphasizing the President's personal qualities helps to capture the attention of student learners. And, the linkage between personal style and presidential policymaking, though frequently subtle, can sometimes be important. Major methodological difficulties exist however, and though social scientists are unable to demonstrate with any degree of confidence that a president's personality or style is irrelevant, they are equally at a loss to show the degree and type of connection between such factors and major policy change or non-change.[20]

Not surprisingly, this personalization of the presidency also is reflected in a great deal of campaign rhetoric. Presidential candidates go to a considerable length to stress how personally courageous and virtuous a president must be. Nelson Rockefeller's (1968) litany of necessary qualities is as exaggerated as anyone else's:

> The modern Presidency of the United States, as distinct from the traditional concepts of our highest office, is bound up with the survival not only of freedom but of mankind. . . The President is the unifying force in our lives. . . .
>
> The President must possess a wide range of abilities: to lead, to persuade, to inspire trust, to attract men of talent, to unite. These abilities must reflect a wide range of characteristics: courage, vision, integrity, intelligence, sense of responsibility, sense of history, sense of humor, warmth, openness, personality, tenacity, energy, determination, drive, perspicacity, idealism, thirst for information, penchant for fact, presence of conscience, comprehension of people and enjoyment of life—plus all the other, nobler virtues ascribed to George Washington under God.[21]

John Kennedy as presidential candidate similarly stressed the crucial personal requisites of a potential president. Certain men, he claimed, could so enjoin the nation's best inclinations that these United States could and would "move forward" and he promised to be that type of individual:

> The President of the United States is the key office, and only the President of the United States can mobilize the resources of this country so that we begin to move ahead again. . . .[22]
>
> I stand in the tradition of great Democratic Presidents who in this century moved this country forward, Woodrow Wilson, Frankin Roosevelt and Harry Truman, and we are going to do it again in 1960.[23]

Both the Rockefeller and Kennedy statements are in full accord with the post New Deal textbook orthodoxy.

The personalized presidency is also a central feature of contemporary political journalism, and no journalist does more to embellish this perspective than Theodore White. His "Making of the Presidents" series not only enjoys frequent university use but additionally serves as presidency "'textbooks"

Footnotes at end of article.

for millions of adults who savor White's "insider" explanations of presidential election campaigns.

White's unidimensional concentration on the presidential candidates, their styles and personalities promotes a benevolent if not reverential orientation toward the American presidency. White's narrative histories of American political campaigns have an uncanny way of uplifting and seducing the reader to watch and wait an election's outcome with intense concern—even though the books are published almost a year after the event. His melodramatic style ferments great expectations and a heightened sense of reverence for the eventual victor. At first there are seven or eight competing hopefuls, then four or five, penultimately narrowed down to two or three nationally legitimized candidates and finally—there remains just one man. Clearly the victor in such a drawn-out and thoroughly patriotic ritual deserves our deepest respect and approval. White subtly succeeds in purifying the victorious candidate: in what must be a classic metamorphosis at the root of the textbook presidency image, the men who assume the presidency seem physically (and implicitly almost spiritually) to undergo an alteration of personal traits.

On JFK's first days in the White House, 1961:

> It was as if there were an echo, here on another level, in the quiet Oval Office, of all the speeches he had made in all the squares and supermarkets of the country . . . He had won this office and this power by promising such movement to the American people. Now he had to keep the promise. He seemed very little changed in movement or in gracefulness from the candidate—only his eyes had changed—very dark now, very grave, markedly more sunken and lined at the corners than those of the candidate.[24]

On Richard Nixon soon after his ascendency, 1969:

> He seemed, as he waved me into the Oval Office, suddenly on first glance a more stocky man than I had known on the campaign rounds. There was a minute of adjustment as he waved me to a sofa in the barren office, poured coffee, put me at ease; then, watching him, I realized that he was not stockier, but, on the contrary, slimmer. What was different was the movement of the body, the sound of the voice, the manner of speaking—for he was calm as I had never seen him before, as if peace had settled on him. In the past, Nixon's restless body had been in constant movement as he rose, walked about, hitched a leg over the arm of a chair or gestured sharply with his hands. Now he was in repose; and the repose was in his speech also—more slow, studied, with none of the gear-slippages of name or reference which used to come when he was weary; his hands still moved as he spoke, but the fingers spread gracefully, not punchily or sharply as they used to.[25]

What, then, constitutes the recent textbook version of the American presidency? As always, any facile generalization of such a hydra-like institution is susceptible to oversimplification. Yet, the similarities of textbook presidency renditions far outweigh the nuances of disagreement. Surely some books are more sophisticated than others, certain propositions are given more stress here than there, but on balance more consensus than contention characterizes the introductory American presidency literature. Four summary propositions can be singled out: two of these accentuate the descriptive and expectational dimension of omnipotence; two others emphasize the moralistic-benevolence dimension. (These are suggested here as ideal type constructs for schematic purposes and as a group do not necessarily describe particular texts or text author orientations.) Taken together, this admixture of values, legend and reality comprise the textbook presidency of the past fifteen years.

Omnipotent dimension

1. That the president is the strategic catalyst in the American political system and the central figure in the international system as well.

2. That only the president is or can be the genuine architect of the United States public policy and only he, by attacking problems frontally and aggressively, and interpreting his power expansively, can be the engine of change to move this nation forward.

Moralistic-benevolent dimension

3. That the president must be the nation's personal and moral leader; by symbolizing the past and future greatness of America and radiating inspirational confidence, a president can pull the nation together while directing us toward the fulfillment of the American Dream.

4. That if only the right man is placed in the White House—all will be well, and, somehow, whoever is in the White House is the right man.

II. EXPLANATIONS FOR THE RECENT TEXTBOOK PRESIDENCY

Radio, TV, and the emergence of the United States as a strategic nuclear power have converged to make the presidency a job of a far greater prominence than it was during the Nineteenth and early Twentieth centuries. While this is readily appreciated, what is less understood is why have we been recently visited with such a decidedly idealized textbook version of presidential leadership? Additionally, there is a series of mutually reinforcing factors or circumstances which seem to promote the textbook presidency: (1) *human and cultural expectations* (e.g., a need for symbols and the reassurance that great men exist), (2) *political and electoral system values* (e.g., the desire for national stability and loyalty to national institutions, (3) *textbook author values* (e.g., to train citizens and celebrate the Roosevelt presidency, (4) *research methods* (e.g., limited access and data, etc. . . .), and (5) *institutional focus* (e.g., compartmentalism vs. comparative and contextual analysis).

(1) A first and somewhat general explanation for the textbook presidency is derived from the basic human and social tendency of belief in great men. Most people grow up with the expectation that someone, somewhere can and will cope with the major crises of the present and future. In the post New Deal, post Franklin Roosevelt era most Americans have grown accustomed to expect their presidency to serve this type of role. Who, if not someone like the president, is going to prevent the communists from burying us, pollution from choking us, crime and conflict from destroying our cities, etc . . .? Within the complexity of political life, the presidency serves a basic need of having a visible national symbol around, to which we can attach our hopes. Something akin to presidential cults exists in the United States today just as hero-worship, gerontocracy reverence and other forms of authority-fixation have flourished in most, if not all, larger societies.[26] Portraits of Washington, Lincoln, the Roosevelts and Kennedy paper many a classroom wall along side the American flag. While defication is presumably discouraged, something similar is a common side product during the early years of schooling. Thomas A. Bailey points out, "The American people are prone to place their Presidents—especially the dead ones—on a pedestal rather than under a microscope."[27] Dixon Wecter adds that we have a long tradition of this behavior and are just as persistent in it as most other peoples:

> To some people, sainthood or godhead may seem terms too strong for description of American hero-worship. We like to think we are a hard-headed nation of realists. But our folk attitude toward our greatest heroes approaches the religious. We insist upon stainless perfection of our greatest idols—like Washington, Lincoln, Lee—and many of our biographers, seeking to make them into Christlike characters, have succeeded only in converting them into Sunday school prigs. This mould of perfection is set, and an attempt to break it is hotly resented by the majority.[28]

And, as the following quote illustrates, a textbook interpretation can generously generalize from past performances to a future of bright performance:

> When Presidents are great heroes elected by a vast and vigorous majority, or when they are forced by a catastrophe and crisis to unexpected greatness, then the Presidency is as powerful as the sun, obscuring all other stars with its own light. But when neither heroic personality nor calamitous circumstances expands its influence, then it is only one star among many almost unnoticeable in a Milky Way. Yet through all this fluctuation one can discern a long-run trend of increasing brightness.[29]

Occasionally, in what appears to be a serious rejection of the traditional liberal textbook norms, we turn to men like Dwight Eisenhower and Eugene McCarthy who speak out against ambitious or possessive presidential leadership. Even these recent contemporaries, though, have subscribed to the notion that the presidency should be a place for high moral example and should serve to uplift, if not physically liberate the American people from their problems and weaknesses. Seeming contradictions are indeed present, but the underlying hallmarks of the textbook presidency remain; see, for example, Eugene McCarthy's 1968 campaign conceptions of the presidency:

> The role of the President must be to unite the nation. But he must unite it by inspiring it, not unite it by just adding it up or piecing it together like some kind of jigsaw puzzle. Rather than trying to organize the nation he must try to encourage the common purpose of creating an order of justice in America. . . . He should understand that this country cannot be governed by coercion, and that it needs a special kind of leadership, which itself recognizes that the potential for leadership exists in every man and woman.[30]

On all but two occasions during the past seventeen years, the president of this nation has won the Most Admired Man contest conducted annually by the Gallup Polls.[31] The exceptions in 1967 and 1968 saw President Johnson lose out to former President Eisenhower. Mentioning this pattern of popular response to a recent conversation partner, I was informed that "If they were not the most admired men in the country they wouldn't have been elected president!" And his response is, I believe, a widely respected point of view in America. On the one hand we are always looking for reassurance that things will work out satisfactorily. On the other hand we admire the dramatic actions of men in high places who are willing to take action, willing to cope with the exigencies of crisis and uncertain perplexity. No political scientist has spoken of this in more lucid terms than Murray Edelman, who states:

> And what symbol can be more reassuring than the incumbent of a high position who knows what to do and is willing to act, especially when others are bewildered and alone? Because such a symbol is so intensely sought, it will predictably be found in the person of any incumbent whose actions can be interpreted as beneficient or because their consequences are unknowable. . . .[32]

Because it is apparently intolerable for men to admit the key role of accident, of ignorance, and of unplanned processes in

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their affairs, the leader serves a vital function by personifying and reifying the processes.[33]

(2) A second reason for the textbook presidency lies in the very nature of the American political and electoral system. We elect a president by a small (often slim) margin, but after election he is supposed to speak for all the people. The textbook and school norms suggest that one can vigorously question a presidential candidate but not a new president; after the election, it is one's duty to unite behind the legitimized winner, since united we stand, divided we might not. The mood is one of beginning anew, of reasoning together, and of joining together with renewed support for both presidency and country. It is as though the president were the pilot of an aircraft with all of us as passengers—whether we like it or not. Hence, we have a stake in his success. "Give the man a chance!" To behave otherwise is either unpatriotic or smacks of "unsporting" partisan opposition. A losing party gets little sympathy during post-election periods—the time for complaints is at the next election, at least not during the first year or so while the present incumbent is trying hard to get on with the job.

Advancing some justification for our approach to teaching about the American presidency, some political scientists point out that childhood romanticists and deferential respect for the presidency may be a blessing in disguise for system stability and national order. Concluding a study of children's images of the presidency, Hess and Easton have argued that:

> From the point of view of the stability of the American political structure, some such attachment early in life has positive consequences. As the child grows to adulthood, he is exposed to considerable debate and conflicts over the merits of various alternative incumbents of the Presidency and of other roles in the political structure. There is constant danger that criticism of the occupant will spill over to the role itself. Were this to occur under certain circumstances, respect for the Presidency could be seriously impaired or destroyed. But the data here suggest that one of the factors that prevents this from occurring is a strong parental-like tie with respect to the President's role itself, developed before the child can become familiar with the contention surrounding the incumbent of the office.[34]

Our system of adversary elections in which ambitious and competing hopefuls strive to outdo each other in their demonstration that they and not the others can do the best job is counterbalanced, then, by an institution of ritualistic unification. By viewing the presidential office and role as a national symbol of unity it absorbs much of the discontinuity and tension promoted in our often hectic and fragile electoral competitions. No doubt, college texts disabuse students of some of the more hyperbolic notions of presidential greatness. But apparently, textbook writers minimize the disunities and ambiguity of the electoral system and stick to the simpler option of emphasizing the symbolic and unifying functions of the presidential system.

(3) A third and important explanation of recent textbook orthodoxy is unmistakenly related to the commercial and political values of most text writers. Market considerations are hard to ignore and several text authors unabashedly cite commercial remuneration as their major incentive. The "Selling of a Textbook" may not be unrelated to a book's function and idealogical orientation.

Few text authors achieve a genuine value free detachment from contemporary political developments. In spite of their efforts to achieve scholarly objectivity, the imprint of author biases usually can be detected in the resulting analytical and normative images of presidential leadership. I am not suggesting that this is amenable to easy improvement or that it is entirely undesirable, merely that it appears to be a persisting phenomenon.

Most text writers would probably agree that introductory American government texts have two preeminent functions: (1) to instruct students and (2) to train citizens. Most textbook authors are motivated by the goal of training "good" citizens just as much as by the goal of instructing people about the realities of the highly competitive and often cruel world of national party and policy politics. But the training of citizens often emphasizes the socialization of students with the norms of a civic culture and the cultivation of respect for society's political institutions. More than occasionally, the instruction and training functions come into conflict. When this occurs, as one text writer told me, "the author almost invariably emphasizes citizen-training, usually at the expense of instruction." On balance, most authors willingly accept the assignment of combatting student cynicism and stress the practicality of our democratic system, pointing out the benefits, opportunities and possibilities of the American Dream.[35]

Moreover, most text writers identify with a liberal persuasion that places considerable faith in the possibilities of structural reforms and posit that better and faster reforms are more likely achieved through a vigorous presidency than through alternative institutions. One result of these values is that it is difficult to sort out and separate normative from factual discussions of the presidency. Text discussions of the presidency move back and forth from what is the case to what should or ought to be the case. And in general, disconcerting realities are deemphasized by the textbook authors (sometimes encouraged by their editors), and affirmation of the positive is the general norm. To stress the opposite might too directly contradict the commitment to the activist-heroic-performance portrait of the American presidency.

A Franklin Roosevelt halo-effect also characterizes most of the recent treatments of the presidency. Writers during the 1950's and well into the 1960's were children or young adults during the Depression years. Not infrequently, they became enlisted in one way or another in Executive Branch service to help fight or manage World War II. These times were unusual in many ways—including an extraordinary amount of attention paid to the way in which President Roosevelt employed the powers of the presidency. Moreover in the arena of national and international leadership, FDR upstaged all comers as he magnified the personal role and heroic style of a confident competent leader in the context of tumultuous times. The mantle of world leadership was passing to the U.S., beginning what some writers refer to as the American Era. Understandably these developments, especially the dramaturgy of the New Deal Presidency, affected soon-to-be written interpretations as well as popular images of the presidency.

There is some evidence to suggest, though, that an over-idealized view of the FDR years was to be a few years in coming—and in retrospect seems to have emerged with more clarity in the late Fifties and early Sixties. During the New Deal and soon thereafter text writers and presidency scholars such as Corwin, Herring, Hoftstadter and Laski offered a restrained evaluation of the presidency in general, and of the Roosevelt accomplishments in particular.[36] Perhaps a delayed reaction was at work—with members of the adult generation during the Roosevelt era less inclined toward hero idealization than a younger generation of writers who were at least once removed from the scene and many of whom may have been but junior officers during the last stages of the FDR command performance. It is also plausible that myths or attributed efficacy reached a peak well after Roosevelt was removed from congressional and journalistic scrutiny. In any event, it would be practically twenty-five years before Roosevelt's secure textbook reputation would be called into question by countervailing textbooks.[37]

(4) Another and fourth reason behind "the textbook presidency" lies in the modes of analysis employed by the typical textbook writer. Normally, the text author relies on some combination of the public record, prior texts, presidential cabinet and White House staff memoirs and some interviewing of Washington officials. Newspaper and magazine commentary are used as supplemental sources. Reliance on such sources usually will encourage a positive orientation. For those who have worked closely with presidents are unlikely to downgrade the importance or the dignity of their experiences. On the contrary, as Ted Sorensen once observed (before he wrote *Kennedy* and *The Kennedy Legacy*), "The inaccuracy of most Washington diaries and autobiographies is surpassed only by the immodestry of their authors."[38] As a general rule, former members of the White House "inner circles" are modest neither about their own role nor in their claims for the strengths and virtues of their presidents. Literate members of the White House press corps, referred to by some presidents as their "Newspaper Cabinet" are similarly afflicted. To preserve their access, which in turn is a requisite for their economic survival, they treat presidents graciously and not infrequently become victims of White House largess or calculated image management. Then, too, to the inquiries of the outside academic, insiders may not necessarily "tell it like it is"; many have a tendency toward forgetfulness about those plans or strategies that did not work and sometimes unwittingly will embellish the record with exaggerations of presidential and personal performances. And discussion of mistakes, uncertainties, short cuts and foul play is, more often than not, "off the record," if discussed at all.

Coming to the defense of journalists in general, and Theodore White in particular, political scientist Andrew Hacker has set forth the following reasons for sympathy and tolerancy;

> White's profession . . . demands that he refrains from antagonizing those whose hospitality he must have if he is to report the inside story of future campaigns. . . . Somehow this aspect of White's reporting does not bother me as much as it does others. I am not taken in by his claims of statesmanship for every journeyman politician, and I doubt if many of his readers are either. Most Americans are sufficiently sophisticated, even cynical, to have learned how to read between the lines.
>
> At all events, if we are going to have the White series—and no one has suggested that it does not fill a very real gap—then we are going to have to put up with his overgenerous evaluations and his cheerful tolerance of mediocrities.[39]

While Professor Hacker may not be taken in by White's presidency views, I am less optimistic about the general American public. White's kindness toward presidential candidates and the presidency, for whatever reasons, surely contributes to a greater "distance" between public and presidency. Distance or "space" for dignity purposes may well be a positive good. But distance that lessens the possibility of dialogue and criticism can contribute to an undesirable leader-led communication gap.

Another methodological problem is an overreliance on case studies of international crises and domestic emergencies. Studies of Roosevelt's first hundred days, Truman's decision to drop the A-bomb, enter Korea and create the Marshall Plan, Eisenhower's summit conferences, and Kennedy's Cuban mis-

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sile blockage and steel price rise "victories" come to mind. To be sure, this type of focus permits an exciting introduction to the world of presidents and presidential behavior. Moreover, documents, press accounts, memoir material and the like are more available. But to study presidential performance only in the context of crises is usually to magnify the job and the man at the expense of other major policy determinants.

(5) A related and fifth reason for the textbook president image is best understood by examining the structure of textbooks. In the large introductory American government texts, students are being exposed to the whole spectrum of political institutions and processes. Almost always, textbook authors choose to treat each institution separately—hence there may be one chapter on the constitution, another on elections, perhaps a chapter for political parties and interest groups, two on Congress, one on the Courts, and so forth. Unfortunately, the resulting compartmentalism often gives the impression that the processes and the people who populate these institutions are not only distinctly different but also largely unrelated. Although a text may give some attention to the role of the interest groups and lobbyists, only scant mention will be made of these groups and their activities in relationship to the presidency. Likewise, there will be little attention paid to the way federal bureaucrats or mayors and governors become involved in presidential policy implementation.

But more important than the spatial compartmentalism, for naturally certain topics must receive some type of separate treatment, is the tendency for the argument in one section to be unrelated to arguments in other sections. For example, chapters on interest groups may emphasize various positive and functional activities of such groups perhaps stressing the informational and representational role that are thereby performed. A chapter on political parties may stress the multiple opportunities for political participation and the relatively high degree of openness for citizen involvement in the selection of public officials and so forth. Then comes a chapter or two on the presidency that stresses the centrality of the presidency and its paramount role in initiating and making public policy work. Here the student may quite reasonably get the impression that national policy is almost entirely the product of a president and a small few of his intimates, or alternately of a few select national officials along with the president's consent. Only the presidents can slay the dragons of crisis. And only Lincoln, the Roosevelts and Wilson or men of that calibre can seize the chalice of opportunity, create the vision, and rally the American public around that vision. The end result may leave the student quite confused if not ignorant about the complex transactions, interrelationships and ambiguities that more correctly characterize most national policy developments.

III. THE TEXTBOOK PRESIDENCY: SOME CONSEQUENCES

The "textbook presidency" may appear simple and useful to many, or it's oversimplification may strike many people as quite amusing, but in all probability we pay a price, however unwittingly, for the way texts have over-idealized the presidency. It is difficult, though, to separate out the impact of traditional loyalty to the policy and awe of great leaders from the reinforcing influences of the textbook images of presidential performance. Admitting at the outset that I am not about to sort out the former from the latter, I instead merely suggest some of the probable consequences of the textbook presidency and let the reader decide for himself the degree of validity of the argument.

Most, if not all Americans now believe, along with Theodore and Franklin Roosevelts' celebrated assertions, that the presidency is a "bully pulpit" and preeminently a place for *moral* leadership. Few of our citizenry wince at reporter James Reston's observation that—"the White House is the pulpit of the nation and the president is its chaplain." British Prime Minister Harold Macmillan, however, could quip—"If people want a sense of purpose, they should get it from their archbishops."

Americans now look toward their presidents to articulate national goals, unite the nation, explain the state of the nation—or the "state of the world"—forecast the future and protect us from alien ideologies. We are accustomed to regard our "sense of purpose" and pious presidential pronouncements as nearly one and the same. Richard Nixon's 1969 presidential inaugural was very much in this matrix as he invoked God five times and talked often of spirit and the nation's destiny:

> To a crisis of the spirit, we need an answer of the spirit.
>
> We can build a great cathedral of the spirit.
>
> We have endured a long night of the American spirit. But as our eyes catch the dimness of the first rays of dawn, let us not curse the remaining dark, let us gather the light.
>
> Our destiny offers not the cup of despair, but the chalice of opportunity.[40]

Nixon's inaugural exhortations appear calculated to reclaim a pre-Reformation ecclesiastical mentor role, one that proclaims to lead us, if not exactly to a promised land, at least on a nationwide crusade of spiritual renewal. There are, of course, times and places that warrant political leaders to set high standards, chart out noble missions, raise morale and sustain national commitment.

But the trappings of religiosity, while temporarily ennobling the presidential personage may also run the risk of triggering unanticipated and undesirable consequences. Some presidents apparently feel the need to justify a particular strategy on the grounds that it is the moral and righteous course of action. But this moral emphasis can become elevated to a cause of more overblown courses of behavior. For example, Wilson's attempts to help set up the League of Nations became imbued with a highly moralistic fervor, but the moral environment that generated the commitment was allowed to expand, as Wilson's own role as the nation's preacher expanded, until there was virtually no room for a political negotiator, a non-moralist Wilson to transform the idea into a reality. Perhaps Herbert Hoover's apolitical moral and ideological commitment to rugged individualism similarly, inhibited alternative approaches in response to the Depression. Similarly, President Johnson's drumming up of moral and patriotic support for our Vietnam commitment probably weakened his subsequent efforts at negotiations in the languishing days of his administration because people could not believe he had changed his views.

Part of the problem is related to the way campaigns are conducted, and the intensive hard sell—or at least "oversell" seemingly demanded of candidates. Necessarily adopting the language of promise and sloganism, candidates and their publicists frequently pledge that they will accomplish objectives that are either near impossible or unlikely. Recall the early declaratory intentions of the War on Poverty, Model Cities, the Alliance for Progress, the war on behalf of safe streets, and an ambitious Nixon promise of underwriting "black capitalism." Lyndon Johnson's 1964 campaign illusion was that "we are about to send American boys 9 or 10,000 miles away from home to do what Asian boys ought to be doing for themselves."[41] Much in this manner, Arthur Schlesinger described Robert Kennedy's view of the presidential role as one that: "has to be the active protector of the alienated groups, the tribune of the disinherited and the dispossessed; he had to be the active champion of racial justice and of civil peace; and if any President renounced these obligations, the country might well break up."[42]

The very frenzy of the campaign itself, including the excessive overselling, leads to the heightened expectations of the presidency. So much TV and newspaper time and attention are devoted to the campaign that this phenomenon alone could lead many citizens to expect the election to produce a messiah rather than a president. The net result, as pointed out by Anthony Howard of the *London Observer*, is cause for alarm:

> For what the nation has been beguiled into believing ever since 1960 is surely the politics of evangelism: the faith that individual men are cast to be messiahs, the conviction that Presidential incantations can be substituted for concrete programs, the belief that what matters is not so much the state of the nation as the inspiration-quotient of its people.[43]

Then there is a typical first year grace period in which serious criticism is generally considered "off limits." This presidential "honeymoon" is characterized by an elaborate press build-up in which it appears as though we are trying to transform and elevate the quite mortal candidate into a "textbook president." For however long this lasts, the press and news media feature glowing human interest stories about the president and his family. Horatio Alger stories and "boy wonder" tales extolling the new president's unique skills and intuition fill the air. Early appointments to the cabinet and key agencies customarily elicit high praise and congratulatory press coverage. In what amounts to a predictable ritual of euphoric inflation of the new president's capabilities, his addresses and new proposals are generally greeted by acclaim: "bold," "courageous," "couldn't have been done by his predecessor," and so forth. (Occasionally, of course, this may be true—time in office can close options.)

But the Camelot of the first few hundred days of all presidencies fades away. Inevitably, the president seems to be putting certain party interests above national interest. Soon he may be discredited for not holding enough press conferences or for managing the news. The second round of appointments are questioned either as overt patronage or as unworthy of presidential imprimatur. Congressional committees prove recalcitrant. Predictably, by the second year, reports are spread that the president has become isolated from criticism. And, in an era in which presidents reaffirm the doctrine of American world responsibility, notwithstanding a Nixon-Guam doctrine, unsuccessful U.S. international entanglements are personally associated with the president.

The textbook presidency image may also influence the quality of civic participation. The moral leader to layman relationship is quite often viewed as a one-way street. If the president is our national chaplain (and his aides are our national counselors), how do we cultivate a democratic citizenry that is active and not passive, that may, on selective occasions, responsibly dispute this national moral eminence? Having been nurtured in the belief that presidents are personally powerful enough to end war, depression and corruption etc. . . , it is difficult for most average citizens to disagree strongly with their president no matter what the circumstances. Students are instructed that it is proper to state one's difference in a letter to Congressmen or even to the White House. But beyond these rather limited resources, the citizen-student is left alone and without a sense of personal efficacy. Due to the almost assured deference and relative

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lack of opposition, American presidents can expect at least a five-to-one favorable ration in their telegram and mail response, and usually a three or two-to-one ratio in national opinion poll responses (this latter ratio usually being a function of length of time in office) about their handling of the presidency.[44]

There are, of course, those who engage in protest, perhaps trying to discredit presidential claims, perhaps trying to weaken the incumbent president in hopes of obtaining a more suitable leader (more like the textbook version!) at the next election. But protestors, vigil participants and other demonstrators against the presidential mystique get dismissed by large numbers of Americans as "self-righteous and unpatriotic critics," "nervous nellies," or "effete snobs." The "love it or leave it" sloganism revolving around the preciousness of the American flag strikes a similar symbolic refrain.

Most popular is the choice of quietly (if not silently) rallying around the president and offering him permissive support, hoping by such action to strengthen his and the nation's resolve against whatever real or apparent challenges confront the nation. Another pattern of behavior, that of apathy and indifference, is selected by sober citizens who feel secure in the belief that "presidents know best." Thus, presidents can usually take it for granted that when major difficulties are faced, at least for a while, most Americans will support and trust their president, often tendering him even increased support. It is difficult sometimes for Americans to differentiate between loyalty to president and loyalty to nation. As a result, presidential popularity or so-called presidential public support comes not only from those who feel the president is right, but is measurably inflated by those who, regardless of policy or situation, render support to their president merely because he is their president, or because he is the only president they have.

Presidents and press alike might be well advised to deescalate the frequency and extent to which they claim that the American people (or "the great silent majority of middle Americans") "are strongly behind the president on X policy matter!" *This may or may not be the case* regardless of the polls and in all likelihood a substantial portion of the people really do not know much about the subtleties of the policy, and one suspects too that a large number of these would choose not to care about it if they did know.

As mentioned earlier, few people are inclined to protest the actions of their president. However, for those selecting to dissent, the recently conventional textbook-wisdom seems to encourage a direct personal confrontation with the president. If the president alone is so powerful and independent, it appears logical to picket the president, send highly critical telegrams to him, "March on the White House" and, if necessary, engage in more serious tactics aimed at "breaking the president." But this may be one of the least economical strategies. For breaking or changing presidents does not necessarily ensure any major shift in specialized policy sub-systems. Presidents cast as personally romantic and legendary figures are not only passionately supported, but, witness the frightening Secret Service records, they run the reverse risk of physical attack.[45] The list of presidents cut down or nearly cut down while still in office makes this abundantly clear. So, although the vast majority of Americans support and honor their president, presidents are prime targets for psychotics and alienated extremists of every category. Regrettably, presidents become "deeply loved" and "roundly hated," unduly worshiped and unduly feared as fortuitous or hard times are upon us respectively.

If the textbook presidency image has costs for quality of citizen relationships with the presidency, so also it can affect the way presidents conceive of themselves and their job. To be sure, the reverence and loyalty rendered to a new president are a rich resource and no doubt are somewhat commensurate with tough responsibilities that come along with the job. But, at the same time, an overly indulgent citizenry can psychologically distort the personal perspective and sense of balance that are also a key requisite for the job of president. While I disagree with several of his observations, former presidential press secretary George Reedy's acrimonious criticisms of the monarchial trappings of the contemporary White House deserve attention.

The real question every president must ask himself is what he can do to resist the temptations of a process compounded of idolatry and lofty partiotic respect for a national symbol. . . . The atmosphere of the White House is calculated to instill in any man a sense of destiny. He literally walks in the footsteps of hallowed figures—of Jefferson, of Jackson, of Lincoln. The almost sanctified relics of a distant, semi-mythical past surround him as ordinary household objects to be used by his family. From the moment he enters the halls he is made aware that he has become enshrined in a pantheon of semi-divine mortals who have shaken the world, and that he has taken from their hands the heritage of American dreams and aspirations.

Unfortunately for him, divinity is a better basis for inspiration than it is for government.[46]

The quality of advice, intelligence and critical evaluation necessary to balanced presidential decision-making can also be adversely affected by too respectful an attitude towards the chief executive. If presidents become unduly protected or insulated, and if White House aides and Cabinet members tender appreciation and deference in exchange for status and accommodation then the president's decision-making ability is clearly affected, probably at the expense of society. As if to despair of any hope for constructive tension and criticism within White House staff operations, Murray Kemption has observed:

"The best of servants must end up being very like his master. The view is the same; you are looking out upon the countryside from a window of the Court." [47]

Yet, another serious problem with the textbook presidency portraiture is the tremendous underemphasis accorded to the roles played by policy elites and policy bearing interest associations. Just about every textbook includes a chapter called "Congress and the President," or vice versa, in which the student learns that a major function of Congressional behavior is to question and review presidential program requests, and in short, *not be taken in* by the president's overtures Implicitly, if not explicitly, the student gains the impression that Congressmen are supposed to assess and occasionally oppose presidential plans, whether these be taking over a steel mill, raising the taxes, increasing foreign aid, aiding education or whatever. It appears all very professional and proper; presidents are very powerful, they must run the country and solve our problems, fight crime, fear, and Communism, etc. . . . *but* this is a democracy, not a monarchy so we have institutions to ensure that presidential decisions are always in the best interest of the nation. As textbooks tell it—between elections—Congress, (and, to a lesser extent, the Supreme Court), serves as the nation's Insurance policy against executive ineptness or malfeasance.

Textbooks too often have ignored the role of policy elites (about which more will be said in Section V of this paper). The idealized view has it that presidents as policy architects are the lobbyists for all the people and remain steadfastly independent from all power elites whether they are comprised of upper economic classes or managerial, banking and civil-military professionals. It has been regarded as indecorum to point out that presidents are, on the contrary, quite dependent on political and policy elites both within and without the federal government. Apparently, textbook writers probably along with most political scientists during the 1950's and 1960's, defensively overreacted to the cabalistic "power elite" allegations of the late C. Wright Mills and similar critics of national political decision-making.

IV. CHALLENGING THE POST-NEW DEAL TEXTBOOK ORTHODOXY

The relatively sustained fifteen year ascendancy of the textbook presidency's idealized image of presidential leadership may soon be coming to an end. The marketplace of hypotheses and propositions about presidential leadership, which has been characterized by the near monopoly of the New Deal Presidency caricature is now opening to more vigorous competition. The general American public probably still believes in a variation of the presidency version portrayed in the texts. Skeptical or anti-textbook presidency views will take a while before appearing in standard textbooks. The result of this revisionism is as yet impossible to foresee. But I doubt whether the textbook image as we have recently known it will emerge unscathed from a growing list of critiques of liberal presidential government that are now coming into print. We are currently witnessing an apparent recrudescence of an interpretation of the presidency which holds that no one national political leader can galvanize a nation toward the easy achievement of altruistic goals. By no means are all these studies in agreement in either their theoretical interpretations of what has recently happened, or in their identification of the causes of the demise of the active-purposeful-progressive and powerful presidency. Nonetheless, most of these studies share a willingness to contradict, or at least revise, the earlier held textbook presidency views (which for their purposes often are images of the extended "New Deal Presidency") and to express considerable reservations about what the American presidency at this point in time can accomplish.

Little doubt there is that a principal factor in the tarnished image of the contemporary American presidency is directly related to public resentment over the incapacity of President Johnson to end the war in Vietnam. That war unquestionably divided this nation. Some felt it was immoral, others resented it because it was so costly to the private economy or competing domestic priorities, and still others viewed it as a major case of mismanagement and inefficiency. The war contributed measurably to the depletion of good will and deference which is usually accorded a man in the White House; it had the side effect of simultaneously kindling gaps in presidential credibility and communications. Listen, for example, to three former members of the Johnson Administration explain what they believe took place:

From an Assistant Secretary of State:

"No government is ever more than partially responsive; every government is able to hear some people better than others. But the curious fact about the American government recently has been its distance from, its slow reaction to, massive movements of sentiment and opinion. It seems to be listening mainly to itself." [48]

From a White House Staff member:

"Central to any long-range judgment of the Johnson Administration is the Presi-

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dent's decision to commit large-scale American combat forces in the Vietnam War. I happen to be among those who became convinced that the action was a grave mistake, unnecessary for the national security, inconsistent with a mature American foreign policy, disruptive of our world leadership, destructive of urgently needed domestic programs, and dubious in terms of the American tradition of Judeo-Christian morality."[49]

From an Under Secretary of the Air Force—Department of Defense:

"Much of the sense of disconnection, alienation, and simple distrust enshrouding the Vietnam war seemed to derive from the irreconcilability of a political policy described as one of strictly limited objectives and a military policy of ever-increasing, apparently unlimited, means."

The President, himself, sustained by a shrinking circle of true believers, still seemed confident that his goals and methods would ultimately be vindicated. Yet he was a poignant figure: prideful, bellicose, unpopular, a man who could no longer be certain of a friendly audience except at a military installation; beleaguered by an incredulous press, an alienated youth, and an uneasy general public.[50]

By summer 1967 President Johnson's popularity in the Gallup Polls fell into the thirty percentiles and an amateurishly organized "Dump Johnson" movement soon took on bandwagon proportions as it succeeded in rendering the president into a political casualty of the war in Vietnam. A restlessness and impatience among the general public replaced a tolerant permissive mood of benign indifference. Along with President Johnson's demise, came the crystallization of an ill defined popular view that the U.S. was trying to do too much overseas at the risk of humiliating ourselves abroad and undermining the fabric of society at home. A chorus of spokesmen began to urge a reordering of priorities to accentuate domestic justice and social action concerns over international policeman activities. Eventually, even President Nixon, an otherwise partisan internationals, would join in by announcing his Guam Doctrine (sometimes referred to as the Nixon doctrine) which declared that the U.S. would no longer intervene in the affairs of other nations unless genuinely invited to do so and had the inviting nation's all out commitment to fight for it's own self-determination. Semantics aside, Nixon was speaking to the emerging consensus that craved to avert a repetition of our Vietnam misadventures.

Vietnam was not the only signal that we had overextended and overreached in our efforts to establish world order and promote the self-determination of free nations. Most examinations of the celebrated Alliance for Progress toward the end of the decade indicate that the goals of that program were dramatically beyond the scope of feasibility. Expectations in this area have constantly been revised downward until the Alliance for Progress has become a notable embarrassment. Elsewhere too, the prospect of U.S. involvements had met with frequent unanticipated consequences and, in general, the reappraisal that the U.S. should attempt to do less and do that with far greater simplicity and sensitivity.

An excellent case in point is Richard Neustadt's thoughtful analysis of *Alliance Politics* published in mid 1970.[51] In seeming contrast to his argument in *Presidential Power* of ten years earlier, at which time he implied that a strong-progressive-activist presidency would be the best antidote to the difficulties of our highly pluralistic system, Neustadt comes to the point of view that we would do well to reduce expectations and work harder at accomplishing limited objectives. His examination of U.S.-British relations in the Suez and Skybolt cases observes that our national leadership in the Fifties and Sixties was severely inhibited by costly misperceptions and ill-founded expectations.

Our contemporary "big" bureaucracy in national security affairs, so-called, is a blunt instrument. On the record of the past it is effectively responsive to blunt challenges when gripped by a blunt policy. Its character was shaped in World War and in Cold War. Yet the era of such challenges now seems to be behind us. Blunt policy no longer serves. Subtlety, however is a thing for which this instrument was not designed, with which I have my doubts that it can learn to cope. What remains? Simplicity.

Simplicity consists in limiting our claims on other governments to outcomes reachable by them within a wide range of internal politics, under a variety of personalities and circumstances. These are outcomes which do not depend for their achievement on precise conjunctions of particular procedures, men, and issues. Thereby accurate perception of the other side's concerns is simplified down to the point where our officials should be capabale of accuracy enough for influential action.[52]

To judge from multiplying analyses of the Great Society years, U.S. foreign policy troubles are only contributing factors to the emerging orthodoxy of distrust of presidents and central government alike. A growing list of writers have come forth with strident critiques of New Deal—Great Society liberalism. Banfield's *The Unheavenly City*, Drucker's *The Age of Discontinuity*, Hacker's *The End of the American Era*, Lowi's *The End of Liberalism*, and Moynihan's *Maximum Feasible Misunderstanding* are representative of this genre.[53] Gone is the view that the American presidency is the preeminent source of wisdom or benevolence; absent is the assumption that a strong presidency and central government can pass laws and allocate funds for the effective resolution of major "people" problems—e.g., housing, education, health, poverty, etc. These and similar studies display a suspicious, if not cynical, skepticism and suggest that more often than not the federal government's efforts deepen or exacerbate the problems it seeks to solve. Richard Rovere captures the intensity of this countervailing mood when he writes:

> Indeed, in this period of discord, one of the few propositions that some kind of national unity might theoretically be built around is distrust and dislike of the central government . . . in general the disaffection is firmly grounded in recent history, and a solid case can be made that the federal government is today, as [Robert] Taft held it to be several decades ago, an incompetent and overextended agency promoting public policies for a nation that has grown too large and diverse for its own well-being.[54]

Many of the recent critiques of national leadership in American life speak only indirectly about the inadequacies, or unrealistic expectations of the presidency. By implication, though, the problems of the centralized government become attributed to the presidency, much in the manner that we evaluate and personalize the wins and losses of football teams as a function of the merits of their respective quarterbacks. In reaction to the New Frontier and Great Society efforts, most of the currently fashionable criticisms conclude that what is needed is not a more vigorous and dominant presidency, but rather some type of decentralization of political authority and deescalation of public commitments. (Again, I need stress that this is not the unanimous view but it is the general tendency in most of these studies.)

This questioning of textbook presidency orthodoxy is as healthy as it is tentative. New emergencies or innovative breakthroughs by the incumbent Administration (e.g., a successful ending of the Vietnam war of an effective solution for inflation) would measurably lessen the extent to which these views become accepted as new orthodoxy. A crude but illustrative list of many of the newly offered recommendations are as follows:

Lower the expectations of what the presidency and a centralized government can accomplish.

Debureaucratize the federal establishment.

Regionalize federal programs wherever feasible.

Reprivatize as many of the federal activities as possible.

Make clear that interest group participation in national decision-making carries with it some high costs in terms of equity and efficiency.

Begin large-scale revenue sharing with states and localities.

Encourage metropolitan and regional governmental units to assume more service responsibility for their varying areas.

Get the federal government out of social action programs by means of an income strategy, family assistance program, and various tax credit provisions.

Do only that which you can do well!

As though Vietnam mattered not in the least, many of these treatises attack the way in which post-New Deal federal government designed and administered domestic and economic programs. Value-free commentary this is not, but neither are the overly indulgent textbook presidency interpretations. Most of the authors explicitly favor different types of processes and different sets of policies and quite willingly make known their disaffection with the recently experienced New Deal encore. These books generally reflect a politics of impatience not unlike that embraced by growing numbers of radical intellectuals and discontented university students. To some extent this disaffection with central government also converges with a conservative businessman's dislike of big government.

Five illustrative propositions can be culled from these efforts to exorcise some of the exaggerations from the textbook orthodoxy.

(1) that politicians have exaggerated the existence of real problems and have stirred up unrealistic and overly altruistic expectations of what governments can do.

(2) that presidential advisers are guilty of not knowing what they were doing and have misled presidents as well as the nation.

(3) that interest group liberalism as it has developed since the New Deal inhibits national decisional processes to the extent that the government cannot plan or govern by just laws.

(4) that bureaucracy and inept governmental administrative processes make it next to impossible for presidents to execute even the best of their policy intentions.

(5) that the American people have become so self-centered and tired of an aggressive, progressive government that they now reject any presidential or governmental effort which would exact genuine personal sacrifices or increases in taxation.

Without passing critical judgment on each of them, I will briefly comment on them and identify one of their more prominent recent sponsors.

Frist, Edward Banfield's important and controversial book—which disputes many of the major assumptions of the Great Society and the purposive-progressive presidency image highlights the notion that politicians have stirred up too much alarmist commotion and, in the process, triggered too much naive social altruism. He writes:

> The politicians, like the TV news commentator, must always have something to say even when nothing urgently needs to be

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said. If he lived in a society without problems, he would have to invent some (and of course "solutions" along with them) in order to attract attention and to kindle the interest and enthusiasm needed to carry him into office and enable him, once there, to levy taxes and do the other unpopular things of which governing largely consists. Although in the society that actually exists there are many problems, there are still not enough—enough about which anyone can say to do anything very helpful—to meet his constant need for program material. Moreover, the real and important problems are not necessarily the ones that people want to hear about; a politician may be able to attract more attention and create more enthusiasm—and thus better serve his purpose, which is to generate power with which to take office and govern—by putting real problems in an unreal light or by presenting illusory ones as if they were real.[55]

A second school of critical thought, popular now among liberals as well as conservatives, is that the federal government's capacity to design and evaluate programs is woefully inadequate. Many critics believe the Great Society programs were not only fashioned in a haphazard manner but actually prohibit any sensible management or monitoring procedures. The presidential advisory system is viewed as inadequate and the government's performance as a policy analyst is categorized as amateurist. Not a few members of the Kennedy-Johnson political entourages are among those who have cast these criticisms upon the recent Administrations. Among them is Daniel Moynihan, who is not only quite willing to throw the first stones but also willing to return to the very policy planning fields (albeit under Nixon) to try his own hand once again. Here is his indictment of the Johnson Administration's formulation of the "War on Poverty" and particularly its community action agencies:

. . . during these years in Washington a good many men in the anti-poverty program, in and about the Executive Office of the President, and in the Congress, men of whom the nation had a right to expect better, did inexcusably sloppy work. If administrators and politicians are going to play God with other persons' lives (and still other persons' money), they ought at least to get clear what the divine intention is to be . . .

This is the essential fact: *The government did not know what it was doing.* It had a theory. Or, rather, a set of theories. Nothing more. The U.S. Government at this time was not more in possession of confident knowledge as to how to prevent delinquency, cure anomie, or overcome that midmorning sense of powerlessness, than was it the possessor of a dependable formula for motivating Vietnamese villagers to fight Communism.[56]

Then we have Theodore J. Lowi's broadside condemnation of interest-group-pluralism as it has been practiced in recent post New Deal years. His argument is that a governmental decision process based upon informal bargaining among well organized special interests may well have been a virtuous necessity during the emergency years of the 1930's, but is today a deleterious and debilitating method of policy decision making. Not only are the unorganized left out of all policy making equations, but the standards of justice and respect for law deteriorate amid an informalism of semi-feudal negotiations among those who can adjust the laws to their own advantage and profit. Lowi's description of some of the negative side products of aggressive liberal presidential government deserves a careful reading. Despite the abstractness of some of his prescriptions, his contrary view of the liberal democratic consensus orientation offers a serious challenge to prevailing textbook orthodoxy. The two excerpts below only begin to give some of the flavor of the Lowi point of view.

Interest-group liberalism renders government impotent. Liberal governments cannot plan. . . . The Departments of Agriculture, Commerce, and Labor provide illustrations, but hardly exhaust illustrations, of such impotence. Here clearly one sees how liberalism has become a doctrine whose means are its ends, whose combatants are its clientele, whose standards are not even those of the mob but worse, are those the bargainers can fashion to fit the bargain. Delegation of power had become alienation of public domain—the gift of sovereignty to private satrapies.[57]

The operative principles of interest-group liberalism possess the neutrasity of a world universalized ticket fixing: Destroy privilege by universalizing it. Reduce conflict by yielding to it. Redistribute power by the maxim of each according to his claim. Reserve an official place for every major structure of power. Achieve order by worshipping the processes (as distinguished from the forms and the procedures) by which order is presumed to be established.[58]

A fourth critique of activist-progressive-presidential government is a variation of the classic businessmen's criticism of big government. Management analyst Peter Drucker's modern revival of these themes, so we are told, became a well read and frequently mentioned guidepost for the White House staff during the early Nixon presidency. Drucker nostalgically recalls that not long ago men like Franklin Roosevelt and Winston Churchill could "get things done" because they possessed strong convictions, could mobilize public vision and were willing to lay down specific policy directions. Drucker tells us that possession of such qualities today is no longer sufficient for successful national leadership. Indeed, he suggests that John Kennedy, for example, was clearly a "strong" president in this traditional sense, but nonetheless was "a singularly ineffectual" one.

John Kennedy had all the strength of conviction and all the boldness of a "strong" president; this is why he captured the imagination, especially of the young. He had, however, no impact whatever on the bureaucracy.[59]

Drucker identifies the antagonist, in no uncertain terms. He asserts that modern government is ungovernable and that executive leadership has lost control of its bureaucracy and its various agencies. His critique is worth quoting in detail for it embodies a popular image of what some call the new machine of public employee pluralism:

Government agencies are all becoming autonomous, ends in themselves, and directed by their own desire for power, their own rationale, their own narrow vision rather than by national policy and by their boss, the national government.

This is a threat to the basic capacity of government to give direction and leadership. Increasingly policy is fragmented, and policy direction becomes divorced from execution. Execution is governed by the inertia of the large bureaucratic empires, rather than by policy. Bureaucrats keep on doing what their procedures prescribe. Their tendency, as is only human, is to identify what is in the best interest of the agency with what is right, and what fits administrative convenience with effectiveness. As a result the welfare state cannot set priorities. It cannot concentrate its tremendous resources, and therefore does not get anything done.[60]

In a fifth recent critique, Andrew Hacker offers the somewhat gloomy appraisal that despite all textbook pronouncements about the need for meaningful leadership, the American people are neither willing nor able to be led. He suggests that the recent failure of national leadership can be explained by the distinctively selfish mood of our contemporary citizenry, most of whom have apparently tired of purposive leadership calling for sacrifice. Sacrifice translated into the language of the common man reads higher taxes and a government which tells you far too much about what you can do and what you cannot do. Hacker's conclusions unmistakenly suggest that the performance of the American presidency is a function of its following or its constituency and the latter are now largely uninterested in the collective pursuit of noble goals that run counter to personal satisfactions. Hacker in *The End of the American Era* goes further than many recent critics, for he does not foresee any resuscitation of the ideals embodied in textbook presidency interpretations and observes, in addition, that the American nation has lost its credentials as a teacher of moral lessons.

America has become an ungovernable nation whose inhabitants refuse to regard themselves as citizens of a social order in which authority of government plays a principal role. While no society can be totally anarchic, the United States has as powerless a government as any developed nation of the modern world . . .

Much talk is heard, for example, of the need for purposive leadership. The argument runs that while the American people may be overly self-centered, this condition could be overcome by the emergence of leaders capable of inspiring the citizenry to personal sacrifices for public ends. Yet the fact remains that there arrives a time in a nation's history when its people have lost the capacity for being led. Contemporary Americans simply do not want—and will not accept—political leadership that makes more than marginal demands on their emotions or energies. Thus, for all the eloquence about the need for leadership, Americans are temperamentally unsuited for even a partial merger of personality in pursuit of a common cause.[61]

This digression into the world of countervailing interpretations of the presidency and national government will have been in vain if it conveys the impression that the textbook presidency is doomed for extinction and that upon the foundation of these current critiques a new textbook wisdom will rise. Not so and for a number of different reasons. Partly, the critics of recent presidents have themselves been influenced by idealized visions of what presidents are supposed to deliver, Hence in their harsh complaints of "failure" they in some ways add to the inflated expectations that surround the institution of the presidency.[62] Then, too, for each recent "reappraisal" or revisionist critique there exists at least an equal number of new texts or lectures from the James Restons, McGeorge Bundys and Arthur Schlesingers that there must be a restoration of confidence and commitment to the view of the presidency as "the central instrument of American democracy." [63] Lest this above section make too obscure the orthodoxy of the presidency ideal, listen to this 1969 Schlesinger version:

No one else represents the whole people; and the answer to the crisis of alienation surely does not lie in the weakening of the center. . . . If the President does not serve as the representative of the unrepresented it is hard to see where the excluded groups will find a connection with American society. One sees no other way of restoring the moral energy of American politics and of incorporating the grave forebodings and desperate urgencies of our time into the democratic process.[64]

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V. ALTERNATIVE PERSPECTIVES TO THE TEXTBOOK PRESIDENCY

To the relevant question "Is the textbook orthodoxy wrong or misleading if the American people believe it?," I have no adequate or felicitous answers. And lest this final discussion appear to be promoting an unrealistically sophisticated or rational treatment of the presidency, let me merely suggest that proper recognition of the exaggerations generated by the recent textbook presidency would itself be a significant service. I would, however, suggest that the following perspectives deserve more attention, testing and recognition in the contemporary textbook literature.

A. That while the American people generally do view their president as very important, trustworthy and somewhat powerful, they similarly affirm these qualities in other major American governmental institution. B. That much of the "policy" that presidents "formulate" and "implement" has in fact been inherited from pronounced party leanings, previous presidencies, and from Congressional incubation. C. That the presidency usually is more influenced by policy bearing interest elites (in and out of government) and the degree of permissiveness in public opinion than it is an influence upon these "forces." D. That the degree of influence of political institutions, including the presidency, is subject to ambiguously defined ebb and flow patterns, as is the support rendered those institutions. E. That presidential leadership operates within a framework of shifting value orientations, e.g., dynamic leadership vs. participatory representation, centralization vs. decentralization, and nation unity vs. regional and personal individualism, all of which are generally endorsed but are alternately emphasized or accentuated.

(A) Despite current pockets of anti-system, anti-national government dispositions, shared in varying degrees by radical students, southern conservatives and elements among the Black population, most people are proud of their president and think it matters a lot who becomes president. A national survey conducted in early 1969 indicated that close to 9 out of every 10 adult Americans considered that it "makes a lot of difference" to them who becomes president.[65] And again, contrary to the radical interpretation of current American politics that politicians cannot be trusted, most adult Americans believe that the president can be trusted "to do what is good for people like me." But, as indicated in Table 1 the general public places a similar, though not quite so great, trust in their Governors, U.S. Senators and Supreme Court. That the Court is slightly less trusted may be due to the fact that the people do not elect its members and are less able to hold it somewhat accountable. It may also be, as Alexander Bickel has recently suggested, that the public resents the subjectivity and overextended policy making activities of the Warren Court.[66] What is to be appreciated here, however, is that respect and deference toward the presidency is almost matched by public respect for other governmental institutions. The statistically significant differences are minimal and, one wonders, even these may partly be the result of the "presidential honeymoon." Americans, while trusting their presidency, apparently do not do so at the expense of lessened trust for alternative sources of government leadership.

In the same survey mentioned above a sample of adult Americans were asked whether the president or other government institutions had the power to get people to do what they wanted. This question, stated in bold terms, elicits a pretty fair indication of whether people think these institutions are *powerful* and *influential* in the strict sense of these terms.

TABLE 1.—ADULT AMERICANS' PERSPECTIVES ON THE TRUST OF GOVERNMENTAL INSTITUTIONS, MARCH 1969

Question: "X" institution can be trusted to do what is good for the people.

Institution X	Percentages (N=1504)				
	Agree	Undecided	Disagree	No opinion	Total
President	64	9	21	6	100
Governor of this State	58	9	27	6	100
U.S. Senators	54	9	30	7	100
Supreme Court in Washington	51	9	33	7	100

Source: National survey conducted by the Southeastern Regional Survey Project, Political Science Department, the University of North Carolina, March 1969.

For as Andrew McFarland suggests:

A leader may be defined as one who has unusual influence. Influence may be viewed as one's capacity to make people behave differently than they would have otherwise. A leader may also be defined as one who has unusual *power*. . . . When the leader successfully exercises influence, he causes change in human activity. When the leader exercises power, he causes manifest effects in human activity, i.e., . . . the leader causes changes that he originally desired."[67]

Forty percent of this sample of American adults agreed that the president could get almost anyone to do what he wanted him to. Though many readers may be surprised that even forty percent of the respondents affirmed this seeming presidential omnipotence, even if in an abstract sense, the data can also be interpreted as evidence that most adults reject a purist view of presidential omnipotence. (See Table 2.) Interestingly, the Supreme Court was viewed as equally powerful; governors and U.S. Senators were ranked as lesser agents of unrestricted power. Here again, it is to be appreciated that the president is not viewed as uniquely different in power terms from other national and state leadership institutions.

TABLE 2.—ADULT AMERICANS' PERSPECTIVES ON THE POWER OF GOVERNMENTAL INSTITUTIONS—MARCH, 1969

Question: "X" institution has the power to get almost anyone to do what he (they) want them to.

Institutions	Percentages (N=1504)				
	Agree	Undecided	Disagree	No opinion	Total
President	40	5	50	5	100
Governor of this State	26	8	58	8	100
United State Senators	22	8	61	9	100
Supreme Court in Washington	40	8	43	9	100

Source: National survey conducted by The Southeastern Regional Survey Project, Political Science Department, The University of North Carolina, March, 1969.

(B) Recent investigations into the origins and enactment of most New Frontier and Great Society legislative programs indicate that presidential initiatives in this era were greatly influenced, if not shaped, by the historic leanings of the Democratic Party. Programs such as medical care, federal aid to education and a more activist stand on civil rights had their roots in the Truman and Adlai Stevenson years. James Sundquist makes the point that most of John Kennedy's legislative program was in fact handed to him by Senatorial and partisan policy activists who had been affiliated with the presidential and progressive wing of the national Democratic Party during the Fifties:

"In any case, the Democratic program that was presented to the country in 1960 was truly a *party* program. The platform writers and the presidential nominee contributed emphasis, style, and form, but the substance of the program had been written with unusual precision and clarity during the eight years out of power—eight years that at the time seemed endlessly frustrating but were, it is clear in retrospect, extraordinarily fruitful."[70]

Much of the recent presidency literature suggests that Congress merely delays and amends that which it is presented—but basically is incapable of creative legislating or policy formulation. To the casual observer, the highly "successful" 89th Congress typifies the popular impression that it was the presidency who proposed and created while Congress merely ratified. A closer look at what actually happened suggests that this version of presidential-congressional relations is vastly overdrawn. For most of the Johnson legislation had been "incubated" in the Congress. Nelson Polsby defines the concept of policy incubation as "keeping a proposal alive while it picks up support, or waits for a better climate, or while the problem to which it is addressed grows."[71] This is not to say that getting a bill on a president's legislative agenda is not important—but rather to stress that often the best route to that objective is occasioned by a series of thoughtful congressional hearings and the sponsorship of a bill by respected senators who have already begun generating publicity and support for the "new" proposal.

Sometimes the presidency, and sometimes Congress, play the dominating role in initiating legislation. But the initiation as well as the enactment of virtually all major legislation in domestic and economic policy matters results from extensive "conversations" between presidency and Congress, and between both of these institutions and strategic interest groups.[72] To conceive of the presidency as representing the *national interest or general welfare* and Congress merely as the tool of *special* or *particularistic interests* is as naive today as it was thirty years ago when Pendleton Herring cautioned—"In fact presidential policy, however "pure" in motivation, must mean the promotion of certain interests at the expense of others."[73]

That no recent congressional session passed more (both qualitatively and quantitatively) social action legislation than did the 89th Congress makes it a most useful laboratory in which to test the notion of presidency-Congress interdependence. Happily, David Price has done so, and he concludes that Congress was a very instrumental partner—and more durable than is usually supposed.

Formulation, instigation and publication were widely shared function; executive resources were in many ways superior, but Congress often displayed greater flexibility and permeability. If it was wise for executive formulators to touch bases on Capitol Hill, it was virtually impossible for congressional formulators to proceed without the assistance of the bureaus already operative in the field. Nor was any publicizing move more important than securing a place for one's bill on the presidential agenda. But the case studies suggested that congressional activists had some advantages of their own. A proposal could become visible much more quickly in the legislative branch. This not only gave legislators and their staffs an incentive to assume the instigator role; it also made it likely that instigators from outside like Mrs. Lasker, Ralph Nader, and the oceanographers would seek congressional alliances. A legislator with a permissive chairman and access to committee resources could de-

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velop a proposal and get it into the newspapers with relative ease. Ideas rose to the top with more difficulty in the executive branch . . .[74]

One of the misleading indicators of presidential "power" is the so-called presidential "box-score" of legislative program successes and losses used by the *Congressional Quarterly* and other publications, and not infrequently incorporated into introductory texts. The impression often given is that the president is the super "pitcher," the independent, creative galvanizing impetus in the legislative process who usually gets his own way. The *Congressional Quarterly Almanac* reports, for example, that Lyndon Johnson had a 69% approval record in 1965 and a 56% record in 1968 and the story told is essentially the "Congress Acts Favorably on Johnson Requests."[75] Several cautions are necessary here. First, legislative measures are by no means equal in importance. Secondly, presidents are often quite skilled in tailoring their legislative program requests to the possibilities of passage. And much, if not most, of what a president does not achieve with Congress consists of what he does not attempt, rather than what he proposes but which does not pass.[76] Thirdly, presidents who help lay the foundation for later passage of an important innovation are not accurately rewarded by the box score calculations. For instance, much of what Presidents Kennedy, Johnson, and Nixon proposed and often got passed had been priority items or "back burner" second level aspirations of their immediate predecessors. Just the mention of the "Kennedy" Alliance for Progress, the "Johnson" War on Poverty and the "Nixon" Hunger Program recalls the ground work undertaken by the preceding administrations in these areas prior to the formalizations of these "new" national initiatives. Time in office can foreclose options and can erode political currency. And sometimes the opposition party, despite its ideological leanings, has more leeway to push a previously incubating but languishing policy measure onto center stage. In 1960 it was easier for *Democrat* Kennedy than *Republican* Eisenhower or Nixon to campaign on the issue of a nuclear missile capability gap. Likewise in 1969 *Republican* Nixon could somewhat more easily endorse and back an innovative, income strategy-welfare reform package with more political freedom than could a Humphrey or Johnson. In a slightly different but related manner, *Southerner* Lyndon Johnson had greater political leeway in championing new initiatives in civil rights legislation than did *Northerner* John Kennedy.

(C) In addition to the very real cue-giving influence of Congress upon presidential behavior, two other influences less well appreciated but invariably involved in presidential policy participation are (1) the centrist moderate moods of the American people and (2) the role of strategic policy elites. As partial evidence of the former, I will merely refer readers to the work of V. O. Key, James Sundquist, the recent work of Samuel Lubell and the joint volume by Richard Scammon and Ben Wattenberg.[77] Let me here dwell mainly on the latter.

The notion of strategic policy elites needs clarification. The question as to whether there exists a united "power elite" in the United States has been the subject of continuous and contentious debate in recent years, but the debate is less important now than the research which it has occasioned. As Lasswell has suggested "Government is always government by the few"; the salient concern for political inquiry is whether it operates "in the name of the few, the one, or the many?" What we need now is better identification of those policy interested individuals or groups who are especially cultivated, taken into account or consulted by important government officials. Government officials are unavoidably in the position of promoting certain interests or distributing certain opportunities at the expense of others. For example, what is the extent to which cohesive special interests have access to and help shape the more important decisions of executive branch officialdom?

There are those like C. Wright Mills or G. William Domhoff who argue that the upper social and economic class in the United States has an enormous influence on the way in which major decisions are made in this country.[78] Others like Lowi and Barton Bernstein suggest that specialized professional and industrial groups who are well organized and know how to make the government respond to its interests have been quite successful at perpetuating favorable governmental privileges to advance their professional and business goals.[79] But perhaps the prevailing view has been that of a more pluralistic portrait of how wide numbers of interests and competing points of view are brought into the mainstream and usually accommodated within governmental deliberations on strategic policy matters.[80] Any reader interested in definitions of policy elites has a rich and varied fare from among which to choose.

Yet, my own view is that studies of presidential leadership as well as general texts have inadequately treated the important part that specialized elites, both in and outside of the government, have in the various stages of shaping public policies. Strategic policy elites include, for example, senior members of the civil service, presidential advisers, Congressmen and their senior staffs, Washington representatives of major industries, professions, trade and civic associations, those in business or the universities engaged in research relevant to policy and policy experimentation, certain state, local and mass media leaders, and concerned citizens who become intensely involved in advocating or championing specific sets of policies. It may be useful to rely on Geraint Parry's recent synthesis of political elite studies for further definition:

> It seems advisable to distinguish a subgroup amongst the specialized elites of those which exercise a substantial degree of influence on the policies of the governing elite or of other specialized elites. These are the elites with which the governing elite must bargain, and to which it may have to defer. They include amongst others the business elite whose investment decisions and 'confidence' substantially influence a governing elite's economic and social-welfare programme; the union elite whose strike decision affects a nation's balance of payments situation; the military elite whose degree of commitment to civilian rule is a crucial factor, as modern experience reminds us, in determining the survival of the governing elite; the religious elite whose blessing and cooperation was, particularly in past years, essential to securing the legitimacy of the civil order. No one generally accepted name designates these influential elites . . .[81]

With regard to presidential policy related performance, elite activists are involved in the following functional activities: 1. recruitment and selection of presidential candidates, 2. recruitment and selection of presidential and executive branch advisers, 3. agenda setting as to what policy matters a president might choose to effect in light of the times, fortunes and available resources, 4. helping to build coalitions of support or opposition to presidentially intended policy changes and 5. evaluation, feedback, and adjustment of national policies. While there is some truth to the observation that the closer an outside elite representative becomes to the center of national policy making, the more he tempers or modifies some of the more blatantly selfish goals of his group or profession, it has to be recognized that a rich mosaic of symbiotic professional and consulting ties exists between public officials and other policy elites. And that these affiliations can and do affect the manner in which policies are perpetuated as well as administered.[82] Opportunities for elite influence on policy processes and policy politics are great. And while these opportunities, at least from the standpoint of special interests, are underused and often ineffective because of inept strategies, the existence of these special relationships needs considerable more attention and discussion in texts and presidency studies alike.

While presidents often seem to be launching "new" policy programs by calling for congressional approval or issuing executive orders, the act of initiation is something altogether different from seeing the intentions translated into acceptance, compliance or sustained practices. The degree to which there is an elite consensus or, alternatively, to which there is conflict within relatively defined and restricted public policy arenas is important in determining a president's latitude for policy achievement. If there is consensus on a particular policy matter within the policy elite of a given profession or industry, it is nearly impossible for a president to effect an opposing point of view. If, however, there is distinctive conflict, cleavage or confusion over certain substantive or procedural matters, a president has more of an opportunity for some independent influence; but even so the scope and type of his influence will largely be shaped by the nature of the conflict among those elites. This is not to imply that elite "hegemony" always dominates, or acts as a strategic veto or gate keeping force in specific policy systems, for as Parry suggests inter-elite collaboration often may lead to quite different results:

> In developed capitalistic economies industrialists and unionists also find themselves working side by side on a host of governmental advisory and planning committees which bring them into the closest contact with the political elite, top civic servants, the leaders of finance and so on. They sit on these committees less as representatives of antagonistic interests than as experts working as colleagues for the national interest. They may as a result become inbred with an ethic of "responsibility" which brings them closer to one another but which may open a gap between each elite and the sectional interest of which it is the leader. Industrialists and unionists are then to be found joined with politicians in exhorting industry and labour to respect agreements negotiated by the national leaderships and even to accept sacrifices for the sake of the "public interest." In such ways an "elite consensus" arises on matters of procedure and even on some matters of substance.[83]

It may be helpful to ask whether a consensus among policy elites may occasionally be the product of presidential commitment or style, or under what conditions the reverse may be the case.

Contemporary policy studies suggest that the more we learn about presidential policy performance in varying policy sub-systems, the more it appears that presidents (in both domestic and foreign policy), only rarely accomplish policy "outcomes" that can be credited as distinct personal achievements. More realistically, the presidency serves as a broker for a few party priorities and as a strategically situated and important participant among vast numbers of policy entrepreneurs and policy bearing bureaucrats. More often than not a president's personal policy views are essentially moderate and only vaguely refined. When in office, however, he finds himself constantly surrounded by people who have "high-energy" interest and

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investments in specific policy options. Both the president and these elites, however, are in turn surrounded by what Scammon and Wattenberg call the real majority—the large majority of American voters in the center. While their picture of the American electorate is quite instructive these two political analysts go considerably beyond their data when they write: "those who listen best can lead best"—but their message is still an important one.[54]

There has been some treatment of the "invisible presidency" and "the president's men."[55] These and similar studies imply that those intimates and staff associates of the president are the real policy makers. Hence, a Bay of Pigs defeat is credited to an overly zealous and misinformed CIA officialdom. A poorly managed War on Poverty is explained in terms of the premature or myopic ventures of those social science advisors and presidential aides who wrote the guidelines and legislative grant-in-aid provisions. An unsuccessful North Vietnam bombing policy gets blamed on Dean Rusk and Walt Rostow, *et. al.*, who prematurely championed that approach. Though it is helpful that such studies move beyond a focus just on the president or even the White House staff, here once more there may be a misplaced emphasis and more oversimplification. Public policy again appears controlled only by a few people closely connected with the White House. But it is more likely the case that a considerable number of policy and political elites are involved, with only occasional overlap of the elites in the numerous policy areas. The total number of elite activists in national policy making is far larger than presidency studies suggest. Then, too, chances are that most government policies never get much presidential attention anyway; they just churn on and are adjusted by the often subtle elite influences.

In research now in progress I find that the majority of a sample of advisers who served Kennedy and Johnson hold tempered assessments of presidential determination of "public policy". Public policy, of course, is never an easy object of measurement. It is simultaneously a goal as well as a plan or intention. It can also be viewed as a "subtle blend of past experience, present conditions, and expectations of the future."[56] For our present purposes we can talk of *presidential policy craftsmanship* as a conscious attempt by presidents and their immediate advisers to bring performance into line with an intended standard. Presidential advisers in a sample of recent interviews do not, for the most part, feel their former presidential bosses wielded great power as defined in this above manner.[57] (See Table 3.) There are some who say that "he [the president] has a lot of influence on those problems he is willing to spend time on . . .," but more responded that "he has far less than people think he has, he is far more constrained than popularly thought . . .". Two other responses illustrate the frustrations experienced by most White House policy advisers:

I think the president's impact over policy matters is much less than I thought it was, much less than I thought it might be when I joined the White House staff. Part of the problem is the length of time it takes to get something accomplished once you get the money for it, set up the organization to handle the program and then try to get cooperation from states and cities. It takes years to get a program developed and put into operation. A momentum system of old programs, old organizations and old models tends to inhibit a president from making changes. . . . Also—you are constantly working on budgets that are two, three and four years ahead.

"Presidents obviously do make a difference, particularly in initiating things; by just saying a few words things can be initiated, but of course the carrying out of things lies mostly beyond the control of the president. The White House is a crisis place, you do one thing and start a chain of events but often you have to move on to something else. You just don't have the resources to do everything that you become involved in. Carrying things out is difficult and takes time—so he can only do a limited number of things at once."

Nor do most of these recent senior White House aides see the American presidency in idealized terms. Of course there are some exceptions. A third of their number posit that only the presidency can make the system work and only the presidency can provide the inspiration and unified guidance for legislative and administrative excellence. For example, a classic articulation of the textbook presidency image was offered by one respondent:

"I believe in the aggressive, vigorous and forceful presidency. There is only one pulpit, only one cockpit and only one top office in the U.S. to lead us and to get the nation's response—and it [the presidency] is becoming more important all the time. It is the only institution, certainly Congress isn't, which can be responsive to change and also provide the management of the nation's interests . . ."

TABLE 3.—*Kennedy-Johnson White House Staff Member Evaluation of Presidential Policy Impact*

[Percentages (N=30)]

How much influence over policy matters can the president have?[58]	
Very great impact	10
Considerable impact	36
Selective impact (especially as educator, initiator)	33
Relatively limited impact	21
Total	100

Source: Author's personal interviews, Spring, 1970.

But, as shown in Table 4 most members of the Kennedy and Johnson presidential entourage were less apt to describe the presidential role as capable of a textbook presidency performance. Repeatedly, aides mention that White House policy initiatives are measurably dependent on the willingness of other leaders (as the state and local level, in Congress, in the professions and so forth) to cooperate and "go along" with the new departures. In a sense, all White House policies become compromised and adjusted as they proceed through legislative and later a variety of administrative processes. Then, too, the White House has had very inadequate tools for monitoring and evaluating subsequent compliance or non-compliance with national policies.[59] Frequently, the White House aides just don't know whether new initiatives are moving along smoothly or not, for in many cases great numbers of civil servants and state and local leaders have to be involved and "encouraged" before any noticeable change might begin to occur. All this takes at the least several months and, more often than not, several years. The capacity for presidential leadership to step selectively into troubled areas and redirect misguided or "limping" federal program initiatives is severely restricted by available information and feedback system.[60] The net result, frequently, is that many White House assistants retire from their assignments with anything but a romantic or embellished vision of presidential omnipotence. In fact, many even express the somewhat restrained and almost anti-textbook presidency view that presidents can accomplish a limited number of projects and hence should carefully measure their requests and energies. Emphasizing this point of view were the following two respondents, both members of the Johnson White House office:

"I think the White House under Johnson was excessively activist—there was an impulsive need to do something about everything right now! There was always the feeling [given by the president] that we should fix this and fix that and do it now! Overall I think it went too far—there are definite costs and liabilities in that type of excessive aggressive activism. . . ."

And a second staffer:

"Except in times of emergencies, presidents cannot get much accomplished . . . In some areas a president can have a psychological influence, a psychological effect on the nation, for example by speaking out on crime concerns. And in an eight year period a president can start a shift of the budget and of the political system, but it takes a lot of pressure and a lot of time. Basically, the thing to remember is that a presidential intention takes a very long time to get implemented!"

TABLE 4.—*Kennedy-Johnson White House Staff Member Views of Presidential Policy Leader Role*

[Percentages (N=30)]

Can you talk more about the job of the president as national policy leader?[61]	
Textbook Presidency Response (Should be aggressive preacher, teacher and policy determiner . . .)	33
Restrained or Mixed Expectations: (Presidency viewed as selective priority setter, just as much a follower of national sentiment as moulder of it)	67
	100

Source: Author's personal interviews, Spring, 1970.

(D) Writing a generation or so ago, political scientists like Corwin, Laski and Herring frequently emphasized the dynamic axiom of "ebb and flow" which characterized the occasional presidential supremacy in American politics—a supremacy which was usually interpreted as at the diminution of Congressional initiative. In times of national emergency it appeared that presidents became the beneficiary of a supportive climate of expectations. Surely during the early Franklin Roosevelt months the presidency was "granted" (or did he seize the power?) greater discretionary authority in a hope that something could be done to resolve the chaos of the depression. As Corwin notes—"confronted with such a condition, Congress feels at once the need for action, and its inability to plan the action needed; so it turns to the president."[62] But he notes too that the docility or timidness of Congress fades away once the pressure of crisis is lessened. This type of "ebb and flow" is viewed as a short term intra-administration shift of initiative and discretion. A more contemporary example is the erosion of congressional support for the Tonkin Gulf Resolution.

Laski, on the other hand, speaks of longer ebbs and flows when he writes that the "forces" which operate against continuity of presidential leadership are immense:

"Though Lincoln and Woodrow Wilson both exercised, in the pressure of wartime conditions, an almost dictatorial power, it is, I think, true to say that of each wielded it with uneasiness, and the exercise of that power was in each case followed by a strong reaction toward Congressional control of presidential action. It is not, I suggest, accident that for twenty years after Lincoln there was no strong president until Cleveland; and that the twelve years after Woodrow Wilson saw the effective leadership of American policy outside the White House."[63]

These "tide" theorists, then, see a shifting reservoir of support for activist presidential performance both within and over a

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series of presidential terms. Presidents apparently are affected by (1) the existence or non-existence of emergencies and (2) the degree of activism or aggressiveness of their immediate predecessors.

The recent textbook presidency seemingly has rejected the notion of ebbs and flows because it is assumed that we are now living in times of sustained crisis. The main argument is that we can no longer afford a weak president or a passive presidency. It is added usually that Congress is, and will continue to be, inadequate to the central and unifying leadership tasks ordinarily expected from the presidency. To be sure, these observations are not without their merit. But at the same time political science might do well to retain some of the more flexible perspectives suggested by analysts like Pendleton Herring thirty years ago—prior to the inflation of expectations visited upon the role of the presidency:

"Positive presidential policy in time accumulates grievances and irritations; these find an outlet through Congressional criticism and ultimately counterweight executive power. Blocs become more insistent and intransigent in their opposition to the administration program. A president is usually discredited in Congress before he leaves. Time and again a negative president follows a dynamic one. But negativity cannot be long endured, and the discontented seek a standard bearer once again.

Our system is able to reckon with this change of mode, this realignment of interests. We cannot predict content or timing, but the fact of periodicity is undeniable."[94]

Even in periods of perceived sustained crisis there will probably be shifting patterns of preferences for some policy actor over others. These shifts no doubt are influenced by different assessments of competence and new notions about what is most important. For example, more people right now seem to feel that crises at home are more pressing and deserving of public attention than crises in Indo-China. And presidents, now, just as in the past, are subject to these accentuating shifts.

Presidents strive quite deliberately to gear their style and that of their White House entourages so as to noticeably differentiate between themselves and their predecessors. Hence, a Kennedy shuns publicity about his own golf and avoids the use of multilateral summit meetings. A Johnson forbids his staff to become celebrities and accentuates his legislative wizard image to dramatize the differences between himself and Kennedy. A Nixon strives for less props at news conferences and seeks to project an image of a calm, deliberate lawyer. So it is that often a seemingly passive president will replace an activist one—but these contrasts may be both more calculated than real.

Passing reference should also be made to the fact that presidential popularity seems to wane as the years roll by. With the exception of Eisenhower, in whose case the drop is of only slight magnitude, presidential incumbents since 1945 have invariably lost popularity as their presidency neared its completion. Similarly, presidential legislative box score "successes," albeit a misleading indicator, is also related to length of time since their last election.[95] This same type of diminishing potency is also at work in the area of personnel recruitment. Close observers of Kennedy and Johnson presidential top level recruiting affirm that a president has far less of a chance in recruiting his first choices for top posts after the first year of a new administration. Then, too, as mentioned earlier, press criticism invariably becomes more cutting and seemingly more ad hominem after the first year and a half.

Clearly some "tide" factors are at work, despite our lack of understanding of their character, frequency or staying power. But the recent ebbs and flows of relations between presidency-Congress, presidency-bureaucracy, presidency-interest elites, or president-public are clearly not well understood. In 1958 in response to the Sputnik crisis, it was Congress more than the presidency that shaped and "passed" major space and educational programs. In the late years of the Johnson presidency, the president and his staff did not ease up in their strategy of keeping a "full" legislative program before Congress. Contrary to the complaints from leading Congressmen within his own party and contrary to the election results of 1966, the Johnson administration was unwilling to recognize a need for a pause or let up in legislating or in expanding the federal role. Not until the pending elections of 1968 crystallized a decidely anti-president mood was he made aware of the widespread reaction against his record of presidential performance. And in 1969 it was a seemingly conservative president who "initiated" and publicized a major progressive change in federal welfare policies.

The tide factor may also be related to presidential relationships with policy elites within or on the periphery of his administration. Are elected officials and their immediate staffs the chief policy actors or do they merely absorb and legitimize activities of dominant elite interests? James Young has suggested that the Jeffersonian period presidents were more successful in their legislative programming when cabinet officialdom worked in close affiliation with the White House rather than with congressional committees.[96] When congressional committees and enlarged departmental bureaucracies developed an intricate communication network of their own, presidents became more dependent on cabinet level officials than was previously the case. It is often now observed that effective interest groups along with key congressional leaders are more likely the significant cue givers for cabinet and bureau executives than the temporary team of partisans who happen to be then in residence at the White House.[97] Hence, it may be worthwhile to study the varying patterns of influence between presidency and policy elites and to explore the conditions under which the balance shifts one way and then another.

(E) In the recent past, many writers have implicitly essayed that the presidency has been an enormously successful and "healthy" instrument of American progress and stability. For those who believe the U.S. political system is abundantly comprised of individualistic entrepreneurs calculating short term advantages for themselves—"what's in it for me?"; "What's in it for my district?"—the presidency appears conveniently to rise above the "politicians" and to be a representative of all the people and the long term national interests. For those who see national policy developments as resulting from clashes among competing elites responsive to diverse interests, the presidency appears as the logical center of conflict resolution and ultimate policy integration. (One should appreciate that even political scientists make value-rooted institutional assessments.)

Part of the favorable and indulgent disposition toward the presidency may lie in the ideological heritage of recent generations. In the Thirties and Forties, it must have been hard not to identify with American political institutions, perhaps symbolized in the presidency, which were then coming under international attack. Consider the following perceptions:

"Across the sea, Hitler defiantly taunted the democracies as impotent. Praise for the efficacy of the Fascist dictatorship in Italy was heard in surprisingly high places in the democracies. Some doubts were being expressed as to the ability of the presidential system to supply the bold dynamic leadership required for solution of the problems of modern government. A question was raised as to whether efficiency and democracy were compatible. Was constitutional government under a President and a Congress a luxury of an earlier age that could not be afforded in modern crisis government?[98]

Not surprisingly, one reaction would be to feel that the presidency should be more of a place for strong, activist, purposeful leadership. And the personal magnetism of Franklin Roosevelt seemed to fill the necessary prescription.

But ambiguity surrounds this idealized view of the presidency, held primarily by those of pluralist-liberalism persuasions. The liberal, pluralist authors of the textbook presidency value the decentralized interest group basis of American political life, but demand at the same time a presidency (or an executive centered leadership) with aggressive power instincts and resolute personal drive. They distrust a passive presidency on the assumptions that the times are too perilous and activist presidents will promote liberal and moral altruistic policies.

Today, but one generation removed from the Depression and World War II, from the age of Hitler, Roosevelt, Stalin and Churchill, the doctrine of liberal-pluralism, as well as that of the textbook presidency, has come upon harder times. Some of the developments responsible for rejection of pluralism and central government have, I think, or will, affect support for the presidency as an institution. It is unnecessary to dwell for long on the diverse sources of discontent with pluralism as a doctrine and an explanation; merely noting the following trends: a) intense indignation with the "Johnson-Nixon" war conduct and negotiations in Vietnam, b) a resurgence of studies on the left and right that suggest that America is more a closed than an open society and that it is dominated by special interest elites largely immune from popular accountability, c) a more sophisticated social science research concentration on political system policy outcomes that suggests qualitatively that much of what passes for social action programs does not achieve intended effects, and quantitatively, that economic variables appear to explain far more than civic or political leadership variables, and d) a sense of despair with idealistic voluntary strategies for the resolution of hard core social and development problems as seen in the critical questioning of the worth of a Peace Corps, VISTA or similar short term "good will" activities.

But just as the textbook presidency sponsors were everly generous in their pictures of the presidency, one wonders whether current schools of critics and reappraisers are not fixing more blame on the presidency and presidents than is reasonable. People clearly support those institutions which they feel will act in such a way as to further their personal values. What we see at work here, I think, is that several values, some of which are indeed in conflict with each other, are generally endorsed with some becoming emphasized over others in a shifting fashion.[99] A perceived ineptness and clumsiness on the part of national government and national leadership may be part of this pattern of shifting emphasis. America is in need of a lot more constructive leadership at all levels—and not all of it will, nor need, come from the presidency. We might promote both a more accurate political science and a more resilient civic culture if we make our values more explicit and entertain a more sophisticated recognition of the varying and shifting response to national institutions.

On balance, of course, it is true that under certain circumstances a president can ignite the nuclear destruction of a substantial portion of the world or commit U.S. troops into internationally troubled crisis zones. But the American president is in no better position to control Bolivian instability, Brazil from

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Footnotes at end of article.

turning Communist, or Vietcong penetration into Cambodia than he can make the stock market rise or medical costs decline. It is misleading to infer from a president's capacity to drop an A-bomb that he is similarly powerful in most other international or domestic policy areas. The more political scientists engage in longitudinal policy analysis, admittedly something we are not very proficient at yet, the more it becomes apparent that presidents, in fact, are rarely free agents when it comes to effecting new policy directions or dismantling policies which they have inherited. A more systematic understanding of presidency influence on policy accomplishments must await a more thorough examination of the role of policy elites in White House-departmental and White House-congressional exchange systems.[100]

FOOTNOTES

[1] The views expressed are the author's and do not represent those of the trustees, officers or other staff members of The Brookings Institution.

[2] Lawrence J. R. Herson, "The Lost World of Municipal Government," *American Political Science Review*, Vol. LI, No. 2 (June, 1957), 331.

[3] David Easton and Jack Dennis, *Children in the Political System* (New York, McGraw-Hill, 1969); and Fred I. Greenstein, *Children and Politics* (New Haven, Yale University Press, 1965).

[4] See the discussion in Byron G. Massialas, *Education and the Political System* (Reading, Massachusetts, Addison-Wesley, 1969), Ch. 3.

[5] Fifteen standard college American government introductory texts and another fifteen more specialized presidency or national policy making studies were examined with a special interest in the types of images, perceptions and facts about presidential performance. The case made in this section is merely illustrative. No claim of quantitative analysis is implied. Any definitive exercise of this sort would require a quantitative content analysis of textbook images over time and the degree to which variance exists among them. These would then be counter-balanced by an extensive number of cases which demonstrate that these images are incorrect or misleading for an understanding of actual presidential performance. While such a study is feasible and would be highly interesting, the scope and intent of this paper are more limited and modest respectively.

[6] Robert Carr, Marver Bernstein and Walter Murphy, *American Democracy in Theory and Practice*, 4th ed. (New York, Holt, Rinehard and Winston, 1965), 447.

[7] William A. McClenaghan, *Magruder's American Government* (Boston, Allyn and Bacon, 1962), 262.

[8] Clinton Rossiter, *The American Presidency*, revised edition (New York, New American Library, 1960), 17.

[9] William H. Young, *Essentials of American Government*, 9th ed. (New York, Appleton-Century Crofts, 1964), 251.

[10] James M. Burns and Jack W. Peltason, *Government by the People*, 5th ed. (Englewood Cliffs, N.J., Prentice Hall, Inc., 1964), 434–435.

[11] James M. Burns, *Presidential Government* (New York, Avon Books, 1965), 326–327.

[12] Theodore H. White, *The Making of the President 1960* (New York, Pocket Books 1961), 441.

[13] Theodore H. White, "The Action Intellectuals," A 3-Part Series, *Life* (June, 1967).

*See also an insightful discussion in: Nelson Polsby, *Congress and the Presidency* (Englewood Cliffs, New Jersey, Prentice Hall, 1964) Chapter 2.

[14] Clinton Rossiter, *op. cit.*, 250, 84 and 68–69.

[15] *Ibid.*, 102.

[16] Richard E. Neustadt, *Presidential Power* (New York, Wiley, 1960). This pioneering analysis of New Deal and post-New Deal presidential performance had an important influence on political science. Neustadt's explication of the notion that a leader's power hinged upon his capacity to persuade and his capacity to persuade rested upon his image and reputation were insightful and provocative. It is interestnig to note, however, that Neustadt's own expectational optimism about the potential for presidential leadership is more tempered in his later writings, especially *Alliance Politics* (New York, *Columbia University Press, 1970*. See also the recent assessment of his argument by Peter W. Sperlich, "Bargaining and Overload: An Essay on *"Presidential Power,"* in Aaron Wildausky (ed.), *The Presidency* (Boston, Little Brown, 1969), 168–192.*

[17] *Ibid.*, 43 (Wiley Science paperback edition, 1962).

[18] *Ibid.*, 167–168.

[19] Burton P. Sapin, *The Making of United States Foreign Policy* (Washington, D.C., The Brookings Institution, 1966), 90.

[20] But see the ambitious attempts at this type of inquiry by Erwin C. Hargrove, *Presidential Leadership* (New York, Macmillan, 1966); Alexander and Juliette George, *Woodrow Wilson and Colonel House* (New York, Dover, 1964—originally published in 1956); and the recent work of James David Barber, "The President and His Friends," Paper delivered at the meetings of the American Political Science Association (New York, September, 1969).

[21] In his 1968 book published during the campaign: Nelson A. Rockefeller, *Unity, Freedom and Peace* (New York, Vintage Books, 1968), 152–153.

[22] Remarks of Senator John F. Kennedy, Stuyvesant Town Rally, New York, New York, October 27, 1960.

[23] *Ibid.*

[24] Theodore H. White, *The Making of the President 1960, op. cit.*, 450–451.

[25] Theodore H. White, *The Making of the President 1968* (New York, Atheneum, 1969), 428.

[26] See, for example, Lucy Mair, *Primitive Government* (Baltimore, Penguin Books, 1962).

[27] Thomas A. Bailey, *Presidential Greatness* (New York, Appleton-Century, 1966), 3.

[28] Dixon Wecter, *The Hero in America* (Ann Arbor, The University of Michigan Press, 1963—originally published 1941), 8.

[29] William H. Riker, *Democracy in the United States* (New York, Macmillan, 1967), 2nd ed., 188.

[30] Eugene McCarthy, "Thoughts on the Presidency," guest column in *The New York Times* (March 30, 1968).

[31] *The Gallup Opinion Index*, Report No. 56 (February, 1970), 19–22.

[32] Murray Edelman, *The Symbolic Uses of Politics* (Urbana, University of Illinois Press, 1967), 76.

[33] *Ibid.*, 78.

[34] Robert D. Hess and David Easton, "The Child's Changing Image of the President," *Public Opinion Quarterly*, Vol. 24 (Winter, 1960), 644.

[35] In studies of elementary school level socialization process, Hess and Torney find that the stress on loyalty to the nation results in an unquestioning patriotism and a high level of trust as well as awe toward government operations. See Robert Hess and Judith Torney, *The Development of Political Attitudes in Children* (Garden City, N.Y., Doubleday, 1968), Ch. 5. It is generally assumed that civics education in high school is likewise characterized by uncritical rituals of system support. See M. Kent Jennings and Richard G. Niemi, "The Transmission of Political Values from Parent to Child," *American Political Science Review* (March, 1968), 177–178; and Byron G. Massialas, *op. cit.*

[36] Edward S. Corwin, *The President: Office and Powers* (New York, New York University Press, 1940); Pendleton Herring, *Presidential Leadership* (New York, Farrar and Rinehart, 1940); Richard Hofstadter, *American Political Tradition* (New York, Knopf, 1948); and Harold J. Laski, *The American Presidency* (New York, Grosset and Dunlap, 1940).

[37] And this is now beginning to take place. See, for example: Barton J. Bernstein (ed), *Toward a New Past* (New York, Random House, 1967). This is not to say there haven't been a variety of books that questioned the result of Franklin Roosevelt's aggressive and activist orientation, it is rather to note that such books have only seldom been used in general college courses. Two notable books in this latter genre are: James Burnham, *Congress and the American Tradition* (Chicago, Henry Regnery, 1959); and Amaury de Riencourt, *The Coming Caesars* (New York, Coward-McCann, 1957). Theodore Lowi's *The End of Liberalism* (New York, Norton, 1969) may also become a popular college text which has a decidedly anti-New Deal presidential government point of view.

[38] Theodore C. Sorensen, *Decision-Making in the White House* (New York, Columbia University Press, 1963), 75. To some extent this first book by Sorensen is an exception to the rule, for its stress is on the limits of presidential decision-making and unlike some of his own later writing, it reflects Kennedy's very difficult struggle to get even limited legislation passed in 1962–1963.

[39] Andrew Hacker, "Election Stories," *Commentary* (December 1965), 110.

[40] President Richard Nixon's inaugural day speech, January 20, 1969 in Washington, D.C.

[41] Lyndon B. Johnson, *Public Papers of the Presidents, 1963–1964* (Washington, U.S. Government Printing Office, 1965), Vol. II, 1391.

[42] Arthur M. Schlesinger, Jr., *The Crisis of Confidence* (Boston, Hougton Mufflin, 1969), 288.

[43] Anthony Howard, "No Time for Heroes," *Harper's Magazine* (February 1969), 91–92.

[44] See the report on presidential popularity 1945–1970 in *The Gallup Opinion Index* (February, 1970), 8–16. See also the quite insightful analysis by John E. Mueller, "Presidential Popularity from Truman to Johnson," *American Political Science Review* (March 1970), 18–34.

[45] For a detailed analysis of assassination attempts directed at the Office of the President, see: Ch. 2 in James F. Kirkham, *et al.*, (eds.), *Assassination and Political Violence*, A Staff Report to the National Commission on the Causes and Prevention of Violence (Washington, D.C., U.S. Government Printing Office, 1969).

[46] George E. Reedy, *The Twilight of the Presidency* (New York, World Publishing, 1970), 14–15.

[47] Murray Kempton, "At King Lyndon's Court," *New York Review of Books*, (April 10, 1969), 8.

[48] Charles Frankel, *High on Foggy Bottom* (New York, Harper and Row, 1969), 234.

[49] Eric F. Goldman, *The Tragedy of Lyndon Johnson* (New York, Knopf, 1969), 515–516.

[50] Townsend Hoopes, *The Limits of Intervention* (New York, McKay, 1969), 116–116.

[51] Richard E. Neustadt, *Alliance Politics* (New York, Columbia University Press, 1970).

[52] *Ibid*, 148–149.

[53] Edward C. Banfield, *The Unheavenly City* (Boston, Little Brown, 1970); Peter F. Drucker, *The Age of Discontinuity* (New York, Harper & Row, 1969); Andrew Hacker, *The End of the American Era* (New York, Antheneum, 1970); Theodore J. Lowi, *The End of Liberalism* (New York, 1969); and Daniel P. Moynihan, *Maximum Feasible Misunderstanding* (New York, Macmillan, 1969).

[54] Richard Rovere, "Letter from Washington," *The New Yorker* (July 18, 1970), 77.

[55] Banfield, *op. cit.*, 252–253.

[56] Moynihan, *op. cit.*, 168 and 170.

[57] Lowi, *op. cit.*, 288.

[58] *Ibid.*, 292–293.

[59] Drucker, *op. cit.*, 221.

[60] *Ibid.*, 220.

[61] Hacker, *op cit.*, 142 and 153.

[62] See, for example, the central focus on the failure of the Franklin Roosevelt and Harry Truman presidencies in Bernstein, *Toward a New Past, op. cit.;* and Barton Bernstein, *et. al., Politics and Policies of the Truman Administration* (Chicago, Quadrangle Books, 1970).

[63] McGeorge Bundy, *The Strength of Government* (Cambridge, Harvard University Press, 1968); See also: James Reston, *New York Times* columns, passim.

[64] Arthur M. Schlesinger, Jr., *The Crisis of Confidence* (Boston, Houghton Mifflin, 1969), 298.

[65] Data here and in Tables 1 and 2 come from a national sample survey of adult Americans sponsored by the Department of Political Science, The University of North Carolina, March, 1969. Field data was gathered by Harris Associates and the project was coordinated by Professors Thad Beyle and Robert Lehnen of the University of North Carolina.

[66] Alexander M. Bickel, *The Supreme Court and the Idea of Progress* (New York, Harper & Row, 1970).

[67] See footnote #65.

[68] Andrew McFarland, *Power and Leadership in Pluralist Systems* (Stanford, Stanford University Press, 1969), 154–155.

[69] See footnote #65.

[70] James L. Sundquist, *Politics and Policy* (Washington, D.C., The Brookings Institution, 1968), 415.

[71] See: Nelson Polsby, "Policy Analysis and Congress," *Public Policy* (Fall, 1969), 67.

[72] See: Abraham Holtzman's *Legislative Liaison: Executive Leadership in Congress* (Chicago, Rand McNally, 1970). Holtzman sees the presidency as the dominant influence in legislation, but his analysis also lends support to the notion that the executive branch is very dependent on national legislators. He reports, moreover, that many of the Kennedy Administration legislative liaison officials "concluded that Congress frequently improved the executive product." Expansion of executive branch legislative relations teams does not mean that the presidency necessarily becomes more independent from Congress, for legislative relations officers serve almost as much as diplomatic emissaries from their legislative constituency as to it.

[73] Pendleton Herring, *Presidential Leadership* (New York, Farrar and Rinehart, 1940), 9.

[74] David E. Price, "Who Makes the Laws? The Legislative Roles of Three Senate Committees," (Unpublished Ph.D. dissertation, Yale University, 1969), 490.

[75] *Congressional Quarterly Almanac* (Washington, D.C., Congressional Quarterly Inc., 1968), 97.

[76] See the useful discussion in: Grant McConnell, *The Modern Presidency* (New York, St. Martin's Press, 1967), 48–51.

[77] V. O. Key, *Public Opinion and American Democracy* (New York, Knopf, 1964); James Sundquist, *op. cit.;* Samuel Lubell, *The Hidden Crisis in American Politics* (New York, Norton, 1970); and Richard M. Soammon and Ben J. Wattenberg, *The Real Majority* (New York; Coward-McCann, 1970).

[78] C. Wright Mills, *The Power Elite* (New York, Oxford University Press, 1956); G. William Domhoff, *The Higher Circles* (New York, Random House, 1970).

[79] Bernstein, *op. cit.;* Lowi, *op. cit.* See also Jim F. Heath, *John F. Kennedy and the Business Community* (Chicago, University of Chicago Press, 1969).

[80] David B. Truman, *The Governmental Process* (New York, Knopf, 1951); More recently see: Arnold M. Rose, *The Power Structure* (New York, Oxford University Press, 1967); and Lewis Anthony Dexter's insightful discussions in *How Organizations Are Represented in Washington* (New York, Bobbs-Merrill, 1969).

[81] Geraint Parry, *Political Elites* (New York, Praeger, 1969), 75. See also the definitional discussions in Suzanne Keller, *Beyond the Ruling Class* (New York, Random House, 1963)

[82] Heath, *op cit.;* Gilbert Y. Steiner, *Social Insecurity* (Chicago, Rand McNally, 1965), Ch. 9.; and Thomas E. Cronin and Norman C. Thomas, "Educational Policy Advisers and the Great Society" *Public Policy* (Fall, 1970).

[83] Parry, *op. cit.*, 91.

[84] Scammon and Watenberg, *op. cit.*, 305.

[85] See, for examples, Louis Koenig, *The Invisible Presidency* (New York, Rinehart, 1960); Patrick Anderson, *The Presidents' Men* (Garden City, New York, Doubleday, 1968). For an earlier example of this genre, see: Joseph Alsop and Robert Kintner, *Men Around the President* (New York, Doubleday, Doran, 1939).

[86] A definition suggested by Heinz Eulau and Harold Quinley, *State Officials and Higher Education* (New York, McGraw-Hill, 1970), 169.

[87] These interviews were conducted by the author, Spring, 1970. Thirty members of the Kennedy and Johnson White House staffs were interviewed, the sample consisting primarily of senior aides who had policy specializations or program portfolios.

[88] This question was an open-end question. Coding categories here are, of course, approximations of respondent's general orientations.

[89] See: Charles L. Schultze, *The Politics and Economics of Public Spending* (Washington, D.C., The Brookings Institution, 1968); and James L. Sundquist, *Making Federalism Work* (Washington, D.C., The Brookings Institution, 1969).

[90] See the instructive study of President Johnson's failure to launch a "new towns in-town" program: Martha Derthick "Defeat at Fort Lincoln," *The Public Interest* (Summer, 1970), and her forthcoming monograph on the political and federalism obstacles to this White House policy initiative.

[91] See statement in footnote #88.

[92] Corwin, *op. cit.*, 330.

[93] Laski, *op. cit.*, 12–13. For a much earlier ebb and flow explanation see also: Samuel P. Orth, "Presidential Leadership," *Yale Review* (April, 1921), 451–466.

[94] Herring, *op. cit.*, 8–9.

[95] *Congressional Quarterly Almanac,* 1968, *op. cit.*, 97. Data for Eisenhower, Kennedy and Johnson years only.

[96] James S. Young, *The Washington Community* (New York, Columbia University Press, 1966), 204–205 and p. 239.

[97] See: Lowi, *op. cit.;* Douglass Cater, *Power in Washington* (New York Random House, 1964), Ch. 1 and 2; and Richard E. Neustadt, "Politicians and Bureaucrats," in David B. Truman (ed.), *The Congress and America's Future* (Englewood Cliffs, New Jersey, Prentice Hall, 1965), pp. 102–120.

[98] Herbert Emmerich, *Essay on Federal Reorganization* (Alabama, University of Alabama Press, 1950), 62.

[99] See Herbert Kaufman's views on conflicting and shifting sets of values characterizing the organization of administrative processes: "Emerging Conflicts in the Doctrines of Public Administration," *American Political Science Review* (December, 1956), 1057–1073; and "Administrative Decentralization and Political Power," *Public Administration Review* (Jan./Feb., 1969).

[100] Recent suggestions made about the study of elite influence on state policy may also prove fruitful for studying presidential and national elite impact on policy, see: Richard I. Hofferbert, "Elite Influence in State Policy Formation," *Policy* (Spring, 1970), 316–344.

PROGRESS BY COMMITTEE ON THE JUDICIARY ON S. 3201, CONSUMER CLASS-ACTION BILL

Mr. HRUSKA. Mr. President, due to circumstances beyond the control of the members of the Senate Judiciary Committee, the committee was not able to act in executive markup session on S. 3201, as amended by the Senate Commerce Committee. Hence, no inference should be made because the Judiciary Committee did not amend the bill. Since the holding of hearings by the Judiciary Committee on August 27, 28, 31, and September 1, I list the following:

First, record votes on the floor of the Senate on military procurement authorizations—H.R. 17123—late in the afternoon of September 1 which required a postponement for hearing the remaining five witnesses scheduled to testify;

Second, a Labor Day recess from September 2 to September 9;

Third, scheduled public hearings by the full Judiciary Committee on the equal rights amendment on September 9, 10, 11, 14, and 15.

Fourth, a previously arranged executive session on September 16 to consider a large agenda of bills deferred because of the pending Senate business;

Fifth, the final day of public hearings on S. 3201, had to wait until September 21 to be scheduled;

Sixth, the printing of the record of hearings on S. 3201 had to be delayed and are being filed on October 8 in the Senate;

Seventh, the votes on the cloture motion on Senate Joint Resolution 1;

Eighth, the pending bills in the Senate—such as bank holding company, manpower training, air quality standards, antiobscenity bill, various appropriations bills, equal employment opportunity, highway construction bill, and others too numerous to mention individually—which were considered while Senate Joint Resolution 1 was temporarily set aside.

In the meantime the leadership informed the Senators that objections to committee meetings would be lodged so that full attention would be given to Senate Joint Resolution 1. This procedure was in effect until the second cloture motion was acted upon by the Senate on September 29.

Upon completion of the public hearings on September 21, the Senate Judiciary Committee programed several executive sessions beginning with September 22 for the law enforcement assistance administration bill, the consumer class action bill and the equal rights amendment bill. On the 22d no quorum was reached. On the 23d the committee did not reach a quorum for almost 1 hour after the designated time and the committee was barely able to report the omnibus crime control bill at the time a vote was beginning on the Senate floor at 12:30.

Although the members of the Judiciary Committee were canvassed since that date, and although several days were specified for an executive markup session on the consumer class action bill, the pressing business of the Senators, of the Senate, and further, the objections to have meetings while Senate Joint Resolution 1 was the pending business, precluded the gaining of a quorum to act on S. 3201.

Hence, no inference should be made that the Judiciary Committee did not act on the bill. As I stated, it did not act because it was precluded from doing so for reasons above detailed.

However, let us examine the record of action by the Senate Commerce Committee.

RECORD OF ACTION IN COMMERCE COMMITTEE

The Senate Commerce Committee, according to its report to the Senate, held hearings on December 16 and 17, 1969, February 3 and 5, March 17, 18, 19, and April 9, 1970, or 8 days to hear 28 witnesses.

However, more significant is the fact that, although the Commerce Committee finished hearings on April 9, 1970, it took a long series of executive sessions—until July 28, 1970—for the committee to agree on its reported bill. Then it took the Senate Commerce Committee an additional 18 days to file its report to the Senate on August 14. The report itself was printed and distributed to us on August 18—4 days later. The time it took the Senate Commerce Committee to hold hearings, conduct executive session, and have its final determinations reported to the Senate, as outlined above, testifies to the importance and significance of this proposed measure.

Mr. President, it is a sad state of affairs that the Senate must act on a bill as significant as this one without giving the Judiciary Committee—that is, the appropriate committee under our rules in matters affecting our Federal judicial system—every possible opportunity to act. It is better to wait even until early next year to pass a good bill that will truly protect the consumer and preserve the effectiveness of the Federal judicial system. This is much to be preferred than to proceed hurriedly just to meet an adjournment date.

The consequences resulting therefrom in the form of a bad bill is a big price to pay. The present form of the bill will adversely re-forge our Federal judicial system to the detriment of the American public generally and will give very little gain to the American consumer. In fact it will bring him harm.

The consumer will be burdened by additional taxes, by delays in other court actions—civil and criminal—and most significantly, in the security to himself, his family, and his home by delays in criminal trials. Such delays will permit alleged criminal offender to roam the streets robbing, raping, and murdering innocent people, who could very well be the consumer class action plaintiffs under this bill—all of this because of the intolerable and unnecessary burden placed on the Federal court system.

Mr. President, anyone examining the public record of the Judiciary Committee hearings would be most impressed with the colloquies between the Senators and the witnesses, a good portion of which were not a part of the record in previous hearings. Since they are too lengthy to read at this point, the debates on the bill will stress those key points. However, it is pertinent to state concisely some of the reasons why the bill in its present form is not in the best public interest:

First. Chief Justice Warren E. Burger speaking over national television at the American Bar Association said after referring to crowded court dockets:

> Meanwhile, not a week passes without speeches in Congress and elsewhere and editorials demanding new laws—to control pollution, for example, and new laws allowing class action by consumers to protect the public . . . No one can quarrel with the needs. The difficulty lies in our tendency to meet new and legitimate demands with new laws which are passed without adequate consideration of the consequences in terms of caseloads.
>
> Now we must make a choice of priorities . . . Neither costs nor the number of judges can be held down if the caseload is steadily enlarged.

And of course the bill reported by the Commerce Committee did not and could not provide additional court personnel or facilities, neither can Judiciary Committee or even the entire Congress do so on such short notice and considerations.

Second. Judge Alfred P. Murrah, Director of the Federal Judicial Center and Mr. Rowland F. Kirks, Director of the Administrative Office of the U.S. Courts agreed that the bill, as amended, does raise serious questions and could re-forge the judicial machinery. Hence the impact on the Federal court workload and efficiency, and the cost, in terms of additional facilities, tools, personnel and judges, for the taxpaying consumers could offset their small gains individually under this bill.

Third. Senator **Norris Cotton**, ranking Republican on the Senate Commerce Committee, in his individual views on S. 3201, as amended in the Commerce Committee said:

> This bill makes far-reaching changes in the consumer protection powers of the Federal Government, and could, if it is enacted, turn our Federal Court system of small claims courts.
>
> We must not lose sight of the fact that the Federal courts are so badly burdened today that most students of the system are seeking ways to lighten the caseload of the Federal Judiciary. (Citing Chief Justice Burger's ABA speech.)
>
> Some had led consumers to believe the adoption of this class action procedures bill bring them immediate relief. If this were so, I would endorse this procedure not-withstanding the impact of permitting such actions upon the already overworked Federal Judiciary System. I am convinced, however, that this bill offers no substantial prospect for relief of consumers generally, but rather will simply serve as a vehicle to enrich those law firms which have euphemistically denominated themselves as "public interest law firms."
>
> If on the other hand these class action suits become common practice, business will pass the expense of constantly defending against them to the Consumer in the form of higher prices. I wonder why with all the present solicitude for the consumer no one seems to remember that he is vitally interested in the prices he has to pay.

Senator **Howard H. Baker**, a former member of the Judiciary, and now a prominent member of the Senate Commerce Committee said in his individual views:

> While I was an original co-sponsor . . . the bill as reported from this committee bears little resemblance to that which was introduced . . . I am hopeful, therefore, that the bill will be susbtantially modified either by the Judiciary Committee or on the Senate floor, and I shall support efforts in this regard.

Senator **Marlow W. Cook**, who as a member of the Judiciary Committee did yeoman work while attending each of the 5 days of hearings, wrote a strong dissenting view on S. 3201, as a member of the Commerce Committee. I urge each Member of this body to read these views on pages 74 through 78 of the Commerce Committee report. Senator **Cook** noted there these points:

First. S. 3201, as amended, provides for wide-open class action suits of questionable value to the consumers but of serious impact on the Federal judiciary machinery;

Second. The bill gives the Federal Trade Commission carte blanche authority which Congress should reserve to itself in the matter of requiring new requirements of conduct and prescribing criminal penalties therefore.

Third. The bill makes FTC the repository of functions of lawmakers, judges, and prosecutors; this is obnoxious in our system of government.

Fourth. The bill creates conflicts when suits are filed in State and Federal courts; confusion and delay will result.

Fifth. The adverse impact of the bill on voluntary settlements, will heavily penalize consumers who have a just complaint. Voluntary and speedy settlements should be encouraged, not prevented.

Sixth. The harassment caused to small and large businessmen through sizable costs of litigation—win or lose—will inevitably lead to strike suits. The cost of such suits will necessarily be reflected in product prices, without yielding any benefits to the consumer.

Seventh. The public should be aware of this misplaced enthusiasm for an unrestrained Federal class action. It will not be a panacea for consumer wrongs, especially the hard-core ghetto frauds, such as bait and switch tactics.

Eighth. The basic remedies provided in the original bill S. 3201, to the Federal Trade Commission and Department of Justice were realistic attempts to deal with these problems. However, the Commerce Committee in reporting this bill has too quickly, and wrongly so, assumed in adopting the private class action, that responsible Government officials when provided with effective tools will not respond to a public need.

Ninth. Congress should proceed in a rational and logical manner. The bill as reported does not result in such procedure.

Mr. President, I shall not quote from the many fine statements of professors, private attorneys, and trade associations specializing in this area of class action, but in principle many serious questions were raised during their testimony, whether they spoke for or against the reported bill.

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It is urged that we move carefully and judiciously in this matter and not rush through a bill just for the sake of saying we are enacting a consumer class action bill. We will not be doing any such thing. We will be enacting a bill that will restrict our Federal courts to the great disadvantage and to the detriment of our people—all of whom are consumers—for a long, long time.

Hence, this matter should be deferred for more judicious deliberation. Time must be taken to debate each of the many amendments that have been suggested at the request of the Judiciary Committee and by the many witnesses who have appeared before the Senate Judiciary Committee hearings. Among these are several well considered amendments from the Department of Justice and individual Senators.

The better course to pursue is to defer the bill to next year's session when a composite bill of the Commerce and Judiciary Committee's better judgment is reached.

However, if this procedure is not done, then after the bill is made the pending business of the Senate, there will be proposed certain amendments or substitute measures which will require thorough debate and discussion before any vote is taken.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

Mr. BYRD of West Virginia. Mr. President, the laying before the Senate of the unfinished business is automatic, is it not?

The PRESIDING OFFICER. The Senator is correct. The Chair lays before the Senate the unfinished business, which the clerk will state.

The legislative clerk read as follows:

> Calendar No. 1135, Senate Joint Resolution 1, proposing an amendment to the Constitution of the United States relating to the election of the President and the Vice President.

Mr. BYRD of West Virginia. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS of Delaware. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from North Carolina (Mr. ERVIN) as a substitute for the amendment offered by the Senator from Michigan (Mr. GRIFFIN).

Mr. WILLIAMS of Delaware. Mr. President, I understand no Senator wishes to speak. I am going to suggest that the Chair have the clerk call the roll. If there is objection perhaps we can get consent to vote in an hour or some such period. Would an hour's limitation of debate be satisfactory?

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. What did the Chair say was the pending business?

The PRESIDING OFFICER. The pending question is on agreeing to the amendment offered by the Senator from North Carolina as a substitute for the amendment offered by the Senator from Michigan.

Mr. GRIFFIN. I thank the Chair, because I did not hear the statement that the Ervin amendment was the pending question.

The PRESIDING OFFICER. The question is on the amendment.

Mr. BAKER. Mr. President——

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mr. WILLIAMS of Delaware. No; I am ready to vote.

Mr. BAKER. Mr. President, I recognize the desirability of having an early resolution of this conflict. We have been at it for some time. I am terribly in sympathy with the desire of the distinguished senior Senator from Delaware, but, as I indicated and as other Senators indicated on Friday last, there is, after all, a cloture vote scheduled for 12 o'clock on tomorrow. There is, at least in my mind, a possibility that the Senate could consider further the original proposal, that is to say Senate Joint Resolution 1, providing for direct popular vote. There are certain conversations underway in an effort to explore the possibilities of accommodation. I make no representations about whether they may or may not succeed.

The point of the matter is that I feel two things should occur before we proceed to vote: No. 1, every opportunity should be given for every Member of the Senate to discuss the pending amendment in the nature of a substitute; and, No. 2, a full and thorough exploration of the possibility of compromise and accommodation ought to be undertaken before a vote is taken on this or any of the other of the several plans or on Senate Joint Resolution 1.

With that in mind, I would hope that we would not move to a vote at this time. If the distinguished Senator from Delaware was propounding a unanimous-consent request. I reserve the right to object. I did not understand that was the thrust of his remarks. If he was not propounding a unanimous-consent request, I have a good bit to say on the resolution, and I would judge that probably the Senator from North Carolina (Mr. ERVIN) and the Senator from Alabama (Mr. ALLEN) would, as well.

Mr. ALLEN. Mr. President, the Senator from Alabama is ready to vote. No objection will be interposed by the Senator from Alabama.

Mr. WILLIAMS of Delaware. Mr. President, that was my understanding. It was my understanding that we could vote on the Ervin amendment first. Then we would vote on the Griffin amendment as amended by the Ervin amendment. Then we would go on to a vote on Senate Joint Resolution 1 as amended, or after the vote on the Griffin amendment.

I think we should go on and call the roll on these amendments in an orderly way. If all some people want is a vote on cloture, then lay this bill aside and take up something else. If we wanted to have another vote on cloture, we could go ahead and perpetuate the farce that has been going on for some time.

I would think we should vote on this proposal.

Mr. President, I ask unanimous consent that at 4 o'clock we proceed to a vote on the Ervin amendment.

Mr. BAKER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Do I still have the floor?

The PRESIDING OFFICER. If the Senator is seeking recognition, he can be recognized.

Mr. BAKER. Mr. President, of course two or three things occur to me in this respect. Every time we have attempted to explore or the Senator from Indiana has attempted to explore the possibility of having an early sequence of votes, we get along well until we get to the question of a vote on direct popular vote.

I wonder if the distinguished Senator from Delaware would be agreeable to putting down a unanimous-consent order on voting on Senate Joint Resolution 1.

Mr. WILLIAMS of Delaware. I have no objection to voting on all of them, one right after the other, but it would make a better procedure to vote on this one and then after that the Senator from Michigan, I understand, will not have any objection to limiting time on his amendment, and we can vote on it. Then if there are no other amendments next in order would come Senate Joint Resolution 1 as amended, if it is amended; and if not, then, as far as I am concerned, we can have a rollcall.

Let us follow through on the issues and get some votes. If we can get a blanket agreement on all amendments and the resolution, I have no objection to a blanket agreement. If we cannot get it on all of them let us at least take this vote and get it out of the way.

Mr. BAKER. I appreciate the views of the Senator from Delaware.

Mr. WILLIAMS of Delaware. I am just trying to help get something rolling.

Mr. BAKER. If we finally get down to propounding a unanimous-consent order for a vote on Senate Joint Resolution 1, and have a filibuster again, or extended conversation, which is the experience we have had in the past, would the distinguished Senator from Delaware join us at that time in seeking cloture?

Mr. WILLIAMS of Delaware. Let us wait and see if we have a filibuster first. If we have one now, I cannot figure out who is operating it. The Senator from

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Indiana has been saying he wants a vote. Here is a chance to get a vote this afternoon. Let us get the vote. I do not know what the position of the Senator from Michigan would be, but I venture to say we could obtain unanimous consent for a vote on his amendment later today.

Let us go on and vote. I am trying to help the Senator from Indiana get some votes; he wants them, so let us get them.

Mr. BAKER. I wonder if, after that, the Senator from Delaware would join in a unanimous-consent request as to the amendment of the Senator from Michigan instead of the 4 o'clock request on the Ervin amendment.

Mr. WILLIAMS of Delaware. Under the Senate rules we cannot get to a vote on the Griffin amendment until after we have disposed of the Ervin amendment. Under the rules we cannot do that.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Would it not be possible to provide by unanimous consent for a vote at 4 o'clock on the Griffin-Tydings amendment?

The PRESIDING OFFICER (Mr. McGOVERN). The Senate would first have to agree to set aside the pending business, which is the substitute amendment offered by the Senator from North Carolina, unless, of course, it were disposed of in some other fashion.

Mr. WILLIAMS of Delaware. Would the Senator from Tennessee and the Senator from Indiana join in a unanimous-consent agreement that we vote at 4 o'clock on the Ervin amendment and that 1 hour later we vote on whatever amendment may be pending, if any is offered to the Griffin-Tydings amendment, and if not, that we vote on the Griffin-Tydings amendment after a limited time of, say, 1 hour on that amendment?

Mr. BAKER. As far as I am concerned, I would be perfectly willing, as I have been perfectly willing from the outset, to agree to almost anything, as long as that agreement provides for voting on the merits of the direct popular vote at some point. If we can provide for some order for voting on the merits of Senate Joint Resolution 1 and the several variations of Senate Joint Resolution 1 as well as the Ervin amendment, the Griffin-Tydings amendment, the Dole amendment, the Spong amendment, and the others, I have no objection, because I have no intention of standing in the way of considering all alternatives for electoral reform. The thing that has bothered me is that there seems to be a willingness to agree to such an order on everything except the popular vote.

Mr. WILLIAMS of Delaware. The question is, we do not know whether the question of the popular vote as now provided in Senate Joint Resolution 1 will be before us by the time we get through with all these amendments. I have no objection to voting on all of them. I think we should.

Mr. BAKER. I wonder if the Senator would be willing to join in a unanimous-consent request to consider in order the several amendments that are now at the desk.

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Mr. WILLIAMS of Delaware. I can make a better suggestion than that, Mr. President. There has been much said about wanting to vote. The Ervin amendment is the pending question under the rules of the Senate, as I understand. I ask for the yeas and nays on the Ervin amendment. Let us vote now.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from Tennessee yield for that purpose?

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS of Delaware. Mr. President, I renew my request for the yeas and nays on the pending amendment.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. Let us wait until Senator ERVIN gets here.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I note that the distinguished Senator from North Carolina is in the Chamber; and in view of the request for the yeas and nays on his amendment in the nautre of a substitute, if that is the proper characterization of his motion, I respectfully suggest that the Senator from North Carolina might now respond to the request for the yeas and nays.

Mr. ERVIN. Mr. President, if we get to a vote, I would like to get the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. WILLIAMS of Delaware. Mr. President, apparently the Senate is ready to proceed to vote. Rather than pursue the unanimous-consent request I suggest that we sit down and call the roll.

Mr. CURTIS. Let us vote.

SEVERAL SENATORS. Vote! Vote!

Mr. BAKER. That is well and good, and I should like to vote, also. As a matter of fact, I would be most pleased to vote right now, if we could have some assurance that we are going to vote on everything.

As the distinguished senior Senator from Delaware has just indicated that he is abandoning his request for a unanimous-consent order, I presume there is no prospect of formalizing an arrangement to vote on the several amendments.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. WILLIAMS of Delaware. Perhaps, as soon as we vote on this Ervin amendment we can get the yeas and nays on the next amendment and sit down and vote on that. Let us start voting. I think the best way to make progress in the Senate is to call the roll.

Mr. BAKER. With all due deference to my colleague, I am not concerned with starting to vote; it is stopping the vote.

Mr. WILLIAMS of Delaware. We have not been able to get a vote started because someone has always interrupted and wanted to talk. The way to get a vote is to sit down and vote.

Mr. BAKER. I commend the Senator for that attitude. But I wonder, for lack of our ability to sit down and vote on Senate Joint Resolution 1, whether he might sit down with us and try tomorrow, at 2 p.m., to stop debate on Senate Joint Resolution 1, so that we can get to vote on the merits.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. CURTIS. I invite the attention of the Senate to the fact that a proceeding under cloture is not a consideration of anything on its merits. The cloture procedure must be rewritten if we are to consider anything on its merits.

For example, there are individual Senators who are opposed to three or four provisions of Senate Joint Resolution 1. If all the alternatives fail, they may wish to speak concerning the idea of abandoning the requirement for a majority vote. They may wish to speak on the runoff. They may have amendments on those things. It cannot be done under cloture.

So I believe that those who are pleading for an opportunity to present the issue on its merits must find some other way, other than the cloture vote. The RECORD will show that the last time cloture was voted here, amendment after amendment was sent to the desk and read and not one word of debate was permitted. If that is consideration on its merits, I am rather surprised.

So I hope that those who represent the leadership can get together on a procedure that can go ahead. Of course, we will have to take the first votes first. We cannot buy something concerning the last vote until we know what it is all about.

Mr. BAKER. I thank the Senator from Nebraska for his appraisal of the situation under rule XXII. As a matter of fact, I am in substantial agreement with him. I think there is great danger in the provisions of rule XXII with respect to the restrictiveness of the matter that can be considered after cloture is invoked.

I might point out, further—and this is in no way critical of any Senator, certainly not of the leadership of the Senate—that I did not propose and did not sign the cloture motion. I will vote for it on Tuesday. But, under the existing procedure and precedent of the Senate, and under the provisions of rule XXII, that need not be the situation—the situation described by the Senator from Nebraska.

As a matter of fact, were the motion for cloture filed against the amendment which, after all, is the pending business, instead of against Senate Joint Resolution 1, the restrictiveness both as to time and as to subject matter of rule XXII would run against the pending amendment rather than against the overall resolution itself. It seems to me that cloture is not the best way to get a vote on the merits. It seems to me that unanimous consent might be the way. It seems apparent that we are not going to get unanimous consent. If we do get that, then we have only two alternative possibilities—hope against hope that, sooner or later, we do get a chance to vote on the merits of the proposal for popular vote to elect the President, which does not encourage me much because we have been at it for some time, or to go the cloture route.

I point out further, Mr. President, that it is now approximately 5 minutes to 2. The matter before the Senate has been the pending business off and on for some time. I respect the motives of the Senator from Delaware, the Senator from Nebraska, the Senator from Alabama, the Senator from North Carolina, and all the others trying to move us on to electoral reform, which I share. But I would revert now to the statement I made earlier today, that I am not convinced that we have totally and completely explored all the possibilities of accord and accommodation in this matter; and I would hope that this afternoon we could discuss it further and try to work out something that is mutually acceptable.

To be frank with my colleagues, it is going to be difficult for the junior Senator from Tennessee to try to participate in any such meeting at 2 o'clock if we are here, trying to determine whether or not we are going to vote; because it is the present intention of the junior Senator from Tennessee not to vote for the time being, until we have discussed this matter further. But if we could have some sort of understanding that we will consider this matter informally, beginning at 2 p.m., for a little while, and then come back and pick up where we left off, we might accomplish something and might not. It seems to me that we owe each other the duty and the obligation to run out that string, as it were, and to explore the spirit of accommodation and accord that I sensed earlier in the day.

I wonder, in that view, whether there might be some disposition on the part of my colleagues to agree that we would not vote, say, for the next hour or so, and then we could discuss the matter a little further.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. BAKER. I yield, with the understanding that I will not lose my right to the floor.

Mr. GRIFFIN. Mr. President, some reference was made both by the Senator from Nebraska (Mr. CURTIS) and the Senator from Tennessee to the leadership and the efforts which have been made to bring this matter to a vote in an orderly way. Although it may not be my responsibility, since the distinguished majority leader who took the initiative in filing the cloture petition is not here at the moment, I want to indicate that I believe that he acted properly. I believe the action he took was reasonable to do under the circumstances.

The junior Senator from Michigan signed the cloture motion, as did the distinguished minority leader. It is true that the cloture procedure, provided by the Senate rules, is not the most satisfactory. It is unfortunate but the procedure leaves some things to be desired. On the other hand, I think it is quite obvious that the Senate has not been able to come to a unanimous-consent agreement to limit debate on the several amendments. There has been an earnest effort made day after day by the majority leader, the acting majority leader, the minority leader, and the assistant minority leader. I find, since the cloture petition has been filed, that there now seems to be more of an attitude or disposition to work out some compromise. Perhaps, then, the filing of that cloture petition has served a good purpose.

It is true, of course, that the cloture motion could have been directed only at the pending amendment rather than at the resolution as a whole. But that would not have solved the problem, because as soon as we could have gotten to a vote on that, I am afraid the talkathon would have continued thereafter on the next amendment, ad infinitum.

I thank the Senator for yielding to me.

Mr. BAKER. Mr. President, I thank the Senator from Michigan.

Mr. President, I ask unanimous consent that I may yield to the Senator from Delaware without losing my right to the floor.

The PRESIDING OFFICER (Mr. BOGGS). Without objection, it is so ordered.

Mr. WILLIAMS of Delaware. Mr. President, I would certainly not object to a unanimous-consent agreement on a time limitation.

As I have said this before, that applies on the amendments of the Senator from Michigan or any other Senator and on the final vote, I would like to vote. But it would be a more orderly procedure to vote on one amendment at a time. There is nothing in the rules of the Senate which says that we have to have a unanimous-consent vote on every amendment.

Many times the Senate has started to break the logjam by getting a vote first on one amendment, then the next amendment, and so forth. I was hoping that we could proceed to a vote here today. Frankly, I thought I was rendering a great service to the Senator from Indiana and the Senator from Tennessee by trying to get this to a vote this afternoon. I thought they would be over here just thanking me, rather than blocking it. I thought that as advocates of getting to a vote on this question those pushing for cloture tomorrow would welcome the chance to go ahead and vote.

I am somewhat startled and surprised. I did not anticipate this objection at all. I thought sure that my suggestion would be welcomed and accepted with open arms. I hope it will now. All we need to get to a vote is for the Senator from Tennessee and the Senator from Indiana to cooperate; we can have the vote in 10 minutes, they can go to their meeting, and we shall all be satisfied.

Mr. BAKER. With all due respect and appreciation to the Senator from Delaware for his remarks, almost uniformly I embrace with open arms almost any proposal by the Senator from Delaware, but I fear that this would be sort of like the chicken embracing the fox. I am afraid that this would be entirely in keeping with the desires of the junior Senator from Tennessee, to have a vote not only on the pending amendment but also on Senate Joint Resolution 1 which was omitted from the proposal by the Senator from Delaware.

Mr. President, I now ask unanimous consent that I may yield to the Senator from Indiana without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I thank my friend and colleague from Tennessee for yielding to me.

Mr. President, of course, I express my gratitude to the Senator from Delaware for his desire to help to break the impasse. I am sorry if our present concern takes him by surprise, but I think the record will show that there are some 13, 14, or 15 amendments presently before the Senate. On three different occasions in the past couple of weeks, the Senator from Indiana has sought unanimous consent to vote on every one of them, but it has been rather clear that there are some here who have embarked upon filibuster. They are willing to vote on everything save the provisions of Senate Joint Resolution 1, the popular vote. That is the opinion of the Senator from Indiana.

With all due respect to those who disagree, if the Senate is going to treat one amendment as belonging to one standing rule, then we should treat all amendments the same. I have pursued the course of direct election as diligently as I know how. The Senator from Tennessee and others have shared that concern. We have reluctantly, on two occasions, sought cloture. The Senator from Indiana did not sign the cloture petition which will be before the Senate tomorrow. I am still hopeful that the Senate will at least let us vote on the direct election proposal.

Inasmuch as those who have been filibustering appear to have the upper hand at this particular moment, the Senator from Indiana is willing to sit down with some who have different opinions and see if there is a possible alternative that can at least leave us in a better position than we now find ourselves, with the rather archaic and dangerous provisions of the electoral college system.

We have started some discussion early this morning with this end in mind. The Senator from Tennessee points out, at this very moment, that we had hoped to be able further to pursue this course. The Senator from Indiana does not know at all whether we can reconcile some of the differences and move forward. As strongly as he feels that the best proposal is the direct election proposal, the proposal which has passed the House by a 330-to-70 vote, he is willing to pursue a different alternative if he feels it is better than the present state of the electoral college.

However, he does not feel that he would fulfill his responsibility as the principal sponsor of Senate Joint Resolution 1 to permit the parliamentary

XUM

situation to arise which would, in essence, let everyone have his "crack" at denying those of us who are for the direct popular vote from having any vote at all.

That is what we have been going through, not that the Senator from Indiana or the Senator from Tennessee, or others, have not been pursuing every course available to us to get votes; but whenever we have pursued a course that might give the Senate the opportunity to vote on all alternatives, those filibustering say, "Oh, no. You can vote on everything except one."

Mr. President, the record will show that we have made good faith efforts to vote on practically everything.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. BAKER. I ask unanimous consent that I may yield to the Senator from Nebraska, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. I should like to know, and I think it should be in the record, too, how much of the time since the last cloture motion vote, has the leadership set aside for consideration of Senate Joint Resolution 1 and taken up other legislative matters?

Mr. BAKER. If that question is addressed to me, I do not know. It has been done often. I must say, I entirely agree with the joint leadership that especially in these, hopefully, terminal days of this session of Congress, in a spirit of accommodation, if nothing more, we have no desire to tie up the processes of the Senate. It has been done. I guess we could have held everyone's feet to the fire and blocked consideration of any type of legislation while Senate Joint Resolution 1 was being considered by the Senate, but that seems to have been rather harsh on the part of those who want electoral reform. It is not in the tradition of reform to do that.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Tennessee yield for a unanimous-consent request?

Mr. BAKER. I yield.

Mr. BYRD of West Virginia. Mr. President, there having been considerable discussion about procedure, and appearing that there is no likelihood of agreement as to an early vote this afternoon, I ask unanimous consent that the unfinished business be temporarily laid aside to permit the Senate to proceed to the consideration of Calendar No. 1237, H.R. 17654, the Legislative Reorganization Act of 1970.

Mr. ERVIN. Mr. President, reserving the right to object, and I am not inclined to object, I should like to say that on Friday last I offered to vote on my amendment, the pending amendment, cosponsored by a dozen other Senators today. I am sorry that we could not get a vote today. I had heard my good friend from Indiana and my good friend from Tennessee say they thought there had been enough discussion on this question, but apparently they do not still entertain that opinion. I wish we could get to a vote on this particular amendment. As a matter of fact, this amendment has been around a long, long time. I have claimed no pride of authorship for it because this is virtually the Lodge-Gossett amendment which came into being sometime in the 1940's and passed the Senate by a two-thirds majority on one occasion.

I am perfectly willing, as I am sure the Senator from Indiana is, to vote on all amendments and on all alternative proposals. Yet, I am not ready to stipulate when to vote on the direct election plan. I am hoping that is the river we will never reach. And so we can find out whether it is necessary to vote on that later, after we vote on all these other plans.

I personally have taken the position, and so stated on the floor of the Senate, that I think it would be the better part of wisdom to let this matter go over until the next session. As I recall, we have had the same provision since the adoption of the article, right after the contest between Jefferson and Aaron Burr. We have gotten along pretty well since about 1867 with our present system.

I do not think that it would hurt to let it go over until January so that we could vote on it when the days are not so hectic, not so hurried, and not so harried, and when the 34 Senators who are running for reelection, or their successors, could devote their entire attention to the problem of amending the Constitution rather than to accumulating votes.

I also think that the people who will be elected to the Senate and to the House in November will be fresh from the people and that they should be the ones with a say-so on this matter rather than we who are here on this occasion.

We have plenty of work to do without taking up this matter. However, since we are taking it up, I would announce that I would be prepared to vote on everything except the direct election—and we will have to vote on everything except the direct election before we get to it anyway, whether we have cloture or not.

I certainly share the regrets of my good friend the Senator from Delaware. However, the Senator from Indiana and the Senator from Tennessee are not yet ready to vote on the oldest of all the amendments that have been proposed to Senate Joint Resolution 1.

Having said this and having made it quite clear, I believe, that I am willing to vote on every one of the alternative proposals or amendments to Senate Joint Resolution 1 after a reasonable time for the Senator from Tennessee and the Senator from Indiana to debate the matter, I announce now that I have no objection to the unanimous-consent request proposed by the Senator from West Virginia.

Mr. ALLEN. Mr. President, reserving the right to object, the junior Senator from Alabama recalls that on numerous occasions the distinguished Senator from Indiana has come to the Senate Chamber and, as a part of his debate, he has gone through a long list of unanimous-consent requests to vote on amendments, including the Ervin amendment.

Now, for some strange reason, we find that they do not want to vote on the amendment. The question occurs to the junior Senator from Alabama, Do the proponents of Senate Joint Resolution 1 want electoral reform or do they demand only a provision for direct election of the President and the Vice President?

The amendment offered by the distinguished Senator from North Carolina provides for electoral reform in that it provides for the automatic casting of electoral votes. It abolishes the office of elector. It does away with the winner-take-all provision of the present system. It divides the electoral vote of each State in proportion to the popular vote of each candidate in that State. Then, too, it changes the system by which the House of Representatives chooses between the top three candidates with each State casting one vote.

The amendment of the distinguished Senator from North Carolina provides that in the event no majority is received by any candidate in the electoral college, the question will then be decided between the top two candidates by a joint session of the incoming Congress.

Mr. President, it seems to the junior Senator from Alabama that we should proceed with the amendment. What is the reasoning behind the proponents' insistence that we must not amend Senate Joint Resolution 1, that we must have a direct vote on Senate Joint Resolution 1 as written? Is this amendment sacrosanct? Is it so like the law of the Medes and the Persians that it cannot be changed in any respect?

The amendment offered by the Senator from North Carolina would reform the present system in three important respects. It is the considered judgment of the junior Senator from Alabama that if we can obtain a vote on this amendment—and it takes only a majority vote to adopt the provisions of the Ervin amendment as Senate Joint Resolution 1—and if we can supersede the direct election provision with the provisions of the Ervin amendment, if we add the 19 Senators who are cosponsoring the Ervin amendment to the 54 or so votes that have been cast for direct election, we would have far more than two-thirds of the membership of the Senate.

If the distinguished Senators who favor Senate Joint Resolution 1 as now written are more interested in having their plan accepted—direct election or nothing—then we will have no electoral college reform submitted.

On the other hand, if we can get a vote on the Ervin amendment, if the majority of the Senate wants some type of electoral college reform, we can go ahead with the Ervin amendment, because, in my judgment, if we agree to the Ervin amendment as Senate Joint Resolution 1, we will have an amendment that will receive a two-thirds vote of the Senate and a two-thirds vote of the House and will be ratified by the requisite 38 States.

I do not believe that we are going to get a direct election provision. I hope that we do not. I believe that even if Congress submits such a direct election plan to the States, that the requisite

XUM

number of States—38—will not adopt it.

So, Mr. President, at this time unless the distinguished Senator from Indiana and the distinguished Senator from Tennessee advise us that it is their intention to filibuster the Ervin amendment for the rest of the day to prevent a vote on it, then the junior Senator from Alabama is going to object to laying aside the pending business.

On the other hand, if it is their intention to filibuster the Ervin amendment, the junior Senator from Alabama knows that they will have no difficulty in carrying on a filibuster for the rest of the day. The junior Senator from Alabama would then interpose no objection to laying aside the pending business.

I interpose an objection.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I have not had a chance to reply to the question.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, do I correctly understand that objection is heard to the unanimous-consent request?

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from West Virginia without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. BYRD of West Virginia. Mr. President. I ask unanimous consent that the unfinished business be temporarily laid aside with the understanding that a demand for the regular order no earlier than 3:30 this afternoon may bring back before the Senate the unfinished business, Senate Joint Resolution 1.

Mr. BAYH. Mr. President, reserving the right to object——

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. BAKER. I yield the floor.

Mr. BAYH. Mr. President, I have served in this body for only approximately 8 years, which is not nearly as long as some of my colleagues. I do not suppose I have as much patience as I should or as much patience as some of my colleagues; neither do I suppose my patience is as short as the patience of some of my colleagues. But I must say with all due respect to some who have preceded me that I have never heard in the 8 years I have been a Member of the Senate such a ridiculous dialog in an effort to distort what is happening.

The suggestion has been made that the leadership has not given us enough time to discuss this matter. I think the suggestion was made by the distinguished Senator from Nebraska a moment ago in posing a question to the Senator from Tennessee about putting aside Senate Joint Resolution 1.

The Senator from Indiana has sat right here in this seat for almost 1 month, at least for the last 3 weeks, and has heard proposed the unanimous-consent request to put aside Senate Joint Resolution 1. On almost each occasion he has risen and said that the proponents of Senate Joint Resolution 1 are ready to vote. If the opposition has anything to say let them be heard.

It is a rather curious thing to find us moving into the month of October and have the proposition proposed that the leadership has not given us enough time to discuss Senate Joint Resolution 1 because they put it aside. The facts of the matter are that despite the rhetoric to cover it up, there are a few Senators who have let the rules run, or have used the rules themselves actively to prohibit us from voting on all the matters that are before us. Whether we call it a filibuster or prolonged debate, I think anyone can use whatever language he wants, and I do not in any way address these remarks to any of my colleagues in a disparaging manner because they are using their rights under the rules and I understand that, but the record needs to be absolutely clear on what is happening.

We heard in the very eloquent fashion of our friend the distinguished senior Senator from North Carolina, once again that he is willing to vote on anything, but then he said "except Senate Joint Resolution 1." This is the type struggle we have been faced with ever since Labor Day.

Here is a matter that was passed in the House by a vote of 339 to 70, and which was introduced in this body last January by some 40 cosponsors, that now has 13, 14, or 15 amendments, and we are willing to vote on all of them except the basic proposition of whether the people of this country have the right to vote for President or not.

We sit here and listen to some Senators suggest that the question is whether the proponents of Senate Joint Resolution 1 want any reform or not, and that by refusing to sit idly by and permitting us to vote on anything except Senate Joint Resolution 1 we are standing in the way of electoral reform. That is rather ridiculous to me.

I am realistic enough to know that under the cloture rule when we have had 60 percent of the Senate on two occasions vote to shut off debate, we cannot shut off debate that way; and I am realistic enough to suggest we should seek some accommodation and look for something less than the perfect solution. But I am not willing to sit here mute and let those who are distorting the will of the majority of the Senate say that the majority is against any kind of electoral reform.

The fact is that a few people have been filibustering electoral reform, and that is what it is and there is no way to cover it up and put another suit of clothes on it.

RECESS

Mr. SPONG. Mr. President, I move that the Senate stand in recess subject to the call of the Presiding Officer, to not later than 4 o'clock this afternoon.

Mr. HRUSKA. Mr. President, reserving the right to object, we have had a little discussion this afternoon of how long this motion has been before us. The figure of 3 weeks has been used, and it has been said that the leadership has not given us enough time in the Senate to discuss this proposition—that the struggle has been the same since Labor Day. Last Tuesday, a week ago tomorrow, there was a vote taken on whether or not there should be a limitation of debate. The vote was 34 to 53, or 15 votes short of the necessary sentiment here in the Senate that the debate should be limited.

Since that vote, Mr. President, and immediately after that vote, Senate Joint Resolution 1 was "temporarily laid aside." Since that "temporary" laying aside, the Senate has been in session 26 hours and 37 minutes on last Tuesday, Wednesday, Thursday and Friday.

Of those 26 hours and 37 minutes only slightly more than an hour and a half was devoted to a discussion of direct election, and most of what discussion we were permitted to have was procedural not substantive. During that same period the Senate filled 438 pages in the RECORD, only 16 of which pertained to electoral college reforms.

The PRESIDING OFFICER. Will the Senator suspend for a moment, please? Will the Senator from Virginia restate his motion?

Mr. SPONG. The Senator from Virginia will restate his motion. The motion is that the Senate stand in recess until 4 o'clock this afternoon.

The PRESIDING OFFICER. The motion is not debatable.

Mr. HRUSKA. I apologize to the Senator from Virginia. I thought we had propounded a unanimous-consent agreement and I proceeded on that basis. I regret that my remarks held up consideration of the Senator's motion.

Mr. DOLE. I ask for the yeas and nays.

Mr. MILLER. Yeas and nays.

Mr. SPONG. That is what I am trying to clear up for the record.

The PRESIDING OFFICER. The yeas and nays have been called for. Is there a sufficient second?

Mr. MILLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MILLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MILLER. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Virginia (Mr. BYRD), the Senator from

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Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MCCARTHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senators from Rhode Island (Mr. PASTORE and Mr. PELL), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Utah (Mr. BENNETT), the Senator from Hawaii (Mr. FONG), the Senator from Florida (Mr. GURNEY), the Senator from New York (Mr. GOODELL), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. SMITH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) are detained on official business.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from South Dakota (Mr. MUNDT), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 34, nays 25, as follows:

[No. 351 Leg.]

YEAS—34

Anderson
Baker
Bayh
Bible
Boggs
Byrd, W. Va.
Case
Church
Cranston
Eagleton
Eastland
Fulbright
Griffin
Hatfield
Jackson
Javits
Magnuson
Mansfield
Mathias
Metcalf
Mondale
Nelson
Packwood
Pearson
Percy
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Spong
Yarborough
Young, Ohio

NAYS—25

Allen
Allott
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Ellender
Ervin
Fannin
Hansen
Holland
Hollings
Hruska
Jordan, Idaho
McClellan
McGee
Miller
Smith, Maine
Stennis
Talmadge
Thurmond
Williams, Del.
Young, N. Dak.

NOT VOTING—41

Aiken
Bellmon
Bennett
Brooke
Burdick
Byrd, Va.
Cannon
Dodd
Fong
Goldwater
Goodell
Gore
Gravel
Gurney
Harris
Hart
Hartke
Hughes
Inouye
Jordan, N.C.
Kennedy
Long
McCarthy
McGovern
McIntyre
Montoya
Moss
Mundt
Murphy
Muskie
Pastore
Pell
Prouty
Russell
Smith, Ill.
Sparkman
Stevens
Symington
Tower
Tydings
Williams, N.J.

So the motion was agreed to; and (at 2 o'clock and 56 minutes p.m.) the Senate took a recess until 4 p.m.

The Senate reassembled at 4 p.m., on the expiration of the recess, and was called to order by the Presiding Officer (Mr. SAXBE).

LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent, first, that the pending business be laid aside temporarily and that the Senate proceed to the consideration of Calendar No. 1237, H.R. 17654.

Mr. BYRD of Virginia. Mr. President, reserving the right to object, and I shall not object, I should like to state for the record that I would hope the Senate would vote on the Ervin proposal for electoral reform. I think there should be a reform of the electoral system. There should be a change from our present system. I think that the proposal offered by the distinguished Senator from North Carolina, of which I am a cosponsor, is a fair, substantial, and definite improvement over the present system and I should like very much to see the Senate vote on the plan offered by the Senator from North Carolina.

I do not object to the unanimous-consent request of the Senator from Montana.

Mr. MANSFIELD. Mr. President, has the bill been laid before the Senate?

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, the request of the Senator from Montana does not affect the cloture motion vote tomorrow, does it?

Mr. MANSFIELD. No, no.

Mr. HRUSKA. Mr. President, reserving the right to object, for how long a period will the temporary laying aside of Senate Joint Resolution 1 be for?

Mr. MANSFIELD. Until the disposition of reading the Journal on tomorrow and then we come back on Senate Joint Resolution 1, unless some agreement or some unanimous-consent agreement is arrived at in the meantime.

Mr. HRUSKA. Mr. President, I should like to address a question to the Senator from Montana. Suggestion has been made that unanimous consent be requested for setting aside the action of the cloture motion vote until some time in the future.

My question is this: If such a request will be made, can it be understood and would it be the understanding that it not be made until intention to make it has been declared, and that a live quorum has been called so that all Senators interested in listening to the making of the unanimous-consent request, and its consideration, be given a chance to appear in the Chamber?

Mr. MANSFIELD. Of course.

Mr. HRUSKA. I thank the Senator from Montana.

The PRESIDING OFFICER. (Mr. SAXBE). The question is on agreeing to the unanimous-consent request of the Senator from Montana.

Is there objection? The Chair hears none, and it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> H.R. 17654, an act to improve the operation of the legislative branch of the Federal Government, and for other purposes.

The Senate resumed the consideration of the bill.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

Mr. MANSFIELD. Now, Mr. President, I yield to the distinguished Senator from Virginia (Mr. SPONG).

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. SPONG. Mr. President, I thank the distinguished Senator from Montana.

Mr. President, in view of the fact that the request for the yeas and nays precluded any explanation earlier, I think that I should make some explanation at this time of the motion I made to recess until 4 p.m.

Earlier today, the majority leader, seeking to find some area of agreement on voting on the alternative electoral reform proposals that have been suggested, asked me and other Senators sponsoring the various proposals to meet at 2 p.m. After an effort to set aside the pending business and take up other business failed for lack of unanimous consent, the majority leader asked that a motion be made to recess until 4 p.m., and I made that motion in his behalf.

For my own part, I would like to say that I am prepared to vote on any of the proposals that have been put forward.

Unfortunately, at the meeting that took place, those who are sponsoring the various proposals were unable to find any area of agreement on which unanimous consent could be reached.

I would leave it to any others to give their own interpretation of the parliamentary situation, but I did feel I owed the Senate an explanation of the reasons for the motion to recess.

Mr. BAYH. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. BAYH. Mr. President, as one Member of this body, I want to say that I fully appreciate the steps taken by the Senator from Virginia (Mr. SPONG). Many of us have, for the past several months, been going through a rather tortuous process, trying to find some agreement on this whole issue of electoral reform. As is the right of every

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Senator, we have pursued various courses of parliamentary action. It was the hope of the Senator from Indiana that a short period of conference with the interested parties would iron out some of the obvious differences that existed and have existed. The motion of the Senator from Virginia (Mr. SPONG) was the only way that that could be accomplished under the circumstances.

I believe that in the next several hours the future of electoral reform will be clear. Or perhaps the possibility of the absence of electoral reform will be clear.

As one Member of the Senate, I deeply regret that we have not been able to act until now. I am hopeful that before this session ends, we will be able to get some kind of electoral reform. We are obliged to the country to come up with the best possible electoral reform we can get. It is obvious to the Senate, I hope, that the Senator from Indiana is committed to the direct popular vote plan, for a number of reasons that I shall not repeat. The past few days or weeks have made it obvious, at least for the time being, that there is no way we can get this plan put to a vote.

Failing that, the Senator from Indiana is willing to try to pursue any other plan which might be an improvement over the present system.

I think I should say, so that there will be no misunderstanding of my feeling, that I still feel committed to the course of direct election, unless there is no way to accomplish it.

Short of that, I shall continue my efforts, hopefully with some of the rest, to seek another viable alternative.

Mr. ALLEN. Mr. President, will the Senator from Montana yield?

Mr. METCALF. The senior Senator from Montana has the floor.

The PRESIDING OFFICER (Mr. SAXBE). The Chair recognizes the Senator from Alabama.

Mr. ALLEN. Mr. President, who has the floor? Does the Senator from Montana (Mr. METCALF) have the floor?

The PRESIDING OFFICER. The senior Senator from Montana (Mr. MANSFIELD) has the floor.

Mr. ELLENDER. What is the answer then?

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. ALLEN. I thank the Chair.

Mr. President, the junior Senator from Alabama interposed no objection to laying aside until tomorrow, after the approval or dispensing with the reading of the Journal, on the theory that proponents of Senate Joint Resolution 1, as presently written, would not agree or would not permit the Ervin amendment to come to a vote.

Now, Mr. President, the proponents of Senate Joint Resolution 1 embodying the direct election plan say that they are for electoral reform—but on their terms only. The Ervin amendment would constitute substantial electoral reform, and constructive electoral reform, in that it would revise the present system of choosing the President and Vice President by doing away with the office of elector and providing for automatically casting a State's electoral vote for the candidate who carried each respective State.

So, the problem of the so-called faithless elector would be eliminated under the Ervin amendment.

The Ervin amendment also does away with the winner-take-all system under the present constitutional provision, in that it would divide the electoral vote of each State directly in proportion to the votes of the respective candidates in the various States.

Then, too, the Ervin amendment would provide for reform in the process of choosing the President and the Vice President. If no team of two candidates should receive a majority in the electoral college, under the present system, it would go into the House of Representatives, and the House, on the basis of one vote for each State delegation, would choose the President from the top three candidates. Under the Ervin amendment, it would go into a joint session of the incoming Congress, with each Member of the House and Senate having one vote.

Mr. President, that is electoral reform. That covers most of the objectives raised by the distinguished proponents of direct election.

Mr. President, what would have been wrong with allowing the Senate to vote on the type of electoral reform that it wishes to have? What would have been wrong with deciding whether the Senate wants to adopt the Ervin plan as Senate Joint Resolution 1? Why must we have direct election or no other type of electoral reform?

If a majority of the Senate had not agreed to the Ervin amendment, we would then have gone back where we started, to the constitutional amendment offered by the distinguished Senator from Indiana with the pending amendment being the Griffin-Tydings amendment.

So, Mr. President, the junior Senator from Alabama interposed no objection to laying aside further consideration today of Senate Joint Resolution 1 because he knew that the proponents of Senate Joint Resolution 1 would not allow the Ervin amendment to come to a vote. It was on that theory that the junior Senator from Alabama raised no objection.

Mr. President, I thank the distinguished Senator from Montana for yielding to me.

Mr. HOLLAND. Mr. President, would the distinguished Senator from Montana yield to me for a moment?

Mr. METCALF. Mr. President, I am delighted to yield to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

AMENDMENT NO. 1024

Mr. HOLLAND. Mr. President, I thank my friend, the Senator from Montana.

Mr. President, I sent to the desk a few moments ago an amendment which I wish to have ready, considering all possible emergencies in the future, to offer to Senate Joint Resolution 1.

It is the amendment which I had offered before the subcommittee of the Judiciary Committee so ably headed by the distinguished Senator from Indiana for the last three or four Congresses.

It is quite like the amendment of the Senator from North Carolina. In fact, he may have a duplicate of it already at the desk. However, I want to be sure that my amendment has gone through the necessary preliminaries and will be available for consideration in the event of cloture or any other course of action that may be adopted by the Senate.

I understand that we have had a unanimous-consent agreement which makes such a procedure available. I ask if I am correct in my understanding.

The PRESIDING OFFICER. The Senator is correct. Under a previous unanimous-consent agreement, all amendments to Senate Joint Resolution 1 presented before the cloture vote will be considered as having been read so as to comply with requirements of rule XXII with respect to presentation and reading.

Mr. HOLLAND. Mr. President, I ask whether the amendment should be and will be printed in the RECORD or simply notice that it has been sent to the desk and passed through the regular preliminaries.

The PRESIDING OFFICER. Without objection, the amendment will be received and printed, and will lie on the table; and without objection, the amendment will be printed in the RECORD.

The amendment (No. 1024) is as follows:

AMENDMENT No. 1024

Strike out all after the resolving clause and insert in lieu thereof the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE ——

"SECTION 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during a term of four years, and together with the Vice President, chosen for the same term, be elected as provided in this Constitution. No person constitutionally ineligible for the office of President shall be eligible for that of Vice President of the United States.

"Each State shall be entitled to cast for President and Vice President a number of electoral votes equal to the whole number of Senators and Representatives to which such State may be entitled in the Congress. Such electoral votes shall be cast, in the manner provided by section 3 of this article, upon the basis of an election in which the people of such State shall cast their votes for President and for Vice President. The voters in each State in any such election shall have the qualifications requisite for persons voting for members of the most numerous branch of the State legislature.

"The Congress shall determine the time of such election, which shall be the same throughout the United States. Until otherwise determined by the Congress, such election shall be held on the Tuesday next after the first Monday in November of the year preceding the year in which the regular term of the President is to begin.

"SEC. 2. In such election within any State, each voter by one ballot shall cast his vote for President and his vote for Vice President. The name of any person may be placed upon any ballot for President or for Vice President only with the consent of such person.

"Within forty-five days after the election, or at such time as the Congress shall direct, the official custodian of the election returns of each State shall prepare, sign, certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate, a list of all persons for whom votes were cast for President and a separate list of all persons for whom votes were cast for Vice President. Upon each such list there shall be entered the number of votes cast for each person whose name appears thereon, and the total number of votes cast in such State for all persons whose names appear thereon.

"Sec. 3. On the 6th day of January following the election, unless the Congress by law appoints a different day not earlier than the 4th day of January and not later than the 10th day of January, the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the electoral votes shall then be counted. Each person for whom votes were cast for President in each State shall be credited with such proportion of the electoral votes thereof as he received of the total vote of the electors therein for President, and each person for whom votes were cast for Vice President in each State shall be credited with such proportion of the electoral votes thereof as he received of the total vote of the electors therein for Vice President. In making the computations, fractional numbers less than one-thousandth shall be disregarded. The person having the greatest number of electoral votes for President shall be President, if such number be at least 40 per centum of the whole number of such electoral votes. If no person has at least 40 per centum of the whole number of electoral votes, then from the persons having the three highest number of electoral votes for President, the Senate and the House of Representatives sitting in joint session shall choose immediately, by ballot, the President. A majority of the votes of the combined authorized membership of the Senate and the House of Representatives shall be necessary for a choice.

"The Vice President shall be likewise elected, at the same time and in the same manner and subject to the same provisions, as the President, but no person constitutionally ineligible for the office of President shall be eligible to that of Vice President of the United States.

"Sec. 4. If, at the time fixed for the counting of the electoral votes as provided in section 3, the presidential candidate who would have been entitled to receive a majority of the electoral votes for President has died, the vice-presidential candidate who is entitled to receive the majority of the electoral votes for Vice President shall become President-elect.

"Sec. 5. The Congress may by law provide for the case of the death of any of the persons from whom the Senate and House of Representatives may choose a President or a Vice President whenever the right of choice shall have devolved upon them, and for the case of death of both the presidential and vice-presidential candidates who, except for their death, would have been entitled to become President and Vice President.

"Sec. 6. The first, second, third, and fourth paragraphs of section 1, article II, of the Constitution, the twelfth article of amendment to the Constitution, and section 4 of the twentieth article of amendment to the Constitution, are hereby repealed.

"Sec. 7. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the States within seven years from the date of its submission to the States by the Congress."

Amend the title to read as follows: "Joint Resolution Proposing an amendment to the Constitution of the United States relating to the election of the President and Vice President."

Mr. HRUSKA. Mr. President, tomorrow at noon for the third time the Senate will be asked to cut off debate on Senate Joint Resolution 1 which provides for the direct popular election of the President. As I have done twice in the past, I urge Senators to reject this request.

Last Tuesday, by a vote of 34 to 53, the Senate rejected such a request. On that vote the advocates of cloture fell 15 votes short of victory. Even if every absent Member of this body had voted for cloture there would not have been sufficient votes to cut off debate. To defeat the 34 opponents of a limitation on debate on this important subject it would have been necessary to rally 68 Senators who favor cloture and that many Members of this body do not exist. The 34 Senators who voted against cloture last Tuesday felt that at that time discussion on this question had not proceeded for a long enough time to fully explore all of the dangerous ramifications of the national plebiscite scheme; and of the many alternatives, substitutes, and amendments offered.

Let me again point out a few facts which will demonstrate that nothing has changed with regard to this contention in the week since our last vote.

From Tuesday until Friday of last week the Senate was in session for 26 hours and 37 minutes. Of that time only slightly more than 1 hour and 30 minutes were devoted to a discussion of direct election, and most of what discussion we did have was procedural and not substantive. During that same period the Senate filled 438 pages in the Congressional Record, only 16 of which pertained to electoral college reform.

Therefore, those Senators who opposed an end of debate on this subject last week continue to have every reason to oppose such a proposition at this time. We have had no opportunity to continue discussion on the merits of this amendment. Immediately following the vote last Tuesday, Senate Joint Resolution 1 was "temporarily" set aside as the pending business and that "temporary" situation continued to prevail on Wednesday, Thursday, and Friday. The only discussion on this matter following the cloture vote last Tuesday was on Friday when the thrust of debate was entirely procedural.

If 34 Senators felt there had been inadequate discussion up to last Tuesday there is no reason for them to feel otherwise this week. This Senator has not had an opportunity to finish his discussion of the points raised in the minority report on this resolution and I know of several others who are in an identical situation.

For these reasons I urge Senators to continue to oppose cloture until time has been allotted from the busy Senate schedule for an indepth and completely adequate discussion of the advantages and disadvantages, dangers, and strengths of direct election. That time has not yet come.

ORDER TO RETURN SENATE JOINT RESOLUTION 1 TO CALENDAR

Mr. MANSFIELD. Mr. President, I ask that the unanimous-consent request which I am about to make will be given the most serious attention by the Senate.

I ask unanimous consent that the unfinished business, Senate Joint Resolution 1, be returned to the calendar and not be taken up before November 16, if the Senate has a postelection session; and on that basis, I also ask unanimous consent that the motion for cloture due to take effect 1 hour after the Senate convenes tomorrow be voided.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HRUSKA. Mr. President, I should like to address an inquiry to the majority leader.

The unanimous-consent agreement and order just entered will dispose of the vote on the motion for cloture which had been scheduled for tomorrow. A practical difficulty occurs, because this is a busy time for many Senators, particularly those whose terms expire on January 3, 1971. We would like to know whether there are any intentions on the part of the leadership to call up in any fashion any phase of Senate Joint Resolution 1 for further action by the Senate.

Mr. MANSFIELD. Absolutely not. The Senate not only has my word but also the unanimous-consent request stated it would not be considered before November 16 if the Senate returns into session after the election.

Mr. HRUSKA. The Senator from Nebraska is aware that that is the tenor of the unanimous-consent agreement. However, as I understand the rules of the Senate, any unanimous-consent agreement is subject to being superseded by a later unanimous-consent agreement. I know of no rule to the contrary. That is why this Senator would be interested in some assurance from the majority leader, not by way of impugning his word, but by way of assurance that there would be no effort made or any countenancing insofar as it is possible to refuse countenancing, to get such unanimous consent at a later time or before November 16.

Mr. MANSFIELD. I give the Senator from Nebraska my assurance, without equivocation. That is about as far as I can go.

Mr. HRUSKA. I am sure that is right. I thank the majority leader.

LEGISLATIVE REORGANIZATION ACT OF 1970

The PRESIDING OFFICER. The Senator from Montana is recognized.

PRIVILEGE OF THE FLOOR

Mr. METCALF. Mr. President, I ask unanimous consent that three valued and veteran experts on congressional reform legislation, be permitted to remain on the floor of the Senate to assist me and other Senators as we consider H.R. 17654, the Legislative Reorganization Act of 1970. They are: Mr. Walter Kravitz of the Legislative Reference Service, Mr.

Eli Nobleman of the Government Operations Committee, and Mr. W. DeVier Pierson, former Chief Counsel of the Joint Committee on the Organization of Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METCALF. Mr. President, I am particularly grateful to the Senator from Arkansas (Mr. McClellan), the distinguished chairman of the Government Operations Committee, for his courtesy in inviting me to guide through final Senate action a legislative reorganization bill whose consideration in the Senate or the House has now spanned a period in excess of 5 years. I wish to thank Senator McClellan for his ready cooperation with those of us who are alumni of the Joint Committee on the Organization of the Congress in our common effort to improve the organization and procedures of both Houses of the Congress.

I wish particularly to thank my colleague from Montana, the distinguished majority leader of the Senate, for his unstinting cooperation and willingness to make certain that this legislation could be scheduled for floor action at this time.

I wish also to acknowledge with appreciation the competent and responsible cooperation of the minority leader, the distinguished senior Senator from Pennsylvania and his able assistant, the junior Senator from Michigan, as well as other members of their party who have worked tirelessly and side by side with the majority members for enactment of legislative reorganization. Congressional reform is not a partisan issue and the Joint Committee on the Organization of the Congress was a bipartisan committee. I know the pending bill will be acted upon in the same spirit.

Unhappily, one of the best and most diligent sponsors of congressional reorganization is not here today to join in this important action.

Of a year and a half of hearings and executive sessions of the Joint Committee on the Organization of Congress, I do not believe that the distinguished Senior Senator from South Dakota missed three. Yet, Karl Mundt's contribution only began with his reliability. During all those months he was an articulate, thoughtful Member whose long experience in the House and the Senate gave special weight to his views. I am sure I speak for all of our colleagues in appreciation of his special contribution and in regret that he is not with us today to see the culmination of our common endeavor.

Senators who were Members in 1967—and there are 61 of us here who voted for S. 355 when it passed 75 to 9 on March 7, 1967—will always remember the history that was written in this Chamber by the distinguished chairman of the Joint Committee on the Organization of Congress. As the coauthor of the LaFollette-Monroney Reorganization Act of 1946, his unique experience bridged the two major reorganization measures of this century. He heard the testimony that fills two 3-inch thick volumes and guided the joint committee through countless hours of markup. With infinite patience and good temper, former Senator Monroney then guided the bill through a marathon 6 weeks of debate in this body, to its approval by the Senate in 1967.

Today, as then, former Senator A. S. Mike Monroney, chairman of the Joint Committee on the Organization of Congress, is a champion of a bipartisan effort to make the Congress more responsive to the demands of the second half of the 20th century and, we hope, beyond that.

Thus, in many respects, the bill we are about to consider, H.R. 17654, is a memorial to these men and others such as Senators Sparkman, Case, Boggs, and Griffin, all former members of the Joint Committee on the Organization of Congress whose concern and diligence have brought us to this long overdue day.

This legislative reorganization bill has been endorsed by both parties and by four committees of Congress and by both Houses. We meet today to agree on a final version. It is my hope that we will do so without delay as an act of respect for our colleagues and the vast amount of work that has brought us to this point.

The Joint Committee on the Organization of Congress was established in 1965 as a 12-member, bipartisan committee to "make a full and complete study of the organization and operation of the Congress" and "recommend improvements." The committee held some 5 months of hearings in 1965, receiving the views of 199 witnesses, and issued its final report containing some 100 recommendations on July 28, 1966. Late in 1966, a Special Senate Committee on the Organization of Congress held hearings on a bill embodying those recommendations. The special committee reported that bill, S. 355, in 1967 and it passed the Senate after 6 weeks of debate in March 1967.

Unfortunately, no action was taken on S. 355 by the House of Representatives during the 90th Congress.

On May 23, 1969, the Senate Committee on Government Operations reported favorably S. 844, the Mundt bill, which I cosponsored and which is the successor to the 1967 legislation. With the exception of the deletion of the Lobby Act amendments in title V of S. 355, the bills are virtually identical.

In the fall of 1969, the Committee on Rules of the House of Representatives held hearings on its own version of that bill, having previously studied both the Senate-passed S. 355 and other legislative reform measures offered in the House. The Rules Committee held approximately a month of hearings and almost a year of executive sessions. H.R. 17654 emerged from their deliberations. It was approved by vote of 326 to 19 in the House on September 17, 1970 after the longest debate on any single measure within the last three decades.

It is the House-passed bill, H.R. 17654, that is before us for consideration today. I am happy to say that there are very few differences between the provisions of H.R. 17654 and those of S. 844, the bill reported to the Senate by the Government Operations Committee last year, or S. 355, the bill that passed the Senate by a vote of 75 to 9 in 1967. For this reason, I am most hopeful that the Senate's action on this bill will also be acceptable to the other body so that no conference between the Houses is necessary. If that is possible, congressional reorganization will at last have become a reality.

Some amendments, however, are necessary to add provisions applicable only to the Senate to H.R. 17654. Subject areas applicable only to the Senate were not considered by the House of Representatives for reasons of comity and should now be added to make the bill consistent with previous Senate action. In addition, some technical amendments will be needed to bring the Senate provisions of H.R. 17654 up to date.

I also call attention to the fact that a number of provisions of the House bill are applicable solely to the procedures of the House of Representatives. We will, of course, take no action on those provisions because of the comity that exists between the two Houses. Our acceptance of those provisions should not be construed as passing judgment on the need for or wisdom of those sections of the bill as these are matters which are peculiarly within the province of the other body.

I know that other Members of this body may wish to offer additional amendments to this legislation and, of course, they have every right to do so. However, let me state realistically the risks inherent in attempting any major additions to the bill which would be applicable to both Houses. It has been a long and difficult task to secure House approval of congressional reorganization, just as the Senate provisions were the result of many hours of effort and compromise. I fear that any major addition, particularly at this late date in the session, could mean the death of congressional reform once more. I know that no Member of this body desires that result.

To assist Senators in reviewing various portions of the bill, I have had pertinent documents placed on each Senator's desk. They include the House-passed bill, H.R. 17654; House Report No. 91–1215; the Mundt bill S. 844; Senate Report No. 91–202; and a comparative analysis of the bills prepared by the Legislative Reference Service for the Senate Government Operations Committee. Also at each desk is a detailed summary of the House bill. I ask unanimous consent that this summary be printed in the Record at this point.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Major Provisions of H.R. 17654, the Legislative Reorganization Act of 1970

(As Adopted by the House of Representatives, Sept. 17, 1970)

PREFACE

The pending Senate and House of Representatives versions of the proposed Legislative Reorganization Act differ somewhat in their general structure and format.

First, in Title I of the Senate bill, S. 844, each section contains a number of substantive provisions relating to the same broad, general subject matter, e.g. committee procedure. The House bill, H.R. 17654, on the other hand, assigns a separate section number to each specific substantive provision, e.g. notice of hearings in section 111, open hearings in section 112, and so forth.

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Second, the Senate bill indirectly amends the rules of both Houses of Congress by means of amendments to the Legislative Reorganization Act of 1946. The House bill retains the same approach only for provisions affecting the Senate solely. H.R. 17654 directly amends the Rules of the House of Representatives in matters affecting only the House.

Third, most provisions of the Senate bill are generally worded so as to be equally applicable to both Houses. In contrast, the House bill often has different wording, and frequently different substantive provisions, for each House.

Fourth, to retain for the Senate its approach of amending the Legislative Reorganization Act of 1946 rather than the Rules of the Senate, and also to retain for the Senate insofar as practicable the substantive language it adopted in passing S. 355 in 1967, the House bill usually divides each rule-changing section into two parts. The first contains the language applicable to the Senate, the second the language adopted for itself by the House.

Fifth, occasionally, as in parts of Titles II and III, the House bill deals with the Senate in one section and with the House, on the same subject, in another.

Wherever suitable in Title I and Title III, an attempt is made to clarify these differences by providing separate, parallel columns under H.R. 17654, one containing a description of the provisions applicable only to the Senate, the other solely for the House.

TITLE I. THE COMMITTEE SYSTEM

1. Revised procedures to democratize the proceedings of committees, including: (a) a method whereby a majority of a committee may call special meetings; (b) adequate time for the filing of minority or additional views to committee reports; (c) the timely filing of committee reports; (d) reasonable notice of committee hearings; (e) right of the minority to have its witnesses heard; (f) subcommittees to be subject to the authority of their parent committees; (g) availability of committee reports and hearings a reasonable time before floor consideration of a measure.

2. Make the details of roll call votes in committee available to the public.

3. Authorize televising and radio broadcasting of committee hearings in both Houses.

4. Prohibit general proxies in committees, but permit specific proxies under certain conditions.

5. Encourage House committees to adopt more extensive written rules.

6. Redefinition of congressional oversight, and provision for annual oversight reports by committees.

7. Equal division of time for debate on conference reports between the two major parties.

8. Revision of many House floor procedures, including: (a) to permit the recording of names in teller votes; (b) separate votes and 40 minutes of debate on nongermane amendments attached to House-passed bills; (c) limitations on the power of House conferees; (d) availability of conference reports 3 days before floor consideration; (e) an accelerated method of counting a quorum; (f) authorization for electronic voting; (g) under certain conditions, guaranteed time for debate on amendments in Committee of the Whole.

9. Entitle the minority on a committee to one-third of the funds authorized for temporary and investigative staff.

TITLE II. FISCAL CONTROLS

1. Increase the availability to Congress of several types of budgetary and fiscal data.

2. By law, direct the GAO to provide committees with cost-effectiveness analysts upon request.

3. Provide for GAO assistance to committees in analyzing ongoing Government programs.

4. Provide that the Appropriations Committee of both Houses shall hold hearings, early in each session, on the budget as a whole, the transcript of such hearings to be transmitted to every Member of their respective Houses.

5. By various means, provide for the presentation of 5-year cost estimates on both current programs and proposed programs.

6. Involve the Comptroller General, as an agent of Congress in the development of the executive branch of a standard classification system for Government programs and activities.

TITLE III. SOURCES OF INFORMATION

1. Direct the Legislative Reference Service (renamed the Congressional Research Service) in the Library of Congress to assist all committees on a regular and continuing basis in the analysis of legislative proposals and alternatives to them.

2. Reconstitute the Joint Committee on the Library as a Joint Committee on the Library and Congressional Research, with expanded membership from the two Houses at large as well as from the two Administration Committees; bipartisan, evenly divided between the two parties; provided with professional and clerical staff; required to supervise the Library and the CRS, and to make annual reports on its activities.

3. Give to minority members on committees their own minimum staff as a matter of right, in the Senate without restriction as to hiring and firing, in the House subject to approval by the majority of the whole committee.

4. Authorize committees to employ consultants and research organizations, subject to approval by the relevant House.

5. Authorize committees to assist their staffs in obtaining specialized training, without loss of employment rights and other employee benefits.

6. Provide for updating the compilation of the precedents of the House every 5 years; have the Parliamentarian of the House prepare and have published at the beginning of every Congress an up-to-date condensed version of currently useful House precedents.

TITLE IV. CONGRESS AS AN INSTITUTION

1. Create a Joint Committee on Congressional Operations, with 5 members from each House, to make a continuing study of congressional organization and operations, to identify court actions of interest to the Congress; and to supervise an Office of Placement and Office Management.

2. Abolish the Joint Committee on Immigration and Nationality Policy.

3. Establish a Capitol Guide Service for the purpose of providing free tours of the Capitol, and making tour guides congressional employees.

4. Convert House employees' pay, and also the pay of employees of the Architect of the Capitol, from a basic to a gross system.

5. Provide an August recess for Congress.

6. Authorize the planning, site procurement, and construction of a dormitory and school building for pages and for their future supervision.

7. Authorize modernization of the House visitors' galleries.

TITLE V. OFFICE OF THE HOUSE LEGISLATIVE COUNCIL

Revises the basic statute of the Office of the Legislative Counsel in the House of Representatives.

Mr. BOGGS. Mr. President, will the Senator yield?

Mr. METCALF. I am delighted to yield to the Senator from Delaware.

Mr. BOGGS. Mr. President, I wish to take this opportunity to congratulate the floor manager, the distinguished junior Senator from Montana (Mr. METCALF) on the excellent presentation he has just made in explanation of the legislation we are now considering.

Mr. President, the legislation now before us—the legislative reorganization of 1970—is long overdue.

This bill springs from the establishment 5 years ago of the Joint Committee on the Organization of Congress. That 12-member bipartisan committee labored through extensive hearings and much deliberation as it developed the basis for this legislation.

I would like to pay tribute to the other Senate members of that committee on which it was my privilege to serve. The former Senator from Oklahoma, Mr. Monroney, the Senator from Alabama (Mr. SPARKMAN), the Senator from Montana (Mr. METCALF), and the Senator from New Jersey (Mr. CASE) worked hard and thoroughly to prepare this legislation.

Special tribute, though, should be paid to the Senator from South Dakota (Mr. MUNDT), who cannot be here with us today to see his efforts come to fruition. Senator MUNDT, more than any of us, was the guiding force behind this effort and, in fact, he is the principal sponsor of the Senate version of the bill.

It is indeed unfortunate that he cannot be here today, but I know he will be pleased to learn of the passage of this important legislation.

During the 17 months of the committee's work, we heard testimony from many qualified witnesses both in and out of Government, including many Members of the House and Senate. The recommendations in this bill reflect the views of many of these witnesses and the considered judgment of the Joint Committee on the Organization of Congress.

As a member of that committee, I endorsed these recommendations when they were first made several years ago. I would like once again to express my strong support for them and to urge passage of the Legislative Reorganization Act by the Senate.

Let me remind the Seante that this is not new legislation. A nearly identical reorganization bill was passed by the Senate in 1967, but was subsequently rejected by the other body. Now the other body has passed a reorganization bill, so for the first time there is a very good chance that these proposals can be put into effect. I urge the Senate not to pass up this opportunity.

The bill before us, H.R. 17654, is a good bill which goes far to meet the demands of the times. It needs only minor revision and updating by this body.

The Legislative Reorganization Act would reform three important areas which I believe are of particular interest to the Members of the Senate.

First, it would streamline the committee system. Of major importance in this regard is the "committee bill of rights" provision which gives the majority of each standing committee the right to call meetings and report legislation if the chairman fails to do so.

Second, the reorganization bill would

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relieve Senators of the burden of too many committee assignments and allow them to concentrate on specialized areas. Under the provisions of this bill, committee assignments would be limited to two major committees and one minor, select, special or joint committee. In addition, no Senator would be assigned to more than one of the following major committees: Appropriations, Finance, Foreign Relations, or Armed Services. Much of this, of course, is custom now. This legislation would formalize it.

Third, the Legislative Reorganization Act would make the resources of Congress more responsive to its needs. This would be accomplished by replacing the overburdened Legislative Reference Service of the Library of Congress with a new reference division and by increasing professional staff positions on committees.

I do not believe there is a member of this body who would not agree that reorganization of the legislative branch is long overdue. In fact, reorganization was overdue at the time the Joint Committee on the Organization of Congress first presented its findings in 1966. Today, 4 years later, the need is more critical than ever.

The last major overhaul of the Congress occurred in 1946. The world has changed considerably since that time. The Nation and its problems have also changed. And yet, the Congress is expected to provide thoughtful, creative solutions to these problems with machinery that has remained substantially unchanged for nearly a quarter of a century.

In these times when American institutions of every kind are facing difficult tests, we cannot afford to content ourselves with old, inefficient ways of doing things. I am particularly concerned about young people in our country who see in our great institutions a failure to adapt to the demands of the times. We have a responsibility to them, to the American people, and to ourselves to make every effort to shape our institutions to function more effectively. We can begin by passing the Legislative Reorganization Act.

Mr. METCALF. Mr. President, I sent to the desk an amendment.

The **PRESIDING OFFICER.** The amendment will be read.

The assistant legislative clerk read the amendment, as follows:

On page 39, lines 8 and 9, strike out "January 2 of each odd-numbered year beginning on or after" and insert in lieu thereof "March 31 of each odd-numbered year beginning on and after."

Mr. METCALF. Mr. President, as both the Senator from Delaware, and I explained in our original discussion of the bill, this bill comes before us as a House bill. There are a series of amendments that I am going to introduce, which I believe are noncontroversial, that will make the bill conform to the bill that passed in the Senate as a result of the activities of the joint committee, and conform also to S. 844, which was introduced in this Congress by the Senator from South Dakota (Mr. MUNDT) and is pending before the Senate.

I have a series of these amendments, all of which I believe to be technical, and I am going to offer them and give a brief explanation. There will be some amendments, both conforming amendments and nonconforming amendments, that will be offered, again to support the Senate bill, S. 844 and make it a part of the bill before the Senate, H.R. 17654.

REPORTS OF LEGISLATIVE REVIEW ACTIVITIES

S. 844 provided for an annual report of review activities of each committee not later than March 31 of each year. The House bill modified this provision to provide a biennial report by January 2 of each odd-numbered year.

The amendment retains the biennial report approach of the House bill, but modifies the date for the Senate to March 31 so as to provide sufficient time for the preparation of the report.

After discussing this matter with various committees, it is felt that a report covering an entire Congress is desirable, so that the House provisions are acceptable with the change of date.

Mr. BOGGS. Mr. President, I concur in the statement made by the floor manager of the bill on this amendment.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. METCALF. Mr. President, I send another amendment to the desk, which I ask to have read.

The **PRESIDING OFFICER.** The clerk will read the amendment.

Mr. METCALF. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 65, between lines 16 and 17, insert the following new section:

"AGENCY REPORTS

"SEC. 236. Whenever the General Accounting Office has made a report which contains recommendations to the head of any Federal agency, such agency shall—

"(1) not later than sixty days after the date of such report, submit a written statement to the Committees on Government Operations of the House of Representatives and the Senate of the action taken by such agency with respect to such recommendations; and

"(2) in connection with the first request for appropriations for that agency submitted to the Congress more than sixty days after the date of such report, submit a written statement to the Committees on Appropriations of the House of Representatives and the Senate of the action taken by such agency with respect to such recommendations."

On page 3, in that portion of the table of contents relating to Part 3 of title II, add the following new item after item 235:

"Sec. 236. Agency reports."

Mr. METCALF. Mr. President, I shall give a brief explanation of the amendment.

AGENCY STATEMENTS ON GAO REPORTS

This amendment would restore the provisions of S. 844 requiring Federal agencies to report to the Congress on action taken in response to GAO reports. The provision was not included in H.R. 17654.

This amendment is designed to give the Congress some means of determining that Federal agencies have been responsive to reports of the GAO affecting their operations. Under the amendment, Federal agencies would be required to submit such statements to the Government Operations Committees and to the Appropriations Committees in connection with their next request for appropriations.

Mr. BOGGS. Mr. President, I certainly endorse the amendment.

I move that it be adopted.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1014

Mr. METCALF. Mr. President, I send another amendment to the desk (No. 1014), which I ask to have stated.

Mr. ELLENDER. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. ELLENDER. Mr. President, are these amendments to be added to the House bill?

Mr. METCALF. These amendments are to be added to the House bill. They are provisions of S. 844 that I am trying to get through along with the Senator from Delaware (Mr. BOGGS). They are technical amendments to make the pending House bill conform to the Senate bill—provisions that were left out or altered in the House.

Mr. ELLENDER. Those amendments relate primarily to procedure. Is that correct?

Mr. METCALF. They are procedural amendments. There are amendments about which there is substantial controversy, and I shall bring those amendments up.

Mr. ELLENDER. When does the Senator propose to bring them up?

Mr. METCALF. I am going to bring some of them up. For instance, I know that the Senator from Louisiana is interested in an amendment that is a conforming amendment that was in S. 844 and provided for equal committee staff compensation. I am going to bring that amendment up, and bring it up with plenty of warning to the Senator from Louisiana, so that he will have a chance to speak.

Mr. ELLENDER. I wonder what the leadership is going to do about this bill. Are we going to consider these amendments this evening or today? They are far reaching.

Mr. METCALF. I think the leadership would like us to progress as far as possible. I would like to get some of the technical amendments in today. I am not going to ask for reconsideration of the vote, with the understanding that if a Senator wants to bring them up again by asking to reconsider them, after reading the RECORD tomorrow, he can do so.

Mr. ELLENDER. Then, there will be no final passage today?

Mr. METCALF. I do not know.

Mr. ELLENDER. This bill has far-reaching implications.

Mr. METCALF. Much as I would desire several provisions to be changed in the bill, much as the Senator from Delaware (Mr. BOGGS) would desire several provisions, the bill before the Senate conforms to the bill passed by the

XUM

Senate in 1967. We tried to make it conform in order to get away from some of the controversial provisions.

Mr. ELLENDER. Does the Senator mean the House bill? The Joint Committee on Congressional Reorganization never considered the House bill now before the Senate.

Mr. METCALF. It is our intention to pass the House bill with the conforming Senate amendments, which I shall offer later, after we get through with action on the technical amendments. There are several provisions in the House bill, which, as a matter of comity, because they related only to the Senate, were not included in the House bill. Both the Senator from Delaware and I feel it is our responsibility to see to it that, before we pass the pending bill, we make it conform to S. 844.

Mr. ELLENDER. Do any of the amendments of the Senator from Montana change the number of standing committees?

Mr. METCALF. We are going to have an amendment to change the number of standing committees.

Mr. ELLENDER. And the Senator is going to have amendments to increase the pay?

Mr. METCALF. I have an amendment to increase the pay.

Mr. ELLENDER. Are any amendments to be proposed to increase the pay of other workers on the Hill—for instance, the Senator's staff, my staff, and the staff of other Senators?

Mr. METCALF. I understand the Senator from New York (Mr. JAVITS) will offer such an amendment.

Mr. ELLENDER. We are going to be here all night.

Mr. METCALF. Those amendments are not in the category of the series of amendments that I am trying to have considered at this time.

COMMITTEE CONSULTANTS

Mr. President, to explain the amendment that is now before the Senate, the amendment would delete certain language with respect to the compensation of committee consultants to make clear that the committees would have discretion to decide the extent to which travel time should be included in computing the per diem compensation to be paid the consultant. We believe that it was the intention of the House to provide such discretion and this amendment would make clear that the discretion exists.

As we read the House language, it would be possible for someone to take a long trip and charge it to travel time. We want to leave it to the committee to determine how much travel time a consultant should have.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Does the Senator want to speak on that amendment?

Mr. JAVITS. If it is the compensation amendment——

Mr. METCALF. No, it is not. This is a series of technical amendments.

Mr. JAVITS. Very well.

The **PRESIDING OFFICER.** The clerk will read the amendment now before the Senate.

The assistant legislative clerk read the amendment (No. 1014) as follows:

On page 88, lines 14 and 15, beginning with the comma, strike out through the word "time".

Mr. METCALF. Mr. President, I made an explanation of the amendment just before we had the colloquy.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment was agreed to.

The **PRESIDING OFFICER.** The Senator from Montana.

AMENDMENT NO. 952

Mr. METCALF. I will say to the Senator from Louisiana that this next amendment is an amendment in which he is interested and concerned. I send the amendment to the desk. It is a committee staff amendment.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. METCALF. I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 91, line 14, strike out "$17,301 to $30,879" and insert in lieu thereof "$18,328 to $32,712".

On page 91, line 20, strike out "$7,446 to $30,879" and insert in lieu thereof "$7,888 to $32,712".

On page 91, line 21, strike out "$7,446 to $12,921" and insert in lieu thereof "$7,888 to $13,688".

On page 91, line 25, strike out "$19,272 to $30,879" and insert in lieu thereof "$20,416 to $32,712".

On page 92, line 1, strike out "$13,140 to $19,053" and insert in lieu thereof "$13,920 to $20,184".

On page 92, lines 2 and 3, strike out "$7,446 to $12,921" and insert in lieu thereof "$7,888 to $13,688".

On page 92, line 9, strike out "$30,879" and insert in lieu thereof "$32,712".

On page 92, line 14, strike out "$32,193" and insert in lieu thereof "$34,104".

On page 92, line 16, strike out "$33,507" and insert in lieu thereof "$35,496".

On page 92, line 20, strike out "$32,193" and insert in lieu thereof "$34,104".

On page 92, line 21, strike out "$33,507" and insert in lieu thereof "$35,496".

On page 93, line 2, strike out "$1,095 or in excess of $33,507" and insert in lieu thereof "$1,160 or in excess of $35,496".

Mr. METCALF. When S. 355 was passed in 1967——

Mr. ELLENDER. Mr. President, will the Senator yield before he starts?

Mr. METCALF. Surely.

Mr. ELLENDER. Does the amendment affect section 305 of the pending bill?

Mr. METCALF. It is an amendment to section 305 of the pending bill, and it brings the affected schedules up, in section 305, which is on page 91 of the pending bill, to provide for the pay raise that is in existence at the present time. It merely makes this schedule conform with the present pay situation.

Mr. ELLENDER. When the Senator says "the present pay situation," am I to understand that this bill provides lesser pay than is now provided in the law?

Mr. METCALF. The House bill provides that the maximum permissible salaries would be a certain schedule, and this was made obsolete by the pay increases of 1969, and the new pay scale that I have listed in the amendment would raise the various provisions of section 305 so that the maximum permissible level would be that which currently prevails for committees and staff in the House of Representatives, following the pay increase of 1969.

Mr. ELLENDER. Is section 305 applicable only to the House committees?

Mr. METCALF. No, it is applicable to both.

Mr. ELLENDER. Well, why is it necessary that the Senate——

Mr. METCALF. No, I am wrong. Section 305 is compensation of professional and clerical staffs of Senate standing committees. So it is applicable only to the Senate.

The Senator will remember that we adopted this provision in the original Monroney bill, and this is a part of the Mundt bill that was reported by the Committee on Government Operations, but the Pay Act of 1969 made the numerals in the pay schedule obsolete.

As I understand or am informed, the House of Representatives has already, in its bill, increased its pay schedules to the 1969 level, but in order to conform with the increases in the House schedule, in order for our staffs to have the same pay schedules as the House, we have to raise the schedules as outlined in my amendment.

Mr. ELLENDER. The House put in the language that appears in section 305?

Mr. METCALF. This was out of the Senate bill, and applies only to the Senate. They did not change the language in accordance with the pay increase of 1969.

Mr. ELLENDER. Does the Senator intend to place in the House bill the pay schedules that we agreed to in 1969?

Mr. METCALF. Yes.

Mr. ELLENDER. If it is already the law, why should we attempt to adjust it further?

Mr. METCALF. No, it is not already the law. The law, as the Senator from Montana has continually contended, is derogatory to the Senate, because the Senate is not permitted to pay its committee staffs at the same schedule and at the same high rate that is permitted in the House of Representatives.

The committee staffs of the House have higher rates by the law of 1969 than we are permitted to pay our Senate staffs. This new schedule would bring our Senate staffs up, so that we could pay the staffs, if it were desired by the chairman and the members of a committee, at the same rate that comparable staff members are paid by the House of Representatives.

Mr. ELLENDER. Can the Senator tell us what is the difference in pay between the House staffs on committees and what is now the law? Now what is in the bill here; as I understand, the figures that appear on page 91 and 92 pertain to salaries other than those contained in the act of 1969.

Mr. METCALF. I am informed that the House of Representatives has a potential top salary of almost $36.000 a year for

XUM

as many professional staff members as they wish to hire. My amendment would provide, for example, on line 14 on page 91, for the figure $30,879 to be increased to $32,712, and comparable increases all the way up the line, so that the top salaries would be $35,496. The minimum figure of $7,466 would be increased to $7,888, and so forth, which conforms to the Legislative Pay Act of 1969.

We still would not have the authority to pay all of our staff members at the present House rate, nor would we have authority to pay members of our staffs at the highest House rate.

Mr. ELLENDER. Well, either I do not make myself clear or I cannot put my thought over to the Senator. Under the 1969 act, the salaries have been fixed, as I understand it.

Mr. METCALF. The Senator is correct.

Mr. ELLENDER. Is the Senator amending the House bill to conform to the 1969 act?

Mr. METCALF. I am doing more than that.

Mr. ELLENDER. That is what I thought.

Mr. METCALF. Always, heretofore, we have had a lower pay scale for our committee staffs on the Senate side than they have had in the House of Representatives. This is an attempt to conform the pay scale on the Senate side to a level more nearly equal to that of the House of Representatives.

Mr. ELLENDER. But not equal to the House?

Mr. METCALF. No; it is not quite. The House can hire as many special staff assistants as they are authorized, and pay them at a scale of something over $35,000. We have said that the top limit, which in the bill is $30,879, if my amendment is agreed to, would be increased to $35,496.

That principle, that we should bring our committee staff salaries up to more nearly equal those of the House of Representatives, was adopted in the Monroney bill of 1967. My amendment, which is presently at the desk, only makes it conform to the salary increases that were provided by the 1969 pay increase for committee staffs of the House of Representatives.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. METCALF. In just a moment.

The top salaries in the Senate now are as follows: One man can get $33,176, two can get $31,784, and the remainder are limited to a salary of $30,392.

Mr. ELLENDER. And that applies to the committees only?

Mr. METCALF. Yes.

Mr. ELLENDER. Including the Small Business Committee?

Mr. METCALF. Yes; as I understand it.

Mr. ELLENDER. Suppose the Senate should agree to that. Can the Senator not foresee that the next move will be to get the staff of Senators equal to those amounts?

Mr. METCALF. That next move is probably coming from the Senator from New York (Mr. JAVITS).

Mr. ELLENDER. Of course it is; and it will keep rising and rising to figures much higher than I am sure any Senator on this floor wants to vote for.

Mr. METCALF. My amendment is merely to restore the dignity of the staffs of the Senate to the same dignity that the staffs of the House of Representatives have. Not quite the same dignity, but a comparable dignity.

Mr. ELLENDER. No matter what the House does, does the Senator want the Senate to follow through with it? If they want to give $40,000, does the Senator want to give it, too?

Mr. METCALF. Not necessarily. But I would like to have the situation arise where we do not lose staff to the House of Representatives. I would like to have a situation where we can compete for able and trained staff employees. There have been instances when our committees did lose staff members to the House of Representatives, merely because of this variance and the difference in pay.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. METCALF. I am delighted to yield.

Mr. JAVITS. Do we not face the same competitive situation to which the Senator just referred with our own staffs? In other words, as I understand it, the House provisions apply to the staffs of committees and to the staffs of Members. Should not the Senate provisions apply to the Senate committees and the staffs of Members?

Mr. METCALF. We do not face quite the same situation. We have a little more latitude in paying our own personal staffs than they do. Of course, we have the same latitude in distributing our pay among the staff, and then we have the figure that the top four members of our staff can get paid up to a certain amount, and that is above the House staff. The Senate staff is above the House staff.

Mr. JAVITS. As it stands now.

Mr. METCALF. As it stands under the present law.

Mr. JAVITS. Is not our problem that if we do not face this issue now, we give a priority to the committee staffs over our own staffs? If the Senator's amendment is adopted, is it not true that what will happen is that the committee staffs will do better than our own staffs?

Mr. METCALF. The principle has been adopted in the House that the top members of the committee staffs can be paid more than the top members of the personal staff of any of the Members. If my amendment is adopted, they will be competitive. We can now pay our top personal staff officer as much as a staff officer can be paid on one of the legislative committees. There, again, might be the possibility that the Senator is suggesting, that some of the personal staff would go to a committee staff job because it would pay more. That is not the problem that has been worrying me. It is the problem of keeping our committee staff, with its continuity and its experience and its training, paid at the same level or approximately the same level as the staff of the House.

Mr. JAVITS. However, the Senate staffs should not suffer and, as Senators, we should not suffer from the competition for staff positions. What I am trying to ascertain from the Senator is this: If he is going to raise the allowable compensation of committee staffs, is he not further disadvantaging the individual Senators in handling his own staff because of the fact that prospective employees can get more money, higher ceilings, insofar as a committee staff position is concerned?

Mr. METCALF. We can pay our personal staff a maximum of $33,000—our administrative assistant—at the present time.

Mr. JAVITS. Under this amendment, what will be the ceiling for committee personnel?

Mr. ELLENDER. Mr. President, I wish to correct the Senator. He can pay his staff now up to $33,176. He can pay one employee $33,176. He can pay two employees $31,784 each. He can pay one employee not to exceed $30,392, two employees not to exceed $25,056, and all others not to exceed $18,560. That is in the law now. I hope no effort is made to increase that.

Mr. JAVITS. Suppose this particular amendment is adopted. To what extent will the ceiling of the committee personnel be increased?

Mr. METCALF. If the Senator will turn to page 91, he will see a schedule of provisions for professional staff members of standing committees. For example, on line 14, the compensation is in a range of $18,328 to $32,712, which is less than we pay our personal staff. On page 91, line 20, other than the Committee on Appropriations, it can go up to $30,827. This amendment, No. 952, is printed, and a copy is on the desk of each Senator. The top salary we have provided in the schedule of my amendment is $35,496.

Mr. ELLENDER. Yes; on page 93, line 2, the top would be changed to $35,496. If that is accepted as the top salary, everyone else will have to be treated in the same fashion. The salaries would be increased above what we are paying the Parliamentarian, and other salaries will have to be adjusted.

Mr. METCALF. I certainly recognize the ability and conscientious work of the Parliamentarian. It just happens that the Parliamentarian and the able people at the front desk are paid under a different section. Senator BOGGS and I resolved that we would stay within the provisions of S. 844 and the provisions of the Monroney bill which were passed by the House, and therefore we cannot increase their salaries under the section that is before the Senate.

Mr. JAVITS. Mr. President, as I understand it, the allowable compensation will be raised for committee staffs but the question I raise is: Will compensation similarly be raised, or at least left within the purview of the individual Senator, as to ceilings for our own personnel? The answer, I gather, is no.

The provision submitted by the Senator relates only to committees. I ask the Senator this precisely for the reason the Senator from Louisiana (Mr. ELLENDER) stated, namely; why should we not face the whole issue now, instead of leaving an imbalance between compensation paid to committee staffs and compensation paid to our own personal staffs. Let the Senate vote this up or down on the whole propostion as to whether we shall have the same opportunity to compete with the committees. Then, if the amendment carries, we will be able to hire the good people for our own personal staffs and they will not prefer to go on the committee staffs because they will get more money there.

I realize the object of the Senator from Louisiana, and I respect him as I respect his purpose. But might we not face the whole issue now and either adopt a hiring allowability for all our top personnel, in both committee and personal staffs, or reject it. Then, at least, there will not be any loose ends, where some people will think they are embarrassed or have been prejudiced against, which will cause trouble in the future.

Mr. METCALF. I will say to the Senator from New York that I have supported the proposition he made. I have supported the increase for both personal and committee staffs. However, in coming to the floor with the bill, with the understanding we had that we would only support the provisions of S. 844 and we would try to keep within the lines of that provision, I submitted my own amendment to take care of a provision in the Monroney bill and a provision in the Mundt bill as they came to the floor, so that they applied only to professional staffs of committees and not to personal staffs of Senators. Then later the Senator from Maryland (Mr. Tydings) put in his appropriations bill amendment. Probably this would be taken care of again, as the need arose, as we conformed to the authorizing provisions of S. 844. So that was the reason I did not do as the Senator from New York said, face up to the proposition. We are trying to preserve the bill as it passed in 1967.

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Mr. JAVITS. It can be dealt with as a new subject—to wit, whether we should equalize allowable compensation for our own staffs and committee staffs.

Mr. METCALF. That is correct.

Mr. JAVITS. I am of the mind, unless the Senator had some very good reason to the contrary, to raise the whole issue and let it be voted on now, and let the Senate express its will on the question. Then, if the Senate should decide to accept the whole proposition, we would find both staffs equalized. I am a ranking member of two committees and I certainly consider my own personal staff to be equal to the committee staff personnel. It would seem to me this would create some problems if there is a difference in salary in the Senate as between committee and personal staffs.

I ask the Senator these questions open-mindedly. I plan to offer an amendment to equalize the situation but I asked the Senator these questions to get his reasons why this was not done in the first place.

Mr. METCALF. I could only say again to the Senator from New York that this amendment to equalize the professional staffs on a comparable salary basis with the professional staffs of committees in the House was put in as an amendment offered to the Monroney bill. Again, we felt, both the Senator from Delaware (Mr. Boggs) and I, in planning for the handling of the bill, that we could not go beyond the confines of that bill and, therefore, could not bring in the personal staffs of Senators. So we have not discussed this matter at all on its merits. There have been some changes made, however, since the Monroney bill passed, and my amendments are designed to make those changes conform insofar as the professional staffs are concerned.

I would like to hear from the Senator from Louisiana as to his belief, whether we should vote it up or down, or try to keep this thing within the confines of the bill we have.

Mr. ELLENDER. Mr. President, I have a statement to make which indicates why we should not do it, why we should not follow through with the House as it goes wild on the paying to its staff of more salaries than they are worth. I do not believe that the Senate should follow the House in that way.

As I said a while ago, if we adopt these amendments the Senator is suggesting as to section 305, we will be paying some of the staff members on committees $35,496, which is more than the Parliamentarian is getting.

If we raise staff member salaries to that extent, the cry will be for increases of the same scope for everyone. All the AAs of Senators will want the same thing. The people at the desk will want the same thing, and we will find ourselves in a situation where we will have to make more changes and provide for more expenditures. We would be asked to do that.

Mr. President, I should like to point out that in 1968, only 3 years ago, the top salary for Senate legislative employees, set in the Legislative Appropriations Act for fiscal 1968, was $24,480.

The top salary set in the proposed Legislative Reorganization Act amendments—3 years later—is $35,496, up from $33,507.

Senate employees have not been badly treated. In fact, in recent years, the Congress has gone rampant on the subject of pay increases. Here are the pay increases for officers and employees of the legislative branch for the period from 1945 through 1970.

Under Public Law 82–201, October 24, 1951, there was a 10-percent increase.

Under Public Law 84–94, June 28, 1955, there was a 7.5-percent increase.

Under Public Law 85-462, June 20, 1958, there was a 10-percent increase.

Under Public Law 86–568, July 1, 1960, there was another 7.5-percent increase.

Under Public Law 87–793, October 11, 1962, there was a 7-percent increase.

Under Public Law 88–426, August 14, 1964, there was a 5-percent increase.

Under Public Law 89–301, October 29, 1965, there was a 3.6-percent increase.

Under Public Law 89–504, July 18, 1966, there was a 2.9-percent increase.

Under Public Law 90–206, December 16, 1967, there was a 4.5-percent increase.

Under the authority of the 1967 Salary Act, June 12, 1968, there was an increase of 5.85 percent.

Under the authority of the same act, the 1967 Salary Act, on June 17, 1969, there was an increase of 10.05 percent.

Under the Federal Salary Act of 1970 authority, on April 15, 1970, there was a 6-percent increase.

That is the way we have treated our employees here. I think they have received good treatment.

Now, while salaries have increased, the total number of legislative employees of the House and Senate has also increased drastically.

In 1960, the number of legislative employees for the House was 3,850. Ten years later, in 1970, the number was 7,372. That is almost double the number of only 10 years ago.

The number of legislative employees in the Senate in 1966 was 3,496. Today it is 4,315.

The number keeps on increasing, as shown by this table which I ask to have placed in the Record at this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

Legislative employees

Legislative employees in House, 1960–70:

1960	3, 850
1961	4, 349
1962	4, 523
1963	4, 692
1964	4, 860
1965	5, 720
1966	6, 362
1967	6, 548
1968	6, 278
1969	6, 683
1970	7, 372

Legislative employees in Senate, 1966–70:

1966	3, 496
1967	3, 871
1968	3, 846
1969	4, 129
1970	4, 315

Mr. ELLENDER. Mr. President, as I pointed out and will show in the course of this presentation, if we should change the salaries of the employees of the standing committees as proposed here, we would be doing an injustice to many other employees, including the people serving us at the desk. As I propose to show here, their salaries are less than the salary that the clerks of the committee would be receiving under this proposal. I just think that is wrong. We have made tremendous efforts to bring the salary structure into line across the board, and that means considerably more expenditures. We would create a lot of dissatisfaction.

It strikes me that if the House were to run wild and pay its employees larger sums, we should let them do so. I do not think we should play "follow the leader" on this issue. We have the responsibility of setting an example on the side of commonsense.

Mr. President, the act speaks only to staff levels of standing committees. That was what I was speaking of a moment ago. That is what the Senator from Montana is directing his arguments to—only the staff members of the standing committees. If only that should come to pass, the additional cost per year would be $354,960, without allowing for future increases for all others.

The current amount authorized for each standing committee is $187,920. If the proposal of the Senator from Montana is adopted, the amount authorized will increase to $207,408.

The annual cost of the proposal per committee would be $19,488. The new cost total for the 16 committees would be $311,808.

Turning to the Appropriations Committee, the people working on that committee are now receiving $573,504. If this proposal were agreed to, they would receive $616,656, or an increase for the Appropriations Committee alone of $43,152.

Mr. President, I wish to have a tabulation of these cost increases placed in the RECORD at this point.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

COSTS OF INCREASES FOR COMMITTEE STAFF BY LEGISLATIVE REORGANIZATION ACT AMENDMENTS

	16 standing Committees (other than Appropriations) including Small Business	Appropriations Committee
Current authorization per committee	$187,920	$573,504
Proposed authorization per committee	207,408	616,656
Annual cost of proposal per committee	19,488	43,152
New cost total for 16 committees	311,808	

Resumé:	
Appropriations Committee proposal	$43,152
Other committees (16) proposal	311,808
Total annual new costs	354,960

Mr. ELLENDER. Mr. President, as I pointed out a while ago, the increases that this proposal will entail are bound to affect the salaries of practically every employee on the Hill.

The Members of Congress receive $42,500. There is no change proposed in that, although staff salaries will once again begin to press against the pay received by Senators.

The legislative counsel receives $36,000. There is no change proposed in that salary under the amendments proposed by the Senator from Montana (Mr. METCALF).

The Parliamentarian receives $34,568. There is no change proposed in that salary.

The changes come in the committees.

One employee at a rate not to exceed $33,176 is now allowed under the present law. However, under this proposal, two employees will receive a salary of not to exceed $35,496 each. I think that is preposterous.

Two employees, under the present law, receive $31,784 from the standing committees. If this proposal is adopted, four employees will be authorized to receive $34,104.

Three employees receive $30,392. As far as the Appropriations Committee is concerned at the present time, the number which may be hired at that rate is unlimited. If this proposal is agreed to, the Appropriations Committee will be able to pay 16 employees $32,712 apiece.

I think it is unusual for us to operate in this manner, Mr. President.

As I said, there is no doubt in my mind that efforts will be made to increase all employees across the board just as sure as I am speaking now.

Today, with respect to the employees in a Senator's offices, there is one employee authorized at a level not to exceed $33,176. That is the top salary that we can now pay them.

We can pay two employees up to $31,784 each.

We can pay one employee not to exceed $30,392.

We can pay two employees not to exceed $25,056.

We can pay all others not to exceed $18,560.

The truth of the matter is that if this proposed amendment is adopted, the entire balance of the Senate pay scales will be thrown out of adjustment. Committee staff will be receiving more than Senate officers, and more than personal employees. Anyone who believes that situation would not be quickly changed simply does not know very much about the operation of this Senate. I predict that the pressures will soon begin to build for a large increase in the pay of a Senator. After all, it was only 2 or 3 years ago that a Senator made less than is being proposed for staff members and clerks, here in these amendments. The pity is that the staff is doing exactly what was done before, only more expensively. While the fires of inflation burn, we are simply throwing on gasoline.

Mr. President, I ask unanimous consent that an exhibit headed "Senate Salary Structure," showing the present scales in contrast to the proposed changes be inserted at this point.

There being no objection, the exhibit was ordered to be printed in the RECORD, as follows:

SENATE SALARY STRUCTURE

	Current	Legislative Reorganization Act, 1970
Members	$42,500	No change.
Officers:		
Class 1:		
Secretary	36,000	Do.
Sergeant at Arms		
Legislative Counsel		
Comptroller		
Class 2:		
Secretary for the Majority	34,568	Do.
Secretary for the Minority		
Chief Clerk (NTE)		
Parliamentarian (NTE)		
Financial Clerk (NTE)		
Chief Reporter of Debates (NTE)		
4 Senior Counsel in Office of Legislative Counsel		
Committees:		
1 employee not to exceed	$33,176	2 employees at not to exceed $35,496.
2 employees (Appropriation Committee 17) not to exceed.	31,784	4 (Appropriation Committee 16) at not to exceed $34,104.
3 employees (Appropriation Committee unlimited) not to exceed.	30,392	2 (Appropriation Committee unlimited) not to exceed $32,712.
4 employees (Appropriation Committee unlimited) not to exceed.	13,688	4 (Appropriation Committee unlimited) not to exceed, no change.
Senators offices:		
1 employee not to exceed	33,176	No change.
2 employees not to exceed	31,784	Do.
1 employee not to exceed	30,392	Do.
2 employees not to exceed	25,056	Do.
All others not to exceed	18,560	Do.

Mr. ELLENDER. Mr. President, I do not mind the amendments that were suggested a while ago. I assume that the committee did its duty and studied the amendments. I assume that they are intended to better our rules and regulations.

With respect to section 305, which the Senator from Montana is now seeking to amend, so as to increase the top salaries of the members of the standing committees up to $35,496, and allow the Appropriations Committee, to pay more than $34,000 for each of 16 staff members, I think that action is wrong.

If such a course is pursued by the Senate, there is no question but that we will have to do something for the workers at the desk and for all employees of Senators, and I do not think we are ready to do that.

In due time I would like to move to strike section 305 from the bill so that the Senate staffs will then receive what they were provided under the last Federal Salary Act. I think that is ample.

Mr. METCALF. Mr. President, many Members of this body have served in both the House and the Senate, as I have. I have a great deal of respect for the professional staffs of both bodies but I think, as a result of my experience in the Senate, that the professional staff of the Senate is equal in ability, experience, training, and integrity with any professional staff in the House. I think it is derogatory of the dignity of the Senate that we have failed to recognize that our staff should be paid at the same level, or have the possibility of earning at the same level.

The Senator from Louisiana talks about the Parliamentarian and other people at the desk. I am in complete accord. The Parliamentarian of the Senate receives less as a matter of law than the Parliamentarian of the House and I believe that, too, should be equalized.

It was only because we decided to try to conform to the previously passed bill that none of those amendments was part of my amendment.

Mr. ELLENDER. Why should we do that? If the House wants to run away in salaries for its employees, why should the Senate follow suit? It makes no sense.

Mr. METCALF. Because the employees of the Senate are just as capable, just as experienced, and just as intelligent as the employees of the House. I think it is derogatory to the professional staff to do otherwise. This is not a mandatory provision. This is a permissive proposition, and the chairmen of the committees are not permitted to pay staff employees on this side as much as they can pay on the other side of the Capitol.

Mr. ELLENDER. The Senator knows well of the pressure that will be put on the chairman of every committee by workers entitled to these increases, in order that they will receive all the traffic will bear. I know. I am the chairman of a committee and I know what will happen. I would much prefer the level to be set in the law.

Mr. METCALF. This is the way to put it in the law, and not to put it in an appropriations bill or somewhere else. This is a direct attempt to make this kind of staff equalization part of the law. This is what was done under the Monroney bill.

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Mr. ELLENDER. It did not become law.

Mr. METCALF. Not when the bill was reported by the Committee on Government Operations, but it passed the Senate at one time.

As I said to the Senator, we did not take care of some of these other things because we felt our responsibility was to support the Mundt bill and the Monroney bill.

Mr. ELLENDER. Mr. President, there is a push on to tie legislative salaries directly to the increases granted to civil servants. Employee raises would then be automatic. The House section of the act states as follows:

> (c) Each employee on the professional staff, and each employee on the clerical staff, of each standing committee, is entitled to pay at a single per annum gross rate, to be fixed by the chairman, which does not exceed the highest rate of basic pay, as in effect from time to time, of the General Schedule of section 5332(a) of title 5, United States Code.

The Senate section of the bill accomplishes the same thing, in effect, by setting the top salary figure at $35,496. The salary of a grade 18 in the civil service is $35,505.

Let us consider this for a moment. There are only 447 grade 18's in the entire Federal Government. These are positions with wide areas of authority and responsibility. The Inspector General of the U. S. Department of Agriculture, for instance, is a grade 18. I think we are on the verge of creating a pay scale that has no realistic counterpart in either responsibility or governmental authority. I think this means that Senators, themselves, are not doing their jobs as intended.

Mr. President, I suggest the absence of a quorum and I want a live quorum. I think this is too important to pass upon without a larger number of Senators present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METCALF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METCALF. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. The Senator has a right to withdraw the amendment without unanimous consent.

Mr. METCALF. Mr. President, I withdraw the amendment at this time.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill is open to further amendment.

AMENDMENT NO. 1013

Mr. METCALF. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 1013 is as follows:

> On page 128, beginning with line 18, strike out through line 2 on page 129 and insert in lieu thereof the following:
>
> "SEC. 132. (a) Unless otherwise provided by the Congress, the two Houses shall—
>
> "(1) adjourn sine die not later than July 31 of each year; or
>
> "(2) in the case of an odd-numbered year, provide, not later than July 31 of such year, by concurrent resolution adopted in each House by rollcall vote, for the adjournment of the two Houses from that Friday in August which occurs at least thirty days before the first Monday in September (Labor Day) of such year to the second day after Labor Day."

Mr. WILLIAMS of Delaware. Mr. President, which amendment is this?

The PRESIDING OFFICER. The clerk will identify the amendment by number.

The assistant legislative clerk read as follows: The Senator from Montana (Mr. METCALF) offers an amendment identified as No. 1013.

AUGUST RECESS

Mr. METCALF. Mr. President, the House bill requires an August recess. This amendment would modify the House language to provide for a requirement for an August recess only in nonelection years. In election years the amendment provides for flexibility in schedule to take care of the pressure of election years.

We understand the House has no objection to this change and that the Senate leadership asks to have this provision to take away the mandatory requirement for a recess in August in election years.

It will also be noted that the House was able to schedule an August recess this year, even in the absence of a mandatory requirement.

Mr. ELLENDER. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. ELLENDER. Would that mean that if the Congress had not completed its business, it would take an August recess and come back in September?

Mr. METCALF. That is correct. The bill before us requires an August recess in both election and nonelection years. This amendment would provide for such a recess in nonelection years.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1012

Mr. METCALF. Mr. President, I send an amendment to the desk, which I ask to have stated.

THE PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment (No. 1012) as follows:

> On page 119, line 24, after the semicolon, add "and".
>
> On page 120, line 1, strike out the semicolon and the word "and" and insert in lieu thereof a period.
>
> On page 120, strike out line 2.

Mr. METCALF. Mr. President, the amendment is a technical amendment on pages 119 and 120 of the bill. It relates to authority of officers of Congress over congressional employees. The Postmaster of the Senate is not an officer of the Senate and therefore this amendment deletes the provision relating to him as to the Senate board that has authority over congressional employees.

Mr. ELLENDER. Does it change his present status?

Mr. METCALF. No, but he is not an officer of the Congress at this time, and this provision does not give him recognition as an officer of the Congress.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1016

Mr. METCALF. Mr. President, I offer an amendment, which I ask to have read.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk read the amendment (No. 1016) as follows:

> On page 120, strike out lines 11 through 15 and insert in lieu thereof the following: "at Arms of the Senate, and the Sergeant at Arms of the House of Representatives".

Mr. METCALF. Mr. President, the amendment would change the bill by eliminating the two minority appointees on the Capitol Guide Service. Under the present law and under the bill that was passed by the Monroney committee, the Capitol Guide Service consisted of officers of the Congress who have charge of the administration of the congressional buildings, the Sergeant at Arms of the Senate, the Sergeant at Arms of the House, and the Architect of the Capitol.

The House decided that, in addition to those three officers, who are the regular officers who have charge of the Capitol policemen, and so forth, there should be an employee under the Senate appointed by the minority leader of the Senate and an employee under the House of Representatives appointed by the minority leader of the House.

That proposal is opposed by the Sergeant at Arms of the Senate.

We who labored on the bill had a discussion about this. We feel it is the employees who have charge of the rest of the regular business of the administration of the various Capitol procedures—the two Sergeants at Arms and the Architect—who should also have charge of the Capitol Guide Service. At times—perhaps at the present time—it could mean a minority nomination on the board that administers the Capitol Guide Service.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Montana.

The amendment was agreed to.

Mr. METCALF. Mr. President, after consultation with various Members of the Senate who have amendments or who have an interest and concern in amendments that I may subsequently offer, I have no more amendments to offer that I consider technical or noncontroversial amendments.

Mr. JAVITS. Mr. President, I have amendments which I would like to suggest to the Senator. One amendment can be quite quickly disposed of. The other would perhaps take a little time. I would like to get the attitude of the committee on it.

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Mr. President, I send an amendment to the desk and ask that it be called up.

Mr. ELLENDER. Mr. President, is that amendment printed?

Mr. JAVITS. No, it is not. However, I am going to withdraw it.

The PRESIDING OFFICER. The amendment offered by the Senator from New York will be read.

The assistant legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 154, between lines 13 and 14, insert the following new titles:

TITLE VI—APPROPRIATIONS SESSION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES

Sec. 601. (a) The meeting of the House of Representatives which begins on the 3rd day of January each year (or on such day as shall be appointed pursuant to section 2 of article XX of the articles of amendment to the Constitution) shall recess on the second Friday in August of such year unless the Congress has adjourned such meeting sine die prior to such second Friday. Such meeting, and every other meeting, of the House of Representatives, shall be known as a "legislative session."

(b) The House of Representatives shall assemble on the Monday following the second Friday in August for the purpose of considering bills and resolutions making appropriations for the support of the Government. Such meeting shall terminate thirty days thereafter unless the Congress has adjourned such meeting sine die prior to such day. Each such meeting shall be known as an "appropriations sessions."

Sec. 602. (a) The meeting of the Senate which begins on the 3rd day of January each year (or on such day as shall be appointed pursuant to section 2 of article XX of the articles of amendment to the Constitution) shall recess on the second Friday in September of such year unless the Congress has adjourned such meeting sine die prior to such second Friday. Such meeting, and every other meeting, of the Senate shall be known as a "legislative session."

(b) The Senate shall assemble on the Monday following the second Friday in September for the purpose of considering bills and resolutions making appropriations for the support of the Government. Such meeting shall terminate thirty days thereafter unless the Congress had adjourned such meeting sine die prior to such day. Each such meeting shall be known as an "appropriation session."

(c) The legislative sessions and the appropriations sessions of each Congress shall be numbered serially.

Sec. 603. (a) Except as provided in this section, no matters shall be considered by the House of Representatives or the Senate during an appropriations session other than bills or resolutions making appropriations for the support of the Government.

(b) The provisions of subsection (a) shall not preclude any committee of the House of Representatives or the Senate or any joint committee of the two Houses from meeting during an appropriations session for the consideration of any matter over which such committee or joint committee has jurdiction, or from holding hearings or conducting studies and investigations with respect to any such matter, but, except as provided in this section, no committee of either House, other than the Committee on Appropriations, shall, during an appropriations session, report any bill or resolution or take any other legislative action, and no committee of the Senate shall report any treaty or nomination.

(c) Notwithstanding the provisions of subsections (a) and (b), the appropriate committees of the House of Representatives and the Senate may report, and the two Houses may consider, during an appropriations session, any bill or resolution if the President notifies the Congress that the consideration of such bill or resolution during such appropriations session is necessary in the national interest.

(d) Notwithstanding the provisions of subsections (a) and (b), the appropriate committee of the Senate may report, and the Senate may consider, during an appropriations session, any treaty or nomination if the President notifies the Senate that the consideration of such treaty or nomination is necessary in the national interest.

(e) For purposes of this section, in the case of a joint committee which has legislative jurisdiction, the members of the joint committee who are Members of the Senate shall be considered as a committee of the Senate, and the members of the joint mitttee who are Members of the House shall be considered as a committee of the House.

Sec. 604. (a) Except as provided in this section, the House of Representatives and the Senate shall not consider any bill making appropriations for the support of the Government during a legislative session.

(b) The provisions of subsection (a) shall not preclude the Committees on Appropriations of the House and Senate from meeting during a legislative session for the consideration of any matter over which such committees having jurisdiction, or from holding hearings or conducting studies and investigations with respect to any such matter, or from reporting any appropriation bill or resolution.

(c) Notwithstanding the provisions of subsection (a) the two Houses may consider, during a legislative session, bills or resolutions making supplemental or deficiency or continuing appropriations for the fiscal year which is current during such legislative session.

(d) The provisions of Subsection (a) shall not preclude members of the House of Representatives and the Senate from meeting in joint conference during a legislative session to consider appropriations for the support of the Government; nor shall the provisions of subsection (a) preclude the House of Representatives and the Senate from acting upon the report of any such joint conference.

Sec. 605. The provisions of sections 603 and 604 shall not preclude the reconsideration by the House of Representatives and the Senate, during any session, of any bill or of any order, resolution, or vote returned by the President to either House pursuant to the second or third paragraph of section 7 of article I of the Constitution.

Sec. 606. For purposes of this title, the term "appropriations" has the meaning assigned to it by section 2 of the Budget and Accounting Act, 1921 (31 U.S.C. 2).

Sec. 607. (a) Sections 601 and 602 of this title shall become effective at noon on the day on which the Congress assembles, pursuant to section 2 of article XX of the articles of amendment to the Constitution, in the year 1971.

(b) Sections 603, 604, 605, and 606 of this title shall become effective upon the adjournment sine die of the meeting of the Congress which begins pursuant to section 2 of article XX of the articles of amendment to the Constitution in the year 1971.

TITLE VII.—CHANGE OF FISCAL YEAR

Sec. 701. Section 237 of the Revised Statutes (31 U.S.C. 1020) is amended to read as follows:

"Sec. 237. (a) Except as provided in subsection (b), the fiscal year of the Treasury of the United States in all matters of accounts, receipts, expenditures, estimates, and appropriations shall commence on July 1 of each year and end on June 30 of the following year.

"(b) The fiscal year of the Treasury of the United States which commences on July 1, 1972, shall end on December 31, 1973. The next succeeding fiscal year shall commence on January 1, 1974, and end on December 31, 1974, and"

Sec. 702. The following provisions of law are repealed:

(1) The ninth paragraph under the headings "Legislative Establishment", "Senate", of the Deficiency Appropriation Act, fiscal year 1934 (48 Stat. 1022; 2 U.S.C. 66); and

(2) The proviso to the second paragraph under the headings "House of Representatives", "Salaries, Mileage, and Expenses of Members", of the Legislative-Judiciary Appropriation Act, 1955 (68 Stat. 400; 2 U.S.C. 81).

Sec. 703. (a) Appropriations for the fiscal year which begins on July 1, 1971, shall be made at the legislative session of the Ninety-first Congress which begins on January 3, 1971 (or on such day as may be appointed pursuant to section 2 of article XX of the articles of amendment to the Constitution). Appropriations for the fiscal year which begins on July 1, 1972, shall be made at the legislative session of the Ninety-second Congress which begins on January 3, 1972 (or on such day as may be appointed pursuant to section 2 of article XX of the articles of amendment to the Constitution). Appropriations for the fiscal year which begins on January 1, 1974, shall be made at the appropriations session of the Ninety-second Congress which begins on the Monday following the second Friday of August 1973, in the House of Representatives, and the Monday following the second Friday of September, 1973, in the Senate. Appropriations for each fiscal year thereafter shall be made at the appropriations session of the Congress which immediately precedes the commencement of such fiscal year.

TITLE VIII—AMENDMENTS TO THE BUDGET AND ACCOUNTING ACT, 1921

Sec. 801. (a) Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended—

(1) by striking out in subsection (a) "during the first fifteen days of each regular session" and inserting in lieu thereof ", at the time specified in subsection (c)"; and

(2) by adding at the end thereof the following new subsections:

"(b) In addition to the information required by subsection (a), the Budget shall contain a statement, in such form and detail as the President may determine, of the capital assets of the Government, and their value, as of the end of the last completed fiscal year.

"(c) The President shall transmit the Budget to the Congress as follows:

"(1) for any fiscal year prior to the fiscal year which begins on January 1, 1974, during the first fifteen days of the session which begin on the day prescribed, or appointed pursuant to, section 2 of article XX of the articles of amendment to the Constitution preceding the commencement of the fiscal year, and

"(2) for the fiscal year which begins on January 1, 1974, and for each fiscal year thereafter, on or before April 15 of the year preceding the commencement of the fiscal year.

"If the Congress is not in session on the day on which the President submits the Budget for the fiscal year which begins on January 1, 1974, or for any fiscal year thereafter, such Budget shall be transmitted to the Clerk of the House of Representatives and shall be

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printed as a document of the House of Representatives."

(b) This section shall become effective on April 1, 1973.

SEC. 802. (a) Section 201(a)(5) of such Act is amended by striking out "October 15" and inserting in lieu thereof "February 15."

(b) This section shall become effective on May 1, 1973.

SEC. 803. The President shall transmit to Congress on or before June 30, 1971, recommendations for legislation made necessary by the change of fiscal year effected in this Act.

On page 154, line 14, strike out—

"TITLE V"

and insert in lieu thereof—

"TITLE IX"

On page 154, line 16, strike out "SEC. 601" and insert in lieu thereof "SEC. 901".

Mr. JAVITS. Mr. President, the provision would establish an appropriations session of the Congress and change the fiscal year to a calendar year basis. I consider these two changes to be the first steps in the reform of our appropriations process and in the system of budgeting our Federal money which is long overdue.

The problem to which my amendment is directed is all too well known to us. In recent years, we have simply failed to pass appropriations measures in time for the beginning of a new fiscal year. For example, at the beginning of the current fiscal year last July not one appropriation act for the year had been passed.

The consequences of this state of affairs are serious. Departments and agencies have had to limp along with continuing resolutions which guarantee that no new programs or improvements can be put into effect. In some cases, Federal employees have had to live in fear that their pay money could not legally be drawn from the Treasury. In many cases new programs in the field of education and public welfare have been delayed as much as a year, notwithstanding the clear intent of Congress in enacting substantive legislation that the programs be started sooner.

While the blame for this situation falls on the Congress, Congress can hardly be faulted for taking a longer time to enact appropriations measures than in the days when the Federal budget was but a fraction of its present size. Between 1961 and 1970, the rate of Federal spending has more than doubled. Federal programs for which appropriations must be enacted have grown like topsy, as the needs of this country seem to accelerate.

An answer to the problems posed by the present fiscal year system would be to extend the time within which Congress could enact appropriations legislation. Another answer would be for Congress to set aside a certain amount of time each year for considering appropriations legislation. My amendment would accomplish both these ends.

The first title of my amendment would establish an appropriations session for the House of Representatives beginning in the middle of August, and a similar session for the Senate beginning in the middle of September. Each appropriations session would last for 30 calendar days. During the appropriations session, no substantive legislation could be considered, except where required in the national interest. Conversely, no appropriations legislation except for deficiency and supplemental appropriations, continuing resolutions, and conference reports could be considered by Congress during the legislation session. For example, my amendment specifically allows the Senate to consider treaties and nominations during an appropriations session if this is necessary in the national interest. The effective date of this title is geared to the change in the fiscal year, which is taken up in the second title of the amendment.

That title would change the fiscal year to a calendar year basis, beginning with calendar year 1974. The transition from the present July 1 to June 13 fiscal year would be accomplished by means of an 18-month fiscal year beginning July 1, 1972. In choosing how this transition should be made, I followed the recommendations of the Office of Management and Budget that of the two choices—an extra 6-month fiscal year or a longer 18-month one—the longer session was preferable. I am also convinced that 1974 is the earliest possible target date for the changeover: The Office of Management and Budget will be required to revise its accounting procedures considerably before the beginning of the transition year in July 1972; furthermore an earlier changeover date would interfere with Budget's plans to change the accounting basis for the Federal budget from a cash to an accrual system in fiscal year 1972, the last fiscal year under the present June 13 arrangement.

Changing the fiscal year will require changes in many other provisions of law. For example, my amendment changes the date for submitting the budget to the Congress, from the present 15 days after the new session to April 15.

There are, however, hundreds of other provisions which would be affected as well. Numerous statutes require administrators of various programs to submit annual reports containing data based on the present fiscal year system. Other statutes require administrative actions by certain dates based on the present fiscal year. Within each department and agency, of course, internal regulations based on the June 30 fiscal year will have to be changed. My amendment accounts for the required statutory changes by directing the President to submit recommended changes to Congress by June 30, 1971.

Mr. President, I am aware that changing the fiscal year of a country with a Federal budget in excess of $200 billion should not be decreed lightheartedly. On the other hand, considerable work has been done on this subject in both the Congress and the executive branch. Hearings were held last fall in the House on a bill to make such a changeover, and this concept presently has the support of the Office of Management and Budget as well as the Comptroller General.

In making such a changeover, we would ironically be going back to the system which prevailed before 1843, when the fiscal year was changed from the calendar year to the present June 30 basis. The reason given at that time was that Congress, which convened in December, could not in the 4 weeks allotted to it pass the required appropriations bills before the January first start of the fiscal year. Six months was considered a more reasonable time. The same consideration holds true today. With a budget many thousands of times larger and more complex than in the 19th century, the 5½ months presently given to us to enact appropriations legislation is simply not enough to do the job. Moreover, Congress is not organized properly to consider appropriations bills as they arise on the present piecemeal basis. The appropriations session of Congress would insure that our undivided attention could be directed for at least 1 month per year on the important task of allocating Federal revenues. The change in the fiscal year would insure that we could do this job of allocation within the required time, before the start of a new fiscal year.

Mr. President, this has been a very important reform proposal in the Federal establishment, and it is now getting very material support from important elements in the Federal Government.

I thought at first of pressing the amendment on this measure. However, I believe that it is a matter of prime importance and complexity, and therefore, after conferring with the Senator from Arkansas (Mr. MCCLELLAN), who is my chairman, as I am now a member of the Committee on Government Operations, I would like very much to feel that if I introduce this measure in the form of a bill, which the Senator has been gracious enough to accept, I will be able to have the matter considered by the Committee on Government Operations; and on that basis, I am willing to withdraw the amendment and not press it here.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. McCLELLAN. Of course, if it is introduced as a bill, my present opinion is that it would appropriately be referred to the Committee on Government Operations. If that is done, the bill will receive appropriate consideration by the committee; but I hope that the Senator does not have in mind that the committee would be able to get to it during this session of Congress. I do not see that time is going to permit the consideration of the bill with the attention that it would require. This is a controversial subject, and whether the merits of the issue are really on the side of changing the fiscal year to the calendar year I am not prepared to say, and I am persuaded there are many other Senators in this body who are not yet prepared to make that decision. I do think that it raises an issue that should be considered in the form of a bill rather than by an amendment on this bill.

If a bill is introduced and referred to the Committee on Government Operations, I assure my distinguished colleague on that committee, the Senator from New York, that either the bill will have appropriate reference to a subcommittee or the chairman will proceed to process it with hearings before the full committee. I do

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not know how we will determine that at the moment.

But if there is serious contention here that the fiscal year should be changed, I think it is an issue of sufficient importance that it deserves full development of all the facts, so as to make certain that if we make a change, we will be acting wisely and prudently, and not just making a change for the sake of change.

Mr. JAVITS. I thank my colleague. I am sure that is the judicious way in which to approach the matter. I thank the Senator for his assurances, which I am sure are appropriate within the attributions of the committee, and I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. JAVITS. I ask unanimous consent, however, that the amendment may be printed so that it will be available for study.

The PRESIDING OFFICER. Without objection, the amendment will be printed.

AMENDMENT NO. 1025

Mr. JAVITS. I send to the desk another amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1025) is as follows:

On page 55, between lines 3 and 4, insert the following new section:

SENATE COMMITTEE RULES

SEC. 130. (a) Part 3 of title I of the Legislative Reorganization Act of 1946 is further amended by adding after section 133A of such Act, as enacted by this title, the following new section:

"SENATE COMMITTEE RULES

SEC. 133B. Each standing, select, or special committee of the Senate shall adopt rules (not inconsistent with the Standing Rules of the Senate or with those provisions of law having the force and effect of Standing Rules of the Senate) governing the procedure of such committee. The rules of each such committee shall be published in the Congressional Record not later than March 1 of each year, except that if any such committee is established on or after February 1 of a year, the rules of that committee during the year of establishment shall be published in the Congressional Record not later than sixty days after such establishment. An amendment to the rules of any such committee shall be published in the Congressional Record not later than thirty days after the adoption of such amendment. If the Congressional Record is not published on the last day of any period during which the rules of any such committee, or an amendment to those rules, is required to be published in the Congressional Record by this section, such rules or amendment shall be published in the first daily edition of the Congressional Record published following such day."

(b) Title I of the table of contents of the Legislative Reorganization Act of 1946 is amended by inserting, immediately below the item relating to section 133A contained in that title (as added by section 111(a)(2) of this Act), the following:

"Sec. 133B. Senate Committee Rules.".

On page 2, in that part of the table of contents relating to title I, insert after item 129 the following new item:

"Sec. 130. Senate committee rules.".

Mr. JAVITS. Mr. President, I would like very much to ascertain the position of the chairman and the ranking minority member of the committee on this amendment.

I realize that there is no desire to get into any hotly controversial matters tonight, but I call the attention of the Senate to this fact: There are no provisions in the Senate rules, as I understand—and I am ready to be corrected if anyone has knowledge to the contrary—with respect to rules of committees.

I should like to say, in the presence of the Senator from Arkansas (Mr. MCCLELLAN), that because the Government Operations Committee, especially through Investigation Subcommittee, has handled so many highly contested matters, it has developed a very complete set of rules with respect to witnesses, et cetera. Other committees also have rules, but this is by no means universal.

In the House of Representatives, there is a general provision with respect to this matter which is interesting, or should be interesting, to us, which provides—and this is contained in Cannon's Procedure in the House of Representatives—that insofar as applicable, the rules of the House are the rules of the standing committees, and procedure in the committees, where not otherwise provided for, follows the procedure of the House.

The question I would like to put to the managers of the bill and to the Senate is, Should we not require the adoption of rules by every standing, select or special committee of the Senate, which will be made publicly available?

I suggest publication in the CONGRESSIONAL RECORD not later than March 1 of each year, thus giving notice to all the world as to our procedures and notifying any witness who is subpenaed or otherwise called as to his rights. As I have pointed out, this raises no problems. I happen to be on the Government Operations Committee, so I know the situation for that committee. Other committees also have rules. The Committee on the Judiciary, I believe, has a very complete set of rules.

But it seems to me that when we are dealing in such difficult areas as we do, the time has come to require of all committees that they make and publish rules, and that those be open and available to all concerned, and that there be some uniformity of practice on that score.

I do not endeavor by the amendment to in any way determine what those rules shall be, just so long as there are rules, and the world is apprised of them.

The Senator from Montana informed me, as I discussed the matter with him, that this matter had been considered on a previous occasion and rejected. However, I believe that at that time it was within a frame of reference where any amendments to the Legislative Reorganization Act were just swept away by the feeling that it would be confined to a committee project, and would go no further.

But I believe that our experience since that time, as I say, in many highly controversial proceedings before committees, makes it very desirable for the Senate very seriously to consider the adoption of a provision which would not state the rules or fix the rules, or even tie the committees to the Senate rules, as the House of Representatives does, but rather just say that every committee, by at least a stated time, shall have rules, which shall be made public, so that anyone dealing with a given committee may be apprised of the procedures which he is required to follow before that committee.

I should like very much to get the views of the manager of the bill on this issue.

Mr. METCALF. Mr. President, if I may respond to the Senator from New York, after the markup of the Monroney-Madden bill, S. 355, in 1967, the amendment of the Senator from New York, or substantially the same amendment, was a part of the bill that was brought to the floor of the Senate. It was brought to the floor, and after debate, it was one of those amendments that was stricken by a majority vote. It is not contained in S. 844.

Under the ground rules that we have laid down here, that we are going to support the provisions of S. 844, I would be constrained to oppose the amendment, although, as I recall, both the Senator from Delaware (Mr. BOGGS) and I voted for the inclusion of this amendment in the original bill.

However, this is not a part of the bill that is before the Senate. It would be adding an extra provision that was not in the Mundt bill that we are trying to work on at the present time, and therefore, without going to the merits, I feel under the ground rules that we cannot accept the amendment.

Mr. BOGGS. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. BOGGS. I concur with the statement of the manager of the bill. The reason we have adopted the ground rules, as the Senator stated, is simply to get on with the passage of this legislation, and we assumed that since the Senate had acted on this matter previously, we should follow that guideline.

However, the distinguished Senator from Montana is correct; we both supported this provision in the joint committee and on the floor of the Senate at the time.

Mr. JAVITS. Mr. President, may I ask the acting representative of the majority leader whether or not he would wish to have a vote on this amendment tonight?

Mr. BYRD of West Virginia. I beg the Senator's pardon.

Mr. JAVITS. I am addressing a question to the Senator from West Virginia. Apparently, it will take some kind of vote, a division or a rollcall, and I just wonder whether the Senator desires that amendment or leave it pending and do it the first thing in the morning.

Mr. BYRD of West Virginia. May I say, in response to the able Senator, if the Senator will yield, that there will be no objection to having a division, if the Senator would like to call for one on his amendment tonight.

Mr. JAVITS. In order to do that intelligently, we need a quorum, and I think that would probably create more complexities than it is worth. We tried that the other day, only to almost involve me in a fracas with the majority leader, which I did not welcome. If the Senator does not want a rollcall tonight, unless there is some other amendment to be carried over——

Mr. BYRD of West Virginia. Would the Senator be willing to request the yeas and nays on his amendment and agree tonight to a time on tomorrow morning to vote on his amendment?

Mr. JAVITS. That would be agreeable to me. I would like to vote early, if that is possible.

Mr. BYRD of West Virginia. It is the intention of the leadership, may I say, in further response to the able Senator from New York, to recess at the close of business today and to come in tomorrow at 11 a.m., have the reading of the prayer, and immediately after the prayer to get an order to call up any unobjected to items on the legislative calendar, and immediately to proceed thereafter with the sending business.

Mr. JAVITS. My problem is that that would be an inconvenient time for me, as I am a delegate to the United Nations, and I am due there tomorrow at 1 p.m. If the Senator would like to come in at 10 a.m. and vote an hour or so after the Senate convenes, I would be very pleased.

Mr. BYRD of West Virginia. Could we agree to a vote, say, at 11:10 or 11:20.

Mr. JAVITS. At 11:15 or 11:20.

Mr. BYRD of West Virginia. I have asked this question because I do not think we could recess or adjourn until 10 o'clock in the morning, in view of the fact that a conference has been ordered by the majority to occur at 10 o'clock tomorrow morning.

Mr. JAVITS. I would be willing to vote at 11:15 tomorrow on this amendment.

Mr. BYRD of West Virginia. Would the Senator like to request the yeas and nays on his amendment?

Mr. JAVITS. That depends on the manager of the bill.

Mr. METCALF. I made the statement of position of the managers of the bill. We feel constrained, in view of the ground rules we have laid down, to oppose the amendment.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALL OF THE LEGISLATIVE CALENDAR TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the completion of the reading of the prayer on tomorrow morning, it be in order to call up unobjected to items on the legislative calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 583. An act to provide for the flying of the American flag over the remains of the U.S.S. *Utah* in honor of the heroic men who were entombed in her hull on December 7, 1941;

S. 1628. An act granting the consent of Congress to the western interstate nuclear compact, and related purposes;

S. 2314. An act to amend section 4 of the Revised Organic Act of the Virgin Islands relating to voting age; and

S. 4235. An act to continue the jurisdiction of the U.S. District Court for the District of Puerto Rico over certain cases pending in that court on June 2, 1970.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 1933. An act to provide for Federal railroad safety, hazardous materials control and for other purposes;

S. 2264. An act to amend the Public Health Service Act to provide authorization for grants for communicable disease control and vaccination assistance;

H.R. 4599. An act to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments;

H.R. 12943. An act to amend section 3 of the act of November 2, 1966, to extend for 3 years the authority to make appropriations to carry out such act.

H.R. 17123. An act to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize real estate acquisition and construction at certain installations in connection with the Safeguard anti-ballistic-missile system, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes; and

H.R. 18104. An act to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority.

LEGISLATIVE REORGANIZATION ACT OF 1970

The Senate continued with the consideration of the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that a vote occur on the amendment that has been offered by the able Senator from New York (Mr. Javits), which is presently pending, tomorrow morning at 11:20.

Mr. JAVITS. Mr. President, I will accept that, provided that 10 minutes on a side is allowed for debate and also that a quorum call may be put in before debate starts, without the time being charged to either side.

Mr. BYRD of West Virginia. Mr. President, reserving the right to at least discuss this matter further, before the Chair puts the question, if we come in at 11 and call up one or two unobjected to items on the Legislative Calendar and then have a quorum call and then have 10 minutes to a side, we cannot vote at 11:20 a.m.

Mr. JAVITS. That is true. But I think we ought to have a little debate. Perhaps the manager of the bill would accept 5 minutes, and I would like 10, which would make it 15 minutes all together, and we could vote as close to 11:20 as possible.

Mr. BYRD of West Virginia. Mr. President, I amend my unanimous-consent request and revise it and restate it.

I ask unanimous consent that upon the completion of the prayer tomorrow morning, time begin running on the pending amendment offered by the Senator from New York (Mr. Javits); that debate be equally divided and controlled between the mover of the amendment and the manager of the bill; that there be 10 minutes to a side.

Mr. JAVITS. That is fine.

Mr. BYRD of West Virginia. That at the conclusion of the 20 minutes, the vote occur on the amendment.

Mr. JAVITS. May we have a quorum call before the debate starts, just to let Senators know we are in business, without the time being charged to either side?

Mr. BYRD of West Virginia. There is no assurance that the quorum can be called off. Any objection to calling off the quorum could extend it beyond the 11:20 a.m. time.

Mr. JAVITS. I think the Senator is correct. Let us leave it as it is.

Mr. BYRD of West Virginia. And Senators will be on notice.

Mr. JAVITS. Good.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The unanimous-consent request, subsequently reduced to writing, is as follows:

Ordered, That further debate on the Javits amendment to H.R. 17654, to improve the operation of the legislative branch of the Federal Government, be limited to 20 minutes to be equally divided and controlled by the manager of the bill (Mr. Metcalf) and the Senator from New York (Mr. Javits).

Mr. JAVITS. Mr. President, I wish to emphasize to the Senate that under pres-

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ent conditions, in fairness to all who deal with the Senate, all this amendment seeks is just there be open and published rules by every committee and that they be available to the general public as part of the procedures of the Senate, just as the Senate rules.

What a committee puts into those rules will depend upon the will of that committee, which can always be dealt with by the will of the Senate, if the committee should be unfair, which I think is quite inconceivable. But I do believe that in the present state of the administration of justice—and we are an independent part of the Government, with an independent personality and independent powers—this is a very elementary provision which we ought to have.

I should like to point out in that connection that my own committee, the Committee on Government Operations, is defending very strongly against a procedure by which its subpenas would be tested in court. There has been a decision of the district court and the circuit court of appeals reversing the district court and a resolution now enacted by the Senate which takes a very strong and decisive position regarding our own autonomy as a legislative body in the separation of the powers which rules our Government. It seems to me that with authority comes responsibility, and that is all I am pleading for. The public should know what the rules are of any committee which subpenas any member of the public, with which any member of the public desires to deal, or how he goes about his relations with that committee.

I realize that the matter was dealt with before, but I think the climate and atmosphere in which we deal today are different.

I point out that good practice on the part of the Committee on Government Operations, which probably has some of the most hotly contested of these proceedings before it, has dictated that it have a very comprehensive set of rules. For that reason, I hope very much—and I am saying this so that Senators who read the RECORD overnight may be apprised of the views—that the Senate will adopt this amendment.

I wish to point out that in respect of the comity between the Houses and the fact that the House is already covered by a provision that House rules shall apply to committee proceedings, if we adopt it, this is going to be it. So that the decision is an important one. Really, what we are doing is dealing with our own rules, and that is very unlikely to be disturbed in conference, unless something happens to the whole bill.

I hope very much that Senators will seriously consider this matter overnight and that it may have their favorable consideration.

Mr. METCALF. I say to the Senator from New York that this is one of the provisions that relates only to the Senate. The House has made its rules. The rules, unless otherwise changed by the House of Representatives, apply to committee actions. It is my understanding that the adoption or rejection of or any change in this amendment will not make any difference so far as the conference or conferees are concerned.

Mr. JAVITS. I thank the Senator very much.

I also thank the acting majority leader for his accommodation, in view of my time problem.

Mr. BYRD of West Virginia. The Senator is welcome.

There will be no further votes or live quorums today.

URBAN MASS TRANSPORTATION ASSISTANCE ACT OF 1970

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Wisconsin (Mr. PROXMIRE), I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3154.

The PRESIDING OFFICER (Mr. ALLEN) laid before the Senate the amendment of the House of Representatives to the bill (S. 3154) to provide long-term financing for expanded urban mass transportation programs, and for other purposes which was to strike out all after the enacting clause, and insert:

That the Congress finds that the rapid urbanization and the continued dispersal of population and activities within urban areas has made the ability of all citizens to move quickly and at a reasonable cost an urgent national problem; that it is imperative, if efficient, safe, and convenient transportation compatible with soundly planned urban areas is to be achieved, to continue and expand the Urban Mass Transportation Act of 1964; and that success will require a Federal commitment for the expenditure of at least $10,000,000,000 over a twelve-year period to permit confident and continuing local planning, and greater flexibility in program administration. It is the purpose of this Act to create a partnership which permits the total community, through Federal financial assistance, to exercise the initiative necessary to satisfy its urban mass transportation requirements.

Sec. 2. Section 3 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1602), is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by striking out subsections (a) and (b) and inserting in lieu thereof subsections (a), (b), (c), and (d), as follows:

"(a) The Secretary is authorized, in accordance with the provisions of this Act and on such terms and conditions as he may prescribe, to make grants or loans (directly, through the purchase of securities or equipment trust certificates, or otherwise) to assist States and local public bodies and agencies thereof in financing the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas and in coordinating such service with highway and other transportation in such areas. Eligible facilities and equipment may include land (but not public highways), buses and other rolling stock, and other real and personal property needed for an efficient and coordinated mass transportation system. No grant or loan shall be provided under this section unless the Secretary determines that the applicant has or will have—

"(1) the legal, financial, and technical capacity to carry out the proposed project; and

"(2) satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and equipment. The Secretary may make loans for real property acquisition pursuant to subsection (b) upon a determination, which shall be in lieu of the preceding determinations, that the real property is reasonably expected to be required in connection with a mass transportation system and that it will be used for that purpose within a reasonable period. No grant or loan funds shall be used for payment of ordinary governmental or nonprofit operating expenses. An applicant for assistance under this section for a project located wholly or partly in a State in which there is statewide comprehensive transportation planning shall furnish a copy of its application to the Governor of each State affected concurrently with submission to the Secretary. If, within thirty days thereafter, the Governor submits comments to the Secretary, the Secretary must consider the comments before taking final action on the application.

"(b) The Secretary is authorized to make loans under this section to States or local public bodies and agencies thereof to finance the acquisition of real property and interests in real property for use as rights-of-way, station sites, and related purposes, on urban mass transportation systems, including the net cost of property management and relocation payments made pursuant to section 7. Each loan agreement under this subsection shall provide for actual construction of urban mass transportation facilities on acquired real property within a period not exceeding ten years following the fiscal year in which the agreement is made. Each agreement shall provide that in the event acquired real property or interests in real property are not to be used for the purposes for which acquired, an appraisal of current value will be made at the time of that determination, which shall not be later than ten years following the fiscal year in which the agreement is made. Two-thirds of the increase in value, if any, over the original cost of the real property shall be paid to the Secretary for credit to miscellaneous receipts of the Treasury. Repayment of amounts loaned shall be credited to miscellaneous receipts of the Treasury. A loan made under this subsection shall be repayable within ten years from the date of the loan agreement or on the date a grant agreement for actual construction of facilities on the acquired real property is made, whichever date is earlier. A grant agreement for construction of facilities under this Act may provide for forgiveness of the repayment of the principal and accrued interest on the loan then outstanding in lieu of a cash grant in the amount thus forgiven, which for all purposes shall be considered a part of the grant and of the Federal portion of the cost of the project. An applicant for assistance under this subsection shall furnish a copy of its application to the comprehensive planning agency of the community affected concurrently with submission to the Secretary. If within a period of thirty days thereafter (or, in a case where the comprehensive planning agency of the community (during such thirty-day period) requests more time, within such longer period as the Secretary may determine) the comprehensive planning agency of the community affected submits comments to the Secretary, the Secretary must consider the comments before taking final action on the application.

"(c) No loan shall be made under this section for any project for which a grant is made under this section, except—

"(1) loans may be made for projects as to which grants are made for relocation payments; and

"(2) project grants may be made even though the real property involved in the project has been or will be acquired as a result of a loan under subsection (b). Interest on loans made under this section shall be at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs and probable losses under the program. No loans shall be made, including renewals or extensions thereof, and no securities or obligations shall be purchased, which have maturity dates in excess of forty years.

"(d) Any application for a grant or loan under this Act to finance the acquisition, construction, reconstruction, or improvement of facilities or equipment which will substantially affect a community or its mass transportation service shall include a certification that the applicant—

"(1) has afforded an adequate opportunity for public hearings pursuant to adequate prior notice, and has held such hearings unless no one with a significant economic, social, or environmental interest in the matter requests a hearing;

"(2) has considered the economic and social effects of the project and its impact on the environment; and

"(3) has found that the project is consistent with official plans for the comprehensive development of the urban area.

Notice of any hearings under this subsection shall include a concise statement of the proposed project, and shall be published in a newspaper of general circulation in the geographic area to be served. If hearings have been held, a copy of the transcript of the hearings shall be submitted with the application."

Sec. 3. (a) Section 4(a) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1603(a)), is amended—

(1) by striking out "section 3" in the first sentence and inserting in lieu thereof "subsection (a) of section 3"; and

(2) by striking out the next to the last sentence and inserting in lieu thereof the following: "Such remainder may be provided in whole or in part from other than public sources and any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital."

(b) Section 4 of such Act, as amended (49 U.S.C. 1603), is amended by adding at the end thereof the following new subsections:

"(c) To finance grants and loans under sections 3, 7(b), and 9 of this Act, the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $3,100,000,000, less amounts appropriated pursuant to section 12(d) of this Act and the amount appropriated to the Urban Mass Transportation Fund by Public Law 91–168. This amount (which shall be in addition to any amounts available to finance such activities under subsection (b) of this section) shall become available for obligation upon the date of enactment of this subsection and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this subsection not to exceed $80,000,000 prior to July 1, 1971, which amount may be increased to not to exceed an aggregate of $310,000,000 prior to July 1, 1972, not to exceed an aggregate of $710,000,000 prior to July 1, 1973, not to exceed an aggregate of $1,260,000,000 prior to July 1, 1974, not to exceed an aggregate of $1,860,000,000 prior to July 1, 1975, and not to exceed an aggregate of $3,100,000,000 thereafter. The total amounts appropriated under this subsection and section 12(d) of this Act shall not exceed the limitations in the foregoing schedule. Sums so appropriated shall remain available until expended."

"(d) The Secretary shall report annually to the Congress with respect to outstanding grants or other contractual agreements executed pursuant to subsection (c) of this section. To assure program continuity and orderly planning and project development, the Secretary, after consultation with State and local public agencies, shall submit to the Congress (1) authorization requests for fiscal years 1976 and 1977 not later than February 1, 1972, (2) authorization requests for fiscal years 1978 and 1979 not later than February 1, 1974, (3) authorization requests for fiscal years 1980 and 1981 not later than February 1, 1976, and (4) an authorization request for fiscal year 1982 not later than February 1, 1978. Such authorization requests shall be designed to meet the Federal commitment specified in the first section of the Urban Mass Transportation Assistance Act of 1970. Concurrently with these authorization requests, the Secretary shall also submit his recommendations for any necessary adjustments in the schedule for liquidation of obligations."

Sec. 4. (a) Section 5 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1604), is amended by striking out "1971" and inserting in lieu thereof "1972".

(b) Section 5 of such Act, as amended (49 U.S.C. 1604), is further amended by striking out the next to the last sentence and inserting in lieu thereof the following: "Such remainder may be provided in whole or in part from other than public sources and any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital."

Sec. 5. Section 12(d) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1608 (d)) is amended to read as follows: "(d) There are hereby authorized to be appropriated, without fiscal year limitation out of any money in the Treasury not otherwise appropriated, the funds necessary to carry out the functions under this Act.".

Sec. 6. Section 14 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1610), is amended to read as follows:

"ENVIRONMENTAL PROTECTION

"Sec. 14. (a) It is hereby declared to be the national policy that special effort shall be made to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and important historical and cultural assets, in the planning, designing, and construction of urban mass transportation projects for which Federal assistance is provided pursuant to section 3 of this Act. In implementing this policy the Secretary shall cooperate and consult with the Secretaries of Agriculture, Health, Education, and Welfare, Housing and Urban Development, and Interior, and with the Council on Environmental Quality with regard to each project that may have a substantial impact on the environment.

"(b) The Secretary shall review each transcript of hearing submitted pursuant to section 3(d) to assure that an adequate opportunity was afforded for the presentation of views by all parties with a significant economic, social, or environmental interest, and that the project application includes a detailed statement on—

"(1) the environmental impact of the proposed project,

"(2) any adverse environmental effects which cannot be avoided should the proposal be implemented,

"(3) alternatives to the proposed project, and

"(4) any irreversible and irretrievable impact on the environment which may be involved in the proposed project should it be implemented.

"(c) The Secretary shall not approve any application for assistance under section 3 unless he finds in writing, after a full and complete review of the application and of any hearings held before the State or local public agency pursuant to section 3(d), that (1) adequate opportunity was afforded for the presentation of views by all parties with a significant economic, social, or environmental interest, and fair consideration has been given to the preservation and enhancement of the environment and to the interest of the community in which the project is located, and (2) either no adverse environmental effect is likely to result from such project, or there exists no feasible and prudent alternative to such effect and all reasonable steps have been taken to minimize such effect. In any case in which a hearing has not been held before the State or local agency pursuant to section 3(d), or in which the Secretary determines that the record of hearings before the State or local public agency is inadequate to permit him to make the findings required under the preceding sentence, he shall conduct hearings, after giving adequate notice to interested persons, on any environmental issues raised by such application. Findings of the Secretary under this subsection shall be made a matter of public record."

Sec. 7. Section 15 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1611), is amended to read as follows:

"STATE LIMITATION

"Sec. 15. Grants made under section 3 (other than for relocation payments in accordance with section 7(b)) before July 1, 1970, for projects in any one State shall not exceed in the aggregate 12½ per centum of the aggregate amount of grant funds authorized to be appropriated pursuant to section 4(b); except that the Secretary may, without regard to such limitation, enter into contracts for grants under section 3 aggregating not to exceed $12,500,000 (subject to the total authorization provided in section 4(b)) with local public bodies and agencies in States where more than two-thirds of the maximum grants permitted in the respective State under this section has been obligated. Grants made under section 3 on or after July 1, 1970, for projects in any one State may not exceed in the aggregate 12½ per centum of the aggregate amount of funds authorized to be obligated under section 4(c), except that 15 per centum of the aggregate amount of grant funds authorized to be obligated under section 4(c) may be used by the Secretary, without regard to this limitation, for grants in States where more than two-thirds of the maximum amounts permitted under this section has been obligated. In computing State limitations under this section, grants for relocation payments shall be excluded. Any grant made under section 3 to a local public body or agency in a major metropolitan area which is used in whole or in part to provide or improve urban mass transportation service, pursuant to an interstate compact approved by the Congress, in a neighboring State having within its boundaries population centers within normal commuting distance from such major metropolitan area, shall, for purposes of computing State limitations under this section, be allocated on an equitable basis, in accordance with regulations prescribed by the Secretary, between the State in which such public body or agency is situated and such neighboring State."

Sec. 8. The Urban Mass Transportation Act of 1964 is further amended by adding at the end thereof the following new section:

"PLANNING AND DESIGN OF MASS TRANSPORTATION FACILITIES TO MEET SPECIAL NEEDS OF THE ELDERLY AND THE HANDICAPPED

"Sec. 16. (a) It is hereby declared to be the national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facili-

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ties and services; that special efforts shall be made in the planning and design of mass transportation facilities and services so that the availability to elderly and handicapped persons of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance in the field of mass transportation (including the programs under this Act) should contain provisions implementing this policy.

"(b) In addition to the grants and loans otherwise provided for under this Act, the Secretary is authorized to make grants or loans for the specific purpose of assisting States and local public bodies and agencies thereof in providing mass transportation services which are planned, designed, and carried out so as to meet the special needs of elderly and handicapped persons. Grants and loans made under the preceding sentence shall be subject to all of the terms, conditions, requirements, and provisions applicable to grants and loans made under section 3(a), and shall be considered for the purposes of all other laws to have been made under such section. Of the total amount of the obligations which the Secretary is authorized to incur on behalf of the United States under the first sentence of section 4(c), 1½ per centum may be set aside and used exclusively to finance the programs and activities authorized by this subsection (including administrative costs).

"(c) Of any amounts made available to finance research, development, and demonstration projects under section 6 after the date of the enactment of this section, 1½ per centum may be set aside and used exclusively to increase the information and technology which is available to provide improved transportation facilities and services planned and designed to meet the special needs of elderly and handicapped persons.

"(d) For purposes of this Act, the term 'handicapped person' means any individual who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, is unable without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected."

Sec. 9. The Secretary of Transportation shall conduct a study of the feasibility of providing Federal assistance to help defray the operating costs of mass transportation companies in urban areas and of any changes in the Urban Mass Transportation Act of 1964 which would be necessary in order to provide such assistance, and shall report his findings and recommendations to the Congress within one year after the date of the enactment of this Act.

Sec. 10. The Secretary of Transportation shall in all ways (including the provision of technical assistance) encourage industries adversely affected by reductions in Federal Government spending on space, military, and other Federal projects to compete for the contracts provided for under sections 3 and 6 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1602 and 1605), as amended by this Act.

Sec. 11. Nothing in this Act shall affect the authority of the Secretary of Housing and Urban Development to make grants, under the authority of sections 6(a), 9, and 11 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1605(a), 1607a, and 1607c), and Reorganization Plan Numbered 2 of 1968, for projects or activities primarily concerned with the relationship of urban transportation systems to the comprehensively planned development of urban areas, or the role of transportation planning in overall urban planning, out of funds appropriated to him for that purpose.

Sec. 12. Section 5316 of title 5, United States Code, is amended by inserting the following after paragraph (129): "(130) Deputy Administrator, Urban Mass Transportation Administration, Department of Transportation.".

Sec. 13. (a) Section 4(b) of the Urban Mass Transportation Act of 1964 is amended by inserting the words "or contract" after the word "grant" in the last sentence thereof.

(b) Section 6(a) of the Urban Mass Transportation Act of 1964 is amended by inserting the words "grant or" between the word "by" and the word "contract" in the second sentence thereof.

Sec. 14. This Act may be cited as the "Urban Mass Transportation Assistance Act of 1970".

Mr. BYRD of West Virginia. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Wisconsin (Mr. Proxmire), I ask unanimous consent to have printed in the Record a statement which has been prepared by him in explanation of the measure.

There being no objection, Senator Proxmire's statement was ordered to be printed in the Record, as follows:

Statement of Senator Proxmire

The Senate version of this bill, S. 3154, was passed by the Senate on February 4, 1970. The House version now pending at the desk was passed by the House of Representatives last Tuesday, September 29, 1970.

Although there are a number of small differences between the House passed version and the Senate bill, I have reviewed these differences with other Members of the Senate including Sen. Williams of New Jersey, the principal author of the legislation. Most of these differences are relatively minor and of little consequence as far as the purposes of the bill are concerned. The most important difference between the two bills is the matter of the State limitation provision. The purpose of this limitation is to place a statutory ceiling on the amount of the total auhorized funds that could be used in any one state. The basic state limitation is the same in each bill—12½%—however, recognizing the possibility of some states needs being in excess of other states needs, a discretionary fund has been established by law. The differences between the two bills is on the size of this discretionary fund. The Senate version would provide a considerably smaller discretionary fund than the House version. It was my amendment on the Senate floor which resulted in the smaller discretionary fund.

I am willing, however, to accept the House version with the understanding that it will be properly and fairly administered and that in no instance will any one state receive more than its just share of appropriated funds. Our Committee will keep an eye on the administration of this fund to make sure that the Secretary of Transportation does not authorize an unfair share of the funds to any one state.

The other differences between the House version and the Senate's are matters that are relatively minor in nature and although we do not agree with all of them, we find no difficulty in accepting these changes.

Mr. President, I request the Senate to take this action at this time because of the urgent need for the new authorization proposed in this bill. This bill would increase the authorization for Mass Transit Grant Assistance up to $3.1 billion for use over a period of five years. Limitations are established in the bill relative to disbursements of these funds for each of the five years.

These funds will be used to finance the development of urban transportation systems, both bus and rail, in our nation's cities to relieve a very serious problem about which we are all aware in connection with congestion and overcrowded streets. The program has been in existence since 1961 and some progress has been made but we still have a long way to go and the funds available in this bill should help toward financing these very important city improvements.

ORDER FOR ADJOURNMENT TOMORROW, AND WEDNESDAY AND THURSDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, Tuesday, October 6, 1970, and on Wednesday the 7th and Thursday the 8th, it stand in adjournment until 10 o'clock on each of the following mornings respectively, Wednesday, Thursday, and Friday.

The PRESIDING OFFICER (Mr. Allen). Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. BYRD of West Virginia. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from New York (Mr. Javits).

Mr. BYRD of West Virginia. I thank the Presiding Officer.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 11 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 1 minute p.m.) the Senate recessed until tomorrow, Tuesday, October 6, 1970, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 5, 1970:

Diplomatic and Foreign Service

William M. Rountree, of Florida, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Brazil.

Horace G. Torbert, Jr., of the District of Columbia, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Bulgaria.

Turner B. Shelton, of California, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Nicaragua.

Inter-American Social Development Institute

The following-named persons to be members of the Board of Directors of the Inter-American Social Development Institute for the terms indicated:

Luis A. Ferre, of Puerto Rico, for a term of 2 years.

Charles W. Robinson, of California, for a term of 4 years.

EXTENSIONS OF REMARKS

GOVERNOR ROCKEFELLER SPEAKS AT THE OLDER AMERICAN WHITE HOUSE FORUM

HON. JACOB K. JAVITS

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Monday, October 5, 1970

Mr. JAVITS. Mr. President, on September 23, the New York State Office for the Aging officially launched our State's preparations for the 1971 White House Conference on Aging with 10 Regional Older American White House Forums which were attended by nearly 10,000 senior citizens.

It was appropriate that the State's first official function in connection with this conference began by allowing older people themselves to speak out on their actual day-to-day needs and concerns. And it is this philosophy which will direct all of the subsequent activities in New York State; namely, that older people will be vitally involved in every phase of these preparations, for it is they who best know their own needs.

At this first series of meetings, each older person had the opportunity to complete the national needs questionnaire. I know that the results of these questionnaires will provide us with a tremendous starting point in our work to bring more and better services to the aging.

New York State has a population of more than 3 million persons who are 60 years of age and over—2.1 million of whom are 65 or over. In New York City, alone, the more than 1 million senior citizens constitute a population larger than that of most of the Nation's larger cities.

The older New Yorker has more programs and services—at the public, private, and voluntary level—than any senior citizen in the country. Nonetheless, it has never been New York State's policy to rest on past accomplishments. Rather, we see our responsibility as continuing to pioneer and to experiment so that we can insure that older people are able to lead productive and useful lives.

There will be many recommendations coming to the national White House Conference on Aging in November of 1971, but I think New York's Governor Rockefeller has outlined, very succinctly, the most grevious areas of concern to our older people in the address which he delivered at the September 23 forums. The Governor's remarks were carried to each of the 10 regional forums by a special telephone hookup. I feel his speech is of sufficient importance to include in the CONGRESSIONAL RECORD, so I ask unanimous consent that it be printed in the Extensions of Remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF GOVERNOR NELSON A. ROCKEFELLER AT THE OLDER AMERICAN WHITE HOUSE FORUM, HUNTER COLLEGE

Today, I'm not just addressing one audience, I'm addressing ten.

Around this State there are nine other meetings of this conference; and my voice is going out to each meeting over a special telephone hookup.

I want all of you out there and here to know that what you tell me is just as important as what I'm going to tell you; because this is your conference.

What you say will determine the shape of this State's recommendations at next year's White House Conference on Aging.

But it all begins here and now.

So my real job today is not so much to talk.

It's to listen to you.

And one way we'll be listening is by going through those questionnaires you'll be filling out.

They will tell us all kinds of things.

They'll tell us whether you're satisfied with where you live—if you live with others or alone; whether you think you're getting enough companionship and recreation; whether you have a chance to participate in the life of your community.

We began working on problems like these nine years ago in this State.

That's when I created a State Office for the Aging. I put that office right in the Executive Department, close to the Governor; because I have a deep personal concern for your problems.

I named a marvelous lady, Marcelle Levy, as Director of the Office for the Aging and Marcelle has done a magnificent job.

Mrs. Levy doesn't see citizens of maturity and experience as a burden; but as a valuable resource to the community.

She doesn't think of older people as problems.

She sees them as people with special needs; and there's a world of difference, as you well know.

We have two million people in our State who are 65 and over; and while the kind of problems they have are special, their aspirations are the same as everyone else's.

They want to help others when they can. Retired people have time to do volunteer work and they have a life-time of skills to offer.

So we passed legislation this year that makes it easier for older people to work as volunteers.

This law allows local governments to reimburse older persons for any expenses they incur while they're doing volunteer work.

Older people want to be able to get along on their usually fixed incomes.

That's terribly important. It means peace of mind—independence—security.

But with prices going up, getting along can be pretty tough on a fixed income.

So four years ago the Legislature passed a recommendation of mine to give communities the opportunity to grant property tax relief to older home owners.

This year, we raised the income eligibility level for that tax relief from the original $3,000 to $5,000.

Some 45,000 older home owners are paying lower property taxes as a result of these administrative measures.

Something else older people deserve is good medical care—especially since they have the greatest medical needs.

That's why this Administration has loan and grant programs to get hospitals and nursing homes built.

But we need a better system for financing medical care, too.

Medicare has been good, as far as it goes. But when coverage runs out during long sieges of illness, the only recourse is Medicaid.

And Medicaid isn't the final answer either.

We need a unified system for financing medical care, like Universal Health Insurance.

I've tried to get it in our State, I'll keep trying.

But, Universal Health Insurance would work better on a national basis.

I hope that the State and regional committees that will be working on recommendations for the White House Conference on Aging will give Universal Health Insurance a strong recommendation.

Another thing some older people want to do or need to do is work.

Yet, the Federal Social Security law penalizes work, in a sense.

A person getting Social Security loses $1 for every 2 he earns between $140 and $240 a month.

On earnings over $240, he loses a dollar of social security for every dollar of earnings; unless the worker is over age 72.

This amounts to a harsh tax against the elderly—the very people least able to afford it.

I say that's wrong, and should be changed.

Why should we penalize people for working? That's what this country is trying to get away from.

Another thing that older citizens want are places where they can go to get all the special services they need under one roof; without having to trot all over town.

Senior citizen centers make sense to me.

That's why I signed a law this year that authorizes low-cost State loans so that a community can build a one-stop service center for its older people.

And now that New York State has taken the lead, I would like to see the Federal government start giving financial aid to help operate these centers.

That's something else I hope you'll include when you draw up those recommendations for the White House Conference.

These are some of the things that I think we ought to be doing to make life better for our older citizens.

We've done a lot in New York State—and we'll do more. But the Federal Government needs to do more too. I believe in Senior Power. I've seen it work. Older citizens are among the most valuable human resources we have.

Many of you are still at work—in government, in volunteer activities and in commerce and industry.

You do great work, too;

—because you have the wisdom and the experience to get a job done right.

There's no substitute for that.

So I hope that this conference will, above all, consider ways we can make better use of all the Senior Power around us.

And when you come to think of it, this conference is making use of Senior Power right now.

And I, for one, am looking forward to your recommendations.

A DIFFERENCE IN STANDARDS

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. ZWACH. Mr. Speaker, most of us know the rigid requirements for meat inspection and sanitation in this country. Not so many realize the very strict

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standards of cleanliness, inspection, and refrigeration that is required for our dairy products.

However, for imports coming into this country and competing with our highly inspected and rigidly controlled products, there seems not to be the same standards.

Cor Bos of Lake Wilson, in southwestern Minnesota, was recently in Europe and made some interesting observations.

Mr. Speaker, I would like, at this time, to insert Mr. Bos' observations in the CONGRESSIONAL RECORD so they may be read by all of my colleagues:

STANDARDS FOR IMPORTS

A recent trip and a 60-day stay at different farms and dairies in Europe produced my folowing concusions:

We do not need quotas on dairy and meat imports from other countries. All we need is the requirement, very reasonable at that, of the same standards of inspection for both domestic and imported meat and milk products. That would stop—and quick—all imports of these products.

To wit: At different farms where I stayed the milk produced at 5 o'clock in the evening without any cooling—not even water cooling—was poured into 10-gallon cans and set down at the end of the driveway until the truck would pick it up at 4 o'clock in the morning. The banging of the cans awakened me at that early hour. This was in Holland.

In France the same thing. The only difference was 5-gallon cans instead of 10-gallon. There seems to be a difference between the ambitious Dutch and the more easygoing French.

Though their milk barns were fairly clean, as were their cows, this lack of refrigeration is something the American farmer would not dream of getting by with.

The same for meat. In Montfoort, Holland, we went for a walk through the town at 9 o'clock at night. Stopping at a slaughterhouse, we found the doors standing wide open. Just inside was hanging the day's kill of several hundred lambs—no refrigeration—just waiting for the trucks to take then to Paris.

A few days later, in Paris, we visited a couple of butcher shops and found several lamb carcasses, a couple of beef quarters, and a side of pork hanging out in the open. The meat looked kind of reddish and dehydrated.

Is that the kind of meat we want to eat? The milk products we want to consume?

COR BOS.

Minnesota.

CONSUMER RELATIONS CODE—VIRGINIA STATE CHAMBER OF COMMERCE

HON. WILLIAM B. SPONG, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, October 5, 1970

Mr. SPONG. Mr. President, the Virginia State Chamber of Commerce has adopted a consumer relations code which is a model statement of business' responsibility to its customers. Increasingly, the business community is coming to recognize its self-interest in better consumer relations and I am pleased that Virginia businessmen are leading the way in this regard.

I ask unanimous consent that the Virginia State Chamber of Commerce's Consumer Code be printed in the Extensions of Remarks.

There being no objection, the code was ordered to be printed in the RECORD, as follows:

BUSINESS-CONSUMER RELATIONS CODE

Consumers and business are mutually dependent in the competitive market place—consumers, for the freedom to choose among products and services; business, for the freedom to offer goods and services.

The consumer has had, and must continue to have, certain basic and undeniable rights in the competitive market place—the right to safety, the right to be heard, the right to choose, the right to be informed and the right to quality and integrity.

We, therefore, reaffirm our continuing responsibility to affect, in our daily business operations, the following business-consumer relations code:

(1) TO protect the health and safety of the consumer in the design and manufacture of products; including positive actions against harmful side effects on the quality of life and the environment.

(2) TO utilize technical progress to produce goods of high standards and quality at the lowest reasonable price.

(3) TO be cognizant of the views of consumers in the earliest stages of product planning to help assure customer satisfaction.

(4) TO simplify, clarify and honor product warranties and guarantees.

(5) TO maximize the quality of product servicing and repairs and encourage their fair pricing.

(6) TO eliminate deceptive advertising and marketing practices from the market place to the end that our ultimate goal is not only strict legality, but honesty in all transactions.

(7) TO properly educate sales personnel so that they are familiar with product capabilities and limitations and are able to respond adequately to customer questions.

(8) TO provide customers with objective information about products, services and the workings of the market place.

(9) TO facilitate the use of value comparisons between various products.

(10) TO provide effective channels for receiving and acting upon consumer complaints and suggestions.

Adopted by the Board of Directors of the Virginia State Chamber of Commerce, July 10, 1970.

NEW YORK STATE COMBATS DRUG ABUSE

HON. MARTIN B. McKNEALLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. McKNEALLY. Mr. Speaker, the rapid spread of drug abuse, particularly among the Nation's youth, is one of the most serious and tragic problems facing our society. We are all aware, I am sure, of the gravity of the drug dilemma: that a growing number of young Americans are seeking the answers to their perplexing frustrations in a bottle of pep pills, that marihuana is as readily available on many college campuses as a package of cigarettes, and, most tragic of all, that on the average, four people die each day in New York City from overdoses of heroin. We are well acquainted with the gruesome statistics of drug addiction. The problem is well publicized—and rightfully so.

What is not as well known, however, are the measures being taken by government—at the local, State, and national levels—as well as in the private sector of the country to combat the rise in drug abuse. Since last December at the White House Governors' Conference when President Nixon addressed himself directly to the seriousness of drug dependence and set the tempo of the struggle to be waged in the 1970's, the State of New York has been in the forefront of the fight against this gnawing menace of narcotic addiction. This is partly because of the immediacy of the problem in New York, but it is also due in large part to the dedicated efforts of Gov. Nelson A. Rockefeller.

The all-out attack on drug abuse in New York State includes law enforcement to end trafficking of drugs, a vast public information and education program, and the provision of treatment for the drug abuser.

Treatment involves counseling, rehabilitation, and aftercare as well as such special approaches as the methadone maintenance program currently being undertaken by New York State.

The most recent product of Governor Rockefeller's crash campaign against drug abuse is a publication entitled, "Desk Reference on Drug Abuse." This booklet is designed as a guide to assist physicians and others engaged in emergency care to better diagnose and give initial treatment to patients with acute drug intoxications and the acute complications of drug dependence. Copies are being distributed free of charge by the New York Department of Health to all physicians, osteopaths, and health-care professionals in the State.

I commend Governor Rockefeller on his efforts to combat the rising wave of drug addiction in New York State, and I urge him to continue in his endeavors to rid this "monkey from our backs."

DISASTROUS ADMINISTRATION ECONOMIC POLICIES

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. NIX. Mr. Speaker, the latest economic statistics show a continuation of an economic phenomenon unparalleled in our history. Despite the shrill arguments to the contrary—from the President and the Vice President on down through the ranks of the administration's bureaucracy to its lowliest junior economist—the clear reading of the cold statistical facts is just this—our economy is in trouble. We have an "inflationary recession." It is a seeming contradiction in conventional terms, as any economist would say. Yet, for some strange reason this is precisely how it must be described because both the cost of living and unemployment are rising and show little, if any, signs of subsiding.

But we cannot deny the evidence, Mr. Speaker, that the Nixon administration policies have resulted in disastrous shrinking of the buying power of the wage-earner. These policies have sharply cut our national growth rate, crippled our housing construction industry, reduced our industrial output, and curtailed corporate profits—which, in turn, has reduced Federal and State tax revenues so desperately needed in such essential areas as education, health services, job training, welfare, slum clearance and public housing and similar urban programs.

These administration policies have caused wide-spread hardships among our people as a whole, but they have been most severely felt by those at the middle and lower income levels. America's senior citizens and those living on pensions and other types of fixed income have been particularly hard hit. The disadvantaged among our citizens, desperately seeking a way to share in America's economic affluence of the 1960's, have been the victims of false hope and promises of equal opportunity and a better life. The administration's set of national priorities continues to put arms, machines and weapons systems above food, housing, equal job opportunities, and health services that our people so badly need.

Mr. Speaker, economic policies of the Nixon-Agnew administration have caused the greatest increase in unemployment in this country in more than a decade. The rate of unemployment has almost doubled. The number of unemployed has risen from 2.6 million, 3.3 percent, when President Nixon took office to more than 4.2 million, 5.2 percent. If we consider those who are no longer seeking employment because of long periods of frustration and discouragement at ever finding a job, the figure is much higher. It is also four to six times higher than the national average among young people of minority groups in my own city of Philadelphia and in other cities throughout the Nation.

During the first 18 months of the Nixon-Agnew administration, the Department of Labor's Consumer Price Index rose by 11.1 points—almost double the increase during the preceding 18 months. Interest rates have reached their highest levels in more than a hundred years. The average worker's pay check will buy less today than it did 5 years ago, despite "paper increases" in hourly wages. Food prices have skyrocketed, as any housewife can testify. Hamburger has gone up 15 percent during the past year and a half; pork has increased in price by 17 percent; instant coffee has risen 15 percent, and fresh fruits and vegetables have gone up by some 8 percent; bread and dairy products—essentials in any home—have risen by 6 percent.

This is not political rhetoric, Mr. Speaker. These are harsh realisms of the marketplace with which every family must deal every day. It is also a harsh reality that the Nixon-Agnew administration has failed the American people by its refusal to use the legal tools provided by Congress to place restraints on interest rates, wages, and prices. It has also failed to use the Executive influence to seek wage and price guidelines that were used during the Kennedy and Johnson administrations to hold down the cost of living and to stabilize the economy. The President's refusal to use even the moral power of his office to curb inflation was literally an invitation for big price increases in consumer goods, raw materials, and durable goods such as steel and other basic metals, automobiles, appliances, and other products. Big industry took full advantage of the President's invitation.

Mr. Speaker, Democrats in Congress are under attack from administration political spokesmen with an eye toward the November elections as being big spenders. This is not a new charge; and, as in previous cases, the charge is false. It ignores the uncontroverted fact that this Democratically controlled Congress actually cut the Nixon-Agnew administration budget requests by over $6 billion in last year's session and is continuing that record this session. Congress, not the President, imposed a spending ceiling on the Federal budget in 1969—despite objections of the administration. At the same time, this Democratic Congress has rejected administration efforts to cut back essential funds for education, clean water, housing, and health programs, and have forced reductions in wasteful defense spending in an effort to accomplish a much needed reordering of our critical domestic spending priorities. Yet, the administration's political spokesmen continue to repeat the big-spender charge and continue the false allegation that somehow Federal spending for schools, pollution control, hospitals, health, housing, and other essential services is inflationary and must be cut. At the same time the administration proposes that we spend hundreds of millions of tax dollars to develop for private exploitation the supersonic transport—SST—plane and to bail out private companies such as Lockheed for their bungling of the C–5A cargo plane contract with the Air Force, or the Penn Central Railroad for its mismanagement.

Mr. Speaker, the American people will not be fooled by the obvious attempt of the Nixon-Agnew administration to cover up its economic failures and its callous disregard of the public interest. It will not be fooled by the smokescreen of disunity being spread over the land by the Vice President, who, at a time when all Americans need and want unity of purpose in this troubled world, seeks to divide and disrupt us. He seeks to pit one economic group against another; one race against another; the hawks against the doves; the hard hats against the student radicals; and suburbanites against the city dwellers. Nothing could be more un-American, I submit, Mr. Speaker, than this systematic effort to destroy the unity of America. Nothing could be more destructive of our national interest. Nothing could be further from President Nixon's campaign pledge of 2 years ago "to bring us together."

I have confidence in the judgment of the American people to see through this smokescreen of desperation that is polluting the political atmosphere as we draw closer to the November election. When the American people speak through the media of the ballot boxes and voting booths throughout the land on November 3, I am confident that they will reject both the smokescreen of disunity and the Nixon-Agnew administration failures that this smokescreen seeks to hide from our citizens.

CREATING DEFICITS NO SOLUTION

HON. GEORGE A. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. GOODLING. Mr. Speaker, for a long time we, as a Nation, have been on a big spending spree, creating budget deficits right and left.

Our problems still remain, and we have inherited the whirlwind of inflation, and it is quite apparent that we cannot spend our problems to death. An article written by Mr. Casper W. Weinberger, Deputy Director, Office of Management and Budget, gives cogent consideration to this truth and appeared in the October 5, 1970, issue of the Washington Post. Because of its appropriateness, I introduce this article in the RECORD and commend it to the attention of my colleagues:

CREATING DEFICITS NO SOLUTION

(By Casper W. Weinberger)

Recently, many proposals have been made in the Congress and elsewhere which involve substantial expenditures by the federal government, far in excess of the administration's budget requests and also far in excess of any reasonable estimate of even the revenues that would be produced if we were at full employment in the current year.

Those making these proposals have been strongly encouraged by certain theorists who have insisted that a substantial deficit in the federal budget is desirable.

While this short-term fiscal policy may yield some immediate benefits, I would like to suggest some dangers involved in proposals that will raise the already high level of government spending in an attempt to produce a deficit . . .

Obviously, there may be times of severe depression, or war, when it is necessary, either to prevent human suffering, to create employment, or to survive as a country, for the national government to spend large sums of money—even more than it receives. However, because of the serious implications of increases in government spending programs, it seems to me that those who have the responsibility for the federal budget should make every effort to try to keep expenditures down and avoid courting deficits for fiscal reasons except in rare cases.

Without the exercise of the most severe restraints, we would have unlimited government spending and a deficit every year. Nothing is easier to produce than a government deficit . . . But in doing so, we should bear in mind the following considerations:

First, government spending above the revenues that would come in if we were at full employment causes deficits which produce inflation. We had three years of such deficits on a vastly increasing scale under President Johnson, culminating in a $25 billion monster in 1968. It is apparent that those three years of total lack of fiscal restraint are the principal cause of the inflation that is only now finally being reversed . . .

Secondly, because under the big spending theory only spending matters, no one worries

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much about what the spending is for. If you think that the rate of spending, not the object, is the key factor, the chances are you will not get much for your money except deficits. A careful assessment of national priorities is discouraged, and many programs of questionable merit are introduced.

And once started, the flow of federal expenditures, like a river breaking its levees, is virtually impossible to stop. A pilot project normally turns into an essential program in three years; it becomes an urgent priority in three years more. The distance from an urgent priority to an untouchable sacred cow is usually no more than five fiscal years . . .

That programs of value only to special interests may become permanent parts of the budget is bad enough in itself. It is worse still when the funding of these programs results in a lack of flexibility in the budget so that bold, imaginative, new programs, like the Family Assistance Plan, which require money to overcome problems newly perceived, cannot be adequately financed.

In short, big spending and creating a deficit for the purposes of short-term fiscal policy determines in practice the funding levels of real programs for years to come. The result is not only useless, perhaps harmful, expenditures in future years, but also a substantial loss of control over fiscal policy itself. If a surplus should ever be fiscally desirable, it may be impossible to produce.

But the worst of all the effects produced by encouraging deficits through the institution of expensive programs is the steady growth of government with its consequent increase of government power, and its equally consequent decrease in individual freedom.

Since 1960, tax receipts for all levels of government have increased from about $70 billion to over $300 billion. The percentage of the net (not the gross) national product going to government at all levels has increased from about 24 per cent to 35 per cent. In other words, all of us, on the average, are devoting more than one-third of our productive efforts to paying for government. By the year 2000 we may be spending more than half our time paying for government. Is this necessary or desirable?

The more government spends, the more power and authority it has to have to enable it to carry out its expanding role. But as governmental power grows, individual freedom, the power of each individual to make significant decisions concerning his own present and future, necessarily is narrowed.

And that is why I believe those in charge of government budgets should exert every effort to keep government spending down, and thus to diminish the need for more and higher taxes, with the goal of freeing all of us to exercise more of our abilities for productive efforts of our own choosing, and to make more of our own decisions, and thus guide our own lives more nearly as we desire them to be.

JUDGING THE SOUTH

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. ERLENBORN. Mr. Speaker, in a recent editorial entitled "Judging the South," the Wall Street Journal refers to the delicate balance sought by the Nixon administration regarding integration of Southern schools as "sensible and even courageous" and states that the "peaceful start suggests that for all the complaints the administration may have judged pretty well."

As I believe my colleagues would be interested in the Wall Street Journal's analysis of school integration in the South, I include the editorial in the RECORD:

JUDGING THE SOUTH

The preponderantly peaceful spread of school integration across the South last week was a tribute to the often maligned people of that section and to some degree a vindication of the Administration's often maligned policies. It would be foolish to expect that the school integration question will now disappear from the national agenda, but there is at least some hope it can now be approached with a greater measure of good will on all sides.

We were rather disturbed a few weeks ago to receive a mailing from a prestigious Southern newspaper, opposing an integration plan that went beyond freedom of choice. The editors talked of "Appomattox," and said the Supreme Court has wrought "Orwellian changes in pupil assignments in the past 16 years."

Now we find, in that very same city and under that very same plan, Virginia Governor Linwood Holton Jr. bringing his 13-year-old daughter to her first day at a largely black school. This splendid example, from a family that could certainly flee integration if it desired, set the tone in that city as other responsible leaders set it throughout the region. Regardless of occasional emotional outbursts, the white people of the South have in fact come a long way toward recognizing the principle the Court enunciated 16 years ago.

This is true even though a realistic observer will expect setbacks in the newly integrated schools. No doubt some of them will be resegregated by white flight, and no doubt some of them are more integrated in name than in fact. Violence could still erupt as more districts are integrated this week. Certainly problems remain, especially in large Southern cities where segregated schools reflect housing patterns just as they do in Northern cities.

The Supreme Court will start hearings in October on cases that will shed some light on the legal states of the massive busing that would be required to integrate schools in such districts. We think the question cannot be satisfactorily resolved by either a fiat that integration must occur no matter how much busing it takes, or by a fiat that no child will ever be bused to further integration. A rough scale seems necessary, and we worry because Court decisions often do not lend themselves to that kind of resolution, but we hope that greater clarity will result.

In its executive policies, the Nixon Administration has been seeking a type of balance that would allow integration to proceed without punitive overtones toward the white South. In certain particulars we think it has leaned a little too far to soothe Southerners and eventually win their votes. Generally it has readjusted these particulars, though, and on the whole its delicate balancing act is sensible and even courageous. It will please no one completely.

The Administration's policies have been attacked by civil rights leaders impatient at the always slow pace of human change, by those who sincerely believe racial quotas are the only solution, and by those who want to punish the white South in the name of their own virtue. On the other side, it is by no means clear Southerners will now give Mr. Nixon their moral and electoral support in return for policies that do not hold the South to higher standards than the rest of the nation.

Still, the Nixon approach has been based on a calculation that despite the years of foot-dragging the white South is not without a meaningful reservoir of good will, and at this point removing the punitive overtones would tip the balance toward rather than away from acceptance of integration. Last week's peaceful start suggests that for all the complaints the Administration may have judged pretty well.

TRIBUTE TO THE LATE HON. MAURICE T. WEBB

HON. JOHN J. FLYNT, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. FLYNT. Mr. Speaker, it is with a feeling of personal loss that I pay tribute to the memory of a devoted personal friend and dedicated fellow member of the American Legion, Hon. Maurice T. Webb, who died September 20, 1970.

"Spider" Webb's diligent work in Legion activities at all levels, beginning at Post 57, Newnan, Ga., and throughout his service as director of the National Americanism Division in Indianapolis, Ind., exemplified a dedication of his genuine and sincere belief in the principles upon which this country was founded. He was most particularly interested in young people, and to that end exercised every given opportunity to contribute his energies and talents to Legion programs benefiting our American youth.

Patty joins me and the members of my staff in extending our sympathy to his wife, Frances, to their son, Marty, to his mother and father, Mr. and Mrs. W. T. Webb, and to other members of his family who survive him. "Spider" will long remain in our memory and the memory of all who have known him as a very proud American who did more than his part to make our United States a better place in which to live.

I am confident the personal loss I feel is shared by his multitude of friends throughout the United States who came to know "Spider" through American Legion activities. The feeling of loss by his fellow Georgia Legionnaires is most appropriately expressed in the September 1970 issue of the Georgia Legionnaire and follows:

MAURICE T. WEBB DIES AT NEWNAN

Maurice T. "Spider" Webb, one of The American Legion's most dedicated workers, passed away suddenly at his home in Newnan on Sunday, September 20.

Spider's dedication to the Legion is almost legendary and his efforts made a lasting impression on many facets of the Legion. He served in many official capacities but his day to day support of the basic programs was his outstanding attribute.

Joining Newnan Post 57 soon after discharge from World War II military service, he served that post in many offices including post Commander. He then moved up through the chairs in the old Fourth District and served most capably as District Commander. He then served as Department Jr. Vice Commander. He was most active in Child Welfare work during this time. He served several years as Department Child Welfare Chairman. He then served as Area "C" chairman. The area is composed of the 14 southern states. Later he became National Child Welfare Chairman. He served as Department Adjutant from 1958 to 1960.

In 1963 he was named Director of the National Americanism Division in Indianapolis, Indiana. He served in that capacity until this year when he resigned due to health reasons. He had recently been employed as State Field Representative for the U.S. Brewers Association, with his office in Atlanta.

Survivors include the wife, Mrs. Frances McWaters Webb, son and daughter-in-law, Mr. and Mrs. Maurice Martin (Marty) Webb, and grandson, Michael Thomas Webb, of East Point; parents, Mr. and Mrs. W. T. Webb, Madras, Ga.; and sister, Mrs. A. G. Arrowood, Sharpsburg.

Funeral services were held from the chapel of the McKoon Funeral Home, Newnan, on September 22, at 11:00 a.m. with a multitude of friends in attendance. In addition to many fellow members of Post 57 and the Sixth District, many other Legion members from over the state, as well as out of state, were in attendance. Department Commander C. B. Burke headed the Legion group from Georgia and Past National Commander Jimmie Powers represented the National organization, in addition to his role as a close personal friend.

Pallbearers were David Stripling, Larry Coggin, W. D. Harrell, George Osborne, G. W. Coggin and Aaron Keheley. Legionnaires served as honorary pallbearers. Interment was in Oak Hill Cemetery.

Deepest sympathy is extended to the family of this outstanding American.

CHAIRMAN RICHARD BOLLING ANNOUNCES HEARINGS ON REGIONAL PLANNING ISSUES BY THE SUBCOMMITTEE ON URBAN AFFAIRS

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. BOLLING. Mr. Speaker, the Subcommittee on Urban Affairs of the House-Senate Joint Economic Committee is continuing its studies concerning economic and social problems affecting our urban communities. As chairman of the subcommittee, I have scheduled public hearings on regional planning October 13, 14, 15, beginning at 10 a.m., to hear nine experts in the fields of economics and political science discuss issues and alternatives involved in regional planning efforts.

Detailed information is contained in the following news release announcing the hearings:

CHAIRMAN RICHARD BOLLING ANNOUNCES HEARINGS ON REGIONAL PLANNING ISSUES BY THE SUBCOMMITTEE ON URBAN AFFAIRS

Representative Richard Bolling (D-Mo.), Chairman of the Subcommittee on Urban Affairs of the Joint Economic Committee, today announced that the Subcommittee will hold public hearings on regional planning issues on October 13-14-15. In announcing the hearings Chairman Bolling said:

"All studies of the critical economic and social problems affecting our urban communities—and rural ones as well as far as that goes—reveal that measures to deal with these problems almost invariably require actions cutting across the boundaries of numerous local political jurisdictions. In the last century the major solution to this problem was to incorporate adjacent suburban areas into the central city. An alternative was to organize multi-jurisdictional authorities. Recently other devices have been tried. It is important that we reach an understanding of how we can adapt our political structures to facilitate planning to solve economic and social problems on whatever regional basis proves desirable in a particular case, but at the same time retain a maximum of local and even neighborhood political power. Grass roots democracy is essential to all good planning—particularly successful implementation of plans after they have been formulated and approved."

For these reasons the Subcommittee has asked a number of experts in economics and political science to discuss with this subcommittee the various issues and alternatives involved in such regional planning efforts.

Members of the Subcommittee on Urban Affairs Subcommittee are:

REPRESENTATIVES

Richard Bolling (D-Mo.), Chairman.
Henry S. Reuss (D-Wis.).
Martha W. Griffiths (D-Mich.).
William S. Moorhead (D-Pa.).
William B. Widnall (R-N.J.).
W. E. Brock III (R-Tenn.).
Clarence J. Brown (R-Ohio).

SENATORS

Abraham Ribicoff (D-Conn.).
William Proxmire (D-Wis.).
Jacob K. Javits (R-N.Y.).
Charles H. Percy (R-Ill.).

Schedule of hearings on regional planning issues—October 13-15, 1970:

Tuesday, October 13

Alan Altshuler, Professor of Political Science, Massachusetts Institute of Technology, Cambridge, Massachusetts.

Alan Campbell, Dean, Maxwell Graduate School of Citizenship and Public Affairs, Syracuse University, Syracuse, New York.

Victor Jones, Professor of Political Science, University of California at Berkeley, Berkeley, California.

Wednesday, October 14

Victor Fisher, Director, Institute for Social, Economic and Government Research, University of Alaska, Fairbanks, Alaska.

Daniel R. Grant, President, Ouachita Baptist University, Arkadelphia, Arkansas.

Selma Mushkin, Director of Public Services, Georgetown University, Washington, D.C.

Thursday, October 15

James Alexander, Director, Office of Community Services, District of Columbia Government.

Richard Burton, The Urban Institute, Washington, D.C.

John Bebout, Professor, University of Houston, Houston, Texas.

All sessions will begin at 10:00 a.m. in the Atomic Energy Committee Hearing Room (S-407) in the Capitol.

BIG UNIONS DO NOT STRIKE IF THINGS ARE REALLY IN A DOWNTURN

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. MICHEL. Mr. Speaker, I note that there is much discussion in the public prints by union bosses and the Democratic Party about the unemployment rate. Despite their public utterances I am certain that the leaders of organized labor must have great faith that our economy is on the way up to go ahead with massive strikes. The union bosses know their economics. The fact that they have chosen to go ahead with a strike which throws thousands out of work, is in fact a vote of confidence in the Nixon administration's economic policies.

If they really thought the economy was in trouble, they wouldn't risk the jobs of thousands of union workers by calling them out on a strike that could cause permanent shutdowns. They know that the Nixon policies are working. They know that our economy is strong and resilient. And they know that their public utterances are being done for political effect. Although to some it might appear to be ironic that those who order men to quit work are complaining about unemployment, that is the nature of the political game today, and these union leaders are just following the party line.

So, the American public should take with a grain of salt all the gloom and doom talk going on across the aisle and remember that big unions don't strike if things are really in a downturn.

FIGHTING BOMB THREATS

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. HUNGATE. Mr. Speaker, in view of the current concern with bombing, the following article from the Christian Science Monitor offers some assistance:

FIGHTING BOMB THREATS

(By a staff writer of The Christian Science Monitor)

What do you do in case of a bomb threat?

This is a question to which an increasing number of businesses, hospitals, educational institutions, industries, and governments are having to find answers.

In the 15 months from January, 1969, to April, 1970, recorded bomb threats totaled 35,000 in the United States. At least one well-known company experienced 18 threats in a one-year period.

Assembled in Boston were more than 1,000 of the nation's top security supervisors to discuss the mounting concern about "law and order" and the latest problems and advancements in the security field.

Speaking in a panel on "Bomb Threats and Personnel Safety," Jervis P. Fox Jr., chief of the Industrial Defense Branch, Office of the Provost Marshal General of the Army, outlined considerations and steps to be taken in case of an actual bomb threat.

In advance, people in charge of a company or building should know whether the local police or fire department has a bomb-disposal unit. A number do not. An alternative would be to check with the nearest military ordnance disposal unit.

COMMAND CENTER SUGGESTED

Another important measure, the military chief advised, is to have some place designated as a command center from which all orders would be issued in an emergency. This is normally where the switchboard is located.

The security specialist recommended that officials check with local telephone companies on the availability of inexpensive recorder-connector equipment. Such devices can be activated by switchboard operators to record every word of threatening calls. Alertness and preparedness on the operator's part also may help in tracing the call.

If a bomb threat should be received, someone will have to weigh the alternatives and decide whether to evacuate or not.

Once a company or concern has set a precedent by evacuation, Mr. Fox warned, "it opens the way to being constantly harassed by threatening calls, which will cut down on work time and cost money. You are the establishment—and they will harass you any way they can," he stressed.

"Government buildings receive bomb threats like going out to lunch," Mr. Fox

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asserted. "But there is not too much evacuating."

LIABILITY INVOLVED

What is important, he added, is to know the legal liabilities in case of injuries.

The search for bombs generally has to be conducted by the company itself. The police or fire department, in most cases, will not be responsible for the search of private buildings.

"Start with the most critical areas first, those which if destroyed would put you out of business," Mr. Fox advised. "Use supervisors or people who work in that area in the search, they know it better than anyone else."

As for search techniques:

Be on the lookout for common objects—thermos bottles or lunch buckets—where they don't normally appear. Search wastebaskets.

Don't touch suspicious objects. Set up sandbags or mattresses around it, if they are available, but not metal shields or objects that could shatter in an explosion.

Notify employees to evacuate the building by some prearranged signal, preferably different from a fire alarm. (Closing windows and doors as for a fire drill only increases the impact of an explosion.)

PROCEDURE OUTLINED

Evacuate employees on upper stories first (all floors at once if there are no egress problems) because the structure above the explosion will receive more damage.

Use stairs instead of elevators.

Have employees stay well clear of the buildings.

Simple security measures may well prevent the need to ever evacuate a building, Mr. Fox suggested.

Access to the company by photo-identity cards, strict supervision of keys to entrances, and secure padlocking of openings like manhole coverings and utility wall panelings were a few of the preventative procedures he recommended.

"Don't forget, if a company evacuates once—and sends everyone home—it is liable to have a bomb threat every Friday noon from someone who wants a long weekend."

NEEDED—THE GUTS TO SAY NO

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. WYMAN. Mr. Speaker, the greatest single problem the United States faces is fiscal. Unless this country confines its spending to its revenues it will be only a matter of time until nobody's dollars will be worth the paper they are printed on.

I believe it is a basic responsibility of the Congress of the United States to require this by law in the absence of declared war. It is a simple thing to do—like most great things—but it requires the determination, the will to do it, and the guts to say no to a lot of pork, as well as to many worthwhile things that must be deferred until we have the revenue coming in to pay for them.

Warner & Swasey Co., as usual, have put their finger on the problem with an excellent message in this week's U.S. News & World Report. I commend this message to the thoughtful consideration of every American:

Write your Congressman and tell him what *not* to do for you, what *not* to give you. Tell him all you want of him is a solvent America which lives *within* its income, *whatever* that may be. Make sure he knows you mean it. And tell him there isn't much time.

NIXON REMINDS THE NATION EVERYONE LOSES IN RULE OF JUNGLE

HON. CHESTER L. MIZE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. MIZE. Mr. Speaker, in a recent editorial, the Sacramento, Calif., Bee has commended the President for his speech at Kansas State University. Terming Mr. Nixon's statement "moderate and reasoned," the Bee said it dealt with the heart of the democratic system which provides for change through peaceful means.

As the Bee is often critical of the President, I believe my colleagues would particularly appreciate reading "Nixon Reminds the Nation Everyone Loses in Rule of Jungle."

The editorial follows:

[From the Sacramento (Calif.) Bee, Sept. 18, 1970]

NIXON REMINDS THE NATION EVERYONE LOSES IN RULE OF JUNGLE

President Richard Nixon's speech at Kansas State University, denouncing the swelling tides of terror and violence in the United States, was a needed reminder of the fundamental basis of a democratic society. That basis is a system which embraces peaceful change.

It was a moderate and reasoned statement, threaded through with historical perspective as to the purpose of a free, self-governing people. It is the very point of democracy that it replaces the rule of a tyrannical or dictatorial minority, a minority rule which from the time of the caves and jungle and the feudal barons imposed its will on the majority by force or violence.

The heart of the democratic system is to provide the means for change without the imposition of violence. Hence, as the President suggested, terror and violence lead only to the jungle tyranny of the minority.

Nixon told his audience:

"The time has come for us to recognize that violence and terror have no place in a free society, whoever the perpetrators and whatever their purported cause. In a system that provides the means for peaceful change, no cause justifies violence in the name of change."

The President emphasized he did not wish to stifle peaceful dissent, that he would not "for one moment call for a dull, passive conformity." But he reminded advocates of change:

"There are those who protest that if the verdict of democracy goes against them democracy itself is at fault—who say that if they don't get their way the answer is to burn a bus or bomb a building . . . No one can have his own way all the time; and no one is right all the time."

The President's message offered timely leadership in directions for a nation caught in the turmoil of change, change which has been swift and has stirred unprecedented problems.

It was a critically needed reminder to all segments of American society that terror and violence defeat every hope for reasoned change, that they lead to an anarchy which carries man backward through the centuries to the rule of fang and claw.

Should that happen, all is lost, including most tragically those just causes for change which can be effected by peaceful means.

STALLING ON JOB SAFETY

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. STEIGER of Wisconsin. Mr. Speaker, the Washington Post in an editorial on October 3 perceptively commented upon the reasons for the unfortunate delay in the House consideration of occupational health and safety legislation.

I am sure, Mr. Speaker, that many in the House have read with interest the articles by Morton Mintz of the Post on this subject, and I urge everyone to carefully review the Post editorial which I have included at the end of my remarks.

The editorial and the Mintz articles are particularly revealing with regard to the behind the scenes politics which have taken place to try to delay or prevent the House from voting on the substitute bill, H.R. 19200, which the gentleman from Florida (Mr. SIKES) and I have offered to the DANIELS' bill, H.R. 16785. To their credit both the chairman of the Education and Labor Committee, Mr. PERKINS, and the chairman of the Select Labor Subcommittee and main sponsor of H.R. 16785, Mr. DANIELS, requested an open rule, making our Substitute in order on the floor, and the Rules Committee granted this. Other forces at work, however, have done their best from the markup sessions to the present to stall House consideration of this matter.

It is regrettable, in fact tragic, that power politics are being played to stall an equitable, strong, effective proposal from being considered by this body. The President has requested action time after time and the death and accident rates in our Nation's workplaces demand action. I sincerely hope that this body will act as soon as possible.

[From the Washington Post, Oct. 3, 1970]

STALLING ON JOB SAFETY

You would not expect even the most callous doctors fritter away time arguing over the best way to save a dying patient while the blood drains from his veins. Yet politicians and labor lobbies are doing just that in the case of the crucial job safety bill. Each year, by low estimate, 14,500 Americans are killed by work-related accidents, 2.2 million are disabled. No politician or labor leader would ever say that he favors death and injuries among the nation's 80 million workers. Yet the stalling and pettiness of a few of them say exactly that. Far from the scenes of gore that are loudly decried, it appears that the parties in the dispute are so deadlocked that the legislation may not pass at all.

The position of the AFL–CIO, which does not even have an industrial safety department, is mulishly firm: unless the Secretary of Labor has final power to set and enforce safety standards, then no law should be passed. The House and Senate bills—proposed by Rep. Daniels and Sen. Harrison Williams—are largely agreeable to the AFL-CIO. But compromise legislation was devised to gain Republican support. It would empower an independent board to set and enforce standards, rather than the Labor Department. For the workers, the compromise meant a hope that the killing and maiming would be decreased. What does it mean if the standards are set and enforced by the Labor Department or by a President-appointed board?

The AFL-CIO, always touchy when its power seems remotely threatened, knows it could more easily pressure the Labor Department than the board. To its credit, the Nixon administration has been flexible and fair in accepting compromises. The high hopes of Democrats and Republicans in getting out a bill, however, are now blocked by the AFL-CIO, the one group that should be most concerned about worker safety.

It is another story for another time as to why the AFL-CIO can tie up the United States Congress in this manner. Perhaps it is asking too much, but nothing would help more than for the involved Democrats to politely tell the AFL-CIO to stick to running the unions, not the Congress.

REV. RAYMOND FRANCIS COPELAND, S.J.

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. EDWARDS of California. Mr. Speaker, I would like to take this opportunity to pay my respects to an outstanding teacher and community leader, The Reverend Raymond Francis Copeland, S.J., of the University of Santa Clara, who celebrated his 50th year in the Jesuit Order in September.

Father Copeland began his long association with the University of Santa Clara as a student in 1919. The following year, he entered the Society of Jesus at the Novitiate in Los Gatos, Calif., and in 1934 he was ordained to the priesthood.

An Army chaplain during World War II, he served with the 45th Thunderbird Division and Gen. William F. Dean's 44th Division through six campaigns in the European theater between 1942 and 1945. From 1945 to 1948, he was a reserve chaplain and from 1948–54, he served as chaplain for the California National Guard, 49th Infantry Division. In 1955, he was appointed State chaplain of the American Legion, and State chaplain of the California National Guard. He continued in the latter post until he returned to fulltime teaching at Santa Clara in 1959.

Father Copeland's teaching years at Santa Clara have been completed in four periods, from 1927 to 1929; 1936 to 1942; 1945 to 1954 and 1959 to the present. In 1964, he was named religious superior of the Jesuit community at the university, a post he continued in until 1969.

In addition to teaching, Father Copeland served 2 years as director of the university summer session, 1960 and 1961, and is the moderator of the university's award winning debate team.

It is comforting to know that our country has produced so fine an educator as Father Copeland. His unselfish interest in the education of young people reassures me that our future is secure.

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FAVORABLE REPORTS ON NIXON'S RECENT SPEECH AT KANSAS STATE UNIVERSITY

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. MYERS. Mr. Speaker, many of my colleagues on both sides of the aisle have commented favorably on President Nixon's recent speech at Kansas State University. The subject of campus unrest is one of national concern, and I commend the President for speaking out forcefully on this issue.

I think perhaps the Indianapolis Star summed it up as well as anyone when, in commenting on the President's remarks on the results not only of violence but also of the condoning of violence, it editorialized that—

> The response of decent Americans should be nation-wide and highly personal. They should use all of the moral force and legal means they can muster to maintain, where it exists, and restore, where it is lacking, the rule of reason in family life, in private circles, in neighborhood, church, school, community and university. The time to do it is now.

Along with the editorial from the Indianapolis Star, I include for the RECORD a representative selection of editorials of other reputable newspapers in our Nation.

[From the Indianapolis Star, Sept. 21, 1970]

FED UP WITH VIOLENCE

President Richard M. Nixon was voicing the thoughts and feelings of most Americans, we are confident, when he called for "an uncompromising stand against those who reject the rules of civilized conduct."

We wholeheartedly agree with him that "The time has come for us to recognize that violence and terror have no place in a free society, whoever the perpetrators and whatever their purported cause."

It was typical of our distempered times that on the very day Mr. Nixon delivered his speech at Manhattan, Kan., an armed man who reportedly had threatened to kill Vice-President Spiro T. Agnew was arrested at Grand Rapids, Mich., across the street from a hotel where the Vice-President was scheduled to address a dinner.

Violence has become an obsession on the American scene. Whatever the cause, there is a cult of violence—a motley collection of sects that practice and preach it. They are a decided minority in our population, yet they have polluted, and continue to pollute the moral quality of American life.

The cultists profess to believe that violence is the only way to bring about progress in our society. This claim is pure nonsense. The means to progress are hard thinking and hard work, and they always will be.

It is true that society—or at least a part of it—is to blame, in certain specific ways, for the widespread moral breakdown we are witnessing. The blame rests on permissive parents and on those educators and churchmen who have failed to teach them the simplest differences between right and wrong and failed to instill in them self-control and respect for the rights of others. And further blame lies on permissive courts which, out of misguided compassion or false reasoning, fail to punish those who go wrong and are convicted of wanton acts of destruction and criminality.

Thus countless personal, human failures over the years—most of them probably committed by individuals who lightly shrugged off responsibility for their defaults—produced the swarms of moral misfits who afflict our society like mobile cancer cells today. They are in a minority, but so, at the outset, are the malignant cells that can destroy a healthy body.

As the President said, "What corrodes a society even more than violence itself is the acceptance of violence, the condoning of terror, the excusing of inhuman acts in a misguided effort to accommodate the community's standards to those of the violent few.

"For when this happens, the community sacrifices more than its calm, and more even than its safety. It loses its integrity and corrupts its soul."

Mr. Nixon is absolutely right. The response of decent Americans should be nation-wide and highly personal. They should use all of the moral force and legal means they can muster to maintain, where it exists, and restore, where it is lacking, the rule of reason in family life, in private circles, in neighborhood, church, school, community and university.

The time to do it is now.

[From the Cincinnati Enquirer, Sept. 18, 1970]

A KEYNOTE FOR COMMON SENSE

Not many Americans could have watched or heard President Nixon's speech at Kansas State University this week without denying a wholesome measure of encouragement not only for the academic year now getting underway, but also for the future of the nation itself.

In many respects, the audience Mr. Nixon faced Wednesday afternoon was a microcosm of the university community generally. The forces of disruption were amply represented in the form of between 25 and 50 hecklers who hurled insults and obscenities at the President. But the succession of standing ovations accorded the President, as he spoke out for the rule of law, for the willingness to listen, for ordinary responsibility on the part of university administrators, faculty members and students, suggested that there is in the universities, as in society generally, a hitherto silent majority committed to decency.

Mr. Nixon detailed the extent to which the cancerous disease of violence and terror has gripped America in only five weeks' time—the police officers and firemen who have been targets for assassination, the public buildings that have been dynamited, the fruits of years of research that have been destroyed. These, he said, are manifestations of a malady that has no place in America.

No cause, he went on, justifies violence in the name of change.

Mr. Nixon reaffirmed his commitment to continue scaling down the U.S. commitment in Vietnam, to utilize the combined resources of business and government to restore the wholesomeness of the environment, to dramatize what is right with the nation and to seek to correct what is wrong.

These are things that any university student body is pleased to hear.

But Mr. Nixon's purpose in going to Kansas State, we suspect, was to challenge the responsible educators and students to stand up for their rights—the right to pursue truth, the right to study, the right to hear. In effect, the President sounded a keynote for the common sense that most Americans hope will govern the colleges and universities during the academic season ahead.

The nation has seen how few anarchists it takes to cow and close a great university and on what tenuous grounds that insidious mission can be accomplished.

The question is whether the great majority of educators who want to teach and of students who want to learn will allow themselves to be intimidated into acquiescence.

We should like to believe that the young people of Kansas State University answered for their fellow students in every corner of America.

[From the Birmingham News, Sept. 20, 1970]

A Timely Warning

Last week President Nixon addressed an audience of students—but his words were directed toward the administrators and faculties of the nation's universities and colleges.

And it would behoove the men who run higher education to listen to what he had to say:

"To put it bluntly, today higher education in America risks losing that essential support it has had since the beginning of the country—the support of the American people . .

"It is time for responsible university and college administrators, faculty and student leaders to stand up and be counted. Only they can save higher education in America. It cannot be saved by government. Government will move in and run it. To attempt to blame government for all the woes of the universities is to seek an excuse, not a reason, for their troubles."

Mr. Nixon was not engaging in idle rhetoric. Endowments of some of the most prestigious universities in the country are falling off sharply. A part of the blame for this lies with fluctuations in the economy, which affect investments universities, or anyone else, have made. But the real pinch comes from this in combination with the simple refusal of many alumni to continue to support an alma mater which they feel has gone astray.

Similarly, taxpayers grumble increasingly loudly about the trustees and administrators of public institutions of higher learning not being tougher with student disruption. Public opinion polls show a rare and overwhelming consensus that college and university administrations should take a firmer hand in dealing with student rowdies and destruction artists.

It is the voice of this majority which the President has heard and is recommending that the educators pay heed to. He recognizes the increasing level of public frustration with terrorism, radicalism and disruption, and realizes the increasing pressure for *somebody* to do something about the growing violence.

So Mr. Nixon's message to faculties and administrators was both a plea and a warning: Beware! Unite against violence and disorder. If you do not, education in America will suffer a grievous blow.

The President obviously knows the bitter consequences which would result from the kind of intrusion into campus freedom and autonomy which could ensue. Colleges and universities as we have known them and valued them might not survive such an intrusion.

But campus radicalism is prodding our society toward a resolution of this conflict.

We can only hope that faculty members and administrators and responsible student leaders listened attentively to what the President said.

The voice of the majority is getting louder and more insistent.

[From the Seattle Post Intelligencer, Sept. 20, 1970]

Violence Against Democracy

President Nixon made headlines this past week when he declared at Kansas State University that American education, because of the violence and terror in its midst, is facing the greatest crisis in its history.

Pretty much the same thing might have been said about our whole democratic system—and the President's eloquent and forceful words suggested as much.

What we liked best about the speech was its always-needed emphasis on basic principles which must prevail if freedom is to be had in any community, whether it be a college campus or a whole nation.

The first of these extremely simple but all-important rules is that violence and terror have no place whatever in a free society, whoever the perpetrators and whatever the cause.

Equally important, if not more so, is a community which under no circumstances will compromise with people who seek change or advantage by any means other than nonviolent protest or the ballot box.

It would seem that any intelligent student or other American who values his freedom would know and understand these principles. Yet everywhere we find groups, in the name of greater freedom, violently breaking the rules and—even worse—getting the passive acquiescence or even fawning approval of some fashionable and influential circles.

Those last words are extracted from the President's speech. It is clear whom he meant—from timorous college presidents to socialite contributors to the Black Panthers. What was left unsaid, but implied, was another all-important fact.

It is that democracy—if disorder, violence and terror threaten its destruction by chaos—not only has the right but the duty to protect itself by all possible means. The Constitution guarantees no liberty to commit subversion.

This is a fact which the hell-raisers would do well to consider, as the President obviously has considered it. Dissent and protest are the corner stones of democracy, when non-violence, and even violence in a democracy normally is treated with a minimum of restraint.

But there is a limit. And if that limit is passed on a national scale, a whole lot of fog-headed student activists, drawing room revolutionaries, urban anarchists and worse are going to learn to their surprise that Uncle Sam can be tougher than anybody when it comes to the basic matter of survival.

[From the Nashville Banner, Sept. 18, 1970]

Nixon Spelled It Out: Noise Cult Can Not Silence Promptings of Decency

That handful of screaming hecklers seeking to harass President Nixon in his speech yesterday before the Kansas State University student body, illustrated perfectly those portions of his text presenting the case specifically for law and order, and elementary decency, as the basis of civilized conduct.

It underscored more than that, however—for this tiny fragment of those present constituted an infinitesimal minority; a splinter segment, a drop in the ocean of those in the audience—young men and women alike, an estimated 16,000, with enough respect for themselves, the institution, and the President of the United States, to conduct themselves as gentlemen and ladies.

The latter, irrespective of age, reflect that individual pride which, as Mr. Nixon said, stands up to be counted against the arsonists and wrecking crews who seek in their violent assaults to destroy not only the academic system but the nation, itself.

America knows by now the validity of his charge that the types of terrorism of which he spoke are addressed to that overthrow from within—and that it now is worldwide from campus radicalism to street assaults and bombings, to hijackings and kidnapings internationally.

They are one in their contempt for human life and human decencies, and in the phoniness of their claims that they are plotted to alter constructively the social and political ills of earth.

President Nixon was addressing an audience of youth—with their elders and respected officials present—of a state which has manifested a high regard for the elementary concepts of law and order, and decency of conduct in both private and public affairs.

He chose that setting, an occasion by which Kansas State annually honors former Gov. Alf Landon, to enunciate anew his own doctrine—which is the doctrine of the vast American majority, expressed in these words of a central paragraph:

"The time has come for us to recognize that violence and terror have no place in a free society, whoever the perpetrators and whatever their purported cause. In a system that provides the means for peaceful change, no cause justifies violence in the name of change."

With that thought uppermost—and emphasizing again that the very spirit of freedom forbids assignment of the educational responsibility to government—he said what reason concludes: That the obligation to maintain a climate of peace and decent conduct and campus security, respectful of the rights of all, rests with the college administrators, faculties, and student organizations.

The thousands who listened respectfully attest to the decency of that majority; these same thousands, young and older, men and women, showing their resentment of that cadre who sought with noise and vulgarities to disgrace them. As ambitious young people, desirous of higher education to fit for worthy goals, they entertain no ideas that the world in all its details is perfect . . . or that the United States of America has no imperfections. They heard President Nixon acknowledge these things. They also heard his pledge to help maintain the things that are right, and to correct the things that are wrong.

Of the things that are wrong, he unquestionably included the waves of lawlessness to which a portion of yesterday's reference was made, and the student body just as unquestionably shared his view and his pledge.

Honoring the responsibility of stewardship—a trust—the President is not one to stick his head in the sand where any problem is concerned, and hope that by being ignored it will go away.

He faced the facts squarely in his diagnosis—presented again yesterday, as he put it, IN the heart of America, and TO the heart of America. Because what the nation has in its heart, it can achieve by its mind and hand.

He rang the bell.

[From the Wichita Eagle, Sept. 18, 1970]

Nixon Message Not New But Worth Repeating

There was little new in what President Nixon had to say to students and faculty members at Kansas State University, but his message can hardly be overemphasized.

That message was that America is afflicted with a "cancerous disease" that is spreading violence and terror as a political tactic.

"The time has come for us to recognize that violence and terror have no place in a free society, whoever the perpetrators and whatever their purported cause. In a system that provides the means for peaceful change, no cause justifies violence in the name of change," the President said.

There can hardly be any quarrel with that. Nixon is right when he says higher education in America risks losing the support of the American people because of campus disorder, and it is up to students and faculty members to see that higher education does not collapse.

However, student dissent can't be marked off as simple agitation over the war in Vietnam, pollution of the environment and social injustice. Unrest is deep.

As Nixon pointed out, if the war were ended today, the environment cleaned up tomorrow and all other problems in the realm of government responsibility were solved, "the moral and spiritual crisis in the universities would still exist."

XUM

Not only is the President right, he may have underestimated the extent of student dissatisfaction.

But that is no reason to drag the administration's feet in taking care of such problems as can be solved by government. Ending the war and eliminating pollution might not pacify college students, but it would go a long way toward eliminating the stickiest problems, the ones which contribute the most toward unrest. And students would be less likely to fall prey to the professional agitators who foment so much of the violence students are blamed for.

The President can't solve the problem of student and faculty unrest by making a speech at Manhattan, Kan., but surely some contribution was made to bridging the communication gap.

The President made statements that should be made, and by and large, students and faculty extended the courtesy and respect due the President of the United States, or any speaker for that matter.

He didn't ask students for blind agreement, but suggested that the years ahead could be bright for America if there is an atmosphere of reason, of tolerance, of common courtesy—with the basic regard for the rights and feelings of others that is the mark of a civilized society.

In their hearts, most young people agree with this viewpoint. Some of them differ with others as to what America's future should be.

[From the Burlington Free Press,
Sept. 17, 1970]

AMERICA'S STUDENTS REJECT MILITANTS

The fact that campus militants are totally unrepresentative of today's younger generation was never more clearly demonstrated than at Kansas State University yesterday.

President Nixon received ear-splitting ovations from the massive crowd of nearly 16,000 persons, mostly students. There were a few hecklers, maybe a dozen or so (less than one-tenth of one per cent of the students) but they were drowned out and babbled only to themselves.

The students cheered thunderously when the President declared: "In a system that provides the means for peaceful change, no cause justifies violence in the name of change." And when Nixon appealed to the responsible administrators, faculty and student leaders of America's colleges to "stand up and be counted" and to join in taking "an uncompromising stand against those who reject the rules of civilized conduct and of respect for others," the Kansas State students rose to the occasion.

Clearly, the message is getting through. Political candidates who have appealed to the bitterness of the militants, such as Philip Hoff in Vermont and Teddy Kennedy in Massachusetts, are in deep trouble. This was convincingly shown in Vermont's primary elections last week and in the Massachusetts primary elections this week, where Senator Kennedy (running unopposed) lagged more than 150,000 votes behind the totals cast in the polling for governor.

The reality of this situation is buttressed by all manner of recent news reports, on and off campus. For example, all of that well-publicized commotion over ROTC has had little effect on the vitality and acceptance of the ROTC program. This program turned out 23,000 military officers in last June's graduating classes from 347 campuses.

So much for the militants. They have managed to burn some buildings, and scorched some political careers in the process, but little else of consequence. And probably the most poignant confirmation of their failure was the many standing ovations accorded President Nixon yesterday by the student body of Kansas State University—which truly represented the spirit and mood of contemporary America.

XUM

[From the Chicago Tribune, Sept. 17, 1970]

OUR CAMPUSES AND ENDS AND MEANS

At Kansas State University yesterday, President Nixon ably developed the major subject of ends and means. The topic is a classic, perennial one on which it is impossible to say anything altogether novel. But it is a timely one—not only because the timeless is always timely, but also because university campuses are currently undermined by a significant minority willing to use evil means.

Nixon's major thesis was: "Violence and terror have no place in a free society, whoever the perpetrators are and whatever their purported cause. In a system that provides the means for peaceful change, no cause justifies violence in the name of change." Applying his thesis to the context of higher education, Nixon said, "It is time for responsible university and college administrators, faculty, and student leaders to stand up and be counted. Only they can save higher education in America."

This needs saying, nearly incredible tho the need is. The incidence of murderous violence in campus communities has been increasing in recent months, and everyone looks forward with considerable anxiety to the school year now opening. The record all too clearly shows that the contemporary campus cutup is neither funny nor harmless, but deadly serious and ready to go to any lengths. The record shows, too, that university authorities have all too often been irresolute and compromising when they should have acted promptly and decisively. The President could have chosen no subject more appropriate to a major address on a university campus at this particular time than the one he developed at Kansas State.

The President's argument was all the more cogent for being eminently reasonable and fair. The high line he took yesterday sought no partisan advantage. He spoke as everyone's President, in terms that any good citizen, however critical he might be of some of the President's policies, can cheer and commend.

[From the Newark Evening News,
Sept. 17, 1970]

VIOLENCE AND YOUTH

What President Nixon said yesterday at Kansas State University—that violence and terror have no place in a free society—needs repeated saying, and nowhere should it be taken more to heart than on America's campuses.

Among members of the older generations, outrage is already wide-spread against the mindless bombings, shootings and seizures which have shaken our universities, our courts, our aerial commerce and our cities. In the community of nations, the savagery of Arab guerrillas and their threats to murder innocent hostages have drawn almost universal condemnation.

Most conspicuously, however, the condoning of terror tactics, the yielding to pressure groups, the toleration and even encouragement of violent obstructionism has been practiced in our universities, great and small, not only by immature students carrying activism and emotion beyond reason but also by some of their preceptors, thoughtlessly venting frustrations or seeking irresponsibly to follow the fashions.

This acquiescence to elemental indecencies by some in the academic world has been of sore concern for a variety of reasons. First, the universities and colleges are training grounds where the mental ideas and approaches of tomorrow's leaders are being shaped. Second, the role of higher educational institutions as centers for free exploration of knowledge and ideas is being undermined. And, last, campus disorders and chaos threaten to curtail the traditional support from the public essential to continued existence of the universities.

As Mr. Nixon pointed out, passive conformity is not being called for. Nor is any end to protests against the faults of society. Nor unquestioning acceptance of things as they are. Changes can, and should, be made, but only with respect for the rights and feelings of others. Arbitrary force invites arbitrary reaction, and neither our universities nor our liberties can survive excessive use of either.

Even adults must concede that the world community has not yet learned to live in peace, to achieve needed reforms without occasional violence. But if it's to be done at all, responsibility for showing the way rests nowhere more heavily than on educational leaders in our academic communities, and on our students of today and public officials of tomorrow. It is time, as Mr. Nixon noted, for responsible members of those groups to stand up and be counted.

THE ICC AND ITS CRITICS

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. HOSMER. Mr. Speaker, at a time when some are suggesting that the Interstate Commerce Commission has failed in its objective of regulating the transportation industry, I would like to point out an editorial in the September 28 edition of Transport Topics, published by the American Trucking Association.

The editorial makes some valid and often overlooked points about America's free enterprise transport system. The article follows:

THE ICC AND ITS CRITICS

Despite the growing complexity of modern day living there persists a widespread tendency to oversimplify things. Last week, for example, there was legislation introduced in the Senate to abolish the Interstate Commerce Commission. Like an earlier bill for the same purpose, the new measure was offered as a solution for transportation problems of a grave but generalized nature.

The main complaint seems to be a contention that our transportation system is not performing as needed and this, indeed, comes as a surprise. Not more than two or three years ago the consensus among public officials was that the United States had the best transportation system in the world and virtually the only one operating under free enterprise.

The latter factor was widely hailed as the reason why our system was outstanding. State owned railroads and, in many countries, government operation of other forms had often been demonstrated to be vastly inferior.

At the time of the adoption of the Transportation Act of 1958 the word went forth from Congress that we had too many railroads and something should be done to consolidate them into a few great systems. A great amount of progress toward this goal was achieved. Some, including the trucking industry, thought the concentration of railroad management into a few companies was allowed to go too far.

But the path of consolidation really got rough when the Penn-Central, into which had been combined the two largest railroads, became the largest flop in corporate history.

It will take a long time to reassemble the pieces sufficiently to determine the whole cause. But one thing is already clear; this was not the product of regulation by the

ICC. Both railroads had prospered most of the time under more than three quarters of a century of regulation and it's a fair bet that they would have wound up under government ownership if there had been no such regulation.

A more likely answer is the mistaken notion that bigness is good per se. It should also be remembered that even the colossus that fell of its own weight—the Penn Central—operated profitably in the freight business, and that was under ICC regulation.

STRONG U.S. NAVY BECOMES IMPERATIVE

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. WHITEHURST. Mr. Speaker, in my recent newsletter report to my constituents on the trip to the Mediterranean by the Antisubmarine Warfare Subcommittee of the House Armed Services Committee I expressed my concern at the deficencies of the U.S. Navy 6th Fleet.

The fleet is shackled by a skimpy budget in the midst of a very serious political-military situation in the Middle East. Operations have been cut back for economy reasons, more antisubmarine surveillance is needed, and there are not enough planes aboard ship or at shore bases.

I would like to share with my colleagues an editorial from the September 27, 1970, edition of a great newspaper, the San Diego Union. It expresses very well the dangers of defense cuts in the face of growing Russian naval activity:

STRONG U.S. NAVY BECOMES IMPERATIVE—"NO HIDING PLACE FROM HAMMER AND SICKLE"

The Middle Eastern crisis instructs us anew that there is no substitute for naval power. Because the British permitted their national military strength to be eroded in the name of economy, their only proposal toward settling the Middle Eastern trouble now had to be confined to talk. Sadly, unless the United States of America ceases to dismantle its fleet, it will join Britain as a nation with little international clout. Such task forces as the 6th Fleet, which even in their weakened state now maintain some measure of equilibrium in crisis areas, will become ineffective ghost forces unless we restore the Navy's waning strength.

The Navy's announcement a few days ago that 58 additional ships will be deactivated reduces the fleet to 700 ships—down 25 per cent from 932 units two years ago. The Navy's air arm—cut by 732 planes—is being diminished correspondingly. The fiscal 1972 budget will provide for only 550 ships. The U.S. Navy has been slashed by approximately 40 per cent during the last three years.

The ships that are being decommissioned are indeed aged and should be scrapped, but only when they are replaced by units which will maintain an acceptable level of maritime power.

Meanwhile the Soviet Union is determined to call the tune at sea in its confrontation with the United States. Each year, its all-ocean navy is strengthened by new rocket-firing cruisers and destroyers. Each year the Soviet nuclear propelled, nuclear missile submarine fleet grows, and in another two or three years may almost equal our Polaris fleet. Obviously the Soviets believe they can afford a modern navy.

Realizing the growing discrepancy between aging U.S. naval units and the brand-new Soviet models, the Pentagon has reluctantly accepted a drastic reduction in fleet size to husband its limited funds for new ships. During 1969, Navy shipbuilding received only $1.27 billion—less than half of the 1963 figure. The Administration is requesting $2.57 billion for new ships in the current year, but the Navy needs a minimum of $3 billion each year for the next decade just to keep abreast of Soviet sea power.

"Jane's Fighting Ships," the accepted authority on the world's navies, warns that in the oceans today, "there is no hiding place from the hammer and sickle."

However, we do not have to consult the acknowledged experts on defense to see a moment of truth. We have but to look at Great Britain, which once ruled the waves because of its great fleet, now reduced to waving its finger and jaw in the Mediterranean because it has no navy.

THE SCRANTON REPORT ON CAMPUS UNREST

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. RIEGLE. Mr. Speaker, last Tuesday, September 29, 1970, the Washington Evening Star ran an excellent editorial discussing the Scranton Commission Report on Campus Unrest. I would like to insert this editorial into the CONGRESSIONAL RECORD today so that all Americans can have access to this well-balanced commentary:

THE CAMPUS REPORT

There is some danger that, because it has the makings of controversy, the advice given to the President by his Commission on Campus Unrest will overshadow the rest of the long report. This would be a shame, because the commission, created because of last spring's violent disorders, has useful words for all of us.

For the public at large, the principal message is that unrest in the colleges is a complex phenomenon in which issues of the day interact with the emerging "youth culture." The report, by pointing out the wide variety of student attitudes and by distinguishing between the good and bad in the protest movement, should make it harder for politicians to score simple points at the expense of national unity and understanding.

The commission speaks to everyone, as when it notes that university administrators "cannot do their jobs without the support of alumni, citizens and government leaders. All three of these groups have been guilty of substituting thoughtless criticism for helpful support precisely at a time when the welfare of the nation's institutions of higher education is in grave peril."

Not that commission Chairman Scranton and his associates have let disruptive or violent students, or vacillating administrators—or anyone, for that matter—off the hook. The report takes a strong stand against disruption and violence, and offers plenty of specific advice about how to handle it and how not to. On the last point, police overreaction is blamed for sometimes worsening the problem, and the commission makes recommendations for improving the performance of police and National Guardsmen.

Getting back to the President: The commission regards as its most important recommendation its call to the President to use "the compassionate, reconciling moral leadership that can bring the country together again." This may be the least successful of the commission's attempts to advise us away from destructive campus turmoil, because the President sees himself as having very limited responsibility in the field. Since Mr. Nixon probably will continue to view the majority of campus disturbances as primarily the problem of college administrators, he can serve better by working on the issues that are the ostensible causes of many demonstrations—ending the war and achieving a better measure of racial and social justice.

The President should perform one small service by accepting the commission's idea that "no one plays irresponsible politics with the issue of 'campus unrest'." Though Vice President Agnew is not mentioned in the report, he is the main offender in this respect and Mr. Nixon is the only one in a position to do anything about it.

THE WAYWARD WELFARE STATE

HON. CHARLES S. GUBSER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. GUBSER. Mr. Speaker, recently a distinguished scholar and resident of my congressional district, Dr. Roger A. Freeman, of the Hoover Institution on War, Revolution, and Peace at Stanford University, addressed the Governmental Research Association in Chicago on the subject "The Wayward Welfare State."

I consider this address to be most timely and strongly urge that each of my colleagues read it carefully and give it considerable thought:

THE WAYWARD WELFARE STATE

(By Roger A. Freeman)

The birth and growth of the modern service state in the United States during the second third of the 20th Century may in historical perspective well have been the most significant governmental development of its time. To its architects the coming of age of the welfare state—as it is more commonly called—is a matter of supreme pride and immense satisfaction. To its opponents it is the cause and mark of the decline and the likely fall of a great nation which rejected its promise, forsook its destiny, and squandered its birthright. Future historians will decide whether the America of today and tomorrow is to be compared more closely to the Rome of the Second Century—the Golden Age of the Antonines—or to the Rome of the Fifth Century—the time of the Goths, the Vandals and the Huns.

The most visible manifestation of the new age, certainly the most amenable to measurement, is a vast expansion and intensification of public services in the broad field of social welfare, accompanied by a sharp increase in the size of public budgets and public payrolls. Dependence on government by a large number, and eventually a majority, of its citizens, whether as dispensers of public benefits or as recipients, is a distinctive mark of the welfare state.

Everybody knows that federal spending has been soaring over the past ten or twenty years, far outpacing the growth rate of the nation's economy. Also, that the federal bureaucracy has dramatically expanded, at a much faster rate than the U.S. population or the civilian labor force. Everybody that is, who has not looked at the record.

The fact is—and this may come as a surprise to many usually well informed persons—the federal expenditures increased in

XUM

the past ten years at about the same rate as the gross national product (GNP) or the personal income: they approximately doubled. To be sure, half of that increase is merely illusory and only reflects a shrinkage in the value of the dollar. But even so, it still leaves a 50% real increase during the 1960's in the national income and product as well as in federal budget outlays, a record of remarkably balanced growth and stability.

We can even go back nearly twenty years, to about 1952, and find a similar picture: Since 1952 the federal budget has almost exactly tripled, as did GNP and personal income. In other words, the federal budget and the economy have been growing at parallel rates for almost two decades, during a period when many people thought that we were living through times of runaway, spendthrift budgets.

HOW MUCH IS THE PUBLIC PAYROLL UP?

A study of the federal bureaucracy which is widely believed to be proliferating at an exorbitant speed yields a similar result: Federal civilian employment increased 17% over the past ten years, which parallels the growth of the civilian labor force and of total civilian employment of 18% and is only slightly ahead of the population growth of nearly 14%. If we go back to 1952—as we did when we viewed the budget—we find that federal civilian employment grew at only about one-third the rate of U.S. population, labor force and total employment.

We might then conclude that the United States experienced during the past two decades a very modest expansion of governmental activity, well in keeping with the growth of the private economy, and a relative shrinkage of the central bureaucracy. Those are trends which most of the American public would tend to applaud wholeheartedly.

But before we get carried away too far with such thoughts we might be well advised to study not only the magnitude of the change in governmental activity but also its nature and composition. Such an analysis shows that the seeming stability in the size of government was achieved only by financing a spectacular expansion of domestic services through a dramatic cutback in outlays for the military. Let us first look at the payroll, and, to stay with the example used before, compare the current year with 1952.

Federal civilian employment increased only 10% between 1952 and 1970, while the U.S. population and labor force simultaneously went up 31% and 32% respectively. But this covers a staff reduction of 14% in the Department of Defense, and of 3% in the Veterans' Administration, an increase of 39% in the Post Office—slightly ahead of the population growth—and an expansion of 43% in the remaining agencies which control all other federal programs.[1]

Does this mean that employment in domestic public services grew only slightly faster than the population? No—because the federal payroll is only the visible part of the iceberg, the one *above* the surface.

Most domestic public services are partially or wholly financed by the federal treasury but carried out through state and local governments. It is the national government which offers, finances, encourages and sometimes mandates the programs while most of the employees which implement them are statistically classified "state and local." Well over 500 categorical grant and loan authorizations are now in operation and their cost has jumped from $2.5 billion in 1952 to $24 billion in 1970 and an estimated $27.6 billion in FY 1971. So, if we want to get a proper picture of public employment we need to add state and local to federal payrolls.[2]

State and local government employment increased 136% between 1952 and 1970, or about four times faster than population and labor force. All governmental employment in the United States (federal, state and local)—including defense—increased 90% which still is three times the growth rate of population and labor force.

	1952 (June)	1970 (June)	Increase or decrease in percent
Department of Defense	1,216,000	1,045,000	−14
Veterans' Administration	173,000	167,000	−3
Post Office	522,000	724,000	+39
All other agencies	509,000	727,000	+43
Total	2,420,000	2,663,000	+10
U.S. population	157,553,000	205,395,000	+31
Civilian labor force	62,138,000	82,125,000	+32

Source: U.S. Civil Service Commission; Bureau of the Census, Bureau of Labor Statistics.

	1952 (June)	1970 (June)	Increase in percent
State and local governments	4,188,000	9,890,000	+136
Federal civilian except DOD, VA, PO	509,000	727,000	+43
DOD, VA, and PO	1,911,000	1,936,000	+1
Total	6,608,000	12,553,000	+90

Source: U.S. Civil Service Commission; Bureau of Labor Statistics.

The most spectacular expansion in the federal payroll occurred in the Department of HEW whose staff ballooned from 35,000 in 1953 to 107,000 in 1970. On the state and local side, public education accounted for 3.2 million out of a total 5.2 million growth between 1952 and 1969, with the other two million spread over a wide range of activities. Rates of increase by function were:

Public education	+170%
Public welfare	+159%
Health & hospitals	+125%
Police	+105%
All other	+ 57%

HOW MUCH IS THE FEDERAL BUDGET UP?

A review of the federal budget shows similar developments. In the aggregate, revenues and expenditures have for many years been growing about as fast as the national economy. But when we analyze this seemingly moderate rate of expansion we find that the share of defense was cut nearly in half while the share of domestic services more than doubled (Table A, attached).

Defense costs went up 57% between 1952 and 1971 which is just barely ahead of the simultaneous rise in prices.[3] In relative terms, defense fell from 66% of the total budget to 36%, from 13.6% of GNP to an estimated 7.2%. Spending for domestic public services meanwhile multiplied 7½ times (+662%) and their share of the budget jumped from 17% to 47%; the remaining 17% of the budget went for interest, veterans, international affairs and space. Outlays for education, health and welfare multiplied 12 times—an increase of 1142%—for all other domestic purposes combined, three times (+219%).

FEDERAL EXPENDITURES IN 1952 AND 1971

[Dollar amounts in millions]

	Calendar year 1952	Fiscal year 1971	Increase in percent
National defense	$46,745	$73,583	+57
International affairs, space, veterans, interest on the debt	11,976	33,263	+178
Education, health, and welfare	5,915	73,470	+1,142
Other domestic services	6,409	20,455	+219
Total	71,045	200,771	+183

INCREASE IN FEDERAL EXPENDITURES, 1952 TO 1971

[Dollar amounts in millions]

	Amount	Percent
For national defense	$26.8	21
For international affairs, veterans, space, interest on the debt	21.3	16
For education, social welfare, and health	67.6	52
For all other domestic services	14.0	11
Total	129.7	100

Sources: Department of Commerce, "The National Income and Product Accounts of the United States, 1929–1965"; Bureau of the Budget, "The Budget of the U.S. Government, Fiscal Year 1971."

Nearly two-thirds of the $130 billion increase in federal revenues and expenditures between 1952 and 1971 was allocated to domestic programs—over one-half of the total budget growth just to education, health, and welfare—one-sixth to interest, veterans, international affairs and space, the remaining one-fifth to national defense.

From the warfare state to the welfare state?

It is apparent that the shift in national priorities which some political and academic groups have been demanding for years, "from the warfare state to the welfare state" has taken place. It would probably have been impossible to expand social welfare programs at the rapid rate we experienced since the mid-fifties without cutting into national defense. Congress could not have provided sufficient revenues by boosting taxes.

The welfare state has come of age in the United States, as it had earlier in some European countries. Interestingly enough it was not created by socialistic or left-leaning governments. It was Bismarck who advanced welfare plans in order to forge an alliance between the *junkers* and the industrial workers against the rising forces of the liberals, the business and professional classes. This axis between statists on the right and statists on the left was renewed on several occasions, most clearly in the Germany of the 1920's and 1930's when Nazis and Communists joined in attacks to bring down the liberal forces in the middle. But it was only in America, where the liberal tradition was stronger than in Europe, that the statists in what was probably a shrewd move assumed the label which their opponents had held for so long: they became the new "liberals."

Actually the welfare state is the very antithesis of the liberal idea. If we define liberty or freedom as the ability of the individual to make meaningful choices between known alternatives, then it follows that the extent of his freedom depends on the range of decisions he can make for himself and his family or which are being made for him, and on the share of his resources which he can allocate to his various wants according to his own wishes or which the government allocates for him.

In classic political theory, from Thomas Hobbes through Jim Locke to John Stuart Mills, the prime purpose and duty of the state is the protection of the safety of its citizens, their lives and property, from would-be attackers, foreign and domestic. The second task of the state is to establish and enforce rules for the ordinary and peaceful conduct of civil affairs and to settle disputes among its citizens. Such was the American tradition that guided the authors of federal and state constitutions. It still expresses the beliefs of a broad majority in this country.

But in the conduct of public policy we have turned 180 degrees. Our international position and our defensive strength, measured against the power of potential enemies, have never been as weak. The safety of person and property in our homes and streets—and on highways—has never been as much threatened or more frequently violated. At the same time, government has never before

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Footnotes at end of article.

claimed, held or exercised so many responsibilities for our personal affairs nor made so many decisions affecting our individual lives. It has assumed duties which, judging by the results, it is unable to discharge satisfactorily, while neglecting or forsaking its foremost and primary obligations

THE WELFARE STATE COMES OF AGE

The American welfare state has its roots in the great depression. Prior to 1930, federal expenditures for domestic purposes never came close to $1 billion. Even in seven years of New Deal they remained below $7 billion a year and did not reach $12 billion until 1952, twenty years after the birth of the New Deal.[4]

In other words, it took 163 years—from 1789 to 1952—for federal expenditures for domestic purposes to reach $12 billion. Then they "took off" and will in the FY 1972 in all likelihood hit $100 billion.

While its political, philosophical and legal bases were laid in the 1930's, the American welfare state launched barely twenty years ago, gathered speed in the late 1950's and zoomed at a breathtaking rate in the 1960's. Its prophet is John Kenneth Galbraith who in *The Affluent Society* propounded the theory that government and its services are being scandalously starved while the private consumer luxuriates. His solution: to tax the latter more heavily so as to support the former more generously.

What this approach conveniently overlooks is that the consumer who supposedly luxuriates only consumes the goods, or their equivalent, which he produced. The welfare state idea recognizes no claim of the producer. It wants to redistribute income according to its own sense of social justice. It aims to overrule, through the political process or by threats, the rewards and punishments of the free market. It is blind to the lesson of history that there can be no free society without a free market nor can there be justice.

The case for the welfare state was well presented by George Katona:[5]

This is the most serious argument against the mass consumption society: The consumer exercises his influence in a socially undesirable manner. It is Galbraith's accomplishment to have presented the argument to the American public in a most convincing way. We do not have enough schools and spend far too little on education; we do not have enough hospitals and spend far too little on the health of our people; there are too many slums which breed delinquency and crime, scarcity prevails in the entire domain of public expenditures, such as highways, parks, and recreation facilities.

While Galbraith blamed the consumer, Katona charged that "the largest part of government expenditures has been used for national defense, not for health, education, slum clearance and the like."[6]

If we are to test this claim we cannot consider only federal expenditures but must study all governmental expenditures in the United States, federal-state-local, combined. A review shows (Table B, attached) that outlays for national defense equalled 50% of all governmental expenditures in 1952 and declined to 28% in 1969, the latest year for which complete data are available. Defense spending may be estimated close to 24% of all public outlays in the current fiscal year. The share of domestic services climbed from 37% in 1952 to 62% in 1969 and approximates 66% in the current fiscal year. The remaining 10% of governmental expenditures goes for interest, international affairs, etc. Social welfare (education, income maintenance, health, etc.) receives currently about 45% of all public expenditures, or almost twice as much as the military.

Between 1952 and 1969 governmental expenditures increased by $196 billion. Three-fourths of this huge amount were allocated to domestic services, less than one-fifth to national defense:

INCREASE IN GOVERNMENTAL EXPENDITURES, 1952-69

[Dollar amounts in billions]

	Amount	Percent
National defense	$35	18
Domestic services:		
Education	41	21
Income maintenance	46	23
Health and hospitals	10	5
Other	48	25
Subtotal	145	74
Interest, international relations, etc	16	8
Total	196	100

But the absolute amounts may not be as significant as the trends. Table "B" shows that between 1952 and 1969 (prior to the $8 billion cut in military appropriations between 1969 and 1971) outlays for defense increased 74%, for domestic services 420%: for education 489%, for income maintenance 694%, for health and hospitals 286%, for all other domestic services 299%. Over the same span, personal consumption expenditures grew 167%: for food 93%, for clothing 125%, for housing and household operations 200%.

Galbraith related inedaquate spending for public services to exorbitant private consumption, Katona to excessive military outlays. The record shows these increases over the past 17 years (from 1952 to 1969):

National defense	+ 74%
Personal consumption	+167%
Domestic public services	+420%

THE HARVEST OF THE WELFARE STATE

Rates of increases do of course not necessarily prove that a function gets too much or does not get enough. That can be evaluated only by measuring what the expenditures actually accomplished, how much progress was achieved, if any, in reaching or coming closer to program goals. The amounts now being spent—$180 billion for domestic services in 1969, of which $118 billion went for social welfare, and the period over which the programs have been growing rapidly—between ten and twenty years—is long enough to expect some tangible and measurable results. With outlays for education and for income maintenance each now exceeding $50 billion a year, we certainly may expect to have come closer to the goal "to insure domestic tranquillity, provide for the common defense, promote the general welfare. . . ." We should at least have sharply reduced crime and other social ills and lifted education to new heights.

But the evidence is to the contrary. Crime, delinquency and most kinds of social ills, new and old, have been multiplying at a frightening rate, to a point where American citizens are less safe than they have ever been—or as people are in most other countries. Nor have there ever before been such anarchy—like conditions in the United States, mob violence, arson, looting, terror bombing, wanton destruction, assault and killings of law officers, as we have seen in recent years.

The status and products of our educational system do not reflect the fact that more than five times as much public money is now being allocated to it each year than was less than two decades ago. Instead of helping to achieve "domestic tranquility," educational institutions have become the breeding places, and often the cause, of civic strife and contempt of law. Schools and colleges rank lower now in the respect and affection of the American people than they have at any time.

The frequent conflagrations in our cities and our campuses, at the slightest provocation or no provocation, prove that deep-seated unhappiness, frustration, and mutual hatred characterize wide sections of our people. Is it a coincidence that the most violent and ugly page in American history is being written just as the welfare state is being put into practice? Is it a coincidence that the worst series of street riots began shortly after the passage of the Economic Opportunity Act of 1964? Is it a coincidence that a succession of campus rebellions began shortly after Congress passed several laws providing institutional and student aid and colleges began accepting and actively recruiting unqualified students? Was it an accident that the worst urban fights over the schools followed the expansion of compensatory education? Or, can we trace the widespread bitterness and upheaval to false hopes raised beyond any possibility of fulfillment by the promises of ambitious politicians and bound to be disappointed? Are now seeing the results of acting as if all social ills could be cured by generous infusions of public money, of pretending that the effects of a law will be what its preamble says it should be?

Attempts to correlate tangible achievements with the resources applied to a program have cast great doubt on the idea that improvements are necessarily proportionate to the amounts spent or even tend to be favorably affected.[7] In case after case we must question whether there is a positive cost-quality relationship or whether expenditures have been counter-productive. Huge federal spending often brought forth no social miracles but resentment among those who felt cheated when no miracles materialized as the money dissipated.

Addressing the National Governors Conference just a year ago President Nixon said:

We confronted the fact that in the past five years the Federal Government alone has spent more than a quarter of a trillion dollars on social programs—over $250 billion. Yet far from solving our problems, these expenditures had reaped a harvest of dissatisfaction, frustration, and bitter division.

Never in human history has so much been spent by so many for such a negative result. The cost of the lesson has been high, but we have learned that it is not only what we spend that matters; but how we spend it.

Why are the facts not brought out more clearly for the public? Because most of the specialists in the various areas of social welfare, and certainly the best known among them, are committed to expanded federal spending for the goals of their professional and special interest organizations. Those are the experts that are called in and relied on by government agencies, by some of the major foundations, and by the nation's leading press. Young graduates in the social sciences soon learn on which side the bread is buttered. They find out that good jobs, grants and publicity go to the enthusiasts for enlarged federal spending, while the critics have a hard row to hoe. Small wonder that so many of our young people devise their strategies accordingly.

The American public seems to be far more conscious of the excessive growth of governmental activities in the past one to two decades and of the resulting danger to freedom than are its representatives or most academicians. The Gallup Poll asked in October 1959 and again in August 1968 "which of the following do you think will be the biggest threat to the country in the future—big business, big labor or big government?" Among those who responded the percentage of those who feared labor most fell from 59% to 31%, of those who feared business from 21% to 14%. But the number of those viewing government as the greatest threat jumped from 20% to 55%.

Footnotes at end of article.

When more than half the American people are afraid of what their government will do *to* them while it is pretending to do something *for* them, then it's time to take a close look at what government *has been* doing and is *planning* to do.

Twenty years ago a freshman Massachusetts Congressman wrote: The scarlet threat running through the thoughts and actions of people all over the world is the delegation of great problems to the all-absorbing Leviathan—the state. . . . Every time that we try to lift a problem to the government we are sacrificing the liberties of the people. That young Congressman's name was John Fitzgerald Kennedy.[8]

The two biggest areas of governmental activity which have been growing most rapidly are welfare and education which, in the aggregate, account for two-fifths of all public spending and, at present trends, may soon total one-half or more. The third major field is of course national defense, which has been proportionally shrinking—in response to demands for increased welfare and education spending which otherwise could not have been met.

In a carefully documented study of postwar budget formation, Samuel P. Huntington of the Institute of War and Peace Studies at Columbia University, found in 1962:

In both the Truman Administration before the Korean War and in the Eisenhower Administration after the war, the tendency was:

(1) to estimate the revenues of the government or total expenditures possible within the existing debt limit;

2) to deduct from this figure the estimated cost of domestic programs and foreign aid; and

3) to allocate the remainder to the military.[9]

This suggests that defense was allocated whatever money was left after everybody else got his share.

The more recent practice seems to be to put pressure on the Pentagon for further cuts whenever demands from the domestic sector cannot easily be met by boosting taxes or enlarging the budget deficit.

Let me now illustrate for you what the American welfare state has produced in a few areas of governmental activity:

PUBLIC WELFARE IN THE WELFARE STATE

Several European countries have a more comprehensive social security system than we have. A few even have universal coverage for all their people, something which we have not yet fully achieved. But no country in the world has anything like our program of Aid to Families with Dependent Children—nor would want to. That AFDC is a nightmare and a plague on the body politic is now more widely recognized than it was just a few years ago. Thus there are efforts underway to abolish it and put something else in its place. But the plans now most actively considered such as Guaranteed Annual Income, Negative Income Tax or Family Allowances, no matter how attractively packaged, labeled and merchandised, would get us from the frying pan into the fire, and saddle us with something far worse than we now have.

ADC—as it was then known—came into being without public attention. It was not even mentioned in the extensive congressional debates that preceded the passage of the Social Security Act of 1935, because it was regarded as merely placing a federal financial underpinning under the widows' pensions which all but two states were then paying. With the maturing of Old Age and Survivors Insurance, it was thought, ADC would gradually become unnecessary and peter out, as would other public assistance programs. OASDI has matured over the past 35 years, now covers more than 90% of all workers and pays monthly benefits to 26 million persons and their families. ADC was meanwhile perverted into something it was not intended to be: an escape from the necessity to work for a living, for low-skilled people who refuse to accept jobs at a skill level they *can* handle, at a wage commensurate with the value of their output.

The child population (under 18) has gone up 40% since 1952 but the number of AFDC recipients increased 276% and is currently growing at an annual rate of 20%.

The orphans moved to Social Security (OASDI) long ago; only 6% of the AFDC children now are orphans. In three-fourths of the cases the father is "absent": half the women claim, rightly or wrongly, that they were deserted (up from one-fourth in 1961), one-fourth are unmarried. AFDC has replaced gainful employment and become the accepted way of life for well over two million women and men—for the latter usually indirectly and surreptitiously. It is now the preferred and most respected mode of living, blessed with the government's seal of approval, in poverty or slum sections of major American cities. AFDC has become an essential nutrient in the breeding grounds of crime, delinquency, illegitimacy, prostitution and all other forms of social ills, for a new generation to repeat, and possibly excel in, their parents' careers.

In his State of the Union Message in 1935 Franklin Delano Roosevelt warned: The lessons of history . . . show conclusively . . . that continued dependence upon relief induces a spiritual and moral disintegration fundamentally destructive to the national fibre. To dole out relief is to administer a narcotic, a subtle destroyer of the human spirit. . . . The Federal Government must and shall quit this business of relief.

Truer words were never spoken: AFDC has turned into a cancer on society, planted and nursed by the federal government which has been getting deeper and deeper into "this business of relief" in the 35 years since FDR's warning. A plan passed by the House and now pending in the Senate would triple the number of recipients—to something like 25 million—while changing the program's name to one that is not yet as discredited as AFDC.

Repeated experience since the Social Security Act Amendments of 1950 and 1952 to 1962 should have taught us that, despite of what they may promise to Congress, social caseworkers will not rehabilitate recipients to turn them into self-sustaining workers. That's not what they have been taught to do at schools of social work or what they believe in. The idea that social casework is or can be effective in improving the attitude or life style of problem cases has been called into serious question by several research studies and experiments, from *Girls at Vocational High* to the Chemung County (N.Y.) project.[10] The number of welfare workers has been increasing 50% faster than recipients since the early 1950's. That did not help the caseworkers get recipients off the rolls, as Congress thought it would. It helped them to recruit more beneficiaries.

The precept of the welfare state, as incorporated in various guaranteed annual income plans, is that there should be no connection between work and income. When the two congressional appropriations committees ordered a sample study of the welfare case load in the District of Columbia in 1962, to be directed and staffed by the Controller General's office they found out that 59% of the recipients were not eligible for the benefits they were getting. What was done about that? A national study was undertaken, staffed by state welfare departments, which, to nobody's surprise, reported that everything was all right and the incidence of ineligibility insignificant.

There is no mystery why AFDC recipients nationally almost quadrupled since 1952—from 2 to 7.5 million, at a time of rising prosperity and employment: between 1952 and 1970 the average monthly benefit of AFDC families more than doubled, from $82 to $178, a 117% increase during the period when consumer prices rose 42% and Old Age Assistance grants were raised 54%. A study by the Citizens Budget Commission of New York in 1968 found that average monthly benefits in the 10 states with the fastest rate of AFDC roll growth (median + 161%) were twice as high as in the ten states with the lowest rate of AFDC roll growth (median + 6%). Monthly AFDC payments averaged $88 in the latter group of states, $177 in the former. Why should persons of little skill and low productive capacity work for a wage that is not more than what they can get on welfare, and often less? Eligibility requirements have been gradually eased, under federal direction, and now consist of little more than filing a claim which must be accepted at face value and not be investigated or verified. Residence rules have been abandoned as have virtually all other controls. Work requirements are non-existent or nonenforced. Benefits per dependent are being raised (and personal exemptions for income tax purposes boosted) by the same Congress that recently approved a $1 billion population control bill. Is this not like having a furnace and an airconditioning plant going full force at the same time?

While New York City is not typical of the rest of the country—fortunately, as some would say—it epitomizes and foreshadows trends and developments elsewhere. A look at New York City welfare is enlightening.

The number of welfare recipients in New York City jumped from 328,000 in 1960 to well over a million in 1969 and continued growing at an annual rate of 60,000 in 1970. In the world's financial capital there is now better than one person out of every eight on welfare and the rate may jump to 3 million in an 8 million population, according to the city's Commissioner for Social Services. Eighty percent of the AFDC mothers were not born in the city, 70% not reared there. They came from low-benefit, low-wage areas. Fifty-six percent of the welfare applications were approved in 1961, 79% in 1968. While per capita income in New York is 20% above the national average, welfare benefits are 70% above the national average. A man with a wife and two children can now expect to receive more than $4,000 a year, in addition to various fringe benefits. That is more than he is likely to get on unemployment or earn in an unskilled job.

There are unskilled and low-skilled job openings around galore—but why should welfare recipients take them? Poor people may often be of low intelligence, but they are not stupid. The New York subway is filthy, household garbage is being collected at long and irregular intervals and left in alleys and streets in some sections of the city, parks are neglected and certain areas filled with refuse, rubble and decay. But to expect welfare recipients to help clean up the city, or at least their own neighborhoods or work as domestics, would be deemed an indignity.

It is interesting to contemplate how clean the subways, streets and parks are in Moscow and Leningrad—with whole swarms of men and women cleaning them all the time. But then, the Soviet Union offers no welfare or unemployment pay to able-bodied persons and its minimum wage was lifted from $44 to $66 a month only last January. Ours is $277. Minimum pay was just raised in New York, and a parallel move is now being demanded on the federal level, which would force large additional numbers on welfare. The Soviet Union has a rule (Article 12 of its Constitution) that "He who does not work, neither shall he eat." In the United States that principle of St. Paul has long yielded to the welfare state precept that the ties between work and income should be weakened and eventually cut. We practice the first part of the Socialist principle "from each according to his ability, to each according to his work"

(Article 12 of the Soviet Constitution). But we would not think of applying the second part.

Soviet citizens are guaranteed the right to work (Article 118, USSR Constitution). Would we not be better off if we guaranteed everybody an *opportunity to earn* a living instead of accepting the principle that government *owes everybody a living?*

Little effort is made to hold both parents responsible for the support of their children and to overcome the refusal of welfare recipients to take unskilled and semi-skilled jobs.[11] It is thus not surprising that New York City's welfare outlays now total $1.7 billion of which however only 30% comes from city funds. It was disclosed four weeks ago that the city is housing welfare clients at the Commodore and similar hotels and is paying $85 a day to shelter just one family.

The War on Poverty has distributed huge sums among low-income persons, and placed militants in well-paid key positions. It has financed and otherwise facilitated much of the violence that has plagued our cities in recent years. Some of the money was used to buy weapons, ammunition, explosives, to train and organize sabotage and destruction.

Some assert that pouring additional billions into the schools, to raise the skills of the children of the poor offers them a way out. "Education an Answer to Poverty" has been their watchword. Let us take a good look at it.

EDUCATION—AN ANSWER TO POVERTY?

Americans have always viewed and treated education with special affection. They know that much of the enormous progress which our civilization, our economy, science, technology have achieved is due to a tireless effort and huge investment in schools and colleges. Our most successful men and women, the leaders in most fields, are generally well educated, though often self-educated. Our least successful people, those with the smallest earnings, tend to rank low in educational achievements, are deficient in basic skills, have attended school for fewer years than those higher up on the socio-economic scale.

This has led many to seek the cause of the income differences among people in the number of years they attended school and in the amount of money that was spent on their respective schools. It has long been customary to measure educational quality in dollars spent per pupil, in the teacher-pupil ratio and similar measures of *input*. Thus the answer to complaints about deficiencies in the *output*, the products of education were always answered with the same plea: give us more money, hire more teachers and pay them more. The American people so did. Here is what has happened since the early 1950's:

PUBLIC SCHOOLS AND COLLEGES IN 1952 AND 1969

	1952	1969	Increase in percent
Students in public education	27,862,000	49,500,000	78
Employees in public education	1,850,000	5,038,000	172
Expenditures for public education (billions)	$8,387	$49,424	489
Employee-student ratio	1–15	1–9.8	
Expenditure per student	$301	$998	

Source: Office of Education and Office of Business Economics.

But the evidence is overwhelming that there is little if any cost-quality relationship in the schools. James Coleman so found in the most extensive study of American public schools ever undertaken and Christopher Jencks in summarizing the ensuing national debate concluded: "Variations in schools' fiscal and human resources have very little effect on student achievement—probably even less than the Coleman Report implied." **Hundreds of class size studies show that students do not learn more in smaller classes.**

In 1965 Congress was persuaded that a vast expansion of "compensatory education" programs would reduce the lag of one or several years in basic skills of children from low-income backgrounds. Now, five years and more than six billion dollars later, the record of thousands of projects, from "Higher Horizons" and "More Effective Schools" in New York to "Bannecker" in St. Louis, from "Madison" in Syracuse to the Berkeley schools, all of them begun with great enthusiasm, tells a story of consistent failure to produce the educational improvement among so-called deprived children which their sponsors had hoped for and promised.

In his School Reform Message of March 3, 1970, President Nixon reported:

The best available evidence indicates that most of the compensatory education programs have not measurably helped poor children catch up . . . Recent findings on the two largest such programs are particularly disturbing. We now spend more than $1 billion a year for educational programs under Title I of the Elementary and Secondary Education Act. Most of these have stressed the teaching of reading, but before-and-after tests suggest that only 19 percent of the children in such programs improve their reading significantly; 13 percent appear to fall behind more than expected; and more than two-thirds of the children remain unaffected—that is, they continue to fall behind. In our Headstart Program, where so much hope is invested, we find that youngsters enrolled only for the summer achieve almost no gains, and the gains of those in the program for a full year are soon matched by their non-Headstart classmates from similar poor backgrounds.

The President suggested research into education methods and reform of our apparently ineffective methods as the way to improvement. He added: *"As we get more education for the dollar, we will ask Congress for more dollars for education."*

But Congress would have none of that. As in so many other cases it decided to use money as a substitute for necessary reforms.

Despite the conclusive proof of failure, Congress a few months ago extended and expanded the compensatory education program with a three year, $24.6 billion price tag, and then increased appropriations over the budget, overriding a presidential veto. Belief in the educational magic of the dollar dies hard.

These efforts at compensatory education resemble nothing as much as the quest of the alchemists who tried, for hundreds of years and at a huge cost, to do what we now know cannot be done. I have discussed this subject elsewhere more extensively than I can in this context and must refer you to those papers.[12]

Again, as in the case of public welfare, New York City offers an excellent proof of the futility of spending huge amounts of money without reforming our methods. "Our schools are the most lushly funded school system in the nation," boasted Mayor Lindsay recently, adding that "it has the best teacher-pupil ratio of any city—not just some but any city in the country." (*New York Times*, June 6, 1969) But his Advisory Panel reminded him in November 1967: "The New York City school system, which once ranked at the summit of American public education, is caught in a spiral of decline."

New York City schools now have about the same enrollment as they had 25 years ago. The number of teachers has almost doubled, expenditures have multiplied eight times and now average, on a per pupil basis, twice those of other cities in its size class. But students in New York City schools lag substantially behind national norms (averages) and slipped another two months in reading scores last year. Pupils in New York schools with the highest expenditures and lowest class sizes lag the most; pupils in schools with the lowest expenditures and the largest classes are ahead in achievement scores.

Politicians have played a cruel hoax on the poor in urban communities by selling them a new type of snake oil—"compensatory education"—as a cure-all for their ills. Many schools in low-income neighborhoods offer courses that are irrelevant to the true needs of disadvantaged children instead of teaching them marketable skills. In the end the schools give them, in place of an education, a diploma which some of the recipients can't even read. When the failure becomes manifest, as sooner or later it must, the sponsors blame it on niggardly appropriations that should have been at least twice as high.

Private schools and colleges which offer students and their parents an alternative curriculum and a freedom of choice have been pushed to the wall in recent years by unwise public policies. Many of the institutions face extinction within the next decade, at a huge additional cost to the taxpayers, unless remedial action is soon taken to reduce the severe penalty for attending non-public school or college.

WELL INTENDED BUT ILL CONCEIVED

Most actions by governmental authorities concerning the schools are well intended but too often they are ill conceived and seem to aim at objectives other than improved learning. Some urban school systems appear to be engaged in a process to ruin not only public education but the cities they serve. They pursue policies which cause business enterprises and large numbers of the type of residents they need most to sustain their social and economic base, millions in the national aggregate, to move out as their only means of escape from the city's or the school district's jurisdiction.

To be sure, government has an essential role to play in many problems of our contemporary society. But in too many cases we must ask: are you helping to solve the problem or are you part of the problem? Time and again, government has perpetuated a problem that otherwise would long have been solved. Sometimes it makes a mountain out of a molehill.

For more than three decades we have been trying to boost the price of farm products and to reduce farm production, at a cost to the public treasury which has now run well over $100 billion. Simultaneously, we worry over the high cost of food and the inadequacy of our food base for an "exploding" population. As time goes on we are moving away from a free market instead of coming closer to it, as the country's largest farm organization has long advocated.

We have poured more than $100 billion into aid to over 100 foreign countries where in many cases it has reaped a harvest of thistles and venom while supporting self-destructive policies of the recipient governments.

For over a century we have been trying to act as the Great White Father to the remnants of the Indian people, piling on new programs in recent decades—with meager and often tragic results.

Many activities call for public regulation but this sometimes turns into public strangulation, as in the case of railroads. Occasionally the use of governmental power is needed to prevent the formation of a monopoly. But in most cases only government can and does create a monopoly by encouraging, granting or directly exercising it, often with huge losses (e.g., Post Office).

Grants to state and local governments have long been a popular device to promote

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Footnotes at end of article.

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and finance favored public services. But the multiplication of authorizations to well over 500 in recent years has turned federal aid into an administrative nightmare which if continued much longer will wind up in chaos. Plans to simplify intergovernmental aid by shifting some of the decisions to states and cities—through grant consolidation, fiscal grants, revenue sharing or tax credits—have so far been given the cold shoulder by members of Congress who feel that there is but little wisdom outside its own halls.

We have been complaining about inflation, pointing fingers in several directions, demanding that government discipline unions and management by guideposts, jawboning, fines or controls. But only government itself can and does create inflation, largely through budget deficits, easy money and lopsided labor policies, and only government can stop inflation—by exercising self-discipline which so far it has shown no inclination of doing.

Twenty-two years ago we started an urban renewal program which, at a huge expense, has since destroyed three times as many dwellings as it has completed, and has built mostly apartments which the former residents of the area cannot afford. It has been called a slum removal program because it has mainly shifted slums from one part of the city to another, sometimes spawned "instant slums" to replace the old ones. The true welfare state enthusiasts blind themselves to the fact that slums are not decaying buildings but people.

In an effort to keep rents down, New York City has maintained, ever since World War II, rent control over 1.3 million apartments. When maintenance costs soared and losses mounted to unbearable levels, many landlords were forced to abandon their property. Over 130,000 apartments and houses, two-thirds of them structually sound, were left to rot in New York City during the past four years and housing units are now being retired twice as fast as new ones are opened.

Dozens of urban programs intended to improve housing conditions were enacted, extended or enlarged in recent years. What is their combined impact? What would you expect to happen in a market in which private demand is high, costs and prices are rising at a faster rate than in the rest of the economy[13] and government adds billions to the demand, offering generous subsidies and infusing large amounts of grants, loans and guarantees? As a consequence, the price of houses, and of construction generally, and inevitably also rents, increased at an even faster rate, driving additional millions of moderate income families out of the housing market. Not surprisingly they added their voices to the clamor for more housing subsidies—for middle-income families. We have here the classic case of a vicious cycle: government action intended to cope with a problem ballooning it and creating the need for an expanded program.

Not enough attention has been paid to Jay Forrester's *Urban Dynamics* (MIT Press 1969) which showed that to start solving the urban problem at the housing end is self-defeating. The city, he suggested, should aim to create an environment that will attract and generate jobs; everything else will then fall in line.

While private housing starts languish, in spite of liberalized government loan funds, guarantees and subsidies, public housing construction is going ahead at a rapid clip—and most of the public housing authorities are in financial trouble, some near-bankrupt, though their buildings are supplied for free.

The bill of particulars against the expansion of public services in recent years under the aegis of the welfare state could be continued. But the few illustrations I have given may suffice.

There is however one job, one major duty in the domestic field, which government was always expected to do and which only government can do in a modern society: crime detection and prevention. And it has turned this into the worst failure among its domestic activities.

CRIME IN THE WELFARE STATE

No reliable statistics exist that would permit an accurate comparison of the incidence of crime in the United States and in the other countries. But enough information is available to state that without doubt the United States has become the most crime-ridden country in the world. In no other megalopolis could its leading newspaper say, as the *New York Times* recently did: "This city's 8 millon people live in daily fear of mugging, robbery and other violent crimes."

Nor is this a "crime wave" as it is often called. Waves crest and ebb—but crime has been going straight up, with no sign of cresting or ebbing. According to FBI reports, the number of serious crimes leaped from 2 million in 1960 to 5 million in 1969. That averages out to an 11% increase each year—while population was growing 1% per year.

Soaring crime is widely being blamed on social conditions. There is an element of truth in this charge, if not in the sense in which it is usually meant to be understood—that society has neglected its poor. Spending under public income maintenance programs jumped from $7 billion in 1950 to $23 billion in 1960 and is now running at an annual clip of over $70 billion. The number of families with an income under $3,000 fell from 22.7% of *all* families in 1959 to 9.3% in 1969, of families classified "below poverty level" from 18.5% of *all* families to 9.7%. But the number of female-headed families went up by more than a million and several other indicators of social health also suggest undesirable trends while the welfare state increasingly permeated American society.

There really is no mystery about the cause of the soaring crime rate: would-be criminals did their homework; they checked the record and came up with a simple fact: *Crime pays.* A recent study concluded that the chances of going to prison are less than one in 200 for a man committing a felony in New York City. While the number of felonies committed in that city multipled more than threefold during the 1960's, the prison population fell by about a third. The backlog of New York City's criminal court has been estimated at 700,000 cases—which would take 2½ years to clear up at the present rate—if no new arrests were made.

Ten years ago 27% of the offenses known to police were cleared by arrests, in the national average; this has since fallen to 20%. In other words, the criminal now has four chances in five never to be arrested. A person arrested has five chances out of six *not* to serve time in prison or jail although only 5% of those tried are acquitted. And the one in about thirty criminals who is unlucky enough to wind up behind bars, serves on the average only 55% of the time to which he was sentenced. Is there any other money-making or ego-satisfying enterprise in which the chances are nearly as good?

Nor can this appalling record be blamed on stinginess with which governments have been treating their law enforcement agencies:

POLICE EMPLOYMENT AND EXPENDITURES 1952 AND 1969

	1952	1969	Increase in percent
Employment in State and local police departments	238,000	487,000	105
Growth of U.S. population (millions)	157.5	203.2	29
Expenditures for police (Federal-State-local) (millions)	$993	$4,448	338
National income (billions)	$291	$770	164

Source: Bureau of the Census and Office of Business Economics.

Data from New York City, Washington, D.C., and other major cities show the same picture: as the number of policemen and the size of police appropriations multiplied, so did crimes, often at surprisingly similar rates.

This does not suggest that police departments have been lying down on the job. Eighty-six policemen murdered in line of duty during 1969 testify to that. But it does suggest that there is something terribly wrong with our methods, with the procedures under which police are forced to operate, under rules imposed by courts whose concern seems to have largely shifted from the victims of crime—and potential victims—to the criminals who committed the offenses.

Nowhere is the philosophy of the welfare state more clearly expressed than in our attitude toward crime and our treatment of criminals, in no other manner do we more manifestly reap the harvest of what we have sown.

The American public is increasingly frightened by the jungle-like conditions in our cities and anxious to end this reign of terror. In a Gallup Poll, asking whether the courts should deal more harshly with criminals, the percentage of respondents who have an opinion, rose from 57% in the affirmative in 1965 to 82% in 1969. But neither the courts nor legislative bodies seem so far ready to take the drastic measures which at this stage may be necessary to restore law and order in the United States, at least to a level that is closer to conditions which prevail in other civilized countries. Though much more money will undoubtedly be needed if crime is to be reduced, there is little hope that any amount will reverse current trends unless far more fundamental changes are made, until a semblance of safety is restored to our streets and homes.

Grave as the threat is from evergrowing crime, the most ominous danger to our long-range national survival lies in a gradual weakening of our national defense.

GIANT ON MUDBRICK FEET

With a planned appropriation of $73 billion in the current fiscal year and over 3 million men in uniform, our defense establishment offers a mighty and imposing sight. But the crucial point is that our potential enemies have for many years been building up their military strength while ours has been diminishing, measured by the only meaningful yardstick: the combined power we may have to face some day in a major confrontation at a future Armageddon.

Not that the Soviet Union is planning to start a war with the United States or that Red China is. They both probably hope that a war may in the end not be necessary. They believe that they may achieve their aim of Communist world domination without a war if current trends continue long enough because the United States will eventually be in no position to oppose or resist any action our adversaries may choose to take.

American military might reached its apex toward the end of World War II and has been coming down ever since. The United States dismantled its defense establishment between 1945 and 1948, cutting outlays from $80 billion to $12 billion. That unilateral disarmament prompted aggressive action in Korea in which we barely escaped military disaster. The defense budget was then raised to $50 billion and is still at that level, if counted in dollars of constant value. Not many people know that much of the Vietnam operations was carried on by depleting the rest of the defense establishment. This leaves us with "Swiss cheese" defenses, as several recent incidents suggest.

We enjoyed a decisive military superiority over the Soviet Union at the time of the Cuban missile crisis in 1962 which is why the Russians yielded to President Kennedy's ultimatum that their naval vessels steaming toward Cuba reverse their course. Moscow has since been pushing one of the greatest armament programs ever, pulled abreast of us in many respects, is ahead of us in land-based intercontinental missiles, missile-launching (and other) submarines, anti-ballistic missiles and in several other major weapons systems. The Soviets are headed for a clearcut arms superiority within not too many years.

It takes five to ten years to develop, test, produce, and deploy a major weapons system. What we do now about our missiles and missile defense, about the F-14 and F-15 fighters, the MBT-70 main battle tank, C-5A cargo plane (whose fleet was cut from 120 to 81), the AMSA (advanced manned strategic aircraft)—now to be implemented as the B-1 new strategic bomber—the nuclear carriers and submarine programs will decide whether our defenses will be strong in the second half of the 1970's and beyond, or whether the United States will have to yield to nuclear or other forms of blackmail. The Joint Chiefs and other military experts appear to be fighting a losing battle and the warnings of the chairmen of both congressional armed services committees are not sufficiently heeded.

Defense appropriations were cut by $20 billion, or 27%, between fiscal years 1967 and 1971, counted in *constant* dollars. But there still seems to be an open season on the military. Only five weeks ago Senator Proxmire, in a major Senate speech, proposed to slash Pentagon funds by another $10 billion.

IN CONCLUSION:

I have not even mentioned the excessive and ever-rising tax burden which critics of the welfare state often use as their argument. I refrained from referring to taxes not because I believe they are unimportant. The tax argument is valid—but it has been brought up many times by others and it pales in its significance when held against the detrimental impact of the welfare state on our domestic services, social health and on security from attacks, at home or from abroad. The steady weakening of the nation's moral fibre and of its global and military power are the primary and most compelling points in my indictment of the American welfare state. I rest the case on them.

FOOTNOTES

[1] *Federal Civilian Employment* (Continental U.S.) *in 1952 and 1970.*

[2] Government Employment in the United States, 1952 and 1970.

[3] The change in U.S. Budget methods—from the "administrative" and "cash consolidated" to the "unified" budget—makes historical comparisons difficult. No recomputation backward or forward is presently available. The Office of Business Economics (Dept. of Commerce) has prepared revenue and expenditure analyses by function, on a national income account basis, which go as far back as 1952; latest year now available is 1969. The beginning year in the table below, 1952, is taken, as the earliest year available, from OBE date, the ending year (FY 1971) from the President's Budget. Statistical inaccuracies resulting from the use of two different bases however are not significant for the data shown.

[4] In constant dollars $12 billion were worth less in 1952 than $7 billion had been in 1939.

[5] Of the Institute for Social Research, University of Michigan, in: *The Mass Consumption Society,* McGraw Hill, N.Y., 1964, Chapter 8, "Private Opulence and Public Poverty," p. 62.

[6] *Ibid.*, p. 64.

[7] E.g., see Ira Sharkansky, "Government Expenditures and Public Services in the American States," *American Political Science Review,* December 1967.

[8] For further thoughts along this line see my "Big Government—Friend or Foe?", *Congressional Record,* February 24, 1966.

[9] Samuel P. Huntington, *The Common Defense: Strategic Programs in National Politics* (New York: Columbia University Press, 1961). Warner R. Schilling, Paul Y. Hammond, Glenn H. Snyder, *Strategy, Politics and the Defense Budgets* (New York: Columbia University Press, 1962). Maxwell Taylor, *The Uncertain Trumpet* (New York: Harper, 1960).

[10] See: Henry J. Meyer et al., *Girls at Vocational High,* N.Y., Russel Sage Foundation, 1965; *The Multi-Problem Dilemma,* ed. Gordon E. Brown, Metuchen, N.J., Scarecrow Press, 1968.

[11] This is well pointed out in an incisive analysis *Welfare in New York City,* by the Center for New York City Affairs of the New School for Social Research, February 1970.

[12] "The Alchemists in Our Public Schools," *Congressional Record,* April 24, 1969, and "The Crisis in American Education," *Congressional Record,* June 22 and 23, 1970.

[13] "To buy now what $10,000 bought in 1929, would require $22,400 for consumer goods, but $40,900 in the case of a house. Consumer prices have risen 30%, residential construction costs 46% since 1957/59, although wholesale construction materials meanwhile went up no faster than wholesale prices in general: 18%.

TABLE A.—FEDERAL EXPENDITURES 1952-71

	Expenditures (millions)		Percent increase 1952-71	Expenditures as a percentage of GNP		Percent of total expenditures	
	Calendar year 1952 [1]	Fiscal year 1971 [2]		1952	1971	1952	1971
Total expenditures	$71,045.0	$200,771	183	21.1	19.5	100.0	100.0
National security and cost of past wars	58,721.0	106,846	82	17.4	10.4	82.7	53.2
National defense	46,745.0	73,583	57	13.9	7.1	65.8	36.7
International affairs	2,380.0	3,589	51	.7	.3	3.3	1.8
Space research and technology		3,400			.3		1.7
Interest on debt	4,599.0	17,799	287	1.4	1.7	6.5	8.9
Veterans benefits and services	4,997.0	8,475	70	1.5	.8	7.0	4.2
Domestic services	12,324.0	93,925	662	3.7	9.1	17.3	46.8
Education, welfare, and health	5,915.0	73,470	1,142	1.8	7.1	8.3	36.6
All other	6,409.0	20,455	219	1.9	2.0	9.0	10.2
Exhibit:							
Education	323.0	8,129	2,417	.1	.8	.5	4.0
Social welfare	5,161.0	50,384	876	1.5	4.9	7.2	25.1
Health, hospitals, and sanitation	431.0	14,957	3,370	.1	1.5	.6	7.4
Population of the United States (thousands)	157,553.0	[3] 206,500	31				
Consumer Price Index	92.5	[3] 138	49				
Gross national product (billions)	$345.5	[3] 1,030	198				
National income (billions)	$291.4	[3] 850	192				
Personal consumption (billions)	$216.7	[3] 638	194				

[1] The National Income and Product Accounts of the United States, 1929-65, a supplement of the "Survey of Current Business," U.S. Department of Commerce, 1966.

[2] The Budget of the U.S. Government, fiscal year 1971, Bureau of the Budget.

[3] Estimated.

TABLE B.—GOVERNMENTAL EXPENDITURES IN THE UNITED STATES, 1952 AND 1969

	Expenditures in millions		Percent increase	Expenditures as a percentage of GNP		Percent of total expenditures	
	1952	1969		1952	1969	1952	1969
Total expenditures (Federal-State-local)	$93,652	$290,079	209	27.1	31.1	100.0	100.0
National security and cost of past wars	59,104	110,163	86	17.1	11.8	63.1	38.0
National defense	46,795	81,687	74	13.5	8.8	50.0	28.2
International affairs	2,380	2,623	10	.7	.3	2.5	.9
Space research and technology		3,905			.4		1.3
Net interest paid [1]	4,886	13,461	175	1.4	1.4	5.2	4.6
Veterans benefits and services	5,043	8,487	68	1.5	.9	5.4	2.9

Footnotes at end of tables.

XUM

	Expenditures in millions		Percent increase	Expenditures as a percentage of GNP		Percent of total expenditures	
	1952	1969		1952	1969	1952	1969
Domestic services	34,548	179,916	420	10.0	19.3	36.9	62.0
Social welfare[2]	19,101	118,332	520	5.5	12.7	20.4	40.8
All other	15,447	61,584	299	4.4	6.6	16.5	21.2
Exhibit:							
Education	8,387	49,424	489	2.4	5.3	9.0	17.0
Social security and public welfare	6,664	52,968	694	1.9	5.7	7.1	18.3
Health, hospitals and sanitariums	3,414	13,189	286	1.0	1.4	3.6	4.5
Population of the United States, July 1 (in thousands)	157,553	203,213	29				
Consumer Price Index	$92.5	$127.7	38				
Gross national product (GNP) (billion)	$345.5	$931.4	170				
National income (NI) (billion)	$291.4	$769.5	164				
Personal consumption (billion)	$216.7	$577.5	166				

[1] While part of the national debt results from peacetime deficits, the major part was incurred during wars.

[2] Includes education; health, hospitals and sanitation; social security and public welfare; labor; housing and community development.

Sources: The National Income and Product Accounts of the United States, 1929–65, a supplement of the Survey of Current Business, U.S. Department of Commerce, 1966; Survey of Current Business, July 1970 and Economic Indicators, July 1970 and 1967 supplement.

TABLE C.—PERSONAL CONSUMPTION EXPENDITURES, 1952 AND 1969

[Dollars in millions]

Type of product	1952	1969	Percent increase
Total	$216,679	$577,458	167
I. Food and tobacco	68,357	131,943	93
II. Clothing, accessories and jewelry	26,416	59,387	125
III. Personal care	2,782	9,666	247
IV. Housing	26,476	83,999	218
V. Household operations	31,673	81,546	158
VI. Medical care expenses	10,225	42,569	316
VII. Personal business	7,791	31,921	310
VIII. Transportation	25,097	78,002	211
IX. Recreation	12,102	36,305	200
X. Private education and research	1,870	9,698	419
XI. Religious and welfare activities	2,784	8,161	193
XII. Foreign travel and other, net	1,106	4,261	285

Source: The National Income and Product Accounts of the United States, 1929–65, a Supplement of the Survey of Current Business, U.S. Department of Commerce, 1966, and Survey of Current Business, July 1970.

ANNUAL POLL RESULTS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. EILBERG. Mr. Speaker, each year I conduct an annual poll by mail of my constituents. I continue to find this technique a valuable and useful tool in helping me to better represent my district and my people.

Last June I mailed my annual questionnaire to every household in my northeast Philadelphia district. Over the summer months, the results were tabulated. I am now mailing these results to the more than 140,000 households in my district.

With the unanimous consent of my colleagues, I would like to enter this most recent report to my district in the RECORD:

CONGRESSMAN JOSHUA EILBERG REPORTS TO THE PEOPLE

OCTOBER 1970.

DEAR FRIEND: After a full summer of studying the questionnaires I mailed to you in June, the results have been compiled and, as I promised, I am mailing these results to every home in the Northeast. I was impressed by the depth of your concern and the concern of our friends and neighbors about the problems of crime and drug abuse. The crime problem was listed as the second most pressing in the Nation and the single problem of most concern to people in the Northeast.

FIGHTING CRIME

In this Congress I have sponsored more than a dozen bills designed to curb crime and to give important assistance to local law enforcement officials. One of these bills, the Omnibus Crime Control and Safe Streets Act Amendments of 1970, extends the life of this major legislative innovation in the fight on crime. This act authorizes direct assistance by the Federal government to local police departments. At my invitation, Police Commissioner Frank Rizzo in March testified in support of this legislation before the House Judiciary Committee, which first considered the bill and on which I serve. In the last two fiscal years, this legislation was responsible for providing nearly $3 million to the Philadelphia police department.

FIGHTING POLLUTION

Our friends and neighbors also are concerned about pollution and ranked it the Nation's fourth most pressing problem and the third problem of concern in the Northeast. This is a concern I share. I have introduced legislation to help communities keep their water supplies safe and another bill, now law, which establishes standards and programs to abate and control water pollution from synthetic detergents. I am a sponsor of a package of legislation designed to eliminate air pollution from automobile exhausts and emissions by the mid-1970's. Experts have estimated that from 60 percent to as high as 92 percent of air pollution in big cities like Philadelphia can be directly traced to the automobile.

YOUR VIEWS ARE COUNTED

On the reverse side, you will find the results of the questionnaire, reported by percentage on each response. I want to thank the many, many people who answered this poll and all those who added their own perceptive and useful comments. Thank you for your consideration and attention.

With best wishes,

Sincerely,

JOSHUA EILBERG.

CONGRESSMAN JOSHUA EILBERG REPORTS YOUR VIEWS

	Yes	No	Undecided	No response
1. Do you believe that inflation is under control	3	89	4	4

(b) If not where has inflation hurt you the most? (check one):	Percent
(1) Food	58
(2) Housing	5
(3) Education	2
(4) Transportation	1
(5) Clothing	1
(6) Medical costs	7
(7) Taxes	23
No Response	3

	Yes	No	Undecided	No response
(c) Do you think increased unemployment is an acceptable way to curb inflation?	7	80	7	6

2. Which tax do you resent the most:	Percent
(a) Federal income	24
(b) State sales	47
(c) Local real estate	24
No response	5

	Yes	No	Undecided	No response
3. Do you think the present social security benefits are adequate?	18	64	14	4

4. Nonessential Government spending must be cut. If you were writing the Federal budget which program would you cut first? (check 1):	Percent
(a) Crime	1
(b) Defense	15
(c) Education	1
(d) Foreign aid	45
(e) Highways	2
(f) Housing	1
(g) Pollution control	1
(h) Space	23
(i) Welfare	10
No response	1

	Increase	Decrease	No Response
5. Would you increase or cut Federal aid to:			
(a) Elementary and secondary public schools?	66	9	25
(b) Private and parochial schools?	37	40	23
(c) Colleges and universities?	36	41	23

CONGRESSMAN JOSHUA EILBERG REPORTS YOUR VIEWS—Continued

	Yes	No	Undecided	No response
6. (a) Which of the following constitutes the most serious threat to your health and the health of your children? (check one):				Percent
(1) Air polution				76
(2) Water pollution				18
(3) Noise pollution				4
No Response				2
(b) Who do you think has the greatest responsibility for curbing pollution? (check 1)				
(1) Government				39
(2) Private industry				52
(3) The private citizen				7
No Response				2
7. (a) I do not support an increase in first-class mail postage to 8 cents. Do you?	18	75	6	1
(b) Rather, I believe junk mail rates should be substantially increased to pay their own way. Do you agree?	96	2	1	1
(c) I support strict prohibition of the mailing of unsolicited pornography. Do you agree?	92	5	2	1
8. (a) Do you support a Vietnam-type commitment in Cambodia and Laos?	18	72	8	2
(b) Do you believe we should withdraw from Vietnam?	69	21	8	2
(c) If yes, do you think we are withdrawing fast enough?	23	46	7	24
9. Do you think the United States should sell Phantom jets to Israel?	64	24	1	2
10. (a) Do you feel personally threatened by crime on the streets?	83	14	2	1
(b) Do you think the police should be able to enter your home and search it without first knocking on your door?	10	86	3	1
(c) Do you think persons outside the Internal Revenue Service should be allowed to see your income tax return?	4	93	2	1
11. (a) Would you reduce first offender penalties for possession of marijuana?	41	52	6	1
(b) Would you increase the penalties for those who sell drugs to schoolchildren?	95	3	1	1
12. Do you think that 18, 19, and 20 year olds should be permitted to vote?	52	40	7	1
13. Do you think Associate Justice William O. Douglas should remain on the Supreme Court?	29	39	28	[illegible]
14. What do you think are the three most pressing problems facing America today? Please list in order of urgency. (Using a weighted point system, the following results were tabulated by percentage.)				
(1) Vietnam				22
(2) Crime and drug abuse				20
(3) The economy				18
(4) Pollution				11
The remaining 29 percent went in descending order to racial problems, campus unrest, high taxes, education, and the need for national unity and more patriotism.				
15. What one problem in the Northeast is of most concern to you? (Using a weighted point system, the following results were tabulated by percentage.)				
(1) Crime and drug abuse				31
(2) Public school crisis				12
(3) Pollution				9
(4) Public transportation				8
The remaining 40 percent went to a wide range of problems including high taxes, inadequate and poorly kept recreational facilities and parks, high rents, housing shortages, racial problems, and dirty streets and lots.				

RESOLUTION ON DISMISSAL OF PROFESSIONAL AIR TRAFFIC CONTROLLERS BY THE FEDERAL AVIATION ADMINISTRATION

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. PEPPER. Mr. Speaker, I am distressed by the discharge on Saturday, October 3, of three air traffic controllers by the Federal Aviation Administration Regional Manager in Miami, because of their participation in the air traffic controllers' "sick-out," which was in protest over the unsafe operation of air traffic control systems.

When I first received an urgent appeal from constituents that this was about to occur, I immediately wired the Honorable John A. Volpe, Secretary, Department of Transportation, urging that his department, upon fair assurances from the three men, decline to discharge them. I also wired the Regional Director of the FAA, in Miami, urging his reconsideration of the action in light of all the circumstances.

It was only this morning that I received the following wire from Mr. R. P. Skully, Miami Area Manager, FAA:

> I have again reviewed the individual cases for Robert C. Eberst, Jerald L. Seeley and Edgar Hunt and can only conclude their discharge is appropriate and will be carried out October 3, 1970.

The alleged facts relating to these FAA dismissals indicate that FAA is taking punitive action against officers of the Professional Air Traffic Controllers Organization which action is undoubtedly discriminatory. Of the 55 controllers who have been fired as of last week, is it not unusual and not more than a matter of coincidence that 95 percent of these controllers are PATCO officers; several thousand other controllers have received disciplinary leaves ranging from 2 to 30 days.

The U.S. District Court in Denver, Colo., issued a protective order to prevent the firing of controllers at that airport and the order was upheld by the U.S. Circuit Court of Appeals. The U.S. District Courts in New York and Chicago have also issued restraining orders against the FAA's firing of controllers.

The FAA has established certain standards of disciplinary action, including discharge against its employees and has then charged officers of PATCO with having violated such standards; but in applying the penalty of discharge FAA has ignored its own standards; the officers have been discharged without reasonable basis solely upon the allegations made against them, and the agency has placed upon the officers of PATCO the burden of proving their innocence of complicity in the so-called sick-out.

Many of my colleagues have petitioned President Nixon to cease this action; others have pleaded with Secretary Volpe to achieve a conciliation between the Nation's air traffic controllers and the FAA and to give priority attention to improving conditions affecting the country's air traffic control system.

None of these avenues of appeal have proved to have made any impression on the administration. It seems the time has come to call a halt on the tendency of independent congressional agencies from interfering with constitutional supervisory functions of Congress.

I urge my colleagues to agree to the Resolution on Dismissal of Professional Air Traffic Controllers by the FAA which I have introduced today and now submit for the RECORD:

RESOLUTION ON DISMISSAL OF PROFESSIONAL AIR CONTROLLERS BY THE FEDERAL AVIATION ADMINISTRATION

Whereas the safety and convenience of the traveling public and the maintenance of an efficient air transportation system are of paramount importance to the welfare of the nation; and

Whereas the operation of such a system is not possible without the recruitment, training and utilization of highly skilled and conscientious air traffic control personnel; and

Whereas the training and recruitment of such air traffic control personnel involves substantial expense to the public; and

Whereas such professional air traffic controllers are already in critical short supply such as to endanger the continued efficient and safe operation of this nation's air commerce; and

Whereas the Congress notes that recent personnel policies of the Federal Aviation Administration with respect to air traffic controllers have tended to penalize and intimidate such personnel from adequately performing their duties and have resulted in the questionable discharge of a large number of such personnel; and

Whereas it appears that in certain instances discharges have been made without the support of substantial evidence and in violation of the agency's applicable administrative rules; and

Whereas the above said conditions and policies tend to impair the nation's flow of air commerce and to endanger the public safety;

Now, therefore, be it resolved that it is the sense of the Congress that the Federal Aviation Administration shall forthwith suspend further adverse personnel actions against air traffic control personnel, including dismissal, suspension or other administrative sanction, until the Committee on Interstate and Foreign Commerce shall have investigated the matter and reported thereon. Such investigation and report shall specifically include examination of the question of reinstatement, with back pay, of all those air traffic controllers who have already been dismissed, suspended or otherwise sanctioned by the Federal Aviation Administration.

Provided, however, that this resolution shall not apply to adverse personnel actions against air traffic control personnel arising from activities or actions engaged in by such personnel subsequent to the date of the adoption of this resolution.

XUM

THE NATIONAL COMMITTEE TO COMBAT FASCISM

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. RARICK. Mr. Speaker, a so-called National Committee to Combat Fascism appears to be operating within my State. Locally it is better known as the Black Panthers.

Our Commissioner of Welfare in Louisiana has mailed to me a leaflet being distributed to welfare recipients announcing that they will be contacted personally during the month of October and each month thereafter for a minimum assessment of 10 percent of their welfare check.

Interestingly, the lawyer identified on the flyer is a salaried attorney with an OEO federally funded agency, the New Orleans Legal Aid Corp.

We have this date passed House Joint Resolution 1388 providing for continuing appropriations and S. 1461 raising the fees for lawyers representing indigent criminal defendants. The appropriations bill continues taxpayers' contributions to the welfare programs without providing any protection either to the giver or the receiver from such exploiters as the National Committee to Combat Fascism nor from legal aid lawyers who can be expected to advise the poor that they must pay the 10-percent tax on their welfare check.

Mr. Speaker, I am sending a copy of the leaflet and the welfare commissioner's letter to the U.S. Attorney General and demanding an investigation toward prosecution of this shakedown operation.

Who are the Black Panthers to call others Fascists?

I include a copy of Mr. Bonin's letter and the flyer he refers to, as follows:

STATE OF LOUISIANA, DEPARTMENT
OF PUBLIC WELFARE,
Baton Rouge, September 30, 1970.

Hon. JOHN R. RARICK,
House of Representatives,
House Office Building,
Washington, D.C.

DEAR SIR: For your information, I am attaching a leaflet being distributed in New Orleans. You will note that welfare recipients are to be contacted by members of the N.C.C.F. (National Committee to Combat Fascism), also locally known as The Black Panthers.

I would like to call to your attention that they list Ernest Jones as one to furnish additional information. Mr. Jones is an attorney with the New Orleans Legal Aid Corporation, an OEO funded agency.

Sincerely yours,

GARLAND L. BONIN,
Commissioner of Public Welfare.

Power to the people. . . . Power to the people.

Who are the people??? You are the people. You the people of desire. Of Gert Town. Of lower-nine. Of all the white racist owned ghettos of New Orleans. You the people of the pig controlled projects. You are the people.

The oppressive, racist government of this country has taken away your dignity by paying you for not working. The welfare has made you slaves of this facist government. The N.C.C.F. has given its all for you. Now you must give to the N.C.C.F. Help us free the New Orleans 14. Help us rebuild our headquarters. Help us feed the children.

"If you are not part of the solution, you are part of the problem."

A list of welfare recipants is being compiled by our field workers and area captains are being trained. All welfare recipients will be contacted personally between October 1 and October 10 and each month thereafter until we are rebuilt.

Minimum contribution . . . 10% of welfare check.

For more information come to 3540 Piety or call attorney Ernest Jones at 895-5733.

QUINCY GIRLS DRILL TEAM WINS FIRST PLACE AT ILLINOIS STATE FAIR

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. FINDLEY. Mr. Speaker, Quincy's award-winning Columbian Girls Drill Team placed first in drill team competition on Veterans Day at the Illinois State Fair. It was the first time that they had brought home first-place honors, and the fulfillment of a 7-year-old dream for them.

About 7 years ago, a small group of people, remembering the big days of drum and bugle corps in Quincy, asked several service clubs and other organizations to form a drill team thinking that eventually Quincy would have another championship drum and bugle corps. From this beginning, the Columbian Girls Drill Team was formed.

The girls range in age from 12 to 18 years and attend public and parochial schools in Quincy. They come from every section of town, work together, play together and travel together. They all live as one big family—sharing tears when things go wrong and cheers when things go right. The girls practice in the winter, 2 nights a week, and almost every night during the summer.

Against stiff competition, the Columbians placed second at the Illinois State Fair in 1966 and 1968. In June 1970, they again took second place honors at the VFW State Convention drill team contest in Springfield and second place at the American Legion contest at Chicago in July. At each contest they competed against all the drill teams in the State of Illinois. Twice in 1967 and 1968 they entered the national contest in Milwaukee and placed 11th both years.

Until August 16, 1970, the Columbian Girls Drill Team had done a great job for their community and for their State. But the No. 1 recognition had eluded them. Then, on Veterans Day, all the practice paid off. They won top honors in the State.

The people in Quincy and the surrounding area have much to be proud of. The group has been self-supporting since it was organized, raising money from card parties, contests, and donations. Their uniforms of turquois, white and black, designed on a Spanish theme, are quite striking.

The group consists of 33 girls and is sponsored by the Knights of Columbus 583 of Quincy, American Legion Post No. 37, and Veterans of Foreign Wars Post 5129 of Quincy. Knights of Columbus 4175 of Springfield, Ill., have adopted the girls as their guests whenever they make an appearance in the capital city.

STATES COMMEND CONGRESSMAN MONAGAN FOR DONABLE PROPERTY WORK

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. MOORHEAD. Mr. Speaker, for the past two decades, a rather special Federal program, with which you yourself had much to do, has made it possible to give substantial amounts of Federal surplus personal property to our States for public health, educational, and civil defense purposes. The Special Studies Subcommittee of the Committee on Government Operations, on which I serve, has the assigned jurisdiction over this program, under the able chairmanship of Congressman JOHN S. MONAGAN, of Connecticut. Since 1961, Congressman MONAGAN has charied the subcommittees of the Committee on Government Operations to which Chairman DAWSON of the full committee has assigned donable property matters.

The Federal Property Act requires that the management and distribution of donable property within each State be handled by a specific surplus property agency. Every State, plus the District of Columbia, Puerto Rico, and the Virgin Islands has its own agency for this purpose.

Recently, the National Association of State Agencies for Surplus Property, during its 23d Annual Conference in Denver, Colo., unanimously adopted a resolution directed to Congressman MONAGAN which expresses the association's appreciation for his untiring support of the donation program. I feel the resolution is strong testimony to Congressman MONAGAN's long and effective contribution to the objectives of the program. I am pleased, therefcre, to call the resolution to the attention of our colleagues by including it in the RECORD at this point:

Whereas, Honorable John S. Monagan, distinguished member of the House of Representatives from the state of Connecticut, has demonstrated his interest in and support of the Donable Surplus Property Program; and

Whereas, Congressman Monagan as Chairman of the Special Sub-Committee on Surplus Property has worked diligently and faithfully to promote the Donable Surplus Property Program;

Therefore be it resolved, that the members of the National Association of State Agencies for Surplus Property by copy of this resolution express to Congressman Monagan their sincere appreciation and thanks for his untiring support of the Donable Surplus Property Program.

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TRASHING THE RECORD

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. BINGHAM. Mr. Speaker, we should all be thankful for our great newspapers, that are both free and diligent. In a memorable editorial, the New York Times has shown with superb clarity the kind of a man that we have as Vice President. After reading this editorial, one wonders how Mr. AGNEW can expect his self-righteous pose to be taken seriously.

The editorial, which appeared in the New York Times for October 1, follows:

Trashing the Record

There is little hope for a return to an atmosphere of reason in the relationship between the students and the American people if Vice President Agnew's distortions of the President's Commission on Campus Unrest are a preview of the Nixon Administration's response.

In his Sioux Falls, S.D., fund-raising speech, Mr. Agnew deliberately created the impression of a report that is soft on radicals. His attack undermines the commission's primary effort—to bring about a new era of reconciliation.

Here are some of the discrepancies between what the Vice President said the commission said and what it actually did say:

Mr. Agnew: "To lay responsibility for ending student disruption at the doorstep of this President—in office twenty months—is 'scapegoating' of the most irresponsible sort."

The Commission: "We urge that the President exercise his reconciling moral leadership as the first step to prevent violence and create understanding. . . . We recommend that the President seek to convince public officials and protesters alike that divisive and insulting rhetoric is dangerous."

Mr. Agnew: ". . . The President cannot replace the campus cop."

The Commission: "We have deep sympathy for peace officers—local and state police, national guardsmen and campus security officers—who must deal with all types of campus disorder. . . . We therefore urge that peace officers be trained and equipped to deal with campus disorder firmly, justly and humanely."

Mr. Agnew: "It [the report] is sure to be taken as more pablum for the permissivists."

The Commission: "Students who bomb and burn are criminals. . . . There can be no more 'trashing,' no more rock throwing, no more arson, no more bombing by protesters . . . Criminal acts by students must be treated as such wherever they occur and whatever their purpose . . . Faculty members who engage in or lead disruptive conduct have no place in the university community. . . ."

Mr. Agnew: "Nor can one find in that report the justified recognition of the enormous contribution of the working men and women of this country whose taxes have built most of our great colleges and universities and who have rights within those institutions as well."

The Commission: "Millions of Americans—generations past and present—have given their vision, their energy, and their patient labor to make us a more just nation and a more humane people. . . . It is a considerable inheritance; we must not squander or destroy it."

What appears to anger the Vice President— or elude his comprehension—is the commission's suggestion that students are deeply concerned about the war and racial injustice and also about the verbal attacks on such legitimate concern by politicians in pursuit of votes. He clearly dislikes the commission's plea for a Presidential admonition that "in the current policital campaign and throughout the years ahead . . . no one play irresponsible politics with the issue of campus unrest."

Mr. Agnew chides the commission for not denouncing as an "utter falsehood" the students' charge that the nation in engaged in "an immoral war." Does Mr. Agnew truly believe that any Presidential commission that seeks to attain credibility with a concerned generation of young Americans must extol the morality of the nation's Indochina policies?

"There is," said the commission, "a deep continuity between all Americans, young and old, a continuity that is being obscured in our growing polarization." It would be an unestimable tragedy if the Administration shared Mr. Agnew's insensitivity to this threat.

THE SOVIET THREAT

HON. SAMUEL S. STRATTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 28, 1970

Mr. STRATTON. Mr. Speaker, the chairman of the Armed Services Committee, the Honorable L. MENDEL RIVERS, has today sounded the alarm loud and clear as to the Soviet threat.

The alarm has needed special sounding with respect to the Soviet submarine menace. Our chairman today has indeed spread this awesome threat across the record.

But, there is more that needs saying. Our ability to meet this Soviet submarine threat is being slashed. A major portion of the cuts that have been made in our Navy have been in the ships and planes responsible for antisubmarine warfare. In addition, we have failed to provide the moneys needed for the extensive research and development vital to our antisubmarine warfare defense.

Only 6 days ago our Subcommittee on Antisubmarine Warfare made a report on its visit to the Mediterranean area, "Trip to the Mediterranean Area, August 31 to September 5, 1970, Made by the Subcommittee on Antisubmarine Warfare." In that report the subcommittee pointed out the weaknesses of the 6th Fleet. It stressed the needs for increased antisubmarine efforts in the Mediterranean. There the greatly increased Soviet naval operations, combined with the recently acquired ability to use the northern shores of Africa, constitute a real threat to our Sixth Fleet and to the southern shores of Europe.

Mr. Speaker, I cannot praise the chairman of the Armed Services Committee too highly for his efforts in bringing the Soviet naval threat home to all in the House. I pray that our people will wake up to the real menace long before the Soviet submarines line up off our shores and we receive an ultimatum to give up our freedom and our sovereignty.

PROSPECTS FOR MORE DOCTORS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. FRASER. Mr. Speaker, the lead paragraphs of a Sunday, September 27, 1970, Minneapolis Tribune story by Lewis Cope dramatically describe an important development in Minnesota medicine:

> The equivalent of a small new medical school will open in Minneapolis on Monday to help meet the need for more doctors in the state.
>
> Actually, it's just the University of Minnesota Medical School starting a new year—but with a major increase in enrollment.

This expansion was made possible by a National Institute of Health—NIH—grant under the NIH Physicians Augmentation Program—PAP.

On October 1 the Tribune published an editorial on this development. The editorial points out that the new class includes seven black and two American Indian students.

The Tribune could have added that there are also 21 women in the incoming medical school class. This expansion and broadening of my alma mater's medical school student population is an encouraging move. To meet the grave need for more physicians without lowering standards we must tap sources of talented and qualified individuals previously largely ignored.

The article and editorial follows:

"U" Freshman Medical Class Grows by 65

(By Lewis Cope)

The equivalent of a small new medical school will open in Minneapolis on Monday to help meet the need for more doctors in the state.

Actually, it's just the University of Minnesota Medical School starting a new year—but with a major increase in enrollment.

There will be 227 first-year medical students this year, and the school plans to continue with freshman classes of about this size in future years. Until now, the school has accepted only about 162 beginning medical students a year.

Hence, the school is starting a program that will increase its output of new doctors by about 65 a year. To illustrate the comparative impact of this, about a fourth of the 100 medical schools in the nation are in the "70 graduates or less a year" category.

Minnesota is simply a big medical school that has grown bigger this year.

"In recent years Minnesota has ranked among the 10 largest medical schools in the nation," Dr. H. Mead Cavert, associate dean, said. "Now our enrollment of first year students will rank somewhere in the top six."

A federal grant, under a short-term crash program, made it possible to start the increased enrollment this year. New facilities are to be built to accommodate the larger classes on a permanent basis.

Two other points about this year's freshman medical class:

Seven blacks and two Indians are among the class members. The Indians are believed to be the first such students in the medical school's history, and never before have there been more than two blacks in a class.

These students were recruited under a new faculty policy to seek out such students.

One aim is to give minority group members a chance to achieve equality of oppor-

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tunity in the key profession of medicine. Another is that such students are likely to be particularly motivated to practice in poverty areas, where the need for physicians is acute.

There are 21 women among the 227 freshmen medical students this year.

About the same proportion of women applicants is accepted as men applicants, Dr. Cavert said. But he explained that many more men apply each year.

Many medical schools regularly accept only a handful of women students each year—some as few as one. These schools have been criticized by Women's Liberation leaders.

This year's increase in freshmen medical student enrollment was made possible by a $1-million grant from the National Institutes of Health under its Physicians Augmentation Program (PAP), designed to help fill the national need for more physicians.

The school expects to get similar PAP grants to cover the new, higher level of enrollment through the next few years.

PAP is just a five-year program. But that fits in perfectly with University of Minnesota plans.

The last session of the Legislature approved the start of a major building program, designed to increase medical class size to about 225 students by 1973.

Then the federal PAP program was announced and "this enabled us to expand that much faster," Dr. Cavert said.

Most schools that have received PAP grants are expanding class sizes by at most 15 students, knowing that the PAP funds will run out after five years.

But Dr. Cavert explained that Minnesota, knowing permanent facilities are on the way, was able to get the largest PAP grant given any school.

"We would not have seriously considered this program without the plans for permanent expansion," Dr. Cavert said.

"Things will be very crowded for a few years until new facilities are built," he said. "It's less than optimal, but we can get by for a short while."

He noted that the increased class size will require the hiring of about a dozen faculty members. It would have been hard to recruit them for only a temporary program, he explained, but since they know their jobs will be permanent there has been no problem.

In all, there will be 748 students in all four classes. The junior and senior classes receive some extra students who transfer from schools offering only the first two years of training.

While medical school is normally a four-year program, the University of Minnesota is one of a small number of schools that allows some students to get through in three years by skipping summer vacations. This also is designed to help meet the present shortage of doctors.

Prospects for More Doctors in State

After years of talk about the need for more doctors in Minnesota, this fall the University of Minnesota Medical School is able to take major action. The new freshman class has 227 students—65 more than last year's class.

Long-range planning for expansion of the whole health-sciences complex at the university provides for comparable enlargement of the medical school by 1973. The speed-up is made possible by a federal grant under the new Physicians Augmentation Program, a plan to add 1,000 medical students to usual enrollments in the country this year. The university medical faculty, to its credit, agreed to handle the additional students in spite of the inconvenience and crowding inevitable until more teaching facilities can be constructed.

In addition to the boost in class size, it is noteworthy that the incoming group includes seven black students and two Indians—not large numbers, but an encouraging representation in comparison with the very few minority students admitted in the past.

Another significant development in medical training is the opening of Hennepin County General Hospital's new family-practice clinic. Involved in this will be resident doctors who intend to specialize in general practice in the future. The program is financed by a grant of $400,000 from the 1969 Legislature, which was concerned about the shortage of doctors going into family practice, especially in rural areas.

There is no guarantee that the additional doctors in training at the university, or all of those specializing in family practice at General Hospital, or enrolled in the university's new department of family practice, will remain in the state. But records at both institutions show that high percentages of those they train do stay in practice in this area. So increasing the numbers in training here seems an encouraging step toward increasing the supply of physicians for Minnesota.

CONGRESSMAN RODINO REPORTS ON HIS MAJOR LEGISLATIVE ACTIVITIES

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. RODINO. Mr. Speaker, now that we are nearing the end of the 91st Congress, I think it is appropriate to report to my constituents on some of the most important legislative actions of the House Judiciary Committee of which I am a member.

CRIME CONTROL

Of the 19 areas of legislative responsibility of the committee, undoubtedly the one of greatest public interest in this Congress is that of crime prevention and control. As ranking member of the subcommittee to which most of the major anticrime measures are referred, I have had a leading role in the development of a wide variety of significant crime control bills. The most important in recent years include:

THE LAW ENFORCEMENT ASSISTANCE ACT OF 1965

This act initiated modernization of the Nation's criminal justice system and authorized the Justice Department to assist State, local, and private groups to strengthen crime control programs. It also provided grants to local and State agencies to improve police work, correctional systems, courts, and prosecutors.

GUN CONTROL ACT OF 1968

This measure channeled firearms through federally licensed dealers and prohibited mail-order sales of guns. It imposed reasonable requirements to keep guns out of the hands of drug addicts, mental incompetents, felons, fugitives, individuals considered dangerous, and minors.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

This act created the Law Enforcement Assistance Agency to administer a grants program to distribute crime-fighting funds to States. It provides funds to create coordinated planning agencies in States, improve recruiting procedures, construct law-enforcement facilities, improve community-police relations, and encourage education in law enforcement and crime prevention. In fiscal year 1970, New Jersey received $641,000 in planning grant funds and $6,372,000 in action grants. Programs undertaken include a narcotics education project, a project to improve the response time of police to radioed calls and formation of a statewide organized crime unit.

OMNIBUS FEDERAL DISTRICT JUDGESHIP BILL OF 1970

This measure provides 61 additional Federal judges to help eliminate the excessive backlog of criminal cases in Federal courts.

1970 AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT (PASSED HOUSE, AWAITING SENATE ACTION)

This most important anticrime measure provides vital improvements to the original act, including the allocation of priority funds to urban high-crime areas that most need financial aid to prevent the robberies, rapes, and attacks that menace every citizen. The committee authorized $650 million for 1971, $1 billion for 1972, and $1.5 billion for 1973.

ANTIOBSCENITY BILL (PASSED HOUSE, AWAITING SENATE ACTION)

This bill makes it a Federal offense to use interstate facilities, including the mails, to transport unsolicited salacious advertising. It also increases substantially the penalties for offenses under the bill and supplements legislation approved earlier to prohibit delivery of obscene material to children and to enable citizens to prevent the receipt of sex-oriented advertising.

EXPLOSIVES CONTROL AND ANTIBOMBING BILL (RODINO BILL, H.R. 18476, AMENDED BY COMMITTEE AND INCLUDED IN S. 30, NOW AWAITING HOUSE ACTION)

My bill to establish strong regulation of explosives and bombs has been approved with committee amendments. It establishes licensing and recordkeeping regulations for dealers in explosives, prohibits mail-order sales to individuals, and the sale to anyone under 21 years of age. It also broadens and increases existing Federal penalties for the unlawful transportation of explosives and use of the mails or telephone to convey bomb threats.

ORGANIZED CRIME CONTROL BILL (S. 30, PASSED SENATE, APPROVED WITH HOUSE JUDICIARY COMMITTEE AMENDMENTS AND NOW AWAITING HOUSE ACTION)

This complex measure, which the Senate considered for over a year, stems from efforts to implement recommendations of the Presidential Commission on Law Enforcement and the Administration of Justice. It contains 12 substantive titles to improve Federal authority to deal with organized crime. It strengthens the legal means of obtaining usable evidence, brings any major illegal gambling operation within Federal jurisdiction, makes it a crime to use income from organized crime to acquire or establish a legal business, and authorizes increased sentences for habitual criminals who pose a continuing danger to society.

NARCOTICS CONTROL—THE RODINO PLAN

To a large extent, the very core of the Nation's crime problem is narcotics addiction. In urban high crime areas, over 50 percent of crimes are committed by addicts. Traffic in narcotics finances organized crime on an international scale. Pushers of heroin and other hard narcotics prey on our children. Narcotics addiction has become truly a national epidemic. For this reason, I have formulated a comprehensive, three-pronged attack on narcotics.

NARCOTIC ADDICT REHABILITATION ACT OF 1970 (RODINO BILL, H.R. 17269)

My bill would require medical supervision and control of every person known to be an addict, with mandatory confinement if necessary. Treatment would be under the Public Health Service, but my bill would not interfere with criminal prosecutions of addicts charged with crimes. It has the support of law enforcement officials and the American Medical Association, and is under active consideration by the Judiciary Committee.

Under the second phase of my program, such use of public health officials to control narcotics addicts would free law-enforcement officials to conduct vigorous crackdowns on one of the most heinous criminals in our society—the narcotics pusher.

SANCTIONS AGAINST COUNTRIES PERMITTING ILLEGAL NARCOTICS EXPORTS (RODINO BILL, H.R. 18397)

The third step in my program is strong action to eliminate the supply of illegal narcotics entering our country. My bill would impose economic sanctions on foreign governments that fail to take adequate measures to curb illegal production and processing of such drugs. Some 140 Members of the House are cosponsors of my bill, and I am pressing for action on it by the House Foreign Affairs Committee.

STATE TAXATION OF INTERSTATE COMMERCE

The Special Subcommittee on State Taxation of Interstate Commerce, of which I am chairman, has worked assiduously for years to develop an equitable and workable interstate tax system. In this Congress, my Interstate Taxation Act has passed the House and is awaiting Senate action. It has support from business groups across the country.

IMMIGRATION AND NATIONALITY ISSUES

Another of my major responsibilities on the Judiciary Committee is on immigration and naturalization and refugee policy. As ranking member of the Immigration Subcommittee, I can report that we have made significant improvements in these laws. Our objective is a flexible immigration system to meet the needs of the United States, not only domestically but in our foreign relations. The 1965 Immigration and Nationality Act repealed the national origins system and established our basic policy—to reunite families, give preference to aliens whose skills we need, and recognize the plight of refugees. However, as in the case of any complex law, unforeseen inequities and problems have arisen.

In the 91st Congress, my subcommittee developed a bill, now law, that solves some of the problems. Its major features are: To facilitate the entry into the United States of certain nonimmigrant aliens of distinguished merit and ability, such as executives of companies engaged in international trade, doctors, professors, and nurses; to permit the fiancees of citizens to enter as nonimmigrants; and to eliminate the 2-year foreign residence requirement for certain exchange visitors.

Current problems that still require action are: Development of an improved preference system; perfection of the labor certification procedures in a fair and uniform manner; the decline in Irish and Western European immigration; and the backlog in immigration of brothers and sisters, particularly from Italy. My bill, H.R. 17370, contains provisions to remedy all of these problem areas, and extensive hearings have already been held on it. I am hopeful of action in the next Congress.

INTERGOVERNMENTAL COMMITTEE FOR EUROPEAN MIGRATION—THE WORLD REFUGEE PROBLEM

I will again be serving as senior adviser to the U.S. delegation at the 1970 meetings of the Intergovernmental Committee for European Migration. This 31-member nation committee is expected to move over 800,000 refugees during 1970 to new homelands.

NORTH ATLANTIC ASSEMBLY—INTERNATIONAL ENVIRONMENTAL COOPERATION

As a result of my efforts in the foreign relations area, for the past 8 years I have served as a delegate to the NATO North Atlantic Assembly, composed of members of the NATO nations' parliaments. I am Vice Chairman of the Scientific and Technical Committee, which has had a continuing, special concern about international environmental problems such as air and water pollution, oceanographic research, and fisheries resources. We have also worked on desalination of water, global hunger, and the exchange of information on drugs. The committee has always been particularly interested in U.S. environmental activities, and 2 years ago I presented a survey of air pollution in the United States. Last year I reported on the Santa Barbara oil spill, and for the 1970 meeting later this fall I am preparing a study of U.S. water pollution control policies.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,500 American prisoners of war and their families.

How long?

REPORT TO 10TH DISTRICT OF VIRGINIA

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. BROYHILL of Virginia. Mr. Speaker, my final newsletter for 1970 was mailed to 100,000 northern Virginia families last month. As I believe the items covered might be of interest to American citizens elsewhere, I insert the text at this point in the RECORD:

CONGRESSMAN JOEL T. BROYHILL REPORTS TO THE PEOPLE OF THE 10TH CONGRESSIONAL DISTRICT OF VIRGINIA, SEPTEMBER 1970

As the 91st Congress moves into its closing days, I send you my final newsletter for 1970. The number of subjects covered again dictated a lengthy issue, for which I apologize, but I hope to send shorter and more frequent reports next year.

While I have had the pleasure of discussing major issues personally with many thousands of you, I hope to hear from more of you in the future. It has always been my conviction that the citizens of Northern Virginia are entitled to a first-hand assessment of legislation from their Congressman, and at no time in the eighteen years I have been in the House of Representatives has it been more essential for all of us to know the facts behind the governmental process, as well as the motivation and intention of our public leaders. With this in mind, I hope you will find this report useful and informative.

FOREIGN TRADE

The House Ways and Means Committee recently completed work on an omnibus trade bill, designed both to stimulate exports and to provide new and reinforced roadways to relief for domestic industries and workers hurt by imports.

Our overriding aim was to develop legislation which would help our country's enterprises compete under conditions of world trade today.

Unlike bygone eras, these times demand innovative tactics and strategy on the part of the United States. We no longer are the unchallenged giant of global trade. Other nations, notably fast-rising Japan and Germany, are offering us strong and growing competition for both goods and markets throughout the world. Also of significance are the mushrooming international trading blocs, such as the European Economic Community, more popularly known as the Common Market.

Against this background, the Committee tried to perfect a bill which would work in three directions:

1. To encourage substantial and profitable increases in the exports of U.S. goods to other countries.

2. To offer tangible assurances to our trading partners that the U.S. remains ready and willing to negotiate for fairer and freer trade.

3. To establish, for American industries and workers, provisions of law which would enable them to gain prompt and adequate relief from the ravages of large and unusual increases of imports.

The bill's principal ingredient to spur exports is a provision which would permit American businessmen to establish Domestic International Sales Corporations, or DISCs.

Under present law, American firms can set up foreign subsidiaries, which are able to take advantage of lower cost labor abroad. Also advantageous is a provision of law allowing the income of these foreign subsidiaries to remain untaxed until it is returned to the United States.

The Committee's bill would extend this

same tax deferral privilege to the DISCs. Their profits would not become subject to U.S. income tax until distributed to shareholders.

In giving DISCs the same tax deferral advantage now enjoyed by foreign subsidiaries, the aim, of course, is to encourage American enterprises to manufacture goods domestically and ship them abroad, thus keeping both jobs and capital at home.

It also should encourage American businessmen, who are not now interested in world markets, to become exporters and thus further improve our country's balance of trade position.

In an effort to show American willingness to be conciliatory in world trade, the Committee included a provision in the bill paving the way for removal of the so-called American Selling Price (ASP) system of customs valuation.

For some time now, our trading partners have raised strong objections to the ASP system, which means that tariffs on certain chemicals and other products are based upon the American wholesale price of the products involved.

In effect, the Committee voted to authorize the President to proclaim an end to ASP, whenever he feels this country has received, in return, the best possible concessions from our trading partners.

Hopefully, this would be good visible evidence that the United States remains committed to the principle of give-and-take in global trade, and in fact, is willing to go a little more than half-way to meet the other party.

The bill recognizes also that sound trading must be reciprocal, that trade should be fair as well as free.

A number of provisions are included along these lines, among them a strengthened "escape clause" mechanism which would provide for more automatic relief, in the form of adjusted tariffs or quotas or both, if a domestic industry could not only show escape clause injury but meet additional criteria demonstrating damage from the inroads of imports.

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The bill further provides for specific quotas on imports of certain textile articles and shoes. These would be limited by category and by country to an annual amount equal to the average for the years 1967, 1968 and 1969.

In taking this action, the Committee made clear its hope that principal supplying nations would be willing to open negotiations leading to voluntary limitations on imports, similar to the arrangement which now exists between our government and the leading steel producers of Japan.

If such a voluntary agreement could be worked out, for textiles or shoes, it would supersede provisions of the bill, even if the measure had become law by this time.

Woven throughout the bill, in all its provisions which could lead to increased tariff or import quotas, is an overriding clause allowing the President to decline to take action whenever and wherever he feels it would be contrary to the national interest.

The bill allows the President to be highly flexible in his actions on trade, and extends his authority to proclaim reductions in rates of duty. His tariff cutting authority would be limited generally to 20 percent of the rates of duty which will exist when the final stage of the Kennedy Round reduction is made effective, under the General Agreement on Tariffs and Trade, on January 1, 1972.

The bill also gives the President added authority to act against discriminatory moves by other countries. Whenever another nation imposes restrictions which unjustifiably or unreasonably burden United States commerce, the President is directed to take such action as he deems necessary and appropriate. This counteraction could take the form of duty impositions or any other restriction against products of the offending country.

In viewing this, and all the other provisions of the bill, it is important to keep in mind that the present law, the Trade Expansion Act of 1962, is eight years old. World trade has changed drastically over these intervening years, and we urgently need a new law for a new set of conditions.

The Trade Act of 1970 was tailored to these current demands. It is today's law—to meet the needs of today, and hopefully, tomorrow, too.

DRUG ABUSE

The Ways and Means Committee also has been occupied this summer with a problem of paramount interest, and concern, to many segments of our society, especially parents and young people.

This problem has to do with drugs—and how to cope with them.

Until 1968, the control of narcotics and other dangerous substances was scattered among the departments and agencies of the Federal government. Also, there were varied laws, handled by several different committees of the Congress, to deal with these items.

But under the Reorganization Plan which went into effect in 1968, control of these substances was placed under one Federal agency—the Justice Department's Bureau of Narcotics and Dangerous Drugs.

A move is now underway in Congress to bring together the divergent, pertinent laws—to reorganize them and to place them in a single statute to be enforced by the Bureau of Narcotics and Dangerous Drugs.

In keeping with this aim, the Committee on Ways and Means agreed to participate and cooperate in the legislative reorganization. As a result, we are retaining jurisdiction over importation and exportation, but we are leaving to the Interstate and Foreign Commerce Committee the handling of domestic traffic in these substances, ranging all the way from marijuana through heroin to the hallucinogens such as LSD.

If this legislative reorganization is successful, there will be uniform requirements for those licensed to handle narcotics and drugs, and uniform penalties for those who deal in them illicitly.

Our concern, in the Ways and Means Committee, was to help make the law just, and the enforcement of it more efficient. We endeavored, in preparing our portion of the overall bill to offer due protection for the innocent and mercy for the youthful first offender, but at the same time to make it tough and therefore unprofitable for the "pushers", the importers and the other "hard cases" whose aim is to corrupt our children.

The Committee on Interstate and Foreign Commerce reported the drug abuse bill just before the Congressional recess, and the recommendations of the Committee on Ways and Means were included as Title III of the bill.

Title I of the bill authorizes the Department of Health, Education and Welfare to increase its efforts in the rehabilitation, treatment, and prevention of drug abuse, through community mental health centers and through public health service hospitals and facilities. Increased research and training are also authorized through the National Institute of Mental Health, and the bill would likewise encourage treatment of narcotic addicts by private physicians.

Control of drug abuse through registration of manufacturers, wholesalers, retailers, and all others in the legitimate distribution chain would be vested in the Department of Justice, and all transactions outside the legitimate distribution chain would be made illegal. Drugs specifically named for control include all hard narcotics and opiates, marijuana, all hallucinogens, amphetamines, barbituates and tranquilizers subject to abuse. The bill also revises the entire structure of criminal penalties involving controlled drugs by providing a consistent method of treatment of all persons accused of violations. While mere possession of controlled drugs is made a misdemeanor, manufacture or sale of illicit drugs is punishable by up to 15 years in prison in the case of the most dangerous drugs, and second offenses would carry double the penalty for first offense.

The bill also establishes a presidential commission on marijuana and drug abuse which will study and report to the Congress within one year on problems involved in marijuana use, and within two years on the causes of drug abuse and their relative significance.

VIETNAM

During the past few months the American people have regained their trust and confidence in the words, promises and policies of their government with regard to Vietnam. The President has made basic decisions to change the course of the war, acting on the available alternatives in full view of the public. And in every instance he has fulfilled the pledges he has made based on these decisions.

He promised not to send in more troops; he promised to start bringing the troops home; he promised to supplant our troops with fully trained and fully supported South Vietnamese forces, so that our withdrawal would not result in a Communist conquest and bloodbath; and he promised that our troops would leave Cambodia promptly after their successful sanctuary strikes.

The big inside news from Vietnam recently indicates that a dramatic reversal of ground combat roles now has been achieved, with South Vietnamese forces replacing almost all American combat troops along the borders of Cambodia and Laos.

Eighteen months ago, thousands of American troops were pinned down with the nasty responsibility of fighting North Vietnamese invaders from the jungles and mountain frontiers of these two nations. Now, however, our troops have been almost completely replaced by South Vietnamese ground forces.

We continue to man some artillery outposts and provide helicopter and bomber support. But since the Administration began the policy of responsible withdrawal of our combat forces, South Vietnamese have replaced our soldiers along all but a small part of South Vietnam's jungle and mountain boundaries.

The only American combat units now left along the frontier are the equivalent of one infantry brigade operating in the northern part of the military region in which Saigon is located.

The most dramatic change has been made in the provinces closer to the South Vietnamese capital. Three months ago American troops formed the outer line of defense there, against three North Vietnamese divisions along the border. South Vietnamese troops were for the most part concentrated in the inner ring around Saigon.

Now those roles are reversed. The South Vietnamese man the front lines against the enemy, a decisive product of our policy of Vietnamization.

In the South, in the Mekong Delta, South Vietnamese units have been acting alone, except for American support, since our Ninth Infantry Division pulled out last summer, leaving no U.S. ground maneuver battalions in the Delta.

In the Central Highlands, South Vietnamese forces are now responsible for the entire border with Cambodia and Laos. The U.S. Fourth Division moved its headquarters away from the border four months ago.

Progress has been slower in the northern provinces and along the demilitarized zone between South and North Vietnam. But even in these areas, South Vietnamese troops are taking up the initiative. Combat responsibility is now at least shared, being no longer a sole U.S. operation, and our mission is changing from combat to one of supply and support.

Much of this shift in ground combat roles has taken place since the successful strikes at the Communist sanctuary bases in Cambodia.

We all remember the wail of woe that went up in some quarters when the Cambodian operation was launched. We were told that it meant the end of our staged withdrawal program and the end of the Paris negotiations. The critics said it meant that American troops would be bogged down in still another Southeast Asian nation for years to come.

It was loudly if not responsibly forecast that the U.S. troops would not be quickly withdrawn from Cambodia and that, to the contrary, more and more would be assigned to stabilize a deteriorating situation there, as had been the pattern in South Vietnam in previous years.

We all know what happened.

In the strikes against the Communist sanctuaries, the border pressure on South Vietnam was relieved. Our withdrawal program, including replacement by South Vietnamese ground combat troops, was helped rather than hindered.

Great amounts of food and other supplies were denied to the Communist invaders. Their major supply port in Cambodia was closed and remains closed to them.

And, in the most direct benefit, vast stores of guns and ammunition were seized. Otherwise, these arms would be in use against our troops today.

The American forces were withdrawn promptly from Cambodia after conclusion of their successful mission, just as the President had calmly forecast all along.

Contrary to what pessimists feared, the enemy was weakened, the borders of Vietnam were strengthened, the army of South Vietnam received some desirable field seasoning, and conditions permitting our continued secured withdrawal were enhanced.

Despite the successes of the troop withdrawal program, and the solemn promises of the President that this program will continue until the American ground combat role is ended with the South Vietnamese army safely in control, some critics demanded a deadline plan.

I don't question their sincerity, but I do most seriously question their judgment.

It would be the sheerest and most reckless folly to command the President to withdraw all of our troops from Vietnam by a certain date . . . regardless of the prevailing circumstances and regardless of the effects of that action on other vital considerations.

The President, who has all the facts, not only about South Vietnam but about all of the other related challenges we face all over the world—could not operate with responsible flexibility if his hands were tied by such a deadline order.

Here are some of the questions he has to consider, even if they apparently do not rate high in the view of some of his critics:

The government of South Vietnam. Could it cope with suddenly being left alone, without adequate preparation and planning, to continue building a democratic government while fighting internal subversion and invasion from three frontiers?

The people of South Vietnam. All those who placed their faith in us, and in our solemn promise to shield them until they were fully armed to defend themselves, suddenly would be left alone and identified to their Communist foes.

The path of negotiations. Why should the enemy even consider negotiating an acceptable end to the war if we announce we are withdrawing by a certain date no matter what happens? Why wouldn't they just for it to be delivered to them?

The honor of America. For the first time in our history, an American army would trudge home in a posture of defeat, if we pull out before our best military and political judgment indicates. And, if South Vietnam fell under such overnight pressure, then 285,000 Americans would have suffered and 43,000 would have died for nothing.

The safety of our troops. If we order our men out on some sort of hasty, pell-mell pattern, what would happen to them if their reckless retreat was hit by a major Communist attack? It could be a battlefield disaster unprecedented in our history.

The other nations of Southeast Asia. All of the neighboring governments now are struggling with their own wars of Communist subversion and invasion. Thousands of enemy troops are active within their borders. Can anyone doubt they also would go under if South Vietnam falls?

After spending four years in the military service, some as a prisoner of war, during World War II, I personally am all too familiar with the horrors and devastation of war not to want to bring this conflict to the quickest possible end. But there is no easy way out of Southeast Asia. A hasty ill-prepared pullout would raise new dangers and not really settle any old dangers.

I am certain the American people want us to terminate the war, but they want to see an honorable end so that still another generation of Americans will not have to fight again in that part of the world in a bigger war.

We are turning the war over to the South Vietnamese as rapidly as they become ready to assume the combat role for their own country.

This is a sound policy for victory, a policy that is working, and that will continue to work until every American combat soldier is out of Vietnam in safety.

To recklessly quit before the South Vietnamese are ready, just because we are understandably weary of the burdens of leadership, would risk the lives of our fighting men and the cause of freedom itself.

THE ECONOMY

The inflation still troubling our nation today was largely the result of an "expenditure explosion."

During a four year period beginning in 1964, the Administration and the Congress proceeded on the assumption that no deficiency existed in our society which the Federal purse and the heavy hand of Federal regulation could not cure. Each piece of legislation begat more legislation—each new expenditure by the government begat other expenditures.

When President Nixon took office, he was faced at the outset with a projected expenditure budget of about $195 billion and projected revenues of about $187 billion for fiscal 1970. The financial and business sectors of our economy were fast approaching a state of chaos. Prices and interest rates were rising at an accelerated pace which was unprecedented in the memory of most of us. We were reaping the harvest of excessive government expenditures and lack of foresight on the part of government to meet those expenditures.

Inflation is the most unfair of taxes, as it hurts most severely the poor, the elderly, and those who live on small fixed incomes. It was clear at the outset that the new Administration, in order to combat effectively the advanced inflation it inherited, must adopt a new spirit of self-discipline in government . . . willingness to make hard choices and to enforce a strict sense of priorities needed to create a budgetary surplus.

Throughout 1969 the President repeatedly demanded cuts in spending in every department and agency. Low priority programs were deferred, much waste was eliminated, and methods are now being developed for controlling such runaway costs as those which have plagued the medicaid program.

The President's Fiscal 1971 budget was strongly anti-inflationary. It was the first budget in history to emphasize long-range planning by predicting domestic expenditures five years in advance. But even more dramatic was a shift in our national spending priorities.

For the first time in twenty years, defense spending has fallen below human resources spending. In 1969 we were spending 44 percent of our budget for defense and only 34 percent for human resources. But the 1971 budget calls for 37 percent for defense and 41 percent for human resources. Space expenditures have also been significantly reduced. Altogether, space and defense expenditures were reduced by some $6 billion in the 1971 budget. In addition, the President has called for the reduction, termination or restructuring of some 57 obsolete or low priority programs which will result in savings not only next year but in the years to come.

Anxious and indignant over the high cost of living, some of my constituents have asked, "Why not freeze prices?". It sounds so reasonable. It seems so simple. Freeze prices and the pay check will go further. The only trouble is that it won't work. Instead of controlling inflation, it is likely to aggrevate it.

Except in time of great national emergency declared by Congress, I would oppose giving the President standby controls over prices, wages and credit.

The nation attempted one great experiment with price controls. We learned in World War II that price controls curtail the profit incentive, which curtails production, which causes commodity scarcities, which leads to rationing. In turn, price ceilings, commodity scarcities and rationing lead inevitably to the black market. In the black market, the dishonest merchant gets rich, his selfish customer lives high and the honest average consumer is left the helpless victim.

Even if the black market could be prevented, once you begin the business of freezing, you have more than prices to consider. The costs of production must be frozen. This means you have to freeze wages. You have to freeze working conditions. You have to freeze fringe benefits. You have to freeze dividends. You have to freeze credit and capital investment. And when you freeze these things, you are freezing income, purchasing power and the standard of living.

Increases in the cost of living are, in part, an inevitable result of changes in our society. Over the years we have seen an increasing growth in the demand for services—not goods. In the service industry, increases in productivity are difficult to achieve. In an affluent society there is a shortage of labor in those fields, whether we are talking about the medical profession or the servicing of the many conveniences offered by industry.

Neither tax increases nor reductions in Government spending can completely meet this problem. They will not produce any more doctors, nurses, or medical technicians. They will not increase the productivity of the plumber or home appliance repairman. Nor will they make it any less likely that the home owner will need those services. The Government can help by encouraging young people and the unemployed to seek training in these fields, through tax incentives and through programs such as the National Defense Education Act which, to meet other needs in earlier years, provided for scholarship assistance to those entering scientific and research studies.

Although, I believe the disciplined approach to fiscal policy seems to be working, economic indicators show that, our overheated economy is cooling. The initial decline in defense spending combined with an inventory adjustment pulled our gross national product down by some 10 billion dollars early this year.

For well over a year now our people have taken on new installment debt at a slower rate. Apprehension has resulted in deferring purchases by many consumers of durable goods—appliances, automobiles. They now seem to be in a position to increase borrowing if they choose, at a time when business growth depends on consumption rather than the illusion of growth inherent in an inflationary economy. For the first time in two years, the wholesale price index dropped in August. Personal income has moved up to an annual rate of $802 billion compared to $774 at the end of 1969, and recent tax cuts have increased disposable income, another good omen for business.

As Paul W. McCracken, Chairman of the Council of Economic Advisers, said after the Council's meeting with the President on August 24, "We are establishing now, I think, a good base for a rise in business activity, but a rise that will be orderly and will still make it possible for us to continue to make progress against inflation."

FEDERAL BOMBING LAWS

Revolutionaries who increasingly are turning to manufacturing explosives and planting them in office buildings, police stations, churches, synagogues and schools, deserve neither pity nor mercy. They are dedicated to violence, to terrorism, to senseless killing and to overthrow of the American system of government. They must be stopped.

During the 1969–70 school year the FBI recorded 246 arsons or attempted arsons and 14 bombings on college campuses alone. And a recent Department of the Treasury report to Congress of a survey of a 15-month period between January 1969 and April 1970 revealed that the country suffered a total of 4,330 bombings, 1,475 attempted bombings and 35,129 threatened bombings.

This terrorism resulted in the deaths of 40 people during the survey period and $21.8 million in property damage. Countless others were in imminent danger of physical injury or death and even more were frightened and intimidated.

In the same period the federal government sustained damage to buildings and other property in the amount of $612,569, although this loss was insignificant when compared to the $2.2 million expense involved in evacuating 130 public buildings.

In cooperation with law enforcement officials in 49 states, the Treasury Department analyzed police records on 40,934 cases. In 64 percent of the cases, it was impossible to determine cause or attribution because of lack of information available to the police. With respect to the other 36 percent, 8 percent were in aid of general criminal activities (such as extortion, robbery, and arson); 1 percent were attributed to attacks on religious institutions; 2 percent were attributed to labor disputes; 56 percent were attributed to campus disorders; 19 percent were attributed to black extremists (of both left and right); and 14 percent were attributed to white extremists (of both left and right).

Less than a dozen states now have adequate regulations to guard against dynamite getting into the hands of irresponsible people.

The President has made a number of specific proposals aimed at the rash of anarchistic bomb-setting. He proposed that the maximum penalty for transporting or receiving explosives for illegal use go to 10 years or a $10,000 fine or both, as opposed to the one year or $1000 fine now applicable. He proposed that persons convicted of transporting or receiving explosives in violation of the federal provision be made subject to the death penalty if a fatality occurs. The penalties for causing injuries by explosives would also be doubled to 20 years and/or $20,000, and incendiary devices would be treated as explosives with several new provisions to protect buildings.

Both the House and Senate Judiciary Committee are now conducting hearings on both the Administration proposals and other anti-bombing measures before Congress. The police of the nation are anxiously awaiting federal assistance in their fight against these extremely dangerous tactics, and I am working with my House Colleagues in an effort to push for enactment of the most effective possible anti-bombing measures at the earliest possible date.

WOMEN'S RIGHTS

Shortly before the House of Representatives adjourned for a brief August recess, the so-called "Equal Rights Amendment" to provide equal rights for men and women under law was passed.

Like many others, I believe that this amendment should not be necessary. The Constitution already provides for equal rights under law, and much of the discrimination which we must all acknowledge is suffered by American women results more from male pride and prejudice than from law. But there are areas in the law where distinctions based solely on sex do exist, and the constitutional amendment will either invalidate these laws or extend them to men and women equally.

Some states have laws placing special restrictions on women with respect to hours of work. Other state laws prohibit women from working in certain occupations. There are laws, including higher standards required for women applicants, which operate to exclude women from state colleges and universities or severely limit their number. Dual pay schedules exist in some localities for men and women public school teachers. In some states married women must obtain court approval before engaging in independent businesses, in others they are faced with special restrictions on their right to establish a legal domicile. There are even heavier penalties provided for women offenders than for men offenders committing the same crime in some states. And the Social Security and other benefits tend to be discriminatory in different treatment for men and women.

Many of these laws have been enacted because men sought to protect their women from the rigors of business and the work-a-day world. Americans have historically considered men the providers and women the wives, mothers, widows or children of the providers. Yet we all know that in America today the working woman is the rule, not the exception. She is a young woman not yet part of a family unit, a married woman providing supplemental income for herself and her family, or a single woman or widow dependent only upon herself. The rights of value to her are the same rights that are important to men, the right to a job; to a promotion; to a pension; to social security; to all the fringe benefits of any job. But laws passed by men in a desire to protect mothers, wives and children, frequently limit the hours she can work, the type of work she can do, the pay she receives for her work, and, in effect, her ability to provide for herself and her dependents in the same way a man can.

Both the Congress and the Executive Branch have attempted to reduce discrimination against women, through legislation and through comprehensive guidelines for Federal contractors and agencies. While the overwhelming number of court cases involving equal rights have resulted in rulings against women petitioners, the Equal Pay Act has recently been interpreted for the benefit of women in a few instances.

If American women waited long enough to successfully appeal the constitutionality of the myriad of discriminatory laws now affecting them, I am convinced that they would at some time in the future find that an amendment to guarantee equal rights would be unnecessary. But after waiting 50 years to secure the adoption of the 19th amendment and the vote, they then began a 47-year wait for the amendment we considered in the House last month. I believe I speak for a large majority of my Colleagues in expressing the conviction that we felt they had waited long enough.

While I supported the amendment, I did so with some anxiety. Because the legislative process by which the bill came to the Floor permitted no amendments, the language is somewhat imprecise. As presently worded, it will probably repeal a number of labor laws designed especially for the health and comfort of the female worker, and its effect on child support laws, child custody laws, inheritance laws, and even draft laws is still questionable. Now that the House has clearly expressed its intent that women shall have equal rights without further delay, I am hopeful that the Senate will consider these still murkey questions and improve upon the language, so that the amendment, when ratified, will guarantee both equal rights and protection under law for those who have waited so long.

MEDICREDIT

One of the most potentially alarming questions facing the average family today is how to pay for necessary medical care should a critical or prolonged illness strike.

There is simply no way most people can handle the financial burden caused by a truly major health crisis.

This problem, which affects the middle income person as well as the very poor, has prompted me to introduce a bill which I believe holds real promise of relief.

It is the "Health Insurance Assistance Act of 1970", which provides for a plan christened Medicredit by its chief architect, the American Medical Association.

Essentially, Medicredit recognizes that the ability of the American people to pay for adequate health care varies greatly. Some just cannot afford it at all; others are wealthy enough to cover any conceivable emergency.

But most Americans are in-between; they can afford a part of the cost, depending on their respective incomes.

Under Medicredit, the truly poor would be given certificates to use in buying the proper coverage from private insurance carriers.

This system would replace the present Medicaid program, which has proved to be an administrator's nightmare and a spendthrift's dream.

Medicaid is loaded with problems, and its costs are all but prohibitive. It has been clear that a better way must be found to provide medical care for the indigent and I believe Medicredit is it.

Under Medicaid, we have been saying to people, in effect, "Go ahead and spend yourselves to the point of indigency, and then the Federal government will move in to help you."

Under Medicredit, we would be saying: "The Federal government will see to it that you get the insurance protection you need so that you will not be reduced to the point of indigency."

For those with greater ability to pay—those, for example, who pay an annual income tax of, say, more than $300—the plan would provide tax credits.

The amount of the credit would vary with the person's tax liability. For example, someone who pays $500 in income taxes would be given a credit against 70 percent of the annual premium cost of adequate health insurance. Those paying $1,200 in income

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taxes would receive 20 percent credit, and so on.

In order to receive the credit, based upon net taxable income, a taxpayer would have to show that he had purchased a qualified health care plan, approved by the appropriate state agency.

Medicredit would utilize existing, reputable private carriers and plans, and would allow the competition of the marketplace to operate in maintaining cost control and in assuring quality of care.

As a further safeguard, medical societies would be required to establish peer review units to keep watch over individual charges and services, hospital and nursing homes admissions and retentions, and other aspects of care.

Although it is impossible to pre-determine the exact cost of Medicredit, it would be perhaps a third, or not more than half, as much as some of the national health insurance programs which have been proposed already. And whatever it cost, it would do away with a genuinely disastrous Medicaid program which is now running at about $5 billion a year, and is expected to jump to $7 billion shortly.

In short, Medicredit offers a potential answer to one of the greatest problems confronting this nation today: The growing inability of too many Americans to pay for health care essential for themselves and their families.

POTOMAC RIVER POLLUTION

As I mentioned in my June newsletter, as our numbers and our industrial productivity have multiplied, we in America have almost overwhelmed our environment as we produce more, consume more, and waste more than any other people on earth.

Yet we have the skills to design and build effective anti-pollution equipment, and once we have committed ourselves to do what must be done we will be able to insure that our air will be fit to breathe, our water fit to drink, and our cities fit to live in.

As a sponsor of the Administration's comprehensive pollution control legislative program, I have been somewhat disappointed in the lack of progress made in obtaining enactment of these proposals. The package includes $4 billion in Federal funds for waste treatment facilities and an Environmental Financing Authority to help local government finance their share of these projects. It extends authority of the Council on Environmental Quality to deal with solid wastes, such as old car wrecks, and gives HEW power to develop controls over vehicle exhausts. It also amends the Water Pollution Control Act by adding new enforcement measures and expanding research grants for pollution control, and updates the Land and Water Conservation Act to allow more surplus Federal property to be used for parks and recreation.

As the Congress and the Administration have struggled with solutions to pollution problems throughout the nation, I have also been working on legislation which I hope to include in a revenue measure soon to be acted on by the House—legislation which will create a Federal water and sewage authority to sell water and sewage service to the Federal Government, the District of Columbia Government, and parts of suburban Maryland and Northern Virginia.

The Potomac Interceptor was installed as part of the development plan for the Dulles International Airport. At the time it was foreseen that construction of the airport would create not only a specific amount of sewage from its own operation but would also encourage growth in surrounding areas. Rather than attempt to treat this anticipated sewage load locally and then discharge it into the Potomac River above the intake point for the drinking water supply for the District of Columbia, Arlington, Falls Church and parts of Fairfax County, the decision was made to transport the sewage to the major facility at Blue Plains, which was to be expanded to become a regional plant.

At the time Dulles Interceptor Sewer was built, there were no problems with the water quality of the Potomac above Little Falls, Had the interceptor not been installed, alternative methods of sewage handling would have been necessary, and it is not difficult to conceive of the damage which might have resulted with regard to our water supply.

Unfortunately, although the Dulles Interceptor was completed in 1963, construction of the link within the District of Columbia which connects the interceptor and Blue Plains has been severely hampered by two factors. One is the controversy over construction and placement of highways in the Georgetown area and the building of the Three Sisters Bridge, because the placement of the proposed sewers is contingent on the locations and construction of roadways. The second reason for delay is the disruption of normal functions that always occur with the ripping up of streets to install sewers. In order not to bring all transportation in the Georgetown area to a halt, only portions of the sewer have been constructed at any one time.

These delays made it necessary to connect the Dulles Interceptor to existing sewers through the Georgetown area to bring that effluent to the Blue Plains Plant. The resulting overload has resulted in frequent flooding in the area, especially during periods of high storm runoff, with consequent dumping of raw sewage into the River in the Georgetown area.

Only a short link now remains to complete the route from Dulles to Blue Plains, and completion of this will alleviate the flooding situation. However, completion is contingent upon resolution of the Three Sisters Bridge controversy and the appropriation of additional funds.

In evaluating the costs of operating the Authority I am proposing, I eliminated the costs of solid waste disposal from the budget of the District of Columbia Department of Sanitary Engineering and added the costs of the Washington Aqueduct of the Corps of Engineers, and was appalled to find that the water-sewer operation is already short some $6.2 million of the minimum $25.9 million needed to be solvent and capable of proper operation this year. Another $54,037,000 would need to be added to the $19,775,000 authorized by Congress for Capital Outlay in 1971 in order to get the water-sewer program back on the schedule directed by Congress when the Dulles Interceptor was built. In subsequent years the costs for the projected program which will provide only adequate expansion and improvements to the system will be $76,248,000 in fiscal 1972; $42,802,000 in fiscal 1973; $24,393,000 in fiscal 1974; $27,495,000 in fiscal 1975 and $31,275 in fiscal 1976.

Recent concern with the importance of nutrients in the Potomac has demanded reconsideration of present plans. It is becoming apparent that storm waters will also need treatment before discharge and hence will also have to be processed through Blue Plains or some similar facility. While I hope initially that the new Authority will assume responsibility for the present projected program, I believe we will soon need to move toward more sophisticated treatment and the possible construction of deep wells to store combined sewage during storms for processing at slack periods at Blue Plains. I believe the program the Authority must eventually follow if the Potomac is to be pollution-free is far too extensive for the fragmented operation now involving the Department of Army and Interior, the District of Columbia, and several communities in suburban Maryland and Virginia.

Water and sewer rates provide the major source of income for the Water Fund both District of Columbia and Washington Aqueduct, and the Sewage Works Fund which includes the Blue Plains Treatment Plant and the funds to maintain the Dulles Interceptor Sewer. There is at the present time no source of revenue for stormwater sewers except the District of Columbia general revenues. So the new Authority, like the Sanitation Department of the District and the Corps of Engineers, would rely heavily on borrowing authority or bond authority, together with establishing a new rate for stormwater sewer use or benefit.

Lest there be confusion as to the jurisdiction of the Authority I hope to see created, I would like to point out that Northern Virginia is served by two watersheds. The Authority would concern itself with the upper watershed which supplies water and sewer service to parts of Northern Virginia and also to the neighboring jurisdictions of suburban Maryland and the District of Columbia.

The lower watershed, which supplies approximately half a million Northern Virginians, is faced with equally severe problems. However, this watershed is under the jurisdiction of the Fairfax County Water Authority, and plans are already underway for solving its more serious problems with projected plans for large-scale improvements and protection of the water supply at Occoquan Creek and reservoir. I recently met with County authorities, the Governor, the Assistant Secretary of Interior for Water Quality and Research, the Commanding General at Fort Belvoir and members of the Virginia Water Control Board to try to work out difficulties the Authority is having in obtaining State and Federal funds to help with its program. I shall continue to work for solution to these problems, and am hopeful that speedy passage of the comprehensive pollution control program by Congress will result in the availability of Federal funds to speed this program and others like it across the nation to early completion.

FEDERAL EMPLOYEE HEALTH BENEFITS

In early July, the House acted on a bill to help Federal employees and retirees meet the rising costs of medical care. I was proud to be among the strong supporters of this legislation which will require the Government to meet its responsibility as an employer and, by so doing, to set an example for other employers throughout the nation to follow.

When Congress first considered the program in 1959 the Committee on Post Office and Civil Service, of which I was then a member, determined that a 50-50 participating plan was fair and reasonable. Because it was a new program and the cost to the Government was not yet estimated a formula was adopted wherein the Government would pay 50 percent of the cost of the least expensive low option family program. By virtue of the type of insurance plan the employees subsequently adopted, however, the cost distribution at the time of enactment amounted to a 38 percent cost for the Government and a 62 percent cost for the employee. Increased medical care costs made it necessary for the Congress to increase the Government contribution in 1966 simply to maintain the unfair 38–62 ratio, and further increased costs has caused the 1966 ratio to be reduced to 24–76 in 1970.

In other words, the Federal Government is now paying only 24 percent of the cost of what should be a 50–50 employer-employee program. The legislation approved by the House will, if passed by the Senate, correct this inequity and provide for a 50–50 participation in the future regardless of increases in the cost of medical care.

Another feature of the bill, one of which I am quite proud since I have urged its enactment for a number of years, is a provi-

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sion to eliminate an inequity resulting from overlapping and duplicating provisions between part B of medicare for employees who retired prior to 1960.

In order for the Federal employees who retired prior to 1960 to benefit from the retired Federal employee health insurance program, they had to pay for certain benefits which were also provided for them under part B of medicare which is available to all American citizens whether former Federal employees or not. This bill, if enacted, will permit the amount of the Federal contribution to the retired Federal employee health insurance program to be paid as a part of the employee's share of part B of medicare, thereby eliminating overlapping and duplication of benefits.

PASSAGE OF LEAD POISONING LEGISLATION

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. RYAN. Mr. Speaker, I am extremely pleased that the House today passed H.R. 19127, the Lead-Based Paint Elimination Act of 1970.

As the original sponsor of lead poisoning legislation: the Lead-Based Paint Elimination Act of 1969 and two other bills, I was gratified that the Housing Subcommittee of the House Banking and Currency Committee held hearings so quickly and that the bill was reported out of the full Committee and on to the House floor within 3 months of the hearings.

I am hopeful that the Senate will be similarly swift in its deliberations of the bill, and that the Lead-Based Paint Elimination Act of 1970 will be passed by the Senate before the end of this session of Congress.

I am including in the Record an article from the September 23 New York Times by John Sibley, entitled "City Detects Rise in Lead Poisoning" at this point:

City Detects Rise in Lead Poisoning—Slum Children Afflicted by Eating Chips of Paint

(By John Sibley)

"Dangerous levels" of lead poisoning, the debilitating ailment that afflicts slum children, have been found in nearly 1,800 youngsters so far this year, city health authorities reported yesterday.

This is more than double the number of cases detected during all of 1969. However, this does not reflect a real increase in the number of cases; rather, it reflects the city's intensified campaign to detect and treat lead poisoning.

Up to Sept. 11, the Health Department reported, 55,674 children were tested. Of these, 1,772 wer found to have more than 0.06 milligrams of lead per 100 cubic centimeters of blood, the official danger level.

Lead poisoning occurs most frequently among children under 5 years old who have eaten chips of paint and plaster that fall from the walls and ceilings of slum tenements. This habit of undernourished youngsters' eating nonfood objects is called "pica."

Although lead-based paint has been outlawed for indoor use here since 1959, many old tenements still have peeling walls that date from pre-World War II days.

MANY REPORTED "AT RISK"

Dr. Vincent Guinee, director of the Health Department's Bureau of Lead Poisoning Control, estimated yesterday that about 120,000 children here are "at risk." Of these, he estimated, between 6,000 and 8,000 actually have dangerous levels of lead in their blood.

Lead is not excreted from the children's bodies, but is stored, mostly in the bone marrow. Depending on the amount swallowed, it can cause anemia, cramps, kidney troubles, convulsions, severe mental retardation and death.

Dr. Guinee's bureau was given a special $2.4-million appropriation in January to attack the problem, a program that was given high priority by Mayor Lindsay.

It soon became apparent, however, that detection and treatment of a child's lead poisoning was not enough. Children were being sent home to nibble again at the peeling, lead-impregnated paint chips.

Landlords whose buildings have toxic materials on the walls are now required to cover them with wallboard for at least four feet from the floor level. Of 1,776 apartments inspected this year, 921 were found to have unacceptable amounts of lead.

In many cases, the landlord voluntarily makes the necessary repairs. When he does not, the job is done by the city's Housing Development Administration and the bill is sent to the landlord.

LANDLORDS ARE WARNED

James Kagan, director of the lead program's control unit, said yesterday that 814 letters had been mailed to landlords up to Sept. 11, directing them to comply.

Of these, he said, 685 have been reinspected. The reinspection showed that 111 had already been repaired by the landlords and that was was in progress on 14 others.

Mr. Kagan's office sent 481 orders to the city's Emergency Repair Program to make repairs where landlords had not. He said 265 of these jobs had been completed.

A major benefit of the program, Dr. Guinee said, is a growing public awareness of the problem. Because the symptoms often are not apparent until the damage has been done, even physicians have often been slow in diagnosing lead poisoning.

"Now it's one of the first things a doctor looks for," said Dr. Guinee, "and the parents are on the lookout, too."

MARYLAND SOLDIER DIES IN VIETNAM

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. LONG of Maryland. Mr. Speaker, S. Sgt. Thomas H. Messer, a courageous young man from Maryland, was killed recently in Vietnam. I should like to honor his memory by including the following article in the Record:

Maryland Soldier Dies in Vietnam

Staff Sergeant Thomas H. Messer, 21, was killed on August 28 at Binh Dinh when enemy troops fired at a military plane in which he was a passenger. The plane, which was preparing to take off on a military mission, exploded on the ground when hit.

Sergeant Messer was born in Greenville, S.C. He later moved to Alexandria, Va., where he graduated from Mount Vernon High School.

He enlisted in the Army in September, 1968. A year later he was sent to Vietnam.

WROTE ALMOST EVERY DAY

He wrote home almost every day and described the war as being "hell," his wife said yesterday.

Survivors include his wife, the former Gabriele Zeitlin; a nine-month old son, Thomas H. Messer, Jr., both of College Park, and his parents, Mr. and Mrs. Herbert E. Messer, also of College Park. His father is a master sergeant in the Army.

DAVID LOUIE WINS INAUGURAL AWARD OF RADIO AND TV NEWS DIRECTORS ASSOCIATION

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. MINSHALL. Mr. Speaker, I am extremely proud that one of my young constituents, David Louie, has just won the inaugural award of the Radio Television News Directors in its electronic journalism scholarship program.

Young Mr. Louie, is the son of a well-known Lakewood, Ohio, man, Troy Louie, who owns the Sam Yah Yick Kee wholesale food supply house in Cleveland. A junior attending Northwestern University, David Louie is 20 and a most remarkable and brilliant young man.

In telling me of the award, Col. Barney Oldfield wrote:

> An electric journalism scholarship program has been the dream of RTNDA since its founding 25 years ago, also in Cleveland, so all eyes will no David as he is the first tangible evidence that the organization's dream did, in fact, come true.

I know that David Louie, whose interest in journalism flowered when he was editor of the Lakewood High Times in high school and as a part-time employee at Cleveland radio and TV stations, will do his sponsors proud.

I am very pleased to include the press release issued at the time the award was made, including the remarks made by Colonel Oldfield when he presented it to young Mr. Louie:

David Louie Wins Ben Chatfield Fellowship

Denver, Colo.—David Louie, 20, of Lakewood, Ohio and presently a junior in the Medill School of Journalism at Northwestern University in Evanston, Illinois, became the first winner of the newly established $1,000 annual Ben Chatfield Fellowship.

The Fellowship was established in the Radio and TV News Directors Foundation, and is named in honor of the 4th, and now deceased ex-President of the RTNDA. He was News Director of WMAZ in Macon, Georgia, and became one of the RTNDA founders.

David Louie's grandparents came from Canton, China, and his parents own the Sam Wah Yick Kee Company, wholesale food suppliers, in Cleveland, Ohio.

He was educated in Lakewood High School, was editor of the Lakewood High Times, the school's weekly newspaper. He worked on both WKYC and WEWS in Cleveland.

When he went to Northwestern University, he became a writer on Floyd Kalber's NBC News program on WMAQ, and is now on the assignment desk at the ABC-owned WLS-TV in Chicago.

An electronic journalism scholarship pro-

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gram has been a constant desire of RTNDA since its founding as a means of emphasizing the high quality professional and specialized talents which are required for a career in news broadcasting.

It was post-1966 convention (Chicago), when ex-President Bruce Dennis (WGN-TV) appointed Col. Barney Oldfield, of Litton Industries, Inc., Beverly Hills, Calif., as Chairman, RTNDA's Scholarship and Financial Development Committee.

At the 1967 Board meeting in Toronto, he proposed the establishment of an RTND Foundation, which was voted into being and drafted into legal form by the Washington law firm of Pierson, Ball & Dowd. Then the many and various kinds of solicitation began to raise $20,000 required to endow the first fellowship/scholarship. That level was reached late in 1969, and word went out that the first award could be made at the Denver 25th anniversary meeting.

The electronic journalism scholarship program is already well enroute to endow a second award and has about $2,000 already in the Radio and TV News Directors Foundation treasury working to that end.

RTNDA asked that Col. Oldfield make the first award to first winner, David Louis.

REMARKS BY COL. BARNEY OLDFIELD

Members of the 25th annual convention of radio and TV news directors: As the 25s, 50s, 75s, and 100s of years have special significances in lifetimes and in durabilities of organizations, it is customary to celebrate such milestones sentimentally, perhaps in wonder that what started so small has grown so large and so professional, and to ponder a little the men who had the inspiration to try to put something like this together. Of all the presidents RTNDA has had, only one—the fourth, Ben Chatfield, longtime news director of WMAZ, in Macon, Georgia—has left us and in his honor the RTND Foundation has named a scholarship/fellowship which is to be awarded annually to some particularly promising and deserving junior in some university who is thought to have what it takes to have a career in electronic journalism.

If Ben were with us today, he would privately like what we are about to do, but he would be publicly embarrassed by all the fuss. He would like it for one thing, because during World War II Ben was an editor of a GI newspaper which had a migratory print shop in that it moved with the American forces in the Far East to war's end in Tokyo Bay. The young man we honor today, and in honoring—expect much of—was one whose grandparents came to this country from Canton, China.

Ben Chatfield, in middle Georgia, knew his town and every village within reach of WMAZ's transmitters. He was almost *family* to the people who listened to the newscasts he tailored. They called him in trouble, in celebration, and just to talk to him about how to get to a fella who knows a fella who knows a fella who could help. Long before Betty Friedan got mad at it for being what she calls a man's world, Ben Chatfield had a woman newscaster fulltime on WMAZ. In those days when news directors were just someone down the hall, and not yet part of managements and even vice presidents, Ben found a way to make coming to these conventions something each news director could afford to do. He did know how to get things done—and he did them, and his example of hard work, never giving up, working early and late, is not bad to have riding on our Ben Chatfield fellowship which we inaugurate today.

Now, I'd like to have David Louie join me here at the podium and have you meet him. What kind of a young man is he? He is 20 years old. He was editor of his high school newspaper in Lakewood, Ohio. He worked on WKYC and WEWS in Cleveland. When he went to Northwestern, he was a writer on Floyd Kalber's NBC-WMAQ news show, and is now parttime on the assignment desk of ABC-owned WLS-TV in Chicago. One of his former bosses said he had to get him out of his newsroom, or he would have had *his* job. I have told him that with RTNDA's scholarship, and your sponsorship, he has just come into about 750 fathers who will all be looking at his report card. Ladies and gentlemen, David Louie, RTNDA's first scholarship winner.

PRICING OF NATURAL GAS

HON. GEORGE BUSH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. BUSH. Mr. Speaker, Senators TOWER and HANSEN today introduced a bill in the Senate that would exempt from Federal Power Commission control the authority to establish rates on natural gas sold in interstate commerce by independent producers.

This bill is a giant step in bringing back into play the marketplace pressures in determining the price of natural gas. We must assure an adequate supply of gas. To do this the man who takes the risk must be allowed to earn a fair return.

The 1950's and 1960's have taught us that regulation does not work. Artificial prices and unrealistic procedures have resulted in a decreasing interest in oil exploration that is a major factor in the energy crisis this country now faces.

Some weeks ago I asked Carl E. Bagge, Commissioner of the Federal Power Commission, to assist me in drafting legislation to deregulate the domestic price of natural gas in the hope that this kind of legislation would help stimulate oil and gas exploration. I plan to introduce a bill when Congress reconvenes in November. At this time, I insert in the RECORD a letter to me from Commissioner Bagge delineating the need for this kind of legislation.

FEDERAL POWER COMMISSION,
Washington, D.C., September 30, 1970.

Hon. GEORGE BUSH,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN BUSH: With reference to your letter to me of September 17, 1970, I submit for consideration, as an individual member of the Federal Power Commission, and not for the Commission, the enclosed draft of a bill to provide that the Commission's rate determination and review powers shall no longer be applicable to new sales by independent producers of natural gas for resale in interstate commerce. In my judgment, if enacted, the bill would be in the public interest by providing the necessary stimulus to encourage the accelerated exploration and development of this critical domestic energy source in order to meet the future demands of the consuming public. In addition it would provide the degree of certainty with respect to price which has been lacking in almost two decades of producer price regulation.

The concept of the public interest embodied in the regulatory enabling statutes passed thirty or more years ago was premised upon the need to prevent the exploitation of the consumer and, therefore, the price aspects of regulation were emphasized. However, in the intervening decades our national goals have been altered substantially and today extend more deeply and pervasively to include the preservation of our environment and a concern for the "quality of life." Indeed, there are many who urge corrective measures regardless of the price that must inevitably be borne by the ultimate consumer in a relatively affluent society. Regulation must today, therefore, assume a far broader perspective if it is to remain relevant to the attainment of these contemporary national goals.

It is particularly applicable to the regulation of natural gas which provides a unique weapon in the battle to combat air pollution and, through the technological development of the fuel cell, also provides a potential alternative to central station power generation with its long distance transmission lines. The need and the potential uses for this clean burning fuel is especially critical now and during the next two decades pending the operational development of the fast breeder reactor or other technological breakthroughs in power generation. In my opinion it is essential to the national interest that the gas industry now be stimulated to serve as an aggressive energy force during this transitional period.

Unfortunately, at the present time the natural gas industry is beset with gas supply problems. In a recent unanimous opinion in the *Hugoton-Anadarko* case,[1] the Commission pointed out that interstate pipelines have been unable to obtain desired gas supplies and in both 1968 and 1969 the national findings of natural gas have, for the first time, fallen below production. In many areas the intrastate market has successfully outbid interstate purchasers for such gas reserves as are available. As a result, some interstate gas pipeline companies have been forced to turn to substantially higher cost increments of gas from Canada and imported liquefied natural gas (LNG) from various foreign sources. Other pipelines who are not so favorably located have simply been unable to acquire additional new supplies in sufficient quantities to permit expansion to meet either the increased requirements of their existing customers or the demands of potential new market areas. The situation appears incongruous in view of the fact that the undiscovered potential reserves of natural gas in the United States are estimated at over 1,200 trillion cubic feet—enough to supply our present national needs for about fifty years.

The Commission itself in 1961 abandoned as unworkable the determination of producer prices on an individual company basis and turned to the present cost based area rate approach in order to fix the price of natural gas for each of the nation's major producing areas. In my judgment the area rate methodology that has developed is procedurally cumbersome and functionally unresponsive and, consequently, has contributed immeasurably to the problem in its present dimensions. If we are candid it must be acknowledged that the Commission has apparently failed the practical test which was established in the *Permian*[2] case, the first area rate determination, wherein the Commission stated:

"The separate price we fix herein for new gas-well gas in the Permian Basin should serve to furnish a practical test of whether in fact it will result in bringing forth additional supplies."[3]

Since the issuance of the *Permian* Opinion, less and less gas has been committed to the interstate market until now the inter-

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[1] — F.P.C. — (Opinion No. 586, issued September 18, 1970).

[2] Permian Basin Area Rate Proceeding, 34 F.P.C. 159 (1965).

[3] 34 F.P.C. at 188.

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state pipeline companies report that they have been unable to contract at the existing area prices for any significant quantities of gas in this prolific producing area.

What occurred in the Permian Basin was the intrusion of dominant market forces over which the existing regulatory scheme was unable to exercise effective control and, thus permitted the available reserves to be diverted to the intrastate market. The emergence of these market forces were again evident when, just a few months ago, the Commission, in recognition of the interstate market's need for new supplies, authorized the importation of significantly higher priced Canadian gas into the Midwest and West Coast markets. It has also certificated imports of even higher priced gas in liquid form to the East Coast and New England. Several major LNG import proposals are now also pending before the Commission and several vast projects to obtain gas from Prudhoe Bay and the Northwest Territory of Canada have gone far beyond the conceptual stages. All of these projects, both pending and projected, involve substantially higher prices than those which presently are permitted to domestic producers of gas.

In view of the crucial period of transition which confronts us, it is most important that we do not ignore the admonishment of the Court of Appeals in reviewing the Commission's *South Louisiana* Area Rate Opinion. Justice Thornberry clearly indicated that blind adherence to the existing area rate methodology without giving consideration to market forces is unrealistic. I am in full agreement with the Court's reasoning but the question that still must be answered is how these market forces should be considered. Indeed the Commission has recently taken constructive action in this regard with respect to its proposed Permian Basin and nationwide rulemaking proceedings. I have joined without reservation in these efforts to repair the present regulatory scheme so that at least a responsive pricing method can be achieved. For regardless of any legislative amendments to the Natural Gas Act that might be proposed, we agency members are, of course, obliged to continue to work within the present statutory framework and should, therefore, take every step necessary to make it as effective as possible.

However, in my judgment the problem of producer price uncertainty and the problem of the protracted delays inherent in area rate regulation can be most effectively remedied by legislation. One approach to remedial legislation has been characterized as "sanctity of contract" which assures the producers that once a contract is approved and the sale certificated by the Commission there can be no rollback in any contract price, whether it be an initial or permissible escalation price. The benefits of such assurance in eliminating uncertainty to the producing industry would be substantial.

Protracted area rate proceedings extending over a period of five to seven years have created an unprecedented regulatory lag which has prolonged and therefore added to the existing uncertainties regarding price. These long delays and uncertainties also tie up funds collected by the producers which could be used for exploration and development. All of these uncertainties have inhibited the search for essential additional supplies of natural gas.

Any remedial legislation, therefore, must eliminate such regulatory lag and provide the degree of certainty regarding price which is essential to the development of critical new supplies. Both of these elements have been discussed for several years and have been incorporated in various froms of "sanctity of contract" legislative proposals. I am informed that recently the American Gas Association, after several years of debate, has now endorsed a type of "sanctity of contract" proposal which also incorporates certain market criteria, rather than cost, as the Commission standard for determining producer prices. As a result, at the present time the entire gas industry, through their respective associations, support this amendment to the Natural Gas Act.

This proposal for reform of the current regulatory method is most constructive. Unfortunately, it should have been introduced when it was proposed more than four years ago. The majority of the Commission publicly endorsed one such "sanctity of contract" proposal more than three years ago and its enactment at that time by Congress would have contributed substantially toward averting many of the problems now confronting us. In principle I endorse the "sanctity of contract" concept and the need to permit market forces to establish the price. However, in my opinion, the market forces should function outside the regulatory process so that producer prices can be established unfettered by regulation.

Whether imposed by statutory amendment or by Commission election to alter the existing area rate methodology, any approach requiring the determination of producer prices by the Commission on the basis of some subjective market standard or criteria would fall far short of a satisfactory solution. Such standards are extremely difficult to define and thus are usually couched in general terms and, as a result, the Commission would be compelled in all likelihood to define, qualify and quantify the innumerable factors that could affect the market and might have to be considered in each instance. To submit market forces to the subjective interpretation of a regulatory body, regardless of its expertise or good intentions, can only lead to a distortion of their effect with imprecise and unresponsive results. In the final analysis, at best, the prices approved by the Commission should approximate those that would have been derived in a free market without the need for regulatory anguish and the inherent delays. In addition, a strong tendency would probably exist to approve the proposed contract prices without modification because of the difficulty in justifying any change. The basic objective of this approach is the establishment by the Commission of a market value as the permissible price level. However, it is my opinion that this can be more readily and more accurately achieved by the free interplay of supply and demand dynamics unencumbered by any futile regulatory attempt to decipher the complicated considerations and the subtle interrelationsihps involved in a free market. Inject market forces into the administrative crucible and no one will recognize the results.

It appears to me that sound public policy toward the natural gas industry today demands something more than remedial legislation which would require the Commission to approximate the dynamics of a free market. What is necessary in the context of the current available supply disequilibrium is something more satisfactory than a reform of the current regulatory method. Today Congress ought to consider a basic restructuring of regulation which will reflect the market value of gas by eliminating the Commission's rate determination and review powers with respect to new sales by independent producers while retaining regulatory control of contract terms in order to effectively monitor market structure and market behavior. Until the Congress acts, of course, I shall continue to apply the present Natural Gas Act, as interpreted by the Courts, to the cases which come before the Commission.

The draft bill transmitted herewith is submitted primarily to surface for consideration and study the concept of permitting market forces, unencumbered by regulation, to establish the producer price level without the necessity of structuring a complicated regulatory scheme to interpret and analyze these forces in order to approximate the same result. In this way the price established by arm's length bargaining, as specifically set forth in the contract between the parties, would be controlling. A government policy to foster competition in the energy field by instituting policies to insure full development of all energy sources and easy access to the market will serve as a constant check on gas prices.

There are, of course, many ways in which the Natural Gas Act could be amended to permit market forces to freely determine prices and this bill should not be considered as incorporating the only effective approach for accomplishing this objective. Hopefully, by offering this possible alternative for consideration, the draft bill will serve as a constructive basis for further discussion and analysis which is so essential to the formulation of the most effective solution to the problem. Nor should it be considered as a panacea, for it focuses only on producer pricing and does not attempt to deal with many of the other unique problems such as pipeline production or sales between affiliates.

Permitting the market to determine the price of new gas does not require the dismantlement of all aspects of producer control. The major elements of the regulatory scheme under this proposal would include:

1. Only the contract prices for the sale of new gas by independent producers to nonaffiliates will no longer be determined or reviewed by the Commission.

2. Flowing gas will continue to be regulated by the Commission and, consequently, any rate impact on existing customers would be very gradual since it will take many years for new gas to become a significant portion of their gas supply.

3. All other contractual provisions and aspects of the sale, regardless of their effect upon the contract prices, will continue to be subject to Commission approval and review. It is essential that the Commission continue to pass upon such aspects as the quality standards, delivery pressure, rate of take, billing and prepayment arrangements as well as other provisions, which so significantly affect the ultimate consumer.

4. Indefinite price escalations, except for certain taxes. will be prohibited and the contract prices, including any escalations, must be set forth as a definite price per unit since the consumer must be able to determine what price will be charged. If the producer believes that certain aspects of his contract have a value, it will be incumbent upon him to reflect that value in the unit price specified in the contract.

5. No unit price can be changed by subsequent amendment to the contract after acceptance of the certificate of public convenience and necessity issued by the Commission.

6. Any proposed abandonment of service will continue to be regulated by the Commission.

The enactment of the draft bill permitting the market to establish the price for new gas but which contains these elements of continuing regulation will assure continuity of service and permit the retention of control over the conditions and quality of service as well as the mechanism which translates costs into rates to the ultimate consumer. It would also allow the Commission to effectively monitor market structure and market behavior.

Also enclosed is a copy of my recent address before the American Association of Oilwell Drilling Contractors in Dallas, Texas, in which I attempted to describe in more detail the considerations which, over the years, have led me to conclude that the enactment of legislation in this area is of critical national importance.

Respectfully submitted,

Carl E. Bagge,
Commissioner.

GENE WILSON OLYMPIC HAIRDRESSER

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. COLLINS. Mr. Speaker, in Dallas, we have a hometown girl named Gene Wilson who has made it to the top. She has just returned from Europe where she was one of four Americans to represent our country in the hairdressers' world olympics.

Can you think of anything American women more admire than the skill and creative services of adept hairdressers? America sent to the olympics two men and two women who were the Nation's best. I had assumed Americans were sure winners, but in world competition, the Germans took the gold cup. We cannot win everything.

I am proud of Gene Wilson. In an era where many are generalists, she became an expert in her field.

Gene is 31 now, but she entered cosmetology at age 13 while she was in junior high school. She worked her way through school. By the time she graduated from Sunset High School, she had completed over 1,500 hours of practice time, passed her boards, and was licensed by the State of Texas.

There were many, many years of regular hair work in the shop. Then, 8 years ago she began to enter competitions. She has now won 115 different competitions.

She won the America cup, which was the all-around champion for North, South, and Central America.

She swept the Belgium Grand Prix as her vase trophy reflected first place in four of the five events in Brussels.

In Belgium, Gene also won the crystal plate for the Oscar of Elegance which covered styling of hair, fashion, and individuality.

To make the U.S. Olympic team involved a series of matches in 1969. And she was eventually selected as one of our two women representatives. The Olympics are held only in alternate years. The competition covers five events and requires persons with broad skills in all phases of hair design and preparation.

She has experienced an active life in her career. In the beauty salon she works 12 hours a day and on Saturdays even longer. Gene is teamed with her sister Sue in Accent Salon Coiffures out in the friendly Oak Cliff area of Dallas. She is manager of the shop, with a staff of 14.

What does it take to be a champion. Gene is 5 foot, 6 inches, weighs 118 and is a bundle of dynamic energy. With all her hair creations, she always wears her own blonde hair in a casual daytime hair style.

In Texas we are proud of all of the fine people in the profession of hairdressing. They are good neighbors, hard workers, and active citizens in the community.

In America today, we need more emphasis on vocational direction. We need more youngsters who aspire to success in a trade or profession. So a special salute to friendly Gene Wilson who personifies a great champion and represents so well the skilled profession of hairdressing.

HEALTH CARE—THE FIRST PRIORITY

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. GIAIMO. Mr. Speaker, can our Nation be defended if our people are not strong? Can our children be educated if they are too ill to learn? What good are jobs without healthy men and women to fill them? How meaningful are our other priorities if our citizens do not enjoy good health and cannot obtain adequate health care?

For years this Nation prided itself on the quality of its health services. Yet today we have regressed to the point where this Nation faces a health crisis without parallel in its history.

Many Americans simply cannot afford the cost of medical care today. Our hospitals and other medical facilities remain inadequate and overcrowded while skyrocketing construction costs prevent needed expansion and modernization. Millions of dollars that should be used to improve health services are instead being spent by hospitals for payment of interest to banks. There is an increasing shortage of doctors, nurses and other medical personnel. Medical schools are facing severe financial difficulties; some may be forced to close their doors. Many promising medical research projects are being curtailed or cut back due to lack of funds.

Those citizens who advocate the expenditure of more funds for health care in this country are not as entrenched as the defense lobby, not as well organized as the education lobby, and not as vocal as the civil rights lobby. Yet I submit, Mr. Speaker, that adequate health care is the most basic need of all our people. It must be our first priority.

Many of us in the 91st Congress have recognized this basic need and have attempted to meet it. My proposal to increase the FHA loan guarantee for hospital construction from $25 million to $50 million may be included in pending housing legislation. By its overwhelming vote to override the President's veto, Congress has emphasized the need to continue the successful Hill-Burton hospital construction program.

Yet we have made far too little progress in the past year. Our efforts to provide an additional $360 million for health manpower, medical research, and hospital construction were defeated. We were unable to override the President's veto of the 1970 Labor-HEW appropriation bill last January. We could not convince the administration that the unmet health needs of our citizens require immediate attention.

The time has come, Mr. Speaker, for a national commitment to meet these needs. The time has come for us to reestablish this Nation as a leader in providing health care for its people, for only with a healthy citizenry can our Nation remain strong.

A THOUGHT-PROVOKING LETTER CONCERNING PORNOGRAPHY

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. FISHER. Mr. Speaker, one of the most serious problems facing this Nation today, on the domestic front, is the smut and filth that is being disseminated, acted or broadcasted. A report on this evil, made by the President's Commission on Obscenity and Pornography, is extremely disappointing because it tends to condone this practice. I regard this report as a disservice to all right-thinking Americans, and it should be repudiated.

On this subject of pornography, I include in my remarks a copy of a letter to the President from a prominent constituent of mine, Mr. Phillip F. Templeton, of San Angelo, Tex. It is timely and thought provoking, and I hope all my colleagues will take the time to read it. The letter follows:

SEPTEMBER 15, 1970.

RICHARD M. NIXON,
President of the United States,
Washington, D.C.

DEAR MR. PRESIDENT: I am a young married general contractor with two children, ages 6 and 9. Like a majority of Americans, I am very much concerned with pornography and an immoral way of life displayed and glorified in current R and X rated movies, not to mention the more explicit pornography films being shown in some theaters across the country. We spend billions of government dollars trying to create a better environment for our slum dwellers. Sociologists tell us that a better, cleaner environment makes for a better, more useful and enjoyable life. Through these movies, it seems to me we are subjecting the American public, and the American youth in particular, to a filthy, sometimes perverted environment.

This is a real crisis, as I see it, and should be acted on as such by those of you in government. This seems to be a crisis that nobody is attacking with any degree of effectiveness. The argument that children or adults do not have to go to these if they don't want to doesn't hold water to me. Most school kids have always gone to the movies in their spare time, and they are going to go in order to be one of the gang, if for no other reason. A high school or college girl is not going to refuse an X rated movie date for fear of being called square.

I had an idea you might be able to use it to educate the public, and solicit their support in bringing about some decency guidelines for movies. I gave a speech last week in San Angelo entitled Mind Pollution—A Real Crisis. With various kinds of pollution on everyone's mind, I thought this would be well received by most of my audience and it apparently was.

In closing I would hope that your administration would find a way to effect *decency guidelines* for our movies and magazines, and thereby clean up the environment and save this society from Mind Pollution which

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is virtually imposed on us by a few degenerates and others after a fast buck.

Yours very truly,

PHILLIP F. TEMPLETON.

POLICEMEN

HON. G. ELLIOTT HAGAN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. HAGAN. Mr. Speaker, I feel my colleagues will share my personal pride in the outstanding articles which recently appeared in two of the fine newspapers of my district, the Lyons Progress, Lyons, Ga., and the True Citizen, Waynesboro, Ga.

In these truly difficult times many of our people seem to have no real understanding as to exactly what constitutes the increasingly harder role of the policeman in our communtiy. It is not only enlightening but heartwarming to me to see in two of my district papers that people do exist who have a firm knowledge and respect for the defender of our lives and personal property—the policeman.

Because law and order can only be a reality through the combined efforts of responsible citizens and with the services of our peace officers, I am deeply pleased that there is defiintely a feeling of pride and respect in our cities and towns for the individual who gives so much of himself to try to help and serve.

The two articles follow:

[From the Waynesboro (Ga.) True Citizen, Sept. 30, 1970]

A PEACE OFFICER IS . . .

(Author unknown)

"A peace officer is many things. He's a son, a brother, a father, an uncle, and sometimes even a grandfather. He is a protector in time of need and a comforter in time of sorrow. His job calls for him to be a diplomat, a psychologist, a lawyer, a friend, and an inspiration. He suffers from an overdose of publicity about brutality and dishonesty. He suffers far more from the notoriety produced by unfounded charges. Too often, acts of heroism go unnoticed and the truth is buried under all the criticism. The fact is that less than one-half of one percent of peace officers ever discredit their uniform. That's a better average than you find among clergymen.

"A peace officer is an ordinary guy who is called upon for extraordinary bravery—for us! His job may sometimes seem routine, but the interruptions can be moments of stark terror. He's the man who faces a half-crazed gunman, who rescues a lost child, who challenges a mob, and who risks his neck more often than we realize. He deserves our respect and our profound thanks.

"A peace officer stands between the law abider and the law breaker. He's the prime reason your home hasn't been burned, your family abused, your business looted. Try to imagine what might happen if there were no peace officers around. And then try to think of ways to make their job more rewarding. Show them the respect you really have; offer them a smile and a kind word; see that they don't have to be magicians to raise their families on less-than-adequate salaries.

"We think peace officers are great. We thank God for all the little boys who said they would be peace officers and who kept their promise. We hope you feel the same way, and we hope you'll show it—so there will always be enough good peace officers to go around."

[From the Lyons (Ga.) Lyons Progress, Oct. 1, 1970]

WHAT IS A POLICEMAN . . .

(By Ollie H. McDilda)

A policeman is the little boy who grew up to be what he said he was going to be.

He is a son, a brother, a father, an uncle and yes, even a grandfather. He is a man like all men, who has the same needs, the same desires and the same religious beliefs. A man who even meets the requirements of the physically fit and who displays profound energy. He is an actor whose role is not one of fiction, but of reality. He is a protector of the people. A pal to all children. A pacifier in time of sorrow. A professor of psychology. A parent to the homeless and the lost. A pleasant man, who smiles through many trying situations. A prosperous man, who derives prosperity from the satisfaction of doing what he wants to do most.

He is an officer and official of law without whom neither you nor I could live in peace and harmony, and without whom our very nation would crumble. Yet an ordinary man, who displays extraordinary bravery . . . who far too often sticks his neck out to save ours.

He's sometimes a lawyer, always a defender, but never a prosecutor. His integrity is as much a tangible part of him as the shiny badge he wears. He's a twenty-four hour watchman whose aim, like his creed, is to protect and to serve.

Courage is his number one requisite and courtesy an everyday part of his being, and even though his courtesy isn't always reciprocated, he remains courteous both out of duty and out of respect.

He's a dedicated man, ready for action even beyond the call of duty, who so often performs the duties of a doctor, delivering a child under adverse conditions, rushing mother and child to a hospital at record breaking speed, and awaits his only reward . . . the report that mother and child are doing fine.

He's the guy who ushers and controls crowds at a parade, so that our youngsters can enjoy the clowns, the animals and the marching bands. Dedicated enough to give up his Sundays and holidays with his family, so that our families can enjoy Sundays and holidays.

Yes, a policeman is that friendly guy standing on the corner in all kinds of weather waving us on with his white gloved hand, assuring us that it's safe to proceed.

A policeman deserves the same devotion he displays toward his fellow man. He deserves respect and a kind word for his many heroic accomplishments. A policeman deserves a day in fact, named in honor . . . and every day of our lives we should all thank God for that little boy who grew up to be . . . a policeman!

NBC'S "DRUG ALERT" PROGRAM—AN UNPRECEDENTED EFFORT TO INFORM THE PUBLIC OF THE DRUG ABUSE PROBLEM

HON. HUGH L. CAREY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. CAREY. Mr. Speaker, I am sure my colleagues will share in my appreciation of an unprecedented public service campaign successfully undertaken by the five television stations that are owned by the National Broadcasting Co. Using its powerful resources for telling effect, the NBC stations have concentrated a large number of programs in a 3-week period on the problems of drug abuse.

The programs—running the gamut of the drug problem—were reinforced with a saturated schedule of announcements calling attention to the programs and to the serious nature of the drug epidemic.

NBC's key station, WNBC–TV New York, presented a 22-day "Drug Alert," featuring a series of more than 25 programs relating to the causes, consequences, and possible cures of the current narcotics crisis in the Metropolitan New York area. The Channel 4 information project began on Saturday, August 22, and ran through Sunday, September 13.

The unprecedented "Drug Alert" was conducted by the other NBC-owned television stations: WRC–TV, Washington, D.C., WKYC–TV, Cleveland, WMAQ–TV, Chicago, and KNBC, Los Angeles.

With an hour-long, prime-time local special on the drug crisis, "Turning Off," on Friday, August 28, 10 to 11 p.m., as one of the highlights of the series, "Drug Alert" focused on the many aspects of drug abuse and its effect on the life of the community, through existing program formats, the creation of new programing, through news features and an exchange of programs on narcotics produced by the other owned television stations. "Turning Off" was produced by veteran documentary producer, Vernon Hixson.

The first program in the "Drug Alert" series was a "New York Illustrated" report, "Three Roads From Nowhere," on Saturday, August 22, 7 to 7:30 p.m. The program examined current methods of treating drug addiction at centers in Harlem, Bedford-Stuyvesant, and Beth Israel Hospital clinics.

A special hour-long edition of "Direct Line," on Sunday, September 13, featured a panel of leading experts on drug addiction, answering questions telephoned to the studio by channel 4 viewers.

The firsthand experiences of drug addicts was aired on "Each in His Own Prison," a KNBC, Los Angeles, production, Sunday, August 23, 12:30 to 1 p.m.; on WNBC–TV's "Drugs: Inside Out," a "New York Illustrated" report featured addicts talking about their nightmare world, Sunday, August 29, 7 to 7:30 pm.; and on a second showing of an hour-long WNBC–TV special, "Youth Views The Drug Scene," Sunday, September 6, 12 noon to 1 p.m.

On "Research Project," August 23 and 30—3 to 3:30 p.m.—Dr. Max Fink, professor of psychiatry, New York Medical College, discussed "Immunization Against Drug Addiction;" and Dr. William Abruzzi, College of Physicians, State University of New York, the doctor who attended hundreds of "bad trip" cases at the recent aborted musical festival in Connecticut, talked about drug use on college campuses, and the effects of some drugs.

The Catholic "Inquiry" series offered two programs on the subject, featuring Father John McVernon, director, Community Boys Clubs of Cambria Heights, Queens, on September 6, and Father Patrick Carney, coordinator of drug prevention programs of the Archdiocese of New York, on September 13.

Other programs in the "Drug Alert" series follow:

"A Trip To Nowhere," an NBC-TV Network special was produced by Lucy Jarvis to investigate the reasons people turn to drugs—Monday, August 24, 8 p.m.

"Drugs In the Classroom," a week-long discussion of the subject featured a panel of experts, questions from an all-feminine studio audience, and moderator Aline Saarinen—Monday through Friday, August 24 to 28, 9 to 9:30 a.m.

"Drug Information Please," vital information on drugs was presented by KNBC, Los Angeles, Sunday, August 30, 12:30 p.m.

"What Hope, Which Direction?" advice for parents with addicted children was produced by WMAQ-TV, Chicago, Sunday, September 6, 5 p.m.

"Ghetto Health: A Medical Emergency," a second showing of the "New York Illustrated report on medical care," included drug treatment in the ghetto, Saturday, September 12, 7 p.m.

"Coming Down,"—A report on the drug problem in Washington, D.C., was produced by WRC-TV, Sunday, September 13, 12:30 p.m.

WNBC-TV also presented more than 50 public-service announcements featuring famous personalities with antidrug messages addressed specifically to young people.

The spot announcements, ranging from 10 to 30 seconds, were aired throughout the broadcast day, and were delivered in the vernacular of the personality delivering the message.

Among the personalities seen in the antidrug campaign were football hall-of-famer and NBC sportscaster Kyle Rote, Sandy Koufax, Tony Kubek, Al DeRogatis, and Johnny Morris. Basketball stars included Emmette Bryant and Fred Crawford of the Buffalo Braves; Tommy Hawkins of the Los Angeles Lakers; Spencer Haywood of the Denver Rockets; Dave Stallworth of the New York Knicks; and Walt Simon, Laverne Tart and Sonny Dove of the New York Nets.

Broadcast personalities included Hugh Downs, Dr. Frank Field, Ted Brown, and Joe Garagiola. The "Drug Alert" announcements were seen on the NBC owned television stations in Washington, D.C., Chicago, Cleveland and Los Angeles. They were produced and written by the Advertising and Promotion Department of WNBC-TV, with several of the segments produced by WMAQ-TV, Chicago, and KNBC, Los Angeles.

A previous antidrug service campaign, produced by WNBC-TV in cooperation with the Encounter Teenage Rehabilitation Center and the New York City Addiction Services Agency, won first prizes at the New York International Film and Television Festival and from the New York State Broadcasters Association.

Mr. Speaker, I believe that the architect of this meaningful project, Mr. Theodore H. Walworth, Jr., vice president and general manager, WNBC-TV, should be commended and I wish to call it to the special attention of the FCC, the House Select Committee on Crime and the Senate Subcommittee on Juvenile Delinquency who have interest in television's role in fighting the drug epidemic.

If we are ever going to curb the drug epidemic—and we must, I am convinced that the start of the cure begins when the public understands the degree of the illness. Telling it to the public is the job of media. This job has been well done by NBC.

MRS. BEULAH BEUTEL TELLS WHY THE BALD EAGLE WAS CHOSEN AS OUR NATIONAL EMBLEM

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. MINSHALL. Mr. Speaker, I recently received a most interesting letter from a thoughtful constituent, Mrs. Beulah Beutel of Lakewood, Ohio, who says:

> When Prince Charles and Princess Anne visited in Washington, D.C., this summer the Cleveland Press made the statement that when Princess Anne asked some of the Senators why we chose the eagle as our emblem of the United States, they were not able to answer her. She remarked that it was a poor choice. I was keenly disappointed over no response, so have taken the privilege to send in an answer. Perhaps you can place it in their reach for me or give it to some one who can so that these Senators may read it for future use.

I am delighted to do so, for the information Mrs. Beutel has sent is both interesting and informative, and, as a bonus she has also included the anecdote of "Old Abe" the War Eagle.

The aforementioned follows:

WHY WE CHOSE THE EAGLE FOR THE U.S. EMBLEM

The Bald Eagle of North America was chosen as our National Emblem. It is the noblest of all birds. It is known for its grace and beauty in flight, for its keenness of sight, and for great endurance and power of flight.

When full grown it has a wing spread of eight feet. The feathers on the head and upper part of the neck are white, which gives it the name of "Bald Eagle." It is the eagle represented on the coins and Coat of Arms of the United States. It was also a Military Standard of Ancient Rome, and of France under Bonaparte.

THE STORY OF "OLD ABE" THE WAR EAGLE

(Taken from Compton's Encyclopedia)

A band of Chippewa Indians living in northern Wisconsin were the first owners of "Old Abe", The War Eagle.

One day their chief, "Blue Sky" was out hunting. As he came near the lake, saw an eagle fly with a fish in its mouth to the top of a tall pine tree and feed its young. He chopped the tree down and took one of the young eagles home with him. He fed it on fish and raw meat, and it soon became tame. Then "Blue Sky" sold the eagle to a white man for five bushels of corn.

The Civil War began about this time and the 8th Wisconsin Volunteers thought it would be fine to take a real live "Bird of Freedom" to the war; so they bought the bird for $2.50 from the farmer. At first the eagle walked about the camp like a dog. Then it chose a Master, an Irish soldier named Jimmie McGinnis, and would not allow any one else to feed him.

Jimmie made a red, white and blue shield for the eagle's perch. He set this on a pole and tied the eagle by the foot, leaving the cord long enough so that the bird could fly a little way. When the regiment went on the march Jimmie carried the eagle beside the color bearer.

The eagle was cheered by crowds of people in every town. In the State Capitol it was named "Old Abe" for President Lincoln. By that time "Old Abe" had grown to be a big bird. His coat of feathers was a beautiful chocolate brown. It had golden lights that gleamed like copper in the sun. His tail feathers were white, with black spots. His legs were bright yellow and his claws a shining black. His head and neck a grayish white. He weighed only ten and one half pounds, but when he was angry or excited he ruffled his feathers until he looked twice as big. His wings when spread measured six and one half feet from tip to tip.

"Old Abe" never liked boys or dogs, because they teased him, but he loved marching soldiers, and cheering and music. When the band played he flapped his wings and made a whistling sound. He liked to sit on an officer's horse to watch a parade. The officers of the regiment always saluted him.

A battle excited "Old Abe". The very first time he heard a cannon shot, he broke his cord and soared away. The soldiers thought he was gone forever. The smoke hid him, but amid the booming of the big guns they could hear him screaming. After the battle was over he circled the sky, then he dropped to his perch. Whistling and chuckling and ruffling his feathers he walked and fluttered all around the camp.

After that "Old Abe" was not tied. He often left his perch to go fishing or hunting. He seemed to know that he was a heavy burden for Jimmie to carry. Now and then he would lean over and chuckle a sort of good-bye, then he would soar aloft and fly above the marching regiment. The boys always cheered him when he came home again.

"Old Abe" went through four years of the war. He was in twenty two battles in all, and after every one of them he returned to his own regiment. He never made a mistake, or dropped into another camp. His perch was often hit by bullets and several times his feathers were torn but he was never badly hurt.

After the war "Old Abe" was given to the State of Wisconsin. For fifteen years he lived in the State House in Madison. In 1876 Jimmie McGinnis took him to the Centennial Exposition in Philadelphia and there told the famous eagle's story and sold his photograph to thousands of admiring visitors. Jimmie McGinnis remained his keeper until the bird died of old age in 1881. He was then stuffed and set upon his perch under a glass case where he remained until the State House burned. Admired by thousands of visitors.

BREAK GROUND FOR POLICE-FIRE ACADEMY AT NORTH PARK, PA.

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. GAYDOS. Mr. Speaker, the increase of crime in the United States has focused public attention oh the fact there is a critical demand for well-trained, well-equipped and well-qualified law enforcement officers to meet the challenges of today.

At the same time, there has been, over the past 25 years, another tremendous increase by our citizens to the land of suburbia with its neatly clipped lawns and split-level homes. However, suburbia also is a land devoid of many conveniences enjoyed by city dwellers; fire protection, for example. In many areas this protection is provided by volunteers, men who willingly become part-time public servants without monetary compensation. They are men who also furnish numerous other services to improve their community free of charge.

Obviously great strides have had to be taken to properly protect both the suburban and the urban citizen. Too often, these steps never were taken. Therefore, Mr. Speaker, it is with great pride I bring to the attention of my colleagues the fact that Allegheny County's Board of Commissioners in Pennsylvania broke ground on September 28 for a $2 million Police-Fire Academy at North Park, near Pittsburgh.

This 52 acre site will be used as a training facility for police officers and firemen from the county's 129 individual municipalities, according to Commission Chairman Leonard C. Staisey and Commissioner Thomas J. Foerster. Completion of the academy, Mr. Staisey said, is expected within 12 to 15 months.

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It will contain special facilities to meet the requirements of both police and firemen. There will be a multipurpose auditorium, classrooms and administrative offices. Police officers will be able to take advantage of an indoor firearms range in the winter and an outdoor range in the summer. Firemen will be able to update firefighting techniques through the use of a 100,000 gallon water tank, a 1,000 gallon-per-minute pump house and a 4-story fire tower.

The best equipment and training facilities in the world are useless, however, if they are not properly utilized. But, Mr. Staisey and Mr. Foerster have assured the citizens of Allegheny County that competent and highly qualified instructors will be selected to staff the academy's training faculty. For instance, Mr. Speaker, the director for the police academy is James W. Slusser, a career law enforcement officer who compiled an enviable record as the former superintendent of police for the city of Pittsburgh. No director has been chosen for the fire academy as yet, but the commissioners have said he will be of equally high caliber as Mr. Slusser.

Mr. Speaker, the Federal Government has a stake in this ambitious and vital undertaking on the part of Allegheny County's commissioners. It is contributing $719,000 toward the cost of providing the police and firemen with the best in education and training in their respective fields. The State of Pennsylvania is adding another $323,000, and it is my understanding supplemental grants will be available as work on the academy progresses.

This is one expenditure, I believe, which reflects with great credit upon the Federal, State, and county governments. The need for such a joint facility is without question. It has long been advocated in Allegheny County and long forgotten. Now it is on the verge of becoming a reality and the parties responsible for it should be applauded for their foresight and initiative.

URBAN COALITION ROLE IN THE HEALTH FIELD

HON. JOHN C. CULVER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. CULVER. Mr. Speaker, the more one analyzes the problems faced by the cities of our Nation, the more one realizes that the roots of the difficulties are complex and interrelated. Substandard housing, high rates of unemployment, insufficient public services, and high incidence of crime are each symptoms of a deterioration in the quality of life, and each contributes to the others.

One of the most serious results of this process is that basic medical care is not available to residents of large parts of our major cities. The problem, unfortunately, is not limited to urban areas alone; severe medical shortages are suffered throughout our rural areas as well. Although fine hospitals and clinics exist, access to them is often difficult.

Nor are there sufficient numbers of private doctors to provide for all the residents of these areas who need medical care.

To make matters worse, living conditions are often not healthful, increasing the needs for health care above normal levels. Air and water pollution, crowded living conditions, inadequate waste disposal and the abundance of rats and other pests compound the problems normally to be expected when there are not enough doctors and nurses to go around.

If all our citizens are to have access to the medical care which our society is capable of providing, a concerted effort must be made by all. The Federal Government has a meaningful role to play, but the ccoperation and initiative of the medical profession, hospital administrators, and citizens groups is vital to progress in this field.

The urban coalition has recently published a paper on the health problems of our cities which describes the nature of the problems perceptively and makes constructive suggestions as to how they might be approached. I recommend it to all concerned citizens and insert it in the RECORD at this time:

URBAN COALITION ROLE IN THE HEALTH FIELD

BACKGROUND

While no one wants to be sick, among the desperate needs of the urban poor and disadvantaged, seeking good health, including practicing preventive medicine, will not be perceived as first priority. They find as more compelling needs, jobs, the opportunity to own a business, more educational opportunity and better housing. But since without good health, daily functioning in holding jobs, running households, attending school and the like, is difficult, if not impossible, various kinds of health services are recognized by the poor as a necessary condition for them to function with any adequacy at work, at home and in their communities.

There is much evidence of the deplorable health status of the urban poor. "Poor" refers to all those families, including about 25 million individuals whose income falls below the commonly accepted government standard that would provide adequate food, clothing, shelter and medical care.[1] The disproportionate prevalence of ill-health among the poor, minority and disadvantaged groups is shown in many ways:

Death comes earlier to the poor. Life expectancy for the non-white is 7 years less than for the white.

Death is a more frequent visitor to poor mothers and infants. Non-white mothers die in childbirth 4 times as frequently as white mothers. Infant mortality is twice as high among the non-white as among the white.

Illness is twice as frequent among families with annual incomes of $2,000 or less. There is 4 times as much chronic illness among these families, twice the number of days of restricted activity, a third longer hospitalization.

Tuberculosis and cancer of the cervix is found twice as often among non-white urban residents as among the white.

Visits to doctors and dentists, despite the obvious greater need, are less frequent among the urban poor. Children under age 15 average half the doctor visits in families with incomes under $2000 compared with children of the same age in more affluent families.

Preventive services are not received by the same proportion of poor children as they are by the more affluent. Only 8.6% of white children have no immunizations compared with 22.5% of non-white children.

Existing health services delivery systems do not reach all of the urban poor. Medical care is generally provided in clinics where available, generally overcrowded, at inconvenient hours, understaffed, and run as categorical units; i.e., diabetes clinic, heart clinic, arthritis clinic. Care is episodic, focused on emergencies rather than continuous and comprehensive, with little if any attention to preventive services, or health education. There is little or no effort to reach those who need care, but lack motivation. There is little if any follow-up, coordinated control intake, or referral procedures.

Where private doctors' offices are the source of care, high costs deny needed services to many. While Title XIX (Medicaid) has been in effect for a number of years, not every state has yet participated, and even where the states have, legislative ceilings both Federal and state have imposed stern limitations. Less than 9 million people altogether in the country are covered and able to take advantage of the program. This means that for the other millions of the poor, the doctor's bill may strongly deter their seeking care.

In addition, the clinics and doctors' offices are not available to all. Many inner-city neighborhoods are far from where hospital clinics were set up a generation or more ago, doctors have moved to the more affluent suburbs; public transportation from many of the innercity neighborhoods is lacking, insufficient or expensive. The shortage of health manpower generally is well known, and the shortages of physicians and nurses, and other health personnel have been well publicized.

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[1] *Of an estimated 45 million poor people, half live in large metropolitan areas. Another 25% of this total live in concentrations of population but non-metropolitan areas. Our primary concern is with the improvement of the health services in the cities that serve at least 25 million Americans.*

The problem of accessibility of health care facilities is compounded in those instances where governmental and private agencies and institutions have failed to reorganize to meet the personal health needs of the poor. In addition to the fact that facilities are often absent, obsolete, or obsolescent, inadequate in scope of service or availability temporarily or geographically, emergency services are difficult to obtain, inadequately staffed, qualitatively inadequate.

Environmental health needs are only minimally met. The problems of air and water pollution are largely ignored. More personal environmental needs such as damp, cold crowded housing are widespread among the poor. Garbage and waste disposal is inadequately supplied. Rats abound, as do other pests. Most of such conditions result from failures of local policing and supervision.

Federal aid does not serve local health agencies effectively. For the past five years, a spate of Federal legislation has been enacted and the amounts spent by the Federal government in the health field have been tripled. At the same time, because of the multiplicity of funding sources and the complexity of approach, including the proliferation of planning bodies, local units were and are unable to take full or even partial advantage of the resources available. Furthermore, the new legislation looked to modification of the local organization and new methods for the delivery of health services that existing service agencies were completely unprepared to undertake.

Hunger and malnutrition can be both a concomitant to illness or a direct cause of it. Malnutrition is known to interfere with proper growth of the fetus in the mother during pregnancy, with the health of the pregnant woman, and is responsible in some degree for the higher maternal and infant death rates among the poor. Malnutrition is known to be associated with improper development of the growing child physically and mentally, and is responsible in part for the increased illness among the children of the poor, their learning difficulties in school, their later failure to find adequate employment and in adult life, their increased chronic illness.

Some 25 million people must be counted among the poor and the near-poor, yet nowhere near that number qualifies for, or lives in communities that operate, Food Assistance Programs. Only about 8 million actually receive food assistance, through commodities distribution or food stamp programs. Commodity distribution has been attacked as nutritionally inadequate, culturally unsuitable, and logistically impractical. Food stamp programs are hedged about with requirements of time and place and quantity of purchase reducing their coverage. School lunches are not free to million of children who cannot purchase them even where they are available. Some districts specifically exclude families on welfare from free school lunches for their children. Hundreds of counties where desperately poor people live have no food programs at all. A study of welfare food cash allowance in a report last year from HEW demonstrated its inadequacy even for the poorest of the poor who qualify for welfare aid; the food prices are based on 10-year old costs, or else the state and local welfare payment is only 18% or 50% of the state's own admitted level of need.

KEY ISSUES

The health of residents of the inner cities cannot be served by health programs alone. Education, including health education and nutritional education, improved housing, more and better skill training, finding and retaining jobs, are integrally related needs. However, as already stated, significant and substantial progress must be made toward meeting each of these needs, but those ends will not be achieved unless simultaneously progress is made toward providing more adequate health services.

To achieve the progress that will better conditions in the cities and will reduce tensions in urban centers requires reassessment of responsibilities to be borne by the various elements involved in delivering medical care services:

What responsibilities can the private practitioners of medicine assume for improving the health of the urban poor?

a) For giving leadership through their professional organizations in the modifications required of medical practice to meet current needs? Of promoting group practice and more efficient and economical financing mechanisms?

b) For establishing offices accessible to the poor, and using non-professional aides from among the poor to serve the poor in these offices?

c) For reaching out to the needy, rather than passively waiting to serve?

What responsibilities must government assume for improving the health of the urban poor?

a) For establishing goals and priorities in health services that emphasize services to people rather than payment to providers?

b) For developing payment methods that minimize inflation and assist all needy individuals to meet the costs of essential medical care?

c) For development and distribution of resources such as trained health manpower, new and imaginative combinations of health workers, interrelated health facilities?

What responsibilities must hospitals and medical teaching centers assume for improving the health of the urban poor?

a) For developing a full spectrum of institutional services?

b) For modernizing educational opportunities to increase their productivity, and recruitment policies more applicable to the poor?

c) For outreach services and programs beyond their walls?

d) For continuing education?

What responsibilities should business assume for improving the health of the urban poor?

a) For eliminating air and water pollution?

b) For improving existing housing conditions?

c) For using their influence in board membership of voluntary and public agencies to facilitate needed change?

It has become increasingly clear that the absence of representatives of the community in the councils and committees that decide on policies, devise plans and programs and carry them out, is a serious flaw and probably contributes heavily to the failure or inadequacy of existing health programs. Priorities and allocation of resources cannot be appropriately assessed if not related to the community of discourse, as well as professional considerations. This is true of the poor, of all minority groups, and even more so where profound cultural and language differences exist. The involvement of poor whites and poor blacks is essential in decision making on health planning and programs, the involvement of Spanish speaking people in Mexican-American and Puerto Rican communities, the involvement of Indians in their areas of residence.

POSITIONS

The existence of the Urban Coalition is based on the belief that concerned citizens wish to contribute to the process of changing institutions where the evidence of their inadequacy in dealing fairly and justly with all citizens is demonstrable. The failures of the health service system to deal fairly and justly with the poor is demonstrable. Change in this system will require painful readjustment, but is long overdue. It will not be enough to recognize the defects in someone else's operation. Sacrifice of traditional modes of thought and behavior will be expected in one's own part of the whole. Recognition on the part of each element involved, of his own deficiency is basic to change. Professions will be asked to reexamine their patterns of practice, reimbursement, recruitment into training, and the training itself. Institutions will be asked to review the services rendered, the staffing relationships, the interaction with other institutions, independence and responsiveness to community need. Governments will be asked to investigate their allocation of funds, evaluation procedures, program decision making and coordination with non-public bodies. In every instance the expert must expect to be questioned by the "beneficiary," or his advocate, in this case the sufferer from the deficiencies of the system, and reply as to whether his action or position is to benefit his narrow interest or the larger goal.

Aware of prevailing health conditions in this country's metropolitan centers, and the drastic effect of these conditions on the quality of life in the inner cities, the Urban Coalition believes that:

1. *Efforts must be redoubled in each city to make it possible for all citizens to have access to modern medical care.* This will require that:

a) Each community, with the aid of Federal assistance for "comprehensive health planning," should diagnose available health resources and identify the areas and the groups for whom medical care services are most needed and least available:

b) Coordinate existing services so as to eliminate duplication and make more efficient use of resources;

c) Suggest programs where now lacking, or introduce transportation where required to offer access to health services;

d) Extend existing services, particularly making clinic services available at opportune times;

e) Involve community residents in planning and delivery of outreach services, particularly use of the poor in reaching the nonusers of care.

While no single method or plan will fit all communities, no potential opportunity must be overlooked. More convenient clinic hours, better transportation, more facilities nationally interrelated, more efficient use of Federal and other public funds, more realistic use of staff available and production of necessary manpower locally should all be explored.

2. *Concentration on improvement of special programs with particular relevance to the needs of poor people.* Here action is needed on the part of all related health agencies to extend and improve prenatal care and infant care services, school health services, case-finding of handicapping conditions and coordination of health service to treat orthopedic handicaps, provide glasses and other appliances. Major emphasis must be to improve mental health services and community programs for care and rehabilitation of the mentally retarded and emotionally disabled, returning them to homes and jobs as quickly as possible. More home health care is urgently needed. Family planning efforts must be intensified.

For all health services related to children, for example, the school can be used as a center for identification of cases, provision of care, and community involvement in health care. This will require a new focus on the part of granting agencies, planning groups and health service agencies. However, the

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school is where the children are, and where mothers can be reached. While the present turmoil in education might be prejudicial to adding this concern to the already complex discourse, it may also offer a ready-made vehicle for change in health services. It deserves serious consideration.

3. *No child should go hungry. No adult should be without needed food. To ensure these ends will require:*

a) Consolidation of local resources to eliminate hunger. Every community must have a supplemental food program, and a case-finding program to identify all families and individuals whose resources are insufficient to provide them with the minimum required basic standard nutriments;

b) Existing Federal aid should be utilized to the fullest. That will necessitate the sharing by governments in the administrative cost of stamps, commodities or free lunches and breakfasts, and nutrition education;

c) Private resources, in addition, should be sought and used where needed.

4. *Environmental hazards and disease-producing agents must be eliminated*. This requires that large-scale air pollution and waste disposal problems must be more vigorously attacked by public agencies. While more rigorous nationwide standards may be needed, private business can act to eliminate its contribution to pollution of the atmosphere. Much of the clean-up, rat control, garbage disposal and elimination of pests and nuisances that make the surroundings of life in poverty unpleasant and prone to added illness, can be dealt with through specialized manpower; housing aides for inspection, sanitation aides for education and clean-up.

5. *Expand the essential supply of health manpower through interaction with local educational institutions and health service bodies*. A great deal of the community work that needs to be done in taking care of the non-professional aspects of personal health care, such at home health aides, interpreters, new kinds of technicians, the elimination of environmental hazards and the case-finding aspects of nutrition and handicapping conditions, the educational aspects of health and nutrition can be carried on by specially trained local people. In addition, through community conferences with medical school leaders and schools of public health, the opportunities can be developed for increasing the supply of physicians, nurses and public health workers. This should apply particularly to the possibility of recruiting local poor and disadvantaged into these health careers.

In brief, the Coalition will strive to aid local communities:

To make the best possible use of existing resources;

To expand health services for mothers and children;

To intensify Federal efforts to assist local communities in improving their health facilities and services;

To eliminate barriers to access to adequate supplies of food;

To strengthen Federal programs designed to add health manpower to the pool available for service to residents in the inner cities;

To press for greater citizen participation in community health service decision making and operation.

Short-term, immediate objectives should include all local efforts to improve clinic services keeping in view the long-term objective of comprehensive group practice, prepaid, possibly through neighborhood health centers; developing realistically defined entry level job opportunities coupled with health career development opportunities; improved food distribution programs.

To achieve these goals, the Urban Coalition is developing and will shortly publish, a "B for Action," offering local coalitions a wide range of choices in various areas of action to improve health services; technical assistance through publications that will aid in accomplishing the ends prescribed in the manual; and consultant services to stimulate local coalition health activities.

CARL ALBERT ADDRESSES NATIONAL WATERWAYS CONFERENCE

HON. ED EDMONDSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. EDMONDSON. Mr. Speaker, it was with great pride that I listened to our majority leader, my friend and colleague, CARL ALBERT, deliver the closing address at the recent National Waterways Conference in Tulsa, Okla.

I can think of no other Member of this body who has worked harder or with greater dedication to make the dreams of the late Senator Kerr and others like him, come to fruition through work on the Arkansas River navigation project. In his remarks to this Conference of National Waterways leaders, CARL ALBERT pointed to the future when he stated:

> What happens to the land, the woods and the water determines what happens to the people.

Mr. Speaker, this foresight and determination to develop our water resources have been the hallmarks of the great leadership CARL ALBERT has provided to this body for more than 20 years. I urge my colleagues to study the remarks of our majority leader, and feel sure they will agree that what he has said is a blueprint for progressive and prosperous development of our Nation. I include the text of Congressman ALBERT's address in the RECORD at this point:

REMARKS OF HON. CARL ALBERT

Bob Kerr had a dream and he spent a fruitful lifetime working for its fulfillment. He believed that man's progress was inseparably tied to the unified development of nature's resources—to the development of *land*, *wood*, and *water*, as he so eloquently put it. He was particularly persuasive when he spoke of his hopes for this Arkansas Basin, of the products of farm and industry moving up and down the Arkansas and on into Oklahoma, "feeding lifeblood into the economy of America and the world." He spoke of the new cities and industrial centers to come "where today," he said, "only a shallow river hunts and follows a shifting pathway to the sea."

How entirely fitting it is to have the National Waterways Conference meet with us here in Tulsa, near the headwaters of the Nation's newest inland waterway, the long awaited Arkansas-Verdigris Waterway. For in this region, Bob Kerr's dream of a developed river is at long last coming true.

Across our Nation today, there is mounting concern about economic growth and how best to allocate limited public funds to help achieve it. The country is beset by rising inflation on the one hand and mounting unemployment on the other. These are not just phrases from an economist's textbook. High costs of goods and under-utilized manpower are real. We can feel them; they touch our lives every day, and they hurt.

One of the strangest paradoxes arising out of the nationwide search for solutions to our economic woes is that, even today, there is only a beginning appreciation of the tremendous and lasting influence that water development projects can have upon economic growth. The multiplicity of benefits that such projects provide an entire region receives only limited recognition. The factors of interregional growth and the interregional cooperation which such growth fosters go virtually unapplauded, except by those who work in the water development field and are familiar with the results.

From the Danube to the Mississippi, the contribution of water transportation to the vitality of any region is a matter of historical record. Yet somehow men have always been shortsighted and skeptical about their life-giving rivers. It was just a little more than a century ago that many men scoffed at the idea of the steamboat plying the waters of the fractious Missouri. It was just a little more than a generation ago that learned scholars said flatly that pioneering proposals for multi-purpose development of the Tennessee River were a hopeless pipe dream that it was impossible to develop a major river for navigation, flood control, and power production.

All of us who enjoy the fruits of modern life today can thank the good Lord that, for every prophet of doom who predicted failure, there were other men with wisdom and foresight who said that these things *could* be done, that they *would* be done, and saw to it that they *were* done.

Last year, our country's waterborne commerce totaled 1.4 billion tons. Grain, petroleum, coal, iron and steel, and countless other products moved in huge volumes along our national waterways, comprising about one-sixth of the total ton-mileage of the Nation's intercity traffic. Yet there are still those who would stick the "pork barrel" label on every water project, who would deny the rights of free men to develop their resources wisely so that millions of lives might be improved.

Thus it was that many good men fought long and hard for the Arkansas waterway. Battles were waged, skirmishes were won and lost in the halls of Congress, and at the state and local level. But we never gave up. Navigation made Little Rock a port city in 1968 and did the same for Fort Smith in 1969. By the end of this year, the waterway will reach Tulsa's Port of Catoosa.

Look what has already happened. The first year the river was opened to Little Rock, it was anticipated that 700,000 tons of commerce would be transported. But when the figures were all tallied, the total commerce moved was 2½ million tons! Already, construction of new plants is underway throughout the lower Arkansas Valley. Private industry has announced plans to invest over $700 million in new industrial starts or expansions.

This is obviously just a beginning. As the waterway stimulates new industrial growth, people will be needed to build and operate the new plants. That means new jobs. More housing and more trades and services will be needed. That means *more* new jobs.

My distinguished colleague in the House, Wilbur Mills of Arkansas, has estimated that there will be a $20 billion growth in the Arkansas River Valley over the next two decades. He has stated that increased income to the Treasury from the increased income taxes paid by prosperous Valley citizens would pay back the Government's investment many times.

Can we really expect such results? We need look no farther than our neighboring regions to get the answer to that question.

The Ohio River system, which was built in the early part of this century to carry 13 million tons of commerce annually, today carries well over 100 million tons.

The Tennessee River, on which less than a million tons of commerce moved in the mid-thirties, recorded shipments last year exceeding 24 million tons of high value cargo.

Shippers using the Tennessee waterway in 1969 saved about $45 million, which is reflected in lower prices to consumers, greater earnings for businesses, and ultimately increased income for folks all across the country. Moreover, the Tennessee River experience shows that competition from water carriers stimulates other carriers in finding better ways of doing business at lower cost. For example, studies by the Tennessee Valley Authority have identified over 400 rail rate reductions which have been made to meet the waterway competition. TVA says the annual savings accruing to railroad customers as a result of these reduced rates more than equal the savings realized by the waterway shippers. Nearly $2 billion worth of private industrial plants and terminals dot the shoreline of the Tennessee, providing direct employment for more than 37,000 people and at least an equal number of new jobs for people in trades and services.

These figures are impressive, but TVA reports that the surface of potential progress has barely been scratched. More than 99 percent of the investment in waterfront plants along the Tennessee has been made since the navigation channel was completed a quarter century ago. For those interested in wise water resource development and the benefits it can provide, this fact is of paramount significance.

Again, the major point in any discussion of water development benefits is that they are so widespread as to be almost incalculable. Because of our developed waterways, new jobs are created; new investments help to create an upward spiraling economy; and countless products are available to consumers at lower costs because of the availability of low-cost barge transportation. Take note that we haven't even gotten into the fact that most major water projects are multiple-purpose projects, providing protection from devastating floods, storing water to supply growing communities, creating a source for low-cost electric power and a mecca for growing millions of outdoor recreation enthusiasts.

Here too, it is time for a national understanding of the tremendous social impact which water projects can have upon our country's future way of life. By the end of this century, if present trends continue, 85 percent of the Nation's people will be concentrated in urban areas. Many of them will be crowded together in gigantic clusters composed of extensions of today's already congested metropolitan areas—an accumulation of homes, roads, factories, power lines, and other facilities posing problems that will make solutions to today's environmental difficulties seem tame by comparison.

There is no simple solution to the problems of massive urbanization—housing and ghettoes, mass transportation, noise, garbage disposal, congestion, and all the others. But here is one solution that needs greater promotion and application. Waterfront plants are most often located in rural areas. The new employment opportunities created by these plants are being filled in large part by people from the farms and nearby small towns.

Without the opportunities created by our waterways, the drain of people from the countryside to the cities in recent years undoubtedly would have been far greater. How much more of our urbanization problem could have been alleviated if waterway development had been pushed more aggressively in the past? How much *can* it contribute to better national planning for a decentralized pattern of growth and therefore aid in bringing real quality into the lives of our people in the future? Again, an example from the Tennessee River Valley: There, studies show that more than 80 percent of the new manufacturing employment since 1966 occurred *outside* the major metropolitan areas of the region. People go where the jobs are. More importantly, if they are already there, they have the opportunity to stay at home. Navigation alone has not been responsible for decentralized growth in the Tennessee Valley, of course. But when you consider the impressive growth on this developed river, the presence of the waterway has obviously been a most significant factor.

A central theme of this convention has been to emphasize that the availability of low-cost water transportation, as part of multiple-purpose river development programs, provides a foundation for growth on a scale which could not otherwise occur. It has generated major industrial expansion along the country's navigable waterways, providing opportunity for private investment, creating good jobs at higher wages for many thousands of workers, and helping the consumer's dollar to stretch a little farther in these times when he needs all of the help he can get. In addition, as we have just discussed, the social benefits of waterway development may have far-reaching ramifications of greater and more lasting value than any we have previously experienced.

Yet in the full face of such benefits, we still have those who would deny our people the right to the greatest possible use of this development tool. Today, waterway tolls or "user charges" are proposed on the overly simplified premise that "beneficiaries of the waterway should pay its costs." I think our discussion shows that *everyone* in the United States, and I mean that quite literally, *everyone* benefits. Then how are you going to allocate the costs fairly? The end result of waterway user charges can be only this: The burden of cost is going to fall on the small farmer, the small businessman, the young man just out of school looking for a job and a better way of life, and, most of all, on the consumer through higher prices on the countless products he requires in this modern society.

Here in the Oklahoma-Arkansas area, the new waterway—even before its completion—has already led to a rail rate reduction of some 7 cents per bushel on wheat shipments to the Gulf Coast. This is a prime example of the value of waterways as a competitive transportation factor. But the primary point is that the Arkansas Valley farmer gets a little more for his wheat and, if we want to carry the story to the end of the line, the housewife pays a little less for her bread. Conceivably, a user charge would wipe out some or even all of this saving. We also can be pretty sure that it wouldn't be long before the rail rates moved back upward to adjust to the waterway user charge. The end result is a higher price for wheat products, eventually passed on to the poor consumer. Multiply this one example by the countless commodities transported on the Nation's waterways, and watch the inflationary spiral soar higher and higher.

Another reason often advanced for assessing tolls on waterway commerce is that such charges would tend to "equalize" competitive conditions between railroads and barge lines by requiring barges to pay for their right-of-way costs as the railroads do. But proponents of this argument do not also urge the "equalizing" effect of requiring the railroads to establish joint rates and routes with water carriers as they do with one another. Nor do they deplore the railroads' refusal to move ex-barge traffic on the same basis which ex-rail traffic moves. This is a practice which, although technically subject to legal redress in some instances, requires such lengthy and expensive legal proceedings as to discourage the effort.

In short, waterways are performing a service to the people of the United States. Other transportation systems are doing likewise. Let's not clip the wings of the goose that's laying our golden eggs. Rather than emasculating the effect of water transportation by levying tolls, it would be far better to strengthen and broaden the transportation network of this Nation by utilizing the power of government to establish a complete system of joint routes and rates so that shippers would have a full range of choices to meet their transportation needs.

Such action would clearly be in the consumer interest. It clearly would be in the national interest. This is not to deny the rights of private enterprise to fair profits. It is not inconsistent with the spirit of competition so vital to sustaining the American economy. In this modern computerized world, it is far from being a task beyond technological capability.

Surely, as this Nation approaches its 200th anniversary, government and industry—and the various competing segments of industry—have acquired enough maturity to sit down together and work for the common good of the country. This is a big and complex job. But as we discussed a few minutes ago, the country can no longer afford to wait in its planning for tomorrow. It's high time we got together and started to do something about our transportation needs on a national scale.

The need for joint effort to solve today's transportation problems takes on new urgency when you consider that the day has arrived when we can actually help *create* the industrial growth centers of tomorrow through our prudent decisions on transportation matters today. It has been demonstrated that where waterways intersect rail and highway routes a new transport flexibility is achieved which, in company with other assets such as water supply, power, raw materials, and available industrial sites, can have tremendous influence on industrial location.

Such transportation complexes provide new industries with great flexibility in getting raw materials and shipping finished products. Moreover, the economic competition between modes tends to make the whole transportation system more efficient and promotes lower costs for moving the Nation's goods.

The overall effect is to disperse industrial growth. Whereas industries otherwise might tend to congregate in present urban centers—multiplying the problems of metropolitan congestion—with the new growth centers, industrial expansion can be spread to the countryside. Employment and income gains help check migration to the cities.

With these obvious benefits, the well-planned creation of transportation complexes to speed economic growth, and spread it as widely as possible, should become a planned part of national policy.

This transportation complex idea has particular application along newly developing waterways, such as the Arkansas. In this river basin, we have excellent highway and rail connections with the waterway. We have prime land available for large-scale industrial development. We can profit from the mistakes and experiences of other regions. The Arkansas system taps a major portion of the American market, representing a large share of the purchasing power and productivity of our country.

This project is, in one sense, a memorial to the lifetime hopes, work, and dreams of many civic-minded people. The Corps of Engineers has done a magnificent engineering job. The Federal government will have an investment of some $1.2 billion in the system.

Realizing the great return promised on this investment will require planning. It will require teamwork—at the local level, at the state level, at the national level. This is why joint efforts such as the interstate committee appointed by the governors of Oklahoma,

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Arkansas, and Kansas are so vital to successful development. Here the problems of water use, pollution control, industrial and recreational site preservation—all of the complex issues involving the rights of states, local communities, and individuals—can be resolved.

The proper husbandry of this created resource is a responsibility we must accept.

We must do so in such a manner that the benefits flow from the river throughout the valley and to its cities, to the hinterlands beyond, and to the total of our Nation by creating new and better opportunities for trade and commerce, for dispersal of job opportunities for those now imprisoned in the great overcrowded population centers, and for a better balanced and improved climate for living for all America.

This must be our objective, knowing full well that before this century ends the population of our country will top 300 million. The demand for food and fiber, for more goods and services of every kind, will require wise and prudent use of our expendable fuel, mineral and timber resources, more water of high quality, more of everything we possess.

In this respect, the Arkansas Valley is not unlike thousands of other valleys around the world. In this way they are the same: What happens to the land, the woods, and the water determines what happens to the people. Men are moving on the Ohio, the Columbia, the Tennessee, the Cumberland, the mighty Mississippi, and across many other river valleys to assure a lasting, productive resource base for generations to come. I know I speak for the people of the Arkansas Basin when I say, we are proud that our developed river is ready to join in this quest for a better tomorrow.

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POWER COPOUT AND AN EXPLANATION TO MRS. MARCOS

HON. WILLIAM D. HATHAWAY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. HATHAWAY. Mr. Speaker, on her recent visit to this country, the charming First Lady of the Philippines, Mrs. Imelda Marcos, expressed interest in familiarizing herself with the whys and wherefores of American electrification. And so a tour of a rural electric cooperative in Manassas, Va., was thoughtfully arranged for her by the White House.

An explanation and an apology for what happened thereafter are contained in a letter composed by the editor of the Rural Electric Newsletter and appearing in the September 25 issue of that publication. I include this composition, together with a related editorial broadcast by New York City's WCBS–TV on September 24, in the CONGRESSIONAL RECORD at this point:

APOLOGY AND EXPLANATION

WASHINGTON, D.C.—Mrs. Imelda Marcos, these words are for you.

We of the National Rural Electric Cooperative Association were honored to have you visit the Prince William Rural Electric Co-op in Manassas, Virginia, yesterday.

We sincerely hope that you enjoyed your visit to the co-op headquarters and later to the farm of Mr. and Mrs. William Kline.

At times it was uncomfortably warm and stuffy in both places.

We wish to apologize for that—and to offer explanation.

Approximately one and a half hours before you and Mrs. Nixon helicoptered in from the White House, Mr. Reuben Hicks, the manager of the co-op received a call from an official of the Virginia Electric & Power Company, the investor-owned electric company which supplies wholesale power to the Prince William system.

The VEPCO official told Mr. Hicks that due to a power shortage that day his company was cutting back its primary voltage by five percent and asking all consumers to turn off those electrical appliances that were not absolutely necessary. He asked Mr. Hicks to do the same.

Mr. Hicks did. As a result, if it was a bit stuffy in the Kline farmhouse, that stuffiness occurred because some air conditioners were turned off and others were running at five percent less than the normal voltage.

Mrs. Marcos, as we listened to your questions we were charmed to find that you really and truly wanted to find out the hows and whys of electrification. Knowing that about you, we would like to give you a little background on the power situation in this country, in the hopes that you may be able to avoid similar problems in the Philippines.

The reason VEPCO and then the co-op cut back voltage and asked cut-off of non-essential appliances yesterday was a shortage of power that is becoming every day more prevalent across the United States.

Earlier in the day, while you were dining in the White House, our Northeastern United States were already suffering a power shortage. As a result, the Potomac Electric Power Company (PEPCO), which serves this capital city, had, by afternoon, begun wheeling power to New York and other northern coast areas.

But it was, as you remember, a notably hot and muggy day. By mid-afternoon companies in this area which had wheeled power to other areas in the morning, were buying power from other producers in other parts of the nation.

The fact is that we have insufficient power in this country. Until recently, it was only a summer problem. Now, with environmental considerations slowing down construction of new generating facilities, and with fuels to power present facilities in short supply, we will have a winter problem, too.

It is a sad situation, Mrs. Marcos, and you would be quite right to ask why it came to exist in a country so rich and scientifically advanced as ours. The answer—that is the primary answer—is: We have built our power industry on a creed of profits and not upon a belief in public service. Had it been otherwise, we would not have been forced to build the cooperative system. And we certainly would not have been subject to the recurring blackouts and brownouts that are becoming a part of American life.

Tragically, many people still do not understand this reason. The head of our Federal Power Commission has stated repeatedly that voluntary regional councils composed of privately-owned power producers are capable of and have the necessary sense of public service to make sure that there will be always plentiful, reasonable, and reliable energy for our people.

That, as you may see in today's newspapers, is simply not the case.

Perhaps the most ironic event yesterday occurred in our Capitol Building itself. There the members of the House of Representatives, including the majority of Congressmen from New England, voted against money for a big Federal power dam (Dickey-Lincoln) which would have given our Northeastern states a crucially needed additional source of electricity.

But, Mrs. Marcos, the power companies of New England, privately-owned and eager to keep making profits even at the expense of public welfare, do not want a government supplier of power in their area. Such a supplier would provide cheaper service and that would be embarrassing, and unprofitable, for the companies.

Between 1964 and 1968 these power companies have spent half a million dollars in efforts to fight off a government installation.

They have been successful. Our country has not.

We thank you for listening to us, and we wish you every success in electrifying your own lovely nation. May it escape the mistakes we have discussed here.

POWER COPOUT

On Tuesday, while many residents of eastern states were groping their way through brownouts of electric power, the House of Representatives was cleaning up routine business. Part of that business was to vote down the appropriation for the Dickey Lincoln federal power project.

The Dickey Lincoln hydroelectric project in northern Maine was authorized back in 1965 to supply New England with peaking power—the kind of power especially suited to prevent the shortages that cause brownouts. Considering the power emergency on the east coast, you would expect Dickey Lincoln to have wide support. Well, it does. It has been supported by the Kennedy, Johnson and Nixon administrations, by the Federal Power Commission, by the Army Corps of Engineers and by private study groups.

But it has had one powerful source of opposition. That is the private utility companies in New England. These companies—which sell some of the most costly electricity in the country—oppose Dickey Lincoln, saying New England's power supply should be left to the private enterprise system.

And to make sure that public power doesn't get into the act, 17 major private utilities in New England have organized to block Dickey Lincoln, mounting what Senator Edmund Muskie of Maine has described as a vicious lobbying campaign.

Another Senator, Lee Metcalf, Democrat of Montana, recently learned from the FPC that these companies spent half a million dollars to influence public opinion against Dickey Lincoln from 1964 through 1968, the period for which figures are available. And the cost of this publicity was carried on the companies' books as operating expenses, to be defrayed through the electricity bills paid by the consumer.

Well, Tuesday's vote in the House was proof that all this brainwashing and lobbying has paid off. Two hundred thirty-one Congressmen voted against the Dickey Lincoln appropriation.

If the Dickey Lincoln case is any example, Congress answer to the brownout is the copout.

CZECHOSLOVAK LANGUAGE NEWSPAPER PUBLISHER ENDS PUBLISHING CAREER

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. PICKLE. Mr. Speaker, with the publication of the last issue of the Czechoslovak language newspaper "Novy Domov," a fine, old gentleman newspaper publisher ended his publishing career. Walter Malec owned and edited "Novy Domov" for 40 years. Recently, he sold his interests in several English-language papers, but at 83, does not plan to retire from the newspaper field, but rather

hopes to devote more time to writing short editorials and continuing his important work in locating and bringing recognition to the early pioneering efforts in Texas. Walter Malec is one of the great journalists of your State. I would like to reprint the following article, which appeared in several Texas newspapers, outlining some of Mr. Malec's important crusades on the Texas scene:

Malec Ends Publication of "Novy Domov" After 40 Years

(By Chuck Schwartzkopf)

The successful integration into society of one of Texas' first "minority groups" was chronicled in Hallettsville recently when veteran newspaperman Walter Malec ceased publication of the state's leading Czechoslovak language newspaper, "Novy Domov", or "New Home".

Established in 1894 in Hallettsville "to adapt immigrants to their new surroundings without loss of their heritage or faith", the oldest Czechoslovak newspaper in Texas had served as the official organ of the Union of Czech Catholic Women of Texas (K.J.Z.T.) since 1897.

The weekly had been owned and edited since 1931 by Malec Publishing Co. who publishes the Tribune-Herald of Hallettsville and other English language papers in East Bernard and Moulton.

Malec sold his interests earlier this summer in English newspapers in Needville, Ganado and Yoakum, but gave the 2800 Novy Domov subscription list to "Katolik" published weekly by the Bohemian Benedictine Order at St. Procopius Abbey near Chicago, Illinois.

Fiery editorials by Malec as early as the 1930's had given Novy Domov a reputation as one of the first "champions of the small farmer".

At his urging, 10,000 farmers gathered at Hallettsville in 1939 to form a short-lived "Small Farmers Association" dedicated to the promise, "The community and whole country stands or falls with the farmers."

Malec, who was born in Moravia, Czechoslovakia, and came to America at the age of 16, was an early critic of Communist Russia resulting in the paper's investigation for "un-American activities" at the end of World War II. The paper was exonerated and today it is seen how right Malec was. In recent years Publisher Malec had been assisted by Mrs. John (Julia Netardus) Urbish in the publication of the Novy Domov.

He recalls today, "It didn't matter to me because I have always told the people what they should know—regardless of whether they like it or not."

"We would have a better country today if there were more weekly newspapers that followed this rule," Malec believes.

Existing Malec publications still print a complete weekly report on courthouse records and legal action that seldom goes into print in most hometown newspapers.

The experienced crusading editor has never been sued, but reveals several threats have been made to his life during a long career of looking for corruption in both national and local governments.

He remembers walking home one night, years ago, "down the middle of a lonely Hallettsville street with holstered gun at my side after receiving a threat to be killed if I printed a story on allegedly questionable courthouse dealings."

His leading role as historian and locator of the graves of early Texas heroes earned recognition from five gubernatorial administrations and the commendation of state and national legislative bodies.

A joint Texas House-Senate resolution credits Malec with first pointing out that Texas had never marked the graves of its San Jacinto Battleground heroes. This fact was soon rectified through legislation that eventually led to the establishment of historical committees today in practically every Texas county.

Malec also pioneered physical fitness programs, organizing the Catholic Sokol, a national movement which had more than 20 clubs in Texas at one time.

He served as editor of the Czech gymnasts' official publication for 21 years.

Malec took his first vacation in forty years recently to visit a brother in Omaha, Nebraska.

On the eve of his 83rd birthday, September 3rd, he remains active and looks forward to being able to devote more time to his "short editorials" and campaign for pioneer recognition.

The Lavaca Co. Soil Conservation District recently honored Malec for his general contributions to agriculture and soil conservation.

"I never looked for public recognition," he comments with typical newspaper editor resignation.

He adds, "Just to do something that should be done has been my satisfaction."

Malec publications have been a family affair ever since Walter Malec came to Texas in 1931 with a family of seven children and only $100 in his pocket.

His wife, Anna, worked at his side constantly until her death in 1965 at the age of 77.

A daughter, Anna, is Society Editor and bookkeeper for the 6,300 circulation Hallettsville Tribune-Herald which is edited by a son, Richard, who also is managing editor of the East Bernard Tribune at East Bernard. A daughter, Mrs. Lawrence Rothbauer, operates an intertype machine and assists with social news writing.

Mrs. L. T. Biehunko is assistant editor of the Moulton Eagle newspaper. Before her marriage, another daughter, Mrs. William Pearson of Austin worked on the Hallettsville and Yoakum papers published by Malec Publishing Co. A son, Joe, is a public relations consultant in Austin, but learned the newspaper and advertising profession at home and at the University of Texas.

THE GOOD LIFE

HON. HOWARD W. POLLOCK

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. POLLOCK. Mr. Speaker, today I am inserting in the CONGRESSIONAL RECORD a speech by the distinguished scientist, Dr. Hardin B. Jones, professor of medical physics and physiology at the University of California, Berkeley. The speech, entitled "The Good Life," details Dr. Jones' theory of aging and presents many facts and observations to substantiate his hypothesis. A careful reading of Dr. Jones' remarks will yield much valuable information concerning the factors that contribute to a heathy and productive life. Thus, I commend Professor Jones' excellent work to the attention to this august body:

The Good Life

(By Hardin B. Jones, Ph. D.)

"There is a wisdome in this, beyond the rules of physicke: A mans owne observation, what he finds good of, and what he finds hurt of, is the best physicke to preserve health . . . For strength of nature in youth passeth over many excesses, which are owing a man till his age. Discerne the comming on of yeares, and thinke not, to doe the same things still; for age will not be defied . . . Examine thy customes, of diet, sleepe, exercise, apparell, and the like; and trie in any thing, thou shalt judge hurtful, to discontinue it by little and little . . ."—Francis Bacon, 1625.

Thousand-year-old sequoias tower above us here and show us the relatively eternal vitality and beauty of their kind of life. In contrast, the generation cycle of man begins with the bloom and inexperience of youth and gradually develops into the mature resources of men as they become increasingly decrepit. This cycle of health is important and must be borne by all. Yet the duration of each generation cycle is determined by the vigor of life and depends upon how that cycle is managed. That is the topic today: The Good Life.

How can we acquire wisdom in the sense of strengthening health and delaying the onset of the degenerative disorders?

There are some amazing contrasts. Let us imagine we were here in 1900. Our adult life expectancies would be a few years less. Our oldsters would be fewer and, less vigorous; they would be shorter, more diseased, and more exposed to experience of disease. Most of us would have the scars of tuberculosis, ravages brought on by the lack of the B and C vitamins; the combinations of gout, rheumatism, bad teeth, and boils; tendency to diarrhea, and to bladder and kidney stones; and other afflictions. In spite of all this burden, life expectancy of the seventy-year-old would be only three years shorter than it is today and health would be twenty-five per cent less vigorous. But in regard to infants in 1900, life expectancy would be twenty years shorter than today's. Many died in childbirth. This is no longer the case, but also many conditions that brought poor health to our generation were consequent to the more prevalent and more severe diseases of our childhood. Children surviving encounters with disease grew to adult life with a burden of poor health; the secondary disorders related to childhood diseases continued to impair health on into adult life.

All of my life, I have been examining the causes of diseases. I have looked systematically into as many records relating to this process as I could find, such as the vital statistics by state, city, and country. In a few instances, interesting records are available representing an extraordinary span of time. In Scandinavia during a visit fifteen years ago, I found that vital statistics records for both Sweden and Denmark extended back in a useful way nearly three hundred years. I used this compilation of information to show that there was a major relationship between the level of childhood diseases and later adult health. This century's unique low level of childhood diseases has added, by my estimate, fifteen years of youthful life to the life expectancy of the adult population of Europe and probably nearly as much gain for us, the United States.

I was able to explain by way of my theory of aging that each disease experience sets the health a little bit lower and makes the next disease experience somewhat more probable. The sum of all the disease experiences predicts the overall risk of the final disease in life.

A part of my hypothesis accounts for the fact that risk of degenerative diseases increases multiplicatively throughout life. In a population of young adults at a certain age, the level of the probability of occurrence of the degenerative diseases is low; during the next eight years, the risk of these diseases increases so that the number of degenerative diseases in the same population would have doubled by the end of that time; and in another eight years the risks would have doubled again, etc. Degenerative diseases cause most deaths and they reflect the depletion of body vigor brought on by aging.

The animals that live less long than man age in the same pattern, but their rate of aging is faster. For example, the horse doubles risk of degenerative disease in four years; in the cow the doubling time is but three and a half years; and the doubling time in the chicken, the cat, and the dog is approximately two to three years. In the mouse the doubling time is three months, and in the fly, a day. So the members of the animal kingdom all have the same general characteristics: the risks of degenerative diseases increase with age exponentially; for man this amounts to approximately a twelve per cent annual increase in tendency to be diseased by a new affliction. All humans seem to show the same tendency to have the level of average impairment increase at the same exponential rate. The large systematic differences between populations, which I uncovered through the theory of aging, are apparently the consequence of different burdens of disease of environmental origin.

The facts about health and disease fit well into my theory of aging. Understandable causal events underline the degenerative diseases. My theory of aging is nothing more than this, and in this light the theory is not new. All astute men have known, in some instances for thousands of years, that dissipation of vigor leads to illness. We now understand most of the immediate causes preceding degenerative diseases. The theory has had many practical applications with regard to preserving health and preventing diseases such as cancer, heart attacks, and strokes. One of the stumbling blocks, however, was that, while Sweden fit quite well into the theory for statistics up to 1900, with ever lower levels of degenerative diseases, after 1900 there was a peculiar absence of multiplicative increase in death risks with increasing age. If we follow the Swedish population by individuals who were born in the same year, then since 1900 individuals arriving at the adult ages show no tendency to have the degenerative disease risk *increase multiplicatively*. Each newly born cohort of Swedes achieved a lower death risk and maintained that low death risk without showing multiplicative increase in death risk.

Extrapolation of this trend led to the supposition that young Swedes are going to live an extraordinarily long time. They reached as low a risk as one chance of dying per thousand including accidents and suicides, with no tendency for the death risk to increase. The statistical inference projected that these individuals would live approximately one thousand years, so that I was in a relatively awkward circumstance of having my theory of aging predict an unbelievable inference that the Swedes might live to be as old as Methuselah of Biblical times.

Intuitively, I had to reject this kind of conclusion, and it cast some doubt on my theory of aging. I stated that I believed the death risk would again increase after some lapse of time, but that I could not tell how long the lapse might be. Each year as more new information has come from the Swedish Office of Vital Statistics, I have been plotting out the trend. During the first twelve years following my discovery of the non-aging of the Swedes, the adult death risks continued to show no increase with aging. But in 1965 there was again a multiplicative upward trend, but from the low mortality risk already gained. Now all the adults in Sweden over age thirty are showing again a multiplicative increase in death risk. A third of those now in their early thirties will live to be at least a hundred years old. The adults under thirty apparently are still gaining more life expectancy through a still improving hygiene than they are losing because of natural aging. The resultant of the two forces causes the death risk to remain constant.

An earlier trend of this sort is now observable in the statistical records of the country of Cyprus. This island, essentially tropical in climatic conditions, has gained over the past fifty years even more remarkable progress to good health than Scandinavia. I believe this is also due to the application of the germ theory of disease. Infectious disease has declined in Cyprus even below the Scandinavian countries. The risk of dying from degenerative diseases is the least known in any segment of human population.

By extrapolating Swedish life tables, assuming that they will follow the pattern now evident in Cyprus, the Swedes will have a life expectancy for the generation now under thirty of approximately eighty-five in the male and ninety-five in the female. This means a tremendous extension of life relative to what we have known it in the West.

To illustrate the remarkable range of difference in useful life now apparent between countries, I present a comparison of life expectancy relative to the United States, calculated for males at age 50. In the United States: men have a life expectancy at fifty of approximately twenty years. Finland has a life expectancy two years shorter than the United States', so this would be an expectancy at fifty of eighteen. The comparison is:

	Years
Finland	−2.0
Mexico	−0.2
United States	0
Australia	+1.5
Canada	+3
Portugal	+4
Netherlands	+5
Denmark	+6
Norway	+7
Sweden	+8
Iceland	+9
Cyprus	+13

Why does our country have such poor health? I don't think that the United States has been cheated of the benefits to our children from having less ravages from childhood diseases, even though childhood diseases are still not quite as reduced as in the Scandinavian countries. These diseases have been going down all the while, and they surely will go down more in the near future. Our proximity to Mexico is possibly one reason for residual epidemics of measles, mumps, and chicken pox, etc.

But I think we have poor health as adults largely because we have taken on many electives in our way of life that are not good for us. For example, those who smoke a package of cigarettes a day have decreased their life expectancy by eight to nine years. This was one of my first discoveries in applying my theory of aging. Those who smoke have more degenerative disease because they age from a high level of disturbed bodily functions—artificially induced by smoking. Also, the years of life they can expect to live are less useful to them than in the case of nonsmokers. The person who smokes a pack a day lives his life with half the vigor he would have had, and the life is reduced by eight years. The loss in life span is, therefore, from youthful, useful life; old age simply comes sooner. The smoker not only has more chronic diseases, he has more cancer, more heart attacks, more strokes, because he has exposed himself to severe physiological disturbances.

Another prevalent problem in the United State is with overweight. Every pound overweight costs us a month of life expectancy and about one per cent loss in vigor. Twelve pounds of overweight is a year less useful life, and ten per cent loss in vigor. There is now a measurable trend, especially in our young people, to eat foods less inclined to produce overweight. In a few generations this problem can disappear altogether as eating patterns are corrected to need.

Most of us don't get enough exercise; degenerative diseases can be induced because various parts become flabby from lack of use. This applies to muscles, joints, the heart, arteries, and to the organs and endocrine glands. Many individually appropriate schedules of exercise are available and likely to be helpful. It's not too late, as long as you're not already affected by overt disease. Exercise tolerance must be built up gradually and in the case of adults long inactive, advice of physicians should be sought.

Often a person may say: "I don't have to worry because I come from long-lived ancestors." That is not strictly the situation because environmental factors, variable by choice, are usually ten to forty times greater than genetic inheritance of good or bad health.

Many of the improvements to life have been the result of broad applications of public health policies, for example, sanitation. The discovery of the germ theory of disease as applied by Florence Nightingale, Louis Pasteur, and Queen Victoria a century ago led to Victorian hygiene: Wash your hands after toileting and before eating or handling food; don't spit or cough openly; sterilize food; etc. All this led to a measurable decline in infectious diseases because the spread of germs was less. Tuberculosis, for example, declined, reducing the prevalence of active cases by half each generation beginning with the application of Victorian hygiene; now it is a rare disease. Many diseases simply disappeared without trace and without other remedy, because the lessened contagion could not maintain sources of the infections.

I'm very much interested in reducing exposure to all cancer-causing substances, not to an impractical zero, but to very low levels. I initiated much of this trend to reduce carcinogens. This means advice against smoked products and smoking. Much of the adverse effect of cigarette smoking is brought about because individuals inhale into their lungs, and consequently take into their bodies fairly large quantities of powerful cancer-inducing substances. I recently reviewed all the evidence that I could find, as I have been doing for the past twenty-five years, on the quantitative relationship between all the carcinogens and cancer. The relationships are so strong and the conclusions so evident that I believe all cancers we see in animals and humans have been caused by them, without need to propose exceptions. The risk of getting cancer is proportional to the exposure to carcinogens. Even if we accumulate small risks, those small risks act over a long period of time. If that small risk acts on a very large population base, the yield of cancers may be evident even though any one person has no appreciable risk. If the exposure is more, the risk is higher, and the ultimate appearance of cancer in the population is proportionately higher. Such risks in any one person may seem very small, but if you happen to be the one who gets the cancer, the situation is nonetheless catastrophic. Cancer-causing substances can be eliminated, and, by reducing exposures to them, we may be able to eradicate a disease which we cannot cure. This principle applies to most degenerative disorders; each has causative factors, equated to poor hygiene, and the risk of that degenerative disease can be reduced, often greatly, by sensible electives in ways of living.

My study of cardiovascular disease showed that there are reductions of blood supply brought on by aging and more so in those who are physically inactive. We were able to understand how excess animal fat and carbohydrate in diet, overweight, lack of exercise, smoking, high blood pressure, and certain metabolic diseases bring about the changes in the walls of arteries that restrict the flow of blood and trigger the blocking

XUM

of blood flow in the coronary artery in heart attacks. These same conditions can affect any of the other arteries, too; when these disorders affect the arteries of the brain, the end change is a stroke. All of the information about cause of cardiovascular disease is not in by any means, but in our work at Donner Laboratory over the past twenty years, we have identified some important causative relationships. The most widely known of these is that animal fats in general lead to elevation of the blood cholesterol, replacing animal fats with the unsaturated vegetable oils efficiently reduces the level of blood cholesterol. It appears that the recent popular response to these findings so as to lessen the intake of animal fats and to increase the amount of unsaturated vegetable fats is decreasing the level of cardiovascular disease.

Some of this improvement is likely also to be the result of the similar trend to reduce the intake of carbohydrates resulting in less obesity and in lowering of blood pressure. Both exercise and dietary corrections are linked to lessening cardiovascular disease. Exercise not only stimulates the cardiovascular system, it balances energy cycles within the body and is a benefit to organ and endocrine function in addition to the obvious conditioning of the muscles and connective tissues. Decrease in cardiovascular disease is a pronounced trend in young adults but not for the population at large in older adults. This probably means that most older persons are not taking advantage of the new hygiene information. In selected subgroups of older adults who do follow these principles, improvement in health and decrease in disease risk has been evident. Physical fitness lessens the chance of impairment of the cardiovascular system in many ways. It also improves the sense of physical well-being, and it is the only way to augment sexual capacity by physiologic means.

As we gain insight into the ways of life that may make life longer, without exception they are also the conditions that make health better because the working parts of the body stay in better condition. All the degenerative diseases occur because of understandable causative events, and most of those events can be decreased markedly by making sensible choices of a way of life. This is why I have urged so strongly that if this information is understood, appreciated and used by people their lives can be extended, useful life gained, and a better basis of greater happiness and vigor established.

When I began to study the process of aging in populations, I thought that the common pattern of multiplicative increase in sickness and fatal disease with increase in adult age reflects, on the average, many little steps to health failures. Some such gradual changes do occur; as, for example, the gradual recession of close focus of the eyes and the gradual graying of hair. But I have found much important evidence showing that an individual's health is constant for long stretches of adult life, and the failures of function are likely to come in successive steps following metabolic upsets, each upset accentuating other failures of function, and all essentially triggered by episodes of physiological burdens exhausting the functional reserves. One of the obvious benefits of exercise is that it builds functional reserves well above the sedentary state.

When we are burdened from anxiety, exhaustion, infection, or trauma, the cardiovascular system and various body parts can be forced into sustained work sufficient to exhaust reserves and even to induce new functional failures. Thus in the latter part of adult life there is often a succession of difficulties following an upset. Most individuals who are in good health apparently show very little aging change on a month-to-month or year-to-year basis. More and more individuals are able to reach what was called old age—sixties, seventies, and eighties—still in relatively youthful or vigorous condition. Hair may be white but bodies can be strong and unsagged, still capable of physical work, satisfaction, and clear mental activities.

There is still a myth that mental activity invariably decreases rapidly throughout adult life, as a consequence of aging. Textbooks in psychology and education are full of graphs showing progressive loss of mental skills after age twenty. I hold that this is not caused by aging but by inactivity. The spread of scores for such tests increases and the deduction is that the adult population is a mixture of at least two types of persons: the more prevalent type has a narrow perception of events and lives essentially in more and more isolation; he progressively forgets what he learned in the earlier period of life when he was being educated. The other smaller segment of the population stays informed, alert, learning more and more all the while, and, indeed, becoming mentally keener as life goes on. The lesson is quite obvious: Stay alert and keep active, interested, and useful.

My pattern in study of health and aging has been to rely on quantitative data derived almost exclusively from the physical sciences technique. These methods are accurate, but not always applicable to the important behavioral aspects of health. These matters can be entirely abstract; certainly they are more difficult to define, less measurable, and are more often involved in quarrelsome controversy. But they are surely important. After thirty years of study of health, I conclude the heaviest burdens of diseases are not cancer and cardiovascular disease, tragic as they may be. There are the much more prevalent disorders in society that affect behavior and often blight lives for a longer span of time. Anxiety, sadness, loneliness, and irrationality are perhaps the worst plagues of society. In the way I refer here to these problems, they are not related to economic circumstances, and any improvement in the outlook will depend upon a common sense, which is to say, adherence to moral and spiritual principles.

There are gains and risks from use of alcohol. In moderate drinking, alcohol has mild transitory effects: slowing of the nervous system and inducing relaxation. The psysiological effects at this level bring pleasurable relief from tension to most persons. Such uses also account for tens of thousands of deaths per year on our highways. This is because alcohol uses up the safety reserve of fast response time needed in tight situations. The other major problem with alcohol is that some of those who use it for relaxation graduate to heavy drinking. About fifty thousand deaths occur each year because of liver damage from alcoholism in the United States.

Dividing the quantity of alcohol sold in this country by the number of persons over eighteen gives an estimated consumption equivalent to six gallons of whiskey per person per year. Since most persons consume little or no alcohol, the drinking minority is quite busy and the frank alcoholics are a common burden. My effort to understand the reasons for drinking lead me to believe that most persons take alcohol to unwind from mental tension at the end of the work day. The brain activity increases progressively during the work day, and after work, a person doesn't want to stay mentally tense. But it isn't easy to relax if a person hasn't learned how; alcohol provides a key for relaxation. It induces relaxation directly and indirectly. The indirect mechanisms are particularly important because they induce such responses in the inner workings of the brain through the autonomic nervous system whose compliance is needed to bring about changes in mood, in this case, the change from action to quiet relaxation. We could, do not, and should give training in the control of mood through mental effort so as to achieve better control over mood through the autonomic nervous system. Such controls over sleep, relaxation, and anger are as important as the learning of control of the bladder and bowel through the autonomic nervous system. We could learn much more. It is altogether too easy to become conditioned so that alcohol or other drugs are the only means to evoke compliance from this part of the nervous system. Witness the common sequences of stimulants and relaxants: coffee, tobacco, alcohol, aspirin, tranquilizers, diet and pep pills, etc. These aids can be a blessing, but they are better reserved as infrequent supplements to naturally learned control over mood.

Twelve years ago I became aware of the beginning of a tide of irrational behavior in society, seemingly caused by misunderstanding of the very information which could instead comfort and assure those misled to emotional responses. I have studied this social phenomenon as controversy. At the hub of each controversy there is an inversion between facts and conclusions. As the controversies have grown recently, they have taken the form of social unrest, approximating the mental illness of mass hysteria. This tide of irrationality is still increasing; it could surpass all other contributions to ill health, since false conclusions generate emotional response and spread far more rapidly than accurate information.

Drug abuse is a part of the tide of irrationality. A year ago, I predicted that there would be an epidemic of heroin addiction. At that time this was only evident from my measurement of the trend; it was not evident to the public. Now we have only to pick up any newspaper to realize that the leading cause of death among young people in every city in the United States is heroin overdose. Drug addiction has become the disease of the young. The morally strong are much less susceptible, but those following the paths of drug use lose the will to resist and become progressively involved with increased exposure to drugs. This newest crisis of irrationality needs our attention urgently.

In the overall matters of health and life expectancy, I am an optimist. I see the great benefits that have been brought to our children, largely because the childhood diseases have been reduced. Even more can be accomplished, such as reducing the remainder of infectious diseases, which, although not often fatal, undoubtedly have long-term harmful consequences to health. The present crop of youngsters gained the best health the world has ever known. We can still expect to gain in this direction, perhaps as much again for the next few generations as during the past century of spectacular improvement in health.

I conclude by returning our attention to the vigor derived from sound decisions in choice of life style. Personal health and social health are interrelated aspects of these choices. The statement: "We spend our time in worthwhile ways" has multiple implications, but the fundamental inference is that great and healthful life are the same and from the same source—The Good Life.

JULY 18, 1970.

DRUG ABUSE CONTROL ACT

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 24, 1970

Mr. PRICE of Texas. Mr. Speaker, earlier this week I commented briefly on some of the more significant aspects regarding the human and social cost of drug abuse. This afternoon I would like to turn my attention to what the Federal Government is doing to combat the problem and then discuss briefly two of the more controversial sections of the Drug Abuse Prevention and Control Act of 1970.

By all indications, the Federal Government has taken a far more active role in combating drug abuse during the Nixon administration than it has in recent years. The Justice Department has instituted special strike forces which have cracked down on drug peddlers and broken nationwide narcotics rings. As a result, organized crime is starting to feel the crush of effectively organized and effectively focused Federal law enforcement activity. The Treasury Department has increased the numbers and upgraded the practices of Bureau of Customs officials charged with policing our Nation's borders against smuggling. The significance of this action can hardly be overstated, because so much of our drug problems exist because narcotics are smuggled into the country. Take heroin, for example. Although heroin is not legally manufactured domestically, and although it is not legally imported, it accounts for more than 90 percent of all narcotic addiction in the United States. Consider then the extent of the smuggling problem when it is estimated that it takes 2 to 3 tons of heroin per year to supply the needs of all those addicted to it in this country. Incidentally, most of the marihuana and all of the hashish consumed by drug abusers is illicitly introduced into the United States, as well. The State Department is actively exploring the possibilities of concluding new international agreements to deter the flow of drugs from drug-producing areas of the world to the United States. And new forms of international cooperation such as the joint United States-Mexico effort to curtail drug smuggling across our common southwestern border are bearing positive results.

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One thing is obvious, though, the illegal narcotics traffic flourishing in the United States today is a monument to the failure of existing drug laws. Existing laws are clearly inadequate to control much less stop the mounting drug abuse problem. This then is why so much critical attention needs to be paid to the drug legislation pending before the House. What we need is not change in the laws for change's sake, we need effective change.

As I see it, the Comprehensive Drug Abuse Prevention and Control Act of 1970 has three broad objectives: First, to deter drug abuse more effectively through a revision of the present Federal law enforcement aspects of drug abuse prevention and control and through better educational programs. Second, to provide improved treatment and rehabilitation of drug abusers and an active program of education. Third, to encourage research into the causes of drug abuse and provide a better understanding of the psychological and physiological effects certain drugs have on human beings.

In my judgment, this bill is designed to provide a vehicle for effective law enforcement and to provide needed regulatory controls over the illicit use and misuse of drugs. I consider this the ultimate objective of the bill. The drug problem that is with us now, and will probably be with us in the future, is a very dangerous one. I believe Congress has a responsibility to the American people to act with dispatch on this issue and provide law enforcement officials with what they need to combat this problem. It is in this context that I would like to comment on two of the more controversial features of the bill; the so-called no-knock provision, and the question of who should make the final determination to bring a drug under control.

In my view no-knock is not a sinister means of providing policemen with the legal right to act like gestapo agents. Many people have been led to believe that if no-knock were to become law, their home would be subject to being invaded any time at the whim of a police officer. Actually, in legal terms a search warrant has always required a showing by the applicant and a decision by a court that such extraordinary authority is required to enforce the law. The only difference with this traditional approach is that under no-knock the applicant has to show, if he can, that the alleged offender will destroy vital evidence if polite exchanges or a warning is given in advance of the officer's entry. Or in the alternative, the applicant for a no-knock warrant must show that lives will be endangered if the warrant is not granted. In either event, though, police officers entering a dwelling under a no-knock warrant must identify themselves and their mission upon entry.

I have difficulty, Mr. Speaker, in viewing this authority as a threat to the safety of the law-abiding citizen or a threat to the security of his home. No-knock has become an emotional issue. And a great deal of this emotion has been generated by those who sympathize either openly or tacitly with the drug users. The House should reject this type of obstructionism and get about the business of putting an end to the illicit traffic in drugs.

A great deal of debate has also occurred over who should make the final determination to bring a drug under control. Representatives of the medical and scientific community in particular have expressed some doubts regarding granting the Attorney General authority to make final decisions on which drugs should be controlled. It should be made clear that this concern has been recognized and accommodated by appropriate language in the bill which requires the Attorney General to seek the advice of the Secretary of Health, Education, and Welfare on drug control questions. This same language makes the Secretary's advice with respect to medical and scientific issues binding on the Attorney General. In this fashion I feel the bill makes a realistic balance between the interests of science and the interests of law enforcement on this issue.

All in all, Mr. Speaker, I believe the Comprehensive Drug Abuse Prevention and Control Act of 1970 to be a solid and workable piece of legislation. Moreover, it is one of the most important pieces of legislation to come before the 91st Congress. I say one of the most important because the problem of drug abuse strikes at the very core of our society and our way of life. It must be rooted out and eradicated, and quickly. The well-being of a whole generation of Americans hangs in the balance.

THANKS TO OUR COMPETENT POLICE

HON. HAROLD D. DONOHUE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. DONOHUE. Mr. Speaker, in these tumultuous times when there is so much unwarranted criticism of the men in our community police forces who risk their lives, day and night, to protect the personal safety and property of their fellow citizens, I believe that we are obliged, more than ever, to take the time to praise our policemen whenever the occasion merits it. Let us vividly remember that, by far, the very great majority of policemen are honorable and competent in the performance of the most dangerous job in America today and it is well, therefore, to give them, their gallant wives, and children every reasonable encouragement and rightful support. For that purpose I would like to include an editorial from the Framingham-Natick, Mass., News, issue of Wednesday, September 30, 1970, describing the most creditable performance of our area police in the capture, without endangering the public safety, of a person suspected of participating in a Boston bank robbery in which a policeman was killed.

The article follows:

ALL CREDIT TO THE POLICE

In a day when they're known among the radical rabble as "pigs," a well-deserved word for the police is in order.

We're referring to the capture just outside a school in a crowded Worcester square without so much as one person hurt of William Gilday, the elusive suspect in the Brighton bank holdup.

It was State Police Sgt. Thomas H. Peterson of 711 Potter Rd., Framingham, who displayed a shrewdness that led to the capture.

On the Massachusetts Turnpike he spotted a station wagon that appeared to contain Gilday and followed it in his unmarked car. When he found his two-way radio was out, he passed the word along to police through the toll collector at the Millbury turnoff and then commandeered a turnpike truck with a radio to help police keep in touch.

But the skill with which State Trooper Robert Long and Worcester Patrolman Charles Moriarty handled the cutoff in crowded Billings Square deserves credit from an anxious public.

Moriarty's quick cutoff of the suspect's wagon and Long's swift lunge for the door with gun drawn gave the wanted occupant no chance to fight it out.

Even before the dramatic finale, police judgment entered into the affair: a call was put through to the school not to let any of the children out for the noon recess until notified that all was clear. Every concern was given for the public's safety, as well as that of the hostages and the police.

Well, that's the way we expect the police to act. And that is the way in which police work is carried out more often than not.

By contrast, just consider the indifference once again of the Mad Bombers of the Wisconsin campus who murdered an innocent father of three because he happened to be in the building they had decided to bomb as a warning to the rest of us that we'd better shape up.

It was not surprising, therefore, to hear the cries at Boston's Berkeley Street police headquarters of those who shouted "Free Gilday!" They are as much the kooks as those who shouted "Kill Gilday!"

There is a lot to be said for Sgt. Peterson, Trooper Long, Patrolman Moriarty and their superiors for the overall performance in bringing in a man who was not afraid to terrorize unarmed civilians.

We hope that the public will not forget to say thanks.

WING OF EXPECTATION

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. CARTER. Mr. Speaker, since 1898 attempts have been made to refurbish the Peterson House, or the House Where Lincoln Died.

On May 14 and 15, 1970, the Kentucky Society of Washington, with the cooperation of other interested individuals and organizations, cosponsored the benefit performance of "Wings of Expectation" in its premiere presentation at the Ford's Theatre. More than $2,000 will be donated to the National Park Service toward renovation of the House Where Lincoln Died.

I enclose for the information of Members of this House an account of the achievement by these people who are interested in preserving this historical site:

MARY TODD LINCOLN OPERA
BENEFIT COMMITTEE,
Washington, D.C., September 22, 1970.

DEAR FELLOW KENTUCKIANS: One of the greatest achievements of the Kentucky Society of Washington in recent years was the premiere presentation of the Mary Todd Lincoln Opera, "Wing of Expectation", at the historic Ford's Theatre in Washington, D.C., on May 14th and 15th under the gracious patronage of Mrs. Richard M. Nixon and Mrs. Spiro T. Agnew.

(a) The Opera, written by Dr. Kenneth Wright, head of the Music Department of the University of Kentucky, unfolds the troubled and often misunderstood life of Mary Todd Lincoln and of the bizarre career of William Herndon, Lincoln's law partner for over 20 years, with whom she was in constant conflict.

(b) The benefit performance was co-sponsored by the Kentucky Society of Washington, the Lincoln Group of the District of Columbia, the University of Kentucky, the National Conference of State Societies, and the National Park Service of the Department of Interior. Proceeds are to be used to assist in refurbishing the Peterson House across the street from Ford's Theatre or better known as the House Where Lincoln Died.

(c) Honorary Chairmen were Senator and Mrs. John Sherman Cooper of Kentucky.

(d) Co-chairmen were Ralph E. Becker, a prominent Washington attorney and Lincoln authority; Mrs. Stuart M. Charlesworth (formerly of Lexington, Ky.), a member of the Board of Directors of the Lincoln Group; and Lewis A. Moss, former President of the Kentucky Society of Washington and Deputy Director General of the National Conference of State Societies this year.

(e) The cost of the production was underwritten by the University of Kentucky through popular subscription from supporters of the University, both within Kentucky and in other areas. The Mary Todd Lincoln Opera Committee, composed of members from all of the sponsoring agencies, in its early planning stages established as objectives:

(1) Reimbursement of the University of Kentucky in the sum of approximately one-half of the cost of the production, and

(2) A donation of from $2,000 to $7,000 to the National Park Service to be used for refurbishing the House Where Lincoln Died.

(f) Information concerning the proposed production was first disseminated to members of the Kentucky Society of Washington in October 1969. Initial announcement of the production was made at a "kick-off" breakfast on Capitol Hill on December 14, 1969, attended by Dr. Wright, the three co-chairmen, all members of the Kentucky Congressional delegation or their designated representatives, and Representative Fred Schwengel from Iowa. From that time intensive and detailed planning and work was required on the part of committee members to insure successful attainment of stated objectives.

(g) Wide publicity was given to the production through news media, radio, and television.

(1) Mrs. John Sherman Cooper and Dr. Wright were interviewed by Barbara Howar on Panarama (WTTG) on May 12, 1970.

(2) Dr. Wright also appeared on Claire Crawford's program on WRC on May 14, 1970.

(3) Congressional wives, other honored guests, members of the Mary Todd Lincoln Opera Committee, and members of the press attended a tea at the historic Ford's Theatre on April 28, 1970, from 3:00 p.m. to 5:00 p.m. Those attending (over 50 including Justice Stanley Reed and Congressman Schwengel) viewed an exhibit of Mary Todd Lincoln's personal mementos, inspected the House Where Lincoln Died, and enjoyed a delightful tea beautifully served by Mrs. LeRoy Nicholsat a nominal price as her personal contribution to the Benefit Performance.

(4) The newspapers in the Washington area and in Kentucky gave us wide publicity on our endeavors.

(h) A dress rehearsal was held at the Ford's Theater on May 13, 1970, at 7:30 p.m. to which school children from intercity and Greater Washington area schools were invited to attend free of charge, over 500 attended. This was made possible by contributions from the Potomac Electric and Power Company.

(i) Receptions were held each evening preceding the opera performances at which refreshments and a delicious buffet supper were served to all those in attendance.

(1) On May 14th over 200 persons attended a reception at the historic National Portrait Gallery from 6:00 p.m. to 8:00 p.m. Members of Congress headed the list of dignitaries attending the reception and opera.

(2) We were indeed honored to have Mrs. Spiro T. Agnew attend the Opera performance on May 14th. We were very sorry that she could not stay for the entire performance due to illness.

(3) On May 15th approximately the same number of persons attended a reception in the elegant John Quincy Adams Room at the Department of State from 6:00 p.m. to 8:00 p.m. The Congressional delegation again headed the list of dignitaries attending the reception and opera.

(j) We were also pleased to have with us for the receptions and opera performances persons from the west coast of California to the east coast of New Hampshire, New York, Massachusetts, and New Jersey. Kentucky was well represented by Colonel Harland Sanders, one of our best known citizens not only in Kentucky but throughout the world for his famous "Kentucky Fried Chicken".

(k) We are indeed grateful for the many contributions received from people who were unable to attend but wanted to support our worthy cause.

(l) While a final accounting has not been made, it is evident from preliminary audits that the Mary Todd Lincoln Opera Committee will meet its objectives and will be able to donate more than $2,000 to the National Park Service for refurbishing the House Where Lincoln Died.

(m) One-third of the Opera Committee members were members of the Kentucky Society. Our members served as chairmen of the key committees established in the initial organization of the group.

(1) L. Ray Smart, past President of both the Kentucky Society of Washington and of the National Conference of State Societies, served as Chairman of the Invitation and Ticket Committee (see Appendix X for copies of invitations).

(2) Paul Keen, former President of the Kentucky Society, served as Budget Director.

(3) Mrs. J. Gregory Bruce served as Chairman of the Advisory Committee dealing with protocol matters, etc.

(4) Joe DeWeese, Governor Nunn's personal representative in Washington, served as Chairman of the Program Committee. It is to be noted that through his efforts advertising subscriptions for the program netted approximately $9,000 for the fund in addition to paying for the printing of the programs. We are especially proud of this program and delighted that a copy has been placed in the National Archives for posterity.

(5) Paul Fulk, Treasurer of the Kentucky Society, also served as Treasurer for the Opera Committee.

(6) Charles Fentress, Jr., Press Assistant to Senator Marlow W. Cook, served as Chairman of the Publicity Committee. Robert K. Salyers, former President of the Kentucky Society, also served on this committee.

(1) Miss Mary Breckenridge, former officer of the Kentucky Society, served on the Special Activities Committee and made the final arrangements for the magnificent reception which was held in the John Quincy Adams Room, Department of State on the evening of May 15th preceding the opera performance.

(n) We are very proud of having had the privilege of assisting the University of Kentucky in this worthwhile endeavor. This was the first time for a college group to perform in a theatre in this area before a national audience. All the efforts and hard work on the part of the members of the Opera Committee were more than gratified by the enthusiastic performance of these young people. Our efforts have helped to make this venture possible for them and also to make a long lasting dream of the author and composer, Dr. Kenneth Wright, come true; i.e., to see his opera, "Wing of Expectation", performed in the historic Ford's Theatre.

Since 1898 many attempts have been made to refurbish a little house at 516 10th Street, N.W. . . . the Peterson House or the House Where Lincoln Died. We believe that the publicity incident to the production of this opera was beneficial in the enactment of Public Law 91–288 on June 23, 1970, in establishing the House Where Lincoln Died, the Lincoln Museum, and Ford's Theatre as a National Historical Site.

Sincerely,

LEWIS A. MOSS,
Cochairman.

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FOR LACK OF RESEARCH FUNDS WE MAY BE POISONING OUR WATERS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. VANIK. Mr. Speaker, in an effort to find a substitute for phosphates in detergents, new chemicals and compounds are being brought into the market which may well be more harmful than phosphates. There is theoretical evidence that one of the major replacements for phosphates—soon to come on the market in massive quantities—could cause cancer.

It has long been pointed out that phosphates are one of the major causes of eutrophication and pollution in lakes. They are one of the principal factors in algae blooms. The tremendous harmful effect that phosphates can have on lakes is well described by the April 1970 report of the International Joint Commission on Great Lakes problems.

The Canadian and American Commission members noted that—

> The pollution problem requiring the most urgent attention of the Governments of Canada and the United States is the increasing euthrophication of the Lower Great Lakes, particularly the western basin of Lake Erie.
>
> In 1967, the input of total phosphorous from United States municipal sources to Lake Erie was 35.7 million pounds, of which 25 million came from detergents.
>
> On the basis of the foregoing the Commission is convinced that the reduction of the phosphorus input into Lake Erie, Lake Ontario and the International Section of the St. Lawrence River will significantly delay further eutrophication and will allow the recovery to begin through natural processes.

It is entirely admirable that the detergent companies are trying to cut down on the percentage of phosphates in their products. The Department of the Interior, Consumers' Union, and others have made available to the public lists ranking detergents by their percent of phosphate content and it is encouraging to see the interest of the public in moving toward products which are less harmful to the environment.

But in our rush to stop one type of pollution, we must not jump from the frying pan and into the fire.

What is being used as a replacement for phosphates? Is the replacement safe—perfectly safe? Are we sure that it does not have harmful genetic effects? Are we sure that the replacement does not lead to mutation over time.

This is a vital question—a question vital to the present quality of the environment and to future life.

There is a replacement to phosphate that both Proctor & Gamble and Lever Bros. appear to be moving toward. It is abbreviated as NTA—which stands for nitrilotriacetic acid.

Already there is some 50 to 100 million pounds of NTA being produced and poured into our waterways. If NTA is accepted as a substitute for phosphates, some 2 billion pounds will be produced and dumped into the Nation's waters each year.

When we deal with billions of pounds of a material, we must be sure that it is safe.

Yet there are recent indications that NTA, now coming into heavy production, is not safe.

I asked the Library of Congress specialist in environmental policy to comment on the safety of NTA. The specialist concluded:

> It is obvious to me from these conflicting reports that further research on NTA is necessary before we can declare it the perfect substitute for phosphates in detergents.

The Library cited a report in Environmental magazine of September 1970, written by Dr. Samuel S. Epstein, which pointed out:

> (1) not perfectly biodegradable—that is, capable of being broken down by bacteria. To quote Dr. Epstein, "concentrations of less than eight parts per million in raw sewage are ninety percent degraded in sewage treatment plants under the best conditions of sixteen parts per million, degradation is reduced to approximately 75 percent. In the absence of [favorable] conditions, NTA biodegradation can be reduced or almost nonexistent.
>
> (2) potentially dangerous in concentrated forms, raising the question of its effect over time in less concentrated forms. For example, two year tests on rats seem to demonstrate that NTA does not cause cancer—but there was an increased mortality among male rats and kidney damage in male and female rats. In addition, zinc levels in bone tissue—and waste products was "markedly increased." As Dr. Epstein notes, "The significance of these findings has not yet been adequately evaluated."
>
> (3) NTA is an agent that picks up and joins with metal ions. There are several possible dangers here. NTA may lead to heavy damage of metal pumping and sewer systems. More seriously from a health point of view, NTA may "pick up" heavy metal elements in the sediments of lake and riverbottoms and bring them back into the water supply. In other words, poisonous mercury which has settled out of the water could be reactivated by NTA in the water and brought back to our drinking taps.
>
> (4) Finally, and most importantly, it is entirely possible that NTA, as it breaks down and forms and reforms into various compounds, can form into an agent called introsamines—which is "highly" cancer-forming.

In checking with the Federal Water Quality Administration, and the Bureau of Water Hygiene, I have found that, because of limited funds, the first three difficulties mentioned above are being studied by the Federal Government but that the last problem, the problem of cancer produced by derivitates of NTA is not being studied. Officials at HEW admitted that, since testing for cancer is a long and involved process, that if they had the money they would—and should—begin checking the ways that NTA dissolves and the possibility that some of its forms can cause cancer. The officials pointed out that when it is proposed to dump 2 billion pounds of a chemical into the Nation's waterways, every safeguard and test should be made.

A lack of research funds in this area is so shortsighted as to be beyond belief. We may be literally poisoning ourselves and future generations to save a few dollars today.

In light of this shocking emergency situation, I am requesting the Bureau of the Budget to provide increased water hygiene research funds in a supplemental budget request.

In addition, I believe that it verges on criminal neglect for private companies to bring new chemicals and products into the marketplace without the most thorough testing, not only by the companies involved but by the Government. I am drafting legislation to require that no new chemical product or compound be brought into interstate markets without the prior approval of the Public Health Service and the Environmental Protection Agency that that product is not harmful to the environment or the health of the American people.

PRODUCER PRICE LEGISLATION

HON. GEORGE BUSH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. BUSH. Mr. Speaker, on September 24, the Honorable Carl E. Bagge, Commissioner, Federal Power Commission, spoke before the annual meeting of the American Association of Oilwell Drilling Contractors regarding the need to free gas producers from rigid, unrealistic price controls. In view of this Nation's current energy crisis, Commissioner Bagge's talk entitled "Producer Price Legislation: An Alternative to Whistling in the Dark," is especially timely since it goes to the heart of the problems besetting the oil industry today. I hope that every Member of this body will take a moment to review Commissioner Bagge's Dallas speech. It follows:

PRODUCER PRICE LEGISLATION: AN ALTERNATIVE TO WHISTLING IN THE DARK

(An address by Carl E. Bagge, Commissioner, Federal Power Commission)

A speech about gas production and the level of drilling activity to an association of drilling contractors by a member of the Federal Power Commission would always have been fraught with the danger of a possible disqualifying petition filed either by the producers, on the one hand, or by the New York Commission on the other. This is particularly true today when the existing national crisis in gas supply and the Commission's efforts to deal with the crisis has polarized positions and, as a consequence, compounded the problems inherent in the already difficult process of producer regulation by transforming it into an even more adversary process than it has been in the past.

This development, it seems to me, is most unfortunate. The critical problem of producer regulation, as a consequence, has not enjoyed the benefit of the occasional constructive dialogue which forums such as this provide to agency members in other areas of our regulatory concern and responsibility. The absence of such dialogue tends to create a rigidity in the process which compounds an already difficult problem. If the inhibitory restraints which operate in this area could be suspended for a short while, we might be able to ventilate the musty hearing record and illuminate the dark and awesome methods which we have attempted to employ during the past decades as our regulatory tools in the search for a just and reasonable wellhead price for natural gas. Until that time, however, agency members shall continue to be obliged to be cautious and circumspect, invoking bland generalities which inform no one and do nothing to improve the process by questioning its relevancy but nevertheless assure us of the privilege of continuing to participate in the process of producer regulation.

Having said that, however, I think that if there ever was a time, now is the propitious moment for candor even by agency members. Institutions, just as individuals, need occasional periods of introspection to determine whether their performance is relevant to their goals. Governmental policy provides no exception. And since the policy of regulating the field price of natural gas is not sacred, and therefore provides no further exception, it should be critically examined against the standard of relevancy to its objectives. An examination of the policy of producer price fixing should be candid, open, and subject to the characteristics of any other public dialogue concerning any other public policy. It should indeed be capable of critical public examination by the very agency members who are charged with the responsibility for its execution without incurring charges of prejudgment of pending proceedings. This kind of examination of existing legislative policy, it seems to me, is entirely appropriate even within the legal constraints imposed upon agency members by specific rate proceedings pending under such existing legislative policy. Too large a piece of the national interest is at stake in this question to permit the inhibitory restraints of pending proceedings under existing policy to prevent a candid examination of the question of the need for a legislative policy alternative by an agency member.

During the course of the past two years I have attempted to employ the forums available to me as an agency member to generate interest in and establish a public dialogue regarding the problems inherent in the existing method of producer price regulation. I have been sorely disappointed in the total absence of a response. Two years ago at the Annual Gas Industry Seminar sponsored by Oklahoma State University at Stillwater, I proposed that the Federal Power Commission immediately consider extricating itself from the cumbersome and unwieldy existing area rate methodology and consider adopting, as an alternative basis for well-head price regulation, indices reflecting both market and cost factors which would provide both a more responsive and flexible system of producer price regulation.

This proposal was based upon a growing recognition of the essentiality in fixing just and reasonable rates to be apprised more fully and more immediately of the economic dimensions of the problem—specifically of the supply and demand dynamics of the marketplace. For it was clear to me then that functionally effective prices depend, in the final analysis, upon economic factors rather than accounting costs, no matter how sophisticated the costing methodology.

It seemed to me at that time that the Commission was obliged to evolve a more responsive method to determine the field price of gas than that employed during the past decade. There then appeared to be an urgent need for a method which gave greater weight to the inexorable laws of supply and demand than to costs as employed in the traditional cost of service utility approach to regulation.

But it also seemed clear at that time that broadening the rationale for our producer price decisions to rely upon market factors would be a response to only part of the problem. It was also apparent that such an alternative must not only respond effectively to changes in supply and demand, but that it had to respond swiftly enough to avoid serious national consequences. This brought me to the question of how this objective could be achieved. I then concluded that the Commission needed a more effective reporting system than that which currently existed—a reporting system that was timely, continuous, relevant, comprehensive, and one oriented to the future rather than to the past. For it seemed to me then that the Commission could never again be afforded the luxury of gathering multitudinous volumes of historic cost data during unduly time consuming area rate proceedings.

This provided the basis for the proposal advanced at that time, for the Commission to consider adopting, as a substitute for cost-based area price regulation, a review of individual producer contracts against a test of suspension based upon a Commission prescribed index similar to that employed by the Interstate Commerce Commission in rail and motor carrier rate regulation. The proposal called for a reexamination of whether a continued wooden translation of costs, including a return allowance, into ceiling prices was a dependable solution to the problem of producer regulation. For the real test of a regulatory approach in this unique area is not whether it conforms to an economic or legal theory, but whether it achieves the intended results. Does it work? Does it yield ceiling prices that are high enough, but no higher than necessary, to bring forth development of adequate supplies of natural gas?

My colleagues who participated in the *Permian* decision contemplated that such a critical examination of the efficacy of the process would subsequently be made by the agency members, for in *Permian* the Commission stated:

> "The separate price we fix herein for new gas well gas in the Permian Basin should serve to furnish a practical test of whether in fact it will result in bringing forth additional supplies." (34 F.P.C. 188)

If we are candid, as we should be, we must acknowledge that the Commission apparently has failed the "practical test" which it established for itself in *Permian*. Individual company rate making which provided the Commission's initial attempt at producer regulation in the decade of the fifties was held to be unworkable by the Commission in turning to the alternative of area price fixing. Area price fixing has now, after another decade, been demonstrated to be questionable. The necessity for squaring producer prices in the light of the inexorable forces of the market should now be considered. Indeed, the U.S. Court of Appeals for the Fifth Circuit in recently affirming the *Southern Louisiana Area Rate Proceeding* recognized this fact. The court stated that it would not have had such serious misgivings about affirming the Commission's opinion with all of the infirmities of the pricing method if the Commission had adequately considered the result of its price fixing in the context of the reality of market forces. The court warned that by continuing cost based price fixing without considering the market the Commission's efforts will amount "only to so much whistling in the dark". The court stated:

> "From the Commission's findings we cannot know whether the demand for Southern Louisiana's gas is going to double, sextuple, or increase tenfold over the next decade, or whether it is going to remain stable or even decline. . . . Predictions along this line are subject to obvious infirmities, but at least the possibilities can be identified and probabilities assigned to them.
>
> "Such predictions are necessary because the supply of natural gas must be considered in light of demand. Some areas are more promising than others. The Commission appears to assume, without so stating, that a rate that gives adequate return will elicit enough *drilling* to satisfy future demand even though some reservoirs are harder to find, but we find somewhat more persuasive the producers' argument that producers will meet demand only if there are enough reservoirs that promise sufficient return at the rate set. The Commission should make findings as to the increased *difficulty of finding greater volumes of gas*. From this finding, it should estimate the supply that a given rate will elicit. [Emphasis added]
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> "These are difficult matters to predict, but that is more reason why a reviewing court should not be required to guess at them. More importantly, if the Commission sets a rate on a *cost basis* and does not itself consider these questions carefully, its conclusionary statements to the effect that the rate is adequate or that there will probably be no need for changes in the future (these are statements that the Commission has made here) amount only to so much whistling in the dark." [Emphasis added]

To admit the possibility of failure under the "practical test" of *Permian* or to concede to the Court of Appeals for the Fifth Circuit that the Commission's effort may have indeed amounted to only so much "whistling in the dark," is not a reflection upon the participants in that decision. It merely acknowledges that market forces beyond the control of regulation intruded themselves into the symmetry of the pricing structure contemplated by that decision—forces which brought it swiftly crumbling down in a crescendo of sound which only those that are deaf to reality have not already heard. For immediately following the *Permian* opinion, the construction of a competitive intrastate pipeline into this area of west Texas, free of the regulatory inhibitions and constraints of the then recently established just and reasonable rate of 16.5 cents, had an economic impact which was no less significant than that which occurred with the introduction of the initial pipeline into that area. Then, gas which had been flared as late as the 1940's suddenly assumed an economic value with the introduction of the initial pipeline. The introduction of a nonjurisdictional pipeline purchaser serving the insatiable needs of the Texas Gulf Coast had precisely the same effect upon the value of the commodity since its "price" could simply no longer be determined by the costing methodology and regulatory theories of the *Permian* decision. And, as a result, although drilling activity increased in Permian, less and less gas was committed to the interstate market until now when the interstate pipelines report that they have been wholly unable to contract at the existing area prices for any significant quantities of gas in this area. Only recently, an interstate pipeline serving Permian was obliged instead to contract and the Commission was obliged to accept several such contracts for the same gas from Permian from the intrastate pipeline suppliers at a price which exceeded the existing regulated area price by 12 cents per Mcf. The principal beneficiaries of continued well head price regulation in the Permian Basin under these circumstances are the shareholders of the intrastate pipelines. Certainly no one can reasonably contend that the general public and consumers are benefiting from the regulatory fruits of such irrationality.

What has happened in the Permian Basin by the intrusion of dominant market forces before which regulation is impotent and over which it can exercise no control merely illustrates what has been gradually occurring nationally. Precisely the same forces which now have transcended the costing methodologies and econometric models of Permian are also now toppling these same underpinnings of area rate fixing nationally. It has not taken the same form of a new intrastate pipeline in all areas but has assumed a multitude of forms. Its consequences, however, are precisely identical. The intrusion of transcendent market forces into the symmetry of cost based area rates is in the proc-

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ess of overwhelming the structure of gas pricing nationally.

Early this year in a paper delivered before the Midwest Gas Association, I attempted to initiate a public dialogue regarding the need for examining policy alternatives to continued producer price regulation. The public response to that address was disappointing since the only response has been personal criticisms which were wholly unrelated to the merits of the arguments. I attempted to demonstrate that in the event the existing available supply and demand imbalances should require, in the public interest, the importation of substantial quantities of gas in both vapor and liquid form at significantly higher prices than those presently permitted under area pricing, we will then be obliged to acknowledge that the forces of the market will have effectively swept away the dike of producer regulation which was instituted to immunize interstate gas from those very market forces.

Since the time of that address last February, the Commission has in fact authorized the importation of significantly higher priced Canadian gas into the Midwest and West Coast markets. It has also certificated imports of even higher priced gas in liquid form to the East Coast and New England. Several major LNG import proposals are now also pending before the Commission and several vast projects to obtain gas from Prudhoe Bay and the Northwest Territory of Canada have gone far beyond the conceptual stages. All of these projects, both pending and projected, involve substantially higher prices than those which presently are permitted to domestic producers of gas.

In view of these developments, regulatory policy cannot now continue to operate as it has in the past with or without more rational alternatives to cost based pricing. Regulation cannot now escape the fact that it is in the process of being deluged by the very market forces for which it was intended as a substitute.

Can regulation now effectively respond by acknowledging the existence of the higher priced alternative sources and basing the domestic producers' price upon those sources with an appropriate discount for the cost of transportation? Can regulation now effectively respond by instituting a basing point form of regulation predicated upon the market price of the highest or the average price of the alternate increment of gas? Can regulation now effectively respond by employing indices to reflect the impact of these intrusions of the market? Is there any rational way in which the field price of gas may be effectively regulated when, for reasons of continuity of service, the market price not only is acknowledged but is affirmatively sanctioned by the Commission in the form of imports of substantially higher priced increments of gas.

The process of well head price regulation is no longer viable because a competing market-oriented gas supply is now being introduced into the fabric of the regulated interstate gas market. Any response which regulation attempts to make within this context can no longer honestly be regarded as "price" regulation. Now that we are presently required to acknowledge that the inexorable laws of supply and demand require our sanction of market prices for imports in the public interest, we can no longer honestly characterize the process as price "regulation". Although other public purposes may be served by the continued regulation of producer contracts, we must now face up to the realty that the existing area rate methodology is no longer effective in determining the price of gas.

What then is the alternative for national policy in the decade ahead as it seeks to provide continuing protection for the public and gas consumers? The Supreme Court held that price regulation must substitute for the lack of competition in field sales of natural gas. But neither that decision nor price regulation nullified the long-term forces of the market. The impact of the market may have been delayed by regulation but it is the market that is controlling in the end.

Hence, unless an alternative policy is developed we are on the verge of entering into the worst of both worlds. We are confronted on the one hand by a demand apparently stimulated by regulation which at the same time has apparently inhibited expansion of the base supply. And we are confronted on the other hand by a market that is bringing forth alternatives into the supply vacuum at prices much higher than present regulated levels.

Since price regulation is now ineffectual in this context, the challenge is to harness the market so that it will work for the consumer. To meet the callenge will now require a reversal of government policy—of the role originally ordained for regulation. When federal price control was imposed, the base supply was surplus to short-term demand. Even at unregulated prices, gas had been a devastating competitor, rapidly taking over markets long dominated by other space-heating and industrial fuels. Regulation substituted for the lack of competition among sellers of gas at the wellhead. But that is now academic when those sellers do not have an available supply with which to compete for incremental business. And the overriding fact today is that the available base supply, being inadequate to meet current potential demand, can no longer perform its competitive function.

It appears that gas is not presently available in sufficient quantities, for instance, to moderate the market price of new supply sources that are moving in to satisfy unmet demand. In this situation, therefore, the role facing government policy in this decade is not so much to nurture the competitive vigor of base suppliers, which was the goal of regulation in the 1950's and 1960's, as it is to reinvigorate the base supply itself. Without a dynamic base supply of natural gas, the interstate market will not be able to compete for supplies with the unregulated intrastate market. Nor will there be any effective price competition for the unconventional higher-priced supplies that are knocking at the market door. But a base supply, reinvigorated, can be the key to the price levels at which these new sources enter and can place the consumers less at the mercy of the supplementary sources where they are today and where they will continue to remain under a policy of price regulation.

In the future, government policy must consciously seek out ways to strengthen the elements of a free market and reinvigorate the base supply by attempting to ensure that there are many competing sources of gas supply, that the supply base is broadened, that entry into the supply phase of the industry is both unrestricted and affirmatively encouraged and that price levels are permitted to be responsive to demand. A government policy implemented along these lines would provide an effective alternative to producer price regulation in the long run, while holding forth the promise of relief for the present apparent supply-demand imbalance at the lowest possible cost to the public.

This will require a significant research commitment to drilling technology and coal gasification by both the private and governmental sector, the encouragement and involvement of the distribution sector and the pipeline industry in exploration and development, the establishment of adequate tax incentives, and a reappraisal of leasing practices in the Federal Domain. But it seems to me that what is now required fundamentally is a reappraisal by Congress of the relevancy of continued producer price fixing as it presently exists and a remedial restructuring of producer regulation if a satisfactory solution is to be achieved.

It is most important that we do not ignore the admonishment of the Court of Appeals in reviewing the Commission's *South Louisiana* Area Rate Opinion. Justice Thornberry clearly indicated that blind adherence to the existing area rate methodology without giving consideration to market forces is unrealistic. I am in full agreement with the Court's reasoning but the question that still must be answered is how these market forces should be considered. Indeed the Commission has recently taken constructive action in this regard with respect to its proposed Permian Basin and nationwide rulemaking proceedings. I have joined without reservation in these efforts to repair the present regulatory scheme so that at least a responsive pricing method can be achieved. For regardless of any legislative amendments to the Natural Gas Act that might be proposed, we agency members are, of course, obliged to continue to work within the present statutory framework and should, therefore, take every step necessary to make it as effective as possible.

However, in my judgment the problem of producer price uncertainty and the problem of the protracted delays inherent in area rate regulation can be most effectively remedied by legislation. One approach to remedial legislation has been characterized as "sanctity of contract" which assures the producers that once a contract is approved and the sale certificated by the Commission there can be no rollback in any contract price, whether it be an initial or permissible escalation price. In this regard it appears quite unlikely that cost based regulation would ever justify a reduction in an approved price level. Thus consumers could not be harmed by an assurance not to do what appears would never be done in any event. The benefits of such assurance in eliminating uncertainty to the producing industry would, however, be substantial.

Protracted area rate proceedings extending over a period of five to seven years have created an unprecedented regulatory lag which has prolonged and therefore added to the existing uncertainties regarding price. These long delays and uncertainties also tie up funds collected by the producers which could be used for exploration and development. All of these uncertainties have inhibited the search for essential additional supplies.

Any remedial legislation must, therefore, eliminate such regulatory lag and provide the degree of certainty regarding price which is essential to the development of critical new supplies. Both of these elements have been discussed for several years and have been incorporated in various forms of "sanctity of contract" legislative proposals. I am informed that last week the American Gas Association, after several years of debate, has now endorsed a type of "sanctity of contract" proposal which also incorporates certain market criteria, rather than cost, as the Commission standard for determining producer prices. As a result, at the present time the entire gas industry, through their respective associations, support this amendment to the Natural Gas Act.

This proposal for reform of the current regulatory method is most constructive. Unfortunately, it should have been introduced when it was proposed more than four years ago. The majority of the Commission publicly endorsed one such "sanctity of contract" proposal more than three years ago and its enactment at that time by Congress would have contributed substantially toward averting many of the problems now confronting us. In principle I endorse "sanctity of contract" and the need to permit market forces to determine the price. However, in my opin-

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ion, the market forces should function outside the regulatory process so that producer prices can be arrived at unfettered by regulation.

Whether imposed by statutory amendment or by Commission election to alter the existing area rate methodology, any approach requiring the determination of producer prices by the Commission on the basis of some subjective market standard or criteria would fall far short of a satisfactory solution. Such standards are extremely difficult to define and thus are usually couched in general terms and, as a result, the Commission would be compelled in all likelihood to define, qualify and quantify the innumerable factors that could affect the market and might have to be considered in each instance. To submit market forces to the subjective interpretation of a regulatory body, regardless of its expertise or good intentions, can only lead to a distortion of their effect with imprecise and unresponsive results. In the final analysis, at best, the prices approved by the Commission should approximate those that would have been derived in a free market without the need for regulatory anguish and the inherent delays. In addition, a strong tendency would probably exist to approve the proposed contract prices without modification because of the difficulty in justifying any change. The basic objective of this approach is the establishment by the Commission of a market value as the permissible price level. However, it is my opinion that this can be more readily and more accurately achieved by the free interplay of supply and demand dynamics unencumbered by any futile regulatory attempt to decipher the complicated considerations and the subtle interrelationships involved in a free market. Inject market forces into the administrative crucible and no one will recognize the results.

It appears to me that sound public policy toward the natural gas industry today demands something more than remedial legislation which requires the Commission to approximate the dynamics of a free market. What is necessary in the context of the current available supply disequilibrium is something more satisfactory than a reform of the current regulatory method. Today Congress ought to consider a basic restructuring of regulation which will reflect the market value of gas by eliminating the Commission's rate determination and review powers with respect to new sales by independent producers while retaining regulatory control of contract terms in order to effectively monitor market structure and market behavior. Until the Congress acts, of course, I shall continue to apply the present Natural Gas Act, as interpreted by the Courts, to the cases which come before the Commission.

Permitting the market to determine the price of new gas does not require the dismantlement of all aspects or producer control. The major elements of an appropriate regulatory scheme under this proposal would include:

1. Only the contract *prices* for the sale of new gas by independent producers will no longer be determined or reviewed by the Commission.

2. Flowing gas will continue to be regulated by the Commission and, consequently, any rate impact on existing customers would be very gradual since it will take many years for new gas to become a significant portion of their gas supply.

3. All other contractual provisions and aspects of the sale, regardless of their effect upon the contract prices, will continue to be subject to Commission approval and review. It is essential that the Commission continue to pass upon such aspects as the quality standards, delivery pressure, rate of take, billing and prepayment arrangements as well as other provisions, which so significantly affect the ultimate consumer.

4. Indefinite price escalations, except for certain taxes, will be prohibited and the contract prices, including any escalations, must be set forth as a definite price per unit since the consumer must be able to determine what price will be charged. If the producer believes that certain aspects of his contract have a value, it will be incumbent upon him to reflect that value in the unit price specified in the contract.

5. No unit price can be changed by subsequent amendment to the contract after acceptance of the certificate of public convenience and necessity issued by the Commission.

6. Any proposed abandonment of service will continue to be regulated by the Commission.

The enactment of a bill permitting the market to establish the price for new gas but which contains these elements of continuing regulation will assure continuity of service and permit the retention of control over the conditions and quality of service as well as the mechanism which translates costs into rates to the ultimate consumer. It would also allow the Commission to effectively monitor market structure and market behavior.

The recently released Annual Report of the Council of Economic Advisors to the President urged a greater reliance by regulatory agencies upon market mechanisms. The report states:

"[M]ore reliance on economic incentives and market mechanisms in regulated industries would be a step forward. . . . Industries have been more progressive when the agencies have endeavored to confine regulation to a necessary minimum and have otherwise fostered competition. When regulation has stifled competition, performance has deteriorated. The clearest lesson of all, however, is that regulation should be narrowed or halted when it has outlived its original purpose."

The policy of producer price regulation has now outlived its original purpose. The market has finally prevailed. We are obliged now, therefore, to establish policies which are relevant to the protection of the public interest. The public interest today can be most effectively protected by permitting market forces to operate in such a way as to work for the consuming public as they do in most other areas of our economic life. This, in the final analysis, can be best achieved if the market is permitted to operate unfetered by regulation and if government will foster competition in the energy field by instituting policies which will affirmatively enlarge the supply base by broadening the base supply and increasing the supply sources. This, in my opinion, is the new goal of government policy toward the natural gas industry.

In an effort to achieve this goal, I intend to immediately submit to Congress for consideration a proposal to amend the Natural Gas Act.

DR. JOHN H. BUNZEL

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. EDWARDS of California. Mr. Speaker, I wish to share with you the text of an address given by Dr. John H. Bunzel, recently appointed president of San Jose State College. College presidents today are being called upon to fulfill an increasingly complex role. They are, in the words of one administrator, expected to achieve peace, clean up pollution, educate twice as many students, reform the corporations, and extend the frontiers of knowledge. Certainly the job carries awesome burdens. And certainly it is important to stay attuned to what college presidents, themselves, are feeling today.

The following, then, are the thoughtful and eloquent reflections of a man deeply committed to American higher education. I know you join me in wishing him the best of success:

ADDRESS TO THE FACULTY BY PRESIDENT JOHN H. BUNZEL

We begin this academic year at a most unhappy time in California higher education. There is no reason to pretend otherwise. Our list of grievances is long and real. The faculty has been denied a cost of living salary increase, which is only a small part of the harassment it is suffering. We have seen cuts in sabbaticals and other leaves, the withdrawal of funding for the enrichment of our graduate programs, a continuing disregard for the need to obtain a reduction in an excessive teaching load, a diminishing interest in the future of scholarly research, to mention but a few. The general tone on our campuses is tense, worried, dispirited, frustrated. Stated simply, our colleges and universities have been dealt a severe blow by the state legislature, and all of us are going to pay a terrible price for this kind of punitive economy. Many of our representatives in Sacramento have not yet learned the meaning of H. G. Wells' warning that "human history becomes more and more a race between education and catastrophe."

I make one pledge to you now. I shall take advantage of every opportunity afforded me to remind the Chancellor's office, the Board of Trustees, the Governor, the members of the Legislature, and the people of this State that our goal is a free community of scholars, teachers and students, that we do not look upon academic freedom as a minor conceit, and that we will resist unwarranted political interference from outside the campus as strongly as we will oppose those who would use power, pressure and muscle from within.

If I stand before you not overwhelmed with optimism—underwhelmed is perhaps the better word—I nonetheless believe there is reason to be hopeful. The basis for this belief stems from what I have already seen in the four short weeks I have been here: a deep sense of loyalty and attachment to this institution, a tradition of academic excellence, and a remarkable richness of talent and human resources.

This tradition spans more than a century, yet has always been marked by change. Responsive to needs of the state and community, the college has evolved from a normal school to a multi-purpose institution with a wide range of professional programs in the liberal arts while retaining its teacher education and vocational area strengths. This evolutionary process continues as we move into new areas of curricular concern.

I am pleased to be associated with the institution of higher education which has established the first graduate department in the nation which confers a Master of Arts degree in Mexican American Studies. I expect that the department will contribute important leadership in the continuing search to find better methods to link our educational efforts to community educational needs. The Committee on Mexican American Affairs has helped in planning for a Master's program in Social Work with a Chicano emphasis. I know that the Department of Black Studies is well on its way to becoming one of the most highly respected degree programs in the country.

We should recognize that these efforts are but a beginning. But they deserve our sup-

XUM

port not only to help assure their academic success but because the time is late in providing for the educational needs and opportunities of minorities in our country. If we are successful in our response to the revolution of rising expectations, then perhaps we will be able to thwart those who thrive on the expectation of rising revolutions.

It would be a hazardous undertaking to predict what lies ahead this year on our college campuses. It would also be foolish. I am therefore heeding the advice of a certain Episcopal Bishop in Virginia who was asked by a parishioner whether a non-Episcopalian could enter the Kingdom of Heaven. "Frankly," he said, "the idea had never occurred to me; but if he is a gentleman, he will not make the attempt."

Having just arrived, I am aware that there are many people in this audience who are better informed than I am about the complex problems which lie at the level of Schools and Departments. There will be other occasions to talk about them. We will meet on other grounds, and I look forward to it.

Today I would like to share with you what is more a statement of personal credo. I thought I might begin by bringing to your attention three of the many questions which, in being interviewed by different committees during the weeks I was under consideration for this position, regularly vented the most urgent concerns. It also gives me a chance to collect some of my thoughts on matters in which we have a common interest.

1. One frequent question was stated with an unusual economy of words: *"What are your ideas about academic authority and responsibility?"* On more than one occasion there was an additional request: *"Please be specific about the role of the faculty."*

XUM

I am not one who believes that freedom is automatically increased as a consequence of eroding or shattered authority. What emerges is not more freedom, but power. What kinds of power, who will use it, and for what purposes are serious and disturbing questions. During the long spasm at San Francisco State two years ago the student militants kept shouting, "Power to the People!" I remember how depressed I got when I thought of the people who really have the power.

I am very much the product and proponent of a faculty academic tradition and therefore sensitive to faculty attitudes and values. I have been a persistent advocate of institutional protection against the intrusion of outside forces. But I also believe that the decreasing esteem for higher education in California and elsewhere is traceable in part to adverse public judgment about administrators and faculty—in short, about how we have governed, or mis-governed, ourselves. It seems an inescapable conclusion that faculties have not always shown themselves capable of formulating and enforcing the standards of professional ethics and performance. I am beset by a grave apprehension that if we default in our own responsibilities, rising outside pressures, including Boards of Trustees, will take over that job—and presumably will do it in less enlightened fashion than faculties would prefer.

There has been much confusion about the role and limits of academic administration. Too often administrators are dealt with in an irresponsible way by opportunistic critics who oppose them in the interest of "majority rule" or "equality." Many decisions, certainly most of those having to do with scholarship, teaching and research, do not lend themselves to the plebiscitary process. In times of crisis there is a paramount need for rapid and expert administrative judgment.

After years of struggle to achieve some degree of autonomy and power, faculties are right in jealously guarding their prerogatives. Further, a collaborative and cooperative role for faculty and administrators is the only sensible alternative to an increasingly fragmented institution subject to enlarging external and internal pressures. My concern is that faculties do not seek to take on executive, legislative, and judicial roles to the detriment of the sound exercise of legitimate executive leadership.

None of us can afford to be entrapped by cliche-ridden biases against authority itself. The clamor of extremists for instant solutions to impossible demands must not be allowed to exhaust and destroy the responsible leadership of a college community by creating rampant mistrust and internecine denunciation. It is my own conviction that a division of labor is appropriate to the conduct of academic affairs as long as principles of accountability can be exercised to guarantee the responsiveness of the administration to basic faculty priorities and values.

2. I was asked many times about my attitude towards the police. Within the last month I received a telephone call from a member of this faculty urging me to announce that under no circumstances would I call the police onto this campus. "Tell them," he said, "you will not dance to the Governor's tune of repression." I reject that advice, but I would not want this to be taken as an argument that we encourage governmental authority to intrude into the affairs of the college.

One of the difficult questions facing our universities today is how they can defend themselves against the tactics of violence. Officials who must deal with this problem face a real dilemma: If they take the attitude of benevolent sufferance, they know the violent elements on campus will run rampant; if they call in the police, they know they run the risk of radicalizing the student body and swelling the ranks of the student militants. There are some indifferent faculty and students who are willing to let the militants have their way, either because they want to get on with their work or because they feel the issues at stake are not of concern to them. I am not in sympathy with that position. It occurs to me that to refuse to take whatever action is necessary would mislead the militants into believing that violence succeeds.

I do not like to see the police on a college campus. It is not their natural habitat. But I must tell you that I have no ideological reservations about calling them if they are needed to make secure our belief that ideas are our most potent weapons.

There have been (and presumably will continue to be) instances of police excesses. This should not obscure the fact, however, that the police are not the criminal elements in our midst who have tried to justify the use of the campus as a sanctuary for vandals and terrorists. Police presence on a campus is almost invariably "reactive," occasioned by acts of force against individuals or property, threats of coercion or intimidation, or actual outbreaks of physical violence.

It is time to reaffirm some basic truths about police power in a democracy. It is not designed to enforce a particular solution to a problem, but rather to help preserve the basic rules of law without which any solution is impossible. If the police are called, it will not be to settle intellectual, educational or other issues, but to preserve the college so that the processes by which decisions are arrived at in an academic community can be made to work.

Once and for all, let it be established that violence, terrorism, and illegal activities on the campus will not be condoned and will be met with appropriate measures of self-defense. If force is temporarily necessary to protect our needs for order and freedom, we must assert that this use of force, far from being used as an instrument of repression, exists solely in order to insure our survival.

We need also to say, to ourselves and to the public: in the fate of one institution lies that of each of us.

3. I come now to the question which transcends all others in importance. In its most succinct form it comes to this: *"Higher education in this country is in serious trouble. There are mounting signs of student unrest spilling over into mindless behavior. The public is increasingly impatient and angry. The political atmosphere is highly combustible. What, then, is the future of the University?"*

It is appropriate, I think, to begin an answer by putting before you in broad outline two different views about what a university should be.

(a) The first is of a politicized university whose role is to perform as an institution of social activism to bring about change in national policies. Its primary concern is with political action and social reform. It is committed to using its total resources as a university for what it deems to be worthy political goals—to stop the war, to oppose racism and injustice, and so on. Repelled by the surrounding culture, it rejects its fundamental character and seeks to transform it, or, if need be, destroy it. Its stance is political because it believes that the time has come for the university to become a base for decisive action for those of high moral purpose who reject our corrupt society.

Internally, the "new university" wants to become an egalitarian political institution. All distinctions of rank and status would be removed. Teachers and students would be "mutual learners." There are differences over details. For some, degrees and grades would disappear. For others, questions of course content, the granting of faculty tenure and promotion, and other academic matters would be decided in open assemblies of students and faculty on a one-man, one-vote basis.

(b) There is another view of what a university should be. Its primary focus is its major concern—the life of the mind. Among the special values it represents none is more paramount than the right to free intellectual inquiry in the pursuit of truth and knowledge. It is not to be mistaken as an institution solely concerned with social activism, and it will resist those who want it to become exclusively an instrument of political action or revolution. Its tasks are more varied because it is many things. It is a place for people who want to teach and learn, where people can do research and speculate about the past and look into the future, where ideas are sometimes explored and exchanged for their own sake, and where current fashions of social reform can be criticized.

It is not a political democracy. Its essential role is to discover and transmit knowledge and develop powers of criticism and judgment, not to represent the people or to govern. The relationship between students and faculty is not completely or inherently equal. The faculty has the major responsibility to maintain control over academic matters.

These are sketches, admittedly incomplete, of two different models of a university. Neither of them comes in pure form. The differences between them, however, are profound and serious. The question before us, and, in my judgment, the critical question before every faculty in the country, is easily stated: Which university do we choose for ourselves?

I must speak for myself. I worry about politicizing the life of a university. If it is said that the university is already a political instrument of the establishment, it must be replied that the way to diminish this harmful situation is to refuse to contribute to it by more actions of the same sort.

No college or university can be completely non-political. There is a political dimension to all human institutions and to most human problems. But it does not follow that all basic problems are essentially political, and we must reject out of hand any notion that the issues within the university must be settled by power. It is simply not the case that power is the root of all our problems and must be the solution to them. If the university should become the plum for those who are struggling for power, it will be dead in a very short time.

A democratic society requires all of its institutions, including the university, to be responsive to the needs of the people. But the pressures of democracy which are welcome in the political arena must be distinguished from those which operate in the university. In civil society people join pressure groups, support political parties, and vote to indicate their demands and preferences. These are not the methods of the university. Further, a university cannot simply "reply" to people's demands as a city Mayor might in a hastily called press conference. It has its own special manner of response. The university is not merely another pressure point in the political community.

The university must always welcome pressures. It needs to know them and must demonstrate a willingness to have them registered. But it cannot permit its response to those pressures to violate the integrity of its principal function. In the university community important decisions are regularly made through established consultative procedures and by responsible authorities, not by a show of hands. We need to remind the public and ourselves that while the university is part of the civil order, it is not coterminous with it.

It is easy to anticipate at least one argument that will be made in dissent from this view. It has many variations, but its central theme is this "In *your* university the 'real needs' of students will not be met. They want a curriculum which will see to it that 'a human being can become more human and more himself'. In *your* university education will not be relevant."

I would wish that "relevant" could be struck from the English language. The prospect, however, is not good. The alternative, then, is to set our thinking straight on what education is all about. I submit the following items:

(a) the classroom should not be a place where we simply discuss the student's inner life or what he may *feel* are his immediate needs. This is not to suggest that emotional responses to experience are unimportant. It is simply to say that group therapy or encounter sessions are not a substitute for rigorous and rational thought. Education must be something more than a "happening."

(b) the criteria of relevance is often a thinly disguised contemptuous attack on virtually any study of the past. Yet the truth is that none of us *has* any existence or reality without a past. One function of the university is to help discover what is new. But another is to preserve and reclaim the old for each new generation. These dual tasks create continuous tension between the demands of continuity and the demands of change.

(c) the university cannot be immediately relevant like the morning newspaper. That would be its ruination. Let the news media take care of the headlines and the fast-breaking story. A college education should be relevant in providing the perspective necessary to sort out what is trivial or momentarily useful. It should provide the grounding by which grievances and needs can be scrutinized and understood. Our concern as educators should be to make the pursuit of knowledge as objective as possible so that we come to see relevance not simply in personal terms but as part of the larger world in which we live. It is in this sense that relevance should show us our common humanity.

(d) the university cannot permit questions of scholarship or aesthetic taste to be resolved by popular vote. I have heard it said that if students in English voted to remove Shakespeare from the curriculum because he is no longer relevant, the faculty should go along. There are a lot of things wrong with that sentiment. Putting Shakespeare to a vote indicates confusion not only about democracy but the ballot box. Asking students to vote on something they have not thought very long or hard about is to put ignorance on a par with knowledge and the inexperience of youthful judgment against the experience of professional and cultivated taste. Furthermore, the principle, once legitimized, will not stop with Shakespeare. In Mississippi the plebiscite will damn Walt Whitman and Carl Sandburg; in Orange County it will damn John Stuart Mill and Bertrand Russell.

The smug conventionalism about this position is the most obvious thing about it. What may not be quite so obvious, when it is advocated by a university scholar, some one (in this instance) who presumably is a professional student of literature, is its special character: it is a way of betraying knowledge for ideology, the universal for the particular, the relatively timeless for the merely fashionable. In short, assertions about the "irrelevance" of Shakespeare, Beethoven or whomsoever might well be seen as a sectarian blow against part of the idea of the university itself.

I believe in the university which feels it has an obligation, not just a right, to protect the fragile understandings upon which it rests and depends. In the eloquent words of Professor Robert Rosenzweig:

"The university as the place of openness, of reason, of persuasion, of the sharpened mind, and the free imagination. I believe the continued strength of the university to be more important to the future of man than ROTC, low-income housing, student power, faculty power, trustees responsibility, or any particular issue or set of issues that confronts us now."

I believe in the university which also recognizes how closely our freedoms resemble our obligations. The idea of academic freedom is a delicate and complex notion. Because of university violence it is now endangered. Because it is in danger many other things are endangered than just the university.

Academic freedom is not simply a college right. It is also a social right from which every one benefits. No one is entitled to be cavalier about it. Academic freedom is the right to free intellectual inquiry in the pursuit of truth, and all of us have a responsibility to preserve it, not just because it is good for us, but because it is the process of inquiry itself that is essential to the maintenance of democracy. It is the method by which a society looks critically at its own values. No free society can afford to do without it.

Colleges are one place where the free pursuit of truth is a primary obligaton. None of us has a right to abandon it. We who believe in academic freedom will defend it against attacks by the extremists of the far left and the far right. We will be tolerant and long-suffering in its defense, but we will not give it away. We do not have that right.

It is a time of decision. I think we can—and must—choose. I have described the university to which I am deeply committed and for which I have the most tender regard. In the final analysis what will count is the choice we are prepared to make. The unpardonable crime will be to make no choice at all. Should that happen, someone else will make it for us.

Here, at the end, but also at a beginning, you will understand perhaps why the opening lines of Charles Dickens' *A Tale of Two Cities* have come back to me: "It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness . . . it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair."

The trouble with the defense of the university is the same as with defending freedom: it takes up so many of one's mornings.

I thank you for permitting me to spend this one with you.

POSTAL AUTHORITIES OPERATE UNDER DOUBLE STANDARDS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. RARICK. Mr. Speaker, double standards among bureaucrats are becoming the rule rather than the exception.

The Post Office authorities have now junked 56,000 ZIP code promotion posters after receiving complaints that the comic strip character "Amy," whose picture was on the poster dragging her doll baby by the hair appeared to be mistreating a black doll.

Yet, the same Department authorities completely ignoring complaints last month, authorized UNICEF committees to use post office lobbies for the sale of greeting cards over the period of November 16–December 4. No acknowledgement was even made that many of the so-called greeting cards have in the past been designed by Communist artists and atheists.

A blatant double standard: concern over so-called racism, but calloused disregard for atheistic communism. Perhaps Chairman Earl Warren of the UNO Association has brought his tremendous legal talents to justify another double standard.

I include the related clippings and the latest Pitney-Bowes postal meter honoring U.S. draft dodgers in the RECORD:

[From the Postal Bulletin, Sept. 24, 1970]

ALL POST OFFICES: SALE OF UNICEF GREETING CARDS

Local representatives of the U.S. Committee for UNICEF may request permission from postmasters to set up a desk and chair in the post office lobby for the sale of greeting cards, to begin on November 16, 1970 for a 3-week period ending December 4, 1970. Postmasters are encouraged to assign an area 6′ x 8′, provided such space may be made available without interference to regular postal operations.

Arrangements have been made with General Services Administration to allow space in buildings under their control to be assigned at the discretion of the local building manager who will coordinate his decision with the postmaster.

Space can be authorized provided (1) that there will be no active solicitation of postal customers by the UNICEF representatives; (2) that the sale of the cards will be limited

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to the space assigned; and (3) that the U.S. Postal Service will not furnish any equipment necessary for the sales effort—Special Assistant to the Postmaster General for Public Information, 9-24-70.

[From the Washington Post, Sept. 30, 1970]

ZIP CODE COMICS: CAMPAIGN POSTER GETS NO SMILES, JUST RILES POSTAL OFFICIALS

(By Sanford J. Ungar)

Amy and Agnes, who appeared briefly on mail trucks around the country earlier this month, have been recalled.

The Post Office Department acknowledged yesterday that it withdrew about 56,000 Zip Code promotion posters from circulation after complaints that their star, comic strip character Amy, appeared to be mistreating a black doll.

The cost of the posters, including delivery to post offices, was estimated at $10,044.30.

Amy's constant companion, a rag doll named Agnes, is normally ochre-colored in the Sunday comics of about 50 newspapers.

But when the Government Printing Office prepared the specifications for printing a poster design contributed to the Post Office by Amy's creator Jack Tippit, it mistakenly specified a mix of yellow, red and black ink.

As a result, Agnes's complexion came out dark brown. In the poster, she is being dragged on the ground while Amy mails a letter complete with Zip Code.

James S. Cline, executive director of creative services for the Post Office Department, said yesterday that the truck poster was dropped after complaints—apparently from a few-ranking postal officials—that "it could be interpreted as having racial overtones."

"I cannot see (that interpretation), and I will never see anything wrong with the poster," Cline said.

But he added that the Post Office is anxious to avoid any "derogatory" implications in its campaign to increase use of the Zip Code.

The Sept. 17 issue of the "Postal Bulletin," a weekly instruction sheet for postmasters, said the Amy poster "was delayed because of mechanical difficulties" and should not be used "due to prior commitments" to posters promoting the Peace Corps and community charity drives.

In many communities, however, Amy and Agnes had already been posted—including Tippit's hometown, Lubbock, Tex., and his current home, Westport, Conn.

They also are still in an exhibit of the 30 comic-strip Zip Code posters at the Smithsonian Institution here.

Tippit was one of 20 cartoonists who donated their time and designs to the Post Office through an arrangement with the Newspaper Comics Council.

Reached in Westport yesterday, he refused to discuss the suggestions of racial overtones in the poster, but said he would be meeting here with postal officials next month to discuss "some adjustment."

Both Cline and his assistant, Murray D. Kramer, admitted that the Post Office is "embarrassed" about the poster recall.

"We put (Tippit) in a precarious position because of a mistake we made," said Cline, a former vice president of the American Telephone and Telegraph Co.

He explained the mistake in Agnes's color this way:

The Amy poster was selected for early use on trucks in the Zip Code campaign because it contains few words and is easy to read. GPO sent it to a frequent subcontractor, Western Publishing Co. in St. Louis, for a rush printing job.

Western telephoned Cline to ask if he would forego the usual "color proofs" in order to have Amy ready for September use.

"The guy said, 'The doll's a little darker than on the original,' but we said, 'That's O.K.; go ahead.'" he explained.

It was only after the posters had been distributed that copies arrived at Post Office headquarters here and Cline and Kramer heard the objections.

At about the same time, the Post Office received requests for its annual help in advertising charity campaigns like the United Givers Fund. "That got us off the hook," Cline said.

Later, other questions were raised about the Amy poster. It was discovered, for example, that the mailbox where she was mailing her letter was red and blue; the Post Office recently began converting its mailboxes to solid blue.

Although some copies have been destroyed, the Post Office now finds itself with a huge surplus of Amy posters. Cline said they are being given away to local employees "who like posters."

His office has undertaken, however, to use Amy—with an appropriately shaded Agnes—again in the future.

A spokesman for The Register and Tribune Syndicate which distributes Amy to subscribing newspapers, said that "little Agnes accompanies Amy everywhere, and there is never a question of her color."

The Zip Code campaign that Amy was recruited to help seeks to convert the senders of about 25 percent of first class mail—about 13 billion letters annually—who forget to write the number on the envelopes.

POST OFFICE DEPARTMENT,
Washington, D.C., October 1, 1970.

Hon JOHN R. RARICK,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN RARICK: This will have reference to your recent inquiry concerning the use of post office lobbies for UNICEF greeting card sales.

For a number of years the Post Office Department has cooperated with a variety of civic and charitable organizations on worthy programs not involving the expenditure of federal funds, and where there was no interference with governmental activities. In furtherance of this policy, the Department has made lobby space available to a variety of worthy activities. In more recent years, lobby permission has been extended to UNICEF for selling greeting cards.

UNICEF has the support of the United States Government, As you know, UNICEF has consistently received support from the United States Congress in the form of appropriated funds. Therefore, after a re-examination of this matter, it has been determined that we will follow the same policy again this year that we have in the past with respect to UNICEF's requests for lobby space. Essentially, this policy has included a general approval from Headquarters, with the final disposition left to the individual post offices based on space available for such requests.

With kind regards.

Sincerely yours,

WALTER D. HARRIS,
Congressional Liaison Officer.

[From Human Events, Sept. 5, 1970]

PITNEY-BOWES' DOUBLE STANDARD

Last year *Human Events* wrote of a Louisiana lawyer's year-and-a-half fight to get the Pitney-Bowes postage meter company to insert the message "Fight Communism" on his personal mailing meter (December 6). Even when the courts finally ordered the company to provide the slogan plate, it added the words, "Mailer's Adv." below the anti-Communist message. Apparently Pitney-Bowes has no such qualms about providing anti-Viet Nam message plates to customers, as the below metered envelope attests. (Not printed in RECORD.) That message—"In the Service of Their Country: War Resisters in Prison"—implies that young men jailed for refusing military service are somehow serving their country. Also interesting is that the outfit using the slogan is "Discovery," a children's show televised by the American Broadcasting Co.

THE TRUTH ABOUT UNICEF

(By William E. Dunham)

(ITEM.—From a form letter circulated by the United Nations Association of the U.S.A. in June, 1969: "We feel that you are deeply aware of the needs of children all over the world, and of the worth of U.N.I.C.E.F. It and other fine UN organizations contribute to the international understanding and hope for a better world.")

Correction: Providing for the welfare of children in need is without question a most worthy project—but not when such efforts are used as a facade by the International Communist Conspiracy. And, as one would expect from any agency connected with the United Nations, U.N.I.C.E.F. has had more than its share of Communists on the payroll. The first chairman of the United Nations International Children's Emergency Fund was Ludwig Rjachmann, a Communist from Soviet-controlled Poland. When he was subpoenaed in 1957 by the Senate Judiciary Committee to answer questions about his connections with Communist agent Alger Hiss, Rjachman fled this country rather than appear before the Committee.

In 1952 the Senate Internal Security Subcommittee published a 434-page document entitled *Activities Of United States Citizens Employed By The United Nations,* in which it revealed that: "startling evidence has disclosed infiltration into the UN of an overwhelmingly large group of disloyal U.S. citizens, many of whom are closely associated with the international Communist movement. . . . Their positions at the time we subpoenaed them were ones of trust and responsibility in the UN Secretariat and in its specialized agencies." One such subversive was a woman named Ruth Crawford, a publications officers for U.N.I.C.E.F. She declared under oath that she had been a member of the Communist Party and was still in sympathy with it. There was also Joyce Campbell, who admitted that she had been employed by the American Committee for Yugoslav Relief, an officially cited Communist Front organization, and that her position with that Front was the reference that obtained for her a job with U.N.I.C.E.F.!

In 1909 Lenin emphatically stated that "Maxism is materialism . . . it is . . . relentlessly hostile to religion." And in 1957 Nikita Khrushchev said: "We consider that belief in God contradicts our Communist outlook." In the face of Communism's consistently hostile attitude toward Christianity, U.N.I.C.E.F. shows where its allegiance lies by constantly choosing artists who have collaborated with Communist causes to design its Christmas cards.

Pablo Picasso, perhaps the best known of all the artists chosen by U.N.I.C.E.F., designed a card for them in 1961. The following year he received the Lenin Peace Prize from a spiritually sensitive soul in Moscow named Nikita Khrushchev. Did you know that Picasso has belonged to the French Communist Party since 1944? And that the December 1966 issue of the Marxist magazine *New World Review* praises him as a "life-long Communist"?

Consider also some of Picasso's stable mates. Hans Erni, artist of two U.N.I.C.E.F. cards in 1957, was refused admission to the United States in 1950 because of his Communist activities. Ben Shahn, artist of a 1958 U.N.I.C.E.F. card, has been connected with at least twenty-one Communist Front organizations. Antonio Frasconi, artist of another 1958 U.N.I.C.E.F. card, was a signer of the Artists Front to Win the War, an officially cited Communist Front. Doris Lee, a 1959 and 1960 U.N.I.C.E.F. card artist, has been affiliated with four officially cited Communist Fronts. She also signed a statement requesting U.S. aid for the Soviet Union and for Red China.

Arnold Blanch, artist of 1962 and 1963 U.N.I.C.E.F. cards, has been connected with at least four officially cited Communist Front organizations. He has also regularly contributed cartoons and illustrations to Communist publications. Karel Svolinsky, artist of a 1963 U.N.I.C.E.F. card, is a Czech Communist. In 1966, Lojos Vincze, a writer and artist from Communist Hungary, did art work for some of the cards; while the biggest and most expensive card in the 1966 line was a painting by a French artist named Jean Lurcat—described by the House Committee on Un-American Activities as "reportedly a member of the French Communist Party and an active member in numerous Communist Front organizations." Small wonder that Florence Fowler Lyons wrote in her column for September 11, 1966: "The Communist Party bookshop in Los Angeles has just informed me that 'soon' they will receive their *annual supply* of UNICEF greeting cards."

The Communist permeation of U.N.I.C.E.F. also explains the many strange ways this "charitable" organization spends its money. The newsletter of the McGraw-Edison Company's Committee For Public Affairs of December 1961 pointed out: "The United Nations International Children's Emergency Fund . . . appropriated $59 million between 1947 and 1958 to Communist countries. In a ratio not unlike that of other UN ventures, the United States has furnished approximately $42 million of the money. Also, as with any 'aid' program, the assistance does not go to the needy but is administered through governments." And as any student of the Communist Conspiracy can tell you, food and medicine are used as political weapons to keep enslaved peoples under subjection. Witness the systematic, intentional starvation by the Reds of 10 million Ukrainians in the 1930's, and the Communist brutal use of U.N.R.R.A. supplies in the late 1940's in Poland as described by Ambassador Arthur Bliss Lane in *I Saw Poland Betrayed*.

Do you remember the U.N. aggression in Katanga in 1961, when hospitals were bombed and civilians were indiscriminately killed? Well, U.N.I.C.E.F. helped finance it. We quote from Stanton Evans' column in the *Indianapolis News* for January 26, 1962: "When the UN was out of money for its Congo aggression, it borrowed $10 million, earmarked for UNICEF, from the U.S. government. This was UNICEF money—handed over with UNICEF's express consent . . . . In short . . . UNICEF moneys were used to subsidize the Katanga aggression."

In March 1960, only a few months after the bloody takeover of Cuba by Fidel Castro, U.N.I.C.E.F. voted to send this Communist regime $170,000 for "health services," and for "environmental sanitation." In 1964 U.N.I.C.E.F. sent Castro another $125,000 to spend, among other things, on a fleet of trucks and jeeps, plus the spare parts to keep them in condition. This was in addition to U.N.I.C.E.F.'s emergency appropriation to Communist Cuba that same year of $205,000. The *D.A.R.* magazine for April 1969 contains an article about U.N.I.C.E.F. which notes: "the general public looked with jaundiced eye on UNICEF gifts of $51 million worth of food and drugs to Cuba, where 'underground sources in that unhappy island' reported 'that the drugs are already aboard a Russian ship on their way to the Soviet Union.'"

In 1962 an important national Catholic weekly, *The Wanderer*, prepared a flyer about U.N.I.C.E.F. In it was the following: "As for Catholic spokesmen who in recent years have taken a stand against participating in UNICEF 'trick or treating,' only a few weeks ago we wrote to Msgr. Edward J. Goebel, Milwaukee archdiocesan superintendent of schools, asking him whether Milwaukee schools still do not participate in the UNICEF Halloween program, and, if not, would he please state his reasons. Msgr. Goebel's reply, dated September 8, 1962, follows. He writes: 'Our opposition to the UNICEF organization was based on the protest of our former Catholic Army chaplains who maintain that UNICEF proceeds were not contributed to youth in need, but rather they were taken up by the Communists in the (*Communist-controlled*) countries.'" In short, U.N.I.C.E.F. supports the policy of submit or starve!

Even without considering the Communists' exploitation of U.N.I.C.E.F., we would want to caution Americans against supporting it purely on grounds of its incompetence. One can do far more good with his money by supporting bonafide religious and charitable causes. The U.N.I.C.E.F. publication *Children Of The Developing Countries*, for example, admits that in 1961 U.N.I.C.E.F. had 575 employees and distributed about $25 million. In typical contrast, the Catholic Relief Services for that same year distributed $125 million in aid with a staff of only 130 employees.

To see how financially irresponsible U.N.I.C.E.F. can get, note the following from *National Review* for June 14, 1966: "Twenty million cents will permit UNICEF to occupy quarters on the sixth floor of the swank United Nations Plaza, instead of the unspeakable second floor. Yes, last week UNICEF was offered the second floor—identical in layout to the sixth, except for some additional space—at a saving over five years of $150,000 to $200,000, plus a large contribution from a New York company that wanted to rent the sixth floor. The executive director, touring in Africa, telegraphed to the real estate agents that under no circumstances would he accept second-story space but insisted on the sixth; so, since ALCOA, the building owner, had a 'moral agreement' with the UN, that was that." U.N.I.C.E.F. claims that for one penny it can provide five glasses of milk. By such figures, its fancy quarters are depriving needy children of 100 million glasses of milk.

Consider also how adept U.N.I.C.E.F. is at squandering money in its everyday operations. G. Edward Griffin includes an excellent illustration of this in his valuable book *The Fearful Master, A Second Look At The United Nations* (Western Islands, Belmont, Massachusetts, 1964, $1.00) where he writes: "UNICEF received one dollar for two teacher's manuals advertised in one of its promotional pamphlets; it sent not only the manuals, but a large box containing hundreds of expensively printed brochures glorifying the purposes and accomplishments of UNICEF. This unrequested and unwanted material was shipped first class airmail at a total postage cost of $10.40. According to UN statistics this could have purchased 5,200 glasses of milk."

What must be especially galling to the untold thousands of Americans whose loved ones have been killed or wounded in the war in Vietnam is the recently announced plans of U.N.I.C.E.F. to funnel money to the government of Communist North Vietnam. As *Human Events* for June 28, 1969, reported: "The United Nation's International Children's Fund—UNICEF—will shortly begin negotiations to inaugurate an aid program for children in North Vietnam, marking the world body's first *official* contact with the Hanoi Commnunist regime. Discussions will be carried out by a UNICEF vice president, Dr. Boguslav Kozusznik of [*Communist*] Poland."

Because of its simply monstrous record, U.N.I.C.E.F. hides behind a mask of alleged charity, for fear that the American public will come to realize that it is just one more "front" which the International Communist Conspiracy is using in its drive to enslave the world.

ON CALL FOR LAW

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. MINSHALL. Mr. Speaker, I am indebted to a most thoughtful constituent, Mr. Allen B. Chaney, of Rocky River, Ohio, for sending to me a copy of a very timely address given at the graduation exercises of the 87th Ohio State Patrol Academy, by Dr. Norman H. Dohn, professor of journalism at Ohio University.

Dr. Dohn's remarks contains truths that need to be spoken, and, once spoken, shared with the greatest possible number of Americans. It is an inspiring and important message.

The address follows:

ON CALL FOR LAW

(Address by Dr. Norman H. Dohn)

I know you want to get this thing over with, grab your certificate and get out of here. But you've got to listen to me for a few minutes. I don't know why. I guess it's because no graduation exercise would be complete unless someone told the graduates that this is the beginning and not the end. And challenged them to great and noble purpose.

Off hand, I can't think of another speech occasion in which so much preparation goes into saying so little in such a brief time . . . to so many who so quickly forget, half-hear, and become bored.

Now that the preliminaries are out of the way . . . I'm going to say some things that may startle you . . . particularly coming from a college professor. My remarks may seem a bit unusual because I'm going to depart from the customary graduation speech. I'm going to talk about something that is troubling me deeply . . . and I feel sure is troubling you . . . and that is . . . *what in the world is happening to this country of ours?*

Everywhere there seems to be a surrender of the ancient values that have sustained and restrained the human race upon this earth. The old virtues which we were brought up to respect and copy in our daily lives, are now derided and called, at best, old-fashioned and out-of-date.

And here is what disturbs me the most of all. Instead of being outraged by what has been going on, our leaders seems to be spending most of their time making up excuses for behavior which we were brought up to consider obscene, illegal, perverse, irresponsible, and even treasonous.

We hear a lot about freedom these days. But we hear very little about responsibility. We hear a lot about the right to express one's self . . . but very little about the right of the other people to avoid being offended by such expression.

We pussyfoot among a lot of high-sounding names. We call drunkards, "alcoholics." We call homosexuals "deviates." We call draft-dodgers and slackers "pacifists." We call dope addicts "experimenters in personality extension." We call criminals "victims of society."

Some of this may be all right. Some of it may reflect a more compassionate attitude in our society. But I think the time has come when we should and must draw a line separating compassion from soft-headedness, permissiveness and timidity.

Near the end of his great book on the decline and fall of the Roman Empire, Edward Gibbon lists the reasons for the dissolution of the great political force which had held the civilized world together for more than 500 years. The principal reasons included:

Excessive spending by the central government.

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Unwillingness of the young men to bear arms in defense of their country.

Overindulgence in luxury.

Widespread sexual immorality and easy divorce, which destroyed the integrity of family life.

The spread of effeminancy—girls looking and acting like men and men looking and acting like girls.

And disregard for religion.

That was Rome 1400 years ago. See any similarity with that picture and what is going on in the United States today? I do.

I have no patience with those who pooh-pooh the idea that our moral fabric is falling apart, and who claim that conditions are no worse today than they were 50 years ago.

When most of us were young, women didn't live in constant fear of assault, robbery and rape. Parents could send their children down to the corner store without dying a thousand deaths until they returned. A man could walk his dog around his neighborhood at night without fear of being mugged, or beaten up, or murdered just for kicks.

The decay of standards, of morals and of values is worse today than it ever has been . . . and we're not helping the situation if we try to hide our heads in the sand until it passes away. It's not going to pass away, unless we make it pass away.

Whose fault is it? In a way, it's everyone's fault. Too many of us have been talking about freedom without really knowing what freedom is all about.

Educators, politicians, clergymen, businessmen, and almost everyone else . . . have been demanding more and more freedom for more and more people. But they have failed to emphasize the responsibilities of freedom.

They have failed to make it clear that freedom is meaningless if it interferes with somebody else's freedom. Freedom is something you earn and deserve and build and create for yourself.

For too many of our citizens, freedom means freedom from unpleasantness, freedom from work, freedom from discipline, freedom from sacrifice, freedom from duty, freedom from responsibility, freedom from concern for one's neighbor.

That isn't freedom at all.

Too many of our citizens demand the right to determine what is moral and what is not. They end up determining that nothing is immoral . . . that everything goes.

They feel no obligations toward others who maintain traditional moral standards.

We are appalled when we see rioting in our streets and on our college campuses . . . especially when we are told the riots are instigated in the name of freedom.

What happens to the freedom of the innocent bystander who is killed or maimed in the riot? What happens to the freedom of the widow and the orphans of the police officer who was killed in the performance of his duty? What happens to the freedom of the man whose car happened to make an attractive target for a Molotov cocktail? Or the owner of the store whose windows are smashed and whose goods are looted off his shelves? Where are their rights? Who is standing up for them?

Riot is the absolute opposite of freedom. It is chaos. And chaos and freedom cannot exist side by side. Freedom implies order. It implies law . . . a common law to protect people, to sustain all rights, all ideals. Freedom is not selective. It is universal.

When men take the law into their own hands . . . when men, acting as individuals, decide for themselves which laws they will obey and which they will disobey, then we don't have freedom. We have a direct and aggravated assault on all freedoms.

In every society of free men there must be law-givers and law-abiders. And there must be penalties for those who will not abide.

The supreme court has preoccupied itself, it seems, with the rights of the accused. It has all but rendered our police helpless. But let us examine the situation. Do we have a serious problem with innocent persons being wrongly convicted? Do we really believe that our police are seizing every opportunity to brutalize suspects? Is this really the problem?

Of course it isn't.

The real problem is the abuse of thousands of innocent, helpless people by hardened criminals. For every case of police brutality, there are ten thousand cases of criminal brutality to innocent victims. Why, then, cannot the supreme court address itself to this problem, rather than destroying the effectiveness of the police who are trying to protect us?

The violence, the license, the lack of responsibility which infest our land have caused great divisions among our people.

The extremists of both sides have been guilty . . . equally guilty . . . of opening in our culture gaping wounds without stopping to consider what medicines are available to heal such wounds . . . or even whether such medicines actually exist.

What can we do about it?

There is no quick solution. We are a nation in trouble. It took a long time for our society to grow sick. It's going to take a long time for it to get well.

We can start by taking our heads out of the ground and recognizing the growing crisis around us for what it is. We can start relearning the art of self-discipline . . . and insisting that all elements within society learn it, too.

We must relearn and teach others that "there is no such thing as a free lunch." Our democractic society is based on a system of earned rewards and earned punishments. There is no place in our society for rewards and punishments that are not earned.

We must learn to call things by their right names. Violence is violence . . . no matter what the cause in which it is perpetrated. Violence is a serious breach of the law and must be treated as such.

We must stop coddling the breakers of our laws . . . making up excuses for them . . . looking complacently the other way because it is safer to ignore them.

We were a good society once . . . and though human nature didn't become perfect because of the knowledge of certain punishments . . . human wickedness was at least kept within reasonable bounds.

Then we tried the soft approach, in the hope it would make conditions better. This has failed. Conditions have become worse . . . not better . . . with each passing day.

We must grow tougher in our approach.

Treason is still treason and should be treated as such. Anyone who gives aid and comfort to an enemy of the United States is flirting with the very essence of treason. The same goes for sedition. And for all those who preach sedition . . . who teach it to their students . . . or who seek to arouse sedition in others by burning their draft cards or defaming and disgracing the flag.

If America, which was founded on a wise and carefully ordained balance of freedom and restraint, is to survive, we must return at once to the philosophy of that old "Rough Rider," Teddy Roosevelt, who declared nearly three-quarters of a century ago:

"No man is above the law and no man is below it. Nor do we ask any man's permission when we require him to obey it."

We know what we are opposed to. But do we know what we stand for? It is not enough to simply oppose evil. It is necessary to stand up and be counted . . . to become personally involved. *Either we stand for something, or we fall for anything.*

I congratulate you who are about to launch a career with the State Highway Patrol. You are a member of a proud, elite Law Enforcement Agency which commands public respect. This is a real distinction at a time when most Law Enforcement Agencies are being abused and maligned for carrying out their constituted duties and responsibilities.

Even the most violent of the dissidents on the college campuses where the Patrol has been summoned respect you . . . even though they may hate you because you represent law and order.

You will be cursed, spat upon and harassed in all sorts of manner. But you must keep your "Cool." You must be ever mindful of the proud tradition that has been developed for the Patrol by the hundreds of fine officers who have served before you.

Be ever mindful that as freedom must be accompanied by responsibility . . . so must authority be in tandem with fairness and understanding.

Some weeks ago I heard a British Clergyman preach on the topic: "Be odd for God." The message, simply put, was that it takes courage and guts to serve God today when it is much more popular to be a disbeliever and revel in all that is immoral and base.

Similarly, it takes fortitude for those of you who have stood up to be counted . . . to stand for something . . . by electing to serve in the State Highway Patrol. Yours certainly is not a popular profession, particularly when it seems to be more fashionable and acceptable to break the law than abide by it.

So, just as the British clergymen implored his parishioners to be odd for God, I call upon you to be on call for law . . . and be peculiar for peace and order.

And let us all rededicate ourselves to the rebirth of courage, of ideals and principles, and the will to defend this nation both at home and abroad from all her enemies whomsoever.

PRISONERS OF WAR

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. FISHER. Mr. Speaker, many of us have spoken out repeatedly about the plight of American prisoners of war, being held by the Hanoi Communists. We have made every overture that has been available. We have approved resolutions. We have spent hours during debate periods in the House of Representatives expressing our solicitude and urging the President to seek more contacts with the enemy through diplomatic channels. These efforts have brought no tangible results.

I was disappointed when our Paris negotiators dismissed as propaganda a suggestion by enemy spokesmen there that the POW's might be discussed, conditioned on certain term which our negotiators considered actually ruled out good faith and sincerety on Hanoi's part. But, Mr. Speaker, the problem is so vital that nothing should be ruled out. Perhaps there has been some negotiation on the subject which has not been publicized. In any event, if the door is opened for even a half inch, the subject should be pursued.

In addition, I would hope the President will insist upon the disposition of prisoners of war being included in the withdrawal plans of American troops from Vietnam. The President has repeatedly expressed deep concern and has, I am sure, pursued every possible

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diplomatic source in behalf of these prisoners. But there should be a relationship between the rate of withdrawal with the release of those men who are languishing in POW camps.

The enemy should be made to know, in no uncertain terms, that unless those prisoners are properly treated and released the repercussions will be awesome.

Mr. Speaker, on last Thursday evening in San Antonio I attended a function attended by some 1,600 people, including a numbers of wives of prisoners of war. The occasion was to hear a speech by Mr. H. Ross Perot, who have given so much and worked so hard in efforts to bring about the release of those men. It was a great speech and it had solid support from that audience.

Let us hope and pray new approaches, fresh methods, and more positive plans will be contrived in behalf of those patriots whose plight should be treated as the highest of priorities.

THIEU'S REPRESSION

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. BINGHAM. Mr. Speaker, as long as the U.S. Government gives the repressive Thieu-Ky government unqualified support, the war in Vietnam will go on and on. President Thieu's relentless opposition to realistic steps toward a negotiated peace has been made clear again and again. The latest instance was reported on September 30 in the New York Times, as follows:

DEPUTY DEFYING THIEU, AGAIN ASKS INTERIM REGIME

(By Alvin Shuster)

SAIGON, SOUTH VIETNAM, September 29.—A 34-year-old member of South Vietnam's National Assembly defied President Nguyen Van Thieu today and renewed a call for the formation of a provisional Government as a step toward peace.

The proposals of the legislator, Ngo Cong Duc, and the response to them from the Thieu Government, have stirred excitement since they were just made several days ago.

President Thieu implied that Mr. Duc was a traitor and said he would be in jail if not for his legislative immunity. A petition seeking the possible removal of Mr. Duc's immunity is being circulated in the House of Representatives. At least two advocates of peace proposals opposed by Mr. Thieu have been jailed.

The Government's harsh response to the cautious proposals, which fall short of suggesting the inclusion of Communists in a provisional Government, reflects the intense sensitivity of Mr. Thieu to any suggestions that even hint of concessions to Vietcong demands for the removal from power of himself, Vice President Nguyen Cao Ky and Premier Tran Thien Khiem.

Mr. Duc, who called a news conference today to explain his proposals, has been careful to avoid urging the immediate abolition of the present Government. He says he believes he is speaking for many war-weary South Vietnamese who are searching for an end to the present impasse over a political solution at the Paris peace talks.

President Thieu, who has often been attacked by Mr. Duc and his small bloc of anti-Government Deputies, said last weekend that political opposition "is a good thing in a Democratic country." But he added that Mr. Duc had gone too far.

He said the Duc proposals "were beneficial to the Communists" and urged the House to adopt a "clear attitude" toward Mr. Duc.

After Mr. Duc's explanations today, the Government continued to show its unhappiness by confiscating all copies of tomorrow's issue of Tin Sang, a newspaper published by Mr. Duc, who also is chairman of the Vietnamese Newspaper Publishers Association. The police came to the office tonight to prevent distribution.

More than 70 issues of the newspaper have been confiscated in the last nine months. Editors of some of the other newspapers here—there are 32 in the Vietnamese language in Saigon—said they had been told to drop reports of the news conference or face confiscation.

At his news conference, held in a crowded room of the House of Deputies, Mr. Duc said the proposed provisional Government should be "without members of the Thieu Government."

He said it should be composed of non-Communists who are "not servants of foreign interests."

"National reconciliation can only be achieved through mutual compromise, not through mutual accusation or demands of surrender," Mr. Duc said, adding that the war cannot end by a decisive military victory for either side. He called for a cease-fire and the total withdrawal of all foreign troops.

He said: "Those who have accused us of being traitors must look at themselves. I have condemned the Liberation Front for indiscriminate killing of innocent civilians. I have also pointed out that while the South Vietnamese do not like the Americans and are opposed to the Thieu Government they also fear a Communist takeover of South Vietnam."

A BRIEFING ON THE FCC'S FAIRNESS DOCTRINE AND THE EQUAL OPPORTUNITIES PROVISION OF THE COMMUNICATIONS ACT OF 1934

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. HUNGATE. Mr. Speaker, as the newly elected president of the Capital Hill Chapter of the Federal Bar Association, an organization composed of lawyers who are Members of Congress, congressional staff aides, committee counsel and Library of Congress attorneys, I am pleased to bring to the attention of my colleagues a briefing sponsored by the Capitol Hill Chapter and the Communications Law Committee of the Federal Bar Association on the equal opportunities provision of section 315 of the Communications Act of 1934, as amended, and the Federal Communications Commission's Fairness Doctrine. This subject is of unusual timeliness and significance in view of the impending congressional and senatorial elections and the FCC's recent adoption of several landmark decisions on Fairness Doctrine questions. The briefing will be held on Tuesday, October 6, 1970, 3:30 p.m., at the Select Committee on Small Business hearing room, 2361 Rayburn House Office Building. I extend an invitation to all Members of Congress and their staffs to attend.

Key members of the staff of the Federal Communications Commission will present a brief review of the latest developments in this area and will be available to answer questions concerning application of the equal opportunities and fairness doctrines to specific situations. Among the FCC staff members present will be Max D. Paglin, executive director and cochairman of the Communications Law Committee, Henry Geller, special assistant to Chairman Dean Burch and former general counsel, and William B. Ray, chief of the complaints and compliance division. Staff members of the Senate and House Communications Subcommittee will be on hand to answer inquiries concerning S. 3637—equal time for broadcasting—which was passed by the Senate and House. Erwin G. Krasnow, cochairman of the Communications Law Committee and former president of the Capitol Hill chapter, is chairman of the program.

Everyone attending the briefing will be given copies of the FCC's most recent primer on "Use of Broadcast Facilities by Candidates for Public Office" and the handbook prepared by the National Association of Broadcasters on Political Time and the Fairness Doctrine.

A SUCCESSFUL EXPERIMENT IN POLICE DEPLOYMENT

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. HOSMER. Mr. Speaker, in the October 1970 issue of the FBI Law Enforcement Bulletin, Chief Earle W. Robitaille of the Huntington Beach Police Department in California has written an article on a novel system of police deployment.

Basically, Chief Robitaille points out that the use of 10-hour instead of 8-hour shifts has had a remarkable effect on the efficiency of his department and the morale of the officers.

So that others might have the benefit of the Huntington Beach experience, I am including the article in the RECORD at this point.

MANPOWER WHEN YOU NEED IT

(By Earle W. Robitaille)

Police administrators have long recognized that the hourly fluctuation in law enforcement workloads has not coincided with the normal 8-hour patrol shift, and they have tried to develop new systems of deployment to meet this problem. Several effective solutions have been offered; however, many of these proposed solutions have their own corresponding problems.

In analyzing the workload of the Huntington Beach Police Department, we found two periods of time in which there are sharp changes. During the first period, between 9 p.m. and 3 a.m., the rate of criminal occurrence is high and most of the calls require dispatching two police units. The second time period is that between 3 a.m. and 7 a.m., when we experience a sharp drop in the number of calls for service and the police task becomes one of basically inspecting police hazards.

Under the regular system of patrol deployment where each watch was on duty for 8 hours, we were experiencing large fluctuations in workload during the shifts. Typical of this problem was our "graveyard" shift. During the early portion of the shift, which started at 11 p.m., the level of calls for service was high. At approximately 3 a.m., there was a sharp drop in the number of calls for service received. During this latter period, the number of officers on duty exceeded that necessary to perform the police services required.

We have studied methods of manpower distribution which would result in the assignment of the maximum force during the late evening hours and the minimum force during the early morning hours. After considering several alternate methods, we arrived at the decision to abandon the 8-hour shift in favor of a 10-hour day.

This "Ten Plan" reduced the work-week to 4 days. This system resulted in a shift overlap during the late evening hours increasing the number of beat patrol units by 45 percent. During the low call-for-service period between 2:30 a.m. and 7 a.m., the number of beat patrol cars was reduced by 30 percent. This plan resulted in the assignment of personnel in a closer ratio to the departmental workload.

We were of the opinion that the Ten Plan would not only increase the efficiency of the police department, but would also serve as an employee benefit. This plan allowed us to reduce the workweek by 2½ hours. This was accomplished by incorporating the briefing period into the base 40 hours, which resulted in a workday increase of only 90 minutes. This scheduling had not been possible under the 8-hour shift. Our initial poll of the officers indicated that they were in favor of having 3 days off each week. However, our proposal, to our knowledge, had never been tested. We were of the opinion that, in order to effectively evaluate the merits of the Ten Plan, we should institute the program for a 90-day test period.

During early stages of the test period, which was instituted on February 2, 1970, we found officers having a difficult time adjusting to the new shifts. One of the primary complaints was that they coulld not find activities to occupy their 3-day weekends. It was not uncommon to find officers returning to the police facility on their days off.

After the initial 2 weeks, the men became accustomed to the new shift assignments and generally expressed the opinions that they would like to continue on a 10-hour day.

OBJECTIVE EVALUATION

At the conclusion of the 90-day test period, a questionnaire was circulated to those patrolmen affected by the plan. The men were asked whether they felt the 10-hour patrol shift had increased the department's efficiency, whether they wanted the longer shift continued, and what problems the 10-hour shift had created.

After reviewing the questionnaires returned by the officers, which overwhelmingly reflected their desire to continue with the Ten Plan, we attempted to conduct objective evaluation of the plan's effect upon the efficiency of our service.

The evaluation consisted of a study of only those hours which were directly affected by the change. There were no changes in manpower during the day shift and little change during the early portion of Watch II (swing shift). Therefore, we have only concerned ourselves with that time period between 9 p.m. and 7 a.m. during which the major shift in manpower occurred.

RESPONSE TIME

In reviewing the effect of the Ten Plan on the patrol units' response time, we considered the period between 9 p.m. and 2 a.m., when Shift II and Shift III overlap, and the time between 2 a.m. and 7 a.m., when we reduce the number of personnel assigned to duty.

As could be expected, the response time between 9 p.m. and 2 a.m. was significantly reduced. Our study reflected a 32 percent reduction in response time on Code 3 (proceed to location with red light and siren) runs and a 38 percent reduction on routine calls.

The result we did not anticipate was the reduction of response time during the period of 2 a.m. to 7 a.m. The Ten Plan called for a 30 percent reduction in manpower during this time period. In spite of this substantial reduction in manpower, there was a 46 percent reduction in the response time on Code 3 runs and a 7.7 percent reduction on routine calls.

In attempting to determine what factors caused this increased efficiency, we found that prior to the application of the Ten Plan, Watch III (graveyard) was receiving a majority of its calls for service prior to 2 a.m. Because officers assigned to that shift were unable to file their reports until later in the shift, many times after 2 a.m., there was a substantial reduction of units available on the street between the hours of 2 a.m. and 7 a.m. The efficiency of the shift was further reduced by officers processing arrestees who would be taken into custody during the shift's peak period of 11 p.m. to 2 a.m. With the introduction of the Ten Plan and the resulting increase of personnel on duty between the hours of 11 p.m. and 2 a.m., many of the calls received during this period are now serviced or handled by Watch II (swing shift). As a result, more Watch III cars are available for service during the period of 2 a.m. to 7 a.m.

OFFICERS' FIELD ACTIVITY

We conducted a study of the patrol division's total field activity under the Ten Plan and found that between the hours of 9 p.m. and 2 a.m. felony arrests have increased 18.6 percent, misdemeanor arrests increased 55.28 percent, and observations increased 31.5 percent. Traffic citations have decreased 2.9 percent, but we could identify no outside cause for this reduction.

During the time period of 2 a.m. to 7 a.m., when the number of patrol units is reduced, we noted an 87.5 percent increase in felony arrests and no change in misdemeanor arrests.

COMMERCIAL BURGLARIES

One of our primary concerns about reducing the number of officers on duty between 2 a.m. and 7 a.m. was that we would experience an increase in commercial burglaries. Contrary to our beliefs, we found that prior to the implementation of the Ten Plan, we were experiencing 1.63 commercial burglaries each day. After instituting the 10-hour shift, we found the rate dropped to 1.3 commercial burglaries a day, a 20.2 percent reduction in that crime.

OVERTIME

In comparison the overtime expenditures under the Ten Plan to those under the normal 8-hour shift, we found that the overtime required for completing reports under the new plan is 47.8 percent less than previously expended.

The members of the investigative staff of the Huntington Beach Police Department, while not themselves scheduled on a 10-hour day, have encouraged the continuation of the plan. They have noted that, since the institution of the plan, the reports written and the investigations conducted by the patrolmen are far superior to those submitted prior to the test period. This improvement is attributed to the availability of time to file comprehensive reports—a direct result of the Ten Plan.

After reviewing our test of the effectiveness of the Ten Plan, we concluded that this method of scheduling not only increases the efficiency of our department, but also has a positive effect upon the morale of the officers. This higher morale, while not directly measured by our test, is reflected in the quality of work being produced. We have adopted the 10-hour shift for patrol forces on a year-round basis.

A DIFFERENT APPROACH TO THE CAUSE OF WATER POLLUTION

HON. JOHN J. FLYNT, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. FLYNT. Mr. Speaker, as I am sure is true of all my colleagues in the House, I share the public's great concern for the protection of all aspects of our environment. However, if this concern is to be effective in achieving the environmental goal we seek, it requires also a recognition of the complexity of many of the ecological problems we confront and the need for thorough research in understanding the nature of these problems before committing our resources of proposed solutions.

For example, I have in mind the alleged role of detergent phosphates in causing eutrophication. Some have advanced a very simplistic solution—remove all phosphates from detergents and thereby curtail the eutrophication of our lakes. More thoughtful experts, however, are challenging the validity of this approach, including a team of chemists and biologists at the Southeast Water Laboratory at Athens, Ga. An article on their work appeared recently in the Atlanta Constitution which I believe will be of interest to my colleagues.

I am not a water quality scientist. I do not know the extent that phosphates cause water pollution. However, when the experts disagree, the public is entitled to see and hear from both sides. I include the article in the Record which appeared in the Atlanta Constitution earlier this year:

Phosphates Not True Cause of Pollution, Athens Finds

(By Jeff Nesmith)

In the midst of a national push to ban phosphate compounds from detergents because they are thought to cause a serious pollution problem, scientists at Athens have found evidence that the phosphates are not the culprits after all.

The pollution problem for which phosphates are being blamed is called "eutrophication." It is the process by which a lake dies.

Overwhelmed by a sudden growth of small plants, mostly algae, the lake loses dissolved oxygen, when the algae dies and begins to decay. Without dissolved oxygen, fish and other aquatic creatures cannot live.

For several years scientists have been aware of a correlation between the presence of phosphate compounds and the unnatural growth, or "bloom" or algae that leads to eutrophication.

And detergents are a major source of phosphate pollution because phosphorous compounds are added when the cleansers are manufactured. As detergents replaced soap, the volume of phosphorous pollution of lakes and rivers in this country tripled.

Therefore, the association between phosphorous and the increasingly common algae "blooms" has led to a movement to force detergent manufacturers to stop adding phosphate compounds to their products.

XUM

It was believed that phosphorous was directly responsible for the sudden algae growth and that the answer to this problem was simple: remove the phosphate compounds and the eutrophication will stop.

However, a team of chemists and biologists at the Federal Water Pollution Administration's Southeast Water Laboratory at Athens have made a painstaking analysis of algae blooms and decided that phosphorous is not the true culprit.

Phosphorous is but one of the elements necessary to living things. Others are carbon, nitrogen, oxygen and other materials that are available in an unnatural abundance in any polluted stream or lake.

However, when such elements as carbon, oxygen and nitrogen are put into the water in the form of organic compounds they generally are not available to the algae. They must first be broken down into simpler chemicals that the algae can utilize.

The Southeast Water Lab scientists have described a complex cycle in which water bacteria and protozoa consume organic pollution (such as sewage) and reduce it to compounds—mostly carbon dioxide—which the algae can use. In exchange, the algae release oxygen that the bacteria and protozoa must have.

The capacity of a lake or stream to accommodate this type of exchange can be tremendous and as more and more pollution is added, the algae, as well as the protozoa and bacteria, increase to tremendous quantities.

However, a cool day or a cloudy day can cause all the algae to die. The lake becomes an extremely odorous cess pool; and as the other organisms begin to consume the decaying algae, water oxygen is reduced to zero. The lake dies.

Phosphorous plays a key role in the description developed at the Athens lab, both in the tremendous growth of algae and the corresponding growth of bacteria and other organisms.

The difference is that phosphorous is not the prime culprit.

Remove any of them, including phosphorous, and eutrophication stops.

"But what do we want?" asks Miss Pat Kerr, a member of the Athens research team and co-author of a recent article on eutrophication. "What is increased water quality? Is it the absence of phosphorous or is it a balanced water environment?"

The answer, of course, is obvious.

To simply prevent one of the more obnoxious aspects of pollution from occurring is not adequate. A lake can be utterly polluted without the offensive odor associated with eutrophication.

The solution rather than banning one element of pollution, is to cure the entire problem.

THE SOVIET THREAT

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 28, 1970

Mr. WHITEHURST. Mr. Speaker, I wish to identify myself wholeheartedly with the remarkable statement made on the floor of the House today by the chairman of the House Armed Services Committee. Having visited the 6th Fleet in the Mediterranean earlier this month and having seen firsthand the full impact of the Soviet naval buildup, I urge every American to heed the warning sounded in the well of the House this afternoon. The remarks of the chairman deserve the sober attention of all of us. Too long have we taken for granted our naval superiority. Our missile advantage exists no more. Unless we determine at once to respond to the growing strength of our adversary within this decade, we will find ourselves faced with the kind of military blackmail that heretofore has been wreaked only upon the weak nations of the world.

I commend the chairman for his timely speech. It remains to be seen whether it will serve as a turning point in our resolve or another lost voice in a sea of complacency.

DRUG TRAFFIC IN THE MIDDLE EAST

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. RODINO. Mr. Speaker, recently the New Leader published an article by a veteran British correspondent, Ray Alan, titled "Drug Traffic in the Middle East."

Since the article corroborates the feeling of a growing number of people that I have talked to in the United States who feel that the key to reversing the upward spiral of drug addiction is to dry up the supply, I think my colleagues will be interested in what a Middle Eastern specialist has to say about drug running in the Near East.

DRUG TRAFFIC IN THE MIDDLE EAST

(By Ray Alan)

MADRID.—Another group of young Americans had just been arrested for peddling narcotics here, and we were discussing the incident. "Dope addicts are like syphilitics," a Spanish doctor commented. "They feel impelled to pass on their disease. It's their way of getting even with society for playing such a dirty trick on them." A newspaperman added: "And America, a diseased society, feels impelled to infect other societies."

An Englishwoman then told this story: "Last summer on the Costa Brava, an American family had the next *apartmento* to ours. Our two balconies adjoined. They were always trying to be friendly and encouraging the children to get together. We snubbed them time after time; they must have thought we were savages. They seemed educated and looked nice—the man was a minister of one of the more respectable American churches—but I had such a fear of their kids taking ours into some quiet corner and persuading them to take dope."

A few days later, I was looking through my collection of old maps with an American friend who had asked me for "something exotic" to make a lampshade. We came to one marked "Secret. Near East. Opium, morphine and hashish." It was an old French Army map on which hashish-producing regions had been shaded in green, opium poppy areas in red, and morphine laboratories in blue; green, red and blue dotted lines traced the drug-runners' known routes. I had added a few details myself, but most were already there when the document was given to me many years ago.

"Hell's bells!" my friend exclaimed. "I'll land in jail if I take that home."

"You wanted something exotic," I said.

"In the States right now," he replied sadly, "drugs are about as exotic as a drunken Irishman on Saint Patrick's Day. They're becoming an epidemic." He tapped the map. "You've seen the Middle East drug traffic. You ought to publish something about it in America. What's the cause of the drug mania? What's the answer to it? How have countries like Egypt dealt with it? Maybe we can learn something from them. You've no idea how badly we need help."

So here I am, looking at that out-of-date map, trying to remember something significant, and wondering how it is that the colored lines now mainly point westward. Most of the Near East's opium poppy crop is grown in Turkey, Persia and occasionally Egypt. Morphine, extracted from the poppy itself, is produced in Turkey—legally for medicinal purposes, illegally for conversion (chiefly in France and Italy) into the more potent, and profitable, heroin. *Cannabis sativa*, grown in Lebanon, Syria and Turkey, is familiar in many parts of southern Asia, North Africa and America as Indian hemp, bhang, ganja, grifa, and marijuana, and is the primary ingredient in such preparations as hashish, kif and charras.

The man who gave me the map had another like it, and lived in Egypt. While a British officer at the end of World War II, I devoted some time getting to know the Syrian-Turkish frontier and, later, southern Syria and Lebanon. I made an effort now and then to check some of the dotted lines and add a new one, keeping my Egyptian contact informed. But drugs were not our business—it was just that we thought it might prove useful one day to know something about smuggling routes and the men who used them—and I had orders not to take any initiative. Indeed, I had been told by an influential British official that "antidrug fanatics like Russell Pasha" had done Britain more harm than good.

Sir Thomas "Pasha" Russell, a dedicated British police officer who retired in 1946, spent the 1930s and early '40s fighting the hashish and heroin traffic then ravaging Egypt. In 1930, nearly 10 per cent of male Egyptians were taking dope, and 5–6 per cent were already addicts.

It has been said that but for Russell and his colleagues, Egypt would soon have ceased to count as a nation—reason enough for some British Mideast specialists to criticize him. By 1940 he had broken the back of the problem, and wartime controls strengthened his hand: The British Army moved into Lebanon and Syria the following year, and at Russell's request occupied a bit of its leisure during the next four summers burning hemp crops and chasing smugglers. That earned Britain the enmity of some of the Levant states' most influential families.

By the time I arrived in the Near East, the hashish trade was reviving. In the summer, on Lebanese mountain tracks, one might come across many donkey-loads of the hemp plant being brought in from the fields. After being dried and flailed, the crop was steamed and compressed into khaki-green kilo bricks, which camels and trucks took down to the plain for shipment from Lebanese and Syrian ports, or via Aqaba in Jordan. Yet the trade never recovered its prewar importance, in part because the reemergence of Israel cut the overland smuggling route to Egypt.

The growers and first-stage smugglers I met were on the whole conventional God-fearing men—the growers mainly Christians or Syrian Alawites, the smugglers Moslems of a variety of sects. All seemed to enjoy the face-saving game of hide-and-seek they played with the local gendarmes and customs men. It was only a face-saving game because graft was a way of life in Lebanon and Syria. The key producers had bribed key officials, even small growers had a political string to pull, and the first-stage smugglers had taken care, in their jargon, to "buy themselves a route."

What happened to the stuff once they were paid for it did not interest them in the least.

I asked some growers and smugglers if they ever smoked hashish. The reply was always an indignant "No!" Proud though they might be of the quality of their crop, they would nevertheless assure me that hashish was for the subnormal and wretched—"Egyptians, underdogs; not real men." Their contempt for their ultimate clients was unbounded. In the magical mountain scenery of Lebanon, western Syria and southern Turkey, it was all too easy to forget those distant customers in the slums of Egypt and consider hemp just another crop—even something of a joke, as it was to most Lebanese.

I was a rather earnest youth, however, and I took the dope traffic seriously, having read a file of Russell's reports and seen a few addicts in Egypt. Still, my immediate reaction was to smile when I realized one day in Cyprus that the little hedges surrounding an open-air restaurant and separating its tables were Indian hemp plants. Cypriots, I discovered, were uninterested in narcotics—they preferred brandy—and the restaurateur told me the only person to do a little harvesting when the hedges flowered was the Moslem sheikh who read the Koran every morning over *Sharq el-Adna*, the British Foreign Office's Communist-infiltrated Arabic radio station.

In due course, I went on to other work and lost sight of the dope trade. Then a Turkish official told me of a new development. It seemed that American and Western European youngsters, mainly middle-class students, had suddenly taken to visiting India and Nepal. Some of them were bringing back drugs and selling them in Turkey in order to help finance their travels.

As morphine producers, the Turks did not want a drug problem in their own back yard, so they were passing stiff sentences on these foreign delinquents. Protests were flowing in from fond parents, while Western newspapers and politicians expressed anger that "decent" white Christian kids should be locked up in harsh Oriental prisons. But, asked the official, why hadn't the parents kept their dismal offsprings out of trouble in the first place? What sympathy would be shown a Turk who was found to be pushing dope in the West?

XUM

Back in Western Europe, I was surprised to hear talk of hashish one day in an English university town. A pusher had appeared in a student's residence, and while some of the young men kept him talking, an executive of the student union called the police and had the outsider arrested. It appeared in subsequent discussion that the majority of students in the residence approved of the action.

The incident took place about a year and a half ago, at a university the gutter press had pilloried for alleged moral laxity. A few months later in France, I read the results of an opinion poll in which 84 per cent of the youths questioned declared themselves firmly "against drugs." Clearly, neither England nor France seemed in any great danger from narcotics.

But today in England, France and Spain drugs are a problem, though as yet a minor one by American standards. France has about 6,000 addicts, Britain 4,000, and Spain, the most exposed of the three, has fewer than 3,000. Great quantities of hashish pass through Spain on their way northward from Morocco, and heroin is coming in from France. But with more than 20 million tourists visiting Spain annually, the authorities can only skim the surface of the dope traffic.

The situation was complicated last year by an international hippie migration to the Spanish Mediterranean islands of Ibiza and Formentera—for a few weeks there actually were more hippies than Spaniards on Formentera. Now the government is tightening its drug and vagrancy laws, and the police are giving hippies compulsory baths and haircuts, in the hope of discouraging another invasion.

Police and educational authorities in France and Spain blame U.S. youths for the spread of the dope craze. In Britain, where Americans are not so conspicuous, the allegation is less assertive but still made, since most teen-age fads there—whether motorcyclist exhibitionism or campus Maoism—are imitation American. It is perhaps significant that the jargon of British hopheads comes exclusively, and pathetically, from across the Atlantic: fix, trip, turn on, pot, reefer, horse . . . even marijuana (though most of the hashish smuggled into Britain comes from North Africa and the Near East, not Mexico). A dope slogan or catch phrase coined in New York will be parroted in London within a week or so.

The speed with which the jargon circulates, and the fact that lobbies in distant cities and countries call for the legalization of "soft" drugs in more or less identical terms, have made many Europeans suspect that someone is masterminding the narcotics explosion. But who? The Mafia? Mao's China?

Some European Left-wingers (the genuine ones, not the teenyboppers of the New Left or the Maoist *Tontons Macoutes*) blame "big business." "Capitalism must have a docile labor force," they argue. "Persuading young workers and students to dope themselves is the easiest way of getting it." In their view, the narcotics traffickers are tied up wtih such industries as pop music and mod fashion, and the mythic "drug culture" that has bedazzled thousands of American adolescents is more than merely clever PR work. "It's brainwashing," a militant international anarchist told me one day. "The regimentation of the young and gullible by the barons of the consumer society. Note the complacent, discreetly approving, attitude of leading big-business organs."

To be sure, the original "Assassins" (*hashishin*), a Shiite Moslem sect, were stupefield with hashish by their Grand Master so that he might exploit their credulity. And in our own century, cases have been reported in Egypt and the Far East of employers giving their workers a ration of hashish, opium or heroin. But I doubt if one need blame anything more occult than the profit motive for the present narcotics explosion.

If before the War fortunes could be made by supplying drugs to Egyptian slum-dwellers, the profits that are being squeezed out of the affluent U.S. market must be superpsychedelic. The price of heroin is said to appreciate 500 per cent between Marseille and New York, and 6,000 per cent between the New York ""importer" and consumer. It is not surprising, then, that the field attracts many eager businessmen—slick young graduates as well as old-fashioned Mafiosi. (I have heard, too, that some cigarette manufacturers and pharmaceutical firms are even experimenting with hashish-tobacco blends and "safe" synthetic mind-shrinkers, in readiness for the day when "soft" drugs are legalized. Are any of them also investing promotional funds in an effort to hasten the day?)

Americans seem to like the theory that drug-taking is a reaction against the increasing material and moral complexity of modern life. But the middle-class and *petit-bourgeois* youngsters who are now the pushers' best prospects have far less to worry about materially, and live in a far simpler moral universe, than their equivalents 30–40 years ago. By Western standards, too, the Egyptian society that produced so many hashish and heroin users was not in the least complex.

Excluding from the discussion the poet or painter who may experiment with drugs in the hope of enriching his art, the Near Eastern experience suggests several major factors for narcotics abuse. They include a relatively servile status; a monotonous, wearying and/or debasing mode of life; a sense of personal inadequacy and purposelessness; boredom; group ethics tolerant of "extreme" forms of escapism (these might embrace religion and alcohol as well as narcotics); and above all, an efficient supply network employing shrewd distributors and active pushers.

In Egypt, Sir Russell's strategy was to cut supply routes. Employing polyglot police officers and captured smugglers, he built up a crack anti-narcotics intelligence service, and concentrated repressive action against suppliers and distributors. Drug-users were not usually imprisoned unless they were also pushers—or had asked to be jailed, as many did in the hope of finding release from their habit. Imprisonment in order to effect a cure can be a nightmarish experience for addict and jailers alike, but it was the only treatment available in Egypt and in some cases it worked.

In one Egyptian town, a heroin addict found that his craving for the drug had left him after he had been bitten by a mad dog and undergone the usual course of anti-rabies injections. As the news spread, other addicts flocked for the treatment. When doctors refused to cooperate, a local barber rigged up a dog's skull that gave a realistic spring-operated bite for a few piastres.

Of all drug-users, the heroin addict is the most desperate for a cure and the hardest to help. Some authorities even argue that it is cruel to try to help him, and kindest to let addiction run its course. The hashish smoker, on the other hand, is much less likely to become hooked if he is in good physical and mental health. For example, I have known well-fed, well-balanced Europeans to smoke, as an experiment, a quantity of hashish that would probably send an Egyptian peasant over the roof; but because they found it so boring, they discontinued and went back to whiskey.

The trouble, of course, is that the people most likely to use hashish are not in the best of mental health. All too often they are immature and insecure, and some are incipient neurotics or psychotics. (It is admittedly arguable that without hashish they would become dependent on something anyway, be it alcohol, amphetamines, astrology, quack psychiatry, religious or political fanaticism.)

In the Near East, the usual effects of hashish I observed with the inducement of apathy, passivity, indifference to social evils, neglect of physical well-being, and erosion of the moral block that prevents normal adults from fooling with harder drugs like heroin. Once a man took to hashish he found it difficult to let go, so long as it was available; a disruption of supplies would usually release him. Roughly 20–25 per cent of the hashish users developed a desire for stronger action, and most of these went on to heroin if it was available.

Obviously, supplies are the key to the problem. If narcotics are easily obtainable and efficiently pushed, the social workers and educators worrying about drugs might just as well take up golf, for all the good they can do. But cut off supplies and jail distributors, and the situation becomes manageable. Thus Iran has been able to reduce addiction merely by executing a dozen or so smugglers. Britain supplies more or less hopeless cases with a heroin ration under the National Health Service so as to keep them out of crime, but stern police measures have been found necessary to combat the pushers who attempt to propagate addiction.

It can be argued that narcotics of some kind should be made available on humanitarian grounds to people who work at humdrum jobs, have no creative or sporting talent, live in squalid cities, and are unable to get away on weekends to coast or countryside. Inexpensive drugs might also help eradicate much mindless juvenile delinquency, itself a form of escapism. This is a moral problem, however, and should be discussed as such by responsible public opinion. Certainly it should neither be resolved by the lobbying of commercial interests, nor neglected until society is faced with a *fait accompli.*

SENATE—*Tuesday, October 6, 1970*

(Legislative day of October 5, 1970)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. STEPHEN M. YOUNG, a Senator from the State of Ohio.

The Reverend Dr. Armando Silverio, pastor, Rolling Hills Baptist Church, Pittsburgh, Pa., offered the following prayer:

Our Heavenly Father, we know that You created the heavens and the earth, and that You are the giver of life. Very humbly we bow before Your throne this morning, and ask You to look this day with favor upon the gathering of our U.S. Senate.

We acknowledge Thee, Lord, as omnipotent, omniscient, and omnipresent. Our prayer is that You will be in our midst in every decision made this day by our Senate, and we ask Your leadership.

We pray that You will be with our armed services around the world, and especially our men in Vietnam. We thank You for the privilege of living in a God-fearing Nation and a democracy.

We pray, Lord, that the decisions made today will make our country, and the world, a better place in which to live. Today we depend upon You, Lord, and we ask You please to bless real, real good our President, our Senators, and our Nation, whose God is the Lord.

In Jesus' name we pray. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication from the President pro tempore of the Senate (Mr. RUSSELL).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 6, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. STEPHEN M. YOUNG, a Senator from the State of Ohio, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. YOUNG of Ohio thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. SCOTT. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, October 5, 1970, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 2176. An act to implement the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, and for other purposes;

S. 3822. An act to provide insurance for member accounts in State and federally chartered credit unions and for other purposes; and

S. 4247. An act to amend the Bankruptcy Act, sections 2, 14, 15, 17, 38, and 58, to permit the discharge of debts in a subsequent proceeding after denial of discharge for specified reasons in an earlier proceeding, to authorize courts of bankruptcy to determine the dischargeability or non-dischargeability of provable debts, and to provide additional grounds for the revocation of discharges.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. SCOTT. Mr. President, I ask unanimous consent that the following committees be authorized to meet during the session of the Senate today:

The Subcommittee on Internal Security of the Committee on the Judiciary; the Committee on Finance; the Committee on Foreign Relations; and the Subcommittee on Governmental Relations of the Committee on Government Operations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. SCOTT. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

U.S. CIRCUIT COURTS

The legislative clerk read the nomination of Max Rosenn, of Pennsylvania, to be a U.S. circuit judge for the third circuit.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. DISTRICT COURTS

The legislative clerk read the nomination of Cornelia G. Kennedy, of Michigan, to be a U.S. district judge for the eastern district of Michigan.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. SCOTT. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. SCOTT. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

LEGISLATIVE REORGANIZATION ACT OF 1970

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business, which the clerk will state.

The legislative clerk read as follows:

H.R. 17654. To improve the operation of the legislative branch of the Federal Government, and for other purposes.

The Senate continued with the consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the unanimous-consent agreement, it is ordered that further debate on the Javits amendment to H.R. 17654 be limited to 20 minutes, with the time to be equally divided and controlled by the manager of the bill and the Senator from New York (Mr. JAVITS).

The Senator from New York (Mr. JAVITS) is now recognized.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, this is an amendment which has a very interesting situation facing it in the Senate. So far as I know, both the manager of the bill and the ranking minority member have supported the amendment before and will support it again.

They feel bound, however, by their instructions with respect to the handling of the bill, which means that they will reject amendments on subjects which are not already accomplished in the Senate bill. Hence, they have been unable to accept this one.

This amendment is adequately described from a reading of it. I have sent a letter to every Senator which they have received in their offices and is also on their desks.

In brief, the amendment would seek only to effectuate a rule of the Senate that there shall be committee rules of procedure. It does not dictate what the rules shall be. It does not even make the rules conform to the rules of the Senate, as is the case in the other body where the rules of committees must conform to the rules of the House.

This amendment does no such thing. It provides only that there shall be rules and that they shall be published in the CONGRESSIONAL RECORD not later than March 1 of each year.

Most committees have rules. Some, like my own Government Operations Committee, have interesting, detailed, and admirable rules, but it is not universal. It seems to me that in an age of controversy, when witnesses are subpenaed from the outside and where there are great problems about the testimony which is given before committees, and authority in terms of reporting critically

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important legislation to the floor, the Senate at least should require committees to inform the public annually as to what their rules of procedure are. That is the only purpose of the amendment. I have given the reasons why the manager of the bill and the ranking minority member could not accept it. I hope very much that the Senate will approve it as a desirable reform, directly germane to any legislative reorganization bill.

On a previous occasion, a few years ago this amendment was in a reform bill and it was rejected, but I think we have learned since, in the current climate of our time, that such a reform is desirable and would inspire greater confidence on the part of the public.

I believe this is an idea whose time has come and that it should be approved.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. JAVITS. Mr. President, if I could have the attention of the manager of the bill, the Senator from Montana (Mr. METCALF)—and I yield myself 1 more minute for that purpose—I should like to state to the Senate that the reason we put this over for a vote until today was that Senators were not ready to vote last night, although the arguments had been quite fully made.

I took the precaution to inform Members by letter as to the pendency of the amendment and what it was all about. I have just stated that I was hopeful the manager of the bill and the ranking minority Member would vote for it, as they have before, and that the reason for not accepting the amendment was that their instructions were to confine themselves strictly to the particular items in the Senate bill.

Mr. President, I am ready to vote.

Mr. METCALF. Mr. President, I voted for this amendment in the committee. I supported the Monroney bill when it came to the floor. The distinguished Senator from Delaware (Mr. BOGGS) voted for this measure. This was a unanimous provision in the Monroney bill.

I felt that I could not accept the amendment only because of the ground rules we laid down to provide that we were going to support the Monroney bill. During the time, as the Senator from New York has pointed out, amendment after amendment was voted down. This was one of the amendments that was taken out of the bill.

I propose to vote for the amendment of the Senator from New York. I would suggest that he submit it to a division vote at this time and withdraw his request for a rollcall vote.

Mr. JAVITS. Mr. President, I would be perfectly willing to do that. At the suggestion of the manager of the bill, Mr. President, I ask unanimous consent that——

Mr. COTTON. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Mr. President, I withdraw my request and yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, it was my understanding that it was the position and contention of my friend, the Senator from New York, that no committees now have rules with the exception of the Committee on Government Operations.

Mr. JAVITS. Mr. President, the Committee on the Judiciary does also. Quite a few committees do. It is not a universal practice.

Mr. COTTON. Mr. President, the Committee on Commerce publishes rules. While such publication does not encompass a great body of rules, it does have rules. They are published in the committee's legislative calendar.

Mr. President, if the amendment of the Senator from New York should be adopted and become part of the pending bill, how detailed and elaborate would such committee rules have to be?

Mr. JAVITS. Mr. President, theoretically a committee can publish a page and say, "These are our rules." They might have nothing on the page. Under my amendment it would still qualify. Of course, no committee would do that.

I have no desire to dictate form, substance, or anything else. However, I think every committee should know that it ought to publish a set of rules, and that they ought to be revised periodically so that on the first of March each year, the world will know the rules in effect. The committee can make them long, short, adequate, or inadequate.

Mr. COTTON. Mr. President, in other words the Commerce Committee probably is complying with this provision at the present time?

Mr. JAVITS. Exactly, except for the requirement for the publication on a given date.

Mr. COTTON. It is published in the committee's legislative calendar.

Mr. JAVITS. The Senator is correct. This would now be published in the CONGRESSIONAL RECORD.

Mr. COTTON. Mr. President, I thank the Senator.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the yeas and nays on my amendment be vacated.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. METCALF. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a schedule listing the committees that do have rules and the way in which the rules are published.

There being no objection, the schedule was ordered to be printed in the RECORD, as follows:

COMMITTEE RULES, U.S. SENATE[1]

	Calendar	Multilith	None	Pamphlet
Aeronautical and Space Sciences	× (7)			
Agriculture			×	
Appropriations			×	
Armed Services	× (10)			
Banking and Currency	× (8)			
Commerce	× (4)			
District of Columbia			×	
Finance			×	
Foreign Relations				
Government Operations	× (2r)			
Subcommittee on Investigations	× (17)			
Interior and Insular Affairs			×	
Judiciary	× (3r)			
Subcommittee on Internal Security				× (4r, 12).
Labor and Public Welfare			×	
Post Office and Civil Service	× (16)			
Public Works			×	
Rules and Administration			×	
Nutrition		×		
Small Business		×		
Standards and Conduct		×		
Aging		×		
Total	8	4	8	1.

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[1] Number of committee rules in parentheses. r=resolution. We have indicated the source where one can find the rules.

Note.—Published rules=13. None available=8.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. METCALF. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I ask for a division.

The ACTING PRESIDENT pro tempore. All time having expired, the question is on agreeing to the amendment of the Senator from New York. On this question a division has been asked for. (Putting the question.)

On a division, the amendment was agreed to.

Mr. JAVITS. Mr. President, I thank the Senator from Montana and the Senator from Delaware. I think this is a very important reform. I hope very much that it will prove to be of great benefit.

Mr. GRIFFIN. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. GRIFFIN. Mr. President, as the senior Senator from New York has pointed out, the rules of congressional committees can be very important, particularly in situations where litigation turns on committee action or inaction.

I would think that a model or standard set of rules could be developed which every committee would be expected to adopt with such changes as might be necessary to accommodate particular problems of the committee.

I think it would be a good idea if the Committee on Rules and Administration or perhaps an ad hoc committee were designated to meet during the recess and seek to work out a model set of rules that would be available for consideration by the several committees when the new Congress convenes.

Mr. JAVITS. I think that would be admirable. Mr. President, I greatly appreciate the comments of the distinguished Senator from Michigan. I would hope very much that the majority leader and minority leader might decide as a question of policy whether to entrust the matter to the Policy Committee of each party or whether we should have some ad hoc group which would suggest the rules.

Mr. President, perhaps this will be a major reform which would establish a very fine attitude on the part of the public when they appreciate that we, too, have published rules, publicly announced and drafted with a sense of expertise and a sense of fairness to the individual witnesses and participants before the various committees. I think that it would be a great element in public confidence. I welcome and will follow through on the suggestion of the Senator from Michigan.

Mr. GRIFFIN. Mr. President, of course, let me say it would be well for those seeking to develop model rules for Senate Committees to take a good look at rules already in effect in the Committees of the House of Representatives as well as the Senate.

Mr. JAVITS. Mr. President, I think that is very desirable. We are dealing now with a relatively uncharted field. There are some excellent models. I think that we can use this provision if it becomes law. It would be very advantageous.

Mr. COTTON. Mr. President, would the Senator yield?

Mr. JAVITS. I yield.

Mr. COTTON. Mr. President, I suggest to the interested Senators now present that in dealing with this very important measure there is a related problem area. While the amendment of the Senator from New York is certainly, I think, a step in the right direction—and a very logical and orderly addition to the procedure—it will not make a single bit of difference how scrupulous and careful committees are in adopting and enforcing rules within the committee if a recent practice is continued. I now have reference to the practice of "tacking on" bills pending before one committee as an amendment to another committee's reported bill.

The ACTING PRESIDENT pro tempore. The Senate will be in order. During the remainder of the session attachés must be seated in the rear of the Chamber.

Mr. COTTON. Mr. President, I will state frankly that I endeavored this morning, with the assistance of the staff members, to try to draft an amendment which I was tempted to offer to this measure in order to end this practice.

For example, within the past 2 weeks I discovered that two bills referred to our Committee on Commerce—S. 3072 and S. 2425—have been adopted as amendments to two bills reported by the Committee on Public Works—S. 4358 and S. 4418—and passed by the Senate.

One of them—S. 3072—already had passed the Senate so there was no great objection. The other—S. 2425—however, had not been reported.

Now, because we are nearing the end of this Congress, I served notice in our Committee on Commerce that we were going to have a quorum present and voting on any controversial measures before they were reported.

In connection with the second bill—S. 2425—there had been controversy in the committee. I was very, very much opposed to it in its present form, as was the Department of Transportation, notwithstanding concurrence in its objective. There were other members of the committee who were dubious about it. But, we never had an opportunity to vote on it. I find, as I indicated earlier, that it was attached in the form of an amendment to a bill from another committee, and passed the Senate last week. I did not know about it until Friday night. I appreciate the concern of the chairman of our Committee on Commerce in offering the bill as an amendment to preserve committee jurisdiction and share it with him as the senior Republican on that committee. However, I do question the practice in principle.

I now learn that another bill, S. 2236 which would establish a Federal Insurance Guarantee Corporation or Agency is about to be proposed as an amendment to a bill from the Committee on Banking and Currency—S. 2348—which now is pending on the Senate calendar—Order No. 1236. S. 2236 has been the subject of determined and sharp controversy in our Commerce Committee.

If that sort of thing goes on what difference does it make if there are rules in committee or not? What difference does it make if it is said a measure is not going to be reported from committee unless a quorum is present and voting or, if as provided in section 108 of H.R. 17654, the report must be available for at least 3 calendar days before consideration by the Senate? If any Member objects on that ground, then someone need only attach the same measure, which is in controversy in the committee to which it was referred, to a similar bill—and sometimes a bill of not a similar subject—putting it through here when interested Senators are not in the Chamber. Then the committee wakes up only to find that the Senate passed the measure as an amendment without its knowledge, except for perhaps two or three Senators who were interested in the bill?

I am serving notice in connection with the measure I have just referred to—S. 2236—that when it comes up in the Senate I hope to be notified. I must say I hate to do it since I have never been involved in a long discussion, sometimes known as a filibuster, but I will certainly be able to consume 5 or 6 hours in debate on that bill if this procedure of offering it as an amendment is followed.

I am not, however, going to complicate the situation with respect to the bill, H.R. 17654, now under consideration by a last-minute amendment. I did give consideration to an amendment which would have provided that after x date in the year no legislation could be reported from any standing committee without the approval of the majority leader and minority leader, leaving open the opportunity to consider vital legislation. I also gave some thought to an amendment concerning this practice of attaching bills pending in committee in the form of amendments to other bills on the floor.

However, I did not want to prepare an amendment hastily and perhaps complicate this bill, H.R. 17654. But, I do wish to call the attention of Members of the Senate to the fact that this is a practice which I think should be avoided, if at all possible.

Mr. METCALF. Mr. President, will the Senator yield?

Mr. COTTON. I yield.

Mr. METCALF. Without adequate hearings, a record vote, and so forth, I would oppose such an amendment if it were offered at this time. However, I wish to assure the Senator that the junior Senator from Montana is in complete accord with his unhappiness with respect to attaching some of these measures to other bills. I shall certainly support the Senator if at the appropriate time he desires to offer an amendment, or change the rules of the Senate, or approach it in an orderly manner.

Mr. COTTON. I thank the Senator. He is fair, considerate, and wise, as he always is. I agree with him that it would be a mistake to offer a hastily improvised amendment and I shall not do so.

Mr. METCALF. I thank the Senator.

Mr. COOK. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. COOK. Mr. President I refer the Senator to page 46 of the bill, starting at line 5. I must admit to the Senator that this deals with conference reports. The provision on page 46 reads:

> If time for debate in the consideration of any report of a committee of conference upon the floor of the Senate is limited, the time allotted for debate shall be equally divided between the majority party and the minority party.

I inquire as to why on conference reports the time for debate is limited to the majority party and the minority party, rather than the proponents and the opponents. I call to the attention of the Senator this situation. Suppose that when a debate ensues there is not someone on one side of the aisle that is a proponent or that on the other side of the aisle there is not someone who is an opponent, or vice versa.

I have prepared an amendment that would delete the words "majority party and the minority party." and insert in lieu thereof "opponents and proponents." I am asking because it would seem to me we may find a situation where the time is being divided but there is no one on one side of the aisle who wishes to take up the gauntlet, while there may be two Senators on the other side diametrically opposed in their views on the conference report.

Mr. METCALF. When the joint committee originally reported this legislation in the previous Congress, the language read as suggested by the Senator from Kentucky: That the time would be controlled by the opponents and proponents of the conference report. The question of whether opponents and proponents should control the time or whether the time should be controlled by the House leadership was fought out very strenuously on the floor of the House. The

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language that the time on conference reports should be controlled by the leadership was placed in the bill by the House. My own experience with the leadership has been that I have never been turned down on a request to debate a conference report in this body. I have been turned down, as all of us have, in the other body, and this language makes a substantial improvement in the rules for handling conference reports in the House. I have never experienced any difficulty in getting time from the leadership. The other day the Senator from New York was the ranking minority member in connection with the manpower bill. He was supporting the conference report and yet he was yielding time to the other side.

I did not feel this provision was worth taking back to the House in a conference and the Senator from Delaware (Mr. BOGGS) agreed.

Mr. COOK. I might suggest that I agree. Would the Senator consider, then, an additional sentence on that section which would provide:

> And in the Senate the time shall be equally divided by the opponents and proponents.

Then, the distinction could well be made in the House. This seems rather odd language for the operation of the Senate, as I have observed in the short time I have been a Member of the Senate. It seems rather odd to say that on a conference report somehow the time has to be divided between the majority party and the minority party rather than the opponents and proponents, which has always been the case.

Mr. METCALF. Would the Senator withhold his amendment?

Mr. COOK. Absolutely.

Mr. METCALF. The Senator will have the opportunity to renew it.

The Senator from Montana and the Senator from Delaware are both inclined to accept it, but we would like to discuss it with the leadership and Senators who would have to be on conference committee.

Mr. COOK. I will withhold it.

AMENDMENTS NO. 1017

Mr. BYRD of West Virginia. Mr. President, on behalf of the junior Senator from North Carolina (Mr. JORDAN), who is unavoidably absent on Senate business, I call up amendments No. 1017 to H.R. 17654 and ask that they be stated by the clerk.

The ACTING PRESIDENT pro tempore. The clerk will read the amendments.

The legislative clerk proceeded to read the amendments.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments (No. 1017) are as follows:

On page 94, line 7, strike out "and Congressional Research".

On page 95, line 13, strike out "and Congressional Research".

On page 103, line 1, strike out "and Congressional Research".

Beginning with line 1, page 104, strike out all to and including line 5, page 110.

On page 110, line 6, strike out "PART 4", and insert in lieu thereof "PART 3".

On page 110, line 10, strike out "SEC. 341", and insert in lieu thereof "SEC. 331".

On page 111, line 17, strike out "SEC. 342", and insert in lieu thereof "SEC. 332".

On page 3, in that portion of the table of contents relating to title III of the bill, strike out all matter relating to part 3 thereof (including sections 331 and 332 thereof).

On page 3, in that portion of the table of contents relating to title III of the bill, strike out all matter relating to part 4 thereof, and insert in lieu thereof the following:

PART 3—PARLIAMENTARY PRECEDENTS OF THE HOUSE OF REPRESENTATIVES

Sec. 331. Periodic compilation of parliamentary precedents of the House of Representatives.
Sec. 332. Periodic preparation by House Parliamentarian of condensed and simplified versions of House precedents.

Mr. BYRD of West Virginia. I am speaking on this amendment on behalf of the junior Senator from North Carolina (Mr. JORDAN), who is absent on official business.

Part 3 of title III of H.R. 17654 would abolish the Joint Committee on the Library and substitute therefor a new entity entitled the Joint Committee on the Library and Congressional Research. The Jordan amendment would simply delete said part 3 from the bill, and retain the Joint Committee on the Library as it is now constituted, with its present functions and authority.

Inasmuch as the distinguished junior Senator from North Carolina (Mr. JORDAN) is the present chairman of the Joint Committee on the Library, and since during his entire tenure on the joint committee he has served in alternate years either in that capacity or as vice chairman, there is undoubtedly no Member of the Congress more experienced or knowledgeable on matters relating to the Library of Congress. Consequently his views on the radical changes in the Joint Committee on the Library proposed by H.R. 17654 are deserving of the most serious and sympathetic consideration by the Senate. Inasmuch as he has not been consulted on these proposed sweeping changes, and since the parliamentary situation in the Senate precludes him from addressing his views to the appropriate committee of the Senate, he has found it necessary to present his position in the form of this amendment.

In essence, the junior Senator from North Carolina (Mr. JORDAN) contends that the proposal contained in part 3 of title III of H.R. 17654 is unnecessary and undesirable, and that it would involve considerable additional expenditures without adequate justification. Moreover, the proposal would do violence to the accepted principles of committee jurisdiction and majority control of the Congress. The reasons for these contentions will become readily apparent as I proceed.

Since January 3, 1947, when the Legislative Reorganization Act of 1946 became effective, the Joint Committee on the Library has consisted of the chairman and four other members of the Committee on Rules and Administration of the Senate and the chairman and four other members of the Committee on House Administration of the House of Representatives. I ask unanimous consent that the pertinent provisions of that act, now codified as section 132b of title 2 of the United States Code, be inserted in the RECORD at this point.

There being no objection, the provision was ordered to be printed in the RECORD, as follows:

> § 132b. Joint Committee on the Library.
>
> The Joint Committee of Congress on the Library shall, on and after January 3, 1947, consist of the chairman and four members of the Committee on Rules and Administration of the Senate and the chairman and four members of the Committee on House Administration of the House of Representatives. (Aug. 2, 1946, ch. 753, title II, § 223, 60 Stat. 838.)

Mr. BYRD of West Virginia. Mr. President, another section of the same act provided that the Joint Committee on Printing should be similarly constituted: that its membership would consist of the chairman and two other members of the Committee on Rules and Administration and the chairman and two other members of the Committee on House Administration. Since the Reorganization Act of 1946 provided that those two committees would in their respective Houses have practically exclusive jurisdiction over matters relating to the Library of Congress and over congressional printing, it was natural and proper that the joint committee memberships come from those committees. The rationale that was employed then is just as valid today.

It is at least interesting to note that H.R. 17654 does not seek to broaden the membership of the Joint Committee on Printing, even though the potential value to Congress of new technological advances in printing is just as apparent as are the benefits to be derived by the expansion under the bill of the present Legislative Reference Service.

Mr. President, at this point I ask unanimous consent to insert into the RECORD the short explanation for proposing the reconstitution of the present Joint Committee on the Library, which is contained in House Report 91–1215, to accompany H.R. 17654.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

(Excerpt from page 19 of House Report 91–1215, to accompany H.R. 17654, the Legislative Reorganization Act of 1970)

Management of CRS

> Because its new duties will involve the Congressional Research Service in a most vital function of the legislature, the supervision of its work will be a matter of intense interest to the whole Congress. We therefore propose that the present Joint Committee on the Library be reconstituted as the Joint Committee on the Library and Congressional Research, and that its membership be broadened to make it more generally representative of both Houses.

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> CRS will fulfill its responsibilities properly only if the Joint Committee provides close and aggressive support and leadership. We envision the Joint Committee as a managing board, providing CRS both with policy guidance and with assistance in securing the resources the agency will require.
>
> The new Joint Committee will have 12 members, equally divided between the two major parties. Its six House members will be appointed by the Speaker, two from the Committee on House Administration. The Senate's President pro tempore will appoint six Senators, two from the Senate Committee on Rules and Administration. Although the Joint Committee will choose its own chairman and vice chairman, the chairmanship will alternate between the two Houses and the vice chairman will not be of the same party as the chairman. The Joint Committee is directed to file an annual report on the Library and with special reference to the Congressional Research Service, and it is provided professional and clerical staff to assist in carrying out its responsibilities.

Mr. BYRD of West Virginia. Mr. President, I call attention to the statement of explanation and justification given in the House report for the sweeping changes in the Joint Committee on the Library proposed by H.R. 17654. It is worthy of note that that statement is primarily one of explanation of the proposal and that it contains very little in the nature of justification. Taken in sequence, the points of that statement, together with our view thereon, are as follows:

First. Because its new duties will involve the Congressional Research Service in a most vital function of the legislature, the supervision of its work will be a matter of intense interest to the whole Congress. We therefore propose that the present Joint Committee on the Library be reconstituted as the Joint Committee on the Library and Congressional Research, and that its membership be broadened to make it more generally representative of both Houses.

The Legislative Reference Service already is performing and for a long period has performed a vital function in respect to the operation of the Congress. All Members of Congress are already aware of the excellent professional services available to them from this important department of the Library of Congress. The functions of LRS have continuously been expanded to meet the ever increasing needs of the Congress. The Joint Committee on the Library as presently constituted has kept abreast of that expansion as well as with other advances of the Library. There is no evidence to the effect that the present joint committee could not just as adequately exercise the desired oversight of the proposed Congressional Research Service. Also, it is difficult to imagine how broadening the membership of the joint committee to include Members of Congress serving on committees not having jurisdiction over Library matters could improve the competence of the joint committee.

Second. CRS will fulfill its responsibilities properly only if the joint committee provides close and aggressive support and leadership. We envision the joint committe as a managing board, providing CRS both with policy guidance and with assistance in securing the resources the agency will require.

The strong implication here is that the present Joint Committee on the Library does not provide "close and aggressive support and leadership" in matters relating to the Library of Congress, and that it does not assist the Library in securing the resources it requires.

To the contrary, the present joint committee is an active oversight and policymaking group for the Library. It is true that the Joint Committee on the Library does not meet as a body as frequently as some joint committees. This is so, however, only because the joint committee has found it expedient to delegate considerable authority to its chairman and vice chairman. The Librarian of Congress consults with both the chairman and the vice chairman on a frequent and regular basis. During calendar year 1970 to date the Librarian has personally contacted the chairman or vice chairman on 22 occasions, and has written to them on 50 occasions. Liaison between the staff of the Library and the staffs of the two administration committees occurs with similar frequency.

If the pace of Library activities expands by virtue of enactment of H.R. 17654, there is no reason whatsoever why the joint committee as presently constituted could not or would not expand its activities correspondingly.

In respect to assistance to the Library in securing the resources it needs, I point out that the present chairman of the Joint Committee on the Library (Mr. JORDAN of North Carolina) is also the chairman of the coordinating committee on the construction of the Library's third building, the Madison Memorial Library. The Librarian always seeks the counsel of the chairman and vice chairman during the development and before implementation of new Library programs. The Library always consults with the joint committee concerning legislation of interest to the Library and about testimony it may wish, or be called upon, to offer on such legislation. Members of the joint committee frequently testify before other congressional committees on Library affairs.

Furthermore, the chairman and vice chairman of the joint committee frequently meet with other Members of Congress and with members of the general public to hear, discuss, and resolve their complaints or suggestions concerning the Library. In all of these activities the other members of the joint committee participate to the degree their schedules permit.

In summary, the present Joint Committee on the Library, particularly through its chairman and vice chairman, does provide constant and continuous policy guidance for the Library of Congress and all of its elements.

Third. The new joint committee will have 12 members, equally divided between the two major parties. Its six House members will be appointed by the Speaker, two from the Committee on House Administration. The Senate's President pro tempore will appoint six Senators, two from the Senate Committee on Rules and Administration.

Unless the Congress is prepared at this point to depart from two well established principles, the above proposal should not even receive serious consideration. I refer, of course, first, to the practice under which the party in control of Congress exercises the right of control of the operation of its committees, and second, to the logical and well established principle that the membership of joint committees of the Congress should be drawn from those committees having jurisdiction over the subject matter. In respect to the first point above, it seems superfluous to add that a joint committee composed of equal representation from the majority and the minority could be entirely ineffective and could arrive at a stalemate on any major policy decision involving party considerations.

To this I would note that if the proponents of this portion of the bill were consistent, they would also propose—as I previously indicated—that the Joint Committee on Printing also be reconstituted to include members from committees not having jurisdiction over printing, but who by virtue of that fact would be better qualified to make judgments in respect to the many technological advancements in that area.

Fourth. Although the Joint Committee will choose its own chairman and vice chairman, the chairmanship will alternate between the two Houses and the vice chairman will not be of the same party as the chairman.

On this point I believe it sufficient to say that for the past several years the chairmanship of the Joint Committee on the Library has passed in alternate years from the chairman of the Committee on House Administration to the chairman of the Committee on Rules and Administration. It is my considered judgment that should our present minority become the majority, they would prefer to follow the same arrangement.

Fifth. The joint committee is directed to file an annual report on the Library and with special reference to the Congressional Research Service, and it is provided professional and clerical staff to assist in carrying out its responsibilities.

The proposal that the Joint Committee on the Library file an annual report is, of course, reasonable and logical. This desirable objective could be attained, however, without a drastic reconstitution of the joint committee.

The staffing of the joint committee, at least at this point, is totally unnecessary and would constitute an unjustifiable additional expenditure of the taxpayers' money. In alternate years the respective staffs of the Committee on House Administration and of the Committee on Rules and Administration have adequately and competently discharged the staff functions of the Joint Committee on the Library. If the necessity should arise, those staffs could be expanded for the purpose.

Mr. President, in view of the fact that the House report to accompany H.R. 17654 has expressed little if any justification for the reconstitution of the present Joint Committee on the Library, and in consideration of the many valid arguments I have presented for the deletion of part 3 of title III of that bill, I urge the adoption of this amendment, which

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has been submitted by the distinguished junior Senator from North Carolina (Mr. Jordan).

The ACTING PRESIDENT pro tempore. The Chair wishes to know from the Senator from West Virginia whether it is his desire that the amendments be considered en bloc.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METCALF. Mr. President, substantial changes were made in the Legislative Reference Service by the House bill. Additional duties were given to the Legislative Reference Service. The committee felt it was necessary to give additional status and additional stature to the Joint Committee on the Library. At the present time the Joint Committee on the Library consists of the chairman and members of the House Committee on Administration and the chairman and members of the Senate Committee on Rules and Administration. In order to provide for administration of the additional duties and the augmented capacities and additional responsibilities of the Legislative Reference Service, a rather complex Joint Committee on the Library was established.

Yesterday I called Members of the House who had offered this proposal on the floor and asked them if they would consent to the amendment of the Senator from North Carolina which would restore the jurisdiction of the present Joint Committee on the Library and then we could see whether or not the present committee could take care of these additional duties and augmented responsibilities. Then, if another staff or other members were required, we consider that at some later date.

Under the bill as it was originally proposed, this committee was not included. The Senate bill retained the present Joint Committee on the Library and provided that it would have an additional staff to take care of additional duties, it provided, too, that there be an annual report, but the provisions were not nearly as extensive as those added by the House bill.

I would, as a part of the legislative history, and in accepting this amendment and going back to the present system, I would like to suggest to the cochairman of the joint committee that there be an annual report. Then, without any further debate, I am willing to accept the amendment offered by the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, if the Senator will yield, it is my understanding, after talking with the staff of the Senate Committee on Rules and Administration, that that would be very acceptable. There is no objection on the part of the Senator from North Carolina (Mr. Jordan) to having such an annual report. As a matter of fact, he would support the suggestion.

Mr. METCALF. I am certain the members of the House Committee on Administration would also support it, because they have supported annual reports as provided in the amendment being offered.

Mr. BYRD of West Virginia. Mr. President, if the Senator will yield, I thank the able manager of the bill for his expressed willingness to accept the amendment and take it to conference.

Mr. METCALF. I hope we do not go to conference. I have talked with the House Members and asked what the position of the House was on these various amendments. I refer to the manager of the bill and some of the Members who offered the amendment on the floor of the House and who are trying to improve the capabilities of the Legislative Reference Service. All of them said that if this was a matter of concern to Members on the Senate side, they would try to get along with the present situation and if we needed further staff or another committee, we could do it at a later date.

Mr. BYRD of West Virginia. Mr. President, if the Senator will yield, I am sure the able Senator from North Carolina (Mr. Jordan) would want to express appreciation for that understanding on the part of the Members of the House. I share the feeling of the Senator from Montana with respect to avoiding a conference.

Mr. METCALF. It would be my hope that the Senator from North Carolina would heed the admonition that there be an annual report.

Mr. BYRD of West Virginia. I am sure the Senator from North Carolina will heed that admonition. I thank the distinguished Senator from Montana.

Mr. BOGGS. Mr. President, I just want to comment that this provision would restore the provisions contained in the Senate bill on the Committee on the Library and that were included in the bill passed in 1967. So I am in accord with the floor manager in acceptance of the amendment.

Mr. BYRD of West Virginia. Mr. President, I thank the able Senator from Delaware.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendments (No. 1017) offered by the Senator from West Virginia.

The amendments were agreed to.

PRIVILEGE OF THE FLOOR

Mr. BOGGS. Mr. President, I ask unanimous consent that Mr. George Meador, a former Member of the other body and a former staff member of the joint committee, who worked on this matter for 2 years, be given permission to be on the floor during consideration of this measure, as a help to Senators.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1018

Mr. McCLELLAN. Mr. President, I call up my amendments No. 1018, and I send to the desk a modified version. I ask that the amendment be modified according to the version I now send to the desk.

The ACTING PRESIDENT pro tempore. The clerk will read the amendment as modified.

The legislative clerk read the amendments (No. 1018) as modified, as follows:

Amendment No. 1018

On page 6, lines 23 and 24, strike out "(except the Committee on Appropriations)".

On page 9, lines 24 and 25, strike out "(except the Committee on Appropriations)".

On page 11, line 24, strike out "(except the Committee on Appropriations)".

On page 13, line 14, strike out "except" and insert in lieu thereof "including".

On page 15, lines 14 and 15, strike out "(except the Committee on Appropriations)".

On page 18, line 8, strike out "except", and insert in lieu thereof "including".

On page 20, between lines 16 and 17, insert the following new subsection:

"(d) Section 139(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190f(a)) is repealed."

On page 21, strike out all in line 7, and insert in lieu thereof the following new section caption: "COMMITTEE FUNDS AND SENATE APPROPRIATION COMMITTEE EXCEPTION".

On page 21, line 11, strike out the word "subsection", and insert in lieu thereof the words "subsections".

On page 21, lines 12 and 13, strike out "(except the Committee on Appropriations)".

On page 22, line 24, strike out the closing quotation marks and the period which appears last therein.

On page 22, between lines 24 and 25, insert the following new quoted subsection:

"(h) Except as otherwise specifically provided by this section, the foregoing provisions of this section do not apply to the Committee on Appropriations of the Senate.".

On page 2, in that portion of the table of contents relating to title 5 of the bill, strike out the item relating to section 110 thereof, and insert in lieu thereof the following:

"Sec. 110. Committee funds and Senate Appropriations Committee exception."

Beginning with line 3, page 67, strike out all to and including line 4, page 68.

On page 68, line 5, strike out "(f)", and insert in lieu thereof "(b)".

On page 68, line 10, strike out "(g)", and insert in lieu thereof "(c)".

Mr. McCLELLAN. Mr. President, I believe the manager of the bill is just as familiar with the amendments as I am. I have discussed them with him. We agreed to certain modifications of the amendments, which I have made. I trust the manager of the bill will take the amendments to conference and maintain them in the bill.

Mr. METCALF. Mr. President, this amendment deals only with procedures of the Senate Committee on Appropriations. So, whether we go to conference or not, appropriately the duty of the conferees would be to sustain this amendment.

Mr. McCLELLAN. Yes. I said I hope the Senator will retain it.

Mr. METCALF. So, if the amendment is accepted I think it will be retained in the bill.

This amendment deals with procedures of the Senate Committee on Appropriations as contained in title I and title II of H.R. 17654. The amendment is a result of my discussions with Senator Russell, the distinguished chairman of the committee and the distinguished Senator from Arkansas, Senator McClellan.

This amendment recognizes that the appropriations process is indeed a separate and distinct procedure. Accordingly, the provisions of title I of the bill are not made applicable to the Appropriations Committee. This is in line with the action taken by the Senate in 1967 in its consideration of S. 355.

There are a number of provisions in

title II of S. 355 and of S. 844, as reported by the Senate Government Operations Committee last year, which were not included in H.R. 17654. These provisions imposed certain requirements on the Appropriations Committee in the manner of presentation of committee reports and in the consideration of appropriations bills on the floor. After discussions with Senator RUSSELL and Senator MCCLELLAN, I have concluded that these provisions are unnecessary—I will ask the distinguished Senator from Delaware to respond to that in a moment—and I shall not offer them to the pending legislation.

H.R. 17654 also provides a mandatory requirement for hearings on the budget as a whole by both the Senate and House Appropriations Committees. We believed that such a hearing is essential and beneficial since it enables the entire Congress to focus on general budgetary priorities and a report of the hearings would be available to all Members; and many Members of both the House of Representatives and the Senate have asked for public hearings on the whole comprehensive budget. The House Appropriations Committee had been in the practice of holding hearings, but they were executive hearings, a report was not printed for many months, and the information on the hearings was not available to the Members who were not on the Appropriations Committee.

There were two things to be desired. One was that sometime early in the session, the Appropriations Committee take an early and comprehensive look at the budget. The other was that Members who were not on the Appropriations Committee have an opportunity to participate in the report and discussion of this early look at the budget. At that time, the bill was in the Senate first, and we could not tell the House of Representatives that it should hold hearings and not provide the same hearings for the Senate. The bill now provides that these hearings shall be open, and that they shall be held by the House of Representatives, where appropriations measures originate as a matter of longstanding practices; so it does seem unnecessary to have such hearings in both Houses. Accordingly, I have acceded to the wishes of Chairman RUSSELL and I am agreeing as a part of this amendment to strike the mandatory provision from this bill.

Of course, there is no reason why such a hearing may not be held if the committee wishes to do so.

Mr. McCLELLAN. Or, if the chairman will yield, a majority of the committee.

Mr. METCALF. Or a majority of the committee.

Mr. McCLELLAN. In other words, they are not precluded from holding such hearings. The House will hold them, and they will be public.

Mr. METCALF. And make a report.

Mr. McCLELLAN. It would not ordinarily, in my judgment, be necessary for the Senate to duplicate that action.

Mr. METCALF. And are we in accord on the matter of the report?

Mr. McCLELLAN. Yes.

Mr. METCALF. However, we have agreed that one procedure is important to insure that appropriations bills reflect the views of the entire committee membership when they are reported. There has been some ambiguity as to the requirement for a majority quorum to report an appropriations bill. The Appropriations Committee has followed such a requirement as a matter of practice. We would, by this amendment, write this practice into law and eliminate any ambiguity by specifically requiring a quorum for this purpose.

Mr. McCLELLAN. I have been on the Appropriations Committee for about 20 years, and I do not recall ever having noted that a bill was reported except when a quorum was present.

Mr. METCALF. I have understood that is the present practice of the committee.

Mr. McCLELLAN. And I doubt the need for this provision, but as the Senator says, it probably does no harm. I have never known the practice to be departed from. It is perfectly all right.

Mr. METCALF. It resolves an ambiguity in the present rules.

Mr. BOGGS. Mr. President, as both a member of this committee and of the Appropriations Committee, I wish to state that the distinguished floor manager has made a very able and fine statement in regard to this matter, and I commend the chairman of the Appropriations Committee (Mr. RUSSELL) and the Senator from Arkansas (Mr. MCCLELLAN), who have offered the amendment, for offering it. I move that the amendment be accepted.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment (No. 1018) of the Senator from Arkansas.

The amendment was agreed to.

Mr. COOK. Mr. President, I send to the desk an amendment—or I shall send it to the desk in just a moment. I know this is going to cause some debate and confusion, and I want to say first that I wish some of the Senators would stay, because I intend to ask for the yeas and nays.

On page 140 of the bill—and if Senators will read the report, at page 24 there—the minimum age of the pages is raised from 14 to 16. The House of Representatives, if Senators will read the report, wanted the minimum age to be after the 12th year of high school.

I have an amendment which strikes from line 3 the words "Senate or," and adds a new section after line 6, which reads:

> A person shall not serve as a page of the Senate—
>
> (1) before he has attained the age of fourteen years; or

I send the amendment to the desk, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. COOK. I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COOK's amendment is as follows:

> Delete that part of line 3 on page 140 beginning with the word "Senate" and ending with the word "or" and add a new section at the end of line (6) which shall read as follows:
>
> "A person shall not serve as a page of the Senate—
>
> (1) before he has attained the age of fourteen years; or"

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. McCLELLAN. The minimum age would be 14, and what would be the maximum?

Mr. COOK. The maximum age would stay, in accordance with the House provision, at age 18.

I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. COOK. Mr. President, it used to be that a page could be 12 years old. The minimum age was raised to 14, and it is now proposed to raise it to 16.

I point out to Senators—and I hope this will not embarrass him—that the No. 1 floor boy on the Republican side, Mr. Scott, attained the age of 15 years in June. He has been able to do his job so well that he has been put in charge of the other pages. The other pages are of the ages of 15 and 16.

I do not know why it should be necessary that we increase this minimum age by 2 years. As a matter of fact, I might even suggest, Mr. President, that it has been stated to me by a part of the staff in charge of them that the older they get, the harder they get to work with. So I can only say that I think this is doing away with a great tradition. I think we are seeing so many young people throughout this country who would like to be pages in the U.S. Senate that it is now proposed that they have to wait until they are 16. I might suggest, Mr. President, that if we go through the age of 18, we might have to permit some of our pages to leave the Senate because they may be called to serve their country.

I think this would be doing away with a tradition that I want to fight for, frankly, Mr. President, and I see no reason to make a determination of this kind when the history of the Senate started with pages at the age of 12. We then raised the minimum age to 14, and it is now sought to raise it to 16.

I see no grandfather clause in this bill, Mr. President; so I guess that if the bill were passed and signed by the President, every one of these youngsters who has not attained his 16th year would have to leave. Mr. President, I submit that I for one do not intend to impose that kind of restrictive obligation on these young men under these circumstances.

Mr. BOGGS. Mr. President, I might comment that I have no particular objection to the Senator's amendment to keep the age limit in the Senate at 14.

I think the other body wrote in the age limits of 16 to 18 in contemplation of an authorization for the page school, the idea being to have pages of about similar ages in similar grades, to facilitate the operation of the proposed McCormack Page School. Personally, I think that this body should have a right to set the age of its own pages and that the other body should have the right to set the ages of its pages.

Is the Senator's amendment restricted to the Senate?

Mr. COOK. Yes.

Mr. BOGGS. And it would leave the other body with pages aged 16 to 18?

Mr. COOK. Yes.

If the Senator will turn to page 140 of the bill, starting at line 3, I will read:

> A person shall not serve as a page of the Senate or House—

My amendment removes the words "Senate or".

Now I refer the Senator to line 5, which reads:

> before he has attained the age of 16 years—

After line 6, I add a new section which reads:

> A person shall not serve as a page of the Senate—before he has attained the age of 14 years.

Mr. BOGGS. So it applies only to this body.

Mr. COOK. So the House may maintain its own standards, and the Senate may maintain its own standards.

Mr. METCALF. Mr. President, there is a grandfather clause that provides for the pages of the age of 14 to be "grandfathers."

Mr. COOK. That is good. I did not get that far.

Mr. METCALF. In the joint committee, we went the other way. Senator MONRONEY was a proponent of pages of college age, and he wanted to have all the pages of college age. Already we have committed ourselves to pages who are under college age because of the John McCormack School. If we go to the proposal of pages of college age, we will have a school without any students.

If any Senator feels strongly about it, I believe we should cooperate with the House of Representatives. As the Senator from Kentucky has pointed out, a 15-year-old page has done a remarkable job, and other 14- and 15-year-old pages have done equally remarkable jobs.

If the Senator from Delaware would consent, I would accept the amendment, and the Senator could withdraw his——

Mr. COOK. I would withdraw my unanimous-consent request for the yeas and nays if I felt that we would sincerely fight for this in conference.

Mr. METCALF. This would not be in conference.

Mr. BOGGS. This would apply only to the Senate.

Mr. COOK. All right.

Mr. METCALF. In the first place, we do not want to go to conference; and, in the second place, it will not be in conference. It applies only to the Senate.

Mr. COOK. With that in mind, I withdraw my request for the yeas and nays and merely ask that it be done on the basis of a voice vote.

The PRESIDING OFFICER (Mr. McINTYRE). Does the Senator ask unanimous consent?

Mr. COOK. I ask unanimous consent that the order for the yeas and nays be vacated.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I do not know whether I shall object—I must say, very frankly, that it would be very unfortunate if we should begin now to make a number of changes in this bill. I recognize the perfect right of the Senator from Kentucky to offer this amendment; he is within his rights. But this matter was carefully discussed and debated before. As the distinguished Senator from Montana has already indicated the bill adopted earlier by the Senate required that only college-age students could serve as pages.

I share the high opinion expressed concerning the excellent pages we have now in the Senate, particularly the head page, who happens to be under the age of 16. But he would be protected, of course, by a grandfather clause in the bill.

We have a problem here in the city of Washington, a problem which has become more and more acute in recent years. Unfortunately, some areas of the city—and I refer to areas close to the Capitol Building—are not desirable places for young people, 14 years of age, to live—without the guidance and supervision of their parents. This has concerned a number of Members of both Houses of Congress for a number of years. So far, I must say, we have not done much about the problem.

Of course, we can establish an age bracket for Senate pages that is different from the ages established for House pages. But this will create difficulties. The pages will go to the same school. The school is set up especially for the pages of the Senate, the House and the Supreme Court. It would be much better if the pages coming to school were in the same age bracket.

I am reluctant to accept this amendment if there is no intention of going to conference. If the Senator feels that strongly about his amendment, perhaps we ought to go to conference with the House and see whether there can be argument upon an age limit for pages in both Houses, whether it is 14, 15, or 16. Frankly, I think 16 is a good compromise between the provisions that were in the Senate-passed bill, which required that pages be of college age, and the provision in effect now, which allows pages to be 14.

On reflection, I think we should vote on this amendment, and I hope it will be rejected, I say most respectfully to the Senator from Kentucky.

Mr. COOK. May I say to the Senator, in all fairness, that I did not think this was going to cause such a degree of consternation on his part, because there are other sections in the rules that create new committees, new staffs, and new payrolls that are far more obnoxious to this Senator than lowering the age of pages to 14 years, which is the age now and has been for a long, long time.

I might say to the Senator from Michigan that I am delighted that the Senate took the position of going the other way, because I cannot imagine having a row of young people sitting on the steps who are college graduates or who are in college. I say to the Senator that if these rules apply to the Senate and they are our rules, it has been said to me by those who are in charge of the pages that they would absolutely prefer that the age stay at 14 years. They have absolutely said to me that the older the young men get, the more difficult they may be to handle in regard to their duties and their responsibilities.

This is a matter of tradition that I am really not willing to give up. If we are going to have a major discussion about it, I will renew my request for the yeas and nays.

Mr. METCALF. Mr. President, reserving the right to object—and we are still on the unanimous-consent request—let me say to the Senator from Michigan, who served on the joint committee as a Member of the other body and whose continuing interest in legislative reform has been a great deal of assistance in bringing this bill to the floor, that it was because of the action of the House in creating a dormitory for pages and going into this whole problem that we have answered some of the problems with which we have been confronted with respect to young boys living without supervision in the city of Washington.

They will be residents of a dormitory. They will participate in and go to a school that will ultimately be an accredited high school. We are about to lose our accreditation of the high school because we do not have the proper library or the proper facilities.

In view of the action of the House, this Senator thought we would be willing to go along with the amendment of the Senator from Kentucky.

Mr. GRIFFIN. Mr. President, further reserving the right to object, I know the deep interest the Senator from Montana has and the deep interest the Senator from Delaware has in getting a reform bill passed, and I share that interest.

But I fear we are in a position here where we may be bending too much in an effort to make sure we will not have to go to conference. There is no question in anyone's mind, I am sure, that it would be desirable—not only as to the age of pages but also as to a number of the other housekeeping matters affecting both sides of the Capitol, if there could be agreement between the House and the Senate.

There is no particular need or justification for a variation as between the House and the Senate in age of pages. To have an age difference will be inconvenient and difficult. I think it would be too bad. Accordingly, Mr. President, I do object in order that we can have a rollcall vote.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment of the Senator from Kentucky (Mr. COOK).

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Minnesota (Mr. McCarthy), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), the Senator from Georgia (Mr. Russell), and the Senator from Missouri (Mr. Symington) are necessarily absent.

I also announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Rhode Island (Mr. Pell), the Senator from Alabama (Mr. Sparkman), and the Senator from Ohio (Mr. Young) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) and the Senator from Missouri (Mr. Symington) would each vote "yea."

I further announce that, if present and voting, the Senator from Oklahoma (Mr. Harris) would vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from Hawaii (Mr. Fong), the Senator from New York (Mr. Goodell), the Senator from California (Mr. Murphy) and the Senator from Illinois (Mr. Smith) are necessarily absent.

The Senator from New York (Mr. Javits) and the Senator from Oklahoma (Mr. Bellmon) are absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from California (Mr. Murphy) would vote "yea."

On this vote, the Senator from New York (Mr. Goodell) is paired with the Senator from South Dakota (Mr. Mundt). If present and voting, the Senator from New York would vote "yea" and the Senator from South Dakota would vote "nay."

The result was announced—yeas 48, nays 19, as follows:

[No. 352 Leg.]

YEAS—48

Allen
Allott
Baker
Bayh
Bible
Boggs
Brooke
Byrd, W. Va.
Case
Cook
Cooper
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Gurney
Hansen
Hatfield
Holland
Hruska
Jordan, Idaho
Magnuson
Mansfield
Mathias
McClellan
Metcalf
Miller
Packwood
Pearson
Percy
Randolph
Saxbe
Schweiker
Scott
Smith, Maine
Stennis
Stevens
Talmadge
Thurmond
Tower
Tydings
Williams, N.J.
Williams, Del.
Young, N. Dak.

NAYS—19

Anderson
Bennett
Byrd, Va.
Church
Cotton
Griffin
Hart
Hollings
Hughes
Inouye
Jackson
McGovern
McIntyre
Mondale
Nelson
Proxmire
Ribicoff
Spong
Yarborough

NOT VOTING—33

Aiken
Bellmon
Burdick
Cannon
Dodd
Fannin
Fong
Fulbright
Goldwater
Goodell
Gore
Gravel
Harris
Hartke
Javits
Jordan, N.C.
Kennedy
Long
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Muskie
Pastore
Pell
Prouty
Russell
Smith, Ill.
Sparkman
Symington
Young, Ohio

So Mr. Cook's amendment was agreed to.

Mr. COOK. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

Mr. BOGGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, I call up my amendment No. 1004.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the Record.

The **PRESIDING OFFICER.** Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

On page 6, line 23, immediately after the subsection designation "(a)", insert the following new sentence: "The chairman of each standing, select, and special committee of the Senate shall be chosen by majority vote of the members thereof who are members of the majority party, and the ranking minority member of each such committee shall be chosen by majority vote of the members thereof who are members of the minority party."

Mr. PACKWOOD. Mr. President, in a sentence, this is an amendment to eliminate the seniority system in the Senate.

Mr. METCALF. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. METCALF. Mr. President, this is one of the important amendments that will be offered to the bill. At the same time I know many of our colleagues would like to know when the rollcall vote will come. I wonder if the Senator from Oregon would agree to a time limitation.

Mr. PACKWOOD. I would be happy to. One-half hour on each side?

Mr. METCALF. One-half hour on each side.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. GRIFFIN. Would the Senator make provision for amendments to the amendment or substitutes therefor?

Mr. METCALF. Mr. President, I ask unanimous consent that the time on this amendment and amendments thereto be limited to 1 hour, the time to be controlled equally between the Senator from Oregon and the manager of the bill, the Senator from Montana.

The **PRESIDING OFFICER.** Does the Senator from Montana mean 1 hour on this amendment and 1 hour on any amendment to the amendment?

Mr. METCALF. One hour on this amendment and any amendment thereto, or a total of 1 hour.

The **PRESIDING OFFICER.** Is there objection?

Mr. METCALF. Mr. President, I withdraw my previous unanimous-consent request.

Mr. President, have the yeas and nays been ordered?

The **PRESIDING OFFICER.** No.

Mr. PACKWOOD. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. METCALF. Mr. President, I ask unanimous consent that there be a vote on this amendment at 2:30 p.m., and if debate on this amendment is concluded that we be able to set it aside and take up other amendments, but that the vote be at 2:30 p.m.

The **PRESIDING OFFICER.** Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to objection, and I shall not object, what is the situation with respect to any amendment to the amendment or a substitute for the amendment?

The **PRESIDING OFFICER.** As the Chair understands, there is not time limit on any amendment to be offered to the pending amendment, but an amendment could be offered at any time up to 2:30, and whatever time is remaining but not consumed on the pending amendment would be available for amendments to the amendment.

Mr. GRIFFIN. And a vote on an amendment would be taken at 2:30 p.m.?

The **PRESIDING OFFICER.** Yes.

Is there objection? The Chair hears no objection, and it is so ordered.

The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, in a sentence, this is the amendment to eliminate the seniority system in the Senate as the method of selecting committee chairmen.

I realize this is an amendment of some substance and some controversy, or I hope the vote will reflect some controversy on this matter. I made a rather lengthy speech at the time I indicated several weeks ago I would offer this amendment, and I reiterate a few of those points about the amendment now.

First, the seniority system in the Senate did not come about with our Founding Fathers. The seniority system in the Senate was not adopted in this body until 1846, and it was adopted as a matter of expediency. It was adopted because up until 1846 committee chairmen had been selected in one of two ways, principally: they were either elected by fellow Senators or appointed by the Presiding Officer, who on some occasions was the Vice President and on other occasions was the President pro tempore.

One thing is clear as one reads the early Congressional Records. Our Founding Fathers did consider the seniority system and they rejected it time after time. It was offered and they perpetually refused to use it.

The reason it was adopted in 1846 was that the Senate found itself in a perpetual problem. The Senate did not trust the Vice President who insisted on exercising his right to appoint committee chairmen under the existing rules. They had had some previous unhappy experiences with delay in organizing the Sen-

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ate because committee chairmen were picked by vote of the Senate, and Members were picked by vote of the Senate, and with sessions taking no more than 6 weeks to 2 months in those days they found themselves taking too much time in organizing committees. So they adopted the seniority system as a quick and expedient way to insure that the majority party would have the chairmanship of committees and that succession to the chairmanship would be by virtue of seniority in the majority party. It was strictly expediency and really an historical accident. From 1846 to this time we have taken that historical accident and almost deified it as a part of our government organization.

I know many of my fellow Senators are going to ask, "If we are going back to picking committee chairman from other than the seniority system will we not face the same problem that was faced prior to 1846? Are we not going to spend weeks and weeks and months and months electing committee chairmen?" I would say no, because the provisions of my amendment allow the majority members of any committee to elect from their own number the committee chairman. So if at any sessions of Congress there is a committee with 15 or 17 members and the majority has 9, 10, or 11 members, they could elect from among their own number their own committee chairman, and we would have no delay in the organization of Congress.

It is interesting to note, if one examines other governments in this world, not a single civilized or uncivilized government uses the seniority system, not any large country, not any small country, no State legislature, no city council in the United States—none of them use the seniority system. No Communist country uses it and no non-Communist country uses it. Only the U.S. Congress of all the governments known to man uses the seniority system.

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I had hoped in my research that I might turn up some small Communist country that uses the seniority system so that I could say only Albania and Congress have something of that nature, but I could not find even a small Communist country that uses the seniority system.

Mr. President, I think it is fair to say that no objective observer of the seniority system would defend it. By "objective" I mean somebody not immediately affected by it. The news media throughout the United States uniformly condemns it; academicians who have studied the seniority system condemn it; public opinion polls show overwhelmingly that the public uniformly condemns it; yet we keep it basically because the mathematics of the Senate insures that almost anyone who has been here over 6 or 8 years is on the verge of rising to the top and becoming either a committee chairman or ranking minority member.

When one considers we have 100 Members and 16 standing committees, that means 16 committee chairmen and 16 ranking minority members. It is easy to see why committee members next in seniority say to themselves, "If my committee chairman retires or is defeated or by chance dies, I will be chairman." It is perfectly understandable why perhaps a fair majority have some misgiving about changing the present system. Perhaps I should be the last to complain, because the seniority system absolutely adheres to the benefit of someone who is elected to the Senate at a relatively young age and then continues to be reelected. All he has to do is get here in his midthirties or early forties and continue to be reelected and he will get to be a committee chairman. It takes slightly over two terms, on the average, to become a committee chairman. So that means, with luck, assuming that my party ever attains majorityship in this body, I would have a chance to be a committee chairman when I am 48 or 49.

But the discrimination in this system is against the very talented men and women who are elected to this body at 53, 54, or 55, and just as they reach the place where they might rise to a committee chairmanship, they are playing hide and seek with the insurance mortality tables as to whether they will live long enough to make it.

So, for my benefit, I should just keep quiet, hope that I am reelected, and I will rise to the top.

But I do not think that the obligation of the U.S. Senator is solely for his benefit or is solely for the benefit of his State. We have an obligation to the people of this country to try to give them the best form of government organization we can give them, and the seniority system is perhaps the worst. It does have one saving grace—it is nondiscriminatory. It affects equally well the healthy and the ill. It affects equally well the dull and the bright. And it affects equally well the wicked and the noble. Any man of great ability can rise to the top, and any man of great inability can rise to the top.

Even the law of the jungle seems to be a bit fairer, because in the law of the jungle there is survival of the fittest, whereas in the U.S. Congress we have survival—period.

Mr. President, I shall not tarry much longer with my remarks, because I think every Senator's mind on this particular subject is reasonably well fixed. I would simply ask the Members of this body to look objectively, not subjectively, at this system, to realize that it was never intended by the founders of this country to be a fixed system of government, and that they rejected it on numerous occasions; to look at the system objectively and honestly and say to themselves, "Is this the best method of selecting committee chairmen to preside over obviously powerful committees, which can determine the destiny of this country?" I do not think, in fairness, Senators can answer, "Yes, the seniority system is the best method known."

So I would ask, when we vote, that we consider not ourselves personally, but that we consider the people of this country; that we consider their wishes, their obviously expressed distaste of this system, vote it out, and replace it with a system that selects committee chairmen on the basis of ability rather than on the basis of longevity.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. DOLE. Would this same system apply to subcommittees?

Mr. PACKWOOD. No, it would not apply to subcommittees. I have checked into it. It appears that subcommittees are picked in a variety of ways. It may vary from committee to committee, and it may vary on committees with respect to taking the ranking member. There is no fixed method in the Senate of selecting subcommittees solely on the basis of seniority.

Mr. DOLE. I think some may be based on seniority and some based on a variety of ways, as the Senator has said. Normally, subcommittees have chairmen who are senior members. Sometimes ranking positions or relatively unimportant subcommittees are given to junior Members. I am, for example, the ranking Republican on the Disaster Subcommittee.

Mr. PACKWOOD. I serve with the Senator from Kansas on the minority side of that committee, and I assure him that he was picked for ability.

Mr. DOLE. I am not sure that happened, but it is a good subcommittee.

I share in part the views expressed by the junior Senator from Oregon. When I first became a Member of the other body I felt the seniority system should be changed. Then, in a few years, the present system looked a little better all the time. Particularly as we searched for some alternative, it looked even better.

I might say that if we had to rely on the election of committee chairmen, there could be—I am not suggesting it would happen—great pressures exerted by those seeking the chairmanship on the Republican or Democratic side in the effort to be elected chairman. This is one fault, or at least one defect, that puzzled many of us on the House side who felt, some years ago, that the system should be changed.

It is not perfect, as the Senator from Oregon has indicated. The route the Senator suggests may be a better one, but many of us on the House side felt it would lay the groundwork for intraparty politicking and at least some pressures being exerted by a majority of one side or another to elect this man or that man chairman. There might be such a division that the committee could not function because of the division among Democrats on one hand and the Republicans on the other.

Mr. PACKWOOD. Bear in mind that my proposal allows only the majority party to vote for chairman. The minority party would have the right to pick the ranking member, but no right to pick any chairman.

Mr. DOLE. I know that, but the point has been made, which has some validity, that if we have this struggle within a committee, if we discard the seniority system, we might well end up with a deep division on the majority and minority sides that would make it almost impossible for the committee to function.

Mr. PACKWOOD. The argument the Senator makes is always the one that is made—that the seniority system at least avoids an intraparty fight. The argument is always made that if the senior member is to become chairman, it avoids any intraparty struggle. If that argument is valid, why do we not pick our majority and minority leaders and our majority and minority whips on the same basis? In our own party we have gone through two wrenching battles in this Congress on the selection of a whip and then the minority leader. Could not we have avoided it if we had simply picked the senior Republican here and elected him to the position of leadership?

Mr. DOLE. It was a consideration in the wrenching battle the Senator mentions as to whether we should select a senior Member or a less senior one. The more senior Member prevailed, so I would presume it was a very important factor in that exercise last year.

Mr. PACKWOOD. But, interestingly enough, in the last 55 years, in the election of majority party leaders and minority party leaderships and in the election of majority whips and minority whips, only once—and that was when Styles Bridges, for an interim period when he was picked as the Republican leader in 1952—was the senior ranking member in either party selected as the party leader or as the whip. So we have obviously denied it in the selection of our floor leaders.

Mr. DOLE. I cannot vote for the Senator's amendment. It at least raises the question of seniority, and while I would suppose there may be a better way, it appears and I find, in the Senate and in the House of Representatives, that when a man reaches the position of becoming chairman of a committee, he is an expert in the field, by and large. He is not necessarily in the twilight of his career. I feel that by and large, though it may not be perfect, it is not such a bad system.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield to the Senator from Illinois.

Mr. PERCY. Heretofore, in commenting on the refreshing suggestion of the distinguished Senator from Oregon, I have used rather evasive language, such as, "It is a good thing to debate this issue and get it out before us" or "It raises an interesting question." But I have not really committed myself to it, because I have been somewhat awed by the prospect that now, through the misfortune of our colleague the Senator from South Dakota (Mr. MUNDT) and the working proposition that no one could be chairman of two committees which would probably cause the Senator from New York (Mr. JAVITS) to move over to Labor and Public Welfare to serve as chairman of that committee, I suddenly find myself close to the top of the Committee on Government Operations. The Ripon Society has indicated that I would, by virtue of our system of Senate operation, become chairman, if and when the Republicans take over the control of the Senate, hopefully in January of 1971.

So I face the prospect of being a committee chairman very early in my career—a fact which could cause me to be very hesitant about the suggestion of the Senator from Oregon to change the system which, it seems to me, has worked very well, at least in my case.

But there are other considerations I have to make, which I find confront many of my colleagues.

Quite by accident, many times, we get our first committee assignments. They are often not the first choice or the second choice, and many times not the third or fourth choice, of a freshman Senator.

Through the magnanimity of former Senator Thruston Morton and others, who said that every freshman Senator on the Republican side ought to have at least one relatively major committee assignment, we at least did not all end up crowding ourselves on the District of Columbia or the Post Office and Civil Service Committees. Consequently we each have a responsible committee assignment, though it may not necessarily, and usually is not, our first choice and does not necessarily represent our field of expertise.

Yet, once a Senator is in there and he develops a few years' seniority, he begins to think twice about giving that seniority up and starting at the bottom of the pile on the committee that really provides him with his greatest interest and opportunity to exercise his expertise. The rationalization is, "I would like to run something; it may not be my first choice, but I would rather run my second choice than be lower down the totem pole on my first choice." In my judgment, this works against the general interest we should have. We are not drawn to areas we should gravitate toward: Those areas of our greatest interest and expertise, and those areas in which we can make the greatest contribution.

I also think when we stay rigidly bound to the seniority system, the system tends to underestimate the judgment, the capabilities, and the competence of our colleagues. It has been suggested that by changing the system the rewards will go to the Senator who tries to become the most popular man, or make the most commitments, or promise the most. But we are all practical politicians. We know the devices used by people to secure pull, not on the basis of ability, but on the basis of representations which might not be in the Nation's best interests.

I think we all share the common wish to promote the best interests of the Senate and of the United States, and we want to see those people in leadership positions who can contribute the most, and under whom, because of the challenge, we would most enjoy working.

Such leadership may not necessarily be provided under the seniority system. For very good reasons, we have chosen our majority and minority leaders by the voices of the majority and the minority, not strictly according to the seniority system. I think the leaders we have had—the late Everett McKinley Dirksen, Senator SCOTT, Senator MANSFIELD, and others—prove that this method has worked very well indeed.

Why should not the same procedure, in principle, be used, then, in our committees, where the real work of the Senate is done?

Therefore, even though it might be casting a vote against a sure thing that I would be a committee chairman when we take over control of the Senate, and even though I would be opening myself up to the individual judgment and the free choice of the Republican members of the Committee on Government Operations, I certainly feel that the weight of the evidence and of argument as to what is best for the Senate and the country is on the side of the junior Senator from Oregon.

Once again, I find that when he undertakes the study of a subject, he becomes the master of that subject. I think he probably knows more about the selection of chairmen of legislative bodies than anyone else in the Senate, even though he is a junior Member. His paper on this subject, which I was privileged to be present to hear when he originally presented the idea, was a masterpiece of research, study, and logic. His logic and his research overcome me. I shall cast my vote in favor of his amendment, and I urge my colleagues to do so as well.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. Senators have until the vote at 2:30.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield to the Senator from Tennessee.

Mr. BAKER. I thank the Senator for yielding on an important matter, of great significance to the Senate at this time.

I do not find myself in the position of one of those whom the distinguished Senator from Oregon characterized as having already made up his mind. I am afraid I have not quite made up my mind. I am frank to say that I have made it a point to try to be here when this debate was conducted, to try to gain some additional information on how this judgment must be made at this time. I still have not quite made up my mind, which is no reflection on the forensic ability of the Senator from Oregon, or that of the Senator from Kansas or the Senator from Illinois, but rather points up a basic ambivalence from which I think the Senate suffers in this respect, which is that, while most of us would agree that the seniority system is not ideally suited for the selection of committee chairmen or ranking members, we have so far been unable to come up with anything with which we would be more at ease, not necessarily on some selfish basis, but on the basis of what is likely to work best under all the circumstances.

It would be an extraordinary thing to claim that pure seniority is always the best answer to the choice of the leader and the next in command of a particular committee. On the other hand, I must take minor issue with the Senator from Oregon when he characterizes the seniority system in the Senate as a pure seniority system. It is not quite that—not in the same way that he referred to the law of the survival of the fittest in the jungle—because in the Senate at least there is the requirement that we face the people every 6 years, and that, in addition to our chronological longevity, we also must earn some degree of political longevity.

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Admittedly, the prospects of political longevity are different in different parts of the country. I would feel very comfortable indeed as a candidate for reelection from a very Republican State, which Tennessee is not; maybe even more secure in Oregon. But my constituents point out from time to time that Republicans, especially statewide Republicans, are distinctly perishable commodities in the State of Tennessee.

So there is a process of elimination. There is some hedge or check on how long one does stay here, or how much seniority he is likely to accumulate.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. BAKER. The Senator from Oregon has the floor. I am happy to yield to him to respond.

Mr. PACKWOOD. The Senator from Tennessee touches upon one of the very grave defects of the system. It is designed to help hold seniority for those who come from the very one-party States where they are least likely to be defeated. So the greatest States, if we talk about size and population, in this Nation—New York, Illinois, California, and Pennsylvania—hold no committee chairmanships. In most of the States where there is a viable two-party system, and you really have to go to the electorate and put your neck in the noose every 6 years, and may or may not be defeated, you never have the chance, because of the viable two-party system, to hold any chairmanships.

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Mr. BAKER. That is frequently so; and if the Senator will yield further, I will say that I was working up to making two points that I think are of significance to this debate, though only tangentially. The first is that I think one-party States are disappearing from the landscape. I think the prospects are such that in the next several years two-party competition will be the rule in every State in the Union, partly as a result of the advent of television, partly because of rapid transportation, partly because it is just happening that way; because one-party domination in a region, a geographical region, is a monolith that is destined to collapse.

Another reason is that I am convinced that the people of the United States now look at themselves as a Nation-State and that regionalism is slipping into oblivion. Therefore, I am convinced that the seniority system in the future will mean less than it has meant in the past.

I am convinced that the discipline of presenting oneself for election at 6-year intervals will present the best method possible for leadership on a particular committee, but I am also convinced that it is not exactly the best method for selecting the committee chairmen.

I am convinced that the Senator's proposal would have a greater chance of adoption if there were some sort of saving clause for existing chairmen or existing ranking Members and if this were innovated over a period of time. I am sure that would do no great violence to the philosophy or the concept, but I am sure it would add to its prospect for success. I do not suggest that he do that now. I rather point out that he is distinctly swimming upstream on this otherwise.

I do not have any idea that I can present nor have I ever presented something that is better. I do not believe that any Member of the Senate will contend seriously that the seniority system is the best. But I do suggest that forces are working in the country and in the Senate that make the seniority system in the Senate less onerous than it is in the House, that make a committee chairman less powerful in the Senate than in the House, and make it more likely that with complete destruction of one-party geographical domination of the country, the evils of the seniority system will be less significant in the future than in the past.

I am hopeful that something can be worked out to modify the pure seniority system on a more institutional basis, but, reluctantly, I am not sure that this would be the way to do it.

I thank the Senator for yielding.

Mr. METCALF. Mr. President, I want to read to my colleagues the present rule on appointment of the chairman of committees. Rule XXIV, paragraph 1, reads as follows:

> In the appointment of the standing committees, the Senate, unless otherwise ordered, shall proceed by ballot to appoint severally the chairman of each committee, and then, by one ballot, the other members necessary to complete the same. A majority of the whole number of votes given shall be necessary to the choice of a chairman of a standing committee, but a plurality of votes shall elect the other members thereof. All other committees shall be appointed by ballot, unless otherwise ordered, and a plurality of votes shall appoint.

If we were to adopt the amendment of the Senator from Oregon, it would be a step backward. It would be a step away from a democratic rule in electing the chairmen of committees. It would provide that part of a committee would elect its chairman. There is no question that experience is necessary to become a diligent chairman, to prepare the agenda, to run a committee. Nevertheless, under the present rule, the newest member of the minority party could be elected chairman of a committee if he could get enough votes on the floor of the Senate.

Of course, as the Senator from Oregon pointed out in his original speech, when he submitted his amendment, Henry Clay was elected Speaker of the House of Representatives when he started his first term because he got enough votes.

Mr. President, it seems to me that we are not attacking a rule. We have the most democratic rule that could possibly be devised—that is, that the chairman of a committee shall be elected by a majority vote of the Senate. Sometimes it may well be that a vote of the majority part on a committee might not reflect the democracy in the Senate. We are not attacking a rule in the seniority system so-called. We are confronted by a party program, largely, and we are confronted by a system.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. METCALF. I yield.

Mr. PACKWOOD. When was the last time that rule XXIV was applied as it reads?

Mr. METCALF. I do not know when it was applied.

Mr. PACKWOOD. 1845.

Mr. METCALF. I am not in the fortunate position of some Members on the minority side who are looking forward to a change in Government. I have been in the Senate 10 years and am low in seniority on both my committees, so I am not looking forward to the seniority system giving me any benefit at all. But it is not a matter of how the chairman is elected or appointed or selected. It is the power we give to the chairman.

As the Senator from Oregon knows, in a series of amendments that I am going to submit—conforming amendments which were omitted from the House bill because of comity—I am going to talk about some way to attack meaningfully the so-called seniority system.

It seems to me, in the light of the colloquy that has been engaged in by several Senators, that it would be wrong to adopt a rule such as the Senator from Oregon has suggested and move ourselves away from the most democratic rule that we possibly could have. Let us try to apply the rule, if we are unhappy with the way of selecting chairmen, and try to get enough votes in the Senate, in the next organization of the Senate, to elect the chairmen of the committees. But let us not depart from a rule because of a custom or a tradition, which is much harder to overcome than a rule itself.

Mr. PACKWOOD. The Senator says, "Let us not depart from a rule." We have departed from it for 125 years. There is a clause that reads, "unless otherwise ordered," and it has been ordered in every organization of Congress since 1846.

Mr. METCALF. In every organization of Congress, a caucus is held, new members of the committee are appointed, and then they come in with a resolution that so-and-so shall be chairman of a committee and so-and-so shall be members of the committee, and those members are selected. In the House, there is a conference of the Republican Party and a caucus of the Democratic Party, and that resolution is passed by unanimous consent. A couple of times in the House, as the Senator from Oregon knows, there was a resolution from the caucus that did change the system a little.

Under the Senator's proposal, as I understand it, we would elect the members of the committee in the same way as now, by selection in the caucus, and then the majority would vote for a chairman and the minority would vote for its ranking member. Is that the way the Senator's amendment would work?

Mr. PACKWOOD. That is the way my amendment would work. That is correct.

Mr. METCALF. In this body, would we have a continuation of the seniority system for people who continue to serve on the committees?

Mr. PACKWOOD. Is the Senator talking about new Members being appointed or about existing members on the committee?

Mr. METCALF. Would we have a right to change the membership of the committees?

Mr. PACKWOOD. My amendment does not in any way affect the way either party chooses to put people on a committee. It deals only with the selection of the committee chairman after the two parties, respectively, are appointed, elected, or selected, or whatever way they want to get their people on the committee.

Mr. METCALF. The present rule provides for the selection of the members of the committee by the Senate.

Mr. PACKWOOD. That is right.

Mr. METCALF. By the entire Senate. The Senate has been recognized by the rulings of several Vice Presidents as a continuing body. Would members of the committee be continuing members as long as they remained Members of the body, or would they be replaced?

Mr. PACKWOOD. The Senator is well aware that people do change committees. Even though this is a continuing body, they move from one to another. The Democratic Party has a slightly different method of picking Members than does the Republican Party. I have misgivings about the way both parties pick them. I am not quarreling now with the way committee members are picked, only the way the chairmen are picked.

Mr. GRIFFIN. Mr. President, I have listened very carefully to the explanation of the distinguished Senator from Montana, and I must say that he is absolutely right concerning his explanation of the present rules of the Senate. I would suggest that the complaint of the Senator from Oregon is directed not so much against the existing rules as the fact that the existing rules are not being observed.

Mr. METCALF. Technically, they are being observed. A resolution comes in and it is adopted by unanimous consent. If the Senator from Oregon would object to that unanimous consent, then we would probably have a rollcall vote.

Mr. GRIFFIN. Let us get to the heart of the matter. The observance or recognition of seniority has nothing to do with the rules of the Senate. Seniority is a matter that is observed and controlled by each party within its caucus.

Mr. METCALF. Correct.

Mr. GRIFFIN. We have observed the truth of that statement in the other body. As I recall, the majority party in the other party saw fit to take away—or refuse to recognize—the seniority of a particular Member who needed to be disciplined—or so a majority of the caucus concluded. Seniority is nothing more or less than a tradition which each party is free to observe or ignore.

Now, I realize that this amendment may be hailed in the press and elsewhere, as an amendment which would do away with seniority. Of course, it would not, even if it were adopted because seniority is observed in many ways other than in the selection of the chairman of a committee.

For instance, where Senators sit in this Chamber has been determined on the basis of seniority. The location of our offices in the office building has been determined on the basis of seniority. There are other matters which are resolved now on a seniority basis. If we should conclude that it would be desirable to do away with seniority as the basis for selecting the chairman of a committee, I am not at all sure that the method selected by the Senator from Oregon is the best one. There is a good case to be made that, in order to reinforce party strength and discipline, it would be well to have the majority leader designate the chairman of each committee and the minority to designate the ranking member of each committee. Another method which I would favor over the proposal set forth in this amendment would be to have committee chairmen elected by all the members of the majority party, while ranking committee members are elected by all the minority members.

I would call the attention of the Senate to the fact that on the other side of the Capitol, House Republicans have a task force charged with the responsibility of recommending appropriate changes in the seniority system. I understand it is more than just another study committee; it is actually making headway toward sensible and reasonable reforms in the seniority system. I believe it would be appropriate now for the Senate to move in that way.

Mr. PACKWOOD. Well, there are studies and there are studies. Next to the method by which we select the President, I can think of no topic that has been studied more, in and out of Congress, than the seniority system. One more study, if done objectively, would only reveal that there is a better method of selecting the chairman of a committee than by the seniority system.

The Senator from Michigan refers to the selection of our desks on the basis of seniority, as well as office space. I would be perfectly willing to make an arrangement and would go even further, if he is ready to concede my point on committee chairmen, that I will concede his point on desks and office space, and even throw in parking space, to be selected on the basis of seniority. That might be a fair apportionment of the way in which seniority should operate. I would be willing to meet with the Senator from Michigan to find a method that might be better than that which I have proposed to pick a committee chairman.

I am merely saying that selection of a chairman by the committee is better than the seniority process. I am not saying my method is the be-all and the end-all of civilized government, because throughout the world there are two principles by which a committee chairman is selected—maybe three: First, is by election by a committee; second, is by election of the entire body; and third, is by appointment of the majority leader, the prime minister, or whoever is the head of the government in the different nations.

I seriously toyed with the idea of having my amendment provide that the majority and minority leaders make the committee appointments. But I knew that if I did, there would be allegations of bossism and favoritism which would be so rampant that it would be argued, in and of itself, it would be giving Senators MANSFIELD and SCOTT the power to appoint committee chairmen and committee members, possibly, and that would be giving two men too much power.

Thus, I chose the method of electing the chairman by the majority of committee members, because all of us cannot serve on a committee of 15 or 16 members for 2, 4, or 6 years without getting an accurate, honest idea in our minds of who the best man is on the committee to be its chairman.

Mr. GRIFFIN. May I ask the Senator, What is the Senator going to do if his amendment is agreed to and it becomes a part of the rules of the Senate, and then the rule is not observed, as the present rule is not observed, and the Senate goes on making its decisions on the basis of seniority?

Mr. PACKWOOD. We would have a tough time not observing it because it would be individual law as opposed to rules. As the Senator from Michigan indicates, the present rules are not disobeyed, but there is that little clause which says, "as otherwise ordered," and that is what we have done, to come in with a prepared list and in theory observing rule 15, that a body shall elect its chairman on a separate ballot and elect its members on another ballot.

Mr. METCALF. Does the Senator have any illusions, if we adopt his rule or proposal, that there would be a different committee chairman on any committee in the next Congress?

Mr. PACKWOOD. Yes. I mean, maybe—I am not sure. I think it would be a——

Mr. METCALF. I would be willing to wager—if it is proper to make a wager on the floor of the Senate—that if we elect the committee chairmen by the method the Senator proposes, we would have exactly the same committee chairmen in the new Congress that we had before. It we are the majority party, we would have the same committee chairmen next year. If the Senator's party is in the majority, then the senior members will be elected members of the committee.

Mr. PACKWOOD. The Senator's wager is interesting enough. We should get it going and see what happens. If it does not work out, then——

Mr. METCALF. Maybe we should give it a try, but I agree with the Senator from Michigan, I am not sure, even if we wanted to abandon this system that has grown up, that the proposal of the Senator from Oregon is the best way to do it.

He said that this has been studied to death but I feel that, here in a reorganization bill, I would not want to take on what I feel would be a step backward so far as the rules are concerned.

Maybe, as the Senator from Michigan has pointed out, we should try to do what has been done in the other body, have some one come in and make recommendations. If someone does come in and make recommendations to change our designation of a committee chairman, perhaps the rule would be observed or perhaps instead the system would be at-

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tacked. They remove committee chairmen in the other body under the rule we have here. Neither the Senator from Michigan nor I was there at the time. However, we know what happened.

Mr. GRIFFIN. Mr. President, to carry the point a step further, I would suggest that the appropriate way to enforce the existing rules would be for a Senator, in the majority caucus at the beginning of a new Congress, to nominate someone for chairman of a committee—someone other than the person who would ordinarily attain that position by virtue of his seniority. If such a nomination were made, there could be a vote—a choice could be made.

There is nothing to prevent that course of action at the present time.

Mr. METCALF. Not a thing.

Mr. GRIFFIN. The rule of seniority is not a rule at all. It can be observed or ignored by each party at will.

Mr. PACKWOOD. Mr. President, I am aware that it can be overcome. I am not very optimistic that it will be overcome. We need something in the law that gives some impetus to make us do it. Because we have followed the same rule for 140 years, we are not optimistic that lightning will strike next January.

Mr. GRIFFIN. Mr. President, I thank the Senator for yielding.

Mr. METCALF. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METCALF. Mr. President, can the pending amendment be set aside until 2:30?

The PRESIDING OFFICER. That can be done by unanimous consent.

Mr. METCALF. And can we then present another amendment and vote on the pending amendment at 2:30?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. That would be agreeable. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PACKWOOD. Mr. President, did we not have an order to vote at 2:30?

The PRESIDING OFFICER. The Senator is correct.

Mr. METCALF. Mr. President, I do not want to lock out anyone who may have an amendment to this amendment and prevent him from bringing the amendment up between now and the time set for a vote.

Mr. ALLEN. Mr. President, I have no objection.

Mr. METCALF. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METCALF. Mr. President, may I offer another amendment at this time?

The PRESIDING OFFICER. That may be done by unanimous consent.

Mr. METCALF. And that would not foreclose the Senator from Maryland or anyone else from offering an amendment to the amendment of the Senator from Oregon or a qualifying or modifying amendment after the action on my amendment was completed?

The PRESIDING OFFICER. After his amendment is disposed of, then the Packwood amendment would come back before the Senate again.

Mr. PACKWOOD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PACKWOOD. Mr. President, if we go ahead until 2:30, when the time to vote on my amendment arrives, and someone offers a substitute amendment, what are the time limitations on debate at that time?

The PRESIDING OFFICER. There can be no further debate.

Mr. PACKWOOD. Mr. President, I thank the Chair.

Mr. METCALF. Mr. President, I ask unanimous consent that I be permitted to proceed to the consideration of another amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. METCALF. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Montana (Mr. Metcalf) proposes an amendment: on page 140, line 12, after the word "convening", insert "or reconvening".

Mr. METCALF. Mr. President, this is a technical amendment. We have already had the debate and discussion about the pages. We have put in the bill a provision for a long August recess—at least in nonelection years.

This amendment would make sure that the pages continue on the payroll and be on the payroll during the recess.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

Mr. METCALF. Mr. President, I ask unanimous consent that I may proceed to the consideration of another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METCALF. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. Metcalf) proposes an amendment:

On page 55, between lines 3 and 4, insert the following new section:

Jurisdiction of Standing Committees of the Senate

Sec. 130. Paragraph 1 of Rule XXV of the Standing Rules of the Senate is amended—

(1) by striking out in subparagraph (e)—"Committee on Banking and Currency," and inserting in lieu thereof—"Committee on Banking, Housing and Urban Affairs,"; and

(2) by adding at the end of subparagraph (e) the following item:

"10. Urban affairs generally.".

On page 2, in the table of contents, immediately after the item relating to section 129 of title I of the bill, insert the following new item:

Sec. 130. Jurisdiction of standing committees of the Senate.

Mr. METCALF. Mr. President, the House bill did not include any provisions for Senate Committee jurisdiction for reasons of comity. Thus, it is necessary to add those provisions to H.R. 17654, to bring the bill in line with previous Senate action.

The proposed amendment would adopt the provisions of S. 844 as reported by the Senate Government Operations Committee in 1969. These provisions were also adopted by the Senate in 1967 by a vote of 75–9 as a part of S. 355.

This amendment would redesignate the Senate Committee on Banking and Currency as the Senate Committee on Banking, Housing, and Urban Affairs and would add "urban affairs generally" to the committee's jurisdiction. This is a long overdue recognition of the committee's role in the housing area and its paramount responsibility for burgeoning urban problems. I am not aware of any controversy over this redesignation when it was adopted in 1967 and ask that the Senate reaffirm this action by including it in the House bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

Mr. METCALF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I have an amendment to the amendment at the desk. I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Maryland (Mr. Mathias) proposes an amendment to the Packwood amendment:

On lines 4 and 5, strike the words "the members thereof who are", and on lines 7 and 8, strike the words "thereof who are members".

Mr. MATHIAS. Mr. President, I have offered this amendment in an attempt to be helpful in achieving the goal that the proponent of the original amendment had in mind—or which I believe he had in mind—which is to mitigate the unfortunate aspects of the seniority rule which have prevailed in both Houses of Congress, which I have observed in operation in both Houses of Congress, and which I think are questioned and questioned very seriously by most of the American people.

I was interested a few moments ago when the distinguished Senator from Montana was commenting on the original Packwood amendment, he pointed out that the existing rule of the Senate that the chairmen of the committees are to be elected by the full Senate is, in itself, the most democratic rule we could have. I agree with him. I do not think a Member of the Senate could disagree with that. It is the perfect way to do it: to have all the

Senate elect the chief officers of the Senate. Certainly, the chairmen of the committees should be numbered among the chief officers of the Senate. It is the perfect way to do it and it is the most democratic way to do it.

The only problem is that it does not work. It has not been done that way for years. The rule book says it, but we all know there is an unwritten law that operates otherwise. It just does not work the way it is written. So while I agree with the distinguished Senator, I believe we have to move in some direction which will give life, vitality, and meaning to the rules of the Senate.

First of all I wish to express my appreciation to the committee which has brought this bill to the floor of the Senate. I think they have done something more significant in the bill than this amendment would ever do—whether in its original form or as I have proposed it be altered—because more important than the personality of the man who sits at the head of the table is the question of the determination of the agenda of the committee.

For example, if a strong chairman chooses to prevent the committee from considering some measure that a majority of the committee wants to discuss and act upon, that control of the agenda is the most significant power that a chairman chosen by any system can have. Under the bill the rights of committee members are very clearly defined. It is my understanding that the bill is intended to give to committee members, as opposed to the committee chairman, the prerogative of determining the agenda of the committee. This is an essential right and I think that if we did nothing else in this bill than to make the matter of determination of committee agendas the function of the majority of each committee, we would have come a long way toward reform of Congress. I do, therefore, congratulate the distinguished Senator and his colleagues on the committee for their achievement in that respect.

But getting back to the question of the selection of committee chairmen, the present system is more honored in the breach than in the observance. The unwritten rules prevail over the written rules. I think that what Thomas Jefferson called a decent respect for the opinion of mankind demands that we make some change.

I have no real objection to the proposal of the distinguished Senator from Oregon except that I think it limits the arena very narrowly. Those on one side of the committee table choose up sides to pick the chairman and those on the other side of the committee table choose up sides to pick the ranking minority member. This is not just a case of musical chairs. There is a lot of power which goes with the committee chairmanship. The temptation to have the potential of that power within reach and to have, in effect, the operation of the committee throughout the year prostituted to the day of reorganization would be very great. I think it could disrupt the normally amiable relationships within a committee without achieving the purpose of advancing to the chair the most able and most effective member of the committee to preside over the legislative function of the committee.

I believe that we could achieve the goals of the Senator from Oregon, that we could revitalize the system by seeking a departure from the existing rule, but in a somewhat larger arena than the single side of a committee table, and that larger arena which seems to be appropriate in the party caucus. After all, Members of the Senate have broad interests in the work of the various committees that bring bills to the floor of the Senate. The committees are not the parochial preserve of the members; the committees are the responsibility, as well as the interest of the entire Senate.

It seems to me that the chairman and the ranking minority member should be chosen by a caucus of the respective party of each. This would be simple; it would be direct. I think the arena of the party caucus is small enough that it would arouse some competitive spirit and that the rule would have vitality, and that there would be competition, and yet it would not be so small that petty cabals within a committee would be constantly under way in an effort to unseat one chairman or to seat another.

So I have proposed this amendment, which I believe, as I have said, accomplishes the purpose of reforming the seniority system but does so more realistically and more pragmatically.

I yield the floor.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, will the Senator from Maryland yield?

Mr. MATHIAS. I am glad to yield to the distinguished Senator from Oregon.

Mr. PACKWOOD. Under the Senator's amendment to my amendment, does the Senator envision that when the majority and minority parties meet in January to organize in their caucuses, anyone in either party who wishes to seek the chairmanship or the ranking minority position on particular committees he is assigned to may have his name placed in nomination, regardless of his position in the Senate, and that the caucus will then vote in secret as to who is to have that position?

Mr. MATHIAS. As the Senator from Oregon knows, the present practice in the minority party is that a secret ballot is available in the election of officials in the Republican caucus. Perhaps the Senator from Montana (Mr. METCALF) can enlighten us as to the practice in the majority party, but it certainly would be my feeling that the caucus would have a secret ballot available if that were decided by the caucus, but that would be determined by the caucus itself.

Mr. METCALF. Mr. President, since the Senator from Maryland mentioned me, let me say I have grave misgivings about this sort of amendment, because the committees are an official part and children of the Senate itself, and the present rule is that the committee chairmen shall be selected by the Senate itself. The Senator from Oregon would have the official bodies of the Senate functioning within the committees themselves. The misgiving I have about the approach of the Senator from Maryland is that the conferences, the caucuses, and so forth, are not official agencies of the Senate. For example, to refer a bill to the Republican caucus or conference is just ridiculous——

Mr. MATHIAS. Mr. President, if the Senator will yield just for an observation, it is not as farfetched as the Senator would have it appear.

Mr. METCALF. The whole point is that we are departing from the concept of a Senate that functions and operates through the committee system, and the chairmen are selected either by the committees themselves, as the official bodies of the Senate, or the Members of the Senate themselves within the Senate.

Mr. MATHIAS. I appreciate the point of view of the distinguished Senator. As I said earlier, I agree with him entirely on the theory that he advances. I agree with him entirely on the theory that the Senate should have the operational control of the committees. But the point I share with the Senator from Oregon is the fact that, correct and accurate as the theory may be, it is not working out in practice. I believe what he wants to do, and what I would like to see done, with only a small difference of opinion with reference to the size of the electorate we are discussing, is to breathe some life into this theory which, for all intents and purposes, is a dead letter today.

Mr. PACKWOOD. Mr. President, will the Senator from Montana yield? Does he have the floor?

Mr. METCALF. I think the Senator from Maryland has the floor.

Mr. MATHIAS. I yield.

Mr. PACKWOOD. Is the only objection to the suggestion of the Senator from Maryland that it is putting the power in the hands of the caucus?

Mr. METCALF. No. I object to the amendment of the Senator from Oregon, and I also object to the amendment offered by the Senator from Maryland to the amendment of the Senator from Oregon. I see no reason why the goal of the Senator from Maryland cannot be accomplished under the present rules of the caucus, of going into the caucus and having the Senator from Maryland or the Senator from Oregon make a nomination and have it voted up or down.

Mr. PACKWOOD. Is it not a fact that the Senate today acquiesces to what the caucus has determined? How long has it been since the Senate has exercised its right as a body to act independently on what the caucus has done?

Mr. METCALF. The Senator from Oregon has made a more thorough research than I have on it, and if he has anything to say on that, I will accept it.

Mr. PACKWOOD. Then why does the

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Senator object to the proposal of the Senator from Maryland, which is simply that the caucus will determine how to pick the chairman and ranking members of a committee?

Mr. METCALF. I object to it because it brings into the actual rules of the Senate an outside body, and under the research of the Senator from Oregon, that is exactly what happens today. A Senator goes to the caucus or the conference. They select the members of the committee and determine which Member of the Senate is going to be chairman. They bring a resolution to the Senate floor. The majority leader stands up and offers a resolution. It is adopted without objection, and the Senate selects the members of the committees and the chairmen.

There is not any reason why, under the present rules of the Senate, without a single change, the Senator from Oregon cannot stand up in his party caucus and nominate anyone he wants to for ranking minority leader or chairman, depending on which party he represents, and if he can get enough votes, that man, under the present rules, will be elected. Why change the rules at all?

Mr. PACKWOOD. Because it will take an outside spur to cause this body to change its practice of 125 years.

Mr. METCALF. I do not like to have an outside spur by bringing into the Senate coterie some outside agency.

Mr. MATHIAS. Mr. President, if the Senator will change the metaphor a little bit, let us say that, instead of a spur, we just need to light a very small firecracker.

A very small firecracker; that is all this is, because, as the distinguished Senator said himself, in theory what is proposed here could be done today.

I think what is needed is to show, by the affirmative vote of the Senate, that it is the will of the Senate that this change be made. Because, as the Senator has pointed out, it is such a small change, I call it a small firecracker.

Mr. METCALF. A short spur.

Mr. MATHIAS. But I think it is one that would have echoes that would reverberate around Capitol Hill for some time.

Mr. METCALF. I still feel that we should try to make the most democratic rule, which is the present rule, work. There is the machinery at present to make it work as the Senator from Maryland wishes to have it work, and I would regret it if we change the rules to some less democratic procedure, and bring in some outside agency to participate in the organization of the Senate before some of the leaders on the minority side, and maybe some on my side, and assert that the senatorial custom and tradition—not the rules, but the system—should be abandoned.

Mr. MATHIAS. Mr. President, let me say to the Senator that I am not insensitive to the point that he raises that the committees are the creatures of the Senate, for which the Senate has responsibility. I might have considered suggesting that the caucus nominate a chairman and a ranking minority member, which the Senate would then proceed to elect. But when I was a Member of the other body in years gone by, we had that system over there, as the Senator well knows, and it is really just as much of a dead letter as our broader and more democratic rule in the Senate.

Perhaps what we are all groping for is that we are not changing words, letters, commas, and paragraphs, we are trying to change the spirit of this institution, and it is that spirit that we are appealing to. I think I share this view with the Senator from Oregon. I feel sure that I do. We are appealing to the spirit here, and we need this symbolic change to make it clear that there is a new spirit of participation alive here on Capitol Hill.

Mr. METCALF. Mr. President, if the Senator will yield, I think the discussion has been a useful one, no matter what the final result of the rollcall vote. I think all of us are groping, as the Senator suggests, for some answer to this problem that there should be a better way to elect competent, trained, skilled, and experienced men as chairmen of committees.

Mr. MATHIAS. I am about to yield the floor, Mr. President, but before I do, I would just like to repeat what I said earlier, that I think we are indebted to the Senator from Montana and his colleagues on the committee for the fact that they have undertaken to give the control of the committee agenda to the members of the committee. I hope that this legislative history on this bill will make that abundantly clear, because, as dedicated as I am to my own amendment and the goals that are embodied in the amendment of the Senator from Oregon, I think this question of control of the agenda is paramount to every other consideration of committee procedure.

Mr. President, I yield the floor.

Mr. ALLEN. Mr. President, I oppose the amendment offered by the distinguished Senator from Oregon (Mr. PACKWOOD).

As the junior Senator from Alabama, having taken office in January 1969, I do not anticipate that under the present seniority system I shall occupy an important chairmanship during my service in the Senate. But at the same time, I believe that the seniority system for choosing the chairmen of the Senate committees is the best system that we could possibly devise.

Certainly we should not, at every new session of Congress, throw the committees into the confusion of electing a new chairman, or having the position up for grabs, subject to log-rolling inside the committee, and having the various candidates for chairman politic and campaign among the membership of the committee.

With long years of service in the Senate and on the various committees, through the seniority system, the chairmen have great knowledge of the business coming before the Senate, and while they may not be the best politicians on the committee, they certainly have as great or greater knowledge of the work of the committee than could a new chairman, coming up and being elected at each new session of Congress.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I am glad to yield to the distinguished Senator from North Carolina.

Mr. ERVIN. Am I to assume, from what the Senator from Alabama has said, that the Senator from Alabama does not think the newest recruit ought to be made the Commander in Chief of the Armed Forces?

Mr. ALLEN. Yes, sir; that would be a good way to put it.

Mr. ERVIN. The Senator from Alabama has not reached the point, being quite a young fellow himself, that the Senator from North Carolina has reached; but does not the Senator from Alabama agree with the Senator from North Carolina that if we are going to give what is equivalent to seniority to young people, we ought to do something practical about the propensity of the Almighty to give all of youth to young people? Does not the Senator from Alabama think we ought to require the Almighty to give a little bit of youth to old people, too?

Mr. ALLEN. Yes. I might say, in that connection, that George Bernard Shaw once said youth is such a wonderful thing, it is a shame it is wasted on young people.

Mr. ERVIN. I think that is a very sage observation. I could do so much more with youth now than I could do with it when I had it.

Mr. ALLEN. I thank the Senator from North Carolina.

Mr. President, I have sought the floor at this time for the purpose of stating that I shall not be in the Senate Chamber at 2:30, when the vote is taken on the amendment of the distinguished Senator from Oregon, but I do want to go on record as expressing my views with respect to the amendment.

From what I have understood from talking with a number of other Senators, the amendment does not stand a great deal of chance of being agreed to.

Mr. President, it will be necessary that I be absent from the Senate at 2:30 this afternoon, because at that time the Honorable Armistead I. Selden, Jr., former Member of Congress from Alabama, will be sworn in at the Pentagon as principal Deputy Assistant Secretary of Defense for International Security Affairs. As the junior Senator from Alabama, I want to be on hand at the time of this swearing in, and unfortunately I will not be able to cast my vote on the pending amendment.

Mr. Selden served for 16 years in the U.S. Congress from Alabama. He served with ability and distinction. He was a member of the Foreign Relations Committee of the House and was chairman of the Subcommittee on Inter-American Affairs. In the 1968 Democratic primary in Alabama, Mr. Selden and I were candidates for the Democratic nomination for the office of U.S. Senator, and he was an able, a fair, and an honorable opponent.

I am delighted that the President of the United States has seen fit to offer Mr. Selden this position in the sub-Cabinet. I wish Mr. Selden well. I know that he will perform outstanding service in this capacity.

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So, Mr. President, in order that I might be on hand at the time of Mr. Selden's swearing in, inasmuch as we have been friends through the years and did not lose that friendship even though we were candidates for the same office, I ask unanimous consent that I may absent myself from the proceedings of the Senate during that time.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BOGGS**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **METCALF**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **METCALF**. Mr. President, I ask unanimous consent that the pending amendment be set aside and that I be permitted to submit an amendment.

The **PRESIDING OFFICER**. Is there objection? The Chair hears none, and it is so ordered.

The amendment of the Senator from Montana will be stated.

The legislative clerk proceeded to read the amendment.

Mr. **METCALF**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 55, between lines 3 and 4, insert the following new section:

MEMBERSHIP OF STANDING COMMITTEES OF THE SENATE

SEC. 130. (a) Paragraph 1 of rule XXV of the Standing Rules of the Senate, as such paragraph existed on the day preceding the effective date of this section is amended—

(1) by striking out in subparagraph (a) the words "to consist of fifteen Senators,";

(2) by striking out in subparagraph (b) the words "to consist of thirteen Senators,";

(3) by striking out in subparagraph (c) the words "to consist of twenty-four Senators,";

(4) by striking out in subparagraph (d) the words "to consist of eighteen Senators,";

(5) by striking out in subparagraph (e) the words "to consist of fifteen Senators,";

(6) by striking out in subparagraph (f) the words "to consist of nineteen Senators,";

(7) by striking out in subparagraph (g) the words "to consist of seven Senators,";

(8) by striking out in subparagraph (h) the words "to consist of seventeen Senators,";

(9) by striking out in subparagraph (i) the words "to consist of fifteen Senators,";

(10) by striking out in subparagraph (j) (1) the words "to consist of fifteen Senators,";

(11) by striking out in subparagraph (k) the words "to consist of seventeen Senators,";

(12) by striking out in subparagraph (l) the words "to consist of seventeen Senators,";

(13) by striking out in subparagraph (m) the words "to consist of seventeen Senators,";

(14) by striking out in subparagraph (n) the words "to consist of twelve Senators,";

(15) by striking out in subparagraph (o) the words "to consist of fifteen Senators,"; and

(16) by striking out in subparagraph (p) (1) the words "to consist of nine Senators,".

(b) Paragraphs 2, 3, 4, and 5 of rule XXV of the Standing Rules of the Senate are redesignated as paragraphs 4, 5, 6, and 7 thereof, respectively.

(c) Rule XXV of the Standing Rules of the Senate is amended by inserting therein, immediately after paragraph 1, the following new paragraphs:

"2. Except as otherwise provided by paragraph 6 of this rule, each of the following standing committees shall consist of the numbers of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee	*Members*
"Aeronautical and Space Sciences	14
"Agriculture and Forestry	13
"Appropriations	24
"Armed Services	15
"Banking, Housing, and Urban Affairs	15
"Commerce	17
"Finance	15
"Foreign Relations	15
"Government Operations	14
"Interior and Insular Affairs	14
"Judiciary	15
"Labor and Public Welfare	15
"Public Works	14,

"3. Except as otherwise provided by paragraph 6 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee	*Members*
"District of Columbia	7
"Post Office and Civil Service	9
"Rules and Administration	9.".

(d) Paragraph 6 of rule XXV of the Standing Rules of the Senate (as redesignated) is amended to read as follows:

"6. (a) Except as otherwise provided by this paragraph, each Senator shall serve on two and no more of the standing committees named in paragraph 2. Except as otherwise provided by this paragraph, no Senator shall serve on more than one committee included within the following classes: standing committees named in paragraph 3; select and special committees of the Senate; and joint committees of the Congress.

"(b) Each Senator who on the day preceding the effective date of section 130 of the Legislative Reorganization Act of 1970 was serving as a member of any standing committee shall be entitled to continue to serve on each such committee of which he was a member on that day as long as his service as a member of such committee remains continuous after that day. Each Senator who (1) on that day was serving as a member of the Committee on Aeronautical and Space Sciences or the Committee on Government Operations, (2) on that date was entitled, under the proviso contained in the first sentence of paragraph 4 of this rule as such rule existed on that day, to serve on three committees named in that sentence, and (3) on June 30, 1971, is serving on three such committees, of which at least one is the Committee on Aeronautical and Space Sciences or the Committee on Government Operations, shall be entitled to continue to serve on each of the committees of which he is a member on June 30, 1971, so long as his service as a member of each such committee remains continuous thereafter. Each Senator who, on the day preceding the effective date of section 130 of the Legislative Reorganization Act of 1970, was a member of more than one committee of the classes described in the second sentence of subparagraph (a) shall be entitled to serve on each such committee of which he was a member on that day as long as his service as a member of that committee remains continuous after that day. Notwithstanding the provisions of paragraphs 2 and 3, each committee of the Senate shall be temporarily increased in membership by such number as may be required to carry into effect the provisions of this subparagraph.

"(c) By agreement entered into by the majority leader and the minority leader, the membership of one or more of the standing committees named in paragraph 2 or paragraph 3 of this rule may be increased temporarily from time to time by such number or numbers as may be required to accord to the majority party a majority of the membership of all standing committees. When any such temporary increase is necessary to accord to the majority party a majority of the membership of all standing committees, members of the majority party in such number as may be required for that purpose may serve as members of three standing committees named in paragraph 2. No such temporary increase in the membership of one or more standing committees under this subparagraph or subparagraph (a) shall be continued in effect after the need therefor has ended. No standing committee may be increased in membership under this subparagraph or subparagraph (a) by more than four members in excess of the number prescribed for that committee by paragraph 2 or paragraph 3 of this rule.

"(d) Notwithstanding the limitations contained in subparagraph (a), a Senator may serve at any time on one additional committee included within the following classes: a temporary committee of the Senate or a temporary joint committee of the Congress which, by the terms of the measure by which it was established as initially agreed to, will not continue in existence for more than one Congress; or a joint committee of the Congress having jurisdiction with respect to a subject matter which is directly related to the jurisdiction of a committee named in paragraph 3 of which that Senator is a member.

"(e) No Senator shall serve at any time on more than one of the following committees: Committee on Appropriations, Committee on Armed Services, Committee on Finance, and Committee on Foreign Relations. Notwithstanding the limitation contained in this subparagraph, a Senator who on the day preceding the effective date of section 130 of the Legislative Reorganization Act of 1970 was a member of more than one such committee may continue to serve as a member of each such committee of which he was a member on that day as long as his service on that committee remains continuous after that day.

"(f) No Senator shall serve at any time as chairman of more than one committee included within the following classes: standing, select, and special committees of the Senate; and joint committees of the Congress except that—

"(1) A Senator may serve as chairman of a joint committee of the Congress having jurisdiction with respect to a subject matter which is directly related to the jurisdiction of a committee named in paragraph 2 or paragraph 3 of which that Senator is the chairman;

"(2) A Senator who on the day preceding the effective date of section 130 of the Legislative Reorganization Act of 1970 was serving as chairman of more than one committee included within the classes described in this subparagraph may continue to serve as chairman of each such committee of which he was chairman on that day as long as his service as chairman of that committee remains continuous after that day; and

"(3) A Senator who is serving at any time as chairman of a committee included within the classes described in this subparagraph may at the same time serve also as chairman of one temporary committee of the Senate or temporary joint committtee of the Congress which, by the terms of the measure by which it was established as originally agreed to, will not continue in existence for more than one Congress.

"(g) No Senator shall serve at any time as chairman of more than one subcommittee of the same committee if that committee is named in paragraph 2. Notwithstanding the limitation contained in this subparagraph, a Senator who on the day preceding the effective date of section 130 of the Legislative Reorganization Act of 1970 was serving as chairman of more than one such subcommittee may continue to serve as chairman of each such subcommittee of which he was chairman on that day as long as his service as chairman of that subcommittee remains continuous after that day.".

On page 2, in the table of contents, immediately after the item relating to section 129 of title I of the bill, insert the following new item:

SEC. 130. Membership of standing committees of the Senate.

Mr. METCALF. Mr. President, this amendment would do something for the seniority system that is meaningful and appropriate. By operation of the seniority system, Senate committee assignments have gravitated to the senior Members. For example, one Senator in the previous Congress had 39 separate committee assignments. The workload of the Senate has become proportionately greater and greater. It is not who is going to be chairman of the committee but who is going to be on the subcommittees and who is going to participate in the responsibilities.

This amendment would limit and would give further spread of the various responsibilities of the subcommittees and responsibilities of the major committees.

TITLE I.—SENATE COMMITTEE MEMBERSHIPS AND CHAIRMANSHIPS

The House bill did not include any provision for Senate committee memberships and chairmanships for reasons of comity. Thus, it is necessary to add those provisions to H.R. 17654 to bring the bill in line with previous Senate action.

The proposed amendment would adopt the provisions of S. 844 as reported by the Senate Government Operations Committee in 1969. These provisions were also adopted by the Senate in 1967 by a vote of 75 to 9 as a part of S. 355.

The studies of the Joint Committee on the Organization of Congress indicated that one of the most serious problems facing Congress as an institution was a better division of its overwhelming workload. The Joint Committee found that more senior Members of Congress tend to have workload burdens of such magnitude that it is difficult or impossible for them to give adequate consideration to all matters placed before them. To alleviate this situation, the following provisions were adopted:

First. Senators should be limited to service on two major committees and one minor, joint or select committee.

Second. Senators should be limited to service on one of the following committees: Appropriations, Armed Services, Finance, and Foreign Relations.

Third. Senators should be limited to the chairmanship of only one full committee and only one subcommittee of a major committee.

It should be stressed that these provisions do not affect present committee assignments.

The amendment has been very carefully drawn to provide that no Senator will be deprived of any committee or any subcommittee or any chairmanship that he now holds. The Senate should not be deprived of existing experience and leadership on these committees and committee work should not be interrupted by an abrupt adjustment in assignments. However, adoption of these provisions will pave the way for a better allocation of workload in the future and will, in particular, give more junior Senators an opportunity to develop expertise and hold leadership positions at a relatively early time.

Mr. BOGGS. Mr. President, I urge the adoption of this amendment, also. I want to stress that these provisions do not affect the present committee assignments. As the distinguished floor manager of the bill has mentioned, I believe the adoption of these provisions will pave the way for a better allocation of the workload in the future and will in particular give more junior Senators an opportunity to develop expertise and to hold leadership positions at a relatively early time, which I think is a very good and effectual provision of this amendment.

I also want to stress that it is my belief that in practice, at the present time, both parties, in their caucuses and in their efforts, are working in this direction. So this would make it a matter of record and a guideline to follow.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

Mr. METCALF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METCALF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EAGLETON). Without objection, it is so ordered.

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Mr. METCALF. Mr. President, so far as I know, after disposition of the pending amendment, there are only two major amendments to the bill, both of which require a rollcall vote.

One is the proposal to create a Veterans Affairs Committee, and the other is to continue a provision for equal pay for professional staff officers which was suspended last night.

I do not feel that either of these amendments can be disposed of before the pending vote that has been agreed to at 2:30 p.m., today; therefore, Mr. President, I ask unanimous consent that the Senate stand in recess until 2:25 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 2:02 p.m., the Senate took a recess until 2:25 p.m.

On the expiration of the recess, the Senate was called to order by the Presiding Officer (Mr. HATFIELD).

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of the secretaries, and he announced that on September 26, 1970, the President had approved and signed the following acts:

S. 406. An act to amend the Federal Property and Administrative Services Act of 1949 to permit the rotation of certain property whenever its remaining storage or shelf life is too short to justify its retention, and for other purposes;

S. 621. An act to provide for the establishment of the Apostle Islands National Lakeshore in the State of Wisconsin, and for other purposes;

S. 2208. An act to authorize the Secretary of the Interior to study the feasibility and desirability of a national lakeshore on Lake Tahoe in the States of Nevada and California, and for other purposes;

S. 2565. An act to amend the act fixing the boundary of Everglades National Park, Florida, and authorizing the acquisition of land therein, in order to increase the authorization of such acquisitions;

S. 2763. An act to allow the purchase of additional systems and equipment for passenger motor vehicle over and above the statutory price limitation;

S. 3153. An act to authorize the Secretaries of Interior and the Smithsonian Institution to expend certain sums, in cooperation with the territory of Guam, the territory of American Samoa, the Trust Territory of the Pacific Islands, other U.S. territories in the Pacific Ocean, and the State of Hawaii, for the conservation of their protective and productive coral reefs; and

S. 3777. An act to authorize the Secretary of the Interior to enter into contracts for the protection of public lands from fires, in advance of appropriations therefor, and to twice renew such contracts.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. EAGLETON) laid before the Senate a message from the President of the United States submitting the nomination of David Ogden Maxwell, of Pennsylvania, to be General Counsel of the Department of Housing and Urban Development, which was referred to the Committee on Banking and Currency.

LEGISLATIVE REORGANIZATION ACT OF 1970

The Senate continued with the consideration of the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes.

Mr. MATHIAS. Mr. President, I ask for the yeas and nays on my amendment to the amendment of the Senator from Oregon.

The yeas and nays were ordered.

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Mr. METCALF. Mr. President, I ask unanimous consent that we vote now on the Mathias amendment to the Packwood amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

The question is on agreeing to Mr. Mathias' amendment to Mr. Packwood's amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished senior Senator from Massachusetts (Mr. Kennedy). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore I withdraw my vote.

Mr. BYRD of Virginia. I announce that the Senator from Alabama (Mr. Allen), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Connecticut (Mr. Dodd), the Senator from Tennessee (Mr. Gore), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Minnesota (Mr. McCarthy), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), the Senator from Missouri (Mr. Symington), and the Senator from Maryland (Mr. Tydings), are necessarily absent.

I also announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Rhode Island (Mr. Pell), and the Senator from Alabama (Mr. Sparkman) are officially absent.

I further announce that, if present and voting, the senator from Rhode Island (Mr. Pastore) and the Senator from Missouri (Mr. Symington) would each vote "nay."

I further announce that, if present and voting, the Senator from Oklahoma (Mr. Harris) would vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from Hawaii (Mr. Fong), the Senator from New York (Mr. Goodell), the Senator from California (Mr. Murphy) and the Senator from Illinois (Mr. Smith) are necessarily absent.

The Senator from New York (Mr. Javits) and the Senator from Oklahoma (Mr. Bellmon) are absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from South Dakota (Mr. Mundt), and the Senator from Illinois (Mr. Smith) would each vote "nay."

On this vote, the Senator from New York (Mr. Goodell) is paired with the Senator from California (Mr. Murphy). If present and voting, the Senator from New York would vote "yea" and the Senator from California would vote "nay."

The result was announced—yeas 23, nays 44, as follows:

[No. 353 Leg.]

YEAS—23

Baker
Brooke
Burdick
Byrd, W. Va.
Case
Cook
Cranston
Dole
Eagleton
Fulbright
Griffin
Hart
Hatfield
Hughes
Inouye
Mathias
Mondale
Packwood
Randolph
Saxbe
Schweiker
Scott
Stevens

NAYS—44

Allott
Anderson
Bayh
Bennett
Bible
Boggs
Byrd, Va.
Cooper
Cotton
Curtis
Dominick
Eastland
Ellender
Ervin
Gurney
Hansen
Holland
Hollings
Hruska
Jackson
Jordan, Idaho
Magnuson
McClellan
McGovern
McIntyre
Metcalf
Miller
Nelson
Pearson
Percy
Proxmire
Ribicoff
Russell
Smith, Maine
Spong
Stennis
Talmadge
Thurmond
Tower
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

PRESENT AND GIVING A LIVE PAIR AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—32

Aiken
Allen
Bellmon
Cannon
Church
Dodd
Fannin
Fong
Goldwater
Goodell
Gore
Gravel
Harris
Hartke
Javits
Jordan, N.C.
Kennedy
Long
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Muskie
Pastore
Pell
Prouty
Smith, Ill.
Sparkman
Symington
Tydings

So Mr. Mathias' amendment to Mr. Packwood's amendment was rejected.

Mr. BAKER. Mr. President, I call up my amendment at the desk, and ask that it be stated.

Mr. METCALF. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. Mathias). Will the Senator withhold his inquiry so that the amendment may be reported?

Mr. MANSFIELD. Mr. President, is this an amendment to the pending amendment?

Mr. BAKER. Yes, Mr. President, this is a perfecting amendment to the Packwood amendment. As I understand, the time has expired and there is no time to do anything except have the amendment reported and ask for the yeas and nays, which I shall do as soon as the amendment is reported.

The PRESIDING OFFICER. The Senator is correct. The amendment will be stated.

The assistant legislative clerk read as follows: At the end of the pending amendment add the following:

"The provision of this section shall not be applicable to any current chairman or current ranking minority member."

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. Mathias). The question is on agreeing to the amendment of the Senator from Tennessee (Mr. Baker) to the amendment of the Senator from Oregon. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alabama (Mr. Allen), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Connecticut (Mr. Dodd), the Senator from Tennessee (Mr. Gore), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Minnesota (Mr. McCarthy), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), the Senator from Missouri (Mr. Symington), and the Senator from Maryland (Mr. Tydings) are necessarily absent.

I also announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Rhode Island (Mr. Pell) and the Senator from Alabama (Mr. Sparkman) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore), the Senator from Oklahoma (Mr. Harris), and the Senator from Missouri (Mr. Symington) would each vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senator from Arizona (Mr. Fannin), the Senator from Hawaii (Mr. Fong), the Senator from New York (Mr. Goodell), the Senator from California (Mr. Murphy), and the Senator from Illinois (Mr. Smith) are necessarily absent.

The Senator from New York (Mr. Javits), and the Senator from Oklahoma (Mr. Bellmon) are absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

On this vote, the Senator from South Dakota (Mr. Mundt) is paired with the Senator from New York (Mr. Goodell). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from California (Mr. Murphy) is paired with the Senator from Illinois (Mr. Smith). If present and voting, the Senator from California would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 21, nays 48, as follows:

[No. 354 Leg.]

YEAS—21

Allott
Baker
Bennett
Boggs
Cook
Cranston
Curtis
Dominick
Eagleton
Hatfield
Hruska
Inouye
McClellan
Packwood
Pearson
Percy
Saxbe
Schweiker
Stevens
Thurmond
Tower

NAYS—48

Anderson
Bayh
Bible
Brooke
Burdick
Byrd, Va.
Byrd, W. Va.
Case
Cooper
Cotton
Dole
Eastland
Ellender
Ervin
Fulbright

Goldwater
Griffin
Gurney
Hansen
Hart
Holland
Hollings
Hughes
Jackson
Jordan, Idaho
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Miller
Mondale
Nelson
Proxmire
Randolph
Ribicoff
Russell
Scott
Smith, Maine
Spong
Stennis
Talmadge
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NOT VOTING—31

Aiken
Allen
Bellmon
Cannon
Church
Dodd
Fannin
Fong
Goodell
Gore
Gravel
Harris
Hartke
Javits
Jordan, N.C.
Kennedy
Long
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Muskie
Pastore
Pell
Prouty
Smith, Ill.
Sparkman
Symington
Tydings

So Mr. BAKER's amendment was rejected.

The PRESIDING OFFICER. (Mr. CASE). The vote now occurs on the amendment of the Senator from Oregon. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. RUSSELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The vote now occurs on the amendment of the Senator from Oregon.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. HOLLINGS (when his name was called). On this vote I have a pair with the Senator from Massachusetts (Mr. KENNEDY). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I, therefore, withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) and the Senator from Missouri (Mr. SYMINGTON) would each vote "nay."

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS) would vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from California (Mr. MURPHY), and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from New York (Mr. JAVITS) and the Senator from Oklahoma (Mr. BELLMON) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

On this vote, the Senator from New York (Mr. GOODELL) is paired with the Senator from South Dakota (Mr. MUNDT). If present and voting, the Senator from New York would vote "yea" and the Senator from South Dakota would vote "nay."

On this vote, the Senator from Illinois (Mr. SMITH) is paired with the Senator from California (Mr. MURPHY). If present and voting, the Senator from Illinois would vote "yea" and the Senator from California would vote "nay."

The result was announced—yeas 22, nays 46, as follows:

[No. 355 Leg.]

YEAS—22

Bayh
Brooke
Case
Cook
Cranston
Eagleton
Goldwater
Hatfield
Hughes
Inouye
Mansfield
Mathias
McGovern
Mondale
Nelson
Packwood
Percy
Randolph
Saxbe
Schweiker
Stevens
Williams, N.J.

NAYS—46

Allott
Anderson
Baker
Bennett
Bible
Boggs
Burdick
Byrd, Va.
Byrd, W. Va.
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fulbright
Griffin
Gurney
Hansen
Hart
Holland
Hruska
Jackson
Jordan, Idaho
Magnuson
McClellan
McIntyre
Metcalf
Miller
Pearson
Proxmire
Ribicoff
Russell
Scott
Smith, Maine
Spong
Stennis
Talmadge
Thurmond
Tower
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

PRESENT AND GIVING A LIVE PAIR AS PREVIOUSLY RECORDED—1

Hollings, against.

NOT VOTING—31

Aiken
Allen
Bellmon
Cannon
Church
Dodd
Fannin
Fong
Goodell
Gore
Gravel
Harris
Hartke
Javits
Jordan, N.C.
Kennedy
Long
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Muskie
Pastore
Pell
Prouty
Smith, Ill.
Sparkman
Symington
Tydings

So Mr. PACKWOOD's amendment was rejected.

Mr. METCALF. Mr. President, so far as I know, there are only two amendments left to be proposed to the bill. One amendment that I am going to offer would create a separate Committee on Veterans Affairs and the other amendment which we debated last night, would equalize professional committee staff pay between Senate and House.

Now, Mr. President, I want to accommodate the distinguished Senator from Louisiana (Mr. ELLENDER). I will bring up the amendments in whichever order will be easier for the Senator.

Mr. ELLENDER. Mr. President, a meeting of the Appropriations Committee is taking place now. I am informed it will take about 5 or 10 minutes. If it is in order to do so, I propose to strike out section 305 of the pending bill.

The PRESIDING OFFICER (Mr. DOLE). The amendment will be stated.

The legislative clerk read as follows: Beginning on page 91, strike out section 305.

The language sought to be stricken is as follows:

COMPENSATION OF PROFESSIONAL AND CLERICAL STAFFS OF SENATE STANDING COMMITTEES

SEC. 305. Subsections (e) and (f) of section 105 of the Legislative Branch Appropriation Act, 1968 (81 Stat. 142–143; Public Law 90–57), as amended (2 U.S.C. 61–1), are amended to read as follows:

"(e) (1) Subject to the provisions of paragraph (3), the professional staff members of standing committees of the Senate shall receive gross annual compensation to be fixed by the chairman ranging from $17,301 to $30,879.

"(2) The rates of gross compensation of the clerical staff of each standing committee of the Senate shall be fixed by the chairman as follows:

"(A) for each committee (other than the Committee on Appropriations), one chief clerk and one assistant chief clerk at $7,446 to $30,879, and not to exceed four other clerical assistants at $7,446 to $12,921; and

"(B) for the Committee on Appropriations, one chief clerk and one assistant chief clerk and two assistant clerks at $19,272 to $30,879; such assistant clerks as may be necessary at $13,140 to $19,053; and such other clerical assistants as may be necessary at $7,446 to $12,921.

"(3) No employee of any standing or select committee of the Senate (including the majority and minority policy committees and the conference majority and conference minority of the Senate), or of any joint committee the expenses of which are paid from the contingent fund of the Senate, shall be paid at a gross rate in excess of $30,879 per annum, except that—

"(A) four employees of any such committee (other than the Committee on Appropriations), who are otherwise authorized to be paid at such rate, may be paid at gross rates not in excess of $32,193 per annum, and two such employees may be paid at gross rates not in excess of $33,507 per annum; and

"(B) sixteen employees of the Committee on Appropriations who are otherwise authorized to be paid at such rate, may be paid at gross rates not in excess of $32,193 per annum, and two such employees may be paid at gross rates not in excess of $33,507 per annum.

For the purpose of this paragraph, an employee of a subcommittee shall be considered to be an employee of the full committee.

"(f) No officer or employee whose compensation is disbursed by the Secretary of the Senate shall be paid gross compensation at a rate less than $1,095 or in excess of $33,507, unless expressly authorized by law.".

Mr. ELLENDER. Mr. President, as I suggested yesterday, it is my sincere belief that if we choose to increase the salaries of all of the employees of the standing committees of the Senate, we will be confronted with requests and demands to increase the salaries of all the other employees of the Senate, including the professional staffs in our own offices.

If the amendment proposed by the

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Senator from Montana is agreed to, it will mean that the top pay for every professional on the standing committees will be increased. The employees at the head of those standing committees now receive up to $33,176.

Under this proposed amendment, two employees would receive $35,496—only $7,000 less than Senators get now.

Employees who are now receiving $31,784 with the Senate Appropriations Committee, 17 are receiving that would receive $34,104, if this amendment goes through as proposed by my friend from Montana.

As to the Appropriations Committee, the proposal will provide that 16 members of that committee will receive $34,104 instead of $31,784 which they are now receiving.

I think that is unconscionable. If the House desires to be spendthrift and pay these high salaries, there is no reason why the Senate should follow suit.

Under the proposed amendment, three employees on the 16 standing committees now receiving $30,392 apiece would receive $32,712. So far as the Appropriations Committee is concerned, an unlimited number could be employed at the rate of $32,712.

Under present law, there would be no change as to the four employees on the standing committees who now receive $13,688.

But, just as certain as we increase the pay of the employees of the standing committees, the next move will be to increase the pay of all employees of the Senate, including our own staff employees.

As it now stands, Senators can pay one employee not to exceed $33,176; two employees not to exceed $31,784; one employee not to exceed $30,392; two employees not to exceed $25,056; and all others not to exceed $18,560 each.

The effect of my amendment would be simply to strike the schedule put in the pending bill and let the law now in force remain. The law would provide the figures that I have just indicated.

Mr. President, I hope that the Senate will agree to the amendment to leave the salary matter for the future.

I am sure the bill is an improvement on our present rules. Let us pass this revised bill. But let us leave the salaries alone.

As I pointed out on yesterday, there have been 12 increases in salaries from the year 1951, ranging from 2.9 percent to as much as 10 percent each year in that period of time. Salaries have been increased by a fair amount each and every year since 1964.

Mr. President, I think that we have been very liberal with our Senate employees. Let us not try to ape the House because, if we do, we will have to change the whole schedule. Not only will the schedule of the committees be affected but also the schedule of all Senate staff positions.

It strikes me that each House should act on its own as to this matter. I therefore ask that this section, which deals only with the salaries, be stricken. Let the law remain as it is.

Mr. President, we are appropriating each year now better than $60 million of the taxpayers money to operate this Senate. That compares to a figure of about $22 million only 15 years ago, and $28.9 million in fiscal 1961. Actual expenditures have increased from $18.6 million in fiscal 1956, to $26.9 million in 1961 and to $43.7 million in fiscal 1968, the last year for which complete figures are available.

By far the largest part of this money goes for salaries for the committees, subcommittees, and personal staff of Senators. There is a spirit of unrest abroad in the land—among our youth, and among the citizens old enough to pay for the activities of their government. As I observe the situation that has come up around us within the last 10 years, it is easy for me to understand the resentment that many feel toward their government, and I cannot say I blame them.

From the year 1956, appropriations necessary to fund the supposed legislative activities of our Senate have increased by 182.2 percent. Actual expenditures from that base year to fiscal 1968, the last period for which complete figures are available have increased by 134.9 percent. I think it is time that we asked ourselves what improvements have come about because of these increases, and what the taxpayers have gotten for their money.

Mr. President, I have directed my staff to prepare two tables indicating the absolute and percentage increases to which I have been referring. I ask unanimous consent that those two tables appear in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

SENATE APPROPRIATIONS, AMOUNTS RETURNED TO TREASURY, AND EXPENDITURES

Fiscal year	Amount appropriated	Returned to Treasury[1]	Expenditures
1956	$21,992,759	$3,356,380	$18,636,379
1957	22,839,115	2,925,747	19,913,368
1958	23,156,255	946,915	22,209,340
1959	26,257,815	1,985,602	24,272,213
1960	27,548,985	1,762,969	25,786,016
1961	28,917,185	2,005,301	26,911,884
1962	28,844 470	1,651,651	27,192,819
1963	31,052,550	1,800,596	29,251,954
1964	31,689,230	1,508,732	30,180,498
1965	35,904,170	1,488,452	34,415,718
1966	38,533,400	1,789,892	36,743,508
1967	41,285,075	2,165,581	39,119,494
1968	46,252,989	2,472,034	43,780,955
1969	51,341,289		
1970	60,792,725		
1971	[2] 62,057,614		

[1] Balances remain on hand for two fiscal years before return to Treasury.

[2] Figure for fiscal year 1971 is incomplete.

PERCENTAGE INCREASES IN SENATE APPROPRIATIONS AND EXPENDITURES, FISCAL YEARS 1956–71

[In percent]

Fiscal year	Appropriation increase	Expenditure increase
1956 (base)		
1957	3.8	6.9
1958	5.3	19.2
1959	19.4	30.2
1960	25.3	38.4
1961	31.5	44.4
1962	31.2	45.9
1963	41.2	57.0
1964	44.1	61.9
1965	63.3	84.7
1966	75.2	97.2
1967	87.7	109.9
1968	110.3	134.9
1969	133.4	
1970	176.4	
1971	182.2	

Mr. ELLENDER. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

AMENDMENT NO. 952

Mr. METCALF. Mr. President, I call up amendment No. 952 which is a perfecting amendment to the language proposed to be stricken by the amendment of the Senator from Louisiana.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to state the amendment.

Mr. METCALF. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 952) reads as follows:

On page 91, line 14, strike out "$17,301 to $30,879" and insert in lieu thereof "$18,328 to $32,712".

On page 91, line 20, strike out "$7,446 to $30,879" and insert in lieu thereof "$7,888 to $32,712".

On page 91, line 21, strike out "$7,446 to $12,921" and insert in lieu thereof "$7,888 to $13,688".

On page 91, line 25, strike out "$19,272 to $30,879" and insert in lieu thereof "$20,416 to $32,712".

On page 92, line 1, strike out "13,140 to $19,053" and insert in lieu thereof "$13,920 to $20,184".

On page 92, lines 2 and 3, strike out "$7,446 to $12,921" and insert in lieu thereof "$7,888 to $13,688".

On page 92, line 9, strike out "$30,879" and insert in lieu thereof "$32,712".

On page 92, line 14, strike out "$32,193" and insert in lieu thereof "$34,104".

On page 92, line 16, strike out "$33,507" and insert in lieu thereof "$35,496".

On page 92, line 20, strike out "$32,193" and insert in lieu thereof "$34,104".

On page 92, line 21, strike out "$33,507" and insert in lieu thereof "$35,496".

On page 93, line 2, strike out "$1,095 or in excess of $33,507" and insert in lieu thereof "$1,160 or in excess of $35,496".

Mr. METCALF. Mr. President, this is a new schedule on section 305. The principle is exactly the same as would be voted upon if we vote on the amendment to strike, except that if this amendment is agreed to, the motion would be to strike the perfecting amendment with a schedule that has been brought up to date as a result of the pay raise of 1969.

Mr. President, this is only an authorizing amendment. This authorizes the chairmen to pay Senate committee staff a salary equal to that paid by the chairmen to committee staff on the House side.

This amendment was agreed to on two votes in 1967 and has been a part of S. 844.

In the debate last night on the amendment that we set aside, I stated that we brought out the real essence of the controversy. The controversy is whether the profesional staff of the Senate of the United States shall have an opportunity to earn as much as the professional staff of the House of Representatives.

As pointed out, this does not take care of the personal staffs of Senators. Nor does it take care of such officers as are seated at the desk in front of me. It does not take care of the Parliamentarian, the

Clerk of the House, the Doorkeeper, the Chaplain, the Postmaster. They are taken care of under a separate provision of the law.

Under the ground rules laid down for the consideration of this bill, we agreed that we would try to support and maintain a bill that was the same as the bill that passed the Senate in 1967 and as the bill reported from the Government Operations Committee early last year.

Therefore, Mr. President, much as I agree that we should have a conforming amendment to take care of the salaries of the clerk of the House, with the high regard that I have for the Parliamentarian, whose salary should be exactly equal to that of the Parliamentarian of the House, this was left out because it was not a part of the original legislation.

So whether we vote the measure up or down and strike out section 305, in order to take care of certain changes that have been made as a result of this bill and changes that have been made in the pay increase bills, it is necessary to have a perfecting amendment such as I have submitted in this proposal.

I presented my case last night. The only question is whether the Senate is going to permit its people to have a salary equal to the salary of like officers of the other body.

Mr. President, I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Louisiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Virginia (Mr. Byrd), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Connecticut (Mr. Dodd), the Senator from Arkansas (Mr. Fulbright), the Senator from Tennessee (Mr. Gore), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Minnesota (Mr. McCarthy), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), the Senator from Missouri (Mr. Symington), and the Senator from Maryland (Mr. Tydings) are necessarily absent.

I also announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Rhode Island (Mr. Pell), and the Senator from Alabama (Mr. Sparkman) are absent on official business.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. Harris), the Senator from Hawaii (Mr. Inouye), and the Senator from Rhode Island (Mr. Pastore) would each vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senator from Arizona (Mr. Fannin), the Senator from Hawaii (Mr. Fong), the Senator from New York (Mr. Goodell), the Senator from California (Mr. Murphy), and the Senator from Illinois (Mr. Smith) are necessarily absent.

The Senator from New York (Mr. Javits) and the Senator from Oklahoma (Mr. Bellmon) are absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Ohio (Mr. Saxbe) is detained on official business.

On this vote, the Senator from California (Mr. Murphy) is paired with the Senator from New York (Mr. Goodell). If present and voting, the Senator from California would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from Illinois (Mr. Smith) is paired with the Senator from South Dakota (Mr. Mundt). If present and voting, the Senator from Illinois would vote "yea" and the Senator from South Dakota would vote "nay."

The result was announced—yeas 32, nays 34, as follows:

[No. 356 Leg.]

YEAS—32

Allen
Allott
Burdick
Byrd, W. Va.
Cook
Cooper
Curtis
Dole
Dominick
Ellender
Ervin
Goldwater
Gurney
Hansen
Hatfield
Holland
Hollings
Hruska
Mansfield
McClellan
Miller
Pearson
Russell
Schweiker
Spong
Stevens
Talmadge
Thurmond
Tower
Williams, Del.
Young, N. Dak.
Young, Ohio

NAYS—34

Anderson
Baker
Bayh
Bennett
Bible
Boggs
Brooke
Case
Cotton
Cranston
Eagleton
Eastland
Griffin
Hart
Hughes
Jackson
Jordan, Idaho
Magnuson
Mathias
McGovern
McIntyre
Metcalf
Mondale
Nelson
Packwood
Percy
Proxmire
Randolph
Ribicoff
Scott
Smith, Maine
Stennis
Williams, N.J.
Yarborough

NOT VOTING—34

Aiken
Bellmon
Byrd, Va.
Cannon
Church
Dodd
Fannin
Fong
Fulbright
Goodell
Gore
Gravel
Harris
Hartke
Inouye
Javits
Jordan, N.C.
Kennedy
Long
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Muskie
Pastore
Pell
Prouty
Saxbe
Smith, Ill.
Sparkman
Symington
Tydings

So Mr. Ellender's amendment was rejected.

Mr. METCALF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BOGGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METCALF obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. METCALF. I am delighted to yield.

Mr. MANSFIELD. Mr. President, for the information of the Senate—and I stand ready to be corrected if I am wrong—I understand there is one more amendment, that amendment having to do with the establishment of a Committee on Veterans' Affairs, which, pending the arrival of the distinguished Senator from Louisiana (Mr. Long), who is officially delayed at the moment, will be presented on behalf of the committee by my distinguished colleague, the Senator from Montana (Mr. Metcalf). It would be my guess that the amendment would take the better part of an hour, anyway, and it is impossible at this time to limit the debate. I simply wish to advise the Senate that I understand there is only one more matter to be considered before the vote on final passage.

Mr. CRANSTON. Mr. President, if the Senator will yield, may I say as an explanatory remark to what the distinguished majority leader has said, there may be one more amendment that will not take a significant amount of time.

Mr. METCALF. Mr. President, I have a perfecting amendment, which I send to the desk and ask to have read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

> On page 154, line 21, after "this Act" the first time it appears, insert a comma and the following: "and section 105 (e) and (f) of the Legislative Branch Appropriation Act, 1968, as amended by section 305 of this Act".
>
> At the end of the bill, add the following:
>
> "(6) Section 105 (e) and (f) of the Legislative Branch Appropriation Act, 1968, as amended by section 305 of this Act, shall become effective on January 1, 1971."

Mr. METCALF. Mr. President, the amendment merely changes the effective date of the act for the last amendment, so that the Disbursing Office will not have to put out one schedule for disbursement from January 1 to January 3 and another schedule from January 3 on. This amendment makes the effective date of that amendment go into effect on the first day of January.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. METCALF. I yield to the Senator from Oregon.

Mr. PACKWOOD. I am intrigued. I might ask the Senator if he can explain the words which appear on page 47 of the bill, starting on line 3, where, relating to conference reports in the House, it states:

> It shall not be in order to consider the report of a committee of conference unless such report and the accompanying statement shall have been printed in the Record, at least 3 calendar days prior to the consideration of such report by the House . . .

I understand that, but then it goes on to say:

> but this provision does not apply during the last six days of the session.

I appreciate the wisdom of the House, but I am at a loss to know how they will know when the last 6 days of the session are coming upon us.

Mr. METCALF. As a former Member of the House, I will say to the distinguished Senator from Oregon that they

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do not know. This is one of those things that is after the fact. This provision, however, is in several of the standing rules of the House. Finally, the leadership arrived at some way to have a suspension of the calendar. The leadership has a crystal ball by which they can foresee the last 6 days of the session.

Mr. PACKWOOD. Having said that and wondering about the wisdom of the House, which I wish we had in the Senate, I have prepared a poem, which I should now like to read:

It is often said of Congress
  that we govern with God's will,
that His wisdom and His counsel
  affects our every bill.

Of course there are detractors
  who say we're not doing fine
and who claim our machinations
  are without our Lord's divine.

But now we finally have the proof
  to fend off each attack.
It's contained in but one tiny clause
  of the Reorganization Act.

By virtue of that section
  the House is hence precluded
from voting on a conference act
  till a notice is included.

Yes, a notice in the Record
  for at least three days before
the vote is finally taken
  on that august body's floor.

Now you say that seems but only fair
  to give that timely tip
so a vote is made with warning
  by the House's membership.

Ah, but wait, there is a hooker
  in this provisions secret ways.
It shall never, never be required
  In the session's last six days.

So at last we do admit it,
  the future will be ours.
We can divine six days ahead
  the session's closing hours.

We can tell it will be Tuesday
  or Friday just at nine,
Or maybe Sunday evening
  would be a better time.

Now, members of this Congress,
  this knowledge should be shared
With all our fellow citizens
  who would like their futures bared.

In marriage and in life itself
  to tell what comes tomorrow,
Would give us all a wee small choice
  to alleviate much sorrow.

When an overbearing foreman
  says mend your working ways,
You can flaunt him with abandon
  and say "you've just six days."

When a nagging wife berates you
  for your home repair delays,
You can always put her off by saying
  "Ah, hon, I've only just six days."

Yes, the options are amazing
  with the foresight here displayed.
Wars can be prevented
  and tidal waves delayed.

But I'll limit my inquiry
  in this blue October haze,
To Mike and Hugh and humbly ask,
  When are our last six days?

Mr. METCALF. I thank the Senator from Oregon very much.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. METCALF. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METCALF's amendment is as follows:

On page 55, between lines 3 and 4, insert the following new section:

JURISDICTION OF STANDING COMMITTEES OF THE SENATE

SEC. 130. Paragraph 1 of Rule XXV of the Standing Rules of the Senate is amended—

(1) by striking out in subparagraph (h) (relating to the Committee on Finance) the following numbered items—

"10. Veterans' measures generally.

"11. Pensions of all the wars of the United States, general and special.

"12. Life insurance issued by the Government on account of service in the armed forces.

"13. Compensation of veterans.";

(2) by striking out in subparagraph (m) (relating to the Committee on Labor and Public Welfare)—

"16. Vocational rehabilitation and education of veterans.

"17. Veterans' hospitals, medical care and treatment of veterans.

"18. Soldiers' and sailors' civil relief.

"19. Readjustment of servicemen to civil life.";

(3) by adding at the end thereof the following new subparagraph—

"(q) Committee on Veterans' Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Veterans' measures generally.

"2. Pensions of all wars of the United States, general and special.

"3. Life insurance issued by the Government on account of service in the armed forces.

"4. Compensation of veterans.

"5. Vocational rehabilitation and education of veterans.

"6. Veterans' hospitals, medical care and treatment of veterans.

"7. Soldiers' and sailors' civil relief.

"8. Readjustment of servicemen to civil life.

"9. National cemeteries."; and

(4) by striking out in subparagraph (k) (relating to the Committee on Interior and Insular Affairs) the following item—

"5. Military parks and battlefields, and national cemeteries."

and inserting in lieu thereof—

"5. Military parks and battlefields."

On page 2, in the table of contents, immediately after the item relating to section 129 of title I of the bill, insert the following new item:

Sec. 130. Jurisdiction of standing committees of the Senate.

Paragraph 3 of Rule XXV of the Standing Rules of the Senate is amended to add the following:

"Veterans' Affairs ____________________ 9"

Mr. METCALF. Mr. President, this is an amendment dealing with the jurisdiction of Senate committees; and, of course, it is one of a series of amendments necessary under the provisions of comity to make the House bill conform to the Senate bill.

This amendment would create a Committee on Veterans' Affairs and would give that committee jurisdiction over veterans' matters presently assigned to other committees. This change has long been proposed by various Members of the Senate and by veterans groups. It was adopted by the Senate in 1967 as a part of S. 355.

I know that there are differing views held by Members of the Senate as to the need for a separate Veterans' Committee.

I have been a member of all three committees which would lose jurisdiction under this amendment: the Finance Committee, the Committee on Interior and Insular Affairs, and the Committee on Labor and Public Welfare. I know the workload of those committees is such that they certainly could well dispense with veterans' affairs.

Every veterans' organization in America has constantly petitioned the Senate to create such a committee; and in this bill we are trying to create parallel committees, so that the subject matter dealt with by House committees will be treated by corresponding committees in the Senate.

Another powerful argument for offering this amendment and raising this question at this time is the fact that one of the two architects of this legislation, the Senator from South Dakota (Mr. MUNDT) has been a strong proponent of a Veterans' Affairs Committee. Had he been here, he would have argued eloquently for the creation of such a committee. It was his leadership that caused it to be put into the Senate bill in 1967.

So, Mr. President, I feel it necessary that there be at least an opportunity to have the Senate vote on the creation of this committee. In view of the sponsorship of this amendment by the Joint Committee on the Organization of the Congress, the particular interest in it expressed by Senator MUNDT, and the previous Senate action adopting the proposal, I feel that the amendment should be placed before the Senate at this time for its consideration.

Mr. BOGGS. Mr. President, will the Senator yield?

Mr. METCALF. I am delighted to yield.

Mr. BOGGS. Mr. President, I join the distinguished floor manager in support of this amendment. I certainly agree with his statement in regard to Senator MUNDT, with whom we have all had the privilege of serving on the joint committee. Senator MUNDT is indeed, dedicated, not only to bringing out a good bill, but especially to this particular provision for the creation of a Veterans' Affairs Committee.

This amendment would bring the Senate committees in line with the committee arrangement in the House of Representatives, and make, I believe, for a more effective working relationship in regard to these matters. In addition, it would serve the purpose of bringing together under one jurisdiction all the various programs and legislation for the benefit of and concerning veterans. This should provide a more effective consideration by this body for that group of men and women who have sacrificed so much for all of us.

I say this with the greatest esteem, respect, and appreciation for the work of the members of the committees under the present committee structure which now consider veterans legislation. They have done a fine job. But I believe this measure would further the effort on which they have done such a fine job and, therefore, I support the amendment.

(Mr. GURNEY assumed the chair as Presiding Officer at this point.)

Mr. DOLE. Mr. President, let me say briefly that I support the amendment. Having served in the House of Representatives for 8 years, with all respect to the committees in this body which have jurisdiction of veterans' affairs, I have known the frustrations of the veterans' organizations. This has long been a matter of great interest, I know, to the senior Senator from South Dakota (Mr. MUNDT) and to other Senators.

It occurs to me that since there are more and more problems involved in dealing with veterans, veterans' benefits and veterans' affairs, because regardless of the efforts made, we are involved in one tragic conflict after another. There are, therefore, thousands and thousands of disabled veterans and thousands and thousands of dependents, children and others, who must depend upon Congress for legislation.

I have long been convinced that creation of a Veterans' Committee would be an improvement and a step forward for the Senate, and would be a singular recognition of the great sacrifice and dedication of millions of Americans who have served our country. I support the amendment of the Senator from Montana, recognizing that those committees which now have jurisdiction have been most generous, most attentive, and most helpful to literally millions of American veterans of all wars.

I support the amendment, and share the views expressed by the Senator from Delaware and the Senator from Montana.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

Mr. CRANSTON. Mr. President, I rise in opposition to this amendment, for quite a number of reasons.

First, historically, the general thrust of efforts to reorganize both the Senate and the House of Representatives in ways to make them more effective—a thrust supported by leaders of reorganization in both bodies—has been to reduce the number of committees, to prevent the proliferation of committees, and particularly to do away, as far as possible, with the existence of committees that have narrow interests, committees that look at only one aspect of our society and do not relate to broader aspects.

It seems to me that in the light of this effort, and in the light of the logic behind that general concept of reorganization, we should establish new committees only where clear and convincing need is shown. I do not believe that is the case in the present instance.

Another bit of history relates to that fact that this particular amendment and this particular measure actually were prepared before the current session of Congress, as I understand it, and thus prepared before certain matters occurred this year, and which have changed the situation quite dramatically.

As I understand it, one of the reasons for the advocacy of a separate committee was that the Committee on Finance, in the past, traditionally did not initiate legislation on veterans' matters, but waited for the House of Representatives to act first. That is no longer the situation. When this amendment was prepared and adopted by the committee, there was not in existence a subcommittee in the Finance Committee to do the remarkable and effective things that the subcommittee on veterans' legislation has recently done, under the chairmanship of the able Senator from Georgia (Mr. TALMADGE). That, too, changed the situation.

It is true that most, if not all, the major veterans' organizations in America are generally on record in favor of setting up a separate Veterans' Committee. But I can state from personal experience that representatives of those bodies do not now feel any urgent need for the creation of a separate Veterans' Committee. They recognize that very effective works is now being done by the two subcommittees, one of the Labor and Public Welfare Committee, the other of the Finance Committee, and by Congress generally on behalf of the great needs of veterans; and frankly, some of them are concerned that the sort of change proposed in this amendment would actually, under the new circumstances that now prevail, have adverse effects upon the interests of America's veterans.

Present jurisdictional assignments really best serve the interests of all segments of our society, inclduing veterans.

The Committee on Labor and Public Welfare, of which Veterans' Affairs Subcommittee is a part, considers the needs of veterans in areas of health, education, vocational rehabilitation, employment and training, and overall readjustment to civilian life in relation to the interests and needs of all segments of society. There are on the subcommittee and on the full committee experts in the fields of education and health who know what is being done generally, who know best how to fit veterans' programs and their needs into these overall programs.

Similarly, the Committee on Finance brings its very great and vast experience with social security and public assistance to problems of veterans' pensions and annuities and their effect on the Nation's economy and the necessity for taxes to pay for them. If these matters were isolated in a separate committee, that expertise on these matters would be lost insofar as committee consideration and action are concerned. Each of the present committees is better prepared to balance conflicting interests than an isolated committee concerned only with veterans.

Frankly, I think it should be recognized that a separate special Veterans' Affairs Committee, combined with the proposed limitation on membership on committees that would be put in effect by the adoption of this amendment—saying that one could serve only on two major committees and one other committee—would mean that the Veterans' Affairs Committee would tend to have a changing membership, in constant flux. It would not have the strong membership it draws now from the Committee on Labor and Public Welfare and the Committee on Finance. It would tend to have weaker members who would serve less long, who would not develop expertise, and whose recommendations out of committee to the Senate would have to be taken with many grains of salt and would face far tougher sledding on the floor of the Senate than recommendations that now run the very tough gamut they are required to run through expert members of the present Committees on Finance and Labor and Public Welfare.

Therefore, I think we would see an adverse effect on the ability to pass badly needed legislation for veterans if we make this change.

Another point that should be considered seriously is that a new committee, with new staff, would create additional space problems in a Senate already plagued by space problems. I am speaking from personal experience. I represent what is now the largest State in the Nation, with more mail, more visitors, and probably more problems than any other State. We are sitting on top of each other in the office. We do not have sufficient space. Other Senators face the same problem. If we set up the new committee, where is the space to be found, and who is going to give up space they are presently using productively for what I believe would be an unproductive use?

The expense of a separate staff specializing in veterans' affairs is not justifiable. I do not know what that expense would be, but let us look at the House. The House Veterans' Affairs Committee operates on a budget of $425,000, with a staff of 17 or 18 full-time positions. Are we about to bring that unneeded cost to the Senate, when we have so many other costs that go unmet?

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. CRANSTON. I am delighted to yield to the Senator from Minnesota.

Mr. MONDALE. I am one of those who have traditionally supported the concept of creating a separate veterans' committee, but I have been in the process of changing my mind in the past 2 years as I have watched the relative product of our Subcommittee on Veterans' Affairs as against the full committee of the House. I do not mean to be critical, because I think they have a very fine committee there. But I think it is fair to say that the Senate Subcommittee on Veterans' Affairs has produced a remarkable array of reforms and improvements over the past 2 years, when one looks at the education improvements, the modernization and broadening of the GI bill in all its aspects—student assistance, vocational training high school assistance—and the rest.

The broad improvement long overdue in health services has been produced almost singlehandedly by the Veterans' Affairs Subcommittee, under the leadership of the Senator from California, to expose the tragic conditions in some of our veterans' hospitals and to urge the kind of hospital care needed for returning GI's who have been wounded in Vietnam and those who have been in the hospitals over the years.

In these and many other ways, the Veterans' Affairs Subcommittee of the Senate, along with its counterpart, the subcommittee under the chairmanship of the distinguished Senator from Georgia, in the Senate Committee on Finance, has literally led the reforms in the area of veterans' care and veterans' benefits.

So that if the product and the achievements are to be the measure of a committee's or a subcommittee's effort, I think that that by itself proves the value of the present system.

I mean no criticism whatever of the House Veterans' Affairs Committee, because I think it is a fine committee. But I believe that the product and the results of the present system in the Senate are such that I am prepared to change my mind and change my position and support the present system.

Mr. CRANSTON. I thank the Senator from Minnesota. He is a perfect example of one of the major points I am seeking to make. As a member of the Veterans' Affairs Subcommittee, Senator **MONDALE** has brought great expertise in the areas of health, in education, in job training, and in job opportunities to the Subcommittee on Veterans' Affairs.

If a separate committee were created, it would be most unfortunate if his great expertise were lost.

Mr. MONDALE. Mr. President, will the Senator yield further?

Mr. CRANSTON. I yield.

Mr. MONDALE. Typical of the relationship of the two assignments is the mere matter of student assistance. One of the key elements in the entire GI program has been student assistance for returning GI's. I think it is one of the most exciting programs ever adopted. One of the key responsibilities, as a member of the Subcommittee on Education of the Committee on Labor and Public Welfare, has been the broad problem of student assistance generally. The two problems are exactly related, and to create a separate committee, I think, would actually duplicate the work.

I think, once again, that this shows the parallel responsibilities as to why the present subcommittee, in its present status, makes a great deal of sense.

Mr. CRANSTON. I thank the Senator for his significant contribution to this discussion.

Mr. COOK. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. COOK. I might suggest to the Senator that when I was reading through this page, I came to that section, and I wrote down three things: Does this call for a new staff? Why do we need a new standing committee? How many subcommittees?

I suppose every Senator gets a card in his office each morning. The one I received this morning, for example, shows a meeting of the Committee on Commerce at 9:30 a.m., a meeting of the Nutrition Subcommittee at 10:30 a.m., a meeting of the Subcommittee on Equal Education at 10 a.m., and at 10:30 a.m. a meeting of the Subcommittee on Internal Security.

I do not know in how many places a person can be at one time during the day.

I think we would be fooling ourselves by creating a new committee. We now have 13 standing committees. We now have four that are commonly referred to as minor committees.

It seems that every time in the past when the Senate has had a reorganization bill, one of the nice things it has done is to eliminate some of the subcommittees, so that we can get back to normal for a while, and then we spoil it after a fashion. But this is the first time I know of that we have created a new committee, created the possibility of a $400,000 staff, created the possibility of at least seven or eight subcommittees, which most major committees have; and, I might suggest, creating many more employees for some Members of the Senate who do not show up on their staffs, really and truly. I am being perfectly frank, and I think we all know that.

I just do not see how it is anticipated, at least for the benefit of the American public and the taxpayer, that ultimately we are going to have anything other than committees and subcommittees meeting with one Senator sitting, because none of the other Senators will have time to be there because their services are required at about five or six other places. If I am wrong in stating that, I should like for someone to correct me. It gets tremendously discouraging when one comes to the office in the morning to find out there are five or six places we have to be in all at the same time. I agree with the colloquy that has been going on between the Senator from Minnesota and the major opposition to the amendment because I do not know how we will ever justify not being where we should be. But we obviously cannot be there because there is no way to be in so many different places at the same time.

I wish to thank the Senator for bringing this up because I think it is important. Frankly, I am delighted that the House, in its wisdom, saw fit not to encumber us with one additional responsibility that would almost certainly create a tremendous liability at the same time.

Mr. CRANSTON. I thank the Senator from Kentucky. With his usual approach, he has zeroed in on one of the things the Senator from Minnesota and I had in mind in our discussion of this matter.

Mr. COOK. Rather obviously, when Senators face the choice of where they want to allocate their time, or spend their time, or decide which committee they want to be on, or which committee they will attend, we are, unhappily, going to find out that if this amendment prevails, too many Senators will decide that they do not have enough time for the interest of veterans as against the broader interest that they can relate to or deal with by attending other committees or seeking membership on other committees.

For instance, this morning, there was one committee I wanted to go to, which I felt was extremely important I attend, because it contained a nomination, but I was told by a member of my staff that, Heavens to Betsy, I could not do that, because I have a witness coming before one of the other committees and I would have to be there because the witness is a constituent of mine. Many Senators have faced that situation, of course. I believe it is a good opportunity to have a frank discussion with the American people who come to Washington to see us, only they find out when they walk into our office, they see us on the run, deciding how our time can best be spent, whether in one place or another, because we are really needed in five.

It gets very discouraging, when a Senator gets a hurried call to go over to the New Senate Office Building to meet a quorum, and we go into the room long enough to establish a quorum. That is not the way to conduct the business of the people. We are adding more to it instead of less by this amendment. I am one of those who would like to see a reorganization bill that would specifically limit the number of subcommittees a major committee can have, so that we might be able to spend more time where it is most needed.

It is rather discouraging, for instance, when we go before a committee and a witness tells us, as he did the other day, that a piece of legislation then pending he thought was the worst piece of draftsmanship he had seen since the first draft of the Sherman Antitrust Act in 1899. It is not very nice to have someone say that about modern legislation that comes before a committee, but it is true; due, frankly, to the fact that Senators do not have the time, and do not have the opportunity for that degree of creativity that comes from good draftsmanship in legislation. I would hate to see that problem added to. I would like to see it lessened.

Mr. CRANSTON. I thank the Senator from Kentucky very much for his strong support and for the substantive points he has made in this discussion.

Mr. President, another argument that is being made on behalf of the amendment, that does not hold water and is not related to practices carried on elsewhere in Congress, is that there is need for parallel committees in both Houses. The Finance Committee of the Senate has jurisdiction on State and local taxation of interstate commerce. That is not the situation in the House. That is under their Judiciary Committee.

In the Senate, general health matters handled by the Committee on Labor and Public Welfare are handled in the House by the Interstate and Foreign Commerce Committee. No changes are proposed in either of these matters in the pending legislation. Why not?

The House—if the parallel committee argument is such a valid one, which it is not—did not act to make a parallel Labor and Public Welfare Committee. Yet the House Education and Labor Committee does not have jurisdiction over health as does the Senate Labor and Public Welfare Committee. Nor does the Senate version propose a Senate parallel to the House Committee on Education as it would set up. There are many other examples of this total inconsistency.

I know of no instances wherein Senate split jurisdictions have delayed or denied action on necessary measures for veterans.

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Several of the arguments presented for a separate committee by spokesmen in past hearings actually argue against what is now being done. When we analyze the argument being made, at the 1965 hearings, it was suggested that a separate committee would give speed and priority consideration to the interests of veterans.

The last hearings on the proposed legislative Reorganization Act were in 1966 and there have been no hearings since then. Yet much history has passed and the situation is different from what it was when the hearings were held and when this legislation was drafted.

It is clear that veterans' matters have received speedy and effective consideration in the 91st Congress under our present procedures and structures. Any more rapid action might be quite counterproductive, because it would be most likely careless action. We cannot act any faster than we have already acted, and still act wisely.

At the 1965 hearings, it was suggested that such a committee would provide veterans with a chairman who would act as the spokesman for any and all veterans legislation. Actually, there have been several very effective spokesmen for veterans judging by the action taken in the 91st Congress.

Another point that I think should be recognized by Senators is that we have no special Senate committee to handle the automobile industry and focus on those problems, or to focus on health matters—on issues that affect every American—or a separate committee on children's welfare, or on nonveterans matters. We do not even have one committee that handles exclusively labor matters, even though there are about twenty million union members and about 80 million workers, although, unhappily, quite a few of them are presently unemployed.

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The Senate Committee on Labor and Public Welfare handles not only labor, veterans, but also health, education, poverty, alcoholism, narcotics, and other matters.

Specifically, in relation to what has been accomplished by the Veterans' Affairs Subcommittee, which I am privileged to chair under the Committee on Labor and Public Welfare, in the 91st Congress, a total of 44 measures have been referred to the subcommittee. This number includes 31 Senate bills and 13 House bills.

The subcommittee has held hearings on 28 of the bills referred to it. The subcommittee has also held oversight hearings on medical care for veterans wounded in Vietnam. These hearings have involved 14 days. The records of the hearings consist of a total of 2,629 pages packed with information.

Of the 44 measures referred to the subcommittee, 27 have been favorably acted upon by the subcommittee, either in the form presented, amended, or incorporated into other measures.

It is a matter of great pride to me and to the other members of the committee, that the actions of the subcommittee have been bipartisan and unanimous. Let me stress that point, Mr. President, that the actions of the subcommittee have been bipartisan and unanimous. All bills reported by the subcommittee—and that covers every bill we have acted on—have, thereafter, been unanimously acted upon by the full committee. And, thereafter, every bill reported by our subcommittee—and some of them have been controversial—has been acted upon and supported unanimously and passed unanimously by the Senate.

The subcommittee has recommended a total of 13 bills, all of which have been passed by the Senate. Six of these bills have been enacted into law. Five of the bills have been passed by the Senate and are now pending action in the House. Two of the bills have been acted upon by the House since Senate passage and are now pending further Senate action.

Mr. President, I shall not dwell upon the substantive matters of what we have accomplished in terms of health care and education for veterans and in job training and job opportunities for veterans.

We have updated it and brought up to date as best we could the sums made available for these purposes, particularly for GI benefits for education in order to catch up with inflation. But we have broken ground in some very significant ways which I think could not have been done had we had the narrow focus of the committee proposed in the amendment.

In the field of medical care of veterans, there were shocking conditions, conditions with which every Member of the Senate and every citizen of this country is now familiar. We revealed the inadequate care and why it occurred. It was because of the inability to keep pace with inflation.

We got a very significant appropriation bill adopted by the Senate, approved by Congress, and sent to the White House.

Unfortunately, the measure was vetoed by the President for other purposes. But I assure the Senate that we will continue to work on the matter and that we will get this matter approved by Congress and signed by the President before this year is over.

I again point out that if the subcommittee had not undertaken this task of bringing to light the state of health care for our Vietnam wounded, I do not believe that the appropropriations would have been so significantly increased. Many veterans would have continued to get deteriorating medical care. That will hopefully be remedied because our subcommittee has acted as it has.

Mr. TALMADGE. Mr. President, on behalf of the Finance Committee of the Senate, I rise to oppose the pending amendment.

The Finance Committee discussed this matter in executive session last week. A quorum was present. Those who were present were unanimous in their opposition to the creation of a separate Veterans' Affairs Committee.

The rules of the Senate, in determining jurisdiction of various Senate committee, delegate to the Committee on Finance the following jurisdiction relating to veterans: veterans' measures generally; pensions of all the wars of the United States, general and special; life insurance issued by the Government on account of service in the Armed Forces; and compensation of veterans.

Those items cost the taxpayers of this country about $5 billion a year.

The Finance Committee has jurisdiction over all payments of benefits to families of deceased veterans, disabled veterans, or orphans of deceased veterans.

In addition to the Senate Committee on Finance, jurisdiction is vested in the Labor and Public Welfare Committee of the Senate for all educational benefits, hospital functions, and taking care of disabled and wounded veterans of our country.

There is another committee of the U.S. Senate that has jurisdiction over a portion of veterans' affairs. That is the Committee on Interior and Insular Affairs of the U.S. Senate. That committee has jurisdiction over veterans' cemeteries.

The pending amendment would cut squarely across the jurisdiction of three of the major committees of the U.S. Senate and would create a new committee, a minor committee, which would have charge of and jurisdiction over all veterans' affairs. Since it would not be a major committee of the United States, since it would be a minor committee, the chances are that most of the members of this new committee would be freshmen Senators that had not had much experience in matters relating to veterans, nor much experience with the Senate committees or Senate procedures.

I believe that that would be rendering a distinct disservice to the veterans of the United States.

Mr. RIBICOFF. Mr. President, would the Senator yield at that point?

Mr. TALMADGE. Mr. President, I would be delighted to yield to the Senator from Connecticut, who is a member of the Subcommittee on Veterans' Legislation of the Finance Committee.

Mr. RIBICOFF. Mr. President, first I commend the distinguished Senator from Georgia who serves as chairman of the subcommittee. I know of no other Senator who is more conscientious and is so expeditious in the work that is assigned to the subcommittee.

I wonder if the Senator from Georgia would enlighten the Senate as to the agenda and the accomplishments of his subcommittee during the 18 months of its existence.

Mr. TALMADGE. Mr. President, I would be delighted to do so. I appreciate the Senator's raising that question.

Mr. President, on February 25, 1970, a Subcommittee on Veterans' Legislation was established in the Committee on Finance. That committee has done an outstanding job during the 91st Congress, as the Senator knows.

During the past 18 months, the Subcommittee on Veterans' Legislation has initiated action on six major bills, and has acted on a number of minor bills originating in the House of Representatives. These are the six major bills:

S. 1471, introduced by me with other cosponsors, represented the first major legislation in more than a decade to revise and update benefits for the widows and orphans of servicemen and veterans whose death was related to their military service that was signed into law by the President on October 27, 1969.

S. 1479, introduced by me and other Senators, increased Servicemen's Group Life Insurance for servicemen on active duty from $10,000 to $15,000, the first time insurance for the servicemen was raised above $10,000 since the first insurance program was established more than 50 years ago; and extended insurance coverage to reservists on active duty for training. That bill was signed into law by the President on June 25, 1970.

S. 3348, introduced by me, increased compensation payments to disabled veterans whose disability was service connected by $220 million; increases ranged from 8 percent for less seriously disabled veterans to 12 percent for veterans with more severe disabilities. That bill was signed into law by the President on August 12, 1970.

In addition thereto, several bills which have been approved by our subcommittee unanimously, approved by the Finance Committee unanimously, and approved by the U.S. Senate unanimously now languish in the Veterans' Affairs Committee of the House, for no action has been taken on these bills.

Mr. RIBICOFF. Mr. President, will the Senator yield at that point?

Mr. TALMADGE. I yield to my friend, the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, when the bills passed the Senate, they went to the other body and were referred to the Standing Committee on Veterans' Affairs of the other body.

Mr. TALMADGE. The Senator is correct.

Mr. RIBICOFF. And the House has failed to act on these 3 major pieces of legislation that have been passed by the Senate.

Mr. TALMADGE. The Senator is correct.

Mr. President, for the information of the Senate, these are the bills I was referring to. S. 1650, introduced by Senator LONG, would provide double indemnity Servicemen's Group Life Insurance coverage for members of the uniformed services assigned to duty in a combat zone, or assigned to extrahazardous duty; thus the bill would provide optional life insurance coverage of up to $30,000 for servicemen on duty in a combat area or assigned to extrahazardous duty. That bill passed the Senate September 18, 1969, and is now pending before the House Veterans' Affairs Committee.

S. 2186, introduced by Senator LONG, would add to Servicemen's Group Life Insurance coverage indemnity payments in the event of dismemberment or loss of use of a hand, foot, or eye. One-half of the face value of the insurance would be paid if the serviceman lost anatomically or lost the use of one hand, one foot, or the sight of one eye; the full face value would be paid in the event of loss or loss of use of two or more such members. That bill passed the Senate on September 18, 1969, and is now pending before the House Veterans' Affairs Committee.

S. 2003, also introduced by the Senator from Louisiana (Mr. LONG) would establish a new program of Vietnam Era Veterans' Life Insurance, with face value as high as the maximum amount under Servicemen's Group Life Insurance; veterans would receive dividends which would automatically be applied against the next year's premium; and optional additional disability insurance could be purchased by the veteran. This bill passed the Senate September 18, 1969, and is now pending before the House Veterans' Affairs Committee.

In addition, the Committee on Finance of the Senate has acted on the following House-passed bills, which have become law:

H.R. 684, made technical corrections in title 38 of the United States Code—Veterans' benefit programs. Signed into law June 11, 1969.

H.R. 4622, preserves disability evaluation in effect for 20 years if disabled veteran has suffered certain anatomical losses or is totally disabled with especially severe disabilities. Signed into law June 23, 1969.

H.R. 10106, revises the definition of a "child" for veterans' benefit purposes to recognize an adopted child as a dependent from the date of issuance of an interlocutory decree. Signed into law May 21, 1970.

H.R. 10912, prohibits recoupment of lump-sum disability severance payment at rate higher than rate based on veteran's initial degree of disability. Signed into law May 7, 1970.

H.R. 16739, extends for 4 years authority of Veterans' Administration to maintain offices in the Republic of the Philippines. Signed into law July 16, 1970.

I yield further to my distinguished friend from Connecticut.

Mr. RIBICOFF. Mr. President, may I ask the distinguished Senator this question. With respect to the major pieces of legislation passed by the Senate affecting veterans, which are now languishing in the Veterans' Committee of the other body, what has been the attitude of the major veterans' organizations?

Mr. TALMADGE. Representatives of veterans' organizations appeared before our subcommittee and testified unanimously in support of that legislation.

I would like to bring up another matter, of which I am sure the Senator is aware. Several years ago I started to receive letters from some of my constituents in Georgia pointing out that they had sons, husbands, and loved ones dying on the battlefields of Vietnam and they did not have any insurance coverage whatever. I was shocked and amazed to learn that was a fact. I offered a bill; the Senator may have been a cosponsor. The bill was cosponsored by several Members of the Senate. I recall that Senator Smathers of Florida was a cosponsor. We held hearings on the bill.

Much to my amazement, representatives at the Pentagon appeared and testified in opposition to that bill. Representatives of the executive branch of Government appeared and testified unanimously in opposition to providing insurance coverage for men fighting and dying on the battlefield for their flag. But notwithstanding the opposition of the administration, the Committee on Finance passed the bill unanimously and the Senate passed the bill unanimously. The Veterans' Committee of the House made some modifications in the bill that I thought were an improvement. That is the origin of insurance coverage for veterans dying on foreign soil at the present time. It originated in the Committee on Finance, not in any committee for veterans.

Mr. RIBICOFF. I am sure that during the 18-month period when the Senator was piloting the major pieces of legislation through the subcommittee and through the full Committee on Finance of the Senate he must have had considerable contact and conferences with representatives of the various veterans' organizations in this country.

Mr. TALMADGE. I have, and I can say to the Senator without fear of contradiction that the veterans' organizations of this country—the American Legion, the Veterans of Foreign Wars, the AMVETS, the Jewish War Veterans, the Disabled War Veterans, and every veterans' organization in America—have been highly pleased with and most complimentary of our Committee on Finance and its subcommittee and what the Senate has done in the way of compensation for them and their loved ones. In almost every publication they are complimentary in the highest terms of the members of our subcommittee who have been so diligent in the performance of duty.

That committee, as the Senator from Connecticut knows, is completely bipartisan. We have some of the most outstanding Members of the Senate on that committee from both parties, Democratic and Republican. We have never had a partisan vote; every vote we have had has been unanimous.

We have reported bills from the subcommittee unanimously, the Committee on Finance has acted unanimously, and the Senate has voted unanimously. I doubt we have had any major legislation in the history of the country that has had such unanimous and bipartisan support as our committee has been able to report.

Mr. RIBICOFF. Speaking candidly, the proposed amendment tries to put into effect a proposal of past years from veterans' organizations, organizations which felt the Senate might not have been giving proper attention to their concerns and the basic and legitimate interests of veterans' organizations and individual veterans. But during the past 18 months, when one considers the record of the Committee on Finance, acting through the subcommittee of which the Senator from Georgia is the chairman, it is a legislative record that has never been exceeded in an 18-month period by the Senate. Is that correct?

Mr. TALMADGE. The Senator is entirely correct.

Supplementary to what the Senator has so ably and correctly stated, I might note that for a number of years the Committee on Finance of the Senate had no subcommittees whatever, and the veterans' organizations of our country thought they should have some committee that they could call peculiarly their own. In their conventions from time to

XUM

time they passed resolutions urging the Senate to create such a standing committee with jurisdiction over veterans' affairs. I was pledged to support such a committee when I came to the Senate and to establish a committee with jurisdiction over veterans' affairs in compliance with the resolutions of major veterans' organizations.

But if I correctly read the signs at the present time, they are completely satisfied with the service now being rendered. Their leaders visit my office from time to time and discuss their legislative problems with me. Their representatives visit with me. They have been laudatory in praise of our subcommittee and of the Committee on Finance. They are highly pleased.

It is my judgment that if we had hearings on the pending amendment—and I point out we have had none; this is an amendment the Senate agreed to 3 years ago, but there have been no hearings on this amendment—and if representatives of veterans' organizations in this country appeared before any legislative body today they would state in all honesty and candor that they are highly pleased with what the Veterans' Subcommittee of the Committee on Finance, the Committee on Finance and the Senate have done to look after their welfare.

In that regard I want to say that the Senator from California (Mr. CRANSTON) and his subcommittee of the Committee on Labor and Public Welfare have been most instrumental in trying to improve veterans' hospitals of this country, facilities that have been sadly neglected, understaffed and underfinanced. Through the efforts of the Senator from California and his subcommittee, the Senate voted, I believe, $200 million additional to serve the needs of veterans' hospitals in this country. So it has been the Senate that has taken the lead for at least 18 months in looking after the welfare of our veterans, their widows and orphans.

Mr. RIBICOFF. So the conditions that brought about the amendment offered by the junior Senator from Montana are conditions that existed some 3 years ago and no longer pertain, and are no justification for agreeing to this amendment, when we consider the landmark work done under the leadership of the Senator from Georgia?

Mr. TALMADGE. The Senator is entirely correct. I want to point out and put in the RECORD the fact that the Finance Committee has done outstanding work over the years in looking after the veterans' welfare. Admittedly, we have taken more leadership and done a better job in the last 18 months, since we have had a subcommittee charged with the responsibility of looking after that particular group; but over the years the Finance Committee of the U.S. Senate has been outstanding in what it has done for the veterans.

The committee took jurisdiction at the outset over legislation providing pensions for veterans. The committee handled the War Risk Insurance Act of 1917. The committee provided bonuses for veterans during the depression years. It was in legislation handled by the committee that the National Service Life Insurance program for veterans was established.

The Finance Committee originated the GI bill of rights for veterans back during the dark days of World War II. Its members recognized their responsibility to the 16 million veterans who would be coming home. The Finance Committee of the U.S. Senate originated the education benefits, the housing benefits, loans, training benefits, unemployment and other benefits that made up the GI bill of rights.

The committee also handled legislation providing social security benefits for military personnel. It also handled benefits for veterans' survivors, compensation, pensions, and a multiplicity of other benefits.

Mr. RIBICOFF. Mr. President, I wish to close with this comment. It is my considered judgment that should the jurisdiction of the Finance Committee over the problems and affairs of the veterans of this country be stricken and should the veterans lose the services of the able Senator from Georgia, who chairs the Subcommittee on Veterans' Affairs in the Finance Committee, it would indeed be a great blow to the veterans of this country, because not only is the Senator from Georgia deeply concerned with all the problems of the veterans, but he brings to his task an experienced background, great skill, deep understanding, and a fine stature in this body.

I am sure that there is not a veterans' organization in this Nation that does not recognize this fact and does not fail to understand the meaning of having the Senator from Georgia concerned and exercising leadership in the affairs of the veterans of this country.

In my opinion, it would be a tragedy for the veterans to lose the support and the friendship and the leadership that the Senator from Georgia could give to the important body of laws protecting millions of veterans and their families in the United States.

Mr. TALMADGE. Mr. President, my friend from Connecticut is most generous in his comments, and I deeply appreciate what he has said. I hope I deserve some small measure of his generosity. But let me say that there has been no Member of the Senate who has worked harder, more diligently, with greater dedication, or more effectiveness in behalf of the veterans of the United States than my friend the able Senator from Connecticut.

I also want to say that every member of our Veterans' Subcommittee, on both sides of the aisle, and every member of the Finance Committee, again, on both sides of the aisle, has shown that same sense of dedication.

I agree with the Senator. I think it would be a tragedy for the veterans of our country to have jurisdiction over veterans' affairs stripped away from some of the major committees of the U.S. Senate and vested in a newly created, minor committee that would be largely occupied by freshmen Senators because they could not get the committee assignments of their choice and had to wind up with assignment on a minor committee. Those Members would be without legislative experience, without legislative expertise. I believe it would be a great disservice to the veterans of our country, who are entitled to all the respect, love, dedication, and devotion that our Nation can vest upon them.

Mr. RIBICOFF. One final question: Am I correct in my recollection that every measure the Senator has read from the list which he quoted passed the subcommittee and the full Finance Committee unanimously, with complete support of both the Democratic and Republican members of the committee?

Mr. TALMADGE. The Senator is correct. I point out further that not only did they pass the subcommittee unanimously, and the Finance Committee unanimously, but they also passed the U.S. Senate unanimously. Every bill we have brought to the Senate has been passed by the Senate by a unanimous vote, without a single vote against it. Every measure that the Finance Committee has orignated and that has been reported by the committee of the other body has been signed into law by the President of the United States.

Mr. RIBICOFF. I challenge any other committee of the Senate to compare its record with the record related by the Senator from Georgia.

Mr. TALMADGE. I doubt that any other committee could boast of such a record.

Mr. RIBICOFF. Mr. President, it is unfortunate that, before we vote on this proposal, the entire membership of the Senate has not been made aware of the basic facts surrounding the work of the Finance Committee and the work of the Senator from Georgia.

Mr. TALMADGE. I appreciate the comments of the able Senator from Connecticut.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield.

Mr. CRANSTON. I would like to make that fund totally unanimous by pointing out that the other subcommittee on veterans' affairs, the subcommittee of the Committee on Labor and Public Welfare, likewise has a record of total and unanimous support on such measures, in the subcommittee and the full committee, as well as on the floor of the Senate, and I want to say that that record of unanimous action has been by bipartisan vote.

Mr. RIBICOFF. With such a record as that, I fail to see why a new committee should be created to take care of veterans' affairs.

Mr. TALMADGE. Particularly when it would cost hundreds of thousands of dollars, require a new staff and new housing, when we already have a proliferation of committees and a shortage of space.

Mr. LONG. Mr. President, will the Senator yield?

Mr. TALMADGE. I am delighted to yield to my distinguished Chairman.

Mr. LONG. Mr. President, some years ago we had some representatives from some of the veterans' organizations tell us that they would like to have a special committee so they could be assured of a

XUM

place to go where they could present their case and where they could be heard and obtain action on legislation that might win the approval of the Senate. With the appointment of the special subcommittee, they have been accorded that right and they have been accorded a forum.

We in the Senate Finance Committee appointed a committee of Senators who were particularly interested in veterans' matters. The members who serve on that subcommittee, are those who were willing to take on that responsibility and in fact were anxious to participate in legislation that would be of particular interest to veterans.

As the Senator has pointed out, since the appointment of the subcommittee, there has never been a time when the veterans have had to wait or worry about a hearing on any measure they wanted to have action upon or rely upon the committee for action. Furthermore, experience has shown that during the entire period we have had that subcommittee, every recommendation that the committee has made for veterans has been unanimously agreed to by the committee. It is logical that that would be so, because the Senators on the subcommittee, seven in number, are those who have the greatest interest in veterans' matters on the Finance Committee, and when they recommend to the committee that various measures should be enacted for the benefit of veterans, those Senators who recognize the great interest that the Senator from Georgia and his colleagues on the subcommittee have, are persuaded to go along with them.

So there has been no objection to the recommendations of the committee, but, in fact, veterans' legislation has received the unanimous support of the entire committee, and there has been no delay in acting on any of these matters.

In years gone by, even when we were giving the veterans' organizations action on all the bills they requested us to act upon, there was an argument that if they had a separate committee, perhaps the separate committee might initiate more legislation than the Finance Committee would. But under the leadership of the Senator from Georgia, there has been no inclination to wait for the House of Representatives to act, and I ask the Senator from Georgia, is it not a fact that time after time, on first one suggestion and then another, recommended and advocated by veterans organizations, the Senate Committee on Finance, at the instance of the Veterans' Subcommittee, has initiated these measures and sent them to the House of Representatives?

Mr. TALMADGE. As a matter of fact, if the Senator will yield at that point, every major piece of veterans' legislation that has been signed into law in the past 18 months has been intiated by the Senate Finance Committee. I say that with no disrespect to the Veterans' Affairs Committee of the House of Representatives. They have done an outstanding job. I have the greatest respect and admiration for them. They have done a good job; but it has been the Senate Subcommittee on Veterans Legislation that has initiated, sponsored, and secured the adoption into law of the major veterans' legislation in the past 18 months.

Mr. LONG. Mr. President, if the Senator will permit me to trespass on his time only a bit further, if a special committee is to be named dealing only with veterans' affairs, we are going to have grave difficulty getting Senators of the same ability, the same competence, the same seniority, and the same stature in this body to serve on any such committee. The reason is because when they accept appointment to that committee, they foreclose themselves of the opportunity of going on some of the other committees that are available. They therefore must perhaps give up the opportunity to serve on a committee like Small Business, or even perhaps one of the major committees like Finance, Commerce, Appropriations, or Armed Services. The way the matter stands today, we have two well-liked, highly respected subcommittees that command the complete support of their full committees, which are very sought-after committees, and in my judgment have the very best men that can be made available in the Senate to work on that kind of legislation.

No case can be made that veterans' legislation is being neglected. I would think that if anyone wanted to make an across-the-board assessment, he would have to say that perhaps we seem to be moving too rapidly with veterans' legislation compared to the pace of one other body, which has not been able to keep up with what the Senate has done in that regard.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. TALMADGE. Before the Senator arrived in the Chamber, in a colloquy with the able and distinguished Senator from Connecticut (Mr. RIBICOFF), I pointed out that three very important bills that the Senator from Louisiana, the chairman of our committee, introduced, which were passed by our subcommittee, passed by the Committee on Finance unanimously, and passed by this body unanimously, still languish in the Committee on Veterans' Affairs of the House of Representatives. I refer to S. 1650, S. 2186, and S. 2003, introduced by the Senator from Louisiana. They were passed by this body more than a year ago, but they have not seen the light of day in the House of Representatives.

Mr. LONG. Not to be critical—the House Veterans' Affairs Committee, as the Senator has said, is doing a fine job—but if one wanted to prod someone to do something, it should not be the Senate, which has passed these measures, three of which I am very proud to have authored. It is not the Senate that should be prodded, it is the House of Representatives, where they have a special Veterans' Affairs Committee, in which the bills we have passed and sent to them now languish. If someone is to be prodded along, why not go talk to the House that has the special committee, and ask them why they have not acted on these fine bills we have sent them?

Can the Senator tell us what they have sent us, that still remains in the Committee on Finance?

Mr. TALMADGE. Yes. There is a bill relating to the investment of certain G.I. insurance trust funds in the housing area. A similar bill was introduced in the Senate last year by the distinguished senior Senator from Texas (Mr. YARBOROUGH), with myself and other cosponsors. We held hearings before our subcommittee, and there was some violent objection to the bill on the part of the executive branch of the Government; about the same time, the House committee reported out a bill and there was opposition in the House Rules Committee. We made an agreement that we would withhold action and see what the House Rules Committee did on it, and take it up when the House Rules Committee acted. The bill is on our calendar at the present time for action in the Finance Committee.

That is one House-passed bill that is on the calendar of the Senate Finance Committee at the present time relating to veterans' legislation.

Mr. LONG. And that bill has been acted on by the veterans' subcommittee.

Mr. TALMADGE. Yes; the subcommittee referred it to the full committee.

Mr. LONG. The bill has moved. Our record in the past has been that any bill receiving the favorable report of the subcommittee is invariably reported out by the full committee as soon as it is able to act on it.

Mr. TALMADGE. The committee has been extremely fair.

Mr. LONG. So there is no record to support the need or even the desirability of creating a special committee; in fact, the indications are that there would be less attention to veterans' matters if it were created, and we certainly would not get the most capable Senators to serve on it, because they are on other important committees already where they are doing the best job they can of seeing to it that the veterans receive whatever favorable legislation can be accorded.

Mr. TALMADGE. The Senator is correct.

If I might continue, I would add that very recently the House of Representatives has sent over two new bills relating to pension payments and the provision of mortgage insurance for certain disabled veterans. In keeping with our policy in the past, our subcommittee and the full committee will act expeditiously on them, I am sure, at the earliest possible moment. That has been the history of our subcommittee and of the full committee.

Mr. LONG. I can testify to what the Senator has said, because it has been my privilege to serve under his leadership on the Veterans' Subcommittee, and I agree that as soon as possible these matters will be acted on by the committee, and the probabilities are, if they have merit they will be favorably reported to the full committee, and the Senate will have an opportunity to vote on it.

Mr. TALMADGE. The Senator is correct.

Mr. President, I ask unanimous consent to have printed in the RECORD at

XUM

this point a document entitled "Historical Development of Veterans' Legislation Under Finance Committee Leadership."

There being no objection, the document was ordered to be printed in the RECORD, as follows:

HISTORICAL DEVELOPMENT OF VETERANS' LEGISLATION UNDER FINANCE COMMITTEE LEADERSHIP

From the beginning of the committee system in the Senate through the enactment of pensions for Spanish-American War veterans, almost all veterans' benefit measures fell within the jurisdiction of the Senate Committee on Pensions. A turning point in the history of veterans' benefits was reached when the Senate Finance Committee took over responsibility for programs for veterans' benefits.

BENEFITS FOR WORLD WAR I VETERANS

As the Finance Committee assumed jurisdiction for World War I veterans' benefits at the beginning of the war, an effort was made to bring about a change in the nature and philosophy of the whole system of benefits. In its work on the War Risk Insurance Act of 1917, the committee and the Congress attempted to establish a new benefit system which would provide adequate aid to the serviceman and his family both during and after service in order to avoid the necessity for non-service-connected pensions later. Emphasis was placed on the benefits for service-connected disability and death as being "compensation" rather than "gratuities." These compensation benefits were regarded as the basic benefits. To permit the serviceman who felt the need for more adequate protection to supplement the compensation benefits, a system of optional low-cost Government insurance on a term basis was set up. This allowed a maximum of $10,000 insurance against death or permanent total disability. A wartime system of allotments and allowances to dependents of servicemen was instituted so that their dependents would not be in need while they were away. Finally, the act looked toward new benefits in the form of vocational rehabilitation to return disabled veterans to useful employment. Another law, authorizing medical care for veterans with service-connected injuries, was enacted in 1919. This bold new approach represented an innovation in handling the problem of veterans' benefits.

As administration of the various veterans' programs became more complex, a centralized Veterans' Bureau was created and placed in charge of all World War I benefits. Ultimately, in 1930, the pension and domiciliary activities related to earlier wars were also transferred to what became the Veterans' Administration.

As time went on, benefits were expanded in the years following the war. First, provisions governing entitlement to disability compensation were gradually liberalized. Eligibility for benefits was extended to veterans who could establish that certain specified diseases became manifest before January 1, 1925, 7 years beyond the end of the war. The rate of compensation for total disability was increased from the wartime level of $30 a month to $80 a month, and then to $100 a month.

Following the provision of funds for hospital construction and the building of new facilities, there came a major step in the extension of medical care. In 1924 new legislation allowed veterans whose disabilities or ailments were not related to service to obtain treatment in veterans' hospitals.

About the same time, a wholly new benefit entered the picture—adjusted compensation, or "bonus." A Finance Committee matter, it was originally voted by the Congress in 1924, overriding a Presidential veto, on the ground that men in the lower grades had been underpaid during their service as compared with civilians, and were therefore entitled to a bonus from the Government.

As first enacted, the bonus was payable largely in certificates which were to mature in 20 years as endowment insurance, or upon the death of the veteran. After 2 years, loans up to 90 percent of reserve value were authorized. Starting in 1926, a series of liberalizing amendments were enacted. Finally, during the depression, the Congress in 1936 succeeded in overriding a Presidential veto and the payment of the bonus in immediately redeemable 9-year bonds was authorized. Most veterans promptly cashed their bonds.

In 1930, a non-service-connected disability pension was enacted for World War I veterans. This law provided that any veteran who had served 90 days or more during the war, who had a disability which was not the result of service nor of willful misconduct, and who was exempt from payment of Federal income tax during the preceding year would be eligible to receive a pension (designated "disability allowance"). Four degrees of disability were recognized: 25, 50, 75, and 100 percent. The corresponding rates of pension were $12, $18, $24, and $40 monthly.

A pension for World War I widows was not enacted when the disability allowance was authorized, but came in an act passed in 1934, 4 years later. This act required a 30-percent service-connected disability on the part of the veteran for the widow to be entitled to a pension in case of his death from ordinary causes. An income limitation barred from eligibility anyone who had paid Federal income tax for the preceding year, and the marriage had to have taken place before July 3, 1931. Pension for the widow was $22 per month with additional allowances for children.

In summary, under Finance Committee leadership the legislation of this period was a bold effort to revamp the veteran's benefits programs. Timely assistance to service-disabled veterans and to the surviving dependents of the war-dead was provided. A new idea was added in the form of life insurance which was closely related to compensation benefits, and the veterans' vocational rehabilitation program was established. These efforts in the area of readjustment assistance paved the groundwork for the legislation following World War II.

DEVELOPMENTS SINCE WORLD WAR II

The challenge to veterans's programs imposed by World War II was unsurpassed in the Nation's history. Over 16 million servicemen were called to the colors. To meet the needs of these servicemen and future veterans, the Congress early turned to the benefits which had been used in World War I. A Senate amendment to a 1940 revenue bill led to the establishment of a new system of insurance, national service life insurance, similar in purpose to that of World War I but differing in details. Compensation benefits for disability and for death resulting from service were extended to World War II servicemen on the same basis as for World War I veterans, and the rates were gradually raised. Various other benefits, including family allowances and tax exemptions, were likewise enacted, and a disability pension for World War II veterans was enacted in 1944, while the war was still in progress.

Medical and dental care on a broad basis were also provided. Both inpatient and outpatient medical hospital care were extended to World War II veterans with service-connected disabilities. Hospital care for non-service-connected ailments was extended to veterans of World War II who were unable to pay for such care, provided space was available in Veterans' Administration facilities.

The most striking development in veterans' benefits, however, occurred in the readjustment category. For World War I veterans the main readjustment benefit was the vocational rehabilitation provided to 180,000 veterans who had incurred service-connected disabilities. Early in World War II, steps were taken to provide vocational rehabilitation to disabled veterans. But a much more broadly conceived readjustment assistance was established by a bill originating in the Senate Finance Committee. Its official name was the Servicemen's Readjustment Act of 1944, but it was better known as the GI bill of rights.

This act was based on the philosophy that veterans whose lives have been interrupted by military service, or who have been handicapped because of this military service, should be provided assistance for a limited time to aid them in becoming self-supporting and useful members of society. The act provided for unemployment allowances, education and training benefits, and home, farm, and business loan guarantee benefits through the Veterans' Administration. In addition, mustering-out payments were provided through the military departments. The Veterans' Administration has expended almost $20 billion in assisting World War II veterans to return to civilian life in this remarkably successful program.

A second major innovation occurred with the granting of special rights to veterans under the general social security program of old-age and survivors' insurance. All military service between September 16, 1940, and June 30, 1947, was credited under the social security program at no cost to the veterans.

Following the outbreak of the Korean conflict, benefits essentially similar to those established in the World War II program were provided for this group of 6.8 million veterans. Korean conflict veterans received the same compensation, vocational rehabilitation, medical, and pension benefits as World War II veterans. Readjustment benefits, provided by the Veterans' Readjustment Assistance Act of 1952 (known as the Korean GI bill) differed in detail but not greatly in substance from the World War II readjustment benefits. Similarly, social security credits were continued on a gratuitous basis for all service to 1956.

In 1956, the Congress enacted an entirely new system of survivor benefits for widows, children, and dependent parents of persons who died of service-connected causes. The new system, called dependency and indemnity compensation, provided a widow with $112 monthly (subsequently raised to $120) plus 12 percent of the current rate of basic pay for her deceased husband's rank at the time of discharge or death. Thus, whenever military pay rates increase, the widow's benefit rises automatically. Specific dollar rates are set for the children of veterans where there is no widow.

Under the same act, social security coverage was permanently extended to all members of the Armed Forces on a contributory basis. It was specifically provided that survivors of veterans could receive the new compensation benefits in addition to social security benefits.

In 1966, readjustment benefits, similar to those provided World War II and Korean war veterans, were extended to veterans serving after 1955. The act is referred to as the cold war GI bill. Since there is no limit to the act's duration, it may eventually assist more veterans than any previous legislation. In this way, the precedent set by the original Finance Committee World War II readjustment program has been examined by the Congress to veterans of subsequent conflicts.

Compensation and pension benefits, too, have been expanded by the Congress repeatedly in the period since the Second World War, with landmark legislation enacted in 1968. In that year, the largest single compensation increase ever enacted by the Congress became law, with an annual cost estimated at

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close to one-quarter billion dollars. During the same year, another bill was enacted incorporating a thorough revision of the veterans' pension program to relate pension benefits more closely to the veteran's needs. Pension benefits of more than a million veterans were increased by the bill.

VETERANS' BENEFITS TODAY

There are today many different programs under Federal laws which provide special benefits, services, or preferences for veterans and their survivors. Some of the major programs are outlined below.

Disability compensation.—Compensation is paid to veterans who suffer disabling conditions as a result of military service. As the name implies, the purpose of the payments is to compensate the veteran for the average economic loss resulting from the disease or injury sustained during his military service. Thus, compensation payments are based not on need, but on the degree of disability of the veteran. Under present law, monthly compensation rates for disabilities incurred in time of war range from $25 for veterans with a 10-percent disabling condition to $450 for totally disabled veterans, with higher rates provided for certain very serious disabilities. In fiscal year 1969, about $2 billion in compensation benefits will be paid to over 2 million disabled veterans.

Death compensation.—Widows, children, and dependent parents are provided survivor benefits under the dependency and indemnity compensation program. More than one-half billion dollars is being paid to 369,000 families or individuals in fiscal year 1969. Major improvements were made in legislation enacted in 1969.

Insurance.—In June 1968, more than 5.7 million veterans held government insurance policies with total face value of almost $39 billion. In addition, members of the Armed Forces today automatically receive $15,000 in life insurance coverage; for servicemen in combat areas, the premium pays only a small part of the actual cost of coverage.

Pensions.—Pensions, based on a veteran's need (as indicated by his income), are provided aged or disabled veterans of World War I, World War II, the Korean war, and the Vietnam era whose disability is unrelated to their military services, service pensions are paid to Spanish-American War veterans. Pensions are also paid to needy widows and children of veterans who died from conditions not related to their service. In fiscal year 1969, an estimated $2.1 billion will be paid in pensions to 1.1 million veterans and 1.1 million survivors of veterans.

Burial benefits.—Up to $250 of the burial expenses of eligible veterans may be reimbursed by the Federal Government. An American flag is provided to drape the veteran's casket; after burial the flag may be given to the deceased's next of kin or close friend or associate.

Hospital and medical care.—Veterans who have disabilities as a result of service are eligible for medical and hospital care on an inpatient basis in Veterans' Administration hospitals. They are also eligible for outpatient medical treatment. Veterans with an injury or disease that is not service connected are eligible for hospital and medical care only on an inpatient basis, provided beds are available in Veterans' Administration facilities and they are unable to afford private care. Over 800,000 veterans will receive treatment in VA facilities in fiscal year 1969.

Readjustment benefits.—Veterans are eligible for a wide variety of benefits designed to ease the transition from military to civilian life. These include educational and training allowances, home, farm, or business loan guarantees; special unemployment allowances; and vocational rehabilitation.

CREATION OF SUBCOMMITTEE ON VETERANS' LEGISLATION

On February 25, 1970, a Subcommittee on Veterans' Legislation was established in the Committee on Finance under the chairmanship of Senator Herman E. Talmadge of Georgia. That Committee has done an outstanding job during the 91st Congress.

During the past 18 months, the Subcommittee on Veterans' Legislation has initiated action on six major bills, and has acted on a number of minor bills originating in the House of Representatives. These are the six major bills:

1. S. 1471 (introduced by Senator Talmadge)—represented the first major legislation in more than a decade to revise and update benefits for the widows and orphans of servicemen and veterans whose death was related to their military service. Signed into law October 27, 1969.

2. S. 1479 (introduced by Senator Talmadge)—increased Servicemen's Group Life Insurance for servicemen on active duty from $10,000 to $15,000, the first time insurance for servicemen was raised above $10,000 since the first insurance program was established more than 50 years ago; and extended insurance coverage to reservists on active duty for training. Signed into law June 25, 1970.

3. S. 3348 (introduced by Senator Talmadge)—increased compensation payments to disabled veterans whose disability was service-connected by $220 million; increases ranged from 8 percent for less seriously disabled veterans to 12 percent for veterans with more severe disabilities. Signed into law August 12, 1970.

4. S. 1650 (introduced by Senator Long)—would provide double indemnity Servicemen's Group Life Insurance coverage for members of the uniformed services assigned to duty in a combat zone, or assigned to extrahazardous duty; thus the bill would provide optional life insurance coverage of up to $30,000 for servicemen on duty in a combat area or assigned to extrahazardous duty. Passed the Senate September 18, 1969; pending before the House Veterans' Affairs Committee.

5. S. 2186 (introduced by Senator Long)—would add to Servicemen's Group Life Insurance coverage indemnity payments in the event of dismemberment or loss of use of a hand, foot, or eye. One-half of the face value of the insurance would be paid if the serviceman lost anatomically or lost the use of one hand, one foot, or the sight of one eye; the full face value would be paid in the event of loss or loss of use of two or more such members. Passed the Senate September 18, 1969; pending before the House Veterans' Affairs Committee.

6. S. 2003 (introduced by Senator Long)—would establish a new program of Vietnam Era Veterans' Life Insurance, with face value as high as the maximum amount under Servicemen's Group Life Insurance; veterans would receive dividends which would automatically be applied against the next year's premium; and optional additional disability insurance could be purchased by the veteran. Passed the Senate September 18, 1969; pending before the House Veterans' Affairs Committee.

The following House-passed bills have been acted on:

1. H.R. 684—made technical corrections in title 38 of the U.S. Code (Veterans' benefit programs). Signed into law June 11, 1969.

2. H.R. 4622—preserves disability evaluation in effect for 20 years if disabled veteran has suffered certain anatomical losses or is totally disabled with especially severe disabilities. Signed into law June 23, 1969.

3. H.R. 10106—revises the definition of a "child" for veterans' benefit purposes to recognize an adopted child as a dependent from the date of issuance of an interlocutory decree. Signed into law May 21, 1970.

4. H.R. 10912—prohibits recoupment of lump-sum disability severance payment at rate higher than rate based on veteran's initial degree of disability. Signed into law May 7, 1970.

5. H.R. 16739—extends for 4 years authority of Veterans' Administration to maintain offices in the Republic of the Philippines. Signed into law July 16, 1970.

Mr. BENNETT. Mr. President, I am sure that the problems and the values in the proposal to create a new Veterans' Affairs Committee have been thoroughly discussed. They have been presented ably by the chairman and have been discussed by other Senators. So I am not going to go back over the same ground. Two or three other things might be highlighted a little, perhaps.

In the first place, I think it is not necessary even to satisfy the desires of the veterans organizations any longer to consider creating a new subcommittee. It has been pointed out that those of us who serve on the subcommittee in the Finance Committee have substantial seniority which would not be available to members who might serve on the new committee. The creation of a new committee, with a new staff, would be very expensive.

I should like to point out that the volume of veterans legislation is not large enough to justify a full-time committee and staff, and I ask the Senator from Georgia whether he agrees with that.

Mr. TALMADGE. I agree entirely with the distinguished Senator from Utah.

As a matter of fact, the workload on veterans legislation in the Senate Finance Committee has been approximately 25 to 30 veterans bills per Congress, which means about 15 per year, and the same has been true with respect to the Committee on Labor and Public Welfare. I do not think that demonstrates a need for a special committee to handle veterans legislation.

The able Senator from California pointed out earlier that the House standing Committee on Veterans' Affairs spends approximately $400,000 a year. If a new standing committee spent a similar amount, I think that would be $400,000 of the taxpayers' money that would be wasted.

Mr. BENNETT. I agree with the chairman on that. He has made the point very ably that our subcommittee in the Finance Committee has worked entirely on a nonpartisan basis. Our actions have been unanimous and as the ranking member of the minority on that committee, I want to underline and underscore what he says. This is not a problem in which political pressures are involved. I think we have served our responsibility to the veterans very successfully.

I should like to repeat, too, that I think the fact that the proposal is still alive represents a carryover from an earlier time, a time when there was no special subcommittee and when the veterans might have had a right to complain that they had no particular forum in the Senate to which they could go. But, under the leadership of the Senator from Georgia (Mr. TALMADGE), that has been eliminated.

Mr. President, I do not want to keep the Senate longer. I think we are ready to vote but I did want to add my testimony, representing the minority, that what the Senator has said is correct. Veterans associations have not been putting any pressure on those of us who are members of that committee to surrender our responsibility to a new committee. I have not heard from veterans associations any demands for a new committee for several years, and therefore, Mr. President, I hope that the Senate will reject the proposed amendment and leave the Finance Subcommittee on Veterans' Affairs and the Subcommittee of the Committee on Education of the Committee on Labor and Public Welfare to carry out the responsibilities in the next Congress that we think they have so ably carried on in the present Congress.

Mr. TALMADGE. I thank my distinguished friend from Utah who is the ranking minority member on the subcommittee. I associate myself completely with his remarks. I want only to make one final point, that if we have a new Senate committee to handle one special interest, how are we going to deny any other special interest? If we create a special subcommittee to handle veterans legislation exclusively, how can we deny the right of a new committee to handle urban affairs? How can we deny a Senate committee on consumers? How can we deny a Senate committee on science? How can we deny a Senate committee on women's rights? How can we deny a Senate committee on children?

I can think of a multiplicity of other worthy causes. But the Senate does not legislate one special interest alone. It has jurisdiction over 200 million Americans. It should keep that in mind and I hope it will not create and proliferate Senate committees when Senators do not have the time to attend all the sessions of the committees they already are members of.

A few minutes ago, the Senator from Kentucky (Mr. Cook) said that he was supposed to be in five different places this morning at the same time.

The Senator from Georgia has also been confronted with that problem. In recent weeks, we have been engaging in a hectic agricultural conference which has been going on now for the third week. I have had to absent myself frequently from the meetings of the Committee on Finance. This morning I found it necessary to be in three different places at the same time. That seems to be the order of the day in the Senate for Senators. We should not multiply it any more.

Mr. CRANSTON. Mr. President, will the Senator from Georgia yield?

Mr. TALMADGE. I yield.

Mr. CRANSTON. I would like to ask the Senator from Georgia, who is chairman of the Veterans' Affairs Subcommittee which has done remarkable work, do I correctly understand that there have been no complaints from any of the veterans organizations about the work of his committee?

Mr. TALMADGE. Not the slightest. On the contrary, we have heard nothing but praise from every major veterans organization in America. I have letters in my files thanking me. I have clippings from all of the veterans publications stating that the Finance Committee has moved rapidly forward to implement their programs. There has been no criticism whatever from any source regarding the Subcommittee on Veterans' Legislation of the Senate Finance Committee.

Mr. CRANSTON. I would like to say that I can say the same thing. Not one word of criticism from any veterans organization has been directed at the work of the Subcommittee on Veterans' Affairs, which I chair, on the Committee of Labor and Public Welfare. We have done our work and brought out legislation that has been creative, constructive, and badly needed.

The fact is that the Senate is at this moment simply going through a pro forma procedure, a sort of ritualistic dance, relating to veterans convention positions of the past. Veterans organizations are stuck with the positions they were placed in at past conventions of their associations. Their leaders are not forcefully advocating this measure at this time. The leaders know it is not needed. The committee has brought in an amendment which is based upon hearings which were held in 1965, and not related to present circumstances. We are grappling with a past situation. The current situation is that veterans know they are best served by the present procedure. They know that a "no" vote against the pending amendment will be a vote that will best serve the interests of the veterans and the Nation.

Mr. STEVENS. Mr. President, will the Senator from Georgia yield?

Mr. TALMADGE. I yield.

Mr. STEVENS. I heard the comments of the Senator from California. There is no attempt here to have the record imply that veterans organizations of the country are not seriously seeking the creation of an independent committee in this body, is there?

It is my understanding that all veterans organizations are seriously seeking the creation of such a committee. They are on record concerning it. They took that position again this year at their conventions. I do not think, having been a member of those conventions in the past, that they take those positions any easier than we take positions in the Senate. I would not like to see the implication left on the record that their positions are something they got locked into years ago and have no way to get out of. Is that the impression we are supposed to gather from this record, that the veterans do not really want this committee, that we are going through this just as an exercise?

Mr. CRANSTON. The Senator from California chose his words with great care. The Government Operations Committee went on record long ago, and the veterans organizations established positions long ago, which they ratified again this year. The fact is that veterans organizations and their spokesmen have not worked the Senate over on this matter. They are satisfied with the work of the committee. They recognize the validity of the arguments that a new committee would not get things done in the current situation. So it is, indeed, a pro forma position that they have taken.

Mr. METCALF. Mr. President, will the Senator from Georgia yield?

Mr. TALMADGE. I yield.

Mr. METCALF. Mr. President, in connection with the subject matter the Senator from Alaska has just raised, I am not going into detail, but I would like to place in the Record a letter to the majority leader dated October 2, 1970, calling the attention of the Senate to Resolution 10 which was passed on October 14, 1970, by the Veterans of Foreign Wars of the United States, to create a Senate Veterans' Affairs Committee.

I ask unanimous consent to have this letter and the resolution printed in the Record.

There being no objection, the letter and resolution were ordered to be printed in the Record, as follows:

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, D.C., October 2, 1970.

Hon. MIKE MANSFIELD,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: This is in reference to H.R. 17564, the House approved Legislative Reorganization bill, scheduled for Monday, October 5, for consideration of the full Senate.

This is to let you know that the Veterans of Foreign Wars strongly supported S. 355, 90th Congress, which was approved by the full Senate early in that Congress, but languished in the House where it died when the 90th Congress finally adjourned.

It is noted that S. 844, 91st Congress, is practically identical to S. 355, 90th Congress and includes a provision to establish a Standing Committee on Veterans' Affairs in the U.S. Senate.

This is to let you know and urgently recommend that pursuant to a national mandate unanimously approved by the delegates to our Miami Beach National Convention that the V.F.W. strongly supports the provision in either of these Senate bills to create a Standing Veterans' Affairs Committee. A copy of this resolution (identified as Number 10) entitled "Create A Senate Veterans Affairs Committee" is enclosed.

Pursuant to this national mandate, it is urgently recommended that in your deliberation concerning the reorganization of the Congress that you will approve a provision for a Standing Veterans' Affairs Committee.

Any effort to accomplish this goal will be deeply appreciated by the more than 1,600,000 members of the Veterans of Foreign Wars.

With kind personal regards, I am,

Sincerely,

FRANCIS W. STOVER,
Director, National Legislative Service.

RESOLUTION NO. 10—CREATE A SENATE VETERANS AFFAIRS' COMMITTEE

Whereas, the Veterans of Foreign Wars has been the leader down through the years for the establishment of a single Standing Veterans Affairs Committee in the U.S. Senate to handle all legislation pertaining to veterans programs; and

Whereas, in the previous Congress the Senate through its Select Committee on Reorganization of the Congress and its Committee on Rules and Administration reported and advanced separate Senate Resolutions which proposed to establish a Standing Veterans Affairs Committee in the U.S. Senate; and

Whereas, this 91st Congress has reported a bill, S. 844, which contains a provision to create a Standing Veterans Affairs Committee in the U.S. Senate, which is presently pending on the Senate calendar for consideration of the full Senate; and

Whereas, there were several V.F.W. sponsored Senate resolutions which propose to

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create a Standing Veterans Affairs Committee in the U.S. Senate, which are now pending before the Senate Committee on Rules and Administration; now, therefore

Be it resolved, by the 71st National Convention of the Veterans of Foreign Wars of the United States, that the V.F.W. continue every effort to have the Senate act on its own resolutions pending before its Rules and Administration Committee to create a Standing Veterans Committee on its own initiative or, in the alternative, to take up and pass the Legislative Reorganization Bill which contains a provision to create a Veterans Affairs Committee in the U.S. Senate, so that veterans and their families, who now total almost one-half of our population, will have a single Committee in the U.S. Senate similar to the Committee on Veterans' Affairs in the U.S. House of Representatives.

Adopted at the 71st National Convention of the Veterans of Foreign Wars of the United States held in Miami, Florida, August 14 through 22, 1970.

Mr. TALMADGE. Would the Senator from Montana tell me who signed that letter?

Mr. METCALF. Francis W. Stover, director of the National Legislative Service of the Veterans of Foreign Wars. It reiterates their desire to have a Veterans' Affairs Committee.

Mr. TALMADGE. Does the Senator have any other letters like that?

Mr. METCALF. No; I do not have any other letters.

Mr. TALMADGE. I think the Senator is technically correct that the organization is bound by the resolution. Our committee has worked closely with Mr. Stover, the director of the National Legislative Service of the Veterans of Foreign Wars, who signed that letter. I can state with absolute certainty that they are highly pleased with the performance of the Subcommittee on Veterans' Legislation.

Mr. METCALF. The resolution was adopted in August.

Mr. TALMADGE. I am aware of that. Mr. President, I yield the floor.

Mr. CURTIS. Mr. President——

The PRESIDING OFFICER (Mr. WILLIAMS of New Jersey). The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, in the last Congress, I took an active role in attempting to establish a Veterans' Affairs Committee in the Senate. I did this in the Committee on Rules and Administration as well as in the Senate generally.

Today, I expect to vote the same way but, as a member of the Finance Committee, I want the record clearly to show that I am convinced the Finance Committee and this particular subcommittee have done a thorough, responsible, and a statesmanlike job in handling veterans affairs matters.

I do not believe that any other committee could do a better job. I regard the Finance Committee as an outstanding committee and a committee that is exceptionally well run.

I would like to say something about this problem of so many committees, so many committee meetings, and the necessity for a Senator to be in more than one place at one time. I believe that one of the causes of such a problem is the creation of subcommittees. Most of the work the Finance Committee has done has been done in the full committee. That has always had certain advantages in the opinion of the junior Senator from Nebraska.

So, I do not know that any implication whatever would be made that taking the same position that I have taken for some time implies in any way that the Finance Committee has not done a good job for the veterans of the country. I do think there is an impelling reason for creating a Veterans' Affairs Committee. We have one in the House of Representatives. It is an active committee. I do not say that it has done a better job than the Senate committee has done, but it has done a good job. So there can be no fears expressed with any justification, in my opinion, that a new committee could not handle the work.

I take the position I do because I feel there is no logical reason for the veterans affairs legislation to be lodged in the Finance Committee. I believe that I am correct in suggesting that the reason the veterans legislation was referred to the Finance Committee was because the Finance Committee has jurisdiction and management of the national debt. When the request for a bonus was made, there was a proposal that it be treated as a public debt transaction. From that time on, the Finance Committee has had jurisdiction.

Actually, the Finance Committee's jurisdiction has grown a great deal because of the social security system. The social security system is based upon a tax, and a tax is a very important part of it.

That legislation was, by appropriate action and rule, assigned to the Finance Committee. However, in recent years that jurisdiction has been enlarged. It now includes medicare and medicaid. The committee also has jurisdiction of tariffs and trade agreements. It has jurisdiction of the entire management of the national debt, as well as our tax program and all of its ramifications.

For a committee to do a good job on the tax program was a difficult one back in the days when we had a budget of $15 billion a year or less. Today, when we are trying to levy enough taxes to support a budget of $200 billion a year, more or less, that task alone is a sufficient assignment for any committee.

I do not believe there is a logical reason for uniting veterans legislation with our tax program. Practically all of the rest of the jurisdiction of the Finance Committee is tax-related. Tariffs are taxes. Trade agreements involve taxes. The social security system is basically a tax program.

So, while I will maintain the position that I have taken before, I want the record to clearly show that the Committee on Finance has done a good job on veterans legislation under our distinguished chairman. My friend, the distinguished Senator from Louisiana (Mr. LONG) has done a very outstanding job. He has been interested in all matters relating to veterans, as has the distinguished Senator from Georgia (Mr. TALMADGE), the chairman of the subcommittee, and all other members.

I favor a separate committee because I think it is logical I think it is a better assignment of the workload. I do not do this at all on the basis that an unusually good job is not being done at the present time.

Mr. LONG. Mr. President, I would have hoped that this matter would have been approached by a proposed change of the rules of the Senate. At least the legislative committee would have had an opportunity to consider the matter and make recommendations on it prior to action.

I would still hope that that course could be pursued in the future. That would be the ordinary manner of doing it.

Mr. President, this matter has been debated rather fully. I think it is appropriate at this time that a motion to table be made. I therefore move to table the amendment.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are absent on official business.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Missouri (Mr. SYMINGTON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from California (Mr. MURPHY), and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr.

SAXBE), and the Senator from Texas (Mr. TOWER) are detained on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), and the Senator from Texas (Mr. TOWER), would each vote "nay."

On this vote, the Senator from Arizona (Mr. FANNIN) is paired with the Senator from New York (Mr. GOODELL). If present and voting, the Senator from Arizona would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 29, nays 37, as follows:

[No. 357 Leg.]

YEAS—29

Allen
Allott
Anderson
Bayh
Bennett
Brooke
Cook
Cranston
Dominick
Eagleton
Eastland
Ellender
Ervin
Goldwater
Hughes
Inouye
Jordan, Idaho
Long
McClellan
McGovern
Mondale
Packwood
Pell
Percy
Proxmire
Ribicoff
Russell
Stennis
Talmadge

NAYS—37

Baker
Bible
Boggs
Burdick
Byrd, W. Va.
Case
Cooper
Cotton
Curtis
Dole
Griffin
Gurney
Hansen
Hart
Holland
Hollings
Hruska
Jackson
Javits
Magnuson
Mansfield
Mathias
McIntyre
Metcalf
Miller
Nelson
Pearson
Randolph
Schweiker
Scott
Smith, Maine
Spong
Stevens
Thurmond
Williams, N.J.
Williams, Del.
Young, N. Dak.

NOT VOTING—34

Aiken
Bellmon
Byrd, Va.
Cannon
Church
Dodd
Fannin
Fong
Fulbright
Goodell
Gore
Gravel
Harris
Hartke
Hatfield
Jordan, N.C.
Kennedy
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Muskie
Pastore
Prouty
Saxbe
Smith, Ill.
Sparkman
Symington
Tower
Tydings
Yarborough
Young, Ohio

So Mr. LONG's motion to lay Mr. METCALF's amendment on the table was rejected.

Mr. METCALF. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METCALF. The vote now recurs on the original amendment; is that correct?

The PRESIDING OFFICER. On the amendment of the Senator from Montana (putting the question).

The amendment was agreed to.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, the joint leadership of both Houses met this afternoon to discuss the possibility of an adjournment sine die, a recess, or other action in that connection.

We had a meeting yesterday and we came to no firm conclusion then. Today I met with the Democrats in caucus, and the distinguished minority leader met with the Republicans in caucus. I felt I was under instructions from the Democratic caucus to act as I did, which may I say in passing, was contrary to my own personal feelings on the subject.

Nevertheless, we did have this meeting this afternoon with the Speaker, and have come to a tentative but reasonably firm agreement that Congress would go out of session on a recess basis on the 14th of this month, which would be a week from tomorrow, and would return on the 16th of November, to resume the consideration of measures on the calendar.

Mr. SCOTT. Mr. President, will the distinguished majority leader yield before he discusses the schedule?

Mr. MANSFIELD. I am delighted to yield.

Mr. SCOTT. I should like to say that I did report to the Republican conference at luncheon and that the desire of the minority was to remain in session until we had finished whatever proposed legislation would be presented to us, and there was a unanimous feeling that we should, so far as the minority was concerned, seek to avoid an extra session.

At the joint leadership meeting, I think it was made clear to us that the responsibility of the majority is to determine when a recess should take place, but that both party leaderships, on both sides, should seek to work out something agreeable and amenable and should certainly be consulted as to the return date. Therefore, faced with a situation which is difficult for all of us—and I say it without any criticism implied whatsoever—these dates have been worked out. But I should like to make it clear that I carried out the instructions of the conference, which indicated that they would prefer to remain here.

Mr. MANSFIELD. Mr. President, what the distinguished minority leader has said is correct.

May I say, in my own self-service, that I likewise attempted, to the best of my ability, to carry out what I consider to be the will of the Democrats in caucus assembled this morning.

LEGISLATIVE PROGRAM

Now, as to the schedule: When we complete the present business, it is my intention, hopefully, to be in a position to call up the constitutional amendment guaranteeing equal rights to women, as the unfinished business for the Senate tomorrow; and then tonight turn to the consideration of the drug bill.

I hope that the Senate would agree with the leadership that, if at all possible, we should, until adjournment on Wednesday of next week, work on a two-shift basis, to the end that we can complete as much in the way of legislation as possible before we recess.

I would imagine that the equal rights for women constitutional amendment could take several days.

After the drug bill is completed, there are four crime bills, including the Law Enforcement Assistance Act, which we would hope the Senate would take up in the second session tomorrow night.

Then on subsequent evenings this week there is the Sleeping Bear Dunes bill and the occupational safety bill; after this week is finished, the leadership hopes to reach other matters on the calender such as the joint resolution to establish a Joint Committee on the Environment; a bill to establish a Federal Broker-Dealer Insurance Corporation; an act to authorize U.S. participation in increases in the resources of certain international financial institutions, and so forth; an act to amend the Atomic Energy Act of 1954, as amended; a resolution relating to the creation of a World Environmental Institute.

Then, beginning at the bottom of page 10 and covering all of page 11 and all of page 12 of the calendar for today, there are many bills which can be considered. A good many of them, I assume, are noncontroversial and therefore will not cause too much difficulty. Most of them, I believe, have been reported by the Committee on Interior and Insular Affairs and have to do with situations and programs which are important to the West. Two or three—perhaps four—have been reported by the District of Columbia Committee and are of importance here.

So it is the intention of the joint leadership—the Senate willing and cooperating—to carry out as much of this program as we can, to keep the calendar as clean as possible, and perhaps, if the circumstances are right, even to consider any appropriations bills reported from the committee including possibly the Defense appropriation bill some time next week. That depends on a number of variables. It is a tentative proposal and a flexible proposal, but I think Senators should keep it closely in mind.

As soon as the joint leadership can get together, we will try to set out a schedule which we will begin to meet on the first day of our return in November. It is our present intention that the pending business at that time will be the Social Security Act, which will have been reported by the Committee on Finance.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. SCOTT. In addition to the Sleeping Bear Dunes bill, there obviously are a number of other "sleeping bears" on the calendar; and I ask the distinguished majority leader whether he will make every effort, in addition to the DOD appropriation, to dispose of other appropriation bills, if at all possible, before adjournment.

Mr. MANSFIELD. Yes, indeed.

May I say, speaking personally, that if the conferees reach an agreement on the military construction bill, it is my intention, as chairman of the Subcommittee on Appropriations for Military Construction, to hold a hearing immediately, to try to report it to the full committee, bring it to the floor, and, if possible, have it passed before we recess on Wednesday night of next week.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. STENNIS. I am not handling the appropriation bill for the Department of Defense. The Senator from Georgia is not in the Chamber at this time. But I understand that the House is going to pass that bill on Thursday of this week.

Mr. MANSFIELD. That is correct.

Mr. STENNIS. They have been working together with the Senate committee, and I believe it would be possible to bring the bill here early next week.

XUM

Mr. MANSFIELD. We will do our best. It is my intention—I should have mentioned it—to discuss the matter with the President pro tempore, the distinguished senior Senator from Georgia (Mr. RUSSELL), and the senior Senator from Louisiana (Mr. ELLENDER), as well as the distinguished senior Senator from North Dakota (Mr. YOUNG), the ranking minority member.

Mr. STENNIS. I have mentioned it because they cannot be in the Chamber at this moment.

Mr. LONG. Mr. President, I have an amendment at the desk which I offer at this time.

The PRESIDING OFFICER. The amendment will be read.

The legislative clerk read the amendment, as follows:

> On page 55, between lines 3 and 4, insert the following new section:
>
> SEC. —. Rule XII of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:
>
> "4. When the yeas and nays are ordered upon any measure or matter, and a Senator who is present has entered into a pair upon that measure or matter with a Senator who is absent, the vote of each Senator who is a party to the pair shall be recorded upon request made by the Senator who is present when his name is called. No absent Senator shall be counted as present in determining whether a quorum is present.".

Mr. LONG. Mr. President, what this amendment seeks to bring about is that when a live pair is given by a Senator, he be recorded as voting and that the absent Senator to whom he accords the live pair also be recorded as voting, with the understanding that the RECORD will reflect that permission was gained and that one Senator was present and the other was absent.

The amendment specifically sets forth that the absent Senator shall not be counted for the purpose of achieving a quorum, so that if there are only 51 Senators present, the absent Senator could not be counted for the purpose of a quorum.

It seems to me it is rather ridiculous for us to insist that an absent Senator and the Senator giving him a live pair should not be recorded, which brings about situations that have been required to happen as a result of that circumstance.

For example, I recall that when Matt Neely was on his deathbed he was carried into this Chamber to vote to organize the Senate. That was totally unnecessary, except that it is difficult to obtain a live pair for a Senator on a vote of that importance when the person giving the vote would not be recorded as voting but merely shown in the RECORD as not voting, with the statement that had he voted, he would have voted one way or the other.

I know that when a very important vote was pending, the late Clair Engle was brought into this Chamber, when he certainly was in no condition to be hauled in here, to try to cast the deciding vote.

It seems to me when we know the Senator giving the pair is well aware how the other Senator would have voted, the Senator who would accord a pair to his colleague should not be recorded as not voting when he is present and prepared to vote. Nor should the Senator who is absent, to whom a pair is accorded by a Senator who is present and ready to vote but who withholds his vote when the other Senator is paired with him, be denied that right also.

So I think this is one modification of the rule that would help us to get on with the business. Often I have seen a rollcall held while some Senator was rushed back from the White House, or while we waited until an airplane landed so that a Senator could get back to the Capitol from the airport, when a Senator who was present would gladly have given a pair to the absent Senator if both could have been recorded. This would avoid having a Senator recorded as not voting when he was ready to take a position. A Senator who was present would be willing to respect the wishes of the absent Senator and accord him a pair, and this would give the absent Senator a pair without thereafter being recorded as not voting on a very important, critical vote.

I have been tortured by that situation myself down through the years. I have given many pairs. I do not like to have it shown that I was not voting when I was present but gave a pair.

I hope very much that the manager of the bill would accept what I believe to be a desirable modification of the rule. This amendment would not change the situation with regard to a dead pair of two absent Senators. It would not change the situation with respect to the necessity of a quorum to do business. But I believe it would help us to expedite the business of the Senate. It would stop the practice of delaying a rollcall or calling the roll slowly while a Senator was being rushed to the Capitol, when a Senator who was present would be willing to accord a pair to the absent Senator, when a quorum was present—sometimes as many as 90 Senators present and voting—and one Senator was willing to accord a pair to his colleague, and the leadership on one side of the aisle or the other was urging that that courtesy be shown.

Mr. ERVIN. Mr. President, it is with great reluctance that I oppose the amendment of my good friend the able and distinguished Senator from Louisiana (Mr. LONG). I am constrained to do so, however. I do not believe that a Senator who is not on the floor of the Senate, who has not heard the argument relating to a pending proposition, or even if he has heard the argument some time earlier, should have it within his power to determine basic issues for the American people when he is not even here to vote.

The Constitution, section 5 of article I, provides:

> Each House shall be the judge of the elections, returns, and qualifications of its own Members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent Members, in such manner, and under such penalties as each House may provide.

This provision of the Constitution expressly says that we have to have a majority of the Senate here to constitute a quorum to do business. That clearly contemplates not only that no Senator shall be counted for a quorum of the Senate, but that no Senator's vote shall be counted unless he is here on the floor of the Senate.

I am at a total loss to understand why we should permit a Senator who is not here, where he is elected to be by the American people of his State, to cast a vote. I think it would destroy the value of the Senate as a legislative body to have the decisions on vital questions determined by Senators who are not even present when the vote is taken.

That is precisely what this amendment seeks to accomplish. I can understand why, on occasion, some Senators cannot be present. But the truth of the matter is that every Senator is elected by the people of his State to be here when votes are taken, and there ought not to be a rule of the Senate that would permit a Senator to have his vote counted when he will not take the trouble to be here.

For that reason, I oppose the amendment of the Senator from Louisiana, and I ask for the yeas and nays on that proposition

The yeas and nays were ordered.

Mr. LONG. Mr. President, will the Senator yield? Would the Senator point out to me where in the Constitution it states that a Senator who is not present shall not be counted in the tabulation of the vote, to make the total, for example, 41 to 31 instead of 40 to 30?

Mr. ERVIN. It says that by implication in the section I read. It says he cannot be counted for a quorum to do business. We have to have a majority here to do business, and a Senator cannot be counted to make that majority unless he is here. That clearly contemplates that the business of the Senate is to be done only by those of its Members who are present in the Senate when the votes are taken.

Mr. LONG. If the Senator will yield further, would the Senator point out to me the language on which he is relying for that conclusion? I would like to hear him read the language he is relying on to say that the vote cannot be tabulated.

Mr. ERVIN. The provision says it takes a majority to constitute a quorum to do business. That certainly means that the only Senators who can do business in the Senate are the ones who are here. The Senator's amendment would provide that absent Senators can do business here on the floor of the Senate when they are not even here. Under it, the Senator could permit 49 absent Senators to vote if 51 Senators were present. The American people are entitled to a better functioning Senate than that.

Mr. LONG. Mr. President, I regret that my friend is so badly in error, but my amendment clearly spells out that to which he makes reference, that a quorum must be present in order for the Senate to do business, and the amendment clearly states that no absent Senator shall be counted for purposes of arriving at a quorum.

Mr. President, it is so easy to illustrate what makes commonsense just by

XUM

the way we do business in the average committee. Take the Committee on Finance, on which I have the honor to serve. We must have a quorum of nine out of 17 Senators present in order to do business.

When we get around to voting, we will sometimes arrive at a tie vote, or sometimes we have found, with as many as 13 or 14 Senators present, that we would like to know how the other Senators would wish to be recorded; so we will call them, or they will come in later and say how they would like to be recorded.

So we show how certain Senators who were not present at the time would like to be recorded, and hopefully, we can thus record how all 17 Senators would have voted.

That is how the record of the vote goes out of committee, and I think that is the case with most committees.

I agree that a quorum must be present to do business. But I submit that when we get around to announcing who voted "yea" and who voted "nay," we could record some absent Senators.

It would be all right with me, Mr. President, that while there must be a quorum present in order to do business, when a Senator stands here and says to the Presiding Officer, "I have given a pair with this man; if he were present and voting, he would vote 'yea'; if I were permitted to vote, I would vote 'nay'; therefore I withhold my vote," he could say instead, "If he were present and voting, he would vote 'yea,' and I would vote 'nay'; I would be required to withdraw my vote otherwise, and I therefore ask that he be recorded 'yea' and I be recorded 'nay.' "

Thus, instead of it being announced as a vote showing 40 yeas and 30 nays, it would be announced as showing 41 yeas and 31 nays.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. McCLELLAN. I am trying to understand this. Does the Senator propose that an absentee can be recorded as voting, and that vote affect the outcome of the issue?

Mr. LONG. Just exactly the same as it does now.

Mr. McCLELLAN. There is a difference now. His vote is not counted. If someone is absent, his vote is not counted in the final result, whether the bill passes or not.

Mr. LONG. His vote is counted if he has a pair, to the extent that the Senator who gives him a pair is not counted, either.

Mr. McCLELLAN. That is right.

Mr. LONG. So we have a situation where one Senator is present and another Senator is not present; and how do we split the difference? We split the difference by not counting the vote of the Senator who was present or the one who was not present. We could split it the other way.

My amendment provides that the Senator who is present will be counted, and we will also count the vote of the one who is not present, with an entry in the Record, which should certainly be the case, that the Senator stood and announced for the Record. "I have a pair with this Senator. He is absent, and I ask that I be recorded 'No' and he be recorded 'Yes' because that is how the two of us would be recorded if he were here."

I say it is preferable to have them both recorded rather than not recorded, that the Senator is present and recording a pair.

Mr. McCLELLAN. With a quorum present, or whatever the number is, and a close vote, the one vote being recorded might affect the result. Would the Senator change the rules of the Senate so that an absentee vote could affect the outcome of an issue?

Mr. LONG. It would be exactly the same as if that Senator withheld his vote. The only difference would be that in one instance the Record would show that 40 Senators voted "yea" and 30 Senators voted "nay," and in the other case it would show that 41 voted "yea" and 31 voted "nay." In either event, the Record would show that a Senator stood and made the statement that he was present and that the other Senator was absent, and the Record would show it.

Mr. McCLELLAN. We all have plenty of occasions now for absenteeism, with all the demands on us, to be at home or somewhere else. If we are going to open this up so that a Senator can vote by some absentee method, I am persuaded that it is going to be conducive to more absenteeism than we already experience. I am sincere about that.

Mr. LONG. If that is what the Senator is concerned about, I will show him how to improve on attendance.

Mr. McCLELLAN. We all know how to do it.

Mr. LONG. If the Senator wants to do something in the rules to have the attendance improved upon, all he need do is to require that the Secretary of the Senate keep a record of every minute a Senator sat in the Chamber and the time he did not sit in the Chamber; or do as a manufacturing plant does—have the Senators check in and out when they come to work, and leave and find out how much time a Senator is here. Senators who are not here very much will find they should spend more time on the floor. That will do more than declining to record a Senator when he is not present and voting and is not available to vote or declining to record a man when he has recorded a live pair.

Mr. McCLELLAN. Mr. President, will the Senator yield on another point?

Mr. LONG. I yield.

Mr. McCLELLAN. I think that leaves a bad implication, that simply because a Senator is not on the floor all the time the Senate is in session, he is not performing senatorial duties. I think the Senator will agree with me that even if we are in our offices, we are generally performing senatorial duties, even though the Senate may be in session. Many times we are working in committee. So that it would be unfair to cast the reflection that simply because a Senator is not on the floor all the time, he is neglecting his senatorial duties.

Mr. LONG. I do not care to quarrel with that point. I agree with it.

Mr. McCLELLAN. The Senator is insisting that a Senator ought to be present on the floor. What I am trying to determine is whether we are getting ourselves into a situation in which we can all find an excuse to be absent and not be here and yet be recorded in the result of an issue that is determined by a vote of the Senate. I hope we are not doing that. I am trying to understand this matter.

Mr. LONG. So far as this Senator is concerned, I do not want the Record to reflect that a Senator is here when he is not here. I would have the Record reflect that a request was made that a Senator be recorded because he was given a pair and that the Senator who was given the pair would feel that he, in conscience, could not vote unless he were accorded the privilege.

Mr. McCLELLAN. Suppose a Senator is necessarily absent but is unable to get a pair. The other Senator is here, and everybody wants to go ahead and vote, and the absent Senator is unable to get a pair. Then we deny him the right to vote. One is recorded as voting and the other is not. That seems to me to be getting off at a tangent.

Mr. LONG. That would not change the result a bit from the way it is now. The way it is today, sometimes a Senator cannot get a pair and sometimes he can.

At this time, one-third of the Senators are campaigning for their political lives. I received a call a few minutes ago, during the last rollcall vote, from a Senator who is campaigning for his political life in his home State. He is fighting a tough battle. He talked to me about his difficulties. If that Senator called in and asked for a pair, he would be confronted with the fact that, although he may be the author of a resolution identical to the one on which we are voting, the other Senator might say, "I'm sorry. I would like to accord you that courtesy, but I don't want to be recorded as not voting. Therefore, old friend, I'm sorry. I just can't give you a pair."

The Senator told me he does not think he can come back here between now and the election because it is vital to him that he be with his people.

I think it would be desirable to reflect the Senator as voting rather than not voting, even though it would clearly be shown that he was not in the Chamber. It would be recorded as one more "yes" or one more "no," rather than as neither man voting.

I would not change it for a quorum. It would work the same as if a live pair were given, with the exception that both Senators would be shown as voting, instead of both being recorded as not voting.

In the committee on which I have the honor to serve as chairman, we do it in a similar way. A Senator calls in and wants to be recorded as voting for the amendment, and when we announce the result, he is recorded as voting "yes." If another Senator calls in and wants to be recorded as voting "no," he is recorded as voting "no," and a pair is not even required in that case.

I do not seek to bring that into the Senate. I seek simply to let the vote re-

XUM

flect those voting one way or the other and the Record to reflect clearly which Senator was present and which was not. By recording a Senator "yea" and recording the other Senator "nay," it would not at all change the requirement that 51 live bodies must be present in the Chamber in order to constitute a quorum.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. ERVIN. Mr. President, the last remark of the Senator shows how this would work. He would have 51 Senators here and the other 49 away, and those 49 would be voting; their votes would be counted.

When I served in the House, one Member went home and stayed there all the time. I could make an agreement with my good friend the Senator from Arkansas that I would stay here half the session and give him a live pair so that he could go about his affairs and pleasures for half the session, and that, to make the thing fair, he could come back and take the other half of the session and I could vote in absentia and go about the practice of law or anything else I wanted to do.

I think the people of the United States are entitled to have Senators who vote and settle issues that are vital to the welfare of this Nation and to have them present in the legislative body that is doing the legislating.

Mr. LONG. Did I hear the Senator say that it would be possible for one Senator to stand here and vote for all the others?

Mr. ERVIN. No, I did not say that. I said 51 could be here and the other 49 could be wandering around anywhere, doing what they pleased, practicing law or medicine or anything else, and the decisions of this country would be made by Senators who are not present to hear the debate and to know what the proposition is.

I said also that Senator A and Senator B could enter into an agreement that Senator A would be absent the first half of the session and Senator B would give him a pair, and Senator A would be voting the same as if he were here, and vice versa as to the rest of it.

I think the American people are entitled to have the votes on vital issues crucial to their welfare cast by the Senators who are present on the floor of the Senate at the time the vote is taken.

Mr. McCLELLAN. They could alternate each week.

Mr. LONG. Many times now we have the outcome of votes decided by the pairs given by Senators to their colleagues. When I promise one of my colleagues that I will give him a pair if he cannot be here, I give him my word. Never in my lifetime, so far as I recall, have I ever retreated from a commitment of that sort. To the best of my recollection, no Senator who has ever accorded me the same consideration has ever failed to fulfill his pledged word that he would stand here and give a live pair to me if I could not be present in order to be recorded.

I do not seek to have the record reflect that a Senator is present when he is absent. I seek quite the contrary, to have the record reflect his absence. It is desirable for Senators that when one is here and the other is absent and the other requests a live pair, that in the vote both be recorded. It is that simple.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana (Mr. Long).

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Virginia (Mr. Byrd), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Connecticut (Mr. Dodd), the Senator from Arkansas (Mr. Fulbright), the Senator from Tennessee (Mr. Gore), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. McCarthy), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), the Senator from Georgia (Mr. Russell), the Senator from Missouri (Mr. Symington), and the Senator from Maryland (Mr. Tydings) are necessarily absent.

I also announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Alabama (Mr. Sparkman), the Senator from Texas (Mr. Yarborough), the Senator from Ohio (Mr. Young), are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) and the Senator from Missouri (Mr. Symington) would each vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senator from Arizona (Mr. Fannin), the Senator from Hawaii (Mr. Fong), the Senator from New York (Mr. Goodell), the Senator from California (Mr. Murphy), and the Senator from Illinois (Mr. Smith) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Oregon (Mr. Hatfield), the Senator from Ohio (Mr. Saxbe), and the Senator from Texas (Mr. Tower) are detained on official business.

If present and voting, the Senator from New York (Mr. Goodell), the Senator from South Dakota (Mr. Mundt), the Senator from California (Mr. Murphy), and the Senator from Texas (Mr. Tower) would each vote "nay."

The result was announced—yeas 11, nays 54, as follows:

[No. 358 Leg.]

YEAS—11

Bayh
Cranston
Eastland
Ellender
Hughes
Long
Magnuson
Mansfield
Mondale
Nelson
Pell

NAYS—54

Allen
Allott
Anderson
Baker
Bennett
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Case
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eagleton
Ervin
Goldwater
Griffin
Gurney
Hansen
Hart
Holland
Hollings
Hruska
Inouye
Jackson
Javits
Jordan, Idaho
Kennedy
Mathias
McClellan
McIntyre
Metcalf
Miller
Packwood
Pearson
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott
Smith, Maine
Spong
Stennis
Stevens
Talmadge
Thurmond
Williams, N.J.
Williams, Del.
Young, N. Dak.

NOT VOTING—35

Aiken
Bellmon
Byrd, Va.
Cannon
Church
Dodd
Fannin
Fong
Fulbright
Goodell
Gore
Gravel
Harris
Hartke
Hatfield
Jordan, N.C.
McCarthy
McGee
McGovern
Montoya
Moss
Mundt
Murphy
Muskie
Pastore
Prouty
Russell
Saxbe
Smith, Ill.
Sparkman
Symington
Tower
Tydings
Yarborough
Young, Ohio

So Mr. Long's amendment was rejected.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BOGGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG subsequently said: The Senate has rejected an amendment which I shall seek to offer in one fashion or another at a later time. I am certain that I am right on the general issue.

Reference has been made to the Constitution. I read from article I, section 3:

> The Senate of the United States shall be composed of two Senators from each State . . . and each Senator shall have one Vote.

In these days of modern communications, it is a denial of equal representation to deny a State the benefit of its two votes merely because one of the Senators cannot be physically present.

Yet, the Senate still insists on a rule which says that even though a Senator well knows how he wants to be recorded, when he is absent from the Chamber for whatever reason he must be recorded as absent and not voting. He can persuade someone to respect his position to the extent that that man would decline to vote in order to give the absent Member a pair. The pair then is the only means we have to reflect what the true will of the Senate would be if all Senators were permitted to vote. The live pair results in a penalty on both the absent Senator and a present one. A Senator may be desperately ill, he may be attending his daughter's wedding. Should his State be penalized for his absence? If his absence is adequately justified, why should both he and a colleague present both be denied the right to have their votes recorded?

The fact that a man giving a pair must also be recorded as not voting, is adequate excuse for declining to give a pair. That in turn puts the minority to work delaying matters until more of their troops are present.

From a reading of the rules of the Senate one can see, beyond any per-adventure of a doubt, that these rules predate the invention of the telephone. Indeed, they predate the United States. They had their origin in British parliamentary practice. When the rules of the Senate were first written it made sense that a Senator should not vote if he were not present. Any proposed measure might be amended or changed during the consideration of the measure; the Senator might not have heard the arguments, facts may be presented which he had not considered. It may very well be that someone with his interests at heart, such as his clerk, knowing all of these facts would urge him to change his position had he come rushing from his horse up the Senate steps, panting, with hat in hand.

Nowadays we have a telephone. While we have yet to install a loudspeaker or pipe the debate into offices of Senators, as we certainly should do, at least a Senator's administrative assistant can sit in the gallery hearing every word that is said, advise his boss of the arguments and help him decide how he wants to be recorded.

In the committees, we are well aware of the telephones. If I might say a word of pride about the Senate Committee on Finance, long before I became chairman of that very fine committee, it was the practice to break a tie by calling absent Senators over the phone and inquire how they would want to vote. I recall that during the Eisenhower administration I was speaking to a convention of the local governing bodies of Louisiana, which in that State is known as the police juries. During the course of my speech I was called from the speaker's platform and informed that the Committee on Finance had reached a tie vote on the question of whether the Reciprocal Trade Act, recommended by President Eisenhower, was to be a 3-year or a 5-year act. I replied that I would like to be recorded in support of the President for a 5-year act and, thereby, determined the outcome of the decision from 1,100 miles away.

Our current procedure in that same committee is to call a Senator, and when Senators so request, we will permit the Senator on one side of the issue to listen in on an extension and a Senator on another side of the issue to listen in on another extension. Each can explain why they think the Senator should vote on their side and then his vote will be recorded if he wishes it.

In at least one other respect the Senate has learned that there is such a thing as a telephone. Just off this Chamber there is a President's room which is there in order that the President could have it available to consult with legislative leaders on the last day of a session to assure that matters which he deemed vital were not left undecided when the Senate adjourned sine die. Only once in the 20 years I have been a Senator has a President used the room and then only for the ceremonial signing of the Civil Rights Act of 1964. The reason that the room is no longer used for its intended purpose is that Alexander Graham Bell invented the telephone. Nowadays, the leadership on both sides of the aisle go to the office of the Secretary of the Senate and inform the President by telephone that the Senate has concluded its business when we are ready to adjourn sine die.

Mr. CRANSTON. Mr. President, in view of the very close vote that was had on the matter relating to the veterans affairs amendment, in view of the tendency of many Senators to vote against tabling motions, quite apart from the merits, and in view of the fact that only five, six, seven, or eight Senators were present on the floor at one time or another during the discussion on the amendment to create a new Veterans' Affairs Committee and abolish the present subcommittees of the Committee on Finance and the Committee on Labor and Public Welfare, it seems to me that there should be some discussion here and then a record vote. So, before I yield the floor, I will move to reconsider the vote whereby the amendment was adopted by the Senate. I will make that motion, Mr. President, before I yield the floor.

I want to state the reasons for the position that Senators TALMADGE, COOK, LONG, and MONDALE have taken on the floor when few were here to listen to them.

It is an amendment that was adopted and was written some 4 years ago by the committee that handled reorganization.

The hearings that the amendment was based upon were held in 1965 or 1966. There have been no hearings since. There have been no opportunities for new consideration or new facts.

Veterans organizations have traditionally passed resolutions asking for a veterans committee. But the fact is that the veterans leaders are not pushing for this. They have talked to few Senators. I daresay that very few Senators have heard from veterans organizations recently asking for a new veterans committee and to abolish the present subcommittees.

They are very pleased with what is happening through the present committees which have worked diligently in a bipartisan nature.

All of the bills that have gone through the Veterans' Legislation Subcommittee of the Finance Committee, the full Finance Committee, and were passed by the Senate, and all of the bills that have gone through the Veterans' Affairs Subcommittee of the Committee on Labor and Public Welfare, and the full Committee on Labor and Welfare and were passed by the Senate, were adopted unanimously. We have written into law some very substantial legislation that requires some new approaches in this field. It is of great benefit to veterans. It is of great benefit to all the people of the country.

If a new committee is now established, it will not be manned by people who take the broad-gauged approach that Labor and Public Welfare Committee members do to health, education, drugs, and other matters. It will not produce legislation through a major committee that has the available manpower to consider veterans' problems in broad context and that knows how to focus on these problems in the overall context of the problems of our Nation.

I believe that we will assure far more effective representation for veterans and have a far more effective handling of the legislation affecting them if we retain the existing system. I believe that this is recognized by the veterans leaders in this country.

This position is based upon conversations I have had with Senators TALMADGE, COOK, MONDALE, LONG, and others presently responsible for the handling of veterans' legislation.

Mr. President, I enter a motion to reconsider the vote by which the amendment by the Senator from Montana (Mr. METCALF) was adopted, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the motion to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays.

Mr. METCALF. Mr. President, I move to lay that motion on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the first question? There is.

Mr. METCALF. Mr. President, I renew my motion to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana to table the motion of the Senator from California. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON (when his name was called). Mr. President, on this vote I have a pair with the Senator from South Dakota (Mr. MCGOVERN). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. BYRD of West Virginia (when his name was called). Mr. President, on this vote I have a live pair with the senior Senator from Georgia (Mr. RUSSELL). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

The rollcall was concluded.

Mr. KENNEDY. I announce that the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), and

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the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are absent on official business.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS) would vote "nay."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from California (Mr. MURPHY), and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. SAXBE), and the Senator from Texas (Mr. TOWER) are detained on official business.

If present and voting, the Senator from New York (Mr. GOODELL), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 37, nays 25, as follows:

[No. 359 Leg.]

YEAS--37

Allott
Baker
Bayh
Bible
Boggs
Burdick
Case
Cooper
Cotton
Curtis
Dole
Griffin
Gurney
Hansen
Hart
Holland
Hollings
Hruska
Jackson
Javits
Magnuson
Mansfield
Mathias
McIntyre
Metcalf
Miller
Pearson
Pell
Randolph
Schweiker
Scott
Smith, Maine
Stevens
Thurmond
Williams, N.J.
Williams, Del.
Young, N. Dak.

NAYS—25

Allen
Anderson
Bennett
Brooke
Cook
Cranston
Dominick
Eagleton
Eastland
Ellender
Ervin
Hughes
Inouye
Jordan, Idaho
Kennedy
Long
McClellan
Mondale
Packwood
Percy
Proxmire
Ribicoff
Spong
Stennis
Talmadge

PRESENT AND GIVING LIVE PAIRS AS PREVIOUSLY RECORDED—2

Nelson, for.
Byrd of West Virginia, for.

NOT VOTING—36

Aiken
Bellmon
Byrd, Va.
Cannon
Church
Dodd
Fannin
Fong
Fulbright
Goldwater
Goodell
Gore
Gravel
Harris
Hartke
Hatfield
Jordan, N.C.
McCarthy
McGee
McGovern
Montoya
Moss
Mundt
Murphy
Muskie
Pastore
Prouty
Russell
Saxbe
Smith, Ill.
Sparkman
Symington
Tower
Tydings
Yarborough
Young, Ohio

So Mr. METCALF's motion to lay on the table Mr. CRANSTON's motion to reconsider the vote by which the Senate agreed to Mr. METCALF's amendment to establish a Committee on Veterans' Affairs was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JAVITS. Mr. President, if I may have the attention of the manager of the bill, during my absence today the Senate sustained the amendment of the Senator from Montana respecting the salaries of the personnel employed by committees. That is fine, and I am all for it, but it does create a problem for us in the discrepancy between committee top pay and men of our individual staffs. We are entitled to the same grade of personnel as the committees are, and we will also face the competition of the committees for good men.

I was going to offer an amendment to modify that situation, but I gather that the manager of the bill and the ranking minority member of the committee, in view of the controversy that took place on the salary phase, do not feel that is desirable, and I am not going to do it. But I would ask the Senator this question: If it does appear that we have competition, we have the following situation if we simply raise the permissible salary without increasing the overall allowance of the States, especially the very big ones like mine, where we run a constant deficit. It may interest Senators to know—and this is not true only of me—that in all of my congressional service, I have never taken a penny of my salary. Indeed, I have run a deficit over and above my salary, attributable to having to pay the salary of a good number of people. This is an economic problem of no inconsiderable magnitude.

So we could raise the rates without increasing the allowances. On the other hand, it might be that the Senate would see fit to raise the allowances, perhaps the next time it considers the legislative appropriation bill.

The question I would like to ask the manager of the bill and the ranking minority member, since this is an in-house problem, is whether or not, inasmuch as they prefer that I do not seek to offer my amendment—and I shall not in deference to their wishes—they will consider this problem sympathetically either on an appropriation bill or as separate legislation if it turns out that there is unhappy competition for good people, for jobs, because of the disparity of $3,000 which has just now been created.

I would like to say at once that it is not so much a question of the disparity. They are able people. We are remarkably well served considering the frequent frustrations and unbelievably hard work of the job, but there is a question of morale involved. I think our top people have a legitimate complaint in that they are just as good as any committee staff members. I am the ranking member of two committees, and I have contact with both committee staff members and my own staff people, and I affirm for myself what they say. This is the problem, and, as I have said, it is an in-house problem. Before we lock up this bill, I would like to get the views of my colleague.

Mr. PERCY. Mr. President, before the manager of the bill responds, if the Senator from New York will yield to me, I would like to second what he had just said. Illinois is not as large a State as New York, but it has about 11 million people. I find that we have a grossly inadequate staff allowance which does not begin to provide what we need. Like the Senator from New York, I have never accepted a penny of my Senate salary, either. I am happy that I am fortunate enough to be able to do that, but that fact precludes anyone coming to the Senate who must depend on his salary.

Mr. BYRD of West Virginia. Mr. President, will the Senator speak louder so we can hear?

Mr. President, may we have order in the Senate?

Mr. PERCY. Possibly, when we have the audio system installed at some time in the future, we will be able to hear; but I would be happy to repeat what I have said, because this is a matter of the deepest interest to all of us.

I think it is no disgrace to say that the Senate never faces up to the fact that, at least for our large States, the allowances are grossly inadequate. The distinguished Senator from New York says he has never taken a penny of his salary for himself. Nor have I, but I also have to add a considerable amount over that. It may seem imprudent to keep putting in that amount of money. On the other hand, I cannot face the alternative of not answering correspondence or being able to visit with the people who come here. I have 250,000 or 300,000 people from the State of Illinois visit our offices. Every month I send checks to IBM, Xerox Corp., and the General Services Administration. I pay the U.S. Government every month, month after month, bills for telephone calls. We have no allowance for telephone calls to any suburb of the city of Chicago. The Government allows a certain allowance for calls made inside the city, but every time we call a suburb it is a toll call, and there is no Government allowance to Senators for that kind of call.

At the same time I know that we sit here and kid ourselves that we are somehow able to run our Senate offices with what is allowed.

I know that my predecessor had seven or eight staff members working for him who were charged to or buried in assignments to some committee. He could not help it, because he could not pay for those men, but he had staff people serving his office who were charged to committees where the accounting was very poor.

We ought to face up to the facts. We ought to lay it on the line. I have no apology for stating to the people of the State of Illinois that it costs me 2½ to 3 cents per citizen to serve them from this office. I think we ought to be realistic about it. It seems wrong if we cannot have a man of modest means, who has to live on his salary, running for a seat in the Senate of the United States. We ought to face up to the fact that it costs us more than our stipends allow.

I crowded into the same offices occupied by the Senator from Hawaii. I have one additional room. There are half a million people in Hawaii, and we have about 11 million people in Illinois. Our State is much more accessible, and we have many visitors from the State of Illinois. So I had to rent offices on my own and then pay a salary to the people who work there. I cannot possibly house interns. They do not even feel it is right to get a personal check from me, but I think it is our duty to allow the training of such people here.

So I second what the Senator from New York has said. We have to be realistic about it. I like to run a tight, prudent ship. I think I do run a tight office. My people come to work early in the morning and work late at night. They come in on weekends. They are harder working people than any people I have ever seen. They work far harder than those in industry and far harder than the people on Senate committees. The disparity between the way they work and the way the Senate committee staffs work is like night and day. They see these high salaries and they cannot get them because we do not have the allowance.

We ought to face up to the problem and be realistic. I have not the slightest apology in saying in public it is indecent how we try to run ourselves and pretend we are able to do it. On the allowances we are provided, we are not able to do it.

Mr. JAVITS. I thank the Senator.

Mr. METCALF. Mr. President, I am in complete accord with what the Senator from New York has said. I am grateful for the statement he has made, because it might imperil some of the other important provisions of the bill if he offered his amendment. The reason we supported the amendment is that it was voted on in two separate rollcall votes when the bill was before the Senate before. These other amendments were not adopted. We laid down some groundrules to try to retain the provisions of S. 844 which the Senator knows was reported from the Government Operations Committee.

I share the Senator's concern both about the staff allowances and enough money to pay for the staff.

I agree with the Senator from Maine, who has been having a crusade in trying to get our staff salaries and legislative assistants salaries comparable with those of the executive agencies downtown. Salaries paid to our people are not equal to or comparable with those paid in private business for people with the same qualifications.

So I would certainly join both Senators and would be glad to appear before the appropriate committee both for an increase in the ceilings on the allowances and an increase in the maximum allowances.

Mr. JAVITS. I am grateful to my colleague.

Mr. BOGGS. Mr. President——

Mr. ELLENDER. Mr. President——

Mr. JAVITS. Mr President, who has the floor?

The PRESIDING OFFICER (Mr. MAGNUSON). I thought the Senator had relinquished the floor. The Senator from New York has the floor.

Mr. JAVITS. I yield to the Senator from Delaware.

Mr. BOGGS. I thank the Senator for yielding. I simply want to respond to his question also. First, I commend both the Senator from New York and the Senator from Illinois as well as others who, I imagine, have the same problem and are treating it in such a fine, generous, and gracious way. In my service on the Post Office and Civil Service Committee, and also on the Appropriations Committee, I have been sympathetic to this problem of Senators with larger staffs. As a matter of fact, it has been a matter of great amazement to me how Senators and their staffs handle the volumes of mail they get from their constituents. I have compassion and would, in the future, be sympathetic to the problem which the Senator has expressed.

Mr. JAVITS. I thank my colleague. Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. ELLENDER. Mr. President, I simply wish to remind Senators that what is being echoed now is what I predicted this afternoon, that upon increasing the pay of the staffs of the standing committees, we would be faced with a proposal to increase the pay of all legislative employees including our own.

Mr. President, I bow to no Members of the Senate when it comes to work. I am always busy at my job, and of the allowance that I receive to run my office, I return to the U.S. Treasury almost $100,000 each year. I do not understand how other Senators can claim they can use much more than their respective allowances, unless they engage in work beyond that of representing their constituencies. There must be something wrong somewhere. They must employ incompetents or employees who do not give a full measure of their time.

I serve on the Committee on Agriculture and Forestry. I have been chairman of that committee now longer than any other man in history, and I do not use all the employees I am entitled to hire. I am entitled to employ, under the original act of 1946, four professionals and six clericals. I have never employed more than two professionals and five clericals, and I can assure you that I get as much work out of those employees as some committees with as many as 20 people. They are not overworked. They do the job in their respective field and they cannot pass the buck in my committee. I have one good lawyer and one good economist. If I had two of each, they would pass the buck to each other. A lot of time would be lost. My staff uses the facilities provided for all Senators and committees at the Library of Congress.

There is something wrong in the way many committees are being handled, and I would say the same thing about Senators' own staffs. There must be something wrong somewhere. If an investigation were made as to the work done by some of the committee staffs, I am sure that proof could be secured that many do not work on the committee they are assigned to but they do work for accounts of their sponsor or some do not show up except on payday. I will discuss this situation further if, as, and when efforts are made to increase salaries for other members of our legislative family.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I make inquiry of the Senator from Montana, or perhaps the Senator from Delaware, if he wishes to enter into the colloquy, the following question: If there is an increase allotted to Senate committees, let us say to the chief of staff of a committee, the chief clerk, staff director, or whatever he is called, is it necessary for the chairman of that committee to pay to that staff director a sum greater than he pays to his administrative or executive assistant?

Mr. METCALF. Not at all. It is purely permissive. It is within the jurisdiction of the committee itself.

Mr. RANDOLPH. I thank the able manager of this bill.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JAVITS. Mr. President, just one observation on what the Senator from Louisiana has said.

This is the kind of situation where the trial lawyer always appeals to the juror in terms of his own reasonable experience.

When the time comes, Mr. President, that this issue is submitted to the Senate, I believe that individual Senators, from their own experience both in the committees and with their personal staffs, will endorse the position which the Senator from Illinois (Mr. PERCY), the Senator from Montana (Mr. METCALF), the Senator from Delaware (Mr. BOGGS), and I have taken, based on their own experience with the volume of work, the kind of strain, and the hours put in by their staffs, and the volume of work which occurs in these great States with huge populations. I am sure that my case can be rested with the greatest confidence in this jury when the times comes.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read the third time.

The bill (H.R. 17654) was read the third time.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. MAGNUSON). The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr.

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Harris), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. McCarthy), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), the Senator from Georgia (Mr. Russell), the Senator from Missouri (Mr. Symington), and the Senator from Maryland (Mr. Tydings) are necessarily absent.

I also announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Alabama (Mr. Sparkman), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) are absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. Cannon), the Senator from Alaska (Mr. Gravel), the Senator from Maine (Mr. Muskie), the Senator from Oklahoma (Mr. Harris), and the Senator from Missouri (Mr. Symington) would each vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senator from Arizona (Mr. Fannin), the Senator from Hawaii (Mr. Fong), the Senator from New York (Mr. Goodell), the Senator from California (Mr. Murphy), and the Senator from Illinois (Mr. Smith) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Arizona (Mr. Goldwater), the Senator from Oregon (Mr. Hatfield), the Senator from Ohio (Mr. Saxbe), the Senator from Pennsylvania (Mr. Scott), and the Senator from Texas (Mr. Tower) are detained on official business.

If present and voting, the Senator from New York (Mr. Goodell), the Senator from South Dakota (Mr. Mundt), the Senator from California (Mr. Murphy), the Senator from Pennsylvania (Mr. Scott), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) would each vote "yea."

The result was announced—yeas 59, nays 5, as follows:

[No. 360 Leg.]

YEAS—59

Allott
Anderson
Baker
Bayh
Bennett
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Case
Cook
Cooper
Cotton
Cranston
Curtis
Dodd
Dole
Dominick
Eagleton
Ervin
Griffin
Gurney
Hansen
Hart
Holland
Hollings
Hruska
Hughes
Inouye
Jackson
Javits
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Metcalf
Miller
Mondale
Nelson
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Smith, Maine
Spong
Stevens
Thurmond
Williams, N.J.
Williams, Del.
Young, N. Dak.

NAYS—5

Allen
Eastland
Ellender
Stennis
Talmadge

NOT VOTING—36

Aiken
Bellmon
Byrd, Va.
Cannon
Church
Fannin
Fong
Fulbright
Goldwater
Goodell
Gore
Gravel
Harris
Hartke
Hatfield
Jordan, N.C.
McCarthy
McGee
McGovern
Montoya
Moss
Mundt
Murphy
Muskie
Pastore
Prouty
Russell
Saxbe
Scott
Smith, Ill.
Sparkman
Symington
Tower
Tydings
Yarborough
Young, Ohio

So the bill (H.R. 17654) was passed.

Mr. METCALF. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BOGGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METCALF. Mr. President, I ask unanimous consent that, in the engrossment of H.R. 17654, the Secretary of the Senate be permitted to make appropriate technical and conforming changes and adjustments with respect to the table of contents, section numbers and references, section headings, punctuation and grammar, the spelling of words, the numbering of the respective parts of titles, references to parts and titles, the consolidation and relocation of sections and amendments, and other technical and conforming changes and adjustments with respect to the format of H.R. 17654.

The PRESIDING OFFICER (Mr. Cranston). Without objection, it is so ordered.

Mr. METCALF. Mr. President, I ask unanimous consent that S. 844 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, the reform of Congress, its machinery and the way it operates as an institution of modern society, must be considered an achievement of the highest order. This measure goes a long way toward the realization of that goal. So it is with a great deal of personal pride that I vote that the Senate should honor my colleague, the Senator from Montana (Mr. Metcalf) for his leadership on this measure. His handling of the bill was truly outstanding. His deep understanding of its many provisions served immensely to assure its expeditious and overwhelming acceptance by the Senate. His devotion and strong advocacy have helped make the reform of this institution a reality.

I am sure there will be those who say that we have not gone far enough. In many respects they will be correct. But the point is, this proposal, managed so capably by Senator Metcalf, goes a long way to assure the continued responsiveness of the Senate and of the Congress in today's changing world. It is a magnificent achievement, indeed; one for which all Senators may be proud. But especially, may I say, do we owe our gratitude this evening to Lee Metcalf, the Senator from Montana. I honor him as an able and distinguished Senator, a fine colleague, and a good friend. He richly deserves the highest commendation of the Senate.

Other Senators, of course, must share in this success. Regrettably, the Senator from South Dakota (Mr. Mundt) could not witness this achievement. It was his bill, the Mundt bill, that served as the basis for the specific reorganization features adopted. Along with Senator Metcalf, Senator Mundt served on the special committee that investigated legislative reform some 3 or 4 years ago.

The Senator is grateful as well to the distinguished Senator from Arkansas (Mr. McClellan). As the chairman of the Government Operations Committee, Senator McClellan cooperated splendidly to assure the final disposition of this proposal as efficiently as possible. His support and assistance were indispensable.

The same may be said of the distinguished Senator from Delaware (Mr. Boggs). He shared the handling of the measure representing those on the minority side. The Senate is grateful for his strong and able advocacy.

Many other Senators joined to make possible this outstanding success. They are too numerous to mention.

I would close only by again expressing my gratitude to my colleagues—Lee Metcalf. To him and to the Senate goes my deepest thanks for cooperating to assure this fine accomplishment and for doing so with full regard for the views of each member.

Mr. GRIFFIN. Mr. President, I wish to join the distinguished majority leader in commending the distinguished Senator from Montana (Mr. Metcalf) and the distinguished Senator from Delaware (Mr. Boggs) for their outstanding work on this reorganization bill. Their management and direction has been most impressive.

As one who has long been concerned with the need for improving the Congressional machinery, I am delighted to see that we are moving toward final approval of this bill. It is long overdue.

Aside from the merits of the measure, there is another reason why I am glad to see it approved.

In addition to the former Senator from Oklahoma (Mr. Monroney), enactment of this reorganization bill will stand as a very special tribute to the distinguished Senator from South Dakota (Mr. Mundt) whose unfortunate illness has deprived us of the benefit of his wisdom and counsel on this and other important matters.

The Senator from South Dakota labored long and hard for congressional reorganization and reform. When the House failed to act after the Senate had passed a reform bill in the 90th Congress, Senator Mundt, in May of 1969, reintroduced a bill, S. 844, which I cosponsored, and which, insofar as it affects the Senate, is essentially the same legislation we are considering today.

I wish also to commend the Senator from New Jersey (Mr. Case) and the Senator from Alabama (Mr. Sparkman) who made outstanding contributions to this legislation as former members of the Joint Committee on the Organization of Congress.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, informed the Senate that, pursuant to the provisions of section 7(a)(1)(B), Public Law 91-377, the Speaker had appointed Mr. George E. Leighty, of Maryland, as a public member of the Commission on Railroad Retirement, on the part of the House.

The message announced that the House had passed, without amendment, the following bills of the Senate:

S. 378. An act for the relief of Peter Rudolf Gross;

S. 732. An act for the relief of Mrs. Nimet Weiss;

S. 1123. An act for the relief of Ah Mee Locke;

S. 2661. An act for the relief of Kathryn Talbot;

S. 3138. An act for the relief of Ruth E. Calvert;

S. 3167. An act for the relief of Kimoko Ann Duke;

S. 3212. An act for the relief of Curtis Nolan Reed;

S. 3263. An act for the relief of Maria Pierotti Lenci;

S. 3265. An act for the relief of Mrs. Anita Ordillas;

S. 3600. An act for the relief of Kyung Ae Oh;

S. 3675. An act for the relief of Ming Chang;

S. 3813. An act for the relief of Kim Julia and Park Tong Op; and

S. 4073. An act for the relief of Hyun Joo Lee and Myung Joo Lee.

The message also announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 2916. An act to establish the Plymouth-Provincetown Celebration Commission; and

S. 3619. An act to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes.

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The message further announced that the House had passed the bill (S. 3116) to authorize each of the Five Civilized Tribes of Oklahoma to popularly elect their principal officer, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H.R. 2043) for the relief of Keum Ja Franks.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15424) to amend the Merchant Marine Act, 1936.

The message further announced that the House had agreed to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17575) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ended June 30, 1971, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 2, 3, 17, and 35 to the bill and concurred therein; and that the House receded from its disagreement to the amendment of the Senate numbered 23 to the bill, and concurred therein, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

H.R. 2175. An act to amend title 18 of the United States Code to authorize the Attorney General to admit to residential community treatment centers persons who are placed on probation, released on parole, or mandatorily released;

H.R. 6240. An act to amend the act entitled "An Act authorizing the village of Baudette, State of Minnesota, its public successors or public assigns, to construct, maintain, and operate a toll bridge across the Rainy River at or near Baudette, Minn.", approved December 21, 1950;

H.R. 10482. An act to authorize the establishment of the Voyageurs National Park in the State of Minnesota, and for other purposes;

H.R. 12061. An act to amend the Federal Food, Drug, and Cosmetic Act, and for other purposes;

H.R. 12650. An act to amend title 10 of the United States Code to allow wounded members of the Armed Forces to inform their families of such injuries by telephone at Government expense;

H.R. 13769. An act to amend the act entitled "An Act to authorize any executive department or independent establishment of the Government, or any bureau or office thereof, to make appropriate accounting adjustment or reimbursement between the respective appropriations available to such departments and establishments, or any bureau or office thereof," approved June 29, 1966, so as to include within its coverage the municipal government of the District of Columbia;

H.R. 15069. An act to authorize the Thousand Islands Bridge Authority to construct, maintain, and operate an additional toll bridge across the Saint Lawrence River at or near Cape Vincent, N.Y.;

H.R. 15216. An act to authorize the Secretary of Defense to lend certain Army, Navy, and Air Force equipment and to provide transportation and other services to the Boy Scouts of America in connection with the World Jamboree of Boy Scouts to be held in Japan in 1971, and for other purposes;

H.R. 15405. An act to render the assertion of land claims by the United States based upon accretion or avulsion subject to legal and equitable defenses to which private persons asserting such claims would be subject;

H.R. 17901. An act to improve judicial machinery by providing for the appointment of a circuit executive for each judicial circuit;

H.R. 18359. An act to authorize the showing in the United States of documentary films depicting the careers of General of the Armies John J. Pershing, General of the Army H. H. Arnold, General of the Army Omar N. Bradley, General of the Army Dwight D. Eisenhower, General of the Army Douglas MacArthur, General of the Army George C. Marshall, Gen. Lyman L. Lemnitzer, Gen. George S. Patton, Jr., Gen. Joseph Stilwell, Gen. Mark W. Clark, and Gen. James A. Van Fleet;

H.R. 19000. An act to amend the act of April 24, 1961, authorizing the use of judgment funds of the Nez Perce Tribe;

H.R. 19172. An act to provide Federal financial assistance to help cities and communities to develop and carry out intensive local programs to eliminate the causes of lead-based paint poisoning and local programs to detect and treat incidents of such poisoning, to establish a Federal demonstration and research program to study the extent of the lead-based paint poisoning problem and the methods available for lead-based paint removal, and to prohibit future use of lead-based paint in Federal or federally assisted construction or rehabilitation;

H.R. 19342. An act to establish and develop the Chesapeake and Ohio Canal National Historical Park, and for other purposes;

H.J.. Res. 1162. Joint resolution to amend Public Law 403, 80th Congress of January 28, 1948, providing for membership and participation by the United States in the South Pacific Commission; and

H.J. Res. 1388. Joint resolution making further continuing appropriations for the fiscal year 1971, and for other purposes.

HOUSE BILLS AND JOINT RESOLUTIONS REFERRED

The following bills and joint resolutions were severally read twice by their titles and referred, as indicated:

H.R. 2175. An act to amend title 18 of the United States Code to authorize the Attorney General to admit to residential community treatment centers persons who are placed on probation, released on parole, or mandatorily released; to the Committee on the Judiciary.

H.R. 6240. An act to amend the act entitled "An Act authorizing the village of Baudette, State of Minnesota, its public successors or public assigns, to construct, maintain, and operate a toll bridge across the Rainy River at or near Baudette, Minnesota," approved December 21, 1950; and

H.J. Res. 1162. Joint resolution to amend Public Law 403, 80th Congress, of January 28, 1948, providing for membership and participation by the United States in the South Pacific Commission; to the Committee on Foreign Relations.

H.R. 10482. An act to authorize the establishment of the Voyageurs National Park in the State of Minnesota, and for other purposes;

H.R. 15405. An act to render the assertion of land claims by the United States based upon accretion or avulsion subject to legal and equitable defenses to which private persons asserting such claims would be subject; and

H.R. 19342. An act to establish and develop the Chesapeake and Ohio Canal National Historical Park, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 12061. An act to amend the Federal Food, Drug, and Cosmetic Act, and for other purposes; to the Committee on Labor and Public Welfare.

H.R. 12650. An act to amend title 10 of the United States Code to allow wounded members of the armed forces to inform their families of such injuries by telephone at Government expense; to the Committee on Armed Services.

H.R. 13769. An act to amend the Act entitled "An Act to authorize any executive department or independent establishment of the Government, or any bureau or office thereof, to make appropriate accounting adjustment or reimbursement between the respective appropriations available to such departments and establishments, or any bureau or office thereof," approved June 29, 1966, so as to include within its coverage the municipal government of the District of Columbia; to the Committee on Government Operations.

H.R. 15069. An act to authorize the Thousand Islands Bridge Authority to construct, maintain, and operate an additional toll bridge across the Saint Lawrence River at or near Cape Vincent, N.Y.; and

H.R. 18359. An act to authorize the showing in the United States of documentary films depicting the careers of General of the Armies John J. Pershing, General of the Army H. H. Arnold, General of the Army Omar N. Bradley, General of the Army Dwight D. Eisenhower, General of the Army

Douglas MacArthur, General of the Army George C. Marshall, General Lyman L. Lemnitzer, General George S. Patton, Jr., General Joseph Stilwell, General Mark W. Clark, and General James A. Van Fleet; to the Committee on Foreign Relations.

H.R. 15216. An act to authorize the Secretary of Defense to lend certain Army, Navy, and Air Force equipment and to provide transportation and other services to the Boy Scouts of America in connection with the World Jamboree of Boy Scouts to be held in Japan in 1971, and for other purposes; to the Committee on Armed Services.

H.R. 17901. An act to improve judicial machinery by providing for the appointment of a circuit executive for each judicial circuit; to the Committee on the Judiciary.

H.R. 19000. An act to amend the Act of April 24, 1961, authorizing the use of judgment funds of the Nez Perce Tribe; to the Committee on Interior and Insular Affairs.

H.R. 19172. An act to provide Federal financial assistance to help cities and communities to develop and carry out intensive local programs to eliminate the causes of lead-based paint poisoning and local programs to detect and treat incidents of such poisoning, to establish a Federal demonstration and research program to study the extent of the lead-based paint poisoning problem and the methods available for lead-based paint removal, and to prohibit future use of lead-based paint in Federal or federally assisted construction or rehabilitation; to the Committee on Labor and Public Welfare.

H.J. Res. 1388. Joint resolution making further continuing appropriations for the fiscal year 1971, and for other purposes; to the Committee on Appropriations.

EQUAL RIGHTS FOR MEN AND WOMEN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1101, H.J. Res. 264, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women. I do this so that it will become the pending business.

Mr. ERVIN. Mr. President, reserving the right to object, may I ask the majority leader what he proposes to do with respect to that matter tonight.

Mr. MANSFIELD. To lay it aside and then turn to the drug bill, and ask unanimous consent that at the conclusion of the morning business tomorrow the equal rights for men and women measure be laid before the Senate and, at an appropriate time, go back to the drug bill. In other words, get back to the two-shifts-a-day basis.

Mr. ERVIN. In other words, tonight the only thing that will be done is on the drug bill?

Mr. MANSFIELD. That is correct. And there will be no votes.

The **PRESIDING OFFICER.** The measure will be stated by title.

The legislative clerk read as follows:

> A joint resolution (H.J. Res. 264) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

The **PRESIDING OFFICER.** Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily, that it again become the pending business at the conclusion of the morning business tomorrow, and that in the meantime the Senate proceed to the consideration of Calendar No. 1260, H.R. 18583. I do this so that it will become the pending business, the other business to be laid aside temporarily.

The **PRESIDING OFFICER.** The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 18583) to amend the Public Health Service Act, and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

The **PRESIDING OFFICER.** Is there objection to present consideration of the bill?

Their being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, it is my understanding that introductory statements will be made tonight by the distinguished Senator from Nebraska, the distinguished Senator from Connecticut (Mr. DODD), and the distinguished Senator from Iowa (Mr. HUGHES), and that an amendment will be offered before the Senate adjourns tonight. Is that correct?

Mr. HUGHES. Mr. President, I have some concern about the way the business is presently scheduled. Several members of the committee who have worked hard on this legislation will be necessarily absent tomorrow night. As I understand it, we are not scheduled for a vote on this amendment until tomorrow night.

Mr. MANSFIELD. I wish the Senator would not push it that far. We all realize the importance of the bill. We all realize the time we are up against. I point out to the Senator that we do not have to call up this measure now. We can let it go until we return after the recess. But as a favor to people interested, the joint leadership decided to call it up.

I would hope that all Senators would put aside their personal predilections to do the best we can to help the leadership get as much proposed legislation through as possible.

Mr. HUGHES. It is my intent to preserve the prerogatives I have on the amendment, which I feel is of critical importance. It is my intent to help conduct the business of the Senate to the best of my capabilities, also.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside.

The **PRESIDING OFFICER.** Is there objection? The Chair hears none, and it is so ordered.

OMNIBUS CRIME CONTROL ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the crime bills on the calendar, and the first one is Calendar No. 1270, H.R. 17825, an act to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes.

The **PRESIDING OFFICER.** The bill will be stated by title.

The legislative clerk read as follows:

> Calendar No. 1270, H.R. 17825, an Act to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes.

Mr. MANSFIELD. Mr. President, there will be no further consideration of the drug bill until an appropriate time.

I must admit my disappointment at being faced with a situation of this nature without any forewarning whatsoever. I therefore have no choice but to go forward with the four crime bills which are, in a way, of course, just as important as the drug bill.

I suggest to Senators that they come to the Senate Chamber and attend to their business, so that there will be no more of these shenanigans about someone being here or someone not being here.

Mr. DODD. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. It is the people's business which must come first. I would hope that a situation of this kind would not arise again.

I am discomfited. I am embarrassed. I feel that the word I have given to Senators on both sides of the aisle has not been kept.

Mr. DODD. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. DODD. I thank the majority leader for yielding. I understand his unhappiness about this situation. I am unhappy about it, too. We passed this bill out of the Senate in January. It was in the House 8 months and it has now come over to us. I have been ready at all times to take up the bill and I am ready now, tonight.

Mr. President, I know that the distinguished majority leader does not refer to me. We can handle the bill and go ahead with it. I know the task of the majority leader. He is trying to get our business done. But it is not an impossible task at all. I know that the Senator from Iowa (Mr. HUGHES) wants to do the same thing.

I say to the majority leader, understanding his predicament, that we want to work with him and I believe that we can. We can pass the drug bill. We need to do it. I am ready. I am sure that the Senator from Montana did not refer to me.

Mr. MANSFIELD. No. Everyone is not ready. We have to face up to the realities as they exist and do the best we can within the framework of the legislation before us.

My job is to try to move the calendar. Notice was served that this bill would be taken up today.

That word has been kept. I did not know about the other factors until I queried the distinguished Senator from Iowa. We have to take the situation as it exists. In other words, the ball game was changed. I have no choice but to go to other matters on the calendar at this time.

Mr. **HUGHES**. Mr. President, will the Senator from Montana yield?

Mr. **MANSFIELD**. I am delighted to yield.

Mr. **HUGHES**. I have been trying the best I know how to cope with the changing situation in the past 24 hours in relation to this bill. I apologize to the majority leader——

Mr. **MANSFIELD**. No apology is needed.

Mr. **HUGHES**. And to my colleagues if I am delaying action by the Senate. I am ready to go ahead and vote on the amendment tonight, to take up the amendment, discuss it, and debate it.

I am assuming that we could lay the bill before the Senate and go ahead. It is not my intention to delay. If this is a disruption of the business as originally calculated, I am prepared to vote tonight. Therefore, I respectfully ask the majority leader if we could not vacate the previous unanimous consent request and go ahead in the direction he intends.

Mr. **MANSFIELD**. May I say, I have told too many Senators already that there would be no votes tonight. The Senator may recall, when I laid the bill before the Senate, that I directed a question to him to the effect that it was my understanding the Senator from Iowa would offer an amendment but that there would not be any vote on it tonight.

I was assuming there would not be a vote until some time tomorrow afternoon after the equal rights constitutional amendment had been laid aside. I had no idea there would be no votes tomorrow. That being the case, I certainly would not be a party to holding up legislation on a basis which I had no comprehension of because some Member or some staff member would not be present.

I think that the distinguished Senator from Iowa, who has made a specialty of understanding the drug and other problems, is more capable than any other Member of this body to make his case for the amendment or the amendments which he had intended to offer.

Mr. **HRUSKA**. Mr. President, will the Senator from Montana yield?

Mr. **MANSFIELD**. I yield.

Mr. **HRUSKA**. The record should be made clear that the Senator from Nebraska did have a visit with the Senator from Iowa on this subject, and it was the suggestion of the Senator from Nebraska that the bill be laid before the Senate and that we make the opening statements, to be followed by a laying down of a proposal of the Senator from Iowa by way of a substitute to title 1, discuss it a little, and then lay it over until tomorrow without any votes tonight, because it is a substantial text, a substantial substitute amendment and, obviously, due to the lateness of the hour, we could not possibly finish it today. So it was not a matter of agreement or any idea that we would vote on the amendment tonight. It is too big an amendment.

Mr. **MANSFIELD**. This has been too long a day, anyway. People are tired. I am very tired.

Mr. **DODD**. I want to say to the majority leader, Mr. President, that I am sure he will agree with me when I say that this is a very important piece of legislation. I understand the situation. Why would not the majority leader let us go ahead and make our statements?

Mr. **MANSFIELD**. I would be delighted to return once again to the drug bill, but not with the idea that if an amendment is laid before the Senate the vote will not be taken until late tomorrow or maybe the day after.

Mr. **DODD**. I would agree. The country is waiting on us.

Mr. **MANSFIELD**. The country is waiting for the crime bills, too.

Mr. **DODD**. I know they are. They are waiting for the drug bill, too. The bill is ready. The floor managers are ready. I do not know what this fuss is all about. We can move on it. We can make the opening statements tonight and continue with it tomorrow.

Mr. **MANSFIELD**. The fuss is about a misunderstanding. Maybe it is the majority leader's fault.

Mr. **DODD**. No; I do not think so.

Mr. **MANSFIELD**. At the time, I thought I was doing the right thing to call up this legislation having to do with drugs.

Mr. **DODD**. I am sure that the Senator did. We are ready to go ahead now.

Mr. **HUGHES**. Mr. President, will the Senator from Montana yield?

Mr. **MANSFIELD**. I am delighted to yield.

Mr. **HUGHES**. I am prepared, on the basis of whatever circumstances exist, to go ahead and attempt to arrive at a vote on my amendment as soon as possible, if the bill can be laid before the Senate on tomorrow or as the majority leader originally indicated, to follow the schedule he originally laid down.

Mr. **MANSFIELD**. I shall be delighted to do so and I thank the distinguished Senator from Iowa for bringing us back on an even keel.

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

Mr. **MANSFIELD**. Mr. President, I ask unanimous consent that the pending business be laid aside and that the Senate return once again to the consideration of Calendar No. 1260, H.R. 18583, and that it be laid before the Senate and made the pending business under the circumstances previously enunciated.

The **PRESIDING OFFICER**. Without objection, the bill will be stated by title.

The legislative clerk read as follows:

H.R. 18583, to amend the Public Health Service Act, and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

The **PRESIDING OFFICER** (Mr. CRANSTON). Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

PRIVILEGE OF THE FLOOR

Mr. **DODD**. Mr. President, I ask unanimous consent that Mr. William C. Mooney, Jr., be allowed the privilege of the floor during debate on H.R. 18583.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **DODD**. Mr. President, I should like to comment on the Controlled Dangerous Substances Act, S. 3246, which was passed by unanimous vote of the Senate on January 28, 1970, and the House of Representatives version, H.R. 18583, passed on September 24, 1970.

The House, the same as the Senate, held extensive hearings on the bill, indeed, the very fact that the House bill was passed 8 months after it had been passed by the Senate indicates the thorough research and deep investigations that were made in respect to all the aspects of this bill.

There is consequently good cause to rejoice at the imminent passage of this legislation. It will go a long way toward ameliorating the drug problem in the United States; by its rational approach and its system of schedules of various dangerous drugs, it will allow us to look forward to a day when its provisions will help to get some semblence of order into the multitudinous, and often contradictory, laws on this subject.

Perhaps most important of all, the new law will reestablish among adults and young people alike, a sound respect for the rationality of the law.

Under the old approach, there were mandatory sentences for possession of marihuana even if this was only a first offense. Quite apart from the basic irrationality of mandatory sentences which do not give the judge any area for discretion, the mandatory sentence often makes for extraordinary contradictions. Thus in the same week in which a banker was given probation for stealing thousands of dollars from his bank, a young college student was given a 5-year sentence, without the possibility of parole, for having a stick of marihuana on his person.

This does not mean that a young person found with marihuana on him should go scot-free; but it does mean that people, particularly young people, take note of these discrepancies and develop an almost complete contempt for the law.

There can be no doubt that such a contempt for law is perhaps the most dangerous situation of all; perhaps it is even more dangerous to the body politic than the whole drug syndrome which we are trying to fight. Contempt for law is the most destructive the deeper it goes, because by itself it denigrates our entire system of Government; it destroys the very concepts we have developed over hundreds of years preceding the founding of the Republic.

I am particularly grateful that the basic Controlled Dangerous Substances Act was passed in almost its entirety by the House. There were a number of minor disagreements; but more than 90 percent of the law which was reported by the Senate Subcomittee on Juvenile Delinquency will soon become the law of the land.

This is no mean achievement. The Senate legislation passed the very close scrutiny of the House which investigated

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the bill for many months. No significant changes were made, a procedure which does not often occur in bills sent over from the Senate.

There was a change which I consider particularly important, which I find in the final House version.

I was surprised and dismayed not to see the two tranquilizers, Librium and Valium, included in the schedule of enumerated drugs which are to come under the jurisdiction of the Department of Justice, through its Bureau of Narcotics and Dangerous Drugs.

I understand that the Department of Justice has given its assurances that they will continue their efforts to bring Librium and Valium under control. I understand that the administrative hearings related to these two drugs will soon be brought to a close and orders controlling the drugs promulgated pursuant to regulation.

And my reading of the House bill and the accompanying committee report reassures me that once control of these drugs becomes final under existing law, they will automatically be controlled under this bill without further proceedings and placed in the appropriate schedule.

There was ample evidence that Librium and Valium should be included among the controlled drugs. Both have been found addictive; both are at least habituating; both react on the central nervous system; indeed, they are intended and advertised for that precise purpose.

It therefore became difficult for me to understand that they were not included in the bill as it came back from the House. We had evidence of heavy diversion of these drugs; and heavy diversion can only mean that they are used for illegal purposes, the same purposes for which amphetamines, barbiturates, and opium are used.

I am satisfied that some steps can still be taken to avert the illegal use of these drugs.

I am convinced that my efforts to see these two drugs brought under control will, in fact, soon be realized.

I do not believe that either the House or the Senate should be deluded into believing that the legislation we are now considering will create a millennium where all drug addiction and drug habitation will disappear in a trice. It would be impossible and indeed irrational to make such a prediction.

But it is possible to predict that finally we may see the light at the end of the tunnel. If this legislation cannot be expected to make a swift end of drug addiction, it can be expected that it will give us a more rational approach to this nationwide scourge. By reducing the penalties to a rational level, by providing help instead of long prison terms for those addicts who are not basically animals; by penalizing those who make profits at the cost of the misery of their fellowmen, both the House and the Senate will have taken a giant step toward the resolution of this dreadful problem.

We shall carefully watch the developments in the months and years to come; we shall watch the impersonal statistics and the personal stories of triumph over tragedy; and we shall not hesitate to offer amendments to the law where we think it can be improved and sharpened.

But as of now, I ask my colleagues to get on with the task of moving this legislation to the President's desk without great delay.

Let me add that I said in the colloquy a moment ago that the country is waiting for this bill and that the country is entitled to have us consider it. There is no more important problem before this country or within its boundaries than the problem of drug abuse and drug addiction. We can talk all we want to about crime and safe streets. But I tell the Senate that the American people want this bill passed. They are tired of the misery and crime that flows from an unabated drug traffic.

I have worked on this bill for over 2 years. The Senator from Nebraska has, as well. We have a good bill here and it ought to be taken up now.

The Judiciary Committee reported this bill to the Senate after extensive debate. The Senate passed it unanimously in January. The House, after 8 months, passed it. Now it is time that we get about our work so that the Federal law enforcement agencies can do something about stopping the dreadful flow of narcotics and drugs. That is what I want to see done.

And I think we can do it. We can discuss these amendments. We can decide on them. We will agree to those that have merit. Those that do not, we will reject.

We debated this bill for some 5 full days in January. We had many votes on many amendments.

Mr. President, there is a powerful lobby opposing this bill. Let us face it. The drug industry has fought this bill every step of the way. At the top of the list is the company pushing Librium and Valium. There are some evil influences that have been at work that have tied this bill up for months. Why else, after all these months, does this bill come here in the twilight of our session?

We had better ask ourselves some questions. These drug lobbyists came to see me to ask special favors, to delay the bill a little longer so they could study it more. I said no.

I do not know who else they saw or where they went.

But I am sick of this hypocrisy. These may be my last moments here, but, by God, I will tell the truth about things.

Let us get on with the people's bill. Let us make a first step toward stamping out the drug traffic, toward knocking out these dope peddlers who make invalids of our young people.

Mr. President, I have no fault to find with those who disagree on the substance of the legislation. But I do not want it tripped up by device.

Mr. HRUSKA. Mr. President, I rise to support the bill and to subscribe to the arguments and to the reasons laid out by the Senator from Connecticut for not only taking favorable action, Mr. President, but for also taking expeditious action on this bill without any amendments.

Last January we had a series of days in which we engaged in debate. I think the debate lasted some 3 or 4 days on the bill which was S. 3246, and which is largely embodied in the bill that is now the pending business in this Chamber. At that time a number of Senators expressed their concern and dismay over the drug abuse problem in America and the lack of expeditious action thereon.

That concern prompted this body to pass S. 3246, the Controlled Dangerous Substances Act, by unanimous vote on January 28.

Over 8 months have now passed, and the drug problem is certainly no better. Our enforcement people have been doing a commendable job, and arrests and seizures during the intervening period have been greater than ever before. Unfortunately, this is as much a measure of the illegal drug traffic as it is of enforcement efficiency. The drug abuse phenomenon is still very much with us—as are the ineffective and outmoded laws we sought to modernize with S. 3246.

Eight months after the Senate action, we finally have before us the action of the House of Representatives on drug control in H.R. 18583, the Comprehensive Drug Abuse Prevention and Control Act of 1970. And although this is not the bill we passed last January, one need not look too closely at titles II and III of this measure to detect the clear and unmistakable influence of S. 3246 upon its provisions. We need no further corroboration beyond the fact that the administration, which supported S. 3246, now supports H.R. 18583 and urges its enactment without further delay or amendment.

Mr. President, H.R. 18583 is by no means a perfect bill, but it is a vast improvement over existing law. While it does not represent an immediate resolution of the drug problem, its passage will undoubtedly mark the beginning of the end. Virtually all the concepts we approved of in S. 3246 are present in this measure, with some modification perhaps, but still in an effective form.

The system of scheduling drugs according to accepted medical use and potential for abuse is present in H.R. 18583, as is the machinery giving the Attorney General the means to administratively reschedule drugs.

The basic reforms in offenses and penalties relating to drug control which this body accomplished in S. 3246 are also present in H.R. 18583. For the most part, the same flexibility exists which will permit courts more satisfactorily to tailor punishment to fit the offense and the offender. First offenders convicted of simple possession of any drug face misdemeanor penalties, with special authority for a judge to place the first offender on probation with the eventual possibility of expungement of his conviction. On the other hand, persons established as professional traffickers are exposed to appropriately severe penalties with mandatory minimums—the only place in the penalty scheme where these minimums are to be found.

I am not totally satisfied with some of the changes made by the other body in the criminal provisions of this meas-

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ure. For example, I believe the Senate provision dealing with distribution to minors was more realistic and logical. However, we can live with the present provision, and it is too late in the day to start over again on provisions like this for the sake of relatively minor changes.

The same basic regulatory systems in S. 3246 relating to the registration of manufacturers and distributors are in H.R. 18583 as well, with some tightening up on registration regarding importers and exporters in title III.

The administrative enforcement tools are here as well, including the authorization for administrative inspection and "no-knock" warrants, increased arrest powers for Federal agents, clarification of conditions of forfeiture of property, grants of immunity in appropriate cases, and the like.

In short, Mr. President, the Senate-passed S. 3246 forms the heart of H.R. 18583. There are differences, to be sure, and we could spend any number of hours debating their merits. I would submit, however, that any excessive time so spent would in large measure be disproportionate to the benefit to be gained in terms of real improvements to the bill.

It appears that some amendments will be proposed. Title I in particular may be singled out for change. This title is new to the Senate, of course, as S. 3246 was primarily a control measure oriented toward enforcement rather than rehabilitation. This body is aware of the need for rehabilitation. We certainly are concerned with that aspect also. In January, however, it was the will of the Senate that any rehabilitation measure should be considered separately from S. 3246.

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We now have a bill which could with reasonable accuracy be described as S. 3246 with some amendments and with rehabilitation provisions grafted into the beginning of the legislation as title I. This title I would authorize expenditures of $164 million for community mental health centers, drug abuse education, and special projects under the control of the Secretary of Health, Education, and Welfare. The provisions of this title broaden the application of the Community Mental Health Centers Act to expand construction and staffing of facilities, and to cover other problems of drug abuse and dependence in addition to narcotics addiction. New educational programs are provided for, including preparation, coordination, and dissemination of material. Other reforms in the field of treatment and research are instituted as well.

Mr. President, the provisions of title I as approved in the House may not go as far as some Members of this body would wish. However, I feel they constitute an important beginning—one worked out in conjunction with the administration and which is acceptable to the Department of Health, Education, and Welfare as well as the Justice Department. The provisions of title I have been carefully integrated with the rest of H.R. 18583 so as to eliminate any possible inconsistencies or conflicts. This title represents the well-considered thinking of the other body, which had for its consideration among other things a bill which approximates the amendment to be offered by the Senator from Iowa. While we are by no means bound by what the other body accomplishes, we must consider the practical effect of a major amendment at this late date.

H.R. 18583 is a bill which the Senate can and should accept intact, without further amendment. Its passage is long past due. Ever since the President brought the drug problem to the attention of the Congress on July 14, 1969, by sending his legislative proposal to Congress, this Nation has been waiting with anticipation for Congress to respond to the challenge. It has been the unfortunate lot of the American people, however, to send their children back to school in the fall of both 1969 and 1970 without the benefit of legislative reforms to reduce the supply of dangerous drugs to which schoolchildren are now exposed daily.

Mr. President, we must have this legislation now. To amend the bill further at this point, and force it to a conference, would be a real disservice to the people we represent. This legislation has already profited from the collective thinking of both houses of Congress, and is one of the most thoroughly considered bills we have had before us this Congress. While I have nothing but respect for those who would amend the bill further in a sincere effort to make it still better, I believe such action will accomplish the opposite result. We need this law, and we need it now. Let us not delay further.

Mr. President, I might say that substitute title I which will be proposed contains many conflicts and will cause much confusion and many contradictions with titles II and III of the bill if it is approved. It would cripple law enforcement procedures seriously. Some of them are of a long-standing nature and are of proven necessity and value.

Title I, as presently drafted, is not intended to establish new and expensive programs relating to drug abuse within the Department of Health, Education, and Welfare. It is intended, rather, to increase its efforts in the rehabilitation, treatment, and prevention of drug abuse through existing channels and through increased appropriations.

The Department of Justice strongly urges that any comprehensive legislative measure relating to drug abuse, rehabilitation, education, treatment, and prevention should be considered as a separate piece of legislation rather than as a title to a bill which is primarily oriented toward law enforcement.

Therefore, the Department of Justice recommends against the adoption of this amendment.

Mr. President, I might say that this Senator has been in conference not only with the Department of Justice but also with the Department of Health, Education, and Welfare. They have testified. Their testimony is in the hearings on this bill. That testimony was given before a committee of this body in March of this year. On the basis of my interviews and discussions with the Department of Health, Education, and Welfare, there has been prepared a memorandum of that Department's objection which I ask unanimous consent to have printed in the RECORD at this point—a summary of the objections to the proposed amendment No. 1026, the title I substitute which it is the intention of the Senator from Iowa to introduce.

There being no objection, the summary of objections was ordered to be printed in the RECORD, as follows:

I. MAJOR OBJECTIONS

1. This amendment, in the form of the October 5, 1970 Committee Print, which is the print to which these comments are addressed, is 56 pages long. While hearings have been held before the subcommittee on Alcoholism and Drug Abuse of the Senate Committee on Labor and Public Welfare on certain legislative proposals (such as S. 3562, the Hughes bill, and H.R. 14252, the Meeds bill) from which the present amendment is derived in part, the present amendment has never been the subject of a committee report in its major aspects. It is highly technical and prolix and it would be grossly inappropriate to deal with a proposal such as this on the floor of the Senate without a committee report. This is to be distinguished from the fact that H.R. 18583 has not been referred to committee in the Senate because at least H.R. 18583 is accompanied by a House Committee Report emanating from the House Interstate and Foreign Commerce Committee and Ways and Means Committee and has been before the Senate for a longer period of time. It would be impossible on the floor of the Senate to attempt to analyze the amendment in sufficient detail, remedy the many technical defects and overlaps, etc.

2. While the Administration has taken the view that no additional authority on the subject matter of title I of H.R. 18583 is needed at this time, other than the protection of the privacy of research subjects and with the possible exception also of sec. 4 of the House bill, the Department can live with title I of the House bill which at least is carefully drawn and not subject to technical defects.

3. The Hughes amendment has serious organizational and structural defects with respect to administration of the program.

a. It requires that the Secretary exercise his authority through a new statutory institute for the prevention and treatment of drug abuse and drug dependence. This would deprive the Secretary of needed flexibility in a program in which such flexibility is especially needed. While it has been the policy of the Department to focus responsibilities with respect to drug abuse treatment, education, and the like in the National Institute of Mental Health primarily, it has not been thought advisable to deprive other appropriate units of the Department of desirable authority to be delegated by the Secretary, e.g. certain authority to the Office of Education. It is also desirable that coordinating authority in the drug abuse prevention and rehabilitation program, both within the Department of HEW and between that Department and other agencies, should be vested in the Secretary rather than in a subordinate agency of the Department.

4. The Hughes amendment would create a new National Advisory Council on Drug Abuse and Drug Dependence and would substitute that advisory council for the National Advisory Mental Health Council in the review of projects and policy advice to the Secretary, thus tending to divorce the drug abuse prevention, treatment, and rehabilitation program from the broad framework of the mental health program within which it belongs. This new policy would be applied both under this bill and under the Community Mental Health Centers Act and the Public Health Services Act. However, to require the advisory council to approve every program project, and not only research projects,

would unnecessarily involve the council in the day to day operation of the program.

5. The bill would by statute create an Intergovernmental Coordinating Council on Drug Abuse and Drug Dependence on which the Secretary would be but one of a number of members. While intergovernmental and interagency coordination is of course desirable, and is in fact being pursued among federal agencies and within the Department without statutory directive, it seems undesirable to freeze the mechanism for such coordination in a statutory council and thus deprive the President of flexibility to shape any such mechanism from time to time in accordance with experience. Title I of the *House-passed bill,* in the proposed section 253(b) of the Community Mental Health Centers Act (page 6), directs the Secretary to "coordinate activities carried on by such Departments, agencies, and instrumentalities as he shall designate with respect to health education aspects of drug abuse." This directive should certainly suffice for the purposes of this bill.

6. In administering the provisions of the Community Mental Health Centers Act with respect to grants for construction and staffing of facilities for the treatment and rehabilitation of narcotic addicts, the National Institute of Mental Health has insisted on the basic principle that such projects should either be established within the framework of a Community Mental Health Center or that at least there should be arrangements whereby comprehensive services would be provided by the grantee or would be made available under arrangements between the grantee and others. This principle would be destroyed by the amendment (see sec. 147(b) on page 41 of the October 5 print and subsection (g) on page 5 of the print).

7. The amendment would, in addition to establishing a project grant program (subpart III of part E of the Hughes substitute) for title I, establish a formula grant program (subpart II of part E) based on an allotment formula. The project grant provisions of existing law and of title I of the House version of the bill are entirely adequate for the purpose. The formula grant mechanism established by the Hughes substitute is inappropriate especially in view of the fact that the formula prescribes factors besides greatest need as being determinative of the allocation of grant funds and who the recipient will be.

8. The authority for grants and contracts for construction and treatment provided in the amendment parallels authority already established in the Community Mental Health Centers Act and in title I of the bill and is outside the framework of the Community Mental Health Centers Act, which we believe is inappropriate.

9. While the Hughes amendment follows title I of the House version in broadening the narcotic addict provisions of the Community Mental Health Centers Act so as to apply to other persons who are drug abusers and drug dependent persons, it does not, unlike the House version, take account of this enlargement of scope by amending the appropriation ceiling in sec. 261 of that Act.

10. Not only does the Hughes amendment establish a separate project grant program entirely outside the framework of the Community Mental Health Centers Act (subpart III of part E of the amendment), but it also provides for a federal percentage of the cost of projects which in most cases provides for 90% federal grants and in some cases 100% grants, whereas the highest federal percentage under the Community Mental Health Centers Act is limited to 90% and then permitted only in the case of projects in urban or rural poverty areas.

II. OTHER OBJECTIONS

1. Section 141 of the Hughes amendment (page 28) would amend section 314(a)(2) of the Public Health Service Act to require a state plan under that subsection to provide for services for the prevention and treatment of drug abuse and drug dependence in certain detail. This provision is inappropriate to section 314(*a*) of the Public Health Service Act because the purpose of that subsection is not to provide for a State health *service* plan but rather for grants for *planning*. The requirements of section 314(a)(2) relate to the required contents of a State plan for comprehensive State *planning,* and not to the contents of the State plan for public health services which is provided for in section 314(*d*)(2) of the Public Health Service Act. Moreover, even if the amendment were to sec. 314(d)(2), it would contradict the basic approach of sec. 314(d) which was to do away with imposing requirements as to specific disease categories on States, although section 314(d) provides broadly that 15% of a State's allotment shall be allocated to the field of mental health services, which includes drug abuse prevention and treatment.

2. Section 3(a) of the House version of title I empowers the Secretary to give broad protection to researchers against being compelled to disclose the identity of individuals who are the subjects of research, regardless of whether the research project is one supported under title I of the bill. On the other hand, section 126(b) of the Hughes amendment (page 19) limits this protection to research conducted pursuant to title I. Moreover, section 132 of the Hughes amendment (pages 27, 28) in part would destroy this protection by authorizing courts to compel disclosure. Also, subsections (a) and (b) of section 132 of the Hughes amendment seem inconsistent with one another, and section 132(b) raises the question whether it is within the constitutional powers of the Congress.

3. With respect to the statistical functions provided for in section 125 of the Hughes amendment (pages 16 and 17), the Department's report on the original Hughes drug bill, S. 3562, pointed out that the Department of HEW already has general authority under sections 301, 305, and 315 of the Public Health Service Act to gather and publish statistics on drug related problems, and that the nonmandatory requirement that all agencies, practitioners, and other persons involved in the drug abuse field keep uniform statistics and records and submit uniform reports would not sufficiently supplement the Department's present statistical efforts to justify the great expenditures of time, energy, and expense that would result from such a requirement.

Mr. HRUSKA. Mr. President, I also ask unanimous consent that a second summary and memorandum, a summary of objections to the proposed title I substitute prepared by my office be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Objections to Amendment by Way of Substitute for Title I

The amendment offered by Senator Hughes to H.R. 18583 will strike all of title I, which relates to rehabilitation programs for drug abuse, and substitute new language in its place. The provisions of the amendment are quite similar to those contained in S. 3562, the Federal Drug Abuse and Drug Dependence Prevention, Treatment, and Rehabilitation Act of 1970, which was introduced by Senator Hughes on March 9, 1970.

During the course of hearings relating to S. 3562 before the Subcommittee on Alcoholism and Narcotics of the Senate Committee on Labor and Welfare, representatives of both the Departments of Justice and Health, Education, and Welfare expressed objections to a number of provisions in the bill. The Department of Justice felt that certain portions of the bill conflicted with the language of S. 3246, the Senate-passed Controlled Dangerous Substances Act. Other portions would create an overlapping of functions between a new administration established within the Department of Health, Education, and Welfare and the Law Enforcement Assistance Administration and the Bureau of Narcotics and Dangerous Drugs, both within the Department of Justice.

Many of the objections the Department raised to S. 3562 are equally applicable to the proposed amendment to H.R. 18583. Certain new provisions of the amendment are also considered objectionable by the Department. For example, the statement in the Congressional findings of both the amendment and S. 3562 that "drug dependence is an illness or disease" raises the spector that the allegation of drug dependence could be asserted as an affirmative defense in any criminal prosecution, which is contrary to existing Federal law.

The word "classification" in subsection 112 (k) of the amendment, defining the term "prevention and treatment," gives implied authority to the Secretary of Health, Education, and Welfare to classify controlled substances for rehabilitation and treatment purposes in a manner similar to that provided for in section 309 of S. 3562. The Department would object to any additional drug classification as being unnecessary in light of the classification scheme contained in title II of H.R. 18583.

Possible conflicts may arise between the statistical functions of the Secretary of HEW set out in section 125 of the amendment and the statistical functions of the Department of Justice contained in subsection 503(a)(4) of title II. On the one hand, statistics gathered by public agencies pursuant to regulations promulgated under section 125 may not reveal the identity of drug dependent persons. On the other hand, subsection 503(a)(4) authorizes the Department of Justice to catalog information and statistics, including records of controlled substance abusers and offenders, and make such information available for Federal, State, and local law enforcement purposes. Making records of controlled substance abusers available for enforcement purposes obviously necessitates revealing their identities.

The Department further objects to the provisions of subsection 126(a)(6) of the amendment, which requires all Federal agencies to submit to the Department of Health, Education, and Welfare all unpublished data pertinent to the toxicology, pharmacology and epidemiology of drug abuse and the dangers to public health posed by controlled substances. All such information is to be made "widely available." This provision is much too broad and will require Federal agencies to submit information for publication which is not intended for public consumption. The Department of Justice, for example, would be required to submit all data pertaining to a drug which is being considered for control, long before a determination is made to initiate control proceedings. This type of information is not of any interest or benefit to the public, and its publication would serve only to complicate drug control procedures.

The confidentiality provisions of subsection 126(b) of the amendment are also much too broad and possibly in conflict with the recordkeeping provisions of section 307 of title II, which are applicable to researchers as well as the legitimate pharmaceutical industry. Subsection 126(b) provides that any information obtained through research shall be used in such a way that no name or identifying characteristic of a research subject shall be divulged without the approval of the Secretary and the consent of the research subject. This section does not take into account research conducted pursuant to the investigational new drug procedures of

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the Federal Food, Drug, and Cosmetic Act, which may require that the identity of research subjects be made known in order to establish that they are, in fact, subjects of legitimate research. Provisions of subsection 307(e) of title II, relating to the regulations promulgated by the Secretary for researchers using controlled substances under the IND procedures of the Food, Drug, and Cosmetic Act, require the Secretary to consult with the Attorney General in promulgating regulations deemed necessary to insure the security and accountability of controlled substances used in research. Quite conceivably, these regulations could require that the identity of a research subject be made known for the purpose of ascertaining whether or not he is a subject of legitimate research.

The provisions of title I, as presently drafted, relating to confidentiality of records were worked out between members of the House Interstate and Foreign Commerce Committee and representatives of the Departments of Justice and Health, Education, and Welfare. All agree that they are more than adequate to insure the privacy of research subjects.

Subsection 126(a)(4) of the amendment, which requires the Secretary of HEW to establish the criteria pursuant to which a registered researcher is to be authorized to manufacture or acquire controlled substances for research, clearly conflicts with the regulatory provisions of title II of the bill. These provisions are applicable to the manufacture and handling of controlled substances by researchers, as well as by the legitimate pharmaceutical industry, and are adequate to insure that there will be adequate supplies of controlled substances available for legitimate research.

Title I, as presently drafted, is not intended to establish new and expansive programs and functions relating to drug abuse within the Department of Health, Education, and Welfare, but rather, is intended to increase its efforts in the rehabilitation, treatment, and prevention of drug abuse through existing channels and modalities through the use of increased appropriations. The Department of Justice strongly urges that any comprehensive legislative measure relating to drug abuse rehabilitation, treatment, education, and prevention should be considered as a separate piece of legislation rather than as a title to a bill which is primarily law enforcement oriented. Therefore, the Department of Justice recommends against adoption of this amendment.

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Mr. HRUSKA. Mr. President, this ground was plowed last January. There was thoroughly discussed in this Chamber at that time the matter of having an adequate, proper, and suitable bill for drug abuse rehabilitation, research, prevention, and education. It was pointed out at that time that this bill, being oriented toward law enforcement, is no place to get into that field, and the Senate approved that policy. There were assurances from the Senator from Connecticut, from this Senator, and from other Senators that when that bill was properly recommended by the committee that we would support that type measure as a separate bill.

The urgency of expeditious action on the House bill in substance is this. There would be a delay of enactment if we get into so vast a change as would result from the adoption of the substitute title I.

Let us consider that it is 15 months since the bill was introduced last July. There were extensive hearings and a unanimous vote in January, but that did not complete action on the bill. There was much to be said for enactment of this bill prior to the time that the current academic year started. It would have had a tremendous psychological effect on the situation that converges on the campuses of this Nation. But there was another compelling and persuasive argument, for speedy approval and that is that a model bill for the States to adopt in their respective legislatures is prepared, ready to go, and the legislatures, the bulk of them, which will start to convene in January will want to adopt that model bill. That model bill is pretty much contingent upon and dependent upon the enactment of an overall law enforcement measure in this field by Congress bringing up to date those provisions in our general statutes which bear on this subject, and the new approach by way of establishing a schedule, the administrative way in which those schedules will be modified, a revision of penalties and so forth.

If we are to have an advantageous and expeditious followup in the State legislatures, which is where the actual local and field police work must be done, it is well that we enact this bill and soon. If we do not get to it until next November, there will not be the necessary paperwork, the necessary promulgation of the Federal act, and all the other details that are necessary in order for the State legislatures to take prompt action.

Therefore, it would be my hope that we would turn back any amendments here in the interest of going forward with a measure which has been thoroughly, completely, and well processed in committee, in the other body, in debate in this body once, and now for the second time.

There are things about the House-passed bill that we probably would not have there or which we would have in a different form if we had our choice. But the Senator from Connecticut indicated he is willing and this Senator is willing to forgo those relatively minor matters in order that we might make progress quickly and it is my hope that is what will be done. I urge that H.R. 18583 be approved by the Senate without amendment.

Mr. DODD. Mr. President, will the Senator yield?

Mr. HRUSKA. I am glad to yield.

Mr. DODD. I commend the Senator from Nebraska for his statement. It is in keeping with his attitude and record here of many years. He has been a strong voice in calling for the control of the epidemic of drug addiction in this country. I am proud to say so on the Senate floor.

He has said that we have been at it for 14 months struggling to put this measure through. There has been one delay after another. In that period of time 12,000 youngsters under 21 years of age have been arrested for narcotics and narcotic-related offenses. I think we could have saved some of them if we had passed this bill long ago with its enlightened sentencing structure.

The Senator from Nebraska knows I do not refer to him, because I have already said he helped tremendously in trying to get this legislation before the full Congress.

I tell you, Mr. President, there is a powerful lobby in this country, trying to beat this bill. It hides behind different facades—parliamentary debate, this kind of amendment and that kind of amendment.

Why do they cause this trouble? There is a lot of money involved. They have had the effrontery to tell me this. While thousands of American children go down the drain, they are worried about profits. I do not care who likes or dislikes what I am saying—I am sick of it. The American people should know what we are up against. I know who these "white collar" drug peddlers are. They came to see me, as I said, a few minutes ago, and I said "no."

I know these drugs are addictive, habituating, and when they are criminally abused, are bad for this country. And these drug lobbyists are still working. They have hired all the high powered machinery they can get in Washington, and maybe in a day or so I will name them. If they think this is a patsy performance, they are going to be disappointed.

I say to the Senator from Nebraska, let us get this job done. Let us do something about the dreadful drug addiction problem in this country. I know the Senator from Nebraska wants to see it done. I know it very well. He is not one of those who has been trying to delay it. I do not charge anyone in this body, but I was compelled to point out that there is this great influence trying to delay this bill. That is why I brought it up.

Mr. HUGHES. Mr. President, I want to say to the distinguished Senator from Connecticut and the distinguished Senator from Nebraska that when their bill came out of the Juvenile Delinquency Subcommittee last spring and was debated on the floor, it eventually passed unanimously. It could hardly be said that anyone in this body voted against the bill or to delay it. There was not a single vote, as I recall, against the bill.

In all probability, when we get through with this piece of legislation, there will not be a single vote against this particular bill. It would be very doubtful that there would be. But to say that we should not take the time at this particular moment to examine carefully—and I mean very carefully—the contents of this bill, which deals with very sensitive areas of humanity that must be dealt with, is absolutely ridiculous. The bill will be debated, it will be voted on, it will be passed on, in all probability, in the next couple of days.

To say we cannot take the time to debate it and debate it sensibly is to not give appropriate credit to the Members of this body who should have such credit and have an opportunity to consider their alternatives.

Mr. President, it is my intention, at the proper moment, to call up a substitute amendment, No. 1026, cosponsored by the entire membership of the Committee on Labor and Public Welfare—the entire membership of that committee—to title

I of H.R. 18583, the Comprehensive Drug Abuse and Control Act which was recently passed by the House and is now subject to our action.

This includes the entire membership of the minority party on the committee as well as the majority party—the education subcommittee and the health subcommittee—all of the members of those committees who deal with this subject.

For well over a year we have probed and held hearings on this subject. It is not as though we are unfamiliar with what we will be coping with in the next couple of days, and are coping with now. This proposal, representing long study and carefully thought-out provisions, would pull together under a single agency the fragmented and insufficient Federal health and education programs for dealing with the drug epidemic.

In view of the national crisis we face as a result of the dangerous rise of drug abuse and narcotic addiction in the United States, I believe this to be one of the most urgent items to come before the Senate in the present session.

Believe me, I have a good deal of concern about our doing something about this and I am keenly aware and familiar with the problems that exist in this country.

The amendment would replace title I only of the House bill—the title dealing with the health and education aspects of the drug problem. Both the Senator from Nebraska and the Senator from Connecticut indicated last summer, that should this committee bring out their recommendations, they intended to support them. These are the committee recommendations. Every member of the committee is sponsoring the amendment.

It would not affect title II or III which contain the provisions for enforcing drug control laws, regulating the manufacture and sale of dangerous drugs, and controlling drug imports and exports.

The key provisions in this amendment are contained in Senate amendment 1003, filed by me on October 1, 1970.

The amendment I offer today is Senate amendment 1026—a revised version that also incorporates the basic features of H.R. 14252, the Drug Abuse Education Act, and of an amendment to H.R. 14252, proposed by the Senator from Massachusetts (Mr. KENNEDY), dealing with community-based, peer-group-oriented programs of drug abuse education. The Kennedy amendment was also adopted by the Committee on Labor and Public Welfare. H.R. 14252 is pending on the Senate calendar.

At this point, I want to pay tribute to our colleagues in the House and particularly the Committee on Interstate and Foreign Commerce under the able chairmanship of the gentleman from West Virginia (Mr. STAGGERS) and to the Subcommittee on Public Health and Welfare chaired by the respected gentleman from Oklahoma (Mr. JARMAN).

H.R. 18583 is an example of competent, conscientious, and courageous legislation in an extremely difficult field.

The thrust of our amendment today is in the nature of extending the provisions of H.R. 18583 relating to health and education programs for dealing with the drug program and in consolidating kindred legislative proposals rather than in changing the basic intent of the House-passed drug bill.

This amendment, as I have suggested, is not hastily contrived legislation, as has been contended here, but is the fruit of many months of hearings and study by the Subcommittee on Alcoholism and Narcotics and of the parent Labor and Public Welfare Committee under the concerned leadership of the Senator from Texas (Mr. YARBOROUGH).

Structurally, the amendment is patterned along the lines of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act (S. 3835) which was passed unanimously by the Senate on August 10, 1970.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. HUGHES. I yield.

Mr. KENNEDY. As I understand the thrust of the amendment of the distinguished Senator from Iowa, as he has pointed out in his explanation, it is to do for the drug bill what was done on the alcoholism legislation. What he is attempting is not really any new kind of concept or new idea. Not only does his amendment incorporate the experience and the judgment and the deep analysis of the hearings that he conducted, and the combined judgment of the members of the Committee on Labor and Public Walfare, but, as I understand, its thrust is to proceed in a similar way to the bill that passed the Senate on alcoholism, as the Senator mentioned, in August of this year. Am I correct in that understanding?

Mr. HUGHES. The Senator makes an absolutely correct statement. The Senate passed unanimously, on August 10, a bill relating to the disease of alcoholism in this country, a bill having identical structure with this amendment, dealing with another great area of human misery in this country, and dealing with the most dangerous drug of all—alcohol.

Mr. KENNEDY. But, as the Senator has said most compellingly, we are not, as some have suggested, considering a new kind of program or new recommendation.

As I understand the amendment, as the Senator put it forth, in terms of the intent of the Labor Committee, upon which I serve, it is that this is something that has been considered in concept by the full membership of the Senate. It is something which is significant and important for its own sake. It is something which the members of that committee, of which I am one, feel will obviously strengthen dramatically the whole drug program in whatever form it may pass the Senate this year.

Mr. HUGHES. The Senator is absolutely correct. The amendment is patterned directly along the same lines, incorporating the same principles, and it is not new at all.

Mr. KENNEDY. I commend again my friend and distinguished colleague from Iowa.

I have the rather unique opportunity to serve on both the Committee on Labor and Public Welfare and the Committee on the Judiciary. I serve on both the Judiciary Subcommittee on Juvenile Delinquency, with my good friend and distinguished colleague, the chairman of that subcommittee (Mr. DODD), and also on the Subcommittee on Alcoholism and Narcotics of the Committee on Labor and Public Welfare.

I have seen very well the splendid work that has been done by both committees on drug abuse problems.

I would say, having had the chance to attend the hearings and to review the records and reports, that the work that is being done by each of those committees strongly complements that of the other, and that the kind of approach that is being suggested in the amendment of the distinguished Senator from Iowa is absolutely essential if we are going to put our names and our votes and the imprint of the Senate of the United States on a worthwhile drug program.

I share the feeling of the distinguished Senator from Iowa that what we need, in terms of a drug abuse prevention and control act, is strong law enforcement, rehabilitation, research, and education. We would be doing a complete disservice to the American people and to those who have been afflicted with this disease if we were to permit a half-way measure to pass this body.

I feel, however, that important as it is for the strong law enforcement provisions to be included in the measure that we currently have before us—and I strongly support almost all of those provisions—I echo what I think are the eloquent sentiments of my good friend from Iowa, that we must provide this kind of balanced program, including research, rehabilitation, and education. And if it is going to take us days or weeks to do that, we will serve our constituents and our country in a much more responsible way by providing the kind of approach that is included in the amendment offered by the distinguished Senator from Iowa. I commend him for his work and his tireless efforts in this undertaking, and say that I am proud to be associated with this amendment. I can remember the comments on the importance of education, rehabilitation, and research—and the support for legislative action on that front—that were made by my good friend from Connecticut and my good friend from Nebraska when we debated this issue last spring. I am certainly hopeful that those who have stressed the importance of law enforcement and have expressed it full well will embrace also the concepts of education, rehabilitation, and research.

We have the opportunity to do it now. We are in a changed position from that which we were in last spring, because we have behind us hours and days of testimony and deliberations by the Committee on Labor and Public Welfare, and we have the results of the work and the thoughtful comments that have been made by experts, as well as by those who have been most afflicted by this disease. It is a record which I feel is unequaled in its persuasiveness, and I rise, at this early moment in the introductory remarks of the Senator from Iowa, to com-

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mend him and state that I am extremely hopeful that Senators will have a chance to read, tomorrow morning, his extensive comments on this matter, wherein he explains it and wherein he makes this record. I think it will be enormously illuminating, and I am sure that, if Senators do have the chance to study it in detail, his amendment will be successful.

I thank the Senator from Iowa.

Mr. HUGHES. Mr. President, I thank the distinguished Senator from Massachusetts for his great contribution. As usual, I think he has focused on a matter that is absolutely essential. This subject matter that we are discussing here tonight is similar in structure to the legislation we acted on earlier, that dealt with the most widely abused drug of all, alcohol; and I think it is very logical that the approach to developing a comprehensive and coordinated Federal program for dealing with the health and education aspects of controlling drug abuse and narcotic addiction would be similar to and parallel to that on alcoholism.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUGHES. I yield.

Mr. JAVITS. I do not wish to interrupt the Senator's discourse, but I would just like to serve notice that I, too, as the ranking minority member of the Alcoholism and Narcotics Subcommittee, which the Senator heads so effectively, would like to make an opening statement in support of the Senator's amendment. If he will be kind enough to yield to me at the end of his discourse, I will appreciate it.

Mr. HUGHES. I shall be happy to yield to the distinguished Senator from New York, and I wish, at this point, to state again that any implication by any Member of this body that there is any intent to delay action on this bill or any other bill would be, in my opinion, the height of ridiculousness, after we have spent nearly 21 months in digging, determining, trying, and endeavoring in every way possible to bring good legislation before this body. There is certainly no intent on our part of delaying a matter of this importance.

At this point, I ask unanimous consent that a summary of the amendment be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF SENATOR HUGHES' SUBSTITUTE AMENDMENT TO TITLE I OF H.R. 18583

Senator Hughes' substitute amendment to H.R. 18583 establishes the administrative structure necessary to mandate and carry out effective, coordinated and broadly based attack upon the drug epidemic in this country. It deals with the prevention, treatment, and rehabilitation side of the drug problem. (Titles II and III of H.R. 18583 deal with the law enforcement aspects of the problem, and the substitute amendment does not affect or change those two titles.) The substitute amendment, which is modeled after the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, which passed the Senate unanimously earlier this year, would:

1. Establish a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence within the Public Health Service of the Department of Health, Education, and Welfare. The Secretary of HEW, acting through the Institute, would have a comprehensive range of responsibilities with respect to the prevention, treatment, and rehabilitation of drug abuse and drug dependence problems. Those responsibilities include administrative, educational, training, research, planning, coordinating, statistical, and reporting functions, all of which are spelled out in the amendment. These powers would be utilized and directed in accordance with a specific and comprehensive national drug abuse and drug dependence prevention, treatment, and rehabilitation plan, which would be designed and implemented by the Secretary, acting through the Institute, and which would be submitted annually to Congress for review.

(An Institute will have a stature commensurate with the magnitude of the health problem with which it will deal; the visibility necessary to attract strong financial support and to provide an effective program of public education and to develop public attention to and concern about this important problem; and a permanent status which will assist the development of the most qualified staff possible. In addition, it will provide the structure necessary to administer a state formula grant program, a community-based project grant program, and to attract a broad cross section of individuals who are able to assist in solving problems of drug abuse and drug dependence. Such a cross section would necessarily include persons interested in the medical, sociological, and biological aspects of drug abuse and drug dependence, as well as persons interested in practical and creative programs for education, training, and treatment.)

2. Authorize a formula grant program and a project grant program to assist states and communities in dealing with drug problems:

(a) *Formula Grants:* Authorizations in the amounts of $10 million for fiscal 1971, $20 million for fiscal 1972, and $25 million for fiscal 1973, are made for grants to states to assist them in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with drug abuse and drug dependence. A minimum of $200,000 would be allocated to each state for each fiscal year.

(b) *Project Grants:* Authorizations in the amounts of $20 million for fiscal 1971, $45 million for fiscal 1972, and $70 million for fiscal 1973, are made for grants to and contracts with state and local community organizations, agencies, institutions, and individuals to carry out a comprehensive range of activities in the drug education, prevention, treatment, and rehabilitation fields. These would include but would not be limited to: development and evaluation of curricula and curricula dissemination programs; training and education programs for medical schools, outreach workers, and other professional and para-professional persons; support of community planning and educational programs; organization of community personnel; support of services to juveniles and young adults; development of programs for correctional institutions; support of local initiative programs, such as peer group leadership programs, crisis intervention centers, clinics, etc.; and support of research, demonstration, and evaluation projects.

3. Establish an Intergovernmental Coordinating Council on Drug Abuse and Drug Dependence consisting of Federal, state, and local governmental officials, to assist the Secretary in achieving broad governmental coordination of and comment on prevention, treatment, and rehabilitation programs; and establish an independent National Advisory Council on Drug Abuse and Drug Dependence, consisting of 15 highly qualified persons, to advise and consult with the Secretary and to assist in carrying out the purposes of this title.

4. Require the establishment of programs of prevention and the recognition and encouragement of treatment and rehabilitation programs for all Federal civilian employees.

5. Retain (at various locations in the amendment), with minor modification, the provisions contained in Title I of H.R. 18583, as sent to the Senate by the House. These provisions broaden certain authorities under the Public Health Service Act, which now relate only to narcotic addiction, so that they relate to drug abuse and drug dependence generally; establish educational and special project programs; protect the privacy of individuals who are the subject of research; and authorize the Secretary to report to Congress on appropriate methods of professional practice in the medical treatment of narcotic addiction.

Mr. HUGHES. In brief, these are the highlights of what this amendment would accomplish. It would establish a national health institute for dealing specifically with drug dependence—the National Institute for the Prevention and Control of Drug Abuse and Drug Dependence.

The amendment establishes a structure that is substantially broader in scope than the programs which the House bill establishes or augments.

It is the opinion of the Labor and Public Welfare Committee that only an agency of Institute status would have the prestige and status to carry out and coordinate effectively the vast and diverse range of responsibilities called for by this legislation.

The amendment would also:

Require the U.S. Civil Service Commission to guarantee to Federal employees with a drug dependence the same employment conditions and benefits as persons who are ill from other causes;

Require Federal agencies to establish programs for dealing with drug dependence among Federal employees;

Authorize formula grants totaling $55 million over the next 3 years to help State governments develop and administer programs for dealing with drug dependence;

Authorize grants totaling $135 million over the next 3 years to State and local agencies, both public and private, to help finance specific projects; and

Establish an independent National Advisory Council on Drug Abuse and Drug Dependence and an Intergovernmental Coordinating Council on Drug Abuse and Drug Dependence to insure coordination of Federal efforts.

The 3-year authorization of $190 million under this amendment compares with the $164 million authorized by the House-passed bill for similar purposes. But as I have stated, the scope of the amendment is more comprehensive than that of title I of H.R. 18583.

Title I of the House bill does make some much needed improvements in existing programs.

For example, it expands the authority of the Public Health Service to treating persons who have become dependent on any one of a variety of drugs, not just those who are already addicted to a narcotic drug.

However, I believe it is also essential to the success of our effort to bring these programs together under one prestigious Federal agency, where they will command the attention, the dedication, and the financial support deserving of one of our most dangerous and critical national problems, on which we can all agree, regardless of our position in the matter now before the Senate.

At the present time, the authority for dealing with drug abuse at the Federal level is scattered through the statutes in the Community Mental Health Centers Act, the Public Health Services Act, and the general powers of the Department of Education and the Office of Economic Opportunity.

It would be unrealistic to believe that such fragmented authority, however well administered, could mount the massive, coordinated Federal attack that the "Drug Problem, U.S.A.," so obviously requires.

Mr. President, I know that every Senator in this Chamber regards effective action against the drug plague as one of his most solemn responsibilities in this session.

We may disagree on minor details, but on the central objectives we are as one.

The amendment under consideration represents the first Federal effort on a massive, realistic scale to get at the drug problem from the health and preventive-education angles.

President Nixon, on March 11, 1970, stated:

> One of the great tragedies of the past decade has been that our schools, where our children should learn about the wonder of life, have often been the places where they learn the living—and sometimes actual death—of drug abuse. There is no priority higher in this administration than to see that children—and the public—learn the facts about drugs in the right way and for the right purpose through education.

The Director of the Bureau of Narcotics and Dangerous Drugs has recently stated, in a widely publicized speech, that an effective program to control drug abuse and drug dependence in this country must rely strongly on methods of prevention and rehabilitation.

We know that we must have strong laws and strong enforcement of those laws.

But enforcement, by itself, is inadequate to do the entire job.

As I have stated, this amendment does not disturb the provisions of the House bill dealing with the enforcing of drug control laws, regulating the manufacture and sale of dangerous drugs, and controlling drug imports and exports.

But it does—for the first time on an appropriate scale—get at the source of the drug problem, the addiction.

Those who have witnessed addiction at first hand know what a terrible, deadly sickness it is.

As long as addicts are punished and released uncured, the drug problem will grow in our society.

As long as children in our schoolyards are inadequately informed as to the deadly consequences of drug abuse and narcotic addiction, they will continue to experiment.

We need a national mobilization of all of our resources that can be focused on this problem.

Not next week or next year—but now.

We need to pull together all of the resources for prevention and rehabilitation our society possesses to focus on this urgent need.

We need to shake the yoke and prejudice of the past and use the modern techniques available for prevention and rehabilitation, combining the knowledge of the professional disciplines—medical, social, educational, psychological, and all the rest.

And we need a deep civic commitment in every community of the land.

In order to bring this about, the Federal Government must lead the way, bespeaking our national determination that the drug problem must, can, and will be stemmed in this powerful and affluent society.

The statistics on drug abuse and drug dependence in this country today are appalling.

No State, no region, no city is untouched.

Despite the diligent efforts of our Federal enforcement people, the Nation's top narcotics officer tells us that the Government has not yet been able to reduce the amount of heroin available in this country.

The head of the Food and Drug Administration alerts us to the dangers in the growing illegal and unhealthy use of amphetamines—or pep pills.

A detective in a Midwestern city states that drug addicts need an average of $50 to $60 a day to support the habit—some from $100 to $125—and to get this kind of money illegally he must steal as much as $200 daily.

We know that this is the source of a big percentage of crime in the country today.

A State toxicologist, in a Southeastern State reports:

> In years past, a death caused by heroin overdose was an oddity in this State. In the first six months of 1970, at least nine young persons died in this fashion.

A recent headline in one of our large city newspapers reads: "Hard Drug Use in City Out of Control, Rising." The headline would apply with equal truth to other cities across the country.

In a hearing of our Subcommittee on Alcoholism and Narcotics in a Western city, we heard testimony from a 15-year-old boy who had been hooked on drugs of various kinds since age 10.

This is not, I regret to say, unique in America today.

Throughout the United States, there are stirrings of people in concerned communities, eager to do something about education programs, treatment centers, and rehabilitation houses to counter the drug problem.

The long-needed determination to get at the drug problem at its source—the addiction—through health programs and preventive education is developing in various ways throughout the communities of our land.

But national leadership and coordination is needed.

The amendment we are offering today is not a cure-all, by any stretch of the imagination.

But it is a big step in the right direction.

Its enactment—and the enactment of H.R. 18583—will thus be keeping faith with millions of Americans who are now looking at the future with deep anxiety.

Mr. President, I offer and ask unanimous consent to have printed at this point in the Record the text of amendment No. 1026, which the Senator from California (Mr. Cranston) was kind enough to file for me when I could not be here because of an illness in my family.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1026

In the table of contents of the bill, strike out all that part pertaining to title I and insert in lieu thereof the following:

"TITLE I—PREVENTION AND REHABILITATION PROGRAMS RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

"Part A—Findings and Declaration of Purposes

"Sec. 101A. Findings.
"Sec. 102A. Declarations.

"Part B—Definitions

"Sec. 111. Definitions.
"Sec. 112. Additional definitions.

"Part C—National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence

"Sec. 121. Establishment of the Institute.
"Sec. 122. Administrative functions of the Secretary.
"Sec. 123. Planning functions of the Secretary.
"Sec. 124. Coordination functions of the Secretary.
"Sec. 125. Statistical functions of the Secretary.
"Sec. 126. Research functions of the Secretary.
"Sec. 127. Training functions of the Secretary.
"Sec. 128. Educational functions of the Secretary.
"Sec. 129. Reporting functions of the Secretary.

"Part D—Prevention and Treatment for Federal Employees

"Sec. 131. Drug abuse and drug dependence among Federal Government employees.
"Sec. 132. Confidentiality of records.

"Part E—Federal Assistance for State and Local Programs

"Subpart I—Comprehensive State Plans

"Sec. 141. Comprehensive State plans.

"Subpart II—Formula Grants

"Sec. 142. Authorization.
"Sec. 143. State allotment.
"Sec. 144. State plans.
"Sec. 145. Applications and conditions.

"Subpart III—Project Grants

"Sec. 146. Authorizations.
"Sec. 147. Grants and contracts for the prevention and treatment of drug abuse and drug dependence.
"Sec. 148. Application for financial assistance from units of local government and private organizations.
"Sec. 149. Approval by National Advisory Council on Drug Abuse and Drug Dependence.

"Subpart IV—General

"Sec. 150. General.
"Sec. 150A. Admission of drug abusers and drug dependent persons to private and public hospitals.

"Part F—The National Advisory Council on Drug Abuse and Drug Dependence

"Sec. 151. Establishment of Council.

"Sec. 152. Approval by Council of certain grants under Community Mental Health Centers Act.

"PART G—INTERGOVERNMENT COORDINATING COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"Sec. 161. Establishment of Council.
"Sec. 162. Functions of Council.

"PART H—PROGRAMS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT RELATING TO DRUG ABUSE AND DRUG DEPENDENCY

"Sec. 171. Broader authority under Community Mental Health Centers Act.
"Sec. 172. Broader treatment authority in Public Health Service hospitals for persons with drug abuse and drug dependency problems.
"Sec. 173. Research under the Public Health Service Act in drug abuse and drug dependency.

"PART I—GENERAL

"Sec. 181. Saving provision.
"Sec. 182. Records.
"Sec. 183. Payments."

In the text of the bill, strike out all of title I and insert in lieu thereof the following:

"TITLE I—PREVENTION AND REHABILITATION PROGRAMS RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

"PART A—FINDINGS AND DECLARATION OF PURPOSES

"FINDINGS

"SEC. 101A. The Congress finds that—

"(a) Drug abuse and drug dependence are rapidly increasing throughout the country. Drug abuse can seriously impair health, and can lead to drug dependence. Drug dependence is an illness or disease, which requires a broad range of health and rehabilitation services for treatment.

"(b) Existing laws and their implementation have not been effective to prevent drug abuse and drug dependence or to provide sufficent education, treatment, and rehabilitation of drug abusers and drug dependent persons. Increasing education, treatment, and rehabilitation services, and coordination of effort, offer the best possibility of reducing drug abuse and drug dependence. A major commitment of health and social resources and Government funds is required to institute an adequate and effective Federal program for the prevention and treatment of drug abuse and drug dependence.

"(c) There is a lack of authoritative information and creative projects designed to educate students and others about drugs and their abuse. High priority should be given to the development, evaluation, and dissemination of educational and informational materials.

"(d) Drug dependent persons commit a high percentage of the serious crime in many cities in order to secure funds with which to satisfy their habit. Criminal incarceration without appropriate treatment has proved ineffective to deter drug related crime. Effective treatment services and successful rehabilitation offer the best possibility of avoiding a high rate of recidivism.

"(e) Present Federal programs for drug abuse and drug dependence should have a high level of priority and should be closely coordinated within the Government. If Federal research, social, health, and rehabilitation laws are adequately used to attack drug abuse and drug dependence, this will contribute to the recognition of responsibility for meeting these problems by public and private State and local agencies.

"(f) Federal officials must effectively handle drug abuse and drug dependence among those for whom the Government has special responsibilities—civilian employees, military personnel, veterans, Federal offenders, American Indians and Alaskan Natives.

"(g) Drug abusers and drug dependent persons can be best treated and rehabilitated through effective community-based programs, some of which provide a comprehensive range of services and which are integrated with and involve the active participation of a wide range of public and nongovernmental agencies, and some of which provide a more selective range of services arising from local initiative, educational, and peer group assistance programs. Existing treatment and rehabilitation programs are now inadequate to meet the growing demands for such services.

"(h) There is a critical shortage of professional, scientific, educational, and other personnel trained to deal effectively with drug abuse and drug dependence.

"DECLARATIONS

"SEC. 102A. The Congress declares—

"(a) There shall be established and maintained in the Public Health Service, a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence through which the Secretary shall coordinate all Federal health, rehabilitation, and other social programs related to the prevention and treatment of drug abuse and drug dependence and administer the programs and authorities established by this title.

"(b) An increased effort should be made to encourage the development of new and improved curriculums on the problems of drug abuse; to demonstrate the use of such curriculums in model educational programs, and to evaluate the effectiveness thereof; to disseminate curricular materials and significant information for use in educational programs throughout the Nation; to provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders; and to offer community education programs for parents and other adults on drug use and abuse.

"(c) Major Federal action and Federal assistance to State and local programs shall be undertaken to engage in and encourage planning, coordination, statistics, research, training, education, and reporting with respect to drug abuse and drug dependence, and to provide equal access to humane care, effective treatment, and rehabilitation for all drug abusers and drug dependent persons regardless of their circumstances.

"(d) Research relating to drug abuse and drug dependence and to controlled substances shall be fostered and assisted, and medical practitioners and other qualified investigators shall be encouraged and protected in their research efforts.

"(e) In addition to the provisions of this title, all other Federal legislation providing for Federal or federally assisted State research, prevention, treatment, or rehabilitation programs in the fields of health, education, welfare, and rehabilitation shall be utilized to reduce drug abuse, drug dependence, and drug-related crime.

"PART B—DEFINITIONS

"DEFINITIONS

"SEC. 111. The definitions in title II of this Act shall also apply for purposes of this title.

"ADDITIONAL DEFINITIONS

"SEC. 112. As used in this title:

"(a) 'Court' includes all Federal courts, including any United States magistrate.

"(b) 'Department' means the Department of Health, Education, and Welfare.

"(c) 'Director' means the Director of the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence.

"(d) 'Drug abuser' means any person who uses any controlled substance under circumstances that constitute a violation of law.

"(e) 'Drug dependent person' means a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled substance on a continuing basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

"(f) 'Emergency care service' includes all appropriate short-term services for the acute effects of drug abuse and drug dependence, which (1) are available twenty-four hours a day, (2) are community based and located so as to be quickly and easily accessible to patients, and (3) provide drug withdrawal and other appropriate medical care and treatment, professional examination, diagnosis, and counseling with respect to possible drug dependence, and referral for other treatment and rehabilitation.

"(g) 'Inpatient services' includes all treatment and rehabilitation services for drug abuse and drug dependence provided for a resident patient while he spends full time in a treatment institution.

"(h) 'Institute' means the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence in the Public Health Service.

"(i) 'Intermediate care services' includes all treatment and rehabilitation services for drug abuse and drug dependence provided for a resident patient while he spends part time in a treatment facility (including but not limited to a therapeutic community or halfway house which is community based and located so as to be quickly and easily accessible to patients.

"(j) 'Outpatient services' includes all treatment and rehabilitation services (including but not limited to clinics, social centers, vocational rehabilitation services, welfare centers, and job referral services) for drug abuse and drug dependence provided while the patient is not a resident of a treatment facility which are community based and located so as to be quickly and easily accessible to patients.

"(k) 'Peer group assistance' includes all prevention, treatment, and rehabilitation services (including but not limited to telephone counseling and information services, informal, open-admission facilities for support, guidance, referral, and temporary residence and therapeutic, self-help, residential facilities) for drug abuse and drug dependence primarily organized and operated by persons from similar social, cultural, and age backgrounds as those of the persons served under any such program, in facilities which are community based and located so as to be quickly and easily accessible to the persons served.

"(l) 'Prevention and treatment' includes all appropriate forms of educational programs and services (including but not limited to radio, television, films, books, pamphlets, lectures, adult education, and school courses); planning, coordinating, statistical, research, training, evaluation, reporting, classification, and other administrative, scientific, or technical programs or services; and screening, diagnosis, treatment (emergency care services, inpatient services, intermediate care services, and outpatient services), vocational rehabilitation care services, and outpatient services, vocational rehabilitation, job training and referral, and other rehabilitation programs or services; but does not include law enforcement activities.

"(m) 'Secretary' means the Secretary of Health, Education, and Welfare.

"PART C—NATIONAL INSTITUTE FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

"ESTABLISHMENT OF THE INSTITUTE

"SEC. 121. (a) There is hereby established within the Public Health Service a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence to administer the programs and authorities assigned to the Secretary by this title. The

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Secretary, acting through the Institute, shall develop and conduct a comprehensive health, education, research, and rehabilitation program for the prevention and treatment of drug abuse and drug dependence.

"(b) The Institute shall be under the direction of a Director, who shall be appointed by the Secretary.

"(c) The Institute and its programs and services shall be staffed with an adequate number of personnel, who shall possess appropriate qualifications and competence, and some of whom may formerly have been drug abusers or drug dependent persons. Prior drug related criminal arrests or convictions shall not be a bar to such employment.

"ADMINISTRATIVE FUNCTIONS OF THE SECRETARY

"SEC. 122. It shall be the duty of the Secretary, acting through the Institute, with respect to his administrative functions to—

"(a) assist Federal departments and agencies in the development and maintenance of appropriate prevention, treatment, and rehabilitation programs and services in accordance with section 124(a) of this title;

"(b) review and provide in writing an evaluation of the adequacy and appropriateness of the provisions relating to the prevention and treatment of drug abuse and drug dependence of all comprehensive State health, welfare, and rehabilitation plans submitted to the Federal Government pursuant to Federal law, including but not limited to those submitted pursuant to section 5(a) of the Vocational Rehabilitation Act, section 141 of this title, section 604 of the Public Health Service Act, section 1902 of title XIX of the Social Security Act, and section 204 of part A of the Community Mental Health Centers Act;

"(c) administer the grants and contracts authorized under part E of this title; and

"(d) provide assistance to any other service or program, or take any other action, consistent with the intent and objectives of this title.

"PLANNING FUNCTIONS OF THE SECRETARY

"SEC. 123. It shall be the duty of the Secretary, acting through the Institute, with respect to his planning functions to—

"(a) develop a detailed and comprehensive Federal drug abuse and drug dependence prevention and treatment plan to implement the objectives and policies of this title. The plan shall be submitted to Congress as soon as practicable, but not later than one year after the enactment date of this title. Other responsibilities of the Secretary, as set out in this title, shall not be interrupted or delayed pending the initial development of such a plan. It shall be reviewed annually and submitted to Congress with any appropriate revisions as part of the Secretary's annual report. The Secretary shall, in developing the comprehensive Federal plan, consult and collaborate with all appropriate public and private departments, agencies, institutions, organizations, and individuals. The plan shall specify how all available health, welfare, educational, and rehabilitation resources, and how funds, programs, services, and facilities authorized under existing Federal legislation, are to be utilized;

"(b) develop model drug abuse and drug dependence prevention and treatment plans for State and local governments, reflecting the social, geographic, and economic variables of drug and drug dependence problems, and utilizing the concepts incorporated in the comprehensive Federal plan. The model plans shall be reviewed on a periodic basis and revised to keep them current. They shall specify how all types of community resources and existing Federal legislation may be utilized;

"(c) provide assistance and consultation to State and local governments, public and private agencies, institutions, organizations, and individuals with respect to the prevention and treatment of drug abuse and drug dependence; and

"(d) develop models of drug abuse and drug dependence treatment and rehabilitation legislation for State and local governments, which utilize the concepts incorporated in this title.

"COORDINATION FUNCTIONS OF THE SECRETARY

"SEC. 124. It shall be the duty of the Secretary, acting through the Institute, with respect to his coordinating functions to—

"(a) upon request, assist the Civil Service Commission, the Department of Defense, the Veterans Administration, and other Federal departments and agencies in the development and maintenance of appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and drug dependence pursuant to part D of this title;

"(b) serve in a consulting capacity to all Federal courts, departments, and agencies, and to be responsible for assisting in the development and coordination of a full range of programs, facilities, and services available to them for education, diagnosis, planning, counseling treatment, and rehabilitation with respect to the drug abuse and drug dependence problems they encounter;

"(c) coordinate all Federal social, rehabilitation, and other efforts to deal with the problem of drug abuse and drug dependence;

"(d) encourage and assist State and local government programs and services, and programs and services of public and private agencies, institutions, and organizations, for the prevention and treatment of drug abuse and drug dependence;

"(e) stimulate more effective use of existing resources and available services for the prevention and treatment of drug abuse and drug dependence;

"(f) cooperate with the National Advisory Council on Drug Abuse and Drug Dependence, the Civil Service Commission, and other appropriate Federal departments and agencies, to develop a policy consistent with this title with regard to Federal employees who are drug abusers or drug dependent persons, involving appropriate programs and services for the prevention and treatment of drug abuse and drug dependence among such employees;

"(g) assist State and local governments in coordinating programs among themselves for the prevention and treatment of drug abuse and drug dependence; and

"(h) after consulting with national organizations representative of persons with knowledge and experience in the treatment of drug dependence, report from time to time to the Congress on appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of drug dependent persons.

"STATISTICAL FUNCTIONS OF THE SECRETARY

"SEC. 125. It shall be the duty of the Secretary, acting through the Institute, with respect to his statistical functions to—

"(a) gather and publish statistics pertaining to drug abuse, drug dependence, and drug related problems; and

"(b) promulgate regulations specifying uniform statistics to be obtained, records to be maintained, and reports to be submitted, on a voluntary basis by public and private departments, agencies, organizations, practitioners, and other persons with respect to drug abuse, drug dependence, and drug related problems. Such statistics and reports shall not reveal the identity of any patient or drug dependent person or other confidential information.

"RESEARCH FUNCTIONS OF THE SECRETARY

"SEC. 126. (a) It shall be the duty of the Secretary, acting through the Institute, with respect to his research functions to—

"(1) conduct and encourage all forms of research, investigations, experiments, and studies relating to the cause, epidemiology, sociological aspects, prevention, diagnosis, and treatment of drug abuse and drug dependence;

"(2) conduct, and encourage and assist others to conduct, all forms of research, investigations, experiments, and studies relating to the toxicology, pharmacology, chemistry, effects on the health of drug abusers, and danger to the public health, of controlled substances;

"(3) coordinate such research with research conducted by the Institute and with research conducted by other Federal, State, and local public and private non-profit agencies, institutions, organizations, and individuals. To facilitate this activity, the Secretary shall establish and maintain a complete and current register of all medical practitioners and other qualified investigators engaged in any form of or research on controlled substances;

"(4) make available research facilities and resources of the Administration to appropriate authorities, health officials, and individuals engaged in investigations or research related to the purposes of this title. Such resources shall include the maintenance of an adequate supply of controlled substances for investigational and research purposes, and the establishment of criteria pursuant to which any registered investigator is to be authorized to manufacture or otherwise acquire sufficient controlled substances for his legitimate investigational and research needs;

"(5) make grants to public and private nonprofit agencies, organizations, and institutions, and contracts with public and private agencies, institutions, and organizations, and individuals for such research;

"(6) establish an information center on such research, which will gather and contain all available published and unpublished data and information. All Federal departments and agencies shall send to the Institute any unpublished data and information pertinent to the cause, prevention, diagnosis, and treatment of drug abuse and drug dependence, and the toxicology, pharmacology, epidemiology, incidence of drug abuse and drug dependence, effects on the health of drug abusers, and danger to the public health of controlled substances, and the Institute shall make such data and information widely available;

"(7) establish and maintain research fellowships in the Institute and elsewhere, and provide for such fellowships through grants to public and private nonprofit agencies, institutions, and organizations;

"(8) investigate methods for determining more rapid and precise methods for determining the extent of drug use by an individual in a given time period and the effects which individuals are likely to experience from such use, and publish on a current basis information concerning uniform methodology and technology for making such determinations;

"(9) evaluate existing and proposed new programs and services for the prevention and treatment of drug abuse and drug dependence.

"(b) Any information obtained through investigation or research conducted pursuant to this title shall be used in ways so that no name or identifying characteristics of any person shall be divulged without the approval of the Secretary and the consent of the person concerned. Persons engaged in research pursuant to this section shall protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons engaged in such research shall protect the

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privacy of such individuals and may not be compelled in any Federal, State, civil, criminal, administrative, legislative, or other proceeding to identify such individuals.

"TRAINING FUNCTIONS OF THE SECRETARY

"Sec. 127. It shall be the duty of the Secretary, acting through the Institute, with respect to his training functions to—

"(a) establish interdisciplinary and bilingual training programs for professional and paraprofessional personnel with respect to drug abuse and drug dependence;

"(b) encourage the establishment of training programs, including interdisciplinary and bilingual training programs, for professional and paraprofessional personnel, including peer group assistance personnel, by State and local governments and by public and private educational institutions and agencies with respect to drug abuse and drug dependence; and

"(c) establish and maintain training fellowships in the Institute and elsewhere, and provide for such fellowships through grants to public and private nonprofit agencies, institutions, and organizations.

"EDUCATIONAL FUNCTIONS OF THE SECRETARY

"Sec. 128. It shall be the duty of the Secretary, acting through the Institute, with respect to his educational functions to—

"(a) develop, assist others to develop, and encourage the development, of curricula on the use and abuse of drugs for utilization in elementary, secondary, adult and community education programs. Such curricula should reflect the social, geographical, and economic variables of drug usage and abuse, include relevant data and other information, and include bilingual curricula;

"(b) develop, assist others to develop, and encourage the development of curricula on the use and abuse of drugs for utilization by parent-teachers associations, adult education centers, private citizen groups, community leaders and other parents and adults. Such curricula should reflect the social, geographical, and economic variables of drug usage and abuse, include relevant data and other information, and include bilingual curricula;

"(c) develop, assist others to develop, and encourage the development of a broad variety of informational and educational materials for use in all media to reach all segments of the population that can be utilized by public and private agencies, institutions, and organizations in informational and educational programs relating to drug use and abuse. Such information and materials should reflect the social, geographical, and economic variables of drug usage and abuse, include relevant data and other information, and include bilingual curricula;

"(d) establish educational courses, guides and units on the causes of, effects of, and treatment for, drug abuse and drug dependence, for Federal law enforcement officials (including prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officers, and other law enforcement personnel), Federal welfare, vocational rehabilitation, military, and veterans personnel, and other Federal officials who come in contact with drug abuse and drug dependence problems. Such courses, guides, and units should reflect the social, geographical, and economic variables of drug usage and abuse;

"(e) develop, assist others to develop, and encourage the development of educational courses, guides, and units on the causes of, effects of, and treatment for, drug abuse and drug dependence for use by appropriate State and local government and private agencies, institutions, and organizations, for State and local law enforcement officials (including prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officials, and other law enforcement personnel), State and local welfare, vocational rehabilitation, and veterans personnel, and other State and local officials and community leaders. Such courses, guides, and units should reflect the social, geographical, and economic variables of drug usage and abuse;

"(f) develop, assist others to develop, and encourage the development of a broad range of community-oriented education programs on drug abuse and drug dependence for all segments of the population, including interested and concerned parents, young persons, community leaders, drug abusers and drug dependents, and other individuals and groups within a community. Such programs shall include peer group assistance programs and utilization of former drug abusers, drug dependent persons, and persons with relevant backgrounds similar to those of the persons to be educated;

"(g) evaluate, assist others in evaluating, and encourage the evaluation of curricula, guidelines, units, and other informational and educational materials relating to the use and abuse of drugs. Such evaluations should include an examination of intended and actual impact of such informational and educational materials and the identification of strengths and weaknesses in the information and educational materials;

"(h) conduct, assist others in conducting, and encourage the conducting of preservice and inservice training programs on drug use and abuse for teachers, counselors, other educational personnel, law enforcement officials, and other public service and community leaders and personnel;

"(i) recruit, train, organize, and employ professional and other persons, including former drug abusers, and drug dependent persons, to organize and participate in programs of public education about drug usage and abuse;

"(j) serve as a clearinghouse for the collection, preparation, and dissemination of all information relating to drug abuse and drug dependence, including State and local drug abuse and drug dependence treatment plans, availability of treatment resources, training and educational programs, statistics, research, and other pertinent data and information;

"(k) coordinate activities carried on by all departments, agencies, and instrumentalities of the Federal government with respect to health and other educational aspects of usage and abuse; and

"(l) undertake such other activities as the Secretary may consider important to a national program of education relating to drug usage and abuse.

"REPORTING FUNCTIONS OF THE SECRETARY

"Sec. 129. It shall be the duty of the Secretary, acting through the Institute, with respect to his reporting functions to—

"(a) submit an annual report to Congress, which shall specify the actions taken and services provided and funds expended under each provision of this title and an evaluation of their effectiveness, and which shall contain the current Federal drug abuse and drug dependence prevention and treatment plan;

"(b) submit such additional reports as may be requested by the President or by Congress; and

"(c) submit to the President and to Congress such recommendations as will further the prevention and treatment of drug abuse and drug dependence.

"PART D—PREVENTION AND TREATMENT FOR FEDERAL EMPLOYEES

"DRUG ABUSE AND DRUG DEPENDENCE AMONG FEDERAL GOVERNMENT EMPLOYEES

"Sec. 131. (a) The Civil Service Commission shall be responsible for developing and maintaining, in cooperation with the Secretary and other Federal agencies and departments, appropriate policies and services for the prevention and treatment of drug abuse and drug dependence among Federal civilian employees, consistent with the purposes and intent of this title. Such policies and services shall make optimal use of existing governmental facilities, services, and skills. Federal civilian employees who are drug abusers or who are drug dependent shall retain the same employment and other benefits as other persons afflicted with serious health problems and illnesses, and shall not lose, solely because they are drug abuses or drug dependent persons, pension, retirement, medical, or other rights. A good faith attempt shall be made to find appropriate work within the Government which does not involve the national security during the employee's rehabilitative treatment, rather than placing him on sick leave.

"(b) The Secretary, acting through the Institute, shall be responsible for fostering similar drug abuse prevention, treatment, and rehabilitation services in State and local governments and in private industry.

"(c) No person may be denied or deprived of Federal employment or a Federal professional or other license or right solely on the ground of prior drug abuse or prior drug dependence, except with regard to positions involving national security as specified in regulations promulgated by the department or agency in which he is employed.

"(d) Nothing herein shall prohibit the dismissal from employment of a Federal civilian employee who, as a result of drug abuse or drug dependence and failure to accept appropriate treatment, cannot properly function in his employment.

"CONFIDENTIALITY OF RECORDS

"Sec. 132. (a) All patient records prepared or obtained pursuant to this title, and all information contained therein, shall remain confidential and may be disclosed, with the patient's consent, only to medical personnel and only for purposes of diagnosis and treatment of the patient, or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug dependence or, for research purposes, to public or private research organizations, agencies, institutions, or individuals whose competence and research programs have been approved by the Secretary. Disclosure may be made for purposes unrelated to such treatment, benefits, or research upon an order of a court after application showing good cause therefor. In determining whether there is good cause for disclosure, the court shall weigh the need for the information sought to be disclosed against the possible harm of disclosure to the person to whom such information pertains, to the physician-patient relationship, and to the treatment services, and may condition disclosure of the information upon any appropriate safeguards. No such records or information may be used to initiate criminal charges against a patient under any circumstances.

"(b) All patient records and all information contained therein relating to drug abuse or drug dependence prepared or obtained by a private practitioner shall remain confidential, and may be disclosed only with the patient's consent and only to medical personnel for purposes of diagnosis and treatment of the patient or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug dependence.

"PART E—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

"Subpart I—Comprehensive State Plans

"COMPREHENSIVE STATE PLANS

"Sec. 141. Section 314(a) (2) of the Public Health Service Act is amended to add:

"'(L) provide for services for the prevention and treatment of drug abuse and drug dependence, commensurate with the extent

XUM

of the problem, such plan to (i) estimate the number of drug abusers and drug dependent persons within the various areas within the State and the extent of the health problem caused, (ii) establish priorities for the improvement of the capabilities of State and local governments and public and private nonprofit agencies, institutions, and organizations with respect to prevention and treatment of drug abuse and drug dependence, and (iii) specify how all available community health, welfare, educational, and rehabilitation resources, and how funds, programs, services, and facilities authorized under existing Federal and State legislation, are to be used for these purposes.'

"Subpart II—Formula Grants

"AUTHORIZATION

"SEC. 142. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1971, the sum of $10,000,000; for the fiscal year ending June 30, 1972, the sum of $20,000,000; for the fiscal year ending June 30, 1973, the sum of $25,000,000; for grants to States to assist them in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with drug abuse and drug dependence.

"STATE ALLOTMENT

"SEC. 143. (a) For each fiscal year the Secretary shall, in accordance with regulations, allot the sums appropriated for such year pursuant to section 142 among the States on the basis of the relative population, financial need, and need for more effective prevention, treatment and rehabilitation of drug abuse and drug dependence; except that no such allotment to any State (other than the Canal Zone and the Trust Territory of the Pacific Islands) for any fiscal year shall be less than $200,000.

"(b) Any amount so allotted to a State (other than the Canal Zone and the Trust Territory of the Pacific Islands) and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount, remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Secretary determines will remain unobligated by the close of such next fiscal year may be reallotted by the Secretary, to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this title, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under subsection (a) to the Canal Zone or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such two additional years, which the Secretary determines will remain unobligated at the close of the second of such additional years may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such additional years, to any other of such four States which have need therefor, of such basis as the Secretary deems equitable and consistent with the purposes of this subpart, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.

"(c) At the request of any State, a portion of any allotment or allotments of such State under this subpart shall be available to pay that portion of the expenditures found necessary by the Secretary for the proper and efficient administration during such year of the State plan approved under this subpart, except that not more than 10 per centum of the total of the allotments of such State for a year, or $50,000, whichever is greater, shall be available for such purpose for such year.

"STATE PLANS

"SEC. 144. (a) Any State desiring to participate in this subpart shall submit a State plan for carrying out its purposes. Such plan must—

"(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

"(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) will have authority to carry out such plan in conformity with this subpart;

"(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations or groups, and of public agencies concerned with the prevention and treatment of drug abuse and drug dependence, to consult with the State agency in carrying out the plan;

"(4) set forth, in accordance with criteria established by the Secretary, a survey of need for the prevention and treatment of drug abuse and drug dependence, including a survey of the health facilities needed to provide services for drug abuse and drug dependence and a plan for the development and distribution of such facilities and programs throughout the State;

"(5) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

"(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

"(7) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (6);

"(8) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary;

"(9) provide reasonable assurance that Federal funds made available under this subpart for any period may be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the programs described in this subpart, and will in no event supplant such State, local, and other non-Federal funds; and

"(10) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions and purposes of this subpart.

"(b) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

"APPLICATIONS AND CONDITIONS

"SEC. 145. (a) For each project pursuant to a State plan approved under this subpart for which a grant is sought from an allotment under section 143, there shall be submitted to the Secretary, through the State agency designated in accordance with section 144, an application by the State or a political subdivision thereof or by a public or other nonprofit agency, institution or organization.

"(b) The Secretary shall approve such application if (1) there remains sufficient balance in the allotment (available for the purpose) determined for such State; (2) the application is in conformity with the State plan approved under section 144; (3) he obtains assurances that any facility or portion thereof to be constructed or modernized and any program to be carried out will be available to all persons residing in the territorial area of the applicant; and (4) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require. The Secretary may to the extent he determines it would not interfere with the objectives of this subpart, base his findings and determinations under this subsection on certifications by the State agency.

"(c) No application under this section shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

"(d) Amendment of an approved application shall be subject to approval in the same manner as an original application.

"Subpart III—Project Grants

"AUTHORIZATIONS

"SEC. 146. There are hereby authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1971; $45,000,000 for the fiscal year ending June 30, 1972; and $70,000,000 for the fiscal year ending June 30, 1973, to carry out the provisions of this subpart. Any appropriated funds shall remain available until expended.

"GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

"SEC. 147. (a) The Secretary, acting through the Institute, is authorized to make grants to public and private nonprofit agencies, organizations, and institutions and enter into contracts with agencies, organizations, institutions, and individuals for the prevention and treatment of drug abuse and drug dependence to assist State and local governments and public and private agencies, institutions, organizations, and individuals to—

"(1) (a) meet the costs of constructing, equipping, and operating treatment and rehabilitation facilities, including but not limited to emergency medical, inpatient, intermediate care, outpatient, and peer group assistance facilities for drug abusers and drug dependent persons, and (b) to assist them to meet, for the temporary periods specified in subsection (c) of this section, a portion of the costs of compensation of personnel for the initial operation of such facilities, and of new services in existing facilities for drug abusers and drug dependent persons;

"(2) Carry out prevention and education projects and services, including:

"(a) projects for the development of curricula on the use and abuse of drugs including the evaluation and selection of exemplary existing materials and the preparation of new and improved curricular materials for use in elementary, secondary, adult, and community education programs and conduct projects designed to demonstrate, and test the effectiveness of such curricula;

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"(b) projects for the dissemination of curricular materials and other significant information regarding the use and abuse of drugs to public and private elementary, secondary, adult, and community education programs;

"(c) evaluations of the effectiveness of curricula tested in use in elementary, secondary, and adult and community education programs;

"(d) projects for the development, evaluation, and dissemination of a variety of informational and educational materials for use in all media to reach various segments of the population that can be utilized by public and private agencies, organizations and institutions in informational and educational programs relating to drug use and abuse;

"(e) preservice and inservice training programs on drug abuse (including courses of study, institutes, seminars, workshops, and conferences) for teachers, counselors, and other educational personnel, law enforcement officials, and other public service and community leaders and personnel;

"(f) community education programs on drug abuse (including seminars, workshops, and conferences) especially for parents and other adults in the community;

"(g) evaluations of the training and community education programs described in clauses (e) and (f), including the examination of the intended and actual impact of such programs, the identification of strengths and weaknesses in such programs, and the evaluation of materials used in such programs; and

"(h) community-oriented education programs on drug abuse and drug dependence, including development of a broad range of community-oriented education programs on drug abuse and drug dependence for all segments of the population, including interested and concerned parents, young persons, community leaders, drug abusers and drug dependents, and other individuals and groups within a community. Such programs shall include peer group assistance programs and utilization of former drug abusers, drug dependent persons, and persons with relevant backgrounds similar to those of the persons to be educated.

"(3) conduct research, demonstration, and evaluation projects, including surveys and field trials, looking toward the development of improved, expanded, and more effective methods of prevention and treatment of drug abuse and drug dependence;

"(4) provide education and training for professional personnel, including medical, psychiatric, vocational rehabilitation, and social welfare personnel, in academic and professional institutions and in postgraduate courses about the prevention and treatment of drug abuse and drug dependence, and provide training for such personnel in the administration, operation, and supervision of programs and services for the prevention and treatment of drug abuse and drug dependence;

"(5) recruit, educate, train, organize, and employ community drug abuse and drug dependence prevention and treatment personnel to serve with and under the direction of professional medical, psychiatric, vocational rehabilitation, and social welfare personnel in drug abuse and drug dependence prevention, treatment, and rehabilitation programs. Prior drug abuse or drug dependence and prior criminal arrests or convictions shall not be a bar to such recruitment, education, training, organization, and employment;

"(6) provide services in correctional and penal institutions for the prevention and treatment of drug abuse and drug dependence;

"(7) provide services, in cooperation with schools, law enforcement agencies, courts, and other public and private nonprofit agencies, institutions, and organizations, for the prevention and treatment of drug abuse and drug dependence among juveniles and young adults. These services, where feasible, shall include curricula for drug abuse education in elementary and secondary schools, and among parents and other adults;

"(8) provide programs and services in cooperation with local law enforcement agencies, the courts, and other public and private nonprofit agencies, institutions, and organizations, for the instruction of law enforcement officers, prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officials and legal aid, public defender, and neighborhood legal services attorneys with respect to the causes, effects, prevention, and treatment of drug abuse and drug dependence. Such programs and services shall include, where possible, a full range of services available to State and local courts for diagnosis, counseling, and treatment for drug abuse and drug dependence for persons coming before the courts; and

"(9) provide services for outpatient counseling of drug abusers and drug dependent persons to include employment, welfare, legal, education, and other assistance, in cooperation with welfare and rehabilitation personnel.

"(b) Projects for which grants and contracts are made under this subpart shall be community based, and shall include both those that provide a comprehensive range of services and are integrated with and involve the active participation of a wide range of public and nongovernmental agencies, organizations, institutions, and individuals, and those that provide a more selective range of services arising from local initiative, educational and peer group assistance programs.

"(c) The amount of any Federal grant made under subsection (a) of this section, except with regard to certain grants made under paragraph (1) of subsection (a), shall not exceed 100 per centum of the cost of the program or project specified in the application for such grant. The amount of any Federal grant made under paragraph (1) (a) of subsection (a) of this section to meet costs of constructing and equipping the facilities referred to in such paragraph shall not exceed 90 per centum of the cost of the program or project specified in the application for such grant. The amount of any Federal grant made under paragraph (1) (b) of subsection (a) of this section to meet the costs of compensation of personnel and other operating costs may be made only for the period beginning with the first day for which such a grant is made and ending with the close of eight years after such first day; and such grants may not exceed 90 per centum of such costs for each of the first two years after such first day, 80 per centum of such costs for the third year after such first day, 75 per centum of such costs for the fourth and fifth years after such first day, and 70 per centum of such costs for each of the next three years after such first day.

"(d) An amount, not to exceed 5 per centum of the amount appropriated pursuant to the provisions of this part for any fiscal year, shall be available to the Secretary to make grants to local public or nonprofit private organizations to cover up to 100 per centum of the costs (but in no case to exceed $100,000) of projects for assessing local needs for programs of services for drug abusers and drug dependents, designing such programs, obtaining local financial and professional assistance and support for such programs in the community, and fostering community involvements in initiating and developing such programs in the community. In no case shall a grant under this subsection be for a period in excess of one year; nor shall any grant be made under this subsection with respect to any project if, for any preceding year, a grant under this subsection has been made with respect to such project.

"APPLICATION FOR FINANCIAL ASSISTANCE FROM UNITS OF LOCAL GOVERNMENT AND PRIVATE ORGANIZATIONS

"SEC. 148 (a) In administering the provisions of this subpart, the Secretary shall require coordination of all applications for programs in a State and, in view of the local nature of the drug abuse problem, shall not give precedence to public agencies over private nonprofit agencies, institutions, and organizations, or to State agencies over local agencies.

"(b) Each applicant from within a State, upon filing its application with the Secretary, shall submit a copy of its application for review by the State agency designated in accordance with section 144, if such an agency exists, and if no such agency exists, by the State agency responsible for administering the State comprehensive plan for treatment and prevention of drug abuse and drug dependence, if such agency exists. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project set forth in the application. Such evaluation may include comments on the relationship of the project to other projects pending and approved and to the State comprehensive plan for treatment and prevention of drug abuse. The State shall furnish the applicant a copy of any such evaluation. A State, if it so desires, may, in writing, waive its rights under this section.

"(c) Approval of any application by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

"(1) provide that the activities and services for which assistance under this subpart is sought will be substantially administered by or under the supervision of the applicant;

"(2) provide for such methods of administration as are necessary for the proper and efficient operation of such programs or projects;

"(3) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

"(4) provide reasonable assurance that Federal funds made available under this subpart for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the program described in this subpart, and will in no event supplant such State, local, and other non-Federal funds.

"APPROVAL BY NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"SEC. 149. The Secretary, upon the recommendation of the National Advisory Council on Drug Abuse and Drug Dependence, is authorized to make grants under subpart III of this part.

"Subpart IV—General

"GENERAL

"SEC. 150. (a) Whenever the Secretary finds a failure to comply with the terms of a grant or contract made or entered into under this part, he shall, after reasonable notice and opportunity for a hearing, terminate payments until he is satisfied that there will no longer be any failure to comply.

"(b) The exclusive remedy of anyone adversely affected by a final action of the Secretary under subsection (a) of this section is to appeal to the United States court of appeals for the circuit in which it is located by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith trans-

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mitted by the clerk of the court to the Secretary. The Secretary thereupon shall file with the court the record of the proceeding on which he based his action, as provided in section 2112 of title 28 of the United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or set it aside, in whole or in part, temporarily or permanently. Until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts shall be conclusive if supported by substantial evidence, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

"ADMISSION OF DRUG ABUSERS AND DRUG DEPENDENT PERSONS TO PRIVATE AND PUBLIC HOSPITALS

"SEC. 150A. (a) Drug abusers and drug dependent persons shall be admitted to and treated in private and public general hospitals on the basis of medical need and shall not be discriminated against solely because of their drug abuse or drug dependence. No hospital that violates this section shall receive Federal financial assistance under the provisions of this Act or any other Federal law administered by the Secretary. No such action shall be taken until the Secretary has advised the appropriate person or persons of the failure to comply with this section, and provided an opportunity for correction or a hearing.

"(b) Any action taken by the Secretary pursuant to this section shall be subject to such judicial review as is provided by subsection 150(b) of this title.

"PART F—THE NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"ESTABLISHMENT OF COUNCIL

"SEC. 151. (a) Section 217(a) of the Public Health Service Act is amended—

"(1) in the first sentence thereof, by inserting 'the National Advisory Council on Drug Abuse and Drug Dependence,' immediately after 'the National Advisory Mental Health Council,'; and

"(2) in the second sentence thereof, by inserting 'the National Advisory Council on Drug Abuse and Drug Dependence,' immediately after 'the National Advisory Mental Health Council,', and by inserting 'drug abuse and drug dependence,' immediately after 'psychiatric disorders.'.

"(b) Section 217(b) of such Act is amended, in the second sentence thereof, by inserting 'drug abuse and drug dependence,' immediately after 'mental health,'.

"(c) Section 217 of such Act is further amended by adding at the end thereof the following new subsection:

" '(d) The National Advisory Council on Drug Abuse and Drug Dependence shall advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Service in the field of drug abuse and drug dependence. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of drug abuse and drug dependence and recommend to the Secretary, for prosecution under this Act, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of drug abuse and drug dependence, and (2) to collect information as to studies being carried on in the field of drug abuse and drug dependence and, with the approval of the Secretary, make available such information through the appropriate publications for the benefit of health and welfare agencies or organizations (public or private), physicians, or any other scientists, and for the information of the general public. The Council is also authorized to commend to the Secretary, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of drug abuse and drug dependence; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council.'

"APPROVAL BY COUNCIL OF CERTAIN GRANTS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT

"SEC. 152. Section 266 of part E of the Community Mental Health Centers Act is amended—

"(1) by striking out "Grants" and inserting in lieu thereof:

" '(a) Except as otherwise provided in subsection (b), grants'; and

'(2) by adding at the end thereof the following new subsection:

" '(b) Grants made under this title which are primarily intended for use in the prevention or treatment of drug abuse and drug dependence may be made only upon recommendation of the National Advisory Council on Drug Abuse and Drug Dependence established by section 217(a) of the Public Health Service Act.'

"PART G—INTERGOVERNMENT COORDINATING COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"ESTABLISHMENT OF COUNCIL

"SEC. 161. (a) For the purpose of coordinating all Federal Government prevention, treatment, and rehabilitation efforts with respect to drug abuse and drug dependence, of coordinating such Federal efforts with State and local government efforts, and of developing an enlightened policy and appropriate programs for Federal employees for the prevention and treatment of drug abuse and the rehabilitation of drug dependent persons, there is hereby established an Intergovernment Coordinating Council on Drug Abuse Control consisting of the Secretary who shall serve as Chairman, the Attorney General of the United States, the United States Commissioner of Education, the Director of the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence, the Director of the National Institute of Mental Health, four representatives of State and local government departments or agencies.

"(b) The President shall designate the four representatives of Federal departments or agencies who shall serve on the Coordinating Council, and shall appoint the four representatives of State and local government departments or agencies. The State and local government representatives shall serve for terms of four years, staggered so that one vacancy occurs each year. A State or local government representative may be reappointed immediately after serving less than a full term, and may be reappointed after a four-year hiatus after serving a full term.

"(c) The Coordinating Council may appoint such technical consultants as are deemed appropriate for advising the Council in carrying out its functions. The services of consultants obtained under this section may be obtained in accordance with section 3109 of title 5, United States Code, at rates for individuals not in excess of the daily equivalent paid for positions in GS-18 of the General Schedule in section 5332 of title 5, United States Code.

"FUNCTIONS OF COUNCIL

"SEC. 162. The Coordinating Council is authorized and directed to—

"(a) assist the Secretary in carrying out its function of coordinating all Federal prevention, treatment, and rehabilitation efforts to deal with the problems of drug abuse and drug dependence;

"(b) assist the Secretary in carrying out its function of coordinating such Federal efforts with State and local governments;

"(c) engage in educational programs among Federal employees, and in other appropriate activities, designed to prevent drug abuse and drug dependence;

"(d) implement programs for the rehabilitation of Federal employees who are drug dependent persons; and

"(e) develop and maintain any other appropriate activities consistent with the purposes of this title.

"PART H—PROGRAMS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

"BROADER AUTHORITY UNDER COMMUNITY MENTAL HEALTH CENTERS ACT

"SEC. 171. (a) Part D of the Community Mental Health Centers Act is amended as follows:

"(1) Sections 251, 252, and 253 of such part (42 U.S.C. 2688k, 2688l, and 2688m) are each amended by inserting 'drug abusers and drug dependent persons' in lieu of 'narcotic addicts' each place those words appear in those sections.

"(2) Clauses (A) and (C) of section 252 of such part are each amended by inserting 'drug abuse and drug dependence' in lieu of 'narcotic addiction'.

"(3) The heading of such part is amended to read as follows:

" 'PART D—DRUG ABUSE AND DRUG DEPENDENCE PREVENTION AND REHABILITATION'

"(b) Part 7 of such Act is amended as follows:

"(1) Section 261(a) of such part is amended by inserting 'drug abuse and drug dependence' in lieu of 'narcotic addiction'.

"(2) Sections 261(c) and 264 are each amended by inserting 'drug abusers and drug dependent persons' in lieu of 'narcotic addicts'.

"(3) The section headings for sections 261 and 263 are each amended by striking out 'AND NARCOTIC ADDICTS' and inserting in lieu thereof ', DRUG ABUSERS AND DRUG DEPENDENT PERSONS'.

"BROADER TREATMENT AUTHORITY IN PUBLIC HEALTH SERVICE HOSPITALS FOR PERSONS WITH DRUG ABUSE AND DRUG DEPENDENCE PROBLEMS

"SEC. 172. (a) Part E of title III of the Public Health Service Act is amended as follows:

"(1) Section 341(a) of such part is amended by striking 'addicts' the second time it appears and inserting the following: 'drug abusers and drug dependent persons'.

"(2) (A) Section 342, 343, 344, and 346 of such part are each amended by inserting 'drug abusers and drug dependent persons' in lieu of 'narcotic addicts' or 'addicts' each place they appear in those sections.

"(B) The section heading of section 342 of such part is amended by inserting 'DRUG ABUSERS AND DRUG DEPENDENT PERSONS' in lieu of 'ADDICTS'.

"(3) Sections 342, 343, and 344 and of such part are each amended by inserting 'drug abuser or drug dependent person' in lieu of 'narcotic addict' and 'addict' each place they appear in those sections.

"(4) Sections 343, 344, and 347 of such part are each amended by inserting 'drug abuse or drug dependence' in lieu of 'addiction' each place it appears in those sections.

"(5) Section 346 of such part is amended by inserting 'or substance controlled under the Controlled Substances Act' immediately after 'habit-forming narcotic drug'.

"(6) The heading for such part is amended to read as follows:

" 'PART E—DRUG ABUSERS AND DRUG DEPENDENT PERSONS'

"RESEARCH UNDER THE PUBLIC HEALTH SERVICE ACT IN DRUG ABUSE AND DRUG DEPENDENCE

"SEC. 173. (a) Section 507 of the Public Health Service Act (42 U.S.C. 225a) is amended by striking out 'available for research, training, or demonstration project grants pursuant to this Act' and inserting in lieu thereof 'available under this Act for research, training, or demonstration project grants or for grants to expand existing treatment and research programs and facilities for alcohol abuse, alcoholism, drug abuse, and drug dependence, and appropriations available under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcohol abuse, alcoholism, drug abuse, and drug dependence facilities'.

"(b) By inserting immediately before the period at the end thereof the following: ', except that grants to such Federal institutions may be funded at 100 per centum of the costs'.

"PART I—GENERAL

"SAVING PROVISION

"SEC. 181. If any section, provision, or term of this title is adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, provision, or term of this title, and the remaining sections, provisions, and terms shall be and remain in full force and effect.

"RECORDS

"SEC. 182. (a) Each recipient of assistance under this title pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the grants or contracts entered into under the provisions of this title under other than competitive bidding procedures.

"PAYMENTS

"SEC. 183. Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine."

Mr. HUGHES. Mr. President, I also ask unanimous consent to have printed in the RECORD an excerpt from a document entitled "Review of Substitute Amendment to Title I of H.R. 18583." The document will indicate the amount of work and consideration which has been put into the amendment which I am proposing.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

* * * * *

BACKGROUND

The need for comprehensive Federal legislation

No one can any longer question the deep and pervasive seriousness of the drug abuse problem in this country. It has progressed from a smaller matter of law enforcement to a massive problem that requires a concerted and coordinated national effort combining all of our resources for prevention, education, research, treatment, and rehabilitation.

The statistics on drug abuse and drug dependence in this country today are appalling. And virtually everyone agrees that they understate the nature and extent of the problem.

There are at least 150,000 to 250,000 heroin addicts in the United States. Some authorities have estimated that the true number of addicts in this country is closer to 600,000. In addition, a large number of persons use heroin periodically, either by itself or in combination with other illegal drugs, but have not yet become addicted. There is no reliable estimate of the total number of people who have tried heroin at least once, but it has been suggested that up to 7 percent of the school children in the New York public schools have experimented with it. Whereas formally it was only a ghetto drug, it has been increasingly used in suburban areas and in our colleges and universities.

It is impossible to estimate the social damage resulting from heroin. The full extent of its contribution to deterioration of individuals, families, our inner cities, and the very fabric of society, are not yet completely known. In some of our major cities, it is estimated that heroin users are responsible for well over 50 percent of all crime against property, which represents a staggering load for our economic and social institutions to bear.

The abuse of depressant and stimulant drugs is more widespread than the abuse of heroin. On the basis of present information, however, estimates on the amount of these drugs used illegally, or on the amount of persons who have become dependent upon them, are impossible. A recent survey of 200 college campuses showed, however, that 18 percent of the college student bodies have tried amphetamines, and 15 percent have tried barbiturates. Information on the rest of the population is yet to be obtained.

The hallucinogens are undoubtedly the most widely used of the illegal drugs. The National Institute of Mental Health estimates that at least 15 million people have smoked marihuana at least once. The recent survey of college campuses showed that 47 percent of the college student body had used marihuana at least once, and another survey of a medical school showed that 44 percent of the student body presently smoke marihuana.

Another hallucinogen, LSD, is used far less widely. Whereas its use appeared to be disappearing a few years ago because of widespread reports of its dangers, there is some evidence that its use is again increasing. The recent college survey showed that 11 percent of the students had tried LSD.

There is no evidence that the enormous amount of drug abuse in this country is decreasing, or even leveling off. Authorities in the field indicate that it continues to increase. It has been pointed out that surveys show an even greater prevalence of drug abuse in many high schools than in our colleges. The problem, in short, is not only self-perpetuating, but because of peer-group pressure within our youth appears to be growing in geometrical proportion.

Increasing public concern

Until quite recently, both Federal and State efforts at controlling drug abuse and drug dependence concentrated on law enforcement techniques. Indeed, the law enforcement efforts aimed at drug abuse during the past 2 years have been the most concerted in our history. More man-hours, and more trained personnel, have been devoted to enforcing our laws against illegal drugs than ever before. Yet, as the statistics quoted above show, these efforts have not begun to contain the problem. In spite of the best law enforcement we can muster, illegal drugs are available in every city, in greater quantities than ever before, and at the same or even decreased prices. The Director of the Bureau of Narcotics and Dangerous Drugs has recently stated, in a widely publicized speech, that an effective program to control drug abuse and drug dependence in this country must rely strongly on methods of prevention and rehabilitation. Law enforcement, by itself, is inadequate to do the entire job.

Prevention and rehabilitation techniques, utilizing medical, social welfare, and other community resources, must therefore be mobilized to deal with these problems. In many communities, this job has not yet been started, or is in a most rudimentary stage.

Use of the same type of medical and rehabilitation techniques for drug abuse and drug dependence as are used for other public health problems has long been recognized as necessary to any effective control of drug abuse. Because drug abuse has represented a relatively insignificant problem in this country until the past few years, however, we have delayed in developing a public commitment to mount an effective program.

Throughout its history, the American Medical Association has characterized drug dependence as a disease that properly is handled through medical treatment. As early as 1925, in *Linder* v. *United States*, 268 U.S. 5 (1925), the Supreme Court recognized that narcotic addicts "are diseased and proper subjects for such treatment." In a 1950 report, the World Health Organization described the characteristics of this disease as "an overpowering desire or need (compulsion) to continue taking the drug and to obtain it by any means." In 1957, the American Medical Association issued a report describing dependence as "the development of an altered physiological state which is brought about by the repeated administration of the drug and which necessitates continued administration of the drug to prevent the appearance of the characteristic illness which is termed an abstinence syndrome," as well as a "psychological dependence" which is "related to the effects opiates create within the central nervous system," which "forces the addict to seek his drugs by any and all means. The first concern of many addicts becomes obtaining and maintaining an adequate supply of drugs."

In September 1962, the Supreme Court handed down its decision in *Robinson* v. *California*, 370 U.S. 660 (1962), which struck down as unconstitutional on its face a statute making narcotic addiction criminal. The Supreme Court again recognized narcotic addiction as a disease, which cannot constitutionally be punished under the criminal law.

During the same month, the White House Conference on Narcotics and Drug Abuse considered the future of this country's drug abuse policy. As a result of this Conference, the President established an Advisory Commission on Narcotic and Drug Abuse, which issued its report in November 1963. The final report of the advisory commission concluded that there had never been a sustained, organized attack on drug abuse in this country. It made some 25 general recommendations, including the following: revision of the Federal narcotic laws, recognition that the legitimate medical use of narcotic drugs and medical treatment of drug dependents is primarily to be determined by the medical profession, Federal assistance to State and local governments for the establishment, maintenance and expansion of broad treatment and rehabilitation programs, and enactment of Federal treatment legislation.

Some 3 years later, the District of Columbia and U.S. Crime Commissions also reviewed the problems of drug abuse and drug dependence, although not in as great detail as the Advisory Commission. Both Commissions urged comprehensive treatment programs and facilities, on both a voluntary and

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involuntary basis, for drug dependent persons. The U.S. Crime Commission particularly recommended clarification of the status of medical treatment of addicts using narcotic drugs, and abolition of all obstacles in the way of medical and scientific research in this field.

More recently, the judiciary has again pressed for increased recognition that, as a disease, drug dependence is properly handled under medical and rehabilitation techniques. In *Powell* v. *Texas*, 392 U.S. 514 (1968), rehearing denied, 393 U.S. 898 (1968), five of the nine Justices indicated that the earlier case of *Robinson* v. *California* must properly be interpreted to mean that an addict cannot be punished under the criminal law for possession and use of narcotics, since this necessarily results from the addiction itself. And in *Watson* v. *United States*, 408 F. 2d 1290 (D.C. Cir. 1968), rehearing granted en banc,—F. 2d—(D.C. Cir. 1970) (en banc), eight of nine judges indicated that, in future cases, narcotic addicts could not properly be punished under the criminal law for possession of the drugs they must necessarily use to satisfy their addiction.

Yet Congress has only recently begun to recognize the urgency of the unique health and rehabilitation problems created by drug abuse and drug dependence, and to address itself to providing appropriate legislative remedies for it.

Congressional dissatisfaction with the results of reliance primarily upon law enforcement in controlling drug abuse and drug dependence led to enactment of the Narcotic Addict Rehabilitation Act of 1966. Because that act relies primarily upon outmoded inpatient treatment, because only a limited number of persons can obtain treatment under the act, and because it has not been properly funded, the potential of this statute remains largely unrealized to date. In the recent past the rate of rehabilitation has been among the lowest of any drug dependence treatment program in the country. It is hoped that recent program modifications will change that fact.

The Comprehensive Health Planning and Public Health Service Amendments of 1966, and the Partnership for Health Amendments of 1967 were intended to require the States to develop comprehensive health plans for purposes of Federal funding. But drug abuse and drug dependence have been sadly neglected in these plans. This generalized legislation has proved to be inadequate as a means of combating a problem that now blankets our country.

Congress made an important initial response by enacting the Narcotic Addict Rehabilitation Amendments of 1968, which were subsequently expanded by the Community Mental Health Centers Amendments of 1970. That legislation recognized the necessity of treatment and rehabilitation for drug dependence. Although the legislation was a significant step forward, it was recognized at the time to represent only the beginning of a truly adequate legislative program which would insure comprehensive and effective community-based treatment programs at both State and local levels.

In 1968, when criminal penalties were first added to the Drug Abuse Control Amendments of 1965 for possession of barbiturates, depressants, amphetamines, and hallucinogenic drugs, the Labor and Public Welfare Committee expressed strong concern about imposition of such penalties on casual distributors or youthful experimenters. In Senate Report No. 1609 (1968), for example, the committee emphasized the availability of alternatives to imprisonment, such as probation and juvenile handling, and pointed out that "indiscriminate enforcement of excessively severe drug laws increases disrespect for the law on the part of young people and tends to alienate them from society." The committee spells out its intention that the criminal laws be used sparingly, and be reserved particularly for the large wholesalers who profit from the trafficking of dangerous drugs.

TITLE I OF H.R. 18583

The Labor and Public Welfare Committee has not previously had the privilege of considering the provisions contained in title I of H.R. 18583 relating to rehabilitation, prevention, and treatment for drug abuse and drug dependence. The four sections comprising this title contain the following programs:

Section 1 broadens the provisions of the Community Health Centers Act relating to drug dependence, by increasing the appropriation authorizations, including drug abuse and drug dependence as well as narcotic addiction, authorizing grants and projects relating to educational programs, and authorizing special projects.

Section 2 expands the direct patient care authority of the Department of Health, Education, and Welfare to include drug abuse and drug dependence as well as narcotic addiction.

Section 3 authorizes researchers to protect the confidentiality of information obtained from patients, and authorities 100-percent grants to Federal agencies.

Section 4 authorizes the Secretary of Health, Education, and Welfare, after consultation with the Attorney General and organizations representative of persons who are knowledgeable and experienced in the treatment of narcotic addicts, to determine and report to Congress on appropriate methods of professional practice in the medical treatment of narcotic addicts.

These provisions are, in general, useful and should, with minor modification, be retained. Because their scope is limited, however, it is necessary to expand significantly title I to include a far wider range of activities, a far more prominent leadership role for the Federal Government, and a far more comprehensive approach than contemplated by title I of H.R. 18583.

The substitute amendment represents the type of comprehensive program necessary to begin to bring the Nation's drug abuse and drug dependence problems under control. An adequate response to a problem of this magnitude requires a massive Federal approach. Drug abuse is a problem of our entire society. It will take a total effort of the entire Nation, at all levels of Government, to make significant progress in controlling it. The substitute amendment establishes a framework within which, for the first time, Federal, State, and local governments can effectively utilize their health and rehabilitation resources to bring the problem under control. Prevention and treatment facilities will be fostered throughout the Nation. The remedy mandated by this bill is long overdue and urgently needed.

Contemporary medical and scientific expertise has not provided the ultimate solution to all of the problems posed by drug abuse and drug dependence. But only through the energetic implementation of the kind of massive and all-encompassing Federal programs here envisaged will answers ever be found.

HEARINGS

General hearings on the extent and character of the drug abuse and drug dependence problem in the United States were held by the Alcoholism and Narcotic Subcommittee of the Labor and Public Welfare Committee on August 6, 7, and 8, 1969, in Washington, D.C.; on September 26, 1969, in Los Angeles, Calif.; on September 29, 1969, in Denver, Colo.; on October 2 and 4, 1969, in New York, N.Y.; and on February 14, 1970, in Des Moines, Iowa. Hearings on S. 1816 and S. 2608 were held in Washington, D.C., on September 18 and 19, 1969, and November 3, 1969; and in Cherry Hill, N.J., on January 26, 1970. Hearings on S. 3562 were held in Washington, D.C., on March 16, 17, 23, 24, 25, and 26, 1970, and on April 13, 14, and 15, 1970; in Winchester, Mass., on April 10, 1970; and in Lynn, Mass., on April 11, 1970. Hearings on S. 3015 and H.R. 14252 were held in Washington, D.C., on August 27, 1970.

There was unanimous support in the hearings for the objectives of the provisions contained in the substitute amendment. These provisions, which were incorporated in the various bills that were the subject of the hearings, were strongly endorsed by both national organizations and individual citizens interested in the prevention and treatment of drug abuse and drug dependence.

PROVISIONS OF THE SUBSTITUTE AMENDMENT

Findings and declarations of purposes

Drug dependence is properly regarded as an illness or disease, which requires a broad range of health and rehabilitation services for treatment. Existing laws and their implementation have not effectively prevented drug abuse and drug dependence, or rehabilitated drug abusers and drug dependent persons. There is a lack of authoritative information and creative projects designed to educate students and others about drugs and their abuse. A major Federal commitment is required to attack this problem.

Different types of prevention and treatment programs are required. While community mental health programs are important, other programs are equally important. Many "street" programs arising from local initiative to deal with specific aspects of drug abuse and drug dependence problems now offer the best possibility of reaching youthful experimenters. The substitute amendment is intended to offer maximum flexibility in dealing with community problems at the local neighborhood level.

An effective program can be maintained only with the assistance of significant financial support from the Federal Government. Present Federal programs for the control and treatment of drug abuse and drug dependence have been assigned low priority and have consequently suffered from a significant lack of funding. For fiscal year 1970, drug abuse and drug dependence received far less Federal funding than other diseases that have a much smaller impact on the Nation.

Federal funding commitments by categorical area—fiscal year 1970 [1]

[In millions of dollars]

Category:	
Child health	1,443
Mental health (exclusive of alcoholism and drug abuse)	306
Cancer	195
Heart and lung disease	174
Neurological diseases and stroke	108
Arthritis and metabolic disease	147
Allergy and infectious diseases	104
Drug abuse	70

[1] It is not possible to include all Federal funds for the categories listed. For example, the regional medical programs include $78.5 million for heart disease, cancer, and stroke, but this amount is not susceptible to a breakdown for each of these diseases. Therefore this program is not included in the figures given. Health-care costs under medicare and medicaid cannot be identified on a categorical basis, and no estimates for these programs are included. Figures for narcotic addiction, drug abuses, and alcoholism include estimates for the Justice Department, Office of Education, Office of Economic Opportunity, and the National Institute of Mental Health.

The solution is not to neglect these other diseases, but to fund drug abuse and drug dependence programs at a level commensurate with the seriousness of the problems they cause.

Insufficient Federal leadership and funding has been a significant element in the inability of State and local agencies to meet their responsibilities in the prevention and treatment of drug abuse and drug dependence. Federal efforts have concentrated primarily on basic research without significant emphasis on badly needed service and training programs. The new Institute will be very active in developing and encouraging service and training programs, as well as in conducting and encouraging a broad range of basic research. It seems clear that the place to begin is within the Federal Government itself. Until the Government establishes strong personnel programs for its own employees who are drug abusers or drug dependent persons, it will be hard pressed to retain its credibility in encouraging programs on the State and local levels.

Federal departments and agencies have failed to use existing legislative authority to combat drug abuse and drug dependence. It is obvious that drug abuse and drug dependence are properly regarded as a health problem, disorder, sickness, illness, disease, disability, or other similar term, for purposes of all Federal legislation relating to health, welfare, rehabilitation, and highway safety programs providing for services, funds, and other benefits. All Federal legislation providing for services such as medical assistance, medical care, treatment, or rehabilitation should be regarded as including programs and services for the prevention and treatment of drug abuse and drug dependence. Some examples of existing Federal legislation under which these problems can be assisted include the Vocational Rehabilitation Act, Manpower Development and Training Act, Older Americans Act of 1965, Law Enforcement Assistance Act of 1965, Health Research Facilities Act of 1956, Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, Heart Disease, Cancer, and Stroke Amendments of 1965, Health Professions Educational Assistance Act of 1963, Hospital and Medical Facilities Amendments of 1964, Social Security Act, Community Health Services Extension Amendments of 1965, Economic Opportunity Act of 1964, Comprehensive Health Planning and Public Health Services Amendments of 1966, civil service laws, and laws providing for the treatment and discharge of members of the Armed Forces and the support and treatment of veterans of the Armed Forces.

After consideration of whether some of these statutes should be amended to make specific reference to drug abuse and drug dependence, it has been concluded that such a drastic step is not yet necessary. One of the functions of the new Institute will be to specify how all existing laws should be effectively utilized to combat drug abuse and drug dependence. For the moment, therefore, it is sufficient that Congress again spell out its mandate that existing statutory law must and shall be used to control drug abuse and drug dependence in this country.

DEFINITIONS

The substitute amendment adopts the definitions contained in title II of the bill, and adds several additional important definitions.

"Drug abuser" is defined to mean any person who uses any controlled substance under circumstances that constitute a violation of law. "Drug dependent person" is defined, as suggested by the World Health Organization, the AMA, and the BNDD Advisory Committee, to mean a person using a controlled substance who is in a state of psychic or physical dependence, or both, arising from administration of that controlled substance on a continuing basis.

"Emergency care services" include all immediate medical and psychological care attendant to the detoxification process. The facilities which provide these services must be in a position to accept patients at all hours. They should utilize the services of physicians, nurses, and other professional and paraprofessional personnel in order that they not become merely another form of "junkie tank." Such facilities need not, of course, be physically attached to a hospital. It may, in fact, be preferable that a detoxification center be separate from a hospital. Accessibility to patients is of particular importance if these centers are to perform their function successfully.

"Inpatient services" may be necessary during the early stages of a treatment program, but should be given a very low priority since it is generally recognized that they are the least effective means of combating the long-range effects of drug abuse and drug dependence upon institutional care, thus destroying self-reliance and further reducing the possibility of recovery. The drug abuser or drug dependent person cannot be expected to adapt successfully to a normal existence as a result of spending full time in a treatment institution. It is felt that community-based treatment, through intermediate care or outpatient services, represents the best possibility of returning to a productive life.

"Intermediate care services," such as therapeutic communities or halfway houses are of prime importance to the ultimate success of the rehabilitation process. Since there is a great scarcity of such services throughout the country, it is anticipated that the Institute will place their development as a very high priority item in the near future. Such residential facilities are essential to provide the needed support during the transitional period back to a productive role in society. The repeated failure of full-time inpatient treatment to make any substantial impact readily demonstrates the need for this form of community-based intermediate care. Facilities, when possible, should provide the services of psychiatrists, psychologists, and social workers as well as job training, job referral, and, perhaps most importantly, transportation to and from work.

"Outpatient services" should be geared to the task of assisting the potential, recovered, or other drug abuser or drug dependent person out of the state of emotional, social, physical, or other deterioration which contributes to his illness.

"Prevention and treatment" is intended to encompass every form of educational technique which might be expected to assist in informing the public of the nature and consequences of drug abuse and drug dependence as well as every form of treatment and rehabilitation for the illness. It is intended that this phrase be given the widest possible interpretation and include all methods of effectively studying and handling drug abuse and drug dependence.

NATIONAL INSTITUTE FOR THE PREVENTION AND CONTROL OF DRUG ABUSE AND DRUG DEPENDENCE

Establishment of the institute

The legislation calls for the creation of an institute through which a broad range of prevention, training, rehabilitation and research programs will be developed. It is absolutely essential that the entity established by this legislation be given institute status. An institute will have a stature commensurate with the magnitude of the health problem with which the new entity will deal. Consequently the likelihood of obtaining the funding necessary to effectively attack drug abuse and drug dependence problems will be immeasurably increased. An institute will also have the visibility necessary to provide a strong program of public education and to develop public attention to and concern about this important health area. In addition, it will have a permanent status which will assist the development of the most qualified staff possible in the Federal Government in this area. It will provide the structure necessary to administer broad formula and project grant programs and to attract a broad cross section of individuals who are able to assist in solving problems of drug abuse and drug dependence.

An effective program must attempt to attract a broad cross section of individuals who are able to contribute to solving the problem. Such a cross section would include members of the medical professions, individuals interested in the sociological, organic, and chemical causes and ramifications, persons interested in practical programs of training and delivery of services, and persons skilled in research. Such a program must be directed and staffed by individuals who have the creativity and initiative to develop the widest range of activities possible; to foster and encourage Federal, State, and local initiative; and to dramatize the extraordinarily serious nature of the problems in this country. Such actions can do much to insure the delivery of prevention and rehabilitation services to those who most need them and can, in addition, greatly assist in relieving the serious funding problems which have plagued this health field. Such a program must concentrate on the delivery of prevention and rehabilitation services to the millions of Americans who are suffering or are likely to suffer from drug abuse or drug dependence.

Prior drug related criminal arrests or convictions may not be a bar to employment by the Institute or the programs and services which it operates or funds. It is necessary to single out drug-related offenses because of information that drug abusers and drug dependent persons have, in the past, been excluded from such employment because of their record offenses. This should not be interpreted to mean that a record of conviction for any other offense cannot properly be a bar to such employment.

The Institute will be responsible for coordinating all Federal efforts in the area of drug abuse and drug dependence. It will be expected to foster effective State and local programs through its review authority over State health, welfare, and rehabilitation plans submitted to the Federal Government and through the grants authorized by this bill.

Planning functions

One of the Institute's most important responsibilities is the development of a comprehensive and detailed drug abuse and drug dependence prevention and treatment plan, to serve as a blueprint for a national attack on these problems.

The plan must specify, among other things, how existing Federal health, rehabilitation, and welfare legislation can and should be utilized in fostering prevention and treatment programs. It will show how all components of the Federal Government can contribute to a coordinated national approach.

The motivating objective of the Institute's planning function will be the institution of modern public health, education, and rehabilitation procedures to handle drug abuse and drug dependence throughout the country.

Coordination functions

The Institute will serve in a coordinating and consulting capacity to assist other Federal departments and agencies in their efforts to prevent and treat drug abuse and drug dependence. This will, of necessity, include active consultation and work in a wide variety of areas, including vocational training, rehabilitation, manpower development and training, law enforcement assistance, highway safety, economic opportunity, health research facilities, mental retardation facilities, community mental health centers, juvenile delinquency, health professions educational assistance, hospital and medical facilities, community health services, edu-

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cation professions development, higher education, Federal employee health benefits, comprehensive health planning, elementary and secondary education, civil service laws, and laws providing for the treatment and discharge of the members of the Armed Forces and support and treatment of veterans of the Armed Forces. It would, indeed, not be possible to predict in advance all of the areas to which the Institute should properly devote its efforts.

Programs of non-Federal public and private organizations should be encouraged and assisted. Nongovernmental organizations should not be discriminated against in any manner with respect to the availability of help.

The 1963 Presidential Advisory Committee and the 1967 U.S. Crime Commission Report concluded that the methods to be used in treating narcotic addiction are properly determined by the medical and scientific professions, and recommended that unnecessary restrictions on treatment and research be removed and that the parameters of proper treatment be clarified. The Government should not place arbitrary limitation on treatment or research, which may result in needed progress in the field. Careful use of narcotic drugs is essential, to avoid creating an even worse problem than exists now. On balance, therefore, it has been concluded that the Secretary of Health, Education, and Welfare should report to Congress from time to time, after consultation with national organizations representative of persons with knowledge and experience in the treatment of drug dependence, report on the current state of professional practice in the medical treatment of narcotic addiction. Practitioners who prescribe, administer, or dispose a controlled substance in bad faith not within the scope of the patient relationship, or not in accordance with principles of medical care and treatment and not for bona fide research purposes, will clearly be outside the course of professional practice; and should be forced to discontinue it. The possible wrongful conduct of a few, however, should not lead to draconian measures that would inhibit future research and medical practice in this field.

Statistical functions

Statistics must be accumulated in order accurately to ascertain the true scope of the problems associated with drug abuse and drug dependence. Such statistics will serve to highlight the urgency of the problem and facilitate the initiation of meaningful research.

Research functions

There is a lack of meaningful basic or applied research on the problems of drug abuse and drug dependence. One reason this illness has reached epidemic proportions is because so little is known about it. The situation must be remedied immediately by the initiation of a comprehensive research program to investigate both the physical, psychological, and sociological aspects of the disease and the best possible prevention and treatment procedures for it.

The Institute will also maintain an adequate supply of all controlled substances, and shall make certain that adequate sources of these substances are available, for valid investigational and research purposes, so that bona fide investigation and research with these drugs will not be inhibited or impeded with unnecessary red tape, restrictions, and delays.

It is especially important that a quick and reliable method for a more precise detection and determination of drug levels in urine, or in the blood, or by breath, or by other means, be perfected as soon as possible. The Institute will publish significant results of this experimentation regularly.

It, of course, essential that the confidentiality of a patient's records, whether obtained by the Institute or by individuals or organizations using funds contributed by the Institute, be honored at all times. It takes little imagination to realize that patients will be far more hesitant to consider treatment if they will be in danger of public ridicule by exposure of their illness. This factor is of particular significance because a treatment program's success is dependent upon the voluntary cooperation of the patient. Disclosure of an individual's name is of no value for research purposes and should be avoided in all situations.

Training functions

A most critical need for successful rehabilitation is the establishment of effective training programs for all those who come into contact with the patient during the course of the rehabilitation process. The Institute will meet this need by developing training programs and fellowships of its own and encouraging the establishment of similar programs at the State and local levels.

Educational functions

Develop, assist others to develop, and encourage the development of curricula on the use and abuse of drugs at the high school, college, and adult education levels as preventive measures. Instructional programs and guidelines will also be created for Federal law enforcement officials. Develop, assist others to develop, and encourage the development of informational and educational materials for use by the mass media. Educational materials must, above all else, be straightforward and factual, and not simply attempts to scare the public.

The Institute will ultimately become a clearinghouse for the maintenance and distribution of all relevant information dealing with the problems of drug abuse and drug dependence. Field workers as well as research investigators should be able to locate at the Institute whatever educational material is applicable to their particular interests.

Reporting functions

The Institute must submit an annual report to Congress detailing the progress of its programs. The report will candidly relate what has and has not been accomplished and indicate how improvements can be made in the future. It is likely that practical experience with the program will suggest significant legislative proposals which can thus be relayed to Congress.

PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE FOR FEDERAL EMPLOYEES

No Federal employee (not engaged in a position involving the national security) should be discriminated against with regard to any facet of his employment solely because he has a drug abuse problem. Government employees with drug abuse problems should be dismissed only if they have refused to accept adequate and appropriate treatment offered to them, and have subsequently failed to function properly in their positions.

CONFIDENTIALITY OF RECORDS

The importance of maintaining confidential records, mentioned earlier in this report in connection with the research undertaken or funded by the Institute, applies equally to all other patient records prepared or obtained pursuant to the prevention and treatment provisions of the bill.

FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

Comprehensive State plans

Section 141 amends the Public Health Service Act to require the inclusion of drug abuse and drug dependence programs in comprehensive State health plans submitted pursuant to the Partnership for Health Amendments of 1967. This requirement permits substantial flexibility in the formulation of appropriate services and programs. This should be adequate to assure that every State faces up to these problems in a manner which is appropriate for the magnitude and characteristics of its particular situation.

Formula grants

Drug abuse is a national problem which does not recognize regional boundaries. The formula grant program will make it possible for all States to stimulate programs and share in Federal financial assistance. Each State must develop a drug abuse and drug dependence prevention and treatment plan in order to be eligible for these Federal funds. A single agency in each State will be assigned responsibility for the administration of the State drug abuse and drug dependence program. This agency will work in conjunction with an advisory council which will serve as a consulting body for purposes of policy formulation. The money which is made available by formula grants will be used to supplement rather than replace funds which the States would otherwise have devoted to such programs.

Applications for financial assistance will be approved whenever the other requirements have been satisfactorily complied with and funds remain available in the allotment determined for the applying State. Any facilities which are established through the assistance of Federal funding will be available to all citizens of the State regardless of sex, race, color, creed, or national origin. Hearings for States whose applications have been denied will comply with the Administrative Procedure Act.

Project grants

This provision will make it possible for the Institute to make grants to public and private nonprofit agencies, organizations, and institutions and enter into contracts with public or private agencies to develop programs for the prevention and treatment of drug abuse and drug dependence. It is vitally important for these programs to be community based, and to utilize public health rather than criminal measures, in order to provide the most effective treatment possible. The development of curricula, informational, and other educational materials which can be used in preventive efforts should have the highest possible priority. All organizations within the community which are attempting to combat drug abuse and drug dependence should be coordinated whenever possible so as to provide readily accessible services to all persons at all hours of the day. It is also important that innovation with unstructured street programs, crisis intervention centers, therapeutic communities, peer group leadership programs, telephone counseling, workshops, seminars, informal discussion and information centers and sanctuaries, be encouraged. Such programs should, to the extent feasible, provide for the use of adequate personnel from similar social, cultural, age, ethnic, and racial backgrounds as those of the individuals served. Funds will also be made available to defray the total costs of community projects which are designed to assess deficiencies and promote public interest in a local attack upon the drug abuse and drug dependence problem.

Emphasis on public health measures will result in no improvement unless there are sufficient funds, trained personnel, and facilities for an effective program, backed by a broad-based desire to implement such a program. All too often in the past, civil commitment has been used to mask inadequate and inappropriate treatment. Large numbers of patients have been committed to institutions without a specific treatment plan being formulated and adopted for the individual needs of the patient, and without sufficient medical or judicial inquiry into the adequacy and appropriateness of the treatment that is in fact available or provided. This bill is intended to require respect for the basic human dignity of drug abusers and drug-

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dependent persons, and not to contribute to the use of civil punishment as a replacement for criminal punishment. Federal funding and assistance should not be made available for the establishment or maintenance of overcrowded and understaffed institutions, indiscriminate civil commitment procedures, disregard of fundamental human rights, or other forms of inadequate or inappropriate treatment.

Section 148 provides a mechanism for processing applications for financial assistance made by units of local government and private organizations. Applications will be channeled through the agency designated to administer the program within the State. The State agency will have an opportunity to comment upon the propriety of the particular plan under consideration, but may not prevent it from being sent to the Institute for review. The Institute will take the evaluation of the State agency into consideration, but may not discriminate in favor of a State over a local, or a public over a private applicant. Local organizations of both a public and a private character are recognized as vital for a successful rehabilitation effort. As with formula grants, the money which is made available through project grants will be used to supplement rather than replace funds which the States or localities would otherwise have devoted to such programs.

The Secretary is authorized to make the project grants authorized by this legislation upon the recommendation of the National Advisory Council on Drug Abuse and Drug Dependence.

General

Any organization or agency which has had its payments under part E terminated may obtain judicial review of the administrative action of the Secretary by filing a petition in a U.S. court of appeals within 60 days after such action has been taken.

Section 150A provides that public and private general hospitals will forfeit all Federal financial assistance under this title or any Federal law administered by the Secretary of Health, Education, and Welfare, if they discriminate against drug abusers or drug-dependent persons by virtue of their admission procedures and practices.

THE NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

Establishment of council

Section 151 establishes a National Advisory Council on Drug Abuse and Drug Dependence within the Public Health Service.

The Advisory Council will be responsible for reviewing research projects, making suggestions for future improvements, and collecting and publishing relevant information.

Grant approval by council

Grants made under the Community Mental Health Centers Act which are primarily intended for use in the prevention or treatment of drug abusers or drug dependence may be made upon the recommendation of the National Advisory Council.

INTERGOVERNMENT COORDINATING COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

Section 161 establishes an Intergovernment Coordinating Council on Drug Abuse and Drug Dependence. The Coordinating Council will be composed of 13 members, including the Secretary of HEW who shall be the Chairman, the Attorney General, the Commissioner of Education, the Director of the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence, the Director of the National Institute of Mental Health, four representatives of Federal Government, and four representatives of State government.

This body will be comprised exclusively of governmental personnel and will be responsible for assisting the Institute in coordinating Federal efforts, promoting cooperation between State and Federal agencies, instituting educational programs for Federal employees, and facilitating the rehabilitation of Federal employees who are drug abusers or drug-dependent persons. The Federal Government owes a special responsibility to all of its own employees and should, therefore, set an example of sensitivity to the problems of the drug abuser, which will hopefully be followed by the States, municipalities, and private enterprise.

PROGRAMS UNDER COMMUNITY HEALTH CENTERS AND PUBLIC HEALTH SERVICE HOSPITALS

Section 171 broadens the provisions of the Community Mental Health Centers Act relating to grants for construction and staffing of facilities for treatment of narcotic addiction, to cover problems of drug abuse and drug dependence. The obsolete term "narcotic addiction," which has been discarded by the medical and scientific professions, is replaced by "drug dependence."

Section 172 expands the direct patient care authorities of the Department of Health, Education, and Welfare under part E of title III of the Public Health Service Act to include all persons with drug abuse and drug dependence problems. The Federal direct patient care activities should be broadened to include not only those physically addicted but those who have psychological problems related to their repetitive use or desire to use drugs of abuse. This does not, however, expand authority under other laws to commit persons for treatment.

Section 173 amends section 507 of the Public Health Service Act to permit funds that are available (1) under the Public Health Service Act or (2) under the Community Mental Health Centers Act, for programs relating to drug dependence, drug abuse, and alcoholism, to be used for 100-percent grants to Veterans' Administration hospitals, Saint Elizabeths Hospital, and hospitals of the Public Health Service and the Bureau of Prisons, for such purposes.

General

All regulations issued pursuant to this substitute amendment are intended to be subject to the provisions of the Administrative Procedure Act. After considering whether it was necessary to explicitly include this in the bill itself it was concluded that under the APA this would be the result even if the bill were silent on the matter.

Conclusion

A new approach to the problems arising from drug abuse and drug dependence is urgently needed. The substitute amendment for title I of H.R. 18583 will enable the Nation to embark on a broad program of prevention and rehabilitation that will offer a productive life to those who have suffered so long without hope and will prevent the continued tragic waste of human lives in the future.

It is recommended that the Senate adopt the substitute amendment and enact H.R. 18583, as amended, at the earliest opportunity.

SECTION-BY-SECTION ANALYSIS

PART A—FINDINGS AND DECLARATIONS OF PURPOSE

Section 101.—Finds that drug abuse and drug dependence are increasing throughout the country; that drug dependence is an illness or disease that requires treatment through health and rehabilitation services; that existing laws have not been effective to prevent drug abuse and drug dependence or to provide adequate education, treatment, and rehabilitation of drug abusers and drug dependent persons and that a major Federal commitment is needed in these areas; that there is a lack of authoritative information and creative projects designed to educate students and others about drugs and their abuse; that effective treatment services and successful rehabilitation offer the best possibility of avoiding a high rate of recidivism among those persons incarcerated in Government institutions; that Federal programs for drug abuse and drug dependence should have a high priority and be closely coordinated within the Government; that the Federal Government must effectively handle drug abuse and drug dependence among those for whom the Government has special responsibilities—civilian employees, military personnel, and veterans; and that drug abusers and drug dependent persons can be best treated and rehabilitated through effective community-based programs.

Section 102.—Declares that a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence will be established and maintained within the Public Health Service to coordinate all Federal social programs related to the prevention of drug abuse and drug dependence; that an increased effort should be made to encourage the development of new and improved curricula on the problems of drug abuse, to demonstrate the use of such curricula in model educational programs and to evaluate the effectiveness thereof, to disseminate curricular materials and significant information for use in educational programs throughout the Nation; to provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders; and to offer community education programs, for parents and others, on drug abuse problems; that major Federal action and assistance shall be undertaken to encourage a broad range of State and local programs in this area, and to assure equal access to humane care, treatment, and rehabilitation for all drug abusers and drug dependent persons; that research relating to drug abuse and drug dependence shall be fostered and assisted; and that all present Federal or federally assisted research, prevention, treatment, or rehabilitation programs in the fields of health, education, welfare, and rehabilitation shall be utilized to reduce drug abuse, drug dependence, and drug related crime.

PART B—DEFINITIONS

Section 111.—Provide that the definitions set out in title II of the Act shall also apply to this title.

Section 112.—Sets out additional definitions which apply throughout title I.

"Prevention and treatment" is defined to include all appropriate forms of educational programs and services (including but not limited to radio, television, films, books, pamphlets, lectures, adult education, and school courses); planning, coordinating, statistical, research, training, evaluation, reporting, classification, and other administrative, scientific, or technical programs or services; and screening, diagnosis, treatment (emergency medical care, inpatient, intermediate care, and outpatient), vocational rehabilitation, job training and referral, and other rehabilitation programs or services.

Other definitions include those for the terms "drug abuser," "drug dependent person," "emergency medical care services," "inpatient services," "intermediate care services," and "outpatient services."

The remaining definitions are routine.

PART C—NATIONAL INSTITUTE FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

Section 121.—Establishes a National Institute for the Prevention and Control of Drug Abuse and Drug Dependence within the Public Health Service. Remaining sections of this part prescribe the responsibilities of the Institute and the qualifications of its personnel.

Section 122.—Sets out the administrative functions of the Institute, which include providing assistance to all Federal departments and agencies to establish and maintain programs for the prevention and treatment of drug abuse and drug dependence;

evaluating the drug abuse and drug dependence prevention and treatment provisions of all State health, welfare, and rehabilitation plans submitted to the Federal Government; administering grants and contracts authorized by the bill; and taking other action consistent with the intent and objectives of the bill.

Section 123.—Sets out the planning functions of the Institute, which include development of a comprehensive Federal drugs abuse and drug dependence prevention and treatment plan; development of model State and local drug abuse and drug dependence prevention and treatment plans; providing assistance and consultation to all interested agencies and persons with respect to the prevention and treatment of drug abuse and drug dependence; and carrying out a complete evaluation of existing and ongoing drug education materials and programs.

Section 124.—Sets out the coordination functions of the Institute, which include assisting all Federal departments and agencies in the development and maintenance of drug abuse and drug dependence prevention, treatment, and rehabilitation programs; serving as consultants to Federal courts, departments, and agencies; coordinating all Federal health and rehabilitation efforts to deal with drug abuse and drug dependence; encouraging State and local public and private programs and services and stimulating more effective and coordinated use of all existing resources and services; and cooperation with Federal departments and agencies to develop an appropriate policy with regard to Federal civilian employees who are drug addicts or drug dependents.

Section 125.—Sets out the statistical functions of the Institute, which include gathering and publishing statistics pertaining to drug abuse and drug dependence—statistics, records, and reports.

Section 126.—Sets out the research functions of the Institute, which include conducting research of all kinds relating to drug abuse and drug dependence; encouraging and assisting others in conducting such research and assuring its confidentiality; coordinating research conducted by the Institute with that done by other agencies and persons; establishing a research register and a research information center; making research facilities of the Institute available to other researchers; making research grants and contracts with other agencies and individuals; maintaining a research fellowship program; investigating methods for measuring drug consumption; and evaluating existing and proposed drug abuse and drug dependence prevention and treatment programs.

Section 127.—Sets out the training functions of the Institute, which include establishment of training programs for professionals and paraprofessionals; encouragement of such programs by State and local governments; and establishment of training fellowships.

Section 128.—Sets out the educational functions of the Institute, which include developing and assisting and encouraging the development of model curricula for use at all educational levels; developing and assisting and encouraging the development of a broad variety of educational material for use in all media; establishing and assisting and encouraging the establishment of educational courses for use by all Federal, State, and local agencies and private groups on the causes of, and treatment for, drug abuse and drug dependence; acting as a clearinghouse for all information relating to drug abuse and drug dependence; recruitment, training, organization, and employment of personnel for public education programs in relation to drug abuse and drug dependence; coordination of all Federal educational activities regarding drug abuse and drug dependence; and undertaking, assisting, and encouraging all activities relating to a national drug abuse and drug dependence education program.

Section 129.—Sets out the reporting functions of the Institute, which include making an annual report to Congress, specifying actions taken and services provided under each provision of this act as required; and making such additional reports as are requested by the President or Congress.

PART D—PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE FOR FEDERAL EMPLOYEES

Section 131.—Sets out procedures for prevention and treatment of drug abuse and drug dependence among all Federal Government employees. It provides that the Civil Service Commission, in cooperation with the administration and other Federal agencies, shall be responsible for developing and maintaining appropriate policies and services for the prevention and treatment of drug abuse and drug dependence among all Federal civilian employees. All Federal civilian employees will retain the same employment and benefits as those suffering from other illnesses and shall not lose pension, retirement or medical rights. The Institute will be responsible for encouraging similar drug abuse and drug dependence prevention, treatment and rehabilitation services in State and local governments and private industry. No person may be denied Federal civilian employment or a Federal license or right solely on the ground of prior drug abuse or drug dependence except in regard to extremely sensitive positions. This section will not prohibit the dismissal of a Federal civilian employee who refuses to accept appropriate treatment offered to him and subsequently does not function properly in his employment.

Section 132.—Provides that all patient records prepared or obtained pursuant to this act and their contents shall remain confidential, and may be disclosed with the patient's consent only to proper persons for purposes of medical treatment, research, or the obtaining of benefits relating to the patient's drug dependence. Any other disclosure must be by court order based on a showing of good cause. No such records or information may be used to initiate charges against a patient under any circumstances. Similar provisions apply to private medical records.

PART E—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

Subpart I—Comprehensive State plans

Section 141.—Provides that section 314(a)(2) of the Public Health Service Act is amended to require all State plans for comprehensive public health services to provide for services for the prevention and treatment of drug abuse and drug dependence commensurate with the extent of the problem in the particular State.

Subpart II—Formula grants

Section 142.—Provides that $10 million will be authorized to be appropriated for the fiscal year ending June 30, 1971, for the purpose of providing formula grants to States to aid in the development and maintenance of their treatment and rehabilitation programs. An additional $20 million will be added to this base amount in fiscal 1972, and $25 million will be added to this base amount for fiscal 1973.

Section 143.—Provides for the allotment of grants to all States regardless of their size, such allotment to be made on the basis of relative population, financial need, and need for more effective prevention, treatment, and rehabilitation programs. The allotment procedure is that generally followed for formula grants.

Section 144.—Requires States wishing to participate in the formula grant program to develop State plans meeting certain basic requirements. The plans must designate a single State agency to administer the plan; provide for a State advisory council to oversee the plan; specify the needs of the State and its existing health facilities; meet certain standards of administration; provide required reports and information; and assure that Federal funds will be used to supplement rather than supplant non-Federal funds. The Secretary shall approve any State plan meeting the statutory requirements.

Section 145.—Provides an application procedure for submission of grant applications to the Secretary through the designated single State agency and requires the Secretary to approve any plan for which an allotment remains available and which meets the requirement of section 144.

Subpart III—Project grants

Section 146.—Authorizes appropriations of $20 million for fiscal 1971, $45 million for fiscal 1972, and $70 million for fiscal 1973, for the project grants authorized by the act.

Section 147.—Authorizes the Secretary to make grants to and contracts with public and private agencies to assist State and local public and private organizations, agencies, institutions, and individuals to carry out the following activities for a prevention and treatment of drug abuse and drug dependence; to construct and operate treatment and rehabilitation facilities; to develop curricula, informational and other educational materials for use in preventive efforts; to conduct research and demonstration projects; to educate and train professional and paraprofessional personnel; and to provide drug abuse and drug dependence prevention and treatment services in correctional and penal institutions and among juveniles and young adults. All of the grants and contracts under this title will be community based whenever possible.

Section 148.—Requires the Secretary to assure coordination of all grant applications for programs in a State, and not to give precedence to public agencies over private agencies or to State agencies over local agencies. It provides that all applications from within a State shall first be submitted by the applicant for review and comment to the State agency responsible for administering the State comprehensive plan for treatment and prevention of drug abuse and drug dependence if such an agency exists. Applications are then to be forwarded to the Secretary for approval. It also establishes the administrative and budgetary criteria which must be met by those seeking funds under this title. A State may waive its rights to review applications under this section if it so desires.

Section 149.—Provides that the Secretary of Health, Education, and Welfare is authorized to make grants under this part upon the recommendation of the National Advisory Council on Drug Abuse and Drug Dependence.

Subpart IV—General

Section 150.—Provides that the Secretary may terminate payment to any program not in compliance with the terms of its grant or contract until the program complies. Anyone adversely affected by such an action of the Secretary may appeal to the U.S. court of appeals for the circuit in which he is located by filing a petition with such court within 60 days after such final action. The procedures and conditions of filing such a petition are set out in the remainder of this section.

Section 150A.—Provides that no private or public general hospital which discriminates against drug abuse and drug dependence because of their drug abuse or drug dependence will receive Federal financial assistance under the provisions of this title or any other Federal law administered by the Secretary. Termination of aid will occur only after the Secretary gives notice of the failure to comply with this section and provides an opportunity for correction or hearing. All action taken by the Secretary pursuant to this section is subject to judicial review pursuant to section 150(b) of this title.

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PART F—THE NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

Section 151.—Establishes a National Advisory Council on Drug Abuse and Drug Dependence within the Public Health Service. The Advisory Council will be composed of 15 members, including the Secretary of HEW, who shall serve as chairman, the chief medical officer of the Veterans' Administration or his representative, a medical officer designated by the Secretary of Defense, and 12 appointed members. The Advisory Council will be responsible for reviewing research projects and making suggestions for future improvements, collecting and publishing relevant information, and recommending grants in accordance with section 149 of Part E of this title.

Section 152 amends section 266 of part E of the Community Mental Health Centers Act to provide that grants under that act which are primarily intended for use in the prevention and treatment of drug abuse or drug dependence may be made only upon the recommendation of the National Advisory Council on Drug Abuse and Drug Dependence.

PART G—INTERGOVERNMENT COORDINATING COUNCIL OF DRUG ABUSE AND DRUG DEPENDENCE

Section 161.—Establishes an Intergovernment Coordinating Council on Drug Abuse and Drug Dependence consisting of the Secretary who shall serve as chairman, the Attorney General of the United States, the U.S. Commissioner of Education, the chairman of the National Advisory Council on Drug Abuse and Drug Dependence, the Director of the National Institute of Mental Health, four representatives of Federal departments or agencies, and four representatives of State and local government departments or agencies. The Council will be responsible for coordinating all Federal drug abuse and drug dependence prevention and treatment activities with each other and with similar State and local activities and for developing an enlightened approach to the problems with respect to Federal civilian employees.

Section 162.—Directs the Coordinating Council to assist the Secretary in his coordinating functions; to engage in educational and rehabilitation programs directed at Federal civilian employees; and to carry on other appropriate activities.

PART H—PROGRAMS UNDER PUBLIC HEALTH SERVICE ACT RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

Section 171.—Broadens the present provisions of the Community Mental Health Center Act relating to grants for construction and staffing of facilities for treatment of narcotics addiction, special projects in the field of narcotics addiction, and special staffing grants for consultation services. These authorities, which now relate only to narcotic addiction are broadened so as to relate to drug abuse and drug dependence generally.

Section 172.—Expands the direct patient care authorities of the Department of HEW under part E of title III of the Public Health Service Act to include, instead of just narcotics adidcts, all persons who are drug abusers and drug dependents.

Section 173.—Amends section 507 of the Public Health Service Act to permit funds that are available under the Public Health Service Act or under the Community Mental Health Centers Act, for programs relating to drug dependence, drug abuse, and alcoholism, to be used for 100 percent grants to Veterans' Administration hospitals, St. Elizabeths Hospital, and hospitals of the Public Health Service and the Bureau of Prisons, for such purposes.

PART I—GENERAL

Section 181.—Is a severability provision.

Section 182.—Requires recipients of grants to make whatever reports are required by the Secretary.

Section 183.—Provides that payments under this title may be made in advance or by way of reimbursements, and in such manner as the Secretary may determine.

CHANGES IN EXISTING LAW

Changes in existing law made by the proposed amendment are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC HEALTH SERVICE ACT

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PUBLIC HEALTH SERVICE ACT, AS AMENDED

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TITLE II—ADMINISTRATION

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NATIONAL ADVISORY COUNCILS

SEC. 217. (a) The National Advisory Health Council, the National Advisory Cancer Council, the National Advisory Mental Health Council, *the National Advisory Council on Drug Abuse and Drug Dependence,* the National Advisory Heart Council and the National Advisory Dental Research Council shall each consist of the Secretary, who shall be chairman, the chief medical officer of the Veterans' Administration or his representative and a medical officer designated by the Secretary of Defense, who shall be ex officio members; and twelve members appointed without regard to the civil service laws by the Secretary with the approval of the Secretary of Health, Education, and Welfare. The twelve appointed members of each such council shall be leaders in the fields of fundamental sciences, medical sciences, or public affairs, and six of such twelve shall be selected from among the leading medical or scientific authorities who, in the case of the National Advisory Health Council, are skilled in the sciences related to health, and in the case of the National Advisory Cancer Council, the National Advisory Mental Health Council, *the National Advisory Council on Drug Abuse and Drug Dependence,* the National Advisory Heart Council, and the National Advisory Dental Research Council, are outstanding in the study, diagnosis, or treatment of cancer, psychiatric disorders, *drug abuse and drug dependence,* heart diseases, and dental diseases and conditions, respectively. In the case of the National Advisory Dental Research Council, four of such six shall be dentists. Each appointed member of each such council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the terms for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of the members first taking office after September 30, 1950, shall expire as follows: Three shall expire four years after such date, three shall expire three years after such date, three shall expire two years after such date, and three shall expire one year after such date, as designated by the Secretary at the time of appointment. None of the appointed members shall be eligible for reappointment within one year after the end of his preceding term, but terms expiring prior to October 1, 1950, shall not be deemed "preceding terms" for the purposes of this sentence.

(b) The National Advisory Health Council shall advise, consult with, and make recommendations to, the Secretary on matters relating to health activities and functions of the Service. The Secretary is authorized to utilize the services of any member or members of the Council, and where appropriate, any member or members of the national advisory councils established under this Act on cancer, mental health, *drug abuse and drug dependence,* heart, dental, rheumatism, arthritis, and metabolic diseases, neurological diseases and blindness, and other diseases, in connection with matters related to the work of the Service, for such periods, in addition to conference periods, as he may determine.

(c) The National Advisory Mental Health Council shall advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Service in the field of mental health. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of mental health and recommended to the Secretary, for prosecution under this Act, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of psychiatric disorders; and (2) to collect information as to studies being carried on in the field of mental health and, with the approval of the Secretary, make available such information through the appropriate publications for the benefit of health and welfare agencies or organizations (public or private), physicians, or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Secretary, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of mental health; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council.

(d) The National Advisory Council on Drug Abuse and Drug Dependence shall advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Service in the field of alcohol abuse and alcoholism. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of alcohol abuse and alcoholism and recommend to the Secretary, for prosecution under this Act, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of alcohol abuse and alcoholism, and (2) to collect information as to studies being carried on in the field of alcohol abuse and alcoholism and, with the approval of the Secretary, make available such information through the appropriate publications for the benefit of health and welfare agencies or organizations (public or private), physicians, or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Secretary, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of alcohol abuse and alcoholism; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council.

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TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

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PART B—FEDERAL-STATE COOPERATION

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GRANTS TO STATES FOR COMPREHENSIVE STATE HEALTH PLANNING

SEC. 314. (a)(1) AUTHORIZATION.—In order to assist the States in comprehensive and continuing planning for their current and future health needs, the Secretary is authorized during the period beginning July 1, 1966, and ending June 30, 1970, to make grants to States which have submitted and had approved by the Secretary, State plans for compresensive State health planning. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1967, $7,000,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, and $15,000,000 for the fiscal year ending June 30, 1970.

(2) STATE PLANS FOR COMPREHENSIVE STATE HEALTH PLANNING.—In order to be approved

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for purposes of this subsection, a State plan for comprehensive State health planning must—

(A) designate, or provide for the establishment of, a single State agency, which may be an interdepartmental agency, as the sole agency for administering or supervising the administration of the State's health planning functions under the plan;

(B) provide for the establishment of a State health planning council, which shall include representatives of State and local agencies and nongovernmental organizations and groups concerned with health, and of consumers of health services to advise such State agency in carrying out its functions under the plan, and a majority of the membership of such council shall consist of representatives of consumers of health service;

(C) set forth policies and procedures for the expenditure of funds under the plan, which, in the judgment of the Surgeon General, are designed to provide for comprehensive State planning for health services (both public and private), including the facilities and persons required for the provision of such services, to meet the health needs of the people of the State;

(D) provide for encouraging cooperative efforts among governmental or nongovernmental agencies, organizations and groups concerned with health services, facilities, or manpower, and for cooperative efforts between such agencies, organizations, and groups and similar agencies, organizations, and groups in the fields of education, welfare, and rehabilitation;

(E) contain or be supported by assurances satisfactory to the Secretary that the funds paid under this subsection will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available by the State for the purpose of comprehensive health planning and not to supplant such non-Federal funds;

(F) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(G) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(H) provide that the State agency will from time to time, but not less often than annually, review its State plan approved under this subsection and submit to the Secretary appropriate modifications thereof;

(I) effective July 1, 1968, (i) provide for assisting each health care facility in the State to develop a program for captial expenditures for replacement, modernization, and expansion which is consistent with an overall State plan developed in accordance with criteria established by the Secretary after consultation with the State which will meet the needs of the State for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner, and (ii) provide that the State agency furnishing such assistance will periodically review the program (developed pursuant to clause (i)) of each health care facility in the State and recommended appropriate modification thereof;

(J) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the State under this subsection; [and]

(K) contain such additional information and assurances as the Secretary may find necessary to carry out the purposes of this subsection; *and*

(L) provide for services for the prevention and treatment of drug abuse and drug dependence, commensurate with the extent of the problem, such plan to (i) estimate the number of drug abusers and drug dependent persons within the various areas within the State and the extent of the health problem caused, (ii) establish priorities for the improvement of the capabilities of State and local governments and public and private agencies, institutions, and organizations with respect to prevention and treatment of drug abuse and drug dependence, and (iii) specify how all available community health, welfare, educational, and rehabilitation resources, and how funds, programs, services, and facilities authorized under existing Federal and State legislation, are to be used for these purposes.

(3)(A) State Allotments.—From the sums appropriated for such purpose for each fiscal year, the several States shall be entitled to allotments determined, in accordance with regulations, on the basis of the population and the per capita income of the respective States; except that no such allotment to any State for any fiscal year shall be less than 1 per centum of the sum appropriated for such fiscal year pursuant to paragraph (1). Any such allotment to a State for a fiscal year shall remain available for obligation by the State, in accordance with the provisions of this subsection and the State's plan approved thereunder, until the close of the succeeding fiscal year.

(B) The amount of any allotment to a State under subparagraph (A) for any fiscal year which the Secretary determines will not be required by the State, during the period for which it is available, for the purposes for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix, to other States with respect to which such a determination has not been made, in proportion to the original allotments to such States under subparagraph (A) for such fiscal year, but with such proportionate amount of any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly realloted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State from fund appropriated pursuant to its allotment under subparagraph (A) for such fiscal year.

(4) Payments to States.—From each State's allotment for a fiscal year under this subsection, the State shall from time to time be paid the Federal share of the expenditures incurred during that year or the succeeding year pursuant to its State plan approved under this subsection. Such payments shall be made on the basis of estimates by the Secretary of the sums the State will need in order to perform the planning under its approved State plan under this subsection, but with such adjustments as may be necessary to take account of previously made underpayments or overpayments. The "Federal share" for any State for purposes of this subsection shall be all, or such part as the Secretary may determine, of the cost of such planning, except that in the case of the allotments for the fiscal year ending June 30, 1970, it shall not exceed 75 per centum, of such cost.

PROTECT GRANTS FOR AREAWIDE HEALTH PLANNING

(b) The Secretary is authorized, during the period beginning July 1, 1966, and ending June 30, 1970, to make, with the approval of the State agency administering or supervising the administration of the State plan approved under subsection (a), project grants to any other public or nonprofit agency or organization (but with appropriate representation of the interests of local government where the recipient of the grant is not a local government or combination thereof or an agency of such government or combination) to cover not to exceed 75 per centum of the costs of projects for developing (and from time to time revising) comprehensive regional, metropolitan area, or other local area plans for coordination of existing and planned health services, including the facilities and persons required for provision of such services; except that in the case of project grants made in any State prior to July 1, 1968, approval of such State agency shall be required only if such State has such a State plan in effect at the time of such grants. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1960, $7,500,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, and $15,000,000 for the fiscal year ending June 30, 1970.

PROJECT GRANTS FOR TRAINING, STUDIES, AND DEMONSTRATIONS

(c) The Secretary is also authorized, during the period beginning July 1, 1966, and ending June 30, 1970, to make grants to any public or nonprofit private agency, institution, or other organization to cover all or any part of the cost of projects for training, studies, or demonstrations looking toward the development of improved or more effective comprehensive health planning throughout the Nation. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1967, $2,500,000 for the fiscal year ending June 30, 1968, $5,000,000 for the fiscal year ending June 30, 1969, and $7,500,000 for the fiscal year ending June 30, 1970.

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Part E—[Narcotics Addicts] *Drug Abusers and Drug Dependent Persons*

CARE AND TREATMENT

Sec. 341. (a) The Surgeon General is authorized to provide for the confinement, care, protection, treatment, and discipline of persons addicted to the use of habit-forming narcotic drugs who are civilly committed to treatment or convicted of offenses against the United States and sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, addicts who are committed to the custody of the Attorney General pursuant to the provisions of the Federal Youth Corrections Act (chapter 402 of title 18 of the United States Code) [addicts] *drug abusers and drug dependent persons* who voluntarily submit themselves for treatment, and addicts convicted of offenses against the United States and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, including persons convicted by general courts-martial and consular courts. Such care and treatment shall be provided at hospitals of the Service especially equipped for the accommodation of such patients or elsewhere where authorized under other provisions of law, and shall be designed to rehabilitate such persons, to restore them to health, and where necessary, to train them to be self-supporting and self-reliant; but nothing in this section or in this part shall be construed to limit the authority of the Surgeon General under other provisions of law to provide for the conditional release of patients and for aftercare under supervision.

* * * * *

Employment of addicts drug abusers or drug dependent persons

Sec. 342. [Narcotic addicts] *Drug abusers and drug dependent persons* in hospitals of the Service designated for their care shall be employed in such manner and under such conditions as the Surgeon General may direct. In such hospitals the Surgeon General may, in his discretion, establish industries, plants, factories, or shops for the production and manufacture of articles, commodities, and supplies for the United States Government. The Secretary of the Treasury may require any Government department, establishment, or other institution, for whom appropriations are made directly or indirectly by the Congress of the United States, to purchase at current market prices, as determined by him or his authorized representative, such of the articles, commodities, or supplies so produced or manufactured as meet their specifications; and the Surgeon General shall provide for payments to the inmates or their dependents of such pecuniary earnings as he may deem proper. The Secretary shall establish a working-capital fund for such industries, plants, factories, and shops out of any funds appropriated for Public Health Service hospitals at which [addicts] *drug abusers and drug dependent persons* are treated and cared for; and such fund shall be available for the purchase, repair, or replacement of machinery or equipment, for the purchase of raw materials and supplies, for the purchase of uniforms and other distinctive wearing apparel of employees in the performance of their official duties, and for the employment of necessary civilian officers and employees. The Surgeon General may provide for the disposal of products of the industrial activities conducted pursuant to this section, and the proceeds of any sales thereof shall be covered into the Treasury of the United States to the credit of the working-capital fund.

CONVICTS

SEC. 343. (a) The authority vested with the power to designate the place of confinement of a prisoner shall transfer to hospitals of the Service especially equipped for the accommodation of [addicts] *drug abusers and drug dependent persons* if accommodations are available, all [addicts] *drug abusers and drug dependent persons* who have been or are hereafter sentenced to confinement, or who are now or shall hereafter be confined, in any penal, correctional, disciplinary, or reformatory institutions of the United States, including those [addicts] *drug abusers and drug dependent persons* convicted of offenses against the United States who are confined in State and Territorial prisons, penitentiaries, and reformatories, except that no [addict] *drug abuser or drug dependent person* shall be transferred to a hospital of the Service who, in the opinion of the officer authorized to direct the transfer, is not a proper subject for confinement in such an institution either because of the nature of the crime he has committed or because of his apparent incorrigibility. The authority vested with the power to designate the place of confinement of a prisoner shall transfer from a hospital of the Service to the institution from which he was received, or to such other institution as may be designated by the proper authority, any [addict] *drug abuser or drug dependent person* whose presence at a hospital of the Service is detrimental to the well-being of the hospital or who does not continue to be a [narcotic addict] *drug abuser or drug dependent person*. All transfers of such prisoners to or from a hospital of the Service shall be accompanied by necessary attendants as directed by the officer in charge of such hospital and the actual and necessary expenses incident to such transfers shall be paid from the appropriation for the maintenance of such Service hospital except to the extent that other Federal agencies are authorized or required by law to pay expenses incident to such transfers. When sentence is pronounced against any person whom the prosecuting officer believes to be an [addict] *drug abuser or drug dependent person,* such officer shall report to the authority vested with the power to designate the place of confinement, the name of such person, the reasons for his belief, all pertinent facts bearing on such [addiction] *drug abuse or drug dependence,* and the nature of the offense committed. Whenever an alien [addict] *drug abuser or drug dependent person* transferred to a Service hospital pursuant to this subsection is entitled to his discharge but is subject to deportation, in lieu of being returned to the penal institution from which he came he shall be deported by the authority vested by law with power over deportation.

(b) The provisions of the Act of June 21, 1902, as amended (U.S.C., 1940 edition, title 18, secs. 710–712a), regulating commutation of sentence for good conduct of United States prisoners, section 8 of the Act of May 27, 1930 (U.S.C., 1940 edition, title 18, sec. 744h), regulating commutation of sentence for employment in industry, and the Act of June 25, 1910, as amended (U.S.C., 1940 edition, title 18, secs. 714–723c), relating to parole, shall be applicable to any [narcotic addict] *drug abuser or drug dependent person* confined in any institution in execution of a judgment or sentence upon conviction of an offense against the United States; except that no [narcotic addict] *drug abuser or drug dependent person* confined in any institution, whether or not an institution of the Public Health Service, shall be released by reason of commutation of sentence or parole until the Surgeon General shall have certified that such individual is no longer an [addict] *drug abuser or drug dependent person*.

(c) Not later than one month prior to the expiration of the sentence of any [addict] *drug abuser or drug dependent person* confined in a Service hospital, he shall be examined by the Surgeon General or his authorized representative. If the Surgeon General believes the person to be discharged is still an [addict] *drug abuser or drug dependent person* and that he may by further treatment in a Service hospital be cured of his [addiction,] *drug abuse or drug dependence,* the [addict] *drug abuser or drug dependent person* shall be informed, in accordance with regulations, of the advisability of his submitting himself to further treatment. The [addict] *drug abuser or drug dependent person* may then apply in writing to the Surgeon General for further treatment in a Service hospital for a period not exceeding the maximum length of time considered necessary by the Surgeon General. Upon approval of the application by the Surgeon General or his authorized agent, the [addict] *drug abuser or drug dependent person* may be given such further treatment as is necessary to cure him of his [addiction,] *drug abuse or drug dependence*.

(d) Every person convicted of an offense against the United States, upon discharge, or upon release on parole from a hospital of the Service, shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution.

(e) Any court of the United States having the power to suspend the imposition or execution of sentence and to place a defendant on probation under any existing laws may impose as one of the conditions of such probation that the defendant, if an [addict] *drug abuser or drug dependent person* shall submit himself for treatment at a hospital of the Service especially equipped for the accommodation of [addicts] *drug abusers and drug dependent persons* until discharged therefrom as cured and that he shall be admitted thereto for such purpose. Upon the discharge of any such probationer from a hospital of the Service, he shall be furnished with the gratuities and transportation authorized by law to be furnished to prisoners upon release from a penal, correctional, disciplinary, or reformatory institution. The actual and necessary expense incident to transporting such probationer to such hospital and to furnishing such transportation and gratuities shall be paid from the appropriation for the maintenance of such hospital except to the extent that other Federal agencies are authorized or required by law to pay the cost of such transportation: *Provided,* That where existing law vests a discretion in any officer as to the place to which transportation shall be furnished or as to the amount of clothing and gratuities to be furnished, such discretion shall be exercised by the Surgeon General with respect to [addicts] *drug abusers and drug dependent persons* discharged from hospitals of the Service.

VOLUNTARY PATIENTS

SEC. 344. (a) Any [addict] *drug abuser or drug dependent person,* whether or not he shall have been convicted of an offense against the United States, may apply to the Surgeon General for admission to a hospital of the Service especially equipped for the accommodation of [addicts] *drug abusers and drug dependent persons.*

(b) Any applicant shall be examined by the Surgeon General who shall determine whether the applicant is an [addict] *drug abuser or drug dependent person,* whether by treatment in a hospital of the Service he may probably be cured of his [addiction,] *drug abuse or drug dependence,* and the estimated length of time necessary to effect his cure. The Surgeon General may, in his discretion, admit the applicant to a Service hospital. No such [addict] *drug abuser or drug dependent person,* shall be admitted unless he agrees to submit to treatment for the maximum amount of time estimated by the Surgeon General to be necessary to effect a cure, and unless suitable accommodations are available after all eligible [addicts] *drug abusers and drug dependent persons* convicted of offenses against the United States have been admitted. Any such [addict] *drug abuser or drug dependent person* may be required to pay for his subsistence, care, and treatment at rates fixed by the Surgeon General and amounts so paid shall be covered into the Treasury of the United States to the credit of the appropriation from which the expenditure for his subsistence, care, and treatment was made. Appropriations available for the care and treatment of [addicts] *drug abusers and drug dependent persons* admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to any place within the continental United States, including subsistence allowance while traveling, for any indigent [addict] *drug abuser or drug dependent person* who is discharged as cured.

(c) Any [addict] *drug abuser or drug dependent person* admitted for treatment under this section, including any [addict] *drug abuser or drug dependent person,* not convicted of an offense, who voluntarily submits himself for treatment, may be confined in a hospital of the Service for a period not exceeding the maximum amount of time estimated by the Surgeon General as necessary to effect a cure of the [addiction] *drug abuse or drug dependence* or until such time as he ceases to be an [addict] *drug abuser or drug dependent person.*

(d) Any [addict] *drug abuser or drug dependent person* admitted for treatment under this section shall not thereby forfeit or abridge any of his rights as a citizen of the United States; nor shall such admission or treatment be used against him in any proceeding in any court; and the record of his voluntary commitment shall, except as otherwise provided by this Act, be confidential and shall not be divulged.

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PENALTIES

SEC. 346. (a) Any person not authorized by law or by the Surgeon General who intro-

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duces or attempts to introduce into or upon the grounds of any hospital of the Service at which [addicts] *drug abusers and drug dependent persons* are treated and cared for, any habit-forming narcotic drug *or substance controlled under the Controlled Substances Act*, weapon, or any other contraband article or thing, or any contraband letter or message intended to be received by an inmate thereof, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than ten years.

(b) It shall be unlawful for any person properly committed thereto to escape or attempt to escape from a hospital of the Service at which [addicts] *drug abusers and drug dependent persons* are treated and cared for, and any such person upon apprehension and conviction in a United States court shall be punished by imprisonment for not more than five years, such sentence to begin upon the expiration of the sentence for which such person was originally confined.

(c) Any person who procures the escape of any person admitted to a hospital of the Service at which addicts are treated and cared for, or who advises, connives at, aids, or assists in such escape, or who conceals any such inmate after such escape, shall be punished upon conviction in a United States court by imprisonment in the penitentiary for not more than three years.

RELEASE OF PATIENTS

SEC. 347. For purposes of this Act, an individual shall be deemed cured of his [addiction,] *drug abuse or drug dependence* and rehabilitated if the Surgeon General determines that he has received the maximum benefits of treatment and care by the Service for his [addiction,] *drug abuse, or drug dependence* or if the Surgeon General determines that his further treatment and care for such purpose would be detrimental to the interests of the Service.

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TITLE V—MISCELLANEOUS

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GRANTS TO FEDERAL INSTITUTIONS

SEC. 507. Appropriations to the Public Health Service [available for research, training, or demonstration project grants pursuant to this Act] *available under this Act for research, training, or demonstration project grants or for grants to expand existing treatment and research programs and facilities for alcoholism, narcotic addiction, drug abuse, and drug dependence, and appropriations available to the Secretary under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcoholism and narcotic addiction, drug abuse, and drug dependence facilities* shall also be available, on the same terms and conditions as apply to non-Federal institutions, for grants for the same purpose to hospitals of the Service, of the Veterans' Administration, or of the Bureau of Prisons of the Department of Justice, and to Saint Elizabeths Hospital, *except that grants to such Federal institutions may be funded at 100 per centum of the costs.*

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PARTS D AND E OF THE COMMUNITY MENTAL HEALTH CENTERS ACT

[PART D—NARCOTIC ADDICT REHABILITATION]

Part D—Drug Abuse, and Drug Dependence Prevention and Rehabilitation

GRANTS FOR TREATMENT FACILITIES

SEC. 251. (a) Grants from appropriations under section 261 may be made to public and nonprofit private agencies and organizations to assist them in meeting the costs of construction of treatment facilities (including posthospitalization treatment facilities) for [narcotic addicts] *drug abusers and drug dependent persons* within the States, and to assist them in meeting the costs, determined pursuant to regulations of the Secretary, of compensation of professional and technical personnel for the initial operation of such facilities constructed with grants made under part A of this part or of new services in existing treatment facilities for [narcotic addicts] *drug abusers and drug dependent persons.*

(b) The grant program for construction of facilities authorized by subsection (a) shall be carried out consistently with the grant program under part (A) except to the extent, in the judgment of the Secretary, special considerations make differences appropriate; but (1) before the Secretary may make a grant under such subsection for the construction of a treatment facility for [narcotic addicts] *drug abusers and drug dependent persons* he must find that the application for such grant meets the requirement of section 205(a)(5) (relating to the payment of prevailing wages), and (2) the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66⅔ per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area) as the Secretary may determine.

(c) Grants made under subsection (a) for the costs of compensation of professional and technical personnel may not exceed the percentages of such costs, and may be made only for the periods, prescribed for grants for such costs under section 242.

DIRECT GRANTS FOR SPECIAL PROJECTS

SEC. 252. The Secretary is authorized, during the period beginning July 1, 1968, and ending with the close of June 30, 1973, to make grants to any public or nonprofit private agencies and organizations to cover part of all of the cost of (A) developing specialized trainings programs or materials relating to the provision of public health services for the prevention and treatment of [narcotic addiction,] *drug abuse and drug dependence,* or developing in-service training or short-term or refresher courses with respect to the provision of such services; (B) training personnel to operate, supervise, and administer such services; (C) conducting surveys and field trials to evaluate the adequacy of the programs for the prevention and treatment of [narcotic addition,] *drug abuse, and drug dependence,* within the several States with a view to determining ways and means of improving, extending, and expanding such programs; and (D) programs for treatment and rehabilitation of narcotic addicts which the Secretary determines are of special significance because they demonstrate new or relatively effective or efficient methods of delivery of services to such [narcotic addicts] *drug abusers and drug dependent persons.*

PROJECTS ELIGIBLE UNDER REGULAR PROGRAM

SEC. 253. Nothing in this part shall be construed to preclude approval under part A or B of a grant for a project for the construction or initial staffing of a facility for the treatment of [narcotic addicts] *drug abuses and drug dependent persons.*

PART E—GENERAL PROVISIONS

AUTHORIZATION OF APPROPRIATIONS FOR REHABILITATION OF ALCOHOLICS [AND NARCOTIC ADDICTS], *drug abuses and drug dependent persons*

SEC. 261. (a) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $30,000,000 for the fiscal year ending June 30, 1971, $35,000,000 for the fiscal year ending June 30, 1972, and $40,000,000 for the fiscal year ending June 30, 1973, for project grants for construction and staffing of facilities for the preventiton and treatment of alcoholism under part C or the prevention and treatment of [narcotic addiction], *drug abuse and drug dependence* under part D and for grants under section 242 and section 256. Sums so appropriated for any fiscal year shall remain available for obligation until the close of the next fiscal year.

(b) There are also authorized to be appropriated for the fiscal year ending June 30, 1971, and each of the next nine fiscal years such sums as may be necessary to continue to make grants for staffing with respect to any project under part C or D. for which a staffing grant was made from appropriations under subsection (a) of this section for any fiscal year ending before July 1, 1973.

(c) Not to exceed 5 per centum of the amount appropriated pursuant to the preceding provisions of this section for any fiscal year shall be available to the Secretary to make grants to local public or nonprofit private organizations to cover up to 100 per centum of the costs (but in no case to exceed $50,000) of the projects for assessing local needs for programs of services for alcoholics or [narcotic addicts], *drug abusers and drug dependent persons,* designing such programs, obtaining local financial and professional assistance and support for such programs in the community, and fostering community involvement in initiating and developing such programs in the community. In no case shall a grant under this subsection be for a period in excess of one year; nor shall any grant be made under this subsection with respect to any project if, for any preceding year, a grant under this subsection has been made with respect to such project.

PROGRAM EVALUATION

SEC. 262. Such portion (as the Secretary may determine) of any appropriation under this title for any fiscal year ending after June 30, 1968, but not exceeding 1 per centum thereof, shall be available to the Secretary for evaluation (directly or by grants or contracts) of the programs authorized by this title.

PROTECTION OF PERSONAL RIGHTS OF ALCOHOLICS [AND NARCOTIC ADDICTS], *drug abusers and drug dependent persons*

SEC. 263. In making grants to carry out the purposes of parts C and D, the Secretary shall take such steps as may be necessary to assure that no individual shall be made the subject of any research which is carried out (in whole or in part) with funds provided from appropriations under this part unless such individual explicitly agrees to become a subject of such research.

GRANTS FOR CONSULTATION SERVICES

SEC. 264. (a) In the case of any community mental health center, alcoholism prevention and treatment facility, specialized facility for alcoholics, treatment facility for [narcotic addicts] *drug abusers and drug dependent persons,* or facility for mental health of children, to which a grant under part B, C, D, or F, as the case may be, is made from appropriations for any fiscal year beginning after June 30, 1970, to assist it in meeting a portion of the costs of compensation of professional and technical personnel who provide consultation services, the Secretary may, with respect to such center or facility, make a grant under this section in addition to such other staffing grant for such center or facility.

(b) A grant under subsection (a) with respect to a center or facility referred to in that subsection—

(1) may be made only for the period applicable to the staffing grant made under part B, C, D, or F, as the case may be, with respect to such center or facility, and

(2) may not exceed whichever of the following is the lower: (A) 15 per centum of the costs with respect to which such other staffing grant is made, or (B) that percentage of such costs which when added to the percentage of such costs covered by such other staffing grant equals 100 per centum.

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(c) For purposes of making initial grants under this section, there are authorized to be appropriated $5,000,000 for each of the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973. There are also authorized to be appropirated for the fiscal year ending June 30, 1972, and for each of the next eight fiscal years such sums as may be necessary to continue to make grants under this section for projects which receive initial grants under this section from appropriations authorized for any fiscal year ending before July 1, 1973.

DEFINITION OF TECHNICAL PERSONNEL

SEC. 265. For purposes of this title, the term "technical personnel" includes accountants, financial counselors, medical transcribers, allied health professions personnel, dietary and culinary personnel, and any other personnel whose background and education would indicate that they are to perform technical functions in the operation of centers or facilities for which assistance is provided under this title; but such term does not include minor clerical personnel or maintenance or housekeeping personnel.

APPROVAL BY THE NATIONAL ADVISORY MENTAL HEALTH COUNCIL

SEC. 266. [Grants] *(a) Except as otherwise provided in subsection (b), grants* made under this title for the cost of construction and for the cost of compensation of professional and technical personnel may be made only upon recommendation of the National Advisory Mental Health Council established by section 217(a) of the Public Health Service Act.

(b) Grants made under this title which are primarily intended for use in the prevention or treatment of alcohol abuse or alcoholism may be made only upon recommendation of the National Advisory Council on Drug Abuse and Drug Dependence established by section 217(a) of the Public Health Service Act.

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Mr. DODD. Mr. President, will the Senator yield?

Mr. HUGHES. I yield to the distinguished Senator from Connecticut.

AMENDMENT NO. 1034

Mr. DODD. Mr. President, I submit an amendment and ask that it be printed.

The PRESIDING OFFICER. The amendment will be received, printed, and will lie at the desk.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUGHES. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I shall not detain the Senate very long.

I am the ranking minority member of the Alcoholism and Narcotics Subcommittee headed by Senator Hughes. We have worked very closely together. I support his amendment, as does each and every member of the Committee on Labor and Public Welfare. Indeed, it is the creation of all of us, under the very gifted and very effective leadership of Senator Hughes.

I, too, as has Senator Kennedy, have served on the Committee on the Judiciary. I have the highest regard for everything that Senator Dodd has done in the Judiciary Subcommittee on Juvenile Delinquency, including his work on narcotics.

I wish to recall to the Senate, to the eternal credit of the Senator from Connecticut (Mr. Dodd) and his committee, that the first program inaugurated with any money was incorporated in a bill which did not cover narcotics and which the Senator from Arkansas (Mr. McClellan) actually sponsored, but was the result of Senator Dodd's subcommittee which provided $15 million, as I recall it, and was the first financed program in this field. So that I should like to assure the Senator from Connecticut that there is not the remotest lack of understanding, appreciation, or even gratitude, in respect to the work already done. I do not believe that the amendment of the Senator from Iowa (Mr. Hughes) would stand a chance were it not for the record which not only Senator Dodd has made in the committee but which Senator Dodd's subcommittee made for so many years in respect to this problem.

Mr. President, I am a cosponsor and strongly support amendment No. 1026 to strike title I of the Comprehensive Drug Abuse Prevention and Control Act of 1970—the drug abuse rehabilitation and prevention provisions—and substitute in lieu thereof a more comprehensive approach which would establish a major Federal commitment to promote effective narcotics addiction and drug abuse prevention, treatment, and rehabilitation programs.

In the sea of controversy over the deadly manmade plague—the narcotics addiction and drug abuse epidemic afflicting America and its young people—I believe this amendment stands out as an island of clarity. For the first time we would establish a massive, major national commitment to deter drug-related crime through prevention, treatment and rehabilitation rather than merely relying upon—to date—ineffective criminal incarceration. We search through and utilize the complex of social, psychological, cultural, and medical forces to understand why too many of our sons and daughters want to know no higher exhilaration than the synthetic kick at the end of a needle; rather than have the problem of narcotics addiction and drug abuse represent the end product of a purely criminal phenomenon.

There are, unfortunately, no totally reliable data on the prevalence of narcotics addiction and drug abuse. The National Institute of Mental Health estimates there are 100,000 to 125,000 active narcotic abusers in the United States. However, New York City alone has records of more than 40,000 heroin addicts, exclusive of addicts in prison or voluntary treatment, and John V. Lindsay, mayor of New York City, has testified that there are 100,000 addicts living in our city. The total number of nonnarcotic drug abusers, including those addicted or habituated to marihuana, LSD, sedatives, stimulants, and related drugs, and certain tranquilizers is estimated at between 250,000 and 500,000 persons nationally.

The number of juveniles and adults who have used marihuana at least once is conservatively estimated between 8 and 12 million.

The toll in economic terms has been set by the former Director of the National Institute of Mental Health, Dr. Yolles, in the range of $2 to $3 billion yearly.

In New York City alone, in the age group between 16 and 35, addiction is the largest single cause of accidental death and the total number of addicts who died last year is more than 1,000. The city's medical examiner's records indicate that 224 teenagers died of problems caused by heroin in 1969 and of these, 55 were less than 16 years old. In the first 8 months of 1970 there were 582 heroin deaths and of these, 149 were teenagers.

We cannot continue to quote the sad statistics and turn our backs on their substantive implications.

It would be ideal if treatment and rehabilitation for narcotics addiction and drug abuse could be handled through community mental health centers or in an institutional setting provided for by title I of the House bill. However, these establishment-oriented treatment and rehabilitation programs are but one facet of the urgently needed all-out effort. All the various types of prevention, treatment and rehabilitation programs are required to combat narcotics addiction and drug abuse. To date, the best possibility of reaching youthful addicts, abusers, and experimenters appears to be found in programs arising from community local initiative in response to specific aspects of narcotics addiction, drug abuse, and drug dependence problems. This amendment will offer maximum flexibility in dealing with narcotics addiction and drug abuse community problems at the local neighborhood and grassroots levels.

We are deeply concerned in New York City, in addition to our concern with people who use heroin, with the young people of our city who are experimenting with all kinds of drugs in all kinds of neighborhoods. I do not believe that anywhere in this Nation there are very many parents, regardless of their economic condition or their cultural backgrounds, who are not concerned that their own children, when they reach the age of 12—or perhaps even younger—might become involved with that kind of drug experimentation that would lead them into vicious and destructive drug scenes.

One of the more important prevention facilities that we have to deal directly with this problem are youth centers, located, for example in New York, throughout the city to deal with youngsters who are experimenting with drugs, who are "acting out" so we can get to them before they become deeply involved in the drug scene.

We have parent and citizens groups and offer orientation programs throughout New York City to show all citizens what can be done in terms of community involvement and to stop the spread of drug abuse.

We also have community orientation centers throughout the city where we have several hundred addicts in outpatient treatment, in addition to those in our Phoenix program, which I will describe shortly.

In addition, we have gone into more than 100 of my city's high schools and grammar schools in order to deal with the drug problem which exists there.

What we are attempting to do in our schools is, first, to bring to the teachers a sufficient knowledge of drugs so that they can begin at least to relate to the students meaningfully on that level. Once they have acquired this knowledge of drugs, they then must acquire some degree of expertise in dealing with the kinds of problems that youngsters have in leaving drugs, to be able to help them to identify with youngsters leaving drugs and to refer them to our youth centers.

A program that we think will lead the way for the rest of the country is the Phoenix House program, which is considered to be the very finest rehabilitation program for drug addicts in the world. Phoenix Houses provide the setting for an addict to look into himself, to begin to deal with the problems and attitudes that have led him to use drugs and to behave in ways which are detrimental to society. In Phoenix Houses under the direction of professionals and trained ex-addicts and with the cooperation of other residents and former users in treatment, in these self-contained drug-free communities there quickly develops a sense of responsibility to himself, to his fellows and to the larger society around him—and drugs no longer play a role in his life.

There are but some of the narcotics addiction and drug abuse programs utilized in New York—there are many, many other street-front programs that play a vital role in the war against narcotics addiction and drug abuse. There are methadone maintenance programs, crisis intervention centers, 24-hour telephone counseling services, free clinic, peer group leadership programs; and various other excellent therapeutic communities such as Odyssey House. These individualized, highly structured—and all too often unstructured—programs are all, in their own way—making a significant contribution to the prevention, treatment, and rehabilitation of young people regrettably involved in the drug scene.

The extensive hearings, conducted by the Alcoholism and Narcotics Subcommittee—of which I am ranking minority member—on the extent and character of the narcotics addiction and drug abuse problem in the United States made one thing abundantly clear: Narcotics addiction and drug abuse is a national problem which does not recognize regional boundaries.

To make it possible for all States to stimulate prevention, treatment, and rehabilitation programs and share in Federal financial assistance, the amendment—in addition to the project grant program carrying authorizations for 3 years of $135 million—the annual establishes a formula grant program of $55,000,000 for 3 years. I might note that the substantial minimum State allotment, $200,000, is recognition of the deep and pervasive seriousness of the narcotics addiction and drug abuse problem, which is a blight upon all America, tragically afflicting our young people. It touches every sector of our society, from the dimly lit corridors of the urban slums to the shopping center parking lots of affluent suburban communities and rural America. It strikes at those in poverty, our middle class and the wealthy and has taken on the proportions of a national epidemic.

To be eligible for these Federal funds under the formula grant provisions of the amendment—whereby such allotment is to be made on the basis of relative population, financial need, and need for more effective prevention, treatment, and rehabilitation programs—each State must develop a drug abuse and drug dependence prevention, treatment and rehabilitation plan meeting certain basic requirements. The plans must designate a single State agency to administer the plan; provide for a State advisory council to oversee the plan; specify the needs of the State and its existing health facilities; meet certain standards of administration; provide required reports and information; and assure that Federal funds will be used to supplement rather than supplant non-Federal funds. The Secretary shall approve any State plan meeting the statutory requirements.

The substitute amendment for title I of H.R. 18583 will enable the Nation to embark on a broad program of prevention, treatment and rehabilitation and I urge all my colleagues to support its passage.

Mr. DODD. Mr. President, I thank the Senator from Iowa and the Senator from New York for their generous remarks about the small part I may have played. I want it to be understood by the Senator from New York, and certainly by the Senator from Iowa as well, that I am not opposed to the amendment. I have not taken a position with respect to it yet. But this is primarily a law enforcement bill.

Much remains to be done in the field of rehabilitation, research and reform—a vast amount of it.

Last January, when we debated the bill, I stated we should do that after we do this. Let us first get after the peddlers, those who are in the business of making addicts out of human beings. Come out with your bill on rehabilitation and I will support it. But let us give the Attorney General the weapon he needs most, the ability to strike down these opium peddlers, these drug peddlers who are international in character. That is what this bill is about. I have no argument with the Senator from Iowa. I understand very well, perhaps better than most, the need for rehabilitation and research, but this bill is not the place to accomplish those goals.

I tell you, the first thing to do, is to knock out those peddlers, those vicious criminals who prey upon society. Then we can turn our attention to the problems your bill embraces. I do not know why we did not get at it while my bill was being discussed in the House. As I told you in January and I meant every word of it. I will support you 100,000 percent. I want it to be understood that it is not the amendment I am against. The Senator from Iowa knows me better than that. I am not against the premise of the bill, but I am afraid this will kill the narcotics law enforcement bill in this Congress.

Mr. HUGHES. If I may speak here, let me say that it has already been put in the bill. It was placed in there by the House. All we are trying to do is to place in perspective, what is already in the bill.

Mr. DODD. My answer to that is, why did you not go about it in your own committee?

Mr. HUGHES. It is in the bill, as the distinguished Senator well knows.

Mr. DODD. You have your own committee.

Mr. HUGHES. The thesis of putting this in there is wrong, that it would be killed.

Mr. DODD. Why does the Senator object? Surely, it is not for the sake of argument. I have no victory to win.

Mr. HUGHES. Why does the Senator object?

Mr. DODD. Because we are throwing it into a law enforcement bill.

Mr. HUGHES. It is already in the bill, Senator.

Mr. DODD. The differences between what is in the bill now and what you want to put in are monumental.

Mr. HUGHES. Mr. President, the Senator from Connecticut is not trying to strike that, is he?

Mr. DODD. I will get to that when we get to the debate on the bill. However, I want to discuss the amendment of the Senator from Iowa.

Mr. HUGHES. I intend to support basically the Senator's section of it. I invite him to support mine.

Mr. DODD. Mr. President, I know that the Senator does. But let us talk about it as reasonable men.

Mr. HUGHES. I thought that was what we were doing. We are only reasonable when I agree with the Senator from Connecticut.

Mr. DODD. Generally. What are we arguing about? What are the basic questions here.

Mr. HUGHES. We are arguing about a year and a quarter of study by the Subcommittee of the Committee on Labor and Public Welfare of the U.S. Senate which unanimously supported the amendment offered by the Senator from New York (Mr. JAVITS), the junior Senator from Iowa, and all members of the committee.

Mr. DODD. Mr. President, I understand that. I think that the Senator from Iowa has done tremendous work. But does not the Senator from Iowa understand that we also hammered our bill out. We began on this 10 years ago. Ten years ago I introduced my first drug bill on the floor of the Senate. I have had three passed since then. I am no Johnny-come-lately to this business. I think that with respect to every drug amendment or law that has been passed during my time in Congress I have been either an author or a sponsor.

Mr. HUGHES. The Senator deserves great credit.

Mr. DODD. Mr. President, I am not asking for credit. But I thought, and I think now, that the first great problem was to strike at the peddling of drugs going on in our country and across the world. We can then turn to the problem of getting the victims straightened out. If we have a fire, we first put the fire out and then rebuild the structure.

That is what this is all about. The Senator refers to alcohol addicts. He is right. He knows how I feel about this matter. But there is no international peddling of alcohol. It does not come out

XUM

of Turkey. It is not shipped to Marseilles and made into something else and smuggled into this country. Alcohol is a terrible scourge. But it is not the same problem as drugs.

Let us get on to the business at hand. And then let us get at this equally primary problem of rehabilitation.

My affection for the Senator is well known. I almost called the Senator by his first name.

Mr. HUGHES. Mr. President, I think the Senator agrees with my amendment. I think that the Senator agrees basically with almost everything I intend to do.

Mr. DODD. I do. But this is the wrong place in which to do it.

Mr. HUGHES. Mr. President, it is already in the bill.

Mr. DODD. That is not a fair statement. I think it is wrong. I do not want to say tonight what my position will be. I am going to study it some more.

I must say that I commend the Senator from Iowa for his work in this field. It has been tremendous.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DODD. Mr. President, I want to say first to the Senator from New York that he is very generous, as always. He is a great figure in this battle.

I am not trying to compliment the Senator. I mean it.

Mr. JAVITS. Mr. President, I thank the Senator. He is very kind.

Mr. President, I want to make this observation. The Senator knows that we have really gone the route of seeking to catch and punish pushers and peddlers—the criminals who control the drug traffic. I learned, even when I was a Member of the other body, that this was so. We passed a bill called the Boggs bill, sponsored by Representative HALE BOGGS, which had a most severe penalty—life imprisonment. That did not seem to dam up the flow of narcotics nor the fast-spreading abuse of drugs.

XUM

The United States is engaged in diplomatic negotiations to curb international drug production, processing, transportation, and distribution. I was at the U.N. today at a luncheon given for the Senator from Rhode Island (Mr. PELL) and me. The discussion turned to the matter of the usefulness of the United Nations in respect to the control of international narcotics traffic.

We are talking about two things. We are talking about the customer of the pusher but more important than that, we are talking about an effort to rehabilitate the individual guilty of crime not because there are pushers around, but because the individual demands the services of the pushers.

It seems to me that there is complete consistency in going at this matter from both ends and that we have been much longer in pursuing the pusher and the dealer aspect and the punishment aspect than we have the rehabilitation aspect. In view of the fact that we made such relatively little progress with the former, perhaps, as I said when I was speaking to the Senator, he should prayerfully consider that there is a chance of one massive bill to do what needs to be done on both counts. Perhaps he should join with us in a magnificent effort to do it—to provide a Federal commitment—adequately funded—to the establishment and support of prevention, treatment, and rehabilitation programs, programs that foster the development of local initiative at the community level to respond to the problem and which to date appear to be successful in reaching out young people.

Mr. HUGHES. Mr. President, I should like to reply to the distinguished Senator from New York. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUGHES. Mr. President, I still have the floor, do I not?

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HUGHES. Mr. President, I agree entirely with what the distinguished Senator from New York has said. If we do not, in the proper fashion, begin to stop the input into the drug scene of America, we could have 20,000 narcotics agents and we would still have a geometric progression of this problem in the country.

Mr. JAVITS. Mr. President, does the Senator know what a friend of mine told me the other day? He said, "I do not know where narcotics are available. However, my 12-year-old son can lead me to where narcotics are available."

The kids are buying it every day in the streets.

Mr. DODD. That is what we are trying to stop.

Mr. JAVITS. But the Senator has been working admirably for years trying to stop the buyers and the pushers in the national and international trade. Here is a chance to do something in an impressive way. I think the country is ready to tackle it at the user's end, which has such a proliferating effect on this country. Public school children are involved.

Mr. DODD. Mr. President, the Senator knows that we passed the Narcotic Addict Rehabilitation Act.

Mr. JAVITS. We did not give it any money.

Mr. DODD. We did not give it enough money, and I have been fighting to change that. But the point is we passed bills out of our subcommittee, and the Senator from New York was a member of it. They had to do with rehabilitation. We have never just been hardheaded law-enforcement people.

I would like to see both things done, better treatment and better law enforcement. Certainly both need to be done.

Mr. HUGHES. Mr. President, as I understand, the Senator from Connecticut last July took the precise position that we were going to take tonight.

Mr. DODD. It was last January.

Mr. HUGHES. It was a long time ago.

Mr. President, I ask unanimous consent that at the conclusion of this colloquy a statement that would have been given by the chairman of the Labor and Public Welfare Committee had he been able to be present tonight be printed in the RECORD. He is necessarily absent from the floor of the Senate. He supports the amendment.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The statement of Senator YARBOROUGH was ordered to be printed in the RECORD, as follows:

HUGHES-DOMINICK AMENDMENT NEEDED IMPROVEMENT IN DRUG BILL

Mr. YARBOROUGH. Mr. President, I rise in support of the amendment sponsored by Senators Hughes and Dominick of which I am a cosponsor.

This amendment is a badly needed addition to the arsenal of weapons which are established by H.R. 18583 to combat drug abuse in the United States. While the amendment is long and appears complex, its purposes are clear and simple.

It would establish a National Institute for the Prevention and Treatment of Drug Abuse to center educational, research, and training activities in the health area of drug control.

It would provide formula grants for fiscal years 1971, 1972, and 1973, in the amount of $10 million, $20 million, and $25 million with no state to receive less than $200,000 for each fiscal year and project grants of $20 million, $45 million, and $70 million.

It would establish a coordinating council of Federal, state and local officials to insure broad governmental coordination of drug prevention, treatment and rehabilitation programs.

It would require that the federal government establish prevention and treatment programs for all of its own civilian employees.

And finally, it would retain all of the provisions presently in title I of the House bill as well as H.R. 14252 which passed the House of Representatives and was favorably reported by the Committee on Labor and Public Welfare on September 28, and is presently on the Senate Calendar.

Today the United States is a drug culture. All advertising media almost constantly tell us that to solve any problem just take a pill. They cure headaches, depression, overweight, underweight, and to use the huckster phrase, "when used under proper medical supervision," will make you feel either high or low. Is it any wonder that the illegal use of drugs especially those which make people feel "high," has become a national problem?

Our present statistics on drug abuse, as frightening as they are—and they include estimates of as high as 600,000 heroin users who are responsible for over 50% of all crimes against property—are really just the tip of the iceburg which is visible. The National Institute of Mental Health has estimated that at least 15 million people have smoked marihuana at least once. There must be thousands of at least occasional users of drugs who are never discovered. A recent survey of 200 college campuses indicated that 18 percent of the college population surveyed had tried amphetamines and 15 percent had tried barbiturates.

The problem is spreading. It is not confined to one region of the country or to one economic or social group. None of us who has children or grandchildren can be sure that they too are not experimenters in these dangerous drugs. And penalties, while they may be helpful, are not enough. Education in the potential dangers of drug use and assistance to individuals who are taking drugs but want to stop must also be part of the package. The Hughes-Dominick amendment attempts to allow local communities to provide that assistance. It attempts to give local communities which want to solve their drug problems, not only the financial assistance which federal government has traditionally given in the health area, but also the technical assistance and expertise which is needed to stop the spread of drugs throughout our society.

Mr. HUGHES. Mr. President, as I previously advised the Senate, on August 27–28 three members of the Special Subcommittee on Alcoholism and Narcotics—the Senator from Colorado (Mr. DOMINICK), the Senator from Pennsylvania (Mr. SCHWEIKER), and I—visited Fort Bragg, N.C., to observe firsthand the Army's only project for the treatment and rehabilitation of so-called hard-core drug addicts among its ranks. Our informal report on this visit—together with ensuing colloquy with the distinguished chairman of the Armed Services Committee, Mr. STENNIS; with the ranking minority members of our subcommittee, the distinguished senior Senator from New York (Mr. JAVITS); and with the distinguished senior Senator from Illinois Mr. PERCY—appears at page 30565 of the RECORD for Tuesday, September 1.

As was noted then, this treatment-rehabilitation project is part of a multisided program to deal with the drug abuse problem at Fort Bragg, called "Operation Awareness." It is staffed by Army professional personnel at Fort Bragg who took on the job as extra duty. It is housed in two abandoned barracks buildings, and to date its total fund of maintenance and operating capital has consisted of about $2,000 contributed by the Fort Bragg Officers' Wives Club and an on-post service organization known as the Thrift Shop.

Senators will recall that I urged the Congress at that time to provide the commanding general of Fort Bragg, Lt. Gen. John J. Tolson, Jr., with the funds and personnel he needs to put this experimental project on a sound footing in the hope that it may show the Army, and ultimately the country, a way whereby seemingly hopeless drug addicts may be restored to a useful life. Accordingly, I requested the Department of the Army to provide an estimate of these costs for the remainder of fiscal year 1971.

General Tolson estimated that it would take $101,390, including onetime engineering, equipment, and improvement costs totaling $45,000; operating costs for the maintenance of wards totaling $2,790; supplies costing $12,000, and $41,600 in salaries for six civilian personnel. He also requested 51 additional military personnel for this phase of "Operation Awareness."

Mr. President, the Department of the Army has advised me that it has made this sum of $101,390 available to General Tolson for the purposes outlined, and has authorized him to draw the additional military personnel he needs from various individual units at Fort Bragg.

This is good news. It means not only that the good work inspired by General Tolson and being carried out by the dedicated men under his command will continue. But also that the Department of the Army has come forward with the kind of support that counts—with money. I commend the Army for the progressive, enlightened position it has taken, and I am very hopeful that this investment, small though it may seem, will return dividends in lives salvaged many times over.

The Fort Bragg experiment is receiving due recognition from other than the Senate, Mr. President. On September 21, the Washington Post published an article by Staff Writer Bernard D. Nossiter which, in my opinion, accurately describes "Operation Awareness," why it came about and how it works. I ask unanimous consent that it be placed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

"OPERATION AWARENESS" AT FORT BRAGG: ARMY TRYING TO RECLAIM GI ADDICTS

(By Bernard D. Nossiter)

FORT BRAGG, N.C.—Eight GIs, in T-shirts and denims slipped into the darkened room and slumped down on mattresses. Acid rock poured from a tape recorder. A revolving, stroboscopic light played on the psychedelic designs in luminous paint on the walls.

The GIs, mostly around 20 years old, joshed back and forth. "Man, you gonna get stoned." Each took a hypodermic needle and inserted it in a vein on his arm. For the first few minutes, a glazed and ecstatic look shone on their faces. Then, one by one, they reached for plastic bags and spasmodically vomited into them.

This scene did not take place in one of the hundreds of "pads" or rented rooms where off-duty soldiers gather in nearby Fayetteville. It was staged in Ward 29 of Ft. Bragg's old Army hospital and under the eyes of a Medical Corps major, a male nurse who prepared the injections and a visiting reporter.

The strange room, not to be found in any military manual, is the "Shooting Gallery" of "Operation Awareness," a bold experiment by the military here to reclaim rather than punish soldiers addicted to hard drugs.

The patients, all volunteers, are going through a course of undetermined length and uncertain outcome. Similar "shoot up" sessions are held in the "gallery" every Tuesday and Friday afternoon.

The young soldiers inject themselves with a short acting barbiturate, Brevital, to induce a euphoric state of "high." Their nausea is created by another drug, Ipecac, which they take in a soft drink along with the injection.

The designer of this routine is an earnest, 33-year-old Army psychiatrist, Maj. Richard Crews of Scarsdale, N.Y. He hopes that his heroic technique will create a response like that achieved by Pavlov and his salvating dogs. In time, Crews thinks, his addict-patients will associate the hypodermic needle with acute discomfort rather than extreme pleasure.

The injection session is only one element—albeit the most dramatic—of an elaborate rehabilitation program linked to an intricate system of penalties and rewards. In turn, the reclamation scheme is just part of a much broader and path-breaking course of education aimed at all the 38,000 soldiers American Army base.

Nobody here pretends to know whether any of it will work. Col. Charles K. Nulsen, a decorated West Pointer, Ranger and airborne soldier, the ranking officer on the "Ft. Bragg Drug Abuse Committee," says frankly: "We haven't made a dent in the drug scene yet."

Some 52 soldiers, for example, have turned themselves in for varying periods to Major Crews' rehabilitation course. If all goes well, the first 'graduate,' a 19-year-old who began shooting heroin three years ago in Baltimore, will return to regular duty just this week.

ABOUT-FACE BY ARMY

But the effort being made here represents an astonishing about-face by the Army, a recognition that the drug culture is so pervasive among young soldiers that the traditional reliance on threat and punishment can't cope with it.

The largest unit here is the 82d Airborne Division. Last April, its commanding officer, Maj. Gen. John R. Deane, Jr., wrote:

"The use of drugs is accepted by the average soldier; thus at the present time there is little or no self-policing in the units . . . Rightly or wrongly, marijuana has been put in the same class as alcohol and cigarettes. Efforts to change this attitude in the civilian community have met with little success. Efforts to change this attitude in the Division have not been successful to date and even with an improved educational program it is highly doubtful that any significant attitude change would result."

In effect, Fort Bragg is tacitly tolerating the soft drug, marijuana, and aiming its campaign at hard drugs, like LSD and heroin.

DRUG USE ESTIMATES

Nobody here has any firm figures on the use of drugs but all authorities agree that it is widespread. Col. Nulsen hazards a guess that from 50 to 70 per cent of Bragg's soldiers have at least taken a marijuana cigarette, that perhaps 10 per cent smoke as freely as an older generation drinks a highball or cocktail and—the statistic that deeply concerns the command here—two or three per cent are "strung out" on heroin, amphetamines and other hard drugs. That means 800 to 1,000 addicts on this one post.

This is not a uniquely military phenomenon and no clear line can be drawn between the drug scene at Fort Bragg and at Fayetteville. GIs and civilian youngsters gather every evening in Rowan Park. There, drug use is so prevalent that the few pine-shaded acres are popularly known as "Skag Park." "Skag" is the current argot for heroin.

Cumberland County, which embraces Fayetteville and Fort Bragg, has a population of about 225,000. County authorities have officially calculated the number of "drug abusers" at 25,000. Of ths group, it is estimated that 10,000 are using hallucinogens, up to 300 are addicted to heroin and another 700 are "on the road to addiction."

These figures are not drawn from a metropolis, Fayetteville, with a population of 65,000, is Cumberland County's biggest town by far.

Doran Berry, who was Cumberland County's chief prosecuting attorney until two weeks ago and now heads its Narcotics Commission, says that the penetration of drugs in the area is "fantastic." "What is frightening," he says, "is that it is now easier to obtain heroin than marijuana."

Narcotics of one kind or another, he says, have turned up in junior high schools. Some 10-year-olds have been found drinking a patent medicine for asthma sufferers that contains opiates

According to Berry and Bragg's Provost Marshal, Col. Hervey Keator, the drugs flow in from a bewildering number of sources. Heroin comes from Richmond, Washington, Atlanta and New York; cocaine is imported from Miami; marijuana comes from "everywhere," in the mail, even in cookies sent to soldiers from home.

The flow is beyond the resources of any organized ring. As former prosector Berry says: "Everybody says, 'get the pusher.' But they're a dime a dozen. It's the box next to you in the barracks."

PROFITS CITED

The hard drugs can yield enormous profits. In "Skag Park," a 23-year-old airman from New York tells a properly vouched for reporter that he used to make week-end trips

XUM

home to buy half a "brick" of heroin for $600. He could, he said, divide this into 750 "caps" and sell them to fellow GIs for $8 to $10 each.

It is against this background that Bragg's commander, Lt. Gen. John J. Tolson, determined to launch a new attack last spring.

The precipitating factors were these: three GIs had died from overdoses of heroin; the post hospital in March reported an eight-fold increase in infectious hepatitis, from three cases to 25, probably caused by dirty hypodermic needles.

Tolson, another heavily decorated airborne officer, is a soft-spoken man of 54 who makes it a practice to speak privately with every soldier in his command about to receive a dishonorable, undesirable or bad conduct discharge. From these talks, he said, he began to realize the breadth of the drug milieu. For confirmation, he turned to Pat Reese, a reporter for the Fayetteville Observer. Reese is a former drug user who has played a central role here as a channel between the drug world and the community's military and civilian leaders.

From all this, Tolson concluded:

"It doesn't make sense. A guy who's an addict wants help. But we discharge him into a community that's less equipped to take care of him than we are. I felt like there's something we should do besides giving him an undesirable discharge."

Tolson did not ask the Pentagon for permission to launch a rehabilitation scheme, although he informally advised the Army's Surgeon General of his plan. "I've spent most of my service doing something I wasn't supposed to," he acknowledged with a faint smile.

He first ordered a change in Bragg's "education" program, an affair that consisted largely of military police officers lecturing soldiers on the punishments that lay in store for drug users and sellers. "Fear is the one thing you don't want with young people," Tolson observed.

SHAPING NEW PROGRAM

He and his staff are still shaping a new program aimed at two distinct audiences. One consists of the senior unit commanders and non-commissioned officers whose experience sanctions alcohol but is totally devoid of either sympathy or knowledge about drugs.

Tolson regards their education as a necessary component of leadership and says: "You'll get better morale, respect from your troops if they feel you're trying to do something for them, if your men know that you're interested in their welfare."

The second audience embraces the young soldiers in his command.

To reach these groups, Tolson's staff has staged "rap sessions," open-ended discussions, conducted not only by medical officers and academic experts but also by ex-addicts.

In addition, the command here is turning another unused ward into a "rap house" where soldiers troubled about their use of drugs can find coffee, companionship and sympathetic listeners. In time, Tolston's aides hope to create local "rap houses" in perhaps a dozen locations on this huge base, performing similar services.

This past week, the principal units here were instructed to nominate "Awareness Counselors," young men outside the chain of command, with some formal background in the social sciences, enjoying the trust of their peers and capable of advising soldiers caught in the drug maelstrom.

By far the most radical feature of "Operation Awareness" is the reclamation scheme in Ward 29.

MOST PATIENTS DESPERATE

Typically, a patient chooses this course in desperation. Paul M., a 22-year-old from Boston, came in four weeks ago because, "Man, I was dead—really dead." Paul had suffered a cardiac arrest, a heart stoppage, in "Skag Park" from a heroin overdose. He had been barely saved by mouth-to-mouth resuscitation.

Joe D., the first scheduled 'graduate,' had been absent without leave for 24 days, when he looked into his future and "I saw nothing." At his parents' urging, he came back and turned himself in to the course.

The first three or four days, a new patient is detoxified or rid of the harmful chemicals in his blood stream. He is given doses of methadone to relieve his withdrawal stress (a drug whose use is still forbidden in North Carolina's civilian world) and allowed to do largely as he pleases.

Thereafter, he is offered a regimen that amounts to an elaborately calibrated carrot and stick. He is awarded "points" for a wide range of military and non-military activities: making his bed, keeping his bed area neat, washing an ambulance, helping at clerical chores, painting a picture, making a model, attending a "shooting" session, passing a high school or college course and watching television, playing cards, receiving a visitor, making a telephone call.

As a patient "earns" points, he passes on to more demanding tasks and wins a corresponding measure of greater freedom and responsibility. No punishment is visited on those who drop out, and most of the 52 have as the program increased in rigor. Col. Keator, the Provost Marshal, says he and his men scrupulously stay way from the ward, although arrested drug users are a major source of leads to drug sellers.

No one knows whether this technique will free an addict from his addiction. Maj. Crews, psychiatrist in charge, says that at least four former patients have gone back to the hard drugs that brought them to his ward.

MAJOR DEFENDS TECHNIQUE

However, he dismisses any suggestion that his Pavlovian "shooting session" reflects an over-simple, mechanistic model of human life. He cites the literature of behaviorist psychology to support his view.

Crews is equally unsympathetic to the notion that his system of gains and losses simply substitutes one form of dependency for another.

He argues that drug users are essentially immature. "We are dealing with adolescent patterns. It is most important for children and adults to have clear limits. You make their world safe for them with limits. There is nothing compulsory in this. But we do make clear the costs and rewards for acts. The clearer this is, the more effectively you'll reorganize behavior."

Beyond questions of technique lie a larger question, whether a military establishment is the proper institution to attempt sensitive social, psychological and medical change.

The patients in Ward 29 express few doubts. Joe D., there since July 14, says flatly: "It's damn good." Paul M., the inmate of four weeks, says: "I had to do this. It's a fine program—if it doesn't become too commercialized or militarized."

Gen. Tolson is equally emphatic. "Civilian society," he says, "isn't equipped to take care of this. The soldier is here and there's a big taxpayer investment in him. Rather than send him outside, let's take that man so he can perform."

Outside the Fort, Berry of the Narcotics Commission, agrees.

"I'm delighted to see this," he says. "For too long, there has been a curtain between the military and the civilians. We couldn't get doctors to staff a program like this. The advantages far outweigh the disadvantages."

At a hangout for drug scene participants near Skag Park, 23-year-old Bill, a soldier from Camden, N.J. and a sometime user of both hard and soft drugs, says:

"Sure this is a good thing. There'll be some con artists in it and the word has spread you can get drugs out of it. But anything's better than being busted (arrested) and it might help some guys who are strung out."

AMENDMENT NO. 1026

Mr. HUGHES. Mr. President, on behalf of the Senator from California (Mr. CRANSTON), myself, and all the members of the Committee on Labor and Public Welfare, I would like to lay before the Senate amendment No. 1026 and make it the pending business.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. HUGHES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 1026 is as follows:

In the table of contents of the bill, strike out all that part pertaining to title I and insert in lieu thereof the following:

"TITLE I—PREVENTION AND REHABILITATION PROGRAMS RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

"PART A—FINDINGS AND DECLARATION OF PURPOSES

"Sec. 101A. Findings.
"Sec. 102A. Declarations.

"PART B—DEFINITIONS

"Sec. 111. Definitions.
"Sec. 112. Additional definitions.

"PART C—NATIONAL INSTITUTE FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

"Sec. 121. Establishment of the Institute.
"Sec. 122. Administrative functions of the Secretary.
"Sec. 123. Planning functions of the Secretary.
"Sec. 124. Coordination functions of the Secretary.
"Sec. 125. Statistical functions of the Secretary.
"Sec. 126. Research functions of the Secretary.
"Sec. 127. Training functions of the Secretary.
"Sec. 128. Educational functions of the Secretary.
"Sec. 129. Reporting functions of the Secretary.

"PART D—PREVENTION AND TREATMENT FOR FEDERAL EMPLOYEES

"Sec. 131. Drug abuse and drug dependence among Federal Government employees.
"Sec. 132. Confidentiality of records.

"PART E—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

"Subpart I—Comprehensive State Plans

"Sec. 141. Comprehensive State plans.

"Subpart II—Formula Grants

"Sec. 142. Authorization.
"Sec. 143. State allotment.
"Sec. 144. State plans.
"Sec. 145. Applications and conditions.

"Subpart III—Project Grants

"Sec. 146. Authorizations.
"Sec. 147. Grants and contracts for the prevention and treatment of drug abuse and drug dependence.
"Sec. 148. Application for financial assistance from units of local government and private organizations.
"Sec. 149. Approval by National Advisory Council on Drug Abuse and Drug Dependence.

"Subpart IV—General

"Sec. 150. General.
"Sec. 150A. Admission of drug abusers and drug dependent persons to private and public hospitals.

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"PART F—THE NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE
"Sec. 151. Establishment of Council.
"Sec. 152. Approval by Council of certain grants under Community Mental Health Centers Act.
"PART G—INTERGOVERNMENT COORDINATING COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE
"Sec. 161. Establishment of Council.
"Sec. 162. Functions of Council.
"PART H—PROGRAMS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT RELATING TO DRUG ABUSE AND DRUG DEPENDENCY
"Sec. 171. Broader authority under Community Mental Health Centers Act.
"Sec. 172. Broader treatment authority in Public Health Service hospitals for persons with drug abuse and drug dependency problems.
"Sec. 173. Research under the Public Health Service Act in drug abuse and drug dependency.
"PART I—GENERAL
"Sec. 181. Saving provision.
"Sec. 182. Records.
"Sec. 183. Payments."

In the text of the bill, strike out all of title I and insert in lieu thereof the following:

"TITLE I—PREVENTION AND REHABILITATION PROGRAMS RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

"PART A—FINDINGS AND DECLARATION OF PURPOSES

"FINDINGS

"SEC. 101A. The Congress finds that—

"(a) Drug abuse and drug dependence are rapidly increasing throughout the country. Drug abuse can seriously impair health, and can lead to drug dependence. Drug dependence is an illness or disease, which requires a broad range of health and rehabilitation services for treatment.

"(b) Existing laws and their implementation have not been effective to prevent drug abuse and drug dependence or to provide sufficient education, treatment, and rehabilitation of drug abusers and drug dependent persons. Increasing education, treatment, and rehabilitation services, and coordination of efforts, offer the best possibility of reducing drug abuse and drug dependence. A major commitment of health and social resources and Government funds is required to institute an adequate and effective Federal program for the prevention and treatment of drug abuse and drug dependence.

"(c) There is a lack of authoritative information and creative projects designed to educate students and others about drugs and their abuse. High priority should be given to the development, evaluation, and dissemination of educational and informational materials.

"(d) Drug dependent persons commit a high percentage of the serious crime in many cities in order to secure funds with which to satisfy their habit. Criminal incarceration without appropriate treatment has proved ineffective to deter drug related crime. Effective treatment services and successful rehabilitation offer the best possibility of avoiding a high rate of recidivism.

"(e) Present Federal programs for drug abuse and drug dependence should have a high level of priority and should be closely coordinated within the Government. If Federal research, social, health, and rehabilitation laws are adequately used to attack drug abuse and drug dependence, this will contribute to the recognition of responsibility for meeting these problems by public and private State and local agencies.

"(f) Federal officials must effectively handle drug abuse and drug dependence among those for whom the Government has special responsibilities—civilian employees, military personnel, veterans, Federal offenders, American Indians, and Alaskan Natives.

"(g) Drug abusers and drug dependent persons can be best treated and rehabilitated through effective community-based programs, some of which provide a comprehensive range of services and which are integrated with and involve the active participation of a wide range of public and nongovernmental agencies, and some of which provide a more selective range of services arising from local initiative, educational, and peer group assistance programs. Existing treatment and rehabilitation programs are now inadequate to meet the growing demands for such services.

"(h) There is a critical shortage of professional, scientific, educational, and other personnel trained to deal effectively with drug abuse and drug dependence.

"DECLARATIONS

"SEC. 102A. The Congress declares—

"(a) There shall be established and maintained in the Public Health Service, a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence through which the Secretary shall coordinate all Federal health, rehabilitation, and other social programs related to the prevention and treatment of drug abuse and drug dependence and administer the programs and authorities established by this title.

"(b) An increased effort should be made to encourage the development of new and improved curriculums on the problems of drug abuse; to demonstrate the use of such curriculums in model educational programs, and to evaluate the effectiveness thereof; to disseminate curricular materials and significant information for use in educational programs throughout the Nation; to provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders; and to offer community education programs for parents and other adults on drug use and abuse.

"(c) Major Federal action and Federal assistance to State and local programs shall be undertaken to engage in and encourage planning, coordination, statistics, research, training, education, and reporting with respect to drug abuse and drug dependence, and to provide equal access to humane care, effective treatment, and rehabilitation for all drug abusers and drug dependent persons regardless of their circumstances.

"(d) Research relating to drug abuse and drug dependence and to controlled substances shall be fostered and assisted, and medical practitioners and other qualified investigators shall be encouraged and protected in their research efforts.

"(e) In addition to the provisions of this title, all other Federal legislation providing for Federal or federally assisted State research, prevention, treatment, or rehabilitation programs in the fields of health, education, welfare, and rehabilitation shall be utilized to reduce drug abuse, drug dependence, and drug-related crime.

"PART B—DEFINITIONS

"DEFINITIONS

"SEC. 111. The definitions in title II of this Act shall also apply for purposes of this title.

"ADDITIONAL DEFINITIONS

"SEC. 112. As used in this title:

"(a) 'Court' includes all Federal courts, including any United States magistrate.

"(b) 'Department' means the Department of Health, Education, and Welfare.

"(c) 'Director' means the Director of the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence.

"(d) 'Drug abuser' means any person who uses any controlled substance under circumstances that constitute a violation of law.

"(e) 'Drug dependent person' means a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled substance on a continuing basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

"(f) 'Emergency care service' includes all appropriate short-term services for the acute effects of drug abuse and drug dependence, which (1) are available twenty-four hours a day, (2) are community based and located so as to be quickly and easily accessible to patients, and (3) provide drug withdrawal and other appropriate medical care and treatment, professional examination, diagnosis, and counseling with respect to possible drug dependence, and referral for other treatment and rehabilitation.

"(g) 'Inpatient services' includes all treatment and rehabilitation services for drug abuse and drug dependence provided for a resident patient while he spends full time in a treatment institution.

"(h) 'Institute' means the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence in the Public Health Service.

"(i) 'Intermediate care services' includes all treatment and rehabilitation services for drug abuse and drug dependence provided for a resident patient while he spends part time in a treatment facility (including but not limited to a therapeutic community or halfway house which is community based and located so as to be quickly and easily accessible to patients.

"(j) 'Outpatient services' includes all treatment and rehabilitation services (including but not limited to clinics, social centers, vocational rehabilitation services, welfare centers, and job referral services) for drug abuse and drug dependence provided while the patient is not a resident of a treatment facility which are community based and located so as to be quickly and easily accessible to patients.

"(k) 'Peer group assistance' includes all prevention, treatment, and rehabilitation services (including but not limited to telephone counseling and information services, informal, open-admission facilities for support, guidance, referral, and temporary residence and therapeutic, self-help, residential facilities) for drug abuse and drug dependence primarily organized and operated by persons from similar social, cultural, and age backgrounds as those of the persons served under any such program, in facilities which are community based and located so as to be quickly and easily accessible to the persons served.

"(l) 'Prevention and treatment' includes all appropriate forms of educational programs and services (including but not limited to radio, television, films, books, pamphlets, lectures, adult education, and school courses); planning, coordinating, statistical, research, training, evaluation, reporting, classification, and other administrative, scientific, or technical programs or services; and screening, diagnosis, treatment (emergency care services, inpatient services, intermediate care services, and outpatient services, vocational rehabilitation care services, and outpatient services), vocational rehabilitation, job training and referral, and other rehabilitation programs or services; but does not include law enforcement activities.

"(m) 'Secretary' means the Secretary of Health, Education, and Welfare.

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"PART C—NATIONAL INSTITUTE FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

"ESTABLISHMENT OF THE INSTITUTE

"SEC. 121. (a) There is hereby established within the Public Health Service a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence to administer the programs and authorities assigned to the Secretary by this title. The Secretary, acting through the Institute, shall develop and conduct a comprehensive health, education, research, and rehabilitation program for the prevention and treatment of drug abuse and drug dependence.

"(b) The Institute shall be under the direction of a Director, who shall be appointed by the Secretary.

"(c) The Institute and its programs and services shall be staffed with an adequate number of personnel, who shall possess appropriate qualifications and competence, and some of whom may formerly have been drug abusers or drug dependent persons. Prior drug related criminal arrests or convictions shall not be a bar to such employment.

"ADMINISTRATIVE FUNCTIONS OF THE SECRETARY

"SEC. 122. It shall be the duty of the Secretary, acting through the Institute, with respect to his administrative functions to—

"(a) assist Federal departments and agencies in the development and maintenance of appropriate prevention, treatment, and rehabilitation programs and services in accordance with section 124(a) of this title;

"(b) review and provide in writing an evaluation of the adequacy and appropriateness of the provisions relating to the prevention and treatment of drug abuse and drug dependence of all comprehensive State health, welfare, and rehabilitation plans submitted to the Federal Government pursuant to Federal law, including but not limited to those submitted pursuant to section 5(a) of the Vocational Rehabilitation Act, section 141 of this title, section 604 of the Public Health Service Act, section 1902 of title XIX of the Social Security Act, and section 204 of part A of the Community Mental Health Centers Act;

"(c) administer the grants and contracts authorized under part E of this title; and

"(d) provide assistance to any other service or program, or take any other action, consistent with the intent and objectives of this title.

"PLANNING FUNCTIONS OF THE SECRETARY

"SEC. 123. It shall be the duty of the Secretary, acting through the Institute, with respect to his planning functions to—

"(a) develop a detailed and comprehensive Federal drug abuse and drug dependence prevention and treatment plan to implement the objectives and policies of this title. The plan shall be submitted to Congress as soon as practicable, but not later than one year after the enactment date of this title. Other responsibilities of the Secretary, as set out in this title, shall not be interrupted or delayed pending the initial development of such a plan. It shall be reviewed annually and submitted to Congress with any appropriate revisions as part of the Secretary's annual report. The Secretary shall, in developing the comprehensive Federal plan, consult and collaborate with all appropriate public and private departments, agencies, institutions, organizations, and individuals. The plan shall specify how all available health, welfare, educational, and rehabilitation resources, and how funds, programs, services, and facilities authorized under existing Federal legislation, are to be utilized;

"(b) develop model drug abuse and drug dependence prevention and treatment plans for State and local governments, reflecting the social, geographic, and economic variables of drug and drug dependence problems, and utilizing the concepts incorporated in the comprehensive Federal plan. The model plans shall be reviewed on a periodic basis and revised to keep them current. They shall specify how all types of community resources and existing Federal legislation may be utilized;

"(c) provide assistance and consultation to State and local governments, public and private agencies, institutions, organizations, and individuals with respect to the prevention and treatment of drug abuse and drug dependence; and

"(d) develop models of drug abuse and drug dependence treatment and rehabilitation legislation for State and local governments, which utilize the concepts incorporated in this title.

"COORDINATION FUNCTIONS OF THE SECRETARY

"SEC. 124. It shall be the duty of the Secretary, acting through the Institute, with respect to his coordinating functions to—

"(a) upon request, assist the Civil Service Commission, the Department of Defense, the Veterans Administration, and other Federal departments and agencies in the development and maintenance of appropriate prevention, treatment, and rehabilitation programs and services for drug abuse and drug dependence pursuant to part D of this title;

"(b) serve in a consulting capacity to all Federal courts, departments, and agencies, and to be responsible for assisting in the development and coordination of a full range of programs, facilities, and services available to them for education, diagnosis, planning, counseling, treatment, and rehabilitation with respect to the drug abuse and drug dependence problems they encounter;

"(c) coordinate all Federal social, rehabilitation, and other efforts to deal with the problem of drug abuse and drug dependence;

"(d) encourage and assist State and local government programs and services, and programs and services of public and private agencies, institutions, and organizations, for the prevention and treatment of drug abuse and drug dependence;

"(e) stimulate more effective use of existing resources and available services for the prevention and treatment of drug abuse and drug dependence;

"(f) cooperate with the National Advisory Council on Drug Abuse and Drug Dependence, the Civil Service Commission, and other appropriate Federal departments and agencies, to develop a policy consistent with this title with regard to Federal employees who are drug abusers or drug dependent persons, involving appropriate programs and services for the prevention and treatment of drug abuse and drug dependence among such employees;

"(g) assist State and local governments in coordinating programs among themselves for the prevention and treatment of drug abuse and drug dependence; and

"(h) after consulting with national organizations representative of persons with knowledge and experience in the treatment of drug dependence, report from time to time to the Congress on appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of drug dependent persons.

"STATISTICAL FUNCTIONS OF THE SECRETARY

"SEC. 125. It shall be the duty of the Secretary, acting through the Institute, with respect to his statistical functions to—

"(a) gather and publish statistics pertaining to drug abuse, drug dependence, and drug related problems; and

"(b) promulgate regulations specifying uniform statistics to be obtained, records to be maintained, and reports to be submitted, on a voluntary basis by public and private departments, agencies, organizations, practitioners, and other persons with respect to drug abuse, drug dependence, and drug related problems. Such statistics and reports shall not reveal the identity of any patient or drug dependent person or other confidential information.

"RESEARCH FUNCTIONS OF THE SECRETARY

"SEC. 126. (a) It shall be the duty of the Secretary, acting through the Institute, with respect to his research functions to—

"(1) conduct and encourage all forms of research, investigations, experiments, and studies relating to the cause, epidemiology, sociological aspects, prevention, diagnosis, and treatment of drug abuse and drug dependence;

"(2) conduct, and encourage and assist others to conduct, all forms of research, investigations, experiments, and studies relating to the toxicology, pharmacology, chemistry, effects on the health of drug abusers, and danger to the public health, of controlled substances;

"(3) coordinate such research with research conducted by the Institute and with research conducted by other Federal, State, and local public and private nonprofit agencies, institutions, organizations, and individuals. To facilitate this activity, the Secretary shall establish and maintain a complete and current register of all medical practitioners and other qualified investigators engaged in any form of or research on controlled substances;

"(4) make available research facilities and resources of the Administration to appropriate authorities, health officials, and individuals engaged in investigations or research related to the purposes of this title. Such resources shall include the maintenance of an adequate supply of controlled substances for investigational and research purposes, and the establishment of criteria pursuant to which any registered investigator is to be authorized to manufacture or otherwise acquire sufficient controlled substances for his legitimate investigational and research needs;

"(5) make grants to public and private nonprofit agencies, organizations, and institutions, and contracts with public and private agencies, institutions, and organizations, and individuals for such research;

"(6) establish an information center on such research, which will gather and contain all available published and unpublished data and information. All Federal departments and agencies shall send to the Institute any unpublished data and information pertinent to the cause, prevention, diagnosis, and treatment of drug abuse and drug dependence, and the toxicology, pharmacology, epidemiology, incidence of drug abuse and drug dependence, effects on the health of drug abusers, and danger to the public health of controlled substances, and the Institute shall make such data and information widely available;

"(7) establish and maintain research fellowships in the Institute and elsewhere, and provide for such fellowships through grants to public and private nonprofit agencies, institutions, and organizations;

"(8) investigate methods for determining more rapid and precise methods for determining the extent of drug use by an individual in a given time period and the effects which individuals are likely to experience from such use, and publish on a current basis information concerning uniform methodology and technology for making such determinations;

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"(9) evaluate existing and proposed new programs and services for the prevention and treatment of drug abuse and drug dependence.

"(b) Any information obtained through investigation or research conducted pursuant to this title shall be used in ways so that no name or identifying characteristics of any person shall be divulged without the approval of the Secretary and the consent of the person concerned. Persons engaged in research pursuant to this section shall protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons engaged in such research shall protect the privacy of such individuals and may not be compelled in any Federal, State, civil, criminal, administrative, legislative, or other proceeding to identify such individuals.

"TRAINING FUNCTIONS OF THE SECRETARY

"Sec. 127. It shall be the duty of the Secretary, acting through the Institute, with respect to his training functions to—

"(a) establish interdisciplinary and bilingual training programs for professional and paraprofessional personnel with respect to drug abuse and drug dependence;

"(b) encourage the establishment of training programs, including interdisciplinary and bilingual training programs, for professional and paraprofessional personnel, including peer group assistance personnel, by State and local governments and by public and private educational institutions and agencies with respect to drug abuse and drug dependence; and

"(c) establish and maintain training fellowships in the Institute and elsewhere, and provide for such fellowships through grants to public and private nonprofit agencies, institutions, and organizations.

"EDUCATIONAL FUNCTIONS OF THE SECRETARY

"Sec. 128. It shall be the duty of the Secretary, acting through the Institute, with respect to his educational functions to—

"(a) develop, assist others to develop, and encourage the development, of curricula on the use and abuse of drugs for utilization in elementary, secondary, adult and community education programs. Such curricula should reflect the social, geographical, and economic variables of drugs usage and abuse, include relevant data and other information, and include bilingual curricula;

"(b) develop, assist others to develop, and encourage the development of curricula on the use and abuse of drugs for utilization by parent-teachers associations, adult education centers, private citizen groups, community leaders and other parents and adults. Such curricula should reflect the social, geographical, and economic variables of drug usage and abuse, include relevent data and other information, and include bilingual curricula;

"(c) develop, assist others to develop, and encourage the development of a broad variety of information and educational materials for use in all media to reach all segments of the population that can be utilized by public and private agencies, institutions, and organizations in informational and educational programs relating to drug use and abuse. Such information and materials should reflect the social, geographical, and economic variables of drug usage and abuse, include relevant data and other information, and include bilingual curricula;

"(d) establish educational courses, guides and units on the causes of, effects of, and treatment for, drug abuse and drug dependence, for Federal law enforcement officials (including prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officers, and other law enforcement personnel), Federal welfare, vocational rehabilitation, military, and veterans personnel, and other Federal officials who come in contact with drug abuse and drug dependence problems. Such courses, guides, and units should reflect the social, geographical, and economic variables of drug usage and abuse;

"(e) develop, assist others to develop, and encourage the development of educational courses, guides, and units on the causes of, effects of, and treatment for, drug abuse and drug dependence for use by appropriate State and local government and private agencies, institutions, and organizations, for State and local law enforcement officials (including prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officials, and other law enforcement personnel), State and local welfare, vocational rehabilitation, and veterans personnel, and other State and local officials and community leaders. Such courses, guides, and units should reflect the social, geographical, and economic variables of drug usage and abuse;

"(f) develop, assist others to develop, and encourage the development of a broad range of community-oriented education programs on drug abuse and drug dependence for all segments of the population, including interested and concerned parents, young persons, community leaders, drug abusers and drug dependents, and other individuals and groups within a community. Such programs shall include peer group assistance programs and utilization of former drug abusers, drug dependent persons, and persons with relevant backgrounds similar to those of the persons to be educated;

"(g) evaluate, assist others in evaluating, and encourage the evaluation of curricula, guidelines, units, and other informational and educational materials relating to the use and abuse of drugs. Such evaluations should include an examination of intended and actual impact of such informational and educational materials and the identification of strengths and weaknesses in the information and educational materials;

"(h) conduct, assist others in conducting, and encourage the conducting of preservice and inservice training programs on drug use and abuse for teachers, counselors, other educational personnel, law enforcement officials, and other public service and community leaders and personnel;

"(i) recruit, train, organize, and employ professional and other persons, including former drug abusers, and drug dependent persons, to organize and participate in programs of public education about drug usage and abuse;

"(j) serve as a clearinghouse for the collection, preparation, and dissemination of all information relating to drug abuse and drug dependence, including State and local drug abuse and dependence treatment plans, availability of treatment resources, training and educational programs, statistics, research, and other pertinent data and information;

"(k) coordinate activities carried on by all departments, agencies, and instrumentalities of the Federal government with respect to health and other educational aspects of usage and abuse; and

"(l) undertake such other activities as the Secretary may consider important to a national program of education relating to drug usage and abuse.

"REPORTING FUNCTIONS OF THE SECRETARY

"Sec. 129. It shall be the duty of the Secretary, acting through the Institute, with respect to his reporting functions to—

"(a) submit an annual report to Congress, which shall specify the actions taken and services provided and funds expended under each provision of this title and an evaluation of their effectiveness, and which shall contain the current Federal drug abuse and drug dependence prevention and treatment plan;

"(b) submit such additional reports as may be requested by the President or by Congress; and

"(c) submit to the President and to Congress such recommendations as will further the prevention and treatment of drug abuse and drug dependence.

"Part D—Prevention and Treatment for Federal Employees

"DRUG ABUSE AND DRUG DEPENDENCE AMONG FEDERAL GOVERNMENT EMPLOYEES

"Sec. 131. (a) The Civil Service Commission shall be responsible for developing and maintaining, in cooperation with the Secretary and other Federal agencies and departments, appropriate policies and services for the prevention and treatment of drug abuse and drug dependence among Federal civilian employees, consistent with the purposes and intent of this title. Such policies and services shall make optimal use of existing governmental facilities, services, and skills. Federal civilian employees who are drug abusers or who are drug dependent shall retain the same employment and other benefits as other persons afflicted with serious health problems and illnesses, and shall not lose, solely because they are drug abusers or drug dependent persons, pension, retirement, medical, or other rights. A good faith attempt shall be made to find appropriate work within the Government which does not involve the national security during the employee's rehabilitative treatment, rather than placing him on sick leave.

"(b) The Secretary, acting through the Institute, shall be responsible for fostering similar drug abuse prevention, treatment, and rehabilitation services in State and local governments and in private industry.

"(c) No person may be denied or deprived of Federal employment or a Federal professional or other license or right solely on the ground of prior drug abuse or prior drug dependence, except with regard to positions involving national security as specified in regulations promulgated by the department or agency in which he is employed.

"(d) Nothing herein shall prohibit the dismissal from employment of a Federal civilian employee who, as a result of drug abuse or drug dependence and failure to accept appropriate treatment, cannot properly function in his employment.

"CONFIDENTIALITY OF RECORDS

"Sec. 132. (a) All patient records prepared or obtained pursuant to this title, and all information contained therein, shall remain confidential and may be disclosed, with the patient's consent, only to medical personnel and only for purposes of diagnosis and treatment of the patient, or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug dependence or, for research purposes, to public or private research organizations, agencies, institutions, or individuals whose competence and research programs have been approved by the Secretary. Disclosure may be made for purposes unrelated to such treatment, benefits, or research upon an order of a court after application showing good cause therefor. In determining whether there is good cause for disclosure, the court shall weigh the need for the information sought to be disclosed against the possible harm of disclosure to the person to whom such information pertains, to the physician-patient relationship, and to the treatment services, and may condition disclosure of the information upon any appropriate safeguards. No such records or information may be used to initiate criminal charges against a patient under any circumstances.

"(b) All patient records and all information contained therein relating to drug abuse or drug dependence prepared or obtained by a private practitioner shall remain confidential, and may be disclosed only with the patient's consent and only to medical personnel

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for purposes of diagnosis and treatment of the patient or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug dependence.

"Part E—Federal Assistance for State and Local Programs

"Subpart I—Comprehensive State Plans

"COMPREHENSIVE STATE PLANS

"Sec. 141. Section 314(a) (2) of the Public Health Service Act is amended to add:

" '(L) provide for services for the prevention and treatment of drug abuse and drug dependence, commensurate with the extent of the problem, such plan to (i) estimate the number of drug abusers and drug dependent persons within the various areas within the State and the extent of the health problem caused, (ii) establish priorities for the improvement of the capabilities of State and local governments and public and private nonprofit agencies, institutions, and organizations with respect to prevention and treatment of drug abuse and drug dependence, and (iii) specify how all available community health, welfare, educational, and rehabilitation resources, and how funds, programs, services, and facilities authorized under existing Federal and State legislation, are to be used for these purposes.'

"Subpart II—Formula Grants

"AUTHORIZATION

"Sec. 142. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1971, the sum of $10,000,000; for the fiscal year ending June 30, 1972, the sum of $20,000,000; for the fiscal year ending June 30, 1973, the sum of $25,000,000; for grants to States to assist them in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with drug abuse and drug dependence.

"STATE ALLOTMENT

"Sec. 143. (a) For each fiscal year the Secretary shall, in accordance with regulations, allot the sums appropriated for such year pursuant to section 142 among the States on the basis of the relative population, financial need, and need for more effective prevention, treatment and rehabilitation of drug abuse and drug dependence; except that no such allotment to any State (other than the Canal Zone and the Trust Territory of the Pacific Islands) for any fiscal year shall be less than $200,000.

"(b) Any amount so allotted to a State (other than the Canal Zone and the Trust Territory of the Pacific Islands) and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount, remaining unobligated at the end of the sixth month following the end of such year for which it was allotted, which the Secretary determines will remain unobligated by the close of such next fiscal year may be reallotted by the Secretary, to be available for the purposes for which made until the close of such next fiscal year, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this title, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under subsection (a) to the Canal Zone or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such two additional years, which the Secretary determines will remain unobligated at the close of the second of such additional years may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such additional years, to any other of such four States which have need therefor, of such basis as the Secretary deems equitable and consistent with the purposes of this subpart, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.

"(c) At the request of any State, a portion of any allotment or allotments of such State under this subpart shall be available to pay that portion of the expenditures found necessary by the Secretary for the proper and efficient administration during such year of the State plan approved under this subpart, except that not more than 10 per centum of the total of the allotments of such State for a year, or $50,000, whichever is greater, shall be available for such purpose for such year.

"STATE PLANS

"Sec. 144. (a) Any State desiring to participate in this subpart shall submit a State plan for carrying out its purposes. Such plan must—

"(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

"(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) will have authority to carry out such plan in conformity with this subpart;

"(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations or groups, and of public agencies concerned with the prevention and treatment of drug abuse and drug dependence, to consult with the State agency in carrying out the plan;

"(4) set forth, in accordance with criteria established by the Secretary, a survey of need for the prevention and treatment of drug abuse and drug dependence, including a survey of the health facilities needed to provide services for drug abuse and drug dependence and a plan for the development and distribution of such facilities and programs throughout the State;

"(5) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

"(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

"(7) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (6);

"(8) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary;

"(9) provide reasonable assurance that Federal funds made available under this subpart for any period may be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the programs described in this subpart, and will in no event supplant such State, local, and other non-Federal funds; and

"(10) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions and purposes of this subpart.

"(b) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

"APPLICATIONS AND CONDITIONS

"Sec. 145. (a) For each project pursuant to a State plan approved under this subpart for which a grant is sought from an allotment under section 143, there shall be submitted to the Secretary, through the State agency designated in accordance with section 144, an application by the State or a political subdivision thereof or by a public or other nonprofit agency, institution or organization.

"(b) The Secretary shall approve such application if (1) there remains sufficient balance in the allotment (available for the purpose) determined for such State; (2) the application is in conformity with the State plan approved under section 144; (3) he obtains assurances that any facility or portion thereof to be constructed or modernized and any program to be carried out will be available to all persons residing in the territorial area of the applicant; and (4) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require. The Secretary may to the extent he determines it would not interfere with the objectives of this subpart, base his findings and determinations under this subsection on certifications by the State agency.

"(c) No application under this section shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

"(d) Amendment of an approved application shall be subject to approval in the same manner as an original application.

"Subpart III—Project Grants

"AUTHORIZATIONS

"Sec. 146. There are hereby authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1971; $45,000,000 for the fiscal year ending June 30, 1972; and $70,000,000 for the fiscal year ending June 30, 1973, to carry out the provisions of this subpart. Any appropriated funds shall remain available until expended.

"GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

"Sec. 147. (a) The Secretary, acting through the Institute, is authorized to make grants to public and private nonprofit agencies, organizations, and institutions and enter into contracts with agencies, organizations, institutions, and individuals for the prevention and treatment of drug abuse and drug dependence to assist State and local governments and public and private agencies, institutions, organizations, and individuals to—

"(1) (a) meet the costs of constructing, equipping, and operating treatment and rehabilitation facilities, including but not limited to emergency medical, inpatient, intermediate care, outpatient, and peer group assistance facilities for drug abusers and drug dependent persons, and (b) to assist them to meet, for the temporary periods specified in subsection (c) of this section, a portion of the costs of compensation of personnel for

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the initial operation of such facilities, and of new services in existing facilities for drug abusers and drug dependent persons;

"(2) Carry out prevention and education projects and services, including:

"(a) projects for the development of curricula on the use and abuse of drugs, including the evaluation and selection of exemplary existing materials and the preparation of new and improved curricular materials for use in elementary, secondary, adult, and community education programs and conduct projects designed to demonstrate, and test the effectiveness of such curricula;

"(b) projects for the dissemination of curricular materials and other significant information regarding the use and abuse of drugs to public and private elementary, secondary, adult, and community education programs;

"(c) evaluations of the effectiveness of curricula tested in use in elementary, secondary, and adult and community education programs;

"(d) projects for the development, evaluation, and dissemination of a variety of informational and educational materials for use in all media to reach various segments of the population that can be utilized by public and private agencies, organizations and institutions in informational and educational programs relating to drug use and abuse;

"(e) preservice and inservice training programs on drug abuse (including courses of study, institutes, seminars, workshops, and conferences) for teachers, counselors, and other educational personnel, law enforcement officials and other public service and community leaders and personnel;

"(f) Community education programs on drug abuse (including seminars, workshops, and conferences) especially for parents and other adults in the community;

"(g) evaluations of the training and community education programs described in clauses (e) and (f), including the examination of the intended and actual impact of such programs, the identification of strengths and weaknesses in such programs, and the evaluation of materials used in such programs; and

"(h) community-oriented education programs on drug abuse and drug dependence, including development of a broad range of community-oriented education programs on drug abuse and drug dependence for all segments of the population, including interested and concerned parents, young persons, community leaders, drug abusers and drug dependents, and other individuals and groups within a community. Such programs shall include peer group assistance programs and utilization of former drug abusers, drug dependent persons, and persons with relevant backgrounds similar to those of the persons to be educated.

"(3) conduct research, demonstration, and evaluation projects, including surveys and field trials, looking toward the development of improved, expanded, and more effective methods of prevention and treatment of drug abuse and drug dependence;

"(4) provide education and training for professional personnel, including medical, psychiatric, vocational rehabilitation, and social welfare personnel, in academic and professional institutions and in postgraduate courses about the prevention and treatment of drug abuse and drug dependence, and provide training for such personnel in the administration, operation, and supervision of programs and services for the prevention and treatment of drug abuse and drug dependence;

"(5) recruit, educate, train, organize, and employ community drug abuse and drug dependence prevention and treatment personnel to serve with and under the direction of professional medical, psychiatric, vocational rehabilitation, and social welfare personnel in drug abuse and drug dependence prevention, treatment, and rehabilitation programs. Prior drug abuse or drug dependence and prior criminal arrests or convictions shall not be a bar to such recruitment, education, training, organization, and employment;

"(6) provide services in correctional and penal institutions for the prevention and treatment of drug abuse and drug dependence;

"(7) provide services, in cooperation with schools, law enforcement agencies, courts, and other public and private nonprofit agencies, institutions, and organizations, for the prevention and treatment of drug abuse and drug dependence among juveniles and young adults. These services, where feasible, shall include curricula for drug abuse education in elementary and secondary schools, and among parents and other adults;

"(8) provide programs and services in cooperation with local law enforcement agencies, the courts, and other public and private nonprofit agencies, institutions and organizations, for the instruction of law enforcement officers, prosecuting attorneys, court personnel, the judiciary, probation and parole officers, correctional officials and legal aid, public defender, and neighborhood legal services attorneys with respect to the causes, effects, prevention, and treatment of drug abuse and drug dependence. Such programs and services shall include, where possible, a full range of services available to State and local courts for diagnosis, counseling, and treatment for drug abuse and drug dependence for persons coming before the courts; and

"(9) provide services for outpatient counseling of drug abusers and drug dependent persons to include employment, welfare, legal, education, and other assistance, in cooperation and coordination with welfare and rehabilitation personnel.

"(b) Projects for which grants and contracts are made under this subpart shall be community based, and shall include both those that provide a comprehensive range of services and are integrated with and involve the active participation of a wide range of public and nongovernmental agencies, organizations, institutions, and individuals, and those that provide a more selective range of services arising from local initiative, educational and peer group assistance programs.

"(c) The amount of any Federal grant made under subsection (a) of this section, except with regard to certain grants made under paragraph (1) of subsection (a), shall not exceed 100 per centum of the cost of the program or project specified in the application for such grant. The amount of any Federal grant made under paragraph (1)(a) of subsection (a) of this section to meet costs of constructing and equipping the facilities referred to in such paragraph shall not exceed 90 per centum of the cost of the program or project specified in the application for such grant. The amount of any Federal grant made under paragraph (1) (b) of subsection (a) of this section to meet the costs of compensation of personnel and other operating costs may be made only for the period beginning with the first day for which such a grant is made and ending with the close of eight years after such first day; and such grants may not exceed 90 per centum of such costs for each of the first two years after such first day, 80 per centum of such costs for the third year after such first day, 75 per centum of such costs for the fourth and fifth years after such first day, and 70 per centum of such costs for each of the next three years after such first day.

"(d) An amount, not to exceed 5 per centum of the amount appropriated pursuant to the provisions of this part for any fiscal year, shall be available to the Secretary to make grants to local public or nonprofit private organizations to cover up to 100 per centum of the costs (but in no case to exceed $100,000) of projects for assessing local needs for programs of services for drug abusers and drug dependents, designing such programs, obtaining local financial and professional assistance and support for such programs in the community, and fostering community involvements in initiating and developing such programs in the community. In no case shall a grant under this subsection be for a period in excess of one year; nor shall any grant be made under this subsection with respect to any project if, for any preceding year, a grant under this subsection has been made with respect to such project.

"APPLICATION FOR FINANCIAL ASSISTANCE FROM UNITS OF LOCAL GOVERNMENT AND PRIVATE ORGANIZATIONS

"SEC. 148. (a) In administering the provisions of this subpart, the Secretary shall require coordination of all applications for programs in a State and, in view of the local nature of the drug abuse problem, shall not give precedence to public agencies over private nonprofit agencies, institutions, and organizations, or to State agencies over local agencies.

"(b) Each applicant from within a State, upon filing its application with the Secretary, shall submit a copy of its application for review by the State agency designated in accordance with section 144, if such an agency exists, and if no such agency exists, by the State agency responsible for administering the State comprehensive plan for treatment and prevention of drug abuse and drug dependence, if such agency exists. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project set forth in the application. Such evaluation may include comments on the relationship of the project to other projects pending and approved and to the State comprehensive plan for treatment and prevention of drug abuse. The State shall furnish the applicant a copy of any such evaluation. A State, if it so desires, may, in writing, waive its rights under this section.

"(c) Approval of any application by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

"(1) provide that the activities and services for which assistance under this subpart is sought will be substantially administered by or under the supervision of the applicant;

"(2) provide for such methods of administration as are necessary for the proper and efficient operation of such programs or projects;

"(3) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

"(4) provide reasonable assurance that Federal funds made available under this subpart for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the program described in this subpart, and will in no event supplant such State, local, and other non-Federal funds.

"APPROVAL BY NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"SEC. 149. The Secretary, upon the recommendation of the National Advisory Council on Drug Abuse and Drug Dependence, is authorized to make grants under subpart III of this part.

"Subpart IV—General

"GENERAL

"SEC. 150 (a) Whenever the Secretary finds a failure to comply with the terms of a grant or contract made or entered into under this part, he shall, after reasonable notice and opportunity for a hearing, terminate payments until he is satisfied that there will no longer be any failure to comply.

"(b) The exclusive remedy of anyone adversely affected by a final action of the Secretary under subsection (a) of this section is to appeal to the United Sttaes court of appeals for the circuit in which it is located by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file with the court the record of the proceeding on which he based his action, as provided in section 2112 of title 28 of the United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or set it aside, in whole or in part, temporarily or permanently. Until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts shall be conclusive if supported by substantial evidence, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

"ADMISSION OF DRUG ABUSERS AND DRUG DEPENDENT PERSONS TO PRIVATE AND PUBLIC HOSPITALS

"SEC. 150A. (a) Drug abusers and drug dependent persons shall be admitted to and treated in private and public general hospitals on the basis of medical need and shall not be discriminated against solely because of their drug abuse or drug dependence. No hospital that violates this section shall receive Federal financial assistance under the provisions of this Act or any other Federal law administered by the Secretary. No such action shall be taken until the Secretary has advised the appropriate person or persons of the failure to comply with this section, and provided an opportunity for correction or a hearing.

"(b) Any action taken by the Secretary pursuant to this section shall be subject to such judicial review as is provided by subsection 150(b) of this title.

"PART F—THE NATIONAL ADVISORY COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"ESTABLISHMENT OF COUNCIL

"SEC. 151. (a) Section 217(a) of the Public Health Service Act is amended—

"(1) in the first sentence thereof, by inserting 'the National Advisory Council on Drug Abuse and Drug Dependence,' immediately after 'the National Advisory Mental Health Council,'; and

"(2) in the second sentence thereof, by inserting 'the National Advisory Council on Drug Abuse and Drug Dependence,' immediately after 'the National Advisory Mental Health Council,', and by inserting 'drug abuse and drug dependence,' immediately after 'psychiatric disorders,'.

"(b) Section 217(b) of such Act is amended, in the second sentence thereof, by inserting 'drug abuse and drug dependence,' immediately after 'mental health,'.

"(c) Section 217 of such Act is further amended by adding at the end thereof the following new subsection:

" '(d) The National Advisory Council on Drug Abuse and Drug Dependence shall advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Service in the field of drug abuse and drug dependence. The Council is authorized (1) to review research projects or programs submitted to or initiated by it in the field of drug abuse and drug dependence and recommend to the Secretary, for prosecution under this Act, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of drug abuse and drug dependence, and (2) to collect information as to studies being carried on in the field of drug abuse and drug dependence and, with the approval of the Secretary, make available such information through the appropriate publications for the benefit of health and welfare agencies or organizations (public or private), physicians, or any other scientists, and for the information of the general public. The Council is also authorized to recommend to the Secretary, for acceptance pursuant to section 501 of this Act, conditional gifts for work in the field of drug abuse and drug dependence; and the Secretary shall recommend acceptance of any such gifts only after consultation with the Council.'

"APPROVAL BY COUNCIL OF CERTAIN GRANTS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT

"SEC. 152. Section 266 of part E of the Community Mental Health Centers Act is amended—

"(1) by striking out "Grants" and inserting in lieu thereof:

" '(a) Except as otherwise provided in subsection (b), grants'; and

"(2) by adding at the end thereof the following new subsection:

" '(b) Grants made under this title which are primarily intended for use in the prevention or treatment of drug abuse and drug dependence may be made only upon recommendation of the National Advisory Council on Drug Abuse and Drug Dependence established by section 217(a) of the Public Health Service Act.'

"PART G—INTERGOVERNMENT COORDINATING COUNCIL ON DRUG ABUSE AND DRUG DEPENDENCE

"ESTABLISHMENT OF COUNCIL

"SEC. 161. (a) For the purpose of coordinating all Federal Government prevention, treatment and rehabilitation efforts with respect to drug abuse and drug dependence, of coordinating such Federal efforts with State and local government efforts, and of developing an enlightened policy and appropriate programs for Federal employees for the prevention and treatment of drug abuse and the rehabilitation of drug dependent persons, there is hereby established an Intergovernment Coordinating Council on Drug Abuse Control consisting of the Secretary who shall serve as Chairman, the Attorney General of the United States, the United States Commissioner of Education, the Director of the National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence, the Director of the National Institute of Mental Health, four representatives of State and local government departments or agencies.

"(b) The President shall designate the four representatives of Federal departments or agencies who shall serve on the Coordinating Council, and shall appoint the four representatives of State and local government departments or agencies. The State and local government representatives shall serve for terms of four years, staggered so that one vacancy occurs each year. A State or local government representative may be reappointed immediately after serving less than a full term, and may be reappointed after a four-year hiatus after serving a full term.

"(c) The Coordinating Council may appoint such technical consultants as are deemed appropriate for advising the Council in carrying out its functions. The services of consultants obtained under this section may be obtained in accordance with section 3109 of title 5, United States Code, at rates for individuals not in excess of the daily equivalent paid for posiitons in GS–18 of the General Schedule in section 5332 of title 5, United States Code.

"FUNCTIONS OF COUNCIL

"SEC. 162. The Coordinating Council is authorized and directed to—

"(a) assist the Secretary in carrying out its function of coordinating all Federal prevention, treatment, and rehabilitation efforts to deal with the problems of drug abuse and drug dependence;

"(b) assist the Secretary in carrying out its function of coordinating such Federal efforts with State and local governments;

"(c) engage in educational programs among Federal employees, and in other appropriate activities, designed to prevent drug abuse and drug dependence;

"(d) implement programs for the rehabilitation of Federal employees who are drug dependent persons; and

"(e) develop and maintain any other appropriate activities consistent with the purposes of this title.

"PART H—PROGRAMS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT RELATING TO DRUG ABUSE AND DRUG DEPENDENCE

"BROADER AUTHORITY UNDER COMMUNITY MENTAL HEALTH CENTERS ACT

"SEC. 171. (a) Part D of the Community Mental Health Centers Act is amended as follows:

"(1) Sections 251, 252, and 253 of such part (42 U.S.C. 2688k, 2688l, and 2688m) are each amended by inserting 'drug abusers and drug dependent persons' in lieu of 'narcotic addicts' each place those words appear in those sections.

"(2) Clauses (A) and (C) of section 252 of such part are each amended by inserting 'drug abuse and drug dependence' in lieu of 'narcotic addiction'.

"(3) The heading of such part is amended to read as follows:

" 'PART D—DRUG ABUSE AND DRUG DEPENDENCE PREVENTION AND REHABILITATION'

"(b) Part E of such Act is amended as follows:

"(1) Section 261(a) of such part is amended by inserting 'drug abuse and drug dependence' in lieu of 'narcotic addiction'.

"(2) Sections 261(c) and 264 are each amended by inserting 'drug abusers and drug dependent persons' in lieu of 'narcotic addicts'.

"(3) The section headings for sections 261 and 263 are each amended by striking out 'AND NARCOTIC ADDICTS' and inserting in lieu thereof ', DRUG ABUSERS AND DRUG DEPENDENT PERSONS'.

"BROADER TREATMENT AUTHORITY IN PUBLIC HEALTH SERVICE HOSPITALS FOR PERSONS WITH DRUG ABUSE AND DRUG DEPENDENCE PROBLEMS

"SEC. 172. (a) Part E of title III of the Public Health Service Act is amended as follows:

"(1) Section 341(a) of such part is amended by striking 'addicts' the second time it appears and inserting the following: 'drug abusers and drug dependent persons'.

"(2)(A) Sections 342, 343, 344, and 346 of such part are each amended by inserting 'drug abusers and drug dependent persons' in lieu of 'narcotic addicts' or 'addicts' each place they appear in those sections.

"(B) The section heading of section 342 of such part is amended by inserting 'DRUG

ABUSERS AND DRUG DEPENDENT PERSONS' in lieu of 'ADDICTS'.

"(3) Sections 342, 343, and 344 and of such part are each amended by inserting 'drug abuser or drug dependent person' in lieu of 'narcotic addict' or 'addict' each place they appear in those sections.

"(4) Sections 343, 344, and 347 of such part are each amended by inserting 'drug abuse or drug dependence' in lieu of 'addiction' each place it appears in those sections.

"(5) Section 346 of such part is amended by inserting 'or substance controlled under the Controlled Substances Act' immediately after 'habit-forming narcotic drug'.

"(6) The heading for such part is amended to read as follows:

" 'PART E—DRUG ABUSERS AND DRUG DEPENDENT PERSONS'

"RESEARCH UNDER THE PUBLIC HEALTH SERVICE ACT IN DRUG ABUSE AND DRUG DEPENDENCE

"SEC. 173. (a) Section 507 of the Public Health Service Act (42 U.S.C. 225a) is amended by striking out 'available for research, training, or demonstration project grants pursuant to this Act' and inserting in lieu thereof 'available under this Act for research, training, or demonstration project grants or for grants to expand existing treatment and research programs and facilities for alcohol abuse, alcoholism, drug abuse, and drug dependence, and appropriations available under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcohol abuse, alcoholism, drug abuse, and drug dependence facilities'.

"(b) By inserting immediately before the period at the end thereof the following: ', except that grants to such Federal institutions may be funded at 100 per centum of the costs'.

"PART I—GENERAL

"SAVING PROVISION

"SEC. 181. If any section, provision, or term of this title is adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other section, provision, or term of this title, and the remaining sections, provisions, and terms shall be and remain in full force and effect.

"RECORDS

"SEC. 182. (a) Each recipient of assistance under this title pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients that are pertinent to the grants or contracts entered into under the provisions of this title under other than competitive bidding procedures.

"PAYMENTS

"SEC. 183. Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine."

TRANSACTION OF ROUTINE MORNING BUSINESS

By unanimous consent, the following routine morning business was transacted:

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. YOUNG of Ohio) laid before the Senate the following letters, which were referred as indicated:

REPORT ON CONTRACTS FOR MILITARY CONSTRUCTION AWARDED WITHOUT FORMAL ADVERTISEMENT

A letter from the Secretary of the Army, transmitting, pursuant to law, a report on contracts for military construction awarded without formal advertisement, for the period January 1 through June 30, 1970 (with an accompanying report); to the Committee on Armed Services.

PROPOSED AMENDMENT OF THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the Defense Production Act of 1950, as amended (with accompanying papers); to the Committee on Banking and Currency.

REPORT ON CONSTRUCTION OF DAM AT CAMP PENDLETON, CALIF.

A letter from the Assistant Secretary of the Navy (Installations and Logistics), reporting, pursuant to law, on the construction of a dam at Camp Pendleton, Calif.; to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION TO AMEND THE REVISED ORGANIC ACT OF THE VIRGIN ISLANDS

A letter from the Attorney General of the United States, transmitting a draft of proposed legislation to amend the Revised Organic Act of the Virgin Islands (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORT ON RESEARCH RELATED TO SCHOOL FINANCE

A letter from the Acting U.S. Commissioner of Education, transmitting, pursuant to law, a report on research related to school finance, dated October 8, 1970 (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. YOUNG of Ohio):

A joint resolution adopted by the Congress of Micronesia, declaring that the United States and the United Nations should take no action on any matters relating to the future political status of Micronesia without first obtaining the consent and approval of the Congress of Micronesia; to the Committee on Foreign Relations.

A joint resolution adopted by the Congress of Micronesia, informing the United Nations of the present status of discussions between representatives of the Congress of Micronesia and representatives of the U.S. Government on the future political status of Micronesia; to the Committee on Foreign Relations.

A joint resolution adopted by the Congress of Micronesia, inviting the U.S. Government to continue discussions with representatives of the Congress of Micronesia on the future political status of Micronesia; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. YOUNG of Ohio) announced that on today, October 6, 1970, the President pro tempore signed the following enrolled bills, which had previously been signed by the speaker of the House of Representatives:

S. 1933. An act to provide for Federal railroad safety, hazardous materials control and for other purposes;

H.R. 4599. An act to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments;

H.R. 12943. An act to amend section 3 of the act of November 2, 1966, to extend for 3 years the authority to make appropriations to carry out such act.

H.R. 17123. An act to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize real estate acquisition and construction at certain installations in connection with the Safeguard anti-ballistic-missile system, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes; and

H.R. 18104. An act to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. YARBOROUGH, from the Committee on Labor and Public Welfare, with an amendment:

S. 1591. A bill to establish an American Folklife Foundation, and for other purposes (Rept. No. 91–1274); referred to the Committee on Rules and Administration.

By Mrs. SMITH of Maine, from the Committee on Armed Services, without amendment:

H.R. 11876. An act to amend section 1482 of title 10, United States Code, to authorize the payment of certain expenses incident to the death of members of the Armed Forces in which no remains are recovered (Rept. No. 91–1275);

H.R. 15112. An act to repeal several obsolete sections of title 10, United States Code, and section 208 of title 37, United States Code (Rept. No. 91–1276); and

H.R. 16732. An act to amend title 37, United States Code, to provide that enlisted members of a uniformed service who accept appointments as officers shall not receive less than the pay and allowances to which they were previously entitled by virtue of their enlisted status (Rept. No. 91–1277).

By Mr. BURDICK, from the Committee on Interior and Insular Affairs, without amendment:

S.J. Res. 211. Joint resolution to authorize an ex gratia contribution to certain inhabitants of the Trust Territory of the Pacific Islands who suffered damages arising out of the hostilities of the Second World War, to provide for the payment of noncombat claims occurring prior to July 1, 1951, and to establish a Micronesian Claims Commission (Rept. No. 91–1278).

By Mr. BURDICK, from the Committee on Interior and Insular Affairs, with an amendment:

S. 233. A bill to increase the authorization for the appropriation of funds to complete the International Peace Garden, North Dakota (Rept. No. 91–1279).

By Mr. RUSSELL, from the Committee on Appropriations, without amendment:

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H.J. Res. 1388. Joint resolution making further continuing appropriations for the fiscal year 1971, and for other purposes (Rept. No. 91–1280).

By Mr. EAGLETON, from the Committee on Labor and Public Welfare, with an amendment:

S. 988. A bill to amend the Railroad Retirement Act of 1937 so as to permit certain individuals retiring thereunder to receive their annuities while serving as an elected public official (Rept. No. 91–1281).

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1969—REPORT OF A COMMITTEE—INCLUDING, SEPARATE, OR MINORITY VIEWS—SETTING OF TIME FOR COMMITTEE TO FILE REPORT (S. REPT. NO. 91–1282)

Mr. WILLIAMS of New Jersey. Mr. President, from the Committee on Labor and Public Welfare, I report favorably, with an amendment, in the nature of a substitute, the bill (S. 2193) to authorize the Secretary of Labor to set standards to assure safe and healthful working conditions for working men and women; to assist and encourage States to participate in efforts to assure such working conditions; to provide for research, information, education, and training in the field of occupational safety and health, and for other purposes.

I ask unanimous consent that the bill in its entirety be printed in the RECORD. I also ask unanimous consent that the committee have until midnight Tuesday, October 6, 1970, to file an accompanying report, together with individual, separate or minority views.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

The bill is as follows:

S. 2193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Occupational Safety and Health Act of 1970".

CONGRESSIONAL FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that personal injuries and illnesses arising out of work situations which result in death or disability impose a substantial burden upon, and are a hindrance to, interstate commerce in terms of reduced production, wage losses, medical expenses, and disability compensation payments.

(b) The Congress declares that it is the policy of the United States in the exercise of its powers to regulate commerce and to provide for the general welfare, to assure so far as possible every working man and woman in the Nation safe and healthful working conditions—

(1) by providing for the development, promulgation, and effective enforcement of occupational safety and health standards applicable to businesses affecting commerce;

(2) by providing for research relating to occupational safety and health;

(3) by providing for training programs to increase and improve the skills of personnel engaged in the field of occupational safety and health;

(4) by more clearly delineating the responsibilities of the Federal Government and the States in their activities related to occupational safety and health;

(5) by providing grants to the States to assist them in identifying their needs and responsibilities in the area of occupational safety and health, to develop plans in accordance with the provisions of this Act, and to conduct experimental and demonstration projects in connection therewith; and

(6) by providing for appropriate accident and health reporting procedures which will more accurately describe the nature of the problems in the field of occupational safety and health and achieve the objectives of this Act.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) The term "Secretary" means the Secretary of Labor or his authorized representative.

(b) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(c) The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(d) The term "employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States or any State or political subdivision of a State.

(e) The term "employee" means an employee of an employer who is employed in a business of his employer which affects commerce.

(f) The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

(g) The term "national consensus standard" means any occupational safety and health standard or modification thereof which (1) has been adopted and promulgated by a nationally recognized standards-producing organization under procedures whereby it can be determined by the Secretary that persons interested and affected by the scope or provisions of the standard have reached substantial agreement on its adoption, (2) was formulated in a manner which afforded an opportunity for diverse views to be considered and (3) has been designated as such a standard by the Secretary, after consultation with other appropriate Federal agencies.

(h) The term "established Federal standard" means any operative occupational safety and health standard established by any agency of the United States and presently in effect, or contained in any Act of Congress in force on the date of enactment of this Act.

APPLICABILITY OF THIS ACT

SEC. 4. (a) This Act shall apply with respect to employment performed in a workplace in a State, the District of Columbia, the Commonwealth of Puerto Rico the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, Wake Island, Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act, Johnston Island, and the Canal Zone. The Secretary of the Interior shall, by regulation, provide for judicial enforcement of this Act by the courts established for areas in which there are no Federal district courts having jurisdiction.

(b)(1) Except as provided in paragraph (2) of this subsection, nothing in this Act shall be deemed to repeal or modify any other Federal law prescribing safety or health requirements or the standards, rules, or regulations promulgated pursuant to such law, nor shall this Act apply to working conditions of employees with respect to which any Federal agency other than the Secretary of Labor exercises statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(2) The safety and health standards promulgated under the Act of June 30, 1936, commonly known as the Walsh-Healey Act (41 U.S.C. 35 et seq.), the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), Public Law 91–54, Act of August 9, 1969 (40 U.S.C. 333), Public Law 85-742, Act of August 23, 1958 (33 U.S.C. 941), and the National Foundation on Arts and Humanities Act (20 U.S.C. 951 et seq.) are superseded on the effective date of corresponding standards, promulgated under this Act, which are determined by the Secretary to be more effective. Standards issued under the laws listed in this paragraph and in effect on or after the effective date of this Act shall be deemed to be occupational safety and health standards issued under this Act.

(3) The Secretary shall, within three years after the effective date of this Act, report to the Congress his recommendations for legislation to avoid unnecessary duplication and to achieve coordination between this Act and other Federal laws relating to occupational safety and health.

(4) Nothing in this Act shall be construed to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment.

DUTIES OF EMPLOYERS AND EMPLOYEES

SEC. 5. (a) Each employer—

(1) shall furnish to each of his employees employment and a place of employment which is free from recognized hazards so as to provide safe and healthful working conditions, and

(2) shall, except as provided in section 16, comply with occupational safety and health standards, and all rules, regulations, and orders issued pursuant to this Act.

(b) Each employee shall, except as provided in section 16, comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

OCCUPATIONAL SAFETY AND HEALTH STANDARDS

SEC. 6. (a) Without regard to chapter 5 of title 5, United States Code, or to the other subsections of this section, the Secretary shall, as soon as practicable during the period beginning with the effective date of this Act and ending two years after such date, by rule promulgate as an occupational safety or health standard any national consensus standard, and any established Federal standard, unless he determines that the promulgation of such a standard would not result in improved safety or health for specifically designated employees. In the event of conflict among any such standards, the Secretary shall promulgate the standard which assures the greatest protection of the safety or health of the affected employees. During such period he may also by rule, and in accordance with section 553 of title 5, United States Code, promulgate any standard adopted prior to the date of enactment of this Act by a nationally recognized standards-producing organization by other than a consensus method.

(b) The Secretary may by rule promulgate, modify, or revoke any occupational safety or health standard in the following manner:

(1) Whenever the Secretary, upon the basis of information submitted to him in writing by an interested person, a representative of any organization of employers or employees, a nationally recognized standards-producing organization, the Secretary of Health, Education, and Welfare, a State or political subdivision, or on the basis of information de-

XUM

veloped by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objectives of this Act, the Secretary may request the recommendations of an advisory committee appointed under section 7 of this Act. The Secretary shall provide such an advisory committee with any proposals of his own or of the Secretary of Health, Education, and Welfare, together with all pertinent factual information developed by the Secretary or the Secretary of Health, Education, and Welfare, or otherwise available, including research, demonstrations, and experiments. An advisory committee shall submit to the Secretary its recommendations regarding the rule to be promulgated within ninety days from the date of its appointment or within such longer or shorter period as may be prescribed by the Secretary, but in no event for a period which is longer than two hundred and seventy days.

(2) The Secretary shall publish a proposed rule promulgating, modifying, or revoking an occupational safety or health standard in the Federal Register and shall afford interested persons a period of thirty days after publication to submit written data or comments. Where an advisory committee is appointed and the Secretary determines that a rule should be issued, he shall publish the proposed rule within sixty days after the submission of the advisory committee's recommendations or the expiration of the period prescribed by the Secretary for such submission.

(3) On or before the last day of the period provided for the submission of written data or comments under paragraph (2), any interested person may file with the Secretary written objections to the proposed rule, stating the grounds therefor and requesting a public hearing on such objections. Within thirty days after the last day for filing such objections, the Secretary shall publish in the Federal Register a notice specifying the occupational safety or health standard to which objections have been filed and a hearing requested, and specifying a time and place for such hearing.

(4) Within sixty days after the expiration of the period provided for the submission of written data or comments under paragraph (2), or within sixty days after the completion of any hearing held under paragraph (3), the Secretary shall issue a rule promulgating, modifying, or revoking an occupational safety or health standard or make a determination that a rule should not be issued. Such a rule may contain a provision delaying its effective date for such period as the Secretary determines may be necessary to insure that affected employers and employees will be informed of the existence of the standard and of its terms and that employers affected are given an opportunity to familiarize themselves and their employees with the existence of the requirements of the standard.

(5) The Secretary, in promulgating standards under this subsection, shall set the standard which most adequately and feasibly assures, on the basis of the best available evidence, that no employee will suffer any impairment of health or functional capacity, or diminished life expectancy even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of such standards shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

(6) Any standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner as may be necessary for the protection of employees. In addition, where appropriate, any such standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure. In the event such medical examinations are in the nature of research, as determined by the Secretary of Health, Education, and Welfare, such examinations may be furnished at the expense of the Secretary of Health, Education, and Welfare. The results of such examinations or tests shall be furnished only to the Secretary or the Secretary of Health, Education, and Welfare, and, at the request of the employee, to his physician. The Secretary, in consultation with the Secretary of Health, Education, and Welfare may by rule promulgated pursuant to section 553 of title 5, United States Code, make appropriate modifications in the foregoing requirements relating to the use of labels or other forms of warning, monitoring or measuring, and medical examinations, as may be warranted by experience, information, or medical or technological developments acquired subsequent to the promulgation of the relevant standard.

(c) (1) The Secretary shall provide without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard to take immediate effect upon publication in the Federal Register if he determines (A) that employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and (B) that such emergency standard is necessary to protect employees from such danger.

(2) Such standard shall be effective until superseded by a standard promulgated in accordance with the procedures prescribed in paragraph (3) of this subsection.

(3) Upon publication of such standard in the Federal Register the Secretary shall commence a proceeding in accordance with section 6(b) of this Act, and the standard as published shall also serve as a proposed rule for the proceeding. The Secretary shall promulgate a standard under this paragraph no later than six months after publication of the emergency standard as provided in paragraph (2) of this subsection.

(d) Any affected employer may apply to the Secretary for a rule or order for a variance from a standard promulgated under this section. Affected employees shall be given notice of each such application and an opportunity to participate in a hearing. The Secretary shall issue such rule or order if he determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, or by the Secretary on his own motion, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

(e) Whenever the Secretary promulgates any standard, makes any rule, order or decision, grants any exemption or extension of time, or compromises, mitigates, or settles any penalty assessed under this Act, he shall include a statement of the reasons for such action which shall be published in the Federal Register.

(f) Any person who may be adversely affected by a standard issued under this section may at any time prior to the sixtieth day after such standard is promulgated file a petition challenging the validity of such standard with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall not, unless otherwise ordered by the court, operate as a stay of the standard.

ADMINISTRATION; ADVISORY COMMITTEES

SEC. 7. (a) In carrying out his responsibilities under this Act, the Secretary is authorized to—

(1) use, with the consent of any Federal agency, the services, facilities, and personnel of such agency with or without reimbursement, and with the consent of any State or political subdivision thereof, accept and use the services, facilities, and personnel of any agency of such State or subdivision with reimbursement; and

(2) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that contracts for such employment may be renewed annually.

(b) The Secretary may appoint advisory committees to recommend occupational safety and health standards under section 6(b) of this Act. Each such advisory committee shall consist of not more than fifteen members and shall include as a member one or more designees of the Secretary of Health, Education, and Welfare and may include among its members an equal number of persons qualified by experience and affiliation to present the viewpoint of the employers involved, and of persons similarly qualified to present the viewpoint of the workers involved, as well as one or more representatives of health and safety agencies of the States, and such other persons who are qualified by knowledge and experience to make a useful contribution to the work of the committee, including one or more representatives of professional organizations of technicians or professionals specializing in occupational safety or health, and one or more representatives of nationally recognized standards producing organizations, but the number of persons so appointed to any advisory committee shall not exceed the number appointed to such committee as representatives of Federal and State agencies. Persons appointed to advisory committees from private life shall be compensated at a rate prescribed by the Secretary not in excess of the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code. All members of advisory committees shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties. The Secretary shall pay to any State which is the employer of a member of the committee who is a representative of the health or safety agency of that State, a reimbursement sufficient to cover the actual cost to the State resulting from the service of such representative on the committee. No member of the committee (other than representatives of employers and employees) shall have an economic interest in any proposed rule.

(c) (1) The Secretary and the Secretary of Health, Education, and Welfare shall appoint a National Advisory Committee on Occupational Safety and Health (hereafter in this subsection referred to us the "Committee"). The Committee shall consist of twenty members appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and composed equally of representatives of management, labor, occupational safety and occupational health professions, and of the public. The Secretary shall appoint all members of the Committee except for occupational health representatives who shall be appointed by the Secretary of Health, Education, and Welfare. The Secretary shall designate one of the public members as Chairman. The members shall be selected upon the basis of their experience and competence in the field of occupational safety and health.

(2) The Committee shall advise, consult with, and make recommendations to, the Secretaries of Labor and Health, Education, and Welfare on matters relating to the implementation of this Act. The Committee shall hold no fewer than two meetings during each calendar year. All meetings of the Committee shall be open to the public and a transcript shall be kept and made available for public inspection.

(3) The members of the Committee appointed from private life shall be compensated at a rate prescribed by the Secretary not in excess of the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code. All members of the Committee shall be reimbursed for travel, subsistence, and necessary expenses in the performance of their duties.

(4) The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are deemed necessary to the conduct of its business.

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INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

SEC. 8. (a) In order to carry out the purposes of this Act, the Secretary, or any authorized representative, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized—

(1) to enter upon at reasonable times any place of employment where work is performed to which this Act applies; and

(2) to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent or employee.

(b) For the purposes of any investigation or proceeding provided for in this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914 (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

(c) (1) Each employer shall make, keep and preserve, and make available to the Secretary or the Secretary of Health, Education, and Welfare, such records regarding his activities relating to this Act as the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses. Such regulations may include provisions requiring employers to conduct periodic inspections to determine their own state of compliance with this Act or with applicable standards, regulations, and orders, and to certify the results of such inspections to the Secretary. The Secretary shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protections and obligations under this Act, including the provisions of applicable standards.

(2) The Secretary, in cooperation with the Secretary of Health, Education, and Welfare, shall prescribe regulations requiring employers to maintain accurate records of, and to make periodic reports on, all work-related deaths, injuries and illnesses. The Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses, whether or not involving loss of time from work.

(3) The Secretary, in cooperation with the Secretary of Health, Education, and Welfare shall issue regulations requiring employers to maintain accurate records of employee exposure to potentially toxic materials or harmful physical agents which are required to be monitored or measured under section 6 or 18. Such regulations shall provide employees or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate provision for each employee or former employee to have access to such records as will indicate his own exposure to potentially toxic materials or harmful physical agents. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable occupational safety and health standard promulgated under section 6, and shall inform any employee who is being thus exposed of the corrective action being taken.

(d) Any information required by the Secretary or the Secretary of Health, Education, and Welfare, under this Act shall be obtained with a minimum burden upon employers, especially those operating small businesses. To the maximum extent possible, unnecessary duplication of efforts by employers in recording or reporting information shall be reduced.

(e) Subject to regulations issued by the Secretary, a representative of the employer and a representative authorized by his employees shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any workplace under subsection (a) for the purpose of aiding such inspection. Where there is no authorized employee representative the Secretary or his authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

(f) (1) Any employees or representative of employees who believe that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employees or representative of employees, except that, upon the request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear on any record published, released, or made available pursuant to subsection (g) of this section. If upon receipt of such notification the Secretary determines there are reasonable grounds to believe that such violation or danger exists, he shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if such violations or danger exist. If the Secretary determines there are no reasonable grounds to believe that a violation or danger exists he shall notify in writing the employees or representative of the employees of such determination.

(2) Prior to or during any inspection of a workplace, any employees or representative of employees employed in such workplace may notify the Secretary or any representative of the Secretary responsible for conducting the inspection, in writing, of any violation of this Act which they have reason to believe exists in such workplace. The Secretary shall, after the completion of the inspection, furnish any such employees or representative with a written explanation of any failure to issue a citation with respect to any such alleged violation. The Secretary shall also, by regulation, establish procedures for informal review of any refusal by a representative of the Secretary to issue a citation with respect to any such violation and shall furnish the employees or representative of employees requesting such review a written statement of the reasons for the Secretary's final disposition of the case.

(g) The Secretary or Secretary of Health, Education, and Welfare is authorized to compile, analyze, and publish, either in summary or detailed form, all reports or information obtained under this section.

CITATIONS FOR VIOLATIONS

SEC. 9. (a) If, upon inspection or investigation, the Secretary or his authorized representative determines that an employer has violated a requirement of section 5, 6(d), 8 (c), 18, or a rule, regulation, or order prescribed pursuant to one of those sections, he shall issue forthwith a citation to the employer. Each citation shall be in writing, and shall describe with particularity the nature of the violation, including a reference to the provision of the Act, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The Secretary may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimus violations which have no direct or immediate relationship to safety or health.

(b) Each citation issued under this section, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the Secretary, at or near each place a violation referred to in the citation occurred.

PROCEDURES FOR ENFORCEMENT

SEC. 10. (a) If, after an inspection or investigation, the Secretary issues a citation under section 9(a), he shall, within a reasonable time after the termination of such inspection or investigation, notify the employer by certified mail of the penalty, if any, proposed to be assessed under section 14 and that the employer has fifteen working days within which to notify the Secretary that he wishes to contest the citation or proposed assessment of penalty. If, within fifteen working days from the receipt of the notice issued by the Secretary the employer fails to notify the Secretary that he intends to contest the citation or proposed assessment of penalty, and no notice is filed by an employee or representative of employees under subsection (c), the citation and the assessment, as proposed, shall be final as to the employer and not subject to review by any court or agency, and for purposes of subsection (e) shall be deemed a final order issued by the Secretary under subsection (c).

(b) If the Secretary has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the termination of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties), or has failed to comply with an order issued under section 11(b), the Secretary shall notify the employer by certified mail of such failure and of the penalty proposed to be assessed under section 14 by reason of such failure, and that the employer has fifteen working days within which to notify the Secretary that he wishes to contest the Secretary's notification or the proposed assessment of penalty. If, within fifteen working days from the receipt of the notification issued by the Secretary, the employer fails to notify the Secretary that he intends to contest the notification or proposed assessment of penalty, the notification and assessment, as proposed, shall be final and not subject to review by any court or agency, and for purposes of subsection (e) shall be deemed a final order issued by the Secretary under subsection (c).

(c) If an employer notifies the Secretary that he intends to contest a citation issued under section 9(a) or notification issued under 10(b), or a proposed assessment of penalty issued under section 10 (a) or (b), or if, within fifteen working days of the issuance of a citation under section 9(a), any employee or representative of employees files a notice with the Secretary alleging that he believes the period of time fixed in the citation for the abatement of the violation is unreasonable, the Secretary shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section), and shall issue an order, based on findings of fact, confirming, denying, or modifying the citation or assessment of penalty, or, if he determines the employer has failed to correct a violation within the period fixed in the citation, shall issue such orders, based on findings of fact, as may be necessary for the correction of the violation for which the citation was issued, and for the assessment and collection of any penalty under section 14. The Secretary shall give the employer, or any other person who has filed a notice under this subsection, the information required by section 554(b) of title 5, United States Code, at least fifteen days prior to the hearing. Upon a showing by an employer of a good faith effort to comply with the abatement requirements of a citation, and that abatement has not been completed because of factors beyond his reasonable control, the Secretary, after an opportunity for a hearing as provided in this subsection, shall issue an order affirming or modifying the abatement requirements in such citation. The rules of procedures prescribed by the Secretary shall provide affected employees or representatives of affected employees an opportunity to participate as parties to hearings under this subsection.

(d) Except in the case of an order which has become final under section 10 (a) or (b), any person adversely affected or aggrieved by a final order of the Secretary issued under subsection (c) or subsection (f) may obtain a review of such order in any United States court of appeals for the circuit in which the violation is alleged to have occurred or where the employer has its principal office, or in the Court of Appeals for the District of Columbia Circuit, by filing in such court within sixty days following the service of such order a written petition to modify or set aside the order of the Secretary. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary and thereupon the Secretary shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant to the petitioner or the Secretary such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside in whole "or in part, the order of the Secretary and enforcing the same to the extent that such order is affirmed or modified. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and his recommendations, if any, for the modification or setting aside of his original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

(e) The Secretary may petition any United States court of appeals for the circuit in which the violation occurred or where the employer has its principal office, for a decree enforcing his order, and the provisions of subsection (d) shall govern such proceedings to the extent applicable. If no petition for review, as provided in subsection (d), is filed within sixty days after service of the Secretary's order, the Secretary's findings of fact and order shall be conclusive in connection with any petition for enforcement, which is filed by the Secretary after the expiration of such sixty-day period. In any such case, as well as in the case of a noncontested citation or notification by the Secretary which has become a final order of the Secretary under subsection (a) or (b) of this section, the clerk of the court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order of the Secretary and shall transmit a copy of such decree to the Secretary and the employer named in the petition. In any contempt proceeding brought to enforce a decree of a court of appeals entered pursuant to this subsection or subsection (d), the court of appeals may impose the penalties provided in section 14, in addition to invoking any other available remedies.

(f) No person shall discharge or in any other way discriminate against an employee because of the exercise by such employee on behalf of himself or other of any right afforded by this Act, including action to determine the extent of employee exposure to hazardous substances, or for leaving a workplace upon the order of the Secretary or a district court issued pursuant to section 11. Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of this subsection may, within thirty days after such violation occurs, apply to the Secretary for a review of such alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be conducted in accordance with section 554 of title 5, United States Code. Upon receiving the report of such investigation the Secretary shall make findings of fact. If he finds that such alleged violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee to his former position with back pay. If he finds that there was no such violation he shall issue an order denying the application, incorporating his findings therein. Judicial review or enforcement of the Secretary's order may be obtained in the manner provided in subsection (d) or (e) of this section.

PROCEDURES TO COUNTERACT IMMINENT DANGERS

SEC. 11. (a) If, upon inspection, or investigation of a place of employment, the Secretary determines that an imminent danger exists in such place of employment, the Secretary may bring a civil action in the United States district court for the district where the imminent danger exists or where the employer has its principal office for a temporary restraining order or injunction requiring such steps to be taken as may be necessary to avoid, correct or remove such imminent danger and prohibiting the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to restart without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner. An action may be brought under this subsection while an order of the Secretary under subsection (b) is in effect. As used in this section the term "imminent danger" means a condition or practice which could reasonably be expected to cause death or serious physical harm before such condition or pratice can be abated.

(b) If the Secretary determines that the imminence of a danger referred to in subsection (a) is such that immediate action is necessary, and the Secretary determines that there is not sufficient time, in light of the nature and imminence of the danger, to seek and obtain a temporary restraining order or injunction under subsection (a) of this section, the Secretary shall issue an order requiring such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger and prohibiting the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove such imminent danger, or to maintain the capacity of a continuous process operation to restart without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner. Such order may remain in effect for not more than seventy-two hours from the time of its issuance. If the Secretary delegates his authority to issue orders under this subsection, he shall provide that such order may not be issued until the concurrence of an appropriate regional Labor Department offi-

XUM

cial is first obtained. The Secretary shall by regulation provide appropriate procedures whereby an employer may obtain expeditious informal reconsideration by officials of the Department of Labor of any order issued under this subsection.

(c) If the Secretary arbitrarily or capriciously fails to issue an order or seek relief under this section, any employee who may be injured by reason of such failure, on the representative of such employees, may bring an action against the Secretary in the United States district court for the district in which the imminent danger is alleged to exist or the employer has its principal office, or for the District of Columbia, for a writ of mandamus to compel the Secretary to issue such an order and for such further relief as may be appropriate.

REPRESENTATION IN CIVIL LITIGATION

SEC. 12. Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act but all such litigation shall be subject to the direction and control of the Attorney General.

CONFIDENTIALITY OF TRADE SECRETS

SEC. 13. All information reported to or otherwise obtained by the Secretary or his representative in connection with any inspection or proceeding under this Act which contains or which might reveal a trade secret referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. In any such proceeding the Secretary or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

PENALTIES

SEC. 14. (a) Any employer who violates any standard promulgated under section 6, or the requirements of sections 6(d), 8(c), 18, or of any rule, regulation or order issued pursuant to one of those sections, and who has received a citation therefor, shall be assessed a civil penalty of not more than $1,000 for each such violation. Any employer who fails to correct a violation for which a citation has been issued under section 9(a) within the period permitted for its correction (which period shall not begin to run until the termination of any review proceedings under section 10 initiated by the employer in good faith and not solely for delay or avoidance of penalties), or who fails to comply with an order issued under section 11(b), shall be assessed a civil penalty of not more than $1,000 for each day during which such failure or violation continues.

(b) The Secretary may compromise, mitigate, or settle any claim for civil penalties. In assessing the penalty consideration shall be given to the appropriateness of such penalty to the size of the business of the person charged, to the gravity of the violation, to the history of previous violations, and to the good faith of the employer.

(c) Any employer who willfully violates any standard promulgated under section 6, or the requirements of sections 6(d), 8(c), 18, or of any rule, regulation or order issued pursuant to one of those sections, shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than six months, or by both; except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine of not more than $20,000 or by imprisonment for not more than one year, or by both.

(d) Any person who gives advance notice of any inspection to be conducted under this Act, without authority from the Secretary or his designees, shall, upon conviction, be punished by a fine of not more than $1,000 or by imprisonment for not more than six months, or by both.

(e) Whoever knowingly makes any false statement, representation, or certification in any application record, report, plan, or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

(f) Section 1114 of title 18, United States Code, is hereby amended by striking out "designated by the Secretary of Health, Education, and Welfare to conduct investigations, or inspections under the Federal Food, Drug, and Cosmetic Act" and inserting in lieu thereof "or of the Department of Labor assigned to perform investigative, inspection, or law enforcement functions".

VARIATIONS, TOLERANCES, AND EXEMPTIONS

SEC. 15. The Secretary may establish such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this Act as he may find necessary and proper to avoid serious impairment of the national defense. Action under this section shall not be in effect for more than six months without notification to affected employees and an opportunity being afforded for a hearing.

STATE JURISDICTION AND STATE PLANS

SEC. 16. (a) Nothing in this Act shall prevent any State agency or court from asserting jurisdiction under State law over any occupational safety or health issue with respect to which no standard is in effect under section 6.

(b) Any State which, at any time, desires to assume responsibility for the development and enforcement in such State of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard has been promulgated under section 6 shall submit a State plan for the development of such standards and their enforcement.

(c) The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, if such plan in his judgment—

(1) designates a State agency or agencies to be responsible for administering the plan throughout the State,

(2) provides for the development and enforcement of safety and health standards relating to one or more safety or health issues, which standards (and the enforcement of which standards) are at least as effective in providing safe and healthful employment and places of employment as the standards promulgated under section 6 which relate to the same issues,

(3) provides for a right of entry and inspection of all places of employment subject to the plan which is at least as effective as that provided in section 8 (a), (c), (d), and (e), and includes a prohibition on advance notice of inspections,

(4) contains satisfactory assurances that such agency or agencies will have the legal authority and qualified personnel necessary for the enforcement of such standards,

(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards,

(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions over which it has jurisdiction, which program shall be as effective as the standards contained in the approved plan,

(7) requires employers in the State to make reports to the Secretary in the same manner and to the same extent as if the plan were not in effect, and

(8) provides that the State agency will make such reports to the Secretary in such form and containing such information, as the Secretary shall from time to time require.

(d) If the Secretary disapproves a plan submitted under this section, he shall afford the State submitting the plan, due notice and opportunity for a hearing.

(e) After the Secretary approves a State plan submitted under subsection (b), he may, but shall not be required to, exercise his authority under sections 8, 9, 10, and 14 with respect to comparable standards promulgated under section 6, for the period specified in this subsection. The Secretary may exercise the authority referred to above until he determines, on the basis of actual operations under the State plan, that the criteria set forth in subsection (c) are being applied, but he shall not make such a determination for at least three years after approval of the plan under subsection (c). Upon making the determination referred to in the preceding sentence, the provisions of section 5 (a)(2) and (b), 8 (except for purpose of carrying out subsection (f) of this section), 9, 10, and 14, and standards promulgated under section 6 of this Act, shall not apply with respect to any occupational safety or health issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the date of a determination under this subsection.

(f) The Secretary shall, on the basis of reports submitted by the State agency and his own inspections make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan, he shall notify the State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reason for the withdrawal of the plan.

(g) The State may obtain a review of a decision of the Secretary withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of notice of such decision a petition to modify or set aside in whole or in part the action of the Secretary. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Secretary's decision in rejecting a proposed State plan or withdrawing his approval of such a plan to be arbitrary and capricious, the court shall affirm the Secretary's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

FEDERAL AGENCY SAFETY PROGRAMS AND RESPONSIBILITIES

SEC. 17. (a) It shall be the responsibility of the head of each Federal agency to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under section 6. The head of each agency shall, after consultation with representatives of the employees thereof—

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(1) provide safe and healthful places and conditions of employment, consistent with the standards set under section 6;

(2) acquire, maintain, and require the use of safety equipment, personal protective equipment, and devices reasonably necessary to protect employees;

(3) keep adequate records of all occupational accidents and illnesses for proper evaluation and necessary corrective action;

(4) consult with the Secretary with regard to the adequacy as to form and content of records kept pursuant to paragraph (3); and

(5) make an annual report to the Secretary with respect to occupational accidents and injuries and the agency's program under this section. Such report shall include any report submitted under section 7902(e)(2) of title 5, United States Code.

(b) The Secretary shall prepare and submit to the President for transmittal to the Congress a summary or digest of reports submitted to him under subsection (a)(4) of this section, together with his evaluation of and recommendations derived from such reports.

(c) Section 7902(c)(1) of title 5, United States Code, is amended by inserting after "agencies" the following: "and of labor organizations representing employees".

(d) The Secretary shall have access to records and reports kept and filed by Federal agencies pursuant to subsection (a) (3) and (5) of this section unless those records and reports are specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy, in which case the Secretary shall have access to such information as will not jeopardize national defense or foreign policy.

RESEARCH, TRAINING, AND RELATED ACTIVITIES

SEC. 18. (a)(1) The Secretary of Health, Education, and Welfare, after consultation with the Secretary and with the heads of other appropriate Federal departments or agencies, shall conduct, either directly or by way of grant or contract, research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved and the development of innovative methods, techniques, and approaches for dealing with existing or anticipated occupational safety and health problems.

(2) The Secretary of Health, Education, and Welfare shall be responsible for producing criteria upon which the Secretary may formulate occupational safety and health standards under this Act, and shall from time to time consult with the Secretary in order to develop specific plans for such research, demonstrations, and experiments as are necessary to produce such criteria. The Secretary of Health, Education, and Welfare, on the basis of such research, demonstrations, and experiments and any other information available to him, shall develop such criteria which if applied will assure that no employee will suffer impaired health or functional capacities, or diminished life expectancy as a result of his work experience.

(3) The Secretary of Health, Education, and Welfare, in order to comply with his responsibilities under paragraph (2), and in order to develop needed information regarding potentially toxic substances or harmful physical agents, may prescribe regulations requiring employers to measure, record, and make reports on the exposure of employees to substances or physical agents which the Secretary of Health, Education, and Welfare reasonably believes may endanger the health or safety of employees. The Secretary of Health, Education, and Welfare also is authorized to establish such programs of medical examinations and tests as may be necessary for determining the incidence of occupational illnesses and the susceptibility of employees to such illnesses. Nothing in this or any other provision of this Act shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others. Upon the request of any employer who is required to measure and record exposure of employees to substances or physical agents as provided under this subsection, the Secretary of Health, Education, and Welfare shall furnish full financial or other assistance to such employer for the purpose of defraying any additional expense incurred by him in carrying out the measuring and recording as provided in this subsection.

(4) The Secretary of Health, Education, and Welfare shall publish within six months of enactment of this Act, and thereafter maintain at least annually, a list of all substances used or found in the workplace and known to be potentially toxic and the concentrations at which such toxicity is known to occur. He shall determine following a written request by any employer or authorized representative of employees, specifying with reasonable particularity the grounds on which the request is made, whether any substance normally found in the place of employment has potentially toxic effects in such concentrations as used or found; and shall submit such determination both to employers and affected employees as soon as possible. If the Secretary of Health, Education, and Welfare determines that any substance is potentially toxic at the concentrations in which it is used or found in a place of employment, and such substance is not covered by an occupational safety or health standard promulgated under section 6, the Secretary of Health, Education, and Welfare shall immediately submit such determination to the Secretary, together with all pertinent criteria.

(5) Within two years of enactment of this Act, and annually thereafter, the Secretary of Health, Education, and Welfare shall conduct and publish industrywide studies of the effect of chronic or low-level exposure to industrial materials, processes, and stresses on the potential for illness, disease, or loss of functional capacity in aging adults.

(6) The Secretary of Health, Education, and Welfare is authorized to make inspections and question employers and employees as provided in section 8 of this Act in order to carry out his functions and responsibilities under this section.

(b) The Secretary is authorized to enter into contracts, agreements, or other arrangements with appropriate public agencies or private organizations for the purpose of conducting studies related to the establishing and applying of occupational safety and health standards under section 6 of this Act. In carrying out his functions under this subsection, the Secretary and the Secretary of Health, Education, and Welfare shall cooperate in order to avoid any duplication of efforts under this section.

(c) Information obtained by the Secretary and the Secretary of Health, Education, and Welfare under this section shall be disseminated by the Secretary to employers and employees and organizations thereof.

(d) The Secretary of Health, Education, and Welfare, after consultation with the Secretary of Labor and with the heads of other appropriate Federal agencies, shall conduct, either directly or by way of grant or contract (1) education programs to provide an adequate supply of qualified personnel to carry out the purposes of this Act, and (2) informational programs on the importance of and proper use of adequate safety and health equipment.

(e) The Secretary is also authorized to conduct, either directly or by way of grant or contract, short-term training of personnel engaged in work related to his functions under this Act.

(f) The Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe or unhealthful working conditions in places of employment covered by this Act, and to consult with and advise employers and employees, and organizations representing employers and employees, with respect to effective means of preventing occupational injuries and illnesses.

(g) The functions of the Secretary of Health, Education, and Welfare under this Act shall, to the extent feasible, be delegated to the Director of the National Institute for Occupational Safety and Health established by section 19 of this Act.

NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

SEC. 19. (a) It is the purpose of this section to establish a National Institute for Occupational Safety and Health in the Department of Health, Education, and Welfare in order to carry out the policy set forth in section 2 of this Act and to perform the functions of the Secretary of Health, Education, and Welfare under section 18 of this Act.

(b) As used in this section—

(1) the term "Director" means the Director of the National Institute for Occupational Safety and Health; and

(2) the term "Institute" means the National Institute for Occupational Safety and Health.

(c) There is hereby established in the Department of Health, Education, and Welfare a National Institute for Occupational Safety and Health. The Institute shall be headed by a Director who shall be appointed by the Secretary of Health, Education, and Welfare, and who shall serve for a term of six years unless previously removed by the Secretary.

(d) The Institute is authorized to—

(1) develop and establish recommended occupational safety and health standards; and

(2) perform all functions of the Secretary of Health, Education, and Welfare under section 18 of this Act.

(e) Upon his own initiative, or upon the request of the Secretary of Labor or the Secretary of Health, Education, and Welfare, the Director is authorized (1) to conduct such research and experimental programs as he determines is necessary for the development of criteria for new and improved occupational safety and health standards, and (2) after consideration of the results of such research and experimental programs make recommendations concerning new or improved occupational safety and health standards. Any occupational safety and health standard recommended pursuant to this section shall immediately be forwarded to the Secretary of Labor, and to the Secretary of Health, Education, and Welfare.

(f) In addition to any authority vested in it by other provisions of this section, the Director, in carrying out its functions, is authorized to—

(1) prescribe such regulations as he deems necessary governing the manner in which its functions shall be carried out;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of the Institute and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(3) in the discretion of the Director, receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)), money and other property donated, bequeathed, or devised to the Institute with a condition or restriction, including a condition that the

Institute use other funds of the Institute for the purposes of the gift;

(4) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this section;

(5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(7) enter into contracts, grants or other arrangements, or modifications thereof to carry out the provisions of this section, and such contracts or modifications thereof may be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), or any other provision of law relating to competitive bidding:

(8) make advance, progress, and other payments which the Director deems necessary under this title without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(9) make other necessary expenditures.

(g) The Institute shall submit to the Secretary of Health, Education, and Welfare, to the President, and to the Congress an annual report of its operations under this Act, which shall include a detailed statement of all private and public funds received and expended by it, and such recommendations as the Institute deems appropriate.

GRANTS TO THE STATES; STATISTICS

SEC. 20. (a) (1). The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeeding fiscal years, to make grants to the States which have designated a State agency under section 16(c) to assist them—

(A) in identifying their needs and responsibilities in the area of occupational safety and health,

(B) in developing State plans under section 16, or

(C) in developing plans for—

(i) establishing systems for the collection of information concerning the nature and frequency of occupational injuries and diseases;

(ii) increasing the expertise and enforcement capabilities of their personnel engaged in occupational safety and health programs; or

(iii) otherwise improving the administration and enforcement of State occupational safety and health laws, including standards thereunder, consistent with the objectives of this Act.

(2) The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeeding fiscal years, to make grants to the States for experimental and demonstration projects consistent with the objectives set forth in paragraph (1) of this subsection.

(3) The Governor of the State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(4) Any State agency designated by the Governor of the State desiring a grant under this section shall submit an application therefor to the Secretary.

(5) The Secretary shall review the application, and shall, after consultation with the Secretary of Health, Education, and Welfare, approve or reject such application.

(6) The Federal share for each State grant under paragraphs (1) or (2) of this subsection may not exceed 90 per centum of the total cost of the application. In the event the Federal share for all States under either such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

(7) The Secretary is authorized to make grants to the States to assist them in administering and enforcing programs for occupational safety and health contained in State plans approved by the Secretary pursuant to section 16 of this Act. The Federal share for each State grant under this subsection may not exceed 50 per centum of the total cost to the State of such a program. The last sentence of paragraph (6) shall be applicable in determining the Federal share under this subsection.

(8) Prior to June 30, 1973, the Secretary shall, after consultation with the Secretary of Health, Education, and Welfare, transmit a report to the President and to the Congress, describing the experience under the grant programs authorized by this section and making any recommendations he may deem appropriate.

(b) (1) In order to further the purposes of this Act, the Secretary shall develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics.

(2) To carry out his duties under paragraph (1) of this subsection, the Secretary is authorized to—

(A) promote, encourage, or directly engage in programs of studies, information and communication concerning occupational safety and health statistics;

(B) make grants to States or political subdivisions thereof in order to assist them in developing and administering programs dealing with occupational safety and health statistics; and

(C) arrange, through grants or contracts, for the conduct of such research and investigations as give promise of furthering the objectives of this section.

(3) The Federal share of each State grant under paragraph (2) of this section may be up to 50 per centum of the State's total cost.

(4) The Secretary may, with the consent of any State or political subdivision thereof, accept and use the services, facilities, and employees of the agencies of such State or political subdivision, with or without reimbursement, in order to assist him in carrying out his functions under this section.

(5) On the basis of the records made and kept pursuant to section 8(c) of this Act, employers shall file such reports with the Secretary as he shall prescribe by regulation, as necessary to carry out his functions under this Act.

AUDITS

SEC. 21. (a) Each recipient of a grant under this Act shall keep such records as the Secretary or the Secretary of Health, Education, and Welfare shall prescribe, including records which fully disclose the amount and disposition of the project or undertaking in connection with which such grant is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary or the Secretary of Health, Education, and Welfare, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of any grant under this Act that are pertinent to any such grant.

ANNUAL REPORT

SEC. 22. Within one hundred and twenty days following the convening of each regular session of each Congress, the Secretary and the Secretary of Health, Education, and Welfare shall each prepare and submit to the President for transmittal to the Congress a report upon the subject matter of this Act, the progress toward achievement of the purpose of this Act, the needs and requirements in the field of occupational safety and health, and any other relevant information. Such reports shall include information regarding occupational safety and health standards, and criteria for such standards, developed during the preceding year; evaluation of standards and criteria previously developed under this Act, defining areas of emphasis for new criteria and standards; an evaluation of the degree of observance of applicable occupational safety and health standards and summary of inspection and enforcement activity undertaken; analysis and evaluation of research activities for which results have been obtained under governmental and nongovernmental sponsorship; an analysis of major occupational diseases; evaluation of available control and measurement technology for hazards for which standards or criteria have been developed during the preceding year; description of cooperative efforts undertaken between Government agencies and other interested parties in the implementation of this Act during the preceding year; a progress report on the development of an adequate supply of trained manpower in the field of occupational safety and health, including estimates of future needs and the efforts being made by Government and others to meet those needs; listing of all toxic substances in industrial usage for which labeling requirements, criteria, or standards have not yet been established; and such recommendations for additional legislation as are deemed necessary to protect the safety and health of the worker and improve the administration of this Act.

NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS

SEC. 23. (a) (1) The Congress hereby finds and declares that—

(A) the vast majority of American workers, and their families, are dependent on workmen's compensation for their basic economic security in the event such workers suffer disabling injury or death in the course of their employment; and that the full protection of American workers from job-related injury or death requires an adequate, prompt, and equitable system of workmen's compensation as well as an effective program of occupational health and safety regulation; and

(B) in recent years serious questions have been raised concerning the fairness and adequacy of present workmen's compensation laws in the light of the growth of the economy, the changing nature of the labor force, increases in medical knowledge, changes in the hazards associated with various types of employment, new technology creating new risks to health and safety, and increases in the general level of wages and the cost of living.

(2) The purpose of this section is to authorize an effective study and objective evaluation of State workmen's compensation laws in order to determine if such laws provide an adequate, prompt, and equitable system of compensation for injury or death arising out of or in the course of employment.

(b) There is hereby established a National Commission on State Workmen's Compensation Laws (hereinafter referred to as the "Commission").

(c) (1) The Commission shall be composed of fifteen members to be appointed by the President from among members of State workmen's compensation boards, representatives of insurance carriers, business, labor, members of the medical profession having experience in industrial medicine or in workmen's compensation cases, educators having special expertise in the field of workmen's compensation, and representatives of the general public. The Secretary of Labor, the Secretary of Commerce, and the Secretary of Health, Education, and Welfare shall be ex officio members of the Commission.

(2) Any vacancy in the Commission shall not affect its powers.

(3) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

(4) Eight members of the Commission shall constitute a quorum.

(d)(1) The Commission shall undertake a comprehensive study and evaluation of State workmen's compensation laws in order to determine if such laws provide an adequate, prompt, and equitable system of compensation. Such study and evaluation shall include, without being limited to, the following subjects: (A) the amount and duration of permanent and temporary disability benefits and the criteria for determining the maximum limitations thereon, (B) the amount and duration of medical benefits and provisions insuring adequate medical care and free choice of physician, (C) the extent of coverage of workers, including exemptions based on numbers or type of employment, (D) standards for determining which injuries or diseases should be deemed compensable, (E) rehabilitation, (F) coverage under second or subsequent injury funds, (G) time limits on filing claims, (H) waiting periods, (I) compulsory or elective coverage, (J) administration, (K) legal expenses, (L) the feasibility and desirability of a uniform system of reporting information concerning job-related injuries and diseases and the operation of workmen's compensation laws, (M) the resolution of conflict of laws, extraterritoriality and similar problems arising from claims with multistate aspects, (N) the extent to which private insurance carriers are excluded from supplying workmen's compensation coverage and the desirability of such exclusionary practices, to the extent they are found to exist, (O) the relationship between workmen's compensation on the one hand, and old-age, disability, and survivors insurance and other types of insurance, public or private, on the other hand, (P) methods of implementing the recommendations of the Commission.

(2) The Commission shall transmit to the President and to the Congress not later than October 1, 1971, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable.

(e)(1) The Commission or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings, take such testimony, and sit and act at such times and places as the Commission deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof.

(2) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this section.

(f) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(g) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(h) Members of the Commission shall receive compensation for each day they are engaged in the performance of their duties as members of the Commission at the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(i) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(j) On the ninetieth day after the date of submission of its final report to the President, the Commission shall cease to exist.

ECONOMIC ASSISTANCE TO SMALL BUSINESSES

SEC. 24. (a) Section 7(b) of the Small Business Act, as amended, is amended—

(1) by striking out the period at the end of "paragraph (5)" and inserting in lieu thereof "; and"; and

(2) by adding after paragraph (5) a new paragraph as follows:

"(6) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in affecting additions to or alterations in the equipment, facilities, or methods of operation of such business in order to comply with the applicable standards promulgated pursuant to section 6 of the Occupational Safety and Health Act or standards adopted by a State pursuant to a plan approved under section 16 of the Occupational Safety and Health Act, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

(b) The third sentence of section 7(b) of the Small Business Act, as amended, is amended by striking out "or (5)" after "paragraph (3)" and inserting a comma followed by "(5) or (6)".

(c) Section 4(c)(1) of the Small Business Act, as amended, is amended by inserting "7(b)(6)," after "7(b)(5),".

(d) Loans may also be made or guaranteed for the purposes set forth in section 7(b)(6) of the Small Business Act, as amended, pursuant to the provisions of section 202 of the Public Works and Economic Development Act of 1965, as amended.

ADDITIONAL ASSISTANT SECRETARY OF LABOR

SEC. 25. (a) Section 2 of the Act of April 17, 1946 (60 Stat. 91) as amended (29 U.S.C. 553) is amended by—

(1) striking out "four" in the first sentence of such section and inserting in lieu thereof "five"; and

(2) adding at the end thereof the following new sentence: "One of such Assistant Secretaries shall be an Assistant Secretary of Labor for Occupational Safety and Health.".

(b) Paragraph (20) of section 5315 of title 5, United States Code, is amended by striking out "(4)" and inserting in lieu thereof "(5)".

SEPARABILITY

SEC. 26. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

APPROPRIATIONS

SEC. 27. There are authorized to be appropriated to carry out this Act for each fiscal year such sums as the Congress shall deem necessary.

EFFECTIVE DATE

SEC. 28. This Act shall take effect on the first day of the first month which begins more than thirty days after the date of its enactment.

GENEVA PROTOCOL OF 1925—EXECUTIVE UNDERSTANDING NO. 1

Mr. NELSON. Mr. President, on August 19, 1970, the President transmitted to the Senate the Geneva Protocol of 1925, which foreswears the first use of chemical and bacteriological warfare. The administration has taken a position in the nature of an understanding that herbicides are not covered by the protocol.

I am submitting, for appropriate referral, an understanding of the Senate that would include herbicides within the legal scope of the treaty and ask that the understanding be printed in the RECORD.

There being no objection, the understanding was ordered to be printed in the RECORD, as follows:

PROTOCOL FOR THE PROHIBITION OF THE USE IN WAR OF ASPHYXIATING, POISONOUS OR OTHER GASES, AND OF BACTERIOLOGICAL METHODS OF WARFARE

Understanding intended to be proposed by Mr. NELSON with respect to the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925:

At the end of the resolution of ratification, insert the following: "It is the understanding of the Senate, which understanding inheres in its advice and consent to the ratification of the protocol, that the terms of the protocol prohibit the use in war of chemical herbicides."

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. ALLOTT:

S. 4435. A bill to amend the Internal Revenue Code of 1954 to exclude certain organizations from the definition of private foundation; to the Committee on Finance.

(The remarks of Mr. ALLOTT when he introduced the bill appear below under the appropriate heading.)

By Mr. INOUYE (by request):

S. 4436. A bill for the relief of Claude Leruitte; to the Committee on the Judiciary.

By Mr. SCHWEIKER:

S. 4437. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to deduct expenses incurred in traveling outside the United States to obtain information concerning a member of his immediate family who is missing in action, or who is or may be held prisoner, in the Vietnam conflict, and for other purposes; to the Committee on Finance.

(The remarks of Mr. SCHWEIKER when he introduced the bill appear below under the appropriate heading.)

By Mr. NELSON:

S. 4438. A bill to declare that certain Federally owned land is held by the United States in trust for the Stockbridge-Munsee Community, and to make such lands part of the reservation involved; to the Committee on Interior and Insular Affairs.

By Mr. MATHIAS:

S. 4439. A bill for the relief of Carlo Bianchi & Co., Inc.; to the Committee on Public Works.

S. 4435—INTRODUCTION OF A BILL TO AMEND THE INTERNAL REVENUE CODE OF 1954

Mr. ALLOTT. Mr. President, the purpose of the bill which I introduce is to amend the Internal Revenue Code of 1954 to exempt the Myron Stratton Home of Colorado Springs, Colo., and any other organization similarly situated, from classification as a private foundation. This will relieve from taxation, an organization in existence for over 50 years whose investment income is used solely to provide complete long-term care of poor children, disabled and elderly persons without charge.

Last year Congress attempted tax reform to correct abuses that arose in connection with private foundations. Mr. President, I submit that the tax burdens, such as the excise tax on investment income, imposed on private foundations under the Tax Reform Act of 1969 were not intended to apply to operations such as those conducted by the Myron Stratton Home.

If this organization were church affiliated or publicly supported, it would not be classified as a private foundation, even though some portion of the cost of providing the services and facilities were imposed on the recipients. Since the Stratton Home fulfills the same needs and performs the same functions, and without charge, there is no apparent reason why any differentiation should be made in its tax status.

In short, Mr. President, this is an inequity which I feel should be corrected.

I ask unanimous consent that the text of my bill be printed in the Record at this point.

The ACTING PRESIDENT pro tempore (Mr. Young of Ohio). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the Record.

The bill (S. 4435) to amend the Internal Revenue Code of 1954 to exclude certain organizations from the definition of private foundation, introduced by Mr. Allott, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the Record, as follows:

S. 4435

Be it enacted by the Senate and House of Representatives of the United States of the United States of America in Congress assembled, That (a) section 509(a) of the Internal Revenue Code of 1954 (relating to definition of private foundation) is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) an organization which has continuously for a period of at least 50 years prior to the close of the taxable year operated and maintained as its principal purpose or function facilities for the long-term reasonable care, comfort, maintenance and education of permanently and totally disabled persons, elderly persons, or children, without charge to the recipients thereof and without benefit from the date of its establishment of any grant from the United States or any State or political subdivision thereof."

(b) The amendments made by subsection (a) shall take effect on January 1, 1970.

S. 4437—INTRODUCTION OF A BILL TO ALLOW INCOME TAX EXEMPTIONS FOR FAMILIES OF AMERICAN PRISONERS OF WAR

Mr. SCHWEIKER. Mr. President, I introduce today a bill to amend the Internal Revenue Code to permit a taxpayer to deduct expenses incurred in traveling outside the United States to obtain information concerning a member of his immediate family who is missing in action in Vietnam or who is, or may be, held prisoner by the North Vietnamese.

In addition, I am proposing that the Internal Revenue Code be further amended to relieve prisoners of war and those missing in action from income tax liability during the time they are held in a detained status by the enemy.

Mr. President, during the past few years one of the most distressing aspects of the tragic Vietnam war has been the inhumane attitude taken by the North Vietnamese and the National Liberation Front in South Vietnam towards American prisoners of war.

State Department inquiries, congressional resolutions, which I have strongly supported, letter writing campaigns by newspapers, and their readers, across the Nation, and even the recent joint session on prisoners of war have still been of no avail. It is particularly disheartening to hear of the personal experiences of the mothers, fathers, sisters, brothers, and wives who have spent thousands of dollars in vain attempts to learn whether their loved ones are in fact dead or alive, and in attempts to seek their freedom.

The North Vietnamese have repeatedly refused to adhere to the Geneva Convention, and despite entreaties from many sources, both official and unofficial, have not even taken the basic step of human decency in revealing the names of the prisoners they are currently holding.

The tragedy of this secrecy is that thousands of relatives and friends of Americans missing in action must live daily under the torment of not knowing whether their loved ones are alive or not.

This year, the Senate and the House passed H.R. 4204, to provide extra pay under the War Claims Act of 1948 to men held prisoner of war, which the President signed into law.

However, in addition to this step to help the POW's, there is further action we can take to be of direct benefit to relatives, who in addition to the mental anguish and emotional strain of not knowing whether their loved ones are prisoners or not, have undergone considerable financial expenses trying to find out this information.

Many wives, parents, and children have traveled to Paris, and other spots around the world, to try to obtain information about the status or whereabouts of a serviceman who is missing in action. In so doing, they have incurred many expenses, such as transportation, hotel, meals, and telephone bills. I feel that if we allow businessmen to deduct such items in the course of their business, we also should take this humanitarian step and allow similar deductions for these families that have to bear so much grief.

This bill is similar to H.R. 19380, introduced in the other body by Representative Paul Findley, of Illinois. I hope both Houses can act swiftly so that in this small personal way, we can let the relatives of our servicemen missing in action know that we are concerned about their personal anguish, and want to do everything within our power to help.

Mr. President, I ask that my bill be appropriately referred, and that the text be printed at this point in the Record.

The PRESIDING OFFICER (Mr. Williams of New Jersey). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the Record.

The bill (S. 4437) to amend the Internal Revenue Code of 1954 to permit a taxpayer to deduct expenses incurred in traveling outside the United States to obtain information concerning a member of his immediate family who is missing in action, or who is or may be held prisoner, in the Vietnam conflict, and for other purposes, introduced by Mr. Schweiker, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the Record, as follows:

S. 4437

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 218 as section 219 and by inserting after section 217 the following new section:

"SEC. 218. EXPENSES INCURRED IN SEEKING INFORMATION CONCERNING FAMILY MEMBERS WHO ARE OR MAY BE PRISONERS OF WAR.

"(a) In General.—Under regulations prescribed by the Secretary or his delegate, there shall be allowed as a deduction the amount of any expenses (includible under subsection (b)) which are paid or incurred during the taxable year by the taxpayer, or by another person with respect to whom the taxpayer is entitled for such taxable year to an exemption under section 151, in connection with a trip outside the United States for the purpose of locating or communicating with a member of the taxpayer's immediate family who is or may be a prisoner of war or is otherwise in a missing status (as defined in section 551(2) of title 37, United States Code) during and in connection with the Vietnam conflict, for the purpose of ascertaining whether such member is alive, or for the purpose of seeking his release from imprisonment or detention.

"(b) Expenses Includible.—The expenses which may be included in the deduction under subsection (a) with respect to any trip shall include the costs of transportation, board, lodging, telephone calls, and other items and services on or in connection with such trip, but only to the extent that they are directly related to and necessary for the purpose (specified in subsection (a)) for which the trip was made."

(b) The table of sections for part VII of subchapter B of chapter 1 of such Code

XUM

is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 218. Expenses incurred in seeking information concerning family members who are or may be prisoners of war.

"Sec. 219. Cross references."

SEC. 2. Section 112 of the Internal Revenue Code of 1954 (relating to certain combat pay of members of the Armed Forces) is amended by adding at the end thereof the following new subsection:

"(d) PRISONERS OF WAR, ETC.—Gross income does not include compensation received for active service as a member of the Armed Forces of the United States for any month during any part of which such member is in a missing status (as defined in section 551(2) of title 37, United States Code) during the Vietnam conflict."

SEC. 3. As used in sections 1 and 2, the term "Vietnam conflict" includes combatant activities by United States forces in Vietnam and other areas of Southeast Asia, and directly related military, naval, air, and supply activities, conducted on or after February 28, 1961, and prior to such date as may be specified by the President by Executive order as the date of the termination of such activities.

SEC. 4. The amendments made by sections 1 and 2 of this Act shall apply only with respect to taxable years ending after the date of the enactment of this Act.

ADDITIONAL COSPONSORS OF BILLS

S. 3860

At the request of the Senator from Pennsylvania (Mr. SCOTT), the Senator from Wyoming (Mr. MCGEE), was added as a cosponsor of S. 3860, to revise and clarify the Federal Aid in Wildlife Restoration Act and the Federal Aid in Fish and Restoration Act, and for other purposes.

S. 4265

At the request of the Senator from Oregon (Mr. HATFIELD), the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of S. 4265, to amend section 306 of the Consolidated Farmers Home Administration Act to increase the aggregate annual limit on grants for water and waste facilities constructed to serve rural areas and to increase the aggregate annual limit on grants for plans for the development of such facilities.

PROPOSED AMENDMENT TO THE CONSTITUTION RELATIVE TO EQUAL RIGHTS FOR MEN AND WOMEN—AMENDMENT

AMENDMENT NO. 1029

Mr. ERVIN submitted an amendment, intended to be proposed by him, to the joint resolution (H.J. Res. 264) proposing an amendment to the Constitution of the United States relative to equal rights for men and women, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 1033

Mr. KENNEDY. Mr. President, on behalf of Senators MATHIAS, CHURCH, CRANSTON, EAGLETON, GRAVEL, HARRIS, MAGNUSON, MCGOVERN, NELSON, PROXMIRE, STEVENS, TYDINGS, and myself, I submit an amendment to House Joint Resolution 264, relative to equal rights for men and women, and I ask unanimous consent that it lie on the table and be printed. The purpose of the amendment is to amend the U.S. Constitution to provide full voting representation in Congress for the District of Columbia—two Senators and the number of Representatives to which the District would be entitled on the basis of its population. It is my intention to call up this amendment at the appropriate time during the present debate.

One of the most glaring injustices in our democracy today is our failure to give full voting representation in Congress to the people of the District of Columbia. In recent years, we have made substantial progress toward extending the franchise and broadening the base of representative government in America. Most recently, we voted overwhelmingly last spring to lower the voting age to 18, thereby bringing millions of young Americans into the mainstream of the political process.

I believe that the opportunity is now at hand to take another major step forward in our long march toward fulfilling the promise of representative government for all our people. The time has come to eliminate the injustice to which the people of the Nation's Capital have been so unfairly subjected for so long. The time has come to give full voting representation in Congress to the District of Columbia.

SUMMARY OF THE PROPOSED CONSTITUTIONAL AMENDMENT

The constitutional amendment I am offering would provide full voting representation in Congress for the District of Columbia. The amendment would contain seven principal provisions:

First, citizens of the District of Columbia would elect two Senators and the number of Representatives in Congress—probably two—to which the District would be entitled on the basis of population.

Second, each Senator or Representative would be required to be a resident of the District.

Third, each Senator or Representative would possess the same qualifications as to age and citizenship and have the same rights, privileges and obligations as other Senators or Representatives.

Fourth, a vacancy in the representation of the District of Columbia in the Senate or the House of Representatives would be filled by a special election by the voters in the District.

Fifth, the amendment would have no effect on the provision in the 23d amendment for determining the number of electors for President and Vice President to be appointed for the District. However, depending upon the outcome of the debate on Senate Joint Resolution 1, each Senator or Representative from the District would be entitled to participate in choosing the President or Vice President in cases where the presidential election is decided by the Congress.

Sixth, Congress would have the power to implement the amendment by appropriate legislation.

Seventh, the amendment would have to be ratified by the States separately from the direct popular election amendment.

DISTRICT OF COLUMBIA REPRESENTATION IN CONGRESS AND HOME RULE FOR DISTRICT OF COLUMBIA

The proposed amendment deals only with representation in Congress for the District of Columbia. It is not a proposal for "home rule" for the District. Citizens of the Nation's Capital have never had representation in Congress. Ironically, however, in times past, they have had home rule—the right to choose their own local government. For almost a century—from 1800, when the District of Columbia was first established by Congress, until 1874, when Congress eliminated all elective offices for the District—citizens of the District had at least some form of elected self-government.

I strongly support the principle of home rule for the District of Columbia. In the next Congress, I intend to make a strong effort to end the years of frustrating effort to achieve this basic reform. Whatever the result of these efforts, however, at least we can agree now that representation in Congress for the District of Columbia is both deserved and justified.

THE NEED FOR FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

Full voting representation in Congress is an act of simple justice for the District of Columbia that is long overdue. For nearly a century, every effort to accomplish this goal has met with uniform frustration and defeat. It is time now for Congress to act to end this injustice.

Thanks to the 23d amendment to the Constitution, adopted in 1961, the citizens of the District of Columbia are now eligible to vote for President and Vice President. But, there is still an unfair barrier against their participation in the National Legislature. By some strange anomaly, citizens of the District can vote for their President, but not for their own Representatives in Congress.

There is no reasonable basis to continue to exclude the citizens of the District from the right to representation in Congress. We can no longer ignore the fact that the power of the vote in Congress determines much of the life and direction of the Nation. Even without the power of this vote, the people of the District are still required to fulfill all the obligations of American citizenship. But because they have no voice in shaping the laws by which they are governed, they are relegated to the status of second-class citizens in our society.

The residents of the Federal city are as deeply concerned about their city's condition and future as are the residents of Boston, New York, Chicago, Los Angeles, or any other American metropolis. But Washingtonians do not share equally with other Americans in the opportunity to make the decisions that affect their lives. Only a constitutional amendment granting full representation in Congress will enable citizens of the District to enjoy each of the rights granted to all Americans by the Constitution of our country.

District of Columbia representation in Congress, however, is more than just a prize for the citizens of the District. It is also a symbol of the problems and aspirations of the Nation as a whole. For

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the United States, the world's greatest democracy, to deny the right of representation to the people of its Capital is unconscionable, and the shame of the denial is compounded by the bitter racial emotions to which it gives rise. All of us in Congress, whatever the State or district we represent, have the obligation to eliminate this blight on the principles of our democracy.

The right of representative government is fundamental to democracy in America. Nowhere in America should the principle of representative government be more firmly established than in the Nation's Capital. In Washington today, however, democracy is weakest where it should be strongest. In this city where the principle of representative government should be practiced with pride as a symbol of freedom to the rest of the country and to the entire free world, democracy is shamefully lacking. By some cruel irony, a nation founded as a haven from oppression and tyranny denies to the citizens of its capital the blessings of democracy. Indeed, it is fairly said that Washington is America's last colony.

Washington today is a city of 764,000 people. It has a population greater than that of each of 11 States. Together, those 11 States have a total of 39 representatives in the Senate and the House. Yet, the people of Washington have no voice whatever in Congress. By contrast, those 11 States are currently represented as follows:

Population (preliminary 1970 census estimate)

No Senators, no Representatives:	
District of Columbia	764, 000
Two Senators, two Representatives:	
Hawaii	748, 000
New Hampshire	722, 000
Idaho	698, 000
Montana	682, 000
South Dakota	661, 000
North Dakota	610, 000
Two Senators, one Representative:	
Delaware	542, 000
Nevada	481, 000
Vermont	437, 000
Wyoming	328, 000
Alaska	294, 000

The Nation is now completing the 1970 census, from which these figures are derived. Article I, section 2 of the Constitution requires that the census shall be taken at least once every 10 years. Although the census now fulfills many purposes, the Constitution makes clear that the primary purpose of the census is to determine congressional representation in the House of Representatives. Ironically, in the District of Columbia, the national census continues to fulfill every purpose except its primary purpose.

As viewed by our Nation's official policy, Washingtonians are equal for the purpose of taxation, the draft, and all the other duties of citizenship, but not for the purpose of representation. Each year, they are taxed for hundreds of millions of dollars without representation, and their sons are drafted to fight and die in Vietnam. In countless ways, the people of Washington bear the manifold responsibilities of Federal citizenship, but they are denied the opportunity to participate in making the laws by which they are governed.

To deny District citizens a voice and a vote in the Congress is not only to deny 764,000 people their rightful representation in the Senate or House. At least in part, it is also to deny more than 35 million people in 16 different States the full attention of their own Senators and Representatives. These are the people represented by the 12 Senators and 32 Representatives serving on the Senate and House Committees on the District of Columbia and the respective appropriations subcommittees.

Although representation in Congress for the District will not end the participation of Members of Congress on the Senate and House District Committees, it may reasonably be expected that at least Senators from the most populous States, like New York, would be more free to devote their attention to their own constituents and would not also be assigned the responsibility of the detailed local work of a District committee. It is notorious in the present situation, that Senators and Representatives on the District committees are too often obliged to put their work on national legislation ahead of their work on District legislation. Clearly, it would be desirable to have Senators and Representatives on those committees whose primary loyalty would be to the citizens of the District.

Of course, in the early years of our republic the status of the District of Columbia was not the same as it is today. Our Founding Fathers had no idea that the pastures, marshes, and cornfields along the Potomac River would one day become the residence for nearly a million people and the center of one of the Nation's greatest metropolitan areas.

Today, however, the situation is different. The Nation's Capital has expanded into a vast and complex society, the heart of democracy in America. Washingtonians live with precisely the same issues that face every other part of the Nation. War and race, poverty and crime, education and health are the great issues of our time, and they vitally affect all our people. Only in Washington, however, are American citizens denied a voice in solving these problems. The laws and policies that personally affect the daily lives of Washington residents are entirely dictated by us in Congress. Yet, not one of us in Congress is a direct representative of the people of the Capital City.

Equally important, the vast political changes in our society in recent years have placed extraordinary emphasis on the fair and equal participation of every citizen in the most basic right of all in our democratic society—the right to vote. The decade of the 1960s brought enormous progress in this area to millions of Americans. The Civil Rights Acts, the Voting Rights Act, the abolition of the poll tax, the reapportionment decisions of the Supreme Court, and now the 18-year-old vote, are just a few of the great steps we have taken in recent years to achieve the ideal stated so eloquently in the Declaration of Independence, that "Governments are instituted among men, deriving their just powers from the consent of the governed."

At the same time, the remarkable advances we have secured in other areas demonstrate even more clearly the injustice to which hundreds of thousands of Washington citizens are condemned. By denying them the right to representation in Congress, we rob them of one of the basic birthrights of American citizens.

In large part, I believe, the absence of District of Columbia representation in Congress is the result of ignorance and apathy, not conscious discrimination. Wherever I travel in Massachusetts, I find that people are amazed to hear that the citizens of Washington have no representation in Congress. Now that the plight of the Nation's Capital is becoming familiar in States throughout the country, I am hopeful that the remedy will be swift.

I fully understand the issues raised by those concerned about the changing relationship of the Federal Government and the Congress to the District. We all know that this is not and has never been a static relationship. Rather, the relationship has undergone a process of continual evolution through the years.

It is fair to say, however, that the only real controversy in the debate has always been over the question of home rule—a question entirely separate from the fundamental issue of representation in Congress for the citizens of the District.

Agonizing debates over many years have produced a wide variety of proposals to resolve the question of home rule. Some have suggested a Federal enclave, withholding most or all Federal property from municipal jurisdiction, but restoring all the rest to local control. Others call for complete local self-government, subject only to such minimum controls as may be clearly essential to protect the seat of Federal Government.

No such bitter controversy surrounds the question of District of Columbia representation in Congress. This is one contemporary need to which Congress can and should respond. The people of Washington are entitled to full voting representation in the U.S. Senate and House of Representatives. It is long past time for Congress to demonstrate to our own people and to people throughout the world that in America, democracy exists for all.

POSSIBLE ARGUMENTS AGAINST FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

In the past, representation in Congress for the District of Columbia has been the subject of a number of unconvincing opposing arguments. Because they are so unconvincing, most of us who favor representation for the District dismiss these arguments as a cover for partisan politics or, worse, as a cover for racism.

Some opponents of representation for the District of Columbia claim that the amendment would treat the District as a State. They say that the District is not a State, but a city, smaller than at least eight other cities in the Nation, and that

XUM

there is no greater reason for this city to be represented in Congress than larger cities which are denied the right. This argument ignores the obvious fact that other American cities are political subdivisions of States, which are already represented in both the Senate and the House of Representatives. For years, the District of Columbia has traditionally been treated as a State in virtually every major Federal grant legislation. In program after program, in statute after statute, all of us in Congress are familiar with the well-known clause—"For the purposes of this legislation, the District of Columbia shall be treated as a State."

This argument against District of Columbia representation is heard most frequently in relation to the Senate. The objection is raised that only States should be represented in the Senate, and that the District of Columbia is not and cannot ever become a State.

I believe that we can accept the logic of this argument without making it dispositive. I share the strong concern of the Members of this body for the traditions and prerogatives of the Senate, but I also feel a strong concern against the injustice of denying a substantial group in our population the right to participate in making the laws by which they are governed. Vital legislation affecting the lives of all the citizens in the Nation is debated in every session of the Senate. Until the people of the District are represented in the Senate as well as in the House, they will not have the right of true self-government that is the birthright of every American citizen.

In addition, by accepting two Senators for the District of Columbia as part of the amendment, as well as representation in the House, the Senate itself will be demonstrating its good faith to the House. Too often, as the recent House debate on the nonvoting delegate made clear, the Senate has been generous in proposing representation in the House for the District of Columbia, but reluctant to invite the District into the well of the Senate itself. Once the Senate accepts the principle of full-voting representation in the Senate for the District of Columbia, I am confident that the House will follow suit.

To be sure, the status of the District of Columbia is unique in the politics and geography of America. Obviously, for example, we would not grant voting representation in either the Senate or the House to Puerto Rico, unless that Commonwealth chose to become a State. We know, however, that, unlike all our other territories, past or present, the District of Columbia can never aspire to statehood in the United States. Can we really maintain, therefore, that the citizens of the District are doomed to a perpetual colonial status, to denial of the most basic right in civilized society—the right that is preservative of all other rights, the right of self-government? Surely this is too high a price to pay for preserving the traditions and prerogatives of the Senate.

Nothing in our Constitution or its history supports the interpretation that the District of Columbia was not intended to be entitled to representation in both the Senate and the House. Indeed, in the Federalist, No. 43, James Madison, one of the principal architects of the Constitution, wrote that the prospective inhabitants of the Federal city "will have had their voice in the election of the Government which is to exercise authority over them." Clearly, Madison was assuming that the citizens of the Nation's Capital would be represented in Congress.

Another, even less persuasive, objection to District representation rests on the proviso in article V of the Constitution, which declares that "No State, without its consent, shall be deprived of its equal suffrage in the Senate." It is far too late in our history to argue that the admission of the District of Columbia to representation in Congress would deprive any State of its "equal suffrage in the Senate." In light of the history of the Constitution and the precedents under it, the meaning of article V is clear—no single State may be given a larger number of Senators than any other State.

In other words, it was the intention of the Founding Fathers in the proviso of article V to make clear that the Senate could never—even by constitutional amendment—be apportioned by population or on any other basis that would give one State more representatives in the Senate than any other State.

This was the essence of the Federal compromise at the Constitutional Convention in 1787. It has guided us for 200 years, and it is intended to endure throughout our history. This is all that article V means, and all that it requires.

In addition, article V has never been read as prohibiting the representation of new States in the Senate, even though—obviously—the admission of a new State dilutes the voice and power of the existing States in the Senate. Indeed, since the ratification of the Constitution by the original 13 States, 37 new States have been admitted to the Union. As a result, the power of the original 13 States in the Senate has been diluted nearly fourfold, from 2/26 to 2/100. Yet, no one has ever argued that any of the original 13 States has been deprived of its equal suffrage in the Senate.

The principle is clear. So long as the District of Columbia is represented in the Senate no more advantageously than any State, it cannot be said that representation for the District deprives any State of its equal suffrage in the Senate. Each State will still have two votes in the Senate, and each State will still have the same proportionate vote as any other State.

RECENT EFFORTS TO OBTAIN REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

Although a large number of proposed constitutional amendments for full voting representation in Congress in the District of Columbia have been introduced over the years, none has yet come to a vote on the floor of either the Senate or the House.

One of the most significant recent developments occurred in 1967, when the Johnson administration proposed a constitutional amendment to provide a single voting representative for the District in the House of Representatives. The proposal would also have authorized Congress to act by statute to enlarge District of Columbia representation in either the Senate or the House, up to the representation to which the District's population entitles it. Hearings on this proposal were held before both the Senate and House Judiciary Committees in the 90th Congress.

No further action was taken in the Senate, but the House Judiciary Committee—under the leadership of its distinguished chairman, Congressman EMANUEL CELLER—reported the proposal in a much more far-reaching form. As reported, the proposal—essentially the same proposal that I am now offering—would provide for the election of two Senators by the voters of the District and election of the number of Representatives based on the city's population. Unfortunately, the House Rules Committee failed to act on the proposal. No further action could be taken by the House, and the amendment died when the 90th Congress adjourned. Nevertheless, this action by the House Judiciary Committee is the high-water mark of all the efforts to achieve this reform. But for the remarkable record of achievement already compiled in the House, there would be no real prospect for enactment of the amendment at this time.

It is also significant that a few years earlier, in 1960, the full Senate itself had accepted the principle of representation in Congress for the District of Columbia. By a vote of 63 to 25—well over the two-thirds majority required to pass a constitutional amendment—the Senate accepted an amendment, sponsored by Senator Kenneth Keating, which would have given citizens of the District of Columbia the right not only to vote in presidential elections, but also to be represented in the House of Representatives. Under the provisions of the amendment, Congress was authorized to determine by statute whether the District representatives would be given voting privileges in the House. The provision for District of Columbia voting in presidential elections went on to become the 23d amendment, but the provision for District of Columbia representation in the House died in the House Judiciary Committee. Today, however, a decade later, the climate in that committee is obviously more favorable toward full voting representation in Congress for the District.

In addition, it is worth emphasizing that the principle of District of Columbia representation in Congress has broad and bipartisan support. In his message to Congress on the District of Columbia in April 1969, President Nixon expressed the administration's strong support for District of Columbia representation in Congress. As the President stated:

> It should offend the democratic sense of this nation that the . . . citizens of its capital comprising a population larger than eleven of its states have no voice in Congress.

Last October, and again as recently as last Friday, President Nixon reiterated his strong concern for voting representation in Congress for the citizens of the District. As part of his message to Congress on September 11 entitled "A Call for Cooperation," the President emphasized his view that the lack of representative government for the people of the District was "one of the truly unacceptable facts of American life." As the President said:

> I share the chagrin that most Americans feel at the fact that Congress continues to deny self-government to the nation's capital.

As long ago as December 1952, President-elect Eisenhower spoke eloquently of the need for District of Columbia representation in Congress. As he put it, taxation without representation was contrary to the principles of our Nation. He specifically expressed his strong feeling that something was basically wrong in America if we tax the citizens of the District and draft their children for military service, but do not give them the right to vote.

VOTING RIGHTS OF RESIDENTS OF THE DISTRICT OF COLUMBIA UPON ITS ESTABLISHMENT AS THE SEAT OF THE FEDERAL GOVERNMENT

The origin of the District of Columbia is found in article I section 8, clause 17 of the Constitution, which provides:

> The Congress shall have Power . . . To exercise exclusive Legislation in all Cases whatsoever, over the District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States.

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In 1788, the year after the Constitution was ratified, Maryland ceded territory for the District. In 1789, Virginia also ceded territory. From the Maryland and Virginia cessions, the 10-mile square area on both sides of the Potomac River constituting the original District of Columbia was selected.

In the Residence Act of July 16, 1790, Congress approved the territory ceded by Maryland and Virginia as the site for the seat of the Federal Government, and empowered President Washington to engage in all activities necessary for the site to be ready for occupation and use by the Government of the United States on the first Monday of December 1800.

The original 10-mile square area—100 square miles—approved for the Nation's Capital contained two municipalities—Georgetown and Alexandria. Georgetown had originally been laid out in 1752. It was incorporated by Maryland in 1789 and had a population of 3,000 persons in 1800. Alexandria had been founded in 1749. It was incorporated by Virginia in 1790, and had a population of 5,000 in 1800.

Prior to the cutoff date of the first Monday of December 1800, residents of the area included in the District of Columbia continued to vote for Senators and Representatives from their respective States, as well as for the President of the United States and for local officials. In the case of the national election in 1800, for example, voters from the newly laid out city of Washington cast their ballots at Bladensburg, Md., and residents of Georgetown and Alexandria voted in their respective cities.

The right to vote in national elections remained in force until the first Monday in December 1800, when, as announced in an opinion by Justice William Cranch of the U.S. Circuit Court of the District of Columbia, the exclusive jurisdiction of Congress over the District took effect.

In 1846, at the solicitation of the citizens of Alexandria, aggrieved by the denial of their voting rights and their representation in the Federal Government, Congress ceded the 30 square miles of the Virginia portion of the District back to the State of Virginia. A referendum by the people of the area approved the retrocession by an overwhelming majority of nearly 80 percent. In 1838, Georgetown had sought retrocession unsuccessfully. Thus, the territory comprising the District of Columbia today is the 70 square miles of the original Maryland cession.

The grievances of the people of Alexandria leading to the demand for retrocession to Virginia were vividly described by Representative Robert M. T. Hunter, of Virginia, in a speech on the floor of the House during the debate on the retrocession bill. The reporter of the debates summarized Congressman Hunter's speech as follows:

> He spoke of the importance of the retrocession to the people of Alexandria; and depicted, in glowing colors, the blight that had fallen on that city by reason of her dependence on the General Government; her declining commerce, her premature decay; the desolation which had come upon her, not by the scourge of God, but by the hand of man. He believed that if the boon contemplated by this bill were granted, the blessings of the people of Alexandria and of their posterity would fall upon Congress. If this opportunity was neglected, Congress would be responsible for whatever evils might result. Cong. Globe, 29th Cong., 1st Sess., p. 778.

The echoes of these grievances are still heard today, more than a century later, with respect to the descendants of the residents of the original Maryland territory ceded to the Nation. The call for action by Congress is now clear.

EARLY EFFORTS TO OBTAIN REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

From the beginning of the 19th century, there have been a number of strong proponents of full voting representation in Congress for the District of Columbia. One of the earliest advocates was Mr. Augustus B. Woodward, a protege of Thomas Jefferson, who wrote a series of eight articles and pamphlets on the issue for the National Intelligencer between 1801 and 1803. In this pamphlet, entitled "Considerations on the Governmnt of the Territory of Columbia" and signed "Epaminondas," Mr. Woodward described the plight of the citizens of the new District, who were forced to endure the very sort of taxation without representation that had so recently triggered the Revolutionary War. As Mr. Woodward eloquently stated:

> This body of people is as much entitled to the enjoyment of the rights of citizens as any other part of the people of the United States. There can exist no necessity for their disenfranchisement, no necessity for them to repose on the mere generosity of their countrymen to be protected from tyranny; to mere spontaneous attention for the regulation of their interests. They are entitled to a participation in the general councils on the principles of equity and reciprocity. Considerations on the Government of the Territory of Columbia, Nos. I–IV, Georgetown Museum, 1801–1803.

The other well-known early advocate of District of Columbia representation in Congress was Theodore W. Noyes, a native Washingtonian and the editor of the Evening Star from 1908 to 1946. In 1888, a year after he first came to the Star as an associate editor, Noyes wrote a series of five articles, entitled "Some of Washington's Grievances," in which he strongly urged that the District of Columbia deserved voting representation in Congress. Throughout his life, Noyes devoted much of his time and effort to the cause of District of Columbia representation in Congress, and he may legitimately be called the father of the contemporary movement for such representation.

Indeed, in large part, the history of the movement for District of Columbia representation in the late 19th century and the first half of the 20th century is a chronicle of Noyes' activities. Following his famous series of atricles in 1888, it is worth noting these additional landmarks:

In 1914, the movement began to gain broader support with the official backing of the Washington Chamber of Commerce, in a report written by Noyes himself.

In 1916, Noyes was the leading witness at the first Senate hearings ever held on representation in Congress for the District of Columbia.

In 1917, the Washington Board of Trade, the Chamber of Commerce, and many other organizations joined to organize the "Citizens' Joint Committee on National Representation for the District of Columbia," with Noyes as chairman. Noyes held the position until his death, and testified frequently for the committee in Senate and House hearings.

In 1922, in what stood for many years as the high water mark of the legislation until Congressman CELLER's action in 1967, the Senate District Committee favorably reported the District of Columbia amendment, with a report closely tracking the testimony Noyes had given.

By 1928, Noyes had become known across the Nation for his crusade. Testifying before Congress at the age of 70, he was praised as a man "of invincible determination and unquenchable hope."

In 1946, at his death, Noyes' will created a small trust to continue the movement for District of Columbia representation in Congress. In the words he used in the bequest, Noyes created the trust because he was "convinced that no other representation is so essential to the welfare of the men and women of my home community." In 1951, the trust published a volume of Noyes' collected writings on the subject, entitled, "Our National Capital and Its Un-Americanized Americans."

The first constitutional amendment to be introduced in Congress for District of

Columbia representation was proposed by Senator Henry W. Blair of New Hampshire in 1888, in repsonse to a train of events set in motion by Noyes' articles. On March 10 of that year, the Star carried the fourth article of Noyes' series, describing the unfortunate political plight of the citizens of the District. In the article, Noyes proposed an amendment to provide voting representation in Congress for the District by one Senator and one or more Representatives, according to population. As Noyes stated in his article:

> (The Amendment) would be a compromise between granting only local, qualified suffrage, which is highly objectionable to the District, and consenting to absolute self-government, which involves a surrender of national control over the capital, and to which the United States, as owner of one-half the city . . . would never consent. The wisdom of this course is sustained by all the arguments which go to show that the constitutional power of "exclusive legislation" by Congress should not be hastily yielded, and also by those who maintain that taxation without representation and inequality of citizens before the law should not be allowed to exist.
>
> The District would be placed in certain respects on a level with the States. Taxed like them, it would have like them a voice in the disposition of the general taxes. It would not, however, stand upon precisely the same footing with them, for the States are subordinated to the general government only in certain defined particulars, whereas the District would be subordinated in all respects . . . Enjoying representation in Congress and participation in the choice of the President, who appoints its local officers, Washington would resemble in its municipal government a city which, after voting for the governor and legislature of a State is managed by a commission appointed by the former and approved by the latter. *Our National Capital and Its Un-Americanized Americans,* pp. 62–63.

Shortly after publication of this article, Mr. Appleton P. Clark, Sr., a local civic leader, submitted a letter requesting presentation of an amendment to Congress for District of Columbia representation in Congress and in the Electoral College. The amendment was presented by Senator Blair, and was printed in the CONGRESSIONAL RECORD of April 3, 1888—50th Congress. The amendment was identical to the proposal outlined by Mr. Noyes. On April 5, the Senate Judiciary Committee asked to be discharged from consideration of the amendment for technical procedural reasons, and asked that the amendment be referred to the Committee on Privileges and Elections.

On May 15, 1888, Senator Blair reintroduced the amendment as Senate Joint Resolution 82, and this resolution has come to be accepted as the first constitutional amendment to provide representation for the District of Columbia in Congress.

During the 51st Congress, two constitutional amendments were introduced in the Senate—Senate Joint Resolution 11—December 5, 1889, and Senate Joint Resolution 18—December 9, 1889. On December 19, 1889, both amendments were reported unfavorably by the Senate Committee on Privileges and Elections, with the recommendation that consideration be indefinitely postponed. On September 17, 1890, Senator Blair was recognized and spoke strongly before the Senate in support of the resolutions, but they remained on the calendar without further legislative action.

Although a number of individuals made efforts to promote congressional representation for the District and a number of constitutional amendments were introduced during the ensuing quarter of a century, the next period of major interest in the proposal did not begin until 1915.

In December 1915, House Joint Resolution 37 and Senate Joint Resolution 32—64th Congress—were introduced by Representative Richard W. Austin of Tennessee and Senator George E. Chamberlain of Oregon. The resolutions were identical, and provided that the citizens of the District should be accorded the status of citizens of a State in the elections of President and Vice President and should be represented in Congress on the same basis.

On February 24 and 25, 1916, and on March 2, 1916, the Senate Committee on the District of Columbia held the first hearings on the proposal. Theodore Noyes, testifying before the committee, presented the arguments which had been promulgated as early as 1801 in the pamphlets of August B. Woodward.

In his testimony, Noyes emphasized that the arguments made since 1800 for District of Columbia representation were the same, basically, as those he had presented in his article in the Star in 1888. The principle of self-government he said, was so basic to the human dignity and constitutional rights of the people in the District that Congress should act without delay. No further action was taken by the committee, however, and no committee report was filed.

On January 27, 1917, near the end of the 64th Congress, Senator Chamberlain introduced Senate Joint Resolution 196. This proposal is of importance because it was the first of the so-called permissive forms of the amendment to be introduced. Under Senator Chamberlain's new amendment, Congress would have been authorized to act by statute to give residents of the District the status of citizens of a State for the purpose of representation in Congress and election of the President and Vice President. Under the earlier, "mandatory" forms of the constitutional amendment, representation in Congress would have been required by the terms of the amendment itself.

Between 1917 and 1921, 15 additional resolutions were introduced. The Senate District Committee held a new round of hearings on four of the proposals, and on February 21, 1922, Senate Joint Resolution 133, a permissive form of the amendment, was reported favorably by Senator Wesley J. Jones of Washington, the chairman of the committee. Senate Report No. 507, 67th Congress. Except for the increased population of the District, the findings and conclusions of the committee are as valid and current today as they were in 1922, 48 years ago. As the committee report stated:

> Yet in the District of Columbia, the seat of the government of the United States, 437,571 Americans, performing justly and honorably all the duties of peace and war, remains without any representation whatever in the Government which rules and taxes them, makes the laws they must obey, and sends their sons to battle.
>
> What is there in our scheme of government that requires that the Capital of the United States should be the one capital among the civilized nations, the inhabitants of which are excluded, deliberately and of set purpose, from all participation in their government?

The 1922 report of the Senate District Committee was twice reaffirmed in subsequent Congresses without hearing, but no further substantial legislative action was taken. The rising tide of the movement had crested and begun to subside.

At the beginning of this period, various citizen groups had begun to lend increasingly active support to the District of Columbia representation movement. Outstanding among them was the Citizens' Joint Committee on National Representation for the District of Columbia, which convened initially on November 21, 1917. The committee was composed of delegates from Washington's principal commercial and civic bodies, and was intended to become a smooth working, powerful organization, operating solely, and with one voice for the passage by Congress and ratification by the State legislatures of a constitutional amendment to give representation in Congress for citizens of the District. Theodore Noyes was unanimously elected chairman and he served in that capacity until his death July 4, 1946.

The injustice of taxation without representation, and the participation of District citizens in World War I without the full political status of their comrades, had succeeded in bringing the District of Columbia representation issue to the forefront. By 1919, the citizens' Joint Committee had established an essentially all-inclusive membership among local organizations and institutions. The rolls of the committee contained every significant civic and business organization in Washington, such as the Chamber of Commerce, the Board of Trade, the Merchants' and Manufacturers' Association, the Central Labor Union, the Federation of Citizens' Associations, the Oldest Inhabitants Association, the Bar Association, and many others.

The Joint Committee's executive officers had laid effective groundwork by visiting several cities for the purpose of studying their tax structures. The Washington press carried long accounts of progress toward the goal, and out-of-town correspondents kept other localities aware of the movement.

Red stickers were printed emphasing that the 400,000 inhabitants of the District paid taxes, obeyed Federal laws and went to war, but were forced to remain voteless. Businessmen attached the stickers to their nonlocal correspondence. The response throughout the county was surprisingly rapid and heartening. Many persons offered support and expressed astonishment at learning that Washingtonians were disfranchised, or that they were required to pay taxes in any form. And yet, although not a dissident note sounded in these early years, no action occurred in Congress.

Then, the civil front began to crack. The organizations making up the Joint Committee began to take differing positions on the amendment they desired Congress to enact. A severe blow fell in July 1919, when racial violence broke out in Washington. The disturbances produced deep political divisions within the city on the issue, causing a loss of faith in the people of Washington throughout the country.

Apathy set in. Although the joint committee remained in existence for many years it was never able to generate the strong combination of interests that it had secured in the early years.

Leaders in the District and in Congress sought to maintain the pressure to achieve the goal, but the next major step forward did not come until the action of the House Judiciary Committee in 1967. The time is now at hand to take the final step.

REPRESENTATION OF THE CAPITAL CITY IN THE NATIONAL LEGISLATURE OF FOREIGN NATIONS

The denial of representation in Congress to the District of Columbia stands in sharp contrast to the representation enjoyed by citizens of capital cities governed under a federal system in many foreign nations throughout the world.

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Within the British Commonwealth, two of the three nations with national capitals under Federal jurisdiction—Australia and India—grant voting representation in the national legislature to citizens of the capital city. Australia's Capital Territory at Canberra is administered by the Commonwealth Government in much the same fashion as Congress governs the District of Columbia. Canberra, however, unlike the District, has an elected representative in the House of Parliament who has full voting privileges.

India's capital, New Delhi, is administered by the President of India through an Administrator of his designation. Elections of representatives to both the upper and lower Houses of Parliament from the capital city are conducted in the same manner as elections for representatives from the other states and territories in India.

Of the British Commonwealth nations with federal systems, only Pakistan denies representation in the national legislature to the citizens of its capital. At the present time, Pakistan is under military rule. In an order of April 1, 1970, providing for a general election, the President of Pakistan excluded Isamabad, the capital, from the voting district of Punjab, in which the capital is located.

In general, the constitutions of European nations grant no special status to the capital cities, and they impose no limitations on the rights of citizens of the capital cities to vote in national elections. Even in countries with a federal structure, such as Austria, West Germany, Switzerland, and the Soviet Union, the electoral codes give the capital cities equal footing with other electoral districts, determined on the basis of population.

Similarly, in three of the four federated republics in Latin America in which a Federal District has been established—Argentina, Mexico and Venezuela—the citizens of the capital city enjoy voting representation in the national legislature.

Only in Brazil are the citizens of the capital city, Brasilia, denied such voting representation. And even in Brasilia, the circumstances are unique and reminiscent of the District of Columbia at its origin. Until 1956, Rio de Janeiro was the capital of Brazil, and its citizens enjoyed full voting representation in the national legislature. When the capital was transferred to Brasilia in 1956, the capital was a "new city," like Washington in 1800, carved out of wilderness territory, with a "population" expected to consist essentially of the members of the government and the national legislature. As in the case of Washington, the founding fathers in Brazil simply did not anticipate the rapid growth of their new capital city.

Indeed, half a century ago, in the first committee report of the U.S. Senate urging representation in Congress for the District of Columbia, the Senate District Committee emphasized the irony of the disfranchisement of Washington residents compared ot the citizens of the capital cities of Brazil and other Latin American nations.

As the committee stated in 1922:

> National representation of the District will remove from the Nation the shame of impotency.
>
> It will proclaim to the world that the great Republic is as devoted to the principles of representative government and as capable of enforcing them as other republics with capitals in nation-controlled districts, like Mexico, Brazil, and Argentina. These nations have not found themselves impotent to give full national representation to the people of their capitals.
>
> It will proclaim to the world that the people of Washington are as fit to participate in national representative government as the people of Rio de Janeiro, Buenos Aires, and Mexico City. Washington will cease to be the only capital in all the world whose people, slurred as tainted or defective, are unworthy to enjoy the same national representation as that enjoyed by all other cities of the Nation.

The logic is inescapable. In nation after nation throughout the world, the citizens of capital cities are accorded the dignity and respect of representation in their national legislatures. Surely the citizens of the Capital of the United States deserve no less.

In conclusion, let me emphasize that I am confident that nothing in the District of Columbia amendment will jeopardize in any way the passage of the equal rights amendment. I am hopeful that in the course of the coming legislative debate, it will be possible for the Congress to work its will on these two important provisions, and to submit them to the States for ratification before the adjournment of the 91st Congress.

Mr. President, I ask unanimous consent for the amendment to be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. CRANSTON). The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 1033) is as follows:

AMENDMENT No. 1033

> Beginning with the word "That" in line 3, page 1, strike out all to and including the colon in line 7, page 1, and insert in lieu thereof the following: "That the following articles are hereby proposed as amendments to the Constitution of the United States, any one of which shall be valid to all intents and purposes as part of the Constitution only if ratified separately by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:".
>
> On page 2, after line 7, insert the following:
>
> "ARTICLE —
>
> "SECTION 1. The people of the District constituting the seat of government of the United States shall elect two Senators and the number of Representatives in Congress to which the District would be entitled by apportionment if it were a State. Each Senator or Representative so elected shall be an inhabitant of the District and shall possess the same qualifications as to age and citizenship, shall be elected for the same term, and shall have the same rights, privileges, and obligations as a Senator or Representative from a State.
>
> "SEC. 2. When vacancies happen in the representation of the District in either the Senate or the House of Representatives, the people of the District shall fill such vacancies by election.
>
> "SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District. Each Representative or Senator from the District shall be entitled to participate in the choosing of the President or Vice President in the House of Representatives or Senate under the twelfth article of amendment as if the District were a State.
>
> "SEC. 4. The Congress shall have power to enforce this article by appropriate legislation."
>
> Amend the title so as to read: "Joint resolution proposing amendments to the Constitution to provide equal rights for men and women, and to provide for the representation of the District of Columbia in the Congress."

Mr. MATHIAS. Mr. President, American citizens fought a revolutionary war largely to escape the burden of taxation without representation. Today, Americans in the District of Columbia labor, as they have for thousands of yesterdays, under this same burden of taxation without representation. Fortunately, the genius of our Constitution allows us to eliminate this injustice without firing a single shot.

The time is long overdue for the emancipation of the 764,000 citizens of the District of Columbia.

In this citadel of representative democracy, we must demonstrate to ourselves and to the world the sincerity of our belief in that principle by extending congressional representation to the District of Columbia.

All of our citizens are subjects of national legislative policy in that they reap its benefits and share its burdens. Only the citizens of Washington, however, are denied a role in formulating that policy.

I would describe as only a first step the 23d amendment to the Constitution, which authorized District voters to participate in presidential elections. Particularly in the absence of some form of home rule, it is imperative that we take the next step toward full American citizenship for the 760,000 people of the District of Columbia. I applaud the President's recent signing of legislation to provide the District with a nonvoting representative in the House.

District residents share the concerns and problems, foreign and domestic, of contemporary America. They supply more individual income tax revenue to the Federal Government than each of about one-third of our States. They are conscripted for our Armed Forces. More than 3,000 District citizens gave their lives in World War II. At least 165 have died in Southeast Asia. They know too well the problems of crime, education, poverty, race, and the environment.

I note that the District's population exceeds that of each of 11 States and that it has a higher personal income per capita than any State.

The primary purpose for establishing the District of Columbia was to eliminate the interposition of a State sovereignty between the Federal City and the Federal Government. There is no inconsistency between this goal and the granting of congressional representation to District of Columbia citizens.

Over 6,000 proposals to amend the Constitution have been introduced in the history of the Congress. I respectfully submit that none has been more deserving of passage than that providing a proper voice in the Federal Government for the citizens of the Federal City.

I am, therefore, cosponsoring this amendment to provide full representation for the District of Columbia.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT—AMENDMENT

AMENDMENT NO. 1030

Mr. McCLELLAN submitted an amendment, intended to be proposed by him, to the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States, which was ordered to lie on the table and to be printed.

TREATMENT AND REHABILITATION OF DRUG ABUSERS AND DRUG DEPENDENT PERSONS—AMENDMENTS

AMENDMENT NO. 1031

Mr. DOMINICK. Mr. President, the amendment which I submit to H.R. 18583 is intended to establish a mechanism through which some kind of control can be asserted over the burgeoning number of advisory groups established under the authority of the Public Health Service Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act.

It would require the Secretary of the Department of Health, Education, and Welfare to prepare, for submission to the Senate Labor and Public Welfare Committee and the House Interstate and Foreign Commerce Committee, annual reports on the activities of the advisory councils established pursuant to those statutes. Advisory councils are defined to include "committees, boards, commissions, councils, or other similar groups." Each report would contain a list of such advisory councils and their members, and would describe each council's functions and its activities for that year. In addition, where the Secretary found that an advisory council is no longer needed, and should be abolished, or that it would be more efficient to combine the functions of two or more councils, the report would contain a recommendation to that effect.

The amendment is modeled after section 438 of the Elementary and Secondary Education Act, as amended by Public Law 91-230—the Elementary and Secondary Education Amendments of 1969—which requires the Commissioner of Education to prepare the same kinds of reports. The only difference is that under Public Law 91-230, the Commissioner of Education has the authority not only to recommend that advisory councils be abolished, or their functions combined, but unless Congress objects, to carry out such recommendations himself.

I ask unanimous consent that the text of that provision of Public Law 91-230 be printed in the RECORD at this point.

I do not have complete figures as to the present number of advisory councils established pursuant to the Public Health Service Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act. But, a quick survey of Public Health Service publications indicates that approximately 325 statutory advisory councils have been established in connection with the work of the National Institutes of Health, the Health Services and Mental Health Administration, and the Environmental Health Service alone. Approximately 3,375 persons have been appointed to serve as members of these councils. I do not have complete information as to the amount of staff employed by the councils, but I am sure the total is substantial.

Advisory councils are established for varying periods of time, usually several years, and typically meet two or three times per year. In addition to travel expenses and per diem, members and staff are entitled to compensation for time spent on council business. The rate of compensation varies, but it may be as high as the equivalent of GS-18—more than $33,000 per year.

While again, no figures are available, it is obvious that annual Federal expenditures for the approximately 325 advisory councils established just in connection with the three agencies of the Public Health Service I mentioned, run into the millions. I am not questioning the fact that such councils perform essential services in helping the various agencies to carry out their statutory mandates. But, I am suggesting that since we are spending a considerable amount of money on them every year we should pay a little closer attention to what they are doing. I am sure that there are many instances where costs could be reduced by combining the functions of two or more councils where they are doing overlapping work, or by abolishing prior to their statutory termination date those councils which are no longer performing needed services. My amendment would require the Secretary to scrutinize the numerous advisory councils with these ideas in mind when preparing the annual report on their activities.

We have decided that this should be done in the education area, and there is no reason why it should not also be done in the health area.

The PRESIDING OFFICER (Mr. WILLIAMS of New Jersey). The amendment will be received and printed, and will lie on the table.

AMENDMENT NO. 1032—AMENDMENT TO PERMIT RECLASSIFICATION OF MARIHUANA

Mr. DOMINICK. Mr. President, under the House bill, marihuana and tetrahydrocannabinols are classified in schedule I. One of the standards for all schedules except schedule I is that the controlled substance has a "currently accepted medical use." This amendment would permit the Attorney General to remove or transfer marihuana into any other schedule even if there was no currently accepted medical use.

The purpose of this amendment is to allow a flexible and intelligent approach to the classification of marihuana in the future. If future medical evidence indicates that marihuana has a lower abuse potential and that its effects are minor, it should be reclassified in a lower schedule so that offenders can receive the treatment applied to those schedules. However, the bill as written, would prevent this if marihuana has no currently accepted medical use.

We must recognize that marihuana is a social as well as a medical problem. To let the requirement of "currently accepted medical use" be controlling is to ignore the social realities. This amendment would permit a flexible and intelligent approach which would recognize those social realities.

The PRESIDING OFFICER (Mr. WILLIAMS of New Jersey). The amendment will be received and printed, and will lie on the table.

AMENDMENT NO. 1034

Mr. DODD submitted an amendment, intended to be proposed by him, to the bill (H.R. 18583) to amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen

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existing law enforcement authority in the field of drug abuse, which was ordered to lie on the table and to be printed.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 858 TO H.R. 18515

At the request of the Senator from New York (Mr. Javits), the Senator from California (Mr. Cranston), the Senator from Michigan (Mr. Hart), the Senator from Massachusetts (Mr. Kennedy), and the Senator from North Dakota (Mr. McGovern), were added as cosponsors of amendment No. 1025 to H.R. 18515, the HEW-Labor appropriations bill, which would provide additional appropriations for programs under the Economic Opportunity Act.

AMENDMENT NO. 943 TO H.R. 17550

At the request of the Senator from West Virginia (Mr. Byrd), on behalf of the Senator from Texas (Mr. Yarborough), the Senator from Washington (Mr. Magnuson) was added as a cosponsor of amendment No. 943 to H.R. 17550, to the Social Security Act, which would authorize the Secretary of Health, Education, and Welfare to waive, under certain circumstances, the registered nurse requirement of the Medicare Act.

NOTICE OF HEARINGS ON JUDICIAL NOMINATIONS FOR DISTRICT OF COLUMBIA COURTS

Mr. SPONG. Mr. President, two weeks ago the President submitted to Congress nominations to fill newly created positions on the District of Columbia Court of Appeals, new positions on the District of Columbia court of general sessions, and vacancies on the general sessions bench.

I wish today, on behalf of the Senator from Maryland (Mr. Tydings), to announce that the Senate Committee on the District of Columbia will hold hearings on 10 of these nominations on Friday, October 9, 1970, and on the remaining nominations as soon thereafter as possible.

The hearing on October 9 will begin at 9 in room 6226 of the New Senate Office Building. At that time, the committee will hear testimony regarding the following nominees to the District of Columbia court of general sessions: Sylvia A. Bacon, of the District of Columbia; Leonard Braman, of Maryland; Stanley S. Harris, of Maryland; DeWitt S. Hyde, of Maryland; Normalie Holloway Johnson, of the District of Columbia; Paul F. McArdle, of Maryland; Theodore R. Newman, Jr., of the District of Columbia; Nicholas S. Nunzio, of Maryland; William E. Stewart, Jr., of Maryland; and James A. Washington, Jr., of Maryland.

Individuals and representatives of organizations who wish to testify at the hearing should notify Miss Ann Howard at 225–8786, prior to October 8, 1970.

Written statements, in lieu of personal appearance may be submitted to the staff director, room 6218, New Senate Office Building, Washington, D.C. 20510, for inclusion in the hearing record.

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ADDITIONAL STATEMENTS OF SENATORS

TEN SKETCHES OF REVOLUTIONARY WAR EVENTS

Mr. MANSFIELD. Mr. President, our country soon will start its commemoration of the bicentennial era and the 200th year of our freedom.

Already many events have been planned and the nonpartisan American Revolution Bicentennial Commission, created by the Congress, has submitted its report and recommendations to the President—Senate Document 91–76. The Commission's new Chairman, David J. Mahoney, was sworn in September 11, 1970. He is a young business executive with offices throughout the country. And this is symbolic of the fact the commemoration will be nationwide. Mr. Mahoney has said he expects to be in Washington nearly every week or so to work with the Commission's able and energetic Executive Director, M. L. Spector.

The press is helping take the lead in reminding our citizens of the historic events of the American Revolution and the foundations and principles upon which this Nation was founded.

An excellent example of this is being furnished by the Copley News Service. The chairman of the Copley Newspapers and News Service, James S. Copley, is a member of the Bicentennial Commission. He and his executive editor, John Pinkerman, are providing a series of written sketches on Revolutionary War events and personalities.

I ask unanimous consent that the first 10 be printed in the Record.

There being no objection, the sketches were ordered to be printed in the Record, as follows:

The Prelude to Revolution

(By Robert Betts)

The first stone thrown at British soldiers in Boston on Oct. 24, 1769, may not have had the impact of the first shot fired in Concord 5½ years later—the one that sounded 'round the world—but it certainly made its mark in history.

As Lt. Col. William Dalrymple nervously remarked, after his men had survived that first onslaught of sticks and stones and were safely back in barracks: "This is but a prelude to some motion more consequential."

Boston had long been the trouble spot. It set off the rioting against the Stamp Act in 1765. It was the Massachusetts Assembly, meeting in Boston, which had in February, 1768, sent a circular letter to the other Colonies challenging Parliament's right to tax the Colonies.

When Chancellor of the Exchequer Charles Townshend decided to raise more revenue with his duties on tea and other imports things started to get really serious.

The act of establishing the Commissioners of Customs, with headquarters at Boston to collect the revenue, has been called "England's most fateful decision," because most of the events that goaded Americans into independence may be attributed directly or indirectly to it.

The commissioners bore the brunt of the first trouble. They and their clerks, surveyors, collectors, searchers, spies and informers were beaten up, tarred and feathered and subjected to other indignities.

Apart from the question of the justice of the taxes, the customs men themselves were said to be a dishonest bunch of bloodsuckers, exploiting the situation for their own personal gain.

"When things are ripe for it," the Whigs warned, "they will be prosecuted in Law for Robbery" and the whole wicked system of customhouses and commissioners wiped out.

One who showed open contempt for the customs men was John Hancock, a rich Boston merchant. When two of them came snooping between decks on his ship Lydia he had his men seize them and escort them roughly ashore.

The commissioners laid in wait for Hancock. When another of his ships, Liberty, sailed into Boston harbor in June, 1768, with a cargo of Madeira wine, customs men again came aboard. Again Hancock and his men seized them. This time they locked them in a cabin, unloaded the cargo, then heaved the officials overboard.

News of what was going on at Hancock's wharf fired other patriots to action. A mob went after the collector and controller and drove them through the streets. The collector's son was dragged along by his hair.

The commissioners fled to Castle Williams, three miles across the water. One of them was reported to have taken refuge at Newport. The Boston Sons of Liberty searched high and low for him, in "Outhouses, Bales, Barrels, Meal Tubs, Trunks, Boxes, Packs and Packages . . . in short every Hole and Corner sufficient to conceal a Ram Cat, or a Commissioner." But they didn't find him.

Meanwhile the commissioners sent an urgent dispatch to London, declaring that Boston was in a state of insurrection and that they dared not go ashore. They also prepared smuggling charges against Hancock and other merchants.

Back in London their lordships' patience was fast running out. They demanded that measures be taken to show "those Braggarts their Insignificancy in the Scale of Empire" and that Boston be reduced to "a poor smuggling Village."

Secretary of State for the Colonies Lord Hillsborough was by now convinced that the Americans were aiming for total independence from the mother country, and that the Colonies would be lost forever if the rebels were not quickly suppressed. He agreed it was time to teach the Americans a sharp lesson, and that the best way to do it was by sending regular troops of the British army.

By September, 1768, two regiments had set sail for Boston. Two more followed shortly afterward.

The Sons of Liberty had sworn that the troops would never land. But they did and without incident, although according to Gov. Thomas Hutchinson the situation at the time was very close to revolution.

Sulkily resigned to the presence of the British troops in their midst, the Boston Town Meeting salved its pride by declaring that the regiments could remain in the colony only by the authority of the assembly.

John Hancock deeded his new concert hall to the town, stipulating that no British revenue, army or navy officer should be admitted to it.

Social boycott of the officers was not the only way of showing the redcoats they were not welcome. The men were luridly depicted in the patriots' propaganda press as rapists and murderers and were hauled into court on every conceivable pretext. It was dangerous for them to venture out alone. There were frequent scuffles with cudgel boys down dark alleys.

"I don't suppose my men are without fault," pleaded Col. Dalrymple on one occasion, "but 20 of them have been knocked down in the streets and got up and scratched their heads and run to their Barracks and no more has been heard of it whereas if one of the Inhabitants meets with no more than just a Kick for an Insult to a Soldier the Town is immediately in an Alarm and not one word the Soldier says in his justification can gain any credence."

The soldiers had been told that they could not fire to defend themselves without the order of a civil magistrate. Everybody knew that no magistrate in Boston would dare issue such an order.

Things had reached such a pitch and the men's nerves were so frayed when the stones came flying through the air that day in October, that the detachment broke ranks and one of the soldiers fired a shot into the air. It brought the mob to a halt.

Nobody was seriously hurt on that occasion, but it was a warmup for what was to come later, when the first real blood was spilled on March 5, 1770, in what came to be called the Boston Massacre.

Patriot Cousins—The Adams Boys of Revolutionary War Fame

(By Frank Bauer)

Boston.—It takes all kinds to make a successful revolution—and that is a lesson in American history that some of today's rebels might pause to consider.

Take the hot spot this city was during the years that led up to the American Revolution. Here was John Hancock of the wealthy elite (the "Establishment") teamed with the waterfront rabble in the cause of independence.

Silversmith Paul Revere, shoemaker Billy Dawes and intellectual Dr. Joseph Warren, who died on Bunker Hill, all were aligned in the cause of liberty.

And no more interesting contrast of personalities on the revolutionary bandwagon was there than that "brace of Adamses"—as they were contemptuously referred to by British Gov. Shirley.

John and Samuel Adams were cousins by blood but many genes apart in temperament, as one historian has put it. Yet the contributions of each were basic to the successful emergence of a new nation at a time when the Colonies' natural and common ties of heritage to Britain—and British domination—had to be severed.

Sam Adams, the older cousin, was a revolutionary of more conventional description. Born with a bias against the royal governors which was strong in his father, the boy came to be part of the radical movement that engaged his parent, and both shared the bitter conviction of the injustice of British colonial rule.

Sam senior had clashed as early as 1741 with the royal governors.

Young Sam became the dedicated and purposeful revolutionary, persevering in his plotting with the Boston workingman toward the overthrow of the despised British rule. His inherited Calvinism gave depth to this cause, and in the fight against tyranny he hoped, too, to make Boston austere and godly in reforms from what he regarded as the effeminacy and corruption in the mother country.

It was Sam's cunning hand that helped to engineer the "Boston Massacre"—that much-touted street eruption whose propaganda value was useful in helping to stir up indignation throughout the Colonies. It was Sam's "boys" who staged the Boston Tea Party and harassed the royal tax collectors in a variety of ways.

Sam himself had been Boston's tax collector (in 1756) and had distinguished himself in that role more for his failure to enhance the coffers than for his diligence in behalf of the treasury. He wound up 4,000 pounds in shortage and faced court action, but his negligence was more softheartedness than willfulness.

His personal business life was no more effective. The senior Adams had left Sam a neat legacy and prosperous malt works, but Sam squandered the kitty and let the business run to pot.

Cousin John was ever aghast at the improvidence of his older cousin.

For all of his poverty and poor management, however, it was Sam who painstakingly and craftily organized Bostonians of all levels to resist and frustrate—by word and by deed—the Colonial governors. He was the constant agitator over the years, and he was impatient when the boiling showed signs of subsiding.

He has rightly been dubbed the firebrand of the Revolution, and the British redcoats were on their way to seize him and John Hancock in Lexington at the time Paul Revere made his famous ride.

Cousin John Adams, 13 years Sam's junior and appearing even younger, was a revolutionary of entirely different stripe.

John was a fastidious man and prudent—both in political outlook and personal affairs, given sometimes to worrying more about his health than the fate of the Colonies under British oppression.

While both John and Sam were graduates of Harvard, it seems quite clear that the erudition and culture of that dominant institution had rubbed off more on John than on Sam.

John was a respecter of reason, devoted to logic and the law—feeling the bonds with British ancestors and contemporaries in the admiration of constitutional processes. He was repelled and disconcerted by the rabble-rousing of his esteemed cousin and shocked at Sam's disregard for personal fortune and by Sam's shabby home and careless living.

It was John Adams—the young attorney—who, much to Sam's displeasure, was persuaded to undertake the defense of the redcoats involved in the "Massacre" shootings in 1770. It was John's delaying stratagem and skillful argument that spared the British soldiers from lynch law and established the American reputation of adherence to due process.

Sam felt thwarted and set back by John's appeal to reason over patriotic ardor and cause, but "that brace of Adamses" had advanced freedom and independence more than they knew in their respective ways.

When the Continental Congress was called in Philadelphia in 1774 and a splendid coach and array of coachmen and mounted servants rolled out of Boston with the Massachusetts delegates, there were John and Sam Adams among them—Sam leaving his beloved state for the first time in his life.

Both men signed the Declaration of Independence and later served their new nation with distinction—John as second president of the United States, Sam in Congress and later in the Massachusetts Legislature and as governor.

The cousins had long since been reconciled from their differences of the Massacre days and now shared the great responsibility of building a United States. Independence had left the old agitator, Sam, without his fiery cause, and he bowed to Cousin John as the man of the future. John, meanwhile, had rendered verdict on Sam in an opinion inscribed in American annals. Cousin Sam, he wrote, was "born and tempered a wedge of steel to split the knot of lignum vitae that tied America to England."

Boston "Massacre" Distorts History

(By Frank Bauer)

Boston.—The Boston Massacre—sometimes pictured as the bloodbath that sparked the Revolution—was not that. It was, however, the first fanning of angry cries for American independence.

The British might have altered the course of history had they taken warning and "cooled it" after the riot of March 5, 1770, but a tax-hungry Parliament instead persisted in its infuriating levies on the colonists.

Occurring five years before the outbreak of war, the "massacre" was a street brawl in which the fatal shooting of five demonstrators by terror-stricken redcoats became a rallying cry for the patriots.

It is to the credit of the colonists—and worth attention today—that after the bloody event, the rules of law triumphed over inflamed passions. A cooler leadership prevailed over patriotic ardor and lives of offenders were spared.

Therein lies another dramatic story of the divergent pathways of two patriots—John Adams, the farsighted lawyer whose astute defense saved the British soldiers, and his cousin, Samuel Adams, whose fiery exhortations might have railroaded the redcoats to a lynching. (John Adams later became the nation's second president.)

The Boston Massacre was neither unexpected nor uninspired. For months the hated British soldiers had been taunted on the streets, and there had been numerous incidents since the two regiments had first arrived in 1768.

They had been sent to back up the king's tax collectors, who had found enforcement of the levies impossible in the face of incensed colonial resistance.

The redcoats had marched arrogantly into the city and immediately earned the disdain of the patriots. The air was charged with undisguised hate and both sides were spoiling for a fight.

Three days before the "massacre" there had been an incident at the rope shop. A British soldier seeking paid employment to supplement his military allowance was insultingly invited to clean the outhouse, the invitation delivered in a vernacular calculated to touch off the fight that followed. The redcoats, outnumbered and beaten, returned with companions to get even. Only the intervention of the shop's Tory owner averted a riot.

The city was tense with ominous expectations three days later, on the cold moonlit night of March 5. There had been snow early that day, then some melting and an evening freeze. And there were whispered hints that trouble was brewing. Soldiers were heard to say that there were "them in Boston as would eat their suppers . . . (and) would never eat another."

Sam Adams had spread the word to some friends that help might be needed that night. Many of the Bostonians had cudgels ready.

A sentry stationed at the customs house had an angry exchange with a youth. A crowd gathered, and there were shouted insults and namecalling. Fire bells rang, and the crowd grew. The frightened sentry called for help. Seven soldiers responded and were joined by Capt. Thomas Preston.

The mass of people—not about 200—included some bold aggressors who brushed up against the armed soldiers menacingly.

A bayonet was seized. Suddenly there was firing. Five colonists lay dead or dying and six others wounded.

The war might have begun right then and there.

The heavily armed Sons of Liberty, egged on by Sam Adams, were ready to avenge the shootings. Only the desperate appeal of the lieutenant governor, Thomas Hutchinson, prevented more bloodshed. He begged for calm; quickly promised to bring the soldiers to trial.

What followed constitutes a dramatic and sterling chapter in colonial history.

The enraged populace shouted for punishment. The soldier prisoners, submitting to arrest with Capt. Preston, feared for their lives. Sam Adams summoned a town meeting of 3,000 excited patriots who insisted that the troops be removed. Hutchinson, a royalist who hated the idea of rebellion, was literally trembling in face of the confrontation. He had the troops withdrawn. They marched through hooting crowds to boats that removed then to an island in the harbor.

Preston, who ironically had been one of the better regarded British officers, begged for a defense lawyer. It appeared that there would be no volunteer until young Josiah Quincy Jr. said he would undertake representation if the older John Adams would join him.

Adams, whose political sympathy lay with the patriots as opposed to the loyalists, was also profoundly dedicated to the ideal of impartial justice and an independent court and bar—a principle that could find little support at the moment in the aroused city.

When Adams agreed to take the case, he and Quincy were promptly subjected to rock-throwing and the jeers of fellow citizens.

Cousin Sam Adams, Paul Revere and the newspapers under their influence pressed hard for rapid trial and severe penalty. Revere had circulated his famed—and highly inaccurate—print depicting the redcoats firing into an innocent and passive group of bystanders.

John Adams and his aides, including one Robert Auchmuty, moved for delay—that tempers might cool and legal processes prevail. The court was of a similar mind. Some hazardous legal stalling tactics succeeded in postponing the trial until October while Preston and his men languished apprehensively in jail—sometimes in terror that they would be lynched.

John Adams' next strategy was to get a separate trial for Preston, who had friends among the patriots. By clever maneuvers the defense also managed to get a jury of citizens who lived outside the city limits. Historians are at a loss to explain how Sam Adams let this happen, for he and his Liberty boys could have packed the courts and cowed judges and staff.

It may be that Sam Adams knew of the impressive array of witnesses that Cousin John had assembled—citizens whose testimony was to prove that the "massacre" was the result of riot and violence and growing out of the redcoats' natural fear that they were to be mobbed and killed.

In three hours the jurors voted to acquit Preston, and the captain was speeded out of Boston for his safety.

Trial of the soldiers who had done the shooting was another matter, the defense attorneys knew well. The patriots were still bent on punishment.

John Adams prepared his presentation of witnesses carefully and built up skillfully to the climactic argument that the shootings were in self-defense.

There was testimony to the unusual number of men on the streets that cold night, the account of the fight at the rope shop three days earlier (one of whose participants was among the March 5 victims), and of the belligerency toward the soldiers.

A respected physician testified that he had treated one of the wounded and had heard his patient confess that the soldiers had indeed fired in self-defense and that he did not blame the man who shot him.

Patiently and quietly John Adams explained to the jurors the law of homicide and the principle of self-defense. He appealed to them to imagine themselves in the place of the soldiers facing a mob.

Step by step he reviewed the testimony that had helped to define the riot and then, in dramatic summary, quoted the principle of law that was dear to him:

"To your candor and justice I submit the prisoners and their cause. The law, in all vicissitudes of government, fluctuations of the passions, or flights of enthusiasm, will preserve a steady, undeviating course. It will not bend to the uncertain wishes, imaginations and wanton tempers of men . . . On the one hand it is inexorable to the cries and lamentations of the prisoners; on the other hand it is deaf, deaf as an adder, to the clamors of the populace."

It was a persuasive peroration to that law-respecting jury, which returned after two and a half hours of deliberation. Six of the soldiers—not guilty, they voted. Two—not guilty of murder but guilty of manslaughter. The judges dismissed the six, ordered the guilty pair branded on the thumbs—a familiar penalty of the day for manslaughter.

John Adams later wrote that his "disinterested action" in defending the soldiers was one of his best services to his country—and he had rendered many. Samuel Adams had not agreed, but it was to the new nation's incalculable benefit that the two men remained friendly and united in the creation of the republic, both pledging lives, fortune and sacred honor in the Declaration of Independence.

THE FOUNDERS WE HAVE FORGOTTEN

'The second day of July, 1776, will be the most memorable epoch in the history of America," wrote John Adams to his wife after the approval of the Declaration of Independence. "I am apt to believe that it will be celebrated, by succeeding generations, as the great anniversary festival."

July 4 is celebrated with all the pomp and parade Adams envisioned, so much so that it may have eclipsed the moral and philosophical significance of the Declaration of Independence and the lives of those who signed, not on July 4, but on Aug. 2, 1776.

The pomp and pageantry have, moreover, obscured the dispute whether John Hancock signed on July 4, and millions believe that Patrick Henry and George Washington signed at that time. They did not and were away from Philadelphia at the time.

How many signers can you name besides Adams, Jefferson, Hancock and Franklin? Have you ever read the declaration completely through? Do you have a copy in your home?

If you find yourself groping for answers, you are confirming the conviction of a small group of intellectuals, academicians, journalists and businessmen who have banded together in a new organization called The Founders Society. What they intend to communicate is a clear understanding of the American Revolution, especially among young people, and its relevance to our own times.

As a starter, The Founders Society would like to see Aug. 2 officially declared "Founders Day," arguing that we honor the Declaration of Independence and its primary author, Thomas Jefferson, but not those who signed it and who are "our forgotten founding fathers."

Rejecting the idea that they are a "patriotic organization," The Founders Society will promote the philosophical and political program of the Founders of America, which they characterize as "classic liberalism," espousing freedom from all types of coercion, voluntary consent among individuals, reason, liberty and law.

They believe, moreover, that these concepts of the American Revolution are more relevant now than they were in 1776.

The society points to a recent work, "Greatness to Spare," by T. R. Fehrenbach on the 56 signers as an excellent primer for those Americans groping for knowledge of the heroic story of the signers of the Declaration of Independence. "If their ordeals were relevant then," Fehrenbach writes, "they are surely relevant now, and they certainly have too long been ignored."

The author also reminds us that the declaration was, in its most severe sense, an act of treason against the king, with the universal penalty of hanging. "Whatever else the 56 signers of the Declaration of Independence did," he adds, "by this supreme act of courage on Aug. 2, 1776, they immediately changed the course of the revolution. What had been a civil conflict of dubious outlines to some, now became a great national patriotic war. The act drew sharp lines."

It is forgotten, too, that prior to the Declaration of Independence the signers had spent almost a decade trying to reason and peacefully persuade the British crown to renounce its repressive acts and measures.

The declaration not only polarized opinion about a break with Britain, but as famed historian Samuel Eliot Morison points out, for many of the fence sitters the declaration came as a "godsend to tender souls among the patriots who could not get over their duty to honor the king."

What especially appalled those opposed to independence was the fact that most of those advocating it came from the "establishment" and "power structure" of the Colonies. Each of the 56 signers had his whole life and career ahead of him, as indicated by their ages—their average age was 40. Eighteen were in their 30s and three in their 20s. With the exception of Samuel Adams of Massachusetts, all held substantial property and sustained steady losses during the seven-year war for independence which ended with Wahington's triumph at Yorktown.

Eleven were successful merchants, nine were large landholders, twenty-four were jurists and lawyers, and the remaining were doctors, ministers and political leaders. All but two were married, many with infant sons and daughters exposed throughout the war to British intimidation and harassment.

Nine signers died of wounds or hardships in the war, five were captured and imprisoned, and one was driven away from his wife's deathbed and lost all his children. Twelve had their homes burned to the ground, 17 lost everything they owned and every signer was branded a traitor, hunted and barred from his home and family during the war. Almost every signer was offered bribes by the British and safety for their family and loved ones if they would repudiate their signatures after they were made public in early 1777. Not one went back on his pledge of the declaration vowing "our lives, our fortunes and our sacred honor."

Forty-nine of the signers lived to see not only the triumph over Britain, but many went on to serve the new political institutions which they had helped create. They served as president, vice president, Cabinet officers, ministers abroad, U.S. senators, congressmen, state governors, state senators and assemblymen.

The Revolution's stunning success was due in large measure to their philosophy held toward men in general and toward political power in particular. The former was liberal and optimistic, the latter conservative and pessimistic.

The quality of mind of the 56 who embraced such a view still awes and astounds historians and foreign observers alike. The 56 were not revolting against society, but against abusive and arbitrary government as they saw it. This set of deepest-held premises of the signers accounts for the total absence of a reign of terror, mass murders and civil war such as that following the French, Russian, Mexican, Chinese and Cuban revolutions.

Still more remarkable was the endurance of the political ideas and institutions to which they gave granite permanence. "The structure they built was so liberal," observes author Fehrenbach in his work on the 56 signers, "and at the same time so pragmatically conservative, that it became the only 18th Century government and constitution to survive intact through modern times."

Since the early 1960s, the American radical new left has claimed it is emulating the 56 signers of the Declaration of Independence and the American Revolution. How valid is this comparison?

"What is most impressive about the Revolution of 1776," writes Amherst historian Henry Steele Commanger, "is its creative and constructive character.

"What is most impressive about the revolutionary fervor in America today is its negative and destructive character."

TOWN DEFIED BRITISH IN TWO WARS

(By Ralph H. Minard)

STONINGTON, Conn.—In the Revolutionary War and in the War of 1812, many New England towns felt the wrath of the British.

In Connecticut, Benedict Arnold led damaging attacks on the towns of New London and Groton. To the west, Gen. Tryon, former colonial governor of New York, led a force into Danbury and burned part of the town.

But there was one town that successfully defied the British in both wars.

Stonington today is a somewhat somnolent seaport looking out on Fisher's Island Sound and Block Island. It has a small lobster and fishing fleet. Its white cottages hide behind white picket fences, and in the summer, hollyhocks.

In Colonial times, its vigorous citizenry more than compensated for a small population by their great activity. It had both fishing and whaling fleets, and sturdy mariners who knew the sights and sounds of China as well as those of their town green.

Hunger was what brought the British to Stonington the first time. A sizable British force was trapped in Boston, and had to be supplied by sea. So British naval ships began scouring the southern New England coast, seeking livestock and other provender to feed a famished army.

A British admiral in the fleet off Boston dispatched Capt. Sir James Wallace, 44, commanding the 20-gun frigate Rose southward to round up whatever cows, sheep and pigs he might find.

Wallace burned about 20 houses and barns on the island of Conanicut in Narragansett Bay and hauled off livestock. Next he threatened Bristol, R.I.

The town fathers first refused to provision his ship, but changed their minds after a few cannonballs whistled through town.

Wallace then heard of a substantial number of cattle on Block Island, in Long Island Sound, and set sail for that place. But the Colonists on Block Island had already been warned, and had shipped their cows to Stonington, 20 miles away, for safekeeping.

Wallace pursued the elusive cattle to Stonington, arriving off that port Aug. 13, 1775. He sent a small party to shore demanding surrender of the cattle. The men of Stonington refused. The small boat pulled back to the Rose and the men of the village began assembling with muskets. They were soon reinforced by a nearby militia force.

Thirty-nine years later another British squadron, more formidable by far than Capt. Wallace's Rose, sailed into Stonington Harbor during the War of 1812.

Stonington, built on a peninsula jutting out into Long Island Sound, was extremely vulnerable.

The British squadron, commanded by Capt. Thomas Masterman Hardy, 45, a close friend of Adm. Horatio Nelson and a veteran of the Battle of Trafalgar, included Hardy's flagship, the Ramillies, 74 guns; the Pactolus, 44 guns; the Despatch, a brig of 22 guns; the bombship Terror, and the armed brig Nimrod. Hardy's date of arrival was Aug. 9, 1814.

Once again the men of Stonington refused a demand to surrender the town and release the wife of a British government official believed to be in custody there. (She wasn't.)

While Hardy went about preparations for a landing, the inhabitants of the town dragged their two small cannon into position behind an earthen breastwork. They lit signal fires on nearby hills to summon aid. And they rounded up their supplies of muskets, ammunition and shot.

Around 8 that evening, the Terror moved into firing range and began unleashing flares and cannonballs into the town. At first the defenders were awed by the pyrotechnics, but they soon found many of the rounds were falling on the far side of town, and the few fires started by the flares were quickly doused.

Next the British sent some barges close in to shore to fire a barrage of Congreve rockets—powerful armed rockets guided by long sticks. The bombardment lasted until midnight, with the American cannon firing in retaliation.

Toward evening, the Rose sent an armed landing party toward shore. At the proper moment the townspeople led by Capt. Oliver Smith and Capt. William Stanton, fired a heavy fusillade from their Queen Anne long-range muskets. The landing party, with several wounded, rowed back to the Rose. Wallace thereupon bombarded the town for several hours, damaging numerous houses.

But he sent in no further landing parties, and that night headed the Rose eastward into the Atlantic. The menace to Stonington had been overcome with only one casualty—Jonathan Weaver Jr. Weaver was compensated by the next Connecticut General Assembly to the tune of 12 pounds, 4 shillings and fourpence. Capt. Smith was promoted to major.

Sometime later, the town acquired two 18-pound cannon to bolster its defense strength. The cannon, after the end of the Revolutionary War, were stored in one of the town buildings, all but forgotten.

The following morning, Aug. 10, found the Americans in improved shape. They had been supplied with a six-pound cannon and militia had poured into the village. More ammunition was reported on the way from nearby New London. The defenders had one more advantage—their cannon could be hauled from one strategic point to another, providing mobility.

At 7 a.m. the British loaded five barges with armed sailors and sent them shoreward to complete capture of the town. But one 18-pounder, firing from the extreme end of a neck of land, launched such a hail of grapeshot at the aggressors that one barge was shattered, several sailors were killed and the landing party rowed swiftly back to the ships of war. The British ships then moved to a new position and began bombarding, but were driven off by the other 18-pound cannon.

The British squadron pulled into deeper water, pursued by cannonballs from both defense pieces. The British then resumed their bombardment, while the defenders huddled in the breastworks and behind boulders. They were down to five shells, and limited their response to musket fire.

The promised ammunition arrived from New London by coach, and the Americans resumed firing at the British ships.

On the final day, Aug. 11, the British sent round after round of cannonfire into the village. At one point there were 20 houses ablaze. But the British realized it would be suicide to try any more landing parties.

The brig Despatch had been so badly pounded she was in danger of sinking. The defenders ashore believed they had killed four attackers in the landing party. They learned later that 21 sailors from the Despatch had lost their lives.

The Stonington militiamen were weary after three days of cannonading, but were well supplied with ammunition, men and muskets, and ready for another day of fighting.

But Capt. Hardy had had enough of meddling with this beehive and on Aug. 12 pulled out to sea. The Stonington forces had only three men wounded. One died months later. The town had suffered about $4,000 in damage to houses.

For years thereafter, a favorite children's chant was: "It cost the king ten thousand pounds to have a dash at Stonington."

Until recent times, the big cannonballs fired by the attackers remained lodged in the trunks of ancient trees in Stonington—a reminder of the valor of the defenders.

PAUL REVERE—TALENTED WORKHORSE OF THE REVOLUTION

(By Frank Bauer)

BOSTON.—It may have been "the shot heard 'round the world" but it did not interrupt Paul Revere's pedestrian task at Lexington Green.

Revere, the dutiful and worthy servant of the Revolution, barely turned his head when he heard the shooting. He was bent to the task of rescuing a trunk of papers belonging to John Hancock from a tavern near the historic green.

Revere had been up all night, making his famed ride along with several other messengers to warn the countryside—and especially to warn Hancock and Sam Adams—that the British regulars were on their way. It had not been a completely successful mission. Revere had been lucky enough to elude two mounted British officers near Boston but other Redcoat officers had intercepted him near Lexington and taken his horse.

He had made his way by foot through wood and pasture to the parsonage where Adams and Hancock were hiding. Hancock wanted the trunk with its valuable—and treasonable—papers. It had been left at Buckman's Tavern, and Hancock and Adams were wanting to take it with its contents to the meeting of the Continental Congress in Philadelphia. The trunk had been especially made to fit the carriage that would take the two Congress delegates to Philadelphia.

Revere, his warning duties finished and now fed after his eventful night, agreed to return to the tavern with Hancock's clerk to get the trunk.

As the two were ready to leave the tavern with their load, the British troops in all their orderly and braided splendor had reached the green where the Minute Men were assembled.

The Red coats had had a long and slow night's march after an uncomfortable and knee-wetting crossing of the Charles River, but they were impressive in formation and numbers as they drew up to the Lexington Green. The motley assortment of militiamen gathered there hardly seemed to be worthy foe, but the British were mindful even before reaching the town that the country was astir with furtive figures in the predawn hours.

The British were ordered not to fire as they came close to the Minute Men. It was not clear that there was to be fighting. The regulars were destined to seize military stores at Concord and wanted no interference.

It is not known to this day who fired first, but a shot rang out and the American Revolution was off to its start.

The significance of the moment was probably lost to Paul Revere. He heard the shooting as he left the tavern, looked over his shoulder but continued on his mission to carry the trunkful of papers to Hancock.

This was the nature of the man. Revere was a talented workhorse of the Revolutionary cause, a paid and respected messenger of the Provincial Congress and the colony of Massachusetts. He had made several rides to Philadelphia and elsewhere on his mare for the rebel political leaders. He was not quite the daredevil, lone ranger type rider conjured up in some minds, but certainly he took plenty of risks to both body and fortune as he embarked on errands that under the law were susceptible to charges of high treason.

Revere was essentially a family man, closely attuned to the Revolutionary cause, but who first and foremost had to make a living. This he did with unusual skill and versatility.

It was Paul Revere, the silversmith (and his works are still prized), the bellmaker, engraver, powder mill proprietor, money designer, coroner, clerk of the town market, express rider and, not the least among his skills, the dentist.

It was Revere, as dentist, who positively identified the body of Bunker Hill hero Joseph Warren exhumed some months later from its battlefield grave. Revere had made for the handsome young Warren two teeth of ivory wired in with silver. Probably he was the first dentist in American history called upon to identify a corpse by the denture. Revere had learned his dentistry early in his career from a "surgeon-dentist" who lived in Boston for only a short time and had left after finding skeptics among his patients.

Revere not only cleaned teeth and mended them but he offered to supply spectacles and lenses. He made spatulas and probes for surgeons, rattles and "wisles" for babies, engraved collars for dogs, baptismal basins and other vessels for churches, gold earrings, shoe buckles, punch bowls, chafing dishes and more. Someone has observed that he was Colonial America's Sears, Roebuck, adding that if he had made his famous ride through Middlesex County astride a power lawn mower, he wouldn't have had to raise his voice.

As a rider for Revolutionary causes he was more than a messenger. It is apparent from the nature of his errands, though he was less than an ambassador.

His observations were valued by John Adams, Hancock and the other brain men of the cause. When he made rides to Philadelphia, for example, his personal recounting was heard with interest by the men who had dispatched him, and there is little doubt that his reports had influence on policy.

A modern wit, arguing against civil defense expenditure during a recent New England town meeting, added a triumphant punch line, "Who paid Paul Revere?" This debater did not know that Revere's own bill for his messenger service is on display this day in a Boston historical collection. Revere was paid for his riding, though he charged the colony of Massachusetts a modest five shillings a day for such services.

He had to be preoccupied with finances, for he had a big family and home. Two wives bore him a total of 16 children, and he supported his widowed mother and aided sisters and other family members. The Reveres had not struck it rich, and Paul's growing family had many needs. His father, the Huguenot immigrant, Apollos Rivoire, had endowed him nicely in the silversmith trade, and his mother, Deborah Hitchbourn, came from a propertied family, but there was no family fortune. Revere had to seek out many occupations to keep home and shop and maintain his lodge affiliations in the hard times that Boston knew during the Revolutionary period.

It was in 1770, when Paul was 35, that he bought the century-old North Square house that was to be home for many years and that to this day stands a memorial to him, restored, furnished and open for public inspection in downtown Boston. It is that city's oldest dwelling, built somewhere between 1650 and 1680, probably by one John Jeffs.

Paul purchased the place from one of the city's largest real estate dealers, Capt. John Erving, paying 213 pounds and with a mortgage of 160 pounds, a substantial investment for the times.

Somewhere along the line, the two-story house became three stories, perhaps to accommodate Revere's sizable family. The restoration has returned the dwelling to its original two stories.

Paul added a barn to the property where he kept his mare—the horse that served him well on his rides. It was probably the same mount that took him on his express ride in November 1773 to warn the neighboring seaports that the detested tea ships might be heading to unload at their wharves. It is the first record we have of Revere "booted and spurred and ready to ride," says the authoritative account of Esther Forbes ("Paul Revere, the World He Lived In").

Paul supposedly was a participant in the tea party itself. Two of his clubs were involved including the Masons, whose brief record the night of the "party" reads: "Lodge closed on account of few members present." While it had been decided that young men not readily recognizable would dump the tea into the harbor, some of the older and bolder leaders—well disguised—went along to make sure that the job was done right and that there would be no looting. It was a risky venture for Revere and the men of his stature. If caught, they would be held liable under strict royal edict and face trial for destroying property of the East India Company.

But Paul Revere was ever a daring man. His basic devotion to the cause was later reflected in the military heroism of two grandsons who gave their lives in the Civil War—Paul Joseph Revere at Gettysburg and E. H. R. Revere at Antietam.

Paul himself survived the Revolution by several decades and lived to recount for interested Americans the details of the "eighteenth of April in seventy-five." The Longfellow poem that memorialized the ride in "Tales of the Wayside Inn" was published in 1863, 45 years after Revere's death and established for all time Revere's niche in American history.

It All Began With The Mayflower Compact

(By James Cary)

WASHINGTON.—"In the name of God, amen. . . ."

That's how it began, the first words of the first written document of self-government in English-speaking America—the Mayflower Compact.

This fall Massachusetts will open a 350th anniversary celebration of the drafting and signing of that document and of the historic events that followed.

For on that cornerstone was erected the foundations of the republic, soon in turn to celebrate its own 200th anniversary in the year 1976.

In readying a 15-month program beginning Sept. 12 to commemorate the anniversary, Massachusetts has stated:

"In an age of tumult, disillusion and rebellion, when Americans are seeking to clarify their personal values and basic convictions, the Pilgrim anniversary will provide a colorful opportunity for millions of citizens to rediscover their country's roots. . . ."

The Mayflower sailed from Plymouth, England, Sept. 16, 1620, carrying 102 members of the separatist church to the new world.

They missed their intended landfall in Virginia but after a 66-day voyage arrived off Cape Cod near the present-day site of Provincetown, Mass.

There, on Nov. 11, 1620, in the cabin of the ship, 41 of those aboard signed the Mayflower Compact, proclaiming among other things that they were binding themselves into "a civil body politick (sic)" to "constitute and frame such just and equal laws, ordinances, acts, constitutions and officers . . . as shall be thought most meet and convenient for the general good of the colony."

For five weeks after that they conducted three expeditions down the bay coast to the cape, touching sites that later were to become Chatham, Wellfleet, Truro, Eastham, all communities that will join in the 350th anniversary celebration.

Finally on Dec. 26, they came ashore at what is now Plymouth, where they prayed near "Plymouth Rock" and founded their colony.

After a somewhat circuitous journey, the famed "Plymouth Rock" is again back in what is believed to be that original location. Just before the Revolution it was placed in the town square in front of the old First Church, but was returned to the beach in time for the 300th anniversary of the landing in 1920.

Ironically, too, the rock played an inadvertent role in naming the settlers the "Pilgrim fathers," a term that was not used until 200 years after their landing.

Before that they were called "old comers" by their children and succeeding generations. Later they were also known as forefathers.

It was Daniel Webster, the principal speaker at "Forefathers Day" services on Dec. 22, 1820, who said in an emotional address:

"Beneath us is the rock on which New England received the feet of the Pilgrims. . . . We have come to this rock to record here our homage for our Pilgrim fathers."

He made the term stick.

Though Plymouth Rock is no longer in the town square as it was then the present residents of Plymouth have cleared and redeveloped a 30-acre area in the center of town for tourists expected to join in the celebration this fall.

There they have reconstructed the 1749 Plymouth County courthouse, built a Pilgrim gristmill, and preserved 20 residential structures of historic interest. The courthouse is the oldest wooden courthouse in America; some parts of the buildings go back to 1660. Its main courtroom is furnished with a judge's bench, jury box and sheriff's table exactly as it was in 1749.

In the courthouse basement are the old county gallows, an ancient town hearse and Plymouth's 1828 hand jump fire engine.

At nearby Plymouth plantation there is a re-creation of the Pilgrim village of 1627. Other attractions include Mayflower II, a replica of the original ship, tied up near Plymouth Rock. There are also numerous demonstrations of Pilgrim crafts, and exhibitions at historic Plymouth houses.

Other planned events include a parade on opening day, Sept. 12, and a Dec. 21 reenactment by costumed Pilgrims of the original landing in 1620 at Forefathers Day services at Plymouth Rock. The Rev. Billy Graham will officiate.

Thomas Hutchinson—Tragic Figure of the Revolution

(By Frank Bauer)

BOSTON.—The nostalgia of transplanted Yankees has been stirred in recent years by the haunting lament of songstress Jane Morgan with her "Homesick for New England."

Such a ballad would have torn the heart out of a prominent New Englander of Revolutionary War days who, though he departed Boston despised and despising, came to miss his native home with a depth of melancholy that hastened him to an unwanted grave abroad.

He was Thomas Hutchinson governor of the province of Massachusetts, Boston born and bred and contemporary of the patriots whose activities brought about his misery.

Hutchinson was older and wealthier than such Boston neighbors as Paul Revere, Sam Adams and James Otis, but he knew them well. The records show he even did business with silversmith Paul Revere in the days when this plotting patriot had already become a thorn in his side.

Hutchinson was the son of a well-to-do Boston merchant and an American by several generations. He became a lawyer and respected political figure early in his career. He represented Boston in the General Court and was several times chosen speaker. He was appointed probate judge, then lieutenant governor and, at 49, chief justice.

A man of gentility and Boston's most distinguished citizen, Hutchinson lived in the mansion left to him by his father. With fenced-off gardens, fruit trees and coach houses, he resided gracefully and with pride and an aloofness that removed him from the hurly-burly inspired by some of his rebellious neighbors.

It was natural for Hutchinson to be both cautious and conservative, and, as an officer of the crown, he tried hard to maintain the

XUM

relationship between mother country and Colony that would produce peace and order. His background gave him a superior understanding of the Boston patriots, and he knew well of their politics and their opposition to tyranny. Probably he did not share fully the Tory disdain for the roughnecks who precipitated the Boston Massacre and, later, the Tea Party—even though his position was central and uncomfortable in both instances.

He had succeeded as governor of Massachusetts after a hated predecessor had been recalled to England. His appointment came in 1769 in the face of his increasing unpopularity with fellow citizens because of his support for British policies.

Hutchinson was the governor at the time of the Tea Party in 1773, and it was his refusal to permit the reshipment of teas on which the hated tax had been imposed that caused the Colonists masquerading as Indians to dump the tea into the harbor.

He had shown much courage in the conflicts of the times. His home was sacked by a mob during the Stamp Act riots of 1765, when he was the lieutenant governor under Gov. Sir Francis Bernard. Hutchinson's excellent library was dismantled and his priceless manuscript history of Massachusetts was scattered into the streets. Bernard took refuge behind British guns, but Hutchinson went right to the center of the disturbance with a sheriff, was pelted with stones and subjected to abuse.

At the time of the massacre in 1770 when feelings in Boston ran at fever pitch and the squad of Redcoats who had done the firing was in danger of being lynched, Hutchinson stood face-to-face with the enraged crowds and successfully bargained for the judicial processes that saved the soldiers.

Shortly after the Tea Party, however, when the hazards to him and family had mounted, Hutchinson gave up and asked leave to resign. In June of 1774—only 10 months before the outbreak of the Revolution—he sadly departed his beloved homeland and sailed off to the England whose king had commanded his loyalties.

There he was destined to spend the remainder of his life, always yearning for return to America. The pain of his nostalgia was evident in the writings of those years before his death in 1780.

"I had rather die in a little country farm in New England," he pined, "than in the best nobleman's seat in Old England."

He mourned that the "prospects of returning to America and laying my bones in the land of my forefathers for four generations . . . is less than it has ever been. God grant me a composed mind."

This was despite the fact that England had made him welcome, granted him a pension and that his children had joined him abroad. His beloved wife he had buried many years before near his Boston home, and her tomb was seized with the rest of his property. Long a widower, he had never remarried—an unusual situation in those days.

The strong feeling against Hutchinson died down quickly after the Revolution, and in 1821 the blood of patriot Paul Revere was mixed with that of the old governor when Paul's son, Joseph Warren Revere, married Mary Robbins, a grand niece of Gov. Hutchinson.

Hutchinson's skill in finance and money matters earned a friendly citation from John Adams in the years after Adams' presidency.

"If I were the witch of Endor," Adams wrote, "I would wake the ghost of Hutchinson, and give him absolute power over the currency of the U.S. . . . He understood the subject of coin and commerce better than any man I ever knew in this country."

It was a real tribute from an old enemy.

Historian Esther Forbes writes, "If any ghost walks a New England field, haunts a deserted garden, it must be the slender wraith of Thomas Hutchinson."

One Hundredth Anniversary Fete Was a Gala Affair

(By James Cary)

Washington.—They rang the Liberty Bell for half an hour. Bands played. Foot troops and cavalry moved into the procession. President U. S. Grant and his Cabinet took their places in waiting carriages.

Then with a beating of drums and clashing of cymbals the giant parade stepped out through the mud up Broad Street to the exhibition grounds in Philadelphia's Fairmont Park.

That's how it all began on May 10, 1876, when the United States celebrated its first 100 years as an independent nation—a six-month observance that gave Americans and the world a closer look at the products and skills of a young and building country.

Today the United States is busy preparing for a much greater celebration of its 200th anniversary centered around the bicentennial year of 1976. The American Revolution bicentennial commission will submit its proposals for that celebration to President Nixon this spring. He in turn is expected to make the final plan public on July 4.

But that massive, coast-to-coast observance, whatever form it takes over whatever period of time, will be no more spectacular to those who watch and participate than was the 1876 exhibition commemorating the nation's first century.

Just as today, 1876 was a time of great change and adjustment. The Civil War was little more than a decade past. It was the year when Wild Bill Hickok was shot and killed, from behind, in Deadwood, S.D., and Gen. George A. Custer and 264 soldiers were massacred by the Sioux at the Little Big Horn.

The nation was expanding westward and there were troubles aplenty. But in Philadelphia, on the 10th of May, the sun broke through after a drenching rain and the parade moved out on time for the 10 a.m. opening ceremonies before packed stands at the exhibition grounds.

A 150-piece orchestra played. A Methodist bishop prayed: "May the new century be better than the last." The grand chorus sang, and President Grant declared the exhibition open at the stroke of noon.

Awaiting the crowds that swarmed through the turnstiles that day were buildings known as "Main," "Machinery," "Agricultural Hall" and "The Women's Pavilion." There were also a museum and numerous restaurants and foreign exhibits, all spread over some 48 acres of reddish-yellow sticky clay soil, partially covered in places by asphalt roads and newly sown grass.

William Pierce Randall of the University of Maine has written vividly of the celebration in his book, "Centennial" (Chilton Book Co., $12.50), explaining that the exhibition was laid out in the shape of a lopsided "A," marked out by such streets as "Avenue of the Republic," "Fountain Avenue," and a ravine known as "Lansdowne Valley."

"Just inside the main entrance," Randall said, "was the Grand Plaza, with Main to the right and Machinery to the left. Main was the chief building and reputedly the largest structure in the world—1,880 feet long, 464 feet wide and 20 acres in area."

Inside were three organs, played almost constantly. There were many fountains, some scented with cologne, a central bandstand, wheelchairs for hire and displays by the thousands.

Spread before the public eye were such diverse goods as Norwegian silver work, clothing, ropes, Yale locks, guns, iron and steel products, glassware, gas fixtures, paints, chemicals, Belgian wood carvings, British magazines and somewhere on the grounds, needlework done by Queen Victoria and her daughter.

In a carriage annex there were examples of wheeled vehicles from the most primitive through the most modern Pullman palace cars.

In Machinery Hall, on that opening day, President Grant and Emperor Dom Pedro of Brazil together turned the valves that started a giant Corliss engine. Its steady hum filled the hall, operating many other contrivances off pulleys, chains and ropes.

Randall reports there were steamship models, ice yachts, automatic switches, a machine that made 40 pounds of bricks a day, fire engines, popcorn machines and a chewing tobacco machine run by four Negroes who sang hymns while they worked. There was even a typewriter.

Randall's book adds:

"A man named Bell displayed a telephone. The Emperor Dom Pedro happened along one day, listened, and dropped the receiver saying, 'My God, it talks!' Elisha Graves Otis was less lucky with an elevator that he tried to interest people in."

A railroad train chugged around the exhibition grounds, where for five cents the weary could travel from one end to the other, or just spend some time catching his breath and seeking relief from the terrible spring and summer heat.

Memorial Fountain, which survives today, was one cool spot but the most popular fountain was one whose waters flowed over cakes of ice.

There were many soft drink stands, too, dispensing for 3 cents flavored syrups diluted with water or carbonated water. There was also a man named Charles E. Hires who gave demonstrations showing how he made his root beer from dried roots and spices.

In the Agricultural Building there were plows and reapers and the gamut of farm produce plus aquariums, silkworms at work and spice grinders. In the U.S. government building a prime attraction was a display of the camp equipment that George Washington, commander of the Revolutionary Army, had used on his campaigns.

Still another building was the Department of Public Comfort with its large reception room, abundantly furnished with chairs and sofas. It also had barber shops, shoe-shine rooms, checkrooms, an art gallery, toilets, washrooms and an open-air terrace under a canvas awning.

Spread throughout the exhibition grounds were many restaurants, and clustered around its periphery many more with much lower prices.

There was also a museum outside of the grounds featuring wild men from Borneo, wild children from Australia, Fiji Islanders, lemonade booths and shooting galleries.

The exhibition continued on into the fall until finally Nov. 10, closing day, arrived. It rained again just as it had the day the exhibition opened.

There was a 13-gun salute, an orchestra played Beethoven's "Fifth Symphony," a choir sang the "Hallelujah Chorus," there were speeches, "America" was sung, John Paul Jones' original flag was unfurled and President Grant again appeared to declare:

"Ladies and gentlemen, I have now the honor of declaring the exhibition closed."

The time was 3:37 p.m.

In Machinery Hall a gong sounded and two engineers threw a switch halting the giant Corliss engine. In nearby Judge's Hall all those present joined in singing the "Doxology."

And so the celebration of America's first 100 years ended, and the long drift through time began—toward that distant day when the second 100 years would be similarly marked. It is now rapidly approaching.

Capital Face-Lifting Asked for Bicentennial

(By Edward Neilan)

Washington.—A special task force has urged a massive face-lifting for the nation's

XUM

capital as part of America's bicentennial celebration in 1976.

The group, in a report presented to the American Revolution Bicentennial Commission, said it would be "both highly desirable and eminently practicable" to undertake a broad program of urban innovation in Washington to make it a showplace as part of a nationwide series of events celebrating the bicentennial.

The special task force on the bicentennial in an urban America was drawn from the Joint Center for Urban Studies of the Massachusetts Institute of Technology and Harvard University and the American Academy of Arts and Sciences.

The task force urged the President to make the bicentennial "a cause as well as an occasion for celebration" in Washington.

A wide range of innovations in the fields of transportation, communications, medical services, housing and environmental control were suggested. These steps would be aimed at creating a "fair without a fairgrounds" and provide lasting benefits to the national capital area.

Washington, D.C., has slipped badly in recent years as the nation's model city. Several programs to correct the slide have been suggested, but little action has been taken. The bicentennial celebration, the task force suggests, would provide an appropriate focus.

In his letter of transmittal to the President's commission, Prof. Charles M. Haar, director of the Joint Center for Urban Studies, emphasized that the task force had concentrated on examples of developments that were practical and applicable to the rest of the nation's urban areas.

The suggestions include development of a cable system for transmission of urban services; the organization of special emergency-care systems based on armed forces medical operations in Vietnam; the creation of a traffic-free zone downtown; the Department of Housing and Urban Development's use of Operation Breakthrough, an industrialized housing program, to build thousands of units in Washington, and many other special programs.

The report notes that Washington as an urban area "is a showplace not only of our past heritage but, unfortunately, of our present difficulties."

The report says millions of visitors will travel to Washington to see American monuments during the bicentennial. If there is not a concurrent effort to improve the condition of the city, the celebration would be "misleading, imprudent and virtually immoral," the report said.

INCIDENT AT KENT STATE UNIVERSITY

Mr. WILLIAMS of Delaware. Mr. President, I am not passing any judgment as to the regrettable incident at Kent State wherein four students were killed; however, a certain situation has been called to my attention which does need comment.

A student who claimed to have witnessed the unfortunate incident from a dormitory window made a statement to the press, as appearing in the Cincinnati Enquirer of May 8, 1970, under dateline of White River Junction, Vt. In the interview the student, Mr. James Young, outlined his views of the riots with particular reference to the National Guard action.

I ask unanimous consent that the article be printed at this point in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Kent Eyewitness Says Guardsmen Saved Own Lives

White River Junction, Vt.—A student who said he saw four of his classmates killed when National Guard troops fired on demonstrators at Kent State University in Ohio on Monday says the Guardsmen were not to blame.

James Young, 20, of White River Junction, said in an interview Thursday with radio station WNHV that the Guardsmen "had to fire to defend their lives."

Young, who said he watched the incident from a dormitory window 150 yards away, said the students were an angry mob.

"I really believe the crowd would have, if they had tried hand to hand to fight their way out—would have beaten them to death," Young said.

"The news reports sort of gave the impression that the National Guard was entirely wrong," he said. "But that's not true. They were defending their lives. They had no alternative but to shoot."

He said that from his vantage point, he saw about 30 Guardsmen come up a hill from a green and down the other side to a football field where they confronted more than 2000 students.

The Guardsmen formed a protective circle with tear gas launchers in the middle, Young said.

"I saw one tear gas grenade tossed back and forth several times between students and Guardsmen," he said.

Young said 50 to 100 students were throwing rocks, pieces of concrete and lengths of pipe at the troops.

"And they were only about 20 feet away from the soldiers," he added.

Young said the troops then tried to march back up the hill toward the common to rejoin other Guardsmen. When they reached the top of the hill, he said; they met another group of students and were surrounded.

Young asserted the Guardsmen had used up all their tear gas. He said they advanced on the students several times, but each time the students held their ground.

"Then they turned and fired," he said.

"I thought they all fired in the air—some did anyway." Young said. He said he heard no other shots before the Guardsmen opened fire.

Young also said the demonstrators were warned repeatedly during the 45-minute period to disperse. He said the Guardsmen warned that all bystanders should leave the area about five minutes before tear gas was used.

Young arrived home Tuesday after university officials closed the school following the Monday incident.

Mr. WILLIAMS of Delaware. Mr. President, apparently this interview was called to the attention of a Member of the U.S. Senate, following which, under date of June 16, 1970, the Senator wrote the following letter to the young man:

> Sir: You are a despicable fellow. Furthermore, you have a cruel yellow streak down your back.
>
> I'm mailing you a factually correct statement. This has been verified by many signed statements I have taken.
>
> If you testify in court stating what you are reported to have said in your interview, you should and undoubtedly will be indicted for the crime of prejury.

I repeat, I am not passing upon the merits or the accuracy of Mr. Young's views, but I do question the propriety of any Member of Congress threatening or intimidating a prospective witness in a case which may very well be decided by the courts.

I am forwarding a copy of these remarks to Mr. Young with the suggestion that if called as a witness his only responsibility is to tell the truth.

SENATE NATIONAL HEALTH SERVICE CORPS ACTION CAN AID CITIZEN HEALTH—HOUSE APPROVAL NEEDED TO SET PROGRAM IN MOTION

Mr. RANDOLPH. Mr. President, there is an area of vital concern—the health of our citizens. We have for years watched in dismay as the gap between medical technology and the delivery of health care to many of our people has widened.

The measure unanimously approved by the Senate on September 21 to establish a National Health Service Corps represents an important step in recognition of this growing problem. The senior Senator from Washington (Mr. Magnuson), the author of the National Health Service Corps bill, has provided real leadership in guiding this crucial legislation through the Senate. He has had the diligent assistance and cooperation of his able colleague from Washington (Mr. Jackson). Together, they have translated concern for health care into an effective action program. I would stress that this measure, which I am priviliged to cosponsor, as is my diligent colleague from West Virginia (Mr. Byrd) has strong bipartisan sponsorship and support. The Senate Subcommittee on Health and its parent Committee on Labor and Public Welfare, under the helpful chairmanship of the Senator from Texas (Mr. Yarborough), conducted hearings and executive sessions and reported the bill to the Senate. It is our hope that the House of Representatives will act affirmatively and expeditiously so that this legislation can be enacted into law this year.

The National Health Service Corps is a concept which embodies the best of Christian concern; it would encourage young doctors and other paramedical personnel to move into areas where health needs are greatest and most lacking. To illustrate this need, the Charleston Gazette published on October 1 an editorial which recounts in detail the critical health problems that exist in some areas of my home State of West Virginia. For example, in 13 West Virginia counties, a recent survey showed there was only one physician for four times the patient population recommended by the American Medical Association, and in six counties the population load for a physician was six times the recommended ratio. Mr. President, I ask unanimous consent that this timely editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Action Needed to Allay Severe Medical Shortage

West Virginia has many problems, but none more critical than the severe shortage of physicians, dentists and nurses in rural areas. The same situation exists in other states with extensive rural areas and smaller communities.

XUM

Dr. Robert L. Nolan, professor and chairman of the Division of Public Health and Preventive Medicine at West Virginia University, called attention to the severity of the shortage in a letter to the Sunday Gazette-Mail:

In some West Virginia counties there are no practicing health personnel available at all.

In the last 10 years at least 60 communities with populations of less than 10,000 have been left without physicians as rural practitioners retired and were not replaced.

In 13 West Virginia counties there was only one physician for four times the patient population recommended by the American Medical Assn., and in six counties the population load for a physician was six times the recommended ratio.

The state's estimated need for public health nurses is 720, but there are only 136 so identified and only about two dozen of these were formally trained in public health nursing.

Throughout the United States these shortages in rural areas reflect higher maternal death rates, higher rates of disability and death from accidents, increased infant mortality rates, and longer periods of disability and hospitalization for specific illnesses.

Fortunately, there are signs of a mood in Congress to do something about this appalling deficiency. Sen. Jennings Randolph, D-W. Va., and Sen. Warren Magnuson, D-Wash., with the cosponsorship of 25 other senators from both parties, have introduced a bill to establish a National Health Service Corps to improve health care in areas where personnel and services are inadequate. A similar bill is pending in the House under sponsorship of Rep. Harley O. Staggers, D-W. Va.

Under the Randolph-Magnuson bill, which passed the Senate on Sept. 21 without a dissenting vote, a new division of the U.S. Public Health Service could assign volunteer health personnel for direct health services to people in isolated rural and urban areas where such services are not now available. Special encouragement would be offered for the assignment of volunteers to areas in which they might ultimately settle on a permanent basis.

Plans call for an appropriation of $5 million a year—a lamentably small amount—to start the program on a trial basis. There is no provision for matching funds at the state or local level. Certainly it is a modest approach, and one that should be tried.

Aside from filling a desperate need for people now without health services, the program has possibilities of the further desirable effect of attracting new physicians to rural areas. As Dr. Nolan points out, there is now an understandable reluctance on the part of newly graduated physicians to settle by themselves in the more remote rural areas where there are severe limitations in facilities and absence of organized programs to which they could relate. Also, the president of the West Virginia University chapter of the Student American Medical Assn., Peter Selove, believes that with passage of the National Health Service Corps Act, more young physicians would stay in West Virginia to practice after graduation.

The need is critical. The Senate action is encouraging. We would urge Rep. Staggers to do everything in his power to assure favorable action in the House before Congress adjourns.

THE CONSTITUTIONAL RIGHT TO WORK

Mr. CURTIS. Mr. President, for some years the U.S. Supreme Court has been concerned with the constitutional rights of minorities. I was happy to see an article in the October issue of Dun's Review which indicates that the Court may now include in this concern the constitutional right to work of workers in the United States.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BUSINESS AND THE NIXON COURT

(By Fred P. Graham)

Last spring, after the Senate had turned down the Supreme Court nominations of G. Harrold Carswell and Clement Haynsworth, there was some talk that President Nixon's inexperience in picking judges was beginning to show. But Chief Justice Warren E. Burger pointed out that, on the contrary, Richard Nixon was one of the most experienced selectors of Justices in United States history. Substituting for the President as the after-dinner speaker at a Washington banquet, the new Chief Justice tucked his tongue in his cheek and noted that no President since George Washington had nominated as many Justices in so short a time as President Nixon.

Getting a laugh out of the White House's discomfiture without hurting anyone's feelings was an adroit performance in itself. Yet there was more than a shadow of prophecy in the teasing reference. For not only did the retirement of Chief Justice Earl Warren and the departure of Justice Abe Fortas give the President a rare early opportunity to place a conservative stamp on the Supreme Court by replacing two of its most liberal members; given the age and infirmities of three of the remaining Justices (84-year-old Hugo Black and septuagenarians John Harlan and William O. Douglas), it is likely that President Nixon will be able to appoint a Supreme Court majority, the first President to be afforded such an opportunity since Franklin D. Roosevelt.

By appointing pro-New Deal Justices back in the late 1930s, Roosevelt was able to overturn many of the court's "strict constructionist" decisions and to set its tone for a generation. Now, given President Nixon's campaign criticism of the high court and his pledge to appoint "strict constructionists" if elected, there is every reason to believe that a Nixon-appointed court will reverse the trend once again.

While it is clear that a staunchly conservative court would have a profound impact on such controversial areas as civil rights and the rights of criminal suspects, how would such a shift to the right affect the many complex decisions that concern business? The first year of the Burger court provided only hints of the future course of the new Chief Justice's decisions. But several impressions did emerge.

For one thing, most of Burger's labor decisions favored management. His only pronouncement on the general subject of labor implied that he believes in a Constitutional "right to work"—a First Amendment right to refuse to join a union. This came when the court refused to hear the appeal of a former New York Teamster member who had been denied unemployment compensation because he invoked "conscientious objections" against rejoining the union and thus could not accept a job offer in a union shop. In the odd-couple act of the year, liberal Justice Douglas joined Burger in a dissenting opinion that the denial of benefits "places a burden on the petitioner's freedom of association." Using the terminology employed by the Supreme Court in its defense of a young man's right to become a conscientious objector to military duty, Burger argued that the worker's opposition to union membership could be a "deeply felt belief which falls in the First Amendment area."

The suggestion that workers have a Constitutional right to ignore compulsory union membership arrangements is one that few judges have been willing to kick around in public. Burger's apparent approval of the idea suggests that this unusually independent jurist may have some unhappy moments in store for organized labor.

The court's other labor decisions of last term did not give Burger an opportunity to amplify his philosophy, but his decisions on the rather narrow and technical cases that were decided must have given union lawyers some sober thoughts. Out of ten rulings that decided controversies between workers or their unions and management, he agreed with the employer's contention, the issue was apparently so clear-cut that the decision was unanimous.

Burger's conservation on labor and other issues seems to stem primarily from three beliefs: a feeling that courts should not shortcut established procedures and lines of authority, a conviction that as many problems as possible should be handled by the states, and a strict constructionist's belief that the Constitution and laws should not be given generous reading to accommodate individuals' claims for expanded rights.

What impact will this philosophy have on the court's antitrust decisions, which during Earl Warren's tenure invariably upheld the Justice Department? There is not much to go on here, since antitrust cases were a rare commodity at the court's last session. But in the one case that did come before the court, Burger, joined by Justice Harlan, did not accept the government's contention that the merger of two Phillipsburg, New Jersey banks violated the antitrust laws. Both Justices, in fact, pointed out the benefits of the merger.

THE FOURTH MAN?

Although he did not join them on that case, Justice Potter Stewart showed a definite tendency at the court's last session to join Burger and Harlan in objecting to strict governmental regulation of business. Now, as the court term opens this month, the key question as far as business is concerned is whether the court's newest Justice, Harry Blackmun, will be the fourth man in an emerging pro-business alignment.

There are many signs, in addition to his lifelong friendship with the Chief Justice, that Blackmun shares the philosophy of the three conservative justices. Most significantly, he is an unabashed admirer of the late Justice Felix Frankfurter, who was the intellectual leader of the Warren Court's conservative minority.

Blackmun joined the court too late last spring to participate in many cases. But he wrote one dissenting opinion that could prove to be a straw in the wind: He joined Burger and Harlan in favor of giving the states broader discretion to suppress prurient films, books and magazines. This opinion has nothing to do with business, of course. But it indicates a generally conservative outlook and an intellectual kinship with Burger and Harlan.

If these four Justices do gravitate toward a philosophical alignment on the court's right, it could have a significant impact on several business-related cases that are now on the court's docket. And if they were joined in any one case by Justice Byron White, frequently the court's "swing man" between the liberals and conservatives, they would form a majority.

The old problem of secondary boycotts in the construction trades will be back before the court—this time to test the legality of a union's pressure on a neutral employer. The right of national banks to compete with mutual funds by operating comingled agency investment accounts will be decided, as well as the authority of state and federal courts to make unions pay damages to workers who

XUM

have been wrongfully stripped of their union memberships.

But the most intriguing set of business-related questions are the increasing instances in which individuals seek to invoke concepts of free speech and equal treatment against private companies. In fact, such cases could become the major concern of corporate lawyers.

Item: Ida Phillips of Orlando, Florida was denied a job by Martin Marietta Corp. under a company rule that barred all mothers of pre-school-age children. She claimed that this violated the Civil Rights Act's rule against sex discrimination. Lower courts agreed with the company's assertion that she was excluded not because she was a female, but because her responsibilities to three small children might detract from her work. Should employers be forbidden to lay down such blanket rules regarding women, and be required to prove in each individual case that the woman would be handicapped in her job because of her sex?

Item: Black workers at the Duke Power Co. plant in Draper, North Carolina were segregated into menial jobs until the federal equal-employment law was passed in 1964. But ever since that time, few of them have been able to move up because the company has instituted a requirement of a high-school diploma or a specified score on an intelligence test as a prerequisite for promotion; Negroes have not fared well on either score. Should employers be barred from applying such a test, even though it is applied equally to all races, unless it can be shown that the tests actually do measure the employees' capacity to do the work?

Item: An interracial group in Chicago felt that Jerome Keefe, a real-estate broker, was guilty of "blockbusting" in their neighborhood—that is, of attempting to panic white homeowners into selling out at deflated prices by suggesting that blacks were moving in. They distributed leaflets that expressed this view but were ordered to stop by a state judge. Does the right of privacy of Keefe and his family outweigh the protesters' First Amendment right to express their views?

Although this issue came to the Supreme Court as a small businessman's racial dispute, many lawyers think that it will come to plague officials of large companies, and not always over racial questions. Large corporations are increasingly becoming the targets of anti-war and environmental activists, who may adopt the tactic of picketing corporate officers' homes if the Supreme Court gives the strategy its blessing. Similar questions seem to be imminent.

What right, for instance, do union members have to demand entry into a privately owned skyscraper in order to picket a company that has offices inside? Does the Constitution give individuals legal recourse against companies that poison the environment with pollutants and radiation? Can a company that holds government contracts be required to go beyond nondiscrimination to hire a certain percentage of Negroes?

These are questions that are either on their way to the Supreme Court now or are likely to gravitate there soon. And their ultimate disposition could certainly be determined by the amount of time that elapses until these cases are heard. For if, say, Justices Black or Douglas—or both—should decide to call it a career, a conservative majority would almost automatically be assured. There is strong indication in the writings of Warren Burger that the Warren Court was presumptuous in some of its declarations of individual rights against the state. Thus, as efforts are made to extend these rights to an individual's relationship with a corporation, a Nixon-appointed court would be almost certain to demur.

It is, of course, true that a man's previous record is not always an accurate guide to how he will act when he takes his seat on the hallowed top court. After all, President Eisenhower was under the impression that Earl Warren was a middle-of-the-roader when he named him Chief Justice.

But President Nixon has selected only men from the Federal Courts of Appeal who have solid track records as conservatives on the types of legal questions that tend to come before the Supreme Court. This is why many lawyers believe that Nixon may indeed succeed in molding a staunchly conservative court that could—much like its liberal predecessor—affect the life of the nation for a generation.

As far as the business community is concerned, such a rightward shift could reshape the court's position in such thorny areas as labor law and antitrust and effectively bar the door to a rush of private complaints against corporations. To quote the late Chief Justice Charles Evans Hughes in one of his unguarded moments, 'The law is what the judges say it is."

FOR ELECTORAL REFORM AND ABOLITION OF ARCHAIC ELECTORAL COLLEGE

Mr. YOUNG of Ohio. Mr. President, the time is long past for Congress to abolish the archaic electoral college and bring about real electoral reform allowing for direct election of the President and Vice President. I am happy to be a cosponsor of the Senate joint resolution introduced by the distinguished junior Senator from Indiana (Mr. BAYH) to amend the Constitution to provide for this essential reform.

Many have forgotten that the 1968 presidential election was so close that had there been a shift of a few thousand votes in two or three States from Nixon to Humphrey, the election would have been thrown into the House of Representatives and the vice-presidential election into the Senate. Then segregationist candidate George Wallace could have thrown his weight around trying to make a deal with Nixon or Humphrey.

Mr. President, the threat of a deadlocked, or bargained, electoral college should never be permitted to occur again.

Many years ago, as Congressman at Large from Ohio, I urged the abolition of the electoral college system and that it be replaced by the direct election of the President and the Vice President. Many other Members of Congress have done likewise over the years.

Senators and Representatives are elected directly by the citizens of their States or congressional districts. It is ironic, then, that the Chief Executive of the Nation, the man who holds the greatest responsibility for the lives and welfare of our citizens, is not directly chosen by those citizens, but rather by the electoral college, an anachronism in this space age.

The electoral college was originally established to assure the election of high-caliber men to the Presidency, to give greater electoral strength to the Southern States, where slaves could not vote but where each slave was counted as three-fifths of a vote, and to prevent voters from clannishly supporting candidates from their own States. As the party system has developed, none of these reasons remain valid. In his book, "Paths to the Present," historian Arthur M. Schlesinger put it:

> What demoted the electoral college from a deliberative body to a puppet show was the rise of political parties. As people began taking sides on public questions, they were unwilling to leave the crucial choice of the Chief Executive to a sort of lottery. Instead, each party publicly announced its slate of electors and the candidate they would support. This usurpation of the elector's functions, though peaceably achieved, amounted to a coup d'etat. It was an amendment of the written Constitution by the unwritten constitution. The electors, while retaining the legal status of independence, became henceforth hardly more than men in livery taking orders from their parties.

The delegates to the convention—for the most part conservative New England merchants and southern landholders—distrusted the ability of the average citizen of that day to decide questions of such gravity. Moreover, the discussions at the convention revealed that the delgates did not believe that it was possible for a voter in one State to know anything about the ability or character of public men in the other States scattered along our 1,500-mile shoreline.

Today, when our population is almost 100-percent literate; when all Americans have the advantage of an elementary and secondary education and millions more the advantage of a higher education; when television and radio bring candidates into every living room of the Nation; when the distance from Washington, D.C., to San Francisco, Calif., can be covered in less time than it took to travel from Washington to Baltimore at the time of the Constitutional Convention, it is absurd to maintain a vestigial reminder of an era in which the people were not fully trusted to choose their President. If George Washington, James Madison, Benjamin Franklin, John Hancock, and other patriots who helped draft the Constitution of our country were alive today, they would not know this country. We live in a different world. Transportation and communication over thousands of miles are nearly instantaneous. We live in a new space age of change and challenge. The electoral college system no longer has any place in our Republic.

Mr. President, every citizen should have an equal voice in the selection of the President. The only way to assure this is by direct election of the President and Vice President. Public sentiment for this is growing. As the American Bar Association's commission on electoral college reform concluded:

> The electoral college method of electing a President of the United States is archaic, undemocratic, complex, ambiguous, indirect and dangerous . . . While there may be no perfect method of electing a President, we believe that direct nationwide popular vote is the best of all possible methods.

THE ROLE OF PRIVATE PHILANTHROPY IN A FREE SOCIETY

Mr. BROOKE. Mr. President, some time ago the distinguished senior Senator from Illinois (Mr. PERCY) delivered an exceptionally timely and sensible address to the American Bar Association convention in St. Louis.

XUM

The thrust of his argument is that the need exists in this country for continued and expanded private participation in the furtherance of our social goals. Foundations and private charities are in a position to innovate, to experiment, and to encourage personal involvement at all levels in the solution of our country's ills.

I ask unanimous consent that the complete text of the address be printed in the Record. I commend it to the attention of the American public.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by Senator Charles H. Percy

When your president, Mr. Segal, asked me to speak at this luncheon on "The Role of Private Philanthropy in a Free Society," my first instinct was to respond with a lengthy discourse on the Tax Reform Act of 1969—the law you gentlemen refer to fondly as the "Accountants and Lawyers Relief Act."

Yet, the more I thought about it, the more I suspected that it would be unwise to engage in a direct confrontation with lawyers on their turf. It occurred to me that many of you doubtless are experts on taxation. I'm still trying to understand Commissioner Thrower's explanation of the alleged improvements in form 1040.

I considered a diversionary tactic, changing topics. I was prepared to resurrect my learned—at least to lawyers—treatise on the farm problem. But ultimately I decided in favor of tax reform—and against humility, which I have always thought was an overrated virtue.

Before I have my own tax reform, particularly as it bears upon foundations and private giving, I'd like to touch briefly on the over-all problem of financing the orderly change we describe as progress. Basically, we call upon three broad areas—two public and one private—for the revenues that keep our society moving forward.

One of these, the federal government, has ample funds, but its programs, such as public welfare, are remote from the people they are designed to serve, and have more and more frequently been found wanting.

The second, the state and local governments, have the special knowledge of regional problems that only proximity can supply, but their sources of new revenue have almost been exhausted.

The third, foundation and private philanthropy, is an indispensable adjunct to the efforts of the public sector, serving as both an essential stimulant and an invaluable complement.

As you know, the future of private giving in this country was seriously jeopardized by some of the original provisions of the Tax Reform Act. Let me quickly review this legislative history, because I believe it bears on our capacity to close the gap between the human and financial needs of this country, our attempts to meet those needs, and the over all theme of this year's ABA Conference: "Looking Into the '70s."

The history of foundations in the United States is marked by a conspicuous willingness to innovate, to take risks, to freely meet prevailing public opinion head-on. Foundations have plunged into areas where government has feared to tread or has tripped on its own red tape.

Yet last year the Congress was on the verge of enacting punitive proposals that would have stemmed this flow of socially beneficial activity. One provision of the tax bill would have levied a wholly unjustifiable 7½ per cent tax on foundations, diverting monies from sound educational, medical, health, welfare and cultural organizations into the Federal Treasury, where it would unquestionably have been used for many of the same general purposes, but much less effectively. Another provision, perhaps the most ludicrous of all, amounted to a death sentence: It would have forced operating foundations out of existence altogether over a 40-year period.

And what was the rationale for this legislative overkill? Nothing but a few charges that a very limited number of foundations, representing only a fraction of 1 per cent of total foundation assets, had been engaging in questionable activities such as self-dealing, lobbying and sheltering rich individuals from the fair payment of taxes.

We were seriously threatened in 1969 by the total loss of the type of private initiative that has provided critical support for reform of medical education, educational television, family planning and population research, legal defense for the poor and Robert H. Goddard's pioneering experiments in rocketry—to name just a few of the accomplishments of foundations. We risked the financial starvation of universities, hospitals and countless numbers of voluntary charitable organizations. In briew, we were about to kill a mosquito with a cannon.

Fortunately, the common sense of Congress enabled it to see the overriding need to preserve a pluralistic approach to society's problems. In my judgment, the tax reform measure as finally enacted, though far from perfect, served to strengthen legitimate foundations by helping to ferret out the abuses of a few that had damaged the reputations of them all.

The principal flaw in the approach of the tax reform law to foundations is the 4 per cent annual tax on net investment income, which presumably was designed to cover auditing costs. Yet a tax of less than 1 per cent is all that is justified. I plan, therefore, to introduce legislation that would amend the tax law to substitute the actual auditing expenses of the Treasury Department, based on its experience, for the arbitrary 4 per cent figure.

In its totality, however, the final version of the Tax Reform Act of 1969 was carefully written to avoid stifling the imagination and energy of foundations. Congress as a whole is not hostile to foundations; it is against abuses, electioneering and lobbying, but it has labored to protect the vast majority of foundation activity which is beneficial to society.

It is important to note that, following enactment of the Tax Reform Act of 1969, one of the most enlightened of the major foundations reviewed 1,500 active grants in light of the new regulations, and has not found it necessary to stop payment on a single one of them. Less than a half-dozen required modest amendments.

These congressional attitudes must be clearly understood by the legal profession. Very few foundations are braver than their lawyers, and I would hope that those of you in a position to do so will encourage and expand independent philanthropy. Nothing in the tax laws justifies more restrictive counsel.

I am convinced that our decision to reform—rather than to discourage or abolish—foundations was particularly crucial. In my opnion, it is no overstatement to suggest that the task of government may have been impossible in the years ahead if we had acted otherwise.

The Commission on Foundations and Private Philanthropy, an independent body under the chairmanship of Peter G. Peterson, chairman and chief executive officer of Bell & Howell Company, has reported that American philanthropic giving amounted to $17.6 billion in 1969. It estimated that 55 to 60 million Americans—more than one-fourth of the total population—currently do volunteer work for philanthropies.

Without these massive contributions, the billions of dollars and man-hours, with what would we be faced? The answer is clear: Government philanthropy, government education, government medicine, government culture, government control. I can think of no responsible public official who would, or could, defend this course as feasible for the United States.

The Peterson Commission cited a survey of 50 Chicago charitable organizations which showed that almost all opposed total public funding. It also pointed to studies of the unfavorable experience of European nations which had relied on public funding of social programs. Here is the Commission's conclusion:

"It was observed in these studies that under that arrangement, political whims, rigidities, paper work, and loss of independence characterized the operation of the country's social efforts by charitable organizations."

De Tocqueville described reliance on voluntary organizations as one of the most important features of the American tradition. Because we have prudently chosen to retain that tradition, we can look into the '70s with more confidence. Government is struggling now in this country to keep pace with its responsibilities. Without the assistance of its traditional allies in the private sector, it could have been overwhelmed by the complex and expensive problems it seeks to solve.

Since enactment of the 1969 Tax Reform Act, private contributions to foundations and to philanthropy in general have declined. I hope the decline is temporary and attributable to the stock market slump and tighter economic conditions, rather than to a basic change in personal giving habits. Your help is needed in your role as financial and legal advisers, because I feel certain you share my concern that a weakening of our private philanthropic institutions would be disastrous.

In examining the public side of the public-private equation, I think it is possible to pinpoint the principal reason for the deficiencies of government—a weakness in the structure.

Our basic machine, the federal system, has not functioned in conformity with the plans of its designers. The central government has gradually assumed unquestioned primacy, while the state governments have withered to the extent that many of them now are moribund. Contrast this present imbalance with the words of Alexander Hamilton, speaking in 1787 to a group of New Yorkers in an attempt to quiet their fears that the establishment of a national government would mean the extinction of state sovereignty. He said:

"While the Constitution continues to be read and its principles known, the states must, by every rational man, be considered as essential, component parts of the Union; and therefore the idea of sacrificing the former to the latter is wholy inadmissible."

It may be fairly said today that a good many rational men now consider the states not as essential, but as vestigial. This is not due to any quarrel with the Constitution, but because some state governments seem to perform little beyond basic houeskeeping functions.

The plight of the states in the year 1970 can be explained succinctly—money, or the lack thereof. One-man, one-vote has led to more responsive state legislatures. Many states, including my own, are fortunate enough to have dynamic and progressive governors. But their resources are limited, considering the magnitude of the problems they face.

The federal government has an almost infinite capacity to collect and absorb tax revenues. By controlling the purse, it controls the states; any funds that revert to the states come neatly wrapped in rules, regulations and bureaucrats, all of which seem to insure that state officials will have too little and sometimes no voice in projects affecting their own jurisdictions.

As relative latecomers to the development of more efficient taxing procedures, the states are barely able to scrape together sufficient revenue to keep their governments operating, given the large chunk of available funds skimmed off the top by the federal government. Too frequently, when they wish to finance innovative new projects, they must go to Washington—hat in hand—and seek out the appropriate agency and the federal program that approximates their needs. I say "approximates" because no program is likely to be directly on target; if it is designed to meet a national problem, it will only rarely fit perfectly the specific circumstances of an individual state or locality.

I should say emphatically that I do not regard the federal government as an insensitive villain intentionally ignoring state and local needs. Unlike some political orators I have heard, I have never seen a pointy-headed bureaucrat. Nor do I think it necessary to further pollute the Potomac with briefcases.

But I am contending that in a country as large as diverse as ours, with so many regional variations to common problems, it is impossible for a central authority to provide relevant solutions for everyone. Yet, while it lacks the requisite knowledge of local conditions, the federal government has the keys to the national treasury, seemingly giving it unlimited power.

The answer to the states' dilemma lies, I think, in revenue sharing, the principal plank in the Nixon Administration's concept of the "new federalism."

In 1803, President Jefferson urged that federal revenue be utilized for "a just repartition among the states . . . applied . . . to rivers, canals, roads, arts, manufactures, education, and other great objects within each state." This was the last presidential revenue sharing message for 1966 years, until August 14, 1969, when President Nixon's message went to the Congress. In the interim, the balanced concept of federalism envisioned by the framers of the Constitution had gone seriously awry.

XUM

Revenue sharing—the automatic, "no strings attached" return of a specified portion of federal revenues to the states and localities on the basis of objective criteria specified in law—differs from any existing federal program in fundamental ways.

First, it not only provides that the expenditure of federal revenues would be decentralized, but also that the decision-making powers over its use would be determined in the states and localities. Local responsiveness would be encouraged and the federal system strengthened.

Secondly, because of the automatic reversion of the funds to the states, there would be no need for a new federal overhead function under the proposal; 100 per cent of the money would be disbursed to state and local governments.

The states today can be viewed as 50 laboratories for the solution of broad problems. We already have witnessed the differing ways in which the separate state reflect varying attitudes toward such issues as abortion, divorce and capital punishment. One state will pass a new law; its sister states can analyze the results, then decide whether or not they wish to adopt the changes, accept them with modifications or reject them.

The same principle could be applied to programs implemented by the states or localities under revenue sharing. One state or city, unfettered by federal guidelines, may wish to apply its funds to a new approach to its housing problem. Another may try to solve an educational crisis or meet its specific health needs.

But, no matter how the revenue is expended, each new program—and each new wrinkle in an old program—would provide evidence to be assessed critically by the other states and localities. The data that emerged would be manageable, easily applicable to other regions. By contrast, the principal yield of an inflexibly administered federal program often is confusion.

State, county and city executives have almost unanimously endorsed the revenue sharing plan. Should Congress fail to enact it into law soon, Governor Richard Ogilvie of Illinois plans to propose that state legislatures sponsor a constitutional amendment that would require the federal government to share its revenues with the states.

I share Governor Ogilvie's sense of urgency and his concern over the preemption of major sources of revenue by the federal government. Over three years ago, when I first came to the Senate, I co-sponsored revenue-sharing legislation. I firmly believe that President Nixon's plan represents a potential turning point in intergovernmental fiscal relations, and constitutes the only feasible way for federal funds to reach effectively into the areas where the problems actually exist.

Yet, in spite of the generally favorable reaction that revenue sharing has elicited, and the clear need for it, no immediate action on the proposal is expected in the Congress. Several reasons have been advanced for this.

The most obvious—and, to my mind, the least valid—is that the Congress is reluctant to surrender its authority in decisionmaking to other levels of government. Based on conversations with my colleagues, I don't believe this is true. I find genuine concern among members of both houses, representing all ideological positions, over the seeming inability of state and local governments to fend for themselves, and I sense a willingness to give them the financial tools that the task requires. Some senators honestly fear that the states and localities may do little more than create new layers of bureaucracy, but I believe that adequate safeguards exist or can be created to prevent this from happening.

But the most compelling explanation for the absence of federal revenue sharing legislation is simply this: There is no available federal revenue to share. And little is likely to be available unless we can put an end to the nuclear arms race, drastically lessen our involvement in Southeast Asia and prevent a worsening of the crisis we face in the Middle East. If we are to face the '70s with optimism, we must achieve a successful conclusion to the SALT talks and a negotiated settlement to the Vietnam war at the earliest possible moment, and use our influence to bring about an accord between the Israelis and the Arabs.

As we attempt to enumerate this country's priorities for the balance of the decade, first among them in my opinion must be a just conclusion of the war in Indochina. At the same time, we must make a parallel commitment that the United States will not permit itself to become mired in any other comparable military adventure anywhere else on the globe, unless our national interest is involved—and involved so clearly that Congress actually participates in the decision to commit American forces to battle.

It is necessary to trace our history back through six national Administrations, to 1941, to find an instance in which the Congress exercised its constitutional prerogative to declare war. But, since the end of that declared was 25 years ago, the United States has lost scores of thousands of men killed and wounded and more than $200 billion in revenue in undeclared conflicts in Korea, the Dominican Republic and Southeast Asia. And no one can calculate what our less well-advertised actions in such places as Cuba, Guatemala and the Congo might have cost us.

If we are to be able to marshal our resources for the many battles that need to be fought on the home front, if forward-looking proposals such as revenue sharing ever are to become realities, it is imperative that the Congress resume its traditional responsibilities under the Constitution in matters of peace and war.

I have dealt today with the relationships among forms of government and between government and the private sector. I have outlined what I believe to be the steps that will be required for a coordinated, pluralistic approach to this society's very real and very pressing problems. I have concerned myself more with the mechanics of change than with specific programs and courses of action.

But before closing, let me add another factor to the formula for progress. I would like to return for a moment to philanthropy, not to its tangible aspects, such as foundation grants and government disbursements, but to what I consider to be humanitarian giving in its highest sense—personal commitment.

The longer I serve in the federal government, the more impressed I am by the high costs associated with its performance of useful services. Each year, I am made more aware of the overriding need for greater citizen involvement in government.

In this audience today there are specialists in property law, taxation and criminal law, wealthy individuals and others of moderate means, Democrats and Republicans, conservatives and liberals. But all of you share a common asset: Brainpower. Because of the stature of your profession and your backgrounds, you are uniquely well-equipped to contribute important services to your individual communities and, through your local and national bar associations, to your state and your country. None of these donations are tax-deductible, but to my mind there is no more valuable form of philanthropy.

In recent weeks and months, I have been very much impressed with the large delegations that came to Washington from the New York and Chicago Bar Associations to express their views on the war in Indochina.

Similarly, the trend among younger members of the legal profession toward work that is personally fulfilling, even if less remunerative, is extremely encouraging. Many of the ablest young lawyers are requesting that their firms permit them to work a portion of their time defending the interests of the poor, the illiterate and undereducated, the jobless and underemployed, the malnourished and unhealthy.

In all candor, however, it must be said that the record of the organized bar in terms of social consciousness has had valleys as well as peaks. The silence and the equivocation of too many of you during the crucial Haynsworth and Carswell controversies reflected little credit on your profession. The endorsement procedures then used in rating judicial nominees were patently inadequate, although I am pleased to note that they have been revised and significantly improved.

In general, your performance over the years is one of which you can be proud. In 1835 De Tocqueville offered this observation: "I cannot believe that a republic could hope to exist at the present time if the influence of lawyers in public business did not increase in proportion to the power of the people."

If De Tocqueville was correct—and that was almost invariably the case—the greatness and durability of our republic 135 years later is in some measure a tribute to your contributions and those of your predecessors.

I hope this generation of lawyers will be even more generous. Your help is desperately needed.

SENATOR MUSKIE—A MAN OF STATE AND NATIONAL PROMINENCE

Mr. EAGLETON. Mr. President, whenever a national leader like the Senator from Maine (Mr. Muskie) runs for reelection in his home State, he is always criticized for his national prominence. However, as the Ellsworth, Maine, American stated in an editorial last week, "It is a poor argument" and "is false even in its narrowest and most selfish sense."

The Ellsworth American is a weekly newspaper edited by the former editor of the Washington Post and Ambassador to the U.N., J. Russell Wiggins. It has gained a fine reputation for its perspective on National and State affairs. I am sure that the people of Maine also recognize what Ed Muskie has done and can do for his State and will send him back to Washington with an overwhelming margin.

I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

On National Figures

Senator Ed Muskie is being criticized for his national prominence by an opponent who runs no great risk of ever incurring that political disability. It is the fate of public men of stature and influence to have brought against them the charge that their preoccupation with national and world affairs is diminishing their ability to run errands for their constituents and further the narrow concerns of their own states.

It is a poor argument. A state is never more fortunate in politics than when its own elected senators and representatives and leaders acquire enough reputation to be sought after as national leaders. The citizens of Maine, for one thing, can have no interests larger than their interests in the conduct of national affairs and the settlement of international problems and to have a Maine man active in these larger matters is not a loss to the state but a decisive gain. If this involved some sacrifice of time the public man might otherwise devote to kissing babies, mending fences and running errands for his own constituency, it is a sacrifice justified by the larger interests that are served. Maine surely does not regret that Speaker Reed and Vice President Hamlin were Maine men. The state did not suffer by reason of their national stature.

But the argument is false in even its narrowest and most selfish sense. National prominence enhances and does not diminish the ability of a public man to serve the proper interests of his own state. Maine does not have less influence to further its own causes in Washington because Muskie has been a vice presidential candidate or because he is a presidential candidate. If he had been a successful candidate for the vice presidency, Maine would have more influence in Washington. If he becomes a successful presidential candidate, it will have more influence.

The argument is a wrong-headed argument whether it is made on narrow and parochial grounds or on grounds of broad national interests. If an elected official's national prominence is a disadvantage to a state, it is a disadvantage that could only be forestalled by electing to office candidates so lacking in ability, authority and character that they could be certain of escaping attention or acquiring recognition in the nation at large. Some of the critics who castigate Muskie on these grounds seem confident that their own qualifications for national political oblivion are so pre-eminent as to make it certain that, if elected, they would be left wholly free to devote themselves entirely to Maine, whose interests they, of course, could not notably advance because of a total lack of political influence, no matter how much time they might spend on the job.

CONTROL OF ALCOHOLISM AMONG CIVILIAN EMPLOYEES

Mr. HUGHES. Mr. President, it is my privilege to announce to the Senate the issuance of a milestone report by the Comptroller General of the United States which points the way to very substantial improvement in the efficiency and economy of the Federal Government operation.

According to this report, savings to the Federal Government of from $150 to $295 million annually could be attained by the establishment of an effective program for controlling alcoholism among civilian employees.

The cost of the alcoholism program, similar to prevention-treatment-rehabilitation programs in successful use by a number of large industries in the private sector, was estimated at $15 million annually.

Mr. President, clearly, this report, prepared by the General Accounting Office, is a breakthrough revelation of the tremendous savings in human and economic resources that can be achieved by the institution of professional, tested methods for controlling alcoholism and problem drinking that cost very little by comparison with their potential savings.

On behalf of the Subcommittee on Alcoholism and Narcotics that requested the report from the Comptroller General, I want to express our appreciation to Mr. Staats for this illuminating and highly professional study.

For the first time, we have a definitive, dollars-and-cents figure on the mammoth costs that alcoholism and problem drinking inflict on the Nation's largest employer, the Federal Government.

The total cost of alcoholism to the Federal Government—from lost work, accidents, and reduced efficiency among civilian employees—ranges between $275 million and $550 million per year, the GAO concluded.

It should be kept in mind that the GAO estimates of possible savings were derived from a study of only the civilian work force of 2.8 million persons, less than half of the total number on the Federal payroll.

If the alcoholism program were extended to include the 3.5 million Federal employees who are in the Armed Forces, the potential savings would be that much greater.

The study concluded that with effective employer-operated programs, approximately 54 percent of the problem drinkers are rehabilitated.

According to the report, an estimated 4 to 8 percent of the Federal work force suffers from alcoholism.

I would point out, in conclusion, Mr. President, that S. 3835, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, which passed the Senate unanimously on August 10, requires Federal agencies to establish alcoholism programs among their employees of the kind referred to in the Comptroller General's report.

This legislation and related bills are now under consideration by the House Subcommittee on Public Health and Welfare.

INTERNATIONAL DAY OF BREAD

Mr. PEARSON. Mr. President, this day has been designated by Presidental proclamation as "International Day of Bread." On this occasion we celebrate bread not only as a major staple in our diet but as a symbol of all food during this harvest week festival.

Wheat has, indeed, been a staff of life throughout much of the Western World. Day of bread celebrations date back to the festivals of the early Egyptians, Greeks, and Romans. This tradition has been revived in recent years in several European and South American countries.

The first day of bread in this country was celebrated in 1969. And certainly it is appropriate that, as one of the world's major wheat producers, we set aside a day of special recognition.

This day has special meaning in Kansas, the heartland of the Nation's breadbasket and the country's largest wheat producer.

In addition, we should, on this special day, rededicate ourselves to the task of eliminating hunger and malnutrition in this country and, indeed, the world over. And certainly it is the case that our efforts to combat world hunger can also make a major contribution to our goal of achieving world peace.

THE POLITICS OF DESPAIR

Mr. RIBICOFF. Mr. President, I invite the attention of Senators to an unusually perceptive and frank address delivered recently at the University of Georgia by the distinguished Senator from South Carolina (Mr. Hollings).

Senator Hollings made an eloquent plea for national reconciliation through tolerance and compromise, while decrying emotional outbursts as a means of bringing about needed changes. His appeal for making our system work to build a just society strikes a welcome note during the current period of national discord.

As one who frequently speaks to young people on campuses all over the country, I heartily second Senator Hollings' contention that students today "are more concerned about the future of this country and what it stands for than my generation."

Senator Hollings has done us all a great service by speaking out so forcefully against the widening gap between promise and performance in our society. I commend the Senator's words to all who would seriously seek to bind up the Nation's wounds.

The New York Times published portions of Senator Hollings' address on its editorial page October 3. I ask unanimous consent to have printed in the Record

XUM

these excerpts as they appeared in the Times.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

The Politics of Despair

(By Senator Ernest F. Hollings)

(Note.—These remarks are from a recent address delivered by Senator Hollings (D-S.C.) at the University of Georgia.)

My temptation today is to give a rip-roaring speech, because we in Georgia and South Carolina live hard, we work hard, and we are proud of our progress. But, somehow it strikes me that we have had enough rips and roars in our society today and what is needed most is a talking of sense to our people. For truly America is fed up—America is in turmoil. Everyone is shouting and no one is listening. And, rather than bring us together, the mood at this moment is—leave us alone. Gone is the old sense of community that united us for the challenges of the past. We don't face problems together anymore. We identify not as Americans, but as hard hats or students or militants or women liberators or as members of the silent majority.

As little groups and cliques we shout our non-negotiable demands, attempting to drown out all differing points of view. We fight for a spot in front of the television camera in the street, on the misguided assumption that emotional outbursts will somehow bring needed change. Our own group is always right.

The hard hat wants no dialogue with the student—he wants the student to shut up. The students seeks no compromise with the hard hat—he hopes for an America without hard hats. The clamor of rhetoric increases decibel by decibel until the voices of reason are now effectively silenced. Meanwhile, everyone is in flight—fleeing from the city to the suburb, fleeing from the disorder of crime and violence, fleeing from government. And, more important, fleeing from responsibility to one another. A country once excited by the challenge of change is now beset by wear. And so, the challenge is the same as 100 years ago—"shall we meanly lose or nobly save the last best hope on earth."

No one can visit a college campus and discuss the nation's problems without giving attention to the role of youth today. Many of my friends are annoyed by the attention public officials now accord the students. Twenty years ago, the only attention the student received from a Senator was a commencement talk on graduation day. We spoke and the students listened. Today, the average campus will be visited by four or five senators or congressmen. Some students won't listen to anything. But, the overwhelming majority are listening. They are more concerned about the future of this country and what it stands for than my generation.

We can credit the students with consumer protection, automobile safety, meat inspection and the fairness doctrine. The test for each Senator now is—is it fair? The draft law—is it fair? The tax law—is it fair? And, many times while the best brains of industry are telling us it can't be done, the students prove otherwise.

I don't speak politically, I don't speak as a member of one political party, for I realize as De Tocqueville said over 130 years ago. "There are many men of principle in both parties in America, but there is no party of principle." That has not changed. Lyndon Johnson is just as much responsible for today's inflation as is Richard Nixon. Lyndon Johnson stumbled and fumbled on the war just as much as Richard Nixon and, unfortunately, both lead from consensus rather than concern.

The office of Vice President over the years has been built to one of responsibility. The Vice President could bring us together as chairman of the President's council on youth opportunity. But, in his first 16 months in office, Mr. Agnew has not once convened a council meeting. Quite a record for the self-styled expert on youth. And, while I have been trying desperately for an oceans program, Mr. Agnew refused for ten months to meet with the marine science council—yet he is its chairman. In February, the President created a new office of intergovernmental relations. The Vice President is its head, charged with improving Federal relations with state and local governments. But, when the governors met in Missouri this summer, the Vice President was absent. Last spring, the President named Mr. Agnew to chair a cabinet committee on school desegregation. But, the Vice President missed its last seven meetings in the critical weeks before the schools opened this fall. The Vice President is chairman of the national aeronautics and space council; the President's council on Indian opportunity; and the President's council on physical fitness. But, he has ignored all three. Most importantly, he has ignored his primary constitutional duty—President of the United States Senate. As campaigner-in-chief for the "support the commander-in-chief strategy," he has been absent 98 per cent of the time roaming the land, tearing down the Senate.

Like 100 years ago, the politics of hope have given way to the politics of despair. Too many of us are seeking change outside the political realm, outside all the institutions which can make productive change possible. Our problems cannot be solved in the streets. A just society cannot be built on the ashes of burned buildings or the beaten bodies of those with whom we disagree. A just society cannot be built when so many of us sit home in front of the TV, cheering for our side as our adversaries receive their comeuppance.

No problem confronts this country that cannot be solved within the system. We must all do our part. The citizen must rededicate himself to the spirit of tolerance and compromise that makes meaningful change possible.

THE LATE MARY ANN OVERCASH

Mr. THURMOND. Mr. President, South Carolina and the Nation have lost one of its valiant citizens, the late Mary Ann Overcash, of Spartanburg, S.C. She was a great patriot and a fine American, who was soundly devoted to the welfare of her community and her country.

Mrs. Overcash worked hard, both for the preservation of the traditional American political philosophy, and for the betterment of the younger generation. She realized that the youth of this Nation form the key to the future, for it is the youth who will carry on the work of the present generation. For Mrs. Overcash, this has proved tragically prophetic in her own case. Her death at 41 deprives us of her leadership, but the many youths she has worked with will carry on her tasks.

Mrs. Overcash is well known for her work with the Singing Cavaliers, of Dorman High School, and in helping to bring the work of this fine singing group to the attention of the public. She was one of the main organizers of the God and Country Rally at Spartanburg Stadium, which did so much to instill in our citizens a reminder of the eternal values. More recently, she was one of the dynamic originators of STAND, which means Students Talk About Narcotic Dangers, an organization dedicated to educating the young about the drug problem. She died in the middle of this work.

Mr. President, I had the opportunity to work with Mrs. Overcash on some of her efforts for the country. It was a privilege to be associated with such a dedicated and fine person. I extend deep condolences to her husband, my friend, Emery M. Overcash, and their fine son, Johnny.

In addition, the leaders of her community have paid tribute to her work, and it is fitting that these tributes be included in the Congressional Record.

Mr. President, I ask unanimous consent that the newspaper obituary of Mary Ann Overcash, a letter to the editor by her neighbors, and an editorial from the WSPA Voice of the Air be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

Civic Leader, Mrs. Overcash, Dies Sunday

Mrs. Mary Anne Overcash, 42, a leader in civic affairs in Spartanburg County, died Sunday at 6:45 a.m. in Irwin, Penna.

Mrs. Overcash was the wife of Emery M. Overcash of 128 Brian Drive. She was a native of Riverside, Calif. and was the daughter of Lucian C. Crutchfield of Zion, Ark. and Mrs. Mary Ramsey Crutchfield of Spartanburg.

She was the organizer of S.T.A.N.D. and had done much work with the Dorman High School Chorus. She was also the past president of Spartanburg Alert, which organized the God and Country Rally held at Memorial Auditorium.

She had been nominated by Sen. Strom Thurmond for the title of Miss Conscience, a national award.

Mrs. Overcash was a member of First Baptist Church.

Surviving in addition to her husband is one son, Johnny of the home.

Arrangements are incomplete and will be announced by the J.F. Floyd Mortuary.

Mrs. Overcash, the Moving Spirit

The Editor:

A great lady has left us. Mary Ann Overcash, the moving spirit behind S.T.A.N.D. (Students Talk About Narcotic Dangers) died Sunday. She died in the midst of her work in persuading young people and adults that narcotics and other dangerous drugs are a major menace to this country.

Earlier than most, she and a few others here in Spartanburg recognized the seriousness of drug abuse among the young. And she dreamed a dream, the vision of an organization that would combine the wisdom of adults with the enthusiasm of young people to combat drug abuse. S.T.A.N.D., Inc., was the result.

Some weeks prior to her death, Mary Ann asked, "Will our people recognize the danger of drug abuse in time?" The question was asked in some impatience, but there was no despair in it. Despair was not a word in Mary Ann Overcash's vocabulary. Courage and faith and a great love for young people were a part of the warp and woof of her life.

So, because of her dream, because of her hope, because of her great love for young people, S.T.A.N.D. will continue to educate and aid the youth of our county. Hundreds of young people, many adults, and all of us here at S.T.A.N.D. will miss her daily presence and inspiration. Her work will go on.

Mrs. Robert Richardson,
Mrs. Joseph Webnar,
John Collins.

XUM

WSPA EDITORIAL

WSPA came in close contact with the late Mary Anne Overcash. She was a vibrant woman who attacked every project with her whole being, giving every ounce of her strength to bring about a successful conclusion.

Mrs. Overcash appeared on WSPA on only a few occasions. She sought no limelight for herself but only for those projects which she selected to assist.

WSPA's first association with Mary Anne Overcash centered around the Singing Cavaliers of Dorman High School. There is no doubt these youngsters had the ability, but it was the voice of Mrs. Overcash that kept the broadcast media apprised of this, and she was without a doubt their number one booster.

Then came STAND (Students Talk About Narcotic Dangers). Through her untiring efforts, she brought STAND to the public eye, brought STAND to the students and thus afforded help to drug users who had no other place to turn.

At forty-one, Mary Anne Overcash had only skimmed the surface. Hopefully, other hands will carry on her work. All WSPA can say is: "Spartanburg is a little better because she chose to give of herself in this city she came to call home."

PRISONER OF WAR STATEMENTS

Mr. GURNEY. Mr. President, each of the statements we make concerning the outrageous treatment of American prisoners of war by the North Vietnamese Communists is rather a small matter in itself.

However, it is our hope that they will have some effect when taken cumulatively. They represent a steady determination on the part of all of us to keep this issue alive, and to draw the attention of the entire world to this tragedy.

Perhaps in this way we can persuade Hanoi that they must begin to observe the terms of the Geneva Convention on Treatment of Prisoners of War, to which they are signatories.

EDNA GELLHORN—GRACIOUS AND GREAT LADY

Mr. EAGLETON. Mr. President, I fear that sometimes we in the Senate use the word "great" a bit too loosely. We refer to the great State of such and such, to my "great and good colleague, Senator what's his name," to this "great and important piece of legislation," and so forth.

Today, I want to use the word "great" in its truest and noblest sense as it applies to a wonderful, compassionate, and courageous lady who died in St. Louis on September 24, 1970, after 91 fruitful, creative, and productive years.

Mr. President, I wish to address some remarks to the memory of the late Edna Gellhorn.

The life of Edna Fischel Gellhorn was filled with contributions to the public welfare of such extraordinary value and variety that even a span of 91 years seems hardly long enough to include all her accomplishments. The range of her activities covered virtually every worthwhile cause that demanded dedication, devotion, skilled leadership, and the perceptive knowledge of how to move mountains.

This singular woman, born in St. Louis on December 18, 1878, began her distinguished career of public service soon after graduating from Bryn Mawr College with the class of 1900, which elected her its lifetime president. Married to Dr. George Gellhorn, a prominent gynecologist, she plunged into the battle for women's suffrage and became a founder of the National League of Women Voters as soon as the suffrage amendment passed.

Her unflagging interest in educating women for intelligent citizenship continued throughout her lifetime, during which she served three times as president of the St. Louis League of Women Voters, once as Missouri league president, and as a member of the national board of directors.

She was chairman of a spirited national campaign for the merit system, which stimulated the adoption of the civil service amendment to the St. Louis city charter. Campaigns for a blanket ballot and a secret ballot for Missouri, for a new State constitution in 1945, for women's property rights, for pure milk, for wrapped bread, for smoke abatement, for equal opportunities for minority groups—all of these efforts found in Mrs. Gellhorn a tireless worker, compassionate friend, and fearless advocate.

During World War I, she served under Herbert Hoover as regional director in St. Louis of the Food Administration. An early supporter of the League of Nations, she helped found the United Nations Association, and remained interested and active in UNA/USA all her life.

Many more organizations owe their vitality and their very beginnings to Edna Gellhorn. She was a cofounder of John Burroughs School, of the American Association of University Women, and of the National Municipal League. In St. Louis, she was an original member of the Milk Investigating Committee, and served on the boards of the Urban League, Missouri Social Hygiene Association, Board of Children's Guardians, and as a member of the Civil Service Commission.

At the risk of omitting the name of any group with which she worked, it is safe to say that she was a magnificent part of the growth of every important civic and social agency in St. Louis.

Happily, she escaped the fate of the prophet who is not without honor save in his own country. Testimonials, awards, and honorary college degrees line the walls of her home, and each vies with the next in describing public affection, gratitude, and admiration for her. She has left the shining imprint of her character upon St. Louis, and her memorial is a far better city, and a legion of devoted friends whom she has inspired to carry on in her tradition.

Mr. President, Adlai Stevenson, speaking of the death in 1962 of Eleanor Roosevelt, said:

> She would rather light candles than curse the darkness.

Edna Gellhorn was a great admirer of Adlai Stevenson and a close personal friend of Mrs. Roosevelt.

It can well and properly be said of Edna Gellhorn:

> She would rather light candles than curse the darkness.

BALTIMORE ORIOLES: AMERICAN LEAGUE CHAMPIONS

Mr. MATHIAS. Mr. President, "next year," the year that never comes, arrived in Baltimore on Monday, at approximately 3:30 p.m., when the battling Baltimore Orioles defeated the Minnesota Twins and won the American League pennant. The Orioles beat the Twins three straight in the American League playoffs to gain the championship for the third time in the last 5 years. Last year, it will be recalled, the Orioles beat the same Minnesota team in the playoffs only to go on to lose to the New York Mets in the world's series.

However, that was last year. And, ever since last October, those of us in Maryland who believed that demonic machination was responsible for the Mets' amazing victories have been waiting for "next year."

Now that "next year" has been delivered, we look forward to the opening of the world's series on Saturday. Unfortunately, the Mets will not be present this year, but maybe that will mean that Frank and Brooks Robinson, Boog Powell, Dave Johnson, Mark Belanger, Don Buford, Paul Blair, Elrod Hendricks, Mike Cuellar, Dave McNally, Jim Palmer, and the rest of manager Earl Weaver's charges will oppose only other mortal ballplayers this year. For of mortal baseball players, the present Oriole team must be among the best ever assembled. This year's Orioles have not one, not two, but three pitchers who have won 20 games or more during the season. During the regular season, they won more games than any team in either league. Their victory today was the team's 14th straight, longer than any winning streak this season.

We who have waited so long for "next year" look forward to the continuation of that winning streak on Saturday and the return of baseball's world championship to Baltimore where it belongs, and but for those demons of 1969 would be firmly lodged today.

TRAGEDY AT KENT STATE UNIVERSITY

Mr. YOUNG of Ohio. Mr. President, the magazine Good Housekeeping for October 1970, contains a carefully prepared report authored by Thomas Gallagher. The article demonstrates that murder was committed on the campus or commons of Kent State University on May 4, 1970.

I ask unanimous consent that this moving and thoughtful, factually correct narration be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

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THE TRAGEDY AT KENT STATE

NOW IT IS CLEAR: THE CLASH THAT COST FOUR YOUNG PEOPLE THEIR LIVES COULD HAVE BEEN AVOIDED. AN EXCLUSIVE GH REPORT ON HOW AND WHY IT HAPPENED.

(By Thomas Gallagher)

The students at Kent State University call it Blanket Hill, because on sunny days in spring, after classes, the grassy slope becomes a maze of blankets and couples—a place to relax, meet friends and talk. The grassy slope runs gently upward from the campus Commons toward Taylor Hall, the architecture building, where on Monday, May 4 of this year, four Kent students were killed and nine wounded by a volley of shots from National Guardsmen.

Why did it happen?

Did it have to happen?

What had been said and done—or not said, not done—that brought Americans to the point of killing one another?

And what of the future? Can we learn from those tragic days how to understand our differences and once more live in peace—peace on our campuses, in our cities, our homes?

Sandra Lee Scheuer, who used to say she never wanted to die because there were so many things in life she wanted to do, was one of the students killed. A 20-year-old junior from Youngstown, Ohio, Sandy was a sweet, happy girl. She said interesting things in an amusing way; she made people laugh and want to be with her. Sandy was very popular on campus. She was also on the Dean's List.

On Friday, Sandy had talked to her mother by phone and it was agreed that Mrs. Scheuer would deliver some of Sandy's summer clothes the next morning. On Friday, too, Sandy mailed her parents a card honoring their twenty-seventh wedding anniversary. She planned it so the card would reach her parents on the right day—Monday.

After Mrs. Scheuer's visit on Saturday, Sandy made plans for a weekend off-campus. Though she could not know it, Mrs. Scheuer was never to see her daughter alive again.

On the Monday when the shots were fired, Sandy was on her way to her "speech disorders" class in the Speech and Hearing Center. Starting across the campus, she passed guardsmen with rifles and spotted a tear-gas canister among the bushes. The guardsmen had used tear gas to disperse several hundred students the previous Saturday night, after militants had set fire to the ROTC building. But Sandy hadn't been on campus that night and did not know. . . .

As she continued past Taylor Hall, she heard the Victory Bell ringing on the Commons, where a student rally was to be held in protest against U.S. involvement in Cambodia and martial law on campus. "Sandy was concerned about the war," a classmate said. "She thought it was senseless to send young men over there to die, but like everybody else, she didn't know what to do about it."

Hearing the bell, she must have slowed her pace or stopped to watch for a moment before continuing on to class. Nothing could have been more natural; nothing more fatal. At that moment, the girl who never wanted to die had only a few moments to live.

William K. Schroeder, 19 and a sophomore from Loraine, Ohio, was to die a short time after Sandy Scheuer. Bill, an "extra special son" to his parents, had been an Eagle Scout at 13 and an A-student and basketball star in high school. At Kent State he ranked second among his ROTC classmates academically and played an aggressive game of basketball. "We used to kid him about ROTC," his roommate said. "It's not very popular on campuses these days."

The kidding didn't get under Bill's skin, but the burning of the ROTC building did—and he said as much the next day when he called home to tell his parents he was all right.

"Bill wasn't a revolutionary or a radical," sophomore Gene Pekarik said. "He had nothing against the military."

Pekarik and Schroeder were close friends from the same hometown, and later that morning, when they met on campus, they decided to watch the rally before going on to lunch.

As they passed a group of guardsmen, Perarik said, "I hope none of those guys have itchy fingers."

"Don't worry about it," Bill said, smiling to reassure his friend. "They don't even have slips in their rifles."

It was to be Bill's last smile.

Sophomore Jeffrey Miller, from Plainview, L.I., N.Y., phoned his mother less than two hours before his death. "Don't worry, Ma," he assured her, "I'm not going to get hurt." But he didn't promise to stay away from the rally, because he was curious about everything that happened on campus. "When something was going on," a classmate said, "he'd be there." Another campus friend said "he was not an activist," and after his death, nothing in his room suggested that he was. There were the drums he played an hour every day, and such books as "The Sun Also Rises," "Catcher in the Rye" and "Lost Horizon." On one notebook he had printed "Rocky for President in '72."

Jeff Miller was just too interested and alive to sit in his room when the Victory Bell started ringing. . . .

Allison Krause, 19, was a freshman from Pittsburgh. "I was in her political-science class," Gene Pekarik said. "She went with a boy down the hall from me. She was gentle, loving, beautiful and happy. She used to carry a little kitten around with her sometimes and sit with it out on the grass."

The boy down the hall from Pekarik was Kent freshman Barry Levine, who had met Allison on campus in September and fallen as much in love with her as she had with him. "Allison was against the war," Barry said, "but there was a student riot in town on Friday, the night following Nixon's Cambodian speech, and she condemned it. She couldn't see making small businessmen suffer because of what Nixon had done."

On Saturday Allison had talked to her parents by phone about what had happened in town the night before. "But don't worry," she said, "I wasn't involved . . ." In fact, she had not left the campus at all on Friday night. "I'm the one who brought up the subject of the National Guard," her father says, "because I felt they'd be called in. I knew they had been on duty in Akron at a Teamsters strike and would probably be exhausted. And I told her so. 'They're probably frightened and nervous,' I said, 'so keep out of trouble and stay away from them.' "

The next day, having assured her father that she "understood the danger," Allison went up to one of the guardsmen and, as a gesture of peace, slipped a flower into the trigger housing of his rifle.

"Flowers are better than bullets," she said.

The soldier looked at her, and perhaps because he sensed she was not trying to antagonize him, he didn't remove the flower.

On Monday, Allison went to the rally with Barry Levine. Six or seven hundred students had gathered by the time they got there, and among the onlookers were many professors, instructors and teaching fellows. One of the eyewitnesses was Robert Ray, a teaching fellow in English.

"After the students had chanted anti-war slogans about three or four minutes," Ray said, "a jeep pulled out of the guards' ranks with two uniformed military men in the front and a campus police officer with a bullhorn in the rear. He told the crowd to disperse, that the campus was under maritial law. When the crowd booed him down, the jeep returned to ranks.

"About five minutes later the jeep came out again and the order to disperse was repeated. There were more boos and chants, and meanwhile the commotion kept attracting more students. Finally, the guardsmen started moving out—advancing toward the students.

"Up to this point, there had been no rock throwing. It was not until the guardsmen lobbed their tear-gas canisters into the crowd that the trouble started. I got a blast of gas myself and went inside Taylor Hall to wet a handkerchief and gulp some water."

When Ray stepped outside again, the troops were starting up Blanket Hill in pursuit of the students. Tear-gas canisters continued to land on the grass and concourse around the building.

Ray got another dose of gas and rushed back inside for more water. By the time he came out again, the masked troops had advanced through the overhanging gas to the top of the hill, and the students had retreated to the other side of the building. At that point the students split into two groups, one heading farther downhill toward a dormitory complex, the other eddying around a parking lot below Taylor Hall.

The troops continued down the hill to a grassy area below the parking lot, still firing canisters of tear gas. A few students ran to pick up the smoking canisters and hurl them back, but only about halfway. When one landed near the troops, the crowd cheered.

Robert Ray and the several hundred students around Taylor Hall kept watching. When the troops began moving back up the hill again, away from the parking lot, the students in the lot followed, throwing stones and cheering, "like children in a chase," Ray said.

As the troops reached the crest of the hill, they turned, and one of them, a short officer with a pistol in his left hand, fired a shot into air, over the heads of the students. The National Guard claimed that a sniper fired a single shot before the troops fired, but Kent Journalism Professor Richard Schreiber, who was on the Taylor Hall balcony with binoculars, saw this "short officer" draw his .45-caliber pistol and fire.

Immediately after this shot, a nearby guardsman, blacking out from either exhaustion or tension, collapsed. Whether the troops around him thought he had been hit by sniper fire, or were obeying a command, they formed a skirmish line—the front row on one knee and the second row standing—and fired their rifles. According to sophomores Bill Montgomery, 22, an ex-Marine who spent 13 months leading a squad of soldiers in Vietnam, the short officer fired his pistol, along with the riflemen, this time aiming directly into the crowd.

The popping and cracking of rifles lasted about eight seconds, and against its din, Robert Ray said to a student next to him, "They're using blanks." But in that very instant he heard the unmistakable sound of bullets ricocheting off steel and concrete, and out of the corner of his eye he saw a boy, only 15 feet away, fly off his feet and land on his back. Ray, with six years of training in the Reserves, could not believe what his eyes and ears were telling him. "I didn't think anybody in his right mind would give the National Guard bullets."

The struck boy, Dean Kahler, suffered a gunshot wound in his hip the size of a half dollar. He was lying in a pool of his own blood, staring blankly past the students who rushed to help him. For the rest of his life Dean would be paralyzed from the waist down. He was not yet 21.

Farther down the hill, John Barilla, a senior majoring in dramatics, was running to the aid of a girl lying by Prentice Hall, over 75 yards away from where the troops had fired. The girl was Sandy Scheuer, and she

XUM

was bleeding from the neck. Ben Parson, a boy from Masillon, Ohio, was giving her mouth-to-mouth resuscitation. It was a sight Barilla would never forget: Ben's tears falling onto Sandy's cheeks; Sandy's books lying beside her.

Over by the parking lot, people had yelled, "They're blanks!" but they had run for cover anyway. "Allison and I fell behind a car," Barry Levine said, "and behind us a girl screamed."

The girl, spattered with blood, had been standing next to Jeff Miller, whose skull had been split open by one of the bullets.

For at least ten seconds after firing stopped, Barry thought that he and Allison were safe. "There were people around us on the ground, but I didn't know they'd been shot. Then I heard Allison saying, 'Barry, I'm hit.'

I glanced at her. I didn't believe it. She was pale and her voice was weak, but there was no wound and no blood. 'No,' I said, 'no!'

" 'I'm hit,' she said again.

"At that moment I saw blood coming from under her arm and I screamed, 'Get an ambulance! Get help!' "

Gene Pekarik had hit the ground at the cracking sound of rifles, but he, too, thought they were blanks until he saw Jeff Miller lying there, and, nearby, Allison Krause. "My roommate came running toward me shouting, 'Your buddy's been shot, your buddy, Billy Schroeder.'

"I ran to Bill," Gene said, "and when I got to him he was alive and able to speak. He just said, 'Where's an ambulance?' His voice was weak, like a whisper."

For the next 10 minutes there was nothing to do but wait for help for the 13 casualties. There was blood everywhere.

When ambulances arrived, John Barilla put Sandy Scheuer on a stretcher and helped carry her the 50 yards to the parking lot. Then he rushed to Jeff Miller, the boy who had been shot in the head.

Meanwhile, Barry Levine had helped put Allison on a stretcher and had climbed in the ambulance after her. "Jeff Miller was in the same ambulance with us," he said, "but he died on the way. The hospital was in Ravenna, seven miles away, and Allison kept gasping for air."

They let Barry stay with Allison until they took her into the hospital. Then they led him into a room and asked him to wait. Meanwhile, ambulances kept bringing in more casualties: Bill Schroeder, who had only a few more hours to live; John Cleray, 19, a freshman, with a bullet wound in the abdomen; Jim Russell, 22, a senior with a bullet wound in the right thigh and a bullet fragment lodged above his right temple; Thomas Grace, 20, a sophomore whose wounded left foot was soon to become gangrenous; Donald MacKenzie, 22, with a shattered left jaw and cheek; Joe Lewis, 18, in critical condition with a bullet wound in the hip; Robert Stamps, 19, wounded in the left thigh; Douglas Wrentworth, 20, his right leg bullet-fractured; Alan Canfora, 21, his wrist torn open by a bullet; and Dean Kahler, 20, paralyzed for life with a bullet in his spine.

The longer Barry waited, the more his hopes rose. But an hour later, a nurse came out to him and he saw in her eyes what he still refused to believe. Then the nurse said it, "I'm sorry. She's dead."

Barry asked to be allowed to see Allison, but after waiting three more hours, he was told permission could not be granted. An hour after Barry left, Allison's parents arrived. "We went in and uncovered her face and shoulders," Mr. Krause said. "She looked as though she were asleep. I kissed her on the forehead and cried out in anguish. My wife, who has more strength than I, held my arm."

"I have cried myself out," Bernard Miller, the father of Jeff Miller, said. "My son was no radical. He only wanted to end the war; to end the killing. I have no bitterness about the guardsmen. They were young, just as Jeff was young, but there shouldn't have been bullets in their guns."

At Allison Krause's funeral in Pittsburgh, her father took Barry Levine's hand in his and thanked him for coming, as if trying not so much to share his grief as to experience it in another way. They both loved Allison, the girl who had said the day before she died, "Flowers are better than bullets." She had no way of knowing then that she would always be remembered by those words. And no better epitaph could be written for the other dead, for the wounded—indeed, for the tragedy itself.

Why then, did it happen? What can we learn from it that will help put an end to killing?

Two weeks before the tragedy, John Glenn, the astronaut-turned-politician, had visited the campus to speak to the students. "When I finished the question-and-answer period," he said, "a nice kid with bushy hair and a little beard followed me out to the car. He kept saying 'People have got to listen to us. They've got to try to understand how we feel or everything will blow up. Can't anyone help us?' "

The conviction that they were being given no voice in their own future came rather late to the students of Kent, a university whose primary role since its founding in 1910 has been to provide an education for the sons and daughters of Ohio's blue-collar and white-collar middle class. Kent, is a solid, middle-American university, and its students, far from being radical or revolutionary, have for years demonstrated what one professor called "a great capacity for apathy."

In the late '60s, when campus disorders at Columbia University, the continuing Vietnam War and the protest marches had stripped away their apathy, they found themselves in a situation quite unlike that of students attending universities in large cities.

Over the years the town of Kent, with its 29,000 inhabitants, had become increasingly dependent on the university—and relations between the two factors had become increasingly strained. In the early '50s, the university had about 5,000 students, almost all of whom had haircuts regularly and wore what would now be called "square" clothes. Even then, though, the wariness of the town residents was felt by students strolling down Main Street to see a movie, buy something at Purcell's Department Store, or listen to a juke box in some bar. It was the old town-and-gown stalemate, with the townsmen silently and sometimes resentfully accepting students' business and the students nonchalantly and sometimes contemptuously giving them their trade.

The trouble started when the university, caught in the postwar baby boom, quadrupled its student body to just under 20,000. Business in town increased, but so did the students, many of whom now went in for long hair, headbands, and "crazy" ideas—the kind of ideas that their parents back home either disagreed with or refused to discuss.

Just as the gap between students and parents had been widening over the years, so had it between the town of Kent and the undergraduates. Hearing the same remarks—on their hair, their style of dress—from townspeople that they objected to at home, the students became more and more convinced that only on their own campus could a feeling of mutual confidence and honesty exist. This feeling reached a new intensity last spring when, on April 30, President Nixon announced that American troops had moved into Cambodia.

Kent students, listening to the speech, were shocked and dismayed. They talked late into the night of nothing else, and the next day, Friday, the talk continued. "I didn't go for the war, but it was there and I more and less accepted it," said Ronald Arbough of Cuyahoga Falls, an Army veteran and a self-described conservative. "I was pretty apathetic. Then came Nixon's speech on Cambodia and I thought, well, for crying out loud, I voted for the guy because I wanted to get it over and then he goes and makes it bigger . . ."

Ordinarily on Friday night, the town of Kent "swings", and Friday, May 1, was no exception. The students jammed into the bars to drink beer, listen to music and kiss their dates. They tried to forget Cambodia, but their fun was soured by a sense of frustration and defeat, the feeling that their lives had already been shaped by events beyond their control.

All the same, nothing happened in Kent that night until a scruffy gang of helmeted motorcyclists called "The Chosen Few"—they were neither Kent students nor Kent residents—staged a rodeo on wheels at the main intersection in town. As a giant traffic jam formed, the honking horns, competed with the roar of the motorcycles and the students came out of the bars to watch.

When one car tried to run the blockade, its windshield was smashed, then two store windows were broken, some refuse cans upturned, and rocks and beer bottles reportedly thrown at a squad car. By the time the police arrived, The Chosen Few had vanished into the crowd of students who now numbered about five hundred. The sight of the police with their clubs, rifles and holstered pistols only intensified their feeling about Cambodia. As several said later, they had no intention to be violent, they had no leader and no purpose, but they were angry and keyed up. And they were there.

A few shouted back at the police, but most just stood their ground, resisting the order to disperse—until a canister of tear gas was thrown at them.

"If only the law-enforcement people would realize that students look upon tear gas as the symbol of repression," one Kent senior in the crowd said. "Their job would be so much easier if they'd stop using it. There's only one thing that could more effectively unite a crowd, and that's napalm."

All at once, the 500 students began surging through the downtown section, hurling bottles, rocks and debris through bank and shop windows. They scattered through side streets, ran through alleys and reassembled, broke into smaller groups and reassembled again. Meanwhile the police, using tear gas and riot formations, slowly moved the main body of them back toward the campus.

At one point, at East Main and Linden Streets, a passing car accidentally hit a truck scaffold where a night crew was working on a malfunctioning traffic light. The scaffold fell, leaving a workman stranded on the traffic light 20 feet above the ground. This prosaic mishap had a curiously calming effect on the catcalling students. As the police, temporarily suspending their dispersal efforts, went to the man's rescue, the crowd quieted down. When he was safely removed, the students cheered—actually cheered the same policeman they'd been baiting. Now their anger was spent.

No more tear-gas canisters and no more taunts and epithets were thrown that night; the students broke up and began moving back toward their campus and dorms.

In retrospect, there can be no doubt that, if tear gas had not been used and if the police and the town and university had taken patient, reasonable and concerted action, they would have had a quieting effect on the Kent students. (Next morning, short hairs and long hairs alike formed groups to help sweep up the broken glass in town.) If officals had appealed to the students' underlying dislike of violence and the destruction of personal property, the build-up of resentment and anger could have been slowed, if not stopped altogether. But Kent State president Robert I. White was attending a meeting of the American College Testing Program

XUM

in Mason City, Iowa, and the already existing gulf between university and town widened when Kent City Police criticized university police (whose authority was limited to the campus) for not helping to quell the riot in town.

"It's hard to understand why the university police, with their 36 men, couldn't have given some assistance," said Kent Police Chief Roy Thompson. He then expressed a strong belief that the disturbance had been instigated by a "bunch of agitators" and "subversive groups."

On Saturday, shortly after this statement by Thompson to reporters, town officials imposed an 8 p.m.-to-dawn curfew, closed all bars, and alerted the National Guard. Nothing expressed the breakdown of communication between town and university more eloquently than this inconsistent curfew. It allowed no one on foot in town after 8 p.m., but allowed students to drive to and from the campus any time they wanted between 8 p.m. and 1 a.m. (when the campus curfew took over). The campus exits lead right into town, and if, indeed, a disturbance had been planned for Saturday night, the curfew would have done nothing to prevent it.

But even given the lack of communication between town and university, trouble would almost certainly have been averted had not every hour brought a further escalation of tension. On Saturday afternoon, for example, the Kent newspaper, the Record-Courier, carried this headline: "Nixon Hits Bums Who Blow Up College Campuses."

The story told how, the morning after his Cambodia speech, Nixon was congratulated by a young woman who said, "It made me proud to be an American." Nixon smiled, thanked her, offered a few appropriate comments, then made his now famous remark about "campus bums." At the time, of course, he had no knowledge of the explosive situation at Kent, and doubtless he never expected his epithet to be reported in the newspapers, much less headlined. But the wheels of tragedy were turning, and when the impromptu remark was reported in the Record-Courier, it left little doubt in the minds of Kent students that the President was speaking from his heart and that it was a true revelation of how he felt about them.

The president of Kent's National Bank, one of whose windows had been broken by students the night before, thought the remark "not too intelligent" of Nixon. "Now, I voted for him, but I can't understand why he won't sit and listen to these kids—find out why they feel as they do all over the country."

That Saturday night, with no one allowed on foot in town after 8 p.m., the campus was jammed with thousands of students, most of them too worked up to study, let alone sleep. It was that night that some of them set fire to the ROTC building on campus. "One, two, three, four," they shouted as the flames shot up, "we don't want your bloody war!"

At 9:50, the armored personnel carriers of the National Guard came roaring down Main Street. Guardsmen moved onto the campus from all directions, with rifles, tear-gas launchers and other weapons, slowly breaking the larger groups of students into smaller groups, then forcing the smaller groups back into their dormitories. Shortly after midnight, the campus was quiet again, but spent tear-gas canisters, rocks, broken glass and debris were strewn everywhere, and the ROTC building was a total loss.

The next morning (Sunday), when Ohio Governor Rhodes arrived in Kent, he was strongly urged to close the university without delay, before something terrible happened. With American troops in Cambodia, and now on the Kent campus, the situation was explosive. But Governor Rhodes rejected the idea of closing the university. Instead, he imposed martial law on campus.

XUM

"We have the same dissident groups and their allies going from one campus to the other," he said later at a televized news conference in Kent. "And they use a university . . . as a sanctuary. . . . They make definite plans of burning, destroying, and throwing rocks at police and at the National Guard and the Highway Patrol . . . They're worse than the brown shirt and communist element and also the 'night riders' in the viligantes. They're the worst type of people that we harbor in America."

When Kent students heard this speech later that day on TV, their animosity increased. It was thought to be deliberately inflammatory, as well as unfounded.

Some students, and many instructors, saw it as a direct result of the close political race then underway between Governor Rhodes and Robert A. Taft, Jr., for nomination to run for the U.S. Senate—a race Governor Rhodes was to lose two days later.

"We were being used as political tools by Governor Rhodes," said Joseph Bianchi, a Kent resident and graduate student.

"The entire confrontation engineered by Governor Rhodes without consulting president White was inexcusable," said assistant professor of education Harold Carpenter. "You cannot separate what happened at Kent from the election on Tuesday, any more than you can separate it from Cambodia. There is no question that the burning of the ROTC building was a result of Nixon's speech. The entire student body was up tight about it. When Rhodes arrived on Sunday, he felt that closing the university would expose him to the charge that the radicals were running things and he thought it would hurt his chances against Taft. His speech heated things even more."

Similarly, other members of the faculty blasted Rhodes for not understanding "the complexity and variety of issues motivating our students," nor their belief in their "moral prerogative" to protest "the rule of force."

The impending tragedy might still have been avoided if Governor Rhodes had told president White that the M-1 rifles the guardsmen were carrying were loaded with live ammunition. But just as Rhodes had not consulted White before calling out the Guard, he had never told him about the bullets. "I was never told that the guardsmen were carrying live ammunition," president White said later.

Thus by Sunday evening, the stage was set for disaster. On one hand were the students, charged up at the "invasion" of their campus, seething at the extension of the war, resentful of President Nixon and convinced they were being used as political pawns by Governor Rhodes. On the other were 800 exhausted and frightened young guardsmen, charged with enforcing martial law and carrying bayonet-fixed rifles that no one connected with the university knew were loaded.

To make matters worse, the guardsmen had just come from duty at the Teamsters strike in Akron. They had slept only three hours in the last 48, and hadn't showered in three days. They were, understandably, not at all happy about facing up to the inevitable taunts and insults of the students. Though most came from nearby farming communities and factory towns, they differed from the students in outlook and opportunity, in background and behavior. These differences took on something close to class distinctions on the Kent campus that Sunday afternoon. It was as if the less favored were being pitted against the more affluent, with one side carrying guns and the other side rocks.

Not all of the students felt antagonistic. "My date spoke to several guardsmen," Jan Montgomery of Youngstown said. "They were just as upset about the disturbance as we were. Personally, I felt better—safer—with the guard there. And I didn't like the way some students walked up to guardsmen and called them pigs and spat in their faces. The guardsmen just had to stand there and take it."

When darkness fell that Sunday night, the nerve-racking tension in Kent webbed the air and made it hard to breathe. From darkened roofs, dormitory windows and parking lots, rocks and lighted firecrackers were thrown at patroling guardsmen, who had been told that many of the students had guns. Meanwhile, three helicopters kept up a steady drone over the town and campus, sending powerful beams of light down into every nook and corner.

"The helicopters and sirens and the confusion and rumors really panicked the whole town," a Kent resident, Harold Carpenter, said. "People with shortwave radios kept listening to police dispatches and passing them along as truth, when in fact they were mostly just leads or false alarms. It was as if a revolution had started. People were loading their guns, pulling down their shades and locking their doors. I heard one neighbor say, 'If that armed mob comes down this street, I'm shooting.' There was no armed mob, but he apparently believed there was."

What happened the next day was a tragedy born of a failure of communication. Starting with student violence in the streets on Friday night, it had moved inexorably to its conclusion through invective, rumor arson, repression, inflammatory political speeches and disastrous official decisions. If reason and conciliation had been shown by either side at any given point in the sequence of events, the fatal volley of shots would never have been fired. If the students, for example, had peacefully protested the existence of ROTC on campus instead of destroying the building itself, or if Governor Rhodes, after the building was destroyed, had temporarily closed the university instead of imposing martial law on campus, the tragedy might have been averted. The rocks and tear-gas canisters were thrown and the fatal shots fired because, at Kent that weekend, Americans had stopped talking to one another.

In July, a Department of Justice inquiry, conducted by 100 agents of the FBI, received wide attention. The bureau itself drew no conclusions, but among its findings were these: The shootings "were not necessary and not in order"; no guardsman had been hurt by flying rocks, and none was in danger of his life at the time of the shooting; 13 students were hit by bullets in 11 seconds, and all but four were shot in the back or side; Ohio officials were advised that six of the guardsmen—all identified in detail—could be held criminally responsible responsible for their part in the shootings.

Finally, to settle the question of who was to blame for the killings, and why they happened, the state of Ohio would have to conduct its own investigation and follow this with a trial by jury. Just such an inquiry was ordered on August 3 by Ohio's Governor James A. Rhodes.

As for the people who suffered the most—the parents of the dead—they have this to say:

"We tried to find meaning in these deaths, but it is hard. It as though death has chosen its victims in a lottery of the young and the good . . .

"There is only one fitting memorial to the fallen. It is for the living to stop the killing. We urge man no longer to raise his hand against his fellowman—whether it be on the battlefields of Asia, in any part of the world, on any street corner in this nation, on any university or college campus throughout this land. Violence will not stop violence. The hard fact of our times is that it does not take courage to kill. It takes courage to live.

"Let us dedicate ourselves in the future to peace and life, not violence and death. . . ."

It was in the spirit of this statement that the Kent Students' Medical Fund, Inc., was established in June of this year. The fund's aim is to raise $100,000 through contributions for the surviving wounded, many of whom are still hospitalized as this is written.

Conceived by Kent students, the fund is supported by Congressman Stanton of Ohio, by outstanding citizens of the city of Kent and by members of the Kent State faculty. It deserves to become a rallying point for all Americans who believe more in life than death, more in reason than in passion, more in unity than in hate.

DIRECT ELECTION ADVOCATES SHOULD PRACTICE WHAT THEY PREACH

LESSONS ON OBSTRUCTIONISM

Mr. GOLDWATER. Mr. President, recently in the course of debate over the direct election proposal the Senate has been repeatedly lectured on the rules of democracy. We have been taken to task by some of the sponsors of direct election for our alleged failure to act on an opportunity to demonstrate that the Senate is honest, intelligent, and responsive to the needs and desires of the people. The liberal eastern newspapers have chimed in with their usual claptrap about the backwardness of this body for refusing once again to follow their radical preachments.

Indeed, on September 23, after only 10 days of debate on the issue, the author of the direct election amendment, the distinguished Senator from Indiana (Mr. Bayh) accused certain Members of this body of using arbitrary tactics against the electoral reform measure.

The Senator from Indiana charged that:

> The history of Senate Joint Resolution 1 is a continuous record of delay and obstruction, a continuous record of parliamentary chicanery intended to frustrate the will of the vast majority of the members of this body, and more importantly the will of the People of the United States.

TRUE VICTIM OF OBSTRUCTIVE TACTICS

Mr. President, much of what the Senator has said is correct concerning an important reform measure that has long been languishing in the Senate. But he has erred in identifying this proposal as being the one which the Senate has currently been debating very actively. Rather, it would have been more fitting if the Senator had pointed his finger at another Senate joint resolution which has been collecting cobwebs for almost 5 years in the very subcommittee chaired by the junior Senator from Indiana.

Mr. President, I am referring to Senate Joint Resolution 6, which is known as the school prayer amendment.

If ever there was a victim of dilatory tactics, it is the proposal to allow the American people to restore prayer to their schools. The Senator from Indiana mentioned that the Subcommittee on Constitutional Amendments began its recent efforts on electoral reform almost 5 years ago in February of 1966. Well, the very same thing can be said of the prayer amendment. A full set of hearings was conducted in August of 1966 but nothing has happened to move it along ever since.

The Senator also observed that Senate Joint Resolution 1 has more than 40 cosponsors. Actually, it reached a peak of 42, with the subsequent loss of at least two Senators who have now announced their opposition to the plan. Any way you figure it, this is not as many Senators as those who have joined in proposing the restoration of the right of prayer in public institutions. The prayer amendment has no less than 45 cosponsors, and it is still climbing.

The Senator from Indiana further reminded the Senate of polls which indicate a high degree of public support for election reform. However, once again, I might draw a comparison with the prayer amendment which has its own polls showing a public sentiment running in its favor by better than 80 percent.

In addition, the author of the direct election proposal complained that his amendment had languished, as he put it—

> Month after month in the Judiciary Committee, without action, while other business was considered and voted on.

But, Mr. President, this is exactly what has happened to the school prayer legislation. The resolution calling for a constitutional amendment to put love of God and respect for the Holy Bible back into our schools has been chained to the back reaches of the Subcommittee on Constitutional Amendments for over 4 years now. In fact, if we trace this proposal to its origin, we can see that the first of such amendments was introduced by my good friend the Senator from Mississippi (Mr. Stennis) in June of 1962. Thus, if the Senator from Indiana is truly sensitive to the will of the American public, and if he is truly concerned about proving the Senate to be a responsive institution, then I respectfully suggest that he should strive to bring the school prayer amendment before this Chamber for a vote.

FUNDAMENTAL IMPORTANCE OF PRAYER

The matter of prayer is every bit as important to the American people as their interest in electoral reform. The religious fiber of our Nation is the source of our national character and greatness. Indeed, the spiritual foundation of our society is the bulwark of America's strength in the struggle for the preservation of freedom around the world.

As Prof. Charles E. Rice describes it in his excellent book, "The Supreme Court and Public Prayer," our Western culture—

> Is the repository of the traditional Christian beliefs that men are made for a destiny higher than this life, "that they are endowed by their Creator with certain unalienable rights," and that a primary purpose of government is in the phrase of the Declaration of Independence, "to secure these rights." Communism, by contrast, relies upon the assumptions that there is no God and that man and all else in the world are purely material.

Professor Rice, who teaches law at the University of Notre Dame, adds:

> It is most important here that the basic premises of Communism are its denials of God and the spiritual nature of man. From these postulates follow the messianic nature of Communism and the irreconcilability of its struggle with the West.

SIGNIFICANCE OF INDIVIDUALS

Mr. President, herein lies the core of my disagreement with the antischool prayer cases. The doctrine of these decisions constitutes a fundamental rejection of basic beliefs which have distinguished this country in the community of nations. The ultimate mark of America is the special meaning which our society places upon the individual man.

We do believe that each person is born with certain God-given rights, which no government can take away from him. We do hold firm to the belief that each individual is important and deserving of respect from all other citizens. We do contend that government is created to serve man, not to be his master. We cringe at the thought of computerizing man, of treating him as a souless being whose thoughts and actions can be precisely predicted and manipulated.

Religious beliefs flow through and sustain every facet of American life, and have done so since the beginnings of our history. To my mind, whatever threatens the right of Americans to freely engage in religious ceremonies and to freely express their religious beliefs, whether it be at home or in public, also threatens our basic spiritual heritage and national character. This is why I consider the antiprayer decisions dangerous and deplorable.

WHAT ANTIPRAYER CASES DID

Let me review very briefly what the Supreme Court actually decided in the two cases affecting the right of public prayer, and you will see what I mean.

First, there is the 1962 decision of *Engle* v. *Vitale*, 370 U.S. 421. In this case, the Court held the State of New York could not encourage recitation of a nondenominational prayer composed by State officials. The prayer was brief, it was freely adopted by each local school board, it was offered before the beginning of regular classroom activities, and its observance by pupils was completely voluntary. The schoolchildren simply acknowledged their dependence upon God and asked His blessings upon them and their parents, teachers, and country.

Nevertheless, the six-member majority on the Supreme Court found that New York had established an official religion and thereby violated the first amendment. The Court spoke in sweeping terms by declaring that—

> The First Amendment was added to the Constitution to stand as a guarantee that neither the power nor the prestige of the Federal Government would be used to control or influence the kinds of prayer the American people can say.

The Court followed this incredible ruling by striking down laws in both Pennsylvania and Maryland which had provided for the holding of opening exercises in public schools consisting of the reading, without comment, of some passages from the Holy Bible or the use of the Lord's Prayer. These cases were considered jointly by the Supreme Court in *School District of Abington* v. *Schempp*, 374 U.S. 203 (1963).

The majority divided its views among four lengthy opinions, clearly revealing the bewildered conclusions among the majority itself as to how far their holding had actually gone. The Court's opinion, written by Justice Clark, was particularly ominous in defining the test for judging when the establishment clause has been violated. He asked:

> What are the purposes and the primary effect of the enactment?

He declared:

> If either is the advancement or inhibition of religion, then the enactment exceeds the scope of legislative power as circumscribed by the Constitution.

As I shall discuss in a minute, this is a test without bounds.

REJECTION OF CASES

Mr. President, I deplore both of these decisions. I disagree with the outcome of the specific cases and I am alarmed at the frightful implications which follow from the broad language used by the Court, as surely as night follows day.

The decisions are wrong because they have overturned a good and decent practice used in almost every State in the Union. They are wrong because they have reversed an entire century-and-a-half of interpretation of the first amendment under which the right of free, nonsectarian prayer was allowed to be exercised in public schools. They are wrong because the Supreme Court overturned a program of daily classroom invocation of God's blessings, which the Court itself found to be no more than "A solemn avowal of divine faith and supplication for the blessings of the Almighty."

Well, what is wrong with that? Instead of condemning this beautiful example of public reverence, the Court should have applauded the willingness of the local school boards to follow spiritual practices which are in the best traditions of our Republic.

XUM

HIGHER VALUES FOSTERED BY PRAYER

In the contemporary climate of glamorization by the mass media of campus pillaging, drug addiction and sexual permissiveness, it would be worthwhile for Americans to turn their attention to the higher values present in religion.

For example, the New York Board of Regents believed that in allowing the ceremony of an opening prayer:

> The school will fulfill its high function of supplementing the training of the home, ever intensifying in the child that love for God, for parents, and home which is the mark of true character-training and the sure guarantee of a country's welfare.

I for one, agree with this viewpoint. The encouragement of faith in God and the advancement of a moral conscience for our children would seem to me to be a welcome part of our national educational policy. In truth, the prayer cases presented the Court with a remarkable opportunity to secure the rights of religious-minded parents and children to come together in a prayer based on the common bonds of their faiths and the moral values which have guided our free society. By rejecting this positive, hopeful interpretation, the Court turned its back on the chance to foster the increase of accommodation, tolerance, and a friendly community life in our society.

FAR-REACHING EFFECTS OF COURT DECISIONS

But, Mr. President, this is not my only reason for wanting to reverse the strange decisions of the Supreme Court banning prayer in our schools. It is also my opinion that there are dangerous and far-reaching applications implicit in these decisions which will sooner or later redound from the bizarre reasoning used by the Court's majority. I am supported in this belief by eminent legal and religious authority. The present Solicitor General of the United States, Erwin Griswold, who is a former dean of Harvard Law School, has referred to the rationale of the Court as "Absolute and extreme."

Prof. Charles S. Rice of the University of Notre Dame writes that the school prayer decisions—

> Predictably will have the effect of raising agnosticism to the rank of the official public religion of the United States."

What is more, Henry P. VanDusen, former president of Union Theological Seminary, has been quoted as stating:

> The corollary in both law and logic of the Supreme Court's recent interdictions is inescapable, prohibition of the affirmative recognition and collaboration by government at all levels with all organs of religion in all relationships and circumstances.

RELIGIOUS HERITAGE IN DANGER

What concerns these scholars is the sweeping language used by the Court. Every conceivable practice of public religious reverence has been placed in doubt by the Court's decisions. When the Court finds a State cannot enact regulations or guidelines that have the primary effect of advancing religion then there is almost no religious practice identified with government that can survive.

When the Court holds that the first amendment demands neither the power nor the prestige of the Federal Government shall be used to control, support, or influence the kinds of prayer the American people can say, there is almost no religious activity I can think of which remains permissible in a public facility.

RELIGIOUS INFLUENCES IN GOVERNMENT

There are numerous examples of the interconnection between religion and government. The Federal Government finances the salary of chaplains who serve the Armed Forces. The House of Representatives and the Senate of the United States each employ a chaplain who offers opening prayers upon the commencement of their proceedings. The Supreme Court itself begins each day's session by invoking the protection of God. Every U.S. President beginning with George Washington has asked for the protection and help of God upon assuming his oath of office. Since 1865 the words "In God We Trust" have been inscribed on our national currency and coins. The Star Spangled Banner, which has been made our official national anthem by a formal act of Congress, includes verses praising the power of God. Congress has also enacted legislation calling upon the President to proclaim a National Day of Prayer each year.

Yet while their fathers ritually begin their day with prayer, the same conduct by children is considered to pose a threat of religious persecution and state control of spiritual beliefs.

Furthermore, Federal moneys are appropriated for loans and grants which are awarded to students who may choose to attend church-related schools. The Federal tax laws and the laws of States have consistently granted deductions to taxpayers for contributions they have made to support churches and church-connected schools. The compulsory attendance laws in every State support the position of parochial schools. These laws clearly sanction instruction given at religious schools since they treat education received there as adequate to meet State scholastic standards.

DAMAGING EFFECTS OF PRAYER DECISIONS

All of these practices are now cast in doubt. Each of them either stands as a direct means of advancing the conduct of religious activities or of using the power or prestige of the government to support, or at least to influence, the kinds of religious beliefs which millions of persons might hold.

Therefore, if the reasoning of the Supreme Court is carried to its logical and radical end, every one of these historical practices will be forbidden. It may be true that some members of the bench have engaged in tortured reasoning in order to disclaim this contingency, but the faces on the Court will change. No one can deny that the possibility of worse effects is ever present.

Already we can see the sorry spectacle of attacks on the printing of Christmas stamps. Nativity scenes have been banned on public property in some localities. The Christmas prayer of Apollo astronauts was denounced in 1968. In many schools kindergarten children are forbidden to say grace before eating cookies and milk. Roman Catholic schools in Brooklyn were not allowed to participate in Operation Headstart until they took the crucifixes off their classroom walls. All this has been done in the name of the dogma announced by the Supreme Court in the school prayer cases.

In fact, since these cases were handed down, a Federal Court of Appeals in New York State has decided that pupils cannot say prayers in classrooms by themselves and on their own initiative. I probably need not add that the Supreme Court has allowed this decision to stand.

Who can say what is next?

RIGHT OF MAJORITY TO ENJOY FREE EXERCISE OF RELIGION

Finally, Mr. President, it must be recognized that these cases involve a counterpart civil right and that is the privilege of free exercise of religion held by those citizens who desire to have their children's schoolday open with a religious exercise. According to most public surveys nearly 80 percent of the American public desires to continue the policy of prayer in schools. In October of 1964 the Harris poll found 82 percent of Americans in favor of permitting religious exercises in the public classroom. A recent poll taken by Good Housekeeping magazine came up again with 80 percent in support of reversing the Supreme Court decisions. This year, I understand, polls taken in several States continue to show a similiar high percentage of Americans backing public prayer.

But the will of this great majority will be stifled by what the Boston Pilot has called "the tyranny of the few" unless Congress is allowed to act on this proposal. The Rev. Robert G. Howes, writing in the National Catholic Education Association bulletin, has put it this way:

> To permit a minority's preference to dominate public practice, however, thus denying to an overwhelming majority its will, is an intolerable travesty of democracy.

Mr. Justice Stewart, in his dissent in the 1963 prayer case, remarked that—

> A compulsory state educational system so structures a child's life that if religious exercises are held to be an inpermissible activity in schools, religion is placed at an artificial and state-created disadvantage . . . And a refusal to permit religious exercises thus is seen, not as the realization of State neutrality, but rather as the establishment of a religion of secularism, or at the least, as government support of the beliefs of those who think that religious exercises should be conducted only in private.

In other words, the way the first amendment has been applied by the Supreme Court means that it has been turned inside out to deny the majority their right to enjoy the free exercise of religion, while at the same time the religious dissenter's intolerance of religious beliefs has been transformed into a constitutional principle.

DIRECT ELECTION ADVOCATES SHOULD PRACTICE WHAT THEY PREACH

Mr. President, there is only one way to restore the first amendment to its original meaning and that is through a constitutional amendment. The American people want a corrective amendment. Forty-five Members of the Senate have formally sponsored such an amendment. Church leaders of all denominations have endorsed a public prayer amendment, ranging from Billy Graham to Bishop Fulton Sheen. The National Conference of Governors and the National Conference of Mayors have both endorsed it.

For my part, I might recall my active role in drafting the plank in the 1964 Republican platform which pledged:

> Support of a Constitutional Amendment permitting those individuals and groups who choose to do so to exercise their religion freely in public places.

And just to keep this discussion on a nonpartisan basis, I might mention that Mr. Gordon St. Angelo, chairman of the Indiana State Central Democratic Committee, is reported to have notified the junior Senator from Indiana of his support for the amendment.

And I am also informed that the Very Reverend Theodore Hesburgh, president of the University of Notre Dame, has recently appealed to the Senator from Indiana to move the prayer amendment onto the Senate floor.

Mr. President, in light of this strong line of endorsements, which is merely expressive of the will of millions of our people, I respectfully ask the sponsors of direct election to practice what they preach. As they might say, "Let the people's choice prevail." Bring the prayer amendment to the Senate for a vote.

Mr. President, in closing, I would like to ask unanimous consent to have printed in the Record a short paper relative to the issue of public prayer. The document is a booklet entitled "Questions and Answers on the Civil Right of Free School Prayer," prepared by Citizens for Public Prayer. I recommend it for reading by all citizens interested in this issue.

There being no objection, the booklet was ordered to be printed in the Record, as follows:

QUESTIONS AND ANSWERS ON THE CIVIL RIGHT OF FREE SCHOOL PRAYER

1. *The First Amendment to the Constitution is involved here. What does it say?*

It says two things. First, government must not establish, that is support and/or promote any particular religion; second, government must not interfere with the free exercise of religion on the part of its citizens.

2. *Does the First Amendment deny the right of free prayer in public schools?*

As originally written and interpreted with common sense for many decades, the First Amendment to the Constitution does not deny the right of free, non-sectarian prayer in public schools, Public reverence is a matter of very long and very general record in the history of these United States. At the time the Supreme Court banned free prayer from the public schools of New York State on June 25, 1962, the majority of public school districts across America provided time for free school prayer.

3. *Why, then, is it now proposed that the First Amendment itself be amended?*

While there is nothing wrong with the First Amendment as written, once the Supreme Court intervenes to mis-interpret that Amendment, as it did in its two prayer-ban decisions, it becomes necessary to repeal this mis-interpretation and restore the first amendment to its original sense. This restoration is *not an attack on the First Amendment, but rather a defense and a re-affirmation of it*. It is not a question of repealing or tampering with the First Amendment. The Court has already done this. It is a question of clarifying that Amendment so that it is in accord with the clear will of the nation. It is not those of us who advocate a PEOPLES' AMENDMENT FOR PUBLIC PRAYER who open a Pandora's box here but the Court which, ignoring the common sense of the First Amendment has already done so.

4. *Are you attacking the Supreme Court?*

We attack neither the institutions nor the persons of the Court. Simply, with full democratic right, we question the two prayer-ban decisions. We believe, with Mr. Justice Stewart, that "the Court has misapplied a great constitutional principle." We do no more here than Abraham Lincoln did when, more than a century ago, he questioned the Dred Scott decisions in these words:

"When all the words, the collateral matter was cleared away from it, all the chaff was fanned out of it, it was a bare absurdity. . . . The Dred Scott decision covers the whole ground, and it occupies it, there is no room for the shadow of a starved pigeon to occupy the same ground."

While no two cases are, of course, perfectly analogous, our dissent from the majority opinion of the Court in its two prayer-ban decisions is based, as was Lincoln's to Dred Scott on two counts—(a) whatever the obiter dicta (for incidental remarks) the deed of the decisions, the rationale of the decisions is very seriously wrong, (b) so long as the decisions stand no practise of public reverence among us is safe.

5. *What, in fact, did the Court do in its two prayer-ban decisions?*

Briefly, on June 25, 1962 and on June 17, 1963, the Court widened the First Amendment prohibition against government support of a particular sect or church (e.g., Roman Catholicism, Episcopalianism, Reform Judaism) to include government encouragement of free, non-sectarian prayer and other religious exercises in the public schools. In its first decision, the majority of the Court said—"Neither the fact that the prayer may be denominationally neutral nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitations of the Establishment clause." In its second decision, the Court said that even to question that the First Amendment meant reverence as such, rather than government support of a particular sect or church, is "entirely untenable and of value only as academic exercises." This kind of interpretation of the First Amendment is very clearly *fundamental*. It is not incidental. It is not isolated. It states *a principle which must affect all future Court decisions in matters falling under the purview of the First Amendment*. As the former Dean of Union Theological Seminary, Henry P. Van Dusen, put it:

"The corollary in both law and logic of the Supreme Court's recent interdictions is inescapable, prohibition of the affirmative recognition and collaboration by government at all levels with all organs of religion in all relationships and circumstances. A consistent application of such a policy would involve a revolution in the Nation's habitual practice in the matter of religion . . . *Nothing less than this is at stake.*"

6. *What did the Court, specifically, do in its two prayer-ban decisions?*

In 1962 the Court banned this prayer from New York State public schools:

"Almighty God, we acknowledge our dependence upon Thee and we ask Thy blessings upon us, our parents, our teachers and our country."

Eleven of the thirteen judges who passed on the case before it reached the Court had ruled that the prayer was constitutional. Attorneys-General from nineteen States had intervened to support this constitutionality saying, in part:

"Our founding fathers, together with the great and God-fearing leaders of the last century and a half, would be profoundly shocked were they to have been told in their day that in this year of our Lord . . . a voluntary, nondenominational acknowledgement of a Supreme Being and a petition for His blessing recited by American children in their classrooms is being seriously attacked as a violation of the Constitution of the United States."

In 1963, the Court banned reading of the Lord's prayer and parts of the Bible from public schools in Maryland and Pennsylvania. In each instance, by state law, no pupil was required to recite the prayer who wished to be excused, no teacher to lead it who wished to be excused. Remember, *the issue throughout is religion, an upreach of heart and mind to God, not what some call "teaching about religion."*

7. *Did not the court, in its 1962 decision, say that the prayer in question had been state-composed and state-imposed and was, therefore, unconstitutional?*

It did, but this was a misunderstanding of both the situation and the principle involved. At the request of the Board of Regents of the State of New York, a representative group of religious leaders composed a prayer which was then made available to school administrators across the State. This prayer was no more state-composed or state-imposed than is the case in any instance where government seeks and uses the advice of relevant experts (i.e. engineers on highway construction, doctors on mental health) to meet the will of the people government serves. In short, we have here a perfect example of the *principle of subsidiarity*. Government does for families and individuals what they cannot accomplish in the dimension and place desired by themselves. When, in 1951, the Board of Regents of the State of New York enabled the beautiful prayer above, they did so with these words:

"We believe that thus the school will fulfill its high function of supplementing the training of the home, ever intensifying in the

XUM

child that love for God, for parents, and for home which is the mark of true character-training and the sure guarantee of a country's welfare."

8. *Did not the Court, in both decisions, go to considerable lengths to assure that it was not hostile to religion, and that we remain "a religious people?"*

There were here, as there are in most court decisions, many incidental remarks, pleasant phrases that do not express the heart of the decision, "obiter dicta." As noted in the answer to question No. 4 above, the deed of these decisions is absurd. No matter how many incidental assurances the Court may give (and for incidental remarks the other way see Mr. Justice Douglas' concurring opinion in the second decision) the fact is clear—these decisions place all public reverence in danger. We have a rather perfect example here of what you do thunders so loud I can't hear what you say. Progression from and use of the two prayer-ban decisions in attacks on other instances of public reverence (e.g. the 1968 Christmas prayer of the astronauts, the 1969 Peace Pageant in Washington, D.C.) make it more than clear that these decisions were not isolated or terminal but the very critical start of what could be a series of creeping secularisms. Whatever the innuendoes in the decisions, whatever stands between parentheses, *religion is very evidently no longer constitutionally welcome in our public schools.* Again, the subject is religion not "teaching about religion."

9. *There are those who argue that religion is still possible in schools. Do you agree?*

This is a question which must be very carefully considered and answered. At the start it must be stressed than many *(if not most) of those who argue in this fashion are actively opposing or, at least, minimizing the drive for a People's Amendment for Public Prayer.* We call their line the argument from substitution. There are two key factors in our response to it. One is the factor of timing, the other is the factor of recognition of the radical precedent in the two prayer-ban decisions, a precedent which no amount of substitution will eradicate. *Timing.* Once the decisions have been fundamentally reversed, then it is time to ponder the whole matter of spirit and moral content in our public schools. Until then, *the substitutors are suggesting we band-aid a cancer.* They are suggesting we accept seemingly valid alternatives which, as we shall note, are often not valid alternatives at all and which do precisely nothing to root out the basic error of the decisions. The very first question to ask a substitutor is—*Do you, or do you not, favor a prayer amendment?*

Many of the substitutors' proposals are void of any reverence (e.g. God as dates, works of art, which Pope ruled when, who reformed what were). Many have no affective content about them (e.g. the Bible as literature period), no collective brotherhood about them (e.g. silent meditation). The closer any of them come to being real brotherhood in prayer, the more likely it is that it will be challenged and struck down by courts operating under the compulsion of prayer-ban illogic. *Recognition of the root of evil.* Some things may still be possible in our schools, but to press them while allowing the deadly virus of two-year prayer-ban decisions to fester is folly of very serious dimensions. *The argument from substitution is particularly dangerous* and must be watched carefully. While seeming to favor it, in fact it opposes and undercuts our cause. *Any film, article or organization which advances the argument from substitution and does not clearly and repeatedly call for a prayer amendment is suspect and is working against us.*

10. *Why is it important to reverse the decisions? Briefly what did they do?*

a. *They denied a great and good pratcice,* a brotherhood of free prayer which had existed with a maximum of good sense and a minimum of mistakes in most of our school districts.

b. They created a precedent equating establishment in the First Amendment with reverence, though in each of the cases decided the prayer was non-denominational and voluntary. In terms of the precedent no practice of public reverence is now safe. At the same time, *all future decisions under the First Amendment are now tainted at the source.*

c. What happened in the effort constitutionally to reverse the Court is an almost unbelievable denial of the democratic process. Even today, nearly eight years after the decision despite repeated and "king size" mails to the Congress, and in the face of poll after poll indicating that a massive majority of the American people want free prayer restored to the public schools, there has not been one single *normal* floor vote on a prayer amendment bill in either chamber of the Congress. What is at stake, clearly, in addition to the civil right of free prayer, is democracy itself. If the will of such a proven majority of the nation cannot break through the obstructionism of congressional committee chairmen, then democracy is indeed in grave danger.

11. *Is there an even larger sense in which a Peoples' Amendment for Public Prayer is now essential?*

There most certainly is. Indeed there has never been a time since Washington prayed in the snows of Valley Forge when we so much need again *a Nation on its Knees!* We are daily buffetted with evidence of arrogance, sex-ism, dope-ism, immorality and flagrant indecency among us. The school prayer issue, when it is debated in fifty states as we ponder a Peoples' Amendment for Public Prayer, could be a critical first step in the recovery of our spirit as *a reverent republic.* Here is how the National Coordinator of Citizens for Public Prayer put it at Harrisburg, Pennsylvania, on July 10, 1969:

"America today is in deep and big trouble. I need not stress the suffering and angry poor, the anarchy, the lawlessness, the tragic syndrome of escape from responsibility through drugs, the filth in some of our theaters and on some of our stages. Nor do I come here to suggest that returning the civil right of free prayer to our children will all at once change everything. I do suggest that the fight for renewal of this civil right can become a great rallying point for those who, like us, stand outraged before the rot which spreads through the nation!

There is given to men now and then some relatively simple moment or symbol or place in which a number of complex and important things gather and at which a comprehensive remedy for multiple wrongs is clarified. Such a symbol was the penny on the pound of tea in Boston two hundred years ago. Such moments came at Valley Forge. Such places are Thermopylae and, perhaps, Stalingrad, surely at the Concord Bridge. There are in these times and things the symbolism and power to move whole peoples. *This kind of moment is now possible.*

"This kind of moment is now before us as we fight to enable a vote in fifty states on a Peoples' Amendment for Public Prayer. Make no mistake. The national debate over a clarifying amendment to repeal the two tragic Supreme Court prayer ban decisions of 1962 and 1963 will not stop with the morning moment, the brotherhood of free prayer in our public schools. Involved will be the whole critical issue of God's role among us. Involved will be highly important ingredients of respect and reverence, our good traditions since the Pilgrims signed the Mayflower Compact "in the name of God", that supreme Fatherhood which makes all our brotherhood meaningful. Involved, in fact, may be the very survival of the democratic process. *Here is a place to take our stand explicitly once again as a reverent republic* and to recoup our collective sanity by re-asserting our national spirit."

12. *What wording do you suggest for this Peoples' Amendment for Public Prayer?*

Various wordings are, of course, possible. None will be easy to come by, none will be perfect, but *with reasonable ecumenism and good will on all sides, we can find the right words.* In any case, we have never shied away from critical issues before our national conscience just because it was difficult to say their solution in law. Whatever wording is decided here must be very carefully and prayerfully conceived so that it accommodates the will of the great majority of our people, while safeguarding as much freedom of abstention and silence to the minority as is consistent with that paramount will. But a wording must be decided. To avoid the matter because its semantics is complex is to deny the nation a remedy it obviously desires and to promote increasing civil disobedience in the subject area. Here, as an example of a possible wording, is how Senate Joint Resolution No. 6 introduced on January 15, 1969, by forty five Senators of both parties and varied religious faiths, was worded:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through the expenditure of public funds, to participate in non-denominational prayer."

13. *What about school districts which defy the Court and re-institute free school prayer*—like Leyden, Massachusetts; Fair Chance, Pennsylvania; Netcong, New Jersey?

First and foremost, they demonstrate that the subject is not dead and that honest Americans are concerned enough about it to risk technical illegality. There are two kinds of defiance. One occurs in states where the Court's ruling is ignored by educational authorities. Residents of such states, however, must not deceive themselves into a false sense of security. They may, and very likely will, be challenged. They, too, should join now in the National Prayer Amendment effort. The second occurs in states where the local school board providing for free prayer, comes into conflict with state educational authorities and such groups as the (so-called) Civil Liberties Union. We do not, of course, favor breaking the law. But there is much more involved here. We do understand civil disobedience when practiced responsibly. And this is clearly *a highly responsible instance of civil disobedience.*

School districts which thus defy the Court are saying—we've had enough, we've waited more than seven years. These are frustrated but plainly honest citizens. They are not outlaws. They are not desperadoes. The challenge here, as in the instance of urban riots, is not to condemn the abrasiveness so much as to remove the causes which transform peaceful citizens into civil disobedients. The challenge before those who are honestly concerned for "civil liberties" is rather to break the incredible denial of democracy in the Congress in the case of school prayer, rather than to fulminate against the decent citizens of defiant school boards. Those who are scandalized by technical law-breaking in such communities as Clairton, Pennsylvania and Leyden, Massachusetts and then do nothing to make it legally possible for school boards to do what the great majority of their constituents clearly desire are, at best, hypocritical. The greater sin, surely, lies with the apathetic mass of parents than with parents of the praying few, with the silent clergy rather than with defiant school boards, with those who while promoting "civil liberty" and preaching "the democratic process" deny civil liberty to the great majority of American parents and do absolutely nothing to vindicate the democratic process on this matter in the Congress!

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14. *Where can I pick up further source and action material?*

(a) Write us for periodic action bulletins. Each time you do, *please enclose a self-addressed and stamped envelope* to cut our costs. Our address is on each of these pages.

(b) Make sure your *library, school and community,* has a copy of "The Supreme Court and Public Prayer" by Professor Charles E. Rice, Fordham University Press, New York City, 1964. This is the best source book available.

(c) Write your Congressman (c/o House Office Building, Washington, D.C.) and ask for a copy of "The Congressional Record", volume 115, part 14. Beginning at page 18822 is a magnificent collection of statements in favor of a prayer amendment. If your Congressman is not included in this collection, write back and ask him why not. When he replies, ask him to make a pro-prayer statement for the "Record" soonest!

(d) Additional material from these Congressmen and Senators: (1) Senator Richard Schweiker (Pennsylvania), (2) Congressman John Dent (Pennsylvania), (3) Senator Peter Dominick (Colorado), (4) Congressman Thomas Meskill (Connecticut), (5) Congressman Buz Lukens (Ohio).

(e) Write Patrick Cardinal O'Boyle, DD. (1721 Rhode Island Avenue, N.W., Washington, D.C.) and ask for a copy of his excellent Thanksgiving Day 1969 address. You will find this re-printed in its entirety under extension of remarks of Speaker John McCormack in "The Congressional Record", 1 December 1969.

15. *What can I do to help?*

(a) Organize a local chapter of Citizens for Public Prayer.

(b) Phone and visit local civic, church, school leaders and other public officials and talk it over. Don't be satisfied with double talk. Demand positive evidence that they are actively and openly supporting the civil right of free public prayer.

(c) *Make as much noise as you can, wherever you can, whenever you can,* to keep this issue alive. This means getting on all local radio-TV talk shows. This means resolutions by your church, civic and, particularly, PTA groups.

(d) Ask everyone who seeks your vote (mayor, governor, school committee, state legislators, Congressmen, Senators), for a clear statement of support for a prayer amendment. If you concur with us that this issue is critical and fundamental, then *it should be a major matter in all elections,* especially for legislature and school board.

(e) Keep in close touch with us. Let us know how you succeed. Re-print our material as often as you like (only on each page please list our address). *Why not start by sending our address to every name on your Christmas card or birthday list?* And remember again, advise your friends to send us *each time a self-addressed and stamped envelope.*

CADDO LAKE—AN AREA OF ENDURING BEAUTY

Mr. YARBOROUGH. Mr. President, one of the most outstanding areas of natural beauty in the State of Texas is Caddo Lake, located on the Texas-Louisiana border, in the northeast corner of my State. Being a native of east Texas, I have many boyhood memories of the magnificent area around Caddo Lake. The Yarborough family settled in east Texas, near Caddo Lake about 125 years ago. I have known of Caddo Lake and its lure for east Texans since my earliest boyhood.

The mystique, rare beauty, and historical tradition connected with Caddo Lake is revealed in an article appearing in the September 1970 issue of Texas Parade. The lake is described as "a maze of lagoons, bayous, and swamps, crisscrossed with piney ridges and dotted with small mushy islands." The remote location of this wilderness area provides a haven for many species of wildlife which are found rarely outside the area. Its recreational resources make Caddo a favorite for fishing, camping, and outdoor enthusiasts of every variety.

We live in an age when it is becoming increasingly difficult to find places which retain their unblemished scenic beauty and rustic charm. The people of east Texas are fortunate to have Caddo Lake for their use and enjoyment. We seldom recognize the value and irreplaceable nature of what we have until we lose it. Throughout my 13 years in the Senate, I have sought to alert the people of Texas and the Nation to the threat posed to our vanishing wilderness areas. In 1962, I was successful in my efforts to establish the Padre Island National Seashore, one of only five such areas in the entire United States. I was able to bring about the creation of the Guadalupe Mountains National Park in 1966 and am presently seeking to establish a Big Thicket National Park.

I commend the people of east Texas for what they have done to insure the preservation of Caddo Lake. We should each continue to be on guard against possible future encroachment by special interest and private developers. I pledge to continue my advocacy and interest in safeguarding our remaining wilderness areas.

Mr. President, I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Lake of mystery and legend—that's the description applied by so many generations to Caddo Lake in the far northeast corner of Texas. In addition to being one of the South's largest natural lakes (110 square miles), it is among the most beautiful. The exact origin of the lake is not known though the most believable explanation comes from Indian legend.

The Caddo nation of Indians (for whom the lake is named) lived in the area at the time. Their legend tells of the Great Spirit appearing to their chieftain in a vision and warning of impending disaster. The tribe fled their village beside a pleasant stream and took refuge on high ground nearby. As they huddled in the darkness of night, the ground beneath them trembled and shook. Next morning, as the sun rose, they were astonished by the sight that greeted them. The spot where their village stood was now covered by a great lake.

Scientists, coinciding legend with known fact, say that event could well have occurred during the night of December 15, 1811, when the New Madrid earthquake, greatest recorded in the history of North America, rocked the continent. Indeed, elsewhere it temporarily reversed the flow of the mighty Mississippi and sent tremors rolling across the countryside like wind across wheatfields.

Actually, as early as 1536, explorers (first were the Spanish under Hernando De Soto) mapped the area as a swampy chain of small lakes and winding bayous which they named Laguna Espanola.

While it is scientific conjecture that the New Madrid shock had a part in reshaping these smaller lakes into the present, 32,700-acre impoundment, it is hard fact that the great Red River Raft did play a part. This was the name given by early settlers to a 35-mile long obstruction of logs and driftwood on the Red River which blocked proper drainage of Caddo Lake and navigation into the area.

The only travel through the area, which for a time served as a "no man's land" between the United States and Mexico, was over the notorious Trammel's Trace. This crude road, more or less a tunnel through the thick vegetation, was frequented by renegades, slave traders and a few brave settlers who hurried through the dark passageway to the Texas frontier.

Following the birth of the Republic of Texas in 1836, came the founding of Jefferson on the banks of Big Cypress Bayou and Caddo Lake. In just a short time, as settlers poured into the Republic through the frontier village of Jefferson, it came to be called "Gateway to Texas."

In 1845, Steamboat Captain Henry Shreve (for whom Shreveport, Louisiana is named) discovered a navigational route to Jefferson around the great Raft across Caddo Lake and thus extended the head of navigation on the Red River from the Mississippi River into Texas. Jefferson became the principal river port in Texas and its wharves were loaded with produce of northeast Texas waiting to be taken to New Orleans and St. Louis by sternwheelers.

During the Civil War, Jefferson was the Confederacy's "Horn of Plenty", and as such, a prime target for Union forces. Vital supplies from Texas passed through the port to Dixie soldiers fighting to the east. Union forces were unable to get within striking distance of the town because of its protective surroundings of treacherous swamps and bayous.

After the war and following a brief period of reconstruction, Jefferson again prospered. By the early 1870's more than 200 steamboats a year were plying the waters of Caddo Lake. In fact, the Port of Jefferson was ranked second after Galveston in volume of trade. Its population passed the 30,000 mark and for a while, the city was the largest in the state.

Then, rapidly, its fortunes changed.

Many peg the turning point to a visit by railroad magnate Jay Gould. In January, 1872 Gould approached the city fathers with an offer to build his railroad to Jefferson if the town would meet a part of the roads expenses. Feeling that their continued prosperity was linked with the lake at their doorstep rather than the new-fangled railroad which they felt impractical, the offer was rejected. Visitors to Jefferson can still see the famous Excelsior Hotel register on display with its message penned by Gould—"End of Jefferson, Texas—Jan. 2, 1872." It was the end.

In 1874, the Red River Raft, the plug for Caddo's basin was broken up allowing the lake to partially drain. Jefferson was left high and dry and the railroad that could have saved it, ran elsewhere.

Isolated by the great lake that at one time brought it fame and fortune, Jefferson became a sleepy hamlet almost untouched by the march of progress. This very isolation has proved to be a blessing in disguise. Visitors to the historic city today view a city of yesterday, its old homes and business district largely unchanged by the passing of time.

Only after we were well into this century, did the nearby discovery of oil reawaken Jefferson's prosperity. And the surging interest in history and tourism has added to that reawakening. Where else could one find an eighteenth century town virtually intact with such a wealth of colorful history—the sinking of the Mittie Stevens (a steamboat which caught fire one night in water so shallow its passengers could have waded safely to shore yet 60 were lost); the nationally-famous "Diamond Bessie" murder trial

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which lasted seven years; and, of course, the visit of Jay Gould and other historical personages.

These and other events are reenacted each year during the Jefferson Pilgrimage which draws thousands of visitors. And many are drawn to the lake, still a lake of great mystery and splendid remoteness.

To those accustomed to the usual manmade lakes, Caddo will come as a surprise, for it is a maze of lagoons, bayous and swamps, crisscrossed with piney ridges and dotted with small mushy islands. And everywhere, buttressing its swampy shallows are the moss-draped Caddo cypress. The lake has always been a favorite with outdoor sportsmen—the camper, the fisherman and the hunter come year round.

Concentrations of wildlife not found elsewhere in the state thrive within the sheltering undergrowth and waters of the lake. Deer browse beneath sweetgum and birch while squirrels scold overhead and other small game animals prowl through the jungle-like vegetation. Water moccasins sun themselves on low branches overhanging the water and turtles speckle half-submerged logs. Overhead flap blue and white heron, while anhinga (or water turkey) dive among the lily pads and moss in search of fish. Ducks seine murkey shallows for tasty morsels.

Fishing has always been an outstanding attraction at Caddo. The Parks and Wildlife Department has identified 77 species of fish in its amber-colored waters. And they come in all sizes from the small sunperch to the monster alligator gar. Catfish up to 170 pounds have been caught.

In recent years, a system of boat roads have been mapped and marked through the numerous bayous to assist those traversing the lake. Still some people manage to get lost in such places as Bird Island, Ray Island, Goose Prairie, Hog Pond, Whagdoodle Pass, Perch Gap, Whistleberry Slough and Hell's Half Acre, wandering aimlessly in circles until rescued.

There are ample facilities for swimming, hiking, pleasure-boating, canoeing, camping and picnicking. A limited number of cabins are available at Caddo Lake State Park where a program of expansion of all facilities is currently underway.

Along the lakeshore are numerous motels, cafes and places to rent boats.

Next time you plan a trip, why not depart from the ordinary and visit Caddo Lake—lake of mystery and legend.

A GRAND DREAM BRIGHTENS FOR THE C. & O. CANAL

Mr. MATHIAS. Mr. President, the cause of conservation marked an important milestone yesterday when the other body unanimously approved H.R. 19342, as amended, to establish the Chesapeake & Ohio Canal National Historical Park.

Friends of the C. & O. Canal have been waiting and working for this legislation since 1961, when the Senate last approved a bill to preserve this historic waterway and develop its vast recreational potential.

It is now time for us to act on H.R. 19342, the House-passed bill, and my similar bill, S. 1859, which is before the Committee on Interior and Insular Affairs. This legislation has momentum which should not be dissipated by delay. As the House hearings showed, the bill has broad support and only a few perfecting amendments may be required to implement fully the purpose and concept embraced by sponsors and supporters of the national historical park.

On September 29, I wrote the distinguished chairman of the Subcommittee on Parks and Recreation (Mr. BIBLE), urging him to schedule an immediate hearing on S. 1859 and offering to cooperate in every way to expedite consideration of this legislation before adjournment. I know that the Department of the Interior, State and local officials, and interested citizens are equally willing to work with the subcommittee toward this end.

The importance of this legislation is clear. In an informative article in the Washington Sunday Star of October 3, Benjamin Forgey summarized the beauty and history of the C. & O. Canal and the restoration and improvements required to enable it to serve the recreation needs of the Potomac Valley and the East. As Mr. Forgey noted, many of the canal's finest engineering features, such as aqueducts and locks, badly need repair and stabilization, while innumerable opportunities exist for modest public facilities and interpretive exhibits to tell the story of the canal to today's hikers, bikers, fishermen, campers, and naturalists.

I wish to express my congratulations to the members of the other body who were so instrumental in securing the approval of H.R. 19342, including that great conservationist, the Honorable JOHN P. SAYLOR, ranking minority member of the House Committee on Interior and Insular Affairs, and my two colleagues from Maryland, Hon. GILBERT GUDE and Hon. J. GLENN BEALL, JR. They have worked for this legislation with great patience and persistence, just as they have worked for many other important steps to preserve our Nation's natural resources.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of my letter to Senator BIBLE and the article from the Washington Star to which I have referred. I only regret that it is not possible to include the excellent photographs which accompanied the Star article and captured eloquently the beauty and flavor of the Chesapeake & Ohio Canal.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

SEPTEMBER 29, 1970.

Hon. ALAN BIBLE,
Chairman, Subcommittee on Parks and Recreation, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Residents and friends of the Potomac River Valley are gratified by the action of the House Committee on Interior and Insular Affairs this week in reporting to the full House legislation to establish the Chesapeake and Ohio Canal National Historical Park in Maryland and the District of Columbia.

As you know, similar legislation was approved by the Senate Interior Committee and the full Senate in 1961. We have been waiting for House action ever since. The House Committee's vote this week gives us, in my judgment, the best opportunity ever to enact this bill and thus save the Canal and serve the urgent recreational needs of the Potomac Valley.

The historic Chesapeake and Ohio Canal, stretching 184.5 miles along the Potomac River from Washington to Cumberland, is a unique public resource. It capsules the Potomac Valley's growth, its commercial hopes, its enduring natural values and its human appeal. Built in 1828 and 1850, the Canal, even in its present state, is probably the finest relic of the impressive engineering feats of the nation's canal-building era, with its sturdy locks, its arched masonry aqueducts, and the magnificent Paw Paw Tunnel which reaches over 3000 feet through a mountain. Equally important as a unique slice of American history is the lively culture of the canallers, which survives today in many small towns and is being rediscovered and preserved by area historians.

A trip along the C & O Canal today offers a breadth of natural assets unequaled anywhere. The towpath, beginning as an urban trail a few steps from the streets of Georgetown, proceeds up the valley to the rugged mountain slopes of the Alleghenies, through beautiful hills and meadows so far largely undisturbed by intensive urbanization. No other park can boast such scenery, wildlife and history so close to millions of Americans, and yet so undisturbed.

For more than three decades, from the end of commercial operations in 1924 until the late 1950's, the Canal lay neglected. During the past fifteen years, however, the public has rediscovered the Canal with energy and appreciation. According to the National Park Service, over 1.5 million people—hikers, bikers, campers, canoeists, sportsmen and naturalists, of all ages—used some segment of the Canal last year. The Boy Scouts of the area have been particularly active, and since 1967, when a special Canal hiking merit badge was created, over 60,000 Scouts have hiked or cycled over 1.6 million miles along the towpath.

The potential public use of the Canal is staggering. Over 5.3 million Americans live in the District of Columbia and those parts of Maryland, Virginia, West Virginia and Pennsylvania within about on hour's drive of some section of the Canal. The valley is within relatively easy reach of some 9 million Americans now, a total that will execeed 12 million by 1985. Already parts of the lower end of the Canal between Georgetown and Seneca are crowded on summer weekends as Washington area residents seek recreation, calm and open space.

As one hikes along the Canal today, the need for legislative action is evident at every mile. In some areas National Park Service personnel have worked wonders in providing rudimentary public services within the severe constraints of inadequate funds and very narrow property lines. But at major points of public entry there is a clear need for inobtrusive parking lots, picnic areas, boat ramps, and interpretive programs to educate this generation about Canal flora and fauna and about 19th-century commerce and engineering. There is also an obvious need to expand the 5,250-acre Canal property to insure scenic preservation and public access across the Canal to the Potomac River before the Potomac's shoreline succumbs to the pressures of metropolitan growth and development.

Equally evident is the importance of stabilizing the major engineering features of the Canal before they surrender to the erosions of time. Since 1924 very little maintenance has been done on most of these structures, with the exception of the Paw Paw Tunnel, which the National Park Service has begun to restore. Of the 11 major Canal aqueducts, one has already collapsed beyond rescue, and four more require immediate repair. Over half of the Canal's 174 culverts are badly silted or otherwise need restoration. Many of the locks should be stabilized before their condition becomes worse.

All of these recreational and historical needs would be met by my bill, S. 1859, and the similar legislation just reported by the House Committee. As recommended by the Interior Department and reported to the House, the legislation (H.R. 19342, as amended) would grant National Historical Park status to the Canal, expand the property in Federal ownership to about 20,000 acres, and authorize funds for land acquisition and for historic recreation and the development of necessary public facilities and interpretive programs. The legislation would also provide necessary access across the Canal to the Potomac River, for example for public roads and utilities, with safeguards to protect the environment. A citizens' advisory council would be established to foster communications between the Interior Department and area citizens and officials.

In my judgment this legislation is fully justified in its own right. It assumes double importance as the backbone of environmental protection efforts for the Potomac Valley as a whole. As Secretary Hickel stated in transmitting his official endorsement of the legislation to the Congress on May 27, the establishment of the Chesapeake and Ohio Canal National Historical Park "will constitute an essential first step in a continuing program of protection and development of the entire river."

As you know, the past decade was one of extensive study and intensive discussion of the future of the Potomac Basin. After the consideration of many alternatives, general agreement has now been achieved in vigorous support of the C & O Canal National Historical Park as the place and the way to start. There is an impressive consensus on this point among Federal, state and local officials, national and regional conservation groups, and interested citizens. Of over two dozen witnesses at the recent House hearings, in fact, all but one expressed strong support for the principles of the bill and its general approach.

Among those testifying in favor of the legislation were the Director of the National Park Service; spokesmen for the State of Maryland and Montgomery, Allegany and Washington Counties, Maryland; and representatives of a large number of conservation organizations, including American Youth Hostels, Audubon Naturalist Society, Boy Scouts of America, The C & O Canal Association, Citizens Committee on Natural Resources, Conservation & Recreation Council, Friends of the Earth, National Parks & Recreation Council, National Recreation & Parks Association, The Nature Conservancy, Potomac Appalachian Trail Club, the Sierra Club, and The Wilderness Society.

One question explored at length during the House hearings was the proper nature and scope of "development" of the proposed park. The Interior Department, for example, has proposed a long-range authorization of $47 million (1970 prices) for development, with $25 million of that to be budgeted during the first five years, including over $14 million for restoration and stabilization of the historic features of the Canal. While recognizing the need for inobtrusive public facilities, especially at points of heaviest public use of the Canal, many witnesses urged that top priority be given to land acquisition and urgently needed restoration work. In reporting H.R. 19342, the House Committee approved the Interior Department's request for about $20 million for land acquisition but limited development authority to $17 million. I believe that a reasonable figure, probably in that general range, can be pinned down after a review of priorities among the development and restoration projects proposed by the Department.

On other points there is general agreement among the principal sponsors of the legislation, the Interior Department and the House Committee, although the provisions relating to necessary access across the Canal to the Potomac River may require further refinement.

In summary, I believe your subcommittee and the Senate should now end the nine-year period of waiting and resume consideration of C. & O. Canal legislation. Toward this end, I urge you to schedule a public hearing even before the full House takes up the bill on October 5. I stand ready to testify at any time, and know that other witnesses will cooperate in expediting proceedings in every way.

I might note that the cost of delay, even until next year, would be high—in soaring land prices, in further urban encroachment on the Canal, in deterioration of the Canal's aqueducts and locks, in disappointment and frustration among those who have worked long and hard for this legislation. But if we invest a relatively modest amount of time before adjournment, the national return will be great, for we will gain a unique national historical park, one which will rank among the finest in the country and will serve the immediate and future recreational needs of millions.

Sincerely,

CHARLES McC. MATHIAS, Jr.,
U.S. Senator.

WITH FALL A GRAND DREAM BRIGHTENS FOR THE CANAL

(By Benjamin Forgey)

The sun glints and sparkles on the slow-moving Potomac River. The forest rises from the banks in steep escarpments. Leaves are just beginning to turn color—the red of the dogwood giving a dark spotted undercoating to the green canopy of maples and sycamores. Here and there a poplar adds a spot of yellow, as fall settles in the upper reaches of the river.

We are standing on the rocky riverbank, looking back at the 120-year-old stone aqueduct that carries the Chesapeake & Ohio Canal bed across Fifteen Mile Creek. Measuring along the twisting course of the river, we are some 140 miles northwest of Washington.

Robert W. Bell, a National Park Service ranger who must know as much about the history of the old canal as any man alive, but who wouldn't claim as much, is discussing—of all things—congestion.

TURNING THEM AWAY

"We put this little camping facility in here two years ago," he says, indicating with a gesture the parking spaces and cement-based cooking grills tucked in among the trees.

"There are 18 sites here," he continues, "and on weekends we've been turning them away. We've had rangers in here to direct the traffic. This situation exists all up and down the canal."

Bell's point, in broader perspective, is the pressure a megalopolis puts upon its dwindling resources of publicly owned open space.

More directly, he is referring to the problems and prospects of making the old C & O Canal which follows the river from Georgetown for 184 miles to Cumberland, Md., into a truly usable national park.

He is not speaking idly. The House Interior Committee has reported favorably on a bill to convert the entire stretch of the canal into a national historic park. The House is expected to vote on the measure tomorrow and, if the bill is adopted, speed it to the Senate, where Sen. Charles McC. Mathias, R-Md., is pushing for its adoption during this session.

The House bill would authorize $20.4 million for acquisition of some 12,000 additional acres along the canal route, and $17 million for development of the park over the next three years.

Total acreage for the proposed park would be 20,239; this would include 7,106 acres currently owned by the federal government, 958 acres now owned by the State of Maryland, and 2,003 acres the state plans to acquire.

ADDITIONAL ACRES

The Interior Department, accordingly would acquire an additional 10,172 acres. The bill would provide for a cooperative management agreement between federal and state governments concerning the state-owned parklands, and further would preclude for two years the Interior secretary from buying land that Maryland intends to acquire.

The C & O Canal was begun in Georgetown with great fanfare in 1828, on the same day that the first spike was driven in Baltimore for the Baltimore and Ohio Railroad. The original concept was to extend the canal to Pittsburgh, but construction became bogged down in politics, labor difficulties, and great engineering problems. In the race west, the railroad won, and the canal was terminated in Cumberland.

Nevertheless, the canal was operated well into the 20th Century. It received a temporary economic lift from the demands for large amounts of coal during World War I, but by 1924 it had outlived its usefulness.

The federal government acquired the canal and towpath all the way to Cumberland in 1938, from the receivers of the C & O Canal Company. The first 22 miles, from Georgetown to the Seneca Breaks, was restored at that time, but the remaining 162-mile stretch was neglected and continued to decay.

Today, as Bell was saying, there are signs of life on the canal above Seneca. But it is a far cry from the multi-use park that could be developed if the government gets money and authority to straighten out the tangled pattern of private and public ownership of land along most of the canal.

The Park Service, after a fashion, is taking care of the land it already owns witn campsites and parking facilities.

But the more dominant theme is that of years of decay and neglect. Many of the fine old aqueducts "are just about ready to collapse," according to John M. Kauffmann of the National Park Service. Many of the canal locks—put together more than a century ago with enormous chunks of stone—are virtually splitting at the seams and have to be propped up with wooden buttresses. Mile upon mile of canal bed is overgrown with trees.

CURRENT INTENTIONS

Current Park Service intentions for the park depend not only upon congressional passage of the House bill being pushed by Reps. J. Glenn Beall and Gilbert Gude, both Maryland Republicans, and Rep. John P. Saylor, R-Pa., but also on future appropriation of $30 million in additional development funds. But if the plans are carried out, about 40 recreation centers of various kinds will be built along the canal above Seneca. Most of these will be equipped with materials to tell the fascinating story of the canal to its modern-day users.

First priority in development will be given to restoration of the canal bed itself (in some cases this may mean a complete replacement of the old clay liner to the canal) and to the locks and aqueducts that have fallen into disrepair. Eventually, the Park Service hopes to "re-water" some 66 miles of canal.

"What we're trying to do is to create a long, narrow band of parkland between Washington and Cumberland, and to spread out the usage over the whole route," explains Kauffmann.

If the park is built according to plan, it should make Supreme Court Justice William O. Douglas extremely happy. Since the mid 50's, when he made his first 184-mile walk from Cumberland to Washington to dramatize the need for keeping the land in the public domain, Douglas has campaigned long and hard for the park.

It should also make a lot of just plain folks extremely happy.

RESUMPTION OF MILITARY AID TO GREECE

Mr. THURMOND. Mr. President, the State Department has acted wisely in announcing the resumption of full mili-

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tary aid to our NATO ally, Greece. This announcement is long overdue. It is reasonable to wait an appropriate period whenever a government is formed outside of constitutional processes. But in the case of the Greek Government, this wait has been all too long, particularly in the light of the rapid buildup of the Soviet navy in the Mediterranean.

Greece is in a crucial strategic geographic location, as far as the defense of freedom against the Soviet threat is concerned. As a result, Greece has long been under intense Soviet pressures through guerrilla warfare, internal subversion, and propaganda. We ought to be thankful that an anti-Communist government has taken charge, and averted the collapse of Greece into anarchy and communism.

Although many critics of Greece contend that the present government has suppressed freedom, the evidence does not seem to support the charge. Certainly, in the larger picture, Greece has become a bulwark for the defense of the free world. But even on home ground, the Greek colonels have restored freedom—the freedom that comes from driving out the fear of Communist takeover, the fear of terrorism, and the fear of financial instability. In short, they have restored the very preconditions of freedom.

Those who complain most about conditions in Greece are mainly those in leftist and revolutionary circles, and their international sympathizers who rightly find that their freedom to destroy Greece has been curtailed. At the same time, the Greek Government is ready to accept those who give up their revolutionary activities and agitation. Recently, the Greek leaders have even taken into the government some liberals and ex-Communists who have explicitly foresworn their former ways.

Those who visit Greece with no political motivation attest to progress in that land. Among such visitors recently has been a constituent of mine, Dr. Daniel S. Kavadas, of Columbia, S.C. Dr. Kavadas is an American citizen who has had a distinguished career in the U.S. Army as an oral surgeon. He recently made a trip to Greece for the express purpose of seeing conditions there firsthand. Dr. Kavadas is convinced that the present government is the salvation of Greece. He has written of his experiences in a letter to me, which I would like to share with my colleagues.

Mr. President, I ask unanimous consent that excerpts from the letter by Dr. Kavadas be printed in the RECORD at the conclusion of my remarks.

Mr. President, I also ask unanimous consent that an interview with Dr. Kavadas entitled "Army Junta is Salvation of Greece," written by John A. Montgomery, and published in the Columbia, S.C., Record of September 21, 1970, also be printed in the RECORD at the conclusion of my remarks. Mr. Montgomery is the able editor of the Columbia Record, with a fine reputation for impartial assessment, so his interview with Dr. Kavadas has outstanding merit and judgment.

Mr. President, I also ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a recent column by the perceptive columnist Dumitru Danielopol in the Copley newspapers, a column entitled "Military Aid to Greece Is Realistic Decision," from San Diego Union, September 25, 1970, as well as the editorial "Righting a Wrong" from the same paper. Both give a professional analysis of the situation.

Finally, I would also like to give Senators the benefit of the views of the Greek Government itself in an interview conducted by Sir Hugh Greene, a correspondent of the London Sunday Telegraph. There has been a great deal of comment on Sir Hugh's feature article which appeared in the Sunday Telegraph some weeks ago. His article has been quoted on the floor of this Chamber. Since the article was full of half-quotes, partial phrases, and an abnormal amount of adverse editorializing by the author, I took the trouble to get the full text of the recorded interview between Sir Hugh and Prime Minister George Papadopoulos upon which the article was based. I think the most fairminded readers will agree that the full context does not bear out the adverse comments interpolated into the newspaper version.

Mr. President, I ask unanimous consent that the complete text of the Greek Prime Minister's interview with Sir Hugh Greene be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

DEAR SENATOR THURMOND: I have been an eye-witness to the progress that has been accomplished since the present government of Greece took over, and there is no doubt in my mind, and in the minds of those who respect themselves and the truth, that the goal of the present government was and is to restrain communists and anarchists, to establish law and order, and to improve the living conditions of the people of Greece.

We arrived in Athens the 23rd of July to attend the Supreme Lodge Convention of the Order of AHEPA. On the 24th of July we sailed for the Island of Icaria, my wife's birthplace. From Agios Kyrikos, the port city, we went by car to Karavostamon, the town where my wife was born. We stayed there four days, and then went to nearby Evdelos, where we stayed for two days. Because I wanted to see the rural areas, to talk with the people, and find out how they feel about their government, I went by car to 30 villages of the island—"from Agios Kyrikos to Agios polykarpos." I am not exaggerating when I say that this is the first time in the history of the island that the people with the help of the government have built roads, brought water and electricity to their houses, and installed telephones. The people are very content with the progress, order and security the present government has brought to the country. Many have told me that prior to 1967 they dared not venture out at times because of the turmoil and anarchy that existed.

After leaving the Island of Icaria we returned to Athens, and on the 5th of August my wife, my daughter and I had an audience with the Deputy Prime Minister, Mr. Stylianos G. Pattakos, in his office. I told Mr. Pattakos about our trip to Island of Icaria, and the progress we saw there in regards to private and public works, and that we could not substantiate the past foreign propaganda against the government. Mr. Pattakos stated that the present government was established in 1967, not only to prevent a Communist take-over in Greece, but to provide a stable government for the progress, safety and security of the country. Above all the new government was set up to improve the living conditions of the people. Last but not least, Mr. Pattakos held interviews with the citizens to discuss their problems, thus keeping himself aware of the people's needs.

On the 10th of August we flew to the Island of Rhodes, my birthplace. Rhodes, the capital city of the island, is a city of contrasts and presents a picture of the old and new at every turn. The harbor (the entrance to which was once straddled by the "Colossus of Rhodes", one of the seven wonders of the ancient world) is frequented by luxury cruise ships from many nations, as well as commercial boats representing every shipping company in Greece. The yachts in the marinas fly nearly every flag in the western world. There are miles of beautiful sandy beaches, green forests, mountains and interesting villages and it has the friendliest of people.

The Voice of America Radio Station is located at Afandou Beach, the town where I was born. A golf course will be built there soon for the enjoyment of the tourists. The medieval walled city—surrounded by the new city of Rhodes—is a photographer's paradise. Rhodes is fast becoming one of the greatest tourist places of Greece. In fact, tourism has increased 80% there in the past two years. The Monarches (governor) of Rhodes is His excellency Panayotis Despotopoulos, the Archbishop, the Right Reverend Spyridon and the director of the airport Mr. Athanasios Adamopoulos.

On the 18th of August we flew back to Athens, and on the 20th I had an audience with the Minister of Public Order, Mr. Panayotis Tzevelekos. Mr. Leventis and I had enenjoyed the pleasure of meeting Mr. Tzevelekos, as well as Mr. Pattakos, during a visit they made to Fort Jackson, South Carolina in 1963. In renewing our acquaintance, and discussing my trip and the progress we saw there, Mr. Tzevelekos assured me of his government's determination to continue working for the welfare of the Greek people. He pointed out that their creed is "progress, safety, and law and order."

I have been an eye-witness to the improvement in these conditions, in Greece and have seen the present Greek government at work. I can say without reservation that the present Greek government deserves an honest and unbiased appraisal by those who respect the truth and themselves. Those who in the past have been against Greece and against the resumption of Military aid to Greece, like Senator Vance Hartke, acted on the information presented to them by anarchists and paid anti-Greek opportunists. Their decisions were not based upon personal observation. Greece deserves the restoration of full aid under the Military Sales Act from the United States of America in order to carry out the American ideals of peace in that troublesome part of the world by restraining Russia's entrance to the Mediterranean.

With many many wishes and highest regards,

Sincerely yours,
DANIEL S. KAVADAS, D.D.S.

ARMY JUNTA IS SALVATION OF GREECE

Continuing political crises were halted in Greece three years ago when army officers under Col. George Papadopoulos took over the government in a bloodless pre-election coup d'etat.

American policy toward the NATO ally since then has vacillated, with a strong leaning of opposition to the junta. Senator Vance Hartke, Indiana Democrat, introduced a rider to this year's Foreign Military Sales Act that would have cut off military aid to Greece.

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Applauding the action of the Senate in defeating the amendment, Senator Strom Thurmond, South Carolina Republican, said the Hartke proposal was "unrealistic and a serious threat to our security."

"There is also ample evidence that the Greek government is pursuing democratic policies," he added, disputing one of the principal arguments against aid to Greece.

Dr. Daniel S. Kavadas of Columbia says America opposition to the new Greek government is based on ignorance of the facts and deliberately false propaganda. He recently returned to Greece to learn first-hand what changes had been made. He was convinced that the coup was the salvation of the country.

Dr. and Mrs. Kavadas are both natives of Greece. He tried for ten years to come to America under the immigration quotas, but was unsuccessful until 1934.

He then joined an uncle in Oklahoma City, attended the University of Oklahoma, and taught Greek to pay his expenses. He went from there to Washington University School of Dentistry at St. Louis, Mo.

Called into the U.S. Army in 1943, he served in the Pacific, Italy and Germany. He was at Fort Jackson from 1948 until 1955 as post dental surgeon.

He was transferred to Stuttgart, Germany, as chief of oral surgery for a Seventh Army hospital. Three years later he returned to the States and was assigned to Fort Hood, Texas, and Fort Lee, Va., until he suffered a heart attack and retired in 1960.

He has lived in Columbia ever since with his wife and their daughter, Despina-Evmorfia, or "Debbie," who is an 11th grade student at A. C. Flora High School. All three have visited Greece in the past year.

While in Greece, Dr. Kavadas had audiences with Deputy Prime Minister Stylianos G. Pattakos and Minister of Public Order Panayotis Tzevelekos. He met both when they visited Fort Jackson in 1963.

The Deputy Prime Minister and other ministers have an open-door policy and hold daily interviews with the Greek people.

Pattakos told Dr. Kavadas that the army coup of 1967 was not only for the purpose of preventing a Communist takeover, but also to provide a stable government for the safety, security and progress of the country.

Dr. Kavadas confirmed that the new government was accomplishing these objectives.

He visited 30 villages and talked with the natives.

Before April 1967, they lived in abject poverty. The country was in turmoil. Competing ideological and philosophical factions, combined with criminals, made streets unsafe.

Now, for the first time, the villages have electricity, running water, telephones, and good roads and sidewalks. The economy and the money (drachma) are stable.

"Of all the people I talked with," Dr. Kavadas said, "not one expressed displeasure with the new regime. Not one wanted to go back to pre-junta conditions. Law and order have been restored. It is now safe to walk the streets any time of day or night. And this has been brought about without an obtrusive military presence. The government has cut the old delaying lines of red tape, established provincial communications with the people, and is immediately responsive to their needs."

"Greeks maintain their traditional friendship for the United States," he added, "and will continue to do so under any circumstances. They are the best friends America has in that area of the world."

"There is more democracy today in Greece than there is in Italy or France or many other countries that have normal relations with the U.S. If Greece had been under the present government for 15 years instead of only three and a half, most of her problems would be solved.

"The foes of present Greece are only advocating a return to anarchy."

RIGHTING A WRONG

A wrong has been righted in the decision by our government to resume full-scale arms assistance to Greece. Our military aid to this North Atlantic Treaty Organization ally had slowed to a trickle under a boycott imposed by former President Johnson.

The embargo was ordered after a corps of Greek army colonels seized control of the government in 1967. Since then the colonels have been the target of an international campaign of villification portraying them at one moment as maniacal "fascists" and the other as bumbling bureaucrats.

Time has produced a truer picture of the new government. To the chagrin of leftist critics, the colonels have brought Greece stability and economic growth that is the envy of Europe, and our State Department now reports that a trend toward re-establishment of parliamentary democracy is clearly visible.

The Greek government has remained unwavering in its loyalty to the Atlantic Alliance despite official snubs by many NATO members.

Now, by restoring the flow of heavy military equipment that Greece needs to fulfill its NATO obligations, we are strengthening security in the trouble-torn Mediterranean and healing a painful wound in our relations with a valuable ally.

MILITARY AID TO GREECE IS REALISTIC DECISION

(By Dumitru Danielopol)

Military aid to Greece will soon be resumed, says the State Department.

It's about time. For more than three years this column has been advocating such a move as intelligent and realistic.

Greece, placed in a strategic position in the Eastern Mediterranean, happens to be one of our staunchiest allies and has remained loyal to its North Atlantic Treaty Organization obligations throughout the years.

Ever since the military took over in 1967 to halt internal corruption, subversion, intrigue and political decay, they have been under fire from all kinds of Communists, Socialists and liberals in Western Europe and the United States.

Under the sponsorship of Social-Democrat regimes in Sweden, Norway, Denmark and Holland, the Greek leaders were accused before the council of Europe of deliberately torturing political prisoners. The accusations have been hotly denied in Athens.

The "evidence" presented has been highly suspect. At worst it would appear that some prisoners may have been mistreated by local police embittered by political excesses. In fact, Athens invited International Red Cross inspection of islands on which the prisoners were detained. Most now have been released.

The Johnson and Nixon administrations withheld NATO arms deliveries under pressure from the Scandinavian nations.

But the colonels held firm. They took power to perform a difficult task. Their problem, they insisted, was a domestic matter, one to be settled by Greeks.

"This is our revolution," one top echelon military man told me in Athens. "These are our people. We are going to stand by them, whether you like it or not."

The resumption of arms deliveries is bound to raise criticism from all those opposed to the Greek military. The President will be accused of helping a "Fascist dictatorship," a "totalitarian state," etc.

No one will mention that the Greek revolution has been proven to be a spectacular success. No one will mention three years of reforms, stability and peace. No one will mention that Greece is enjoying its greatest growth in modern history, that it is the No. growth country in Europe.

The drachma is one of the most stable currencies in the world; Greek salaries are up; taxes are down; foreign investments are increasing by leaps and bounds; roads, power stations and factories are being constructed even in remote mountain areas that have been ignored by decades of politicians.

Critics also will not mention that censorship has virtually ended; that the number of political prisoners is now lower than at any time since the end of World War II; that civil rights have been restored, that passports are granted freely and that within a few months the infrastructure of laws necessary to implement the new constitution will be complete. After that, free elections are only a matter of time.

"If it's a dictatorship, it is a mild one," one skeptic told me recently after his return from Greece. "I didn't notice it myself. But I must say that I enjoyed walking in the streets at any hour of the night without having anything to fear."

FULL TEXT OF PRIME MINISTER'S INTERVIEW WITH SIR HUGH GREENE

The General Direction of Press and Information announced on Saturday that because the special correspondent of the Sunday Telegraph Sir Hugh Greene, who was granted an interview by Prime Minister Mr. George Papadopoulos, had interposed his own comments, subjective critiques and arbitrary conclusions, changing the meaning of the Prime Minister's replies, the full text of the interview was being released for publication.

Opening the interview Sir Greene thanked the Prime Minister for his kindness in granting the interview. "I realise," he said "how valuable your time is, especially now that you have assumed the Foreign Ministry. On the occasion, I express my sympathy on the death of Mr. P. Pipinelis. Mr. Pipinelis was known in England as the man whose efforts during the 1967 Cyprus crisis led to by passing the tension and helped to improve relations between Turkey, Greece and the Cypriot people."

"Therefore it is natural that interest has been demonstrated in whether there will be any change of policy on the Cyprus issue."

R.: In both speeches which I made on assuming my new duties as Minister of Foreign Affairs, I clarified absolutely that not only would there be no change whatsoever in the foreign policy of the Government, both in its general lines and in matters of special interest, but that I shall consider the continuation, as close as possible, of the policy followed by the memorable Mr. Pipinelis as a success. And, after all, that is one of the reasons why I considered it necessary to assume the responsibilities of that Ministry personally.

Q.: I would like to submit certain questions on the internal affairs of the country, which are provoking special interest abroad. For example, the Prime Minister, in one of his past statements, characterised the Government as temporary. My question is whether he continues to consider it temporary today.

R.: The final purpose of the Government is to secure for the Nation the prerequisites which are necessary for the functioning of the State in accordance with the Constitution of 1968. Under this meaning, the present, special form of Government is temporary.

Q.: Is the aim to lead the country to a parliamentary form of democracy?

R.: Undoubtedly, that is the aim.

Q.: Are you following a steady plan towards a parliamentary form of government?

R.: Actually such a plan is being followed concerning the gradually developing stages of the course. However, concerning the time duration of each stage, the government, perhaps, could not stick to a pre-designated scheduled or pre-dated course, because those factors creating the prerequisites which are

XUM

necessary for the functioning of the 1968 Constitution are many and varied; consequently, the duration of each stage will depend on events.

Q.: Which are those factors?

R.: I have reported them in detail many times in the past. I realise, however, the wish of Mr. Greene for a new, brief enumeration of them so that he can have a full picture of the situation and the problems being confronted. Thanks to his long and distinguished career as a journalist and specialist in public affairs, Mr. Greene knows surely already that, during the pre-revolutionary years, democracy in Greece was in danger, not from immediate action by communists, but from the existence of weak areas in society which made it easy prey for communist subversion.

These weak areas were:

(1) The retarded economic development of the country.

(2) The unacceptable delay of social services and their inability to give the citizens the necessary assistance or to contribute to the improvement of living conditions.

(3) The lack of the necessary infrastructure for rapid economic and social development.

(4) The bad conditions of education which, as is known, greatly influences all other sectors of the life of a nation and,

(5) The inadequacy of administration and of the state machinery in general.

These are the sectors on which the government now concentrates all its efforts so that it can create the basic prerequisites which would allow the country the luxury of a representative form of government without undergoing the dangers which existed in 1967. Only then could the nation have a fully democratic system of government without being the target of party conquest.

Q.: Under these conditions, how does the Prime Minister view the appearance of new men and new political parties in the electoral struggle which shall lead the country to a parliamentary government?

R.: It is certainly self-understood that when the necessary conditions have been created the field will be left free to all those who consider themselves suitable to devote their energies to public life and to offer their abilities to the country. They shall have the opportunity to measure their strength in elections as members of the political opposition or of the governmental party, and to assume their places in the legislative or executive authority.

Q.: I would like to ask if the Prime Minister would present himself as head of a political party. Also if he considers the lack of support from any party machine as a weakness of his government.

R.: To the first part of the question, the reply is that I have devoted myself to the struggle for the achievement of basic targets, that is, the acquisition of the possibility for the nation to proceed to elections in safety, tranquility and peace. I am working so that it will be possible for others to govern the country, without the threat which was created previously by the existence of the aforementioned weaknesses. The only thing I can hope for is that I will offer satisfactorily the services which are required to cure the nation's needs and to guide it to a point where the functioning of a democratic system, as described in the 1968 constitution, will be possible. I hope that it will not be necessary for me to continue to govern the country in the new role of a political Prime Minister. I hope that, at that time, I shall be in a position to leave, the governing of the land to others, with the conviction that they shall believe in the same basic truths of democracy. With one word I can say the following:

My future activity in the political sector will depend on the strength which will be left in me to continue and on the needs of the nation. Personally, despite all this I believe that there shall be no need for such continuation.

Concerning the second part of the question, indeed, the lack of a political party machine behind the present government constitutes a weakness from one side. But, if one takes into consideration the fact that one of the basic efforts of the government aims at bypassing those political passions which had arrived at a frenzy during the 20-year pre-revolutionary period, then it shall become absolutely clear that the loss suffered from the lack of a political party machine is much smaller than the damage which would have followed if the country had been left to the prey of political passions.

Q.: Does the Prime Minister consider the indefinite maintenance of martial law during the duration of this transitionary period necessary?

R.: I believe that martial law or, more correctly, the shadow of it which has remained will not be maintained much longer. My intention is to lift at the soonest possible date. I will be the happiest man on earth on that day, which I hope will be soon.

Q.: I would like to note that, since there is only a shadow of martial law, its lifting would not bring about any essential change in the task of the government.

R.: Indeed, that is how things stand, and there is a possibility for one to wonder why is this shadow still necessary and preserved. Its necessity is due to purely psychological reasons. The spirit of anarchy that has created the political tensions was so strong, that its control, by this shadow of martial law, was necessary. This shadow is more effective than an entire system of laws.

Q.: On the subject of the political detainees in Greece: The recent leniency towards Theodorakis impressed public opinion greatly. Is there hope for such a leniency by the Prime Minister to other political detainees?

R.: Time will tell. Personally, I wish to be freed from this matter of political detainees as soon as possible.

Q.: I heard, Mr. Prime Minister, that you study Greek philosophy and that your political beliefs are based on the theories of Polybius and Plato's Criton. According to the theories of Polybius, political life moves within a circle which begins with autocratic regimes and, though successive stages, ends in anarchy, to return again to autocracy and a new circle begins.

R.: Firstly, I believe that the classical Greek philosophers, and the study of history, exercise indeed a great influence on the formation of a man's ideals, independently of the sector of his interests. My concepts are not based on these two classical Greek intellectuals only. Undoubtedly, both Polybius and Plato exercised a significant influence on the formation of my personal concepts and beliefs. The views of Polybius on political matters are indeed excellent. The inquisitive mind of Plato, on the other hand, examined social and philosophical subjects in such a way as to render an invaluable contribution to the development of the human mind. However, their ideas are not the only basis for the formation of many personal concepts and beliefs. The study of the history of humanity from the days of Polybius and Plato through today, my personal experiences, the truths concluded from the study of History and the observation of current events also contributed.

Q.: Would it be possible for you, Mr. Prime Minister, to say a few more words on your political ideals and especially if you believe that the democratic system is more preferable than the autocratic one?

R.: I, indeed, believe that the democratic system is the safest, when it offers the people the most satisfactory conditions of justice, freedom, security and human dignity. However, those who are elected by the majority of the people and whose mission is to carry out, to the letter, the mandate of the people and rule in accordance with democratic principles, should be imbued by a deep sense of responsibility and also be inspired by the ideals with which they are identified. Only then is the democratic system applied. Otherwise, it is not applied, when the only motive of the representatives of the people is their re-election.

Q.: Perhaps the Prime Minister has an explanation for the non-satisfactory character of those who exercised power according the Greek History.

R.: This subject could keep us talking for hours, and because I am pressed for time I will try to give a brief resume of my views, even if it is not satisfactory for either of us.

The phenomenon is, in part, due to an organic weakness of the mentality the Greek people acquired, as a result of the long duration of tortures during foreign occupations.

It is also due to a weakness of organization, caused by an attempt to imitate democratic slogans as they are applied in other countries under entirely different conditions not adapted to our own conditions. For example, Greece today is able to apply a Constitution similar to the British one, but this was impossible for her before fifty, thirty or even twenty years.

Q.: the final question is whether the suspension of the delivery of arms raises difficulties in any way for the Greek Government, or weakens its position, and whether the lifting of the subject suspension is expected soon.

R.: I always try to see things in the most realistic manner. The present situation may be compared with that of a man who tries to safeguard his area from an enemy. If he considers it clever to supply the guard with one weapon so that he may better guard his own home, as well as the entire area, then he should give the guard a strong weapon. If the guard has no weapon, he will try to defend both the house and the area in the best possible way, but, of course, in this case the chances for the success of his mission have decreased. Certain of our allies think that they can exercise pressure on us by refusing to supply us with the necessary arms. We will find as many arms as we can to defend our small house.

We will probably fall fighting because of lack of the necessary weapons. If our allies consider supplying us with weapons as clever, so that we may be able to face the common enemy more effectively and make our small house the vanguard of the free world, then they strengthen their own defense as well. If not, then they themselves will suffer from the consequences. But what really is of interests is the following: Military aid is not an essential factor in the continuation and fulfillment of the task the Revolution undertook. Consequently, the suspension of arms supplies does not exercise pressure of the Government nor hinders its work and progress.

It is interesting to mention that, during World War II, when Greece was Britain's only active ally and fought against the enemy armies, giving England time to breathe and be strengthened, she did it with arms she had received from Germany before the war began. This, of course, does not mean that Greece will now be supplied with Russian arms, because presently she can receive all kinds of arms if she pays for them, from any ally, and it is certain that Britain will be the first to accept the exchange.

Sir Greene then thanked the Prime Minister for his kindness in giving him so much of his time.

QUEST FOR DOMESTIC TRANQUILLITY

Mr. YARBOROUGH. Mr. President, in recent weeks we have witnessed a serious

XUM

escalation in the self-destructive impulse which seems to be afflicting the right and left extremity of the spectrum of American political opinion. Almost daily we read of either another mindless bombing directed at our colleges and law enforcement agencies, or another skirmish between the police and militants. How are the American people expected to react to these assaults inflicted upon their personal and national security? There is very little evidence to suggest that the bulk of our citizenry is in any mood to condone, tolerate, or apologize for those on the right and on the left who would seek to accelerate the fragmentation of our society either through acts of violence or repression. I know that Senators would agree that the situation has become critical throughout the country. If this epidemic of irresponsible activity is not quelled, the implications for our Nation's survival can only be considered to be of the gravest magnitude.

I call upon our people to embark upon the quest for domestic tranquillity which is essential if we are to achieve our national goal of providing a decent and dignified existence for every man, woman, and child in this country. It is curious that some of our national leaders who ostensibly seek to "bring us together" continue to have precisely the opposite effect through their interminable and intemperate rhetoric. It is not my intention to engage in this senseless exchange which can only serve to drive our people further apart. We need fewer speeches and more dialog. The Vice President tells us that "confronted with a choice, the American people would choose the policeman's truncheon over the anarchist's bomb." The implication that either one of these two alternatives is more preferable or less disastrous than the other does a disservice to reality. The "anarchist's bomb," whether directed selectively at material property or used indiscriminately against human beings, is evidence of a suicidal self-destructive pathology which will elicit only the harshest of reactions in the society at large. On the other hand, the billy club which is used to beat a Black militant or a radical university student onto submission today, can be used to bludgeon a recalcitrant Chicano, factory worker, construction man, or anyone else designated as a "troublemaker" by those who control the truncheon tomorrow.

Domestic harmony cannot be obtained in an atmosphere of suspicion. We must encourage a feeling of mutual respect which can only flourish in the absence of mutual fear. The vast majority of our law enforcement officers have earned, and thus deserve every bit of support that the community which they serve has to offer. In some isolated instances it appears that the policy may have abused the trust bestowed upon them to enforce the laws of the land with equanimity toward all, and with malice toward none. These abuses must be rectified, and I am confident that self-regulative forces are at work seeking to avoid any recurrence of such situations. Each of us has a responsibility to do all that we can to contribute to the effort to restore reason, rationality, and tranquillity. To do otherwise can only insure that we shall all be consumed by the inflamed passions of those extremists of the right and left who would destroy America in their misguided effort to save her.

Mr. President, I ask unanimous consent that a very fine editorial entitled "Curing the Madness Within," published in the September 6, 1970, edition of the Los Angeles Times, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CURING THE MADNESS WITHIN

A fatal bombing at a great university; a riot in East Los Angeles, and the death of a respected reporter; bombings of police stations; murders and attempted murders of policemen from New York to San Francisco. Thus the violence of our times continues.

And thus Vice President Agnew expressed what many people are thinking when he said last week that "confronted with a choice, the American people would choose the policeman's truncheon over the anarchist's bomb."

That is undoubtedly true. But it is a frightening choice. We must not reach the point of making that choice. And we need not reach it.

The inability of this country to deal coherently with its current domestic turmoil has come in part from the widespread habit of selective indignation.

That habit is most evident when people talk about relations between the citizens and the law-enforcement authorities.

On the one hand, those who experience the indifference or hostility of the police may tend to respond to the murder of a policeman with indifference, at best. On the other hand, those who fear social turmoil the most may tend to respond with indifference, at best, to breaches of lawful conduct by the law-enforcement agencies themselves.

These tendencies spread throughout society.

A respected university president absurdly doubts the ability of the American judicial system to try a Black Panther fairly. Mayors and police chiefs tend to see the Los Angeles riots solely in terms of outside agitators.

In the dwindling but vocal left, injustice becomes the excuse for violence. In the growing right, violence becomes the excuse for injustice. Politicians bend with the prevailing winds.

Too few community leaders and too few elected officials express what common sense would tell them; that murder is always murder and always and in every case dreadful; that there is never any excuse or reason for civil violence; that unlawful practices by law-enforcement agencies always undermine the foundations of a lawful and peaceful society.

It would be the beginning of social wisdom if every citizen, every student and teacher, every leader of every minority group, every police chief, every mayor, every elected official from the President down, were to repeat and repeat these precepts of common sense until they become the common opinion.

For these precepts are the only basis on which true law and true order can be maintained. On them both private citizens and public authorities can build a coherent and intelligent approach to the actions that must be taken if we would avoid the terrible choice outlined by Agnew.

In simple terms, we urgently need support of the police by the community, and support for the community by the police.

The policeman feels abandoned by the society which asks so much of him. He is often poorly paid. His profession ranks too low on society's contrived status ladder. He is often reviled by people he is supposed to protect.

He frequently has good reason to fear for his life.

Many citizens are afraid of the police, who seem to them enforcers of someone else's laws. To them the policeman seems careless of their rights. It appears to them that there is a double standard of justice.

Each attitude feeds the other. Suspicion and hatred increase. Violence comes more readily.

It is clear beyond dispute that everyone who might be thought anti-police—whether students, members of minority groups, intellectuals, common citizens or politicians—ought to reflect on the facts of modern life, and having reflected, give the police the kind of support they must have. This support requires respect for a necessary, dangerous and honorable profession; and public appropriations for salary, manpower and equipment.

It is equally clear that the police, their departmental commanders and the elected officials who are ultimately responsible, must take infinite pains to enforce the law evenhandedly, in such a way that everyone recognizes that the enforcement is fair.

For it seems to us quite plain that violence, some of it deliberately provoked by revolutionary attitudes, is going to continue. Until the whole country pulls itself together into a common-sense approach to civil disorder, the grim alternative of which the Vice President spoke will remain on the horizon as a warning of things to come.

DEVERTON C. COCHRANE: LEADER OF MEN

Mr. BROOKE. Mr. President, any war brings with it individual, personal tragedy. When disputes develop, when national interests are challenged, nations must fight. It is not impersonal nations, however, but men who must bear the burdens of conflict and make the sacrifices for their country.

Such man was Staff Sgt. Deverton C. Cochrane, of Boston, Mass. His father, Bob Cochrane, told me of his story, and I asked him to put it down in writing so that others might know and share in this tale of bravery and sacrifice. This, then, is a father's story about his son. I ask unanimous consent that it be printed in the RECORD in the hope that others, too, might benefit from the example which he set.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Staff Sgt. Deverton C. Cochrane 034–38–0828, H Company (Ranger) 75th Inf. (Airborne), 1st Cavalry Division (Airborne) A.P.O. San Francisco 96490.

Born: December 15, 1948, missing in action in Cambodia on June 17, 1970.

Dev entered the Army in early January 1969 on a two year enlistment after a little over 2 years at the University of Massachusetts in Amherst. During that year he went through Basic Training at Fort Gordon, Advanced Infantry Training at Fort Polk and N.C.O. School at Fort Benning. In Mid-December he finished Ranger School also at Fort Benning and in Florida.

Right after Christmas he reported back to Fort Dix and on New Year's Eve of 1969 he landed at Bien Hoa in Vietnam. In a few days he was assigned to H Company at Phoc Vinh which is a volunteer Ranger Company and does the Long Range Reconnaisance Patrol work for the 1st Cav. They are known as

XUM

"Lerps" (L.R.P.). These patrols consist of five man teams. It is rugged duty and the safety of the team depends on 'the skill of each of the five men. Rank means nothing. Ability alone counts and a man becomes asst. team leader and later team leader only after proving himself. A team leader has as much responsibility for his men and his mission as does a captain in ordinary units.

Dev made up his mind to be a team leader and worked hard in his unit and at Recondo School at Nha Trang.

On March 27th he was involved in a hostile action which resulted in his receiving on April 16th the Army Commendation Medal with a "V" device for heroism.

Finally in early June he made team leader. I believe the Mission of June 17th was his third in that capacity.

On Father's Day, June 21, 1970 an Army Master Sergeant visited us to say that Dev had been reported missing in action in Cambodia in an action with a hostile enemy force. His unit had returned at 1700 hours and he was not with it. We later heard that a large search party had scoured the area and could find no graves or bodies and so we settled down to a long waiting period hoping that, at the worst, he was a prisoner of war.

On Thursday, July 30th we had a visit from a boy whose home is nearby who was a member of Company H and who had left there shortly after June 17th. With him was another boy who had left the Company several weeks earlier. It is a little difficult to remember all the details exactly and we will see him again and verify details. In any event here is the gist of what we learned.

Dev's five man team was inserted in an area the day before. Standard procedure is to make radio contact with a team every two hours. His last transmission was at 1520 hours. About late afternoon they were unable to make contact. Helicopters were put into the air over his area to attempt to make contact, and were calling him every five minutes but could raise nothing. At about 2100 hours one man of his team broke out of the bush into the fire base with nothing but a knife and in a state of shock. During the night they got this story from him.

At about 1700 hours Dev was leading his team through an area to a place where they planned to hole up for awhile. Suddenly Dev sensed something was wrong in the bush ahead. He gave the signal for his team to hit the dirt. As he did so rifle fire seemed to come from all sides. It seemed as if his signal was the signal for the enemy to open fire because their presence had been discovered. Dev was shot twice in the neck.

The fourth man tried to reach Dev to help him and he was killed trying. Also the team's radio was shot to pieces in the crossfire.

The second and third men were badly wounded, but the fifth man managed to drag them back a few hundred yards into the bush. They then had only two rifles for three men so he left them with the wounded men he had hidden and struck out for the fire base armed only with his knife.

When last seen Dev's head was cocked at a crazy angle which did not indicate life.

A large search party of 25 Quick Reaction Forces men and 5 Rangers went in the next morning. Bad weather prevented them from landing until about 9 A.M. The considerable amount of enemy activity in the area kept them from reaching the scene of the ambush until 5 P.M. There were no bodies, no fresh graves and no trace of anything except a couple of broken fragments of the radio antenna. The two wounded men were recovered on the way in and evacuated. The next day a full line company of 120 men or more began a two-day complete search to no avail.

We were told that the No. Vietnamese feared the Rangers most of all and that they were in the habit of removing them from the field and taking them alive or dead back to camp as exhibits to bolster the moral of their troops. This would be the logical explanation for the disappearance of Dev and his buddy.

What were Dev's chances? In the first place the neck contains a lot of our most important machinery and two shots entering it would do a lot of almost irreparable damage. The No. Vietnamese do not have even adequate medical facilities. Finally even if he could have been evacuated by our medics the chances are Dev would have wound up a paralyzed lump of clay. This he or we would not have wished.

We recognize that all of this was long range observation under hectic conditions and that there might be a one in a million chance he might survive. However, we feel logically that this was the end of the trial.

Dev is alright now for he is most surely in the hands of God. We pray only that he will grant us the grace to accept this with as much fortitude as Dev did. We are thankful that he probably never knew what hit him, that he was not tortured by the enemy and that he did not come home as a basket case. This last Dev would have never have wanted as he was a man of action.

Dev knew what he was doing. We tried to talk him out of it but he was determined to go and get it over with. He did not approve of this war but was aware that there was a duty to be done and made up his mind to do it in the shortest and best way that he could. He enlisted for two years and his accomplishments were remarkable for such a short period of time. His buddies say he was determined to prove himself and to be a leader of men. This he certainly did. We are all just as proud of him as we can be. He is sorely missed.

BOB COCHRANE.

NEED FOR FAST ACTION ON H.R. 15911: AID FOR VETERANS

Mr. WILLIAMS of New Jersey. Mr. President, during critical times in our history our veterans have been called upon to make unselfish sacrifices in defending our Nation. They have served our country well and with dignity.

Many still carry their scars from combat. Hundreds of thousands are permanently disabled.

While our debt to these brave men and their families can never be repaid, there is still much that can be done.

ACTION IN THE 91ST CONGRESS

During this Congress several proposals have been passed—including a number I have advanced—which will help meet the special needs of veterans and their dependents.

Paraplegic veterans: Eligibility requirements that govern assistance for special housing for paraplegic veterans have been liberalized under Public Law 91–22. In addition, the new law increases the maximum Federal grant from $10,000 to $12,500 for the purchase of a home equipped with special facilities, and raises the maximum direct loan from $17,500 to $21,000.

Dependency and indemnity compensation payments: Public Law 91–96 authorizes increases in dependency and indemnity compensation payments to widows and children of veterans who died in service or as the result of a service-connected disability.

Nursing home care: Public Law 91–101 eliminates the 6 months time limit at the Veterans' Administration expense for nursing home care for veterans with service-connected disabilities. Under the new law, community nursing home care will be authorized for unlimited duration for such veterans.

Medical services: Complete medical services, including outpatient care, will be authorized under Public Law 91–102 for a non-service-connected disability for a veteran totally disabled by a service-connected disability.

Service-connected disability payments: Public Law 91–376 will provide increases ranging from 8 to 12 percent for more than 2 million veterans with service-connected disabilities.

NEED TO PASS H.R. 15911

But there is a matter of vital concern for 1.6 million veterans and widows receiving non-service-connected disability pensions.

These persons are primarily elderly individuals: 70 percent of the veterans receiving pensions served in World War I, and 75 percent of the widows are former wives of World War I servicemen.

Today many of these individuals find their pensions in jeopardy because of the 15-percent social security increase signed into law last December.

In many instances the 15-percent rise will move a veteran into a higher income bracket, causing a reduction or possibly even a termination of his monthly VA pension benefit. In some cases he may actually sustain an overall reduction in his total income because the increase in social security benefits would be less than the reduction in his pension.

As chairman of the Senate Committee on Aging, I have had a longstanding and deep concern about this perplexing problem.

In 1967 the committee conducted hearings on "Reduction of Retirement Benefits Due to Social Security Increases." A report was issued, and it offered several recommendations to protect veterans against loss of pension benefits. These recommendations helped lead to the passage of Public Law 90–275, which increased the income limitations for veterans to take into account the 1967 social security raise.

A few days ago the House of Representatives passed H.R. 15911. This measure will assure that veterans will not lose any of their non-service-connected disability pension because of the 15-percent social security raise voted last December.

Virtually all of the 1.6 million beneficiaries will receive an average pension increase of about $7.50 per month. Moreover, the bill raises the income limitations from $2,000 to $2,300 for a veteran living alone and from $3,200 to $3,500 for a married veteran.

Another compelling reason for acting on this proposal is that rapidly rising prices have seriously eroded the buying power of aged persons.

Today all Americans are feeling the impact of our spiraling inflation.

But elderly veterans living on limited, fixed incomes have been particularly hard-pressed. As prices go up, their purchasing power goes down—usually quite sharply.

XUM

No legislation is now more deserving of the attention of the Senate nor more important to older veterans than H.R. 15911.

If we are to show our appreciation for the hardships endured by these persons in protecting our Nation in time of danger, then this legislation—now before the Senate Finance Committee—is essential.

Mr. President, I urge prompt and favorable consideration of H.R. 15911 by the Committee on Finance.

THE MICROCOSM AND THE MACRO PROBLEM—ADDRESS BY DR. PHILIP R. HECKMAN

Mr. HRUSKA. Mr. President, there is much talk these days of campus unrest and its causes. Some critics would have us believe that only the students are to blame. Others fault the Government. Many think the trouble lies with college and university administrators.

A more logical assessment is that the American college and university community is keenly aware of the number and complexity of problems facing our society. The intellectual environment certainly encourages rather constant consideration of these problems, which I consider to be an exceptionally valuable process.

Whether or not there is "unrest" as a result of this consideration depends on a variety of factors, not the least of which is the rapport enjoyed among the students, the faculty, and the administration.

Dr. Philip R. Heckman, president of Doane College, at Crete, Nebr., is one college official who not only understands the problems that face us, but also knows how to present them in terms which lead to cooperative consideration of them.

Recently, Dr. Heckman addressed the student body of the college on the microcosm and the macro problem—the little school and the big headache. I commend it to the attention of all Senators and ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE MICROCOSM AND THE MACROPROBLEM

(THE LITTLE SCHOOL AND THE BIG HEADACHE)

(By Dr. Philip R. Heckman, President of Doane College)

It's been my habit in the last several years to define the Doane College community as a microcosm. To do it once again—repeat for old residents, outline for new—I give you this recipe: All faiths, races, economic strata, geographical areas, variegated points of view in politics, religion, morals and vocation; put together in residence in a setting with a minimum of distractions, spice with the best variety of disciplined minds that college can recruit and afford; occasionally shake violently, either stirred by the cook or boiled by internal combustion through the reaction of competing ingredients; simmer the whole thing for four years until ripe and serve with a flourish. The microcosm is my term—not my word but the use of it here—initiated from my office. I get kidded about it by many. If the President creates slogans, he has to pick some that can absorb both friendly and hostile darts. But it does help as a definitive term. You all know what I mean? Sometimes we achieve it, sometimes we fall short, but everytime we use the term something is invoked in all our minds that is the same. It comes to shared understanding and shared purpose. That's the microcosm, or the little school.

Now let's talk about the macroproblem, or the big problem. There's always been big problems in the world, but in the past we've felt them to be either (1) eternal problems, impossible of solution and therefore to be endured and lived with, or (2) problems that are in the hands of the gods or people so far removed from us the problem is unnecessary for our consideration, or (3) problems with available solution and daily evidence of a steady, encouraging march to that solution. In the last hundred years, in the life of Doane College, we have seen number three in ascendency. There have been available solutions to the problems of the world, or at least to this nation, being solved by an *increasing gross national product,* the *moving back of the frontier, the rising rate of literacy, the move toward the good life as evidenced by each generation having more goods, more leisure, more education* and *more autonomy*. Suddenly in a generation these assumptions are all under question.

The first assumption that problems are eternal has been questioned. Now we feel that every problem can be, in fact must be, solved. I consider this a net gain in human stature.

The second has changed. We now believe solutions no longer come from on high but may well be the possession of the people. I consider that a net gain in stature.

Something has happened to the third area, though. Problems that struck us as being on a long steady march to Shangri-La have hit a snag and we suddenly are aware that *uncontrolled technology, industrial development, a competitive ethic, growth as the final good and the ultimate god* no longer will guarantee a nirvana on earth for everyone. In fact, these four panacea, these pills for all our ills—uncontrolled technology, industrial development, competitive ethic, growth as an ultimate good—are becoming increasingly identified as the sickness, not the cure. Put another way, the world macroproblem (a term first used in this sense in a book by Pecci just one year ago) is a composite of all the problems brought on by the applications that were earlier solutions—applied technology and industrial development. It's one problem, it's worldwide and it will get worse before it gets better.

I break the problem down into six separate parts, all complex and interconnected. This list of parts is not mine. It comes from a series of policy papers recently compiled by the Committee on Education and Labor for the 91st Congress.

1. *Population and food supply.* Concentration of population in compacted areas is breaking down human organization. General growth of population shows us that we will see an increase in starvation before a solution. The increase in food supply called the "green revolution" is only a delaying action. Our technology, one time the savior, has decreased the death rate and brought on the dehumanizing crowd.

2. *Changes in the biosphere.* Pollution of air, water, soil, radioactive contamination, depletion of resources, changes in temperature and composition of the atmosphere, are also brought on by technology and industrial growth and the technology of the future indicates an exponential J curve in the burning up of the good in this world and the adding to the bad because of our insistence on increasing the supply of absurd physical products.

3. *The poverty and the developmental gap.* Poverty is extremely important, particularly for those who are poor, but in the world picture, the developmental gap between the poor and the rich is a larger issue. The poorest man on this earth lives better today than that long forgotten day when we all stood in the mouths of caves and hit each other with sticks. We have progressed, but not equally. As a kid, I didn't know we were poor until we moved to town. You could walk around in the early 1930's with not a cent. It was a common condition and was endured without a great deal of bitterness because of its breadth. But today, both literally and poetically, everyone has moved to town and we know that others have things that we do not.

Television, that awful huckster of property, and other communication media have reached every corner of the globe, telling people that the good life is made up of goods and if you do not possess your share, you are therefore unfortunate. Some see the solution to this to shorten or cease communication. Obviously that's in error. The problem of the gap between the haves and the have nots must be erased by a ministry to the have nots. There must be sufficient good in the world for everyone to reach some standard that we consider both human and humane. But here, too, the problem appears to get worse before it gets better. Technological development has a self-regenerating acceleration so that the nations now prosperous will become more prosperous faster than the undeveloped societies, societies faced with staggering problems of overbreeding and undereducation, keeping them from reaching what the economists call the "take-off point."

4. Another problem has reached human awareness, the problem of *biological and psychological alterations.* Formerly in the hands of the writers and the readers of science fiction, it's now clear to all of us that we hold powers never held before by any creature, to alter the mind, the body, the fetus, the genetic transmissions to our heirs and to do something to our emotional state, our personality, our intelligence, our character, our goals and our motivation. This can be done before birth and at, any point during life through a series of engineering acts both chemical and surgical, acts that are more and more falling into the hands of unpracticed people. The rise of the problem is accelerated by the fact that these powers are no longer protected by any Pandora's box of common value structure.

5. *Weapons and sabotage.* Twenty-five years and a few weeks ago the bomb was dropped in Hiroshima. From that instant on, thinking people knew that our destructive capacities were reaching heights never before attained by any organism. The world has now created and stockpiled instruments enough to destroy us all. Even the small nations can initiate a war that the planet cannot afford. Along with this supply of destructive power, we have built an interrelated network of dependency on each other.

Our trade, our power systems, our transportation systems, and many other systems are so sophisticated and delicate that they can be thrown awry, in fact destroyed, by a few disenchanted people and a handful of destructive capacity.

6. The last, but the most depersonalizing item on my list, *threats to mental health and our civil rights.* Many of the things mentioned earlier plus technology increasingly make us wards of the state and our privacy and our freedom becomes more and more controlled. Anxieties build up from congestion, from complexity, from the rapidity of change, from reduced contact with nature and from reduced interpersonal communion. Large segments of the population become nervous and this nervousness or fear has within it great possibilities for inducing the policed state.

Attending all these problems in the last two years is the broadening realization that they are no longer open to simple solution. As a pilot, I am aware of the safety technique called 180 degree turn. Any time you're heading into stormy weather, it is suggested that you turn around and head out. Similarly for decades, in fact centuries, we've felt that

XUM

the solution to starvation was to produce more food; the solution to war was to stop fighting; the solution to poverty was to help the poor; the solution to population explosion was to put up posters telling people about planned parenthood. We now know that these solutions are inadequate.

To point to the dilemma, I discuss the problem of war which has been preoccupying us all. On the positive side is the fact that we are seeing the emergence of a true horror of war, something man has always professed but never truly possessed. I remember 1942 with blinding accuracy. In the face of a global war, fear was the sole commodity of mothers, the only ones afraid. The sentiment of fathers might have been pride and the feeling of the young on the way to war was anticipation, patriotism, to be one of the gang, attitudes once felt to be noble but today understood to be highly inappropriate, as one goes off to kill or be killed. We had to take arms; maybe we had to recently, maybe we must again. But we do it now and we'll do it, if ever in the future, with a sense of shame, with a recognition that it is not our country's finest hour. At least we've made progress, in fact steps new in the history of this creature, man.

I find the new law on conscientious objectors, or rather the interpretation of the law, interesting. The Supreme Court held that a man can be an objector, can object to killing on purely moral grounds rather than previously defined religious ones and, therefore, be excused from serving. Now in my mind this should keep every young man in the nation out of uniform. In essence, it says that (a) a young man finds killing unacceptable on moral grounds and he therefore need not serve, or (b) a young man finds killing acceptable on moral grounds, which in my mind makes him a psychopath, and should not serve. Objecting to war on moral grounds is a stand we all ought to quickly flock to but it does not mean that the occasion could still occur when people, objecting strenuously, may have to defend, may have to take up arms, may have to aim a gun and pull the trigger at someone who threatens their lives, their wives, and their beliefs, but they should continue to object to what they must do on moral and ethical grounds.

But what do we hear today on this dilemma of war? We hear *option A*, we must have a draft, a standing army, we must have a war in foreign lands, we must take on the military surveillance of the world or else we will be overrun. On the other hand, *position B*, we must stop the confusion in every young man's mind, we must stop hitting each other with sticks, we must pull out of Vietnam by noon tomorrow, tear down the capitalistic system that prospers and causes global wars. In thinking about national responsibilities and Vietnam War, I confess to certain ambivalence. Recent information comes from the Rand Corporation, which is our national private investigative agency on research and new developments, that if South Vietnam fell today, several hundred thousand South Vietnamese lives would be lost by a blood bath of terrible dimension. And this puts before the pacifist, of which I am one, insisting that we be out of South Vietnam by suppertime, the question whether we are interested in saving lives or merely interested in saving American lives. My son is an American boy and I cringe at the idea of people shooting at him in steamy jungles, merely to have him protect some foreign horde on foreign soil. But on the other hand, I have always recognized that God was colorblind and lacked the proper patriotic credentials to appreciate the American point of view and that if 20,000 pink and earnest American boys marched off to save the lives of a half million little brown people, the God I worship may weep but consider it a bargain. It is a problem, isn't it? From all this we just learn of the absence of simple solutions. In this area, as in all other areas of the macroproblem, what we cannot find in the picture at the moment is a general consensus, a unified national will.

Which brings us to the responsibilities of Doane College and the microcosm. In a larger sense, everything that is done here should make its contribution to the solution of the big problem. That will lead us to think that everything is important, but some things are more important than others. As I think about priorities on the college campus today, it leads me back to personal responsibility and if you'll excuse a few moments of thinking out loud, I speak to the role of the college president.

Recently an article indicated that the college president, for many years, had to be an *academician*. Since World War II in a time of growth, his role changed from a scholar to that of *institution-builder* and more recently, in the last two or three years, the prime presidential task is neither of these but *crisis manager*. I don't agree with the labels totally but there is some element of truth in the changes. In calmer times, both faculty and administrators could be academicians and spend their time in the areas of pure thought. For twenty years we've had to be institution-builders not only building buildings but improving salaries, the student body and finding a high quality even base for your institution. It's only recently that the task of keeping the peace and keeping the place open has received public attention. Obviously the best leadership requires all three, but with limits on human time and energy, one must constantly consider priorities. By choice, any man in college business would prefer to be an academician and deal with ideas and retreat into realms of pure thought and leave someone else to rassle with the bear. I make a note on the side to the faculty. Pure thought is no longer possible; even in monasteries it gets contaminated by its distance from the action. Only thought, action and contemplation that includes the present conditon of mankind can be considered pure and valid.

The past is important. Theory must be expounded and resolved. Experience must be reviewed and revered. But if these things do not relate to now and the future, they are then impure, not because of something in the recipe but because of something the recipe lacks. I think the wise president today would be by choice an academician, by necessity an institution-builder and under a bit of protest, a crisis manager. He would, I think, not protest crises because the issues of the campus and the world are not important. In fact, everything I'm saying tonight screams of the importance of the issues. But he would protest when the resolution of campus issues creates more heat than light, depends upon adversary proceedings and confrontation tactics and aborts other crucial issues.

I don't think at Doane we walk away from the issues. I seek student concern, student involvement, student expression and student cooperation. I seek faculty concern, faculty involvement, faculty expression and faculty cooperation. This concern ought to touch a host of issues which are obviously of relative importance from the creation of the Doane academic product to the problem of a broken gum machine. Obviously big issues should get the biggest attention. All too often the wheel that squeaks gets the grease. If I retain some task as crisis manager, I intend to play it as Cool Hand Luke. You may recall from the movie, Luke said "what we have here is a failure to communicate." I'd like to retain a certain coolness, keeping heat from obscuring the issue and then correct all failures to communicate. Open the doors, lower the barriers, provide for everyone the right to hear and the right to be heard, not as watchdogs and vigilantes but as people interested in the product, but retaining some role as a traffic manager and planner of agenda, letting the biggest issues get their day in court first. I consider it administrative abdication to allow the agenda to be responsive to the loudest, which may or may not be the most important.

This is the year of curriculum planning at Doane, which will use a lot of our energies and skills. Those energies and skills cannot be dissipated too quickly. Both here in the microcosm and out there in the macroproblem, problems arise before us like yawning chasms and they have to be bridged by a new consensus. There must be some understanding on both sides. To bridge any chasm, you have to rest a structure of understanding on both cliffs. There are no one-cliff bridges. In a day when the center seems to be dropping out of all issues, cliffs become increasingly hazardous places and many people suggest we retreat from them and let the chasm, the gorge, stand unbridged rather than fall. That's shortsighted. We have to walk up to every issue and do our best and then, is it not called, this thing we pursue, education?

Last week, visiting with the resident assistants, we spoke in one group about the Doane College response to issues and asked whether the college had been capricious, responding in different ways on different issues or generally had been predictable. One man said, "Oh, you're pretty predictable, you generally stay in the middle." It was meant to be a mild rebuke, but in a day of polarization and real questioning whether either pole possesses the truth, I consider it a compliment. I continue to seek the elusive third option.

The public press today, in discussing campus life, puts forth images of option A and option B. *Option A*, oriented to the past, a campus where the president retains unquestioning authority, where faculty stick to their lectures and testing of the facts and where a series of values that have identified higher education for the last hundred years must be preserved at all cost. Opposing this is Option B where folks feel all must be changed, that colleges must become political creatures, authority must be dispensed to the lowest customer, learning is almost totally emotional and does not require fact, discipline is old hat, relationship between people is all the knowledge that really matters. Given these two stereotypes, most of us would reject them both.

Moving off campus for a moment and putting the polarities in more general terms, I use a list culled from recent readings. The old culture has moral components which are authoritarian, punitive, fundamentalist. When forced to choose, it tends to give preference to property rights over personal rights, technological requirements over human needs, competition over cooperation, concentration over distribution, producer over consumer, means over ends, secrecy over openness, social form over personal expression and loyalty over truth. The new *person-centered culture* reverses all these priorities. I sense a serious personal problem in the constant seeking and holding out for a third option. In a day when the center is falling out, it's easy to find philosophic chums at either one of the edges. But in pointing to the flaws of everyone else's arguments, one ends up as a lonely man. The liberal centrist, the way I would define my own views, finds out that he is no longer wooed or needed as much as he once was and he has difficulty being effective. He seems to operate in a moral vacuum which disturbs both the old and the new. In the past the liberal centrist has been effective at negotiation and mediation between two divergent points of view but that effectiveness has always been based on a unified consensus at a deeper level of society. Somewhere the consensus both on the national level and at institutional levels does not exist or have its former

XUM

strength. It must be found again. If we need new kinds of approaches to the problems, if stitutions, we had better design them and and find out how to get them accepted. If we need an active stewardship of the future, we need new national and supernational in- if we need altered values, compatible with a livable world, we had better do that also. We have to view the *macroproblem* passionately but also objectively. We have to use our microcosm to train ourselves for solutions. For us in residence at Doane, for the year 1970–71, there is no better time than now, there is no better place than here.

POLLUTION INVADING THE WORLD'S WATERS

Mr. YARBOROUGH. Mr. President, in a remote corner of the Washington Post edition of September 17, 1970, there appeared a three-paragraph article which, though benign in its size, was terrifying in its content. In it, Jacques Yves Costeau, back from 3½ years' exploration and movie-making around the world, and a man intimately familiar with the ocean and its environs, makes a single but shocking statement:

> The oceans are dying. The pollution is general.

He goes on to say that ocean life has diminished by 40 percent in the last 20 years.

Mr. President, I think all of us must realize by now that pollution poses a great threat, not only to the oceans, but to our entire environment. But when a man of Cousteau's firsthand knowledge and experience makes such a far-ranging statement, the gravity of the environmental crisis is brought home with shocking impact.

Two other articles of recent date provide evidence that what Cousteau says is true. One appeared in the Dallas Morning News on September 6, 1970, and discusses how the Caspian Sea, the world's largest lake and a prime source of Russian caviar, face certain death unless pollution ends. The other is an article published in the September 6, 1970, edition of the Washington Post, revealing how pollution has tainted the Mediterranean Sea, particularly along the resort areas of the Riviera.

Mr. President, these articles illustrate why I believe to be so urgent my bill, Senate Joint Resolution 156, a bill to create an interagency commission to enable the United States to make adequate preparation for the 1972 U.N. Conference on the Human Environment, be passed. The U.N. Conference could be mankind's last supper before its crucifixion by its own waste. I am not an alarmist; nor am I a doomsdayer; but I am a realist. I do have progeny, and I do worry about what the state of our planet will be after I have passed on. The increasing evidence that we are approaching a process of decay that is irreversible causes me to give every priority to efforts to preserve our biosphere. And, without question, the most crucial of these efforts present or contemplated, is the U.N. Conference of 1972. We must make the most of what may be man's last opportunity to avert extinction.

Mr. President, I ask unanimous consent that the three articles, the first entitled "Oceans Are Dying, Cousteau Says," printed in the September 17, 1970, edition of the Washington Post; the second entitled "Caspian Sea Faces 'Death' Unless Pollution Ends," by Peter J. Shaw, appearing in the September 6, 1970, edition of the Dallas Morning News; and the third, entitled "Water Pollution Problem Tarnishes Vacation on the French Riviera," by Roland Huntford of the London Observer, contained in the September 6, 1970, edition of the Washington Post, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 17, 1970]

"OCEANS ARE DYING," COUSTEAU SAYS

MONTE CARLO, September 16.—"The oceans are dying. The pollution is general."

That's the appraisal of Jacques Yves Cousteau, back from 3½ years' exploration and movie-making around the world.

"People don't realize that all pollution goes to the seas. The earth is less polluted. It is washed by the rain which carries everything into the oceans where life has diminished by 40 per cent in 20 years," the underwater explorer said.

[From the Dallas Morning News, Sept. 6, 1970]

SCIENCE SPOTLIGHT: CASPIAN SEA FACES "DEATH" UNLESS POLLUTION ENDS

(By Peter Shaw)

LONDON.—Pollution could make the Caspian Sea, the world's largest lake and a prime source of Russian caviar, a dead sea in the 21st century.

A top Soviet ecologist, Prof. A. G. Kasymov of the Azerbayan Academy of Sciences, warned in a recent issue of Britain's monthly Marine Pollution Bulletin:

"If pollution of the western part of the middle and southern Caspian Sea continues as it is now, the sea can be expected to be transformed into a dead sea—not only unsuitable for habitation by fish and other food animals, but also for the needs of technology."

The 170,000 square mile Caspian Sea is surrounded by the Soviet Union and Iran. The world's second largest lake, America's Lake Superior, has an area of 31,820 square miles.

"The growing problem of the pollution of the Caspian Sea has recently aroused much concern in the Soviet Union for it seems to be leading to a catastrophe," Kasymov wrote.

"A chain reaction is being set up which will have consequences that are difficult to predict."

Kasymov, who is attached to the academy's institute of zoology, said the Caspian Sea is annually being polluted by about one million tons of petroleum and petroleum products, 100,000 tons each of asphalt and sulphuric acid and 10,000 tons of other substances toxic to aquatic organisms.

"Where pollution is particularly severe, the surface of the sea is covered with a thick layer of petroleum products and the substratum is impregnated with petroleum and various petroleum products," Kasymov said.

He said pollution of the coast in the Azerbayan region, along the sea's southwest shores, was principally due to petroleum and waste water from chemical and petroleum refining industries. He said Azerbayan's petroleum output was increasing and further pollution was inevitable.

The Soviet scientist listed several measures to protect the Caspian Sea from pollution. Among them: purification units for all plants, factories and works that discharge waste waters into the lake, and prohibition of the discharge of all caustic solids used in industrial or petroleum production.

[From the Washington Post, Sept. 6, 1970]

WATER POLLUTION PROBLEM TARNISHES VACATION ON THE FRENCH RIVIERA

(By Roland Huntford)

Regularly every morning, a long white patch appears on the waters of the cove near Nice where I like to bathe. It is drain water from houses on the cliff, and it makes its leisurely way from there to the beach.

Although it appears to be largely detergent, and presumably innocuous, most swimmers time their bathing to avoid it.

At least we are lucky in this particular cove, because we can keep away from visible pollution and, most of the time, the water is reasonably clear. This can scarcely be said of most other beaches along the Cote d'Azur.

Nice itself suffers frankly filthy water, with sewage floating too obviously for comfort. Local inhabitants keep away from the beach during the holiday season, hoping for a clearer sea in September.

In the past few years, I have noticed a steady deterioration in the state of the sea around Nice. No longer am I prepared to dispute the cry that the Mediterranean is becoming a stinking cesspool.

Oil on the beaches has long been a regular accompaniment of Riviera life, like forest fires in July and wasps in August. When you go bathing you take, as a matter of course, besides sun lotion, a straw mat to protect yourself from oil patches on the shingle, and some solvents to remove the inevitable stains.

Such solvents are now the stock-in-trade of all shops along the coast. New kinds with new trademarks appear every year, and only the knowledgeable and the economical insist on simple benzine in order not to throw money away unnecessarily.

The hunt for cleaner water has already started. With few exceptions, the coast from Marseilles to well east of Genoa in Italy has been well and truly dirtied. The Spanish coast is reputedly worse. But Yugoslavia, Greece, parts of Southern Italy and Corsica and Sardinia are supposed to be cleaner.

But not even water pollution can deprive the Riviera of its elusive patina. The rich and the famous still come, and those who can afford it have filtered swimming pools. The rest take their chances in the open sea.

Despite creeping pollution and the annual denudation of the forests by destructive fires, the Riviera has kept something of its traditional holiday atmosphere. The president of the republic has come to take his annual stint in the sea. The stars gather at St. Tropeza and Monte Carlo. And, true to habit, burglars and jewel thieves have arrived.

Without these gentlemen of crime, the Riviera's season would not be quite itself. The coast of the South of France in summer is the happy hunting ground of crooks in search of sun and booty.

The usual quota of jewel thefts has taken place. Car thieves have been apprehended by the score. But an ugly intrusion into an otherwise happy bed of honest crime, drug traffic, has also arrived. Opium dealers and heroin pushers have been arrested wholesale and this year for the first time one notices drug addicts, red-eyed and listless, in public places. It is as if pollution had taken hold both of man and nature.

But still there remain compensations along this bit of coast, the monumental views of mountains and sea, the easy Provencal character, and the splendid cuisine. But even there, it is best not to think too much or question too deeply. Heaven knows what the fish in your bouillabaisse bring with them from a tainted sea.

PROPOSED HEALTH SECURITY ACT

Mr. CRANSTON. Mr. President, on August 27, I was privileged to cosponsor S. 4297, the proposed Health Security Act, introduced by the Senator from Massachusetts (Mr. KENNEDY) for himself and 14 other Senators. On that date, I spoke briefly about the importance of this measure, as follows:

> Mr. President, our country and its people face countless crises today—and not the least of these is in medical care.
>
> Soaring costs of private care now put this portion of preventive and curative medicine totally beyond the reach of tens of millions of our fellow citizens.
>
> Skyrocketing costs of public programs—like medicare—are absolutely staggering.
>
> We are in a health crisis for endless reasons—and no one is expert enough to predict how much worse the crisis can get because wholly unfathomable factors are involved. Who knows, for example, what health hazards we really face today, and will face tomorrow, because of the poisons and pollutions that endanger the air, water and food we depend upon for our very lives
>
> I join in sponsoring this health insurance legislation because we must come to grips with this crisis.
>
> Undoubtedly this measure will be revised in many small and large ways before it finally becomes the law of the land. It must be given the most detailed and careful study and scrutiny. Surely, there will be many suggestions, some of them sound, some of them unsound, regarding ways to improve the financial and medical aspects of this bill.
>
> Our final objective must be to insure the best possible medical care for the people of our United States and the least possible cost.
>
> I trust that today the U.S. Senate is launching an effort that will lead our Nation to that end.

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Today, Mr. President, I would like to cover a few more points regarding this landmark legislative proposal.

First, I wish to express my appreciation for the hard work of Senator KENNEDY and his staff in assembling this monumental bill. When national health insurance legislation in some form is finally adopted, the country will owe a considerable debt to Senator KENNEDY as well as to the Senator from Texas (Mr. YARBOROUGH), chairman of the Health Subcommittee and the full Labor and Public Welfare Committee, the Senator from Ohio (Mr. SAXBE), and the Senator from Kentucky (Mr. COOPER), all of whom served with Senator KENNEDY on the Committee of 100 for National Health Insurance, chaired by the late Walter Reuther.

This legislation reflects the enormous vision and social concern and compassion which Walter Reuther brought to his life and work. Surely no one can quarrel with its aim to provide good medical care for every citizen. The shame is that it appears necessary at this point for the Federal Government to intervene in order to achieve that fundamental goal.

I have cosponsored the bill because I feel that we will probably adopt some form of national health insurance program in the next several years and because I believe that this is the most thoughtful and far-reaching program yet proposed. As I said upon its introduction, I recognize fully that the bill is far from perfect and that there remain a number of unanswered questions and enormous administrative, political, professional, and economic problems to resolve before any such national health security program could function effectively and in a fiscally responsible way.

For example, we obviously must explore the role of those insurance companies, which have already invested so heavily in the health insurance field, in assisting in administration of such a program.

We also must ensure that there is a very ample period from the date of enactment to the effective date—at least 2 years and probably more—to ensure effective leadtime for planning and preparation, as well as improvement and lateration of health care delivery systems prior to attempting a program as comprehensive and far reaching as is proposed in this bill.

Also, I think serious consideration should be given to beginning such a comprehensive program in four or so representative States rather than, right off, on a nationwide basis in more than 50 different jurisdictions with enormously disparate State laws, customs, medical practice conventions, and regulations and traditions of delivering health care.

One other unresolved question of particular concern to me as chairman of the Labor and Public Welfare Committee's Subcommittee on Veterans' Affairs is the relationship of a veteran to this national health security program. As the bill is now written, every person, including even a veteran with a 100-percent disabling service-connected condition, would have to pay a payroll tax toward the program's expenses. It seems to me that serious legal, moral and other questions can be raised about the appropriateness of such an additional charge to persons already entitled to free health care from the Federal Government based on some sort of quasi-contractual or other right. I thus plan to work closely with the other sponsors of this bill to protect the interests of our Nation's veterans and to insure the integrity and full utilization of the enormous health resources offered by the VA hospital and medical system.

These are but a few of the questions raised by this highly complex and visionary proposal. Lest I appear to have cosponsored a bill about which I think there are more questions than answers, let me hasten to add that I feel the virtues and positive features of this bill far outweigh its possible shortcomings and unresolved questions.

Of particular note are the priorities which the bill places on creating favorable circumstances for the growth and expansion of comprehensive group practice, ambulatory care centers, community mental health centers, hospital day care centers, and other forms of noninstitutionalized provision of medical care. I think this is obviously the only direction in which we can move if we are to bring some reason and some logic to our current health care cottage industry. I also strongly support the comprehensive nature of the services covered without coinsurance or deductible provisions.

I believe we must move boldly to develop a comprehensive program utilizing the combined resources and imagination of the private and public sectors to make our health care system as responsive, as low in cost, as accessible, and as innovative as possible. At committee hearings on national health insurance at the end of September, we received much expert testimony which should constitute an important resource for groups and individuals who wish to study the general concept and the various proposals for national health insurance in the months ahead.

Mr. President, I look forward to working closely with Senators KENNEDY, YARBOROUGH, SAXBE, and COOPER, as well as with the other sponsors of this legislation, in the many long months ahead to perfect this program. I can think of no more urgent domestic matter than providing a sound, comprehensive, solvent system of providing compassionate, effective, and economical medical care for our sick and injured, and our chronically ill, often hopelessly incapacitated, citizens, regardless of their financial means.

PRESIDENT NIXON'S JOURNEY ABROAD

Mr. DOLE. Mr. President, last night the President of the United States returned home from an 8-day trip that took him to five nations and to the Mediterranean Sea itself in a visit to the 6th Fleet.

The primary purpose for the President's trip was peace—peace in the Middle East and peace in Vietnam.

By his journey and by his presence, he brought the chances for a lasting peace in the Middle East a little closer and made the prospects for world peace a little brighter.

The President said before leaving Ireland that his goal is to give the world a "generation of peace."

At first glance that goal seems reasonable enough. But I would point out that in this century we have yet to have a generation that has not seen major fighting somewhere in the world. A generation of peace. Only a strong United States, led by a strong President, can bring that about.

But all of us can and must support that goal. And all of us can and must work with the President to bring it nearer.

None of us, Mr. President, can do any less if we are to keep faith with the people we serve.

CONSUMER CLASS ACTIONS

Mr. MAGNUSON. Mr. President, there has been some concern expressed by industry representatives that S. 3201, containing consumer class action provisions which is now scheduled for floor action, represents too radical an expansion of consumer rights.

I invite attention to evidence which suggests that far from opening the floodgates and innundating the courts, the class action provisions of the Commerce Committee bill actually limit and restrain the uninhibited right to consumer class actions which may already exist in Federal courts.

Several cases recently filed have claimed that private consumer actions including consumer class actions, may now be maintained in Federal courts for the redress of any "unfair or deceptive act or practice" under section 5 of the Federal Trade Commission Act.

If the cited case law proves persuasive to the courts—and I am informed by knowledgeable attorneys that the briefs filed so far are indeed persuasive—then S. 3201 is needed not to grant a new procedural right to consumers but to protect legitimate business against potential abuses of consumer class actions and to insure the orderly processing of consumer claims.

The Commerce Committee amendments to S. 3201 if adopted will provide the following restraints:

First. Class actions arising out of individual transactons under $10 will not lie unless or until FTC or Justice has successfully prosecuted the manufacturer or seller.

Second. Class actions under S. 3201 will lie only for the violation of clearly defined "unfair consumer practices" as listed in the act and defined through fair rulemaking procedures rather than for any act which the court may define as "unfair or deceptive."

Third. If the court finds that a particular class action is a "strike suit" designed to harass or intimidate a defendant the court can award attorney's fees to the defendant.

Fourth. S. 3201 provides the mechanism for the FTC or Justice Department to act on behalf of consumers, resulting in a stay and consolidation of multiple private consumer class actions.

I ask unanimous consent that a portion of the text of a brief filed by Belli, Ashe, Ellison, Choulos & Lieff in the case of Headley against Continental Credit Card Corporation, in the U.S. District Curt for the Northern District of California be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

VI. PLAINTIFFS HAVE STANDING TO BRING THIS ACTION UNDER SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

Defendants argue that this Court lacks jurisdiction of the third claim for relief because "Congress has not provided a private cause of action to that section". Defendants' position represents a misconception of the law of jurisdicition. In *Bell v. Hood*, 327 U.S. 678, 90 L. Ed. 939, 66 S.Ct. 773 (1945) plaintiffs brought an action against agents of the Federal Bureau of Investigation for allegedly violating their constitutional rights. The District Court and Court of Appeals had held that, inter alia, since the constitution did not authorize money damages to the plaintiffs, the Court lacked jurisdiction. The Supreme Court reversed and held that whether those particular plaintiffs had any right to relief pursuant to the constitutional provision was irrelevant to the question whether the Court had jurisdiction to pass on the merits of the claim. The Court held that the District Court should have assumed jurisdiction, then proceeded to the question whether plaintiffs had stated a cause of action. Accord, *Baker v. Carr*, 369, U.S. 186, 7 L. Ed. 2d 663, 82 S.Ct. 691 (1962).

Defendants mean to object to the *standing* of plaintiffs. To expedite matters, plaintiffs will consider the issue as though it had been properly stated: Do the plaintiffs have standing to bring an action for private relief under Section 5 of the Federal Trade Commission Act, as amended by the Wheeler-Lea Amendment of 1938.

B. The two criteria of (1) adverseness and (2) congressional intent to protect must be present for plaintiffs to have standing. They are present in the case at bar

The precise question presented for decision by this Court is one of first impression. The issue is: Does a consumer have standing to bring an action for private relief under 38 Stat. 719, Section 5 of the Federal Trade Commission Act, as amended by the Wheeler-Lea Amendment of 1938, 52 Stat. 111?

As originally passed in 1914, the relevant portion of Section 5 reads:

"That unfair methods of competition in commerce are hereby declared unlawful." 38 Stat. 719

The Wheeler-Lea Amendment was passed in 1938 to:

"Afford a protection to the consumers of the country that they had not heretofore enjoyed." (83 Cong. Rec. 392 (1938), (remarks of Representative Lea).

As amended Section 5(a)(1) reads as follows:

"Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are declared unlawful". 52 Stat. 111

Congress has provided in 28 U.S.C. 1337, *Commerce and Anti-trust Regulations*:

"The District Court shall have original jurisdiction of any civil action or proceeding arising under any act of Congress regulating commerce or protecting trade in commerce against restraints and monopolies."

In the latter part of the 19th Century and the first part of this Century, the Supreme Court required that standing be determined by the "legal interest"—sometimes called "legal rights" or "legal injury"—test. That test has proven unsatisfactory because it first requires a decision on the merits or because it is simply conclusionary or circular.

The problem of requiring a decision on the merits to decide the standing question can best be seen in the old competition cases. In *New Orleans, Mobile and Texas Railroad Co. v. Ellerman*, 105 U.S. 166, 26 L. Ed. 1015 (1882), plaintiff Ellerman held a franchise from the City of New Orleans to collect wharfage fees. The defendant railroad was later given a franchise by the State of Louisiana to collect the same fees. Plaintiff argued that the State of Louisiana's action deprived him of a vested property right. The Supreme Court first found that the plaintiff had been given no legal right to be free from competition and that, therefore, he lacked standing to bring the suit because he did not have a "legal interest". In *Tennessee Electric Power Co. v. Tennessee Valley Authority*, 306 U.S. 118, 83 L. Ed. 543, 59 S. Ct. 366 (1938), eighteen private power corporations in competition with TVA brought an action against TVA on the grounds that TVA was unconstitutionally created. The power companies relied on state statutes which they argued conferred on them the right to be free from competition. The Supreme Court found that the state statutes did not confer on the power companies the right to be free from competition and that, therefore, they lacked standing because they did not have a "legal right".

Pittsburgh and West Virginia Railway Company v. *United States*, 281 U.S. 479, 74 L. Ed. 980, 50 S.Ct. 378, (1929), is a case using conclusionary or circular "tests" and calling it the legal injury test. Plaintiff was a minority stock holder of a railroad authorized to conduct certain activities by the Interstate Commerce Commission. The Supreme Court held that the financial loss that was to be suffered by plaintiff was insufficient to constitute a "legal injury" and that, therefore, plaintiff lacked standing to bring the action. *Allegheny Corporation* v. *Breswick Co.*, 353 U.S. 151, 1 L. Ed. 2d 726, 77 S. Ct. 763 (1957) is another action brought by a minority stockholder based on an Interstate Commerce Commission order. The Court employed the same "tests" but held that the plaintiff had a sufficient economic loss to constitute a legal injury and that, therefore, he had standing.

The legal interests test has gradually eroded. It was dealt its death blow by the Supreme Court in its last term. Under the newly-evolved test, there is a rebuttable presumption that a party has standing if he can prove the following:

1. He will conduct his case with adversary zeal.

2. The statute under which he is suing was enacted by Congress with the purpose of protecting the class of persons of which he is a member.

The presumption can be rebutted only with an explicit and clear statement by Congress to the contrary. Silence is insufficient. The presumption in favor of the standing of the plaintiff is made even stronger—if not conclusive—if he can demonstrate the following two elements:

1. He, as a private party, would otherwise have no remedy under the statute.

2. The purpose of Congress is passing the statute can most effectively be met by granting standing to private parties.

Baker v. *Carr*, 369 U.S. 186, 7 L. Ed. 2d 663, 82 S. Ct. 691 (1962) is the genesis of the new standing test . . . In *Baker*, the Supreme Court stated that it was still following the legal rights test, but the formulation of the test sounded very different. In *Baker* v. *Carr*, the plaintiffs brought an action arising under the Fourteenth Amendment to the United States Constitution, which they argue was passed to, inter alia, guarantee them that their votes would not be debased in public elections. Plaintiffs relied on 42 U.S.C. Section 983 and 1988 for jurisdiction. The District Court, sitting as a three-judge Court, dismissed the action on the ground that it lacked jurisdiction of the subject matter and that the complaint failed to state a claim upon which relief could be granted. The Supreme Court reversed. The Court stated the issue as follows:

"Have the appellants alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the Court so largely depends for determination of difficult constitutional questions? This is the gist of the question of standing." 369 U.S. at 204.

The Court held that the voters did have such a personal, adverse stake. The Court also found that the Fourteenth Amendment was passed to, *inter alia*, protect electors from debasement of their votes:

"A citizen's right to a vote free of arbitrary impairment by state action has been judicially recognized as a right secured by the Constitution . . ." Id. at 208.

The Court found (1) adverseness and (2) an intent to protect and held that the plaintiffs had standing.

By the 1968–69 term, it was clear that the Supreme Court had not only evolved a new test, but had dropped the old legal interest terminology. In *Flast v. Cohen*, 392 U.S. 83, 20 L. Ed 2d, 947, 88 S. Ct. 1942 (1968), the plaintiffs, as taxpayers, brought an action arising under the establishment and free exercise clauses of the First Amendment to the United States Constitution They argued that the purpose of that amendment was to, inter alia, guarantee them that they would not be taxed to support religious activities but that a Congressional Act did authorize the expenditure of their taxes for religious purposes. A three-judge Court dismissed the action on the ground that the plaintiffs lacked standing. The Supreme Court reversed. First, the Court cited the

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language from *Baker v. Carr, supra,* indicating the need for an adverse, personal stake and found that the plaintiffs in Flast did have such a stake. *Secondly,* the Court found that one of the purposes of the drafters of the Constitution was to prevent taxpayers from having to pay taxes to support religion:

"Our history vividly illustrates that one of the specific evils feared by those who drafted the establishment clause and fought for its adoption was that the taxing and spending power would be used to favor one religion over another or to support religion in general." Id. at 103.

In *Allen v. Board of Elections,* 393 U.S. 544, 22 L. Ed. 2d 1, 89 S. Ct. 817 (1969), electors and candidates for public office brought an action arising under Section 5 of the Voting Rights Act of 1965 The plaintiffs relied for jurisdiction on 28 U.S.C. Section 1343. Section 5 of the Voting Rights Act follows the same form as Selection 5 of the Federal Trade Commission Act. It sets out the purpose of the Act and provides for enforcement by the United States Attorney General:

"Whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) (42 U.S.C. Section 1973b(a)) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: Provided, That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the Attorney General's failure to object nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court." 79 Stat. 439, 42 U.S.C. Section 1973c (1964 ed, Supp. I).

The Supreme Court held that the private parties had standing to bring an action arising out of an alleged violation of the Act. First, the Court made the finding of an adverse, personal interest on the part of the plaintiffs. Second, it made the finding that Section 5 of the Voting Rights Act was intended to protect a class of persons of which plaintiffs were members.

In addition, the Court found that the purpose of Congress would be implemented by granting standing to plaintiffs, because the Attorney General had a limited staff and might not be able to uncover all attempts by the states to defeat the Congressional purpose of assuring that persons would not be denied the right to vote because of their race.

Hardin v. *Kentucky Utilities Co.,* 390 U.S. 1, 19 L. Ed. 2d, 787, 88 S. Ct. 651 (1968), is the last Supreme Court case that even claims to follow the old legal interest test of *Railroad Company* v. *Ellerman, supra,* and *Tennessee Power Company* v. *TVA, supra.* This is an action brought by a private power company against the mayors of two towns and the TVA on the grounds that the TVA in conspiracy with the mayors was providing electric power to the towns in violation of a provision of the Tennessee Valley Authority Act of 1933. That Act establishes the Tennessee Valley Authority, defines its powers, and sets up prohibitions on certain activities by it. A commission is established to effectuate the Act.

In stating the legal interest test it was clear that the test had undergone a complete metamorphosis. The Court notes that there is no explicit grant or denial by Congress of standing to private parties to sue under the Act. The Court examines the history of the TVA and finds that one of the primary purposes of the provision under which the plaintiffs in *Hardin* claim standing was to protect the class of private utilities of which plaintiffs were members from TVA competition. Therefore:

"Since respondent is thus in a class which Section 15–D is designed to protect, it has standing under familiar judicial principles to bring this suit (citing cases), and no explicit statutory provision is necessary to confer standing." 39 U.S. at 7.

In two companion cases decided in March of this year, *Data Processing Service* v. *Camp,* U.S. ——, 25 L. Ed. 2d 184, 90 S. Ct. ——, *Barlow* v. *Collins,* U.S. ——, 25 L. Ed. 2d 192, 90 S. Ct. ——, the Court, after noting the legal interest test's longstanding infirmities and its death, formally buries it. Both cases were actions brought by private parties challenging administrative actions. In both cases, the lower Courts had held that the parties lacked standing. The lower Courts had relied on the old legal interest test. The Court stated that that test was no longer acceptable. The new test, as most clearly set forth in *Barlow,* requires:

"First . . . the personal stake and interest that impart the concrete adverseness required by Article III.

Second (a showing that plaintiffs) are clearly within the zone of interest protected by the Act.

Third . . . judicial application of canons of statutory construction (to determine whether Congress intended to give a party standing in the Courts). It is, however, 'only upon a showing of clear and convincing evidence of a contrary legislative intent' that the Court should restrict access to judicial review." Id. at 198–200.

In 1964, midway in the development of the new standing test, the Supreme Court decided *J. I. Case Co.* v. *Borak,* 377 U.S. 426, 12 L. Ed. 2d 423, 84 S. Ct. 1555 (1964). *Borak* is indistinguishable from the instant case on the broad question of the standing of a private party to bring an action arising under a federal statute. An action was brought by a private party alleging, inter alia, a violation by the defendants of Section 14 of the Federal Securities Exchange Act, 15 U.S.C. Section 78–n. That section bars the use of deceptive or inadequate disclosure in proxy solicitations. Like the Federal Trade Commission Act, the Securities Exchange Act declares certain practices to be illegal and establishes an agency, the Securities and Exchange Commission, to enforce the act. Also as in the Federal Trade Commission Act, Congress did not in the Securities Exchange Act expressly grant standing to private parties to bring actions for violations of the practices declared in the Securities and Exchange Act to be illegal.

There is no discussion in *Borak* of the question whether plaintiffs would have a personal stake sufficiently adverse that they would prosecute their action with zeal. Apparently since considerable money was at stake, the Court assumed that such adverseness was obvious.

The Court found that plaintiffs were in the class of persons who were intended by the Act to be protected:

"While this language (from legislative history) makes no specific reference to a private right of action, among its chief purposes is 'the protection of investors', which certainly implies the availability of judicial relief where necessary to achieve that result." Id. at 432.

The Court points out in addition that since the Securities and Exchange Act does not expressly provide for private relief, it must be inferred:

"To hold that derivative actions are not within the sweep of the section would therefore be tantamount to the denial of private relief. Private enforcement of the proxy rules provides the necessary supplement to Commission action." Id. at 432.

In addition, the Securities and Exchange Commission has an extremely heavy workload. By permitting private parties standing under the Act serves the Congressional purpose of discouraging deceptive and misleading statements in proxy solicitations.

"The Commission advises that it examines over 2,000 proxy statements annually and each of them must necessarily be expedited. Time does not permit an independent examination of the facts set out in the proxy material . . ." Id. at 432.

The Supreme Court held that private parties had standing to bring actions arising out of the Securities and Exchange Act.

Application of the new test requires a holding that plaintiffs in the instant action have standing to bring an action arising out of Section 5(a)(1) of the Federal Trade Commission Act.

1. Plaintiffs have a sufficient personal stake to guarantee that they will conduct this action with necessary adverseness

Each of the plaintiffs in this action has lost his investment of thousands of dollars. In addition, he has spent a considerable amount of time and money in pursuit of the worthless, fraudulent scheme of defendants.

2. Wheeler-Lea Amendment of 1938—Which Is Now a Part of Section 5(a) of the Federal Trade Commission Act—Was Passed With the Purpose of Protecting the Class of Consumers of Which Plaintiffs Are Members

Plaintiffs are consumers of defendants' franchises. They are not their competitors. When Chairman Lea, who was the Chairman of the Committee on Interstate and Foreign Commerce, introduced the Wheeler-Lea Amendment in the House, he stated:

"Indeed, the principle of the Act is carried further to protect the consumer as well as the competitor. In practice the main feature will be to relieve the Commission of this burden (of having to prove competition where it has jurisdiction), but we go further and afford a protection to the consumers of the country that they have not heretofore enjoyed." 83 Con. Rec. 392 (1938), (Remarks of Representative Lea).

Representative Reece, a member of Chairman Lea's Committee, made the same point in debate before the House:

"Briefly the pending bill would amend and extend the Federal Trade Commission law so as to—protect the consuming public from unfair practices in commerce, as the present law protects our businessmen from unlawful competition practices by their rivals; . . ." 99 Cong. Rec. 397 (1938), (Remarks by Representative Reece).

During the extensive debate and discussion of the bill in the House, not one member questioned that one of the purposes of the Act was to add protection to consumers.

Just as in the Voting Rights Act, in the Securities and Exchange Act, and in the other Acts discussed above, Congress has provided in the Federal Trade Commission Act an enforcement machinery. And just as in those Acts, Congress in the Federal Trade Commission Act was silent on the question whether a private party had standing to bring an action arising out of a violation of the Act. And just as the Supreme Court held in the cases above that private parties have standing if they can show (1) adverseness and (2) an intent to protect, so this court must hold that the plaintiffs in the case at bar have standing, since they have shown (1) adverseness and (2) an intent to protect.

The additional policy reasons for granting standing in the *Borak* case are also present in this one. Just as in the Securities and Exchange Act, so in the Federal Trade Commission Act there is no provision for private relief. Just as the Court said in *Borak* that a private party in such circumstances should be presumed to have standing, so also must plaintiff be presumed to have standing in the case at bar.

Just as the securities and Exchange Commission has a large workload and a limited staff, so also does the Federal Trade Commission.[4] By permitting private parties to bring actions for deceptive and misleading proxy solicitation material, the Congressional purpose of discouraging that type of material is advanced. So also by permitting private parties to bring actions against perpetrators of deceptive and unfair consumer practices, the Congressional purpose of discouraging that type of consumer practice is furthered.

C. Reliance by defendants on the cases cited by them in their motion to dimsiss is misplaced

Defendants have failed to note that there are two branches to Section 5 of the Federal Trade Commission act:

1. The branch that protects competitors that was passed in 1914; and

2. The branch that protects consumers that was passed in 1938 as part of the Wheeler-Lea Amendment.

The 1926 case of *Moore v. New York Cotton Exchange*, 270 U.S. 593, 70 L.Ed. 450, 46 S.Ct. 367 (1926), has one sentence in it about a cause of action brought by a private party under Section 5. The sentence is a conclusionary sentence to the effect that a private party has no standing to bring an action under Section 5. The Court states no rationale for its conclusion. At that point in history, the Court could only have been relying on the conclusionary legal interest test. That test has now been expressly rebuked by the Supreme Court. *Moore* has been overruled *sub silento*. But even if *Moore* had not been overruled, it is not in point on the issue before this Court in the case at bar: Does a consumer—not a competitor—have standing to bring an action for private relief based on the statute as amended by the Wheeler-Lea Amendment of 1938?

Defendants misconstrue the holding of *Sampson Crane Company v. Union National Sales, Inc.*, 87 F. Supp. 218, (D. Mass. 1949) also a competitor case. The language to the effect that private parties have no right of action under Section 5 is more dicta. The Court in that case was unable to get to the question of a private party's standing to bring an action under Section 5, because the party there had failed to allege the use of interstate commerce. But even the dicta relies on *Moore*, which has been overruled *sub silento* and is addressed only to the question of the standing of competitors, not consumers.

It is difficult to determine the reason for defendants' reliance on *Atlantic Refining Co. v. FTC*, 381 U.S. 357, 14, L.Ed. 2d 443, 85 S.Ct. 1498 (1965). First, that is a case dealing with the competition branch of Section 5. Second, the question before the Court is what standard should be used in reviewing an order by the Federal Trade Commission determining certain practices to be unfair methods of competition. The Court concludes that the "warrant in the record" standard is the one to be used in such a situation. The Court does state that certain statutory terms like "unfair" should be defined by the Commission, but that the Courts have the final say on their meaning. The same applies to broad terms in the Securities and Exchange Act. Certain broad terms are left to definition by the Securities and Exchange Commission, but the Courts have the final say. And, as held in *Booak*, private parties have standing under the Securities and Exchange Act.

Highland Supply Corp v. *Reynolds Metal Co.*, 327 F. 2d 725, (8th Cir. 1964), also a competition case, is apparently cited by defendants because it restates the dicta that was stated in *Sampson Crane*. *Highland* was a private anti-trust action. The action had been dismissed by the District Court on the grounds that the statute of limitations had run. Plaintiffs argued that the statute had not run, because it had been tolled by the Federal Trade Commission's order of divestire. The holding of the Court has nothing to do with the issue in the case at bar:

"Since Section 5 of the Clayton Act has no application to an order . . . of the Federal Trade Commission . . ., we hold that any reference made to the FTC proceedings in the instant complaint was insufficient to toll the statute of limitations as provided in that Act, . . ." 327 F. 2d at 731.

Marquette Cement Manufacturing Co. v. *FTC*, 147 F. 2d 589 (7th Cir. 1945), another competition case, is equally not on point. The plaintiff brought an action to prevent the Federal Trade Commission from hearing the case on the ground that the Commission was not an impartial tribunal. Plaintiffs argued that there was no necessity that the action be heard by the Federal Trade Commission, because the Department of Justice had concurrent jurisdiction.

The Court simply held that the Justice Department was not a tribunal that had authority to bring an action. The question whether a private party had standing to bring an action for damages for private, not public, injuries was not even before the Court.

The reliance by defendants on *Atlanta Brick Co.* v. *O'Neal*, 44 Supp. 39 (E. D. Tex. 1942) another competition case, is clearly mistaken. The Court in *Atlanta Brick* overruled a motion by defendants to dismiss an action brought by a private party based on Section 5 of the Federal Trade Commission Act. Plaintiff sought damages under the Sherman Act, the Clayton Act, Section 5 of the Federal Trade Commission Act and Section 3 of the Robinson-Patman Act. The Court held that the allegations did not amount to a Clayton Act violation and that only the allegations of combination would amount to Sherman Act violations. As to the alleged Robinson-Patman violation, the Court held that, while the Act "does not provide in express terms that a person injured by things forbidden shall have a cause of action," the effect of the acts declaring them unlawful is that "the person so injured . . . is entitled to invoke its provisions, if he can allege and prove injury approximately caused by such violations."

Concerning Section 5 of the Federal Trade Commission Act, the Court also referred to the fact that "the Act nowhere gives any additional right of action to persons injured by unfair trade practices. On the contrary, it expressly provides that nothing therein shall 'be construed to alter, modify, or repeal the Anti-Trust Acts'." The Court did not grant the defendant's motion to dismiss the counts based upon the alleged violation of the Federal Trade Commission and Robinson-Patman Acts, but held only that, as they did not constitute anti-trust laws within the meaning of the provision providing for treble damages, treble damages were not permitted for their violation.

National Fruit Product Co. v. Dinwell-Wright Co., 47 F. Supp. 499 (D. Mass. 1942) is a competition case that contains dicta that is at best remotely relevant. Plaintiff sued for a violation of Federal Trade Mark Law and for unfair competition (which was assumed to be a state cause of action). The question before the Court was, after *Erie Railroad v. Tompkins*, 305 U.S. 673, 83 L.Ed. 436 (1938), which law applied to these two causes of action. As to any claim based on violation of Federal Trademark Law, the Court held federal statutory law applicable and, where that is ambiguous or silent, federal common law. As to the claim based on unfair competition, a state claim which the Court held was brought into Federal Court under the doctrine of pendent jurisdiction it was held that state law applied. Plaintiff's final argument was that federal law should apply because national commerce requires a national rule of unfair competition. The Court replied, "Indeed, it might well be said that when Congress established the Federal Trade Commission to prevent what are now described as unfair methods of competition in commerce (15 U.S.C. Section 45), Congress indicated that it preferred to have such uniform federal rules as might be appropriate initially devised and applied not by Federal Courts but by a federal administrative agency." Id. at 504. The same point could be made of the securities laws. But, of course, in *Borak* the Supreme Court held that private parties had standing to bring actions for violation of the Securities Acts and the Courts have managed to work quite well in inter-relation with the Securities and Exchange Commission.

La Salle Street Press, Inc. v. *McCormick and Henderson, Inc.*, 293 F. Supp. 1004 (N.D. Ill., 1968), is another competition case. In *LaSalle*, defendants had brought a counterclaim charging that unfair competition violated Section 2(a) of the Clayton Act and Section 5 of the Federal Trade Commission Act. The Court held that no violation of the Clayton Act was alleged. Citing *Moore*, *Sampson Crane*, *Atlantic Refining Co.* v. *FTC* and *Marquette Cement Manufacturing Co.* v. *FTC*, the Court held that private parties did not have standing to seek relief under the provisions of Section 5 of the Federal Trade Commission Act.

Defendants' so-called "unbroken line of authority" is neither unbroken nor authoritative on the issue before this Court in the case at bar. In *Atlanta Brick* the Court overruled defendants' motion to dismiss a private action brought by a competitor based on Section 5 of the Federal Trade Commission Act.

The cases cited by defendants other than *Moore* and *LaSalle Street Press* are not authoritative on any issue concerning Section 5 of the Federal Trade Commission Act. They cite mere dicta based on *Moore* concerning competitor's lack of standing under Section 5. There is analysis in none.

Moore, decided in 1926 before the passage of the Wheeler-Lea Amendment in 1938, and *LaSalle Street Press*, the District Court opinion that follows *Moore* without analysis are not authority on the issue before this Court: Does a consumer have standing to bring an action for private relief under Section 5 of the Federal Trade Commission Act, as amended by the 1938 Wheeler-Lea Amendment?

Based on the law of standing as it has been developed by the Supreme Court in the last

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[4] *Report of the Senate Commerce Committee on S. 3201 (Consumer Protection Act of 1970), Senate Report No. 91–1124, at 15–16* (August 14, 1970). (Plaintiffs' counsel will furnish a copy of the Report to the Court and defense counsel as soon as they receive a copy of same from the Committee).

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decade, the answer to that question is a resounded "yes".

D. Reliance by defendants on the pendency of Senate legislation which would amend section 5 to include a specific right of private action to consumers is misplaced

Defendants argue that the pendency of Congressional action to amend Section 5 of the FTC Act clearly implies that Congress considers no right of private action to be allowed under Section 5 as it stands today. This assertion is not true.

"The committee notes that there have been several recent cases filed in Federal Courts which claim that a class action based upon a violation of Section 5 of the FTC Act may be directly maintained under existing law and does not depend upon the authority which this bill (S. 3201) would confer. Committee action on S. 3201 should not be construed to indicate a Congressional intent that the theory of these pending cases is not valid; the Committee takes no position on these cases." *Report of the Senate Commerce Committee on S. 3201 (Consumer Protection Act of 1970), Senate Report No. 91–1124, at 15–16 (August 14 1970).*

It is thus clear that the question whether a private right of action exists under Section 5 of the FTC Act is *not* foreclosed by the legislation pending before Congress.

WICHITA STATE UNIVERSITY MEMORIAL SERVICE

Mr. **DOLE**. Mr. President, on Monday evening, October 5, memorial services were held in Cessna Stadium, Wichita, Kans., for those who died in a tragic plane crash October 2, 1970.

It was a moving and fitting tribute to those members of the Wichita State University football team, members of the university administration, and friends of the university who lost their lives.

I ask unanimous consent that the program be printed in the Record.

There being no objection, the program was ordered to be printed in the Record, as follows:

WICHITA STATE UNIVERSITY—AN EXPRESSION OF SORROW

(Oct. 5, 1970, 7:30 p.m., Cessna Stadium)

The University and the community are joined in this service to express their common sorrow resulting from the crash on October 2, 1970 of a plane carrying members of the football team, University administration, and friends of the University. Those aboard this flight were:

John Taylor, Football Player.
Dave Lewis, Football Player.
Glenn Kostal, Football Player.
John Hoheisel, Football Player.
Randy Jackson, Football Player.
Bob Renner, Football Player.
Mike Bruce, Football Player.
Rick Stephens, Football Player.
Randy Kiesau, Football Player.
Don Christian, Football Player.
Ron Johnson, Football Player.
Carl Krueger, Football Player.
Jack Vetter, Football Player.
Steve Moore, Football Player.
Keith Morrison, Football Player.
Marvin Brown, Football Player.
Tom Owen, Football Player.
John Duren, Football Player.
Rick Stines, Football Player.
Mal Kimmel, Football Player
Tom Shedden, Football Player.
Gene Robinson, Football Player.
Tom Reeves, Trainer.
Marty Harrison, Student Manager.
Ray King, State Representative, 89th District.
Yvonne King, Wife of Represenative King.
Carl Fahrbach, Dean of Admissions and Records.
Floyd Farmer, Administative Assistant to Athletic Director.
Ben Wilson, Wichita State University Head Coach.
Helen Wilson, Wife of Head Coach Wilson.
John Grooms, Shocker Club Membership Drive.
Etta Mae Grooms, Wife of Mr. Grooms.
Ray Coleman, Membership Chairman of Shocker Club.
Maxine Coleman, Wife of Mr. Coleman.
Bert Katzenmeyer, Wichita State University Athletic Director.
Marian Katzenmeyer, Wife of Athletic Director Katzenmeyer.
Dan Crocker, Pilot, Oklahoma City.
Ronald Skipper, Co-pilot, Oklahoma City.
Judy Lane, Stewardess, Oklahoma City.
Judy Dunne, Stewardess, Oklahoma City.

Our sympathy is extended to the families and friends of those lost in this accident and our thoughts and prayers are with the injured and their families.

Presiding: Mike James, President, Wichita State University Student Body.

Opening Prayer: Reverend Mr. C. P. Criss, United Campus Christian Ministry.

Remarks: Clark D. Ahlberg, President, Wichita State University; A. Price Woodard, Mayor, City of Wichita; Robt. B. Docking, Governor, State of Kansas.

Music: "Where Have All the Flowers Gone?" Led by Diana Carothers, Sophomore, Wichita State University.

Remarks: Leonard Cowan, Executive Minister, Wichita Council of Churches; Kelly Cook, Varsity Football Representative; Gus Grebe, Sports Commentator.

Closing Prayer: Father Leo Kerschen, Roman Catholic Chaplain, Newman Center.

Music: "Battle Hymn of the Republic". Led by University Choral Groups.

Alma Mater.

Opening and closing music provided by Wichita State University Brass Quintet.

Families of those involved on the Gold Plane are seated in the special section on the field.

Others represented in special section:

Football Players and their Relatives and Friends.
Student Senate.
University Administrative Council.
Admissions and Records Staff.
Athletic Staff.
University Senate.
Board of Trustees.
Shocker Club.
Community Agencies.
Physical Education Corporation.
Kansas House of Representatives.
Kansas Board of Regents.
Wichita State University Alumni Association.
Wichita State University Endowment Association.
Century Club.
Missouri Valley Conference.
State Colleges and Universities.
United States Senate.
United States House of Representatives.

Lord, make me an instrument of Your Peace
Where there is hatred, let me sow love;
Where there is injury, pardor
Where there is doubt, faith;
Where there is despair, hope;
Where there is darkness, light
Where there is sadness, joy.

O Divine Master, grant that I may seek not so much to be consoled as to console; to be understood as to understand; to be loved as to love; for it is in giving that we receive; it is in pardoning that we are pardoned, and it is in dying that we are born to Eternal Life. Amen.

(This prayer is inscribed on a plaque that hangs on the wall of the athletic office.)

SENATOR ERVIN'S UNPARALLELED CONTRIBUTION TO THE LEGISLATIVE PROCESS

Mr. **HOLLINGS**. Mr. President, I wish to express my admiration and respect for one of our colleagues who has contributed so much to the legislative process by his diligent, conscientious efforts regarding constitutional issues debated in this body. The constitutional analysis and interpretation of the distinguished Senator from North Carolina (Mr. Ervin), has been a most important benefit to this body and to our Nation. Although I have not agreed with Senator Ervin on all points, the fact that these issues are brought forth for debate and thorough review by him is an unparalleled contribution to legislative process.

During the 91st Congress alone, the Congressional Record is replete with major constitutional issues which deserved careful consideration by this body. Senator Ervin's presentation on the controversial no-knock and preventive detention features of the District of Columbia crime bill and on the drug bill were extremely helpful in considering threshold questions of constitutional law. The debate presented on the recently passed Equal Employment Opportunities Commission legislation contributed much to the understanding of the Federal-State constitutional relationship. The participation of Senator Ervin on election reform resolution demonstrated superbly Senator Ervin's unequalled understanding of the Constitution, its history, and its import to future generations. Senator Ervin's constitutional concern over the pending equal rights for women amendment again demonstrates his practical analysis of proposed constitutional reform.

Yesterday, Senator Ervin evidenced his constitutional vigilence concerning the guarantees of the first amendment relating to free speech by servicemen.

The deliberations of the constitutional issues relating to the busing and assignment of schoolchildren pending in the Supreme Court in the landmark case of Swann against Charlotte-Mecklenburg Board of Education et al. will be assisted by the amicus curie brief filed under Senator Ervin's leadership. I was proud to join Senator Ervin in this endeavor. I ask unanimous consent that the entire brief be printed in the Record.

Whether or not everyone in Congress agrees with the positions advanced by Senator Ervin on various constitutional questions, there is certainly no doubt that his active and conscientious role has been and will continue to be of the greatest benefit to the legislative process and the resulting laws passed by Congress.

There being no objection, the brief was ordered to be printed in the Record, as follows:

[In the Supreme Court of the United States, October Term, 1970]

AMICUS CURIAE BRIEF FOR THE CLASSROOM TEACHERS' ASSOCIATION OF THE CHARLOTTE-MECKLENBURG SCHOOL SYSTEM, INCORPORATED

(No. 281, James E. Swann, et al., *Petitioners*, Charlotte-Mecklenburg Board of Education, et al.; No. 349, Charlotte-Mecklenburg

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Board of Education, et al., *Petitioners*, v. James E. Swann, et al., on writ of certiorari to the U.S. Court of Appeals for the Fourth Circuit)

INTEREST OF THE AMICUS CURIAE

The Classroom Teachers' Association of the Charlotte Mecklenburg School System, Incorporated, is a non-profit membership organization in corporate form, which includes in its membership a substantial part of the 3,553 classroom teachers in the Charlotte-Mecklenburg School System and which devotes itself to the advancement of public education. The specific objectives of the organization and its members are to promote the interests of classroom teachers in the Charlotte-Mecklenburg School System, and to secure to the students attending the schools of the System opportunities to achieve by quality education their highest potentialities.

The Classroom Teachers' Association of the Charlotte-Mecklenburg School System and its members believe that the execution of the order of the United States District Court for the Western District of North Carolina and the judgment of the United States Circuit Court for the Fourth Circuit affirming such order in part seriously impair the educational opportunities offered by the Charlotte-Mecklenburg School System to the students in its schools, and for this reason the organization files this amicus curiae brief in support of the position of the Charlotte-Mecklenburg Board of Education, which harmonizes with this view.

The parties to the proceedings in Nos. 281 and 349 have consented in writing to the filing of this brief, and the writings evidencing such consent have been filed with the Clerk.

The members of the Supreme Court bar who submit this brief in behalf of the organization do so without compensation in the hope that they may aid the Supreme Court to reach a decision which will restore tranquility to much troubled areas of our land and enable the public schools operating in them to function economically and efficietly as educational institutions.

OPINIONS BELOW

The opinion of the Court below consists of the opinion and judgment of the United States Court of Appeals filed May 26, 1970, which are not yet reported and which appear in the Appendix (Volume 3, pages 1262a to 1304a).

In its opinion and judgment, the Court of Appeals reviewed and approved in part and remanded in part for further consideration the rulings and findings made by the United States District Court in the following orders and documents:

1. Order dated February 5, 1970 (819a-839a), as amended, corrected, and clarified on March 3, 1970 (921a).
2. Supplementary Findings of Fact dated March 21, 1970 (1198a-1220a).
3. Supplemental Memorandum dated March 21, 1970 (1221a-1238a).

JURISDICTION

The Supreme Court has jurisdiction to review this case by writ of certiorari under 28 U.S.C. 1254(1), and has accepted it for such purpose by granting writs to the petitioners in No. 281 and the petitioners in No. 349.

QUESTIONS PRESENTED FOR REVIEW

This case presents the following questions for review:

1. Does a public school board comply with the Equal Protection Clause of the Fourteenth Amendment when it creates non-discriminatory attendance districts or zones and assigns all children, black and white, to neighborhood schools in the district or zone in which they reside without regard to their race?
2. Does the Equal Protection Clause of the Fourteenth Amendment empower a federal court to order a public school board to assign children to the schools it operates to balance the student bodies in such schools racially or to bus children outside of non-discriminatory attendance districts or zones to effect such purpose?
3. Does Title IV of the Civil Rights Act of 1964, which prohibits the assignment of students to public schools to balance the student bodies in such schools racially and to bus them from some schools to other schools or from some school districts to other school districts to effect such purpose, constitute appropriate legislation to enforce the Equal Protection Clause within the purview of the Fifth Section of the Fourteenth Amendment?
4. Does the order entered by the District Court and affirmed in part by the Circuit Court usurp and exercise the authority of the Charlotte-Mecklenburg Board of Education to devise and implement a non-discriminatory assignment plan conforming to the Equal Protection Clause, and require the Charlotte-Mecklenburg Board of Education to violate the Equal Protection Clause by treating in a different manner students similarly situated and by denying students admission to their neighborhood schools because of their race?

The amicus curiae insists that the first, third, and fourth questions must be answered in the affirmative and that the second question must be answered in the negative.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The case involves the first and second sections of the Fourteenth Amendment; the first and second sections of Article III of the Constitution; and Title IV of the Civil Rights Act of 1964. These constitutional and statutory provisions are printed in the Appendix.

STATEMENT OF THE CASE

A. The Charlotte-Mecklenburg Public School System

The writ in No. 281 and the writ in No. 349 present to the Supreme Court for review the judgment entered by the United States Court of Appeals for the Fourth Circuit on May 26, 1970, in the civil action entitled James E. Swann and others, Plaintiffs, v. Charlotte-Mecklenburg Board of Education and others, Defendants. For ease of narration and understanding, James E. Swann and his associates in this litigation are hereafter called the plaintiffs, and the Charlotte-Mecklenburg Board of Education is hereafter designated as the School Board.

The School Board operates the Charlotte-Mecklenburg Public School System in Charlotte and Mecklenburg County, North Carolina, political subdivisions of North Carolina. Charlotte, which is the county seat of Mecklenburg County, is inhabited by 239,056 persons who are concentrated within the 64 square miles embraced by its city limits, an area larger than the District of Columbia. Mecklenburg County embraces 550 square miles, has an east-west span of 26 miles, a north-south span of 36 miles, and has a population of 352,006, exclusive of those residing within the area embraced by Charlotte.

In the discharge of its state-assigned duties, the School Board operates 10 high schools, 21 junior high schools, and 72 elementary schools to house and instruct the 84,500 school children residing in Charlotte and Mecklenburg County. Of these school children, 24,000, or 29 percent, are black, and 60,500, or 71 percent, are white. Approximately 95 percent of all the black children who reside within the limits of the City of Charlotte live in predominately black residential sections in northwest Charlotte, and a substantial portion of the other black children in Mecklenburg County reside in predominately black residential areas adjacent to it. (293a-298a).

Prior to *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), the School Board operated the public schools of Charlotte and Mecklenburg County as racially segregated schools in conformity with the interpretation then placed upon the Equal Protection Clause of the Fourteenth Amendment. Subsequent to the *Brown Case* and prior to 1965, the School Board established an effective system of determining admission to its public schools on a non-racial basis. It did this, and thus converted its formerly dual system into a unitary system by establishing non-discriminatory attendance districts or zones, and assigning the school children subject to its jurisdiction to their neighborhood schools irrespective of race.

Inasmuch as some of the attendance districts or zones in rural Mecklenburg County and some of its suburban residential districts or zones in or adjacent to Charlotte are extremely large, the School Board voluntarily established a transportation system for the sole purpose of carrying children residing in these geographically large districts or zones to the nearest available schools. As a consequence, it now uses 280 buses to bus some 23,000 school children to rural and suburban schools. (864a)

In 1965 the plaintiffs brought the instant action against the School Board in the United States Court for the Western District of North Carolina seeking to obtain a compulsory desegregation decree. After hearing the evidence in the case, the District Court found that the School Board had complied with the requirement of the Equal Protection Clause and denied the decree sought by them. *Swann* v. *Charlotte-Mecklenburg Board of Education*, 243 F.Supp. 667 (1965). This ruling was affirmed by the Circuit Court. *Swann* v. *Charlotte-Mecklenburg Board of Education*, 369 F.2d 29 (1966).

B. The plan submitted by the Charlotte-Mecklenburg Board of Education

Subsequent to the decision of *Green* v. *County School Board of New Kent County*, 391 U.S. 430 (1968), the plaintiffs filed a motion in the cause seeking further desegregation. (2a)

Although it found as a fact that the "location of schools in Charlotte has followed the local pattern of residential development, including its de facto patterns of segregation" (305a), and that the School Board members "have achieved a degree and volume of desegregation of schools apparently unsurpassed in these parts and have exceeded the performance of any school boards whose actions have been reviewed in the appellate court decisions" (311a-312a), the District Court resumed hearings in the case on the ground that the *Green Case* had changed "the rules of the game." (312a)

It is to be noted that subsequently the District Court on its own motion reversed its previous findings that any racial imbalance in the Charlotte-Mecklenburg public schools was the result of de facto segregation by asserting that "there is so much State action imbedded in and shaping these events that the resulting segregation is not innocent or 'de facto' and the resulting schools are not 'unitary' or 'desegregated'." (662a) The amicus curiae submits with all due deference that there is no testimony in the record to sustain this particular finding.

Pursuant to the orders entered by the District Court on April 23, 1969 (285a), June 20, 1969 (448a), August 15, 1969 (579a), and December 1, 1969 (698a), the School Board filed desegregation plans (330a, 480a, 670a) which were rejected by the District Court.

Meanwhile on December 2, 1969, the Court appointed Dr. John Finger, a resident of Rhode Island, as a special consultant to devise a desegregation plan for the guidance of the Court, (819a) Dr. Finger had originally entered the case as a partisan witness for the plaintiffs, and for this reason a good case

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can be made for the proposition that he lacked the impartiality which is desirable in one selected for the task of assisting a judge in keeping the scales of justice evenly balanced between adverse litigants. (1279a)

While the District Court orders and the School Board plans mentioned above shed light on the School Board's devotion to the neighborhood school concept, and its reluctance as an elected public body to engage in excessive and expensive busing of school children, the subsequent School Board plan of February 5, 1970, and the subsequent District Court order of February 5, 1970, relating to it really illuminate the issues which now confront the Supreme Court. (726a-748a, 819a–839a).

By this plan, the School Board proposed that attendance districts or zones should be drastically gerrymandered in such a manner as to include as many blacks as possible in each district or zone, and that all school children subject to its jurisdiction should be required to attend the school appropriate to their educational standings in the district or zone of their residence. The plan would have accomplished a racial mixture of school children in all of the 103 schools in the system, except three elementary white schools located in neighborhoods inhabited exclusively by members of the white race. (726a–748a)

The School Board plan contemplated that from 17 percent to 36 percent of the student body in nine of the ten senior high schools in the system would be black; that not more than 38 percent of the student body in 20 of the 21 junior high schools in the system would be black; and that not more than 40 percent of the student body in 60 of the 72 elementary schools in the system would be black.

Under the School Board plan, the remaining high school, Independence High, would be 2 percent black and 98 percent white; the remaining junior high school, Piedmont Junior High, would be 90 percent black and 10 percent white; and all of the 12 remaining elementary schools, except the three white elementary schools, would be 83 percent to 1 percent black. (726a–748a)

The School Board judged it to be impossible to desegregate the three white elementary schools, and to further desegregate the nine predominately black elementary schools by geographic districting or zoning because of the de facto segregation prevailing in the residential areas in which the children assigned to these 12 elementary schools lived. (730a–732a) The District Court made a specific finding in its Supplemental Findings of Fact of March 21, 1970, which establishes the validity of the School Board's conclusion concerning Independence High, Piedmont Junior High, and the 9 predominately black elementary schools, all of which are located in northwest Charlotte or its environs.

The District Court expressly found that "both Dr. Finger and the School Board staff appear to have agreed, and the Court finds as a fact that for the present at least there is no way to desegregate the all-black schools in northwest Charlotte without providing (or continuing to provide) bus or other transportation for thousands of children. All plans and all variation of plans considered for this purpose lead in one fashion or another to that conclusion." (1208a)

The amicus curiae submits that it beggars imagination to conjecture how any plan could have obtained a greater degree of racial integration by gerrymandering attendance districts or zones in a political subdivision where white children outnumber black children 71 to 29, and where most of the black children are concentrated residentially in an area inhabited exclusively by members of their race.

The School Board plan did not stop with proposing such a high degree of racial integration among the student bodies in the schools subject to its jurisdiction. It made these three additional proposals:

1. That the faculty of each school should be assigned in such a manner that the ratio of black teachers to white teachers in each school would be approximately 1 to 3 in accordance with the ratios in the entire faculty of the system (737a);

2. That the School Board should furnish 4,935 additional students in-district or in-zone transportation to the schools in the proposed gerrymandered attendance districts or zones in accordance with the North Carolina law which forbids such transportation within one and one-half mile distances (736a); and

3. That any black child in any school having more than 30 percent of his race in its student body should be allowed to transfer to any school having less than 30 percent of his race; whereas a white child should be permitted to transfer to another school only if the school he is attending has more than 70 percent of his race and the school to which he seeks transfer is less than 70 percent white. (734a–735a)

At the same time, Dr. Finger submitted to the District Court his plan of desegregation which contemplated that the School Board should be required by the Court to deny approximately 23,000 additional children admission to the neighborhood schools in the districts or zones of their residence, and to transport them by bus or otherwise substantial distances in order to produce a greater racial mixture in student bodies. (819a, 825a–827a, 829a–839a, 1198a, 1208a–1214a, 1231a–1234a, 1268a–1269a)

C. The Order of the District Court

On February 5, 1970, the District Court entered an order approving the School Board plan, subject to certain drastic conditions and revisions recommended by Dr. Finger. (819a–839a) By adopting these conditions and revisions, the District Court commanded the School Board to do these things:

1. To deny hundreds of black high school students admission to a nearby high school which would have had a racial composition of 36 percent black and 64 percent white under the School Board plan, and to bus them from their residences in northwest Charlotte through center-city traffic a distance of some 12 or 13 miles to Independence High School, which is located in a white suburban residential area;

2. To deny several thousands of black junior high school students admission to their neighborhood junior high schools in the inner city, and to bus them substantial distances to nine predominately white suburban schools located in other attendance districts or zones; and

3. To deny thousands of black and thousands of white elementary school children admission to 31 elementary schools located within their respective attendance districts or zones, and to bus them distances approximating 15 miles to elementary schools situated in other attendance districts or zones.

The sole purpose of the District Court in ordering the School Board to dislocate and bus the hundreds of black high school students to Independence High School was to make Independence High less white, and the sole purpose of the District Court in ordering the School Board to dislocate and bus several thousands of junior high school students was to reduce the percentage of blacks in Piedmont Junior High from 90 percent to 32 percent. (825a-826a)

The sole purpose of the order of the Court commanding the School Board to dislocate and bus thousands of elementary school children was to alter the racial composition of the student body in 9 predominately black inner-city schools and in 24 predominately white suburban schools. To accomplish this purpose, the District Court commanded the School Board to dislocate and bus thousands of black first, second, third, and fourth grade students from 9 predominately black inner-city schools to 24 predominately white suburban schools, and to dislocate and bus thousands of white fifth and sixth grade students from the 24 predominately white suburban schools to the 9 predominately black inner-city schools. (826a)

The order of the District Court did not stop with these things. It further ordered the School Board to establish and implement a continuing program of assigning students throughout the school year "for the conscious purpose of maintaining each school * * * in a condition of desegregation." (824a)

The record clearly discloses the reasoning which prompted the District Court to seek to achieve the purposes of its order.

Prior to its order of February 5, 1970, namely, on April 24, 1969, the District Court manifested its disapproval of the School Board's adherence to the neighborhood school concept by this statement: "Today people drive as much as 40 or 50 miles to work; 5 to 10 miles to church; several hours to football games; all over the country for civic affairs of various types. The automobile has exploded the old-fashioned neighborhood * * * If this Court were writing the philosophy of education, he would suggest that educators should concentrate on planning schools as educational institutions rather than as neighborhood proprietorships." (306a)

When it entered its order of February 5, 1970, the District Court justified adding the conditions and revisions recommended by Dr. Finger on the ground that the School Board plan "relies almost entirely on geographical attendance zones," while "the Finger plan goes further and produces desegregation of all the schools in the system." (819a)

What has been said makes it manifest that the District Court entertained the opinion that the Equal Protection Clause of the Fourteenth Amendment makes it obligatory for a school board to mix student bodies racially in every school subject to its jurisdiction if children are available for mixing, and that a school board must deny a sufficient number of school children admission to their neighborhood schools and bus them to schools elsewhere either to overcome racial imbalances in their neighborhood schools or in the schools elsewhere, regardless of whether such racial imbalances are produced by arbitrary or invidious discrimination on the part of the school board or simply result from adventitious de facto residential segregation or other cause.

The amicus curiae has not undertaken to state with exactitude the number of additional school children which the District Court ordered the School Board to deny admission to their neighborhood schools and to bus from one school to another or from one school district to another, or the additional cost which the carrying out of the District Court's order in this respect will impose upon the School Board.

This action of the amicus curiae has been deliberate because these matters are in serious dispute between the School Board and the District Court.

When the District Court entered its order of February 5, 1970, and thereby adopted the Finger plan in virtually its entirety, the School Board estimated that the order required it to bus 23,384 additional students an average round trip of 30 miles each school day, and that to do this the School Board would have to acquire 526 additional buses and additional parking spaces at an original capital outlay of $3,284,448.94; and thereafter expend each year an additional $1,065,391.98 in employing additional personnel and defraying other operating costs. (853a, 866a)

On March 3, 1970, the District Court modified its order of February 5, 1970. (921a) The School Board then calculated that the order as modified will require it to transport 19,285 additional students and to purchase for such purpose 422 additional buses and additional parking spaces at an original capital outlay of $2,369,100.00; and thereafter to expend each year for additional personnel and operating expenses of such buses $284,000.00. (1269a–1270a)

The Court estimated that the execution of its order as modified would require the School Board to bus 13,300 additional students and to purchase for use 138 additional buses at an original capital outlay of $745,200.00; and to expend thereafter annually $266,000.00 for operating costs of such additional buses, exclusive of what it will have to expend to compensate any additional personnel necessary for their operation. (1259a–1261a, 1269a)

The Court arrived at its figures by suggesting that the School Board could reduce its estimate of the expenses incident to busing the thousands of children affected by its order by drastically staggering school openings and closings. The School Board replied to this suggestion by asseritng that the suggested staggering of school openings and closings would require some children to leave home as early as 6:30 a.m. and prevent some of them from returning home before 5:00 p.m. (864a–865a)

D. The Judgment of the United States Court of Appeals for the Fourth Circuit

At the instance of the School Board, the United States Court of Appeals for the Fourth Circuit reviewed the orders of the District Court. On May 26, 1970, the Circuit Court rendered its judgment affirming the orders of the District Court insofar as they related to the assignment and busing of senior high school and junior high school students, and remanding to the District Court for further consideration the provisions of the District Court relating to the assignment and busing of elementary school students. (1262a–1304a)

In making this remand, the Circuit Court adjudged that "not every school in a unitary system need be integrated," and adopted a "test of reasonableness—instead of one that calls for absolutes." (1267a)

The writ of certiorari granted to the School Board presents for review the validity of the Circuit Court ruling approving the orders of the District Court relating to the assignment and busing of senior high school and junior high school students and the writ of certiorari granted to the original plaintiffs presents for review the question of the validity of the ruling of the Circuit Court vacating the order of the District Court relating to the assignment and busing of elementary school students.

Subsequent to these events, namely, on August 3, 1970, the District Court reinstated and reaffirmed its order of February 5, 1970, in respect to the assignment and busing of the elementary school students. (1320a) While the validity of this particular order may not be before the Supreme Court, the question which it raises is involved in the matter to be reviewed under the writ granted to James E. Swann and those associated with him in this litigation.

The amicus curiae understands that the School Board has filed an yet unprinted motion with the Supreme Court for a stay of the order entered by the District Court on August 3, 1970, after the hearing of the case in the Circuit Court.

SUMMARY OF AGREEMENT

In the final analysis, the questions presented for review in this case do not arise out of any real controversy in respect to the testimony. They arise out of a fundamental disagreement between the School Board, on the one hand, and the District Court and some of the Circuit Court Judges, on the other, with respect to how the Equal Protection Clause applies to the assignment of students to public schools.

The view of the School Board may be epitomized in this fashion:

The Equal Protection Clause applies only to State action which is arbitrary or invidious, and, hence, it leaves a public school board, acting as a State agency, entirely free to assign students to its schools by any method satisfactory to itself if such method is not arbitrary or invidious. A public school board acts arbitrarily or invidiously if it assigns students to its schools for racial reasons, but a public school board does not act arbitrarily or invidiously if it assigns students to its schools for non-racial reasons, such as the promotion of the efficiency of school administration, the economy of school administration, or the convenience of the students or their parents. This being true, the Equal Protection Clause does not impair in any way the power of a public school board to create fairly drawn geographic attendance districts or zones, and to assign all students without regard to their race to neighborhood schools in the respective districts or zones in which they reside even though such action may result in some racial imbalances in the schools serving areas predominantely inhabited by members of one race.

The view of the District Court and some of the Circuit Court Judges may be summarized in this way:

It is highly desirable from an educational viewpoint to mix students in public schools racially in the highest possible degree. Hence, the Equal Protection Clause imposes upon a public school board the positive duty to balance racially all the schools it operates if black and white children are available for this purpose; and to deny school children admission to their neighborhood schools and bus them to other schools in other areas, no matter how distant, in sufficient numbers to effect such racial balancing.

The School Board refutes this proposition by saying that the Equal Protection Clause does not require action which may be desirable; it merely prohibits action which is arbitrary or invidious.

When it is stripped of irrelevancies and surmises, the record discloses a surprisingly simple state of facts which are relatively free of conflict insofar as they relate to the crucial issues.

After the first *Brown Case,* 347 U.S. 483 (1954), the School Board converted its previously dual system of schools into a unitary system of schools within which no child was excluded because of the child's race. The School Board did this by a geographic assignment plan applicable in like manner to all children without regard to their race. Its action in this regard was adjudged to be in compliance with the Equal Protection Clause by both the District Court and the Court of Appeals.

Subsequent to the *Green Case,* 391 U.S. 430 (1968), the District Court ordered the School Board to submit another plan for the desegregation of its schools. Pursuant to this order, the School Board proposed a plan which was reasonably designed to secure the maximum amount of racial mixture obtainable in the student bodies in its schools without abandonment of the neighborhood school concept by restructuring its geographic attendance districts or zones, and assigning all of the children subject to its jurisdiction without regard to their race to their respective neighborhood schools in the districts or zones in which they reside.

The Court rejected the School Board plan simply because it did not racially balance one senior high school out of the system's ten senior high schools, one junior high out of the system's 21 junior high schools, and nine predominately black and three predominately white elementary schools out of the system's 72 elementary schools.

Instead of approving the reasonable plan submitted by the School Board, the District Court, in essence, adopted the Finger Plan which requires the School Board to deny thousands of children admission to their neighborhood schools, and to bus them to other schools in other areas merely to eliminate the racial imbalances in these particular schools. The School Board insists that the action of the District Court was not only inconsistent with the Equal Protection Clause, but violates Title IV of the Civil Rights Act of 1964, and that the Circuit Court erred insofar as it approved the action of the District Court.

ARGUMENT

I

"The Charlotte-Mecklenburg Board of Education has complied with the Equal Protection Clause of the Fourteenth Amendment and the Supreme Court decisions interpreting it by establishing and operating a unitary public school system, which receives and teaches students without discrimination on the basis of their race or color. Any racial imbalance remaining in any of the schools under the jurisdiction of the Board represents de facto segregation, which results from the purely adventitious circumstances that the inhabitants of particular areas in and adjacent to the city of Charlotte are predominantly of one race."

The Equal Protection Clause of the Fourteenth Amendment, which was certified to be a part of the Constitution on July 28, 1868, forbids a state to "deny to any person within its jurisdiction the equal protection of the laws."

By these words, the Equal Protection Clause requires a state to treat in like manner all persons similarly situated. *State Board of Tax Commissioners of Indiana v. Jackson,* 283 U.S .527 (1931); *Maxwell v. Bugbee,* 250 U.S. 525 (1919). The clause does not require identity of treatment. *Walters v. St. Louis,* 347 U.S. 231 (1934). It permits a state to make distinctions between persons subject to its jurisdiction if the distinctions are based on some reasonable classification, and all persons embraced within the classification are treated alike. It merely outlaws arbitrary or invidious discrimination. *Avery v. Midland County,* 390 U.S. 474 (1968); *Missouri Pacific Railway Co. v. Mackey,* 127 U.S. 205 (1888).

From July 28, 1868, until May 17, 1954, the Equal Protection Clause of the Fourteenth Amendment was interpreted to sanction the "separate but equal doctrine," which permitted a state to segregate school children in its public schools on the basis of race when it furnished equal facilities for the education of the children of each race. *Gong Lum v. Rice,* 275 U.S. 78 (1927); *Cumming v. Richmond County Board of Education,* 175 U.S. 528 (1899); *Plessy v. Ferguson,* 163 U.S. 537 (1896).

On May 17, 1954, the Supreme Court handed down its historic decision in *Brown v. Board of Education of Topeka,* 347 U.S. 483 (1954), adjudging "that in the field of public education the doctrine of 'separate but equal' has no place" and holding that a state violates the Equal Protection Clause if it denies any child admission to any of its public schools on account of the child's race.

On the same day the Supreme Court handed down *Bolling v. Sharpe,* 347 U.S. 497 (1954), ruling that the Due Process Clause of the Fifth Amendment imposes the same inhibition on the public schools of the District of Columbia that the Equal Protection Clause does on the public schools of a state, and one year later the Supreme Court announced its implementing decision in second *Brown,* which is reported as *Brown v. Board of Education of Topeka,* 348 U.S. 294 (1955).

Since these decisions the Supreme Court has applied the Equal Protection Clause to varying factual situations arising in various Southern public school districts in the following cases: *Cooper v. Aaron,* 358 U.S. 1, 20

XUM

(1958); *Shuttlesworth v. Birmingham Board of Education*, 358 U.S. 101 (1958); *Bush v. Orleans Parish School Board*, 364 U.S. 500 (1960); *Watson v. City of Memphis*, 373 U.S. 526 (1963); *Goss v. Board of Education of Knoxville*, 373 U.S. 683 (1963); *Griffin v. County School Board of Prince Edward County*, 377 U.S. 218 (1964); *Bradley v. School Board of City of Richmond*, 382 U.S. 103 (1965); *Rogers v. Paul*, 382 U.S. 198 (1965); *Green v. County School Board of New Kent County*, 391 U.S. 430 (1968); *Raney v. Board of Education of the Gould School District*, 391 U.S. 443 (1968); *Monroe v. Board of Commissioners of the City of Jackson*, 391 U.S. 450 (1968); *United States v. Montgomery County Board of Education*, 395 U.S. 225 (1969); *Alexander v. Holmes County Board of Educaton*, 396 U.S. 19 (1969); *Dowell v. Board of Education of the Oklahoma City Public Schools*, 396 U.S. 269 (1969); *Carter v. West Felicana Parish School Board*, 396 U.S. 226 (1969); *Carter v. West Felicana Parish School Board*, 396 U.S. 290 (1970); and *Northcross v. Board of Education of the Memphis City Schools*, 397 U.S. 232 (1970).

Besides, individual Supreme Court Justices, acting as Circuit Justices, have expressed opinions on the subject in these cases: *Board of School Commissioners of Mobile County v. Davis*, 11 L. ed. 2d 26 (1963); *Keyes v. School District No. 1, Denver*, 396 U.S. 1215 (1970); and *Alexander v. Holmes County Board of Education*, 396 U.S. 1218 (1969).

The record in the instant case embraces hundreds of pages of evidence, orders, and judgments, and for that reason, the case lends itself to much writing. But the issues arising in the case are simple, and it would complicate that simplicity to analyze the cited decisions in detail. In their ultimate analysis, they interpret the Equal Protection Clause as follows:

1. The Equal Protection Clause makes it unconstitutional for a state to deny any child admission to any public school it operates on account of the child's race.

2. In consequence, the Equal Protection Clause imposes upon a State, acting through its appropriate agencies, the responsibility to establish a system of determining admission to its public schools on a non-racial basis.

3. A state, which operated a racially segregated system of public schools on May 17, 1954, fulfills this responsibility by converting its dual public school system into a unitary public school system.

4. A unitary public school system is one "within which no person is to be effectively excluded from any school because of race or color."

When the Equal Protection Clause as thus interpreted is applied to the facts in this case, it is obvious that the School Board has fully converted its *Pre-Brown* dual school system into a unitary school system within which no child is actually excluded from any school because of race or color. The School Board has done this by creating non-discriminatory attendance districts or zones and assigning all children, black and white, to neighborhood schools in the district or zone in which they reside without regard to their race.

These conclusions are explicit in the rulings made by the District Court and the Circuit Court in 1965 and 1966. *Swann v. Charlotte-Mecklenburg Board of Education*, 243 F.Supp. 667 (1965), *Swan* v. *Charlotte-Mecklenburg Board of Education*, 369 F.2d (1966). They are implicit in the findings made by the District Court in its order of April 23, 1969, that the School Board had "achieved a degree of desegregation of schools apparently unsurpassed in these parts" and had "exceeded the performance of any school board whose actions have been reviewed in the appellate court decisions," (311a–312a) and that the Schools of Charlotte, in essence, conform to de facto patterns of residential segregation. (305a)

To be sure, the District Court, acting *sua sponte*, undertook to recall these findings in its Memorandum Opinion of November 7, 1969, and to assert that racial imbalances in the Schools of Charlotte are "not innocent or *de facto*." (662a)

The amicus curiae submits in all earnestness that there is no evidence in the record to sustain the District Court's assertion in this respect. Be this as it may, the Supreme Court is empowered in cases of an equitable nature and cases involving constitutional questions to review the evidence and make its own findings. If it follows this course in this case, the Supreme Court will be impelled to the conclusion that there is not a vestige of state-imposed segregation in the Charlotte-Mecklenburg School System.

Besides, the District Court's assertion that racial imbalances in the schools of Charlotte are "not innocent or *de facto*" is totally repudiated by its subsequent finding that there is no way to desegregate the black schools in northwest Charlotte without transporting thousands of children by bus or other means. (1208a)

When all is said, the School Board went far beyond the call of any duty imposed upon it by the Equal Protection Clause when it proposed in its plan of February 2, 1970, to gerrymander attendance districts or zones in order to achieve the highest degree of desegregation obtainable without virtual abandonment of the neighborhood school concept. The amicus curiae expresses no opinion as to whether this proposal is repugnant to the constitutional or legal rights of any child.

II

"The Equal Protection Clause of the Fourteenth Amendment does not require or empower a Federal Court to order a public school board to assign children to the schools it operates merely to balance the student bodies in such schools racially, or to bus children outside reasonable geographic attendance districts or zones to effect such purpose. The District Court ordered the Charlotte-Mecklenburg School Board to do both of these things, and the Circuit Court erred insofar as it affirmed the District Court order."

The facts make it clear that the order entered by the District Court on February 5, 1970, requires racial balancing in the Charlotte-Mecklenburg School System and the busing of thousands of children outside their geographic attendance districts or zones to effect such balancing.

Indeed, the District Court virtually admits this to be true by setting forth in its Supplemental Findings of Fact of March 21, 1970, a specific finding that there is no other way to desegregate the black schools in northwest Charlotte. (1208a)

Upon the entire record, the conclusion is inescapable that the District Court fell into error because it honestly believed that the Equal Protection Clause and certain decisions interpreting it impose upon a public school board an absolute duty to do these things:

1. To balance racially to the highest degree possible all the schools subject to its control if black and white children are available for that purpose anywhere within the territory subject to its jurisdiction, no matter how vast such territory may be; and

2. To effect such racial balancing by denying both black and white children admission to their neighborhood schools and busing them to other schools in other areas in sufficient numbers to overcome racial imbalances either in their neighborhood schools or in the other schools, regardless of whether the racial imbalances result from de facto residential segregation or other cause, and regardless of these other factors: the distances the children are to be bused, the time required for their busing, the impact of their exclusion from their neighborhood schools and their busing upon their minds and hearts, the effect of thees things upon the management of the homes which must nurture them, the traffic hazards involved, and the additional expense foisted upon heavily burdened taxpayers.

There is no other rational explanation for the court order which disrupts the lives of thousands of school children and the management of the thousands of homes from which they come, and diverts tremendous sums of tax-raised moneys from the enlightenment of their minds to the busing of their bodies.

The Equal Protection Clause does not require any court to enter any such order. It does not empower any court to enter any such order. Indeed, it forbids any court to do so.

As interpreted in the first *Brown Case*, 347 U.S. 483 (1954), and all subsequent Supreme Court decisions relevant to the subject, the Equal Protection Clause forbids a public school board, which acts as a state agency, to deny any child admission to any school it operates on account of the child's race. A public school board obeys the Clause by maintaining a unitary school system, i.e., a school system "within which no person is to be effectively excluded from any school because of race or color." *Northcross* v. *Board of Education of the Memphis City Schools*, 397 U.S. 232 (1970); *Alexander* v. *Holmes County Board of Education*, 396 U.S. 19 (1969). See also the opinion of Mr. Justice Black, acting as Circuit Justice, in *Alexander* v. *Holmes County Board of Education*, 396 U.S. 1218 (1969).

The power to assign children to state supported schools belongs to the public school board which operates them. The Equal Protection Clause does not undertake to transfer this power to the Federal Courts. It merely subjects the exercise of the power by the public school board to this limitation: The board must not exclude any child from any school it operates because of the child's race.

If it faithfully observes this limitation upon its power, a public school board has the right to assign children to the schools it operates in any non-discriminatory fashion satisfactory to itself.

The School Board exercised this right when it created nondiscriminatory attendance districts or zones and assigned all children, whether black or white, to neighborhood schools in the districts or zones of their residence without regard to race.

Since the children are similarly situated and the School Board treats them exactly alike, its action is in complete harmony with the Equal Protection Clause. It accords, moreover, with the implementing decision in the second *Brown Case*, 349 U.S. 294 (1955), which expressly recognizes that a school board may employ non-discriminatory geographic zoning of school districts "to achieve a system of determining admission to the public schools on a nonracial basis."

As is true in respect to virtually every city of any size in our land, the different races are concentrated to a substantial degree in separate residential areas in Charlotte, and for this reason the School Board's non-discriminatory geographic zoning and assignment program necessarily results in some racial imbalances in some schools.

Notwithstanding this, the order of the District Court commanding the School Board to exclude thousands of children from their neighborhood schools and to bus them long distances to other schools to overcome these racial imbalances is without support in the Equal Protection Clause.

This is true for an exceedingly plain reason. The Equal Protection Clause does not prohibit any discrimination except that which is arbitrary or invidious.

It inevitably follows that where school attendance areas are not arbitrarily or invidiously fixed so as to include or exclude children of a particular race, the Equal Pro-

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tection Clause does not prohibit a state or local school board from requiring that the children living in each attendance area attend the school in that area, even though the effect of such a requirement, in a locality where the different races are concentrated in separate residential areas, is racial imbalance or de facto segregation in the schools.

The conclusion that the Equal Protection Clause does not impose upon a public school board any mandate to remove any racial imbalance in its schools occasioned by de facto residential segregation or non-discriminatory geographic assignments is expressly supported in *Bell* v. *School City of Gary, Ind.* (7 CA–1963), 324 F.2d 209, and *Downs v. Board of Education of Kansas City, Kansas* (10 CA–1964), 336 F.2d 998. Moreover, it is compelled by first *Brown*, 347 U.S. 483 (1954), and all the subsequent Supreme Court cases applying its holding, as well as by the language of the Equal Protection Clause itself.[1]

Despite the fact that the Charlotte-Mecklenburg School System is in the South, racial imbalances produced in its schools by de facto residential segregation are just as innocent as racial imbalances produced in the public schools of the North by the same cause, and are equally exempt from federal interference, whether legislative, executive, or judicial, under the Equal Protection Clause, which, as already pointed out, condemns no discrimination except that which is arbitrary or invidious.

The amicus curiae is confident that the Supreme Court will so adjudge. Indeed, it must do so if the United States is truly one nation under one flag and one Constitution.

It no longer comports with intellectual integrity to call all racial imbalances in the public schools of the South de jure, and all racial imbalances in the pubic schools of the North de facto.

There is now no de jure school segregation anywhere in our land. Racial imbalances in public schools are either arbitrary or invidious and, hence, constitutionally impermissible, both North and South, or innocent and, hence, constitutionally permissible, both North and South. Racial imbalances resulting from de facto residential segregation or non-discriminatory districting or zoning, whether in the North or in the South, are clearly innocent and constitutionally permissible.

Moreover, it no longer comports with reality, common sense, or justice to apply one rule to the North and another to the South because the South did not precede the Supreme Court in discovering that the "separate, but equal doctrine" had ceased to be the law of the land.

III

"The Fifth Section of the Fourteenth Amendment Empowers Congress to Enforce the Equal Protection Clause by Appropriate Legislation, the First Section of Article III of the Constitution Empowers Congress to Regulate the Jurisdiction of United States District Courts and United States Circuit Courts of Appeals, and the Second Section of Article III of the Constitution Empowers Congress to Regulate the Appellate Jurisdiction of the Supreme Court. Congress Exercised all of These Powers in an Appropriate Fashion When it Enacted Title IV of the Civil Rights Act of 1964, Which Prohibits the Assignment of Students to Public Schools to Balance the Student Bodies in Such Schools Racially, and to bus Them From Some Schools to Other Schools, or From Some School Districts to Other School Districts to Effect Such Purpose. The Act's Prohibition on Busing is Absolute and Deprives Federal Courts of Jurisdiction to Compel School Boards to Bus Students to Overcome Racial Imbalances in Schools, Even if Such Imbalances Result From Discriminatory School Board Action. The District Court Order Violated This Act by Commanding the Charlotte-Mecklenburg School Board to do the Things Prohibited by it, and the Circuit Court Joined in Such Violation Insofar as it Affirmed the District Court Order."

The Equal Protection Clause is limited in objective and operation. It imposes this duty and this duty only on a state, i.e., to treat in like manner all persons similarly situated.

In consequence, it forbids a public school board, acting as a state agency, to exclude any child from any school because of the child's race.

Further than that it does not go. It does not rob any public school board of its inherent authority to assign children of any race to their neighborhood school if the school board acts for reasons other than racial reasons, such as a purpose to promote ease of school administration, convenience of the children and the homes from which they come, or economy of operation.

Hence, it does not empower federal courts to deny children of any race admission to their neighborhood schools and to bus them to other schools in other areas to remedy racial imbalances in their neighborhood schools or the other schools arising out of the residential patterns of their neighborhoods or of the other areas.

And, above all things, the Equal Protection Clause does not intend that little children, black or white, shall be treated as pawns on a bureaucratic or judicial chess board.

When it enacted Title IV of the Civil Rights Act of 1964 to enforce the Equal Protection Clause, Congress recognized the validity of these observations concerning the meaning of the Equal Protection Clause. Moreover, it was not oblivious to the inescapable reality that the different races are concentrated to substantial degrees in separate residential areas throughout the nation, and that it would be virtually impossible to keep the public schools of the country racially balanced, even if the Equal Protection Clause did not prohibit such action.

For these reasons, Congress vested in the Commissioner of Education, the Attorney General, and the Federal Courts certain responsibilities regarding what it called the desegregation of public education, but limited the powers of the Commissioner of Education and the Attorney General, and the jurisdiction of the Federal Courts to keep them within constitutional bounds.

Congress was authorized to do these things by the Fifth Section of the Fourteenth Amendment, which expressly empowers Congress to "enforce, by appropriate legislation" the Equal Protection Clause; the First Section of Article III of the Constitution, which authorizes Congress to prescribe the jurisdiction of the inferior courts created by it, *Chisholm v. Georgia*, 2 Dall. (U.S.) 419, 432 (1793); *Turney v. Bank of North America*, 4 Dall. (U.S.) 8 (1799); *Ex Parte Bollman*, 4 Cranch (U.S.) 75, 93 (1807); *Cary v. Curtis*, 3 How. (U.S.) 236, 245 (1845); *Sheldon v. Still* 8 How. (U.S.) 441 (1850); *Kline v. Burke Construction Co.*, 260 U.S. 226, 234 (1922); *Lauf v. E. G. Skinner & Co.*, 303 U.S. 323, 330 (1938); *Lockerty v. Phillips*, 319 U.S. 182 (1943); and *Yankus v. United States*, 321 U.S. 414 (1944); and the Second Section of Article III of the Constitution, which vests Congress with legal power to regulate the appellate jurisdiction of the Supreme Court, *Wiscart v. D'Auchy*, 3 Dall. (U.S. 321, (1796); *Durousseau v. United States*, 6 Cranch 309 (1810); *Barry v. Mercein*, 5 How. (U.S.) 103, 119 (1847); *Daniels v. Railroad Co.*, 3 Wall. (U.S.) 250, 254 (1866); *Ex Parte McCardle*, 6 Wall. (U.S.) 318 (1868); *The Francis Wright*, 105 U.S. 381, 386 (1882); *Kuntz v. Moffitt*, 115 U.S. 487, 497 (1885); *Cross v. Burke*, 146 U.S. 82, 86 (1892); *Missouri v. Pacific Railway Co.*, 292 U.S. 13, 15 (1934); and *Stephan v. United States*, 319 U.S. 423, 426 (1943).

The conclusion that Title I of the Civil Rights Act of 1964 is designed to enforce the Supreme Court rulings that the Equal Protection Clause forbids a school board, acting as a state agency, to deny any child admission to any school it operates because of the child's race is vindicated by the legislative history of the Act, as well as by its language.

During the course of the debate on the bill which became the Civil Rights Act of 1964, Senator Byrd of West Virginia addressed this question to Senator Humphrey, the floor manager of the bill, and received this reply from Senator Humphrey:

"Mr. BYRD, of West Virginia. Can the Senator from Minnesota assure the Senator from West Virginia that under Title VI school children may not be bused from one end of the community to another end of the community at the taxpayers' expense to relieve so-called racial imbalance in the schools?"[2]

"Mr. HUMPHREY. I do."[3]

Senator Humphrey made these further statements relating to the purposes of the bill:

"Mr. HUMPHREY. Mr. President, the Constitution declares segregation by law to be unconstitutional, but it does not require integration in all situations. I believe this point has been made very well in the courts, and I understand that other Senators will cite the particular cases.

"I shall quote from the case of Bell against School City of Gary, Ind., in which the Federal court of appeals cited the following language from a special three judge district court in Kansas: 'Desegregation does not mean that there must be intermingling of the races in all school districts. It means only that they may not be prevented from intermingling or going to school together because of race or color.' *Brown v. Board of Education*, D. C. 139 F. Supp. 468, 470.

"In *Briggs* v. *Elliott* (EDSC), 132, Supp. 776, 777, the Court said: 'The Constitution, in other words, does not require integration. It merely forbids discrimination.' In other words, an overt act by law which demands segregation is unconstitutional. That was the ruling of the historic *Brown* case of 1954."[4]

The language of the Act discloses this twofold Congressional intent:

1. To enforce the Supreme Court rulings that the Equal Protection Clause prohibits the State from denying to any child admission to any school it operates because of the child's race; and

2. To keep overzealous bureaucrats and federal judges from straying beyond constitutional limits in cases involving the desegregation of public schools.

Since no action of his is involved in this case, the amicus curiae pretermits discussion of the provisions of the Civil Rights Act of 1964 relating to the Commissioner of Education.

In phrasing the Act, Congress uses the terms "desegregation" and "discrimination" interchangeably to express the concept made familiar by the prevalent use of the word "discrimination" to mean state action deny-

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[1] While such action may not be customary in briefs, the amicus curiae wishes to note that this conclusion is supported by the text writer in 15 Am. Jur. 2d, Civil Rights, Section 39, Page 433, and by one of the most recent commentaries on the Constitution of the United States, i.e., Bernard Schwartz's "Rights of the Person," Volume II, Section 501, Page 593–596.

[2] Senator Byrd was evidently referring to Title IV, instead of Title VI.

[3] Congressional Record, Volume 110, Part 10, Page 12,714, June 4, 1964.

[4] Congressional Record, Volume 110, Part 10, Page 13,821, June 15, 1964.

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ing persons admission to public colleges or public schools because of their race.

This observation is made indisputable by Section 401(b) which expressly declares that "desegregation" merely means "the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin"; Section 407(a)(1) and (2) which refer to children who "are being deprived by a school board of the equal protection of the laws" and individuals who have "been denied admission" to a public college or permission "to continue at a public college by reasons of race, color, religion, or national origin"; Section 409 which directs its attention to "discrimination in public education"; and Section 410 which stipulates that "nothing in this title shall prohibit classification and assignment for reasons other than race, color, religion, or national origin."

There is not a single syllable in Title IV of the Civil Rights Act of 1964 giving any support to a different interpretation.

Section 401(b) merits further consideration because it specifies not only what Congress means by the term "desegregation," but also what Congress does not mean by that term.

Section 401(b) consists of two clauses. The first clause provides that "desegregation" as used in Title IV "means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin," and the second clause provides that "desegregation" as used in Title IV "shall not mean the assignment of students to public schools in order to overcome racial imbalance."

As a law made by Congress, Title IV is binding on federal judges, and defines their jurisdiction in respect to public schools operated by public school boards acting as state agencies.

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The first clause of Section 401(b) commands school boards to ignore race, color, religion, and national origin as factors in assigning students to public schools. Since federal judges have no power to add anything to the laws they enforce, this clause merely confers upon federal judges the limited jurisdiction to enforce its command by decrees which prevent recalcitrant school boards from denying otherwise eligible children admission to schools on account of their race, color, religion, or national origin.

Since federal judges do not have power to subtract anything from laws they enforce, the second clause of Section 401(b) denies to federal judges jurisdiction to compel school boards to assign "students to public schools in order to overcome racial imbalance." By this clause, Congress forbids federal judges to make decrees compelling school boards to take affirmative steps to commingle black and white children in public schools in proportions satisfactory to themselves to remedy racial imbalances occasioned by de facto residential segregation or non-discriminatory action on the part of school boards.

This interpretation of Section 401(b) is completely confirmed by Section 407, 409, and 410 of Title IV.

Before the enactment of Title IV of the Civil Rights Act of 1964, only the individuals aggrieved thereby had legal standing to make complaint in federal courts concerning state-imposed segregation in public education. They were restricted to seeking relief for themselves and their children and other persons similarly situated. They did not have the right to demand that federal courts should substitute federally coerced integration for state-imposed segregation.

When it drafted Title IV, Congress decided to extend to the Attorney General standing to sue for "such relief as may be appropriate" in behalf of two groups of people if he believes their complaints to be "meritorious" and concludes that they are "unable * * * to initiate and maintain appropriate legal proceedings for" their own "relief." These groups of people are described, in essence, as children who "are being deprived by a school board of the equal protection of the laws" and individuals who have been "denied admission" to a public college or "permission to continue in attendance at a public college by reason of race, color, religion or national origin." To this end, Congress inserted Section 407(a) in Title IV.

At the same time, however, Congress decided to preserve intact the existing rights of individuals to sue in their own behalf for relief against state-imposed segregation. To accomplish this purpose, Congress stipulated in Section 409 that nothing in Title IV "shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education."

Congress was determined, however, not to increase the powers of federal judges when it gave the Attorney General standing to seek relief against discrimination in public education in behalf of the aggrieved persons designated in Section 409(a). Moreover, Congress was equally as determined that federal judges should not have jurisdiction to compel school boards to deny children admission to their neighborhood schools and transport them hither and yon to achieve racial balances in public schools, regardless of whether the racial imbalances sought to be removed to accomplish such purpose arise out of innocent causes or discriminatory action on the part of school boards.

Congress made these purposes manifest by inserting in Section 409(a) language expressly providing "that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards."

By so doing, Congress deprived all federal courts of the jurisdiction to order public school boards to bus children from one school to another or from one school district to another to remedy racial imbalances in public schools regardless of whether such imbalances arise out of innocent causes or discriminatory school board action. As appears from the cases which the amicus curiae has previously cited, Congress has undoubted power to do this under the First Section of Article III of the Constitution, which empowers it to define the jurisdiction of inferior federal courts, and under the Second Section of Article III of the Constitution, which expressly provides that "the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make."

It necessarily follows that the District Court violated the provisions of the Civil Rights Act of 1964 when it ordered the Charlotte-Mecklenburg School Board to bus thousands of children from some schools to other schools and from some school districts to other school districts to overcome racial imbalances in any of its schools regardless of the origin of such racial imbalances; and that the Circuit Court erred in affirming the provisions of the District Court order relating to the transportation of senior high school and junior high school students.

While such statutes apply to the Executive Department of the Federal Government only, and for that reason are not controlling in this case, it seems not amiss to direct the attention of the Supreme Court to congressional hostility to the busing of children to achieve racial balancing in public schools. Congress manifested its hostility to such action by the Eelemenary and Secondary Education Act of 1965, as amended in 1966, which forbids "any department, agency, officer, or employee of the United States * * * to require the assignment or transportation of students or teachers in order to overcome racial imbalance," (P.L. 89–10, Title VIII, Section 804; 20 U.S.C. Section 884); the Department of Labor, and Health, Education, and Welfare Appropriation Act of 1969, which provides that "no part of the funds contained in this Act shall be used to force busing of students * * * in order to overcome racial imbalance as a condition precedent to obtaining Federal funds otherwise available to any State, school district, or school", (P.L. 90–557, Title IV, Sec. 410); and the Office of Education Appropriation Act of 1971, which provides that "no part of the funds contained in this Act shall be used to force any school or school district which is desegregated as that term is defined in Title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students" (P.L. 91–380, Title II, Section 210).

IV

"A School Board has the Power to Devise and Implement any Non-discriminatory Plan for the Assignment of Children to the Public Schools it Operates. The District Court not Only Rejected a Non-discriminatory Assignment Plan Submitted by the Charlotte-Mecklenburg School Board, but it Usurped and Exercised the Authority of the School Board in this Respect by Devising a Plan of its Own Which Commands the School Board to Deny Thousands of Children Admission to Their Neighborhood Schools, and to bus Them to Other Schools to Mix the Races in the Various Schools in Numbers or Proportions Satisfactory to the District Court. By so Doing, the District Court Ordered the School Board to Deny to the Thousands of Children Affected by its Order Admission to Their Neighborhood Schools in Violation of the Equal Protection Clause, and to Bus Them to Other Schools or Other School Districts in Violation of Section 407(a)(2) of the Civil Rights Act of 1964. The Circuit Court Concurred in These Violations, and Erred Insofar as it Affirmed the Order of the District Court."

A school board, acting as a state agency, has the power to assign children to the public schools it operates free from interference by the Federal Judiciary as long as it obeys the Equal Protection Clause and does not exclude any child from any school because of the child's race.

When a school board violates the Equal Protection Clause, a Federal Court has jurisdiction to order the school board to devise and implement a plan sufficient to remedy its discriminatory assignment of children to its schools, and to punish the members of the school board for contempt of court if they fail to obey the order. Nevertheless, the power to devise and implement a plan to remedy the discriminatory assignment continues to reside in the school board, and the Federal Court is without power to reject a non-discriminatory plan submitted by the school board because such non-discriminatory plan will not mix the races in the schools in numbers or proportions satisfactory to the Federal Court.

Besides the Federal Court cannot usurp and exercise the power of the School Board to devise a non-discriminatory assignment plan because the Federal Court wishes to mix the races in the schools in greater numbers or proportions than the non-discriminatory plan of the School Board envisages.

The District Court violated all of these principles when it made its order of February 5, 1970 (819a–839a), its supplemental findings of fact of March 21, 1970 (1198a–1220a), and its supplemental memorandum of March 21, 1970 (1221a–1238a).

Pursuant to the order which the District Court had entered on December 1, 1969, the

Charlotte-Mecklenburg School Board submitted to the District Court on February 2, 1970 its plan for desegregation of schools (726a–742a). By this plan the School Board undertook to restructure its geographical attendance districts or zones in such a manner as to promote the highest degree of racial integration obtainable by geographical districting or zoning, and to assign all school children, black or white, to the neighborhood schools in the district or zone of their residence, regardless of race. The plan undertook to further augment desegregation by a transfer system heavily weighted in favor of permitting black children to transfer from predominantly black schools to predominately white schools.

Inasmuch as it treated all children similarly situated exactly alike and did not exclude any child from any school on account of the child's race, the plan submitted by the School Board on February 2, 1970, was in complete harmony with the Equal Protection Clause and it was obligatory for this reason for the District Court to approve it and permit the School Board to implement it.

Instead of doing so, the District Court rejected the nondiscriminatory plan submitted by the School Board, and usurped and exercised the power vested in the School Board by adopting a plan of its own. The District Court accomplished this purpose by engrafting upon the plans of the School Board drastic alterations and revisions recommended by Dr. Finger, which commanded the School Board to deny thousands of children admission to their neighborhood schools, and to bus them long distances from some schools to other schools, and from some school districts or zones to other school districts or zones.

When all is said, the District Court commanded the School Board to take this action to remedy racial imbalances in black schools in northwest Charlotte arising out of de facto residential segregation in that area, and to produce racial commingling in these schools of northwest Charlotte and other schools in other areas in numbers or proportions greater than those envisaged by the plan of the School Board.

The District Court virtually confesses that its order was designed to effect these purposes by this recital which appears in its supplemental findings of fact of March 21, 1970:

"Both Dr. Finger and the school board staff appear to have agreed, and the court finds as a fact, that for the present at least, there is no way to desegregate the all-black schools in Northwest Charlotte without providing (or continuing to provide) bus or other transportation for thousands of children. All plans and all variations of plans considered for this purpose lead in one fashion or another to that conclusion." (1208a)

In addition to usurping and exercising power vested by law in the School Board, the District Court order commands the School Board to violate rights vested in thousands of school children by the Equal Protection Clause and the Civil Rights Act of 1964.

Since the power to assign children to public schools belongs to the school board administering such schools, no child has the constitutional or legal right in the first instance to attend any particular school, but when a school board adopts a non-discriminatory system for assigning children to neighborhood schools in the attendance district or zone of their residence, children acquire, as against every governmental agency except the school board, the legal right to attend the schools to which they have been so assigned. This right is additional to their right not to be excluded from such schools because of their race.

By its previous practices and its plan of February 2, 1970, the School Board had assigned thousands of senior high school, junior high school, and elementary school children to their neighborhood schools in a wholly non-discriminatory fashion.

By its order of February 5, 1970, the District Court commanded the School Board to do two things which clearly offend the Equal Protection Clause. In the first place, the District Court commanded the School Board to treat differently children similarly situated by allowing thousands of children to attend their neighborhood schools, and by excluding thousands of other children from admission to their neighborhood schools; and in the second place, the District Court commanded the School Board to bus the thousands of children excluded from their neighborhood schools to some other schools in other districts or zones to desegregate both their neighborhood schools and the other schools in numbers or proportions satisfactory to the District Court.

No amount of sophistry can erase the plain truth that the second group of children were denied admission to their neighborhood schools on account of their race.

Manifestly, the Equal Protection Clause does not confer upon any Federal Court jurisdiction to enter a wondrous order to compel a school board to obey the Equal Protection Clause by violating it. Congress apparently realized this bizarre result of busing children from one school to another, or from one school district or zone to another district or zone, when it prohibited any officer or Court of the United States to require such action to achieve the racial balancing of schools.

The Circuit Court erred in affirming the order of the District Court rejecting the plan submitted by the School Board, and in affirming, in part, the order of the District Court excluding children from their neighborhood schools and requiring them to be bused to other schools and other school districts in other areas.

CONCLUSION

For the reasons stated, the Court should reverse the provisions of the judgment of the Circuit Court insofar as they relate to the assignment and busing of senior high school and junior high school students; approve the provisions of the judgment of the Circuit Court insofar as they vacate the order of the District Court relating to the assignment and busing of elementary school children; and grant the motion of the School Board to stay the order of the District Court reinstating its previous orders relating to the assignment and busing of elementary school students.

Respectfully submitted,

Sam J. Ervin, Jr.
Charles R. Jonas.
Ernest F. Hollings.

APPENDIX

Constitutional provisions involved

1. The First Section of the Fourteenth Amendment, which reads, in pertinent part, as follows: "nor (shall any State) deny to any person within its jurisdiction the equal protection of the laws."

2. The Fifth Section of the Fourteenth Amendment, which specifies that "The Congress shall have power to enforce, by appropriate legislation, the provisions of this Article."

3. The First Section of Article III, which states, in pertinent part, that "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish."

4. The Second Section of Article III of the Constitution, which reads, in pertinent part, as follows:

"The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; - to all Cases affecting Ambassadors, other public Ministers and Consuls; - to all Cases of Admiralty and maritime Jurisdiction; - to Controversies to which the United States shall be a Party; - to Controversies between two or more States; - between a State and Citizens of another State; - between Citizens of different States; - between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

"In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."

Statutory Provisions Involved

1. Title IV of the Civil Rights Act of 1964 which originally appeared in Title IV of Public Law 88–352 of the 88th Congress and is now codified as 42 USC 2000c–2000c–9. This statute reads as follows:

"Title VI—Desegregation of Public Education Definitions

"Sec. 401. As used in this title—

"(a) 'Commissioner' means the Commissioner of Education.

"(b) 'Desegregation' means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but 'desegregation' shall not mean the assignment of students to public schools in order to overcome racial imbalance.

"(c) 'Public school' means any elementary or secondary educational institution, and 'public college' means any institution of higher education or any technical or vocational school above the secondary school level, provided that such public school or public college is operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

"(d) 'School board' means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

Survey and Report of Educational Opportunities

"Sec. 402. The Commissioner shall conduct a survey and make a report to the President and the Congress, within two years of the enactment of this title, concerning the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States, its territories and possessions, and the District of Columbia.

Technical Assistance

"Sec. 403. The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems.

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Training Institutes

"Sec. 404. The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation. Individuals who attend such an institute on a full-time basis may be paid stipends for the period of their attendance at such institute in amounts specified by the Commissioner in regulations, including allowances for travel to attend such institute.

Grants

"Sec. 405. (a) The Commissioner is authorized, upon application of a school board, to make grants to such board to pay, in whole or in part, the cost of—

"(1) giving to teachers and other school personnel in-service training in dealing with problems incident to desegregation, and

"(2) employing specialists to advise in problems incident to desegregation.

"(b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and the other applications which are pending before him, the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation; and such other factors as he finds relevant.

Payments

"Sec. 406. Payments pursuant to a grant or contract under this title may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

Suits by the Attorney General

"Sec. 407. (a) Whenever the Attorney General receives a complaint in writing—

"(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or

"(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin, and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice of such complaint to the appropriate school board or college authority and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

"(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

"(c) The term 'parent', as used in this section includes any person standing in loco parentis. A 'complaint' as used in this section is a writing or document within the meaning of section 1001, title 18, United States Code.

"Sec. 408. In any action or proceeding under this title the United States shall be liable for costs the same as a private person.

"Sec. 409. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education.

"Sec. 410. Nothing in this title shall prohibit classification and assignment for reasons other than race, color, religion, or national origin.

LOW WAGE WORKERS AND THE FAMILY ASSISTANCE PLAN

Mr. JAVITS. Mr. President, in connection with the Senate's consideration of the administration's proposed new Family Assistance Act, I should like to call attention to a recent policy statement made by the New York Urban Coalition entitled "Low Wage Workers in New York City."

The policy statement, which was issued on September 17, 1970, concludes that there may be as many as 263,500 families in New York City containing an employed member with incomes too low to provide a minimally adequate standard of living. That total includes 180,500 families with incomes below the Federal poverty index—$3,720 for a family of four—and an aditional 83,000 "near poor," families with income below the cutoff line, for New York State Home Relief, supplementary assistance, which is $5,050 for a family of four for New York State Home Relief.

While 6 percent of the city's white labor force were full-time employed family heads with income insufficient to sustain an adequate standard of living, 12 percent of the black labor force and 16 percent of the Puerto Rican labor force were in this category; a survey of Harlem-East Harlem, Bedford-Stuyvesant and South Bronx indicated that 78 percent of Puerto Rican men and 30 percent of black men earned under that amount per year.

The Urban Coalition statement noted, at page 9:

> There is a continual two-way movement between the "working poor" and the "non-working poor" categories. Statistics show that 80% of the mothers receiving Public Assistance had some work experience before they applied for welfare, and 30% of those who had worked were employed for at least 10 years. Furthermore, over 30% of the welfare caseload leaves the rolls each year, most because someone in the household has become employed.
>
> Clearly there is no wall separating the "working poor" from the "non-working poor"—only a revolving door. The central concern of this report is, however, the status of the poor *while they are working* and the problem of increasing their earnings and incomes while they are employed.

Mr. President, the administration's proposed new family assistance would permit working poor families—whether headed by male, or female—to be eligible for the basic $1,600 family assistance payment, as they increase their own incomes through employment.

However, under the administration's bill, a working poor family that is headed by a fully employed male of an intact family—would remain ineligible for the State supplementary requirements required to be maintained under the Family Assistance Act, and States wishing to make such payments to these families would not have the benefit of the 30 percent Federal sharing otherwise applicable to the supplemental payments.

I submitted on August 20, 1970, amendment No. 854 to H.R. 16311, the Family Assistance Act, which would mandate the application of the State supplements to the working poor.

While the coalition statement refrains—in conformity with the provisions of the Tax Reform Act of 1969—from taking a position in respect to the Family Assistance Act it urges an educational campaign to inform low-wage workers of their eligibility under law and notes a general need to raise the benefits to the working poor either by increasing the general family assistance payment or with State supplements to the Federal FAP payments, as I have proposed.

Mr. President, I believe that the inclusion which my amendment would mandate is necessary if we are to encourage the permanent movement of poor persons into the category of the working poor. There are more than 1.4 million working poor families in the Nation; almost 200,000 work their way off the welfare rolls each year. The amendment would also reduce the incentive for desertion which will still be applicable under the Family Assistance Act if fully employed female-headed families are eligible for State supplementary payments; while similar male-headed families are not.

The administration has indicated that the proposed amendment would cost an additional $1,000,000,000. However, that estimate is based upon the assumption that all of those eligible will participate. To the contrary, experience in the six States that now provide income supplements to the working poor indicates that participation will most likely be only a third of those eligible. In that connection, the Urban Coalition report states, at page 23:

> It is difficult to envision circumstances in which an educational campaign would result in more than a third of the eligible families applying for income supplements.

The coalition also recommended:

> (1) that there be an expansion of efforts on the part of the City and the State to deal

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with the problem of combatting the "collusive practices" of "racket unions" and employers who cooperate with them to keep wages down.

(2) that land-use policy, public investment and technical assistance be applied in such a manner as to encourage industries with higher paying jobs to remain, expand, and to establish new facilities in the city and stimulate growth of private housing construction.

(3) that Federal, state and city manpower programs concentrate on developing job opportunities for low-wage workers in the better paying industries and occupations.

(4) that the Department of Labor develop more current and detailed information about economic conditions of the working poor, particularly those in the City's Black and Puerto Rican communities.

(5) that minimum wages be equalized across the Nation so as to eliminate the potential harmful effects of the minimum wage differential now in effect between New York and the rest of the Nation.

The statement notes that "there is nothing mutually exclusive" between the approaches of providing income supplements to low-wage workers and supporting national minimum-wage standards.

Mr. President, I hope that the administration and the Congress will give consideration to these programs, and that the House of Representatives will take action to adopt manpower legislation, as the Senate did on September 17. As the Urban Coaltion report notes, training programs are "an important part of both the long-range and the short-term strategy for improving the opportunities of the least well-educated workers."

I ask unanimous consent that the full text of the statement, entitled "Low Wage Workers in New York City" be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

LOW WAGE WORKERS IN NEW YORK CITY

PREFACE

This report on the problem of low-wage workers in New York City is presented not as the definitive analysis of a very complex and disturbing issue, but rather in an effort to bring to the consciousness of government and concerned citizens a pressing dilemma, and some possible solutions. There may be as many as 263,500 families in New York City which contain employed members—individuals who have readily accepted the American ethic of work and self-support—with incomes too low to provide a minimally adequate standard of living.

New York's many low-wage jobs primarily represent unskilled and semi-skilled labor in intensely competitive businesses. The households of the workers in these positions depend on such wages for their livelihoods; and we cannot ignore the impact on these families of any measure, such as increased State minimum wages in the absence of parallel Federal standards, which could result in the flight of marginal employers and their payrolls from the City. Given current inflationary trends, both employer and employee are experiencing a money squeeze, and this factor too must enter into our deliberations. While precise data are lacking on the dimensions and characteristics of the working poor and their employers, we have ben able to arrive at useful estimates. On this basis, we have come to the conclusion that the problem is sufficiently widespread that we cannot ignore its harmful effects solely because of our desire for further information. The recommendations at the close of the report are offered with the realization that, although we have been unable to come up with a comprehensive solution, the immediacy of the needs of the working poor will brook no delay in efforts at alleviating their condition.

Perhaps the most controversial of our recommendations is that of income supplements to low-wage workers. In part, we propose such an approach in response to the speech by Daniel Moynihan before the National Urban Coalition's Action Council, on July 1, in which he requested support for the Family Assistance Act. We understand full well that this use of taxpayers' money to "subsidize" indirectly the operations of low-paying, marginal employers will meet with opposition in some quarters; and we know that many would prefer increased National minimum-wage standards. There is nothing mutually exclusive between these two approaches. We would hope that higher wage levels, resulting from increased productivity and appropriate legislation, will eventually obviate the need for income supplements (such as those embodied in the Family Assistance Act for all but the largest of working-poor families.

In the meantime, until we find better solutions and legislation, we feel that it is incumbent upon the Urban Coalition to point the way toward ameliorating the situation of the working poor. It is to such an end that this report was prepared.

SUMMARY OF FINDINGS

1. How Poor is Poor? Due to the high cost of living in New York City, the Social Security Administration's national poverty standard for a non-farm family of four $3,720 annually, is too low. New York City's eligibility cutoff line of $5,050 (on the average) for a family of four, for supplementary public assistance under Home Relief, is a more realistic poverty index.

2. The Dimensions of the Problem. There are perhaps as many as a quarter-million New York City families containing a full-time employed head of household with a total income below the Home Relief poverty index. Only 6% of the City's White labor force were full-time employed family heads figures for the Black and Puerto Rican labor force were 12% and 16% respectively.

3. Working Poor and Welfare Poor—"The Revolving Door". 80% of the mothers receiving Public Assistance had some work experience; 30% of the welfare caseload leaves the rolls each year, many of them to take a job. Family responsibilities, long-term disabilities, poor health, old age, and seasonal unemployment are major factors that keep people out of work. Unable to develop a financial cushion while working, their only recourse is to turn to welfare. There is no wall separating the "working poor" from the "non-working poor"—only a revolving door.

4. *Who are the Low-Wage Employers?* Manufacturing: Toys, Jewelry, Novelties, Leather Products, Electrical Equipment, Apparel and Textile Mill Products; Non-Manufacturing: Retail Trade, Restaurants, and Personal Services (Laundry, etc.).

Among the reasons these industries pay relatively low wages is the fact that manufacturing industries are subject to price competition from manufacturers located in low-wage regions of the U.S. and abroad. The low-skilled nature of the work in these industries also dictates the inadequate wage scales which they adopt. Being, for the most part, "labor intensive", increased wages in these industries have a larger and more direct influence on their products' prices than is the case in "capital intensive" industries such as steel manufacturing where labor costs contribute less to the total costs of production. Non-manufacturing industries such as retail trade, restaurants and personal services are also highly labor-intensive.

Furthermore, some unions do not legitimately bargain for better wages. These "racket" unions—many of them independent, unaffiliated, bargaining agents—have been willing to enter into collusive or "sweetheart" contracts with low-wage employers.

5. *Long-Range Trends* There will be a continuing supply of low-wage jobs in the foreseeable future. While high- and intermediate-wage manufacturing has declined in New York City over the past decade, lower-wage manufacturing employment has actually increased, albeit slightly. According to the New York State Department of Labor's estimate, 133,000 *unskilled* jobs are to be filled during the 1965–75 decade. A substantial proportion of these unskilled jobs pay low wages.

I. How Poor is "Poor"?

There is no single, standard definition of "low income." All definitions are, however, related to family size and composition, on the assumption that the larger the family, the greater its expenses for food, clothing, shelter, etc. The "typical" family of four is commonly used as a reference point for comparing the various poverty indices, but all include standards for larger and smaller families and for single individuals.

Three commonly used definitions of low income are: (1) The Social Security Administration's Poverty Index, which established a Poverty Line, now at $3,720, for all U.S. non-farm, 4-person families; (2) the eligibility cutoff line for supplementary Public Assistance (Home Relief) to working families in New York State, which averages about $5,050 here for a working man with a wife and two children; (3) the Bureau of Labor Statistics' (BLS) three standards of living for the New York metropolitan area. The average "Lower" Standard BLS Budget now exceeds $7,000 per year for a four-person family.

These three definitions of low income yield, for the 4-person family, approximate weekly equivalents of $70 for the Social Security Administration's Poverty Index, $95 for the Income Supplement cutoff, and $135 for the BLS Lower Standard Budget.

II. The dimensions of the problem

The New York State Department of Labor (DOL), using a methodology developed by the U.S. DOL's Manpower Administration, has prepared an estimate of the number of persons in New York City's labor force (i.e., persons who are either working or seeking work) whose family incomes fall below the Social Security Administration's Poverty Index.

The State DOL also calculated the number of families with full-time employed heads of household that fall within an income level one-third higher than the Poverty Index, called "Near Poor". The Near-Poor level approximates the Income Supplement (Home Relief) cutoff points. Some 263,500 families with a full-time employed head of household fall within the Poor and Near-Poor income levels.[1]

Furthermore, according to the State DOL estimates, while only 6% of the City's White labor force were full-time employed family heads with Poor or Near-Poor incomes, the corresponding figures for the Black and Pu-

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[1] This estimate may be on the high side, because data seem to indicate that the State DOL's methodology incorrectly included some 2- and 3-person families in the "Poor" and "Near-Poor" categories.

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erto Rican labor force were 12% and 16%, respectively. It should be noted; however, that over half of all the working-poor families are White, as can be seen in the table below.

FULL-TIME EMPLOYED FAMILY HEADS IN NEW YORK CITY 1970-71 (ANNUAL MANPOWER PLANNING REPORT, NEW YORK STATE DEPARTMENT OF LABOR)

	White	Black	Puerto Rican	Total
Poor	97,500	51,200	31,800	180,500
Near-poor	47,200	22,100	13,700	83,000
Poor and near-poor	144,700	73,300	45,500	263,500
Percent of group's total labor force	6	12	16	8
Percent of working-poor families	55	28	17	100

The recent Bureau of Labor Statistics' survey of Harlem-East Harlem, Bedford-Stuyvesant, and the South Bronx, confirms the greater frequency of low earnings among the City's Black and Puerto Rican workers. (Relatively few Whites live in the three areas.) The BLS survey found that, among all full-time, year-round workers, Puerto Rican women were the worst off—78% of them earned under $4,500 per year and 30% earned under $3,200 per year. Likewise, among the full-time, year-round working men, Puerto Ricans had a lower earnings-profile than did Black workers: 42% of the Puerto Rican men (vs. 30% of the Black men) earned under $4,500 per year; and 12% of the Puerto Ricans (vs. 10% of the Blacks) earned under $3,200.

ANNUAL EARNINGS OF FULL-TIME, YEAR-ROUND WORKERS IN BLS SURVEY AREAS, 1968-69

	Percent earning under $4,500 per year	Percent earning under $3,200 per year
Total, men and women	45	17
Women:		
Puerto Rican	78	30
Black	63	28
White	44	22
Men:		
Puerto Rican	42	12
Black	30	10
White	26	11

III. Working poor and welfare poor

There is a continual two-way movement between the "working poor" and the "non-working poor" categories. Statistics show that 80% of the mothers receiving Public Assistance had some work experience before they applied for welfare, and 30% of those who had worked were employed for at least 10 years. Furthermore, over 30% of the welfare caseload leaves the rolls each year, most because someone in the household has become employed.

The BLS survey found that, to a great extent, family responsibilities, long-term disabilities (physical and mental), poor health, old age, and seasonal unemployment are the major factors that keep people out of the labor force. Having been unable to develop a financial cushion while working, their only recourse is to turn to welfare. For many of them, however, their non-working status is only temporary. Close to 30% of the men who were classified as "Not in the Labor Force" (i.e., they were neither working nor looking for work at the time of the survey) indicated that they would like a job "now." Although poor health and other factors were preventing them from working at the time they were interviewed, over half of the men said that they intended to look for work within the next 12 months.

Clearly there is no wall separating the "working poor" from the "non-working poor"—only a revolving door. The central concern of this report is, however, the status of the poor *while they are working* and the problem of increasing their earnings and incomes while they are employed.

IV. Low-wage employers

A recent New York DOL report (*Estimated Structure of Earnings in 1969 in New York State and New York City Industries*) estimated that, in October, 1969, 451,000 full-time (30 hours per week or more) jobs in New York City paid less than $90 per week, with 274,000 of them paying under $80 per week, and 135,000, under $70 per week. According to this report, there were 45,000 full-time jobs which, in late 1969, paid less than $60 per week.[2]

Some of those employed in these low-wage jobs are second wage-earners, whose earnings help to insure that their total family incomes stay above the poverty level. Nationally, in 1967, the BLS found that one-third of the families with $5,000–$7,000 annual incomes had two wage-earners. (For nonwhites, 50% of the families in this income bracket required two wage-earners.) However, many families, especially female-headed ones, do not have two wage-earners; and even moderately well-paying jobs leave very large families below the poverty line. The result, as noted previously, is that an estimated 263,500 New York City family heads with full-time jobs may have total family incomes low enough for them to fall below the Home Relief eligibility cutoff line.

It should be recognized, however, that the existence of low-skill jobs is not entirely a negative factor in the City's economy. They supply a source of "second income" employment, for housewives, young adults, and retirees, which supplement family earnings. In addition, these jobs, as a vital part of the economic linkage, may supply support for single individuals in New York City. In many cases they offer "entry-level" opportunities which provide valuable work experience to serve as a "springboard" into job opportunities with other employers. Where individuals are forced to support families in such jobs, however, it is apparent that such incomes are inadequate.

The State DOL's report gives detailed tables on the hourly wages paid by the City's industries. Although, the detailed industry-wage tables do not distinguish between full-time and part-time jobs, it is noteworthy that eight major New York City industries which, as a group, contributed only one third of the jobs covered by the report, accounted for two thirds of the 280,000 jobs that paid less than $1.85 per hour.

The New York City Department of City Planning has found that Black and Puerto Rican workers are disproportionately concentrated in the City's lower-wage industries. Thus, among manufacturing industries covered in the Department's recent Industrial Survey, Printing, Food Processing, Air Transportation, and Wholesale Trade—all relatively high-wage industries—were overwhelmingly White, while a substantial proportion of employees in lower-wage industries such as Rubber, Plastic, and Leather Products, Textiles, Apparel, Miscellaneous Manuracturing (Toys, Jewelry, Novelties, etc.) and Services (Laundries, Cleaners, etc.) were Black and Puerto Rican.

MAJOR LOW-WAGE INDUSTRIES IN NEW YORK CITY, OCTOBER 1969

Lower-wage industries manufacturing industries	Total number of jobs	Number of jobs paying $1.85 per hour or less	Percent of total jobs
Apparel	214,200	30,400	14.2
Miscellaneous manufacturing industries (toys, jewelry, etc.)	65,700	24,700	37.5
Leather products	30,600	10,000	32.6
Electrical equipment	40,500	8,300	20.5
Textile mill products	32,900	7,100	21.6
Nonmanufacturing industries:			
Retail trade	278,900	59,000	21.1
Restaurants	116,200	25,900	22.3
Personal services	54,200	15,200	28.0
Citywide total (all industries)	2,468,000	280,000	11.3

Among the reasons that some employers pay relatively low wages is the fact that the manufacturing industries here are subject to price competition from manufacturers located in low-wage regions of the U.S. and abroad. Being, for the most part, "labor-intensive" (i.e., a relatively large part of their total costs go to wages), increased wages in these industries have a larger and more direct influence on their products' prices than is the case in "capital-intensive" industries such as steel or automobile manufacturing, where labor costs contribute less to the total costs of production. To a large extent, Retail Trade, Restaurants, and Personal Services are also highly labor-intensive, and their customers have a wide range of choice among alternative suppliers: they can always shop at cheaper stores, eat in less expensive restaurants, and do their own laundry. The unskilled and semi-skilled nature of the jobs in some of these industries and businesses, as well as their flat organizational structures with little room for advancement, also contribute to the low wage-scales which characterize them.

Labor unions have, of course, traditionally bargained for better wages, fringe benefits and working conditions for their members. In doing so, they have to take account of the economic factors listed above. They also face extra difficulties in organizing industries in which many of the employers are marginal and have high turnover rates, or industries in which large numbers of part-time workers and secondary wage-earners (e.g., Retail) are employed.

However, some unions—many of them independent, unaffiliated, bargaining agents—have been willing to enter into collusive or "sweetheart" contracts with low-wage employers. These contracts usually call for a wage settlement of only a few cents an hour above the legally required minimum wage, and this is then checked off at payroll time as union dues for the benefit of the union "leaders". In turn, the racket unions promise employers not to negotiate for higher wages, fringe benefits, job security, or better working conditions. Such collusion violates both State and Federal laws.

The courts, however, generally review complaints about unfair labor practices only in terms of the strict legality of the contracts in question, without considering the broader intent of the law, which is to insure that unions are responsive to the desires of their members, and act in their best interest. The reason for this "strict construction" approach is, of course, the difficulty in establishing the fact that a union does not really represent its membership, except in cases where there is an open revolt by union members against their "leaders". Unfortunately, such rank-and-file rebellion against unrepresentative union leaders is relatively rare, largely because the workers in the low-wage industries, in which many of these unions are found, are often the least well-educated members of the labor force and are usually unaware of their rights as union members. The findings of a 1969 survey in ghetto areas, conducted by the Association of Catholic Trade Unionists (ACTU), under the sponsorship of the City of New York, show that union members residing in these areas participate only to a limited extent in union activities. Very few union members surveyed had seen their union constitution or labor contract, knew the names of their business agent or union officials, attended union meetings, or were even able to identify their union properly.

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[2] The report did not cover taxi, air, rail and water transportation, the Federal Reserve Bank, schools and colleges, religious, non-profit institutions, government, private households, farms and janitors.

The City's Central Labor Council (AFL–CIO) estimates that there are some 60,000-plus union members here who are victims of these collusive practices. Although racket unions account for only part of the working-poor problem, their continued existence helps to depress generally the earnings of the City's workers, blocks the efforts of legitimate unions to fight for the interests of their workers, places ethical employers at a competitive disadvantage, and, indirectly, increases Public Assistance expenditures.

V. Long-range trends

Manufacturing employment in New York City has declined over the last decade. However, contrary to widely held opinion, the number of manufacturing industries with lower average wages has declined less (down 8.9%) than have those with high- and intermediate-level wages (down 10.8% and 16.7% respectively). In fact, the lower-wage manufacturing industries have, as a group, actually increased their total employment slightly (1.1%) in the last five years, while those with relatively high wages declined 5%, and those in the intermediate range lost 6%, of their total number of jobs.

The economic forces behind these trends are complex and interrelated. The City's tax structure, for example, influences the directions of the City's economy. In 1966, New York City revised its business tax structure by replacing the gross-receipts tax, which tended to bear down heaviest on the labor-intensive, low-wage industries, with a corporate income tax that shifted the burden more to the capital-intensive, high-wage concerns. Although some analysts had maintained that this revision could lead to a loss in higher-paying employers, such as that indicated above, others were disturbed by the disproportionate levy being imposed on the marginal employer, not only with the gross-receipts tax, but with other measures as well, such as the experience-rated tax for unemployment insurance.

Many of New York City's low-wage workers perform tasks that, while low-skilled, are important to the City's economy, and will continue to be needed in the foreseeable future. In 1968, the New York State DOL estimated that there would be *133,000 unskilled jobs* to be filled during the 1965–75 decade, most of which paid less than $100 per week in 1969. Even with overall improvements in wage levels, such jobs will continue to be at the bottom of the City's pay scale; and they will, in all likelihood, continue to be filled primarily by Black and Puerto Rican workers. On the other hand, BLS found a significant shift in the occupational pattern of young people, when compared to the adult labor force, in the survey areas. Over half of the employed teenagers (aged 16–19) were in white-collar occupations, while only one-third held the kind of semi- and unskilled blue-collar and service jobs in which three-fifths of the adults were employed. In the coming years, however, this third will form the pool of unskilled and semi-skilled labor from which the City's low-wage jobs will be filled.

VI. Approaches to solutions

The problem of low wages in New York City is a large and difficult one, and it is rooted in the economic and social structure of the City. There are no simple solutions. Some of the approaches, and their limitations, are:

1. *Minimum Wage Legislation.*—The increase in the State's minimum wage to $1.85 per hour, which took effect July 1, 1970, will be of some benefit to workers in the 280,000 full- and part-time jobs that paid less than this in 1969. It will not, however, lift many of them out of poverty; even a $2.50 hourly minimum would leave a working man with a wife and four or more children not only below the Home Relief Poverty line but below the Social Security Administration's Poverty Index as well. This example highlights the fact that wages are not geared to family size. Furthermore, State legislators must consider the same economic realities as labor unions when they revise minimum-wage legislation. In the absence of comparable nationwide standards, a substantial increase in New York State's minimum wage might encourage low-wage manufacturers to relocate their plants in neighboring states, or to flee the area entirely for the Southern states or the Caribbean. Indeed, the 25-cent hourly differential already in effect between New York and the rest of the Nation could contribute to such a trend, right now, which some suggest might be avoided by a higher Federal level.

2. *Exposing Racket Unions.*—Some steps have been taken to expose racket unions by Federal, State and City governments. Eleven years ago, Jay Kramer, Chairman of the New York State Labor Relations Board, called a conference of Federal, State and County prosecutors to formulate a program to eliminate the illegal activities of racket unions. In New York City, the Mayor's Committee on Exploitation of Workers, consisting of 23 labor, business, church and civic leaders has a mandate to "operate as a mediation service, using powers of persuasion and public interest" to achieve settlement of individual cases of exploitation brought before it. Local labor leaders and government officials report, however, that "sweetheart" contracts between low-wage employers and racket unions continue to exist in New York City.

While communication and coordination between the law enforcement agencies improved for a period of time as a result of the Kramer conference, it is apparent a sustained effort is required. Without funds and investigatory and subpoena powers, the Mayor's Committee's ability to investigate aggressively corrupt union activities is limited. In addition, it is apparent that a city-wide program, in conjunction with legitimate unions, to educate workers of their rights as union members is needed.

However, inroads into illegal union activities, while important, will have only a limited impact on the City's wage structure and on the problem of low wages.

3. *Economic and Manpower Development.*—Opportunities for the working poor, and for Blacks and Puerto Ricans in particular, are increasing in many of the better-paid industries, due to a variety of factors including local labor shortages, government anti-discriminatory measures, the efforts of the National Alliance of Businessmen and Coalition JOBS, and the constantly improving levels of educational attainment among younger Black and Puerto Rican workers. However, these long-range trends do little to benefit older, full-time employed, low-wage workers, many of whom already have large families to support.

Training programs are an important part of both the long-range and short-term strategy for improving the opportunites of the least well-educated workers. The remediation provided by Basic Education, and the skills learned in On-the-Job Training can mean a second chance for a young high-school dropout. But they can have only a limited impact on the total problem of low wages, for the following reasons:

A. There are not enough well-paying, entry-level job openings in the City's better-paying firms to absorb all of the low-wage earners, even if they could all be trained.

B. The low-wage firms themselves generally have rather "flat" organizational structures, with little or no opportunity for large-scale upgrading within each firm. (The opportunity for better economic return for persons in such firms generally is to find other employment, which is not always easy to accomplish unless one has acquired needed skills through training.)

C. Some of the low-wage workers—especially the older, least well-educated ones—have educational, cultural, language, health, and other handicaps too severe to be remedied by presently existing training programs. In addition, the most seriously "disadvantaged" applicants are often screened out by the better-paying companies, even after these companies have reduced their hiring criteria.

D. The number of training opportunities for the disadvantaged worker is highly dependent on the existence of a "tight" labor market. When business slows down, as is presently the case, training opportunities in the private sector are greatly reduced. The firm that is curretnly evaluating the five major government-sponsored training programs (MDTA, Job Corps, Neighborhod Youth Corps, New Careers, and JOBS) reports (unofficially) that hiring under the MA Contract portion of the JOBS program has practically ceased outside of New York City. Locally, Coalition JOBS itself has found increased difficulty in marketing the MA Contract in recent months.

4. *Family Assistance.*—Income supplements that increase with family size represent the only type of program that offers, in the foreseeable future, a possibility of improving significantly the economic status of large numbers of working-poor families. President Nixon's Family Assistance Program (FAP) is designed to benefit the working poor, and it includes incentives for the poor to work, rather than sliding into the full dependency of Public Assistance. Such an approach is buttressed by a research project under the Office of Economic Opportunity, in which preliminary findings indicate that income supplements are not a disincentive to work, and that they may even promote greater job stability among the working poor.

There are inadequacies in FAP, even in the recently revised version. The use of taxpayers' money to "subsidize" indirectly the inefficient operations of marginal employers, through wage supplements to their employees, is not a pleasant prospect; nor is the greater tax allocation required for such a program, especially in this time of budget deficits and increasing demand for all types of government services. On the other hand, that FAP would supplement only those working-poor families with total annual incomes under, for example, $3,920 for a 4-person unit is also obviously inadequately in New York, where Home Relief presently offers benefits to a 4-person unit with an income approaching $5,000. This discrepancy could be eliminated by increasing the benefits to the working poor in areas characterized by a high cost of living, either with greater FAP payments or with State supplements to the Federal FAP payments.

Currently, less than 30,000 working-poor families, or 11% of all those eligible in the City, are receiving welfare supplements. Ignorance is one significant factor in the underutilization of such benefits, as has been

XUM

shown in the various campaigns of the National Welfare Rights Organization. The working poor typically have little contact with the community and government agencies that could provide information about income supplements. If assistance is made possible by law, then this potential resource should be explained to its intended beneficiaries. The logical place to reach the working poor with such information is through their place of employment; but, with the exception of Project Rehab of the Central Labor Council, this concept has never been operationalized in a meaningful fashion.

It is difficult to envision circumstances in which an educational campaign would result in more than a third of the eligible families applying for income supplements. In the U.S. Postal Service, for example, virtually all its employees in New York City are aware of Home Relief, and a substantial majority are eligible; but less than 20% have availed themselves of the benefits.

The total cost of income supplements to one-third of the City's working-poor families eligible under FAP's $3,920 cutoff would be about $20 million; and the comparable cost under a $5,050 cutoff would be about $108 million. Just how much, if any, of the total cost would be shared by the State and City depends on the Family Assistance Act that finally passes in Congress, and on the State Government, which would not be prohibited from authorizing its own supplements to the Federal benefits, if they were deemed inadequate.

5. *The Data Gap.*— One of the most serious handicaps confronting those who attempt to develop and recommend sound policies with regard to the New York City economy is the lack of timely and relevant data on the local labor force. The estimates provided by the State Department of Labor give only an approximate idea of the dimensions of the problem of low wages in New York City; various other sources help to provide a more detailed, but still incomplete, picture.

Especially valuable in establishing the relative severity of this problem among the City's Black and Puerto Rican residents is the Bureau of Labor Statistics' recent Urban Employment Survey of Harlem-East Harlem, Bedford-Stuyvesant, and the South Bronx. This BLS program is, in fact, the only current source of detailed data on the status of Puerto Ricans in New York City. Unfortunately, it now appears that the U.S. Department of Labor intends to discontinue this program before it is completed.

New York City's policy-makers need *more* information on employment, unemployment, earnings, and other significant labor force and economic conditions, in order to permit an ongoing analysis of the dynamics of the local economy; more and better current data is also needed to assess the degree to which manpower programs and economic policies are making a significant impact on the City's economic structure. The discontinuation of the Urban Employment Survey program represents a step backward, in terms of New York City's data needs.

VII. Recommendations

Having reviewed the findings and recommendations of its Special Committee on the Problem of Low-Wage Workers in New York City, the Board of Directors of the New York Urban Coalition directs the Coalition to address itself to the issue of low-wage workers by taking the following steps:

1. *Family Assistance through Income Supplements.*[3]—Concluding that income supplements represent a significant means of improving the economic status of large numbers of working-poor families, and realizing that such an approach entails yet-unresolved issues, such as the need for higher supplementation levels in a State, like New York, with a high cost of living, we therefore call for an educational campaign to: (1) inform low-wage workers of their eligibility, under law, to income supplements, and to training opportunities for upgrading skills and thus improving income; and (2) apprise citizens and officials alike of the dimensions of the problem of the working poor, and of possible solutions to the problem.

Staff should be assigned to the Manpower Task Force of the New York Urban Coalition for the purpose of preparing this educational campaign, which should be coordinated with employers, legitimate unions, government agencies, and community organizations.

2. *Combatting Racket Unions and Employers.*—Call for an increase in the staff resources and investigatory powers of the Mayor's Committee on Exploitation of Workers, for the purpose of combatting the collusive practices of both racket unions and those employers who cooperate with them. In addition, the Mayor and the City Council should provide the Committee with a mandate to carry out, in conjunction with legitimate unions, a campaign to educate the City's workers about their rights as union members, encouraging them to register their complaints with the Committee.

Call upon the Governor to organize a permanent task force to coordinate activities of the numerous agencies with legal jurisdiction over collective-bargaining agents and protection of the civil rights of union members and individual workers. This task force should be similar to the one organized in 1959 by Jay Kramer, Chairman of the New York State Labor Relations Board; and the U.S. Attorney's Office should be involved, on a regular basis, in the work of the task force.

3. *Economic Development.*—Recommend that land-use policy, public investment, and technical assistance be applied in such a manner as to: (1) encourage industries with higher-paying jobs—without destroying existing job opportunities in New York City—to remain, to expand, and to establish new facilities, in the City; and (2) stimulate the growth of private-housing construction, which is at a critically low level, thus creating even more higher-paying job openings.

Companies benefiting from such public policies—i.e., builders, suppliers, and users of these facilities—should institute Affirmative Action Programs, if necessary to ensure an equitable distribution of minority-group employees throughout their work-forces.

This recommendation should be referred to the State's Job Development Authority, the City's Planning Commission and Economic Development Administration, and both the Public Development Corporation and the Urban Development Corporation.

4. *Manpower Development.*—Recommend that Federal, State, and City manpower programs concentrate on developing job opportunities for low-wage workers in the better-paying industries and occupations, and on training programs, including in-house upgrading, that will enable the working poor to qualify for these jobs. The Coalition's representative on the Cooperative Area Manpower Planning System's local CAMPS Committee should advocate this position for inclusion in the CAMPS FY 1971 Plan for New York City.

Urge appropriate agencies to investigate the feasibility of providing technical assistance to low-wage employers, for the purpose of increasing their employees' productivity and, therefore, their wage-scales. The appropriate State, Federal, and private agencies should be involved in this effort, along with the appropriate City agencies.

In short, increased productivity and earning power must be the goal of manpower development programs. Specific training for employees, and technical assistance for employers, offer useful solutions at short range. It must not be forgotten, however, that the long-range answer to this problem will reside in a school system made more effective in its ability to provide all students with the basic knowledge and skills which will enable them to acquire marketable ability and thus find their own way to rewarding employment in the economy of today and tomorrow.

5. *Closing the Information Gap.*—Call upon the U.S. Department of Labor to continue, rather than cancel, the Urban Employment Survey, the only source of current and detailed information about economic conditions in the City's Black and Puerto Rican communities. The Regional Bureau of Labor Statistics Office should also be provided with the resources to obtain and analyze New York area data gathered by the Bureau of the Census in its current Population Survey. This data, while collected monthly, is not now available to local policymakers.

Call for ongoing analyses on the structure and dynamics of the City's economy, in order to assist policymakers in measuring the impact of local economic policies and manpower programs. These studies should be conducted by the New York City Planning Commission, the Economic Development Administration, and the local Federal Reserve Bank. In conjunction with this, call upon the Economic Development Administration and other appropriate public and private agencies to explore the effect of alternative tax policies on different sectors of the business community, and on the flow of goods and services to and from the City.

6. *Equalizing Minimum Wages.*—Bring to the attention of the National Urban Coalition the potentially harmful effects of the minimum-wage differential now in effect between New York and the rest of the Nation; and call upon the National Urban Coalition, as a proper forum, to develop a policy proposal for equalization of minimum wages across all the States. At the same time, transmit to the National Urban Coalition the position of those New York labor and community representatives who wish to accomplish this equalization by means of increasing minimum wages nationally, and the concern of some of the New York business representatives on the Special Committee that higher minimum wages without greater productivity could, in their own right, do substantial harm to the economy.

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[3] In conformity with the provisions of the Tax Reform Act of 1969, the New York Urban Coalition, as a tax-exempt organization, is prohibited from supporting the Family Assistance Act pending before Congress.

XUM

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UNEMPLOYMENT DUE TO TIGHT MONEY, NOT MILITARY CUTBACKS

Mr. PROXMIRE. Mr. President, one of the most insidious arguments we hear today is that we must continue excessive defense spending in order to reduce unemployment. That argument is false for two reasons.

The first is that the present level of unemployment is the direct result of the Nixon administration economic policies. They pledged to bring down prices without excessive unemployment. A 4.3 percent level was predicted for this year. Instead we are now at the 5.5-percent level, which means there are 1,760,000 men and women to be jobless today who had jobs in January 1969.

The second is that spending money for needless military weapons, bases, or manpower is the worst of all possible ways to provide jobs. If we are to have a Federal public works or jobs policy, let us build houses, subways, antipollution devices, and goods which satisfy consumer needs. Our needs are so overwhelming that it would be criminal to pour money out for needless weapons when those needs are still unmet.

Sylvia Porter, one of the Nations most astute writers on business and consumer affairs, has put this matter in perspective. To the subtle argument that defense spending should continue merely to provide jobs, and that the recession is one induced by defense cutbacks, she provides the facts. She writes,

> The fact is, however, the recession of 1969–70 is primarily the result of the tight money policy adopted by the Federal Reserve System to prevent businessmen from getting all the money they wanted; to force them to curb inflationary spending, to postpone inflationary projects, to lay off workers.

We are now suffering from an administration-induced recession. With proper monetary policies, and policies which cut back space, defense, and other wasteful spending while inducing housing and spending in the private sector, we would have jobs seeking the men and women who left defense industries instead of having to add many of them to the unemployment rolls.

I ask unanimous consent that Sylvia Porter's article published in the Washington Evening Star for Monday, September 5, 1970, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

War Spending; Needed for Jobs?

(By Sylvia Porter)

One of the most evil economic propaganda weapons that we could hand the communists would be a voluntary admission that the United States needs record and rising war spending to support prosperity. This is propaganda the Russians have been trumpeting since Lenin's day. It is not true. Peace would be the most bullish thing that could happen to us.

One of the most explosive economic weapons that we could hand America's destructive young radicals would be the argument that the United States cannot cut war spending and still maintain reasonably full employment. This is an argument the young who hate America advance to prove our society is not worth preserving. It is false.

It is hard to believe that the Nixon administration would make this dangerous admission or argument. Yet, this is precisely what high administration officials are doing.

DEFENSE CUTS CITED

Recently Secretary of Defense Melvin Laird invited some columnists to luncheon at the Pentagon that included Deputy Secretary of Defense David Packard. Laird introduced the conversation by summarizing how much the defense budget has been cut.

Defense spending in this fiscal year will be around $71 billion, down about $18 billion from the 1968 Vietnam war peak and only about $4.2 billion above the pre-escalation level of 1964.

The defense budget is about 7 percent of the Gross National Product, down 2.7 percent from the 1968 peak and well below the 1964 level too.

Defense spending now represents 34.6 percent of the total federal budget, down 8.6 percent from 1968 and down 8.8 percent from the pre-Vietnam escalation of 1964.

No small achievement this.

Laird went on to report that since mid-1969, employment in the military, defense-products and defense-related industries has decreased 840,000 as against an over-all rise in joblessness of 1.3 million. And he remarked:

"This is what happens when you move so rapidly from a war to a peacetime economy." The implication was unmistakable; the defense cuts are a prime reason for the recession and unemployment.

The fact is, however, the recession of 1969–70 is primarily the result of the tight money policy adopted by the Federal Reserve System to prevent businessmen from getting all the money they wanted; to force them to curb inflationary spending, to postpone inflationary projects, to lay off workers.

TIGHT MONEY BLAMED

Tight money has been the crucial factor behind the stock market crackup and business bankrupticies—not defense cuts.

Even in areas hit hardest by the cutbacks, this holds true—for had the aim not been to control inflation by compelling a business slowdown, the administration could have cushioned the defense spending reductions by non-defense spending increases.

But the sound policy objective was to curb inflation, and so the defense cutbacks were not offset.

You may criticize 1970's anti-inflation policies as crude and cruel, but you can't criticize their aim. You can argue that joblessness could be cushioned far more effectively, but you cannot use unemployment as an excuse for military spending.

By shifting spending priorities, we would create more jobs and more worthwhile ones.

ENDORSEMENT OF SENATOR SYMINGTON

Mr. PROXMIRE. Mr. President, the senior Senator from Missouri (Mr. Symington) has one of the genuinely distinguished records of accomplishment and service in the U.S. Senate. His contributions to our country have been particularly noteworthy in the military, scientific, and diplomatic fields.

His accomplishments have not gone unnoticed. Now one of the country's great newspapers have deemed him deserving of continued service in the Senate.

Mr. President, I ask unanimous consent that an editorial published in the St. Louis Post-Dispatch be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Symington and Danforth

The most important political contest in Missouri this year is that between U.S. Senator Stuart Symington, candidate for re-election to a fourth term, and John C. Danforth, Missouri Attorney General, one of the most attractive young men to emerge in the Republican party for a long time.

Because Mr. Danforth is the kind of broad-minded and progressive person we would like to see assume leadership of the Republican party in Missouri, we were happy to recommend his election as attorney general. We welcome his rise in the ranks as heartily as it is detested by the reactionary mossbacks who have dominated his party for so long.

Unfortunately for purposes of reforming the Missouri GOP, Mr. Danforth is running for the wrong office. The place to revitalize the party and reorient it to contemporary realities is in state politics, not in the U.S. Senate. Instead of directing so much of his present campaign irrelevantly against the Hearnes Administration, Mr. Danforth ought to be getting ready to run for Governor in fact. That as that law stands he will not meet Missouri's anachronistic residence requirements in 1972 is regrettable; but even if he has to wait until 1976, he would then be only 40, and in the meantime he could accomplish much at the state level to consolidate his party leadership.

It is understandable enough that a rising young politician should want to try his wings in Washington, where the glamor is. But Missouri cannot send him to the Senate simply because he is available, or simply because the Nixon Administration is so anxious to eliminate a knowledgeable critic who is a thorn in its side. There are strong reasons why, at this particular juncture, Senator Symington should be re-elected.

One reason is the able representation he has given all sections and economic interests of the state, urban and rural alike, before Congress and the administrative agencies. Another is his consistent and forceful support of progressive domestic legislation. In this sphere his record is certified not by rhetoric but by 18 years of solid votes on specific measures. He has consistently taken the liberal side on major issues of civil rights, education, housing, health care and urban reconstruction.

But the decisive consideration is the Senator's extraordinary position of influence in foreign and military affairs, and the uses to which he has put that position during the national agony over Vietnam and the struggle to shift resources from the arms race to domestic needs. As the only Senator to sit on both the Foreign Relations and Armed Services committees, one whose three terms of service enable him to outrank 85 per cent of his colleagues in a rank-dominated body, he occupies a unique place of influence.

To replace Senator Symington with Mr. Danforth would be to exchange a man with important power in the most critical areas of national policy for one who, whatever his merits, would have but minor impact on the course of events. Naturally enough, the Nixon Administration would like it this way; that is why their journeymen are working so strenuously for Mr. Danforth's election. But

XUM

Missouri's interests are not identical with the Administration's.

It is much to Senator Symington's credit that his perspective on Vietnam, foreign intervention and military affairs has changed during his third term. Instead of narrowing his horizons from term to term, as many Senators do, he has notably broadened his, and now emerges as the thoughtful proponent of a sensible reordering of foreign commitments to fit our resources and domestic priorities. He is one of the best informed critics of the ABM in particular and the military budget in general. He throws his weight on the side of the earliest and most complete troop withdrawal from Vietnam, as witnessed by his vote for the McGovern-Hatfield amendment to set a deadline for troop operations in Indochina. Mr. Danforth's opposition to that amendment, despite his stated opposition to the war, tells us much about the two candidates and their political situations.

The Pentagon and the State Department bureaucracies, as well as the Nixon Administration, would be delighted with the Senator's defeat. He is an embarrassment to them because as head of a subcommittee on overseas commitments he has fought to break through the curtain of secrecy that has so long kept the people in ignorance of the price they pay for a foreign policy of containment and unlimited military intervention. Yet it is precisely for such invaluable work as this that the Senator should be returned for another term.

THE GENOCIDE CONVENTION: HOW IT WORKS

Mr. PROXMIRE. Mr. President, there have been many false assumptions concerning the actual workings of the Genocide Convention. For example, a few of the detractors of the convention have maintained that it could subject American citizens to trial in an international court of law.

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Let me clear up any misunderstandings on this. Enforcement of the Convention depends on the states involved, as is the case with all international law.

Once the crime of genocide has been committed, the offender must be brought to trial in the nation in which the offense occurred, not in an international court. This does mean, however, that legislation must have been enacted to prevent and punish genocide by that particular nation. Article VI of the convention does allow for an individual to be tried in an international penal tribunal. However, there is none presently in existence. It would take a U.N. treaty of which we were a party for any of our citizens to be affected by such a tribunal.

However, if the nation involved failed to bring the individual or individuals involved to trial, or take adequate preventative measures, another signatory nation may ask for the case to be brought before the International Court of Justice. This Court cannot try the crime. It can only provide jurisdiction in disputes between the contracting nations as to "interpretation, application and fulfillment of the Convention." The Court's powers are limited to ruling that the state involved is obliged to abide by the convention and try those accused of genocide in its own courts.

The only alternative open if the offending nation fails to abide by the decision of the International Court of Justice, is an appeal to the U.N. Security Council. The U.N. Security Council could be asked to do what it can to see that the Court's decision is fulfilled. Realistically, the alternatives open to the Security Council include investigation, publicity, persuasion, and economic sanctions. I think that it is most important that we all realize that the United States is a member of the Security Council of the U.N.

I hope this brief summary of the workings of the Genocide Convention will help to clear up any misunderstandings that might be held. It is my belief that we should discuss the facts about the Convention, not false interpretation as has often been the case.

NOTICE OF POSTPONEMENT OF HEARINGS ON PRIVACY, COMPUTERS, AND DATA BANKS

Mr. ERVIN. Mr. President, I regret to announce that the Constitutional Rights Subcommittee has postponed hearings scheduled to begin today on privacy, computers, and Government data banks, including the Army's civil disturbance program for surveillance of civilians.

This action was made necessary by the unforeseen introduction Friday afternoon of a third cloture petition on direct election. This development, coming on top of the stepped-up pressure on Members of the Senate to consider and vote on short notice on many complex and controversial measures has made it impossible to devote to our hearings the full time and attention they require.

A number of Senators who had desired to participate in the hearings but who have also felt the pressure of the end-of-session rush concur in the advisability of a postponement. Nevertheless, I made this decision most reluctantly because the growing public concern over Government data banks has made these hearings imperative. I hope that the hearings can be rescheduled for November, subject again to the Senate's schedule.

In the interim, the subcommittee will continue its efforts to make sense out of the executive branch responses to our inquiries about Government data banks. In particular, I have asked Secretary of Defense Laird to declassify the reams of directives and regulations in which Defense Department agencies have buried their response to our questionnaire asking what surveillance programs they maintain for monitoring activities of law-abiding civilians.

LAW AND ORDER—EDITORIAL BY GLENN HARDEN, SENATE PAGE

Mr. KENNEDY. Mr. President, in the year's first edition of the Courier, a student publication of the Capitol Page School, which was just published today, Editor Glenn Harden is the author of an excellent and insightful editorial entitled "Law and Order." I am pleased to say that I am responsible for Mr. Harden's appointment as a page.

I ask unanimous consent that the editorial be printed in the Record, so that all Senators might have the opportunity to read it.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

LAW AND ORDER

(By Glenn Harden)

Our Nation is filled with uncertainty and unrest, and our leaders have promised to "bring us together." During their search for a unifying factor which would bring us all a little closer, they came upon the poetic phrase "law and order." Not since "Remember the Maine" or even "We shall overcome," has a phrase so strongly affected the lives of the people of this nation.

Every "political animal" who now works to gain the vote of the "silent Majority" and/or the so called "red-neck" vote, has now found a new fear upon which he can ultimately gain. They refer to this meaningful yet ambiguous slogan with inspired patriotism, and if against them you are against a peaceful, law-abiding society. This statement has indeed been grossly presented, with the help of George Wallace, Ronald Reagan, John Mitchell and others, to the American people.

True! The crime in the streets has reached an all time high, and true—direct and positive action must be taken toward reaching an end to this rising and insulting crime rate. But this does not mean to use this issue as a base for assaulting any particular group of people, whether racial or political. This tedious question of crime prevention must be discussed and solutions formed for alleviating the cause as well as the crime.

As stated before, many of our politicians are stereotyped by this phrase "Law and Order" and today many of our speeches sound like this:

"The streets of our country are in turmoil. The universities are filled with students rebelling and rioting. Communists are seeking to destroy our country. Russia is threatening us with her might and the republic is in danger. Yes, danger from within and from without. We need law and order. Yes, without law and order, our Nation cannot survive. Elect us and we shall restore law and order."

This was a political speech delivered over thirty years ago, in Hamburg, Germany, by Adolf Hitler.

Many of us will quickly rationalize to ourselves and others that this could never happen here in the United States. But in 1932, when Hitler made this speech, I'm relatively sure that the German people felt the same way. Born in the midst of this "L & O" tinge, a perfect case in point would be the newly passed D.C. Crime Bill. It has many sections which have been publicly proclaimed as "repressive and unconstitutional."

If this select group of politicians feels such a great love for combating injustice, let us ask them why hasn't the enforcement of the school desegregation laws taken place, or why haven't the fair housing laws or the equal opportunity acts been enforced, while anti-riot laws have captured their "energy and imagination"?

If the present attitude toward this subject is not changed, the only way we will be brought together will be in open conflict and a total disregard for "Law and Order."

LEADING ROLE OF SENATOR WARREN MAGNUSON IN HEALTH AFFAIRS

Mr. KENNEDY. Mr. President, the distinguished senior Senator from Washington (Mr. Magnuson) is a leader in many legislative fields, including the environment, consumer protection, transportation and oceanography, but in no field is his leadership more timely and more significant than in the field of health.

I have frequently called the attention of the Senate to Senator Magnuson's outstanding record in health affairs. Indeed, the passage of a number of his major health proposals in recent weeks attests to his increasing role in helping to shape the health policies of the Nation.

In September, for example, the Senate passed unanimously Senator MAGNUSON's National Health Service Corps Act, a landmark piece of legislation designed to bring needed doctors and other health professionals to isolated rural communities and inner city ghettos.

In the same week, the Senate passed Senator MAGNUSON's amendments to the Flammable Fabrics Act—amendments designed to improve the enforcement of this important act, which itself is also his work. Earlier the Senate passed Senator MAGNUSON's Poison Protection Packaging Act, a major bill in the series of consumer protection legislation he has sponsored to protect the health and safety of millions of Americans.

In prior years in Senator MAGNUSON's legislative career, he sponsored the legislation that established the National Cancer Institute, the National Institutes of Health, and the National Science Foundation. Much of the ongoing medical research in the United States today is a direct result of his foresight in offering this legislation years ago, long before health had become a major issue of public policy in America.

Now that the health crisis has become one of the most important social problems confronting the people of the United States and their Government, Senator MAGNUSON is playing an increasingly important role in guiding the Nation's health policy. At the beginning of this Congress, he became chairman of the Senate Appropriations Subcommittee dealing with health matters—the Subcommittee on the Departments of Labor and Health, Education, and Welfare, and Related Agencies.

This extremely important position has special significance at this time because of the disparity between the health needs of America and the priorities of the present administration. In his position as subcommittee chairman, Senator MAGNUSON has been diligent and perceptive. He has been sensitive to the urgent needs of the Nation's health community. More than any other person in public life today, he has helped to achieve a wise allocation of Federal resources to vital health programs. Because of Senator MAGNUSON's energy and leadership, all aspects of health care in the Nation—services, manpower, and basic research—have been the beneficiary.

One of the most important health issues now before the Congress of the United States is the issue of national health insurance. Here, too, we are fortunate to have the benefit of Senator MAGNUSON's experience and leadership. Recently, along with Senator YARBOROUGH, Senator COOPER, Senator SAXBE, and a number of other Senators, I introduced S. 4297, the Health Security Act, to establish a program of comprehensive national health insurance for the United States, capable of bringing the same high quality health care to every man, woman, and child in the Nation.

Two weeks ago, under the leadership of the distinguished Senator from Texas (Mr. YARBOROUGH), the Committee on Labor and Public Welfare held a series of hearings on this legislation and significantly advanced its prospect of enactment in the near future.

Senator MAGNUSON joined as a cosponsor of this legislation at the time we opened our hearings. In a thoughtful letter stating his support, Senator Magnuson made the important point that national health insurance cannot be simply a question of financing health care. It must also insure that adequate health services are actually available to all Americans.

Because national health insurance can play a major role in improving our health system, it holds great promise for improving the standard of health for every citizen. The fact that Senator MAGNUSON, with his years of experience and knowledge in health matters, has joined as a cosponsor of this legislation is extremely significant. I believe that his support very clearly demonstrates the importance and need for this legislation.

Mr. President, I ask unanimous consent that Senator MAGNUSON's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., September 18, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, D.C.

DEAR TED: Because I have long been an advocate of the concept of national health insurance, and because I believe that the issues surrounding this concept deserve the most thorough study and examination, I would like to add my name as a co-sponsor of S. 4297, your national health insurance bill.

As Chairman of the Appropriations Subcommittee dealing with health, I have long believed that reform of our system of payment for medical services is essential if those services are to be delivered more effectively and equitably. National health insurance must be carefully studied, so that the program we ultimately enact will have a beneficial impact on the medical profession and on its ability to provide health care to all segments of the population.

After hearings have been concluded on your legislation, and after we have had an opportunity to study it further, it is quite possible that I will have some legislative recommendations of my own in this field. By joining as a co-sponsor of your important proposal at this time, it is my hope that the proposal will receive full scrutiny, and that we will consequently be better prepared to achieve enactment of some form of this concept in the next Congress.

Again, let me offer my congratulations on your leadership in this, and other matters in the health field, and my sincere hope that the hearings on your bill this week will set the stage for implementation of national health insurance in the near future. I pledge my complete cooperation and support in achieving this goal.

Sincerely,

WARREN G. MAGNUSON,
U.S. Senator, Chairman, Appropriations Subcommittee on the Departments of Labor, Health, Education, and Welfare, and Related Agencies.

RETIREMENT OF DR. SIDNEY FARBER

Mr. KENNEDY. Mr. President, a short time ago, it was announced that one of the great figures of American medicine, Dr. Sydney Farber, is retiring as professor of pathology at Harvard Medical School.

Dr. Farber's contributions to the field of medical research have earned him a place in the most exalted ranks of medicine. To millions of citizens, however, he is best known as the founder and director of the Jimmy Fund—the Children's Cancer Research Foundation.

For more than 20 years, Dr. Farber and the Jimmy Fund have brought hope and comfort to thousands of young children afflicted with cancer. His dedicated efforts and devoted service to these children have been matched only by his extraordinary contributions to cancer research and treatment.

If we see farther today, if we are closer to the goal we seek of the conquest of cancer, it is because we stand on the shoulders of giants like Sidney Farber. Fortunately, although he is now retiring from his high faculty position, Dr. Farber will continue as director of research of the Jimmy Fund. I know that I join millions of other Americans in paying tribute to this distinguished American for his brilliant career, and in wishing him a happy and fruitful retirement.

Mr. President, a recent editorial from the Boston Globe spoke eloquently of Dr. Farber's services and accomplishments. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Sept. 16, 1970]

DR. FARBER: MEDICAL LEGEND

The one cheering note in Dr. Sidney Farber's retirement after 41 years on the faculty of medicine at Harvard University is that he will continue, this indefatigable man, as director of research of the Children's Cancer Research Foundation.

There is no known cure for cancer. But when (not if, but when) a cure is found it will be either Dr. Farber himself or one of the hundreds of researchers he has inspired who will find it. Dr. Farber is one of those rare human beings who becomes a legend in his lifetime, and a legend he is indeed although to hear it said would be an embarrassment to him.

There are hundreds of boys and girls who will attest to it, they and the parents so sorely grieved by the wasting away of their children until they were introduced to Dr. Farber's skills and his humanity. Dr. Farber IS the Jimmy Fund—amongst other things. He founded it in 1948 and called it the Children's Cancer Research Foundation after he had worked virtually alone in a basement room of Children's Hospital for two decades.

The Jimmy Fund does not save lives. Cancer is too savage a killer. But, under the genius of Dr. Farber and the other miracle men he has trained, it relieves little sufferers of their agony and in hundreds of instances it has prolonged their lives into adulthood.

"These children," he says of the 300 and 400 who are brought to him each year, "must be given a chance. It may mean one more trip to a fire station or a ball game. It may

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mean life, for as long as the child lives his cancer is not incurable."

It is this indomitability of the man as well as his advanced techniques in the treatment of cancer that entitles him to a revered place in medicine's list of its illustrious. But his energy and genius go way beyond cancer and chemotherapy. Modern heart surgery, owes him a sizeable debt, as do so many of the advances (and the practitioners) in all of pathology's and bacteriology's many mystifying facets. The medical societies and universities who have honored this first S. Burt Wolbach Professor of Pathology at Harvard are worldwide. But the esteem in which he is held by his colleagues is as great an honor as a man could ask.

ORDER FOR CALL OF CALENDAR ON TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the disposition of the reading of the Journal on tomorrow, it may be in order to call up any unobjected-to bills on the legislative calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR JAVITS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of such disposition of any unobjected-to items on the legislative calendar tomorrow, the able Senator from New York (Mr. JAVITS) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the able Senator from New York (Mr. JAVITS) tomorrow, there be a period for the transaction of routine morning business, with statements limited therein to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

LIMITATION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business tomorrow not exceed 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, it is my understanding that, under the previous order, at the request of the very distinguished majority leader (Mr. MANSFIELD), the unfinished business, the so-called equal rights for women amendment, will be laid before the Senate at the conclusion of the morning business—not the morning hour, but at the conclusion of morning business.

The PRESIDING OFFICER. The Senator is correct.

LIMITATION OF DEBATE ON EQUAL RIGHTS AMENDMENT TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that discussion of the equal rights amendment on tomorrow be limited to not to exceed 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at that time, when not to exceed 1 hour has transpired for discussion on the equal rights amendment, the pending business, H.R. 18583, be then laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. I understand that the pending question before the Senate at that time will then be——

The PRESIDING OFFICER. Agreeing to the amendment offered by the Senator from Iowa.

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer.

ADJOURNMENT TO TOMORROW AT 10 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 8 o'clock and 39 minutes p.m.) the Senate, in accordance with the order of yesterday, adjourned until tomorrow, Wednesday, October 7, 1970, at 10 a.m.

NOMINATION

Executive nomination received by the Senate October 6 (legislative day of October 5), 1970:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

David Ogden Maxwell, of Pennsylvania, to be General Counsel of the Department of Housing and Urban Development, vice Sherman Unger.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 6 (legislative day of October 5), 1970:

U.S. CIRCUIT COURTS

Max Rosenn, of Pennsylvania, to be a U.S. circuit judge for the third circuit.

U.S. DISTRICT COURTS

Cornelia G. Kennedy, of Michigan, to be U.S. district judge for the eastern district of Michigan.

HOUSE OF REPRESENTATIVES—*Tuesday, October 6, 1970*

The House met at 12 o'clock noon.

Bishop William R. Cannon, bishop of the Raleigh area of the United Methodist Church, Raleigh, N.C., offered the following prayer:

O God, who art ever more able to help us than we are to help ourselves and whose resources are infinitely greater and more effective than are our own, grant us, we beseech Thee, a clearer and better understanding of Thy will, the resolution of mind and heart always to obey Thee, and Thy grace which alone can empower us as a free people to do what we ought to do and to fulfill our destiny in history and among the families of men.

Deliver us, we pray, from factionalism and from a petty concern for party and the sectional and local interests of those we represent if they impair the well-being of the Nation as a whole, compromise our basic unity as one people, and divide and weaken us at a time when we need to be united and strong in the face of hosts of evil which inflict and threaten to destroy mankind. In an election year, help us to be at our best, not at our worst, to behave like statesmen, not like politicians, and to conduct the business of this country in a way that merits Thy favor and wins Thy recognition: "Well done, good and faithful servant. Thou hast been faithful over a few things; I shall make thee ruler over many things. Enter thou into the joys of thy Lord."

We pray for our people, the citizens of this country, that they may be optimistic, confident, courageous, and compassionate. Help those who are affluent and prosperous constantly to be concerned about the welfare of those who live in poverty and deprivation, while at the same time help the poor to see that the solution to their problems is not to dispossess the rich and covet the resources of others but rather to cultivate the means to acquire resources of their own. Help us all to realize that nothing worthwhile is ever accomplished through the selfish disruption of an orderly society, through angry agitation in the streets and on the campuses of schools and universities, and through hate and violence in which one race or class is set in opposition to another. We pray with all our hearts for the moral reformation and spiritual renewal of all our people, majorities and minorities, blacks and whites, rich and poor, that we may live together in unity, understanding, mutual respect for one another, and in charity and brotherhood, that all the world may

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see our good works and glorify our Father in heaven.

We do not pray only for ourselves but for other nations and peoples as well, remembering that all the inhabitants of the earth are Thy children, made in Thine image and loved of Thee. Bless them, too, and grant them the will and disposition, even our enemies, to live in peace and cooperation with us as we strive to live in peace and cooperation with them.

O God, almighty and all merciful, save America that America may be used by Thee in the salvation of the world. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

> S. 3154. An act to provide long-term financing for expanded urban mass transportation programs, and for other purposes.

TRIBUTE TO BISHOP WILLIAM R. CANNON

(Mr. FLYNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLYNT. Mr. Speaker, it is my pleasure to join in welcoming to the House of Representatives today as guest Chaplain, Bishop William R. Cannon of the Raleigh area of the United Methodist Church of Raleigh, N.C.

Bishop Cannon is a native Georgian and a former schoolmate of mine at the University of Georgia. Following his graduation from the University of Georgia, he attended and graduated with distinction from the Yale Divinity School. Following that, he became an ordained minister in the North Georgia Conference of the Methodist Church. Following that, he served as instructor, professor, and dean of the Candler School of Theology, Emory University, Atlanta, Ga. In 1968 at the Southeastern Jurisdictional Conference of the Methodist Church, he was elected a bishop of the Methodist Church and assigned as resident bishop of the Raleigh area, which includes the North Carolina Conference with headquarters in Raleigh, N.C.

Mr. Speaker, it is a pleasure to have Bishop Cannon with us today.

APPOINTMENT AS PUBLIC MEMBER OF COMMISSION ON RAILROAD RETIREMENT

The SPEAKER. Pursuant to the provisions of section 7(a)(1)(B), Public Law 91-377, the Chair appoints as a public member of the Commission on Railroad Retirement the following person from private life on the part of the House: Mr. George E. Leighty, of Maryland.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON DEPARTMENT OF DEFENSE APPROPRIATIONS, 1971

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the Department of Defense appropriation bill for the fiscal year 1971.

Mr. BOW reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

OPERATION COOPERATION

(Mr. MYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS. Mr. Speaker, the effort by Larry O'Brien, chairman of the Democratic National Committee, to turn the grave national problem of drug addiction into votes for Democrats should win this year's award for the outstanding display of political opportunism.

Speaking in Buffalo, N.Y., on September 16, Mr. O'Brien said that the Nixon administration, and I quote, "will want to talk about the menace of drug addiction—for which their only solution to date is the hiring of a few more customs inspectors and adding an extra hour to the time it takes to get through the airport in New York."

In his desperate quest for Democrat votes, Mr. O'Brien obviously is willing to hurt and belittle a program which has been successful in cutting down the flow of dangerous narcotics into this country.

Just last week, John Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs, looked at the end of the first year of the Nixon administration's "Operation Cooperation" which is designed to shut off drugs coming into this country from Mexico, and termed it an unqualified success. Mr. Ingersoll pointed out that in the last 3 months alone, U.S. customs agents seized 3,083 pounds of marihuana as compared to only 1,603 pounds for a like period before the operation began.

Mr. O'Brien obviously does not feel that vastly reducing the flow of drugs across the border is worth a small inconvenience.

I am sure Mr. O'Brien is not speaking for the Democrat Party in this matter.

DEMOCRATS ON THE ISSUE OF CRIME

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, the wire services carried a story Monday that the Democrats are desperately trying to move in on the issue of crime. They have suddenly became John Laws-come-lately as their party is clumsily trying to do an about face on the issue of law and order. They are trying to save their political hides from a public that is sick and tired of the permissive society that was created by Democrats in the White House working with Democrats in Congress.

Let us refresh the record.

It was under Democrats in the White House and in Congress that the population grew 11 percent in 8 years, but crime went up 100 percent.

It was under Democrats in the White House and in Congress that criminals took over our Nation's streets, that lawlessness, rioting, and violence became a way of American life.

It was Democrat-appointed Supreme Court judges who made rulings that hamstrung law enforcement and set criminals free.

It was under Democrats in the White House and in Congress that the Bail Reform Act of 1966 was rammed through, which forces judges to let vicious criminals out on bail to kill, rob, and terrorize the citizenry.

It was under Democrats that the drug traffic flourished and became a national menace.

It is a little late for reform. But, all the public has to do is to look at the inaction of this present Democrat-run Congress on President Nixon's anticrime package, proposed a year ago, and they will realize that the Democratic Party is only posturing, and that it really believes in peaceful coexistence with crime.

DAY OF BREAD AND HARVEST FESTIVAL

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEBELIUS. Mr. Speaker, I appreciate this opportunity to focus attention on the significance of this day in our Nation's efforts to eliminate hunger and malnutrition in the world and to achieve world peace.

President Nixon has designated today, October 6, a "Day of Bread." This day is part of an international observance, and the week within which it falls as a period of "Harvest Festival."

In the quest for world peace, for too long now we have overlooked the talents of the most successful producer in the American economy—the farmer. Our greatest weapon in the arsenal of peace should be our willingness to share our agricultural abundance and expertise with the developing nations.

A hungry world is a troubled world. Through food for peace and programs to promote self-help development, we have used our agricultural abundance to reduce hunger and malnutrition and achieve significant economic progress in many underprivileged areas of the world.

In this regard, an outstanding success story exists in the Philippines. American wheat is processed in Philippine mills.

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Small privately owned bakeries bake bread for the schools and local communities. This project has not only improved diets, but also reduced school dropouts.

Today, we should focus attention and direct our appreciation to the farmers whose tireless and selfless efforts provide our abundant supply of food oftentimes with little monetary compensation. We take for granted the fact that we are the best fed nation at the lowest personal cost in the world's history—in spite of the fact that a great percentage of our diet is preference food and high quality convenience items.

Today, we should also focus our attention and make renewed efforts to use our agricultural surplus to fight hunger and malnutrition here at home and abroad.

By celebrating this day in the ancient tradition of breaking bread together, may we all dedicate ourselves to working together to use agriculture to achieve President Nixon's goal of a full generation of peace in this century.

CINCINNATI REDS—NATIONAL LEAGUE CHAMPS, 1970

(Mr. TAFT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAFT. Mr. Speaker, the big Red machine "showed 'em" in Cincinnati yesterday, in a hard fought game with the Pirates, and now it is on to the World Series with the Orioles.

Obviously, as a Cincinnatian, my choice is the Reds. I must say that seldom have I seen as exciting a team.

Under the leadership of Manager Sparky Anderson, the Reds dominated the National League this year. I predict it will be the same in the series.

Last year it was the Mets, of course, and we National League boosters cheered them on to victory. No hard feelings this year, and we welcome all Mets fans to join us in rooting for the Big Red machine. I am hopeful that the Reds have set the tone for Cincinnati, in sports as well as in politics.

ENVIRONMENTAL STALEMATE

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, no one can deny the Democrats their talent for political expediency. If an issue makes the headlines, and television decides it is news, then a great pother takes place in the Democrat ranks. Once the issue fades, so does their interest, and the issue is relegated to the legislative pigeonhole. The example I would cite is environment. The first bill, of the new year 1970, of the new decade, that President Nixon asked, concerned human environment. He called for steps and solutions before it was too late. There was an immediate uproar among the Democrats, all of them crying for clean air and water and atmosphere. The need for corrective measures, dormant during two Democratic administrations, had suddenly become a popular issue. Everybody turned out for Earth Day. Everybody paid loud lipservice to eradicating pollution and smog. Every auto, it seemed, had a bumper sticker calling for solutions.

The Nixon administration, meantime, sent 37 bills to this Hill dealing with the environment. But the Democrats, seeing that public interest had waned, went back to doing nothing. And there it stands. Four administration bills to control water pollution have yet to be heard in the Public Works Committee. Other legislation sponsored by Congressmen HARSHA and CRAMER remains in the pigeonhole. If Democrats really meant what they said about the environment problem a few months back, then let them come alive and take action. The issue is a vital one, even if it has left the front page.

OFFICE FURNISHINGS FOR THE SECRETARY OF THE INTERIOR

(Mr. GROSS asked and was given permission to address the House for 1 minute.)

Mr. GROSS. Mr. Speaker, Secretary of the Interior Walter J. Hickel has once again demonstrated his fondness for writing letters and then "leaking" them to the press. This will serve as an acknowledgment that I have received his latest missive.

It seems, Mr. Speaker, that the Secretary is upset because I requested the General Accounting Office to look into the spending of some $40,000 of the taxpayers' money to refurbish his office.

Apparently he is not as upset about that as he is that I released the report of the GAO which found he would have spent nearly $2,000 for a desk and more than $50 a yard for what must be the fanciest carpet this side of Araby and the Persian Gulf.

The Secretary complains that my statement on the House floor last August that he "is sitting at a custom desk that cost $1,795 and walking on carpeting that cost $56.25 a square yard," is false.

I admit that Secretary Hickel has a point. My statement should have been: "The Secretary of the Interior—were it not for the General Accounting Office—would be sitting at a desk that cost $1,795 and walking on a carpet that cost $56.25 a square yard."

I must also admit that when I said the Secretary "is sitting at a custom desk" I was not being fully accurate because he was, in fact, that very day in Canada on a lengthy junket.

One other little matter needs to be mentioned. Mr. Hickel's letter to me, which I received on Saturday, October 3, and which he "leaked" to the press, is dated Friday, October 2, 1970. That happens to be the same date on which the Comptroller General advised him, in writing, to limit payments for his office furnishings to that allowed by Government regulations or suffer the consequences.

Come again, Mr. Hickel. Take another dive. The water is fine.

WELCOME BACK, PRESIDENT NIXON

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GERALD R. FORD. Mr. Speaker, I would like to join with the rest of the Nation in welcoming back President Nixon from his successful trip. His trip accomplished several important objectives:

First, it improved the chances of peace in the Mediterranean and therefore, in the world;

Second, it reassured our allies that the United States stands by its commitments;

Third, it showed the world that American seapower in the Mediterranean will remain preeminent; and

Fourth, it proved that the President of the United States does not fear to travel any place in the world in the cause of peace and international understanding.

Mr. Speaker, President Nixon continues to carry America's message of friendship and freedom to the world. As we salute his efforts, let us not forget his partner in the arduous quest for a generation of peace.

Indeed, I do not remember a time when a President's wife did not aid and strengthen her husband in his duties and his travels.

A shining example of a First Lady and the important role she must play is Mrs. Nixon, the President's always poised and gracious wife.

Pat Nixon, from the time her husband first came to prominence, has endured the bad times and accepted the good times with grace and courage and a rare good humor.

On the President's just-completed trip—as on others—she has been an ambassador of good will and a wonderful example to the world of American womanhood.

We are happy to have them both home safely.

HOUR OF MEETING ON THURSDAY, OCTOBER 8

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns on tomorrow, Wednesday, it adjourn to meet at 10 o'clock on Thursday.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. GROSS. Mr. Speaker, reserving the right to object, may Members of the House infer from that that we will very likely be able to recess at the end of this week until after the election?

Mr. ALBERT. Will the gentleman yield?

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Mr. GROSS. I yield to the gentleman.

Mr. ALBERT. I do not think the gentleman can draw that inference, but I do say I think it means we may recess earlier than we would be able to do otherwise. I am hopeful we can get out early next week.

Mr. GROSS. I would hope we could adjourn sine die, but apparently that is utterly impossible, at the end of this week. However, if we are going to come in at 10 o'clock in the morning on Thursday, we ought to try. I would like to think that we could have some assurance we can leave here this week on a recess basis.

Mr. ALBERT. I wish I could give the gentleman that assurance, but the gentleman knows that the Defense appropriation bill is one of the major bills of the year. We would like to come in and dispose of it as soon as possible, because it is important to the ultimate disposition of our business.

Mr. GROSS. In order to join in the hopes of the majority leader that we can recess promptly at the end of this week, Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. HALL. Mr. Speaker, further reserving the right to object, what is the purpose of coming in and asking permission 2 days early?

Mr. ALBERT. Will the gentleman yield?

Mr. HALL. I am glad to yield to the gentleman.

Mr. ALBERT. I have discussed this with the distinguished chairman of the Committee on Appropriations and with the distinguished minority leader. The committee I think rightfully wants to know whether it can begin to make preparations for starting its consideration of that bill early and, if it can, the members of the committee would like to know it as soon as possible. It is a big bill, and they are working hard on it.

Mr. HALL. What the gentleman is telling us is that the DOD appropriation bill will follow S. 30 which is scheduled for consideration today per your announcement as an addition to the legislative program yesterday?

Mr. ALBERT. Yes, with the one exception that we will not start the DOD appropriation bill tomorrow. If we get through with S. 30 early tomorrow, we will take up some other previously programed bill or bills tomorrow and then start on the DOD appropriation bill on Thursday.

Mr. HALL. Mr. Speaker, I see no objection to that. I think it is right and proper that the committee should know in advance whether or not it should come in early, and whether or not the other committees of the House will call witnesses or not. I still differ with my distinguished friend from Iowa vis-a-vis whether or not a recess should be taken at this time. I think we ought to finish up our business and get out of here. It would serve no useful purpose to have a lameduck session of Congress. I think we ought to bend every effort as I am sure the leadership of the majority and minority are, toward completing the necessary business of the Congress and recessing sine die until a newly elected Congress is seated.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection?

PERMISSION FOR SUBCOMMITTEE ON EDUCATION, COMMITTEE ON EDUCATION AND LABOR TO SIT DURING GENERAL DEBATE TODAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Education of the Committee on Education and Labor may sit during general debate today.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar Day. The Clerk will call the first individual bill on the Private Calendar.

DR. ANTHONY S. MASTRIAN

The Clerk called the bill (H.R. 15760) for the relief of Dr. Anthony S. Mastrian.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ATKINSON, HASERICK & CO., INC.

The Clerk called the bill (H.R. 10534) for the relief of Atkinson, Haserick & Co., Inc.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

CLAUDE G. HANSEN

The Clerk called the bill (H.R. 13807) for the relief of Claude G. Hansen.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

JOHN R. GOSNELL

The Clerk called the bill (H.R. 13469) for the relief of John R. Gosnell.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

DAVID L. KENNISON

The Clerk called the bill (H.R. 15272) for the relief of David L. Kennison.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

GEORGE F. MILLS

The Clerk called the bill (H.R. 15415) for the relief of George F. Mills.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

REFERENCE OF H.R. 1390 TO THE CHIEF COMMISSIONER OF THE COURT OF CLAIMS

The Clerk called House Resolution 108, referring H.R. 1390 to the Chief Commissioner of the Court of Claims.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

THOMAS J. BECK

The Clerk called the bill (H.R. 4982) for the relief of Thomas J. Beck.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

MAUREEN O'LEARY PIMPARE

The Clerk called the bill (H.R. 12962) for the relief of Maureen O'Leary Pimpare.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

MARIA DE CONCEICAO BOTELHO PEREIRA

The Clerk called the bill (H.R. 12990) for the relief of Mario de Conceicao Botelho Pereira.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

XUM

DRAGO MIKLAUSIC

The Clerk called the bill (H.R. 1508) for the relief of Drago Miklausic.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the request of the gentleman from Missouri?

There was no objection.

MATYAS HUNYADI

The Clerk called the bill (H.R. 3436) for the relief of Matyas Hunyadi.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the request of the gentleman from Tennessee?

There was no objection.

CLINTON M. HOOSE

The Clerk called the bill (H.R. 4665) for the relief of Clinton M. Hoose.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the request of the gentleman from Missouri?

There was no objection.

A. HUGHLETT MASON

The Clerk called the bill (H.R. 5017) for the relief of A. Hughlett Mason.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the request of the gentleman from Tennessee?

There was no objection.

ROGER STANLEY AND THE SUCCESSOR PARTNERSHIP

The Clerk called the bill (H.R. 5943) for the relief of Roger Stanley, and the successor partnership, Roger Stanley and Hal Irwin, doing business as the Roger Stanley Orchestra.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the request of the gentleman from Missouri?

There was no objection.

HERSHEL SMITH, PUBLISHER, LINDSAY NEWS, LINDSAY, OKLA.

The Clerk called the bill (H.R. 6100) for the relief of Hershel Smith, publisher of the Lindsay News, of Lindsay, Okla.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the request of the gentleman from Missouri?

There was no objection.

CHARLES ZONARS

The Clerk called the bill (H.R. 7955) for the relief of Charles Zonars.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the request of the gentleman from Missouri?

There was no objection.

CENTRAL GULF STEAMSHIP CORP.

The Clerk called the bill (H.R. 12958) for the relief of Central Gulf Steamship Corp.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the request of the gentleman from Iowa?

There was no objection.

DAVID Z. GLASSMAN

The Clerk called the bill (H.R. 13805) for the relief of David Z. Glassman.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the request of the gentleman from Iowa?

There was no objection.

MARCOS ROJOS RODRIGUEZ

The Clerk called the bill (S. 1187) for the relief of Marcos Rojos Rodriguez.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the gentleman from Iowa?

There was no objection.

ARLINE LOADER AND MAURICE LOADER

The Clerk called the bill (S. 2514) for the relief of Arline Loader and Maurice Loader.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the request of the gentleman from Missouri?

There was no objection.

KATHRYN TALBOT

The Clerk called the bill (S. 2661) for the relief of Kathryn Talbot.

There being no objection, the Clerk read the bill as follows:

S. 2661

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Kathryn Talbot, of Chaumont, New York, is relieved of all liability for payment to the United States of the sum of $5,458.13, representing the amount of cash and stamps, in her custody as clerk-in-charge of the Chaumont Post Office, which were taken from such post office in a burglary occurring over the weekend of July 22–23, 1967, the taking of such cash and stamps having arisen out of conditions existing at the post office prior to the time the said Kathryn Talbot became responsible for the cash and stamps. In the audit and settlement of accounts relative to such sum, credit shall be given for the amount for which liability is relieved by this Act.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Kathryn Talbot the sum of any amount received or withheld from her on account of the loss referred to in the first section of this Act.

(b) No part of any amount appropriated by this section shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. Violation of this section is a misdemeanor punishable by a fine not to exceed $1,000.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ARTHUR JEROME OLINGER, A MINOR

The Clerk called the bill (S. 703) for the relief of Arthur Jerome Olinger, a minor, by his next friend, his father, George Henry Olinger, and George Henry Olinger, individually.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the request of the gentleman from Iowa?

There was no objection.

AUTHORIZING SECRETARY OF THE INTERIOR TO CONVEY CERTAIN MINERAL INTERESTS OF THE UNITED STATES TO I. EARL NUTTER

The Clerk called the bill (H.R. 9087) to authorize the Secretary of the Interior to convey certain mineral interests of the United States in certain lands located in Wagner County, Okla., to I. Earl Nutter.

There being no objection, the Clerk read the bill as follows:

H.R. 9087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to convey to I. Earl Nutter of Tulsa, Oklahoma, all right, title, and interest of the United States in and to 112.1 acres of land described as lots 5 and 6 and the southeast quarter of the northwest quarter (less the south half of the north half of the northeast quarter of the southeast quarter of the northwest quarter) of section 6, township 15 north, range 17 east, of the Indian meridian, Wagoner County, Oklahoma. The Secretary shall convey such property upon payment by or on behalf of I. Earl Nutter to the United States, within one year after the date of enactment of this Act, of the fair market value of all right, title, and interest of the United States in and to such land. The Secretary shall determine the fair market value of all right, title, and interest of the United States in and to such land and notify I. Earl Nutter of his determination within six months after the date of enactment of this Act.

With the following committee amendment:

Page 1, beginning on line 3, strike out all after the enacting clause and insert in lieu thereof the following:

"That the Secretary of the Interior be authorized and directed to convey to the record owner of lots 5 and 6 and the southeast quarter of the northwest quarter (less the south half of the north half of the northeast quarter of the southeast quarter of the northwest quarter) of sec. 6, township 15 north, range 17 east, Indian meridian, Wagoner County, Oklahoma, in accordance with section 3 of this Act, all right, title, and interest of the United States in the mineral deposits in the land.

"SEC. 2. The Secretary shall require the deposit of a sum of money which he deems sufficient to cover estimated administrative costs of this Act. If a conveyance is not made pursuant to this Act, the deposit shall constitute full satisfaction of administrative costs notwithstanding that the administrative costs exceed the deposit, but if the amount of the deposit exceeds the actual administrative costs, the Secretary shall refund the excess.

"SEC. 3. No conveyance shall be made unless application for conveyance is filed with the Secretary within 6 months of the date of approval of this Act and unless within the time specified by him payment is made to the Secretary of (1) administrative costs of the conveyance and (2) the fair market value of the interest to be conveyed. In determining the amount of the payment required, if the sum deposited pursuant to section 2 hereof to cover estimated administrative costs is less than the actual administrative costs, the applicant shall be required to pay the difference. If such deposit is more than actual administrative costs, the applicant shall be given a credit or refund for the excess.

"SEC. 4. The term 'administrative costs of conveyance', as used in this Act, includes, but is not limited to, all costs which the Secretary finds are necessary to determine (1) the character of the mineral deposits in the land, (2) the fair market value of the rights to be conveyed, and (3) the costs of preparing and issuing the instrument of conveyance.

"SEC. 5. Moneys paid to the Secretary for administrative costs shall be paid to the agency which rendered the service, and deposited to the appropriation then current. Moneys paid for the minerals conveyed shall be deposited into the general fund of the Treasury as miscellaneous receipts."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PETER RUDOLF GROSS

The Clerk called the bill (S. 378) for the relief of Peter Rudolf Gross.

There being no objection, the Clerk read the bill as follows:

S. 378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the periods of time Peter Rudolph Gross has resided in the United States and any State since his lawful admission for permanent residence on April 15, 1961, shall be held and considered to meet the residence and physical presence requirements of section 316 of the Immigration and Nationality Act. In this case the petition for naturalization may be filed with any court having naturalization jurisdiction.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. NIMET WEISS

The Clerk called the bill (S. 732) for the relief of Mrs. Nimet Weiss.

There being no objection, the Clerk read the bill as follows:

S. 732

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of the Immigration and Nationality Act, Mrs. Nimet Weiss shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KONRAD LUDWIG STAUDINGER

The Clerk called the bill (S. 737) for the relief of Konrad Ludwig Staudinger.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

AH MEE LOCKE

The Clerk called the bill (S. 1123) for the relief of Ah Mee Locke.

There being no objection, the Clerk read the bill as follows:

S. 1123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Ah Mee Locke, the widow of the late Loy Hepp Locke, a citizen of the United States, shall be held and considered to be an alien eligible for immediate relative status under the provisions of section 201(b), and the provisions of section 204 of such Act shall not be applicable in this case.

The bill was ordered to read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KIMOKO ANN DUKE

The Clerk called the bill (S. 3167) for the relief of Kimoko Ann Duke.

There being no obection, the Clerk read the bill as follows:

S. 3167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Kimoko Ann Duke shall be held and considered to be within the purview of section 323(c) of such Act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CURTIS NOLAN REED

The Clerk called the bill (S. 3212) for the relief of Curtis Nolan Reed.

There being no objection, the Clerk read the bill as follows:

S. 3212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Curtis Nolan Reed may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, and notwithstanding the provisions of section 204 (C) of the said Act, a petition may be filed pursuant to section 204 of the Act in behalf of the said Curtis Nolan Reed by Mr. and Mrs. H. Nolan Reed, citizens of the United States: *Provided,* That no brothers or sisters of the said Curtis Nolan Reed shall thereafter, by virtue of such relationship, be accorded any right, privilege, or status under this Immigration and Nationality Act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIA PIEROTTI LENCI

The Clerk called the bill (S. 3263) for the relief of Maria Pierotti Lenci.

There being no objection, the Clerk read the bill as follows:

S. 3263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Maria Pierotti Lenci, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that act and the provisions of section 204 of such act shall not be applicable in this case.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. ANITA ORDILLAS

The Clerk called the bill (S. 3265) for the relief of Mrs. Anita Ordillas.

There being no objection, the Clerk read the bill as follows:

S. 3265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Mrs. Anita Ordillas, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that act and the provisions of section 204 of such act shall not be applicable in this case.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOHNNY MASON, JR. (JOHNNY TRINIDAD MASON, JR.)

The Clerk called the bill (S. 3529) for the relief of Johnny Mason, Jr. (Johnny Trinidad Mason, Jr.).

There being no objection, the Clerk read the bill as follows:

S. 3529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Johnny Mason, Junior (Johnny Trinidad Mason, Junior) shall be held and considered to be the natural-born alien son of J. D. Mason, a citizen of the United States: *Provided*, That the natural mother of the beneficiary shall not, by virtue of such parentage, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, lines 8 and 9, strike out the language "of the beneficiary shall not, by virtue of such parentage," and insert in lieu thereof the following: "or brothers or sisters of the beneficiary shall not, by virtue of such relationship,".

The committee amendment was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KYUNG AE OH

The Clerk called the bill (S. 3600) for the relief of Kyung Ae Oh.

There being no objection, the Clerk read the bill as follows:

S. 3600

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Kyung Ae Oh may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Samuel E. Kramm, citizens of the United States, pursuant to section 204 of such Act. The brothers or sisters of the said Kyung Ae Oh shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. ANASTASIA PERTSOVITCH

The Clerk called the bill (S. 3620) for the relief of Mrs. Anastasia Pertsovitch.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

MING CHANG

The Clerk called the bill (S. 3675) for the relief of Ming Chang.

There being no objection, the Clerk read the bill as follows:

S. 3675

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Ming Chang may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Shurman Y. Chang, citizens of the United States, pursuant to section 204 of such Act. The brothers or sisters of the said Ming Chang shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KIM JULIA AND PARK TONG OP

The Clerk called the bill (S. 3813) for the relief of Kim Julia and Park Tong Op.

There being no objection, the Clerk read the bill as follows:

S. 3813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, section 204(c) of such Act, relating to the number of petitions which may be approved in behalf of adopted children, shall be inapplicable in the case of petitions filed in behalf of Kim Julia and Park Tong Op by Mr. and Mrs. Lester Gibson, citizens of the United States. The natural brothers or sisters of the said Kim Julia and Park Tong Op shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. PANG TAI TAI

The Clerk called the bill (S. 3853) for the relief of Mrs. Pang Tai Tai.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

BRUCE M. SMITH

The Clerk called the bill (S. 3858) for the relief of Bruce M. Smith.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

HYUN JOO LEE AND MYUNG JOO LEE

The Clerk called the bill (S. 4073) for the relief of Hyun Joo Lee and Myung Joo Lee.

There being no objection, the Clerk read the bill as follows:

S. 4073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, section 204(c), relating to the number of petitions which may be approved in behalf of adopted children, shall be inapplicable in the case of petitions filed in behalf of Hyun Joo Lee and Myung Joo Lee by Mr. and Mrs. Bruce Boldon, citizens of the United States. The natural brothers and sisters of the said Hyun Joo Lee and Myung Joo Lee shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FAVORING THE SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

The Clerk called the Senate concurrent resolution (S. Con. Res. 79) favoring the suspension of deportation of certain aliens.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the concurrent resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

MRS. ROSE THOMAS

The Clerk called the bill (H.R. 2302) for the relief of Mrs. Rose Thomas.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

PHILIP C. RILEY AND DONALD F. LANE

The Clerk called the bill (H.R. 11676) for the relief of Philip C. Riley and Donald F. Lane.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

IRWIN KATZ

The Clerk called the bill (H.R. 13806) for the relief of Irwin Katz.

There being no objection, the Clerk read the bill as follows:

H.R. 13806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $1,050 to Irwin Katz of Brooklyn, New York, in full settlement of his claims against the United States for losses and expenses and penalties due to the cancellation of a contract for the purchase of a home in New York due to his forced transfer of employment from the Naval Applied Science Laboratory in Brooklyn, New York, to the Naval Weapons Laboratory in Dahlgren, Virginia. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary not withstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

XUM

With the following committee amendment:

Page 1, line 5, strike "$1,050" and insert "$800".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ROBERT L. STEVENSON

The Clerk called the bill (H.R. 15864) for the relief of Robert L. Stevenson.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

MARION OWEN

The Clerk called the bill (H.R. 15865) for the relief of Marion Owen.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

WILLIAM E. CARROLL

The Clerk called the bill (H.R. 16276) for the relief of William E. Carroll.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

GARY W. STEWART

The Clerk called the bill (H.R. 16502) for the relief of Gary W. Stewart.

There being no objection, the Clerk read the bill as follows:

H.R. 16502

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Gary W. Stewart of Baldwin Park, California, is relieved of liability to the United States in the amount of $537.76, representing the total amount of overpayments of active duty pay received by the said Gary W. Stewart during the period from January 1966, through December 1967, as a result of administrative error on the part of the United States Marine Corps with respect to monthly allotment for December 1967, sent to Joyce Stewart, wife of said Gary Stewart, representing overpayment of clothing maintenance and leave rations, overpayment of basic pay and basic allowance for quarters, and rental value of inadequate family quarters during his active service as a member of the United States Marine Corps and received in good faith on his part. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for amounts for which liability is relieved by this section.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Gary W. Stewart an amount equal to the aggregate of the amounts paid by him, or withheld from sums otherwise due him, with respect to the indebtedness to the United States specified in the first section of this Act.

(b) No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 1, line 5, strike "$537.76" and insert "$553.21".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CERTAIN EMPLOYEES OF THE DEPARTMENT OF DEFENSE

The Clerk called the bill (H.R. 17272) for the relief of certain employees of the Department of Defense.

There being no objection, the Clerk read the bill as follows:

H.R. 17272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) each of the following-named persons is relieved of liability to the United States in the amount which appears beside his name:

Sarah L. Botsai	$100.00
Ouida Bankston	100.00
William Hood	1,052.98
James Child	269.93
Ronald Roth	564.46
Dexter Brown	146.50
Susan Groswith	100.00
Mary Kubal	100.00
Michael Madore	238.75
Diana Hensley	200.00
Robert Tarr	254.25
John Mollick	398.56
Howard Sargent	563.06
Allen P. Alsop	591.76
John Rowland	600.56
Carolyn Dischert	100.00
Alan Koseff	373.18
Thomas Orr	461.10
Samuel Raskin	384.50

Such amounts represent overpayments of travel, transportation, and other related expenses made, as a result of an administrative error, to the above named civilian employees of the Department of Defense during the years 1966, 1967, and 1968. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for amounts for which liability is relieved by this section.

(b) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to each person named in the first section of this Act an amount equal to the aggregate of the amounts paid by him, or withheld from sums otherwise due him, with respect to his indebtedness to the United States specified in such section.

SEC. 2. The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the following individuals the sums listed after their names in full settlement of all their claims against the United States for reimbursement of certain travel expenses incurred in connection with travel pursuant to travel orders issued in 1966, 1967, and 1968:

James Child	$247.00
Carolyn Dischert	100.00
Alan Koseff	543.20
Thomas Orr	483.00
Samuel Raskin	492.00

SEC. 3. No part of the amount appropriated in subsection (b) of the first section of this Act or in section 2 of this Act, for the payment of any one claim in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendments:

Page 2, in list of names after line 2, after "Ronald Roth" strike "546.46" and insert "589.30".

Page 3, in list of names after line 9, after "Carolyn Dischert" strike "$100.00" and insert "190.97".

Page 3, in list of names after line 9, insert the following:

"James R. Duncan	342.58
Robert E. Eckert	412.63".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CARLO BIANCHI & CO., INC.

The Clerk called the bill (H.R. 17853) for the relief of Carlo Bianchi & Co Inc.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

JAMES E. MILLER

The Clerk called the bill (S. 878) for the relief of James E. Miller.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

CAPT. WILLIAM O. HANLE

The Clerk called the bill (S. 882) for the relief of Capt. William O. Hanle.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

DONAL E. McGONEGAL

The Clerk called the bill (S. 1422) for the relief of Donal E. McGonegal.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to

XUM

the request of the gentleman from Tennessee?

There was no objection.

DONAL N. O'CALLAGHAN

The Clerk called the bill (S. 2755) for the relief of Donal N. O'Callaghan.

There being no objection, the Clerk read the bill as follows:

S. 2755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Donal N. O'Callaghan of Carson City, Nevada the sum to which he would be entitled under section 5274(a)(4), title 5 of the United States Code and the regulations issued thereunder without regard to section 4.1d of the Bureau of the Budget Circular Numbered A–56, Revised, October 12, 1966. Such sum represents the amount of expenses the said Donal N. O'Callaghan incurred in selling his residence in Carson City, Nevada, incident to his transfer in June 1967, as an employee of the Office of Emergency Preparedness, from one location to another for the convenience of the Government, the said Donal N. O'Callaghan having been unable, due to circumstances beyond his control, to comply with a Government regulation permitting reimbursement of such expenses only in the case of sales completed within one year after transfer.

SEC. 2. No part of the amount appropriated in this Act in excess of 20 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of this section is a misdemeanor punishable by a fine of not to exceed $1,000.

With the following committee amendments:

Page 1, line 6, after "section 5724" insert "a".

Page 2, line 10, strike "in excess of 20 per centum thereof".

The committee amendments were agreed to.

The bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

RUTH E. CALVERT

The Clerk called the bill (S. 3138) for the relief of Ruth E. Calvert.

There being no objection, the Clerk read the bill as follows:

S. 3138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs is authorized and directed to pay, out of money appropriated for the payment of veterans' benefits, to Ruth E. Calvert, of Stirling, New Jersey, the sum of $1,600, representing the amount of an allowance erroneously authorized by the Veterans' Administration on behalf of her late husband, Ben Sassin Calvert, a disabled veteran, for the purchase of a specially equipped automobile, the payment of such allowance having been disallowed after the purchase of the automobile had been made by the said veteran.

SEC. 2. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

The bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

MRS. ROLANDO C. DAYAO

The Clerk called the bill (H.R. 14543) for the relief of Mrs. Rolando C. Dayao.

There being no objection, the Clerk read the bill as follows:

H.R. 14543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Mrs. Rolando C. Dayao shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. MARIA ZAHANIACZ (NEE BOJKIWSKA)

The Clerk called the bill (H.R. 15767) for the relief of Mrs. Maria Zahaniacz (nee Bojkiwska).

There being no objection, the Clerk read the bill as follows:

H.R. 15767

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Mrs. Maria Zahaniacz (nee Bojkiwska) shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That in the administration of the Immigration and Nationality Act, Mrs. Maria Zahaniacz (nee Bojkiwska), the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of such Act shall not be applicable in this case."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEELA MEESIN BELL

The Clerk called the bill (H.R. 15922) for the relief of Leela Meesin Bell.

There being no objection, the Clerk read the bill as follows:

H.R. 15922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Leela Meesin Bell may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, and a petition filed in her behalf by Mrs. Stephanie Elizabeth Bell, a citizen of the United States, may be approved pursuant to section 204 of the Act.

With the following committee amendments:

On page 1, line 4, strike out the name "Leela Meesin Bell" and substitute in lieu thereof the name *"Somporn (Leeta Noi) Bell"*.

On page 1, line 8, strike out the word "Act." and insert in lieu thereof the following: Act: *Provided,* That the brothers or sisters of the beneficiary shall not, by the virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time and passed.

The title was amended so as to read: "For the relief of Somporn (Leeta Noi) Bell".

A motion to reconsider was laid on the table.

SOON HO YOO

The Clerk called the bill (H.R. 16857) for the relief of Soon Ho Yoo.

There being no objection, the Clerk read the bill as follows:

H.R. 16857

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Soon Ho Yoo may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Wallace Wenge, citizens of the United States, pursuant to section 204 of the Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

With the following committee amendment:

On page 1, line 11, strike out the word "case." and substitute in lieu thereof the following: "case: *Provided,* that the brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act."

XUM

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JACQUELINE AND BARBARA ANDREWS

The Clerk called the bill (H.R. 17431) for the relief of Jacqueline and Barbara Andrews.

There being no objection, the Clerk read the bill as follows:

H.R. 17431

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of sections 203(a)(2) and 204 of the Immigration and Nationality Act, Jacqueline and Barbara Andrews shall be held and considered to be the natural-born alien children of Mr. and Mrs. James Deas, both legal resident aliens.

With the following committee amendment:

On page, 1, line 7, strike out the word "aliens." and insert in lieu thereof the following: "aliens: *Provided,* That the natural parents, brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JUNG YUNG MI AND JUNG AE RI

The Clerk called the bill (H.R. 17508) for the relief of Jung Yung Mi and Jung Ae Ri.

There being no objection, the Clerk read the bill as follows:

H.R. 17508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Jung Yung Mi and Jung Ae Ri may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by William J. Spaven and Harriet Spaven, citizens of the United States, pursuant to section 204 of the Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

With the following committee amendment:

On page 1, line 11, strike out the word "case." and insert in lieu thereof the following: "case: *Provided,* That the brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JIN SOO PARK AND MOON MI PARK

The Clerk called the bill (H.R. 17912) for the relief of Jin Soo Park and Moon Mi Park.

There being no objection, the Clerk read the bill as follows:

H.R. 17912

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Jin Soo Park and Moon Mi Park may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by James R. and Mary Ann Sikorski, citizens of the United States, pursuant to section 204 of the Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved shall be inapplicable in this case.

With the following committee amendment:

On page 1, line 11, strike out the word "case." and substitute in lieu thereof the following: case: *Provided,* That the brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FRANCIS X. TUSON

The Clerk called the bill (H.R. 4463) for the relief of Francis X. Tuson.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The **SPEAKER.** Is there objection to the request of the gentleman from Tennessee?

There was no objection.

ELMER M. GRADE

The Clerk called the bill (H.R. 6114) for the relief of Elmer M. Grade.

There being no objection, the Clerk read the bill as follows:

H.R. 6114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any funds in the Treasury not otherwise appropriated, to Elmer M. Grade, of Annandale, Virginia, the sum of $1,000 in full settlement of all his claims against the United States for reimbursement of expenses arising in connection with the sale of his Denver, Colorado, residence pursuant to his change of official station as an employee of the United States Department of Labor.

Sec. 2. No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendments:

Page 1, line 6, strike "$1,000" and insert "$900".

Page 1, line 12, strike "in excess of 10 percentum thereof".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COMDR. ALBERT G. BERRY, JR.

The Clerk called the bill (H.R. 10233) for the relief of Comdr. Albert G. Berry, Jr.

There being no objection, the Clerk read the bill as follows:

H.R. 10233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Commander Albert G. Berry, Junior, United States Naval Reserve, retired, of Coronado, California, the sum certified to him by the Comptroller General of the United States pursuant to section 2 of this Act. The payment of such sum to the said Commander Albert G. Berry, Junior, shall be in full settlement of all of his claims against the United States for loss of active duty pay and allowances during the period beginning February 25, 1941, and ending February 1, 1947, arising from failure to credit him (for longevity purposes) with service as a midshipman at the United States Naval Academy.

Sec. 2. The Comptroller General of the United States shall, within ninety days after the date of enactment of this Act, certify to the Secretary of the Treasury the difference between the amount of active duty pay and allowances received by the said Commander Albert G. Berry, Junior, from the United States during the period specified in the first section of this Act and the amount of such pay and allowances to which he would have been entitled during such period had he correctly been credited (for longevity purposes) with his service as a midshipman at the United States Naval Academy.

With the following committee amendment:

Page 2 line 2, strike "February 1, 1947" and insert "January 31, 1947".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The **SPEAKER.** That concludes the call of the Private Calendar.

KEUM JA FRANKS

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2043) for the relief of Keum Ja Franks, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, line 4, strike out "Keum Jo Kim" and insert "Keum Ja Franks."

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 17575, DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY. AND RELATED AGENCIES APPROPRIATIONS, 1971

Mr. ROONEY of New York. Mr. Speaker, I call up the conference report on the bill (H.R. 17575) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1971, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 30, 1970.)

CALL OF THE HOUSE

Mr. FRELINGHUYSEN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. EDMONDSON. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 328]

Adair
Aspinall
Barrett
Beall, Md.
Berry
Betts
Biaggi
Blackburn
Blanton
Brock
Brooks
Burlison, Mo.
Burton, Utah
Bush
Button
Byrne, Pa.
Cabell
Clark
Clay
Corbett
Cowger
Daddario
Dawson
de la Garza
Denney
Dent
Derwinski
Diggs
Dowdy
Edwards, La.
Fallon
Feighan
Fisher
Foreman
Fulton, Tenn.
Gallagher
Gettys
Griffiths
Gubser
Haley
Hanna
Hays
Hébert
Heckler, Mass.
Jonas
Jones, N.C.
Jones, Tenn.
Landrum
Long, La.
Lowenstein
Lujan
Lukens
McCarthy
McClory
McDonald, Mich.
McKneally
McMillan
Melcher
Meskill
Monagan
Morse
Murphy, N.Y.
Nedzi
Obey
O'Konski
O'Neal, Ga.
Ottinger
Pike
Pirnie
Pollock
Powell
Rees
Rosenthal
Rostenkowski
Roudebush
Ruth
Sandman
Satterfield
Saylor
Scheuer
Scott
Snyder
Stephens
Stratton
Teague, Tex.
Thompson, N.J.
Tunney
Ullman
Weicker
Widnall
Wold
Young

The SPEAKER. On this rollcall 337 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 17575—DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1971

The SPEAKER. The gentleman from New York is recognized for 1 hour.

Mr. ROONEY of New York. Mr. Speaker, this bill making appropriations for the Departments of State, Justice, and Commerce, the Federal Judiciary, and related agencies for the fiscal year ending June 30, 1971, contains a total of $3,108,074,500 in new obligational authority.

There is also an additional $194,348,000 for liquidation of prior contract authorizations.

This bill as it comes out of conference is $143,125,500 below the total amount of the budget estimates. It is $14,006,000 below the bill as it passed the other body. It is $1,118,000 above the bill as it passed this body. However, the other body considered supplemental amendments totaling $7,295,000 which were not before the House at the time the bill was passed by this body. Also included in the total is an increase of $2,750,000 inserted by the other body for the Federal Bureau of Investigation to reinstitute the processing of non-Federal applicant fingerprints.

Mr. Speaker, at this point I shall insert in the RECORD a table showing the actions of the House-Senate conferees with regard to the various departments and agencies in the bill.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES, 1971

Department or agency (1)	New budget (obligational) authority, fiscal year 1970 (2)	Budget estimates of new (obligational) authority, fiscal year 1971 (3)	New budget (obligational) authority recommended in House bill (4)	New budget (obligational) authority recommended in Senate bill (5)	New budget (obligational) authority recommended by conference action (6)	Conference action compared with—			
						New budget (obligational) authority, fiscal year 1970 (7)	Budget estimates of new (obligational) authority, fiscal year 1971 (8)	New budget (obligational) authority recommended in House bill (9)	New budget (obligational) authority recommended in Senate bill (10)
Department of State	$420, 703, 100	$454, 434, 000	$447, 381, 800	$445, 531, 800	$445, 431, 800	+$24, 728, 700	−$9, 002, 200	−$1, 950, 000	−$100, 000
Department of Justice	851, 247, 000	1, 127, 510, 000	1, 117, 223, 000	1, 120, 523, 000	1, 120, 323, 000	+269, 076, 000	−7, 187, 000	+3, 100, 000	−200, 000
Department of Commerce	819, 425, 000	1, 007, 645, 000	949, 203, 000	952, 613, 000	943, 955, 000	+124, 530, 000	−63, 690, 000	−5, 248, 000	−8, 658, 000
The Judiciary	129, 273, 400	138, 561, 600	132, 956, 300	135, 870, 300	135, 870, 300	+6, 596, 900	−2, 691, 300	+2, 914, 000	
American Battle Monuments Commission	2, 716, 000	2, 739, 000	2, 739, 000	2, 739, 000	2, 739, 000	+23, 000			
Arms Control and Disarmament Agency	9, 500, 000	8, 300, 000	8, 250, 000	8, 250, 000	8, 250, 000	−1, 250, 000	−50, 00		
Commission on Civil Rights	2, 650, 000	3, 200, 000	3, 200, 000	3, 200, 000	3, 200, 000	+550, 000			
Office of Education: Civil rights education	19, 000, 000	24, 000, 000	19, 000, 000	19, 000, 000	19, 000, 000		− 5, 000, 000		
Equal Employment Opportunity Commission	13, 400, 000	19, 000, 000	14, 313, 000	19, 000, 000	15, 485, 000	+2, 085, 000	−3, 515, 000	+1, 172, 000	−3, 515, 000
Federal Maritime Commission	3, 943, 000	4, 629, 000	3, 929, 000	4, 479, 000	4, 479, 000	+536, 000	−150, 000	+550, 000	
Foreign Claims Settlement Commission	706, 000	750, 000	710, 000	710, 000	710, 000	+4, 000	−40, 000		
National Commission on Reform of Federal Criminal Laws	300, 000	100, 000	100, 000	100, 000	100, 000	−200, 000			
Small Business Administration	194, 065, 000	267, 440, 000	220, 290, 000	221, 290, 000	220, 290, 000	+26, 225, 000	−47, 150, 000		−1, 000, 000
Special representative for trade negotiations	533, 000	757, 000	550, 000	597, 000	597, 000	+64, 000	−160, 000	+47, 000	
Subversive Activities Control Board	401, 400	401, 400	401, 400	401, 400	401, 400				
Tariff Commission	4, 139, 000	3, 845, 000	3, 845, 000	3, 845, 000	3, 845, 000	−294, 000			
U.S. Information Agency	181, 216, 000	187, 888, 000	182, 865, 000	183, 931, 000	183, 398, 000	+2, 182, 000	−4, 490, 000	+533, 000	−533, 000
United States-Mexico Commission for Border Development and Friendship	159, 000					−159, 000			
Total, new budget (obligational) authority	2, 653, 376, 900	3, 251, 200, 000	3, 106, 956, 500	3, 122, 080, 500	3, 108, 074, 500	+454, 697, 600	−143, 125, 500	+1, 118, 000	−14, 006, 000
Memoranda:									
Appropriations to liquidate contract authorizations	(195, 815, 000)	(194, 348, 000)	(194, 348, 000)	(194, 348, 000)	(194, 348, 000)	(−1, 467, 000)			
Total appropriations, including appropriations to liquidate contract authorizations	(2, 849, 191, 900)	(3, 445, 548, 000)	(3, 301, 304, 500)	(3, 316, 428, 500)	(3, 302, 422, 500)	(+453, 230, 600)	−143, 125, 500)	(+1, 118, 000)	(−14, 006, 000)

(Mr. ROONEY of New York asked and was given permission to revise and extend his remarks and include extraneous matter and a table.)

Mr. ROONEY of New York. Mr. Speaker, however, I must point out that this bill is $454,697,600 more than the appropriations for these purposes for the last fiscal year. This amount is made up primarily of an increase of $171,582,000 for ship construction for our merchant marine and increases for the Department of Justice of $269,076,000 over the total for the last fiscal year for combating crime.

As in every conference there had to be a good bit of give-and-take and everyone, including myself, is not satisfied with the end result. I took strenuous exception to the action of the conferees on amendments 29 and 30 which deal with increased and necessary funds for the Equal Employment Opportunity Commission. I pleaded for the full amount requested for this Commission when the House considered this bill earlier this year and I am still for the full amount requested. However, a majority of the conferees agreed to the $15,485,000 included in the report.

In connection with the item for the Regional Action Planning Commissions we have no objection to the use of $600,000 to equally fund the Federal share of the administrative costs of the two planned commissions; namely, the Mid-South and the Upper Missouri Regional Economic Development Commissions.

Mr. BOW. Mr. Speaker, I support the report and concur in what the gentleman from New York had to say.

This conference agreement is over $14 million under the bill passed by the other body. It merits your support.

I believe there are two items in this bill that should be called to your attention, because they involve amendments to the budget received after the bill had been considered by the House. This bill now provides for the protection of our foreign service personnel in countries where kidnapings and other incidents have occurred. It is important that we approve this bill as soon as possible in order to try and protect these employees from harm and further indignities around the world. I also point out, as the gentleman from New York did, that this bill also reinstitutes the fingerprint service of the FBI to State and local governments. This is an important provision, and is another reason why we should approve this bill as soon as possible. I would suggest, Mr. Speaker, that, because of these two items and others, we should send this bill to the President for signature without further delay.

Mr. Speaker, I support this conference report and recommend its approval.

Mr. FRELINGHUYSEN. Mr. Speaker, will the gentleman yield?

Mr. ROONEY of New York. I yield briefly to the gentleman from New Jersey for a question.

Mr. FRELINGHUYSEN. Mr. Speaker, I should like to ask about the reduction in the contribution to international organizations.

Mr. ROONEY of New York. Mr. Speaker, I am delighted that the gentleman from New Jersey has asked this question, because that very issue was decided in the other body on August 24 last by a vote of 49 to 22, when the other body as well as this committee found that we belonged to an organization that has become dominated by Communists. We, therefore, withdrew all the remaining funds for our payments to that organization.

We had testimony not only from Mr. George Meany, and remember that this was a fine organization originally, I will say to my distinguished friend. This organization was founded long before the U.N. This organization was founded by Samuel Gompers in 1920, and it did many good things over the years until they admitted the Soviet Union and its satellites to membership. We all know there is no free trade union allowed by the Kremlin. It is now nothing but a stage for Communist propaganda, and there is no reason why our taxpayers should be paying 25 percent of every dollar of cost of keeping that organization alive.

At this point I shall insert in the RECORD the testimony on July 31 last of Mr. George Meany, president, AFL–CIO, Mr. Ed Neilan, employer delegate to the ILO, Hon. George H. Hildebrand, Deputy Under Secretary for International Organization Affairs, Department of Labor, and others, given to this committee:

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1971, FRIDAY, JULY 31, 1970

DEPARTMENT OF STATE—CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS—INTERNATIONAL LABOR ORGANIZATION—WITNESS

George Meany, president, AFL–CIO; Ed Neilan, employer delegate to the ILO; George H. Hildebrand, Deputy Under Secretary for International Affairs, Department of Labor; Samual DePalma, Assistant Secretary for International Organization Affairs, Department of State.

Philip A. Kleinberger, Director, Office of International Organizations, Department of Labor; Michael Boggs, Associate Inter-American Representaive, AFL–CIO; Ron Van Helder, International Represenative, AFL–CIO; Ernest Lee, International Department, AFL–CIO.

A. J. Biemiller, Legislative Director, AFL–CIO; Rudolph Faupl, Worker Representative, ILO; William G. Van Meter, U.S. Chamber of Commerce; James F. Steiner, U.S. Chamber of Commerce; Oscar H. Nielson, Executive Director, Bureau of International Organization Affairs, Department of State.

George P. Delaney, Special Assistant to the Secretary and Coordinator, International Labor Affairs, Office of the Secretary, Department of State; Edward B. Persons, Foreign Affairs Officer, Bureau of International Organization Affairs, Department of State.

Sidney S. Cummins, International Administration Officer, Bureau of International Organization Affairs, Department of State; Al Delong, Assistant General Counsel, Department of Commerce; John Mulligan, Assistant to Administrator, BDSA, Department of Commerce.

Mr. ROONEY. The committee will now please come to order.

Gentlemen, we are here this morning concerned with an international organization known as the International Labor Organization, domiciled in Geneva, Switzerland. We have been advised that there is the possibility that a Soviet Russian national might be installed at the No. 2 level in this organization. The No. 2 position was filled for a number of years by a national of the United Kingdom and the organization has been directed by an American national named David A. Morse.

Most of us on this committee and in the Congress feel that there is not a real democratic labor union in all the Soviet alleged Socialist Republics.

So far the American taxpayers have paid in dues to this International Labor Organization a total of $70,280,000.

The request for this fiscal year alone is in the amount of $7,458,875. This is a very substantial increase over the past fiscal year which just ended on June 30. The increase is in the amount of $805,691.

It is my understanding that the percentage of payments to this organization to keep it in business, made by the United States Government at the expense of the American taxpayer, is 25 percent as compared, Mr. DePalma, with how much paid by the Soviet Russians?

Mr. DEPALMA. Ten percent.

Mr. MEANY. And with other U.S.S.R. States it is brought up to 12.34.

Mr. ROONEY. We are gathered here this morning because of the concern of the head of the AFL–CIO, Mr. Meany, at what might take place insofar as installing a Russian national in a No. 2 position in this International Labor Organization.

Mr. George Meany is here with us this morning and we shall first ask him if he would proceed to give us his views with regard to this organization and the possibility of this Russian national taking office in the second slot formerly held by Mr. Jenks, who has now been promoted by election to take the place of Mr. David A. Morse as Director General.

Mr. HILDEBRAND. It is not the second slot that is involved. It is the Assistant Director General, which is a little further down, but it is part of the top hierarchy.

Mr. ROONEY. It is not Mr. Jenks' slot?

Mr. HILDEBRAND. No.

STATEMENT OF MR. GEORGE F. MEANY, PRESIDENT, AFL–CIO

Mr. MEANY. It is one of the most important positions in the whole setup. It is one of the Assistant Director Generals. It causes us a great deal of concern.

Mr. Chairman, I would like to as briefly as I can go over this whole picture.

History of the ILO

The ILO came into being in 1920. It was the direct result of the activities of the president of the American Federation of Labor at that time, Mr. Samuel Gompers. It was based on a theory of Gompers' that if the workers and the employers throughout the world, in conjunction with government, would try to improve the quality of life among the people at the lower end of the economic ladder, and if we could step up the development of viable economics in the backward nations of the world, that this would in itself be a contribution toward future world peace.

Based on Gompers' theory that most wars came about because certain nations had more than others, and those who did not have what they thought was their share, they would go to war to try to get that share. Gompers broached this matter to leaders of labor in other countries, notably the British and the French. They were in agreement that when the peace treaty was signed that something could be done to establish some sort of an international agency to direct its attention to this problem of raising the standards of life of the people all over the world who were at the lower end of the economic structure and in many cases who were citizens of countries which had no industrial potential at all.

In 1919 this matter was brought up to the convening powers in Versailles by President Woodrow Wilson, with Mr. Gompers at his side. A special committee was set up by the victorious powers in World War I. A special committee was set up to see what could be done to bring about the creation of this organization. Mr. Gompers was named chairman of that committee. After a report was submitted by him there was a provision in the Treaty of Versailles which set up the ILO. It provided for setting up the ILO and the ILO was set up here in the city of Washington shortly after the peace treaty was signed.

The Peace Treaty, of course, really set up

XUM

the League of Nations and it provided that any country which joined the League of Nations automatically became a member of the ILO, and the entire structure of the ILO was based on what we call tripartitism, with Government, labor, and employers represented—with the Government having two representatives to each labor representative so that you had a tripartite system on a 2–1–1 basis, two representatives of Government, one representative of workers, and one representative of employer groups.

The ILO then, of course, lived for a number of years as part of the old League of Nations. Under the constitution of the League of Nations you could not be a member of the ILO unless you were also a member of the League of Nations, so for the first 13 years of the life of the ILO the United States of America was not represented.

However, in 1933 there was a constitutional change which allowed sovereign states to join the ILO even if they did not hold membership in the League of Nations.

When the League of Nations went down the drain the ILO continued to function as an independent international agency with the U.S. participation.

When World War II came to an end the ILO became a coordinating and cooperating organization with the U.N. Our country, of course, played a very prominent part in the early days of the ILO. The former Governor of New Hampshire, John Winant, was the Director General of the ILO during most of the war years. He was succeeded by a representative of Ireland, Ed Phelan who came out of the staff of the ILO, and when Phelan retired in 1949 David Morse, who was then Assistant Secretary of Labor in charge of international affairs, and who had attended ILO meetings, became the Director General of the ILO and remained in that post from the summer of 1948 until the spring of 1970.

The whole basis of the ILO is the tripartite system. The ILO recognized the necessity for bringing into its structure the independent think of labor unions to the point where member countries could not designate a labor representative unless that labor representative was suggested and approved by the major labor organization in that country. In other words, while the ILO is an organization of sovereign states, it must have representation from both employers and workers, and the Government cannot under the ILO constitution submit the name of a worker in advance unless that worker is approved in advance by the organization in the country which represents the majority of workers. Of course, this in the early years was the AFL and since 1955 it has been the AFL–CIO.

Soviet Union membership in the ILO

The Soviet Union applied for membership in the ILO for the first time in 1953, that is the first time after World War II. They applied with certain reservations——

Mr. ROONEY. It had already been in existence for 33 years?

Mr. MEANY. Oh, yes. They were in it when it was part of the League of Nations. However, they applied in 1953, but applied with reservations—that certain sections of the constitution should not apply to the Soviet Union. For instance, ILO decisions are appealable to the World Court at The Hague, and the Soviets said they could not accept that. So the ILO said they could not accept the Soviets into membership.

A year later, however, the Soviets decided that they would accept membership in the ILO and pledge themselves to abide by the constitution.

When they came in they came in, of course, with delegates supposedly representing employers and delegates supposedly representing workers. Delegations were accepted on that basis even though everybody in attendance at ILO conference knew there was no such thing as private employers in the Soviet Union, and there was no such thing as free trade unions in the normal sense in the Soviet Union. Of course, this is still true.

In the Soviet Union they have what they call trade unions but actually these so-called trade unions are agencies of government. They are agencies designed to control workers, not to give expression to the views or the ideals or the aspirations of workers. As proof of that from time to time the official publications of the Soviet Trade Union Movement calls attention to that fact.

I recall in 1957 at the U.N. where I was a delegate, I was engaged in a discussion with the Soviet representative as a member of the Committee No. 3 on Social and Economic Subjects, and I brought to the attention of that committee a copy of the Russian, so-called Russian, trade union paper, the Journal of the All-Soviet Council of Trade Unions. I think that was the official title of that group. The magazine is known as Trud.

On the front page of this magazine at the time was a statement from the editors, and it was boxed in to emphasize it, that the Soviet Council of Trade Unions was attempting to move out of their sphere of influence by discussing wages, wages of workers, and what they call production norms.

The statement from this trade union paper wound up by saying that wages are not the province of the All-Soviet Trade Union group nor are production norms within the jurisdiction of the All-Soviet group, but these matters are party matters determined by the party. This, of course, put the thing really in proper perspective, that these people are not representative of workers.

As a further indication, the head of this so-called union group is not elected by workers. He is appointed by the government. The present head of the All-Soviet Council of Trade Unions is a man by the name of Shilepin who spent his entire lifetime in the Russian Secret Police and was head of the Russian Secret Police when he was appointed about 3 or 4 years ago as the head of the All-Soviet Council of Trade Unions.

These are the circumstances in which the Soviets hold membership in the ILO.

However, they go much beyond this. They have a special membership. They operate under a double standard, and this has been more or less accepted by the Office of the ILO over the years. They accept officially, without question, the decisions of the ILO but promptly, once a decision is made, they proceed to ignore it. In other words, they have voted for the freedom of association at the convention of the ILO and they deny freedom of association. This is true not only of the Soviet Union but of the bloc countries. The head of the Polish Delegation was elected to the chairmanship of the annual conference of the ILO in 1966 when his nation was under sanctions of the ILO officially for denying the right of association to its members, so there is a double standard which has been set up in regard to Soviet membership in the ILO. And it is based on a practical approach to the soviets, that they either get their way or they don't pay. They don't send any money.

Mr. ROONEY, We can do that, too, can't we?

Mr. MEANY. I am sure we can. Of course, this is a question for Congress in its judgment to decide. It is not only their privilege but their duty, I think, to decide this.

Basic defects in the ILO setup

I have here a very long document written by a Prof. Carlos Vela of Ecuador, in which he analyzes this whole ILO situation in regard to what he calls basic defects in the ILO setup. He refers to the so-called double standard. He indicates, and this is back in 1966, that the Russians do have a double standard.

Mr. ROONEY. Do you wish that made part of the record, Mr. Meany?

Mr. MEANY. Yes.

Mr. ROONEY. Without objection we shall insert this document at this point in the record.

* * * * *

Mr. MEANY. This is a very, very interesting document and it is as valid today as when it was written about 4 years ago.

What has happened since the Soviets came into the ILO is that the ILO has become a sounding board more and more each year for political discussions. Those of use who have attended ILO meetings in the last few years have been subjected to the indignity of listening to speaker after speaker on the resolutions committee denouncing the United States of America. This has become a forum for Russian political propaganda, and there is no effort made by the Office of the ILO to stop this.

"Lenin and social progress"

As a sample of the attitude of the Office of the ILO toward the Soviet Union here is an article written this April in the International Labour Review, which is the official publication of the ILO. The article is written under the title of Lenin and Social Progress. The article pleads for revolution in the developing countries and holds up the Soviet form of revolution as a model and the best road to social progress, and it portrays Lenin as the great benefactor of mankind, and nowhere in the article does it indicate that Lenin was the head of this proletarian dictatorship which was set up in Russia in 1920 and that he was the author of the Red terror and the oppression against the people of the Soviet Union. This is not mentioned in this article.

I would like someone on your staff to read this because this indicates the official attitude of the ILO Office in which they extol the virtues of a dictator, of a man who destroyed the Russian trade union movement. You know, there was a Russian Free Union Trade Movement under the Czar. It was underground, of course, and it had to fight for its life every day against the secret police, but it did exist and it did represent the wishes of the workers.

However, when Lenin and his crowd came in they very promptly shot the leaders and they disposed of the trade union movement. This fact, Khrushchev boasted about only a few years ago in a conversation which was relayed to me by President Kennedy. He told President Kennedy in Vienna "You pay too much attention to your labor leaders. We solved our labor problem many years ago."

Kennedy asked "How did you solve it?

He said "We shot the leaders." That took care of that.

Mr. ROONEY. Without objection we shall insert this volume No. 101, No. 4, April 1970 of the International Labor Review at this point in the record so that each and every member of the committee and House may have an opportunity to read it.

* * * * *

Sounding board for Soviet propaganda

Mr. MEANY. This annual conference is used as a sounding board for Soviet propaganda against the United States, as I say. The Resolutions Committee is now, and for some years has been, engaged in political discussions which are completely outside the competence of the ILO. In fact, the ILO rapidly is becoming a political organization, and I don't think that we need another political organization. We have a political organization worldwide, the United Nations, in which our country holds membership.

The Soviet group is demanding that the whole structure be changed. When this organization was set up there was automatic membership on the governing body to the

XUM

top industrial countries of the world on the theory that those were the countries which would have to make a contribution if we were to improve the standards of life in the so-called backward countries of the world.

The Soviets want to eliminate that. They want to eliminate the selection of ILO officials by the governing body where this automatic membership prevails, and they want to throw them into the general assembly of the ILO on the basis of one nation—one vote, which means that the United States of America would be on a par with Kenya, Togo, and any of these newly emerging nations. This, of course, is further evidence of the Soviet desire to gain control of the ILO completely. They certainly have tremendous influence.

The United States of America today is in a minority position in the ILO. The Soviets' propaganda has been quite effective with some of the newly emerging nations. To give you an indication of the double standards, under the ILO procedure, when any national member of the ILO feels that he should have representation on the staff by putting employees in, the rule has always been that they submit a list of candidates for any particular spot with their qualifications. Then they are looked over and the ILO office makes the decision.

The Russians never have accepted that. They have the special privilege of submitting one candidate for any position to which they aspire, and there is no right of the Office to question the capability of that particular candidate.

Soviet representative in key position

In this instance, Mr. Jenks, who just has been elected as the Director General of the ILO, announced that he was going to appoint a Russian representative. He made it quite clear that he was going to follow the usual procedure of getting only one candidate, and that candidate would be appointed.

At the same time he offered, in order to sort of balance off this appointment of a Soviet representative in this key position, to put an American at the same level as an Assistant Director General, but he made it quite clear—and I am sure George Hildebrand can tell you more about this than I can—he made it quite clear, however, that he would expect the Americans to submit a list of his perusal and his decision, and he also made it clear that if he did not like the list that he himself would pick an American without regard to whom our Government wanted.

Mr. ROONEY. He must think he personally inherited this Organization.

Mr. MEANY. I will tell you the basis of Mr. Jenks' strategy or approach. It is that if the ILO wants the Soviet Union to remain in membership we have got to accept them on the basis they represent themselves and the ILO has nothing to say about it. If the United States of America objects, then he raises the question—does the United States of America want the U.S.S.R. to maintain membership, to continue its membership in the ILO, and if we do want them to continue their membership in the ILO then we must accept them the way they want to be accepted, on the basis of this double standard.

They have been making quite a bit of progress in these committees. They vote as a bloc. When you get to the Resolutions Committee and they get a political resolution you have to listen to 11 speeches from every one of these countries—Rumania, Poland, Czechoslovakia, Bulgaria, and so on. You have to listen to 11 speeches denouncing the United States of America on every issue, filling up the record with all sorts of anti-American propaganda, portraying us as imperialists who are trying to take over the entire world.

However, this proposal, or this decision, to appoint a Soviet representative to the top structure of the ILO is about the last straw because whatever assignment this man gets departmentalwise in the ILO he will have hundreds of employees directly under his supervision.

ILO personnel in Geneva

I think the ILO has in Geneva somewhere between 1,700 to 1,800 people. This man would be assigned——

Mr. ROONEY. How many people, Mr. De Palma? We want this for the record.

Mr. DE PALMA. Let me look it up.

Mr. ROONEY. Please insert the exact number at this point in the record.

(Information requested follows:)

"As of June 30, 1970, the ILO professional staff subject to international recruitment totaled 607, of whom 60 were Americans. The nonprofessional staff totaled 1,377, of whom 21 were Americans. All other staff, including technical assistance personnel in the field, totaled 1,088, of whom 62 were Americans."

SOVIET REPRESENTATIVE IN KEY POSITION

Mr. MEANY. It would mean that a certain percentage, at least several hundreds of these employees, would be under the direct supervision and domination of this man, and I can tell you from long experience that he will use that position to make each and every employee a Communist agent whether he wants to be or not. They do not fool around. They don't acquire power that they put on the back burner. They use it. To us this would mean it would be a disaster for the ILO, and if this happens it presents to us the clear question of whether or not we want to pay the price that is exacted from us to maintain the ILO with the Soviet Union having these special privileges as a member of the organization.

That, of course, Mr. Chairman, puts the matter right squarely in the hands of the Congress and this committee—whether we are so anxious to keep the Soviet Union in the ILO that we are willing to pay this price of accepting the double standard in which they have a preferential membership and which Mr. Jenks indicates he is going to continue.

Mr. ROONEY. Mr. Jenks must be made to realize that he would be better off to lose the 10 percent, the Soviet Union contribution than the 25 percent contribution of the United States of America.

Mr. MEANY. Except that he just doesn't believe the United States will act.

Mr. ROONEY. Well, let's show him. The regular bill is still over in the other body and has not yet been acted on. I think if we go over there we can perhaps achieve some success in this regard.

Mr. MEANY. Anyway, Mr. Chairman, I could go on at length. I have been going to ILO meetings for many years. I attended my first ILO governing body conference as a substitute for William Green, who was the official member, back in November of 1936. I have been going to ILO conferences ever since. I don't know how many I have missed, but I would say in the last 30 years, beginning in 1940, that I have attended at least two out of every three conferences over the years, those held in various parts of the world. One was held in 1941 at Columbia University in New York City and one was held in 1944 at Temple University in Philadelphia.

I was at the conference in San Francisco in 1948 where Mr. Morse was promoted to the top job in the ILO. I have known practically every prominent figure in this organization for many, many years. We in the American Trade Union Movement believe in the ILO and its purposes. We see its purposes being twisted and turned to where, if there is not a stop, the ILO will be useless in so far as its original purpose is concerned, and it will exist only as an international propaganda organization dedicated to the Communist way of life, and certainly it will be an organization that can make no contribution to the welfare and the interest of our country.

As I say, it has now gotten to the point where at practically every session we have to sit and listen to tirades, the usual Communist propaganda tearing this country down, portraying us as the opponents of human freedom and imperialism, and so on and so forth. Unless this is stopped I would say the ILO will be useless insofar as the American Labor Movement is concerned and as far as our Government is concerned. This latest move in my book is the last straw when they are ready to put a Russian into this key spot, at the top of the structure in Geneva where he can certainly within a very short time do a great deal of damage to the interest of the United States of America.

Mr. Chairman, as I say, I could go on at length regarding this but I think I have stated our position. We feel this committee should certainly take a good look at the whole ILO question and certainly should hear from the employers, the American employer who has attended these meetings for many years, and from the Labor Department, and from the State Department which also attend the annual conferences and who are represented on the governing body of the ILO.

Mr. ROONEY. Thank you, Mr. Meany.

Mr. Sikes?

Mr. SIKES. Thank you, Mr. Chairman.

Need to halt Soviet propaganda efforts

I feel that this is a very useful meeting and one which is very important to the Labor Movement worldwide, and to the interest of the working man worldwide. I want to commend you for arranging this meeting so that this matter could be brought forcefully to the attention of the committee. I am also glad that Mr. Meany's valuable counsel can be available to the committee.

It is unfortunate but true that the United States fails in so many instances to use its power, its prestige, and its position to advance its own best interest as effectively as it might in world affairs. It appears this is one of those cases.

I think that we in the Congress should take positive steps, Mr. Chairman, to attempt to correct this picture. I certainly do not want to see the International Labor Organization, which has filled a very important function through the years degenerate into a propaganda program for the Russians.

As Mr. Meany has well pointed out, this could very well be in progress. I am prepared to join my colleagues on this committee in whatever steps are required to protect the integrity of the organization.

Mr. ROONEY. Mr. Slack?

Mr. SLACK. Thank you, Mr. Chairman. I, too, wish to commend Mr. Meany, for a very detailed and comprehensive statement with regard to this subject matter.

Mr. Chairman, as I understand it, the total contribution to the ILO by this country has been $70,280,000?

Mr. ROONEY. Including the pending 1971 request.

Mr. SLACK. How much was appropriated by this committee, with the approval of Congress, in the last fiscal year?

Mr. ROONEY. $6,653,184.

Mr. SLACK. And the request for 1971 is $7,458,875?

Mr. ROONEY. Yes.

Mr. MEANY. Plus two supplements, one under an article of the constitution regarding financial regulations, and the other as a supplemental budget to provide a subsidy for the Turin Vocational Center in Italy. Ac-

XUM

cording to this, and this is the ILO budget, the contributions that will be due from member states in 1971, if this budget is approved, the total contribution of the United States will be $7,816,337. That is the original assessment of $7,458,000 plus these other two items which bring it up to $7,816,000.

Mr. Slack. This performance by the Soviets is another attempt by them to undermine our way of life and to shackle the free world. I am ready to take the necessary steps to bring this action to an immediate halt.

Mr. Rooney. Mr. Bow?

Mr. Bow. Mr. Chairman, I, too, appreciate Mr. Meany's bringing this to our attention. This is a very serious problem.

Uncollected contributions

In our hearings of last year we had inserted in th record the uncollected contributions of all nations. I do not find that in the record this year.

Do we have a list of the nations which are delinquent now in their payments to the ILO?

Mr. De Palma. It was submitted for the other hearing and we can submit it again.

(Information requested follows:)

INTERNATIONAL LABOR ORGANIZATION

SUMMARY: CONTRIBUTIONS STATEMENT AS OF DEC. 31, 1969, FOR THE CALENDAR YEARS 1965-69[1]

Calendar year	Total due	Amount received	Percent received	Balance due
1965	$18, 684, 347	$18, 429, 662	98. 64	$254, 685
1966	20, 337, 871	20, 134, 772	99. 01	203, 099
1967	22, 472, 938	22, 145, 605	98. 54	327, 333
1968	24, 836, 091	23, 936, 727	96. 38	899, 364
1969	26, 612, 739	22, 800, 066	85. 67	3, 813, 673

[1] Total due for years prior to calendar year 1965; Albania, $14,667; Bolivia, $33,695; China, $243,463; Haiti, $40,403; Paraguay, $244,293, and South Africa, $126,193 or a total of $702,714.

UNCOLLECTED CONTRIBUTIONS

Country	Calendar year— 1965	1966	1967	1968	1969	Total
Afghanistan					$1, 382	$1, 382
Albania[1]	$22, 421	$24, 405	$15, 731			62, 557
Bolivia	22, 421	23, 120	26, 428	$27, 320	26, 613	125, 902
Burundi			16, 315	27, 320	26, 613	70, 248
Cambodia					22, 676	22, 676
Chad				72	26, 613	26, 685
Chile					87, 822	87, 822
China				386, 324	694, 592	1, 080, 916
Colombia					21, 290	21, 290
Congo (Brazil)					2, 962	2, 962
Costa Rica	9, 117	24, 405	26, 967	27, 320	26, 613	114, 422
Cuba			60, 300	72, 024	77, 177	209, 501
Dahomey			26, 574	27, 320	26, 613	80, 507
Dominican Republic		23, 301	26, 967	27, 320	26, 613	104, 201
Ecuador			12, 005	27, 320	26, 613	65, 938
El Salvador				27, 320	26, 613	53, 933
Guinea			8, 178	27, 320	26, 613	62, 111
Haiti	22, 421	24, 405	26, 967	27, 320	26, 613	127, 726
Hungary				83, 215	111, 773	194, 988
Laos					26, 613	26, 613
Lebanon					19, 471	19, 471
Lesotho		4, 146	26, 967	27, 320	26, 613	85, 046
Libya					$26, 613	$26, 613
Malagasy Republic					115	115
Mali				$7	26, 613	26, 620
Mauritius					19, 811	19, 811
Nepal					26, 613	26, 613
Nicaragua				2, 562	26, 613	29, 175
Paraguay	$22, 421	$24, 405	$26, 967	27, 320	26, 613	127, 726
Peru					4, 062	4, 062
Senegal					454	454
Sierra Leone					254	254
South Africa[2]	142, 001	30, 507				172, 508
Southern Yemen					19, 103	19, 103
Spain					276, 772	276, 772
Sudan				27, 320	26, 613	53, 933
Syria					26, 613	26, 613
United States					1, 750, 000	[3] 1, 750, 000
Upper Volta					380	380
Uruguay					37, 254	37, 254
Venezuela					133, 063	133, 063
Yemen	13, 883	24, 405	26, 967	27, 320	26, 613	119, 188
Total	254, 685	203, 099	327, 333	899, 364	3, 812, 673	5, 497, 154

[1] Ceased membership May 8, 1967.

[2] Ceased membership Nov. 3, 1966.

[3] Payments totaling $1,665,588 were consummated in January and July.

Mr. Bow. I believe that is all I have at this time, Mr. Chairman.

Mr. Rooney. Mr. Cederberg?

Need to halt Soviet propaganda efforts

Mr. Cederberg. Mr. Chairman, I was congressional delegate or observer at the ILO in the early sixties. Certainly everything that Mr. Meany said this morning is correct, even back that far. We would go to these committee meetings and listen to the people from the Iron Curtain countries. It was a rather disturbing and distressing experience to see this take place. Evidently the situation has just deteriorated.

I, personally, as a member of this subcommittee am willing to take any action that we can take to correct it. I agree fully that if this matter gets out of hand we will be financing a propaganda machine which is designed to destroy what we are all for, and that is a free labor movement, free employers in cooperation with government. If we get ourselves into that position where we are financing a "Fifth Column" within the ILO then we do it, after this hearing, with our eyes wide open.

I think it has been very important that Mr. Meany come here and bring this to our attention. I hope in some way we can get this out to the public so that the people can understand it. I would be open to any suggestions that Mr. Meany might have as to any actions that he thinks we ought to take.

I am a firm believer in the ILO. I think it is an organization which can make a great contribution. However, if it is going to deteriorate we may need to take some drastic fiscal steps to bring them to their senses. I am willing to be helpful.

That is all I have, Mr. Chairman.

Mr. Rooney. Mr. Andrews?

Mr. Andrews. I would like to join the other members of the committee in commending you, Mr. Meany, for bringing this not only to the attention of the committee but more important by putting it on the record bringing it to the attention of the people in our country and other countries who believe in a free labor movement. It takes a lot of courage, it takes a lot of conviction to come up and suggest that an agency which you believed in and participated in since its inception is now going off the deep end. I think the tragic thing is that if we stay in it, and it is being used as a propaganda tool, we lend credence to their propaganda. I think this is why they think it is particularly useful to them.

We have a lot of other international organizations which distress us. We contribute 30 to 35 percent of the cost and we have only 11 to 12 percent of American nationals in the staffing of these organizations—the World Health Organization, for example, and many others. However, they are not used as outright propaganda vehicles against the principles for which they are supposed to stand.

It is your feeling and the feeling of the labor movement in this country that you think it advisable that we serve notice that we are cutting off the American contribution to this organization?

Mr. Meany. I think that is a decision which will have to be made a little farther down the road. The mere fact you are holding this meeting is, I think, very, very important. I am sure this will not be lost on the people who are in the office of the ILO.

Our country never has tried to pack this organization any more than we tried to pack the United Nations. We give 25 percent of the contribution and we have four and a half percent of the employees who are American nationals, so we cannot be accused of trying to pack this organization.

Frankly, I think you put your finger on it. This is an organization in which we believe. We believed in it. I personally have had a long association with it. I think it has done a lot of good, but I think its useful days are rapidly coming to an end because of this development.

We expect the United Nations to be used as a political propaganda sounding board for anyone who wants to use it. It is that sort of an organization. It is political in nature although it does have certain humanitarian activities which are important and which are not too well known. However, to go to the ILO year after year, in the Resolutions Committee and in the plenary sessions, and have speaker after speaker denouncing the United States of America, this not only is an insult to our Nation but even perhaps more important it practically nullifies the purposes of the ILO itself.

If we get to the point where we feel that there is no way to cure this within the ILO I am certain you will not have to ask me the question twice as to what we think our future relations should or should not be.

Mr. Andrews. From the comments around this table in response to the strong statement and the facts that you brought to us I think that not only ILO but everyone else who is interested in this matter can see that we are 100 percent behind you in whatever action you think we should take to clean up this situation.

Again I want to commend you for taking the time to come and bring this story before us.

That is all, Mr. Chairman.

(Discussion held off the record.)

STATEMENT OF MR. ED NEILAN, EMPLOYER DELEGATE TO THE ILO

Mr. Rooney. The next witness has to catch a plane. He is Mr. Ed Neilan, who has been Management Delegate to the ILO over a number of years.

We are grateful to him for coming here on very short notice from Wilmington, Del., this morning.

Mr. Neilan, if you would start with a brief biography of yourself and then please express your views with regard to what we have been discussing here this morning, we would be obliged.

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Mr. NEILAN. I don't want to put any extensive biography on the record particularly. I was President of the United States Chamber of Commerce in 1963–64. At the end of my active term, Dick Wagner invited me to be an adviser to the ILO and I inherited the job too quickly, I suspect.

Currently I am chairman of the board of the Bank of Delaware and also the second U.S. citizen ever to be president of the International Organization of Employers, which is headquartered in Geneva and which serves as the employer secretariat for all free employers organizations throughout the world in its relationships with the ILO.

I have been a member of the governing body of the ILO, formally elected first in 1966 and re-elected in 1969. I served on many of the committees, and in the last year particularly on the Committee on Structure.

My comments, I think, would probably come out of my experience largely in the ILO.

Deterioration of the ILO

I would certainly like to support Mr. Meany's statements relative to the degeneration, if you can call it that, in the ILO. I would like to propose, if you would permit me, some perspective if I may because I have tried to make friends with employers throughout the world. We need their support. I think I would concentrate my remarks not only on this Russian Assistant Director General which Mr. Jenks proposes to announce tomorrow if the Russians agree—and they submitted only one name, a gentleman named Astapenko, who we in the employers group feel has no sympathy whatever with tripartitism. He is a totalitarian from the word "go."

I would like to frame these remarks on a pragmatic basis. You already indicated the way I might approach this. I will fill in one or two items Mr. Meany has outlined for you. He has correctly stated the history of the ILO.

I will only recall that when the Russians seized Latvia, Lithuania, and Estonia the League of Nations fell apart, and normally all its organizations would. The workers and the employers felt the ILO was doing a good job, however, in setting better standards for workingmen throughout the world in attacking the problems of poverty. They insisted in their governments that this organization continue, in being, independently.

As a result of this the ILO was an independent organization from the failure of the League of Nations until it reaffiliated with the U.N. in 1948 and became a specialized organ of that agency.

I would point out, also, the Russians made the application, as Mr. Meany suggested, and then in 1954 came in and agreed to accept the constitution of the ILO which provides for the autonomy of their workers group and the employers group in the selection of their representatives to serve on the governing body.

And they immediately went on the attack to destroy this autonomy.

They were first successful with the assistance of the present Director General, who was then a Deputy Director General, and with a gentleman by the name of Ago who represents the Government of Italy, a professor at the University of Rome, to devise a stratagem known as the Appeals Board, that any nation that felt they had not gotten the right representation in the workers' or employers' group could appeal to this Appeals Board and they would appoint two members from that nation to the various committees or other structures. It did not concern the governing body because this was not a committee. The membership of the governing body was expressly stated in the constitution how they would be elected and who would elect them.

In any event, we protested that vigorously and even went to the extent—and Bill van Meter who is here with me today was technical advisor at that time—actually had a draft prepared to appeal to the International Court of Justice that the Appeals Board was nonconstitutional as far as the ILO was concerned. Because of various circumstances, this appeal was never promoted.

But this was the first wedge by which the Russians intervened in trying to place government people on the employers' and workers' bench, because they are government people, without any doubt. They do exactly as their government instructs them to do. We have had a constant fight ever since I have been in the ILO, not only in the propaganda, but because the 100, 120, 150 people the Russians send are bilingual or trilingual and they are in the halls all the time, trying to influence the representatives of developing nations in Asia, Africa, and Latin America and they are very clever about it.

This, Mr. De Palma, is the reason for the diminution of our influence. We have not done that. We have never had any funds to do it. The State Department has never made any effort to get us the funds to do it, in my opinion.

So that I felt very lonesome at times over there.

Rudy and I have tried to come to the attack to refute what the Russians say, and until George Hildebrand came, we had very limited success in getting our government representatives to reply to those particular attacks. Now this was not the fault of Government, in my opinion. But the individual who occupied the chief of the delegation position, who is a very intelligent man but who was ambitious to become the next Director General and was not really willing to antagonize anybody, if this meant he might not have a chance. I cannot fault him for his ambition, please understand me.

But I would say that our big problem is that the Russians used the purse. They walk into the Director General's office, or this Assistant Director General, or any other thing, and they say, "OK, unless we get this, we are not going to give our full 10 percent contribution."

Mr. MEANY. That is right

Mr. NEILAN. Because they are a monolithic government, they know they can make it stick, whereas our representatives are not at all sure we can make it stick if we even made such a threat, so we never made such a threat. The nearest we came was when we suggested we strongly would ask our Congress to put some strings on the money that would go to the ILO and get some attention to the principles of private enterprise and free trade unions and the other things for the ILO stance.

Mr. ROONEY. Of course we have never had such a request before this committee.

Mr. NEILAN. You are having it today.

Mr. ROONEY. We welcome it today. After what we have heard this morning, we certainly welcome it.

Mr. NEILAN. If I could be so bold as to suggest, one of the major problems is our new Director General. He was elected by one vote over a Frenchman backed by the Russians as well as the French Government.

Mr. HILDEBRAND. Two votes.

Mr. NEILAN. One majority, two votes, correct.

Mr. HILDEBRAND. Twenty-three to twenty-five.

Mr. NEILAN. But this did not dissuade him, even though he knows the Russians voted against him. He knows he got the majority of the labor support vote for him and he knows he got all three of the U.S. votes for him. But he is imbued as an internationalist with the thought that universality is far more important than tripartitism. He is willing to throw that out of the window as a realistic thing if he can get universality.

I think he does not want to destroy the ILO. He realizes without our 25 percent contribution it would be destroyed.

I am like Mr. Meany. I think initially what we ought to do, if it can be done, is to have the Congress authorize in the appropriation bill a string on the ILO appropriation so that the State Department, which, if I understand him correctly, is reluctant to withhold anything without specific authority from this particular committee—with this I generally agree.

Mr. ROONEY. The State Department has never indicated to us that they were in sympathy with any such restriction as that, insofar as not only ILO, but insofar as U.N. and all the U.N. agencies.

Mr. NEILAN. I would hope, sir, you might look at the UNDP, UNESCO, UNIDO, because they are using a lot of their funds to promote Communist doctrine via the ILO as the executing agency because the ILO gets $16 to $20 million a year from these agencies for special projects, a great number of which are held within the Soviet Union or satellite bloc and to which no one is invited except developing countries, to allow them to pursue this propaganda at home.

I think this ought to be looked at, and looked at very seriously in addition to these constant attacks and constant efforts to get rid of tripartitism. I served 6 years on the Committee on Program and Structure which was requested by the Russians and their satellites and put into effect. It has been a most frustrating experience. We have tried to accomplish reasonable results and have been frustrated at every turn, so much so that a Russian would block us and then a Russian in the governing body would say, "Well, this is a lousy committee, they get nothing accomplished."

It was his own man that was forcing us to that lack of accomplishment. This has been a very distasteful experience. But if I could be so bold as to suggest, I would hope perhaps that the Appropriations Committee might put a string on the appropriations, particularly for the ILO at the current moment because I think it is the only thing that will enhance our bargaining posture versus the Russians. They have sold the ILO staff and they have sold many developing countries that the United States will continue to give them all the money that is necessary and never raise any questions about how it is used or whether they have any control over it.

Unfortunately, we have not been in a position to go against this doctrine they have been espousing so that many of the developing nations now have accepted this more or less as a fact, that Uncle Sam is just foolish enough to let us have all the money, we can do pretty much as we please. This has been particularly evident this last year when they persuaded the Arabs and Africans to lead in a fight, and they got the South Americans in on it, to take away from the 10 states of chief industrial importance their rights with respect to amendments to the ILO Constitution. And this effort has been concerted. They have also proposed to the office that when this item comes up next June that the committee to consider it should be an open committee, that is, stacked by the Russians and their friends, all of whom will apply for membership on it.

There are many nations which will not apply because they do not have the personnel or the manpower or really the great interest in the committee. We have got to fight that one and fight it hard in the governing body in November.

There are other areas that are very difficult. Industrial committees, the make-up of industrial committees in November will be decided again, and again there will be, and I think Rudy and Mr. Meany will back me up and probably Mr. Hildebrand and Delaney, that there will be a strong effort on the part of the Russians to stack these committees with people who are responsive to their philosophy.

So that we have to, as I see it, have this string tied and how you tie it is something that I perhaps would be presumptuous to suggest. I would strongly urge that if you could suggest perhaps that if the delegates, workers and employers, if the two of them approached you and said, "Hold up on an appropriation," that your committee could then say to the State Department, "We think you ought to hold up until we have settled this problem."

Funds and personnel for ILO delegations

The other thing I think is if we are going to spend $7.5 or $8 million in the ILO every year, and another $16 or $20 million through UNDP, UNIDO, or UNESCO, I think we ought to have adequate staff in Geneva of intelligent, informed, hardworking people to get the job done and see the funds are not dissipated. I think this is penny-wise and pound-foolish.

Mr. ROONEY. Are you saying we have too few people in the State Department?

Mr. NEILAN. No, they have too few people attached to the ILO delegations. I had four assistants and it was seven committees I tried to cover. I had six authorized, but two who, unfortunately, due to illness or to labor negotiations did not get there. So we struggled along with five men trying to cover six committees plus the Committee on Resolutions.

Mr. MEANY. We are asked to nominate to these conferences. But we are told how many we can nominate. In othr words, you got your delegate, and the procedure for years was that if you had seven committees you would nominate your delegate and seven advisers, one for each committee. Now we have maybe six or seven committees and only four advisers or five advisers.

Mr. NEILAN. That is right.

Mr. MEANY. This leaves us short-handed.

Mr. NEILAN. It is most difficult to cover your responsibilities when you do not have people to sit in during the committee meetings and observe first-hand or be in a position to answer some of these allegations that come from the eastern bloc.

Mr. De Palma's predecessor was always too busy to come to see what was actually going on. He never came, during the time that I have been on there, to Geneva to check in; although he was in Geneva several times during ILO meetings, he never made an appearance, never contacted any of us.

What I am saying to you, sir, is that if we are using this kind of money and it is being misused, it seems to me we ought to have a little bit better chance to offset the amassed power of the Russians if we are going to stay over there. But basically, my posture is that the only way we are going to get this Director General to listen to the American attitude is to give him the fear that he is not going to get the dollars he asked for.

Mr. ROONEY. I would go much further than giving him a fear, I would just go ahead and cut him off, because we are not sure of the mentality of Mr. Jenks at this point. Maybe if we had him here we might—

Mr. NEILAN. He is a very clever international lawyer.

Mr. ROONEY. We might gain an insight. But Mr. Jenks needs to be rocked. I know of only one way to rock him, cut off his water.

Mr. NEILAN. I agree with you, sir.

Mr. SIKES. Mr. Chairman, are we not almost confronted with an accomplished fact? If this action is imminent we are going to have to move now even today.

Should there not be representation from the State Department—that is the responsible U.S. agency—that our Government is not pleased with this development and that we think that it should be deferred pending further study?

Mr. NEILAN. I agree.

Mr. ROONEY. I think this is up to the State Department, which is represented here by a substantial delegation headed by Mr. De Palma.

Mr. DE PALMA. Mr. Chairman, may I——

Mr. ROONEY. I assume there has been some communications back and forth with Geneva?

Mr. DE PALMA. There certainly have, Mr. Chairman.

Mr. ROONEY. In the last 24 to 48 hours?

Mr. DE PALMA. There certainly have. You will hear from Mr. Hildebrand the part he played in trying to apprise the Director General of our feeling. I can tell you that Ambassador Rimestad has been instructed twice within the last 10 days. Just last Wednesday, he went in again and told Mr. Jenks, very straight-forwardly what we thought about all this, only to have Mr. Jenks tell us that he had made his decision on the 24th, had announced it to the governments on the 25th and that all that remained was for the official announcement to come out August 1st, which is what he intends to do.

Mr. MEANY. You mean to say that even though he is aware of our strong feelings on this, that he is going to go right ahead anyway?

Mr. DE PALMA. That is my very clear impression; yes, sir.

Mr. HILDEBRAND. One of his representatives told me yesterday that the announcement would be made tomorrow.

Mr. ROONEY. I think we need something further than a rider or a restriction on the appropriation. I think we need no appropriation of funds at all.

Mr. NEILAN. It would be a very interesting experiment.

Mr. ROONEY. We should try it.

Mr. SIKES. As one member of this subcommittee, I would be prepared to vote today to deny that appropriation insofar as this subcommittee is able to do so.

Mr. ROONEY. Of course, the bill is now over in the other body.

Mr. SIKES. It has been approved by the House Committee on Appropriations and by the House of Representatives, itself. It becomes incumbent upon us, and I think we will be unanimous on it, to express ourselves forcibly and to urge the Senate Committee headed by Senator McClellan of Arkansas to follow a like procedure. That Committee can shut off funds and we can then concur in conference. I think we can be successful in this. I think, Mr. Chairman, it is in order to let it be known today that we intend to do that.

Mr. CEDERBERG. What is wrong with us being delinquent once?

Mr. SIKES. It produces results.

Mr. CEDERBERG. We look in this subcommittee at all the delinquencies of all the countries, including the Soviet Union, to the U.N. and all the agencies. We are never delinquent. We reach the point when they are so delinquent that we raise the money by selling bonds to bail them out. Now a little delinquency would not hurt. So, if we are delinquent, if they want to get well, we will pay our bill.

Mr. MEANY. You see, the United Nations development program got from us last year $86 million. This is what we pledged. The ILO shares in this, they share in this appropriation, along with the World Health Organizations.

Mr. ROONEY. That is handled in another appropriations bill. That is in the foreign aid bill.

Mr. MEANY. Yes.

Mr. NEILAN. Could I speak just to the point that has been raised here, because the delinquency is not going to accomplish the purpose unless it is accompanied by a clear statement of the reason for it and the intent that it is not going to be there because of the problem——

Mr. ROONEY. I think Mr. Jenks should have a copy of this record air mailed to him as soon as it is printed. It will not take too long to do that. Maybe it will help him.

Mr. HILDEBRAND. Mr. Chairman, would you like to have me at this point tell of my role in this, in dealing with Mr. Jenks? Is it relevant to your inquiry?

Mr. ROONEY. We certainly do, Mr. Under Secretary. You are the next witness on my list here.

Mr. HILDEBRAND. I will wait then.

Mr. NEILAN. I will gladly defer to Mr. Hildebrand.

Mr. ROONEY. Very good.

Thank you very much, Mr. Neilan, for a very interesting and informative statement.

STATEMENT OF DEPUTY UNDER SECRETARY OF LABOR FOR INTERNATIONAL AFFAIRS

We also have with us the Deputy Under Secretary of Labor for International Affairs, Mr. George H. Hildebrand, who is quite intimate with details we have been discussing this morning. We should like to hear from you, Mr. Secretary.

Mr. HILDEBRAND. Thank you, Mr. Chairman.

Deterioration of the ILO

I will try to be very brief, but maybe I can answer some questions. Let me begin by saying that I concur in the judgments that Mr. Meany and Mr. Neilan have already made about the deterioration of ILO. I think it covers not only the work of the office, which faces a real problem with the accession of Mr. Astapenko, but it also involves the work of the conference and its committees and the work of the governing body and its committees.

The problem is basically the determination of the U.S.S.R. to expand its influence by using political propaganda against us in every possible direction that it can do so.

Now we have already heard the problem. I will go on to say that when Mr. Morse announced his resignation as Director General in February of this year, on short notice, to take effect on May 31 of the same year, we had very little time to prepare any way to obtain candidates acceptable to us for this post. We jointly decided within the government group that the best solution at this time was to support Mr. Jenks, who is a long-time member of the ILO staff and was the second man.

As part of that, I was instructed to see Mr. Jenks in Caracas at an ILO regional meeting in April to tell him our views about the next Director General.

Among the points that I made, one had to do with our opposition as a government and the opposition of our worker and employer delegations to the appointment of a Russian to the top directorate of ILO.

I pointed this out very clearly to Mr. Jenks and I urged to him that we were not concerned simply with any one state that is a large contributor having representation in the directorate. That was not our problem. Our problem was that the U.S.S.R. is not like other states. It has a particular kind of society which does not share in the tripartite character that we have in the United States, or that ILO's constitution is based upon.

I told him it was that concern that was our real reason for opposing this appointment, that it would contribute to the very deterioration of the office work that Mr. Meany referred to in his own statement. I also told him it would cause great difficulties for the U.S. Government if this appointment were made, precisely because our employer and worker groups in this country were sensitive on this point and rightfully so.

Mr. Jenks made no commitment to anything I had to say because he took the quite proper position that as an international civil servant he could not do so and he was making no commitments to anyone as a candidate for Director General. But he was thoroughly aware of our position.

In the ensuing period, he was elected in May to the Director General's post, and I saw him on three different occasions in that time until the end of the conference on June 26 of this year. On two of those occasions Mr. Jenks talked at length about the desire to have an American on the top directorate and I, of course, shared this interest. He mentioned possibilities of types of jobs that could be occupied by this candidate and at no time did he discuss in the first two of these conversations his idea of appointing a Russian.

In my third conversation he again discussed the question of an American for the directorate, he engaged me for a considerable period of time in talking about the type of man and the type of job, and then suddenly and quite casually said, "And by the way, I should tell you that as a result of administrative actions taken before I assumed this office, I am appointing a Russian to become Assistant Director-General."

I ventured again a few points on our side, but the point to be made here, I think, is that this was a decision, this was not a consultation. I would say that it is as objectionable that he did not do us the courtesy as a major country, and the largest contributor, of consulting with us before making this decision; instead of that, he announced a fait accompli. This is, I think, as objectionable as the fact of the appointment, itself.

Indeed, another angle to the affair is the speed, the precipitate way which he took this decision in June and presumably at the very point of taking office.

If he had no commitment to the Russians, I do not understand the need for such speed.

So much then for that.

Mr. Jenks was well aware of our position.

After he told us this we, of course, consulted within the government, after my return to Washington, and we also consulted as a tripartite group in Mr. Meany's office this week.

As part of our Government discussion we, as Mr. De Palma has already pointed out, asked Ambassador Rimestad in Geneva to see Mr. Jenks and tell him once more our opposition, in the hopes that perhaps the decision could be withdrawn. This was done.

We have all had visitations from various local representatives of the ILO, and have conveyed informally to them as strongly as we could that this is a serious matter and that it was not merely a question of the appointment alone, but, as Mr. Meany has put it, it is the appointment as a last straw in the whole context of things. We have not time here, but I have had to sit in that plenary session, I have had to listen to those abusive speeches without any attempt on the part of the president of the conference to keep the subject within the framework of the subject.

There are no rules of order that I can detect in the meeting. Not only was the United States repeatedly abused, called an imperialist, a colonial power, also a warmaking power, but in addition Israel was also given a very difficult time in that session.

None of our colleague countries in the Western World spoke up for us at all.

Now, again I say this is an example of the kind of thing that is poisoning the atmosphere of ILO, turning it away from an important, indeed even noble work, which is its constitutional purpose and, instead, making it into a propaganda machine for abusing one of the major powers, a democracy, in the group.

So much for that. I think that probably covers the situation as far as I can report. but I would be glad to answer any questions that are pertinent to my role as head of the delegation.

Mr. Rooney. Have you had any written communications with Mr. Jenks on this subject within the past month, say?

Mr. Hildebrand. No; no communications directly with him at all.

Mr. Rooney. Are there any further questions, gentlemen?

Mr. Bow. I wonder if you have heard anything from Ambassador Rimestad?

Mr. Hildebrand. Secretary De Palma can answer that. We have received messages.

Mr. Bow. Thank you, that is all.

STATEMENT OF MR. SAMUEL DE PALMA, ASSISTANT SECRETARY OF STATE

Mr. Rooney. The next witness is the Assistant Secretary of State for International Organizations, Mr. Samuel De Palma.

Mr. De Palma, you now have the floor.

Mr. De Palma. Thank you, Mr. Chairman.

Let me say that I welcome this hearing and I am in substantial agreement with almost everything I have heard said so far.

Mr. Rooney. Why did you not tell us these things when you were here on your regular appropriation which this committee has already approved? Why, if we knew that this situation which we have heard described this morning was existing, we certainly would never have appropriated 15 cents for Jenks or ILO.

U.S. participation in the ILO

Mr. De Palma. Mr. Chairman, this is a situation which has been developing in the ILO for some years now, as the discussion has made clear. This appointment is sort of a culmination of something that has been going on ever since the Soviet Union rejoined.

We have, I think, got to look at the situation in terms of the politics of an international organization. What I find particularly disturbing in this situation is that the membership of the organization, the tripartite membership, and again, Mr. Neilan, I will make an exception for the employers' groups, I accept your statement on that, but the membership has, by and large, acquiesced in this trend of events. It has not done so with our approval. We have, I think, consistently opposed these trends; certainly from the government's side I am aware that we have.

The problem is that many governments and many—and Mr. Meany is the expert here on the international labor movement and I would defer to him—but many governments and many of the labor organizations find themselves in a mood of seeking detente or rapprochement with the Soviet Union. They are most reluctant obviously, and this is what you find in the ILO, to press these matters in that body. So that the Soviet Union has been able to do there what in fact they do in every U.N. organization, but it is perhaps more flagrant here because their actions, their behavior, their very presence is really in contradiction of the basic principles of the organization.

So that one has to take into account the general politics of the ILO and, from the standpoint of its members, whether it is desirable or not at a particular moment in history to tangle with the Soviet Union on these matters.

Here you have a situation where there is a government participating in an organization while it is obviously not living up to the precepts and principles of the organization. Now, what this suggests to me, sir, is that we have to pull up our socks and get organized to concert with other like-minded people who participate in this organization in order to get the support we obviously need to try to reverse this trend.

It is not something, quite obviously—and experience proves it—that we can do by ourselves in the State Department.

Now when it comes to that, sir, I think we might as well be quite frank. We have been severely handicapped. Mr. Neilan would probably be surprised to hear me agree with what he said on one point, although I do not know what some of his unspecified allegations might have been. I might not agree with those. We are handicapped in the general conference. We do not have a strong enough delegation. We are handicapped in our day-in, day-out monitoring of this organization. We do not have enough people.

I have one full-time member in my Bureau who can follow the ILO. I am not sure about the Labor Department, I think you must have about two.

Mr. Hildebrand. Two and myself.

Mr. De Palma. I say one full time plus myself. This is what we have to work with.

Mr. Chairman, you know the situation on conference funds. When we sent a delegation of 28 members, it was not because we thought that 28 was all we needed in the ILO; it was because that is all the money we had to go around. It is obviously inadequate. I think it is not just a question of money or people, however, let me hastily add. I think we have to concert, to work on a tripartite basis, to tackle this problem at its roots. We have to turn around the membership in this organization.

I am quite willing to focus on the Office of the ILO and the people who direct the organization but they, in a sense, are also in the hands of the membership. There is where the work has to be done. I think from now on we had better look at this organization as an arena for politics.

The Soviets are making it such. It is not our intention; we have tried very hard to keep it focused on its real work. But if they intend to use it as a propaganda organization, we have to look to ourselves. We can only do it by working with other governments, other labor and employer groups. There is no other way to do this.

Cutting off of U.S. funds to ILO

Now, as for the contribution, sir, this is an old story. We continuously face the problem that some may desire to punish these organizations if things are not going well by withholding a contribution. I think we ought to consider this carefully.

Mr. Rooney. We have never done so in the history of the United States of America, have we?

Mr. De Palma. Not that I am aware.

Mr. Rooney. This would be the first time, would it not?

Mr. De Palma. It would be.

Mr. Rooney. To now do so might cause a salutary effect on everybody, including the U.N.

Mr. De Palma. It might.

Mr. Rooney. Which also is costing us entirely too much money.

Mr. De Palma. It might also serve to wreck the organization. I am asking whether we would do that lightly. I think we want to think very carefully about it.

Mr. Rooney. I say this to you, I do not see it would cause much harm if this organization were put out of business or wrecked after that we heard here this morning.

Opposition to present trend in the ILO

Mr. De Palma. Mr. Chairman, all I am saying is that I would like to see us make an attempt to reverse this trend before we

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abandon the field to these people. I think it would be a mistake to admit that they have, with a very minority representation——

Mr. Rooney. What would you do, just sit by and let this Communist get this important job?

Mr. De Palma. No, sir; but I do not know what we can do about this Russian now.

Mr. Meany. There is one flagrant flaw in your whole approach, Mr. De Palma. You say we should go in and do battle. With a neutral office, yes, but do battle with the chairman having the gavel and all the rights, with Mr. Jenks playing on the other side?

Mr. De Palma. Mr. Meany, I am not as expert in parliamentary politics as you are.

Mr. Meany. It is quite obvious that the office in Geneva is, and has been for some time, in the Russians' corner.

Mr. De Palma. All I am saying is, it is not possible for an office to behave that way without the acquiescence of the membership. What I am saying is, we have to work with other participants to see to it that this is stopped.

Mr. Neilan. What other participants?

Mr. Meany. Yes. France?

Mr. Neilan. Great Britain, Japan?

Mr. De Palma. We have to work with all of them, wherever we can find some support.

Mr. Neilan. You will not find it there.

Mr. Meany. You will not find any support.

Mr. De Palma. Then you are describing a much larger problem. I wonder if you are focusing on the right target.

Mr. Neilan. I think our focus, with all due regard to you, is the only thing any organization understands is that it must have funds to continue. The only way you ever focus attention on the way they are handling themselves is at least temporarily to deny them the funds.

Mr. De Palma. Let me make it very clear that I am quite prepared, and I am sure—I am not going to speak for Mr. Hildebrand—I am prepared to sit down with you gentlemen and consider just that.

I am only raising the point that perhaps we ought to think of the other things we should be doing. I cannot believe that we would simply admit defeat and say that we cannot turn this organization around, that the only thing we can do is to withhold our funds. It may be that that is what we will have to do.

Mr. Neilan. That is the initial step.

Mr. De Palma. But we ought to consider the other things we have to do in order to get support to change the situation.

Mr. Cederberg. Are we not at this point? We all recognize the importance of the ILO, no one wants to destroy the ILO, but we find out now that the ILO is no longer, under the kind of leadership existing there, able to accomplish the objectives that we want for it and that were originally intended.

Cutting off funds to the ILO

Now if you cannot do that, if we deny the funds and it destroys the ILO, what have you lost?

Mr. Hildebrand. Congressman, I would have to agree with Secretary De Palma to this extent: That we have not really tried for many years, because this situation has been slow in crystalizing and we have, in effect, been taken for granted.

I think without denying the organization funds, but merely having a provision that we may withhold the funds if the Department of State, in its judgment, thinks this is a desirable step, that you would have a total turn around in that office mentality over there, that we would have some bargaining power which we have not had.

Mr. Meany. George, the mere fact that we are upset has been conveyed to Mr. Jenks by the Ambassador. He surely knows of this meeting. He has not recognized this as any indication of good bargaining power on our part.

I am really shocked when you tell me that Jenks is going to go right ahead, despite our feeling, despite the unanimous feeling of employer, worker, and Government people concerned with this, that he is going to go right ahead. If he does, we are going to be pretty well handicapped in trying to operate within this organization. After all, the delegations that come from the smaller countries of the world recognize the importance of the office.

The office is the one that can help them, that can dole out money to them in this thing here, where you have the United Nations Development Program, where we find that on the contributions side, in 1969, we are committed to about $70 million. The Russians are committed to $3 million. But the bloc countries, Russia, Bulgaria, and them, get $28 million in benefits. So this is not an equality of approach as far as our Government is concerned.

Frankly, just as an American, entirely apart from the trade union end of it, this to me is an insult that we should be treated in this cavalier fashion by these international civil servants—and this includes our friend in New York—who base their whole plans on the idea, "Well, the Americans will never act, they will never withdraw, they will never get out of the organization."

Now, somebody says, do we want to destroy this organization? No, I do not want to destroy the ILO. But if ILO is going the way I see it going, and it continues to go there, then I have no further interest in the ILO and I do not think our Government should have any further interest, because we have a political organization in New York, where we can meet the Soviets on the political front. Why should we have an organization that on the face of it is dedicated to building standards for workers all over the world, an economic and social organization, why should we have that converted into another political organization and we pay the price for it?

No, I cannot see that at all.

Mr. Rooney. I feel I can confidently say that you are expressing the thoughts of every member of this subcommittee, and I am going to take the liberty, feeling that way, to ask Mr. De Palma to telephone to Ambassador Rimestad and tell him to hotfoot it over to Mr. Jenks and tell him before nightfall that there will be no money for ILO as far as this subcommittee is concerned, and I think we can do it.

Do you doubt that we can do this?

Mr. De Palma. I have no doubt, Mr. Chairman. I would be very glad to put in the telephone call.

Mr. Cederberg. I think the action is going to have to be a congressional action, because you in your shop over there have to get involved with other international political developments that the State Department gets involved in. So if we are going to wait for a decision from the State Department that you are going to cut off the funds, it will never happen, because, as I say, there are other political international considerations that get involved. The place to do it is right here.

Mr. Meany. I have been around here a long time and I do not want to criticize the State Department, but my experience has been that every place I go in the State Department whether it is the Far East desk or this country desk or that country desk, the attitude of the professional bureaucrat there is that particular country is his client, that I am not his client, I am an American, I am out, but this other guy is his client. And you will never get the State Department desk people to agree to break relations with any of their clients, no matter how much their clients abuse this country.

Mr. Andrews. You put your finger on it, Mr. Meany. The big thing is that the marshmallow attitude of the State Department has concerned this committee for some time.

Mr. Meany. Irrespective of the State Department or any other department, this Congress has the decision in its lap.

Mr. Cederberg. I am willing to recognize the State Department has many complex problems that cross all kinds of lines and that is why you cannot——

(Discussion off the record.)

Mr. Cederberg. The place to do it is right here.

Mr. Hildebrand. Just one point, Mr. Chairman, of fact.

Mr. Jenks told me when I first broached this, which was on the 25th of June, that he had already made the decision, the only thing that was being delayed was the announcement. If that is correct, then he is already committed. We can do nothing there.

Mr. Sikes. We can do something here and we should.

Mr. Andrews. He might change his mind before he makes the announcement.

Mr. Rooney. He might change his mind. I will lay odds that he eventually will.

Mr. Meany. When he says the decision was made, who was it made by? It was not made by the governing body? It must mean it was made by him. It could not have been made by Dave Morse because he would not have gone out of his office without announcing a decision he had made. It had to be made by Mr. Jenks.

Mr. Hildebrand. I agree.

Mr. Meany. If Mr. Jenks made it, Mr. Jenks can change it.

Mr. De Palma. We will put in the telephone call.

Mr. Rooney. Have there been any written communications on this subject within the past month?

Mr. De Palma. Yes, sir; I have a cable that came in the other day.

Mr. Rooney. May we look at it?

Mr. De Palma. It is a confidential cable, I would be glad to show it to you.

Mr. Rooney. It is not confidential from us, eh what?

Mr. De Palma. You know, just keep it——

Mr. Rooney. Suppose you read this in language which will not disclose what we shouldn't. That is a very interesting paragraph, that first one. Why, this is all fait accompli.

Mr. De Palma. In essence, Mr. Jenks repeated what he said earlier to Mr. Hildebrand.

Mr. Rooney. But it is so much more forceful when it is written out.

Mr. Meany. If this is the way he treats his number one affiliate let's say, then I do not see any hope for your plan of doing anything in the future, because you have the umpire on the other side.

It is based on the idea that when the Russians say they will cut their contribution, he believes them. If we say we are thinking about it, he does not believe us.

Mr. De Palma. Mr. Chairman, may I just add a point?

Opposition to present trend in the ILO

I think the record will show, sir, that in the last few years the government, the State Department working in close consultation with the Labor Department, has taken positions in opposition to this trend. We have found ourselves, however, at the conference confronted with decisions of the membership, including, as Mr. Meany knows, the worker groups, acquiescing in these decisions.

Mr. Rooney. Mr. De Palma, if you had only given us even the slightest intimation of what was going on, you could have blamed us. We would gladly have handled it for you. Then we would be the scapegoats, if any.

Mr. De Palma. Mr. Chairman, I still feel that the thing to do is to stay with these things and work on these problems. I do not think the answer is just to run away. The time may come, Mr. Meany, and you are absolutely right, if it cannot be done through the regular procedures, then we have to consider whether our participation is worth it.

Mr. MEANY. Well, if the appropriation was held up while you were working on it, that would not cramp your style, would it?

Mr. DE PALMA. I would have to defer to the Congress on that.

Mr. SIKES. We do not seem to be getting anywhere without cutting off the appropriation. We had better cut it off and see if that produces results. I think it will.

Soviet representative in key position

Mr. ROONEY. Sure, because when Ambassador Rimestad informed Mr. Jenks of this hearing here today, Mr. Jenks advised him that the appointment of the Russian was already made on June 23, and that the interested governments were notified on June 24. Now why did you not notify us back on June 24?

Mr. MEANY. Was there a meeting of the George?

Mr. HILDEBRAND. Yes, there was.

Mr. MEANY. Did Jenks announce this to the governing body?

Mr. HILDEBRAND. To my knowledge, no. No, he did not.

Mr. MEANY. So there was a meeting of the government body. If the decision was made on June 23, why would he not announce it? I cannot understand that.

Mr. HILDEBRAND. Good question.

Mr. ROONEY. Well, this message sure gives an insight into the mentality of Mr. Jenks. He wants to know whether we recognize the fact that the Soviet Union is the second largest industrial power in the world?

Mr. MEANY. So what?

Mr. ROONEY. And if we admit that that is so, then we would be in the same position to be asked to accept the humilitation of not having a national appointed to a senior ILO position, isn't that terrible?

Mr. MEANY. So he is avoiding humiliating the Soviet Union. Is that not nice?

I have been humilitated over there for quite a few years now as an American.

Mr. HILDEBRAND. So have I.

Mr. ROONEY. I gather that if this becomes a public issue, Mr. Meany, and he (Mr. Jenks) is called upon for a statement, he intends to reserve any comment he has to make for the governing body of ILO. Now isn't that something?

Mr. MEANY. He did not announce this to the governing body, this appointment?

Mr. ROONEY. As I said previously this bird Jenks thinks he has inherited the ILO, lock, stock, and barrel. There is about as much democracy under him in ILO as there is in the Soviet Union.

In conclusion, we thank you, Mr. Meany and Mr. Neilan, Under Secretary Hildebrand and Assistant Secretary of State De Palma, for your testimony here today. This was a very interesting and highly informative session and one which requires prompt action on the part of the Congress.

Mr. MEANY. Thank you, Mr. Chairman.

Mr. FRELINGHUYSEN. Mr. Speaker, will the gentleman yield further?

Mr. ROONEY of New York. I am pleased to yield further.

Mr. FRELINGHUYSEN. The fact that the appropriations are being reduced will mean that there will be a default on the part of the United States to an assessment which already has been levied against it.

Mr. ROONEY of New York. There is not any question about that. That is exactly what we want to do, is it not? It would seem to me if the Soviet Union can run this organization paying 10 or 12 percent of the cost of it, that the United States, paying 25 percent, should have at least something to say. And that is not presently being followed by Mr. Jenks. This is the testimony, not only of Mr. George Meany, the president of the AFL–CIO, but also of Mr. Ed Neilan, employer delegate to the ILO, a former president of the U.S. Chamber of Commerce, of Hon. George H. Hildebrand, Deputy Secretary of Labor, and others who attended the hearing.

The situation is outrageous, I must say. I have been asked why my committee did not learn of this situation before now. I take it that we should know everything that is going on, but the State Department has never told us of the deplorable situation; and I do not believe the State Department has informed the gentleman's committee of this deplorable situation.

Mr. FRELINGHUYSEN. Mr. Speaker, will the gentleman yield further?

Mr. ROONEY of New York. I yield further.

Mr. FRELINGHUYSEN. I should like to say that the Committee on Foreign Affairs as long ago as 1963 did have hearings with respect to the ILO. If a conscious decision is made that the United States should withdraw from the ILO, I should think it would be done in an appropriate manner. It does not seem to me we should default on an international obligation.

Mr. ROONEY of New York. If the gentleman would read the testimony of distinguished citizens like Mr. George Meany and the others whose names I have mentioned, contained in this little volume, he would feel as convinced as was the other body, when it voted 49 to 22, more than two to one, to deny them any further funds at all in this year. I regret that the ILA was able to get half the money through the continuing resolution. I assure the gentleman, if I had anything to do about it, just being one Member of the House, I would not have given them a quarter.

Mr. FRELINGHUYSEN. Mr. Speaker, will the gentleman yield further—and I appreciate the gentleman's yielding.

Mr. ROONEY of New York. I yield further, but there is going to have to be a shutoff soon.

Mr. FRELINGHUYSEN. It does seem to me if there is hostility to an international organization it should take an appropriate form and that we should not be putting this country in default on an obligation of an assessment already levied against it. This seems to me a very undesirable and unwise precedent being established here.

Mr. ROONEY of New York. If I cannot convince the gentleman with what I have said, I must accept defeat in my sincere attempts to convince him that we cannot permit an outrage such as I have described to continue. I do not believe 10 American taxpayers would stand for it. The action proposed in this conference report is merely the acceptance of the action taken by the Senate.

Mr. POFF. Mr. Speaker, I am pleased that the House-Senate conference committee has resolved the differences in H.R. 17575.

Among other things, this bill contains the appropriation for the Law Enforcement Assistance Administration, the Federal Government's major effort in the fight against crime. Congress has wisely seen fit to appropriate the full $480 million requested by President Nixon for this promising program. In initially making his request, the President noted that crime control was the one area of the budget where he had ordered an increase rather than a decrease. The President's action clearly demonstrated this administration's firm commitment to act forcefully against crime, to make the "war on crime" not just a slogan but a reality.

The Law Enforcement Assistance Administration is now slightly more than 2 years old. It is designed to help States, counties, and cities with what is essentially a local problem: crime control. LEAA can point to a number of accomplishments in its short period of existence. But perhaps the most important is the creation of a coordinated, cooperative approach to the problems of crime and criminal justice on a nationwide scale. For the first time in our history, all levels of Government and all parts of the criminal justice system—police, courts, and corrections—are working together.

The $480 million appropriated for LEAA in the current fiscal year represents a major step forward for the agency. LEAA began in fiscal 1969 with a budget of only $60 million—not a great deal of money when the objective is overhauling a system of justice neglected for decades. Those funds went far, however, thanks to hard work and careful planning by LEAA and the States. The States created law enforcement planning agencies and drew up detailed plans for a comprehensive statewide—and nationwide—attack on crime.

In fiscal 1970, LEAA's budget grew to $268 million, permitting a much broader range of improvement programs and a more equitable allocation of funds among the various components of the system. The share for corrections in fiscal 1970, for example, rose to more than $68 million, almost 20 times the $3.6 million programed for corrections in fiscal 1969.

The House has authorized an even larger budget for LEAA in the current fiscal year, $650 million. If the authorization bill is passed by the other body, I am confident that the Attorney General will request a supplemental appropriation if he feels the money can be wisely spent.

This administration is committed to a sound fiscal policy, to extracting maximum value out of every dollar in the Federal budget. Nowhere is this more true than in the LEAA program. As Attorney General Mitchell has sensibly stated:

> It's important not to overfund this agency in its infancy. That has happened to other federal programs in the past. Overfunding would cause waste and make it more difficult to get money from the Congress later, when it could be effectively put to work.

Supplemental funding for the LEAA program is, and should be, directly related to the States' ability to utilize the

XUM

extra money wisely and in a manner that would have an impact on the Nation's crime problem. If the States, through sound planning and careful spending, demonstrate this capability, then I feel sure that LEAA officials and the Attorney General will request a supplemental appropriation.

With the substantial increase in LEAA appropriations for fiscal 1971, and the possibility of extra funds, I think we can realistically expect even greater success for our national crime control effort. LEAA funds will continue to help local law enforcement agencies to improve their crime-fighting techniques and equipment. Our overworked, understaffed, and underfunded corrections system will get the assistance it needs so desperately. The courts will, I hope, receive a much greater share of LEAA funds in the current year. As Chief Justice Burger has said, the needs of the courts are great and until we begin to meet them—to help them provide swift and fair justice—we will never really control crime.

The one area of the LEAA budget that is something of a disappointment is research. Congress established as part of LEAA, the National Institute of Law Enforcement and Criminal Justice to encourage research and development into new methods for the prevention and reduction of crime. The Institute is supporting many programs that are providing fresh insights to help us deal with the crime problem, and is developing needed equipment and techniques. Additional funds could enable the Institute to carry out its mandate more effectively.

XUM

The House and Senate Appropriations Committees did not approve the $11.5 million increase requested by the administration for the National Institute, but instead left the funding level at the current level of $7.5 million. However, the $11.5 million increase was not cut from the amounts available to LEAA but were transferred to an action grant account. If, during the course of the fiscal year, it becomes apparent that all or a portion of the increase can be effectively utilized for Institute programs, a simple procedure is available, whereby a letter can be sent to the Appropriations Committees requesting permission to reprogram the funds over to Institute use. Both House and Senate committees felt that the Institute should devote primary emphasis to the development of practical hardware for use by operational law enforcement personnel to combat crime I am confident that the administration will respond meaningfully to this charge and insure that the Institute's research programs will be directly attuned to meet real law enforcement needs.

Mr. FASCELL. Mr. Speaker, I should like to make a brief comment on the conference report on the appropriations for State, Justice, and independent agencies.

This appropriation bill contains funds for the U.S. contribution to the International Labor Organization. The funds being appropriated, however, are only sufficient to cover one-half of our assessed dues to that organization.

I can certainly appreciate the feelings of those members of the Appropriations Committee who are disturbed and concerned by the appointment of a Soviet citizen as one of the assistant directors of the ILO.

Seven years ago, in a study conducted by a subcommittee which I then headed, the Subcommittee on International Organizations and Movements of the Committee on Foreign Affairs, we addressed ourselves to this issue.

In a report which we submitted to the House of Representatives at the conclusion of our study in 1963, we warned that some Communist countries, which do not have anything even approaching a free labor movement, were trying to use the ILO for their own purposes. And we urged that direct action be taken to cope with that problem.

I still believe that that is the proper way to approach this matter—not by renegging on the payment of our dues, which constitute a legal treaty obligation freely accepted by the United States, but by direct action within the organization.

I do not think that we are doing ourselves, or the peaceful international community which the United States is trying to build, any service by using a backhand approach to a problem which has to be faced squarely at some point in time.

Mr. ANDERSON of California. Mr. Speaker, I rise in support of the conference report on H.R. 17575.

Mr. Speaker, I support this measure which appropriates $187.5 million for ship construction in fiscal year 1971. This is an important and necessary step in the right direction.

Last year we authorized $145 million for this program; yet, we actually spent only $15 million. This was hardly enough to sustain, much less upgrade, our sagging merchant marine.

Congress must insure that the United States regains its position of maritime preeminence. There can be no doubt that this position has declined. Our merchant fleet has deteriorated to a degree shocking for a nation so dependent on the seas as we are for national security and economic prosperity. Two-thirds of our fleet is over 20 years old. The average age of the entire U.S. fleet—including Government-owned ships in the reserve fleet—is 22 years.

With this bill, we are signaling a movement toward revitalizing our shipbuilding industry. Nineteen new ships will be constructed in U.S. yards. The effects on the U.S. economy when ships are constructed abroad is well illustrated by a report published by the American Council of Shipbuilders. This report shows what happens every time a $20 million ship is built abroad, instead of in an American shipyard. According to the council, American industry loses at least $60 million worth of business; 14.4 million tax dollars are lost; American workers lost $9.7 million in wages.

Mr. Speaker, I am pleased with this bill; however, I regret that the House-passed amount of $199.5 million was not retained. In the next few years, we will witness the deactivation of many of our older, obsolete ships. These ships must be replaced with the most modern and efficient vessels in the world.

Mr. SLACK. Mr. Speaker, the firm action of the House in adopting the conference report on the State-Justice-Commerce appropriation bill will deny funds during the remainder of this fiscal year for contribution to the International Labor Organization is indeed an action very much in keeping with the sentiments of the American people today.

Those of us who know the history of ILO are saddened by the thought that it has fallen on evil days. It was founded, largely through the efforts of Samuel Gompers, president of the American Federation of Labor, as a means of gathering together men from organized labor and business management to work toward goals which would upgrade the quality of life for working people in all countries.

Of course, free citizens who belong to labor unions and businessmen who represent enterprise management can only exist in free societies. The ILO was an international sounding board for independent thinking from both labor and management. This was the reason for its tripartite representation system.

We note the record since 1953 with regret. With the admission of the Soviet Union and its satellites, we have seen the gradual change in the character of the ILO to the point where its meetings serve chiefly as platforms for abuse of the United States and the principles on which Western governments have been built.

We have reached a stage at which the world's largest employer of industrial labor dominates the international headlines with abusive statements whenever an ILO meeting assembles. There are no labor unions in the Soviet Union. Their "unions" are Kremlin-dominated structures to control the lives and living conditions of workingmen. There is no business community in the Soviet Union. Their industry is a byproduct of their one-party political patronage system, and their productivity and efficiency rate reflects that fact.

We cannot control Soviet propaganda efforts, but we are certainly not required to contribute the American taxpayers' money to foster such efforts. Americans were foremost in the founding of ILO. It was designed to represent the independent thinking of free men. If it is to be the international spokesman for slave labor, then our participation should be minimal.

I believe our people will applaud our refusal to permit use of American funds to finance ILO activities this year. Further, I believe it is highly proper to note the distinct public service rendered by Mr. George Meany, president of the AFL-CIO, and Mr. Ed Neilan, former president of the U.S. Chamber of Commerce, whose forceful testimony before the Appropriations Subcommittee brought this situation to the forefront of attention.

I can only express a hope that there will be a change in ILO policy and a return to its original standards of operation so that American participation can again be full, free, and confident.

Mr. ROONEY of New York. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

GENERAL LEAVE TO EXTEND

Mr. ROONEY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. HOLIFIELD). Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 2: Page 3, line 15, after "vehicles" insert ": *Provided further*, That in addition, this appropriation shall be available for the purchase (not to exceed thirty-three) and modification of passenger motor vehicles for protective purposes without regard to any maximum price limitations otherwise established by law."

MOTION OFFERED BY MR. ROONEY OF NEW YORK

Mr. ROONEY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROONEY of New York moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3: Page 4, line 12, after "States" insert "and for payments in Ceylonese rupees".

MOTION OFFERED BY MR. ROONEY OF NEW YORK

Mr. ROONEY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROONEY of New York moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 17: Page 26, after line 19, insert:

"NATIONAL INDUSTRIAL POLLUTION CONTROL COUNCIL

"SALARIES AND EXPENSES

"For necessary expenses to carry out the provisions of Executive Order 11523 of April 9, 1970, establishing the National Industrial Pollution Control Council, $300,000."

MOTION OFFERED BY MR. ROONEY OF NEW YORK

Mr. ROONEY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROONEY of New York moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 23: Page 31, line 21, strike out all after "which" over to and including "*further,*" in line 1 on page 32 and insert "$1,700,000 shall be for the initial phase of layup of the N.S. Savannah: *Provided,*".

MOTION OFFERED BY MR. ROONEY OF NEW YORK

Mr. ROONEY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROONEY of New York moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with amendments, as follows: Omit the matter stricken by the Senate amendment, omit the matter inserted by the Senate amendment, and on page 31, line 21, of the House engrossed bill, strike out", of which" and insert ": *Provided,*".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 35: Page 52, line 18, after "States" insert "and for payments in Ceylonese rupees".

MOTION OFFERED BY MR. ROONEY OF NEW YORK

Mr. ROONEY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROONEY of New York moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

AMENDING INTERNATIONAL TRAVEL ACT OF 1961

Mr. STAGGERS. Mr. Speaker, I move to take from the Speaker's desk the bill (H.R. 14685) to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes, with a Senate amendment thereto and concur therein with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Strike out all after the enacting clause and insert:

"That section 3(a) of the International Travel Act of 1961 (75 Stat. 129; 22 U.S.C. 2123(a)) is amended—

"(1) by striking out the period at the end of clause (4) and inserting in lieu thereof a semicolon; and

"(2) by inserting at the end thereof the following:

" '(5) upon the application of any State or political subdivision or combination thereof, may make grants for projects designed to carry out the purposes of this Act if he finds that such projects will facilitate and encourage travel to any State or political subdivision, or combination thereof, by residents of foreign countries. No financial assistance shall be made available under this clause unless the Secretary determines that joint participation funds will be available from State or other non-Federal sources, and in no event shall the amount of any grant under this clause for any project exceed 75 per centum of the cost of such project;

" '(6) may enter into contracts with private profit- or non-profit-making individuals, businesses, and organizations for projects designed to carry out the purposes of this Act whenever he determines that such projects cannot be accomplished under the authority of clause (5) of this subsection; and

" '(7) may make awards of merchandise manufactured and purchased in the United States to travel agents and tour operators in foreign countries as an incentive for their promotion of travel to the United States by residents of foreign countries.'

"SEC. 2. (a) Section 4 of such Act (22 U.S.C. 2124) is amended to read as follows:

" 'SEC. 4. There is established in the Department of Commerce a United States Travel Service which shall be headed by an Assistant Secretary of Commerce for Tourism who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report directly to the Secretary. All the duties and responsibilities of the Secretary under this Act shall be exercised directly by the Secretary or by the Secretary through the Assistant Secretary of Commerce for Tourism. In addition, the Secretary shall designate at least one individual to serve as Deputy Assistant Secretary of Commerce for Tourism who shall be under the supervision of the Assistant Secretary of Commerce for Tourism.'

"(b) Clause (12) of section 5315 of title 5, United States Code (relating to level IV of the Executive Schedule), is amended by striking out '(5)' and inserting in lieu thereof '(6)'.

"SEC. 3. Such Act is amended—

"(1) by striking out 'SEC. 7' and inserting in lieu therof 'SEC. 9'; and

"(2) by striking out section 6 and inserting in lieu thereof the following new sections:

" 'SEC. 6. (a) There is established a National Tourism Resources Review Commission (hereinafter referred to in this section as the "Commission"). The Commission shall be composed of fifteen members appointed by the President from among persons in private life who are informed about and concerned with, the improvement, development, and promotion of United States tourism resources and opportunities or who are otherwise experienced in tourism research, promotion, or planning. The President shall appoint one of the members as Chairman. The Commission shall meet at the call of the Chairman.

" '(b) The Commission shall make a full and complete study and investigation—

" '(1) to determine the domestic travel needs of the people of the United States and of visitors from other lands through 1980;

" '(2) to determine the travel resources of the United States available to satisfy such needs through 1980;

" '(3) to determine policies and programs which will insure that the domestic travel needs of the present and the future are adequately and efficiently met;

" '(4) to determine a proposed program of Federal assistance to the States in promoting domestic travel; and

" '(5) to recommend an existing department, agency, or instrumentality within the Government to consolidate and coordinate tourism research, planning, and development activities presently performed by different existing agencies of the Government.

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" '(c) The Commission shall report the results of such investigation and study to the President not later than two years after the first meeting of the Commission. The President shall submit such report, together with his recommendations, to the Congress. The Commission shall cease to exist thirty days after it has submitted its report to the President.

" '(d) In order to carry out the provisions of this section, the Commission is authorized—

" '(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of the operations of the Commission;

" '(2) to appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this Act and to prescribe their authority and duties; and

" '(3) to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

In addition, the Secretary shall make available to the Commission such secretarial, clerical, and other assistance and such pertinent data prepared by the Department of Commerce as the Commission may require to carry out its functions.

" '(e) Members of the Commission, while engaged in the performance of their duties as members of the Commission, shall receive compensation at a rate to be fixed by the President, not to exceed $100 each day, including traveltime and shall, while so serving away from their homes or regular places of business, be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

" 'Sec. 7. (a) For the purposes of carrying out sections 1 through 5 of this Act, there are authorized to be appropriated not to exceed $15,000,000 for each of the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973. Funds appropriated under this section shall be available without regard to section 501 and 3702 of title 44, United States Code. Funds appropriated under this section for the printing of travel promotion materials are available for the fiscal year for which appropriated and the succeeding fiscal year.

" '(b) For the purposes of carrying out section 6 of this Act, there is authorized to be appropriated not to exceed $2,500,000.

" 'Sec. 8. As used in this Act, the term 'United States' and the term 'State' are defined to include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.' "

The clerk read the motion as follows:

Mr. Staggers moves that the House recede from its disagreement to the amendment of the Senate to H.R. 14685 and agree to the same with the following amendment: In lieu of the matter proposed to be inserted by the Sente amendment, insert the following:

"That section 3 of the International Travel Act of 1961 (75 Stat. 129; 22 U.S.C. 2121–2126) is amended by changing the period at the end of clause 4 of subsection (a) to a semicolon, and by inserting after such clause the following:

" '(5) upon the application of any State or political subdivision or combination thereof, or private or public nonprofit organization or association, may make grants for projects designed to carry out the purposes of this Act if he finds that such projects will facilitate and encourage travel to any State or political subdivision or combination thereof by residents of foreign countries. No financial assistance will be made available under this clause unless the Secretary determines that matching funds will be available from State or other non-Federal sources and in no event will the amount of any grant under this clause for any project exceed 50 per centum of the cost of such project. The Secretary is authorized to establish such policies, standards, criteria, and procedures and to prescribe such rules and regulations as he may deem necessary or appropriate for the administration of this clause:

" '(6) may enter into contracts with private profit- or non-profit-making individuals, businesses, and organizations for projects designed to carry out the purposes of this Act whenever he determines that such projects cannot be accomplished under the authority of clause (5) of this subsection; and

" '(7) may make awards of merchandise manufactured and purchased in the United States to travel agents and tour operators in foreign countries as an incentive for their promotion of travel to the United States by residents of foreign countries. The Secretary is authorized to establish such policies, standards, criteria, and procedures as he may deem necessary or appropriate for the administration of this clause.'

"Sec. 2. Section 3 of such Act (22 U.S.C. 2123) is amended by adding at the end thereof the following new subsections:

" '(c) Each recipient of assistance under clause (5) of subsection (a) of this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

" '(d) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the assistance received under clause (5) of subsection (a) of this section.'

"Sec. 3. (a) Section 4 of such Act (22 U.S.C. 2124) is amended to read as follows:

" 'Sec. 4. There is established in the Department of Commerce a United States Travel Service which shall be headed by an Assistant Secretary of Commerce for Tourism who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report directly to the Secretary. All the duties and responsibilities of the Secretary under this Act shall be exercised directly by the Secretary or by the Secretary through the Assistant Secretary of Commerce for Tourism. In addition, the Secretary shall designate at least one individual to serve as Deputy Assistant Secretary of Commerce for Tourism who shall be under the supervision of the Assistant Secretary of Commerce for Tourism.

"(b) Paragraph (12) of section 5315 of title 5, United States Code (relating to level IV of the Executive Schedule), is amended by striking out '(5)' and inserting in lieu thereof '(6)'.

"Sec. 4. Section 6 of such Act is amended to read as follows:

" 'Sec. 6. For the purpose of carrying out the provisions of this Act, there is authorized to be appropriated not to exceed $15,000,000 for each of the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973. Funds appropriated under this section shall be available without regard to the provisions of section 501 and 3702 of title 44 of the United States Code. Funds appropriated under this section for printing of travel promotion materials are authorized to be made available for two fiscal years.'

"Sec. 5. Section 7 of such Act is renumbered 'Sec. 8.' and a new section 7 is inserted to read as follows:

" 'Sec. 7. As used in this Act, the term "United States" and the term "State" are defined to include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.'

"Sec. 6. (a) There is established a commission to be known as the National Tourism Resources Review Commission (hereafter in this section referred to as the "Commission") composed of fifteen members as follows:

"(1) One representative of the Department of Commerce designated by the Secretary of Commerce.

"(2) One representative of the Department of the Interior designated by the Secretary of the Interior.

"(3) One representative of the Department of State designated by the Secretary of State.

"(4) One representative of the Department of Transportation designated by the Secretary of Transportation.

"(5) Eleven individuals appointed by the President from private life who are informed about and concerned with the improvement, development, and promotion of United States tourism resources and opportunities or who are otherwise experienced in tourism research, promotion, or planning. The President shall designate one of the individuals appointed by him to serve as Chairman of the Commission.

"(b) The Commission shall make a full and complete study and investigation for the purpose of—

"(1) determining the domestic travel needs of the people of the United States and of visitors from other countries at the present time and to the year 1980;

"(2) determining the travel resources of the United States available to satisfy such needs now and to the year 1980;

"(3) determining policies and programs which will insure that the domestic travel needs of the present and the future are adequately and efficiently met;

"(4) determining a recommended program of Federal assistance to the States in promoting domestic travel; and

"(5) determining whether a separate agency of the Government should be established, or whether an existing department, agency, or instrumentality within the Government should be designated, to consolidate and coordinate tourism research, planning, and development activities presently performed by different existing agencies of the Government.

The Commission shall submit a comprehensive report of its activities and the results of such study and investigation, together with its recommendations with respect thereto, to the President and to the Congress not later than two years after the first meeting of the Commission. The Commission shall cease to exist sixty days after the date of the submission of its comprehensive report. The comprehensive report of the Commission shall propose such legislative enactments and administrative actions as in its judgment are necessary to carry out its recommendations.

"(c) The Secretary of Commerce shall make available to the Commission such secretarial, clerical, and other assistance as the Commission may require to carry out its functions under this section. The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance it deems necessary to carry out its functions under this section; and each such department, agency, and instrumentality is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information and

XUM

assistance to the Commission upon request made by its Chairman.

"(d) In order to carry out the provisions of this section, the Commission is authorized—

"(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of the operations of the Commission;

"(2) to appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this section and to prescribe their authority and duties; and

"(3) to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(e) (1) Members of the Commission from private life, while engaged in the performance of their duties as members of the Commission, shall receive compensation at a rate to be fixed by the President, not to exceed $100 each day, including traveltime, and shall, while so serving away from their homes or regular places of business, be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) Members of the Commission who are officers or employees of the United States shall serve without additional compensation, but shall be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(f) There are authorized to be appropriated such sums, not to exceed $750,000, as may be necessary to carry out the provisions of this section."

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion be dispensed with and that it be printed in the Record.

The SPEAKER pro tempore. (Mr. Holifield). Is there objection to the request of the gentleman from West Virginia?

Mr. GROSS. Mr. Speaker, reserving the right to object, I think before we go any further we ought to have some explanation of what is here being proposed.

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, I shall be very happy to explain it to the gentleman from Iowa.

Mr. GROSS. Will the gentleman from West Virginia advise us whether there was any announcement to the effect that this bill would be called up?

Mr. STAGGERS. I had an understanding with the minority leader and also the majority leader.

Mr. GROSS. I am talking about it being programed for action.

Mr. STAGGERS. No. This is a question of concurring in an amendment which carries with it preferential consideration.

Mr. GROSS. I understand that, but there was no announcement of any kind that this would be called up today.

Mr. STAGGERS. No. But I might say this, that all matters of this kind are subject to be brought up at any time.

Mr. GROSS. But the gentleman from West Virginia is well aware that where the distinguished majority leader has the opportunity to do so he usually announces that these matters may or will be considered. That is not the case with reference to this matter?

Mr. STAGGERS. I have no idea.

Mr. GROSS. Will the gentleman, under my reservation of objection, tell us what is here proposed and the nature of the amendment he is prepared to ask the House to concur in?

Mr. STAGGERS. I certainly will. This is a matter which was brought before this House some time ago. It was voted down because there was an additional amount of money put in by the other body above that which had passed the House. We had passed this bill on a record vote by a rather substantial margin.

When it went to the other body, they added $2¼ million to the bill which we sent over. The conference dropped $1 million. When it came back, the House thought this was too much money for the Commission. Since that time we have proposed an amendment to drop more, which makes it $750,000 for the study.

Mr. GROSS. And the vote in the House on July 16 was against the $1,250,000; is that not correct?

Mr. STAGGERS. That is correct. We have now dropped one-half million dollars of that to make it $750,000.

Mr. GROSS. The House started out with only $250,000, is that not correct?

Mr. STAGGERS. That is right.

Mr. GROSS. So, in the conference a sham battle was waged on this as between the House and the Senate? In other words, this has grown from $250,000 with the acquiescence of the managers on the part of the House to $750,000, a one-half-million-dollar increase; is that not correct?

Mr. STAGGERS. This is correct.

Mr. GROSS. And, the purpose is what?

Mr. STAGGERS. To study the whole problem and to report to the Congress and to the President of the United States on the different aspects of tourism, on the question of bringing people into the United States, and on consolidating our programs in any and every way we can.

Mr. GROSS. In other words, it is still a 10-year study?

Mr. STAGGERS. No; this terminates at the end of 2 years.

Mr. GROSS. An alleged study of the domestic travel needs of the citizens of this country and foreign visitors?

Mr. STAGGERS. No; only to bring people into this country and to get them to travel in this country when they are here.

Mr. GROSS. What we already know about foreign tourists is that they do not have much money to spend. The question then is, How much will we spend to bring them to this country. Is not that about the size of it?

Mr. STAGGERS. No; I would beg to differ with the gentleman from Iowa because the people of the world are traveling in other countries, and we want to get our share of visitors. We want to bring them here, and I think we should.

Mr. GROSS. What kind of an all-day sucker are you going to offer them to get them over here?

Mr. STAGGERS. This is no kind of a sucker. We have no kind of sucker to offer them to come to this country. As one of the gentlemen in your party, Mr. C. Langhorne Washburn, stated when he was before our subcommittee, the funds spent on these travel programs are in reality an investment.

He went on to say in the Record that which had come back to us manyfold. In 1961 when we started on this program, international tourist arrivals amounted to about 6.3 million. By 1968 it had jumped 74.6 percent to over 11 million.

Mr. GROSS. If that was successful, why do you want to spend $750,000 on another commission to study something?

Mr. STAGGERS. We want to study the consolidation of all of the different agencies that are working on this, so that we can have a concerted effort and make it stronger, and better.

Mr. GROSS. Is there any other reason the gentleman has not stated in alleged justification for spending another $750,000?

Mr. STAGGERS. There is no other reason I know of on earth, because I think this would be money well spent for America.

Mr. GROSS. Is any commission studying the plight of the U.S. taxpayers these days?

Mr. STAGGERS. I think this will aid the taxpayers, I will say to the gentleman from Iowa.

Mr. GROSS. I say is there any commission that is now studying the plight of the American taxpayers trying to find some way to ease their burdens rather than spend their money on phoney business such as determining how foreigners can be subsidized to come to this country?

Yes; I wish some day soon someone would suggest in one of these bills a commission to study what is happening to the taxpayers of the United States.

Mr. STAGGERS. The gentleman has brought up a good point, and if the gentleman will introduce a resolution to that effect, I will vote for it.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the gentleman yielding under his reservation of objection.

On July 16 this question was raised and, as the Members will recall, it was voted down on the basis of 207 to 174. At that time it did not have the objection of having been "slipped in" on the program, before the House for action without prior notice, which the gentleman from Iowa points out so well. We could at least have had the conference report in our hands, which is not now available at the various desks, had we known this was going to be called back up with a motion to recede and accept a House amendment in lieu of the original conference with the other body.

But in addition to that objection, which is through a well-known parliamentary device, to use the gentlest words I can, for getting previously defeated legislation through the House; there was still the objection at that time of why the position vacancies and the personnel allocations had not been explained in the bill, in the conference report, or justified in either of the bodies of the conference.

I would just like the gentleman handling the bill to tell us if there has been any further establishment of equity or justification for all of this personnel, and the number of position vacancies multiplied out by the rate of pay that they are going to receive?

For example, if the gentleman will refer to page 24569 of the CONGRESSIONAL RECORD for July 16, 1970, I pointed out it ought to be the $250,000 when it passed the House, or it should figure out to $2.5 million, whichever is the number of people to be employed times their salaries, office expense, per diem, etcetera. I would like to know before we slip this through the House again, whether or not this has been equated, and whether or not in the opinion of the gentleman handling the bill that it is now justifiable.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. STAGGERS. I would like to answer the gentleman in this way—that there is no attempt to slip any bill through this House. This is the original conference report, with one change on the subject of the funds authorized for the study.

When it was brought here before, the objection was on the amount of money.

The administration requested me to bring the bill back, and I am bringing the bill back with an amendment.

It is the same conference report that we had before and the same conference report which was opposed. It is as good now as when we originally had it up. We are proposing an amendment.

Mr. GROSS. This is not the original conference report.

Mr. STAGGERS. Just the dollar figure has been changed. It has been reduced $½ million. There is that one change. I am sorry, I will say to the gentleman from Iowa.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. GERALD R. FORD. Mr. Speaker, let me say to the gentleman from Missouri and the gentleman from Iowa and to the House as a whole, that this conference report was defeated in July, I would say exclusively because of the dollar compromise that came back.

Yet, the bill passed the House and passed the other body.

I, for one, thought the compromise was too generous, and may I say, not because of my vote but because of the will of the House—it was defeated.

I am very frank in saying that the Secretary of Commerce through the members of his department and others have contacted me about the need to get this legislation up. They think it is improved substantively. They think it is a good investment of U.S. dollars to get a good return.

After discussing it with the Department of Commerce, I contacted the gentleman from Illinois and the gentleman from West Virginia, and over a period of a month or so, I guess, we have been trying to find a compromise that would be acceptable.

I say in all sincerity there was no intent whatsoever to sneak anything through. It was just agreed to in the last couple of days that this amount would be acceptable to the other body and would be acceptable at least to some of us here.

On the basis of that, the gentleman from West Virginia, at the request of the gentleman from Illinois and myself, agreed to take the action today. I do not think he should be condemned but he should be praised for trying to cooperate, and I do praise him for that effort.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Missouri.

Mr. HALL. I want to say that my question still has not been answered, nor was the question answered that day in the House when by its resounding action it did speak its will.

Whatever devices have been agreed upon between the leadership, so far as any understanding is concerned, they could, on a previously defeated conference report, have at least said that either the conference report was going to be called back up so we could dig into our legislative files and have it with us on the floor today—or they could have said that they were going to call up a different action from the other body and disagree with that action and substitute an amendment of the House instead. Then we could have been prepared. There are some of us who still like to do our homework.

I am still opposed to this proposition and I hope the House will vote it down.

Mr. GROSS. Cut it thick or cut it thin—this is a $500,000 increase over the figure originally voted by the House and only $500,000 below what the House voted against by a substantial majority vote on July 16.

This is increased from $250,000 to $750,000—and, I say to you—it is wholly unnecessary, and a waste of the taxpayers' money.

Mr. Speaker, I withdraw my reservation of objection.

Mr. STAGGERS. Mr. Speaker, H.R. 14685 would amend the International Travel Act of 1961 and would create a National Tourism Resources Review Commission. The amendments to the International Travel Act are designed first, to grant additional authority to the Secretary of Commerce for this important program and second, to increase the appropriation authorization for the program. The U.S. Travel Service, established by the International Travel Act of 1961, is charged with developing, planning, and carrying out a comprehensive program to stimulate and encourage travel to the United States by residents of foreign countries. Visits to the United States by international travelers not only produce friendly understanding and goodwill among people of foreign countries and of the United States but also help to reduce the travel deficit in our international balance of payments.

The creation of a National Tourism Resources Review Commission will be significant in reviewing our existing programs to promote travel to and within the United States. The Commission will be charged with the responsibility of making recommendations for changes in the existing programs and for coordinating our Government's travel promotion efforts.

Mr. Speaker, this bill was approved by a record vote of the House of Representatives on May 14, 1970. The other body made certain amendments to the bill and a conference was held to consider the differences. The conference report—Report No. 91-1299—was approved by the other body but was rejected by the House on July 16, 1970. It apparently was the view of the House that the appropriation authorization for the National Tourism Resources Review Commission which was agreed to in the conference was too high.

The amendment which I offer today would incorporate the determinations already made in the course of the consideration of this bill except that it would reduce the appropriation authorization for the National Tourism Resources Review Commission to $750,000 for the 2-year period of the study.

Mr. Speaker, the promotion of tourism to our country is of importance for many reasons. In the past decade tourism has developed into one of the most dynamic forces in the world economy. International tourism receipts not only account for the largest single item in world trade but they are growing at a rate faster than the value of total world exports. As the current director of the U.S. Travel Service, C. Langhorn Washburn, testified in our hearings, the funds spent on these travel programs are really an investment. An investment in promoting goodwill and improving our balance of payments. I urge favorable action on my motion.

The SPEAKER pro tempore. Is there objection to the request that further reading of the motion be dispensed with?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, I yield to the gentleman from Illinois whatever time he might require.

Mr. SPRINGER. Mr. Speaker, I do not want the House to pass over this bill with no more review than has been given to it here. I do not know whether my colleagues remember the debate we had on this bill when it was before the House. Unfortunately, at that time I could not be present and it was handled by the chairman of the subcommittee. I wish I had been present so that I could have explained what the history of the bill was.

Mr. MOSS. Mr. Speaker, will the gentleman yield so that I might correct an error?

Mr. SPRINGER. I yield to the gentleman from California.

Mr. MOSS. It was not the chairman of the subcommittee who handled it. I happened to be chairman of the committee, and I also was absent on that occasion.

Mr. SPRINGER. I thank the gentleman. I mean the ranking Republican member of the subcommittee from which this bill came who handled it on my side of the aisle.

Let me review the bill a little, if I may. This bill was enacted in 1958. The author

XUM

of that bill was Peter Mack, who is no longer in this body, but who was chairman of the subcommittee of which the distinguished gentleman from California (Mr. Moss) is now the chairman. He spent about a year and a half with the State Department traveling over a good part of the globe to find out whether or not this legislation had value. What he found in substance was that every other country that did any traveling in the world had an agency like this agency to develop trade in its own country, except just one country, and that was us. And who does the most traveling of any country in the world? The United States of America.

Two years ago right now, in September, I went over to Stockholm when they closed the office in Stockholm and combined it with the office in London. Gentlemen, the last year that the Stockholm office was in existence, 60,000 people from Scandinavia visited the United States. That was the greatest exodus of visitors to this country ever in history.

What did they do? They closed up the one that was most successful. I am not going to find fault with the State Department. That is all water over the dam. What I am saying is the truth. I went out in the country and saw SAS in conjunction with the consulate and the Embassy in Stockholm. I went out of the country to villages where there were not over a thousand people—think of this—and those people paid a dollar, which is a lot of money in Stockholm, to see SAS's travel movies. I am speaking of villages in the country with not over a thousand people in the village, and there they were having as high as 400 or 500 people, half of the people in those villages where those pictures were being shown, paying a dollar to see them and to learn about the United States.

Is it any surprise that in that 1-year period 60,000 people visited this country? I will admit that Norway, Sweden, and Denmark have in their countries a lot of people who are related to those who live in Minnesota, Wisconsin, and the Northwest. There is a rather close relationship. At the same time I can remember being over there when I believe the Governor of a State—I think it was the State of Washington—who was over there visiting some of his relatives. There is a close affinity between the people in some of those countries and the people in the United States.

But to go back to 1958, this is in essence what the Subcommittee on Commerce and Finance found to be true. I will admit, without casting any fault, that there has been some doubt among certain members of the Subcommittee on Appropriations. I have talked with them, and they are absolutely sincere—and I do not equivocate at all on their sincerity—Members who have not felt that the program has produced what it ought to. But, gentlemen, if you will go back and see the appropriations that have been given to this project, you will observe that they have been almost infinitesimal. I am talking about the needs and what we would like to set up. We had, at the most, I believe, seven offices. The farthest away was Sydney, Australia. We had, I believe, three or four in Europe. But we had seven all over the world.

I do not believe we can promote tourism unless we put a little money into the program. Take the French as an example. I talked to them about this. The money which the state, which France puts into this program is almost 200 times what we put into the program. It was over 200 times what the United States put into it.

What I said to the Members when I was before this body the last time, when we renewed this program before, is either we ought to give it some money or put it out of existence. I take it we are ready to go ahead with the program. The last authorization we gave was adequate. The appropriation was not anywhere near that amount of money.

Where are we today? There is not any argument as far as I know over the amount of money that is authorized for the agency. There may be some, but generally I do not think that is the argument in this bill. The main argument, as I understand the distinguished gentleman from Iowa and the distinguished gentleman from Missouri, is over this commission which is created.

One thing that has been terrifically lacking, as I have watched this through the years, is that there simply has not been what I would call a standing for this. We might call it status. It simply has had no standing in the Department of Commerce. What little money has been given to it has been used by somebody, and it has been used wisely, but there has been nobody to take it over. Now it is proposed to create an Assistant Secretary of State to see if we can put some oomph into the thing. That is the purpose of this provision.

The Senate said we ought to have $2.5 million, for a study commission and we said we ought to have $250,000. This is an honest difference. They simply believe we ought to have $2.5 million. We thought we could do it for $250,000. The figure of $750,000 is purely a compromise between two divergent thoughts about how much this commission needs.

I believe the commission can do a good job. There has never been any kind of survey made of this at the level contemplated by this amount of money, and I think they can do a job and come up with some recommendations that will be helpful—helpful not only to the State Department, but helpful also to the Department of Commerce in implementing this program.

The program has had so much more effect in the last 2 or 3 years than it did 8 or 10 years ago when I was somewhat discouraged with the program. After talking with the people in Commerce, I sort of understood why.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. I yield to the distinguished gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, the gentleman cited the French. They have been making suckers out of American tourists for a long, long time. I do not anticipate, and neither does the gentleman, that the French are going to come this way and spend the kind of money that Americans do in France—and be taken the way some Americans are. This began in World War I. The French found out then what a fine crop they had coming that way.

As far as Sweden is concerned, I believe the gentleman mentioned that Sweden has many attractions for foreigners. I cannot help wondering whether any of the movies being shown there for the benefit of the tourists are pornographic or salacious. The Swedes seem to have attractions in their country that we do not yet have here. We may have them soon, however. They also have "tourists" for whom they provide sanctuary against prosecution in the United States. So I do not think we can quite compare Sweden with the United States or anticipate that the Swedes will be coming here to spend money as our tourists are spending in those countries. I think the gentleman is comparing apples with grapes or something of that kind.

Mr. SPRINGER. In reply to the distinguished gentleman, may I say what we are doing has nothing to do with movies or pornography. This has to do with just tourists. What I did say was this. We did get the greatest influx of visitors to this country by virtue of what we were doing in the office in Stockholm in conjunction with the SAS Airline to bring visitors to this country.

May I say in reply to my distinguished colleague from Iowa also that the number of visitors from France in the past few years has been on a steady increase. I admit it is nothing like the number of visitors from the United States to France. We can well understand that we have more of an affluent society, so we will have more traffic.

I pointed that out as one example where we were successful and cut back the program instead of encouraging it.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. I yield to my distinguished colleague from Illinois.

Mr. ANNUNZIO. I thank my distinguished colleague from Illinois for yielding. I want to commend him for his fine statement and to say I have supported this legislation.

I am wondering if there are any statistics available on the tourism problem in one other aspect. There are hundreds and thousands of people who have made application to visit the United States for vacations, and our State Department has been holding up on these applications. Here we are on the one hand voting to appropriate sums of money in order to promote tourism while on the other hand the State Department is taking that action. We can check the records of these consulate offices. I have records in my office, and if I had known this was coming up I would have brought them with me. From my own district the records show about 200 families are waiting merely to come to the United States on vacation, and the State Department refuses to grant visas.

XUM

Mr. SPRINGER. If the gentleman will furnish me with those names, I believe I am on good terms with all who are connected with this in the passport division, and I will take up each one individually.

Mr. ANNUNZIO. I thank the gentleman from Illinois.

Mr. STAGGERS. Mr. Speaker, I yield 5 minutes to the gentleman from Hawaii (Mr. MATSUNAGA).

Mr. MATSUNAGA. Mr. Speaker, I rise in support of the amendment offered by the gentleman from West Virginia (Mr. STAGGERS). I rise to support the amendment rather reluctantly, because actually I feel we should be agreeing to the conference figure of $1,250,000, which amount will prove to be an investment rather than an expenditure.

The main thrust of H.R. 14685 clearly is to make tourism a major industry in the entire United States. The most attractive feature of this objective is that tourism can be built up as a major industry with the least expenditure for the greatest return.

We learned this very dramatically several years ago in Hawaii. In 1958, less than 12 years ago, only 171,588 tourists visited Hawaii. This represented an increase of only 2 percent over the previous year. The total dollar expenditure in the islands amounted to an estimated $82 million. In that same year of 1958 the then territorial legislature appropriated the sum of $500,000 for use by the Hawaii Tourist Bureau in promoting tourism to Hawaii.

XUM

As a consequence, in the short period of 1 year the number of tourists to Hawaii jumped to 243,216, an increase of 42 percent.

These 243,000 tourists brought in $109 million to Hawaii's coffers. This meant an increase of $26.5 million by an expenditure of only half a million dollars, a wise and profitable investment, to be sure.

By 1968, the State legislature had increased its appropriations for the promotion of tourism to $1,478,500. As a consequence the number of visitors to the Aloha State had climbed to a phenomenal figure of 1,364,288 persons who spent $400 million. The visitor increase in 1969 over 1968 was 13 percent.

If this type of tourist development could be conducted on a national scale, as this bill proposes to do, whereby visitors to this country from foreign lands could be increased in proportion to the increase enjoyed over the past decade by the State of Hawaii, we would not need to worry about our deficit in our balance of payments.

Mr. GROSS. Will the gentleman yield?

Mr. MATSUNAGA. In a minute.

A notable fact—and the gentleman from Iowa will be interested in this—is that about 200,000 of Hawaii's 1968 visitors came from Oceania and Asia. From Japan alone in the period of 2 years after we had sent an agent to Tokyo and set up a branch of the Hawaii Visitors Bureau in Tokyo we increased visitors from Japan from 35,000 annually to nearly 100,000, and we expect by further promotions in Japan to increase that figure to 200,000 within the next few years.

If we could carry this over at the national level, this $750,000 will be a mere pittance, but nevertheless an investment which will save the taxpayers millions, if not billions, of dollars.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Speaker, I yield the gentleman 5 additional minutes.

Mr. GROSS. Will the gentleman yield?

Mr. MATSUNAGA. I will be happy to yield to the gentleman from Iowa.

Mr. GROSS. Hawaii is a clearinghouse for all of the junketing Members of Congress as well as Government officials who are headed across the Pacific, is it not? They all stop there. Do they dispense counterpart funds in Hawaii?

Mr. MATSUNAGA. No. I will have the gentleman know, although the gentleman may not have voted for the bill, that Hawaii was admitted as a State of the Union in 1959. We have no counterpart funds, no.

Mr. ROONEY of New York. Mr. Speaker, will my distinguished friend yield?

Mr. MATSUNAGA. I am delighted to yield to the gentleman.

Mr. ROONEY of New York. I have been under the impression that the increase in tourism in Honolulu, throughout the Hawaiian Islands, was due to the great work of the splendid Governor of the State of Hawaii, Jack Burns. Now, am I incorrect on that?

Mr. MATSUNAGA. I agree with the gentleman from New York. Jack Burns, a former colleague——

Mr. ROONEY of New York. You are saying that I am correct, then?

Mr. MATSUNAGA. The gentleman from New York is correct. The Governor of Hawaii, the Honorable John A. Burns, has done a great job, and it was during his administration that we carried on the greater part of the promotional work through the Hawaii Tourist Bureau, to which I referred earlier. It was largely on account of his far-sighted leadership that we have increased tourism as tremendously as we have in the past few years.

Mr. Speaker, I urge the adoption of the amendment and the adoption of the conference report, because we will be making today one of the wisest investments. Take it from the experience of the State of Hawaii.

Thank you very much.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 255, nays 93, not voting 82, as follows:

[Roll No. 329]

YEAS—255

Abbitt
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Arends
Ashley
Belcher
Bell, Calif.
Bennett
Bingham
Blanton
Boggs
Boland
Bolling
Bow
Brademas
Brasco
Bray
Brinkley
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill, Va.
Burke, Mass.
Burton, Calif.
Byrnes, Wis.
Caffery
Carey
Carter
Casey
Cederberg
Celler
Chamberlain
Chappell
Chisholm
Clark
Clausen, Don H.
Cohelan
Conable
Conte
Conyers
Corman
Culver
Cunningham
Daniel, Va.
Daniels, N.J.
Davis, Ga.
Delaney
Dingell
Donohue
Dorn
Downing
Dulski
Duncan
Dwyer
Eckhardt
Edmondson
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fallon
Farbstein
Fascell
Findley
Fish
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Fountain
Fraser
Frelinghuysen
Friedel
Fulton, Pa.
Fuqua
Galifianakis
Gallagher
Garmatz
Giaimo
Gibbons
Gilbert
Gonzalez
Gray
Green, Oreg.
Green, Pa.
Griffiths
Hagan
Halpern
Hamilton
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Harvey
Hastings
Hathaway
Hawkins
Helstoski
Henderson
Hicks
Hogan
Holifield
Horton
Hosmer
Howard
Hungate
Ichord
Jarman
Johnson, Calif.
Jones, Ala.
Karth
Kastenmeier
Kazen
Kee
Keith
Kluczynski
Koch
Kuykendall
Kyros
Leggett
Long, Md.
McCloskey
McClure
McCulloch
McEwen
McFall
MacGregor
Madden
Mahon
Mailliard
Mann
Marsh
Matsunaga
Meeds
Michel
Mikva
Miller, Calif.
Mills
Minish
Mink
Minshall
Mizell
Mollohan
Monagan
Moorhead
Morgan
Morton
Mosher
Moss
Murphy, Ill.
Nelsen
Nix
Obey
O'Hara
Olsen
O'Neill, Mass.
Passman
Patman
Patten
Pelly
Pepper
Perkins
Philbin
Pickle
Pike
Poage
Podell
Poff
Preyer, N.C.
Price, Ill.
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quie
Quillen
Rees
Reid, N.Y.
Reifel
Reuss
Rhodes
Rivers
Rodino
Roe
Rogers, Colo.
Rogers, Fla.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roth
Roybal
Ruppe
Ryan
St Germain
Scheuer
Schneebeli
Schwengel
Scott
Shipley
Shriver
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Springer
Stafford
Staggers
Stanton
Stephens
Stokes
Stubblefield
Stuckey
Sullivan
Symington
Taft
Talcott
Taylor
Teague, Calif.
Thompson, Ga.
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
Watts
Whalen
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Wolff
Wright
Wyatt
Wyman
Yatron
Zablocki
Zwach

NAYS—93

Abernethy
Ashbrook
Baring
Beall, Md.
Bevill
Biester
Brotzman
Brown, Mich.
Broyhill, N.C.
Buchanan
Burke, Fla.
Burleson, Tex.
Camp
Clancy
Clawson, Del
Cleveland
Collier
Collins
Colmer
Coughlin
Cramer
Crane
Davis, Wis.
Dellenback
Dennis
Devine
Dickinson
Flood
Flowers
Frey
Gaydos
Goodling
Griffin
Gross
Grover
Gude

Hall
Hammerschmidt
Harsha
Hechler, W. Va.
Hull
Hunt
Hutchinson
Jacobs
Johnson, Pa.
King
Kleppe
Kyl
Landgrebe
Langen
Latta
Lennon
Lloyd
McDade
Macdonald, Mass.
Martin
Mathias
May
Mayne
Miller, Ohio
Mize
Montgomery
Myers
Natcher
Pettis
Railsback
Randall
Rarick
Reid, Ill.
Riegle
Roberts
Robison
Rousselot
Schadeberg
Scherle
Schmitz
Sebelius
Skubitz
Smith, Calif.
Steed
Steiger, Ariz.
Steiger, Wis.
Thomson, Wis.
Vander Jagt
Wampler
Watson
Whalley
Whitten
Winn
Wydler
Wylie
Yates
Zion

NOT VOTING—82

Adair
Andrews, Ala.
Aspinall
Ayres
Barrett
Berry
Betts
Biaggi
Blackburn
Blatnik
Brock
Brooks
Burlison, Mo.
Burton, Utah
Bush
Button
Byrne, Pa.
Cabell
Clay
Corbett
Cowger
Daddario
Dawson
de la Garza
Denney
Dent
Derwinski
Diggs
Dowdy
Edwards, La.
Feighan
Fisher
Foreman
Fulton, Tenn.
Gettys
Goldwater
Gubser
Haley
Hanna
Hays
Hébert
Heckler, Mass.
Jonas
Jones, N.C.
Jones, Tenn.
Landrum
Long, La.
Lowenstein
Lujan
Lukens
McCarthy
McClory
McDonald, Mich.
McKneally
McMillan
Melcher
Meskill
Morse
Murphy, N.Y.
Nedzi
Nichols
O'Konski
O'Neal, Ga.
Ottinger
Pirnie
Pollock
Powell
Rostenkowski
Roudebush
Ruth
Sandman
Satterfield
Saylor
Snyder
Stratton
Teague, Tex.
Thompson, N.J.
Tunney
Weicker
Wold
Young

So the motion was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Andrews of Alabama against.

Mr. Edwards of Louisiana for, with Mr. Nichols against.

Mr. Brooks for, with Mr. O'Neal of Georgia against.

Mr. Hays for, with Mr. Dowdy against.

Mr. Thompson of New Jersey for, with Mr. Fisher against.

Mr. Dent for, with Mr. McMillan against.

Mr. Corbett for, with Mr. Haley against.

Mr. Morse for, with Mr. Betts against.

Mr. Button for, with Mr. Cowger against.

Mr. Barrett for, with Mr. Foreman against.

Mr. Byrne of Pennsylvania for, with Mr. Goldwater against.

Mr. McDonald of Michigan for, with Mr. Lujan against.

Mr. Sandman for, with Mr. Snyder against.

Mr. Murphy of New York for, with Mr. Landrum against.

Mr. Nedzi for, with Mr. Jones of Tennessee against.

Mr. Gubser for, with Mr. Ruth against.

Until further notice:

Mr. Fulton of Tennessee with Mr. Adair.

Mr. Hanna with Mr. Ayres.

Mr. Daddario with Mrs. Heckler of Massachusetts.

Mr. Cabell with Mr. Derwinski.

Mr. Long of Louisiana with Mr. Brock.

Mr. Young with Mr. Bush.

Mr. Aspinall with Mr. Weicker.

Mr. Biaggi with Mr. McKneally.

Mr. Rostenkowski with Mr. Meskill.

Mr. Gettys with Mr. O'Konski.

Mr. Feighan with Mr. Powell.

Mr. Lowenstein with Mr. Diggs.

Mr. Jones of North Carolina with Mr. Saylor.

Mr. Melcher with Mr. McClory.

Mr. Teague of Texas with Mr. Pirnie.

Mr. Tunney with Mr. Clay.

Mr. Blatnik with Mr. Blackburn.

Mr. de la Garza with Mr. Jonas.

Mr. Ottinger with Mr. Burton of Utah.

Mr. Stratton with Mr. Berry.

Mr. Satterfield with Mr. Roudebush.

Mr. McCarthy with Mr. Wold.

Mr. Lukens with Mr. Denney.

Mr. Dawson with Mr. Pollock.

Messrs. ANDERSON of Tennessee and ROONEY of New York changed their votes from "nay" to "yea."

Messrs. BROTZMAN and WINN changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONFERENCE REPORT ON H.R. 15424, MERCHANT MARINE PROGRAM

Mr. GARMATZ. Mr. Speaker, I call up the conference report on the bill (H.R. 15424) to amend the Merchant Marine Act of 1936, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HOLIFIELD). Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 5, 1970.)

Mr. GARMATZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the chairman of the managers on the part of the House on the conference with the Senate on H.R. 15424, I am pleased to report that we were able to resolve our differences with the Senate in conference on this long-range merchant shipbuilding program.

There were a number of technical, clarifying, or conforming changes made by the Senate to which the House either receded or receded with amendment. Conversely, the Senate receded in order to conform to other action agreed upon by the committee of conference.

There were seven major differences between the House- and Senate-passed bills:

1. SHIPBUILDING COMMISSION

The Senate receded from its amendment of the bill which would have eliminated the creation of a Commission on American Shipbuilding. The net result is that there will be such a Commission. The members will be appointed by the President. The purpose of the Commission is to help insure that the shipbuilding industry meets the reduced construction subsidy goals of the long-range shipbuilding program.

2. BUY AMERICAN

A compromise was reached on the "Buy American" provision concerning ship construction. The standard will be "Buy American," but the Secretary of Commerce will be authorized to waive certain buy American requirements if he believes that the delivery of the ship will be delayed if the shipbuilder is required to use all articles, materials, and supplies from domestic sources. This waiver authority would not apply to the construction of major components of the hull and superstructure and any material used in the construction thereof. These must be of domestic origin.

3. GRANDFATHER CLAUSE

The House accepted the Senate amendment of the grandfather clause to eliminate liner vessels from coverage under the operating-differential subsidy program. We agreed to accept this amendment because the Secretary of Commerce will continue to have waiver authority, under existing law, to permit a U.S. ship operator to use a foreign-flag liner vessel under special circumstances and because the Senate had a later opportunity to get the views of interested parties on this important provision.

4. CARGO PREFERENCE

The House accepted a Senate amendment which would empower the Secretary of Commerce to issue regulations for the administration of our cargo preference laws. Although there was no corresponding provision in the House bill, the House concluded that it was desirable to localize responsibility in the Maritime Administration to issue standards to administer cargo preference laws in order to best assure that the objective of these laws will be realized.

5. DEFINITION OF "FOREIGN COMMERCE"

The House accepted a Senate amendment which would broaden the term "foreign commerce" to permit bulk carriers to engage in foreign-to-foreign movements to the extent permitted by regulations issued by the Secretary of Commerce. It was considered that greater latitude was required for the movement of our dry and liquid bulk cargo carriers than would be permitted under the present definition of "foreign commerce," which is designed for point-to-point services in order to permit our bulk carriers to compete in the world trade.

6. "DELTA QUEEN"

The Senate receded from its amendment of the maritime bill to exempt the passenger riverboat *Delta Queen* from the requirement to comply with certain fire prevention construction standards. The House conferees knew of the considerable public sentiment favoring continued operation of this historic riverboat. However, we were more persuaded by the objective and expert advice of the Coast Guard, which is charged with responsibility for maritime safety, which advised that the *Delta Queen* should not be operated further in overnight service

XUM

in the interest of maritime safety because it is constructed largely of wood, and does not meet applicable safety standards for the protection of passengers—many of whom on this boat typically were aged or infirm. The Senate and House conferees agreed, however, to cooperate to support new legislation to replace the *Delta Queen* by building the boat in a shipyard of the United States with the aid of construction subsidy.

7. ST. LAWRENCE SEAWAY

The House accepted the Senate amendment to forgive certain interest obligations on the St. Lawrence Seaway Development Corporation. The action of the Senate followed an executive communication from the Secretary of Transportation to both the Senate and House recommending the cancellation of this interest obligation. This recommendation was based largely on the expectation that the alternative to canceling these interest obligations would be an increase in tolls on the seaway. This was judged to be an unacceptable alternative if the use of the St. Lawrence Seaway and the operation of ships on the Great Lakes is to continue to be a part of our national transportation system.

All outstanding differences with the Senate having been resolved, on behalf of the managers on the part of the House, I recommend most strongly that this conference report be accepted by the House.

Mrs. SULLIVAN. Mr. Speaker, will the gentleman yield?

Mr. GARMATZ. I yield to the gentlewoman from Missouri.

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Mrs. SULLIVAN. Mr. Speaker, I rise to express my extreme disappointment in the action of the conferees in refusing to exempt the *Delta Queen* from the provisions of the safety at sea law which was put into the bill by the Senate. I think this disappointment is true of over half of the Members of the Congress, both in the House and in the Senate.

The last river boat carrying overnight passengers must now go out of business on November 2. I have been told that the chairman has an agreement with the officers of the Greene Steamship Line in Cincinnati that he would see that legislation was passed to provide a subsidy for the construction of a new river passenger vessel which would comply with the law. Frankly I am amazed at such a promise. My understanding of our subsidy programs is that subsidies are paid to shipyards and to ship operators in order to have an adequate merchant marine fleet and for national defense. The owners of the *Delta Queen* have never asked Congress for financial aid. They simply ask not to be put in the same class as ships at sea.

Can the chairman of the Committee on Merchant Marine and Fisheries convince the Congress to vote for a subsidy for a privately owned and operated river boat? If so, I wish him success, and I will work with him on any bill to save this form of recreational transportation on our inland rivers. I am told that a member of the staff of the committee threatened the operators of the *Delta Queen* that if any attempt was made to oppose the conference report, there would be no bill of any kind to assist the *Delta Queen*.

I shall make no attempt to oppose the conference report, Mr. Speaker, on the basis of the promise of the chairman that he can do something to assure the operation of this type of vessel on the rivers. However, the arguments given by the Coast Guard and the Secretary of Transportation on the safety of this river boat were not only unfair but were very weak.

The passing of one of our old traditions, the last remaining boat carrying satisfied passengers on the lazy, pleasant, restful voyage is over, and I think it is a sad day for all of the thousands of passengers who have experienced the pleasure of a trip on the *Delta Queen* and who implored Congress to save the vessel from withdrawal from cruise service because of a law intended to protect passengers on ships hundreds of miles, instead of hundreds of feet, from shore.

Mr. GARMATZ. Mr. Speaker, I might say to the gentlewoman from Missouri, and the ranking member on our committee, that in the report it says:

> All conferees indicated, therefore, they would do what they could, through early and expedited hearings, to facilitate the replacement of the overnight service currently provided by the *Delta Queen*. In whatever aid might be provided in new legislation to assist in the building of a replacement riverboat, the conferees preferred that the boat be built in a shipyard of the United States with the aid of construction subsidy.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. GARMATZ. I yield to the gentleman.

Mr. GROSS. Mr. Speaker, will the gentleman refresh my memory? Was there any money in the original authorization bill as approved by the House for ship construction?

Mr. GARMATZ. In the authorization?

Mr. GROSS. Yes.

Mr. GARMATZ. In the original authorization, but not in this bill.

Mr. GROSS. Not in this bill that is the subject covered by the conference report today—there is no money?

Mr. GARMATZ. No, sir.

Mr. GROSS. There was no money authorized originally through this bill?

Mr. GARMATZ. That is correct.

Mr. GROSS. That is the subject of the conference report?

Mr. GARMATZ. That is correct.

Mr. GROSS. None at all?

Mr. GARMATZ. No, sir.

Mr. FALLON. Mr. Speaker, will the gentleman yield?

Mr. GARMATZ. I yield to the distinguished gentleman from Maryland (Mr. FALLON), chairman of the Committee on Public Works.

Mr. FALLON. Mr. Speaker, I rise in protest to the conference report on H.R. 15424, an act to amend the Merchant Marine Act of 1936, insofar as it related to terminating the accrual and payment of interest on the obligations of the St. Lawrence Seaway Development Corporation.

This proposal would excuse the St. Lawrence Seaway Development Corporation from paying interest on the seaway debt, including unpaid interest which has accrued to date, approximately $22 million, and interest that would otherwise accrue on revenue bonds issued to the Secretary of the Treasury under section 5 of the 1954 act which authorized the St. Lawrence project and established the Corporation. In addition, the formula for the division of revenues between the Seaway Corporation and the St. Lawrence Seaway Authority of Canada is amended.

I opposed the creation of the St. Lawrence Development Corporation and the authorization of the seaway construction in 1954 when this legislation was proposed to the House of Representatives. In House Report No. 1215, the report of the Committee on Public Works on S. 2150, the 83d Congress, I set out my statement of opposition in the minority views. At that time I pointed out that no adequate proof that the waterway would have any likelihood of being self-liquidating had ever been presented. I stated then that this conclusion was greatly strengthened by the vigorous opposition to the proposal made in committee to finance the project on a genuine revenue bond basis.

Although a recital of history is generally dull and, oftentimes, of little significance, I believe our statement in 1954 has meaning today and I wish to quote from that minority report of 1954:

> Throughout all the years that this project has been before Congress the proponents have maintained that it would be economically sound, and for the last 7 or 8 years, when it has been predicated on a self-liquidating basis, that it would in fact be self-liquidating. In 1941, the proponents relied upon an elaborate and exhaustive traffic study published by the Department of Commerce. That survey studies the traffic possibilities of 17 commodities and found in prospect for the waterway 4¾ million tons of traffic. Relying upon commodities included in traffic studies of other persons, another 2¼ million tons of traffic was added to the Department's estimate, giving a total of 7 million tons which the Department said might within a reasonable period be as much as 10 million tons. At that time the capacity of the waterway for new traffic over and above the 9 to 10 million tons of existing traffic on the 14-foot canals was said to be 16 million tons and an overall capacity was given as 25 million tons.
>
> When it became apparent that no such volume of traffic would demonstrate any reasonable likelihood that the project could be made self-liquidating, all reliance on this traffic survey was abandoned, and since that time proponents have relied upon the estimates of experts without the benefit of detailed studies. By this method they have raised their traffic estimate to a volume of from 57 to 84 million tons, which they said would yield prospective revenues of from 36 to 49 million dollars.
>
> It is to be noted that this traffic estimate was still relied upon in report No. 441, on S. 2150, of the Committee on Foregn Relations of the Senate.
>
> Representative of the type of testimony relied upon in support of the items of traffic included in that estimate is that with respect to the item of petroleum, which was included at from 6 to 20 million tons. Included in the testimony of the then Secretary of Commerce in support of his traffic

estimate was the following testimony with respect to the item of petroleum:

"Another item of traffic which the Department expects will move via the seaway is petroleum, although in the case of this traffic it is impossible to predict with any assurance the timing, the direction, or the volume of movement

* * * * *

"In the absence of detailed knowledge of oil reserves and production costs in Alberta, Venezuela, and the Middle East, no accurate predictions of petroleum traffic over the seaway can be made."

We think it may be fairly stated that no testimony was presented to the committees of Congress that could be relied upon as demonstrating that the project is financially sound and could be made self-liquidating.

It has been the conclusion of proponents, however, that the anticipated revenues from the project would be at least two and a half times as great as the annual charges necessary to pay the maintenance and operation costs of the waterway plus interest on the investment and amortization of the capital expenditures. Relying upon these figures, proponents have maintained that the project could not cost the taxpayers of the United States a single penny.

However, attention should be called to the fact that when it was proposed that the project be put on a genuine revenue bond basis so that the Government would not be required to put up the necessary money or its credit employed to guarantee the bonds, the proponents objected strenuously to such a proposal.

There is plenty of private capital available in the United States for investment in sound projects. However, proponents were unwilling to subject this project to the searching scrutiny and test of soundness applied by prospective investors.

We think this action on the part of proponents furnished ample substantiation for our conclusion that the project has not been demonstrated to be economically sound or susceptible to self-liquidation.

On September 14 of this year, Secretary of Transportation John Volpe wrote to the Speaker of the House transmitting a proposed bill to accomplish what this amendment does. The Secretary stated in his letter that the assumptions upon which the seaway debt payment plan was established have not proven out over the long term and that revenues have not been adequate to meet the interest on the corporation's debt and the overall debt—including unpaid interest—has been growing each year until it has now reached nearly $156 million. Thereupon, Secretary Volpe states that the point has been reached where a substantial revision is necessary to the debt repayment plans for the seaway.

One thing of particular interest to me in Secretary Volpe's letter was his comment that traffic forecasts indicate that cargo volume eventually will increase from the 41 million tons handled in 1967 to an annual level of 75 million tons. There is as much accuracy to that estimate as there was in 1954 to the statements that traffic forecasts indicated that the waterway would be economically sound and self-liquidating.

I also find it interesting that the Secretary referred to the 41 million tons handled in 1967—particularly since it is my understanding that 39 million tons were handled in 1966—this hardly looks like progress.

Mr. Speaker, I ask that Secretary of Transportation Volpe's letter be printed in the RECORD at this point.

I would point out again that the proponents of the St. Lawrence Seaway had for many years prior to the authorization of the Corporation in 1954 assured the Congress and the Nation that the waterway would be economically sound and self-liquidating. The Congress was assured that the 1954 act provided the basis for negotiating an agreement with Canada as to the rates of tolls to be levied on traffic using the seaway so as to obtain a return of an amount sufficient to defray the costs of operation, maintenance, and interest charges, as well as to provide for amortization of the investment over a period of not more than 50 years.

I am unaware of any reason to excuse the Seaway Corporation from its commitments. If the anticipated revenues from tolls is insufficient, it would appear to me that the solution is obvious—increase the tolls so that the commitments made can be fulfilled. Apparently, however, the St. Lawrence Seaway, Development Corporation finds it expedient not to stand by its commitments but rather to put its hands into the pockets of all our taxpayers regardless of where they live and regardless of the alternative modes of transportation presently available for moving commercial traffic.

The letter follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., September 14, 1970.
Hon. JOHN W. MCCORMACK,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a proposed bill:

"To amend the Act creating the Saint Lawrence Seaway Development Corporation to terminate the accrual and payment of interest on the obligations of the Corporation, and for other purposes", together with a sectional summary.

On May 13, 1954, Congress enacted the statute creating the Saint Lawrence Seaway Development Corporation (33 U.S.C. 981). The statute authorized the Corporation to construct the portion of the Saint Lawrence Seaway located in United States territory and to operate and maintain the United States facilities. To enable the Seaway Corporation to finance its activities the statute authorized the Corporation to issue revenue bonds payable from the corporate revenue to the Secretary of the Treasury. The statute, as amended in 1957, further provided that interest payments on the bonds could be deferred with the approval of the Secretary of the Treasury, but that any interest payments so deferred would bear interest after June 30, 1960. Bonds issued by the Corporation were to have maturities agreed upon by the Corporation and the Secretary of the Treasury, not in excess of fifty years.

The statute further provided that the tolls charged by the Corporation be calculated to cover, as nearly as practicable, all costs of operating and maintaining the facilities under the control of the Corporation, including depreciation and interest on the obligations of the Corporation. In addition, it established the principle that Seaway tolls provide the Corporation sufficient revenues to amortize the principal of its debts and obligations over a period not to exceed fifty years.

The first ten years of operation of the Seaway were projected to be a development period during which revenues would not be sufficient to meet all of the annual financial requirements. The plan for the first five years was to meet all expenses of operation and maintenance, but not all of the interest expenses. However, it was projected that interest so deferred would be paid back by the end of 1967. By that time, annual revenues were forecast to be sufficient to provide for the payment of all operating expenses and all current interest on the debt, and payments on the principal of the debt were to begin.

Unfortunately, some of the assumptions upon which the Seaway debt payment plan was established have not proven out over the long term. Each year since the opening of the Seaway, the Corporation has, in fact, paid from revenues all of its normal operating and maintenance costs. In addition, it has returned over $36 million to the Treasury. However, revenues have not been adequate to meet the interest on the debt, and the overall debt (including unpaid interest) has been growing each year until it has now reached nearly $156 million.

The Department believes the point has been reached where a substantial revision is necessary to the debt repayment plan for the Seaway. We oppose any increase in the present tolls on the Seaway, as we believe an increase in tolls would tend to discourage use of the waterway and, in turn, be detrimental to the growth of the mid-western economy. Traffic forecasts indicate that cargo volume eventually will increase from the 41 million tons handled in 1967 to an annual level of 75 million tons. Despite that growth, however, major toll increases would be necessary to enable the Seaway Corporation to meet its debt repayment schedule.

The Department therefore recommends the enactment of legislation terminating the requirement for the Corporation to pay interest on the Seaway debt. This includes unpaid interest which has accrued to date (approximately $22 million) and interest that would otherwise accrue on revenue bonds issued to the Secretary of the Treasury under section 5 of the Act of May 13, 1954. The enclosed bill is designed to accomplish this aim.

Under the proposed bill, the existing requirement for repayment to the Treasury of the principal on the revenue bonds issued by the Corporation would continue in effect. Our projections indicate that providing the Corporation relief from interest payments should permit the repayment of the bonded debt within the statutory period while holding the line on tolls.

In summary, the enclosed bill is designed to place the Seaway on a sound long-term financial footing and permit the Development Corporation to effectively develop and promote the movement of cargo through the Seaway. At the same time, it would retain the requirement that the Corporation return to the Treasury the amounts it borrowed to construct the facilities operated by the Corporation.

The Office of Management and Budget has advised that this proposed legislation is consistent with the Administration's objectives.

Sincerely,

JOHN VOLPE.

(Mr. FALLON asked and was given permission to revise and extend his remarks and include a letter.)

Mr. GARMATZ. Mr. Speaker, I yield to the gentleman from California (Mr. MAILLIARD), the ranking Member of the committee who has worked unceasingly and who has been most cooperative in working with all of us on this conference report.

Mr. MAILLIARD. I thank my chairman, the distinguished gentleman from Maryland.

Mr. Speaker, I might say that to me at least, this is a rather important day because to many of us it represents presumably the final action by this House on more than 10 years of work in trying to put together a very complicated mix and trying to bring up-to-date our national maritime policy which really has not been done since 1936.

While, as is almost always the case, I suppose each of us would like to alter certain portions of the final conference report, as we are presenting it to you today—on balance, however, I think the chairman and members of our committee, the Maritime Administrator, Andrew E. Gibson, and other people in the Department of Commerce and all segments of the industry are to be complimented on finally, after all these years of squabbling and bickering back and forth, been able to come up with something that has general support and agreement.

I think it is also worth noting that several segments of the industry—and I am talking here both of management and labor in all segments of the maritime industry have given up certain privileges that they now enjoy under the 1936 act in order to modernize our concepts to turn around the rapidly deteriorating state of the American merchant marine.

Mr. Speaker, I rise to support and comment briefly on the recommendation of the conference committee on H.R. 15424.

The other body, having the greater time to consider the extensive hearings record of your Committee on Merchant Marine and Fisheries, adopted a number of perfecting amendments to which your conferees readily agreed. There remained, however, a number of substantive amendments in disagreement, which the committee of conference debated at length.

In three instances, the committee's recommendation takes the form of an amendment. Section 2 of the bill amends the authorizing provision of the 1936 act. Your Committee on Merchant Marine and Fisheries adopted language authorizing the Secretary of Commerce prior to June 30, 1980, to approve applications and enter into contracts for the construction of 300 ships. This action emphasized the President's expressed determination that we shall build a fleet of 300 highly efficient cargo vessels.

The other body revised this section to overcome concern that the House language might conflict with the requirements of the Antideficiency Act of 1906. In the process, however, the Senate adopted a 10-year open-ended authorization for construction-differential subsidy. The conference recommendation takes the form of a policy declaration, retaining the concept of a 300-ship—10-year program, but eliminating contract authority language of the House-passed bill and the 10-year authorization of the Senate-passed bill. On balance, I believe this is a sensible compromise which accomplishes the principal objective of this section—placing the Congress clearly on record in support of a long-range shipbuilding program.

Section 10 of H.R. 15424, as approved by the House, amended the requirement of the Merchant Marine Act that all material employed in the construction of a ship built with the aid of a construction subsidy must be of U.S. origin. This amendment would have permitted a shipyard to purchase equipment and machinery other than major components of the hull and superstructure and materials used in the construction thereof from foreign sources. The shipbuilder would, of course, receive no subsidy on foreign components.

During the consideration of H.R. 15424 in this Chamber, I stated my conviction that this amendment would not result in substantial purchase of foreign equipment for subsidized vessels. I was concerned that our subsidized shipbuilding program might, as literally a captive of American manufacturers, be placed at the end of the line whenever the demand for a given component requires the establishment of priorities. A delay in the delivery of ships costs money; lost profits for shipbuilder and lost freight earning for the operator.

The other body felt most strongly that the "Buy American" concept of the 1936 act should not be altered in principal. The Conference Committee did, however, recognize the serious problem which would confront a shipbuilder if construction were delayed because of the requirement to buy American. Accordingly, the Conference Committee recommends retention of the existing Buy-American law with an amendment authorizing the Secretary of Commerce to partially waive this requirement when he finds that the contract delivery date cannot be met. The waiver may extend only to the specific cause of the delay. Thus, failure of one supplier to meet its delivery schedule will not result in a general release from the buy-American statute.

No waiver may be obtained to purchase major fabricated components of the hull and superstructure or structural steel plate abroad.

The recommended action of the Conference Committee preserves Buy-American and at the same time meets the issue which prompted me to support a relaxation of this requirement.

The final Conference Committee amendment simply clarifies the definition of towing vessel in the new tax deferral section of the bill. Under both the House and Senate versions of this definition, a towing vessel and barge operated on the Great Lakes will be eligible. The action of the other body, however, might have enabled very small harbor-type towing craft on the Great Lakes to qualify. Your Committee on Merchant Marine and Fisheries intended that this tax deferral privilege would apply only to relatively large and powerful towing vessels and associated barges. For this reason, your committee adopted the qualifying phrase "ocean-going." This was not intended to exclude towing vessels on the Great Lakes but only to indicate the type of vessels contemplated.

The recommended amendment of the Conference Committee retains the House-approved concept of ocean-going towing vessels, and clearly expresses the intention of both Houses that comparable vessels operated on the Great Lakes are included with the scope of the tax deferral system.

Mr. Speaker, the balance of the recommendations of the Conference Committee involve very simply a question of this House receding from its disagreement or the other body receding from its amendment. In each case, the report and floor debate of the respective Houses more than adequately explain the language recommended by the Conference Committee. With one exception, I do not believe it is necessary to dwell on these remaining recommendations.

I do believe, however, that a few words regarding the *Delta Queen* are in order. The Conference Committee was well aware of the great public concern which has been expressed over the impending demise of this unique ship. The Conference Committee could not, however, in good conscience ignore the overwhelming evidence that this ship is indeed unsafe. It is for this reason that it is recommended that the other body recede from its position on the *Delta Queen*. As the statement of the managers on the part of the House clearly indicates, we strongly favor measures which will insure the continuation of overnight passenger service on the Mississippi River. This is an experience which should not be denied to the American people.

One of the House managers, the distinguished gentleman from Pennsylvania (Mr. CLARK), has taken the first step toward insuring that a suitable replacement for the *Delta Queen* will continue that unique service. I hope that arrangements can be made so that the *Delta Queen* will continue to operate in limited service during the construction of her replacement, and that she can be preserved so that the public may visit her and enjoy the wonders of this beautiful example of a bygone era.

Mr. Speaker, I urge all of my colleagues to adopt the conference report on H.R. 15424 so that we can move ahead with this vital maritime program.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. GARMATZ. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I would like to associate myself with the remarks made by my colleague, Mr. MAILLIARD, the gentleman from California, who has along with the others of us has worked so hard in this field.

As a former member of the Committee on Merchant Marine and Fisheries, I remember when the fight started and I congratulate the committee on bringing this bill to the floor. It is of the greatest importance to this Nation, if we are to be an exporting nation—and we have to be an exporting nation, we have to be able to carry the goods that we manufacture here to the world.

I am very happy and I thank the gentleman and I would like to associate myself with the remarks of the gentleman from California, my colleague (Mr. MAILLIARD).

Mr. MAILLIARD. I thank my friend, the gentleman from California.

Mr. PELLY. Mr. Speaker, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman.

Mr. PELLY. Mr. Speaker, as a Member of the House-Senate Conference

Committee, I signed this report and believe it represents a satisfactory reconciliation of the differences in the respective bills of the two bodies of Congress to carry out President Nixon's proposal for a new maritime policy.

For many years the members of the House Committee on Merchant Marine and Fisheries have sought this legislation and while it might not now in every respect suit each of us, in the overall it is a major step forward in restoring our American flag service to the seven seas.

It will provide our shipyards with a competitive opportunity to build modern ships. Likewise it should reduce the needed percentage of Federal subsidy both to construct and operate our American merchant ships. In addition, it should upgrade our obsolete fishing fleet which is badly needed.

Mr. Speaker, special credit should go to the Maritime Administrator, Andrew Gibson whose persistence and ingenuity made this legislation possible.

Also, I wish to commend the chairman of the committee, Mr. GARMATZ, the ranking Republican, Mr. MAILLIARD, and all my colleagues with whom I serve on the Merchant Marine Committee for their patience and determination which overcame many serious differences within the maritime industry and resulted in the reporting of the first major Merchant Marine bill since 1936.

Speaking for myself, I say in all honesty that I believe with the passage of H.R. 15424 the security and the economy of the United States will greatly benefit from our labors. There has been an urgent need to revitalize this Nation's merchant shipping which this bill does. Also, it should provide jobs that are badly needed, especially in areas such as Puget Sound where the unemployment rate is more than 10 percent and headed upward.

I urge adoption of the conference report.

Mr. MAILLIARD. Mr. Speaker, I yield whatever time he may require to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, I would like to join with my colleagues supporting passage of the conference report on the merchant marine program, H.R. 15424.

I would particularly like to congratulate my California colleague (Mr. MAILLIARD) for his outstanding efforts on behalf of this program. It is the culmination of a decade of work, study, and effort to revitalize our merchant marine, and, in my judgment, he is one of those primarily responsible for this legislation that is now before the House for final action.

This program, to establish a long-range merchant shipbuilding program in the United States, which is designed to provide for the construction of 300 ships over the next 10 years, will provide a considerable number of jobs in and around the San Francisco Bay area.

Passage of this bill, along with other maritime legislation passed this session, will, in my judgment, go a long way toward implementing the President's long-range objective of "restoring this country to a proud position in the shipping lanes of the world."

I further believe that the timing of this legislation provides this country with a unique and outstanding opportunity. At a time when defense cutbacks are being ordered, the time is appropriate to divert these funds into such a program as we have been discussing today. It will permit us to mount an economic offensive through a dynamic and viable merchant marine.

Why cannot many of the jobs that will be abolished as a result of the planned reductions in force, be diverted toward shipbuilding and related employment associated with restructuring our maritime service?

With Japan's merchant fleet rapidly expanding and with the vast, virtually untouched economic markets opening up in the entire Pacific Basin community, I believe the time has arrived to start building a truly meaningful "partnership of the Pacific" that will help prevent future Vietnams from happening.

Mr. Speaker, the possibilities and potentials are great, and I strongly urge prompt and favorable House action on this report.

Mr. GARMATZ. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. GERALD R. FORD), the minority leader.

Mr. GERALD R. FORD. I thank the gentleman from Maryland, the distinguished Chairman of the committee.

Mr. Speaker, in my opinion, this is landmark legislation, one of the most constructive proposals that this Congress will approve in either 1969 or 1970. It is the culmination of a tremendous effort by a great number of people. It was initiated by the President of the United States, but it must be recognized that it could not have come to this point without the leadership of the gentleman from Maryland (Mr. GARMATZ) and the leadership of the gentleman from California (Mr. MAILLIARD) and all members of that committee, the Committee on Merchant Marine and Fisheries.

Praise should also be accorded those in the other body who took the initiative on this legislation, following the action taken on this side of the Capitol. We all recognize that the American merchant marine for the last decade has fallen from a position of leadership to one that was teetering on the brink of second class. This legislation will reinvigorate the merchant marine of the United States and will give us an opportunity once again to be a forceful factor on the oceans of the world.

I think the action taken by the other body in adding an amendment that involved the Saint Lawrence Seaway was constructive, and I am grateful to the House conferees for their understanding of the need for acceptance of the Senate amendment. It not only will benefit immeasurably the Middlewestern areas that are involved in the Great Lakes, but will be beneficial to the Nation as a whole. I think those in the other body who took the initiative should be commended, and I am grateful to those on this side of the Capitol who found it possible to support the amendment that was offered and approved in the other body.

I conclude by saying, Mr. Speaker, this is landmark legislation, and those two men particularly, the gentleman from Maryland and the gentleman from California, are to be congratulated. The House Committee on Merchant Marine and Fisheries, as well as the conferees as a whole, deserve commendation from the American people and from this body.

Mr. GARMATZ. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio, (Mr. TAFT).

(Mr. TAFT asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. TAFT. Mr. Speaker, I thank the gentleman from Maryland for yielding.

Mr. Speaker, coming as I do from the home port of the *Delta Queen*, I feel constrained to talk today for just a few minutes about the *Queen*. She has been part of the great tradition of America and our riverboat history, which has had a marked impression on the history of the country.

Not only has she had a real place in history, but also she has a real place today. Just today on the conference report we were talking about travel in the United States, and this ship has been one of the primary attractions.

I have to take issue, I believe, with the attitude expressed by my colleague, the gentlewoman from Missouri, somewhat earlier in saying she did not feel this was an appropriate area in which to consider a subsidy approach similar to the construction subsidy approach we have used in building U.S. commerce in other aspects of our building program.

I think the bill we have before us today is excellent, and I go along with others in congratulating the committee on both sides of the aisle for the fine work they have done in connection with it. But rather than landmark legislation, I would say to the minority leader, I think this is seamark legislation.

Mr. Speaker, there is a problem here we have to recognize. We extended the life of the *Queen*, and I think it is appropriate to do so. There has been argument back and forth about the degree of safety involved. The ship does have a very full water sprinkler system in accordance with the standard, as I said, that is used in almost all the other maritime nations of the world.

That is not saying I am attempting to defeat the conference report today. Quite the contrary. The owners of the *Queen*, after having considered the action of the Congress today, have authorized me to say they are going to try to operate the *Queen* in compliance with the U.S. Coast Guard regulations in an interim period of a year or 2—hopefully no longer—on this premise, the hope of legislation authorizing assistance with a construction subsidy, marking the differential between the cost of construction in this country, where such a vessel

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must be constructed, as compared with the cost of construction abroad is contained, as the chairman has said, in the conference report.

I think the fact that all conferees have gone along with the report is a reassuring fact. I think it is important that the whole tradition of the sternwheel riverboats and the tradition they represent, as well as the very real economic and pleasure potentials for those who use it, should be preserved in this country.

Mr. Speaker, I ask for support of the conference report.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. TAFT. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, certainly I wish to associate myself with the remarks of the distinguished gentleman from Ohio.

I remember the *Delta Queen* over many years having been a source of pleasure for many of the people from Kentucky and Ohio and Missouri, who rode this beautiful paddleboat steamer.

It is of great historic value and significance and I would hate very much to see this ship go into oblivion. I would like very much to see justice tempered with mercy, so that the ship may be permitted to go its way at least for a few years.

Mr. TAFT. Mr. Speaker, I thank the gentleman for his contribution. There have been a number of Members of Congress who have supported this legislation, especially my colleague from Cincinnati, the gentleman from Ohio (Mr. Clancy) as well as the gentleman from Ohio (Mr. McCulloch). They have been, indeed, leaders in this fight. The gentleman from Ohio (Mr. McCulloch) circulated and obtained signatures of 189 Members of the House of Representatives advocating the Senate exemption be carried out in the House. So I think had we gotten to a vote, the chances of success on it might have been very considerable. I think the gentleman deserves a great deal of credit for his work in that connection.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. TAFT. I yield to the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Speaker, I want to commend the gentleman and associate myself with his views in this matter and compliment him on the leadership he has shown with reference to the matter of the *Delta Queen* in which we are interested. If we are in a position to have saved the *Delta Queen* in one form or another, I think his efforts have been crowned with some success. I am sorry the compromise that has been reached does not save it in its original form, but I hope the sternwheeler will be with us for many years to come.

Mr. TAFT. Mr. Speaker, I thank the gentleman for his contribution.

Mr. Speaker, I ask for support of the conference report.

Mr. Speaker, I also ask all Members, when the Committee on Merchant Marine and Fisheries reports the bill, as I am sure they will, which was sponsored by the gentleman from Pennsylvania (Mr. Clark) to support the bill to save this great tradition and extend the life of this vessel.

Today, with the problems of war, crime in the streets, disorders on campus, and the crisis in the Middle East, it is a pleasure to stand on the banks of the Ohio and watch the riverboat *Delta Queen* slowly pass by. It may seem out of place in the space age, and perhaps some detractors of our society may not find this majestic *Queen* to be relevant, but I feel that this symbol of America's past is symbolic of much that is good about this country.

In today's sophisticated world we often think it corny to reminisce with Tom Sawyer, sitting in class daydreaming about a trip down the great Mississippi or Ohio on a giant paddle wheeler. But these dreams come to life in a rare experience when you are aboard the *Delta Queen*.

In reaction to ocean tragedies, the Congress passed the much needed safety-at-sea law; but as a side consequence, this same law could stop the *Queen* from traveling along the Nation's inland rivers.

But what crime has this majestic lady committed? First, she has an upstairs, made of Oregon cedar, which is considered the finest lumber known to the art of shipbuilding. Her ornate staircases and cabin interior panelings are of seasoned white oak and have been minutely carved by some of the finest craftsmen of a bygone era. To rebuild a memory of the past would be impossible—to create an imitation will cost millions. A most elaborate sprinkler system and other strict safety devices and practices are in operation on her.

The Congress now has an opportunity to save this important piece of Americana. All of us point to the Nation's past with great pride and, in this era of attacks on our institutions, it is healthy to have reminders of previous moments of greatness and ways of life. But as with other problems in our society, talk is cheap and will accomplish nothing: The *Queen* cannot survive if all she receives is condolences—what she needs is action. We have worked out a compromise aimed at keeping the *Delta Queen* on the rivers for those who want this unique experience. The compromise may not be the best solution; but at least it is our best hope that the *Queen* shall live to sail another day.

I include the following:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 28, 1970.

Hon. EDWARD A. GARMATZ,
Hon. WILLIAM S. MAILLIARD,
U.S. House of Representatives,
Washington, D.C.

DEAR MESSRS. GARMATZ AND MAILLIARD: As you know, on November 2, less than a month and a half from today, by Act of Congress, the *Delta Queen* will be retired from service.

The public sentiment in favor of saving the *Delta Queen* is very strong. This public support is reflected in the 189 members of Congress who have joined me in signing this letter. I understand that the owners of this great riverboat have received many petitions with thousands of signatures from people all over the United States urging Congress to intervene favorably on behalf of the *Delta Queen*.

Your colleagues who have signed this letter, many constituents from around the nation, as well as citizens from the great river states across the nation do not want to see the cessation of this great tradition by legislation that is primarily intended to rid the high seas of unsafe oceangoing ships.

Since your colleagues in the House have not had an opportunity to express their views with regard to whether the *Delta Queen* should be legislated into retirement, the 189 co-signatures appearing on this letter are respectfully submitted to assist you in your consideration of this issue and we are hopeful that you will support our position when H.R. 15424 goes to conference.

Respectfully submitted.

William M. McCulloch, Leonore K. Sullivan, Robert Taft, Jr., William H. Harsha, Clarence E. Miller, Watkins M. Abbitt, Thomas G. Abernethy, E. Ross Adair, Bill Alexander.

Glenn M. Anderson, John B. Anderson, William R. Anderson, Frank Annunzio, Leslie C. Arends, John M. Ashbrook, Thomas L. Ashley, William H. Ayres, William A. Barrett, Page Belcher.

Alphonzo Bell, Jackson E. Betts, Mario Biaggi, Edward G. Biester, Jr., Jonathan B. Bingham, Benjamin B. Blackburn, Ray Blanton, Hale Boggs, Frank T. Bow, John Brademas.

William G. Bray, W. E. (Bill) Brock, William S. Broomfield, Clarence J. Brown, Garry Brown, George E. Brown, Jr., J. Herbert Burke, Patrick T. Caffery, Tim Lee Carter.

Emanuel Celler, Donald D. Clancy, Frank M. Clark, William (Bill) Clay, Harold R. Collier, James M. Collins, William M. Colmer, Barber B. Conable, Jr., Robert J. Corbett.

Jorge L. Cordova, James C. Corman, William O. Cowger, Philip M. Crane, John C. Culver, Glenn Cunningham, Emilio Q. Daddario, Glen R. Davis, John W. Davis, David W. Dennis, Samuel L. Devine, William L. Dickinson.

Harold D. Donohue, Wm. Jennings Bryan Dorn, John J. Duncan, Florence P. Dwyer, Don Edwards, Edwin W. Edwards, Marvin L. Esch, Edwin D. Eshleman, Michael A. Feighan, Paul Findley.

Daniel J. Flood, Walter Flowers, Donald M. Fraser, Peter H. B. Frelinghuysen, Samuel N. Friedel, James G. Fulton, Richard Fulton, Barry M. Goldwater, Jr., Kenneth J. Gray, Charles H. Griffin.

Charles S. Gubser, James A. Haley, Lee H. Hamilton, John Paul Hammerschmidt, James F. Hastings, Wayne L. Hays, F. Edward Hebert, Ken Hechler, Henry Helstoski, Floyd V. Hicks.

Chet Holifield, Frank Horton, Craig Hosmer, W. R. Hull, Jr., Edward Hutchinson, Richard H. Ichord, Andrew Jacobs, Harold T. Johnson, Ed Jones, Robert E. Jones, Hastings Keith.

Dan Kuykendall, Earl F. Landgrebe, Odin Langen, Delbert L. Latta, Robert L. Leggett, Donald E. Lukens, Richard D. McCarthy, Robert McClory, Paul N. McCloskey, Jr., Joseph M. McDade, Jack H. McDonald.

John J. McFall, Dave Martin, Robert B. Mathias, Wiley Mayne, Lloyd Meeds, Thomas J. Meskill, Robert H. Michel, Abner J. Mikva, William E. Minshall, Wilmer Mizell, Robert H. Mollohan.

G. V. (Sonny) Montgomery, Thomas E. Morgan, F. Bradford Morse, John E. Moss, Lucien N. Nedzi, Robert N. C. Nix, David R. Obey, Alvin E. O'Konski, Thomas P. O'Neill, Jr., Richard L. Ottinger, Otto E. Passman.

Wright Patman, Edward J. Patten, Thomas M. Pelly, Carl D. Perkins, J. J. Pickle, Alexander Pirnie, W. R. Poage, Bertram Podell, Richardson Preyer, David Pryor, Graham Purcell.

Albert H. Quie, Tom Railsback, William

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J. Randall, Thomas M. Rees, Charlotte T. Reid, John J. Rhodes, Donald W. Riegle, Jr., L. Mendel Rivers, Peter W. Rodino, Jr., Robert A. Roe, Benjamin S. Rosenthal.

Dan Rostenkowski, Richard L. Roudebush, Henry C. Schadeberg, William J. Scherle, Herman T. Schneebeli, Fred Schwengel, Garner E. Shriver, H. Allen Smith, M. G. (Gene) Snyder, J. William Stanton, William A. Steiger.

Frank A. Stubblefield, James W. Symington, Frank Thompson, Jr., Vernon W. Thomson, Robert O. Tiernan, Lionel Van Deerlin, Charles A. Vanik, Joe D. Waggonner, Jr., John C. Watts, Lowell P. Weicker, Charles W. Whalen.

J. Irving Whalley, G. William Whitehurst, Charles E. Wiggins, Lawrence G. Williams, Jim Wright, Wendell Wyatt, Chalmers P. Wylie, Louis C. Wyman, Gus Yatron, Clement J. Zablocki, Roger H. Zion, John H. Zwach, R. Lawrence Coughlin.

Seymour Halpern, supports the amendment but called too late to have his name typed on the letter.

COMMITTEE ON
MERCHANT MARINE AND FISHERIES,
Washington, D.C., September 29, 1970.

DEAR COLLEAGUE: I have received letter of September 28, 1970, addressed jointly to myself and Congressman Mailliard, and cosigned by you and other colleagues at the behest of Congressman McCulloch. You ask that we support your position to save the *Delta Queen* when H.R. 15424 goes to conference.

Enclosed for your information is a form letter containing the pertinent facts which I have been using to answer the volume of mail on this subject. Also enclosed is copy of a letter dated September 2 from the Coast Guard, confirming that agency's opposition—for reasons of maritime safety—to providing further exemption for the *Delta Queen*.

I appreciate the spirit in which the petition is submitted, but must repeat that since the Coast Guard, *for safety reasons*, is so strongly opposed to the continued operation of the *Delta Queen*, I would not wish to take action counter to this position.

Sincerely,

EDWARD A. GARMATZ,
Chairman.

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Washington, D.C., September 2, 1970.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The following information concerning the river passenger steamer *Delta Queen*, including our latest thinking on proposed legislation affecting her operation, is furnished in accordance with your telephone call to Captain Kesler on 22 June 1970.

The current Coast Guard position on proposed legislation to extend for two years the existing operation of the *Delta Queen* is reflected in the enclosed copy of Department of Transportation letter dated 15 May 1970 to your Committee commenting on H.R. 14002; i.e., we are opposed to enactment of such legislation.

H.R. 14002 was introduced by Mr. Corbett in September of 1969 and, if enacted, would provide a second two-year extension (Public Law 90–435, enacted 27 July 1968 provided the first,) during which the *Delta Queen* would be permitted to operate in her present mode without compliance with the incombustible construction requirements set forth in the Act of 6 November 1966 (Public Law 89–777).

Our position today has not changed from that expressed two years ago, both during Coast Guard testimony before your Committee on proposed legislation resulting in the aforementioned Public Law 90–435, and in Department of Transportation letters dated 23 and 27 May 1968 commenting on two proposed bills under consideration at that time. In this regard, I have attached a copy of Rear Admiral Murphy's comprehensive statement of 13 June 1968 before your Committee, as well as a copy of Department of Transportation letter dated 23 May 1968 commenting on Mr. Williams' H.R. 15580. The Department's letter of 27 May 1968 in reference to Mrs. Sullivan's companion bill H.R. 15714 contained the same comments and, therefore, has not been included.

As you know, in addition to H.R. 14002, intended to grant the *Delta Queen* an additional two-year postponement until November 1972, several other bills have been recently introduced which, if enacted, would completely exempt the vessel from compliance with Public Law 89–777. Our position with respect to these bills remains the same as that expressed on the proposed two-year postponement legislation. In the interest of maritime safety, we are opposed to such legislation.

In addition to copies of Rear Admiral Murphy's statement on the subject and other related correspondence, I have also enclosed for your use a brief fact sheet on the *Delta Queen* containing, among other things, her tonnage, length, date of build, etc.

It is a pleasure to furnish you this information. If the Coast Guard can be of further assistance in this matter, please do not hesitate to let me know.

Sincerely,

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard Assistant Commandant.

STEAMER DELTA QUEEN,
GREENE LINE STEAMERS, INC.,
Los Angeles, Calif., October 4, 1970.

Hon. EDWARD A. GARMATZ,
Chairman, Merchant Marine and Fisheries Committee, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Although we were deeply disappointed that the Delta Queen amendment was rejected in conference, we were most pleased by the unanimous decision of the Committee to recommend to the Congress that a construction differential subsidy be authorized for a vessel to replace the Delta Queen.

As operators of the Delta Queen, we are only too well aware of the operational and safety limitations of our 44-year-old paddlewheeler. It has always been our intention to retire her into active, but less demanding service as soon as we could build a new vessel.

Unfortunately, a new vessel has been an impossibility up to this time. Interest rates have been extraordinarily high. Capital has been scarce. Shipbuilding costs have skyrocketed. Domestic bids on our plans, which are on file at the Maritime Administration, run approximately $10,000,000. The same plans were bid at $4,000,000 by a shipyard in Rotterdam. Since we cannot build a U.S. riverboat in Europe and since our stockholders cannot finance a U.S. built vessel, we have been stymied in our efforts to go ahead with a new boat.

With the rejection of the Senate Delta Queen amendment, we are now forced to go out of business November 2. We must terminate our crew and then dispose of the Delta Queen. There are several bids from prospective purchasers but so far no bid is more than a fraction of our book value, which is in excess of $1,000,000. We could convert the Delta Queen to excursion service but this means major reconstruction of the vessel.

Our estimates run between $750,000 and $1,000,000 to do the necessary winter repairs and refit her for the excursion trade. Whatever we do will have to be decided quickly because the vessel will require at least four months work regardless of what use she is put to next season.

Because a construction subsidy would make it possible to build a new boat, our stockholders are willing to defer their decision on the disposition of the Delta Queen until the 91st Congress adjourns. If the 91st Congress passes legislation to authorize a construction differential subsidy for a vessel to replace the Delta Queen, our company will immediately proceed with shipyard work to ready the Delta Queen for overnight passenger service with less than 50 overnight passenger accommodations. We will make many of the safety improvements previously proposed but the integrity of the design and structure of the Delta Queen will be retained.

Our stockholders are aware that they cannot operate the Delta Queen profitably with less than 50 overnight passengers. However, by running at a loss, they can at least maintain the continuity of our business and continue to employ experienced officers and crew until the new vessel is ready.

A federal subsidy to build a new river passenger boat makes good sense in other respects, too. If the Delta Queen stops operating, it will be the end of passenger service. Despite our exceptional success in booking passage, it might be many years before a new operator could revive the industry. Expanding our business with a new vessel will also bring tourism and commerce to the hundreds of cities along the riverways which had been largely bypassed in recent years.

I am sure that the hundreds of thousands of people who have asked for the Delta Queen to be saved will be satisfied if we can continue operating her with less than 50 overnight passengers and keep her to be a proud symbol and flagship of a new fleet. By the same token, by carrying less than 50 overnight passengers, we can conform to the Safety-at-Sea law.

We hope that you will be successful in getting legislation for a subsidy in this session of Congress so that we can begin work later this year to modify the Delta Queen for service next spring.

Sincerely,

WILLIAM MUSTER.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 6, 1970.

DEAR COLLEAGUE: I wrote you on October 1, 1970, indicating that I planned to offer a motion to recommit the Maritime Bill, H.R. 15424, to Conference, with instructions that the House Conferees follow the Senate action exempting the steamer *Delta Queen* from certain provisions of the Safety at Sea Act. Since writing that letter, however, I have been made aware of events which have prompted me to change my position. As a result I do not expect to offer a motion to recommit the Conference Report.

When I wrote the earlier letter, I was not aware of the fact that the Conference Report would contain a recommendation for enactment of legislation to provide financial aid for the construction of a new Delta Queen in an American shipyard. This aid would be in the form of a construction differential subsidy similar to that provided elsewhere in law for other types of vessels. Representative Clark on that same day introduced a bill to provide such a subsidy.

I have now had the occasion to discuss the matter further with the owners of the Queen, and they inform me that they favor such a bill, and that they expect to operate the vessel in an interim period, pending replacement, subject to the existing safety standards, even though a financial loss might result.

It is my hope that all of the many friends of the Delta Queen will support the Conference Report and the further legislation expected to come to the Floor later.

Sincerely,

ROBERT TAFT, Jr.

Mr. GARMATZ. Mr. Speaker, I yield 3 minutes to the gentleman, from Virginia (Mr. DOWNING) a member of the committee.

Mr. DOWNING. Mr. Speaker, I quite agree with the chairman of the full committee and the other speakers that this is a truly significant day in the history of the U.S. merchant marine. For more than 10 years we have waited patiently and impatiently for remedial legislation while our U.S.-flag fleet sank slowly down through the drain into obscurity. This legislation comes not a minute too soon. If it is implemented, we will have approximately 300 brand new, fast, modern ships on the high seas in the 1980's. They will be fewer ships than we have now, but the ships will be larger, faster, and more economical to operate.

This program, if it is implemented, will give jobs to Americans and put ships in American shipyards to be built, and it will produce, I believe, a greater commerce and enhance our balance of payment.

I do hope, since it looks like we are going into this shipbuilding program now, that somehow labor and management can get their heads together so as not to create obstacles or pitfalls along the way to producing the world's best merchant marine. For this program to accomplish its purpose, we must have the greatest cooperation from everybody who has the best interests of our merchant marine at heart.

We need a strong American merchant marine for our Nation's economy and defense. I urge your favorable vote on this conference report.

Mr. GARMATZ. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL), a member of the committee.

Mr. DINGELL. Mr. Speaker, I wish to commend my good friend the chairman of the Committee on Merchant Marine and Fisheries, the gentleman from Maryland (Mr. GARMATZ), and the gentleman from California (Mr. MAILLIARD) and the conferees on the part of the House. They took a good bill from the House, a good bill from the Senate, and have brought back an excellent conference report, one which I am sure every Member, regardless of the part of the country from which he comes, can support with enthusiasm.

The proposal brought before us is one which will rebuild the American merchant marine taking into consideration important sectional questions, especially including our concerns and problems in the Great Lakes. I thank the conferees for their careful and solicitous consideration of the problems we in the Great Lakes have, and for the fashion in which they have helped us to continue our pattern of economic growth.

Mr. GARMATZ. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I want to take this time to direct the attention of this committee and the House to the construction by the Japanese of ore-carrying vessels designed to carry iron ore in slurry carriers. A slurry ship will load ore mixed with water which is removed while the ship is at sea. When the ship reaches its destination, the ore will be mixed with water and leave the vessel as a slurry.

This type of vessel will create a form of marine pollution which could contaminate the oceans and convert our inland waterways into "red seas." It is my hope that in the program anticipated by this bill, American vessels will be designed in such a way as to prevent any form of pollution from entering the waterways.

It is time for the nations of the world to enter into compacts which will prevent the construction and development of vessels or tankers which will add to the pollution of our oceans and waterways—a pollution which has already reached critical levels.

Mr. GROSS. Mr. Speaker, will the gentleman from Maryland yield for a question?

Mr. GARMATZ. I yield to the gentleman from Iowa.

Mr. GROSS. Do I correctly assume that the shipping industry and the maritime unions support this bill?

Mr. GARMATZ. Yes, sir.

Mr. GROSS. I thank the gentleman.

Mr. ANDERSON of California. Mr. Speaker, I rise in strong support of the conference report on H.R. 15424, the bill designed to provide a long-range merchant shipbuilding program of 30 ships per year for the next 10 years.

In essence, the program under the bill is to build a substantial number of standard design merchant vessels over the next decade and to produce these ships in such quantity as to reduce unit costs. In this way, the rate of construction differential subsidy may be reduced from a present ceiling of 55 percent subsidy of foreign costs for a comparable ship, to 35 percent of such costs.

I am particularly pleased that the conferees adopted a provision which would authorize the Secretary of Commerce to promulgate regulations by which all Government agencies must administer their activities under cargo preference laws.

According to Public Law 83-664, a minimum of 50 percent of U.S. Government-generated cargo must be shipped by American-flag vessels. However, on occasion, some Government agencies have frustrated the will of the Congress by setting up administrative procedures that make it impossible for U.S. ships to carry even the minimum of 50 percent of their cargoes. For instance, the Department of Agriculture—operating under title I of Public Law 83-480—shipped only 43 percent of their cargo by U.S.-flag ships in 1968.

Hopefully, the new regulations will encourage greater usage of U.S.-flag ships.

Again, Mr. Speaker, I commend the committee for its outstanding work in this field, and I am pleased to support H.R. 15424.

Mr. PICKLE. Mr. Speaker, although I am certainly not opposed to strengthening our merchant marine fleet, I want to reemphasize a point that I have made on several other occasions when we have considered bills authorizing money for building and operating merchant ships. My concern has been with what commodities these ships financed with taxpayers' money are going to carry as cargo. I never have received a satisfactory answer. This conference report states that it is the intention of Congress to build 300 ships in the next 10 years. No one has said what these ships are going to transport. I see nothing in this bill to keep these ships from being used to carry foreign products into this country which will compete with our own domestic industry.

My concern centers around a situation that arose in my district in Texas. A little over a year ago there were plans underway to use the differential subsidy to haul in aragonite from the Bahama Islands into the coastal areas at almost half the cost at which the domestic limestone industry would compete.

I say that this would be unfair competition. We would be allowing taxpayer money to be used to put our domestic industry out of business. I have been asking for assurance for several months now that these 300 ships will not be hauling foreign products in competition with our own industries. No one has given me that assurance. I am still seeking assurance. Other people, as well, would desire an answer.

Mr. Speaker, I call on the Maritime Commission to clarify their position and to give us assurances that these proposed ships will not be used to transport commodities into this country to the distinct disadvantage of our own merchants.

Mr. BYRNE of Pennsylvania. Mr. Speaker, the new maritime program, as envisioned in H.R. 15424, marks the beginning of a new era in America's maritime history. I have served on the Merchant Marine and Fisheries Committee of the House for many years, and there have been periods of complete frustration. We have struggled, urged, and even cajoled several administrations for a program that would truly revitalize our merchant fleet.

We all remember some of the inadequate proposals of the past. We can recall quite clearly the building abroad feature of former Secretary Alan Boyd, which certainly spelled the doom of that program. The great majority of the Members of the Congress recognized that we cannot forsake our shipbuilding industry in order to build up a fleet of active merchant vessels.

Consequently, it is truly gratifying to me to be able to support this program which was submitted to the Congress by President Nixon, but which could not have been successfully enacted without the guidance and able leadership of my distinguished chairman, EDWARD A. GARMATZ. I am, therefore, very proud to cast my vote and my support for this bill which will henceforth be known as the Merchant Marine Act of 1970.

Mr. GARMATZ. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

XUM

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. TAFT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 343, nays, 4, not voting 82, as follows:

[Roll No. 330]

YEAS—343

Abbitt
Abernethy
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Arends
Ashbrook
Ashley
Baring
Beall, Md.
Belcher
Bell, Calif.
Bennett
Bevill
Biester
Bingham
Blanton
Blatnik
Boggs
Boland
Bolling
Bow
Brademas
Brasco
Bray
Brinkley
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, Calif.
Burton, Utah
Byrnes, Wis.
Caffery
Camp
Carey
Carter
Casey
Cederberg
Celler
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohelan
Collier
Collins
Colmer
Conable
Conte
Conyers
Corman
Coughlin
Cramer
Crane
Culver
Cunningham
Daniel, Va.
Daniels, N.J.
Davis, Ga.
Davis, Wis.
Delaney
Dellenback
Dennis
Devine
Dickinson
Dingell
Donohue
Dorn
Downing
Dulski
Duncan
Dwyer
Eckhardt
Edmondson
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fallon
Farbstein
Fascell
Findley
Fish
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Fountain
Fraser
Frey
Friedel
Fulton, Pa.
Fuqua
Galifianakis
Gallagher
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Gilbert
Goldwater
Gonzalez
Goodling
Gray
Green, Oreg.
Green, Pa.
Griffin
Griffiths
Grover
Gude
Hagan
Halpern
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Hechler, W. Va.
Helstoski
Henderson
Hicks
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Karth
Kazen
Kee
Keith
King
Kleppe
Kluczynski
Koch
Kuykendall
Kyl
Kyros
Landgrebe
Langen
Latta
Lennon
Lloyd
Long, Md.
McCloskey
McClure
McCulloch
McDade
McEwen
McFall
Macdonald, Mass.
MacGregor
Madden
Mahon
Mailliard
Mann
Marsh
Martin
Mathias
Matsunaga
May
Mayne
Meeds
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Minish
Mink
Minshall
Mize
Mizell
Mollohan
Monagan
Montgomery
Moorhead
Morton
Mosher
Moss
Murphy, Ill.
Myers
Natcher
Nelsen
Nichols
Nix
Obey
Olsen
O'Neill, Mass.
Passman
Patten
Pelly
Pepper
Perkins
Pettis
Philbin
Pickle
Pike
Poage
Podell
Poff
Preyer, N.C.
Price, Ill.
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Rarick
Rees
Reid, Ill.
Reid, N.Y.
Reifel
Reuss
Rhodes
Riegle
Rivers
Roberts
Robison
Rodino
Roe
Rogers, Fla.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rousselot
Roybal
Ruppe
Ryan
St Germain
Sandman
Saylor
Schadeberg
Scherle
Scheuer
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Springer
Stafford
Staggers
Stanton
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stubblefield
Stuckey
Sullivan
Symington
Taft
Talcott
Taylor
Teague, Calif.
Thompson, Ga.
Thomson, Wis.
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
Watson
Watts
Whalen
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Zablocki
Zion
Zwach

NAYS—4

Gross
Hall
Kastenmeier
Schmitz

NOT VOTING—82

Adair
Aspinall
Ayres
Barrett
Berry
Betts
Biaggi
Blackburn
Brock
Brooks
Burlison, Mo.
Bush
Button
Byrne, Pa.
Cabell
Corbett
Cowger
Daddario
Dawson
de la Garza
Denney
Dent
Derwinski
Diggs
Dowdy
Edwards, Ala.
Edwards, La.
Feighan
Fisher
Foreman
Frelinghuysen
Fulton, Tenn.
Gubser
Haley
Hanna
Hawkins
Hays
Hébert
Heckler, Mass.
Jonas
Jones, N.C.
Jones, Tenn.
Landrum
Leggett
Long, La.
Lowenstein
Lujan
Lukens
McCarthy
McClory
McDonald, Mich.
McKneally
McMillan
Melcher
Meskill
Morgan
Morse
Murphy, N.Y.
Nedzi
O'Hara
O'Konski
O'Neal, Ga.
Ottinger
Patman
Pirnie
Pollock
Powell
Rogers, Colo.
Rostenkowski
Roth
Roudebush
Ruth
Satterfield
Snyder
Stratton
Teague, Tex.
Thompson, N.J.
Tunney
Weicker
Wold
Wright
Young

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Adair.

Mr. Brooks with Mr. Frelinghuysen.

Mr. Thompson of New Jersey with Mr. Morse.

Mr. Burlison of Missouri with Mr. Weicker.

Mr. Hays with Mr. Gubser.

Mr. Dent with Mr. McKneally.

Mr. Edwards of Louisiana with Mr. Edwards of Alabama.

Mr. Byrne of Pennsylvania with Mr. Pirnie.

Mr. Barrett with Mr. Corbett.

Mr. Biaggi with Mr. Button.

Mr. Nedzi with Mr. Cowger.

Mr. Jones of Tennessee with Mr. Brock.

Mr. Fulton of Tennessee with Mr. Berry.

Mr. Hanna with Mr. Snyder.

Mr. Daddario with Mr. Meskill.

Mr. Cabell with Mr. Roudebush.

Mr. Long of Louisiana with Mr. Lukens.

Mr. Young with Mr. Betts.

Mr. Aspinall with Mr. Ayres.

Mr. Rostenkowski with Mrs. Heckler of Massachusetts.

Mr. O'Neal of Georgia with Mr. Jonas.

Mr. Feighan with Mr. Powell.

Mr. Lowenstein with Mr. Diggs.

Mr. Melcher with Mr. Roth.

Mr. Jones of North Carolina with Mr. Wold.

Mr. Teague of Texas with Mr. Bush.

Mr. Tunney with Mr. Pollock.

Mr. de la Garza with Mr. Lujan.

Mr. McCarthy with Mr. Denney.

Mr. Wright with Mr. McClory.

Mr. Landrum with Mr. McDonald of Michigan.

Mr. Patman with Mr. Blackburn.

Mr. Leggett with Mr. Derwinski.

Mr. Fisher with Mr. Foreman.

Mr. McMillan with Mr. Ruth.

Mr. Dowdy with Mr. O'Konski.

Mr. Hawkins with Mr. Rogers of Colorado.

Mr. Morgan with Mr. Murphy of New York.

Mr. Satterfield with Mr. Haley.

Mr. Ottinger with Mr. Dawson.

Mr. Stratton with Mr. O'Hara.

Mr. PIKE changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

CORRECTION IN ENROLLMENT OF H.R. 15424

Mr. GARMATZ. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 768) to make a correction in the enrollment of H.R. 15424, so that the Act may be cited as the Merchant Marine Act of 1970.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 768

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 15424) to amend the Merchant Marine Act, 1936, the Clerk of the House of Representatives shall add at the end thereof the following new section:

"SEC. 44. This Act may be cited as the 'Merchant Marine Act of 1970'."

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARMATZ. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. SISK. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

XUM

ORGANIZED CRIME CONTROL ACT OF 1970

Mr. SISK, from the Committee on Rules, reported the following privileged resolution (H. Res. 1235, H. Rept. 91-1566) which was referred to the House Calendar and ordered to be printed:

H. RES. 1235

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 30) relating to the control of organized crime in the United States, and all points of order against said bill for failure to comply with the provisions of clause 3, Rule XIII are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and said committee substitute shall be read by titles instead of by sections. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1235 and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER pro tempore. The question is, Will the House now consider House Resolution 1235?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 1235.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1235 provides an open rule with 3 hours of general debate for consideration of S. 30, the Organized Crime Control Act of 1970. The resolution provides that all points of order shall be waived against clause 3, rule XIII, because of failure to comply with the Ramseyer rule and that all points of order are waived against the committee substitute because a question of germaneness may be raised. It shall be in order for the committee substitute to be considered as an original bill for the purpose of amendment and the bill shall be read for amendment by titles instead of by sections.

The purpose of S. 30 is to seek the eradication of organized crime in the United States by strengthening the legal tools in the evidence-gathering process, by establishing new penal prohibitions, and by providing new remedies to deal with unlawful activities of those engaged in organized crime.

Title I of the bill establishes special grand juries to sit in major population centers or in other areas at the designation of the Attorney General.

Title II of the bill is a general immunity statute that will afford "use" immunity rather than "transaction" immunity, in line with the provisions of H.R. 11157 which was reported by the Judiciary Committee on June 15 of this year and is pending on the House calendar.

Title III is intended to codify present civil contempt practice with respect to recalcitrant witnesses in Federal grand jury and court proceedings. This title also subjects witnesses to Federal sanctions who flee State criminal investigative commissions to avoid giving testimony.

Title IV is intended to facilitate Federal perjury prosecutions and establishes a new false declaration provision applicable in Federal grand jury and court proceedings.

Title V authorizes the Attorney General to protect and maintain Federal or State organized crime witnesses and their families.

Title VI authorizes the Government to preserve testimony by the use of depositions in criminal proceedings.

Title VII intends to limit disclosure of information illegally obtained by the Government to defendants who seek to challenge the admissibility of evidence because it is either the primary or indirect production of such an illegal act.

Title VIII defines an "illegal gambling business" and makes it unlawful to engage in a conspiracy to obstruct the enforcement of State law to facilitate an "illegal gambling business"; makes it unlawful to engage in the operation of the "illegal gambling business" itself; establishes, effective in 2 years, a Presidential commission to conduct a comprehensive review of present Federal and State gambling law enforcement policies and their alternatives; makes enforcement possible by court order electronic surveillance and makes clear that State law is not preempted by them.

Title IX creates a new chapter in the criminal code entitled "Racketeer Influenced and Corrupt Organizations," which contains a threefold standard, first, making unlawful the receipt or use of income from "racketeering activity" or its proceeds by a principal in commission of the activity to acquire an interest in or establish an enterprise engaged in interstate commerce; second, prohibiting the acquisition of any enterprise engaged in interstate commerce through a "pattern" of "racketeering activity," and third, proscribing the operation of any enterprise engaged in interstate commerce through a "pattern" or "racketeering activity."

Title X authorizes extended sentences of up to 25 years for dangerous adult special offenders defined to include: First, a three-time felony offender who has been previously incarcerated; second, an offender whose felony offense was committed as a part of a pattern of criminal conduct, and third, an offender whose felony offense was committed in furtherance of a conspiracy of three or more other persons to engage in a pattern of criminal conduct. This title also authorizes the Attorney General to establish in the Department of Justice a central repository for records of convictions.

Title XI establishes Federal controls over the interstate and foreign commerce of explosives and is designed to assist the States to more effectively regulate the sale, transfer and other disposition of explosives within their borders.

Title XII establishes, effective in 2 years, a National Commission on Individual Rights which is to conduct a comprehensive study and review of Federal laws and practices relating to special grand juries and to special offender sentencing authorized under the act, wiretapping and electronic surveillance, bail reform, and preventive detention, no-knock search warrants, and the accumulation of data on individuals by Federal agencies as authorized by law or acquired by executive action.

Title XIII of the bill contains a severability clause.

Mr. Speaker, I urge the adoption of the rule in order that the bill may be considered.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished gentleman from California (Mr. SISK), has explained this resolution which covers the manner in which S. 30, the Organized Crime Control Act of 1970, will be handled. I concur in his remarks.

Mr. Speaker, I simply add the purpose of this bill is to amend a number of existing criminal statutes, with particular attention to the problems raised by organized crime, in order to enable local, State, and Federal law enforcement officers and our court systems to deal more effectively with the problem of organized crime in a number of aspects.

There are 12 different titles in this bill.

In the interest of saving time and in view of the fact that there are 3 hours to discuss this and with the hope that we may adjourn sine die before November 3, Mr. Speaker, I will not go into details on the explanation of the bill.

Mr. Speaker, three members of the Committee on the Judiciary filed additional views and three members filed dissenting views. The bill was reported unanimously by the subcommittee and as I understand it by a vote of 32 to 3 by the full committee.

Mr. Speaker, I urge the adoption of the rule.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. POFF).

Mr. POFF. Mr. Speaker, on Wednesday of last week, the Judiciary Committee filed its report on S. 30, the Organized Crime Control Act of 1970. Three of my colleagues, Representatives CONYERS, MIKVA, and RYAN, filed dissenting views. I did not wish then to delay further the processing of S. 30. Consequently, I did not attempt in the report itself to respond to their arguments against S. 30. I rise now, however, to come to the defense of the proposed statute.

Mr. Speaker, my colleagues begin by suggesting that S. 30 is but "another dreary episode" in a "ponderous assault" on freedom and that it embodies a "spirit of repression." Nothing is further from the fact. S. 30 is instead the careful product of 2 years of hearings, consultations, and debate. It is a thoroughly bipartisan bill that embodies the best of the recommendations of such distinguished groups as the American Bar Association, the American Law Institute, and the President's Commission on Law Enforcement and Administration of Justice. Indeed, in the other body, S. 30 commanded virtually unanimity: 95 Senators have publicly announced their support for the measure.

Mr. Speaker, my colleagues have attacked virtually every title in S. 30, but they have concentrated on titles I, VII, IX, and X. I should like, therefore, to examine each of their arguments in turn.

TITLE I: SPECIAL GRAND JURY

Title I of S. 30 authorizes the issuance of grand jury reports in certain narrowly defined circumstances subject to strict safeguards. My colleagues term this "sanctified calumny." What they do not say is that grand jury report powers, although a revival in our present federal system, have been retained from the common law or statutorily enacted in several of our States. Twenty-one States have legislation similar to the New York statute which, in *Jones* v. *People*, 101 App. Div. 55, 92 N.Y. Supp. 275, appeal dismissed, 181 N.Y. 389, 74 N.E. 226 (1905), was construed to authorize reports, while six States explicitly authorizes such reports by statute, and others have sanctioned them on a common law basis. See, for example, *In re Report of Grand Jury*, 11 So 2d 316 (Fla. 1945).

My colleagues begin their specific attack by acknowledging that ample safeguards are written into the statute, but then suggest that they are an illusion, since the grand jury is not limited to considering evidence admissible in a common law criminal trial. Unless such a rule is adopted, they suggest, court review is "completely nebulous."

This statement, of course, flies in the face of voluminous State and Federal experience with judicial review of determinations made by administrative agencies. Federal administrative agencies, for example, can base their decisions in large part upon evidence, including hearsay, not admissible at trial. See, for example, 5 U.S.C. section 556(d) Administrative Procedure Act; 45 C.F.R. section 702.8(a) "rules of evidence" "not control," Civil Rights Commission; *Morelli* v. *United States*, 177 Court of Claims 844 (1966); *NLRB* v. *Imperato Stevedoring Corporation*, 250 F. 2d 297 (3d Cir. 1957); *NLRB* v. *Amalgamated Meat Cutters and Butcher Workmen of North America, Local 127*, 202 F. 2d 671 (1953). The use of hearsay evidence by such agencies has in no way prevented courts from reviewing agency determinations under the "substantial evidence" rule, and there is no reason to suppose that the courts will be unable to act here.

My colleagues also quote at length from the decision of the New York court of appeals in the case of *Wood* v. *Hughes*, 9 N.Y. 2d 144, 154, 173 N.E. 2d 21, 26 (1961). The material quoted is a strong condemation of grand jury reports identifying individuals. Their use of it, however, is misleading, since it fails to mention that the people of New York, through their State legislature, responded to the Wood decision by promptly enacting comprehensive legislation—on which title I itself was modeled—authorizing reports critical of identifiable individuals, under limitations designed to overcome the civil liberties objections voiced by the court. See Laws of 1964, Cr. 250, Code of Criminal Procedure Sec. 253-a.

What lies at the heart of my colleagues' objection to reports is, I am sure, a fear of abuse. Yet none of the witnesses who appear in the Senate or House hearings, even though they were asked, were able to document actual instances of abuse. I feel these reports will play an important role in keeping the people informed. And as New Jersey Chief Justice Arthur T. Vanderbilt stated in 1955, in a decision upholding the grand jury report power over civil liberties objections, grounded on a fear of a possible abuse of the rights of individuals, *In Re Presentment by Camden County Grand Jury*, 10 N.J. 23, 89 A. ed. 416, 434 (1951):

> A practice imported here from England three centuries ago as a part of the common law and steadily exercised ever since under three successive state constitutions is too firmly entrenched in our jurisprudence to yield to fancied evils.

TITLE VII: SUPPRESSION OF EVIDENCE

Next my colleagues turn to title VII of S. 30, which would, first, reverse the Supreme Court's decision in *Alderman* v. *United States*, 394 U.S. 165 (1969) requiring, under its supervisory power, the disclosure of Government files in criminal trials, and which would, second, set a 5-year "statute of limitations" on inserting issues dealing with the "fruit of the poisonous tree" in similar cases.

The need for remedial legislation here is well illustrated by the progress of the Federal Government's case against Felix "Milwaukee Phil" Alderisio following the Supreme Court's reversal of his conviction for committing extortion in Colorado in 1959. He was a codefendant of Alderman himself, and the Supreme Court remanded Alderisio's case for full disclosure of the confidential files and a new hearing on his claim that the evidence against him was the indirect "fruit" of unlawful electronic surveillance.

The district court, after extensive disclosure and 2½ days of defense interrogation of numerous FBI agents and supervisors connected with the surveillance, found that "there is absolutely no relevancy in any of the material from any of the logs of the electronic surveillance to any evidence offered at the trial of this case," and reaffirmed Alderisio's 4½-year prison sentence for the extortion—*United States* v. *Alderman*, Crim. No. 17377, U.S. District Court, D. Colo., July 7, 1969, rev'd, 7 Crim L. Reptr 2122 (10th Cir 3-31-70) (in camera hearing on relation between "logs" and "airtels" ordered).

Alderisio, still pursuing the dilatory tactics he had used since the extortion case began, appealed the district court's latest decision and secured the new hearing, noted above. However, on January 30, 1970, the case finally was closed. Alderisio agreed not to seek further review of the extortion conviction, and to plead guilty to a charge of possessing—as a convicted felon—three firearms confiscated from his home, and no defense to one of 21 counts of bank fraud—both committed while he was free during the extortion proceedings, which had begun when he was indicted in 1964. In return, he obtained the Government's agreement to drop the other 20 fraud counts and to let the new 2-year sentence on the gun charge and 5-year fraud sentence run concurrently with the extortion term. Since the new sentences are concurrent, they will add only 80 to 120 days to Alderisio's time in prison.

Alderisio, who has been identified as an enforcer and leader of loan sharking and gambling operations for La Cosa Nostra in the Chicago area, thus used the dilatory tactics title VII would curb to postpone beginning his punishment for extortion until 10 years after the crime and 5 years after indictment, remaining free in the meantime to commit bank fraud and a gun violation punished by only 80 to 120 days imprisonment—and this despite the fact that his motion to suppress was groundless. He now practically concedes he was guilty of all three crimes. The FBI, the Justice Department, and the Federal courts, on the other hand, spent a fortune and 10 years obtaining his imprisonment. Society got a raw deal, and Alderisio, as the Chicago Sun-Times reported—January 13, 1970, page 6—said, as he walked grinning from the court:

> I just made the best deal of my life.

Worst of all, one result of the existing law, reflected in *Alderman*, is that some criminals are now given a "license to steal"—and to murder, rape, rob, and destroy—for their entire lives An organized crime figure, or an ordinary thief, may be oveheard incidentally during unlawful surveillance of a spy ring or a foreign embassy. The Government may be absolutely unable to disclose the fact of the surveillance or the location of the electronic device. However, the criminal presently has an absolute right to examine the transcript and, when the transcript is not disclosed, to obtain dismissal of any State or Federal charge against him for any crime committed at any time. Therefore, he can go on to commit any crimes he chooses, as often as he pleases, with complete immunity from punishment and control. Title VII eliminates that intolerable dilemma, and revokes the criminal's license to terrorize law-abiding citizens.

There are analogous precedents supporting title VII's 5-year provision in areas other than suppression of evidence, as well. There are, for example, the statutes of limitations which prevent the bringing of criminal prosecutions and civil lawsuits more than a given period after one becomes entitled to do so. In comparing the 5-year provision of title VII with those statutes of limitations, it is important to notice that title VII's 5-year provision does not foreclose a "defense," as my colleagues suggest, which goes to the question of guilt or innocence. The motion to suppress is instead a means to the affirmative enforcement of a right, and in this respect is quite similar to the bringing of a civil suit or criminal prosecution. Indeed, the Federal Government and some of the States provide, as a remedy for a person who is subjected to unlawful electronic surveillance, not only the remedy of suppression of evidence in any criminal case against him, but also the additional remedies that the offending officer may be criminally prosecuted and that the person surveyed may bring a civil action for damages against the officer. The statutes of limitations limiting the commencement of such civil actions have been held to be consistent with due process despite the fact that they deprive a person surveyed of a property right—his cause of action—after a given period of time. Note, of course, that under due process no legislature has the right to destroy an existing cause of action. *Angle* v. *Chicago St. Paul Ry.*, 151 U.S. 1 (1894). But no one questions the right of the legislature to say that it must be exercised, if at all, within the period of limitation in order that justice may be done on fresh not stale claims. This is true despite the fact that his claim for damages, or the criminal case against any officer, may be clearly valid and amply supported by evidence, especially since it is the time when the civil suit is brought or the criminal prosecution against the officer is commenced which determines whether or not the action is barred by the statutes of limitations: Those periods of limitations are not so defined as to bar implausible claims, only those which have become stale.

The question is not merely whether the evidence is the fruit of the unlawful seizure but whether, unlawful fruit or not, suppression or admission of such evidence would have a substantial impact upon the degree to which the suppression rule deters unlawful police conduct. Measured by this standard, enactment of the 5-year provision of title VII would have no impact upon the efficacy of the suppression rule. It would be foolhardy for a police officer to make an illegal search or surveillance in 1970 in the hope that, on that day, he would discover evidence useful to prove a crime which will not even be committed until 1976, and police will have no incentive to waste their time and resources in that fashion.

Indeed, the principle applied by the 5-year provision of title VII already has been specifically recognized by the Supreme Court. The Supreme Court has not, of course, approved a specific period such as 5 years between an unlawful police act and a later event to be proved declaring that claims that the unlawful act led to evidence of the later event shall not be considered. Specific rules of that type are the province of the Congress, rather than the courts. The Supreme Court has, however, recognized that the relationship between an unlawful investigative act and evidence derived indirectly from the act can become so "attenuated" that the derivative evidence should not be suppressed, and that even evidence which was obtained by the exploitation of an unlawful investigative act should be admitted in evidence if it was obtained in part from a second, independent source *Wong Sun* v. *United States*, 371, U.S. 417, 487 (1963); *Nardone v. United States*, 403 U.S. 338, 341 (1939)—so attenuated as to dissipate the taint "; *Costello v. United States*, 365 U.S. 265, 280 (1961). In *Nardone* v. *United States*, 308 U.S. 338, 341–42 (1939), Mr. Justice Frankfurter put it this way:

> Sophisticated arguments may prove a signed to overcome the civil liberties obtained through illicit wiretapping and the Government's proof. As a matter of good sense, however, such connection may have become so attenuated as to dissipate the taint. * * *
>
> Dispatch in the trial of criminal cases is essential in bringing crime to book. * * * To interrupt the course of the trial for [a suppression hearing] impedes the momentum of the main proceeding . . . Like mischief would result were tenuous claims sufficient to justify the trial court's indulgence of inquiry into the legitimacy of evidence in the Government's possession. So to read . . . [the suppression rule] would be to subordinate the need for vigorous administration of justice to undue solicitude for potential . . . disobedience of the law by the law's officers. Therefore, claims that taint attaches to any portion of the Government's case must satisfy the trial court with their solidity. . . .

TITLE IX: INVASION OF LEGITIMATE BUSINESS

My colleagues next raise questions about title IX. Strangely, however, they seem to object that the title IX places too high a burden on the prosecution before it can bring into play criminal forfeiture and the possibility of a $25,000 fine and up to 20 years imprisonment where "racketeering activity"—at least two independent offenses forming a pattern of conduct—leads to the takeover or is used to run a business. I, for one, feel that these evidentiary showings are not only right but proper. The proposed statute is not aimed at the isolated offender and it does not use mild remedies. It would go too far if it required much less.

Moreover, my friends are only throwing sand in the eyes of those who might not read the proposed statute carefully when they suggest that it poses difficult "choice of law" questions when "racketeering activity" under the statute is defined in part by reference to local law. This is a common technique in Federal criminal statutes that play a role in aiding local law enforcement to aid itself. See, for example, 18 U.S.C. 1952—travel to aid racketeering business. The Supreme Court has had no difficulty in dealing with these statutes. See, for example, *United States* v. *Nardello*, 393 U.S. 286 (1969), upholding Federal extortion prosecution under 18 U.S.C. 1952, where the meaning of "extortion" was taken from Pennsylvania law. Local law is used in the context of the Federal statute only when the local law itself controls the conduct in question. It is as simple as that. To attempt to make more of it is to attempt to confuse, not to enlighten.

My colleagues are on no better grounds when they attack the use of the technique of criminal forfeiture in title IX. Obviously, the time has come for a frontal attack on the subversion of our economic system by organized criminal activities. That attack must begin, however with the frank recognition that our present laws are inadequate to remove criminal influences from legitimate endeavor organizations. The traditional approach has been to seek through fine and imprisonment to deter or prevent the perpetration of criminal behavior. The President in his message on organized crime of April 23, 1969, observed:

> The arrest, conviction, and imprisonment of a Mafia lieutenant can curtail operations, but does not put the syndicate out of business. As long as the property of organized crime remains, new leaders will step forward to take the place of those we jail.

The Attorney General in testimony before the Senate subcommittee said:

> While the prosecutions of organized crime leaders can seriously curtail the operations of the Cosa Nostra, as long as the flow of money continues, such prosecutions will only result in a compulsory retirement and promotion system as new people step forward to take the place of those convicted. [Senate Hearings at 112.]

Fine and imprisonment as criminal sanctions are not new. The use of criminal forfeiture, however, represents an innovative attempt to call on our common law heritage to meet an essentially modern problem. In English law, goods and chattels were automatically forfeited to the Crown upon conviction of felony; lands were forfeited upon attainder, and this common law rule was carried into the new world by the colonists. Instances of criminal forfeiture, moreover, are noted in early American reports. The use of the ancient doctrine of criminal forfeiture embodied in title IX, therefore, will deal not only with individuals, but also with the economic base through which those individuals constitute such a serious threat to the economic well-being of the Nation. In short, an attack must be made on their source of economic power itself, and the attack must take place on all available fronts.

Finally, my colleagues are wholly off base when they complain that title IX adopts the present civil investigative demand provisions of antitrust law (15 U.S.C. § 1311 et seq.) to the civil aspect of title IX. These provisions do indeed ignore the grand jury in this area, for the grand jury is a method of criminal investigation. Title IX contemplates, in contrast, that the civil remedies, including injunctions, may have something to offer in this area. As a special committee of the American Bar Association observed:

> The time-tested machinery of the antitrust laws contains several useful and workable features which are appropriate for use against organized crime. [Senate Hearings at 577.]

I would credit the criticism of my colleagues more if they would only cite examples of the abuse they fear. These procedures are time tested in the antitrust area. I see no reason why they may not prove valuable against organized crime.

TITLE X: SPECIAL OFFENDER SENTENCING

Next, my friends turn their attention to title X, which provides for, subject to strict safeguards, sentences of up to 25 years for "dangerous special" offenders. The inadequacy of sentences imposed upon organized crime leaders has been well known to racket prosecutors for years. Our people, too, are aware of the facts. A Gallup poll early last year found that 7 percent of those interviewed thought that our courts did not deal harshly enough with criminals—New York Times, February 16, 1969, page 47, column 1. A recent study based on FBI sentencing data, moreover, confirms that experience and the judgment of our people. The study appears in the CONGRESSIONAL RECORD, volume 115, part 25, page 34390, so it is necessary now to point out only that two-thirds of La Cosa Nostra members included in the study and indicted by the Federal Government since 1960 have faced maximum jail terms of only 5 years or less, and that nevertheless fewer than one-fourth have received the maximum jail terms, and the sentences of the remainder have averaged only 40 to 50 percent of the maximums.

Title X will begin to correct that situation by implementing the principle, approved by the Department of Justice, the American Bar Association, the National Council on Crime and Delinquency, the American Law Institute, and the President's Crime Commission, that the Congress should authorize one maximum sentence for ordinary offenders and a greater maximum for more dangerous offenders.

The provisions for Government and defendant appellate review of sentences found in title X, too, are of great importance. They implement a recommendation of the President's Crime Commission that—

> There must be some kind of supervision over those trial juries who, because of corruption, political considerations, or lack of knowledge, tend to mete out light sentences in cases involving organized crime management personnel. Consideration should therefore be given to allowing the prosecution the right of appeal regarding sentences of persons in management positions in organized crime activity or groups. Constitutional requirements for such an appellate procedure must first be carefully explored. (Report at 203.)

The appellate review provisions of title X have been drawn with great care so as to avoid infringing individual rights under the due process and double jeopardy clauses. Supreme Court decisions rendered last term, and lengthy and detailed hearings into the legal and constitutional aspects of appellate review of sentences, have indicated that the concept can be implemented at title X does within constitutional bounds. Appellate review under title X will not only permit correction of unjust sentences in particular cases, it will also promote the evolution of sentencing principles and enhance respect for our system of justice. It promises a major improvement in the administration of justice. Key cases supporting title X include rulings that the double jeopardy provision permits sentence increases after reversal of a conviction—*North Carolina* v. *Pearce*, 395 U.S. 711, 719 (1969)—or after failure of a trial court to impose a mandatory minimum sentence—for example, *Bozza* v. *United States*, 330 U.S. 160 (1947). Those rulings are analogous rather than direct authority, but they offer strong support for title X against double jeopardy objections.

Under the existing precedents, there no longer can be any doubt as to the consistency of permitting the Government to appeal and obtain appellate increases of sentences with the double jeopardy clause. Dean Peter Low, who analyzed the issue carefully in the Senate hearings before the Supreme Court decided *North Carolina* v. *Pearce*, 395 U.S. 711, 717 (1969), stated after the Pearce decision that the double jeopardy arguments against an increased sentence on appeal had been "weakened if not completely destroyed." Senate hearings at 544.

My colleagues' views of special offender sentencing as an evasion of constitutional trial procedures—an "end run," they say, "around due process"—are not, fortunately, typical of professional authorities. The concept implemented by title X has been endorsed, as I noted previously, by the President's Crime Commission, the American Law Institute, the National Council on Crime and Delinquency, the American Bar Association, and other august associations. At the same time, my colleagues, in analyzing title X, seemingly ignore what is the law today as to sentencing: No standards or limits are placed upon the judges discretion. Would they have us merely raise the penalties on existing statutes without granting safeguards? As the commentary to the American Bar Association's standards on sentencing notes—

> It would indeed be ironic if procedural due process required the absence of legislative guidance in order for the sentencing proceeding to be informal. The Advisory Committee is confident that such a result need not follow. (ABA Standards Relating to Sentencing Alternatives and Procedures at 264.) (Approved Draft, 1968.)

Title X preserves, in short, the traditional principle, approved by the Supreme Court in *Williams* v. *New York*, 337 U.S. 241 (1949), that sentencing proceedings are exempt from the rules of evidence constitutionally required at trial. The Williams case, which was reaffirmed by the Court in 1967 in an opinion by Mr. Justice Douglas, *Specht* v. *Patterson*, 386 U.S. 605, 606, held that a sentencing court, unlike a trial court, can consider hearsay allegations not tested for reliability by the constitutional procedures of confrontation and cross-examination. Mr. Justice Black, in the opinion for the Court in Williams, spelled out in these terms the policies which underlie enlightened sentencing practices and preclude the extension of even constitutional exclusionary rules to sentencing proceedings:

> Highly relevant—if not essential—to his [the sentencing Judge's] selection of an appropriate sentence is the possession of the fullest information possible concerning the defendant's life and characteristics. And modern concepts individualizing punishment have made it all the more necessary that a sentencing judge not be denied an opportunity to obtain pertinent information by a requirement of rigid adherence to restrictive rules of evidence properly applicable to the trial.
>
> * * * * *
>
> The due process clause should not be treated as a device for freezing the evidential procedure of sentencing in the mold of trial procedure . . . (*Williams* v. *New York*, supra at 247–51.)

My colleagues attempt to evade application of these principles to special offender sentencing by saying that sentencing under title X is comparable to a second trial, and the sentencing allegations to a separate "charge" of crime. This is hardly a sound basis for exempting title X from the rule of the Williams case, since the hearsay which was used in sentencing Williams himself related to his commission of many serious crimes other than that for which he was being sentenced. As the Director of the National Council on Crime and Delinquency, whose Model Sentencing Act was one basis for title X, testifies before the Senate subcommittee:

> A sentencing statute certainly does not take the place of new definitions of racketeering crimes, appropriate and specific to the methods of operation in organized crime. The Model Sentencing Act does not define crimes. But if a defendant is convicted of an offense such as tax evasion, assault, criminal coercion, it makes a great deal of difference whether his crime was an individual act, or was part of a racketeering operation. If the latter, the sentence should be a severe one, and we so recommend in our act. (Hearings at 251.)

The sentence is more severe, as the U.S. Supreme Court has made clear regarding extended sentencing of recidivists, not because the defendant is receiving an additional punishment for his previous crimes, but because the fact of his previous conduct aggravates his latest felony and justifies the imposition of a more severe sentence in lieu of the ordinary one. See, for example, *Moore* v. *Missouri*, 159 U.S. 673, 677 (1895). Both the Model Penal Code and the Model Sentencing Act have rejected the notion that special offender sentencing is like a trial and requires application of trial rules of evidence, and the ABA has done likewise after an unusually thorough and scholarly study of the question.

My friends also assert that it violates the privilege against self-incrimination to permit an inference against a defendant alleged to be a professional offender to be drawn from his income or property, where it is not explained as derived from a source other than crime. This assertion is incorrect for several reasons.

First, title X does not require that a defendant desiring to explain his wealth testify in person. The defendant instead can offer other witnesses or documentary evidence, and doing so is not considered self-incrimination.

Second, this provision of title X does not compel a finding that a defendant with unexplained wealth is a professional offender, it does not create an irrebuttable or even a rebuttable presumption to that effect, and it does not even require the court to draw any inference from the unexplained wealth. It is

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clear, from a careful reading of the face of the provision, that its sole effects are to declare unexplained wealth to be relevant, and to permit the drawing from it of any inference of fact which is logical and persuasive in the circumstances. In this connection, it is like similar permissible inference that follows from the recent possession of stolen property, which has been long upheld. See *Wilson* v. *United States*, 162 U.S. 613, 619 (1896). The inference may be very strong in some cases and nonexistent or very weak in others, depending upon the type of wealth, the circumstances of its acquisition, the facts concerning the felony for which the defendant is to be sentenced, and the other circumstances of aggravation.

Third, the Marchetti and Grosso cases, *Marchetti* v. *United States*, 390 U.S. 39 (1968); *Grosso* v. *United States*, 390 U.S. 62 (1968) relied upon by my friends shed no light on title X, since the law they invalidated made one's failure to incriminate himself a crime in itself.

My colleagues "due process" objection to title X is that the defendant would be deterred from appealing if he knew that Government could then appeal as well and have his sentence increased. I seriously question the care with which my friends examined title X, which takes great pains to prevent exactly the type of deterrence of which they warn. Since a defendant might be deterred from appealing if the Government could then appeal as well, title X requires that the Government take any review it desires 5 days before the defendant must do so. By the time the defendant is about to make his decision, the Government already has appealed or lost its chance to do so, so the defendant cannot possibly fear such retaliation.

In addition, the section of title X dealing with appellate review of sentence—section 3576—provides expressly that when a sentence review is taken by the United States, the court of appeals may increase or reduce the sentence, and that "any withdrawal of review taken by the United States shall foreclose change to the disadvantage but not change to the advantage of the defendant." These provisions prevent the taking of routine Government appeals in the manner described by my colleagues dissenting statements, since taking routine appeals would expose the Government to the possibility of sentence reductions, a possibility not foreclosed by Government withdrawal of review. Further, the sentence review provisions include a provision that "any review taken by the United States may be dismissed on a showing of abuse of the right of the United States to take such review." These safeguards, coupled with the 5-day lag itself, provide ample protection for a defendant against being penalized for taking an appeal. This conclusion, too, is concurred in by Dean Low, who emphasized the due process problems concerning sentence increases on appeal in his prepared testimony before the Senate subcommittee. He then was asked, during the hearing:

> Could part of your objection to the prosecutor having the right to appeal be obviated by giving him a short period of time to exercise his option, and then allowing the defendant to exercise his option at a later point, but not permitting increase on appeal where the prosecutor did not elect to exercise his option at the earlier point? (Senate Hearings at 211.)

Dean Low replied:

> I believe that would be very good. I believe it would be very good provision. I think the prosecutor could not then appeal in response to a defendant's appeal. I think that would be an excellent suggestion. (Ibid.)

CONCLUSION

Mr. Speaker, my colleagues, in closing, make passing reference to several other titles of S. 30. But here they did not seem to press their objections quite so hard. I shall not, therefore, burden the Record further with detailed reply. I should like to close, however, by making reference to the opinion of Justice Keating of the New York Court of Appeals in *People* v. *Kaiser*, 21 N.Y. 2d 86, 233 N.E. 2d 818, 829, affirmed, 394 U.S. 280 (1969) Affirming the extortion conviction of an alleged Cosa Nostra member secured by wiretaps, Justice Keating replied to the civil liberties objections:

> [M]uch as we might like, we cannot ignore the realities of life. We cannot ignore the rise of organized criminal activity and "families" who promise to provide the true "big brothers" of 1984. As the facts in this case reveal, some . . . [police investigative techniques] under the most severely regulated and restricted conditions are necessary, lest the only security we enjoy is that from government intrusion.

Mr. Speaker, I, for one, am willing to give law enforcement the tools it needs to get the job done. I have supported it in S. 30 in the committee and I intend to support it on the floor. I urge my colleagues to take this same course of action.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. CELLER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 30) relating to the control of organized crime in the United States.

The SPEAKER pro tempore (Mr. Holifield). The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill S. 30, with Mr. Rooney of New York in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the distinguished gentleman from New York (Mr. Celler) will be recognized for 1½ hours, and the distinguished gentleman from Ohio (Mr. McCulloch) will be recognized for 1½ hours.

The Chair recognizes the distinguished gentleman from New York (Mr. Celler).

Mr. CELLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill has been the subject of much controversy. When it came to the Judiciary Committee from the other body it contained many imperfections. I might say that it contained many unconstitutional potholes. We filled them with constitutional provisions and removed irregularities. We smoothed out some of the rugged and extremely repressive provisions.

Mr. Chairman, we revised the bill and made it in accord with the legal process.

Mr. Chairman, our subcommittee worked assiduously and laboriously many hours refurbishing and smoothing out some of the wind rows, if I may put it that way, which were contained in this bill. It was approved unanimously by the subcommittee and had the preponderant vote of approval of the full committee. It is a good bill, but not perfect. What is? I have frequently said that even the sun has its spots. There is no light without shadow. So, this bill may have some imperfections, but it is a bill that is well rounded and it has compromises. But, is not all civilization the result of compromise?

Mr. Chairman, we conducted lengthy and extensive hearings on the bill and considered every shade and degree of opinion. We heard from the American Bar Association, the Federal Bar Association, the Association of the Bar of the City of New York, the New York County Lawyers Association, and other bar associations as well as the American Civil Liberties Union. We heard Members of both the House and the Senate, professors of law, experts in the criminal law, and judges.

If we are to deal however meaningfully with crime we must deal with the deep-seated causes of crime. We must address ourselves to the dehumanizing effect on the individual of slums, ignorance, sheer violence, corruption, poverty, idleness, hunger, disease, drug addiction, and overcrowded jails.

The use of naked power is not enough. We must care not only for law and order but for justice as well.

When I recite these horrendous evils that beset our society I do not pretend that we are lost and helpless, that in the proverbial sense we are going to the dogs, not at all. We need not let fear possess us.

I am young enough to know that the best is yet to come. We shall find solutions through patience, justice, and wisdom.

A nation that withstood the holocaust of a civil war where a million of our brave sons were slaughtered, a nation that withstood the anti-Chinese and the anti-Catholic riots of the 1840's and 1850's, the antidraft riots of the 1860's, a nation that fought two World Wars to triumph, that survived the Pullman and Homestead strikes and all the turmoil involved therein, a nation that lived through the boom and bust and gripping fear of the depression of 1929, such a nation can cope with and triumph over the present crime wave.

The bill before us I must admit is no panacea for the overall causes of crime but it will help. It will provide more tools and measures to invoke punishment to those who heretofore have escaped sanctions.

There is an old saying, "If passion drives let reason hold the reins."

I am free to confess that emotion and passion inspired the bill originally but reason must now control. The bill reflected originally public hysteria caused by the escalation of crime. Our committee I think put reason in the driver's seat and made the bill palatable and indeed worthy of your support.

We made some 50-odd changes, offered some 50-odd amendments to the Senate bill. This legislation manifests the diligence and the Judiciary Committee's desire to produce a fair bill.

Mr. Chairman, the purpose of S. 30, as amended, is to curb organized crime by strengthening the Federal criminal justice system. There has been considerable confusion over what this measure really does provide and what it may actually accomplish. As reported by the Committee on the Judiciary, the bill contains an amendment in the nature of a substitute. Although S. 30 embodies the same 11 titles in the measure which the Senate approved, each title has been reworked or amended to some degree. In addition, the bill contains two new titles: Title XI—providing for the regulation of explosives; and title XII—establishing a National Commission on Individual Rights. It may be helpful to the ensuing debate to summarize the main features of each of the titles of the bill, as reported.

TITLE I—SPECIAL GRAND JURIES

Title I provides for the impaneling of special or investigative grand juries in major population centers and in other areas designated by the Attorney General. As amended by the committee, these special panels would serve, as do regular grand juries, under the supervision of the Federal district courts. They would be authorized to sit for extended periods—up to 36 months—and to issue reports first, concerning misconduct involving organized criminal activity of appointed Government officials, and second, regarding organized crime conditions within the district. When such reports are critical of identified indviduals, the bill establishes procedures for notice, the opportunity to present evidence, to file an answer and to judicial review prior to publication.

TITLE II—WITNESS IMMUNITY

Title II contains a general Federal immunity statute that affords "use" immunity rather than "transaction" immunity when a witness before a court, grand jury, Federal agency, either House of Congress, or congressional committee or subcommittee, asserts his privilege against self-incrimination. This title would displace the privilege against self-incrimination by granting protection intended to be coextensive with the privilege; that is, protection against the use of compelled testimony directly or indirectly against the witness in a criminal proceeding.

TITLE III—RECALCITRANT WITNESSES

This title seeks to codify civil contempt practice with respect to recalcitrant witnesses in Federal grand jury and court proceedings. The title spells out the powers of the court summarily, without a jury, to coerce testimony by imprisonment. As amended by the committee, the maximum confinement authorized is 18 months, and the applicable standard of bail during an appeal of a contempt order is made consistent with the Federal Rules of Criminal Procedure.

Title III also applies Federal sanctions to witnesses who flee State process in order to avoid testifying before State criminal investigatory agencies.

TITLE IV—FALSE DECLARATIONS

Title IV establishes a new Federal false declaration standard applicable to grand jury and court proceedings. Its purpose is to facilitate Federal perjury prosecutions by permitting convictions based on irreconcilably inconsistent declarations under oath. In order to encourage truthful testimony, the title, as amended, permits recantation to be a bar to a false declaration prosecution in certain circumstances.

TITLE V—PROTECTED FACILITIES FOR HOUSING GOVERNMENT WITNESSES

As a further effort to secure and preserve essential prosecution testimony in an organized crime proceeding, title V authorizes the Attorney General to protect and maintain Federal and State organized crime witnesses and their families. It is provided that State witnesses may be protected on a reimbursable basis.

TITLE VI—DEPOSITIONS

Title VI authorizes the Government to preserve testimony by the use of a deposition in a criminal proceeding, a right which now exists only for the defendant under the Federal Rules of Criminal Procedure—rule 15. The Government's access to depositions is confined to organized crime cases, and as amended by the committee, the bill makes clear that such access shall not infringe the defendant's rights under the fifth amendment. It is also provided that the scope of examination and cross-examination shall be the same as at trial.

TITLE VII—LITIGATION CONCERNING SOURCES OF EVIDENCE

Title VII intends to limit disclosure of information illegally obtained by the government to defendants who seek to challenge the admissibility of evidence because it is either the primary or indirect product of such an illegal act. The title also prohibits any challenge to the admissibility of evidence based on its being the fruit of an unlawful governmental act, if such act occurred 5 years or more before the event sought to be proved. As amended by the committee, the application of title VII is limited to Federal judicial and administratve proceedings, and to electronic or mechanical surveillance which occurred prior to June 19, 1968, the date of enactment of the Federal wiretapping and electronic surveillance law—chapter 119, title 18, United States Code.

TITLE VIII—SYNDICATED GAMBLING

This title contains five parts:

Part A contains a congressional finding that illegal gambling involves the widespread use of, and has an effect on, interstate commerce and its facilities.

Parts B and C establish two new substantive Federal offenses. The first proscribes conspiracies to obstruct the enforcement of State law to facilitate an illegal gambling business. An illegal gambling business is defined as one which is conducted in violation of State or local law, which involves 5 or more persons who conduct, finance, manage or own all or part of the enterprise and which is in substantially continuous operation for over 30 days or has a gross revenue in excess of $2,000 in a single day. A fine of up to $20,000 or imprisonment for not more than 5 years, or both, is provided. The second offense makes it unlawful to engage in the operation of the illegal gambling business itself, defined as above. Any property used in violation of these provisions is made subject to forfeiture and a fine of $20,000 or imprisonment for not more than 5 years, or both, is authorized.

Part D establishes, effective in 2 years, a presidential commission to conduct a comprehensive review of Federal and State gambling policies and their alternatives.

Part E expressly authorizes court order electronic surveillance to enforce the provisions of parts B and C.

TITLE IX—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

Title IX is designed to inhibit the infiltration of legitimate business by organized crime. In addition to creating new Federal offenses punishable by traditional criminal sanctions of a fine of not more than $25,000 or a prison term up to 20 years, or both, title IX also creates civil remedies modeled on those found in the antitrust field. These include orders of divestment, prohibition against business activity and orders of dissolution or reorganization, and treble damage suits on the part of private parties who are injured. The title also authorizes forfeiture of any interest which has been attained in violation of the criminal provision.

The title prohibits the investment of funds derived from a pattern of racketeering activity or from the collection of an unlawful debt, where the investor participated as a principal, in a business engaged in interstate commerce. It also proscribes the acquisition, maintenance or control of any interest in a business engaged in commerce through a pattern of racketeering activity or the collection of unlawful debts. The conduct of the affairs of a business by a person acting in a managerial capacity, through racketeering activity is also proscribed. Conspiracies to violate any of the provisions of the title also are made punishable.

Racketeering activity is defined in terms of specific State and Federal criminal statutes.

As amended by the committee, pattern is defined to require at least two racketeering acts, one of which occurred after the effective date of the statute, and the last of which occurred within 10 years—excluding any period of imprisonment—after the commission of a prior racketeering act.

Provision is made for nationwide venue and service of process, the expedition of actions, civil investigative demands, and

XUM

the use of court order electronic surveillance and its product.

TITLE X—DANGEROUS SPECIAL OFFENDER SENTENCING

Title X authorizes extended sentences of up to 25 years for dangerous adult special offenders defined to include first, a three-time felony offender who has been previously incarcerated; second, an offender whose felony offense was committed as part of a pattern of criminal conduct, and third, an offender whose felony offense was committed in furtherance of a conspiracy of three or more other persons to engage in a pattern of criminal conduct.

The imposition of the extended term must be based upon a charge by the prosecuting attorney and a hearing before the sentencing court following conviction. The title provides for the assistance of counsel, compulsory process and cross-examination of witnesses. Appellate review of the extended sentence is provided for both the Government and the defendant, but the Government must exercise the option to seek review at least 5 days before the expiration of the time for review by the defendant. Further, the bill permits an appeal by the Government to result in an increase in a dangerous special offender sentence or a reversal of the trial court's finding that the defendant is not a dangerous special offender.

Title X also authorizes the Attorney General to establish in the Department of Justice a central repository for records of convictions. Records maintained in this respository are made admissible in evidence in the Federal courts.

XUM

TITLE XI—REGULATION OF EXPLOSIVES

This title, added by the committee, establishes Federal controls over the interstate and foreign commerce of explosives and is designed to assist the States to more effectively regulate the sale, transfer and other disposition of explosives within their borders. The title establishes a system of Federal licenses and permits; licenses are required of all explosives manufacturers, importers, and dealers; and permits are required of all users who depend on interstate commerce to obtain explosives. The title prohibits the distribution of explosives to persons under 21 years of age, drug addicts, mental defectives, fugitives from justice, and persons indicted for or convicted of certain crimes. Licensing authority is vested in the Secretary of the Treasury who is also authorized to regulate the storage of explosives. The title also makes it a Federal offense to falsify records, or make false statements to obtain explosives, to sell explosives in violation of State law and to traffic in stolen explosives.

In addition to the Federal regulatory scheme, title XI strengthens the Federal criminal law with respect to the illegal use, transportation or possession of explosives. Under this part of the title the definition of explosives is broadened to include incendiary devices such as "Molotov cocktails." In addition to increasing present penalties for the illegal use of explosives, title XI amends Federal law to cover malicious damage or destruction by explosives to Federal premises and other Federal property as well as to the premises and property of institutions or organizations receiving Federal financial assistance such as universities, hospitals, and police stations.

The title also specifically proscribes malicious damage or destruction by explosives of real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce. Existing penalties are increased and the death penalty is extended to new offenses added by the title. The new criminal offenses become effective upon enactment of the legislation; the licensing provisions become effective in 120 days.

TITLE XI—NATIONAL COMMISSION ON INDIVIDUAL RIGHTS

This title, added by the committee, establishes, effective January 1, 1972, a National Commission on Individual Rights which is to conduct a comprehensive study and review of Federal laws and practices relating to special grand juries and to special offender sentencing authorized under this act, wiretapping and electronic surveillance, bail reform and preventive detention, no-knock search warrants, and the accumulation of data on individuals by Federal agencies as authorized by law or acquired by executive action.

The Commission is authorized to make interim reports as it deems advisable and shall make its final report to the President and the Congress within 6 years of its establishment.

CONCLUSION

Mr. Chairman, measures such as S. 30 may well contribute to improving the capacity of the criminal justice system to respond to the challenge of a burgeoning crime rate. But no single anticrime bill, S. 30 or any other, will furnish the panacea to the crime problem. Heightened prosecutorial powers, enhanced criminal sanctions and longer periods of incarceration deal only with the symptoms of the basic problem.

As long as prisons resemble human warehouses and fail to provide adequate programs of rehabilitation, as long as the rate of criminal recidivism increases and the underlying causes go unattended, then effective crime control and effective crime prevention must await.

The CHAIRMAN. The gentleman from New York (Mr. CELLER) has consumed 27 minutes.

The Chair now recognizes the gentleman from Ohio (Mr. MCCULLOCH).

Mr. McCULLOCH. Mr. Chairman, I yield myself such time as I may use.

Mr. Chairman, I rise in support of S. 30. The bill as it passed the Senate consisted of 10 titles aimed primarily at the problems created by organized crime. The 11th and last title contained a standard separability clause.

The Committee on the Judiciary recommends that S. 30 pass with an amendment in the nature of a substitute. The substitute incorporates many changes which were the product of months of serious painstaking study. The 13 days of hearings and the 7 days of executive meetings, some around the clock, do not begin to tell the story of the thought and deliberation that went into the committee substitute.

S. 30—as reported—is a better bill. Provisions have been made workable. Constitutional rights have been protected. Measures have been clarified. But beyond that, the committee fashioned a new title to combat the recent rash of bombings. The new title is basically a combination of two bills—H.R. 16699 and H.R. 18573—which I introduced and which were cosponsored by numerous colleagues. But even with such provisions, S. 30 is no panacea. We who advocate this legislation do not claim that it is solution to all our crime problems. In fact, in my opinion, this bill is not the ultimate solution even to the problems posed by organized crime and by bombings. But this bill will mark the beginning of a vigorous attack on those problems, a day, which all may well be proud.

The Committee on the Judiciary built upon the work of the other body. The first 10 titles still retain their basic thrust. The first five titles are designed to accomplish one simple purpose: to get facts. Title I establishes special grand juries which may exercise more independence in fulfilling their duties and may sit for a period of time up to 36 months. In attempting to find out the facts, the grand jury may summon witnesses and compel them to talk by granting them immunity against the use of their testimony against them—Title II. If they refuse to talk, they may be held in civil contempt—Title III. If they talk but do not speak the truth, they may be tried for perjury. Title IV eliminates medieval rules of evidence which hobbled prosecution for this crime. And if the witness talks and places his life in jeopardy, title V authorizes the Government to protect him or even to relocate him.

Titles VI and VII facilitates the actual trial of organized criminals. Title VI allows the Government to take a deposition of a Government witness and use it at trial if the witness is for certain reasons not available. This not only protects the Government's case but the witness as well. The organized criminals have no motive to kill or kidnap a witness if the damning testimony is recorded and admissible.

Title VII precludes litigation concerning claims of illegal electronic surveillance by the Government which could not have possibly produced evidence for the prosecution.

Titles VIII and IX create substantive criminal offenses related to organized crime. Title VIII makes large-scale gambling operations in violation of State law a Federal crime. It also outlaws bribery of State and local officials in connection with such gambling enterprises. Title IX makes it unlawful to engage in a pattern of racketeering activity as a means of acquiring, maintaining, or conducting a business and creates civil and criminal remedies such as are found in antitrust law.

Title X establishes a postconviction presentencing procedure for determining whether the defendant is a habitual, professional, or organized criminal. Such an offender may then be accorded an extended sentence.

Although the Committee on the Judiciary made about 50 changes in this legislation in fashioning its substitute, there are three major points that merit discussion.

First: The Senate version allowed special grand juries to make reports concerning the noncriminal misconduct, malfeasance, or misfeasance in office by a public officer or employee as the basis for a recommendation of removal or disciplinary action. The committee limited the application of the report power to appointed public officers and employees. The limitation has two purposes. The first is to keep the special grand jury from "playing politics." Some members of the committee feared that a special grand jury might be tempted to abuse its power by trying to influence the outcome of an election.

The second purpose of the limitation is to protect further this grant of power to the special grand jury from attack on grounds that it violates the due process clause. Some have criticized this provision in the Senate bill as granting the special grand jury what is in effect the power to indict without according the identified individual the opportunity for vindication. The phrase—as the basis for a recommendation of removal or disciplinary action—did not make sense when applied to instances of elected officials such as mayors or Governors. To whom would the recommendation be made? The people? Who had the authority to remove or discipline such an official? If no such power to remove or discipline existed, was the special grand jury yet authorized to issue the report?

The answers to such questions become evident when the reporting power is limited to appointed officers and employees. Then the report may be viewed as a recommendation to the appointing agency to remove or to discipline. The identified individual thus has a further recourse. He may present his case anew to the appointing agency. He will have an opportunity to vindicate his position. The analogy to an indictment without a trial is no longer valid.

Second: Title VII is intended to diminish litigation over the sources of evidence. In *Alderman* v. *United States*, 394 U.S. 165 (1968), the Supreme Court held that a defendant challenging the admissibility of evidence who demonstrates the illegality of governmental electronic surveillance and that he has standing to assert the illegality of such surveillance is thus entitled to disclosure of the contents of such surveillance for purposes of litigating the challenge to the evidence. Litigation results whether or not there is any arguable connection between the Government's illegality and the case being made against the defendant.

During the hearings it became evident that the problem presented was primarily one resulting from cases of electronic surveillance arising in the absence of guidelines from either the Supreme Court or the Congress. Those guidelines were handed down by the Supreme Court in *Katz* v. *United States*, 389 U.S. 347 (1967) and by the Congress on June 19, 1968, when title III of the Omnibus Crime Control and Safe Streets Act became law. In other words, the bulk of the problem concerned illegal electronic surveillance occurring prior to June 19, 1968.

However, testimony was also received that the Alderman decision could not be changed by statute since it was based on an interpretation of the fourth amendment. In the situation alluded to before, Alderman would require disclosure to the defendant so that the defendant could make a claim that the evidence offered must constitutionally be excluded under *Mapp* v. *Ohio*, 367 U.S. 343 (1961). But if the fourth amendment does not require that Mapp itself be applied retrospectively, *Linkletter* v. *Walker*, 381 U.S. 618 (1965); it would seem ironic that a rule ancillary to Mapp could merit superior constitutional rank.

If the Government could be relieved from the burden of its irrelevant mistakes made at a time when appropriate guidelines were not yet in existence and if Alderman were not applied retrospectively, no violation would be worked upon the fourth amendment. Thus the committee found it possible to limit the mischief of Alderman without having to decide whether it was constitutionally based.

The question remained as to what date was an appropriate one for marking the prospective application of Alderman. Recent decisions of the Supreme Court have increasingly allowed law enforcement officials to rely on practices until proscribed, *Jenkins* v. *Delaware*, 395 U.S. 213, 218, n. 7 (1969). Since Katz brought nontrespassory electronic surveillance under the fourth amendment on December 18, 1967, that date seems most appropriate. But the choice of date in a case such as this is not a matter of constitutional compulsion but rather one of reasonableness, as the Court said in Jenkins. Hence, Congress in making the choice of date could reasonably pick the date on which the legislation guidelines were enacted, provided that such date was not later than the date of enactment of S. 30. Such later date would be constitutionally forbidden by Mapp.

In summary, if the Alderman rule is constitutionally based, then the committee's amendment has saved the provision and remedied most of the problem.

Third: Title XI is basically a combination of two bills which I introduced. H.R. 18573 establishes a regulatory scheme for the importation, manufacture, distribution, and storage of explosive materials which in many respects parallels the Gun Control Act of 1968. H.R. 16699 provides criminal penalties, including the death penalty, for the illegal use of explosives. The committee adopted H.R. 18573 but authorized the Treasury Department, not the Interior Department, to administer the title because of its experience with the Gun Control Act of 1968. The committee also adopted H.R. 16699 with the exception of one minor criminal provision. However, the committee extended the provision protecting interstate and foreign commerce from the malicious use of explosives to the full extent of our constitutional power. It also adopted a provision protecting institutions and organizations receiving Federal financial assistance from the malicious use of explosives. Lastly, the committee included the criminal provisions within the list of offenses for which electronic surveillance may be authorized by court order.

However, the combining of these two bills under the umbrella of title XI produced a problem. Had H.R. 16699 been enacted separately, it would have followed as a matter of course—without any express provision—that the Federal Bureau of Investigation would have had the authority to investigate any potential violations of law.

But when the regulatory measure which authorized the Secretary of the Treasury to administer the chapter containing the provisions normally within the investigatory authority of the FBI was combined with the criminal measure which was silent regarding the authority of the FBI, some questions arose as to whether the FBI had been displaced. To eliminate such a negative implication, it was written that the FBI—together with the Secretary—may investigate the criminal provisions. Why the phrase "together with the Secretary"? Because the Treasury Department has authority under the Gun Control Act of 1968 and under this legislation to investigate many explosions which may have resulted from a violation which the FBI is now given authority to investigate.

Thus the committee intended to grant the Treasury Department and the FBI the investigatory authority each would have had if H.R. 18573 and H.R. 16699 had been separately enacted.

The next question concerns what increase in authority has been given to the FBI through the provision making it criminal to bomb an institution or organization receiving Federal financial assistance. The FBI may presently investigate potential violations of section 245 of title 18, United States Code. Section 245(b) says:

> Whoever * * * by force or threat of force willfully injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with any person because he is or has been * * * participating in or enjoying the benefits of any program or activity receiving Federal financial assistance.

It would seem to me that the FBI could invoke either section 245(b) or proposed title XI to justify investigating a campus bombing. The difference between the two provisions would be seen at trial rather than during the investigation. At trial, title XI would relieve the Government of the burden of proving that the purpose of the bombing was to interfere with the enjoyment of a federally aided program.

Finally, no action taken by the committee was intended to change the method of operation of the FBI. The FBI has generally cooperated with local authorities in the past, and it is expected that they will continue to do so. Pragmatically, it is difficult to imagine how the FBI could otherwise proceed.

I urge the adoption of this legislation.

Mr. Chairman, I ask unanimous consent to revise and extend my remarks on the proposed legislation which is some of the most important anticriminal legislation that has been offered in my lifetime in the war on criminal activities.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. CELLER. Mr. Chairman, I yield such time as he may consume to the

XUM

gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, I rise to express my support of S. 30, the Organized Crime Control Act of 1970, as amended by the House Judiciary Committee.

This complex measure was considered by the Senate for over a year, and our committee gave it intensive study resulting, in my judgment, in improvements to some of the Senate-passed provisions that might raise constitutional challenges. In addition, we added two new substantive sections. The first deals with the relatively recent but extremely grave problem of bombing incidents that have plagued the Nation. The second would establish a commission charged with the specific responsibility of assessing the impact of the provisions of this and other acts on the individual rights of our citizens.

S. 30 stems from efforts to implement recommendations of the 1967 report of President Johnson's Commission on Law Enforcement and the Administration of Justice. The Commission's Task Force on Organized Crime succinctly described the extent of the problem in its statement:

> Organized crime exists by virtue of the power it purchases with its money. The millions of dollars it can invest in narcotics or use of layoff money give it power over the lives of thousands of people and over the quality of life in whole neighborhoods. The millions of dollars it can throw into the legitimate economic system give it power to manipulate the price of shares on the stock market, to raise or lower the price of retail merchandise, to determine whether entire industries are union or nonunion, to make it easier or harder for businessmen to continue in business.

In fact, as the Task Force report concludes:

> The purpose of organized crime is not competition with visible, legal government but nullification of it.

Many of the provisions of S. 30 are directly designed to carry out the Commission's recommendations, and I would like to call particular attention to these.

The Commission recommended that at least one investigative grand jury be impaneled annually in each jurisdiction that has major organized crime activity, and in title I of S. 30 provision is made for special grand juries to sit in major population centers or in other areas designated by the Attorney General. The bill also provides authority for such grand juries to issue reports, as recommended by the Commission.

The bill provides for general immunity of witnesses and protective facilities for crime witnesses and their families, as suggested in the Commission's report. It also carries out another Commission recommendation by authorizing extended sentences of up to 25 years for dangerous adult special offenders. Criteria to define such offenders are included in the bill, and legal safeguards and appellate review are provided for in such cases of extended sentences.

The bill also contains vital provisions to bring major illegal gambling operations within Federal jurisdiction and make it a crime to use income from organized crime or racketeering activity to acquire or establish a legal interstate business. In addition, it clarifies the admissability of evidence obtained from electronic surveillance in Federal judicial and administrative proceedings.

Mr. Chairman, I would like to stress particularly the two new titles to S. 30 which were added by our House Judiciary Committee.

Title XI, the regulation of explosives, is designed to help prevent the shocking and tragic bombing incidents that have been taking place across the country. It is patterned after the Gun Control Act of 1968 and would establish effective Federal controls over interstate and foreign commerce in explosives. It sets up a system of Federal licenses and recordkeeping for dealers in explosives and requires permits of all users obtaining explosives in interstate commerce. Distribution of explosives to drug addicts, mental defectives, fugitives, persons indicted for or convicted of certain crimes, and to persons under 21 years of age, is prohibited. It increases penalties for illegal use of explosives and expands present law to cover damage by bombings of Federal property as well as property of institutions or organizations receiving Federal financial assistance.

The second title added to S. 30 by the committee would establish, effective in 2 years, a National Commission on Individual Rights to conduct a comprehensive review of Federal laws and practices under this bill and other Federal laws to assess the impact on the rights of our citizens.

Mr. Chairman, as a member of the Judiciary Committee I have been concerned and deeply involved for years in the development of anticrime legislation, and I have long been aware of the desperate need for a national strategy to combat organized crime.

The Senate-passed version of S. 30 has been improved by our committee, including some amendments suggested by the American Bar Association. However, I still have serious reservations about some of the principles newly established in the bill, and I am glad that we have authorized a National Commission on Individual Rights to study the effects of the provisions of S. 30 and other major anticrime measures.

Mr. Chairman, organized crime affects the lives of millions of Americans, yet operates outside the control of the American people and of our governments. Drastic methods to combat it are essential, and we must develop law enforcement measures at least as efficient as those of organized crime. With S. 30 we will provide not a panacea to rid the Nation of organized crime but the basis for an effective national program and generate a truly full-scale commitment to destroy the insidious power of organized crime groups. So while I have serious questions about some provisions of S. 30, I support it and urge its approval. It is an essential measure in the effort to eradicate the dreadful disease of organized crime that now afflicts the Nation.

Mr. CELLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Chairman, I rise in support of S. 30, the Organized Crime Control Act of 1970. The strong measures contained in this legislation are aimed at ridding our society of the highly profitable business of organized crime, and they are long overdue. Organized crime has been financially bleeding this country with increasing efficiency over a period of years. An estimate reported by the New York Times early this year, indicated that the rackets gross more than $30 billion, with net profits of between $7 and $10 billion. This is a conservative figure—a minimum estimate. Chairman DANTE FASCELL of the Government Operations Subcommittee on Legal and Monetary Affairs, of which I am a member, estimated the gross revenue of organized crime in this country at $60 billion. Our subcommittee, as you know, has oversight authority over the Federal efforts against organized crime. Time magazine reported last year that profits from the rackets are—and I quote—"as big as United States Steel, the American Telephone & Telegraph Co., General Motors, Standard Oil of New Jersey, General Electric, Ford Motor Co., IBM, Chrysler, and RCA put together"—and most of this, of course is untaxed.

Gambling is generally thought to be the most profitable of the illegal goods and services provided by the rackets and the syndicates. The President's Crime Commission reported in 1967 that enforcement officials believe that illegal betting on horse races, lotteries, and sporting events totals about $20 billion, with a net profit of $6 to $7 billion a year. If gambling is the most profitable of the rackets—and some believe loan sharking may be about equal with it—it is not the most lethal. The profits from gambling and usurious loans go into financing the deadly narcotics trade, and the profits here at the importing and wholesaling ends are as astronomical as is the cost paid for this traffic by society—in terms of human lives and the street crime motivated by the addicts' need for money to buy drugs.

Contrary to the popular view, organized crime does not confine its activities to the underworld. In his recent book, "Theft of the Nation," Prof. Donald Cressey wrote that the greatest danger from organized crime lies not in its provision of illegal goods and services, but in its penetration of the country's legitimate institutions. In his words:

> The danger of organized crime arises because the vast profits acquired from the sale of illicit goods and services are being invested in licit enterprises, in both the economic sphere and the political sphere. It is when criminal syndicates start to undermine basic economic and political traditions and institutions that the real trouble begins. And the real trouble has begun in the United States.

For example, I noted earlier that most of organized crime's profits are untaxed, but there are considerable overhead expenses. One of the most ominous statistics turned up by the President's

XUM

Crime Commission in their surveys was the estimated $2 billion paid out each year by organized crime to public officials in and out of the criminal justice system to buy immunity from the law. Further, from fake bankruptcy suits to theft of Wall Street securities to "partnership" in small and large manufacturing companies, the syndicates are well represented in business and industries, alphabetically from automobile agencies to vending machines, in which organized crime is active, and indicated that this was only a partial list.

While general counsel for Senator JOHN MCCLELLAN'S Government Operations Subcommittee on Investigations, Robert Kennedy—a man not given to scare tactics—concluded that, and I quote from "The Enemy Within," "if we do not on a national scale attack organized criminals, with weapons and techniques as effective as their own, they will destroy us." That was in 1960. In 1967, reporting to President Johnson and the country, the President's Crime Commission concluded: "Efforts to curb the growth of organized crime in America have not been successful." In words reminiscent of the late Senator's, they reported:

> Law enforcement's way of fighting organized crime has been primitive compared to organized crime's way of operating. Law enforcement must use methods at least as efficient as organized crime's. The public and law enforcement must make a full-scale commitment to destroy the power of organized crime groups.

This "full-scale commitment," however, is not simply a question of where there's a will, there's a way. In the words, again, of the President's Crime Commission:

> From a legal standpoint, organized crime continues to grow because of defects in the evidence-gathering process. Under present procedures, too few witnesses have been produced to prove the link between criminal group members and the illicit activities they sponsor.

Law enforcement officials know who the racket leaders are, and they know the organizational hierarchy of the different "families" of organized crime. This information, in fact, is freely available to the public: the most recent organization charts of the underworld are published in the Senate hearings on S. 30, pages 124 to 128. However, under current laws and procedures, the men at the top are virtually untouchable because they seldom commit crimes for which they can be successfully prosecuted. Further, they are buffered from the law by layers of subordinates and flunkies to the point where the numbers runners and narcotics pushers frequently don't know for whom they're really working, and those who do know also know what happens to "informers." The brutality recorded in "The Godfather" pales in comparison with some stories in the police files.

The major purpose of the legislation under consideration today is to provide the criminal justice system with the necessary legal tools to get at organized crime. Titles I through VII are aimed at strengthening the evidence gathering process and insuring that the evidence will then be available and admissible at trial. Briefly, title I increases the powers and independence of Federal grand juries investigating organized crime cases; title II consolidates and amends general immunity statutes with the purpose of encouraging those implicated in organized crime cases to testify. Title III increases the penalties available for witnesses who refuse to testify, and title IV would make perjury cases easier to prosecute, in accordance with recommendations of the President's Crime Commission. Title V provides for protected facilities for housing Government witnesses; title VI provides for the taking of pretrial depositions in certain cases; and title VII is aimed at restricting within reason litigation concerning sources of evidence.

Titles VII and IX would create two new substantive laws aimed at controlling organized crime activity. Title VIII, Syndicated Gambling, would make large-scale gambling a Federal offense. Title IX, Racketeer Influenced and Corrupt Organizations, is aimed at keeping organized crime out of legitimate businesses through the use of both criminal and civil penalties. Title X provides for 25-year sentences for certain categories of convicted special dangerous offenders, including those with proven organized crime connections.

The House version of S. 30 contains a new title XI, Regulation of Explosives, which is an antibombing rather than an antiorganized crime law. This title was added by the House Judiciary Committee in a bipartisan effort to increase the controls on the sale of explosives, and the penalties for their use. In addition to tightening an earlier Federal antibombing law, title XI extends Federal jurisdiction to bombings on campuses receiving Federal financial assistance, allowing the use of wiretapping in such cases and, of course, bringing in the FBI to assist State and local authorities in investigations. The need for immediate passage of strong antibombing legislation is tragically apparent from statistics released this summer by the Treasury Department. During the 15-month period of January 1, 1969 to April 15, 1970, there were 4,330 bombings in the United States, 1,475 attempted bombings, and 35,129 bomb threats. Forty-three people were killed and 384 were injured, many of them very seriously. Property damage during the period was estimated at $21,800,000. Only 36 percent of the bombing cases were solved, and, of these, 56 percent occurred in connection with campus disturbances.

I urge that S. 30 be enacted into law without further delay. Hopefully, a major effect of this legislation will be to deter both the cold-blooded businessmen of crime and the hot-headed anarchists from further activity.

Thank you.

Mr. McCULLOCH. Mr. Chairman, I should now like to say what I should have said, but did not say, when I was recognized before. I have been on the Committee on the Judiciary of the U.S. House of Representatives for well over 20 years and I have watched able staff members come and go, but never have I seen staff members who were in charge of the work on such important legislation who worked more diligently and who worked longer hours and devoted holiday time to getting in shape such important legislation, and I want to compliment them for the work they have done in their assignment.

Mr. Chairman, I now yield such time as he may consume to the gentleman from Virginia (Mr. POFF).

Mr. POFF. Mr. Chairman, the committee amendment to S. 30 measurably improves upon the original version of the organized Crime Control Act. Most of the changes recommended by the American Bar Association and many of those urged by the Association of the Bar of the City of New York have been adopted. The total result is a cleaner, stronger, fairer and more effective piece of legislation.

The bill contains 13 titles. These can be classified in 5 operative categories—evidence, gambling, racketeer organizations, special offender sentencing, and explosives.

The evidence category includes the first seven titles of the bill. If organized criminals are to be discovered, apprehended, charged and convicted, the Federal system of gathering and utilizing evidence must be strengthened. That is the purpose of titles I through VII.

A continuing thread of relevance connects each title with each of the other six. Title I authorizes special grand juries, citizen-oriented, to sit in major population centers to investigate, to indict, and to report upon organized criminal activity in the District and those in Government who are involved.

Title II makes it possible to compel witnesses before the grand juries or elsewhere to testify under a guarantee that neither their testimony nor the fruits of their testimony will be used to prosecute them.

Title III recognizes that, even under an immunity guarantee. Some witnesses may refuse to testify and therefore codifies the law whereby the court can coerce testimony under pain of imprisonment for contempt.

Title IV provides for the case of the witness who testifies but testifies falsely, as sometimes becomes apparent by his contradicting his own previous testimony.

Title V recognizes that prosecution witnesses and members of their families sometimes never live to testify and accordingly authorizes the Government to furnish special sanctuary living quarters.

Title VI is further recognition of the intimidation and violence visited upon prosecution witnesses by those engaged in organized criminal activities. It authorizes the Government to take depositions in advance of trial, not only to preserve testimony but to preserve life and limb.

And finally, title VII insures that once the evidence is lawfully discovered and assembled, it can be used at trial without the time-consuming frustration of frivolous and dilatory challenge to its legality.

Of the seven titles in the evidence category, only two, titles I and VII, are likely to provoke much debate.

The gambling category is found in title VIII. Syndicated gambling is the

XUM

mob's principal source of income, estimated at $7 billion a year. The interstate gambling enterprise ' could not function without the connivance and corruption of State and local officials in the obstruction of State laws. Title VIII makes this conspiracy a Federal crime.

The racketeer organizations category in title IX is related to the gambling category. The money which the syndicate uses to infiltrate legitimate business enterprises comes largely from gambling receipts. Whether the technique of infiltration is intimidation and violence or simply public purchase, the consequence of mob ownership of business concerns are always evil. Business competitors suffer unfair competition. Workers are the victims of sweetheart labor contracts. And consumers are the victims of inferior products and services, price-fixing and most of the other predatory practices of monopolies. Title IX mobilizes both the criminal and civil mechanisms of the Sherman Act and other antitrust statutes against the barons of organized crime.

The category of special offender sentencing is found in title X. Title X is essentially the same as the amendment I offered to the Drug Control Act 2 weeks ago.

As the name of title X implies, it fixes special rules and special penalties for sentencing special offenders. It does not create a new crime. It does not apply to a juvenile or to the average occasional offender. It applies only to the most dangerous, persistent, hard-core criminals, those who fall in any of three groups—the organized crime offender, the professional criminal—who may or may not be a member of an organized mob—and the habitual criminal—who may be neither a professional nor a mobster.

Even the hard-core criminal is not subject to the special sentencing provisions of title X until he has first been convicted of a felony by a jury of his peers. Then, in the absence of the jury, the judge proceeds, just as he does under present law, to determine whether there are any mitigating or aggravating circumstances which he should consider in fixing the sentence. Title X gives the convicted defendant an adversary hearing with notice, the right to counsel, the right of compulsory process, the right of cross-examination of Government witnesses and the right to access to the presentence report. If the judge finds that the defendant is a hard-core repeat offender, this becomes an aggravating circumstance which authorizes the judge, if he further finds that he poses a danger to society, to impose a sentence up to 25 years.

Thereafter, title X gives the convicted defendant for the first time in Federal criminal law, the right to obtain an appellate court review of the propriety of the sentence imposed. Although the Government is given a similar right, there can be no increase in the sentence on the defendant's appeal alone.

The American Bar Association endorses title X as amended. The concept also has the endorsement of President Johnson's Crime Commission, the American Law Institute, the National Council on Crime and Delinquency and a host of legal scholars and penologists.

The fifth operative category concerning explosives found in title XI, is not restricted to organized crime. It is prompted by the national emergency of criminal bombings brought into dramatic focus by the recent tragedy at the University of Wisconsin. In order to assist the States in the enforcement of their laws on explosives, title XI establishes a Federal system of Federal regulation and licensing of the interstate movement of explosives. It also writes new Federal penalties for the use of explosives and incendiary devices to destroy property used in interstate commerce and property under the ownership or control of the Federal Government, including the property of institutions and organizations receiving Federal assistance.

This is a long bill, a complicated bill, a bill of criminal law reform and innovation. But it has been carefully and laboriously tested in the laboratory of public hearings and committee debate and comes to the calendar with only three votes against it. We must not shrink from it because it is new and different. Rather, because the problem is new and different, we must resist the temptation to be content with the old and customary.

Under unanimous consent granted in the House, I quote the following letter:

AMERICAN BAR ASSOCIATION,
September 11, 1970.

The Honorable EMANUEL CELLER,
Chairman, Committee on the Judiciary,
Rayburn House Office Building.

DEAR CHAIRMAN CELLER: During the testimony, some questioning occurred regarding the Model Act on Perjury, especially as to a comparison between it and Title IV on the language and effect thereof regarding false and contradictory declarations; also concerning the requirement (or lack thereof) of the element of materiality. Likewise we were requested to supply for the record information as to adoption of the Model Act on Perjury in the states. (Typewritten transcript pp. 499–504).

With further reference to the element of materiality, the prefatory note to the Model Act on Perjury indicates the draftsmen intended to alleviate or cure a number of defects in perjury law, one of which was the requirement of the Federal statute, 18 U.S.C. section 1621, that "a false statement must be proved not only to be false but also to be material to the proceeding for which it was made. This rule has meant immunity for many witnesses who have willfully given false evidence in court, and much delay and uncertainty has arisen in the course of the interpretation and application of the rule." (Prefatory Note, para 2).

The word "material" as quoted in Sections 1 and 2 of the Model Act (my statement, p. 15) is bracketed. The comment to these sections by the National Conference of Commissioners on Uniform State Laws recommends omission of the word for these reasons:

"It is (1) unnecessary, being mainly a historical survival; (2) it is difficult or impossible of application in many cases, leading to strained exceptions and interpretations by the courts; and (3) it is confusing when argued by counsel and applied by courts and juries, thereby leading to miscarriages of justice and to weakness in the courts in protecting themselves against obstruction by perjurers and suborners of perjury. Moreover, (4) degrees of importance or "materiality" of perjured statements can and should be recognized by courts not as an element of guilt but in apportioning sentence, as provided in Model Act Sec. 4(2), and Sec. 5."

Similarly, Section 4 of the Model Act, dealing with "Proof" furnishes two alternatives, depending on whether or not "materiality" is included in Sections 1 and 2:

"[(2) Proof of Materiality under Act. (This alternative is to be used if the word "material" is inserted in Sections 1 and 2.) The question whether a statement was material shall include only whether the statement might affect some phase or detail of the trial, hearing, investigation, deposition, certification or declaration, and is a question of law to be determined by the court.]"

"(2) Proof of Materiality under Act. (This alternative is to be used if the word "material" is not inserted in Sections 1 and 2.) Lack of materiality of the statement is not a defense [but the degree to which a perjured statement might have affected some phase or detail of the trial, hearing, investigation, deposition, certification or declaration shall be considered by the court, together with the other evidence or circumstances, in imposing sentence]."

Finally, on the question of acceptance of the Model Act on Perjury by the states, I submit the following information for the record.

Two states have adopted sections of the Bar Association's approved Model Perjury Act. Arizona adopted all of it in 1953. *Ariz. Rev. Stat.* #13–561–66. Illinois adopted its contradictory statements provisions in the same year. *Ill. Ann. Stat.* ch. 38, #32–2. No other State has directly adopted the language of the Model Act.

The policy judgments its provisions embody, however, are reflected in other States. The two witness rule has been abrogated by statute in New Jersey, N.J. Stat. Ann., #2A:131–6, and New Hampshire *N.H. Rev. Stat. Ann.* #597:1–d, and relaxed by decision in Arkansas, *Harp* v. *State,* 59 Ark. 113, 26 S.W. 714 (1894). The direct evidence rule has been modified, excluding documentary evidence from its scope in California, *People* v. *O'Donnell,* 132 Ca. App. 2d 840, 283 P. 2d 714 (1955) and holding it wholly inapplicable where direct evidence is, by the character of the issue of fact, e.g., opinion, belief, or memory, necessarily unavailable in California, *People* v. *DeMartini,* 50 Cal. App. 109, 194 P. 506 (1920); in Kansas, *State* v. *Wilhelm,* 114 Kan. 349, 219 P. 510 (1923); in Illinois, *Johnson* v. *People,* 94 Ill. 505 (1880); in New Jersey, *State* v. *Sullivan,* 24 N.J. 18, 130 A. 2d 610 (1957); in Oklahoma, *Shoemaker* v. *State,* 29 Okla. Cr. 184, 233 P. 489 (1925); and Pennsylvania, *Com'm* v. *Sumrak,* 148 Pa. Supr. 412, 25 A. 2d 605 (1942). In addition, the following eleven States have adopted contradictory statement provisions: *Cal. Penal Code* #118a; *La. Rev. Stat. Ann.* #124; *Md. Ann. Code art.* 27 #435; *Minn. Stat. Ann.* #609 48 (3); *N. H. Rev. Stat. Ann.* #587:1–b; *N.J. Stat. Ann.* #2A:131–5; *N.Y. Penal Law* #210–20; *Okla. Stat. Ann.* tit. 21, #496; *Tenn. Code Ann.* #39–3301; *Utah Code Ann.* #76–45–1; *Va. Code Ann.* #18. 1–276.

In the course of my testimony on behalf of the American Bar Association in the hearings on S. 30 of the House Judiciary Committee's Subcommittee No. 5, you requested that I supply a further statement describing the differences between title X of S. 30 as it passed the Senate and title X as it would be amended if the ABA's recommendations were followed, and stating what portions of the existing title X would remain after the ABA's amendments. (Type-written transcript of July 23, 1970, hearing at 481, 494.)

I must begin my response to that request by describing certain points on which supposed differences between title X and the ABA's recommendations were discussed during my testimony.

The provisions of title X which authorize the government to take review of a sentence

XUM

and obtain an increase are fully supported by the ABA, which proposes no amendments to those provisions. It is true, as I tried to indicate in response to questions of the committee counsel during my testimony, that the *Standards for Criminal Justice* of the ABA do not themselves offer affirmative support for the concept of government review of sentencing. (Type-written transcript at 483.) It is equally true, on the other hand, that the *Standards* do not oppose that concept. Instead, the *Standards* support sentence increase on review taken by a defendant, and are silent on the question whether review and increase at the instance of the government should be permitted. (Project on Minimum Standards for Criminal Justice, *Standards Relating to Appellate Review of Sentences* §§ 3.2, 3.3 (Approved Draft, 1968).)

The commentary to the *Standards on Appellate Review of Sentences* suggests disapproval of appellate review of sentences at the instance of the government. (*Id.* at 56, Supplement at 3.) The commentary, however, has not been approved by the Board of Governors or the House of Delegates of the ABA, and does not state ABA policy.

The decision made by the ABA when the *Standards on Appellate Review of Sentences* were adopted, to endorse sentence increase on review taken by a defendant and to take no position on review taken by the government, was made on the assumption that case law existing at that time established the constitutionality of sentence increase on review taken by a defendant, but did not answer the question of the constitutionality of review taken by the government. On that assumption, the position taken by the *Standards* seemed the surest way of providing that sentences would be open to increase on review, and was adopted by the ABA. Subsequently, however, the Supreme Court decided two cases (*Price* v. *Georgia*, 7 Crim. L. Reptr. 3103 (1970); *North Carolina* v. *Pearce*, 395 U.S. 711 (1969)) strongly indicating that sentence review at the instance of the government as provided in title X is constitutional.

It was with those cases in mind, as well as earlier decisions (*e.g.*, *Green* v. *United States*, 355 U.S. 184 (1957); *Kepner* v. *United States*, 195 U.S. 100 (1904)), that the Board of Governors adopted its position on the appellate review provisions of title X. The resolution adopted by the Board, which already is in the record of the Subcommittee's hearings makes no reference to the *Standards on Appellate Review of Sentences*, and approves title X's appellate review provisions without exception or amendment. That approval of sentence increase on sentence review taken by the government constitutes the sole occasion on which the ABA has taken a position on that issue, and unequivocally supports the concept as well as the specific provisions of title X. There is thus no difference between title X as passed by the Senate and ABA policy concerning appellate review of sentences at the instance of the government.

Another point on which a difference between title X and the ABA's position was said to exist during the hearing is the requirement that a special sentence for a dangerous offender be appropriately proportionate to the sentence for an ordinary offender. The importance of such a requirement is well stated in the passage from the commentary to the ABA *Standards on Sentencing Alternatives and Procedures* quoted by committee council during the hearing. (Typewritten transcript at 495.) The difference between title X and the *Standards* on this point, however, may be only of explicitness, since the Senate Judiciary Committee Report on S. 30 suggests legislative intent that each sentence imposed under title X must be "appropriate". (Report at 91, 166.) Since clarity on this important issue is desirable, nevertheless, the ABA has proposed amendment of title X to add the four lines suggested appearing in my prepared statement to the Subcommittee. (At 25–26.) That amendment is simple, would not interfere with the efficacy of title X, and conforms title X fully with ABA policy, eliminating the constitutional issues such as confrontation referred to during the hearings as well as policy objections against excessive or disproportionate sentences.

A second respect in which title X now fails to conform to ABA policy is that its definitions of professional and organized crime offender would be improved by increasing their specificity in line with the recommendation of the ABA *Standards*, quoted in my prepared statement, that criteria for special offender sentencing "carefully delineate the type of offender." (Statement at 28.) Attached to this letter are suggestions for amendments further defining the concepts of "a substantial source of income," "special skill or expertise," and "pattern." Those are the only three terms in title X requiring further elaboration.

While it is not the customary practice for us to urge any particular language in connection with suggested amendments, I do appreciate the dilemma which differences of opinion create and that it is easier to criticize generally than to suggest specific alternatives. Hence, I took the liberty of consulting some of the Senate Subcommittee staff on this issue. They drafted suggested language which I have reviewed and submit herewith as one form which would seem to satisfy the need for increased specificity:

"For purposes of paragraph (2) of subsection (e) of Section 3575, a substantial source of income means a source of income which for any period of one year or more exceeds the minimum wage, determined on the basis of a forty-hour week and fifty-week year, without reference to exceptions, under section 6(a)(1) of the Fair Labor Standards Act of 1938 (52 Stat. 1062, as amended, 80 Stat. 838), and as hereafter amended, for an employee engaged in commerce or in the production of goods for commerce, and which for the same period exceeds fifty percent of the defendant's declared adjusted gross income under section 62 of the Internal Revenue Code of 1954 (68A Stat. 17, as amended, 83 Stat. 655), and as hereafter amended. For purposes of paragraph (3) of this subsection, special skill or expertise in criminal conduct includes unusual knowledge, judgment or ability, including manual dexterity, facilitating the initiation, organizing, planning, financing, direction, management, supervision, execution or concealment of criminal conduct, the enlistment of accomplices in such conduct, the escape from detection or apprehension for such conduct, or the disposition of the fruits or proceeds of such conduct. For purposes of paragraphs (2) and (3) of this subsection, criminal conduct forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events."

The other amendments to title X proposed by the ABA are as follows:

1) A sentence should be added requiring that the three felony convictions which make one a recidivist be for offenses committed on three different occasions.

2) A phrase specifying a maximum period of time between a defendant's most recent felony conviction or release from imprisonment and his present offense might well be added. Here, however, it is the factor of time rather than any specific period that is the essence of the recommendation.

3) At one point, the word "shall" should be changed to "may" to clarify the intent that no special sentence is mandatory.

4) The 30-year maximum should be changed to 25 years.

5) Title X's provisions requiring substantial presentence report disclosure should be replaced with the more detailed but similar provisions in the ABA *Standards*.

6) A sentence should be added prohibiting communication of the contents of the special offender sentencing notice before trial to the judge.

The comparison of title X with the ABA *Standards on Sentencing Alternatives and Procedures*, and on *Appellate Review of Sentences*, placed in the record by Congressman Poff during my testimony, is helpful in understanding the relationship between title X and the *Standards*. The first 22 items in the comparison are accurately described in the comparison as "similarities." They obviously are points of similarity rather than points of identity, as the comparison makes clear when it sets out summaries of the provisions which are similar though not identical. That comparison is consistent with the statement of the ABA to the Subcommittee, and with the list of suggested amendments contained in this letter. What the ABA has done, in effect, is to suggest that two of the differences between title X and the ABA *Standards*—the length of the maximum enhanced term, and the requirement of appropriate proportionality for each term—are differences which should be eliminated when S. 30 is enacted, and that on approximately 6 other specific points where title X and the *Standards* are similar, the ABA would prefer to see title X made identical to the *Standards* or nearly so, or otherwise to be improved as suggested in our statement.

When one compares the amount of title X which the ABA would like to see amended, with the amount of title X which it approves exactly or substantially as written, it is seen that the ABA approves without qualification the overwhelming bulk and principal provisions of title X. The only suggested amendment which apparently would significantly impede the use of title X is the amendment which would specify a maximum period of time between a defendant's most recent conviction and the offense for which he is to be sentenced. As Congressman Poff brought out during my testimony, that amendment would place some limitation upon the effectiveness of one of the three definitions of special offenders, although the ABA considers the benefits of such a limitation to outweigh the modest harm it does to the effectiveness of the Act. In any case, the suggested amendment is a short and simple one, requiring only the addition of one phrase to the bill.

Three other proposed amendments—reducing the maximum term from 30 to 25 years, requiring that a recidivist's three felonies have been committed on three occasions, and prohibiting communication of the special sentencing notice to the judge before trial—would not even interfere with the basic effect and value of title X, though they would slightly restrict the authority granted by the bill. The three amendments could be made by adding a total of about two sentences to the bill.

The other four proposed amendments—defining three terms used, adding specificity concerning presentence report disclosure, making explicit on the face of the bill the requirement of proportionality of sentences, and clarifying the discretionary rather than mandatory nature of the special sentence—simply clarify and do not contradict or restrict the provisions already found in title X, although they would require the addition of several paragraphs of language, found in my prepared statement and in the attachments to this letter.

All eight amendments, therefore, would require the deletion or revision of only some ten lines or so in a title covering some eight pages or nearly 200 lines, and the addition of several paragraphs of material merely clarifying existing provisions of title X. And when the suggested amendments are evaluated not in terms of bulk but in terms of the relative importance and number of the provisions suggested to be revised, it is seen that the ABA has positively endorsed well over 95% of the substance and provisions of title X, including every key concept and provision. Furthermore, if those eight amendments to title X are adopted, title X will without exception conform to the ABA *Standards* and the formal position of the ABA.

The same observations may be made concerning the other nine titles of S. 30. With them, as with title X, the Board of Governors received, considered and rejected as without merit a great number of constitutional and other criticisms of those titles. The ABA suggested only a limited number of specific amendments, preserving the basic thrust and concept of each of the various titles of S. 30, as well as the great bulk of specific provisions of every title. Indeed, the only suggested amendment to any of the first nine titles which to any substantial extent could be expected to undercut the effectiveness of the title is the proposal that title I grand juries be denied the power to file reports criticizing or exonerating specified public officials. Even that proposal, of course, preserves all the other key provisions of title I, including the power to file reports recommending legislative, executive, or administrative action, or describing organized crime conditions in the district, and a long list of other provisions enhancing the independence and authority of grand juries created under title I. Even in title I, adoption of the ABA's amendments would only partially restrict the effectiveness of the title, while the ABA's amendments to the other titles of S. 30 trench still less upon the key provisions of each title.

That is not, of course, to minimize the significance of the amendments proposed by the ABA. As I testified in the hearing, each proposed amendment is one of substance, and would improve the legislation. Nevertheless, the amendments touch a small part of S. 30. They are, however, respects in which some room for improvement in this important piece of legislation exists—they are not grave flaws—and the Association is grateful for the opportunity to present to the Subcommittee both its suggestions for specific changes in the bill and its unequivocal support for enactment at the earliest possible date.

I trust the foregoing adequately answers all of the inquiries and requests made of me by the Committee. Thank you for your indulgence.

Sincerely,

EDWARD L. WRIGHT.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. POFF. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, as the gentleman knows, I am most interested in a constructive way in title X of the bill. I know the gentleman has been the author of the present draft of that section and was also the author of what has been called the Poff amendment in the drug bill. I would like to clear up one thing with my friend on the other side of the aisle on this point. Do I understand correctly that there are two ways in which this sentencing procedure, which I understand is what the gentleman calls it, is activated: One way is by virtue of showing that there have been previous jury convictions. That is one way, is it not?

Mr. POFF. That is one way, but I will say to the gentleman that there are three activating definitions.

Mr. ECKHARDT. Yes, there are actually three, but the first is in the category of an offense for which the person has been convicted. The others are in the category of offenses for which the person has not been convicted. Am I correct in so saying?

Mr. POFF. The first category is the special offender category defined as one who has been previously convicted in the courts of the United States or the States of this Nation for two or more felonies, committed on occasions different, one from another.

Mr. ECKHARDT. Let me say to my friend, I am not raising the points in objection that I am raising here with respect to that section but I understand that in addition to that section, title X may be activated where it is shown that certain elements essential to accentuation of the sentence exist, and these elements may be proved in the post-conviction presentencing hearing. Is that correct?

Mr. POFF. The gentleman is correct. And with respect to the second definition if the defendant is found guilty and adjudged to have committed the felony of which he stands convicted as a part of a pattern of conduct which is criminal under the laws of the jurisdiction, and that pattern of conduct constitutes a substantial source of the defender's income, and the defendant himself was possessed of special expertise or skill, then he would meet the definition of a professional and would activate title X.

Mr. ECKHARDT. Yes, I understand. As a matter of fact, we might divide this second category of elements which are approved in the post-conviction pre-sentencing trial into two groups. One has to do with that which involves participation in certain gains, or certain profits, and the other has to do with certain activities like engaging in a bribe. These two, I understand, are actually different approaches to this objective, and I assume that is the reason the gentleman is referring to three.

Mr. POFF. The gentleman is not quite correct, although he is not altogether in error.

Mr. ECKHARDT. I so frequently find myself in that position.

Mr. POFF. The third definition to which I have reference undertakes to define the typical member of an organized crime conspiracy.

That definition is found on page 145 of the bill. If the defendant is found by the judge to have committed the felony of which he is convicted at bar as a part of a conspiracy with three or more other persons, to engage in a pattern of criminal conduct, and the defendant himself managed or supervised as part of the conspiracy, or in the conduct of the conspiracy, or if he gave a bribe in connection with the conduct, then he would meet the definition of an organized crime special offender and the judge could sentence him up to 25 years as a special dangerous offender.

Mr. ECKHARDT. Then am I correct in saying with respect to these categories—and I am eliminating from consideration the first category of a prior conviction—that there need to be two basic bodies of facts proved. Number one: There has to be the conviction, for instance by a jury, of the original offense which may carry a penalty up to 5 years, say, but not in excess of that amount. Second, it must be proved as an element of applying a 25-year sentence a body of fact the gentleman describes in these categories, the one which relates to the participation in the gains of a crime and the other which involves close participation in a conspiracy, which involves certain elements which are criminal. But in both instances facts in addition to those before the jury must be presented to the court without a jury and the court determines these without a jury, and these elements in addition to what went before the jury are elements necessary to support the enhanced penalty; is that correct?

Mr. POFF. The gentleman is correct.

I might add that evidence given before the jury which is relevant to the question of special offender could be considered by the judge in addition to information presented to him in the post-conviction hearing.

Mr. ECKHARDT. I understand that. In other words, evidence can really come in through two sources, but I suppose it would all be, as a practical matter, probably embraced in the probation officer's report. But it could come from the tested source of evidence admissible, introduced and accepted by the court in the jury trial, or it could come in through the source of the probation officer's investigation of the additional facts which we have discussed here as being that other element that makes up the basis for the enhanced sentencing; is that not correct?

Mr. POFF. The gentleman is substantially correct.

Mr. ECKHARDT. I thank the gentleman.

(Mr. McCLORY, at the request of Mr. POFF, was granted permission to extend his remarks at this point in the RECORD.)

Mr. McCLORY. Mr. Chairman, it was my privilege to serve as a member of a subcommittee which heard the testimony relating to S. 30—the organized crime bill. This lengthy and comprehensive measure is directed at many aspects of the organized crime network. It places in the hands of the prosecution a number of necessary weapons in order to deal with the sophisticated operations of organized crime—including its connections with many public officials. Indeed, it is charged that without the cooperation of many of those who are in positions of authority, the crime syndicate could not exist. Accordingly, this measure touches new and sensitive areas which have not heretofore been attempted in any Federal legislation.

In addition to the wide range of subjects covered in this comprehensive bill, I am pleased and proud to point out that the members of the subcommittee upon which I serve gave thoughtful consideration to virtually every line and paragraph in the bill. I want particularly to pay tribute to the chairman (Mr. CELLER) and to my colleague from Virginia

XUM

(Mr. Poff) for the very painstaking manner in which they dealt with the entire bill—including the numerous amendments which our subcommittee recommended and adopted. In my experience, no single measure has received more thorough consideration by a legislative committee than this bill. On numerous occasions, it required lengthy discussion in order to arrive at a consensus or a compromise which would accurately reflect the overall views of the subcommittee members. Precedents as contained in numerous court decisions were reviewed and weighed—and every effort was made to produce a strong and effective tool with which to combat organized crime—and at the same time deal fairly with all who might be affected by this legislation—whether part of the crime syndicate or not.

Mr. Chairman, I shall not undertake to review the various provisions of this bill. This has been done by the chairman of the committee as well as by others. The committee report accurately describes the provisions and impact of this bill, and I am persuaded that it will be fully acceptable to the Department of Justice and to the President, and hopefully will be concurred in by the other body before Congress adjourns or recesses later this month.

Mr. Chairman, in addition to the testimony of individuals who appeared before the committee, the position of the American Bar Association, as well as other organizations which have studied and reported upon this bill, were given due weight and consideration. In my opinion, this is a good bill, consistent with the provisions of the Constitution and responsive to the urgent need for added legislative authority which the Attorney General and the courts require in dealing with the insidious and horrendous impact of organized crime.

Mr. Chairman, I support this measure as reported by the committee and urge its overwhelming passage by the House of Representatives.

Mr. CELLER. Mr. Chairman, I yield 15 minutes to the gentleman from Illinois (Mr. Mikva).

Mr. MIKVA. Mr. Chairman, I suppose I am addressing these remarks to those few people who come from safe districts or to those who decided for some reason or other that they do not want to come back here, or to those who have some kind of death wish about reelection; because I recognize at this point that urging people to vote against S. 30 is not the most politic thing to do.

This bill is not the most politic thing that ever came out of the Committee on the Judiciary, either. The fact of the matter is this bill is not really a bill at all, it is a bagatelle, a clip-and-paste job, put together under pressures that had nothing to do with trying to find real answers to the real problems of crime, organized and otherwise.

I asked my colleague from Virginia to yield to me but he ran out of time; I hope we can engage in colloquy on my time if not on his time.

This bill is for the purpose of controlling organized crime in the United States. Throughout the bill, aside from title XI, which was thrown in at the last minute, organized crime is used over and over again as the hallmark of the bill. The bill is aimed at controlling organized crime.

I ask my colleague from Virginia this rhetorical question: where in the bill does one find a definition of organized crime? There are at least six instances in which that term is an operative fact that is necessary to make other sections come into being; but there is no definition.

When I asked one of the staff members over in the other body, who was one of the major draftsmen of this bill, why there was no definition he said, "Oh, you know, it is very hard to try to agree on a single definition of organized crime."

That answer may satisfy when you are talking about resolution urging the executive to do something or about memorial resolutions for the folks back home but not when you are talking about the criminal law of the United States. It seems to me that if you are saying that the term is incapable of definition, then how in the world can you ask judges and juries to apply it and use it in a criminal law case?

Take, for instance, the very lucid but unfortunately incomplete explanation of title X by my colleague from Virginia. The gentleman from Virginia talked about it as if it were very clear that it is aimed solely at the racketeers and syndicate members that all of us despise and who have no friends in this Chamber. I ask the gentleman if he can show me why, under the various loose definitions put together in title X, that special dangerous offender category does not also include somebody who violates income-tax laws or antitrust laws or the Pure Food and Drug Act or any of the other Federal laws that contain criminal sanctions. Because the operative language under the second category is that the defendant "committed such felony as part of a pattern of conduct which was criminal under applicable laws of any jurisdiction which constituted a substantial part of his income"—and most income tax evaders do pretty well until they get caught—"and in which he exhibited special skill and expertise." All of the antitrust cases that I ever read would indicate that the perpetrators of an antitrust conspiracy indeed manifest great expertise and skill and engage in many acts over a long period of time. Thus, the "pattern of racketeering" as defined in this bill would clearly cover that, too.

I will be glad to yield to the gentleman if I am in error.

Mr. POFF. No. I thank the gentleman for yielding.

I do not rise to say that the gentleman was in error, but I simply wanted, if I could, to respond to his earlier question about why income tax law violations were not specifically included in title X.

Mr. MIKVA. I did not ask whether they were specifically included, but I ask are they excluded in any way.

Mr. POFF. I will say to the gentleman that it would be difficult to define an income tax violation as a dangerous offense as that offense is defined under subsection (f) on page 147.

Mr. MIKVA. I beg to differ. Will the gentleman read that section, please? It does not say dangerous offense.

Mr. POFF. It says the defendant is dangerous.

Mr. MIKVA. It has nothing to do with the offense.

Mr. POFF. Does the gentleman contend because a defendant filed deliberately an erroneous income tax return that that makes him dangerous?

Mr. MIKVA. No. But the judge may find him dangerous for a variety of other reasons. The point is that the language operates to include him. You had no intention of covering income tax violators or antitrust violators or Pure Food and Drug Act violators, but it includes them even though the section was aimed at racketeers.

Mr. POFF. Exactly.

Mr. MIKVA. But, unfortunately, the language does not so limit itself even though I think the intent of the committee was pure.

Mr. POFF. Mr. Chairman, will the gentleman yield further?

Mr. MIKVA. I would be glad to yield further to the gentleman from Virginia.

Mr. POFF. The gentleman inquired rhetorically as to why no effort was made to define organized crime in this bill. It is true that there is no organized crime definition in many parts of the bill. This is, in part, because it is probably impossible precisely and definitively to define organized crime. But if it were possible, I ask my friend, would he not be the first to object that in criminal law we establish procedures which would be applicable only to a certain type of defendant? Would he not be the first to object to such a system?

Mr. MIKVA. That is not a rhetorical question. I had always understood that the criminal laws were supposed to zero in on a particular type of offense. My objection to this bill in toto is that whatever its motives to begin with, we will end up with cases involving all kinds of things not intended to be covered, and a potpourri of language by which you can parade all kinds of horrible examples of overreach.

Mr. POFF. Mr. Chairman, will the gentleman yield further?

Mr. MIKVA. I would like to yield further but I have more examples of overreach which would even curl the hair of the gentleman from Virginia.

I do not know how many of my colleagues engage in a friendly game of poker now and then, but under this definition if five or more of them engage in such a game of poker and it lasts past midnight—you do have that safeguard—thus continuing for a period of 2 days, then you have been running an organized gambling business and you can get 20 years, and the Federal Government can grab off the pots besides.

All of us I am sure, have come across strange characters who are convinced that they have uncovered the scandal of the ages. They are people who are convinced that the entire history of this country was written in a conspiracy and that every elected official and anyone else in a newsworthy capacity is involved in a conspiracy to bring down the democ-

XUM

racy. Under this bill the U.S. attorney must take as real every single complaint that is brought to him by any such person and present it to the grand jury and explain to the grand jury why he decided not to call this person before the grand jury. This really makes every U.S. attorney into a gossipmonger, because he has to take every loose tale or story and present it to the grand jury no matter how ridiculous it may be; then it is available to the grand jury to proceed from there.

Let me give you another example as to what I mean. We have a whole series of new crimes involving gambling and some of them, as I indicated, include even the poker game which goes beyond midnight. Under the bill, it can be an organized gambling game and one can get up to 20 years for having participated in that poker game. But at the same time the bill recognizes that our gambling laws have been notoriously inefficient in dealing with crime. We have had great concern about this entire business of gambling and whether the manner in which we have undertaken to deal with it federally and at the State level makes sense. And so in this bill we put in a commission to study whether or not we ought to have laws about gambling and what they ought to be. But in the meantime we are going to stiffen all the penalties just in case we were right in the first place.

Mr. POFF. Mr. Chairman, will the gentleman yield further?

Mr. MIKVA. I yield further to the gentleman from Virginia.

XUM

Mr. POFF. I suggest that the gentleman is in error when he poses his hypothetical statement. I direct his attention to page 11, lines 15 and 16 of the bill. There you will find that illegal gambling means a business and has been and remains in substantially continuous operation for a period in excess of 30 days or has a gross revenue in excess of $2,000 in any single day. The poker game which the gentleman has described does not meet that criterion.

Mr. MIKVA. But that is not true because later on there is a presumption that it is an illegal gambling business. That language appears on page 114 and is as follows:

> If five or more persons conduct, finance, manage, supervise, direct, or own all or part of a gambling business and such business operates for 2 or more successive days, then, for the purpose of obtaining warrants for arrests, interceptions, and other searches and seizures, probable cause that the business receives gross revenue in excess of $2,000 in any single day shall be deemed to have been established.

Mr. POFF. If they are in the gambling business.

Mr. MIKVA. I suppose it depends whether you are gambling for profit or pleasure, but I happen to know a lot of people who do enjoy the profit as well as the pleasure, and I would hate to rely on the "nondefinition" of business to protect somebody from a zealous U.S. attorney.

If my colleague, the gentleman from Virginia, would do so, I would prefer not to yield for a few moments just so that I can make clear one other point before my time elapses.

There are a lot of people here who are very concerned about the federal system; I for one like to think that I am very concerned about the federal system. The genius of this country and its laws has been the federal system. In such a system, we recognize that the primary protectors of our security, are the State and local governments, and that the Federal Government intervenes only in those areas where the interstate nature of the crime or the overwhelming public aspects of the crime requires such intervention. Yet on page 122 of the bill I would point out to my colleagues a definition of racketeering activities, which brings into play the whole title IX and all kinds of things we have not yet talked about. This definition states that "any act or threat involving murder, kidnaping, gambling, arson, robbery, bribery, extortion, or dealing in narcotic or other dangerous drugs, which is chargeable under State law and punishable by imprisonment for more than one year" becomes an act of racketeering under this statute. What we have done in one fell swoop—and the States-righters who may be in this room should listen—is to incorporate as a part of the Federal law all of the offenses which heretofore have traditionally been treated as under State and local jurisdictions.

Let me talk for a few moments, if I may, about the problem of forfeiture of property and corruption of blood. We are all concerned about organized crime—syndicated crime or whatever other term you want to use—getting involved and engaged in legitimate businesses. I am worried about it, too. I would hope we could come up with something that addresses itself to this problem. But all we have come up with in this bill is a forfeiture of property and corruption of blood, a concept that the First Congress decided was a bad statutory policy and a bad constitutional policy. Under this bill, if you are engaged in two acts of gambling—and we may argue about the definition, whether it is mine or that offered by the gentleman from Virginia (Mr. Poff)—and you are engaged in an interstate business or any business that affects interstate commerce—and you know how broad that definition can be—this bill can give you 20 years for engaging in interstate business. Moreover, they take your business away as well. And then just to make sure that we have been innovative enough, we also put in a private remedy that says that any competitor can accuse you, and if he can prove that you have gambled and used the proceeds in the business, then he can go after you and put you out of business.

Now, it would be nice to get the syndicates out of legitimate business and to get organized crime away from the fruits of legitimate enterprises; but we should not do it in a way in which we throw out all of these deep-seated traditions about protection of private property and about limiting the penalty to what it says in the statute books without any forfeiture of property or corruption of blood.

These are the kinds of problems that are involved in this bill. I could go on. There are perhaps seven, eight, or nine different more "horribles" that could be paraded before you—dealing with "civil investigative demands" by which every book and every record of every private business and individual can be brought before the U.S. attorney without even a grand jury proceeding. These books and records can be retained by the U.S. attorney for an unspecified "reasonable" period.

It might take him 1 year, 2 years, 8 years to search the records. Meanwhile, the businessman has no recourse.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Mikva) has expired.

Mr. CELLER. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois (Mr. Mikva).

Mr. MIKVA. Mr. Chairman, I thank my distinguished chairman, the gentleman from New York (Mr. Celler).

Let me just summarize by saying, as I started out at the beginning, that the salutary purposes for which this bill aimed at organized crime was intended, somehow never come to fruition. Instead, the spread of the shotgun approach will involve a lot of activities not intended to be covered and will not be successful in addressing itself to the problems that were intended to be covered.

It will subject the courts, the prosecutors and indeed every person who studies the law to incredible burdens and problems in trying to decipher, administer, and uphold some of the provisions that we are about to enact.

The overreach, the looseness of the language, the whimsy in this bill just simply do not enhance the legislative process.

When it passes, and I am well aware that it will pass, no person is going to be any more secure in his home than he was the night before. There is nothing in this bill that is going to deter street crime, about which people are up so tight. But that fear about the problem of street crime is being used to justify a deep cut in some of our traditional liberties and a deep cut in our constitutional protections, and a deep cut in the federal system which has worked so well over these last 200 years. We do this in a spirit and period of repression which is caused by street crime, but about which this bill does nothing.

Mrs. Mitchell's husband was quoted at a party not too long ago as saying that this country was going to go far to the right under his tutelage. I do not know whether he said it or not. But if he said it then I think that S. 30, and the zeal with which we dedicate ourselves to the task of tearing asunder some of our very important freedoms and liberties is an indication that perhaps Mrs. Mitchell's husband is a self-fulfilling prophet.

Mr. McCULLOCH. Mr. Chairman, I yield to the gentleman from Ohio (Mr. Clancy) such time as he may desire.

Mr. CLANCY. Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, the crime problem has today reached an overwhelming dimension. Action must be taken before this problem becomes so great that effective action will not be possible. The simple fact is that crime and violence, both in the streets and on our campuses, are intimidating us. They are threatening our heritage, our traditions, but most of all they now threaten our future and our children's future.

The President has made many significant proposals which are necessary in order to wage an effective war against these forces. As the President himself has noted:

> No subject has been the matter of more legislative requests from the Administration.

President Nixon has fulfilled his responsibility by presenting an effective far-reaching anticrime program. The time has come for us, as Members of the House, to fulfill our responsibility by taking quick decisive action to approve this program. I urge my fellow Members of the House to join with me in support of the Organized Crime Control Act. The time is now. We must take action before we no longer have an opportunity to act.

The last decade has brought an increased growth in violence and destruction to this country. Riots, bombings, campus disorders, and a 100-percent increase in the crime rate have characterized the 1960's. It is now the decade of the seventies and action must be taken to correct the aftermath of the 1960's. A shadow of fear resulting from the development of the attitude of total disregard for individual lives and property has spread throughout this Nation. The Federal Government must take steps so that our citizens can feel safe to walk down our city streets and our students can feel safe to study in campus buildings without the fear of the building being bombed.

When I joined in cosponsoring the organized crime control legislation, I was convinced that this was a necessary tool to effectively combat this problem. Today, I am even more certain that this bill will assist this Nation to once again begin to recover from its present state of fear. I sincerely believe that one way to effectively combat crime, particularly organized crime as well as violence in the streets, is to enact the measure before us today. It is clearly time that we face the facts. The crime problem is no longer merely an issue for discussion, but it is a call to action which demands our immediate action.

Organized crime today represents a serious threat to the well-being of this entire Nation. It is an evil which is gradually infiltrating and poisoning every phase of American life. It is corrupting our society, our economy, and our future. The money and power gained by the masters of organized crime is amazing. This illegal menace is entering into every phase of our lives. It drains countless dollars from our economy, it corrupts our free enterprise system and our democratic processes, and, in general, it undermines our entire Nation and our way of life.

How did our Nation come to be faced with this problem of such an overwhelming dimension? In recent years, we have frequently heard the recurring cry from our courts that the right of the individual must be upheld over the right of society. Mr. Chairman, I submit that it is time that action be taken to strike a balance between the need for the effective administration of justice with the desire to preserve our substantive rights. The legislation we are considering here today represents the means to effectively achieve this balance. Our Bill of Rights is one of the most sacred portions of our heritage left to us by our forefathers. It is to be respected and revered. However, if it, as well as the other elements of our heritage, are to be preserved, steps must be taken to prevent a total state of lawlessness from engulfing the Nation. I believe this legislation returns to legal forces necessary tools for the effective administration of justice while at the same time protects the rights guaranteed to us by the Constitution.

The Organized Crime Control Act represents an integrated approach to the problem of fighting crime. It presents a means to strengthen the legal tools in the evidence-gathering process. The bill is also designed to combat organized crime by providing new remedies to deal with individuals engaged in organized crime. Among other things, this bill provides for increased sentences for dangerous adult special offenders—the recidivist, the professional offender and the organized crime leader. I believe this legislation answers the challenge that organized crime presents to the Nation today.

Perhaps one of the most significant portions of this legislation was recently added to the bill by the House Judiciary Committee. This provision, title XI, deals with the regulation of explosives. The recent increase in bombings clearly points to the need for immediate action in this regard. The ease of access to explosive materials has led, I believe, to the recent increase in destructive bombings. Legislation to provide for effective checks on the procurement of these explosive materials is necessary. For this reason, I have joined in cosponsoring legislation to provide for the necessary checks on these materials. I was most pleased to learn that the House Judiciary Committee has decided to incorporate this concept as a portion of the organized crime control bill.

It is the purpose of this provision to assist the States to effectively control the sale, transfer and disposition of explosives within their borders. This provision establishes a system of Federal licenses and permits. Licenses are to be required of manufacturers, importers and dealers, and permits are to be required for all users who depend on interstate commerce to obtain explosives. In addition to the Federal regulatory system established here, this title strengthens the Federal criminal law with respect to the illegal use, transportation or possession of explosives.

Student disorders have become a concern for all of us. The activities of a small group of activists are jeopardizing the safety and education of the majority of students who wish to acquire an education that will permit them to make a meaningful contribution to society. The use of bombs and bombings as a tool of demonstration has instead become a tool of death, as witnessed at the University of Wisconsin. For this reason I wholeheartedly support this legislation and its provision regarding campus bombings. By making the provisions of this bill applicable to anyone who maliciously damages or destroys or attempts to damage or destroy any institution or organization receiving Federal financial assistance, this legislation provides the Federal Government with an effective means to help in the efforts against such incidents as took place at the University of Wisconsin. We must act now before more lives are lost. We must make our campuses safe so that our students will not have to fear the fact that the building they are studying in may explode any minute. The addition of this provision, presents a significant new dimension of this legislation, a dimension which I feel deserves our fullest support.

Organized crime, indeed all forms of crime, today offer a challenge to this Nation. A challenge to see if we will do anything to stop the activities and growth of this menace. I believe that the Organized Crime Control Act is an answer to that challenge. This bill represents the necessary means we have been looking for in order to root out this evil which has developed such a grasp on our Nation. I urge my fellow Members of the House to join with me in support of this legislation so that we can offer a resounding answer to the challenge offered to us by crime.

Mr. McCULLOCH. Mr. Chairman, I yield to the gentleman from North Dakota (Mr. KLEPPE) such time as he may require.

Mr. KLEPPE. Mr. Chairman, the threat of organized crime cannot be ignored or longer tolerated. It is America's principal supplier of illegal goods and services—gambling, usurious loans, illicit drugs, and prostitution; daily it increases its operation in fields of legitimate business, employing such illegitimate techniques as bankruptcy frauds, tax evasion, extortion, terrorism, arson and monopolization. Its sinister effects upon our Nation must be eradicated.

In his message on organized crime, forwarded to Congress in April 1969, President Nixon proposed new legislative weapons to enable the Federal Government to strike at the hierarchy and the sources of revenue of the criminal syndicate.

S. 30, as passed by the Senate and amended by the House Judiciary Committee, incorporates the President's proposals and three of its titles, titles II, IX, and X, include provisions contained in legislation I introduced in February of 1969, covering general witness immunity, the suppression of the infiltration of legitimate enterprises by racketeers or the proceeds of racketeering activities where interstate or foreign commerce is affected, and provides for increased sentences for dangerous habitual, professional and organized offenders.

The United States will never fall to external enemies unless it has been weakened beyond redemption by the enemies within. America's internal enemies today are the criminals, the lawbreakers and those who prey on the poor, the young, the weak, and the innocent.

I feel certain we all are deeply aware of the dangers the scope and incidence of crime pose to our Nation. We must be determined to institute actions wherever and whenever possible to give law-en-

XUM

forcement officers at the National, State, and local levels the tools tq cope with crime and the courts the means with which to deal adequately with criminals.

At the same time we must remain determined to provide justice under the law, to protect the innocent and to assure the constitutional rights of all our citizens.

S. 30, the crime bill before us today, provides the additional tools with which we can remedy the problems presented by organized crime.

In conclusion, I want to commend the members of the House Judiciary Committee for including title XI, the administration's proposals to halt the rash of bombings across the Nation.

I urge my colleagues to join me in support of S. 30, the Organized Crime Control Act of 1970, as amended by the House Judiciary Committee. Stronger laws are needed; let us pass them. Let us start enforcing the ones we have. Every citizen of this country has the right to justice. But let us consider the rights of those who do not break the law as well as we protect the rights of those who do. Rioters and organized groups who flaunt the law and destroy private property must be dealt with strongly.

Mr. McCULLOCH. Mr. Chairman, I have no further requests at this time.

Mr. CELLER. Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. RYAN).

Mr. RYAN. Mr. Chairman, as a former assistant district attorney in New York County and as the Representative of a city afflicted by crime, I know full well the vise of crime which grips America and the need for effective Federal legislation to assist State and local government in dealing with the problem of crime. I cosponsored H.R. 17825, amending the Omnibus Crime Control and Safe Streets Act of 1968, which passed the House on June 30, 1970. Unfortunately, the Senate has yet to act upon that bill which is addressed to the very serious menace of street crime which is of such legitimate concern to millions of Americans. At the same time, I also am very much aware of the precious civil liberties which protect our citizens from the overzealous judge or prosecutor or police officer.

S. 30, unfortunately, is a direct challenge to these basic rights. It contains various provisions which severely restrict and infringe upon certain basic rights, depriving defendants, as well as those who are not charged with any crime but who are accused of noncriminal misconduct, for instance, in the special grand jury proceedings sanctioned under title I, of fundamental rights.

Not only would passage of this bill indeed be an assault upon the Constitution, but it would fail to produce an effective remedy. S. 30 offers no solution to organized crime or to street crime Its vague and jumbled language, its misperceived ends, and its erection of barriers, rather than paths, to conviction—all result in a bill which simply fails to construct an intelligent, effective approach to the problems of organized crime.

I have set forth along with my colleague from Michigan (Mr. CONYERS) and my colleague from Illinois (Mr. MIKVA) in dissenting views, the reasons which compel me to oppose this bill, reasons which describe the infirmities which exist in many of the titles. I shall briefly refer to the major defects and then examine them in more depth.

I should like to point to title I, which makes it possible for a special grand jury to defame an appointed public official by accusing him of noncriminal misconduct, but excludes from its ambit elected public officials.

I should like to point to title II, which I believe raises very serious constitutional and policy questions in that it rejects the absolute immunity which has previously been granted to those required to testify under compulsion and substitutes transaction, or use, immunity.

I should like also to point out that title IX, which has been so well described by the gentleman from Illinois (Mr. MIKVA) in his eloquent statement, raises serious constitutional questions because of the ambiguity of its definitions.

Title X is probably the most pernicious title of the bill with its so-called dangerous special offender provisions which would make it possible for the first time for the Government to appeal a sentence and have it increased on appeal, and even for the Government to appeal a finding by the trial court that a defendant is not a dangerous special offender. This raises the question of double jeopardy, and we should look askance at that.

For all these reasons I find that S. 30 is defective in its assault on basic civil liberties, and I hope that Members of the House, despite the emotional times in which we legislate, will look to the fact that we are making laws which will govern U.S. attorneys and our courts for a long time to come. Let us not legislate out of the passion of the moment, but with regard for the basic fundamental rights, which are essential to the survival of our democratic society.

I have made my views on this bill known extensively in the committee report on it—House Report 91-1549. I there joined with my distinguished collegues from Illinois (Mr. MIKVA) and from Michigan (Mr. CONYERS) in explaining the pernicious features of this bill, as well as its inept attempt to erect a legislative plan to fight organized crime. I should like to quote from our dissent, inasmuch as it obviously expresses my objections to S. 30:

> In sum, the Organized Crime Control Act is no answer to the hundreds of thousands of criminal acts which are terrorizing this country. It is aimed—at least ostensibly—at organized crime, and any person who sees in its passage the turning of the tide against the street crime which is the vital, immediate concern of every American family suffers faulty vision.
>
> Even so, were this bill an intelligent, reasonable approach to the problem of organized crime, we would gladly support it. As Government officials, we are especially offended at the frequent links between organized crime and politics; and we are deeply concerned about infiltration of legitimate business by organized crime. But, intentionally or otherwise, this bill directly assaults the liberties and rights of all Americans, while only ineptly flailing out at organized crime.
>
> We commend the committee for having considerably improved upon the Senate version of this bill by modifying and deleting at least some of the offensive provisions of that piece of legislation. The result, however, is a "scissors and paste" cosmetizing job that cannot overcome the basic defects of the bill. As Mr. Justice Brandeis wrote in *Olmstead* v. *United States*, 277 U.S. 438, 485 (1928):
>
> "Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example . . . If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that the administration of the criminal law the end justifies the means—to declare that the Government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution . . ." (House Report, p. 182)

Almost every one of the 12 titles of S. 30 is subject to meaningful criticism. However, there are seven titles which are particularly egregious, and it is these which I want to briefly discuss.

TITLE I

Title I authorizes special grand juries to be created at the instance of the Attorney General. These special grand juries would have the power not only to indict, but also to submit to the court of their district reports when the evidence is insufficient to warrant an indictment. These reports are to be issued concerning noncriminal misconduct of appointed officials.

As we stated in our dissenting views in the committee report:

> In brief, this title proposes to create official bodies bedecked with the power to accuse, while leaving the accused bereft of any effective means of rebuttal. (Page 182).

These grand juries are going to undertake investigations—not of criminal conduct—and issue reports which may well be used to smear officials. Two things are of particular note here. The so-called procedural safeguards granted the noncriminal accused are totally ineffectual, and he is going to be subjected to what we termed in the dissent "sanctified calumny." And, second, the bill, as reported out of the House Committee on the Judiciary excludes elected officials from the ambit of this title. As we said in our dissent:

> (I)n case anyone might quarrel with our characterization of these special grand jury reporting powers, he might first ponder why the Senate version of this bill was amended by the House Committee to exclude elected officials from the reach of these mini-star chambers. (House Report, p. 182.)

I think it beyond imagination that anyone might claim that I hold any brief for official corruption. But I also believe that this title is itself a crass corruption of basic rights. Thus, this title constituted one peg in my decision to oppose S. 30.

TITLE II

Title II proposes to supplant to absolute immunity granted to those forced to sacrifice their fifth amendment right to remain silent, for transaction, or use, immunity. I have previously expressed my opposition to this departure in the law in my minority views on H.R. 11157, the Federal Immunity of Witnesses Act, which has not come to the floor, but which is incorporated into S. 30 as title II.

XUM

Both as a matter of law and as a matter of policy, I believe title II raises serious quesitons. I am appending my views on H.R. 11157—which is the same as title II—in order that these questions may be thoroughly explicated.

TITLE VI

Title VI's aim is to enable the Government to preserve testimony in a criminal proceeding by authorizing the taking of pretrial depositions. However, once again there is serious defect, as is pointed out by the report of the Association of the Bar of the City of New York on the Organized Crime Control Act:

> One of the most serious problems with Title VI is that it fails to deal with the need of a criminal defendant, faced with cross-examining a Government witness in a deposition, for information as to the theory of the Government's case and some opportunity for pretrial discovery. We doubt whether a defendant can effectively cross-examine at a pretrial deposition with the limited discovery rights provided under the rules now governing criminal procedure . . . At a minimum, the Government should be required to provide a statement of its theory and the expected testimony in sufficient detail to enable the defendant to appreciate the significance of the testimony. (Pp. 17–18).

TITLE VII

Title VII proposes to establish a statute of limitations on the exercise of the right to challenge the admissibility of illegally obtained evidence. The so-called justification for this ploy is the inconvenience for the prosecution of litigating supposedly "stale" matters. Were the countervailing balance to the Constitution such "convenience," I would venture that we would quickly see much of the Bill of Rights sink into senescence.

Again, the observations of the report of the Association of the Bar of the city of New York on the Organized Crime Control Act are very cogent in analyzing this title:

> It may be reasonable to preclude the commencing of litigation after a given period of time—either because the defendant should not be forced to answer, nor the court to hear, charges which can only be substantiated by evidence weakened by time, or because the plaintiff has been negligent in failing to bring suit earlier. It would be a novel application of this logic, however, to allow the defendant to be brought to trial and at the same time to hamper his defense by precluding him from raising constitutional issues which might otherwise be available to him. (P. 24).

TITLE IX

I think our introduction to the discussion of the defects of this title, in our dissent on S. 30, very quickly pinpoints the problems with title IX:

> Title IX, entitled Racketeer Influenced and Corrupt Organizations, seeks to stymie organized crime's growing infiltration of legitimate business.
>
> But it runs amuck. It embodies poor draftsmanship, and it employs penalties and investigative procedures which are both abusive and pregnant with the potential for abuse. (House Report, p. 185.)

The defects of title IX are numerous, and explanation of them must by necessity be fairly complex. One flaw lies in the inept drafting which has resulted in key definitional terms being totally inadequate, misguided, or even wrong. For example, a basic provision is section 1962(a) of title IX, defining what constitutes unlawful activity. This provision employs the phrase "pattern of racketeering activity," which is in turn defined by section 1961(5).

The result of these provisions is that for an unlawful act involving racketeering to be established, the prosecution must prove beyond a reasonable doubt two illegal acts—not just one—absent a prior conviction. And what is more, the prosecution must also undertake the enormous burden of tracing funds from their source to their investment. In brief, title IX may well succeed in aiding racketeers to insulate themselves from prosecution, rather than facilitating convictions.

Title IX also adopts a provision which for 180 years has been absent from American criminal law—a provision providing for forfeiture of the convicted defendant's property. I think the observations which I and my colleagues, Mr. Mikva and Mr. Conyers, offered on this aspect of title IX in our dissent are well on point here:

> We think the potential scope for deprivation of property by criminal forfeiture constitutes a threat to legitimate business far beyond what should be the ken of a bill aimed at organized crime.
>
> Moreover, not only does criminal forfeiture unduly penalize the man who may simply have engaged in two separate poker games and thereby subjected himself to accusation for having engaged in a "pattern of racketeering activity." It also leaves far too uncertain the rights of entirely blameless citizens and organizations. A minor legislative bow in their direction is made in section 1963(c), which states that "The United States shall dispose of all such property (which has been forfeited to it) as soon as commercially feasible, making due provision for the rights of innocent persons." But the seizure and sale by the Government of property which was used as collateral by the offender for a legitimate loan may well leave an unsecured creditor out of luck, or sale by the Government of a forfeited business on a stagnant market may well undercut innocent competitors or customers.

Finally, I would note that title IX, by authorizing the Attorney General to issue "civil investigative demands" to any person or enterprise he believes "may be in possession, custody, or control of any documentary materials relevant to a racketeering investigation," opens up the door of virtually every American business to Government snooping. I think this is unnecessary and unwise. At the least, the grand jury should be interposed between the curiosity and perhaps even malice of the Government, and the person or business which is the subject of such snooping.

TITLE X

Title X, concerned with the sentencing of so-called dangerous special offenders, is probably the grossest refutation of due process which this bill contains. In brief, it drops by the wayside such due process procedures as confrontation and cross-examination. By attempting to disguise what is really a hearing on the issue of guilt as a "sentencing" hearing, it denies the right to trial by jury. By authorizing the Government to appeal impositions of sentences, it violates the constitutional bar against double jeopardy. By authorizing the Government to appeal the length of sentences imposed, it gives the prosecution the power to penalize the defendant should he himself attempt to appeal.

In brief, title X is totally insupportable. As we said in our dissent:

> Title X, were it not such a dangerous special offender itself, would be ludicrous, the product of a caveman's course on the Constitution. As it is, it contravenes the Constitution, it substitutes revenge for reason, and it flaunts the concept of fair treatment. It is a parody of justice made tragic by the damage it will do—to individuals, and more important, to our system of rule by law. (House Report, p. 193.)

Title XI creates a Federal criminal law regarding bombing. Certainly, no one can condone the lawless acts of bombing which have occurred in recent years. But, in incorporating a death penalty provision, I think title XI errs. There is virtually no evidence to support the notion that the death penalty works as a deterrent.

Moreover, the very issue of the death penalty is the subject of consideration by the National Commission on Reform of Federal Criminal Laws—a Commission which is the creation of the Congress. Surely, we ought to at least await the conclusions of this Commission, created "to make a full and complete review and study of the statutory and case law of the United States which constitutes the federal system of criminal justice for the purpose of formulating and recommending to the Congress legislation which would improve the federal system of criminal justice."

CONCLUSION

S. 30, the Organized Crime Control Act of 1970, should not be passed. It is both ineffectual and offensive—a combination rarely paralleled in past legislation. Were this bill an answer to crime and were it consonant with the Constitution, I would be among the first to endorse it and support it. It is neither.

I believe Mr. Justice Stewart has very accurately stated, in *Elkins* v. *United States*, 364 U.S. 206 (1960), what I regard as a fitting epitaph for S. 30:

> (N)othing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence.

The dissent which I offered on H.R. 11157, the Federal Immunity of Witness Act, which is incorporated into this bill as title II, follows:

MINORITY VIEWS OF HON. WILLIAM F. RYAN ON H.R. 11157

I believe H.R. 11157 to be seriously subject to question as to its constitutionality. And, that issue apart, I find H.R. 11157 a misguided dimunition of fifth amendment rights which, if they are to be eroded and even abolished, should suffer this fate at the hands of a constitutional amendment, not piecemeal legislation.

Mr. Justice Frankfurter, had a very fitting statement to make about the fifth amendment in *Ullman* v. *United States*, 350 U.S. 422, 426–27 (1956):

> It is relevant to define explicitly the spirit in which the fifth amendment's privilege against self-incrimination should be approached. This command of the fifth amend-

XUM

> ment ("nor shall any . . . person be compelled in any criminal case to be a witness against himself * * * ") registers an important advance in the development of our liberty—"one of the great landmarks in man's struggle to make himself civilized." [Citing Griswold, "The Fifth Amendment Today" (1955), 7.] Time has not shown that protection from the evils against which this safeguard was directed is needless or unwarranted. This constitutional protection must not be interpreted in a hostile or niggardly spirit. Too many, even those who should be better advised, view this privilege as a shelter for wrongdoers. They, too, readily assume that those who invoke it are either guilty of crime or commit perjury in claiming the privilege. Such a view does scant honor to patriots who sponsored the Bill of Rights as a condition to acceptance of the Constitution by the ratifying States. The founders of the Nation were not naive or disregardful of the interests of justice * * *.
>
> No doubt the constitutional privilege may, on occasion, save a guilty man from his just deserts. It was aimed at a more far-reaching evil—a recurrence of the Inquisition and the Star Chamber, even if not in their stark brutality. Prevention of the greater evil was deemed of more importance than occurrence of the lesser evil. Having had much experience with a tendency in human nature to abuse power, the Founders sought to close the doors against like future abuses by law-enforcing agencies.

I would add one addendum to Mr. Justice Frankfurter's eloquent statement. He made it in speaking for the majority in a case in which a Federal immunity statute was upheld as not being violative of the fifth amendment. He was not denouncing the concept of immunity; in fact, he was sustaining it.

H.R. 11157, both by the concept of use immunity which it embodies, and the procedures it provides for implementation of this concept falls far short of the concern for basic rights so finely expressed by the fifth amendment.

The bill provides for a new general immunity provision to title 18 of the United States Code, applicable to proceedings before or ancillary to (1) a court or grand jury of the United States, (2) an agency of the United States, or (3) either House of Congress, a joint committee of the two Houses, or a committee or a subcommittee of either House.

It further provides that, if a witness refuses to testify or provide other information in such proceedings, he may be ordered to provide the information and

> * * * may not refuse to comply with the order on the basis of his privilege against self-incrimination; but no testimony or other information compelled under the order (or any information directly or indirectly derived from such testimony or other information) may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement or otherwise failing to comply with the order.

Until 1964, there was little question that where a witness was required to testify or other information was compelled, he must be granted absolute immunity from prosecution. This was established by the Court in *Counselman* v. *Hitchcock*, 142 U.S. 547, 585–86 (1892), in which the Court held an immunity statute unconstitutional and stated:

> We are clearly of the opinion that no statute which leaves the party or witness subject to prosecution can have the effect of supplanting the privilege conferred by the Constitution of the United States. Section 860 of the Revised Statutes does not supply a complete protection from all the perils against which the constitutional prohibition was designed to guard, and is not a full substitute for that prohibition. In view of the constitutional provision, a statutory enactment, to be valid, must afford absolute immunity against future prosecution for the offense to which the question relates.

H.R. 11157 clearly falls fatally short of the standard set in *Counselman*. That standard was subsequently upheld in *Brown* v. *Walker*, 161 U.S. 591 (1896); *Ullman* v. *United States, supra; Hale* v. *Henkel*, 201 U.S. 43 (1906); and *Reina* v. *United States*, 364 U.S. 507 (1960).

The prime support for the proponents of the constitutionality of the proposed use immunity embodied in H.R. 11157 is *Murphy* v. *Waterfront Commission*, 378 U.S. 52, 79 (1964). In that decision, Mr. Justice Goldberg, writing the opinion for the Court, stated that a witness cannot be compelled to testify by state officials "unless the compelled testimony and its fruits cannot be used in any manner by Federal officials in connection with a criminal prosecution against him." This language is read by the proponents of H.R. 11157 to support its use immunity, rather than the absolute immunity of *Counselman* and its descendants.

In fact, *Murphy* v. *Waterfront Commission* is weak ground on which to base such a significant assault on the fifth amendment as H.R. 11157 constitutes. For, if Mr. Justice Goldberg's statement following the quotation I have just noted is read, it is seen that his decision was written in the context of a concern for Federal-State relations. This was what was at issue, and Mr. Justice Goldberg wrote, at page 79 of the opinion:

> We conclude, moreover, that in order to implement this constitutional role and accommodate the interests of the State and Federal Governments in investigating and prosecuting crime, the Federal Government must be prohibited from making any such use of compelled testimony and its fruits. This exclusionary rule, while permitting the States to secure information necessary for effective law enforcement, leaves the witness and the Federal Government in substantially the same position as if the witness had claimed his privilege in the absence of a State grant of immunity.

The Court was faced with the problem of the interaction of Federal and State governments, and Mr. Justice Goldberg's opinion is an attempt to deal with that problem.

On the one hand, the application of *Counselman's* absolute immunity to State proceedings would have opened the door for State prosecutors to give "immunity baths" to witnesses. The States would have had it in their power to immunize racketeers and bribegivers from all prosecution. Given the potential for local corruption, this created a very real problem.

On the other hand, the Court clearly was not prepared to reject *Counselman*, else it would have done so if it actually intended use immunity to supplant absolute immunity. Inadvertence in failing to explicitly overrule *Counselman* is to facile an explanation, since, certainly, Mr. Justice White's concurring opinion in *Murphy* v. *Waterfront Commission* was ample reminder to Mr. Justice Goldberg, and the colleagues who joined in his opinion, of *Counselman's* existence.

Thus, *Murphy* signals no rejection of *Counselman's* vitality. Moreover, *Counselman's* vitality was confirmed only a year after *Murphy* was decided, in *Albertson* v. *SACB*, 382 U.S. 70, 80 (1965), in which the Court straight-forwardly quoted the key language of the 1892 decision:

> "In *Counselman* v. *Hitchcock* * * * the Court held "that no [immunity] statute which leaves the party or witness subject to prosecution after he answers the criminating question put to him, can have the effect of supplanting the privilege. * * *," and that such a statute is valid only if it supplies "a complete protection from all the perils against which the constitutional prohibition was designed to guard * * *" by affording "absolute immunity against future prosecution for the offence to which the question relates." * * * Measured by these standards, the immunity granted by section 4(f) [of the statute before the Court in *Albertson*] is not complete.

Notice the Court's words: "measured by these standards." *Murphy* was decided only a year previously. Surely, if *Murphy* in fact erected new standards, they, not *Counselman's*, would have governed the Court in *Albertson*. Clearly, they did not.

Nor did they do so in *Stevens* v. *Marks*, 383 U.S. 234 (1966), in which the Court vindicated, in passing, *Counselman*, when it stated at page 244–45.

> We need not stop to determine whether the immunity said to be conferred here—which merely prevents the use of the defendant's testimony or its fruits in any subsequent prosecution but, apparently, does not preclude prosecution based on "independent" evidence * * * —constitutes that "absolute immunity against further prosecution" about which the Court spoke in *Counselman* v. *Hitchcock*, 142 U.S. 547, 586, and which the Court said was necessary if the privilege were to be constitutionally supplanted. And see *Albertson* v. *Subversive Activities Control Board*, 382 U.S. 70, 79–81.

I am aware that at least three States' courts have ruled that prosecution immunity is not required by the fifth amendment, relying on *Murphy* v. *Waterfront Commission*. However, I do not believe that decisions based on a case ambiguously at odds both with its predecessors and with the successor *Albertson* and *Stevens* decisions can serve to justify the Congress in taking the step of passing H.R. 11157.

But my objections to H.R. 11157 extend beyond the very serious question of this bill's constitutionality. Even granting that H.R. 11157 could possibly withstand constitutional scrutiny—a concession I make only in order that I may pass on to those other aspects of the bill which I believe suspect—this bill is still otherwise seriously flawed.

The bill fails to take any cognizance of the fact that it is virtually impossible to establish tainted evidence—that is, evidence that has been developed from leads which appeared from the compelled testimony or information of the immunized witness. Very simply, to elevate use immunity to general law is to declare a moratorium on the effectiveness of the fifth amendment and to leave it moribund. It is not difficult to mask evidence so that it appears to have been developed independently of the immunized witness' testimony or information.

Even though, technically, the burden is usually on the prosecution to disprove taint, as a practical matter it works the other way. Courts have both evoked doctrines and made findings in related areas which show how feeble such an alleged protection is. In many instances, courts have ruled that, where the taint is "attentuated," the derivative evidence is admissible. *Wong Sun* v. *United States*, 371 U.S. 471 (1963). Some courts have ruled that if the evidence could have been obtained from an independent source, it will be admitted. *Wayne* v. *United States*, 318 F.2d 205 (D.C. Cir.), cert. denied, 375 U.S. 860 (1963). Some courts have ruled that the testimony of witnesses whose names have been obtained unconstitutionally is not excludable because too remote and "attenuated."

In sum, courts are often hostile to excluding evidence of guilt and find ways to avoid such a ruling even where such evidence is traceable to illegally obtained information. As Professor John Mansfield of Harvard Law School has suggested:

> The upshot of a rule restricted to forbidding prosecution use may be that a person is in fact much worse off in regard to the danger of prosecution and conviction than if he had remained silent. "The Albertson Case: Conflict Between the Privilege Against Self-Incrimination and the Government's

Need for Information," 1966 Sup. Ct. Review 103, 165.

H.R. 11157 embodies the vice of which Professor Mansfield warns. Because of the present assumption that immunity statutes have to grant immunity against prosecution rather than merely protection against direct and indirect use, there is very little experience with the effects of such a statute. But the prosecution has had little difficulty disproving taint in related areas.

For example, a large number of cases were sent back for hearings on whether any of the evidence in the cases involved was derived from admittedly illegal wiretapping and eavesdroping. Very few, if any, courts have found such a taint and set aside a conviction. This is quite astonishing, in one sense, for virtually all of this illegal wiretapping was done by Federal agencies at a time when they had no expectation that it would ever be disclosed and when there was thus no reason to obtain much independent and duplicating evidence.

In another sense, such a result might be expected. As noted, judges are reluctant to set aside convictions or to exclude evidence, and they often strain to avoid doing so, particularly if the issue comes up after a full trial and conviction. Recently, a practice has grown up of holding taint hearings after trial, for various reasons, some good and some not so good. The inevitable result of this practice, if applied to the self-incrimination area—and there is no reason why it should not be—is that the pressures on the court not to find a taint will be the same.

This reluctance can also be seen in the various "harmless error" rules which courts have devised to make sure that even if there has been error at a trial, constitutional or otherwise, the trial will not be set aside. Regardless of the merits of such rules—and obviously, they have a good deal of merit if applied carefully—the result is to water down even further the protections of the person whose rights were violated.

The problem for a defendant is magnified where the evidence is given before another body; e.g., an agency. In that situation, the derivation may be virtually impossible to prove, since all the agency may do is to notify the prosecutor that the witness should be investigated with respect to certain matters, and the evidence actually used may seem quite independent.

The foregoing examples do, of course, have certain distinguishing features, but they are sufficiently similar to the self-incrimination problem to serve as precedents, and they indicate a dominant attitude. Courts do not want to exclude evidence and they will strain to find ways to avoid an exclusionary rule. This hostility toward exclusion is most pronounced among trial judges, and since such matters are virtually nonreviewable except in the grossest cases, there will be little control.

Another point I wish to make concerns the argument that, since a prohibition on direct and indirect use is the only consequence of illegally obtained evidence, why a broader protection in this area? Although the analogy seems strong, I think it fundamentally misconceives the purposes of the exclusionary rule and of protective legislation.

The usual reason for excluding illegally obtained evidence and its fruits is to punish the man who has violated the still-existing rights and thereby to deter him from such impropriety. Exclusion is usually considered a measure of desperation, born from the failure of other devices to discourage such conduct. By it, the community recognizes the continuing existence of such rights, which by definition have not been legally removed but only illegally impaired; the witness cannot legally be forced, by contempt or otherwise, to give evidence as a result of the official illegality, for he retains his rights despite such official acts. The exclusionary rule is thus a necessary evil, and it is appropriate to limit it to the narrowest scope consistent with the goals we seek. Arguably, the Court might ultimately insist on immunity for all related acts if a mere use doctrine proves inadequate, but of course it has not done so explicitly. This reluctance is partly because the feeling is strong against the notion that "the criminal is to go free because the constable has blundered" to use Judge Cardozo's famous line in *People* v. *DeFore,* 242 N.Y. 13, 21 (1926).

The rationale for immunity legislation is rather different. The community is legally taking away a constitutional right against the person's will. When the community legitimates the involuntary deprivation of rights so that he may be legally punished for continuing to try to exercise such rights, it must make absolutely sure that the protection is complete. Unlike the situation where the evidence is legally obtained, the witness no longer has a constitutional right to deny the State such information. If a right is to be deliberately removed by the State, there should be no doubt about the adequacy of the compensating protection.

There are some final points I wish to address. I think H.R. 11157 deficient in its wide-ranging application. The authority to grant only use immunity is extended throughout the government to agencies of the United States, which include any executive department, and to numerous Federal commissions and boards. I have very serious doubts that such potent authority—the granting of use immunity—should be so liberally dispensed when the dangers of abuse of the use immunity standard are so imminent and significant.

Moreover, I reject the infringement of judicial powers which this statute constitutes. Provision is made in regard to witnesses seeking the protection of the fifth amendment that, upon the request of the U.S. attorney for the judicial district in which the proceeding is or may be held, the district court shall issue an order requiring the testimony or information to be given. In brief, the courts become paper shufflers, removed from any substantive role in determining whether such order should properly issue. This is a departure from the usual provision in Federal immunity statutes which states that a court may issue an order

I should also like to note that the blunderbuss approach of H.R. 111757 applies to all proceedings before or ancillary to a court, grand jury, agency, Congress, and congressional committees and subcommittees. In the past, in passing legislation providing for the granting of immunity, the Congress has had the opportunity to consider whether the legislation involved warranted the employment of the immunity approach. This statute removes that opportunity to balance the proposed immunity grant in light of the subject matter legislation to which it is attached.

In conclusion, I want to stress that I am entirely in favor of whatever measures can help to extend and perfect the rule of law—provided these measures are constitutional and provided the vices they themselves erect do not outweigh the evils against which their proponents inveigh.

There will always be people of good will who will view differently the competing needs which they identify of individual rights versus the public good. That competition is an eternal one, and a constantly varying one. In this instance, I believe the balance swings unduly against individual rights, as protected by the fifth amendment. And—and this is very important—I do not believe the public good to be in any way impinged if H.R. 11157 is rejected. The skills of our law enforcement and investigatory agencies are, if applied intelligently and diligently, fully capable of meeting the challenges which exist and which, I am fully aware, have not been sufficiently met thus far.

I should like to quote again from Mr. Justice Goldberg, whose opinion in *Murphy* v. *Waterfront Commission, supra,* is viewed as the touchstone for H.R. 11157. In *Escobedo* v. *Illinois,* 378 U.S. 478 (1964), he said:

> If the exercise of constitutional rights will thwart the effectiveness of a system of law enforcement, then there is something very wrong with that system.

The decision turned on different issues, but I think the reasoning equally apt here.

WILLIAM F. RYAN.

Mr. CELLER. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, this bill is another episode in the continuing problem that we are confronted with here when public hysteria inspires legislative passion, and frequently the results are difficult to overcome. I have noticed with some understanding the tremendous role of the chairman and the many Members who have voted for this bill in committee. I have noticed the reluctance with which they have brought it to this Chamber. Only a few hours ago did this bill clear the Rules Committee under what I am told was an extraordinary procedure.

Why are we moving with such speed a bill of so many pages that has taken so many months and that fails even to define some of the major terms that so grandly change the character of Federal criminal statutes in this country?

I hope those Members who can afford the luxury of honestly evaluating this bill will examine each of the provisions, and if they find they cannot in good conscience support it, I hope they will join the probably less than 3 or 4 dozen Members who will vote against it. My appeal is to a reasoned evaluation on the part of Members who aside from the political pressures will be able to analyze this bill that compromises the Bill of Rights to a very large and serious degree.

Mr. Chairman, it has been stated that some of the bar organizations supported some of the provisions of this bill, but it should be made clear that many of the bar organizations have not supported even the completed provisions, and more than 50 changes in the Senate version have failed to make this bill satisfactorily meet, in my judgment, the minimum requirements of the Constitution of the United States.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have in my district, as I am sure the gentleman does in his, a great many people who have been either mugged or held up in hallways or subjected to street crimes, who are terribly concerned about this, and they want action by the Government. I wonder if the gentleman could tell me, if I were to support this bill, or the final bill, what could I say to the people of my district this bill does about street crime?

Mr. CONYERS. I would say to the gentleman from New York—and I would stand to be corrected by anyone here in the House—that there is not one provision in this bill that directly confronts the problem posed by the gentleman

XUM

from New York. That is to say, even if this bill went seriously into the dimensions of organized crime, which I submit it does not, it would still not speak to that crime for which the American public, particularly in urban areas, is seeking relief.

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield further, as I was listening to the gentleman from Illinois (Mr. Mikva), and reading some of the provisions of the bill, it seemed to me people who might engage in casual gambling on more than one occasion, gambling that might be against the law of their State, could be subjected to very serious risks of prosecution under some of the loose language of this bill, as distinct from the muggers and the pushers of narcotics on the streets of the cities. Is that correct?

Mr. CONYERS. It is absolutely correct, as the gentleman from Illinois described it, but further than that I think it opens the avenues in criminal law for persons who may have been previously convicted to be subject to the provisions in this bill which would allow a judge at his own discretion, under the very loose definitions that exist, and under the admission that in some instances no definitions covering the descriptions of the criminal activity complained of exist in the bill, to sentence additionally up to 25 years.

This poses some extremely serious problems for those of us who have had even a passing concern with civil liberties over the past 10 or 15 years, for what it does is allow other considerations extraneous to the conviction to be entered into a decision that would then be post trial presentence, in which the judge could add on a period of years which might be far in excess of what the defendant had recently been convicted of.

Mr. BINGHAM. I thank the gentleman.

Mr. POFF. Mr. Chairman, will my friend on the Judiciary Committee yield?

Mr. CONYERS. Your friend on the Judiciary Committee will yield with pleasure.

Mr. POFF. I thank the gentleman. Before the gentleman from New York leaves the floor I should like to have his attention. The gentleman from New York inquired if this bill contains any provision designed to control the problem of street crime. I ask my friend from New York the question: Would he want the Federal police establishment to be so strong as to reach into local street crime?

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield, the question was addressed to me.

I certainly would not want the Federal police to be given that type of power, but I believe the people who have expressed concern about the crime problem in this country—at least, the kind of people I have in my district—are going to be very concerned when they discover that this bill about which there has been so much debate and so much discussion does not address that problem.

Mr. CONYERS. Mr. Chairman, we who have signed the dissenting views recognize that there will be not too many Members who will vote in the final negative on this bill. But I believe that there will be a thread of discussion throughout consideration of this bill which will attempt to honestly portray the deficiencies that still exist.

It is true, of course, that even the sun has its spots; but, of course, we cannot control the spots on the sun. We, on the other hand, have the most complete control over the kind of legislation that issues from the Committee on the Judiciary, from its subcommittees, and finally from this Committee of the Whole, which will debate this bill.

I am hoping that we will not leave an improved Senate bill to be an acceptable substitute for a still inadequate House bill. I do not believe that is an adequate measure. I would hope that we would examine this with the care and scrutiny that a bill of this magnitude obviously requires.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield with pleasure to my distinguished chairman of the Judiciary Committee.

Mr. CELLER. Would the gentleman prefer to have the bill as originally sent over to the House by the Senate, known as S. 30, or would he rather take this bill, which painstakingly was changed so as to be considerably modified by the Judiciary Committee? Which would the gentleman choose, the original bill or this bill?

Mr. CONYERS. Well, unfortunately, Mr. Chairman, I have been put in a very difficult position. I would not accept the Senate bill. By the same standard with which I measured the Senate bill, Mr. Chairman, I have found myself again unable to accept the version of the bill that has come out of the committee.

Mr. CELLER. The gentleman's answer does not quite cover the question I put. It is possible under the circumstances that I read out that you would have been compelled to take S. 30 as it was passed by the Senate. What would the gentleman say, then, if he had the opportunity to ameliorate the harshness of the Senate bill and he did not do it?

Mr. CONYERS. Well, if I were compelled to choose between the Senate version and the committee version that emanated just last week from the chairman's distinguished committee, of which I am proudly a member, I would without hesitation almost cheerfully accept the House version. However, I presume that the chairman's question is hypothetical. I say that because we are not in that position. We do not have to accept legislation, as I understand the rules of this House, which emanates from the Senate any more than we are compelled to accept the House bill that emanates from this committee.

Mr. McCULLOCH. Mr. Chairman, if there remains to me as the spokesman for the minority at this time 5 minutes, I should like to yield 5 minutes to the gentleman from Iowa (Mr. Kyl), who has been waiting patiently.

The **CHAIRMAN.** The gentleman from Ohio has such time and the gentleman from Iowa (Mr. Kyl), is now recognized for 5 minutes.

Mr. KYL. Mr. Chairman, I have not only listened to the gentleman from Michigan, but I have also read his comments in the Record. I have listened to this colloquy, and there are a number of thoughts which he expresses which concern all the members of the committee that brings this bill to the floor and all the Members of this body.

This bill is not designed to take care of street crime, that crime which touches the average citizen more directly and more frequently, and a field, incidentally, in which the matter of gathering evidence and prosecution is infinitely more simple than those dealing with organized crime.

Organized crime today is the principal supplier of illegal goods and services, and it costs the people of this country billions of dollars a year.

There is, as a matter of fact, a third area of lawlessness with which I am concerned, too, and which this bill does not touch, nor should it touch it, and that is the general area of lawlessness, of the flaunting of the law—the use of a violation of a statute to shock the public conscience; because this field represents an area which presents a problem to the legal system in a way that cannot be cited.

I agree with the gentleman from Michigan who just spoke that there are some provisions in this bill which could not have passed this body a few years ago. They are extraordinary measures. But it will take extraordinary measures to achieve the purposes which we must achieve today.

The gentleman from Michigan has spoken about how this entire matter is somehow steeped in emotion. It is. Thereby again hangs a good reason for taking this step. If we look at history, I think the predictions we can make are rather sure: Unless we have firm law and unless we enforce that law, then the same people who today are emotionally as well as intellectually concerned about crime, not because they are stupid but because they are human, will ultimately take the law into their own hands. This has to be a very real worry in a free nation. I do not think anyone ever said it better than Alexander Hamilton did in the Federalist Papers when he said in a period of violence and lawlessness of this nature the people ultimately, in order to become more safe, are willing to become less free.

Unless we have firm law and firm law enforcement, we then open the door to that much more to be feared circumstances when we could get government by men rather than government under law.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Michigan.

Mr. CONYERS. I appreciate the gentleman's remarks. I think that he is obviously contributing to a realistic tone that I hope the debate on this bill will proceed in.

The gentleman indicated that there are provisions in this measure that, perhaps, would not have passed several years ago. I would like to add to that statement with which I agree and say that there are provisions in this bill that prob-

XUM

ably would not pass if the bill came up after November 3, 1970.

Mr. **KYL.** Well, I would simply respond to the gentleman's final comment in this fashion: I support this bill today because I believe it is needed, and my opinion and my vote after November 3 would be the same as it would be were we voting this afternoon.

Mr. **HALL.** Mr. Chairman, will the gentleman yield?

Mr. **KYL.** I yield to the gentleman from Missouri.

Mr. **HALL.** Mr. Chairman, I appreciate the statement of the gentleman from Iowa. I doubt very much whether or not we can hem in and long contain in any committee of the Congress if the representative system in a legislative body is working, legislation whose time for borning has come like this and where the demand of the American people has come as it has for a package of crime control legislation.

I would like to ask those who are handling the bill, if the gentleman will yield further for a question, if in a union dispute there was allegedly a rifle fired at a Government truck or at least a truck licensed by the Government for hauling of all classes of explosives and radioactive materials to the point where 42,000 pounds of dynamite exploded and not even a corpus delicti could be found and there was great damage on an interstate highway, whether or not this would be covered under these circumstances.

The **CHAIRMAN.** The time of the gentleman from Iowa has expired.

Mr. **McCULLOCH.** Mr. Chairman, I yield 3 additional minutes to the gentleman from Iowa (Mr. KYL).

Mr. **KYL.** I thank the distinguished gentleman from Ohio for this additional time.

Mr. **HALL.** My question is whether or not there is anything in this proposed legislation which, certainly the people in my area are demanding, because buildings were destroyed and great damage was inflicted as far as 8 to 12 miles away and if this did come to the question undoubtedly of harassing or hindering the transportation of the sinews of war of the military by properly licensed, inspected, and decreed Defense Department vehicles, whether or not under such a hypothetical situation there would not be restraint if not indeed penalties within this bill to cover such a situation?

Mr. **KYL.** Mr. Chairman, I yield to the gentleman from Virginia (Mr. POFF) to respond to that question.

Mr. **POFF.** I thank the gentleman.

In response to the question propounded by the gentleman from Missouri, I read from subsection (f), beginning at the foot of page 165 as follows:

> Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of an explosive, any building, vehicle, or other personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States, any department or agency thereof, or any institution or organization receiving Federal financial assistance shall be imprisoned for not more than ten years, or fined not more than $10,000, or both;

If I correctly understood the hypothetical question posed by the distinguished gentleman from Missouri, this language would be applicable.

Mr. **CONYERS.** Mr. Chairman, would the gentleman yield on that same point?

Mr. **KYL.** I yield to the gentleman from Michigan.

Mr. **CONYERS.** I think the gentleman from Missouri ought also be advised that prior to this bill ever coming to the floor there was already in the judgment of many people full and sufficient Federal criminal statutes covering that price situation.

Mr. **HALL.** I would simply say that I think my point has been well made. If the scalpel is so near the bone that there is blood, then it is pretty obvious that the people are in fact demanding this kind of legislation, because I think we would have to bring it up even in the event of the failing of the judicial and lacking the backing of the constabulary.

Mr. **CELLER.** Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. BINGHAM).

Mr. **BINGHAM.** Mr. Chairman, I thank the distinguished chairman for yielding. I have been studying the letter which I think all Members received from the American Civil Liberties Union on the subject of this bill. As a former member of the Board of the National ACLU I always pay a great deal of attention to what they have to say, especially in this field where they have special expertise. Mr. Chairman, later I will ask unanimous consent to have this letter included in the RECORD.

The gentleman from Iowa and other speakers have referred to the demand of the people for action. The crime situation in this country is undoubtedly acute. But in jurisprudence there is a maxim that "hard cases make bad law," and I think we can now say that a hard situation in the country may make bad law, when the Congress feels forced by the political pressures of the time to embark upon unwise legislation.

The references in the letter from the American Civil Liberties Union to the possibility of "fishing expeditions" under the very broad powers granted to the Attorney General are important. Those of us who have had some experience in the practice of the law in dealing with ardent Government prosecutors know the dangers of "fishing expeditions." The time may well come when respected businessmen will be coming back to this Congress and saying, "What have you done to us? You have opened the way for the Attorney General to come in and inspect our books and records and call for the production of books and records on the flimsiest of pretexts."

There seem to be many things in this bill that we may live to regret. I assume it will be passed, but I would like to commend the three gentlemen who are members of the committee for their eloquent and courageous separate views. I am most impressed with their views, as I am with the objections in the ACLU's letter. The text of that letter follows:

AMERICAN CIVIL LIBERTIES UNION,
Washington, D.C., October 2, 1970.

Re: Organized Crime Control Act, S. 30.

DEAR CONGRESSMAN: Very soon you will be called upon to cast your vote on S. 30, the so-called Organized Crime Control Act, the stated purpose of which is to destroy the power of organized crime groups. We share this goal, but believe the bill goes far beyond it. In the guise of pursuing this objective, it would make drastic revisions in our entire system of criminal law, state and federal, which would jeopardize the civil liberties of everyone.

The American Civil Liberties Union believes that the good in S. 30 is far outweighed by the bad, and that it ought not pass. We urge you to give serious consideration to our reasons for this conclusion before deciding how you will vote.

TITLE I—SPECIAL GRAND JURIES

Title I authorizes special federal grand juries to report: "concerning noncriminal misconduct, malfeasance or misfeasance in office involving organized criminal activity by an appointed officer or employee . . ."

We are not alone in the conclusion that it is highly undesirable to give federal grand juries the power to criticize public officials and employees where there is not enough evidence to indict and try them in a criminal trial. A number of Bar groups have come to a similar conclusion. An individual accused by such a grand jury has no real way to clear himself of charges levied by this body which speaks with the authority of the government and which has secured its information by using compulsory testimony in secret proceedings.

Although a person named in a report is given an opportunity to testify and present a "reasonable" number of witnesses, the value of that right is critically undercut because he cannot know the identity of his accusers, cannot compel the attendance of witnesses or cross-examine, and cannot compel the production of documentary evidence.

Moreover, he receives this limited opportunity to appear only after the grand jury has decided to report on his guilt. The provision for judicial review is also largely illusory. A report may be made public if it is supported by nothing more than "a preponderance of the evidence" and a detailed record of the proceedings need not be kept. These procedures are totally inconsistent with that fundamental fairness guaranteed by the Fifth Amendment.

As a final note, we point out that the Judiciary Committee amended the Senate-passed version of S. 30 to eliminate the grand jury's power to report on the conduct of elected officials. The Committee's unwillingness to permit Congressmen to be subjected to this kind of public smearing, but to allow it to be done to appointed officials, raises a serious question about a double standard. Surely what should be sauce for the goose should be sauce for the gander.

TITLE VII—LITIGATION ON SOURCES OF EVIDENCE

If one title of S. 30 had to be singled out as the most dangerous, Title VII would have that very dubious distinction. As the fine dissenting views of Congressmen Mikva, Ryan and Conyers point out, "It demonstrates an antipathy towards, and impatience with, the exercise of constitutional rights which reflects another grim chapter in the attempts to uplift expediency to the level of constitutional legitimacy."

Title VII does two things to earn this clearly deserved condemnation. First, it sets a statute of limitations on complaints that evidence was obtained by illegal electronic surveillance. Such statutes of limitation, whatever role they might play in forcing litigants or the government to file suit or criminal charges in a timely manner, have no place in the defense of constitutional rights. To deprive the defendant of constitutional defenses which only become necessary to assert when he is later brought to trial is an extraordinarily dangerous inroad on rights we have long worked hard to protect.

Second, Title VII seeks to reverse the ruling of the Supreme Court in *Alderman* v.

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United States, 394 U.S. 165 (1969), that the defendant must be shown all tapes of electronic eavesdropping conducted by the government in order to determine whether those activities tainted the prosecution's evidence. Title VII attempts to substitute "in camera" inspection by the court which would determine which tapes might be relevant and turn only those over to the defendant. This is precisely the procedure which the Supreme Court rejected. As the Court said in *Alderman,* we believe that only full inspection by the defendant will "provide the scrutiny which the Fourth Amendment exclusionary rule demands." 394 U.S. at 184. It is ironic that Title VII is proposed as a remedy for time-consuming court proceedings, yet would require the judge to examine the often voluminous records himself before turning them over to the defendant.

TITLE X—SPECIAL OFFENDER SENTENCING

Imposition of Sentence. Title X authorizes a special sentence of up to twenty-five years for any person convicted of a federal felony who is also found by the sentencing judge to be a "dangerous special offender." This term includes any person from whom the public needs the protection of an extended sentence and who has (1) been convicted of two other felonies, one within the past five years, or (2) committed the present felony as part of a "criminal pattern of conduct" (a) from which he derived substantial income and in which he had special skill or (b) which was part of a conspiracy of three persons in which he played a more than passive role.

A number of the provisions of Title X violate both substantive and procedural due process of law. Many of the definitions, for example, are vague and do not give the defendant adequate notice of the conduct which will subject him to these lengthy new sentences. Also, in determining whether the defendant is such an offender, the judge can rely on information supplied by sources which he need not disclose to the defendant. Moreover, he can consider an unlimited variety of information, whether or not constitutionally acquired. Lastly, he need only find that "a preponderance" of this information supports the allegation before imposing the special sentence.

However, even these very serious obstacles to the defendant's ability to clear himself pale in the face of our basic objection to Title X. It is clear from the definition of "dangerous special offender" that Congress wishes to impose lengthy sentences on those found to have engaged in the conduct included therein. However, Title X does not create a new federal crime which makes that conduct punishable. It authorizes the judge to consider information which would support the conclusion that the defendant has engaged in such conduct in fashioning the sentence. In this way, the government avoids having to prove beyond a reasonable doubt in a criminal trial that the defendant has committed the acts for which he is to be punished.

The Supreme Court has recognized that this type of special sentencing provision is subject to a higher standard of due process than the normal sentencing procedure in which the judge is given broad leeway. *Specht* v. *Patterson,* 386 U.S. 705 (1967). The Court recognized in the *Specht* case that a Sex Offender Statute involved the court in "the making of a new charge leading to criminal punishment." 386 U.S. at 610. We believe that this statute must be governed by an even higher standard of due process than was required in the *Specht* decision. To the extent that the sentencing judge must determine whether the defendant committed certain acts, the inquiry cannot be distinguished in any way from the criminal charges which must be proved in a criminal trial. We do not believe that the Constitution will permit this obvious attempt to permit the government to sentence a man for allegedly committing acts which the government could not prove beyond a reasonable doubt in a criminal trial with full due process safeguards for the defendant.

Appeal of Sentence. Title X authorizes the government to appeal the length of a special offender sentence and have it increased. It may also seek reversal of a trial court decision that a defendant is *not* a dangerous special offender.

While the ACLU has long favored appellate review of sentencing as a means of controlling abuses in the trial court's discretion, we strongly support the recommendation of the Advisory Committee of the American Bar Association Project on Minimum Standards for Criminal Justice that no appellate court should be empowered to set a harsher sentence than that imposed by the trial court. We join with them in the belief that such a procedure raises serious questions under the double jeopardy clause of the Constitution, especially where the defendant is in effect "acquitted" of the charge of being a "dangerous special offender." Moreover, we share their fear that the government will wrongly use this power to persuade defendants to plead guilty or to refrain from appealing either their sentence or the underlying conviction.

TITLE II—IMMUNITY OF WITNESSES

Under the Fifth Amendment, no person may be compelled "in any criminal case to be a witness against himself." Since 1892, it has been the federal rule that in order to compel a person to testify, he must be "afforded absolute immunity against future prosecution for the offense to which the question relates." *Counselman* v. *Hitchcock,* 142 U.S. 547, 586 (1892). Title II would greatly water down that protection, permitting the government to compel the witness to testify in exchange only for a guarantee that that specific testimony will not be used against him, directly or indirectly, in a future criminal trial.

As we outlined in our testimony before the House Judiciary Committee, this lowered standard is not a constitutionally adequate substitute for the privilege against self-incrimination. There are too many ways to make evidence look as if it were independently obtained even though the compelled testimony has really led the government to find it. Thus the defendant will in fact be compelled to contribute to his own prosecution in direct violation of a privilege which the framers of the Constitution thought important enough to include in the Bill of Rights.

TITLE III—CONFINEMENT OF RECALCITRANT WITNESSES

Title III gives the court the power to confine witnesses who refuse to testify in a court proceeding or before a grand jury. The Judiciary Committee has somewhat revised this Title, so that persons who refuse to testify during grand jury proceedings cannot be confined more than eighteen months. However, they left open the possibility of open-ended confinement for one who refuses to testify during "court proceedings." As we pointed out in our testimony before the House Judiciary Committee, "still pending in the federal court is a civil case which began on January 29, 1940 . . . and a criminal case filed in May, 1921." A clear time limit should be added to this provision.

Such a limit may also be constitutionally compelled. If a person has refused to speak for a long time, there is little likelihood that he will change his mind. Further confinement becomes punitive, not coercive, and should not be permitted without a complete trial for criminal contempt of court. See *Bloom* v. *Illinois,* 391 U.S. 194 (1968).

TITLE V—PROTECTED FACILITIES FOR HOUSING GOVERNMENT WITNESSES

Title V, which authorizes the Attorney General to provide facilities for the safety and security of government witnesses concerning organized criminal activity, appears to be a useful tool for securing needed testimony. However, in light of the House Internal Security Committee's recent refusal to repeal provisions for federal detention facilities under the Emergency Detention Act of 1950, it would be desirable to make it perfectly clear that no witness can be unwillingly confined or detained in such facilities.

TITLE VI—DISPOSITIONS

Title VI attempts to deal with a problem often associated with the prosecution of organized crime cases—that of the witness who changes his mind about testifying against the defendant at trial because of intimidation, threats, or physical abuse or disappears entirely. Title VI would permit the government to take a deposition of this witness. We doubt whether this procedure will achieve the desired goal. As the defendant must be notified in advance of the deposition, we suspect that those who wish to keep witnesses from testifying against them will merely speed up their intimidation or kill someone whose deposition is used at trial as a warning to anyone else considering testifying in a deposition or any other.

Even assuming this practice would preserve some useful testimony, we object to its adoption in its present form. If the government is going to be able to use this evidence at trial, the defendant must have a meaningful opportunity to cross-examine the witness during the deposition. At trial, this opportunity exists because the defendant already knows the nature of the prosecutions theory of the case which he will have to meet with his own evidence. At the deposition stage, the defendant will still be in the dark as to the lines of questioning he should pursue. We strongly urge that Title VI be amended to give the defendant expanded pre-trial discovery rights in those cases where the taking of depositions is contemplated, so that he will not be prejudiced at trial by the use of paper testimony obtained in the absence of meaningful cross-examination.

TITLE IX—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

Title IX seeks to improve government ability to stem organized crime's infiltration of legitimate business through the use of civil and criminal sanctions derived from the anti-trust field. Unfortunately, the value of this innovative approach is marred by overly broad and ambiguous provisions which permit application of Title IX to a man who twice wins $1000 in a friendly gambling game, as well as the most professional racketeer. Moreover, Title IX creates federal law in an area where state laws have traditionally operated, but it does not deal adequately with conduct which may be lawful in one jurisdiction and unlawful in another.

We are also troubled by the power given to the Attorney-General to issue civil investigative demands requiring the production of documentary material wherever he "has reason to believe" that material might be relevant to a Title IX investigation. No neutral magistrate is placed between this prosecutor's request and the potential defendant. In addition, the almost unlimited scope enables the government to engage in vast "fishing expeditions."

Although Title IX contemplates that the

records obtained in this dragnet fashion may be used in subsequent criminal as well as civil proceedings, no provision in the statute safeguards the individual's Fifth Amendment privilege against self-incrimination in a later proceeding. If material acquired in connection with a civil investigation can be used in a subsequent criminal case, any Fifth Amendment privilege would thereby be destroyed. The Supreme Court has very recently made it quite clear that a person fearing criminal prosecution has a constitutional right to assert his privilege against self-incrimination in responding to a civil investigative demand. *United States* v. *Kordel*, 38 U.S.L.W. 4153 (Feb. 23, 1970). Unless this privilege covers all prosecutions which result from the gathering of this information, broad civil investigative powers in an area involving criminal activity would clearly be unconstitutional.

CONCLUSION

Organized crime is a serious problem deserving the attention, imagination, and industry reflected in S. 30. However, serious constitutional problems cannot be brushed aside in a zealous pursuit of organized criminals. Its impact, moreover, can effect many others. Political dissenters, police who deprive others of their civil rights, Congressmen who take bribes, businessmen who violate tax laws, gamble, or commit other "white collar" crimes—all these could be considered "dangerous special offenders." In light of growing illegal use of wiretapping and other electronic surveillance, almost anyone could be subject to this invasion of privacy and then be deprived of a constitutional defense by Title VII—in any kind of federal trial for the smallest offense. The list could go on indefinitely. No one can safely assume that this bill will only affect someone else or really evil people. Its derogation of constitutional rights threatens us all.

The Judiciary Committee has added a new title which would establish a National Commission on Individual Rights. A six year study, which will undoubtedly face the same fate as too many other Presidential commissions, does not make up for the immediate loss of individual rights which will come with S. 30. We urge you to join in its defeat.

Sincerely yours,

LAWRENCE SPEISER,
Director, Washington Office.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman has touched upon the character of the objections that have motivated three of the members of this committee to file dissenting views.

I would like to point out that the statement of the findings and purpose embody a very disturbing notion to me, because we start off by finding:

> The Congress finds that (1) organized crime in the United States is a highly sophisticated, diversified, and wide-spread activity that annually drains billions of dollars from America's economy by unlawful conduct . . . .

Then after going on and describing the acts we find at line 13 on page 76 that—

> Organized crime continues to grow because of defects in the evidence-gathering process of the law inhibiting the development of the legally admissible evidence necessary to bring criminal and other sanctions or remedies to bear on the unlawful activities.

Now I think with a bit of reflection the Members will begin to perceive that this whole bill is based on the idea that somehow the courts have been preventing the effective prosecution of criminal activities in this country and that by some means or other there are defects in the evidence-gathering processes which this bill has sought to remedy.

I, as one Member, want to make clear a very distinct disagreement with the primary motivation that is stated in the purpose behind this bill.

The courts have not been the major culprits in the fight against crime.

The judges have not been the ones who have been making it difficult for prosecuting attorneys to bring criminals in the organized syndicates to trial.

The rules of evidence, and the criminal law, have not been derelict or weak or soft in any way supportive of the criminal elements once we get them into court.

I think, in a nutshell, nothing will clearly reveal the incorrect theory on which this entire bill is based than that section that I have cited to you in the statements of findings and purposes.

Mr. BINGHAM. I thank the gentleman for his very important contribution.

Mr. CELLER. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Chairman, I rise in support of this legislation and also in the hope that it may be improved in the amending process.

I would call the attention of the House to page 105 of the report, section (c), which is, as I understand it, repealed in this legislation:

> (c) The possession of an explosive in such a manner as to evince an intent to use, or the use of, such explosive, to damage or destroy any building or other real or personal property used for educational, religious, charitable, residential, business, or civic objectives or to intimidate any person pursuing such objectives, creates rebuttable presumptions that the explosive was transported in interstate or foreign commerce or caused to be transported in interstate or foreign commerce by the person so possessing or using it, or by a person aiding or abetting the person so possessing or using it.

Then it goes on to say that the presumption, of course, is rebuttable.

It seems to me, under that existing law which we are now repealing, the FBI could be called in for the investigation of any bombing case. I am not clear that that would still remain possible under the new law.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman.

Mr. CONYERS. The gentleman is right. It is a theory that has been discussed by some Members. This provision of the law may be actually a weakening amendment from the version that is stricken in favor of the bill that is before us today.

Mr. HUNGATE. I thank the gentleman for his comments.

I think unless someone can straighten me out on that, I believe it may be a weakening provision.

Suppose we have a case of a chamber of commerce building blown up such as we had in Des Moines, Iowa? I wonder if anyone can tell me if this new bill would permit the FBI to go in and investigate. I think we should amend this bill to provide at least as much Federal investigatory authority as now exists in bombing cases.

Mr. ALEXANDER. Mr. Chairman, I rise as a cosponsor in support of the Organized Crime Control Act of 1970. This legislation marks a positive step and fulfills an immediate need to provide some of the ingredients necessary to wage war on organized crime.

In my view, no other national concern preys upon the minds of decent, law-abiding citizens more than the consistent and inexcusable rise in criminal activities in this Nation. I offer my compliments to the members of the House Committee on the Judiciary for their work in providing this legislation. I congratulate the administration which has provided leadership, background material, and support. The bill is made possible by the constant and diligent efforts of Senator JOHN L. MCCLELLAN, of Arkansas, who has labored long and hard for this bill and against organized crime since the mid 1950's.

He is indeed the first crime fighter in the truest sense. He is the No. 1 enemy of the criminal world and this act, in my view, is a tribute to his labors and leadership.

Mr. BENNETT. Mr. Chairman, I am a strong supporter of the legislation before the House today, S. 30, similar to my bill, H.R. 15507, which would assist in stamping out organized crime in America. My legislation is identical to the bill authored by Senator MCCLELLAN, which passed the Senate January 23, 1970, by a vote of 73 yeas and 1 nay. I congratulate the chairman and members of the House Judiciary Committee for bringing this bill to the floor.

Reducing the amount of crime in the United States is the domestic problem which the Government should give No. 1 priority to in 1970 and 1971, according to a Gallup poll released recently. We are all very concerned with the rising crime rate, particularly the continued domination by organized crime, and I believe the Federal Government should be given all the necessary and proper tools to combat this threat to our citizens.

I have been a sponsor and supporter of the far-reaching legislation to halt crime reported from the Judiciary Committee in recent Congresses, including the Law Enforcement Assistance Act of 1965 and the Omnibus Crime Control and Safe Streets Act of 1968. The Organized Crime Control Act we are discussing today will add to these strong laws, and, hopefully, reverse the crime rate, which increased 11 percent in 1969 over 1968.

Hearings held by the House Select Committee on Crime, established by a resolution I was pleased to cosponsor with my colleague from Florida, CLAUDE PEPPER, indicate that strong measures included in the Organized Crime Control Act are needed to help curtail the narcotics traffic in our Nation. It was brought out in hearings by the Crime

Committee last December that 50 to 70 percent of all the traffic in the drug cocaine comes through the Miami, Fla., port and it is directed by elements of organized crime.

The supervisory agent for the Miami regional headquarters of the Bureau of Narcotics and Dangerous Drugs, Dennis Dayle, told the Crime Committee:

> While the percentage of criminals in the Cuban community in south Florida is relatively small, it is well established and perpetuated by the planning and organization usually associated with the activities of the Mafia.

Mr. Dayle reported that there is close connection between the Italian Mafia and the Cuban Mafia.

Dayle said:

> As the Italian Mafia has more often than not victimized its own ethnic group, so have we seen the Cuban Mafia prey upon the Cuban community.
>
> As the Italian Mafia migrated first to the New York area and then invaded other parts of the United States, so have we seen the Cuban Mafia migrate to Miami and then permeate other parts of the country with their presence and their activities of crime and violence. As we have seen the Italian Mafia invests its ill-gotten gains in legitimate business, so also do we see the hierarchy of the Cuban Mafia infiltrating many avenues of both legitimate industry and business.

Mr. Chairman, I have used this one example of the illicit traffic in cocaine in south Florida, brought out by the House Crime Committee, to show a need to further strengthen the laws of our land to get rid of organized crime.

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President Nixon said in a message to Congress last year:

> It is vitally important that Americans see this alien organization (Cosa Nostra) for what it is—a totalitarian and closed society operating within an open and democratic one. It has succeeded so far because an apathetic public is not aware of the threat it poses to American life.

Organized crime strikes at the basic roots of our society. It is a monster which must be eliminated. I believe the legislation being considered by the House is the vehicle to rid our land of this scourge and I hope it will be enacted.

Mr. FASCELL. Mr. Chairman, I rise in support of this landmark legislation. Enactment of this measure will, I believe, bring on a new day in our 50-year struggle against organized crime. A day when witnesses, fearful of reprisal, may be protected in their desire to tell the truth about syndicated crime; a day when organized crime bosses may not have total assurance that their underlings will not speak the truth; a day when legitimate businessmen may not face the unfair and even deadly competition posed by an organized crime-dominated business; a day when the source of most organized crime revenues, gambling, dries up; and a day when the structure and organization of organized crime are crumbled away by a more effective and better equipped intergovernmental effort.

These and many other benefits may come about by enactment of S. 30. This measure is no panacea, however. The Federal effort against organized crime, and indeed the intergovernmental effort, can still stand much improvement. Relationships among Federal agencies in the effort are still governed, basically, on an ad hoc basis. Some agencies express little interest in participating on a meaningful basis in the overall effort. Most Federal agencies, including regulatory agencies and Cabinet departments, provide no training to their investigative personnel in the area of organized crime. Those agencies and departments charged with the primary responsibility in this effort, the Justice and Treasury Departments, have training programs which place little emphasis on organized crime subjects.

Recent hearings by the Legal and Monetary Affairs Subcommittee on the House Government Operations Committee, which I chair, depicted many of these deficiencies. The resulting committee report, "Unmet Training Needs of the Federal Investigator and the Consolidated Federal Law Enforcement Training Center," report No. 91-1429, was recently issued.

It is just as important to provide the Federal agencies, principally the Justice Department, with the tools that S. 30 provides, as it is to achieve a top flight, well coordinated operation against organized crime. S. 30 brings us close to achieving one of those goals, the other goal remains to be met.

S. 30 is the culmination of great efforts by distinguished Members of this House and of the other body. Since its introduction by Senator JOHN MCCLELLAN in January 1969, this bill has been given an intense scrutiny like that which few bills have ever received. I give it my wholehearted support.

Mr. HALPERN. Mr. Chairman, organized crime in America is a thriving business. As the President's Commission on Law Enforcement and the Administration of Justice observed almost 3 years ago—

> Organized crime is a society that seeks to operate outside the control of the American people and their governments. It involves thousands of criminals, working within structures as complex as those of any large corporation, subject to laws more rigidly enforced than those of legitimate governments. Its actions are not impulsive but rather the result of intricate conspiracies, carried on over many years and aimed at gaining control over whole fields of activity in order to amass huge profits. The Challenge of Crime in a Free Society 187 (1967)

Since the issuance of the Commission's final report, Congress has striven to implement the recommendations of the Commission consistent with its obligation to the American people to rid this Nation of the paralysis of crime. The Organized Crime Control Act of 1970 embodies many of the Commissions' recommendations on organized crime. The bill is directed at three areas: The investigation of organized crime, the punishment of organized crime, and the examination of existing laws to determine their effectiveness in dealing with organized crime.

A substantial part of S. 30 is devoted to facilitating more effective investigation of organized criminal conduct. Its innovations are directed at the public corruption and conspiracy of silence which surround the activities of organized crime. Consistent with the recommendations of the President's Commission special grand jury provisions have been offered. The effectiveness of the grand jury as an investigation tool where public officials are involved was clearly demonstrated recently in Newark, N.J. These grand juries would be given special powers to investigate the rackets. But prosecutors have long realized that the authority to investigate can easily be frustrated by the silence of witnesses caused either by a fear of prosecution or terrified by their coconspirators. S. 30 would attempt to break down this wall of silence by granting immunity, by punishing those who refuse to accept immunity, by adopting the Model Penal Code provisions on perjury and false statements, by permitting the use of depositions in extraordinary cases, and by providing for protective housing facilities for Government witnesses and their families.

S. 30 would also make changes in substantive criminal law. It would prohibit the infiltration of organized crime into business enterprises affecting interstate or foreign commerce either by investment, unlawfully obtaining control or using a legitimate business in a "pattern of racketeering activities." It would also prohibit engaging in an illegal gambling business or obstructing local law enforcement officials in their investigations of such a business. There would be special offender sentencing procedures directed at those who have made crime their profession. Finally, conscious of the fact that gangland killings frequently involve the use of explosives or explosive devices, the drafters of S. 30 have incorporated a system of regulating the importation, manufacture, and storage of explosive materials.

A Commission To Review National Policy Toward Gambling would be created under the act to study gambling in the United States. Gambling is the lifeblood of organized crime. It provides the capital with which a host of other illicit activities are financed. Recent Supreme Court cases have raised serious questions concerning current Federal gambling laws. The drafters of S. 30, recognizing the scope of the problem, its national significance and its effect on interstate commerce, would provide for a thorough study of the problem to determine the proper legislative response.

I support S. 30 because it represents the recommendations of the President's Commission for eradicating organized crime; because I feel that existing criminal laws drafted to cope with individual lawbreakers are insufficient to combat the criminal cartels that have come close to creating a fifth estate in this Nation; and because the objections raised earlier on civil liberties grounds have been substantially eliminated in the current amended version of S. 30.

Mr. McDADE. Mr. Chairman, I rise in support of the pending bill, the Organized Crime Control Act of 1970.

This is a subject that is of deep concern to me. It is a matter that I have been working on since 1966. During the course of these past few years it has been my privilege to work with 22 of my colleagues to examine the nature and scope of crime in the United States of America. I am deeply gratified to see that much of that work is coming to fruition.

In August of 1967 in a special order I reported to this House about the true nature of those who are victims of organized crime, and I pointed out on that occasion that the real victims of organized crime are the urban poor. I pointed out as well that much of the street crime in America results from organized crime in the United States. It is estimated that in the city of New York fully 50 percent of the street crime which occurs there is directly connected to the activities of organized criminals. I pointed out as well that at a time when law and order are on trial, organized crime presents a direct threat to a nation which seeks to restore a sense of dignity and majesty to the law.

Because organized crime cannot flourish in any city of this Nation without at least some corruption of public officials, I stated then and I state now that organized crime teaches the lesson that the law is for sale and that the road to success is to follow the path of corruption. Indeed, this may explain why in some of the areas of our Nation a policeman has lost his effectiveness and on some occasions has even been replaced in the esteem of some by those who pursue a "get-rich-quick" policy.

Consider if you will the cost of organized crime. Experts have estimated that organized crime's annual profits exceed many billions of dollars.

There are three major sources for all of this wealth, namely, gambling operations with a conservative estimated take of $20 billion annually and a $6 billion profit, most of it coming from those who can least afford to pay; loan sharking, $350 million per year; and narcotics, $350 million per year, almost all from the poor.

Dr. Martin Luther King once said that "permissive crime in ghettos is the nightmare of the slum family." I do not mean to imply that the tentacles of organized crime are found only in the ghetto. I simply point out that this is where they reap a huge part of their illicit gains. I am most pleased to point out that we are making progress in this battle.

Legislation to permit carefully controlled electronic surveillance in organized crime cases has already been approved by the Congress. That was a recommendation I made in 1967.

In 1968, this House passed a bill which made loan sharking a Federal offense for the first time. I was delighted to submit this legislation to the Congress. It is now the law of the land, it is working, and I am informed by officials of the Justice Department they are most pleased with the efficacy of this law.

This bill today contains five additional recommendations I made to the Congress in 1967 for further gearing up to combat and hopefully to destroy organized crime in America today.

In August 1967 I proposed the following:

First. That legislation be enacted to provide for extended prison terms where the evidence, presentence report, or sentence hearings shows that a felony was committed as part of a continuing illegal business in which the convicted offender occupied a supervisory or other management position.

Second. That Congress should abolish the rigid two-witness and direct-evidence rules in perjury prosecutions, but retain the requirement of proving an intentional false statement.

Third. That legislation be enacted to extend Federal immunity provisions to crimes relating to organized crime and to make it a Federal crime to coerce or threaten a person who is willing to give vital information before a grand jury convened to hear an organized crime investigation.

Fourth. That the Federal Government should establish residential facilities for the protection of witnesses desiring such assistance during the pendency of organized crime litigation.

Fifth. That antitrust legislation be passed designed to curtail organized crime. First, legislation to prohibit the investment of funds illegally acquired from specified criminal activities in a legitimate business concern, and, second, legislation to prohibit the investment in such concerns of funds legally acquired but deliberately unreported for Federal income tax purposes.

All of these recommendations which I made then are contained in this bill today. Mr. Chairman, I urge the adoption of this bill as another firm step in an effort to control this insidious problem in our Nation.

Mr. DONOHUE. Mr. Chairman, as a member of the House Committee on the Judiciary, to whom was referred Senate Bill 30 relating to the control of organized crime in the United States, having considered the same after long, exhaustive hearings, at which appeared law enforcement authorities, Governors, and many other witnesses, from all areas of the United States concluded, as has been stated by the chairman and other members of our committee, that organized crime in the United States is a highly sophisticated and widespread activity that annually drains billions of dollars from America's economy by unlawful conduct and the illegal use of force, fraud and corruption; that organized crime derives a major portion of its power through money obtained from such illegal endeavors as syndicated gambling, loan sharking, the theft and fencing of property, the importation and distribution of narcotics and other dangerous drugs, and other forms of social exploitation; that this money and power are increasingly used to infiltrate and corrupt legitimate business and labor unions and to subvert and corrupt our democratic processes; that organized crime activities in the United States weaken the stability of the Nation's economic system, harm innocent investors and competing organizations, interfere with free competition, seriously burden interstate and foreign commerce, threaten the domestic security and undermine the general welfare of the Nation and its citizens; that organized crime continues to grow because of defects in evidence gathering processes of the law, inhibiting the development of legally admissible evidence necessary to bring criminal and other sanctions or remedies to bear on the unlawful activities of those engaged in organized crime and because the sanctions and remedies available to the Government are unnecessarily limited in scope and impact.

It is the purpose of S. 30 to seek the irradication of organized crime in the United States, by strengthening the legal tools in the evidence-gathering process, by establishing new penal prohibitions and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime.

Mr. Chairman, I therefore rise in enthusiastically supporting S. 30, entitled the proposed organized crime control act of 1970, as amended by the committee. This measure is a large, complex bill which the members of Subcommittee 5 of the Judiciary Committee, of which I am a member, worked patiently and arduously to improve. We endeavored to remove vague and unworkable language and to revise provisions which, in our opinion, raised substantial constitutional questions.

S. 30, as amended, has been vastly improved over the bill which passed the other body. In addition to the reform of various aspects of Federal criminal procedure and the establishment of new Federal substantive offenses in the field of gambling and racketeers infiltration of legitimate businesses, the committee added two new titles.

One, title XI, provides much-needed Federal controls over the transportation, importation, distribution, and storage of explosives. It also establishes new broadened criminal penalties for the misuse of explosives. It is intended to strengthen the ability of State and local communities to cope with the growing number of bombing outrages throughout the country.

A second title added by the committee, title XII, would establish a National Commission on Individual Rights to conduct a comprehensive study and make reports to the President and the Congress on the variety of changes in Federal criminal procedure effected by this measure and other recent enactments.

Mr. Chairman, I believe that this measure makes a valuable contribution to the Federal effort to curb crime and violence, by strengthening the system of gathering evidence and prosecuting offenders in the federal system.

Mr. CELLER. Mr. Chairman, I yield 8 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, this bill is a fraud upon the public as time will prove. It is a monster. I make these statements with the utmost respect for the distinguished Committee on the Judiciary and the distinguished chairman of that committee.

The committee contains some of the most effective and able lawyers of this House. I recognize them—on both sides, for instance, the gentleman from Virginia (Mr. POFF), is a man who is very learned in the law, as I have frequently observed in colloquy on the floor. But he has exercised his great expertise frequently to walk with exquisite precision

XUM

on the very outside borders of the Constitution. I think he has in this case overstepped.

The chairman of the committee is indeed a man who has more respect, I think, for the constitutional process than any other Member of this House—a man who is devoted to drawing legislation which is practical and effective. I recognize that with what he had, he did his best. I recognize the same qualities in the ranking minority member.

But, after all, the chairman was merely the obstetrician who brought this bill to light. He had nothing to do with its genetic constitution.

To adapt the words of Edmund in King Lear—this bill was got 'tween sleep and wake, in the dull, stale, tired bed of the Justice Department.

In lulls the public into a feeling of false security when considered in light of those uncertainties introduced by its unconstitutional provisions; its overloading of the Federal courts by moving large substantive areas formerly totally within the police power of the State into the Federal realm; its new authority to harass police and law-enforcement authority by meddlesome or even politically motivated special grand juries, probing public officials' admittedly legal activities.

When all of these considerations are taken into account, the bill is a backward step.

It is always popular to advance the proposal of a cheap solution to difficult public questions. It is quite cheap in money to merely increase penalties, to expedite conviction by shortcutting new processes and shortcropping the right of trial by jury. But in the long run it is the most expensive course we can take, because if it were upheld, it would be bought at the cost of loss of validity and respect for law.

I am most concerned, as I think some of my colleagues have observed, about what is called the dangerous special offender provisions of this bill and of the drug bill. It is found in this bill at title X. I would like to say a little about it because we have to know what it means to know precisely how it removes from the consideration of the jury a very serious element of what you may either call crime, as I prefer to call it, or you may call a status with respect to the nature of the dangerous special offender, as the gentleman from Virginia (Mr. POFF) prefers to call it. But I think whatever you call it you must come to the same conclusion as to how the offense, or the status if you prefer, is to be proved if the act is to stand constitutional muster.

A person accused of factual elements of either a crime or that which justifies a sentence—and I know no difference between those terms—a person so accused under American law, and under English law before us, was entitled to have a trial before a jury in all cases of serious offenses. That, of course, has been so clearly established in Duncan against Louisiana in recent times that it can be no longer brought into contest—except for the fact that I suppose everything can be brought into a contest today.

I have tried a case before a Justice of Peace who simply remained mute, and after a long period of time he said, "Mr. ECKHARDT, proceed to defend your client."

I said, "If Your Honor please, will you instruct the jury that he must be held not guilty?"

He said, "Well, Mr. ECKHARDT, I understand the law to be that a man is guilty until he proves himself innocent."

I was free to admit that I had not briefed that point for that case, but would later give the authority.

I had not thought I would have to argue this question to the Attorney General of the United States.

The Poff amendment, the dangerous special offender provision of S. 30, does this: If the prosecuting attorney intends to ask for enhanced sentencing, he gives a notice in advance and he makes the allegation that the defendant is a dangerous special offender who, upon conviction, is subject to enhanced sentencing and, in addition, he sets out with particularity the reasons why he feels the defendant to be a dangerous special offender.

If the defendant is convicted of a felony, after such notice has been properly given, the court, sitting without a jury, holds a presentencing hearing which may be based upon a report compiled by a probation officer. The report itself would necessarily be constituted, in major part, of the hearsay testimony of various persons from whose statement it has been compiled. Also it could be a mixture of statements of alleged facts, opinions, innuendo, and inflammatory material relative to the offense upon which the defendant was found guilty by the jury.

Somewhat ameliorating these infirmities of the report are the following assurances to the defendant:

First, his counsel may inspect, except in extraordinary cases, the report sufficiently prior to the hearing as to afford a reasonable opportunity for verification of the facts recited therein;

Second, he is afforded compulsory process to bring in as witnesses persons whose hearsay testimony appears in the report, persons who would refute the report, or other persons who might give material evidence; and

Third, he is afforded the right to cross-examination of such witnesses as appear.

These protections are inferior, however, to the protection he would receive if the case were tried before the court, mainly because of the fact that he is not entitled to a jury to determine whether or not the facts are valid. But in addition the following infirmities also exist:

First. The prosecutor does not have to elect whether or not to use a witness the disclosure of whose identity would make him useless in the future as an informer or would endanger him, or to use testimony which might "seriously disrupt a program of rehabilitations."

This is because, in what is called extraordinary cases, the court may protect confidential sources of information. This would, of course, deny to the defendant the right of cross-examination as well as the right of jury trial.

Second. The defendant is at the mercy of the judge's determination as to what material is "not relevant to a proper sentence," and although this question may be carried forward into an appeal, as I understand it, the actual material may continue to be considered in camera by the courts.

Third. The defendant has the tremendous practical disadvantage of having to go forward with the burden of obtaining firsthand testimony and of bringing in live witnesses to test or to refute material which may be easily brought in against him in the report.

This is why I say in effect the court is holding, contrary to long-established English and American law, that a person is guilty until he proves himself innocent. This is also found in the provision that requires a person to carry the burden of proof that certain earnings were not earned as the fruits of a criminal enterprise in which he is assumed to have engaged.

Mr. CONYERS. Mr. Chairman, I make the point of order that a quorum is not present.

Mr. CELLER. Mr. Chairman, if the gentleman insists on that, I shall move that the Committee rise.

I hope the gentleman will not insist on his point of order.

Mr. CONYERS. But, of course, Mr. Chairman, I insist on it. I think the gentleman from Texas is making remarks which should be heard by all the Members of the House.

Mr. CELLER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. ROONEY of New York, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (S. 30) relating to the control of organized crime in the United States, had come to no resolution thereon.

GENERAL LEAVE TO EXTEND

Mr. CELLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill S. 30.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

HOUSE RECESS

(Mr. ALBERT asked and was given permission to address the House for 1 minute.)

Mr. ALBERT. Mr. Speaker, I take this time to advise the House of recommendations that have been made by the leadership in joint conference on both sides of the Capitol and on both sides of the aisle.

It is our plan to offer a resolution within the next few days to provide for a House recess from the close of business on Wednesday, October 14, until noon, Monday, November 16.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. ALBERT. I yield to the distinguished Speaker of the House.

XUM

Mr. McCORMACK. I might say that this was the unanimous opinion of the leadership on both sides, both parties in the House and both parties in the Senate, recognizing that it would be impossible by either October 16 or October 23 to get through with the business that we have to dispose of before this particular session is over.

Mr. ALBERT. The distinguished Speaker is correct. I might say that there are still eight appropriation bills—not counting the one we passed today, which have not yet gone to the White House. That alone is quite a chore.

DIRECT ELECTION PROPOSAL FAILURE IN THE SENATE

(Mr. CELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CELLER. Mr. Speaker, I rise to express my personal disappointment and regret that the other body has been unable to call up for a vote the proposed constitutional amendment providing for the direct nationwide popular election of the President and Vice President. The proposed amendment was overwhelmingly approved in this Chamber, 339 to 70, over a year ago, on September 18, 1969. The vote reflected approval by better than two-thirds of the full membership of the House. It disclosed that 36 State delegations supported the proposal—24 unanimously—and five additional delegations were split evenly. Not only do national opinion polls and surveys of congressional districts attest to the nationwide approval of the direct election proposal, but also the substantial support it received in this House furnishes overwhelming evidence of the likelihood of ratification.

Mr. Speaker, I profoundly believe that the Nation now stands on the threshold of meaningful electoral reform. I still hope that in the remaining days of this Congress it will be possible for the other body to vote on this issue.

I ask unanimous consent to insert in the Record a copy of a letter dated September 24, 1969, signed by the gentleman from Ohio (Mr. McCulloch) and myself.

September 24, 1969.

Hon. Mike Mansfield,
Majority Floor Leader,
U.S. Senate,
Washington, D.C.

Dear Senator Mansfield: The proposed amendment to the Constitution, House Joint Resolution 681, providing for the direct nationwide popular election of the President and Vice President, was overwhelmingly approved (339 to 70) in the House of Representatives last Thursday, September 18. This vote reflected approval by better than two-thirds of the full membership of the House and paralleled an earlier wide margin of support in the Committee on the Judiciary. We believe that the nation now stands on the threshold of meaningful electoral reform.

Analysis of the vote in the House discloses that thirty-six State delegations supported House Joint Resolution 681 (twenty-four unanimously) and five additional delegations were split evenly. In view of this compelling evidence of support, those who have withheld approval from the direct election system, believing it to lack favor with small State or large State interests, have good reason now to reexamine their earlier assessment. Not only do national opinion polls and surveys of congressional districts attest to the nationwide approval of this form of electoral change, but also the action of the House furnishes convincing current evidence of the likelihood of ratification.

The historic action taken by the House in approving a plan for electoral reform for the first time since 1803 should provide momentum for decisive Senate action.

We urge the Senate to give this matter the highest priority. We profoundly believe that the submission of the direct popular election proposal to the State legislatures for ratification will mark one of the greatest accomplishments of the 91st Congress.

Sincerely yours,
Emanuel Celler,
William M. McCulloch.

RAIL PASSENGER SERVICE ACT OF 1970

(Mr. ADAMS asked and was given permission to address the House for 1 minuate and to revise and extend his remarks and include extraneous matter.)

Mr. ADAMS. Mr. Speaker, Tom Wicker of the New York Times has written a most informative column on the importance of the Rail Passenger Service Act of 1970. This bill has passed the Senate and 2 weeks ago was favorably reported by the House interstate and Foreign Commerce Committee, with the strong support of members of both parties.

In his article, Mr. Wicker points out that unless this bill is passed there very well may be no more passenger trains left. He goes on to say:

> Fast, efficient trains can not only move more people more quickly and comfortably and cheaper than any interstate highway ever contemplated; they can do so with less pollution of the air and with less disruption of the landscape and of residential values.

The rail passenger corporation, he adds, can be a "buffer against nationalization" of the railroads because it will relieve privately owned railroads of serious deficits. I think Mr. Wicker's persuasive commentary will be of great interest to my colleagues and I include the article in the Record at this point:

[From the New York Times, Sept. 27, 1970]

Rescuing the Iron Horse

(By Tom Wicker)

Washington.—The House Commerce Committee approved this week an expanded version of a bill already passed by the Senate that would go a long way toward preserving and improving railroad passenger service in America. Limited as the measure still is, it nevertheless could become a landmark of the Nixon Administration, much as the Interstate Highway System was a major achievement of the Eisenhower Administration.

As approved by the House committee—apparently with the advance concurrence of the Administration and of the right Senators—the measure would set up a semi-public corporation to operate an integrated national rail passenger network, starting as soon as next March 1. The railroads would turn over passenger equipment to the new corporation, which would operate passenger trains over existing rights-of-way; the new corporation would issue stock to those railroads that wanted to participate.

Both Senate and House versions of this bill would provide $40 million in direct grants to the new corporation, but the House bill would allow it $300 million in loan guarantees, as compared with $165 million in the Senate bill. The larger figure is what is likely to emerge from a Senate-House conference; and $100 million of the loan guarantees would be for new equipment and right-of-way improvements. The rest would be for underwriting cash-short railroads that wanted to buy into the new rail passenger corporation.

Even so, this would only give the new passenger system $340 million, plus a lot of old equipment and right-of-way, with which to fight the automobile and the airlines. But there would be a number of advantages over the present mess.

For one thing, the rail system could concentrate on profitable metropolitan corridor service, like that of the Penn Central's Washington-New York Metroliner, although preliminary plans in the Department of Transportation also suggest the maintenance of a basic minimum long-haul passenger service, particularly on the major routes to the West Coast.

For another thing, the integrated national organization could provide efficient scheduling, as against the present hodge-podge; and it could also institute computerized ticketing, like that of the airlines. Thus, Transportation Department experts believe that through economies and improvements, the new corporation might show a profit within four years—by about 1975—and, more important, provide decent rail passenger service where it is most sorely needed.

The bill to make this possible (which the House appears ready to pass next week) is important for a number of reasons, the most immediate of which is that, without it, rail passenger service in America seems almost certain to die. But if it can be preserved and improved, a number of things will be achieved in the process.

Above all, it will become easier and cheaper for people to get around. The airlines, even with all sorts of Federal assistance, are in financial trouble, and are beginning to abandon small-city service; and the Interstate Highway System is not only going to cost, when completed, about twice its original estimate (or more than $75 billion) but it is already being overwhelmed by the increasing numbers of cars on the road.

Fast, efficient trains cannot only move more people more quickly and comfortably and cheaper than any interstate highway ever contemplated; they can do so with less pollution of the air and with less disruption of the landscape and of residential values. While it is true that the automobile has a special place in the American soul, and offers special advantages of its own, there appears no real reason why some sensible combination of the two modes with air travel should not find favor in the future. What is most needed is a planned and comprehensive *system* of passenger transportation—rail, highway and air—rather than the disjointed efforts of private companies and the abject obeisance of politicians to the motorist and the highway lobby.

It may well be that the rail passenger corporation also will become a buffer against nationalization of the railroads. It will, for instance, relieve existing lines of their passenger service deficits, making them more profitable and hence theoretically more efficient. And it will provide Government underwriting of a semi-private corporation to operate a much-needed public service, rather than outright Government ownership and management of that service.

Above all else, passage of the rail passenger bill and its acceptance by the Nixon Administration will mean the acceptance by the Federal Government of a major responsibility—to maintain balanced transportation by relieving the airlines and the highways of

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a burden that threatens to overwhelm both. It remains to be seen whether this Administration and others to come will accept the obvious corollary responsibility—to finance and develop the new technology and the improved roadbeds and rights-of-way that inevitably will be needed.

PULASKI DAY, OCTOBER 11, 1970

(Mr. ROONEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROONEY of New York. Mr. Speaker, I take great pride in having been permitted to join once again my many Polish American friends in their observance of Pulaski Day. I was thrilled last Sunday afternoon to watch another parade up Fifth Avenue, New York, of the great organizations made up of loyal American citizens who take such deep pride in their Polish heritage. The parade this year seemed to me to be the most meaningful of all those which I have witnessed over the past many years. The reasons for having such a high regard for this year's observance are many.

First of all, the observance has grown each year, just as has the importance of honoring the heroic Gen. Casimir Pulaski on this the 191st anniversary of his death of wounds suffered in the Battle of Savannah. In addition this year marks the 50th anniversary of the Miracle of the Vistula when the army of a new Poland, exhausted after a 2-year war brought on by a Soviet attack, were able to miraculously defeat and rout the invaders. Pulaski Day is dedicated also to honoring the people of Poland who still suffer from the oppressions of a Soviet-imposed regime but who are determined to be free again.

In these days of "anti something" demonstrations or "anti everything" marches, it is most refreshing and tremendously reassuring to witness a parade of loyal Americans proud of their country, sincerely respectful of their flag, and tolerant of their fellow citizens. It was heartwarming to see thousands of clean faced, bright-eyed and happy children and young people, dressed in gay costumes instead of dirty, dissident groups clad in filthy hippy rags.

It was tremendously satisfying to see thousands of businessmen and workers paying deep respect to one of our greatest heroes of the Revolutionary War, Gen. Casimir Pulaski.

All America is grateful for the happy reminder which it receives from the Polish-American groups that this is the day to recall the glorious contributions which the exiled Polish nobleman and soldier made to the winning of American independence. It is fitting indeed that our fellow citizens of Polish birth or extraction remind us of the deeds of this heroic man for whom countless parks, highways, bridges, and monuments today bear his name.

Just as Pulaski offered his services to Gen. George Washington in the most agonizing months of what seemed a hopeless struggle, countless other Polish-born people have subsequently volunteered the same kind of selfless devotion to the preservation and expansion of our American liberty and independence. These heroes and their descendants who march in Pulaski parades are not the sneering malcontents or the flag-burning rabble who would toss aside our hard-won freedom. No, these modern counterparts of the great Pulaski are determined to support this Nation, its Constitution, and its laws formulated by the people, of the people and for the people of this land.

Mr. Speaker, as I witnessed firsthand the patriotic fervor exhibited by the marchers, by the themes of the excellent floats and banners, and by the thousands of spectators who stood on the sidewalks to view this great parade, I could not help but wish that this event could come more often than once a year.

How wonderful it would be if such widespread reawakening of national pride and personal patriotism could occur more frequently. America needs the kind of reawakening and rededication which Pulaski Day ceremonies provide all over this land. For these reasons thousands of our countrymen are grateful to the Polish-American organizations for their significant reminders of the debt of gratitude which we owe to Gen. Casimir Pulaski. Many thousands more of American citizens receive inspiration and restored faith in our American way of life because of the conduct and deeds of our Polish-American friends.

On this Pulaski Day we extend our deepest gratitude and our heartiest congratulations to our fellow Americans who make up American Polonia.

PRESIDENT'S COMMISSION ON OBSCENITY AND PORNOGRAPHY

(Mr. DORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORN. Mr. Speaker, I was shocked and amazed at the majority recommendations of the President's Commission on Obscenity and Pornography. It is the Congress who will write the laws to govern the distribution of pornography. We are not, of course, bound to accept the conclusions of any Presidential Commission. Last week, after 3 years and $2 million, the President's Commission on Obscenity and Pornography released this report. Among other things, the Commission recommended the repeal of all laws against pornography for consenting adults. This recommendation was based on the Commission's astounding conclusion that pornography is harmless for adults.

Mr. Speaker, I agree with Mr. Keating in his minority report. There is no doubt that the increase in crime, particularly sex crime, is related to permissiveness, moral laxity and, yes, Mr. Speaker, obscene, filthy, and suggestive literature pouring through the mails across State lines. The committees of the Congress have conducted for years a very thorough investigation and study of this menace. Thousands of pages of testimony have been heard of witnesses from throughout the country. Many of us have testified before these committees to oppose the sending of this smut through the mails and across State lines. Experts on this subject have appeared time and again before our committees.

Furthermore, Mr. Speaker, the profiteering hucksters who produce and distribute this prurient smut are largely controlled by the criminal underworld. The Congress must not be distracted or sidetracked in its determination to expose this underworld conspiracy to undermine and destroy the moral standards of our country. Now the Congress must act to answer this threat to our society with appropriate legislation. I commend the Committee on Interstate and Foreign Commerce and the Committee on Post Office and Civil Service for their concern about this obscene smut coming to our children, and for their recommendations which are contrary to those of the President's Commission.

Mr. Speaker, with all respect to the distinguished Americans who served on this Commission, it must be said that most thoughtful and responsible Americans want the Congress to act positively with respect to this problem, and not to take a defeatist, negative action of repealing the laws governing this filth. We are for freedom of expression, but this concept has never in the history of our constitutional Republic been interpreted to mean absolute license to produce and exhibit material which is totally and solely concerned with immoral and offensive filth.

OPPOSED TO TRADE BILL

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GIBBONS. Mr. Speaker, as I have said many times before, I am opposed to the so-called trade bill that has been reported by the Ways and Means Committee. Now it appears that the Senate is about to attach this very poor bill to a nongermane piece of legislation—to wit—the social security bill—and send it back to the House without the House having had an opportunity to vote on this legislation. This unusual and unorthodox maneuver flies in the face of our Constitution which gives to the House the sole and exclusive right of originating this type of legislation. In addition, Mr. Speaker, this unwise move is a violation of the comity that each House of this Congress must have for the other.

Two weeks ago, Mr. Speaker, I stood here in the well of this House and opposed a move that would require a two-thirds vote on Senate amendments to House bills that were nongermane under our rules. I opposed the requirement of a two-third vote because I thought it would destroy the good working relationship that the House and the Senate must have with each other in order to carry out our legislative responsibility. I hope that the Senate will refrain from attaching this antitrade bill to a social security measure or any other nongermane piece of legislation.

How unjust would it be to use the backs of the aged, the infirm, and the poor to carry this misguided antitrade measure. These people have enough trouble trying to get along on their small pensions, but to make their legislation the vehicle by which everyone's cost of living will be

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substantially increased is an injustice that is irreconcilable.

Mr. Speaker, when one thinks that this quota bill, this antitrade bill, contains a provision that will make it impossible for any future President to take off of the backs of the consumer the more than $5 billion per year in excessive payments to the oil companies, one wonders how it could be supported by any Senator or Congressman. And further, when one thinks of the fact the owners of the textile and garment industry have increased their profits over fourfold in the 1960's, and have increased their return on invested capital by better than 30 percent, one wonders how anyone can impose mandatory import quotas for the benefit of the textile and garment producers.

Yes, Mr. Speaker, many of us worry about American labor and its competition with other labor throughout the world but when the facts show that the number of jobs in the textile and garment industry increased by about 300,000 during the 1960's one again wonders how so much misdirected support has been generated for this antitrade legislation.

I hope that the Senate will not break faith with the House of Representatives and use the social security legislation as a part of the log-rolling operation that has developed this antitrade bill.

Mr. Speaker, this morning there appeared a very interesting article in the Washington Post entitled "The Textile Lobby and the Trade Bill." The author, Mr. John M. Leddy, served for many years with great distinction as a leading trade policy official of the U.S. Government. Because some Members may not have had an opportunity to read it, I will include Mr. Leddy's article in the RECORD at this point.

The article follows:

THE TEXTILE LOBBY AND THE TRADE BILL

(By John M. Leddy)

As the trade bill nears the final stage of congressional action, it is important to understand what the driving force behind that bill is: the textile industry. Does this important industry have a legitimate case for special treatment or is it leading the country down a false and costly trail?

The pushing of special interests at the expense of the general public is not the oldest profession in the world, but it is venerable enough so that the hallmarks of its come-on are unmistakable. The prevalence of half-truths is among them.

One is the use of the Soviet statistical technique of citing large increases, percentage or other—in this case of imports—without providing the relevant basis for comparison. There has been talk of the tremendous upsurge in textile and apparel imports to double their level at the beginning of the decade. It is important to remember, however, that while textile and apparel imports increased from 340 million pounds in 1961 to 813 million pounds in 1968, U.S. production increased by seven times this amount, or from 6,581 million pounds in 1961 to 10,259 million pounds in 1968. Thus production at home increased by 3.7 billion pounds while imports increased by less than 0.5 billion pounds. Do such figures suggest that imports have put the industry in deep trouble?

Some other half-truths need spotlighting:

We are told that the domestic apparel industry, in which average hourly earnings in 1969 were $2.31, cannot be expected to compete successfully with imports produced by labor which is paid as little as the U.S. equivalent of 26 cents per hour (in Hong Kong) or 39 cents per hour (in Japan). But how is it that, if the domestic textile and apparel industry cannot compete with low-wage foreign labor, net profits after taxes of domestic U.S. firms producing textile mill products were reported at 7.9 per cent on equity last year, and that U.S. firms producing apparel and other finishel products reported an 11.9 per cent profit figure?

To be sure, wage rules are the element in costs of production which over a period of time, play a role in the ability of the industry of one country to compete in the market of others. But it is precisely the object of a sensible trade policy to promote international competition on the basis of all elements of comparative advantage—capital, resources, geography, and technology, as well as wage rates.

Then it is suggested to the inflation-conscious American consumer that imports tend to increase domestic prices. These days even the kiddies know better than to swallow this kind of breakfast cereal. If textile producers don't want high domestic prices, why do they want import quotas, whose major purpose is to keep domestic prices higher than they would otherwise be?

We are also told that protection is now necessary for our industries because other countries are not treating us fairly—in fact, playing us for an easy mark in the commercial field. Of course, foreign countries still have trade barriers, and Japan has been notably laggard in liberalizing trade and investment. But so do we have trade barriers—witnes our oil quotas; our agricultural import restrictions—including sugar, dairy products, and meat; our "escape clause" actions on glass, carpets and rugs and pianos. The problem is to bring all these barriers down at home and abroad. The way to get them down is through multilateral and hardheaded negotiation. Legislating textile quotas won't do this and isn't intended to.

In 1970, as a result of a persistent U.S. effort to promote liberal world trade, tariffs and trade barriers among the industrialized countries have been brought to their lowest point in the twentieth century and the economies of the industrialized countries are more open to one another than ever before in history. International monetary cooperation has been intensified in a way that is little short of revolutionary. Interdependence among the countries of the non-Communist world in trade, money and investment is far greater than at any time in the past. The way to destroy this structure is to let loose a new trade war a la 1930's. Action to legislate quotas on textiles, given the pressure for restrictions on many other products, could do just that.

If apologists for the current bill would simply tell us, "Boys, if you want to continue along the path of freer trade you'd better knuckle under to the textile industry because that's where the political clout is," this would at least have the merit of candor. But it would probably also be wrong. The administration and the unfortunate (and probably uncomfortable) Chairman Mills of the Ways and Means Committee are now discovering to their sorrow that the ancient art of log-rolling is still alive and well on Capitol Hill. The trade bill reported by the committee would provide legislative quotas not only for textiles and apparel, but also for shoes. In addition, quotas become the mandatory technique for dealing with petroleum imports and a "trigger" mechanism is established to spread quotas all over the landscape, whenever imports become a little uncomfortable to domestic producers. A chain of retaliation and counter-retaliation would be almost certain to follow. The resulting damage to the international economic and monetary structure so painstakingly built up over a quarter of a century would be something to behold.

The risk is great. And the main argument for running this risk—that the U.S. textile industry needs protection—won't hold water. If these simple facts can be brought to the fore of public debate, we may yet be saved.

THE INTERNATIONAL LABOR ORGANIZATION

The SPEAKER pro tempore (Mr. ECKHARDT). Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 60 minutes.

Mr. BINGHAM. Mr. Speaker, earlier today the House very briefly considered the conference report on the State, Justice appropriation bill. The entire proceeding lasted only 9 minutes, and many of us who would have liked to discuss a particular matter in connection with that report were unable to do so. Therefore, I have asked for this time to make some remarks on the subject and to introduce a pertinent document.

The conference report presented a very serious question about the United States and its relationship to the International Labor Organization. If we are going to leave the International Labor Organization, we should certainly not take that step in the course of a 9-minute debate on the floor of the House in which the matter certainly was not made clear to the many Members. Such a step would have great impact not only on our relationship with the ILO but also with other international organizations.

We have sharply criticized the Soviet Union and France in the past for refusing to pay legal assessments to the United Nations. Now by action of the Congress we are apparently putting the United States in exactly the same position.

I think it is especially regrettable that such action should be taken in such a hasty manner without giving the Members of the House an opportunity to ask questions or to discuss the pros and cons of the proposed cut.

Mr. FASCELL. Will the gentleman yield?

Mr. BINGHAM. I will be glad to.

Mr. FASCELL. I want to thank the gentleman for raising that issue and say that I agree with him that it would have been extremely important to have clarified in the RECORD at the time the conference report was being considered the exact course and direction which we in the United States are seeking to take with respect to action. It would indeed be unfortunate if what occurred would be misinterpreted, and I think that is entirely possible. Therefore, I welcome the gentleman from New York taking this time to help make some additional record with respect to the fact that a reduction in an appropriation bill dealing with the U.S. contribution to an international organization, specifically, the ILO, does not in itself necessarily mean that the United States as a participant in the ILO is changing its course and direction in the ILO. I think we are both agreed, are we not, that this would indeed be a backhanded way of approaching the simple question as to whether or not the United States should continue its participation in the international organization. I certainly agree

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further with the gentleman that if that is the decision we are trying to make, we certainly do not want to make it in a backhanded way by making it appear that we are withdrawing our financial support, freely and duly entered into under a treaty requirement, and that we would be reneging on our contribution in a fashion which we criticize very strongly when other nations do it. The problem itself concerning the participation in international organizations and the use of international organizations as a political forum is as old as the international organization itself is. The United States has to face the problem, it seems to me, quite squarely. We pointed out in previous committee reports in the Committee on Foreign Affairs, particularly with respect to the international organization, the ILO and others, where it is obvious that the communist bloc are using all international forums as political forums as well as technical forums. Therefore, it is incumbent on the United States to deal with both problems intelligently and not be piqued at a time when a political question has arisen that does not suit our purposes and then respond in this fashion which can be misinterpreted and which does not really solve the basic political problem.

So I commend the gentleman for raising the issue, and I trust we will meet the problem squarely.

Mr. BINGHAM. I thank the gentleman from Florida very much for his contribution. I would like to ask him from his background—and he conducted a splendid investigation of this very problem in 1963—does the gentleman have any information that the American labor movement today and the American business community today, both of which are represented in the ILO, want the United States to withdraw its participation?

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Mr. FASCELL. I have no information to that effect, and I think it would just be horrendous, frankly, to think that the United States would withdraw from the ILO and just turn over to the Communists the whole political apparatus and technical capability of it and leave this political apparatus available to them. I do not see how you can win a fight by walking away from it. It seems to me that the free labor movement and the concepts it has been able to bring throughout the free world as contrasted with the very opposite that exists in Communist nations is a very important contribution to the world community. If because of our pique and because the Communists have been able to make political capital and use the organization as a political forum we would turn our back on it, we would just be giving up the fight. I do not think American business or American labor intends to do that.

Mr. BINGHAM. I thank the gentleman.

Mr. MIKVA. Mr. Speaker, will the gentleman yield?

Mr. BINGHAM. I am glad to yield to the gentleman from Illinois.

Mr. MIKVA. I would like to commend the gentleman from Florida for his remarks and especially commend the gentleman from New York in the well for his zeal in bringing this matter at least into a little bit better focus than it would have been last week where but for his diligence this whole thing might have been allowed to slide through in a manner which would have made it appear that we were in fact using the back door approach in an appropriation conference report to withdraw from the only international organization which deals with the problems of organized labor and particularly which deals with the problems of the free world labor movement.

When I was a practicing lawyer I was involved in the labor movement and spent a good deal of my time representing them. I know of no large international union which would have liked to see us, as the gentleman from Florida suggested, turn our backs on the problems of our communications with other countries that do have free labor movements and are wrestling with problems with those that do not have it. And, certainly, we ought not to learn bad habits from our adversaries by using this kind of approach.

Mr. Speaker, I wish to commend the gentleman upon his approach in seeing to it that the back door is closed, because if we have anything to say about the International Labor Organization, we ought to stand up and say it directly.

Mr. BINGHAM. I appreciate the gentleman's remarks.

The proceedings in the House earlier today on the conference report on the Departments of State, Justice, and Commerce, the judiciary, and related agencies appropriation bill for the current fiscal year were as follows: The conference report was very briefly explained by the chairman of the subcommittee concerned, Mr. ROONEY of New York; Chairman ROONEY then yielded for a question to the gentleman from New Jersey (Mr. FRELINGHUYSEN) and a brief colloquy ensued on the elimination from the appropriation bill of the U.S. assessment for the International Labor Organization; then, although it was clear that other Members wished to discuss the ILO matter—one such Member, who had a few years ago conducted a thorough congressional investigation of the ILO, was conspicuously on his feet for that purpose—Chairman ROONEY abruptly moved the previous question on the conference report without endeavoring to ascertain whether other Members wished to ask questions or make comments upon it. The conference report was then adopted by voice vote. The entire matter, involving a multibillion-dollar appropriation bill and including controversial items, was disposed of in 9 minutes.

Members of the House and other readers of the CONGRESSIONAL RECORD would be mistaken if they were to conclude from this truncated consideration that Members on parts of the conference report. Two of the House managers, including Chairman ROONEY, themselves disagreed as to two of the items.

A considerable number of Members, including several members of the House Foreign Affairs Committee, disagreed with the action taken in deleting funds for the $3.75 million remaining unpaid of the U.S. Government's obligation for dues to the ILO. There was a widespread feeling that, if the U.S. Congress is seriously concerned about the manner in which the ILO has been conducting its business, a thorough investigation of the organization and U.S. participation in it should be conducted by the appropriate substantive committee, similar to the investigation conducted by the Subcommittee on International Organizations, chaired by Mr. FASCELL of Florida in 1963. If the decision was that the United States should withdraw from the ILO, then that decision should be implemented in an orderly way.

In his remarks, Chairman ROONEY made it clear that he did not contest the validity of the assessment levied against the United States; he did not deny that this constituted a binding international obligation; he merely restated his view that the ILO had become Communist-dominated and that the United States should not pay anything further on its assessment. Chairman ROONEY made it clear that it was his desire that the United States should terminate its membership in the organization.

The action of the House in concurring with the conference report as a whole certainly cannot be construed as in any way supporting the view of the gentleman from New York that the United States should pull out of the ILO. It would, indeed, be absurd to contend that any such far-reaching step, having implications for the future of international organizations in general, and destructive of the hopes of the peoples of the world that eventually a structure assuring world peace through law can be constructed, could be decided by the House of Representatives in 9 minutes.

It is true, as Chairman ROONEY stated on the floor, that Mr. George Meany, president of the AFL–CIO, was highly critical of the ILO in the hearings held before Mr. ROONEY's subcommittee in July, particularly because of the use by the Communists of the ILO as a propaganda forum, and because of the appointment by the new Director General of a Soviet citizen as an Assistant Director General. However, Mr. Meany did not propose that the United States stop paying its dues; instead, he stated, in reply to a question on this point—

> I think that is a decision which will have to be made a little farther down the road.

In August of this year the council of the AFL–CIO issued a statement on the ILO situation which expressed great dissatisfaction but certainly did not indicate the view that the United States should repudiate its financial obligations to the ILO or withdraw from the organization. The text of that statement follows:

STATEMENT BY THE AFL–CIO EXECUTIVE COUNCIL ON INTERNATIONAL LABOR ORGANIZATION

The AFL–CIO is proud of the long record of constructive support the American trade union movement has given to the International Labor Organization. Samuel Gompers, first President of the American Federation of Labor, presided over the group which 51 years ago, during the Paris Peace Conference after World War I, laid the groundwork for launching the ILO. Since the United States joined the ILO in 1934, U.S. trade union representatives have played a leading role in the work of that organization.

The AFL–CIO has supported the ILO for four basic reasons:

First, because of its unique tripartite structure, the ILO is the only international body in which trade union representatives have an equal voice with employer and government representatives in policy determination.

Second, the ILO was set up for the purpose of improving the conditions of work and life of workers all over the world. This is a goal to which the American trade union movement has always been committed.

Third, despite very modest resources, the ILO has made a significant contribution toward enhancing the welfare of workers. It has made its mark by adopting international labor standards on such matters as maximum hours of work, minimum wage-fixing machinery, occupational health and safety, social security and in a host of other areas of vital concern to workers. In recent years, ILO technical cooperation programs have aided social and economic progress in developing countries.

Fourth and most important, the ILO has espoused principles and policies dedicated to the protection of basic human rights. These are best summed up in the following excerpt from the Declaration of Philadelphia, adopted by the ILO in 1944:

"All human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;

"The attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy."

In line with these basic principles of human rights, the ILO has adopted international conventions on forced labor, freedom of association and the right to organize and discrimination in employment.

But the AFL–CIO has become increasingly concerned that while the ILO still pays lip-service to human rights, it has, in fact, turned a blind eye to the most blatant violations of basic freedoms in its member countries. What happened, and did not happen, at the ILO annual conference last June demonstates this dangerous trend.

A major item on the agenda of that conference was "trade union rights and civil liberties." A ringing resolution unanimously adopted resulted from discussion of that vital issue:

Asserted that the absence of civil liberties removes all meaning from the concept of trade union rights;

Expressed deep concern about repeated violations of trade union rights;

Urged efforts to strengthen machinery for securing national observance of ILO principles concerning freedom of association and trade union rights; and

Called for comprehensive ILO studies with a view to considering further action to secure full respect for trade union rights and related civil liberties.

Yet, that same conference rejected rather mild resolutions calling for restoring trade union rights under the dictatorial regimes of Spain and Greece.

Even more shockingly inconsistent with the ILO's professions of devotion to freedom and democracy was its failure even to consider the depredations against trade union rights and civil liberties under the despotic regimes in the Communist countries. Indeed, the ILO has increasingly adopted a head-in-the-sands approach to Communist violations of human rights as if to ignore them would somehow obliterate them.

The result of this inconsistency between lofty ILO principles and the completely contrary practices under Communist totalitarianism which the ILO has failed to challenge has been to weaken the forces of freedom and strengthen the undemocratic elements of all stripes in the ILO.

Moreover, the ILO's failure even to criticize government domination of the so-called "trade unions" in the Soviet Union and the other Communist countries has tended to place a false stamp of legitimacy on those compliant tools of totalitarian governments. Only U.S. trade union representatives at ILO meetings have called attention to the fact that the so-called "trade unions" of the USSR are bossed by Alexander Shelepin, one-time head of the Soviet secret police.

While the ILO has ignored the most flagrant violations of liberty and human rights in totalitarian countries, it has permitted its annual conferences to be taken over by Communists and their allies for unrestrained political attacks on Israel, a bastion of democracy and social justice in the Middle East, and the United States. Year by year, the Communist elements have been gaining greater influence and control of the ILO almost without resistance from free trade union and other democratic elements.

The AFL–CIO cannot, in good conscience, and will not complacently accept this transformation of a once worthy organization into an instrument for spreading Communist propaganda and attacks on genuine freedom and democracy. Neither in the ILO nor anywhere else will we accept a double standard involving favored treatment for one group of totalitarian countries, the Soviet Bloc.

The AFL–CIO will take whatever means available to it in order to have the ILO return to its historic mission of defending human rights and worker's freedoms everywhere in the world.

In his comments on the floor, Chairman ROONEY stressed that the Senate had voted 49 to 22 in favor of the Senate Appropriations Committee's recommendation for cutting off further payments to the ILO. It should be noted, however, that the Senate was told that Mr. Meany had urged the cutoff of funds, which was certainly not true insofar as the record of the hearings before Mr. ROONEY's subcommittee is concerned. Also, the Senate was apparently not advised during the debate that the administration had taken a firm stand against the proposed cut. The letter to that effect from Deputy Under Secretary Macomber was inserted in the RECORD for August 24, 1970, at page 29879, without being read to the Senate.

If at this time the House were debating the issue of whether the United States should withdraw from the ILO, I would point out that this would be playing right into the hands of the Communists and would leave them free and unopposed to use the organization for their own purposes.

However, this is not the issue. The issue at this point is very simply whether the United States should deliberately default on an admittedly legal financial obligation. By making such a decision, the Congress is putting the U.S. Government squarely into the category of the Soviet Union and France as deliberate defaulters on financial obligations within the U.N. system of organizations. How often have we heard Members of the House castigating those two nations for refusing to pay their assessments when the U.N. undertook a course of action they disapproved of. Yet, now the Congress is putting the United States in the position of doing precisely the same thing.

I profoundly believe that by this action U.S. influence in the ILO will be impaired, rather than increased. Our representatives at the ILO will be embarrassed and handicapped. The many member States who constitute the large majority of the ILO membership and who belong neither to the western bloc nor to the Soviet bloc will deplore and disapprove the action and will be the less likely to follow the U.S. lead on substantive issues as they arise.

I hope that the action taken by the House today will be corrected in the not too distant future. If the United States is to remain as a member of the ILO—and I am sure this is the view of the administration, of the American business and labor community, and of the great majority of this House—the assessment for the current year will eventually have to be paid.

PRESIDENT NIXON AND BLACK AMERICA

The SPEAKER pro tempore (Mr. ECKHARDT). Under a previous order of the House the gentleman from Illinois (Mr. ANDERSON) is recognized for 30 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, this weekend—October 10 and 11—the executive board of the Black Silent Majority Committee will be meeting at the Washington Hilton here in Washington. Almost 50 black leaders from 30 States will be gathering for a major conference. I would like to take this opportunity to welcome this organization of black leaders to our Nation's Capital City.

I think this meeting provides an appropriate time to look at the record of the Nixon administration as it relates to black America. As I shall point out, this administration has demonstrated deeper concern than many realize for America's 22 million black citizens. President Nixon was expressing his true conviction when he stated in his inaugural address that—

> To go forward at all is to go forward together. This means black and white together as one nation, not two.

This administration is committed to racial equality in the United States, as a look at the record will show. Several areas in particular stand out. These include the number of black appointments, inauguration of the Philadelphia plan, the proposed changes in welfare and manpower training, the proposal for health insurance for poor families, the increase in food assistance programs, the increased support for black colleges, efforts at school desegregation, and support for the Equal Employment Opportunity Commission.

BLACK APPOINTMENTS

President Nixon has appointed 64 percent more nonwhites to top executive positions than the Johnson administration. Among the many prominent blacks appointed to executive positions by President Nixon are Washington Mayor Walter Washington, EEOC Chairman William Brown, Assistant Labor Secretary Arthur Fletcher, Assistant HUD Secretary Samuel Jackson, James Farmer at HEW, and many others.

The same survey shows that at the level just below that of Cabinet secretary, there are approximately 102 Presidential appointees of nonwhites. This is an increase of five over the Johnson administration.

Mr. Speaker, I noticed in last Friday's Washington Post that although the number of Government employees is falling slightly, nevertheless, the number of minority group members in the Government is increasing. During a 2-year period—November 1967 to November 1969—Federal jobs declined by 16,400 in 41 metropolitan areas. During the same 2-year period, however, minority group employment in Federal jobs rose by about 4,600.

SCHOOL DESEGREGATION

In the area of school desegregation, this has been a very significant year. The volume of school desegregation this year has been greater than that for any year since the Supreme Court ordered the end of dual school systems in 1954.

Three hundred and thirty six school districts were desegregated in 14 States this year under voluntary plans. Of these, 227 eliminated segregation completely, and 109 were taking important steps toward complete desegregation in the next school year. It should be pointed out, Mr. Speaker, that these 336 school districts compare with only 55 during the previous school year, so I think that this indicates that progress is being made.

A look at the percentage of black students in the 11 States still containing the greatest number of dual school systems show additional progress. In 1967, almost 14 percent of the black students in these States attended majority white schools. This figure rose to 20 percent in 1968, and estimates for this year range from 33 to 40 percent. This is real progress, and I think that we can all be pleased that this process is occurring with a minimum of disorder.

EQUAL EMPLOYMENT

Under the Nixon administration, the Equal Employment Opportunity Commission is taking a new policy direction. Under President Nixon, the budget for the EEOC has been more than doubled when compared to the Johnson administration. William Brown, chairman of the Commission, has pointed out that many of the EEOC's problems could be traced to the meager budgets provided during the Johnson administration. President Nixon has sought to alleviate this problem by greatly expanding the EEOC budget. In fiscal year 1968, the last full year of the Johnson administration, the EEOC had a budget of $6.6 million. In the next fiscal year, 1969, the budget was $9.1 million. In fiscal year 1970, the first full year of the Nixon administration, the EEOC had a budget of $13.5 million, more than double the amount spent during the last year of the Johnson administration.

PHILADELPHIA PLAN

The Philadelphia plan, which was developed by the Nixon administration, is designed to increase minority group employment in six higher paying construction trades in the Philadelphia metropolitan area. Because of the success of the Philadelphia plan, it is being expanded to 18 other cities in the United States. Although the problem of minority group employment is certainly a national problem, the Federal Government is encouraging hometown solutions to the problems that exist in each area. The Federal Government will only intervene when a local area is recalcitrant.

WELFARE AND MANPOWER TRAINING

Mr. Speaker, most of us are well aware of the innovative proposal for welfare reform that has been made by President Nixon. This proposal would create a national floor of income support for poor families, yet it would also contain the incentive for work. The proposal would also put an end to the incentive for families to break up, which has been a characteristic of the current system.

The President has also proposed a revision in the manpower training programs of the Federal Government. The bill supported by the President would consolidate all job training programs of the Federal Government within the Labor Department, would give States greater control in administering Federal programs, and would create a national job computer bank.

Both of these bills need to be enacted, Mr. Speaker. Whether the Democrat-controlled Congress will do so, however, is another question.

HEALTH INSURANCE FOR THE POOR

President Nixon proposed basic reforms in health care for poor families in June of 1970. The reforms will be proposed in amendments to the Family Assistance Act by mid-February of 1971. Although the proposal is still to be worked out in detail, certain objectives will be kept in mind.

First, the Nixon proposal will not discriminate against the working poor and low-income male-headed families like the present medicaid system does.

Second, the new proposal would be graduated with respect to contributions from families participating in the family assistance program.

Third, it would establish national standards for eligibility which would be uniform and would provide a reasonable Federal floor of health benefits for poor families with children.

FOOD ASSISTANCE

When President Nixon delivered his message on hunger to Congress on May 6, 1969, only 6.9 million poor Americans were participating in the food stamp program or the commodity distribution program. A year later, there were 10 million Americans participating in these two programs. The $1.25 billion budgeted for food stamps in fiscal year 1971, it should be noted, is a seven-fold increase over the $185 million spent in 1968. In addition, the administration has established a Food and Nutrition Service within the Department of Agriculture to administer nutrition programs for families and children.

SUPPORT FOR BLACK COLLEGES

I noticed last week, Mr. Speaker, that HEW Secretary Elliott Richardson announced that the Office of Education will provide more than $30 million in supplemental funds this calendar year to assist predominantly black colleges and black students.

This action came following a letter last month from President Nixon to the President of a black college in Ohio, in which he stated:

> The present financial plight of many of our small and the overwhelming majority of our predominantly black colleges clearly demonstrates to me that the Federal Government must strengthen its role in support of equal educational opportunity.

CONCLUSION

This administration has clearly shown through sound but progressive and forward-looking programs that it is concerned with black America and its problems. To charge, as one person has, that this administration can be "rightly characterized as anti-Negro" is simply foolhardy and not based in fact. This administration is making progress in the civil rights field, and it is progress that we can be proud of as Americans.

Mr. RAILSBACK. Mr. Speaker, I wish to join with my colleague from Illinois in welcoming the executive board of the Black Silent Majority Committee to Washington, and I also want to commend him for pointing out the progressive record of the Nixon administration with regards to black America. This group of black leaders from all over America is a real credit to our country. As Clay Claiborne, the national director of this committee, has said:

> We believe that black revolutionaries and militants, upon whom some segments of the news media seem to dote, are not dedicated to progress for our people.

I was particularly pleased to read their statement of beliefs, which says in part:

> There are millions of black Americans who work every day, keep their kids in school, have never been to jail, pay their taxes, shop for bargains, have never participated in a riot—but are being shouted down by a handful of black militants. We have organized to raise the voice of patriotism and responsibility for the black silent majority and to demand the rightful share of national attention due us as a majority within the black minority.

Mr. Speaker, I believe that this group of black Americans more truly represents the spirit of black America than revolutionary groups like the black panthers. Although they may get more publicity in the long run, it is groups like the Black Silent Majority Committee which make the lasting contribution to America.

Mrs. MAY. Mr. Speaker, I wish to join with my distinguished colleagues from Illinois in welcoming the Black Silent Majority Committee's Executive Board to our Nation's Capital this weekend. I too noticed their statement of beliefs, and I was particularly pleased to note that section which said:

> We organize to urge blacks to participate in the electoral process and to develop a strong two-party system within black voting districts, supporting only candidates who adhere to the principles of constitutional government, law, order, and justice.

Mr. Speaker, I ask for unanimous consent to include in the RECORD the complete text of the statement of beliefs issued by the Black Silent Majority Committee. Statement of beliefs follows:

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A Statement of Beliefs of the Black Silent Majority Committee

We believe that progressive, upstanding but silent citizens—by the millions—are being shouted down by a handful of militants who do not represent us. Therefore, we organize to help raise the voice of patriotism and responsibility and demand the rightful share of national attention due us as the majority within the black minority.

We believe that revolutionaries and militants—upon whom the news media seem to dote—are not dedicated to progress for our people but their own aggrandizement and to violent overthrow of the American way of life. Therefore, we organize, as all patriotic Americans are learning they must, to speak out, using the press, television, radio, newsletters and all other means available in this bountiful land.

We believe that the principles of constitutional government should be taught and instilled in black communities by black citizens and that this is the only way to break the "welfare-liberalism" stranglehold that has bound too many blacks for too long.

Therefore, we organize to urge blacks to participate in the electoral process and to develop a strong two-party system within black voting districts, supporting only candidates who adhere to the principles of constitutional government, law, order and justice.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Ohio (Mr. Miller) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. Charles Gould, the publisher of the San Francisco Examiner, has noted the following facts about America:

> More than 196 million of our people will not be arrested. More than 89 million married persons will not file for divorce. More than 115 million individuals will maintain a formal affiliation with some religious group. More than 49 million students will not riot or petition to destroy our system. More than nine million of our young men will not burn their draft cards.

TOWARD PEACE IN VIETNAM

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New York (Mr. Robison) is recognized for 15 minutes.

Mr. ROBISON. Mr. Speaker, it may be useless to speculate concerning the specifics of any new peace initiative for Vietnam the President may announce tomorrow night. However, there is no harm done in stating what someone in my position might like to see included in any new Nixon effort to get the stalled Paris peace talks off dead center.

I do not think there can be any doubt about the President's desire to end this long and difficult war at the earliest possible date. There are some who do not think it matters how the conflict ends—they would end it now, or even have had it end on yesterday if that were possible, in effect letting whatever might then happen in Southeast Asia just plain happen.

The President sees things differently, and I do, too.

Perhaps we should never have gotten into this war—I would not argue that question on the affirmative side—but I do think it important, now, how we get out of it.

What is the present situation?

The President is pursuing his program of "Vietnamization"—that being a program of gradual withdrawal of the U.S. military presence in Vietnam, the pace thereof being geared to the growing military capabilities of the South Vietnamese, themselves. As I saw for myself, on my visit to Vietnam earlier this year as a member of the House Select Committee on United States Involvement in Southeast Asia, this program is going well; so well, indeed, that as I have said before it was probably the judgment of a majority of the members of that select committee that the pace of our withdrawal could, and should, be accelerated. Unfortunately, that judgment was not made a matter of record in our report and remains, at the moment, largely an unspoken one except insofar as some of us have alluded separately thereto.

On August 3 of this year, I went into this question in some detail in a major House speech aimed at developing congressional support for the President's policy. On the same day, I introduced House Concurrent Resolution 698—later reintroduced with some additional cosponsors as House Concurrent Resolution 703—the thrust of which was to have Congress enact, as it has never yet done, what amounted to a national policy for terminating this war via the "Vietnamization" route without, at the same time, putting the President as Commander in Chief into a straitjacket by mandating withdrawal deadlines upon him, through a cutoff of funds or otherwise, that would require him to complete our withdrawal under any and all circumstances.

The attempt to legislate such a mandated deadline was, as I saw it, the fatal defect in the so-called McGovern-Hatfield amendment that eventually garnered only 39 votes in the other body. And House Resolution 1000—which may or may not be offered later this week as an amendment to the forthcoming Defense appropriation bill—has the same defect and, if so offered, will be defeated for basically the same reason.

By contrast, what I proposed was congressional approval of "Vietnamization" on an irreversible basis—even as various administration spokesmen have described the President's policy—so that Congress would share with the President the burden of the failure of that policy should it go sour, which is by no means a remote possibility. And, going further, I suggested that we should set forth—if we could find a consensus as to applicable dates—the sense of Congress as to the timeframe within which we thought the President might try to complete our withdrawal. This, you see, is far from mandating a comparable time frame but would, instead, leave the President the flexibility most of us feel he needs under the circumstances while yet, at the same time, giving him new leverage to put on the Saigon government—by providing it with a clearer understanding of our intentions than it now seems to have, so it can no longer avoid the hard decisions that are essential to a future for South Vietnam without American manpower for its defense.

There were two parts to the timeframe I suggested—as reference to my proposal will disclose. First, I urged a sense-of-Congress endorsement of May 1, 1971—next year—as the terminal date for any and all participation by U.S. forces, anywhere in former Indochina, in ground combat activities. This is a wholly reasonable and, in my view, fully attainable goal, in light of the marked progress made by South Vietnamese ground forces. Second, I suggested a sense-of-Congress endorsement of July 1, 1972, as the tentative terminal date for all other U.S. combat-support activities anywhere in former Indochina. Again, this is a reasonable—and attainable—goal in my view, though I recognize full well that it is too long a time in the eyes of some, too short a time in the eyes of others.

For present purposes, however, I believe the President would do well tomorrow night to announce his determination—absent any escalation of the conflict by the enemy in South Vietnam or elsewhere in Indochina—to withdraw all U.S. ground forces from the area by July 1, 1971. I would prefer a May 1, 1971, date for reasons already mentioned, but Mr. Nixon may feel an additional 2 months is indicated, in order to be on what he considers the safe side.

But the importance of the July 1, 1971, date is that the same would constitute a partial, affirmative response to that portion of the Vietcong's recently revised peace proposals—now on the table at Paris—which now demand a total, unconditional withdrawal of all allied troops from Vietnam by July 1, 1971, in return only for a Vietcong promise not to attack during such withdrawal period.

That proposal is manifestly unacceptable—the current U.S. position, as I understand it, being one of offering a gradual withdrawal of all U.S. and allied forces over a 12-month period following some sort of settlement of the basic issues in dispute, the rate of our withdrawal being paced to North Vietnam's own troop withdrawals.

To complete the picture, the prior Vietcong demand was simply for an unconditional withdrawal of all foreign forces from South Vietnam, with no date being set.

So, withdrawal dates are now separately important to the Communist side in this struggle—and, if the President would go at least as far as I suggest in this connection it might be the key needed to further open the door to meaningful negotiations toward a cease-fire that would seem to be the logical, next-step in any settlement process.

Surely, a standstill cease-fire by all forces in Vietnam would seem to be a desirable thing, and I would thus also hope to see such a proposal made by the President tomorrow night. As we also know, the idea of a cease-fire has strong public and editorial support around the Nation, and was recently endorsed by about a dozen Members of the other body

XUM

which grouping included—if one has to use the terms—"hawks" as well as "doves" over Vietnam.

In point of fact, in my aforementioned proposal I urged Presidential initiatives to achieve a negotiated settlement, including efforts to arrange a cease-fire, precisely because—as I pointed out on August 3—our mere withdrawal, via "Vietnamization" or any other route, is not a satisfactory policy in and of itself. This is because, while it forecasts the end of participating in the conflict directly on our part, it forecasts an ongoing war for the Vietnamese on both sides of this tragic struggle, and would demand of us—unless we were no longer willing to bear it—a continuing, heavy burden of providing armaments and logistical support to whatever free government may survive in Saigon.

So, a settlement of the central, political issues underlying this war is our major necessity—and should be our prime goal—for that is the only way it will truly be ended.

If a cease-fire moves us in that direction—and, for the first time in their revised proposals, the Vietcong now seem interested in such a proposition—then let us move, if we can, that way. But, in attempting to do so, let us also fully understand exactly what it is we are talking about when we say "cease-fire." Are we talking "cease-fire" or are we talking "settlement"? There is a difference—to which difference I should think the President will have to address himself tomorrow night—and that difference is well spelled out in the following editorial from the September 14 issue of the Washington Post, which I now set forth as the concluding item in these remarks:

VIETNAM: "CEASE-FIRE" OR "SETTLEMENT?"

Any number of thoughtful (and not so thoughtful) people have decided that the best way to end the war is not Vietnamization, which only ends American participation, and still less victory or an abrupt and arbitrary withdrawal, but a standstill cease-fire. Some dozen senators of almost every political persuasion have pressed that proposition upon the President, prompted by some old Vietnam hands now out of the government and some prestigious voices in the press. Notwithstanding recent experience with this sort of thing in the Middle East, where the boundary lines are clearly fixed and violations readily detectable, the idea is earnestly put forward as the answer to everything: it would stop the shooting and therefore the bloodshed; it would jar loose the impasse at Paris and lead inexorably to substantive talks about a real solution. It would do all this, it is argued by the more serious proponents, because it would oblige both sides, in working out the terms of a cease-fire and a standstill, to face up to the realities of the current balance of force and effective control in South Vietnam. And this would lead logically to a realistic discussion of how political power should be parcelled out in a final settlement.

So what the serious advocates are really proposing are not just means but ends as well and that, of course, is the rub. For you have only to look down the list of those senators who have endorsed the idea in a letter to President Nixon to know that Senators Mansfield and Goldwater and Jackson and Dole and Prouty and Scott could not possibly agree on the settlement they want in Vietnam, leaving aside whether the Nixon administration and the Thieu government and the North Vietnamese could all agree. This is precisely why the public discussion of a cease-fire in Vietnam has gotten nowhere: none of the participants is prepared to admit that when he is talking cease-fire he is really talking settlement. The proponents simply go on demanding that the administration try it, and the administration goes on saying that it has tried it—and they are talking about entirely different things. So the first step perhaps is to define what people mean when they say "cease-fire."

What the Nixon administration and the Thieu government mean is a cessation of hostilities, a kind of freeze in position, which means freezing Mr. Thieu in his position as President, and accepting, at least by implication, the writ of his government throughout the country until free elections establish some other regime. This is what has been "tried" and it should surprise nobody that it does not interest Hanoi very much. What other advocates of a cease-fire have in mind is something quite different; it too would freeze the situation but it would acknowledge Communist control of those areas which were in fact beyond the effective control of the Saigon government. It would begin the process of parcelling out ultimate power, and the sponsors of this approach make no secret of their belief that it would lead inevitably to some measure of Communist participation in the central government in Saigon, coalition if you will.

Needless to say, not all the Senators who signed the letter to Mr. Nixon would concede for a moment that they are proposing anything that could lead to a coalition government in Saigon, and their letter doesn't even suggest this. But the fact remains that this is what many backers of this move, including the men who drafted the letter, think would probably result from a standstill cease-fire of the sort they have in mind. It is what makes the idea appealing to such men as Cyrus Vance, to name one who had a hand in shaping it; the whole point is that it would force a realistic acknowledgement of the actual state of affairs on the ground in South Vietnam.

So when you boil it all down, there is not much magic in this catch-all word "cease-fire" unless it comes accompanied by some explanation of what one is prepared to settle for in the end. This is not to say that it shouldn't be tried—only that it shouldn't be tried in a dishonest way since it could be dangerous to initiate negotiations on the terms of a cease-fire without having to come to grips with the question of terms for a settlement. It is hard enough to envisage a cease-fire, even if both sides could accept the principle.

There are no front lines in this war; a heavy proportion of the casualties are inflicted by mines and booby traps; a large part of the conflict is psychological—and how do you enforce a cessation of terroristic threats designed to condition men's minds? If you can somehow cool the conflict in Vietnam, what about Cambodia? And what of the areas in that middle category which are controlled neither by Saigon or the Vietcong, or are controlled by one during the day and the other at night. Finally, consider the possible impact on the war of merely negotiating over a standstill cease-fire based on actual conditions in specific hamlets, villages, districts and provinces. The incentive could be all the greater upon both sides to intensify the war in an effort to show who has the upper had in Village X or District Y. Thus a proposition advanced in the interest of lowering the level of violence might well raise it, with all that this could mean for the pace of Vietnamization and American withdrawal.

The first question to be answered by those who would press this proposition on President Nixon, therefore, if they are really serious about it, is what they are prepared to accept in the way of final settlement terms that North Vietnam could reasonably be expected to accept.

For our part, it is hard to see a settlement which does not accept some variation on a coalition regime, some sharing of power, some achievement by both sides of some part of their original objectives. So there is much to be said for a standstill cease-fire, if the Saigon government can be persuaded to accept the idea and the Nixon administration can be persuaded to take the risks involved. The alternative, is to proceed at a steady rate with Vietnamization and American withdrawal from the war. There is a limit to what we can do for the Thieu government and, as we have repeatedly argued, we have about reached that limit. If the Saigon regime wants to push on alone it is welcome to try. The worst course of all would be to tie ourselves tightly to the unrealistic settlement terms of a Saigon government which rejects the notion of a compromise settlement and expects us to hang around for as long as it takes to make sure that it won't have to compromise at all.

NATURAL GAS SHORTAGE

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Texas (Mr. PRICE) is recognized for 15 minutes.

Mr. PRICE of Texas. Mr. Speaker, I rise to introduce a bill to deregulate the price of natural gas at the wellhead. I believe such a step to be a necessary prerequisite to the effective revitalization of the domestic natural gas industry and the elimination of the serious natural gas shortage that presently faces our country.

The magnitude of this shortage has only recently been brought to the public eye. Last April, Columbia Gas System Inc., the Nation's largest gas utility, announced it could not meet all the demands of either the utilities supplied by its pipeline subsidiary or the customers of its own retail companies. Since then utility after utility has announced restrictions despite some near-frantic efforts to contract for gas from Canadian pipelines and for liquefied natural gas which can be shipped by tanker from Algeria and Venezuela. This has shocked the public into awareness of a problem the petroleum industry and concerned parties have been predicting for some time.

It seems that until quite recently it was assumed that because the United States had large reserves of fuel in the form of coal and oil shales and nuclear fuels—provided the breeder reactor could be perfected—there was little prospective shortage of available, useful energy. Recent warnings, however, have been heard that the United States may be passing from a situation of energy abundance into one of energy scarcity. If so, this would have grave prospects for this Nation's future ability to further increase the standard of American living and to further increase the productivity of the American economy.

As for electricity, some local shortages occurred during peakload periods in the summer and winter of 1969. The pattern repeated itself this past summer; in fact, the Washington area was hit by brownouts just last week. The forecast for this winter is grim, particularly in the heavily industrial Midwest and Northeast. Many utilities in those areas have already notified long-standing industrial customers that they may get less gas this year than they did last year, a year when many of them were already being shorted.

Most experts in industry and Government agree that a shortage of major proportions seems all but unavoidable this winter when home heating demands put a heavy strain on resources. Shortages are likely to be aggravated in those densely populated parts of the country that use large amounts of electricity but where land is not readily available for either large new powerplants or transmission lines. Some shortages may also occur because of shortfalls in the supply of coal and because of changes from coal to oil or gas occasioned by increasingly severe limitations upon the permissible amount of sulfur in coal burned in powerplants.

In the wake of these shortages, many experts foresee temporarily closed factories and laid-off workers, the burning of more expensive and more polluting fuels like coal and heavy industrial fuel oil, more fuel imports, and lost profits for gas pipelines and utilities.

Mr. Speaker, the full burdens of the shortage in natural gas has yet to fall. Present conditions will get worse for at least three reasons:

First, a 4- to 6-year leadtime will be required to develop new gas reserves.

Second, consumer demand for natural gas is growing faster than our population, because more and more people are turning to natural gas for thier energy requirements. From 1960 to 1968, the population increased 11 percent, while our energy requirements increased 41 percent, and this trend is still continuing. Since natural gas presently supplies 35 percent of our energy requirements, it seems inevitable that as our population increases during the next 4 to 6 years, the consumer demand for gas should increase at an even faster rate.

The third reason why the natural gas shortage promises to become more severe is that new antipollution laws will serve to widen the gap between the supply and demand for natural gas even further. Some States have already restricted the use of some fuels that significantly contribute to air pollution, such as coal and heavy industrial fuel oil. These laws affect natural gas the least, because it pollutes less than all presently available fuels. As a consequence of these laws, consumer demand for natural gas will be driven to even higher levels.

Perhaps the problems inherent in the natural gas shortage can best be appreciated in a historical perspective.

The natural gas shortage has not developed suddenly—the first signs became apparent about 15 years ago. They were recognized, unfortunately, by so few policymakers that virtually nothing was done to prevent the situation that exists today. The seeds of today's problems, however, were sown even further back than the middle fifties. The lingering effects of the great depression in the early thirties. A business recession in 1938, and large-scale discoveries of new reserves together caused the price of domestic crude oil to be severely depressed immediately prior to World War II. It was frozen at that depressed level during the war by price controls imposed by the Federal Government.

With the lifting of the price controls in mid-1946, the price of domestic crude oil began to advance. Between early 1946 and early 1957, the average price rose from $1.22 to $3.17 per barrel. At the same time, the demand for domestic crude oil was growing at a healthy rate of 4.3 percent a year. Together, these developments caused the wellhead value of the Nation's petroleum production to increase nearly fourfold. As a result, the industry had a rapidly expanding financial base from which to generate capital funds. And it also had the incentive to reinvest those funds in the search for more domestic oil and gas.

During this period, as gas consumption by residential and industrial users and private and commercial transportation became more and more common throughout the Nation, field prices of natural gas became a national issue rather than a merely regional concern. Political pressures for price regulation multiplied, and consumer interests focused on the goal of establishing some form of Federal control of natural gas field prices.

Economic growth and political pressures collided in the Supreme Court's landmark decision in the 1954 Phillips Petroleum case. In the Phillips case the Supreme Court interpreted certain long-disputed wording in the Natural Gas Act of 1938 to mean that the Federal Power Commission was required to regulate field prices for natural gas. As a result of that decison, thousands of individuals, independent producers and major producers of natural gas were subjected to Federal price regulation. This was the only competitively produced commodity to be so regulated by the Federal Government, except in time of war.

The Supreme Court decision startled the Congress, the Federal Power Commission, and the Nation's petroleum industry. Congress had explicitly set forth in the Natural Gas Act of 1938 that the provisions of the act were not to apply to the production and gathering of gas. The Federal Power Commission had long claimed that it had no legal jurisdiction over gas production. And the petroleum industry, an industry providing a tremendously vital and important commodity at reasonable cost to millions of Americans, found itself faced with new forms of Government control.

At the outset, it was predicted in some quarters that FPC regulation of natural gas was impractical and unworkable. These dour predictions were borne out by bitter experience. For 6 years—1954 to 1960—producer prices were regulated by the FPC on an individual cost-of-service-utility basis. This method of valuation proved inappropriate and too burdensome to practically administer. In 1960, the "area rate" approach was adopted. This approach, in effect, was based on a cost-of-service utility concept for an area rather than an individual producer. It has also proven to be impractical and burdensome. And its adverse impact is evidenced by the fact that the U.S. natural gas reserves to production ratio has fallen from 20.0 in 1960 to 13.3 in 1969.

Regrettably, Mr. Speaker, the mistakes of the past tend to perpetuate themselves. Thus, although the Federal Power Commission recognizes the grave problems inherent in the natural gas shortage and is attempting to institute actions to alleviate them, there does not seem to be a clear willingness on the part of the FPC to question the feasibility of continuing the regulatory structure itself.

I think this is a basic question, indeed it is the most basic public policy question surrounding the natural gas shortage. I say most basic because the facts of the matter indicate quite persuasively that the natural gas pipeline industry has encountered adverse trends in recent years, not because prices received have been so high as to inhibit sales. Rather, it has encountered adverse trends because prices have been too low to generate the level of activity needed to maintain industry vitality. What I am referring to, of course, is that incentives for exploration, drilling, and other pipeline activities have become critically weakened.

In an effort to facilitate a resolution to this problem of revitalization I joined last August in sponsoring legislation expressing House concern for the domestic natural gas shortage, urging the Federal Power Commission to raise the price for natural gas, and expressing the belief that natural gas prices should ultimately be determined through a free market system. Senators JOHN TOWER, CLIFFORD HANSEN, and BOB DOLE, introduced the resolution in the other body and my distinguished colleague from Texas (Mr. BUSH) and I worked together on the resolution in the House. We were most gratified that almost 20 other Members from both parties asked to become a part of this effort to establish a needed equilibrium in the nautral gas industry.

At present, the FPC is attempting to respond to the natural gas shortage with the means it has at its disposal. In September the FPC approved a settlement which increases rates in the Hugoton-Anadarko area. And although this does not constitute any major breakthrough in prices paid to natural gas producers, it does represent a step in the right direction.

More significantly, the FPC based its decision on settlement terms agreed to by the producers making the sales, the purchasers, distribution companies and most of the other parties involved. The success of this approach may herald new breakthroughs in the FPC's ratemaking practices, although a test case may be filed to determine whether ratesetting by rulemaking as opposed to ratesetting by hearing is legally permissible.

Mr. Speaker, looking at the natural gas problem in perspective, it seems to me that the resolution of the problem depends on how quickly and how extensively our domestic resources can be developed. I say domestic because utilizing foreign supplies is obviously no answer. The FPC has recently approved proposals to use liquefied natural gas imported from Algeria and Venezuela to augment domestic supplies in periods of peak use this winter. Yet while there is a great deal of political flack over increasing do-

XUM

mestic prices in any amount, not much thought is being given to the fact that the delivered cost of imported liquefied natural gas is two to three times the cost of domestic natural gas. Liquefied natural gas imports from Canada or Alaska would also cost the American consumer two to three times what domestically produced natural gas would cost.

Based on the economic realities of the situation I believe that increasing domestic incentives is the most pragmatic way to fulfill both consumer and producer needs. Moreover, I believe that the best and quickest way for the gas industry to be given the proper incentives for revitalization is for the FPC to phase itself out of the regulatory market with as much dispatch as is possible. This is why I am introducing a bill to deregulate the wellhead price for natural gas. I believe this goes to the very heart of the cause of the natural gas shortage. For if the price of natural gas is established in the open market rather than by administrative decree, this single factor may well provide sufficient incentive for domestic producers to initiate a healthy amount of exploration and development of this Nation's domestic natural gas resources.

In a general sense, this bill provides that certain provisions of the Natural Gas Act relating to rates and charges shall not apply to new sales of natural gas in interstate commerce for resale by persons engaged solely in the production, gathering, and sale of natural gas. More specifically, the major elements of the bill are: first, prices of new gas contracted for between the independent producer and the pipeline company would no longer be determined or approved by the Federal Power Commission. Second, all prices and escalations would be stated in definite prices per unit terms. Third, provisions of gas purchase contracts other than price would continue to be regulated by the FPC.

Mr. Speaker, I urge my colleagues to examine most carefully the terms of this proposal. While it may not be the final answer to the problems of the natural gas industry, I do believe it to be of singular value with regard to the pricing of natural gas. In my opinion, FPC regulation of natural gas prices has created more problems than it has solved. As I see it, the regulatory system should be scrapped, not face-lifted.

ABA AMENDMENT TO S. 30, THE ORGANIZED CRIME CONTROL ACT OF 1970

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Arizona (Mr. Steiger) is recognized for 10 minutes.

Mr. STEIGER of Arizona. Mr. Speaker, the Organized Crime Control Act of 1970, S. 30, on September 23, 1970, was reported favorably by the Judiciary Committee, as Members know, and in all likelihood it will be taken up on the floor shortly. The bill, as amended by the Judiciary Committee, is a good and extremely important bill. I look forward with great pleasure to supporting its passage by the House. I intend, in addition, to offer an amendment which would further strengthen and improve the bill. Today, I would like to call that amendment to the attention of Members, and solicit their support for its adoption.

The amendment relates to title IX, which defines as unlawful the use of specified racketeering methods to acquire or operate commercial organizations in interstate commerce. When S. 30 was passed by the Senate on January 23, 1970, title IX provided two types of remedies for violations of its provisions: the criminal penalties of imprisonment, fine, and forfeiture, and the civil, equitable remedies brought to their fullest development under the antitrust laws. Both the criminal and the civil remedies could be invoked, under the Senate bill, only in proceedings commenced by the United States.

On June 17, 1970, I appeared as a witness in support of S. 30 during the hearings held by Subcommittee No. 5 of the Judiciary Committee. At that time, I brought forward the suggestion that there be added to title IX the additional civil remedies now provided by law for antitrust cases—see Congressional Record, page 27738, August 6, 1970. In addition to equitable relief at the instance of the Government, which title IX already authorized, those antitrust remedies include treble damage actions by private citizens who have been harmed in their businesses or property, suits for equitable relief for private citizens threatened with such injury, and actions by the United States for actual damage to its business or property.

The suggestion very rapidly attracted widespread support. The American Bar Association, for example, when it examined S. 30 in detail and adopted a resolution strongly urging its swift enactment, recommended specifically that title IX be amended "to include a provision authorizing private damage suits based upon the concept of section 4 of the Clayton Antitrust Act"—Congressional Record, pages 25190–25191, July 21, 1970. International Intelligence, Inc., commonly known as Intertel, a corporation managed by prominent organized crime experts and engaged in providing assistance to businesses in protecting themselves from racketeer infiltration, has offered its support for S. 30 and title IX in particular, and has warmly endorsed the idea of adding private civil remedies modeled on the Clayton Antitrust Act—id., page 28585, August 12, 1970.

Authorization in title IX of the entire range of civil as well as criminal remedies, private as well as public, is very important to the effectiveness of the title. The value of private treble damage and equitable suits has been amply demonstrated in the antitrust field, where they have been extremely effective in preventing and rectifying economic harm to individuals and companies, and in furthering the public purpose of preventing improper commercial practices. That entire gamut of civil remedies is still more important in title IX where corrupt and violent means are used to take over legitimate businesses, than in the antitrust laws, where the unlawful means used are less reprehensible and seldom violent. There can be no reason not to provide the individuals harmed by title IX violations, as well as the general public, with the additional protection those further remedies would provide.

I am extremely pleased, therefore, that the Judiciary Committee has approved that basic concept and added to S. 30 a provision authorizing treble damage actions by private persons injured in their businesses or property by title IX violations.

The bill reported by the committee, however, does not do the whole job. It makes the mistake of merely authorizing such suits, without resolving the many and varied procedural questions which will arise in its application, and without granting to the courts the full extent of remedial authority contained in the comparable antitrust laws.

The existing antitrust laws, for example, contain specific provisions dispensing with the monetary floor on district court jurisdiction and dealing with the statute of limitations for damage actions, suspension of the period of limitations during proceedings brought by the United States, collateral estoppel or establishment of prima facie evidence through a prior judgment, and intervention in private actions by the United States. (See 15 U.S.C. 15–33.)

Experience with the antitrust laws demonstrates the necessity of including similar provisions in title IX. Indeed, it is no overstatement to say that the civil remedies provided by title IX, although they give the appearance of strength, largely depend for their effectiveness on the clarity and contours of the title's procedural provisions. The same factors which led to the inclusion of those procedural provisions in the antitrust laws are applicable, with still more force, to title IX. The unlawful conduct which the private plaintiff must prove often involves interstate operations, which can raise problems of venue and service of process. The task of proving the unlawful conduct often is difficult and involves protracted pretrial proceedings. The relationship between proceedings brought by the United States and proceedings brought by private plaintiffs is a complex and subtle one, often requiring deferment of one proceeding or another for a period of time. Before we deny to a victim of organized crime the procedural advantages given to every antitrust plaintiff, we must recall the very difficult position in which a citizen who sues under title IX will place himself. He may be one individual suing an arm of La Cosa Nostra, and the subject of his lawsuit may be its corrupt involvement in a major industry. He will need not only courage, but every procedural and remedial advantage which the law already, as a matter of public policy, grants to plaintiffs in antitrust cases.

I hope that, if title IX were enacted with the Judiciary Committee amendment only, the courts would construe that amendment as importing into title IX all the procedural provisions of the antitrust laws which logically could be so applied. There are, however, because of the differences between the antitrust

XUM

laws and title IX, some specific provisions of the Clayton Act which might be difficult to apply under title IX unless they had been adapted or modified to an extent which is more appropriately done by the Congress than by the courts. Furthermore, even if the more easily transferred provisions were eventually held to govern proceedings under title IX as well as under the Clayton Act, judicial resolution of those procedural issues would involve extended litigation and delay, making title IX much less effective than if such procedures were provided on its face. In addition, the Judiciary Committee version of title IX fails to provide not only the necessary procedural provisions but also two important substantive remedies included in the Clayton Act: compensatory damages to the United States when it is injured in its business or property, and equitable relief in suits brought by private citizens.

The amendment to title IX which I have suggested authorizes the entire range of civil remedies and specifies the procedural rules to be followed in civil cases under title IX. The provisions of the amendment cover the specific subjects dealt with in the comparable provisions of the antitrust laws, including the period of limitations and its suspension, intervention, and several other procedural issues. There could, of course, be reasonable difference of opinion as to the exact manner in which those procedural issues should be resolved, but the provisions of my amendment were adapted from those in the Clayton Act, in light of the purposes of title IX, and I am convinced that they would serve well.

My amendment, in addition, went beyond the antitrust laws to include a witness-immunity provision authorizing the courts in private civil cases under title IX to grant immunity on request of a private litigant, if the approval of the Attorney General were granted. Authorizing immunity grants in private civil cases, on request of private litigants, goes beyond the ABA and other endorsements my proposal has received and it is not clear that it is needed to the same degree as the other provisions. I plan, therefore, to exclude that provision from the amendment which I shall offer to title IX when S. 30 comes up on the floor, in order that there need be no controversy concerning its acceptability. For the same reason, I have substantially reworked the amendment. The gentleman from Virginia (Mr. POFF) and the gentleman from Minnesota (Mr. MCGREGOR), both of the Judiciary Committee, have given their valuable support to the concept of broad equitable and damage remedies under title IX, and those gentlemen have introduced identical clean versions of S. 30 containing remedial and procedural provisions based upon my amendment but substantially refining it—CONGRESSIONAL RECORD, page 31914, September 15, 1970, Mr. POFF, H.R. 19215; id., page 32347, September 17, 1970, Mr. MCGREGOR, H.R. 19340. The provisions which they have introduced are excellent, and the amendment I shall offer to S. 30 on the floor will reflect their provisions.

It is essential, Mr. Speaker, that our establishment of private civil remedies under title IX, upon which the Judiciary Committee has agreed and with which I think every Member of the House can agree, be done comprehensively and in a manner which will make those remedies truly effective. My amendment will do exactly that, and will insure both that title IX is a powerful weapon against organized crime and that individual persons can receive the justice that they deserve in our courts. I ask the support of every Member for this amendment, and hope we can all work together to see that it is adopted.

The amendment follows:

AMENDMENT OFFERED TO S. 30 BY
MR. STEIGER OF ARIZONA

On page 56, line 11, insert ", without regard to the amount in controversy," after "jurisdiction".

On page 56, lines 23 and 24, insert "subsection (a) of" after "under" each time it appears.

On page 56, line 23, strike "action" and insert in lieu thereof "proceeding".

On page 57, lines 6–16, strike subsections (c) and (d) and insert in lieu thereof:

"(c) Any person may institute proceedings under subsection (a) of this section. In any proceeding brought by any person under subsection (a) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing of immediate danger of irreparable loss or damage, a preliminary injunction may be issued in any action before a determination thereof upon its merits.

"(d) Whenever the United States is injured in its business or property by reason of any violation of section 1962 of this chapter, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by it, and the cost of the action.

"(e) Any person who is injured in his business or property by reason of any violation of section 1962 of this chapter may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.

"(f) The Attorney General may upon timely application intervene in any civil action or proceeding brought under this chapter, if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if it had instituted the action or proceeding.

"(g) A final judgment or decree rendered in favor of the United States in any criminal or civil action or proceeding under this chapter shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

"(h) Except as hereinafter provided, any civil action under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (d) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of section 1962 of this chapter the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsections (c) and (e) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter."

On page 57, line 22, strike "action under section 1964 of" and insert in lieu thereof "civil action or proceeding under".

On page 58, lines 4 and 5, strike "instituted by the United States".

On page 58, line 14, insert "civil or criminal" before "action".

On page 58, lines 19 and 20, strike "any civil action instituted under this chapter by the United States" and insert in lieu thereof "any civil action or proceeding under this chapter in which the United States is a party".

On page 59, lines 17 and 18, strike "prior to the institution of a civil or criminal proceeding" and insert in lieu thereof "before he institutes or intervenes in a civil or criminal action or proceeding".

On page 63, lines 6, 7, 11, 17, and 24, and in lieu thereof "civil or criminal action".

On page 63, lines 6, 7, 11, 17, and 24, and on page 64, line 2, strike "case" each time it appears and insert in lieu thereof "action".

U.S. INVOLVEMENT IN MEDITERRANEAN—U.S. ABANDONMENT IN CARIBBEAN

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Louisiana (Mr. RARICK) is recognized for 15 minutes.

Mr. RARICK. Mr. Speaker, our President has now completed his junket to the Mediterranean and we hope his peace, at whatever the cost, objective will prove fruitful.

Many have known for years that the imperialistic enemy we repeatedly encounter around the world has been Soviet Russia. Many feel that a victory policy in South Asia would be just as forthright a deterrent against increased Soviet aggression as can be accomplished by creating a new battlefield in the Middle East. In fact, has not the no-win policy in Vietnam induced the tensions in the Middle East by showing a soft line against communism?

With critical elections just weeks off, the American people can well expect to be barraged with solutions from the peace efforts. Yet, the President himself indicated that throughout his trip he encountered fear from large and small NATO allies that the United States would shirk its treaty agreements. Were such fears not based upon our policy and activities in Vietnam?

While many of these same European allies reject our stand against communism in the Far East, their analysis of our no-win policies in South Vietnam prompts their questioning our reliance in treaties in other areas.

The President has given assurance that we will stand firm—at least in the Middle East it seems—but European diplomats, trained to evaluate politicians' public relations statements, can be expected to minimize what we say but rather judge our credibility by what we do.

Mr. Nixon's advisers have shown great concern over the Mediterranean situation. As we hear assurances of honoring our commitments to NATO, there are those Americans who would rather hear reassurances of commitments to our people. Communist aggression and imperialism are not limited to the Middle or Far East.

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We are advised that the Russian Navy is building surface and submarine facilities in Cuba. The Caribbean is far more important to us of the United States than is the Mediterranean. Yet, we see little concern and no show of force off our continental shores.

We are not advised of any treaties which obligate us to any of the countries of the Middle East. This perhaps explains the political rationalization being fed to our people that our presence is necessary to protect the oil routes to the European nations who are members of NATO and Japan.

Interestingly, the oil imports from the Middle East are only 3 percent of U.S. consumption, while the imports to Japan are 85 percent, and to the NATO countries in excess of 75 percent of their total consumption. Yet, neither Japan nor our NATO allies have made any show of force to protect their vital oil sources.

Arab States of the Middle East are the major oil producers. Israel does not produce any great amounts of oil and if the defense of the oil fields in the Middle East is regarded as the motivating influence, are we supposed to believe that our presence in the Mediterranean is to protect the Arab nations?

To the converse, the largest oil-producing States in the United States are Louisiana, Mississippi, and Texas, which produce thousands of times more oil than Israel, yet with the Russians building a naval base just off our shores, are not the oil interests, especially the offshore operations, endangered right here at home?

We hope that President Nixon's junkets may have helped relieve world tension as we continue to hear about peace through nonaggression agreements with the Soviets, but we might ask, "Mr. President, how can the American people gain by bringing peace to the world while being threatened in our own back yard?"

I include related newspaper clippings, as follows:

[From the Washington Evening Star, Oct. 5, 1970]

NIXON WARNS ON MEDITERRANEAN—VIETNAM POLICY SHIFTS HINTED WITHIN A WEEK

(By George Sherman)

DUBLIN.—President Nixon closed his eight-day European trip today after warning that he is ready to raise the American military ante in the Mediterranean.

At the same time there were hints of a fresh move on Vietnam.

The President and his wife boarded Air Force One and left for Washington early this afternoon.

* * * * *

READY FOR INCREASE

Nixon issued his warning on Mediterranean military strength in a speech to the press yesterday in Limerick.

"The 6th Fleet presently can meet its mission," he said. "We shall be prepared to increase its strength in the event that its position of over-all strength is threatened by the actions of other powers who take another position in the area than we do."

The warning was aimed directly at the Russians, whose fleet in the Mediterranean now roughly equals in numbers—if not in power—the 45 ships of the 6th Fleet.

"In the event that other forces, naval forces, should threaten the position of strength which the 6th Fleet now enjoys," repeated Nixon, "then the United States must be prepared to take action necessary to maintain that over-all strength of the 6th Fleet."

DIDN'T TALK ON VIETNAM

Although the President's 20-minute talk to the press avoided any discussion of Vietnam, there were strong feeling that something is happening.

White House Press Secretary Ronald L. Zeigler, speaking with calculated inscrutability, said Ambassador David K. E. Bruce, the chief U.S. negotiator in Paris, had new general instructions to get the peace negotiations off "dead-center."

Though the American negotiator had no "massive set of new instructions," Zeigler said, "obviously every time Ambassador Bruce and the President get together to talk about Paris, they don't stay in the same position in that discussion as they were in maybe two months ago."

From Zeigler's careful comments it appears that the U.S. negotiating team has gone back to Paris to continue probing whether the Viet Cong hints of a cease-fire and negotiations over American prisoners of war mean anything more than meets the eye.

But that is only part of the game. Almost universal suspicion exists that the President is preparing a major new peace initiative which he will present to the American public, perhaps within the week. If so, the review with Bruce was part of the preparation, and his general instructions for Paris were part of a holding action.

Experienced observers of the fine art of Vietnam policy-making find new evidence every day of an imminent move. Obviously, timing is important, if only because of the fast-approaching November elections.

The latest hint is Ziegler's word yesterday that the President has decided to hold a meeting sometime next week with the bipartisan leadership of Congress to report on his eight-day journey and the Vietnam discussions in Ireland.

* * * * *

Currently the administration is pledged to have 150,000 more troops out of Vietnam by May—50,000 of those to be out by mid-October.

What remains unknown here is whether Nixon intends to tie an accelerated troop withdrawal to a larger peace initiative proposing an immediate cease-fire.

POLICY SINCE MAY 1969

Previously the Nixon policy, enunciated first in May 1969, has been a cease-fire as part of an over-all agreement for mutual withdrawal of U.S. and North Vietnamese troops from the south.

Aides in the administration have argued that a simple cease-fire, without any over-all agreement, would simply be cosmetic. Since Vietnam is largely a guerrilla war, fought without set lines of battle; a cease-fire would be unenforceable and a boon to the Viet Cong unless tied to a mutual withdrawal of outside forces—so the argument has gone.

* * * * *

The focus of Nixon's remarks yesterday was on the Mediterranean and the Middle East, and the Nixon talks with the two elder potentates on either end of the Mediterranean—Marshal Tito in Yugoslavia and Gen. Franco in Spain.

Using carefully chosen words and speaking sternly, Nixon gave the firmest commitment yet issued to uphold the American role in NATO and U.S. military strength in the Mediterranean.

"I stated categorically to the NATO commanders," he said of his conversations in Naples last week, "and I do hereby publicly state again that the United States will under no circumstances reduce unilaterally its commitment to NATO."

Any reduction of NATO forces, he continued, would only take place through consultation and agreement with the allies and on a basis of what the forces "lined up against the NATO forces" might do. In other words reduction would be "mutual basis" with the Soviet bloc.

HITS HARD ON DOCTRINE

The President hit hard the persistent theme that this Nixon doctrine for paring unilateral American obligations is not a prescription for withdrawing from the world.

The purpose of the Nixon doctrine is to provide a policy under which the United States can meet its responsibilities more effectively by sharing those responsibilities with others, he said.

The President was reacting throughout his trip, he said, to fears among large and small NATO allies about an American retreat. Comments by political figures in the United States, Nixon said, had led to the belief "that the United States might not meet its NATO responsibilities and was on the verge of reducing its contribution to NATO."

* * * * *

TIES STRENGTH TO TURMOIL

Throughout his remarks Nixon tied this need for military strength to the threat of constant turmoil in the Middle East. He aimed harsh words at the Palestinian guerrillas and the radical regimes in Syria and Iraq. The Mideast threat came, he said, "From irresponsible radical elements which might take action which in turn would set . . . in motion . . . a train of events that would escalate into a possible confrontation between major powers in the area."

Nixon chose not to be pessimistic on the outlook for peace in the Middle East. In every country he had visited, Nixon said, there had been agreement that the Israeli-Arab cease-fire must continue. He could say "unequivocally" that neither Israel nor the Arab states could gain by breaking the cease-fire.

He said he believed that an extension of the 90-day cease-fire, now scheduled to end Nov. 6, was the "proper course and that it has considerable chance to succeed."

[From the Washington Post, September 26, 1970]

SOVIET SUB BASE REPORTED IN CUBA

(By Peter Braestrup)

The Nixon administration said yesterday that the Soviet Union may be building a strategic submarine base in Cuba and warned that any such development would be viewed "with the utmost seriousness."

A White House official, who declined to be quoted by name, was asked about reports of a permanent Soviet missile-submarine base under construction at Cienfuegos, a deep-water port on Cuba's south coast.

"We are watching it very closely," the official said. "The Soviet Union can be under no doubt that we would view the establishment of a strategic base in the Caribbean with the utmost seriousness."

He said United States policy was still that enunciated during the 1962 Cuban missile crisis by President Kennedy, who said that peace could be maintained if Soviet offensive weapons were removed from the Caribbean and kept out in the future.

"We are watching the events in Cuba," the official said. "We are not at this moment in a position to say what they mean . . . Nothing very rapid and dramatic is likely to occur."

The White House warning followed earlier reports of a visit to Cuba by a small Soviet task force, including a guided missile cruiser, a guided missile destroyer, a tanker and a submarine tender. The tender has been in Cienfuegos harbor several weeks.

Earlier yesterday, in response to newsmen's queries, Jerry W. Friedheim, deputy assistant secretary of defense for public affairs, said that Soviet ships had moved three heavy barges and other equipment into Cienfuegos harbor during the past few weeks. This, he said, "makes us feel they may be seeking sustained capabilities in the area."

Asked if the Cienfuegos installation might serve as a Caribbean base for the Soviet Yankee-class submarines (similar to U.S. Polaris submarines), Friedheim said:

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"We can't rule out that possibility."

The barges brought into Cienfuegos, Friedheim said, were first transported aboard a Soviet amphibious ship across the Atlantic, then off-loaded, possibly in Havana, and towed around the island to Cienfuegos.

"We are not sure that they are building a submarine support facility," Friedheim said in part. "There are some new naval facilities in the Cienfuegos area within the past several months. Some of the Soviet support ships have visited there. There are no submarines there at present."

As Friedheim noted, Daniel Hankin, his immediate superior, said in a Monday speech that the Soviet Union was showing an "apparent intention" to be able to conduct "sustained surface and submarine operations in the Caribbean."

The administration has been worried for several weeks about Soviet activity in the Caribbean which some officials linked to Soviet testing of U.S. resolve in the Midcast crisis.

On Sept. 16, administration officials in Chicago briefed Midwest editors on foreign affairs including the latest Soviet Navy visit to Cuba. (Under the briefing ground rules, the officials could not be identified).

If the Soviet Union started operating strategic forces such as Polaris-type submarines, the officials said, the Nixon administration would study this very carefully.

If the United States put its Polaris submarines into the Black Sea (which borders on the Soviet Union), the officials said, the newspapers would describe it as provocative, although there is no legal restriction on such a U.S. move.

But both Americans and Russians, the officials said, have to decide whether they want to hold back on some legally-permissible military moves, in the interests of some longer-term settlement, or to press every advantage they have a legal right to take.

At that time 10 days ago, the administration officials reported it was not clear what the Russians were up to in the Caribbean.

According to several U.S. Navy sources, the Russians do not need a secluded base like Cienfuegos unless they plan to support a permanent naval presence or stockpile sophisticated equipment.

The U.S. Navy has such bases at Rota, Spain, and Holy Loch, Scotland.

Like the U.S. fleet, the Soviet Navy has support ships which can repair and replenish supplies at sea. Big Soviet Navy ships can stop off at Havana where some 30 well-equipped Soviet trawlers sortie forth to gather intelligence as well as fish.

The current Soviet visit to Cuba is the third reported so far. A seven-ship squadron sailed into Havana in July 1969. Shadowed by a U.S. destroyer, a seven-ship force, including a submarine tender and two Diesel-powered submarines visited Cienfuegos last May 15.

The Soviet forays into the Caribbean—long regarded by the U.S. as an American lake—have paralleled a growing Soviet naval presence in the Mediterranean and the Indian Ocean.

"Ships of the Soviet navy are systematically present in all oceans, including the areas of the NATO navies," declared Adm. Sergi Gorshkov, commander of the Soviet navy, last July. "Such a situation is undoubtedly not to the liking of imperialist hawks."

[From the Washington Evening Star, Oct. 1, 1970]

The 6th Fleet To Remain at Increased Strength

(By Orr Kelly)

The U.S. 6th Fleet in the Mediterranean will remain at its present strength—the strongest since the Berlin crisis of 1960–61—for the "foreseeable future," a Pentagon spokesman said today.

Four additional destroyers, including two equipped with missiles, joined the 6th Fleet today, Pentagon press spokesman Harry W. Friedham announced.

Part of their duties will be to provide anti-submarine protection for the third carrier, the John F. Kennedy, that joined the fleet last week, he said.

The Kennedy was accompanied by two destroyers when she entered the Mediterranean. Already on duty there were the carriers Independence and the Saratoga.

Asked how long the three carriers would remain in the Mediterranean, Friedham said:

"There they are and I know of no plan to divert any. On the other hand, I know of no plans to leave them there permanently."

He declined to comment on reports from newsmen traveling with President Nixon that the buildup of the 6th Fleet is designed as visible proof that the Nixon doctrine does not imply a total withdrawal of American power from the world.

Not since the Berlin Crisis of 1960–61 has the U.S. had more than two carriers assigned to the 6th Fleet on a regular basis. Occasionally there have been three in the sea while one relieved another on station.

Friedham said the destroyers that arrived today had been under way for several days and were dispatched as part of the U.S. reaction to the Jordanian crisis.

But he declined to relate their presence in the Mediterranean now to any specific event. He described their arrival as a "precautionary augmentation of our fleet to meet all contingencies."

In addition to the Kennedy and the destroyers with her, five other ships also have reached the Mediterranean in the past few days. These include a helicopter carrier, the Guam, carrying about 1,500 Marines, and smaller ships.

[From the Washington (D.C.) Evening Star, Oct. 1, 1970]

Pravada Raps U.S. "Fuss" Over Sub Base in Cuba

Moscow.—The Soviet Communist party newspaper Pravda accused the United States yesterday of raising a "racket" over alleged Soviet plans to build a strategic naval base in Cuba. Pravda charged that this is part of a campaign to create "military hysteria" among Americans.

Pravda did not deny that the base is being built, but chided Washington for organizing "too light-mindedly noisy propaganda campaigns."

The newspaper apparently was referring to a statement by a White House official last week that the United States would view "with utmost seriousness" the installation of a Soviet naval base in Cuba.

The official cited evidence that the Soviets might be building a permanent base in Cuba to service their missile-carrying submarines.

Pravda cited the "fuss" over the base as one of a series of official U.S. efforts to "artificially aggravate the international situation, create an atmosphere of military psychosis among the ordinary Americans and exert political pressure on the capitals of some other capitalist states."

[From the Manchester (N.H.) Union Leader, Oct. 5, 1970]

Implications in Castro's Visit

Washington.—Cuba's Fidel Castro is coming to the U.S. later this month to engage in some anti-American brinkmanship.

The "unwelcomed" Communist dictator will be visiting New York to attend the United Nations General Assembly and to conduct a series of private meetings with Russian and Soviet Bloc leaders.

Castro's appearance at the UN will be his first since the summer of 1962 when he visited New York before the October missile crisis.

Although it was not discovered until later Castro used his 1962 UN trip as a cover for meeting with Russian officials to make final arrangements for shipment of Soviet missiles to Cuba.

The coming UN visit of Castro could be just as omnious for the U.S. Foreign diplomats in Havana have warned American Intelligence officials that Castro plans to use the UN to try to force a diplomatic confrontation with the U.S. over bases in Cuba.

Their unconfirmed report is that Castro will deliver a major address demanding that the U.S. withdraw its marine and naval forces from the big Guantanamo, Cuba, naval base.

Since even Castro knows he has little chance of getting the UN to support such a move, American authorities here believe he will use the UN maneuver to justify the establishment of a Soviet naval base at Cienfuegos on the Southern coast of Cuba.

In private conversations with foreign diplomats in Havana, Castro has flatly stated that "our ports will always be open to Soviet naval ships regardless of what the U.S. says or does. I am going to ask the UN to guarantee this."

Castro also hinted to these diplomats that a new diplomatic-military confrontation with the U.S. was brewing and that both the Soviet Union and Cuba are making preparations for it.

White House warning—Significantly, Nixon Administration officials raised the specter of a possible new Cuban missile crisis almost at the same time Castro was talking to the foreign diplomats in Havana.

In a background briefing, White House aides made it clear that a crisis could develop if construction of Soviet naval facility at Cienfuegos, Cuba, continues.

The intriguing part of this carefully planned White House warning was its timing. Construction work on the Soviet base, which began in February, was confirmed last July by U.S. Intelligence officials.

Until this week, official policy has been to say nothing publicly about the Soviet base on the grounds it was a matter of discussion in the Strategic Arms Limitations Talk (SALT) underway with the Soviet Union.

Members of the Joint Chiefs of Staff, who expressed growing concern over the Soviet base last month, were privately informed by the White House that the matter was a "diplomatic rather than military question at this time."

The Presidents' military advisers were told that the Cienfuegos base issue was included in the SALT negotiations on the recommendation of Henry Kissinger, the President's chief foreign policy adviser. Why Kissinger made the recommendation is not known.

The secrecy ban on information gathered about the Soviet base was lifted by the White House after the Defense Department reported that several members of Congress had learned about it and demanded that something be done to counter the threat.

Several members of the House Armed Service Committee headed by Representative Mendel Rivers (D–S.C.) warned the White House that they planned to reveal details of the Soviet base if the Administration did not do so.

Just what President Nixon plans to do about the new Soviet base is still not clear. Members of Congress are being told that the development is still being treated by the President as a diplomatic and not military issue.

Whether Castro's coming visit to the U.N. will change this White House position is being watched closely here. It should also indicate whether the Nixon Administration believes the strategic U.S. base at Guantanamo is negotiable.

Note: Extra security precautions will be in force during Castro's three-day visit. U.S. officials are now discussing how to handle possible demonstrations by Anti-Castro Cubans in the New York area.

Cuban fallout—American Intelligence authorities say there are no Soviet submarines in Cienfuegos now, but a submarine tender is there along with three other vessels. All of the ships are part of a Soviet naval task force, including nuclear submarines that arrived in the Caribbean late in August . . . Russia now has 13 operational Polaris-type nuclear submarines. During the 1962 Cuban missile crisis, they had none . . . Cuban refugees report that the Russians are now equipping Castro's MIG–21s with short-range missiles which could be used against U.S. ships in the Caribbean area . . . Several mysterious large boxes have been unloaded from Soviet ships recently at Casablanca, Cuba, according to eyewitness reports of Cuban refugees. Each box was more than 10 meters in length, 3 meters in width, and 4 meters in height and was taken aboard flatbed trucks to the mountainous part of Pinar Del Rio province. The trucks were part of a Soviet military convoy.

THE CASE FOR PUBLIC SERVICE EMPLOYMENT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Michigan (Mr. O'Hara) is recognized for 30 minutes.

Mr. O'HARA. Mr. Speaker, last weekend's news of the new heights reached by the unemployment rate is not news which anyone will greet with enthusiasm. Whatever may be the alleged political effect of high unemployment, its real effect on the lives of the American people is traumatic. All of us—including those who are not actually displaced, are nonetheless affected, and affected in serious ways by high unemployment.

Unemployment statistics are soon felt in retail sales figures, in the income of farmers and service employees and professionals who still have their jobs, and in the tax revenues available to our communities. Unemployment, Mr. Speaker, is nobody's idea of good news.

It is therefore with some grim satisfaction that I am able to announce that, while these new figures were coming out, the House Education and Labor Committee was also concluding months of work on manpower legislation by reporting, with impressive bipartisan support, a bill which will, as urged by the administration, restructure the manpower service delivery systems of the Nation, but which will also, as urged on this side of the aisle, create a massive program of public service employment.

H.R. 19519, ordered reported by the committee last week enjoys, as I have said, strong bipartisan support. The distinguished chairman of the committee, the gentleman from Kentucky (Mr. Perkins, the able ranking minority member, the gentleman from Ohio (Mr. Ayres), the gentleman from New Jersey, (Mr. Daniels), who serves as chairman of the subcommittee which conducted weeks of extensive hearings, the gentleman from Wisconsin (Mr. Steiger), and many of the rest of us have joined our names to this bill. Of 19 sponsors, H.R. 19519 has 10 Democrats and nine Republicans.

Furthermore, Mr. Speaker, although this bill was developed in a Democratically controlled House and committee, it enjoys the unequivocal written endorsement of the Nixon administration, expressed in a letter from Secretary of Labor Hodgson, received the day we reported the bill to the House. I ask unanimous consent, Mr. Speaker, that the letter be printed at this point in the Record.

U.S. Department of Labor,
Office of the Secretary,
Washington, September 30, 1970.
Hon. Carl D. Perkins,
House of Representatives,
Washington, D.C.

Dear Chairman Perkins: It gives me great pleasure to advise you that the bill entitled the Comprehensive Manpower Act, introduced today by Congressmen O'Hara, Quie, and Steiger, has the full support of the Administration. This bill is a responsible response to President Nixon's request for comprehensive manpower legislation and is consonant with the basic principles of manpower program reform he proposed.

You may be sure that this bill has my warmest personal support.

Sincerely,
J. D. Hodgson,
Secretary of Labor.

In spite of this impressive backing—which crosses partisan lines, and the line of separation between the executive and the legislative—H.R. 19519 is going to need all the help it can get if it is going to become law now, when its impact is most needed by the growing hundreds of thousands of unemployed Americans. The other body has given its approval to a bill not wholly dissimilar to H.R. 19519 and we can, if we all make a concerted effort, still secure its approval by the House and work out whatever has to be worked out in a committee of conference before we recess later this month.

Mr. Speaker, unemployment is not a problem of a few large cities. Nor is it a scourge visited on one part of the Nation alone. Its impact is felt in urban, suburban, and rural districts. It is a problem in North and South, East and West. Common Cause, the organization chaired by the distinguished former Secretary of Health, Education, and Welfare, Hon. John Gardner, has provided every Member of this House with a chart, taken directly from U.S. Department of Labor figures, showing the unemployment rates as of June of this year, compared with those of June 1969 in over 300 congressional districts—a dismayingly high proportion of which have at least small areas of persistent unemployment reaching or exceeding 6 percent. A disturbingly high number of these 300 districts have major labor areas with unemployment rates at and over 6 percent. Some of these districts have labor markets with 10 percent or even more unemployment. The bad news is shown in these charts. He who runs, can read.

Mr. Speaker, I include the statement and charts prepared by Common Cause at this point:

Common Cause,
Washington, D.C., October 2, 1970.
Hon. James G. O'Hara,
House of Representatives,
Washington, D.C.

Dear Mr. O'Hara: The unemployment rate in the nation now stands at 5.1 per cent. But this is an average figure. Averages are deceptive. In many areas of the country, both rural and metropolitan, the unemployment rate is running considerably higher. It is higher for many specific areas, it is higher for certain kinds of workers, and it is higher for certain age groups—particularly youth. As disturbing as the average figures are, it's more disturbing to realize that the likelihood for significant change in the foreseeable future is remote, particularly when one looks closely at a breakdown of figures.

Common Cause, formerly the Urban Coalition Action Council, has analyzed the published unemployment figures of the Department of Labor and arranged them by state and congressional districts. The attached analysis will give you a true picture of what the unemployment rate is in your district as opposed to the national average. Figures for major labor areas are as of June, when the national average was .4 per cent below the present figure. They represent the most recent compilation by the Department.

These figures are even more disturbing when one realizes that the figures themselves may be conservatively .6 of one per cent low when compared to pre-1965 figures. In uncontested testimony before both the House and Senate, Prof. Charles Killingsworth of Michigan State University pointed out that definitions used by the Labor Department up to 1965, if used today would add at least .6 of one per cent to the present figures. The attached release of May 18 explains this point.

Common Cause has urged the Congress to federally fund a substantial job creation program for the public sector as an important addition to present national manpower policy. Such action was important even during periods of high employment and relatively low unemployment because many groups in our society were not reached by this prosperity and continued to suffer unemployment and underemployment. It is even more urgent today when unemployment is persistently high across the board.

Averages are deceptive. A man once drowned trying to walk across a lake whose average depth was only three feet. Area-by-area figures are set forth on the chart.

Sincerely,
John P. Lagomarcino,
Deputy Executive Director.

UNEMPLOYMENT BY CONGRESSIONAL DISTRICT

The following table lists Members of the House of Representatives who represent areas with high unemployment. The table is divided into major labor areas and small labor areas. It is compiled from figures gathered by the Department of Labor and published in the Department's "Area Trends in Employment and Unemployment, August 1970."

Major Labor Areas. The Department of Labor each month classifies 150 major employment centers according to their labor supply. The following table shows the unemployment rate in the areas for June 1970 (the most recent figures) and for a year earlier. (A few areas with unemployment rates below 3.0 percent have been omitted.)

Smaller Labor Areas. The right-hand column in the table lists smaller labor areas, as classified by the Department of Labor, which have experienced persistent or substantial unemployment. Persistent unemployment means unemployment has averaged 6 percent or more of the work force in the preceding calendar year and has exceeded the national average rate by 50 to 100 percent in the preceding two to four years. Substantial unemployment means unemployment of 6 percent or more of the work force plus the expectation that the rate will remain at 6 percent or more for the following two months. Classifications are based on figures for August 1970.

Note: The labor area designations are sometimes larger and sometimes smaller than Congressional districts. Thus, some areas will appear by the names of several Congressmen; in other areas, a single Congressman will be listed with numerous labor areas.

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State and Representative	Major labor area	Unemployment rate (percent)		Smaller areas—Persistent unemployment 6 percent or more
		June 1970	June 1969	
Alabama:				
Buchanan	Birmingham	5.0	4.5	
Bevill				Cullman (Cullman County), Gadsden (Etowah County).
Edwards	Mobile	6.3	5.6	
Flowers				Eutaw (Greene County), Pell City (St. Clair County).
Jones				Florence-Sheffield (Colbert, Franklin, Lauderdale Counties), Lawrence County.
Alaska: Pollock				Aleutian Islands, Anchorage, Barrow, Bethel, Bristol Bay, Cordova-McCarthy, Fairbanks, Kenai-Cook Inlet, Ketchikan, Kobuk, Kodiak, Kuskokwim, Lynn Canal-Icy Straits, Nome Palmer-Talkeetna, Prince of Wales, Seward, Sitka, Upper Yukon, Valdez-Whittier, Wade Hampton, Wrangell-Petersburg, Yukon-Koyukuk.
Arizona:				
Rhodes	Phoenix	5.3	2.8	
Steiger				McNary (Apache County), Winslow (Navajo County).
Arkansas:				
Alexander				Pocahontas (Randolph County), Walnut Ridge (Lawrence County).
Hammerschmidt				Berryville (Carroll County), Clarksville (Johnson County), Crawford County Marshall (Searcy County), Ozark (Franklin County), Paris (Logan County).
Mills	Little Rock/North Little Rock	3.8	3.0	Batesville (Independence County), Hardy (Sharp County), Melbourne (Izard County), Mountain View (Stone County), Searcy (White County).
Pryor				Camden (Calhoun Ouachita Counties), Malvern (Hot Spring County).
California:				
Anderson	Los Angeles/Long Beach	6.1	4.5	
Bell	do	6.1	4.5	
Brown	do	6.1	4.5	
Corman	do	6.1	4.5	
Goldwater Jr.	do	6.1	4.5	
Hawkins	do	6.1	4.5	
Hosmer	do	6.1	4.5	
Rousselot	do	6.1	4.5	
Rees	do	6.1	4.5	
Roybal	do	6.1	4.5	
Smith	do	6.1	4.5	
Wilson, C	do	6.1	4.5	
Hanna	do	6.1	4.5	
	Anaheim/Santa Ana/Garden Grove	6.3	4.3	
Burton	San Francisco/Oakland	5.4	4.3	
Cohelan	do	5.4	4.3	
Mailliard	do	5.4	4.3	
Miller	do	5.4	4.3	
Edwards	San Jose	5.9	4.5	
Gubser	do	5.9	4.5	Hollister (San Benito County).
Leggett	Sacramento	6.0	5.2	Lakeport (Lake County), Willows (Glenn County), Yuba City (Shutter, Yuba Counties).
Moss	do	6.0	5.2	
Schmitz	Anaheim/Santa Ana/Garden Grove	6.3	4.3	
	San Diego	6.1	3.9	
Van Deerlin	do	6.1	3.9	
Wilson, B	do	6.1	3.9	
McFall	Stockton	9.2	6.7	Modesto (Stanislaus County).
Pettis	San Bernardino/Riverside/Ontario	6.3	5.0	
Sisk	Fresno	6.9	5.8	Merced (Merced County).
Clausen, Don				Crescent City (Del Norte County), Eureka (Humboldt County), Santa Rosa (Sonoma County), Ukiah (Mendocino County).
Johnson				Alturas (Modoc County), Chico-Oroville (Butte County), Grass Valley (Nevada County), Madera (Madera County), Mariposa (Mariposa County), Placer County, Quincy (Plumas County), Red Bluff (Tehama County), Redding (Shasta County), Sonora (Tuolumne County), Susanville (Lassen County), Weaverville (Trinity County), Yreka (Siskiyou County).
Talcott				Salinas-Monterey (Monterey County), Santa Cruz (Santa Cruz County).
Teague				Oxnard (Ventura County).
Tunney				El Centro (Imperial County).
Colorado:				
Aspinall				Antonio (Conejos County), Center (Saguache County).
Evans				Blanca (Costilla County), Ordway (Crowley County), Trinidad (Las Animas County), Walsenburg (Huerfano County).
Rogers	Denver	4.5	4.2	
Connecticut:				
Daddario	Hartford	4.6	3.7	
Giaimo	New Haven	5.1	3.9	
Monagan	Waterbury	8.9	5.6	Ansonia (Towns of Ansonia, Derby, Oxford, and Seymour in New Haven County).
Meskill	New Britain	7.9	5.4	Bristol/Plymouth, Torrington/Litchfield/Winchester.
Weicker	Bridgeport	6.9	4.9	
	Stamford	4.3	3.5	
Delaware:				
Roth	Wilmington	4.0	3.6	
Florida:				
Fascell	Miami	4.7	3.4	
Pepper	do	4.7	3.4	
Fuqua				Apalachicola (Franklin County).
Haley				Lakeland (Polk County).
Sikes				Bonifay (Holmes County).
Georgia:				
Brinkley	Columbus	6.2	5.0	Hawkinsville (Pulaski County).
Davis				Chatsworth (Murray County), Dallas (Paulding County), Douglasville (Douglas County).
Flynt	Macon	5.7	4.4	Manchester (Meriwether County), Zebulon (Pike County).
Hagan	Savannah	5.1	4.2	Ludowici (Long County), Pembroke (Bryan County), Soperton (Treutlen County).
Landrum				Blairsville (Union County), Cleveland (White County), Cumming (Forsyth County), McCaysville (Fannin County), Young Harris (Towns County).
O'Neal				Colquitt (Miller County), Fort Gaines (Clay County).
Stephens	Augusta	6.8	4.5	Gibson (Glascock County).
Stuckey				Blackshear (Pierce County), Eastman (Dodge County), Fitzgerald (Ben Hill County), Nahunta (Brantley County).
Thompson	Atlanta	4.0	3.2	
Hawaii:				
Matsunaga	Honolulu	3.7	3.0	
Mink	do	3.7	3.0	
Idaho:				
Hansen				Driggs (Teton County).
McClure				Grangeville (Idaho County), Horseshoe Bend (Boise County), McCall (Valley County), Orofino (Clearwater County), St. Maries (Benewah County), Sandpoint (Bonner County).
Illinois:				
Anderson	Rockford	5.9	3.9	
Annunzio	Chicago	4.2	2.7	
Collier	do	4.2	2.7	
Crane	do	4.2	2.7	
Dawson	do	4.2	2.7	
Derwinski	do	4.2	2.7	
Kluczynski	do	4.2	2.7	
Mikva	do	4.2	2.7	

State and Representative	Major labor area	Unemployment rate (percent)		Smaller areas—Persistent unemployment 6 percent or more
		June 1970	June 1969	
Illinois—Continued				
Murphy	Chicago	4.2	2.7	
Pucinski	do	4.2	2.7	
Rostenkowski	do	4.2	2.7	
Yates	do	4.2	2.7	
Michel	Peoria	4.2	4.0	
Price				St. Clair County.
Railsback	Davenport/Rock Island/Moline	5.2	4.2	
Findley				Hardin (Calhoun County), Jerseyville (Jersey County).
Gray				Anna (Union County), Cairo (Alexander, Pulaski Counties), Carmi (White County), DuQuoin (Perry County), Golconda (Pope County), Harrisburg-West Frankfort-Herrin (Franklin, Johnson, Saline, Williamson Counties), McLeansboro (Hamilton County), Rosiclare (Hardin County), Shawneetown (Gallatin County).
Indiana:				
Adair	Fort Wayne	4.5	2.8	
Brademas	South Bend	7.2	4.7	
Bray	Indianapolis	4.6	3.1	
Hamilton				Bedford (Lawrence County), Lawrenceburg (Dearborn, Ohio Counties), Scottsburg (Scott County).
Jacobs	Indianapolis	4.6	3.1	
Landgrebe				Knox (Starke County).
Madden	Gary	5.5	3.7	
Myers	Terre Haute	5.3	3.7	Clay County, Linton (Greene County) Vermillion County.
Zion	Evansville	5.7	4.2	Marengo (Crawford County).
Iowa:				
Culver	Cedar Rapids	5.1	2.7	
Smith	Des Moines	3.7	3.1	
Schwengel	Davenport/Rock Island/Moline	5.2	4.2	
Kansas:				
Shriver	Wichita	10.9	4.8	
Skubitz				Coffeville (Montgomery County).
Kentucky:				
Carter				Albany (Clinton County), Barbourville (Knox County), Booneville (Owsley County), Harlan (Harlan County), Hyden (Leslie County), Manchester (Clay County), Middlesboro (Bel County), Monticello (Wayne County), Russell Springs (Russell County), Stanford (Lincoln County), Whitley City (McCreary County).
Cowger	Louisville	4.6	3.6	
Natcher				Bardstown (Nelson County), Brownsville (Edmonson County), Hardinsburg (Breckinridge County), Hartford (Ohio County), Lebanon (Merion County), Leitchfield (Grayson County), Springfield (Washington County).
Perkins				Campton (Wolfe County), Flatwoods (Greenup County), Grayson (Carter, Elliot Counties), Hazard (Knott, Perry Counties), Inez (Martin County), Jackson (Breathitt County), Jenkins (Letcher County), Louisa (Lawrence County), Morehead (Bath, Menifee, Rowan Counties), Paintsville (Johnson County), Pikeville (Pike County), Prestonsburg (Flogy County), Salyersville (Magoffin County), West Liberty (Morgan County).
Stubblefield				Bardwell (Carlisle County), Cadiz (Trigg County), Dixon (Webster County), Eddyville (Lyon County), Mayfield (Graves County), McLean County, Morgantown (Butler County), Princeton (Caldwell County), Smithland (Livingston County).
Watts				Georgetown (Scott County), Lancaster (Garrard County), Nicholasville (Jessamine County) Richmond (Estill, Jackson, Madison, Rockcastle Counties), Stanton (Powell County).
Louisiana:				
Boggs	New Orleans	7.3	5.8	
Caffery				Napoleonville (Assumption Parish), Reserve (St. John the Baptist Parish), St. Martinville (St. Martin Parish).
Edwards				Abbeville (Vermilion Parish), Crowley (Acadia Parish), Jennings (Jefferson Davis Parish), Lake Charles (Calcasieu Parish), Opelousas (St. Landry Parish), Ville Platte (Evangeline Parish).
Hébert	New Orleans	7.3	5.8	
Long				Alexandria (Avoyelles, Grant, Rapides Parishes), De Ridder (Beauregard Parish), Leesville (Vernon Parish), Many (Sabine Parish), Natchitoches (Natchitoches Parish), New Roads (Pointe Coupee Parish), Oakdale (Allen Parish), Plaquemine (Iberville Parish).
Passman				Columbia (Caldwell Parish), Ferriday (Catahoula, Concordia Parishes), Greensburg (St. Helena Parish), Monroe (Ouachita Parish), Oak Grove (West Carroll Parish), Rayville (Richland Parish), St. Francisville (West Feliciana Parish), Winnsboro (Franklin Parish).
Rarick	Baton Rouge	8.3	7.5	Denham Springs (Livingston Parish), Donaldsonville (Ascension Parish), Hammond (Tangipahoa Parish).
Waggonner	Shreveport	6.3	4.3	Arcadia (Bienville Parish), Mansfield (DeSoto Parish).
Maine:				
Hathaway				Calais-Eastport (Washington County) Ellsworth (Hancock County), Fort Kent, Madawaska-Van Buren, Rockland (Knox County)/Waldoboro (Lincoln County).
Kyros	Portland	3.6	3.5	Rockland (Knox County)/Waldoboro (Lincoln County).
Maryland:				
Beall				Oakland (Garrett County).
Garmatz	Baltimore	4.8	3.3	
Fallon	Baltimore	4.8	3.3	
Friedel	Baltimore	4.8	3.3	
Morton				Cambridge (Dorchester County), Crisfield (Somerset County), Pocomoke City (Worcester County), Prince Frederick (Calvert County).
Massachusetts:				
Harrington	Lawrence-Haverhill	6.5	5.5	Gloucester/Essex/Rockport (Essex County), Newburyport/Amesbury/Ipswich/Salisbury (Essex County).
Morse	do	6.5	4.4	
Do	Lowell	9.2	6.0	
Boland	Springfield/Holyoke	7.3	5.4	Ware/Belchertown (Hampshire County).
Conte	Springfield/Holyoke	7.3	5.4	
Donohue	Worcester	5.1	4.0	Milford/Uxbridge (Worcester County).
Heckler	Fall River	6.3	5.2	
Keith	New Bedford	8.1	5.7	Bourne/Wareham (barnstable, Plymouth Counties,) Plymouth/Kingston/Plymouth/Carver (Plymouth County), Provincetown/Truro (Barnstable County).
McCormack	Boston	4.9	3.7	
O'Neill	do	4.9	3.7	
Burke	do	4.9	3.7	
Do	Brockton	7.3	4.8	
Michigan:				
Conyers	Detroit	7.5	4.6	
Diggs	do	7.5	4.6	
Dingell	do	7.5	4.6	
Griffiths	do	7.5	4.6	
Nedzi	do	7.5	4.6	
O'Hara	do	7.5	4.6	
Brown	Battle Creek	7.1	4.7	Ionia/Belding/Greenville.
Do	Kalamazoo	6.3	4.1	
Cederberg				Alma (Gratiot County), Bay City (Bay County), Clare (Clare County), East Tawas (Alcona-Iosco Counties), Grayling (Crawford County), Ionia/Belding/Greenville, Mancelona (Antrim County), Mio (Oscoda County), Roscommon (Roscommon County), Standish (Arenac County), West Branch (Ogemaw County).
Chamberlain	Lansing	6.0	3.3	Jackson.

State and Representative	Major labor area	Unemployment rate (percent) June 1970	Unemployment rate (percent) June 1969	Smaller areas—Persistent unemployment 6 percent or more
Michigan—Continued				
Esch				Adrian (Lenawee County), Wayne County (part).
Ford, G	Grand Rapids	7.4	5.8	Ionia/Belding/Greenville.
Ford, W				Wayne County (part).
Harvey	Saginaw	7.1	4.7	Bad Axe (Huron County), Caro (Tuscola County).
Hutchinson				Coldwater (Branch County), Hillsdale (Hillsdale County).
Riegle	Flint	6.8	4.1	
Ruppe				Alger County, Alpena (Alpena County), Boyne City (Charlevoix County), Cheboygan (Cheboygan County), Escanaba (Delta County), Gaylord (Otsego County), Hancock (Houghton, Keweenaw Counties), Hillman (Montmorency County), Iron Mountain (Dickinson County), Iron River (Iron County), Ironwood (Gogebic County), L'Anse (Baraga County), Manistique (Schoolcraft County), Marquette (Alger, Marquette Counties), Newberry (Luce County), Petoskey (Emmet County), Rogers City (Presque Isle County), St. Ignace (Mackinac County) Sault Ste. Marie (Chippewa County).
Vander Jagt	Muskegon	12.3	7.3	Baldwin (Lake County), Cadillac (Missaukee, Osceola, Wexford Counties), Elberta (Benzie County), Fremont (Newaygo County), Hart (Oceana County), Ludington (Mason County), Manistee (Manistee County), Traverse City (Grand Traverse, Kalkaska, Lelanu Counties).
Minnesota:				
Blatnik	Duluth-Superior	5.6	4.3	Aitkin (Aitkin County), Grand Rapids (Itasca County), Pine City (Pine County).
Fraser	Minneapolis-St. Paul	4.5	2.6	
Karth	do	4.5	2.6	
McGregor	do	4.5	2.6	
Langen				Bagley (Clearwater County), Baudette (Lake of the Woods County), Bemidji (Beltrami County), Detroit Lakes (Becker County), Hallock (Kittson County), Mahnomen (Mahnomen County), Park Rapids (Hubbard County), Red Lake Falls (Red Lake County), Roseau (Roseau County), Walker (Cass County), Warren (Marshall County), Brainerd (Crow Wing County).
Zwach				Little Falls (Morrison County), Princeton (Mille Lacs County).
Mississippi:				
Abernethy				Greenville (Washington County), Kosciusko (Attala County).
Colmer				Columbia (Marion County), Leakesville (Greene County), Lucedale (George County), Lumberton (Lamar County), Richton (Perry County), Waynesboro (Wayne County).
Griffin	Jackson	5.3	4.4	
Missouri:				
Bolling	Kansas City	5.2	4.6	
Burlison				Charleston (Mississippi County), Doniphan (Ripley County), Flat River (St. Francois County), Greenville (Wayne County).
Clay	St. Louis	6.3	4.5	
Hall				Branson (Taney County), Buffalo (Dallas County), Eldon (Miller County), Eminence (Shannon County), Potosi (Washington County).
Ichord				
Randall	Kansas City	5.2	4.6	
Sullivan	St. Louis	6.3	4.5	
Montana:				
Melcher				Glasgow (Valley County).
Olsen				Butte (Silver Bow County), Philipsburg (Granite County), Sheridan (Madison County), White Sulphur Springs (Meagher County).
Nebraska:				
Cunningham	Omaha	4.1	3.3	
Nevada:				
Baring				Caliente (Lincoln County).
New Hampshire.				
New Jersey:				
Sandman	Atlantic City	5.7	4.3	Ocean City/Wildwood/Cape May (Cape May County), Vineland (Cumberland County).
Daniels	Jersey City	7.0	5.3	
Gallagher	do	7.0	5.3	
Rodino	Newark	4.9	4.2	
Patten	New Brunswick/Perth Amboy	6.8	5.3	
Roe	Paterson/Clifton/Passaic	5.9	4.4	
Thompson	Trenton	4.7	3.8	
New Mexico:				
Lujan	Albuquerque	6.8	5.6	Bernalillo (Sandoval County), Espanol (Rio Arriba County), Las Vegas (San Miguel County), Mountainair (Torrance County), Raton (Colfax County), Santa Rosa (Guadalupe County), Taos (Taos County), Wagon Mound (Mora County).
Foreman				Carlsbad (Eddy County), Farmington (San Juan County), Gallup (McKinley County), Socorro (Socorro County).
New York:				
Scheuer	New York City	4.2	3.1	
Gilbert	do			
Bingham	do			
Biaggi	do			
Celler	do			
Brasco	do			
Chisholm	do			
Podell	do			
Rooney	do			
Carey	do			
Murphy	do			
Koch	do			
Powell	do			
Farbstein	do			
Ryan	do			
Halpern	do			
Addabbo	do			
Rosenthal	do			
Delaney	do			
King	Albany/Schenectady/Troy	3.2	2.8	Gloversville (Fulton County), Speculator (Hamilton County), Ticonderoga (Essex County), Warren County.
Robison	Binghamton	4.4	3.5	
Dulski	Buffalo	5.0	3.8	
McCarthy	do	5.0	3.8	
Smith	do	5.0	3.8	
Conable	Rochester	3.8	2.7	Orleans County, Perry (Wyoming County).
Hanley	Syracuse	4.8	3.0	
Horton	Rochester	3.8	2.7	
Pirnie	Utica/Rome	5.4	3.4	
Fish				Catskill (Greene County), Cobleskill (Schoharie County).
McEwen				Ogdensburg/Massena/Malone (Franklin, St. Lawrence Counties), Oswego County, Plattsburg (Clinton County).
McKneally				Sidney (Delaware County).
Stratton				Auburn (Cayuga County), Norwich (Chenango County), Oneonta (Otsego County).
North Carolina:				
Preyer	Greensboro/Winston-Salem/High Point.	4.1	3.3	
Mizell	do	4.1	3.3	
Galifianakis	Durham	4.7	4.5	
Jonas	Charlotte	3.7	3.1	
Taylor	Asheville	4.0	2.9	Bryson City (Swain County), Hayesville (Clay County), Marshall (Madison County), Robbinsville (Graham County).
Fountain				Roxboro (Person County), Snow Hill (Greene County), Wilson (Wilson County).

		Unemployment rate (percent)		
State and Representative	Major labor area	June 1970	June 1969	Smaller areas—Persistent unemployment 6 percent or more
North Carolina—Continued				
Jones				Ahoskie (Hertford County), Camden County, Columbia (Tyrrell County), Greenville (Pitt County), Manteo (Dare County), Moyock (Currituck County), Pamlico County, Windsor (Bertie County).
Lennon				Elizabethtown (Bladen County), Lumberton (Robeson County), Whiteville (Columbus County).
North Dakota: Andrews				Rolla (Rolette County).
Ohio:				
Feighan	Cleveland	3.7	2.6	
Stokes	do.	3.7	2.6	
Vanik	do.	3.7	2.6	
Minshall	do.	3.7	2.6	
Ashley	Toledo	3.7	2.8	
Latta	do.	3.7	2.8	
Bow	Canton	3.8	2.6	
Ayres	Akron	3.4	2.4	
Taft	Cincinnati	3.2	2.6	
Clancy	do.	3.2	2.6	
	Youngstown/Warren	4.6	2.9	
Lukens	Hamilton/Middletown	3.7	2.9	Warren County.
Mosher	Lorain/Elyria	3.7	2.7	
Hays	Steubenville/Weirton	3.4	2.5	Carrollton (Carroll County).
Harsha				Clermont County, Lawrence County, Manchester (Adams County), Waverly (Pike County).
Miller				Gallipolis (Gallia County), Jackson (Jackson County), New Lexington (Perry County), Pomeroy (Meigs County).
Oklahoma:				
Jarman	Oklahoma City	4.4	3.9	
Steed	do.	4.4	3.9	Altus (Jackson County), Anadarko (Caddo County). Cordell (Washita County), Purcell (McClain County), Shawnee (Pottawatomie County).
Belcher	Tulsa	5.5	4.1	
Edmondson	do.	5.5	4.1	Claremore (Rogers County), Jay (Delaware County), Miami (Ottawa County), Muskogee (Muskogee County), Okemah (Okfuskee County), Okmulgee-Henryetta (Okmulgee County), Pawnee (Pawnee County), Pryor Creek (Mayes County), Sequoyah County, Stilwell (Adair County), Tahlequah (Cherokee County), Wagoner (Wagoner County).
Albert				Ada (Pontotoc County), Atoka (Atoka County), Coalgate (Coal County), Holdenville (Hughes County), Hugo (Choctaw County), Idabel (McCurtain County), LeFlore County, Marietta (Love County), McAlester (Pittsburgh County). Stigler (Haskell County), Tishomingo (Johnston County). Wilburton (Latimer County).
Oregon:				
Green	Portland	6.7	3.7	
Wyatt	do.	6.7	3.7	McMinnville (Yamhill County), Tillamook (Tillamook County), Toledo (Lincoln County).
Dellenback				Gold Beach (Curry County), Grants Pass (Josephine County), Medford (Jackson County), North Bend/Coos Bay (Coos Bay County), Roseburg (Douglas County).
Ullman				Condon (Gilliam County), Enterprise (Wallowa County), Fossil (Wheeler County), Hood River (Hood River County), Lakeview (Lake County), Madras (Jefferson County), Pendleton (Umatilla County), The Dalles (Sherman, Wasco Counties).
Pennsylvania:				
Barrett	Philadelphia	4.9	3.4	
Byrne	do.	4.9	3.4	
Eilberg	do.	4.9	3.4	
Green	do.	4.9	3.4	
Nix	do.	4.9	3.4	
Fulton	Pittsburgh	4.0	2.9	
Gaydos	do.	4.0	2.9	
Moorhead	do.	4.0	2.9	
Whalley	Altoona	4.4	3.4	Bedford (Bedford County).
Vigorito	Erie	4.4	3.7	
Saylor	Johnstown	5.6	4.3	Kitting/Ford City (Armstrong County).
McDade	Scranton	5.7	3.6	Tunkhannock (Wyoming County).
Flood	Wilkes-Barre/Hazleton	5.2	3.4	
Goodling	York	3.5	2.8	
Morgan				Uniontown/Connellsville (Fayette County).
Johnson				Bradford (McKean County), Clearfield/DuBois (Clearfield/Centre Counties), Coudersport (Potter County), Lock Haven/Renovo (Clinton County).
Rhode Island:				
St. Germain	Providence	5.5	3.6	
Tiernan	do.	5.5	3.6	
South Carolina:				
Rivers	Charleston	6.6	5.5	Berkeley County.
Mann	Greenville	4.3	3.5	
Dorn				McCormick (McCormick County), Saluda (Saluda County).
Gettys				Winnsboro (Fairfield County).
McMillan				Bishopville (Lee County), Georgetown (Georgetown County), Marion (Marion County).
Watson				Barnwell (Barnwell County).
South Dakota.				
Tennessee:				
Kuykendall	Memphis	5.0	3.9	
Jones	do.	5.0	3.9	Erin (Houston County).
Blanton	do.	5.0	3.9	Hardin County, Lawrenceburg (Lawrence County).
Fulton	Nashville	4.3	3.2	
Brock	Chattanooga	4.8	3.5	Dayton (Rhea County), Decatur (Meigs County), Dunlap (Sequatchie County), Sweetwater (Monroe County).
Duncan	Knoxville	3.9	3.6	Maynardville (Union County), Rutledge (Grainger County).
Evins				LaFollette/Jellico (Campbell County), Morgan County, Oneida (Scott County), Sparta (White County).
Quillen				Greeneville (Greene County), Newport (Cocke County), Sevierville (Sevier County).
Texas:				
Cabell	Dallas	3.5	2.3	
Collins	do.	3.5	2.3	
Purcell	do.	3.5	2.3	
Teague	do.	3.5	2.3	
Bush	Houston	3.5	3.3	
Eckhardt	do.	3.5	3.3	
Casey	do.	3.5	3.3	
Teague	Fort Worth	4.2	3.1	
Wright	do.	4.2	3.1	
Gonzalez	do.	6.2	4.9	
Fisher	do.	6.2	4.9	Brackettville (Kinney County), Del Rio (Val Verde County), Uvalde (Uvalde County).
Kazen	do.	6.2	4.9	Carrizo Springs (Dimmitt County), Cotulla (La Salle County), Crystal City (Zavala County), Eagle Pass (Maverick County), Floresville (Wilson County), Hondo (Medina County), Laredo (Webb County), Pearsall (Frio County).
Brooks	Beaumont/Port Arthur	5.5	4.6	
Young	Corpus Christi	6.3	5.3	
White	El Paso	6.0	4.8	
De la Garza				Brownsville/Harlingen/San Benito (Cameron County), Hebbronville (Jim Hogg County), Raymondville (Willacy County), Rio Grande City (Starr County), Zapata (Zapata County).
Dowdy				Newton (Newton County), San Augustine (San Augustine County).

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State and Representative	Major labor area	Unemployment rate (percent) June 1970	Unemployment rate (percent) June 1969	Smaller areas Persistent unemployment 6 percent or more
Utah:				
Lloyd	Salt Lake City	6.2	5.4	Beaver (Beaver County), Nephi (Juab County), St. George (Washington County).
Burton				Brigham City (Box Elder County), Heber City (Wasatch County), Kanab (Kane County), Manti (Sanpete County), Moab (Grand, San Juan Counties), Panguitch (Garfield County), Park City (Summit County), Price (Carbon, Emery Counties), Provo-Orem (Utah County), Richfield (Sevier County), Roosevelt (Duchesne County).
Vermont.				
Virginia:				
Downing	Newport News Hampton	6.0	3.8	Chincoteague (Accomack, Northampton Counties).
Whitehurst	Norfolk/Portsmouth	4.7	4.1	
Scott				Colonial Beach (Lancaster, Northumberland, Richmond, Westmoreland Counties.).
Wampler				Bristol (Washington County), Grundy (Buchanan County), Lebanon (Dickenson, Russell Counties), Norton Big Stone Gap (Wise Counties), Richlands (Tazewell County).
Washington:				
Adams	Seattle	10.5	3.8	
Foley	Spokane	7.2	4.8	Colville (Stevens County), Newport (Pend Oreille County), Okanogan (Okanogan County), Republic (Ferry County), Wenatchee (Chelan, Douglas Counties).
Hansen				Aberdeen (Grays Harbor County), Centralia (Lewis County), Port Townsend (Jefferson County), Raymond (Pacific County), Stevenson (Skamania County).
Hicks	Tacoma	9.6	5.2	Bremerton (Kitsap County).
May				Ellensburg (Kittitas County), Goldendale (Klickitat County), Moses Lake (Grant County), Tri-City (Benton, Franklin Counties), Yakima (Yakima County).
Meeds				Anacortes (Skagit County).
Pelly	Seattle	10.5	3.8	
West Virginia:				
Hechler	Huntington-Ashland	6.1	5.0	Hamlin (Lincoln County), Logan-Madison (Boone, Logan Counties), Point Pleasant (Mason County), Wayne County.
Kee				Beckley (Raleigh County), Bluefield (Mercer County), Hinton (Summers County), Oak Hill-Montgomery (Fayette County), Welch (McDowell County), Williamson (Minco County).
Mollohan	Wheeling	5.1	5.2	Clarksburg (Doddridge, Harrison Counties), Glenville (Gilmer County), Grantsville (Calhoun County), New Martinsville (Wetzel County.).
Slack	Charleston	5.9	4.8	Clay (Clay County), Gassaway (Braxton County), Logan-Madison (Boone, Logan Counties), Richwood (Nicholas County), Spencer (Roane County).
Staggers				Berkeley Springs (Morgan County), Elkins (Randolph County), Franklin (Pendleton County) Grafton (Taylor County), Kingwood (Preston County), Marlinton (Pocahontas County), Martinsburg (Berkeley, Jefferson Counties), Mineral County, Moorefield (Hardy County), Parsons (Tucker County), Petersburg (Grant County), Romney (Hampshire County), Ronceverte-White Sulphur Springs, (Greenbrier, Monroe Counties), Webster Springs (Webster County) Weston (Lewis County).
Wisconsin:				
Zablocki	Milwaukee	4.9	3.5	
Reuss	do	4.9	3.5	
Davis	do	4.9	3.5	
Kastenmeier	Madison	4.0	2.9	
Schadeberg	Kenosha	8.2	5.0	
Do	Rachine	7.6	5.8	
Obey				Adams (Adams County) Antigo (Langlade County) Crandon (Forest County) Florence (Florence County), Medford (Taylor County), Neopit (Menominee County), Shawano (Shawano County).
O'Konski	Duluth, Minn. Superior, Wis.	5.6	4.3	Ashland (Ashland County), Bayfield (Bayfield County), Douglas County, Eagle River (Vilas County), Grantsburg (Burnett County), Hayward (Sawyer County), Hurley (Iron County), Ladysmith (Rusk County), Spooner (Washburn County).
Byrnes				Oconto (Oconto County).
Thomson				Arcadia (Trempeleau County), Black River Falls (Jackson County), Dodgeville (Iowa County), La Crosse (La Crosse County), Mauston (Juneau County), Prairie du Chien (Crawford County), Sparta (Monroe County), Viroqua (Vernon County).
Wyoming.				

Since preparation by Common Cause of the list showing unemployment by congressional districts, the Labor Department has announced that four additional major labor areas and 10 smaller areas have been added to those with substantial or persistant unemployment.

The four major labor areas are:

Anaheim-Santa Ana-Garden Grove, Calif., Mr. HANNA, Mr. SCHMITZ.

Flint, Mich., Mr. RIEGLE.

Saginaw, Mich., Mr. HARVEY.

Albuquerque, N. Mex., Mr. LUJAN.

The 10 smaller areas are:

Center, Ala., Mr. BEVILL.

Pagosa Springs, Colo., Mr. ASPINALL.

Cedarton, Ga., Mr. DAVIS.

Jerome, Idaho, Mr. HANSEN.

Council, Idaho, Mr. McCLURE.

Waterloo, Iowa, Mr. GROSS.

Wellington, Kans., Mr. SKUBITZ.

North Adams, Mass., Mr. CONTE.

Owosso, Mich., Mr. CHAMBERLAIN.

Wellsboro, Pa., Mr. McDADE.

PRESIDENT SHOULD NOT VETO POLITICAL BROADCASTING LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Oklahoma (Mr. ALBERT) is recognized for 5 minutes.

Mr. ALBERT. Mr. Speaker, I have read with considerable dismay reports suggesting that President Nixon is planning to veto the legislation that would limit expenditures for television and radio in future political campaigns.

I hope these reports are unfounded. The legislation that recently passed in Congress had strong bipartisan support. Republicans and Democrats alike recognized that some spending limitation was essential to protect our electoral process from the dangers of a saturation TV and radio campaign. Our democratic system cannot tolerate the possibility that any candidate or either party can buy an election through a TV blitz. The legislation now on President Nixon's desk can effectively prevent this from happening.

More than this, however, this act will permanently suspend section 315(a) of the Communications Act for the presidential and vice-presidential election. This means that the television networks in 1972 will be able to sponsor debates between major candidates for President and Vice President, similar to the ones that were held in 1960. These types of programs clearly will contribute to a more informed electorate and generally raise the level of all future presidential campaigns. It would be exceedingly unfortunate for President Nixon to deny the American voters this opportunity to compare and evaluate the major candidates for the Presidency in open debate.

We recognize that this legislation is only the first step in a more comprehensive reform of our entire electoral process. President Nixon has stressed many times his concern for the reform and modernization of our political and governmental institutions. Given this fact it is inconceivable that he would veto this legislation that would begin the creation of a more equitable system of political broadcasting in the United States.

DAY OF BREAD

(Mr. MIZE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MIZE. Mr. Speaker, President Nixon has issued a proclamation which designates today, October 6, 1970, as a Day of Bread, and this week as a period of Harvest Festival.

We should pause for a moment to consider the awesome significance of this celebration. We should reflect on the role of bread—the staff of life—in our national development.

Through the middle part of the 19th century, the vast heartland of this Nation was called the great American desert. Considered fit only for primitive peoples anad buffaloes, the high plains were virtually undeveloped.

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But a hardy breed of people began to settle the heartland. They came from Central Europe and Russia, and they brought hard winter wheat with them. They understood the high plains, its discipline and its potential. Soon, the great American desert became the breadbasket of a nation.

Twice in this century U.S. wheat has saved a war-ravaged Europe from serious food shortages and possibly starvation. On countless occasions, the United States has rushed shipments of wheat to countries suffering from crop failure, flood, or other natural disaster. Quite clearly, there would have been famine in India in 1966–67, had it not been for the American shipments of wheat for bread.

Americans are a most fortunate people. Blessed with a rich land, a dedicated and competent farm population, and the industrial capacity to process and distribute vast quantities of nutritious food at low cost, Americans can rest assured they will never suffer from the haunting specter of shortage or famine.

In the Soviet Union, 45 percent of the work force is committed to food production. In the United States, less than 8 percent of the work force is required to provide all the food needs of this country, as well as the critical food needs of millions overseas. One U.S. farmworker provides enough for himself and 44 others. No comparable achievement has ever been recorded in the history of the human struggle.

As a Member from Kansas, proud to represent one of the greatest wheat-producing districts in the country, I wish to congratulate those who have worked to make this day of celebration and rededication a memorable one.

Members of the National Day of Bread Committee include the American Bakers Association, the Associated Retail Bakers of America, the Great Plains Wheat, the Miller's National Federation, the Western Wheat Associates, the Wheat and Wheat Foods Foundation, and the National Association of Wheat Growers.

Everyone connected with the production of wheat, the processing of flour, and the baking and distribution of bread is committed to providing Americans with the highest quality product at the lowest possible cost. There is perhaps no industry that so consistently serves the public interest so well.

Today, we pause to pay tribute to bread—a product which, for 5,000 years, has been of supreme importance in the development of a healthy and vigorous people.

A REASONED APPROACH

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, with the preoccupation in certain segments of the press for the sensational, scant notice is given, unfortunately, to those responsible efforts to resolve our country's problems on a prudent and objective basis. Disrupters in our high schools and higher institutions of learning can many times count on some degree of publicity while positive efforts by positive-thinking students go largely unnoticed.

The valedictorian address given at Triway High School of the Triway Local School District in Wayne County, Ohio, was given this year by Jerri Lynn Miller. I believe her approach to current problems typifies the sentiments of an overwhelming majority of American students who want to see necessary changes made based on objective and forthright analyses. The reports of extremist activities by radical students should be viewed against the background of the vast collective effort of our young people across the Nation who pursue their educational goals quietly and unreported.

I insert, at this point, the address "The Bridge Over Troubled Water" by Jerri Lynn Miller in the CONGRESSIONAL RECORD:

THE BRIDGE OVER TROUBLED WATER

Parents, friends, faculty, and fellow members of the class of 1970:

People in the world today are engaged in one great mass of ironical situations. Some nations are blessed with great material wealth, while others exist in dire poverty. Some areas of the world maintain an agricultural surplus, yet many other people are dying of starvation every day. Some people live with the ease of modern conveniences, while others are fortunate if they can even find shelter and the bare necessities for existence. Citizens of some nations are free to speak out with dissent, while others have no freedom of speech at all.

We people in the United States are extremely fortunate. In all of the situations I have mentioned, our country is on the better side. We have the wealth, the surplus, the access to modern conveniences, and the freedom of speech.

Lately, this freedom of speech has been exercised extensively. A wave of dissent has seemed to cover the United States and has quite noticeably appeared on our college campuses. Why? Why would anyone want to dissent in a nation which has the many fine attributes I have described?

The reason is—our nation is not perfect. Complete perfection is impossible. And whenever there are imperfections, there are complaints. All of these imperfections are the troubles which exist in our nation and throughout the world. We have the domestic troubles, such as pollution and problems in the slums. And we also have the world troubles such as the population explosion, the threat of nuclear war, the fear of Communism, and the Viet Nam and Cambodian situations. These are some of the problems the world must face today. And we members of the class of 70 upon our graduation tonight must also face these problems. These troubles involve each and every individual. No one can be completely free from them. No one can actually escape—because these troubles are part of reality. And reality cannot be avoided; it must be faced. We're all involved and we're all caught in a current of troubles. This current is a strong one, but it can be overcome. Let us symbolise our world situation as a stream of troubled water, which contains this strong current.

Today we have the dissenters, those who are dissatisfied with our approach to domestic problems, those who openly disagree with our foreign policy. Yes, they are trying to be heard; they have the right to voice their own opinions. But many of these dissenters are caught in the downcurrent of the stream of troubled water, because too often they don't propose any other solution to the problem. They complain about the status quo, but offer no other way in which it may be handled.

Then we have the silent majority. These people stand still and watch the stream of troubled water flow by. They don't want to become involved; they don't want to get their feet wet in the stream. This apathetic majority can be our hope for the future, if they will only begin to act. Many members of this graduating class will attend college this fall. It is up to us to make our own decisions. We must not let ourselves be ruled by the minority. We must act pro-American instead of anti-American. The anti-Americans have been heard; now it's about time the pro-Americans make themselves heard also.

It is obvious that some of the very radical dissenters actually want a revolution. And I ask them, "A revolution for what? For something better?" The citizens of the United States have more freedom than those in any other country in the world. If these dissenters find it difficult to put up with a few flaws in our great democracy, how would they like to live under Communist rule—where the government controls everything, there is no freedom of speech, and the people live in fear?

The American people are always looking for something better—but we do have something better—democracy. Our forefathers worked hard to obtain this democracy, and we must work hard to preserve it, not to destroy it. We have a strong nation. We are a world power. And if the United States of America ever falls, it will not fall to a stronger outside force. It will fall to internal destruction, inflicted upon it by its own people.

You know, too often, after everything else has failed, we turn to God to help us through. But this should be reversed. First we should pray for the determination to somehow cross this stream of troubles. Then, upon this foundation, with ambition and hard work, we can build our bridge—The Bridge Over Troubled Water.

—Jerri Lynn Miller

THE LATE ROBERT WATKINS

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, few men passed through these Halls who was any more liked than my beloved friend, Bob Watkins of Pennsylvania. His passing created void which is impossible to fill. I was happy to be included in a small circle of his close friends here in the Capitol and I can honestly say that I liked him better than any other legislator who has come along in the 14 years I have been in politics.

He was an excellent story teller. His stories always had a moral, like an Aesop fable. He was a self-made man, devoted to his ideals and his country. That he should be struck down in life before he had a chance to retire and enjoy the fruits of his life's work must count as a tragedy. Yet, Bob would be philosophic about that. He never got upset and never had an unkind word to say about his fellow man.

This world would be a much better place, Mr. Speaker, if there were more men like G. Robert Watkins of Pennsylvania. Sadly, there are very few.

Perhaps one statement, in Bob's own words, tells it all about his philosophy and his life. Tucked away in almost 200 pages of impressive biographies of Members of Congress are these words: "First business, when 9 years of age, was selling newspapers to the crews of vessels anchored in the harbor." The personal initiative and responsibility which motivated Bob Watkins at such an early age carried through his adult life, and his approach to problems whether in business life, politics, or elsewhere was studied, direct, and forceful.

Bob Watkins first saw the light of day around the turn of this century in Hampton, Va. He left high school and learned the trade of shipfitter in Newport News and moved to Chester, Pa., at the age of 18. At a comparatively early age he formed and headed the Chester Stevedoring Co., the first of his two successful business ventures. Later, in 1932, he organized, with a partner, the Blue Line Transfer Co., which was to blossom into an operation serving all points in the East with hundreds of trucks. Despite his lack of an extensive educational background—he often referred to himself as "a high school put-out"—his personal qualities gained public attention and his first public service to the community came in the form of a 4-year term as sheriff of Delaware County.

He was later to serve in the Pennsylvania State Senate for 12 years and for 4 years as county commissioner. Bob's service on the national level began with his election to the 89th Congress in November 1964, followed by his reelection to succeeding Congresses.

Like others of a robust nature, Bob found release from life's daily problems in his love of horses, and from 1937 his avocation was the breeding of thoroughbreds for racing. He liked people, Mr. Speaker, and I count it as an accomplishment in life that I was one of those he chose to like. I dearly loved him and extend my sincere sympathies to his family.

THE GAME PLAN AT HALFTIME

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, we are constantly being bombarded with statistics and statements, accusations and accounts, graphs and graphics on the state of the economy—too many of these are attempts on the part of the Democrats to shift blame to the present administration and to confuse the issue. What we really need is a clear statement of position—where we are, what is being done, and what has been accomplished.

Herbert Stein, a member of the Council of Economic Advisers, admirably met this need in the wrap-up of the administration's overall economic policy and present status which formed the basis of his remarks before the Citizens Research Council of Michigan on September 22. He explained that the administration has a plan—to curb the inflation without causing a recession and to do this by first steadily slowing and then steadily reviving the growth of demand, through exercise of the Government's monetary and fiscal policies, without recourse to hard or soft price-wage controls. Stein maintains that the administration is succeeding in its goal of full employment during the year July 1, 1971, to June 30, 1972, without reviving inflation.

There are some things that are known now that were not known for sure when the historic effort to slow down inflation without recession began. Stein pointed out:

> We now know that this Administration will in fact pursue anti-inflationary policies and so will the Federal Reserve Board. We know that such policies will in fact slow down the economy. We know that if the policies are moderate they need not cause a sharp contraction which will force the government to shift gears too rapidly, pump up the economy again and revive the inflation. We know that persistence in the anti-inflationary policy will end the rise in the rate of inflation, although that point took a long time to reach.
>
> We now see some signs of an actual reduction in the rate of inflation. We also see evidence of a sustainable pickup in economic activity. If our grimmer commentators will excuse the expression, the game is not over but we enter the second half in a strong position.

Mr. Stein's complete address, "The Game Plan at Halftime," follows:

THE GAME PLAN AT HALFTIME

(By Herbert Stein)

The Administration's overall economic policy has come to be called a game plan, which is natural enough since the Chairman of the Council of Economic Advisers spent much of his life in Ann Arbor. There are some people who find this term offensive, or claim to do so. They think it connotes frivolity in approaching a serious problem. However, this only shows lack of familiarity with American culture. When the coach of one of our professional football teams, or university teams for that matter, gets his men together to give them the game plan what happens is not frivolous. He is giving them a carefully thought-out approach to dealing with a problem which they all recognize to be very important. The Nixon Administration's economic game plan is no less serious.

The term "game plan" does suggest something that is missing from the term "plan" alone. An essential feature of a game is uncertainty, about both the best course of play and the outcome. That is why the coach cannot give the quarterback a list of the precise plays to be called in sequence during the game. The game plan is a strategy of general objectives to be sought, instruments to be used and techniques to be followed. But the decision on what specifically should be done has to remain open for adaptation to unforeseen developments. That is certainly true of the economic game plan. There is no black book spelling out what policy actions are to be taken and precisely where the economy is to stand at any particular moment. There are principles of policy and approach and general expectations about the directions of the economy's movement.

The goal of the game is clear enough. It is to end the rapid inflation that was accelerating at the beginning of 1969 and to accomplish this without a recession. The standards of performance would be more rigorous than in the past. Whereas on earlier occasions the abatement of inflation had been accompanied by unemployment rates as high as 6 or 7 percent, it would be important to do better this time. The Republicans have, unjustly, the image of being Number 2 on the maintenance of prosperity, and they would have to try harder. More important, the society has become more tense and more demanding about performance in many fields, including the economic.

The Administration's strategy for achieving the goal had and has three distinctive elements:

1. *Steadiness.* The Administration was willing to see a slowdown of the economy partly in order to reduce the risk of a spontaneous collapse. It did not propose to produce a collapse by its own policy. The inflationary pressure would be reduced steadily, so as to minimize the rise of unemployment; thereafter the economy would be allowed or made to expand steadily, to avoid setting inflation off again.

The virtue of steadiness and persistence is a clear lesson of the recent past. The inflation of 1955–56 began to subside at the beginning of 1957 when the rate of economic expansion slowed only moderately, but the possibility of approaching price stability and high employment simultaneously was lost when the economy fell over the edge into a recession. From 1962 to 1965 the economy moved slowly up towards full employment while the rate of inflation remained low. There was much hope that we would ease into full employment without reviving inflation. However, the possibility was not tested; instead, with the acceleration of the Vietnam war the economy raced up to full employment and beyond, setting off a wave of inflation. Even that wave showed signs of abating with the very moderate slowdown of 1966–67. But moderate restraint had inadequate time to work before the combination of expansive fiscal and monetary policy rekindled inflation. This time the key was to be continuity, moderation, or, as it came to be called, gradualism.

For a while, this "gradualism" was taken with some disbelief, especially in financial circles, where it was understood to mean that nothing would be done or allowed to happen. This skepticism largely disappeared as the effects of a persistent squeeze on the economy appeared.

2. *Monetarism.* More than any of its predecessors, the Administration counted on monetary policy to manage the overall behavior of the economy, bringing about the desired restraint and revival. This did not mean that the Government or the economy could safely be run on the principle that only monetary policy mattered. Prudence required avoiding extremes of other policies—like the $25 billion deficit that occured in 1967–68. But hardly anything the Government could do would be likely to offset the effects of aberrations in monetary policy. The Administration, while not controlling monetary policy, would be especially concerned to cooperate with the managers of monetary policy, by the management of fiscal policy as well as by discussion with the Federal Reserve. In the weight it placed on monetary policy the Administration was recognizing a twenty-year trend in the thinking of economists, reinforced by experience during the 1965–68 inflation.

3. *Free Markets and Free Collective Bargaining.* The Administration decided not to invoke price and wage controls directly and with the force of law, or indirectly and covertly by jawboning in support of "guideline" wage and price standards laid down by the President without legislative authority.

This was probably the most controversial aspect of the game plan. There is a natural yearning for an escape from the difficult choice between more inflation and more unemployment and this yearning often gives rise to the belief that there "must" be such an escape. The most eligible candidate for the escape route is price and wage controls or, more commonly, "some" (usually unspecified) form of voluntary guideline policy or "incomes policy."

The Administration's reluctance to go down this route is often, but mistakenly, ascribed to ideology or theology, especially on the part of President Nixon's economists. Surely the Administration had sufficient motivation to override ideological objections if there was any strong reason to think that such controls, of the hard or soft kind, would work. But price and wage controls, even of the soft variety, were not born yesterday. They have a history all over the world, including the United States, and as recent as President Johnson's futile confrontation with the airline mechanics in 1966. There was nothing in the record to suggest that controls could make an important contribution to solving the economic problems of 1970. If "theology" prevailed it did not prevail against any strong empirical demonstration.

This, then, was the game plan—to curb the inflation without causing a recession and to do this by first steadily slowing and then steadily reviving the growth of demand, through exercise of the Government's monetary and fiscal policies and without recourse to hard or soft price-wage controls.

How is the plan working? Of course, the game is not over, and one must admit that the outcome is not completely certain. Still, there are things that can be said at this stage, after the first half.

Probably the most important thing that can now be seen is that the economy can be slowed without being put into a tailspin. The popular analogy to an airplane is often used to suggest the contrary: the economy, it is said, has to go at a certain minimum speed to keep going at all. Underlying this is the false idea that when the economy is prosperous certain kinds of economic activity, investment especially, depend on the expectation of continued rapid economic growth. If the expectation is disappointed, and the economy levels out, these kinds of activity will actually decline and drag the rest of the economy down with them.

From the beginning of the effort to restrain the economy, there was fear that the restraint could not be kept gradual. Nervousness about this became intense in April and May when reports were being received of cutbacks in business investment plans, the stock market was in a disturbing decline and the unemployment rate was rising without interruption to 5%.

But this nervousness has now passed. We have learned that the economy is not an airplane or a bicycle; it can slow down without falling over. Total output, as measured by the real GNP, declined slightly in the fourth quarter of 1969 and more in the first quarter of 1970 but then leveled out in the second quarter. The total decline of output was eight-tenths of one percent over this period. We expect total output to be higher in the current quarter despite the strike at General Motors. Industrial production, which declined 3.2 percent from July to May, has since levelled out, with the index going 169.0, 168.8, 169.2 and 169.0. The rate of unemployment rose sharply to 5.0 percent in May but then declined to a 4.7 percent in June before returning to 5.0 percent in July. We have now had five successive months showing 4.8%, 5.0%, 4.7%, 5.0%, and 5.1% unemployment rates—a fairly flat picture.

This interruption of the decline in the economy does not rule out the possibility that the decline will be resumed. However, we consider this extremely unlikely. The interruption of the decline at least tends to confirm the validity of the strategy of careful restraint. And it allows us to think about what will happen next more coolly than we could while the economy was falling. This is important, because it is what comes next that will determine the success of the policy.

The expectation underlying the policy is that from about the present point production will begin to rise again, slowly at first but more rapidly later. The rise of production would not at first be fast enough to prevent some further rise of unemployment, as the number of people of working age increases and output per worker grows. However, unemployment would not rise for long or far above the 5 percent rate before it began to decline.

At the beginning of 1970 there were several reasons for expecting the upturn of production around the middle of the year:

1. The slowdown of the economy had been brought about in part by extreme monetary restraint, which left individuals and businesses short of cash, made credit hard to get and raised interest rates temporarily. It was believed that this monetary restraint would be relaxed early in 1970 and would support a rise of spending by individuals, businesses, and state and local governments by mid-year.

2. There was a big backlog of need for housing which would be translated into rising housing expenditures when, or shortly after, other demands on the economy, like business investment expenditures, began to decline.

3. Consumers would receive a big infusion of available income when the tax surcharge expired in two steps, January 1 and July 1, 1970, and when Social Security benefits were increased in April. This was expected to assure strongly rising consumption expenditures.

The expected conditions for the expected upturn all exist. Since the beginning of the year the rate of monetary expansion, which had been zero in the second half of 1969 has risen to about 5 percent. The flow of money into the chief sources of residential mortgage loans, like the savings and loan associations, has increased and the number of building permits issued and houses started has risen sharply. Average housing starts in July and August were 17 percent above the second quarter average. Business investment plans have been fairly resistant to declines in output, profits, and the stock market, State, and local financing has increased. Personal income has been fattened not only by the tax and social security changes but also by a big increase on the wage scale of the country's largest employer—the U.S. government.

Still, as always, uncertainties remain. The most important now visible is the behavior of consumers. In the second quarter of 1970 their available incomes rose by an extraordinary amount, and were at the highest real level per capita in history. They did not increase their expenditures by nearly the amount of their increased incomes, but instead raised their savings substantially. If this reflected only a delay in consumers' reaction to their increased incomes, a strong rise of consumers' spending would contribute to the recovery in this quarter. But if it reflected a more persistent disinclination to spend, the recovery may come more slowly, though these higher savings would be beneficial to housing and state and local construction.

While uncertainties remain, their nature continues to change. During the first half of 1969 the chief uncertainty was whether the government would actually carry through on its anti-inflationary policy. By the second half of the year the uncertainty had shifted to whether the policies would in fact slow down the economy. When evidence of the slowdown became unmistakable the uncertainty focused on how deep it would go and how long it would last. Uncertainty still remains on that score, but its range seems fairly narrow. If the slowdown has not already reached its bottom, few expect it to continue much further or for much longer. The present uncertainty is about how rapidly production will rise and how soon full employment will be regained. And since the future is not to be passively forecast but will be influenced by policy decisions still to be made, this raises another question. How fast *should* production rise, if we are going to carry out the strategy for reducing the rate of inflation?

There are several views of the probable and desirable pace of the economy as it moves back to full employment. One is the "spontaneous snap-back" theory—which sees the economy getting back to full employment in 1971 without any governmental push.

According to this view we have all been unduly impressed, and depressed, by the fact that it took almost five years for the economy to return to full employment under the Kennedy-Johnson Administration. In fact, after unemployment reached its maximum on four separate occasions in the postwar period, it declined by one percentage point or more in two quarters three times and in three quarters once. Such a pattern could easily bring us back to full employment in 1971.

On the other hand, some analysts foresee a long, slow climb back to full employment. They look at a declining trend of defense spending and weak business investment and do not see any other sector rising strongly enough to give the economy a vigorous boost. There are still others who believe that a rapid return to full employment—whether occurring spontaneously or engineered by policy—should be avoided. This view is represented by the recent statement in the Monthly Economic Letter of First National City Bank that "living with a gap between potential and actual output may be a small price to pay for liquidating inflation—especially if the cost can be spread by beefing up unemployment compensation and manpower training and by passing the President's welfare reform package."

The Administration's expectations and plan differs from all of these. It does not count on a spontaneous snap-back of the unemployment rate. The quick reductions of 1949, '54, '58, and '61 were all from recessions, in which production fell well below sales and businesses ran down their inventories. The move to rebuilding inventories by itself gave a sharp stimulus to output and employment. In 1970, however, businesses have slowed down the rate at which they add to inventories but have not actually been reducing their goods on hand. The steep initial rebound of the earlier episodes is, therefore, unlikely to be repeated. Moreover, the plan calls for avoiding a rebound so steep as to start the rate of inflation rising again.

On the other hand, to say that we cannot get back to full employment for several years—or should not—is unduly pessimistic. The underlying desire of the American people for the output of the American economy—for consumers goods and services, for housing, for the services of government and for investments to meet future needs—is great. This can be translated into the purchase of goods and services, into full production and into full employment if the necessary fiscal and monetary conditions are met. The government must not take so much

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out of private incomes in taxes—relative to what it puts back by spending—that the people are unable to buy enough to achieve full employment. Also the government must provide enough money to permit people to carry on their business and to borrow for financing housing purchases and other activity usually conducted with borrowed money.

It is beyond the capacity of the present state of economics, to say nothing of the present state of politics, to manage our fiscal and monetary affairs so precisely that the total demand for output is always just right. The optimism many once had about "fine-tuning" the economy has vanished. The long bull market in economics ended even before the bull market in stocks. But even though policy is not very precise it is powerful enough to prevent a deficiency of demand from persisting over a period of several years. The Administration's confidence on this score underlies the President's statement that his goal is to achieve full employment during the year July 1, 1971 to June 30, 1972.

The President's establishment of that goal also reflects the belief that full employment can be reached during the year ending June 30, 1972 without reviving inflation. To say this is to invite the question, "Why talk about the problem of reviving inflation when the inflation is not only alive but in fact more worrisome than ever?" Certainly the inflation has persisted in a degree which has amazed almost everyone. Yet signs are now also present of a change in the inflationary trend. Two items are most important:

1. Until 1969 the rate of inflation was rising. It was not only that prices were rising but that they were rising faster and faster. That has now stopped. If we remove from the price indexes the effects of irregular and random factors, like the behavior of farm prices, used car prices and government wage increases, the levelling out of the rate of price increase is evident. Probably the cleanest case is the index of industrial prices at wholesale. From May to August the annual rate of increase of this index (seasonally adjusted), was 2.7%, compared to 3.9% in the previous year. In June and July the Consumer Price Index rose at an annual rate of 3.8%, compared to 6.1% in the previous year.

These may seem small figures, but it is of such small monthly figures that large inflations are made, and apparently small reductions will spell victory against inflation. What has happened is a decline of almost 40 percent in the rate of increase of the Consumer Price Index.

2. There are now signs that labor costs per unit of output are rising less rapidly than they were. This is in sharp contrasts to the impression given by accounts of some spectacular wage increases. The contrast is partly due to the difference between the spectacular cases and the average. There have been many wage increases of 15 percent or more this year. But these have applied to relatively few workers. In fact, labor compensation per man-hour in the whole private economy was about 7 percent higher in the second quarter of 1970 than a year earlier.

More important for the trend, what counts for prices is not the cost of an hour's labor but the cost of the product. This depends not only on the wage rate but on "productivity"—how much is produced per hour of work. During 1969 productivity rose very little—actually declining between the first quarter of 1969 and the first quarter of 1970, But in the second quarter of this year output per man-hour rose again, at a rate of 3.1 percent, about its long-run average rate. This has reduced the rate of increase of unit labor costs substantially.

We are now entering a period in which productivity will probably rise at least as fast as the long-run average rate. We should expect a lower rate of increase of unit labor costs than last year, even if wage rates continue to rise as rapidly as before. This will make a big difference for the rise of prices. And when prices begin to rise less rapidly, more of the wage increases labor gets will be real and less will be eaten up in higher prices. Workers and employers will then be able to settle for smaller wage increases and the unwinding of the inflationary spiral will be under way. This will not be an easy process. The confrontation of past disappointments and future hopes with present realities will be cruel. But in time, which we hope will not be too long, expectations and realities will come into line and we can proceed.

Hopes and promises of a slower rate of inflation have been disappointed since the temporary "anti-inflationary" tax increase was enacted in mid-1968. This has contributed to skepticism about the inflation ever subsiding. There was a wave of similar feeling, although not so widespread, in 1957 and 1958. The inflation of 1955–56, our first "peacetime" inflation in many years, gave rise to the idea that rapid inflation might be the normal characteristic of our economic system—perhaps especially because it could not easily be blamed on loose policy by the Administration. This fear of persistent inflation was one obstacle to taking vigorous measures against the recession in 1958. It also gave rise to appeals by President Eisenhower for voluntary self-restraint by business and labor to hold prices and wages down. But the inflation had already begun to abate by early 1957, before the recession started and probably would have continued to subside if we had had a period of steady moderate growth instead of the recession. The idea that something fundamental had changed in the economy to make permanent inflation inevitable was simply a mistake—another example of our propensity for regarding every ripple as a trend.

At this time and in this city it is necessary to say a word about the consequences of the present automobile strike. These consequences will depend, of course, on the duration of the strike. Even without knowing that, some things can be said about the magnitudes involved. We are dealing with an industry whose gross product—including the product of its suppliers and distributors—is around $35 billion a year, or about 3½ percent of the gross national product. The current strike may stop about 40 percent of that output, or about 1½ percent of the gross national product. This direct output loss would be at a rate equal to about one-half of the output lost because the unemployment rate is 5 percent rather than 4 percent. If the strike continues for very long secondary consequences are likely to appear, as workers on strike cut down on their expenditures.

However, our past experience has been that overall production losses from even fairly prolonged strikes in this or other major industries are made up afterwards in a relatively brief time—say three or four months. This catch-up will not make whole every individual who suffered from the strike. The combination of strike and catch-up is not an efficient way to produce the nation's output. Moreover, what I have said implies nothing about the wage and benefit agreements achieved or averted by the strike. My only point is that we do not expect the strike to divert the general economy very much from the part of revival plus disinflation that we seek.

* * * * *

What have we learned from this historic effort to slow down inflation without recession? Some things are known that were not known for sure when the effort began. We now know that this Administration will in fact pursue anti-inflationary policies and so will the Federal Reserve Board. We know that such policies will in fact slow down the economy. We know that if the policies are moderate they need not cause a sharp contraction which will force the government to shift gears too rapidly, pump up the economy again and revive the inflation. We know that persistence in the anti-inflationary policy will end the rise in the rate of inflation, although that point took a long time to reach.

We now see some signs of an actual reduction in the rate of inflation. We also see evidence of a sustainable pickup in economic activity. If our grimmer commentators will excuse the expression, the game is not over but we enter the second half in a strong position.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JONES of Tennessee (at the request of Mr. ALBERT), for today, on account of official business.

Mr. BYRNE of Pennsylvania (at the request of Mr. NIX), for Tuesday, October 6, 1970, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. BINGHAM, for 1 hour, today; to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. FISH) and to revise and extend their remarks and include extraneous matter:)

Mr. ANDERSON of Illinois, for 30 minutes, today.

Mr. MILLER of Ohio, for 5 minutes, today.

Mr. ROBISON, for 15 minutes, today.

Mr. PRICE of Texas, for 15 minutes, today.

Mr. BRAY, for 15 minutes, on October 7.

Mr. BRAY, for 15 minutes, on October 8.

Mr. STEIGER of Arizona, for 10 minutes, today.

(The following Members (at the request of Mr. MIKVA), to revise and extend their remarks and include extraneous matter:)

Mr. RARICK, for 15 minutes, today.

Mr. O'HARA, for 30 minutes, today.

Mr. ALBERT, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MICHEL in three instances and to include extraneous matter.

Mr. POFF during general debate on the bill S. 30 and to include extraneous material.

Mr. BINGHAM, and to include extraneous matter with remarks made during general debate on S. 30.

All Members (at the request of Mr. FISH) to extend their remarks during

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the special order by Mr. Anderson of Illinois, today.

(The following Members (at the request of Mr. Fish) and to include extraneous matter:)

Mr. Talcott.

Mr. Robison in two instances.

Mr. Findley.

Mr. Hall.

Mr. Erlenborn.

Mr. Sebelius in four instances.

Mr. Scherle in two instances.

Mr. Hunt.

Mr. Steiger of Wisconsin.

Mr. Schwengel.

Mr. Hosmer in two instances.

Mr. Railsback.

Mr. Wyman in two instances.

Mr. Harvey in two instances.

Mr. Fulton of Pennsylvania in 10 instances.

Mr. Schmitz in two instances.

Mr. Duncan.

Mr. Minshall in two instances.

Mr. Wold.

Mr. Collins in five instances.

Mr. Brotzman.

Mr. Gerald R. Ford.

(The following Members (at the request of Mr. Mikva) and to include extraneous matter:)

Mr. Dent in three instances.

Mr. Purcell in two instances.

Mr. Rivers.

Mr. Foley.

Mr. Harrington in two instances.

Mr. Garmatz.

Mr. Burke of Massachusetts in two instances.

Mr. Brinkley.

Mr. Rarick in three instances.

Mr. Patman.

Mr. Evins of Tennessee in two instances.

Mr. McFall in six instances.

Mr. Pike.

Mr. Charles H. Wilson.

Mr. Friedel in three instances.

Mr. Annunzio in two instances.

Mr. Murphy of Illinois.

Mr. Stokes in two instances.

Mr. Bennett in two instances.

Mr. Kluczynski in two instances.

Mr. Fountain in two instances.

Mr. Culver.

Mr. Boland.

Mr. Vanik in two instances.

ADJOURNMENT

Mr. MIKVA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 11 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 7, 1970, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2428. A communication from the President of the United States, transmitting a request for early action on the proposed Emergency Public Interest Protection Act of 1970; the Committee on Interstate and Foreign Commerce.

2429. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated June 26, 1970, submitting a report, together with accompanying papers and an illustration, on Humboldt Harbor at Sand Point, Alaska, requested by a resolution of the Committee on Public Works, House of Representatives, adopted June 30, 1960 (H. Doc. 91-393); to the Committee on Public Works and ordered to be printed with an illustration.

2430. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated April 3, 1970, submitting a report, together with accompanying papers and illustrations, on central and southern Florida, small-boat navigation, requested by resolutions of the Committees on Public Works, U.S. Senate and House of Representatives, adopted November 15, 1954, October 18, 1961, and May 10, 1962 (H. Doc. 91–394); to the Committee on Public Works and ordered to be printed with illustrations.

2431. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated May 21, 1970, submitting a report, together with accompanying papers and an illustration, on Lee County, Fla., requested by a resolution of the Committee on Public Works, House of Representatives, adopted June 23, 1964 (H. Doc. 91–395); to the Committee on Public Works and ordered to be printed with an illustration.

2432. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated May 2, 1970, submitting a report, together with accompanying papers and an illustration, on Ottawa River Harbor, Michigan and Ohio, requested by a resolution of the Committee on Public Works, House of Representatives, adopted August 15, 1961. It is also in partial response to an item in the River and Harbor Act approved March 2, 1945 (H. Doc. 91–396); to the Committee on Public Works and ordered to be printed with an illustration.

2433. A letter from the Acting Commissioner of Education, Department of Health, Education, and Welfare, transmitting a report on research related to school finance, pursuant to the Elementary and Secondary Education Amendments of 1969; to the Committee on Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ICHORD: Committee on Internal Security. Anatomy of a Revolutionary Movement: "Students for a Democratic Society" (Report No. 91–1565). Referred to the Committee of the Whole House on the State of the Union.

Mr. COLMER: Committee on Rules. House Resolution 1235. Resolution for consideration of S. 30, an act relating to the control of organized crime in the United States (Rept. No. 91–1566). Referred to the House Calendar.

Mr. COLMER: Committee on Rules. House Resolution 1236. Resolution for consideration of H.R. 959, a bill, to amend the Internal Security Act of 1950 (Rept. No. 91–1567). Referred to the House Calendar.

Mr. O'NEILL of Massachusetts: Committee on Rules. House Resolution 1099. Resolution providing for an annual reception day for former Members of the House of Representatives (Rept. No. 91–1568). Referred to the House Calendar.

Mr. COLMER: Committee on Rules. House Resolution 1237. Resolution for consideration of H.R. 19590, a bill making appropriations for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes (Rept. No. 91–1569). Referred to the House Calendar.

Mr. MAHON: Committee on Appropriations. H.R. 19590. A bill making appropriations for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes. (Rept. No. 91–1570). Referred to the Committee of the Whole House on the State of the Union.

Mr. O'NEILL of Massachusetts: Special committee to investigate campaign expenditures. Interim report on the complaint of Byron G. Rogers regarding the September 8, 1970, primary election in the First Congressional District of Colorado (Rept. No. 91–1571). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of New York: Committee on the Judiciary. H.R. 13182. A bill for the relief of Frank E. Dart; with an amendment (Rept. No. 91–1558). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 14703. A bill for the relief of Ruth V. Hawley, Marvin E. Krell, Alaine E. Benic, and Gerald L Thayer; with an amendment (Rept. No. 91–1559). Referred to the Committee of the Whole House.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 15270. A bill for the relief of Thaddeus J. Pawlak; with an amendment (Rept. No. 91–1560). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 15505. A bill for the relief of Jack B. Smith and Charles N. Martin, Jr.; with an amendment (Rept. No. 91–1561). Referred to the Committee of the Whole House.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 15805. A bill for the relief of Warren Bearcloud, Perry Pretty Paint, Agatha Horse Chief House, Marie Pretty Paint Wallace, and Pera Pretty Paint Not Afraid; with amendments (Rept. No. 91–1562). Referred to the Committee of the Whole House.

Mr. MANN: Committee on the Judiciary. H.R. 16965. A bill for the relief of Richard N. Stanford; with amendments (Rept. No. 91–1563). Referred to the Committee of the Whole House.

Mr. MANN: Committee on the Judiciary. S. 1785. An act for the relief of Irene Sadowska Sullivan. (Rept. No. 91–1564). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BURLESON of Texas:

H.R. 19583. A bill to amend section 403(b) of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. DORN:

H.R. 19584. A bill to amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government; to the Committee on Government Operations.

By Mr. FRASER:

H.R. 19585. A bill to amend the Internal Revenue Code of 1954 to increase the credit against tax for retirement income; to the Committee on Ways and Means.

By Mr. FULTON of Pennsylvania:

H.R. 19586. A bill relating to the control of organized crime in the United States; to the Committee on the Judiciary.

By Mr. HENDERSON:

H.R. 19587. A bill to amend the act of September 27, 1944 (58 Stat. 746), an act to authorize the Secretary of the Interior to accept property for the Moores Creek National Military Park, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KYROS:

H.R. 19588. A bill to amend title 38 of the United States Code to provide improved medical care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LONG of Maryland:

H.R. 19589. A bill to permit immediate retirement of certain Federal employees; to the Committee on Post Office and Civil Service.

By Mr. MAHON:

H.R. 19590. A bill making appropriations for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes.

By Mr. MATSUNAGA (for himself and Mr. Pettis):

H.R. 19591. A bill to amend title 5, United States Code, with respect to the relocation expenses of employees transferred or reemployed; to the Committee on Government Operations.

By Mr. MINSHALL:

H.R. 19592. A bill to make it a Federal crime to kill or assault a fireman or law enforcement officer engaged in the performance of his duties when the offender travels in interstate commerce or uses any facility of interstate commerce for such purpose; to the Committee on the Judiciary.

By Mr. MOSS (for himself, Mr. Mailliard, Mr. Roybal, Mr. Del Clawson, Mr. Brown of California, Mr. Tunney, Mr. Edwards of California, and Mr. Ottinger):

H.R. 19593. A bill to amend the Federal Aviation Act of 1958, as amended, to authorize air carriers to engage in bulk air transportation of persons and property; to the Committee on Interstate and Foreign Commerce.

By Mr. O'NEILL of Massachusetts:

H.R. 19594. A bill to extend retirement benefits to National Guard technicians and former National Guard technicians who now are in the civilian service of the Government; to the Committee on Post Office and Civil Service.

By Mr. PERKINS:

H.R. 19595. A bill to amend title 10 of the United States Code so as to permit members of the Reserves and the National Guard to receive retired pay at age 55 for nonregular service under chapter 67 of that title; to the Committee on Armed Services.

By Mr. PURCELL:

H.R. 19596. A bill to amend title 18 of the United States Code to provide a penalty for persons who interfere with the conduct of judicial proceedings, and for other purposes; to the Committee on the Judiciary.

By Mr. RANDALL:

H.R. 19597. A bill to increase annuities paid under the Railroad Retirement Act 5 percent and provide cost of living adjustments in benefits; to the Committee on Interstate and Foreign Commerce.

H.R. 19598. A bill to protect air passengers through a federally assisted program of development, acquisition, and installation of antihijacking detection systems; to the Committee on Interstate and Foreign Commerce.

By Mr. ROONEY of Pennsylvania (for himself, Mr. Jarman, Mr. Rogers of Florida, Mr. Satterfield, Mr. Kyros, Mr. Preyer of North Carolina, Mr. Nelsen, Mr. Carter, Mr. Skubitz, Mr. Hastings, Mr. Friedel, Mr. Kuykendall, and Mr. Murphy of New York):

H.R. 19599. A bill to amend the Public Health Service Act to provide for the making of grants to medical schools and hospitals to assist them in establishing special departments and programs in the field of family practice, and otherwise to encourage and promote the training of medical and paramedical personnel in the field of family medicine; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 19600. A bill to amend title 23, United States Code, relating to the use of American materials in highway projects; to the Committee on Public Works.

By Mr. STAGGERS:

H.R. 19601. A bill to amend title 5, United States Code, to provide for maximum entrance and retention ages, training, and early retirement for air traffic controllers, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 19602. A bill to designate as wilderness the Cranberry, Otter Creek, and Dolly Sods areas in the Monongahela National Forest in West Virginia, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. COLLIER:

H.R. 19603. A bill to amend the Federal Water Pollution Control Act in order to authorize the Secretary of the Interior to incur obligations for construction grants under section 8 of such act, and for other purposes; to the Committee on Public Works.

By Mr. KOCH (for himself, Mr. Brademas, Mr. Burton of California, Mr. Holstoski, Mr. Jacobs, Mr. Leggett, Mr. Minish, Mr. Morgan, Mr. O'Neill of Massachusetts, Mr. Roybal, Mrs. Sullivan, Mr. Waldie, and Mr. Yates):

H.R. 19604. A bill to establish a transportation trust fund, to encourage urban mass transportation, and for other purposes; to the Committee on Ways and Means.

By Mr. MOLLOHAN:

H.R. 19605. A bill to authorize the Secretary of Commerce to provide subsidy for the construction of a river passenger vessel; to the Committee on Merchant Marine and Fisheries.

By Mr. PRICE of Texas:

H.R. 19606. A bill to amend the Natural Gas Act as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. SLACK:

H.R. 19607. A bill to authorize the Secretary of Commerce to provide subsidy for the construction of a river passenger vessel; to the Committee on Merchant Marine and Fisheries.

By Mr. MacGREGOR:

H.J. Res. 1391. Joint resolution authorizing the President to declare November 11 (also known as Veterans Day) as a National Day in Support of U.S. Prisoners of War in Southeast Asia; to the Committee on the Judiciary.

By Mr. WALDIE (for himself, Mr. Anderson of California, Mr. Bell of California, Mr. Brown of California, Mr. Burton of California, Mr. Edwards of California, Mr. Hanna, Mr. Johnson of California, Mr. Leggett, Mr. McCloskey, Mr. Moss, Mr. Pettis, Mr. Rees, Mr. Roybal, Mr. Sisk, Mr. Tunney, Mr. Van Deerlin, Mr. Wiggins, and Mr. Charles H. Wilson):

H.J. Res. 1392. Joint resolution to authorize the President to proclaim the period from May 9, 1971, Mother's Day, through June 21, 1971, Father's Day, as the "National Multiple Sclerosis Society Annual Hope Chest Appeal Weeks"; to the Committee on the Judiciary.

By Mr. HUNGATE (for himself, Mr. Addabbo, Mr. Burlison of Missouri, Mr. Clark, Mr. Córdova, Mr. Donohue, Mr. Edmondson, Mr. Edwards of California, Mr. Eilberg, Mr. Erlenborn, Mr. Halpern, Mrs. Hansen of Washington, Mr. Helstoski, Mr. Harrington, Mr. Mann, Mr. Matsunaga, Mr. McCulloch, Mr. McDade, Mr. McKneally, Mr. Quie, Mr. Rosenthal, Mr. Scheuer, Mr. Sikes, Mr. White, and Mr. Williams):

H. Con. Res. 769. Concurrent resolution for review of the United Nations Charter; to the Committee on Foreign Affairs.

By Mr. ICHORD:

H. Con. Res. 770. Concurrent resolution authorizing the printing of additional copies of Anatomy of a Revolutionary Movement: "Students for a Democratic Society," 91st Congress, second session; to the Committee on House Administration.

By Mr. REUSS:

H. Con. Res. 771. Concurrent resolution for the printing of environmental report; to the Committee on House Administration.

By Mr. WATSON:

H. Con. Res. 772. Concurrent resolution expressing the sense of the Congress with respect to sanctions against Rhodesia; to the Committee on Foreign Affairs.

By Mr. FRIEDEL:

H. Res. 1238. Resolution relating to the Speaker of the House of Representatives in the 91st Congress; to the Committee on House Administration.

By Mr. MILLER of California:

H. Res. 1239. Resoluton to provide funds for the further expenses for the studies, investigations, and inquiries authorized by House Resolution 192; to the Committee on House Administration.

By Mr. ROGERS of Colorado:

H. Res. 1240. Resolution resolving the contest in the primary election of September 8, 1970, as to the nominee of the Democrat Party for candidate in the general election for U.S. Representative to Congress from Colorado's First Congressional District; to the Committee on House Administration.

By Mr. WAGGONNER:

H. Res. 1241. Resolution relating to the compensation of the Clerks to the Official Reporters of Debates; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HANNA:

H.R. 19608. A bill for the relief of Manuela Bonito; to the Committee on the Judiciary.

By Mr. OLSEN:

H.R. 19609. A bill for the relief of James Fletcher McAndrew; to the Committee on the Judiciary.

By Mr. TALCOTT:

H.R. 19610. A bill for the relief of Josephine Dumpit; to the Committee on the Judiciary.

By Mr. ERLENBORN:

H. Res. 1242. Resolution commemorating the 100th anniversary of Elmhurst College of Elmhurst, Ill.; to the Committee on the Judiciary.

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EXTENSIONS OF REMARKS

THE WORDS OF YOUTH

HON. JAMES HARVEY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. HARVEY. Mr. Speaker, so much has been said and written about the generation gap and the communication gap. What a pleasure then it was for me to be introduced to the written work of Miss Marilyn Croucher, a graduate last June from Douglas MacArthur High School in Saginaw, Mich.

I can assure every Member of Congress that there is meaning, tenderness, and awareness in a special research paper written by Miss Croucher on her visits to a patient, a veteran receiving care in the Saginaw Veterans' Administration Hospital.

Miss Croucher, who now is in the nursing training program at Delta College, near Saginaw, is by coincidence spending her first semester in training at the Saginaw VA Hospital. Miss Croucher, who resides with her parents, Mr. and Mrs. Oscar J. Croucher, 4850 Coralberry, Saginaw, entitled her research paper: "Old Age's Affect on Personality."

I commend her paper, as did her teacher who wrote at the end of the essay:

> Marilyn—A most beautiful, descriptive and understanding account of your experiences. I hope you continue through life with the same regard for people as you have now. The world is made of people; people are what it's all about.

We have every right to be particularly proud of the millions of young people who do not ordinarily get a lot of our attention. They are busy in school, at their work, and their play, and they are busy pulling their weight—helping in many ways.

One of the ways they are helping is to serve as volunteers, as Marilyn did, in our Veterans' Administration hospitals throughout the Nation. Patients in our VA hospitals are admirably served by the thousands of dedicated VA employees who give of extra time and effort to help wounded and ill veterans. Supporting these employees in their tremendous task are additional thousands of volunteers.

In all of the 166 hospitals operated by the Veterans' Administration, volunteers of all ages contribute their time and effort to insure that hospitalized veterans will get that extra share of attention that they deserve and need. The need is a very human need, for no matter how high the quality of medical care provided, there is a need for companionship and association with family and friend. Very often that friend is a volunteer. And very often also that volunteer is a young person.

Here is Marilyn Croucher's paper:

OLD AGE'S EFFECT ON PERSONALITY

(By Marilyn S. Croucher)

I have done a case study for my research paper and presented it in discussion form. The method I used was talking to the man, whom I have been visiting for over nine weeks, and after saying, "Goodbye," I dashed to the first floor and jotted down all that I could remember.

When I visited him in his room I noticed what type of mood he was in by whether the window shade was pulled down or left up or whether there were any flowers on his dresser. This helped me to know how I should approach him: With exuberance or caution (I most always used the former).

I have gathered some information of his past life which contributes to his basic personality now.

August Roemer was born on March 1, 1889, and raised in Bay City, himself being the middle child of two older brothers and two younger sisters.

Twice, Mr. Roemer was kidnapped and once he laid on the railroad track as a train went over him (so he says, and he may be fantasizing or imagining himself doing those things which he could never do physically now). These two facts account for his caution of strangers and his impulsive moves.

Doing railroad work, working on an assembly line for cars, and being in the Army during World War I is how he spent his "growing up" years.

For years, August has been a member of the First Presbyterian Church in Bay City where he used to sing in the choir. He still has an ear for music and knows most any church hymn "by heart."

He has never spoken of his wife so I know nothing about his marriage, although now he has one son and two daughters presently living in Bay City. In the four years Mr. Roemer has been in the hospital his children have visited him twice: Once at the request of the VA Chaplain and once more by a volunteer who got upset with them because they never went to see him.

August now is recovering very, very slowly from Infantile Paralysis which he had when he entered the hospital. After four years he has reeducated certain muscles in his legs and arms, he can walk in therapy slowly between the parallel bars and "on the floor" when he has a nurse on both sides.

He tells me how happy he is when I'm there with him and I believe him because it is so obvious. I'm very privileged and happy to be a part of bringing sunshine into a man's life who is in need of it!

I took the elevator up to the fifth floor and when the door opened I saw "my little old man" sitting in his wheel chair across from his room. As I walked up to him I saw that Mr. Roemer was asleep. Bending over I said, "Hey, Sleepy, wake up!" I shook him a little, and repeated my words. His head slowly came up and as he recognized me a broad smile came across his face and he said, "Well, and what's with you?"

"Oh, not a whole lot, I brought the newspaper, though. What would you like to hear about?"

"Oh, I don't care, you decide," he said with a look of abstractness.

"Reverend Williams said that you pulled a fast one on everybody and slipped out after chapel, this morning. How come you didn't stay for coffee and rolls?"

"Oh," he said, with a voice that went from high to low, "I just had breakfast a couple of hours before and then a couple of hours after that I'd be eating lunch. And besides, I don't like people waiting on me all the time. I'm not the only one to look after. They say that they don't mind, but gosh, I know they'd like to be doing other things."

"If they say that they don't mind," I said desperately, "then I'm sure they don't. That's why they're here: To help out and they enjoy it. I come here because I enjoy being with you. I have lots of other things to do but I like this and it's important to me."

"Well, I'm glad you came," he said in his hard-to-understand-the-words voice, "no one else ever does. I've been here four years, the same thing every day. I wish I could do something."

When I asked him what he meant, he answered, "Well, something like . . . something for someone else. I can just sit here."

"And look at all you're doing for me! You see a smile on my face, don't you? You make me happy when I talk to you and I know others around you enjoy your company. Some people do for others with their hands and their strong bodies, but you bring joy to those around you by talking and just being there. There's got to be both kinds."

I looked at him and he was trying to move his hands.

"For as long as I've been here I have improved some. Before I couldn't even walk and now I can with help. I sit under the sun lamp, too."

"I noticed your lovely tan," I said, as I moved my hand next to his, "and you're even darker than me."

This brought a smile to his face but still his eyes didn't twinkle as they had before when I first came.

After this I read to him about the jet liner that was hi-jacked from Japan. Halfway through the article I mis-pronounced a few Japanese names. As I looked up rather sheepishly he was starting to laugh. So I did it on purpose the next time and he really enjoyed the English pronunciation I gave to names. Then I read the mail call by Frank Koontz. I read about the truck-drivers' strike and he mentioned rather angrily that when he was younger he took the wages given to him. "People are sure dissatisfied with the world today," he said.

We talked for a while until a nurse came and said that she had noticed I was there. August said that I was his sweetheart and came in and read to him all the time. This shows how strong is his need for affection and a sense of belonging.

After assuring him I would come again, I stepped into the elevator.

Since that visit, I have gone back several times on Sundays and as many times on weekdays. Each time he is very happy to see me, and never wants me to leave.

I suggested singing once because I knew how much he enjoyed it. Before long, we were both singing and humming our favorite hymns. That same evening when we were discussing religion he struggled to free his hand from under the covers and covered my hand with his. I smiled at him and we continued our conversation.

I feel that an elderly person will forget many of his problems of old age if he is in an environment of young people. Youths have such an overflow of exuberance and activity that sometimes it "rubs off" just by conversing. Elderly people enjoy company of any sort. They'll talk to anyone who'll listen about their past; childhood and adulthood and what "they'd do if."

This last Sunday I went to chapel with Mr. Roemer. After the service we had coffee and rolls and then I took him to the lobby where the sun was shining. After this, on the way up to his room, I took a bag of lemon drops from my purse and presented them to him. He said to me that I shouldn't have gotten them just because he said he liked them, he had tears in his eyes while saying this.

Events like these, words of gratitude, and looks that are pregnant with meaning are the best types of rewards ever to be had. So much can be learned by sitting, listening and communicating with others. In this case, I have learned something of the personality of an individual; his habits, his hobbies, mannerisms, and some of his hang-ups.

Mr. Roemer shows signs of senility every so often. The stage of melancholia is often observable to me especially on a Sunday when the other visitors have their families with them.

Many times as he reminisced about the past (which is another sign of old age) he became sentimental about his children, or the fact that he used to be so active and he's not now. As he'd be talking, he'd come to a mental block and sometimes say something like, "Gee, that's been such a long time ago, I really can't remember."

What he can remember is remarkable and he's able to carry on an educated conversation, because he knows what is going on "outside."

I can only conclude that it is necessary for people to feel that they are needed and wanted. They must have faith in some goal to work for. Love, affection, and communication, above all, is what is really needed in this world of changing times!

SAN ANTONIO'S McCOLLUM HIGH SCHOOL RECEIVES NATIONAL BELLAMY AWARD

HON. RALPH YARBOROUGH

OF TEXAS

IN THE SENATE OF THE UNITED STATES

Tuesday, October 6, 1970

Mr. YARBOROUGH. It gives me a great deal of pleasure to announce that McCollum High School, San Antonio, Tex., has been named the recipient of the 30th annual National Bellamy Flag Award. This award, which is given in honor of Francis Bellamy, author of the Pledge of Allegiance, is bestowed upon those high schools which display an unusually high level of academic accomplishment, dedication to the principles of good government, and leadership in fostering and promoting brotherhood and human understanding.

McCollum High School can take special pride in the fact that it is the youngest high school in the country ever to be selected for this fine award, a fact that adds special significance to an already impressive list of accomplishments. I join with all Texans in congratulating the students, faculty, and staff of McCollum High School, and extend to them my best wishes for continued success in the future.

Mr. President, I ask unanimous consent that the announcement of this award be printed in the Extensions of Remarks.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

McCOLLUM HIGH SCHOOL IN SAN ANTONIO GETS NATIONAL AWARD

McCollum High School—a facility of the Harlandale Independent School District—has been named to receive the 30th Annual National Bellamy Flag Award for the State of Texas in 1971, an honor established in memory of Francis Bellamy, who authored the Pledge of Allegiance to the Flag.

McCollum becomes the youngest school to ever receive the coveted honor, which is given annually to one high school deemed outstanding in its accomplishments and representative of all quality public schools in a different state each year. The San Antonio school was selected from among 177 Texas high schools originally considered to receive the honor.

Making the award announcement Thursday was Dr. Margarette S. Miller, Director of the National Bellamy Award Program, who was in San Antonio. She spoke at a pre-schools-year session of Harlandale District teachers Thursday morning. Also attending were San Antonio civic leaders.

The award is represented by a large outdoor United States flag that has flown over the nation's Capitol, and is given in recognition of the accomplishments of public high schools.

In announcing the award, Dr. Miller noted: "The National Bellamy Award makes no pretense at selecting a 'best school' in a state. It simply selects a school that is representative of all fine public schools in a chosen state. Thus McCollum High School has been chosen and designated as the standard bearer for all Texas schools. It will retain that honor for a fifty year period in the distinguished group of outstanding and representative secondary schools throughout the nation."

Noting that schools are chosen largely on the basis of long, impressive records of accomplishments, awards and the manner in which they stress the American Way of Life as patterned by the nation's founders, Dr. Miller said: "McCollum is a very young school, a youthful school. Its history is short but its scope is broad; its rare degree of optimism for its future high."

McCollum opened its doors in September, 1962. Its first principal was George Vakey, who was followed by Pat Shannon, still in that position.

Actual presentation of the award will be at formal ceremonies scheduled October 15, 1971, at the school. At that time school officials will receive the award flag that will have flown over the nation's Capitol on May 18, 1971, the birthday of Francis Bellamy.

In the meantime, a delegation from the school district will be guests at the presentation of the award for 1970 to the state of South Dakota in Lead October 13 through 17.

"It is difficult for us at the Harlandale School district to convey what we feel in one of our schools being named to receive this award," said District Superintendent Callie W. Smith. "Selection of McCollum High brings honor to all youngsters of the Harlandale District as well as to San Antonio as a whole."

"We feel that selection of McCollum to be the standard bearer for all Texas schools says a lot for the educational program of our district and the fine youngsters of our community."

The Bellamy Award is granted annually to honor the memory of Francis Bellamy, help young people renew and rededicate themselves to the democratic ideals explicit in the Pledge, acknowledge the vital role of the public school in helping mold and realize the ideals of the United States, confer public recognition on a representative high school of a state and to help broaden and deepen the meaning of the Pledge of Allegiance.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,500 American prisoners of war and their families.

How long?

AMERICAN CIVIL LIBERTIES UNION OPPOSES ORGANIZED CRIME CONTROL ACT—S. 30

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. RYAN. Mr. Speaker, the Organized Crime Control Act of 1970—S. 30—will shortly be considered by the House. I believe that this bill fails to attack effectively its ostensible target—organized crime—and it succeeds in drastically infringing upon the Constitution.

The American Civil Liberties Union has prepared a thoughtful, cogent, and careful analysis of this bill. The conclusion of this report is that—

> The American Civil Liberties Union believes that the good in S. 30 is far outweighed by the bad, and that it ought not pass.

This report, ably prepared by Lawrence Speiser, director, Washington office, American Civil Liberties Union, and Mrs. Hope Eastman, assistant director, is an important document which I urge every Member to carefully consider. It follows:

WASHINGTON OFFICE, AMERICAN
CIVIL LIBERTIES UNION,
Washington, D.C., October 2, 1970.

Re Organized Crime Control Act—S. 30.

DEAR CONGRESSMAN: Very soon you will be called upon to cast your vote on S. 30, the so-called Organized Crime Control Act, the stated purpose of which is to destroy the power of organized crime groups. We share this goal, but believe the bill goes far beyond it. In the guise of pursuing this objective, it would make drastic revisions in our entire system of criminal law, state and federal, which would jeopardize the civil liberties of everyone.

The American Civil Liberties Union believes that the good in S. 30 is far outweighed by the bad, and that it ought not pass. We urge you to give serious consideration to our reasons for this conclusion before deciding how you will vote.

TITLE I—SPECIAL GRAND JURIES

Title I authorizes special federal grand juries to report: "concerning noncriminal misconduct, malfeasance or misfeasance in office involving organized criminal activity by an appointed officer or employee . . ."

We are not alone in the conclusion that it is highly undesirable to give federal grand juries the power to criticize public officials and employees where there is not enough evidence to indict and try them in a criminal trial. A number of Bar groups have come to a similar conclusion. An individual accused by such a grand jury has no real way to clear himself of charges levied by this body which speaks with the authority of the government and which has secured its information by using compulsory testimony in secret proceedings.

Although a person named in a report is given an opportunity to testify and present a "reasonable" number of witnesses, the value of that right is critically undercut be-

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cause he cannot know the identity of his accusers, cannot compel the attendance of witnesses or cross-examine, and cannot compel the production of documetary evidence. Moreover, he receives this limited opportunity to appear only *after* the grand jury has decided to report on his guilt. The provision for judicial review is also largely illusory. A report may be made public if it is supported by nothing more than "a preponderance of the evidence" and a detailed record of the proceedings need not be kept. These procedures are totally inconsistent with that fundamental fairness guaranteed by the Fifth Amendment.

As a final note, we point out that the Judiciary Committee amended the Senate-passed version of S. 30 to eliminate the grand jury's power to report on the conduct of *elected* officials. The Committee's unwillingness to permit Congressmen to be subjected to this kind of public smearing, but to allow it to be done to appointed officials, raises a serious question about a double standard. Surely what should be sauce for the goose should be sauce for the gander.

TITLE VII—LITIGATION ON SOURCES OF EVIDENCE

If one title of S. 30 had to be singled out as the most dangerous, Title VII would have that very dubious distinction. As the fine dissenting views of Congressmen Mikva, Ryan and Conyers point out, "it demonstrates an antipathy towards, and impatience with, the exercise of constitutional rights which reflects another grim chapter in the attempts to uplift expediency to the level of constitutional legitimacy."

Title VII does two things to earn this clearly deserved condemnation. First, it sets a statute of limitations on complaints that evidence was obtained by illegal electronic surveillance. Such statutes of limitation, whatever role they might play in forcing litigants or the government to file suit or criminal charges in a timely manner, have no place in the defense of constitutional rights. To deprive the defendant of constitutional defenses which only become necessary to assert when he is later brought to trial is an extraordinarily dangerous inroad on rights we have long worked hard to protect.

Second, Title VII seeks to reverse the ruling of the Supreme Court in *Alderman* v. *United States*, 394 U.S. 165 (1969), that the defendant must be shown all tapes of electronic eavesdropping conducted by the government in order to determine whether those activities tainted the prosecution's evidence. Title VII attempts to substitute "in camera" inspection by the court which would determine which tapes might be relevant and turn only those over to the defendant. This is precisely the procedure which the Supreme Court rejected. As the Court said in *Alderman*, we believe that only full inspection by the defendant will "provide the scrutiny which the Fourth Amendment exclusionary rule demands." 394 U.S. at 184. It is ironic that Title VII is proposed as a remedy for time-consuming court proceedings, yet would require the judge to examine the often voluminous records himself before turning them over to the defendant.

TITLE X—SPECIAL OFFENDER SENTENCING

Imposition of Sentence. Title X authorizes a special sentence of up to twenty-five years for any person convicted of a federal felony who is also found by the sentencing judge to be a "dangerous special offender." This term includes any person from whom the public needs the protection of an extended sentence and who has (1) been convicted of two other felonies, one within the past five years, or (2) committed the present felony as part of a "criminal pattern of conduct" (a) from which he derived substantial income and in which he had special skill or (b) which was part of a conspiracy of three persons in which he played a more than passive role.

A number of the provisions of Title X violate both substantive and procedural due process of law. Many of the definitions, for example, are vague and do not give the defendant adequate notice of the conduct which will subject him to these lengthy new sentences. Also, in determining whether the defendant is such an offender, the judge can rely on information supplied by sources which he need not disclose to the defendant. Moreover, he can consider an unlimited variety of information, whether or not constitutionally acquired. Lastly, he need only find that "a preponderance" of this information supports the allegation before imposing the special sentence.

However, even these very serious obstacles to the defendant's ability to clear himself pale in the face of our basic objection to Title X. It is clear from the definition of "dangerous special offender" that Congress wishes to impose lengthy sentences on those found to have engaged in the conduct included therein. However, Title X does not create a new federal crime which makes that conduct punishable. It authorizes the judge to consider information which would support the conclusion that the defendant has engaged in such conduct in fashioning the sentence. In this way, the government avoids having to prove beyond a reasonable doubt in a criminal trial that the defendant has committed the acts for which he is to be punished.

The Supreme Court has recognized that this type of special sentencing provision is subject to a higher standard of due process than the normal sentencing procedure in which the judge is given broad leeway. *Specht* v. *Patterson*, 386 U.S. 705 (1967). The Court recognized in the *Specht* case that a Sex Offender Statute involved the court in "the making of a new charge leading to criminal punishment." 386 U.S. at 610. We believe that this statute must be governed by an even higher standard of due process than was required in the *Specht* decision. To the extent that the sentencing judge must determine whether the defendant committed certain acts, the inquiry cannot be distinguished in any way from the criminal charges which must be proved in a criminal trial. We do not believe that the Constitution will permit this obvious attempt to permit the government to sentence a man for allegedly committing acts which the government could not prove beyond a reasonable doubt in a criminal trial with full due process safeguards for the defendant.

Appeal of Sentence. Title X authorizes the government to appeal the length of a special offender sentence and have it increased. It may also seek reversal of a trial court decision that a defendant is *not* a dangerous special offender.

While the ACLU has long favored appellate review of sentencing as a means of controlling abuses in the trial court's discretion, we strongly support the recommendation of the Advisory Committee of the American Bar Association Project on Minimum Standards for Criminal Justice that no appellate court should be empowered to set a harsher sentence than that imposed by the trial court. We join with them in the belief that such a procedure raises serious questions under the double jeopardy clause of the Constitution, especially where the defendant is in effect "acquitted" of the charge of being a "dangerous special offender." Moreover, we share their fear that the government will wrongly use this power to persuade defendants to plead guilty or to refrain from appealing either their sentence or the underlying conviction.

TITLE II—IMMUNITY OF WITNESSES

Under the Fifth Amendment, no person may be compelled "in any criminal case to be a witness against himself." Since 1892, it has been the federal rule that in order to compel a person to testify, he must be "afforded absolute immunity against future prosecution for the offense to which the question relates." *Counselman* v. *Hitchcock*, 142 U.S. 547, 586 (1892). Title II would greatly water down that protection, permitting the government to compel the witness to testify in exchange only for a guarantee that that specific testimony will not be used against him, directly or indirectly, in a future criminal trial.

As we outlined in our testimony before the House Judiciary Committee, this lowered standard is not a constitutionally adequate substitute for the privilege against self-incrimination. There are too many ways to make evidence look as if it were independently obtained even though the compelled testimony has really led the government to find it. Thus the defendent will in fact be compelled to contribute to his own prosecution in direct violation of a privilege which the framers of the Constitution thought important enough to include in the Bill of Rights.

TITLE III—CONFINEMENT OF RECALCITRANT WITNESSES

Title III gives the court the power to confine witnesses who refuse to testify in a court proceeding or before a grand jury. The Judiciary Committee has somewhat revised this Title, so that persons who refuse to testify during grand jury proceedings cannot be confined more than eighteen months. However, they left open the possibility of open-ended confinement for one who refuses to testify during "court proceedings." As we pointed out in our testimony before the House Judiciary Committee, "still pending in the federal court is a civil case which began on January 29, 1940 . . . and a criminal case filed in May, 1921." A clear time limit should be added to this provision.

Such a limit may also be constitutionally compelled. If a person has refused to speak for a long time, there is little likelihood that he will change his mind. Further confinement becomes punitive, not coercive, and should not be permitted without a complete trial for criminal contempt of court. See *Bloom* v. *Illinois*, 391 U.S. 194 (1968).

TITLE V—PROTECTED FACILITIES FOR HOUSING GOVERNMENT WITNESSES

Title V, which authorizes the Attorney General to provide facilities for the safety and security of government witnesses concerning organized criminal activity, appears to be a useful tool for securing needed testimony. However, in light of the House Internal Security Committee's recent refusal to repeal provisions for federal detention facilities under the Emergency Detention Act of 1950, it would be desirable to make it perfectly clear that no witness can be unwillingly confined or detained in such facilities.

TITLE VI—DEPOSITIONS

Title VI attempts to deal with a problem often associated with the prosecution of organized crime cases—that of the witness who changes his mind about testifying against the defendant at trial because of intimidation, threats, or physical abuse or disappears entirely. Title VI would permit the government to take a deposition of this witness. We doubt whether this procedure will achieve the desired goal. As the defendant must be notified in advance of the deposition, we suspect that those who wish to keep witnesses from testifying against them will make evidence look as if it were independently obtained even though the compelled testimony has really led the government to find it. Thus the defendant will in fact be compelled to contribute to his own prosecution in direct violation of a privilege which the framers of the Constitution thought important enough to include in the Bill of Rights.

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Even assuming this practice would preserve some useful testimony, we object to its adoption in its present form. If the government is going to be able to use this evidence at trial, the defendant must have a meaningful opportunity to cross-examine the witness during the deposition. At trial, this opportunity exists because the defendant already knows the nature of the prosecution's theory of the case which he will have to meet with his own evidence. At the deposition stage, the defendant will still be in the dark as to the lines of questioning he should pursue. We strongly urge that Title VI be amended to give the defendant expanded pre-trial discovery rights in those cases where the taking of depositions is contemplated, so that he will not be prejudiced at trial by the use of paper testimony obtained in the absence of meaningful cross-examination.

TITLE IX—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

Title IX seeks to improve government ability to stem organized crime's infiltration of legitimate business through the use of civil and criminal sanctions derived from the antitrust field. Unfortunately, the value of this innovative approach is marred by overly broad and ambiguous provisions which permit application of Title IX to a man who twice wins $1,000 in a friendly gambling game, as well as the most professional racketeer. Moreover, Title IX creates federal law in an area where state laws have traditionally operated, but it does not deal adequately with conduct which may be lawful in one jurisdiction and unlawful in another.

We are also troubled by the power given to the Attorney-General to issue civil investigative demands requiring the production of documentary material wherever he "has reason to believe" that material might be relevant to a Title IX investigation. No neutral magistrate is placed between this prosecutor's request and the potential defendant. In addition, the almost unlimited scope enables the government to engage in vast "fishing expeditions."

Although Title IX clearly contemplates that the records obtained in this dragnet fashion may be used in subsequent criminal as well as civil proceedings, no provision in the statute safeguards the individual's Fifth Amendment privilege against self-incrimination in a later proceeding. If material acquired in connection with a civil investigation can be used in a subsequent criminal case, any Fifth Amendment privilege would thereby be destroyed. The Supreme Court has very recently made it quite clear that a person fearing criminal prosecution has a constitutional right to assert his privilege against self-incrimination in responding to a civil investigative demand. *United States* v. *Kordel*, 38 U.S.L.W. 4153 (Feb. 23, 1970). Unless this privilege covers all prosecutions which result from the gathering of this information, broad civil investigative powers in an area involving criminal activity would clearly be unconstitutional.

CONCLUSION

Organized crime is a serious problem deserving the attention, imagination, and industry reflected in S. 30. However, serious constitutional problems cannot be brushed aside in a zealous pursuit of organized criminals. Its impact, moreover, can affect many others. Political dissenters, police who deprive others of their civil rights, Congressmen who take bribes, businessmen who violate tax laws, gamble, or commit other "white collar" crimes—all these could be considered "dangerous special offenders." In light of growing illegal use of wiretapping and other electronic surveillance, almost anyone could be subject to this invasion of privacy and then be deprived of a constitutional defense by Title VII—in any kind of federal trial for the smallest offense. The list could go on indefinitely. No one can safely assume that this bill will only affect someone else or really evil people. Its derogation of constitutional rights threatens us all.

The Judiciary Committee has added a new title which would establish a National Commission on Individual Rights. A six year study, which will undoubtedly face the same fate as too many other Presidential commissions, does not make up for the immediate loss of individual rights which will come with S. 30. We urge you to join in its defeat.

Sincerely yours,

LAWRENCE SPEISER,
Director, Washington Office.

EULOGY OF SENATOR DIRKSEN BY MR. JOHN H. ALTORFER

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. MICHEL. Mr. Speaker, one hears many fine eulogies during his years in Congress. However, I was particularly impressed by the warm words of my good friend John H. Altorfer praising the late, beloved Senator Everett McKinley Dirksen at the State Republican convention in Peoria, Ill., this year.

The late Senator was a great friend of mine over the years and Mr. Altorfer's memorial speech brought back a flood of memories about this great American statesman.

It is not often a man is able to say so eloquent yet so simply what is in our hearts concerning loved ones. Mr. Altorfer's eulogy of Senator Dirksen is one such example and I insert it in the RECORD at this point:

MEMORIAL SPEECH BY JOHN H. ALTORFER

Over the past many months since September 7, 1969, when our good friend Senator Everett McKinley Dirksen passed from this world into the next, men and women from all walks of life have eulogized and memorialized his life and work with an eloquence reserved for only those who are great among us.

To surpass these tributes would be impossible—nor is that our purpose here today—rather we—here today—were unique in our relationship with Everett McKinley Dirksen.

And because I believe in immortality—I know that today he is watching these proceedings from his celestial chair in Heaven, and so I'd like to try to put into words what I feel many of us are thinking.

Dear Ev, the marigolds are beautiful this year, and today is the first convention of the Republican Party since you led us two years ago in our meeting in Springfield. And as we meet, in convention as a whole, each of us remembers with an inner glow our own personal experience and relationship with you.

We remember that over the past many years you traveled the width and breadth of our State visiting us in our cities, in our schools, and in our churches, and in our homes.

Today we left those communities to come here and meet in union only a few short miles from where you were born, reared, and grew into manhood.

We miss you today—for as a group we remember our anticipation as you would stride to the podium—looking intently into the sea of friendly faces, and then waiting until the thunderous applause quieted—leaning into the microphone and saying "It's good to be home again" or your equally thrilling "homefolks". For we knew at that moment Ev Dirksen was ours—our very own—in a very intimate and unique sort of a way.

And then we would sit back and relax as we were consumed by your message, and when you began one of your stories to illustrate a point we would begin chuckling and then laugh out loud at the punch line no matter how many times we had heard the story before.

Ev, it would be nice if we could say that all is Right with the World—but we can't—many of the problems that faced you as both a Republican and leader of our nation—still face us today.

And so—this body assembled—representing every area of the State of Illinois—even as we rejoice in your memory—we rededicate ourselves to your basic beliefs in the Republic form of government—in your respect for the individual—in your deep and abiding love of America, and in your unwavering faith in God All Mighty.

The immortality of a man is not only in his heavenly home—but also in the people who witness to his life here on earth—and thus it is the inspiration and example that you left with us that will sustain us in our work that lies ahead.

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For most of us, as we try to express our feelings—we feel inadequate and futilely search for the proper words and expressions to say that which we feel in our hearts.

But we remember Ev—we remember how you used to say "I need more troops in Washington" and then you would go on and explain the importance of electing Republicans to both County and State offices.

Well, Ev, we're here today to tell you we're going to win in November. We are going to win—not so much because we are Republicans—but because in a very real sense the future of the Republic is at stake.

You used to say—that you were "just an old fashioned garden variety Republican"—who believed in the Constitution, the Declaration of Independence, and Abraham Lincoln. So do we! !

But to that we will add—Everett McKinley Dirksen.

Forever yours,
THE REPUBLICAN PARTY OF THE STATE OF ILLINOIS.

LEGISLATIVE RECORD OF REPRESENTATIVE CHARLES A. VANIK IN THE 91ST CONGRESS, 1969–70

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. VANIK. Mr. Speaker, as the 91st Congress draws to a close, I feel that I should state in the RECORD, for the benefit of my constituents, a description of the principal legislation which I have introduced in 1969 and 1970.

I believe that an examination of the bills which I have introduced or joined in cosponsoring gives a fairly complete picture of my political philosophy, and of my hopes for a greater America and a better world.

The legislation which I have introduced has generally been directed toward the protection of the average citizen and his family. It has been directed against unfair taxation and against tax privilege. It has been designed to provide protection during retirement years through adequate social security, and medicare. It has been directed against pollution and the forces which threaten our environment. It has been designed to provide protection and higher standards in employment and urban life. It has been directed toward honest dealings in the marketplace and a more responsible democracy in a world at peace.

I am pleased to report to the people of the 22d Congressional District of Ohio than an exceptional number of bills which I have introduced have been either totally or partially enacted. Others are in the process of being passed. Others may be ahead of their time—but their time will come and I am confident that they will be enacted.

As one looks at the record, several areas stand out.

First, because of the structure of Congress, any individual Member's greatest influence for good lies in his committee work. I have tried to take an active part in every issue that has come before the Ways and Means Committee of the House. It has been a busy Congress for my committee. My chairman, WILBUR MILLS, said on September 10, 1970, that—

> I think it is fair to state that the Committee on Ways and Means has had as heavy a workload in this 91st Congress as it has ever had in its entire history since its creation as a standing committee in 1802, and certainly the responsibilities which the committee has carried this Congress have been as heavy as those carried by any committee of the House.

It is for this reason that the major proportion of the bills I have introduced and with which I have had success have been bills before my own committee dealing with tax reform and social security-medicare coverage.

Second, it is clear that while more could have been, and should have been, done the 91st Congress is one of the first Congresses to make a major response to the environmental crisis. I have tried, as a Representative from a desperately polluted area of the Nation, to make contributions in this area.

Third, while the House of Representatives has traditionally taken a minor role in foreign affairs, bowing to the Senate which has the constitutional duty to approve treaties, the House of Representatives in the 91st Congress has been very active in this area. I have tried to contribute to that debate and dialog in an effort to bring greater peace and stability to the world.

I have tried to maintain an excellent voting and attendance record. I believe my constituents should know where I stand on every issue that comes before the House. According to the tally clerk of the House, between the beginning of the 91st Congress and September 15, 1970, there have been a total of 609 rollcalls—344 votes and 265 quorums. I have been recorded on 96.8 percent of the votes and was present for 95.1 percent of the quorums. Almost without exception any rollcall that I missed was due to pressing public business in the 22d District.

Below is the principal legislation which I introduced and on which action was taken.

SOCIAL SECURITY AND TAX REFORM LEGISLATION

House number	Date	Short title	House hearings	House passage	Senate hearings	Senate passage	Conference	Law	Notes
H.R. 6558	Feb. 6, 1969	Single Persons' Tax Reform Act.	×	×	×	×	×	Public Law 91-172	House passed head of household concept of Vanik bill, Senate substituted new rate schedule for single persons.
H.R. 8592	Mar. 11, 1969	To expand and liberalize rules on deductible moving expenses incurred by an employee.	×	×	×	×	×	Public Law 91-172	
H.R. 8637	do	To increase from $600 to $1,200 the personal income tax exemption.	×	×	×	×	×	Public Law 91-172	Modified version of Vanik amendment was accepted, increasing personal exemption to $625 in 1970, $650 in 1971, $700 in 1972, and $750 in 1973. Vanik led in obtaining 172 signatures of House Members supporting Senator Gore's efforts in this area.
H.R. 9479	Mar. 25, 1969	To lower oil depletion allowance from 27½ to 15 percent.	×	×	×	×	×	Public Law 91-172	A modified version of the Vanik amendment was accepted. The House lowered oil depletion allowance to 20 percent; Senate to 23 percent; compromised at 22 percent.
H.R. 9893	Apr. 2, 1970	Repeal of investment credit	×	×	×	×	×	Public Law 91-172	Terminated as of Apr. 18, 1969, resulting in tax saving of over $3,300,000,000 to Treasury while cooling off one of the most inflationary sectors of the corporate economy. Vanik offered motion accepted by Democratic caucus of April 16, 1969 placing party on record for repeal.
H.R. 9896	Apr. 2, 1970	To terminate oil depletion allowance on drilling in foreign countries.	×	×	×	×	×	Public Law 91-172	House passed Vanik amendment. Senate rejected it. Conference compromised by lowering foreign depletion allowance from 27½ percent to 22 percent.
H.R. 11112	May 8, 1970	To increase social security benefits 15 percent.	×	×	×	×	×	Public Law 91-172	Offered motion accepted by special Democratic caucus on Oct. 7 1969 placing party on record in support of 15 percent increase. Proposal for 15 percent increase accepted even though administration proposed only 7 percent and later raised that to only 10 percent.
H.R. 12162	June 16, 1969	To provide tax deduction for cost of work transportation of disabled persons, plus an additional income tax exemption for disabled taxpayer or spouse.			×	×			Portion of this amendment dropped in conference on Tax Reform Act. Action still needed.
H.R. 12473	June 27, 1969	To permit State agreements for coverage under medicare.	×	×	×				Portion of Vanik amendment accepted in form of allowing uninsured individuals, such as teachers, to buy medicare coverage at age 65. Senate action pending.

SOCIAL SECURITY AND TAX REFORM LEGISLATION—Continued

House number	Date	Short title	House hearings	House passage	Senate hearings	Senate passage	Conference	Law	Notes
H.R. 14913	Nov. 20, 1969	To calculate a man's average monthly wage for social security purposes at age 62 rather than 65 and to provide 1 additional dropout year for each 40 quarters of coverage.	×	×	×				Part of Vanik amendment accepted by permitting men to compute benefits at age 62 rather than age 65. Measure pending in Senate.
H.R. 18310	July 6, 1970	Members of the Armed Forces serving in Cambodia or Laos shall be treated as serving in combat zone.							Failure for Laos and Cambodia to be considered combat zone has meant economic hardship for families of men killed in action. IRS ruling of Aug. 8, 1970 corrected problem.
H.R. 18537	July 20, 1970	To show amounts of Federal tax on airline tickets.	×						This amendment has been incorporated in bill raising airline tax to pay for anti-hijacker guards.

ENVIRONMENTAL PROTECTION LEGISLATION

House number	Date	Short title	House hearings	House passage	Senate hearings	Senate passage	Conference	Law	Notes
H.R. 2184	Jan. 6, 1969	Water Quality Improvement Act.	×	×	×	×	×	Public Law 91-224	Most of the provisions of H.R. 2184 incorporated in H.R. 4148 which became law Apr. 3, 1970. Also testified before House Public Works Committee in favor of bill Feb. 26 1970. Introduced students from Shaker Heights, Cleveland Heights, Laurel, Hathaway Brown, University School, Hawken School who also testified before committee.
H.R. 6557	Feb. 6, 1969	Relating to dumping of polluted dredgings into navigable waters.							In message to Congress Apr. 15 1970 (1 year and 2 months after Vanik bill introduced), President supported concept of placing polluted dredgings in areas where they would not pollute the Great Lakes. Legislation pending before Public Works Committee. First charged in May of 1965 that corps dumping of dredgings created extra pollution. Years of work with Public Health Service, Interior and corps has finally resulted in Presidential recognition of problem.
H.R. 8426	Mar. 6, 1969	To allow an incentive tax credit for the construction of air and water pollution devices.	×	×	×	×	×	Public Law 91-172	Offered by Representative Vanik as an amendment to the 1969 Tax Reform Act, this measure designed to channel capital into construction of pollution control devices was accepted in a liberalized form.
H.R. 9382	Mar. 24, 1969	To establish a pollution disaster fund.		×	×	×	×	Public Law 91-224	A modified version of this bill was accepted on the House floor as the Vanik amendment to the Water Quality Improvement Act. This section of Public Law 91-224 provides $20,000,000 for research and demonstration projects on ways to end pollution on the Great Lakes.
H.R. 11874	June 4, 1969	Establishment of national severe storms service and warning system.							Introduced 1 month before severe storms struck Lake Erie unexpectedly. Action still needed. Better radar and radio and staffs provided in Northeast Ohio now.
H.R. 13340	Aug. 5, 1969	Prohibit use of DDT except under emergency conditions.							Congressional pressure resulted in Agriculture Department order of Aug. 18, 1970 banning future use of DDT.
H.R. 13370	Aug. 6, 1969	U.S. protection of shorelines against erosion.	×						Action needed in this area. Parts of Euclid and Cleveland easterly shoreline eroding rapidly. Corps has general national shoreline study underway.
H.R. 15934	Feb. 17, 1970	Environmental Quality Education Act.	×	×	×	×			Designed to help schools teach environmental problems, passage into law likely in near future.
H.R. 16995	Apr. 14, 1970	Detergent Pollution Control Act of 1970 (banning phosphates).			×				Phosphates in detergents one of major sources of eutrophication of Lake Erie. Action needed. Gov. Rockefeller planning to ban such detergents in New York.
H.R. 18980	Aug. 13, 1970	Air Pollution Abatement Act of 1970.							Designed to strengthen Clean Air Act which passed House June 10, 1970. Many features and concepts included in strong Senate bill which passed Sept. 22.
H.R. 19453	Aug. 24, 1970	National Air Abatement Act of 1970.							Identical to Senate passed clear air bill. Sponsored to indicate support on House side for strong Senate air pollution control bill rather than weaker House version. Vanik has obtained, to date, nearly 30 co-sponsors.
H.J. Res. 1120	Mar. 9, 1970	To establish a Joint Committee on Environment and Technology.	×	×	×				This committee is needed to coordinate congressional action on environmental issues. Passage likely soon.
H.R. 19259	Sept. 16, 1970	To prohibit dumping of toxics in ocean without prior approval of Council of Environmental Quality.	×						Action needed to provide for safer disposal of nerve gas and similar items. Departmnte of Defense dumping of deadly gases prohibited by amendment to Military Procurement Act. Just passed.

CRIME CONTROL LEGISLATION

House number	Date	Short title	House hearings	House passage	Senate hearings	Senate passage	Conference	Law	Notes
H.R. 5585	Jan. 30, 1969	To prohibit interstate movement of switchblades.							As a result of congressional pressure Customs Bureau has banned importation of certain new categories of foreign switchblade-gravity knives.
H.R. 13168	July 29, 1969	Return of unsolicited pornographic advertisements.	×	×					Similar legislation discouraging unsolicited obscene mail has passed House. Final action likely soon.
H.R. 16495	Mar. 16, 1970	Explosives control	×	×					Variation of Vanik amendment to be included in organized crime control bill. Final passage likely shortly.
H.R. 18401	July 9, 1970	Suspension of foreign aid to countries failing to take adequate action to control narcotics.							Stronger version of this concept included in trade bill of 1970 as the Vanik amendment.
H. Res. 122	Jan. 13, 1969	Creation of House Crime Committee.	×	×	(1)	(1)	(1)	(1)	Committee has been in operation and holding hearings since May 1, 1969, and has offered a number of constructive amendments.

FOREIGN AFFAIRS—PEACE AND MILITARY ISSUES

House number	Date	Short title	House hearings	House passage	Senate hearings	Senate passage	Conference	Law	Notes
H. Con. Res. 100	Jan. 28, 1969	Urging President to increase relief aid to Biafra.							Total of $103,000,000 sent in relief aid to Nigeria and Biafra through June 30, 1970
H. Res 227	Feb. 6, 1969	Condemnation of Iraqi Government for secret trials and public executions and request for U.N. Security Council meeting.							
H.R. 11950	June 9, 1969	General Accounting Office reports on cost overruns.							Congressional action has resulted in cooperation between Department of Defense, General Accounting Office, and Armed Services Committees to review cost on major weapons systems.
H. Res. 444	June 19, 1969	Urging U.S. ratification of Geneva protocol on chemical and biological warfare.							1 year and 2 months later President sent message to Senate on Aug. 19, 1970 urging approval of protocol.
H. Con. Res. 535	Mar. 10, 1970	Urging President to work for international cooperation against hijackers, including sanctions against those countries which fail to act against hijackers.							House has just approved legislation implementing U.S. obligations under Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft.
H. Con. Res. 556	Mar. 23, 1970	Urging President to terminate assistance to belligerent Arab nations and sell Israel aircraft necessary for her security.							Vanik spoke in support of sec. 501 of the Military Procurement Act which authorizes President to transfer to Israel, by sale, credit sale, or guarantee, aircraft and equipment needed to counteract and meet aid to other Nations in the area given by other powers.
H. Res. 964	Apr. 30, 1970	Urging that United States refrain from any military action in Cambodia.				×			Responsible for removal of troops from Cambodia within 30 days. Vanik spoke in opposition to Cambodian invasion.
H. Res. 1003	May 12, 1970	Urging withdrawal from South Vietnam during fiscal year 1971.							Similar proposal (McGovern-Hatfield) defeated in Senate.
H. Con. Res. 687	July 16, 1970	Urging better treatment of U.S. POW in North Vietnam and reform of South Vietnamese prison system to eliminate tiger cages at Con Son.							Also sent letter to leaders of North Vietnam urging humane treatment of U.S. POW's.
H. Con. Res. 744	Sept. 22, 1970	Urging end of persecution of Jews in the Soviet Union and freedom of emigration.							
H.R. 19483	Sept. 28, 1970	To provide boycotting and denial of landing rights to aircraft of Nations which fail to take action against hijackers.							
Floor amendments to H.R. 17802.	June 3, 1970	Increase in public debt							Vanik offered motion to strike $6,000,000,000 from public debt and impose expenditure ceiling on Department of Defense expenditures. Motion defeated, 273 to 85.
H.R. 17399	May 4, 1970	Inter-American Development Bank, supplemental appropriations.		×					Amendment to prohibit intrabank loans to Bank personnel so as to stop scandals reported by Columnist Jack Anderson. Amendment accepted.

EDUCATION, MANPOWER, TRANSPORTATION, AND HEALTH LEGISLATION

House number	Date	Short title	House hearings	House passage	Senate hearings	Senate passage	Conference	Law	Notes
H.R. 16430	Mar. 11, 1970	Improvements to the National Foundation on the Arts and Humanities Act of 1965.	×	×	×	×	×	Public Law 91-346	
H.R. 9661	Mar. 27, 1969	To establish an urban mass transportation trust fund.	×		×				Testified in support of bill before House Banking and Currency Committee. Supported expansion of Urban Mass Transportation Act with hope that this amendment could have provided permanent expanded financing.
H.R. 16390	Mar. 11, 1970	To include Great Lakes ports in Merchant Marine Act of 1936.	×	×	×	×	×	Public Law 91-1080	Included in Merchant Marine Act of 1970. Adopted Oct. 6, 1970.
H.R. 17301	Apr. 28, 1970	To simplify passport applications.	×						Testified before committee on logjams in Cleveland passport office showing need for such simplification. House hearing has caused Passport Office to experiment with simpler application process.
H.R. 11620	May 26, 1969	Manpower Act	×		×	×			Provides better, more coordinated manpower training programs as well as public service employment.
H.R. 16660	Mar. 25, 1970	Senior Citizens Skill and Talent Utilization Act.							To be included in Manpower Act listed above.
H. Res. 563	Oct. 2, 1969	To create a House committee to study reconversion needed to maintain economy during peacetime.							It should have been obvious to administration that as wind-down in Vietnam spending occurred a special manpower plan was needed. This is still a need as unemployment continues to rise.

CONSUMER PROTECTION LEGISLATION

House number	Date	Short title	House hearings	House passage	Senate hearings	Senate passage	Conference	Law	Notes
H.R. 6037	Feb. 4, 1969	To establish a Department of Consumer Affairs.	×		×				It is important to establish some form of independent agency for the protection of the consumer rather than creating a consumer office within the already overworked Department of Justice.

CITIZEN PRIVACY LEGISLATION

House number	Date	Short title	House hearings	House passage	Senate hearings	Senate passage	Conference	Law	Notes
H.R. 3780	Jan. 16, 1969	To limit categories of questions in 1970 census answerable under penalty of law.							As a result of congressional pressure, sample questionnaires were simplified.

XUM

CONSTITUTIONAL AND LEGISLATIVE BRANCH AMENDMENTS

House number	Date	Short title	House hearings	House passage	Senate hearings	Senate passage	Conference	Law	Notes
H.J. Res. 197	Jan. 7, 1969	Direct election of President and Vice President.	×	×	×				Testified before House Judiciary Committee in support of Amendment on June 6, 1969.
H. Res. 807	Jan. 28, 1970	Record votes in the Committee of the Whole of the House of Representatives.		×					Included as part of the Legislative Reorganization Act of 1970 as part of anti-secrecy reforms.
Floor amendment to H.R. 17654.	July 28, 1970	Amendment to Legislative Reorganization Act to indicate that seniority need not be the sole criteria in determining Committee Chairmen.							Floor amendment rejected on a teller vote by 73 to 160.

Following, by categories, is a listing of additional legislation I have introduced or co-sponsored, but on which little or no action has been taken in this Congress to date. It is my hope that much of this legislation will be favorably considered in the coming Congress.

SOCIAL SECURITY AND TAX REFORM LEGISLATION

House No.	Date	Short title	Notes
H.R. 699	Jan. 3, 1969	To provide that disabled persons be eligible for medicare coverage regardless of age.	This must be one of the priorities of the new Congress.
H.R. 3347	Jan. 14, 1969	To allow a tax credit for expenses incurred in education and training mentally retarded or physically handicapped children.	Do.
H.R. 9894	Apr. 2, 1969	Equalizing retirement income credit between social security and railroad retirement beneficiaries.	An amendment important to the retirement income of former railroad workers.
H.R. 17114	Apr. 20, 1970	To increase credit against tax for retirement income	This bill would equalize tax treatment for social security beneficiaries and people not in social security.
H.R. 18167	June 22, 1970	To exclude from income tax certain student scholarship and fellowship assistance.	Bill needed to help working graduate students finance education.

ENVIRONMENTAL PROTECTION LEGISLATION

H.R. 17436	May 5, 1970	To create national environmental data bank	Needed to coordinate research and activities within 1 center. House passage likely in early October.
H.R. 18429	July 13, 1970	Environmental Protection Act of 1970	Testified in support of bill before Judiciary Committee on Aug. 6, 1970. Senate has also held hearings. It provides citizens access to courts to sue for damage caused by polluters.
H.R. 18988	Aug. 13, 1970	Prohibit interstate sale of no-deposit no-return beverage containers	Legislation needed to stop solid waste pollution caused by containers House hearings have been held.
Committee amendment		President's excise tax proposals	Amendment to increase tax on cars which fail to meet certain emission standards.
H. Con. Res. 705	Aug. 11, 1970	To establish moratorium on auto style changes and use money saved to develop cleaner propulsion system.	Billions spent on styling changes; only millions spent on pollution control.
H. Con. Res. 735	Sept. 16, 1970	That U.S. delegation to 1972 U.N. Conference on the Human Environment propose international ban on dumping of pollutants in oceans.	Legislation desperately needed to encourage worldwide cooperation on ending pollution.

FOREIGN, PEACE AND MILITARY ISSUES

H.R. 6501	Feb. 6, 1969	The Peace Act	Bill provides for a coordination of American agencies working for international peace and cooperation.
H.R. 13652	Sept. 8, 1969	To permit certain active-duty callups to count toward VA educational benefits.	This bill would extend certain existing programs of VA benefits.
H.R. 14398	Oct. 16, 1969	U.S. Peace Academy Act	Legislation needed to train diplomats and experts in conflict resolution.
H.R. 16816	Apr. 7, 1970	To improve military justice in accordance with constitutional procedures	Bill would help meet certain problems in military justice that have recently been discussed.
H.R. 18613	July 23, 1970	Voluntary Military Manpower Procurement Act	In line with several Presidential Commission reports, this bill moves toward creation of volunteer army. Hearings have been held in the House.

CITIZEN PRIVACY LEGISLATION

H.R. 17990	June 9, 1970	To limit the sale or distribution of mailing lists by Federal agencies	Speciality advertisers and "junk mailers" have been obtaining mailing lists from U.S. Government.

EDUCATION, MANPOWER, TRANSPORTATION, AND HEALTH LEGISLATION

H.R. 17425	May 4, 1970	To provide assistance to regional research libraries	Bill designed to help regional libraries meet the cost of acquiring necessary volumes.
H.R. 7355	Feb. 20, 1969	To allow reduced rate air fares for youth, elderly persons, and military personnel.	With so much unused seat capacity, bill would allow these categorie of persons—generally of reduced income—special fares.
H.R. 19190	Sept. 15, 1970	Conversion Research and Education Act of 1970	Legislation to ease the country and labor force from an expanding military budget to a peacetime economy.
H.R. 19144	Sept. 10, 1970	The Health Security Act	As health costs spiral and health services face collapse, long-range plan to provide health care at reasonable rates needed.

CONSUMER PROTECTION LEGISLATION

H.R. 6041	Feb. 4, 1969	To assist State and local offices of consumer protection	To assist local government make much-needed improvements in consumer protection services.
H.R. 11863	June 4, 1969	To provide Federal grade standards for bacon	Because of widely varying water and fat content, bacon can be one of the most expensive and deceptive products on the grocery shelf. Government and military purchase requirements relating to bacon should be extended to consumer.
H.R. 17034	Apr. 15, 1970	To require clear dating of perishable foods on grocery shelves	Presently most perishable foods are dated, but with a code known only to a few. The consumer has a right to know the freshness of the product being bought.

XUM

CONGRESS BUILDS STRONG RECORD IN FIGHT AGAINST CRIME AND LAWLESSNESS

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. EVINS of Tennessee. Mr. Speaker, Congress has passed some 20 laws within the past 5 years relating directly to strengthening law enforcement, improving the judicial processing of criminal cases, and assisting the corrections system—a strong record for law and order.

In this connection and because of the interest of my colleagues and the American people in this most important matter, I place my recent newsletter on this subject in the RECORD.

The newsletter follows:

CAPITOL COMMENTS, OCTOBER 5, 1970

CONGRESS BUILDS STRONG RECORD IN FIGHT ON CRIME AND LAWLESSNESS

Congress has passed much legislation designed to assist law enforcement agencies at the local, state and national level in combatting crime, violence and lawlessness. In the past five years Congress has enacted twenty laws relating directly to strengthening law enforcement, improving the judicial processing of criminal cases, and assisting the corrections system. These laws include:

The Crime Control and Safe Streets Act of 1968—This act authorized grants to strengthen and improve state and local police departments and law enforcement agencies and modifies some Supreme Court decisions favoring defendants in criminal cases.

The Antiriot Act of 1968—This bill establishes criminal penalties for crossing state lines to incite a riot and prohibits the manufacturing or instruction in the use of explosives or firearms for illegal purposes.

The Law Enforcement Assistance Training Acts of 1965 and 1966—These bills authorized Federal demonstration grants for implementing new law enforcement techniques and methods to suppress crime and violence.

The Federal Judicial Center Act of 1967—This act establishes a center within the judicial branch to streamline judicial administration and conduct training programs for improving and speeding justice.

The Federal Judgeship Act of 1966—This act provides for appointment of 45 new Federal judges to meet increased courtroom workloads.

The present Congress—the 91st—has continued this strong support for measures designed to curb crime and violence. This Congress has enacted the Crime Control and Safe Streets Act Amendments of 1970 authorizing additional funding of grants to assist and strengthen local law enforcement agencies—$650 million for 1971; $750 million for 1972 and $1 billion for 1973.

The Obscene Advertising Mail Act was also recently enacted, banning the interstate transporting and mailing of unsolicited obscene materials and smut publications. A detailed, comprehensive act providing new enforcement and legal weapons against bombings and organized crime has been reported by the House Committee on Judiciary. The House is expected to act soon on this measure which has already passed the Senate.

Both Houses have passed much legislation strengthening our laws against trafficking in drugs and some fourteen additional anti-crime bills have passed the House. Six of these bills have passed both Houses of Congress and are now the law of the land. Certainly the Congress is acting to combat crime and lawlessness. If our society is to remain free and orderly, the challenges posed by crime and violence must be met. Congress by its actions is meeting this challenge. Law and order must be maintained.

XUM

CONGRESSMAN ANNUNZIO SUPPORTS S. 3822 TO PROVIDE INSURANCE FOR MEMBER ACCOUNTS IN STATE AND FEDERALLY CHARTERED CREDIT UNIONS

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. ANNUNZIO. Mr. Speaker, yesterday the House passed S. 3822 which provides insurance for member accounts in State and federally chartered credit unions. I wholeheartedly supported this legislation.

I am well aware that the organized credit union movement has expressed its strong opposition to the premium rate established in S. 3822 for participation in the national credit union share insurance fund.

The Credit Union National Association, with which over 92 percent of the 23,000 credit unions of this Nation are affiliated, has presented some well documented statistics that a rate of one-twentieth of 1 percent of the total amount of member accounts is entirely adequate to meet the obligations and operating expenses of the fund within 5 years' time, and after that will build the fund reserves to the required level established by this legislation.

However, since no provision was made in the bill for an original capitalization of the fund, as was done in the case of other Federal insurance programs for other type financial institutions, there has been a natural tendency to favor the higher rate which has been standard for the other Federal insurance programs.

Thus, the higher rate will build the fund more rapidly to the point where it would be capable of meeting all of the demands which might be made upon it. As pointed out by the Credit Union National Association, losses of credit unions over the years have been relatively small. For example, during the period 1934 to 1969, actual losses for Federal credit unions were $1,716,211. Net losses from scale downs have amounted to $1,643,330 during this same period. Donations to liquidated Federal credit unions and Federal operating credit unions have totaled $1,016,467 and $606,337, respectively. Thus, total losses for all Federal credit unions for the last 36 years have amounted to less than $5 million but actual losses to members have amounted to only $3,359,541 because of donations and assistance from State credit union leagues.

In 1970 the anticipated losses for Federal credit unions have been estimated by the National Credit Union Administration to be $389,179. This figure, however, assumes that no assistance would come from State credit union league stabilization programs.

The assets of the national credit union share insurance fund, as projected for 10 years on a one-twentieth of 1 percent basis and considering only Federal credit unions, indicates that at the end of the first full year of the fund's operation the net worth of the fund would be $3,135,461. In the fifth year, income from the investment of surplus funds will be adequate to cover anticipated losses as well as operating expenses of the fund, and the same holds true for successive years.

While I believe the lower rate of one-twentieth of 1 percent, rather than the one-twelfth of 1 percent stipulated in S. 3822, is well justified, I feel that credit unions can live with the higher rate in order to get this program started. Furthermore, as the House Banking and Currency Committee report points out—

> Future experiences of the fund may well dictate a reconsideration of this figure. The bill also provides that when the fund reaches a 1-percent "normal operating level" of all insured accounts, the Administrator may reduce the annual rate of premium from the one-twelfth of 1 percent to a level he deems sufficient to maintain an adequate insurance fund.

With the considerations in mind, I believe the legislation is basically good, and I therefore supported it in the knowledge that changes may be desirable as credit unions develop experience operating under the fund program.

THE MASSACHUSETTS VOTER REFERENDUM AND THE 19-YEAR-OLD VOTE

HON. MICHAEL J. HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. HARRINGTON. Mr. Speaker, as election day draws near and Bay Staters begin to concern themselves with the congressional and State contests in their districts, one issue in this election must not be forgotten. For this time, the people of Massachusetts will have the opportunity to make their views known on a subject whose importance involves the entire Nation.

November's ballot will contain a referendum question which each voter must consider carefully; proposed is an amendment to the State constitution which would reduce the minimum age for voting in Federal and State elections from 21 to 19.

Although provisions in the Voting Rights Act of 1970 would allow those in the 18- to 20-age group to vote, it is not certain that this statute will be declared constitutional by the Supreme Court. Indications are, however, that the law will be accepted by the judiciary. In the first test case, a Federal tribunal in Washington, D.C., found that the legislation did not contradict historical precedent and, therefore, could be accepted.

In considering the question of the referendum, we must not be content to wait for the findings of the Court. Our Nation is a prosperous one and yet we are seriously suffering from a mood of discontent which threatens to destroy the spirit of the country. Many of our young people are distressed with our values and leaders and their frustrations have sometimes led them to resort to violent measures which cannot be condoned by the public. We can make positive use of their energy and zeal by granting them actual participation in the Government, now.

By giving a new group the power to vote in Massachusetts' elections we will not solve all of the problems that the Nation or even the State faces. But we will be making a start. Our representatives will not be able to dismiss the protests of our youth without considering their substance. And our younger citizens will be forced to temper their cynicism for our system with the knowledge that they can indeed change it. Long after our current legislators have passed out of office, this constitutional amendment will still be influencing the affairs of the State.

It seems inevitable that one day soon a larger bloc of the public will be voting; Massachusetts can lead the Nation by reforming her voting laws so that her now frustrated and disenfranchised youth can take fruitful political action to change our country by legal means.

I urge every voter to consider the amendment carefully and then to vote in favor of it so that we can restore a sense of relevance to our young, and vigor to the State of Massachusetts.

HISTORIC MARITIME CEREMONY UNVEILS NEW TRAINING PROGRAM

HON. EDWARD A. GARMATZ

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. GARMATZ. Mr. Speaker, on Thursday, October 1, 1970, I was privileged to attend and participate in a fascinating and historic ceremony conducted in the finest maritime tradition.

Held in New York City, the activity was divided into two phases. The first consisted of the formal unveiling of plans to establish a $10 million upgrading school for licensed deck officers of the American merchant marine. The second phase, which was most colorful and impressive, was held in Trinity Church, a famous religious edifice long associated with maritime activities.

During a special religious service within Trinity Church, a dedication of the new constitution and bylaws of the International Organization of Masters, Mates, and Pilots was presented.

The new training program which was unveiled October 1 is known as the MATES program; it deserves recognition and commendation, especially because this is a joint program that is the result of a magnificent cooperative effort between the labor and management segments of an industry which is often criticized for its fragmentaiton. Together, these two segments are demonstrating how a united industry can make outstanding contributions to our merchant marine and our Nation.

In addition to my own participation in the ceremonies outlined above, a number of other well-known personalities played a role. These included: Stephen Maher, administrator, MATES program; Edwin Link, inventor of the world famous Link trainer; Thomas W. Gleason, president, International Longshoremen's Association; Lloyd Kelly, vice president of Singer-Link Corp., which has developed sophisticated training equipment for the MATES program; Capt. Stig Wiebe, president of the Deck Officers Association of Sweden; Rear Adm. Edward J. O'Donnell, U.S. Navy, retired, president of the New York State Maritime College; and Martin Hickey, vice president of the T. M. Service Corp.

Mr. Speaker, because I feel so strongly that the MATES program represents a momentous step forward in our Nation's efforts to produce the best seamen in the world, I want to call attention to a descriptive article which appeared in the Baltimore Sun, and to a program describing the impressive convocation ceremonies at Trinity Church. I recommend their reading to my colleagues. The items follow:

[From the Baltimore Sun, Oct. 2, 1970]

MARITIME UNION TO OPEN RETRAINING FACILITY IN AREA

(By Joseph S. Helewicz)

NEW YORK, October 1.—The International Organization of Masters, Mates and Pilots formally unveiled plans here today to construct a $10 million facility in suburban Baltimore for the retraining of deck officers serving aboard American merchant ships.

Construction on 50 acres of land near the Linthicum section of Anne Arundel county is expected to begin in about 30 days. The facility will retrain the deck officers by using highly sophisticated simulation equipment. The first class is expected to begin by the fall of 1971.

FINANCED BY CONTRIBUTIONS

To be known as the Marine Institute of Technology and Graduate Studies, the facility, which is expected to take about 10 years to complete, will eventually house 100 students and faculty; a laboratory for oceanographic study and experimentation; a marine library; a nautical technological library; a maritime museum, and a planetarium.

The entire project will be financed by contributions from American steamship lines with which the union has labor contracts.

Today, before representatives of labor, management and government, Capt. Thomas F. O'Callaghan, president of the mates union, said the establishment of the school is based on the need to acquire "considerably greater technological skill than previously existed."

He explained that the development of container ships and automatic loading equipment, coupled with the development of Lighter Aboard Ship (LASH) cargo carriers, "represents substantial investments in the future of the American shipping industry."

REFRESHER TRAINING

He said the maritime industry is becoming so advanced that "men should go down to the sea in simulators before they go down to the sea in ships."

The new program is not intended to provide basic training to prospective deck officers, nor will it be involved in recruitment activities, Captain O'Callaghan said.

"Things are tight enough as it is" he said, referring to current shipboard employment conditions.

Instead, the program will be a requirement for refresher and updating training for some 6,000 to 7,000 deck officers.

The first course, scheduled to begin in about a year, will concentrate on radar systems. Approximately $6.5 million of the $10 million to be spent on the facility will be invested in electronic equipment, including, a collision avoidance radar simulator, and an automatic bridge-control trainer, designed by the Link Division of Singer-General Precision, Inc., of Silver Spring.

Approximately 20 students will be trained in each one-month course.

Both the bridge-control trainer, and a liquid cargo loading trainer will be used in later courses. Captain O'Callaghan estimated that the second phase of the project will begin in about 15 months, and the third and final phase two years from now.

FACULTY NOT YET CHOSEN

In addition to the simulator training, new communications techniques are scheduled to be taught along with training in meteorology, rules of the road, personnel management, and ship's business planning.

No faculty appointments have yet been made, nor has a head been chosen for the school, Captain O'Callaghan said.

CONVOCATION

(For the dedication of the new constitution and bylaws and the installation of officers of the International Organization of Masters, Mates, and Pilots held in Trinity Church in the city of New York at 4 p.m., Oct. 1, 1970)

THE PROCEDURE

(Except for the hymns all will remain seated.)

Organ Music.

Address.

Reading of the Scripture.

The Vicar of Trinity Church.

THE DEDICATION OF THE CONSTITUTION AND BY-LAWS

Captain O'CALLAGHAN (holding constitution high for all to see). It's with a sense of great pride that we inaugurate these new Constitution and By-Laws voted into law by the membership of the International Organization of Masters, Mates and Pilots, and accept the duties and authorities set forth. These Documents commit the officers receiving Canon Woodward's blessings to its complete and dedicated fulfillment—Protection of Assets of Entire Membership; Job Security; Union Democracy and Democratic Safeguards; Unity and Strength of Purpose and Organization.

It is fitting and proper that Trinity Church, the traditional haven of seafarers, grace us and our membership in this historic hour of inauguration and installation.

I present this new Magna Carta of the International Organization of Masters, Mates and Pilots, and call upon the esteemed Vicar of Trinity Church to formally dedicate this document of our common life.

The VICAR. O God, who in dividing the earth from the sea, has created the habitation of man's common abode, we ask you to set apart, and to give your blessing to this new Constitution and By-Laws of the International Organization of Masters, Mates and Pilots, to be a new guide for our dominion. Help us to be faithful to the purpose it sets forth, and to the ordinances it contains. Guide us into new understandings. Keep us alert and watchful for new signs, and help us speedily to adopt them, that this instrument may be a living evidence of our dependence upon you, and a sure guide to the future.

Captain O'CALLAGHAN. I now declare that this Constitution and By-Laws are in force, and is the instrument which directs all our life and endeavors.

Anthem: "Confirm Us, O God," Jacob Handl.

THE INSTALLATION OF OFFICERS

The VICAR. Sir, you, Thomas F. O'Callaghan, have been elected President of the International Organization of Masters, Mates and Pilots.

Do you solemnly promise to support and to maintain the Constitution and By-Laws of this Organization, and to in all ways submit yourself to its provisions and ordinances?

Captain O'CALLAGHAN. I do.

The VICAR. Will you further promise to demonstrate in your life the ideals and purposes of this organization, that by your example you may inspire, not only those who come immediately under your command, but be an example of leadership for all people?

Captain O'CALLAGHAN. I do.

The VICAR. May God bless and strengthen you in this resolution.

Using the same form, The Vicar installs the other Officers.

Hymn 512, "Eternal Father, strong to save":

Eternal Father, strong to save
Whose arm hath bound the restless wave,
Who bidd'st the mighty ocean deep
Its own appointed limits keep:
  O hear us when we cry to thee
  For those in peril on the sea.

O Christ, whose voice the waters heard
And hushed their raging at thy word,
Who walkedst on the foaming deep,
And calm amid its rage didst sleep;
  O hear us when we cry to thee
  For those in peril on the sea.

Most Holy Spirit, who didst brood
Upon the chaos dark and rude,
And bid its angry tumult cease,
And give, for wild confusion, peace;
  O hear as when we cry to thee
  For those in peril on the sea.

O Trinity of love and power,
Our brethren shield in danger's hour;
From rock and tempest, fire, and foe,
Protect them whersoe'er they go;
  Thus evermore shall rise thee
  Glad hymns of praise from land and sea.
        Amen.

Prayers.

Anthem: "Lead Kindly Light," John B. Dykes.

The Participants: The Reverend Canon Donald R. Woodward, The Vicar of Trinity Church.

The Officers of The International Organization of Masters, Mates & Pilots: Thomas F. O'Callaghan, Charles M. Crooks, Joseph B. Gaier, Price L. Mitchell, John F. Beirne, Patrick J. King, Morris Weinstein, William K. Beach, John Handley, Henry M. Stegall, Robert L. Jones, Robert N. Polumbo, William E. Dyson, Allen C. Scott, Robert E. Durkin, R. J. Soriano, and Robert H. Nelson.

SCHOOL DISRUPTION REPORT BY OFFICE OF EDUCATION

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. RARICK. Mr. Speaker, the latest taxpayers' financed study on disruption in urban high schools comes to us from HEW. Unlike other reports this one lacks widespread publicity.

This report shows that 85 percent, or roughly 600 out of 700 surveyed high schools, have indicated some type of disruption during the past 3 years and concludes that disruption is positively related to integration.

The report further concludes that racial factors figure in a large number of the incidents.

The study concludes that disruption is positively related to integration and more likely to occur in a racially mixed school. After making a case for freedom of choice or segregated educational facilities, the Commission concluded:

> This might suggest a policy of apartheid (segregation) as a solution to disruption, but this option is unavailable. Among other drawbacks, it is unconstitutional.

The report further reads, "a society polarized between white and black would be almost impossible to manage without even raising the moral stature of the nation as a question. A segregated educational system would hardly train the young for an integrated future when they become adults."

Our intellectual brethren, upon spending the taxpayers' money to investigate the cause of student disorder, arrived at a conclusion that the majority of the people have known all along, viz, that the only workable solution to the race situation demands separate and equal facilities. Anything else is destructive of education, suppressive of freedom, and just downright cruelty.

Strangely, the professors imply that the moral question favors further disorders rather than stable classroom conditions and quality education. If true, we have a strange set of morals to continue forcing people into unnatural environments which they do not want and are not accepting.

Perhaps the strangest conclusion—in the interest of progressive education and academic freedom—is the rationalization of the authors that even were they to recommend separate educational facilities, the option is denied because segregation is unconstitutional. Who ever heard of college professors solving a problem and then dodging the issue? One wonders how they could have read the U.S. Constitution and not be aware that our society for over 190 years, under the Constitution, had separate facilities where so desired and were chosen by the majority of the people in their State or community. Further, that during those 190 years, we had no record of unrest, violence, or animosity among the races such as we now find under our new federally forced integration program. These professors had the answer to the problem but lacked the courage of their convictions.

Today's paper bears out the findings of the Commission with a brief announcement from Pontiac, Mich., that four white students were shot and wounded, one seriously, in a clash with young blacks at the Pontiac Central High School. This is a classic example of under reacting.

Additionally, a few courageous newsmen, such as David Warren Ryder, are more interested in education and order in society than in popularity or profit. Mr. Ryder, in a recent column in the Charleston News Courier, concludes that the price of forced integration is demonstrably a price which neither race can afford to pay.

Mr. Speaker, the citizens over the Nation call out for freedom and justice, yet thus far their cries of anguish are being ignored because of the fear by our leaders that to serve our people and let them know the truth would chance to brand them as racists—the Communist-coined trigger word which in itself is destructive of individual liberty as well as free speech. For if the American people collectively are accused of being guilty of racism, consider the accuser.

The atomic bomb—feared by all—can be of minor destructive force when compared to the potential of this growing national problem manifesting itself all over the country.

We must be responsive to the needs of our people by looking for answers to relieve the pressures, frustrations, and anxieties—not by more force laws and mythical solutions but by letting the people solve their problems locally and in their States.

Matters of social justice are best left to appeal to conscience—but if made law can become tyranny.

Mr. Speaker, I include several news clippings in the RECORD:

[From the New York Times, Oct. 4, 1970]

UNREST IN URBAN SCHOOLS LINKED TO RACE

(By Leonard Buder)

A federally commissioned study has found that 85 per cent of nearly 700 urban high schools recently surveyed had experienced some type of disruption during the last three years and that racial factors figured in a large number of the incidents.

Dr. Stephen K. Bailey, chairman of the Policy Institute of the Syracuse University Research Corporation, which made the study for the United States Office of Education, said that "a widespread and volatile situation" existed in the nation's urban secondary schools.

Dr. Bailey, describing the report as an "unsettling story of an unsettling reality," warned that the number and intensity of disruptions would "continue to increase unless met head-on with some imaginative programs."

FINDINGS OF THE STUDY

Among the finding of the study, made public yesterday, were the following:

Racially integrated schools are more likely to experience disruptions than those that are almost all white or all black. (The report emphasized, however, that it was not urging segregation as a solution to the problem of disruption.)

The center's report, based on a study of the attitudes of 7,000 students attending urban and suburban junior and senior high schools in Greater New York and Philadelphia, suggested that most of the tensions and conflicts were over issues of school governance and individual rights.

However, other studies on school disruption have pointed to race as an important factor.

Integrated schools with high percentages of black students are less likely to be disrupted if these schools also have high percentages of black staff members. In those schools where the percentage of black students exceeds the percentage of black staff members, disruptions are not only more numerous but take on a more racial tone.

The traditional punitive ways of dealing with student school disruptions—suspension, expulsion, police arrest, in-school detention and referral to parental discipline—often produce "perverse and counterproductive results."

The Syracuse report's conclusion that "disruption is positively related to integration" appears to be in conflict with the findings of another study, also financed by the Office of Education, that was made public last month, by the Center for Research and Education in American Liberties.

Last February in Washington, a House subcommittee on general education released the findings of a survey based on responses from more than half of the nation's 29,000 public, private and parochial high schools. Eighteen per cent of the schools reported they had experienced "serious protests" during 1968–69. Racial issues were factors in more than 50 percent of the protests in schools with more than 1,000 students and in 30 per cent of the smaller schools.

The 130-page Syracuse report dealt extensively with the causes of disruption, both in school and in society at large, observing: "The causes of high school disruption run on a circular continuum from the wider society on through the school and back to the wider society."

VIOLENCE HELD A CAUSE

The causes cited ranged from "violence in America" and growing expression of racial and ethnic pride among "America's most oppressed minorities" to lack of student involvement in school policy-making and "cross-cultural clashes" between white and black students and between older white teachers and black students in schools that have changed ethnic character.

REFUSES TO BLAME SCHOOLS

A Syracuse researcher, commenting on the finding that disruption and integration were linked, said:

"The troubles in urban high schools these days are often racial—fights between white and black students, the demonstrations and protests that arise from minority groups feeling that some school pratcices or perhaps some members of the school administration or faculty are racist—so they would naturally be more pronounced in those schools where you have a mixed student body."

Going into the causes of disruption, the report asserted that it would be equally absurd "to lay all the blame for disruption on the schools" or to contend, as have "a few very defensive schoolmen, that a school is 'merely a receptacle for problems it does not create and cannot be responsible for.' "

The report pointed to many contributing causes, among them the successs of civil rights protests; the effects of slum life; the impact of minority-group pressures on traditionally middle-class oriented public schools, and "the ripple effect on high schools of repeated college and university disruption." The study's field researchers also found evidence at some schools they visited of a factor that the report calls "black revenge."

"It may be an unpleasant subject," the report said, "but no honest observers of the urban high school scene could bypass the phenomenon of black revenge. We found it sad but psychologically understandable when numbers of black high school students told us one way or another that "it's Whitey's turn to take some heat." We note that most urban black young people are fully aware of the long ugly centuries of disgrace in which they and their kind were oppressed purely on the basis of color . . .

"We found that much of the physical fighting, the extortion, the bullying in and around schools had a clear racial basis. This was particularly apparent where the student mix was predominantly but not wholly black."

Causes of disruption inside the schools most often involved dissatisfaction over social codes, including dress and grooming regulations, and policies governing participation in extracurricular activities.

The report said that while the general practice of requiring students to reach a certain grade level before they can take part in athletics and student government activities was based, "at least in the North, on educational motives, nonwhite students often regard it as a "racist practice."

Student demands for a role in school curriculum planning are "rapidly becoming a third major issue," the study found.

In discussing strategies for preventing or minimizing disruptions, the study said that Berkeley High School (West Campus) in California had reported some success with young adult security personnel who came from the same neighborhoods as the students, while Kettering High School in Detroit had used regular policemen who were young, specially trained and well educated.

The report cited special schools set up to help disruptive students, such as New York City's so-called "600" schools for disturbed youngsters.

Also mentioned were efforts to overcome school "bigness" and to reduce "academic rigidities," such as those undertaken at the new John Adams High School in Portland, Ore., which is organized into four subschools, called "houses," with 300 students each.

The report called upon educators to make greater efforts to understand and honor cultural differences, to make possible greater student involvement in school matters that concern them.

The project staff expressed the opinion that "all things being relatively equal, it is a wise policy to promote or recruit a black teacher or administrator rather than a white one in a predominantly black school. Two-thirds of the principals who took part in the survey, the report noted, also agreed with this view.

The report also suggested some "strategies" for coping with disruption based on apparently successful programs and practices at some schools. These range from the introduction of more flexible educational programs to the use of paid "community aides' as school security personnel.

An official of the Policy Institute in Syracuse, who did not want to be identified, said that the Syracuse report went beyond earlier studies of school disruption by its "comprehensive and candid" treatment of causes and its attention to strategies.

The Syracuse study was requested last spring by Dr. James E. Allen Jr., before he left the post of United States Commissioner of Education.

The completed report, based on interviews and observations by field research teams sent to 27 high schools in 19 cities [not including New York City] and responses to a detailed questionnaire by principals of 683 urban high schools, was submitted recently. There has so far been no public comment on it from Washington officials.

DISRUPTION IS DEFINED

Dr. Bailey, who directed the project, is Maxwell Professor of Political Science and former dean of the Maxwell Graduate School of Citizenship and Public Affairs at Syracuse University. He is also a member of the New York Board of Regents, the state's highest education policy-making body.

The Syracuse report defined for its purpose, a school disruption as "any event which significantly interrupts the education of students." By that it meant strikes or boycotts by teachers or students, property damage, including arson and vandalism; rioting and fighting; physical confrontations between students and staff; picketing and parading; the presence on campus of unruly, unauthorized non-school persons, and "that catch-all phrase—abnormal unruliness among students."

In connection with the study's finding that disruption was more likely to occur in an integrated school, the report declared:

"This might suggest a policy of apartheid as a solution to disruption, but this option is unavailable. Among other drawbacks, it is unconstitutional. . . .

"A society polarized between white and black would be almost impossible to manage without even raising the moral stature of the nation as a question. A segregated educational system would hardly train the young for an integrated future when they become adults."

[From the Washington Post, Oct. 6, 1970]

MOMENT OF FEAR

Pontiac, Mich., woman ducks to floor of car as rocks and bottles are hurled through the window on a street near Pontiac Central High School during a student disturbance. About 400 persons gathered around the school after four white students were shot and wounded, one seriously, in a clash with young blacks.

[From the Charleston (S.C.) News and Courier, Sept. 26, 1970]

WARNINGS COME TRUE: PRICE OF FORCED INTEGRATION TOO HIGH FOR EITHER RACE

(By David Warren Ryder)

In an article for The News and Courier seven years ago, I asked the question, "What Price Integration?"—meaning compulsory integration. The article forecast disastrous consequences.

Although it attracted sufficient attention to prompt the editors to make 5,000 reprints, it did not create so much as a ripple on the surging flood of approbation which hasty judgment and misguided sentiment unloosed in support of the Supreme Court's unprecedented decision in Brown vs. Board of Education.

Throughout large areas of this country, men who should have known better—and would have known better had they fettered the dictates of false sentimentalism and allowed reason and logic to prevail—applauded compulsory integration as (1) the "righting of ancient wrongs," and (2) "necessary and desirable for both whites and blacks."

Amidst what approached a deluge of sloppy sentimentality and utopian stupor, the lessons of 100 years of settled experience were arrogantly disdained. A practical workable. racial accommodation that had required a century of good-will and patient, diligent endeavor to work out, was summarily rejected.

In the cacophony of the callow, and the raucous uproar of the unreasoning, the voices of sanity and common sense could not be heard—or if heard, they were unheeded—as we rushed pellmell to attempt to do overnight by judicial and legislative fiat something which the lessons of history showed could be done, if at all, not in a few days or months or years, but only over decades.

It ought to have been realized—and would have, had reason prevailed—that the only kind of integration which can be lived with by either blacks or whites, or by which either of them can truly and enduringly benefit, is natural, or voluntary, integration. This is something that can come about only through the gradual, natural processes of evolution and education.

As for the other kind of integration—the kind we have been vainly attempting to effectuate by force in the forms of judicial decrees and legislative enactments—as for this, the question asked earlier in these columns has now been emphatically answered.

It has been answered by words, but not so much by words as by the stentorian roar of events. Now we know the colossally exorbitant cost of compulsory integration from reading the price-tags in newspapers and periodicals, and witnessing the devastating effects in the day-by day courses of our lives, But every criterion known to man, the price is demonstrably too high for either race to pay.

Twice in this writer's lifetime, in bursts of utopian ardor to "do good," our country has sought by legislative enactments and judicial decisions to change deep-seated human nature and the ingrained habits, customs and conventions of mankind overnight.

Twice we have tried this, and twice we have ignominiously failed.

The first was in the 1920s with Prohibition. The second was in the 1950s and 1960s with compulsory integration. Both such attempts proved to have been monumental blunders. Both were colossally costly failures. Resides all of the state laws outlawing the sale of liquors, in an idealistic frenzy and a burst of fanatical zeal, we riveted this ill-begotten embargo onto the U.S. Constitution through state ratification of the 18th Amendment.

The consequences are well known. Despite an army of agents and snoopers, and the expenditure of hundreds of millions of the taxpayers' dollars, the state laws and the Constitutional Amendment could not be enforced and ultimately became a scandalous laughing-stock.

Even that was not the worst. Besides a spate of liquor and an orgy of corruption that debauched police departments and infected even higher echelons, Prohibition brought into American life something that in all our history we never had had before—an epidemic of gangsterism, which, half a century later, is still plaguing us.

Just as prohibition begot gangsterism and, finally, general lawlessness, so the attempts to enforce involuntary integration have set race against race in every sector of this country, raised racial barriers higher than ever and made a shambles of our public schools.

The gangsterism and lawlessness which Prohibition incubated is still very much with us half a century later. It may well require that long, or longer, for our schools to recover from the intellectual degradation and moral devastation that compulsory integration has wreaked.

As all of this was done in the name of good, the words of Lord Acton ring in our ears. "Throughout man's whole history," Acton writes, in his "Essays On Freedom," "he has done much more evil innocently than he ever has malevolently contrived!"

Herbert Hoover characterized Prohibition as "An Experiment Noble in Purpose," and there is no doubt that most of those who sponsored and supported it, did so innocently and with good intent. This is equally true of most of those who sponsored and supported involuntary integration.

But good intentions alone are not enough. There must also be the wisdom out of which accrues awareness of what can—and what cannot—be done by legislative or judicial action; and the realization that ideas, beliefs, customs, habits and conventions ingrained in man through centuries cannot be eradicated by legislative or judicial ukase.

Awareness, also, that our public schools—if they are to survive as schools—cannot be employed as instruments of social reform. Granted that social reform may be desirable, even necessary. But our schools cannot be used to effectuate it because, in so doing, they must inevitably and automatically cease to perform the purpose for which they were created and exist, which is to educate.

The proponents of involuntary integration appear not to know, or to have unfortunately forgotten, that in a free society there are limits on the amount of coercion that government can reasonably—and morally—exert. When it exceeds those limits, the free society succumbs to dictatorship and tyranny.

Today we hear much about the need for "racial balance." The subversion of public schools in attempts to achieve this goal is playing a heavy part in their ruination as educational institutions. Actually, "racial balance" is neither a static nor a finite condition, and, in practice, is proving that it can be a prelude to re-segregation. It is definitely not an assured blessing for minority groups because its effectuation, even if possible, would defeat the purpose it is supposed to serve.

Furthermore, it is becoming increasingly apparent that this is not anything the vast majority of the Negro people desire. What they really desire is quality education for their children. Evidence is accumulating that they believe this objective can be better—and sooner—attained in unmixed schools than in mixed ones.

Actually, it is only a few paid leaders of relatively small organizations who continue to agitate for racial balance. They protect their vested interest in plush jobs.

The exorbitantly high price of compulsory integration—especially in the public schools—is being paid as much by the Negroes as by the whites. Both races would benefit immensely and enduringly if all attempts to compell it ceased. In the final analysis the price of compulsory integration is demonstrably a price which neither race can afford to pay.

PHYLLIS GEORGE: MISS DALLAS, NEW MISS AMERICA 1970

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. COLLINS. Mr. Speaker, we in Texas grow prouder each day of our new Miss America. This young lady has goals and ideals that represent to the highest the spirit of many young people. I am speaking of the former Miss Dallas—then Miss Texas—and now our Miss America—Phyllis George.

Phyllis George's story is one that holds a message for many in this age of instant expectations and immediate successes. For Phyllis the road to becoming Miss America was coupled with success and disappointment, wins and losses; but the important thing is that she never lost her motivation and sense of devotion to others.

Phyllis' first contest in 1967 in Denton ended in defeat. Neighboring Denton is her home where she was 1967 Miss Denton High School. Two years later, 1969, saw Phyllis as second runnerup and Miss Congeniality of the Miss Texas Pageant. Representing Denton, Tex., at the time she was a student at North Texas State University until receiving a scholarship from the pageant which required her to attend Texas Christian University. When asked this year by the Dallas officials to participate in the city contest she almost refused because she was so involved with student teaching. Persuaded at the last minute Miss George polished up her act for another bout—this time to emerge as Miss Dallas. Her vibrant personality, beauty, and warmth of response to others, coupled with talent and a unique ability of expression combined to make Miss Dallas the blue ribbon winner with the Miss Texas title.

And special she was, as she began to shine in the Miss America Pageant in Atlantic City. But again, the road to success was riddled with excitment and disappointments. Phyllis, won the preliminary swimsuit contest as the 5-foot 8-inch brunette, is a beautiful girl. Runnerup in other events her total points moved Miss Texas up to become Miss America—the top representative of young women in the country.

The outstanding thing about Phyllis is that she did not become Miss America overnight, but her spirit never failed to be less than that of a winner. This is evidenced by the people who knew her best. Dr. Scionti, her piano teacher, says:

> Phyllis loved to practice and she had always done her practicing.

Her high school principal remembered her as belonging to several school clubs as well as being on the student council and a junior class cheerleader. At North Texas she was an active member of Zeta Tau Alpha Sorority.

Yet the true secret to what makes Miss George a Miss America lies within her personality. Mrs. Stoneham, the last Texan to attain the Miss America title, said of Phyllis:

> I think she is a beautiful girl inside and out.

Phyllis evidenced this at the pageant when she won the hearts of a group of handicapped children from Pennsylvania who had come to view the pageant. How did she do it? By taking the time to stop and visit with the children even though she was in a rush to get ready for the night's competition. The children completely switched their loyalties from their home State to make signs for Miss Texas and root for her all the way. They never had a doubt that she would win. Phyllis so inspired one child after talking to him that he tried to walk once more after having given up for months.

And now—Phyllis' goal during her reign—to visit underprivileged, handicapped, and retarded children.

This is the spirit of Miss America—of a girl whose aspirations were 4 years in the making, of a girl who never failed to work for the highest and to believe in herself—Phyllis George—Miss Dallas, Miss Texas, and our Miss America.

MARYLANDER DIES IN VIETNAM WAR

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. LONG of Maryland. Mr. Speaker, Cpl. Frederick R. Killmon, a courageous young man from Maryland was killed recently in Vietnam. I should like to honor his memory by including the following article in the RECORD:

MARYLANDER DIES IN VIETNAM WAR

Corporal Frederick R. Killmon, 21, was killed on August 31 as a result of a bullet wound in the head. He was a squad leader when his 11-man patrol was ambushed near Da Nang.

ENLISTED LAST YEAR

A graduate of Delmar High School, he enlisted in the Marines in March, 1969, and was sent to Vietnam seven months later.

He was due to return home later this month, according to his mother. "We were looking for him to arrive when we heard the sad news," she said yesterday.

In his last letter to his parents he wrote about the war being a "hopeless cause and how he was fighting for his life." Except for the war, "he liked being a marine," his mother said.

Survivors besides his parents include his grand-parents, Mr. and Mrs. Weldon A. Berry, of Hopeton, Va.

XUM

FEDERAL NONTAXPAYER

HON. SAMUEL N. FRIEDEL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. FRIEDEL. Mr. Speaker, it is unfair for the Federal Government to be exempt from the payment of real estates taxes on property, other than military installations, which it owns in cities throughout the United States. Our badly debt-ridden cities and counties could well use such tax revenues. Moreover, there is no reason why other property owners should be burdened with the Federal Government's rightful share of this local tax obligation.

This inequity, as it pertains to Baltimore City, is fully discussed in an article written by Mr. Stanley A. Blumberg which appeared in the Baltimore Evening Sun on May 14, 1970. I offer the text of his review and commend it to your attention:

FEDERAL NON-TAXPAYER

(By Stanley A. Blumberg)

Here's an annoying fact for consideration as the budget goes to the City Council. The harried taxpayers of Baltimore are, in effect, subsidizing the Federal government at an annual rate of $1,772,478.

The city relies primarily on the revenue received from the real estate tax for its operating expenses. In return the owners of Baltimore property are furnished with schools, libraries, police and fire protection, sewer, water and other public services. It's a fair bargain, but now for the hitch.

When property owners here, and this includes the federal government, are exempt from real estate taxes, their share of the burden is shifted by an increase in the tax to owners of taxable real estate. This constitutes a subsidy, and it is not inconsiderable.

The Baltimore Bureau of Assessments lists 25 tax-exempt properties that are owned by the United States government with the total assessment of $35,880,140. Since the city tax rate now stands at $4.91, the federal government is exempt from paying $1,772,478 in Baltimore real estate taxes (this represents between 5 and 6 cents on the tax rate). The assessment is usually 58 per cent to 60 per cent of appraised value. The highest assessment, $13,617,100, is on the Federal Office Building at 31 Hopkins Plaza. The lowest assessment, $80, applies to a 21-by-21-foot lot known as 5450 Quarantine road.

The writer has not attempted to determine the assessed value of all federal government properties tax-exempt in Maryland. But Dale Anderson could certainly use the proceeds of Baltimore county taxes on the Social Security Building in Woodlawn. Payment of taxes on the National Security Agency complex in Anne Arundel would be appreciated by Joseph Alton and the taxpayers there. Other facilities abound, notably the Goddard Space Center in Prince Georges county.

In President Nixon's veto of the Health, Education and Welfare bill last year, he pointed out that one of the wealthiest counties in the country, Montgomery county, would receive, under the bill's impacted aid section, monies far beyond the county's need. If the federal government paid real estate taxes on the property it owns in Montgomery county, there would be no need for federal contributions under the aid for impacted areas program.

Many structures used in Maryland by the federal government are leased. They are privately owned and pay local taxes. Since the government can borrow money at more favorable rates than private investors, this method of leasing instead of owning initially involves a lower capital outlay but is more costly in the long run.

Congress has authorized the Federal Reserve Board to pay taxes on the properties the board owns. In Baltimore the board owns and occupies a bank structure on Lexington street, corner of Calvert, that is assessed at $1,930,500. It pays taxes to Baltimore city in the amount of $94,032. Here is an interesting precedent.

It is commonly acknowledged that the cities are in need of federal assistance. Their taxing powers are limited to sources of income that are relatively static and are not adequate to meet their needs now, to say nothing of the future.

President Nixon's tax-sharing proposal is extremely modest and will yield to the city of Baltimore in its first year of operation only $800,000. The following year this amount will double.

Most mayors and county commissioners would prefer to receive their assistance directly from Washington, bypassing their state governments. There does not seem to be any logical reason why a bank building owned by the federal government pays real estate taxes and an office building, though with the same ownership, does not. Congress could direct payment of real estate taxes on all property the government owns to the political subdivisions in which the properties are located. In this manner the government would no longer unfairly impose the burden on local governments for providing services for federal structures.

Political subdivisions compete for federal installations. Government employees are well paid and enjoy long-term tenure. Their buying power helps business and the community prosper.

It can be adopted that if Washington adopted a policy of paying real estate taxes it would tend thereafter to build in areas of lower taxes. But this objection could be overcome by a provision which directs that the tax rate in any political subdivision would not be a factor in determining the location of any new federal structure.

Most members of Maryland's congressional delegation are deeply concerned with the financial plight of the political areas they represent. This proposal is not a substitute for the administration's tax-sharing plan but is simply a recognition of an existing obligation that should be honored.

A RUGGED LIFE

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. SEBELIUS. Mr. Speaker, since many of us are now weekend warriors on the campaign trail, I thought my colleagues would enjoy the comments of Mr. Bob Fairbanks, editor of the Great Bend Tribune regarding our "rugged way of life."

Mr. Fairbanks had just completed his coverage of yet another political meeting and has become somewhat amazed at the rugged doggedness of political candidates. At this time of year, when there are too many hands to shake, endless barbecues, countless speeches and all of the rest, Bob Fairbanks' editorial, I am sure, is most appreciated by all political candidates. His editorial follows:

A RUGGED LIFE

Great Bend had a couple of political candidates campaigning Friday and Saturday. There'll be more visits from other candidates before the November election rolls around.

This is the season of the politician. Whether he is an office holder or is hoping to be one, the name of the game is get around and shake hands. It can be a tiring routine . . . cut a ribbon here, attend a picnic there, walk around Main Street, stop at good old Joe's house for a coffee, make a speech before the East Overshoe service club. If you're in office it is sometimes difficult to make arrangements to get around as much as your opponent. If you're not in office, there's a matter of making a living while trying to campaign.

One would not be too far remiss in an observation that politicians must be hardy persons. They have to be to meet the rigorous schedules of traveling and talking which they all must go through every couple of years. A look at the salary schedules involved in some of the offices, especially the state legislature, one might wonder if the whole thing is worth it. There are many things besides the salary which motivate men to seek public office, one of these has got to be a great desire to serve.

It's a good thing that there are those who want to serve. Most of us would rather spend our leisure time fishing, playing golf or just enjoying the fine Kansas weather and leave the politicking to somebody else.

HON. JOHN SLACK'S ADDRESS BEFORE THE SECOND CONFERENCE ON X-RAY IDENTIFICATION OF COAL WORKERS' PNEUMOCONIOSIS

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. DENT. Mr. Speaker, one of the most conscientious and effective Members of this House is my good friend, the Honorable JOHN M. SLACK. Congressman SLACK has always acted in the finest traditions of an outstanding public servant, by representing his West Virginia constituents with sincerity and dedication.

One of the great satisfactions of my own legislative career was the enactment of the revolutionary new Federal Coal Mine Health and Safety Act of 1969. I had the honor of being chairman of the labor committee with jurisdiction over that legislation.

I shall always remember—and always be grateful for—the tremendous assistance and effort put forth by JOHN SLACK in seeing to it that the bill contained strict and meaningful health and safety standards to protect our Nation's coal miners; as well as the provisions that makes Federal payments available to miners suffering from the dread "black lung" disease and to the widows of those who have died because of it. JOHN SLACK was tireless in his efforts to help coal miners then, and has never relented in his drive to see that their problems were met by Federal action. Without his leadership, I doubt that we would have as good a law as we do have.

Recently, Congressman SLACK addressed the second conference on X-ray identification of Coal Workers' Pneu-

moconiosis, sponsored by the American College of Radiology at Charleston, W. Va., on September 12, 1970. He was introduced by the conference's moderator, Dr. W. Paul Elkin. The introduction by Dr. Elkin and the keynote address of Congressman SLACK follow. They merit the attention of us all:

INTRODUCTION OF KEYNOTE SPEAKER

My friend and neighbor, John Slack has represented us since 1958 as the member of Congress for the third district of West Virginia. During his 12 years in Washington, he has shown himself to be keenly aware of the needs of his constituents in this area, the needs of the state of West Virginia and the convergent needs of the nation. This awareness, of course, includes the past, current and future problems of the coal industry which is so vital to West Virginia. It also includes the needs of our people for good health care, concomitant with the advances in medical science. He has been aware of the efforts of medical organizations to work toward solutions to these problems and he has supported federal programs to provide necessary logistical and manpower support for medical research and education.

His colleagues in the House of Representatives have recognized his service by appointing him to the extremely important House Committee on Appropriations. By keeping us happy with his services for 12 years, he has become a senior member. As such, he has a key role in appropriations for all federally supported health and medical research programs. He found a natural merger of both these vital interests for West Virginians in co-sponsoring and supporting the Coal Mine Health and Safety Act of 1969. He is further demonstrating his concern for these areas by coming to keynote our meeting here today. Here is my friend and congressman, the Honorable John Slack.

SLACK'S ADDRESS

We all know that our bodies are amazing structures. We also know that they are finite in strength and subject to the ailments of age, use and abuse. Though we know our clay is mortal, most of us—who are not of the medical profession—tend to view age and infirmity as something to happen to someone else. We know that sickness, injury and disability may come, but we fail to understand or accept when it comes to us. And so we turn to our physicians sometimes in hope and sometimes in despair.

When men go down in the earth to dig coal, they most often come to their physicians in despair. The physical hazards are great. The bruises, cuts, fractures and lacerations are a known and accepted daily price to be paid in a dangerous craft. But there is an insidious hazard, the dread black lung, more fearful in its silent invasion than the quick threat of accident or disaster.

To this problem you direct your attention today. We who wrote the law last winter know that your skills cannot reverse the progress of black lung. But you can detect its presence and give us the firm indications needed to change the miner's status as a way, hopefully, to retard its development into disabling diseases.

Thus, when my colleagues and I turned our attention to the health and safety problems of underground mining, we found that two areas were significant. The most obvious was the matter of making a coal mine a safer place to work. This involves physical changes in the environment of the mine, including definite efforts to reduce the dust levels. Our charge also involved doing something about the miners who have been victimized by black lung as a result of working for an extended period in an underground mine.

To meet this need, we wrote into Public Law 91-173, a provision for black lung benefits. We spelled out an obligation for mine operators to provide a means for determining the presence of black lung in a miner. As you know, the chest x-ray examination was specified as the basic required medical procedure. The Public Health Service and its Bureau of Occupational Safety and Health were designated as the agency to put this legislative intent into a functioning system.

I am happy to say that this session and the several others like it are firm evidence that our intentions can be accomplished thru your cooperative efforts.

I am told that the performance of the chest x-ray examinations to detect the presence of black lung requires a level of skill not needed for many of the other chest examinations which all of you perform. Many of the films which can be made by clinics and physicians are not adequate to find the evidence of dust disease.

Fortunately, the government agencies responsible for the program quickly found that the medical profession is concerned about this problem. And more than being concerned, it is willing and able to take real leadership in solving it. All of you are here today as a result of that leadership on the part of the American College of Radiology.

As you know, the College responded to the problem last winter by organizing this whole effort toward physician education and qualification. We should commend the College for focusing its prestige and its interest and we should commend the Public Health Service for its appreciation and support of this voluntary effort. If more of our health problems received this combined attention from professional groups and matching public agencies, we would have much less furor about alleged defects in delivery of health services.

I am told that this is the second one of these conferences. The first one last June was held on an experimental basis in Washington. Others are to follow. I deem it appropriate that this series begin in the capital of West Virginia. To a greater extent than any other state, West Virginia has been bound to the mining industry. Our state has made commendable efforts to control the black lung problem. But it has lacked the resources which are now available.

Many of you are West Virginia physicians. You know about black lung and what it does to your patients and to their families. You know that the problem can only be solved by prevention, if at all. You know that this program upon which we are embarked is only a start. But is a good start.

Those of us in Congress are aware that our public trust involves us in drafting legislation which involves not only legal obligations but also the willing cooperation of vital groups. Legislation must specify and require by threat of penalty. But we all know that such means are less effective than the willingness of responsible groups to work toward a preconceived common goal.

We have such a goal in the good health care of coal miners. In a specific way, it may be the responsibility of the operators and the government. In a general sense, it is your charge. So I salute the Public Health Service, the American College of Radiology and all of you here as physicians in the finest sense of the term. I wish you all success in your efforts.

REMARKS BY AMBASSADOR BRUCE

HON. L. MENDEL RIVERS

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. RIVERS. Mr. Speaker, following my usual practice of placing into the RECORD the remarks made by our Ambassador at the Paris Peace Talks, I present for your consideration the remarks made by Ambassador Bruce on September 24, 1970, regarding the prisoner-of-war issue:

REMARKS BY AMBASSADOR BRUCE

From your remarks here this afternoon, it is evident that you refused to understand the comments I made on your proposals in my statement today to the effect that your fundamental demands remain unchanged. I suggest that you read my statement again.

In the meantime, on the subject of the treatment of prisoners of war, your evasive and unsatisfactory statements ignore the basic humane considerations that I have brought to your attention. Under the terms of the Geneva Convention on prisoners of war, on the basis of commonly accepted standards of civilized behavior, and with cognizance of the inhumanity of your actions toward the men in your hands, your attitude is unacceptable and universally condemned.

You have never adequately explained why you refuse to identify all the prisoners of war you hold or to provide information about the fate of men missing in action.

You have never adequately explained why you refuse to release sick and wounded prisoners of war and those held for long periods of time.

You have never adequately explained why you do not allow a truly free and regular flow of mail between all prisoners of war and their families.

You have never adequately explained why you do not permit inspection of prisoner of war camps by impartial observers to ensure humanitarian conditions and treatment.

These are well-established requirements in international law and practice. Our side accepts these requirements and puts them into practical effect.

As I have said, we await action on your part. There is no reason for you not to do so. There is every reason for these necessary measures to be taken now and not await discussion or settlement of other issues involved.

BROTZMAN QUESTIONNAIRE RESULTS

HON. DONALD G. BROTZMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. BROTZMAN. Mr. Speaker, because of the importance of the many issues which are confronting the Nation and Congress, I recently sent a questionnaire to the residents of the Second Congressional District of Colorado asking their opinions on some of these matters. The returned questionnaires have been tabulated, and I am pleased to include them in the CONGRESSIONAL RECORD for the benefit of my colleagues.

This poll is important for two reasons. The results of such a sampling prove invaluable in my task of representing the people of the Second District in Washington. But also, Mr. Speaker, I would like to point out that Colorado voters have traditionally mirrored national trends.

More than 40,000 persons from a 6-county area participated in the Second Congressional District opinion poll.

Response to the poll was one of the highest in its 6-year history, and par-

ticipation was the greatest in the Nation among more than 100 congressional polls of this type. The fact that so many Second District residents took the trouble to register their opinions and mail the ballot cards speaks well of my constituents.

In order to encourage maximum participation, I provided each mail box in the Second District with a computer card containing separate columns for men and women. In most cases the responses were nearly identical, with perhaps the most striking differences occurring on two of the Southeast Asia war alternatives.

While 19.2 percent of the women called for an immediate and unconditional pullout of all U.S. troops, only 15.6 percent of the men concurred. On the other hand, 18.2 percent of the men believe in escalating military action to achieve an outright victory, with just 15.0 percent of the women respondents in agreement. Support of the administration's current disengagement policy drew almost identical endorsement, with 43.9 percent of the men and 43.8 percent of the women behind it.

Mr. Speaker, I also call attention to the following additional highlights of my 1970 poll:

An overwhelming majority of Second District residents—82.9 percent—believe Federal grants and loans should be denied students who participate in illegal disturbances.

Nearly as many—78.7 percent—believe that an annual dollar limitation should be placed on Federal subsidy payments to individual farmers.

Support for an all-volunteer military except in times of grave national peril is strong, with 70 percent of the Second District residents favoring this concept.

The results of the questionnaire follow:

TABULATION OF COLORADO'S 2D CONGRESSIONAL DISTRICT 1970 OPINION POLL

[In percent]

	Men	Women	Total
1. Do you favor proposals for an all-volunteer military except in times of grave national peril?			
Yes	69.6	70.5	70.0
No	23.6	21.0	22.2
Undecided	3.6	5.4	4.6
No response	3.2	3.1	3.2
2. Should Federal grants and loans be denied students who participate in illegal disturbances?			
Yes	82.3	83.6	82.9
No	11.3	10.7	11.0
Undecided	3.8	3.7	3.8
No response	2.6	2.0	2.3
3. Should the Federal Government share a fixed percentage of income tax revenues with schools, and local and State governments, for use as they see fit?			
Yes	49.2	49.4	49.3
No	35.8	31.5	33.8
Undecided	12.2	15.6	13.8
No response	2.8	3.4	3.1
4. Do you favor an annual dollar limitation on Federal subsidy payments to individual farmers?			
Yes	81.8	75.3	78.7
No	7.8	7.5	7.6
Undecided	6.5	12.1	9.4
No response	3.9	4.7	4.3
5. Should Communist China be admitted to the United Nations?			
Yes	43.3	39.8	41.7
No	43.7	42.2	43.1
Undecided	10.8	14.8	13.0
No response	2.2	2.2	2.2
6. The war in Southeast Asia is one of the most pressing issues facing the Nation today. Which of the following courses of action do you think would best serve our commitments and our national interest?			
(a) Immediate and unconditional pullout of all U.S. troops	15.6	19.2	17.2
(b) Escalation of military action to achieve outright victory	18.2	15.0	16.7
(c) Gradual withdrawal of U.S. troops contingent upon the ability of the South Vietnamese to assume total conduct of the war	43.9	43.8	43.9
(d) Setting of a definite but future deadline for U.S. troop pullout without regard for other considerations	16.4	15.0	15.8
(e) Undecided	3.2	4.2	3.7
(f) No response	2.7	2.8	2.7

IMPRESSIVE BEAUTIFICATION PROGRAM

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. BURTON of Utah. Mr. Speaker, residents of the city of Roy, Utah, have recently conducted a campaign to improve the appearance of their city. Their industrious and highly successful endeavor could, in broader application, produce notable benefits on a national scale.

The mayor's landscape improvement program and the citizen volunteers involved have carried out a praiseworthy project with impressive achievements.

Following is an article from the Ogden Standard Examiner of recent date enumerating details of the project:

MORE BEAUTIFUL ROY

The City of Roy and its progressive citizens have certainly achieved success in their efforts to make their community a more attractive place in which to live.

The Mayor's Landscape Improvement Program, with Dennis Chugg as chairman, has just tallied its major gains of the 1970 beautification campaign.

It's an impressive list!

More than 50 obsolete structures, long eyesores to both Roy residents and their visitors, have been removed. More than 700 homes, barns and sheds have been repainted, along with more than 100 fences. Sixty business places engaged in repair, renovation, and painting projects.

Hundreds of tons of trash were hauled away, including more than 800 junked automobiles. Nearly a thousand new trees and shrubs were planted.

Nearly 10,000 of Roy's 15,000 residents were directly involved in the program, most of them on a volunteer basis.

Roy, in setting the beautification pace for Weber County, should certainly be a strong contender for national honors in the 1970 "Cleanest City" competition.

AT ISSUE: A FAIR APPROACH TO JOB SAFETY

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. ERLENBORN. Mr. Speaker, indications are that this body will have an opportunity during this session to enact legislation to promote occupational safety and health. Our choice will be between H.R. 16785, which has been approved by the House Committee on Education and Labor, and H.R. 19200, a substitute proposal coauthored by Representative ROBERT SIKES, and WILLIAM STEIGER of Wisconsin.

At issue is whether we want workable legislation that will fulfill its intent in a manner fair both to labor and to management. The Sikes-Steiger substitute offers this path, as is clearly spelled out in a September 1970, article of Nation's Business. I submit this article as recommended reading for our colleagues, and I commend Congressman SIKES and STEIGER for their industrious, competent, and distinguished leadership in providing this constructive solution:

AT ISSUE: A FAIR APPROACH TO JOB SAFETY

Businessmen who watched glumly as the House Labor Committee approved a bill giving the federal government unprecedented power in the occupational safety and health field now have their eyes on a substitute bill they feel would be far more reasonable.

Either would have an enormous impact on the day-to-day conduct of American business [see "Warning: 'Safety' Hazard," June]. A crucial choice between them will be made soon on the House floor.

The bill approved by the Committees is sponsored by Rep. Dominick V. Daniels (D.-N.J.) and traces its origins to Johnson Administration recommendations which Congress rejected in 1968.

Outside of areas such as coal mining, which are covered by separate legislation, it would give the Secretary of Labor sweeping powers to set health and safety standards, inspect and investigate for compliance, preside over hearings on alleged violations and render the verdict.

He could, if he desired, get into such fields as hours of work, the number of people needed for specific jobs and worker qualifications. An inspector who held there was "imminent danger" could summarily close a plant for up to five days. In some cases, employers would have to keep on paying workers who went on strike over claims the law was being violated.

On the other hand, Rep. William A. Steiger (R-Wisc.), a member of the Labor Committee, hopes the House will accept in place of the Daniels measure a bill which he says not only will be more fair to both employers and employees but will actually do a better job of promoting occupational safety and health.

Rep. Steiger had a leadership role in drafting the substitute bill, which evolved from recommendations President Nixon made to Congress last year.

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In this interview with a Nation's Business editor, Rep. Steiger discusses the legislation and its significance for businessmen:

Would you start, Congressman Steiger, by describing your general approach when you took up this issue of occupational health and safety?

When the hearings began in 1968 on the original bill sent up by President Johnson, it became readily apparent that this was an issue in which there could be very real disagreement over the best means to achieve the greatest degree of safety and health. It also became apparent that the original Johnson bill was a mess—badly drafted, done without any reference really to people in the field, such as the National Safety Council, or to any of the management groups. There was some checking with labor groups, but even they hadn't been involved very much.

There arose a number of questions that must be asked about an occupational health and safety bill:

First how effective is it? Secondly, how fair is it? How much of an opportunity is there for equity for both sides—management and labor? And lastly, who should have the responsibility for setting the standards, carrying out the investigations and enforcing orders?

What is the principal difference between your bill and the Daniels bill from the standpoint of effectiveness?

I think our bill is more effective because, first, it provides for an independent health and safety board with a body of expertise in the field of standard-setting—which, in my judgment, is an absolute necessity if you are going to have well-designed, reasonable, strong health and safety standards. Under the Daniels bill, the Secretary of Labor would have sole power to set standards.

Isn't there a provision in the Daniels bill that an employer must keep on paying workers who claim there is a safety hazard and strike over it?

Yes. I think it is a bad provision. It would be a very bad precedent to set. We don't provide for that in our bill.

Employers naturally are most concerned about the power that would be given to close their plants. How do the bills measure up as to fairness on that issue?

There is a major difference. The Daniels bill enables an inspector, on his own volition, to shut down a plant in order to correct what he declares to be an imminent harm situation. We don't do it that way. No order of closure can come from anyone but a District Court judge; I think that is equitable for all parties concerned.

We do provide that an inspector has the right to—and I think he should—inform management and labor of the fact that he is going to a District Court to ask for a temporary restraining order or an injunction to close down a plant or working site.

Both management and labor then are aware of the judgment of the inspector that there is a problem. But the order has to come from a judge. Under the Daniels bill, an inspector is under no restraint whatsoever from acting on his own.

Also, I am afraid the Daniels bill can impose a very heavy burden upon employers to meet the requirements for equipment to monitor health and safety.

Our bill provides that the small plant, which has to meet new safety and health requirements, could get Small Business Administration assistance in meeting the burden.

Why aren't you so eager, as backers of the Daniels bill are, to turn this closing-down authority over to the central government?

I don't think the record of the federal government in the safety field constitutes a recommendation for the Labor Department to both set the standards and assess the penalties.

What does the record show?

The federal government has a poorer record than many major industries in this country in terms of safety and health and accidents. This is one reason why I think you need this new board to set standards and why you need to involve the states if you are going to do the job well or at all.

How does you bill compare with the Daniels bill from the standpoint of fairness in general?

I feel our bill is fair because it separates standard-setting from investigation and enforcement. It does this by having an independent board set the standards, having the Labor Department carry out the inspections and investigations and having an independent safety and health commission determine the penalties.

This contrasts vividly with the Daniels bill, where you have everything wrapped up under the Secretary of Labor. That makes him the judge and the jury and the prosecutor all at one time.

We favored our approach after two years of hearings, after listening to witnesses who are experts in this field—the health and safety professional organizations, including the National Safety Council. All of them made the point that they felt it was imperative that no single agency of government have all this responsibility, that you ought not to have one man trying to do all of it.

The substitute is a fairer bill because it provides for judicial review at all stages—in the standard-setting, in the inspections and in the penalties. I think you have to have that.

And I think it is fairer, frankly, because it does not impose the "general duty" requirement that is in the Daniels bill.

"General duty?" Would you elaborate on that?

The Daniels bill says in Section 5, Paragraph 1, that the employer "shall furnish to each of his employees employment and a place of employment which is safe and healthful."

This means that regardless of any standards that are promulgated and even in areas in which no standards have been promulgated, an inspector can go into a plant and make a determination on his own that it isn't safe and healthful. The employer would have no way of knowing under such a vague requirement whether he was complying with the law. And yet the inspector could cause him to suffer a penalty. I think that is an impossible burden.

The substitute bill provides a specific duty to maintain a place of employment free from imminent harm that is readily apparent.

Do the two bills differ in other ways about violations?

The Daniels bill, in its violations section, is terribly complicated and confusing in terms of when an employer is violating and what penalty will be assessed against him.

Ours is drafted in a way so that there is no misunderstanding. Every violation, unless it is very minor, is subject to penalty.

There would be no question in the mind of an employer that if he doesn't follow the standards, he would face the penalty.

What over-all impact on business would the Daniels bill have?

I think it could be very negative. One, it would slow down the effective safety and health programs that are already under way in a number of industries and throughout the country.

Secondly, it would have a very negative impact on labor-management relations. There are those on the Committee who talk about what we ought to do with Taft-Hartley, who want to attack the provisions of Taft-Hartley.

That is up to them, but I don't think we ought to do it through the back door, and I think this is what is being done in the Daniels bill.

There is a third impact. Knowing that we are all for better safety and health, will the Daniels bill really achieve safer, more healthful working conditions? In my judgment, it will not.

Where does it go wrong?

In the standard-setting, for example, it sets out a very slow, cumbersome procedure—the appointment of an advisory committee, for example.

Actually, this would stand in the way of good standards being set swiftly, effectively, I don't think that is beneficial either to labor or management.

Have you discussed your bill with union leaders?

I have told union representatives I think organized labor in this instance is being very short-sighted.

If it truly is interested in passing a good safety and health bill, I think the vehicle is the substitute, not the Daniels bill.

I might also say that in the safety and health field, organized labor pretty clearly is attempting in many ways to have government do the job that collective bargaining should have done.

Surveys that have been made indicate safety and health takes a place right after the coffee break in terms of importance in labor-management negotiations. The AFL–CIO has never even created a safety and health department.

How do you appraise your bill's chances?

I think there is at least a 50–50 chance that it can be adopted.

In large part, it will depend upon the efforts of a lot of people to call the attention of members of Congress to the problems and weaknesses in the Daniels bill, and to the reasons why the substitute offers the best chance for a really good health and safety bill in this session.

THE ROLE OF THE AIR ACADEMY

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. BRAY. Mr. Speaker, a week or so ago I received the following letter from Cadet Larry W. Baker, one of my appointees to the U.S. Air Force Academy.

I was tremendously impressed by Cadet Baker's letter. In our age where, it often seems, everything connected with the military is despised and downgraded, and detested by American youth.

This reaffirmation of faith in the American Republic, and its institutions, is reassuring and heartening to us all.

The letter follows:

U.S. Air Force Academy,
Colorado.

Hon. William G. Bray,
Rayburn Building,
Washington, D.C.

Dear Sir: It has been a long hard summer and the challenges came thick and fast, but now, after having been accepted into the cadet wing and academics already started, I can look back and see the purpose of all this training. This place has a reputation for making men and no one really knows how that purpose is achieved until he goes through the program. I know that I'm not even half through yet, but I think I will be

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able to look back on this year in retrospect and say that 1970–71 was the year I became a man.

I know I've told you this many times before but now that I've actually come here and have somewhat of a feel for the program, I would like to thank you once again for giving me the opportunity to come to the Academy.

Sincerely yours,
Cadet LARRY W. BAKER.

WILSON DISCUSSES U.S. POSTAL SERVICE AND MANAGED MAIL PROCESSING

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. CHARLES H. WILSON. Mr. Speaker, as a member of the Post Office and Civil Service Committee, I have been deeply involved in the evolution of the new U.S. Postal Service. While I supported the concept of a quasi-independent postal service, I had and have some reservations concerning some of the innovations that have been put forth by the Nixon administration.

A present area of concern is the reduction of mail service to our citizens. Even though the U.S. Postal Service is still in its infant stage, our Committee on Post Office and Civil Service has received a number of complaints from many parts of our Nation protesting the reduction in postal service. In reaction to these complaints, our Committee on Post Office and Civil Service, under the able leadership of THADDEUS J. DULSKI, is planning a thorough investigation of the alleged reduction of postal service.

On the other hand, Mr. Speaker, there is some good that is already coming out of the new U.S. Postal Service. I specifically refer to the new program known as "Managed Mail Processing"—that is to manage the handling of mail to provide for more efficient processing in the postal stream.

Managed mail processing has been implemented at all of the 554 postal sectional center facilities and approximately 30 additional post offices.

The program, which began this year, provides that:

First. First-class letters going beyond normal range of overnight surface delivery will be airlifted.

Second. They will receive only a single, primary sort on letter-sorting machines at the originating office.

Third. Further "sorts" will be made at offices in States to which the letters are addressed.

For example, mail originating in a major east coast city for various cities in the West will no longer need multiple sortations down to the exact city in the western State—or the exact sectional center—for which it is destined. Instead, all this eastern mail is processed to the State for which it is destined.

The new procedures streamline numerous existing steps that have applied in the past. Since the mail no longer requires so many handling steps at the originating city, it can be processed faster and make key evening flights which might be missed if multiple sorting steps were required.

Also, the new program means that more mail sorting can be performed during daylight tours of duty. This, in turn, means more desirable work hours for more employees.

It also means fewer "missorts" and delivery delays resulting from erroneous handling. To illustrate: employees in California are more familiar with California distribution patterns than those in Philadelphia and are less likely to make mistakes in the secondary sorting to exact destinations.

This program has been developed to provide improvements in delivery patterns as well as in the internal handling procedures, and I sincerely hope that it is an indication of a new vitality and efficiency in our postal service now.

DOUBLE WHAMMY FOR WIDOWS

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. SEBELIUS. Mr. Speaker, I have often remarked that the press in my district in Kansas, the "Big First" district, is the best example of grass roots journalism in America. With 15 daily newspapers, 41 radio or television stations and 85 weekly newspapers, citizens of the "Big First" are not only informed, but also enjoy a wide range of views and political opinion.

The dean of "our press corps" is the editor of the Salina Journal, Mr. Whitley Austin, whose prose and political commentary have been compared to Kansas legendary William Allen White. In a recent editorial in the Salina Journal, Mr. Austin wrote about a national problem that is most acute in my district— and he tossed in some political comments to spice up his point.

No other part of our Nation suffers so bitterly from inflation. In industrial areas, where wages go up along with prices, inflation may be tolerable. But, in the "Big First" district, everyone—farmers, housewives, wage earners, small businessmen, and especially those on a fixed income—is being hurt by this cruel and hidden tax.

Many times we in public office are prone to discuss answers to problems like inflation in simplistic and in many cases, political tones. In this regard, Whit Austin has pointed out two vital points. Government spending is not necessarily the only cause of inflation and, no matter what kind of rhetoric comes from politicians, the folks who live on a fixed income, while trying to live as best they can, are in need of immediate help.

Mr. Speaker, Mr. Austin's editorial follows:

DOUBLE WHAMMY FOR WIDOWS

At least one group of citizens may be warranted to riot in the streets, burn photographs of Lyndon Johnson and throw eggs at Richard Nixon's campaign posters.

They are the widows and pensioners of the nation.

They have been dealt a double whammy.

Their dollars buy less because of inflation.

The investments on which their incomes or pensions often are based have shrunk between 15 and 30 percent because of the stock market collapse.

Fewer dollars that buy less: such is the fruit of their frugality.

What have the politicians to do with such economic problems?

They are quick enough to claim credit for an upturn.

They constantly are tinkering with all the machinery of commerce, starting with fiscal policies.

Keith Sebelius, our congressman, blames inflation on government spending and claims reduced spending would stop it. This is, of course, an over-simplification; his clients in the First district are not quite that simple.

The billions down the drain for the Vietnam futility certainly are a major factor. Spending for war produces nothing useful. It is a form of violent waste that yields no return. But it should not be considered in the same class with spending for schools, housing and highways, etc. These are long-term investments that yield a social profit as well as an economic one.

Other factors, aside from the vitally important ones of government management of the money supply, interest rates and selective taxation, include:

Tariffs and quotas that restrict international trade and jack up domestic prices.

Diplomatic barriers that curtail or regulate investments and extension of American sales abroad.

The sundry commissions and boards that in effect boss much of our transportation and communication systems.

The federally enforced union labor leverage that is now giving the nation a wage-price inflation of the most virulent kind. This may be the most important factor of all today and it has created a dilemma no one seems able to solve.

As prices go up, organized labor, quite understandably, wants wages to equal them plus an additional increase to cover an uncertain future. Higher wages, in turn, result in higher prices. This is particularly true when there is no marked increase in productivity. So we suffer a spiral, with wages and prices chasing each other toward the sky.

And the politicians look to the votes.

They increase their own salaries and expense accounts to meet inflation. But that's no comfort to the widows and pensioners or even to those of us who thought we were saving for a rainy day only to discover the downpour is at hand.

OVERSEAS CREDIT UNION MILESTONE—A TRIBUTE TO CONGRESSMAN MINISH

HON. WRIGHT PATMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. PATMAN. Mr. Speaker, at the end of July, the military credit unions operating overseas passed two 100,000 milestones. In less than 2 years, the credit unions had signed up more than 100,000 members and had made loans of more than $100 million.

Both of these are indeed impressive figures and are a tribute to the hard work of Congressman JOSEPH MINISH of New Jersey.

Congressman Minish was the head of a special subcommittee of the Banking and Currency Committee which visited major military installations in the European and Pacific Commands on several occasions to press for the establishment of the credit unions. Prior to Congressman Minish's efforts servicemen stationed abroad were at the mercy of the money lenders who were able to extort interest rates as high as 60 and 70 percent. In addition, our gold flow problem was hindered because servicemen, for the most part, had to borrow from foreign-controlled loan and finance companies.

The first overseas credit unions were opened in Germany in late 1967, and, from there, credit unions were opened in England, Italy, Korea and the Philippines. Overnight these credit unions were a success. Servicemen who had been paying interest rates as high as 70 percent for loans were now able to obtain low-cost loans. For instance, if a serviceman borrowed $1,000 to purchase a new car and used the car for collateral for the loan, he would pay back only $45 above the original amount borrowed for a 1-year loan. This works to ¾ of 1 percent a month on the declining balance, or an annual percentage rate of 9 percent. On a personal loan of $1,000, the serviceman would pay back only $60 above the amount borrowed for a 1-year loan. This works out to 1 percent a month on the declining balance, or an annual percentage rate of 12 percent. These loans are now being made to servicemen of all ranks, from the lowest ranking enlisted man to officers of the highest rank.

The credit unions forced the loan shark and the fast-buck operators to close their doors. And, for the first time, our servicemen overseas were not treated as second-class citizens in their financial dealings.

Mr. Speaker, a great deal of credit for the success of the overseas credit unions must go to the gentleman from New Jersey (Mr. Minish) who worked long and hard to expose the fraudulent operators who were bilking servicemen and then to fight for the establishment of credit unions as the answer to the problem. There were many obstacles placed in his path and much redtape to be cut through. In many countries, it required detailed diplomatic negotiations before the credit unions could be established. In other situations, it required long hours of convincing skeptical officials that the credit unions could survive. But, throughout the fight, Congressman Minish held fast in his belief that the credit unions would not only hold their own, but would become an important part of the serviceman's life. The success of the credit unions has borne out Congressman Minish's foresightedness and has rewarded his efforts.

The work of Congressman Minish in this important area has received far too little attention for, I think, he has performed one of the greatest services imaginable to our men and women in uniform, and as the overseas credit unions reach for their second 100,000 members and second $100 million in loans, I salute Congressman Joe Minish for his efforts.

XUM

"QUO VADIS?"

HON. DURWALD G. HALL

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. HALL. Mr. Speaker, Thayer A. Smith, M.D., writing in the magazine Private Practice, has composed a chilling yet not unbelievable article entitled "Malpractice 1984."

Dr. Thayer has endeavored to look into the future of medicine based on his knowledge of trends in medicine today.

After reading Dr. Thayer's short story, one is led to ask—Quo Vadis, America?

The article follows:

MALPRACTICE, 1984

(By Thayer A. Smith, M.D.)

Sam Kupperman paced nervously back and forth in the hotel room. It was only seven weeks ago that the nightmare had begun, but it seemed like a distant day in the remote past. Early in March, 1984, he had been notified of the malpractice action against him, his first. The case had gone to trial and he had lost. Because the judgment contained some extraordinary provisions concerning Constitutional guarantees, and because of urgent circumstances surrounding the execution of judgment, Sam's attorney Charlie Pickett had pursued vigorously the matter of appeals through the appellate chain, and succeeded in getting it before the Supreme Court with unprecedented dispatch.

So on a pleasant spring afternoon in Washington, D.C., in May 1984, Sam numbly waited for word from Charlie, after the justices had heard the case, and had retired for deliberation. Peters vs. Kupperman. The cold legal nomenclature saddened Sam a little, particularly the "versus." A compassionate and conscientious physician, he was not prone to be "versus" anyone very often. He would fit, except for his youthful appearance, the prototype of the lamented and nearly extinct family doctor of the turn of the century. Yet for all his warmth, he was held in highest respect for his skill and knowledge by his colleagues, who know these things.

Married toward the end of his residency, he had settled in a suburb of Chicago in 1970 to practice internal medicine and raise a family. He was doing well in both. Not previously had any patient even threatened litigation. But it seemed like almost a betrayal for Sylvester Peters to be doing this thing to him, for Sy had been a patient almost since his first year of practice.

As a matter of fact, since the first $100,000,000 malpractice award in 1980, there had been something of an unspoken, unofficial moratorium on malpractice actions. Various reasons had been advanced, the least probable of which was that the award was never paid, the doctor and insurance company having gone bankrupt. More cogently, 1981 was the year that Congress passed the 100% tax bill, which left very little fluid capital in private hands.

Sylvester Peters, a middle aged accountant, had come to Sam as a patient in 1971, liked him, and stayed with him. Sam had seen him through several coronaries, not too bright a picture for a genially semi-cooperative patient given to excesses of almost all sorts. But recent events were heralding the end of the road for Sy. His myocardium was now largely scar tissue. He had been on monitor for the past year, and in the hospital for the last two months on the big inpatient monitor with the automatic defibrillator, which was being activated several times a week. In short, Sy's heart had had it.

So the malpractice action had been brought by Sy, and won. Sam was impressed with the Supreme Court justices when Charlie had presented his arguments in Sam's behalf. All nine justices were on hand to deliberate, and probed searchingly. Their backgrounds were varied—some had been in economics, some in sociology, some in political science, one had been an archeologist, and one an attorney. Sam was rather surprised at this, but Charlie explained that during the 70's nearly all the justices with legal backgrounds had died or resigned and had been gradually replaced with men of other disciplines. This resulted from the general observation of previous decades that a knowledge of law was not necessarily important or desirable in interpreting the mandates of the Constitution; instead, a social consciousness was the key attribute sought in a candidate for the position.

Sam pondered the future of medicine. Collectively physicians had for two decades been progressively harassed and subjugated. Medical school enrollment had dropped alarmingly. His oldest boy had once evinced an interest in a medical career, but lost it when the $100,000,000 judgment in 1980 hit the headlines. Since his bar mitzvah last fall he seemed to be renewing interest—that is, until this most recent setback.

Sam looked at his watch, and continued the to and fro pacing of the caged lion. Where was Charlie? He should have been back by now with news of the judge's decision.

There were repeated and successful campaigns in mid-century for federal health programs. And then skirmishes in the mid 60's which resulted in the first sweet smell of success for the planners of federalized medicine. A favorite son was swept into the Presidency in 1976 on a pledge of "free medical care for all." He had also promised a fivefold increase in Social Security benefits, a reduction of the retirement age to 50, and a lowering of the voting age.

The "free medical care" gimmick was the logical implementation of a dogma widely promulgated in previous decades—that medical care is a basic human right. With a canny realization that the "general welfare" clause of the Constitution had been somewhat overworked over the years as a sanction for myriad legislative activities, and might actually be restricted by a proposed Constitutional amendment to define it more clearly, the promoters pushed an amendment of their own. It was ratified during the President's first year in office, 1977, and was the "health care," or 27th amendment. It enlarged on and updated the original Bill of Rights by stating that health care was an inalienable right of every citizen and further defined health care as "the free provision of the highest level of medical services currently enjoyed by the most opulent of the citizens."

Critics of the proposed amendment before its ratification acidly pointed out that many fortunate citizens might live a long and healthy life without any medical care whatsoever; but that none could live long without food, and that living would be somewhat austere, albeit possible, without clothing or shelter. So from the standpoint of universality of need, ought not the right to food supersede the right to health care?

The planners thanked the critics for this logic, and promptly drew up the 28th, known as the food, clothing, and shelter amendment, which was ratified by the States six months after the 27th. It guaranteed every citizen the inalienable right to food, clothing, and shelter, and further specified that the food must be decent, clothing decent, and that all housing provided must be decent, and in a decent neighborhood.

By the end of the President's first term in office, federal activity in the economic affairs of man had burgeoned so enormously that the percentage of federal employees to the total work force had reached 63 percent. Expenses of the gargantuan welfare projects had soared beyond all planned projections, and financing them was becoming a matter of urgency. However, raising money by increased taxation in 1980, an election year, was not considered by the President or Congress to be a politically adroit move, as it never had in millennia past. The federal employees were voted a substantial pay increase instead, and the President sailed through elections to a second term.

In the next session of Congress, at the President's urgent request, the total withholding revenue bill was passed. This provided that all wages and salaries, and all earnings and profits from individual businesses and professions, be channeled directly to Internal Revenue. Admittedly, there was less need for money, now that all citizens' basic needs, and most of the services, entertainment, and luxuries, had either been federalized or were soon to be. However, there were still some services and amenities that had not been nationalized, such as barberships and beauty shops, pencils, toothpicks, and chewing gum, for example, for which a small amount of pocket money was needed. It was rumored that certain ladies in an entertainment profession which had not been federalized still insisted on cash from their furtive male visitors. The provision of a certain rebate of the confiscated income was therefore necessary, and after heated debate as to whether it should be a certain percentage, say 5 percent, or a fixed dollar amount, the latter won out. It was successfully argued that the same debate, set at $20 monthly, would be more democratic than the percentage of income.

And so, in the early 1980's, life went on, but each new right bestowed on the citizen seemed to drain something from him. Only a few like Sam Kupperman, whose patients were still people and could not be changed, took pleasure and satisfaction in their work, and were able to rise above the despair and apathy of the privileged masses.

Charlie Pickett came in the room, and Sam knew immediately by his expression that the news was bad. "I'm sorry, Sam—we did the best we could. We have no place to go." He handed him the copy of the Supreme Court ruling.

"What is at issue here is not the liability of the defendant. Evidence is preponderant that the defendant was the plaintiff's physician, for a period of years, and that the plaintiff saw no other physician; that during that time he negligently and wrongly allowed the plaintiff to develop a heart condition which has gravely affected the health of the plaintiff, and today threatens his very life. The doctrine of res ipsa loquitur which compels this conclusion, has been firmly established for many years.

"What is at issue is the defense plea that the execution of the judgment of the trial court would constitute a violation of the defendant's civil rights.

"The Court notes that while medical science has made great strides in the development of implanted mechanical hearts, the refinement of the heart transplant procedure has developed even further. We note that while the reliability factor in the mechanical heart wanes markedly after five years, the forestalling of immunologic rejection responses of recipients of human heart transplants has been advanced to ten to fifteen years, and seems likely to improve further in the future.

"The plaintiff is presently in urgent medical need of a new heart, and clearly has a Constitutional right, under the 27th Amendment, to surgical replacement of his diseased heart, as does any of his fellow citizens. Furthermore, he is entitled to the best available replacement, not the next best; to wit, a human heart.

"The Court has duly noted the evidence submitted by the plaintiff that the defendant has a reasonably healthy heart, as determined by the examination ordered by the trial court; including physical, electrocardiographic, X-ray, and cineangiographic findings as well as other evidence such as good family history, favorable serum cholesterol, triglyceride, and uric acid levels and other criteria.

"The contention of the defendant that the compulsory donation of his heart to the plaintiff in redress of a grave wrong, would violate his Constitutional rights, and in fact result in the loss of his life, the Court finds specious. Death need not necessarily result, and the trial judge intended no such punishment. The defendant can readily acquire a mechanical heart to replace his own, and should get good service for at least five years. At that time undoubtedly superior replacements will be available, and the possibility always exists that the defendant might be fortunate enough to obtain a human heart.

"The Court notes ample precedent for the proposed remedy, going back as far as the Code of Hammurabi, in which a skillful physician was rewarded, and a miscreant penalized. Far from being offensive to the Constitution, we find the judgment of the trial court to be rather Solomonic in wisdom.

"The ruling of the trial court is hereby affirmed, and the defendant ordered to immediately submit to donor surgery."

And so it was that on May 12, 1984, was performed the first cardiectomy in the world on a living, healthy human being, and it was successfully transplanted into Sy Peter's chest. Sam Kupperman had all his life put his heart into his work, little dreaming that society would one day insist he give it up.

WHAT ARE THE FACTS?

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. HUNT. Mr. Speaker, it should be greatly disturbing to any decent American that Larry O'Brien, chairman of the Democratic National Committee continues to play fast and loose with the truth as he campaigns for Democrat candidates around the country.

In a recent speech to a Democratic rally in Newark, N.J., Mr. O'Brien is quoted in a United Press story as saying that unemployment is up, housing is down, and profits are vanishing. It might be worth taking a look at each of these statements to see what the facts are:

First, unemployment has stabilized. In fact, the unemployment rate for August was about one-half million below the figure for January 1970, and the percentage of unemployed is less than any time during the Kennedy administration.

Second, housing is not down as Mr. O'Brien claims—but up. Housing starts for July and August were running about 21 percent above the first quarter of 1970 and are continuing to climb.

Third, profits are not vanishing. The Federal Reserve Index of Industrial Production has been unchanged since May. Further, real gross national product actually rose in the second quarter.

Political rhetoric is expected in an election year, but most campaigners try to base their speeches on facts. Mr. O'Brien apparently is an exception.

REPORT TO CONSTITUENCY

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. HOSMER. Mr. Speaker, in order to provide those whom I am honored to represent in the Congress with current legislative data I am circulating the following letter under date of October 1970:

DEAR FRIENDS: Before coming home for Congress's election recess I wanted to report to you on some of the major national issues and about things I have been doing recently as "Your Man in Washington."

The Middle East remains a powder keg. Arab governments (or their Soviet mentors) seem determined to shun peace. President Nixon reacts with wisdom and calm courage to protect our interests without military involvement. In S.E. Asia Vietnamization of the war goes well. Our troop pullout is ahead of schedule.

But, as the war fades away many West Coast defense jobs disappear. Also winding down is America's space program—made successful by so many brilliant Southern California scientists and engineers. To help ease the situation I have sponsored legislation aimed at turning this great pool of technological manpower loose on pollution, crime prevention and other domestic problems.

Meanwhile the long battle against inflation is being won. Spending cuts and credit curbs were strong but necessary medicine. They have worked and laid the foundation for stable prosperity in the 1970's. However, to avoid relighting inflationary fires Congress must resist deficit spending on politically popular programs.

The House and Senate finally got around to passing tough anti-drug and anti-crime laws. They're not expected to change things overnight, but already the crime rate in Washington, D.C. is down a bit.

Many of us who for years have worried about the quality of our environment welcome the recent surge of public interest in this vital subject. Aroused public opinion can help loosen up the money needed to clean things up.

Our modern country needs power, transportation, chemicals, medicines and a host of other things that can be polluting when mishandled. But we can have all of them clean if we are willing to pay for them that way. And, I say, let's do it.

The General Election is soon—Nov. 3rd. *Vote as you please, but please vote!* If you cannot get to the polls you may use the form on the back of this letter to request your Absentee Voter's Ballot.

Cordially,

CRAIG.

P.S.—When you feel like it, write me about the issues or if I can be helpful with a Federal problem.

In order that voters who will be absent from the polls on election day may still have the privilege of the ballot I have reproduced on the reverse of my letter appropriate ballot request forms for both Orange County and Los Angeles County. Portions of each of these counties are located in my congressional district.

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Any resident of either of these counties may simply copy the proper form from the CONGRESSIONAL RECORD if need be, in order to request the ballot by mail.

October 5 was the first day Californians could apply for the absentee ballot and October 27 the last day.

The two forms follow:

Ray E. Lee
Registrar of Voters Office
808 North Spring Street
Los Angeles, California 90012

Dear Sir:

I, ______________________________ am a voter of Los Angeles County.
Print full name—Women use own first name, and Miss or Mrs.

My registered address is: ______________________________
Number and street City Zip code

1. I am presently residing at the above address ____________
Yes or No

(If answer is "yes", do not complete item 2 below.)

2. If answer to item 1 above is "no", indicate date of move and check appropriate box:

____________ ☐ Permanent move from registered address ☐ Temporary move (will return to Los Angeles County)
Date of move

The only reasons a voter may vote an absent voter's ballot are as follows:

☐ I expect to be absent from my election precinct.
I will be leaving ____________ ____________
Date Phone

☐ Because of physical disability, I will be unable to vote in my election precinct.
☐ The tenets of my religion will prevent me from attending the polls throughout that day.
☐ I reside more than 10 miles from polling place by the most direct route for public travel.

I am therefore making application for an absent voter's ballot for the above named election.

If mailing address is different than residence address, enter here:

____
____

____________ ______________________________
Date of signing Signature of applicant (Do not print) Sign as registered

☐☐☐
Social Security No.

If you have registered within the last 60 days,
please give date of registration and affidavit number.

____________ ____________
Date of registration Affidavit number

Important: This application will not be accepted without the proper signature of the applicant.

To: W. E. St. John, County Clerk
P.O. Box 11298,
Santa Ana, Calif. 92711

I hereby apply for an Absent Voter's Ballot for the General Election, Nov. 3, 1970. I will be unable to go to the polls for reason checked:

☐ Expect to be absent from my precinct on election day.
☐ Because of physical disability.
☐ I reside more than 10 miles from nearest polling place.
☐ My religion prevents me from attending.
☐ I reside within a controlled precinct—U.S./30 or less.

____
First name Initial Last name

____
Residence address as shown on affidavit of registration.

____
City State Zip

____
MAIL Ballot Mailing Address

____
City State Zip

Signature: ______________________________ Date: ____________
Applicant must sign here

If your residence address is other than that shown on your Affidavit of Registration, you must complete the following:

I moved on ______________________________ from the address that is shown on my affidavit to:
month day year

____
New address Street City

JACKSONVILLE CONSOLIDATION HELPS LAW ENFORCEMENT

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. BENNETT. Mr. Speaker, the city of Jacksonville, Fla., my hometown in the Third Congressional District, has just celebrated its second anniversary as a consolidated city. On October 1, 1968, the city and county governments merged into one consolidated unit, a unique experiment in local government.

In the October 1970, issue of the FBI Law Enforcement Bulletin, two former agents of the Federal Bureau of Investigation, Jacksonville Sheriff Dale G. Carson, and his undersheriff, Donald K. Brown, have written a most informative and interesting article, "Law Enforcement Consolidation for Greater Efficiency."

The article spells out how the merged city and county law enforcement agencies have functioned as one body since October 1968. These dedicated and responsible officials in Jacksonville report that they have a more effective and efficient anticrime and corrections program through consolidation, and they suggest that such a merger of local law enforcement agencies might work in other American communities.

As a supporter of the Law Enforcement Assistance Act and a sponsor of anticrime legislation in the Congress, which has brought over a million dollars in Federal funds into Jacksonville in the last several years, I commend this article to law enforcement and corrections officials across the Nation, and insert it in the CONGRESSIONAL RECORD:

[From FBI Law Enforcement Bulletin, October 1970]

LAW ENFORCEMENT CONSOLIDATION FOR GREATER EFFICIENCY

(By Dale G. Carson, sheriff, and Donald K. Brown, undersheriff, Jacksonville, Fla.)

On October 1, 1968, the city and county governments of Jacksonville and Duval County combined to form the new consolidated city of Jacksonville. Our "Bold New City of the South" covers an area of 832 square miles with a population of 513,000. This vast area makes it the largest city in the Western Hemisphere. Our new police department is responsible for policing more people than live in the States of Alaska, Delaware, Nevada, Vermont, or Wyoming.

Prior to consolidation, the city of Jacksonville had a population of 190,000 and an area of 31 square miles. Its government was of the commission-council type, with the police and fire departments under the supervision of the mayor-commissioner. (This form of city government, formerly used by most American cities, lost its popularity in the 1930's. As far as we know, Jacksonville was the only large city still using it in 1968.) The police department was staffed by 391 sworn officers and 83 civilians.

PRECONSOLIDATION

Duval County covered an area of 795 square miles exclusive of the cities of Jacksonville, Jacksonville Beach, Atlantic Beach, Neptune Beach, and the town of Baldwin, with an estimated suburban population of 300,000 (1970 census 513,000 minus estimated 190,000 in Jacksonville and 23,000 in Baldwin and the beach cities). The county was governed by five county commissioners and the usual constitutional officers. Police protection was a function of the sheriff's office which included 225 sworn personnel and 36 civilians in supporting roles. The per capita cost of this protection was low mainly because of a critical personnel shortage. Although the usual low rural crime rate was rising, there seemed little hope of obtaining additional men because of the lack of an adequate tax base.

NEEDS CITED

In 1966, the Local Government Study Commission of Duval County released the following information on the proposed consolidation in its publication, "Blueprint for Improvement," page 100 et seq.:

"Historically the original design of police protection in Florida was a sheriff who would act as an enforcement arm of the State at the county level. Generally, he presided over a large rural territory where he served process papers of the courts and acted as court bailiff. He also provided a jail. He provided only minimal patrol or beat protection. This limited protection was not sufficient for densely populated areas; thus, municipalities provided additional police protection for which their residents were separately taxed. Because of the need for greater regulation as population becomes congested, municipalities pass law enforcement ordinances more stringent than those necessary for sparsely populated areas . . . With the advent of rapid population growth, pressures have arisen which have outdated this 19th century design. Particularly, the automobile has transformed the traditional role of the sheriff into the counterpart of a big city police chief.

"Although the sheriff often finds himself faced with many of the same problems and responsibilities as a city police chief, he lacks three important tools with which to do the job.

"First, the county level of government has no ordinance-making power; all laws must emanate from a State legislature . . . not normally concerned with the day-to-day problems of law enforcement in urban areas.

"Second, the sheriff's enforcement tools are cumbersome. Cities have municipal courts which often meet daily and dispense justice rapidly. The Florida county has no counterpart . . .; the State courts were not designed to handle a large volume of misdemeanor violations.

"The third, and perhaps most serious, shortcoming facing the sheriff is . . . inadequate . . . financial support. The sheriff's department is primarily supported from countywide ad valorem taxes. Increased pressure on county expenditures, particularly for education, has made it very difficult for seriff's departments to receive adequate appropriation. Once the sheriff goes beyond traditional duties, he is in effect providing 'municipal' type police protection. The cost creates a tax imbalance to the disadvantage of city dwellers, who then naturally oppose increased expenditures for the sheriff's department. Concurrently, municipal police departments have been severely restricted in carrying out their functions. Crime is not bounded by city limit lines. The amount of law enforcement needed is often determined by influences . . . beyond a city's control. . . . Not only does the economic life of the metropolitan area center in Jacksonville, but also does crime; . . . with less than 40 percent of the county's population, approximately 60 percent of the county's crime occurs within the city limits. In addition, there is the tremendous burden of traffic control within the city. Suburban dwellers contribute their share of crime and traffic control problems to the 'core' city, but . . . make no direct financial contribution towards abating them. Even if the problem of financial support were solved, city police departments are still handicapped in their functions by artificial barriers resulting from arbitrary city boundaries. . . ."

"A unified countrywide department will insure the following goals:

Uniform law enforcement.

Increased crime prevention and traffic control.

An adequate financial support base. . . .

Better utilization of manpower and facilities.

Cohesive planning to meet current and future law enforcement needs."

FORMER CITY AND COUNTY GOVERNMENTS ABOLISHED

The new consolidated charter abolished the former city and county governments and set up a strong mayor-type government with an elected 19-man council, a sheriff, clerk of court, tax assessor, tax collector, and supervisor of registrations. All the agencies of the former governments were combined into these offices plus several appointive boards and authorities.

The new charter placed all law enforcement responsibilities under the office of the sheriff and continued the elective status of the office.

For the first time, all law enforcement and correctional personnel and functions were to be combined into one organization. As organizational plans were developed, it became apparent that the close working relationships developed in the past would be enhanced by the creation of many opportunities for personal advancement. With 15 new top appointive positions and a reorganization of responsibilities, we have been able to advance our men to these positions and to fill numerous positions of sergeant. The charter provided that no employee would lose any right or benefit he had enjoyed prior to consolidation, which meant that all employees went to the highest level in each benefit category. The former city officers were given a raise of $1,300 to bring them to the level of the former county men, and the county men were granted paid holidays, hospitalization, insurance, and several other fringe benefits which they did not have before.

Combining the two departments has eliminated many duplicate functions. The two communications centers were joined into one more effective unit. The consolidation of records and identification units has proven to be of great benefit to the organization; a check of one central index now gives all the information we have on a particular case or individual.

One larger investigative division is proving to be much more effective and efficient. It makes little difference now where the thieves operate; their activity is followed by one group of investigators. The vast background knowledge city and county investigators brought together has increased our crime solution rate substantially.

BACK UP THE MAN ON THE BEAT

The new organizational structure is patrol oriented and designed to back up the man on the beat. The rest of us are here to serve him and make his work more effective. We believe our new Department of Traffic and Patrol is rapidly developing into one of the best in the Nation. The Patrol Division of this department is divided into three rotation shifts and a special enforcement unit working during the high-crime period, generally from 7 p.m. until 3 a.m. We also have a group of evidence technicians assigned to the patrol. These men are specially trained in crime scene processing, latent print developing and photography. They work in uniform, use marked cars, and participate in aggressive patrol when not performing their specialty. Beat patrolmen of the Patrol Division investigate routine traffic accidents.

The Traffic Division handles special traffic enforcement details and problems through the use of a team of hit-and-run investigators, a special squad using three-wheel motorcycles for congested area traffic control, men specifically assigned to the control of abandoned cars and trash dumping on streets and highways, safety education specialists, and traffic analysts.

SPECIALLY DESIGNED HELICOPTERS PLANNED

In the near future, the Department of Traffic and Patrol will begin utilizing helicopters specially designed to assist in street-level law enforcement functions.

Our community service unit has developed a police youth patrol which involves some 700 teenagers of the community. These young men ride with officers on patrol to gain an understanding and appreciation of the work and problems of the police officer. Under this program the officers get to know the people in the neighborhoods they patrol and develop a better relationship with them. This unit has also recently inaugurated an "Officer Friendly" program in our schools.

A PRERELEASE SYSTEM

Unlike many police departments, we also have the responsibility for a correctional system presently handling a thousand inmates a day in four facilities. We have work release programs, vocational guidance courses, and a detoxification center in the planning stage. With consolidation we are gradually alleviating the correctional officer shortage common to most institutions.

To bring this formerly onerous position to the level of professionalism it deserves and demands, our office has cooperated with the local junior college in instituting a degree program in correctional science and administration. The U.S. Veterans Administration has instituted an 18-month on-the-job training program in this area, an innovation which is unique in the State of Florida.

Consolidation has given us the opportunity for experimentation and innovation. We have taken a new look at police organizations and have not been bound by old methods. Some of our new techniques have been implemented and others are still being tested. Our planning and research unit is constantly examining new procedures and revealing weaknesses and strengths. We have reorganized beat structures and are now assigning men by computer on a predicted-crime basis.

INCREASED PROTECTION

Consolidation has not effected a savings to the taxpayer, but no monetary value can be placed on increased protection to life and property.

If consolidation is being discussed in your area, no doubt the proponents are pointing out the savings such a move would be for the taxpayers. This may well be true in combining the work of some duplicate governmental functions, but it is rarely true for law enforcement. The reason for this is simple. Most police agencies are already undermanned and underfinanced. When you combine two police agencies, too often you create one large undermanned and underfinanced department. The citizen will get more for his tax dollar, but he will still be taxed. Money will be saved in some areas, but it will be needed in others. Our first combined budget of $8 million was about $50,000 less than the two separate budgets, but some funds had to be spent to accomplish consolidation. For example, our new communications center calls for additional equipment costing $800,000. We spent $175,000 for new uniforms and $125,000 to remodel the police station. So do not let anyone sell you on the idea of saving money through law enforcement consolidation. You can promise them a much more efficient operation, but adequate law enforcement is expensive.

We think consolidation has been good for Jacksonville. It may or it may not work in your area; but just look around your political subdivision and add up all the money in the various police budgets. If all this money and manpower were placed in one agency, no doubt a better job could be done. There would be no dispute over jurisdictional lines, no interagency jealousy, and the men could work when and where they are most needed. There is only so much money available in any metropolitan area for law enforcement, and we believe consolidation offers the most efficient way to use these limited funds.

CCC CORN SALES

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 5, 1970

Mr. FINDLEY. Mr. Speaker, the Commodity Credit Corporation will not sell corn during October at prices less than September.

A high official in the U.S. Department of Agriculture in Washington has given me that assurance by telephone. The statement made to me, was:

> You can't quote me personally, but I can tell you that the government is not planning to sell corn in October at prices lower than September.

The assurance was given after I had relayed rumors that CCC officials will begin selling Government corn this month for 16 cents a bushel less than Government sales in September.

October 1 began the new crop year, and some people in the grain trade made the assumption that this would mean that

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a year's carrying charges—which come to approximately 16 cents—would be dropped by CCC in computing the price at which Government holdings of corn would be offered for sale.

My telephone conversation confirmed what I believed would be the policy of the Nixon administration; that is, to show the utmost restraint in marketing old corn now that the new harvest is coming in. It is true that the law permits the Government to sell corn this month at a price considerably below the figure it got last month, but I am confident this will not occur.

In fact, the law permitted the Government to sell corn 10 percent below its September offerings, and I feel the administration should be congratulated for this restraint. Many corn farmers, especially those in my district, are harvesting a corn crop that is dismal by normal standards, so they will be glad the price they get during the height of the harvest season for the short crop will not be depressed by Government sales.

FARM LOSSES DURING JURISDICTIONAL STRIKES HURT EVERYBODY

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. TALCOTT. Mr. Speaker, we in the fabulous Salinas and Pajaro Valleys of California have been enduring a jurisdictional strike between two farm labor unions.

There has been trouble and tension, threats and intimidation; violence, property damage, and personal injury has occurred often.

Millions of dollars in wages, earnings and profits have been lost. Tons of lettuce, celery, strawberries, broccoli, and other vegetables have spoiled and been lost.

The soil has been damaged. Personal hatreds and suspicions have developed.

Most of the dissension, hate, and losses have been caused by foreign persons who have tried to inject themselves into our community, our industry and our fields for their own selfish purposes—not in the best interests of the farmer, the farmworker, the unions, the agricultural industry, or the consumer.

Outside growers, outside agitators, outside pickets, outside unions, outside churchmen, outside workers have caused the trouble.

They have swooped in to profit from our valleys, our past efforts and our accomplishments; when they have eeked out their selfish objectives, and wreaked their damages, they vanish, leaving the local grower, worker, union, citizen, and churchman to rehabilitate the lands, absorb the losses, repair the damage and reestablish interpersonal goodwill.

I am as anxious as anyone to improve the working and living conditions of the farmworkers of our Nation. They deserve better. Nevertheless, I am proud that the unskilled farmworker can earn more money in my district that he can earn anywhere else in the world doing anything else.

Those organizers, churchmen, and dogooders who sincerely want to help the farmworker improve his working and living conditions could do much better by invading other agricultural areas where wages are 100 percent less.

Typical, representative examples of the earnings of a farmworker in an average lettuce harvest field crew is tabulated as follows:

LETTUCE HARVEST WORKER EARNINGS APR. 28, 1970 THROUGH AUG. 18, 1970

Week ending—	Crew No. 1		Crew No. 2	
	Week's pay	Hours	Week's pay	Hours
Apr. 28	$228.23	64	$233.62	62
May 5	157.88	64	175.73	53½
May 12	125.88	40	134.88	39½
May 19	279.80	62½	269.17	60
May 26	204.25	51½	191.29	48½
June 2	200.95	52	203.77	51
June 9	184.32	43	185.75	43
June 16	164.89	39½	159.91	41
June 23	169.40	42½	187.21	43½
June 30	166.45	45	180.49	47
July 7	181.48	47	203.51	47
July 14	268.04	58	270.66	62
July 21 [1]	52.23	15	60.58	16½
July 28	138.13	22	138.83	22
Aug. 4	174.20	38½	163.30	38
Aug. 11	132.55	30½	130.94	30
Aug. 18	132.39	26	129.59	25
Total	2,962.08	731	3,024.23	729½

[1] This was the week the Teamsters' strike started:

Average per week	$174.24
Average rate per hour	$4.05
Total wages earned	$5,986.31
Total hours	1,460½
Average per week	$176.07
Average rate per hour	$4.10

The individual unskilled worker earned an average of $4.10 per hour—not too bad.

In spite of the worker's greatly reduced hours of work per week because of the strike, the unskilled farmworker was able to earn $176.07 per week—again not too bad under the adverse circumstances.

The pity is that these unskilled workers who desperately needed the work and the earnings were deprived from earning about 50 percent more.

When the strike is over, the harvest is over; there is no more work and no way to recoup the lost work or to recover the damages.

No union will accomplish more than what the worker already receives by the strikes, pickets, threats, or intimidations.

The losses in the various crops have been enormous. Several farmers were bankrupted; others will never recoup. Some will abandon farming.

These losses do not affect only the producer—everyone suffers from these losses, the worker, the allied industries.

The consumer is a major loser in any strike. Recently the price of lettuce increased from 18 to 20 cents per head to as much as 59 cents per head. The farmer shared very little in this unnecessary price increase.

When prices increase, the persons who can least afford the increase suffer most. Nutritional food is denied to low-income families by a strike in the agriculture fields.

Losses in the Salinas Valley during one 4-week period, August 24 to September 19, 1970, during the jurisdictional dispute are reliably estimated as follows:

Lettuce:	
Expected production based on previous 3-year average comparable period Aug. 24–Sept. 19 (cars)	5,389
Actual production 1970 comparable period Aug. 24–Sept. 19	3,632
Loss (cars)	1,757
1,757 cars equals 3,029 acres lost. Growing cost $400 an acre (loss)	$1,229,000
Celery:	
Expected production based on previous 3-year average comparable period Aug. 24–Sept. 19 (cars)	476
Actual production 1970 comparable period Aug. 24–Sept. 19 (cars)	248
Loss (cars)	228
228 cars equals 150 acres lost. Growing cost $1,000 per acre transplant (loss)	$150,000
Tomatoes:	
Expected production based on previous 3-year average comparable period Aug. 24–Sept. 19 (cars)	418
Actual production 1970 comparable period August 24–Sept. 19	189
Loss (cars)	229
229 cars equals 1,015 acres lost. Growing cost $500 per acre (loss)	$507,500
Cauliflower:	
Expected production based on previous 3-year average comparable period Aug. 24–Sept. 19 (cars)	91
Actual production 1970 comparable period Aug. 24–Sept. 19	27
Loss (cars)	74
74 cars equals 120 acres lost. Growing cost $425 per acre (loss)	$61,000
Strawberries:	
Expected production based on previous 3-year average comparable period Aug. 24–Sept. 19 (crates)	600,000
Actual production 1970 comparable period Aug. 24–Sept. 19	0
Loss (crates)	600,000
1,000 acres lost. Growing cost $1,600 an acre (loss)	$1,600,000
Broccoli:	
450 acres loss. Growing cost is $450 an acre (loss)	$180,000

UNIVERSITY OF WISCONSIN ACTION AGAINST STUDENT DISRUPTERS

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. STEIGER of Wisconsin. Mr. Speaker, on September 23 the gentlelady from Oregon (Mrs. GREEN) included as part of her remarks in the RECORD, a report compiled by the Office of Education which showed the number of students, by university, whose Federal assistance was terminated during the period July 1, 1969 through June 30, 1970 because of their participation in riots or major campus disruptive activities. The report showed no action taken by the University of Wisconsin and the gentlelady noted this fact in her remarks.

On September 24, University of Wisconsin vice president, Robert Clodius, sent the following telegram to the gentlewoman setting forth the disciplinary actions which the university has, in fact, taken against 25 students to date:

> Press reports indicate that you are not aware that in 1969 and 1970 to date some 25 students have been suspended or expelled by the University of Wisconsin for actions which violated our conduct rules. They lost not only their rights to financial aid but also the right to attend classes or even come on campus during the period of their suspension or expulsion. As a part of our disciplinary hearing procedures we review each case in relation to both federal and state laws which may apply and make a determination in each case.

The gentlewoman has told me that she has as a result of this telegram taken steps to ascertain if the Office of Education report was in error or whether the disciplinary action taken by the university was beyond the scope of the Office of Education report.

I did, however, want to point out to my colleagues that the University of Wisconsin has taken strong disciplinary measures against students who have violated conduct rules and to set the record straight on its behalf.

THE FLEET IS SINKING

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. SCHMITZ. Mr. Speaker, in the following article, I address myself to the warning given by our colleague, Chairman L. MENDEL RIVERS, about the state of our military strength. I hope every Member of this body gives serious thought to its implication. My comments follow:

THE FLEET IS SINKING

"The Soviets are capable of starting tomorrow the biggest war there has ever been, and I am frankly not confident the outcome of such a war would be in our favor."—Vice Admiral Rickover (Testimony before Joint Committee on Atomic Energy, 1970)

Admiral Rickover is the father of the United States' nuclear submarine program. He is a man of vision. His forecast for the future of our nation, if present trends decreasing our defensive capability are not reversed, is ominous. The Admiral felt his testimony before the Atomic Energy Committee this year to be the most fateful of his long career. The situation is grave.

Two weeks ago longtime Chairman of the House Armed Services Committee, L. Mendel Rivers, rose on the Floor of the House to deliver a similar message. He gave one of the finest, and surely the most significant, speeches it has ever been my good fortune to hear. He agrees with Admiral Rickover. The nation is in dire jeopardy.

Congressman Rivers, who has been intimately connected with all aspects of national defense for thirty years, gave a concise and well balanced picture of our present defense situation and the consequences of further delaying actions and cuts in the defense budget. "I only hope that someone, somewhere in the smoldering ruins, if it makes any difference, will say 'Old Rivers did the best he could!'" The ruins of which Chairman Rivers spoke are our cities. He was not being overly dramatic.

The Chairman of the House Armed Services Committee presented a thoroughly documented case for the fact that the Soviet Union has now surpassed the United States in military might. He gave particular attention to the deteriorating state of our Navy and the growth of the Soviet fleet.

The Navy is an essential component of our national defense forces. The United States is basically an island located between two great oceans. In the past this position of isolation from the rest of the world has been our protection. Our remoteness from the areas where ideological rot has swelled into great wars has preserved us from direct attack on the continental United States. Today, successful attack is no longer as much a function of distance to be traveled as it is a function of what stands opposed to the attacking forces at the *beginning* of the war. The sea, minus a strong Navy, has become a corridor for invasion rather than a shield.

At the present time there is no city in the United States which is more than ten minutes away from the nuclear missiles poised on Soviet submarines deployed off both our East and West coasts. Coastal cities, to which the Senate denied ABM protection, can be devastated in less time than that.

The fact that the United States is basically an island, in a world more than 70 per cent covered by water, means that the seas are in effect the arteries of our nation. The Navy protects these vital lines of life in peace and in war. Many people seem to believe that the United States can simply isolate itself from the rest of the world, mothball our fleet, and continue business as usual. This is not the case. If we scrap the fleet and cut ourselves off from the rest of the world, we will not be able to continue business at all.

One reason for this is that there are resources we must import. In fact 66 of the 76 raw materials on our strategic stockpile list are imported wholly or in part. The United States has no significant domestic production of chrome (for jet engines), cobalt (high strength alloys), manganese (steel), thorium (critical in space and military programs) or zircon (critical in nuclear programs), to mention just a few of the critical materials and their uses which we must bring in by sea. If the Soviets control the oceans we will be denied these resources. Those who advocate a "fortress America" have not taken this into account. A fort denied the necessary material to provide for its defense is useless.

The Soviets are working hard to secure control of our life lines. Let us take but one of many examples of Soviet naval expansion. The Soviet Union now has 350 submarines, 80 of which are nuclear powered. The United States has 147 operational submarines, 88 of which are nuclear powered. All of the Soviet subs are less than 16 years old, while almost half of our submarine fleet is over 16 years old. The Soviets are currently building nuclear submarines at the rate of 10–14 per year, and their latest models are significantly faster than we had expected. The House Armed Services Committee actually had to fight to add enough to the Defense Department request for Fiscal Year 1971 to start construction on a United States submarine which, hopefully, will be able to cope with chillingly unexpected Soviet capability. To put this in perspective, we should remember that the German submarine fleet nearly won the Battle of the Atlantic in the early days of World War II with only 57 diesel-powered submarines.

Pious homilies on the blessing of world peace will not slow down the Soviet drive to dominate the seas—and the world. The fact that Soviet nuclear weapons are back in the Caribbean should remind us all that there is no place to hide. Our safety lies in prudent defense preparations, our security in strength, and our freedom in our own hands.

SEVENTY-FIFTH ANNIVERSARY, 1896–1971: JEWISH WAR VETERANS OF THE UNITED STATES

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to take this opportunity to call to the attention of the House of Representatives the recent election of Albert Schlossberg, of Milton, Mass., as the national commander of Jewish War Veterans, the oldest veterans organization in the Nation.

Membership in the National Jewish War Veterans organization is open to all honorably discharged Jewish men and women who served since World War I. The national headquarters is located here in Washington, D.C.

Commander Schlossberg served in the U.S. Navy in World War II in naval air operations and immediately upon his discharge joined Boston Post No. 22, the oldest Jewish War Veterans post in New England. After he served as senior vice commander and commander of his post, he was elected department commander of Massachusetts. During his tenure he coordinated efforts in the Metropolitan Boston area initiating the formation of the Mattapan, Dorchester, and Roxbury district councils—JWV—serving as commander of the council.

The commander began his early education in Boston, attending the public schools, and broadened his knowledge by attending the New England School of Arts, the Modern School of Design, Massachusetts College of Arts, and the Boston Institute of Funeral Directing.

In 1956, Albert Schlossberg was elected commander of the New England region No. 1. He has served the Jewish War Veterans national organization as a member of the national executive committee, national policy committee, national editor, and at the 75th annual convention was elected the national commander.

He is also active in civic and fraternal causes serving as a member of such organizations as: Executive Committee of the National Jewish Community Relations Advisory Counsel, treasurer of the Boston Jaycees, vice-chairman of the Boston Chapter of the American Jewish Committee, board of directors of the New England Histadrut, Milton Post 114-American Legion, Milton Lodge B'Nai B'rith Milton Fare Housing Committee, and past president and active member of Temple Shalom.

Commander Schlossberg is a recognized expert in urban affairs and was appointed by Mayor Kevin White of Boston to serve on the Mayor's Task Force for "Urban Affairs." In 1966 he was corecipient of the B'Nai B'rith "Man of the Year Award."

Commander Schlossberg is presently associated with his brother in the family profession, the operation of several funeral chapels in the Boston, Brookline, Newton, and Canton areas.

He resides in Milton, Mass., with his wife, Elleanor "Smith," and his son, Bruce M., a student at Boston University.

An older daughter, Barbara, is married and the mother of two children.

The New England delegation had the privilege this morning to host a breakfast honoring Commander Schlossberg. I am pleased to insert in the RECORD the "Resolutions and Policy Statements" which were adopted by the Jewish War Veterans at their 75th annual convention, August 16–23 in Atlanta, Ga.:

RESOLUTIONS AND POLICY STATEMENTS ADOPTED AT 75TH ANNUAL CONVENTION, ATLANTA, GA., AUGUST 16–23, 1970

VIETNAM VETERANS

Those who pay the heaviest price for a controversial war are the returning servicemen who bear the physical and psychological scars of combat in Vietnam. Unlike World War I and II veterans, their role is too little appreciated and in too many instances misinterpreted. In the din and anger of confrontation and national debate, their problems of readjustment and rehabilitation are in danger of fading from the public attention they so richly deserve.

We must not lose sight of the nation's obligation to each of its sons who have been fighting in a war, suffering casualties at an unprecedented rate and are returning home to a country diverted to the other pressing problems that beset us. The Jewish War Veterans pledges its full energies and resources to the mobilization of public support of the entire spectrum of programs that could assist this deserving group of young veterans to achieve their rightful place in American life.

The Veterans Administration medical system must be funded at a level that will insure high quality care in fully equipped and staffed VA hospitals. We are distressed to learn that cheap economies have adversely affected the quality of that care. There is more than sufficient justification for the expansion of the system in order to meet inevitably increasing patient loads.

The Federal establishment and the organized veterans community must encourage, in every way possible, maximum use of GI educational benefits. In a society that places so high a premium on formal education, schooling must be made easily accessible to this new pool of young manpower. Especially is this true for Black veterans returning in such large numbers. Subsidized education and training can rescue these battle hardened veterans from the dismal prospect of a disadvantaged existence. It can provide the Black leaders in the professions and business we so desperately need to uplift our society.

The Jewish War Veterans urges the renewal of an active GI housing program on a permanent basis. The present housing market is much too far beyond the reach of young families. By assisting the returning Vietnam vet we could as well provide sorely needed stimulation to the entire homebuilding industry.

What the country must do and what we in the Jewish War Veterans of the U.S.A. urge is a national commitment to do the thing for those returning veterans.

MIDDLE EAST

The very existence of Israel, the conquered former Arab territories, radical Arab states against moderate ones, legitimate Arab governments threatened by fedayeen, opposing American and Russian interests—are all elements of conflict that feed the tension in the Middle East. None, however, is as directly responsible for the crisis as the direct intervention of the Soviet Union.

Having focused on the Middle East as a prime area for expanding its influence, after ten years of consistent economic and military support, in 1967 Soviet machinations and miscalculations inspired Egypt and Syria into the aggressive posturing and threats to Israel that brought on their dismal defeat. Its allies smashed on the field of battle, the Soviet Union nonetheless has continued to provide Nasser a war making capability with escalating military steps to reinforce the communist political strategy to obtain preeminent power in the Middle East.

From the delivery of weapons and planes, Russian assistance to the UAR has moved to the posting of technicians and advisers, then to Soviet military cadres and still later to Russian pilots flying their own combat planes. Soviet intervention has accelerated to the threshold of the next logical step—full scale combat. Apparently, American reluctance to ship Phantoms this spring was interpreted by the Soviets as an indication that its support to Egypt would remain unhindered.

Concerned as we are for the national interest of the United States and the survival of Israel, the Jewish War Veterans call for forthright positive action by our own government to, on the one hand prevent the Suez Canal from becoming a functioning extension of the Iron Curtain, and on the other, to disassociate itself from the foolish and dangerous notion that in the Middle East a military balance can be maintained safely in conventional terms. The latter merely hastens the destruction of Israel as a viable state since in a war of attrition to which Arabs are publicly committed, Israel would be exhausted of manpower. Conceding legitimacy to the Russian presence in Egypt serves up to Moscow, its prime target, a reopened Suez Canal.

The Jewish War Veterans of the U.S.A. urges the implementation of the following as elements in an American Middle East policy that will remove ambiguities in the past that have permitted others to misinterpret our role in that critical part of the world:

1. Provide immediate military and economic assistance to Israel.
2. Influence fellow NATO members to cut off supply to the Arabs.
3. Delay U.S. troop reductions in Europe until all Russian military personnel are out of the UAR.
4. Maintain posture of credibility and strength to discourage brinkmanship.
5. Warn the Russians against their combat participation in the Suez area.
6. Pressure for a negotiated Middle East peace with a contractual agreement between the parties guaranteeing the territorial integrity and sovereignty of Israel.

MIDDLE EAST CEASE-FIRE

The agreement of Israel and the United Arab Republic to a ninety day cease-fire raised hope that there is a desire on the part of Nasser and the Russians to achieve a peaceful settlement between the Arabs and Israel. A clear indication of the government of Israel's desire to be a party to such an agreement was the high political risk taken by Prime Minister Golda Meir and Foreign Minister Eban in resolutely promoting positive Israeli participation despite a degree of political disaffection from the national cabinet.

Having been assured by the United States and the Soviet Union that the 90-day cease-fire period there would be a stabilization of boundaries and that no military buildup would be permitted within a thirty mile zone on each side of the Suez Canal, Israel's assent demonstrated good faith despite the stream of Russian military hardware moving in to build up Nasser's war potential.

Having ascertained that the Egyptians moved Russian missiles into the "standstill" zone after the cease-fire had gone into effect, Israel appealed to the United States to take cognizance of this ominous development, which seriously jeopardizes her military situation and which also undermines her faith in the agreement itself.

The Jewish War Veterans of the U.S.A., mindful of the Administration's desire to move the negotiations along, nevertheless looks askance upon utterances by responsible public officials that minimize or dismiss lightly evidence of incursions and violations of the agreement between the parties. We feel that our government must recognize the high military and political risk undertaken by its ally Israel with at least the same degree of commitment, intensity and belief the Soviet Union places in its client, President Nasser.

In our view, it hardly speaks well for our government to minimize the threat of missiles pointed at Israel and its army after our own experience in risking a confrontation with the Soviets over missile sites aimed at our own country.

We look to our government to act more responsibly and forcibly in its role of Middle East peacemaker. Unless we speak and act forthrightly in assuring that all parties live up to the agreement, there will be a series of matching violations that inevitably lead again to hostilities. The United States has an obligation to act and speak firmly to assure Israel that its concerns are our concerns. Anything less will be interpreted by the Arabs and the Russians as a green light to continue their military buildup.

We urge the President of the United States to establish American credibility as a serious peacemaker while respecting Israel's grave concerns over threats to its national interest.

CIVIL DEFENSE

The Jewish War Veterans, from the inception of Civil Defense as a Federal program, has encouraged active participation of all echelons. Where it has been necessary to assume local leadership of the civil defense effort, we have not hesitated in taking such responsibility as well as in bringing organizational support.

The Office of Civil Defense is charged with the responsibility for devising Federal programs to strengthen state and local functions in the development of operational plans for disasters of all types, natural or manmade.

The Jewish War Veterans believes that the Office of Civil Defense should in its programs emphasize the similarity between planning, preparedness training and emergency operations for wartime disasters, and other types of disasters and urges more support to local Civil Defense programs which relate to disasters other than caused by an enemy.

SUPPORT FOR USO

As beneficiaries and former "clients" of the United Services Organizations who during military service enjoyed the USO entertainment, USO clubs and USO help with an assortment of problems, the Jewish War Veterans of the U.S.A. conveys hearty greetings, profound appreciation, and fervent wishes to the USO in celebration of thirty years of service to members of the armed forces. Moreover, we urge all of our echelons

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and our fellow citizens to support in every possible way the fine work performed by the USO on behalf of all Americans interested in making military service more comfortable, and in general a more meaningful personal experience.

CRIME

The alarming rise in the rate of violent crime is an accurate measure of the increasing fear among those who work, visit and live in American cities. As a direct consequence of this condition, portions of our cities are becoming fortresses that divide residents into armed warring camps and widens the gap that is polarizing city and suburb, black and white.

The storekeepers are becoming more concerned about their personal safety than about merchandising, volume of trade and other normal business. The elderly, the very young and women have become fair game for hoodlums. Contempt and disdain for the law becomes an acceptable attitude in areas where there is a singular lack of law enforcement and where criminal justice is often denied or meted out inequitably.

No society can survive unchecked violence and crime. Responding, at last, to citizen pressures, various levels of government are now giving highest priority to the complex and often frightful problems that compose the sordid picture of crime in American life. We in the Jewish War Veterans salute those efforts being made to clamp down on criminal activity but in so doing we are mindful that law and order must be tempered with justice.

The effective use of law enforcement personnel and methods demands a reordering of priorities in that activity. The prime function of a police force is to protect the community; it is not clerical work nor is it traffic control. Since a sophisticated society increasingly demands better educated and trained police, in-service educational opportunities leading to college degrees should be universally instituted. Salary levels must reflect the willingness of the public to pay more for better performance.

We are equally concerned about the state of criminal justice. If justice delayed is justice denied then the manifest need for more judges, speedier trials and changes in our penal system is evidence that the quality of criminal justice is questionable.

The Jewish War Veterans encourages all echelons to participate in local efforts to make communities more secure and to enhance the quality of law enforcement and criminal justice.

DISSENT AND FIRST AMENDMENT RIGHTS

The mood of dissent has become an all pervasive phenomenon of national life. It appears unlikely that there will be much change in this condition that is commonplace in our cities, colleges as well as the Nation's capital. From our American heritage as written in the Bill of Rights, consistent with the teachings of Judaism, the Jewish War Veterans of the U.S.A. recognizes the right to dissent as essential to the preservation of freedom. No market place of ideas can function meaningfully unless opinions and viewpoints are exchanged freely.

When militant dissent, however, degenerates into mindless violence good sense and good order must prevail. Too often in the absence of self restraint, violent protest begets in response brutal repression, a tragic situation in which everyone loses—institutions, authorities and individuals.

We reject, out of hand, the notion that violence may be a legitimate form of dissent. No cause benefits, in this country, from the use of guns, or by threats or use of bombs, or by disrupting court proceedings or by destroying property. More often than not, innocent bystanders become the victims of the repression that inevitably must follow.

The National Commission on the Cause of Violence has condemned all violence as being incompatible with the survival of a democratic society. The Commission addressed itself particularly to the problem of the violation of rights of those who have suffered interference in meetings, religious services and even demonstrations, on the one hand, while on the other, the abuse by public and law enforcement officials of their legal prerogatives by harassment of lawful assemblies.

Since there is no present Federal law to afford remedy for private violation of the first amendment the right of religion, speech, press and assembly, there has been introduced into the Congress proposed legislation pursuant to the Commission recommendations. This bill proposes protection of individual First Amendment Rights by the courts. The Jewish War Veterans of the U.S.A. urges favorable consideration of this proposal to protect the rights of others. In our view it would not hamper dissent; rather, it would protect the vigorous exercise of existing constitutional rights.

In an age of confrontation politics the clear need is for ground rules that will at the same time protect dissenters and preserve the rights of all. We believe the rights of protesters and those who speak out against protesters are both deserving of protection.

EXPRESSION OF APPRECIATION

Our organization wishes to express to the Department of Georgia-South Carolina its grateful appreciation and sincere thanks for a most outstanding convention site. The facilities, sociability and personal involvement of our members in Atlanta and other parts of Georgia was superb. This has been a most successful convention to highlight our 75th Anniversary, and we extend our gratitude to the City of Atlanta for its warm and gracious hospitality.

VIETNAM

Never before in this century has there been such a manifest need to unify the country. Clearly aggravating the corrosive division and noisy dissent pervading American life is the continued presence of American military forces in Vietnam. Part and parcel of the war has been the furor triggered by the draft that has resulted in torn up campuses and outrageous behavior contrived to dramatize and shock. This has further widened the gaps in a polarized socetly already divided by age, race, and economic status.

Mindful of the critical situation at home, the President has expressly committed himself and his administration to U.S. withdrawal from the field of combat in Southeast Asia. From the beginning of his presidency, the Jewish War Veterans has expressed to the President our support for his efforts directed toward de-Americanizing the Vietnam War.

In large measure, our position has been based upon the hard reality of the Vietnam conflict and its effect at home. The American people indicate a desire to end the loss of American lives. The Jewish War Veterans in addition is concerned that the credibility of our armed services is threatened by the continuation of hostilities to which we as a nation are not strongly committed. Further compounding the national mood is the alarming acceleration of the needs and frustrations here at home that have moved the U.S. posture abroad to a secondary position in the role of national priorities.

Sensitive to the state of national disunity and fearful of its possible disastrous social and political consequences, the Jewish War Veterans of the U.S.A. re-emphasize its policy of de-Americanization of the Vietnam conflict and for the rapid withdrawal of American troops as expeditiously as same may be effectuated, consistent with protecting our men in that area. We are confident that such measures are clearly within the national interest, as much for preserving the excellent image of American fighting men as for the possible salutary effect upon domestic well-being.

WELFARE REFORM

Misunderstood, mismanaged and maligned, the public welfare system, unless reformed, is in danger of caving in under attacks from its alleged beneficiaries, the poor as well as from those shouldering its enormous financial burden, the American taxpayers. In the words of President Nixon, the present system is "a colossal failure".

As presently constituted, welfare is an excessive drain on the taxpayer, seemingly designed to perpetuate the dependency of welfare clients while failing to meet the real needs of the poor. Moreover it is a mischievous breeding ground for myths based on narrow prejudice and similar base motivations that reflect and exaggerate differences between Black and White and young and old—the most insidious being the fallacious notion that it is a give-away or dole.

Welfare is not limited to public assistance. Work incentives, job training and job opportunities are essential elements even in the present hodge podge of ineffective locally run welfare programs. The need for an immediate overhaul of the present welfare system is painfully manifest.

As American veterans committed to equal opportunity and equal treatment dedicated to a strong viable, productive and secure country tempered by a tradition of concern and aid for the less fortunate, the Jewish War Veterans supports the effort of the President and the Congress to achieve a just, humane and efficient welfare system. We recognize that the problems of poverty require more than public assistance; that a new approach to family assistance would create conditions and attitudes conducive to the implementation of other useful reforms and ideas.

Families must be preserved. Too often, in order to meet present standards, they are broken up simply because of the presence of an unemployed or poorly paid father. Such rules penalize rather than ameliorate conditions of poverty. Almost one-half of America's poor are children. We believe it is in the long run interest of national unity and domestic tranquility to break the cycle of poverty that presently result in second and third generations on welfare. These children must receive the type of assistance that will help free them from the stigma of the inert poor to create self respecting, productive individuals with a vested interest in the future of the United States. To do less is to sow divisions among us that threaten the disintegration of all we hold dear.

AMERICAN PRISONERS OF WAR

Transcending the debate over the Vietnam War and uppermost in the conscience of their fellow Americans is the fate of approximately 1500 Americans believed to be held Prisoners of War by the North Vietnamese.

The Jewish War Veterans of the U.S.A. early expressed its concern for these men who along with our combat losses represent the most important investment our nation has made in this conflict. We are not unmindful that the reluctance of Hanoi to reveal the names and the condition of our men held prisoners has caused an inordinate strain and burden on their families at home. The despair of these families can be substantially alleviated if the North Vietnamese would abide by the terms of the Geneva Convention of which it is a signatory.

Jewish War Veterans echelons are urged to cooperate with approved national campaigns undertaken to petition other governments and to write to the government of North Vietnam to pressure its adherence to the Geneva Convention in its treatment of prisoners of war. In addition, we are pledged to assist the President and the Congress to explore incessantly every means and channel towards achieving the same desired end.

ECOLOGY

Environmental degradation and massive overpopulation are a serious threat to the survival of mankind. The pollution of air, land and water coupled with the destruction of wildlife and natural resources has grown at a rate that lends plausibility to predictions of national suicide in the not very distant future.

To the serious depletion of our fresh water supply and the heavy strain on other natural resources is added the accelerating urban population with its increase in human misery and disruption of our institutions. Our ecological system is being swamped by pollution of the atmosphere; as an example, we send more carbon dioxide into the air than can be absorbed in natural life cycles.

The Jewish War Veterans of the U.S.A., committed as we are to human survival by deed, as well as by belief in reverence for life, will participate in the total effort to preserve the earth and its varied life for generations yet unborn as well as for our own sake. All JWV members and echelons are urged to engage in efforts, public or private, mounted to advance a respect and adherence to the natural balance of our total environment.

ROTC

The most convenient and accessible target for student wrath generated in campus protest against the Vietnam involvement has been the Reserve Officers Training Corps, prime supplier of officer personnel for the armed forces. As a direct consequence of the protest, many universities are reviewing their ROTC programs. What is being produced is a patchwork of programs tailored to the subjective determinations of individual college administrators concerned, as they rightfully are, with their own unique problems on their own campuses.

Believing as we do in the citizen-soldier military component, as essential to the democratic process, the Jewish War Veterans believes that ROTC necessarily must be continued as a source of officer personnel for our defense manpower needs. We do recognize, however, that changes must be made to restore the program under a cohesive national structure rather than the local improvisations currently devised on individual campuses. In addition to our belief in an officer corps aware of both civilian and military aspects of national life, the Jewish War Veterans recognizes the value of ROTC as a provider of a high percentage of junior officers, as well as the relatively low cost of using college facilities for training the 20,000 officers commissioned annually by ROTC instead of expanding existing OCS and OTC facilities or building new service academies.

Accordingly, the Jewish War Veterans encourages and supports efforts in the Congress and the Department of Defense to study and recommend necessary reforms in the current ROTC structure which will permit the healthy restoration of a viable ROTC program. One important aspect to satisfy university and student objections is to have educational officials determine the status of the course, i.e., credit/non-credit, voluntary/non-voluntary. It must be capable of fulfilling military security requirements in a uniform but enlightened manner cognizant and capable of meeting the obstacles placed in its way by the complexities of an unpopular war and a concerned student body.

AIR PIRACY

The recent capitulation of the Greek Government to Arab blackmail encourages further acts of terrorism against the safety of international air travel.

Forced to promise release of Arab thugs under duress and fear for the lives of innocent passengers and crew, the government in Athens was under neither moral nor legal compulsion to free the convicted murderers. The Jewish War Veterans is convinced that this distressing display of weakness encourages others to engage in hijacking for political purposes. Threats of reprisals against Greece or any other nation have little impact, since all international aviation stands to suffer the consequences of hijacking for purposes of political blackmail.

Arab states, clearly implicated by virtue of providing a safe haven and a warm welcome in Cairo for the hijackers compounding the earlier permission to embark with weapons and grenades despite electronic detection devices at the Beirut airport, must be considered as accessories to these heinous crimes.

The Jewish War Veterans urges the application of international sanctions to penalize the complicity of the United Arab Republic and Lebanon in international hijacking through the imposition of a boycott by international air carriers and a refusal of landing rights for the air lines of these countries.

In addition, the Jewish War Veterans of the U.S.A. urges our own government to seek a United Nations reaffirmation as well as an invocation by appropriate action of the Nuremburg precedents, to formalize the international crime of hijacking. Since the holding as hostages of civilian passengers in a neutral country is a war crime, as well as a crime against humanity, the granting of a safe haven for the hijacking crew makes the host government a participant in the criminal act.

Strong and purposeful measures must be taken now to put an abrupt halt to air piracy.

WORLD YOUTH ASSEMBLY COMMENTARY

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. McFALL. Mr. Speaker, during the month of July one of my young constituents attended the World Youth Assembly held at the United Nations Headquarters in New York City.

Mr. Dennis Michael Warren, son of Mr. and Mrs. Frank G. Warren of Stockton, Calif., was one of five Americans selected from 30,000 applications to attend and represent the United States at this assembly.

I wish to share with my colleagues, Mr. Dennis Warren's observations and comments following the World Youth Assembly and respectfully request that his comments be printed in the CONGRESSIONAL RECORD:

A COMMENTARY ON THE UNITED NATIONS WORLD YOUTH ASSEMBLY* BY DENNIS MICHAEL WARREN, DELEGATE FROM THE UNITED STATES OF AMERICA, AUGUST 1970

SUMMARY

The World Youth Assembly was an event of major importance in terms of reflecting the sentiments of the majority of the world's youth and in establishing contact between future natural and international figures. The Assembly saw the emergence of skillful manipulation of delegates by "professional youths" and the use of techniques that can only be described as those of "left fascism." The Assembly was both a warning and a sign of hope. It was a warning that there are those youthful forces who are devoted, like their elders, to stamping out the freedoms and principles to which this nation and its youth are dedicated. It was a sign of hope that the majority of the world's youth desire to better understand one another in order to further the causes of peace and to improve the quality of global life.

GENERAL OBSERVATIONS

1. The Conference manifested a strong and urgent opposition to all forms of oppression and exploitation and a corresponding solidarity with all movements of people's liberation.

The major thrust of this opposition surfaced in the form of bitterness and ideological hatred for the United States Government and the U.S. corporate structure. The prevelant sentiment was to equate the United States Government with capitalism with imperialism with exploitation and oppression.

2. The Conference members opposed the oppressive conditions existing in Eastern Europe, but at the same time were quite willing to align themselves with the Soviet Union as long as it appeared to be profitable to do so. The common link of alliance was the belief in Marxist or Neo-Marxist theory of revolution as a liberating force.

3. The Eastern European and Arab countries came with the intent of manipulating the Conference and its reports for world propagandistic purposes. This goal was thoroughly thought out and expertly planned. While their efforts were not wholly successful, the packing of the World Peace and Security Commission insured a partial success in producing an Anti-American, Anti-Western commission report.

4. The techniques of suppressing free speech and opinion in the World Peace and Security Commission by the Eastern European and Arab countries can only be described as being those of "left fascism." Among other things:

a. representatives of Taiwan, South Korea and South Vietnam were shouted down and not allowed to express their views;

b. several delegations were being coached by representatives of their governments on the commission floor;

c. the speaking order in the commission was tampered with in an attempt to deny American representatives the opportunity to express their views;

d. "professional youths" as old as forty-four years of age were allowed to participate in the commission; and

e. the commission was packed to such an extent that no motion could successfully pass without the approval of the aforementioned block.

Those who came idealistically seeking communication in the World Peace and Security Commission were crushed by leftist oppression. Those who came with the intention of "playing fair" suffered the same fate.

5. The Anti-American, Anti-Western report of the World Peace and Security Commission, while representing the views of the majority of the participants, was unbalanced and will be used as a strong propaganda tool by those who oppose the United States of America. The Anti-United States and Anti-Western forces had so effectively mobilized support within the Assembly that it was only with great difficulty that this writer was finally able to begin the mobilization of participants to condemn the oppressive move of the Soviet Union into Czechoslovakia. Because this writer had adopted a policy favoring a non-propagandistic balanced report expressing opposition to all forms of exploitation and oppression by all parties, this aspect of the Assembly was particularly distressing.

NOTE: The World Peace and Security Commission tended to be extremely rigid in its statements of policy. The Commission, for example, condemned all U.S. involvement in South East Asia while this writer was of the opinion that U.S. policy became misdirected when U.S. troops began fighting a South East Asian land war during the nineteen sixties.

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*NOTE: The World Youth Assembly was held at the United Nations Headquarters in New York City during July, 1970, with representatives present from one hundred and six countries and one hundred and twenty-six nongovernmental organizations.

6. The real importance of the Assembly lies in the person-to-person communication that took place between prominent youth leaders. In many cases this was the first opportunity for youthful national leaders to meet and discuss mutual interests. The future importance of this first meeting can not be stressed too heavily.

7. The Conference participants expressed a strong desire to continue and enlarge upon the communication that had begun in New York. Exchanges between youthful leaders in different countires are now being discussed. This writer, for example, is in the initial stages of planning a tour of the Soviet Union to meet with her youthful leaders at the invitation of that nation's central youth bureau. Support for future smaller conferences including those on environment in Ottawa in 1971 and in Stockholm in 1972 was expressed.

8. Three of the four commissions of the Assembly (Education, Environment and Development) dealt at length with substantial issues in an atmosphere of cooperation and friendship. This is where the truly productive work of the Assembly took place. The final reports of these commissions represent general "international bills of rights" and are the work of representatives of one hundred and six countries.

IMPLICATIONS

Youthful U.S. forces are taking an increasing role in the process of change. It is essential to this nation's future that these youthful forces be well informed and thoroughly knowledgeable about both the threat and the hope that their overseas counterparts represent. Lines of communication must also be opened between youthful leaders here and abroad. Where communication exists there is a potential for cooperation and understanding. Where no communication exists there is doubt and suspicion. Several steps should be taken to this end:

1. Seminars, conferences and lecture series should be conducted to better inform youth in general of the nature of the world of international relations they are inheriting.

2. Exchanges between youthful leaders and organizational persons here and abroad should be arranged at regular intervals to establish a working relationship between future national and international figures.

3. Small international conferences or small national conferences including youthful foreign observers should be held on a regular basis. The international conferences in Ottawa in 1971 and in Stockholm in 1972 and the national White House Conference on Children and Youth in 1971 are meaningful first steps in this direction.

4. A single, unifying organization must emerge to act as a "national switchboard" to connect groups here and abroad to facilitate the aforementioned projects. This may mean the bolstering of current yet faltering youthful organizations or the creation of a new and independent center. Regardless, a "switchboard" must emerge to fill the void of communication that now exists between youthful leaders and organizations here and abroad.

CONCLUSION

The happenings of the United Nations World Youth Assembly must not be ignored. They strongly emphasize the crucial importance of equipping our youthful leaders to operate effectively in the international forum tomorrow by giving them experience and guidance today.

NOTE: By the end of the Assembly the members of the U.S. Delegation held differing opinions concerning the happenings in New York. These differences stemmed from differences in political and philosophical outlook. This report, then, represents only the personal opinions and observations of the writer.

DR. LESTER R. HUSSEY ASSUMES PRESIDENCY OF AMERICAN OPTOMETRIC ASSOCIATION

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. FOLEY. Mr. Speaker, a few short weeks ago, the Spokane Spokesman-Review, and the Spokane Chronicle each carried an account of the inauguration of a native Spokane resident as president of a major national professional organization.

I would like to register my congratulations and best wishes to the man who, on July 4, 1970, assumed the presidency of the American Optometric Association. He is Dr. Lester R. Hussey, an optometrist who attended high school in Spokane and is a graduate of Whitworth College there.

As soon as Dr. Hussey was awarded the doctor of optometry degree by the Los Angeles College of Optometry in 1938, he promptly returned to Spokane. There he established his practice, which has grown and prospered over the years, providing high quality vision care to many persons from every walk of life and every economic level.

Through diligent and dedicated service, Dr. Hussey made significant contributions to his local and State optometric organizations, and on various committees of the organization he now heads. Following 5 years of service on the American Optometric Association board of trustees, he was elected vice president in 1968 and last year was chosen president-elect.

Dr. Hussey has been an active civic leader, serving on the Spokane Central Lions Club Blind Aid Committee; as president of the Spokane Rehabilitation Center; president of the Washington Society for Crippled Children and Adults; chairman of the Spokane "Employ the Handicapped" Committee; and a number of other city and State-wide civic and service groups.

Along with all this activity, Dr. Hussey has compiled a long record of service as lay leader of the Spokane District United Methodist Church. One of his two sons is preparing for the Methodist ministry, attending the Claremont, Calif., College of Theology as a graduate student. Another son has completed the first year of pre-optometry at the Optometry School of Pacific University in Forest Grove, Oreg.

I am proud to say that Dr. Hussey typifies the kind of leader Washington State has consistently produced. I feel sure the 15,000 members of the American Optometric Association and the millions of Americans they serve will benefit from the leadership exercised in the year ahead by Dr. Lester Hussey.

AUTO SAFETY: BUMPERS NO. 1

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. SCHWENGEL. Mr. Speaker, Dr. John T. Holloway, vice president, Research for the Insurance Institute for Highway Safety, testified at the hearing held by the National Highway Safety Bureau on the question of bumpers. His remarks provide a clear analysis of the the problem, and should be read by all who are interested in this problem. His remarks follow:

STATEMENT BY DR. JOHN T. HOLLOWAY

The Insurance Institute for Highway Safety has reviewed the discussion paper regarding the Exterior Protection (Bumpers) Standard by the Federal Highway Administration and National Highway Safety Bureau. We are pleased that action has begun toward implementation of a standard of this type intended to reduce losses of life, limb and property incurred in low-speed crashes—losses that can be greatly reduced and in many cases eliminated entirely by proper exterior design.

To expedite adoption and also to increase the effectiveness of such action, we recommend that the Bureau consider the following points:

IMPLEMENTATION

To develop and implement the test outlined in the discussion paper will require a long time, probably well over a year, even if based on a modification of the existing SAE pendulum test. It would seem much more expedient to use, at least as an interim measure, already available techniques, such as uniform crashes into the SAE J850 barrier, as the Bureau has indicated it will do with its prototype Experimental Safety Vehicle. This would not only result in faster implementation, but also would provide useful practical information needed as a prerequisite to the design, development and test of the proposed pendulum device—which would appear to require infinite adjustability in weight and center of percussion—or any other new device.

The Institute would recommend that serious consideration be given to utilizing the SAE rigid barrier, with add-on contoured impact face is necessary, while more sophisticated test procedures are being developed and validated.

REQUIREMENTS

In our opinion, the requirements suffer from serious deficiencies:

Most striking is the absence of limitations of the accelerative forces which may be experienced in and by the passenger compartment—the forces most likely to injure the occupants.

No mention is made of engine damage or expensive secondary damage to sheet metal or other structure by displacement of the bumper system or by shock transmitted through rigid members to other parts of the car.

Breakage of glass, except in lamps and reflective devices, is not interdicted.

No limit is placed on the amount of structural damage which may be suffered by the bumper system itself.

These omissions are particularly distressing in view of the present state of the art of shock attenuation which we believe is fully adequate to prevent all damage at collision speeds well above the 5 miles per hour specified in the discussion paper.

IMPLICATIONS AT OTHER CRASH SPEEDS

The requirements as stated—at speeds in the vicinity of 5 miles per hour—might conceivably be met by a "brute force" technique such as a very strong substructure and an effectively rigid bumper device. But with such a system, which does not dissipate large amounts of energy harmlessly, damage to property might be appreciably increased at higher collision speeds and injury probability might be increased even at the low test speed specified. Such a system would clearly violate the intent of the bumper system outlined in your recent Request For Proposals for the prototype Experimental Safety Vehicle, and we assume that no incompatibility is intended between the provisions of that RFP and the present discussion paper.

We would urge that an acceptable bumper system be described as one that meets appropriate requirements at 5 miles per hour or greater, but does not contribute to increased injuries at any speed. Provision should be included to preclude bumper systems which, although meeting the requirements of the standard under discussion, result in any increase over conventional current vehicle design in the forces transmitted to the passenger compartment at any collision speed. This might be prevented by establishing, concurrently, a limiting curve for passenger compartment accelerations, as was done in the Experimental Safety Vehicle RFP.

PEDESTRIAN SAFETY

Increased pedestrian protection in crashes should be an intent of the suggested standard. Cars striking men, women and children on American roads result in one-third of a million pedestrian injuries annually, most of them non-fatal. There is good reason to believe that the extent and severity of many of these injuries can be lessened by appropriate front-end design.

It is conceivable that some bumper systems which meet the test criteria of the discussion paper or of the interim barrier test suggested above could aggravate pedestrian injuries. Obviously this must be avoided: Configurations should be precluded that would aggravate child or adult pedestrian injuries, and exterior characteristics that would minimize such injuries should be required.

RESTORATION OF FUNCTION

The discussion paper states that successive impact tests of the vehicle's bumpers shall be conducted to traverse the width of the vehicle, but does not specify maximum or minimum time intervals between tests or the extent to which the bumper system may be renovated between impacts.

Clearly the intent should be to work toward minimizing damage and injury in all collisions during the life of the automobile, including those occurring in rapid sequence, with the least possible maintenance, renovation, replacement or repair of the bumper system, since the state of the art now permits development of low- or no-maintenance systems having quick self-restoring characteristics.

INTERVEHICULAR COLLISIONS

The discussion paper provides that the bumper shall be tested at heights of 14″ and 20″ above the normal road surface with the vehicle at rest. This concern regarding variance in bumper heights and sizes is certainly desirable. However, it is not clear that this will provide the necessary override/underride protection under extreme conditions of acceleration and/or deceleration that commonly occur during intervehicular collisions.

We would favor a provision similar to the override/underride conditions specified for the Bureau's Experimental Safety Vehicle, which use the same bumper height test range of 14″ to 20″ but require that it be met under dynamic extremes of acceleration and deceleration.

CONSUMER INFORMATION

Since the discussion paper does not prescribe "no damage" performance during the proposed tests, an important byproduct of the requirement will be the generation of information as to exterior and other parts damaged in the test crashes, replacement costs of those parts and materials, and hours of labor necessary to perform needed repairs. This information will be obtainable by the manufacturer for every car tested under the requirements. The Institute believes that if a bumper standard and test are adopted, consideration should be given to promulgation of a new requirement under the Motor Vehicle Safety Regulation titled "Consumer Information, Part 375," directing that repair cost and labor information generated in the tests be made available by manufacturers to car purchasers and prospective purchasers, as well as to the Department for inclusion in its annual compilation of consumer information data.

It is further suggested that information be made similarly available regarding actual upper limits on passenger compartment acceleration which are not exceeded at test collision speed, thus allowing comparisons among systems of different design which may all meet minimum requirements but may offer considerably different margins of safety above that minimum.

VULNERABLE PARTS NOT COVERED

Some examples of vulnerable automobile parts and components that would not be covered by the 5 mile per hour pendulum crash damage requirements of the bumper standard "discussion paper" of the National Highway Safety Bureau:

Windows and Windshields; Engine Mounts; Internal Engine Parts; Drive Trains, including Transmissions; Suspension Systems; Air Conditioners; Doors; Sheet Metal, Trim, Grille Elements, etc., not directly impacting the pendulum face; Frames; Bumpers.

FREEPORT KAOLIN SCIENTISTS WIN ACCLAIM

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. BRINKLEY. Mr. Speaker, we of the Third District of Georgia, are proud of the operation of the Freeport Kaolin Co., a division of Freeport Sulphur Co. at Gordon, Ga. Two scientists employed by this company, Dr. James P. Olivier and Mr. George K. Hickin, were recently named in ceremonies in Chicago as winners in an annual competition sponsored by Industrial Research, Inc. These brilliant and talented gentlemen have invented an instrument which sharply reduced the time formerly required to determine the particle size of pigments, clays, and other colloidal substances. The significance of this new instrument is that it will enable research and quality control chemists, not only in analysis of kaolin substances, but also in many other industrial fields, to use their time more fruitfully than is now possible because of the tedious and time-consuming particle analysis work.

I wish to take this opportunity to compliment not only Dr. Olivier and Mr. Hickin but also Freeport Kaolin on this excellent achievement, outlined in the Macon, Ga., Telegraph on September 20, 1970, and I would like to share that article with my colleagues:

TWO MACON INVENTORS WIN ACCLAIM

The invention by two Macon scientists of a device for measuring and anaylzing tiny particles of matter is being hailed as one of the year's most significant developments in industrial research.

Dr. James P. Olivier of 1871 Flintwood Drive and George K. Hickin of 3008 Clairmont Ave., both in research and development at Freeport Kaolin Co.'s Gordon, Ga., operations, are the inventors of the "Sedigraph 5000 Particle Size Analyzer," named in ceremonies in Chicago Thursday as a winner in an annual competition sponsored by Industrial Research, Inc.

The instrument, which sharply reduces the time formerly required to determine the particle sizes of pigments, clays, and other colloidal substances, is being manufactured and marketed by Micromeritics Instrument Corporation, Norcross, Ga., under a license obtained from Freeport Kaolin.

The award, presented in Chicago's Museum of Science and Industry, was accepted by Warren P. Hendrix, president of Micromeritic.

"This is the happy culmination of several years' search to find a more rapid, accurate way to determine particle size," Dr. Olivier said. "The significance of the new instrument is that it may enable research and quality control chemists in many industrial fields to use their time more fruitfully than is possible when so many hours are tied up in particle analysis work."

He explained that chemists will be able to use the new analyzer to run particle size distribution curves in as little as 10 minutes instead of the eight hours now required.

Current techniques for measuring "subsieve" particles range from direct counting through microscope observation to electronic-device analysis. Time requirements have been coupled with other limitations in these methods.

The instrument invented by the Maconites measures the sedimentation velocities of fine particles as they settle through a liquid suspension. The analysis involves the use of X-ray beams to determine particle concentration.

The Macon men last year received a patent on the invention after a prototype of the analyzer had been built and operated in the Freeport research lab in Gordon. Micromeritics completed the development, manufacture, and marketing arrangements. The solid-state, table-top instrument is now one of several devices manufactured by the Norcross company for characterizing the physical properties of materials.

Dr. Olivier went to Gordon in 1961, following two years of post-doctoral work in colloid science at Rensselaer, where he received his Ph. D. in chemistry in 1959.

Hickin, an engineer, joined Freeport Kaolin's operations in Georgia in 1964, after serving within the diversified parent organization—Freeport Sulphur Co.—in several capacities, including design and development work in a large nickel project in Cuba. He is manager of process development for Freeport Kaolin.

NEED NONMILITARY ACTION TO STOP COMMUNISM

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. DUNCAN. Mr. Speaker, at this point I would like to place in the RECORD a good speech by Maj. Gen. William R. Douglas of the Tennessee Military Department.

XUM

Speaking before a Spanish-American War Veterans and dependents convention in Memphis, Tenn., General Douglas pointed out the need for nonmilitary action to halt the spread of communism. He called on veterans organizations to organize an assault on the expansion of this ideology. I was very much impressed with his suggestions, and think this speech should be read by all Members of Congress as well as veterans throughout the Nation.

The speech follows:

SPEECH BY MAJ. GEN. WILLIAM R. DOUGLAS

"Remember the Maine!" Remember the Alamo??? Remember Pearl Harbor??? Remember when a few words united a United States with spine-tingling patriotism??? Remember how this unity prevailed until glorious victory was ours???

You are here today to remember the Maine and you are here to remember and pay homage to those who served their nation and freedom by taking part in the Spanish-American War. Americans in that military action rallied behind that one slogan—"Remember the Maine." Americans then easily smashed an enemy bent on maintaining slavery on the island of Cuba. Ironically, the last decade saw that island fall to another enemy, and that enemy has imposed another kind of slavery, one enslaving the mind and individual will. This same enemy, communism, poses a threat to freedom everywhere. The threat to freedom outside the United States has another form of irony. . . . It seems to be pinned to another slogan: "Yankee, Go Home!" We seem to be doing just that. The "Go-Home" cry continues today outside Guantanamo Naval Base in Cuba, in Asia, everywhere.

It is interesting to note that the Spanish-American War's conclusion included the acquisition of the Philippines from Spain for a monetary payment. As we did with Cuba, we gave the Philippines their independence. In the Philippines today is the same go-home cry on the one side and on the other a type guerilla action which took place in Cuba before Castro and communism took over. Any military leader will be quick to point out that our military action in Indochina includes the protection of the Philippines. A protection to prevent communism's cancerous spread to the Philippines.

Communist guerilla activities like that which preceded the recent fall of Cuba and in South Vietnam before we sent forces there eleven years ago are now in progress not only in the Philippines, but also in Thailand. You know and I know it led to overt aggression in South Vietnam, Cambodia and Laos. Even as this all began, we had certain liberals scoffing at warnings of the domino theory in Southeast Asia. Some still do. I can only tell them that the red glow on the horizon in that part of the world is not only the dawn of another day for communism, but the sunset for democracy.

While we pick up our marbles and leave as the apparent losers in Cambodia, Laos and South Vietnam in the months ahead we can say only that we complied with "Yankee-Go-Home" demands from within and without. We have pulled out completely from Cambodia and Laos. We are pulling out of South Vietnam, and we are reducing our forces in South Korea and the Philippines. I can see no way to prevent the Communists in the near future from winning the biggest game of dominoes ever staged on the face of mother earth.

Ladies and gentlemen, I want to emphasize a vital point here in our review of current military actions. The South Vietnam warfare pits Vietnamese against Vietnamese because of the old strategy of divide and conquer. We have South Korea pitted against North Korea. Cambodians are fighting each other. The same thing in Laos. East Germany is on one side and West Germany the other. Cubans lost to Cubans. And the point I bring up is this: Enemies to freedom today and throughout history have not been particular human beings. It always has been the ideology which first handcuffed a particular people within a country and that country's greed then spread outwardly for world conquest. We fought for and won our independence from England which since has been our main ally in all military actions. We fought Germany, Italy and Japan in World War Two while Russia and China were our allies. Today we confront Russia and Red China as enemies while allied with Japan, Italy and West Germany. Yes, history also shows we even fought among ourselves. In the war we commemorate today, we fought the Spanish, just a few weeks ago we signed a five-year agreement with Spain allowing our continued use of four military bases there, an agreement which is described in a joint statement as initiating "a new era in partnership between the United States and Spain."

So you see, a particular race or nationality has nothing to do with the cause of war—it is the ideology. And the struggle today is communism versus democracy.

To show you that danger which communism has slammed against the world, just glance at history of this, the 20th century. In 50 years it has handcuffed one-third of the earth's surface. It has affected more persons in 50 years than has Christianity in 2,000 years. And while humanity still shudders at the Genocide of 7,000,000 by the Nazis in World War II, communism has claimed some 50,000,000 lives by assasination, execution and starvation.

Despite this massive imbalance of Genocide, the unprecedented propaganda control by Communists has brainwashed so much of the world they completely ignore condemnation. And we even hear columnists and Congressmen belittle the Red peril. For those who somehow are led to believe the Communist threat is disappearing, let me read an interesting item which has circulated for many years. It reads, and I quote:

In May 1919, at Dusseldorf, Germany, the Allied Forces obtained a copy of some of the "Communist Rules for Revolution". Now, 50 years later, the Reds are still following them. While reading this list, consider each item and compare it with the present day situation around the Nation. Here are quotes from the Red rules:

"A. Corrupt the young: Get them away from religion. Get them interested in sex. Make them superficial. Destroy their ruggedness.

B. Get control of all means of publicity and thereby:

1. Get people's minds off their Government by focusing their attention on athletics, books stressing sex, plays and other trivialities.

2. Divide the people into hostile groups by constantly harping on controversial matters of little or no importance.

3. Destroy the people's faith in their natural leaders by holding the latter up to contempt, ridicule and disgrace.

4. Always 'preach' true democracy, but seize power as fast and ruthlessly as possible.

5. By encouraging Government extravagance, destroy its credit and produce fear of inflation with rising prices and general discontent.

6. Incite unnecessary strikes in vital industries; encourage civil disorders and foster a lenient and soft attitude on the part of Government.

7. By specious argument cause the breakdown of the old moral virtues: honesty, sobriety, self-restraint and faith in the pledged word.

C. Cause the registration of all firearms on some pretext with a view of confiscating them at a later date, thereby leaving the population helpless."

This is quite a list, isn't it? Now stop and think—how many of these rules are being carried out in this Nation today?

How much is coincidence?

End quote.

Let's analyze some of these points. Corrupt the young—how much of this, for instance, could be applied to drug abuse? Look at the rock festivals where open defiance of the law is practiced, public smoking of marijuana or taking speed, exposing one's self in the nude, engaging in sex acts. Look at the defiance of law on campuses, the seizure of offices, window-smashing, burning down buildings. Look at the business sections where so-called democratic protest marches include overturning and burning vehicles, tossing fire bombs into business establishments, looting. Get them away from religion, it says. We see this everywhere with atheism accelerating by leaps and bounds among the young. The gurus, the cultists, the drugs . . . . they are the new religions. Get them interested in sex, it says. Lift the skirt and toss away the bra.

Just look at the books and magazines of today. Just go to a movie, anywhere, anytime. And, yes, we even are in a movement not only to have sex education in schools, but in churches. Make them superficial, it says. So what is the most popular statement among the young of today? I need to find myself. I don't know where I'm going. Destroy their ruggedness, it says. And junior needs the car to go one block to school. He stumbles over himself using every means to get out of the draft. Young women drive to the grocery to get a TV dinner for their husband.

Let's turn to the most serious of all. It says get control of publicity . . . it lists seven reasons why so let's take them one by one:

One—control publicity to get people's minds off their government by focusing their attention on athletics, books stressing sex, plays and other trivialities. Percentage of time and space allotted sports in the news media has doubled in the last two decades. Stories on books stressing sex are hitting the front pages and their authors are interviewed in lengthy television or radio programs. "Calcutta" and "The Hair" are bare examples of plays. Trivialities . . . the woman's liberation movement, the nerve gas shipment, cyclamates, ocean and gulf oil slicks, and many more. These ordinarily may have been trivial matters, but the press made them front page issues.

Two—constantly harp on controversial matters to divide the people into hostile groups. Biggest here, of course, is Vietnam. Then there is the A.B.M. issue . . . school integration . . . housing . . . the draft . . . pollution . . . women's lib . . . yes, divide the males and females, whites and blacks, hawks and doves, labor and management, and, above all, widen the generation gap. That's the Commie design.

Three—get control of publicity to destroy the people's faith in their natural leaders by holding the latter up to contempt, ridicule and disgrace. This was done to President Nixon on Cambodia . . . they are trying to do it constantly on his Vietnamization program. They shot him down on his statement concerning the Manson murder trial . . . they continuously hound Spiro Agnew on the golf and tennis accidents, on his criticism of the press, on everything they can. And it doesn't stop at the executive branch, either . . . look what they did to Supreme Court nominees . . . look at criticism of Congressmen and on down the line.

Four—always preach true democracy, but seize power as fast and ruthlessly as possible. No better example of this is there than Cuba where the American press even praised Castro before he dumped communism on the coun-

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try after military victory was attained. Castro promised free elections and democracy and the press throughout the world went right along with him.

Five—encourage Government extravagance, produce inflation with rising prices and general discontent. This needs no example. We all know what has happened here.

Six—incite unnecessary strikes in vital industries; encourage civil disorders. Maybe not so much the first of these, but the second certainly falls in line with the design. The past ten years have involved more civil disorder than any of us have seen in our entire lifetimes.

Seven—by specious argument cause the breakdown of old virtues . . . specious meaning, of course, what on the surface seems good, but only on the surface . . . my examples are sex education, legalizing marijuana, the all-volunteer army, Paris peace talks, campus freedom, and so forth.

Finally, and not included in the publicity group, the agenda lists the registration of firearms as a pretext so that such registrations could be used under communism to confiscate all weapons and thus leave a populace helpless. And we know Congress continuously gets legislation seeking such registrations.

On the control of publicity, I do not intend to say that communism has such in the United States. They do behind the Iron Curtain and that is a major factor in maintaining control over the people there. Because of it, most Russians, Red Chinese, East Europeans and so forth actually think they are the free people and we are not. Communism so orients its subjects.

I said I did not think communism had control of publicity in the United States and I sincerely believe that. Infiltration into the press ranks may be little or none. Influence? That is another thing. I feel certain that there are untold areas in which publicity is influenced by Communists. What is the most disturbing thing on the news media, on the entertainment industry, among some church organizations, and in the education system is that there appears to be a "this-can't-happen-to-me" attitude. The news media bristles spontaneously when any criticism is hurled its way. The news media, as an industry, feels it is completely immune to danger or criticism within its ranks. I think the press should examine itself in order to protect their basic right of freedom of the press. It's the first freedom to fall to communism.

As I speak of criticism, and I have offered much here today, I would like to point out a firm belief which I hold in this area. To columnists, commentators, editors, demonstrators, dissenters, and all who criticize, I make this challenge: never criticize without providing your own suggested solution to the problem. It's easy to say this or that is wrong, but don't stop there. In return, suggest how it should be done. And to those who read or hear criticism, I suggest you pay no attention unless the critic offers his own answer.

Well, I have confessed to criticism and I am going to suggest some answers. What can be done to combat communism? We have met their miltary actions with defensive military action and in this I feel it has to be done. Should aggression not be stopped in one area, it will only continue to other areas. History proves that victory has only whet the appetite of any aggressor and that this nation, under democracy, has never been an aggressor, only the defender. It now occurs to me that too little has been done to avert the spread of communism through nonmilitary action. So, I am hereby making suggestions on this side of the fence. I propose nonmilitary action to join military action in halting the spread of communism.

Since your group is among veterans organizations and since these organizations have done more than any non-governmental organization in the world to preserve freedom, I suggest that you, the American Legion, the Veterans of Foreign Wars and other veterans' organizations form a study group which would explore possibilities of a "new front" in the battle against that ideology. I propose they undertake a project which would do the following:

First, the group would challenge the news media—radio, television and newspapers to conduct—a seminar in which it will come up with some program of its own within its own industry to preserve freedom. I do not see any way it could do this without including a mammoth, continuous and unprecedented public service program for informing all Americans, all others in the free world, and others behind the Iron Curtain of the evils of communism . . . past, present and future evils.

Next, I challenge youth to enter the picture. Maybe they won't turn on the broadcasts of the above-thirty people, so they must tell each other. We need to seek young heroes and young heroines who will tackle a freedom preservation, America first, free enterprise, true democracy movement that will put all the anti-this, anti-that movements to shame in loud-and-clear, obey-the-law, nondestructive and moral efforts. And I don't see how this can be done without informing themselves on the evils of communism.

The third challenge would be for churches to return to religion and drop politics. I suggest they study what happens to religion under communism and then take steps necessary to prevent it happening here.

A fourth challenge would be for the entertainment industry and book publishers and magazine editors to take a good hard look at what they might do to avoid contributions to the communist movement.

Finally, I suggest the veterans groups urge the Health, Education and Welfare Department make available to all levels of education even for classroom study—"some forms of printed materials, films, tape recordings and visual aids telling the truth about communism . . . these would show the atrocities, restrictions to freedom, aggression, political reprisals, treaty deceptions and violations, and other truths about communism". The good book says know ye the truth and the truth shall make you free and that's just what we are speaking of here today, freedom and how to preserve it.

While prayer in schools has been eliminated because of just one dissident individual, and while a few others would have us eliminate the pledge of allegiance and the playing of the Star-Spangled Banner, I contend we think first about eliminating from the education system those educators who would teach that communism is better than democracy. I say this because the communists want to eliminate us and eliminate freedom. And I think voters should eliminate from government those who aid and abet this enemy and I think we should eliminate from serving on the Supreme Court those who would do the same thing.

Getting back to the truths about communism and let's include the truths about democracy. Let me bring up some other points.

I am disturbed that so many of the young people of today are turning on . . . turning on the wrong broadcast. It seems there is too much turning on to that which is trying to broadcast the ills of democracy while a deaf ear is turned to that which spells out the ills of communism.

There are those who seem to forget that our system, our establishment has in nearly 200 years created the world's highest average standard of living. That system, that establishment has a structure of law providing more freedom to the individual than has ever been provided in any nation. We have an education program second to no other nation. Our system developed technology which has placed the only humans ever to walk on the face of the moon. And that establishment had military know-how which in this century twice prevented all of Europe and maybe the world falling to Germany. The second time it prevented Russia herself from falling to Hitler. The military know-how at the same time returned all of southeast Asia to their original governments after they fell to Japan and Tito. That includes China. The military-industrial complex has since saved West Berlin, South Korea, South Vietnam and other nations from the jaws of communism. I speak of an establishment and system which has saved millions in other nations from starvation, which has hurled billions of dollars to other nations following earthquakes, storms, floods or other disaster. While you hear of maybe less than one thousand persons who have fled this system, this establishment—usually because they face criminal charges or maybe military service—while you hear of this, you don't hear of the hundreds of thousands who have fled communism and were welcomed on our own soil right here in the U.S.A. And, no, you don't hear of the millions who have fled communism to other free world countries, including nearly one million to South Vietnam from North Vietnam. I'm not sure, but I believe it's estimated that 20,000,000 persons have fled communism in the past fifty years. Doesn't this alone tell you something? Should not youth of today be told this over and over and over again so they can see the light in the difference between communism and democracy.

I mentioned that in 200 years we attained the world's highest standard of living, about $3,500 per person per year. After 470 years the workers-of-the-world Russians united and now get an income only equal to our poverty-income figure, $1,200 a year per person. And after 3,470 years the per capita income in Red China today is only $100 per person. Doesn't this tell you something? Should we then change our system, our establishment as they would have us do? I'm open for certain changes, but I don't want one part of their type government. When those persons on relief in this Nation, those getting welfare checks, those getting social security, those in the ghettoes, when these people have an equal or better standard of living doing nothing than those who work for a living in all of Asia, all of Africa, all of South or Central America. . . . Yes, when our productivity, management and free enterprise endeavors can keep the poor richer than the rich in most other nations, then we have a damn good system, a damn good establishment and I don't want to see it lay down in the gutter with others.

The advancements Communists are making in this world are in territory, military offensive power, and in twisting the minds of the young. And they are doing a good job on each. We must answer this with military action against aggression, a substantial defensive arsenal and a "new front", non-military program to tear down all phases of Communist propaganda.

Free world efforts to curb the cancer of communism have been limited too much to military defensive action.

I said a critic should not criticize without offering answers. This I have tried to do. And we hear every day talks just as this I have given today, without many doing anything about it. But I don't like the talk, not-do format and I am going to send copies of this speech to the American Legion, the V.F.W. and Disabled American Veterans. And I'm leaving copies with your officers today. Let's hope someone somewhere will pick up the ball and run toward the goal line.

It has been a privilege to speak to your organization. I understand you have five thousand veterans whose ages average 91 years. And I'm sure each has seen many threats of world conquest. But I also feel each would agree that at no time in man's history has there been such a threat as that we face today, a threat not just for land conquest, but for conquest of man's mind and freedom. Let's fight that threat. Let's unite in these United States. Let's remember the Alamo, the Maine, Pearl Harbor, and our heritage. Let's not forget those who died then for a cause. Let's win the hot wars and cold wars. And let's make sure those today and yesterday did not die in vain.

Thank you.

UPSALA COLLEGE PRESIDENT'S CONVOCATION

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. MINISH. Mr. Speaker, in these difficult times for America's colleges and universities, it would be well for all to pause and consider the goals which should be met by these institutions in the 1970's. Dr. Carl Fjellman, of Upsala College, East Orange, N.J., recently outlined a series of vital questions with a view to setting priorities for his own school's future. I believe Dr. Fjellman's thoughtful remarks provide valuable concepts for other institutions of higher learning, and for all concerned by the current crisis in education, to ponder and to apply. I insert Dr. Fjellman's statement at this point in the Record:

President's Convocation, September 15, 1970

The theme of this Convocation is Priorities for the 70's. Specifically—Upsala's priorities. The setting of priorities is a matter of determining how close to the heart of things any given activity or program is; a matter of distinguishing between those things which are *necessary* and those which are only *desirable*. The decisions are of course more difficult than this might imply, because we are not apt to be pushed to the bare necessities; and will have to make careful, discriminate choices among those things which are desirable.

An analogy of concentric circles might be used in thinking about the determination of priorities. The inner circle being the central purpose of the College and those things which are essential to the fulfilling of that purpose. The outer rings representing a series of questions such as the following:

Does it enhance (significantly augment) the central function of the College? Does it make it more effective?

Does it enrich the lives of the members of the campus community? That is, does it add to, and make fuller, in an important way the total experience of those who make up Upsala? Or:

Does it extend the benefits of the College's work and contribute to society generally?

Simply reciting these questions is not in itself very helpful; on the other hand, it is not the purpose of this Convocation to spell out the answers. This rather is an occasion to invite all members of the College family and invited guests to take part in serious thinking about the priorities of the College as we will face them in the decade ahead. I do extend such an invitation. Opportunity will be provided, for all who wish to do so, to participate in discussions of this topic. My purpose is to suggest a way in which this discussion might be approached, to offer a framework which might prove helpful in the exploration of the question of priorities. I will not hesitate to use examples, but the examples should not be misinterpreted as determinations already made. Let's look at the suggested questions again, and be more explicit about them.

First. Is it essential for the purpose of the institution? The purpose of Upsala is to maintain a college of liberal arts and science, of fully accredited standing, that is in keeping with the intentions of the sponsors of the institution. For a college simply to be a college the chief requirement is people. And for this reason, those who make up the Upsala community of people necessarily, as a group, have the highest priority.

But this does not take care of *all* needs for the pursuit of an academic program in the 70's. There are other things, and some of them must rate as essential. No college worthy of the name could function without the resources associated with a library. For some fields of study, laboratories or studios may be as necessary as the library. Although there are great differences evident among the space needs of the various disciplines, it can be assumed that all areas, because of weather conditions if nothing else, will require some kind of building to house them.

We do not approach the 70's with unconditioned freedom. We do not start from scratch. Commitments made in the past (one or more may even have been wrong) continue to make demands on later years which cannot be shaken off. These demands are often directly financial in the form of construction debts, and sometimes indirectly financial in terms of the cost of maintaining buildings. We, and many other colleges, are at a point now where we should not consider further building expansion until there is a very significant improvement in the financial situation for educational institutions—not just in terms of the capital funds needed for initial construction but also the additional current funds that would be needed to maintain the buildings.

It is because certain kinds of space are essential for specific disciplines that we took action during the past summer to acquire a church building just two blocks north of the campus to house the program of instruction in art. This program has struggled in cramped and inadequate space for all of its years and the chance to acquire good space for this function was deemed a necessary move in spite of the tight financial situation. Fortunately, we were given a very large boost in this project by a grant of $25,000 from The Schultz Foundation to meet the entire cost of the down payment on this facility. The total cost to the College for the acquiring of the property is $60,000, the balance payable over a number of years. (East Orange guests will be happy to note there is no loss to the tax roll, since as a church property it was not previously taxed.)

The second question suggested was, Does it enhance, or augment in important ways, the central functioning of the College? Does it make the college's work more effective? Some buildings which would not classify in the strictest sense as essential, would fall into this category. Certain types of equipment, including instructional aids, could also be classified here. The services associated with certain positions might also be viewed as augmenting and enhancing, rather than being essential.

It remains our intent for Upsala to offer an academic program that is strong and effective, and consequently many things that would be placed in the second group are viewed as having great importance for the College. It could be well argued that unless we can continue with an academic program that is well above the bare necessities of essential function we ought to consider seriously whether the College should continue or not. I share that view, and with the conviction that our program will continue to be strong and effective.

The third question suggested: Does it enrich the lives of the members of the Upsala community? The word "enrich" is a much abused one, but the fact that it is used in a variety of ways makes it a good choice here. Enrich in what way? Culturaly? Socially? Religiously? By extending the range of human experience? By expanding human sympathies? By offering diversion, perhaps in the form of entertainment?

When questions of dollar duress come upon campuses, it is usually not long before the question of intercollegiate athletics is introduced into the conversation. The cause is apparent. Whatever the reasons that may be given for encouraging physical activity on the part of students, intercollegiate competition on most campuses has reached the point where participation by students is quite limited and the sports serve mainly as a form of entertainment for the bulk of the student body. If this is true, what does it say to the priority value of intercollegiate athletics for a college in the 70's facing financial difficulties? N.B.: Athletics is not the only area in which students are chiefly spectators. Concerts and lectures would usually fall into this category. Being an auditor at a concert or lecture is by no means a bad thing, in fact some would argue that it comes close to being a necessity for a vital academic community. Having aesthetically pleasing surroundings is clearly desirable, but just how desirable when translated into terms of allocated resources? This question would concern the more or less permanent surroundings of buildings and grounds, but also the changing aspect in terms of exhibits.

The fourth question: Does it extend the benefits of the college's work and have special value for society at large? The special sessions of the College, the Division of General Studies and the Summer Sessions, are cases in point. They extend not only the hours and days of our work, but increase greatly the variety of people that are able to be served by the college's educational program. Seminars and institutes, for example the one in the insurance field beginning soon, have such an extending effect. Such interchange with the larger community is of great importance to the College. If there ever was a time when colleges and universities were isolated communities, that day is definitely past. There is good reason to believe that society needs more than ever before the influence of critical study and analysis which should characterize an academic community. It is equally true that colleges and universities are coming to recognize more fully their interdependence with the business, industrial, governmental and cultural forces of society.

At the same time the questions noted here need to be explored, there are interlocking considerations that overlay this set of questions. One of the more obvious ones being that of finances.

So far budget difficulties have been mentioned only in an incidental way. These difficulties are by no means incidental and are a direct part of the motivation for giving consideration to priorities for the 70's. Upsala is very much in the swim of college and university life in that it shares with many, if not most, private institutions, and a number of public ones, the unfortunate experience of living with a deficit. The total current fund deficit for 1969–70 was approximately $160,000, bringing the accumulated current fund deficit to a little over $500,000. These dollars can be made to appear small by comparing them with the millions in deficits talked about by Columbia, Yale and Princeton universities, or, in the public sector, with the City University of New York. But if such a comparison is followed up correctly and figures are viewed proportionately, it will quickly become evident that Upsala's

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deficit is a sizeable one. The reason that deficit figures for colleges and universities have reached the news media with such force recently is probably that, as in our case, the time finally comes when a further increase in the deficit can not be tolerated. When that time comes, hard thinking is the order of the day and courage for difficult decisions.

When the dollar question is raised, it can be shown that decisions about a given program or activity cannot be made on the basis of cost figures alone. Some programs are income producing, as in our own instance the special sessions, in the evening and summer. The overhead expenses incurred specifically by these programs are relatively small, since the buildings and other facilities are already here, and consequently these programs can function to the benefit of the College financially. This is so even though it remains true that if all overhead expenses were allocated proportionately to the special sessions, no one of them would operate with income in excess of true cost.

Other activities which are not in themselves income producing may still be gift inducing. Some service projects and special aid programs would fall into this category. There is a problem here: Can colleges and universities make gifts to Society? We are *dependent* on gifts—yet society puts great pressure on colleges to provide services of considerable expense without providing money for their support.

Another general consideration that must be kept in mind in connection with priority questions is the effect a given decision would have on the ability of the College to attract students and faculty. Since students are marked by an unusual seriousness of purpose in these years, it seems fair to assume that a college which attempts to give the greatest emphasis to that which is truly important will have an advantage in attracting and holding the loyalty of students. But the best students have a genuine concern for the quality of life on campus, and for living conditions that are conducive to academic work. This means that our responsibility to students does not end when we have provided a classroom in which they can meet with a well qualified teacher. It is incumbent upon us to make sure that our dollars are well spent in terms of the quality of the *total* educational opportunity that we provide.

A college can attract and retain a strong faculty only if there is continual concern for professional growth. We cannot afford to cut corners here. Leave programs and research support are not optional. It is not necessary to do more than mention that salaries must remain competitive if we are to retain the professional competence that has been built up over the years in both faculty and administration.

The general consideration at stake here is the viability of the institution in the educational marketplace. If we are over-extended, the College may very well flounder for lack of sustenance. If we are shortsighted and unwise in any retrenchments that may be necessary, the viability of the College in a competitive educational world may be jeopardized.

Most, and perhaps all, of what has been said is in the nature of the obvious. In time of stress, however, it is appropriate to recall ourselves to that which is fundamental, and fundamentals are seldom news. So I'll comment on some other things that are no doubt self-evident.

The stringency of the times is such that we must seek to capitalize on those assets that are intrinsic to our educational mission. It may sound discouraging in some ears that we are not in a position to incur all kinds of new expenses for interesting new ventures. This does not mean, however, that there can be no change. As long as the College remains alive, even if the budget is severely limited, there will always be change. The assets of the College with which we have to work may remain much the same, but we can still think creatively about the ways in which these assets are to be put together. We are generously supplied with competent students and a well qualified faculty, and we have good facilities. How should we put these elements together? The way in which they are put together has a very direct bearing on institutional costs. The present departmental arrangements and course offerings are not fixed by an immutable law. They are among the things which are at the heart of the institution's purpose, but this is not to exclude them from serious investigation, for the heart too must be healthy. The teaching-learning arrangements expressed in terms of curriculum and schedules also need to be subject to continual review. And they are. Anyone who has followed curricular developments at Upsala will be aware of the fact that not many things have remained unchanged. But a valuable new idea may still be suggested next week or next month or next year. A couple of suggestions have come my way recently and (who knows) might be among those that would find general support. One suggestion was that of the "mini-course". This idea was no doubt prompted by the fact that our recent change to a four-course program resulted in the enlargement of most courses in our curriculum and a proportionate cut-back in the number of course offerings. The mini-course would be a half-course, running for only half a semester, and would focus attention on a specific problem or topic for intensive but shorter range consideration. The other suggestion is one that has found acceptance on many campuses, that of an "all-college course". Such a course seeks to bring the perspectives of many disciplines to bear on a single problem and to engage the whole college community in its exploration.

One of the strong emphases at Upsala in recent years has been the fuller utilization of our urban environment. To stress our urban location does not mean that Upsala becomes simply an extension of city life, but rather that we take advantage of our exceptional opportunity to study what urbanization means—to people, to institutions, to government, to various agencies, to business and industry. It has been encouraging to note that many friends of Upsala who do not themselves reside in this metropolitan area still see as one of our prime assets our location in an urban center. Our emphasis on this front to date has resulted in the development of intern programs in education, and in cooperation with social institutions and agencies, both public and private. Mention was made earlier of an institute in insurance education which is being offered cooperatively by insurance companies in this vicinity and Upsala No matter where our students come from, and no matter where they go after graduation, they will be better prepared for the demands of our urban age if they have participated in one of these programs.

The development of still other ways in which we can enhance our service to society and take increased advantage of the resources of this metropolitan area can lead to a significant increase in our effectiveness without adding demands to an already overtaxed budget.

We have a number of invited guests taking part in the Convocation this morning, and I have spoken for the most part as though they were not here. They will be given an opportunity to participate in a discussion following the Convocation, and we are anxious to have their suggestions as to ways in which the College can be of greater service and also as to ways in which the areas they represent might be brought into a closer cooperative relationship with the College.

Priorities yes. But what about the 70's? Do we know anything about them? If they are anything like the 60's, they will be a time of coming apart.

Things have come loose, and so we talk about priorities. But are we *really* looking for stability? Are we asking, What will stay put? Shall we try to restore a pastoral society? Some experiments in community living would seem to imply this. Is peace only in the past? Will we only discover the good life by going backward?

A college has a responsibility to provide balance:

To help people see the perplexities of the present in the light of past experience—but never to *bind* them to the past. Rather it is our task to give a sense of roots, of perspective.

We will not stop change.

The 70's will probably see several "periods" in a decade. Ten years from now we may be saying we should have spoken of the early middle and late 70's. One of the changes causing upheaval is the emergence of minority groups to strong self-consciousness and assertiveness. A major priority for us must be to further the cause of full justice for all people—in our own society—and beginning at home. For this country, this city, this college in this time, this means especially black people. I cannot speak of the "black experience," but we must listen to those who can. Upsala for the sake of its educational mission, must be a place where men and women of all colors and backgrounds can learn together and from each other.

Reference was made earlier to the purpose of the College and the intentions of the "sponsors".

This is a church sponsored college,—and life at Upsala shows clearly that this is not a restricting factor. An early attraction of Upsala for me was the way the College combined a quiet and confident affirming of its Protestant Lutheran heritage with openness to people of all faiths. A part of the strength of this college rests in the diversity of faiths and convictions that find a home here. A proper reflection of religious sponsorship in an educational institution is the promotion of free inquiry into man's religious heritage. The full development of man should include this. As a College of liberal arts we could not do otherwise than make it a focus of our educational effort.

There is a further lesson here for consideration of priorities. A church sponsored college will seek to give centrality to those concerns which are most deeply human, for it is here one engages the spirit.

But, at the same time a college must remain open to the varieties of individual response. So it is with the college's proper role as academic institution:

full, free, open, critical inquiry, and always responsive to the individual.

I conclude with a personal view that may have nothing to do with priorities. I am at times disturbed by those who seek some kind of undefined, unifying element for the life of the College. Is this a "hang-over" from days of mass pep rallies—and everyone out for the game? It is no doubt related to the fact that colleges and universities have stimulated strong institutional loyalties. This can be good and a source of strength. Upsala owes much to such loyalties. It can also be a narrow, sophomoric attachment. An academic institution has the loosest kind of ties—but also the strongest. The ties are based on respect for truth—for learning—for scholarly pursuit—all a part of a "lonely" kind of life. A college's unique kind of community may seldom show in an external manner—except when threatened.

XUM

These are difficult times that pose very real threats, and you are all encouraged to make common cause for a strengthened college which will have a long and healthy life—for all the right reasons.

COMMUNITY EFFORT IN FORT WORTH, TEX., TO ASSIST THE WIVES AND FAMILIES OF PRISONERS OF WAR

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. TEAGUE of Texas. Mr. Speaker, on the 13th of July a letterwriting campaign was launched in Fort Worth, Tex., in an effort to seek better treatment for the prisoners of war in Southeast Asia. The campaign was a success, receiving 125,000 letters, because of the many people who gave of their time and efforts. We are grateful to each and every person involved—to name a few:

Martha Hand, Jim Marr, Star Telegram, Dick Osborne, Cal Druxman, Joe Holstead, KXOL radio station, Don Woodard, Mickey Hunt, Don Whitley, Mike Moncrief, John Lamond, action ambassadors; Ed Kaufman, chamber of commerce; Comdr. M. D. Short, U.S. Navy, retired, William Hicks, Fort Worth businessman, ladies auxiliary of the VFW; J. D. Wilson, Roger Duvall, Everman Jaycees; Charles Curtis, Hugh Kirby, Explorer Post Scouts; Jan Stullenberger, Vicki Eigenmann, Texas Tech College students; high school students throughout the city of Fort Worth volunteered their time to help open the mail.

Mr. Speaker, the following material comprised the handout which was used as the spark for the letterwriting campaign.

THE SITUATION

There are 1,600 American servicemen listed as Prisoners-of-War or Missing-in-Action in Southeast Asia. More than 200 of those identified as captured have languished for more than five years in North Vietnamese prison camps. One Navy Flier began his seventh year of captivity on August 5, 1970. Prior to the Vietnam conflict, the longest any American spent as a Prisoner-of-War was three years and nine months. Nearly 500 men are known by our government to be prisoners. Out of the 1,100 listed as Missing-in-Action, only Hanoi or its allies knows their fate.

The men in the prison camps have been subjected to torture, abuse, malnutrition, untreated wounds and disease. They have been humiliated and subjected to public degradation. Their diet has been pumpkin soup, pig fat and water. Lt. Robert Frishman lost 50 pounds in almost two years. Seaman Douglas Hegdahl lost 70 pounds in two and one-half years. How much does a man weigh who has been there five or more years? Only Hanoi knows! Many spend long, lonely years in isolation, some so badly wounded that they are unable to care for themselves. What about the families who are left alone for years wondering if they are relatives or mourners. They, too, are victims of Hanoi's torture.

THE GENEVA CONVENTION

Standards for the treatment of Prisoners-of-War are outlined in the Geneva Convention of 1949. The governments of North Vietnam, South Vietnam, United States and 120 other nations have ratified these Conventions as binding international law.

Ratifying Nations are required to:

1. Allow inspection of prison facilities by an impartial humanitarian body such as the International Red Cross.
2. Properly and immediately identify all prisoners.
3. Release the sick and wounded.
4. Provide an adequate diet and medical care to prevent weight loss.
5. Refrain from subjecting prisoners to mental and physical duress or torture.
6. Allow a free exchange of mail between prisoners and their families—two letters and four postcards per month is the minimum.

North Vietnam has failed to abide by the Conventions. They say that since this is not a declared war the Conventions are not binding. However, Article II of the Geneva Conventions states that these Conventions, "shall apply to all cases of declared war or to any other armed conflict which may arise between two or more of the High Contracting Parties, even if a state of war is not recognized by one of them." This was further clarified last year in a unanimous resolution by 114 nations, at the 21st International Conference of the Red Cross held in Istanbul. It called upon all parties "to abide by the obligations set forth in the (Geneva) Convention and all authorities involved in an armed conflict to insure that all uniformed members of the regular armed forces of another party to the conflict and all other persons entitled to Prisoner-of-War status are treated humanely and give the fullest measure of protection prescribed by the Convention."

Also last year, U Thant, Secretary General of the United Nations, stated, "It is the view of the Secretary General that the Government of North Vietnam ought to give an international humanitarian organization such as the League of Red Cross Societies access to the Americans detained in North Vietnam."

Marcel Naville, President of the International Red Cross, stated that his organization has been given free access to South Vietnam's prison camps. He said the Red Cross has also received full information about captives taken by both sides in the Middle East Conflict. Only North Vietnam has refused to furnish prisoner information or to open its camps to international inspection.

PUBLIC OPINION

The Vietnamese have shown themselves to be sensitive to public opinion. Since the plight of the Prisoners-of-War has been publicized, their families have received more letters in the last 9 months than all of the preceding 5½ years. The North Vietnamese have changed their image of picturing prisoners being beaten and dragged through the streets of Hanoi to that of participating in holiday festivities. Lists of prisoners, even though incomplete, have been released. Why are the North Vietnamese doing this now and not six years ago? They are trying to appease the growing worldwide concern.

North Vietnam relies on a good public image for its livelihood. It is a poor country and requires massive aid to carry out its war objectives. Thus it needs good international relations to maintain the flow of aid to support its efforts. Hanoi is also trying to generate enough sympathy in the U.S. to cause our withdrawal from Southeast Asia. The last thing Hanoi can afford is bad publicity.

THE ROAD TO SUCCESS

We will get results when Hanoi feels the effects of worldwide condemnation for its disregard of basic human decency and its flagrant violation of international law. Much of the groundwork for the mass indignation has already been established, but many of the efforts in the past have been semi-private. There is no scoreboard of how many letters have been written to Hanoi. What we need now is a massive co-ordinated public display of concern.

We believe the best place to generate this response is in Paris. Our plan is to deliver, en masse, millions of letters and petitions from Americans to the North Vietnamese Embassy in Paris during the Christmas holidays. Sample letters will be read to the world press which will publicize the outcry of millions of people. This, in turn, will generate the outcry of millions of other people throughout the world.

Hanoi will now face two alternatives. Either make concessions concerning the prisoners being held or face the threat of more bad publicity. It is our feeling that Hanoi will yield on the prisoner issue when they find that now the prisoners are a liability to their public image.

HOW CAN YOU HELP?

We are organizing a co-ordinated statewide petition campaign during the week, November 19 to 25. The California State Junior Chamber of Commerce, with 11,000 members, is our co-sponsor. We want other organizations to participate. To reach our goal of millions of concerned letters, we need as many people as possible to man petition and letter tables throughout the state.

In your local area, contact service clubs, the mayor, congressmen, churches, the Junior Chambers of Commerce, retail stores, etc., etc. to join our week-long letter-gathering campaign. Enclosed is a sample letter and petition.

Have the company you work for and service organizations in your local area run off copies of this or their own letter. At the end of the drive collect all the letters, petitions and donations and send them to Concern For Prisoners-of-War, Inc., or The San Rafael Junior Chamber of Commerce, P.O. Box 869, San Rafael, California, 94902. We will in turn deliver your letters to the North Vietnamese Embassy in Paris during the Christmas holidays.

Urge all news media to take editorial positions on the Prisoners-of-War.

Contact outdoor advertising companies and get billboard space donated.

Write letters to the editors.

Ask the company you work for to print Prisoner-of-War information in their company newsletters.

Write U.S. Senators and Representatives to be more aggressive in using their positions to gain the release of the Prisoners-of-War.

Have your local newspaper print a copy of our letter or one of their own directed toward Hanoi, which can be clipped out and sent to Concern For Prisoners-of-War.

The Chamber of Commerce can give you a list of the most active civic and social groups in your community.

Every voice is needed because every example of silence on this issue only proves to Hanoi that Americans do not care. North Vietnam has shown itself to be both sensitive and responsive to public opinion. You are public opinion.

For further information contact: Concern for POW's Inc., P.O. Box 9117, San Diego, California 92109, telephone: (714) 235-6677.

THE PRESIDENT, DEMOCRATIC REPUBLIC OF VIETNAM, HANOI, NORTH VIETNAM

As an American I would like to express my deep concern over your treatment of Prisoners of War.

Being a nation in the world community, you are obligated out of humanitarian considerations to afford those whom you hold the minimum standards of existence. Your ratification of the 1949 Geneva Conventions relative to the treatment of Prisoners of War requires you to:

(1) permit neutral inspections of all prison camps;

XUM

(2) publish a complete list of all men that you hold;

(3) release the sick and wounded; and

(4) allow a free flow of mail between the Prisoners of War and their families.

My fellow Americans share this grave concern over the desperate plight of the Prisoners of War, those Missing in Action and their families.

Sincerely,

THE CONSUMER IN THE TURBULENT SEVENTIES

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. DON H. CLAUSEN. Mr. Speaker, yesterday Dr. Carl Madden, chief economist of the Chamber of Commerce of the United States, spoke before the annual meeting of the Consumers Bankers Association at Williamsburg.

In my judgment, Dr. Madden has presented an extremely rational and practical evaluation of today's economy and the future for the seventies. For those who have had any doubts about the future of this country's economic system, they need only read Dr. Madden's remarks to have those doubts completely dispelled.

Dr. Madden received his B.A. and Ph. D. from the University of Virginia and attended Stonier School of Banking at Rutgers University. He is a former dean of the School of Business Administration at Lehigh University and taught at the University of Virginia and Stonier School. He is a former staff member of the Senate Banking and Currency Committee and served 4 years on the staff of the Federal Reserve Bank in New York. He has been on the staff of the U.S. Chamber since 1963, and is generally recognized as one of the most articulate and respected analysts of our economic system.

I am placing Dr. Madden's speech in the RECORD at this point and I urge my colleagues to read what he says carefully:

THE CONSUMER IN THE TURBULENT SEVENTIES

(By Carl H. Madden)

The prospect for the American consummer during the 1970's are glowing. His glowing prospects show the astonishing power and creativeness of the U.S. economic system.

Whether the consumer's glowing prospects are realized in full during the decade depends on how our institutions adapt to the possibilities and imperatives of a new, post-Renaissance era that is gathering force in this country and the world. The seventies will be a decade of social change as one institution after another is forced to adapt to the demands of the new era.

Today, we hear most about a long catalogue of problems, old and new, that face our civilization. Abroad, we hear news of war, revolution, earthquake, and terror. At home the headlines are full of the crisis of our cities, their smog, corruption, and inhumanity; inflation, strikes, and unemployment; crises in welfare, education, health care; violence and disruption in our streets and on our campuses; racism and the decline of religion; the rising traffic in crime and drugs.

We hear, too, about the young who have lost confidence in our business system or who would make "revolution for the hell of it." We see business sometimes attacked indiscriminately in the guise of consumerism or in the name of cleaning up the environment. Some are blaming business and the enterprise system for all the sins in our society.

Yet, beneath the headlines, the story of American progress in income, output, and purchasing power is unmatched elsewhere on the globe. And the adaptiveness of the U.S. business system to change is nowhere better demonstrated than in our post-World War II gains in income and wealth, which have laid the groundwork for further advance. Whether the advance is achieved lies squarely in the hands of the U.S. political and social system, built for orderly change by wise men more than 150 years ago who foresaw the continuous onslaught of new knowledge against outmoded institutions.

THE CURRENT ADJUSTMENT

By now the economy has bottomed out from the readjustment imposed to combat the guns-and-butter inflation of the late 1960's. An early look at 1971 shows a basic shift from an economy dominated by a decade-long capital spending boom, rising defense spending, and accelerating government outlays for welfare to one dominated by consumer spending, housing, services, and a shift in government priorities from defense to human resources spending.

Business and consumer confidence, while rebounding from the deep gloom of late spring, remain sensitive to each new foreign development in Southeast Asia or the Middle East, and to such domestic areas as money market conditions, the battle against inflation, campus violence, and social unrest. The auto strike against General Motors may slow the pace of the fall upswing but is unlikely to alter the established move towards moderate growth now getting under way.

It becomes increasingly clear that the government's anti-inflationary efforts are making real progress. The policy of gradualism has braked the growth of demand, created moderate economic slack, and punctured the inflationary psychology of business and consumer, while avoiding either deep or prolonged recession. The burden of readjustment has been widely and moderately distributed through stock prices, profits, sales, and unemployment.

The declines in industrial production and "real" GNP have been very small compared with postwar recessions, but taken with an expanding labor force and growing plant capacity, have generated the slack needed to check the accelerating inflation. The process has taken longer and the inflation has proved more intractable than earlier anticipated, but policy errors have fallen on the side of candor, equity, and a staged approach to a difficult but needed readjustment.

Now, it seems unlikely to all that the economy will dip into a 1957–58 type of recession (which lasted 9 months). Whether 1971 will see a renewal of the inflationary upsurge depends now on governmental policy, and, given a mounting federal deficit, rests mainly on the shoulders of the monetary authorities.

There are two issues to be resolved. One is the unknown strength of a long period of credit restraint. A time-lag of 9 to 11 months between restraint and full economic effect would have placed the biggest impact of restraint on prices during last summer. In fact, the consumer price rise has flattened out since last April. The other issue is how much the economy has to catch up in its growth to overcome the gap in output caused by our present slack and also to get back on the long-term trend of our economic potential. One calculation is that, to get back "on track" by the end of 1971 would require a growth rate of 9 per cent next year—5 per cent to close the gap and 4 per cent to maintain the long-term growth trend. By this reasoning, inflationary pressures would seem unlikely to resume from the foreseeable growth of about 6 per cent now expected for next year.

GROWTH PROSPECTS FOR THE 1970'S

In any event, the economy will emerge from its current readjustment to achieve a high rate of real growth in the 1970's if we match our economic performance to our potential. A larger and better-educated work force, a plentiful supply of technology, and a large and growing stock of capital goods justify the growth prospects we can see ahead, barring major catastrophe.

Our real living standards are already the world's highest. Median family income in the 1960's, expressed in constant 1969 dollars, rose from $6,800 in 1960 to $9,400 in 1969, a gain of $2,600 in 1969 dollars. Projections by the private National Planning Association for 1980 indicate that half of all consumer income will go to families with $15,000 in 1967 prices, compared with 25 per cent in 1966. Today, to buy a suit of clothes in Soviet Russia takes 183 hours of work, in France 75, in Great Britain 45, and in the U.S. only 24. In the U.S., one farm worker can feed 42 people, in France about 6, in Italy 5, and in China only one.

Our economy can grow during the 1970's at a rate of 4.3 per cent, in real terms compounded, without experiencing inflation. This would double the gross national product in current dollars to $2 trillion and would be four times the output of 1960. It is likely during the 1970's that, although consumption will rise, it will become a smaller proportion of this vast output. Led by a boom in construction, investment will claim a larger share along with government at all levels.

THE PEOPLE PROSPECTS

The U.S. people will be better off, better educated, and more productive by 1980 if they wish to be. The 1970 census only confirms well-known trends in depicting the U.S. as more urbanized, more suburbanized, more metropolitanized, and more attracted to the coastal regions of the Southeast, Southwest and Far West than ever before.

The United States in the 1970's will become a nation of Megalopolis—huge super-cities with strange name tags, that stretch for hundreds of miles. There is Bos-Wash, an unbroken stretch of people, homes, factories and the like from Boston to south of Washington; there's ChiPitts, the crescent of heavy industry along the Great Lakes from Chicago to Pittsburgh; there's SanSan, from San Francisco to San Diego; and there's JaMi, the fourth megalopolis along Florida's east coast from Jacksonville to Miami. These human agglomerations will be of a size, complexity, and extent never before known.

The people of the United States will be different in the 1970's. For one thing, the decade will see an unprecedentedly large number of new entrants into the labor force. Most of the growth in population will be among people under 35. Those over 65 will increase in number. But people between 35 and 44 in 1975 will be one million less in number than in 1965. This hourglass shape in age distribution means that either we will be managed by grey beards or by those younger than our earlier experience. One out of seven new workers in the 1970's will be nonwhite. The average age of the nonwhite population is nearer 21 years than the 28–29 years of whites. One out of six jobs in the economy is now located in three states—California, Texas, and Florida. The biggest single change in the labor force in recent years has been the increase in women as a share of the total.

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THE CONSUMER AND CONSUMERISM

The increase in the number of young adults in our population, the sharp increase in young married couples, the rise in the number of old people, and the fewer numbers in their forties—all these trends, along with the increase in nonwhites—have obvious impacts on consumer spending. Taken with the prospect of rising incomes, they are favorable impacts.

Right now, the consumer is in a good financial position and people, generally speaking, can finance whatever spending they wish to undertake in 1971. Despite the decline in stock prices the consumer is richer, more liquid, and less debt-burdened than at most times in the past. With interest rates past their peak and monetary policy easing moderately, the prospects for credit availability if not cost are improving. The slowdown in consumer borrowing has reflected a lagged response to the readjustment, a rise in savings rates that has reduced the burden of consumer debt, and prudent restraint in the face of consumer uncertainty.

The consumer of the 1970's will double his outlays of goods and services and shift expenditures to luxury items—such as recreation, durable goods, and services. Young marrieds in larger numbers among consumers will buy more consumer goods that go with household formation, such as cars, housing, home furnishings, home entertainment and the like. The young marrieds will grow from 43 million in 1970 to 58 million in 1980, and they will be more ready to meet their needs through the use of credit than their parents.

The 1970's consumer is unlikely, however, to be docile or passive in the marketplace for goods and services or for credit. Much, both good and bad, has been said about consumerism, but above all it should be said that consumerism is here to stay. If you think this is surprising, you should—as the TV bit says—think harder. It is, after all, the most open secret of the free enterprise system that its success stems from the great freedom of interaction between buyer and seller. We in business have long said that we favor the informed and rational consumer because he spurs us to better performance.

Certainly, the consumer should be protected from fraud, deceit or misrepresentation. Certainly, he should have access to adequate information for intelligent choice. Certainly, he should be able to rely on the performance of modern products of complex technology on which he risks his life, safety, health or comfort and that of his family. Certainly, he should have a wide range of choice in the marketplace. Those who argue otherwise, including businessmen, do indeed need to think harder; they do not understand the great ideals of the free enterprise system.

Now, this is not to say more than Congress and the President in both administrations have already written into law. It is not to say, also, that business should not vigorously advocate its viewpoint on specific proposals nor speak freely and loudly to condemn proposals in the name of consumerism which truly threaten the enterprise system either with cumbersome restrictions or with unscientific legislation.

Business should be proud of its responsiveness to the changing values of the U.S. consumer which have led to demands for higher standards of business performance. Business, to judge from its record of performance, has little to fear in adapting to the valid demands of consumer advocates. As I look around the business world, I see that it is firms of the highest standards of competence which prosper today. How much more so will this be true in an age of global electronic communications, and scientific revolution?

THE KNOWLEDGE EXPLOSION

It is in fact the scientific revolution through which we are moving that generates most of our social turbulence. I cannot emphasize too much that this revolution is profound and pervasive. It cries out for understanding, and with understanding comes hope for the future of this country and mankind. One recent author has suggested that we suffer today in too many numbers to "future shock." The scientific revolution produces future shock to people unable to assimilate powerful new ideas about the universe, the globe, and mankind. Each of us has some responsibility to interpret our times in the sweep of history and to grasp the implications of things present and things to come. This much, I believe, is required of mature leadership.

The tides in our world are conflicting; it is an age of profound transition. Our age lies, it is said, between the post-Renaissance world of the Industrial Revolution and a new age—the age of the global village, of electronics, of sybernetics, of nuclear energy, of biological engineering, of space science. It is an age of discontinuity. One tide is the ebbing of the Renaissance and its values, including the ugly aftermath of the Industrial Revolution. The other is moving in—the flood tide of a new age. Society's task in the 1970's is to avoid tidying up a dying age and to search for the flood tide currents of the new age aborning.

The central fact, gathering force in our era, is that for the first time in history mankind possesses the power to live at peace and in relative plenty on this earth. Equally central is the lesson of the 1960's that rapid economic growth may not only fail to yield social tranquillity but may itself threaten the earth, air, and water which make up the thin envelope of our physical capital. Ecology thus teaches us a new dimension of scarcity. Up to now our Renaissance relationship to our environment was one of exploitation; we have seen the environment as a sources of riches to be extracted. Now we begin to see dimly that we are limited by mounting pollution and unexpected effects on a complex ecological system of thoughtless intervention in the processes of nature. Having begun to grasp ecological knowledge, mankind will never be the same again.

Indeed, the explosive growth of knowledge destines ours to be a learning society only in order to maintain our culture and civilization. Our young people and scientists live in a sea of knowledge—new knowledge—which cries out for assimilation and demands unprecedented adjustments in thinking. The struggle to assimilate this new knowledge and to evaluate our institutions in its light produces extremes of distortion of our values in the New Left, of avoidance of change in the New Right, and of withdrawal from reality in the drug cultures of both poor and middle class flower children.

The knowledge explosion so paralyzing to will is indeed awesome. We now know that we live in a universe at least 8 billion years old, far bigger than the distance light travels in 2.5 billion years at 186,000 miles per second. Given the hundreds of millions of galaxies, each with more than a billion stars, it seems statistically almost sure that life exists elsewhere in the universe. We now know that in a few moments of intense effort using germs or nuclear fire we can destroy life on earth in all that narrow band of fertility needed to support civilization.

We know that man or his erect relatives have lived on this planet 4 million years. We know it took that long to produce a population of one billion, up to about 1830; that by 1930 world population reached two billion; that by 1960 it was three billion; and that at present rates by the year 2000 it will be seven and a half billion. We know that man, judging from his behavior, is significantly a naked ape in instinct with some of the territorial instinct and social ranking behavior of primates. We are learning the adverse effects on such animals of crowding which produces group disorganization, degenerative disease, destruction of nurturing instincts, and early death. We see no evidence that modern man is much if any advanced over Neolithic man in genetic makeup. We know now that man can change his genes, personality, intelligence, and mental state in predictable ways with drugs.

We know that man can now build machines to calculate, play chess, compose music, make management decisions, learn from errors, and formulate general rules for learning from experience—all at the speed of electrical motion. We know now that man can dot the sky with satellites, communicate simultaneously throughout the world to billions of his fellowmen by TV, travel to the planets, view the universe from the clear atmosphere of space, see in his living room the globe of earth as viewed from the moon.

There is going on a parallel but less spectacular or well understood shift in concepts now familiar to scientists, theologians, and many young people, including the radical Left. It is a shift from thinking about the world in the linear, cause-effect style of Newton to the simultaneous, inter-acting style of Whitehead and Einstein. It is a profound shift from seeing the world as matter, resting in time and space, or moving through them, to seeing the world as energy flowing in events through processes of change. It is a shift caused by concepts of measuring information flows and analyzing complex systems that challenges the structured cause-effect evaluations of the past. It is a shift from the isolated linear world of Gutenberg type to the simultaneous, tribal world of television. The reality of life is seen as action in a process rather than the manipulation, outside the process, of what Norman Mailer has called "the-logic-of-the-next-step."

Because of the pace and sweep of change, more people are thinking in an organized way about the future. These "futurists" do not wish to be the unwitting victims of the future; they wish to develop more explicit methods by which to understand the outline of the future and to participate in inventing the future. While risky business, such speculation about the future can be useful as an early warning device and as a management tool to illuminate understanding, participation, and choice.

THE SEARCH FOR QUALITY

The knowledge revolution produces a search for quality in the performance of one institution after another. In the 1970's the concern for quality in jobs, products, services, social services, professions, and the environment will dominate domestic social and economic debate. The institutions of the social economy—professional, medical, education, business, and labor—are likely to face challenges to change in response to new values and concerns made possible by advancing knowledge and technology. Consumerism is rooted in this broad concern for quality. Up to now, we have taken for granted the pursuit of high levels of employment, production, and purchasing power; this is the hard-won mandate of the Employment Act of 1946. But today, boasts that the U.S., with 6 per cent of the world's population and 7 per cent of its land area uses one-third of the world's resources have a boomerang effect in reflecting the creation of polluting waste and the rapid depletion of high-grade resources. Likewise, boasts that U.S. car registrations total 80 million, or one car for every 2½ persons, run up against new knowledge about the cumulating effect of exhaust emissions.

In banking, the search for quality was reflected in the 1920's in the invention of consumer credit. This powerful financial innovation rested for its validity on the rising wealth of the country, the shift of people off farms and into cities and from wealth ownership in land with much payment in kind to wage and salary payments as a source of income from jobs. In the 1970's

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consumer credit granting will have to adapt to new developments.

One development is technological; it is the inevitable coming of the checkless, cashless society. Futurists are confident that in the coming decades money will come to consist of binary digits (0, 1) in memory drums of bank computers. Income of individuals will consist of transfers of binary digits from the employers' to the employees' accounts. Automatic payment through home-based computer terminals will prevail. The ordinary credit card will either take over or be supplanted by thumbprint identification from ubiquitous and inexpensive TV cameras to the central computer storage.

Does anyone doubt that consumers will insist on high standards of ethics and confidentiality in bank handling of crucial personal financial information? Can it be believed that legislators steeped in constitutional law will fail to adopt the right of privacy against unscrupulous use of credit files having the remorseless memories of computers? Should business, as a champion of personal freedom and consumer satisfaction, be identified as truculently opposing the protection of people's rights against the invasion of their privacy by either business or government? Personally, I think not. Furthermore, I believe it will be possible—it must be possible—to avoid hamstringing business decision-making by denying relevant information exchange between private parties to contracts. I would suggest, however, that the weight of political opinion and the law will fall on the side of developing the right of privacy. Lovers of freedom both for business and individuals will favor that approach.

Another development in banking caused by the knowledge advance is the development of a greater capital shortage in the 1970's. A strong case can be made, as Tilford Gaines of Manufacturers Hanover Trust has argued, that interest rates will remain high, leaving aside the impact of inflation, because of the tremendous demands for funds. Financing will be needed to repair and maintain the environment, to broaden welfare, to renovate and rebuild the cities, to maintain defense, to meet our housing goals, to finance consumer credit buying, to restore the liquidity of corporations and provide for the renewal and expansion of our industrial capacity. Leaving aside the question of inflation and the lender's premium it exacts because of this expectation of being repaid in cheap dollars, there is likely to be a rise in the true or normal rate of interest.

Just as the shift from farm to city laid the basis for the invention of consumer credit, so the needs of the 1970's will call for new financial innovations. Certainly the need is great to review existing institutional arrangements, as the President's appointment of a financial commission suggests. Needs seem likely for innovation in financing state and local governments, such as are anticipated by the idea of urban development banks, of providing an adequate secondary mortgage market, of examining the present financing and tax arrangements for corporate earnings, of restructuring Federal instruments to achieve social priorities, of providing the means to banking to use their competence in computer-oriented services to avoid urban concentration of banking resources, and in other areas.

THE DIRECTION OF POLICY

The need for institutional change is perhaps greater in other areas of our social life than in banking. In the 1970's we are likely to see far-reaching proposals addressed to or health care and educational systems, our means of governing metropolitan centers our federal system of government, our welfare system, and our international economic relationships. All these proposals for institutional change stem ultimately from an increasing power to organize and rationalize human activity. These are the problems of a dynamic, learning society capable of achieving stable and solid social advances.

New policy concepts will be needed, however, if advance is to be solidly based. The time has passed in social affairs for ad hoc experiments of desperate New Deal days or for the loose rhetoric of piecemeal reform based on scanty or episodic knowledge of society. A deeply important task in the 1970's is to construct and operate a vastly more scientific and responsive system of information for understanding environmental and social developments. We now observe the weather with far more sophistication and care than we observe urban developments. For urban understanding we have no weather bureaus; therefore we rebel at decennial census findings which only each ten years accurately observe flows of population, migration, household changes and the like. We have the capacity to apply systematically the tools of scientific method and computer techonology to creating a nationwide system of social and demographic, as well as economic, indicators. We have data and technology to model the impact of local tax changes or of industrial growth, to stimuate growth of metropolitan areas, to stimulate transportation policy and the like.

Indeed, it can be argued that the impact of the knowledge revolution on social and economic policy-making is only beginning. If so, in the 1970's our society will have to learn—and can learn—far better than ever before to respect, organize, and use social and economic knowledge in policy-making. Society will have to—and can—learn to bring its resources systematically to bear in social affairs the way we use our resources systematically in scientific and technological applications. I am convinced that few people in our society understand either the scope of this task or the tremendous rewards in reducing conflict and leading the way to orderly solutions to social difficulties which such a development would provide. It is not that we need more information; we need different information, differently organized. This is the message which information systems analysis has long since brought to business.

Otherwise, we will remain victims of mythology about racism, crime, urban ills, violence, and a host of other problems now portrayed by mass media not organized to provide valid and accurate understanding of events.

A great philosopher, Alfred North Whitehead, perceived that the greatest invention of the nineteenth century was the invention of the method of invention. We have an analogous lesson to learn in the last third of the twentieth century about innovations in social and economic affairs.

Finally, perhaps the most optimistic development in the 1970's can be increased recognition that U.S. business has begun the process of creating a world economy, an event of tremendous import to banking and finance. The extraordinary growth of multinational corporations since World War II has produced a fundamentally new phenomenon. Our increased capability to organize human effort allows us now to assess world-wide competing opportunities to allocate resources economically and rationally. Economist Judd Polk has calculated that, of the crudely estimated $3,000 billion of world output, the internationalized component comes to one-sixth of all activity. Without doubt, the primary international economic interest of the United States is the correct international allocation of resources. This implies a need in the 1970's to achieve with the less developed countries of the world productive relations comparable to those already achieved with industrialized market economies.

The growing world-wide orientation of a large share of world production has implications of basic significance to our present concepts of the balance of payments and of trade and economic policy. For the first time in history, man is now able to treat the world itself as the basic economic unit. This is happening. Its implications to our economic policy are basic. Placed into relationship with the consumer, the growth of the world economy means more than just the expansion of travel and trade by U.S. consumers with all parts of a one-day world created by advances in the technology of TV and jets. It means the breakdown of national barriers to the powerful rewards the consumer gains from imports and the potential gains in living standards of people the world over who satisfy each other's wants.

CONCLUSION

In this review of the consumer in the turbulent seventies, there are valid grounds for cautious but deep optimism. The U.S. consumer faces a glowing potential of rising wealth and income. The U.S. consumer, more effluent, more educated, and younger, stands on the threshold of a new era of scientific revolution which represents the fruits of centuries of struggle towards understanding and good will. The U.S. consumer is heir to the best our civilization has produced through great minds in search of understanding and adaptation to this small global piece of an awesome universe. No one who perceives its grandeur and loneliness can believe in instant perfection or ignore the risks of destruction and death which inhere in its structure. But who can deny the sweep of adventure in the ideas of our civilization—the bracing stimulus of freedom, the power of initiative, the competition of ideas, products, and services in our political and economic system, or the majesty of our ideals for humanity?

Yet how could optimism be more than cautious in such a turbulent era? There are some who, beset by today's rhetorical overkill, advocate that business respond in the best traditions of the Old West and come out fighting, knock a few heads together in the name of Americanism and optimism. The cry is America—love it or leave it. The age-old cry of those beset by new ideas and the challenge of change is to defend the status quo by cloaking it with holiness.

Another answer to new ideas is to hew to the line of our solid values, to rely on the ultimate majesty of reason and law in coping with violence, to display the social grace of good will and courtesy. The scientist's contribution to our civilization's social style is to have made beliefs open to revision from new ideas and facts. This is not an adversary method, so it is not subject to the lawyer's sophistry or the heroics of combat. But Thomas Jefferson understood it, when he said, more than 150 years ago, ". . . laws and institutions must go hand in hand with the progress of the human mind . . . As new discoveries are made, new truths disclosed, and manners and opinions change with the change in circumstances, institutions must advance also, and keep pace with the times."

NIKOLA PETKOV

HON. GERALD R. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. GERALD R. FORD. Mr. Speaker, I am honored to join with those aspiring to freedom for Bulgaria in marking the 23d anniversary of the judicial murder of the Bulgarian national hero, Nikola Petkov.

XUM

For more than two decades the Bulgarian people struggled desperately in a bid for freedom. Their efforts are appropriately memorialized in this tragic anniversary which was observed on September 23.

Bulgaria is one of the captive nations—the peoples imprisoned within Communist states. The deep desire for freedom within Bulgaria and the efforts of freedom-loving Bulgarians everywhere to break the bonds of Communist domination of Bulgaria should be an object of admiration on the part of all Americans.

I firmly believe in the right of self-determination for all peoples. The only government worthy of that name is that which governs by the consent of the governed. I will therefore never be happy until Bulgaria and other nations enslaved by Communist governments are free not only in spirit but in fact.

I salute freedom-loving Bulgarians on this 23d anniversary of Nikola Petkov's supreme sacrifice and share with them the hope that their aspirations for Bulgaria will one day be realized.

DR. ROBERT CUSHMAN MURPHY ADDRESSES LONG ISLAND PRESS DISTINGUISHED SERVICE AWARD DINNER ON ENVIRONMENTAL NEEDS

HON. OTIS G. PIKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. PIKE. Mr. Speaker, recently I was privileged to attend the annual Long Island Press Distinguished Service Award Dinner at which tribute is paid each year to an outstanding American for his contribution to some vital cause.

This year the recipient was a man who has devoted his life to a cause which was not a popular cause when he was a young man, or even in his middle years—the cause of preserving our environment. Dr. Robert Cushman Murphy is now 83 years old, and he has lived both to see some of his earlier dire predictions come true, and to see the cause for which he was a lonely champion become the most popular cause in America.

Dr. Murphy's remarks at the dinner are so significant not only for my own area but for all those devoted to the cause of conservation that I take great pleasure in inserting them in the CONGRESSIONAL RECORD at this point:

REMARKS OF ROBERT CUSHMAN MURPHY

All of us are concerned about numberless regrettable things going on all over our earth, most of which is surfaced with water. Only 29 per cent of it is land. The still smaller proportion that we can call habitable reduces our scant living space even more, and yet the human species seems bent on filling this up with his own kind at a faster rate than ever. We are all aware of the multiplicity of problems that darken the future, particularly this problem called the "population bomb." Each of us tries, more or less in vain, to think up a solution.

I once heard Governor Rockefeller tell a story that illustrates the diversity of opinion that is possible among God's creatures. He reported on the conversation of a pair of fish, *de profundis*. One said to the other, with understandable alarm, "Do you realize that more than a quarter of our world is covered with *land?*"

Man's heritage of both earth and sea is being corrupted by an infusion of alien chemicals. Thor Heyerdahl, who has recently crossed the North Atlantic in a craft built of papyrus, found the Sargasso Sea so polluted that his crew was reluctant to wash in it. He encountered a continuous stretch of 1400 miles filled with masses and gobs of asphalt-like oil.

When I went in the other direction under sail across the Sargasso, from the West Indies to Africa, 58 years ago, lowering my dory almost daily, it was then the purest and most pellucid water in the world, actually more transparent, as determined instrumentually, than any spring, or pool of melted snow, or mountain tarn, and completely devoid of continental dust.

But the ocean today has more to degrade it than petroleum. Into it from all inhabited shores go pesticides, herbicides, defoliants, fertilizers, detergent residues, radioactive poisons, and salts from irrigation, not to mention ordinary sewage. Some of these, like DDT and radioactive ions, are carried to the very ends of the earth because small ocean animals ingest vegetable cells and also eat one another. Nor is the land any better off. The concentration of DDT in the milk of many human mothers already exceeds the amount permitted in interstate shipments of food products. But still the number of people climbs toward infinity, and the means of distributing food leaves many without it.

Children are the main victims of overpopulation. The United Nations tells us that 500 million of them are chronically hungry, and that 12,000 die of starvation every day. Nevertheless, between now and this time tomorrow, the population of the world will increase by 190,000 souls.

Under these circumstances the decimation of animal life might hardly seem worth mentioning except that among them it means in many cases not only the death of individuals but of the very species. In North America we know of eighty kinds that are gone forever, and an equal number is now threatened by human heedlessness and the pollution of the environment. Outside our own continent the outlook is worse, at least in the tropics.

Of about one and a half million tons of DDT that man has produced, it is estimated that two-thirds are still chemically active. We shall be seeing its devastations for a long time to come. If enough of our most magnificent birds, from eagles, peregrine falcons and lesser birds of prey to pelicans and flamingoes survive, ultimately to repopulate their former ranges, we shall be luckier than we deserve. The woodcock is the latest reported victim.

To go on with statistics that only rub in what we already realize: two hundred million tons of contaminants are added annually to the atmosphere over the United States. Every second of the 24 hours about two million gallons of sewage and other fluid waste pour into the nation's waterways. Every major stream in the country is polluted. Not every district is equally filthy: some are "more equal than others," so to speak. Mr. Robert Moses kindly sent me a few days ago his booklet on the sewage of Chicago, which concerns him because the water in which it swims affects the supply released through the Great Lakes to the St. Lawrence Canal. This publication paints a most appalling condition, but we are all moving toward the same end faster than we are working for betterment.

During five years beginning with 1964 the New York metropolitan area dumped two million tons of solid waste off western Long Island. This was a far cry from the enlightened decree of Edmund Andros, Governor of Colonial New York in the 1670's, that citizens are forbidden to cast any dung, dirt, or refuse from the city in the harbor or off the neighboring shores, under penalty of forty shillings. Such a quaint regulation, long disregarded, brings us back to Long Island, which is probably what you came here to consider.

The question of water cannot be separated from that of sewage disposal, and in both we face difficulties that will require the best engineering brains and a great deal of money. As an undergraduate I studied bacteriology all four years, and in that connection took my only course in the engineering school of Brown University, namely sewage disposal. I shall never forget the first sentence of Professor Johnny Hill's first lecture. After striding to his desk with a brisk, "Good morning, Gentleman," he contrived to fix our attention for the whole course by solemnly proclaiming, "Sewage contains more bacteria than any other known substance except—milk!"

Well, Long Island Sound is in a fair way to become a sewer. The friendly and intelligent porpoises which have made it a summer playground for the last eleven thousand years or so, apparently don't come into it much any more. Hitherto the evil condition of the water that makes the porpoises shy away has been true only of the western Sound, but, since the establishment of the State University at Stony Brook, the sewage of that rapidly growing institution has been pumped to a small primary treatment plant in Port Jefferson and then emptied into the harbor. The beautiful sheltered yacht haven of former years is already closed by the Department of Health to swimming and clamming. The bacterial count of the water has risen to the order of 24,000 per cubic centimeter (still quite a way behind milk!)

The totally inadequate remedy for the situation, as presently contemplated, is for the University, later, to put its sewage through secondary treatment, remove the sludge, and afterwards discharge the effluent into the Sound via a mile-long, two and a quarter million dollar pipe off Old Field Point. Do we want to see the Sound become as foul and dead as Lake Erie?

Ladies and Gentleman, this is all planned backside foremost. Long Island can't afford a daily drain into salt water of millions of gallons of fresh water, let alone its load of filth. The proper disposition is to return it to the underground aquifer. The effluent should go through tertiary treatment, and the resulting crystal clear water filtered for re-use through the soil of inland country to the south of the University site. The trick has been demonstrated at Lake Tahoe, Pomona, Santee, and Oxford, California, and a plant of the same type is being constructed at Rock River, Ohio, The New York State Health Department has mandated similar plants for Syracuse, Poughkeepsie, and Cortland, and it can be accomplished for everybody's benefit right here. Physico-chemical treatment would cost less than the planned method, according to estimates obtained by Charles F. Schnee, M.D. of Strong's Neck. The argument that phosphates and nitrates in the detergents used by washing machines makes it necessary to pollute the Sound, where it would do much more damage than in soil, is false. Manufacturers of soap substitutes have been frantically working on the phosphate-foam problems and have it licked. It will very soon be a thing of the past.

But still another proposition is afloat to deplete the water of Suffolk County, namely to pipe it westward to make up the deficit in Nassau, which now wastes half its own daily increment.

This is the most outrageous folly yet. Long

XUM

Island ends in a pair of narrow flukes, and the only reason that eastern Suffolk retains sufficient water for its own use is that it still enjoys the smallest population of any district on Long Island.

Suffolk, the leading agricultural county of New York State, needs its water for its tilled fields and its coming population. Like any Long Island area, it requires an outward pressure in its water table. This provides the optimum dilution in the shellfish zone. To learn what would happen to Suffolk County if its water were tapped for Nassau, look up the important monograph on "The Underground Water Resources of Long Island," published as long ago as 1906. This shows what has been happening for more than a century. If Nassau is to draw off Suffolk water, the infiltration of sea water, which is the bane of western Long Island, will soon be under way. The first sign would be the killing of trees in the marginal lowland by salt from the Atlantic.

Primitive Long Island abounded with springs and brooks. Let me read a paragraph from Senio C. Scott's *Fishing in American Waters*, which was published in 1875, or only twelve years before I was born.

"There is not within any settled portion of the United States another piece of territory where the trout streams are . . . so numerous and productive as they are throughout Long Island. It is scarcely possible to travel a mile in any direction without crossing a trout stream, whether from Coney Island to Southampton on the south side, or from Newtown to Greenport on the north side . . . The value of the Long Island trout streams to New York City is inestimable, for each of them is approachable by railroad in a few hours."

Those were the happy days when every barefoot, one-gallused boy had it better than a member of the Southside Sportmen's Club.

We know the subsequent history of the drying up of rills and springs, In my own lifetime, I have seen the headwaters of Carman's River vanish. The reasons are two: the vast increase in population, and sheer waste. The effect began before the middle of the 19th century. Walt Whitman tells of returning to the farmstead of his mother's family, the Van Velsors, near Cold Spring Harbor, after years of absence, and of noting that "the copious old spring and brook seem'd to have mostly dwindled away." I could show you many traces of waterways that are no more, stream beds with every telltale mark except water.

One reason for the transformation that began before the direct sluicing away of precious water, was the widespread filling up of kettle-holes that remained from the Ice Age. Some of these, like Lake Ronkonkoma, contain meres and ponds, but many hundreds of smaller kettle-holes have dry bottoms offering rainfall and run-off the quickest and surest route to the water table. An example in Setauket tells an all too familiar story. A few years ago a developer bought the tract of land, erected a dozen tasteful residences and, of course, filled in a beautiful kettle-hole with rubbish topped by good soil, thoroughly tamped down. After the next heavy storm, the whole vale, including the highway through it, was flooded and the basements of several homes were full of water.

The builder had not foreseen this, but he knew how to take care of it to his own satisfaction. He merely trenched both sides of the street, laid down large concrete pipe, diverted the water by the shortest route to the Sound, and *his* troubles were ended. But by thus shunting water out of his property, he robbed annual precipitation which should be holding the water table and thus working for the inhabitants.

This is the kind of local mismanagement that Mrs. Murphy, for fifteen years, exposed in every issue of the Bulletin of Conservationists United for Long Island.

The general spraying with DDT in the spring of 1957 has wrought damage from which we can probably never fully recover. Birds, amphibians, crustaceans, and beneficial insects were among the innumerable victims sacrificed to no purpose. Chimney swifts, nighthawks and whippoorwills—all three mosquito-eaters—were virtually wiped out; kingfishers and scores of other species sadly reduced. The decimation of fiddler crabs in the salt marsh (where a gypsy moth has never been seen) was followed by the disappearance of the clapper rail and other marsh birds. We hardly ever hear nowadays, the pleasant trill of the gray tree frog, which used to inform us, according to folklore, that rain was coming. Last summer a country woman said to me excitedly, "I saw a hoptoad this morning." Twenty years earlier she would not have mentioned the incident unless she had seen a thousand toads.

The alleged reason for that spraying was to eliminate the gypsy moth. The more likely real reason was to expend five million dollars so that a renewed appropriation would not be denied by Congress to the U.S. Dept. of Agriculture. The task failed in its alleged purpose. The 37 infestations of gypsy moth which the Department had plotted, some of them confined to a single tree, could have been sprayed from the ground instead of a drenching from the skies. Today we have upwards of 500 infestations instead of 37.

The whole campaign was one of brazen misstatements throughout. One story, still repeated, is that the spraying was not primarily for the sake of Long Island but for fear that the moths might spread to and destroy the great forests of the Appalachians. Ladies and gentlemen, the Appalachian Mountains have had infestations of the gypsy moth for the past sixty years, and nobody knows this better than the United States Department of Agriculture.

How fortunate it is that we have newspapers like the Long Island Press to point out such simple and truthful information to violators of Nature's regime, and to those who err through ignorance and are willing, as are many of the builders, to mend their ways. For a score of years, David Starr, the Editor, has been a champion of good conservation practice. His efforts even antedate the time when it began to be fashionable. Helped by his team of informed and enthusiastic reporters and feature writers, including Charlotte Ames, Roger Caras, Sy Marks, Leonard Victor and others, this newspaper and its staff have won an extraordinary number of awards for effective writing about malpractice in the environment.

Americans have often employed science and technology arrogantly, forgetting the precept of the Elizabethan, Sir Francis Bacon, who warned that "Nature is not governed except by obeying her." The spraying of Long Island with DDT in 1957 was a terrible example of that mistake.

To select another instance now under discussion for early decision, I believe that we should have the benefit of more experience with nuclear plants already in operation before building another at Shoreham. Nuclear fission has not yet proved better for power production than fossil fuels, whereas the first costs have been very much higher. And the safe disposal of radioactive waste is still largely unsolved.

Several existing plants have gone awry, notably the one named for Enrico Fermi. The first electricity that flowed through the Detroit Edison lines from Fermi was also the last. A safety device, ironically enough, started a core meltdown in the 70 million dollar reactor and scared the daylights out of the authorities. The plant has since been out of action.

A large proportion of the specialists in nuclear physics, as well as those in pertinent medical science, say that such installations should be placed underground. These include Doctors Teller and Lilienthal, the last, a former chairman of the Atomic Energy Commission. He says, and it is astonishing that his fears should be so lightly brushed aside, that he would not live in a residence anywhere near such a plant. If you want a categorical opinion, ask a hard-headed insurance man about the dangers. You will find his rate sky-high and his liability limited.

The proponents of Shoreham make much of the unlikelihood of ecological damage by the coolant water. Temperature changes will be only slight, they say. Well, temperature change responsible for many great cosmic effects is likewise slight. Climatologists tell us that a decrease in average annual temperature of the northern hemisphere of only 5° C., which would hardly be detectable to human sense organs, would within a hundred years start another Ice Age.

Three winters ago, I witnessed the destruction of an incalculable number of young menhaden, which had been lured by warm water discharged from the plant of the L. I. Lighting Co. in Port Jefferson Harbor. It was probably not heat that killed the fish, but rather deoxygenation. Water at 70° F. holds only half as much oxygen as water at 35° F. But they were just as dead, whatever the cause, and had to be carted from the shores by many truckloads, aside from those eaten by thousands of Bonaparte's gulls attracted by the holocaust.

The supply of fossil fuels will not be exhausted for several human lifetimes. So why the rush for further nuclear power stations until we have had twenty-five years or so to see how the present ones are functioning?

There are only a few other matters of which I want to speak briefly.

We need on Long Island a Pine Barren State Park—a good big one, which would preserve forever one of our most fascinating plant associations, the pitch pine, bearberry, pink moccasin flower, and many examples of a flora brought south by the glaciers, or that has spread from the southern coastal plain. These zones overlap on the Long Island barrens. If of sufficient size, the park might enable us to keep the hermit thrush, the most heavenly singer of all North American birds and one that breeds at low altitudes only on Long Island and Cape Cod. This must be now, or never!

The sand and gravel companies should once and for all accept the fact that our harbors or open coasts are no longer their field. The place to extract this needed building material is from the inland glacial moraines. The work is not a sightly prospect there, to be sure, but exhausted pits can be put to good use as future parks. After a floor of topsoil has been laid, their depth below ground level offers exceptional shelter for many kinds of tender trees and shrubs. The exhausted gravel pits could be adapted so that many a Long Island village could have its own little botanical park.

The Port of New York Authority plans to extend Kennedy Airport into the 12,000 acres of Jamaica Bay Preserve. It would like to begin work soon, and looks for approval this autumn. Will this solve New York's airport problem? It will not. Kennedy Airport is already too big, and air traffic over the city has passed the limit of reasonable safety. A fourth airport is mandatory in the near future.

The plan would delay, or end as hopeless, efforts to clean up the waters of Jamaica Bay, and would mark the finish of fishing and recreation. In the center of this largest of city parks is one of the most astonishing sanctuaries where, all within a few years, snowy egrets and other herons, as well as glossy ibises, have come to nest in good-sized colonies, and where ducks and geese assemble confidently. There is no place like it short of

Stone Harbor down near Cape May, N.J. It is tragic to exchange it for big business, which will soon have to seek another site anyway. Only last week, Dr. Réné Dubos of Rockefeller University, reported in the New York Times that the proposal would "destroy irreversibly, one of the few and most attractive aspects of the Natural World in New York City."

Ladies and Gentlemen: recent decisions by the courts have made it simpler for the people to acquire what they value most. Last week a bill in New Jersey gave the Commissioner of Environmental Protection jurisdiction over any wetland one foot above mean high tide. The Environmental Defense Fund has found it possible for any citizen to sue an individual, a corporation, or a division of the Government if he thinks his rights are being infringed. It was not formerly so. When I was testifying about the millions of dead fiddler crabs in Flax Pond after the spraying with DDT in 1957, I was asked by an attorney for the defense how much of my property bordered that marsh, and when I answered, "none", my testimony was thrown out of court. The Conservation Bill of Rights will make it still easier for the protesting individual to gain his ends.

Ours is a time of revived hope for the material resources of the world. There is a new spirit for safeguarding the lands, the rivers, the forests, the seas and the wild life from the insatiable demands of despoilers. In this atomic age, when we all live under threat of total disaster, people, especially the young, have suddenly realized that even if the likelihood of war were to disappear, pollution of air and water and destruction of the life of land and sea could only presage the impoverishment, or even the end of human life as well. So there is a new interest in cooperating with nature, a new trend that in the long run may give us another chance.

We can only hope that the using up of our natural resources is ending, giving place to husbanding these indispensable gifts. In all probability, the wealth of the sea is just as exhaustible as that of the land. Even though the world ocean contains 329 million cubic miles of water, man, with his constantly increasing population, is capable of draining its riches as surely as those of the continents.

"When Daniel Boone goes by at night
The phantom deer arise
And all lost, wild America
Is burning in their eyes."

NATIONAL DEBT NOW $395 BILLION

HON. GRAHAM PURCELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. PURCELL. Mr. Speaker, recently I ran across some figures that attempted in a highly effective manner to show just how large was our national debt. As the writer, Mr. John C. Leslie, points out, if we attempted to pay on the debt at the rate of a dollar a minute, we would certainly have a long time to go before a significant reduction would be made in its size.

I think this section of the Casual Comments page of the Insurance Record is worthy of mention, and I hereby insert it in the RECORD at this point:

WE TRY TO SHOW JUST HOW BIG A BILLION IS, AND THE U.S. OWES 395

At the recent meeting of the Pioneer Club of Dallas we cited some figures to show just how big a billion is, and to remind our friends, in this election year, that the United States owes 395 of them.

Counting the minutes in a day from the beginning of the Christian era, 1970 years years ago, when do you think the world passed its first billion of them? Ten years, 100 years, 500 years? It was during the latter part of 1902. Recognizing that recorded history dates back some 6,000 years, the world is drawing close to the end of its third billion of minutes.

Yet the Congress adds several billions of dollars each year to the public debt with the nonchalance of a wastrel son signing his father's name to a dinner check. Let somebody else pay the bill.

Now assuming that the Congress should decide to fund the debt, and would set aside one dollar for each minute: It would take 752,000 years to pay the debt; $100 per minute, 7,520 years; $1,000 per minute, 752 years, or $10,000 per minute it would take 75.2 years.

The interest on the debt this year will pass $20 billions, and this fixed and increasing annual charge compares to a total debt of $25.2 billions at the end of World War I and $39.3 billion at the beginning of World War II. The many political deals, beginning with The New, have come since.

Try these figures on your aspiring politicians and watch them squirm.

THE ADMINISTRATION APPROACH TO THE OIL CRISIS—THE OIL LOBBY WINS AND THE CONSUMERS LOSE

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. GIAIMO. Mr. Speaker, why will there be a critical shortage of fuel oil in the Northeast this winter?

Why will thousands of homeowners be forced to pay outrageous, highly inflated prices to heat their homes?

Why will factories and public institutions which have converted to quality heating oil in order to comply with new air pollution standards be unable to obtain adequate supplies of that oil?

Why must New Englanders continue to bear the burden of an unnecessary, inequitable, and inflationary system of oil import quotas which could be changed or ended today by the President?

Why must the American consumer pay for the protection of one of America's wealthiest industries, the oil industry?

Throughout this session of Congress, I have warned of this impending crisis. I have explained that the oil import program is the real cause of inadequate oil supplies and ridiculous prices. I have urged the President to act in behalf of the American consumer by ending unnecessary import quotas.

Instead, Mr. Speaker, what has the Nixon administration done? Despite an obvious shortage of oil, it has reduced imports from Canada. Despite the recommendations of its own Task Force on Oil Import Control, it has stubbornly refused to scrap the present import quotas. The few inadequate steps it has taken are aptly described by the New York Times as "more designed to take the political heat off the administration than to provide real heat to anyone else."

Why has this administration bent over backward to retain oil import quotas, Mr. Speaker? Why has it remained so indifferent to this crisis? Why has it continued to support this special interest program at the expense of the American consumer?

You do not fight inflation by continuing a program which costs consumers billions of dollars in inflated fuel oil prices. You do not protect the environment by arbitrarily creating a shortage of cleaner, higher quality fuel. Yet the Nixon administration, by its refusal to take meaningful action to end this crisis, has proven that its rhetoric and promises do not matter where the oil lobby is concerned.

During this session of Congress, I introduced two measures to help alleviate this situation. The New England States Fuel Oil Act provided temporary relief by assuring the availability of home heating oil at reasonable prices without regard to existing quotas. My proposed amendment to the Trade Expansion Act offered a permanent solution, the systematic elimination of oil import quotas. Unfortunately, the House Ways and Means Committee saw fit to ignore the crisis in the Northeast and the overall inequity of the oil import program. In the Trade Expansion Act reported by that committee, oil import decisions were left in the hands of the President. Judging by the Nixon administration record in this area, the committee's decision was a victory for the oil lobby and a setback for the American consumer.

Mr. Speaker, the fact is that the Nixon administration could end the shortage of fuel oil and lower inflated heating oil prices today. By not doing so, it is doing a disservice to consumers in general and New Englanders in particular. I will continue to fight for a change in this irresponsible oil import policy.

On October 2, a New York Times editorial stressed the fact that this is indeed a manmade crisis and that the Nixon administration is guilty of indifference and irresponsibility by refusing to come to grips with it. I insert this outstanding editorial at this point in the RECORD:

MAN-MADE FUEL CRISIS

It comes as a stunning surprise to most Americans to realize that a temporary shortage of coal, oil and natural gas may produce power blackouts and brownouts this winter. That surprise is heightened by the state's notice to New Yorkers that fuel rationing might be necessary here for the first time since World War II. The ordinary citizen's astonishment is justified. If ever there was a man-made crisis, this is it.

There is no shortage of coal, oil and gas as such. The nation's reserves of all three are still enormous. Foreign sources are also available. But several special circumstances have developed at the same time to cause disruptions in the normal marketing of these fossil fuels.

The United States is a coal-exporting country, and coal exports have risen this year. Heavy exports have tied up railroad coal cars at seaports where they wait for days to be unloaded. The new Federal Coal Mine Safety Act—long overdue and still slackly enforced—has pinched production because companies are closing small mines rather than making the capital investment necessary to bring them up to the new Federal safety standards. But, basically, the shortage is not of coal but of railroad cars.

The international oil market has been upset because Libya is restricting production in an apparent effort to get a higher royalty for its oil. Syria, bringing pressure for higher transit fees, has refused since May to repair a break in a major pipeline. But the United States could easily overcome these adverse factors if domestic oil production were not rigged low to keep the price stable and imports from Venezuela not rigidly restricted.

Natural gas has moved temporarily into short supply, partly because gas producers and distributors did not forsee the extent to which the public outcry for clean air would send the demand for their product skyrocketing. Unfortunately, however, another part of the explanation is that the major oil companies, which own the lion's share of gas leases, are not averse to an artificially induced gas shortage which would heighten the pressure for a hefty increase in gas prices.

The Council of Economic Advisers' first "inflation alert" noted that fuel prices have been advancing with "exceptional rapidity" this year. The cost of bituminous coal climbed at a 34.4 per cent rate in the first quarter, then shot up at an 81 per cent rate in the second quarter. Residual fuel prices went up at a 36 per cent pace in the first quarter and 60 per cent in the second.

The Administration's instinctive response to this many-sided problem was to let it drift. Dr. Paul W. McCracken, the President's chief economic adviser, said several weeks ago: "I think the most helpful solution from what very little I have been able to see of this problem at the moment would be to pray for a benign weatherman this winter."

With the seriousness of the problem become more apparent every day, however, the White House has now announced some small measures. They seem more designed to take the political heat off the Administration than to provide real heat to anyone else.

The Interstate Commerce Commission has doubled the charge for railroad cars standing idle in loading zones. The import quota of 40,000 barrels a day on fuel oil used for home heating on the East Coast is to be doubled in the first quarter of 1971, but with a compensating reduction in the last nine months of next year to maintain the over-all average. Other import restrictions are eased in minor ways. "In view of numerous uncertainties, no one can now be sure that these steps will be adequate," the Administration spokesman observed.

The Administration has spent a year and a half marching up the hill and then down the hill on oil import quotas. It is time to march back up the hill and stay there. Oil import quotas make no sense at any time, as the President's own task force has made plain. In a time of fuel shortage, they constitute nothing less than an attack by the Federal Government on the welfare of millions of its own citizens to safeguard oil industry profits. The Eastern Seaboard should routinely meet much of its energy needs by imports of oil from Venezuela. The quota changes announced this week amount to mere trifling with the issue.

The regulatory commissions in the oil-producing states could be prodded to increase the number of days on which oil is pumped from existing wells. The doubling of charges on idle railroad cars is a step in the right direction, but the Department of Transportation could work with the coal-carrying railroads to devise new procedures and, if necessary, new incentives and stiffer penalties to get them to cut their "turnaround time" on unloading coal cars.

If fuel rationing is necessary this winter, homes and stores will have to take precedence over heavy industry. But this is a choice which should not have to be made. Aggressive Government leadership can still make it unnecessary.

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LISTEN, WHITE LIBERAL: DO NOT PICK MY HEROES

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. STOKES. Mr. Speaker, white liberals are often perplexed by the negative reactions their pronouncements sometimes evoke in the black community. Solidly confident of the purity of their motives, the liberals become very distressed when hostility and resentment greet a well-intentioned act or statement.

This need never be the case. But it will continue to occur—at least until our white friends finally comprehend the distinction between supporting black solutions to black problems and dictating the substance of those solutions. Nowhere is this pedantic tendency more apparent than in the continual efforts of the white liberal press to decide which blacks are capable of leading their own communities.

We have recently seen another example of this irritating habit in a New York Times magazine piece indicating that Whitney Young has somehow deserted the black cause. That article prompted an understandably angry response from my close friend, Columnist Carl Rowan. Mr. Rowan's article not only points out the absurdity of the charges leveled against Mr. Young, but also accurately relates the high degree of black vexation with such unsolicited meddling in black affairs.

I feel that it would be helpful for all of my colleagues to have the opportunity to digest Mr. Rowan's remarks:

[From the Plain Dealer, Sept. 27, 1970]

IN DEFENSE OF WHITNEY YOUNG: LISTEN, WHITE LIBERAL: DO NOT PICK MY HEROES

(By Carl T. Rowan)

WASHINGTON.—Few things burn me more than white liberals arrogating to themselves the right to decide which black man is a soul brother and which is an Uncle Tom.

Most irritating and destructive of all those in the communications media who snidely feed the suicidal notion that the essence of manhood is an angry black youth with a rusty rifle, holed up in a sandbagged outhouse, challenging the National Guard to a shootout.

The New York Times magazine was guilty of just this kind of liberally intentioned madness last Sunday when it ran a piece which would lead readers to believe that Whitney M. Young Jr., director of the National Urban League, is the biggest Uncle Tom in America.

Burying Young in a grave of shallow praise, the Times writer said, oh, so unsubtly, that Young may be not a black leader but an "oreo cookie—that is, black on the outside but white inside."

What are the 49-year-old Urban League leader's sins?

1. He "saunters along the corridors of power," hobnobbing on a first-name basis with Henry Ford II and other kingpins of the establishment, author Tom Buckley tells us.

As far as I'm concerned, the "white liberal" who indicts a black man for reaching this level is revealing his low regard for blacks. For he is saying that no black man is smart enough, witty enough or otherwise gifted enough to socialize with the cream of the whites—unless he has "sold out."

2. Young is also suspect because he has increased the National Urban League's budget fiftyfold, with most of the money coming from whites to whom Young supposedly is beholden.

The argument is absurd for many reasons. Even the Black Panthers get most of their money from whites—at home or abroad—for the simple reason that most of the surplus money is still in the hands of whites. If heavy dependence on "white money" is utterly compromising, then all the effective civil rights leaders have a streak of Uncle Tom running from wallet right up through spine.

The truth is that Young deserves little credit or blame for the fact that corporations, foundations and government agencies suddenly pumped millions of dollars into an organization which once operated on a shoestring. The looters and burners scared hell out of the establishment, and tycoons suddenly began looking for ways to spend some conscience money and to undertake some fear-induced employment of blacks.

Are Young and the Urban League to be condemned because they were shrewd enough to maintain contact with the power structure and thus become a channel for long-overdue resources once the leaders of business and industry woke up?

3. Then this all-wise white liberal author condemns Young and other civil rights leaders as "accommodationists" who got so close to and friendly with Lyndon B. Johnson that they became tainted by the Vietnam war.

What the typewriter theoretician forgets is that Johnson was a true friend of black equality. He was browbeating Congress into passing the law that makes it possible today for Nobel-prize-winner Ralph Bunche or Supreme Court Justice Thurgood Marshall to go to New Orleans or Jackson, Miss., and not worry about where he will sleep. Johnson was giving Negroes real "black power" in government and at the polls, all over the nation.

Since when is it a matter of contempt to cooperate with a president who is the friend you have sought for a century?

4. The article hints that blacks are, or ought to be, outraged because Young on occasion has publicly made statements that give the Nixon administration the benefit of the doubt. The article insinuates that Young was bucking to become "Mr. Big Black Man" in the Nixon administration, a glaring contradiction with the article's earlier assertion that Young "has turned down governmental appointments that would have provided the capstones for eminent careers."

Young would be a fool to join this administration as its link to the black community, but the truth is that the Nixon administration and black people both need a black man in the White House who has intellect, guts and the respect of the black people.

There will never be such a man if publications like the Times continue to push this absurd notion that any black man who "fraternizes" with the power structure is unfit to be called a black leader.

What this Times article suggests (as do a lot of self-styled white saviors of the downtrodden black man) is that for a black man to prove his mettle today he must show suicidal instincts—with a violence of both rhetoric and action.

The black man's search for freedom is too complicated for any such madness. Black people need a multiplicity of leaders mounting attacks on a wide variety of fronts. Without the Youngs along with the Stokely Carmichaels, the Roy Wilkinses, along with the Rap Browns, the Julian Bonds along with the Bobby Seals, the Jesse Jacksons along with the Eldridge Cleavers, the black man isn't going anywhere.

Surely the last thing black people need is white liberals sowing seeds of division, distrust and strife among blacks.

So I say to hell with the white media know-it-alls who insinuate that unless we are all Bobby Seales and Angela Davises we forfeit the right to be called black—or men.

Tom Buckley and the Times can pick their own heroes; we black people will pick the black ones.

A REPLY TO THE SCRANTON REPORT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. MICHEL. Mr. Speaker, declaring that the Nation and its campuses face a crisis of violence and a crisis of understanding, the President's Commission on Campus Unrest then goes on to draw some very naive and very wrong conclusions from its investigations.

The Assistant Attorney General for Civil Rights, Jerris Leonard, in a Chicago speech, has set the record straight by laying the blame for campus disorder on the doorstep of those truly responsible instead of on the present administration.

The following Chicago Tribune editorial of October 6, 1970, puts the issue of campus unrest in proper perspective and rebuts the fuzzy contentions of the Scranton panel, and I include the editorial at this point in the RECORD:

A REPLY TO THE SCRANTON REPORT

Jerris Leonard, assistant attorney general for civil rights, has provided the administration's first formal reply to the Scranton commission's report on campus unrest. Speaking at a meeting of the Council of Community College Boards in Chicago, he said that the federal government is "not in the business of keeping peace on the campus."

"The primary responsibility for maintaining order in our colleges and universities," he said, "rests with administrators, faculty, and you, the trustees. And the plain truth is that in many cases those who administer our universities simply have not had the foresight to respond to the legitimate needs of their students, or the guts to stand up to the illegitimate and illegal activity of a small percentage bent on tearing down every one of our institutions."

No doubt Mr. Leonard will be accused of passing back to the universities the buck that the Scranton commission had passed to the administration by calling on the President, as its first recommendation, to exercise his "reconciling moral leadership."

The buck belongs where Mr. Leonard has put it. The Scranton commission's report fails to distinguish adequately between dissent and violence; it seems to suggest that to stop violence it is necessary to remove the causes of dissent. Removing the causes of dissent has been the goal of democratic governments for as long as they have existed. To remove them would be to create a Utopia, and it is a delusion to think that this can be brought about now or perhaps ever. There is always going to be dissent.

The commission is probably right in saying that the war is the chief cause of unrest on the campuses today; but to suggest that the President should end the war in order to end the dissent is begging the question. The issue is not whether to end the war but how to end it, and polls show that most Americans are satisfied with the way the President is going about it. Does the Scranton commission want the government to alter its policies to meet the objections of a minority of the people? If so, it is preaching the submission to special interest minorities which is abhorrent to most of us and to the liberals above all.

What, then, is the President to do? He can't remove the causes of dissent, he can't appease the dissenters, and neither must dissent be stifled. What is called for, clearly, is to stop confusing dissent and violence. The very name of the commission contributes to this confusion, because "unrest" is a vague sort of word halfway between the two, one that suggests that violence is an inevitable manifestation of dissent. In parts of its report, the committee itself doesn't seem to be quite sure what it is trying to stop.

It is violence that must be stopped, not dissent. The commission has made several concrete and sensible suggestions for dealing with violence, but they all call for action by college administrators or local officials—not by the President. To put the primary responsibility on the President, whose moral leadership means little to the terrorists, is to divert attention from what has to be done.

HOUSE OF REPRESENTATIVES—*Wednesday, October 7, 1970*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Restore unto me the joy of Thy salvation: and uphold me with Thy free spirit—Psalm 51: 12.

O God of peace, who hast taught us that in returning and rest we shall be saved, in quietness and confidence shall be our strength: by the might of Thy spirit lift us, we pray Thee, to Thy presence, where we may be still and know that Thou art God.

Strengthen and sustain us that the tensions and trials of this tumultuous time may not break our spirits, nor cause us to give up the struggle for life, liberty, and the pursuit of happiness for all.

Bless these Members of Congress who represent our people, who would serve Thee faithfully, and who would maintain order in our land and peace in our world. Grant that they may prove to be true to every task committed to their care. We ask it in the name of Him for whose kingdom we pray. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Leonard, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 140. An act to authorize the establishment of the Andersonville National Historic Site in the State of Georgia, and for other purposes;

H.R. 4172. An act to authorize the Secretary of the Interior to provide financial assistance for development and operation costs of the Ice Age National Scientific Reserve in the State of Wisconsin, and for other purposes;

H.R. 9548. An act to amend section 15-503 of the District of Columbia Code with respect to exemptions from attachment and certain other process in the case of persons not residing in the District of Columbia;

H.R. 10837. An act to provide for the conveyance to Pima and Maricopa Counties, Ariz., and to the city of Albuquerque, N. Mex., of certain lands for recreational purposes under the provisions of the Recreation and Public Purposes Act of 1926;

H.R. 12960. An act to validate the conveyance of certain lands in the State of California by the Southern Pacific Co.;

H.R. 13125. An act to amend section 11 of the act approved February 22, 1889 (25 Stat. 676) as amended by the act of May 7, 1932 (47 Stat. 150), and as amended by the act of April 13, 1948 (62 Stat. 170) relating to the admission to the Union of the States of North Dakota, South Dakota, Montana, and Washington, and for other purposes;

H.R. 15012. An act to authorize a study of the feasibility and desirability of establishing a unit of the national park system to commemorate the opening of the Cherokee Strip to homesteading, and for other purposes; and

H.R. 18410. An act to establish the Fort Point National Historic Site in San Francisco, Calif., and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 18731. An act to increase from $20 to $40 per day the per diem allowance authorized in lieu of subsistence for members of the American Battle Monuments Commission when in travel status.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works; which was read and, together with the accompanying papers, referred to the Committee on Appropriations:

WASHINGTON, D.C.
September 24, 1970.

Hon. JOHN W. MCCORMACK,
The Speaker, House of Representatives,
The Capitol.

DEAR MR. SPEAKER: Pursuant to the provisions of Section 2 of the Watershed Protection and Flood Prevention Act, as amended, the Committee on Public Works has approved the work plans transmitted to you which were referred to this committee. The work plans involved are the following by State, watershed, Executive communication number, and approval date:

XUM

Arkansas, Spadra Creek, 1734, September 22, 1970.

Arkansas, Upper Petit Jean, 1734, September 22, 1970.

Georgia, Headwaters of the Chattooga River, 1734, September 22, 1970.

Georgia, North Oconee River, 1734, September 22, 1970.

Indiana, Lost River, 1734, September 22, 1970.

Maryland, St. Mary's River, 1734, September 22, 1970.

North Dakota, Upper Turtle River, 1734, September 22, 1970.

Oregon, Pine Valley, 1734, September 22, 1970.

South Carolina, Rocky Creek, 1734, September 22, 1970.

South Carolina, Wilson Creek, 1734, September 22, 1970.

Texas, Hog Creek, 1734, September 22, 1970.

Texas, Upper Cibole, 1734, September 22, 1970.

Arkansas, Upper Ouchita River, 2178, September 22, 1970.

Colorado, Crooked Arroyo, 2178, September 22, 1970.

Illinois, Clear Creek, 2178, September 22, 1970.

Maine, Fish Stream, 2178, September 22, 1970.

Massachusetts, West Branch of the Westfield River, 2178, September 22, 1970.

Michigan, East Upper Maple River, 2178, September 22, 1970.

Mississippi, Bahala Creek, 2178, September 22, 1970.

Montana, Newland Creek, 2178, September 22, 1970.

Oregon, McKay-Rock, 2178, September 22, 1970.

Sincerely yours,

GEORGE H. FALLON,
Chairman.

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PERMISSION FOR SMALL BUSINESS INVESTIGATIONS SUBCOMMITTEE TO SIT DURING GENERAL DEBATE TODAY

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the Small Business Investigations Subcommittee be permitted to sit today during general debate.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

Mr. GROSS. Mr. Speaker, reserving the right to object, would the gentleman state whether there are out-of-Washington witnesses?

We have rather important business coming up this afternoon.

Mr. SMITH of Iowa. Yes; and we have some very important witnesses. This has been cleared with the minority side.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PROPOSED AMENDMENT TO THE CONSTITUTION: HAVE NEW CONGRESS MEET AFTER ELECTIONS

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, I am introducing a constitutional amendment today which would change the terms of Congressmen and Senators in order to avoid the possibility of future lameduck sessions of Congress, such as the one now scheduled for November 16.

My amendment will set the terms of Senators and Representatives to begin on the Tuesday following the third Monday in November, 2 weeks after the date now set by statute for the general election. It is true that contested elections might not be resolved before the new Congress would meet. But this problem would involve at most only a very few seats. The disfranchisement would certainly be less than the disfranchisement implicit in a lameduck session. Moreover, other countries such as Great Britain successfully meet this problem now. In their recent general election, held on June 18, the Labor Party was defeated and the new Parliament was still able to convene 11 days later on June 29 with no contested elections pending.

The present system of having a 2-month waiting period after the election is more in tune with horse and buggy days when Congress had much less business to conduct and when traveltime to Washington was so great that Senators and Congressmen preferred to wait until after Christmas to make the long journey. Today there is no reason to convene a lameduck Congress when it is possible to bring the new Senators and Representatives to Washington instead.

Mr. Speaker, I realize that there is not enough time this Congress to act on this amendment, even with the post election session. I do hope that the importance of this amendment will not be forgotten when the lameduck is behind us next January when the new Congress convenes.

CONSTRUCTION OF SOVIET SUBMARINE BASE IN CUBA CANNOT BE TOLERATED

(Mr. WYMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYMAN. Mr. Speaker, this country cannot tolerate the construction of a Soviet submarine base in Cuba.

The national security of the United States is directly threatened by the construction of a relatively invulnerable concrete fortress for Communist missile-carrying nuclear-powered submarines 90 miles off our shores.

The military and naval tactical consequences of such a development are of near-disaster proportions and no amount of "do not talk about it" directives from the Pentagon can suppress this fact.

Whatever it takes, it is the responsibility of the Government of the United States to take immediate action to stop any further construction of a Soviet military naval base in Cuba even if President Nixon has to use the "hot line." To me, it makes little sense to spend billions of dollars to hold the line against Communist advances in Indochina and, at the same time, allow the Communists to build missile-carrying submarine bases less than 100 miles from the United States of America.

It was said that the late President Kennedy stopped the Soviets and made them take their missiles out of Cuba. Maybe they did—and maybe they did not. We never actually took a look except from high-flying aircraft. In the meantime the security situation has deteriorated in Cuba to the point where action now to preserve and protect and defend the security of the United States is an imperative and solemn obligation of this Government. The crisis is every bit as great or greater than it was in 1963.

FARM BILL

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEBELIUS. Mr. Speaker, as of today, the new farm bill is still in a joint Senate-House conference where our colleagues are earnestly trying to work out the differences between the Senate and House bills.

At the same time, we have just learned Congress plans to recess for 4 weeks beginning October 14 and then after election, hold the first lame duck or post-election session of Congress in 20 years.

I want to go on record as opposing this for two reasons: First, since it has been determined we will make a whole new start on much of the pending legislation next session, I feel Congress should stay on the job, finish its emergency business, and then adjourn. We do not need a political postelection session.

Second, although the press throughout rural America has been alert to the need, much of our national press and many of my colleagues are not aware we must take action before October 14 regarding new farm legislation.

Wheat farmers will face a wheat referendum October 15 unless we get a new farm bill. The referendum, already postponed once because of congressional footdragging, would cost the taxpayer an unnecessary $2 million. Either choice the referendum offers in the way of a farm program means much less income for farmers than any bill now being discussed in Congress.

Mr. Speaker, we do not need an expensive wheat referendum giving the farmer no real choice. We do not need a lame duck session. We do need a good farm bill and we need it now. I urge my colleagues who have worked so hard in conference committee to report a bill and for Congress to act on this legislation prior to the announced recess next Wednesday.

AUTHORIZING PRINTING OF ADDITIONAL COPIES OF THE COMMITTEE ON INTERNAL SECURITY ANNUAL REPORT FOR 1969

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91-1572) on the concurrent resolution (H. Con. Res. 712), authorizing the printing of additional copies of the committee's annual report for the year 1969, House Report No. 91-983, 91st Congress, second session, and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 712

Resolved by the House of Representatives (the Senate concurring), That there be printed for the use of the Committee on Internal Security five thousand additional copies of the committee's annual report for the year 1969, House Report Numbered 91–983, Ninety-first Congress, second session.

Mr. DENT (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the concurrent resolution be dispensed with and that it be printed in the Record. By way of explanation, I would say it has been unanimously accepted.

Mr. GERALD R. FORD. Mr. Speaker, reserving the right to object, I would like to ask the distinguished gentleman from Pennsylvania whether this resolution was approved by the Committee on House Administration unanimously.

Mr. DENT. Yes, it was. I will inform the gentleman from Michigan that all resolutions that I shall present today were passed unanimously.

Mr. GERALD R. FORD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING AS A HOUSE DOCUMENT "THE PLEDGE OF ALLEGIANCE TO THE FLAG"

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–1573) on the concurrent resolution (H. Con. Res. 732), providing for the printing as a House document of "The Pledge of Allegiance to the Flag," and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 732

Resolved by the House of Representatives (the Senate concurring), That House Document 225, 84th Congress, the pamphlet entitled "Pledge of Allegiance to the Flag" be reprinted, and that a total of two hundred and ninety-one thousand six hundred copies be printed, of which two hundred and nineteen thousand five hundred shall be for the use of the House of Representatives and seventy-two thousand one hundred shall be for the use of the Senate.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF ADDITIONAL COPIES OF HEARINGS ACCOMPANYING THE LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–1574) on the concurrent resolution (H. Con. Res. 740), authorizing the printing of additional copies of the hearings accompanying the Legislative Reorganization Act of 1970, and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 740

Resolved by the House of Representatives (the Senate concurring), That there be printed for the use of the House Committee on Rules two thousand additional copies of its hearings accompanying the Legislative Reorganization Act of 1970.

With the following committee amendment:

On page 1, line 3, strike out the word "two" and insert in lieu thereof the word "three".

The SPEAKER. The gentleman from Pennsylvania is recognized.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Iowa.

Mr. GROSS. Does the concurrent resolution provide for a reprinting of the bill or the hearings?

Mr. DENT. The concurrent resolution provides for a reprinting of the hearings, and I might say that the need arises because of a great demand from universities, colleges, and institutions of learning for copies for their libraries.

Mr. GROSS. I am not too sure what those copies will contribute to the educational system.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The committee amendment was agreed to.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF ADDITIONAL COPIES OF HEARINGS ENTITLED "CUBA AND THE CARIBBEAN"

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–1575) on the concurrent resolution (H. Con. Res. 748), authorizing the printing of additional copies of hearings entitled "Cuba and the Caribbean" for use of the Committee on Foreign Affairs, House of Representatives, and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 748

Resolved by the House of Representatives (the Senate concurring), That there shall be printed for the use of the Committee on Foreign Affairs, House of Representatives, one thousand five hundred additional copies of the hearings by the Subcommittee on Inter-American Affairs in July and August 1970 entitled "Cuba and the Caribbean".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF ADDITIONAL COPIES OF "SUPPLEMENT TO CUMULATIVE INDEX TO PUBLICATIONS OF THE COMMITTEE ON UN-AMERICAN ACTIVITIES 1955 THROUGH 1968 (84TH THROUGH 90TH CONGRESSES)"

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–1576) on the concurrent resolution (H. Con. Res. 753), authorizing the printing of additional copies of publication entitled "Supplement to Cumulative Index to Publications of the Committee on Un-American Activities 1955 through 1968 (84th through 90th Congresses)," and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 753

Resolved by the House of Representatives (the Senate concurring), That there shall be printed concurrently three thousand additional copies of the publication entitled "Supplement to Cumulative Index to Publications of the Committee on Un-American Activities 1955 through 1968 (Eighty-fourth through Ninetieth Congresses)" for the use of the Committee on Internal Security.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF ADDITIONAL COPIES OF SENATE HEARINGS ON COPYRIGHT REVISION

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 1577) on the Senate concurrent resolution (S. Con. Res. 81), authorizing the prinitng of additional copies of Senate hearings on Copyright Law Revision—S. 597, 90th Congress—and ask for immediate consideration of the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 81

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on the Judiciary two thousand additional copies of parts 1, 2, 3, 4, and index of the hearings before its Subcommittee on Patents, Trademarks, and Copyrights during the Ninetieth Congress on Copyright Law Revision (S. 597).

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PRINTING OF ADDITIONAL COPIES OF "ANATOMY OF A REVOLUTIONARY MOVEMENT: 'STUDENTS FOR A DEMOCRATIC SOCIETY'"

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–1578) on the concurrent resolution (H. Con. Res. 770) authorizing the printing of additional copies of "Anatomy of a Revolutionary Movement. 'Students for

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a Democratic Society,'" 91st Congress, second session.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 770

Resolved by the House of Representatives (the Senate concurring), That there shall be printed for the use of the Committee on Internal Security 5,000 additional copies of the report entitled "Anatomy of a Revolutionary Movement: 'Students for a Democratic Society,", 91st Congress, second session.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL ANNOUNCEMENT

(Mr. **DULSKI** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **DULSKI**. Mr. Speaker, I was absent on official business and missed two rollcall votes. Had I been present and voting I would have voted "yea" on rollcalls No. 326 and No. 327.

HOUSE COMMITTEE ON ADMINISTRATION UNANIMOUSLY APPROVED RESOLUTIONS

(Mr. **SCHWENGEL** asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. **SCHWENGEL**. Mr. Speaker, as a member of the House Administration Committee I want to emphasize that the printing resolutions brought to the House today for approval were unanimously cleared by our committee and that they include very worthwhile and useful items.

House Concurrent Resolution 732 is to reprint copies of "The Pledge of Allegiance to the Flag." It is to me highly encouraging that this publication is so popular. At the modest cost of $6,228.06, the resolution will provide 219,500 copies of the Pledge for distribution. What better investment could we possibly make to stimulate reverence and respect for the flag of our Nation.

It is encouraging also to report to the House that the committee approved and has brought before the House a resolution to reprint 3,000 copies of the Rules Committee hearings on the Legislative Reorganization Act. This is landmark legislation and is much needed to update congressional procedures. The other body, as I am sure all of you know, yesterday, October 6, approved the House-passed reorganization bill without major amendment affecting the House, so this bill stands an excellent chance of becoming law soon. The hearings we have authorized to be printed today will be an invaluable and timely reference on congressional reorganization among interested citizens and scholars.

There are three measures to authorize reprinting of publications of the Internal Security Committee. One is the 1969 annual report. One is the cumulative index to that committee's publication covering the years 1955 through 1968. The index was last updated in 1960. The other is the report "Anatomy of a Revolutionary Movement: 'Students for a Democratic Society,'" which traces the history of the movement. All of these are of continuing interest but are especially significant during these times because of the insidious forces at work which are attempting to undermine our society and our freedoms.

Another resolution approved by the House today is to reprint Foreign Affairs Committee hearings entitled "Cuba and the Caribbean," hearings which were held in July and August of this year. Because of the strategic importance of Cuba to the security and welfare of the entire Western Hemisphere there is naturally a great interest in these hearings. The remaining measure is to authorize reprints of additional copies of Senate hearings on copyright law revision. This Senate resolution has been passed by the other body and House concurrence is required.

CALL OF THE HOUSE

Mr. **PELLY**. Mr. Speaker, I make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

Mr. **ALBERT**. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 331]

Abbitt
Adair
Addabbo
Alexander
Aspinall
Beall, Md.
Berry
Betts
Blackburn
Blatnik
Brock
Brooks
Burlison, Mo.
Burton, Utah
Bush
Button
Cabell
Clark
Clawson, Del
Clay
Conte
Corbett
Cowger
Daddario
Dawson
de la Garza
Derwinski
Dickinson
Dowdy
Edwards, La.
Esch
Evins, Tenn.
Feighan
Fisher
Flynt
Foreman
Frelinghuysen
Fulton, Tenn.
Gallagher
Gilbert
Goldwater
Gubser
Haley
Hanna
Harrington
Harvey
Hébert
Heckler, Mass.
Helstoski
Jarman
Jonas
Jones, N.C.
Landrum
Leggett
Lowenstein
Lujan
Lukens
McCarthy
McClory
McMillan
Meskill
Mollohan
Morgan
Morse
Nedzi
O'Konski
O'Neal, Ga.
Ottinger
Patman
Pirnie
Pollock
Powell
Pryor, Ark.
Purcell
Rees
Reid, N.Y.
Reifel
Rooney, Pa.
Roudebush
Ruppe
Satterfield
Scott
Snyder
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Taft
Thompson, N.J.
Tiernan
Tunney
Whitehurst
Wold
Wyatt
Young

The **SPEAKER**. On this rollcall 333 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION TO FILE CONFERENCE REPORT ON MILITARY CONSTRUCTION BILL UNTIL MIDNIGHT, FRIDAY, OCTOBER 9

Mr. **RIVERS**. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until midnight Friday, October 9, to file a conference report on H.R. 17604, the Military Construction Act.

The **SPEAKER**. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

ORGANIZED CRIME CONTROL ACT OF 1970

Mr. **CELLER**. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (S. 30) relating to the control of organized crime in the United States.

The **SPEAKER**. The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill S. 30, with Mr ROONEY of New York in the Chair.

The Clerk read the title of the bill.

The **CHAIRMAN**. When the Committee rose on yesterday, the gentleman from New York (Mr. CELLER) had 12 minutes remaining, and the gentleman from Ohio (Mr. MCCULLOCH) had 50 minutes remaining.

Before the Committee rose the gentleman from Texas (Mr. ECKHARDT) had the floor, and the gentleman from Texas has 1 minute remaining and is recognized at this time.

Mr. **CELLER**. Mr. Chairman, I yield the gentleman an additional 3 minutes.

Mr. **ECKHARDT**. Mr. Chairman, S. 30, the crime bill, is a fraud upon the public as time will prove. It is a monster. I make these statements with the utmost respect for the distinguished Committee on the Judiciary and its respected chairman, EMANUEL CELLER.

The committee contains some of the most effective and able lawyers in the House. For instance, the gentleman from Virginia (Mr. POFF) is a man who is very learned in the law, as I have frequently observed in colloquy on the floor. But he has exercised his great expertise frequently to walk with exquisite precision on the very outside borders of the Constitution. I think he has in this case overstepped.

The chairman of the committee is indeed a man who has more respect, I think, for the constitutional process than most any Member of this House—a man who is devoted to drawing legislation which is practical and effective. I recognize that with what he had, he did his best. I recognize the same qualities in the capable ranking minority member, the gentleman from Ohio (Mr. MCCULLOCH).

But, after all, the chairman was merely the obstetrician who brought this bill to light. He had nothing to do with its genetic constitution.

To adapt the words of Edmund in King Lear—this bill was got 'tween sleep and wake, in the dull, stale, tired bed of the Justice Department.

It lulls the public into a feeling of false security when considered in light of those uncertainties introduced by its unconstitutional provisions; its overloading of the Federal courts by moving large substantive areas of criminal law, formerly totally within the police power of the State, into the Federal realm; its new authority to harass police and law-enforcement authority by meddlesome or even politically motivated special grand juries authorized to probe public officials' admittedly legal activities.

When all of these considerations are taken into account, the bill is a backward step.

It is always popular to offer cheap solutions to difficult public questions. It is quite cheap in money to merely increase penalties, to expedite conviction by shortcutting due process and shortcropping the right of trial by jury. But in the long run it is the most expensive course we can take, because if it were upheld, it would be bought at the cost of validity and respect for law.

I am most concerned, as I think some of my colleagues have observed, about what is called the dangerous special offender provisions of this bill and of the drug bill. It is found in this bill in title X. I would like to say a little about it because one must know what it means to know precisely how it removes from the consideration of the jury a very serious element of what you may either call crime, as I prefer to call it, or you may call status of "dangerous special offender," as the author of this provision, the gentleman from Virginia (Mr. POFF), prefers to call it. But I think whatever you call it you must come to the same conclusion as to how the offense—or the status if you prefer—is to be proved if the act is to stand constitutional muster.

A person accused of factual elements of the crime, or that which justifies a sentence—and I know no difference between those terms—a person so accused under American law, and under English law before us, was entitled to have a trial before a jury in all cases of serious offenses. That, of course, has been so clearly established by the Supreme Court in Duncan against Louisiana in recent times that it can no longer be brought into contest—except for the fact that I suppose everything can be brought into contest today.

I have tried a case before a justice of the peace who, at the beginning of the trial, simply remained mute, and after a long period of time he said:

> Mr. Eckhardt, proceed to defend your client.

I asked:

> If Your Honor please, will you instruct the jury that he must be held not guilty?

He replied:

> Well, Mr. Eckhardt, I understand the law to be that a man is guilty until he proves his self innocent.

I was free to admit that I had not briefed that point for that case, but would later give the authority.

I had not thought I would have to argue this question to the Attorney General of the United States.

The Poff amendment, the dangerous special offender provision of S. 30, operates this way:

If the prosecuting attorney intends to ask for enhanced sentencing, he gives a notice in advance and he makes the allegation that the defendant is a dangerous special offender who, upon conviction, is subject to enhanced sentencing and, in addition, he sets out with particularity the reasons why he feels the defendant to be a dangerous special offender.

If the defendant is convicted of a felony, after such notice has been properly given, the court, sitting without a jury, holds a presentencing hearing which may be based upon a report compiled by a probation officer. The report itself would necessarily be constituted, in major part, of the hearsay testimony of various persons from whose statement is has been compiled. Also, it could be a mixture of statements of alleged facts, opinions, innuendo, and inflammatory material relative to the offense upon which the defendant was found guilty by the jury.

Somewhat ameliorating these infirmities of the report are the following assurances to the defendant:

First, his counsel may, except in extraordinary cases, inspect the report sufficiently prior to the hearing as to afford a reasonable opportunity for verification of the facts recited therein:

Second, he is afforded compulsory process to bring in as witnesses persons whose hearsay testimony appears in the report, persons who would refute the report, or other persons who might give material evidence; and

Third, he is afforded the right to cross-examination of such witnesses as appear.

These protections are inferior, however, to the protection he would receive if the case were tried before the court, mainly because of the fact that he is not entitled to a jury to determine whether or not the facts are valid. But in addition the following infirmities also exist:

First, the prosecutor does not have to elect whether or not to use a witness the disclosure of whose identity would make him useless in the future as an informer or would endanger him, or to use testimony which might seriously disrupt a program of rehabilitation.

This is because, in what is called "extraordinary cases," the court may protect confidential sources of information. This would, of course, deny to the defendant the right of cross-examination as well as the right of jury trial.

Second, the defendant is at the mercy of the judge's determination as to what material is not relevant to a proper sentence, and although this question may be carried forward into an appeal, as I understand it, the actual material may continue to be considered in camera by the courts.

Third, the defendant has the tremendous practical disadvantage of having to go forward with the burden of obtaining firsthand testimony and of bringing in live witnesses to test or to refute material which may be easily brought in against him in the report.

In this way the act permits the court to hold, contrary to long-established English and American law, that a person is guilty upon the basis of the report until he proves himself innocent. Such result is also found in the provision that requires a person to carry the burden of proof that certain earnings were not earned as the fruits of a criminal enterprise in which he is said to have engaged.

I think, that the dangerous criminal offender title of the bill is unconstitutional because it deprives the defendant of trial by jury in a serious criminal case. An offense containing additional elements and carrying a higher penalty is to be proved under title X in a hearing before a judge without a jury and without adequate safeguards of due process, confrontation, and cross-examination. It is clear that this does not comport with the sixth amendment that provides, with respect to Federal criminal prosecutions:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed.

I cannot vote for this bill when it contains patently unconstitutional provisions because I swore when I was seated in this House to support and defend the Constitution. Every one of us is as much under that duty as is a member of the Supreme Court.

Of course, this flaw may be eliminated, and will be eliminated, at either one or the other of two stages of the government process: in Congress or in the courts. I have no doubt at all that it will be eliminated because, as I have said, it is absolutely clear that the denial of jury trial in this way is unconstitutional.

I urge my colleagues to correct the flaw here at this stage for two reasons:

First. Because you and I are under a duty by our oaths of office to uphold the Constitution, and

Second. The flaw should be corrected at a time when it will be doing the least harm to the enforcement of criminal law.

I have heard it argued on this floor that if a law is unconstitutional the Supreme Court will correct it, that we need not worry about it, that we should press as far as we can toward the general objective of the statute and let the Supreme Court worry about unconstitutionality. Let me tell you what is wrong with that argument:

There is a grave and important difference and result if the constitutional language is stricken at the court level, particularly in the field of criminal law. In order to correct the constitutional defect the court must take action in a specific case by reversing a conviction of a person who is at least potentially a dangerous criminal.

This defect is particularly present in this case. The dangerous criminal offender is a person who has been convicted of one crime. He is sought to be sentenced, in effect, upon another. The fact that the statute is brought into play indicates that he is, at least arguably, a dangerous offender, a person engaged in organized crime. The chances are that he could be convicted under existing law either as a habitual criminal or as one guilty of an extremely serious crime carrying a high sentence. But the prosecutor has been tempted by title X to convict him of any felony, like that of pass-

XUM

ing of a marihuana cigarette with a maximum 5-year penalty, because it is thought that the sentence can be enhanced to 25 years.

When many people are tried under the theory of title X, sentenced to up to 25 years and then the court strikes down the provision under which they are sentenced, these persons are either freed or left subject only to a light sentence. This is the danger of delaying a determination that title X is unconstitutional. This is the danger of shirking our duty and passing it on to the Supreme Court.

Mr. PODELL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New York.

Mr. PODELL. Mr. Chairman, today this House must make an exceedingly difficult decision. It must take a stand on one of the most controversial measures to come before Congress this session—the Organized Crime Control Act, S. 30. It is a measure that passed the Senate overwhelmingly last January, and yet it shows serious disregard for constitutional and procedural safeguards which form the cornerstone of our system of justice.

The bill recognizes that organized crime poses a serious threat to life in a free society. It recognizes that prosecutors seeking to curb its influence have been frustrated in their efforts to convict these people who live as parasites on our society—feeding on the weaknesses of others.

XUM

There are some provisions that do provide some effective tools to combat the problem. There are provisions for handling grand juries; money is authorized for the protection of Federal witnesses; there are provisions for possible civil remedies in the antitrust field which may allow for easier convictions.

But just as S. 30 goes some way toward dealing with the challenges that organized crime poses to a free society, so it seriously impairs many of the rights that actually make up the definition of a "free society." The question we must answer then is how much, if any, tradeoff is desirable? We are now faced with the age-old problem of determining whether the means justify the ends. And here we do not even know whether these means, if enacted, would actually achieve the desired ends; that is, the decrease of organized crime in our society.

If organized crime is known to prey on millions of innocent people, does it follow that we give the Government the tools to attack individual privacy and the concept of due process—even of the innocent? Should we determine ahead of time that because there is a possibility that an individual may be guilty that he should be written off the roles of individuals protected by our Constitution? Do we assume that the innocent do not require such safeguards and rights? I say "no" to all these questions. Such infringement endangers both the innocent and the guilty.

The section of the bill that best typifies the dangers that I am warning against is title VII. This section would limit in all Federal and State civil and criminal proceedings disclosure of information illegally obtained—through wiretapping—or from testimony compelled under grant of immunity to those defendants seeking to challenge the admissibility of the evidence in question. Also, it would prohibit any challenge on the admissibility of this evidence if the gathering of the information occurred more than 5 years before the crime was committed.

In other words, if the wiretapping occurred before June 1968, and an individual committed an offense 5 years later, the defendant would not be permitted to challenge the admissibility of the evidence based on its being the fruit of an unlawful Government act.

This provision then puts a timetable on the protection that our Constitution affords the individual. It establishes a statute of limitations on the provisions of the Constitution. The American Bar Association of New York said:

> Of all the proposals contained in S. 30, we believe that Title VII is the most ill-conceived. Indeed, the very purposes of the Title and its purported justifications are antithetical to due process concepts and the rule of law.

I believe that title VII should be stricken from this bill.

Also contained within the bill is a provision that special grand juries have the right to issue reports on noncriminal matters. For example, if the grand jury heard and considered evidence of purported organized criminal activity of an individual, and found that there was insufficient evidence to warrant an indictment, it could issue a report of findings of noncriminal misconduct by the individual. And yet the person who is the subject of the report would have a chance to offer his side only after the report was written.

Title X of the bill seems to be a violation of the due process of law. It says:

> If it appears by a *preponderance of evidence* that the defendant is a dangerous special offender, the court shall sentence the defendant to imprisonment for an appropriate term not to exceed 25 years.

This is using a lesser standard of evidence, a civil standard, in a criminal proceeding. Other serious objections can be raised about the title, including the looseness of the definitions involved, but this fact forms the heart of my objections.

The court is seriously endangering the rights of the individual by adding on a penalty of this nature using this standard of evidence.

Our former Attorney General, Ramsey Clark, talking of crime prevention measures, said:

> Crime is not controlled by wiretapping. Rather it undermines the confidence of people in their own government. In the long run, it demeans human dignity.

These are strong words and convey a sense of the problem we face today.

It is true that crime is the No. 1 domestic problem facing this Nation today. Our citizens have the right to live their lives free from fear and safe from harassment by criminals. Yet, we must safeguard another set of freedoms and rights in the process. We must make certain that the rights outlined in our bill of rights—which form the basis for the freedom and liberty this country has known—are not infringed upon. In acting today, let us not infringe upon one freedom to bring about another.

Our President, in a letter to congressional leaders dated May 2, 1970 said:

> We damage respect for law, we feed cynical attitudes toward law, when we ride roughshod over any law, let alone any constitutional provision because we are impatient to achieve our purposes. To pass a popular measure despite the constitutional prohibition, and then to throw on the court the burden of declaring it unconstitutional, is to place a greater strain and burden on the court than the founding fathers intended, or than the court should have to sustain.

Perhaps the Congress should act to assure that the President will practice what he preaches.

Mr. McCULLOCH. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. POFF).

Mr. POFF. Mr. Chairman, I take this time in order to explain in more definitive detail the titles of the bill seriatim.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield to me?

Mr. POFF. I am glad to yield to the gentleman from Oklahoma (Mr. EDMONDSON).

Mr. EDMONDSON. The last sentence under section 846 of title XI states:

> In addition to any other investigatory authority they have with respect to violations of provisions of this chapter, the Attorney General and the Federal Bureau of Investigation, together with the Secretary (of the Treasury), shall have authority to conduct investigations with respect to violations of subsection (d), (e), (f), (g), (h), or (i) of section 844 of this title.

This appears to give overlapping jurisdiction and could result only in duplication of effort and possible confusion. What agency really is intended to have primary jurisdiction over subsections (d) through (i)?

Mr. POFF. Mr. Chairman, I call the gentleman's attention to the sentence immediately preceding the sentence quoted, which reads as follows:

> Nothing in this chapter shall be construed as modifying or otherwise affecting in any way the investigative authority of any other Federal agency.

The criminal provisions of section 844, subsections (d) through (i), perpetuate and expand existing provisions under section 837, title 18, United States Code, which will be repealed by this bill. The FBI presently has primary jurisdiction over section 837 of title 18, and it is the intent of Congress to continue this primary jurisdiction over subsections (d) through (i) of section 844.

The Department of the Treasury was brought into this matter merely to perpetuate the limited jurisdiction that Department now has under chapter 44, sections 921–928, title 18, dealing with the unlawful possession or receipt of firearms and destructive devices, including explosives, bombs, and incendiaries. The Alcohol, Tobacco Tax and Firearms Division of the Department of the Treasury exercises that jurisdiction and will continue to do so under this legislation. But its jurisdiction in this respect is not expanded by this legislation, nor is it the intent to give it concurrent jurisdiction with the FBI.

The Department of the Treasury does, however, have primary jurisdiction over the regulatory provisions of title XI of this bill, and I think this is clearly stated in the bill.

Mr. EDMONDSON. I thank the gentleman.

Mr. POFF. Mr. Chairman, it is important to understand the full context of each title of this bill.

TITLE I—SPECIAL GRAND JURY

Mr. Chairman, title I of S. 30 establishes special grand juries in the major metropolitan areas of the Nation lying in judicial districts having in excess of 4 million inhabitants. This would include these districts: Massachusetts, the eastern and southern district of New York, New Jersey, the eastern and western districts of Pennsylvania, the southern district of Florida, the eastern district of Michigan, the northern and southern district of Ohio, the northern district of Illinois, and the northern and southern districts of California. When the Attorney General determines a need in other districts, based upon organized crime activities in the district, special grand juries will be convened on a case-by-case basis. The district court of its own volition may also order an additional special grand jury impaneled when the volume of business requires it. These special grand juries will meet at least once in every 18-month period. They will ordinarily serve for an 18-month term, subject to extension as necessary for the completion of their business so long as the total time served does not exceed 36 months.

Because it has been deemed advisable to give the special grand juries, whose function it is to inquire into sensitive organized crime activities, a degree of autonomy beyond that enjoyed by grand juries generally, the bill provides that when a district court fails to extend a grand jury's term upon its request or discharges it before it has completed its business, the district judge's decision may be appealed to the chief judge of the circuit court by the grand jury upon a majority vote by its members. The special grand jury will continue to sit pending review of the district court's action. The provision will assure against the dismissal of a special grand jury conducting an organized crime investigation prior to the completion of its work.

In addition to rendering indictments, the special grand juries upon the completion of their terms, or extensions thereof, are expressly authorized to file reports, first, on organized crime conditions in their districts; and, second, on the apparent noncriminal misconduct in office of appointed public officials, where an alleged misfeasance or malfeasance relates in some way to organized criminal activities, as the basis for a recommendation of removal or disciplinary action. Where the reports concern public officers, the persons named in the report are afforded a number of safeguards to protect them against unjustified prejudicial action. The protections afforded include the right to appear and summon witnesses before the grand jury prior to the filing of its report, and an opportunity to file an answer which will be attached to the report. The report will not be accepted by the court, or filed as a public record unless the court is satisfied that any public officer named therein has been accorded these privileges, and unless the court finds that the report is supported by a preponderance of the evidence heard by the special grand jury. Prior to publication of the report, a person named therein or affected by it will also have a right of review in the circuit court of appeals. Reports which reflect organized crime conditions in the community must be confined to general observations based upon the facts revealed in the course of authorized criminal investigations—they may not be critical of identified individuals.

These provisions carry out several important recommendations of the President's Commission on Law Enforcement and the Administration of Justice. The Commission recommended that at least one investigative grand jury be impaneled annually in each jurisdiction that has major organized crime activity, and that the grand jury's term be extended whenever it can show that its business remains unfinished at the end of a normal term. The Commission also suggested that judicial dismissal of grand juries with unfinished business should be appealable to a higher court, and that provision should be made for suspension of the dismissal pending the appeal, since the possibility of arbitrary termination of a grand jury by a supervisory judge would constitute a danger to successful completion of an investigation. The Commission further recommended that when a grand jury terminates, it should be permitted by law to file public reports regarding organized crime conditions in the community—report, "The Challenge of Crime in a Free Society," page 200.

The experience of Federal prosecuting attorneys attests the validity of the Commission's recommendations. Thomas J. McKeon, who served as a special assistant in charge of a Federal strike force formed in Detroit, Mich., in February 1968, has emphasized the importance of the grand jury to an organized crime investigation. In an article, entitled "The Strike Force" published in the American Bar Association Journal, May 1970, Mr. McKeon recounts the operations of this highly successful unit. With reference to the role of the grand jury, Mr. McKeon says:

> A twenty-three member special federal grand jury was impaneled in Detroit through the cooperation of the chief judge and the entire bench of the district court to sit for an eighteen-month period. Regular federal grand juries usually sit for six consecutive months, and then a new grand jury is impaneled. Organized crime investigations are complex, and an investigation exceeding six months is more the rule than the exception. Therefore, the prospective grand jurors were put on notice by the chief judge that they would sit for the full eighteen-month period.
>
> Over this period and prior to their discharge on September 3, 1969, the grand jury returned forty-nine indictments charging a total of 101 defendants with various federal violations. The indictments ranged from income tax evasion, perjury, counterfeiting, interstate and international gambling, and conspiracy to the smuggling of narcotics and jewels, thefts from interstate commerce, illegal importation of aliens, embezzlement, extortionate loan sharking, sale, possession and illegal transportation of firearms, false ownership of bars, conspiracy to transport obscene matters in foreign commerce, and the deprivation of the rights of union members by the use of force and violence. The grand jurors sat biweekly in one to four-day sessions and heard testimony from hundreds of witnesses. (*Supra*, Vol. 56: 455)

While the primary function of a grand jury is to indict, and the special grand juries which are authorized by title I will be summoned only as required to inquire into alleged violations of Federal criminal laws; as I have indicated, they will also be authorized to report upon organized crime conditions as they find them. Through the exercise of its reporting function the grand jury is capable of performing an invaluable service in alerting the community to the threat posed by the criminal syndicates.

Law-enforcement authorities assert that without sustained public pressure, programs to combat the evil of organized crime have little likelihood of lasting success. Sporadic attempts have been made to focus concentration upon the activities of the criminal syndicates since 1951, when the Kefauver committee first alerted the Nation to the extent of their penetration into our society. But today, as in the past, much of the public does not see or understand the effects of organized crime in society. Moreover, what the public does see and read is often seriously misleading. Information about members of criminal syndicates tends to be presented in a sensational manner with liberal use of gangster terminology. Moreover, an emphasis upon reports of gangland killings unfortunately tends to give the impression that mobsters are primarily involved in killing each other. Prof. Donald R. Cressey, a consultant on the President's Task Force on Organized Crime, says:

> The public will not be "educated" about organized crime until it understands that organized criminals prey on the economic and political order, not on each other. (Cressey, *Theft of a Nation*, p. 67.)

Fortunately, the menace of organized crime is receiving more and more exposure through the efforts of citizen groups such as the U.S. Chamber of Commerce which makes available to businessmen through its local chapters a desk book on organized crime, alerting them to symptoms which indicate that the syndicates may be infiltrating their communities and their businesses, and advising them as to what steps may be taken to prevent its penetration. But we still have a long way to go. The publication of grand jury reports on organized criminal activities, and on the enforcement or lack of enforcement of the criminal laws by rsponsible public officials, can be helpful in this respect, as is indicated by experience in States such as New York and New Jersey in which such reports have long been authorized by either statute or case law.

The authority of regular Federal grand juries to issue reports such as title I contemplates is unclear under existing law. Whereas the release of reports by grand juries at the end of their terms is common practice in some districts, the matter rests upon precedent and the court's discretion rather than upon statute. The U.S. Supreme Court has indicated that Federal grand juries, like their early English and colonial predecessors, may issue reports as well as render indictments—see, for example, *Hannah* v. *Larche*, 363 U.S. 420, 449 (1960); *Jenkins* v. *McKeithen*, 395 U.S. 411, 430 (1969)—but the precise boundaries of the reporting power have not been judicially delineated. For this reason, the authority to issue reports relevant to organized crime investigations has been specifically conferred upon the special grand juries created by this title. The committee does not thereby intend to restrict or in any way interfere with the right of regular Federal grand juries to issue reports as recognized by judicial custom and tradition. Nor does it intend to restrict the right of special grand juries to issue reports of such a nature. The provision included in title I as it was passed by the Senate which expressly authorized special grand jury reports proposing recommendations of a general nature for legislative or administrative action has been deleted by the Judiciary Committee as unnecessary, since existing law already permits such reports by grand juries. See, for example, *Application of United Electrical Radio and Machine Workers*, 111 F. Supp 858 (S.D. N.Y.). Although the title as reported by the Judiciary Committee is shorter than the Senate version, its vital features have been retained.

TITLE II—GENERAL IMMUNITY

Mr. Chairman, title II of S. 30 replaces some 50 Federal immunity statutes now in use with a single, comprehensive provision to be added to title 18 of the United States Code, to govern grants of immunity in judicial, administrative, and congressional proceedings. As you know, the President's Crime Commission recommended that legislative action be taken regarding immunity for grand jury and court proceedings, and, at the suggestion of the National Commission on the Reform of Federal Criminal Laws, title II has been made to deal comprehensively with the overall problem of immunity grants to facilitate the operations of the three branches of Government. The very fact that this highly significant subject matter is to be treated in a single part of the United States Code, rather than in 50-some different and scattered provisions, should prove of considerable benefit.

Title II marks a notable departure from existing legislation on immunity. Whereas existing legislation has gone beyond the breadth of the fifth amendment privilege by granting transaction immunity—by barring prosecution completely in respect to incriminating testimony given—title II creates a restriction on the direct or indirect use of the compelled testimony; such testimony may not be used in any way in developing a prosecution of the witness for any of his past offenses—he will not be forced directly or indirectly to be a witness against himself—but prosecution itself will not absolutely be barred. You will recall that the President in his message on organized crime commended to the Congress the basic concept of title II. Specifically, he said:

> I commend to the Congress for its consideration . . . [the proposal under which] a witness could not be prosecuted on the basis of anything he said while testifying, but he would not be immune from prosecution based on other evidence of his offense.

I might add, Mr. Chairman, that the use-restriction immunity is clearly constitutional, taking note particularly of two 1964 Supreme Court decisions, *Malloy* v. *Hogan*, 378 U.S. 1, and *Murphy* v. *Waterfront Commission*, 378 U.S. 52. On the subject of granting immunity in general, I think it very fitting to repeat a comment made in an 1896 Supreme Court opinion:

> Every good citizen is bound to aid in the enforcement of the law, and has no right to permit himself, under the pretext of shielding his own good name to be made the tool of others who are desirous of seeking shelter behind his privilege (*Brown* v. *Walker*, 161 U.S. 591, at 605).

Mr. Chairman, the Omnibus Crime Control and Safe Streets Act of 1968 enlarged the bases for grants of immunity: they were to be available in a greater number of proceedings than previously—proceedings involving a greater number of offenses. But title II of S. 30 is not limited to investigations involving any particular Federal violations. Nonetheless, for the Department of Justice and the various administrative agencies, the Attorney General must approve use of the immunity provisions, so that this very important matter of immunizing witnesses will be closely controlled. No longer will any witness automatically receive immunity under statutes that title II will repeal; the witness must always claim his privilege against self-incrimination before immunity will be granted. This eliminates a danger that a witness will be immunized by some oblique testimony relative to a criminal transaction automatically—without any claim of privilege—and hence without forethought being given to the matter by the Government. As Justice White wrote in a concurring opinion in Murphy against Waterfront Commission:

> Immunity must be as broad as, but not harmfully and wastefully broader than, the privilege against self-incrimination (at 378 U.S. 107).

Where the witness is before either House of Congress, a grant of immunity must be approved by a majority vote of the Members present, and where the witness is before a joint committee or a committee or subcommittee of either House, an affirmative vote of two-thirds of the full membership of the committee is required. But any such intention to seek an order to compel testimony is to be brought to the attention of the Attorney General at least 10 days before the order is sought, and the title provides that the district court shall defer the issuance of an order up to 20 days as the Attorney General may request. This procedure will allow for studied consultation and a weighing of the value and possible consequences of immunizing a particular witness, which procedure is, I believe, an appropriate means of protecting the overriding public interest regarding grants of immunity.

Mr. Chairman, title II of S. 30 arms the Government with an ability, unique in the history of this Nation, to crack the shell of secrecy surrounding organized crime. While giving the witness all that is guaranteed him under the Constitution, title II means that a witness can no longer invoke a privilege of self-incrimination frivolously or in order to shield other parties and expect the Government to be impotent in the face of such conduct. Afforded the immunity to which he has every right, the witness will have to discharge his civic responsibilities or face sanctions under title III of this legislation.

TITLE III—RECALCITRANT WITNESSES

Mr. Chairman, there is no simple solution to the critical problem of securing testimony of witnesses who are loath to cooperate with the Government. The comprehensive immunity provision in S. 30 will not entirely solve the problem. Some witnesses can be expected to refuse to testify even after being immunized from prosecution. The law must provide sanctions for dealing with such recalcitrant witnesses. Title III of S. 30 provides such sanctions.

Courts have traditionally enforced their orders through the exercise of a contempt power. A judge may punish a witness—find a witness in criminal contempt—if he wrongfully refuses to testify or otherwise engages in contumacious conduct. Such a witness may be imprisoned for a certain period of time as vindication of the court's authority. If the contemptuous witness is to be imprisoned for more than 6 months, he should be accorded a jury trial, but, otherwise, he may be imprisoned summarily by the court.

The civil contempt power, on the other hand, is not exercised to punish. A witness who wrongfully refuses to testify and is found in civil contempt of the court is confined for the purpose of inducing his obedience to the court's order, and when he obeys the order he is entitled to his release from custody. As is often said, a witness confined for civil contempt carries "the keys of the prison in his own pocket." Underscoring the civil nature of the sanction is the rule that, upon the termination of the proceedings at which the witness was ordered to testify, the witness is entitled to his release because he could no longer obey the court's order if he wished to do so. Thus, confinement for civil contempt for refusal to testify before a grand jury cannot extend beyond the life of the grand jury, although the witness may be imprisoned again if he contemptuously refuses to testify before a successor grand jury.

Title III of S. 30 seeks to codify the present law on civil contempt as it pertains to a witness' refusal to testify before a grand jury or court, or in proceedings ancillary thereto, in violation of a court order. In the face of such defiance, the court is explicitly authorized summarily to confine the witness, and so that the force of this sanction will not be dissipated, the committee has provided that the witness will not be admitted to

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bail pending the determination of an appeal unless he can show, and the burden is on him, that the appeal is not frivolous or taken for purposes of delay. It is contemplated, in view of the civil nature of the proceedings, that persons defying court orders will not ordinarily be admitted to bail and that such a person should bear the full burden of demonstrating that his appeal is not frivolous or taken for delay. To this degree, title III differs from rule 46 of the Federal Rules of Criminal Procedure. The title further provides that all appeals from civil contempt orders are to be disposed of as soon as practicable and at least within 30 days of the filing. No period of confinement may last beyond the life or the court proceedings or of the grand jury, including extensions of its original term. The committee has provided that confinement may not exceed 18 months in any event—a limitation that is considered in keeping with the civil nature of the contempt and the object of inducing obedience to the order. Obviously, the 18 months is to run from the date of the confinement for the contemptuous refusal.

Mr. Chairman, title III also amends section 1073 of title 18 of the United States Code, which is entitled "Flight To Avoid Prosecution or Giving Testimony." The statute now supplies a jurisdictional basis for Federal law enforcement personnel to apprehend individuals who flee in order to avoid prosecution, or punishment or the duty to testify in criminal proceedings in the several States. Under the amendment, the statute would be made applicable to witnesses who flee in order to avoid testifying before State agencies authorized to investigate criminal proceedings or service of process by such agencies. This provision should certainly strengthen the hand of the States in their efforts to combat organized crime. At present, a witness might feel fairly secure in fleeing the jurisdiction after being subpenaed to testify before a State investigating commission, thinking that he would not likely be apprehended and extradited; but, under title III, such a witness could be arrested by the FBI for unlawful flight and would thus face a much more certain punishment.

Mr. Chairman, once a witness has been granted immunity protection, his continued refusal to cooperate with the Government should not be tolerated, and there have to be means available for imposing sanctions upon recalcitrant witnesses, hopefully to secure their cooperation but at least to set an example for others. Title III is an essential part of comprehensive legislation aimed at defeating organized crime and, I believe, readily commends itself to approval by this House.

TITLE IV—FALSE DECLARATIONS

Mr. Chairman, title IV creates a new Federal false-statements offense for grand jury and court proceedings which will not be subject to the artificial and anachronistic evidentiary rules that hamper perjury prosecutions in our courts. At present, Federal law imposes upon perjury prosecutions the so-called two-witness rule and the direct evidence rule which respectively require special corroboration of the testimony of the prosecution's chief witness and prevent a conviction from being based upon circumstantial as opposed to direct evidence. Moreover, under existing perjury law it is impossible to convict a witness who has made two irreconcilably contradictory statements unless the Government is able to establish by extrinsic evidence which of the two contradictory statements was false.

The President's Commission on Law Enforcement and the Administration of Justice, upon examining State and Federal perjury statutes, concluded that the criminal law must offer more effective deterrents against false statements, particularly in organized crime prosecutions where fabricated testimony so often defeats convictions. The Commission recommended that—

> Congress and the States should abolish the rigid two-witness and direct evidence rules in perjury prosecutions although maintaining the requirement of proving an intentional false statement. (Report, "The Challenge of Crime in a Free Society," p. 141.)

The integrity of the criminal trial depends upon the power to compel truthful testimony and to punish falsehood. Witness immunity such as title II will provide can be an effective prosecutive weapon only if the immunized witness testifies truthfully. The infrequency of the use of perjury sanctions—due to the difficulty of securing convictions under existing law—has limited the effectiveness of established criminal sanctions for false statements under oath. Using available Federal figures, Senator McCLELLAN's Subcommittee on the Criminal Laws determined that only 52.7 percent of the defendants in perjury cases were found guilty over the 10-year period from 1956 through 1965, while during the same period in all other criminal cases, 78.7 percent of the defendants were found guilty.

Dissatisfaction with the traditional restrictive evidentiary rules—which stem from medieval practice antedating the English common law—has led to changes in statutes in some State jurisdictions. Two States, Arizona and Illinois, have adopted the Model Perjury Act which abolishes the rules, and a number of others have applied the policy of the act to their perjury statutes. Experience in these jurisdictions and common logic indicate that there is no reason why false statements cannot be tried by the same standard of proof beyond a reasonable doubt that prevails in the trial of all other criminal offenses.

Title IV implements the recommendation of the President's Commission, and incorporates the policies of the Model Perjury Act. It provides a false declarations offense punishable by a fine of not more than $10,000 or imprisonment for a term of 5 years, or both, which may be proved by the reasonable doubt standard. It also specifically provides for the prosecution of a false declaration in the case of irreconcilably contradictory statements without the necessity of specifying in the indictment which of the declarations was false. Each declaration upon which a prosecution is based must have been knowingly made, have been material to a point in question in the proceeding in which it was made, and have been made within the statute of limitations for the offense charged. The inconsistent declarations need not have been made in a single proceeding, nor have been material to a single point at issue. The falsity which must be alleged and proved is the falsity of the declaration at the time it was spoken, not a hypothetical falsity which would exist if the declaration were repeated at the time of indictment or trial. The declarant's belief that his statement was true at the time that he made it constitutes an affirmative defense.

The title also contains a recantation or retraction provision, modeled upon a New York penal statute, which permits a witness to avoid a false declarations prosecution by a timely retraction of his testimony within the course of a continuous court of grand jury proceeding. This provision encourages the witness to correct a false statement by permitting him to do so without incurring the risk of prosecution based upon inconsistent statements.

By strengthening the inducement to tell the truth and correct falsehoods, and providing for the effective prosecution and punishment of those who give false testimony, title IV substantially improves the capacity of our courts to administer justice. The usefulness of the title will by no means be restricted to organized crime prosecutions.

TITLE V—WITNESS PROTECTION FACILITIES

Mr. Chairman, just as citizens owe society a duty of coming forward when they are able to give relevant testimony to grand juries and at criminal trials, the Government should accept a responsibility for protecting its intended witnesses from reprisals where the possibility of such reprisals is clear. For this purpose, title V of S. 30 authorizes the Attorney General to rent, purchase, modify or remodel housing facilities and to make such facilities available to jeopardized Government witnesses and their families and otherwise to provide for their health, safety, and welfare. The title is operative, not just in connection with criminal trials, but in connection with any legal proceedings, Federal or State, where the underlying factual situation involves organized criminal activity. Facilities may be made available as long as is required for the protection of the witnesses, and the authority is broad enough to allow for relocation of the witnesses, but no witness is obliged to accept protection offered by the Attorney General under this title. The Attorney General is also authorized, when he offers protection for State witnesses, to condition his offer upon reimbursement by State agencies of all or part of the out-of-pocket expenses involved in maintaining and protecting the witnesses.

Mr. Chairman, this title is responsive to a recommendation by the President's Commission on Law Enforcement and Administration of Justice and meets the criticism that, when protection has been given witnesses, it has too often in the past been withdrawn immediately after the particular trial terminates. This title

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has the full support of the Department of Justice. Since all the Members of this body are well aware of the need to protect Government witnesses from retaliation by mobsters and other organized criminal elements, I would not elaborate further upon the need for this legislation.

TITLE VI—DEPOSITIONS

Mr. Chairman, title VI is designed to give the Government a right not presently enjoyed to preserve the testimony of its witnesses in criminal cases involving organized criminal activity. The Federal Rules of Criminal Procedure do not provide for this, but only for the taking of depositions under certain circumstances at the request of defendants in criminal cases and of material witnesses held in custody for failure to give bail to testify at a trial or hearing. These provisions are carried over in full in title VI. Title VI simply expands upon rule 15 of the criminal rules so as to meet certain very urgent problems, and there is no intention in meeting such problems to abrogate rule 15 or to limit the Judicial Conference of the United States in the exercise of its rulemaking authority pursuant to 28 United States Code 331 from addressing itself to other problems in this area or from adopting a broader approach. That any narrower approach would be inconsistent with the intent of the Congress is, of course, manifest in the title.

The basic problem that is attacked in this title of S. 30 is the urgent necessity for curbing the power of criminal elements to destroy evidence by harming, intimidating, or bribing Government witnesses. Mr. Chairman, the Congress could treble the number of Federal criminal investigators, and neither that manpower nor the acumen of the individual investigators would mean very much unless the cooperation of witnesses can be secured and maintained, sometimes over a lengthy period, between the time that charges are lodged and the defendants are tried. With the making available of a procedure whereby the Government can preserve testimony for potential use at criminal trials, the inclination of criminals to attempt to frighten or bribe Government witnesses should rapidly subside, and the incidence of such obstructive tactics should decline remarkably.

Title VI adds a new section to chapter 223 of title 18 of the United States Code, entitled "Depositions To Preserve Testimony." Whenever, due to exceptional circumstances, it is in the interest of justice to preserve testimony after the filing of an indictment or information, the courts may grant motions for the taking of depositions. Since the problem seems particularly acute where the Government's witnesses are to testify against defendants involved in organized criminal activity, it was felt appropriate at this time that the provision be reduced to the measure of that most apparent need, and the committee has provided that Government witnesses may be deposed only if the Government's motion is supported by a certification of the Attorney General or his designee that the proceedings are against a person believed to have been a participant in an organized criminal activity. The concept of organized criminal activity is broader in scope than the concept of organized crime; it is meant to include any criminal activity collectively undertaken since in all such instances there is an increased potential for intimidation of Government witnesses. In addition, there is no requirement that the trial at hand be of that sort. It is access to collective criminal power that endangers the witness—whether of the Mafia, the Communist Party, the Black Panther Party, or the KKK. Such a defendant, no matter what he is being tried for—a violation of the Migratory Bird Act, for instance—can bring this power to bear to avoid criminal liability, and that is what this provision is designed to protect against.

Title VI has nothing to do with discovery; the Government and the defendant cannot depose each other's witnesses under the title but only their own witnesses. The object is to preserve the testimony against the danger that it will not be available at the time of trial. But depositions taken under the provision will not necessarily be used at trials; the witnesses will still testify live if that is feasible. Depositions are to be taken to safeguard against dangers that witnesses will die or become ill, that they will be killed or injured, that they might hide or flee or remain outside the jurisdiction, be kidnaped, bribed, or improperly influenced, and so forth. The new language concerning use of depositions at trial is designed to codify present law in this area. It is not designed to circumscribe future judicial developments. Nothing in the provision, for example, would prevent a court from permitting the use of a deposition of a testifying witness not only for impeachment, but as substantive evidence under *California* v. *Green*, 399 U.S. 149 (1970). Consequently, if a witness is deposed and his attendance and testimony at trial cannot be obtained for the reasons just mentioned, or he refuses to testify at trial, the deposition may then be used as substantive evidence. Moreover, a deposition may also be used under the section for purposes of impeaching a witness who testifies in person.

The taking and filing of the deposition and objections to its being used in evidence at trial are governed by existing practices in civil actions.

The taking and use of depositions under title VI, whether by the defendant or by the Government, is in accord with the concept of due process of law. Charges will have been filed first and the taking of the deposition is a trial in miniature. Even if held in custody, the defendant has a right to be present together with counsel and to be in the presence of the witness, and, whoever originated the procedure, counsel for the opposing side must be afforded an opportunity to cross-examine the witness. Provision is made for the appointment of counsel for the accused. The Government is required under the title to furnish the defendant for use at the taking of the deposition copies of any statements that would have to be given the defendant if the witness were testifying at the trial. When a defendant moves for the taking of a deposition but is unable to bear the expense, the court may direct that the Government stand the expenses incident to the taking of the depositions. The committee has provided that the Government may also be made to bear all such expenses when it is the party moving to take the deposition. Mr. Chairman, I feel sure that title VI affords all the necessary safeguards to allow for use of depositions under the terms of the title—or, in other words the duty of preserving the constitutional rights of accused persons has been fully discharged in providing for depositions under this title. Supreme Court precedent establishes that there is no deprivation of the right of accused to confront the witnesses against them when a record is admitted at one trial of testimony formally taken at an earlier proceeding, such as a preliminary hearing, where the defendant has enjoyed a right to confront the witnesses against him and to cross-examine, *California* v. *Green*, 399 U.S. 149 (1970), and I submit that title VI is not only a workable provision on depositions but one that is entirely fair for all concerned.

Once again, title VI should prove most effective in stymieing the organized criminal element—Mafia, Black Panther, or KKK—who would think to threaten or injure Government witnesses. Senator McCLELLAN has expressed the idea so well that I would quote him; he said:

> Indeed, depositions may be more effective than stone walls and guards in protecting the lives of informants and other citizens with informations concerning organized. crime.

TITLE VII—LITIGATION CONCERNING SOURCES OF EVIDENCE

Mr. Chairman, title VII of the Organized Crime Control Act is designed to regulate motions to suppress evidence in certain limited situations where the motion is based upon unlawful electronic eavesdropping or wiretapping which occurred prior to the enactment of the Federal electronic surveillance laws on June 19, 1968—chapter 119, title 18, United States Code.

Under the procedure which the title establishes, upon a claim by an aggrieved party that evidence is inadmissible because it is the product of an unlawful electronic surveillance, or because it was obtained through a lead developed from an unlawful electronic surveillance, the Government will be required to affirm or deny that an unlawful electronic surveillance in fact occurred. If the claimant has standing to challenge the alleged unlawful conduct, this provision places an affirmative obligation upon the Government to search its records and to ascertain whether there has been an overhearing of a particular defendant. The Government has recently been making such searches a matter of practice—even when no request has been made by the defense—although there has been no statutory authority requiring disclosure of an electronic surveillance which occurred prior to the enactment of a warrant procedure. This title will require such disclosure, but require it only when requested by the defense.

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Where there was in fact an unlawful overhearing prior to June 19, 1968, the title provides for an in camera examination of the Government's transcripts and records to determine whether they may be relevant to the claim of inadmissibility. Where there is no relevancy whatsoever, as determined by the Court, the transcripts need not be disclosed to the claimant or his counsel. To require disclosure under such circumstances can serve no purpose in the interest of justice, and may needlessly jeopardize the lives of Government agents and informants, harm the reputation of innocent third persons, and compromise the national security. To the extent that the court is permitted to determine relevancy in an ex parte proceeding, the title will modify the procedure established by the Supreme Court in *Alderman* v. *United States*, 394 U.S. 165 (1968). The Court in Alderman assumed that adequate protection against the dangers inherent in disclosure of the Government's records to the defendant and his counsel could be afforded by the use of protective orders, but the experience of the Department of Justice has indicated time and again that protective orders are inadequate even to prevent the unauthorized publication of its records and transcripts in the news media.

As I have indicated, the title applies only to disclosures where the electronic surveillance occurred prior to June 18, 1968. It is not necessary that it apply to disclosure where an electronic surveillance occurred after that date, because such disclosure will be mandated, not by Alderman, but by section 2518 of title 18, United States Code, added by title III of the Omnibus Crime Control and Safe Streets Act of 1968. Section 2518(10)(e) provides a specific procedure for motions to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that the communication was unlawfully intercepted, that the authorization for the interception was insufficient, or that the interception was not made in conformity with the authorization obtained. It provides, insofar as the disclosure of intercepted communications is concerned, that upon the filing of a motion to suppress by an aggrieved person the trial judge may in his discretion make available to such person and his counsel for inspection such portions of an intercepted communication, or evidence derived therefrom, as the judge determines to be in the interest of justice—see Senate Report No. 1097, 90th Congress Second Session 106, 1968. The provisions of this title will, therefore, control the disclosure of transcripts of electronic surveillances conducted prior to June 19, 1968. Thereafter, existing statutory law, not Alderman, will control. Consequently, in view of these amendments to title VII, its enactment, in conjunction with the provisions of title III of the 1968 act, provides the Federal Government with a comprehensive and integrated set of procedural rules governing suppression litigation concerning electronic surveillance.

Another portion of title VII provides that no claim will be considered that evidence is inadmissable because it is the indirect product of an electronic surveillance occurring prior to June 19, 1968, if the event which the evidence is intended to prove occurred more than 5 years after the surveillance took place. The provision amounts to a legislative directive that as a matter of law no evidence of an event can be found tainted by an alleged illegality anteceding the event by such a long period. This portion of the title does not apply to evidence which is directly procured by electronic surveillance.

This provision may be considered a legislative expression of the principle enunciated by the Supreme Court in *Wong Sun* v. *United States*, 371 U.S. 471 (1943). Under the facts of the case the defendant, Wong Sun, following an unlawful arrest on a narcotics charge, was arraigned and released on his own recognizance. Several days later he voluntarily returned to the police station and made an unsigned incriminatory statement. The Court, in determining whether the statement was inadmissible as a result of the unlawful arrest, said:

> We hold that the connection between the arrest and the statement had "become so attenuated as to dissipate the taint" . . . (Id. at 491).

In Wong Sun, it should be noted that a time lapse of several days was considered adequate to dissipate the taint. Certainly the time period of 5 years adopted in this provision is sufficiently long to assure that there is virtually no possibility that evidence will have been derived from a tainted lead. The purpose of the provision is not to defeat valid claims of inadmissibility, but rather to spare the courts and Government prosecutors from the burden of spending needless working hours in processing frivolous claims brought solely for purposes of delay. The burden is great where voluminous records of pre-1968 wiretaps and electronic eavesdropping are concerned.

As title VII was passed by the Senate, it applied to illegal acts generally, including all searches and seizures, unlawful confessions, and testimony compelled under lawful grants of immunity. The Judiciary Committee has limited the title to electronic surveillances because it was in respect to these that the Department of Justice indicated the need was greatest. The Department felt that the legislation was superfluous insofar as testimony under grants of immunity is concerned because a grant of immunity constitutionally has never been deemed to apply to future offenses. Although the use immunity concept embodied in title II will produce changes in the impact of immunity grants, the immunity conferred is not intended to be broader than required by existing transaction immunity statutes or the privilege against self-incrimination. There simply exists no constitutional privilege as to offenses that have not yet been committed.

TITLE VIII—SYNDICATED GAMBLING

Mr. Chairman, title VIII deals with syndicated gambling and the related corruption of law enforcement that it engenders. The title is based upon a proposal introduced at the instance of President Nixon who announced in his Message on Organized Crime delivered to the Congress in April 1969 that the administration had determined that the major thrust of its concerted antiorganized crime effort should be directed against gambling activities since "gambling income is the lifeline of organized crime."

There are a number of compelling reasons for giving high priority to an effective Federal effort against organized gambling. First, as the President indicated, illegal gambling constitutes the criminal syndicates' primary source of revenue. The estimated $6 billion to $7 billion a year that represents the profits of illegal gambling, as determined by the President's Commission on Law Enforcement and the Administration of Justice, goes far toward providing the capital that eventually goes into usurious loans, the wholesale narcotics traffic, bootlegging, and the infiltration of legitimate businesses.

Second, from the social standpoint, the professional gambler preys upon society, taking his daily bet—perhaps 25 cents on a number bet or $5 on a horse bet off-track—from the residents of our communities who can least afford it. The President said:

> The most tragic victims of course, are the poor whose lack of financial resources, education, and acceptable living standards frequently breed the kind of resentment and hopelessness that make illegal gambling and drugs an attractive escape from the bleakness of ghetto life.

And finally, from the standpoint of law enforcement, the gambling operations of the criminal syndicates are particularly vulnerable. Because a large-scale gambling operation involves large numbers of persons, is dependent upon the use of communications facilities, and must be protected by bribing and paying off at least a few officials in each locality in which it flourishes, gambling is more susceptible than most organized crime activities to detection and prosecution.

Federal investigators and prosecutors are vigorously proceeding against syndicated gambling operations under existing authority. In May 1970, an intensive investigation conducted by the FBI in cooperation with the organized crime strike force in Detroit culminated in simultaneous raids at 58 locations in Detroit and Flint estimated to be handling in excess of $250,000 daily. The raids resulted in the arrest of 56 persons for violation of section 1952 of title 18, United States Code, by using interstate telephone facilities in aid of an unlawful gambling operation. Attorney General Mitchell, characterizing this as "the largest Federal gambling raid in history," said:

> Through operations such as this, this administration is convinced it can dry up the biggest source of funds for organized crime in this country.

Title VIII provides new tools for curbing both the large-scale gambling operations themselves and the corruption of local officials which they foster and upon which, in turn, they depend.

Part A of the title contains a special finding that illegal gambling involves the widespread use of, and has an effect upon, interstate commerce and the facilities of interstate commerce. This finding is of substantive importance to the title because by creating a legislative jurisdictional base it makes Federal gambling investigations and prosecutions possible without the necessity of establishing an interstate nexus on a case-by-case basis. The necessity for establishing a specific link to interstate commerce or the facilities of interstate commerce, under existing antigambling statutes has frustrated many criminal investigations and foreclosed the possibility of Federal prosecutions, even where gambling transactions were being conducted on a scale which necessarily affected commerce under judicial interpretations of the commerce clause. The Senate-passed bill contained extensive findings to spell out with particularity the manner in which gambling businesses necessarily utilize the channels of commerce, and how gambling affects the flow of money in commerce. The substance of the findings has been included in the legislative commentary of the bill reported by the Judiciary Committee rather than in the bill itself. Title VIII is squarely premised upon the commerce power as defined by the U.S. Supreme Court in *Wickard* v. *Filburn*, 317 U.S. 111 (1942); *Heart of Atlanta Motel* v. *United States*, 379 U.S. 241 (1964); and *Katzenbach* v. *McClung*, 379 U.S. 294 (1964).

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Part B of the title would make it a Federal felony for large-scale gamblers and local officials to conspire to obstruct the enforcement of State and local laws against gambling through bribery of public officials. Part C would make it a Federal offense to engage in a large-scale business enterprise of gambling. No part of the bill is intended to preempt local efforts to enforce antigambling laws. On the contrary, title VIII's expansion of the Federal jurisdiction over large scale gambling cases will improve local efforts, not merely by providing an impetus for effective and honest local enforcement, but also by making available to assist local efforts the expertise, manpower, and resources of the Federal agencies which under existing Federal antigambling statutes have developed high levels of special competence for dealing with gambling and corruption cases. The International Association of Chiefs of Police has endorsed title VIII, recognizing it not as a substitute but as a valuable addition to State efforts.

Part D of the title would establish, 2 years after its enactment, a commission to review national policy toward gambling. The commission will examine every aspect of the gambling problem, from data on the scope and types of legal and illegal gambling, to the broadest and most basic social policy grounds upon which public and governmental attitudes towards gambling rest. Its proceedings and report will serve to enlighten the public on the relationship between local gambling and the national syndicates, and will provide a basis for a thorough reexamination by the Federal and State governments of gambling policies, laws, and enforcement practices.

I wish to point out, in particular, two unique provisions of the bill which are not contained in other Federal antigambling statutes. One is a forfeiture provision which will permit any property used in illegal gambling, including money to be seized and subjected to judicial forfeiture procedures. This provision will be of tremendous assistance in closing down gambling establishments and keeping them out of business.

The second provision establishes a presumption, for the purpose of showing probable cause for obtaining warrants for arrests, interceptions, and other searches and seizures, that a business operated by five or more persons for 2 or more successive days, receives gross revenue in excess of $2,000 in any single day. The presumption is supported by the experience of the Department of Justice, which indicates that a gambling business of this dimension receives far in excess of this amount daily. This finding goes solely to probable cause and cannot be utilized to establish proof of an element of the offense at trial. Arrests without warrants depend upon the same constitutional standard of probable cause, and upon establishment of the same jurisdictional criteria as search and arrests warrants issued pursuant to the title. It may therefore be assumed that the same probability will exist.

Title VIII in its entirety will be of great assistance to Federal investigators and prosecutors, and we may anticipate that the strike forces will put it to immediate use.

TITLE IX—RACKETEER-INFLUENCED AND CORRUPT ORGANIZATIONS

Mr. Chairman, perhaps the single most alarming aspect of the organized crime problem in the United States in recent years has been the growing infestation of racketeers into legitimate business enterprises. This evil corruption of our commerce and trade must be stopped. Title IX of S. 30 provides the machinery whereby the infiltration of racketeers into legitimate businesses can be stopped and the process can be reversed when such infiltration does occur.

Title IX represents, in large measure, an adaptation of the machinery used in the antitrust field to redress violations of the Sherman Act and other antitrust legislation. I would not attempt to say who was first to suggest the re-tooling of the antitrust machinery to combat organized crime, but one of the earliest and stoutest proponents of such an approach was the American Bar Association. The Department of Justice has been consulted, of course, in drafting the legislation and fully supports title IX.

Title IX adds a chapter to title 18 of the United States Code, but it contains both civil as well as criminal provisions. The provisions of the title operate largely against racketeering activity as defined in the bill or, more precisely, against patterns of racketeering activity. "Racketeering activity" is defined to include a wide variety of crimes, both State and Federal, that are generally associated with organized crime. A "pattern of racketeering activity" means simply two or more acts of racketeering activity, one of which, in order that the provision will not be an ex post facto law, must have occurred subsequent to enactment of the title. The two acts essential to the pattern must occur within 10 years of each other, excluding periods that the offender is incarcerated.

Title IX makes it a crime for anyone to acquire, maintain, or conduct any enterprise engaged in interstate or foreign commerce through a pattern of racketeering activity or collection of debts incurred in an illegal usury operation. It is also made criminal for anyone to invest in an enterprise, with certain limitations, funds that were derived from either a pattern of racketeering activity or collection of debts incurred in an illegal usury operation. The maximum penalty provided is $25,000 fine and imprisonment for 20 years, and there is also provision for criminal forfeiture of the property interests involved in the violations. The courts may issue restraining orders and require performance bonds to prevent postconviction transfers in an effort to defeat the forfeiture provisions, and governance of the forfeited property is provided for after the fashion of civil forfeitures under the customs laws. Under these provisions, the racketeering influence in an enterprise can be destroyed; no longer will one racketeer simply take over in the place of another who has been convicted and sent to prison.

Courts are given broad powers under the title to proceed civilly, using essentially their equitable powers, to reform corrupted organizations, for example, by prohibiting the racketeers to participate any longer in the enterprise, by ordering divestitures, and even by ordering dissolution or reorganization of the enterprise. In addition, at the suggestion of the gentleman from Arizona (Mr. STEIGER) and also the American Bar Association and others, the committee has provided that private persons injured by reason of a violation of the title may recover treble damages in Federal courts—another example of the antitrust remedy being adapted for use against organized criminality.

The title also amends section 2516 of title 18 of the United States Code to include the activities made criminal under the title within the list of specific offenses for which the interception of wire or oral communications is permitted under court order.

Another prominent feature of title IX is the provision for civil investigative demands. This is to give the Attorney General a civil counterpart to grand jury process; it will enable the Department of Justice to obtain by civil process documents and materials relevant to a racketeering investigation. These provisions are patterned after the Antitrust Civil Process Act, section 1311 and following of title 15 of the United States Code. But the demands must be reasonable and may not seek materials that would be privileged if sought by a subpena duces tecum; moreover, there are provisions governing the return of the materials.

I should not take the time to go into all of the many provisions of title IX; but I believe the committee will find the title a carefully drawn and worthwhile body of legislation—that is to say, legislation that holds out very clear promise of solving the extremely serious problem of the infiltration of racketeers into legitimate businesses. That problem, I submit, is deserving of the highest priority in the ordering of our domestic affairs.

TITLE X—DANGEROUS SPECIAL OFFENDER SENTENCING

Mr. Chairman, title X deals with one of our society's most difficult problems—sentencing of organized crime leaders and dangerous recidivist offenders. Title X will allow judges concerned about dangerous criminals who prey upon law-abiding citizens to impose terms consonant with the defendant's pattern of criminal conduct.

The procedure for special offender sentencing which is incorporated in the title has been developed from sentencing concepts advanced by the American Bar Association in its "Standards Relating to Sentencing Alternatives and Procedures," the American Law Institute in its "Model Penal Code," and the National Council on Crime and Delinquency in its "Model Sentencing Act." Although the problems of sentencing have received the attention of legal scholars and members of the bench and bar in undertakings such as these, they have received scant attention from Congress and the courts.

One difficulty with our sentencing law has been that, for a given crime, every offender has been exposed to the single maximum punishment authorized by the Congress. The emphasis has been entirely upon the bare element of the crime which the defendant has committed, and not upon the kind of person the defendant is and the overall context in which the offense was committed—the circumstances of aggravation of the offense. Yet modern penologists believe that, in sentencing, the court should have broad leeway to consider the criminal and the circumstances surrounding the commission of the offense, as well as the crime. The present sentencing structure does not provide terms of sufficient length to protect society by incapacitating recidivists, professionals, and leaders of groups engaged in organized crime.

A staff study made by the Criminal Laws Subcommittee of the Senate Judiciary Committee a year ago, based upon FBI sentencing data, indicated that two-thirds of the La Cosa Nostra members included in the study and indicted by the Government since 1960 have faced maximum jail terms of 5 years or less. Fewer than one-fourth received maximum jail terms for the offenses of which they were convicted. Twelve percent did not go to jail at all. The sentences for the majority of these organized criminals averaged only 40 to 50 percent of the maximums which were authorized by law. The study appears in more detail in the CONGRESSIONAL RECORD, volume 115, part 25, page 34389.

The defendants upon whom special extended sentences may be imposed pursuant to this title will all be hard-core offenders—in some but not all cases they will be leaders of criminal syndicates. Three types of criminals are defined and singled out for special treatment as follows:

The first type is the three-time felony repeater, who may or may not be a member of a criminal syndicate. Recidivists are, of course, obvious examples of offenders for whom terms longer than the normal maximums are required. The National Commission on the Cause and Prevention of Violence reported that "by far the greatest proportion of all serious violence is committed by repeaters. While the number of hard-core repeaters is small compared to the number of one-time offenders, the former has a much higher rate of violence and inflicts considerably more serious injury"—CONGRESSIONAL RECORD, volume 115, part 26, page 35546. We have gone too long without a Federal general recidivist statute, and it would be intolerable if now we should reject this opportunity to enact a law making the distinction between aggravated offenders and ordinary ones for the purpose of sentencing.

The second type is the professional offender. He is typified by the veteran bank robber, safe cracker, or counterfeiter, a hard-core criminal who may have devoted his entire career to criminal pursuits but has not necessarily been three times convicted.

The third type is typified by the organized crime offender. It includes the defendant who is convicted of conspiracy to engage in a pattern of criminal conduct, or is convicted of a felony which is in furtherance of a conspiracy, where he acted in a position of leadership, or used force or bribery to accomplish the objective of the conspiracy. Efforts were made when S. 30 was before the Senate to restrict the classification to offenders who engaged in a list of specified offenses presumably typical of organized crime activity. However, the Senate realized that members of the criminal syndicates engage in too great a variety of criminal operations to permit any restriction to a list of offenses. The Judiciary Committee, following the Senate's example, refrained from imposing any restriction upon the type of criminal activity which is encompassed.

Title X contains a provision for appellate review of sentences which is of great importance for offenders who are shown to be unusually dangerous to society and are exposed to unusually long sentences. A review is provided when sought either by the defendant or by the Government. However, any increase of a sentence upon appeal will be permitted only at the instance of the Government.

The provision of appellate review implements a recommendation of the President's Commission on Law Enforcement and Administration of Justice that—

> There must be some kind of supervision over those trial judges who, because of corruption, political considerations, or lack of knowledge, tend to mete out light sentences in cases involving organized crime management personnel. Consideration should therefore be given to allowing the prosecution the right of appeal regarding sentences of persons in management positions in organized crime activity or groups. Constitutional requirements for such an appellate procedure must be carefully explored. (Report, "The Challenge of Crime in a Free Society," p. 203.)

The review provisions have been carefully framed to meet constitutional requirements. Since it seems clear from the Supreme Court's decision in *North Carolina* v. *Pearce*, 395 U.S. 711 (1969), that due process of law requires that a defendant must be protected from the possibility that an increased sentence will be imposed upon him by a vindictive court as punishment for his having exercised a right of appeal, title X has been drafted so as to assure that any change in a sentence to the detriment of the defendant will result solely from the Government's action and not from his own. To this end, the Senate version of S. 30 provided that a sentence may be increased only upon review taken by the Government; that the Government's right to take a sentence review must be exercised at least 5 days before the expiration of the defendant's right to seek sentence review or appeal of his conviction; that an increased sentence will be foreclosed if the Government withdraws its review; and that any review taken by the Government will be dismissed upon a showing of abuse of the right to take such a review.

The Judiciary Committee added clarifying language to assure that the taking of a review of the sentence by the Government will be deemed the taking of a review of the sentence and an appeal of the conviction by the defendant. The Senate version was less than clear on this point. Thus, the taking of a sentence review by the United States brings about the same result that would follow if the defendant had exercised his right to take both a review of the sentence and an appeal of the conviction. The danger of retaliation which led the Court to the result obtained in North Carolina against Pearce, supra, is entirely absent even from question in the Judiciary Committee version of title X.

Subject only to the foregoing limitations upon increased sentences, the appellate review provisions permit the court of appeals after considering the record in the court below, including the entire presentence report on the defendant, information submitted during the trial and at the sentencing hearing, and the court's findings and reasons for the sentence imposed—to affirm the sentence, impose or direct the imposition of any sentence which the sentencing court could originally have imposed, or remand for further sentencing.

Taken together, the portions of the bill relating to increased sentences and to appellate review of sentencing, will do much to correct lenient sentencing of extraordinary, dangerous offenders.

I should like to take this opportunity to point out certain changes in the Senate version of title X which the Judiciary Committee has made at the suggestion of the American Bar Association.

Mr. Edward L. Wright, then president-elect of the American Bar Association, testified at the hearings on S. 30 before Subcommittee No. 5 of the House Judiciary Committee, on July 23, 1970, in support of S. 30. With minor reservations, which related for the most part to title X, Mr. Wright, as spokesman for the association, favorably endorsed each of the titles of the bill. Title X has been modified to reflect specific suggestions of the ABA to make it more nearly conform to the ABA Standards Relating to Sentencing Alternatives and Procedures.

First, the ABA noted that in the Senate version of title X the recidivist offender definition included a defendant convicted of two previous felony offenses, without specifying that the felonies must have been committed upon two previous occasions prior to the occasion of the commission of the felony which triggers the special sentencing procedure. At the suggestion of the ABA, the Judiciary Committee amended the definition so as to restrict it to a defendant who has previously been convicted for two or more felonies committed on occasions different from one another and from the occasion of the triggering felony, thereby conforming it to the equivalent ABA standard—compare standard 3.3(b)(i).

Also, upon the recommendation of the ABA, the definition was further amended to require a lapse of less than 5 years between the commission of the triggering felony and the defendant's release, on parole or otherwise, from imprisonment following a previous conviction or the defendant's commission of a previous felony—compare standard 3.3(b)(ii). It should be noted that the 5-year period is measured from "commission" not conviction. The reason for such a cutoff period, as expressed in the ABA commentary upon the standards, is "that the judgment of likely recurrence which repeated criminality permits, and which provides the justification for an enhanced term in the first place, becomes progressively diluted as the time between the present and the last offense increases."—commentary to standard 3.3.

The ABA also found title X as passed by the Senate inconsistent with its standards in respect to the maximum term which it authorized for special offenders. The bill provided a maximum 30-year term, whereas the ABA standards provide a maximum 25-year term for exceptional cases—compare standard 3.1(c)(1) and 3.3(a)(ii). The ABA further observed that whereas its standards require that a special term authorized for exceptional cases be related in severity to the sentence otherwise provided for the offense, the Senate version of title X contained no such requirement.

Upon the recommendation of the ABA, the Judiciary Committee has amended the title to provide in pertinent part:

> The court shall sentence the defendant to imprisonment for an appropriate term not to exceed twenty-five years and not disproportionate in severity to the maximum term otherwise authorized by law for such felony.

The term "proportionate" as employed here does not purport to require any precise mathematical ratio between the term which may be imposed under a special sentence and the maximum term which may otherwise be imposed for the felony of which the defendant stands convicted. The language has been inserted simply to make explicit what was already a matter of legislative intent in the bill passed by the Senate. See Senate Report No. 91–617, 91st Congress, first session, at 91 and 166, 1969, "appropriateness." In the Senate version the imposition of a 30-year term would not have been warranted under the special sentencing procedure where the statute under which the defendant was convicted carried a maximum 2-year penalty. Such a result would be explicitly impermissible under the committee bill. Under the standard now included in the title, a sentence must be consonant with the pattern of criminal conduct in which the defendant has indulged as established by evidence adduced at trial and at the special sentencing hearing. A sentence for a 25-year term of imprisonment would not be disproportionate, under the standard now included in the bill, where the defendant was convicted for a felony punishable by a maximum 5-year term, if such a term is clearly appropriate in consideration of the defendant's conduct as established in the course of the trial and the sentencing proceeding. For example, Raymond Patriarca, a Cosa Nostra boss, was convicted in 1968 for violating 18 U.S.C. section 1952—travel in interstate commerce to use violence to promote a gambling enterprise—where the violence consisted of the killing of Willie Marfeo. Patriarca would qualify as a special offender under each of the three definitions. A 25-year sentence would have not been disproportionately severe.

The ABA expressed an opinion that the disclosure of the defendant's presentence report should be governed by more precise standards than were incorporated in the Senate bill. The bill has accordingly been modified by the Judiciary Committee to be consistent with the principles governing disclosure incorporated in the standards—see standards 4.4(a)(b); 4.5(a)(b); 5.5(b)(ii)(iii).

The ABA voiced its objections to a provision in the Senate bill which would have permitted the prosecutor to inform the court, ex parte, about the defendant's prior criminal record and other behavioral conduct leading the prosecutor to believe the defendant to be a dangerous special offender. It was thought that such notification would prejudice the court against the defendant during the trial of the offense with which he was presently charged. The title has been amended by the Judiciary Committee to insure that nothing disclosed by a presentence investigation will come to the attention of the court prior to an adjudication of guilt. The bill now provides that the fact that the defendant is alleged to be a dangerous special offender will not be an issue upon the trial of the felony, will not be disclosed to the jury, and will not be disclosed to the presiding judge without the consent of the parties prior to a plea of guilty or finding of guilt.

Whereas the principle of special sentencing for exceptional cases is endorsed by the ABA in its sentencing standards, the ABA suggested at the subcommittee hearings that the delineation of certain special offenders be more precisely drawn. After careful consideration of the delineation of each of the three classifications of offenders to which I previously referred, the Judiciary Committee concluded that the standard for the determination of the so-called professional offender could be rendered more precise. The Senate bill defined the classification to include the defendant who commits a felony "as part of a pattern of criminal conduct—which constituted a substantial source of his income, and in which he manifested special skill or expertise." At the suggestion of President Wright, the Judiciary Committee has defined "substantial source" of income, for the purpose of proving the defendant to be within the category, as a source which yields in excess of the amount of income which a workingman receives under the Fair Labor Standards Act—act of 1938, 52 Stat. 1602, as amended 80 Stat. 838—in a year or more, and which during the same period, provides the defendant with an income exceeding 50 percent of his declared adjusted gross income under section 62 of the Internal Revenue Act of 1954—68A Stat. 17, as amended 83 Stat. 655.

The provision which relates to the defendant's declared gross income under section 62 of the Internal Revenue Act cannot be defeated by failure to file a tax return, since a defendant who has filed no tax return is considered to have a "declared adjusted gross income" of zero. The Judiciary Committee also defined more precisely the terms "special expertise" and "pattern of conduct." The foregoing provisions define as explicitly as practicable a standard by which a defendant may be fairly considered a professional offender, and provide an objective and convenient measure of proof as to the substantial nature of his income from criminal sources. The remaining classifications are, I think, adequately delineated as the bill was passed by the Senate.

As a final observation upon title X during the hearings before the subcommittee, Mr. Wright noted that although those who formulated the ABA Standards believed that "reform must begin with revision of the penal code, and particularly with the sentencing structure which they prescribe"—commentary p. 51—the American Bar Association endorses the enactment of the title at this time. Mr. Wright said with reference to the issue:

> We agree with this as a general policy and we know that the entire federal criminal code is hopefully on the road to needed revision through the National Commission now at work. But since S. 30 is such a comprehensive bill, dealing with a matter of such magnitude and importance, we believe the Congress would do a service to the administration of criminal justice by incorporating the sentencing principles our Association now recommends.

The further views of the American Bar Association upon title X and other titles of S. 30 are included in a letter from Mr. Edward L. Wright, president, to Chairman Emanuel Celler, Committee on the Judiciary, dated September 11, 1970. I ask that this letter be printed in the Record at the conclusion of my remarks.

Title X contains one remaining provision which I should like to call to the attention of the Committee, because of

XUM

its importance not only to trials or organized crime figures, but of criminal defendants generally. The provision to which I refer states that:

> No limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence.

Its purpose is to assure that a sentencing court will be able to obtain all pertinent information about the background and prior behavior of the defendant in all Federal criminal cases. See generally, *Williams* v. *New York*, 337 U.S. 241, 247 (1949). The exclusionary rules developed for trial on the issue of guilt are not to be applied. Compare 18 U.S.C. 3146(f). The result which was obtained in *Verdugo* v. *United States*, 402 F. 2d 599, 608–613 (9th Cir. 1968), and the approach used in *Armpriester* v. *United States*, 256 F. 2d 294, 296–97 (4th Cir.), cert. denied, 358 U.S. 856 (1958) are no longer to obtain.

Mr. Chairman, in my opinion, title X as reported by the committee has been greatly refined and improved while all of its substantive provisions passed by the Senate have been retained intact.

TITLE XI—REGULATION OF EXPLOSIVES

Mr. Chairman, in testimony before the House and Senate committees investigating the rash of bombings which have taken place in the Nation, administration officials reported that, between January 1, 1969, and April 15, 1970, there were over 1,000 bombings involving explosives and well over 3,500 bombings involving incendiaries—for a total in excess of 4,500 bombings in the Nation in less than 16 months. Furthermore, a great many bombings have occurred since April 15, 1970—as I am sure every Member is aware—bombings of Federal buildings, of courthouses, of police stations—even the explosion of booby traps laid to injure or kill police officers. It is obvious, in the face of this awful phenomenon, that tough Federal legislation is needed, first, to restrict the accessibility of explosives so that the vicious elements cannot obtain them and, second, to deal effectively with the conspiratorial groups who are so insane as to use explosives and incendiary devices.

Title XI of S. 30 combines two administration proposals for dealing with the problem—a proposal to regulate commerce in explosives and a proposal to punish, in various forms, the misuse of explosives.

Title XI adds a new chapter to title 18 of the United States Code, a large part of which is designed to govern the importation, manufacture, distribution, and storage of explosive materials. Under the title no one may engage in the business of importing, manufacturing, or dealing in explosive materials—and this includes intrastate as well as interstate businesses—without a license. Restrictions are then placed upon the sale of explosives by the licensees; permits are to be issued to purchasers; and very careful recordkeeping is required concerning dealings in explosives, including the keeping of some forms required of purchasers. It is made unlawful, for example, for licensees knowingly to sell explosives to persons under 21 years of age, to felons or to persons charged with felonies; to fugitives from justice, illicit drug users, or adjudicated mental defectives, or to persons who will transport or hold the explosives in violation of State law. The making of false records about dealings in explosives is severely punishable; and there are provisions for inspecting the books and records and business premises of the licensees. Thefts of explosives must be reported within the day of discovery, and the possession of stolen explosives and the unlawful storage of explosives is made criminal. In brief, a principal object of title XI is carefully to regulate the explosives industry with the aim of keeping explosives out of the hands of all but legitimate users.

In addition, title XI makes it criminal for anyone to transport or receive in interstate commerce any explosives with the knowledge or intent that it will be used to kill, injure, intimidate, or unlawfully to damage or destroy any property; and it is also made a Federal violation for anyone maliciously to damage or destroy, or attempt to damage or destroy, with explosives any property owned, used, leased, or possessed by the Federal Government. The maximum penalty provided for these violations is $10,000 fine and 10 years' imprisonment, but, if personal injury results, $20,000 fine and 20 years' imprisonment, and, if death results, the death penalty may be invoked. The title also makes bomb threats and bomb hoaxes punishable where instruments of commerce are used.

The Department of the Treasury will bear responsibility for administering the regulatory provisions of title XI, and the Federal Bureau of Investigation will have investigative jurisdiction over the bombing and related violations.

Mr. Chairman, I know how necessary it is for me to elaborate upon the need for this legislation, but, still, it is difficult for me just to speak about title XI in a matter-of-fact way. The recent bombing at the University of Wisconsin is fresh in all of our minds, I am sure. This Nation has suffered grievously in recent years—there have been assassinations, riots, and now this series of bombings. It is a sickening thing. Every American of good will, I am sure, shares that feeling. I believe title XI to be sound and urgent legislation.

Mr. Chairman, I would also like to make explicit reference for students and scholars of this bill in my remarks to the recent comprehensive discussion of S. 30 as it passed the Senate by Senator McClellan that appears in the fall 1970 issue of the Notre Dame Law Review. While this discussion is directed to the Senate bill, it also constitutes valuable legislative history and justification for what we do here today. Each of the New York Bar Association's and the ACLU's objections are, for example, examined and refuted. Our work builds on a foundation first laid in the Senate, and Senator McClellan has ably explained the what and why of the Senate's action. Students and scholars should consult his article.

Mr. McCULLOCH. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. MacGregor).

Mr. MacGREGOR. Mr. Chairman, I appreciate the generosity of the ranking minority member, the gentleman from Ohio (Mr. McCulloch), in granting me this time.

I rise in support of this bill to control organized crime and I urge the adoption of each and every one of its titles by the members of this Committee and subsequently by the Members of this House.

I believe each of its many provisions is necessary in America today if we are to give the law enforcement and criminal justice officers the necessary tools, proper under any reasonable interpretation of the U.S. Constitution, to deal with the growing menace of organized crime and racketeering in America. This bill will also respond to the desperately serious concern existing in the minds of the American people caused by the recent rash of bombings and bomb threats. Passage of this bill will help to insure the domestic tranquillity promised by the preamble to the Constitution of the United States.

Mr. McCULLOCH. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. Schadeberg).

Mr. SCHADEBERG. Mr. Chairman, I thank the gentleman from Ohio for yielding to me this time.

Mr. Chairman, in testimony before the House and Senate committees investigating the rash of bombings which have taken place throughout our Nation, administration officials testified that their statistics indicate that between January 1, 1969, and April 15, of this year there were more than 1,000 bombings involving explosives and well over 3,500 bombings involving incendiary devices in this country. I am sure that every Member of this Congress is well aware of many of the bombings which have occurred since the period covered by the administration's statistics. Bombing of police stations, courthouses, Federal buildings, and even booby-trap bombings directed at the police themselves. One such bombing was carried out on the campus of the University of Wisconsin with the tragic loss of a researcher, leaving behind a wife and three children.

There no longer can be any doubt that tough Federal legislation is needed to keep explosives out of the hands of persons most likely to misuse them. There also can be no question that strong legislation is necessary to give the Federal Government the power to deal with the extremist groups who use explosives and incendiary devices to achieve their ends.

There no longer can be any doubt that strict and substantial penalties must be administered to those who are found guilty of using explosives illegally.

Title XI of S. 30 combines the administration's two proposals to deal with the problem presented by this rash of bombings. The first aspect of title XI establishes a regulatory framework for manufacturers, dealers, and users of explosives. The second facet of title XI would make many of the recent bombings Federal offenses subject to stringent sanctions including the death penalty where, as at the University of Wisconsin, the bombing causes the death of any person.

Specifically, title XI requires all explosive manufacturers, importers, and dealers to be federally licensed. All persons or companies desiring to purchase explosives in interstate transactions, must first obtain a Federal permit thereby subjecting themselves to Federal regulation.

Licensees are not permitted to sell explosives to persons under 21 years old, to felons, to persons under indictment for a felony, to fugitives from justice, to unlawful drug users, and to adjudicated mental defectives. They are also prohibited from selling explosives to nonlicensees or permittees where such sale would be in violation of State or local law at the place of sale or to persons who the licensee has reason to believe will transport the explosives into a State where the purchase of these explosives would be illegal.

Nonlicensees or permittees are forbidden from shipping, transporting or receiving explosives in interstate or foreign commerce. They are also prohibited from distributing any explosives to persons who they know or have reason to believe do not reside in the distributor's State of residence.

Title XI requires licensees to keep records of every transaction involving explosives. False entries in these records are severely sanctioned. All unregulated purchasers of explosives will be required to complete required forms in connection with each purchase including a statement of the intended use of the explosives. Knowingly false statements made by such purchasers will subject them to up to 10 years' imprisonment.

Possession of stolen explosives knowing them to have been stolen will be a Federal offense as will the unlawful storage of explosives. Possessors of explosives will be required to report all thefts of their explosives to the appropriate authorities within 24 hours of discovery of the theft.

This title will also set standards for the issuance of licenses and permits to manufacturers, importers, dealers, and users of explosives, and will require them to make their records and stocks of explosives open for inspection at specified times.

In sum, the first part of title XI establishes a stringent Federal regulatory framework governing explosives, and, by closely regulating the interstate aspects of the explosives industry, permits the States to enact their own laws to regulate the possession and use of explosives within their borders without having transfers of explosives.

The second part of title XI will prohibit the transporting and receiving, in interstate or foreign commerce, of explosive materials and incendiary devices with the knowledge that they will be used to kill, injure, or intimidate any individual or unlawfully to damage or destroy any real or personal property. Violation of this section will subject the violator to 10 years' imprisonment if no personal injury results, to 20 years' imprisonment if personal injury does result, and to the death penalty if the use of such explosive materials or incendiary devices causes death.

Similar sanctions will be applicable to the damaging or destroying, or attempted damaging or destroying, by explosive materials or incendiary devices, of real or personal property owned, possessed or leased to the United States. These sanctions will also apply to campus bombings and the bombings of businesses engaged in interstate commerce. Bomb threats, malicious bomb hoaxes, and the possession of explosive materials in federally owned or leased buildings are also covered by title XI.

The Department of the Treasury will have the responsibility of administering the regulatory provisions of title XI. The Federal Bureau of Investigation will investigate bombings and attempted bombings in violation of the second part of title XI. To assist in the investigation of such bombings, wiretap authority will be given with respect to violations of this aspect of title XI.

I wholeheartedly endorse the efforts of the administration and the House Judiciary Committee in recommending the enactment of this much needed explosives control law as part of S. 30.

Mr. McCULLOCH. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Chairman, the bill which we are finally considering in this Chamber today is long overdue in this country. It certainly should have been given the very highest priority by this 91st Congress in the first session rather than delayed until this late date which is practically on the eve of our preelection recess.

Mr. Chairman, this bill as it affects organized crime was introduced in the other body on January 15, 1969, when the 91st Congress was very new, indeed. It was specifically endorsed by the President in his message to Congress of April 23, 1969, but did not pass that body until more than a year later, on January 23, 1970. It was then referred on January 26, 1970, to the Committee on the Judiciary of this body where it was to languish until hearings finally began on May 20, 1970.

Mr. Chairman, in view of the critical national need for action against organized crime it is indeed unfortunate that it took until September 30 to favorably report the bill from the committee to the House, but it is finally before us today.

My colleagues, the people of this country, the law-abiding people of this country who make up the overwhelming majority of our citizens, are looking to us to pass this bill promptly by an overwhelming vote.

The bill before us incorporates a very essential part, but only a part, of President Nixon's anticrime proposals, some of which are still bogged down in the Judiciary Committee and other committees of this body. But the bill does at least include most of the measures against organized crime which the President has been requesting since he assumed the office of the Presidency and on which an outraged public has been demanding action for lo these many months. Title XI of the bill also finally includes the much needed antibombing provisions requested by the President. I am proud to have been one of the original sponsors of the antibombing provisions of the act, having introduced the original bill to strengthen our laws concerning illegal use, transportation or possession of explosives on March 26 of this year and the Explosives Control Act of 1970 on July 21, 1970.

It has been my privilege to serve as a member of the House Judiciary Committee only since February 16, 1970. Prior to that date I took the floor of this House on more than one occasion to urge the committee to take swift, decisive and favorable action on the President's anticrime proposals and particularly those aimed at organized crime. Since being assigned to the Judiciary Committee, I have continued these efforts both in the committee and on the floor of this House because of my firm belief that the law enforcement officers of this country definitely need the additional tools provided in this bill for the protection of the lives and property of law-abiding American citizens.

In view of the shocking increase of crime in this country in recent years, I have considered it my duty as a member of the committee to be a rather persistent burr under the saddle of the distinguished chairman of the Judiciary Committee, the gentleman from New York (Mr. CELLER) reminding him of the urgency for action on these measures. Much time has been lost while these important proposals were seemingly shelved in the subcommittee, invaluable time in the fight to maintain law, order, and decency in this Nation.

But that is water under the bridge now, and the subcommittee did finally recommend the bill generally in the form now before us, with the constructive addition of title XI and XII by the full Judiciary Committee. Despite our past differences with respect to delays which I still consider unwarranted, I commend the chairman (Mr. CELLER) for now giving his support to this legislation. The chairman (Mr. CELLER), the distinguished gentleman from Ohio (Mr. McCULLOCH) who is ranking minority member of both Subcommittee No. 5 and the full Judiciary Committee, my other colleagues from the committee and the members of the committee staff who worked on this bill have all earned our country's gratitude for their efforts in producing the bill we now have before us.

Although it has taken much longer than it should have, the bill before us as reported by the Judiciary Committee is a good bill, well deserving this body's total support and speedy enactment into law.

The Nixon administration came into office totally pledged to its "commitment to a Federal program to deter, apprehend, prosecute, convict, and punish the overlords of organized crime in America."

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It has increased efforts within the executive branch within the existing law, toward meeting this commitment—but it needs the tools which S. 30 will provide to do the job effectively.

The threat of organized crime must not be ignored or tolerated. Its insidious effects upon young people, upon legitimate business, upon our governments at all levels and upon our other institutions must be sternly and irrevocably eradicated. Attacks by extremists of the left and right upon our society and institutions certainly must be met and dealt with, and S. 30 contains provisions which will improve the ability of our law enforcement agencies to accomplish this task. But in addition to coping with these extremists we must move decisively against organized crime, which continues to be America's principal supplier of illegal goods and services—gambling, usurious loans, illicit drugs, pornography, and prostitution.

Organized crime is daily increasing its operations in legitimate business fields while employing bankruptcy frauds, tax evasion, extortion, terrorism, arson, monopolization, and other illegitimate techniques.

The major focus and principal objective of S. 30 is to provide new weapons capable of striking at the heart of this criminal hierarchy and its sources of revenue. The central core of this legislation, providing these new weapons, is reason enough for S. 30 to be enacted, but the further titles added by the Judiciary Committee are salutary and added reason for passage of this bill.

Enactment of S. 30 will not in itself make our society whole or cure all its ills, any more than any other program or proposal past or present. It can serve to strengthen and support those responsible for protecting this Republic and its democratic institutions from illegal deprivations and maraudings, thereby helping provide the sense of security and stability essential if rational men are to pursue constructive change peacefully through the processes our system has evolved.

This bill is reasonable. Its provisions were thoughtfully and painstakingly drafted and redrafted, keeping clearly in mind the constitutional rights of all involved—not only of the accused, but also of the victim of crime. In recent years the constitutional rights of these innocent victims too often have been overlooked in the well-meaning but sometimes unbalanced efforts to afford every possible protection to those accused of crime. Justice with her scales in balance demands equal protection for the law-abiding citizen as well as the citizen accused of crime.

As a member of the Judiciary Committee, I have carefully reviewed the testimony before the subcommittee and have given the bill the closest scrutiny. In my view, the bill as reported by the committee is constitutional, and the committee has "gone the extra mile" to insure that the rights of the accused will be adequately protected.

I have no fear that our courts would permit a construction or interpretation of this bill which would inflict an unconstitutional hazard upon the rights of any individual. Nor is it reasonable to assume that the Department of Justice as presently constituted or in future administrations would attempt to work such a construction or interpretation. I urge my colleagues to reject this false imputation which has been advanced by some in order to obstruct passage of this vital and urgently needed legislation.

As a former special agent of the Federal Bureau of Investigation, Commissioner of Uniform State Laws, a trial lawyer for more than 20 years, and one who has been active in the organized bar, both in the State of Iowa and nationally, I am keenly aware of the emergency which presently confronts our law enforcement officers and those responsible for the proper administration of criminal justice. It is from this background of personal experience that I now urge my colleagues to recognize the crisis facing our Nation by enacting this legislation promptly and without substantial crippling amendment.

I shall yield to my distinguished colleagues from the Judiciary Committee, most particularly to those members of Subcommittee No. 5, for discussion of the intricacies of other titles of S. 30, but I am particularly pleased that the committee has incorporated into S. 30 as title XI, regulation of explosives, provisions largely drawn from administration bills H.R. 16699 and H.R. 18573.

An original cosponsor of these important bills, it was my honor and pleasure to be the first Congressman to testify before House Judiciary Subcommittee No. 5 with regard to the need for strengthening the Federal laws regulating explosives and their use.

The subcommittee hearings on H.R. 16699 and H.R. 18573 revealed that between January 1, 1969, and April 15, 1970, law enforcement officials throughout this Nation reported 4,330 bombings, 1,475 attempted bombings, and 35,129 bombing threats. These outrages, in this time period, caused the death of 40 persons and approximately $22 million of property damage.

According to John Naisbitt, director of the Urban Research Corp. of Chicago, more than half the bombs reported in 1970 were planted to injure police officers, either at police stations, in squad cars or at other locations. Most of these attempts succeeded in their purpose. A second most popular target has been school buildings, and third most frequent was the bombing of corporate offices.

In the past year, there has been a rising trend in these bombings, with many aimed at people rather than the symbolic destruction of empty buildings. Yet 32 States still have no general statutory restrictions on the sale or transfer of explosives—and our existing Federal laws are inadequate to curb effectively the increase in illegal use of explosives, particularly by militant groups committed to violence.

It was to fill these gaps in existing law and to encourage the respective States to enact and enforce realistic statutory restrictions upon explosives that President Nixon requested the legislative proposals subsequently introduced as H.R. 16699 and H.R. 18573, and upon which title XI of S. 30 is principally based.

President Nixon's message to the Congress requesting enactment of this legislation echoed the great outrage felt and voiced by responsible citizens throughout America. As a recent New York Times editorial concluded:

> The mad criminals who threaten and bomb must be recognized for what they are and prosecuted with full force not only of the law, but of the community they would rule and ruin.

In my testimony before Subcommittee No. 5 regarding the proposed antibombing legislation, I called attention to the fact that our Nation had been embarrassed by recent bombing of Washington, D.C., diplomatic missions, entitled to our protection as our guests, including the InterAmerican Defense Board and the Embassies of the U.S.S.R., Haiti, Argentina, Uruguay, and the Dominican Republic.

My testimony referred to the blight upon the peace and tranquillity of my own State of Iowa invoked by 75 incendiary bombings, 105 explosive bombings, 174 attempted bombings and 375 bombing threats during the period between January 1969 and April 1970. Luckily no one has yet been killed in these bombings in Iowa, but several have been injured, some quite severely. Property damage in Iowa alone has totaled millions of dollars.

Since the completion of the hearings on these bills and before S. 30 was finally reported by the House Judiciary Committee, the people of Iowa have seen even more vicious and destructive illegal use of explosives across our borders in adjacent States. In recent weeks they have read of the boobytrap bomb killing of a police officer in Omaha, Nebr., the maiming of an Oklahoma district court judge in an auto bombing, the death of a research assistant and injury to many others at the University of Wisconsin bombing, and of seven bombings and some 400 bombing threats in the Minneapolis-St. Paul area.

This Monday, October 5, the Associated Press reported that alcohol, tobacco, and firearms tax agents, working undercover, had confiscated an illegal cache of 60 sticks of quarrying explosive, two boxes of super primer cord and a quantity of blasting caps, and had made arrests. Allegedly these instruments of death had been stolen from a construction site a considerable distance away from the secret cache.

As legislators we have a solemn duty to do whatever we legally can to crush these attempts to rule by terror, no matter what the objective or philosophy of the perpetrators. The intended victims and innocent bystanders killed or maimed in these inhuman bombings cry out for prompt and effective counteraction. Title XI of S. 30 will at least help curb bombings by establishing Federal controls over the interstate and foreign commerce of explosives. The title, having established this Federal shield, then would encourage and enable more effective State regulation of the sale,

XUM

transfer, and other disposition of explosives.

Title XI would require Federal licenses to be obtained by all explosive manufacturers, importers, and dealers, and would require Federal permits to be acquired by all users who depend on interstate commerce to obtain explosives. Distribution of explosives will be prohibited to those under 21, drug addicts, mental defectives, fugitives from justice, and persons indicted for or convicted of certain crimes. It will be a Federal offense to falsify records, to make false statements to obtain explosives, to sell explosives in violation of State law or to traffic in stolen explosives.

In addition, title XI strengthens the Federal criminal law with respect to the illegal use, transportation, or possession of explosives. The definition of explosives is broadened to include Molotov cocktails and other incendiary devices.

The full Judiciary Committee further amended title XI, at the urging of President Nixon and with my complete support, to cover malicious damage or destruction by explosives to Federal premises and other Federal property as well as to the premises and property of institutions or organizations receiving Federal financial assistance.

Title XI specifically proscribes malicious damage or destruction by explosives of real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce.

In view of current events and trends, the increased penalties provided in this title are reasonable and necessary, including possible imposition of the death penalty where bombings result in the death of a victim.

Title XI recognizes the need for some flexibility to provide for continued lawful use of explosives by mature, law-abiding citizens. For example, black powder in amounts of less than 5 pounds is exempted from the legislation's restrictions on possession and storage.

Sportsmen, hunters, and other law-abiding citizens have nothing to fear from the enactment of this legislation, so desperately needed to protect our citizenry from bombers and incendiarists whose ravages continue to menace the security of our beloved country. I urge all Members to vote "aye" on final passage of S. 30 and to resist amendments designed to substantially weaken the law-enforcement provisions of the bill.

Mr. McCULLOCH. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, this is an important bill, designed to combat organized crime in the United States.

I strongly support the objectives of this bill, and I shall vote for it, because of my support for these objectives—whether the bill is amended or not. Because of the importance of these objectives, and the undesirable public effect of a rejection of a measure of this character, I am willing to and I shall resolve debatable points of constitutionality in favor of the bill, leaving them subject, as always, to the later judgment of the courts.

I believe this to be an appropriate approach.

But none of these considerations leads me to believe that the bill, as drawn, is sacrosanct; or that efforts ought not to be made to improve it before its final passage.

Indeed, it seems to me to be our duty to do this, if we believe that we can, and I conceive that this must be peculiarly the duty of those of us who are trained and experienced in the law, and who are members of the committee which reported out this bill, and who voted to report it favorably, as I did.

In line with that view of my duty I filed individual views with the committee report, and in line with that view I reserve the right to support and to offer amendments.

My individual views, filed with our committee report, dealt with two phases of the bill: First, title X, which has to do with dangerous special offender sentencing; and, second, with the death penalty provision included under title XI.

The matter of the death penalty—to which I am and long have been opposed—is one of individual conscience and conviction, upon which sincere and honest people can and do differ. It is not peculiar to this bill, and it is not the main thrust of the measure now before us. I may address myself further to that subject under the 5-minute rule when and if an amendment is offered dealing with that problem.

At present I shall confine the burden of my remarks to title X, the section dealing with the subject of dangerous special offender sentencing.

The dangerous special offender sentencing provisions of this bill pose serious constitutional and policy questions.

In general the measure provides that prior to trial the U.S. district attorney may file a notice that a defendant is a "dangerous special offender," as that term is quite broadly defined in the bill, and in such a case—if the defendant is convicted of the crime charged—a special hearing shall be held before the court, sitting without a jury, to determine, "by a preponderance of the information," whether the defendant in fact is such a "dangerous special offender." If he is found so to be the court shall then sentence the defendant "for an appropriate term not to exceed 25 years and not disproportionate in severity to the term otherwise authorized by law for such felony."

In other words, where the ordinary defendant might be subject to a punishment of 5 years, let us say, for the offense in question, a defendant found to come within this category may be sentenced for up to 25 years for the same offense.

This can be done because the court, without a jury, and on the basis in part of a presentence probation report, has concluded that the defendant committed his offense "as a part of a pattern of conduct which was criminal."

Whether this unusual procedure is either constitutional or wise probably depends on whether one adopts the view that we are dealing here only with the matter of informing the court as to an adequate or appropriate sentence—or whether we believe that we are, actually and in practical effect, trying a man for additional alleged criminal acts for which he has never been tried before a jury and found guilty, but on the basis of which we are going to sentence him to prison for up to 25 years.

The question is not an easy one to resolve; and in practice much will depend upon the fairness and wisdom with which the procedure is administered and applied.

But there is one additional facet of this provision to which I specifically direct attention.

The bill before us provides that there may be a review, by the court of appeals, of the action of the trial court in imposing a "dangerous special offender" sentence, and of the length and severity of the sentence imposed.

The principle of judicial review of sentencing is good; it is in line with modern legal thinking; it makes for a sensible uniformity of sentence; and it offers relief for the unjust sentence occasionally inflicted, and thus enhances respect for the law. Such a provision would seem particularly desirable as a part of so severe a procedure as the special dangerous offender sentencing section.

But, by a provision of well nigh unheard of in our jurisprudence, not only the defendant, but also the Government is given an appeal under this measure, both from the decision of the trial court that a special offender sentence ought not to be imposed at all, and as to the length of the special sentence imposed—and, on appeal or request for review by the Government, the length of the special dangerous offender sentence imposed by the trial court can be increased by the court of appeals.

We thus create a situation where if an appeal be taken the defendant may be worse off than he was before.

It is true that no sentence can be increased under this measure if the defendant seeks the review.

But the procedure is subject to very grave abuse.

There is nothing to prevent the Government from seeking review, or from doing so routinely, and then intimating to the defendant that the Government might abandon its request for review, if the defendant will do likewise.

This threat, indeed, can be used, if it is so desired, not only to discourage an appeal by the defendant from a special dangerous offender sentence—but even as a club to discourage an appeal—and, it may be an entirely meritorious appeal—from his conviction on the merits in the first place.

The commentary of the Advisory Committee of the American Bar Association on Standards Relating to Appellate Review of Sentences put the matter thus:

> A much more serious problem could be created by giving the state the power to seek an increase on appeal. The existence of such power could well have the effect of preventing the defendant from appealing even on the merits of his conviction. The ability to seek an increase could be a powerful club, the very existence of which—even assuming its good faith use—might induce a defendant to leave well enough alone.

In addition the possibility of an increase of sentence on appeal by the Government raises serious constitutional questions relating to double jeopardy and to due process of law which only the Supreme Court of the United States can ultimately resolve. This, I think, is particularly true in the case where the trial court has refused to find the defendant to be a dangerous special offender or to impose any sentence on that basis.

It is my judgment that it smacks of unfairness and is wholly unnecessary to load the already strong provisions of title X down with the additional problems of governmental appeal of and possible increase of the severity of the special title X dangerous offender sentence.

Rather a humane and reasonable approach would be to ameliorate the rigors of this title and to avoid these constitutional problems, by providing for review of the special offender sentence by the defendant only, without any possibility of an increase of this sentence on appeal beyond the penalty meted out by the trial court.

At the appropriate time I shall, therefore, offer an amendment to remove from title X provisions for appeal of sentence by the Government, and I hope that the committee and the House may support me.

I am pleased to state that I am joined in sponsorship of this amendment by my colleagues on the Committee on the Judiciary, the gentleman from Illinois (Mr. RAILSBACK) and the gentleman from New York (Mr. FISH), and, I believe, by other members of that committee.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman.

Mr. YATES. Mr. Chairman, may I say, I too shall vote for the amendment to be offered by the gentleman.

I should like to call the gentleman's attention to page 132 of the bill with reference to section 1968, "Civil Investigative Demand."

I am concerned with the tremendous power that this section seems to give the Attorney General. If the Attorney General in his own discretion believes that any person or business may have books, records, and information pertaining to what the Attorney General calls a racketeering investigation, he may issue in writing a civil investigative demand requiring such person to produce materials for examination.

The powers given are tremendous here and I wonder why the committee did not require a court order in the first instance in order to obtain such information.

Mr. DENNIS. I did not particularly address myself to that point, but I would agree with the gentleman from Illinois that that is a very sweeping power.

Mr. YATES. Certainly, in any other case of search, the Attorney General is required to go to court for a subpena. He has to in the case of wiretapping and he has to get a subpena duces tecum where he wants books and records. Why should he be given this right merely by saying that he is engaged in a racketeering investigation and be able to go to the office of any business, or to any person and say, "I want to see your books and records." I think this language should be stricken from the bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CELLER. Mr. Chairman, I yield 1 additional minute to the gentleman from Indiana.

Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the distinguished chairman.

Mr. CELLER. Is it not true, however, that despite the fact that there would be this civil investigative demand resident in the Attorney General, it must be limited to organized crime, and there are guidelines that are found on pages 122 and 123 which must govern the Attorney General before he can make such demands.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Illinois.

Mr. YATES. I should like to ask the chairman of the committee whether there is anywhere in this bill a definition of organized crime, to which the gentleman refers.

Mr. CELLER. No; there is no such definition. That particular matter was left flexible so that there would be no difficulty in enabling the Attorney General to attack this very horrendous evil that besets our Nation.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. McCULLOCH. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I want to begin by paying my respects to the chairman of the Judiciary Committee who, in my opinion, showed great leadership in his willingness to compromise certain positions that were contrary, really, to his own personal feelings. I give the chairman a great deal of credit for his willingness to do this and to accommodate some of the Members on our side of the aisle.

I also wish to compliment the ranking Republican member of the committee (Mr. McCULLOCH) as well as the gentleman from Virginia (Mr. POFF), who I think did an outstanding job.

Many of us were concerned about particular titles in the bill, S. 30 which was reported to us by the other body. I, for one, was concerned about titles I title VII, relating to litigation concerning sources of evidence. And I was concerned about the dangerous offender provision, the sentencing of dangerous special offenders, which is embodied in title X.

This was a give-and-take proposition. We met for 4 days and 1 night, trying to report out a bill that we could all support. Right now many of us still have reservations about some parts of this legislation, and yet we know that the problem of organized crime is so important that we were willing to try to report out a bill that we think substantially accomplishes the purposes of the Nixon administration, while at the same time is not offensive to us from a constitutional standpoint.

I want to point out to the Members that in respect to these 3 titles, title I relating to the special grand jury, there were certain amendments that were offered, and one effect was to take out two of the four purposes for which the special grand jury could be called and would be authorized to report. Not only that, but one of the two that was left was changed to relate only to a special grand jury investigation and report concerning appointed officials, and not elected officials.

In respect to title VII, I think it is very significant that we took out the applicability of this section which deals with litigation concerning sources of evidence to States and to local governments. We also put a time limit on it, which I think greatly improved it.

And in respect to title X, the dangerous offender section, providing for the sentencing, my colleague and friend from Virginia offered a substitute which substantially incorporated the recommendations of the American Bar Association.

In my opinion, title X, by reason of the amendment offered by the gentleman from Virginia, has substantially improved the bill, so I am going to join the chairman, and I am going to join the gentleman from Ohio (Mr. McCULLOCH) the ranking Member on our side of the aisle, and support the bill.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding. I am still troubled about the give and take that took place in the committee. I fail to appreciate as fully as the gentleman that there was that much give and take. I thought we were operating under the premise that there was going to be a discharge petition brought into operation if we in the Judiciary did not get a bill out without too many amendments. I admit there were over 50 important improvements, but it seems to me title X has failed, even with the supposedly generous concessions of the gentleman from Virginia, to come anywhere near what was desired by at least a few of our Members.

Mr. RAILSBACK. Let me respond to my friend by saying I think his understanding of what happened is correct. There was the very real possibility that a discharge petition was going to be filed, but what this meant was, in my opinion, that there was an overwhelming majority of the elected Representatives in this House of Representatives who favored reporting out a substantially stronger bill than the one we are reporting out right now. It put tremendous pressure on the chairman and on all of the members of the committee.

Let me finish by saying this is the majority will speaking. I think this reflects the will of the American public. They are crying for a tough bill.

Mr. CONYERS. But the committee was working under that pressure the gentleman was speaking about.

Mr. RAILSBACK. There is no question about that. The people want a tough anticrime bill.

Mr. Chairman, for many years there has been an awareness of the menace of

XUM

organized crime in this country. Since 1954, the Justice Department has had an organized crime and racketeering section. Committees of Congress have held hearings which have developed shocking information. Occasionally a newspaper will dramatize the dealings of organized crime. But the menace remains and must be attacked.

On April 23, 1969, President Nixon sent to Congress a special message on organized crime. The President stated:

> Today, organized crime has deeply penetrated broad segments of American life. In our great cities, it is operating prosperous criminal cartels. In our suburban areas and smaller cities, it is expanding its corrosive influence. Its economic base is principally derived from its virtual monopoly of illegal gambling, the numbers racket, and the importation of narcotics. To a large degree, it underwrites the loan-sharking business in the United States and actively participates in fraudulent bankruptcies. It encourages housebreaking and burglary by providing efficient disposal methods for stolen goods. It quietly continues to infiltrate and corrupt organized labor. It is increasing its enormous holdings and influence in the world of legitimate business. To achieve his end, the organized criminal relies on physical terror and psychological intimidation, on economic retaliation and political bribery, on citizen indifference and governmental acquiescence. He corrupts our governing institutions and subverts our democratic processes. For him, the moral and legal subversion of our society is a life-long and lucrative profession.

He warned the good people of this country that the time for action is now, saying:

> As a matter of national "public policy", I must warn our citizens that the threat of organized crime cannot be ignored or tolerated any longer. It will not be eliminated by loud voices and good intentions. It will be eliminated by carefully conceived, well-funded and well-executed action plans. Furthermore, our action plans against organized crime must be established on a long-term basis in order to relentlessly pursue the criminal syndicate. This goal will not be easily attained. Over many decades, organized crime has extended its roots deep into American society and they will not be easily extracted. Our success will first depend on the support of our citizens who must be informed of the dangers that organized crime poses. Success also will require the help of Congress and of the State and local governments.

XUM

In 1965, President Johnson created the President's Commissions on Law Enforcement and Administration of Justice with Nicholas de B. Katzenbach as chairman. Among the elements of the commission was a Task Force on Organized Crime. Serving on the Task Force were Kingman Brewster, Thomas J. Cahill, and Lewis F. Powell. The task force report, published in 1967, contained over 20 recommendations, and many of these proposals have served as a source of portions of the bill under consideration today. The history of these recommendations and the caliber of individuals involved in making them is clear and convincing proof of the broad support for and desirability of the proposals.

Senate bill 30 was introduced in January of 1969. About 1 year later on January 23, 1970, the Senate overwhelmingly passed S. 30 by a vote of 73 to 1. This bears repeating; there was only one Senator voting against the bill.

The House Committee on the Judiciary was referred the bill and scheduled hearings which began May 20, 1970, and continued for a total of 8 separate days, the last public hearing being held on August 5. During this period, the committee also held 5 days of hearings on explosives. I report this because I do not want my colleagues to feel that this is some sort of a sinister measure being slipped through without study. On the contrary, some have complained that it has taken too long to process the legislation. But I can assure my colleagues that the Subcommittee No. 5, on which I am privileged to serve, gave careful thought to several detailed and lengthy critiques of the Senate-passed bill by several respected organizations, including the American Bar Association, the American Civil Liberties Union, the American Trial Lawyers Association, the Association of the Bar of the City of New York, and that of the County of New York, as well as the National Council on Crime and Delinquency. The subcommittee held about 7 days of executive sessions on the bill and several changes were made in the Senate-passed bill. We have reported a bill which contains several safeguards which were not in the Senate mill. And we have, I feel, a substantially improved bill, yet one which is still tough enough to deal with the subject of organized crime effectively.

Before I discuss provisions of the legislation in any detail, let me make clear that there were serious objections levied at some of the provisions of the Senate-passed bill and although I believe that most of these have been satisfied by action of the House committee, I must admit to some uneasiness as to the possible abuse of certain of the provisions which might diminish the rights of individuals beyond that which may be necessary to combat organized crime.

The following is a brief, title-by-title summary of the provisions of the committee bill:

TITLE I—SPECIAL GRAND JURY

In its 1967 report, the Task Force on Organized Crime recommended:

> At least one investigative grand jury should be impaneled annually in each jurisdiction that has major organized crime activity.

The report stated:

> Such grand juries must stay in session long enough to allow for the unusually long time required to build an organized crime case.

As contained in the Senate-passed version such special grand juries were largely independent of court control. Some witnesses opposed this aspect of independence from the courts. The House Judiciary Committee altered the Senate version so as to bring the special grand juries more under the control of the Federal courts. The power of a grand jury lies in the subpena—through it witnesses can be compelled to appear and bring books and records. Under Federal law, subpenas issue only out of the court and thus the grand jury is generally thought of as an "arm of the court." The House Committee version recognizes that court control is desirable.

In addition to making an indictment, these special grand juries would also be empowered to issue a presentment or a report which charges something less than the violation of a Federal law. These reports can concern misconduct involving appointed governmental officials and organized crime. When the report identifies an individual, he is granted the protections of notice, opportunity to present evidence, and judicial review. In addition, he is also guaranteed that he can prepare an answer and have his answer printed as an appendix to the grand jury report. Also, the court can issue orders preventing the unauthorized publication of the report.

It is true that after a report is made public, the subject of such report can only hope that the press and the readers will give his answer equal weight to that of the grand jury report. But, the authority of a special grand jury to issue such a report is limited in this bill to those cases involving organized criminal activity. With such limitations and restrictions, the public exposure of appointed officials concernig their noncriminal misconduct, malfeasance, or misfeasance in office involving organized criminal activity as a basis for a recommendation or removal or disciplinary action, is warranted.

The State of New York has had a statute of similar nature on its books and this law served as a model for the preparation of the language in this bill.

TITLE II—GENERAL IMMUNITY

A grand jury subpena can compel the attendance of a witness and the production of books and records, but obtaining the witness' testimony and inspection of the books and records cannot be accomplished at the expense of the privilege against self-incrimination. In order to compel the testimony and not infringe upon the right to avoid self-incrimination, the concept of immunity has arisen whereby the witness can be forced to testify and protected from having his testimony used against him. Historically two types of immunity have been recognized, one is "transaction" immunity and the other is "use" immunity. Under the former, the witness is protected from any prosecution concerning the "transaction" no matter how much independent evidence unrelated to his testimony was uncovered for use against him. Under the "use" immunity, it is still possible to use unrelated evidence for a prosecution so long as that evidence was not directly or indirectly related to the testimony given under immunity.

In keeping with the recommendation of the President's Task Force, this legislation contains a general Federal immunity statute. It provides "use" immunity rather than "transaction" immunity.

Under recent court decisions, it is anticipated that the "use" immunity is constitutionally sufficient. The cases of *Malloy* v. *Hogan*, 378 U.S. 1 and *Murphy* v. *Waterfront Commission*, 378 U.S. 52, 1964, seem to clearly sanction "use" immunity. A lengthy discussion of cases and the history of immunity can be found in the Senate committee report (S. Rept. 91-617) at pages 51 et seq.

TITLE III—RECALCITRANT WITNESSES

Where legal formalities and procedures have been followed and a witness expresses his contempt for the court by refusing to testify before the court or a grand jury, this legislation would permit the confinement of such witness for a period not to exceed 18 months and would prohibit his release on bail if his appeal of such order is frivolous or taken for delay. The appeal must be disposed of within 30 days.

Although it is possible that such authority might be subject to abuse, we are dealing with Federal judges and courts and the authority is limited. It is, of course, similar to the present procedure followed under the civil law. It could be used to force testimony of witnesses who have been granted immunity.

TITLE IV—FALSE DECLARATIONS

The perjury laws are to encourage a witness to give truthful testimony. In keeping with recommendations of the President's Commission as well as the American Bar Association, this legislation abolishes rules which required more than the sworn testimony of one witness to prove a statement false and which prohibited the use of circumstantial evidence of falsity. This legislation provides that where a witness under oath knowingly makes statements which are inconsistent to the degree that one of them is necessarily false, he has perjured himself unless he corrects his statements during the same proceeding and the declaration has not substantially affected the proceeding.

TITLE V—PROTECTED FACILITIES FOR HOUSING GOVERNMENT WITNESSES

While other provisions of this legislation are designed toward creating grand juries to take and require testimony of witnesses, cases against organized crime have often been dropped in the past, according to the testimony of the Attorney General, because witnesses refuse to testify and are in fear of their life. Tampering with witnesses has been one of organized crime's most effective counter weapons.

The charge has been made that this section of the legislation could easily be subject to abuse and used as a means of employing preventive detention of "undesirables." And yet the people we are concerned with are those who are cooperating by offering testimony against organized crime and a former Attorney General has testified that, between 1961 and 1965, the organized crime program of the Justice Department lost more than 25 informants. Furthermore, what is authorized is the "offering" of such facilities. There is no authority granted in this bill for mandatory incarceration in such facilities. We have authorized a voluntary program.

TITLE VI—DEPOSITIONS

In keeping with the purpose of title V to protect the Government witnesses themselves, this title seeks to protect the evidence the witnesses have to offer from corruption or other interference by authorizing the taking of pretrial testimony in a deposition form potentially admissible at trial to preserve the testimony. If such potentially admissible evidence is available, it may frustrate and remove the chief incentive that organized crime has in tampering with witnesses or their testimony.

Under the title as revised by the House Committee, the Government, after certification by the Attorney General or his designee that a legal proceeding is against one who is believed to have participated in organized criminal activity, may be authorized to use a deposition of a Government witness in the criminal proceeding. A court order is necessary and the usual protections of notice, counsel, cross-examination, and rules of evidence would apply. In addition, the fifth amendment rights of a defendant would remain.

TITLE VII—LITIGATION CONCERNING SOURCES OF EVIDENCE

In a 1969 decision, the U.S. Supreme Court held that after a defendant who claimed that evidence against him was the fruit of unconstitutional electronic surveillance had established the illegality of the evidence gathering by the Government, he must be given all that confidential material in the Government's files. The Court rejected the Government's contention that the trial court could be permitted to screen the Government files in private and give the defendant only material which is "arguably relevant" to his claim. *Alderman* v. *United States*, 394 U.S. 165.

The Alderman rule involved a case occurring prior to enactment of the Federal wiretapping and electronic surveillance law—chapter 119, title 18, United States Code—on June 19, 1968. Nonetheless, it seriously endangers the lives of informants and discourages prosecution of organized crime participants by requiring that all of the Government's evidence be given to the defendant for review. In the case of organized crime, giving it to one defendant is in reality giving it to the entire structure of organized crime. Motions to suppress and for disclosure are, in the opinion of many, unnecessary beyond that evidence which is realistically relevant to the case of the defendant on behalf of whom the motion is made.

While there is no argument that illegally obtained evidence may not be used against a defendant, two aspects of the Alderman decision are troublesome; namely, the requirement that even nonrelevant evidence be turned over from the Government's files, and also that once illegally obtained evidence was obtained concerning an individual, it must be disclosed even if the prosecution is for an event which had not occurred at the time the evidence was secured.

The House Committee added language in this title to the effect that disclosure of information from the Government's files shall not be required "unless such information may be relevant to a pending claim of such inadmissibility." Thus we have added a requirement of relevancy which was not included in the Supreme Court's ruling in the Alderman case. It remains for the Supreme Court to consider this in further litigation, however, in the dissent which he wrote to the Alderman decision, Justice Harlan stated:

> It is not difficult to imagine cases in which the danger of unauthorized disclosure of important information would clearly outweigh the risk that an error may be made by the trial judge in determining whether a particular conversation is arguably relevant to the pending prosecution.

This title also deals with the other troublesome aspect of the Alderman ruling, that prospective criminal prosecutions of a defendant could serve as a reason for opening past Government files to the defendant. The House Committee added language which provides that if a crime was committed more than 5 years following the illegal gathering of evidence by the Government and involved the same defendant, the evidence gathered over 5 years earlier could not be presumed to have been the cause of the prosecution for the later act, and thus there could be no forced disclosure of the Government files.

TITLE VIII—SYNDICATED GAMBLING

In his message to Congress on organized crime the President stated that:

> This administration has concluded that the major thrust of its concerted anti-organized crime effort should be directed against gambling activities. While gambling may seem to most Americans to be the least reprehensible of all the activities of organized crime, it is gambling which provides the bulk of the revenues that eventually go into usurious loans, bribes of police and local officials, "campaign contributions" to politicians, the wholesale narcotics traffic, the infiltration of legitimate businesses, and to pay for the large stable of lawyers and accountants and assorted professional men who are in the hire of organized crime.
>
> Gambling income is the lifeline of organized crime. If we can cut it or constrict it, we will be striking close to its heart.

This title is similar to legislation which was sent to Congress during the administration of President Johnson. It enlarges the Federal jurisdiction over illegal gambling activities, which are defined as violating a law, involving 5 or more persons, operating for more than 30 days or having a gross income of $2,000 in a single day.

The title also creates a Commission To Review National Policy Toward Gambling.

TITLE IX—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

This title is designed to deal with the infiltration of organized crime into legitimate business and labor. The title makes it a crime to use organized crime profits or methods to establish, acquire, or operate any legitimate business. It makes available antitrust case sanctions of a civil nature to remove organized crime from legitimate organizations.

TITLE X—DANGEROUS SPECIAL OFFENDER SENTENCING

This title is similar to the approach which the House recently adopted in the drug abuse legislation. It provides for additional extended sentences of up to

25 years for dangerous adult special offenders.

A special presentencing hearing would be held at which the defendant would be represented by counsel, could cross-examine witnesses and provide evidence, and which would be conducted without regard to the rules of evidence, thus permitting the judge to take into consideration any pertinent evidence. The decision of the judge could be appealed by either the Government or the defendant.

This approach has been advocated by the American Bar Association, the American Law Institute, and the National Council on Crime and Delinquency. It was also recommended by the President's Crime Commission. Nonetheless, it does deal in the sensitive constitutional area of due process, and must not be abused.

TITLE XI—REGULATION OF EXPLOSIVES

This title was added by the House committee following 5 days of testimony on the subject of explosives. It increases the penalties for the illegal use of explosives and expands Federal control of the subject. It specifically exempts the use of black powder in amounts of 5 pounds or less for handloaders and other legal users. It establishes licensing and permits regulation. And it authorizes the FBI to investigate college campus riots and bombings.

TITLE XII—NATIONAL COMMISSION ON INDIVIDUAL RIGHTS

This title was added in the House committee to establish an agency composed of Senators, Congressmen, and Presidential appointees, for the purpose of conducting a comprehensive study of special grand juries, wiretapping, and electronic surveillance, bail reform and preventive detention, no-knock search warrants, and accumulation of data on individuals by Federal agencies, as well as other Federal laws and practices which may infringe upon the individual rights of the people of the United States. We do not want to move blindly and the Commission can be quite useful to Congress in this field.

Mr. McCULLOCH. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. CRAMER), a longtime member of the House Judiciary Committee.

Mr. CRAMER. Mr. Chairman, I thank the gentleman from Ohio, the ranking member of the committee on the minority side, for yielding.

Mr. Chairman, I congratulate the committee on this tough hardhat crime bill, which is much needed. I am delighted the committee took the action the American people are demanding be taken with regard to the bombers and the burners in America, the bomb throwers and the ambushers and the bushwhackers, and I hope before long we will be taking affirmative action with regard to the cop killers. I am delighted in particular to see in this legislation the antibombing section, as well as other sections, many of which I have introduced for a number of years, including the immunity of witnesses, as an example, and including in addition the antibombing title, which provides for the death penalty where bombing results in death.

Mr. Chairman, when we had kidnapings in America—for instance, the famous Lindbergh case—the American people demanded action and the Congress acted. They demanded that something be done to stop the heinous kidnaping of children in America. It was done. Kidnaping has almost come to a halt because of the action taken by the Congress at the demand of the people. I hope bombings will come to a similar halt. The radical revolutionaries in this country have as their intent and purpose the disruption of law and order in America, the killing of as they say "the pigs," meaning the policemen, and the tearing down and bombing of as they say "the pigsties," meaning, of course, the police headquarters and the jails.

Mr. Chairman, the time has come for Congress to act. I am delighted to see it is doing so, and in particular using the Lindbergh law pattern and saying to the bombers that we are going to put them out of business, and if they do not get out of business, the death penalty can be invoked if they kill someone in a bomb attack. There is no more heinous or sneaking attack, except perhaps in South Vietnam, no more heinous or cowardly attack that can be made on an American citizen than by hiding a bomb and attacking an innocent person, such as the graduate student at the University of Wisconsin who was killed in the bombing of the library of research facility.

I am glad to see this step taken by the Congress. I have introduced other stop-the-cop-killer legislation, and I hope that step will be taken. I will be testifying before the Senate Internal Security Committee this afternoon on it. I hope the step will also be taken with respect to the "cop killers," with respect to those who would kill our firemen while on duty, with respect to those who would kill our National Guardsmen while on duty.

Frankly, I believe it is a national plan. It is not just happening. I believe it is a national, planned program on the part of a very small number of radical revolutionaries who want to destroy our institutions in this country.

I am glad to see the Congress bringing forth this strong bill, this hard-hat bill. I wholeheartedly support it.

Mr. McCULLOCH. Mr. Chairman, I would be pleased if the majority would use some time.

The CHAIRMAN. The Chair will advise the gentleman that he has three times as much time remaining as the gentleman from New York.

Mr. McCULLOCH. Mr. Chairman, I have no request at this immediate moment for any of that time, and I have no desire to slow the proceedings.

Mr. CELLER. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from New York has 8 minutes remaining.

Mr. CELLER. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. SCHEUER).

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I am happy to yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, I should like to associate myself with the remarks of the gentleman from Florida.

Mr. Chairman, the Organized Crime Control Act of 1970 is, in my opinion, a major effort to provide the Federal Government some of the weapons needed to root out crime.

If you ask the average citizen what he is most concerned about in the area of crime, undoubtedly he will reply, "Fear of physical assault," "robbery." This is to be expected. However, what most people do not realize is that much of our street crime is directly linked to organized crime, perhaps a less obvious but no less deadly aggressor. For example, the narcotics-crime crisis we are experiencing today—locally and nationwide—is intimately connected with syndicated crime. Drug abuse in our Nation has increased dramatically in the last 3 years. It is estimated we have between 5,000 and 10,000 drug addicts in the Washington, D.C., area alone, and an alarming number of these are in their teens.

Organized crime has deeply penetrated broad segments of American life, making its influence felt in our great cities, in suburbia, and even in our smaller cities. Its economic base derives from illegal gambling, the numbers racket, the importation of narcotics, and even to underwriting the loansharking business and participating in fraudulent bankruptcies.

President Nixon defined the broad base of the organized criminal activity very well when he said:

> To achieve his end, the organized criminal relies on physical terror and psychological intimidation, on economic retaliation and political bribery, on citizen indifference and governmental acquiescence. He corrupts our governing institutions and subverts our democratic processes.

In other words, organized crime leaves no area of human endeavor untouched by its corruption.

Estimates of the "take" from illegal gambling alone in the United States runs anywhere from $20 billion, which is over 2 percent of the Nation's gross national product, to $50 billion, a figure larger than the entire Federal budget for fiscal year 1951.

One of the most important aspects of the bill is that dealing with bombing.

Since the middle of 1969 an unprecedented wave of explosive bombings has occurred across the Nation. The targets of these terroristic acts include almost every type of public and private institution, but the attacks have concentrated most heavily on police stations, court buildings, corporate offices, military facilities, and college campuses.

A recent 18-month survey by the U.S. Treasury Department showed the following statistics:

Bombings (explosive, incendiary)	4,330
Attempts to bomb	1,475
Threats to bomb	35,129
Total bombings, attempts or threats	40,934

The General Services Administration reported 46 threats to bomb Federal buildings in a 12-month period ending June 30, 1969, and 383 bomb threats in the corresponding period ending June

30, 1970. Actual bombing and arson incidents in Federal buildings increased from 13 in the 12-month period ending June 30, 1969, to 38 in the corresponding period in 1970. Losses in property damage increased accordingly from $7,250 to $612,569. The General Services Administration estimates that 130 evacuations of Government personnel resulting from the receipt of bomb threats during January to June 1970, cost the Government $2.2 million in man-hours lost—a loss far exceeding the reported loss in property damages. This needless waste cannot be tolerated.

A total of 333 bombing incidents were reported to the FBI from January 1 through September 11 of this year. Of these, 25 were on college campuses and 11 were near campuses or in college towns. During the last school year, there were 14 bombings and 246 arson incidents on campuses.

The tragic death of Prof. Robert Fassnacht in an explosion at the University of Wisconsin on August 24 shocked the Nation.

The antibombing provisions of this bill are vitally needed.

I am proud and pleased that the Judiciary Committee has included within its recommendations to the House two proposals which I introduced and have supported.

I proposed extended terms of imprisonment for habitual offenders convicted of felonies in Federal courts. This would allow Federal judges to deal more severely with those hard-core professional criminals who pose a real and continuing threat to society.

Second, I sought to prohibit the investment of income derived from illegal activities in legitimate established business enterprises. In addition, I would broaden and clarify the jurisdiction of Federal investigators to identify the illegal sources of revenue of the organized criminal elements.

Among its other aspects, the Organized Crime Control Act:

Provides secure housing facilities for Government witnesses in organized crime investigations and prosecutions on both the State and Federal levels.

Replaces the old immunity statutes with a single law saying that testimony given by an immediate witness cannot be used against him. However, it leaves the Government free to prosecute him on the basis of other evidence it gathers elsewhere.

Extends Federal jurisdiction over illegal gambling to include all such activities in operation for more than 30 days or from which gross revenue is $2,000 in any single day, involving five or more persons. It also provides penalties for participation in which activities of up to $20,000 in fines, and/or up to 5 years imprisonment. This is one of the bill's most significant provisions, for the financial mainstay of organized crime is gambling. The revenues of gambling net the Cosa Nostra between $7 to $50 billion per year which helps underwrite its activities in the field of narcotics.

Furthermore, the committee has recommended provisions which are designed to assist the States to regulate more effectively the sale, transfer, and other disposition of explosives within their borders, prohibiting distribution to persons under 21 years of age, drug addicts, mental defectives, fugitives from justice, and persons indicted or convicted of certain crimes.

In addition, the Federal criminal law is strengthened with respect to the illegal use, transportation or possession of explosives, including incendiary devices. In addition to increasing present penalties for the illegal use of explosives, the scope of the Federal law is expanded to cover malicious damage or destruction by explosives to Federal property or property of recipients of Federal financial assistance.

The bill proscribes malicious damage or destruction by explosives of real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce. The death penalty is extended to new offenses added under this title.

In 1965, the President called together the National Crime Commission to find out why organized crime was growing despite the Nation's efforts to arrest its development. In reply this Commission identified a number of factors: Lack of resources, lack of coordination, lack of political and public commitment, failure to use criminal sanctions. But the major legal problem contributing to its growth was attributed to "defects in the evidence-gathering process." The Organized Crime Control Act of 1969 is an excellent effort to correct these defects on the Federal level.

The crime threat today is urgent. To overcome it we must be willing to fight on all fronts. We must seek and support legislation such as the Organized Crime Control Act of 1970, which will correct our criminal procedures and improve our evidence-gathering methods. We must—if our desire to stamp out crime is as strong as our words—make sure that we have the means and the know-how to combat society's primary threat today.

Mr. SCHEUER. Mr. Chairman, we have heard repeated allegations here this afternoon that what the American people want is a tough, hardhat bill on organized crime. I am not so very sure of that.

I represent a district which is probably as agonized by urban problems, by violent street crimes, by drug addiction, by gambling that takes out of that community as much as welfare payments bring into it, as any district in America; and I have heard very little sentiment about a hardhat bill on organized crime.

I believe what the people of our country want is a bill that gives them some security in the streets, security in their homes, serenity, peace, freedom from the fear of violent personal attack. They do not know much about the details as to how they are going to get that, but I believe what they want is results, and effectiveness, and not a lot of hardhat oratory that is going to be awfully soft on results a year from now when we come to appraise what we have done, assuming this bill passes.

Yesterday the gentleman from Iowa (Mr. Kyl) suggested in a quotation from Alexander Hamilton that in a period of violence and lawlessness people are willing to become less free in order to become more safe.

I share with my colleagues, the gentleman from Texas (Mr. Eckhardt), the gentleman from New York (Mr. Ryan), the gentleman from Michigan (Mr. Conyers), the gentleman from Illinois (Mr. Mikva), and my Republican colleagues also, their deep reservations about some of the grave constitutional issues which have been raised in respect to this bill, including the special offenders sentencing provision, the death penalty for the illegal use of explosives, the creation of grand juries with powers to accuse public officials without an opportunity for rebuttal, the litigation on sources of evidence, and the like. But I must say, out of respect for the anxieties of my district, if I believed that by eroding somewhat the civil liberties, the civil rights and the constitutional rights which this bill would envisage—if I thought it would work—I might reluctantly be willing to sacrifice some of our freedoms for the serenity, for the peace of mind, for the security in the streets and in the homes that the American people desperately want and that the people of my ravaged district in the South Bronx demand and pray for as a matter of life and death.

However, I fear that this bill, with all due respect to the venerable and beloved chairman of the committee and the diligent and highly professional members of the majority and minority, and with respect and gratitude to them for many of the highly effective and professional pieces of legislation that they have presented to this House in months and years gone by, I suggest that this bill is an exercise in waste, in futility, and in frustration that will come back to haunt us in years to come, because, Mr. Chairman, this bill will not work. It is a waste because it is diverting us from the real challenge that lies ahead of improving the entire length and breadth of the criminal justice system and improving the effectiveness of our systems of detection and apprehension of criminals, which is what the people want; of prompt trial and conviction of the guilty and freeing of the innocent, which is also what our people want; and improvement of the systems of rehabilitation and correction that today are an outrage to the national conscience, where they take young amateurs and turn them into hardened professionals. That is what our people want and not hardhat rhetoric that will not work.

The basic underlying philosophy of this bill is that nonvictim social conduct can be controlled and prohibited by more stringent penalties and more law enforcement. If there is one thing we know from 4,000 years of human history, it is that there are certain types of personal conduct that the law cannot reach.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. I think the gentleman is on the right track, because as we look at the statement and the purpose of the bill, it is premised on a theory that the Members may want to question; that is, that organized crime has been success-

XUM

ful and that the law-enforcement agencies of this country have been unsuccessful because of the evidence-producing machinery that is available to the courts.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. McCULLOCH. Mr. Chairman, although not requested, I would be glad to yield 2 minutes for the questioning of the gentleman from Michigan to be propounded to the gentleman from New York.

The CHAIRMAN. The gentleman from New York is recognized for 2 additional minutes.

Mr. CONYERS. Will the gentleman yield further?

Mr. SCHEUER. Yes. I am glad to yield.

Mr. CONYERS. Therefore, if we are able to strengthen the court machinery and the evidence rules, we will be able to diminish crime on an organized basis. I think this bill is posited on a theory that could be challenged by a good many Members of this body.

Mr. SCHEUER. I agree entirely with the gentleman.

What is apparent from our history abroad and at home is that consenting adults will engage in sexual activities for remuneration, and they have for eons, and we cannot control that. If anybody here doubts it, let him take a walk with me through Times Square, and if he is not deaf, dumb, and blind, and palsied, he will get 15 propositions per block for the exchange of sexual services for pay.

For 4,000 years human beings have gambled. For that period of time they have also enjoyed mind-altering devices and substances. Alcohol, tobacco, and amphetamines have been legal in this country. Apparently we could not control the consumption of alcohol, and ultimately stopped trying.

We had a disastrous experience in demeaning the law which was created to control that particular type of conduct which some people considered antisocial, the consumption of a particular kind of mind-altering substance.

Mr. Chairman, it is perfectly clear that we cannot and will not control gambling, I do not care how punitive we get.

In Detroit earlier this year the Department of Justice sent in a great number of law-enforcement officers in a massive dragnet effort to help bring under control gambling, yet 10 days later a kid could have placed a bet on any Detroit street corner.

In New York City in the last year we have had 10,000 arrests of people engaged in the numbers racket who sold more than $5,000 worth of bets a day. How many of those were convicted? One out of that number, for 1 year or more.

Mr. Chairman, I fear that this bill is stabbing in the dark at organized crime. While providing some more effective legal tools to gather evidence for prosecuting the syndicate criminal, the bill is clearly inadequate to the task of controlling organized crime. The simple fact is that we do not yet know precisely how to control the gambling, loan sharking, and narcotics activities on which organized crime feeds and flourishes.

Title VIII of the bill before us today recognizes the need for research on how we can evolve a rational national policy on gambling. That title calls for a comprehensive review of Federal and State gambling law enforcement policies and their alternatives. I applaud the establishment of such a Commission with the expectation that the Commission will and must deal with the question of legalization of certain forms of gambling in order to deprive its monopoly profits to organized crime. Considerable evidence indicates that legal penalties cannot and should not be used to regulate this type of human conduct. I would like to outline briefly some of the areas that need to be researched by this Commission.

The Commission should examine the effectiveness of legal prohibitions on gambling activity. As the Attorney General has pointed out, private citizens spend anywhere from $20 to $50 billion a year on various forms of gambling, despite legal restrictions on such activity in virtually every State. Even after concerted efforts across the Nation at prosecuting illegal gambling, the practice continues unabated.

Nowhere in our Nation is there a purposeful political and judicial commitment to stamping out gambling.

We seem to have grossly overestimated the ability of criminal law to regulate this type of human conduct. If we cannot legislate this morality, if criminal penalties do not discourage people from gambling, then we must ask what kinds of activities do we want to deter or control, by means of criminal sanctions, and effective law enforcement.

The Commission should consider the consequences of legalizing various kinds of gambling, from off-track betting to casinos. The present criminal sanctions against gambling drive up the costs and increase the risks of those who take bets, so that only organized crime is willing and able to operate gambling enterprises.

Organized crime has driven out all competition, taking over $6 to $7 billion in monopoly profits.

The present system encourages bribery of law-enforcement officials since gambling operations cannot function without the cooperation of these officials. Legalization could destroy the monopoly grip of organized crime on gambling, cutting off their principal source of funds, and eliminating one of the primary motivations for corruption of public officials.

Legal outlets for gambling impulses have been provided for in England for many years, and in Nevada and Puerto Rico. New York State has recently legalized off-track betting. The Commission should examine how successful these experiences have been, using such studies as one planned by the National Institute of Law Enforcement and Criminal Justice in New York, to discover whether or not organized crime suffers when there is a legalized outlet for gambling. In New York, for example, it appears that, as opportunities for legal betting increase, the size and number of illegal bets decrease. The Commission should study the hypothesis that licensing, State or Federal supervision, and taxation are more effective methods of fighting organized criminal syndicates than outright prohibition of the activity on which they persistently feed.

Such alternatives for rational control of gambling would have a massive impact on our criminal justice system, freeing its resources and manpower to deliver really important law-enforcement services.

The Commission can insure an effective and carefully planned approach to exercising social control over gambling, and permanently removing it as a source of billion-dollar profits for organized crime.

This is the kind of Federal help our cities need. Yesterday, our distinguished colleague from Virginia (Mr. POFF) asked if we wanted a Federal Police Establishment so strong as to reach into local street crime. I say yes, enthusiastically. We want the Federal Government to provide the research assistance, the guidance, and the professional support that our cities and States so desperately need in improving their law-enforcement systems.

By way of summing up, I commend to the Commission's attention the following quotation from John Mack, director of the School of Social Study, University of Glasgow:

> Organized crime is produced by an over-worked and over-reaching criminal law, which attempts and fails to regulate the private moral conduct of the citizen. When people are prevented by means of the criminal law from obtaining goods and services which they have demonstrated that they do not intend to forego, criminals will step in to supply those goods and services under monopoly conditions at high profit to themselves. This will lead to the development of large-scale organized criminal groups, which, as in the field of legitimate business, extend and diversify their operations, thus financing and promoting other criminal activity. It follows that direct action against the racketeers and mobsters by stepping up police activity, creating special organized crime groups, and similar measures, will have little or no effect on the criminal systems; and that any plan to deal with crime in America "must first of all face this problem of the over-reach of the criminal law, state clearly the nature of its priorities in regard to the use of the criminal sanction, and indicate what kinds of immoral and anti-social conduct should be removed from the current calendar of crime."

Mr. McCULLOCH. Mr. Chairman, I am pleased now to yield 4 minutes to the distinguished gentleman from New Jersey (Mr. HUNT).

Mr. HUNT. Mr. Chairman, today let me say that I sat in this Chamber and listened to many arguments as to whether or not the current legislation now pending before this body is good, bad or indifferent. Undoubtedly, there will be a number of amendments offered to this bill. But in my estimation—and I back this with a number of years of actual experience in the law-enforcement field—I think this bill that has been produced is a very fine piece of legislation, long needed.

I do not care whether one talks about hardhat rhetoric or what one talks about. When it comes down to protecting the life of American society, this is exactly the job of the legislative branch to make laws that will protect the people

XUM

of this Nation and not to go around eulogizing those sob sisters and other people who will condemn it.

It has just been said that there were 10,000 arrests for one particular type of crime in New York City and only one conviction. When that statement is made one indicts the entire system of jurisprudence. I believe the gentleman from New York knows what I am talking about. However, I would question that one conviction out of 10,000 arrests.

Mr. Chairman, I am well acquainted with the members of the New York City Police Department. They do an excellent job and have done a very fine job over the years. It is a very difficult job for them to take on this responsibility and do an effective job. I do not want to see them indicted by saying that they made 10,000 arrests and only obtained one conviction on one phase of criminal activity.

Mr. Chairman, it has long been known in this world that the morals of man has been the root and downfall of all societies. If one looks back in history one will find that 2,700 years before Christ the Persian armies used marihuana for the purpose of juicing up their troops to make them more ferocious in battle. But we have today many sob sisters who say, "We should legalize marihuana."

Mr. Chairman, how about the policeman, the law enforcement officer, the man who goes out every day of his life to protect society, who is sniped at, beaten and attacked and yet people have some uncanny way of winking at this? How about the fireman up on the 100-foot ladder but who is shot off the ladder while he is trying to protect the people and the property in that particular area?

I say to you gentlemen the bill that is now before this body has been needed, and sorely needed, for a number of years. It is about time that we got tough with them, the criminal element, because the criminal has become very tough on society. We cannot permit this situation to continue to grow, because we have a Frankenstein on our hands. We must begin to correct this condition. If rhetoric cannot do this and if rhetoric has been used in the past and has not been successful, let us change the law and control the hoodlums more stringently.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. HUNT. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I agree with the gentleman at least in this one point, that we have the finest police force in the United States in New York City.

Mr. HUNT. I would not go that far, sir; they are a fine police department, excellent, but we have many fine police department in our country.

Mr. SCHEUER. I respect those 32,000 professionals, and I think our new police chief is as fine a law enforcement professional as there is in this country. And it is for this very reason that I want to see our police freed from the unfair burden of trying to enforce laws that nobody wants to see enforced, and that only lead to the corruption of the police department, which we have seen in New York by a very small percentage of the officers, corruption which has nevertheles affected the morale and the public reputations of the vast majority of the other high-principled police professionals.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McCULLOCH. Mr. Chairman, I yield 1 additional minute to the gentleman from New Jersey.

Mr. HUNT. Mr. Chairman, I thank the gentleman for the additional time.

Mr. Chairman, in response to the statement made by the gentleman from New York (Mr. Scheuer), I would ask the gentleman if the gentleman has consulted with the members of the New York City Police Department as to the merits of this bill?

Mr. SCHEUER. No, I have not.

Mr. HUNT. I suggest you do, because you will find a different story among those men who go out and lay their lives on the line for the protection of you, your loved ones, and for me.

Mr. SCHEUER. I can tell the gentleman that the District Attorney of Bronx County, Burton Roberts, and the assistant district attorney of New York County, Mr. Alfred Scotti, were quoted in the New York Times of September 15 of this year as saying that the way to free ourselves from the burden of organized criminal control of gambling is to legalize gambling.

Mr. HUNT. There are many of us who disagree with this, and I will cite you the story of Las Vegas. Perhaps the gentleman might like to use that as a sort of a symbol in setting a very fine example of legalized gambling, what it can actually do to those who go out there, and what they do, and what comes out of it. I do not believe that is a system we would like for this country.

Mr. SCHEUER. Las Vegas may do a poor job, but the Island of Puerto Rico has legalized gambling, and they are handling it very well.

Mr. HUNT. I am familiar with Puerto Rico, and I know that the gentleman from New York visits there quite often.

Mr. SCHEUER. Yes.

Mr. HUNT. And so do I.

Mr. SCHEUER. And it is a very clean operation.

Mr. HUNT. Well, that is a debatable question sometimes. Fine theory, but let us get this bill passed.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. McCULLOCH. Mr. Chairman, I am pleased to yield such time as he may consume to the gentleman from South Carolina (Mr. Watson).

Mr. WATSON. Mr. Chairman, I rise in strong support of this legislation.

Mr. McCULLOCH. Mr. Chairman, I am very pleased to yield such time as he may consume to the distinguished minority leader, the gentleman from Michigan (Mr. Gerald R. Ford).

Mr. GERALD R. FORD. Mr. Chairman, I join the gentleman from Ohio (Mr. McCulloch) and the other members of the Committee on the Judiciary in support of this legislation. It is long overdue. I believe it will be a great help and assistance to law enforcement in this country, and I urge its adoption without amendment.

I do, however, want to speak out particularly for the antibombing measures which the committee added to the bill.

The senseless and terrifying wave of bombings which has swept the country simply must be stopped. While I have seen no complete statistics concerning these occurrences, we are all aware of the increasing scope and seriousness of this threat to our way of life.

Since the first of this year an explosion in San Francisco in a police station killed one officer and wounded six others; the Dorchester County Court House in Cambridge, Md., was ripped by a bomb; a blast by a time bomb heavily damaged an office building in Buffalo, N.Y.; and we all remember the recent bombing at the University of Wisconsin that took one life and caused extensive damage. I could go on citing the many horrible examples of this mania, but the headlines of our newspapers have made them familiar to us all.

The President on March 25 recommended that the Congress amend the provisions of the Federal criminal code to significantly expand the jurisdiction of the Federal Government to investigate and prosecute the perpetrators of these awful bombings. Later, additional legislative measures were recommended to provide effective checks on the procurement of explosive materials for illegal use. These latter provisions would operate through a system of licenses and permits. Licenses would be required of all manufacturers, importers, and dealers. Permits would be required of all users who depend on interstate commerce to obtain explosives. Records would be kept concerning transactions involving explosives and positive identifications of the parties would be mandatory. Explosives under this legislation could not be lawfully acquired by persons under 21 years of age, drug addicts, mental defectives, fugitives from justice or persons indicted for or convicted of certain crimes.

The measure which the House committee has approved contains those necessary provisions plus two additional items of great importance. The substantive jurisdiction of the Federal Government is expanded to insure that the FBI will have authority to investigate bombings of federally assisted institutions. The expertise of these investigators will thus be instantly available to bring to prompt justice those few who seem to be bent on trying to destroy our colleges and universities.

Another valuable addition is the provision authorizing the use of wiretaps to assist in the apprehension of the bombing violators. These wiretaps would be conducted under the same strict supervision and requirements that apply to the organized crime and other surveillances under current law. This necessary investigative tool would, I am sure, be utilized as judiciously and effectively as has been the cases in other important criminal investigations.

All persons who participated in preparing and securing committee approval

XUM

of these important antibombing measures should be congratulated. I am looking forward to joining with the other Members of this body in voting for enactment of this vital legislation.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. Mizell).

Mr. MIZELL. Mr. Chairman, I rise in strong support of this measure.

Mr. Chairman, I rise today to commend the chairman and members of the House Judiciary Committee for reporting such a fine piece of legislation as the Organized Crime Control Act of 1970.

This bill provides some of the most effective weapons ever assembled to combat organized crime in the United States. The passage of this legislation will be conclusive proof that the restoration of law and order is not just a catch phrase in an election year, but a matter of national concern and an immediate goal of national policy in America.

After so long a time of looking the other way when crime is committed, it is good to see that the administration and the Congress are responding to a national mandate and facing up to organized crime in America.

It is a disgrace to allow the lords of organized crime to siphon billions of dollars from the American economy every year in illegal activities. I am glad to see a law with some real teeth in it.

The fear of crime in the streets, the incidence of corruption in Government and in business, the appalling rise in the crime rate over the last decade—none of these has any place in a society that cherishes its own freedom and respects its own laws.

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I am confident that with more legislation like this Organized Crime Control Act of 1970, the battle against crime can be waged effectively and won.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado (Mr. Brotzman).

Mr. BROTZMAN. Mr. Chairman, I urge the enactment of S. 30, the Organized Crime Control Act of 1970. Organized crime has become a cancerous element in our society which must be eradicated.

As a former U.S. attorney for Colorado, I can attest to the need for the bill now under consideration. Organized crime presents unusual problems to law enforcement officials. Its chain of command is closely guarded, and all too often only minor functionaries in the ladder of organized crime can be apprehended. Unfortunately the result is that while one petty hoodlum may be taken off the streets, the activities corrupting the very core of our society continue unabated.

S. 30 adds a number of significant tools to the arsenal of law enforcement officials. The Federal immunity statute is strengthened in an effort to aid organized crime operatives to testify against their superiors. The bill will enable effective displacement of the privilege against self-incrimination by granting protection coextensive with the privilege; that is, protection against the use of compelled testimony directly or indirectly against the witness, in a criminal proceeding. Also, the present civil contempt practice with respect to recalcitrant witnesses in Federal grand jury and court proceedings is codified.

One of the problems encountered when law enforcement officials seek information on organized crime is the fear experienced by those persons who are in a position to assist in an investigation. The bill authorizes the Attorney General to protect and maintain organized crime witnesses and their families.

Special provisions are included to control syndicated gambling and racketeering. It is in these areas, along with drug abuse, that organized crime is able to furrow deep into a community and gain a virtual lien on lives of countless individuals. Those who are seeking to break the shackles of poverty become the unwitting accomplices of fat-cat mobsters, and in the end, they and their families are condemned to either a life of privation or a life of crime.

Mr. Chairman, the passage of S. 30 would offer renewed hope to a citizenry growing tired of having its resources tapped by persons who have a callous disregard for law and common decency.

Mr. McCULLOCH. Mr. Chairman, I have no further requests for time at this immediate moment.

Mr. CELLER. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from New York has 3 minutes remaining.

Mr. CELLER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this bill contains 148 pages. It has 13 titles. It is bound to have some defects. We are only human, and it is human to err. But I hope that these imperfections will not be so exaggerated in the minds of some of the dissenting Members that we have heard here today and yesterday as to tincture their points of view as to the bill itself.

Mr. Chairman, I think the bill is sound despite some of the irregularities that may be contained in the bill. We were faced with a gigantic job—and I want to emphasize that—a gigantic job. Our task was not easy. Indeed, it was a very difficult task. But, nonetheless, we faced that task with, I think, a degree of courage and with some wisdom. We worked hard—we really worked hard and labored. We rolled up our sleeves proverbially and we worked for almost a solid week including a night to be able to fashion the bill that you now have before you.

Mr. Chairman, I want to pay my respects to the subcommittee that handled the bill—Messrs. Rodino, Rogers of Colorado, Donohue, Brooks, Kastenmeier, Edwards of California, McCulloch, MacGregor, McClory, Railsback, Poff, and Hutchinson.

All of these gentlemen exerted the most patient efforts in rounding out a bill. There were all manner and kinds of points of view expressed and they were materially discussed. Some were accepted and some were rejected.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. CELLER. Mr. Chairman, I yield myself the remaining minute.

Mr. Chairman, as I said, some of the provisions were rejected and some of them were accepted. There was a conciliatory spirit which brought this bill about. So it was with the full Committee on the Judiciary. They accepted it with very little debate because they had very great faith and confidence in the subcommittee. I pay great tribute to that subcommittee as do the other members of our Committee on the Judiciary.

Mr. Chairman, it is for this reason that I do hope that this bill will pass with no amendments. We are going to try to make it impervious to amendment because we think it is a well-rounded bill.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. McCULLOCH. Mr. Chairman, does the minority have any time remaining?

The CHAIRMAN. The minority has 14 minutes remaining, but the Chair understood the gentleman to say that he did not have any further requests for time on his side.

Mr. McCULLOCH. That was at that particular time, Mr. Chairman.

Mr. Chairman, I now wish to yield to the gentleman from Ohio (Mr. Minshall) such time as he may desire.

Mr. MINSHALL. Mr. Chairman, I heartily and strongly endorse the comments that the chairman of the great Committee on the Judiciary has made and also the ranking minority member, my good friend, the gentleman from Ohio (Mr. McCulloch).

Mr. Chairman, I have every confidence that this bill will be passed practically unanimously by this House.

I most strongly support passage of S. 30, an essential, long overdue stride toward demolishing organized crime.

For years these expertly organized, highly sophisticated criminal syndicates have bled our citizens, literally and figuratively, not only through overtly criminal acts but covertly as well, by invading and corrupting segments of nearly every legitimate enterprise.

Organized crime in America has flourished into a multibillion-dollar business, dipping into the pockets of every person in this Nation. It is shocking to realize that even the most law-abiding of us unwillingly and often unwittingly is forced, by the very fact of its all-pervasive nature, to pay into the coffers of organized crime. This theft occurs all too frequently in the higher prices we must pay for legitimate goods and services supplied by firms strong-armed into paying "protection" money to organized crime syndicates. Organized crime most certainly hits America squarely in the pocketbook in the tax money required to fight its illegal operations.

As has been pointed out, this bill is not a panacea, but I am convinced it will provide a new arsenal of modern crime-fighting weapons to law enforcement agencies and prosecutors.

I am personally very pleased that there are incorporated in this bill two pieces of legislation of which I am cosponsor. One is H.R. 16699, to strengthen laws and penalties dealing with illegal use, transport or possession of explosives. The other is H.R. 18573, to regulate import, manufacture, distribution, storage and possession of explosives, blasting agents and detonators. As the first Member of the House to recognize the growing problem of terrorist bombings, I introduced early last spring H.R. 16481, the first bill dropped in the hopper to put real muscle in criminal statutes pertaining to explosives. I was pleased when the administration proposed the legislation now incorporated in this bill and, as I have mentioned, was quick to cosponsor it.

I am sure that the House will join me in giving this important measure an overwhelming vote of approval and I urge conferees to act promptly so that it will be enacted into law with a minimum of delay.

Mr. McCULLOCH. Mr. Chairman, I yield to the gentleman from Michigan (Mr. Brown) such time as he may desire.

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman from Ohio for yielding.

Mr. Chairman, I rise in support of this legislation. I reject the arguments of those who criticise it on the basis that it is repressive or that it improperly equates the rights of the individual versus the rights of society.

I especially commend the committee for including in the bill title XII which provides for a National Commission on Individual Rights. I think that this provision certainly lends balance to the legislation for any who think it might have been unbalanced without the provision. I highly commend the committee for its work and urge all of my colleagues to support the legislation.

Mr. McCULLOCH. Mr. Chairman, for various reasons I have not participated too much in this debate, but I have been an earnest listener. I am pleased with the work that the members of the House Committee on the Judiciary, on both sides of the aisle, did in this important field. Few, if any, committees in the time that I have been in the House have had more difficult and more controversial legislation than the Judiciary Committee, and it has used its power and authority in a noble way under the leadership of the very able member of the committee from New York.

I yield 2 minutes to the gentleman from Florida (Mr. Sikes).

Mr. SIKES. Mr. Chairman, I appreciate the courtesy of the distinguished gentleman from Ohio in yielding to me at this time. I am confident there will be strong support for S. 30. The control of organized crime in the United States is a matter of very great personal interest to each of us. The extremely rapid increase in crime, much of it unpunished, is a shocking indictment against efforts toward crime control. Criminals must be apprehended and punished. It appears that stronger laws are necessary to bring this about, and we in Congress should provide whatever legislation is needed to assist in this effort.

It must be borne in mind that the passage of laws is not all that is required. Congress cannot enforce the law, nor even require its enforcement. That is the responsibility of the administrative branch of Government and the law enforcement agencies. Nevertheless, the Congress should leave no stone unturned in our efforts to insure that every step within our power has been taken to curb this growing threat to the domestic peace and to the internal security of the Nation. Therefore, I support the measure before us.

I have another purpose in asking to be heard on the bill. I note section 1101 which appears on page 152 of the bill and which reads as follows:

> Sec. 1101. The Congress hereby declares that the purpose of this title is to protect interstate and foreign commerce against interference and interruption by reducing the hazard to persons and property arising from misuse and unsafe or insecure storage of explosive materials. It is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, storage, or use of explosive materials for industrial, mining, agricultural, or other lawful purposes, or to provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title.

I am particularly interested in the sentence which states that—

> It is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, storage, or use of explosive materials for industrial, mining, agricultural, or other lawful purposes.

It is my understanding that the committee has included in its bill language which specifically exempts small arms ammunition and components from the restrictive features of the measure. I am interested in hearing the comments of the distinguished gentleman from New York, the chairman of the Committee on the Judiciary, on this subject. It is one of very great interest to law-abiding weapons-owning sportsmen who engage in ammunition reloading and in other uses of ammunition components. Will the distinguished chairman tell us specifically what exemptions this bill contains to protect those who have lawful use for explosives, such as reloaders of ammunition or those using explosives for agricultural purposes.

Mr. CELLER. The specific answer is found on page 168, subdivision 845 entitled "Exceptions; relief from disabilities." Line 12 and following reads—

> "(a) Except in the case of subsections (d), (e), (f), (g), (h), and (i) of section 844 of this title—

Those are the criminal sections—

> this chapter shall not apply to:
> "(4) small arms ammunition and components thereof;
> "(5) black powder in quantities not to exceed five pounds;"

I think that answers your question.

Mr. SIKES. Then lawful users in these fields are specifically exempt under the bill?

Mr. CELLER. With respect to those sections, that is correct.

Mr. SIKES. I appreciate the information given me by the distinguished chairman.

Mr. McCULLOCH. Mr. Chairman, I am pleased to yield to the chairman of the Joint Commission on Atomic Energy, the gentleman from California (Mr. Holifield) such time as he desires.

Mr. HOLIFIELD. I thank the gentleman from Ohio for yielding to me.

Mr. Chairman, I take this time at the request of a colleague of mine, Mr. Hanna of California, to make a statement in his behalf. Yesterday when the present Member was occupying the chair, the rule was adopted to consider this bill, and shortly thereafter a unanimous consent request was propounded to take the bill up immediately without the usual normal procedure of laying over for 24 hours. Mr. Hanna who is in California today is very much interested in this bill and had planned to be here to vote for it. But when he was apprized that the Organized Crime Bill of 1970 was to be considered today, ahead of the normal 24-hour layover time, he realized that he could not get back from California in time to vote for the bill. He phoned me and asked me to make a statement that were he here and present, he would vote for the bill and support the committee in its amendments. He has requested an affirmative pair for the bill. I make that statement in his behalf.

Mr. Chairman, I also want to say that I am supporting this bill. I have tremendous confidence in the gentleman from New York (Mr. Celler) and the gentleman from Ohio (Mr. McCulloch). I believe that under the circumstances now facing our Nation, with the hazards of organized crime and criminal acts which are occurring, that we must take steps to control this menace to our society and to our way of life. Therefore, I, too, will support the bill.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. McCULLOCH. I am pleased to yield to the gentleman from Alabama, a member of the committee.

Mr. FLOWERS. Mr. Chairman, I thank the gentleman from Ohio, my colleague, for yielding.

Mr. Chairman, I rise in support of the bill.

Mr. Chairman, the measure that is now under consideration is indeed strong medicine, but strong medicine, unfortunately, is required to combat the infectious sickness of organized crime. The Organized Crime Control Act of 1970 recognizes the menace as a highly sophisticated, diversified, and widespread activity, annually draining billions of dollars from America's economy and undermining the structure of our society through fraud, terrorism, and corruption.

I wish to commend my colleagues on the Judiciary Committee, and especially those who serve on Subcommittee No. 5, for their diligence and long hours of hard work over the past 9 months in connection with the bill before us today. The Organized Crime Control Act of 1970, although originally introduced in the other body, has been totally reshaped in committee. The version which is now before us is a much better bill than was sent over in January of this year. S. 30 now provides constitutionally permissible methods of attacking organized crime

XUM

through the use of better evidence-gathering procedures. The first five titles are designed to accomplish one simple purpose: to get facts. This, of course, is the basic task facing local, State, and Federal investigators and prosecutors in their attempts to suppress organized crime.

Title I establishes special grand juries which may exercise more independence in fulfilling their duties and may sit for a period of up to 36 months. In attempting to find out the facts, the grand juries may summon witnesses and compel them to talk by granting them immunity against the use of their testimony against them. Title II provides methods for incarcerating witnesses for contempt if they refuse to talk. Title III is a perjury section designed to get the witness who talks but who does not speak the truth. Title IV eliminates medieval rules of evidence which have hobbled perjury prosecutions and title V authorizes the government to protect a witness whose life—or the lives of his family—has been placed in jeopardy because of his testimony.

Mr. Chairman, other sections of the bill are equally important in that they deal with extended sentences for hard core criminal elements; create new criminal categories and sentences for racketeering and large scale gambling operations and perhaps, more importantly, in view of the recent disturbances on college campuses, make the bombing or attempted bombing of most college buildings a Federal crime.

This is a good bill, Mr. Chairman, and one that I was proud to support in Judiciary Committee and support now on the floor of this House. We should all give our overwhelming approval to its purpose—to eradicate organized crime in the United States by strengthening the legal tools for evidence gathering and by establishing new procedures and stronger penalties for offenders.

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. McCULLOCH. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. Mr. Chairman, I rise in support of S. 30, the Organized Crime Control Act of 1970.

The time has long since come when the Federal Government should act to adequately protect the law-abiding citizens of our country from the vicious effects of organized crime.

Throughout much of this century, our law-enforcement officials at all levels have been attempting to combat the hoodlums of the Mafia or La Cosa Nostra. Unfortunately, they have never been able to achieve complete success.

And so, by now it should be crystal clear that our law-enforcement agencies do not have the proper legal tools to do the job. Times have changed; 19th century legal concepts are sometimes just not adequate to prosecute today's sophisticated criminals.

We must give these agencies the necessary tools and support them in the struggle. Otherwise, organized crime will eventually destroy us.

I have never been able to understand our seeming reluctance to move swiftly and decisively to root out the growing cancer of organized crime in our country. In the beginning, the job would have been comparatively easy, but we have been dilatory, sitting on our hands while many organized criminal groups have grown and prospered, and now we have reached the point where organized crime is big business—some say as big as $60 billion a year, as big as the top nine or 10 legitimate businesses in our country.

There are distressing signs that organized crime is beginning to undermine some of our basic economic and political institutions. It is estimated that $2 billion a year is spent on buying immunity from the law by bribery. Organized crime has penetrated almost every type of business and industry you can name, imperiling our heritage of responsible competition and legitimate private enterprise.

We have reached the point where the Mafia's narcotics traffic has established distribution centers in every State, in fact, in every sizable town and city in our country—with consequences that all can see on the youth of today.

But what perils do gangsters face for these organized depredations on society. The record shows that only a comparative few are successfully prosecuted under present laws, and most of those who are prosecuted get light sentences—5 years or less.

How long are we going to stand for it? How long are we going to let the majesty of American law be flouted by mobsters and gangsters who do not stop short of bribery, torture, and murder in order to widen the empires of crime.

Although S. 30, under consideration now, may not in all regards be what I would prefer, it is nevertheless needed and necessary legislation. Our responsible law enforcement officials must have this support in order to combat the crime wave more effectively.

Traditional approaches to fighting organized crime need updating and improvement. S. 30, having been carefully considered by committee, is a big step in the right direction.

S. 30 does not directly attack the problem of crime in the streets—a problem of pressing urgency, nor should it. One bill cannot address itself to all facets of crime. But if, for example, our law enforcement officials are able to more successfully combat the narcotics traffic under the provisions of this measure, then I think we shall see salutary effects as fewer dope addicts are created to rob and steel and burglarize and attack.

Let us enact this measure into law without delay. The immensely wealthy criminal masterminds of America, whose tentacles stretch into every corner of our land, can be brought successfully under attack in no other way.

Mr. GONZALEZ. Mr. Chairman, if it is in order, will the gentleman yield for a question on the bill?

Mr. McCULLOCH. I yield to the gentleman for one question at this late hour.

Mr. GONZALEZ. Mr. Chairman, I wanted to do this yesterday and did not have the opportunity. This has to do with the first title on the question of the special grand jury. In the House version, it is defined as a grand jury that would be reporting on noncriminal activities. It seems to me there is a contradiction right there in the basic definition and function traditionally of the grand jury, a criminal matter. Here apparently, from the language referring to noncriminal matters, the House version as compared to the Senate version has one impressive deletion, in which it takes out the reference to the elective public official. My question is: Does this mean then that the grand jury in rendering its report on noncriminal activities conceivably could have a big impact in a community? Only in respect to an appointive and not elective officials?

Mr. McCULLOCH. Mr. Chairman, I think the question might be, in part, answered by the feeling of the members of the committee that the members did not wish to put in the possession of the grand jury clubs with which certain people might be bludgeoned when they were not in a position to defend themselves. There was no other motive of which I know—

Mr. Chairman, as we are at or near the end of the general debate on this most important legislation, I am reminded of the words of a great American poet, James Lowell, who more than 100 years ago had this to say:

> New occasions teach new duties; Time makes ancient good uncouth;
> They must upward still, and onward, who would keep abreast of Truth.

Mr. BROOMFIELD. Mr. Chairman, organized crime has been among the most perplexing problems of the past decade. It is, I admit, difficult to detect a pusher beneath a gray flannel suit or a loan shark behind a mahogany desk. Nor is it a simple task finding a pimp in a modern office building or a bookie in a fine, old hotel. In the past, Mr. Speaker, we have not been able to separate organized criminals from their masks of legitimacy. The Organized Crime Control Act of 1970 will be a first step in our effort to strip these masks. It is not a perfect bill, it is not a comprehensive bill, but it will help us slow down the infiltration of our courts and corporations by the rackets.

Mobsters sell heroin and cocaine to hopeless, young ghetto residents, loan-shark honest workingmen who cannot get credit, bribe enforcement officers and judges, take millions annually from numbers and prostitution, cheat businessmen by extortion and the Government by tax evasion. Yet, widespread as their activities are, we have not been able to isolate or prosecute them. It seems as though the newspapers know the names of every gangster in the country. We too know the names, but we cannot find convicting evidence. The mobs have turned our laws to their own advantage when they could and disregarded them when they could not. Simply stated, traditional methods have failed to distinguish between what appears legitimate and what is legitimate.

The Organized Crime Control Act of 1970 will strengthen our legal means for obtaining evidence against seemingly legitimate gangsters. It will afford im-

XUM

munity from the use of testimony, but not necessarily from prosecution, consolidating and expanding Federal coverage of immunity laws at the same time. It would also imprison without bail witnesses unwilling to reveal important evidence and establish special grand juries to investigate racketeering and public corruption. Further, the bill would strengthen prosecutions for perjury and provide protection for State or government witnesses. Finally, the Control Act would authorize pretrial depositions of government witnesses. Each of these steps will assure the easier collection of evidence against organized criminals without, I might add, endangering their legal rights.

In two other areas the bill makes substantial progress against organized crime: First, Federal jurisdiction over syndicated gambling is greatly expanded; second, the infiltration of legitimate enterprises by the rackets comes under Federal law if it affects interstate or foreign commerce.

In an area unrelated to organized crime, the bill severely increases penalties for the illegal use of explosives. This is, of course, a much-needed provision in light of numerous recent terrorist bombings.

Mr. Chairman, I believe the steps outlined in this bill relating to the collection of evidence are of extreme importance to our efforts against organized crime. Those relative to gambling and legitimate enterprises are, I assume, mere stopgap measures—to be used until we can develop a more comprehensive method for dealing with the rackets. Even these measures, however, will be necessary if we are to stem the rise of organized crime before it gets any further out of control.

Mr. UDALL. Mr. Chairman, today we consider the Organized Crime Control Act of 1970, an important bill that I support. This legislation will give us valuable new tools in the battle against syndicated crime. I have been a prosecutor in my hometown of Tucson and I can tell you from firsthand experience that the strength of organized crime is tremendous. Today, by giving the Attorney General the power to use the Antitrust Division in the struggle against the syndicate and by outlawing the establishment or purchasing of legitimate businesses by racketeers, I believe we give new hope to the success of our common cause.

But, Mr. Chairman, there are certain features of this bill that disturb me. In our zeal to root out those who engage in organized crime, I am afraid that we are making inroads on rights that have been established by many years of constitutional litigation. I would like to go on record at this time in opposition to these provisions and I express the hope that my colleagues will amend out of this bill the objectionable parts.

The first thing we do is to authorize special grand juries to make reports concerning noncriminal misconduct by government officials relating to organized criminal activity. An individual accused by such a grand jury has no real access to an appellate court to clear himself of resulting charges. Although a person named in a report is given an opportunity to testify and present witnesses, the value of the right is undercut since he cannot do so until after the report is made, he never knows the identity of his accusers, he has no right to compel the presence of witnesses and he cannot cross-examine.

Moreover, a report may be made public if it is supported by merely a preponderance of the evidence and a detailed record of the proceedings need not be kept. This to me is fundamentally unfair. One might answer by pointing out that this is not a criminal proceeding in the strict sense of the word and that constitutional protections therefore need not be observed. I would counter by pointing out that the effect of an indicting report can only be loss of employment and an attaching stigma for life. To my mind this is punishment enough to observe the strictest rules of due process as spelled out by the Constitution.

Another objectional provision is that which authorizes a court to confine witnesses who refuse to testify in a court proceeding or before a grand jury. Under the House version of this bill, confinement in these instances would in some cases be limited to 18 months and in others be open ended. The Supreme Court has said that any activity resulting in confinement for a period in excess of 6 months is to be considered a serious criminal offense and must be dealt with by a trial by jury. Here we are giving carte blanche authorty to a judge to preemptorily confine a recalcitrant witness for 18 months without attaching any constitutional protections.

Title X of this bill authorizes extended sentences of up to 25 years for offenders defined to include: First, a three-time felony offender who has previously been incarcerated; second, an offender whose felony offense was part of a pattern of criminal conduct, and third, an offender whose criminal offense was committed in furtherance of a conspiracy to engage in a pattern of criminal conduct. While the intent of this provision is good, I must object to the way in which a judge is authorized to make his findings.

First, the impact of the measure is to make the offender guilty of an additional crime and a judge may sentence a man merely by finding that he is guilty by a preponderance of the evidence. Second, hearsay and other improper evidence may be considered by the judge in finding guilt.

What we do then, Mr. Chairman, is to allow the government the luxury of putting a man away as a "special" offender without having to prove guilt of the offense beyond a reasonable doubt and without having to adhere to the normal rules of evidence that govern criminal trials.

In this time of high crime rates and civil unrest it is understandable that this body will look for more effective legislation to deal with what some describe as a desperate situation. Notwithstanding this state of affairs, I think it is important for us to remain "strict constructionists" in our legislative efforts. Unfortunately, as this bill exemplifies, legislative bodies all over the country are passing criminal laws without giving serious thought to the inroads that are being made on constitutional rights.

When I am confronted with the problem of voting for a bill that contains more good than bad, as I believe this bill does, I usually rationalize the presence of unwise or unconstitutional provisions with the thought that the courts will take care of them. But I think that we should keep in mind that courts change the way times change, and a court of today may be disposed to uphold a law that a court of yesterday saw fit to strike down. This may be even more true when we inundate courts with tough constitutional questions. The courts, like the Chief Executive, do not like to be put in the position of striking down acts of Congress like a woodman fells trees.

The upshot of all this may be that we will end up with a legal and constitutional structure that none of us would like to see. I believe it was Thomas More who said:

> When you strike down the law to get at the devil, don't be surprised if the devil later uses the absence of law to get at you.

Mr. BROCK. Mr. Chairman, someone once said that crime is the left-hand side of human endeavor. Today, however, one might mistake it for the right side. Organized crime—often referred to as the Cosa Nostra, the syndicate, or the Mafia—in money terms is one of the world's largest businesses. Estimates of its annual take go as high as $30 billion, making it as large as A.T. & T., GM, Standard Oil of New Jersey, Ford, IBM, Chrysler, and RCA combined. The illegal activities of the major syndicates include gambling, loan sharking, narcotics trafficking, labor racketeering, and prostitution. It has infiltrated an estimated 5,000 business concerns and controls thousands of public officials.

Under the Constitution, the primary role in combating crime is assigned to the States. However, the massive increase in crime and the growing interstate scope of its operations have prompted my support of several major anticrime bills, among them the Organized Crime Control Act of 1970. I was particularly gratified to have the regulation of explosives legislation which I sponsored included in this legislation. A source of deep concern to me has been the lack of protection of our children in schools and on the campuses from the terrorist who resorts to the bomb and the anonymous threat. This and my concern over the extension of the corrupting force of organized crime into American society calls for my vigorous support of the Organized Crime Control Act of 1970 which I believe will give Federal authorities the power to take decisive action.

Mr. FULTON of Tennessee. Mr. Chairman, today, the House is being asked to vote on one of the most controversial proposals submitted to the Congress by the administration to date.

The bill before us is the result of months of hearings, executive sessions, discussions, arguments and ultimate agreement.

It contains provisions which many

Members feel are an absolute must and which others fear may infringe on the rights of our private citizens.

Nonetheless, we have a bill before us. It is a broad bill which is designed to give the Federal Government more power, authority and instruments with which to combat organized crime—thoughtful, malicious, and willful crime, carefully planned and perpetrated on the decent and law-abiding majority of American citizens.

The House Judiciary Committee has worked very diligently on this legislation in an attempt to modify some of the constitutional problems which were raised in S. 30 as passed by the Senate.

One of the provisions not contained in S. 30 is a section added by the Judiciary Committee, title XI, which establishes Federal control over interstate and foreign commerce in explosives. This section embodies legislation which I was privileged to cosponsor with the gentleman from New Jersey (Mr. RODINO).

Title XI establishes a federal system of licenses for the sale or transportation of explosives, prohibits certain uses of explosives and authorizes the death penalty for violations of the explosives law which result in death. It also authorizes the FBI to investigate campus bombings if the university is receiving Federal financial assistance.

This obviously is not going to solve the bombing menace or put a complete halt to the recent wave of lunatic bombings which have been occurring across the Nation. But it is another tool available to our State and local law enforcement officers to combat this madness.

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Mr. Chairman, I commend the committee for inclusion of this provision in the organized crime bill and urge that the House pass the entire package.

Mr. MINISH. Mr. Chairman, I rise in support of S. 30, the Organized Crime Control Act of 1970. We all are aware that crime is on the increase and that we must act before it is too late to stem this lawlessness.

We hear all too frequently about the rights of the accused; little is said about the rights of innocent citizens who cannot leave their homes at night for fear they may be mugged, attacked, violently robbed, or maimed. We hear much about the rehabilitation of the criminal, of his need to learn a better life style; we hear little about the life style of the victims, those who have suffered financial, physical or familial losses.

We are too swift to treat others as we want to be treated; the criminal element will not respond in kind to this treatment. I do not believe that the bill we are considering today will put innocent men in jail or abridge the freedom of honest individuals. It does not remove the bill of rights coverage from accused persons; it does, however, improve the system whereby criminals can be prevented from victimizing society.

Title I of the measure provides for grand jury procedures in high-crime areas, providing the grand jury with greater autonomy and permitting its convocations for a longer period of time.

Title II provides for a uniform immunity statute in place of the 90 various statutes that would presently apply.

Title III concerns the treatment of recalcitrant witnesses, who under this provision can be placed in jail during the length of the grand jury meetings.

Title IV would facilitate Federal perjury prosecutions and establish a new false declaration provision.

Title V would provide protected facilities for government witnesses in order to protect their safety.

Title VI would authorize the government to preserve testimony by the use of depositions in criminal proceedings.

Title VII would overrule Supreme Court decisions concerning the gathering and usage of electronic evidence, thereby providing a balanced law in this area.

Title VIII, a multifaceted provision, concerns itself with syndicated gambling.

Title IX develops a new criminal code chapter entitled "Racketeer Influenced and Corrupt Organizations"; it provides an easier standard of proof against organizations believed to be racketeer influenced.

Title X authorizes special sentencing for dangerous offenders, protecting society from the criminal recidivist.

Title XI regulates explosives, their licensing, manufacture and sale.

Title XII establishes a National Commission on Individual Rights, empowered to conduct a comprehensive study and review of relevant Federal laws.

Title XIII contains a severability clause.

Mr. Speaker, this bill would amend a number of existing criminal statutes, as well as provide further authority to deal with the problems of organized crime.

Unless we want to teach our law-abiding citizens that crime pays better than working, we must effectively reverse the increase in criminal acts of violence against innocent and productive members of our society. Otherwise, we will soon discover that only the vicious and the lawless elements of society have survived.

As criminals become more sophisticated and their techniques and criminal activities become more ruthless and advanced, it is necessary to update and improve our criminal laws. Failure to do so will result in rampant crime and enfeebled law enforcement.

I urge my colleagues to prevent further inroads on our system of justice.

Mr. LEGGETT. Mr. Chairman, I rise in support of the Organized Crime Control Act of 1970. I think the committee is to be complimented on this bill. It is stronger, and yet less offensive from a civil liberties standpoint, than the bill passed by the other body.

It will provide a number of new and valuable tools for the control of organized crime. For many years it has been a scandal that the small-time crooks have been constantly in and out of jail, while the biggest and most vicious criminals have been able to live in luxury, untouched by the law. The problem of how to how these very elusive people with their batteries of high-priced legal talent, responsible for their acts without compromising essential justice is not a simple one. There is no simple and comprehensive answer. But this bill is a good partial answer; it will be useful.

Considerable publicity has been given to the antibombing provision. Unfortunately, it appears that bombing is becoming regarded as an act of political expression in some quarters. In a sense, I suppose it is a political act, but I cannot see that this makes it any the less criminal. On the contrary, in this case political motivation increases the criminality of the act.

A political bombing is criminal not only because of the life or property it destroys. In moral terms, it is doubly criminal because it adds to the tension and division within the country, thus leading to greater public tolerance of police repression, which in turn leads to more rebellion and possibly more bombings, and so on. This is quite another thing from Martin Luther King's civil disobedience, or from the hundreds of thousands of American citizens who came to Washington last November to express, peacefully and with dignity, their opposition to the war in Vietnam.

Some of the points of my good friends, CONYERS, MIKVA, and RYAN, are well taken, and I look forward to supporting their amendments. But whether or not these amendments are successful, I shall vote for the bill. The astronomical rise in the crime rate demands it.

Mr. RUTH. Mr. Chairman, I had an understanding with the people of North Carolina's Eighth Congressional District 2 years ago that this session of Congress would do something about the rising crime rate, and pay more attention to the rights of the law-abiding citizens than the rights of the lawbreakers.

With the anticrime bill before us today, and with the other crime legislation we have passed this session, I have kept a promise made with my constituents.

With the passage in the House today of the Organized Crime Control Act of 1970, we have concluded a series of anticrime measures that will give some comfort to the law-abiding citizens of our country.

I would be ignoring a major influence on the passage of these anticrime bills if I failed to pay compliments to the people of America, and to the President, who have insisted that the time has come for strong crime bills from Congress.

The new legislation we have enacted into law will not bring an overnight end to criminal activities. It will slow it down, of course. But what the legislation does principally is assure our citizens and law enforcement officers that we Members of Congress are willing to stand in front of the fight against crime.

We were all too tolerant about the permissiveness of the 1960's and we were witnesses to a dangerous erosion in our society. We cannot afford that tolerance again in 1970's.

We do not need reminders about the alarming crime statistics of the Federal Bureau of Investigation, or the number of policemen killed in the line of duty, or of the bombings and demonstrations that are catcalls to decency and law and order.

But I would like to remind you of the millions of Americans who go right through life without breaking a single law. These Americans need special attention. Not the man who breaks the laws of this country time and time again.

We have seen more concern about the rights of that man recently than the rights of our society itself.

The so-called war against crime is older than any of us here. But the attack on crime by Congress is only now coming of age.

We have seen the passage of amendments to the Omnibus Safe Streets and Crime Control Act that gives added financial support to the local law enforcement agencies under the popular Law Enforcement Assistance Administration. We have passed the Comprehensive Drug Abuse Prevention and Control Act of 1970, finally recognizing that the traffic in narcotics and the abuse of drugs has become a national problem of major proportion. We have acted to control obscene advertising in the mails for the protection of our children.

And now, the big one—the Organized Crime Control Act of 1970.

The best that we can do from here on, is to stand firmly behind our commitment to law and order in America.

Mr. PATMAN. Mr. Chairman, last Friday evening, October 2, the popular television interviewer and host, Mr. David Frost, had as his guest Mr. Edward Bennett Williams, known here and abroad as one of America's most competent and distinguished attorneys at law. What Mr. Williams had to say about the truly terrible state of affairs in our criminal courts should be heeded by every Member of this House. It has now come to the point in this great land of freedom and opportunity that the criminal is the one who is most free, and that he is given opportunity after opportunity to prey upon the law-abiding citizen, while our big cities are in a state of seige, and decent men and women are denied the freedom of their streets, despoiled of property, outrage in their persons, and deprived of life itself. Edward Bennett Williams speaks with tremendous authority, he knows the law, the procedures, and the sordid facts—I am impressed and persuaded by his knowledge, his logic, his forensic genius, and most of all by the deep moral sincerity which is so obviously his basic strength.

Although serious and shocking, this David Frost show was also an example of truth in television at its dramatic best. I am convinced that the Congress must do everything within its power to strengthen the forces of law and order, as significant parts of the following transcript make abundantly clear:

An Interview With Edward Bennett Williams

David Frost. Right now it's a great pleasure to welcome someone who's been described really as the dean of the American criminal bar. He's been described as the defender for the unpopular. People have said that a lucky defendant is a man who's able to have Edward Bennett Williams as his lawyer. He's also the president of the Washington Redskins as well. Would you welcome Edward Bennett Williams.

Welcome. It's a great joy to have you here, Ed.

Edward Bennett Williams. It's nice to be here.

Frost. It really is. What did you think, in that incredibly distinguished career of yours, what's the most challenging case that you've been called upon to act in?

Williams. Oh, it's hard to say, David. I think perhaps though the wartime slaying of Major Houlihan behind enemy lines in north Italy at a time when there was a question as to whether northern Italy was under Nazi dominion or Mussolini dominion or the Badoglio government dominion. And Major Houlihan, who was an OSS agent, was slain mysteriously up there, and years later two American soldiers were charged with killing him, their superior officer. They were, of course, on an espionage mission, and I tried that case twelve years after the fact. It was then under the guise of a perjury case, because one of the men was charged with perjury for denying that he'd slain Major Houlihan, and I found that case intriguing because it was a real whodunit. I went over there twelve years after the fact and tried to reconstruct the crime and found all kinds of interesting things. It also was fascinating because there was a major Constitutional issue involved, namely, the right of the Congress to investigate a crime, whether or not the Congress had any business engaging itself in a criminal investigation or whether or not it should confine itself strictly to the legislative function of getting information for the purposes of enacting laws. I found this a most challenging case, and I would say that I'd have to single that out.

Frost. What was the eventual outcome?

Williams. The eventual outcome was that the defendant was acquitted, but the significant thing about the case was that we established a very important principle. The important principle was that Congressional committees should confine themselves to conducting inquiries to get information designed to help them to legislate. And they should not act as courts. They should not act as tribunals in which to try people to determine guilt or innocence. So at that time, which was fifteen years ago, that was a very, very important principle in the law.

Frost. This title, Ed, of defender to the unpopular, from which case do you think that springs? Who was the most unpopular person you had to defend?

Williams. I hate to say that about any of my former clients.

Frost. Who was there that you defended who was slightly unpopular?

Williams. Well, let's say that there were a number of people who were tarred with public obloquy . . .

Frost. That's a better way of putting it.

Williams. . . . against whom public opinion had been marshalled. I would say that maybe Frank Costello, whom I defended in a deportation case, and I defended Senator McCarthy in the censure case at a time when he was not exactly popular. In fact, when I was asked to defend Mr. Costello, I was told by the lawyer who had suggested to him that I represent him that he was at first most reluctant, because he said, "Isn't he the lawyer who represented McCarthy?"

Frost. Really. And Frank Costello didn't want to have anything to do with you.

Williams. But I think if you try criminal cases, and the cases are the subject of great popular interest, that it often seems as though you're defending unpopular causes. I simply follow the basic canon that governs my profession. I just don't turn anyone away who comes to me seeking help so long as they seek it within the limits of integrity regardless of how politically or socially obnoxious they may be, regardless of how hard the evidence may seem to be marshalled against them in the press, regardless of what public opinion may be. This is the obligation of a lawyer. I don't look for unpopular causes. I would love to represent you, David or any other popular figure. It's just that I haven't turned anyone away who has sought my services within the limits of integrity.

Frost. That's fascinating. Could you there's never been a case where someone had done something so repugnant that you felt you couldn't possibly defend them.

Williams. I have never turned anyone away because of the nature of the charge that has been brought against him or because he has been convicted in the court of public opinion or because public opinion has been marshalled against him. I think it's in the highest traditions of the bar. I think the most glorious traditions of the bar surround those lawyers who stood up and defended people against whom public opinion had been marshalled. The history of the American bar is replete with examples of lawyers who have done that. Judge Medina here in New York defended the Nazi saboteurs. Wendell Willkie, at a time when he still aspired to be President of the United States, defended Schneiderman, who was a Communist, at a time when feelings against Communism were running rampant in this country. There are, well, we could go on and on and on. The defense of Captain Preston by John Adams at a time when the feelings were running so wildly against the Tories in Boston. He stood there. And I think these are the most thrilling and wonderful stories about the American bar, lawyers who have risked disfavor and risked unpopularity themselves to stand in the court and defend the liberty of those who are unpopular in the minds of the people.

Frost. How often have you because you've been incredibly successful—how often have you been successful in getting somebody off a charge that privately you thought they were guilty of?

Williams. Oh, you know, this I have to take a point of departure here and say you're really asking me about whether or not I have ever gotten someone off who was guilty.

Frost. Right.

Williams. And I think in order to discuss that intelligently we have to define our terms. Guilt or guilty is a legal term. It is not a moral term. A person is guilty if he's convicted by a jury of his peers or if he goes into a court of law and admits his guilt. Under our system, the burden is upon the prosecution to prove a defendant's guilt beyond a reasonable doubt to a jury, and if he can not prove that, the prosecutor can not prove guilt beyond a reasonable doubt, then the person goes free, and I suppose that principle is based in compassion. It's that as a society we would rather have a guilty man go free than an innocent man be imprisoned. And so we tip the scales in that direction. Now, I say that there have been many cases, of course, when people have walked out without being convicted, who may have had some moral culpability. But I have always had the consolation of believing that they had been left to the majestic vengeance of God.

Frost. And there have been occasions when there have been people in that situation. I absolutely accept the definition of "guilty" of course, but I mean, then, there have been cases where people have been . . .

Williams. Oh, sure. There are cases, also, David . . .

Frost. . . . probably did it, but you got them off.

Williams. There are cases where the system of justice miscarries. Justice is a fallible, human system, just as all science is fallible and human. And we have errors in all the professions. And our courts do not work

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perfectly. All guilty men are not convicted. Nor are all innocent men acquitted. Fortunately for our system, I think the incidence of innocent men being convicted is much lower than guilty men going free.

Frost. Right. There's that miscarriage less than the other one.

Williams. Yes.

Frost. No, I was interested because I mean everybody deserves representation in a court, and that's very valuably what you're saying. And everybody, obviously, however definite the evidence appears, deserves the best advocacy possible. I was really interested because I don't finally know what is the rationale in a case presumably if a guy says—well, there's two situations. A guy who it looks as though he did some crime. Now, he could say to you, "I did not do it." And you could be pretty certain he did, but he has the right to a fair trial. Or he could say to you, and I imagine this second one you rule out or not, if he says to you, "Well, I did do it, but I want to plead not guilty." Now, is that okay?

Williams. Yes, it's okay, and let me explain to you why. He—every citizen who is accused of crime in our system has the right to a trial. And under the rules, he has a right to have his guilt established beyond a reasonable doubt by the prosecutor to the satisfaction of the jury. If that can't be done, then he's entitled to go free, you see. It's entirely proper, it's entirely ethical to test the witnesses' testimony in the crucible of cross-examination. If it doesn't pass muster, then perhaps the jury won't believe it. That does not mean, however, David, that a lawyer is justified in suborning prejury. He may not allow the defendant to take the witness stand and lie. He may not call witnesses whom he believes or knows are committing perjury. He may not use the weapons of fraud or chicanery to secure an acquittal. But it is perfectly proper to force the Crown in your country or the federal government or the state in this country to prove guilt beyond a reasonable doubt. That's the way the system works, and it's the way the system has always worked. By the way, I don't think the system is working very well at this point.

Frost. In what way don't you think it's working well?

Williams. Well, I think, David, and I have said many times in the past couple of years that the criminal justice system in America, in urban America is in a shambles. I believe that the whole criminal justice system in urban America is close, alarmingly close, to a breakdown. We know that crime in our big cities is spiralling. It's spiralling out of control. We talk about children being out of control. In America we have some cities that are out of control. Now, when I talk about crime, I'm talking about a broad, generic subject, so let me refine it. I'm talking now about the kind of crime about which our country is deeply concerned, about which the citizens are alarmed, the kind of crime that is directed against private property rights, often attendant with violence. It is taking place in urban America at an all-time high. I'm talking about robberies and burglaries and larcenies and yokings and muggings and thefts which are being committed at a record-breaking pace in the inner cities of our thirty or forty large metropolitan cities. Now, these crimes, the record shows us, are being committed 75 percent by youths under 22 years of age. And 75 percent of them are being committed in the big cities. I suppose the sociologists would conclude from that that there's a relationship between the increasing urbanization of our population and the increasing restlessness of our kids.

Now why are these crimes taking place? What's the answer? What can we do about it? Well, we hear some people say, well, it's the result of the "turn-'em-loose" decisions of the courts. It's the result of liberal procedures. It's the result of decisions by the Supreme Court in recent years—Miranda, Escobedo, Mallory, Mapp—you know the names of the cases. Well, this is hokum. And it's demonstrable hokum. I can take you tonight into the precinct stations of New York or Washington, my home city, or Los Angeles, and we can sit there all night, we can sit there for a month, we can sit there for years, and we won't find one young hoodlum who's brought in off the streets by a police officer after committing his offense who ever heard of Miranda, Mapp, Escobedo, or Mallory or gave—or who gave one fleeting moment of thought to his Constitutional rights or his Constitutional liberties or to criminal procedures before he went out in the street to do his mischief.

They go out on one basic premise, that they aren't going to get caught. And if by some wild chance they are caught, their downside position is that they know they can tinker with the archaic American criminal justice system for two years before the day of reckoning comes and punishment is visited upon them. And that, David, is no deterrent to someone who is set on committing a crime.

Frost. We better take a break there, and we'll come back and there is one last thing there I must ask you, Ed, following on what we were saying earlier on. How many times, then, given your great advocacy, have you seen a man cleared of a crime and you thought to yourself as he left the court, "He may have to reckon with the majestic vengeance of God for that crime"?

Williams. I have seen that happen, David. I couldn't—I can't canvass back over 25 years rapidly enough to give you a number on it, but I certainly have seen that happen.

Frost. In that situation your feelings must be a mixture of, on the one hand, this is a demonstration of the rights of the citizen in a court with a curious feeling that this is not perfect justice. Is it a funny mixture, when you think of someone walking out who may have in fact done it. Or do you just feel, well, the case wasn't established in the court; it's fair. Or do you—I mean, I imagine you must, because you're so bright, have mixed emotions . . .

Williams. I have of course professional feelings about it. I also have human feelings about it. And I sometimes experience the emotion that you're obviously articulating here. I'm very worried about the whole system, for reasons that I hope we can get into as we go along, and I think it needs a major revolution.

Frost. These are fascinating issues. We'll be right back with Ed Bennett Williams.

Frost. Welcome back. Talking with the dean of the American criminal bar, Edward Bennett Williams. Ed, there are so many different issues to get into. One of the many areas that people are fascinated by are the various crafts and techniques that you employ in a courtroom. I mean, how many things are there, different techniques, that you use in a courtroom in order to establish the truth of the thing?

Williams. Well, I think that the trial of a major criminal case is really one of the highest forms of creative art. I really do. I had a long debate one time, David, with a great maker of motion pictures, Robert Rossen. Robert Rossen wrote, directed, and produced a very great motion picture that won all kinds of Academy Awards.

Frost. "The Hustler"?

Williams. The one I'm thinking of—he did make "The Hustler". The one I'm thinking of is "All the King's Men", which was a fictionalized version of Huey Long's life from Robert Penn Warren's book. And he was arguing that this was the highest form of creativity because he had to write the script, and he had to direct the actors, and he had to produce the picture. And I said, "There's one form of creative art, Bob, that't higher and that's the trial of a major criminal case." Because the trial lawyer has to do all of those things. But he must do it within the channels of the truth. He can't fantasize; he can't fictionalize. He has no backdrops. He has no retakes. He has no lighting. And he must create an impression that satisfies twelve jurors. He must work with the witnesses and you know, that has kind of an ugly connotation, but let me explain to you what I mean.

The most important actor in a criminal trial is not the defense lawyer. It's the defendant himself. And the impression that he makes on the jury is going to be the most significant thing that takes place in the criminal trial. And so he must be taught literally how to testify—not what to say.

Now let me give you some instances. Supposing it became germane as to where the defendant was on the night of June 1, 1967. And he's on the witness stand and the prosecutor pops the question at him on cross, "Where were you on the night of June 1, 1967?" His eyes go back and forth, and he drops his head. He says, "I don't know." Well, at best, that has created a neutral impression, and perhaps a negative impression with the jurors.

But if he had said in response to that question, to you the prosecutor, "Mr. Frost, I thought you were going to ask me that question, sir, and I've racked my recollection so that I would be able to answer it and help the court and jury and for the life of me I can't recall where I was on that night. And I have resorted to all kinds of memory refreshers, but I don't honestly know where I was that night. I really can't help you." Now, he's given the same answer, has he not?"

Frost. Right.

Williams. And he has created a positive impression on the one hand. On the other hand, at best you'll agree it was neutral and perhaps negative. Now—so I say that the trial of a criminal case calls upon many imaginative, innovative things on the part of a trial lawyer. And always he is working within the limits of the truth. Whereas the writer of a stage play or the director and writer of a motion picture can let his imagination be as prolific as possible, and he can have free rein. So I say finally, in response to your question—I'm sorry I took so long to answer—I say that it is a very, very highly creative art form.

Frost. And in this highly creative art form you mentioned you were looking for imaginative and innovative things to do. What sort of imaginative things do you have to do in doing a court case? I mean, if you were looking back at your various cross-examinations, what one would you want to be put in a lead cannister and buried for fifty years because you did something very creative or imaginative? What cross-examination do you look back on?

Williams. Well, I think that sometimes the greatest cross-examinations are absolutely so subtle that they are lost not only on all the spectators in the courtroom. They are lost sometimes on the judge and the jury. And at the end of the trial, when the trial lawyer picks up the pieces and juxtaposes one set of facts against the other and tells the jury what he had done, sometimes the effect is tremendous. I remember the case I tried years and years ago in which the defendant, whom I shan't name here, was indicted for perjury. He had gone before a grand jury, and he had denied that he had given some gratuities to a government official. It was not money, incidentally. It was some—I forgot what it was. It was something of value. He said he hadn't given it when in fact he had.

And his defense was that, yes, in fact he did do it, but he had completely forgotten about it at the time that he was asked about it and that when his memory was refreshed he had sought to go back and change his testimony, but that the grand jury was no longer in session. During the trial, the government called a number of prosecutors who were in the grand jury room at the time to testify. They called—let's fictionalize the names—Mr. Smith, Mr. Jones, Mr. Brown, Mr. Jackson, and Mr. Cohen. And Mr. Smith got on the stand and he said, "Yes, the defendant testified so," and I said, "Mr. Smith, just as sort of a throwaway question, who was in the grand jury room with you at the time that this man testified?" He said, "Oh well, Cohen was there and Brown was there and Jackson was there." And the next witness came. And Mr. Jackson took the stand. And I said to Mr. Jackson, "Who was in the grand jury room at the time the witness gave the testimony?" He said, "Oh, Mr. Smith was there and Mr. Brown was there and Mr. Jones was there."

Well, five lawyers took the stand—this was two years after the grand jury had sat—and no one of the five had remembered the names of the five colleagues who were present before the grand jury. Well, this was lost. It was lost in the morass of all the really pertinent questions that were asked, and no one really saw what had taken place really until at the end of the trial I was able to stand up in front of the jury and say, "Ladies and gentlemen of the jury, they're asking you to send this defendant to the penitentiary for perjury for a failure of recollection, and every single one of the prosecutors has failed to remember who his colleagues were in front of this grand jury." Well, I used that to illustrate a cross-examination that was totally un-spectacular, totally lost at the time that it was being conducted, insofar as the jury was concerned, but at the end, when all the pieces were picked up, a very powerful argument could be made.

Frost. And had you in fact—did you hit on that course of action accidentally, after asking the first one, or before you asked the very first one?

Williams. I didn't know what the answers were going to be. When I saw that I was really mining gold here because none of the prosecutors could remember, I was able to demonstrate in very dramatic form the failure of the human memory with respect to events two years ago.

Frost. And the case—you were successful in that case?

Williams. Yes. In that case. You know, let me say one thing on that subject. I've won cases and I've lost cases, David. And sometimes I think the television medium gives a very distorted picture of the American trial lawyer. I think that too often he equates the great trial lawyer with Perry Mason, who never loses his case. Well, the fact of the matter is that you show me a lawyer who's never lost a case, and I'll show you a lawyer who's tried only two cases. And I think if you took a hundred cases, and fifty cases should be won on the merits and fifty lost on the merits and you gave those cases to the greatest trial lawyer who ever lived, he might win sixty and lose forty. And if you gave the same cases to the most incompetent trial lawyer in the city, he'd win forty and lose sixty. And so, I'm saying that the margin for effectiveness is very circumscribed.

Frost. So what you're saying is, if you're one of those twenty, get a good lawyer.

Williams. I'm saying exactly that.

Frost. We'll be right back.

Frost. Welcome back. Talking with defender of the unpopular, Edward Bennett Williams. You were talking about the breakdown of law earlier on. Is there any way of dramatically arresting that?

Williams. I think so. I think the time has come for us to do something very dramatic about it. Last year, David, there were two million burglaries in this country, and most of those took place in the cities. Only eighteen percent of those were cleared by the metropolitan police forces. By that I mean that in only eighteen percent of those cases did the police end up thinking they knew who committed the burglary. There were 1,500,000 larcenies or thefts of property in excess of fifty dollars. In only eighteen percent of those cases did the police end up thinking they knew who committed the larceny. There were 270,000 robberies—now, that means taking somebody's money at the point of a gun, with a weapon, by intimidating him or putting him in fear, coercing him. Only 27 percent of those crimes were cleared by the police. There were 870,000 auto thefts, and only eighteen percent were cleared. Now this means that when a thief goes out to commit his crime in the cities of America, the chances are five to one he's not going to be caught. Five to one!

Now, I'm only talking to you about reported crimes, crimes which were reported to the police. There are thousands and thousands that aren't reported. Now, I say those odds have to be narrowed. I think that the time has come when we must escalate the quantity and the quality of our urban police forces dramatically. Now, the cities are broke. They can't afford it. They don't have the money to pour this money into their forces. So it means that we have to come to terms as a nation with the necessity to subsidize the urban police forces of America, with large money subsidies, maybe in the form of matching grants. We have to do something else. We have to have a West Point for law enforcement officers, just as we have a military academy and a naval academy and an Air Force academy. And we have to offer young, bright boys of college age and girls the opportunity to go into law enforcement at a commissioned level. We have to have lateral infusion in our police forces. We have to have the concept of officers candidate schools so that we aren't asking young college graduates who are qualified to go pound a beat for three or four years before they can become even a sergeant. We have to do something else. We have to restore the police officer in this country to the position of dignity and respect that he had fifty or a hundred years ago.

I say we expect a great deal of a policeman in this country. We expect him to be a professional. We expect him to be something of a Constitutional lawyer. We expect him to be an expert in first aid. We expect him to be a family counselor, a sociologist. We expect him to have the patience of Job, the wisdom of Solomon. We expect him to have the agility of a professional football player and too often we give him 150 dollars a week and a gun. I say the time has come to change this. If we're going to curb and deter urban crime, we need more and better police forces. But the sad thing is that when the policeman apprehends one of these criminals that he goes in to the archaic, anachronistic criminal justice system of America which is now becoming a sham in the big cities. I say it's like a scarecrow put out in a field to scare away the birds of lawlessness but tattered by neglect. It has the crows sitting out on its arms cawing their defiance because it isn't working.

Any system that takes two years to deal with a street crime isn't working. It just isn't working, and we've got to do some very innovative, imaginative things with our court system, tremendously innovative things. There's nothing more difficult to explain to an intelligent layman in this country than why it is that someone who has been convicted of robbery by a jury can still play around with the appeals courts for two years before punishment is inflicted. They don't understand that. In London, in Old Bailey, if there were a jury trial concluded this afternoon and the defendant were found guilty, he would be in the British Court of Criminal Appeal in three weeks, and the decision would come down the same day. I think the time has come for us to take a careful look at the British criminal justice system and adapt for our system what we can that will make our system responsive to the needs of society.

Frost. But why is it that much quicker?

Williams Well, I think there are a number of things that can be done. Why is it. . . .

Frost. Why is it quicker?

Williams. I'll tell you what happens in our system. Let's pick up after the trial where one of the worst slowdowns take place. Man goes to trial. He's tried for robbery. He robs you out here on the streets of Manhattan tonight. He goes to trial. He's convicted. Now he appeals. Today everybody has the right to appeal for nothing, and I think no one should be deprived of his Constitutional rights because of economic conditions. Everybody should have the right to exercise his Constitutional rights. But there are appeals in all cases. Now the first thing that happens is that the court reporter who set there and took down the testimony of the witnesses has to prepare the record. Now the court reporters work all day, and they have to prepare the records at night, and they get behind. So too often it takes three or four months to get the record up to the appellate court. Then the lawyers write briefs. Now the briefs are filed and another few months goes by, and then an oral argument takes place. And after the oral argument takes place, in front of three judges, one of them is assigned to write an opinion, and too often four, five, and six months go by before we get an opinion. They feel constrained to write an essay. I say that this is not responsive to the needs of our society at the moment.

We have a fire in our society, and we have to put it out. I say let's adapt the modern techniques of the twentieth century. Let's videotape our trials. I can go into the dressing room and see what happened after watching the football game because of videotape. Now I say the time has come to videotape these trials and index those videotapes so that the appeals court can see what happened at the trial level. I say let's eliminate briefs in the kind of crimes about which we're speaking—robbery, burglary, and larceny. Everything that's ever been written on these subjects has been written.

These subjects are hundreds and hundreds of years old. Let's go up to the appeals court, have an oral argument. Let the lawyer talk so long as he is relevant, and then let's have a decision that day. And I say we don't need three judges to hear these appeals. I say they can be heard by one judge. And we can get the system moving. But at the present moment, we worry about increasing episodes of contempt of court. We worry when political defendants disrupt trials and show contumacious conduct toward our courts. I think our real worry in America should be whether or not our court system is not forfeiting its respect by the inordinate delays in dealing with the social problems of the big cities.

Frost. We're going to take a break there. We'll be right back with more Ed Bennett Williams.

Frost. Welcome back. And now we're back, talking with Ed Bennett Williams. I was hearing just now—what's the Holy Name Society story?

Williams. You heard that story.

Frost. I haven't heard the story. Gene just told me it was funny.

Williams. Well, it's the story of—it happened years ago. I was invited up to speak at the annual dinner of the Holy Name Society in New England and I accepted and went up there and was ushered into the main ballroom of the Sheraton-Plaza Hotel in Boston. And the presiding officer of the evening stood up to introduce me, and he said, "We're very honored today to have a lawyer here who has represented Frank Costello, Elmer "Trigger" Burke, Tex O'Keefe of Brinks robbery notoriety, and Vito Genovese." Well, the fact is I had not represented all those people, but that was the way he introduced me. So during the course of the evening, I turned to him and I asked him why he'd singled out these particular people as a means of introducing me, and he said, "Oh, I'm terribly sorry if I said anything inappropriate or offensive, but these were the only ones I could find who were members of the Holy Name Society."

Frost. Weren't you once invited to Alcatraz?

Williams. A long time ago. I spoke out there as part of the educational program for the inmates. I had a very warm and gracious letter from the then warden. He said that while his budgetary allowances would not permit him to pay my expenses or give me an honorarium that he could compensate for that by guaranteeing me an excellent turnout. And he did. I went out there, and the presiding officer of the evening was an inmate, very eloquent inmate, and he was waxing on effusively as to how I was held in great personal esteem and great affection by the inmates, and when it seemed as though he was caught in a flight of rhetoric, he suddenly put his hand on my shoulder and he said, "Oh, Mr. Williams, I've talked too long. Suffice it to say we fellows out here on the rock regard you as one of us."

I made a terrible faux pas, I was told later, because I opened my talk saying, "It's just wonderful to have so many of you here this afternoon." And that was greeted with a rather deadly silence.

Frost. Have you been involved in many cases that have been involved with complex issues of espionage? Have you been involved in many of those?

Williams. I have tried espionage cases, yes. Yes, I have.

Frost. Which ones?

Williams. Well, in 1960 I had a very strange call from the then Ambassador of the Soviet Union, who asked me if I would defend a man named Igor Malik, who had been accused of espionage. Igor Malik was a second secretary of the Soviet Foreign Ministry attached to the United Nations. And it was right after Francis Gary Power had made his overflight and had been apprehended that we brought this indictment against Igor Malik. And I must say that really tested my devotion to the Constitution, because I had been preaching around to the law schools of the country that everybody had the right to counsel, and it was a lawyer's responsibility to provide counsel as long as it was sought within the limits of honesty and that nobody should ever turn a case down because of personal considerations or because some personal disfavor might come to him. And to represent a Soviet spy at the insistence of the Ambassador of the Soviet Union was not designed to make me popular at the country club, as you can see.

I obviously could not turn it down for that reason, and I did not, and I accepted the representation after getting a commitment from the Ambassador at that time that I had total control over the case and that I would have total candor from my client, which is something I demand in every case. Total control in that case meant something very interesting, and that's why I was so excited and captivated by the case because as you probably know, diplomats and attaches to embassies and employees of the United Nations have diplomatic immunity. They may not be prosecuted in this country for any crime. Now, the Soviet Union was contending that as a result of the treaty of 1945 which created the United Nations that Igor Malik was immune from prosecution.

So I asked for the right to control that issue. There was a lot of foot-dragging on that. They didn't want to give me control over that issue, and it took some three or four weeks before they finally cleared it. And finally they said, yes, you may control the issue of this man's immunity. This was in January of 1960, just before—of '61, just before President John Kennedy was inaugurated. Robert Kennedy had been named Attorney General. It was obviously useless for me to go to see the sitting Attorney General because he was going out of office. So I went to see Robert Kennedy. And I said to him. "Bob, we have a chance to do something that no two lawyers in history have ever had a chance to do. We can do something so dramatic, we can make such a tremendous contribution to world peace that we just have to do this. I will agree on behalf of my client to put the issue of diplomatic immunity into the World Court, into the International Court of Justice in Geneva if you will agree on behalf of the Department of Justice to let that question be decided by the World Court."

Now, the reason for that was—that I wanted to do that was that this would be the first time in which the Soviet Union had ever agreed—first occasion on which they had agreed to jurisdiction of the International Court of Justice. It would have put them in court. And I saw unlimited horizons if we could get the Soviet Union before the World Court. I could see the possibility of all kinds of collective disputes, disputes between nations, the Soviet bloc and the Western bloc, being adjudicated by law instead of by force. I saw possibilities of substituting the force of law for the law of force, and it really captivated me, and it captivated Robert Kennedy. And we had this great, great chance to do this.

And he said that he would take it up. He had to of course take it up with the Secretary of State. He had to take it up with the President. And that he would get back to me. I waited for several weeks. He called me one day, and I went over to the Department of Justice, and with great sadness and obvious disappointment but without revealing the reason, he said, "I can't do it. I just can't do it. We just have to go ahead and try this case." And I said, "But we're missing something so fantastic. What a step toward the rule of law among nations we can make if we can put them into court."

Well, he couldn't tell me why, but in any event we did not do it because the American government turned it down. I want to state to you the Soviets were very unhappy about the fact that I had made this offer, very unhappy about it, but I told them that if I didn't control the case I would withdraw from it. They didn't want me to withdraw from it. As we prepared for trial, suddenly I had a call from Robert Kennedy one day. I was in New York. He called me, and he said, "The case is over. We're returning him to the Soviet Union." And at the time, the RB-47 pilots were released. There was a swap. But it was a case which has filled me with regret ever since because I thought here was a chance to do something.

I think the greatest thing a lawyer can do is make a contribution towards peace. You know, in the history of mankind we've found only two ways to settle disputes between individuals—violence and the submission of the dispute to a third person for a decision that's binding. We have not learned this in international relations. We still are settling things by violence. And unfortunately for humanity, it's not going to be longer much possible—possible much longer to settle disputes by all-out violence because all-out violence will be annihilative. And I think what we've got to do is bring our moral systems, our social systems, our spiritual selves abreast of our scientific advances, and finally come to terms with the fact that there must be a court, a world court of justice to adjudicate disputes between nations.

Frost. We're going to take a break there, but in fact, that thing that you insisted on there, of full control over a case, that's one of the things you always—what do you insist on in a case?

Williams. You have to have control.

Frost. Full control.

Williams. Full control. And I would say it has to be, if you'll excuse the expression, dictatorial control. You have to make battlefield decisions in the courtroom. There isn't time for consultation. You can not confer. You can't try a case by committee. Therefore you have to have control, just the way a surgeon has to have control when he's doing an operation. He can't let you look in a mirror and say, "Doc, move the scalpel a little over this way because I don't like the way you're doing it." So I have to exact that commitment from the client at the outset, and sometimes they are unhappy with it.

Frost. Didn't you have a dispute with Frank Costello once over something like that, to do with his clothing?

Williams. Yes. Morris Ernst, who's an old friend of mine, came to see me one time and asked me if I would represent Frank Costello in a deportation case. And this was years and years ago. And I said, "Well, assuming that we can agree on the basic conditions that I must exact from him, I'm willing to do it." So I came to New York, and he was at that time in jail. He was at West Street. There is a federal detention headquarters over here on West Street. And we went into a little room, and I said to him, "Look, first of all I have to have time to prepare this case, and it's coming on very quickly, so there must be an adjournment, there must be time secured to get me to prepare. Secondly, I have to have from you absolute candor. I've got to have a truthful answer to every question I propound to you. Otherwise, I'm not going to stay in.

Thirdly, I have to have absolute and total control over this. I can't function if I have to consult with other lawyers or I have to consult with you about (tactics). You have to entrust this case to me absolutely. If you can't do that, we should part company right now and not have any disappointments." And he said, "All right, I guess I'll go along with that." And I said, "Well, all right, now, we're going into court to get some more time." He'd been sick by the way, quite ill. And I said, "I understand that you wear very expensive suits. There's no need for you to wear a very expensive suit in court when you go with me. Just wear what you have on." He had a—he looked quite badly. He'd been there, and he had these blue denims on. He kind of nodded quizzically. And we continued talking. Five or six minutes later I got up. I said, "Well, okay, I'm going to go.

And he said, "Just a minute." He said, "Just one thing, Mr. Williams." I said, "Yes?" He said, "It's about that suit." I said, "What about the suit?" He said, "I'm sorry, but I'd rather blow the case than wear this suit." He didn't want to come in in the garb he was wearing at the time.

Frost. And you let him have that point, did you?

Williams. Yeah.

Frost. We'll take a break. We'll be back with more Ed Bennett Williams.

Frost. Welcome back, talking with Ed Bennett Williams. We haven't really mentioned the Washington Redskins as much as we might. That must be a terrific relaxation for you. Is it?

Williams. Actually it isn't a relaxation. It really isn't.

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Frost. Isn't it?

Williams. No. I really haven't enjoyed watching football since I became associated with the Redskins. I really don't enjoy watching the game. I really don't. I'm so uptight watching those games on Sunday that it's a form of masochism for me to go . . .

Frost. Really?

Williams. Yes.

Frost. What are your greatest memories or moments of Vince Lombardi?

Williams. Well, I was very close to Vince Lombardi. I loved him very much as a friend. I'd say that to call Vince Lombardi just a fine coach in the National Football League would be like saying that the Louvre was a well-constructed building in Paris. He was much more than just a fine football coach. He was a very great man. More than any man I have ever known in my life, he was committed to excel. He was dedicated to excel in everything he did. Under all circumstances, at all times, in all places. He turned to be the very best that he could be. I think that it was a creed with him. It was to him the highest form of prayer to tax his capacity to its ultimate, and I felt about him that at a time in our country when duty and honor, patriotism, respect for authority, self-discipline, obedience, devotion to God are old-fashioned, kind of outmoded ideas in the minds of many. he proved by his life that they're the real hallmarks of manhood.

Frost. If you had to pick one incident that was pure Lombardi as you'd like to remember him, what would you pick?

Williams. It's so hard to think. So many things. I remember so well a conversation that I had with him which made a tremendous impression on me when I first got to know him back in—I think it was in 1961. He was then the coach of the Green Bay Packers. And he had just reached the pinnacle of success. He had won the world championship. He'd beaten the New York Giants in the National Football League championship 37 to nothing out in Green Bay. And he and I were down in Miami, and we were sitting talking very, very late one night much as you and I are talking. And we were talking about the pressures, the terrible pressures of staying on top, how much harder it is to stay there than it is to get there. And he said something to me that I never forgot. He said, "Success is like a narcotic. One becomes addicted to it, but it has a terrible side to it because it saps the elation of victory and deepens the despair of defeat." And I think, if you think about success in almost any milieu, in almost any frame of reference to which you address yourself, you'll find that that's the betrayal of success, that it never brings the kind of satisfaction that you hope for when you're trying to get there.

Frost. That's a great quote. Do you find that's true in your own life?

Williams. Yes. I find it very true. That's why it made such a tremendous impression on me when he said it. And Vince Lombardi, you know, would have been a great man whatever he did because he put a kind of pressure on himself that is just fantastic. I believe with a great passion that the really great and exciting people of this world are the people who are committed to excellence, who care, who are dedicated to do the best that they can do with whatever talents God gave them. And I don't care whether they're bartenders or bootblacks or doctors or lawyers or football players or politicians or poets or television stars, I think these are the exciting people of the world, worth knowing and loving and revering, and I think these are the people who made our country great, and I find that this is a quality which is ebbing away and slipping away in our country, and I think that this is one of the major problems of our society at the moment, that there just aren't enough people who care, who have that kind of feeling about what they do, who care enough to try to be the best that they can be.

I think John Gardner said it best in his book on excellence. He said, if I remember correctly, he said that an excellent plumber is infinitely more admirable than an incompetent philosopher. A society that scorns excellence in plumbing because it's a lowly activity and tolerates shoddiness in philosophy because it's an exalted activity will have neither good plumbing nor good philosophy.

Frost. Absolutely.

Williams. He ended that quote by saying neither its pipes nor its theories will hold water.

Frost. Great. We'll be right back.

Frost. Welcome back. Talking with Edward Bennett Williams. Tell me. We've been talking about some very dramatic cases and so on. How often do light moments happen in a courtroom? Have you moved an audience to laughter or been moved to laughter in the courtroom much yourself? Or is it always serious?

Williams. Well, it's obviously not always serious. There are some times when there are really merciful things that happen. You know, thank goodness that the drama of the courtroom is broken at times by laughter because otherwise it would be a pretty somber kind of existence. But oftentimes the jury gets a good laugh, and the court gets a good laugh.

Frost. And that saves everybody's face a bit.

Williams. It saves everybody, yeah.

Frost. What have you ever in a summation or some summing up at the end—what's the longest summing up you've ever given? Eight hours once?

Williams. I did all day once. I tried the income tax evasion case here in New York for Adam Clayton Powell. Oh, that was years ago. And I talked to the jury all day. I think it was probably too long, but (laughter) I talked all day and the prosecutor talked all the next day. There was quite a lot to say.

Frost. Did you have notes or did you just ad lib for nine hours?

Williams. I knew exactly what I was going to say. I didn't ad lib, but I don't read speeches.

Frost. Have you ever moved a court—I mean not every member—have you ever moved a courtroom to tears?

Williams. Oh, I 've seen jurors cry, yes.

Frost. Have you? When?

Williams. Oh, I've seen jurors cry in a number of cases. You know, it's a very emotional and traumatic experience to sit in judgment on someone when it's within your power to affect his life by possibly tossing him into jail. It's the most godlike thing that a man is called upon to do, to judge another human being. And sometimes people performing that function get emotional and they cry. And I've seen jurors cry, yes. They get emotional and they weep, and I think it's good to weep sometimes, and to laugh sometimes, to have the whole gamut of emotions. I think it shows you're well-balanced.

Frost. Was this in response to a speech by the defense, or was it after a verdict had been announced?

Williams. No, I've seen jurors cry during argument, my argument. You know, I don't try to make them cry. I try to win the case, but sometimes they cry.

Frost. Can you remember any cases, specific instances?

Williams. I remember cases in which they cried, but it was generally because they were distressed over the misfortune that had fallen to the defendant as the result of the criminal proceedings. Oftentimes, you know, when a defendant is tried for a crime, if he's a well-respected and esteemed member of the community, the mere fact that he's tried brings great hardship to himself, to his children, he sometimes suffers economic ruin. His children suffer grave embarrassment and sometimes grave harm. And the sadness of the whole proceedings sometimes elicits an emotion of sorrow from the people who sit in judgment.

Frost. What's the saddest case to you that you were ever involved in?

Williams. The saddest case. The saddest case. I really—you know, I always think that there is a certain amount of sadness when someone who has otherwise enjoyed an excellent reputation suddenly gets into difficulty with society and is charged as a criminal. I think there's great sadness. I'm talking about someone who has an otherwise unsullied reputation and is suddenly—is charged with a crime. I think they're always terribly sad. Sometimes it happens as a result of a momentary passion. There will be anger, flashing anger, and harm will be done. Sometimes between a husband and wife. That's what I deplore, David, guns in homes. I am so against having guns in homes because in 25 years—in 25 years of practicing law I have seen so many family quarrels that at most would have been angry words or a slap escalate to homicide because there was a gun handy after a lot of alcohol.

Frost. That's a most vital point, that really is. You've really seen that many times.

Williams. Yes! Instead of angry exchange and maybe the anger manifesting itself by an outburst of physical violence, in slaps or at most a punch, instead of that with a little alcohol it escalates into a tragedy. I think those are terribly sad cases, because someone has ruined his life probably because of an extra drink and a flashing temper. Those are terribly sad cases, and they're very difficult for judges to deal with when they impose sentence.

Frost. We've got to take a break. We'll be right back.

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Frost. Welcome back. And that, unbelievably, and thanks to you, Ed, that's the end of ninety minutes. It's amazing. One last question I must ask you. That is, as the result of all these cases and all these crimes you've been in court while they've been discussed, have you ended up with a greater or lesser faith in human nature?

Williams. Far greater. I really have. I have really great and deep faith in the—in human nature, and I think that, David, we're in a period of great social revolution in our country, and I feel that there's a daunting challenge presented to the American people and that they're going to meet the challenge. Certainly a lot of our institutions need correcting, especially my institution, the criminal justice system, and I think we're going to make it.

Frost. Come and see us again, please, Ed. Thank you so much. Goodnight.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of S. 30, the Organized Crime Control Act of 1970. The purpose of S. 30 is to seek the elimination of organized crime in the United States by: First, strengthening the legal tools in the evidence-gathering process; second, establishing new penal prohibitions; and, third, providing new remedies to deal with unlawful activities of those engaged in organized crime.

Mr. Chairman, this bill is only one facet in our fight to eliminate crime. Both Houses have passed the Comprehensive Drug Abuse Prevention and Control Act of 1970, a bill designed to eradicate the "pusher." Currently, heroin addicts alone account for $6 billion annually lost through larceny, burglary, and robbery. The drug abuse bill is designed to eliminate the "pusher" and get the addict off the streets.

Earlier this year, the Congress enacted the District of Columbia crime bill. The District of Columbia crime bill applies only to Washington, D.C., but may be used as a model for the States if it proves successful.

The House has passed legislation designed to put the smut dealers out of business. On April 28, the House passed H.R. 15693, which prohibits the use of interstate facilities, including the mails, for transportation of smut to minors. On August 3, the House passed H.R. 11032, which prohibits the use of interstate facilities, including the mails, for transportation of salacious advertising.

In order to aid local police departments by improving the technical aspects of law enforcement, the House passed H.R. 15947 on June 30, 1970. This measure authorizes the appropriation of $650 million for the Law Enforcement Assistance Administration which, in turn, makes grants to local police departments, research organizations, and state law enforcement agencies.

The bill before us today, S. 30, is aimed at ridding our society of the highly profitable business of organized crime. Organized crime has been bleeding this country for too long and it must be eliminated. The profits from organized crime conservatively estimated at $6 to $10 billion annually—are larger than the profits of most of our largest corporations—United States Steel, A.T. & T., General Electric, RCA, and so forth. The profits are made largely by gambling, loan-sharking, and trafficking in narcotics.

The Organized Crime Control Act is aimed at strengthening the tools to get at organized crime. Titles I through VII are designed to strengthen the evidence-gathering process and insuring that the evidence will then be available and admissible at trial. Title VIII would make large scale gambling a federal offense. Title IX is aimed at keeping organized crime out of legitimate business through the use of both criminal and civil penalties. Title X provides for 25-year sentences for certain categories of convicted special dangerous offenders, including those with proven organized crime connections.

In order to regulate and curtail explosives, Title XI was added by the House Judiciary Committee. This section assists the States in controlling the sale, transfer, and disposition of explosives within their borders, by requiring the licensing of manufacturers, importers and dealers of explosives. In addition, permits are to be required for all users who depend on interstate commerce to obtain explosives. The addition of this provision presents a new dimension of this legislation—a dimension designed to put the bomb thrower behind bars.

Mr. Chairman, crime challenges the existence of this Nation—a challenge we must meet and overcome. I feel that S. 30 is an answer to the crime wave that has been sweeping the Nation.

Thus, I rise in support of S. 30 and I urge my colleagues in the House of Representatives to join with me in support of this needed legislation.

Mr. MONAGAN. Mr. Chairman, I support the Organized Crime Control Act which we are discussing today.

This forms another link in the chain of legislation which we are forging to deal with the menace of crime in this country. We have already passed laws dealing with crime in the District of Columbia and in the country at large and it is appropriate that we should turn our attention to the threat posed by what has some to be known as organized crime.

In these days of business conglomerates and the ever greater growth of business and social units, it is only natural that crime should grow in size and in organizational complexity. Along with the technological advances that are used by modern business has come the translation of their use to the criminal side of the ledger.

In order to combat these highly organized and well-equipped forces, it is necessary that enforcement authorities be provided with tools which are fitted to deal with this modernized entity and these tools are provided in this legislation. The granting of general immunity, the penalties for false declarations, the modernization of rules relating to depositions and the sections dealing with syndicated gambling and racketeer-influenced organizations will all be helpful in providing greater power to prosecuting officials to deal with criminals in organized antisocial activities.

A final section deals with the regulation of explosives and takes a step forward in this delicate field by prohibiting their distribution to minors, drug addicts, mental defectives, fugitives from justice and charged or indicted criminals. These provisions should preserve the rights of those who legally use explosives but provide the beginning of a system of regulation for those who are not competent to use them without danger to society as a whole.

The American people are properly demanding an end to the rising tide of lawlessness in the country and they are rightfully asking that their Government make them secure in their homes and neighborhoods. This law is one more step along the road to these vitally important objectives.

Mr. ROTH. Mr. Chairman, I rise to express my support for this important measure before us today, the Organized Crime Control Act of 1970, as amended by the House Judiciary Committee.

We need to meet the challenge that organized crime presents this country. I believe that this measure, which embodies the best of the recommendations presented by the American Bar Association, the American Law Institute, and the President's Commission on Law Enforcement and Administration of Justice, incorporates the best available ideas for fighting the ever increasingly sophisticated criminal syndicates. While I do not view this legislation as the panacea to rid our Nation of organized crime, I do view it as a forward and necessary step toward that end. It is a step we must take. As Attorney General Mitchell noted in his statement to a Senate Judiciary Subcommittee, too few Americans appreciate the dimensions of the problem of organized crime; too few understand its impact—its sinister and corrosive effects upon society. However, its victims are everywhere—the housewife as she does her grocery shopping, the wage earner unaware of misuses of his pension funds, or the ghetto resident whom organized crime preys upon with numbers games and narcotics to aid him in trying to escape from his plight.

Truly, our law enforcement officials need new tools to fight crime. We cannot expect to treat an old problem with old methods and expect new results. The situation is so serious that in my judgment we have no choice but to adopt strong new rules. Although the provisions of this legislation are many and complicated, I do want to discuss three of the provisions which I consider especially important and particularly, title XII, an amendment which I introduced for the establishment of a National Commission on Individual Rights.

Title X of this legislation is designed to extend sentences of organized crime offenders by up to 25 years. I myself have long been of the opinion that current law is insufficient to provide appropriate sentences for well-known organized crime leaders. A Gallup poll of early last year substantiates that I am not alone in this belief. It revealed that 7 percent of those interviewed thought our courts did not deal harshly enough with criminals. Another study based on FBI sentencing data reveals that two-thirds of organized crime members included in the study and indicted by the Federal Government since 1960 have faced maximum jail terms of only 5 years or less and fewer than one-fourth have received the maximum jail terms, and the sentences of the remainder have averaged only 40 to 50 percent of the maximums. And no wonder as the President's Crime Commission reports organized crime injects over $2 billion annually to public officials to buy immunity from the law.

Title X will begin to correct this situation by utilizing a long proposed principal by the Department of Justice, the American Bar Association, and the President's Commission on Crime that there should be one standard of maximum sentences for ordinary offenders and another higher maximum sentence to be applied against the more dangerous repeat offenders. I support such a measure.

Title XI is a strong reaction by the Congress to deal with threats of disorder and social upheaval that now plagues our campuses and cities by radicals who would use explosives. Title XI extends Federal jurisdiction to bombings on campuses receiving Federal financial assistance, permits the use of wiretapping in such cases and the introduction of the FBI to assist State and local authorities in investigations.

The need for this legislation was never more vividly illustrated than by statistics released this past summer by the Department of Justice. During the 15-month period of January 1, 1969 to April 15, 1970, there were 4,330 bombings in the United States, 1,475 attempted bombings, and 35,129 bomb threats. Forty-three people were killed and 384 injured, many of them very seriously. Property damage during the period reached upwards to $21,800,000. Nevertheless only 36 percent of the bombings were solved, and 56 percent took place in connection with campus disturbances.

This title also establishes Federal controls over interstate and foreign commerce of explosive materials which, I believe, will be an important aid to the States in overseeing the flow of explosive materials within their jurisdictions. Under this provision manufacturers, importers, and dealers who trade in explosives must obtain a license. Furthermore, it prohibits the sale and distribution of explosives to persons under 21 years of age, drug addicts, the mentally impaired, and certain felons. Or in other words, it prevents the possession by those whom we would least want to possess explosive material.

In addition to these controls, the legislation effectively closes gaps in existing law by providing penalties against malicious damage or destruction by explosives of property of institutions and organizations now receiving Federal funds.

I believe it to be the responsibility of the Congress while adopting these new tools for law enforcement to also institute some authority to oversee their effect and their impact. We must know if they are effective, and if not, what can be done to make them so. We must also know after adopting these new tools if we have found solutions which might in some way sacrifice individual rights which are woven into the fabric of our most basic liberties. Title XII, establishing a National Commission on Individual Rights, I believe, will accomplish this end.

In proposing this Commission, I was concerned that it not be limited to reviewing only the effect and impact of this legislation before us today. I believed it to be of more value to us in the future for this Commission to be empowered to review other anticrime legislation which we have recently adopted. I refer, of course, to the recent legislation regarding no-knock search warrants, wiretapping, and preventive detention, now part of bail reform in the District of Columbia, all of which I have supported. In this fashion we can collectively, as well as individually, determine the effectiveness of these measures and at the same time gain the advantage that an overview of this area can provide. For if we were to review each of these pieces of legislation individually, we would miss the impact of the overall study.

The purview of the Commission will also include a review of executive action which may infringe on individual rights, particularly in the area of data collection. It seems the actions taken by the executive branch in this area are in many ways outside the control of Congress. As Mr. ERVIN of the other body has pointed out:

> Public concern has increased that some of the Federal Government's collection, storage, and use of information about citizens may raise serious questions of individual privacy and constitutional rights.

Thus, by including such actions of the executive branch within the jurisdiction of this Commission, it is my hope that we can learn if our basic rights are being abridged by an agency of the executive branch so that we in the Congress can do something about it. Further, the Commission will be able to study the interrelation of our anticrime laws and executive action to determine how each affects the use of the other and whether as a result there is an infringement upon our basic rights as protected by the Constitution.

This Commission will not be a review board for complaints against the activities of local law enforcement agencies. It has no authority to second-guess on law enforcement authority. Its function is only that of reporting to the President and the Congress how these laws are being utilized, if there is any infringement on individual rights and in light of these considerations to make recommendations. The Commission will make its reports at least every 2 years after it begins in office on January 1, 1972, and it will terminate after delivering its final report 6 years later in 1978.

Finally, I wish to comment that there has been some question raised as to whether this Commission would review State wiretappings. It would. Mr. Chairman, since the States may only wiretap pursuant to Federal law, 18 U.S.C. 2516, a review of wiretapping by a State agency is, therefore, directly within the province of the Commission which I originally proposed.

Mr. Chairman, I wish to thank the members of the Judiciary Committee for acting promptly and favorably on this proposal. I believe this Commission will fill a vacuum which many in this House and in the Senate have believed existed. I urge Members of the House to vote favorably for the crime bill.

Mr. BUSH. Mr. Chairman, I support S. 30, the Organized Crime Control Act of 1970. This legislation aimed primarily at the problems created by organized crime will permit improved fact gathering and trial procedures, create substantive criminal offenses for activities related to organized crime such as syndicated gambling and racketeering activity, and will assist the States in effectively regulating the disposition of explosives.

There can be no place in the 1970's for maintaining the status quo in combating crime. We need innovative ideas in this decade to solve the crime problem. The bill before us today gives law enforcement officials added tools in the war on crime while protecting the individual's rights. It is not a solution to the crime problem but it does provide new tools and clarify old ones. It does mark a major step in the vigorous attack on organized crime being pursued by President Nixon and Attorney General Mitchell. And, I am convinced that the section of the bill dealing with the transportation of explosives—quite similar to a bill I introduced—will have a meaningful effect in reducing terrorist bombings.

Mr. STRATTON. Mr. Chairman, I am pleased that we at last have an opportunity to take action on the Organized Crime Control Act, legislation that is designed to control and eliminate organized crime.

I have for some time been pushing to get this bill voted out of the Judiciary Committee, and some time ago I signed the discharge petition to bring it to the floor. Two weeks ago, here on the floor of the House, I joined my colleague from Oklahoma (Mr. EDMONDSON) to urge that immediate action be taken by the committee to report S. 30 and other crime bills to the full House for action. At that time I also strongly urged that the committee take prompt and favorable action on legislation to effectively deal with the increasing use of explosives by criminals on campuses and elsewhere that not only destroys property but can cost lives, as demonstrated recently at the University of Wisconsin. I am delighted that the committee has amended the legislation before us to contain a provision that establishes a system of Federal licenses and permits to help the States control the sale, transfer, and disposition of explosives.

Legislation to deal with the big business of organized crime is long overdue. Estimates on the gross earnings of organized crime vary from $30 to $60 billion per year. At minimum this is more than the total Federal funds spent on all the education and manpower programs over the last 6 years. S. 30 goes a long way forward meeting this problem and reducing what is a real threat to the well-being of our Nation. Mr. Chairman, I am proud to give my full support to this legislation and am pleased to see that it is supported by such an overwhelming majority of my colleagues.

With the passage of the Organized Crime Control Act, let me also take this opportunity to call upon the administration to use its full authority to enforce not only the provisions of the bill, but to use the authority provided by other legislation initiated and enacted by this Congress to cope with the serious crime situation in this country.

Mr. PRICE of Texas. Mr. Chairman, organized crime represents a deadly threat to the well-being of this Nation. The intrusion by organized crime into the national economy in recent years has become so great that it sullies the lives of millions upon millions of Americans.

Estimates of illicit profits from organized crime range as high as $60 billion a year. This is greater than the entire gross national product of Canada, which in 1968 was $59 billion. In this regard Time magazine reported last year that profits from the rackets are as large as the combined profits of United States Steel, American Telephone & Telegraph Co., General Motors, Standard Oil of New Jersey, General Electric, Ford Motor Co., IBM, Chrysler, and RCA.

Gambling is generally thought to be the most profitable form of illegal activity conducted by organized crime. The President's Crime Commission reported in 1967 that law enforcement officials believe that illegal betting on horse races, lotteries, and sporting events total about

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$20 billion a year, with a net profit to the mobsters of $6 billion to $7 billion a year. In any event, even if gambling is the most profitable of the rackets, and there are those who believe loan sharking to be about equal to it, it is not the most lethal. The profits from gambling and usurious loans are funneled into financing the deadly narcotics trade. The profits to the mobsters in this racket are staggeringly high, as are the human costs of drug addiction, such as despair, and even death, and the social costs of mounting street crimes committed by addicts to get more money to buy drugs.

Mr. Chairman, the influence of organized crime is so great and so pervasive that, in my judgment, it will take drastic measures to root out and destroy the menace to our very civilization. It is with this thought in mind that I give my wholehearted endorsement to the bill before the House today, the Organized Crime Control Act of 1970.

While the act is admittedly no cure-all for the overall causes of organized crime in America, it will certainly help in significant ways to provide more crime fighting tools to law enforcement officials and harsher punishment to mobsters who up to this time have operated with relative safety from the law.

Although the House is voting basically on the measure that was passed in the other body earlier this year, the members and staff of the House Judiciary Committee are to be commended for the long hours of diligent work they spent refining the bill. Some 50-odd changes were made and over 50 amendments were offered. In sum, although I do not agree with all the provisions of the bill, I do think the committee's efforts are well worthy of support, and I urge my colleagues to approve the comprehensive proposals.

The general terms of the proposals are as follows. The first five titles of the act are designed to accomplish one simple purpose; to improve present fact gathering methods in criminal proceedings. Title I establishes special grand juries which may exercise more independence in fulfilling their duties and may sit for a period of time up to 36 months. In attempting to ferret out the facts, the grand jury may summon witnesses and compel them to talk by granting them immunity against the use of their testimony against them—title II. If they refuse to talk, they may be held in civil contempt—title III. And if they give false evidence, they may be tried for perjury. Title IV eliminates medieval rules of evidence which have hobbled the prosecution's ability to cope with this special type of grand jury witness. And if the witness talks and by so doing places his life in jeopardy, title V authorizes the Government to protect him or even to relocate him.

Titles VI and VII facilitate the actual process by which persons charged with engaging in organized criminal activities are tried. Title VI allows the Government to take a deposition of a Government witness and use it at trial if the witness is for certain reasons not available. This not only protects the Government's case but the witness as well, for mobsters will have no motive to kill or kidnap a witness if his incriminating testimony is recorded and admissible into evidence. Title VII precludes litigation concerning claims of illegal electronic surveillance by the Government which could not have possibly produced evidence for the prosecution.

Titles VIII and IX create substantive criminal offenses related to organized crime. Title VIII makes large-scale gambling operations in violation of State law a Federal crime; it also outlaws bribery of State and local officials in connection with such gambling enterprises. Title IX makes it unlawful to engage in a pattern of racketeering activity as a means of acquiring, maintaining, or conducting a business, and creates civil and criminal remedies for this offense such as are found in antitrust law.

Title X establishes a postconviction presentencing procedure for determining whether the defendant is a habitual or professional offender, or a member of an organized crime group. Such an offender may then be given an extended sentence by the courts.

Perhaps one of the more significant portions of this legislation was recently added to the bill by the Judiciary Committee. This provision, title XI deals with the regulation of explosives, for the recent increase in the number of criminal bombings across the Nation points to the need for immediate action in this area. Whether regulating the procurement of explosives is the answer remains to be seen. I took a different approach to the problem. I introduced legislation to drastically strengthen the penalties existing for violations of Federal laws concerning the use of explosives. My bill also provided death sentences for criminal bombings causing fatalities. In this connection, I have also introduced legislation designed to bring the full force and effect of Federal law directly and forcefully to bear upon anyone who murders a Federal, State, or local law enforcement official. Congress must also focus its attention on this vital aspect of the growing trend toward lawlessness in our society.

Title XII was also added to the Senate bill by the House Judiciary Committee. This provision generally incorporates the provisions of a bill I recently introduced providing for the establishment of a National Commission on Individual Rights. This Commission would be empowered to investigate Federal laws and practices as they relate to individual rights. At present there is no reasonably clear standard against which the freedoms of the individual can be assessed. We desperately need a reading on the state of individual rights. Then it can be determined what actions need to be taken to foster and preserve the liberties we all hold so dear. Under this title, the Commission will become effective 2 years from the time S. 30 becomes law. It will be authorized to make interim reports as it deems advisable and it will be required to make its final report to the President and the Congress within 6 years of its establishment.

Mr. Chairman, in my view the Organized Crime Control Act of 1970 represents an interlocking and comprehensive approach to the complex problems of fighting organized crime. Its passage is vital to the success of our efforts to exterminate organized criminal activity in the United States. While I am confident that the elected representatives of the people will shoulder their responsibilities and pass the bill, I have less than complete confidence that the American people will do likewise. For unless our citizenry, and particularly our Nation's businessmen, assume their fair share of concern and vigilence at the local level, where the warning signs marking the presence of organized criminal activity are usually first observed, then our society may prove powerless to stop the growth of organized crime and it may prove unable to eradicate its roots. Without citizen cooperation, organized crime may continue to increase more rapidly than all our efforts to turn it back.

Mr. GALLAGHER. Mr. Chairman I rise today to oppose the organized crime bill, not because I have any affection for crime or criminals, but because I have great affection for the United States of America and the great energizer of our freedoms, the Bill of Rights.

I will not comment on specific sections of the bill under discussion today which is so very similar to the one which passed the Senate by the disgusting vote of 76 to 1. I do not intend to list the entire litany of lament for liberty which can be chanted in legislative proposals and administrative actions. Nor will I mention again what is apparently an anachronism in the 20th century: Our Bill of Rights.

Rather, let me draw a comparison between what the leaders of the nationwide movement of support are saying and what was said by an Army major in justification of the complete annihilation of a Vietnamese hamlet. He said:

> We had to destroy the village in order to save it.

So very many legislative proposals and administrative actions suggest a domestic Gulf of Tonkin resolution which, under the guise of a response to hostile action, really set the stage for an open-ended escalation against our citizens and which will destroy a free America in order to save it.

What we are saying by the obviously overwhelming passage of this legislation is that freedom is so fragile that we need repression to preserve it. What we are doing today is adding one more incremental increase in the arsenal of those who do not respect the multiethnic diversity which is our Nation's strength. What our action today will mean tomorrow is that one class of men, one group of opinions, one vast subterranean subculture of those who embrace the surveillance mentality, will dictate our future.

This bill represents the victory of vindictiveness and is yet another signal of the death of democracy. This bill not only invades privacy: It destroys the decency which free men are supposed to feel in their relations with their fellow free men. It permits the growth of an atmosphere like a closed society, and will make all men who choose to follow a different life style to be passive pawns in the icy machinations of people who have no respect for law, little understanding of ordered liberty, and no compassion or affection for human nature.

Mr. Chairman, on Saturday, February 28, 1970, I spoke to the New Jersey Convention of the American Civil Liberties Union. At that time I spoke of Justice Holmes' admonition that the only prize much cared for by the powerful is power. The prize of the general is not a bigger tent, but it is command.

This bill, if it be misapplied, which it almost certainly will be, will spread a tent overshadowing all of our traditions and blocking out the light of liberty.

Many people felt similarly to the way I feel today when the alien and sedition laws were debated in the Fifth Congress. Edward Livingston, the only New Jersey resident to become Speaker of the House and who strangely enough represented the very area which I now have the privilege to represent, made the following ringing declaration: I point out that this was said in 1798; it is equally valid today:

> The system of espionage being thus established, the country will swarm with informers, spies, delators, and all the odious reptile tribe that breed in the sunshine of despotic power. The hours of the most unsuspected confidence, the intimacies of friendship or the recesses of domestic retirement will afford no security. The companion whom you most trust, the friend in whom you must confide, are tempted to betray your imprudence; to misrepresent your words: to convey them, distorted by calumny, to the secret tribunal where suspicion is the only evidence that is heard."

Mr. Chairman, I can think of no more precise description of the grand jury section of the bill under debate except to add that every man has enemies and those enemies will be welcomed in such a "secret tribunal where suspicion is the only evidence that is heard."

I just want to make one comment on the well-meaning proposal to establish a commission on individual rights. This pale placebo, this puny palliative, is alleged to show the concern of this House for the dreadful incursion on the sanctuaries of the human spirit which the rest of the bill encourages and which is a feature of so many activities in the Congress and the executive branch.

Mr. Chairman, the trends manifested in these so-called crime bills leads me to suspect that this Congress will seriously consider any proposal which has the label anticrime attached to it. I therefore will offer several pieces of legislation myself when the Congress returns after the election. Among these proposals will be:

First. Ban all window shades and curtains. Certainly no good American has anything to hide, certainly no law-abiding citizen will want to keep anything from anyone in authority, and certainly no Congress can refuse to pass such a bill which guarantees instant success on the war on crime.

Second. I will reintroduce my amendment which I first offered as a hopeful alternative to the "no knock" provisions of the District of Columbia crime bill. As you may recall, that was to substitute a "no flush" amendment by making it a crime to have indoor plumbing. If there was nothing to flush the incriminating evidence down, we would not have to put down the Bill of Rights, and the loss of indoor plumbing would be a small price to pay for saving the fourth amendment.

Third. I will propose a strict system of domestic passports, with Federal agents stationed at every State line to observe and record the passage of every citizen from State to State. In this way, we can constantly observe which of our citizens goes anywhere; thus severely restricting their ability to cross State lines to commit crime.

Fourth. I will propose a single universal identification number to be branded on each baby at birth. This will eliminate the frequent confusion engendered by the sloppy existence of separate names for individual citizens and will permit instant identification of lawbreakers.

I recognize that each of these proposals may seem absurd but I believe they are consistent with the thrust of this legislation and are the logical outgrowth of our casual willingness to repeal the Bill of Rights.

Mr. Chairman, I insert the speech I gave before the New Jersey convention of the American Civil Liberties Union as well as a remarkable series of four editorials which appeared in the New York Times in April of this year.

SPEECH OF CONGRESSMAN CORNELIUS E. GALLAGHER

I have just come from Washington where, and as is usual, we are considering a great many different issues. One of the most important of these is pollution. We are all hearing a great deal about pollution in 1970, and it is that subject which I wanted to discuss with you this afternoon.

I want to speak with you about a process of pollution which is viciously contaminating the blood-stream of our society.

It is not a pollution process which can be curbed by inventing new automotive engines, nor by imposing fines upon those who poison our water with industrial wastes, nor even by appropriating new millions for solid wastes disposal. One cannot help but wish that the pollution to which I refer were as easily conquered as these other varities.

I am speaking instead about a pollution that is occurring now as the Bill of Rights is slowly and invidiously burned out of our political system.

As in the case of industrial pollution, this political phenomenon is justified by well-meaning individuals on grounds that it is but an incidental, and perhaps regrettable by-product in the creation of some greater good.

This may indeed be a response, but it is not an acceptable answer.

My friends, never before in our history has the group of basic concepts embodied in the first ten Amendments to our Constitution been under such constant and concerted attack as now.

Let me hasten to add that while this attack may not be the product of conscious parallel agreement between the attackers, and while it may not be motivated by malicious intent, it is no less dangerous.

In fact, it carries even a greater threat to our liberties than would an over-consciously promulgated invasion. For, which citizen of the United States would sit by calmly and permit such an overt assault on his liberties without objection, without indeed, resistance.

But, when the assault on the Citidel of our rights is carried forward through a slow undoing of Constitutional commands by many who do not realize even themselves the probable result of their actions, then we face the very real danger that our rights will go out not with a bang, but with a whimper. Either way, they will vanish. The evil which can result from the work of well-meaning zealots is surely the equivalent of that which arises from the acts of blatant malefactors. It is the same stuff of which the road to hell has been proverbially paved.

Many of the areas in which fundamental freedoms have been placed in jeopardy fill the newspapers. For example, press reports force us to ask: where is the first Amendment right to free association, and freedom to petition the Government, when we have a Statute which prosecutes Americans on the basis of a bad state of mind when they cross a state line. I refer, of course, to the noxious, so-called "Anti-Riot" rider attached to the Civil Rights Act of 1968—a rider which I voted against.

If you will permit me a moments disgression from my specific topic here this afternoon, I would point out that the disparity between the justifications advanced in support of this rider, and the way it can work, and indeed has begun to work in practice clearly illustrate the phenomen of the well-motivated attack on rights of which I have been speaking.

The supporters of the Anti-Riot rider eagerly stated that it would be used only against the irresponsible radicals who were igniting our cities during the summer of 1968. Their admonition was, in other words, that we should not worry because good Americans would never use bad laws against good Americans. If this is offered as a new addition to our jurisprudence, then I choose not to accept it. A bad law is a bad law, and it is not restricted in impact to those who are defined, in some metaphysical manner, as bad people. One wonders who will write the definition.

And that is precisely the point. For the Anti-Riot rider can as easily be used against labor union organizers as it can against H. Rap Brown. Indeed, it has already been utilized to convict five demonstrators at the Chicago Convention who were never the less acquitted on the conspiracy charge.

Now, I am not expressing support here for the actions of those demonstrators which may have crossed the boundaries of legitimate dissent. But, I am questioning a Statute which convicts on the basis of what people may have been thinking—which creates a thought crime. As I stated in the House, when this rider was debated in 1968, what we perhaps require under this Statute are phychiatrists to travel with all potential protestors in order to guage accurately their state of mind as they cross a state boundary.

The true effect of bad laws is that they become worse. When we wink at the first tampering of basic rights, we best prepare to close our eyes completely to the panoply of assaults which will shortly follow. The increment of small decisions, which seem small enough when they are made, is staggering when taken as a whole: just one additional question on the Census: just one additional restriction on free speech; just one more data bank with no rules on content or access; just one more use for the Social Security number; just one additional privilege for Credit Bureaus; just one more area where the Federal Government may surveill its citizens; just one more job where lie detectors may be used to scrutinize employees; just one more use for a computer in setting highway speed traps—just one more out of *necessity!* That is the constant cry of those who seek to defend our freedom by denying it in just one more area, just one more time.

One cannot help but say with William Pitt that necessity too often has been the plea for "every infringement of human liberty.

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It has been the argument of tyrants, the creed of slaves."

But, as I stated before, at least in the outstanding cases, the press has called the public's attention. However, it is in the less-than-sensational areas that the true undoing of rights is now in progress. One of these—perhaps the most important of these—is the area of individual privacy.

The right of privacy, never explicitly mentioned in the Constitution, is the most pervasive of all our rights. Indeed, without it, our other rights fast become meaningless. Given this fact, it is on the field of privacy that the ultimate battle for our liberties will be staged.

Tragically, the right to privacy has been considered a troublesome step-child, if not an outright bastard son, of the Bill of Rights. We believe it is there, but are never sure where, or in what form, or, indeed, to complete the metaphor, how it ever got there. Accordingly, the assault on privacy has received minimal attention from both a press and public which are peculiarly unaware of its jeopardized status in our society.

Like any step-child or illegitimate offspring, privacy has not been accorded an equal position with the catalog of fundamental rights held sacred under the Constitution. Yet, let me say again that without the right to privacy firmly secured, the entire package of our other, acknowledged rights becomes as flimsy and frail as an Eddie Fisher marriage license.

Those who scribed the articles of and amendments to our Constitution were surely aware of this fact; their failure to mention the specific word "privacy" may reflect more their belief that its presence would be taken for granted by civilized men than that it was in any way irrelevant. So, privacy becomes today the pretermitted heir of the estate bequeathed by our founders: it is not mentioned in the document, but it is therefore not to be deemed intentionally cut-off.

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The major constitutional source of whatever right to privacy we formally acknowledge has been construed as the Fourth Amendment. Perhaps that Amendment contains some of the most beautiful thoughts ever set down in a legal document: the integrity of persons, houses, papers, and effects are held secure against unreasonable searches and seizures except upon probable cause. Mere necessity would not be sufficient, according to our founders, in order to justify a violation of that security; something more would be required: probable cause.

The steady erosion of that founding conception has proceeded a-pace during the latter portion of the sixties and the opening months of this new decade.

But, our founders realized that a viable democracy depends on an atmosphere in which people can go their own way for the vast majority of their daily experiences and satisfactions, in which people can formulate thoughts and disregard them according to their own temperaments. Freedom from either subtle or overt coercion is the birthright of our citizens. If that coercion comes from a government which rationalizes its actions on the basis of beneficiary it is no less coercion, for, as the late Justice Brandeis stated, "Experience should teach us to be most on our guard when the government's purposes are beneficient. The greatest dangers to liberty lurk in the insidious encroachments by men of zeal, well-meaning but without understanding."

In a nation as large and complex as the United States, a nation which contains so many different cultural and ethnic heritages, no single class of men can be permitted to impose the standards of their group on the remainder of American society.

Yet, in a very real sense, that is exactly what is happening today.

During my years as Chairman of the House Special Inquiry on Invasion of Privacy, I watched with dismay as the strong commands of the Fourth Amendment have been time and again reduced to whimpering dicta with virtually no public outcry. I have tried to focus attention on both private and governmental invasions of privacy, and to the manner in which these attacks threaten to tear apart the fabric of our democracy. I have attempted to sound the clarion call of the Fourth Amendment amidst a cacophony of trumpeted justifications for its de facto abandonment.

Nevertheless, while there have been some successes, all too often my calls are greeted with bewildered replies: where is this right to privacy? Why is it that crucial? What does any good American have to hide from any other good American?

Sometimes, indeed, the most obvious of points are the hardest to grasp.

The Constitution contains guarantees against those methods of privacy invasion which were prevalent in the 18th Century: accordingly, our Constitution states that a man cannot be compelled to give up his home to quarter troops: he cannot be forced to give testimony against himself: and, again, he has the right to be secure in his person, papers, and effects.

But, the 18th Century did not possess the computer. The 18th Century did not have sophisticated electronic eavesdropping devices. The 18th Century did not know of miniature surveillance mechanisms which can fly by satellite over the earth and still record even the fall of a sparrow.

Could any man believe, however, that the authors of our Constitution would consider these phenomena of the twentieth-century beyond regulation? That the authors who sat in Philadelphia in 1787 would consider the dangers to privacy of 1970 irrelevant?

Yet, while none would make such dangerous assumptions in theory, the public response to the 20th century modes of privacy invasion has been rather benign.

Unfortunately, the Courts have responded in similar fashion.

The precepts of Griswold v. Connecticut—which is cited as the major Supreme Court acknowledgment of the right to privacy—have been read largely as dicta by the courts below. These lower tribunals have been reluctant to go beyond the narrow holding as they read that holding in the Griswold case.

What did Griswold say? It stated that the specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance. Thus, various specific guarantees create zones of privacy. These are compelling statements, yet they are read as dicta, when the lower courts are confronted by specific breaches of the so-called privacy zones.

But if man is a free creature under our Constitution, then privacy precepts must be more than rhetoric. For example, if citizens do not have the power to associate for political purposes without their names and photographs being entered in a government data bank, then what happens to the First Amendment? If citizens cannot speak without fear of constant surveillance and eventual public disclosure of every word they have uttered, then what becomes of our concern for rights that are chilled out of existence?

It is my contention that the security offered to persons under the Fourth Amendment is no less than the very security to live as a human being.

Man as a physical animal may reside in a house of brick and mortar. But, the true nature of man, as man, of necessity resides in far more intangible structures; it resides in his thoughts, in his private words, in his interpersonal relations with friends, and enemies, of his own choosing. The right to privacy, then, is the right to expend our moral capital, to withhold or extend love, affection, fears, doubts, and thoughts with virtually no restraint.

A man stripped of privacy is a man stripped of his life.

And at least, they shoot horses, don't they?

The Fourth Amendment permits man a space of protected withdrawal of the world; it allows him to refine his judgment before making them public. The boundaries circumscribed by the Fouth Amendment create what I have termed the "intellectual imperative," an area of psychological living space in which man has control over the spread of information about his actions and his beliefs. This psychological living space is not unlike the "querencia" of the bull, where the matador may enter only at his own peril.

The intellectual imperative is an attempt to translate the guarantees of the Constitution into a viable and coherent theory in order to provide a credible counterweight to the incredible sophistication of information technology and governmental power.

The Fourth Amendment, because it cannot be readily attached to such familiar issues of freedom of the press or freedom of dissent, has been most easily breached by the new technology and its technocratic administrators. These privacy invaders are no different in kind from those who have traditionally threatened liberties throughout our history; their only distinction is their overwhelming sources of power, making ultimate dictatorship operationally possible.

At the very beginning of the American experience, many saw a threat of our infant republic in the proposed Alien and Sedition Laws. In the debate over those laws in the Fifth Congress, Representative Edward Livingston, of our own state—who was the only Congressman from New Jersey to ever become Speaker of the House—made a ringing declaration of what would happen to society should the Federal Government ever be empowered to strip away protections of the individual. In a passionate speech, Livingston made one of the most accurate predictions of the future actions against freedom. In 1798, Livingston stated:

"The system of espionage thus being established, the country will swarm with informers, spies, delators, and all the odious reptile tribes that breed in the sunshine of despotic power. The hours of the most unsuspected confidence, the intimacies of friendship or the recesses of domestic retirement will afford no security. The companion whom you most trust, the friend in whom you most confide, are tempted to betray your imprudence; to misrepresent your words; to convey them distorted by calumny to the secret tribunal where suspicion is the only evidence that is heard."

Let me repeat, that was stated before we had forced immunity statutes—that was stated in 1798, and not in 1984.

But, how close today we are to 1984, not only in years, but in practice.

To make the Fourth Amendment a functional factor in a technologically sophisticated world requires unceasing vigilance, not unceasing corrosion. The dangers facing the Fifth Congress are still those facing the Ninety-First, only compounded by years of scientific progress.

For the United States now has the capacity to establish a system of strict records surveillance which was, and is, the hallmark of European totalitarian states and which was specifically rejected by our Founding Fathers. The files of federal, state, local, and private agencies bulge with dossiers on Americans. Computerized information systems have provided the means for the most far-reaching assault on our privacy that has ever been conceived by the mind of man. Recent investigations of my inquiry disclosed that a private credit organization confidently expects to have the record of every man, woman, and child in this country within its computerized system within 3½ years.

A computerized credit reporting firm in our State of New Jersey contains dossiers on more than 23 million Americans today; as if this were not enough, this New Jersey firm deals only in providing adverse information on those within its files and those who may be within its files tomorrow.

An individual's credit history can be retrieved and read anywhere in the country within two minutes after the request is initiated. And this process was dramatically demonstrated at my hearings in March, 1968.

Thus, how do we make due process of law relevant in 1970 when a single reel of magnetic tape, containing the intimate personal details of thousands, perhaps millions of lives can be transferred from a computer in one jurisdiction to a computer in another jurisdiction within minutes?

Where is our reverence for the individual when eminent social scientists, at a seminar I attended two years ago, seriously proposed to use low cost housing as a great pool of research by bugging each room of a federally sponsored low-rent project. These well-meaning sociologists honestly proposed to make machine-readable every single sentence uttered by the apartment residents for a computer which would then deliver a profile of these Americans for future study.

Is this the brave new world which we sought in 1787? And where is the Constitutional restraint on federal power when the Government proposes a National Data Bank to keep records on all Americans and make them available for virtually all purposes. Is this the same society which held itself forth as the new home of the homeless despairing of Europe and Asia?

This week, I have commenced an investigation into a computerized data bank planned by the United States Army which would contain information on all American citizens who participate in various protest movements and demonstrations—the name of every person in this room is probably being prepared for placement on that list.

Throughout history, we have regarded ourselves as the nation of a second chance. Immigrants came to our shores because we offered the chance for a new beginning. Yet, the constant employment of our new power to weave a web of data around each individual, to recall and hold against each person; every event in his past threatens to make this a one-chance nation. We are threatened with programing redemption out of American life.

This is not, I submit, what the United States of America is all about.

This is not the type of society which so many hundreds of thousands have given their lives to preserve.

My friends, I must be candid with you and reveal to you my firm belief that we are in the process of losing our form of government and our way of life as it has developed since the founding of our Republic.

We are replacing democracy with something else, with something we have rejected throughout our history.

Perhaps an illustration of what I mean may be found in the fact that a change from democracy to totalitarianism in those European states where such a change occurred was always preceded by stripping away of the same concepts as those guaranteed by our Fourth Amendment.

The ruination of individual privacy has always heralded the destruction of human freedom.

Indeed, the greatest privacy invader dossier collector and information keeper known to this century was Adolph Hitier.

And Hitler carried forth his privacy invasion, his destruction of the human personality without the benefit of computers—though I should tell you, in all seriousness, that one of the first orders for the new IBM punch cards was placed by the government of Nazi Germany.

And so, as the information keeper and technological zealots of 1970 America pursue their well-meaning course, let us remember the admonition of Justice Holmes that the only prize much cared for by the powerful is power. The prize of the general is not a bigger tent, but it is command.

Total information about individuals means total control over those individuals. One cannot argue that this information will be used for benevolent purposes, for the very existence of the information creates its own demands, and its own power. The vacuum which a democratic political system of necessity creates is easily filled by total surveillance mechanisms. And once it has been filled, we have something other than democracy.

And so, I am fearful today, fearful for the future of America. The new technology is carrying us in a rapid plunge towards the end of freedom. We have made dictatorship an operational possibility.

There are those in the government who are trying to use the opportunities for control created by this technology precisely for that purpose. As I stated when I began this afternoon, these men may be, and no doubt are, motivated by sincere intentions; but the effect of their actions is astounding.

They have created an atmosphere of terror in this society, a terror which is being utilized to justify taking a torch to the Bill of Rights. Their attack on the Fourth Amendment is no less than an attack on all of our freedoms for, as we have seen, privacy is indispensable to an exercise of those freedoms.

We are facing a new Joe McCarthyism in the United States. Only there is a difference. The current version is worse, since the prototype was never actually given the legitimate substance of legislation.

Let me be specific. In January of this year, the United States Senate passed by a vote of 76 to 1 what is perhaps the most unconstitutional piece of legislation ever conceived in Washington; I refer to the new so-called omnibus anti-crime bill.

It may be an omnibus bill, but the only crime involved is that of ever having passed it.

This is a bill which erodes the Fifth Amendment, threatens the Sixth, and destroys the Fourth. As Tom Wicker of the New York Times pointed out on February 1, this bill raises the greatest threat to liberty in America in recent times. And, also as Wicker stated, the legal establishment in this country—of which you men are representatives—has a special responsibility for exposing the consequences of this momentary political hysteria.

Those who urged this bill have tried to be so zealous in their efforts to fight crime that—as Senator Sam Ervin put it—they would emulate the example set by Samson in his blindness and destroy the pillars upon which the temple of justice rests.

The precepts contained in this bill violate the fundamentals of Anglo-Saxon jurisprudence. The philosophy behind this bill is that catching the criminal, or the suspected criminal, validates any invasion of rights guaranteed to all of us. However, our system has been traditionally and wisely based upon the principle of no undue harrassment, of secured rights above all else; we have said, with Justice Holmes, that it is less an evil that some criminals should escape than that the government should play an ignoble part.

Ignobility is hardly the word to describe this current aberration. The new bill creates a new type of Grand Jury which will do nothing but issue reports on the activities of local citizens who the Government does not have the necessary evidence to indict, much less convict. If this does not smack of a modern-day witch hunt, then I am sorely off the track. This is Edward Livingston's warning come true: a court where suspicion is the only evidence which is heard. Even more dangerous, this suspicion is to be widely publicized.

The bill puts a Statute of Limitations on the Fourth Amendment by admitting all illegally seized evidence as long as the trial occurs at least five years after the seizure. I know of no place in the Constitution where it permits a time limit on Bill of Rights guarantees.

Yet, this bill was passed: 76–1, in one afternoon. And who is to blame? All of us, every single American who failed to rise up at the first invasion of our liberties. Now it has come to this.

When one wonders why our youth are so frustrated, why our society has seemingly become so ominous and terrifying to them, perhaps the reason lies in the subject I have discussed with you this afternoon. Perhaps this is why our inventive young people have devised a new shorthand language and why they depend on poster slogans; posters cannot be tapped, as yet. For perhaps it is our young people who see more clearly than ourselves the steady erosion of human freedoms in the United States. They feel more than we the pressures of a surveillance society. They sense more than we the threat of a big-brother State which merges end-and-means in the most Machiavellian of schemes. They have known, more than have we the coming of a different America than exists in the history texts. We can tell them about the America that we think exists—but perhaps they know it does not.

I do not believe that the cause is overstated. The Fourth Amendment, that energizer of the Bill of Rights, is losing its place in our society. As it falls under the tramping feet of the privacy invaders, it takes with it the totality of our basic freedoms.

The time has come to reverse the process. The time has come for our legal system to reform its laissez-faire concepts toward the right to privacy. We must institutionalize the concept that the individual is autonomous in the vast majority of his experiences, pleasures, and actions. As long as one is not under direct suspicion for a specific crime, with probable cause, one must have the absolute right to control access to records of the events of his life.

Moreover, we must re-affirm our dedication to the jurisprudential principle that the awesome power of the government will not be considered equal to the power of the individual. The scale must always be tipped in the individual's favor—otherwise, Mrs. Mapp will lose her home, and Gideon his lawyer, and Mallory his physical integrity.

It is no excuse for this government to yield to totalitarian temptation on the grounds that there are radicals in the streets or ogres in the shadows. We have not yet reached the point in our history where our freedom is so fragile that we require repression to preserve it.

That has never worked. It will not work in the United States.

If man loses the intellectual living space which his humanity requires, then he becomes far less than man: if a free man loses that space, he indeed becomes a slave.

The question is whether the exigencies of any moment can ever justify our willing enslavement to political hysteria?

Thus, I call upon you as lawyers, as citizens, and as free men to raise high the standard of individual privacy, to re-dedicate your own efforts to a constant and aggressive concern over the subtle undoing of our Constitution. I have nothing but admiration for the work of this organization, for you have dedicated your lives—and often enough your potential fortunes—to those principles which make our lives worth living.

For this, free men can only offer thanks.

It is my hope that with your hands, and your help we can together provide the re-

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awakening which is necessary among our citizens in order that the current invaders be repelled. Let us go forward with the wisdom of Holmes that *truth* is the only ground upon which our wishes can be carried out. That, at any rate is the theory of our Constitution. It is an experiment, as all life is an experiment.

It is time to make the American experiment a continuing, everyday reality. I believe that the ACLU's goals have always been in this direction and perhaps if we are both effective and fortunate, others will see events in this same light. This may come in time; but my whole point is that there is not much time left.

Thank you.

THE THREAT TO LIBERTY—I

Each morning in schools throughout this land, millions of children pledge their allegiance to a nation indivisible with liberty and justice for all. This daily ritual is beginning to lose all meaning as America's fundamental principles of freedom are being undermined. Civil liberties, though indispensable to the goal of the open American society, have suffered periodic setbacks in the past, both under Democratic and Republican Administrations. But there is cause for the gravest concern over the currently evolving pattern of overt and subtle policies which tear at the fabric of a free, pluralistic society.

Group appeals, sectional politics, harsh and divisive statements and, most important of all, repressive administrative actions and retrogressive proposals and laws are directed from the highest sources of Government against dissenters and nonconformists. The principal target is that very large number of peaceful and determined Americans—many of them in the younger generation—who do, openly and democratically, want to challenge the Establishment and effect peaceful social change.

The Administration tactics are rendered all the more sinister because they are often contradictory and elusive. Amid high-sounding reaffirmations of the right to dissent, the Government prosecutes those among dissenters whom it sees guilty of conspiracies. Amid talk of the maintenance of law and order, an epidemic of electronic eavesdropping creates conditions approaching governmental lawlessness and moral disorder.

In the difficult period through which this country and this world are moving, doubts about war, poverty, discrimination and the economy inevitably create severe tensions. Some few Americans who despair of rational answers have in fact lost all hope in the law, have finally rejected peaceful methods of change and have succumbed to the delusion that violence offers some kind of answer. When these elements act illegally as they now frequently do, they can and must be dealt with through strict, but fair, enforcement of the law.

But the vital point in repression of violence in a democracy is that fear of what a few dissenters may do. The voicing of threats or the mere expression of dissent cannot excuse suspension of the Bill of Rights or of those civil liberties which alone justify faith in representative democracy.

When Congress passed the antiriot laws of 1968, it gave the government the dangerous option of prosecuting men, not for what they have done, but for what thoughts they are suspected of harboring in their minds. Armed with that hunting license, the Nixon Administration has proceeded to undertake what can only be described as political trials, viz, in Chicago last fall.

The Senate Judiciary Committee has approved a bill that would make it possible to punish provocative speech, thus ignoring the advice of Oliver Wendell Holmes that, in any instance of offensive or false oratory, "the remedy to be applied is more speech, not enforced silence."

Under the guise of security, the Justice Department, resorting to inquisition by questionnaire, is trying to bar protest demonstrations in the vicinity of the White House.

Attorney General Mitchell, pleading the need to protect the flow of traffic, has called for an "updating" of the laws governing protests and demonstrations. He conveniently differentiates between "prospectively peaceful demonstrations such as American Legion parades" and what he suspects to be "demonstrators who are trained to force confrontations with police."

Is freedom of speech and assembly to be suspended because the words that might be uttered may prove provocative? Charles Evans Hughes was applying the Constitution, not espousing revolution, when he warned: "Guilt is personal and cannot be attributed to the holding of opinion or to mere intent in the absence of overt acts."

Those who condone the Government's increasing resort to repressive cautions cite the dangers of violent or illegal acts. But to suggest that the Bill of Rights can be temporarily ignored in times of discord and anger would be to turn the Constitution into an impotent, bloodless document.

It is not in harmonious times that liberties require protection. It is in days of doubt that the rights of the unpopular few must be upheld, if the liberties of the many are to remain safe.

THE THREAT TO LIBERTY—II

Less than a generation ago, the tapped wire, the bugged room, the secret informer evoked contempt and ridicule in the minds of most Americans. These were the marks of police states in a jaded Old World. It could not happen here.

It is happening here now.

The argument over the wire tap is no longer whether, but how much, by whom, and how it can be made admissible evidence in court.

Leslie Fiedler, a literary critic and teacher, was recently convicted of allowing the use of marijuana in his home on the basis of information supplied by a teen-age girl, a "friend of the family." She had acted as a police spy and recorded private conversations with the aid of a microphone concealed in her dress while she was a guest in Mr. Fiedler's house.

In 1920, Attorney General A. Mitchell Palmer, following some anarchist bombs and bomb threats, wrote in his annual report: ". . . There must be established a systematic and thorough supervision over the unlawful activities of certain persons and organizations . . . whose sole purpose was to commit acts of terrorism or to advocate, by word of mouth and by the circulation of literature" the subversion of the government.

Mr. Palmer boasted of a file containing 200,000 biographies and records of speeches of persons "with radical connections." Such dossiers seem puny compared to the store of computerized intelligence data banks maintained today by a host of agencies, from the Justice Department to the military.

No serious student of history now believes that the Palmer forays against civil liberties contributed to the nation's survival. Yet, his obsession with surveillance and his scrambling of action and advocacy are once again being elevated to public policy, with infinitely greater efficiency.

Under the guise of essential attacks on crime, police and investigatory powers are being sharpened for potential use against political offenders. Preventive detention is being advocated, when too many suspects are already imprisoned too long before being brought to trial. No-knock entry into private premises and the rifling of confidential records are being justified as weapons against narcotics.

Political snooping has seriously jeopardized the confidentiality of income tax returns and diminished the privilege of reporters' files. Personal mail is increasingly subject to scrutiny.

As if to underscore the hegemony of the police mentality, even at the Cabinet level, the Attorney General has overruled the Secretary of State in denying a European Marxist scholar's request for admission to attend a scholarly meeting here.

There are those who say that the growing reliance on surveillance, with lines blurred between the legitimate attack on crime and the illegitimate repression of dissent, is the price of America's role as a great power, but that is to misread the country's destiny. The nation's greatness springs from its dream of greater freedoms for all, not from a nightmare of restricted liberties for some. Today, no less than in earlier times of trouble, the Bill of Rights offers the best, perhaps the last, hope to carry the torch against the forces of dark suspicion and fear.

THE THREAT TO LIBERTY—III

The erosion of the nation's civil liberties cannot be charged against any one Administration or party. The virus of electronic surveillance and the incursions into personal rights, through the abuse both of laws and of technology are the toll of wars, hot and cold, and of declining confidence between government and governed.

Terrifying new, however, is the Administration's open exploitation's of fear and discord. Verbal excesses and insinuations, apparently condoned by the President himself, have rendered suspect the Government's reaction to dissent and even to high-level disagreement on the part of the loyal opposition. Vice President Agnew not only rails against "the whole damn zoo" "of deserters, malcontents, radicals, incendiaries, the civil and uncivil disobedients," but also hints darkly that Senator Muskie, in challenging the Administration's arms policies, "is playing Russian roulette with U.S. security."

Other Administrations have been vexed by the intemperate language of their detractors; but there is a disturbing appeal to the nation's lowest instincts in the present Administration's descent to gutter fighting. It undermines the dignity of government so vital to that atmosphere of calm and reason in which civil liberties can flourish.

By attacking the alleged influence of outside agitators—in the inciting of riots as well as in the Senate's vote against Judge Carswell—the Administration revives earlier anxieties over Mr. Agnew's dark hint that "rotten apples" of dissent should be "separated" from society.

When dissenters are thus treated, are they being prepared for inferior citizenship? The prospect is as troubling when the dissendents are young Republicans, labeled "juvenile delinquents" for their audacity in breaking ranks, as when they are the "liberal media" reporting the news or taking a stand for freedom of speech and the right to privacy.

By his extraordinary suggestion during the ugly fight over the Carswell nomination that the South be credited with a separate "legal philosophy," President Nixon directly exacerbated regional as well as racial disunity.

Attorney General Mitchell, in holding that the Justice Department is ruled by pragmatism rather than any philosophy, stimulates the raw appetites of those who stand ready to ride roughshod over rights which are protected by philosophic principles rather than pragmatic power.

It is chilling to learn from a recent poll that a majority of Americans have responded to the politics of fear by declaring themselves ready to restrict the freedoms guaranteed by the Bill of Rights.

Fear saps a nation's strength. It sets one neighbor against the other. It is an illusion for any government to believe that it can turn fear to its advantage. Those who try to divide in order to govern are running the risk of making a divided nation ungovernable.

Abraham Lincoln, in an earlier crisis, prayed for "a new birth of freedom." Today, the answer is not in electronic surveillance or a consensus of silence; rather it is in reliance on law and justice, on the Constitution and on an appeal to the decency of free men to let freedom triumph over fear, and civil liberties over political strategies.

The Threat to Liberty—IV

Civil liberties are held in contempt by extremists of right and left alike. Convinced of their own righteousness, the dogmatists at both ends of the political spectrum characteristically believe in freedom for themselves but rarely for those who reject their ideological discipline. This narrowly restrictive view of freedom is normally accompanied by a self-indulgent approach to violence as an appropriate terror-weapon against the ideological enemy.

Thus it is not surprising that the new breed of campus revolutionaries, intent on destroying all freedom except their own, are now turning to what they call "trashing"—the setting of fires, hurling of rocks, smashing of windows—ominously reminiscent of the shattered storefronts with which the Nazis sought to intimidate their political opponents a generation ago.

Ritualized violence indiscriminately destroys the rights of its victims. It also escalates of its own accord. A group of distinguished citizens who arrive at Harvard to carry out their duties as trustees of an international studies center are held prisoners in their cars by a radical mob—and their meeting has to be disbanded. A cafeteria is vandalized at Hunter. Books are burned at the Yale Law School. The President of Pennsylvania State is forced to flee, with his family, as student rioters stone his home at night. A bank is burned down in Santa Barbara. At the Center for Behavioral Studies in Stanford, arsonists destroy research papers including the lifetime work of a visiting foreign scholar. An anti-war rally turns into an orgy of violence and vandalism in Cambridge, leaving small shopkeepers the principal victims. On a quiet block in Manhattan, radicals blow themselves up as they manufacture bombs for their demented warfare.

In part, this is guerrilla theater of the absurd, fashioned by alienated children of affluence who are striking out blindly against the Establishment. But in part it stems from the aim of more sophisticated and more sinister theorists to entice governmental authority into acts of political repression and thereby to stimulate such a broad-scale counter-reaction as to invite genuine social chaos.

A justice of the United States Supreme Court wrote in a recent opinion:

"Radicals of the left historically have used those tactics to incite the extreme right with the calculated design of fostering a regime of repression from which the radicals of the left hope to emerge as the ultimate victor. The left in the role is the provocateur . . . The social compact has room for tolerance, patience and restraint, but not for sabotage and violence." The author of these words is William O. Douglas.

Whether from left or right, the most extreme thoughts and the most offensive rhetoric are entitled to protection of the Bill of Rights. But, as Justice Douglas suggests, when thought is translated into unlawful or violent action, it is equally imperative that the full force of the law be invoked to protect the community, not only from the coercion itself but from its consequent aftereffects. And this applies with particular force to the academic community, where protection of freedom is most precious and its security most fragile.

If the campuses are to be permitted to function as staging areas for violence, the academic community jeopardizes its fundamental role as freedom's protector; to impair academic freedom, whether through internal coercion or external repression, is to shut off civil liberties at the source.

The defenses of freedom requires vigilance against all forms of violence, coercion or repression. The safeguard of the people's legitimate powers is the rule of law under the Bill of Rights. No government, nor any dissident group, can defy that rule or abridge those rights without being guilty of the ultimate and intolerable subversion of the American ideal and the democratic reality.

Mr. RARICK. Mr. Chairman, we are being asked to support S. 30 which purports to enact new laws relating to the control of organized crime in the United States. A review of the bill should impress anyone that we are surrendering to the U.S. Attorney heretofore unheard of powers.

Perhaps because I am a Southerner and a former judge, I immediately become suspicious of every new surrender of power to the Federal bureaucracy without any protection or limitations against future tyrannical misuse. For example, section 848. Effect on State law, reads:

> No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.

From past experience we should all understand that this provision means that the States and local government have again lost in the power confrontation with their government. When there is a conflict between the State and Federal laws the Federal Government always wins. We are not being called upon to enact legislation for this hour; if this bill is passed into law, and I am sure it will be, it becomes permanent law hereafter.

The provisions of S. 30 give the U.S. attorney every conceivable tool with which to control and retard, if not eliminate, organized crime. But, what happens when a different U.S. attorney comes into office? I shudder to think of how the legal tools of this bill could be misused by a vindictive and revengeful U.S. attorney. We must remember that henceforth the term "racketeering activity" is given a very broad definition and very well could extend to some activities of our labor unions and very definitely to counterrevolutionary activities.

It is truly unfortunate that breakdown in law and order and disrespect for our system of government and justice have brought us to this crossroad. Who can be blamed, except for the liberals, moderates, and do-gooders who have so generated a public opinion, demanding action that we as the peoples' representative would give the Central Government the power for a complete police state establishment.

The bill is intended for a good objective, yet again, in many of the areas of crime the Federal authorities have not taken appropriate action by using the laws that are now on the books. They too, along with the judiciary, have helped create this atmosphere of desperation.

Weighing the good of purpose against the inherent threats against our freedom, I must cast my people's vote in favor of the bill, if for no other reason I do not want to spend the rest of the year explaining how I could oppose a bill to control organized crime.

I hope and pray that the wisdom of future generations will understand the emotionalism of the hour and forgive us should the extraordinary powers here surrendered to the executive branch of the Federal Government be misused.

Mr. VANIK. Mr. Chairman, the House is considering today S. 30, the Organized Crime Control Act of 1970. The bill attempts to meet certain problems caused by the difficulty in breaking up racketeering operations and criminal syndicates.

There can be no argument that organized crime is a major problem. It is estimated that the profits obtained by organized crime from illegal gambling alone amount to $50 billion annually. There is evidence that organized crime has its hand in the dangerous drug traffic. It affects the poor through loan-sharking operations. It has entered politics at every level. It is moving in on businesses and the president of the New York Stock Exchange suspects that it has even begun to make an entry into the stock market and securities firms on Wall Street.

This bill endeavors to solve the problem of organized crime through 10 principal titles.

First, the creation of special grand juries to investigate the behavior of public officials. Second, a new interpretation of immunity which will result in more testimony trials and less evasion. Third, authority to act against recalcitrant witnesses. Fourth, increased power to prosecute for perjury and false declarations. Fifth, provision for protected facilities for housing Government witnesses. Sixth, increased authority for Government to preserve and use depositions. Seventh, a limitation on challenges of admissibility of evidence. Eighth, the creation of new and expanded penalties for syndicated gambling. Ninth, the Government is given powers to investigate and move against racketeer influence and corrupt organizations. Tenth, provision is made for special sentencing of dangerous offenders.

There is an 11th title, long overdue, which puts regulations on the transfer and sale of explosives in an effort to keep them out of criminal hands. In addition, there are increased penalties for the illegal use of explosives. As the representative of the city of Shaker Heights, Ohio, where a courthouse-police station was blown up in early February, I introduced one of the first bills designed to provide controls over the availability of dynamite as an instrument of mass destruction and death. I am particularly pleased to see that my suggestions, made in testimony to the Judiciary Committee, regarding adequate safeguards on the storage of explosives have been accepted. In addition, the committee's amendment, which includes language which recommended providing enforcement by the Department of Treasury's trained agents, is much better than the administration's recommendation that the explosives laws be enforced by the Department of Interior, which has virtually no trained agents in this area. This title should go far toward ending the wave of bombings which has marked the last year.

Yet, Mr. Chairman, this is the third law enforcement bill to come before the House this Congress in which long-range constitutional questions are raised.

As in the District of Columbia crime control bill, which contained questionable no knock and pretrial detention provisions and the drug control bill, which also contained no-knock provisions, today's bill contains sections which raise constitutional questions. There are other sections which are good and which are needed. There are sections on which I would vote "no"; there are sections on which I would vote "maybe"; but in balance, the bill contains more good than bad and I must vote "yes."

If the administration is really serious about crime control it would quit urging the passage of bills which deliberately raise constitutional questions.

In fiscal 1971, the Federal Government will spend approximately $1.3 billion on all Federal crime control, court, and corrections programs. This is a little more than the administration was willing to give to Penn Central and Lockheed, it is a little more than what we have committed to the SST to date, it is a little more than the extra billion subsidy we gave the merchant marine this year.

It has been clearly pointed out that the narcotic addict is a major contributor to street crime since he needs to steal about $400 to $500 a day in merchandise to maintain a $75 to $100 a day drug habit. Yet the administration has requested only $5 million for the Narcotic Addict Rehabilitation Act of 1966 which attempts to cure addicts. Juvenile delinquency is one of our major problems. In 1969, 43 percent of all persons arrested for robbery were juveniles. Despite this fact, the administration requested only $15 million in fiscal 1971 for the Juvenile Delinquency Act of 1968—a sum that is actually $4.2 million less than that requested by the Johnson administration for fiscal 1969.

The major Federal anticrime program, the Safe Streets Act of 1968, has been badly underfunded. For fiscal 1971, the administration requested only $480 million for this program of grants to States and cities. This is $90 million less than the police department budget of New York City alone. Fortunately, the House has authorized $650 million for this important program. I would be willing to see more, much more spent on controlling crime which threaten every citizen in every community.

Mr. RANDALL. Mr. Chairman, I rise to support S. 30. I suspect all but a handful of the Members of the House will support this bill on final passage. At long last we have a legislative response to the terrifying effect of organized crime upon this country and on its people. This legislation is not only urgently needed but long overdue.

I am proud to have been the sponsor of a discharge petition filed on September 14 on my own bill, H.R. 18279 dealing with organized crime which was similar as to be substantially identical to S. 30. I filed my discharge petition at a time I thought such a means was the only possibility of getting action this session of Congress on a needed tool to fight organized crime.

I have no way of knowing what influence my discharge petition may have had upon members of the committee. It is significant to note that the Washington Post on the 18th of September 1970, said in an article by John P. MacKenzie that the chairman, the gentleman from New York (Mr. CELLER) was under heavy pressure to work toward a tentative agreement to report out an organized crime bill or else the conservatives on the committee threatened to join in a petition filed on the preceding Monday, September 14, to discharge the crime bill from his committee. That was the date of my discharge petition.

After the discharge petition was filed the Judiciary Subcommittee, handling S. 30, in a most rare and unusual night meeting of that subcommittee announced that it would continue to meet at night until agreement was reached on the content of the bill. Such facts were reported in the CONGRESSIONAL RECORD. The next day one of my staff made a notation in handwriting in the margin of the sheet of the CONGRESSIONAL RECORD, "look what you have caused."

Now, I have never suggested that my discharge petition was entirely responsible for causing the Judiciary Committee to report out S. 30. The facts are the committee had been under pressure from the administration, from their colleagues and more important from their own constituents to do something about the excellent bill passed by the Senate early in 1970. I do suggest that by the time the first page of our discharge petition was filled and the number of signers had reached more than 30 in number from both sides of the political aisle, the committee apparently decided that the time had come to act without any more foot dragging or further excuses.

I received no complaints from most of the members of the House Judiciary Committee. However, one high-ranking member of the committee asked me on the floor of the House, "Why did you have to do this?" My answer to him was that I was not a member of the committee and that I had no other parliamentary tool or weapon to accelerate action other than to file a discharge petition. My further response to all who discussed the petition with me was that those who preferred to do so could go on home to face an angry electorate if there was no organized crime bill but for my part I intended to take the necessary steps to show that I had tried to discharge the equivalent of S. 30 from the Judiciary Committee by the only remaining means available which is under a discharge petition.

I take this means to thank those 30-odd Members of the House who courageously signed discharge petition No. 8. It has been their privilege already to make that fact known to their constituents long before the passage of this bill. I suppose the fact that they could truthfully make such an announcement is compensation enough for their forthright action.

Mr. Chairman, I, for one, was not impressed by the statistics recited on the floor that the Judiciary Committee after 13 days of hearings and 7 days of executive session had finally reported out the bill. The harsh but truthful facts are this Nation could have had the protection of this bill to control organized crime months sooner than will now be the case if only our Judiciary Committee had acted. Remember this bill was referred to the House Judiciary Committee just after the first of the calendar year, which is months and months ago.

Those who would charge we are acting under hysteria or in passion today are so very wrong. This bill was deliberated upon in the other body for nearly 12 months. This bill was before the reporting committee on our side of the Congress for month after month since early this year. Should there be any hysteria or passion it rightfully comes from the millions of Americans who have become frustrated at the pace of the Congress that has let 20 months pass without enacting a law under which syndicated crime and its perpetrators can be dealt with firmly.

It is a privilege to compliment the ranking minority member of the committee, the gentleman from Ohio, upon his clear explanation of the contents of the bill. This bill establishes grand juries which can work independently to summon witnesses and compel them to talk by granting them immunity against use of their testimony against them. If they refuse to talk, they may be held in civil contempt. If they talk and do not speak the truth, they may be tried for perjury under modern rules of evidence which do not hobble the prosecution for perjury. If the witness talks and places his rights in jeopardy, the Government is authorized to protect him or even relocate him. The Government can, for the first time, take depositions from its witnesses and, if thereafter a witness should be kidnaped or killed, his damning testimony is already recorded and admissible.

This excellent bill makes large-scale gambling operations in violation of State law a Federal offense. It makes it unlawful to engage in racketeering activity as a means of acquiring, maintaining, or conducting a business.

Organized crime has contrived an endless chain of business fraud including fraudulent bankruptcies, usurious loans, gambling, and every other illicit trade from which a dollar may be extracted. Legitimate business is invaded by crime forces in order to acquire facades of respectability. This national disgrace must be stopped. The bill before the House will stop it. If my discharge petition was of any assistance to the final result, then the returns to be realized will be thousands of times the effort. If I have in any way contributed to quicker action on the long-delayed organized-crime bill, then our discharge petition has served a desirable, beneficial, and profitable purpose.

Mr. **MESKILL**. Mr. Chairman, in an era when the citizens of this land are afraid to walk the city streets at night, it is tempting to downgrade the problems posed by organized crime. It is argued that we should first stop the muggings and robberies and then in our leisure start to apprehend the organized criminal. The dissenting views in the report of the House Judiciary Committee (H. Rept. 91-1549) on S. 30 are a classic illustration of this argument.

Although I enthusiastically embrace S. 30 as much-needed legislation to combat organized crime, I do not claim that it is a panacea for the crime wave that has swept over us. However, I do firmly believe that S. 30 will perform a major function in fighting crime.

I find little logic in the argument of the dissenters that one should vote against S. 30 because it will not stop street crime. By equal reasoning I suppose one should vote against health, civil rights, transportation, or defense legislation because they will not stop street crime either. But here the argument is even more ludicrous because an attack on organized crime is, in fact, an attack on street crime.

What is the primary cause of street crime? Ask the chief of police in any large city. He will tell you: "It's narcotics."

And who nurtures narcotics addiction, who supplies narcotics, who drives addicts to commit crimes against the person? Organized criminals.

If organized criminals could be apprehended and the supply of narcotics cut off, the crime rate would drop sharply. Although exact figures cannot be computed, it has been estimated in some cities that half of the street crimes can be traced to narcotics addiction.

Additionally, it should be noted that this body has already passed legislation designed to fight crime on the local level. That bill, H.R. 17825, which I cosponsored, was an appropriate Federal response to the problems of local crime. Rather than establish a national police force operating from Washington, D.C., that bill channeled aid to the State and local police, court, and corrections agencies so that they might develop more sophisticated and advanced techniques in detecting and preventing crime.

S. 30 focuses on the organized criminal. Title I establishes special grand juries with more independence and longer tenure so that they may delve more deeply into the facts. Title II allows the grand jury to subpena witnesses and get them to talk by immunizing them from the use of their testimony against them. If the witness refuses to talk, he may be held in civil contempt under title III. If he talks but lies, title IV facilitates his perjury conviction. If he is afraid to talk for fear of his welfare and that of his family, title V allows the Attorney General to provide protection.

After an indictment is filed, the organized criminal syndicate has often caused key Government witnesses to disappear or die. Title VI would allow the Government to preserve the testimony of such a key witness by taking his deposition. This would also serve to save the life of the witness because the syndicate would no longer profit from the absence of the witness from trial.

Title VII would decrease unnecessary litigation concerning the sources of evidence and thus accelerate trials. Title VIII would grant jurisdiction to the FBI to crack down on illegal gambling businesses—the primary source of funds for organized criminals. It would also outlaw bribery in connection with such a business.

Title IX would make it a crime to engage in a pattern of racketeering activity. It would also permit the Government and the individual to use antitrust remedies against this criminal cartel.

Title X provides extended sentences up to 25 years for habitual, professional, and organized criminals.

These 10 titles are necessary tools to fight organized crime.

Organized crime may be compared to a government operating parallel to the American system of Federal, State, and local governments. This organized criminal government make its own laws, maintains and gets unsurpassed loyalty. This government is a confederation of 24 families. It is estimated that it has a membership of 3,000 to 5,000 individuals. The confederation receives guidance from the select group of family bosses called the "commission."

Organized crime is also big business. It is larger than the sum total of United States Steel, American Telephone & Telegraph, General Motors, Standard Oil of New Jersey, General Electric, Ford Motor, IBM, Chrysler and RCA. It is the world's largest business. And it is all criminal.

Most importantly, organized crime diminishes the quality of American life. It corrupts big business and small business alike. It undermines local, State, and Federal Government. It has infiltrated in the areas of labor relations and show business. And, of course, as I indicated before, it generates street crime by creating and thriving on narcotics addiction.

Organized crime offers to the public the products of gambling, narcotics, and usurious loans. But the threat of organized crime cannot be measured simply in that way. The individual can choose not to buy these products. The real problem is that the individual cannot choose to avoid the more serious evils of organized crime—the corruption of our Government, the infiltration of our economy, the stifling of our freedoms.

For these reasons, I believe that S. 30 is much-needed legislation. It may not solve all of our problems, but it may solve many of them. I therefore enthusiastically support S. 30.

The **CHAIRMAN**. Under the rule, the committee amendment in the nature of a substitute now printed in the bill will be read by title as an original bill for the purpose of amendment.

The Clerk read as follows:

S. 30

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Organized Crime Control Act of 1970."

STATEMENT OF FINDINGS AND PURPOSE

The Congress finds that (1) organized crime in the United States is a highly sophisticated, diversified, and widespread activity that annually drains billions of dollars from America's economy by unlawful conduct and the illegal use of force, fraud, and corruption; (2) organized crime derives a major portion of its power through money obtained from such illegal endeavors as syndicated gambling, loan sharking, the theft and fencing of property, the importation and distribution of narcotics and other dangerous drugs, and other forms of social exploitation; (3) this money and power are increasingly used to infiltrate and corrupt legitimate business and labor unions and to subvert and corrupt our democratic processes; (4) organized crime activities in the United States weaken the stability of the Nation's economic system, harm innocent investors and competing organizations, interfere with free competition, seriously burden interstate and foreign commerce, threaten the domestic security, and undermine the general welfare of the Nation and its citizens; and (5) organized crime continues to grow because of defects in the evidence-gathering process of the law inhibiting the development of the legally admissible evidence necessary to bring criminal and other sanctions or remedies to bear on the unlawful activities of those engaged in organized crime and because the sanctions and remedies available to the Government are unnecessarily limited in scope and impact.

It is the purpose of this Act to seek the eradication of organized crime in the United States by strengthening the legal tools in the evidence-gathering process, by establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime.

The **CHAIRMAN**. The Clerk will read title I.

The Clerk read as follows:

TITLE I—SPECIAL GRAND JURY

SEC. 101. (a) Title 18, United States Code, is amended by adding immediately after chapter 215 the following new chapter:

"Chapter 216.—SPECIAL GRAND JURY

"Sec.
"3331. Summoning and term.
"3332. Powers and duties.
"3333. Reports.
"3334. General provisions.

"§ 3331. Summoning and term

"(a) In addition to such other grand juries as shall be called from time to time, each district court which is located in a judicial district containing more than four million inhabitants or in which the Attorney General, the Deputy Attorney General, or any designated Assistant Attorney General, certifies in writing to the chief judge of the district that in his judgment a special grand jury is necessary because of criminal activity in the district shall order a special grand jury to be summoned at least once in each period of eighteen months unless another special grand jury is then serving. The grand jury shall serve for a term of eighteen months unless an order for its discharge is entered earlier by the court upon a determination of the grand jury by majority vote that its business has been completed. If, at the end of such term of any extension thereof, the district court determines the business of the grand jury has not been completed, the court may enter an order extending such term for an additional period of six months. No special grand jury term so extended shall exceed thirty-six months, except as provided in subsection (e) of section 3333 of this chapter.

"(b) If a district court within any judicial circuit fails to extend the term of a special grand jury or enters an order for the discharge of such grand jury before such grand jury determines that it has completed its business, the grand jury, upon the affirmative vote of a majority of its members, may apply to the chief judge of the circuit for an order for the continuance of the term of the grand jury. Upon the making of such an application by the grand jury, the term thereof shall continue until the entry upon such application by the chief judge of the circuit of an appropriate order. No special grand jury term so extended shall exceed thirty-six months, except as provided in subsection (e) of section 3333 of this chapter.

"§ 3332. Power and duties

"(a) It shall be the duty of each such grand jury impaneled within any judicial district to inquire into offenses against the criminal laws of the United States alleged to have been committed within that district. Such alleged offenses may be brought to the attention of the grand jury by the court or by any attorney appearing on behalf of the United States for the presentation of evidence. Any such attorney receiving information concerning such an alleged offense from any other person shall, if requested by such other person, inform the grand jury of such alleged offense, the identity of such other person, and such attorney's action or recommendation.

"(b) Whenever the district court determines that the volume of business of the special grand jury exceeds the capacity of the grand jury to discharge its obligations, the district court may order an additional special grand jury for that district to be impaneled.

"§ 3333. Reports

"(a) A special grand jury impaneled by any district court, with the concurrence of a majority of its members, may, upon completion of its original term, or each extension thereof, submit to the court a report—

"(1) concerning noncriminal misconduct, malfeasance, or misfeasance in office involving organized criminal activity by an appointed public officer or employee as the basis for a recommendation of removal or disciplinary action; or

"(2) regarding organized crime conditions in the district.

"(b) The court to which such report is submitted shall examine it and the minutes of the special grand jury and, except as otherwise provided in subsections (c) and (d) of this section, shall make an order accepting and filing such report as a public record only if the court is satisfied that it complies with the provisions of subsection (a) of this section and that—

"(1) the report is based upon facts revealed in the course of an investigation authorized by subsection (a) of section 3332 and is supported by the preponderance of the evidence; and

"(2) when the report is submitted pursuant to paragraph (1) of subsection (a) of this section, each person named therein and any reasonable number of witnesses in his behalf as designated by him to the foreman of the grand jury were afforded an opportunity to testify before the grand jury prior to the filing of such report, and when the report is submitted pursuant to paragraph (2) of subsection (a) of this section, it is not critical of an identified person.

"(c)(1) An order accepting a report pursuant to paragraph (1) of subsection (a) of this section and the report shall be sealed by the court and shall not be filed as a public record or be subject to subpena or otherwise made public (i) until at least thirty-one days after a copy of the order and report are served upon each public officer or employee named therein and an answer has been filed or the time for filing an answer has expired, or (ii) if an appeal is taken, until all rights of review of the public officer or employee named therein have expired or terminated in an order accepting the report. No order accepting a report pursuant to paragraph (1) of subsection (a) of this section shall be entered until thirty days after the delivery of such report to the public officer or body pursuant to paragraph (3) of subsection (c) of this section. The court may issue such orders as it shall deem appropriate to prevent unauthorized publication of a report. Unauthorized publication may be punished as contempt of the court.

"(2) Such public officer or employee may file with the clerk a verified answer to such a report not later than twenty days after service of the order and report upon him. Upon a showing of good cause, the court may grant such public officer or employee an extension of time within which to file such answer and may authorize such limited publication of the report as may be necessary to prepare such answer. Such an answer shall plainly and concisely state the facts and law constituting the defense of the public officer or employee to the charges in said report, and, except for those parts thereof which the court determines to have been inserted scandalously, prejudiciously, or unnecessarily, such answer shall become an appendix to the report.

"(3) Upon the expiration of the time set forth in paragraph (1) of subsection (c) of this section, the United States attorney shall deliver a true copy of such report, and the appendix, if any, for appropriate action to each public officer or body having jurisdiction, responsibility, or authority over each public officer or employee named in the report.

"(d) Upon the submission of a report pursuant to subsection (a) of this section, if the court finds that the filing of such report as a public record may prejudice fair consideration of a pending criminal matter, it shall order such report sealed and such report shall not be subjected to subpena or public inspection during the pendency of such criminal matter, except upon order of the court.

"(e) Whenever the court to which a report is submitted pursuant to paragraph (1) of subsection (a) of this section is not satisfied that the report complies with the provisions of subsection (b) of this section, it may direct that additional testimony be taken before the same grand jury, or it shall make an order sealing such report, and it shall not be filed as a public record or be subject to subpena or otherwise made public until the provisions of subsection (b) of this section are met. A special grand jury term may be extended by the district court beyond thirty-six months in order that such additional testimony may be taken or the provisions of subsection (b) of this section may be met.

"(f) As used in this section, 'public officer or employee' means officer or employee of the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any political subdivision, or any department, agency, or instrumentality thereof.

"§ 3334. General provisions

"The provisions of chapter 215, title 18, United States Code, and the Federal Rules of Criminal Procedure applicable to regular grand juries shall apply to special grand juries to the extent not inconsistent with sections 3331, 3332, or 3333 of this chapter."

(b) The part analysis of part II, title 18, United States Code, is amended by adding immediately after

"215. Grand Jury .... 3321"

the following new item:

"216. Special Grand Jury............. 3331."

SEC. 102. (a) Subsection (a), section 3500 chapter 223, title 18, United States Code, is amended by striking "to an agent of the Government" following "the defendant".

(b) Subsection (d), section 3500, chapter 223, title 18, United States Code, is amended by striking "paragraph" following "the court under" and inserting in lieu thereof "subsection".

(c) Paragraph (1), subsection (e), section 3500, chapter 223, title 18, United States Code, is amended by striking the "or" following the semicolon.

(d) Paragraph (2), subsection (e), section 3500, chapter 223, title 18, United States Code, is amended by striking "to an agent of the Government" after "said witness" and by striking the period at the end thereof and inserting in lieu thereof: "; or (3) a statement, however taken or recorded, or a transcription thereof, if any, made by said witness to a grand jury.

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. GONZALEZ. Mr. Chairman, reserving the right to object, does the request mean we could offer amendments at any point?

Mr. CELLER. Yes.

The CHAIRMAN. To title I, as the Chair understands.

Mr. GONZALEZ. Title I will open for amendment.

The CHAIRMAN. Title I only.

Mr. GONZALEZ. I thank the Chair.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: On page 79, strike lines 16 through 20 and insert in lieu thereof the following:

"(1) concerning misconduct, malfeasance, or misfeasance in office, whether or not itself criminal, involving organized criminal activity by a public officer or employee as the basis for a recommendation of removal, disciplinary action, or public response; or"

Mr. ECKHARDT. Mr. Chairman, the only substantial effect of this amendment is to restore the language in the bill as it came from the Senate with respect to one point. There was a change in the Senate language, so that under section 3333 the special grand jury would be limited only to the activities of nonelective officials. In the original form of the Senate bill as it came from the Senate all officials could be examined with respect to the noncriminal activities and a report could be made on such activities. That, I believe, is the only effective change of this section.

But I believe it is my duty also to point out to the Members that there is also a change of the language with respect to criminal activity. In the original language it was "concerning misconduct, malfeasance or misfeasance" and so forth, which is not criminal.

I think it is very necessary for that language to say, involving matters whether or not criminal, because otherwise this section would create a very artificial procedure in which a person could say "Because I engaged in a crime, you cannot make a report about me."

I think that is not the important thrust of this amendment. The important thing is this: The people that are in the forefront, in the front lines of fighting crime, are policemen. They are appointed officials. This special grand jury would permit you to investigate a policeman. You investigate him and you put out a report saying that the policeman did not make the proper raid on a gambling house. You can attack the deputy sheriff and say the same thing. You can say that he did not do anything with regard to usury or with regard to any other kind of crime that comes under this bill. Then he says, "But, oh, the fellow is elected and bosses me is the one who told me not to raid the gambling house or not to get involved in control of usury," because the politician, the boss, is the one actually getting the payoff. So the policeman has to take the rap. A report is made about the policeman, but when he tries to answer this report and this attack and he puts something in the report which may reflect, let us say, on the mayor or on the sheriff, then he is told by the judge, "This does not comport with the report that you are permitted to make, because this is scandalous or it is prejudicial or it is unnecessary." On page 81, line 22, although the policeman is permitted to answer, the judge determines whether or not the material is inserted scandalously, prejudiciously, or unnecessarily. Therefore the policeman's report may not be included because it might appear prejudicious to the judge. Well, I submit to you that if a policeman is to be investigated by a special grand jury, if he is to be attacked, the man who is underpaid and on the firing line in the war against crime, then the elected official ought to be subject to investigation, too, and ought to be on exactly the same footing as the policeman or the deputy sheriff.

I believe all public officers, including elected officials, should be included if anybody is to be included. I think no one who may be found to have engaged in misfeasance in office involving organized criminal activity should be immunized from this investigation if the policeman is not immunized from it, also. I do not think I ought to be able to assert immunity merely because I am an elected official if a policeman may not do so. I do not want any better treatment than the policeman that is really running the risk and is on the firing line and thus is most subject to attack from both criminals and those who wish to pillory the police on grounds that he has not done enough or that he has done too much. Besides that, the man elected, whether he be elected mayor, sheriff, or Congressman, has a stump from which to speak, but the police officer does not. A grand jury, with all of its tremendous facilities, gathers evidence and presents it in a report, and the newspapers run it. The police officer then has to go to the mayor and say, "look. I wish I had not done it." Or maybe he says, "I did not do it." The mayor says, "Well, you had better take the rap, because if you do not take the rap, it will fall on me."

Mr. CELLER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, you must remember that this title I is rather a novel provision. It provides for unusual proceedings before a special grand jury. For that reason I believe we must go slowly and we must go carefully.

Mr. Chairman, I rise in opposition for a number of reasons.

The special grand jury provisions as reported by the committee represent a substantial retrenchment over the language of the bill as it passed the Senate. As it passed the Senate, title I would have authorized grand jury reports, presentments first, concerning noncriminal misconduct, malfeasance, or misfeasance of any public official or employee; second, exonerating a public official or employee who requested such a report; third, recommending legislative, executive, or administrative action, and fourth, regarding organized crime conditions in the district.

The committee amended title I to confine the special grand jury reports to organized crime conditions to the district and misconduct involving organized criminal activities by appointed officials.

Mr. Chairman, the effect of the so-called Eckhardt amendment would be to grant implied power to grand juries to make recommendations for legislative, executive or administrative actions, because they could attack elected officials. They could attack the President of the United States. They could attack him because of his visit to Ireland. They could attack treaties. They could attack any legislative proposal. It would mean that the failure of this Congress to pass certain legislation, or having passed legislation which a particular special grand jury disliked could be subject to criticism.

It would also raise the danger that such reporting powers may be used to affect political campaigns. It would permit grand jury men, particularly ambitious foreman or deputy foreman of the grand jury to dabble in politics and affect elections. Such dangers were apparent to the commitee when it restricted the reporting powers of the special grand jury. But more important, and finally, it is altogether appropriate to restrict special grand jury reports to appointed officials inasmuch as title I contains machinery for the delievery of such reports for appropriate action to public officers or public bodies having jurisdiction, responsibility or authority over the appointed public officer or employee named in the report.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. CELLER. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. HALL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. YATES. Mr. Chairman, I did not object.

The CHAIRMAN. The Chair will state that the gentleman from New York requested 1 additional minute, and the gentleman from Missouri (Mr. HALL) objected to the request.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will yield to the gentleman from New York (Mr. CELLER) so that he may complete his statement.

Mr. CELLER. Mr. Chairman, I thank the gentleman very much for yielding me this time. I would continue by referring you to page 82, lines 1 through 15, which provides—

> The United States attorney shall deliver a true copy of such report, and the appendix, if any, for appropriate action to each public officer or body having jurisdiction, responsibility, or authority over each public officer or employee named in the report.

Now, it would be inconsistent with that language to permit elected officials to be the subject of special grand jury report.

Mr. YATES. Mr. Chairman, I would like to ask the gentleman a question.

Mr. CELLER. Certainly.

Mr. YATES. Suppose the investigation of the grand jury were to lead to elected officials, under this particular provision such elected officials could not be made the subject——

Mr. CELLER. The entire operation of the special grand jury is placed under the jurisdiction of the district court, and the district court may raise questions as to whether or not a presentment covering and referring to elected officials was proper.

Mr. YATES. But the provision is seeking to curb corruption and crime, certainly elected officials have been known to be guilty of crimes, as well as appointed officials. I do not see why the distinction is drawn in this provision between the two.

Mr. CELLER. If they are indictable, any appointed or elected official would be reached by the grand jury. Nevertheless, this does not give the grand jury the right to roam around, to offer criticisms in "reports" to the conduct of elected officials.

Mr. YATES. But it does as far as appointed officials, and it does make that distinction, which I think is totally unreasonable.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I would like to point out that I would agree with the chairman that the amendment does not now permit the grand jury to roam around, nor with my amendment would it permit the grand jury to roam around. It would only permit the grand jury to investigate misconduct, malfeasance, or misfeasance in office of persons involved in organized criminal activity, and I have simply drawn it to apply to any public officer instead of just a

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nonelective officer. The chairman thought that this could permit roaming around to even the President of the United States. I would not imagine it would, because I would not imagine he was in any way engaged in any malfeasance involving organized criminal activities. Nor would any Member of this House that I know of be so involved, but if he were—if he were—he should subject himself to exactly the same scrutiny that he asks that our policemen be subjected to.

Mr. YATES. Suppose we have a sheriff, who is ordinarily an elected official, who may be guilty of engaging in some sort of organized criminal activities. Under this provision that sheriff would be exempt under this section, would he not?

Mr. ECKHARDT. If the gentleman will yield further, I would say that in all candor during the period of prohibition I would suspect that a substantial number of sheriffs were supported by bootleggers in their elections, if the sheriff's deputy could be investigated had this law been in effect at that time, why should not the sheriff?

Mr. POFF. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I join the distinguished chairman of the Committee on the Judiciary in opposition to the amendment.

In addition to the reasons that he has stated so eloquently, I would like, if I may, to make a point which I believe justifies the change that was made in this language in the Committee on the Judiciary.

A purpose, I suggest, and an altogether worthy purpose in confining the reach of title I to appointed officials, was to protect further the grant of power to a grand jury from attack on the grounds that it might violate the due process clause of the Constitution.

Some have criticized this provision as it was written in the Senate bill, as granting a special grand jury, in effect, the power to indict without according the identified individual the opportunity for vindication.

The phrase "as the basis for a recommendation of removal, disciplinary action" simply did not make sense. It was not relevant when applied to the case of elected officials such as mayors and governors.

To whom would that recommendation be delivered—those people who had authority to remove or discipline such an official?

If no such power to remove or discipline exists, a special grand jury is yet authorized to issue a report.

The answer to this question became evident when the reporting power is limited to appointed officials and employees. Then the report can properly be viewed as a recommendation to the appointing agency to remove or discipline. The identified individual thus has further recourse to make or present his case anew to the appointing agency, and then he will have an opportunity to vindicate his position. The analogy to indictment without trial is, of course, no longer valid.

With reference to the language of the amendment offered by the gentleman from Texas, I am sure the gentleman's purpose is altogether praiseworthy. But I am afraid his language works a mischief that he does not anticipate when he changes both the language of the committee bill and the language of the Senate bill by including the words "whether or not itself criminal."

The gentleman explained his purpose a moment ago. But I ask him, considering the fact that a special grand jury created under Title I like a regular grand jury has the power not only to report but to indict and it would be inappropriate in the extreme for a jury assembled to make a report charging criminal conduct and fail to indict.

Mr. ECKHARDT. Will the gentleman support my amendment if I merely strike the word "appointed"?

I thought I was improving your bill. But, if not, I would gladly ask unanimous consent simply to use the existing language and striking that term.

Would the gentleman then support the amendment?

Mr. POFF. May I inquire of the gentleman—and before I can answer the gentleman's question, I will have to ask him another question.

Will the gentleman make all of the other changes necessary to make the language comport with the language of the Senate version?

I see that the gentleman has added at the foot of his amendment the words "public response"—language which does not appear in the Senate version or the committee version. In this context, perhaps it is a little obscure.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield further?

Mr. POFF. I yield to the gentleman.

Mr. ECKHARDT. I would assume that the public response would be response by the bosses of the elected officials, that is, the electorate. Just as the response with respect to misconduct of a policeman would be that of the police chief or of the mayor.

Mr. POFF. The gentleman is aware that an elected official, of course, is always subject to the discipline of the electorate, whether that is included in the statute or not.

It would seem in the syntax in which it is put here that the gentleman's purpose would be to encourage a special grand jury to investigate the elected official with the purpose in mind of publishing a report prior to an election which was intended to have an adverse impact upon the candidate's chances in that election.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. POFF. I yield to the gentleman from Texas.

Mr. ECKHARDT. Does the gentleman feel that the elected official is better or worse equipped to answer such a report than the policeman, who has no platform to speak from, and who simply was confronted with an official report saying that he is corrupt, that he is connected with an illegal operation, when in fact he says he is not engaged in an illegal operation. He cannot go to court. He has nothing to defend. He just goes to his boss and says, "I hope you won't press it."

Mr. KOCH. Mr. Chairman, I rise in support of the Eckhardt amendment.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. KOCH. Mr. Chairman, what distresses me is what conclusions the public will draw from the passage of this bill without the amendment. I think a likely conclusion by the public will be that they, meaning the Members of Congress, are willing to tell others what they shall do and what they shall be subject to, but that we the Congress, in our own protection and to protect every other public official, are not willing to be governed by the same restrictions. I agree with the distinguished gentleman from Texas (Mr. ECKHARDT) that it is hoped—that no Member of the Congress and no public official of any city, town, or State government will be connected with organized crime. But that is not realistic. We all know of a current situation in a sister State that borders New York where a jury has just convicted a high public official of a major city.

It seems to me that the Congress, like Caesar's wife, and every public official, again like Caesar's wife, ought to be above suspicion, and just by the very fact that we say, "No elected official will be covered by this section and that no elected official need worry about such a special grand jury presentment and that no public official need worry about explaining his conduct," I think that we then place in the mind of the public, perhaps not justified, but surely possible the suspicion that we are demanding that appointive officials shall be held to a higher standard of conduct than elected public officials. I think it is wrong to do that, or even to create the suspicion that we are doing so.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I am delighted to yield to the gentleman from Illinois.

Mr. MIKVA. I was struck by the comment of the gentleman from Virginia that this would be a very dangerous thing if applied to elected officials, because it could be used or abused to pillory somebody before an election. Would the gentleman from New York agree that this danger, if it exists, exists equally as to appointed officials as it does to elected officials?

Mr. KOCH. I surely do agree and as I pointed out it exists to an even greater extent, because almost anyone in public office has a forum. We and almost every other elected public official have a forum from which to speak. An elected official generally has a forum from which to defend himself, whereas the appointed official often does not.

Mr. MIKVA. As I read the bill, for example, it would apply to a Federal judge, who is always fair game for criticism, but it would not apply to a Congressman. Certainly the Congressman has a better forum to defend himself than does a judge. The way we have phrased this, it would cover the judge and not the Congressman. I would suggest indeed that the gentleman from Texas (Mr. GONZALEZ) was right in the first place. Perhaps the real problem which this amendment points to is that once we let a grand

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jury start doing anything other than what is directly related to the criminal law, we get on some very shaky ground.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from New York, the chairman of the committee.

Mr. CELLER. Remember that this would be a 3-year grand jury. It may be extended beyond its initial 18-month term. It may live for 3 years. You must remember that a presentment, when published in a newspaper, is equivalent in the public mind to an indictment, and it has a very, very deleterious effect upon the man whose name is mentioned. It is for that reason, because of the nature of the presentment and the dangers inherent therein, the committee felt it should go slowly on this matter.

Title I is an innovation and therefore we feel it should be limited. As we gain experience under this provision we can make those changes which appear warranted.

Mr. KOCH. There is no one in the House for whom I have a greater real affection than that which I have for the distinguished chairman of the Judiciary Committee, but I want to point out to my good friend that a man's reputation, whether he is an appointed official or a public official, is his most prized possession, and if we are going to subject appointed officials to the kind of review that is contemplated in this bill, then it seems to me we ought to worry about what will happen to him and his reputation and his family, just as there are those who are worried and concerned about the reputation of elected officials. Indeed, I say greater protection ought to be given to those who serve in lesser position of public trust than those of us who serve in the highest positions of public service, mainly elected public office, because we have more to respond for.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words, and rise in support of the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

Mr. Chairman, it seems to me the distinction between elected and appointed officials being subject to this provision in title I may properly be thought to create a double standard. For example, what of the elected judge who might be exempted from this provision without the Eckhardt amendment, as opposed to the appointed Federal judge who could be subjected to this amendment in its present form? I think this distinction has been made very clearly by those who support the amendment, that there is no difference between the harm that might befall the elected official caught under the provisions of this amendment and that which would befall an appointed official. I would say personally to many Members here this provision in its entirety is obnoxious. I find that in the public mind the accusations that would emanate by report from a grand jury examining any such charges would be extremely harmful and difficult to rebut.

But if we must have this provision, I support the gentleman from Texas (Mr. ECKHARDT) who feels it should apply in fairness to all officials whether they be publicly elected or appointed. A police officer is in far less position to defend himself than is an elected official, including Members from this body who should be subject to the same standards. Therefore, I urge that the Eckhardt amendment, which conforms to the Senate version of the bill, be restored to the bill and that we affirmatively support the amendment now under discussion.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was rejected.

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: Strike title I beginning on page 77.

PARLIAMENTARY INQUIRY

Mr. ECKHARDT. Mr. Chairman, I have a parliamentary inquiry. I have an amendment which is a perfecting amendment to title I. I would like to offer it if it takes precedence over the motion to strike, because I should not want to lose the opportunity to offer the amendment. This is a perfecting amendment to title I, and the gentleman in the well has offered an amendment to strike. My parliamentary question is: Would my amendment take precedence in order of consideration over such an amendment and, if so, I should like to offer it.

The CHAIRMAN. The gentleman from Texas (Mr. ECKHARDT) can offer his amendment while the motion to strike out title I, offered by the gentleman from Texas (Mr. GONZALEZ) is pending.

Mr. ECKHARDT. Mr. Chairman, I would offer it now or at any proper point.

The CHAIRMAN. The amendment of the gentleman from Texas (Mr. ECKHARDT) would be voted upon prior to the vote on the motion to strike offered by the gentleman from Texas (Mr. GONZALEZ).

Mr. ECKHARDT. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, this title I should be in effect stricken. In fact, the dialog we have listened to here in the last 10 minutes concerning the Eckhardt amendment and its undesirability graphically and dramatically illustrates why the whole concept envisioned in this title I is unsound, why it is an overcharged blunderbuss in what otherwise can very well be a much needed bit of legislation in a worthwhile attempt to control the tremendous extent of criminal activity in our country.

I look upon this section as being as near a restoration of the old English Star Chamber type of approach as we have ever had offered on the floor of the House, or perhaps even in the other body.

Members can talk all they want about how potentially this section as it is written would offer protection from an unwarranted attack on the eve of an election and so forth, for an elected official, and that that is why the House committee changed the Senate version, and all of that, but that is really immaterial. It is really a superfluous argument.

This would be setting up for the first time in the history of American jurisprudence some kind of a vague, amorphous thing called a special grand jury, which it is sought to surround with an aura of all the attributes historically associated with a grand jury, and yet not have a grand jury.

Members say they want to avoid fishing expeditions, that would have ulterior motives, but actually this is setting it up to do it anyway, really with very little safeguard or protection from unwarranted intrusion, on which the whole body of American jurisprudence has been built, to protect individual liberties.

Crime is bad, but we should not use that as a vehicle to encrust on the statutory provisions of our criminal law some vague provision that can very well cancel out the meritorious sections of this legislation.

Let me give an example. The very definition of a grand jury is that it shall be concentrated on the criminal activities, either projected or in process of being consummated in a given district. But this is going to set up what is defined as a special grand jury to look into noncriminal activities, and it does not define "organized crime," and yet it is still sought to invest this body with all the investigatory powers that are traditionally the equipment of a regular grand jury.

I see no need for this provision in order for us to implement and to carry out the intent of this Congress in a worthwhile enterprise, as I said, of curbing organized crime in America today. I consider the dangerous aspects of it far overbalance the need to have it in this legislation at this time.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I am delighted to yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

Do I correctly understand the gentleman's amendment would include all of title I?

Mr. GONZALEZ. That is correct.

Mr. RAILSBACK. I wonder if the gentleman is aware that not only would he strike out the first purpose which relates to the noncriminal activity but also he would strike out the second section, on page 79, which I believe is the primary thrust of title I and which relates to permitting a special grand jury to investigate and report regarding organized crime conditions in the District.

In other words, your motion would encompass not only that part which we just debated a few minutes ago about noncriminal misconduct and malconduct and so forth, but it would prevent us from investigating organized crime. Moreover, this refers to the noncriminal investigation.

Mr. GONZALEZ. There are two purposes.

Mr. RAILSBACK. Right.

Mr. GONZALEZ. The second one permits the special grand jury specifically to investigate and report on organized crime conditions in that district, but also extends to "noncriminal."

Mr. RAILSBACK. You do not need a special grand jury as defined in the preceding section to do it. They are doing it now when the need is right. Look. If the real trouble is, as I believe it is, that you have a willing and honest enforcement official and prosecution official and there is a hiatus in the law that does not permit him really to enforce it——

The CHAIRMAN. The time of the gentleman has expired.

Mr. GONZALEZ. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. HALL. I object.

Mr. RAILSBACK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would be glad to yield to the gentleman from Texas if he wants any more time, but I would like to reply to something he said, too.

Mr. GONZALEZ. I thank the gentleman for yielding.

I just want to explain why I have this motion to strike title I in its entirety.

It is my belief that part of the big problem we have today is something this Congress cannot do anything about or anybody else. If you have a police officer who will not arrest or a district attorney who will not prosecute, there is nothing we can do about it. We are assuming when we pass this type of legislation that we do have district attorneys who are willing and disposed to prosecute and policemen who are willing to arrest. I am saying in that event we do not need this particular section. You have all of the power now with your regularly constituted grand jury.

Mr. RAILSBACK. Let me take issue with that, because I disagree with that statement. In other words, it is my belief—and it is also held by Senator McClellan—that right now the Federal Government does not have the specific powers to investigate and report. They have the right to investigate and to indict.

The gentleman has also made a statement that this is a new authority and is something that has not been done in the United States. Specifically 21 States have legislation similar to the New York statute which in Jones against People was upheld and was construed to authorize reports and in addition six States explicitly authorize such reports by statute, and others sanction them on a common law basis.

I also want to say this. Here is what the district attorney of New York, Frank Hogan, who is certainly one of the top law enforcement people in the Nation said. He said:

> Grand jury report powers, although a revival in our present federal system, have been retained from common law or statutorily enacted in several of our States. Twenty-one States have legislation similar to the New York statute which, in *Jones* v. *People*, 101 App. Div. 55, 92 N.Y. Supp. 275, *appeal dismissed*, 181 N.Y. 389, 74 N.E. 226 (1905), was construed to authorize reports, while six States explicitly authorize such reports by statute, and others have sanctioned them on a common law basis. See, for example, *In Re Report of Grand Jury*, 11 So 2d 316 (Fla. 1945). The effectiveness of such reports as an instrument of reform was affirmed at our hearings by Frank S. Hogan, district attorney of New York County. Hearings at 353–54. Mr. Hogan set out several examples of grand jury reports, and evaluated these reports, as follows:
>
> "Since 1947, some 20 reports have been submitted by various grand juries of New York County disclosing either the noncriminal misconduct of public officers or the existence of conditions in public agencies or areas of public interest which required corrective legislative or administrative action. I cite a few instances of the exercise of this grand jury power which, I believe, demonstrates its effectiveness."

Mr. GONZALEZ. Judging by the results in New York, I think it leaves a lot to be desired, and for that very reason I insist that the provision here for setting up this special creature which is defined here as a special grand jury with ambivalent powers and duties and scope of authority should be stricken.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. Yes. I am glad to yield to the gentleman.

Mr. CONYERS. May I say to the gentleman that there presently exists no provision for a Federal grand jury now to either indict or fail to indict. There is no middle ground that enables them to issue random commentaries.

I think that is something that should be considered very carefully here. Crime in the District of Columbia, I submit, is a special matter and I question whether it is relevant in a national organized crime bill, because we can get at the crime in the District of Columbia through any number of Federal grand juries that are presently carrying on their activities.

Mr. RAILSBACK. Let me say to the gentleman that as far as the gentleman's statement is concerned, I see particular value in this special grand jury under the second section which relates to general organized crime activities. It focuses itself on a very serious problem. The thing I like about it is that this special grand jury, by and large, is very independent. It is independent in many respects of the Government, it is independent of many of the politicians, and in that respect it seems to me it is something vitally needed because we know that corruption unfortunately in many areas relates to organized crime which involves these very people.

Mr. YATES. Mr. Chairman, will the gentleman yield for a question?

Mr. RAILSBACK. I yield to the gentleman from Illinois.

Mr. YATES. Is there any intention on the part of the committee to have the section operate and apply to any kind of a crime other than organized crime?

Mr. RAILSBACK. My understanding is that by reason of an amendment that was introduced on the House side and in the committee that even in the case of the appointed public official it still should relate to an organized criminal activity.

Mr. YATES. And, the special grand jury could not be summoned and it would not relate under the terms of this provision to a criminal activity other than that which is commonly accepted as organized crime?

Mr. RAILSBACK. I think you have to differentiate between the other section dealing with the appointed public officials and the section that involves general organized crime conditions. But as I understand it, there would have to be allegations in any case that this involved organized crime or organized criminal activity. In my opinion that narrows it a great deal.

Mr. YATES. Mr. Chairman, if the gentleman will yield further, throughout this bill there is no reference to the phrase "organized crime" in any of its sections.

Mr. RAILSBACK. There certainly is in this title, if you want to restrict yourself to this title.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think the title should be struck in its entirety.

I quote from a portion of the American Civil Liberties Unions' evaluation of the committee bill as it emanated from the Judiciary Committee:

> An individual accused by such a grand jury has no real way to clear himself of the charge levied by this body which exists by the authority of the Government and which has secured its information by using compulsory testimony in secret proceedings. Although a person named in the report is given an opportunity to testify and present a "reasonable" number of witnesses, the value of that right is critically undercut because he cannot know the identity of his accuser, cannot compel the attendance of witnesses or cross-examine and cannot compel the production of documentary evidence.

Mr. Chairman, it seems to me if we have grand juries now constituted on a State level which can report and which can indict—we have Federal grand juries presently constituted throughout the Nation, including the District of Columbia which can indict—then why do we need to empanel Federal grand juries for the purpose of reporting conduct short of criminal activities?

That is really all this title does that is different from the existing Federal law. We can now proceed against all the organized crime activity in this country through the existing grand jury apparatus that is now available both federally and at the State level.

What we are really saying here is that we now will be able to move against any conduct which falls short of criminally indictable activity, for example, malfeasance or misfeasance of office. What can a police officer do that is not criminal conduct but would nevertheless subject him to the provisions of title I? If he fails to file a report he is violating his own police rules, and the municipal police manual. If he is associating with underworld characters he is doubtless violating the local provisions that regulate their conduct. If he is indeed violating any State or Federal criminal activity he is subject to a grand jury, State, or Federal.

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This provision I suggest in no way enables us to move more effectively against nonelected officials, who may be guilty of some conduct short of criminal activity. It will create a tremendous amount of confusion in the courts. It is going to be subject to misuse and abuse in which many good law-enforcement people, not only police officers, but public officials as well, may be subject to harassment that might not have been intended by any of the Members who have supported the bill thus far.

I urge the support of the amendment, and I hope that title I may be stricken from this bill in a modest effort to make it at least consistent with respect to the existing systems of grand juries.

PERFECTING AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

> Amendment offered by Mr. Eckhardt: On page 81, strike on line 21 the words "have been inserted scandal-", and strike all of lines 22 and 23, and insert in lieu thereof the following: "be not material to the assertions in the report and not material to a defense or explanation. No matter or assertion which has been inserted scandalously or prejudiciously shall be considered privileged matter solely upon the basis that it is a part of either the report or the appendix to the report in any action for liable or defamation."

Mr. ECKHARDT. Mr. Chairman, title I, as has been correctly pointed out by the gentleman from Michigan (Mr. Conyers) really adds only two things: One, it permits reports by the grand jury, which cannot now be done. A Federal grand jury can only indict, or not indict. And, second, it permits investigation of noncriminal activities.

All of the provisions of section 3331, Summoning and Term, section 3332, Powers and Duties, are presently in existing Federal law. You have authority for a grand jury which may sit for 18 months—of course, this enlarges that. You presently have authority for a grand jury to investigate crime and indict, or no-bill, but you do not under present law, and you are adding under this bill, the language of section 3333, to permit a grand jury to comment on matters whether they are criminal or not. I have seen this happen at the State level. It is done now. It is pretty dangerous, too, because the public is not very discriminating between what is criminal and what is noncriminal so long as a grand jury is fooling around with it.

I want to point out to you that this amendment that I am offering at this time seeks to cure one of these flaws.

Under this section, the grand jury may report its opinion of noncriminal activities about the policeman. It cannot, of course, do the same in the case of the mayor.

It can report that, for instance, policeman Joe Blow has been soft on crime and that he has not raided any of the places that he was sent out to raid, and that he is the kind of guy who ought to be fired and he ought to be reported to the mayor and the mayor ought to fire him.

Then what is the newspaper going to do? It is either going to pillory the policeman or it is going to pillory the mayor. So the mayor fires the policeman to prevent the latter from happening.

Now note that this title does give the policeman the right to come in and make his answer to the report. If he makes his answer to the report in time it will be included as an appendix to the report.

But let me point out the trouble with this. It says:

> Such an answer shall plainly and concisely state the facts and law constituting the defense of the public officer * * *

I think you, as politicians, all know what you get into when you answer your opponent's attacks—you repeat them and perhaps emphasize them.

To continue reading what the bill says:

> or employee to the charges in said report, and, except for those parts thereof which the court determines to have been inserted scandalously, prejudiciously, or unnecessarily, such answer shall become an appendix to the report.

Thus, the policeman has been attacked. He says, "I did not raid the gambling houses because the mayor told me not to. The mayor is involved in this operation and takes a payoff. I am talking of an entirely hypothetical situation, of course.

Such a statement hurts the mayor. It is certainly prejudicial to him. I suppose it may be "prejudiciously" stated in the view of the judge. The judge can then strike that out of the report—and the police officer does not get his answer in. I do not think that is fair.

So what I seek to do by this amendment is simply to change this result by providing that the sentence read, "such an answer shall plainly and concisely state the facts and law constituting the defense of the public officer or employee to the charges in said report, and, except for those parts thereof which the court determines to be not material to the assertions in the report and not material to a defense or explanation, such answer shall become an appendix to the report."

In other words, any statement that the police officer makes is going to be prejudicial to the person who is charging him. I do not think you should strike it out merely for that reason. He ought to have his say, too.

Then I provide, in order to protect both the police officer and the mayor from attack by the grand jury, that is really unfair—that is really scurrilous—I put in that no matter or assertion which has been inserted scandalously or prejudiciously shall be considered privileged matter solely upon the basis that it is part of either the report or the appendix to the report.

Mr. RODINO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, although I seem to recognize what the gentleman may be striving to achieve here, nonetheless I think it might be stated that the language as written in this particular section clearly gives the court adequate discretion to determine whether or not matters have been inserted scandalously or prejudiciously or unnecessarily. It provides authority to the court to strike that kind of language.

The gentleman from Texas, however, would limit the authority of the court to delete only immaterial matter.

Thus it would permit the insertion of scandalous or prejudicial matter in an answer.

I think that this kind of provision which is highly technical should not be written on the floor of the House. I believe the bill clearly sets out what the court's authority is to delete matter. It should not be disturbed. For this reason, Mr. Chairman, I suggest the amendment be defeated.

Mr. MIKVA. Mr. Chairman, I rise in support of the amendment.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Texas.

Mr. ECKHARDT. I want to clear this point up, because I do not believe the committee necessarily disagrees with me on this point. I also wish to clear up the proposition that if my amendment is adopted, you would still get a vote on whether or not to strike all of title I. The nature of this amendment is to perfect. It is a perfecting amendment. I understand that this bill presently only permits the judge to strike out scandalous or prejudicious language in the answer of the police officer. It does not give the judge the right to strike out scandalous and prejudicious language in the report which is made against the police officer.

I should like to ask the gentleman from New Jersey (Mr. Rodino) if that is the way he understands it.

Mr. RODINO. I believe the court is given the authority to review the answer in the context in which we have stated, whether or not it is scandalous, prejudicial, or unnecessary.

Mr. ECKHARDT. The point is the judge does not have the power to review the report. He does not have the power to strike scandalous or prejudicious language of the report against the police officer.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Virginia.

Mr. POFF. The report does not become public, indeed is not accepted, until it has survived an appellate procedure.

Mr. ECKHARDT. Will the gentleman yield to me at that point?

Mr. POFF. The gentleman from Illinois has the floor, but I would like to complete my statement, if I may.

Mr. MIKVA. I would appreciate the gentleman's concluding his statement as quickly as he can so there will be time for debate in support of the amendment.

Mr. POFF. I defer to the gentleman from Texas.

Mr. ECKHARDT. The point I am making here is that, it seems to me, there should be nothing scandalous in the report, and the same rule should apply to both the initial report and the answer. If you let the judge strike a part of the answer but not a part of the report, you are not treating the report and the answer equally. I am not saying the report should be censored by the judge but neither should the answer, but everyone who inserts scandalous material should be

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answerable in a libel suit. That is all I am talking about.

Mr. POFF. That is precisely the point.

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Virginia?

Mr. MIKVA. I yield to the gentleman from Virginia.

Mr. POFF. I thank the gentleman. That is precisely what I was about to say. The court does in the appellate process have the power to suppress publication of the entire report if the court finds it to be unjustified.

Mr. CONYERS. Mr. Chairman, I rise in support of the amendment.

Mr. HALL. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HALL. Has the gentleman from Michigan not already been recognized in support of this amendment?

The CHAIRMAN. Has the gentleman previously been recognized in support of the Eckhardt amendment?

Mr. CONYERS. No, Mr. Chairman.

The CHAIRMAN. The gentleman from Michigan is recognized.

Mr. CONYERS. Mr. Chairman, may I point out that this notion of having the report suppressed until appellate review takes place is just a little bit inconsistent with what happens in real life when a grand jury undertakes an investigation in any city of this country that I know about.

That is to say it is extremely difficult to keep a total secret the names of persons called by a grand jury and the nature of the testimony until after an appellate review has taken place.

If there is such an instance in American jurisprudence, I would be delighted to be advised of it and I would be inclined to change my opinion about this part of this bill. But the facts of the matter are that in the day-to-day exigencies, the press does find out that a grand jury is indeed meeting in the local Federal building, and that, in fact, the accused, as opposed to the elected official for whom he may be working, is the subject of an inquiry into activities that may, although short of criminal activity, might constitute malfeasance or nonfeasance in office. To assume that we can rest assured that the defendant in this grand jury proceeding is safe from any detrimental news leaks until the appellate review would be made—and incidentally, I would presume that would be at his own expense—is a little far afield of the realities of the manner in which grand juries operate.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and on a division (demanded by Mr. ECKHARDT) there were—ayes 24, noes 44.

So the amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The amendment was rejected.

The CHAIRMAN. If there are no further amendments to title I, the Clerk will read.

The Clerk read as follows:

TITLE II—GENERAL IMMUNITY

SEC. 201. (a) Title 18, United States Code, is amended by adding immediately after part IV the following new part:

"PART V.—IMMUNITY OF WITNESSES

"Sec.
"6001. Definitions.
"6002. Immunity generally.
"6003. Court and grand jury proceedings.
"6004. Certain administrative proceedings.
"6005. Congressional proceedings.

"§ 6001. Definitions

"As used in this part—

"(1) 'agency of the United States' means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, the Atomic Energy Commission, the China Trade Act registrar appointed under 53 Stat. 1432 (15 U.S.C. sec. 143), the Civil Aeronautics Board, the Federal communications Commission, the Federal Deposit Insurance Corporation, the Federal Maritime Commission, the Federal Power Commission, the Federal Trade Commission, the Interstate Commerce Commission, the National Labor Relations Board, the National Transportation Safety Board, the Railroad Retirement Board, an arbitration board established under 48 Stat. 1193 (45 U.S.C. sec. 157), the Securities and Exchange Commission, the Subversive Activities Control Board, or a board established under 49 Stat. 31 (15 U.S.C. sec. 715d);

"(2) 'other information' includes any book, paper, document, record, recording, or other material;

"(3) 'proceeding before an agency of the United States' means any proceeding before such an agency with respect to which it is authorized to issue subpenas and to take testimony or receive other information from witnesses under oath; and

"(4) 'court of the United States' means any of the following courts: the Supreme Court of the United States, a United States court of appeals, a United States district court established under chapter 5, title 28, United States Code, the District of Columbia Court of Appeals, the Superior Court of the District of Columbia, the District Court of Guam, the District Court of the Virgin Islands, the United States Court of Claims, the United States Court of Customs and Patent Appeals, the Tax Court of the United States, the Customs Court, and the Court of Military Appeals.

"§ 6002. Immunity generally

"Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before or ancillary to—

"(1) a court or grand jury of the United States,

"(2) an agency of the United States, or

"(3) either House of Congress, a joint committee of the two Houses, or a committee or a subcommittee of either House,

and the person presiding over the proceeding communicates to the witness an order issued under this part, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination; but no testimony or other information compelled under the order (or any information directly or indirectly derived from such testimony or other information) may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

"§ 6003. Court and grand jury proceedings

"(a) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before or ancillary to a court of the United States or a grand jury of the United States, the United States district court for the judicial district in which the proceeding is or may be held shall issue, in accordance with subsection (b) of this section, upon the request of the United States attorney for such district, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this part.

"(b) A United States attorney may, with the approval of the Attorney General, the Deputy Attorney General, or any designated Assistant Attorney General, request an order under subsection (a) of this section when in his judgment—

"(1) the testimony or other information from such individual may be necessary to the public interest; and

"(2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

"§ 6004. Certain administrative proceedings

"(a) In the case of any individual who has been or who may be called to testify or provide other information at any proceeding before an agency of the United States, the agency may, with the approval of the Attorney General, issue, in accordance with subsection (b) of this section, an order requiring the individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this part.

"(b) An agency of the United States may issue an order under subsection (a) of this section only if in its judgment—

"(1) the testimony or other information from such individual may be necessary to the public interest; and

"(2) such individual has refused or is likely to refuse or provide other information on the basis of his privilege against self-incrimination.

"§ 6005. Congressional proceedings

"(a) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before either House of Congress, or any committee, or any subcommittee of either House, or any joint committee of the two Houses, a United States district court shall issue, in accordance with subsection (b) of this section, upon the request of a duly authorized representative of the House of Congress or the committee concerned, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this part.

"(b) Before issuing an order under subsection (a) of this section, a United States district court shall find that—

"(1) in the case of a proceeding before either House of Congress, the request for such an order has been approved by an affirmative vote of a majority of the Members present of that House;

"(2) in the case of a proceeding before a committee or a subcommittee of either House of Congress or a joint committee of both Houses, the request for such an order has been approved by an affirmative vote of two-thirds of the members of the full committee; and

"(3) ten days or more prior to the day on which the request for such an order was made, the Attorney General was served with notice of an intention to request the order.

"(c) Upon application of the Attorney General, the United States district court shall defer the issuance of any order under subsection (a) of this section for such period, not longer than twenty days from the date of the request for such order, as the Attorney General may specify."

(b) The table of parts for title 18, United States Code, is amended by adding at the end thereof the following:

"V. Immunity of Witnesses.......... 6001".

SEC. 202. The third sentence of paragraph (b) of section 6 of the Commodity Exchange Act (69 Stat. 160; 7 U.S.C. 15) is amended by striking "49 U.S.C. 12, 46, 47, 48, relating to the attendance and testimony of witnesses, the production of documentary evidence, and the immunity of witnesses" and by inserting in lieu thereof the following: "(49 U.S.C. § 12), relating to the attendance and testimony of witnesses and the production of documentary evidence,".

SEC. 203. Subsection (f) of section 17 of the United States Grain Standards Act (82 Stat. 768; 7 U.S.C. § 87f(f)), is repealed.

SEC. 204. The second sentence of section 5 of the Act entitled "An Act to regulate the marketing of economic poisons and devices, and for other purposes", approved June 25, 1947 (61 Stat. 168; 7 U.S.C. § 135c), is amended by inserting after "section", the following language: ", or any evidence which is directly or indirectly derived from such evidence,".

SEC. 205. Subsection (f) of section 13 of the Perishable Agricultural Commodities Act, 1930 (46 Stat. 536; 7 U.S.C. § 499m(f)), is repealed.

SEC. 206. (a) Section 16 of the Cotton Research and Promotion Act (80 Stat. 285; 7 U.S.C. § 2115) is amended by striking "(a)" and by striking subsection (b).

(b) The section heading for such section 16 is amended by striking ": Self-Incrimination".

SEC. 207. Clause (10) of subsection (a) of section 7 of the Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898 (52 Stat. 847; 11 U.S.C. § 25(a)(10)), is amended by inserting after the first use of the term "testimony" the following language: ", or any evidence which is directly or indirectly derived from such testimony,".

SEC. 208. The fourth sentence of subsection (d) of section 10 of the Federal Deposit Insurance Act (64 Stat. 882; 12 U.S.C. § 1820(d)), is repealed.

SEC. 209. The seventh paragraph under the center heading "DEPARTMENT OF JUSTICE" in the first section of the Act of February 25, 1903 (32 Stat. 904; 15 U.S.C. § 32), is amended by striking ": *Provided*, That" and all that follows in that paragraph and inserting in lieu thereof a period.

SEC. 210. The Act of June 30, 1906 (34 Stat. 798; 15 U.S.C. § 33), is repealed.

SEC. 211. The seventh paragraph of section 9 of the Federal Trade Commission Act (38 Stat. 722; 15 U.S.C. § 49), is repealed.

SEC. 212. Subsection (d) of section 21 of the Securities Exchange Act of 1934 (48 Stat. 899; 15 U.S.C. § 78u(d)), is repealed.

SEC. 213. Subsection (c) of section 22 of the Securities Act of 1933 (48 Stat. 86; 15 U.S.C. § 77v(c)), is repealed.

SEC. 214. Subsection (e) of section 18 of the Public Utility Holding Company Act of 1935 (49 Stat. 831; 15 U.S.C. § 79r(e)), is repealed.

SEC. 215. Subsection (d) of section 42 of the Investment Company Act of 1940 (54 Stat. 842; 15 U.S.C. § 80a–41(d)), is repealed.

SEC. 216. Subsection (d) of section 209 of the Investment Advisers Act of 1940 (54 Stat. 853; 15 U.S.C. § 80b–9(d)), is repealed.

SEC. 217. Subsection (c) of section 15 of the China Trade Act, 1922 (42 Stat. 953; 15 U.S.C. § 155(c)), is repealed.

SEC. 218. Subsection (h) of section 14 of the Natural Gas Act (52 Stat. 828; 15 U.S.C. § 717m(h)), is repealed.

SEC. 219. The first proviso of section 12 of the Act entitled "An Act to regulate the interstate distribution and sale of packages of hazardous substances intended or suitable for household use," approved July 12, 1960 (74 Stat. 379; 15 U.S.C. § 1271), is amended by inserting after "section" the following language: ", or any evidence which is directly or indirectly derived from such evidence,".

SEC. 220. Subsection (e) of section 1415 of the Interstate Land Sales Full Disclosure Act (82 Stat. 596; 15 U.S.C. §1714(e)), is repealed.

SEC. 221. Subsection (g) of section 307 of the Federal Power Act (49 Stat. 856; 16 U.S.C. § 825f(g)), is repealed.

SEC. 222. Subsection (b) of section 835 of title 18, United States Code, is amended by striking the third sentence thereof.

SEC. 223. (a) Section 895 of title 18, United States Code, is repealed.

(b) The table of sections of chapter 42 of such title is amended by striking the item relating to section 895.

SEC. 224. (a) Section 1406 of title 18, United States Code, is repealed.

(b) The table of sections of chapter 68 of such title is amended by striking the item relating to section 1406.

SEC. 225. Section 1954 of title 18, United States Code, is amended by striking "(a) Whoever" and inserting in lieu thereof "Whoever" and by striking subsection (b) thereof.

SEC. 226. The second sentence of subsection (b), section 2424, title 18, United States Code, is amended by striking "but no person" and all that follows in that subsection and inserting in lieu thereof: "but no information contained in the statement or any evidence which is directly or indirectly derived from such information may be used against any person making such statement in any criminal case, except a prosecution for perjury, giving a false statement or otherwise failing to comply with this section."

SEC. 227. (a) Section 2514 of title 18, United States Code, is repealed effective four years after the effective date of this Act.

(b) The table of sections of chapter 119 of such title is amended by striking the item relating to section 2514.

SEC. 228. (a) Section 3486 of title 18, United States Code, is repealed.

(b) The table of sections of chapter 223 of such title is amended by striking the item relating to section 3486.

SEC. 229. Subsection (e) of section 333 of the Tariff Act of 1930 (46 Stat. 699; 19 U.S.C. § 1333(e)), is amended by striking ": Provided That" and all that follows in that subsection and inserting in lieu thereof a period.

SEC. 230. The first proviso of section 703 of the Federal Food, Drug, and Cosmetic Act, approved June 25, 1938 (52 Stat. 1057; 21 U.S.C. § 373), is amended by inserting after "section" the folowing language: ", or any evidence which is directly or indirectly derived from such evidence,".

SEC. 231. (a) Section 4874 of the Internal Revenue Code of 1954 is repealed.

(b) The table of sections of part III of subchapter (D) of chapter 39 of such Code is amended by striking the item relating to section 4874.

SEC. 232. Section 7493 of the Internal Revenue Code of 1954 is repealed.

SEC. 233. The table of sections of part III of subchapter (E)) of chapter 76 of the Internal Revenue Code of 1954 is amended by striking the item relating to section 7493.

S53. 234. Paragraph (3) of section 11 of the Labor Management Relations Act, 1947 (49 Stat. 455; 29 U.S.C. § 161(3)), is repealed.

SEC. 235. The third sentence of section 4 of the Act entitled "An Act to provide that tolls on certain bridges over navigable waters of the United States shall be just and reasonable, and for other purposes", approved August 31, 1935 (49 Stat. 671; 33 U.S.C. § 506), is repealed.

SEC. 236. Subsection (f) of section 205 of the Social Security Act (42 U.S.C. § 405(f)) is repealed.

SEC. 237. Paragraph c of section 161 of the Atomic Energy Act of 1954 (68 Stat. 948; 42 U.S.C. § 2201(c)), is amended by striking the third sentence thereof.

SEC. 238. The last sentence of the first paragraph of subparagraph (h) of the paragraph designated "Third" of section 7 of the Railway Labor Act (44 Stat. 582; 45 U.S.C. § 157), is repealed.

SEC. 239. Subsection (c) of section 12 of the Railroad Unemployment Insurance Act (52 Stat. 1107; 45 U.S.C. § 362(c)), is repealed.

SEC. 240. Section 28 of the Shipping Act of 1916 (39 Stat. 737; 46 U.S.C. § 827), is repealed.

SEC. 241. Subsection (c) of section 214 of the Merchant Marine Act, 1936 (49 Stat. 1991; 46 U.S.C. § 1124(c)), is repealed.

SEC. 242. Subsection (i) of section 409 of the Communications Act of 1934 (48 Stat. 1096; 47 U.S.C. § 409(l)), is repealed.

SEC. 243. (a) The second sentence of section 9 of the Interstate Commerce Act (24 Stat. 382; 49 U.S.C. § 9), is amended by striking "; the claim" and all that follows in that sentence and inserting in lieu thereof a period.

(b) Subsection (a) of section 316 of the Interstate Commerce Act (54 Stat. 946; 49 U.S.C. § 916(a)), is amended by striking the comma following "part I" and by striking ", and the Immunity of Witnesses Act (34 Stat. 798; 32 Stat. 904, ch. 755, sec. 1),".

(c) Subsection (a) of section 417 of the Interstate Commerce Act (49 U.S.C. § 1017(a)), is amended by striking the comma after "such provisions" and by striking ", and of the Immunity of Witnesses Act (34 Stat. 798; 32 Stat. 904, ch. 755, sec. 1),".

SEC. 244. The third sentence of section 3 of the Act entitled "An Act to further regulate Commerce with foreign nations and among the States", approved February 19, 1903 (32 Stat. 848; 49 U.S.C. § 43), is amended by striking "; the claim" and all that follows in that sentence down through and including "*Provided*, That the provisions" and inserting in lieu thereof ". The provisions".

SEC. 245. The first paragraph of the Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. § 46), is repealed.

SEC. 246. Subsection (i) of section 1004 of the Federal Aviation Act of 1958 (72 Stat. 792; 49 U.S.C. § 1484(i)), is repealed.

SEC. 247. The ninth sentence of subsection (c) of section 13 of the Internal Security Act of 1950 (81 Stat. 768; 50 U.S.C. § 792(c)), is repealed.

SEC. 248. Section 1302 of the Second War Powers Act of 1942 (56 Stat. 185; 50 U.S.C. App. § 643a), is amended by striking the fourth sentence thereof.

SEC. 249. Paragraph (4) of subsection (a) of section 2 of the Act entitled "An Act to expedite national defense, and for other purposes", approved June 28, 1940 (54 Stat. 676; 50 U.S.C. App. § 1152(a)(4)), is amended by striking the fourth sentence thereof.

SEC. 250. Subsection (d) of section 6 of the Export Control Act of 1949 (63 Stat 8; 50 U.S.C. App. § 2026(b)), is repealed.

SEC. 251. Subsection (b) of section 705 of the Act of September 8, 1950, to amend the Tariff Act of 1930 (64 Stat. 816; 50 U.S.C. § 2155(b)), is repealed.

SEC. 252. Section 23–545 of the District of Columbia Code is repealed.

SEC. 253. Section 42 of the Act of October 9, 1940, 54 Stat. 1082 (D.C. Code, sec. 35–1346), is repealed.

Sec. 254. Section 2 of the Act of June 19, 1934, 48 Stat. 1176 (section 35–802, District of Columbia Code), is repealed.

Sec. 255. Section 29 of the Act of March 4, 1922, 42 Stat. 414 (section 35–1129, District of Columbia Code), is repealed.

Sec. 256. Section 9 of the Act of February 7, 1914, 38 Stat. 282, as amended (section 22–2721, District of Columbia Code), is repealed.

Sec. 257. Section 5 of the Act of February 7, 1914, 38 Stat. 281 (section 22–2717, District of Columbia Code), is amended by striking out "2721" and inserting in lieu thereof "2720".

Sec. 258. Section 8 of the Act of February 7, 1914, 38 Stat. 282 (section 22–2720, District of Columbia Code), is amended by striking out "2721" and inserting in lieu thereof "2720".

Sec. 259. In addition to the provisions of law specifically amended or specifically repealed by this title, any other provision of law inconsistent with the provisions of part V of title 18, United States Code (adding by title II of this Act), is to that extent amended or repealed.

Sec. 260. The provisions of part V of title 18, United States Code, added by title II of this Act, and the amendments and repeals made by title II of this Act, shall take effect on the sixtieth day following the date of the enactment of this Act. No amendment to or repeal of any provision of law under title II of this Act shall affect any immunity to which any individual is entitled under such provision by reason of any testimony or other information given before such day.

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. If there are no amendments to be offered to title II, the Clerk will read.

The Clerk read as follows:

TITLE III—RECALCITRANT WITNESSES

Sec. 301. (a) Chapter 119, title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1826. Recalcitrant witnesses

"(a) Whenever a witness in any proceeding before or ancillary to any court or grand jury of the United States refuses without just cause shown to comply with an order of the court to testify or provide other information, including any book, paper, document, record, recording or other material, the court, upon such refusal, or when such refusal is duly brought to its attention, may summarily order his confinement at a suitable place until such time as the witness is willing to give such testimony or provide such information. No period of such confinement shall exceed the life of—

"(1) The court proceeding, or

"(2) the term of the grand jury, including extensions,

before which such refusal to comply with the court order occurred, but in no event shall such confinement exceed eighteen months.

"(b) No person confined pursuant to subsection (a) of this section shall be admitted to bail pending the determination of an appeal taken by him from the order for his confinement if it appears that the appeal is frivolous or taken for delay. Any appeal from an order of confinement under this section shall be disposed of as soon as practicable, but not later than thirty days from the filing of such appeal."

(b) The analysis of chapter 119, title 28, United States Code, is amended by adding at the end thereof the following new item:

"1826. Recalcitrant witnesses.".

Sec. 302. (a) The first paragraph of section 1073, chapter 49, title 18, United States Code, is amended by inserting "or (3) to avoid service of, or contempt proceedings for alleged disobedience of, lawful process requiring attendance and the giving of testimony or the production of documentary evidence before an agency of a State empowered by the law of such State to conduct investigations of alleged criminal activities," immediately after "is charged,".

(b) The second paragraph of section 1073, chapter 49, title 18, United States Code, is amended by inserting immediately after "held in custody or confinement" a comma and adding "or in which an avoidance of service of process or a contempt referred to in clause (3) of the first paragraph of this section is alleged to have been committed,".

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. If there are no amendments to be offered to title III, the Clerk will read.

The Clerk read as follows:

TITLE IV—FALSE DECLARATIONS

Sec. 401 (a) Chapter 79, title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1623. False declarations before grand jury or court

"(a) Whoever under oath in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration or makes or uses any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(b) This section is applicable whether the conduct occurred within or without the United States.

"(c) An indictment or information for violation of this section alleging that, in any proceedings before or ancillary to any court or grand jury of the United States, the defendant under oath has knowingly made two or more declarations, which are inconsistent to the degree that one of them is necessarily false, need not specify which declaration is false if—

"(1) each declaration was material to the point in question, and

"(2) each declaration was made within the period of the statute of limitations for the offense charged under this section.

In any prosecution under this section, the falsity of a declaration set forth in the indictment or information shall be established sufficient for conviction by proof that the defendant while under oath made irreconcilably contradictory declarations material to the point in question in any proceeding before or ancillary to any court or grand jury. It shall be a defense to an indictment or information made pursuant to the first sentence of this subsection that the defendant at the time he made each declaration believed the declaration was true.

"(d) Where, in the same continuous court or grand jury proceeding in which a declaration is made, the person making the declaration admits such declaration to be false, such admission shall bar prosecution under this section if, at the time the admission is made, the declaration has not substantially affected the proceeding, or it has not become manifest that such falsity has been or will be exposed.

"(e) Proof beyond a reasonable doubt under this section is sufficient for conviction. It shall not be necessary that such proof be made by any particular number of witnesses or by documentary or other type of evidence."

(b) The analysis of chapter 79, title 18, United States Code, is amended by adding at the end thereof the following new item:

"1623. False declarations before grand jury or court."

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there any amendments to be offered to title IV? If not, the Clerk will read.

The Clerk read as follows:

TITLE V—PROTECTED FACILITIES FOR HOUSING GOVERNMENT WITNESSES

Sec. 501. The Attorney General of the United States is authorized to provide for the security of Government witnesses, potential Government witnesses, and the families of Government witnesses and potential witnesses in legal proceedings against any person alleged to have participated in an organized criminal activity.

Sec. 502. The Attorney General of the United States is authorized to rent, purchase, modify, or remodel protected housing facilities and to otherwise offer to provide for the health, safety, and welfare of witnesses and persons intended to be called as Government witnesses, and the families of witnesses and persons intended to be called as Government witnesses in legal proceedings instituted against any person alleged to have participated in an organized criminal activity whenever, in his judgment, testimony from, or a willingness to testify by, such a witness would place his life or person, or the life or person of a member of his family or household, in jeopardy. Any person availing himself of an offer by the Attorney General to use such facilities may continue to use such facilities for as long as the Attorney General determines the jeopardy to his life or person continues.

Sec. 503. As used in this title, "Government" means the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof of the cost of maintaining and protecting such witnesses.

Sec. 504. There is hereby authorized to be appropriated from time to time such funds as are necessary to carry out the provisions of this title.

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there ibjection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there any amendments to be offered to title V? If not, the Clerk will read.

The Clerk read as follows:

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TITLE VI—DEPOSITIONS

SEC. 601. (a) Chapter 223, title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3503. Depositions to preserve testimony

"(a) Whenever due to exceptional circumstances it is in the interest of justice that the testimony of a prospective witness of a party be taken and preserved, the court at any time after the filing of an indictment or information may upon motion of such party and notice to the parties order that the testimony of such witness be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place. If a witness is committed for failure to give bail to appear to testify at a trial or hearing, the court on written motion of the witness and upon notice to the parties may direct that his deposition be taken. After the deposition has been subscribed the court may discharge the witness. A motion by the Government to obtain an order under this section shall contain certification by the Attorney General or his designee that the legal proceeding is against a person who is believed to have participated in an organized criminal activity.

"(b) The party at whose instance a deposition is to be taken shall give to every party reasonable written notice of the time and place for taking the deposition. The notice shall state the name and address of each person to be examined. On motion of a party upon whom the notice is served, the court for cause shown may extend or shorten the time or change the place for taking the deposition. The officer having custody of a defendant shall be notified of the time and place set for the examination, and shall produce him at the examination and keep him in the presence of the witness during the examination. A defendant not in custody shall have the right to be present at the examination, but his failure, absent good cause shown, to appear after notice and tender of expenses shall constitute a waiver of that right and of any objection to the taking and use of the deposition based upon that right.

"(c) If a defendant is without counsel, the court shall advise him of his rights and assign counsel to represent him unless the defendant elects to proceed without counsel or is able to obtain counsel of his own choice. Whenever a deposition is taken at the instance of the Government, or whenever a deposition is taken at the instance of a defendant who appears to be unable to bear the expense of the taking of the deposition, the court may direct that the expenses of travel and subsistence of the defendant and his attorney for attendance at the examination shall be paid by the Government. In such event the marshal shall make payment accordingly.

"(d) A deposition shall be taken and filed in the manner provided in civil actions, provided that (1) in no event shall a deposition be taken of a party defendant without his consent, and (2) the scope of examination and cross-examination shall be such as would be allowed in the trial itself. On request or waiver by the defendant the court may direct that a deposition be taken on written interrogatories in the manner provided in civil actions. Such request shall constitute a waiver of any objection to the taking and use of the deposition based upon its being so taken.

"(e) The Government shall make available to the defendant for his examination and use at the taking of the deposition any statement of the witness being deposed which is in the possession of the Government and which the Government would be required to make available to the defendant if the witness were testifying at the trial.

"(f) At the trial or upon any hearing, a part or all of a deposition, so far as otherwise admissible under the rules of evidence, may be used if it appears: That the witness is dead; or that the witness is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or that the witness is unable to attend or testify because of sickness or infirmity; or that the witness refuses in the trial or hearing to testify concerning the subject of the deposition or part offered; or that the party offering the deposition has been unable to procure the attendance of the witness by subpena. Any deposition may also be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness. If only a part of a deposition is offered in evidence by a party, an adverse party may require him to offer all of it which is relevant to the part offered and any party may offer other parts.

"(g) Objections to receiving in evidence a deposition or part thereof may be made as provided in civil actions."

(b) The analysis of chapter 223, title 18, United States Code, is amended by adding at the end thereof the following new item:

"3503. Depositions to preserve testimony."

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The **CHAIRMAN**. Is there objection to the request of the gentleman from New York?

There was no objection.

The **CHAIRMAN**. Are there any amendments to be offered to title VI? If not, the Clerk will read.

The Clerk read as follows:

TITLE VII—LITIGATION CONCERNING SOURCES OF EVIDENCE

Part A—Special Findings

SEC. 701. The Congress finds that claims that evidence offered in proceedings was obtained by the exploitation of unlawful acts, and is therefore inadmissible in evidence, (1) often cannot reliably be determined when such claims concern evidence of events occurring years after the allegedly unlawful act, and (2) when the allegedly unlawful act has occurred more than five years prior to the event in question, there is virtually no likelihood that the evidence offered to prove the event has been obtained by the exploitation of that allegedly unlawful act.

Part B—Litigation Concerning Sources of Evidence

SEC. 702. (a) Chapter 223, title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3504. Litigation concerning sources of evidence

"(a) In any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, or other authority of the United States—

"(1) upon a claim by a party aggrieved that evidence is inadmissible because it is the primary product of an unlawful act or because it was obtained by the exploitation of an unlawful act, the opponent of the claim shall affirm or deny the occurrence of the alleged unlawful act;

"(2) disclosure of information for a determination if evidence is inadmissible because it is the primary product of an unlawful act occurring prior to June 19, 1968, or because it was obtained by the exploitation of an unlawful act occurring prior to June 19, 1968, shall not be required unless such information may be relevant to a pending claim of such inadmissibility; and

"(3) no claim shall be considered that evidence of an event is inadmissible on the ground that such evidence was obtained by the exploitation of an unlawful act occurring prior to June 19, 1968, if such event occurred more than five years after such allegedly unlawful act.

"(b) As used in this section 'unlawful act' means any act the use of any electronic, mechanical, or other device (as defined in section 2510(5) of this title) in violation of the Constitution or laws of the United States or any regulation or standard promulgated pursuant thereto."

(b) The analysis of chapter 223, title 18, United States Code, is amended by adding at the end thereof the following new item:

"3504. Litigation concerning sources of evidence."

SEC. 703. This title shall apply to all proceedings, regardless of when commenced, occurring after the date of its enactment. Paragraph (3) of subsection (a) of section 3504, chapter 223, title 18, United States Code, shall not apply to any proceeding in which all information to be relied upon to establish inadmissibility was possessed by the party making such claim and adduced in such proceeding prior to such enactment.

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that title VII be considered as read, printed in the RECORD, and open to amendment at any point.

The **CHAIRMAN**. Is there objection to the request of the gentleman from New York?

There was no objection.

The **CHAIRMAN**. Are there any amendments to be offered to title VII? If not, the Clerk will read.

The Clerk read as follows:

TITLE VIII—SYNDICATED GAMBLING

Part A—Special Findings

SEC. 801. The Congress finds that illegal gambling involves widespread use of, and has an effect upon, interstate commerce and the facilities thereof.

Part B—Obstruction of State or Local Law Enforcement

SEC. 802. (a) Chapter 73, title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1511. Obstruction of State or local law enforcement

"(a) It shall be unlawful for two or more persons to conspire to obstruct the enforcement of the criminal laws of a State or political subdivision thereof, with the intent to facilitate an illegal gambling business if—

"(1) one or more of such persons does any act to effect the object of such a conspiracy;

"(2) one or more of such persons is an official or employee, elected, appointed, or otherwise, of such State or political subdivision; and

"(3) one or more of such persons conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business.

(b) As used in this section—

"(1) 'illegal gambling business' means a gambling business which—

"(i) is a violation of law of a State or political subdivision in which it is conducted;

"(ii) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

"(iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day.

"(2) 'gambling' includes but is not limited to pool selling, bookmaking, maintaining slot machines, roulette wheels, or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein.

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"(3) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(c) This section shall not apply to any bingo game, lottery, or similar game of chance conducted by an organization exempt from tax under paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1954, as amended, if no part of the gross receipts derived from such activity inures to the benefit of any private shareholder, member, or employee of such organization, except as compensation for actual expenses incurred by him in the conduct of such activity.

"(d) Whoever violates this section shall be punished by a fine of not more than $20,000 or imprisonment for not more than five years, or both."

(b) The analysis of chapter 73, title 18, United States Code, is amended by adding at the end thereof the following new item:

"1511. Obstruction of State or local law enforcement."

Part C— Illegal Gambling Business

Sec. 803. (a) Chapter 95, title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1955. Prohibition of illegal gambling businesses

"(a) Whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business shall be fined not more than $20,000 or imprisoned not more than five years, or both.

"(b) As used in this section—

"(1) 'illegal gambling business means a gambling business which—

"(i) is a violation of the law of a State or political subdivision in which it is conducted;

"(ii) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

"(iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day.

"(2) 'gambling' includes but is not limited to pool selling, bookmaking, maintaining slot machines, roulette wheels or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein.

"(3) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(c) If five or more persons conduct, finance, manage, supervise, direct, or own all or part of a gambling business and such business operates for two or more successive days, then, for the purpose of obtaining warants for arrests, interceptions, and other searches and seizures, probable cause that the business receives gross revenue in excess of $2,000 in any single day shall be deemed to have been established.

"(d) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relating to the seizure, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws; the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person in respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.

"(e) This section shall not apply to any bingo game, lottery, or similar game of chance conducted by an organization exempt from tax under paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1954, as amended, if no part of the gross receipts derived from such activity inures to the benefit of any private shareholder, member, or employee of such organization except as compensation for actual expenses incurred by him in the conduct of such activity."

(b) The analysis of chapter 95, title 18, United States Code, is amended by adding at the end thereof the following new item:

"1955. Prohibition of illegal gambling businesses."

Part D—Commission To Review National Policy Toward Gambling

ESTABLISHMENT

Sec. 804. (a) There is hereby established two years after the effective date of this Act a Commission on the Review of the National Policy Toward Gambling.

(b) The Commission shall be composed of fifteen members appointed as follows:

(1) four appointed by the President of the Senate from Members of the Senate, of whom two shall be members of the majority party, and two shall be members of the minority part;

(2) four appointed by the Speaker of the House of Representatives from Members of the House of Representatives, of whom two shall be members of the majority party, and two shall be members of the minority party; and

(3) seven appointed by the President of the United States from persons specially qualified by training and experience to perform the duties of the Commission, none of whom shall be officers of the executive branch of the Government.

(c) The President of the United States shall designate a Chairman from among the members of the Commission. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(d) Eight members of the Commission shall constitute a quorum.

DUTIES

Sec. 805. (a) It shall be the duty of the Commission to conduct a comprehensive legal and factual study of gambling in the United States and existing Federal, State, and local policy and practices with respect to legal prohibition and taxation of gambling activities and to formulate and propose such changes in those policies and practices as the Commission may deem appropriate. In such study and review the Commission shall—

(1) review the effectiveness of existing practices in law enforcement, judicial administration, and corrections in the United States and in foreign legal jurisdictions for the enforcement of the prohibition and taxation of gambling activities and consider possible alternatives to such practices; and

(2) prepare a study of existing statutes of the United States that prohibit and tax gambling acivities, and such a codification, revision, or repeal thereof as the Commission shall determine to be required to carry into effect such policy and practice changes as it may deem to be necessary or desirable.

(b) The Commission shall make such interim reports as it deems advisable. It shall make a final report of its findings and recommendations to the President of the United States and to the Congress within the four-year period following the establishment of the Commission.

(c) Sixty days after the submission of its final report, the Commission shall cease to exist.

POWERS

Sec. 806. (a) The Commission or any duly authorized subcommittee or member thereof may, for the purpose of carrying out the provisions of this title, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee or member may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such subcommittee or member. Subpenas may be issued under the signature of the Chairman or any duly designated member of the Commission, and may be served by any person designated by the Chairman or such member.

(b) In the case of contumacy or refusal to obey a subpena issued under subsection (a) by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, the district court, at the request of the Chairman of the Commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee or member thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

(c) The Commission shall be "an agency of the United States" under subsection (1), section 6001, title 18, United States Code, for the purpose of granting immunity to witnesses.

(d) Each department, agency, and instrumentality of the executive branch of the Government including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title. The Chairman is further authorized to call upon the departments, agencies, and other offices of the several States to furnish, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title.

COMPENSATION AND EXEMPTION OF MEMBERS

Sec. 807. (a) A member of the Commission who is a Member of Congress or a member of the Federal judiciary shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission.

(b) A member of the Commission who is not a member of Congress or a member of the Federal judiciary shall receive $100 per diem when engaged in the actual performance of duties vested in the Commission plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

STAFF

Sec. 808. (a) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the com-

XUM

petitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(b) In making appointments pursuant to this subsection, the Chairman shall include among his appointments individuals determined by the Chairman to be competent social scientists, lawyers, and law enforcement officers.

EXPENSES

Sec. 809. There are hereby authorized to be appropriated to the Commission such sums as may be necessary to carry this title into effect.

Part E—General Provisions

Sec. 810. Paragraph (c), subsection (1), Section 2516, title 18, United States Code, is amended by adding "section 1511 (obstruction of State or local law enforcement)," after "section 1510 (obstruction of criminal investigations)," and by adding "section 1955 (prohibition of business enterprises of gambling)," after "section 1954 (offer, acceptance, or solicitation to influence operations of employee benefit plan),".

Sec. 811. No provision of this title indicates an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of a State or possession, or a political subdivision of a State or possession, on the same subject matter, or to relieve any person of any obligation imposed by any law of any State or possession, or political subdivision of a State or possession.

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that title VIII be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there any amendments to be offered to title VIII? If not, the Clerk will read.

The Clerk read as follows:

TITLE IX—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

Sec. 901. (a) Title 18, United States Code, is amended by adding immediately after chapter 95 thereof the following new chapter:

"Chapter 96.—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

"Sec.
"1961. Definitions.
"1962. Prohibited racketeering activities.
"1963. Criminal penalties.
"1964. Civil remedies.
"1965. Venue and process.
"1966. Expedition of actions.
"1967. Evidence.
"1968. Civil investigative demand.

"§ 1961. Definitions

"As used in this chapter—

"(1) 'racketeering activity' means (A) any act or threat involving murder, kidnaping, gambling, arson, robbery, bribery, extortion, or dealing in narcotic or other dangerous drugs, which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891–894 (relating to extortionate credit transactions), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), sections 2314 and 2315 (relating to interstate transportation of stolen property), sections 2421–24 (relating to white slave traffic), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), or (D) any offense involving bankruptcy fraud, fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic or other dangerous drugs, punishable under any law of the United States;

"(2) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency or instrumentality thereof;

"(3) 'person' includes any individual or entity capable of holding a legal or beneficial interest in property;

"(4) 'enterprise' includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

"(5) 'pattern of racketeering activity' requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

"(6) 'unlawful debt' means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate;

"(7) 'racketeering investigator' means any attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter;

"(8) 'racketeering investigation' means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter or of any final order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this chapter;

"(9) 'documentary material' includes any book, paper, document, record, recording, or other material; and

"(10) 'Attorney General' includes the Attorney General of the United States, the Deputy Attorney General of the United States, any Assistant Attorney General of the United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter. Any department or agency so designated may use in investigations authorized by this chapter either the investigative provisions of this chapter or the investigative power of such department or agency otherwise conferred by law.

"§ 1962. Prohibited activities

"(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issues, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

"(b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

"(c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

"(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsections (a), (b), or (c) of this section.

"§ 1963. Criminal penalties

"(a) Whoever violates any provision of section 1962 of this chapter shall be fined not more than $25,000 or imprisoned not more than twenty years, or both, and shall forfeit to the United States (1) any interest he has acquired or maintained in violation of section 1962, and (2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over, any enterprise which he has established, operated, controlled, conducted, or participated in the conduct of, in violation of section 1962.

"(b) In any action brought by the United States under this section, the district courts of the United States shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as it shall deem proper.

"(c) Upon conviction of a person under

XUM

this section, the court shall authorize the Attorney General to seize all property or other interest declared forfeited under this section upon such terms and conditions as the court shall deem proper. If a property right or other interest is not exercisable or transferable for value by the United States, it shall expire, and shall not revert to the convicted person. All provisions of law relating to the disposition of property, or the proceeds from the sale thereof, or the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof. Such duties as are imposed upon the collector of customs or any other person with respect to the disposition of property under the customs laws shall be performed under this chapter by the Attorney General. The United States shall dispose of all such property as soon as commercially feasible, making due provision for the rights of innocent persons.

"§ 1964. Civil remedies

"(a) The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

"(b) The Attorney General may institute proceedings under this section. In any action brought by the United States under this section, the court shall proceed as soon as practicable to the hearing and determination thereof. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

"(c) Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee.

"(d) A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

"§ 1965. Venue and process

"(a) Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.

"(b) In any action under section 1964 of this chapter in any district court of the United States in which it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court may cause such parties to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.

"(c) In any civil or criminal action or proceeding instituted by the United States under this chapter in the district court of the United States for any judicial district, subpenas issued by such court to compel the attendance of witnesses may be served in any other judicial district, except that in any civil action or proceeding no such subpena shall be issued for service upon any individual who resides in another district at a place more than one hundred miles from the place at which such court is held without approval given by a judge of such court upon a showing of good cause.

"(d) All other process in any action or proceeding under this chapter may be served on any person in any judicial district in which such person resides, is found, has an agent, or transacts his affairs.

"§ 1966. Expedition of actions

"In any civil action instituted under this chapter by the United States in any district court of the United States, the Attorney General may file with the clerk of such court a certificate stating that in his opinion the case is of general public importance. A copy of that certificate shall be furnished immediately by such clerk to the chief judge or in his absence to the presiding district judge of the district in which such action is pending. Upon receipt of such copy, such judge shall designate immediately a judge of that district to hear and determine action. The judge so designated shall assign such action for hearing as soon as practicable, participate in the hearings and determination thereof, and cause such action to be expedited in every way.

"§ 1967. Evidence

"In any proceeding ancillary to or in any civil action instituted by the United States under this chapter the proceedings may be open or closed to the public at the discretion of the court after consideration of the rights of affected persons.

"§ 1968. Civil investigative demand

"(a) Whenever the Attorney General has reason to believe that any person or enterprise may be in possession, custody, or control of any documentary materials relevant to a racketeering investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such material for examination.

"(b) Each such demand shall—

"(1) state the nature of the conduct constituting the alleged racketeering violation which is under investigation and the provision of law applicable thereto;

"(2) describe the class or classes of documentary material produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

"(3) state that the demand is returnable forthwith or prescribe a return date which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(4) identify the custodian to whom such material shall be made available.

"(c) No such demand shall—

"(1) contain any requirement which would be held to be unreasonable if contained in a subpena duces tecum issued by a court of the United States in aid of a grand jury investigation of such alleged racketeering violation; or

"(2) require the production of any documentary evidence which would be privileged from disclosure if demanded by a subpena duces tecum issued by a court of the United States in aid of a grand jury investigation of such alleged racketeering violation.

"(d) Service of any such demand or any petition filed under this section may be made upon a person by—

"(1) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such person, or upon any individual person;

"(2) delivering a duly executed copy thereof to the principal office or place of business of the person to be served; or

"(3) depositing such copy in the United States mail, by registered or certified mail duly addressed to such person at its principal office or place of business.

"(e) A certified return by the individual serving any such demand or petition setting forth the manner of such service shall be prima facie proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

"(f) (1) The Attorney General shall designate a racketeering investigator to serve as racketeer document custodian, and such additional racketeering investigators as he shall determine from time to time to be necessary to serve as deputies to such officer.

"(2) Any person upon whom any demand issued under this section has been duly served shall make such material available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such person, or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct, pursuant to this section on the return date specified in such demand, or on such later date as such custodian may prescribe in writing. Such person may upon written agreement between such person and the custodian substitute for copies of all or any part of such material originals thereof.

"(3) The custodian to whom any documentary material is so delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return thereof pursuant to this chapter. The custodian may cause the preparation of such copies of such documentary material as may be required for official use under regulations which shall be promulgated by the Attorney General. While in the possession of the custodian, no material so produced shall be available for examination, without the consent of the person who produced such material, by any individual other than the Attorney General. Under such reasonable terms and conditions as the Attorney General shall prescribe, documentary material while in the possession of the custodian shall be available for examination by the person who produced such material or any duly authorized representatives of such person.

"(4) Whenever any attorney has been designated to appear on behalf of the United States before any court or grand jury in any case or proceeding involving any alleged violation of this chapter, the custodian may deliver to such attorney such documentary material in the possession of the custodian as such attorney determines to be required for use in the presentation of such case or proceeding on behalf of the United States. Upon the conclusion of any such case or proceeding, such attorney shall return to the custodian any documentary material so withdrawn which has not passed into the control of such court or grand jury through the introduction thereof into the record of such case or proceeding.

"(5) Upon the completion of—

"(i) the racketeering investigation for which any documentary material was produced under this chapter, and

"(ii) any case or proceeding arising from such investigation,

the custodian shall return to the person who produced such material all such material other than copies thereof made by the Attorney General pursuant to this subsection which has not passed into the control

XUM

of any court or grand jury through the introduction thereof into the record of such case or proceeding.

"(6) When any documentary material has been produced by any person under this section for use in any racketeering investigation, and no such case or proceeding arising therefrom has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General, to the return of all documentary material other than copies thereof made pursuant to this subsection so produced by such person.

"(7) In the event of the death, disability, or separation from service of the custodian of any documentary material produced under any demand issued under this section or the official relief of such custodian from responsibility for the custody and control of such material, the Attorney General shall promptly—

"(i) designate another racketeering investigator to serve as custodian thereof, and

"(ii) transmit notice in writing to the person who produced such material as to the identity and address of the successor so designated.

Any successor so designated shall have with regard to such materials all duties and responsibilities imposed by this section upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred before his designation as custodian.

"(g) Whenever any person fails to comply with any civil investigation demand duly served upon him under this section or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section, except that if such person transacts business in more than one such district such petition shall be filed in the district in which such person maintains his principal place of business, or in such other district in which such person transacts business as may be agreed upon by the parties to such petition.

"(h) Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such custodian a petition for an order of such court modifying or setting aside such demand. The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person.

"(i) At any time during which any custodian is in custody or control of any documentary material delivered by any person in compliance with any such demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section.

"(j) Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section."

(b) The table of contents of part I, title 18, United States Code, is amended by adding immediately after

"95. Racketeering .... 1951"

the following new item:

"96. Racketeer Influenced and Corrupt
Organizations .... 1961"

SEC. 902. (a) Paragraph (c), subsection (1), section 2516, title 18, United States Code, is amended by inserting at the end thereof between the parenthesis and the semicolon ", section 1963 (violations with respect to racketeer influenced and corrupt organizations)".

(b) Subsection (3), section 2517, title 18, United States Code, is amended by striking "criminal proceedings in any court of the United States or of any State or in any Federal or State grand jury proceeding" and inserting in lieu thereof "proceeding held under the authority of the United States or of any State or political subdivision thereof".

SEC. 903. The third paragraph, section 1505, title 18, United States Code, is amended by inserting "or section 1968 of this title" after "Act" and before "willfully".

SEC. 904. (a) The provisions of this title shall be liberally construed to effectuate its remedial purposes.

(b) Nothing in this title shall supersede any provision of Federal, State, or other law imposing criminal penalties or affording civil remedies in addition to those provided for in this title.

(c) Nothng contained in this title shall impair the authority of any attorney representing the United States to—

(1) lay before any grand jury impaneled by any district court of the United States any evidence concerning any alleged racketeering violation of law;

(2) invoke the power of any such court to compel the production of any evidence before any such grand jury; or

(3) institute any proceeding to enforce any order or process issued in execution of such power or to punish disobedience of any such order or process by any person.

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that title IX be considered as read, printed in the RECORD, and open to amendment at any point.

The **CHAIRMAN.** Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. MIKVA

Mr. MIKVA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MIKVA: At line 10, on page 130, of Section 901, add the following after the period: "*Provided*, any such person who brings a frivolous suit, or a suit for the purpose of harassment, shall be subject to treble damages for injury to the defendant, or to his business or property."

Mr. MIKVA. Mr. Chairman, lest some Members may think the bill has been going overly fast, I would assure you that many of the intermediate titles are not controversial and would indeed be supported by every Member if standing by themselves. When we get to titles IX and X, however, we start getting into some situations which are controversial, as those present on the floor yesterday, or those who have read the RECORD or those who have even read the bill will realize. We are here moving very far afield from the traditional concepts of criminal law.

Title IX is the most specific example of that. One of the things title IX does is to make almost all State crimes and most Federal crimes acts of racketeering.

I call attention to pages 122 and 123, in which all kinds of actions are involved. Any violation of the Landrum-Griffin Act, for example, or of the Taft-Hartley Act, under this title IX, becomes an act of racketeering.

Any violations of State law pertaining to gambling, robbery, bribery, or dealing in narcotics become acts of racketeering. Now, there need not be a conviction under any of these laws for it to be racketeering. My amendment has to do with an additional innovation in criminal law which says—and I now call your attention to page 30—that any person injured in his business because somebody has engaged in an act of racketeering in an interstate business may sue in any appropriate U.S. district court and shall recover threefold the damages he sustains and the cost of the suit, including reasonable attorneys' fees.

The advocates of this section will tell you that this is an innovative reference to the antitrust laws. I am all for that. But the trouble with this provision is that a dangerous tool is given to a competitor who wants to go after somebody who is competing too vigorously against him; he can show, for example, that his competition won some money gambling in Las Vegas and took the money and put it into an interstate business. If in the State in which he is engaged in an interstate business, gambling is in violation of the law, then that man is guilty of racketeering under S. 30. In addition to the criminal penalties, any competitor may go in and seek threefold damages, which means that he can literally drive his competitor out of business.

My amendment is a perfecting amendment. I argued that I thought the entire title should be struck. What my amendment says is that at least we ought to protect the innocent businessman from some harsh competitor who seeks to abuse this section by filing frivolous lawsuits against him. I can assure you that anyone who files a lawsuit contending one of his competitors is guilty of racketeering will have injured his competitor. Whether he recovers any money or not, he will have done a pretty good job of besmirching the business reputation of his competitor. This amendment says that if it turns out that the suit is frivolous or filed for the purpose of harassment, the defendant ought to be entitled to recover treble damages for any damage that he suffered to his business or his property.

This is just the other side of the coin. If it is sauce for the goose to say that he ought to have this sort of protection, then we ought to furnish protection for the gander who might get stuck by an aggressive competitor bringing such a suit. No matter how frivolous or harassing the suit might be, once it is brought, a great deal of damage will be done by the suit.

I suggest that this does not change the substance of title IX or answer any of the other serious problems that I have

XUM

with title IX, but at least it takes care of one section and sees to it that we do not let some criminal law be abused by an overzealous competitor.

Mr. Chairman, I urge the adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Mikva).

The question was taken; and on a division (demanded by Mr. Mikva) there were—ayes 22, noes 45.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Biaggi: Page 125, line 20, strike out the word "and," and on page 126, after line 7, insert the following:

"(11) 'Mafia and La Cosa Nostra Organizations' mean nationally organized criminal groups composed of persons of Italian ancestry forming an underworld government ruled by a form of board of directors, who direct or conduct a pattern of racketeering activity and control the national operation of a criminal enterprise in furtherance of a monopolistic trade restraining criminal conspiracy."

Page 127, after line 19, insert the following:

"(e) It shall be unlawful for any person to be a member of a Mafia or a La Cosa Nostra organization."

Page 127, line 22, after the words "of this chapter" insert ", other than subsection (e) thereof,".

Page 129, after line 8, insert the following:

"(d) whoever violates subsection (e) of section 1962 of this chapter shall be fined not more than $5,000 or imprisoned not more than 5 years, or both."

Page 130, after line 16, insert the following:

"(e) Whoever orally or through the use of radio, television, movies, newspapers, magazines, books, letters, circulars, petitions or other media in physical or mechanical form, which travel in interstate commerce, declare a person to be a member of, or an alleged member of, a Mafia or a La Cosa Nostra organization shall, if such declaration is untrue, be liable without proof of special damages, in a civil action commenced by such person in the United States District Courts of any district to which such declaration is transmitted or in which it appears. The making of such a declaration shall be considered defamatory on its face and shall be actionable as liable per se. The person making the declaration shall be liable for general and punitive damages, and if provable, for special damages. Notwithstanding any jurisdictional limitation with respect to the amount in controversy, the United States District Courts shall have legal jurisdiction of civil actions arising under this subsection."

Mr. BIAGGI. Mr. Chairman, the amendment which I have offered, if enacted, will be considered the first effective law enforcement tool to combat the alleged activities of the criminal organizations known as the Mafia and the Cosa Nostra.

Although the organized Crime Control Act we are considering today has, for the most part, some merit, the drafters have deliberately dodged an area of deep concern to law enforcement people and millions of law-abiding Americans of Italian extraction. The bill, in effect, fails to deal with the role of the Mafia and La Cosa Nostra in the total organized crime picture in America.

To correct this glaring deficiency in the bill, my amendment will do the following:

First. It will define, in clear and precise language, "Mafia" and "La Cosa Nostra" as organized national criminal groups engaged in criminal conspiracies to commit overt acts which are now prohibited in existing law and will be prohibited by this bill, if enacted.

Second. It will make membership in these organizations a Federal crime subject to prosecution. However, unlike a bill of attainder, it will inflict no punishment unless and until the full course of due process has been expended.

Third. It will subject those persons who falsely accuse others of membership in Mafia or La Cosa Nostra organizations to libel per se.

Mr. Chairman, I am introducing this amendment for several reasons.

The first is to provide, once and for all, a clear and precise definition of Mafia and La Cosa Nostra which serves as a basis for outlawing membership in these groups.

Such legislation would enable our law enforcement officers across the Nation to combat organized crime more realistically. The need for such a definition is obvious. And it was made more dramatic by the results of a nationwide survey I conducted among Federal law enforcement officials, the State attorneys general, State chiefs of police, police chiefs of the 30 largest cities, all New York State county district attorneys, as well as the newspaper and broadcast media in the 30 largest cities in the United States.

The returns revealed that very few of those who profess to be in the know regarding Mafia and Cosa Nostra operations, have a clear concept of what these organizations are or do.

No more than 30 percent of the law-enforcement officials who responded were able to clearly define these groups. Yet these same men are on the front line combatting organized crime.

Less than half of the newspaper and broadcast media officials were able to offer a definition. Yet, they continue to use the terms daily and indiscriminately to describe criminal activity performed by certain people.

Mr. Chairman, I have also sought to end the broad application of these terms to individual citizens solely because they are Italian or of Italian origin.

Too often such descriptions as "alleged member of the Mafia," or "a reputed Mafia figure," or "a suspected Mafioso figure" appear in print or come over the airways without any substantiation whatsoever.

Although these slurs are usually preceded by qualifying phrases, the innuendo and the intent are clear to the listener or the reader. Those persons that practice such behavior virtually try as well as convict the targets of their declarations—on the spot.

The libel per se provision of my amendment will hopefully put an end to this practice, while at the same time protect the rights of the media to expose criminal activity wherever and whenever it actually exists.

Mr. Chairman, if we continue to treat organized crime in terms of "a secret underworld combine" of Cosa Nostra groups and fail to deal with it forthrightly, we will only further entrench its secrecy and proliferate the ethnic innuendoes that come from the Government, the press, the broadcast media, and a good part of the general public.

What is needed is a firm stand on the part of Congress regarding Mafia and La Cosa Nostra, before organized criminal legislation begins to have meaning. To give our law-enforcement officers an effective tool they so sorely need in their fight against identifiable members of these secret criminal organizations, a legal definition must be provided. Having done this, legislative sanctions against their existence will be feasible.

In effect, by carefully defining what Mafia and Cosa Nostra organizations are, Congress can declare mere membership in these organizations to be a Federal crime.

I know many of my colleagues will raise questions concerning the constitutionality of this amendment. I am sure a previous attempt to outlaw membership in the Communist Party by the Smith Act which was struck down by a Supreme Court decision will be used as an example.

Let me say that my amendment bears no resemblance to that act. In my amendment I define membership in such a way as to eliminate possible action against an individual for anything resembling innocent association.

Instead, my amendment is more closely alined with the conspiracy provisions which are well established in both common and statutory law.

The question of constitutionality will always come up in controversial legislation. Many of my colleagues here had doubts about the constitutionality of the Civil Rights Act of 1964. Yet, that law was passed and has since stood the test of the judiciary.

Many legislators had even more serious doubts about the constitutionality of the Voting Rights Act recently passed along with its controversial 18-year-old voting provision. And it seems that this law will also be sustained in the near future.

We all know that legislation along the lines I am proposing is greatly needed. During the 89th Congress similar legislation was introduced in the Senate, which was never acted on.

I believe my amendment reflects the experience of that previous bill. I am convinced that my amendment will stand the test of judicial process and go on to serve the urgent need of our law-enforcement agencies in their fight against organized crime in America.

Mr. CELLER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have a great respect for the gentleman from New York (Mr. Biaggi), who has just offered the amendment, but I must in good conscience express opposition to its contents.

The amendment is unworkable, vague, and I think it will create a lot of mischief. Its constitutional soundness is highly doubtful.

The definition of the Mafia, or Cosa Nostra, in the amendment contains a

XUM

number of imprecise, uncertain, and unclear terms. For example, what is "nationally organized"? What constitutes a "criminal group"? What does "underworld government" mean? What is a "form of a board of directors"?

All these terms appear in the amendment. This is a criminal statute, and criminal statutes must be precisely drawn.

The definition further requires that the criminal enterprise be in furtherance of a "monopolistic trade-restraining criminal conspiracy." What does that terminology mean?

The amendment will penalize "members," whether they be passive or active; whether they be organizers or hangers-on. Just being a member of this group would be sufficient to get one within the toils of the criminal statute. "Membership" is not defined in the amendment.

I must oppose the amendment because it is riddled with imperfections.

Insofar as the amendment purports to protect against libel or slander, it should be pointed out that it is already actionable defamation to falsely charge another with being a rapist, a robber, a narcotic addict, and so on. But to enact a Federal criminal libel law, based on the imprecise and vague definition in this proposal, raises a number of serious first amendment questions.

We do not have Federal criminal libel law.

I need not belabor the situation longer by saying that I must most regretfully and yet most respectfully decline to accept the amendment, and I hope that it will be voted down.

Mr. POFF. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, if I may have the attention of the author of the amendment, I first want to say that I can appreciate the motivation which prompts him. I hope he will not consider the opposition which has just been expressed by the distinguished chairman of the committee or the opposition I am about to express in any way is intended to be a reflection upon him or upon the motivation which he seeks to serve.

Did I understand the gentleman to say in explanation of the amendment that it was limited in its effect to people of Sicilian extraction?

Mr. BIAGGI. No; I did not say "Sicilian," I said, "Italian ancestry."

Mr. POFF. Then am I correct, that it would apply only to people of Italian ancestry?

Mr. BIAGGI. I think the usage and application of the concept and image that has been created over the decades would and has led everyone to believe, as well as the Senate report and the Director of the FBI's statements and his compilation of "families" in connection with Cosa Nostra and Mafia—has led everyone to believe that we do not have any Martians in that particular group and they are all Americans of Italian ancestry or of Italian ancestry originally from Italy.

I am dealing frontally with a situation that has not been dealt with honestly.

Mr. POFF. Mr. Chairman, I am concerned that such an amendment would raise serious constitutional problems. The Supreme Court has observed that simple membership in an organization is not enough to justify the imposition of criminal sanctions. *Scales* v. *United States*, 367 U.S. 203 (1961). In *Lanzetta* v. *New Jersey*, 306 U.S. 451 (1939), the U.S. Supreme Court struck down a New Jersey statute making membership in a criminal gang a punishable offense. In that case, and in *Robison* v. *California*, 370 U.S. 660 (1962), the Supreme Court indicated that status itself may not be made a basis for a criminal conviction.

Similar legislation, making membership in the Mafia a criminal offense, was introduced in the 89th Congress. The Attorney General of the United States, Mr. Katzenbach, in testifying concerning that bill—S. 2187—before the Senate Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary, recommended that it not be enacted. He stated:

> We are of the view that S. 2187 raises a number of constitutional questions of such substance that at the very least its effectiveness is very likely to be impaired by prolonged litigation. These questions relate primarily to the due process clause of the Fifth Amendment and the scope of the privilege against self-incrimination. Conceivably, First Amendment problems might also be raised since that amendment relates to freedom of association in non-political as well as in political organizations. A principal purpose of S. 2187 as I understand it is to deprive the leaders of the Mafia and of similar syndicates of the service of the underlings through whom they operate. That objective can I hope be achieved through the continued use of such statutes as 18 U.S.C. 371, which makes it unlawful to conspire to violate any federal law, and 18 U.S.C. 1952 which outlaws interstate travel in aid of racketeering enterprises.

Mr. Chairman, enactment of the provisions of S. 30 will certainly assure that that objective may be achieved without the necessity of attempting to make Mafia membership itself a crime.

The curious objection has been raised to S. 30 as a whole, and to several of its provisions in particular, that they are not somehow limited to organized crime—as if organized crime were a precise and operative legal concept, like murder, rape, or robbery. Actually, of course, it is a functional or sociological concept like white collar or street crime, serving simply as a shorthand method of referring to a large and varying group of individual criminal offenses committed in diverse circumstances.

Nevertheless, this line of analysis has a certain superficial plausibility. But if we make a closer examination we see that it is seriously defective in several regards. Initially, it confuses the occasion for reexamining an aspect of our system of criminal justice with the proper scope of any new lesson derived from that reexamination. For example, our examination of how organized crime figures have achieved immunity from legal accountability led us to examine the sentencing practices and powers of our Federal courts. There we found that now our Federal judges, unlike State judges, have no statutory power to deal with organized crime leaders as habitual offenders and give them extended prison terms. Having noted the lack of habitual offender provisions by considering one class of cases, we obviously learned that it was lacking in other classes, too. Is there any good reason why we should not move to meet that need across the board?

The objection, moreover, has practical as well as theoretical defects. Even as to titles of S. 30 needed primarily in organized crime cases, there are very real limits on the degree to which such provisions can be strictly confined to organized crime cases. Many of those provisions, such as title I, deal with the process of investigating and collecting evidence. When an investigation begins, one cannot expect the police to be able to demonstrate a connection to organized crime, or even to know that a connection exists. It is only at the conclusion of the investigation that organized crime involvement can be shown and verified. Therefore, to require a general showing that organized crime is involved as a predicate for the use of investigative techniques would be to cripple those techniques.

Lastly, and most disturbingly, however, this objection seems to imply that a double standard of civil liberties is permissible. S. 30 is objectionable on civil liberties grounds, it is suggested, because its provisions have an incidental reach beyond organized crime. Coming from those concerned with civil liberties in particular, this objection is indeed strange. Have they forgotten that the Constitution applies to those engaged in organized crime just as it applies to those engaged in white collar or street crime? S. 30 must, I suggest, stand or fall on the constitutional questions without regard to the degree to which it is limited to organized crime cases. If the bill violates the civil liberties of those engaged in organized crime, it is objectionable as such. But if it does not violate the civil liberties of those who are engaged in organized crime, it does not violate the civil liberties of those who are not engaged in organized crime, but who nonetheless are within the incidental reach of provisions primarily intended to affect organized crime.

Although I do not criticize, by implication or otherwise, the gentleman's motivation, I must oppose the amendment.

The CHAIRMAN. For what purpose does the gentleman from Illinois rise?

Mr. ANNUNZIO. Mr. Chairman, I move to strike out the requisite number of words.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. ANNUNZIO. I yield to my distinguished friend from New York (Mr. BIAGGI).

Mr. BIAGGI. I thank the gentleman from Illinois (Mr. ANNUNZIO).

The CHAIRMAN. The time of the gentleman from Illinois has expired. He has become seated.

Mr. MOSS. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from California is recognized for 5 minutes.

Mr. MOSS. Mr. Chairman, first, I want to state my high regard for the distinguished gentleman in the well. But I would like to ask him what constitutes

XUM

Italian ancestry? Must all parents and grandparents be of Italian origin or Italian ancestry? What happens when there is an admixture of, let us say, Irish or English, Jewish, or any of the other racial or ethnic groups? What do you mean by Italian ancestry? An Italian name?

Mr. BIAGGI. An Italian name is one thing. Actually, if you go through the whole list and roster, you will not find any but Italian names in that compilation of families and statistics. Of course, we do have intermarriages, but, for the most part, an Italian name is a fair basic rule. The Department of Justice knows what we are talking about. We are talking about ancestry. We are talking about origin; whether it be an Italian name or a name of another type I do not think is binding.

Mr. MOSS. I, of course, agree with the remarks of the distinguished chairman of the committee and the gentleman from Virginia, the very distinguished ranking member or the manager of the committee on the minority side. This is a matter of great concern to me. It would place a stigma upon persons having Italian names. I have far too many close personal friends, far too many constructive constituents of Italian ancestry who would not want to see this kind of brand ever frozen into the statutes of the United States, even though ultimately, as I am confident it would be, it might be stricken down by the courts.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from New York.

Mr. BIAGGI. That is exactly the point. There is an infinitesimal number of wrongdoers in this country. We have had them for decades. There are 22 million Americans of Italian origin, law-abiding citizens, who would like to have the lawless element removed from the face of the Nation. The Government has failed, Congress has failed, America has failed. I realize this is an extreme remedy, but we have a serious malady and it must be dealt with.

Mr. MOSS. Mr. Chairman, I decline to yield further. I realize the deep emotional response the gentleman has, and I think there has been much unfair characterization of the Italian people. But I do not think that this amendment would cure it at all. I think it would aggravate the situation very considerably, and with all the deference I can give the gentleman in recognition of his strong emotional ties and the righteous outrage he expresses, I still say this is the wrong approach, and I urge that the amendment not be adopted.

I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, as I understood the gentleman in the well, I think his intent is one that should be considered. However, sometimes the medication is worse than the disease. I am of Italian extraction, but by the grace of God and an Irishman who could not spell, my name became Dent and not Dente. It was an Irish foreman who just knocked the ending from the name of my grandfather, an Italian name, and it became Dent.

However, I do not believe we can step aside from the fact that the gentleman made one statement that the FBI has these lists. If, as the gentleman from New York says, the FBI has these lists, and there are a small minority, then in my opinion those who do indulge in this must be a small minority of Americans, all Americans. However, if the FBI has these lists, why do we have to proceed with this kind of legislation, when they have the law enforcement within their hands? If the Department of Justice has the lists of these people, the violators, and they have records on them, why does not the Department act?

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, that is exactly the point. The law enforcement people do not have the means to go after them. This amendment, if adopted, would make membership in such an organization a crime, and law enforcement could proceed against them.

Mr. DENT. What does the gentleman give as a criteria for membership—just because of Italian ancestry?

Mr. BIAGGI. Obviously no.

Mr. DENT. That is the only definition in here.

Mr. BIAGGI. The definition I provide in the bill is language stated by the Attorney General of the United States, Mr. Mitchell.

Mr. DENT. Yes; I read that.

Mr. BIAGGI. Let me read from the remarks of Mr. Hoover in 1963.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. DENT. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I yield to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, Mr. Hoover said in 1963:

> "La Cosa Nostra", the secret, murderous underworld combine . . . is no secret to the F.B.I. For several years, it can now be revealed, our agents have penetrated its workings and its leadership. We have learned how it works, where it gets its money, who runs it and makes its decisions, where it is going, how it has changed and is changing from its beginnings 45 years ago to the present day.

In 1969, in testimony before the House Subcommittee on Appropriations, Mr. Hoover stated:

> Our investigations reflect that in the La Cosa Nostra organization there are 26 separate "families" with membership approximating 3,000. These 3,000 in turn control the criminal activities of many times their own number.

Mr. DENT. Yes; I read that.

Mr. BIAGGI. We have a list of 26 families.

Mr. DENT. That is right. I read that. However, does it not seem to the gentleman when he selects just one group, and in the eyes of this particular Member at least, the identification is that they are persons of Italian ancestry? If I remember reading the historical papers called "The Valachi Papers," and I read "The Godfather" and the whole family including the grandmother and the sisters-in-law and all the rest coming from the Valachi papers, I found there was a Jewish outfit in New York that was a parallel to the five families controlling New York. If Members do not believe me, read the Valachi papers. Then there was another group under "Butcher" Buchwald, where I come from, that is not an Italian name.

I do not see that there is anything in the Attorney General's statement that would say he does not want to wipe out this delusion of ours that only persons of Italian extraction are in organized crime. I would say the jails of the United States and the prisons have 10 or 20 to 1 who are not of Italian extraction who belong to an organized body of crime.

What is an organized body of crime? It is any organization that meets together and agrees together to violate the law. The numbers writers in most of our communities are not of Italian extraction, and that is considered to be organized crime and an organized violation of law.

If the gentleman would change that and say anybody who belongs to organized crime shall get this kind of treatment, it would be more applicable. The wording used when there is an article in the papers about Mr. Italian saying he is a member of the Mafiosi, and Cosa Nostra, or whatever you want to call it, saying that he is alleged to be a member.

Under this act he is not a member of organized crime. It is somebody trying to write a story saying the man is alleged to be.

If there is a desire to blacken a man, it is easy to do so. I want to say I appreciate the sincere depth of the feelings of the gentleman from New York, who is one of the best known and was probably one of the straightest law-enforcement agents in the city of New York for many years, and one whom I have admired for many years.

But sometimes, I must say, in our zeal to do something we believe to be good we may be harming a lot of people, a whole lot of people.

There are 26 families, the gentleman says. I do not know how many there are. I have read the books, and most of them are novels. Most of them are now taken from the Valachi papers, and all of them are making a good deal of money.

I can name some, from Puzo's book. I can name the men he is trying to picture in that book, out of the Valachi papers. And, if the gentleman will give the families, I can name the families, because they are so closely related in the stunts and tricks they pull, according to Valachi.

Certainly in the days of prohibition there were serious law violations, and it has continued in a more or less degree. But if there are only 26 families, and the gentleman puts their identity in the RECORD, for goodness sake, the FBI can arrest them, if that is what they want to do.

Name them, but do not cover everybody with the same tar and the same feathers.

XUM

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from New York.

Mr. BIAGGI. In connection with the "alleged" aspect of it, that is incorporated in my amendment.

Mr. DENT. How?

Mr. BIAGGI. On page 2 of my amendment are the words:

> Declare a person to be a member of, or an alleged member of, a Mafia or a La Cosa Nostra organization.

If it is untrue, they are exposed to the same civil liabilities.

Mr. DENT. Not in a newspaper. The gentleman says when a charge is made by a professional police officer of the country, but he is not saying the newsmen. The freedom of the press will certainly come above any amendment like that, any day of the week.

Mr. BIAGGI. The language is:

> Whoever orally or through the use of radio, television, movies, newspapers, magazines, books, letters.

Et cetera, et cetera. We have that included.

The gentleman said that if we enact this we will hurt a number of people. I suggest very strongly that the failure on the part of the Congress to act will hurt to an even greater degree 22 million Americans of Italian origin.

Let us go even further.

Mr. DENT. I am sorry I do not have more time, but with special permission I should like to say I have never felt hurt, because I have never participated in it.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

The question is on the amendment offered by the gentleman from New York (Mr. BIAGGI).

The amendment was rejected.

AMENDMENT OFFERED BY MR. STEIGER OF ARIZONA

Mr. STEIGER of Arizona. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. STEIGER of Arizona: On page 129, line 11, insert ", without regard to the amount in controversy," after "jurisdiction".
>
> On page 130, lines 23 and 24, insert "subsection (a) of" after "under" each time it appears.
>
> On page 130, line 23, strike "action" and insert in lieu thereof "proceeding".
>
> On page 133, lines 6 to 16, strike subsections (c) and (d) and insert in lieu thereof:
>
> "(c) Any person may institute proceedings under subsection (a) of this section. In any proceeding brought by any person under subsection (a) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing of immediate danger of irreparable loss or damage, a preliminary injunction may be issued in any action before a determination thereof upon its merits.
>
> "(d) Whenever the United States is injured in its business or property by reason of any violation of section 1962 of this chapter, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy and shall recover the actual damages sustained by it, and the cost of the action.
>
> "(e) Any person who is injured in his business or property by reason of any violation of section 1962 of this chapter may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.
>
> "(f) The Attorney General may upon timely application intervene in any civil action or proceeding brought under this chapter, if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if it had instituted the action or proceeding.
>
> "(g) A final judgment or decree rendered in favor of the United States in any criminal or civil action or proceeding under this chapter shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.
>
> "(h) Except as hereinafter provided, any civil action under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (d) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of section 1962 of this chapter the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsections (c) and (e) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter."

Mr. CELLER (during the reading). Mr. Chairman, we have no copy of the amendment. Is there a copy in existence?

The CHAIRMAN. Does the gentleman from Arizona have a spare copy of the amendment?

The Chair will advise the gentleman, it is customary to furnish the chairman and the ranking minority member of a committee with copies of amendments. However, in this instance the amendment was printed in the CONGRESSIONAL RECORD for yesterday, October 6, at page 35228.

PARLIAMENTARY INQUIRY

Mr. HALL. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. HALL. For what purpose does the Clerk read the amendment?

The CHAIRMAN. It is the understanding of the Chair, and has been for all through the years, that the Clerk reads the amendment so that the Members may intelligently vote upon it.

Mr. CELLER. Mr. Chairman, I make the point of order that inasmuch as the ranking majority and minority members of the committee were not served with the amendment and the rules require that it be furnished, a point of order is well made to the amendment.

Mr. GROSS. Mr. Chairman, a parliamentary inquiry. Has the amendment been read?

The CHAIRMAN. The Chair desires to respond to the distinguished gentleman from New York (Mr. CELLER).

The Chair must confess that the Chair knows of no such rule in the rules of procedure of the House of Representatives.

The Clerk will continue to read the amendment.

The Clerk concluded the reading of the amendment.

The CHAIRMAN. The gentleman is recognized for 5 minutes in support of his amendment.

Mr. STEIGER of Arizona. Thank you, Mr. Chairman.

I feel very presumptuous about offering an amendment to a Judiciary Committee effort, particularly of this magnitude. I want to make it very clear that I do not claim specific expertise nor a superior expertise. I think the committee produced a genuinely fine document in their effort against organized crime, one that was not overcome by emotion, and so forth. This is a very specific amendment which I have reference to. It is not a figment of my imagination nor a desire to attract some attention.

Mr. Chairman, this amendment has been endorsed by the American Bar Association, it has been endorsed by people who are familiar with the detailed specifics, vis-a-vis jurisprudence in this very narrow field.

Now, in effect, what this amendment does is tell the Judiciary Committee, at least in my view, if nothing else, that they have done an excellent job in permitting the judicial use of those remedies currently enjoyed under the antitrust laws in which a civil action may be filed.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Arizona. I would be happy to yield to the distinguished gentleman from Virginia?

Mr. POFF. Mr. Chairman, I want to pay special tribute to the gentleman in the well for having raised the issue which his amendment defines. It does offer an additional civil remedy which I think properly might be suited to the special mechanism fashioned in title IX. Indeed, I am an author of an almost identical amendment. It has its counterpart almost in haec verba in the antitrust statutes, and yet I suggest to the gentleman that prudence would dictate that the Judiciary Committee very carefully explore the potential consequences that this new remedy might have in all the ramifications which this legislation contains and for that reason, I would hope that the gentleman might agree to ask unanimous consent to withdraw his amendment from consideration with the understanding that it might properly be considered by the Judiciary Committee when the Congress reconvenes following the elections or some other appropriate time.

Mr. STEIGER of Arizona. I thank the gentleman for his suggestion.

I would like to believe that I do not have to be run over by a tank to get the word.

However, Mr. Chairman, I want to make it very clear that the record we are making here is a record of signifiance. It is the intent of this body, I am certain, to see that innocent parties who are the victims of organized crime have a right to obtain proper redress. It is a rather simple approach and one I am sure we can all support under the bill as it now stands they may have this option. I am convinced under the language proposed by this amendment they will have the option. Really, insofar as I am concerned it is just that simple. But rather than risk, maybe, confusion and perhaps defeat in the heat of parochial pride as regards the authorship of this amendment, I am going to make the unanimous-consent request as suggested by the gentleman from Virginia whose significant help and guidance in my decision on this is apparent to everyone. But I would like to make it very clear that this is worthy of separate legislation when we do return in the fall or next year. It represents the one opportunity for those of us who have been seriously affected by organized crime activity to recover.

Mr. Chairman, I ask unanimous consent that I be permitted to withdraw the amendment at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. GOLDWATER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to rise as one of the Members of this body to commend this committee and its distinguished chairman for this much needed legislation on which they have labored hard and which we are considering today.

I was prepared to offer an amendment which I am sure would have the support of all the Members of the House. This amendment would be called the President's award for distinguished law enforcement. In effect, this would be an award presented by the President, in the name of the President and the Congress of the United States, to Federal, State, and local law-enforcement officers, including correction officers, for extraordinary valor in the line of duty or for exceptional contribution in the field of law enforcement. However, I have decided not to offer the amendment at this time in order to keep within the intent of the committee and because of a question of germaneness. This amendment will be offered in the other body to another more appropriate piece of legislation which the House has already acted upon.

The United States of America has long prided itself on recognition of outstanding performance by its citizens, both on the field of battle and for service to the country at home. Two of the most widely known awards, for example, are the U.S. Medal of Honor and the Freedom Award.

Just recently our astronauts were, most deservedly, given special medals by the President as recognition for their perilous journey to the moon and back.

Let us look now at another group of individuals—men who face danger and imminent death every single working day, day in and day out, men who must make split second decisions on their own, decisions on which rest their own lives and the lives of many others.

I am talking, of course, about our law-enforcement officers.

These officers bear the huge burden of keeping the peace, of maintaining the law and order for which the American public cries out. How do they do this?

They walk the streets of some cities with the knowledge that a bullet may snuff out their lives at any minute. They pull over a speeding car—which just happens to contain a criminal who opens fire on them. They try to calm domestic quarrels, the participants in which may turn on them with knives or bottles. They spend long and arduous hours as accountants, tax lawyers, and tracers in an effort to follow the flow of moneys from illegal organized crime into legitimate enterprise, and then must watch helplessly as consumers pay the price of criminal control.

And what awaits them when the actual "working day" is over? Hours spent writing up reports so that some day, some time in the future, another policeman may find his man a little faster. The knowledge that their home life may be interrupted by an emergency call back to duty at any hour of the day or night. The even more terrifying knowledge that some criminal whom they have apprehended may decide to take vengeance on their wives and children. A paycheck which is far too low, considering the hours worked and the danger involved.

Their rewards for these conditions? Epithets such as "pig" and "fascist" spat at them in the streets. Refusal to cooperate or get involved on the part of the ordinary citizen. Charges of police brutality every time a person resists arrest and force must be used to subdue him. The anger of the ordinary citizen who always feels the police should be out catching real criminals instead of picking on him when he breaks the law.

Is it not about time that Congress shows it cares about this dedicated group of men? Is it not time we exercised our leadership and showed that the United States has maintained its tradition of awards for outstanding service? Is it not long past time that we recognized the fight against crime on an individual basis, rather than as a mass of statistics?

Is it not time we recognized individual law-enforcement officials who have put forth an extraordinary effort to fight crime and aid their fellow citizens?

The President's Award for Distinguished Law Enforcement Service would provide the recognition that our police richly deserve. It would show that we care, that the United States of America cares, that action above and beyond the call of duty is still recognized in this country.

It would also serve notice on criminals and racketeers that they can no longer rely on the low status and lack of cooperation afforded the police as shields for their activities.

For the sake of our country, for the sake of a dedicated group of individuals, for the sake of the battle against crime, I am hopeful this recognition will be favorably considered by the conferees and thus establish the President's Award for Distinguished Law Enforcement Service.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE X—DANGEROUS SPECIAL OFFENDER SENTENCING

SEC. 1001. (a) Chapter 227, title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 3575. Increased sentence for dangerous special offenders

"(a) Whenever an attorney charged with the prosecution of a defendant in a court of the United States for an alleged felony committed when the defendant was over the age of twenty-one years has reason to believe that the defendant is a dangerous special offender such attorney, a reasonable time before trial or acceptance by the court of a plea of guilty or nolo contendere, may sign and file with the court, and may amend, a notice (1) specifying that the defendant is a dangerous special offender who upon conviction for such felony is subject to the imposition of a sentence under subsection (b) of this section, and (2) setting out with particularity the reasons why such attorney believes the defendant to be a dangerous special offender. In no case shall the fact that the defendant is alleged to be a dangerous special offender be an issue upon the trial of such felony, be disclosed to the jury, or be disclosed before any plea of guilty or nolo contendere or verdict or finding of guilty to the presiding judge without the consent of the parties. If the court finds that the filing of the notice as a public record may prejudice fair consideration of a pending criminal matter, it may order the notice, sealed and the notice shall not be subject to subpena or public inspection during the pendency of such criminal matter, except on order of the court, but shall be subject to inspection by the defendant alleged to be a dangerous special offender and his counsel.

"(b) Upon any plea of guilty or nolo contendere or verdict or finding of guilty of the defendant of such felony, a hearing shall be held, before sentence is imposed, by the court sitting without a jury. The court shall fix a time for the hearing, and notice thereof shall be given to the defendant and the United States at least ten days prior thereto. The court shall permit the United States and counsel for the defendant, or the defendant if he is not represented by counsel, to inspect the presentence report sufficiently prior to the hearing as to afford a reasonable opportunity for verification. In extraordinary cases, the court may withhold material not relevant to a proper sentence, diagnostic opinion which might seriously disrupt a program of rehabilitation, any source of information obtained on a promise of confidentiality, and material previously disclosed in open court. A court withholding all or part of a presentence report shall inform the parties of its action and place in the record the reasons therefor. The court may require parties inspecting all or part of a presentence report to give notice of any part thereof intended to be controverted. In connection with the hearing, the defendant and the United States shall be entitled to assistance of counsel, compulsory process, and cross-examination of such witnesses as appear at the hearing. A duly authenticated copy of a former judgment or commitment shall be prima facie evidence of such former judgment or commitment. If it appears by a preponderance of the information, including information submitted during the trial of such felony and the sentencing hearing and so much of the presentence report as the court relies upon, that the defendant is a dangerous special offender, the court shall sentence the defendant to imprisonment for an appropriate term not to exceed twenty-five years and not disproportionate in severity to the maximum term otherwise authorized by law for such felony. Otherwise it shall sentence the defendant in accordance with the law prescribing penalties for such felony. The court shall place in the record its findings, including an

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identification of the information relied upon in making such findings, and its reasons for the sentence imposed.

"(c) This section shall not prevent the imposition and execution of a sentence of death or of imprisonment for life or for a term exceeding twenty-five years upon any person convicted of an offense so punishable.

"(d) Notwithstanding any other provision of this section, the court shall not sentence a dangerous special offender to less than any mandatory minimum penalty prescribed by law for such felony. This section shall not be construed as creating any mandatory minimum penalty.

"(e) A defendant is a special offender for purposes of this section if—

"(1) the defendant has previously been convicted in courts of the United States, a State, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency or instrumentality thereof for two or more offenses committed on occasions different from one another and from such felony and punishable in such courts by death or imprisonment in excess of one year, for one or more of such convictions the defendant has been imprisoned prior to the commission of such felony, and less than five years have elapsed between the commission of such felony and either the defendant's release, on parole or otherwise, from imprisonment for one such conviction or his commission of the last such previous offense or another offense punishable by death or imprisonment in excess of one year under applicable laws of the United States, a State, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency or instrumentality thereof; or

"(2) the defendant committed such felony as part of a pattern of conduct which was criminal under applicable laws of any jurisdiction, which constituted a substantial source of his income, and in which he manifested special skill or expertise; or

"(3) such felony was, or the defendant committed such felony in furtherance of, a conspiracy with three or more other persons to engage in a pattern of conduct criminal under applicable laws of any jurisdiction, and the defendant did, or agreed that he would, initiate, organize, plan, finance, direct, manage, or supervise all or part of such conspiracy or conduct, or give or receive a bribe or use force as all or part of such conduct.

A conviction shown on direct or collateral review or at the hearing to be invalid or for which the defendant has been pardoned on the ground of innocence shall be disregarded for purposes of paragraph (1) of this subsection. In support of findings under paragraph (2) of this subsection, it may be shown that the defendant has had in his own name or under his control income or property not explained as derived from a source other than such conduct. For purposes of paragraph (2) of this subsection, a substantial source of income means a source of income which for any period of one year or more exceeds the minimum wage, determined on the basis of a forty-hour week and a fifty-week year, without reference to exceptions, under section 6(a) (1) of the Fair Labor Standards Act of 1938 (52 Stat. 1602, as amended 80 Stat. 838), and as hereafter amended, for an employee engaged in commerce or in the production of goods for commerce, and which for the same period exceeds fifty percent of the defendant's declared adjusted gross income under section 62 of the Internal Revenue Act of 1954 (68A Stat. 17, as amended 83 Stat. 655), and as hereafter amended. For purposes of paragraph (2) of this subsection, special skill or expertise in criminal conduct includes unusual knowledge, judgment or ability, including manual dexterity, facilitating the initiation, organizing, planning, financing, direction, management, supervision, execution or concealment of criminal conduct, the enlistment of accomplices in such conduct, the escape from detection or apprehension for such conduct, or the disposition of the fruits or proceeds of such conduct. For purposes of paragraphs (2) and (3) of this subsection, criminal conduct forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.

"(f) A defendant is dangerous for purposes of this section if a period of confinement longer than that provided for such felony is required for the protection of the public from further criminal conduct by the defendant.

"(g) The time for taking an appeal from a conviction for which sentence is imposed after proceedings under this section shall be measured from imposition of the original sentence.

"§ 3576. Review of sentence

"With respect to the imposition, correction, or reduction of a sentence after proceedings under section 3575 of this chapter, a review of the sentence on the record of the sentencing court may be taken by the defendant or the United States to a court of appeals. Any review of the sentence taken by the United States shall be taken at least five days before expiration of the time for taking a review of the sentence or appeal of the conviction by the defendant and shall be diligently prosecuted. The sentencing court may, with or without motion and notice, extend the time for taking a review of the sentence for a period not to exceed thirty days for the expiration of the time otherwise prescribed by law. The court shall not extend the time for taking a review of the sentence by the United States after the time has expired. A court extending the time for taking a review of the sentence by the United States shall extend the time for taking a review of the sentence or appeal of the conviction by the defendant for the same period. The taking of a review of the sentence by the United States shall be deemed the taking of a review of the sentence and an appeal of the conviction by the defendant. Review of the sentence shall include review of whether the procedure employed was lawful, the findings made were clearly erroneous, or the sentencing court's discretion was abused. The court of appeals on review of the sentence may, after considering the record, including the entire presentence report, information submitted during the trial of such felony and the sentencing hearing, and the findings and reasons of the sentencing court, affirm the sentence, impose or direct the imposition of any sentence which the sentencing court could originally have imposed, or remand for further sentencing proceedings and imposition of sentence, except that a sentence may be made more severe only on review of the sentence taken by the United States and after hearing. Failure of the United States to take a review of the imposition of the sentence shall, upon review taken by the United States of the correction or reduction of the sentence, foreclose imposition of a sentence more severe than that previously imposed. Any withdrawal or dismissal of review of the sentence taken by the United States shall foreclose imposition of a sentence more severe than that reviewed but shall not otherwise foreclose the review of the sentence or the appeal of the conviction. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence. Any review of the sentence taken by the United States may be dismissed on a showing of abuse of the right of the United States to take such review.

"§ 3577. Use of information for sentencing

"No limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence.

"§ 3578. Conviction records

"(a) The Attorney General of the United States is authorized to establish in the Department of Justice a repository for records of convictions and determinations of the validity of such convictions.

"(b) Upon the conviction thereafter of a defendant in a court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof for an offense punishable in such court by death or imprisonment in excess of one year, or a judicial determination of the validity of such conviction on collateral review, the court shall cause a certified record of the conviction or determination to be made to the repository in such form and containing such information as the Attorney General of the United States shall by regulation prescribe.

"(c) Records maintained in the repository shall not be public records. Certified copies thereof—

"(1) may be furnished for law enforcement purposes on request of a court of law enforcement or corrections officer of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof;

"(2) may be furnished for law enforcement purposes on request of a court or law enforcement or corrections officer of a State, any political subdivision, or any department, agency, or instrumentality thereof, if a statute of such State requires that, upon the conviction of a defendant in a court of the State or any political subdivision thereof for an offense punishable in such court by death or imprisonment in excess of one year, or a judicial determination of the validity of such conviction on collateral review, the court cause a certified record of the conviction or determination to be made to the repository in such form and containing such information as the Attorney General of the United States shall by regulation prescribe; and

"(3) shall be prima facie evidence in any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof, that the convictions occurred and whether they have been judicially determined to be invalid on collateral review.

"(d) The Attorney General of the United States shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing regulations under this section."

(b) The analysis of chapter 227, title 18, United States Code, is amended by adding at the end thereof the following new items:

"3575. Increased sentence for dangerous special offenders.
"3576. Review of sentence.
"3577. Use of information for sentencing.
"3578. Conviction records."

Sec. 1002. Section 3148, chapter 207, title 18, United States Code, is amended by adding "or sentence review under section 3576 of this title" immediately after "sentence".

Mr. CELLER (During the reading). Mr. Chairman, I ask unanimous consent that title X be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. DENNIS

Mr. DENNIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DENNIS: page 147, line 22, strike out the words "or the United States";

Strike out all that part of line 23 following the period after the word "appeals" in said line 23;

Strike out all of lines 24 and 25

Page 148, strike out all of line 1;

Strike out from the beginning of line 2 through the word "prosecuted" proceeding the period in said line 2;

Strike out the words "the court" at the end of line 5;

Strike out lines 6 through 13, inclusive, in their entirety;

Strike out line 25 and substitute therefor the following: "may not be made more severe upon review than that previously imposed."

Page 149, strike out all of lines 1 through 13, inclusive, in their entirety and insert in lieu thereof the following: "The court of appeals shall state in writing the reasons for its disposition of the review of the sentence."

Renumber the remaining lines and pages accordingly.

The CHAIRMAN. The gentleman from Indiana (Mr. DENNIS) is recognized.

Mr. DENNIS. Mr. Chairman, what this amendment does is simply to strike out of title X, the "Dangerous Special Offender Sentencing" title, the provision for appeal by the Government of the United States. That is what it does—that is all it does.

Title X in general provides, as the committee knows, that if the U.S. district attorney files a notice with the court saying that a defendant in a particular criminal prosecution is a dangerous special offender—as that is rather broadly defined in this bill—that thereafter if the defendant is convicted of the felony charged against him, there is a separate hearing before the court, sitting without a jury, to determine whether or not this man is in fact such a dangerous special offender.

If the court so finds, the court shall sentence him up to 25 years—although the offense to begin with might perhaps take only a penalty of 2 or 3 years.

That in itself is a sufficiently vigorous and rigorous section which has definite constitutional and policy questions in it. But it goes beyond that. It further provides that the defendant or the Government may take an appeal from that position. If the Government appeals, either from a decision by the trial court that the man is not in fact a special offender and is not subject to this procedure, or from the sentence imposed—on appeal by the Government, as the bill is drawn, the court of appeals can reverse the finding by the trial court that the man is not a special offender subject to these provisions—or if he was sentenced, the court of appeals may increase the penalty.

Now that is a provision that is practically unknown, so far as I know, to our jurisprudence heretofore. It does contain very serious constitutional questions in my judgment dealing with double jeopardy and with due process of law.

This is particularly true in my opinion if the trial court makes a finding that this man is not a special offender and is not subject to this extra sentence. Because then you have a finding—you have a finding that he is not such an offender. Yet, you retry that question of fact on appeal before the court of appeals, without a jury and on the record itself, which can contain probation reports and hearsay of that kind. You come very close to retrying the man after he has been once acquitted, and I think that is double jeopardy under the Constitution, and I doubt that it is due process of law.

In addition to these constitutional considerations, we have a very serious policy consideration, because the Government, if it wanted to, could use this procedure to chill a perfectly legitimate appeal. The Government could say, "Well, you take an appeal from the sentence, we will take one, and maybe increase your penalty." The Government could even say, "If you take an appeal from your original conviction, we will file one of these notices." The defendant may have a perfectly legitimate ground for an appeal from his original conviction, and I do not think he should be subjected to that hazard. He should not have to take that risk in order to prosecute that appeal.

I know the temper of the House, I think, and I know the fate of amendments today, and the way this has been going. But I just suggest to the Members that you do not have to abdicate everything you know, or vacate commonsense, for anybody's program. I am suggesting to you that this is not an extreme amendment. It is a very, very mild, very conservative amendment. As a matter of fact, I am trying to save the constitutionality of this bill, and I think if the amendment were adopted, I might be able to do so, as far as title X is concerned; and the people supporting the bill, as I do—and I am going to vote for the bill regardless of what happens to my amendment, as I said earlier—ought to be supporting this amendment, because it is an amendment that would greatly help to make this bill conform to the Constitution of the United States.

The CHAIRMAN. For what purpose does the gentleman from Virginia rise?

Mr. POFF. Mr. Chairman, I rise in most vigorous opposition to the amendment.

The CHAIRMAN. The gentleman from Virginia is recognized.

Mr. POFF. Mr. Chairman, I hope that no one will be beguiled by the fluency and the erudition of my distinguished friend from Indiana. The amendment most certainly is not an inconsequential amendment. On the contrary, it is far-reaching in its impact, and I most urgently implore that it be defeated.

It is argued that to give the Government the right to appeal the judge's finding that the defendant is not a dangerous special offender is to put the defendant twice in jeopardy. The case cited most often in support of this argument is Green against United States.

The Green case is good law, but it has no relevance to the sentencing and appellate review provisions of title X.

Green holds that the double jeopardy clause forbids the relitigation of an acquittal of the greater related offense—first degree murder—when the defendant has been convicted of a lesser included offense—second degree murder.

The Green decision would be relevant only if finding the defendant a special offender is the equivalent of a conviction for a separate offense and a negative finding the equivalent of an acquittal. But it is not. On the contrary, the finding of special offender criteria is nothing more than a finding that the defendant deserves a greater sentence than is ordinarily available. It is the same kind of finding the judge is required to make under the law today when, following a jury verdict of guilty, he sets about to determine whether to impose the maximum sentence or some lesser sentence. In making the determination, the judge today considers information—not evidence but information—concerning mitigating or aggravating circumstances. Special offender criteria simply spell out one form of aggravating circumstances which justifies a higher sentence.

Accordingly, the double jeopardy clause does not forbid the appellate court from reversing the trial court's finding that the defendant is not a special offender.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. POFF. I yield to the distinguished Chairman.

Mr. CELLER. I wish at this point to embrace the argument that the gentleman from Virginia is making in opposition to the pending amendment.

Mr. POFF. I thank the gentleman.

Let me say at this point that opponents make three arguments about sentence increases: First, that an appellate court increase in the trial judge's sentence violates the due process clause; second, that it violates the double jeopardy clause; and third, that the threat of a sentence increase discourages defendants from seeking appellate review.

Opponents cite in support of the due process argument the case of *North Carolina* v. *Pearce*, 395 U.S. 711 (1969). Pearce holds that due process forbids exposing a defendant who appeals his conviction to the risk of a sentence increase unless the increase is justified by misconduct following the initial sentencing. For two reasons, Pearce is inapplicable to a title X defendant. First, title X does not permit the appellate court to increase the sentence on the defendant's appeal. Second, the requirement in Pearce that an increase in sentence must be predicated upon misconduct following the initial sentencing was designed to protect the defendant from a vindictive trial judge. The Pearce case involved a retrial following reversal and remand. Reversed trial judges might be tempted to impose a higher sentence in the second trial. But in the title X situation, there is no temptation to vindictiveness. Title X involves only appellate judges reviewing the propriety of the initial sentence.

As for the double jeopardy argument,

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it is sufficient to quote only one sentence from the Pearce decision:

> Long-established constitutional doctrine makes clear that, * * * the guarantee against double jeopardy imposes no restrictions upon the length of a sentence imposed upon reconviction.

With respect to the third argument, it must first be clearly understood that title X does not give the Government the right to appeal an acquittal. The Government can appeal only a negative finding on the special offender charge and the propriety of the sentence imposed. Yet, it is said that the potential for government appeal and the possibility of a sentence increase will frighten the defendant out of taking an appeal.

Not so. The Government's right to take a sentence review must be exercised at least 5 days before expiration of the defendant's appeal deadline, but it is argued that the Government will subvert that safeguard simply by filing an appeal in every case. For three reasons, the Government will do no such thing. First, title X specifically provides that the Government appeal can be dismissed on a showing of abuse on the right of review. Second, title X specifically provides that if the Government takes an appeal and later withdraws it, the sentence cannot be increased. Third, title X specifically provides that an appeal by the Government will automatically become a full defendant's appeal as well; the Government is not likely to file an intimidation appeal if the Appellate Court is thereby empowered not only to reduce the sentence but to reverse the conviction itself.

Mr. CONYERS. Mr. Chairman, I rise in support of the amendment.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, if the gentleman from Virginia will answer me, I would like to ask this question. Will the gentleman agree that there surely is a distinction between a case where the trial court has had a hearing and found that the man is not a special offender at all and a case where the court is merely determining an appropriate sentence? When in the first case the court of appeals is retrying those questions of fact, it is not simply a question of determining an appropriate sentence. The question then is whether the defendant is a special offender.

Mr. POFF. If the gentleman will yield, bearing on the question, of course, is the propriety of the judge's refusal or consent to consider the information offered. That most properly should be subject to review by the appellate court.

Mr. DENNIS. I would not say I am certain this is unconstitutional. The point I am making is that there is a very serious constitutional question. These provisions cannot be equated with a mere sentencing procedure, which, I think, was the suggestion made in the gentleman's previous remarks.

Mr. POFF. Mr. Chairman, if the gentleman will yield again, I hope my friend, the gentleman from Indiana, does not misinterpret anything I have said. I have not in any way intended to challenge the good faith of his argument. It is a most respectable argument. It is a matter about which reasonable men can reasonably disagree, and I respectfully disagree with the gentleman's argument.

Mr. DENNIS. If the gentleman will yield further, I will say the same regarding the argument of my good friend, the gentleman from Virginia. But I likewise must respectfully disagree.

Mr. CONYERS. Mr. Chairman, we have had a discussion of what has been characterized by a friend of mine on the Judiciary Committee as a very conservative amendment. I want to go on record as supporting this conservative amendment. I think it tries to add some validity to the question of constitutionality. I think he has handled it very well. A number of us have been disturbed about this particular feature, but I think the question goes beyond the question of constitutionality.

I should like for us to remember, that is the lowest limit for us to consider. If it is a matter of being constitutional or unconstitutional, that is a very easy question for us to examine. But the question of policy has been introduced. On that score I believe there can be very little room for debate.

I believe the introduction of this opportunity for the U.S. attorney to appeal will without doubt work an irreparable injury on the defendant's right to appeal. It is clearly a harassing technique that is now being introduced into Federal law to be made applicable in all Federal jurisdictions without really too much examination on the part of those Members who will have to be called on to answer this.

We do not need it. We do not need it because the problem in acquiring more and heavier sentencing does not turn upon this right to appeal. The judges can sentence to the full limits of the sentencing within the range of the crime committed.

What we are doing here is opening up a way to preclude Federal criminal appeals on the part of the defendant, and it will in no way help reduce the corrupt criminal activity that goes on.

My friend from Virginia is at least not at the present time relying on a case we have discussed as recently as 2 weeks ago, when the special dangerous offenders subject came up on another bill; that is to say, the case of Williams against New York. I am happy to hear at least at this point it is not being relied on.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. WIGGINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Virginia.

Mr. POFF. I thank the gentleman for yielding.

I merely wanted an opportunity to respond to the point urged by my friend from Michigan concerning the possibility that the procedures outlined in this title somehow chill a defendant's desire to perfect an appeal. There are safeguards carefully written into the title which negate that argument.

First of all, the Government's right to take a sentence review must be exercised at least 5 days before expiration of the defendant's appeal deadline.

It is also argued by my friend that the Government will somehow subvert that safeguard simply by filing an appeal in every case. For three reasons the Government will do no such thing.

First, title X specifically provides that the Government appeal can be dismissed on a showing of abuse of that right.

Second, title X specifically provides that if the Government takes the appeal and later withdraws it, then the sentence cannot be increased.

Third, title X specifically provides that an appeal by the Government will automatically become a full defendant's appeal as well. I make the point that the Government is not likely to file an intimidation appeal if the appellate court is thereby empowered not only to reduce the sentence but also to reverse the conviction for the felony as well. I say that the gentleman's fear is not well founded.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield briefly to the gentleman from Indiana.

Mr. DENNIS. I should like to point out that it is obvious, if the gentleman will forgive me, that this governmental right to appeal is a club over the head of the defendant when he contemplates appeal.

This has concerned other people. I am not alone in this. I should like to quote from the commentary by the Advisory Committee of the American Bar Association, on Standards Relating to Appellate Review of Sentences. The commentary says:

> A much more serious problem could be created by giving the state the power to seek an increase on appeal. The existence of such power could well have the effect of preventing the defendant from appealing even on the merits of his conviction. The ability to seek an increase could be a powerful club, the very existence of which—even assuming its good faith use—might induce a defendant to leave well enough alone.

Now, I am not suggesting that is an official position of the American Bar Association. I understand, as the gentleman from Virginia has advised me, that the latest action of that organization is a vote of the Board of Governors approving title X. Nevertheless, this is a commentary by a very skillful committee of that association appointed to establish standards for this very question. The point I am making is that a lot of conservative lawyers like myself feel this way about it.

Mr. POFF. Mr. Chairman, will the gentleman yield to me?

Mr. WIGGINS. I am glad to yield to the gentleman from Virginia.

Mr. POFF. In response to what the gentleman said, I think it would be appropriate, under leave granted on yesterday, Mr. Chairman, to insert the remarks which I made in general debate yesterday at this point in the RECORD. Those remarks include the text of a letter dated October 2, addressed to me by the president of the American Bar Association, which indeed says that the

American Bar Association does endorse the procedure of title X, including the opportunity for the Government to obtain an increase.

The letter is as follows:

AMERICAN BAR ASSOCIATION,
Washington, D.C., October 2, 1970.

RICHARD H. POFF,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN POFF: This letter is submitted in response to the request which you made of Mr. Donald E. Channell, Director of our Washington, D.C. office, concerning the provisions of Title X of "The Organized Crime Control Act of 1969" upon which I testified before Subcommittee No. 5 of the House Judiciary Committee.

As I understand it, your inquiry had specific reference to the position of the American Bar Association regarding those provisions of Title X which authorized the Government to take review of a sentence and obtain an increase upon such appeal. This particular point was brought up in my testimony at page 483 of the typewritten transcript. Additionally, I elucidated the ABA position by furnishing amplification in my letter of September 11, 1970 to Chairman Celler, which was in response to a request to supply a further statement concerning certain discussions which occurred during my testimony.

I believe the complete answer to your inquiry would be contained in the material beginning on page 4 and ending on page 5 of my letter to Congressman Celler. For your ready reference I quote that portion herein:

"The provisions of title X which authorize the government to take review of a sentence and obtain an increase are fully supported by the ABA, which proposes no amendments to those provisions. It is true, as I tried to indicate in response to questions of the committee counsel during my testimony, that the *Standards for Criminal Justice* of the ABA do not themselves offer affirmative support for the concept of government review of sentencing. (Type-written transcript at 483.) It is equally true, on the other hand, that the *Standards* support sentence increase on review taken by a defendant, and are silent on the question whether review and increase at the instance of the government should be permitted. (Project on Minimum Standards for Criminal Justice, *Standards Relating to Appellate Review of Sentences* §§ 3.2, 3.3 (Approved Draft, 1968).)

The commentary to the *Standards on Appellate Review of Sentences* suggests disapproval of appellate review of sentences at the instance of the government. (*Id*. at 56, Supplement at 3.) The commentary, however, has not been approved by the Board of Governors or the House of Delegates of the ABA, and does not state ABA policy.

The decision made by the ABA when the *Standards on Appellate Review of Sentences* were adopted, to endorse sentence increase on review taken by a defendant and to take no position on review taken by the government, was made on the assumption that case law existing at that time established the constitutionality of sentence increase on review taken by a defendant, but did not answer the question of the constitutionality of review taken by the government. On that assumption, the position taken by the *Standards* seemed the surest way of providing that sentences would be open to increase on review, and was adopted by the ABA. Subsequently, however, the Supreme Court decided two cases (*Price* v. *Georgia,* 7 Crim. L. Rptr. 3103 (1970); *North Carolina* v. *Pearce,* 395 U.S. 711 (1969)) strongly indicating that sentence review at the instance of the government as provided in title X is constitutional.

It was with those cases in mind, as well as earlier decisions (*e.g., Green* v. *United States,* 355 U.S. 184 (1957); *Kepner* v. *United States,* 195 U.S. 100 (1904)), that the Board of Governors adopted its position on the appellate review provisions of title X. The resolution adopted by the Board, which already is in the record of the Subcommittee's hearings, makes no reference to the *Standards on Appellate Review of Sentences,* and approves title X's appellate review provisions without exception or amendment. That approval of sentence increase on sentence review taken by the government constitutes the sole occasion on which the ABA has taken a position on that issue, and unequivocally supports the concept as well as the specific provisions of title X. There is thus no difference between title X as passed by the Senate and ABA policy concerning appellate review of sentences at the instance of the government."

The foregoing, of course, is based upon S. 30 as it passed the Senate. I am not aware of what changes, if any, might have been made by the House Judiciary Committee with regard to the particular provision of Title X on which your question was based. However, I am assuming that if there were any changes they would not alter the principle on which the above quoted material is based.

Sincerely,

EDWARD L. WRIGHT.

Mr. WIGGINS. Mr. Chairman, I will yield to the gentleman from Michigan at the conclusion of my remarks, which I assure you will be very brief.

I oppose this amendment by my colleague from Indiana on the Judiciary Committee, and it pains me a bit to do so, because I know him to be a very competent constitutional scholar. He raises some difficult constitutional questions that bother me, but constitutional questions are seldom, if ever, easily resolved.

I think the membership should know a full committee of lawyers, all good constitutional scholars, have given a great deal of thought to this subject and have resolved that the approach taken by the committee is good law.

Let me say at the crux of the matter, in my opinion, is the view on which some people hold different opinions; namely, whether or not the post-conviction procedure constitutes a separate offense. If a party holds the view that the special offender sentencing provision is a separate offense, then certain legal consequences flow from that. If, on the other hand, one takes the view that it is really part of the sentencing procedure for the principal offense, then other consequences flow. It is my opinion that the question is not free from doubt, but under all of the circumstances the latter view is the better.

Mr. RYAN. Mr. Chairman, I support the amendment for the reasons I set forth yesterday in my remarks; and I commend the gentleman from Indiana for having recognized the very grave constitutional questions involved in granting the Government the right to appeal not only the term of a sentence but a trial court's finding that a defendant is not a dangerous special offender.

I yield to the gentleman from Michigan for any comments he desires to make.

Mr. CONYERS. May I point out that the committee from which the gentleman from Indiana quoted involving the American Bar Association was the committee that studied this provision. They were unhappy with title X. The letter that the gentleman from Virginia cites—and we all acknowledge very clearly that the American Bar Association has gone on record as endorsing it—is from the president of the ABA and is not supportive of the bar committee views quoted by the gentleman from Indiana. They are two different legal viewpoints.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. Not at this point.

I would point out that the reservations of the committee within the ABA still obtain. The leadership in their letter have decided apparently to do something differently.

Mr. POFF. Will the gentleman yield for a correction?

Mr. CONYERS. I cannot right now.

The CHAIRMAN. The Chair would like to advise that the gentleman from New York (Mr. RYAN) has the floor.

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Virginia for a question?

Mr. RYAN. Mr. Chairman, I have yielded to the gentleman from Michigan and, when he has completed his statement, I shall be glad to yield to the gentleman from Virginia.

Mr. CONYERS. I thank the gentleman from New York.

Mr. Chairman, I think it is about time that in the welter of Supreme Court cases and prior opinions that have been cited about title X, I am happy to say that the Members at least acknowledge that this is a knotty constitutional question.

The whole issue of special offender sentencing has never been reviewed directly by a court; neither the Supreme Court or any other court has ever ruled on this question. There is no precedent for special offender sentencing, except through certain recidivist statutes that exist in State law. So, the lawyers of the bar are in disagreement about it and I might state further that all of the cases that any member of the judiciary committee may cite are only by indirection.

We have never had a judicial ruling. I think the gentleman from Indiana is very properly concerned because the special offender sentencing is without precedent.

Now, with reference to the Williams against New York case, a U.S. Supreme Court case cited by the gentleman from Virginia only a week before last, was a case handed down in 1941. I asked the gentleman for the citation as I recall and I am happy to report to him and to the other Members that that case has been reviewed 3 years ago by the Supreme Court in the case of Specht against Patterson. By analogy it suggests that the rules of evidence that have been fashioned for criminal trials narrowly confine the trial to evidence that is strictly relevant to the particular offense charged. A sentencing judge, however, is not confined to the narrow issue of guilt. And his task, within fixed statutory lim-

XUM

its is to determine the type and extent of punishment after the case has been determined. That, it seems to me, is the distinction that we are trying to make.

I submit to you that the special offenders sentencing provision is one which is in effect a second trial which can impose up to 25 years.

The CHAIRMAN. The time of the gentleman from New York (Mr. RYAN) has expired.

Mr. SMITH of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I shall be glad to yield to the gentleman from Virginia.

Mr. POFF. Mr. Chairman, *Specht* v. *Patterson*, 386 U.S. 605 (1967), is not relevant to the dialog that preceded this colloquy. I quote specifically from page 608 of that decision: "We adhere to Williams against New York, supra."

The Court in Specht made that point after quoting at length from the opinion in the Williams case.

But with respect to the point made earlier by the gentleman in connection with the American Bar Association, the letter to which I made reference is from the president of the American Bar Association. However, in the letter reference is made to the resolution adopted on July 15 by the Board of Governors of the American Bar Association which specifically and unequivocally endorsed title X, including the right of review by the Government and the right of increase of sentences upon review by the Government.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Michigan.

Mr. CONYERS. May I point out to my friend from Virginia that neither the president of the American Bar Association nor the board of governors that made that decision constituted the committee that the gentleman from Indiana cites. It is the committee whose language that disturbs him as well as me who studied the provisions and brought them to the board of governors which then resulted in the president of the American Bar Association issuing the letter that the gentleman from Virginia cites.

Mr. POFF. The gentleman from Michigan is correct. The language cited by the gentleman from Indiana was from the commentary to the Standards Relating to Appellate Review of Sentences and was not an official recommendation. That is to say, it was not approved either directly or indirectly by the house of delegates of the American Bar Association or by the board of governors of the American Bar Association, or for that matter any other official unit of the American Bar Association. It was a commentary of the scholars reporting the view of the committee, as the gentleman says.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I thank the gentleman for yielding so that I may get back into this very interesting discussion.

I would like to say that I believe that it is not a question of whether or not you should have title X at all, which my friend, the gentleman from Michigan (Mr. CONYERS), is posing. That question must be answered by determining whether title X is more analogous to Williams against New York than it is to Specht against Patterson.

But the thrust of my amendment is less sweeping. That is why I say that although I agree that it is important, it is rather mild. For I do not try to strike title X. I try only to eliminate the Government's right to appeal. That is all. This is a mild, conservative approach.

If you give the Government one "bite" at proving that a man is a dangerous special offender to imprison him for up to 25 years, why should the Government, when it fails, be able to go up to the court of appeals and do it all over again on a cold record? That is my point.

Mr. SMITH of New York. Mr. Chairman, I urge that this amendment be voted down.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. DENNIS).

The question was taken; and on a division (demanded by Mr. DENNIS) there were—ayes 23, noes 40.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Amend S. 30 by striking the dash at the end of line 15 on page 144 and "(1)" at the beginning of line 16 on the same page; by striking lines 12 through 24 on page 145; by striking on page 146 at the end of line 4 the words "In support" and all of lines 5 through 25 on that page; and by striking lines 1 through 13 on page 147.

Mr. ECKHARDT. Mr. Chairman, what this amendment does is to strike those elements of what is called the dangerous special offenders sentencing provision, which call for proof of additional facts before the court without a jury and without the defendant ever having an opportunity to have had the case adjudicated before a jury.

You will recall in general debate that the author of the language in title X, the gentleman from Virginia (Mr. POFF) had explained to us there were two ways in which this special sentencing procedure is activated. First, by showing that the defendant has been engaged in crimes which resulted in convictions in court under certain provisions, and second, establishing the existence of another set of activating forces that include additional factual elements constituting the basis for the sentencing.

It is with respect to this second group of activating facts that I quarrel because with respect to this second group, there is never an opportunity for a jury trial. I maintain that this is unconstitutional and I think there is absolutely no doubt that the Constitution preserves to a person the right to try every element of that which will make his sentence a greater one than it could have been under the crime for which he was convicted.

I want to explain what the Williams case holds and what it does not hold. The Williams case is a murder case. Therefore, in the Williams case the court had the entire sweep of sentencing that a murder conviction invokes, all the way to the death penalty.

Let us imagine the kind of case that would have been authority for the proposition that the distinguished gentleman from Virginia seeks to support under the Williams case. If the Williams case were apposite, it would have had to deal with facts very different from those it actually involved. Williams would have been convicted, say, of manslaughter. Let us say, he got into a fight in an apartment flat and carried the fight to the point where his opponent was completely subdued and he stomped his opponent after which the man died. Perhaps the maximum sentence for that would be 20 years for manslaughter.

Now does anyone for a moment believe the Supreme Court would have upheld a State statute or a Federal statute, for that matter, which permitted the judge to listen to evidence to the effect that Williams in that fight was in the course of committing felony burglary and, therefore, because the homicide occurred in the course of a felony that he is now guilty of murder and the court may then elevate the sentence to the death penalty? If that were what the Williams case involved—if those were the facts of the Williams case, then the case would support the proposition he cites it for: That additional and new facts to support another kind of crime and another kind of punishment would be permitted to be proved without a jury, without cross-examination and without confrontation.

But those were not the facts of the Williams case. All that the Williams case said is that when a man is convicted before a jury of an offense for which the judge could give a sentence of death in the first place, he can hear matters which determine whether or not he will give the maximum sentence or some lesser sentence. It does not permit the judge to elevate the nature of the crime or to activate a new kind of broader sentence or a new kind of category in which the accused is placed so that he can receive a greater sentence than that applicable to the crime of which he was found guilty by the jury.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was rejected.

Mr. ICHORD. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Missouri is recognized.

Mr. ICHORD. Mr. Chairman and Members of the Committee, the measure that we have before us this afternoon is a long and complicated bill designed to increase the capability of the Federal

XUM

Government to effectively combat organized crime within the Nation. I share some of the doubts that have been expressed about this measure as to the efficacy and the propriety of some of its provisions, and I do want to subject them to close examination. But the measure over all appears to me to be an earnest and a sincere effort to meet a very difficult problem for which I congratulate the chairman, the ranking member, and the members of the Judiciary Committee.

I do not consider the arguments valid that have been projected against the bill by some of the opposition to the effect that it does not bore in on the problem of crime in the streets, and that the committee is using the passions of the moment to pass an unconstitutional, far-reaching measure. This, as I stated, is a bill dealing with organized crime, and the opponents well know that the Federal Government is quite limited in any direct approach boring in on the problem of crime on the streets, if we are going to preserve the principle that the primary responsibility for the keeping of the peace lies with local law-enforcement officials. The Federal Government could possibly move into the field of keeping the peace in St. Louis, Chicago, New York, and so forth, but it does no good to pass a law if you do not enforce it. To enforce such laws we would need a national police force and if we create a national police force a great deal of what this country is all about will have been lost.

XUM

Mr. Chairman, although most of the ways that the Federal Government can concentrate on crime in the streets are indirect methods and procedures, such as providing financial support for training and research programs, there are a few direct steps we can and should take. I had in mind offering an amendment in that direction, but I have checked with the Parliamentarian and he advises me that the amendment would probably be out of order, and I agree. I, Mr. Chairman, am very much concerned about the increasing assaults upon police officers throughout the Nation.

During the 10-year period 1960 to 1969 there were 561 law enforcement officers feloniously murdered while protecting life and property. In 1969, the last year for which complete statistics are available, there were 35,202 assaults on police officers, 11,949 resulting in injury. Eighty-six police officers, a 34-percent increase over 1968, were killed. I had hoped to offer an amendment which would adopt the approach of the Federal kidnaping law bringing Federal apprehensive facilities into play, but still preserving the principle that law-enforcement is the primary responsibility of the local officials.

I think the Federal kidnaping law is a valid and proper approach, one of the direct methods which can be followed by the Federal Government.

I would ask the chairman of the committee, does the committee have underactive consideration in the committee now—since I cannot offer the amendment to this bill—any measure that would directly or indirectly help to alleviate the problem of crime in the streets.

Mr. CELLER. The committee has a number of bills of the import the gentlemen just spoke of. Many police officers have been assaulted or slain, and quite a number of bills have been offered making it a Federal offense to kill a policeman while in line of duty.

We are considering these matters. On the other hand, when we do consider bills of that sort, we must correlate that with the idea of how far we shall go in establishing Federal crimes. The Judiciary Committee has proposals to connect State crimes to Federal crimes. The question is how far shall we go in developing a Federal police state. That is the troublesome problem.

The CHAIRMAN. Are there any further amendments to title X?

Mr. MIKVA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it would appear we are getting near a vote on final passage of this bill. Those who have been here for the debate in the committee are aware that even the proponents of this bill find it less than perfect. I am sure some Members will save their consciences by saying that, after all, the constitutionality of some of these disputed provisions can be determined by the courts. It seems to me a little unfair to dump that whole burden on the courts, since they are less able to protect themselves and their forum is less efficacious than ours. We, too, take an oath to protect and uphold the Constitution, and we have a burden equal to theirs, if not greater.

But more than that, I intend to vote against this bill, because I think it is so deceitful in terms of the impact it is going to have on the concerns and desires of our people. Most people think that this bill is going to do something about the problem that scares them off the streets in Chicago and Detroit and New York and Washington. Most people think this bill is going to make them more secure in their homes. But, as we have heard during the debate, even the proponents do not suggest it has much to do with that.

What happens when the bill is passed and signed into law, and when the people are not any more secure on the streets of Chicago or Detroit or Washington or New York? We will have cut one more strand in that skein of credibility that ought to exist between the government and its people. I do not think we have too many strands left in that skein. If we promise and do not deliver, if we pretend to deliver something to the people and do not, then we are just going to give sustenance and comfort and support to those who would like to see this country destroyed.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I agree with the gentleman that we are setting up extraordinary measures and vehicles to solve the problems created by organized crime, but does the gentleman not believe that organized crime within the Nation does present a problem of sizable proportions?

Mr. MIKVA. I certainly do, and I would welcome and vigorously support a bill that really acted to attack organized crime. The tragedy is this bill, aside from the false colors under which it masquerades, does not do anything about organized crime. Its overreach and its unconstitutionality are not the only defects. The bill may catch some little minnows, but I doubt that it will catch many big fish.

It will not get the big criminals or the street criminals, but it will deal a large blow to the government's credibility.

Mr. ICHORD. Mr. Chairman, I do support the measure, because I consider the problem to be one of major proportions. I would hope it does attack the problem, and I would have gone even further in attacking the problem of organized crime.

I do wish however that the committee had adopted an expiration date for the extraordinary vehicles that have been set up, treating it as emergency measure to meet emergency conditions. I am concerned that the committee has chosen to establish the novel and extraordinary agencies such as the special grand jury in the permanent law. I do share some of the concern of the gentleman about the unconstitutionality of some of its provisions and the possible abuse of extraordinary powers granted to certain individuals and agencies.

Mr. MIKVA. I do not think we can suspend the Constitution for a temporary period.

Let me say in closing, I again pay my respects to the chairman and the other members of the committee. I realize the difficulty of their task. The bill which came from the Senate was in fact worse than this bill. The committee faced the Hobson's choice of voting for this bill or the Senate bill, which is like asking the question, "How would you like the Constitution to be destroyed: by fire or by water?"

I do not believe that is a realistic choice. It is one that I will not make.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Illinois.

Mr. YATES. The gentleman has made an eloquent and persuasive speech. I join him in his views in opposition to this bill.

Mr. Chairman, it is difficult to vote against a bill which states in its title that it seeks to control organized crime. Certainly, everyone here is in favor of that goal but, unfortunately, in the name of seeking to control organized crime it goes much too far in violating the fundamental rights of American citizens.

I must say, Mr. Chairman, that I wanted to vote for this bill because the burgeoning crime rate must be brought within bounds. But this bill will not provide security in the streets. It will not permit American citizens to move freely in their communities at night without fear. It will not fight muggings, or burglaries, or robberies, or assaults. It will not provide the measures that are necessary to build and better police forces and detection methods or to catch the hardened criminal, which should be the object of our search for effective measures to deal with this problem.

Beginning with the first title which discriminates unfairly in favor of elected officials as opposed to appointed officials whereas certainly both should be the subject with which the grand jury should deal, it moves through various titles, some of which are good and for which I would have voted had they been in another bill, until we came upon certain titles which place enormous powers in the Attorney General, excessive powers, I believe, and provides as well for trial and appellant procedures which to my mind clearly violate the Constitution of the United States.

It is difficult to comment at length on all the bad provisions in this bill. It is loosely drawn in opposition to the basic rule that criminal legislation should be specific and definite, and there will be gapping holes in the net with which it seeks to achieve its purpose of capturing those engaged in organized crime. There is no definition of organized crime. Through all encompassing definitions, it invades the field of local crime fighting by making Federal crimes that have traditionally been local ones.

Much has been said on both sides about title X which relates to special offender sentencing. I am in favor of defining crimes clearly in our statutes and providing strict penalties for their violation. That is not what title X does. It provides for penalties for crimes far beyond those in the appropriate statutes. It gives the power to the judge to punish beyond those statutes. In effect, the procedure for imposing the extra penalty is not a part of the sentencing process, but rather it is procedure which imposes a penalty by the judge upon the defendant for a crime for which he has not been tried.

The appellate procedure set forth which authorizes the Government to appeal the length of a special offender sentence and have it increased is without precedent. Such procedure will place a barrier on the defendant's right of appeal by making it subject to the Government's demand for an increased sentence over that pronounced by the trial court.

I find particularly disturbing title IX which gives enormous power to the Attorney General, to issue civil investigative demands requiring the production of documentary material whenever he "has reason to believe" that material would be useful to an investigation of racketeering. He is not required to obtain court approval for a search of any person's records. Such broad and sweeping language should not be given to any person, no matter how beneficent he is. In the words of the old truism, "A good man will not need it and a bad man should not have it." This is the broad and sweeping language of the section:

> (a) Whenever the Attorney General has reason to believe that any person or enterprise may be in possession, custody, or control of any documentary materials relevant to a racketeering investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such material for examination.

Under this language, the Attorney General may, under claim of conducting a racketeering investigation, invade the privacy of any firm or individual and demand to see their books and records, no matter how remote they may be from any connection with racketeering. Certainly, this language authorizes the most flagrant kind of fishing expeditions.

It is claimed that this is language taken from the antitrust laws. That may be true, Mr. Chairman, but that language applies to civil procedures, not to criminal ones. There is now no right to search or seizure in the criminal law without first having obtained the approval of the court.

For these reasons, Mr. Chairman, and for a number of others, I have decided to vote against the bill. I have carefully read the bill and the report, I have listened to the debate all day, and I cannot in good conscience vote for it. Legislation, I know, is a procedure of compromise. No bill is perfect and the good provisions must be weighed against the bad ones to determine whether one's vote is cast for or against the bill. In this case, even though I favor the purposes of the bill, I find its provisions do not foster its purposes. I think the committee will have to do much better than this vehicle if it wants to fight crime.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, I recognize and am alarmed by the threat posed by organized crime and I think that Federal legislation is a useful weapon in combating this threat. But any such legislative measure must be carefully examined not only for its prospects of effectiveness but also the care with which it preserves constitutional safeguards. It is with these two points in mind that I opposed S. 30 as passed by the Senate and so testified before the House Judiciary Committee during its consideration of this bill.

This penal legislation merely continues the traditional approach of seeking out and destroying organized criminals, one by one, which will be met with vigorous counter measures by organized crime. The number of convictions will decline as their admittedly efficient disciplinary structure adopts new methods of legal evasion. And the incarceration of members of organized crime disrupts a criminal organization only for the very limited period required for replacement. Although head-hunting is necessary, its effect is vastly overrated as a long range treatment of the problem. Much more fundamental action is necessary. We must attack the economic base of organized crime itself. To counter evasions of the law, regulatory measures must be employed in addition to penal legislation. Those industries most prone to infiltration by organized crime must be protected by the utilization of licensing powers as a law enforcement weapon. I have introduced legislation to do just that with respect to waterfront and airport businesses.

I do want to commend the House Judiciary Committee for its efforts to improve this legislation and for its revisions of some of the objectionable provisions in the Senate-passed bill.

However, the basic thrust of the bill that has been presented to the House has not been altered. It is not a measure which will effectively attack the problem of organized crime, but it is a measure which will effectively endanger the rights of ordinary citizens.

Title I's commendable objective of bringing about greater public disclosure of the activities of organized crime as they infect and corrupt public officials cannot be justified when balanced against the dangers posed by the potential abuse of grand jury powers authorized in title I and the inadequate safeguards against such abuse.

Civil contempt confinement of recalcitrant witnesses for up to 18 months without trial permitted by title III would exceed the coercive purpose of civil contempt and is inconsistent with the "due process" provisions of the fifth amendment.

Title VII permits the unchallenged use of evidence obtained from illegal acts by Federal authorities occurring prior to June 19, 1968, after a 5-year period has elapsed. Such a 5-year cleaning period runs counter to established constitutional principles set forth in the 1961 landmark case of Mapp against Ohio.

Title X permits the imposition of 25-year prison sentences on a class of persons determined to be "dangerous special offenders." In the case of these "special offenders," two prior felony convictions would be considered sufficient basis for supporting the inference of organized crime activity. Such inference is hardly justified by the facts. The Federal Government recognizes that there are approximately 10,000 members of organized crime; however, there are thousands more multiple felony offenders. The criminal laws already have provisions covering the sentencing of multiple felony offenders.

The threat to constitutional safeguards in this bill has been ably described to the House in the minority views to the committee report by Representatives CONYERS, MIKVA, and RYAN.

We cannot leave it to the courts to strike down the many provisions in this bill which threaten freedoms guaranteed to all. We must not strip away the rights of the people in the name of protecting them against crime. We can achieve the objective of combating organized crime by measures which remain within the bounds of constitutional propriety. This bill does not do so. I shall vote against it.

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS: Strike all that follows from line 10, page 141, through line 24, page 151.

XUM

Mr. POFF. Mr. Chairman, I rise in opposition to the amendment.

As the distinguished gentleman from Michigan has said, the arguments pro and con have been already rather elaborately articulated. I doubt that I can add anything to the record that has not already been said earlier. By way of summary, I will simply say that the pending amendment embraces the consequences of the Eckhardt amendment and the Dennis amendment, both of which have been previously rejected.

Accordingly, Mr. Chairman, I ask that the pending amendment be rejected.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield to me?

Mr. POFF. I yield to the gentleman.

Mr. STEIGER of Arizona. I thank the gentleman for yielding.

I would simply like, as perhaps the only nonlawyer in the room at this moment listening to these very interesting arguments, to recite an experience on a very pragmatic level that happened to me which could have happened to anybody in this body as a result of my very personal interest in this particular piece of legislation. I was not surprised to hear the gentleman from Pennsylvania, Mr. DENT, earlier imply that organized crime was somehow a fictional device. I am only respectful of the concern of the gentleman from Michigan, the gentleman from Indiana, the gentleman from Chicago, and the others who expressed real concern about the constitutional prerogatives that we are perhaps in some way abrogating here.

However, I will tell you that, as we know, in this country today, if a poor man's son commits a crime and a rich man's son commits the same crime, the chances are that the poor man's son will receive the full weight of justice and the rich man's son will either get off or receive a much lighter sentence. It is unfortunate, but this is a fact of life.

I will submit to all of you distinguished members of the bar that is exactly what happened with organized crime. It is a fact of life. Because of the sophistication, because of the wealth, and because of the ability of organized crime to keep the best counsel, they have been able to abrogate the law.

And so, in specific reference to the gentleman from Michigan's amendment it is clear to me that in the event a case has been tried and a conviction achieved it must be a very strong case indeed if that is of any ease to the gentleman's feelings in this matter, because I know they are genuine. In the case of organized crime at least if the case is ready for appeal and a conviction has been obtained, that has been a genuinely strong case because every legal device has been used to protect those participating in organized crime.

Mr. Chairman, for 9 months I have been attempting to call the attention of my State and the attention of other States to an organization known as Emprise headquartered in Buffalo, N.Y., but which does business through 600 corporate entities and which in my view represents organized crime. I have gotten nowhere, very frankly, because of the absence of legislation like this. This will be very important as far as this particular entity is concerned.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. POFF. I yield to the gentleman from Michigan.

Mr. CONYERS. May I point out to my friend, for whom I have a certain amount of agreement, that the problem with special offender sentencing is that it will be open to far more than the organized criminal. As a matter of fact, it in no way limits it to organized criminal defendants. As I suggested, it opens it up to anyone. It can be subject to political abuse, it can be used for those who may hold unpopular views, it can be used to trigger actions under the antitrust law as well as the Federal Food and Drug Administration laws and a host of other laws.

Mr. STEIGER of Arizona. Mr. Chairman, if the gentleman from Virginia will yield further, I am not about to debate the specifics with anyone as competent as is the gentleman. I would only point out that the language, as I read it, refers to habitual, organized crime of professionals. I think that is fairly specific and represents at least an honest attempt on the part of the drafters of this legislation to avoid exactly what the gentleman fears.

Mr. ARENDS. Mr. Speaker, will the gentleman yield?

Mr. POFF. I am delighted to yield to the distinguished minority whip.

Mr. ARENDS. Mr. Chairman, it may be historic fiction that Nero fiddled while Rome burned; but it is a fact, not a fiction, that this 91st Congress has been fiddling for almost 2 years while our free society, founded on law and order and justice, is being destroyed by widespread crime and violence.

Only now, at long last, as this Congress approaches adjournment, are we responding to President Nixon's plea that we wage war against crime.

In his state of the Union address shortly after he took office in 1969 he said:

> We must declare and win the war against the criminal elements which increasingly threaten our cities, our homes and our lives.

It took this Congress over a year and a half to act on the President's recommended court reform and criminal procedure bill for the District of Columbia. He submitted his proposal in February of 1969. Not until July 29, 1970, did it become law.

On July 14, 1969, President Nixon recommended drug control legislation. It was only a few weeks ago—September 24, 1970, to be exact—over a year later that the House passed the Drug Abuse Prevention and Control Act now pending in the Senate.

On April 23, 1969, President Nixon sent the Congress a special message outlining a program to deal with organized crime. Only now, in the waning weeks of a Congress that has been in session for almost 2 years, do we have this vitally important measure before us.

I suppose we will simply have to say: "It is better late than never." But, Mr. Speaker, on what national problem should this Congress more promptly and decisively have acted than on this problem of lawlessness? As President Nixon said a year ago:

> There is no greater need in this free society than the restoration of the individual American's freedom from violence in his home and on the streets of the city or town. Control and reduction of crime are among the first and constant concerns of this Administration. But we can do little more unless and until Congress provides more tools to do the job. No crisis is more urgent in our society. No subject has been the matter of more legislative requests from this Administration.

The critical situation which confronts our country today is not of recent origin. Year after year, for almost a decade, crime has steadily increased. For the last several years—for all too many years—all too much emphasis has been placed on an individual's rights without regard to his responsibilities and without regard to the rights of society itself. The attitude has been one of permissiveness. For all too long those in authority have been passive about the need for remedial legislation to deal with the problem. Those in authority, including our Courts, have been so concerned about the rights of the criminal elements that they have completely ignored the rights of society itself.

Our free society of God-fearing, law-abiding people is fast becoming a lawless society. We have waited all too long to deal with this grave problem. Only now, after 10 years of permissiveness and apathy, is an all-out attempt being made to give our country new direction. The very survival of democracy demands respect for law and order.

The bill we have before us is a major step for dealing with "organized crime" which, as President Nixon has pointed out, had "deeply penetrated broad segments of American life." By this measure we will be giving the administration the legal tools it sorely needs to do the job that needs to be done to rid our society of those elements and those practices that are destroying it.

Members of the Judiciary Committee which reported this bill have discussed in detail what is proposed in each of the 12 titles of it. I shall not presume to repeat what has already been explained. But I do wish to commend the committee for its wisdom in including in the bill title XI which deals with the growing problem of explosives. I have especially noted that the definition of explosives has been broadened to include incendiary devices such as Molotov cocktails and that the scope of the law has been broadened to cover malicious damages by explosives of not only proposed use in interstate commerce but also damage to Federal premises or property of institutions receiving Federal financial assistance.

This bill should have the enthusiastic support of all Members of this House.

Important as this and other legislation relating to drug abuse and crime are for our maintaining law and order, I am not unmindful that a solution to the crime problem and lawlessness generally cannot be found solely in writing new laws and procedures, or in remedying conditions that breed crime. We need to

XUM

change the philosophy that has been spreading across the country that freedom is an absolute right. If one were free to do everything he wishes, whenever he wishes and wherever he wishes, no one would be free to do anything. Freedom is ordered liberty under law.

Mr. RYAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment which has been offered by the gentleman from Michigan (Mr. CONYERS).

Title X attempts to disguise as a sentencing hearing on the felony for which a defendant is convicted what is really a separate proceeding to determine an issue "that was not an ingredient of the offense charged." (See *Specht* v. *Patterson*, 386 U.S. 605, 610 (1967)). By this device due process is bypassed, and the defendant is denied the right to trial by jury, confrontation, and cross-examination.

In one of the colloquies which took place this afternoon, the gentleman from Virginia (Mr. POFF) relied upon *Williams* v. *New York*, 337 U.S. 241, stating that the Court said in Specht against Patterson, supra, "We adhere to *Williams* v. *New York*." However, the gentleman failed to read the entire sentence. The Court's full statement was "We adhere to *Williams* v. *New York, supra;* but we decline the invitation to extend it to this radically different situation." *Specht* v. *Patterson, supra*, 608. Specht presented "a radically different situation" than Williams—a situation analogous to the dangerous special offender provisions of title X. As the Court held in Specht, a defendant under title X should be entitled to the full panoply of due process guarantees.

In addition, by granting the Government the right to appeal the imposition of a sentence, title X violates the bar against double jeopardy. By granting the Government the right to appeal the length of a sentence, a defendant may be intimidated from taking an appeal.

The amendment to strike title X should prevail.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. RYAN. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, we might at least understand what will be accomplished if we decide to eliminate title X. Based upon the remarks of the distinguished gentleman who assumes that this is a provision directed against organized criminal defendants, I would like the gentleman to know that title X authorizes special sentences of up to 25 years for any person convicted of a Federal felony and who is found by the sentencing judge to be a "dangerous special offender."

This term includes any person from whom the public needs the protection of an extended sentence and who has been convicted of two other past felonies or, has committed the present felony as a part of a criminal pattern of conduct. That does not address itself exclusively to persons who may have been participating in organized crime.

I share the gentleman's concern. It is because we have so completely overrun constitutional safeguards that I ask the Members of this body to join me in striking this entire untested and unreasonable provision from this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

The question was taken; and on a division (demanded by Mr. CONYERS) there were—ayes 21, noes 58.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE XI—REGULATION OF EXPLOSIVES

PURPOSE

Sec. 1101. The Congress hereby declares that the purpose of this title is to protect interstate and foreign commerce against interference and interruption by reducing the hazard to persons and property arising from misuse and unsafe or insecure storage of explosive materials. It is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, storage, or use of explosive materials for industrial, mining, agricultural, or other lawful purposes, or to provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title.

Sec. 1102. Title 18, United States Code, is amended by adding after chapter 39 the following chapter:

"Chapter 40.—IMPORTATION, MANUFACTURE, DISTRIBUTION AND STORAGE OF EXPLOSIVE MATERIALS

"Sec.
"841. Definitions.
"842. Unlawful acts.
"843. Licensing and user permits.
"844. Penalties.
"845. Exceptions; relief from disabilities.
"846. Additional powers of the Secretary.
"847. Rules and regulations.
"848. Effect on State law.

"§ 841. Definitions

"As used in this chapter—

"(a) 'Person' means any individual, corporation, company, association, firm, partnership, society, or joint stock company.

"(b) 'Interstate or foreign commerce' means commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, and commerce between places within the same State but through any place outside of that State. 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

"(c) 'Explosive materials' means explosives, blasting agents, and detonators.

"(d) Except for the purposes of subsections (d), (e), (f), (g), (h), (i), and (j) of section 844 of this title, 'explosives' means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. The Secretary shall publish and revise at least annually in the Federal Register a list of these and any additional explosives which he determines to be within the coverage of this chapter. For the purposes of subsections (d), (e), (f), (g), (h), and (i) of section 844 of this title, the term 'explosive' is defined in subsection (j) of such section 844.

"(e) 'Blasting agent' means any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive: *Provided*, That the finished product, as mixed for use or shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined.

"(f) 'Detonator' means any device containing a detonating charge that is used for initiating detonation in an explosive; the term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses and detonating-cord delay connectors.

"(g) 'Importer' means any person engaged in the business of importing or bringing explosive materials into the United States for purposes of sale or distribution.

"(h) 'Manufacturer' means any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

"(i) 'Dealer' means any person engaged in the business of distributing explosive materials at wholesale or retail.

"(j) 'Permittee' means any user of explosives for a lawful purpose, who has obtained a user permit under the provisions of this chapter.

"(k) 'Secretary' means the Secretary of the Treasury or his delegate.

"(l) 'Crime punishable by imprisonment for a term exceeding one year' shall not mean (1) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Secretary may by regulation designate, or (2) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

"(m) 'Licensee' means any importer, manufacturer, or dealer licensed under the provisions of this chapter.

"(n) 'Distribute' means sell, issue, give, transfer, or otherwise dispose of.

"§ 842. Unlawful acts

"(a) It shall be unlawful for any person—

"(1) to engage in the business of importing, manufacturing, or dealing in explosive materials without a license issued under this chapter;

"(2) knowingly to withhold information or to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive for the purpose of obtaining explosive materials, or a license, permit, exemption, or relief from disability under the provisions of this chapter; and

"(3) other than a licensee or permittee knowingly—

"(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials, except that a person who lawfully purchases explosive materials from a licensee in a State contiguous to the State in which the purchaser resides may ship, transport, or cause to be transported such explosive materials to the State in which he resides and may receive such explosive materials in the State in which he resides, if such transportation, shipment, or receipt is permitted by the law of the State in which he resides; or

"(B) to distribute explosive materials to any person (other than a licensee or permittee) who the distributor knows or has reasonable cause to believe does not reside in the State in which the distributor resides.

"(b) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person except—

"(1) a licensee;

"(2) a permittee; or

"(3) a resident of the State where distribution is made and in which the licensee is licensed to do business or a State con-

XUM

tiguous thereto if permitted by the law of the State of the purchaser's residence.

"(c) It shall be unlawful for any licensee to distribute explosive materials to any person who the licensee has reason to believe intends to transport such explosive materials into a State where the purchase, possession, or use of explosive materials is prohibited or which does not permit its residents to transport or ship explosive materials into it or to receive explosive materials in it.

"(d) It shall be unlawful for any licensee knowingly to distribute explosive materials to any individual who:

"(1) is under twenty-one years of age;

"(2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

"(3) is under indictment for a crime punishable by imprisonment for a term exceeding one year;

"(4) is a fugitive from justice;

"(5) is an unlawful user of marihuana (as defined in section 4761 of the Internal Revenue Code of 1954) or any depressant or stimulant drug (as defined in section 201 (v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4721(a) of the Internal Revenue Code of 1954); or

"(6) has been adjudicated a mental defective.

"(e) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution.

"(f) It shall be unlawful for any licensee or permittee willfully to manufacture, import, purchase, distribute, or receive explosive materials without making such records as the Secretary may by regulation require, including, but not limited to, a statement of intended use, the name, date, place of birth, social security number or taxpayer identification number, and place of residence of any natural person to whom explosive materials are distributed. If explosive materials are distributed to a corporation or other business entity, such records shall include the identity and principal and local places of business and the name, date, place of birth, and place of residence of the natural person acting as agent of the corporation or other business entity in arranging the distribution.

"(g) It shall be unlawful for any licensee or permittee knowingly to make any false entry in any record which he is required to keep pursuant to this section or regulations promulgated under section 847 of this title.

"(h) It shall be unlawful for any person to receive, conceal, transport, ship, store, barter, sell, or dispose of any explosive materials knowing or having reasonable cause to believe that such explosive materials were stolen.

"(i) It shall be unlawful for any person—

"(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(2) who is a fugitive from justice;

"(3) who is an unlawful user of or addicted to marihuana (as defined in section 4761 of the Internal Revenue Code of 1954) or any depressant or stimulated drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

"(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

to ship or transport any explosive in interstate or foreign commerce or to receive any explosive which has been shipped or transported in interstate or foreign commerce.

"(j) It shall be unlawful for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Secretary. In promulgating such regulations, the Secretary shall take into consideration the class, type, and quantity of explosive materials to be stored, as well as the standards of safety and security recognized in the explosives industry.

"(k) It shall be unlawful for any person who has knowledge of the theft or loss of any explosive materials from his stock, to fail to report such theft or loss within twenty-four hours of discovery thereof, to the Secretary and to appropriate local authorities.

"§ 843. Licenses and user permits

"(a) An application for a user permit or a license to import, manufacture, or deal in explosive materials shall be in such form and contain such information as the Secretary shall by regulation prescribe. Each applicant for a license or permit shall pay a fee to be charged as set by the Secretary, said fee not to exceed $200 for each license or permit. Each license or permit shall be valid for no longer than three years from date of issuance and shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit and upon payment of a renewal fee not to exceed one-half of the original fee.

"(b) Upon the filing of a proper application and payment of the prescribed fee, and subject to the provisions of this chapter and other applicable laws, the Secretary shall issue to such applicant the appropriate license or permit if—

"(1) the applicant (including in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not a person to whom the distribution of explosive materials would be unlawful under section 842(d) of this chapter;

"(2) the applicant has not willfully violated any of the provisions of this chapter or regulations issued hereunder;

"(3) the applicant has in a State premises from which he conducts or intends to conduct business;

"(4) the applicant has a place of storage for explosive materials which meets such standards of public safety and security against theft as the Secretary by regulations shall prescribe; and

"(5) the applicant has demonstrated and certified in writing that he is familiar with all published State laws and local ordinances relating to explosive materials for the location in which he intends to do business.

"(c) The Secretary shall approve or deny an application within a period of forty-five days beginning on the date such application is received by the Secretary.

"(d) The Secretary may revoke any license or permit issued under this section if in the opinion of the Secretary the holder thereof has violated any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter, or has become ineligible to acquire explosive materials under section 842(d). The Secretary's action under this subsection may be reviewed only as provided in subsection (e)(2) of this section.

"(e)(1) Any person whose application is denied or whose license or permit is revoked shall receive a written notice from the Secretary stating the specific grounds upon which such denial or revocation is based. Any notice of a revocation of a license or permit shall be given to the holder of such license or permit prior to or concurrently with the effective date of the revocation.

"(2) If the Secretary denies an application for, or revokes a license, or permit, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation, the Secretary may upon a request of the holder stay the effective date of the revocation. A hearing under this section shall be at a location convenient to the aggrieved party. The Secretary shall give written notice of his decision to the aggrieved party within a reasonable time after the hearing. The aggrieved party may, within sixty days after receipt of the Secretary's written decision, file a petition with the United States court of appeals for the district in which he resides or has his principal place of business for a judicial review of such denial or revocation, pursuant to sections 701–706 of title 5, United States Code.

"(f) Licensees and permittees shall make available for inspection at all reasonable times their records kept pursuant to this chapter or the regulations issued hereunder, and shall submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Secretary may enter during business hours the premises (including places of storage) of any licensee or permittee, for the purpose of inspecting or examining (1) any records or documents required to be kept by such licensee or permittee, under the provisions of this chapter or regulations issued hereunder, and (2) any explosive materials kept or stored by such licensee or permittee at such premises. Upon the request of any State or any political subdivision thereof, the Secretary may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received explosive materials, together with a description of such explosive materials.

"(g) Licenses and permits issued under the provisions of subsection (b) of this section shall be kept posted and kept available for inspection on the premises covered by the license and permit.

"§ 844. Penalties

"(a) Any person who violates subsections (a) through (i) of section 842 of this chapter shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(b) Any person who violates any other provision of section 842 of this chapter shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(c) Any explosive materials involved or used or intended to be used in any violation of the provisions of this chapter or any other rule or regulation promulgated thereunder or any violation of any criminal law of the United States shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

"(d) Whoever transports or receives, or attempts to transport or receive, in interstate or foreign commerce any explosive with the knowledge or intent that it will be used to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property, shall be imprisoned for not more than ten years, or fined not more than $10,000, or both; and if personal injury results shall be imprisoned for not more than twenty years or fined not more than $20,000, or both; and if death results, shall be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment as provided in section 34 of this title.

"(e) Whoever, through the use of the mail, telephone, telegraph, or other instrument of commerce, willfully makes any threat, or maliciously conveys false information knowing the same to be false, concerning an attempt or alleged attempt being made, or to be made, to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property by means of an explosive shall be imprisoned for not more than five years or fined not more than $5,000, or both.

"(f) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of an explosive, any building, vehicle, or other personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States, any department or agency thereof, or any institution or organization receiving Federal financial assistance shall be imprisoned for not more than ten years, or fined not more than $10,000, or both; and if personal injury results shall be imprisoned for not more than twenty years, or fined not more than $20,000, or both; and if death results shall be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment as provided in section 34 of this title.

"(g) Whoever possesses an explosive in any building in whole or in part owned, possessed, or used by, or leased to, the United States or any department or agency thereof, except with the written consent of the agency, department, or other person responsible for the management of such building, shall be imprisoned for not more than one year, or fined not more than $1,000, or both.

"(h) Whoever—

"(1) uses an explosive to commit any felony which may be prosecuted in a court of the United States, or

"(2) carries an explosive unlawfully during the commission of any felony which may be prosecuted in a court of the United States.

shall be sentenced to a term of imprisonment for not less than one year nor more than ten years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than five years nor more than twenty-five years, and, notwithstading any other provision of law, the court shall not suspend the sentence of such person or give him a probationary sentence.

"(i) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce shall be imprisoned for not more than ten years or fined not more than $10,000, or both; and if personal injury results shall be imprisoned for not more than twenty years or fined not more than $20,000, or both; and if death results shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment as provided in section 34 of this title.

"(j) For the purposes of subsections (d), (e), (f), (g), (h), and (i) of this section, the term 'explosive' means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuzes (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, other explosive or incendiary devices within the meaning of paragraph (5) of section 232 of this title, and any chemical compounds, mechancial mixture, or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion.

"§845. Exceptions; relief from disabilities

"(a) Except in the case of subsections (d), (e), (f), (g), (h), and (i) of section 844 of this title, this chapter shall not apply to:

"(1) any aspect of the transportation of explosive materials via railroad, water, highway, or air which are regulated by the United States Department of Transportation and agencies thereof;

"(2) the use of explosive materials in medicines and medicinal agents in the forms prescribed by the official United States Pharmacopeia, or the National Formulary;

"(3) the transportation, shipment, receipt, or importation of explosive materials for delivery to any agency of the United States or to any State or political subdivision thereof;

"(4) small arms ammunition and components thereof;

"(5) black powder in quantities not to exceed five pounds; and

"(6) the manufacture under the regulation of the military department of the United States of explosive materials for, or their distribution to or storage or possession by the military or naval services or other agencies of the United States; or to arsenals, navy yards, depots, or other estabilshments owned by, or operated by or on behalf of the United States.

"(b) A person who had been indicted for or convicted of a crime punishable by imprisonment for a term exceeding one year may make application to the Secretary for relief from the disabilities imposed by this chapter with respect to engaging in the business of importing, manufacturing, or dealing in explosive materials, or the purchase of explosive materials, and incurred by reason of such indictment or conviction, and the Secretary may grant such relief if it is established to his satisfaction that the circumstances regarding the indictment or conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief will not be contrary to the public interest. A licensee or permittee who makes application for relief from the disabilities incurred under this chapter by reason of indictment or conviction, shall not be barred by such indictment or conviction from further operations under his license or permit pending final action on an application for relief filed pursuant to this section.

"§ 846. Additional powers of the Secretary

"The Secretary is authorized to inspect the site of any accident, or fire, in which there is reason to believe that explosive materials were involved, in order that if any such incident has been brought about by accidental means, precautions may be taken to prevent similar accidents from occurring. In order to carry out the purpose of this subsection, the Secretary is authorized to enter into or upon any property where explosive materials have been used, are suspected of having been used, or have been found in an otherwise unauthorized location. Nothing in this chapter shall be construed as modifying or otherwise affecting in any way the investigative authority of any other Federal agency. In addition to any other investigative authority they have with respect to violations of provisions of this chapter, the Attorney General and the Federal Bureau of Investigation, together with the Secretary, shall have authority to conduct investigations with respect to violations of subsection (d), (e), (f), (g), (h), or (i) of section 844 of this title.

"§ 847. Rules and regulations

"The administration of this chapter shall be vested in the Secretary. The Secretary may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter. The Secretary shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing such rules and regulations.

"§ 848. Effect on State law

"No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together."

(b) The title analysis of title 18, United States Code, is amended by inserting immediately below the item relating to chapter 39 the following:

"40. Importation, manufacture, distribution and storage of explosive materials .... 841".

Sec. 1103. Section 2516(1)(c) of title 18, United States Code, is amended by inserting after "section 224 (bribery in sporting contests)," the following: "subsection (d), (e), (f), (g), (h), or (i) of section 844 (unlawful use of explosives),".

Sec. 1104. Nothing in this title shall be construed as modifying or affecting any provision of—

(a) The National Firearms Act (chapter 53 of the Internal Revenue Code of 1954);

(b) Section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), as amended, relating to munitions control;

(c) Section 1716 of title 18, United States Code, relating to nonmailable materials;

(d) Sections 831 through 836 of title 18, United States Code; or

(e) Chapter 44 of title 18, United States Code.

Sec. 1105. (a) Except as provided in subsection (b), the provisions of chapter 40 of title 18, United States Code, as enacted by section 1102 of this title shall take effect one hundred and twenty days after the date of enactment of this Act.

(b) The following sections of chapter 40 of title 18, United States Code, as enacted by section 1102 of this title shall take effect on the date of the enactment of this Act: sections 841, 844 (d), (e), (f), (g), (h), (i), and (j), 845, 846, 847, 848, and 849.

(c) Any person (as defined in section 841(a) of title 18, United States Code) engaging in a business or operation requiring a license or permit under the provisions of chapter 40 of such title 18 who was engaged in such business or operation on the date of enactment of this Act and who has filed an application for a license or permit under the provisions of section 843 of such chapter 40 prior to the effective date of such section 843 may continue such business or operation pending final action on his application. All provisions of such chapter 40 shall apply to such applicant in the same manner and to the same extent as if he were a holder of a license or permit under such chapter 40.

Sec. 1106. (a) The Federal Explosives Act of October 6, 1917 (40 Stat. 385, as amended; 50 U.S.C. 121–143), and as extended by Act of July 1, 1948 (40 Stat. 671; 50 U.S.C. 144), and all regulations adopted thereunder are hereby repealed.

(b)(1) Section 837 of title 18 of the United States Code is repealed.

(2) The item relating to such section 837 in the chapter analysis of chapter 39 of such title 18 is repealed.

Sec. 1107. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this title.

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that title XI be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

XUM

AMENDMENT OFFERED BY MR. HUNGATE

Mr. HUNGATE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. HUNGATE: On page 165, after the period on line 15, add the following new sentence: "The possession of an explosive in such a manner as to evince an intent to use, or the use of, such explosive, to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property creates rebuttable presumptions that the explosive was transported or received in interstate or foreign commerce or caused to be transported or received in interstate or foreign commerce by the person so possessing or using it: *Provided*, That no person may be convicted under this subsection unless there is evidence independent of the presumptions that this subsection has been violated."

Mr. HUNGATE. Mr. Chairman, as our colleague, the gentleman from Michigan (Mr. CONYERS) indicated earlier, there have been no amendments accepted to this bill. I would say that this is a refreshing show of confidence in the Committee on the Judiciary, but I am afraid that I may read this incorrectly in that we are operating under perhaps an informal closed rule, and I would urge consideration of the Members of the House on the possibility that some amendment by the House might well be in order.

Mr. Chairman, the amendment I propose would create a rebuttal presumption which in fact is the way the law read before this bill was prepared and offered to the House. This bill would repeal what now is the law that there is a rebuttal of presumption when there is an explosion or when they find explosives in vast amounts that would seem to be used for criminal purposes, this in turn gives the FBI and other Federal investigative authorities the power to go in and help the local authorities, who might not have a bomb squad, to investigate the bombing of a residence, or a business that might not be in interstate commerce. Or let us suppose we have an inept bomber, and the explosion simply goes off prematurely on the sidewalk, or on the street, or in a field. In any of those cases, as the law now exists and as it will remain if my amendment is accepted, when the explosion occurs they can call Federal authorities and get Federal assistance in for the investigation.

You cannot be convicted on this presumption. The argument is that rebuttal presumptions are bad, and there are contradictions in the law.

But this is simply the power to begin an investigation and states that no person may be convicted unless there is evidence independent of that presumption.

In short, that is it. On the other issue of presumption, as I understand it, probably the Lindbergh Anti-Kidnaping Act and some others have presumptions after a certain number of hours people are in interstate commerce.

In interpreting the language of the law, although it may not be the law's most shining monument, as I read the bill, if the bill passes without my amendment, and someone's residence is blown up, I do not believe you are going to get any investigative help unless you show that they were using it in interstate commerce and that is frequently not the case.

Mr. Chairman, I urge the adoption of this amendment.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman.

Mr. WIGGINS. Can the gentleman tell me whether or not the presumption created in the present law has been tested in the courts and found valid?

Mr. HUNGATE. I cannot tell the gentleman that it has been found valid or invalid.

Mr. CELLER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Missouri emphasizes what he calls "rebuttable presumptions."

I want to enlighten the gentleman by saying that the Supreme Court has frowned upon rebuttable presumptions and has in innumerable cases cast them aside.

So I do not know what the real value would be of having the phrase "rebuttable presumptions" as contained in the amendment.

Further and beyond that, we had the direct testimony before the committee offered by Mr. Wilson, Assistant Deputy Attorney General, and he suggested that the amendment that has been offered by the gentleman from Missouri or rather the exact words that are in the amendment offered by the gentleman from Missouri—and this is what he had to say "Third, we have deleted the present subsection (c)"—which is the wording of the amendment.

He said:

> This subsection creates a rebuttable presumption that a person who uses an explosive for certain destructive purposes or who possess it with intent to use it has violated Section (b). This presumption is of dubious validity or value.
>
> Furthermore, the addition of new substantive prohibitions regarding the possession and use of subsections (d), (f) and (g) of the revised section would obviate the need to rely upon the presumption.

If the gentleman from Missouri would take the trouble to refer in the bill to page 165, line 25, and run his eye down the entire page 166 and almost the entire page 167, he will see there enumerated any number of actions definitely described as criminal actions and new offenses under this bill so that no presumptions are really required.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman.

Mr. HUNGATE. Mr. Chairman, is there anywhere in that language to which the gentleman refers which would provide for an investigation where there was a bombing of a residence—not in interstate commerce?

Mr. CELLER. There is none today and you must remember that the mere bombing of a private home even under this bill would not be covered because of the question of whether the Congress would have the authority under the Constitution. We limit it to federally owned property and federally controlled property that has been the recipient of a grant of Federal funds or that is financially connected with the Federal Government, like airports, universities, and various installations of the Government.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield further?

Mr. CELLER. I yield to the gentleman from Missouri.

Mr. HUNGATE. The present act, page 105, section (b) describes residential property, and refers to transporting any explosive or using any explosive on residential property, whether or not it is used in interstate commerce.

Mr. CELLER. There are limitations. Section (d) on page 165 states:

> "(d) Whoever transports or receives, or attempts to transport or receive, in interstate or foreign commerce any explosive with the knowledge or intent that it will be used to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building—

Which includes what the gentleman has stated; in that sense, yes.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield further?

Mr. CELLER. I yield to the gentleman from Missouri.

Mr. HUNGATE. I agree with the gentleman's reading from page 165 of the bill; it requires interstate commerce to be involved, and the law as now written, as shown in the report on page 105, sections (b) and (c), does not make that requirement of interstate commerce. It does not state there is a presumption of interstate commerce.

Mr. CELLER. There are these other conditions.

Mr. POFF. Mr. Chairman, I move to strike the requisite number of words.

The **CHAIRMAN.** The gentleman from Virginia is recognized.

Mr. POFF. Mr. Chairman, I join with the Chairman of the committee in opposition to the amendment. I do so reluctantly, because the gentleman who offered the amendment is a personal friend as well as a scholar in the law. And yet I am obliged to do so.

Subsection (c) of the present section 837 creates a presumption, when the possession of an explosive by a person with the intent to violate subsection (b) is proved, that the explosive was transported in interstate or foreign commerce. This presumption was removed from the bill primarily for two reasons: First, that the presumption itself is of limited utility, because it requires evidence independent of the presumption to sustain it. As the distinguished gentleman from Missouri knows, there is the substantial doubt as to the constitutionality of such a presumption. The gentleman is familiar with the decision of the Supreme Court in Tot against United States, and more recently in Leary against United States, which referred to the Tot case.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. POFF. I yield to the gentleman from Missouri.

Mr. HUNGATE. I appreciate the gentleman's comments. I respect his ability greatly. I know of no finer lawyer anywhere, and I appreciate the gentleman's remarks. I would agree with him on the question of conviction. My concern is with relation to police departments at the State level where simply a residence is destroyed, or a Chamber of Commerce building bombed. Under the present law, as I read it, until the Supreme Court does declare it unconstitutional—and I am daily surprised at the Supreme Court, so I say it might be ruled unconstitutional—under those circumstances many local sheriff's offices are involved, and how many of your own hometowns have comprehensive bomb squads able to conduct an investigation as well as the FBI can? They may find there is no interstate matter involved, but I would hope that they would make the results of their findings in intrastate matters available.

Mr. POFF. I thank the gentleman

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Iowa is recognized.

Mr. SMITH of Iowa. Mr. Chairman, I wish the Committee would very seriously consider this amendment. I think it really has a lot of justification. In Iowa we have had five bombings. One of them happened to be a chamber of commerce building. Let us look at the practical aspects of this bill and this amendment. The fact of the matter is that under existing law, since 1960 the FBI has had the authority to move in and to help with the investigation of such buildings. If it were a chamber of commerce building, if it were a residence, it might be the mayor's residence or it might be the panther headquarters or it might be the police association headquarters—they now have that authority to investigate and they have had that authority since 1960. It is true that it has not been exercised very much. But they have the authority, and now the President has asked for another 1,000 FBI agents to investigate bombings on college campuses. They should also work on other bombings.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Virginia.

Mr. POFF. Mr. Chairman, I note the gentleman is under the misconception, and it is a popular misconception, that the 1,000 additional FBI personnel requested by the President were to be assigned to this function, and this is an error. The 1,000 additional FBI men are justified primarily from the enlarged jurisdiction in the gambling title of this legislation and not in the explosives title.

Mr. SMITH of Iowa. They now have agents looking over the shoulders of the Treasury explosive experts who are now helping with bombing assignments and we will need more of them. As a practical matter, they do have the authority now to help with investigations. We are going to have more agents. We are repealing in this bill the authority for them to move in if the mayor's home or the chamber of commerce's quarters are bombed. It seems to me at this time in our history, we ought not to be repealing that kind of authority.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise at this time to ask the distinguished chairman of the committee a question with respect to the interpretation both of the bill and of present law.

The day before yesterday a radio station in Houston called Pacifica was bombed for the second time. I have been very concerned about the matter, and I have urged the FBI to make an investigation of the matter. I understand they are standing by, but I have had no assurance that they will move into the case.

What I would like to ask is both under existing law and under the law as it would be if this bill is passed, is there a sufficient Federal question of a Federal offense involved to permit the FBI to make such investigation?

Mr. CELLER. I would say under the bill we are considering there should be no doubt that the FBI would have jurisdiction, because it is affecting interstate commerce, affecting the television or radio station, and specifically we have the words on page 167 under (i):

> Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce shall be imprisoned for not more than ten years or fined not more than $10,000, or both; and if personal injury results shall be imprisoned . . .

So there is no doubt that under this bill the FBI would have the authority.

Now, whether there would be the authority under the present law, I am inclined to the view that they do undoubtedly have authority, because a television station or radio station is affected by interstate commerce and authority seems to be lodged there. Why they do not respond, of course, I cannot answer. There may be some other values there which I do not understand.

Mr. ECKHARDT. I am most concerned that in the second instance they have not yet responded.

Mr. CELLER. Let us get this bill through, and they will have to respond.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. HUNGATE).

The question was taken; and on a division (demanded by Mr. HUNGATE) there were—ayes 20, noes 49.

So the amendment was rejected.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I should like to direct some questions to my good friend from New York (Mr. CELLER), and to my good friend from Virginia (Mr. POFF).

I should like to refer to the language on page 169, lines 3, 4, 5, and 6, which treat of the definition.

I should particularly like to have the comments of my good friend from Virginia with regard to this.

As I understand section 845, it provides that the provisions of licensing and the transportation of explosives, et cetera, do not extend to small arms ammunition and components thereof. Am I correct in my understanding?

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am happy to yield to my friend from Virginia.

Mr. POFF. The gentleman is correct.

Mr. DINGELL. This would mean all elements of small arms ammunition and all components, such as black powder, smokeless power, and primers.

I am well satisfied that would also include the caps that would be used to ignite black powder for sportsmen who shoot black powder arms. Am I correct?

Mr. POFF. As I understand the definitions in this bill, the gentleman is correct.

Mr. DINGELL. I am particularly troubled, because the other language earlier in the bill dealing with other definitions could be used to apply to items such as primers, to items such as caps used to ignite black powder as used in sporting firearms by those who happen to shoot with black powder. I assume the gentleman from Virginia agrees with me that caps for igniting black powder in sporting rifles, pistols, and shotguns would have benefit of the exemptions I refer to.

Am I correct in my understanding?

Mr. POFF. As I understand the gentleman's question, the gentleman is correct.

Mr. DINGELL. I want the record to be very clear, I say to my good friend from Virginia, because on lines 5 and 6, page 169, appears a further item—and I now read from the bill:

> (5) black powder in quantities not to exceed five pounds.

This would not exclude, by reason of the fact that the black powder appears separately, the caps which would be used under (4) for the ignition of black powder, in black powder sporting pistols and black powder rifles; am I correct in my understanding?

Mr. POFF. Within the definitions of the title, the gentleman is correct.

Mr. DINGELL. In other words, we have here a situation, as I understand it, where all of the components of sporting rifle, pistol, and shotgun ammunition—powder, primers, and the fully assembled components—are included in the exclusion sections we have been discussing.

Mr. POFF. Within the definitions of the bill, the gentleman is correct.

Mr. DINGELL. I want to thank my good friend. I have been treating of this to establish legislative history, as I know my good friend from Virginia understands. It is my wish we should make it very plain that the sportsmen of the Nation are not going to be harassed again by unwise legislation.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield to me so that I might ask a question of the gentleman from Virginia?

Mr. DINGELL. I am most happy to yield to the gentleman from Texas for that purpose.

Mr. ROBERTS. I would not object, certainly, to a reasonable limitation, but is

XUM

there any limitation as to how many rounds, say, of rifle ammunition are involved? I happen to have a half dozen rifles. If one has 20 or 30 for each rifle, and one pound of powder for each rifle, is there any such limitation that would really be prohibitive in this bill?

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am happy to yield to my friend from Virginia.

Mr. POFF. As the distinguished gentleman from Michigan pointed out earlier, all small arms ammunition and components thereof are exempt from the reach of the bill, as is all black powder in quantities not to exceed 5 pounds.

Mr. ROBERTS. The small arms ammunition would cover all sporting caliber rifles, up to .375 or .450; for anything in the sporting rifle sizes.

Mr. DINGELL. It would also include pistols and shotguns. I am sure my friend from Virginia wants that to show, in the RECORD, too.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I certainly yield to the gentleman from Virginia.

Mr. POFF. So far as I understand the articles which the gentleman mentions, the answer is in the affirmative.

Mr. DINGELL. I thank my friend.

The **CHAIRMAN.** Are there any further amendments to be offered to title XI of the bill? If not, the Clerk will read.

The Clerk read as follows:

TITLE XII—NATIONAL COMMISSION ON INDIVIDUAL RIGHTS

SEC. 1201. There is hereby established the National Commission on Individual Rights (hereinafter in this title referred to as the "Commission").

SEC. 1202. The Commission shall be composed of fifteen members appointed as follows:

(1) four appointed by the President of the Senate from Members of the Senate;

(2) four appointed by the Speaker of the House of Representatives from Members of the House of Representatives; and

(3) seven appointed by the President of the United States from all segments of life in the United States, including but not limited to lawyers, jurists, and policemen, none of whom shall be officers of the executive branch of the Government.

SEC. 1203. The President of the United States shall designate a Chairman from among the members of the Commission. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

SEC. 1204. It shall be the duty of the Commission to conduct a comprehensive study and review of Federal laws and practices relating to special grand juries authorized under chapter 216 of title 18, United States Code, dangerous special offender sentencing under section 3575 of title 18, United States Code, wiretapping and electronic surveillance, bail reform and preventive detention, no-knock search warrants, and the accumulation of data on individuals by Federal agencies as authorized by law or acquired by executive action. The Commission may also consider other Federal laws and practices which in its opinion may infringe upon the individual rights of the people of the United States. The Commission shall determine which laws and practices are needed, which are effective, and whether they infringe upon the individual rights of the people of the United States.

SEC. 1205. (a) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(b) In making appointments pursuant to subsection (a) of this section, the Chairman shall include among his appointment individuals determined by the Chairman to be competent social scientists, lawyers, and law enforcement officers.

SEC. 1206. (a) A member of the Commission who is a Member of Congress shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission.

(b) A member of the Commission from private life shall receive $100 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

SEC. 1207. Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title. The Chairman is further authorized to call upon the departments, agencies, and other offices of the several States to furnish such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title.

SEC. 1208. The Commission shall make interim reports and recommendations as it deems advisable, but at least every two years, and it shall make a final report of its findings and recommendations to the President of the United States and to the Congress at the end of six years following the effective date of this section. Sixty days after the submission of the final report, the Commission shall cease to exist.

SEC. 1209. (a) Except as provided in subsection (b) of this section, any member of the Commission is exempted, with respect to his appointment, from the operation of sections 203, 205, 207, and 209 of title 18, United States Code.

(b) The exemption granted by subsection (a) of this section shall not extend—

(1) to the receipt of payment of salary in connection with the appointee's Government service from any source other than the private employer of the appointee at the time of his appointment, or

(a) during the period of such appointment, to the prosecution, by any person so appointed, of any claim against the Government involving any matter with which such person, during such period, is or was directly connected by reason of such appointment.

SEC. 1210. The foregoing provisions of this title shall take effect on January 1, 1972.

SEC. 1211. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

SEC. 1212. Section 804 of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90–351; 18 U.S.C. 2510 note) is repealed.

Mr. CELLER (during the reading). Mr. Chairman, I ask unanimous consent that title XII be considered as read, printed in the RECORD, and open to amendment at any point.

The **CHAIRMAN.** Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. PEPPER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to speak in support of S. 30.

Since this body honored me last year by permitting me to serve as chairman of its Select Committee on Crime, I have been shocked by what our investigations have revealed about the onslaught of organized crime in our Nation. Wherever we have held hearings, and we have done so in representative areas across the Nation, we have seen the deleterious influence which organized crime has visited upon our society.

One aspect of crime we have studied in depth is the so-called "street crime," the violent antisocial behavior that strikes real fear in the hearts of all Americans. Yet it is clear to our committee that the influence of organized crime is often at work fanning the flames of violent crimes committed by the poor.

The narcotics addict, for instance, is often responsible for half of the violent crimes committed in our Nation's cities. He turns to crime to support his incredibly expensive heroin "habit." But it is organized crime which controls the highly lucrative heroin traffic. And while the addict or street pusher may be arrested, the organized crime elements behind the trade protect themselves from detection and prosecution by the impenetrable web of secrecy inherent in a tightly knit, complex corporate structure. We need to enact S. 30 to help break this web of secrecy.

Too often in the past, Federal law enforcement officials and Federal prosecutors have lacked the tools to fight organized crime, which, of course, lacks nothing in its fight against the law.

This bill give law enforcement officials some of the tools they need, but not enough. I heartily support section 5 of this bill which gives the Government authority to secure housing for Government witnesses if it is deemed necessary for their safety. But this bill omits an important related contingency—funds to pay informers for the information they provide. Organized crime informers rarely decide to tell all because of a sudden sense of contrition. As any criminal knows, money can buy a lot in the underworld. I think Federal agents ought to be able to buy the best of the underworld market, and to do it under the color and sanction of statutory law.

Mr. Chairman, title IX of this bill is a welcome, but unfortunately, tardy response to a problem which has plagued law enforcement for the last two decades; namely, the movement of organized crime into the legitimate business community. The statutory language referring to "racketeering activity" is a

XUM

necessary first step in our Government's fight against the forces of syndicated and sophisticated organized crime and its corrupting influences upon financial institutions, brokerage houses, banks, and public corporations. However, sadly, this bill does not go far enough in tracing the sources of illicit gain into allegedly licit channels of interstate commerce.

For several months, the House Select Committee on Crime has been investigating the movement of organized crime into sophisticated interstate financial dealings, including financial institutions, brokerage houses, banks, and public corporations. Our investigation has amply demonstrated the ascension of organized crime into a giant corporate conglomerate, equal to and rivaling any of our recognized major American corporations.

An illicit syndicated figure whom we have under investigation sardonically remarked recently that he and his organization were bigger than U.S. Steel. Tragically, our investigations substantiate this frightening tale and Government's feeble response to this voracious giant which is threatening the very fabric of our Nation.

It is alarming for us on the House Select Committee on Crime to note that several banks throughout the United States, both large and small, have failed in the past few years. The relationship of those bank failures to the movement of organized crime into nationwide sophisticated corporate and banking transactions is a matter which our committee has under close scrutiny at the present time.

Title IX does not establish an intergovernmental investigatory agency, wherein the resources and talents of Government officials sophisticated in financial dealings could be pooled together in an attempt to compete with organized crime's highly talented and generously financed activities. All too often, our committee has found that law enforcement agencies are hindered by petty jurisdictional disputes during the course of an organized crime investigation. Organized crime does not recognize the niceties of jurisdictional boundaries. Additional tools are obviously needed.

TITLE X. DANGEROUS SPECIAL OFFENDER SENTENCING

Title X, involving the special treatment for dangerous offenders is a needed response to a threatening problem; namely, the continuing interstate criminal conduct of organized crime figures who are not in any way deterred by our normal sentencing procedures.

Our committee heard shocking testimony in New York at our heroin hearings to the effect that 12 to 15 individuals, all organized crime figures, control 80 percent of all the illicit traffic in heroin into the port of New York, the central distribution point of our Nation. Most of these men have criminal records. However, the profit motive is so compelling in the heroin business and the defendant's criminal involvement is so extensive within his syndicate, that the ordinary sentencing provisions provided in the relevant criminal statutes will in no way deter his future criminal activity.

As we all know, organized criminal elements are constantly attempting to subvert officials of local and State governments so that their illicit activities might continue unobstructed.

The provisions for the possible extension of time of special grand juries from 18 to 36 months is highly commendable since by their very nature many organized crime cases due to their complexity will require extensive, complicated, and time-consuming grand jury hearings.

Startling figures have been presented to our committee as to the pecuniary effect of organized illegal gambling. Again, this bill acts against the possible subversion of Government forces for the promotion of gambling activities by prohibiting conspiracies to undermine local law enforcement. In addition, the bill punishes the organizers and managers of certain types of gambling enterprises.

I do question, though, whether we have been too careful concerning the enterprises to be proscribed. Does it really take five men or an income of $2,000 a day to make an organized gambling enterprise? We may do well to consider lowering the number of individuals involved to perhaps two or more, the amount of money taken in to $500. Finally, due to the nebulous nature of many gambling establishments, perhaps the length of operation qualifying any one operation as being continuous should be reduced to 2 weeks of continuous activity.

Although the bill will not by any means reach all gambling activities, it will provide a meaningful beginning in the overall fight.

Mr. Chairman, the fight against organized crime will be a long, complicated, and expensive one. The threads of the organized crime conspiracy run into many of the major portions of the American business and economic community. Sophisticated devices and methods will be needed to combat the evil forces that have so long gone unchecked. This is a start, Mr. Chairman, and I assure you the fight will go on.

We have testimony that the organized crime crowd in this country has a take from heroin alone of $7 billion a year. So we can see that organized crime presents a terrible menace to this country. I hope there will be an amount of money appropriated that will be far in excess of the amount presently appropriated to deal with this menace.

AMENDMENT OFFERED BY MR. SCOTT

Mr. SCOTT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SCOTT: On page 174 strike out all of Title XII down through and including line 11 on page 178.

Mr. SCOTT. Mr. Chairman, this amendment does strike out the entire title XII that relates to the establishment of a National Commission on Individual Rights.

Mr. Chairman, if we look at the title, we find that it authorizes the establishment of a Commission to investigate Federal laws and practices relating to special grand juries, to dangerous special offender sentencing, to wiretapping and electronic surveillance, bail reform, preventive detention, no-knock warrants, and the accumulation of data on individuals by Federal agencies. It would also authorize the investigation of laws and practices which, in its opinion, may infringe upon the individual rights of people.

Mr. Chairman, I have some doubts about whether we should have further national study commissions, because a number of our national study commissions that we have recently had move come back with reports which, in my opinion, are not in the national interest.

And, I have doubts as to whether the establishment of this Commission is in the national interest. We have the Civil Rights Division of the Department of Justice to investigate any denial of the civil rights of any individual. Certainly our courts are to protect the rights of individual citizens. It is in my opinion a fact that our courts have bent over backward in the protection of individual rights and have forgotten the rights of society to be protected.

Mr. Chairman, I am afraid that this Commission will be a harassing agency and that it will harass law enforcement officers. I see no useful purpose in this provision.

I am quite aware of the fact that our Judiciary Committee today is operating under the unit rule and I do not have any great expectation that this amendment will be adopted. Yet, this title is not in the Senate bill. I am hopeful that through an expression of opinion here in the House at least we can strengthen the conference committee when they are ironing out the differences between the House and the Senate bills so that this title will ultimately be stricken from the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE XIII—GENERAL PROVISIONS

SEC. 1301. If the provisions of any part of this Act or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

(Mr. GROSS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. GROSS. Mr. Chairman, I rise in support of this bill, although I have serious misgivings about some of the provisions contained therein.

The bill is acceptable only because of the very serious crime situation that scrouges the Nation from one end to the other and which requires drastic action. It is sad and tragic that this situation was permitted to develop and that we must now authorize the Federal Government to intervene with further powers in the affairs of the States and local subdivisions of government.

The creation of two more commissions in this legislation is unwarranted. These

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ought to have been stricken and I voted to do so. However, because of the dire need to bring crime under control I could not vote against the bill.

The need for this legislation, with its delegations of power and imperfections, is further evidence of the decadence that besets this country. Let us fervently hope that the crime situation can be brought under control promptly and that as quickly as possible thereafter many of the provisions of this legislation will be repealed.

Mr. ROTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak very briefly upon title XII and thank the members of the committee for acting so promptly and favorably on my proposal on a Commission on Individual Rights.

I would like to say that I have been a believer in developing new anticrime tools because of the high incidence of crime.

I have been one who has supported preventive detention and the District of Columbia crime bill.

I agree with the New York Times when it says:

> In the last analysis, the enemies of the police are the enemies of all organized society and of the personal security which is society's first obligation toward all its members.

I believe it is important that we do develop new tools, but at the same time I think it is important that we make sure these new tools have the kind of effectiveness that we want.

Mr. Chairman, I would like to point out that this Commission has a two-edged responsibility First, to report as to the effectiveness of these new anticrime provisions and, second, to advise—and it is strictly an advisory committee—the Congress and the President as to whether there have been any undue infringements upon individual liberties.

Mr. Chairman, I would like to emphasize that the Commission replaces the Commission that was established for wiretapping. It is modeled along very much the same lines.

I think it is very important to recognize that under the provisions of this section this new Commission will have the right to study the effect of wiretaps at the State level as well as at the Federal level.

Mr. SCOTT. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I am glad to yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Chairman, let me assure the distinguished gentleman from Delaware that my amendment had nothing to do with his background in the field of supporting the enactment of criminal laws in this body. I am well aware that the gentleman has supported the various measures that have come before this House.

This particular topic I believe is objectionable, and that is the reason for the proposal.

Mr. ROTH. I thank the gentleman from Virginia.

Mr. Chairman, I would also like to thank the gentleman from Pennsylvania (Mr. BIESTER), for his able and strong leadership in obtaining approval of my proposal in the Judiciary Committee.

The **CHAIRMAN.** The question is on the committee amendment in the nature of a substitute.

The committee substitute amendment was agreed to.

The **CHAIRMAN.** Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROONEY of New York, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (S. 30) relating to the control of organized crime in the United States, pursuant to House Resolution 1235, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The **SPEAKER.** Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The **SPEAKER.** The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER.** The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GERALD R. FORD. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The **SPEAKER.** Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 341, nays 26, not voting 63, as follows:

[Roll No. 332]

YEAS—341

Abernethy
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Arends
Ashbrook
Ashley
Ayres
Baring
Barrett
Beall, Md.
Belcher
Bell, Calif.
Bennett
Bevill
Biaggi
Biester
Blackburn
Blanton
Blatnik
Boggs
Boland
Bow
Brademas
Brasco
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Utah
Byrne, Pa.
Byrnes, Wis.
Caffery
Camp
Carey
Carter
Casey
Cederberg
Celler
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Cleveland
Collier
Collins
Colmer
Conable
Conte
Corman
Coughlin
Cramer
Crane
Culver
Cunningham
Daniel, Va.
Daniels, N.J.
Davis, Ga.
Davis, Wis.
Delaney
Dellenback
Denney
Dennis
Dent
Devine
Dickinson
Dingell
Donohue
Dorn
Downing
Dulski
Duncan
Dwyer
Edmondson
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Ford, Gerald R.
Ford, William D.
Fountain
Fraser
Frelinghuysen
Frey
Friedel
Fulton, Pa.
Fulton, Tenn.
Fuqua
Galifianakis
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Gilbert
Goldwater
Goodling
Gray
Green, Oreg.
Green, Pa.
Griffin
Gross
Grover
Gubser
Gude
Hagan
Hall
Halpern
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hathaway
Hays
Hechler, W. Va.
Heckler, Mass.
Henderson
Hicks
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kee
Keith
King
Kleppe
Kluczynski
Kuykendall
Kyl
Kyros
Landgrebe
Langen
Latta
Leggett
Lennon
Lloyd
Long, La.
Long, Md.
Lukens
McClure
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKneally
Macdonald, Mass.
MacGregor
Madden
Mahon
Mann
Marsh
Martin
Mathias
May
Mayne
Meeds
Melcher
Meskill
Michel
Miller, Calif.
Miller, Ohio
Mills
Minish
Minshall
Mize
Mizell
Mollohan
Monagan
Montgomery
Moorhead
Morton
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nelsen
Nichols
Nix
Obey
O'Hara
Olsen
O'Neill, Mass.
Passman
Patten
Pelly
Pepper
Perkins
Pettis
Philbin
Pickle
Pike
Poage
Poff
Preyer, N.C.
Price, Ill.
Price, Tex.
Pryor, Ark.
Pucinski
Quie
Quillen
Railsback
Randall
Rarick
Rees
Reid, Ill.
Reid, N.Y.
Reuss
Rhodes
Riegle
Roberts
Robison
Rodino
Roe
Rogers, Colo.
Rogers, Fla.
Rooney, N.Y.
Rooney, Pa.
Rostenkowski
Roth
Rousselot
Ruppe
Ruth
St Germain
Sandman
Satterfield
Saylor
Schadeberg
Scherle
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Springer
Stafford
Staggers
Stanton
Steed
Steiger, Ariz.
Steiger, Wis.
Stubblefield
Sullivan
Symington
Taft
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
Watson
Watts
Weicker
Whalen
Whalley
White
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yatron
Young
Zablocki
Zion
Zwach

NAYS—26

Bingham
Bolling
Brown, Calif.
Burton, Calif.
Chisholm
Clay
Cohelan
Conyers
Diggs
Eckhardt
Farbstein
Gallagher
Gonzalez
Hawkins
Koch
Lowenstein
Matsunaga
Mikva
Mink
Podell
Rosenthal
Roybal
Ryan
Scheuer
Stokes
Yates

NOT VOTING—63

Abbitt
Adair
Aspinall
Berry
Betts
Brock
Brooks
Brown, Ohio
Bush
Button
Cabell
Clawson, Del
Corbett
Cowger
Daddario
Dawson
de la Garza
Derwinski
Dowdy
Edwards, La.
Fallon
Feighan
Fisher
Flynt
Foreman
Griffiths
Haley
Hanna
Harvey
Hébert
Helstoski
Jonas
Jones, N.C.
Landrum
Lujan
McCarthy
McClory
McCloskey
McMillan

Mailliard
Morgan
Morse
Nedzi
O'Konski
O'Neal, Ga.
Ottinger
Patman
Pirnie
Pollock
Powell
Purcell
Reifel
Rivers
Roudebush
Snyder
Stephens
Stratton
Stuckey
Tunney
Whitehurst
Wilson,
  Charles H.
Wold

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Adair.
Mr. Hanna with Mr. McCloskey.
Mr. Cabell with Mr. Betts.
Mr. Brooks with Mr. Bush.
Mr. Aspinall with Mr. Whitehurst.
Mr. Jones of North Carolina with Mr. McClory.
Mr. Nedzi with Mr. Harvey.
Mr. Patman with Mr. Jonas.
Mr. Edwards of Louisiana with Mr. O'Konski.
Mr. Purcell with Mr. Reifel.
Mr. Fisher with Mr. Berry.
Mr. Rivers with Mr. Pirnie.
Mr. Morgan with Mr. Morse.
Mr. Landrum with Mr. Wold.
Mr. Daddario with Mr. Mailliard.
Mr. de la Garza with Mr. Lujan.
Mr. Flynt with Mr. Roudebush.
Mr. Dowdy with Mr. Derwinski.
Mr. Haley with Mr. Brock.
Mrs. Griffith with Mr. Corbett.
Mr. O'Neal of Georgia with Mr. Brown of Ohio.
Mr. Stuckey with Mr. Snyder.
Mr. Stratton with Mr. Button.
Mr. Charles H. Wilson with Mr. Del Clawson.
Mr. Stephens with Mr. Cowger.
Mr. McMillan with Mr. Foreman.
Mr. Abbitt with Mr. Pollock.
Mr. Tunney with Mr. Powell.
Mr. Ottinger with Mr. Dawson.
Mr. Fallon with Mr. Feighan.
Mr. Helstoski with Mr. McCarthy.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On September 26, 1970:

H.R. 1747. An act for the relief of Jose Luis Calleja-Perez;

H.R. 5365. An act to provide for the conveyance of certain public land held under color of title to Miss Adelaide Gaines of Mobile, Ala.;

H.R. 10149. An act for the relief of Jack W. Herbstreit;

H.R. 13543. An act to establish a program of research and promotion for United States wheat;

H.R. 16900. An act making appropriations for the Treasury and Post Office Departments, the Executive Office of the President, and certain independent agencies, for the fiscal year ending June 30, 1971, and for other purposes; and

H.R. 17734. An act for the relief of Sherman Webb and others.

On October 2, 1970:

H.J. Res. 1366. Joint resolution to provide for the temporary extension of the Federal Housing Administration's insurance authority.

On October 6, 1970:

H.J. Res. 1178. Joint resolution authorizing the President to proclaim the month of October 1970 as "Project Concern Month";

H.R. 11953. An act to amend section 205 of the Act of September 21, 1944 (58 Stat. 736), as amended; and

H.R. 17795. An act to amend title VII of the Housing and Urban Development Act of 1965, became law without signature by the President. The 10th day for consideration by the President under the Constitution was October 5, 1970.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 12870. An act to provide for the establishment of the King Range National Conservation Area in the State of California.

THIRD ANNUAL REPORT ON THE ADMINISTRATION OF THE HIGHWAY SAFETY ACT OF 1966—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91-397)

The SPEAKER pro tempore (Mr. HOLIFIELD) laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on Public Works and ordered to be printed with illustrations:

To the Congress of the United States:

Pursuant to provisions in section 202 of the Highway Safety Act of 1966, I am transmitting herewith for examination by the Congress the third annual report on the administration of this Act. The report covers activity under the Act from January 1 through December 31, 1969.

The report conveys the unavoidable fact that highway crashes continue to take a costly toll: 56,000 deaths and countless injuries in 1969. A small but hopeful trend, however, emerges from the statistics contained in the report: there continues to be a slowdown in the highway death rate, first observed in last year's report to you.

Safety considerations in the design and construction of highways have played a major role in creating this trend. Equally important have been the efforts of each State to mount comprehensive safety programs. These programs cover a wide range of measures dealing, largely, with drinking behavior.

No program is more important than one seeking to control the problem of drunk driving, which accounts for half the nation's highway fatalities. For this reason, the report before you gives the highest priority to the control of drunk driving.

While much has been done in these safety programs, I am sure the Congress agrees that a greater commitment by every American will be required to rid our nation of this terrible cost in lives, injuries, and property damage.

RICHARD NIXON.

THE WHITE HOUSE, *October 7, 1970.*

THIRD ANNUAL REPORT ON THE ADMINISTRATION OF THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91-398)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce, and ordered to be printed with illustrations:

To the Congress of the United States:

Pursuant to provisions of section 120 of the National Traffic and Motor Vehicle Safety Act, I am transmitting herewith for the information of the Congress the third annual report on the administration of the Act. The report covers activities under the Act from January 1 through December 31, 1969.

The report conveys the unavoidable fact that motor vehicle accidents continue to take a costly toll. There were 56,000 deaths and countless injuries in 1969. A small but hopeful trend, however, emerges from the statistics contained in the report: there continues to be a slowdown in the highway death rate, first observed in last year's report to you.

The report presents dramatic examples of survival from crashes which heretofore meant certain death—survival made possible through injury reduction features required by Federal standards for newly manufactured vehicles. The proven success of these features has persuaded the Department of Transportation to assign the highest priority to crash survivability in its programs administered under the National Traffic and Motor Vehicle Safety Act. Significant reductions in the casualty toll are anticipated from new crash survival features which are receiving intensive rulemaking attention in 1970.

While much has been done in these safety programs, I am sure the Congress agrees that a greater commitment by every American will be required to rid our Nation of the terrible cost of lives, injuries, and property damage caused by motor vehicle accidents.

RICHARD NIXON.

THE WHITE HOUSE, *October 7, 1970.*

THE ENVIRONMENTAL PROTECTION AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91-399)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee of the Whole House on the State of the Union, and ordered to be printed:

To the Congress of the United States:

The oceans, covering nearly three-quarters of the world's surface, are critical to maintaining our environment, for they contribute to the basic oxygen-carbon dioxide balance upon which human and animal life depends. Yet man does not treat the oceans well. He has assumed that their capacity to absorb wastes is infinite, and evidence is now accumulating on the damage that he has caused. Pollution is now visible even on the high seas—long believed beyond the reach of man's harmful influence. In recent months, worldwide concern has been expressed about the dangers of dumping toxic wastes in the oceans.

In view of the serious threat of ocean pollution, I am today transmitting to the Congress a study I requested from the Council on Environmental Quality. This study concludes that:

—the current level of ocean dumping is creating serious environmental damage in some areas.

—the volume of wastes dumped in the ocean is increasing rapidly.

—a vast new influx of wastes is likely to occur as municipalities and industries turn to the oceans as a convenient sink for their wastes.

—trends indicate that ocean disposal could become a major nationwide environmental problem.

—unless we begin now to develop alternative methods of disposing of these wastes, institutional and economic obstacles will make it extremely difficult to control ocean dumping in the future.

—the nation must act now to prevent the problem from reaching unmanageable proportions.

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The study recommends legislation to ban the unregulated dumping of all materials in the oceans and to prevent or rigorously limit the dumping of harmful materials. The recommended legislation would call for permits by the Administrator of the Environmental Protection Agency for the transportation and dumping of all materials in the oceans and in the Great Lakes.

I endorse the Council's recommendations and will submit specific legislative proposals to implement them to the next Congress. These recommendations will supplement legislation my Administration submitted to the Congress in November, 1969 to provide comprehensive management by the States of the land and waters of the coastal zone and in April, 1970 to control dumping of dredge spoil in the Great Lakes.

The program proposed by the Council is based on the premise that we should take action before the problem of ocean dumping becomes acute. To date, most of our energies have been spent cleaning up mistakes of the past. We have failed to recognize problems and to take corrective action before they became serious. The resulting signs of environmental decay are all around us, and remedial actions heavily tax our resources and energies.

The legislation recommended would be one of the first new authorities for the Environmental Protection Agency. I believe it is fitting that in this recommended legislation, we will be acting—rather than reacting—to prevent pollution before it begins to destroy the waters that are so critical to all living things.

RICHARD NIXON.

THE WHITE HOUSE, *October 7, 1970*.

PERMISSION FOR SUBCOMMITTEE ON ELECTIONS, COMMITTEE ON HOUSE ADMINISTRATION, TO SIT DURING GENERAL DEBATE TOMORROW

Mr. HAYS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Elections of the Committee on House Administration may sit tomorrow morning during general debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. HALL. Mr. Speaker, reserving the right to object, does the gentleman appreciate the fact that unanimous consent authority has been given to convening the House at 10 o'clock tomorrow morning?

Mr. HAYS. The gentleman is aware of that. But I would like to suggest to the gentleman from Missouri that we have an election contest on a primary, and it is a matter of the utmost urgency that a hearing be held and a decision be made on it.

I did not realize that I was to do this until the chairman of the subcommittee telephoned and said he was out of town and asked me as the next ranking member to start the proceedings. I think it will be unfair to both the contestant and the contestee if we prolong this. I see no other possibility but to do it while the House sits. The lawyer for the contestant is here and the lawyer for the contestee is here at some expense. I am in a bind on this and I am asking for the permission for this reason.

Mr. HALL. Mr. Speaker, I believe I understand the situation. However, it has been our custom and practice recently when unanimous consent is given, for a variety of reasons, to convene the House early to have the Members pay attention to the business of the House and not grant this extraordinary privilege for committees and subcommittees to meet during the time the House is foregathered.

Mr. HAYS. Mr. Speaker, will the gentleman yield further?

Mr. HALL. I yield to the gentleman.

Mr. HAYS. I would not be asking for this unless there were extraordinary circumstances involved. The courts have bucked this problem back to the Congress, and I think it is unfair to everybody concerned for us to delay trying to arrive at some kind of decision. It may well be that we do not want to do anything. But we ought to let everybody know and I do not think we can do that unless the committee can meet.

Mr. HALL. Of course, we are coming down to the end of the line. There are some of us who think that we should adjourn sine die instead of recessing and coming back for a lame duck session and that requests are going to be more and more numerous even as though the date of the sine die adjournment had been set for the House to consider bills under suspension of the rules and other unusual rules.

There is always a situation of people traveling at great expense and witnesses who have been called before the unanimous consent was given and this is one of the elements of whether we have good or indifferent leadership or not.

Mr. Speaker, insofar as this particular situation is concerned, I am advised by one of the Members himself who said that the Supreme Court of the State of Colorado had referred this back to the Congress, and I shall not object to this but I serve notice that when we are meeting hereafter at an unusual hour contrary to the customs and traditions, I shall object.

Mr. Speaker, I withdraw my reservation of objection.

Mr. BURTON of California. Mr. Speaker, further reserving the right to object, as I understand, from the statement of the gentleman from Ohio (Mr. HAYS), representatives of both of the candidates will be present for the hearings; is that correct—or at the meetings?

Mr. HAYS. It is the intention of the committee, if I may say so, to hear the staff people who went out there on the scene, and to get their opinion about whether there is anything to hold a hearing about.

If they think there is something, then both sides certainly will be invited to appear. Both sides have been notified to stand by in case the committee decides to go on and hear evidence.

Mr. BURTON of California. I am pleased to hear that but not surprised in light of the record of the gentleman from Ohio in this regard, and I withdraw my reservation.

The SPEAKER pro tempore (Mr. HOLIFIELD). Is there objection to the request of the gentleman from Ohio?

There was no objection.

GENERAL LEAVE TO EXTEND

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed (S. 30), and to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT ON H.R. 11833, RESOURCE RECOVERY ACT OF 1970

Mr. STAGGERS submitted the following conference report and statement on the bill (H.R. 11833) to amend the Solid Waste Disposal Act in order to provide financial assistance for the construction of solid waste disposal facilities, to improve research programs pursuant to such act, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 91–1579)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11833) to amend the Solid Waste Disposal Act in order to provide financial assistance for the construction of solid waste disposal facilities, to improve research programs pursuant to such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: That this Act may be cited as the "Resource Recovery Act of 1970".

TITLE I—RESOURCE RECOVERY

SEC. 101. Section 202(b) of the Solid Waste Disposal Act is amended to read as follows:

"(b) The purposes of this Act therefore are—

"(1) to promote the demonstration, construction, and application of solid waste management and resource recovery systems which preserve and enhance the quality of air, water, and land resources;

"(2) to provide technical and financial assistance to States and local governments and interstate agencies in the planning and development of resource recovery and solid waste disposal programs;

"(3) to promote a national research and development program for improved management techniques, more effective organizational arrangements, and new and improved methods of collection, separation, recovery, and recycling of solid wastes, and the environmentally safe disposal of nonrecoverable residues;

"(4) to provide for the promulgation of guidelines for solid waste collection, transport, separation, recovery, and disposal systems; and

"(5) to provide for training grants in occupations involving the design, operation, and maintenance of solid waste disposal systems."

SEC. 102. Section 203 of the Solid Waste Disposal Act is amended by inserting at the end thereof the following:

"(7) The term 'municipality' means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law with responsibility for the planning or administration of solid waste disposal, or an Indian tribe.

"(8) The term 'intermunicipal agency' means an agency established by two or more municipalities with responsibility for planning or administration of solid waste disposal.

"(9) The term 'recovered resources' means materials or energy recovered from solid wastes.

"(10) The term 'resource recovery system' means a solid waste management system which provides for collection, separation, recycling, and recovery of solid wastes, including disposal of nonrecoverable waste residues."

SEC. 103. (a) Section 204(a) of the Solid Waste Disposal Act is amended to read as follows:

"SEC. 204. (a) The Secretary shall conduct, and encourage, cooperate with, and render financial and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and promote the coordination of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to—

"(1) any adverse health and welfare effects of the release into the environment of material present in solid waste, and methods to eliminate such effects;

"(2) the operation and financing of solid waste disposal programs;

"(3) the reduction of the amount of such waste and unsalvageable waste materials;

"(4) the development and application of new and improved methods of collecting and disposing of solid waste and processing and recovering materials and energy from solid wastes; and

"(5) the identification of solid waste components and potential materials and energy recoverable from such waste components."

(b) Section 204(d) of the Solid Waste Disposal Act is repealed.

SEC. 104. (a) The Solid Waste Disposal Act is amended by striking out section 206, by redesignating section 205 as 206, and by inserting after section 204 the following new section:

"SPECIAL STUDY AND DEMONSTRATION PROJECTS ON RECOVERY OF USEFUL ENERGY AND MATERIALS

"SEC. 205. (a) The Secretary shall carry out an investigation and study to determine—

"(1) means of recovering materials and energy from solid waste, recommended uses of such materials and energy for national or international welfare, including identification of potential markets for such recovered resources, and the impact of distribution of such resources on existing markets;

"(2) changes in current product characteristics and production and packaging practices which would reduce the amount of solid waste;

"(3) methods of collection, separation, and containerization which will encourage efficient utilization of facilities and contribute to more effective programs of reduction, reuse, or disposal of wastes;

"(4) the use of Federal procurement to develop market demand for recovered resources;

"(5) recommended incentives (including Federal grants, loans, and other assistance) and disincentives to accelerate the reclamation or recycling of materials from solid wastes, with special emphasis on motor vehicle hulks;

"(6) the effect of existing public policies, including subsidies and economic incentives and disincentives, percentage depletion allowances, capital gains treatment and other tax incentives and disincentives, upon the recycling and reuse of materials, and the likely effect of the modification or elimination of such incentives and disincentives upon the reuse, recycling, and conservation of such materials; and

"(7) the necessity and method of imposing disposal or other charges on packaging, containers, vehicles, and other manufactured goods, which charges would reflect the cost of final disposal, the value of recoverable components of the item, and any social costs associated with nonrecycling or uncontrolled disposal of such items.

The Secretary shall from time to time, but not less frequently than annually, report the results of such investigation and study to the President and the Congress.

"(b) The Secretary is also authorized to carry out demonstration projects to test and demonstrate methods and techniques developed pursuant to subsection (a).

"(c) Section 204 (b) and (c) shall be applicable to investigations, studies, and projects carried out under this section."

(b) The Solid Waste Disposal Act is amended by redesignating sections 207 through 210 as sections 213 through 216, respectively, and by inserting after section 206 (as so redesignated by subsection (a) of this section) the following new sections:

"GRANTS FOR STATE, INTERSTATE, AND LOCAL PLANNING

"SEC. 207. (a) The Secretary may from time to time, upon such terms and conditions consistent with this section as he finds appropriate to carry out the purposes of this Act, make grants to State, interstate, municipal, and intermunicipal agencies, and organizations composed of public officials which are eligible for assistance under section 701(g) of the Housing Act of 1954, of not to exceed 66⅔ per centum of the cost in the case of an application with respect to an area including only one municipality, and not to exceed 75 per centum of the cost in any other case, of—

"(1) making surveys of solid waste disposal practices and problems within the jurisdictional areas of such agencies and

"(2) developing and revising solid waste disposal plans as part of regional environmental protection systems for such areas, providing for recycling or recovery of materials from wastes whenever possible and including planning for the reuse of solid waste disposal areas and studies of the effect and relationship of solid waste disposal practices on areas adjacent to waste disposal sites.

"(3) developing proposals for projects to be carried out pursuant to section 208 of this Act, or

"(4) planning programs for the removal and processing of abandoned motor vehicle hulks.

"(b) Grants pursuant to this section may be made upon application therefor which—

"(1) designates or establishes a single agency (which may be an interdepartmental agency) as the sole agency for carrying out the purposes of this section for the area involved;

"(2) indicates the manner in which provision will be made to assure full consideration of all aspects of planning essential to areawide planning for proper and effective solid waste disposal consistent with the protection of the public health and welfare, including such factors as population growth, urban and metropolitan development, land use planning, water pollution control, air pollution control, and the feasibility of regional disposal and resource recovery programs;

"(3) sets forth plans for expenditure of such grant, which plans provide reasonable assurance of carrying out the purposes of this section;

"(4) provides for submission of such reports of the activities of the agency in carrying out the purposes of this section, in such form and containing such information, as the Secretary may from time to time find necessary for carrying out the purposes of this section and for keeping such records and affording such access thereto as he may find necessary; and

"(5) provides for such fiscal-control and fund-accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the agency under this section.

"(c) The Secretary shall make a grant under this section only if he finds that there is satisfactory assurance that the planning of solid waste disposal will be coordinated, so far as practicable, with and not duplicate other related State, interstate, regional, and local planning activities, including those financed in part with funds pursuant to section 701 of the Housing Act of 1954.

"GRANTS FOR RESOURCE RECOVERY SYSTEMS AND IMPROVED SOLID WASTE DISPOSAL FACILITIES

"SEC. 208. (a) The Secretary is authorized to make grants pursuant to this section to any State, municipal, or interstate or intermunicipal agency for the demonstration of resource recovery systems or for the construction of new or improved solid waste disposal facilities.

"(b)(1) Any grant under this section for the demonstration of a resource recovery system may be made only if it (A) is consistent with any plans which meet the requirements of section 207(b)(2) of this Act; (B) is consistent with the guidelines recommended pursuant to section 209 of this Act; (C) is designed to provide areawide resource recovery systems consistent with the purposes of this Act, as determined by the Secretary, pursuant to regulations promulgated under subsection (d) of this section; and (D) provides an equitable system for distributing the costs associated with construction, operation, and maintenance of any resource recovery system among the users of such system.

"(2) the Federal share for any project to which paragraph (1) applies shall not be more than 75 percent.

"(c) (1) A grant under this section for the construction of a new or improved solid waste disposal facility may be made only if—

"(A) a State or interstate plan for solid waste disposal has been adopted which applies to the area involved, and the facility to be constructed (i) is consistent with such plan, (ii) is included in a comprehensive plan for the area involved which is satisfactory to the Secretary for the purposes of this Act, and (iii) is consistent with the guidelines recommended under section 209, and

"(B) the project advances the state of the art by applying new and improved techniques in reducing the environmental impact of solid waste disposal, in achieving recovery of energy or resources, or in recycling useful materials.

"(2) The Federal share for any project to which paragraph (1) applies shall be not more than 50 percent in the case of a project serving an area which includes only one municipality, and not more than 75 percent in any other case.

"(d) (1) The Secretary, within ninety days after the date of enactment of the Resource Recovery Act of 1970, shall promulgate regulations establishing a procedure for awarding grants under this section which—

"(A) provides that projects will be carried out in communities of varying sizes, under such conditions as will assist in solving the community waste problems of urban-industrial centers, metropolitan regions, and rural areas, under representative geographic and environmental conditions; and

"(B) provides deadlines for submission of, and action on, grant requests.

"(2) In taking action on applications for grants under this section, consideration shall be given by the Secretary (A) to the public benefits to be derived by the construction and the propriety of Federal aid in making such grant; (B) to the extent applicable, to the economic and commercial viability of the project (including contractual arrangements with the private sector to market any resources recovered); (C) to the potential of such project for general application to community solid waste disposal problems; and (D) to the use by the applicant of comprehensive regional or metropolitan area planning.

"(e) A grant under this section—

"(1) may be made only in the amount of the Federal share of (A) the estimated total design and construction costs, plus (B) in the case of a grant to which subsection (b) (1) applies, the first-year operation and maintenance costs;

"(2) may not be provided for land acquisition or (except as otherwise provided in paragraph (1) (B)) for operating or maintenance costs;

"(3) may not be made until the applicant has made provision satisfactory to the Secretary for proper and efficient operation and maintenance of the project (subject to paragraph (1) (B)); and

"(4) may be made subject to such conditions and requirements, in addition to those provided in this section, as the Secretary may require to properly carry out his functions pursuant to this Act.

For purposes of paragraph (1), the non-Federal share may be in any form, including, but not limited to, lands or interests therein needed for the project or personal property or services, the value of which shall be determined by the Secretary.

"(f) (1) Not more than 15 percent of the total of funds authorized to be appropriated under section 216(a) (3) for any fiscal year to carry out this section shall be granted under this section for projects in any one State.

"(2) The Secretary shall prescribe by regulation the manner in which this subsection shall apply to a grant under this section for a project in an area which includes all or part of more than one State.

"RECOMMENDED GUIDELINES

"SEC. 209. (a) The Secretary shall, in cooperation with appropriate State, Federal, interstate, regional, and local agencies, allowing for public comment by other interested parties, as soon as practicable after the enactment of the Resource Recovery Act of 1970, recommend to appropriate agencies and publish in the Federal Register guidelines for solid waste recovery, collection, separation, and disposal systems (including systems for private use), which shall be consistent with public health and welfare, and air and water quality standards and adaptable to appropriate land-use plans. Such guidelines shall apply to such systems whether on land or water and shall be revised from time to time.

"(b) (1) The Secretary shall, as soon as practicable, recommend model codes, ordinances, and statutes which are designed to implement this section and the purposes of this Act.

"(2) The Secretary shall issue to appropriate Federal, interstate, regional, and local agencies information on technically feasible solid waste collection, separation, disposal, recycling, and recovery methods, including data on the cost of construction, operation, and maintenance of such methods.

"GRANTS OR CONTRACTS FOR TRAINING PROJECTS

"SEC. 210. (a) The Secretary is authorized to make grants to, and contracts with, any eligible organization. For purposes of this section the term 'eligible organization' means a State or interstate agency, a municipality, educational institution, and any other organization which is capable of effectively carrying out a project which may be funded by grant under subsection (b) of this section.

"(b) (1) Subject to the provisions of paragraph (2), grants or contracts may be made to pay all or a part of the costs, as may be determined by the Secretary, of any project operated or to be operated by an eligible organization, which is designed—

"(A) to develop, expand, or carry out a program (which may combine training, education, and employment) for training persons for occupations involving the management, supervision, design, operation, or maintenance of solid waste disposal and resource recovery equipment and facilities; or

"(B) to train instructors and supervisory personnel to train or supervise persons in occupations involving the design, operation, and maintenance of solid waste disposal and resource recovery equipment and facilities.

"(2) A grant or contract authorized by paragraph (1) of this subsection may be made only upon application to the Secretary at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it provides for the same procedures and reports (and access to such reports and to other records) as is required by section 207 (b) (4) and (5) with respect to applications made under such section.

"(c) The Secretary shall make a complete investigation and study to determine—

"(1) the need for additional trained State and local personnel to carry out plans assisted under this Act and other solid waste and resource recovery programs;

"(2) means of using existing training programs to train such personnel; and

"(3) the extent and nature of obstacles to employment and occupational advancement, in the solid waste disposal and resource recovery field which may limit either available manpower or the advancement of personnel in such field.

He shall report the results of such investigation and study, including his recommendations to the President and the Congress not later than one year after enactment of this Act.

"APPLICABILITY OF SOLID WASTE DISPOSAL GUIDELINES TO EXECUTIVE AGENCIES

"SEC. 211. (a) (1) If—

"(A) an Executive agency (as defined in section 105 of title 5, United States Code) has jurisdiction over any real property or facility the operation or administration of which involves such agency in solid waste disposal activities, or

"(B) such an agency enters into a contract with any person for the operation by such person of any Federal property or facility, and the performance of such contract involves such person in solid waste disposal activities,

then such agency shall insure compliance with the guidelines recommended under section 209 and the purposes of this Act in the operation or administration of such property or facility, or the performance of such contract, as the case may be.

"(2) Each Executive agency which conducts any activity—

"(A) which generates solid waste, and

"(B) which, if conducted by a person other than such agency, would require a permit or license from such agency in order to dispose of such solid waste,

shall insure compliance with such guidelines and the purposes of this Act in conducting such activity.

"(3) Each Executive agency which permits the use of Federal property for purposes of disposal of solid waste shall insure compliance with such guidelines and the purposes of this Act in the disposal of such waste.

"(4) The President shall prescribe regulations to carry out this subsection.

"(b) Each Executive agency which issues any license or permit for disposal of solid waste shall, prior to the issuance of such license or permit, consult with the Secretary to insure compliance with guidelines recommended under section 209 and the purposes of this Act.

"NATIONAL DISPOSAL SITES STUDY

"SEC. 212. The Secretary shall submit to the Congress no later than two years after the date of enactment of the Resource Recovery Act of 1970, a comprehensive report and plan for the creation of a system of national disposal sites for the storage and disposal of hazardous wastes, including radioactive, toxic chemical, biological, and other wastes which may endanger public health or welfare. Such report shall include: (1) a list of materials which should be subject to disposal in any such site; (2) current methods of disposal of such materials; (3) recommended methods of reduction, neutralization, recovery, or disposal of such materials; (4) an inventory of possible sites including existing land or water disposal sites operated or licensed by Federal agencies; (5) an estimate of the cost of developing and maintaining sites including consideration of means for distributing the short- and long-term costs of operating such sites among the users thereof; and (6) such other information as may be appropriate."

(c) Section 215 of the Solid Waste Disposal Act (as so redesignated by subsection (b) of this section) is amended by striking out the heading thereof and inserting in lieu thereof "GENERAL PROVISIONS"; by inserting "(a)" before "Payments"; and by adding at the end thereof the following:

"(b) No grant may be made under this Act to any private profitmaking organization."

SEC. 105. Section 216 of the Solid Waste Disposal Act (as so redesignated by section 104 of this Act) is amended to read as follows:

"SEC. 216. (a) (1) There are authorized to be appropriated to the Secretary of Health, Education, and Welfare for carrying out the provisions of this Act (including, but not limited to, section 208), not to exceed $41,-

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500,000 for the fiscal year ending June 30, 1971.

"(2) There are authorized to be appropriated to the Secretary of Health, Education, and Welfare to carry out the provisions of this Act, other than section 208, not to exceed $72,000,000 for the fiscal year ending June 30, 1972, and not to exceed $76,000,000 for the fiscal year ending June 30, 1973.

"(3) There are authorized to be appropriated to the Secretary of Health, Education, and Welfare to carry out section 208 of this Act not to exceed $80,000,000 for the fiscal year ending June 30, 1972, and not to exceed $140,000,000 for the fiscal year ending June 30, 1973.

"(b) There are authorized to be appropriated to the Secretary of the Interior to carry out this Act not to exceed $8,750,000 for the fiscal year ending June 30, 1971, not to exceed $20,000,000 for the fiscal year ending June 30, 1972, and not to exceed $22,500,000 for the fiscal year ending June 30, 1973. Prior to expending any funds authorized to be appropriated by this subsection, the Secretary of the Interior shall consult with the Secretary of Health, Education, and Welfare to assure that the expenditure of such funds will be consistent with the purposes of this Act.

"(c) Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation for grants, contracts, or other payments under any provision of this Act for any fiscal year beginning after June 30, 1970, shall be available for evaluation (directly, or by grants or contracts) of any program authorized by this Act.

"(d) Sums appropriated under this section shall remain available until expended."

TITLE II—NATIONAL MATERIALS POLICY

SEC. 201. This title may be cited as the "National Materials Policy Act of 1970".

SEC. 202. It is the purpose of this title to enhance environmental quality and conserve materials by developing a national materials policy to utilize present resources and technology more efficiently, to anticipate the future materials requirements of the Nation and the world, and to make recommendations on the supply, use, recovery, and disposal of materials.

SEC. 203. (a) There is hereby created the National Commission on Materials Policy (hereafter referred to as the "Commission") which shall be composed of seven members chosen from Government service and the private sector for their outstanding qualifications and demonstrated competence with regard to matters related to materials policy, to be appointed by the President with the advice and consent of the Senate, one of whom he shall designate as Chairman.

(b) The members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

SEC. 204. (a) The Commission shall make a full and complete investigation and study for the purpose of developing a national materials policy which shall include, without being limited to, a determination of—

(1) national and international materials requirements, priorities, and objectives, both current and future, including economic projections;

(2) the relationship of materials policy to (A) national and international population size and (B) the enhancement of environmental quality;

(3) recommended means for the extraction, development, and use of materials which are susceptible to recycling, reuse, or self-destruction, in order to enhance environmental quality and conserve materials;

(4) means of exploiting existing scientific knowledge in the supply, use, recovery, and disposal of materials and encouraging further research and education in this field;

(5) means to enhance coordination and cooperation among Federal departments and agencies in materials usage so that such usage might best serve the national materials policy;

(6) the feasibility and desirability of establishing computer inventories of national and international materials requirements, supplies, and alternatives; and

(7) which Federal agency or agencies shall be assigned continuing responsibility for the implementation of the national materials policy.

(b) In order to carry out the purposes of this title, the Commission is authorized—

(1) to request the cooperation and assistance of such other Federal departments and agencies as may be appropriate;

(2) to appoint and fix the compensation of such staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of such title relating to classification and General Schedule pay rates; and

(3) to obtain the services of experts and consultants, in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed $100 per diem.

(c) The Commission shall submit to the President and to the Congress a report with respect to its findings and recommendations no later than June 30, 1973, and shall terminate not later than ninety days after submission of such report.

(d) Upon request by the Commission, each Federal department and agency is authorized and directed to furnish, to the greatest extent practicable, such information and assistance as the Commission may request.

SEC. 205. When used in this title, the term "materials" means natural resources intended to be utilized by industry for the production of goods, with the exclusion of food.

SEC. 206. There is hereby authorized to be appropriated the sum of $2,000,000 to carry out the provisions of this title.

And the Senate agree to the same.

HARLEY O. STAGGERS,
JOHN JARMAN,
PAUL G. ROGERS,
WILLIAM L. SPRINGER,
ANCHER NELSEN,
Managers on the Part of the House.

JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
THOMAS F. EAGLETON,
J. CALEB BOGGS,
HOWARD H. BAKER, Jr.,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11833) to amend the Solid Waste Disposal Act in order to provide financial assistance for the construction of solid waste disposal facilities, to improve research programs pursuant to such act, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a new text. The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment.

Except for minor, technical, or conforming provisions, this statement explains the action of the managers on the part of the House.

SECTION 202 OF ACT (FINDINGS AND PURPOSE)

The Senate amendment added new language to describe the purposes of the Solid Waste Disposal Act in order to emphasize recycling, local planning, and training functions. The House bill contained no comparable provision. The conference report incorporates these provisions of the Senate amendment.

SECTION 203 OF ACT (DEFINITIONS)

The House bill amended section 203 of the Solid Waste Disposal Act by adding a definition of the term "municipality." The Senate amendment amended this section of the act to eliminate the Department of the Interior's responsibility under existing law for disposal of mineral solid waste and to add to the act definitions of municipality, intermunicipal agency, recovered resources, and resource recovery systems. The Senate definition of municipality included Indian tribes.

The conference report includes the additional definitions, as added by the Senate amendment.

Under the conference agreement the Department of the Interior would retain its responsibilities; however, the Secretary of the Interior is required by new section 216(b) of the act to consult with the Secretary of Health, Education, and Welfare prior to expending any Department of the Interior appropriations under the act.

It should be noted in this context that under Reorganization Plan No. 3 of 1970 the functions of the Secretary of the Interior under the Solid Waste Disposal Act will not be transferred; however, the functions of the Secretary of Health, Education, and Welfare under the act (including any new functions he obtains by reason of the bill) will be transferred under the reorganization plan to the Administrator of the Environmental Protection Agency. The transfer will take effect on the date determined under section 7 of the reorganization plan (in early December 1970).

SECTION 204 OF ACT (OBJECTIVES OF STUDIES)

The House bill amended section 204 of the Solid Waste Disposal Act so as to emphasize (1) reduction of the amount of solid waste, (2) new and improved methods of collecting and disposing of solid waste, and (3) recovery of usable materials or energy from solid waste, as the multiple objectives of studies, research, experiments, training, and demonstrations to be conducted by the Secretary of Health, Education, and Welfare.

The Senate amendment incorporated the same provisions as the House bill and added two additional factors to be considered in the studies, demonstrations, etc.: (1) any adverse health and welfare effects of the release into the environment of material present in solid waste and methods to eliminate such effects; and (2) the identification of solid waste components and potential materials and energy recoverable from such waste components. The Senate amendment also provided a specific authorization of appropriations to carry out section 204.

The conference agreement incorporates all of the Senate amendments to section 204 except the specific authorization of appropriations.

NEW SECTION 205 OF ACT (SPECIAL STUDY AND DEMONSTRATION PROJECTS ON RECOVERY OF USEFUL ENERGY AND MATERIALS)

The House bill inserted a new section 205 into the act, which directed the Secretary of Health, Education, and Welfare to carry out an investigation and study of—

(1) economical means of recovering useful materials from solid waste, and the uses and market impact of, such materials;

(2) incentive programs for solving the problems of solid waste disposal problems;

(3) changes in current production and packaging practices; and

(4) methods of collection and containerization.

The Secretary was directed to report on the study to the President and Congress and was authorized to carry out demonstration projects to test and demonstrate techniques developed as a result of the study.

Under the Senate version of the bill, title III was essentially similar to the section 205 of the act as added by the House bill, with the following exceptions:

(1) The Senate provision specified several additional factors to be studied (in particular, the use of Federal procurement to develop market demand for recovered resources, economic incentives and disincentives for recycling, and disposal charges).

(2) The Senate provided for a study to be completed within two years.

(3) No specific authority was provided for demonstration projects to test and demonstrate the techniques developed in the study.

The conference agreement incorporates the provisions of the House bill, and in addition directs the Secretary to conduct studies on the factors specified in paragraph (1), supra.

NEW SECTION 207 OF ACT (PLANNING GRANTS)

The House bill added a new section 207 to the Solid Waste Disposal Act (a revision of section 206 of existing law) which authorized planning grants to public agencies and councils of government. The Federal share was up to 66⅔ percent in the case of a grant for an area including only one municipality and up to 75 percent in any other case. The planning grants were to be available for (1) making surveys of solid waste disposal practices and problems and (2) developing solid waste disposal plans as part of regional environmental protection systems. The House bill also authorized grants to pay up to 50 percent of the cost of overseeing the implementation, enforcement, and modification of such plans.

The Senate amendment added a section 207 to the act which differed from the House provision principally in that no provision was made for Federal assistance for overseeing the implementation, etc., of the plans, and that more emphasis was given in the Senate provision to planning for recycling and resource recovery and for removal of abandoned automobile hulks. The conference agreement contains the substantive provisions of the Senate amendment in these respects.

NEW SECTION 208 OF ACT (GRANTS FOR RESOURCE RECOVERY SYSTEMS AND IMPROVED SOLID WASTE DISPOSAL SYSTEMS)

Under the House bill this section provided for grants to public agencies for the construction of projects utilizing new and improved techniques of demonstrated usefulness in reducing the environmental impact of solid waste disposal, promoting the recovery of energy or resources, or the recycling of useful materials.

In the case of grants to a single municipality, the Federal share was limited to 50 percent. In other cases, the Federal share could be 75 percent. In either case, however, grants shall be made only if—

(1) funds could not be obtained from other sources upon equally favorable terms;

(2) the applicant had made satisfactory provision for operation and maintenance of the project; and

(3) the project was consistent with the purposes of the Federal Water Pollution Control Act and the Clean Air Act.

Under the House bill not more than 15 percent of the total funds appropriated for the purposes of this section in any fiscal year could be granted for projects in any one State, and not more than 10 percent of the allotment to the State for any one project.

The Senate amendment provided for grants to varying sizes of communities to demonstrate resource recovery systems. (Sec. 203(10) of the act, as added by the Senate, defines "resource recovery system" as a solid waste management system which provides for collection, separation, recycling, and recovery of solid wastes, including disposal of nonrecoverable waste residues.) These systems were required to be areawide, and grants were to be made so that a variety of solid waste problems (including those of smaller towns and rural areas) would be dealt with. A system was required to be consistent with plans developed in accordance with section 207(b)(2) and with the section 209 guidelines. A proposal for a system grant had to provide assurance that an equitable means exists for distributing the costs among the users of the system. The Senate amendment specifically authorized annual appropriations of $20 million, $30 million, $50 million, and $55 million through fiscal year 1974 for the programs under this section.

The conference substitute combines these provisions of the House and Senate versions. The substitute authorizes the Secretary to make grants to public agencies for the demonstration of resource recovery systems ("demonstration grants") or for the construction of new or improved solid waste disposal facilities ("construction grants").

A grant may not be made for either kind of project unless the project meets certain planning requirements and is consistent with the section 209 guidelines.

A demonstration grant may be made only if it is designed to provide areawide resource recovery systems consistent with the purposes of the act, and it provides an equitable procedure for allocating the costs of the system among the users. The Federal share of a demonstration grant is 75 percent.

A construction grant may be made only if the project advances the state of the art by applying new and improved techniques in reducing the environmental impact of solid waste disposal, in achieving recovery of energy or resources, or in recycling useful materials. The Federal share of a construction grant is up to 50 percent for a project area which includes only one municipality, and up to 75 percent in any other case.

The Secretary is directed to promulgate regulations relating to the award of grants within 90 days. The regulations would provide among other things that projects would be carried out in communities of varying sizes, under such conditions as will assist in solving the community waste problems of urban-industrial centers, metropolitan regions, and rural areas, under representative geographic and environmental conditions.

In acting on grant applications the Secretary is directed to consider among other things, the economic and commercial viability of the project, and the potential of such project for general application to community solid waste disposal problems.

Grants under this section are to be made subject to the following limitations:

(1) A grant be made only in the amount of the Federal share of the estimated total design and construction costs, plus (in the case of a demonstration grant) the first-year operation and maintenance costs. The non-Federal share may be in any form, including lands or interests therein, or personal property or services (to be valued by the Secretary).

(2) A grant may not be provided for land acquisition.

(3) The applicant must make satisfactory provision for operation and maintenance of the project.

Section 216(a)(3) of the act, as added by the conference substitute, authorizes to carry out section 208 the sum of $80 million for fiscal year 1972, and $140 million for fiscal year 1973. No amount is specified for fiscal year 1971; however, appropriations authorized by section 216(a)(1) (which are generally available to carry out the act) would be available for section 208 in fiscal year 1971. Not more than 15 percent of the authorization for section 208 for any fiscal year (other than fiscal year 1971) could be granted for projects in any one State.

NEW SECTION 209 OF ACT (SOLID WASTE DISPOSAL GUIDELINES)

Section 209 as added by the House bill directed the Secretary, within 18 months following date of enactment, to recommend to the appropriate agencies standards for solid waste collection and disposal systems (including systems for private use) which are consistent with health, air, and water pollution standards and can be adapted to applicable land-use plans. Such standards were to be developed in cooperation with appropriate State, interstate, and regional and local agencies. The Secretary was also authorized to recommend model codes to implement this section.

Section 209 as added by the Senate amendment directed the Secretary as soon as practicable after the enactment of the bill to recommend to appropriate agencies guidelines for solid waste recovery, collection, separation, and disposal systems (including systems for private use), which are consistent with public health and welfare, and air and water quality standards and adaptable to appropriate land-use plans. Such guidelines would apply to such systems whether on land or water and would be required to be revised from time to time.

The Secretary was directed to recommend model codes as in the House bill, and in addition to issue technical information.

The conference substitute incorporates the principal provisions of the Senate version of section 209.

NEW SECTION 210 OF ACT (TRAINING GRANTS)

The Senate amendment inserted a new section 210 in the act, which authorized the Secretary to make grants for the purpose of providing training in the field of solid waste disposal. The House bill had no comparable provision. The conference substitute incorporates the principal provisions of the Senate amendment in this regard.

The new section 210 authorizes the Secretary to make grants to, and contracts with, eligible organizations. An eligible organization is a public agency, educational institution, and any other organization which is capable to effectively carrying out a project under this section. Grants or contracts may be made to pay all or a part of the costs of any project, operated by an eligible organization, to train persons for occupations involving the management, supervision, design, operation, or maintenance of solid waste disposal and resource recovery equipment and facilities; or to train instructors and supervisory personnel to train or supervise persons in such occupations.

The section contains provisions relating to applications, reports, and records.

In addition the Secretary is directed to make a 1-year study of personnel needs in solid waste and resource recovery programs; of means of using existing training programs to train such personnel; and of obstacles to employment and occupational advancement in the solid waste disposal and resource recovery field.

NEW SECTION 211 OF ACT (APPLICABILITY OF SECTION 209 GUIDELINES TO EXECUTIVE AGENCIES)

The Senate amendment inserted a new section 211 in the act which generally provided that Federal agencies would insure compliance with the section 209 guidelines in carrying out their functions. The House bill contained no comparable provision. The conference substitute incorporates a modification of the Senate provision.

Section 211(a)(1) of the act, as added by the conference substitute, would provide that if an Executive agency has jurisdiction over any real property or facility the operation or administration of which involves such agency in solid waste disposal activities, or if the agency enters into a contract with

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any person for the operation by such person of any Federal property or facility, the performance of which involves such person in solid waste disposal activities, then the agency must insure compliance with the section 209 guidelines and the purposes of the act in the operation or administration of such property or facility, or the performance of such contract.

Section 211(a)(2) requires that each Executive agency conducting an activity which generates solid waste, and which, if conducted by a person other than such agency, would require a permit or license from such agency in order to dispose of such solid waste, shall insure compliance with such guidelines and the purposes of the act in conducting such activity.

Paragraph (3) of section 211(a) requires each Executive agency which permits the use of Federal property for purposes of disposal of solid waste to insure compliance with such guidelines and the purposes of this act in the disposal of such waste.

Paragraph (4) of section 211(a) directs the President to prescribe regulations to carry out section 211(a).

Section 211(b) requires each Executive agency which issues any license or permit for disposal of solid waste to consult with the Secretary to insure compliance with the section 209 guidelines and the purposes of the act, prior to the issuance of the license or permit.

NEW SECTION 212 OF ACT (NATIONAL DISPOSAL SITES STUDY)

The Senate amendment inserted a new section 212 in the act, which provided for a 2-year national disposal sites study. The Secretary was directed to make a comprehensive report and plan for the creation of a system of national disposal sites for the storage and disposal of hazardous wastes, including radioactive, toxic chemical, biological, and other wastes which may endanger public health or welfare. The report would include (1) a list of materials subject to disposal; (2) current methods of disposal of such materials; (3) recommended methods of disposal of such materials; (4) an inventory of possible sites; and (5) cost estimates.

The House bill had no comparable provision. The House recedes on this provision.

NEW SECTION 215(b) OF ACT (GRANT RESTRICTIONS)

The Senate amendment prohibited the Secretary from making grants under the Solid Waste Disposal Act to private profit-making organizations. The House bill contained no comparable provision. The conference substitute contains this provision (new section 215(b) of the act).

NEW SECTION 216 OF ACT (AUTHORIZATION OF APPROPRIATIONS)

The House bill authorized separate appropriations to the Secretary of Health, Education, and Welfare and to the Secretary of the Interior to carry out the act for fiscal years 1971, 1972, and 1973.

The Senate amendment contained specific authorizations to carry out sections 204 and 208 for fiscal years 1971, 1972, 1973, and 1974, and open-ended authorizations for those years to carry out all other provisions of the act. It also authorized specific sums to carry out titles II and III of the bill.

The conference substitute contains (1) specific authorizations of appropriations to the Secretary of Health, Education, and Welfare to carry out the act (including sec. 208) for fiscal year 1971, and separate authorizations to carry out section 208 and the other provisions of the act for fiscal years 1972 and 1973, (2) authorizations of appropriations to the Secretary of the Interior to carry out his functions through fiscal year 1973, and (3) an authorization for title III of the bill. The following table compares the appropriations authorized by the House bill, the Senate amendment, and the conference substitute:

COMPARISON OF AUTHORIZATIONS

[Dollar amounts in millions]

		Fiscal year 1971	Fiscal year 1972	Fiscal year 1973	Fiscal year 1974
House Bill	HEW Functions.	$83	$152	$216	No authorization.
	Interior Functions.	$17.5	$20	$22.5	
Senate Amendment	§ 204 of Act	$31.5	$40.5	$40	$38.5.
	§ 208 of Act	$20	$30	$50	$55.
	All other provisions of Act.	No limit	No limit	No limit	No limit.
	Title II of bill	$2 for duration of Commission.			
	Title III of bill	$2 for duration of study.			
Conference Substitute	HEW Functions.	$41.5			
	§ 208 of Act	(Above amount available both for § 208 and other HEW functions).	$80	$140	
	All other HEW functions under Act.		$72	$76	No authorization.
	Interior functions.	$8.75	$20	$22.5	
	Title II of bill	$2 for duration of Commission.			

Both bills contain authority to evaluate programs under this Act. Such evaluation should include examination of individual training grants and contracts to assure that desired results are being achieved.

TITLE II OF BILL (NATIONAL MATERIALS POLICY)

Title II of the Senate amendment provided for the establishment of a presidentially appointed National Commission on Materials Policy to make recommendations on the supply, use, recovery, and disposal of materials and to report thereon by June 30, 1973. The House bill had no comparable provision. The House receded with an amendment, which requires the Commission to determine which Federal agency would have continuing responsibility in the materials policy area.

HARLEY O. STAGGERS,
JOHN JARMAN,
PAUL G. ROGERS,
WILLIAM L. SPRINGER,
ANCHER NELSEN,
Managers on the Part of the House.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE CERTAIN REPORTS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file certain reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. HALL. Mr. Speaker, reserving the right to object, may I ask if the action by the committee on this report has been completed?

Mr. STAGGERS. Action by the committee has been completed, and we are preparing the measure in the proper form to go into the RECORD. Action by the committee has been taken.

I might say to the gentleman from Missouri that the administration requested that this bill be passed before we recess, because of the condition of some of the railroads in our Nation. It is called the Railpak bill. They have wanted it. We have tried our best to be helpful to the administration. We worked hard on it today. We completed it a few minutes after 12 o'clock. Members of the staff are now working hard to get that report ready so that it can be filed by midnight tonight.

Mr. HALL. Mr. Speaker, further reserving the right to object, may I ask if other committee jurisdiction is involved?

Mr. STAGGERS. Yes, there is. A measure coming from the Ways and Means Committee was incorporated into our bill today after 12 o'clock. We waited until we got the report from them. We would have had it ready to be filed if it had not been before that committee.

Mr. HALL. May I ask the distinguished chairman of the Committee on Interstate and Foreign Commerce what advantage accrues from asking special permission to file a report, regardless of where the request comes from or what the source is, by unanimous consent, thus obviating the right of the individual, elected Representative in Congress to object?

Mr. STAGGERS. We hope if the request is granted that the administration can at least try to prevail upon the Rules Committee to grant a rule on this bill so it might be brought to the floor of the Congress before we recess. If a rule were not granted tomorrow, it would not be until next week before a rule could be granted, which might make the situation such that we could not pass the bill.

Mr. HALL. I am sure the gentleman agrees with me that the administration will not appear before the Committee on Rules of this House in any form.

Mr. STAGGERS. No, sir.

Mr. HALL. Does the gentleman mean that he has been instructed by his committee to appear before the Committee on Rules and expedite passage of the bill?

Mr. STAGGERS. That is the custom. Committee chairmen try to do that, yes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. HALL. Mr. Speaker, further reserving the right to object, may I ask the distinguished chairman what the content and the main import of this bill is that we need to expedite it so rapidly here in the waning days of this Congress.

Mr. STAGGERS. It is a compact between the railroads of the United States. They would join together with the Government in this program. This is a bill in which labor, management, and the administration have all collaborated. They appeared before the committee in behalf

XUM

of the bill. I know of no opposition from anywhere to the bill. Realizing the circumstances of the railroads of this Nation, we believe that something has to be done and done in a hurry, and we are hopeful through this method that we can do something to help the railroads.

It is a compact for the railroads.

Mr. HALL. I understand the gentleman wishes to bring this to the floor of the House before recess next Wednesday afternoon, which seems to be the information around the House at the present time.

Mr. STAGGERS. I would be hopeful for the benefit of the railroads and the people of the Nation that it could be done.

Mr. HALL. That is, of course, subject to a rule being granted, and that is why the gentleman seeks earlier permission to file it before editing is completed. Is that the situation?

Mr. STAGGERS. That is correct. Everything else has been done on the bill, and we are just trying to get the report ready.

Mr. HALL. May I ask one additional question. Was it unanimous in the subcommittee and in the full committee?

Mr. STAGGERS. To my knowledge it was. I can say it was. I am sure it was in the full committee, and I am sure it was in the subcommittee.

Mr. HALL. Mr. Speaker, again we are confronted with an unusual situation in the waning days of the Congress that should adjourn sine die instead of recess. I see no inherent objection to the bill itself, but again we are confronted with the question of unanimous consent about which we have no paper in hand and no information other than that which the distinguished gentleman has given us.

XUM

Mr. Speaker, again I serve notice that we will not function in this House as far as an individual objection will pertain in the waning days of this Congress on a unanimous consent or a suspension of the rules request.

I see no objection to this, and I will not object at this time, and I withdraw my reservation of objection.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman.

The **SPEAKER.** Is there objection to the request of the gentleman from West Virginia?

There was no objection.

OUR FOREIGN POLICY

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROBERTS. Mr. Speaker, much has been said recently concerning U.S. foreign policy and the strength necessary to support such a foreign policy. Few people have covered the subject as well as Mr. Forbes Mann, president of LTV, Aerospace Corp., in a recent speech before a Texas breakfast club.

My colleague, J. J. PICKLE, joins me in highly commending Mr. Mann's statement to our colleagues:

ADDRESS BY FORBES MANN

In his February 18th report to the Congress on "U.S. Foreign Policy for the 1970's", the President identified three central principles on which American foreign policy will be based: partnership among friends and allies, *strength*, and the willingness to negotiate with Communist nations.

The strength of the Nation, in a narrow sense, is generally accepted to mean its ability to fend off enemy action. Defined more broadly, it would include productive, technical, and managerial capabilities: the physical, moral, and cultural health and the sense of unity of the people.

The strength of the Nation, as defined in the narrower sense, is derived basically from the armed forces and their industrial suppliers—many thousands of them—some very large, many very small. In a speech that more often than not has been quoted out of context, the late President Eisenhower called it "the military-industrial complex."

Today the term "military-industrial complex" has achieved the status of an epithet. It has even been implied, mostly by innuendo, that there exists in this country today a dark and sinister conspiracy whereby the military and the industrialists perpetuate themselves at the expense of the rest of the country, draining off the Nation's substance, to the extent that pressing social needs are not receiving adequate attention.

In my view, this is pure poppycock—or as Congressman Mendel Rivers so aptly put it: "A rhetorical fabrication". It is a sad commentary on the times that in your lifetime and mine we have been reduced from the status of an "arsenal of democracy" to a "military-industrial complex". My main concern, however, is the danger of this attitude.

Over the past 2 or 3 years, as the war in Vietnam increased in intensity and as the problems in the cities and on the college campuses came to a boil, the military departments, the space agency, and their industrial partners have been subjected to increasingly sharp attacks. The attacks and accusations come from many directions and from groups and individuals whose motives range from the most idealistic to those that are, quite frankly, highly questionable.

The bases of the attacks are equally varied—from impugning the integrity of both the men in uniform and their civilian counterparts in industry, to sincere and troubled questioning of the need for the tremendous outlays of money for armaments and space projects. There are even those who would condemn the Defense Department for having spent vast sums of money on weapons systems that have been deployed but have never been used. This kind of fuzzy thinking is enough to make an insurance salesman shudder.

What is being widely overlooked or conveniently forgotten is that this so-called "military-industrial-university-NASA complex" has provided the "strength component" of this Nation's foreign policy, so that for 25 years at least we have been able to stave off a cataclysmic confrontation with our Communist adversaries.

People seem to forget that our military power and the industry that serves it is in response to the international realities of the years since World War II and is not the result of a militaristic policy. I suspect that in spite of the 25 years that we have been involved in a "cold war," the Nation has not learned to live with the situation. Ignoring the fact that we live in the nuclear age, with Armageddon only 30 minutes away, there are those who still remember the miracles of industrialization and mobilization of World War II, so why not wait until we need it? A minimum force in being is all that's necessary since the industrial base is there. There are others who think that if we are weak no one will bother us.

I'm afraid all these people are dreaming. We live in a competitive world and not all the competition is friendly. Second place is no more useful than it is in a poker game, and, unlike the poker game, you may not get to play again.

Now that sounds pretty grim—and it is when we're talking about nuclear war. But the so-called complex is under fire for other programs too.

Take the space program—and the fantastic accomplishments of NASA and its industrial partners. Some of the partners are the same ones that serve the Department of Defense—naturally, where else would the advanced technology come from?

You will recall the relatively low level of effort in the mid-1950's and our abortive attempts to orbit a satellite about the size of a grapefruit—or was it a basketball? You will recall the tremendous public outcry when the Russians launched Sputnik I. Immediately NASA could have had an unlimited budget just so long as we didn't play second fiddle to the Russians. But you don't buy technology with money alone. It takes time, too—and you buy time with an early and steady investment of money and talent, the nation and its legislators failed to understand that technology advances—with or without us—in a competitive world.

Then we marched triumphantly across space with a whole series of manned and unmanned launches. Once again America was first in science and technology—even if the Russians still could boast of more brute force in their launch vehicles. But even as we were preparing to make our first landing on the Moon the 'question was being heard: "What's it good for?" Michael Faraday has the answer many years ago when he was lecturing on one of his many discoveries and someone raised the same question. His classic reply was: "What's an infant good for?"

The technological fall-out from Defense Department and NASA programs have been tremendous. Acting as forcing functions these agencies have advanced man's knowledge at an accelerated pace. The disciplines and industries, unrelated directly to either defense or space, that have benefited are almost too numerous to mention. It has been said that man's knowledge has advanced in the last ten or fifteen years more than in all of time preceding. By far the largest part of this advance is attributable to the very organizations and agencies that are today being accused of delaying and obstructing social progress, notwithstanding the fact that so many of the advances have been in the fields of health, education, resource conservation, and improved materials for consumer use. It just doesn't make sense.

If they really were given the facts, I think we can assume that the vast majority of Americans would be in full support of a strong national defense. What troubles and frustrates people is their inability to evaluate who or what is right. They are confused and angered on the one hand by the well-publicized bickering that goes on between members of the legislative and executive branches of government, the charges and allegations of excessive profits, overruns and wasteful procurement methods. They are assured on the other hand that the military services don't really need all the equipment they claim to need.

Let's look at these so-called facts one at a time—I expect that most of you are aware of the studies made by the logistics management institute on the subject of profits in the defense industry. By and large they show we'd be much better off profitwise doing something else. The profit average in the industry is around 3% after taxes. The general public, however, without easy access to this data still labors under the illusion that defense contracts, some running into hundreds of millions of dollars, must be laden with enormous profits. In this illusion, they are sustained by the charges and allegations they hear and read in the press. While you and I know it just isn't so, I'm afraid we haven't done too good a job of getting the facts across.

Now to "overruns"—in a broad sense costs in excess of funds provided are interpreted as an overrun. The overrun or excess costs far more often than not include such things as changes in concept, the increased cost of starting, stopping, and restarting a program, increasing unit costs because of reduced quantities, or stretching out a program to accommodate late or inadequate funding. To the public it always seems to be presented as inexcusable waste and poor management.

The most significant fact always ignored is that there will always be high risk when you are pushing the technological state of the art. Further, the Government agencies must share in the blame for many overruns. After all has been said, the defense business is a monopsony—the Government is the only customer, and therefore has great leverage. In the real world, for an example, this frequently happens: There is a tight competition for an important new weapon system. The evaluation process has eliminated all but two competitors. At this point, what might be called the auction technique comes into play. Announcement of a winner is delayed and each contractor is asked to consider making certain changes and to resubmit his proposal with appropriate price adjustments. Remember this is a highly complex billion-dollar program. By the time this process has been repeated a few times, each contractor will probably have removed all of the hedges he had to have in his bid for the so-called known-unknowns or major contingencies that his experience tells him will develop in the course of the contract. So here is the winning contractor heading for an almost guaranteed overrun right from the outset.

The negotiator may get a few brownie points for a "tight negotiation," but the chances are good that his boss and the contractor will be clobbered in the end.

In summary, I think that in the contracting area it behooves both the Government and industry to get their houses in order so that public confidence can be built up.

But as to the presence of a conspiracy by a military-industrial complex, there is no evidence to support the innuendo and allegations that have been made by too many people. The continuous and frequently unwarranted attacks on the defense industry and the Military Establishment, by certain legislators, news media, and the radical elements, are successfully eroding the Nation's confidence in those who are charged with the security of our Nation and are dangerously weakening our defense posture. Today, for example, we are told the Navy doesn't need new carriers, but the Russians are gradually taking over the Mediterranean and they have a task force operating within 25 miles of our shores in the Caribbean. Under this year's budget the Air Force is buying fewer planes than any year since 1935! How then will we implement a foreign policy that is dependent on armed strength as one of the pillars of that policy?

Can anyone really believe that such actions will enhance the quality of life in this country?

These are questions people ought to reflect on before they recklessly toss about unfounded or ill-documented accusations against dedicated military men and public servants—and even those terrible industrialists.

Thank you.

A.O.H. QUESTIONS NIXON ECONOMIC POLICIES

(Mr. MONAGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, I have for some time been expressing concern about the economic policies of the administration and the disastrous results in unemployment and the stratospheric prices that have resulted in Connecticut and elsewhere in the Nation.

In this connection I was most interested recently to receive a letter from John K. Henry, State secretary, Ancient Order of Hibernians, Connecticut State Board, to President Nixon which very succinctly sets forth the points which I have been trying to make. Because of the pertinence of Mr. Henry's letter and its application to the problem in question, I am placing this letter in full in the Record following my remarks and I urge my colleagues and members of the executive branch to read it and give heed to its recommendations.

The letter follows:

Ancient Order of Hibernians
Connecticut State Board,
October 2, 1970.

The President,
The White House
Washington, D.C.

Mr. President: The Connecticut State Board of the Ancient Order of Hibernians held its quarterly meeting on Sunday, Sept. 13, 1970. The meeting was attended by delegates from our Divisions all over the State.

Many of our members expressed deep concern about the economic situation in the Country and particularly in Connecticut. Extreme concern was voiced by our Waterbury and New Haven delegates. We are fully cognizant of the fact that something must be done to combat the inflationary trend of the past few years but one wonders if the cure is worse than the illness. The unemployment rate is growing steadily in the Nation and in our own State. Is human suffering to be the price of bureaucratic error? A few years ago many of today's unemployed were a vital part of the Nation's work force. Today they are statistics on welfare rolls across the Nation. It would be rather difficult, sir, to tell these men that we are combating inflation. Empty stomachs know no victory chorus.

I do not know of any of our members in Connecticut losing jobs. Our concern is not simply for our members but for all the people of Connecticut. We urge you, sir, to examine the plight of the Connecticut work force. It must be realized that the withdrawal and/or with-holding of Federal contracts is having a disastrous effect on the State's economy. We would appreciate your comments on this very urgent matter.

By copy of this letter we are asking our representatives in the Senate and the House of Representatives to comment.

Respectfully yours,
John K. Henry,
State Secretary.

THAT SOVIET BASE IN CUBA

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GONZALEZ. Mr. Speaker, all of us have heard reports of Soviet intentions to build a submarine base in Cuba. This base would be a key part in Soviet intentions to deploy very large numbers of nuclear missile firing submarines off the coast of the United States.

There is not a Member of this House who cannot recognize the importance of such a base and the enormity or the threat it would represent.

There is not a Member of this House who does not recognize that construction of such a base not only threatens our most basic interests but also constitutes a complete breach of the 1962 missile agreement.

There cannot be anyone so naive as to think that construction of such a base in Cuba will not create a crisis such as the world has never known.

And yet I hear nothing from the President about this.

I hear nothing from high administration officials.

Are we so listless that we care nothing about such an enormous threat to our security?

Are we so uncaring that we do not even bother to demand explanations?

Are we so naive that we believe a Cuban submarine base would change nothing?

Are the elections really so important to the President that he is determined to hide this problem from us?

I wonder what has become of our good sense.

I include the following material:

[From the Washington Post, Oct. 7, 1970]

THAT SOVIET BASE IN CUBA

(By Joseph Alsop)

When members of the Senate Foreign Relations Committee were briefed on the new Soviet submarine base now being built in Cuba, Senator Frank Church of Idaho produced a splendid example of his amiable idiocy about such matters. How could we be sure, he asked, that this was really going to be a *Soviet* base?

Well, there is a simple answer that even Senator Church may perhaps comprehend. Because of the past influence of the horrible American imperialists, Cubans to this day are mainly baseball players, whereas Russians are passionate soccer players. And the sports facilities with which the new base at Cienfuegos is being provided, very conspicuously center on a fine soccer field.

There are, of course, other, less simplistic reasons why the U.S. government is quite certain that the new submarine base is intended exclusively for Soviet use. Above all, it is being built to handle the largest and most advanced Soviet nuclear submarines, of the "Yankee" class, carrying 16 nuclear missiles apiece.

The real question, in fact, is not whether the base is strictly for Soviet use. The real question is why the Soviet war planners want such a base, when they have always before handled their distant submarines as we do, by ships specially built as submarine-tenders.

The only possible answer is extremely disagreeable. In brief, there are certain kinds of repair and maintenance—particularly on the submarines' vital nuclear missiles—that are extremely difficult to carry out at sea, at least in large volume and continuously.

Hence a base like Cienfuegos is needed, when really large numbers of nuclear submarines are to be continuously at sea and far from home. That is the true explanation of the base. And the explanation means, in turn, that the Soviets are now planning continuous deployment of very large numbers of "Yankee" class and other nuclear submarines in the Caribbean and along the American coast.

They will have plenty of them to deploy, God knows! Norman Polmar, one of the authoritative editors of "Jane's Fighting

XUM

Ships," forecasts that the Soviet nuclear submarine fleet will be as large as our own by the end of this year. He further forecasts that the Soviets will have 50 more nuclear submarines than we do by the year 1974.

In the circumstances, the construction of the Cienfuegos base is an even more ominous development than the attempted deployment of Soviet nuclear missiles on Cuban bases in 1962. It reveals an undoubted Soviet intention to gain a solid capability to knock out the entire land-based bomber component of the U.S. deterrent, plus the controls of the "Safeguards" ABM system.

The most horrifying single aspect of the story of the Cienfuegos base is the response the bad news has met with in this country. Consider a simple comparison.

In 1962, the U.S. Senate was in flames over mere rumors of Soviet missiles in Cuba, long before the presence of those missiles was confirmed by U-2 reconnaissance photographs. Contrast this with Senator Church's amiable idiocy, and the senatorial silence that has engulfed the news from Cienfuegos ever since!

Or think of the Kennedy administration's memorable reaction to the undesired and, indeed, the quite unexpected bad news in 1962. And then think of the Nixon administration's response to this news that is even worse!

It is being said, of course, that the administration let the Soviets know we knew about their intended submarine base, "as a signal." The signal, it is claimed, will stop the further construction of the base, with no more fuss. If you can believe that, however, you can believe anything at all, including the theories of world politics held by men like Senator Church and Sen. J. William Fulbright.

Meanwhile, Secretary of Defense Melvin Laird has now clamped down an iron lid on any further Defense Department discussion of the Cienfuegos base and its ominous meaning. The obvious intent was and is, to prevent the public from growing alarmed, when we should be deeply alarmed. And this intent is natural, in view of the progressive American disarmament being shockingly carried on in the face of growing danger!

OCTOBER 2, 1970.

Hon. RICHARD M. NIXON,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: For many months there have been reports of Soviet plans to construct a submarine base at Cienfuegos Harbor, on the Island of Cuba. Warnings have even been given to the House Committee on Foreign Affairs by representatives of your Administration. A few days ago, White House sources indicated that there is a very real possibility that the Soviet Union has started actual construction of a submarine base at Ceinfuegos Harbor, and warned that the United States would be very much concerned about such construction. He stated that our government will take appropriate action at the right time.

There has been no response from the Soviets to this warning, so far as I know. Oddly enough, Administration sources now are saying that the information from the White House was dated, and that it was far from clear that the warning was appropriate.

I am convinced that the Administration must take immediate action to clarify its muddled statements on this situation. If you have information that the Soviet Union has started construction on a submarine base in Cuba, or even that it has decided to undertake such a project it should be treated as conclusive evidence that the Soviets are violating their 1962 agreement concerning the placement of strategic offensive weapons in Cuba.

Assuredly the Soviets probably have submarine borne missiles cruising our coast now. But the establishment of a base for these submarines at Cuba would enable the Soviets to vastly increase the effectiveness of such a force, and would greatly enlarge the threat to our country from missile firing submarines. Worse than that, it would reopen the entire question of offensive weapons in Cuba, and would doubtlessly lead to a confrontation at least as dangerous as the near disaster of 1962.

I believe that a plain threat to our security, and the security of the Western Hemisphere, must be met with plain words and plain actions from you. I am very concerned that to date statements from the Administration have been unclear, evidencing that the government of this country is uncertain what it would do in the face of a Soviet decision to construct submarine facilities in Cuba. I believe that you should make clear exactly what our government would do in that eventuality, before events make U.S. initiatives difficult or impossible.

With best wishes, I remain
Sincerely yours,
HENRY B. GONZALEZ,
Member of Congress.

STRIKES IN CALIFORNIA VEGETABLE FIELDS

(Mr. TALCOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. TALCOTT. Mr. Speaker, the strikers in the vegetable fields of California, particularly in my congressional district, have been disastrous to the farmworkers and his family.

The facts are not well known. Much information has been distorted. The situation and conditions which prevail in the agricultural areas affect the whole Nation and every single consumer.

Mr. Speaker, one union group—UFWOC—with a minimum of members, has called a nationwide boycott of California lettuce on the grounds it is "nonunion."

The fact is: California produce—including lettuce—is harvested, packed, and shipped by union labor.

Many of these labor contracts go back years before the United Farm Workers Organizing Committee—UFWOC—even came into existence.

Produce drivers and packinghouse workers have had union contracts since 1936.

There are more than 200 Teamster Union contracts covering California harvest workers. The earliest contract dates back to 1961.

A California superior court has ruled that these Teamster contracts are valid.

Now, based on State law, the court has forbidden UFWOC picket lines or interference in the harvest of this union produce on the ground that this is a jurisdictional dispute.

But Cesar Chavez' 5-year-old UFWOC wants to nullify these Teamster contracts. To force this, Chavez publicly declared "war" on the Teamsters Union, July 28, 1970.

Two weeks later, Chavez signed a peace pact with officials of the National Teamsters which says:

> The parties agree that they will not raid nor participate in a raid upon any firm that is presently under an agreement with the other party, or which in the future comes under agreement with the other party.

Local Teamsters kept that agreement. UFWOC did not. Twelve days after signing the agreement, Chavez broke it. He sent pickets into the fields where Teamster contracts were in effect.

Since these pickets appeared in the fields, authorities have documented repeated acts of vandalism and violence. Yet Chavez has convinced the news media of the Nation that his UFWOC is "nonviolent." The climax of this violence came when three UFWOC organizers were jailed on charges of attempted murder and conspiracy following an incident in which a Teamster representative was shot seven times.

At this point, the frustrated UFWOC, having lost the war it had declared in the fields, took its red flag pickets to the supermarkets. Such a secondary boycott is illegal under the National Labor Relations Act, but this prohibition does not apply to agriculture.

At the time Chavez launched his secondary boycott effort, he could claim only one produce contract compared to the Teamsters' more than 200.

UFWOC is so determined to capture control of the American food supply that it now seeks to encourage a secondary boycott of commodities already covered by legitimate union contracts.

As one of California's major liberal newspaper chains editorialized:

> A boycott is a dangerous and vicious tactic in any labor dispute . . . it hurts too many innocent parties in the middle—in this case, the average workers, the grocers, and consumers.

Mr. Speaker, I request unanimous consent to insert two articles from newspapers which are pertinent and worth reading.

The suggestions are worth considering. One by farmworkers and their families. The latter by legislators:

[Reprinted from the California Farmer]

NEW FARM WORKERS UNION

Dissatisfaction may be hitting Chavez and his organizing committee where it will hurt the most—in the field.

Cornelios Macias, of Sanger, Fresno County, has seen this developing. He, with six other field workers, has filed articles of incorporation (if that's a good term) with the U.S. Department of Labor. The new union will be called Federation of Agricultural Workers. He expects great things from the new union.

Farm workers are disillusioned with UFWOC and want something better, says Macias. The reasons are clear to most field workers, he points out. Many are not now making as much under Chavez as they did before. He has cut their income, and, if you are trying to support your family, this is almost a disaster. In other cases, the wages are the same as the workers had been getting, but the hours are shorter. So they are not taking home as much and, in addition, have to pay dues to Chavez. Also, they can no longer bring their families to help after school and on weekends. So their income is drastically reduced, and they can hardly get by.

It would take a tremendous increase in wages to offset this impossible situation, Macias claims—much more than the present market for fruit and other crops could bear in the marketplace.

Another annoying practice is the union

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hiring hall. Workers simply don't want to go to the hiring hall for jobs and then have to wait as much as 14 days for an assignment. They don't see any logic to this when they can go out any day and get work. These are some of the things that are bugging farm workers which won't be a cause of concern to those in the Federation of Agricultural Workers, says Macias.

"Our union will offer the workers a choice," he says. "We will listen to the workers' problems. We are not going to split up the family unit. I am a working man. My father was a working man, too. I know what workers want and must have. We look forward to better benefits. This union is for the clean cut American worker, no matter who he is. Our flag is the stars and stripes. We are offering the workers a choice."

Macias formerly worked with Bianco and others across most of California. He has a family of eight children and came from Texas with his family in 1945. He has worked in agriculture ever since.

Macias apparently has the welfare of the farm worker uppermost in his mind, and not the control of agriculture.

[From California Farm Bureau Monthly]

WE MUST HAVE NATIONAL LABOR LEGISLATION

There is a dire need for national legislation to establish guidelines in the area of farm-labor management relations. Because there is no such coverage, a lawless situation exists in agriculture in this state. Agitators can move in on an agricultural area, use any means they choose to bring agriculture to a halt, and cause untold losses to growers, workers and local businesses.

The Delano grape growers fought under such a lawless situation for five years. All of agriculture owes much to these growers who stood as long as there was room to stand, risking financial ruin to preserve the principles of independence and open marketing and the rights of workers to choose their own bargaining agent. During this period, California Farm Bureau leaders tried to convey the urgency of obtaining legislation to establish guidelines to bring some law and order in this area. While nodding agreement, few growers were moved to the point of making an all-out effort to obtain such legislation. The feeling seemed to be that what was happening in Delano was an isolated incident which would never happen to the rest of agriculture.

Well, we now have another "Delano" in the Salinas and Pajaro Valleys. Growers there are making a stand to try to preserve the rights of growers and workers throughout the state. These growers, and people within the communities—just as did their forerunners in Delano—have been living under conditions of siege which are a disgrace to America.

There is one thing all of agriculture must come to understand—there is no such thing as meeting the organizers halfway. They are intent upon controlling agriculture. They will say one thing one day and do the opposite the next.

Cesar Chavez, for example, on September 6 was given considerable coverage by the news media for a statement in which he requested the State Attorney General to take over local law enforcement in the Salinas Valley because local peace officers, he said, were not enforcing the law. An interesting statement, since UFWOC organizers had violated court orders restraining picketing activities both prior to this statement and following it.

There is only one way to bring some semblance of law and order back to the agricultural communities of our state. That is for Congress to adopt legislation covering collective bargaining in agriculture and delineating the rights of employers, workers and unions. Growers must have some protections during critical production and harvest periods, and boycott activities must be controlled. The workers must have the right to vote by secret ballot as to whether or not they wish to be represented, and by whom. And there must be no interference by the clergy, the unions, the grower or anyone else in the expression of such a right. Not only must the worker have this right to express himself at the outset, but he must have the right of decertification—the right to vote at a later date against union representation. Decertification is essential, for we cannot abandon the workers already under contract, those workers who had absolutely no opportunity to express their right to vote.

The Delanos and the Salinas and Pajaro Valleys will spread throughout this state and nation unless every farmer commits power to bring national legislation in farm labor relations. And the place to start work is at home, contacting all candidates for election or re-election to Congress.

REFLECTIONS OF A SUMMER INTERN

(Mr. DON H. CLAUSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DON H. CLAUSEN. Mr. Speaker, this summer I was privileged to have 5 college interns working in my Washington congressional office.

Each of the students, understandably, came from California to Washington with varying preconceived notions and ideas about our federal system of government and the Congress in particular. Since their return to California and their respective schools, I have received letters from each of these students relating their personal impression of their experiences while serving on our congressional staff here in Washington.

Obviously, I would prefer to record each of their impressions permanently in the CONGRESSIONAL RECORD. However, space and the extra cost of printing make this prohibitive.

Therefore, I have selected the letter of a brilliant young man, Mr. Alan Proctor of Santa Rosa, Calif., a student attending Stanford University, which is representative of the verbal and written comments I have received from the other outstanding young men and women that spent the summer in Washington with us.

It has so impressed me with both its content and obvious sincerity that I believe it may be of interest to many of my colleagues and regular readers of the CONGRESSIONAL RECORD.

To all Americans, I plead with you—do not sell this young generation short. If all of us will give equal time to hearing each other's point of view, we can eliminate the communications gap between generations and together build a better America.

OCTOBER 5, 1970.

Congressman DON H. CLAUSEN,
Longworth House Office Building,
Washington, D.C.

DEAR MR. CLAUSEN: School is starting once again and with this comes the end of a really great summer. I have a lot to be appreciative of and a lot to thank you for. Most importantly, is your real interest in helping us learn about Washington, the political process the way you and your office work together. This sense of your caring permeated our total experience. There are few interns who can report as favorably as Jim, Pat, Paige, Lois and myself. You opened your office and yourselves to us, tempering the general chaos, complexity and work with glimpses of the people involved—a feeling of your group honesty and sincerity always transcending the specific issue.

It is unfortunate that in being in Washington as an intern I at times forgot what I think I recognized in coming: that it was to learn, to observe, to discover what can't be found in books that I want. In this sense, that it was not a period of advocacy and personal involvement in particular issues. Being a political novice of the worst sort, I said things when I shouldn't have; I suppose I even said things I shouldn't have—things that may have given you reason to question the sincerity of my even coming to your office.

I have hopefully learned things from the mistakes, though, and it is to this end that I most appreciate the patience you gave me. It is this patience that seems so critical now when each of us has ideas and each of us wants to express them.

Beyond meeting a group of wonderful people, I got an insight, if admittedly partial, into the real work you are doing. I was surprised at how much case work there is to be done; I was amazed at how much time you were able to give the job. More generally, I am becoming better aware of the complexities involved in and that surround any decision, any action. Similarly, I feel I am becoming somewhat more realistic, I suppose, in my assessments of what can and is being done.

Still unresolved in my ordering of things, is the interaction of personal values and representative responsibilities in the decision making of any congressman. It is something of the paradox of the prescriptive and responsive roles. In much the same way, it is the pragmatic consideration of the idealistic and the concomitant implications.

My stay in Washington was definitely reassuring. I know better than before that however things may seem, you people are working as hard and honestly as you can in determining what is desired or needed and then responding in kind, toward the synthesis that will yield the greatest sum of good. I also know that these attempts cannot be limited to the capacity of those in Washington but rather to we an american people; there is no one in your office who is unwilling to listen, unready to reexamine, slow to reassess his point of view and assumptions when challenged. This openness assures any constituent access to your office and in part means no real debate can be made as to the abilities of our congressman. They are, finally, a function of both his personal effectiveness in Washington and his responsiveness to the district.

These are the qualities that make for effective and representative government; they are requisite in a continuing program of improvement of human relations; most important, they are the things I admire and appreciate in thinking back to the experience you made possible for five kids.

I would hope that as the product of the value of our experience and your interest in helping we young better understand our government, that you will continue your strong support of the program. It is for this support that I was able to come to Washington and that I am able to thank you, Bill, Stan and everyone else in the office.

I hope my performance those few weeks this past summer and my ability now, to use as best I can what I've learned, are and will be commensurate with the time, concern and confidence you have given us.

Thank you, Mr. Clausen. I will continue my interest in your office, hoping you will continue helping me help where I can.

Sincerely,

ALAN PROCTOR.

SANTA ROSA, CALIF.

INTRODUCTION OF "EXTRA CARE" HEALTH PLAN

The SPEAKER pro tempore (Mr. HOLIFIELD). Under a previous order of the House, the gentleman from Missouri (Mr. HALL) is recognized for 60 minutes.

Mr. HALL. Mr. Speaker, I am today introducing a bill that translates into legislative form an idea that has been germinating in my mind for nearly 5 years. Our distinguished chairman, the gentleman from Arkansas (Mr. WILBUR MILLS) of the Committee on Ways and Means, was kind enough to allow me to present the concepts of this proposed legislation earlier this year before his committee. This is in fulfillment of portions of that testimony.

Although it may come as something of a surprise to some of my professional colleagues, I am proposing a health insurance plan, national scope, which is designed to guarantee that no American citizen—rich or poor—need ever go bankrupt as a result of a prolonged, or so-called catastrophic illness or injury. I have entitled this plan the "extra care" plan.

Furthermore, my bill can accomplish this at a cost the taxpayer can afford.

I realize that it is standard operating procedure for every advocate of a measure that costs money to claim that the taxpayer can well afford it. But there is a limit to what the taxpayer can afford, and it is a limit that many have already reached.

I yield to none in trying to save the taxpayers money.

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This is conveniently overlooked by some of my friends who back the various entries in the national health insurance derby regardless of the price tags they carry. I would remind them, Mr. Speaker, of our brief experience with medicare and medicaid—the costs of which were pathetically underestimated by their proponents—and suggest to them that programs initially priced at a mere $37 billion, might well cost a good deal more.

One such proposal actually carries that $37 billion estimate—$37 billion annually—that is only a "ball-park" figure, of course. The cost of preventing medical indigency via this approach, might well be twice that before we are finished.

In that case, we shall have succeeded in replacing medical indigency, with taxpayer indigency; after which we can all go home, having no further function as elected representatives for a bankrupt nation.

But all this is not to say, that catastrophic illness is not a veritable specter, that haunts most Americans. It does. Few are so rich as to view, with financial equanimity, the prolonged illness requiring hospitalization, continuing medical care, and the mustering of those enormously sophisticated—but enormously expensive—resources of modern medical science in all phases.

I have had considerable experience with catastrophic illness, in my own family, as a practicing surgeon, and as one on call for the great emergency wards of Manhattan as well as those of the emergency medical rooms of smaller hospitals in my hometown.

Mr. Speaker, people have the right to die with their boots on and if they could choose the right to go out the way they wish but they cannot choose the way they exit this earth at this time.

I am speaking of those long, debilitating, vegetablizing illnesses as a result of brain injury, brain concussion, malignancy, the chronic diseases, or even tuberculosis.

It was my privilege to do the first bilateral thrombolumbar operation south of the Missouri River in my State for high blood pressure. One of the criteria for electing or allowing people to undergo this surgery was that they be young and that they have committed the threat of suicide for the pounding and intractable headaches before the devastating two-stage mutilating surgery, if you please, but prior to the discovery of reserpine, which is very effective. I am happy to say some of those people are still alive and working after having been snatched back from blindness, severe headache and, yes, even suicide.

In counseling these people as to how they might plan to retire one knows that they must not remove hope of their continuing in their way of life. One knows early that there must be some plan of retirement, and one must know that they must not fear the specter or the haunting holocaust of catastrophic diseases. Such cases are fortunately statistically rare, not that this is of any comfort to the bankrupt father whose son must mayhap abandon college and whose wife must go back to work in order to help pay the bills. Rare as they are, all of us either know someone who has been a victim of catastrophic illnesses, we have read of them, or we know someone who knows someone, and we say to ourselves with all reverence, "There but for the grace of God be I."

Mr. Speaker, the specter of catastrophic illness haunts the entire middle-income group of Americans, even those whom we would categorize as prosperous, but my bill would lay to rest that fear forever.

Mr. Speaker, let me explain it briefly. In essence this measure would serve a twofold purpose besides restating definitions and ways and means. It would provide for those who are unable to provide for themselves, and it would assist those who can care for their own needs and yet run the risk of being wiped out in the event of extensive and prolonged medical expenses.

Let us examine the first of those categories, those eligible for help under medicaid at this time. The various States define their indigents in need of aid and welfare. We are talking now of some 10.5 million people. As of now the program costs about $4.5 billion a year or somewhere in the neighborhood of $400 per person covered per year. Roughly 60 percent of that payout is now Federal, according to the social security actuaries' own figures. The bill I propose would replace the present title XIX program. Under those provisions, those who are presently covered would be provided with the basic health insurance policy purchased for them by the Federal Government. This policy would be bought from the regular established going concerns of private health insurance companies, including the blues—Blue Cross and Blue Shield—or any commercial carrier. The Federal Government would pay the premiums. It would be an annual authorized and appropriated sum directly from the Treasury. In order to preserve the Federal-State relationship, which is a right and proper one, the State would be asked to provide 15 percent of the cost to be applied whenever a beneficiary used up the benefits of the federally purchased coverage. Thus the average Federal share would be averaging 85 percent, and we could budget, plan, and depend upon it. Based on the $400 average cost of medicaid per person each year, the State's share of the matching funds would be sharply reduced, thus enabling the States to take on the responsibility of paying for the financially devastating but rarely encountered expenses of the so-called catastrophic cases.

I submit, Mr. Speaker, that the States would find this arrangement attractive for three reasons:

First. It would cost them far less than they are spending at present.

Second. It would enable them to plan, budget, and appropriate much more easily, for there would be a more accurate basis upon which to plan and work.

Third. The States would continue to act in their traditional role of assuming responsibility for long-term care—just as they have assumed responsibility in decades past for the care of the chronic cases, such as the tubercular and the mentally ill.

As for the Federal Government, its cost under this phase of my bill, would be increased by about $1 billion a year. On the other hand, it too would be able to plan, budget, and appropriate more intelligently with the elimination of sudden fluctuations, unpredictabilities, and immeasurables, stemming from a variety of other causes—including various State executives on legislative determinations of level of family indigency, et cetera.

As for eligibility requirements, the bill provides for the flexibility which only state-set standards could provide. Clearly, eligibility requirements vary from area to area, and are determined by economics, definitions, and cost-of-living figures. Where the cost of living is high—as in New York City, or Washington, D.C. or Montgomery County—eligibility for this coverage might be set as high as $4,500 a year for a family of four. Where living is less expensive, the figure might be somewhere in the neighborhood of $2,600 a year.

The point is, Mr. Speaker, when the States set the standard individually, they are able to reflect these area differences. A national standard would be like a procrustean bed—"too long for some, too short for others, requiring that legs be lopped off or stretched in the name of uniformity."

So much for how the bill proposes we handle catastrophic illnesses encountered by those who are presently covered by medicaid.

What of the others? What of the vast majority of Americans who are financially able to buy their own basic health protection, but who cannot cope with the burdens imposed by a catastrophic illness?

This bill proposes a solution to their problem, too.

Upon discussion with insurance company actuaries, I learn that the average health insurance policy provides protection against costs up to about $5,000 per annum. Such policies assure the beneficiary of basic, high quality healthcare.

The problems arise when those benefits have been exhausted.

For like most of us, Mr. Speaker, nearly everyone who carries this protection becomes financially vulnerable, from that exhaustion point forward.

Here is what I propose we do to remedy matters:

First. The Secretary of Health, Education, and Welfare would establish a catastrophic health insurance program for every American with an income above the level of medical indigence.

Second. Those who contribute to social security would be required to pay an additional four-tenths of 1 percent on their taxable earnings, and an equal amount to be matched by employers.

Third. Those who are not in the social security framework would pay four-tenths of 1 percent of their taxable earnings, based on their income tax return, up to the maximum social security base, which is now $7,800 a year.

Fourth. All persons with gross non-earned income in excess of $2,000 would pay four-tenths of 1 percent on such earnings, on their income tax return. There would be the proviso that no one individual would pay more in total, than four-tenths of 1 percent, times the maximum taxable earnings base under social security.

Fifth. According to the estimates I have received, the income from these tax sources would approximate $2.5 million annually. It would be placed in a Federal health care trust fund.

Sixth. From this pool, the Social Security Administration would provide 90-percent reimbursement of the cost of health and medical expenses for the individual and his dependents, whichever exceeds the larger of two sums. The first of these is an expenditure of $5,000, whether or not it was derived from health insurance. The second would be 25 percent of the gross income of the individual and his dependents.

Those of our citizens who are 65 years of age or older are, of course, protected by medicare.

For these people, my proposal would apply to medical expenses, actually paid by the individual, in excess of the larger of two sums: First, 25 percent of the gross income of the individual and his dependents; or second, $1,000.

Mr. Speaker, these are the highlights of my proposal. Let me say that all Government efforts to date have been directed at providing first-dollar coverage. Invariably, first-dollar coverage entails high administrative costs, for it requires that many small claims be processed. Thereby the substance of the program is eroded. My aim is to amend and to protect existing law or substitute therefor so that the public can be insulated from disastrously high costs; give meaningful relief to those hardest hit by extensive medical expenses; make the existing program work easier; and at the same time make the greatest use possible of the dollars available.

Mr. Speaker, extra care will do just that.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman from Missouri yield?

Mr. HALL. I will be glad to yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I would like to commend my colleague from Missouri for his fine presentation and thoughtful proposal. It is certainly fitting that the "House doctor" should be in the forefront of this effort. I believe he shares a growing recognition that health care problems are becoming so acute in this country that to allow things to continue to drift is to invite disaster. I believe he also recognizes that those who admire the many achievements and strengths of the American health care system will be required to come forward with constructive, workable proposals or the field will be preempted by those of far differing sympathies. A recent public opinion poll showing that 53 percent of those polled endorsed compulsory national health insurance indicates a mounting tidal wave of support for major new Government initiatives in the provision of health care services. The task before us, in my view, is to devise intelligent, effective programs around which this latent public concern can coalesce. For if we do not, we may soon find an aroused public being stampeded into support of hastily devised, grand panaceas that are most likely to do more damage than good.

Mr. Speaker, the real question before us concerns the basic character of any attempted governmental effort to alter the health care system. Will it be some kind of centralized, heavy-handed scheme in which the Federal Government literally absorbs or takes over the system? Is it to be an effort which is bound to cast old practices, relationships, and methods spinning into disarray and confusion? Or will it be a more modest and delicate fine-tuning, based on the assumption that not massive external intervention but strategically aimed modifications and incentives are what is required to encourage the kind of decentralized, voluntary self-adjustment, and renewal the American health care system so desperately needs?

It seems to me that the first approach embodies the old route of democratic, state welfarism based on centralization, massive bureaucracy and coercive external regulation. I believe we can see about us enough of the spoiled fruits of that approach to make it a quite unattractive course, to say the least. When we recall that the mess of the present public assistance program—fashioned on this state welfarist approach—is only a $10 billion a year undertaking, what, we are constrained to ask, would become of a $70 billion a year health care industry placed under a similar regime? Yet, in its present form, at least, this seems to be the orientation of the national health insurance proposal introduced with so much fanfare last month.

The second approach I alluded to is one based on more carefully targeted limited interventions, indirect controls through incentives that can be responded to on a voluntary basis, and decentralized experimentation and coordination. It recognizes that we have neither the budgetary leeway, trained medical manpower or knowledge about the subtle and intricate workings of the health care system to launch an all-out attack on every problem front simultaneously. Instead, we must establish priorities directing our limited resources at the most critical problem areas. This approach also recognizes the need to keep new programs, especially those which radically change old institutions, discreet and modest enough so that they can be effectively monitored and a determination of their effectiveness or costs and benefits arrived at.

I believe we are beginning to make important progress on a number of these limited but strategically situated health care fronts. Last week I testified along with many of my colleagues in favor of a bill to greatly expand Federal aid to medical schools for the training of family practice physicians. Success on this limited front can have ramifications for the entire health care system. By greatly augmenting the supply of physicians providing primary or entry level preventive and diagnostic treatment, illnesses can be caught in the early stages and the huge burden of expensive specialist treatment frequently avoided. Also adequate entry-level care would insure more effective and appropriate utilization of the various kinds of health care services. The point here is that a well-targeted modification or reform can have tremendous multiplier effects throughout the system.

Another strategic point is in the area of utilization review. I believe the Senate Finance Committee under the lead of Senator BENNETT has taken a great stride forward by the development of legislation which would encourage the formation of local professional standards review organizations. These organizations would do much to provide the cost and utilization controls that are desperately needed if we are to hold health care or insurance costs within a range that the American people can afford.

Today we are considering a third limited but strategically important health care front: the area of catastrophic costs. We have all heard, of course, of the particularly extreme of the family whose son is stung by a bee and $55,000 in doctor bills accumulate as a result. Though the concept of catastrophic health insurance is partly directed toward these rare situations, its real thrust is toward providing relief for the large numbers of families who find both their insurance and savings exhausted as a result of a major illness.

For instance, it is well known that almost 85 percent of the American population has some kind of hospitalization insurance. But what is not so readily recognized is that much of this insurance is exhausted long before major hospitalizations have been completed.

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Thirty-eight percent of the hospitalization policyholders in the United States come under the Blue Cross-Blue Shield plans. Yet, in 1967, 80 percent of the most widely held "Blue plans" in the various regions of the country covered less than 180 days of hospitalization per year. This means that at $70 a day, a person hospitalized for 365 days could exhaust his insurance and still face an out-of-the-pocket bill of $11,000. A person hospitalized for 270 days could exhaust his coverage and face a $5,000 bill. Moreover, 43 percent of the most widely held plans covered less than 100 days. This means that a person hospitalized for 200 days could face a $6,000 bill after his insurance had been exhausted. A person hospitalized for 150 days could face a $3,000 bill. It takes little reflection to say that the great majority of lower- and middle-income American families could be literally bankrupted by out-of-the-pocket expenses of these magnitudes.

Of course, insurance companies are willing to extend their general plans to cover almost unlimited costs. But this tends to raise the premiums to levels that middle-income families again find out of their financial reach. Recent figures indicate that it is not unusual for full, comprehensive coverage to carry premiums in the $700 or $800 range or even more. How many families with incomes under $10,000 can afford that kind of annual expense?

Might it not be wiser to levy a $35 a year payroll tax so that they can be assured that the exhaustion of lower option hospitalization insurance will not leave them facing impossible debt burdens? I believe this is the essential genius of Dr. Hall's plan and I hope that it will be given the most serious consideration.

However, I have not gone on this bill as a cosponsor because I have a number of reservations about the specific provisions by which the idea of catastrophic insurance has been implemented. The first concerns the $5,000 level at which the program would take effect. It appears to me that this would just continue the same bias in favor of hospitalization which distorts the system at present. It will be recalled that at least 70 percent of the Blue Cross plans I mentioned earlier would cover the entire first $5,000 of cost at $60 a day. After that, of course, catastrophic insurance would go into effect and there would be no large, unexpected out-of-the-pocket expense.

But let us consider some other types of health care services. In 1967, only 9 percent of the population had coverage for nursing home care. This means that the other 91 percent would be forced to pay $5,000 out of the pocket for nursing home care before attaining eligibility for catastrophic benefits. But for families with incomes under $10,000, would not catastrope have struck long before they reached the $5,000 trigger level? Or take prescribed drugs on an outpatient basis. Only one-third of the population has this type of coverage, so 67 percent of the population could again find itself attempting to scrape together $5,000 in cash before the catastrophic insurance deductible had been met. Furthermore, only two-fifths of the population has physician home and office coverage. Again, more than half of the population could potentially be meeting huge out-of-the-pocket payments before the provisions of the bill became effective.

Now I realize that in any given year no family is likely to have a doctor bill of $5,000 or a prescribed drug bill of that magnitude, or even a nursing home bill of this size. But if you add these together, plus such costs as out-patient X-ray and laboratory, visiting nurse services, dental care, and other services for which most of the population is not covered, it is very conceivable that during years of misfortune large numbers of families would find themselves making huge payments before meeting the catastrophic deductible. If this is correct then the lesson would be quite clear: If you have moderately comprehensive hospital coverage you can be assured that the catastrophic insurance will pick up where the private plan leaves off. But if your illness or malady does not require hospitalization be prepared to shell out huge out-of-the-pocket payments before catastrophic insurance comes to the rescue. But would not this kind of situation merely exacerbate the present incentives to over-hospitalization in our health care system?

For this reason I fear catastrophic insurance in the terms proposed here today might only compound the difficulties of our health insurance system, especially by increasing the pressures on hospital costs. Moreover, it would offer very little help to that group in the $5,000 to $10,000 range which already feels the catastrophic crunch of medical costs and is increasingly angered by the failure of Government social programs to offer any relief. This group typically has bare bones, limited term hospitalization and inpatient physician coverage, leaving it extremely vulnerable to heavy outpatient service costs long before the $5,000 trigger level is reached. Therefore, might it not be better to drop the $5,000 requirement and merely retain a 25 percent of gross income sliding scale? This would mean that a family with an income of $6,000 would only have to meet the first $1,500 in either cash or insurance payments before they would be eligible for catastrophic coverage. A family of $10,000 gross income would have to meet $2,500 and so forth. Admittedly it would be a little more costly but it would provide relief where relief is vitally needed.

Another suggestion would be to institute in tandem with a catastrophic insurance program a system of tax credits on a sliding scale for the purchase of private health insurance. This has been proposed by the AMA and I would add to their proposal the strict stipulation that only comprehensive policies, which include the full range of outpatient health care services such as laboratory, prescribed drugs, skilled nursing, home health care, and physician home and office would be eligible for tax credit offsets. Tax credits would hopefully encourage many families now deterred by high costs to purchase comprehensive private health insurance coverage. Also by removing the high range costs from the private field we might encourage carriers to develop more comprehensive policies horizontally at more reasonable rates. In any case, it seems to me that a catastrophic program will only work effectively if it has a solid floor of across-the-board private health insurance coverage below it.

I have one other reservation about this bill. Part I provides for Federal assumption of responsibility for the purchase of private health insurance policies for the medically indigent. This would replace medicare and resembles the approach of the family insurance plan being developed by the administration. I support such a move but wonder why the determination of eligibility is left to the States. We have seen the results of inequitable State differentiate in welfare aid, and have moved to a national minimum under FAP in the area of welfare. Should we not adopt this precedent in the area of health care?

Finally, let me say that I find the concept of a Government-administered system of catastropic health insurance an interesting and timely proposal. It implies a recognition of the severe inadequacies of our present health care system but seeks amelioration through a strategically aimed reform rather than a massive overturning of the system. Though I question some of the specifics of Dr. Hall's plan, I am confident that necessary adjustments can be made. In particular, I hope all of my colleagues will give serious consideration to devising a way in which the medicredit and catastrophic insurance proposals can be meshed together into a balanced system of comprehensive health care coverage. If we do not move toward this kind of pluralistic public/private system, we may well end up with a monolithic, bureaucratized Government insurance system. And there is reason to believe that this may not be any more desirable than the present system.

Mr. HALL. Mr. Speaker, I thank the gentleman from Illinois (Mr. ANDERSON) for his thoughtful comments. Obviously, he is thinking about this problem. I want to assure him and others who have waited here that there is absolutely no pride of authorship in any of the tenets of this bill. It is to be submitted and referred, I am quite certain to the Committee on Ways and Means as part of an agreement or contract with members of that committee, and they and Members are expected to put flesh on the bare bones outlined which we have submitted as a technique in the belief that those who are professionally expert and who have experience with these things should step forward and lead the way rather than leaving it perhaps to others.

Insofar as the coverage is concerned, that could certainly be changed. There could be other features of coinsurance—and more or less deductibles. The $5,000 figure, of course, is the average health insurance policy. I well realize what the gentleman from Illinois (Mr. ANDERSON) has to say about certain features not being covered which are needed by a great majority of the people.

Be that as it may, in the private mar-

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ket and under the law of supply and demand and our competitive system and private enterprise to say nothing of the control of the various State commissioners of insurance, these things are determined, and people usually get, if they would but read the fine print, more or less what they pay for in their premiums.

We all know that the Blues—whether it be the Blue Cross for hospitalization, or what is frequently referred to, Blue Shield for care of physicians' services—have expandable on them for additional premium and they regularly circulate among their own subscribes, to say nothing of other people, trying to entice them to cover more fully the protection that they have.

There is a point of no return for a family of a certain income. This is understood and I have leaned over backwards to try to provide a bill, part I of which will cost overall with the increased Federal assumption of 85 percent of the medicaid trust fund less than $6 million annually.

The balance would be paid by the States of the Union, just as now. The Federal portion of medicaid is by the actuary's own accounting from social security about $4.6 billion per year. There would be an increase over the present title 19 cost therefor of $1 billion to the Federal Treasury, in round figures. I have tried to offset this expenditure with the advantages that we would have. The 10,500,000-plus more or less presently covered under title 19 would be covered by this preinsurance certificate as determined by the State administration.

I do not feel with the gentleman from Illinois that we should plunge further at this time to take away from the States of the Union the right to administer welfare, aid for dependent children, maternal and child health benefits, or medicaid protection under title 19.

Second, under part II of this bill, just to summarize, after asking that the guidelines be established by the Federal Government, to be sure, but that under the 10th amendment we leave that to the States which they can best do for themselves. We will say that it is a fact that the average health insurance policy contains about $5,000 per annum in benefits. But this is an average, and perhaps I should have underlined that in my original dissertation; 80 percent of the population is now covered by some form of health insurance, and this is 80 percent of those not eligible for medicare by virtue of having reached age 65.

The catastrophic trust fund, which would be on the 0.4 of 1 percent plus matching by the employers, or 0.4 of 1 percent of the earned income of those not under social security, would build up a catastrophic trust fund in the amount of over $2 billion per year, which would be adequate in the opinion of all actuaries and expert professionals to offset this really heralded, often-read-about, thank-God-seldom-experienced catastrophic injury or chronic illness. It would cost the family only about $30 to $40 a year, and I believe that we can build something great out of this, and I hope the Committee on Ways and Means would take it and perhaps flesh it out and add to the skeleton proposal something that would perhaps even cover all the people.

I do want to say before yielding to my distinguished friend from South Carolina that this is the bill with built-in ways and means, that it is worthy of an experiment. It could be fleshed-out with medicredit to encompass all others so that everyone in the United States could be protected, some on their own initiative and voluntarily insofar as their need prescribed, and that it is the least expensive of any bill, including the medicredit bill of the American Medical Association or that proposed by the distinguished members of the Committee on Ways and Means itself, and certainly that of the United Auto Workers, which would cost us initially over $40 billion a year right out of the hat.

I am delighted to yield to the distinguished gentleman from South Carolina.

Mr. DORN. Mr. Speaker, I want to commend my distinguished and able colleague from Missouri for proposing this plan and introducing this legislation for the consideration of all of us. I do not know of anyone in the United States more eminently qualified as a surgeon and as a distinguished Army officer in the medical field and as a conscientious, dedicated legislator to present this type of program to the Congress. I want particularly to commend the gentleman for the State rights provision of this bill. I think this is the way to go about it to preserve our private medical enterprise system in this country, which has provided for the American people the best standards of medical service in the world today.

I think the gentleman from Missouri is to be commended for bringing this bill and this plan here for our study now, because we know of his tremendous dedication to sound money, to a balanced budget, and to good government. I think this bill is in keeping with those time-honored principles and ideals enunciated by the gentleman in his basic philosophy as a great American.

Mr. HALL. I thank the distinguished gentleman. I appreciate his cosponsorship of the bill after careful study, as he always does. Certainly his remarks will spur us on. I ask him to join in fleshing out this bill.

Mr. McEWEN. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the gentleman from New York.

Mr. McEWEN. Mr. Speaker, I join my colleagues in commending our colleague, the gentleman from Missouri, on the presentation he has made. We all know the gentleman in the well has distinguished himself as a physician in serving the physical well-being of people, and as a legislator, I believe, as the gentleman from South Carolina made reference, the gentleman has been concerned for our fiscal well-being as a Nation.

I am not a cosponsor of the gentleman's bill, but I will now give it close consideration. Certainly I commend the gentleman for the concern he has shown and the attention he has given in this bill to the overwhelming majority of American people who are not indigent, medically or otherwise. We are in a period when a great deal of attention—and properly so—is given to those who are in need and indigent, but all of us, as the gentleman in the well has mentioned, have known, or have heard of others, who are people who are not indigent and who have worked hard and industriously all their lives, and who have been absolutely wiped out by catastrophic illness.

If for nothing else in this bill, I think the gentleman should be commended for giving recognition that it is time for a plan to be considered to protect the overwhelming majority of our American citizens from the greatest disaster that can befall them, which is even more devastating than death itself—and for which we have long since worked out insurance to protect people financially—but the catastrophic illness leaves the family many times with the head of the family no longer the breadwinner, but with the breadwinner a burden to be cared for. I am sure the gentleman in his practice as a physician saw this and was mindful not only of the physical well-being of the patient, but also of the fiscal burden which those families had.

Again, Mr. Speaker, I commend the gentleman.

Mr. HALL. Mr. Speaker, I thank the gentleman.

Mr. MANN. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the gentleman from South Carolina (Mr. MANN).

Mr. MANN. Mr. Speaker, I cannot let this moment pass without saying how impressed I was with the proposal when I read it in the letter which was circulated to us by my friend, the gentleman from Missouri.

Mr. Speaker, I have not joined in the sponsorship of this because of certain unanswered questions. Nevertheless, I am appreciative of the contribution the gentleman is making to the problem that overwhelms us and that must be tackled within the next year or two.

Mr. Speaker, I join with my colleague, the gentleman from South Carolina, in expressing my appreciation of the idea of State control and administration of as much of the program as is possible. At the same time I share the concern of my colleague, the gentleman from Illinois (Mr. ANDERSON) and will take this moment, if the gentleman will permit, to ask a couple of questions to satisfy myself as to the state determination of the level of indigency.

First, will the level of indigency determine what category of wage earner will have the payroll deductions? In other words, if the state level of indigency is determined to be $4,500, will only those people who make over $4,500 be subject to the payroll taxation, or will all wage earners be subject to it?

Mr. HALL. I am not sure I can answer the gentleman's question, as I perceive it at this point, except to say that it is determined by the various states of the union, as they now determine those who receive title XIX care would have no deductions. It would be paid for in entirety as a preinsurance through existing agencies by the Federal Government, with the States participating in

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the last 15 percent which would be earmarked for the catastrophic care of all those individuals and would be adequate.

Mr. MANN. The gentleman can perhaps see the basis for my concern, that a State by juggling the indigency level can gain two advantages: first, by exempting a large portion of its residents from the burden of the taxation, and second, since the Federal Government will be paying 100 percent under the gentleman's proposal for the indigents, the State thereby will receive more benefits.

I am curious as to those questions, and, of course, as the gentleman was very gracious, he stated he is not proud about the authorship and will agree to a thorough study of it.

Again let me say the gentleman has started the ball rolling on what appears to be a most interesting and promising proposal.

Mr. HALL. I thank the gentleman. I assure the gentleman that the program spelled out in part A of title I would authorize the States to purchase basic health insurance coverage for those otherwise unable to afford such coverage and to supplement from their own resources the basic coverage with respect to catastrophic health care expenditures.

The other program found in part B would authorize a program of catastrophic health care insurance coverage for those who are otherwise able to afford protection for themselves.

This level would have to be determined by the various States.

GENERAL LEAVE TO EXTEND

Mr. HALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their comments on this subject.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. HALL. Mr. Speaker, I include for the RECORD an analysis of this proposed bill by the legislative reference service of the Library of Congress dated as far back as June 29 of this current year.

The analysis is as follows:

THE LIBRARY OF CONGRESS,
Washington, D.C., June 29, 1970.

To Honorable Durward G. Hall
From Education and Public Welfare Division
Subject: Analysis of your proposed "National Health Care Program"

This is in reply to your letter of June 23, 1970, asking that the Legislative Reference Service analyze the major provisions of legislation which you propose to introduce establishing a "National Health Care Program." This report summarizes the measure as now drafted; no effort is made to evaluate the proposal in light of existing programs having provisions that might affect the status of your proposal in the event it were to be adopted by the Congress. In the event you would like a more detailed review of the measure, or have any questions in connection with this analysis, please let us know.

PURPOSE AND ORGANIZATION OF THE LEGISLATION

It is the expressed purpose of the legislation to create a National Health Care Program to assure all individuals and families in the Nation adequate protection against the costs of health care by creating two separate, but related, health care insurance protection programs. The first program would provide insurance for those who are unable to secure their own protection because they lack the financial resources to do so. The second program would provide additional health insurance protection for those normally able to afford private insurance protection, yet with such protection may be unable to insure against expenditures for care associated with major catastrophic illness or injury.

In order to meet these objectives, the legislation would establish a Federally-aided State-administered program involving the purchase of private health insurance protection for the poor and the medically needy. The majority of the costs for policies providing such protection would be borne by the Federal Government. Additional premium costs and any additional expenses toward costs associated with catastrophic illness or injury would be borne by the States themselves. For those capable of providing their own basic protection, a new program of Federal insurance against catastrophic health care costs would be authorized.

The proposal replaces the present title 19 of the Social Security Act, as amended, with a new title 19 containing three parts. The Part A program provides for the proposal to meet the health costs of the medically needy and indigent; Part B deals with the program of catastrophic health insurance protection for persons able to afford basic protection for themselves; and, Part C defines the various concepts used in the proposal. The bill also includes certain taxing provisions relating to the financing of the National Health Care Program.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSAL

Sec. 1—*title XIX: National Health Care Program.* Amends the present title 19 program of the Social Security Act and replaces it with a new title 19 program, called the "National Health Care Program." This new title is composed of a statement of Congressional purpose and three distinct parts.

Sec. 1901—*Purpose.* Expresses that it is the purpose of this legislation to assure every individual and family in the United States of adequate protection against the costs of health and medical care. To carry out this purpose, the legislation provides for the creation of two separate, but related, programs of health insurance protection for the American people. One program, spelled out in Part A of this title, would authorize the States to purchase basic health insurance coverage for those otherwise unable to afford such coverage, and to supplement, from their own resources, this basic coverage with protection against the costs of catastrophic health care expenditures. The other program, found in Part B of this title, would authorize a program of catastrophic health insurance coverage for those who are otherwise able to afford basic protection for themselves.

PART A—HEALTH CARE FOR THE MEDICALLY NEEDY AND INDIGENT

Sec. 1911—*State agreements.* Authorizes the Secretary of Health, Education and Welfare to enter into agreements with the States for the purpose of financing the health care of the medically needy and indigent. Under such an agreement, each State would determine annually the level of medical indigence for various individuals and families in accordance with the definition of "level of medical indigence" set forth in Sec. 1931 of the new title 19. The State would also determine an average annual cost per individual or family which reflects adequate health care expenditures. The States would then purchase, on behalf of those who were at, or below, the applicable level of indigence, health insurance protection which would equal health care costs up to the average annual cost for individuals or for families. States would bear the cost of this protection (except, see Sec. 1912), assured that, from their own resources, the costs of catastrophic expenses for those at or below the level of medical indigence were met, and carry out various administrative activities associated with implementation of the program.

Sec. 1912—*Federal payments.* Authorizes the Federal Government to pay to each State having an agreement under Sec. 1911 amounts equal to 65 percent of the costs incurred by States in providing basic health insurance protection equal to the average annual cost for such coverage as provided for in Sec. 1911. No Federal assistance would be available for the catastrophic program of the States which they would fund themselves.

Sec. 1913—*Direct Federal assistance in the absence of State agreements.* Where a State cannot or will not participate in the program provided for in Sec. 1911, the Federal Government will assume the costs of providing both basic health insurance protection and the costs of providing catastrophic health care. The Federal Government would be entitled to recover from such States, by withholding amounts otherwise due to the State, the total costs resulting from Federal administration of both the basic and catastrophic protection programs for the medically needy and indigent.

PART B—INSURANCE AGAINST CATASTROPHIC HEALTH CARE COSTS FOR PERSONS ABLE TO PROVIDE NORMAL PROTECTION AGAINST HEALTH CARE COSTS

Sec. 1921—*Establishment of insurance program; Payment of benefits.* Authorizes the Secretary of Health, Education and Welfare to establish a catastrophic health insurance program for all persons, who are residents, with incomes above the level of medical indigence. Limits Federal financial participation in such expenditures to 90 percent of catastrophic health care costs. Administration of the program, insofar as possible, would follow the same procedures and standards used under title 18 (medicare) of the Social Security Act, and the systems used in the programs described in Part A of this title 19.

Sec. 1922—*Federal health care trust fund.* Establishes a "Federal Health Care Trust Fund" into which would be deposited one hundred percent of the funds raised by means of the tax for the National Health Care Program, provided for in Section 2 of the proposal. Also provides for the creation of trustees for the fund and specifies certain reporting and other requirements appropriate to the management of the Fund.

PART C—MISCELLANEOUS PROVISIONS AND DEFINITIONS

Sec. 1931—*Definitions.* Defines a number of the terms used elsewhere in the legislation, to include:

(1) *health benefits plan*—a group insurance policy or membership or subscription contract provided by a carrier to pay for health care costs.

(2) *level of medical indigence*—level of income of an individual or family, determined by the State, necessary to provide from their own resources normal protection against other than catastrophic health care costs.

(3) *health care costs*—all health care expenses recognized under the Internal Revenue Code, whether or not claimed for deduction.

(4) *catastrophic health care costs*—has two meanings, with respect to the Part A program, all health care costs in excess of the applicable average annual cost determined by each State are catastrophic costs for the medically needy and indigent. In the case of the Part B program, catastrophic costs are all costs in excess of whichever below is larger:

a. $1,000 for individuals or family members reaching 65 at the end of a calendar year, or $5,000 in any other case, whether or not compensated by insurance; or,

b. 25 percent of the gross income of an individual or family during any calendar year.

(5) *carrier*—any voluntary association, corporation or partnership, or other non-governmental organization, including employee plans, which engages in paying for health care costs under one or more health benefits plans.

Sec. 2—*Financing of the national health care program:* amends certain provisions of the Internal Revenue Code of 1954, relating to employment taxes by adding a new Chapter 25 and by redesignating certain other chapters.

Sec. 3451—*Imposition of tax.* Imposes a new employment tax for purposes of financing the national Health Care Program. The tax would be equal to the sum of wages or self-employment income, plus any other income whether or not earned (if the gross of such other income exceeds $2,000), multiplied by a rate of 0.4 percent, except that the income base upon which such tax were applied could not exceed the maximum taxable earnings base provided for in Sec. 3121(a)(1) of the Code (the wage base used for purposes of the Social Security cash benefits programs which at present is $7,800 annually).

Sec. 3452——*Application of other employment tax provisions.* Provides that in the collection and administration of the tax imposed under the preceding section, Chapters 2, 21, and 26 and related provisions of subtitle F of the IRS Code shall apply.

Sec. 3—*Effective date and coordination with other statutes.* Provides that the legislation would become effective on January 1, 1971, and that before such effective date, the Secretary of Health, Education and Welfare would submit a report to the Congress specifying which laws would require modification or repeal by reason of amendments made by this legislation, including recommendations for such changes.

CLASSROOM FOR CHESSBOARD: PUPILS FOR PAWNS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRAY) is recognized for 15 minutes.

Mr. BRAY. Mr. Speaker, on July 30, 1969, I addressed the House of Representatives in a major speech entitled "Education or Social Experimentation." Then, as today, the topic was on one of the two or three most hotly debated and controversial issues in American domestic affairs: Busing of school pupils and arbitrary transfer of teachers in an attempt to achieve so-called "racial balance" in our Republic's schools.

The American taxpayer staggers under local, State, and Federal tax loads to support a truly immense educational establishment. For the 1970–71 school year, there are 19,169 school districts. Total figures, elementary and secondary, public and private schools, are: 113,662 schools; 51,000,000 pupils; 2,245,100 teachers; and the total annual cost, counting both current expenditures and capital outlay, is $45.4 billion. Every citizen of the American Republic has passed through our educational institutions to one degree or another. And, sooner or later, most citizens are closely tied to it again, as their children enter the schoolhouse door. American education is too big, too important, too closely connected to too many people, for there ever to be any danger of its being ignored. No one should expect that those who support it through their taxes, whether they have children in school or not, will look on mildly while it is tampered with by some fool playing social pick-up sticks. The tax load is crushing; social planners would add billions in expense and, in the process, destroy the schools.

The Civil Rights Act of 1964 included this clause:

> But desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance.

The words of the law are quite plain. They reflected not only the sentiment of the U.S. Congress, but a deep, longstanding belief on the part of the American people. A poll taken nationwide in March 1970 showed opposition to busing by an 8 to 1 margin. And, in case anyone thinks the sentiment is restricted to one section of the country, or one race, or one political philosophy, I quote from the release on the poll:

> When Negro parents are asked the same series of questions, the weight of sentiment is found to be against busing. Southerners are most opposed to busing, but regional differences are not great. Persons who describe themselves as "liberals" hold views that differ little from those who call themselves "conservatives."

Over a year ago I myself received letters and petitions with over 10,000 names all expressing opposition to proposed busing and teacher-transfer programs in Indianapolis schools. The names were from all over the city, from all strata of society, from both races. The concern shown by my constituents, I felt, demanded close and serious study on my part, and it also obligated me to speak out in the House of Representatives. The July 30, 1969, speech—which was sent to all those who wrote—was the result.

Who, then, is for this attempt to disrupt our public schools? Just who, I asked, was more interested in sociological experimentation than in education, with our entire educational structure for a blackboard, and pupils and teachers as dots on a graph or figures in an equation?

Certainly not the administration. President Nixon made his stand clear in his March 4, 1970, message on school desegregation:

First. Deliberate official racial segregation is unlawful and must be eliminated at once. (This is indisputably the law of the land and is recognized as such by all.)

Second. The neighborhood school system is the most appropriate base for a public school system.

Third. Transportation of students beyond normal geographic school zones to achieve racial balance will not be required.

BLACKS AND WHITES OPPOSED TO INTERFERENCE WITH EDUCATION

And busing children is not the only question; mandatory transfer of teachers for "racial balance" came into the Indianapolis picture in 1969. Thirty-eight teachers were to be transferred from Crispus Attucks High School, overwhelmingly Negro. The reaction of the Attucks student body was quick; they walked out in protest. At a school board meeting, Ronald Crenshaw, representing a delegation of Crispus Attucks High School students, said:

> We are not against integration of Attucks, however, we are against the idea of drafting 38 of our black teachers in order to give Attucks a better racial balance . . . Last year, Attucks was literally robbed of 25 black teachers. Now, a year later, Attucks is on the threshold of being robbed again . . . When one is robbed of something, he usually considers that something valuable. We consider our teachers valuable.

At the same board meeting, an almost identical point was made by Citizens of Indianapolis for Quality Schools. This consists primarily of Northwest High School area parents and teachers. Their statement to the board said they were convinced—

> Such mandatory transfer of teachers . . . is injurious to the education of all students . . . and lessens the quality of education.

Criticism of the Attucks transfers was joined by the Indianapolis section of the National Council of Negro Women and the Attucks being Teachers and Students Association and the class of 1938, which objected to Attucks being used as a "resource pool" for black teachers.

And how does it look to city officials? Indianapolis' Mayor Richard Lugar, to the Indianapolis School Board, early in September 1970:

> The school board must ". . . renounce busing, coercive transportation, once and for all. . . . The board has been confident that busing . . . would achieve suitable racial balance arithmetic. Such calculations are dangerously shortsighted and have contributed to more polarized attitudes in our community than any other civil or educational policy decision . . ."

In essence, then, the country awaits a decision on these questions by the Supreme Court, which will be brought to the Court this month:

First. Does the Constitution require that there be a racially balanced student body in every school?

Second. Does a child have a constitutional right to attend a school in his own neighborhood?

Third. Did Congress, in 1964, forbid school boards to bus students to achieve racially balanced student bodies?

Fourth. Are all-black or all-white schools unconstitutional?

SOCIAL EXPERIMENTS WRECKING TRUE EDUCATION

H. G. Wells wrote in his "Outline of History" that "Human history becomes more and more a race between education and catastrophe."

The questionable sport of playing with figures to show how much has been spent on education becomes nothing but a hollow mockery and a fraud when one reads the truly horrifying statement that—

> As many as 18.5 million Americans 16 years and older lack the reading ability they need to "survive" in a paperwork society. They have trouble, for example, filling out simplified versions of applications for a personal bank loan, a driver's license, a Social Security number, welfare aid and Medicare. (Washington, D.C., Post, September 12, 1970)

These were the shocking conclusions of a nationwide study conducted under the auspices of the new National Reading Council, set up by President Nixon to measure the extent of reading deficiencies. Add to this the gruesome realities of college laboratories being blown to bits by terrorist bombs, high school teenagers dying from overdoses of heroin mainlined in school restrooms and elsewhere on school property, and sixth graders experimenting with marihuana.

Is it any wonder that confidence in the education structure has been badly shaken? Is it any wonder voters refuse to approve any new bond issues or tax levies? Is there any question in anyone's mind any longer, any doubt, that somewhere and somehow the true goals of education have been subverted?

In my 1969 speech I traced the pattern of this subversion. I had referred to a pending appropriations bill for the Departments of Labor and HEW which contained a provision forbidding the Federal Government from using funds to force busing of students to achieve racial balance. I noted a similar provision, passed by the House in 1968, had been watered down by the Senate to ineffectiveness. The same thing unfortunately also happened in 1969. Such restrictions, I pointed out, had been written into law before but totally ignored.

EDUCATION COMMISSION IN 1966 PLANNED DESTRUCTION OF NEIGHBORHOOD SCHOOLS

I wrote in 1969:

> But there is always someone who does not get the word. In this instance, "someone" was Harold Howe II, former Federal Education Commissioner, who took office in 1966 and made it clear at once that he was going to set the rules. A Wall Street Journal story of August 12, 1966, about Howe, was headlined as follows: "Integrating Classes—Federal Officials Now Favor End of Tradition of Neighborhood School—New Education Commissioner Calls for Busing 'Plazas'; Suburbanites Are Alarmed—His Only Weapon: U.S. Cash."
>
> The story begins with these paragraphs:
>
> "We can't *do* anything; we can only suggest and stimulate local school districts." (Emphasis in original text)
>
> "The mildness of the words belies the intensity of the speaker, a firm foe of school segregation. He is Harold Howe II, the new Federal Education Commissioner, who insists that segregated schooling—by design or by living pattern, by race or by economic or social status—is bad for all concerned: Whites, Negroes, other minorities, poor kids, middle-class kids, rich kids. He will do all he can to help communities break down these barriers.
>
> "Mr. Howe can be tough. To educators, he talks a hard antisegregation line: 'Gradualism, no matter what we call it, has failed.' To Congress, he advocates a tough law. Specifically he espouses the aim of a proposal by Senator Ted Kennedy of Massachusetts to introduce into legislation the concept that not only outright segregation but mere racial imbalance in schooling is bad. Down with neighborhood schools: About the only weapon now at Mr. Howe's command is money—the use of Federal aid to encourage local school experiments designed to assault segregation and, in the process, to weaken or even destroy the cherished 'neighborhood school' tradition. This push is arousing cries of alarm from many schoolboard officials and parents, especially suburbanites."

The Nixon administration came into office committed, not only by the President's campaign pledges, but by deed and word, to a reversal of Howe's theories. But, as with Howe, someone did not get the word. Both Congress and the administration took note; the following is from a newsletter I wrote in early March 1970 about the incident:

> The Administration and a majority of the Congress today are allied to deal a quick one-two punch aimed at putting American education back in the business of teaching children, and away from making them pawns in social experiments, which had been an insult to both black and white parents.

First, the Director of the Office of Civil Rights in the Department of Health, Education, and Welfare was sacked. This individual had been on record as being committed to instant and total integration of schools all over the country—at once—with no regard for the problems involved. He had stated the neighborhood school concept was a "fetish" and shown himself completely out of touch with the great majority of the citizens of the American Republic.

He had made it quite clear that as long as what the administration was doing in school integration suited him, then all would be well. But when things did not go his way—and not only in the Nixon administration, either: Two Democrat Senators took stands that did not suit him—he chose to show it in the following irrational outburst:

> We gave them new guidelines on Independence Day, the Stennis amendment on Lincoln's Birthday, and maybe we should shoot 10 blacks on Washington's birthday.

Well, that sort of thing is sour grapes with a vengeance. Anyone so intemperate as to say it has obviously lost all purpose and utility in the administration he once took an oath to serve.

The second punch came from both House and Senate, on the same day—February 19, 1970. The House put three amendments in the HEW appropriations bill designed to restrict the Government's power to use Federal funds to bring about school integration. Even a majority of the Senate, in a new educational authorization measure, included a provision designed to prohibit busing of children as part of federally approved school integration plans.

The Congress is quite obviously getting tough about it all, and the administration is making it clear it is not going to support this idea of calling for busing students all over and the administration is making it clear it is not going to support this idea of busing students all over a city or community whenever some fool playing sociological pick-up-sticks calls for it.

But this is merely a reflection of what the country as a whole feels, and wants, and knows full well must be done. For far too long and in far too many instances the Federal Government has allowed itself to be pulled or pushed into following artificial concepts and illusions—chasing after false gods, one might say.

U.S. Senator Abraham Ribicoff of Connecticut is a Democrat. He is a former Governor of his State, he served as Secretary of Health, Education, and Welfare, and he should certainly know something about the "melting pot" idea. But let us consider what he said recently in an interview—something many have alluded to for years, and been roundly denounced for, as, indeed, Senator Ribicoff is now denounced:

> We have to acknowledge that it's impossible. America cannot make a truly integrated school system as we are now demographically situated. I know you're not supposed to say that. But it's true. . . . We need to take this country and to give it a hard realistic look at itself. The black leaders know this. They know the old talk about integration is fake. . . . The schools are not the vehicle, the schools are the victims. Our children are the pawns.

How true. Let us get them off the chessboard, then, and back to the business of being students—all of them, black and white.

THE NEXT MOVE: THE SUPREME COURT

The House has consistently made its opposition to busing and "racial balance" schemes known by writing strong provisions into legislation. The Senate's record has been less consistent but as the preceding newsletter showed, sentiment has even changed drastically there.

On September 15, 1970, I joined with almost 100 of my colleagues in the House, Members of both parties, in a somewhat unusual step but nevertheless one of vital importance. We signed our names to a special brief prepared for submission to the Supreme Court, for the Court's consideration when it takes up the school busing cases this month. This brief deals in particular with the Civil Rights Act of 1964.

In this act, Congress made it quite clear that:

First, desegregation would not comprehend the notion of racial balance as either an equivalent or supplement;

Second, no assignment of students would be made to overcome racial balance;

Third, neighborhood schools would be maintained.

I quote from the brief itself:

> This desegregation theme runs through Congress' deliberations in Committee, its reports and its debate on the Floors of both Houses. Its fundamental, its sole, its exclusive aim was to make the statute conform to Judge Parker's decision in Briggs that the Constitution is color blind, not color conscious.

It is not generally known, but still quite true, that the will and the intent of Congress is every bit as valid as the language in the bill itself, and is so recognized in law. It is not at all uncommon for attorneys appearing before the Supreme Court to cite actual language used on the floor of the House or the Senate, during debate on a measure, to point out what Congress intended. The purpose of the brief we have submitted is to clarify for the Court just what this "congressional will" in the matter of school busing really is. And, I will add in passing, there is no doubt at all in my mind that the will of the Congress in this instance is very definitely the will of the vast majority of the American public.

The educational structure for a society, a country, a people is directly attached to and inseparable from the very culture of that same society, country, or

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people. Indeed, one of the last observations made by Socrates before his death was that—

> The soul takes nothing with her to the other world but her education and culture.

I closed my 1969 speech with a statement by the late T. S. Eliot, accurately termed "one of our century's most profound cultural critics." Eliot saw a growing brutality, insensitivity, and mechanistic attitude on the part of the State leading to nothing less than the breakdown and disintegration of true culture itself:

> There . . . is a danger that education—which (has come under) the influence of politics—will take upon itself the reformation and direction of culture, instead of keeping its place as one of the activities through which culture realizes itself. Culture cannot altogether be brought to consciousness; and the culture of which we are wholly conscious is never the whole of culture; the effective culture is that which is directing the activities of those who are manipulating that which they *call* culture. (Italics in original)
>
> There is no doubt that in our headlong rush to educate everybody, we are lowering the standards, and more and more abandoning the study of those subjects by which the essentials of our culture—of that part of it which is transmissible by education—are transmitted; destroying our ancient edifices to make ready the ground upon which the barbarian nomads of the future will encamp in their mechanized caravans.

The people have spoken. The administration has spoken. The Congress has spoken. Now the Republic waits for the Supreme Court. No school is safe from those who would substitute social experimentation for education, from those who would make chessboards of the classrooms; make pawns of the pupils.

FRANK L. KLUCKHOHN, 1907–70

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. RARICK) is recognized for 10 minutes.

Mr. RARICK. Mr. Speaker, many were saddened upon learning of the recent passing of Mr. Frank Kluckhohn. Those of us who knew and respected him for his courage and patriotic endeavors extend our condolences to his widow and family.

I include his obituary at this point in the RECORD:

FRANK KLUCKHOHN, AUTHOR, DIES—EX-CORRESPONDENT FOR TIMES, 62

MARTINSBURG, W. VA., OCTOBER 3.—Frank L. Kluckhohn, author and newspaperman, died last night in King's Daughters Hospital of injuries suffered earlier in the day in an auto accident. He was 62 years old and lived in Shepherdstown.

Surviving are his widow, the former June Warner; two sons, Michael and Richard, and a brother, Robert of Spokane, Wash.

ASSIGNED TO PRESIDENT

Mr. Kluckhohn, a correspondent for The New York Times from 1929 to 1947, reported from more than 70 countries. In World War II he covered both the European and Pacific theaters.

A big genial man, he was first with the news of German intervention in the Spanish Civil War—he was sitting in a Seville hotel when a contingent of German aviators arrived.

He was assigned to President Franklin D. Roosevelt for a year before Pearl Harbor. He landed with the first troops in Africa and later covered the Battle of Leyte Gulf.

In 1945 when Mr. Kluckhohn and Hugh Baillie, president of the United Press, were the first American correspondents to interview Emperor Hirohito of Japan, Mr. Kluckhohn did not bow to the Emperor; instead, he shook hands. He was told he was probably the first man in 2,600 years to have done so.

From 1945 to 1947 he covered South America, especially Argentina and Juan Perón, for The Times.

After leaving The Times, Mr. Kluckhohn served as an adviser to the Secretary of Defense in 1948, became an executive of the IBM World Trade Corporation in 1950 and did publicity for the Republican National Committee in 1952.

He was a consultant to the Department of State from 1955 to 1961 and worked on the staff of Congress in 1961. Most recently he engaged in free-lance and publicity work and directed CEASE (Committee to End Aid to the Soviet Enemy) and the Press Ethics Committee, designed to ferret out slanted reporting and editing of the news.

He was born in St. Paul Nov. 24, 1907, and attended the University of Minnesota and later the Centro de Estudios Historicos in Spain.

He began as a sports reporter for The St. Paul Dispatch while still in college and later became a general reporter for that paper. He joined The Times after having served as a foreign correspondent for The Boston Globe.

His books included "The Mexican Challenge," published in 1939; "America—Listen," a report to the nation on a threat to its survival, 1961; "Naked Rise of Communism," 1962; "What's Wrong with United States Foreign Policy," 1963; "Lyndon's Legacy," and "The Inside on L.B.J.," 1964; "The Drew Pearson Story," 1967; "The Man Who Kept the Peace (A Study of John Foster Dulles)," 1968, and "The Real Eisenhower," 1969.

His clubs included the Overseas Writers, National Press of Washington, Ataneo of Madrid and Churubusco Country of Mexico City.

Mr. Kluckhohn was a cousin of the late Dr. Clyde Kluckhohn, the anthropologist.

KEY PANAMA CANAL PROBLEMS AND THEIR SOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 15 minutes.

Mr. FLOOD. Mr. Speaker, in 1964 the Congress, on administrative recommendation, authorized a comprehensive investigation to determine the feasibility of, and the most suitable site for, the construction of a new isthmian canal of so-called sea-level design—Public Law 88–609, 78 Stat. 990, as amended. The final report of this inquiry is due not later than December 1, 1970.

In hearings on August 3 of this year before the House Subcommittee on Inter-American Affairs on "Cuba and the Caribbean," I discussed the inter-oceanic canal problem at considerable length and included as part of my statement the 1970 "Memorial to the Congress" of the "Committee for Continued U.S. Control of the Panama Canal," signed by informed leaders in various parts of the Nation. In an address to the House on July 28 on "Panama Canal: Sovereignty and Modernization," I quoted the texts of pending measures clarifying the sovereignty question and providing for major canal modernization. In another address to the House on September 15, I quoted my August 3 testimony and a statement by my distinguished colleague from Missouri (Mr. HALL). These and other statements by Senator STROM THURMOND, other Members of the Congress, and myself, contain vital information on various aspects of the canal subject.

My latest contribution was an address on October 2, 1970, before the Liberty Lobby Political Affairs Seminar, held at the Continental Hotel in the Nation's Capital.

Because of my unavoidable absence, it was read at my request by Capt. Franz O. Willenbucher, U.S. Navy, retired, who has had a long association with Panama Canal problems dating back to his defense of U.S. vital interests at Panama during the formulation of the 1936–39 Hull-Alfaro Treaty.

One crucial point that should be stressed is that the much propagandized, costly, moth eaten, and ancient idea of a sea level canal hinges on ceding U.S. sovereignty over the Canal Zone to Panama and the eventual giving to that country without compensation not only the existing canal but also any new one that may be constructed by the United States.

Despite the efforts of the executive branch of our Government to revive negotiations for the discredited 1967 proposed treaties, Panama has formally notified the United States that those treaties are "unacceptable as a basis for resuming negotiations"—New York Times, September 3, 1970, page 11.

As could have been easily foreseen and avoided by anyone familiar with isthmian history, this action has made our policymakers look ridiculous. It certainly should be a warning to the Congress, which, on matters of isthmian policy, is the ultimate authority.

My October 2 address, together with the others cited, should form a cushion of facts and understanding that will be helpful in the clarification and evaluation of whatever recommendations the current sea level canal inquiry may make.

The indicated address follows:

KEY PANAMA CANAL PROBLEMS AND THEIR SOLUTION

(By Representative DANIEL J. FLOOD, of Pennsylvania, address before Liberty Lobby Political Affairs Seminar, Washington, D.C., October 2, 1970)

An old tradition on the Isthmus of Panama is that anyone who drinks water from the Chagres River ever afterwards feels its influence. The idea behind this statement is also true of the vital question of interoceanic canals, for the subject is inexhaustible and calculated to arouse the highest mental energies. Yet, when reduced to its essential elements, it is quite simple.

Since the middle of the 19th Century, the canal question has come up a number of times for national consideration. Whenever it does, debate always focuses on two principal subjects: (1) site and (2) type.

In 1902, after an historic struggle known as the "battle of the routes", the President and the Congress decided in favor of the Panama location in what is known as the Spooner Act. This measure authorized the acquisition by treaty and purchase of perpetual control of the Panama Canal and its

XUM

protective frame of the Canal Zone for the perpetual operation of the Canal.

Following the secession of Panama from Colombia on November 3, 1903, the United States obtained the necessary jurisdiction over the zone in a treaty granting the powers of exclusive sovereignty for one overall purpose—the construction, maintenance, operation, sanitation and protection of the Canal, the indemnity to Panama being $10,000,000. Were it not for such grant of full sovereign rights, power and authority, the United States would never have assumed the responsibility for the great task.

Later, our government obtained title to all privately owned property in the Zone by purchase from individual property owners. This strip of land, by the way, was the most costly territorial acquisition of the United States, exceeding the combined costs of all other acquisitions, including the Louisiana Purchase. The total net investment of the United States in the canal enterprise, including defense, from 1904 through June 30, 1968, was more than $5,000,000,000, all furnished by the taxpayers of our Nation.

In 1906, after thorough study and vital debate, the President and the Congress made a second major decision in favor of the high level lake and lock type canal, which, with few modifications, was constructed. History has established the wisdom of that determination, economically, operationally, technically, environmentally, and politically. Moreover, it is an enduring monument to the vision and leadership of former Chairman and Chief Engineer John F. Stevens of the Isthmian Canal Commission and President Theodore Roosevelt, who brought it about in spite of able and determined opposition. The latter used to tell me about his experiences with the Panama Canal during his visits to my home in Wilkes-Barre, when I was a boy. He has always remained a great inspiration in my life.

Because of its strategic position at the cross roads of the Western Hemisphere, the Isthmus of Panama has long been, and probably always will be, an object for predatory designs. This involves the necessity for continued United States sovereignty and jurisdiction over the Canal Zone and Panama Canal, which, since 1936, have been weakened by an ill-advised policy of reckless appeasement to radical and unrealistic demands in Panama. The misfortune to our country has been that since that time our diplomacy as regards the Canal has been of the milk and cider type and not the sturdy kind of a Grover Cleveland or Theodore Roosevelt, with the inevitable result that Soviet power is knocking at the lockless door of every country of Latin America. Whom do you think is ultimately responsible for the guerrilla warfare that now plagues our Nation?

The dangers that obtain have been recognized in the Congress. More than 100 members of the House have introduced identical resolutions that aim to bring about a clarification and re-affirmation of United States treaty-based sovereign rights, power and authority over our priceless artery of marine transportation.

Since the Panama Canal was opened for traffic on August 15, 1914, it has had a sustained increase of transits, with a total of 14,602 ocean-going vessels, during the Fiscal Year 1969. As long ago foreseen, the time is approaching for a major increase of capacity and operational improvement of the Canal, but such modernization depends upon the re-affirmation of our time-tested national policy of full sovereign control over the enterprise. The people of our nation would not be justified in expending further funds on it unless their investment is adequately protected. So far as Panama is concerned, the question that it has to decide is whether it prefers Soviet power or United States power in control of the Canal. That is the question that should be debated in the U.S. Congress and in Panama.

A negative policy on our part will assure that the Canal at Panama will go the way of Cuba, the Suez Canal, and now Chile. What reason except world domination impels Soviet power to have its naval vessels prowling in the Caribbean and other strategic ocean areas?

The best way, in fact the only way, to protect our interests in the Isthmian area is to maintain our present treaty rights at Panama, and to modernize the existing Panama Canal according to the well-known Terminal Lake-Third Locks Plan, which was developed during World War II in the Panama Canal organization and which won the approval of President Franklin D. Roosevelt as a post war project. This plan, though providing for a major increase of capacity and operational improvement of the existing canal, does not require a new treaty with Panama, which fact is a paramount consideration that should be controlling.

The history of the Terminal Lake-Third Locks Plan dates back to the hectic days before World War II when the Congress, on administrative request and without sufficient set of larger locks for the existing Panama Canal at a cost not to exceed $277,000,000. Construction started in 1940, and was pushed vigorously, but in May, 1942, five months after Pearl Harbor, work was suspended because of more urgent needs for war purposes. A total of $76,357,945 was expended on this project, largely on huge lock site excavations at Gatun and Miraflores, which are still usable. It was, indeed, fortunate that no excavation was started at Pedro Miguel.

In these general connections, it should be understood that many years of operation have established the fact that the Pacific end of the Panama Canal contains a major error in operational design caused by the construction of the Pacific locks in two sets separated by an intermediate level Miraflores Lake 54′ above mean sea level and the placing of one of these locks squarely in the south end of Gaillard Cut, where it forms a dangerous bottleneck, and causes a series of other operational problems.

The plan for the original Third Locks Project provided for an additional set of larger locks (140′ by 1200′) located a short distance away from the existing locks and the linking of the new locks with the existing channels by means of new by-pass channels. This layout, because of the necessarily excessive channel bends in the new channels in the Pacific section, would not only have perpetuated the major error in operational design previously mentioned, but also would have greatly compounded it.

The terminal lake solution would eliminate the bottleneck Pedro Miguel Locks, consolidate all Pacific Locks south of Miraflores in three continuous lifts as they are at Gatun, and elevate the intermediate Miraflores Lake to the proposed new level of Gatun Lake (92′). This would provide summit level navigation from the Atlantic Locks to the Pacific Locks with convenient summit anchorages at both ends of the Canal, which are generally fog free. This plan is not only the best for engineering, but also best for navigation and its consummation will bring great distinction to those responsible for its adoption. Moreover, it will preserve the fresh water barrier between the oceans and avoid the disastrous ecological results of a salt water channel of a sea level canal.

At this point, I may add that when the terminal lake solution was first under active consideration, important navigation interests of our government recommended its strong endorsement "at the appropriate time" and expressed the opinion that the "great preponderance of evidence" in favor of the lock type, supported by experience, "fully justify the abandonment of the idea of a sea-level canal across the Isthmus of Panama". (See *Congressional Record*, Vol. 103, pt. 12 (August 29, 1957) pp. 16504–06, for the text of this report and introductory statement by Senator Thomas E. Martin).

Pending identically measures in both House and Senate provide for amending the 1939 statute to include the needed modifications in the original Third Locks Project. Their enactment will not only confirm the present outstanding benefits received by Panama from United States sources in the Canal Zone, which amount to about $164,000,000 annually for Panamanian labor and supplies, but also would greatly increase them.

Another important project in the Panama Canal completed on August 15, 1970, was the enlargmenet of Gaillard Cut to a 500′ minimum bottom width and other channel improvements estimated to cost $95,000,000. This sum added to the expenditures on the Third Locks Project totals more than $171,000,000, which is too large an expenditure to be ignored or swept under the rug by any Congress.

There are two confusing proposals in current official and lay literature. The first is the fallacious plan to modify the Third Locks project by placing a new and larger lock alongside the existing Pedro Miguel Locks. As this idea does not solve the major operating problems involved, but would increase them, it merits no consideration whatever. Moreover, any proposal for the major modernization of the Panama Canal that does not eliminate the existing bottleneck Pedro Miguel Locks is fatally defective and should be summarily dismissed.

Another confusing issue is the old sea level-lock controversy most recently revived by the 1964 authorization for the present canal study, which has already cost the taxpayers about $26,000,000.

To bring this controversy into perspective, it should be known that arguments for a sea level canal are rooted in the averred greater vulnerability of the lock type design.

In 1905–06, it was the alleged danger from *naval gunfire* that complicated canal planning and was largely responsible for errors in operational design.

In 1939, it was the alleged peril of *enemy bombing* which led to the Third Locks Project, the planning of which was defective.

In 1945, it was the much cited fear of the *atomic bomb* that resulted in the abortive 1945–47 canal investigation, which failed to receive Presidential approval because of the clarifications in the Defense Department of the exaggerated interpretations of the "security" and "national defense" factors in Public Law 280, 79th Congress, which had for its pre-determined purpose the construction of a sea-level canal.

In 1964, it was the alleged danger of sabotage with *"two sticks of dynamite"* that led to the present futile inquiry.

In 1970, it is the *"danger of guerrilla warfare"* that dictates construction of a sea level canal!

From the foregoing, the pattern of agitation for a canal of sea level design is clear: change the bugbears, slogans and epithets when earlier arguments prove ineffective. Its advocates overlook the obvious fact that the very purpose of a canal is the safe and convenient transit of vessels. Its defense, like that of the major ports and transportation systems of the United States, depends not upon passive features of design, but upon the active combined might of the Armed Forces of the United States.

Whether located in the U.S. Canal Zone or in Panama, the extravagant, unneeded, and moth-eaten idea of a sea level canal should be recognized for what it is—a gigantic boondoggle and bonanza for the manufacturers of heavy earth moving machinery. In addition, it would open up a Pandora box of difficulties, among them the question of sovereignty, a huge indemnity to Panama,

XUM

a greatly increased annuity, the marine ecology involved, and higher tolls.

Certainly, the corpse of this ancient scheme, resurrected in 1964, should not be allowed to complicate or further delay and confuse the true and adequate solution of the problem of increased capacity and operational improvement of the existing canal, as demonstrated by more than half a century of experience, and in no way involves unknown and perilous factors.

As in the early part of this century, the Panama Canal is again in an era of great decision. The results of that outcome will be felt through the indefinite future. There are only two major issues:

First, the safeguarding of our indispensable sovereignty and ownership of the Canal Zone and Canal.

Second, the major modernization of the existing waterway.

All other Isthmian canal questions, however, important, are irrelevant.

In behalf of Panama, it should be recalled that the terms of the 1903 Treaty making the grant of sovereignty in perpetuity to the United States over the Canal Zone also binds the latter in perpetuity to maintain and operate the Canal. This is a most important consideration for both countries, especially Panama, which could not survive overnight as an independent nation without the presence of the United States on the Isthmus. Yet these important facts are *never* mentioned in diplomatic and Congressional proceedings.

Thus construed, the 1903 Treaty, in effect, guarantees throughout the future the obligation on the part of the United States to assure the protection and independence of Panama against the efforts of any predatory power to take over the Canal at the expense of Panamanian independence and Hemispheric security.

One of the great faults of our own diplomatic policy has been the failure to mention these obligations and to submit through the years to extravagant and radical demands of unrealistic Panamanian leaders, some naive and some demogogic. Thus Panama has come to the conclusion that there is no logical reason for our continued control and operation of the Canal and that if Panama should obtain a complete takeover of the enterprise, everything would be satisfactory. There could be no greater fallacy, for Soviet power would fill the vacuum thus created, and all the evils of that ruthless tyranny would follow.

If and when the previously mentioned Panama Canal sovereignty resolutions are adopted, our government should correct the 1960 mistake of allowing the formal display of a foreign flag over the Zone alongside that of the United States. Until such display is discontinued, it will serve to keep present misunderstandings alive. Also, adoption of the sovereignty resolutions will dampen the ardor of sea level advocates, for their proposal hinges upon the surrender of the Zone territory to Panama and making that country a partner in the management and defense of the Canal with ultimate complete Panamanian ownership and complete loss of our investment in the Canal enterprise. Such proposals are incomprehensible and incredible.

Finally, with the question of United States sovereignty over the Canal Zone clarified and reaffirmed, the way should be open for prompt action on pending measures for major canal modernization. Such action should terminate the old controversy over type of canal known as the "battle of the levels" and provide for the best operational canal at Panama practicable of achievement at least cost, and without treaty and indemnity involvement.

REPLIES TO SURVEY OF EUROPEAN OPEN FOOD DATING LAWS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Farbstein) is recognized for 20 minutes.

Mr. **FARBSTEIN**. Mr. Speaker, I wish to clarify a statement inserted in the Record under my name on August 14. On that date, a statement originated from my office to the effect that the Department of Agriculture had undertaken a survey of European open food dating laws on my behalf. The Department contends that this information is not to be considered a survey. The Department further states that the information made available to my office were answers to questions put to its attachés in nine European countries. For the purpose of the Record my statement lists these replies:

U.S. Department of Agriculture,
Foreign Agricultural Service,
Washington, D.C., August 7, 1970.

Hon. Leonard Farbstein,
House of Representatives

Dear Mr. Farbstein: Following the arrangements which have been previously discussed (conversations with Mr. Levin of your office, my letter of July 30, 1970 to you), I am enclosing the replies received from our agricultural attachés to the inquiries, made at your request, regarding the practices abroad concerning open-dating of packaged foods.

To permit a complete over-view of this project from the enclosures, I am including also a representative copy of the inquiry that was sent to the attachés regarding foreign practice on open-dating. This is followed by the responses received from Austria, Belgium, France, Germany, Italy, Spain, Switzerland, and United Kingdom.

In the case of Austria, the current response mentions an earlier cable on a related subject: that cable is also enclosed. In the case of France, the aircomm to which reference is made has not yet arrived; when it comes it will be forwarded separately to your office.

Sincerely,

Raymond A. Ioanes,
Administrator.

Copy of Inquiry Sent to Agriculture Attachés Participating in the Flood Dating Survey

Representative Farbstein of New York has asked us to secure from you a report regarding the experience in Switzerland with respect to opendating of food products. His concern is principally with packaged food products but extends to nonpackaged foods also; please respond accordingly.

The Congressman's interest related to bill he is sponsoring is in opendating for food offered at retail as differentiated from code-dating. A legislative reference service (Library of Congress) survey for the congressman has listed Switzerland among these that have legislation applying to either (1) pull-date (2) date of packing (3) date of manufacture (4) any similar date or variants thereof. This may even include a labeling of crop year or year of manufacture with no more precise labeling.

What we are asking from you is a discussion of (a) what regulations exist with regard to such dating (b) what background preceded the adoption of those regulations (c) what exceptions if any occur under the regulations (d) What their acceptance has been by both consumer and trade group (e) What effects economic or otherwise can be attributed to their operation and (f) What assessment of the operation of such regulation has been made by Government or other official agency? Please differentiate to the extent necessary among the various commodities as they might be covered in your discussion.

The detail in which you can provide the desired discussion will obviously be limited by the deadline for this request. Please plan that your report on this subject shall be received in as not later than August 4.

The legislative reference service report for Switzerland follows:

Under the Swiss Federal Constitution the issuance of laws on trade in food products and consumer articles is within the jurisdiction of the Confederation; the execution of such laws is however a cantonal matter (sec. 69 BIS).

The basic federal act on the trade in foodstuffs and consumer goods dates back to as early as Dec. 8, 1905 (Vereinigte Sammlung der Bundesgesetze und Verordnungen 1848–1947, v. 4 p. 549) but its original text was subject to a great number of amendments in the course of its over-sixty-years of existence.

There is no general provision in this act which requires the dating of food and other consumer products for the period during which these articles may remain on the shelves of stores. Only the amendment of this act of Dec. 29, 1964 (Amtliche Sammlung der Bundesgesetze und Verordnungen v. 1954 p. 1354) states that every bottle of milk must bear an inscription or label indicating "the date of the production (gewinnung) of the milk."

Similar inquiry being dispatched to Vienna.

Reports on Food Dating Laws Prepared by the Legislative Reference Service, Which Were Sent to Agricultural Attaches

Austria

(Prepared by George Jovanovich, senior legal specialist)

There are no provisions dealing directly with the dating of food and other perishable products for the period during which they may remain on the shelves of stores. However, certain controls have been established by the Law Concerning Food and Drugs (*Lebensmittelgesetz*) of 1896,[1] reintroduced in 1952[2] and amended in 1952,[3] 1960,[4] 1965,[5] and in 1966.[6] This law regulates commerce in food, drugs, cosmetics, spices, tapestry, as well as china ware, cooking utensile, and the like (Sec. 1).

This Law provides for controls on the marketability of the product and the determination of its fitness for human consumption, as well as for establishing agencies to be in charge and continuing the scope of their authority in regulating, controlling and conducing health inspections (Sec. 2).

The Law contains provisions for standards to be met, violation of which entails punishments and fines (Sec. 9–18). It also provides for establishing a commission to collect all regulations and instructions concerning food and drugs, as well as to issue the Food and Drug Legal Compilation (*Osterreichisches Lebensmittelbuch—Codex Alimentarius Austrious*) (Sec. 23).

The compilation is arranged by the groups of provisions affecting a particular food or drug product.

The inspection agencies, the Commission and the courts have the power to confiscate and destroy all merchandise declared unfit for human consumption. This system has no specific provisions for dating merchandise for the purpose of exhibiting it for sale.

FOOTNOTES

[1] *Reichsgesetzblatt,* No. 89/1897.

[2] *Brundesgesetzblatt,* No. 239/1951. (Hereinafter cited as BGH1.)

[3] BGB1, No. 160/1952.

[4] BGB1., No. 245/1960.

[5] BGB1., No. 175/1965.

[6] BGB1., No. 235/1966.

Belgium

(Prepared by Dr. Virgiliu Stoicoiu, senior legal specialist)

The only regulation on the dating of foodstuffs was found in the Ministerial Resolu-

XUM

tion of September 1, 1949 (as amended), Creating Official Control over the Quality of Butter, *Moniteur belge*, September 22, 1949, which reads as follows:

Art. 9. The butter from a dairy farm classified in the first category (with a control stamp) must, among other things, have a mark in conformity with the model reproduced below on its package or container:

The National Office of Milk and its Derivatives shall establish and directly inform the interested enterprises about the models and conditions according to which the control stamp shall be applied to the package or container.

This office shall, among other things, require the reproduction of the control stamp to be accompanied by an indication of the date of production or the number of the order to determine the date.

FRANCE

(Prepared by Dr. Domas Krivickas, senior legal specialist)

According to the provisions of Article 3 of Decree No. 66-180 of March 25, 1966, the labeling of dietetic products must contain mention of "the date of production or else the date limit for consumption, and, if necessary, the precautions to be observed for the preservation of the product as established by interministerial order." [1]

Flavored milk (*lait aromatisé*). Milk containers should bear the following information:

An indication of the time of pasteurization and the period for use under conditions established by a joint order of the Minister of Agriculture and the Minister of Public Health and Population (Art. 5 quater of the Decree of March 25, 1924, as amended by Decree No. 55-952 of July 17, 1955).[2]

Coffee called "superior." According to the provisions of Article 4 of Decree No. 65-763 of September 3, 1965, the date of roasting must be marked on the label or wrapping. However, this date may be replaced by the date limit for sale to consumers.[3]

Powdered and dry milk. The Decree of August 24, 1961, prescribes that the date (year and month) and the place of production be indicated on the wrapping.[4]

"Gruyère de Comté" or "Comté" cheese. The month of production must be mentioned on the label.[5]

Canned Foods. The date of production must be indicated on canned food.[6]

FOOTNOTES

[1] *Journal officiel,* March 30, 1966. p. 2583.

[2] *Ibid.*, July 19, 1955. p. 7193.

[3] *Ibid.*, September 9, 1965. p. 8049.

[4] *Ibid.*, August 30, 1961. p. 8125.

[5] R. A. Dehove. *La réglementation des produits alimentaires et non alimentaires. Répression des fraudes et contrôle de la qualité.* 6th ed.

[6] *Ibid.*, p. 606.

FEDERAL REPUBLIC OF GERMANY

(Prepared by Dr. William Sólyom-Fekete, senior legal specialist)

Labels on prepackaged or canned food products have been regulated by the Government of Germany since 1916.[1] Such regulations have often been the subject of changes and amendments during the past decades.

The Government of the Federal Republic of Germany most recently amended the provisions for the contents of such labels in 1966 through a decree.[2]

This Decree included amendments on the description of groups of different food products which are subject to similar rules of labeling requirements and also provided regulations pertaining to the indication of the date of production or the period of shelf life of perishable food products.

The provision of the Decree pertinent to the date of production reads as follows:

Section 2. (1) On packages or containers [the following] shall be indicated on an easily visible place in the German language in clear and easily legible writing:

1-3. [irrelevant]

4. in case of food products described in Section 1(1), Nos. 1-3,[3] the time of production of the food product given uncoded by day, month and year, or, if the food product is not packaged immediately after production for the purpose of delivery to the consumer, the time of packaging or filling; these data may be omitted if the time until which the food product may be stored is given uncoded by the day, month and year; in case of the products described in Section 3(2), Nos. 2 and 3,[4] the indication of the day, and in case of the products described in Section 3 (2), No. 4,[5] the indication of the day and month may be omitted.

FOOTNOTES

[1] Holthöfer - Juckenack - Nuse. *Deutsches Lebensmittelrecht.* Berlin, 1961. p. 6 v.

[2] Decree of September 9, 1966, to Amend the Food Labeling Decree. *Bundesgesetzblatt I*, p. 590.

[3] Meat, fish and other seafood products.

[4] Deep frozen products and hard smoked sausages, hams and raw meat products.

[5] Other food products which are not perishable for at least one year.

ITALY

(Prepared by Kemal Vokopola, senior legal specialist)

Italian legislation on foods and consumer goods does not provide any general rule in regard to the period during which such foods and consumer goods may or should remain on sale.

However, Article 8 of Law 441 of February 26, 1963, amending the Unified Text of Laws on Hygiene and Health of 1934, states that regulations will eventually establish what food products and manufactured beverages should bear the date of their production.[1]

A law was enacted in 1951 with regard to the rules and regulations for the production and sale of baby food as well as dietetic food. This law requires that such products must show the date of production and the quality expiration date.[2]

FOOTNOTES

[1] *Codice della legislazione sulle sostanze alimentari,* Roma, 1964, p. 496.

[2] *Le Frodi alimentari.* Milano, Giuffrè, 1963, p. 442.

SCANDINAVIA

(Prepared by Veijo Ollikainen, legal specialist)

A thorough search of Danish, Finnish, Norwegian and Swedish literature in the Library of Congress holdings did not disclose any laws providing for the dating of food packages or other consumer products for the period during which they may remain on the shelves of stores.

There is a provision dealing with dating packages of products sold retail [*] in Denmark, according to which "meat products may be supplied with information on keeping qualities or the last day they may be sold." This information is not mandatory. In some of these countries products such as butter, milk, fish, etc., must bear the date of packaging on the container.

FOOTNOTE

[*] Decree on the Sale of Certain Meat Products Sold at Retail of April 24, 1968, Art. 6, *In Lovtidende for Kongeriget Danmark 1968 Afdelning A.* Kobenhavn 1968. p. 234-245.

SPAIN—CONSUMER PROTECTION REQUIRING DATE LIMITATIONS UNDER FOOD LAW

(Prepared by Helen L. Clagett, Chief, Hispanic Law Division, Law Library—Library of Congress)

Decree 2,484 of September 21, 1967 adopted Spain's new "Food Code," covering in its 38 chapters many detailed aspects on the handling of food and beverages and related activities. The first part of the *Código Alimentario* is concerned generally with applicable measures on processing, marketing, sanitary and health treatment, storage, transportation, additives and impurities, and other matters. The following chapters are devoted to specific categories of food such as dairy products, meat, seafood, preserved or canned products, and to categories of beverages—alcoholic and non-alcoholic, coffee, tea, etc.

On the particular point of interest to this report, that is, the setting of dates beyond which a product should not be sold to or used by the consumer, the Code contains several instances of direct and indirect limitations of time.

Part II of the Code deals with general requirements and rules governing materials, their treatment, and persons in contact with the preparation, processing, distribution and consumption of food. Section 2.04.18 of this portion concerns dating controls in this manner:

The corresponding Regulations shall indicate, in addition to those specified in this Code [referring to data on labels], the manner and form in which they are to be consigned, expressed either in authorized figures or in code, showing the lot number, date of manufacture or date of canning, in the case of those foods requiring it; and for those whose contents may be altered or contaminated after opening, the additional warning must be included: "For immediate consumption once opened."

In the chapter of the Code dealing with aspects of food storage and transportation, the general rules for storing, under Section 2.06.02, include a condition under Paragraph (c) which reads: "The rotation of stock and periodic removal based on duration of storage and conditions required by each product for its preservation."

In the specific chapter dealing with eggs, milk and other dairy products, Section 3.14.15 deals with the imprinted data that must appear on the eggs, or on their containers, which reads as follows:

Preserved eggs [*conservados*—defined as being under a certain degree of refrigeration for more than 10 days, but less than 6 months] and refrigerated eggs [defined as refrigerated at specified temperature between 15 and 30 days] must be marked on each shell, in visible and indelible characters: a) the type of egg, as defined under Section 3.14.42; b) the date it was placed under refrigeration, or the means of preservation employed. . . .

Milk and milk by-products are governed by Section 3.15.06 of the Code. In setting forth hygenic requirements, different treatment is indicated for fresh milk when delivered directly to consumer, and when served elsewhere.

Paragraph (g)—Milk containers must bear on the main body of the container, or on its carrying strap, or on the opening, a stamp in clear and indelible letters stating the limitation date for its sale; [Refers to milk delivered to homes].

Paragraph (h)—The sale of sanitized milk for consumption at group centers or institutions may be made in containers of larger size [than ½ gallon] . . . with a stamp thereon indicating the date for limitation on its sale.

Other sections of this Code requiring a date stamp on containers or labels, or indicating notice of similar nature, relate to con-

XUM

tainers used for meat or vegetable preserves, or for prepared and seasoned foods in containers. Section 3.26.07 refers to indication of the dates when processed or canned, while Section 3.26.08 indicates requirement of vigilance as to the dates of entry or departure from storage places of this conserved food "pursuant to the time expiration of same, according to the local climatical conditions." Similar dating treatment is prescribed for breakfast foods requiring cooking, cereals made from dried grain, flour, powdered milk, etc., on which the label, according to Section 3.26.24, must express "the expiration date, when its preservation so requires it."

Switzerland

(Prepared by Dr. Ivan Sipkov, assistant chief)

Under the Swiss Federal Constitution, the issuance of laws on trade in food products and consumer articles is within the jurisdiction of the Confederation; the execution of such laws is, however, a cantonal matter (Sec. 69 bis).

The basic Federal Act on the Trade in Foodstuffs and Consumer Goods dates back to as early as December 8, 1905,[1] but its original text was subject to a great number of amendments in the course of its over-sixty-years of existence.

There is no general provision in this Act which requires the dating of food and other consumer products for the period during which these articles may remain on the shelves of stores. Only the amendment of this Act of December 29, 1954,[2] states that every bottle of milk must bear an inscription or label indicating "the date of the production (*Gewinnung*) of the milk."

Texts of Communiques From the Agricultural Attachés

Following information keyed to questions raised in para 3 ref fasto:

A. The only Austrian regulation which sets forth labeling requirements re dating of food products is food labeling ordinance of 1963, details reported in A–41, dated Jan. 16, 1969. On the basis of this ordinance, a limited number of packed food products, besides other labeling requirements, must carry in uncoded form information as to date of packing, or show date up to which the food will keep under proper storage conditions. For a number of other food products, the date of packing in coded form is mandatory. There are no such requirements for unpacked foods. The food labeling ordinance became effective Jan. 1, 1970; foods packed prior to the date in a way that does not conform to provisions of the ordinance may be sold for one additional year.

The following packed food products must either show in uncoded form the date of packing, or the date up to which they will keep under proper storage conditions. (For foods marked with #'s, this date must indicate month and year of packing, or month and year up to which product should be consumed; for other food items, the indication of the year only is required):

Preserves from meat and other food preserves with meat added; partially preserved food products from meat or with meat added (#); preserves from fish and crustaceans, or other food preserves with fish or crustaceans added; partially preserved food products from fish and crustaceans added (#); diabetic foods, including infant foods (#).

B. Prior to adoption of regulations which established open-dating labeling requirements for a limited number of packed food products, such dating was not practiced in Austria. However, code-rating of food preserves has always been customary among local canners.

C. Packed foods are exempt from labeling requirements provided that the total weight does not exceed the 50 gram mark.

D. Consumer representatives consider existing labeling regulations as first step toward their goal, i.e. the open-dating of all major food products. At present, consumer organizations are striving for inclusion of dairy products and margarine in existing labeling requirements.

Representatives of the food industry believe that consumers would reject open-dated products if food carried label indicating that it was either produced one or two years earlier but is still of good quality, or has to be used within a few months.

E. Reports from importers and wholesalers indicate that a number of foreign suppliers are not in position or are reluctant to label their products in accordance with Austrian regulations. Austria is considered to be too small a market to justify special labeling of food products. Since the responsibility to meet domestic labeling requirements rests with importer, a large number of them put aside bids for foods which are * * * with labeling specifications. Past experience shows that small foreign suppliers are more willing to comply with labeling regulations than larger firms. As result, some Austrian food importers now seem to do more business with small food exporters and packers than before. Price increases in connection with labeling of packaged food have not been observed thus far by Austrian food trade.

F. The authorities are not yet in position to make an official assessment of the implementation and effectiveness of the ordinance, especially since it provides for transition period ending Dec. 31, 1970. Austrian authorities informed us unofficially that so far no major problems have occurred in connection with execution of the ordinance and that its operation is presently judged satisfactory. The inclusion of other packed foods in the food labeling ordinance is a possibility.

January 16, 1969.

From: AmEmbassy Vienna.
Subject: New Food Labeling Ordinance.
Ref.: OBR, No. 64–57, July 1964.

Under authority of the "'Federal Law Against Unfair Competition of 1923", the Ministries of Trade and Agriculture recently issued an ordinance which establishes labeling requirements for a number of packed food products. The ordinance will become effective on January 1, 1970. Foods packed prior to that date in a way that does not conform to the provisions of the new decree may be sold in Austria for one additional year.

The packer or, in the case of a custom order, the individual or company placing the order is responsible for the observance of this ordinance. For foreign-made goods, the responsibility rests with the importer.

The 15 separate labeling requirements provided for by the ordinance call for (as informally translated from the text):

1. The labeling in wording of common usage which, together with other specifications, defines the nature of the food product;

2. (a) The name (or abbreviation thereof) and address of the producing, packing, or merchandising firm; in the case of foreign products, also the country of origin; or, (b) the label "Produced in . . ." with information as to the place and country of production;

3. The net weight according to the metric system, i.e. the average weight of the food product being packed; deviations due to packing technique and technology will be tolerated;

4. The net volume according to the metric system, i.e. the average volume of the food product being packed; deviations due to packing technique and technology will be tolerated;

5. The raw product filling weight (expressed in metric units) of the ingredients determining the product value at the time of packing, i.e. the quantity of fruit, fish, or meat (in the case of poultry, including bone weight) used in filling; deviations due to packing technique and technology will be tolerated;

6. Information as to the methods applied in the production of the packed food product. This includes such methods as pasteurization, sterilization, deep-freezing and dehydrating;

7. Information as to limited shelf life, stating "limited shelf life" or "for early consumption";

8. Conditions under which a product is to be stored, *in German language*;

9. Date of packing, or date up to which the food product will keep under proper storage conditions, in uncoded form:

(a) indicating month and year; or (in other cases);

(b) indicating the year; or (in other specified cases):

10. Date of packing in coded form;

11. A listing of vitamins added, by kind and quantity;

12. Information as to the average number of dishes (portions) which may be prepared from the packed food, or the quantity required for the preparation of a specific amount of food;

13. Information as to the average number of eggs or egg yolks contained in the product;

14. Information as to the number of pieces; deviations due to packing technique will be tolerated;

15. Information as to the cocoa content in weight percentages.

The ordinance also stipulates a few exemptions from the above labeling requirements. These are of minor importance, however. Finally, the labeling text must be clearly legible and in wipe-proof letters. If it is not possible or not feasible to place the information on the container or the package, it is permissible to place the required labeling near the packed foods on display. The labeling text must be in Latin letters and in Arabic numbers.

The following packed food items will become subject to these labeling requirements: (Numbers following the commodity description denote specific labeling requirements as listed above applicable for individual commodity groups.)

Preserves from meat and other food preserves with meat added; (1), (2), (3), (5), (6), (8), (9b), and (11).

Deep-frozen foods made from meat or other deep-frozen foods with meat added—excluding poultry (whole birds, plucked, with intestines removed); (1), (2), (3), (6), (8), (10), and (11).

Partially preserved food products from meat or with meat added; (1), (2), (3), (7), (8), (9a), and (11).

Preserves from fish and crustaceans or other food preserves with fish or crustaceans added; (1), (2), (3), (5), (6), (8), (9b), and (11).

Deep-frozen foods from fish and crustaceans or other deep-frozen foods with fish and crustaceans added; (1), (2), (3), (6), (8), (10), and (11).

Partially preserved food products from fish and crustaceans or with fish and crustaceans added; (1), (2), (3), (7), (8), (9a), and (11).

Vegetable preserves—excluding dry pulses; (1), (2), (3), (5), (6), (8), (10), and (11).

Deep-frozen vegetables; (1), (2), (3), (6), (8), (10), and (11).

Partially preserved vegetables; (1), (2), (3), (7), (8), (10), and (11).

Vegetable juices; (1), (2), (4), (8), and (11).

Fruit preserves—excluding citrus fruits,

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[1] *Bereinigte Sammlung der Bundesgesetze und Verordnungen, 1848–1947*. v. 4, p. 459.

[2] *Amtliche Sammlung der Bundesgesetze und Verordnungen*, v. 1954, p. 1354.

XUM

grapes and preserves of fruit falling within customs tariff number 08.05; (1), (2), (3), (5), (6),(8), (10), and (11). ,

Deep-frozen fruit products: (1), (2), (3), (6), (8), (10), **and (11).**

Marmalade (jam), fruit jelly; (1), (2), (3), and (11).

Fruit juices and fruit syrup; (1), (2), (4), (6), and (11).

Partially preserved fruit; (1), (2), (3), (7), (8), (10), and (11).

Diabetic foods, including infant foods; (1), (2), (6), (7), (8), (9a), (11), and optionally, (3) or (4).

Meat extracts and extracts from other protein-containing products, products therefrom, substitutes for these extracts and products; (1), (2), (11), and, optionally (3), (4), or (12).

Whole egg and egg yoke; (1), (2), (3), (6), (8), and (13).

Baking powder and pudding powder; (1), (2), (8), and (12).

Candies; (1), (2), (11), and, optionally (3) or (14).

Chocolate in bars, blocks, etc.; (1), (2), (3), (11), and (15).

Chocolate products; (1), (2), (11), (15), and, optionally, (3) or (14).

Chocolate products in fancy shapes; (1), (2), and (3).

Bakery products with extended shelf life; (1), (2), (8), (11), and, optionally, (3) or (14).

Coffee, coffee extracts and their substitutes, tea, mate and their extracts; (1), (2), (8), and, optionally, (3) or (12).

Pastries; (1), (2), (3), and (13).

Pre-sliced bread, biscuit, bread crumbs; (1), (2), and, optionally, (3) or (14).

Rolled oats, oatmeal, oat grits, and oat flour; (1), (2), (8), and, optionally, (3) or (12).

Rice; (1) (2), and (3).

Edible oils and fats; (1), (2), (8), (10), (11), and, optionally, (3) or (4).

Comments: So far as we know, most U.S. food products packed for export to Austria already specify all or most of the information called for under this new ordinance. A few of the requirements may cause difficulties, however. The obligation to show weight in the metric system, storage conditions in German, and the date of packing or latest safe consumption in uncoded language could prove troublesome and expensive for some packers.

Brussels

1. Belgium has no, repeat, no general requirement of opendating of food products. Only requirement this area is that mentioned by legislative reference service which applies to butter produced on farms classified first category. Date becomes in effect part of the control stamps. All other butter is not, repeat, not required to show date of production on package.

2. Food inspection division of public health ministry not, repeat, not in favor opendating of food products. States that most canned products such as peas keep indefinitely and opendating would tend to influence consumers to buy newest product first thus making a problem of moving older products. This might result in waste. Said that dating of semi-preserved products considered but that is difficult to know exact condition of product when it is preserved and if this is done they would have to prescribe preserving methods to be followed.

3. Understand that EC commission considering the possibility of regulation requiring opendating but there is considerable difference of opinion among EC countries and the whole idea is generally opposed strongly by food processing industry.

Copenhagen

The discussion below of current regulations applicable to opendating of food products in Denmark is limited by the short time available for pulling information together and the Danish vacation season.

The Law on Foodstuffs (No. 174 of April 28, 1950, and amendments) contains no overall requirement for open or code-dating of food products. Regulations on opendating or code-dating are not contained in any one single law or uniform decree but have been introduced for individual commodities as the need or demand developed. The regulations are in nearly every instance laid down in decrees issued under basic legislation by the pertinent Ministry involved in control of the specific commodities (Agriculture, Interior, Fisheries). More coordination among the authorities involved in food legislation is expected in the future. The following listing of products to which regulations apply on opendating is believed to be complete and shows the most recent applicable regulation. Code-dating has been included in the listing as in certain instances it may be supplemented or substiuted by opendating. A copy of each regulation can be forwarded to Washington if desired.

In addition to what is required by regulations, a number of chainstores and supermarkets have voluntarily introduced opendating which goes beyond the requirements set forth in the legislation. This practice is spreading.

Milk: Ministry of Interior Decree No. 377 of September 13, 1967—Article 13, clause 1, item 3. *Day of the week of heat treatment* must be shown on the packaging. Exception for buttermilk and special milk products (yoghurt etc.) where day of packaging (bottling) or final processing must be shown. On a *voluntary* basis, all milk sold in the Copenhagen area is marked with two dates, the day of the heat treatment as well as last sales date (pull-date), which normally is 3 days after heat treatment day.

Ministry of Interior Decree No. 441 of December 5, 1967 (on Aromatized Milk Products)—marking of cocoa milk and fruit yoghurt must be according to Article 13 of above Decree. For sterilized milk products, the *sterilization date* shown must include day, month and year. If last sales date also given, the date of heat treatment must be clearly shown.

Butter: Ministry of Agriculture Decree No. 295 of June 23, 1967, Article 5, clause 1, item 6. and Article 13, clause 2, item 5—revised by *Ministry of Agriculture Decree No. 93 of March 25, 1968. Date of manufacture* must be given on each individual retail package—applies both to domestic as well as export sales Repackaged butter must show date of packaging on each retail wrapping. Effective date April 1, 1969.

Cheese: Ministry of Agriculture Decree No. 540 of December 3, 1969, Article 17, clause 1d. and Article 18, 1e. Applies only to sliced cheese, dried cheese products (powdered, grated, granulated) and processed cheese. *Date* or calendar week of *packaging* for sale to wholesale trade (sliced and dried cheese) or *date of manufacture* (processed cheese) must be shown on individual packages—however, may be in *code.*

Date-marking is not applied to other dairy products, such as ice cream, canned milk products, etc.

Eggs: Ministry of Agriculture Decree No. 295 of June 23, 1967, Article 7 clause 1 (marking of eggs) and Article 9, clause 3 (marking of retail containers)—revised by *Ministry of Agriculture Decree No. 430 of December 20, 1968.* Each egg of prime quality must be stamped with *code* defining week or grading (weekly codes are announced in daily press). Consumer retail containers (cartons, etc.) of prime eggs for sale on home market must be marked with *weekly code number* as well as *beginning and ending dates* of week in question. Effective date of latter regulation February 1, 1969.

Egg Products: Ministry of Agriculture Decree No. 341 of August 1, 1967, Article 6g. Applies to eggs without shell (fluid, frozen and dried). Packaging must be marked with *production serial number* so date of manufacture can be identified.

Meat: Law No. 189 of June 4, 1964, Article 7, clause 2, re Deep-Frozen Foods—*date of packaging* must be shown on ready-packaged, sliced meat products in retail packages (applies to "chilled" products).

Ministry of Interior Decree No. 369 of December 19, 1964, Article 6, clause 1f. re Deep-Frozen Foods, except Ice Cream—*month and year of packaging* must be shown; may be in *code* on *retail* packages but *open-dating mandatory on wholesale* packages.

Ministry of Interior Decree No. 133 of April 24, 1968, Article 6, clauses 4 and 5 (note this is decree referred to in last para of referenced FASTO)—applies only to certain meat products in retail packages (salami, smoked pork backfat, sliced and chopped bacon and heat-treated sausages) and only to sales premises not approved as butcher and delicatessen stores. *Opendate* of packaging must be shown. Date of keeping quality limitation or last sales date *may be* shown.

NOTE.—New coordinated regulation by Ministries of Agriculture and Interior about to be issued which will apply to all prepared meat products and which will require showing of *packaging date* and *pull-date.* See also section on Deep-Frozen Foods.

Canned Meats: Serial production number must be stamped on base of can so date of manufacture can be identified.

Fish: Ministry of Fisheries Decree No. 6 of January 10, 1962, Article 32, clause 5, re production of fully and semi-hermetic fish products, etc.—*day, week or month and year of manufacture* must be shown; may be in *code* provided code approved in advance by Ministry of Fisheries' Industrial Board.

Ministry of Fisheries Decree No. 310 of September 1, 1966, Article 2. Applies only to semi-hermetic fish products—*opendate* of manufacture must be shown (i.e. code marking not allowed).

Ministry of Fisheries Decree No. 305 of August 13, 1968 re Ready-Packaged Fresh Fish and Fish Products in Retail Packages, Article 5, clause 4—*opendating of packaging* and *open last sales date* must be shown.

Ministry of Fisheries Decree No. 90 of March 31, 1965, Article 7, clause 5, re slightly-preserved fish and fish products—*open packaging date* mandatory.

Fresh Fruits: Ministry of Agriculture Decree No. 379 of July 25, 1969, Article V6—Packaging date must be shown on containers sold in wholesale trade—applies only to fresh apples and pears.

Canned Fruits and Vegetables: Ministry of Interior Decree No. 377 of December 19, 1959, Article 4, clause 1. Mandatory that labels on all *domestically-produced* items must show the *year of manufacture* expressed by the last two figures.

Marmalade, Jams, etc. Ministry of Interior Decree No. 97 of March 30, 1955, Article 5. *Date of week or date of month and year* mandatory for domestically-produced items—may be given in *code.*

Margarine (Dietary): Ministry of Agriculture Decree No. 162 of May 10, 1962, Article 5e. *Date of manufacture* (may be in *code*) as well as *last sales date* to consumers must be shown.

Deep-Frozen Foods: Ministry of Interior Decree No. 414 of August 21, 1969, Article 8, clause 1f.—the *month and years of packaging* of the retail packages must be given—may be shown in code determined by the Ministry of Interior on the retail packages, but in such cases the wholesale packaging must carry opendating.

Mayonnaise: Copenhagen Health Commission Decree of October 1, 1966—applicable to Copenhagen only. *Last date of sale* must be shown. May be extended to apply to whole country.

Regulation on mayonnaise and mayonnaise

XUM

products presently being studied by special Interior Committee, which would require opendating of these products, but study not yet completed.

Opendating applies also to vitamin preparations and certain medicines but is not covered by this report.

There has been considerable discussion among trade and consumer groups regarding the opendating of food products but no final overall solution has been reached. In general, trade groups are opposed to government regulations requiring opendating, preferring to handle on a voluntary basis, while consumer groups are working actively for the declaration of last sales date, packaging date, and keeping quality deadline. Several supermarket chains have voluntarily introduced opendating, usually pull-date or keeping quality limits, on many items and this practice is spreading to other trade groups. It has been found to have consumer appeal and is believed to be an economic advantage to the stores in question. The authorities have taken the standpoint that voluntary action by the trade on opendating is preferable to government regulations.

In regard to the deep-frost law, the authorities' main concern prior to adoption was whether the "cool chain" could be maintained from producer/processor to consumer. This is, however, no problem today. Consumer organizations strongly recommended that the decree of August 1969 require opendating but this was not supported by the industry, and the final decree was a compromise.

The Home Economics Council carried out an investigation of semi-hermetic fish products in retail trade in 1965, which demonstrated that the product turnover rate was not sufficiently rapid. The investigation was a contributory factor to issuance of the decree on opendating of semi-hermetic fish products in September 1966.

It should perhaps be mentioned that Denmark is expected to support the Codex international proposal for labelling of prepackaged foods, which will be presented this year for acceptance by Codex country members. Although it was discussed, agreement was not reached on the inclusion of general regulations on opendating and the question has been referred to the individual commodity committees.

The Government Home Economics Council, a strong advocate of opendating of foods, prepared a document on the subject in November 1969, summarizing current regulations and attitudes. Informal excerpt translations of this paper are given below:

"The Home Economics Council regards it as a very important objective to work for the marking of keeping quality limits of a large number of consumer products, particularly in regard to food products, as it is a reasonable consumer demand that products bought retail are of satisfactory quality. Satisfactory quality not only means that the products are wholesome from the health standpoint but also that they have not become so aged that the flavor has markedly deteriorated.

"Legislative action is aimed primarily at assuring health aspects but unfortunately appears to do so to some extent at the expense of the product quality in general. Even though it is not directly injurious to eat dried-out frozen products and old bread, consumers cannot be satisfied with such products in a modern society where it is possible to regulate production, distribution and trade for the improvement of quality on the market.

"The Government Home Economics Council has during the present decade worked for opendating in several ways:

"The Board of Health requested the Council on February 11, 1961 for a statement on the desirability of certain products being marked with, inter alia, the packaging date. In its reply, the Government Home Economics Council pointed to a number of products that should be date-marked. This applied to milk, cream, etc., eggs, butter, margarine, frozen products, mayonnaise and products, semi-hermetic products, consumer packages of fish, cleaned vegetables, and bread.

"For use in discussions on opendating problems in the *Nordic Committee on Consumer Questions*, the Council prepared a paper on September 21, 1963 on the positive and negative sides of various forms for opendating (this was revised on September 5, 1968). The discussion in the Nordic Committee in October 1963 concluded with unanimous support of opendating and recommended that the most suitable form for each commodity group should be considered.

"At the request of the Ministry of Interior on April 9, 1964, the Federation of Danish Industries issued a statement on December 30, 1964 on opendating in relation to the specific products mentioned by the Council above. The Federation believes that the marking of keeping quality need only be considered for a few products but agreed to some extent to the utilization of packaging date in code plus open packaging date on wholesale containers so that the trade can assure appropriate product turnover. The arguments against opendating include the factor that the raw materials, production methods, packaging etc. result in such variation in keeping quality that the period cannot be set with any certainty, which might lead to the discarding of still usable products if the pull-date has been exceeded. . . . Exactly the same arguments are used by consumer groups in favor of opendating, as included in the Home Economics Council's comments of March 15, 1965 to the viewpoints expressed by the Federation of Danish Industries. The Council finds that opendating is becoming more and more necessary as the variety of products increases. In addition, manufacturers must be the ones who are most familiar with the qualities of their products.

"The Council's latter statement gave a detailed account of the Council's investigation of semi-hermetic fish products (Råd og Resultater med Tekniske Meddelelser No. 1, 1965) as an example of a non-dated product with limited keeping quality. Although this product has a keeping period of seven months, its rate of turnover is not sufficiently rapid. Cans one or more years old were found in several stores. Thirteen percent of the old cans purchased that were more than five months old needed discarding, which leads to the conclusion that at the time of the investigation semi-hermetic products to a value of about 200,000 kroner that should have been discarded were on sale in stores throughout the country. A cautious estimate indicates that about one million kroner's worth of this product is discarded each year and this is a product with a relatively small turnover. . . .

"The industry's arguments are surprising as it does not appear likely that opendating could make this situation worse. In addition, it would seem to be in the interests of the manufacturers that their products reach the consumer in a condition which invites a new purchase. The semi-hermetic investigation was instrumental in issuance of the decree of September 1, 1966 which required opendating of semi-hermetic fish products. . . .

"The Government Home Economics Council has prepared statements earlier on the opendating of consumer products which form the basis for the comments given below as well as the discussion that has taken place in the daily press of the eight forms of date-marking presently used.

"During the last few years, a number of chainstores and supermarkets have introduced the marketing of keeping quality (pull-date) on a large number of products on a voluntary basis. This initiative is welcomed by the consumers—it is a step in the right direction—but fewer, more appropriate forms of marking would be preferable. It would be easier for the consumer, and consumer institutions would be more strongly placed in relation to the legislative authorities if they were able to present concrete proposals in regard to the form of marking which ought to be introduced."

(The eight types of marking listed by the Council are: (1) date of manufacture; (2) date of packaging; (3) date of placement in cool desks; (4) control date; (5) date of heat treatment; (6) last date of sale; (7) "Also fresh until . . . (date) or period of keeping quality; (8) period for cool-desk life (for deep-frozen products).)

"While the industry claims that date-marking is unnecessary for brand items as both producers and retailers are interested in supplying good products from the quality point of view, consumer approach (to the Council) indicates that consumers often complain about the quality of the product because of the age of the product. It is unreasonable that consumers, who neither have any influence on the rate of turnover nor on storage conditions, should carry the risk of buying products which have deteriorated because of errors in producers' or retailers' turnover estimates. . . .

"Looking at the question of amount of desirable information, it appears that the pull-date (keeping quality deadline) supplemented by packaging date and period of keeping quality are the dates most acceptable from the consumer viewpoint; however, the packing date should also be given for products which require maturing (cheese, semi-hermetic fish products). In order to trace non-acceptable products back to the production date, the packing or manufacturing date—at least in code—is recommended."

The Home Economics Council also lists the advantages and disadvantages of the various forms of opendating as well as a summary of opendating in Sweden, but lack of time prohibits translation. If this information is desired, please let us know.

Harold J. Dirks,
Agricultural Attaché.

Paris

Repression des fraudes laws passed by French assembly place responsibility of selling only safe, edible foods on manufacturer and retail distributor. Administration has assisted industry in meeting such obligations by establishing measurable criteria. Ref. dating of food, manufacturing dates were first used, and for some products are still used, i.e., canned items. Milk and dairy products were historically consumed by children and aged people. High sickness and death rates in children from unsafe milk and dairy products led government to impose date of consumption markings on most dairy products to aid mothers in purchasing such items.

The repression des fraudes. Dairy Producers Association, Consumers Technical Institute, Food Retailers Association, not aware of any studies on economic effects of regulations. The repression des fraudes has not done any "in house" evaluation of these operations.

Additional information including pertinent regulations contained in our aircomm pouched to FAS/W on July 31. Copy of Aircomm sent open mail to Engelbretson.

Paris

Enclosed are copies of information on date-marking in response to ref FASTO. These include: (1) Copy of the Law of 1905, on which government administrative actions are founded; (2) Regulations referring to coffee; (3) Regulations on canned and semi-processed foods; (4) Dating of certain cheeses which is an industry ruling—not government; (5) Regulations on hamburger; (6)

XUM

Explanations of dating code for use on canned foods; (7) General background on Repression des Fraudes—why it was brought into existence; (8) Remarks by Institute Technique de Consumption on labeling.

We were not able to obtain published reports or notes concerning background information on the adoption of such regulations as we were told there are none. The government invites interested parties to a roundtable discussion and determines the regulations to be issued after such meetings. No public hearings are held.

Exception Question (e) paragraph (3) rather broad. In dairy industry-butter (except butter made from pasteurized cream) and ice cream not currently covered, as well as aged cheeses. Fresh produce is not covered nor pasta products. Frozen products are marked-as-to-year and date-of production.

Consumers have not been aware of requirements until recently and do not seem to have an opinion except wonder what dates mean. This is caused by a lack of consumer education. Trade groups satisfied as they were heavily involved in decision making meetings.

Economic effects—All responses to this question were that no analyses have been made but feelings were that it was small. It has caused some small retailers to be more accurate on estimating sales volume and in some cases to group purchases with other retailers. It has also increased the returns of expired items to the manufacturer but it is not known how much.

The Repression des Fraudes told us that they do not have sufficient staff to properly carry out the surveillance, let alone do a study assessing their operation.

We hope the above information is helpful. Some people handling this question were on vacation. If more information is wanted, please let us know.

FRANK A. PADOVANO,
Acting Agricultural Attaché.

GERMANY

1. The following points are in response to your fasto 151 concerning the open-dating of food products in Germany:

A. The provisions for open-dating of products are included in (1) the food labeling ordinance (Lebensmittel-Kennzeichnungs-Verordnung) of May 8, 1935, as amended February 25, 1970, (2) the butter ordinance (Butterverordnung) of June 1951, as amended July 31, 1967, (3) the EEC regulation on marketing standards for eggs, No. 16 19/68 of October 15, 1968 and (4) the first implementing ordinance to the milk-law of May 15, 1931, as amended December 9, 1968.

The above mentioned ordinances basically provide open-date labeling for the following major food products: butter, canned and packaged meats and fish products, certain sterilized, dried and canned dairy products and fresh milk and eggs.

2. B. A campaign for the adoption of open-dating for food products was originally started by the consumer association as early as 1962/63. It was based originally on the relatively frequent cases of spoilage experienced with semi-preserved fish products. In contrast to fully preserved foods, which are usually canned and/or heat sealed, semi-preserved foods have a limited shelf life and require refrigeration. They are usually treated with chemical preservatives. At that time, consumers and retailers did not realize that these semi-preserved products have a substantially shorter shelf life than fully preserved products. Also, more and more prepacked items, such as prepacked sliced sausage, ham, hard and semi-hard cheeses, etc. which vary considerably in shelf life were being introduced in Germany and the need to inform the consumer re shelf-life was intensified. This problem was taken up by the Bundestag, which on Dec. 6, 1963 decided that the ministry of health should prepare draft legislation establishing open-dating for certain foods (Bundestagsdrucksache IV 1623). The first action, however, was taken by the ministry of agriculture, which established an amendment to the butter ordinance providing for open-date labeling on butter, i.e. the day of packaging. This decision represented a compromise between the consumer associations request to show the production date of the butter and the industry which advocated mantaining a coded dating of the day of packaging, which at that time was the general practice.

The Ministry of Health then prepared a draft amendment to the "federal labeling ordinance" requiring open-dating for certain meat and fish products (for details and comments see agr. 11 of July 22, 1966).

As a result of the most recent amendment to the labeling ordinance, February 25, 1970, certain sterilized, dried and canned dairy products also became subject to open-date labeling.

The processor in the case of domestic products and the importer in the case of imported products is free to choose to either put the open-date of production or the expiration date of shelf life of the particular product on the package. So far only packaged products are subject to open-date labeling. In the case of eggs, the date of packing (i.e. 1 up to 52 depending on the calendar week) the eggs were packed, must be shown on each carton.

3. C. The legislation does not provide for exceptions for those product groups subject to open-date labeling. However, many of the larger product groups are not yet covered by open-date labeling provisions, e.g. fresh and processed fruit and vegetable products, all bakery products, chocolate, fats, (other than butter) and numerous other products which have almost unlimited shelf life. The federal ministry of health, however, plans eventually to also include bread into the group of foods subject to open-date labeling.

4. D. Originally trade associations advocated against the adoption of open-date labeling, stressing the possible difficulties for the wholesale and retail trade which might occur through consumers selecting the freshest products and leaving the older, but still well within the limits of shelf life. However, according to information obtained from trade associations, none of the difficulties at first anticipated, except during a short transitional period, apparently materialized. The trade now generally accepts the idea of open-dating. Consumer acceptance of this action was relatively good though a fairly large number of consumers do not yet, make full use of the dating. It is the general feeling in government and industry circles that the consumer still must be further educated as to the meaning of these dates and even more so about the importance of the proper storage of the dated products.

5. E. Contrary to the relatively positive statement obtained from the trade associations, the food processing industry stresses that many food processors had to increase prices as a result of opendating. This development is reportedly due to two cost factors: (1) the additional cost of installing the dating machinery and the continuing dating adjustments and maintenance and (2) additional costs such as more frequent delivery of products etc. which apply heavily to processors. This goes so far that the trade requests the processor to take back products getting close to the expiration date of shelf life and replace them with fresher products. This is usually done by the processor, who in turn includes a corresponding loss factor into his price calculations. This factors varies considerably from product to product depending on the additional delivery costs etc. and no one seems willing to estimate the degree of price increases attributable to date labeling. Most contacts, however, agreed that the introduction of open-date labeling has generally improved product quality and freshness.

6. F. The Federal Ministry of Health has not made any official assessment of the effects of open-date labeling on food products. They have, however, indicated that open-labeling has generally had a positive effect, particularly from the point of view of the consumer, in spite of the limited price increases.

ITALY

The following is the situation regarding open-dating of food products in Italy.

1. Article 8 of law No. 228 of April 30, 1962 was amended by article 5 of law 441 of February 26, 1963, with a proviso that regulation concerning dating will be issued in the near future listing all food items that have to show on their labels the date of packing (unspecified whether a code date or open date). Neither the regulation nor the list of food items concerned has as yet been published.

2. According to some sources we understand that the ministry of health has a proposed regulation drafted which is currently being circulated to other ministries for their concurrence. No comments or action are anticipated before September. It has been also brought to our attention that confindustria (the industrialists association) has already started a move to reduce the number of items to a minimum. The proposed draft refers to code dating only.

3. According to article 9 of presidential decree No. 578 of May 30, 1953 all baby foods are required to carry label declaration showing date of production and the extent of safe period based on the judgment of high commission for health and hygiene. Actually present labeling shows only open date of the expiration date.

4. According to article 30 of law 994 of May 9, 1929 the law required that bottles containing milk for human consumption must visably show the date of bottling. However, article 3 of law 1504 of August 11, 1963 and circular 158 of August 1968 indicate that either bottling date or expiration date are acceptable. In practice, however, an open date is used on tetrapack indicating the quality expiration date.

SPAIN

1. In response to Congressman Farbstein's interest, Embassy representatives have completed brief but extensive study of Spanish regulations relative to dating food products for Spanish market.

2. Codigo Alimentario Espanol cited by legislative reference service in Reftel was approved through decree 2484 September 21, 1967. However, this decree specifically limits itself to approval text of food code. Decree requires Spanish council of ministers to take further action before distinct parts of code enter into effect. This has not yet been done and no one will hazard a guess as to when it will be done. According to trade, the various Spanish syndicates (tripartite labor, management and government organizations which control all economic activity within specific lines) related to food processing are now currently adapting their various regulations to the provisions of the code. Even these regulations are not being effectively enforced at this time. In absence compelling force, trade apparently relying upon individual company policy relative to dating, with result that practices vary widely from no date, coded or open, to consumer recognizable open dating. This latter practice rather limited and date not to precise. Major packers are generally code dating in order be able determine production date and batch their products.

3. Food industry is governed by countless official regulations which are not codified and are widely dispersed through at least eight of the aforementioned syndicates re-

sponsible for various groupings of food products such as flours and breads, edible oils, fish and fish products, meat, meat products, and dairy products, candies, etc. within time limitations established by Reftel, it's impossible to determine dating requirements these various regulations. In response to embassy staff inquiry, pertinent syndicates were unable to produce codified or other comprehensive compilation official food processing regulations including requirements for dating in any form, that may be applicable their constituent firms. Spot check of local supermarkets failed to indicate any extensive or consistent pattern application of product dating.

4. Codigo Alimentario Espanol is result of four year study by special commission plus two year subsequent consideration by interministerial committee. This action result of long felt need for efficient government control over wholesomeness of canned and other preserved foods to protect consumers from overage products. According directorate general of health, the office officially responsible for policing trade, consumers have welcomed this system because they believe it constitutes protection for their health and welfare. Trade, on other hand, feels consumers not too concerned about dating as voluntary basis seriously limits extent this practice.

5. One important spokesman for trade reported his firm would like to see food code officially implemented as he feels would give him competitive advantage since his organization presently able to meet requirements code. He believes Spanish food code possible best piece of legislation in its field, not only in Europe, but possible in world.

6. If Congressman Farbstein or Washington agencies desire them, additional copies Codigo Alimentario Espanol can be made available at approximately $1.20 per copy. Hill

SWITZERLAND

1. The Swiss food control regulations require open dating of only a few food products. Milk and dairy products, dietetic foods and meat products in retail packages fall under this category. Reason for open dating these products is quite obvious since they are the most perishable foods.

2. Besides this compulsory open dating, voluntary open dating is gaining importance. Big cooperative retail chain migros went into open dating of most of their food products except for the very stable products like canned fruits and vegetables. Other firms are also open dating a variety of foods like potato chips, dried soups, biscuits etc. This practice has been welcomed by consumer who is thus ensured fresh products. Most common dating system is "to be sold until . . ."

3. Swiss food control commission is currently studying a food declaration system under which all ingredients of product would have to be declared on the label. Compulsory declaration is already applied for variety of colors, preservatives and additives. Commission might take up at same time compulsory open dating of all food products.

UNITED KINGDOM

We are informed by Ministry of Agriculture, Fisheries and Food that no regulations on the dating of food for consumer protection exist in the United Kingdom. Protection provided in the Food and Drugs Act of 1955 which makes it an offense to sell food which would be harmful is considered adequate. Nevertheless, certain firms voluntarily print on their packages the date by which the food should be eaten and/or cooked, for example, bacon, cooked ham and some other meat products. This voluntary dating is provided as a service by the manufacturer to both the retailer, as an aid to stop rotation and to protect them from the possibility of selling stale or decayed food, and to the consumer.

Code dating on cans and other packages is commonly practised in the United Kingdom, but only as an aid to manufacturers and distributors, again for stock rotation purposes.

Therefore, questions B, C, D, E and F do not apply in the absence of regulations. Mrs. Joyce Butler, M.P. for Wood Green in London conducts an assiduous campaign for the introduction of such regulations. While Mrs. Butler has been successful in some field (U.K. Trade Descriptions Act is due in large part to her pressure on the last Government), there is as yet no sign that she will be successful in getting dating regulations introduced.

We wonder if the reference to legislation found by Library of Congress refers to private members bill, the labelling of food and toilet preparations bill, bill 52, given first reading House of Commons and printed December 4, 1969, sponsored by Mrs. Butler. Under procedure for private bills in House of Commons little time is made available unless backed by Government; No Government backing for this bill. The bill was again due for second reading March 5, March 13, March 20, April 10, April 17 and several subsequent dates. On each occasion bill objected to and deferred and the prorogation of Parliament prior to election, June 18, meant uncompleted bills automatically lapsed. In requesting copy of the bill, we learned that copies of all lapsed bills are disposed of and are unavailable. That is the case with this bill.

[From World Health Organization-Food and Agriculture Organization of the United Nations, *General Food Labelling Provisions*, May 7, 1965]

IV (v)—Is the date of packing or production required on packages, and if so, in code or otherwise?

The date of packaging or production, or both, is generally required in Spain, in Pakistan, and in Yugoslavia, where the time limit for use must also be given for perishable foods.

In a number of countries the date of packing or production is required for specific foods, as shown:

(Canada, India, Luxembourg, and the United States excluded since their dating requirements are limited to coded dating.)

Australia: Under Commonwealth legislation on imports and exports, imported food is subject to special requirements including disclosure on the label of the date when the food was packed. The date is required in *Queensland*, only for bottled milks, infant foods and oysters removed from shells, and in *Western Australia* for infant foods. In *New South Wales* the date is required only for infant foods, pre-packed meat and oysters in glass containers. No dates are required in *Victoria* or *Tasmania*.

Chile: Dates are required on margarine; foodstuffs for medical uses, including flour products for infants; foods for animal or plant origin in cans or glass containers; frozen foods of animal or plant origin; meat sauces; concentrated broth; powdered eggs; smoked fish; sausages in general except Vienna sausages, for which the date must be shown on the container for distribution; milk in all forms except pasteurized milk, on the containers of which only the name of the day of distribution need be shown; cheeses; containers for the distribution of small cheeses and for the transport and distribution of oysters.

Denmark: Deep-frozen foods (month and year; may be in code); milk and cream; lur- * * * brand butter (date and year); fish, fish products and semi-preserved fish products (week, month, year; may be in code); fish fillets (date of production; may be in code); cheese (date or week; may be in code); eggs (in code); fruit and vegetable preserves (week or month, year; may be in code); apples (date of packing).

France: Certain perishable foods (yoghurts, fermented, flavored or powdered milks, cheeses); preserves and semi-conserves. The indication is almost invariably in code.

Germany (Fed. Rep.): Vitaminized foods; dietetic foods, and (since 1 April 1965) butter.

Greece: Dried currants (year of harvest).

Israel: Most standardized foods; all foods intended for export; preserves in hermetically-sealed containers; cereal products in quantities greater than 10 kg. The date of production is to be furnished; for cereal products, the date of import must be added. For standardized foods, the day is indicated on plum preserves and sauerkraut, a less precise date is accepted in the other cases, indicating the production season (which runs officially from November to April for citrus and certain other fruits).

Netherlands: Pasteurized milk products.

New Zealand: Butter and dairy products, such as pasteurized cream and milk.

Norway: Cold cuts, bacon and pre-packed foods in sealed packages in plastic, etc., must bear the last date for consumption (i.e., the date until which the product is guaranteed to maintain its quality). Codes may not be used.

Portugal: Flour (packaged or for breadmaking); pasteurized milk; margarine.

Sweden: Cheeses other than fresh or processed cheeses must bear the date of curdling; salt herring sold otherwise than on retail premises (year and month during which salting took place).

Thailand: Canned foods.

Turkey: Perishable foods (date of manufacture).

In Argentina, the label must state, if appropriate, that the product is for immediate consumption. In certain cases (e.g., peaches *au natural* and tomato preserves) the expiration date must be given.

In Austria, the production date must be shown in code on bagged wheat and rye flour and semolina (by giving the number of the milling lot). The production date of butter, evaporated or powdered milk, and casein must be shown, in code or ordinary terms. The Dairy Economy Board may require the date, in code or ordinary terms, on rendered butter. The date, in ordinary terms, or the number of the loaf, must appear on Emmonthaler, mountain and Alpine cheeses.

In Finland, the last permissible day for sale must be indicated for milk. Dates may be given in code in some cases in Canada, Luxembourg and the United States of America.

THE PRESIDENT'S POSITION ON RACIAL EQUALITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 10 minutes.

Mr. CONYERS. Mr. Speaker, I am happy to note that my colleague from Illinois (Mr. ANDERSON) inserted in the RECORD for October 6 a statement indicating the President's concern with the largest minority in America. It is entitled "President Nixon and Black America."

I am delighted the gentleman is on the floor at this time, because as I read this I see in it a quotation from the President's inaugural address in which he is quoted as saying:

> To go forward at all is to go forward together. This means black and white together as one nation, not two.

In his remarks he reviews a number of activities and programs which indicate in his mind that the administra-

XUM

tion is committed to racial equality in the United States.

I should like to bring to the gentleman's attention a situation which has been existing since February 20, 1970, in which the nine black Americans who serve with some pride in this body have been attempting to arrange an appointment to see the President of the United States of America located some short distance from the Capitol.

As of this date, I would advise my friend from Illinois, we have been unsuccessful.

I understand that the President has returned from yet another of his world tours and that he is presently back within the continental limits.

I would point out, in complete sincerity, for this to be a continuing situation existing over a period of time, which in a short while will be exactly 8 months, I believe is a matter to which he, as one who has been concerned about righting some of the wrongs that have existed in this country and who has been a dedicated supporter of principles which he reviews in the remarks in the RECORD, should devote his attention.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. Yes. By all means.

Mr. ANDERSON of Illinois. The gentleman from Michigan was kind enough to come to me a few minutes ago and tell me that he was going to offer the comments he just made. I would certainly offer this opinion to the gentleman from Michigan, that is, I feel certain—and I do not know what reason might be given as to why the gentleman from Michigan and his eight colleagues have not been able to arrange an appointment with the President of the United States, but I am confident it is not because of the gentlemans' race. I am not privy to the appointment calendar of the President. There are tremendous demands on his time and tremendous pressures, as I am sure the gentleman is aware, but I certainly would not want the gentleman to feel that the fact that he has not been able to secure an audience with the President of the United States is because of his race. I think the President's record speaks against any such idea. I cannot claim to have any great amount of influence within the executive branch, but I can assure the gentleman who is now addressing us that if I had anything to say about it, I would certainly persuade the President that he should visit with the gentleman from Michigan and his colleagues, because I think he would certainly be in a position to make a valuable contribution to the President's thinking on this whole very difficult subject.

Mr. CONYERS. I thank the gentleman for his observations. I want him and the Members of this body to be assured, though, that the suggestion offered by the Member of what I should not worry about has not been stated by myself, and I did not mean at this time to suggest in any way that the reason why the President of the United States has not met with the black Americans of the House of Representatives is in the remotest way connected with the race of those Members.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield further?

Mr. CONYERS. Yes.

Mr. ANDERSON of Illinois. Mr. Speaker, I think once again the gentleman from Michigan has revealed to this House why we hold him in high regard. He is a man of conscience and man who does not trade on this issue. I did not mean to raise that in any way to be offensive, but I think that the gentleman performed a very valuable service by assuring this House that in commenting on the President's failure to give an appointment to the gentleman from Michigan and his colleagues he is confident that it is not a matter of race but some other reason that intervened.

Mr. CONYERS. Right. Might I add to my colleagues and to the gentleman from Illinois in particular that this matter has not been disposed of in any final way. I might add that I am sure that the discussion and the fact that we bring this to the surface in the House of Representatives will in no way jeopardize whatever arrangements might be in progress that would lead to such a meeting which we seek.

On that note, Mr. Speaker, I yield back the balance of my time.

THE TRUTH ABOUT "COALTOWN, U.S.A."GRUNDY, VA.

(**Mr. WAMPLER** asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAMPLER. Mr. Speaker, Coaltown, U.S.A. was the name given to Grundy, Va., in an article in the August 23, 1970, Sunday supplement to the Washington Star newspaper.

Grundy is in my Ninth Congressional District of Virginia, and I have been informed that many people from this area, both operators and miners, were disturbed because of the lack of objectivity in the August 23 article.

In this connection, I would like to insert in the CONGRESSIONAL RECORD an article from the September 13, 1970, Bluefield, W. Va., Daily Telegraph newspaper.

D.C. NEWSPAPER GIVES "UNFAIR" PRESENTATION OF GRUNDY

(By Rachel Riggsby)

"Coaltown, USA" was the name given to Grundy when the town was featured recently in a Washington, D.C., newspaper. The town, where coal is proudly king, does not object to the title but many objections have been voiced to the story in which Grundy and the entire county are painted with a brush which must certainly have been dipped smack dab in the middle of a sludge pond.

The controversial article appeared Aug. 23, in the Sunday supplement to the Washington Star. Written by Fred Barnes, staff reporter for the Star, the story contains much that is irrefutable. However, through the selection of material and use of innuendo, the picture painted is very bleak and not at all a fair representation of the booming, rapidly progressing town and county.

"While many things in the article were true, there were errors of omission," Tom Holland, editor of Grundy's weekly newspaper, complained.

Commonwealth's Attorney Nick E. Persin also acknowledged the truth in the article but said things were not placed in the proper perspective. "We have our problems here just like anywhere else, but this article was slanted in such a way that it created an image that is false."

F. D. Brown, county executive secretary, agreed that the article presented only the bad side and said, "I think we are a lot more advanced than some other counties in the state of Virginia and that we will continue to progress."

In addition to civic leaders, coal operators and miners alike were disgruntled by the implications presented in the story.

The coal miner was depicted in his usual national image, the expected stereotype of the expected stereotype of the stalwart men who mine the nation's coal.

In describing one miner, the writer states, "In another town, he might have been an engineer, and electrician or a salesman." The implication is made that these occupations would be preferable to working in or around the mines.

What the Washington reporter and too many other people do not realize is that, for the most part, coal miners like to mine coal. They do not feel downtrodden or exploited. Too many miners have moved elsewhere, found cleaner, easier, sometimes better paying jobs in factories only to give them up and move back to the mountains and the work they like best.

When national attention is focused on the coalfields, whether in Virginia, West Virginia, or elsewhere, nothing is ever said of the large number of miners who own their own homes with modern conveniences and who live well. Many miners in Buchanan County not only own nice homes, they own cottages and boats at nearby lakes where they spend weekends with their families. Others own facilities for week long hunting trips which they take annually in the fall in addition to a family vacation in the summer.

These miners dress well, are involved in politics and community life, send their children to college, in short, are no different from workers in other walks of life.

George Walker, president of Harman Mining Corporation, one of the oldest mines in Buchanan County, spoke of the miner's liking for his work. "Something most people don't realize is the fact that a crew inside the mine operates as a team and each man has a certain job to do. It requires training, skill and intelligence to do it well and these men derive a whole lot of pride in doing a job well and being part of a successful team."

He commented that wages paid by coal companies have sent a lot of children to college that otherwise could not have gone but he did not feel that this necessarily meant that they would leave the coalfields.

"Coal mining is challenging enough, interesting enough and rewarding enough that a number of those that are going away to college are going to find themselves attracted back to the industry," he said. "With advanced technology in the field of safety and environmental control as well as in the development of more sophisticated production techniques, the more education and technical background that a person has the more likely he is to be successful."

Several young men have been hired recently at the mine and will be concerned with the technology of the new mine safety law, he said. Other mines in the county reportedly hired a number of college students for temporary work during the summer months.

The Washington Star article gives a lot of space to describing the "ravaged countryside" and the "general sootiness" of the Grundy area which he says is "scarred like a face that suffered an incorrectably bad case of acne."

To residents of the county and to the many visitors not wearing the blinders of a slanted viewpoint, the countryside remains beautiful. There are scars and there are blemishes re-

XUM

sulting from coal operations but a great deal of the damage is in the process of being corrected.

The county is not as backward as it is often depicted but neither is it more advanced than the rest of the nation and, like the rest of the nation, the residents are just recently becoming more and more aware of environmental control.

Great strides have already been made. There was a time when the county streams ran black with the refuse from coal preparation plants. This is now forbidden by law and the law has been enforced for several years. All modern day surface or strip mining is being controlled by law. While stripping operations tear up the mountainside temporarily, all of these areas must now be reclaimed and reseeded.

Slate dumps, a plague in any coal producing area, also exist in Buchanan County and were graphically described in the Star article. This problem is not being ignored.

Coal companies are also becoming more aware of ecology and beautification. Without laws to require such undertakings, several coal companies are cleaning up around their property, planting trees and shrubs, and painting buildings.

The Virginia Pocahontas Division of Island Creek Coal Company has spent thousands of dollars on appearances alone at their mines, all to the betterment of the county.

The Harman Mining Corp. has also instigated a "perpetual clean-up program" and, in addition, has donated property to the county for an automobile graveyard and for a sanitary landfill.

In this excerpt from the article in question, Barnes stated, "Despite all the damage that coal mining has done to the scenic mountain landscape many of the bigwigs in Grundy still harbor the hope that a great tourist industry can be built up with the mountains as the attraction, a classic case of wanting to have your cake and eat it too."

What he fails to mention is that Grundy is not only Coaltown, USA, it is also known as "The Gateway to the Breaks Interstate Park." The park, located about 15 miles from Grundy on the Virginia-Kentucky border, has attracted visitors from all 50 states and several foreign countries and expects 200,000 visitors by the end of the season this year.

To many people in other states, Grundy is best known as the "Home of Mountain Mission School," a home, school and church for approximately 300 orphans and children from broken homes. It is supported entirely by contributions and receives no state or federal funds. Many coal miners' children have been raised from infancy to worthwhile adulthood in this beautiful and widely acclaimed home, and a story on the Grundy area is not complete without mentioning it.

It was not mentioned in the Washington Star. Yet the writer or the photographer or both had to pass the property in order to get the controversial picture of the "Welcome to Grundy" sign. This entrance sign, one of the town's worst, was shown in full color and the rust on its face was plainly visible.

A new and beautiful stone entrance sign welcomes visitors to Grundy on the main road, Rt. 460. The rusty sign pictured in the Star is located on Slate Creek and is a perfect example of how the writer seemed to go out of his way to show the least attractive aspects of the county.

What many people who read the lengthy article found puzzling was the seemingly unwarranted amount of space given to the late Joseph Yablonski's campaign for the presidency of the United Mine Workers. All of the local issues dominant during the Yablonski campaign were emphasized with criticism of the present union leadership.

The four miners quoted most extensively in the article were in the forefront of the local Yablonski campaign. This particular faction represents a small segment of the county and is not representative of the county as a whole, the coal industry, or even the UMWA. The amount of space given to rehashing the Yablonski issues becomes less puzzling when one reads a brief sketch about the contributors in the front of the Sunday magazine. It is stated that Barnes took a year's leave of absence from the newspaper to work on the Yablonski campaign.

The article is sad commentary on an area where a new $23 million mine opened this past week and where a $25 million mine is presently under construction.This mine will bring to five the number of mines operated in the county by the Virginia Pocahontas Division of Island Creek. A sixth is in the planning stages and, according to the new Chamber of Commerce brochure, when all six mines are in full production they will have a payroll of 25 to 30 million dollars annually. They now employ 1,170 people with an annual payroll in excess of $10 million.

Approximately 280 truck mines with a labor force of 3,000 add a combined payroll of $15 million to the county economy.

The Harman mine released the following figures in addition to their payroll. The mine paid $50,000 in property tax to the county last year and spent $750,000 for everyday mine supplies, 75 per cent of which was spent within the county. Their combined payroll for their more than 200 employees and the 25 truck mines they have under contract came to $4,250,000 last year and they paid $634,000 into the UMWA Welfare and Retirement Fund.

However, the Washington feature did not deny the burgeoning economy. In fact, it called Grundy the coal capital of the region. What it failed to point out was the fact that the town and county is growing in many other areas. Numerous projects are underway at the present time, not only for the benefit of the citizens now, but with an eye toward attracting new industry in the future, for a day when coal may no longer be king.

UNIONS AND UNEMPLOYMENT

(Mr. BROWN of Michigan asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BROWN of Michigan. Mr. Speaker, last week, AFL–CIO President George Meany reached the height of hypocrisy when he tried to blame the current high unemployment figures solely on the Nixon administration's economic policies.

It takes quite a nerve for a leading union official to talk about unemployment while at the same time 320,000 auto workers are out on strike. This UAW strike, now going into its 4th week, directly affects 119 General Motors plants in 18 States and 69 cities, as well as 13,600 dealers across the Nation, 39,000 suppliers and 10 percent of the Nation's steel production. The Washington Post on September 15 estimated that the strike could swell U.S. unemployment by nearly 10 percent—increasing the unemployment rate from 5.1 to 5.6 percent. It strikes me as no coincidence, therefore, that this prediction came true and the unemployment rate for September reached 5.5 percent. In fact, because of the far-reaching impact of this strike on the entire economy, we should probably be grateful, no thanks to union leadership, that the unemployment rate is not even higher.

In addition to the immediate issue of the auto workers' strike, we should remember, also, that Meany and the union leadership have been in the forefront in demanding that the defense budget be slashed, that our Nation's spending priorities be reordered, and that inflation be brought under control. To their great amazement, Nixon has succeeded in accomplishing those things, but are they thankful or appreciative? No. Now they are in the front of blaming and complaining—complaining about the effects of winding down the war, cutting defense spending and curbing inflation, and blaming it all on the Nixon administration.

It seems to me that while the Union leadership have been unduly shy about taking their share of the blame in this situation—for their constant pressure on the inflationary wage and price spiral, for example—they have also been remiss in not pointing out several other pertinent factors which have a bearing on understanding the current unemployment situation.

Employment has risen since President Johnson left office. There are now 78.4 million people employed in the civilian labor force. When Johnson left office in January 1969, there were only 77 million employed. In other words, 1.4 million new jobs have been created since Nixon took over.

The Democrat's record during the rest of the 1960's is no better. At this time of year, in 1965, employment stood at only 71.2 million; in 1961, at only 65.7 million.

The Democrats' record on unemployment is even worse. In May of 1961, 7.1 percent of the total civilian work force was unemployed, and the average unemployment rate for 1961 was 6.7 percent.

The unemployment rate last month, for men 25-years-old and over did not increase, but remained steady at 3.0 percent, while the rate for married men remained unchanged at 2.9 percent.

Despite changes in employment figures, earnings continued to rise—up 3 cents an hour in September, and up 17 cents an hour for the year, or 5.5 percent higher than a year ago.

The unemployment report was made earlier than usual this September, and the September figures, which included the Labor Day holiday period, may not have fully reflected the usual exit of youth from the labor market to begin the fall school term. Usually as school youth leave the labor market in the fall, unemployment rates fall, making September figures lower than August figures.

This fall, despite high unemployment, the number of employed 16–24 year-old youths rose by 300,000 in September. This young working age population will continue to grow at an abnormally rapid rate in the decade ahead. While the overall U.S. population will increase about 12 percent, the age group between 18 and 24 will expand by some 25 percent and the 25-to-34 group will grow nearly 50 percent. Experts predict problems ahead in absorbing such a high proportion of young, inexperienced workers.

But beyond these very interesting facts, there is a more important point that must be made regarding unemployment. Right now our economy is in the midst of a double transition. At the same time as we are adjusting to a major

XUM

decline in defense spending, we are also cooling off from a long inflationary overheating that had become increasingly dangerous.

We have seen definite signs in the last few weeks that the sound fiscal and monetary actions taken by the Nixon administration to bring inflation under control have begun to take hold. The wholesale price index is more stable than it has been for 2 years, signaling a break in the cost of living spiral. The balance of trade is quite favorable. Federal Reserve policies are moderately expansionist. Rising orders for durable goods dispel recessionary fears. And interest rates including the indicative prime interest rate, are declining. Clearly the economy has turned the corner. Yet as many economists point out, it is unfortunate but true that employment figures usually lag some 6 months behind such economic trends. Thus, even though our overall economic situation is steadily and encouragingly improving, our unemployment figures simply cannot be expected to pick up quite as promptly. I have no doubt, however, that as individual businessmen and employers are convinced by enough tangible signs—increased orders, for example—that the economy has improved appreciably, they will respond by hiring more workers.

Our lessened involvement in the Vietnamese conflict has also had an important impact on the unemployment situation. Since Nixon took office in January 1969, the total number of troops in the Armed Forces has been reduced by over half a million and civilian military employees by 157,000. Furthermore, as our total defense outlay decreases, fewer orders and defense contracts are placed with business and industry here in the United States, and these firms must then cut back on the number of employees they hire. The Defense Department estimates that employment in defense products industries has been cut back by almost 17 percent since Nixon took office—some 280,000 workers. This total will undoubtedly be increased by yesterday's action to cut the Defense appropriations for procurement by $2.1 billion—we simply cannot cut down on defense spending and production without cutting down on jobs at the same time. Adding it up, winding down the war has made a net difference of 940,000 jobs in the civilian labor picture. At the same time, as I said earlier, 1.4 million new jobs have been created since Nixon took office.

In the face of the high unemployment rates we are now experiencing, it is small consolation, I admit, to remember that compared with previous postwar adjustments, our current dislocations are very mild indeed. But what we must keep in mind is that we are undergoing this double adjustment of the economy and that this adjustment is part of the price we must pay for controlling inflation and slowing down the war in Vietnam.

Contrary to the opinions expressed by some labor leaders, I feel confident that President Nixon has succeeded in bringing the economy under control and has turned the corner on inflation. I applaud his management of our efforts in the Vietnamese conflict. And I have no doubt that the employment problem is a temporary one that will respond, in a very short time, to the initiatives of the Nixon administration and that unemployment will soon be significantly reduced as the Nation moves ahead on a course of sound prosperity.

ONE ROCKEFELLER WHO MAY MAKE IT

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, West Virginians are proud of their secretary of state, the Honorable John D. Rockefeller IV. In a State where some short-sighted politicians have fought furiously to retain old symbols of power built around provincial ideas and decaying county courthouses, young Mr. Rockefeller's vision and determination have provided a gleam of hope for a brighter future in the Mountain State.

We have little doubt that Mr. Rockefeller will be sworn in as Governor of West Virginia in 1973, where he will have the chance to lift the sights of the State. What happens after that is anybody's guess. In the following article by Richard Reeves, we may find some good answers:

[From the New York Times Magazine, Oct. 4, 1970]

ONE ROCKEFELLER WHO MAY MAKE IT

(By Richard Reeves)

CHARLESTON, W. Va.—The John D. Rockefeller, dead now these 33 years, used to have this saying: "Sons of wealthy parents have not the ghost of a chance, compared with boys who come up from the country with the determination to do something in this world."

The original John D., who was so determined that he took over the American oil business and became the richest man in the world, had every reason to believe that. But down home in West Virginia there is no one who believes that any country boy has a ghost of a chance against John (Jay) D. Rockefeller IV, who came down determined to be Governor.

"Did he say that?" asked Jay Rockefeller, who came here six years ago as a 27-year-old poverty worker and is now Secretary of State of West Virginia. "I guess I can't agree with that. Rockefellers always get their way. I don't know if I like that, but that's the way it is, isn't it?"

There was no arrogance in his voice. That is the way it is. "Barring a miracle, Jay will be our next Governor, and who knows where he'll go from there," said Bob Mellace, associate editor of The Charleston Mail, a Republican-lining newspaper that routinely harpoons Rockefeller or anyone else who happens to be a Democrat. "I don't think they'll get a Republican to run against Jay. . . . How can you be against him? I know he wants to do good—everyone knows that. If he's Governor and brings in just two plants—if he brings in 20,000 jobs—what that would mean here! Industrial development? If some jackleg West Virginia politician talks about it, what does it mean? But if a Rockefeller talks about it, that's something different. We're lucky to have him, he's the state's greatest natural resource."

Those are extraordinary words from one of the toughest political writers in a state where newspapers still have a kind of frontier sting—in The Beckley Post-Herald, the 6-foot-6-inch Rockefeller is "that beanpole politician"; in The Wheeling News Register he is, sarcastically, "the White Tornado of West Virginia politics." But the confluence of the fourth John Davison Rockefeller and the poor, proud people of the Mountain State is an unusual chapter in American politics—contrast makes it one of the most interesting political stories of the seventies, and if money, looks, brains, a fashionable social conscience and a lovely wife are still the making of a President, it could be a significant story of the seventies and eighties. Jay Rockefeller, simply, has more than a ghost of a chance of being President of the United States, even if a poor boy up from the country is now in the White House.

The difference between man and setting is stunning—and he knows it. "I could be a great Governor of Utah and nobody would notice," he told his father, "but West Virginia is something else."

"I see Jay and Sharon are in Vogue magazine this month," someone said at lunch in a Charleston restaurant. "Great," joked Rudolph DiTrapano, the state Democratic chairman, "Vogue has 15 readers in West Virginia. This is a Mechanix Illustrated state—can't we get Jay interested in woodworking?"

Jay Rockefeller is, among other things, the only West Virginia politician whose wedding party included the Aga Khan. He is, of course, the only one who says "Uncle Nelson, Uncle Winthrop, Uncle David and Daddy" when chatting about the Governor of New York, the Governor of Arkansas, the chairman of the Chase Manhattan Bank and the philanthropist behind New York City's Lincoln Center.

Although his present job is largely ceremonial and dull—"A 12-year-old could put the state seal on papers," he says—he is also the most powerful liberal Democrat in the state and, in a phrase he uses among friends, "Governor-in-training."

The time has not come for him to speak about national ambitions—"I have no national ambitions; when people talk about '72, I think about my age and how much I have to learn"—but he has done some serious private talking about running for Governor in 1972. Before this year's session of the State Legislature, Jay and his wife, Sharon—"Wedding of the Year" in 1967 to the daughter of Senator Charles Percy of Illinois—invited a few Democratic leaders out to their home on the outskirts of Charleston and after brandy, Jay began: "I'm going to run for Governor in 1972 and I think you know I'm going to win. . . ."

No one out in the piney quiet of the 15-acre estate at 1515 Barberry Lane argued with the owner's forecast. If there were any silent doubters, they were probably convinced last May 12, when Jay tested his political muscle for the first time by backing a few younger Democrats against entrenched state senators who had been sabotaging Rockefeller's efforts to end some of the blatant vote-buying that gives West Virginia politics a lusty, 19th-century flavor. The Rockefeller men won after he sounded the call: "We need new blood and youth, honest and sincere persons . . . [not] old political lords."

Rockefeller's only real power as Secretary of State is to supervise elections, and public hearings he sponsored last year brought out these facts: 33 of 55 counties had more registered voters than adult residents because there was no legal provision to revise voter rolls when people died or moved. Oakley Hatfield testified under oath that his brother has voted regularly since dying in a 1964 automobile accident; in some counties, more than one out of 10 voters filed "absentee" ballots written out in front of clerks before Election Day, and in one precinct, 241 of 294 voters required "assistance" on Election Day—that is, they asked a clerk to come into the booth to help mark their "X's." Rockefeller, incidentally, was badly beaten in the worst vote-buying areas when he was elected in 1968.

Jay Rockefeller, whose smooth long face is

XUM

so unlined it looks unlived-in, came into this—and into a state so depressed it lost 157,000 people between the 1960 and 1970 censuses mainly because seven out of 10 young people leave—by way of all the very best places. And it shows. He's a graduate of Phillips Exeter and Harvard and he sometimes says "rawther" rather than rather.

"They thought I was a Republican organizer or a revenue agent looking for stills when I got to Emmons," Jay said, talking about the day in October, 1964, when he came to West Virginia to stay. Emmons is in a creekbed hollow 23 miles and 50 years from Charleston—five miles from the nearest paved road—and Jay was assigned to work with the 65 families there by Action for Appalachia Youth, a Federally financed pilot poverty program.

The young Rockefellers are no longer distrusted, although their life here is so quiet and private that few West Virginians can really call them personal friends. Jay is a familiar enough public figure—he seems to love campaigning and will walk through stores saying, "Hi, I'm Jay Rockefeller . . ." for almost no reason—but in private, well, there have been only a half-dozen dinner parties out at Barberry Lane, and when they go out, Jay and Sharon have this agreement that they will *always* be home by midnight. In fact, when they do go out, it's most likely alone to a movie—"M.A.S.H." . . . "Butch Cassidy and the Sundance Kid"—and that is frustrating for some ambitious Charleston hostesses. But Jay says he wouldn't be any more social in New York—in fact, most Rockefellers live exactly that kind of very private life.

Sharon, a striking 25-year-old ash blonde who carefully dresses about two years behind New York's latest, has learned to cook for company even though she has three servants to help serve and keep their 1-year-old son, Jamie, from demolishing the fragile art Jay collected during three years as a student in Japan. The Oriental things are mixed tastefully with Early American—some of the mixing was done by Mrs. Henry Parrish 2d, the New York decorator—to create what Sharon likes to call "a young house." She calls the furniture "hand-me-downs" from relatives, but they have *some* relatives; after all, her father was president of Bell & Howell, Inc., before he turned to politics. Anyway, it's a nice place—a low, white brick rambler, swimming pool and gardens overlooking evergreen hills, and Jay keeps building additions, one for Sharon, one for Jamie.

"I can't think of anything I'd rather be doing," Sharon said. I'm really happy that Jay's in politics. We both find our lives have an intense sense of direction, a purpose in West Virginia, and we both feel very fulfilled." They sound fulfilled—the most striking thing about the couple is that they call each other "darling" in nearly every sentence—and the Senator's daughter is the perfect political wife, putting "Peace" and "Love" posters around his office in spots that won't offend older West Virginians, and playing the games that politicians' wives have to play. When Jay has to leave a dinner, she plays the villain: "Jay, I know you want to stay. [He doesn't.] But we have to go now. You know how you hate to be late for the next stop . . . [He's always late, partly because he's one of the few politicians who eats everything put in front of him]."

On time or not, Jay is beginning to play politics like a young pro. He is taking over the state Democratic party—there are two Democrats for every Republican here—by trading on his potential power as Governor and the hovering promise, or threat, of all those millions of dollars. The money power has remained potential so far, too—Jay is an astounding spender by local standards ($52,000 in his Secretary of State campaign), but he has never contributed more than $500 to other candidates' campaigns, and he is not financing his state party in the way Uncle Nelson underwrites the Republican party in New York.

No, after two years in the House of Delegates (the State Legislature's lower house) and almost two as Secretary of State, Rockefeller is becoming the party boss; his ascension is helped by the fact that the state's best vote-getter, conservative Democratic Senator Robert Byrd, generally ignores local politics. Young Jay can sound like the best of old Tammany when he wants to, and he wanted to on the last day for candidates to enter the May Democratic primary as he lounged in his office, taking a series of phone calls from friends, enemies and neutrals:

"I don't think Billy will be that tough. We'll just have to work hard and I'll do what I can. . . . Harold won't run. He just doesn't have the stomach, maybe in two years. . . . I'm sorry, Sonny, I hope you win but I don't think you can, I'm sorry. . . . No. No, I won't. I'm sure he's going to be indicted . . . Tell me what I can do, Virgil. But if Frank runs, I'll have to go with him. . . ."

Then he turned to the visitor from New York and said: "The people here think the system can't be changed. But it's so easy—the system is a myth, it's only what people say it is.

"The system. A guy just asked me for $5,000 to get out of a senate race where I'm trying to beat the incumbent—this guy would just split the vote with my man."

"What did you tell him?"

"I said 'No,' and he said, 'O.K., how about $3,500?' "

He laughed and said: "Of course, maybe I said 'No' because I think we'll win anyway."

Jay's man did win that race—most of Jay's men won. But really beating the West Virginia system may be something else, because the system has deep roots; it is stone-rooted in appalling Appalachia poverty, a history of corporate colonialism and a deep Fundamentalist belief that this is all God's will—that He has somehow doomed the people of the mountains to an earthly life of suffering and exploitation.

"Most of the people you and I know are basically optimistic," Rockefeller said to me. "These people are basically pessimistic. They think this is the way sinners are treated."

From The Charleston Gazette of Feb. 19, 1970: "The foodstamp man came late Wednesday. Mrs. Homer Vance had to wait in line two hours. While she was waiting, her house burned down. Her husband, bedridden with liver and heart ailments, escaped in his pajamas. Their four children were also unhurt. Mrs. Vance of 140 Heath Street said it was her 37th birthday. 'I don't even have food stamps now,' she said. 'Well, I'm not worried because the Lord makes a way somehow.' "

Sinners, as interpreted by some of the uneducated preachers in ramshackled Baptist churches, will be punished—and 31.1 per cent of the people of West Virginia are classified as "poor" by the Federal Government, compared with 11.3 per cent in New York. That's what brought Jay and hundreds of other Kennedy-Johnson followers into the Mountain State, where they were resented by the stoic poor and harassed by the politicians and the system.

Why West Virginia? Jay has answered that question so many times that the words sound memorized: "I decided I knew a lot about Asia but not enough about America. I made a conscious decision to go into the poverty program to get the broadest possible view of the country. . . . Emmons made everything fall into place for me. I came to love these people and realize I really could make a difference in people's lives. What could I do as a China expert? I couldn't even go there."

The story of the coming of the young Rockefeller really began a lot more casually. In the early sixties Jay was back from Japan and some Far Eastern studies at Yale—he is fluent in Japanese and speaks some Chinese—and went to Washington with a vision of himself as the first U.S. Ambassador to Communist China.

"Japan was the chance to have an extraordinary experience, regardless of who I was," said Jay who lived anonymously as just another American student boarding with a Tokyo family. "I had a great sense of really plugging into the world in a way that I hadn't before, of finding a reason to become committed—and then thinking maybe I could really do something."

Instead, he found himself a decorative assistant to Peace Corps Director R. Sargent Shriver and, later, in the State Department's Far Eastern section. Nobody expected him to do much and apparently he didn't. He is best remembered as one of the most eligible, energetic and successful bachelors in recent Potomac history.

Things were really tough in those days for the would-be ambassador. "It was unbelievable to a normal human being," remembered one friend. "In the State Department, girls would position themselves in doorways and try to bump into him as he walked down the halls." One girl who showed him through a townhouse he thought of renting in Georgetown remembers that he was disappointed because the swimming pool was smaller than Sargent Shriver's and the cook didn't make soufflés to order.

"He was a charming guy, not quite full-grown," said Charles Peters, who worked with Jay in the Peace Corps and is now editor of The Washington Monthly, the respected little muckraking journal that Jay helped finance. "He didn't work very hard, but at least he didn't try to hustle you—hell, he doesn't have to hustle you."

(Peters now thinks Jay is full-grown and that Emmons is what matured him; another friend credits Rockefeller with "the special maturity that comes to men who are always being asked for money." Jay himself, a really knowledgeable baseball fan—"Name me the four pitchers who started for the Giants in the '54 Series"—jokes that he's convinced he reached maturity this summer when he stopped reading every line of every major league boxscore.)

Peters and Rockefeller were and are close friends—"Charley is a great guy," Jay says. "He's too damn proud to take a job with me; maybe that's why he's a great guy"—and Peters happens to be from Charleston and is a former member of the House of Delegates. So, when Jay was restless in Washington and talking about learning something about America, Charley began talking to him about going "down home."

After making a comparative list of what he could learn in Appalachia or working with migrant-farm workers in California, Rockefeller went to Emmons as a $6,400-a-year community organizer—like other young Northerners, he was there to convince people that they did not have to live without plumbing in the United States. "I intended to give it a year," he says now. "I gave it two years and I didn't accomplish very much. I probably helped 25 individuals and I finally decided that politics was the only way to accomplish anything in West Virginia."

"I can't see where we're any better off. Emmons is the same today as before he came. Things are dragging—the things he started—the Little League, the park, the Boy Scouts, the community center."—James Angel, a retired miner.

"It's this simple. If Mr. Rockefeller didn't come to Emmons, I'd never have gone to college. I was going to drop out before he encouraged me to finish high school and go on. I'll always be grateful to him."—Rober Gillespie, 20.

With a $5-pair of cufflinks as his going-away gift from the people of Emmons, Jay went on to the House of Delegates, winning by a record margin in November, 1966.

Rockefeller was no roaring success as a delegate—his election-reform bills were bottled up in committee by the gentlemen he helped retire this year—but he was only waiting to run for Secretary of State and in 1968 won by 332,835 votes to 214,559 while Congressman Arch Moore, the second Republican elected Governor since 1932, was sweeping into office in the wake of a series of particularly outrageous Democratic scandals.

"State Roll of Dishonor" headlined The Charleston Gazette in 1968, when Governor William Wallace Barron and 20 of his top appointees were indicted for everything from income-tax evasion and falsifying records to hide Florida weekends with secretaries to buying and privately re-selling $300,000 worth of Federal equipment, including a fire truck, two U.S. Navy assault boats and 1,000 pair of binoculars.

Corruption is a way of life in West Virginia—in a poor state or country, men go into politics because it's one of the few ways to make money—and Rockefeller's future prospects have not been hurt by the indictment of Governor Moore's new purchasing director, who was allegedly getting a kickback on the detergent he bought to clean up the statehouse. (Moore is limited to one term unless voters in November amend the state constitution, but the two-term amendment has been rejected four times in the past.)

"The problems of being governor sometimes seem overwhelming—nothing goes your way in Appalachia," Rockefeller said as polite groups of schoolchildren filed past the airy Japanese prints and dark oil paintings of West Virginia in his office before moving across the hall to Governor Moore's offices. "Running for the Senate in '72 would be so damn easy, I guess I'm tempted. But in the end, I'll be across the hall, that's the real job."

It's a real job, all right—some governor someday is going to have to do something about schools that close down when the rains come and about the smoky politics that has prevented equitable taxation of both property and the state's natural resources, the coal and natural gas under the wild and beautiful patchwork of hills and hollows.

Taxes are any governor's biggest worry, but the governor who changes West Virginia will be the one who imposes a modern and stable state-tax structure—the state now sets one-year business taxes at every session of the Legislature, which is one reason new industry is reluctant to move into the state—a tax structure that will give the state a fair share of the coal and gas revenues and some kind of reasonable property-tax revenues.

Jay Rockefeller is the first to admit that there is something very wrong with the fact that he pays only $900 a year taxes on his little estate in Charleston and another $1,000 on the 3,000 acres in lovely Pocahontas County, where he plans to build a vacation home.

Will Rockefeller be that Governor? His friend Edward N. Chilton, the feisty liberal publisher of The Gazette, thinks so. "Jay's not afraid of an idea, and most of our Governors have been terrified of them," he said. "They've all had too many old friends, old ties, old connections. Jay's free of all that."

Dr. I. E. Buff, the gruff cardiologist who led the crusade to force a reluctant Legislature to authorize workmen's compensation payments to miners disabled with Black Lung (pneumonociosis), disagrees with Chilton. "Mr. Rockefeller's going to be our next Governor," he said, his slightly bitter tone always asking where Rockefeller was when he was leading a charge of angry miners up the statehouse steps. "There's not a politician in the state who doesn't say 'Allah! Allah!' to Mr. Rockefeller and his money. But I'm not a politician and I don't believe that he would be any different than the other Governors we've had—just like West Virginia, they've been owned body and soul by the coal companies."

Both men have a point. Jay is obviously different and money has made him free—he never sat at the traditional all-night poker games in Room 1022 of the Daniel Boone Hotel while United Mine Workers lobbyists in pajamas passed good Bourbon to legislators and let them know the union really didn't care about Black Lung. But Rockefeller is also a cautious and introspective young man. He was late and rather aloof on Black Lung and will be late on other issues because, in his own words, "There's a great deal for me to learn. I stand back a lot just to look and think."

"Caution" is a word Jay's friends often use in talking about him. He does stand back, telling his staff to bring him stacks of everything in print on the issue at hand and asking everybody in sight the same question: "What do you think I should do?" Sometimes what he does is surprising: He was the only state official to say that striking state road commission workers should have the right to join unions—but he said that after spending days seeking out the opinions of New York mediator Theodore W. Kheel and other labor experts.

Sometimes he does what you'd expect a politician to do. When Virgil Matthews, a Negro city councilman in Charleston came in to ask for Rockefeller's endorsement for the House of Delegates—"When you said in that speech that there were no black faces in the Legislature, I thought you were looking right at me"—Jay said no. Why? "It's funny," he answered, "Virgil and I have fought a lot of battles together and usually lost. The other guy and I have never been together, but I don't think Virgil can beat him and this is a year to win."

There's enough pragmatism and ambition there. He asked schoolchildren touring his office if they knew who succeeded the Governor if he died in office. "You?" asked one kid. "No such luck," Jay answered and laughed.

It is extremely difficult for anyone to make an assessment of Jay Rockefeller the man yet: he hasn't done that much. He's obviously bright and sincere. "My God, he's sincere," is the line you hear most often in audiences like the one in Williamston that listened to him say: "Too often the Legislature runs like a club. Good fellows all—the delegates and Senators from districts where there is no election fraud seem to find it difficult to believe that such skullduggery goes on elsewhere. . . . Democrats must be willing to work for reform . . . if they don't, they aren't friends of mine."

Just as obviously, he has the celebrity charisma which works these days. Campaigning together, Jay and Sharon are hard to miss—he towers a half-foot above any crowd and, even if her Charleston-bought skirts are a discreet couple of inches above the knee, she's one of the few women around town wearing Granny glasses—and few West Virginians miss the chance to say things like: "Hi Sharon, I'm Mrs. Thompson. I met Jay a few weeks ago in Huntington."

If Rockefeller has unusual qualities for a politician, they are qualities which are usually eroded in older men who reach his plateau in life; he is still growing, he's introspective, he's open.

Jay Rockefeller is the most open and introspective politician I've ever met—qualities which are easier for a 33-year-old man with an assured future to hold than for a 50-year-old fighting to survive in a very rough business. It's hard to imagine other politicians handling the question, "What do you think of Ted Kennedy?", in quite the way Jay did: He grimaced and pointed his thumbs down. He is also open about his candidacy for governor and about the fact that he likes John Lindsay better than Nelson Rockefeller, although after he tells you why, he quickly adds: "Please don't use that, I need some protection."

"Am I using West Virginia? Am I using these people?" is one of his favorite personal questions. The answer is always that only time will tell.

Why did a Rockefeller become a Democrat? A memorized answer: "It really wasn't much of a change. I had registered as a Republican in New York, because my uncle was running for President in 1960 as a Republican and I wanted to support him. But I always inclined in the Democratic direction. The Democrats, to me, have always been readier to show an instinct of adventure, a visceral reaction to try to do something about the guy who was down and out. Their way isn't always the most efficient or practical, but at least they're trying."

Even after they've stopped reading every boxscore, 33-year-old baseball fans are still growing up. Even if they've outgrown their office—and Jay outgrew it before he took over. Half of his staff is paid out of his own pocket and works in a big old brick house a block from the statehouse under the direction of Donovan McClure, former public affairs director of the Peace Corps. (McClure has spent the past couple of months on loan to Sargent Shriver and the Democratic New Congressional Leadership group, traveling the country and making the kind of contacts that will help either a Shriver or Rockefeller Presidential drive.)

Like other members of the young staff, McClure is a native West Virginian who came back home from Washington because he thought Jay had finally made the state big time. "There's no secret about why I'm here," McClure said. "Jay can go all the way."

All the way in politics means the White House. It would mean one or two terms as Governor, depending on the voters' decision on the two-term amendment in November. Rockefeller is a strong supporter of the amendment for a couple of simple reasons: He doesn't want to take office as a "lame-duck" Governor with another "Governor-in-training" in the wings, and he thinks it will take eight years of full power to make a visible dent in the state's problems.

A cautious man in a family noted for longevity, Rockefeller has made no hasty moves. "If something was offered to me in 1972 or 1976, I'd turn it down," he said. And he has turned things down—dozens of requests to appear around the country at Democratic fund-raising dinners, the invitation from Hubert H. Humphrey to give his nominating speech at the 1968 Democratic National Convention, and even the invitations from three of the best political forums in the country, the Johnny Carson, Merv Griffin and Dick Cavett shows.

His staff does do cursory research on national issues—they clip The New Republic and things like that—but their boss will only make a handful of out-of-state political appearances this season for good friends like Adlai Stevenson III, who is running for the U.S. Senate in Illinois.

He says all the right things for a liberal Democrat in those speeches, and despite that smoothly sincere and salable style, it still reads a little too tritely for the big time:

"We are a little worried about our son Jamie. He may be a Republican. He makes an awful lot of noise, but he never says anything.

"My point is that a national administration, the Presidency and Vice Presidency, the highest offices in our land, have a duty, a responsibility to inspire the best that is in us, to encourage compassion and generosity in us.

"We need to renew faith with the disadvantaged, the poor, the young, the dissidents, the minorities. If their government does not speak for them, who will?"

His light speaking schedule doesn't mean

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that Jay doesn't occasionally get out of the mountain State. He is a Rockefeller—even if he does like to say that he deosn't have as much money as people think, he does have enough to do whatever he wants, whenever he wants. And that's all you need. You can have a chartered jet waiting at Kanawha County Airport to take you to Maine for a weekend or Sharon to New York for a little shopping.

The Rockefeller name is also thrown at him: When he campaigns, he sometimes sees "Remember Ludlow" stickers—a reminder that his grandfather was blamed for the military action that led to the killing of dozens of miners, women and children during a strike at Ludlow, Colo., in 1914. Dr. Buff, the Black Lung crusader, also harasses Jay with charges that he owns the state's largest coal producer, Consolidated Coal Corporation; Jay answers that the Rockefeller Foundation does own Consolidated stock but that the family has not controlled the foundation since 1913.

As a younger and stiffer man, Jay was described by a friend as "the most Rockefeller of the Rockefellers," and he says now: "I'm terribly proud of that name—the family has tended to produce, Rockefellers are expected to produce." Jay, in fact chose to be John D. IV on his 21st birthday—an option now open to his son, Jamie—by writing to his father asking for permission to use the middle name "Davison."

"So one day I started using it," he says now. "I had a funny feeling when I wrote it out the first time. . . . The name was important to me because it would keep my standards high, it would make me always aware of service and commitment. Then, it was a matter of finding what level and what way."

Interestingly, when he is asked to relate to his family, he does not talk of Uncle Nelson, a man who might have become President, or Uncle David ("He may be the most powerful man in the country"), but of Uncle Winthrop, the easy-going, hard-drinking Rockefeller who escaped the family a little by going to Arkansas. Just outside the bloodline, he has even warmer words for his father-in-law, the Republican Senator from Illinois: "He's a very close friend, a very important adviser."

Senator Percy's advice comes in a nonstop flow of telephone calls and notes, with the notes usually attached to excerpts from the Congressional Record or magazines ("Take a look at this, Jay—Chuck"). Jay's reading these days is restricted pretty much to official papers, reports and magazines and the daily New York Times and Washington Post. The books he takes time with are what might be expected for a politician aiming at a young and liberal constituency: James Kunen's "The Strawberry Statement" and Samuel Lubell's "The Hidden Crisis in American Politics."

Those initials—J.D.R.—are devastating. At his own staff meetings, Jay has taken to slumping into a small corner chair because he believes his own people are a little afraid of him sitting at the head of the table in a leather throne. And local politicians, he knows, are terrified. He laughs easily when he talks about it. "They all have visions of barrels of money coming down from New York—that isn't going to happen, but as long as they think that, I guess, they'll be afraid of me.

"I know that if my name were John D. Smith IV, I wouldn't have been elected to anything. I'm a terribly lucky man. One magazine called me "The man who has everything.' That's true I guess. . . . But I fade in and out—sometimes I'm part of all that, sometimes there's just me leading a life like anyone else."

But John D. Rockefeller IV will never be just anyone else. He was in New York's Columbia Presbyterian Medical Center for back surgery last month—he had a painful slipped disk—and he answered one of the first telephone calls after the operation with: "Yes father, I know John Kennedy wrote 'Profiles in Courage' while he was recovering from a back operation, but right now I'm going to watch the Mets and Cincinnati on TV."

He's a patient young man: "One of the worst things to come out of the Kennedy years is the feeling that if you're not President or Vice President by 35 you haven't made it."

Of course, Jay won't be 35 until 1972. And in 1976, he'll be only 39. In 1980 * * *.

REPORT FROM WASHINGTON

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, in a few days I will be mailing to my constituents my sixth report of this Congress. In this newsletter I discuss some of my major congressional effort during the past 20 months and my concern over the state of the economy and the President's failure to respond effectively to this major domestic problem. In my introductory remarks I also have reported briefly on the legislative status of some of the bills for which I am the originating sponsor.

I would like to insert for printing in the RECORD at this time, the complete text of my newsletter. It follows:

CONGRESSMAN EDWARD I. KOCH REPORTS FROM WASHINGTON

Dear Constituent and Fellow New Yorker, near the end of a two year term which has gone very quickly I would like to share with you some of my reflections.

For me, it has been a most exciting and challenging experience. Before coming to Washington I was told that a freshman Congressman was expected to be seen but not heard. But a number of us did not accept this.

Again and again on the Floor of the House I have spoken out and voted against the further prosecution of the Vietnam War. No matter what the White House says, we are still at war in Vietnam. Men are still dying and billions are still being spent. I will continue to speak out and vote for the passage of those amendments which will cut off all further military funds for Southeast Asia except for the purposes of withdrawing all our troops safely, obtaining the return of American prisoners of war, and granting asylum for Vietnamese who may feel threatened by our total withdrawal.

I have been the originating sponsor of some 34 bills in the House of Representatives, which has seen approximately 19,000 bills introduced. I should point out that only 15% of all bills introduced are the subject of committee hearings and so I have been fortunate that so far almost 30% of my bills have had hearings. These bills include:

(1) the establishment of a Presidential Commission on Marihuana;

(2) the establishment of an Urban Mass Transportation Trust Fund;

(3) the granting of temporary federal subsidies for local police salaries;

(4) the sale or lease of air rights above federally owned property for the construction of low and moderate income housing;

(5) the banning of lead in gasoline;

(6) the reduction of tax rates for single taxpayers;

(7) the levy of a minimum tax on wealthy individuals having substantial tax exempt income;

(8) the provision for relocation assistance to persons forced to move from federally owned property on or after January 1, 1969; and

(9) the recognition of selective conscientious objector status in the Selective Service law.

Only 1 of every 50 bills introduced in the House is finally passed. I am happy to report that my bill to establish a Commission on Marihuana was passed by the House on September 24.

I am especially pleased because of the 43 first-term Congressmen in the 91st Congress, only 10 to date have had a public bill passed of which they were the originating sponsor.

I feel very close to the district because of the letters I receive and my meetings with constituents every Friday morning at the subway and bus stops. The exchange of correspondence and the sidewalk meetings have reinforced my own feeling that while a Congressman has the obligation to deal with national and international problems, he must never forget that the quality of urban living is most affected by dealing with the problems that the individual confronts in his own neighborhood. Therefore staff members in my New York district office have made a special effort to respond to all of the thousands of constituent inquiries and requests directed to me; and I have devoted a major portion of my time, consistent with my duties in Washington, in working with the community planning boards and the many organizations in our district devoted to improving the conditions in our neighborhoods.

I want to thank all of you for having given me the opportunity to serve. I hope that I have served you well.

THE ECONOMY

It has been characteristic of President Nixon to try and view the state of our economy as essentially a political problem. He is not the first to try. Until 1968, President Johnson tried to wage an unpopular war without raising taxes to pay for it. What resulted was a war inflation that belied the notion that we could have both guns and butter indefinitely.

President Nixon inherited both the war and the resulting inflation. Instead of ending the war as a necessary first step to curbing inflation, he opted for more guns but no butter and proceeded to cut back on spending for education, health and housing.

I have opposed these cutbacks as false economy measures. And, I have waged the fight against inflationary spending by seeking to cut the fat out of our military budget, highway construction and farm subsidy programs—all supported by the President whose spending priorities enrich special interest groups at the expense of our pressing urban needs.

In trying to deal with the problem of inflation, the President has continued to rely on partisan politics instead of Executive leadersip. And this has caused unnecessary economic hardship. The cost of living has risen faster than at any time in the last 20 years and the number of unemployed workers has nearly doubled.

While interest rates soared to their highest levels in over 100 years, President Nixon did nothing. Consequently, the housing crisis has been greatly aggravated and state and local governments, already strapped for funds, have been unable to borrow or have had to pass on to taxpayers the cost of high interest rates. Last December I voted to give the President authority to place limits on interest rates. But still he has done nothing.

While the President refused to call upon business and labor to exercise restraint in price and wage decisions, prices and wages increased without any corresponding increase in productivity. Last spring I voted to give the President authority to establish selective wage and price increase controls. He continues to watch from the sidelines.

The war continues and the economy remains in trouble. In my view things will not get much better until the President stops playing politics and starts solving problems.

MASS TRANSPORTATION

During the past two years I have devoted a considerable portion of my time working on the problems of mass transit since they seriously affect New York City.

On September 29th the House approved a 5 year $3.1 billion urban mass transportation bill which was a compromise between the existing mass transit program and the Mass Transportation Trust Fund legislation I have sponsored. While the House passed bill is not all I had hoped for, it does increase federal spending and provides an important first step in securing long term funding for mass transit.

My trust fund bill, providing for a $10 billion federal commitment in public transportation capital projects during the next four years, gained the sponsorship of 107 House Members. Because of strong Congressional support for the bill and because we were able to get mayors from the larger cities to come and testify before the House Banking and Currency Committee stating their preference for a trust fund, the Committee unanimously approved a $5 billion program which was almost $2 billion more than what the President had recommended. Unfortunately, on September 29 because of pressure from the Administration, the Committee's funding increase was opposed on the Floor of the House and an amendment to cut the bill back to the President's $3.1 billion recommendation was approved by a vote of 200 to 145. I, of course, voted against the cut.

The Congress also has been considering legislation this year to extend the Highway Trust Fund which already has spent over $50 billion in federal funds. In opposing the Highway Trust Fund extension, I have proposed that it be replaced by a Single Transportation Trust Fund uniting the administration of the highway, mass transit, and airport programs. On July 7th, I introduced a bill to do this. The Single Transportation Trust Fund is a relatively new concept, but it offers the most logical administrative means for obtaining a balanced and coordinated transportation system; my bill already has 48 House co-sponsors.

THOSE OF US IN THE MIDDLE

(Yet another Presidential Commission has recently reported that we face a crisis of violence. I made a statement last June on the Floor of the House that best summarizes my position.)

From the CONGRESSIONAL RECORD, vol. 116, Washington, Wednesday, June 10, 1970, No. 95, "Those of Us in the Middle."

Mr. KOCH. Mr. Speaker, last night a bomb exploded at police headquarters in New York City. At least four persons were reported to have been injured. Fortunately, no one was killed. The aimless, senseless violence rocking and shocking our country must not be tolerated.

Those who say they are opposed to the inequities in our society and then seek to right them by the use of violence in fact wrong every one of us. Hurling epithets at policemen and firemen and degrading them by calling them pigs is part of the dehumanizing process that gives the bombthrower his criminal license to kill. No one can question that wrongs have been committed upon fellow citizens by individual policemen and in such cases those guilty of violating the law must be held accountable for their acts even where they wear an official uniform. Similarly citizens who burn, snipe, and exhort others to violence on the campuses or in the streets must be held accountable and punished.

We who believe in the democratic process, who believe it is that process which permits us to reform our society and remove the many inequities that exist, cannot—indeed must not—stand silently by while the militants on the left and the right seek to destroy this country.

Violence in this country no matter how described and in support of whatever goal must never be condoned. Those of us in the middle have a duty to speak out, express our condemnation, and act accordingly.

MARIHUANA

In April 1969 when I first introduced my bill to establish a National Commission on Marihuana, only nine Congressmen would join me in cosponsoring it. Last month, my proposal was included in the comprehensive drug bill passed by the House on September 24; it has subsequently been approved by the Senate.

In the spring of 1969, any legislation dealing with the subject of marihuana was viewed as "political poison" and I know that many of my colleagues thought I was politically naive not to stay away from it. But, it has become clear to everyone that the conflict between the increasing, widespread use of marihuana and the severe criminal penalties for possession must be resolved. When the bill was approved by the Interstate and Foreign Commerce Committee on September 10 it had bipartisan support with 98 House Members cosponsoring it.

The Commission will conduct a comprehensive 1-year study of the legal, social, and medical factors related to marihuana smoking and report to the President and Congress with recommendations for legislative and administrative action.

I am pleased that support for this Commission study has come from those who believe that marihuana is harmful and those who believe it is not. It is clear that everyone agrees we ought to have the facts.

POLICE PROTECTION OF CONSULATES

In the last 20 months I have held five town hall meetings throughout the district on crime, bringing constituents and their precinct police together to discuss neighborhood conditions and complaints.

One major complaint from both the constituents and police in the 19th precinct on the upper East Side has been the diversion of police manpower to guard the foreign diplomatic missions and consulates.

Last month I introduced H.R. 19099 which would relieve our local police from having to guard the consulates. Instead the Federal Executive Protection Service would assume this responsibility. The Service was established in March of this year as an arm of the White House Secret Service to give protection to foreign diplomatic missions in Washington, D.C. It has relieved the Washington police of embassy protection duties and the same thing should happen in New York City.

It costs New York City taxpayers an estimated $1.6 million a year to pay for the salaries of the 150 New York police officers guarding the missions. Under my bill, this expense would be rightfully assumed by the Federal Government.

QUESTIONNAIRE RESULTS

Over 20,000 persons have responded to my September questionnaire on the subject of pollution. I am grateful that so many of you took the time to answer the questions and in many cases include additional comments that are both helpful and interesting.

The following are the results of the tabulation in percentages:

[In percent]

	Her		His	
	Yes	No	Yes	No
1. Would you favor banning all vehicles (except taxis, buses, police, fire, sanitation, commercial vehicles, etc.) on a trial basis in the 17th C.D.?	74	26	69	31
2. Would you favor prohibiting all street parking Monday through Friday from 8 to 6 p.m. (except taxis, buses, police, fire, sanitation, commercial vehicles, etc.) on a trial basis in the 17th C.D.?	77	23	74	26
3. Based on your current information about Con Ed's applications to enlarge their electric generating plant in Astoria (involving the issues of adequate power and clean air) do you favor the approval of such applications?	45	55	50	50
4. Would you favor outlawing the internal combustion engine by 1975 if Detroit cannot make it nonpolluting even if alternative modes of propulsion (steam or battery driven cars) prove to be more costly and less efficient?	80	20	71	29
5. Do you favor banning the use of nonreturnable bottles and cans for beer and soft drinks?	88	12	79	21

PRIVATE AFTER-HOUR CLUBS

The operation of so-called private after-hour clubs in residential areas has created a terrible nuisance for Greenwich Village residents. I have met with Deputy Mayor Aurelio and Attorney General Lefkowitz who agreed to support local or state legislation which will license and regulate the clubs. In the meantime, they promised to use existing law to crack down on these establishments which are not only the source of local disturbances but sometimes the scene of drug traffic.

CARNEGIE HILL

I am pleased to note that I was able to help a group of active citizens of the Carnegie Hill area in the struggle to change the zoning of their neighborhood. Luxury high rise zoning was eliminated on the side streets in this area. This will protect some of our best housing from the threat of demolition and residents in the area from the threat of eviction.

Your comments on this newsletter and any proposals you might have on any subject are of interest to me. Please write to me c/o House of Representatives, Washington, D.C. 20515.

If you need assistance, call my New York City office at 264–1066 between 9:00 a.m. and 5:00 p.m. on weekdays.

The captions for my pictures read as follows:

On July 31st the methadone withdrawal program was initiated at the Tombs for incarcerated drug addicts. Speaking to one of the prisoners with me are Mayor John V. Lindsay, City Corrections Commissioner George F. McGrath, and the Tombs' attending physician.

When I first visited the Tombs on January 30th, the prisoners told me that while methadone was being given to drug addicts at Rikers Island to ease the pains of withdrawal, the prisoners at the Tombs were simply left to go through "cold turkey."

With the help of Commissioner McGrath, we were able to secure permission from the state for the dispensation of methadone at the Tombs; the prison now has a 15 bed clinic for this purpose.

At a community meeting held on September 23 in the District I restated my long standing opposition to the Con Edison expansion of its Astoria plant. I also reported about my efforts to get the Army Corps of Engineers to hold a public hearing in New York City before granting any permit to Con Edison needed for the expansion. I believe that Con Ed has chosen to expand Astoria because it is the cheapest way for them to meet long range power demands. However, the human price to be paid for such long term pollution is unacceptable. To meet the short term problem of maintaining adequate power reserves, I think Con Ed and the consumer public must bear the expense of maintaining older generating plants, the purchase of more gas turbines and the higher cost of buying power from other utilities.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. The United States leads the world in the production of cotton yarn. The 1968 production was 1,866,100 short tons, compared to 1,566,300 short tons for the Soviet Union.

PERSONAL STATEMENT

(Mr. FOUNTAIN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. FOUNTAIN. Mr. Speaker, on September 9 and 10, 1970, I was on official leave of absence in the Middle East, participating in a special study mission of the House Foreign Affairs Near East Subcommittee.

If I had been present during that time, I would have voted as follows on the record votes taken:

On September 9, 1970: Rollcall No. 287 on the passage of H.R. 17809, "yea." Rollcall No. 288 on the passage of H.R. 16542, "yea."

On September 10, 1970: Rollcall No. 290 on the passage of H.R. 17795, "nay." Rollcall No. 291 on the passage of H.R. 11913, "yea." Rollcall No. 293 on the motion to recommit H.R. 9306 to the Committee on Interior and Insular Affairs, "nay."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. TALCOTT (at the request of Mr. GERALD R. FORD), for October 8 through October 14, on account of official business.

Mr. HELSTOSKI (at the request of Mr. BOGGS), for today, on account of official business.

Mr. HUNGATE, for Thursday, October 8, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. FISH) and to revise and extend her remarks and include extraneous matter:)

Mrs. HECKLER of Massachusetts, for 5 minutes, today.

(The following Members (at the request of Mr. MANN) and to revise and extend their remarks and include extraneous matter:)

Mr. RARICK, for 10 minutes today.
Mr. FLOOD, for 15 minutes, today.
Mr. FARBSTEIN, for 20 minutes, today.
Mr. CONYERS, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. GREEN of Oregon and to include extraneous matter in five instances.

(The following Members (at the request of Mr. FISH) and to include extraneous matter:)

Mr. GUDE.
Mr. SCHADEBERG.
Mr. HALL.
Mr. WYMAN in two instances.
Mr. DEVINE.
Mr. HORTON in two instances.
Mr. DON H. CLAUSEN in two instances.
Mr. THOMPSON of Georgia.
Mr. MINSHALL.
Mrs. HECKLER of Massachusetts.
Mr. SCHMITZ in two instances.
Mr. WIGGINS.
Mr. SCHWENGEL.
Mr. BYRNES of Wisconsin.
Mr. DICKINSON in four instances.
Mr. CRAMER.
Mr. CONTE.
Mr. ROTH in five instances.
Mr. KEITH in two instances.
Mr. NELSEN.
Mr. BUSH.
Mr. LANDGREBE.
Mr. MIZELL in three instances.

(The following Members (at the request of Mr. MANN) and to include extraneous matter:)

Mr. DADDARIO in five instances.
Mr. ABBITT in two instances.
Mr. RODINO.
Mr. CELLER.
Mr. BINGHAM in two instances.
Mr. FOLEY.
Mr. CASEY.
Mr. LOWENSTEIN in five instances .
Mr. MURPHY of Illinois.
Mr. CAREY.
Mr. CULVER in two instances.
Mr. ROE.
Mrs. GRIFFITHS in two instances.
Mr. FARBSTEIN in five instances.
Mr. NIX.
Mr. ASHLEY in four instances.
Mr. BYRNE of Pennsylvania.
Mr. HOLIFIELD.
Mr. LEGGETT.
Mr. YATRON.
Mr. MILLER of California in three instances.

ENROLLED BILL SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2043. An act for the relief of Keum Ja Franks.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 378. An act for the relief of Peter Rudolf Gross;

S. 583. An act to provide for the flying of the American flag over the remains of the U.S.S. *Utah* in honor of the heroic men who were entombed in her hull on December 7, 1941;

S. 732. An act for the relief of Mrs. Nimet Weiss;

S. 1123. An act for the relief of Ah Mee Locke;

S. 1628. An act granting the consent of Congress to the Western Interstate Nuclear Compact, and related purposes;

S. 2176. An act to implement the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, and for other purposes;

S. 2314. An act to amend section 4 of the Revised Organic Act of the Virgin Islands relating to voting age;

S. 2661. An act for the relief of Kathryn Talbot;

S. 3138. An act for the relief of Ruth E. Calvert;

S. 3154. An act to provide long-term financing for expanded urban mass transportation programs, and for other purposes;

S. 3167. An act for the relief of Kimoko Ann Duke;

S. 3212. An act for the relief of Curtis Nolan Reed;

S. 3263. An act for the Relief of Maria Pierotti Lenci;

S. 3265. An act for the relief of Mrs. Anita Ordillas;

S. 3600. An act for the relief of Kyung Ae Oh;

S. 3675. An act for the relief of Ming Chang;

S. 3813. An act for the relief of Kim Julia and Park Tong Op;

S. 3822. An act to provide insurance for member accounts in State and federally chartered credit unions and for other purposes;

S. 4073. An act for the relief of Hyun Joo Lee and Myung Joo Lee;

S. 4235. An act to continue the jurisdiction of the U.S. District Court for the District of Puerto Rico over certain cases pending in that court on June 2, 1970; and

S. 4247. An act to amend the Bankruptcy Act, sections 2, 14, 15, 17, 38, and 58, to permit the discharge of debts in a subsequent proceeding after denial of discharge for specified reasons in an earlier proceeding, to authorize courts of bankruptcy to determine the dischargeability or nondischargeability of provable debts, and to provide additional grounds for the revocation of discharges.

BILLS PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

XUM

H.R. 4599. An act to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments;

H.R. 12943. An act to amend section 3 of the act of November 2, 1966, to extend for 3 years the authority to make appropriations to carry out such act;

H.R. 17123. An act to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize real estate acquisition and construction at certain installations in connection with the Safeguard anti-ballistic missile system, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes; and

H.R. 18104. An act to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority.

ADJOURNMENT

Mr. MANN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 28 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, October 8, 1970, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2434. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of the Interior for "Education and welfare services," Bureau of Indian Affairs, for fiscal year 1971, has been apportioned on a basis which indicates a need for a supplemental estimate of appropriation, pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 665); to the Committee on Appropriations.

2435. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of the Interior for "Resources management," Bureau of Indian Affairs, for fiscal year 1971, has been apportioned on a basis which indicates a need for a supplemental estimate of appropriation, pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 665); to the Committee on Appropriations.

2436. A letter from the Secretary of the Army, transmitting the semiannual report of the Department of the Army on contracts for military construction awarded without formal advertisement, covering the period January 1 through June 30, 1970, pursuant to section 704 of Public Law 91-142; to the Committee on Armed Services.

2437. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to amend the Defense Production Act of 1950, as amended; to the Committee on Banking and Currency.

2438. A letter from the Assistant Secretary of Defense (Installation and Logistics), transmitting a report on Department of Defense procurement from small and other business firms for fiscal year 1970, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Banking and Currency.

2439. A letter from the Assistant Secretary of the Navy (Installations and Logistics), transmitting a supplementary report to the report of November 21, 1963, on the construction of a dam immediately below the confluence of De Luz Creek with the Santa Margarita River at Camp Pendleton, San Diego County, Calif., pursuant to 68 Stat. 575; to the Committee on Interior and Insular Affairs.

2440. A letter from the Deputy Assistant Secretary of the Interior, transmitting notification of the receipt of an application for a loan from the Tehachapi-Cummings County Water District, Tehachapi, Calif., pursuant to section 10 of the Small Reclamation Projects Act of 1956; to the Committee on Interior and Insular Affairs.

2441. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

2442. A letter from the Treasurer, American Historical Association, transmitting the annual audit of the Association for the year ended June 30, 1969, pursuant to Public Law 88-504; to the Committee on the Judiciary.

2443. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on exports of significant defense articles, for the period July through December, 1969, pursuant to Public Law 90-629; to the Committee on Foreign Affairs.

2444. A letter from the Director, U.S. Information Agency, transmitting the 33d semiannual report of the Agency, for the period ended December 31, 1969, pursuant to section 1008 of Public Law 402 (80th Congress); to the Committee on Foreign Affairs.

RECEIVED FROM THE COMPTROLLER GENERAL

2445. A letter from the Comptroller General of the United States, transmitting a report on the need to determine the most economical method for obtaining maintenance and repair of office machines, Veterans' Administration; to the Committee on Government Operations.

2446. A letter from the Comptroller General of the United States, transmitting a report that that special impact program in Los Angeles is not meeting its goal of providing jobs for the disadvantaged; to the Committee on Government Operations.

2447. A letter from the Comptroller General of the United States, transmitting a report on substantial cost savings from establishment of an alcoholism program for Federal civilian employees; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DENT: Committee on House Administration. House Concurrent Resolution 712. Concurrent resolution authorizing the printing of additional copies of the committee's annual report for the year 1969, House Report No. 91-983, 91st Congress, second session (Rept. No. 91-1572). Ordered to be printed.

Mr. DENT: Committee on House Administration. House Concurrent Resolution 732. Concurrent resolution providing for the printing as a House document of "The Pledge of Allegiance to the Flag" (Rept. No. 91-1573). Ordered to be printed.

Mr. DENT: Committee on House Administration. House Concurrent Resolution 740. Concurrent resolution authorizing the printing of additional copies of the hearings accompanying the Legislative Reorganization Act of 1970; with an amendment (Rept. No. 91-1574). Ordered to be printed.

Mr. DENT: Committee on House Administration. House Concurrent Resolution 748. Concurrent resolution authorizing the printing of additional copies of hearings entitled "Cuba and the Caribbean" for use of the Committee on Foreign Affairs, House of Representatives. (Rept. No. 91-1575). Ordered to be printed.

Mr. DENT: Committee on House Administration. House Concurrent Resolution 753. Concurrent resolution authorizing the printing of additional copies of publication entitled "Supplement to Cumulative Index to Publications of the Committee on Un-American Activities 1955 through 1968 (Eighty-fourth through Ninetieth Congresses)." (Rept. No. 91-1576). Ordered to be printed.

Mr. DENT: Committee on House Administration. Senate Concurrent Resolution 81. Concurrent resolution authorizing the printing of additional copies of Senate hearings on Copyright Law Revision (S. 597, 90th Cong.). (Rept. No. 91-1577). Ordered to be printed.

Mr. DENT: Committee on House Administration. House Concurrent Resolution 770. Concurrent resolution authorizing the printing of additional copies "Anatomy of a Revolutionary Movement: 'Students for a Democratic Society'", 91st Congress, second session (Rept. No. 91-1578). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 11833 (Rept. No. 91-1579). Ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 17849. A bill to provide financial assistance for and establishment of improved rail passenger service in the United States, to provide for the upgrading of rail roadbed and the modernization of rail passenger equipment, to encourage the development of new modes of high speed ground transportation, to authorize the prescribing of minimum standards for railroad passenger service, to amend section 13(a) of the Interstate Commerce Act, and for other purposes; with amendments (Rept. No. 91-1580). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARING:

H.R. 19611. A bill to amend the Indian Long-Term Lease Act; to the Committee on Interior and Insular Affairs.

By Mr. DENNEY:

H.R. 19612. A bill to amend the act of June 6, 1902, to remove the restriction on use with respect to certain lands and improvements heretofore conveyed to the city of Lincoln, Nebr., and for other purposes; to the Committee on Public Works.

By Mr. HECHLER of West Virginia:

H.R. 19613. A bill to amend title 38, United States Code, to authorize educational assistance to wives and children, and home loan benefits to wives, of members of the Armed Forces who are missing in action, captured by a hostile force, or interned by a foreign government or power; to the Committee on Veterans' Affairs.

H.R. 19614. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, in order to extend under certain circumstances the expiration date specified in a power of attorney executed by a member of the Armed Forces who is missing in action or held as a prisoner of war; to the Committee on Veterans' Affairs.

By Mr. MOSS (for himself, Mr. Holifield, Mr. Stuckey, Mr. Eckhardt, Mrs. Hansen of Washington, Mr. Miller of California, and Mr. Dingell):

H.R. 19615. A bill to provide for the protection of persons and property aboard U.S. air carrier aircraft, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROBISON:

H.R. 19616. A bill to amend the Public Health Service Act in order to provide for the establishment of a National Health Service Corps; to the Committee on Interstate and Foreign Commerce.

By Mr. ROYBAL:

H.R. 19617. A bill to provide for the establishment of not less than seven regional law enforcement academies, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHADEBERG:

H.R. 19618. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income to reflect costs incurred in connection with the adoption of a child by the taxpayer; to the Committee on Ways and Means.

H.R. 19619. A bill to amend section 4491(a) of the Internal Revenue Code of 1954 to provide that the tax on the use of civil aircraft shall not apply to the first 2,500 pounds of takeoff weight, and to provide that airline fares shall not be rounded up to the next higher dollar; to the Committee on Ways and Means.

By Mr. WATTS:

H.R. 19620. A bill relating to the recognition of gain in certain corporate liquidations; to the Committee on Ways and Means.

By Mr. WYLIE:

H.R. 19621. A bill to amend the Internal Revenue Code of 1954 to provide that the first $3,000 of an individual's civil service retirement annuity (or other Federal retirement annuity) shall be exempt from income tax; to the Committee on Ways and Means.

H.R. 19622. A bill to place economic sanctions on countries which harbor U.S. citizens who hijack American aircraft; to the Committee on Ways and Means.

By Mr. ASHLEY (for himself, Mr. Patman, Mr. Barrett, Mrs. Sullivan, Mr. Reuss, Mr. Moorhead, Mr. Stephens, Mr. St Germain, Mr. Gonzalez, Mr. Minish, Mr. Hanna, Mr. Gettys, Mr. Annunzio, Mr. Rees, Mr. Brasco, Mr. Harrington, Mr. Widnall, Mrs. Dwyer, Mr. Halpern, Mr. Mize, Mr. Williams, and Mr. Cowger):

H.R. 19623. A bill to amend title 13, United States Code, to provide for a mid-decade census of population in the year 1975 and every 10 years thereafter; to the Committee on Post Office and Civil Service.

By Mr. BIAGGI:

H.R. 19624. A bill to establish an Intergovernmental Commission on Long Island Sound; to the Committee on Interior and Insular Affairs.

By Mr. BLATNIK:

H.R. 19625. A bill; National Public Employee Relations Act; to the Committee on Education and Labor.

By Mr. CELLER:

H.R. 19626. A bill to clarify the status of funds of the Treasury deposited with the States under the act of June 23, 1836; to the Committee on Ways and Means.

By Mr. CHAMBERLAIN:

H.R. 19627. A bill to amend section 1372 of the Internal Revenue Code of 1954, relating to passive investment income; to the Committee on Ways and Means.

By Mr. DON H. CLAUSEN:

H.R. 19628. A bill to amend chapter 73 of title 10, United States Code, to establish a survivor benefit plan; to the Committee on Armed Services.

By Mr. DON H. CLAUSEN (for himself, Mr. Rivers, Mr. Devine, Mr. Cramer, Mr. Ichord, Mr. Latta, Mr. Davis of Georgia, Mr. Stafford, Mr. Burton of Utah, Mr. Lloyd, Mr. Davis of Wisconsin, Mr. Harsha, Mr. Quie, Mr. McClure, Mrs. May, Mr. Mizell, and Mr. Thompson of Georgia):

H.R. 19629. A bill to amend section 4491 of the Internal Revenue Code of 1954 to provide that the weight portion of the excise tax on the use of civil aircraft shall apply to piston-engined aircraft only if they have a maximum certificated takeoff weight of more than 6,000 pounds; to the Committee on Ways and Means.

By Mr. DON H. CLAUSEN (for himself, Mr. Watson, Mr. Kee, Mr. Mathias, Mr. Kyl, Mr. Sebelius, Mr. Mize, Mr. Winn, Mr. Shriver, Mr. Brown of Ohio, Mr. Miller of Ohio, Mr. Camp, Mr. Schadeberg, Mr. Myers, Mr. Hansen of Idaho, Mr. Wyatt, and Mrs. Heckler of Massachusetts):

H.R. 19630. A bill to amend section 4491 of the Internal Revenue Code of 1954 to provide that the weight portion of the excise tax on the use of civil aircraft shall apply to piston-engined aircraft only if they have a maximum certificated takeoff weight of more than 6,000 pounds; to the Committee on Ways and Means.

By Mr. HALL (for himself, Mr. Devine, Mr. Sikes, Mr. Wylie, Mr. Waggonner, Mr. Robison, Mr. Montgomery, Mr. Rhodes, Mr. Dorn, Mr. O'Konski, Mr. Lukens, Mr. Mize, Mr. Michel, Mr. Saylor, and Mr. Carter):

H.R. 19631. A bill to assure to all Americans adequate protection against the costs of health care, through Federal-State programs covering all costs incurred by those who are unable to provide such protection for themselves and a Federal program covering catastrophic costs incurred by those who are normally able to provide such protection; to the Committee on Ways and Means.

By Mr. HATHAWAY (for himself, Mr. Fraser, and Mrs. Mink):

H.R. 19632. A bill to prevent airline mergers from resulting in loss of local airline service to an area; to the Committee on Interstate and Foreign Commerce.

By Mr. HOSMER:

H.R. 19633. A bill to amend chapter 73 of title 10, United States Code, to establish a survivor benefit plan; to the Committee on Armed Services.

By Mr. HOWARD:

H.R. 19634. A bill to create the Office of Water Disposal Research and Development in the Department of the Interior; to the Committee on Public Works.

By Mr. KARTH (for himself, Mr. Fraser, Mr. Olsen, Mr. Mikva, Mr. Hathaway, Mr. Rosenthal, Mrs. Mink, Mr. Meeds, and Mr. Fulton of Tennessee):

H.R. 19635. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. KEITH:

H.R. 19636. A bill to create the Cape Cod National Marine Sanctuary; to the Committee on Merchant Marine and Fisheries.

By Mr. KOCH (for himself, Mr. Burke of Massachusetts, and Mr. Diggs):

H.R. 19637. A bill to establish a transportation trust fund, to encourage urban mass transportation, and for other purposes; to the Committee on Ways and Means.

By Mr. MacGREGOR:

H.R. 19638. A bill to discourage the production of one-way containers for carbonated and/or malt beverages so as to reduce litter, reduce the cost of solid waste management, and to conserve natural resources; to the Committee on Ways and Means.

By Mr. SYMINGTON:

H.R. 19639. A bill to amend the Intergovernmental Cooperation Act of 1968 to improve intergovernmental relationships between the United States and the States and municipalities, and the economy and efficiency of government, by providing Federal cooperation and assistance in the establishment and strengthening of State and local offices of consumer protection; to the Committee on Government Operations.

H.R. 19640. A bill to amend the Federal Trade Commission Act by providing for temporary injunctions or restraining orders for certain violations of that act; to the Committee on Interstate and Foreign Commerce.

H.R. 19641. A bill to amend the Federal Trade Commission Act to extend protection against fraudulent or deceptive practices, condemned by that act to consumers through civil actions, and to provide for class actions for acts in defraud of consumers; to the Committee on Interstate and Foreign Commerce.

By Mr. VIGORITO:

H.R. 19642. A bill to establish a Commission on Fuels and Energy to recommend programs and policies intended to insure that U.S. requirements for low-cost energy will be met, and to reconcile environmental quality requirements with future energy needs; to the Committee on Interstate and Foreign Commerce.

By Mr. HALL (for himself, Mr. Andrews of North Dakota, Mr. Duncan, Mr. Talcott, Mr. Williams, Mr. Camp, Mr. Cleveland, Mr. Conable, Mr. Watson, Mr. Davis of Georgia, Mr. Ruth, Mr. Harsha, Mr. Montgomery, Mr. Meskill, and Mr. Findley):

H.R. 19643. A bill to assure to all Americans adequate protection against the costs of health care, through Federal-State programs covering all costs incurred by those who are unable to provide such protection for themselves and a Federal program covering catastrophic costs incurred by those who are normally able to provide such protection; to the Committee on Ways and Means.

By Mr. BINGHAM:

H.J. Res. 1393. Joint resolution proposing an amendment to the Constitution of the United States relating to the date of assembly of Congress and the terms of Senators and Representatives; to the Committee on the Judiciary.

By Mr. KEITH (for himself, Mr. Boland, Mr. Burke of Massachusetts, Mr. Conte, Mr. Donohue, Mr. Harrington, Mrs. Heckler of Massachusetts, Mr. Macdonald of Massachusetts, Mr. Morse, Mr. O'Neill of Massachusetts, and Mr. Philbin):

H.J. Res. 1394. Joint resolution to authorize the President to designate the week of November 21–27, 1970, as "National Week of Thanksgiving and Rededication"; to the Committee on the Judiciary.

By Mr. McCLOSKEY:

H.J. Res. 1395. Joint resolution; designation of the third week of April of each year as "Earth Week"; to the Committee on the Judiciary.

By Mrs. MAY:

H.J. Res. 1396. Joint resolution to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1971; to the Committee on Agriculture.

By Mr. CORMAN:

H. Con. Res. 773. Concurrent resolution; Paris Peace Conference on Prisoners of War; to the Committee on Foreign Affairs.

By Mr. PEPPER (for himself, Mr. Annunzio, Mr. Eckhardt, Mr. Fraser, Mr. Gibbons, Mr. Leggett, Mr. Mil-

XUM

ler of California, Mr. Minshall, Mr. Moss, Mr. Pike, Mr. Rooney of Pennsylvania, Mr. Waldie, and Mr. Charles H. Wilson):

H. Res. 1243. Resolution on dismissal of professional air traffic controllers by the Federal Aviation Administration; to the Committee on Interstate and Foreign Commerce.

By Mr. JACOBS:

H. Res. 1244. Resolution relative to reducing the Federal administrative budget; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 19644. A bill for the relief of Giacomo and Salvatrice DiGrigoli and minor son Angelo; to the Committee on the Judiciary.

By Mr. BURTON of California:

H.R. 19645. A bill for the relief of Rosalina A. Prudencio; to the Committee on the Judiciary.

By Mr. CELLER:

H.R. 19646. A bill for the relief of Vincent D. O'Connor; to the Committee on the Judiciary.

By Mr. PODELL:

H.R. 19647. A bill for the relief of Mrs. Amanda De Los Dolores Castillo Malespin; to the Committee on the Judiciary.

By Mr. SATTERFIELD:

H.R. 19648. A bill for the relief of H. Dixon Smith; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

443. The SPEAKER presented a memorial of the Legislature of the State of California relative to attempting to obtain the release or better treatment of prisoners held by North Vietnam, which was referred to the Committee on Foreign Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

611. By the SPEAKER: Petition of the Congress of Micronesia, Saipan, Mariana Islands, Trust Territory of the Pacific Islands, inviting the U.S. Government to continue discussions with representatives of the Congress of Micronesia on the future political status of Micronesia; to the Committee on Interior and Insular Affairs.

612. Also, Petition of the Congress of Micronesia, Saipan, Mariana Islands, Trust Territory of the Pacific Islands, informing the United Nations of the present status of discussions between representatives of the Congress of Micronesia and representatives of the U.S. Government on the future political status of Micronesia; to the Committee on Interior and Insular Affairs.

613. Also, Petition of the Congress of Micronesia, Saipan, Mariana Islands, Trust Territory of the Pacific Islands, requesting that the United States and the United Nations take no action on any matters relating to the future political status of Micronesia without first obtaining the consent and approval of the Congress of Micronesia; to the Committee on Interior and Insular Affairs.

614. Also, Petition of the Congress of Micronesia, Saipan, Mariana Islands, Trust Territory of the Pacific Islands, expressing the sense of the Congress of Micronesia that the restoration and rehabilitation costs of Bikini Atoll should be borne jointly by the U.S. Department of Defense and the Atomic Energy Commission; to the Committee on Interior and Insular Affairs.

615. Also, Petition of the Senate of the Congress of Micronesia, Saipan, Mariana Islands, Trust Territory of the Pacific Islands, relative to passage of S. 3176, providing funds for the development of new seining methods for Pacific island tuna fisheries; to the Committee on Merchant Marine and Fisheries.

616. Also, Petition of the Congress of Micronesia, Saipan, Mariana Islands, Trust Territory of the Pacific Islands, urging the United States to remove the tariff on importation into the United States of marine products processed in the Trust Territory; to the Committee on Ways and Means.

SENATE—*Wednesday, October 7, 1970*

The Senate met at 10 a.m., and was called to order by Hon. Ernest F. Hollings, a Senator from the State of South Carolina.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, we bless and praise Thee that we have come to the light of another day. As we undertake our work help us to take pleasure in it. Show us clearly what our duty is and help us to be faithful in doing it. Grant us wisdom for the big and the difficult problems. Light up the small and irksome duties of the day. Help us to believe that glory may dwell in common tasks. Let all we do be well done, fit for Thine eyes to see. And if we cannot love our work, let us think of it as Thy task, and by our love of Thee, make unlovely things to shine with the beauty of Thy presence.

Bless all the peacemakers of the world that mankind may come at last to Thy kingdom of justice and truth.

Through Jesus Christ our Lord. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication from the President pro tempore of the Senate (Mr. Russell).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., October 7, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. Ernest F. Hollings, a Senator from the State of South Carolina, to perform the duties of the Chair during my absence.

Richard B. Russell,
President pro tempore.

Mr. HOLLINGS thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, October 6, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. JAVITS obtained the floor.

Mr. MANSFIELD. Mr. President, if the distinguished Senator from New York (Mr. Javits) will allow the leadership a few minutes at this time, without infringing on the time he is to speak, we would very much appreciate it.

Mr. JAVITS. I am happy to yield to the Senator from Montana for that purpose.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the following committees be authorized to meet during the session of the Senate today:

Subcommittee on Intergovernmental Relations of the Committee on Government Operations.

Subcommittee on Internal Security of the Committee on the Judiciary.

Committee on Foreign Relations.

Subcommittee on Employment, Manpower, and Poverty of the Committee on Labor and Public Welfare.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures on the Calendar to which there is no objection, beginning with Calendar No. 1275.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PUBLIC LAND OUTDOOR RECREATION ACT OF 1970

The bill (S. 3389) to provide for the protection, development, and enhancement of the public recreation values of the public lands was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Land Outdoor Recreation Act of 1970."

Sec. 2. (a) The Congress recognizes that the public lands administered by the Secretary of the Interior (hereinafter referred to as the Secretary), through the Bureau of Land Management are vital national assets that contain a wide variety of natural resource values, including outdoor recreation values, and that these resources should be developed and administered for multiple use and sustained yield of the several products and services obtainable therefrom for the maximum benefit of the general public. The public outdoor recreation values of these lands are demonstrated by the large number of our citizens using them for many

XUM

types of outdoor recreation, such as hunting, fishing, trapping, camping, hiking, picnicking, sightseeing, photography, rock and mineral collecting, off-road vehicle driving, horseback riding, and other recreational purposes.

(b) Congress finds that these values are threatened by lack of protection and development. It is the purpose of this Act to provide a basis for the protection, development, and enhancement of the outdoor recreation values of the public lands, within the basic framework of multiple-use management, consistent with the Act of May 28, 1963 (77 Stat. 49; 16 U.S.C. 460l—460l–3) and in conformity with the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 901; 16 U.S.C. 460l–4, 460l–11).

SEC. 3. As used in this Act, (a) "public lands" means all lands administered by the Secretary through the Bureau of Land Management.

(b) "Multiple use" means the management of the various surface and subsurface resources so that they are utilized in the combination that will best meet the present and future needs of the American people; the most judicious use of land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustment in use to conform to changing needs and conditions; the use of some land for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

(c) "Sustained yield of the several products and services" means the achievement and maintenance of a high-level annual or regular periodic output of the various renewable resources of land without impairment of the productivity of the land.

SEC. 4. (a) The Secretary is hereby authorized to acquire by purchase, exchange, or otherwise such lands or interests therein as he deems necessary to provide access by the general public to public lands administered by him for outdoor recreation purposes pursuant to this Act.

(b) Funds for this purpose shall be allocated in accordance with the provisions of section 6 of the Act of September 3, 1964 (78 Stat. 903), as amended (16 U.S.C. 460l–9).

(c) Notwithstanding any other provision of law, in exercising the exchange authority granted by subsection (a) of this section, the Secretary may accept title to any non-Federal property or interests therein and in exchange therefor he may convey to the grantor of such property or interest any public lands or interests therein under his jurisdiction and which he classifies as suitable for exchange or other disposal and which is located in the same State as the non-Federal property to be acquired. The values of the lands so exchanged either shall be approximately equal, or if they are not approximately equal, the value shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require. The proceeds received from any conveyance under this section shall be credited to the Land and Water Conservation Fund in the Treasury of the United States.

SEC. 5. Violations of the public land laws and regulations of the Secretary relating to protection of the public lands and the uses thereof shall be punishable by a fine of not more than $500 or imprisonment for not more than six months, or both. Any person charged with the violation of such laws and regulations may be tried and sentenced by any United States commissioner or magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 of title 18, United States Code (Supp. IV 1968).

SEC. 6. The Secretary may authorize such persons who are employed in the Bureau of Land Management as he may designate to make arrests for the violation of the laws and regulations referred to in section 5 of this Act. Upon sworn information by any competent person, any United States commissioner or magistrate in the proper jurisdiction shall issue warrant for the arrest of any person charged with the violation of said laws and regulations, but nothing herein shall be construed as preventing the arrest by any officer of the United States, without warrant, of any person taken in the act of violating said laws and regulations.

SEC. 7. The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this Act.

SEC. 8. The purposes of this Act are declared to be supplemental to the purposes for which any of the public lands have been designated, acquired, withdrawn, reserved, held, or administered, and consistent with the Taylor Grazing Act of June 28, 1934, as amended and supplemented (48 Stat. 1269; 43 U.S.C. 315–315r), the Classification and Multiple Use Act of September 19, 1964 (78 Stat. 986), as amended (43 U.S.C. 1411–18), and the Act of August 28, 1937, as amended (50 Stat. 874; 43 U.S.C. 1181a–f).

SEC. 9. There is hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this Act. Any funds so appropriated shall remain available until expended.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1256), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

This bill applies to the public lands under the administration of the Bureau of Land Management of the Department of the Interior. It contains a congressional recognition that the land constitutes a vital national asset, and a statement that it is the purpose of the act to provide, within the basic framework of the multiple-use concept, for its protection and development.

The bill would grant the Secretary of the Interior authority to acquire, by purchase, exchange, or otherwise such land and interest therein as he deems necessary to provide public access to public land. Acquisition funding is directed to be in accordance with the Land and Water Conservation Fund Act. The Secretary is also authorized to exchange land, subject to the land being located in the same State, and an equalization of values requirement.

Sanctions are provided for violations of the public land laws and regulations of the Secretary, who would be authorized to designate BLM personnel to make arrests for such violations. This places violations of Department regulations relating to the public land on the same basis as violations of regulations applicable to land administered by the Forest Service and the National Park Service.

BACKGROUND

The Bureau of Land Management has responsibility for 452 million acres of federally owned lands. Recent figures reveal that more than 30 million recreation visits a year are made to these public lands with a projected increase to 50 million visits by 1974. The lands range from the Arctic Ocean's edge to the border with Mexico, and contain about every imaginable type of climate, terrain and water. They are now being discovered for their full recreational potential, resulting in this explosive growth in use. The demand on these public lands will continue to grow as the Nation's population, affluence and mobility increase while the land base remains static.

Years of neglect have created many problems on the public lands administered by the Bureau of Land Management. Lack of regulations and enforcement authority have resulted in wanton vandalism and destruction of resources. Lack of sanitation facilities has created health hazards. Littering, overuse, and neglect have created unsightly blights on the landscape. Lack of public access has locked up millions of acres of public land for the private use of but a few, and many outstanding hunting, fishing, and other recreation opportunities are not available. As a result of the lack of enforcement authority and interpretive and restoration work, irreplaceable archeological values have been lost.

The committee feels that the great outdoor recreation potential of these forgotten lands should be made available for all American citizens, and that the natural, cultural, and historic qualities of the public lands must be protected and developed. It believes that regulations should be promulgated to encourage exploration and provide protection for archeological and other scientific discoveries, and for the control of billboards and other intrusions on the esthetic values of the lands. The committee believes that this great land resource needs a plan for development, a program for use, and a system of protection made operative within the multiple-use framework.

In its endorsement of S. 3389, the Department of the Interior says as follows: "The Department has taken a large variety of steps to upgrade the management of public outdoor recreation on the public land. It has realized that recreational use of public land has reached crisis proportions so far as integrity of natural resources and protection of other uses are concerned . . . The problems to which this bill is addressed are immediate and pressing. The Department is going forward with requests for appropriations to meet urgent needs. The authority which would be provided by the bill is needed to secure the fullest possible value out of the projected expenditures."

PUBLIC LAND LAW REVIEW COMMISSION RECOMMENDATIONS

This proposed legislation embodies some of the recommendations of the Public Land Law Review Commission in the report, "One Third of the Nation's Land" submitted in June of this year to the President and the Congress.

The report took cognizance of environmental needs in its recommendation 16: "Environmental quality should be recognized by law as an important objective of public land management, and public land policy should be designated to enhance and maintain a high quality environment both on and off the public lands."

In its recommendation 85, it said, "Congress should provide guidelines for developing and managing the public land resources for outdoor recreation."

It also said, in recommendation 86, that "Congress should authorize a program for acquiring and developing reasonable rights-of-way across private lands to provide a more extensive system of access for outdoor recreation and other uses of the public land."

In the summary of its chapter (4) on "Public Land Policy and the Environment," page 88, the Commission said:

"The sum total of the recommendations in this chapter is to make the public lands of the United States examples for the rest of the country in how to manage and use lands and resources with due regard for the environment. It is essential that this be done if we are to hope that citizens will engage in the practices that Government urges."

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COMMITTEE RECOMMENDATION

The Senate Committee on Interior and Insular Affairs recommends early and favorable action on S. 3389.

INCREASE IN PER DIEM ALLOWANCE AUTHORIZED FOR MEMBERS OF THE AMERICAN BATTLE MONUMENTS COMMISSION

The Senate proceeded to consider the bill (H.R. 18731) to increase from $20 to $40 per day the per diem allowance authorized in lieu of subsistence for members of the American Battle Monuments Commission when in a travel status which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 1, line 9, after the word "amended", strike out "by deleting therefrom '$20' and inserting in lieu thereof '$40'.", and insert to read as follows:

The members of the Commission shall serve as such without compensation, except that (1) their actual expenses in connection with the work of the Commission, (2) when in a travel status outside the continental United States, a per diem of $40 in lieu of subsistence, and (3) when in a travel status within the continental United States, a per diem at the same rate authorized to be paid under section 5703(c)(1) of title 5, United States Code, may be paid to them from any funds appropriated for the purposes of this Act, or acquired by other means hereinafter authorized.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An act to revise the per diem allowance authorized for members of the American Battle Monuments Commission when in a travel status."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1257), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF BILL

The purpose of H.R. 18731, as amended, is to place the members of the American Battle Monuments Commission on a basis of equality with other Government officials in similar status with respect to allowances for travel inside the continental United States, and to increase their allowances for foreign travel.

That is, the Commission members will be entitled to receive per diem in lieu of subsistence of $25 when in travel status in this country in connection with work of the Commission. For official travel overseas the per diem allowance for the Commission members will be $40 instead of the present $20 established in 1956 by an amendment to the basic Battle Monuments Commission Act (70 Stat. 640; found in 36 U.S.C. 121).

Members of the Commission are appointed by the President and serve without compensation.

THE COMMITTEE AMENDMENT

Under the bill as passed by the House, travel allowances for both foreign and domestic travel would be $40 per diem. The committee amendment limits the $40 rate to travel outside the continental United States, and provides the same rate for domestic travel as that established by section 5703(c)(1) of title 5, United States Code, for individuals serving without pay or at $1 a year. This amount is $25 a day.

The committee also changed the title of the bill to read: "An Act to revise the per diem allowance authorized for members of the American Battle Monuments Commission when in a travel status."

BACKGROUND

The American Battle Monuments Commission was established after World War I by the 67th Congress in 1923 to "prepare plans and estimates for the erection of suitable memorials to mark and commemorate the services of the American forces in Europe and erect memorials therein at such places as the Commission shall determine * * *" (42 Stat. 1509).

In 1946, the authority and field of operations of the Commission were extended to "such places outside the United States where the American Armed Forces have served since April 6, 1917, or shall thereafter serve as determined by the Commission." (60 Stat. 317). Also the Commission membership was increased from seven to 11, its present number.

The Commission advises that it has received $13,501 for per diem during the past 5 years at the overall $20 rate, an average expenditure annually of approximately $2,700. Therefore, the cost of H.R. 18731 would be small.

COMMITTEE RECOMMENDATION

In view of the very considerable increase in the costs of travel in the 14 years since the $20 rate was established, and the fact that the members serve without pay, the committee is convinced that the proposed increases in the per diem allowance are warranted, and recommend favorable action on the bill as amended.

ANDERSONVILLE NATIONAL HISTORIC SITE, GA.

The bill (H.R. 140) to authorize the establishment of the Andersonville National Historic Site in the State of Georgia and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1258), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 140 is to establish the Andersonville National Historic Site.

BACKGROUND

A little more than a century ago, this Nation was embroiled in an internal conflict by far more serious than any encountered before or since. During that period in our history sadness, and sacrifice, and suffering were not uncommon. Americans were facing each other on the battlefield. Many were lost in the bitter struggles, but thousands were taken captive.

The story of captivity is often as grim as the story of war itself. Men, isolated from their comrades, and lonely for their loved ones, must be strong in mind and spirit to endure such circumstances. Andersonville can tell that story—the story of brave Americans who, confronted with adversity almost beyond imagination, retained their devotion to their country.

During the War Between the States, some 56,000 prisoners died in confinement. Disease and malnutrition stalked the crowded prison camps. Prison camps have never been pleasant places, but Andersonville represents the grim characteristics of those of its time. Here, at a stockade built to accommodate about 10,000 men, some 50,000 Union prisoners were eventually incarcerated. During the 13 months of its existence, 11,000 of these men died.

Today, memorials mark the loss of men from Connecticut, Illinois, Indiana, Iowa, Maine, Minnesota, New Jersey, New York, and Pennsylvania. Undoubtedly, many others came from other States of the Union and the national cemetery which now exists there also serves patriots of other struggles in more recent times.

At other places, the Congress has recognized the significance of events which once occurred. Sometimes the stories that they tell are not pleasant, but they are an integral part of the historic panorama of this Nation. Many national battlefields and historic sites depict tragic moments in our history. They are recognized not to bolster the American ego, but to remind us that the way of life which we enjoy today was brought about by the often painful sacrifices of those who preceded us.

Of Gettysburg, Abraham Lincoln said, neither he, nor any other person, could dedicate, or consecrate, or hallow the ground of the battlefield, because those brave men, living and dead, who struggled there "consecrated it far above our poor power to add or detract." Andersonville is such a place and Congress should set it aside as a memorial not only to those who struggled there in those times, but to all Americans who have served their country, at home and abroad, and suffered the loneliness and anguish of captivity. It is the undaunted spirit of men such as these that keeps America the Nation that it is. Andersonville is the last period prison camp in the country where this story can be told.

ACQUISITION, DEVELOPMENT, AND INTERPRETATION OF THE SITE

At the present time, much of the proposed historic site is already federally owned. A small prison park and the Andersonville National Cemetery, presently administered by the Department of the Army, will be transferred to the National Park Service if H.R. 140 is enacted. Together with this 201 acres of land, it is contemplated that the corridor of private property which separates the two detached units will be acquired and returned to a natural setting and that a scenic buffer bordering the area will be acquired to produce a single harmonious unit. Altogether, 294 acres of privately owned lands are to be acquired at an estimated cost of $362,000.

The existing prison park contains the corners, gates, and outline of the stockade. To this, the National Park Service expects to add displays and signs to aid in the interpretation of the life of a prisoner-of-war and the role of prison camps in history. To accomplish its mission, a central visitor entrance to the historic site will be constructed and a separate entrance for burial ceremonies at the cemetery will be built. In addition, the development plan contemplates an interpretive center, walking trails, a small picnic area and certain road revisions. The estimated cost of these developments was $1,605,000 as of March 1969.

COST

In accordance with these facts, H.R. 140 authorizes the appropriation of $362,000 for the acquisition of lands and interests in lands and $1,605,000 for development of the area.

COMMEMORATE THE OPENING OF THE CHEROKEE STRIP TO HOMESTEADING

The bill (H.R. 15012) to authorize a study of the feasibility and desirability of establishing a unit of the national

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park system to commemorate the opening of the Cherokee Strip to homesteading, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1259), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of H.R. 15012 is to authorize and direct the Secretary of the Interior to cause a study to be made of the feasibility and desirability of establishing a unit of the national park system commemorating the opening of the Cherokee Strip to homesteading, the recognition of the historic trails of the old Southwest, and the restoration of some of the outstanding examples of the natural prairie scene.

NEED

While the Secretary of the Interior has general authority to conduct feasibility studies for additional units of the national park system, legislation such as H.R. 15012 gives him guidance as to the areas in which the Congress has an interest and which it wishes to emphasize. Through legislation such as this, the Congress can activate the necessary preliminary procedures which must be completed before authorizing legislation can be considered. This is the most meaningful method available to the Congress to participate in the initiation of park proposals.

The study contemplated by the bill will involve the historic events which have marked the area known as the Cherokee Strip. Located along the southwestern border of Kansas and the northwestern border of Oklahoma, this corridor is rich in western history. Once it was an Indian passage to the buffalo hunting grounds on the western plains. Later, it became the outlet for cattle drives to the railroads as they moved westward. Then, in the late 1800's, it was the scene of the largest—and the most dramatic—homesteaders' land rush in the country's history. All aspects of this historic panorama, and the natural setting of the prairie scene, should be included in the overall study which the bill authorizes.

The National Trails System Act of 1968 (Public Law 90–543) authorized the study of the old cattle trails of the Southwest. The study which H.R. 15012 authorizes is expected to be fully coordinated with the studies undertaken pursuant to that act. No conflict is anticipated since the studies to be made under the Trails Act are directed toward the location of long, continuous trails, while this aspect of the study under consideration would concentrate primarily on the historical significance of these trails in relation to other events which took place within the area described. While it may not be feasible to identify and mark the entire length of some of these trails, it may very well be that segments of these trails could play a significant role in an overall interpretive program. Naturally, since the bill has as its ultimate objective the possible future authorization of a unit of the national park system, it would seem to be most appropriate for the Secretary to conduct the comprehensive program through the National Park Service with the advice and assistance of any other appropriate agencies.

COST

The bill authorizes appropriations of up to $30,000 for the purpose of conducting this study, which is the amount of money which administrative spokesmen said would be needed for this purpose.

PRESERVE AND PROMOTE THE RESOURCES OF THE CONNECTICUT RIVER VALLEY

The Senate proceeded to consider the bill (S. 4090) to preserve and promote the resources of the Connecticut River Valley, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 1, line 9, after the word "numbered", insert "NSR–CON–91,000,"; in the same line, after the word "dated", insert "August 1970,"; on page 2, line 21, after the word map", strike out "referred to in section 1 of this Act.", and insert "numbered NR–CON–40,000, and dated July"; on page 3, line 15, after the word "easements", strike out "are" and insert "or"; on page 9, line 10, after the word "the", where it appears the second time, strike out "national recreation area" and insert "riverway"; in line 12 after the word "reservoir", strike out "powerhouse,"; on page 10, line 17, after the word "of", strike out "each" and insert "the"; in line 19, after the word "in", strike out "each" and insert "the"; on page 11, line 10, after "(f)", strike out "Each" and insert "The"; on page 14, at the beginning of line 5, insert "not to exceed"; and after the amendment just above stated, strike out "$36,000,000" and insert "$23,000,000".

The **ACTING PRESIDENT** pro tempore. Without objection, the committee amendments are agreed to en bloc.

Mr. MANSFIELD. Mr. President, at the desk there is a technical amendment which I would hope the Senate would approve.

The **ACTING PRESIDENT** pro tempore. The amendment will be stated.

The amendment was read, as follows:

On page 2, line 22, insert "1970" following the word July.

The amendment was agreed to.

Mr. BIBLE. Mr. President, the Committee on Interior and Insular Affairs has approved S. 4090, with amendments, to authorize the establishment of a Connecticut Historic Riverway.

The riverway would be composed of 23,500 acres of land and water extending for 11 miles along the Connecticut River from Old Saybrook to East Haddam in the State of Connecticut. The bill authorizes the Federal Government to purchase, by eminent domain proceedings if necessary, up to 5,000 acres of land. The remaining portions of the riverway would remain in private ownership under a "conservation zone" arrangement. The total cost of land and development would be $23 million.

The Connecticut River flows for 400 miles through the very heart of New England. Fifty million Americans live within 250 miles of its banks. The proposed riverway area itself is within 90 miles of New York City and 120 miles of Boston. Yet, despite its proximity to major metropolitan areas, many parts of the river retain a scenic and historic charm.

The Committee on Interior and Insular Affairs has been deeply concerned with the need to provide open space, recreational, and park areas for the people of the Northeast sections of the United States. It is also aware of the growing need to protect the quality of the national environment by preserving those areas of especial beauty and tranquility which remain in the most crowded parts of our country.

The committee believes that authorization of the Connecticut Historic Riverway is another urgently needed step toward these goals.

Two years ago, the Secretary of the Interior, Stewart Udall, presented a comprehensive report recommending the establishment of a Connecticut national recreation area. Only a few weeks ago, Secretary Hickel reiterated his strong support for this proposal.

The Interior Department report, entitled New England Heritage, proposed three Federal enclaves along the Connecticut River to be complemented by other State and local conservation efforts. The Connecticut Historical Riverway encompasses the first of these Federal areas.

The area is one of quiet beauty and historical interest. The Connecticut River at this point is a major estuary flowing freely toward Long Island Sound. It is the only major river remaining on the Eastern Seaboard without an urban or industrial center at its mouth. The riverbank is alternately low-lying marshes and steep forest-covered slopes. Small islands are scattered here and there. Picturesque Yankee towns such as East Haddam, Chester, Deep River, and Essex are settled amidst the slopes and flatlands. The area remains one where commercial and industrial development has been slow.

The bill would permit Federal acquisition of land and waters up to 5,000 acres. Ninety-three percent of the land so acquired is completely undeveloped. The cost of land acquisition is estimated to be $18,200,000.

The remainder of the area—17,500 acres—would remain in private ownership under a "conservation zone" arrangement. In such a zone privately owned land would be exempt from Federal acquisition as long as prevailing zone regulations met standards developed by the Secretary of the Interior with the assistance of a local advisory committee. These standards, while not designed to inhibit normal growth patterns, would protect the area from developments which would detract from the natural or traditional riverway scene.

The committee expects development costs of the National Park Service within the Connecticut Historic Riverway to be limited. The nature of the countryside and environment will not sustain new road systems or massive development. Much of the Yankee heritage and scenic tranquility of the area would be lost. It is expected that group camping, hiking, boating, fishing, and cycling will be major activities. In addition, the Federal land acquisition will protect most of the valuable estuarine marsh areas along the riverbanks.

Mr. President, many sections of the Connecticut River are polluted. But, a comprehensive State and Federal program of abatement is now underway to clean the river in the near future. A Connecticut River free of pollution will attract a higher intensity of uncontrolled commercial development. Already, the signs of such development are present.

As a result, much of what we seek to preserve will be threatened. The committee believes action is needed now to save the Connecticut River.

Mr. RIBICOFF. Mr. President, the Connecticut River flows 400 miles through the heart of New England to Long Island Sound. Its beauty, tranquilty and historic tradition are part of our Yankee heritage.

S. 4090, which the Senate is now considering, represents a major step toward preserving this river as one of the great resources of the Nation.

Situated in the center of historic New England, and in part surrounded by the great urban sprawl of industrial America, the Connecticut River provides an unmatched array of the vital natural resources which are fast disappearing in our modern society. The preservation and renewal of these assets is of both regional and national concern.

We in New England have been the fortunate beneficiaries of a river which has remained largely unspoiled even to the present day. By a quirk of fate, the sand bars along the Connecticut shore have limited the flow of commercial river traffic. As a result, the Connecticut stands alone as the single major American river without an industrial or urban center at its mouth. Thus, despite some pollution and normal commercial growth, much of the river valley retains its original unique charm.

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Both as a swift, coldwater stream in Northern New England and as a broad, majestic estuary in Connecticut, flowing to Long Island Sound, the Connecticut River is a priceless natural asset for all Americans.

Yet, this resource is now threatened. Growing commercial and industrial pressures will soon deplete the beauty and tranquility of the valley. Allowed to continue uncontrolled, these developments will eventually destroy the valley's environment.

State and local programs are already underway to end pollution in the river. Within a few years, many sections of the Connecticut will again be suitable for swimming. With these improvements, however, will come new dangers to the valley. Commercial projects could join with increased industrial construction to change and destroy the character of the valley. Such harmful developments must be prevented.

Therefore, in 1966, with the support of the entire New England senatorial delegation, I introduced legislation to authorize a comprehensive study of the Connecticut River Valley in order to formulate the necessary steps to preserve this great river. Two years ago, the Department of the Interior issued its study report, New England Heritage, which gave us, for the first time, a regional format within which we could work to restore and preserve the beauty of the Connecticut River Valley.

New England Heritage recommended a three-unit Connecticut River national recreation area in Connecticut, Massachusetts, Vermont, and New Hampshire. In July of this year I introduced S. 4090, which would establish the largest of these units—a 23,500-acre Connecticut Historic Riverway in my own State of Connecticut—as the first step toward a comprehensive program to save the Connecticut River.

The riverway is designed to protect the environment of the lower Connecticut River Valley. It is not the purpose of this bill to call for massive changes, but rather to preserve the traditional riverway scene.

Toward this goal, the legislation authorizes a limited amount of Federal land acquisition in the riverway. The Connecticut Historic Riverway will encompass large parts of the river valley in the midst of a heavily populated and urbanized part of America. Wholesale Federal land acquisition would be unwarranted and unwise. Less than 10 percent of the 5,000 acres of land which will be acquired by the Federal Government is developed. The remainder of the riverway will be maintained in private ownership under zoning standards suitable for the protection of of the landscape.

Federal administration of the riverway will be directed by the National Park Service. Such administration, however, will be carefully circumscribed to protect the scenic and pastoral charm of the valley. It is not intended that developments in this area will require a new road system or large-scale construction of any nature.

The basic principle of this legislation is that the nature of the resource should dictate its best use and development. As New England Heritage points out, the lower Connecticut Valley cannot sustain intensive development. The small coves, the marshlands, the forested hills, and valley are locations of rare solitude and beauty. The Connecticut towns and countryside are of continuing historic interest. The protection and maintenance of the serene character of this part of the river is the best overall use of this resource.

The legislation which I have introduced and which has been reported favorably by the Committee on Interior and Insular Affairs would prohibit uses of the riverway which would be incompatible with its ecological nature or the traditions of its people.

Mr. President, no federally administered park area can hope to succeed without the cooperation of the people in the affected areas. In this regard, S. 4090 marks a milestone in the development of conservation legislation in the United States.

The bill is the end result of many months of effort and cooperation between Federal officials and the people of Connecticut.

Almost 2 years ago, an advisory committee was established in Connecticut to review the recommendations of New England Heritage, to preserve the Connecticut River. This advisory committee is composed of private citizens and State and local officials. These men and women have been concerned and constructive. Their assistance in drafting the present legislation has been invaluable.

Several weeks ago, the Advisory Committee reviewed the final draft of S. 4090 and unanimously stated:

> We wish to endorse not only the legislation itself, but the cooperative efforts that went into its drafting.

Much of what we seek to save in the Connecticut River Valley is the result of the concern and foresight of valley residents and local governments. Their cooperation and interest bodes well for the future success of the riverway.

Mr. President, I would like to pay a special tribute to the Senator from Nevada (Mr. BIBLE) and the Senator from Washington (Mr. JACKSON). These two men have been dedicated to the cause of environmental protection and conservation long before such dedication was worthy of front-page coverage.

Under this leadership, the Senate Interior Committee and the Subcommittee on Parks and Recreation have been in the forefront of developing constructive and progressive legislation. The Nation owes them a great debt.

The Department of the Interior, too, has been instrumental in providing the framework for programs to preserve the Nation's resources. The report, New England Heritage, published by the Bureau of Outdoor Recreation—under the leadership of Dr. Edward Crafts, superbly documented the need to save the Connecticut River. Special tributes must be paid to Jack Hauptman and Roland Handley in the Bureau for their conscientious efforts to develop this program. The present Directors of the Bureau of Outdoor Recreation and the National Park Service, G. Douglas Hofe, Jr. and George Hartzog, Jr., respectively, have admirably followed on with the work to make this program a reality.

Mr. President, the Committee on Interior and Insular Affairs has acted quickly and favorably on S. 4090. It is a bill providing the foundation for a comprehensive program to save a great river. I urge the Senate to adopt this measure.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1260), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The primary purpose of S. 4090 is to establish a Connecticut Historic Riverway along the southernmost section of the Connecticut River in the State of Connecticut, consisting of some 23,500 acres near concentrations of urban population along an 11-mile stretch of the scenic Connecticut northward from Old Saybrook to East Haddam. The bill envisions a coordinated approach involving Federal, State, and local authorities, to meet the problems of preserving the lower Connecticut River.

The southern boundary of the riverway would be Interstate Route 95 which crosses the Connecticut River approximately a mile and a half above its mouth. The northern limits would be slightly above the East Haddam bridge. The east and west limits are roughly marked by Connecticut Routes 9, 82, and 156.

Within the riverway, the Secretary of the Interior would be authorized to acquire, by condemnation if necessary, up to 5,000 acres. The remainder of the area (17,500 acres) would constitute a conservation zone, and would remain in private ownership exempt from condemnation so long as zoning standards approved by the Secretary are effectively administered. Thus, the major portion of the riverway, including the most settled areas of the local townships, would consist of lands privately owned and maintained. Property within the Riverway owned by the State of Connecticut could be acquired by the Federal Government only by donation.

The bill establishes a local advisory committee to take an active and constructive part in developing and administering the riverway.

NEED

The last decade has seen a national effort to protect and preserve areas of outstanding natural, scenic, and historical value for the benefits of present and future generations. Programs have been expanded to include areas of immediate value to the citizens of the heavily populated and urbanized sections of the United States.

The Connecticut River remains a relatively unspoiled natural asset close to the rapidly growing urban complex along the eastern seaboard. The beauty, tranquility, and historical setting of the river are of prime importance to the Nation as a whole.

Signs of deterioration are already present. The constant development of new roads coupled with the pressure of expanding northeastern metropolitan areas sustain the finding of "New England Heritage" that well-planned action is required now."

Near and within the proposed Connecticut Historic Riverway, development is taking place with increasing intensity. The small valley towns south of Middletown are expanding with residential and even industrial and commerical development.

Land subdivision along the shoreline threatens the remaining open space access to the river. Marinas are taking up most available sites. In many cases, this development is taking place on tidal wetlands. The continuing encroachment threatens a vital national resource.

The completion of Connecticut Route 9, a major, limited access highway, has made the area more accessible to the general public. The Connecticut Thruway and Interstate 95 have brought the residents of the New York City and Boston metropolitan areas within a few hours automobile travel of the Connecticut River.

The committee has been favorably impressed by the sound and farsighted recommendations of the Bureau of Outdoor Recreation report, "New England Heritage."

After thorough evaluation of this report and a field investigation of the entire Connecticut River Valley, the committee believes that Federal action initiating the major recommendations of "New England Heritage" should be taken as soon as possible.

The committee believes that authorization of this 23,500-acre area is an important first step in developing a complementary Federal, State, and local program to save the Connecticut River.

Furthermore, the interest, cooperation and support of local public officials and residents in Connecticut, has been convincing evidence that action can and should be taken on this project as soon as possible. In 1969, Governor Dempsey of Connecticut appointed a 29-member advisory committee to work with Federal officials in implementing Federal plans for the Connecticut River. In a report to the Senate Interior Committee, the advisory committee unanimously stated:

> We wish to endorse not only the legislation itself, but the cooperative efforts that went into its drafting.

BACKGROUND

The Connecticut River flows south through New England for nearly 400 miles to Long Island Sound. The river basin encompasses more than 11,000 square miles in four States and a Canadian Province.

Situated in the center of historic New England, the Connecticut River provides an unmatched array of natural scenic, historic, and recreation resources. It remains the only large river in the United States without a major urban area or seaport at its mouth. The confluence of the river and Long Island Sound is within 120 miles of Boston and 90 miles of New York City. Today, over 20 million people live within 100 miles of the proposed Connecticut Historic Riverway area. Rapid population growth is expected to continue for the rest of the century.

Throughout the river valley, however, there remain large areas of unspoiled beauty and tranquility.

From its source, the Connecticut River is a narrow, swift, coldwater stream which falls 900 feet within its first 30 miles. This northernmost section of the river is marked by the presence of many mountains over 3,000 feet in elevation.

South of its source, in the "coos" area, the river becomes wider and meandering. The mountains close to the Lake Francis-Connecticut Lakes area provide a scenic and impressive panorama.

The small towns appear as tiny outposts in a formidable landscape, and covered bridges take the visitor back to the 19th century. In the fall foliage season, the trees burst forth with colors to match the mountainous grandeur.

From Littleton, N.H., south for almost 200 miles the river flows through rolling, hilly countryside. The river, which here marks the boundary between New Hampshire and Vermont, quietly adds to the pastoral setting.

Reaching Massachusetts, the river forms a wide valley floor with extensive flood plains. Several large and growing metropolitan areas in Massachusetts and Connecticut have increased the demands made on the river at this point. South of Middletown, Conn., the river reenters an upland terrain. The shoreline again becomes steep banks, and little or no valley floor exists. At this point, the Connecticut has become a free-flowing, tidal estuary coursing its final way to Long Island Sound through a particularly attractive setting which has been likened to the Rhine Valley.

The southernmost reaches of the Connecticut River, in the proposed historic riverway, are surrounded by lowlying marsh areas as well as forested hills. The steeper slopes approaching the estuary have not been heavily settled. In the flatlands and on the more gentle slopes are situated small, scenic and historic Connecticut communities such as East Haddam, Chester, Deep River, and Essex.

The lands in and surrounding the riverway area have not been rapidly developed. Many of the qualities which attracted the first settlers in the middle of the 17th century remain today.

Other public efforts to preserve the beauty of this portion of the river already exist. Within the proposed riverway boundary, the State of Connecticut owns Gillette Castle State Park, Selden Neck State Park, and part of the Cockaponsett State Park.

At this point in its course, the Connecticut River is a broad, even majestic estuary, dotted here and there with large and small islands and offshore rocks. The shoreline offers a varied and scenic backdrop. Within a few miles, steep forest-covered bluffs give way to tidal coves, marshes and coastal plains.

The riverway area is a place of unique and varied beauty. This tranquil setting and the neighboring towns and people are a lasting part of the Yankee tradition. In the midst of the populous northeast the Connecticut River remains a showcase of nature's handiwork.

LEGISLATIVE HISTORY

Public Law 89–616, approved on October 3, 1966, directed the Secretary of the Interior to conduct a feasibility study of establishing a Connecticut River National Recreation Area.

Under this authorization, the Bureau of Outdor Recreation undertook and completed an exhaustive and comprehensive study of the Connecticut River Valley. The ensuing report, "New England Heritage," was published in 1968.

The study recommended the establishment of a 56,700-acre Connecticut River National Recreation Area to be administered by the National Park Service. These areas would provide a nucleus to support complementary local, State, and private action protecting the New England environment. The recommended national recreation area would be composed of three units: The Gateway unit in Connecticut; the Mount Holyoke unit in Massachusetts; and a Coos Scenic River unit in Vermont and New Hampshire. The Gateway unit, proposed in "New England Heritage," would be realized in the Connecticut Historic Riverway as proposed in S. 4090.

In April 1969, Senator Abraham Ribicoff, with Senators Dodd, Brooke, Kennedy, and McIntyre, introduced S. 1805, to create a Connecticut River National Recreation Area comprised of units in the States of Connecticut, Massachusetts, Vermont, and New Hampshire. The Subcommittee on Parks and Recreation toured the length of the Connecticut River Valley on May 22 and 23, 1970. Subsequently, Senator Ribicoff introduced S. 4090, containing, in revised form, the major provisions of S. 1805 as they pertain to the State of Connecticut. Subcommittee hearings were held on S. 4090 on August 21, 1970.

LAND ACQUISITION COST AND POLICY

Acquisition of privately owned lands within the Connecticut Historic Riverway is estimated to cost $18,200,000. This amount would include the acquisition of approximately 4,200 acres which the National Park Service deems necessary to effect the purposes of this legislation.

The cost estimates have been arrived at following extensive consultations with local and State officials, including the Connecticut Commissioner of Agriculture and Natural Resources, who administers the State parks and State fisheries. The Park Service has also undertaken field surveys within the proposed riverway.

Section 3 of the bill authorizes the acquisition of up to 5,000 acres of land. The Park Service believes, however, that approximately 4,200 acres will be sufficient land in public ownership.

The Park Service proposes that the following acreage be acquired in these Connecticut townships:

Old Saybrook	40
Lyme	1, 380
Old Lyme	126
East Haddam	1, 015
Haddam	1, 150
Chester	61
Deep River	121
Essex	247

Of the 4,200 acres to be acquired, 3,907, or approximately 93 percent, is unimproved. The total acreage is in the hands of 260 individual owners.

DEVELOPMENT COST AND POLICY

The major portion of the riverway (17,500 acres) would be protected within a conservative zone. Lands in this zone would remain in private ownership with the requirements that zoning ordinances meet standards set forth by the Secretary in conjunction with a local advisory committee.

Similar conservation zones have been put into effect with success at the Cape Cod and Fire Island Seashores.

The committee believes that these zones should not be a vehicle to stifle normal and reasonable commercial and industrial development, but that they can be employed as an effective method to permit continued use of the land while respecting the area's scenic and historical nature.

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This belief is in line with the view taken by the Bureau of Outdoor Recreation report, "New England Heritage," which stated:

"The program recommended in this report does not seek to bar future development, but rather to assure that it will be done in a way that respects and enhances the beauty of the Connecticut River Valley."

At hearings, the Park Service indicated that, with one possible exception, existing zoning standards in the area were acceptable for a conservation zone.

Within the publicly owned acreage of the riverway, development will be kept to the strictest minimum. The committee believes, after full discussions with the National Park Service and representatives of the riverway area, that the national interest is better served by emphasizing the historic and scenic values of the lower Connecticut River over intensive recreational development.

Accordingly, Federal administration and development in the riverway will be circumscribed to respect the existing beauty and tranquility of the area. The committee does not intend for the development of any new road system or massive structural facilities.

The development plan for the riverway outlined by the National Park Service at public hearings follows the recommendations of the committee in this respect. The plan calls for the development of a few controlled group camping sites. In addition, certain areas would be established as environmental study areas for use in local school curriculum.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 4090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

STATEMENT OF POLICY

SECTION 1. The Congress finds that the Connecticut River and the first tier of towns bordering the river in the States of Connecticut, Vermont, and New Hampshire, and the Commonwealth of Massachusetts, as generally depicted on the map entitled "Connecticut River Valley corridor", numbered NSR–CON–91,000, and dated August 1970, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior, possess unusual scenic, ecological, scientific, historic, recreational, and other values contributing to public enjoyment, inspiration, and scientific study. The Congress further finds that it is in the best interests of the citiezns of the United States for the United States to take action to preserve and promote such values for the enjoyment of present and future generations, to preserve the natural ecological environment and develop the recreational potential of the area, and to encourage maximum complementary action by State and local governments and private individuals, groups, and associations.

CONNECTICUT HISTORIC RIVERWAY

SEC. 2. In order to provide for conservation of the scenic, scientific, historic, ecological, and other values contributing to public enjoyment, as well as the public outdoor recreation use and enjoyment of the Connecticut River Valley corridor, consistent with the well-being of present and future residents of the area, there is hereby established the Connecticut Historic Riverway (hereinafter referred to as the "riverway"). The boundaries of such riverway shall be as generally delineated on the map numbered NR–CON–40,000, dated July 1970. The Secretary of the Interior (hereinafter referred to as the "Secretary") may revise the boundaries of the riverway from time to time with a view to carrying out the purposes of this Act, with the approval of a majority of the advisory committee for such unit as referred to in section 6 of this Act, but the total acreage within the revised boundaries of the unit shall not exceed twenty-three thousand five hundred acres.

ACQUISITION OF PROPERTY FOR THE CONNECTICUT HISTORIC RIVERWAY

SEC. 3. (a) Within the boundaries of the riverway, the Secretary may acquire without the consent of the owner not to exceed five thousand acres of privately owned lands, waters, and interests therein which he determines are presently needed to carry out the purposes of this Act: *Provided*, That the Secretary may acquire a fee title only in cases where, in his judgment, the acquisition of scenic easements are or other less-than-fee interests would not be adequate to carry out the purposes of this Act. The remaining privately owned property within such unit may not be acquired by the Secretary without the consent of the owner or owners (hereinafter referred to as "owner") for one year following the date of enactment of this Act, and thereafter so long as an appropriate local zoning agency shall have in force and applicable to such a property a duly adopted, valid zoning ordinance approved by the Secretary. In order to carry out the provisions of this section, and following public hearings, the Secretary shall issue regulations, specifying standards that are consistent with the purposes of this Act. Such regulations and amendments thereto must receive the approval of a majority of the advisory committee established in section 6 of this Act before issuance.

(b) The standards specified in such regulations shall have the object of (i) regulating new commercial or industrial uses of such property consistent with the purposes of this Act, and (ii) promoting the protection and development for purposes of this Act of such property by means of acreage, frontage, setback design, and subdivision controls and by prohibiting the cutting of timber, burning of undergrowth, removing soil or other landfill, and dumping or storing refuse in such a manner that would detract from the natural or traditional riverway scene: *Provided*, That such standards shall not discourage the constructive development and use of land for industrial and commercial purposes which are consistent with the purposes of this Act.

(c) Following issuance of such regulations the Secretary shall approve any zoning ordinance or any amendment to any approved zoning ordinance submitted to him that conforms to the standards contained in the regulations in effect at the time of adoption of the ordinance or amendment. Such approval shall remain effective for so long as such ordinance or amendment remains in effect as approved.

(d) No zoning ordinance or amendment thereof shall be approved by the Secretary which (i) contains any provisions that he considers adverse to the protection and development of such property in accordance with the purposes of this Act, or (ii) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under, or any exception made to, the application of such ordinance or amendment.

(e) If any property, with respect to which the Secretary's authority to acquire by condemnation has been suspended according to the provisions of this section, is made the subject of a variance under, or becomes for any reason an exception to, such zoning ordinance, or is subject to any variance, exception, or use that fails to conform to any applicable standard contained in regulations of the Secretary issued pursuant to this section and in effect at the time of passage of such ordinance, the Secretary may terminate the suspension of his authority to acquire such property by condemnation: *Provided*, That the owner of any such property shall have ninety days after written notification from the Secretary to discontinue the variance, exception, or use referred to in such notification.

(f) The Secretary shall furnish to any party in interest, upon request, a certificate indicating the property with respect to which the Secretary's authority to acquire by condemnation is suspended.

ADDITIONAL PROPERTY ACQUISITION PROVISIONS

SEC. 4. (a) The Secretary is authorized to acquire the lands, waters, and interests therein (including scenic easements) within the riverway unit by donation, negotiated purchase with donated or appropriated funds, transfer, exchange, or condemnation except that such authority to acquire by condemnation shall be exercised only in the manner and to the extent specifically provided in section 3 of this Act.

(b) With the exception of any lands which the Secretary determines are presently needed for public use facilities to carry out the purposes of this Act, any owner of improved property within the unit on the date of its acquisition by the Secretary may elect, as a condition to such acquisition to retain a right of use and occupancy of the improved property for noncommercial residential and agricultural purposes for a period ending at the death of the owner or his spouse, whichever occurs later, or for a fixed term not to exceed twenty-five years. The Secretary shall pay to the owner of the fair market value of the property on the date of its acquisition less the fair market value on such date of any right retained by the owner. Any retained right of use and occupancy may be transferred or assigned. Whenever the Secretary finds that the property or any portion thereof has ceased to be used for noncommercial residential purposes, he may terminate the right of use and occupancy upon tendering to the holder thereof an amount equal to the fair market value of the portion of said right which remains unexpired on the date of termination.

(c) As used in this section, the term "improved property" shall mean a one-family dwelling the construction of which was begun before July 1, 1970, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling and land for noncommercial residential or agricultural purposes, together with any structures accessory to the dwelling which are situated on the land so designated: *Provided*, That the Secretary may exclude from the land so designated any water bodies together with so much of the adjacent land as he deems necessary for public access thereto.

(d) Any property or interests therein within the unit which are owned by a State or by any political subdivision thereof or permanently preserved for conservation purposes under the ownership of a nonprofit, nonstock organization may be acquired only by donation. Notwithstanding any other provision of law, any Federal property located within a unit of the recreation area may, with the concurrence of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary, without transfer of funds, for administration by him as part of the recreation area.

ADMINISTRATIVE PROVISIONS

SEC. 5 (a) the Secretary shall administer and protect the riverway area with the primary aim of conserving the natural resources located within it and preserving the area in as nearly its natural state and condition as possible. No development or plan for the convenience of visitors shall be undertaken in the riverway which would be incompatible with the overall lifestyle of residents of the area, accepted ecological principles, the preservation of the physiographic conditions now prevailing, or with the preservation of such historic sites and structures as the Secretary may designate.

(b) The riverway shall be administered, protected, and developed by the Secretary in accordance with the provisions of this Act and the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.), except that the Secretary may utilize any other statutory authority available to him for the conservation and management of natural resources to the extent he finds such authority will further the purposes of this Act.

(c) The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the riverway in accordance with the applicable laws of the States concerned and of the United States, except that the Secretary may designate zones where, and establish periods when, no hunting, no fishing, or trapping shall be permitted for reasons of public safety, fish, or wildlife management, administration, or public use and enjoyment. Except in emergencies, any regulations of the Secretary prescribing any such restrictions shall be issued only after consultation with the appropriate agency of the State concerned.

(d) The Federal Power Commission shall not authorize the construction, operation, or maintenance within the riverway of any dam, water conduit, reservoir, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.): *Provided*, That the provisions of that Act shall continue to apply to any project, as defined in that Act, already licensed.

(e) Designated National Park Service employees of the riverway may make arrests for violations of any Federal laws or regulations applicable to the area, and they may bring the accused person before the nearest magistrate, judge, or court of the United States having jurisdiction in the premises.

ADVISORY COMMITTEE

SEC. 6. (a) There is hereby established an advisory committee for the Connecticut Historic Riverway.

(b) Such committee shall be composed of members appointed for a term of two years by the Secretary as follows:

(1) a member appointed to represent the State of Connecticut. Such appointments shall be made from recommendations of the Governor of the State of Connecticut;

(2) a member appointed to repreesnt the appropriate regional planning commissions or agencies of Connecticut. Such appointments shall be made from recommendations of the heads of such commissions;

(3) a member appointed to represent each town referred to in section 1 of this Act that is directly affected by the establishment of the riverway and such appointments shall be made from recommendations of the governing body of such towns; and

(4) a member to be designated by the Secretary.

(c) The chairman of the committee shall be elected by the membership thereafter for a term of not to exceed two years. Any vacancy in the committee shall be filled in the same manner in which the original appointment was made.

(d) All members of the committee shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the committee in carrying out their responsibilities under this Act on the presentation of vouchers signed by the chairman.

(e) The Secretary or his delegate shall consult regularly with the committee with respect to all matters relating to the development and administration of the riverway and with respect to carrying out the provisions of this Act, including but not limited to matters relating to the acquisition of lands, the issuance of regulations specifying standards for zoning ordinances, and the administration of the riverway.

(f) The committee shall make available to the Secretary an annual report reviewing matters relating to the development of the riverway, including land acquisition and the zoning standards policies, and shall make recommendations thereto.

CONNECTICUT RIVER VALLEY CORRIDOR

SEC. 7. (a). The Secretary, in accordance with authority contained in the Act of May 28, 1963 (77 Stat. 49), and in consultation with the New England River Basin Commission and the advisory committee established by section 6 of this Act, shall encourage coordinated planning for the conservation and development of the outdoor recreation resources of the Connecticut River Valley corridor which is defined for the purposes of this section as that part of the Connecticut River Valley corridor depicted on the map referred to in section 1 of this Act which is located within the State of Connecticut. The Secretary shall give particular attention to encouraging and coordinating the conservation and development of the outdoor recreation resources of the corridor that are outside the boundaries of the riverway, and he is authorized to provide technical assistance to State and local governments and private individuals, groups, and associations with respect to the conservation and development of such resources. The Secretary is authorized to establish a regional office of the Bureau of Outdoor Recreation within the boundaries of the Connecticut River Valley corridor in order to facilitate the planning and coordination under this section.

(b) The Secretary shall encourage State, regional, county, and municipal bodies to adopt and enforce adequate master plans and zoning ordinances which will promote the use and development of privately owned lands within the corridor in a manner consistent with the purposes of this section, and he is authorized to provide technical assistance to such bodies in the development of such plans and ordinances.

(c) The Secretary shall cooperate with the appropriate State and local agencies to provide safeguards against pollution of the Connecticut River and unnecessary impairment to the scenery thereof.

(d) In order to avoid, insofar as possible, decisions or actions by any department, agency, or instrumentality of the United States which could have a direct or adverse effect on the outdoor recreation resources of the corridor, all departments, agencies, and instrumentalities of the United States shall consult with the Secretary concerning any plans, programs, projects, and grants under their jurisdiction within the corridor. Any Federal department, agency, or instrumentality before which there is pending an application for a license for any activity which could have such effect on the outdoor recreation resources of the corridor shall notify the Secretary, and, before taking final action on such application, shall allow the Secretary ninety days to present his views on the matter.

(e) The Secretary of Agriculture shall study means of preserving the agricultural, forest, and rural open space character of the corridor, and shall submit a report of his findings and recommendations to the President and Congress within one year after the date of this Act.

SHORELINE EROSION CONTROL

SEC. 8. The Secretary of the Interior and the Secretary of the Army shall cooperate in the study and formulation of plans for shoreline erosion control of the Connecticut River; and any protective works for such control undertaken by the Chief of Engineers, Department of the Army, shall be carried out in accordance with a plan that is acceptable to the Secretary of the Interior and is consistent with the purposes of this Act.

APPROPRIATIONS

SEC. 9. There are hereby authorized to be appropriated not to exceed $23,000,000 to carry out the provisions of this Act.

BILLS PASSED OVER

On request of Mr. MANSFIELD, the following bills were passed over:

Calendar No. 1280, H.R. 10634, State Income Taxation of Interstate Carrier Employees; Calendar No. 1281, H.R. 18776, Sleeping Bear Dunes National Lakeshore; and Calendar No. 1282, S. 4432, the Budget and Accounting Improvement Act of 1970.

CONVEYANCE OF CERTAIN LANDS FOR RECREATIONAL PURPOSES

The bill (H.R. 10837) to provide for the conveyance to Pima and Maricopa Counties, Ariz., and to the city of Albuquerque, N. Mex., of certain lands for recreational purposes under the provisions of the Recreation and Public Purposes Act of 1926 was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1267), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

This bill authorizes the Secretary of the Interior to convey to Pima and Maricopa Counties, Ariz., and to the city of Albuquerque, N. Mex., for recreational purposes in accordance with the provisions of the Recreation and Public Purposes Act, but without regard to the acreage limitation of that act, certain public land now held under lease.

BACKGROUND

Each of the three governmental units involved herein has had under lease, for recreational purposes, large acreages of public land and each year has purchased the maximum acreage (640) permitted under the Recreation and Public Purposes Act. Each has developed plans for the further development of the lands now held under lease and has available the funds to complete the planned development in such a way that the leased areas would contribute fully to the recreational needs of the communities. However, in order for each to meet its growing recreational needs and to justify the further expenditure of public funds on the land, it is clearly desirable that it obtain title to the land rather than continue the present lease arrangement. H.R. 10837 would waive the acreage limitation of the Recreation and Public Purposes Act and would permit the two counties in Arizona and the city of Albuquerque to purchase all or any part of the lands now under lease. Section 1(b) of that act (43 U.S.C. 869(b)), now limits conveyances to 640 acres per year to any political subdivision of a State. Maricopa County now has 68,758 acres (seven parks) under lease; Pima County, 3,840 acres (one park); and the city of Albuquerque, 7,042 acres (three parks) under lease. At the present rate of acquisition, it would take Maricopa County, with the largest acreage, over 100 years to obtain the land it needs for park purposes and Pima County, with the smallest, would require 6 years.

Enactment of H.R. 10837 would affect only the acreage limitation imposed by the Recreation and Public Purposes Act, and not the other conditions and conveyance. Thus, all minerals would be reserved to the United States and the lands, if used for other than recreational purposes, would revert to the United States. The purchaser would pay not less than $2.50 per acre.

All of these areas receive heavy recreational use and their further development to ac-

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commodate the increasing recreation pressures is urgently needed. The area within Pima County received over a million visitors annually and the areas in Maricopa County and those near Albuquerque received correspondingly heavy use.

COST

Enactment of the bill will involve no Federal expenditure.

CONVEYANCE OF CERTAIN LAND IN CALIFORNIA BY THE SOUTHERN PACIFIC CO.

The bill (H.R. 12960) to validate the conveyance of certain land in the State of California by the Southern Pacific Co. was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1268), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

This bill validates and confirms, insofar as the interest of the United States is concerned, 20 conveyances by the Southern Pacific Railroad Co. covering lands in San Joaquin County, Calif., originally granted to the railroad for right-of-way purposes by the Federal Government. Provisions in the bill retain a right-of-way for the railroad company and reserve to the United States all minerals in the lands.

BACKGROUND

The 20 parcels of land contain approximately 13 acres. They are part of a 400 foot right-of-way granted to the Central Pacific Railroad Co. by the act of July 1, 1862. The Southern Pacific Co. is the successor in interest to the Central Pacific. Nineteen of these parcels are within the city limits of Lodi, Calif., and the remaining one is adjacent thereto. The land is presently used for light and heavy industry, housing, and one parcel has been developed as a grape vineyard. All parcels have been claimed and used for these purposes for many years. The committee is informed that the present individuals, or their predecessors in interest, have paid taxes on the 20 parcels since patents were issued, which in most cases would be in excess of 70 years and in some for more than 100.

The act of July 1, 1862, did not grant full title to the railroad for the lands within the right-of-way. All minerals were reserved to the United States and the railroad received only the right to use the surface for right-of-way and associated purposes with an implied reverter to the United States in the event the lands ceased to be used for the purpose for which granted.

When the United States issued patents to the lands adjoining the railroad right-of-way, the lands within the right-of-way were included in the total area so patented. Because the railroad company did not actively claim the entire 400-foot strip until about 1925, the adjoining owners assumed ownership and made use of most of the right-of-way lands except for a 50-foot strip on each side of the mainline track that was clearly defined and used by the railroad. Thus, a long history of use has been established and substantial improvements have been made on these lands. After 1925 it was recognized that all of the lands within the 400-foot strip were under the control of the railroad and at various times legislation, similar to the present bill, has been passed by Congress to validate conveyances made by the company to individuals using and occupying such land. In the present situation, the Southern Pacific Co. made the 20 conveyances in 1966 for amounts said to be not more than $100.

The act of March 8, 1922, provides that upon a finding of abandonment or forfeiture, either by act of Congress or a court of competent jurisdiction, the lands within a railroad right-of-way pass to the adjoining landowner, except that within a municipality the lands pass to the municipality. The railroad company does not consider its 20 conveyances, subject to a 100-foot right-of-way to be an abandonment of the original 400-foot right-of-way, and no abandonment has been found either by Congress or the courts. Moreover, the city of Lodi, which would be the beneficiary of any abandonment of 19 of the 20 tracts, has by Resolution No. 3367, dated April 1, 1970, recommended enactment of the pending legislation.

Because of the limitations under which the right-of-way was granted to the railroad company, the 20 conveyances made by the company to the individuals do not convey a marketable title to the lands. Enactment of H.R. 12960 would validate and legalize these conveyances, insofar as any interest of the United States is concerned, and would eliminate the necessity of legislation by Congress or a decision by the courts regarding the complex question of abandonment or forfeiture of a portion of a railroad right-of-way.

COST

The provisions of H.R. 12960 involve no additional administrative cost to the United States.

KING RANGE NATIONAL CONSERVATION AREA

The Senate proceeded to consider the bill (H.R. 12870) to provide for the establishment of the King Range National Conservation Area in the State of California which had been reported from the Committee on Interior and Insular Affairs with amendments on page 1, line 6, after the word "section", strike out "10" and insert "9"; on page 5, line 12, after the word "section", strike out "10" and insert "9"; on page 8, line 20, after the word "section", strike out "10" and insert "9"; and in line 22, after the word "section", strike out "7" and insert "6".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1270), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 12870 authorizes and directs the Secretary of the Interior to establish the King Range National Conservation Area in the State of California. It directs the Secretary to consolidate and manage the public lands within the area under a program of multiple use and sustained yield and provides the Secretary with the necessary authority and management tools to block up the public lands, by acquisition or by exchange, with private holdings to eliminate the existing checkerboard land pattern. The area will be administered by the Bureau of Land Management for the conservation, development, and management of all its natural resources.

BACKGROUND AND OBJECTIVE

The King Range area is a mountainous and relatively undeveloped region along the coast in southern Humboldt and northern Mendocino Counties. The geography and ecology of the region are diverse and varied. It contains seashore, forested mountains and open meadows, and includes some primitive area near the coast that is virtually untouched by man. It also contains the King Mountain Range, which juts out into the Pacific Ocean south of Eureka, Calif., and also the adjacent 9 miles of shoreline. The seashore in this area is among the most beautiful and rugged along California's Pacific coast.

Two key features of the King Range country are its inaccessibility and rugged terrain. This area is the westernmost bulge of the California coast. The highways all swing inland to bypass the Pacific Ocean's most precipitous stretch of shoreline. With the exception of Shelter Cove, most of the ocean frontage are in Federal ownership. There are very few roads and most of those that do exist are suitable for use only by four-wheel drive vehicles. Much of the area inland is likewise steep and rough terrain.

This remote and slow-paced country has been called California's "unkonwn coast" because nowhere else in California does so much roadless, inaccessible coast face the Pacific. Kings Park, the most prominent feature of the range, rises to more than 4,000 feet only 3 miles from the ocean.

In addition to lack of access, proper management of public lands in this area is complicated by the land ownership pattern. There are many separate parcels of public land checkerboarded and otherwise intermingled among private holdings. Also, small parcels of private lands are isolated within the public holdings. This intermingled ownership obviously does not make for efficient management by either the private or public managers. It particularly discourages soil and water conservation investment.

Much of the logged-over forest lands, and rangeland also, is badly eroded or covered with brush. Reforestation and reservation are urgently needed. There are 3,500 acres of nonstocked timberland alone.

The King Range also includes scenic and other outdoor recreation resources of a high order. There are spectacular stretches of seashore, including beautiful remote beaches and coves, magnificent stands of virgin Douglas-fir, as well as sugar pine, madrona, bay, and redwood. Wildlife include deer and other species of game of interest to sportsmen.

A number of fine private sheep ranches adjoin the King Range area on the north and make grazing use in the area. The grazing capacity of the public lands in the area is an estimated 800 animal unit months. Leased lands have a rated capacity of about 435 AUM's.

The predominant commercial timber in the area is Douglas-fir. The area's timber resources are estimated to include 240 million board feet of mechantable size. Total potential yearly production of forest products, based on reasonably full stocking, and full use of the presently unstocked timberland is estimated to be about 10 million board feet a year.

The public lands within this area are administered by the Department of the Interior through the Bureau of Land Management. H.R. 12870 would assist in the effective administration and management of these lands in a variety of ways that would enhance their value and assure their preservation for the enjoyment of future generations. However, one of the unique features of H.R. 12870 is that it does not contemplate or intend to eliminate private holdings or private enterprise within the proposed conservation area. These private holdings and activities are expected and encouraged to continue and to contribute to the overall economy and attractiveness of the entire area. Only when private activities are clearly and unquestionably not in harmony with the intended uses

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of the area will there be reason for the Federal Government to regulate or control either existing or future private uses. In this respect, H.R. 12870 differs from most other land management proposals where a high degree of Federal control and regulation is established.

NEED

This bill authorizes the study and investigation of some 51,000 acres of Federal and private land in northern California. From within this tract, the King Range National Conservation Area, containing approximately 44,500 acres will be established and managed under the jurisdiction of the Department of the Interior. Of the lands involved, about two-thirds (31,500 acres) are already in public ownership and are administered by the Bureau of Land Management. However, one of the more serious problems faced by both public land managers and private landowers, is the fragmented or checkerboard land pattern. This prevents full and economical development of the land and its resources either by private individuals or by the Federal Government. One of the prime objectives of H.R. 12870 is to facilitate the blocking up of landholdings, through land exchanges or by acquisition, to permit more efficient and effective land management practices by all landholders. To accomplish this, the Secretary of the Interior is authorized to use existing authority and also is granted certain new land exchange and acquisition authority by H.R. 12870. In addition, H.R. 12870 establishes certain restrictions on the location of mining claims within the conservation area that are deemed necessary and desirable to assure that mining activities within the area, while permitted and encouraged to continue, do not materially interfere with other land values and resources uses.

H.R. 12870 establishes several requirements for the exchange of public lands. Among these are (1) the offered and selected lands must be in the same county; (2) if the offered or selected lands have a value of at least two-thirds of the other, the difference in value may be equalized by the acceptance of cash; and (3) either party to an exchange may reserve minerals, easements or rights-of-way. The Secretary is also granted authority to (1) identify appropriate public use of the public lands; (2) construct and maintain roads, trails and other access and recreational facilities; and (3) reforest and revegetate and install soil and water conservation works to control erosion and improve forest and timber production.

While mineral activity is authorized to continue within the area, mining claims located in the future would be subject to regulations designed to protect environmental and scenic values. These restrictions would be carried in patents issued for claims located after the date of the act.

Grazing will continue within the area as will timber production. Hunting and fishing will also be permitted subject to certain necessary restrictions on hunting during certain times or at locations necessary for public safety, administration, management, or public use and enjoyment.

H.R. 12870 authorizes the Secretary to administer the public lands within the conservation area under any authority available to him for the conservation, development, and management of natural resources on public lands in California withdrawn by Executive Order No. 6910 of November 26, 1934, to the extent he finds such authority will further the purposes of H.R. 12870. Executive Order No. 6910 was one of several orders that withdrew vacant unreserved and unappropriated public land from settlement, location, sale, or entry, pursuant to the act of June 28, 1934, more commonly known as the Taylor Grazing Act. H.R. 12870 also revokes Executive Order No. 5237 of December 10, 1929, effective as of the date the Secretary establishes the conservation area. This order withdrew public lands in this general area from any type of disposition pending their classification. As H.R. 12870 directs the Secretary to classify these lands, this order is no longer necessary.

FORT POINT NATIONAL HISTORIC SITE

The bill (H.R. 18410) to establish the Fort Point National Historic Site in San Francisco, Calif., and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1269), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 18410 is to authorize the establishment of the Fort Point National Historic Site in California. The Senate passed a similar bill in the 90th Congress, but it was not acted upon by the House of Representatives.

BACKGROUND, LOCATION, AND DESCRIPTION

Shortly after becoming a nation, the United States began to fortify its harbors. The reason for this is easy to understand, because the most serious potential enemies of the young country were thousands of miles away and the threat which they presented was essentially by sea, rather than by land. In the early period, most of the forts constructed employed the skills of French engineers, because there were few qualified Americans for such undertakings. Later, however, after the establishment of the Military Academy at West Point, American influence expanded and by 1830 the design and construction of coastal defenses was firmly established and rivaled those being constructed by renowned European engineers.

Many of the forts constructed in the first half of the 19th century played varying roles in important events during the Civil War, but the principal function of most of them was to deter enemies from abroad. Altogether, about 3 dozen of differing quality, sizes, and shapes, were built. Thirty still exist and probably constitute the oldest surviving group of major structures in the United States.

Of these only a few are truly outstanding architecturally. The fort on Fort Point is one. Begun in 1853—just 3 years after California became a State—it represents the culmination of this entire era of military architecture and construction. It incorporates most of the technical and architectural refinements developed in previous decades—the most fundamental of which was the arrangement of guns in multiple tiers.

Forts with multiple tiers were constructed only at the most important harbors. Only two were built with four tiers: one at Fort Point on San Francisco Bay—which was the only major fortification to be built on the west coast—and the other, at the other end of the continent, on New York Harbor. These two forts represent the climax of this era of military construction.

Although technically not unique, Fort Winfield Scott (as it was officially named in 1882) offers an outstanding opportunity for historic preservation. Located, as it is, in the midst of one of the Nation's largest cities where the flow of visitors from throughout the Nation numbers in the millions every year, it is expected that the rate of visitation will reach nearly a half-million annually. Even now, with the fort open only on weekends, with none of the advantages of national recognition, visitations are in the neighborhood of 200,000 each year.

Probably no other available fort is so ideally situated as is Fort Point, as it is commonly called. It well preserved primarily because of the fact that it has been within an active military post continuously since its construction. Notwithstanding its continuous use from 1861 through 1900 and the installation of some small rapid fire guns on it during World War II, it has not been structurally modified to any significant extent since its construction. In fact, because of its historical and architectural value, the designer of the Golden Gate Bridge made a special effort to save it from destruction.

Forts in America are somewhat like castles in Europe. They are relatively numerous and all are obsolete for practical purposes. They have many similarities, but all of them are interesting to the general public, because they represent a bygone era. Since they can usefully add to the enjoyment and edification of the public, they should be utilized for that purpose whenever practicable. Through them, the story of the growth and development of the Nation can be told.

COST

Since the fort and the lands involved in H.R. 18410 are already federally owned, no land acquisition costs will be incurred. The only appropriations which this legislation will entail, other than the usual costs for operation and maintenance, will be those needed for development of the site. As indicated above, the fort itself is well preserved, the expenses to be incurred are largely associated with the anticipated visitor use. The development of roads, parking areas, trails, and viewpoints, as well as the construction of a visitor information station and picnic areas and the general repair and refurnishing of the fort will require an investment of approximately $3,500,000. An additional $1,900,000 will probably be needed if the existing seawall requires rehabilitation and reinforcement, if the pier is rehabilitated, and if slope stabilization and landscaping are required. Taking all of these things into consideration, and assuming that the submerged lands and the additional 10 acres of fast lands are transferred to the Department of the Interior for use as a part of the proposed national historic site, the bill authorizes an appropriation of not more than $5,250,000.

In making this recommendation, it should be noted that the bill authorizes the authorization to fluctuate with current construction costs as indicated by standard engineering costs indicies.

JURISDICTION OVER LANDS

As originally proposed, the legislation would have authorized the establishment of the national historic site when the Secretary of the Interior acquired sufficient lands for that purpose. All of the lands, including the submerged lands, are presently under the jurisdiction of the Department of the Army and the bill provided that they would be transferred only on such terms as might be mutually agreed upon between the heads of the two agencies. This provision would have left the establishment of the historic site highly conjectural. Because of this fact, an amendment was adopted by the House of Representatives providing that a 29-acre historic site is established as of the date of enactment of this legislation. There seems to be no question about the transfer of the fort and the 29 acres associated with it for this purpose; therefore, the provision is temporarily limited to that portion of the original proposal. If the adjacent submerged lands and the 10-acre tract are subsequently transferred to the Secretary of the Interior, the bill permits the boundaries of the historic site to be adjusted to include them and it provides that they shall be administered as a part of the historic site. Sixty days before any transfer can become effective, however, the bill requires that the details of the proposed transfer be referred to the appropriate congressional committees for review. The concern of the committee is that this transfer should not be bound with conditions incompatible with the historic purposes to which this site is dedicated.

The bill also revises the amount authorized to be appropriated to include the total amount included in the bill, as introduced, reflected the appropriations once thought to be necessary for the first 5 years only. Naturally, if the Department of the Army retains jurisdiction over the submerged lands and over the 10-acre tract presently used for a motor pool, it should share proportionally in the costs attributable to the developments from which it benefits. Among the costs which it should reasonably share are those associated with the rehabilitation and reinforcement of the seawall, rehabilitation of the prier, and improvements on the roads which it will use, and so forth. On the other hand, if these lands adjacent to the historic site are administered as part of the national park program, then the responsibility for them should rest exclusively with the administering agency.

The Senate Committee on Interior and Insular Affairs concurs in the action of the House of Representatives in adopting these amendments.

EXCHANGES OF STATE SCHOOL LANDS FOR CERTAIN RESERVED PUBLIC LANDS

The bill (H.R. 13125) to amend section 11 of the act approved February 22, 1889 (25 Stat. 676) as amended by the act of May 7, 1932 (47 Stat. 150), and as amended by the act of April 13, 1948 (62 Stat. 170) relating to the admission to the Union of the States of North Dakota, South Dakota, Montana, and Washington, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 91–1265), explaining the purposes of this measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

H.R. 13125 would amend section 11 of the Statehood Act of the States of North Dakota, South Dakota, Montana, and Washington to permit the exchanges of State school lands for certain reserved public lands. It would also approve the exchange of certain reserved national forest land already made and would grant to the four States the right to lease school lands without Federal restriction.

BACKGROUND

The original Statehood Act of 1889 for the States of North Dakota, South Dakota, Montana, and Washington made no provision for an exchange of school lands by the States. This was amended in 1932 to authorize exchanges but provided that any such exchange with the United States would be limited to surveyed, nonmineral, unreserved public lands of the United States. This is the present law, and it precludes exchanges for lands within the national forest as such lands are considered to be reserved.

H.R. 13125, would remove this restriction and permit exchanges for "Federal lands that are surveyed, nonmineral, unserved public lands, or are reserved public lands that are subject to exchange under laws governing the administration of such Federal reserved public lands." H.R. 13125 would also approve and legalize certain land exchanges heretofore consummated by the State of Washington and the Forest Service. These exchanges, although made in good faith, are nonetheless contrary to existing law.

The problem of exchanging State school lands for reserved public lands has arisen primarily in the State of Washington. Both that State and the Forest Service have been working on mutually advantageous land exchanges for the purpose of blocking up holdings. This would assist in solving numerous resource protection problems, and the elimination of a checkerboard land pattern would result in more efficient management and utilization of resources. Hazards such as areas of high forest fire risks, soil erosion, and trespass can be eliminated or reduced.

The House of Representatives adopted two amendments suggested by the Department of the Interior which limit exchanges to lands within the State. In addition, the committee approved an amendment which removes the statutory restrictions on the leasing of State lands. This permits the States to lease lands under such terms and conditions as the State legislature deems appropriate. The Senate Interior and Insular Affairs Committee concurs in this action.

COST

Enactment of H.R. 13125 will not involve any Federal expenditures.

ICE AGE NATIONAL SCIENTIFIC RESERVE, WIS.

The bill (H.R. 4172) to authorize the Secretary of the Interior to provide financial assistance for development and operation costs of the Ice Age National Scientific Reserve in the State of Wisconsin, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 91–1266), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF BILL

The purpose of H.R. 4172 is to authorize a very limited appropriation of funds for Federal participation in the development, operation, and maintenance of the Ice Age National Scientific Reserve in Wisconsin. These Federal appropriations would supplement funds appropriated by the State of Wisconsin for the purpose and other moneys from the State's share of allocation under the Land and Water Conservation Fund Act.

NATIONAL SIGNIFICANCE OF THE ICE AGE NATIONAL SCIENTIFIC RESERVE

The Ice Age National Scientific Reserve consists of nine noncontiguous units located at areas recognized for their outstanding characteristics as remnants of the ice age. Altogether, when protection is extended to all of the necessary lands, the nine units will total about 32,500 acres—stretching roughly 500 miles across the State.

From the evidence available, scientists believe that the glacial remains found in the reserve result from the last stage of continental glaciation. It is generally agreed that the massive ice shield advanced and retreated four times—each time its ebb and flow altered the contours of the lands it scraped and gouged. But the direct contact of this creeping mass was not its only effect on the environment. It produced dramatic climatic changes for vast untouched areas and it locked in so much of the earth's water supply that continents were probably joined together. Few other natural phenomena could be said to equal the impact of the ice age on the fact of the land and the world as we now know it.

The Wisconsin stage of the Pleistocene epoch, as geologists call the ice age, probably ended about 10,000 years ago. Much remains to be learned about the glacial period, but its immediate impact is widely recognized. The thousands of lakes, hills, ridges, and the like which constitute some of the dominant land features of the Upper Midwest all reflect this influence. In geographical scope, the immediate effects of the ice sheet stagger the imagination, but relatively few of the most important, undisturbed remnants of this phenomenal event can be protected for scientific study and public use.

Probably the most outstanding of the existing remnants of continental glaciation in the world are found in the State of Wisconsin—most certainly, they are the best examples found in this country. It was because of the outstanding character and national scientific significance of these remnants that the Congress initially authorized the Secretary of the Interior to cooperate with the State of Wisconsin in establishing a national scientific reserve.

Normally, an area of such importance to our natural heritage would merit consideration as a wholly national program. In this instance, however, the State of Wisconsin was already actively engaged in a preservation-protection program involving some of the most important geological areas. Since the State had shown an interest in some of these areas and had taken steps to make them available to the public, it was natural to devise a cooperative program so that the State could receive some financial assistance in return for helping the Federal Government to meet a goal recognized to be nationally desirable.

LEGISLATIVE BACKGROUND

In approaching this unique situation, the Congress has adopted some innovations. First, Public Law 88–655 authorized the Secretary of the Interior to grant financial assistance to the State of Wisconsin to help complete the acquisition of needed lands. While $750,000 was authorized to be appropriated for this purpose, it was generally understood that these funds would not be made specially available if the Congress enacted the Land and Water Conservation Fund Act. That act, which was approved about the same time, provided matching assistance to all States on the basis of a fixed formula; consequently, the $750,000 authorization in Public Law 88–655 was not needed and has not been funded. All land acquisition moneys for the Ice Age National Scientific Reserve are to be derived from direct appropriations by the State and matching moneys allocated to it pursuant to the provisions of the Land and Water Conservation Fund Act.

No commitment was authorized with respect to Federal participation in the costs for development or operation and maintenance of the reserve; however, the act did authorize the Secretary, in cooperation with State and local governmental authorities, to formulate "a comprehensive plan for the protection, preservation, and interpretation of outstanding examples of continental glaciation in Wisconsin." This plan, together with the joint recommendations of the Secretary and the Governor of Wisconsin, was to be forwarded to the Congress. On the basis of the plan received and its recommendations, H.R. 4172 was introduced.

NEED

As passed by the House, H.R. 4172 does not authorize any funds to be appropriated for land acquisition purposes. This fact, of course, does not preclude the State of Wisconsin from using all or part of its allocated share of the land and water conservation

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fund as matching money for the land acquisition program.

Because of the national significance of the reserve, the bill does provide some incremental Federal assistance which would not normally be available for outdoor areas administered by a State. In addition to funds allocated to the State under the Land and Water Conservation Fund Act which may be used to finance up to 50 percent of the development costs, H.R. 4172 authorizes appropriations to be made to the Department of the Interior to pay half of the remaining development costs. This incremental authorization is strictly limited to no more than 25 percent of the cost of an individual project, and the maximum amount which may be appropriated for development assistance is limited to $425,000.

The bill also authorizes appropriations to be made to help finance the costs of operation and maintenance. It will permit the Federal Government to underwrite these administrative costs on a 50–50 matching basis with the State. These costs are presently estimated at about $158,000 annually—the Federal share of which would be $79,000 per year. While they might vary somewhat from year to year, the Congress would retain reasonable control over these expenditures through the appropriations process.

The committee recognizes that this authorization represents a deviation from the usual practice, but it views this situation as unique. In the absence of State cooperation and leadership in preserving these significant scientific areas, the Congress would probably be called upon to establish a federally administered facility of some type which would involve a far greater expenditure than the amount contemplated by this legislation.

It should also be recognized that this is a *national* scientific reserve. If the Federal Government makes no tangible contribution to the program, it would be *national* in name only. So far, the only Federal expenditure directly attributable to this project is the $150,000 which was authorized and appropriated to prepare the comprehensive plan. If H.R. 4172 is enacted, as recommended, Federal participation would be relatively nominal and, in return, a valuable national goal would be achieved.

COST

Federal participation in financing the development of the Ice Age National Scientific Reserve is limited. Not more than 25 percent of the cost of a development project may be federally funded; the remainder is to be financed from Wisconsin's allocated share of the land and water conservation fund (50 percent) and by direct appropriations to be made by the State (25 percent). The total commitment of the United States toward the development of all projects for the reserve is limited to $425,000.

The only other funding authorization contained in H.R. 4172 applies to operation and maintenance costs. Under the terms of the bill, Federal funds, if appropriated, may be used to match State funds made available for the administration of the reserve. Based on current estimates, the Federal share is expected to be $79,000 annually. State operation of the nine detached units should be most efficient, because the State can carry on these responsibilities in conjunction with its administration of other nearby or adjacent areas administered by the State. No Federal employment, other than technical assistance, is contemplated by this legislation. In the event that some emergency or unusual circumstances require the use of Federal employees at the reserve, the value of their services is to be considered as a part of the Federal share of the costs of administration.

As stated, no funds are authorized to be appropriated by the terms of H.R. 4172 for land acquisition. No part of the bill, however, should be construed as restricting the authority to provide financial assistance to the State as authorized by the Land and Water Conservation Fund Act.

Mr. NELSON subsequently said. Mr. President, with Senate passage today, H.R. 4172 to implement the Ice Age National Scientific Reserve, a Wisconsin project that is a hallmark of cooperative Federal-State efforts, will go to the President to be signed into law. This measure has already passed the House, and has been unanimously approved by the Senate Interior Committee without amendment.

H.R. 4172 provides for two essential steps to implement Public Law 88–655 which set up the reserve. First, it authorizes a Federal contribution not to exceed $425,000 for development of this Federal-State project, and second, it authorizes 50–50 Federal-State matching for the cost of operating and maintaining the reserve, with the Federal share expected to be $79,000 annually.

This very modest Federal investment will bring a major return in protecting for the Nation an important scientific, recreational, and scenic resource, developing and managing this facility to meet Federal standards, and providing a splendid opportunity for the Federal Government and the State to work cooperatively on a project.

The reserve comprises nine areas throughout Wisconsin, all containing unique remnants of the ice age which ended about 10,000 years ago. The reserve will not only offer scientists the best area in this country to study the glacial age, but will protect in perpetuity a major scenic and recreation resource for the benefit of the people in Wisconsin, the Upper Midwest and the Nation.

Further, the reserve will serve as another key link in Wisconsin's developing network of national scenic and wilderness areas, complementing the recently established Apostle Islands National Lakeshore the Saint Croix, Namekagon and Wolf national scenic rivers, plus the existing national forests and wildlife refuges and the State's own recreation system under the ORAP program.

The measure was introduced in the House by Wisconsin Congressmen ROBERT KASTENMEIER, HENRY REUSS, and CLEMENT ZABLOCKI, whose efforts were instrumental in the House passage of the bill.

A review of the history and justification for this nationally significant project should be helpful at this point.

The initial authorizing legislation was passed by Congress October 13, 1964, with the Senate voting the House-passed bill at my suggestion. The concept was for the State to receive some financial assistance in return for helping the Federal Government meet a goal recognized to be nationally desirable.

As noted, the Reserve comprises nine noncontiguous areas throughout Wisconsin, all containing unique remnants of the ice age which ended about 10,000 years ago. As has been pointed out by scientists, the moraines, eskers, kames, kettleholes, drumlins, swamps and lakes of this area present the best place in this country to study the glacial age and one of the two best places anywhere in the world. Also, this same area includes many spots which can provide valuable scenic and outdoor recreation opportunities for visitors not only from Wisconsin but from nearby Chicago, Minneapolis, and St. Paul and other areas of the Midwest. In this regard, it is worthwhile to note the recommendation of the recent first annual report of the President's Council on Environmental Quality that:

> Greater emphasis should be given through existing programs to acquire small parks and natural areas near cities.

Recognizing the unique national recreation and scientific values of this glaciated area the 1964 congressional act directed the Secretary of the Interior, in cooperation with the State of Wisconsin, to complete a comprehensive plan for the Reserve. Some $50,000 in Federal appropriations provided for the Federal portion of the plan. Section 4 of the act provided that the comprehensive plan should include such recommendations, if any, as the Secretary and the Governor of the State might wish to make with respect to Federal and State participation in the financing of appropriate interpretive and other public facilities and services within the Reserve.

The comprehensive plan was carefully negotiated between the National Park Service and the State of Wisconsin, and after full agreement, was filed with the Senate and the House on September 10, 1968.

In the 90th Congress, H.R. 18672 was introduced to carry out the comprehensive plan of September 10, 1968, in view of the fact that the recommendations included provisions requiring supplemental legislation. The bill received a favorable report from the Department of the Interior and the Bureau of the Budget in November 1968, but congressional adjournment prevented its enactment. H.R. 4172, introduced in this Congress, is identical to H.R. 18672.

While $750,000 was authorized in the 1964 act to be appropriated to help Wisconsin complete the acquisition of needed lands for the Reserve, it was understood that these funds would not be made specially available if Congress enacted the Land and Water Conservation Fund. The $750,000 was never funded, and all land acquisition moneys for the Ice Age Reserve have been derived from direct State appropriations and matching moneys allocated to it pursuant to the provisions of the Land and Water Conservation Fund.

The comprehensive plan provided for cost-sharing of the land acquisition, development and operation of the Reserve. Under this cost-sharing, Wisconsin would pay the entire cost of the land, 32,500 acres, with an estimated value of at least $16 million. The cost of additional land needed to complete the 32,500 acres is estimated at $1,150,000, all of which would be paid for by Wisconsin—50 percent through direct State appropriations, the other 50 percent to be earmarked from Wisconsin's allocation from the Land and Water Conservation Fund.

Wisconsin would pay 75 percent of the total cost of developing the nine units of the Reserve, $1,688,000. Twenty-five per-

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cent will come from direct State appropriations, and 50 percent from Wisconsin's allocation of Land and Water Conservation Fund money. As provided in H.R. 4172, the 25 percent Federal contribution, not to exceed $425,000, would come from a Federal appropriation to the National Park Service.

The only other funding authorization contained in H.R. 4172 applies to operation and maintenance costs. Under the terms of the bill, Federal funds, if appropriated, may be used to match State funds made available for the administration of the Reserve. Based on current estimates, the Federal share is expected to be $79,000 annually.

The proposed ice age cost-sharing formula is like that of the Nez Perce National Historic Monument in Idaho, where the State operates the scattered sites on a 50–50 cost-sharing arrangement.

The cooperative features of the project are also similar to those of Independence National Historical Park in Philadelphia. There, the city of Philadelphia owns title to Independence Hall and the National Park Service pays all the expenses of maintenance and operations.

In summary, Mr. President, for a very modest Federal contribution, the Ice Age Reserve will provide a major return. Considering the contribution Wisconsin is making, the development and operation moneys provided from the Federal level in H.R. 4172 would seem a wise and worthwhile investment, and well justified as well because they would carry out the original intent of Congress in 1964 that these unique areas be preserved in the national interest.

The project has had the strong support of the Park Service and the Department of the Interior and of a previous Bureau of the Budget. The present Bureau of the Budget—Office of Budget and Management—objects on grounds based on principles it says are established by the Land and Water Conservation Fund. Yet, Congress authorized the ice age project even before the Land and Water Conservation Fund was established—and in fact, the concept of this hallmark Federal-State effort was a forerunner of the fund. Thus, it would be unfortunate if a project authorized 6 years ago by Congress were not carried through because of another program authorized later.

And, as noted, the Nez Perce National Historical Park and Independence National Historical Park have served as one important guide for development of the ice age concept.

Finally, it is important to point out that further delay in implementing the ice age plan could well result in land speculators acquiring enough acreage within the project to put an end to the viability of this priceless national resource as a public, underdeveloped facility.

To conclude, let me provide an area-by-area description of the Ice Age National Scientific Reserve as it will be implemented in the comprehensive plan of the Department of the Interior and the State of Wisconsin:

First. Two Creeks Buried Forest, on Lake Michigan 22 miles north of Manitowoc. This 30-acre site, which is privately owned, contains a buried spruce forest that was once covered by the waters of an ancient, much enlarged Lake Michigan before and after two periods of Wisconsin glaciation. Geologists consider this site as the standard for dating ancient artifacts by the carbon-14 method.

Second. Sheboygan Marsh, 15 miles west of the city of Sheboygan. A privately owned, 80-acre parcel next to the 6,503-acre Sheboygan Marsh County Park, it provides the best scenic overlook in the area, which includes what was once a vast glacial lake. Ultimately, the plan recommends that the whole park be included in the Reserve if Sheboygan County elects to take part in the program.

Third. A 15,000-acre segment of the north unit of Kettle Moraine State Forest, in Sheboygan County about 50 miles from Milwaukee. This area contains a ridge, or moraine, 200 feet high that was created by the nether edge of the vast moving wall of ice which swept down from the north, changing the face of a continent millions of years ago. A strange, humpy formation, dotted by eskers—serpentine-like ridges, usually about 60 feet high—kames—cone-shaped masses of gravel and rock—and kettle lakes—large depressions left by the glacier and filled with water—the Kettle Moraine is a living example of the gigantic force of the glacier.

Fourth. Campbellsport Drumlins, in Fond du Lac County about 9 miles west of Kettle Moraine State Forest. This 3,600-acre rural area contains some of the world's finest displays of "drumlins"—low, rounded hills, usually 50–100 feet in height and having the shape of an egg lying on its side and half buried in the earth. Much of this area is now farmland and would remain in private ownership, with a scenic easement to the public.

Fifth. Cross Plains, in Dane County about 6 miles west of Madison. A partially wooded, 160-acre segment, Cross Plains includes a terminal moraine deposited at the edge of an unglaciated area, bedrock formations, and a gorge.

Sixth. Devils Lake State Park in Sauk County, about 48 miles from Madison. Describing it as an "outstanding scenic and scientific area," the plan recommends that not only the 4,360-acre State park but also 4,480 acres of private land surrounding the park be included in the reserve. Nowhere in Wisconsin is the forceful drama of the glacier's advance more apparent than at Devils Lake. There the juggernaut of ice crushed around the ancient crystalline rampart of the Baraboo Range. Diverting the Wisconsin River from the gorge it had cut through the range, the ice dammed up both ends of the gap with debris. Devils Lake now fills the basin thus formed, according to the plan.

Seventh. Mill Bluff State Park in Monroe and Juneau Counties, 95 miles from Madison. This proposed 930-acre unit would include an existing 154-acre State park plus an adjacent group of rocky buttes on the north and south sides of the park. It provides a view of what was once a vast inland lake, and of rocky outcroppings that once were islands.

Eighth. A 2,940-acre segment near the town of Blommer in Chippewa County, about 35 miles from Eau Claire. This unit would include 1,000 acres of the Chippewa County Forest. It was here that the glacial advance piled up a miniature mountain landscape, a woodland of jumbled hills with more than 300 kettlehole ponds and pools. In kettleholes that do not hold water there are bogs and groves whose undisturbed plant communities offer extraordinary possibilities for biological study, according to the plan.

Ninth. Interstate Park on the St. Croix River in Polk County, 55 miles from Minneapolis-St. Paul, Minn. This 920-acre parcel, all on the Wisconsin side of the river, includes an outstanding scenic river gorge, once a principal drainageway during the ice age; large potholes; lava flows; ground moraine; and rugged end moraines, according to the plan.

PROGRAM INFORMATION ACT

The Senate proceeded to consider the bill (S. 60) to create a catalog of Federal assistance programs, and for other purposes which had been reported from the Committee on Government Operations with an amendment to strike out all after the enacting clause and insert:

SHORT TILE

SECTION 1. This Act may be cited as the "Program Information Act".

DEFINITIONS

SEC. 2. For the purposes of this Act—

(a) The term "Federal domestic assistance program" means any function of a Federal agency which provides assistance or benefits, whether in the U.S. or abroad, that can be requested or applied for by a State or States, territorial possession, county, city, other political subdivision, grouping, or instrumentality thereof, any domestic profit or nonprofit corporation, institution, or individual, other than an agency of the Federal Government.

(b) A Federal domestic assistance "program" may in practice be called a program, an activity, a service, a project or some other name regardless of whether it is identified as a separate program by statute or regulation. A "program" shall be identified in terms of differing legal authority, administering office, funding, financial outlays, purpose, benefits, and beneficiaries.

(c) "Assistance or benefits" includes but is not limited to grants, loans, loan guarantees, scholarships, mortgage loans and insurance or other types of financial assistance; assistance in the form of provision of Federal facilities, goods, or services, donation or provision of surplus real and personal property; technical assistance and counseling; statistical and other expert information; and service activities of regulatory agencies. "Assistance or benefits" does not include conventional public information services.

(d) "Requested or applied for" means that the potential applicant or beneficiary must initiate the process which will eventually result in the provision of assistance or benefits. The term, therefore, excludes solicited contracts, automatic shared revenues or payments, and indirect assistance or benefits resulting from Federal operations.

(e) "Federal agency" means any executive department, agency, or instrumentality of the Government and any wholly owned Government corporation.

(f) "Administering office" means the lowest subdivision of any Federal agency that has direct operational responsibility for managing a Federal domestic assistance program.

EXCLUSION

SEC. 3. This Act does not apply to any activities related to the collection or evaluation of national security information.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAMS

SEC. 4. The President shall transmit to Congress no later than May 1st of each regular session a catalog of Federal domestic assistance programs, referred tc in this Act as "the catalog," in accordance with this Act.

PURPOSE OF CATALOG

SEC. 5. The catalog shall be designed to assist the potential beneficiary identify all existing Federal domestic assistance programs wherever administered, and shall supply information for each program so that the potential beneficiary can determine whether particular assistance or support might be available to him to use for the purposes he wishes.

REQUIRED PROGRAM INFORMATION

SEC. 6. For each Federal domestic assistance program, the catalog shall—

(1) identify the program. The identification may include the name of the program, the authorizing statute, the specific administrating office, and a brief description of the program including the objectives it is designed to attain.

(2) describe the program structure. The description may include a statement of the eligibility restrictions, the available benefits, and the restrictions on the use of such benefits.

(3) provide financial information. This information may include the obligations incurred for past years, the range of financial assistance where appropriate, or other pertinent financial information designed to indicate the magnitude of the program and any funding remaining available.

(4) state the obligations on the part of the recipient receiving assistance or support. This statement may include a statement of prerequisites to receiving benefits, and of duties required after receiving benefits.

(5) identify the appropriate officials to contact. The list may include contacts both in Washington, District of Columbia, and locally, including addreses and telephone numbers.

(6) provide a general description of the application process. This description may include application deadlines, coordination requirements, processing time requirements, and other pertinent procedural explanations.

(7) identify closely related programs.

FORM OF CATALOG

SEC. 7. (a) The program information may be set forth in such form as the President may determine, and the catalog may include such other program information and data as in his opinion are necessary or desirable in order to assist the potential program beneficiary to understand and take advantage of each Federal domestic assistance program.

(b) The catalog shall contain a detailed index designed to assist the potential beneficiary to identify all Federal domestic assistance programs related to a particular need.

(c) The catalog shall be in all respects concise, clear, understandable, and such that it can be easily understood by the potential beneficiary.

QUARTERLY REVISION

SEC. 8. The President shall revise the catalog at no less than quarterly intervals. The catalog shall be published in a manner which shall permit such revision to be made at the least possible cost, including the use of loose-leaf supplements or other materials as deemed necessary for such revision. Each revision—

(1) shall reflect any changes in the program information listed in section 6.

(2) shall further reflect addition, consolidation, reorganization, or cessation of Federal domestic assistance programs, and shall provide for such Federal domestic assistance programs the program information listed in section 6.

(3) shall include such other program information as will provide the most current information on changes in financial information, on changes in organizations administering the Federal domestic assistance programs, and on other changes of direct, immediate relevance to potential program beneficiaries as will most accurately reflect the full scope of Federal domestic assistance programs.

(4) may include such other program information and data as in the President's opinion are necessary or desirable in order to assist the potential program beneficiary to understand and take advantage of each Federal domestic assistance program.

PUBLICATION AND DISTRIBUTION OF THE CATALOG

SEC. 9. (a) The President (or an official to whom such function is delegated pursuant to section 10 of this Act) shall prepare, publish, and maintain the catalog and shall make such catalog and revisions thereof available to the public at prices approximately equal to the cost in quantities adequate to meet public demands, providing for subscriptions to the catalog and revisions thereof in such manner as he may determine.

Gratis distribution of not to exceed ten thousand copies, in the aggregate, is authorized to Members of Congress and Resident Commissioners, Federal department and agency officials, State and local officials, and to local repositories as determined by the President or his delegated representative.

(b) The catalog shall be the single authoritative, Government-wide compendium of Federal domestic assistance program information produced by a Federal agency or department. Specialized catalogs for specific ad hoc purposes may be developed within the framework, or as a supplement to, the Government-wide compendium and shall be allowed only when specifically authorized and developed within guidelines and criteria to be determined by the President.

(c) Any existing provisions of law requiring the preparation or publication of such catalogs are superseded to the extent they may be in conflict with the provisions of this Act.

DELEGATION OF FUNCTIONS

SEC. 10. The President may delegate any function conferred upon him by this Act including preparation and distribution of the catalog, to the head of any Federal department or agency, with authority for redelegation as he may deem appropriate.

Mr. BOGGS. Mr. President, passage of S. 60, the Program Information Act, represents an important step toward more effective utilization of the $25 billion or so that is available yearly in Federal domestic assistance programs.

S. 60 would require annual publication of a catalog listing these Federal domestic assistance programs. Such a catalog will provide useful, up-to-date information on what programs are available, their authorizing statutes, the administration of the program, the nature of the program, those eligible for the funds available, as well as information on who to contact. There is also a requirement for identification of closely related programs, a cross-reference tool to enable any official of local government or private citizen to find the best program to meet his needs.

As a former Governor of Delaware, I know how essential it is that a State official and his staff have ready access to all the information that is available on Federal programs.

If such information assists a Governor, it will probably prove even more helpful to communities with a population of 5,000 or 10,000 persons. These smaller communities normally cannot afford executive guidance in seeking Federal assistance. A catalog of all available Federal domestic assistance programs would assure ready access for all Americans to the information they may need on the sewer programs or the training grants, or the farm assistance plans. This catalog, of course, also will list the many programs open to private individuals as well as to industry and other private organizations.

This legislation was originally proposed by the Honorable WILLIAM V. ROTH, the Member of the House of Representatives from Delaware. Startled by the maze of Federal programs he found when he was elected to the House, Congressman ROTH sought to catalog every program that he could find. In 1968, he prepared a listing of nearly 1,100 Federal assistance programs. He listed this information in the CONGRESSIONAL RECORD, and had it published as a House document.

Subsequently, Congressman ROTH compiled a second catalog. It proved to be even more comprehensive, listing more than 1,300 Federal programs. Congressman ROTH and his staff are to be commended for their diligent effort in the field.

As companion to legislation introduced in the House by Congressman ROTH, it was my honor to introduce S. 60 in the Senate. I was joined by several cosponsors: Mr. BENNETT, Mr. CASE, Mr. COTTON, Mr. GOODELL, Mr. JAVITS, Mr. KENNEDY, Mr. MATHIAS, Mr. MONTOYA, Mr. MURPHY, Mr. PERCY, Mr. SCOTT, Mr. STEVENS, Mr. TOWER, and Mr. WILLIAMS of Delaware.

Since it was originally submitted to the Senate, there have been several modifications to the bill. I support these amendments.

Possibly the most significant one changes the requirement in the original proposal for monthly updating of information to a requirement for quarterly updating. The Committee on Government Operations recognized that monthly updating was impractical, at least initially. Quarterly updating should serve to keep the catalog sufficiently current so that its data may be meaningful to its users. But I would anticipate that a time will come when the catalog can be updated monthly, thus making it even more effective for the public.

Again, Mr. President, I wish to express my strong support for this bill. It will create a tool that will be useful to all Americans. I commend this legislation to my colleagues.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1271), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 60, the Program Information Act, is designed to remedy the basic difficulty facing grant applicants regarding the lack of information about what is available and what differences and similarities are among the many programs.

In order to overcome this problem, S. 60 would provide for the publication of a catalog of Federal assistance programs. The catalog would provide information designed to—

1. identify the program, its objectives, and authorizing statutes;
2. describe the program structure and eligibility requirements;
3. state the level of program funding and give other financial information;
4. state the cost to recipients and duties required of recipients;
5. identify the appropriate local and Washington officials to contact;
6. describe the mechanics of making an application; and
7. identify related programs.

S. 60 builds on the foundation established by the Intergovernmental Cooperation Act of 1968 (Public Law 90–577), and would provide a necessary additional tool to those at the State and local level of government who are grappling with the difficult assignment of achieving more effective delivery of Federal assistance programs.

BACKGROUND AND PROBLEMS

Between 1962 and 1966, the total of separate grant authorizations more than doubled, rising from 161 to 379. During the 90th Congress, at least 42 new broad grant programs were enacted involving well over that number of separate authorizations. A cautious estimate of the grant total places the figure at 420 as a minimum. When non-grant assistance programs are added to this figure, the total swells to in excess of 1,300 sources.

Grant-in-aid programs alone provide nearly 20 percent of State and local revenue. By their matching requirements, they generate additional expenditures on the order of one for every two Federal grant-in-aid dollars. In more recent years, the number, complexity, and varying administrative and personnel requirements have raised serious questions concerning their usefulness as tools of a properly functioning federal system. A major defect to arise has concerned the lack of information about what is available and what the differences and similarities are among the many programs.

During the course of the hearings held on S. 60 it became clear that for mere lack of information regarding the availability of domestic assistance programs, many units of government were unable to participate in the advantages for which the various programs were established. In addition, it was noted that such a publication as would be established by S. 60 could aid in eliminating overlapping programs and functions within various agencies as well as suggest the means by which program budgets might be reduced from time to time. The Bureau of the Budget initiated steps toward solution of the problem through issuance of Circular A–89, on August 23, 1968. The directive called for the preparation of a comprehensive catalog which would describe all Federal domestic assistance programs and activities. The catalog was to be issued on an annual basis for the executive branch of government, and was the responsibility of the Office of Economic Opportunity. At the same time, the circular stated that such a "* * * Catalog of Federal Domestic Assistance' * * * is not intended to be a substitute for agency publications which deal with the details of their own programs * * *." This "loophole in A–89" potentially could lead to the kind of catalog proliferation that has characterized Federal information efforts in this area during recent years.

HEARINGS

Hearings on S. 60, and related legislation, were held by the Senate Subcommittee on Intergovernmental Relations on September 9, 10, 12, and 17, 1969. More than 20 witnesses testified, including among others, Senator J. Caleb Boggs, Representative William V. Roth, Raymond P. Shafer, Governor of Pennsylvania, representing the National Governors' Conference; Frank N. Zullo, mayor of Norwalk, Conn., on behalf of the National League of Cities and the U.S. Conference of Mayors; Louis L. Goldstein, comptroller of the treasury for the State of Maryland; Farris Bryant, Chairman, Advisory Commission on Intergovernmental Relations, accompanied by William G. Colman, Executive Director and David B. Walker, Assistant Director; Dwight A. Ink, Assistant Director for Executive Management, Bureau of the Budget, accompanied by Walter W. Hasse, Director of Management and Information Systems Staff, Howard Schnoor, Director of Government Organization Staff of the Office of Executive Management, William Armstrong, Director of Financial Management Staff, Office of Executive Management, and James R. Elder, Management Analyst, Management Information Systems Staff.

Also Elmer Staats, Comptroller General of the United States; W. Russell Arrington, Illinois State Senate president pro tempore; William S. James, president of the Maryland State Senate, on behalf of the Council of State Governments, accompanied by Arlene T. Shadoan and Robert M. Rhodes, special assistants: on behalf of the National Association of Counties, Clifford Tuck, president-director, Department of Coordination, Shelby County, Tenn., Lois Blume, Nassau County, New York Federal State Aid Coordinator, Thomas Haga, director, Metropolitan Planning Commission, Genesee County, Mich., Aileen Lotz, senior administrative assistant of Dade County, Fla., accompanied by Ralph L. Tabor, director of Federal Affairs for the National Association of Counties; and Wayne F. McGown, president, National Association of State Budget Officers, accompanied by Dick Seaman, Wisconsin Department of Administration at Madison (Arlene T. Shadoan, Council of State Governments, Washington, D.C.).

In addition, statements on S. 60 were received from the following governmental agencies: Advisory Commission on Intergovernmental Relations, Agriculture, Army, Atomic Energy Commission, Bureau of the Budget, Civil Aeronautics Board, Coastal Plains Regional Commission, Commerce, Council of Economic Advisers, District of Columbia, General Accounting Office, General Services Administration, Housing and Urban Development, Interior, National Aeronautics and Space Administration, National Science Foundation, Post Office, Small Business Administration, State, Tennessee Valley Authority, Treasury, and Upper Great Lakes Regional Commission.

In introducing the bill, Senator J. Caleb Boggs said:

"In recent years the proliferation of Federal assistance programs has become a source of irritation for those who seek a particular program to fulfill specific needs. The tangle has resulted in many man-hours being wasted in ferreting out programs tailored to the needs of an individual.

"The absence of a reliable cross-referenced source of information for all Federal programs has also undoubtedly caused an overlapping of Federal programs, adding needless cost to the considerable confusion."

The testimony and statements of the witnesses dealt with these issues and was overwhelmingly in support of the objectives of the legislation. The suggestions for additions, changes, and improvements in the legislation were thoroughly considered by the committee.

COMMITTEE ACTION AND AMENDMENTS

In its deliberations on the bill, the committee considered a number of policy questions including differences between the provisions of S. 60 as introduced, and issues raised in the testimony and statements of witnesses.

The principal changes made by the amendment, section by section, are as follows:

EXTENT OF COVERAGE

Section 2, as introduced, provided for coverage of all "Federal assistance programs." As amended, section 2 applies to "Federal domestic assistance programs" inasmuch as the option of compiling a similar or integrated catalog on foreign assistance programs is available at a later date.

Section 2, as amended, narrows the definition of a "Federal domestic program" since many programs are multipurpose, provide more than one type of benefit, and are funded from multiple sources. The committee felt that the definition prescribed in section 2, as introduced, would result in unnecessary fragmentation of the catalog and undue complication of the task of assembling necessary information. The suggested definition is related to the "function" of providing assistance or benefits, thus permitting a program to be called an activity, a service, a project, or some other name regardless of whether it is identified as a separate program by statute or regulation. This would permit identification in terms of legal authority, administering office, funding, fiscal outlays, purpose, benefits, and beneficiaries.

PUBLICATION OF THE CATALOG

Section 4, as introduced, provided the catalog be transmitted during the early days of each session of the Congress. As amended section 4 provides for such transmittal to Congress no later than May 1 of each regular session. The selection of this specific date would permit the Bureau of the Budget to complete preparation of the annual budget and to relate the catalog's content as nearly as possible, to the new fiscal year programs.

DESIRABLE FISCAL INFORMATION

As introduced, sections 6(3) and 7(a) required that information be provided beyond the capacity of existing information systems. As amended, section 6(3) provides that information regarding obligations incurred for past years be included, along with an indication concerning the general range of fiscal assistance currently available. Detailed budgetary information has been eliminated.

PROCEDURAL SIMPLIFICATION

Section 8, as introduced, provided simplification of application procedures being implemented through the provisions of Public Law 90–577 and executive order. Accordingly, the committee recommended that the provisions of section 8 be eliminated as unnecessary conditions to the proposed legislation.

PERIODICITY OF THE CATALOG

As introduced, section 9 provided for monthly revisions of the catalog. As amended, section 9 is changed to a new section 8, and provides for quarterly revision based upon the limitations of current available information, and in view of the option that more frequent revisions may be possible as the information system is perfected.

New Section 8 was further amended to require that the quarterly revision be published in a manner which shall be at the least possible cost, including the use of loose-leaf

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supplements or other materials as deemed necessary for the revision. This was done to assure that there would be no republication of the entire catalog, or parts thereof not relevant to the revision.

SPECIALIZED CATALOGS

Section 9, as introduced, provided that the catalog authorized by the legislation, would be the only compendium of program information produced by any Federal agency or department. As amended, S. 60 provides that the assembly of specialized catalogs for specific purposes of target groups be authorized, but within the framework of, or as a supplement to, the Government-wide compendium authorized by the legislation. Specific guidelines and criteria would be established to cover such circumstances.

DELEGATION OF AUTHORITY

As introduced, section 10 provided that the activity of compilation and production be the responsibility of the Bureau of the Budget. As amended, the measure provides that the President may delegate this function to the agency or agencies believed most appropriate for execution of the function, thus permitting him an added degree of flexibility of judgment.

CONCLUSIONS

The major objective of this bill is to provide in one reliable publication, an overview of all sources of Federal domestic assistance divided into visible, discrete program entities. The catalog should give the potential applicant or beneficiary a general overview of all domestic programs that might bear on his needs, should permit him to evaluate and make a preliminary choice of which of these programs are the most appropriate to pursue, and should give him the best contacts needed for further inquiry.

To help Congress in its function of legislative planning, the catalog should list all programs, including those not funded at present.

It is expected that simple and uncomplicated methods for preparing such a catalog of program information will be devised. Furthermore, to help the Congress in its function of legislative planning, the agency/agencies responsible for initial preparation of the catalog should give close attention to the expressed needs of complete and current program information.

EXEMPTION FROM ATTACHMENT OF WAGES FOR NONRESIDENTS OF THE DISTRICT OF COLUMBIA

The bill (H.R. 9548) to amend section 15-503 of the District of Columbia Code with respect to exemptions from attachment and certain other process in the case of persons not residing in the District of Columbia was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1273), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill (H.R. 9548) is to eliminate a practice involving the attachment of wages of nonresident debtors through actions initiated in the District of Columbia courts. In this way, creditors, by suing in the District, have been able to evade an exemption that may be granted to a nonresident debtor by the laws of the State in which the debtor resides.

NEED FOR LEGISLATION

Under existing law in the District of Columbia it is possible for a creditor to garnish the wages of a nonresident debtor by initiating garnishment proceedings in the District of Columbia against the debtor's employer, if the employer maintains an office in the District, even though the employer's principal place of business is outside the District. For example, under Maryland law, an employee earning $100 a week, or $433 a month, is exempt from garnishment. In the District, however, under the same circumstances, $66.60 of the employee's wages would be subject to garnishment.

MAJOR PROVISIONS OF THE BILL

The bill (H.R. 9548) amends section 15-503 of the District of Columbia Code to insert therein a new subsection (c) which would, in certain cases, exempt from attachment the wages of a nonresident of the District of Columbia who earns the major part of his wages outside the District, to the same extent such wages would be exempt under the laws of the State in which the debtor resides. The exemption applies only in cases involving a contract or transaction entered into outside the District of Columbia.

In addition, the amendment provides that in any case in which claim is made for such exemption the burden shall be upon the plaintiff to prove that the contract or transaction involved in the case was entered into within the District of Columbia.

HISTORY OF THE LEGISLATION

The bill (H.R. 9548) passed the House on July 14, 1969, and was subsequently referred to the Senate District Committee. A hearing on the bill was held before the Judiciary Subcommittee on July 27, 1970, at which time a representative of the District of Columbia Office of the Corporation Counsel presented testimony favoring the enactment of the legislation. No oppostion to the bill was presented to the committee.

ELIMINATION OF STRAW PARTY DEEDS IN JOINT TENANCIES

The Senate proceeded to consider the bill (H.R. 13564) to provide that in the District of Columbia one or more grantors in a conveyance creating an estate in joint tenancy or tenancy by the entireties may also be one of the grantees which have been reported from the Committee on the District of Columbia with amendments on page 2, after line 2, insert a new section, as follows:

SEC. 2. (a) Title II of the District of Columbia Code, as amended by section 111 of the Act of July 29, 1970 (84 Stat. 475), is amended as follows:

(1) Section 11-921(a)(3)(A)(ix) of such title is amended by striking out "sec. 1-804(b)" and inserting in lieu thereof "sec. 1-804b".

(2) Section 11-1101(8) of such title is amended by striking out "subsection" and inserting in lieu thereof "section".

(3) Section 11-1106(16) of such title is amended by striking out "VII" and inserting in lieu thereof "IV".

(4) Section 11-1501(b)(4) of such title is amended by inserting immediately after "Fairfax Counties" the following: "(and any cities within the outer boundaries thereof)".

(5) Section 11-1561(5) of such title is amended by striking out "has either (A)" and inserting in lieu thereof "either (A) has".

(6) Section 11-1561(6) of such title is amended by striking out "has either (A)" and inserting in lieu thereof "either (A) has".

(7) Section 11-1742(a) of such title is amended by striking out "may be assigned" and inserting in lieu thereof "may be assigned".

(b)(1) Section 601 of the Act of July 29, 1970 (84 Stat. 667), is amended by striking out "IX" and inserting in lieu thereof "X".

(2) It is the intent of Congress that the amendment made by paragraph (1) of this subsection shall (A) revive title IX of the Act of December 27, 1967 (81 Stat. 742), as of the date of enactment of this Act, and (B) repeal title X of such Act of December 27, 1967 (81 Stat. 742), as of the date of enactment of this Act.

(c) Title 23 of the District of Columbia Code, as enacted by section 210(a) of the Act of July 29, 1970 (84 Stat. 604), is amended as follows:

(1) The heading of section 23-551 of such title is amended by striking out "supression" and inserting in lieu thereof "suppression".

(2) Section 23-551(b)(5) of such title is amended by striking out "subsection (i) of this section" and inserting in lieu thereof "section 23-549(a)".

(d) The amendments made by subsections (a) and (c) of this section shall take effect on the first day of the seventh calendar month which begins after the date of the enactment of the Act of July 29, 1970 (84 Stat. 473).

On page 3, after line 22, insert a new section, as follows:

SEC. 3. That part of the schedule of rates contained in section 101 of the District of Columbia Police and Firemen's Salary Act of 1958, as amended (D.C. Code, sec. 4-823), relating to salary class 11 is amended to read as follows:

"Salary class and title	Service step 1	Service step 2	Service step 3	Longevity step 4	Longevity step 5	Longevity step 6	Longevity step A	Longevity step B	Longevity step C
Class 11 Fire Chief Chief of Police."	29,925	31,350	32,775						

And on page 4, following the table after line 2, insert a new section, as follows:

SEC. 4. The amendments made by the third section of this Act shall take effect on the first day of the first pay period beginning on or after July 1, 1969.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1272), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill (H.R. 13564) is to eliminate the common law requirement, which is presently applicable in the District of Columbia, that creation of a joint tenancy in real property by act of one of the parties thereto, must be accomplished through a third, or so-called straw, party.

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NEED FOR LEGISLATION

The Code of the District of Columbia does not codify the requirements for the creation of joint tenancies in real property; consequently, the common law applies in such conveyances involving real property located in the District. A joint tenancy in real property is one in which the owners hold undivided interests which pass to the surviving tenants. A tenancy by the entireties is a joint tenancy between husband and wife.

Under the common law, a basic requirement of joint tenancy is that the interests of the grantees must arise at the same time, and by the same grant. This precludes an owner of real property from directly creating a joint interest therein between himself and another. It is necessary under the common law to convey such a joint tenancy through a third party. For example, a man wishing to give his wife such an interest in property owned by himself individually must first deed the property to another person, referred to as a straw party, who in turn deeds it back to the husband and wife.

The bill makes unnecessary the use of a straw party to effect this property transaction, and will result in a saving of money and in greater convenience to those persons who wish to create joint tenancies and tenancies by the entireties in property which they own.

HISTORY OF LEGISLATION

The bill (H.R. 13564) passed the House on October 27, 1969, and was subsequently referred to the Senate District Committee. A hearing on the bill was held on April 28, 1970, before the Judiciary Subcommittee, at which time a representative of the office of the District of Columbia Corporation Counsel presented testimony favoring the legislation. Your committee has also received endorsements of this legislation from the District of Columbia Bar Association and the District of Columbia Metropolitan Area Land Title Association. No opposition to this bill has been presented to your committee.

PROVISIONS OF THE BILL

The bill (H.R. 13564) amends the act of March 3, 1901 (D.C. Code sec. 45-816) to provide by statute that a joint tenancy in real property, or a tenancy by the entireties, may be created by an owners' directly conveying title to himself and another (or others).

The bill also amends the heading of this section so that it properly indicates that tenancy by the entireties is also treated in the section.

COMMITTEE AMENDMENTS

The committee amendments contained in section 2 of the bill are technical amendments correcting errors in numeration, spelling and type in the District of Columbia Court Reorganization Act (act of July 29, 1970; 84 Stat. 473). Only one of these amendments has substantive impact. Section 601 of the act intended to repeal title X of Public Law 90-226, authorizing a Commission on Revision of the Criminal Laws of the District of Columbia. By inadvertence, however, the act improperly cited title IX instead of title X, which resulted in the possible apparent repeal of provisions dealing with public disturbances. Although the context of the repealer clearly reflects the intent to abolish the Commission on Revision of Criminal Laws (and could not be read to affect the substantive criminal law provisions), the typographical error should be changed in order to avoid any misunderstanding by the codifiers of the provision.

The committee amendments in sections 3 and 4 of the bill relate to the District of Columbia police, firefighter, and teacher pay increase enacted this summer. That legislation inadvertently included a pay scale for assistant chiefs of the police and the fire department which has resulted in a pay level for some of the present assistants $1,250 in excess of the pay rate for the chiefs. Because the bill was retroactive to July 1969, some assistant chiefs received an additional $1,250 in excess of that received by the chiefs. This result occurs, because, under the bill, the fourth and last pay step for the assistant chief in each department is $1,250 per year higher than the first step for chief.

The present chiefs of fire and police are in the first step whereas some of their assistants are in the fourth.

The proposed amendment remedies this situation by eliminating the first step from the present chiefs pay schedule, thus reducing the number of steps for a chief to three, the lowest of which is higher than the highest step for assistant chief. The amendment will make this pay scale for chiefs retroactive to last July 1, so that the two chiefs will receive additional compensation as if the error had not occurred in the first place.

CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary to dispense with the requirements of subsection (4) of rule XXIX of the Standing Rules of the Senate to expedite the business of the Senate.

Mr. MANSFIELD. Mr. President, that completes the call of the calendar.

PROGRAM FOR REMAINDER OF THE SESSION

Mr. MANSFIELD. If the distinguished Senator from New York (Mr. Javits) will forbear a little bit further so that the joint leadership can state what the program will be for the period of time between now and next Wednesday, October 14, 1970, and when we come back, I would like to proceed.

Mr. JAVITS. I am happy to yield further to the Senator from Montana.

Mr. MANSFIELD. I thank the Senator from New York.

Mr. President, yesterday it was announced that the Congress would adjourn next Wednesday, October 14, and return following the elections on November 16, to complete the business. Prior to the adjournment, I announced that the Senate would complete action on a number of very important items and would again wish to list them in the approximate order in which they will be considered.

The equal rights for women proposal is presently the Senate's unfinished business. It will be considered until disposed of. While women's rights is pending, the leadership intends to move it aside temporarily from time to time to consider other matters. The drug bill presently falls in that category. Later today, the leadership intends to set aside again the women's rights proposal temporarily to return to the consideration and to complete action on the drug measure.

Before the Senate adjourns this evening, the leadership intends to set aside again the women's rights proposal for the purpose of considering the four crime measures that are now on the calendar. If not completed this evening, the Senate will finish action on all of these bills tomorrow and again return to consideration of the women's rights proposal on a larger scale.

Tomorrow evening, the Senate will consider the Sleeping Bear Dunes proposal and will complete its consideration—that is, if it is not taken up and disposed of this evening. Tomorrow also it is hoped that the Senate could turn to the occupational health and safety measure.

On Friday, the Senate will return to the consideration of the equal rights proposal provided that action has not been completed on Thursday. Hopefully, too, the Senate will continue consideration of the occupational health and safety measure with a possibility for action to be completed on Friday, if not, it will go over until Monday. Thereafter, next week, it is hoped that the Senate will consider military construction appropriations, the World Environmental Institute, and the remaining available items of importance on the Calendar of business, as well as conference reports as they become available.

Upon the Senate's return on November 16, it will be the intention of the leadership, at this time and barring some unforeseen factor, to commence action on the Social Security Amendments for 1970. That measure may well be made the unfinished business of the Senate before the election recess begins so that Senators will be on notice.

The leadership has prepared a list of major bills to be completed before the Senate adjourns sine die including such items as the President's family assistance proposal, the remaining appropriations bills, and the consumer class action bill, and I ask unanimous consent that the complete list of these measures be printed at this point in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

Social security amendments.
The consumer class action bill, S. 3201.
Family assistance proposal.
Consumer Protection Agency.
Rivers and harbors improvements.
Broker-dealer insurance bill.
Foreign assistance appropriations.
Independent offices appropriations.
Defense Department appropriations.
Supplemental appropriations.
Transportation appropriations.
Labor-HEW appropriations.

Mr. MANSFIELD. Mr. President, of course, these items are not necessarily listed in the order in which they will be considered. Also, all items that are now in conference or that are Senate-passed bills awaiting House action are privileged matters and will also be considered as they are received in the Senate.

Mr. SCOTT. Mr. President, if the distinguished majority leader would yield, I thank him for his statement and for the information that it is helpful for all Senators to have.

I would certainly agree that the social security measure is a matter of utmost importance and must be disposed of before this Congress adjourns sine die.

Many people in this country suffer if we do not work out what is a just and fair addition to our social security legislation. I am, of course, very much in favor of our doing just that.

Therefore, before we recess to the extra or agony session of the Congress, I would hope that we could make the pending order of business the social security bill so that all Senators, wherever they may be, will be on notice that it is essential to return promptly in order that a

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quorum may be quickly established and the work of Congress be finished.

Mr. MANSFIELD. Mr. President, if the distinguished minority leader will yield, it is, of course, hoped by the joint leadership that the equal rights constitutional amendment will be disposed of before we go out on Wednesday next, and hopefully disposed of as it now stands.

Mr. SCOTT. Mr. President, as I have pointed out to the distinguished majority leader, we pay many tributes to courage in this Chamber. I would not want to have to withdraw any of those tributes because the angered ladies in the country might feel that we had failed to act upon this constitutional amendment.

I am sure we are all for equal rights, and we all want to see that equal rights are afforded and to establish the depth of our concern and the integrity of our conviction. This can be done by the completion of our commitment, at which point it becomes infinitely safer to leave these hallowed halls and walk among one-half of the people of this country.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair recognizes the Senator from New York.

Mr. JAVITS. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. Fifteen minutes.

NOMINATION OF SIDNEY P. MARLAND, JR., AS U.S. COMMISSIONER OF EDUCATION

Mr. JAVITS. Mr. President, the nomination of Sidney P. Marland, Jr., as U.S. Commissioner of Education has elicited a great deal of favorable comment and support from the education community, the community which has had an opportunity to observe him during his career as educator and administrator. New York Times which is appended recently pointed out, Dr. Marland "has the administrative skills and toughness the Office of Education needs," and the Times said he would bring to his post "the pragmatism of an insider who knows the politics of the education establishment; but his record also clearly marks him as an innovative administrator who is not the prisoner of the status quo."

I have received a number of communications also, in support of the Marland nomination. These include letters from two former Commissioners of Education, Hon. Sam Brownell, who served under President Eisenhower, and Hon. Francis Keppel, who served under Presidents Kennedy and Johnson, communications from major national organizations—the million-member National Education Association, the American Council on Education which represents the broadest spectrum of the higher education community, the National School Board Association, the National Catholic Educational Association, the American Association of School Administrators, the Association of American Universities and the American Association of State Colleges and Universities.

I have also heard from two distinguished educators from my own State of New York, New York State Commissioner of Education Ewald B. Nyquist and Dr. Joseph Manch, president, council of the Great City Schools and superintendent of the Buffalo Public Schools for the offended letters.

Finally, I received a communication of support from Louis J. Kishkunas, superintendent of the Pittsburgh public schools, where Dr. Marland had previously served with distinction.

I ask unanimous consent that these communications, and the New York Times editorial of September 26, "Sound Choice for Education," be printed at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

YALE UNIVERSITY,
New Haven, Conn., September 23, 1970.

Hon. JACOB K. JAVITS,
Member, Senate Committee on Labor and Public Welfare, Senate Office Building, Washington, D.C.

DEAR SENATOR JAVITS: This letter is in support of the nomination of Sidney Marland for U.S. Commissioner of Education, and an expression of hope that your Committee will help to bring about speedy confirmation.

I was Commissioner of Education 1953–56, and have kept closely associated with the great expansion in Office of Education responsibilities since that time. The need for able leadership under a "confirmed" Commissioner is great.

I have known and worked with Sidney Marland in varied educational activities since he became school superintendent in Darien, Connecticut upon his return from military service in the 1940's. He is an able educator and administrator. His record of vigorous, competent and forward looking educational administration and his educational writings attest to his understanding of problems facing education in the United States and his ability to organize and direct operations which enable progress to be made in moving education ahead.

The personal integrity and vigor which Dr. Marland has exhibited in his career are important assets beyond his educational competence.

I urge that your Committee support the nomination of Dr. Sidney Marland for U.S. Commissioner of Education and assist in speedy confirmation by the U.S. Senate.

Respectfully,

S. M. BROWNELL,
Consultant in Urban Education.

NEW YORK, N.Y.,
September 23, 1970.

SENATOR JACOB K. JAVITS,
Old Senate Building,
Washington, D.C.

DEAR SENATOR JAVITS: I was delighted to hear that the President had nominated Sidney Marland as United States Commissioner of Education. I have known him for twenty years and have done a good deal of work with him in that time. He has good judgment and has shown an ability to innovate as well as to manage. As is true, I suppose, of any man who has been a leader, he has probably built up a group of critics as well as a group of admirers. I enlist myself among the latter, and I therefore hope you will give speedy consent to the President's excellent nomination.

From what I can hear of the affairs of the Office of Education from this distance, it would be very desirable if Mr. Marland could get on the job just as soon as possible, and I therefore hope that you and your colleagues will be able to consider his appointment at the earliest possible date.

With best personal regards,

Sincerely yours,

FRANCIS KEPPEL.

NATIONAL EDUCATION ASSOCIATION,
Washington, D.C., September 24, 1970.

Hon. JACOB K. JAVITS
Committee on Labor and Public Welfare, New Senate Office Building, Washington, D.C.

DEAR SENATOR JAVITS: I am writing to advise you that the National Education Association, representing more than one million professional educators, supports the President's nomination of Dr. Sidney P. Marland for the post of U.S. Commissioner of Education.

We believe that Dr. Marland's experience and philosophy qualify him highly for this important post. He will be an effective and knowledgeable spokesman within the executive branch for the pressing needs and problems of education.

For your information and review, I am enclosing a copy of the NEA's statement on Dr. Marland.

We urge your prompt favorable consideration of this nomination so that Dr. Marland can take up the crucial duties of the position which has already been too long vacant.

Sincerely,

JOHN M. LUMLEY,
Assistant Executive Secretary, Government Relations and Citizenship

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NEA EXECUTIVE COMMITTEE ENDORSES DR. MARLAND FOR U.S. COMMISSIONER OF EDUCATION POST

WASHINGTON, D.C., September 23.—The Executive Committee of the National Education Association, which represents the vast majority of the nation's teachers, today unanimously endorsed the nomination of Sidney P. Marland Jr. as new U.S. Commissioner of Education.

After the committee met with Health, Education, and Welfare Secretary Elliot L. Richardson and Dr. Marland for several hours at NEA Headquarters this morning, Mrs. Helen Bain, NEA president, stated that the association "found Dr. Marland's philosophy and plans for action consistent with NEA goals."

The five NEA priorities as established by the association's Representative Assembly are: bargaining rights for teachers, broad federal financial support for education, student and community involvement, the right of teachers to control the teaching profession (professional autonomy), and human relations.

Marland's nomination was announced yesterday by President Nixon. If confirmed by the Senate, he will take the Office of Education post vacated about three months ago on the resignation of James E. Allen Jr. Another post that Allen held concurrently—HEW assistant secretary for education—remains vacant.

WASHINGTON, D.C.,
September 23, 1970.

Hon. JACOB JAVITS,
Washington, D.C.:

On the basis of Dr. Sidney Marland's experience and leadership, the higher education community supports his nomination to be Commissioner of Education. We hope and respectfully urge that this nomination receive speedy confirmation.

LOGAN WILSON,
President, American Council on Education.

STATEMENT BY HELEN P. BAIN, PRESIDENT OF THE NATIONAL EDUCATION ASSOCIATION, IN CONNECTION WITH THE NOMINTION OF DR. SIDNEY P. MARLAND, JR., AS U.S. COMMISSIONER OF EDUCATION

The Executive Committee of the National Education Association, which represents the vast majority of the nation's teachers, conferred this morning for several hours at NEA headquarters with HEW Secretary Elliot L. Richardson and Dr. Sidney P. Marland, Jr. over the latter's appointment by President Nixon to the post of U.S. Commissioner of Education.

Following an extensive discussion with Mr. Richardson and Dr. Marland over five major priorities of the NEA, the Executive Committee found Dr. Marland's philosophy and plans for action consistent with NEA goals and therefore unanimously endorsed his nomination.

The five NEA priorities as established by the NEA's Representative Assembly, the Association's policy-making body, are: bargaining rights for teachers, broad federal financial support for education, student and community involvement, the right of teachers to control the teaching profession (professional autonomy), and human relations.

Evanston, Ill.,
September 22, 1970.

Hon. Jacob K. Javits,
Senate Office Building,
Washington, D.C.:

The National School Boards Association is extremely pleased that you have taken action today to fill the position of U.S. Commissioner of Education.

The office of U.S. Commissioner of Education is an extremely important one which should not remain vacant. The problems confronting education today are so diverse and complicated that if solutions are to be found we need national leadership—leadership to work on problems of school desegregation, the education of the disadvantaged, inadequate financial support of education, and many others. We applaud your action in providing the education community with a leader of Dr. Sidney Marland's caliber and we urge the U.S. Senate to take prompt action on his confirmation.

Dr. George E. Ewan,
President, National School Boards Association.

Statement of the National Catholic Educational Association

Washington, D.C.—The nomination of Sidney P. Marland to be U.S. Commissioner of Education has been endorsed by the President of the National Catholic Educational Association, the nation's largest professional organization of Catholic educators.

Rev. C. Albert Koob, NCEA President, specifically cited Dr. Marland's "concern for the problems of all education, private as well as public," in announcing NCEA's approval of the nomination.

Praising Dr. Marland's "training, experience, dedication, and integrity," Father Koob said that the Education Office nominee "has long displayed exceptional qualities of leadership and educational statesmanship."

Dr. Marland is President of the Institute for Educational Development, a New York firm specializing in educational research and consulting. He earlier was Public School Superintendent in Pittsburgh and in other locations.

He is one of several prominent citizens serving as Sponsors of NCEA's Educational Service and Expansion Program.

President Nixon proposed Dr. Marland for the Education post to succeed Dr. James E. Allen, Jr., who left the office in June. The Marland nomination is now being considered by the Senate Labor and Welfare Committee.

Text of Father Koob's statement:

"I endorse and applaud the nomination of Sidney P. Marland to the office of U.S. Commissioner of Education. The problems of education today demand that a person of Dr. Marland's training, experience, dedication and integrity be promptly installed in this highly essential and sensitive position.

"Dr. Marland has long displayed exceptional qualities of leadership and educational statesmanship. His concern for the problems of all education, private as well as public, make him ideally suited for the role of Commissioner."

Cambridge, Mass., *Sept. 23, 1970.*

Hon. Jacob Javits,
Old Senate Office Building,
Washington, D.C.:

I am authorized by the executive committee of the association of American universities a group of 46 major public and private institutions in all parts of the Nation to express the associations support of Sidney Marland as Secretary Richardson choice as Commissioner of Education. It is important that the office be filled quickly and we trust that the Senate will ratify the nomination soon.

Nathan M. Pusey,
President,
Association of American Universities.

American Association of State
Colleges and Universities,
September 22, 1970.

Hon. Jacob K. Javits,
U.S. Senate, Old Senate Office Building,
Washington, D.C.

Dear Senator Javits: Enclosed is a copy of a telegram which the Association sent today to President Nixon in support of his nomination of Sidney Marland to be Commissioner of Education. We hope the Committee will take prompt action.

Sincerely,

Allan W. Ostar,
Executive Director.

September 22, 1970.

Richard M. Nixon,
The White House,
Washington, D.C.:

On behalf of the American Association of State Colleges and Universities, as organization of 275 institutions in 46 states, the District of Columbia, Guam, and the Virgin Islands which enroll 25 per cent of all college students, we want to commend you on your nomination of Dr. Sidney Marland to be Commissioner of Education. You may be assured that Dr. Marland will have our fullest cooperation and support in his efforts to deal with the critical educational problems facing our nation.

Hilton C. Buley,
President, American Association of State Colleges and Universities, and President of Southern Connecticut State College.

Allen W. Ostar,
Executive Director, American Association of State Colleges and Universities.

American Association of
School Administrators,
September 22, 1970.

Hon. Jacob K. Javits,
U.S. Senate,
Washington, D.C.

Dear Senator Javits: We have today wired President Nixon as follows:

The American Association of School Administrators is indeed pleased with your appointment of Dr. Sidney P. Marland, Jr. as United States Commissioner of Education. We believe that Dr. Marland will bring to this assignment a unique style of leadership that will launch the Office of Education into a new and exciting era of progress and accomplishment. Familiar with the smell of chalk dust and buttressed by the knowledge and experience he gained while providing exemplary leadership to school districts, Dr. Marland is admirably equipped to be the nation's chief educational spokesman. We pledge our support and cooperation to the new United States Commissioner of Education and the important office which he will head.

We urge strongly that prompt action be taken by the Senate Committee on Labor and Public Welfare on the confirmation of Dr. Marland's appointment. The office of United States Commissioner has now been vacant since June 10. Simple logic and the genuine concern which we share for the welfare of the schools of this country would dictate that this condition should not persist. We, therefore, sincerely solicit your cooperation as a member of this Committee in securing prompt action on Dr. Marland's appointment.

Sincerely,

Forrest E. Conner,
Executive Secretary.

NYS Education Department,
September 25, 1970.

Hon. Jacob K. Javits,
U.S. Senate,
Washington, D.C.:

I am delighted that the President has moved to fill the position of U.S. Commissioner of Education.

Mr. Marland has been a superintendent of schools of a major urban center. The plight of education in our urban centers is a most pressing problem now and will continue to be for a period of time in the future. Mr. Marland's experience with these problems gives him a basis for exercising sound judgment on establishing the federal role in this area.

I would, in addition, support the position that Secretary Richardson should have working with him those men whose judgment he trusts and has confidence in.

I favor the nomination of Mr. Marland to this position.

I hope the Senate might work with all due speed to confirm this nomination.

Ewald B. Nyquist,
NYS Commissioner of Education.

Washington, D.C.,
September 23, 1970.

Hon. Jacob K. Javits,
U.S. Senate,
Washington, D.C.:

Boards of education and superintendents of schools in 21 great city school systems strongly endorse President's nomination of Dr. Sidney Marland, Jr., as U.S. commissioner of education. His understanding of problems of urban education urgently needed in office of education. His demonstrated leadership urgently needed in American education community. We urge your prompt and favorable consideration of this nomination.

Dr. Joseph Manch,
President Council of the Great City Schools, Superintendent Buffalo Public Schools.

Pittsburgh, Penn.,
September 26, 1970.

Senator Jacob Javits,
U.S. Senate,
Washington, D.C.:

Strongly urge that you support confirmation of Doctor Sidney P. Marland, Jr., as Commissioner of Education. His urban and suburban school experience make him ideally suited for that position.

Louis J. Kishkunas,
Superintendent,
Pittsburgh Public Schools.

Sound Choice for Education

Sidney P. Marland Jr., who has been nominated by President Nixon to be United States Commissioner of education, has the administrative skill and toughness the Office of Education needs.

Dr. Marland brings to his post the pragmatism of an insider who knows the politics of the education establishment; but his record also clearly marks him as an innovative administrator who is not the prisoner of the status quo. He is steeped in the urban school scene and, in Pittsburgh, has evolved sound programs to deal with the inner-city crisis.

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Opposition to his appointment has been voiced openly by the A.F.L.–C.I.O. and its affiliate, the American Federation of Teachers, and in a more subtle, behind-the-scenes manner by Southern segregationists. Labor's objections spring from Dr. Marland's role as the official antagonist to union demands for the Pittsburgh teachers' right to collective bargaining—a position, he insists, he had to take under existing state laws. There is little merit in arguing that case now, particularly since issues of teachers' union prerogatives are not likely to come up in any of the commissioner's functions.

A confirmation battle along such lines could only have one effect—to tear the education constituency apart and, in the wake of such disunity, weaken public support. Dr. Marland's qualifications admirably suit the needs of the moment.

NEW SCHOOLBUS SAFETY EFFORTS

Mr. JAVITS. Mr. President, perhaps the most controversial political question in education today involves busing. Yet, there is one aspect of busing on which all agree—the necessity of providing safe transportation for some 18 million of our children who travel about 2 billion miles each year on the Nation's 200,000 schoolbuses.

For some time, I have been working on the problem of safety of schoolbuses. Heretofore, I authored an amendment to the Elementary and Secondary Education Act which resulted in a study on schoolbus safety under the auspices of the Department of Health, Education, and Welfare and Transportation. Most recently, I wrote Secretary of Transportation John Volpe expressing my concern and raising a number of specific questions. I ask unanimous consent that Secretary Volpe's reply and my letter be included as part of my remarks. The Secretary points out a number of constructive steps now being undertaken. I am certain that the Senate wishes to know about this and many of us will be watching these developments with interest, for the Nation's schoolbuses daily transport our most precious cargo—our future.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AUGUST 3, 1970.

Hon. JOHN A. VOLPE,
The Secretary,
Department of Transportation,
Washington, D.C.

DEAR JOHN: Reference is made to our recent correspondence on school bus safety. I refer particularly to your letter of April 2nd.

You indicated to me that the National Conference on School Transportation, which has been since held in May, would receive your "wholehearted support". I would appreciate your letting me know what recommendations were made at the May conference relative to school bus safety and what action is being taken to implement them.

You indicated further in your April letter that "Ten of the current motor vehicle standards are applicable to school buses. Approximately thirty additional rule making matters are in process". Please let me know the status of the thirty rule-making matters to which you referred.

You also indicated in your letter that "The long-range goal is to establish performance criteria for a school bus which will provide maximum safety for the children." Please let me know what progress is being made in this regard.

Your letter also indicated that under the authority of the Highway Safety Act of 1966 there is being drafted a proposed standard on pupil transportation safety. What is the status of this draft?

The *New York Times*, in a July 22, 1970 article, commented that:

Officials charged with enforcing the limited Federal bus safety statutes now on the books—statutes that deal with such items as the treads, lighting and brakes—complain they do not have enough manpower to do an adequate job of policing the buses that each spring and summer take millions of Americans on sightseeing tours around the country.

I would appreciate your comments on this allegation. I would also appreciate any other comments you might have on this article, a copy of which is attached.

Finally, I would appreciate your letting me know what suggestions you might have with respect to what further might be done, legislatively or otherwise, to advance school bus safety.

With best wishes,
Sincerely,
JACOB K. JAVITS.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., September 25, 1970.

Hon. JACOB K. JAVITS,
United States Senate,
Washington, D.C.

DEAR JAKE: Thank you for your August 3 letter concerning school bus safety.

The National Conference on School Transportation, May 4–7, 1970, devoted its efforts to revising reports of earlier conferences on school bus standards and school bus drivers. The two new reports, Minimum Standards for School Buses, and Standards for School Bus Operation, will be published early this winter by the Florida State Department of Education. I have ordered the Conference results to be carefully evaluated in the course of standards development.

A copy of the Conference Roster is enclosed, wherein it will be noted that the Conference was attended by those State and national authorities primarily concerned with pupil transportation.

With regard to motor vehicle safety standards, rule-making actions currently in progress that are applicable to school buses have been classified into a number of safety areas under headings compatible with the organizational resources and work capacity of the Bureau.

Detailed explanations of the purposes and nature of individual proposals for bus (and school bus) safety regulations are contained in the enclosed schedule sheets extracted from the Bureau's publication, "Program Plan for Motor Vehicle Safety Standards." I would like to emphasize that our total program reflects our complete rule making activity and "the most we can do with what we have."

Completion of rule-making in the noted areas will result in a composite set of standards applicable to school buses. A school bus in total compliance will be a basic vehicle with at least the minimum individual safety features needed in pupil transportation. Proceeding from this basic concept, we will be in a position to analyze and evaluate vehicle performance in terms of a complete system and thereupon establish performance criteria for school bus maximum safety. This remains the long-range goal toward which we are working. An experimental safety school bus project may become part of this endeavor when we have reached more advanced stages of current rule making.

The proposed standard on Pupil Transportation Safety has been mailed to the States and about 100 State and national organizations. A cut-off date of October 1, 1970 has been set for comments. Sent along with this draft were the comments of the National Highway Safety Advisory Committee (draft standard and comments enclosed). Based on the comments received, the standard will again be reviewed by the National Highway Safety Advisory Committee. We plan to issue this standard early next year.

With respect to the comment in the New York Times of July 22, 1970, as to Federal bus safety limitations, this has reference to the fact that the Bureau of Motor Carrier Safety in the Federal Highway Administration has only 103 Safety Investigators to inspect commercial vehicles in interstate commerce in the entire United States, and inspection constitutes only one of several major duties which they perform. The Department is seeking additional resources to strengthen this small organizational unit.

The New York Times article comments on the need for seat belts for passengers on buses. The position of the National Highway Safety Bureau is that until more research is completed in seat design and construction, as well as on effective types of restraints, the installation of lap belts for passengers in present day school buses is not recommended. (Other comments are enclosed relative to this subject.)

The Motor Vehicle and Traffic Safety Act of 1966 (PL 89–563) and the Highway Safety Act of 1966 (PL 89–564) provide ample authority to deal with the problems of school bus safety. Your continued interest in the safety of the nation's school children is appreciated.

Sincerely,
JOHN.

NATIONAL CONFERENCE ON SCHOOL TRANSPORTATION, NEA EDUCATION CENTER, WASHINGTON, D.C., MAY 4–7, 1970

Cosponsored by: American Association of School Administrators, Association of State Directors of Pupil Transportation Services, Council of Chief State School Officers, Florida State Department of Education, National Commission on Safety Education, NEA, Rural Education Association, U.S. Office of Education.

Administered by National Commission on Safety Education, National Education Association, 1201 Sixteenth Street, N.W., Washington, D.C.

CONFERENCE ROSTER

Planning council

Conference Chairman—James A. Sensenbaugh, *Chairman,* NEA National Commission on Safety Education, Washington, D.C.

American Association of School Administrators, NEA—Barry Morris, Assistant Superintendent for Finance, Fairfax County Schools, Fairfax, Virginia.

Forest E. Conner, Executive Secretary, AASA, Washington, D.C.

Robert M. Isenberg, Associate Executive Secretary, AASA, Washington, D.C.

Association of State Directors of Pupil Transportation Services—Orville G. Parrish, *President;* Director, Bureau of Transportation, State Department of Education, Trenton, New Jersey.

Council of Chief State School Officers—James A. Sensenbaugh, State Superintendent of Schools, Baltimore, Maryland, Don M. Dafoe, Executive Secretary, CCSSO, Washington, D.C.

Interim Committee on School Transportation[1]—J. Pope Baird, *Chairman;* Adminis-

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[1] A Committee authorized by the 1964 National Conference on School Transportation and elected by state directors of school transportation. Purpose of the Committee: to keep abreast of developments and to represent state education agencies in the planning of the 1970 National Conference.

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trator, School Transportation, State Department of Education, Tallahassee, Florida.

Ernest Farmer, Coordinator, Pupil Transportation, State Department of Education, Nashville, Tennessee.

Michael J. Haggerty, Director, Transportation, State Department of Education, St. Paul, Minnesota.

C. B. Lemon, Director of School Transportation, State Department of Education, Santa Fe, New Mexico.

Morris W. Rannels, Coordinator of Safety Education and Transportation, State Department of Education, Baltimore, Maryland.

Marion B. Sloss, Chief, Bureau of Administrative Services, State Department of Education, Sacramento, California.

Representing NEA National Commission on Safety Education—James A. Sensenbaugh, *Chairman;* State Superintendent of Schools, Baltimore, Maryland.

National Highway Safety Bureau—Earl D. Heath, Safety Research Manpower Specialist, Manpower Development Division, Research Institute.

Frederick Koch, Safety Standards Engineer, Office of Crash Worthiness, Motor Vehicle Programs.

David H. Soule, Safety Management Specialist, Division of Driver and Public Education, Traffic Safety Programs.

Rural Education Association—Lewis R. Tamblyn, Executive Secretary, REA, Washington, D.C.

U.S. Office of Education—E. Glenn Featherston, Deputy Associate Commissioner for Federal and State Relations.

Harry M. Gardner, Specialist, Office of the Associate Commissioner.

Observers—Automobile Manufacturers Association—Jerome J. Boron, Secretary, AMA School Bus Technical Committee, Thomas Carr, Engineering Department, AMA, Charles Lockwood, Attorney, AMA.

School Bus Manufacturers Institute—Berkley C. Sweet, Executive Vice President, SBMI, James Tydings, Chairman, SBMI Engineering Committee; Engineer, Perley A. Thomas Car Works, Inc., High Point, North Carolina.

Keynote Speaker—James A. Sensenbaugh, *Chairman;* State Superintendent of Schools, Baltimore, Maryland.

Conference Moderator—T. Wesley Pickel, *Conference Moderator:* Assistant Commissioner for Special Services, State Department of Education, Tennessee.

OFFICIAL STATE DELEGATIONS

ALABAMA

James H. Boockholdt, Assistant Director, Division of Administration and Finance, State Department of Education, State Office Building, Montgomery, Alabama 36104.

George A. Harris, Transportation Supervisor, Montgomery County Board of Education, 117 Marshall Street, Montgomery, Alabama 36104.

Lewis G. McGee, Transportation Consultant, State Department of Education, Transportation Section, State Office Building, Montgomery, Alabama 36104.

R. M. Miller, State Department of Public Safety, Public Safety Building, Montgomery, Alabama 36104.

ALASKA

Joe Blackard, Transportation Contractor, Transportation Services, Inc., 1040 East First Street, Anchorage, Alaska 99501.

Charles R. Clark, Director, Auxiliary Services, Fairbanks-North Star Borough Schools, P. O. Box 1250, Fairbanks, Alaska 99701.

Harvey T. King, Assistant Director, Administrative Services, State Department of Education Pouch "F" State Office Building, Juneau, Alaska 99801.

Russell E. Knodel, Division Assistant, Auxiliary Services, Anchorage Borough Schools, 670 Fireweed Lane, Anchorage, Alaska 99503.

ARIZONA

Howard Adams, Supervisor, Transportation, Mesa School District #4, 549 North Stapley, Mesa, Arizona 85201.

Carl Hilliker, Supervisor, Transportation, Scottsdale School District #48, 3811 North 44th Street, Phoenix, Arizona 85018.

Jerome C. Norris, Supervisor, Transportation, Glendale Union High School, 7650 North 43rd Avenue, Glendale, Arizona 85301.

Jerry L. Shumway, Supervisor, Pupil Transportation, Traffic Safety Division, Arizona Highway Department, 1739 West Jackson, Phoenix, Arizona 85007.

ARKANSAS

J. L. Eidson, Supervisor of School Transportation, State Department of Education, Little Rock, Arkansas 72201.

CALIFORNIA

Thomas E. Emery, President, Community Charter Bus System, 11172 Western Avenue, Stanton, California 90680.

Ben B. Killingsworth, Commander, Commercial Procedures Section, California Highway Patrol, P. O. Box 898, Sacramento, California 95804.

Ray Ward, Assistant Traffic Safety Coordinator, Office of Traffic Safety, Business and Transportation Agency, Room 6108, 2415 First Street, Sacramento, California 95804.

Marion B. Sloss, Chief, Bureau of Administrative Services, State Department of Education, Sacramento, California 95814.

COLORADO

Frank Bartolo, Pupil Transportation Supervisor, School District #70, Pueblo County, RFD #4, Box 599, Pueblo, Colorado 81004.

Henry Cross, Supervisor, Pupil Transportation, Thompson School District, Loveland, Colorado 80537.

Robert W. Denman, Director, Transportation, Jefferson County School District R–1, 809 Quail, P.O. Box 15128, Lakewood, Colorado 80215.

C. W. Downing, Manager, Maintenance and Transportation, Mesa County Valley Schools, Grand Junction, Colorado 81501.

Neal W. McCormick, Consultant, Colorado Department of Education, State Office Building, Denver, Colorado 80203.

Wayne Suave, Transportation Supervisor, Denver Public Schools, 414 – 14th Street, Denver, Colorado 80202.

CONNECTICUT (NOT REPRESENTED)

DELAWARE

Dennis Cannon, Area Transportation Supervisor, Capital School District, 625 Walker Road, Dover, Delaware 19901.

John Downey, Director of Driver Improvement, Motor Vehicle Department, Dover, Delaware 19901.

Leon Hart, Supervisor of Pupil Transportation, State Department of Public Instruction, State House Annex Box 697, Dover, Delaware 19901.

David E. Jones, Area Transportation Supervisor, New Castle-Gunning Bedford School District, Box 37, St. Georges, Delaware 19733.

Carl Z. Merkey, Area Transportation Supervisor, Alfred I DuPont School District, 4 Mount Lebanon Road, Wilmington, Delaware 19803.

Pete D. Sizemore, Area Transportation Supervisor, Seaford School District, DuPont Road, Seaford, Delaware 19973.

DISTRICT OF COLUMBIA

Emmett S. Hill, Services Officer, D. C. Public Schools, 415 – 12th Street, N. W., Presidential Building, Washington, D. C. 2004.

Clark W. Scott, Supervisor, Transportation Unit, D. C. Public Schools, 2000 Adams Place, N. E., Washington, D. C. 20018.

Harold Webb, Assistant Services Officer, D. C. Public Schools, 415 – 12th Street, N. W., Presidential Building, Washington, D. C. 20004.

FLORIDA

J. Pope Baird, Administrator, School Transportation, Department of Education, Knott Building, Tallahassee, Florida 32304.

Kenneth Bugbee, Vehicle Service Manager, Polk County School Board, 1430 Highway 60 East, Bartow, Florida 33830.

C. E. Chick, Chief, Bureau of School Facilities, Department of Education, Knott Building, Tallahassee, Florida 32304.

Judson Nichols, Assistant Director of Transportation, Dade County School Board, 7011 S. W. 4th Street, Miami, Florida 33144.

Robert Rush, Supervisor of Transportation, Volusia County School Board, P. O. Box 207 Daytona Beach, Florida 32015.

Earl H. Wright, Consultant, School Transportation, State Department of Education, Knott Building, Tallahassee, Florida 32304.

GEORGIA

Walter Eaton, Division of Safety and Driver Education, University of Georgia, Athens, Georgia 30601.

Roy A. Hendricks, Member, State Board of Education, State Department of Education, Metter, Georgia 30439.

John C. Maddox, Chief, Pupil Transportation Services, State Department of Education, 156 Trinity Avenue, S. W., Atlanta, Georgia 30303.

William E. Thombs, Education Program Representative, State Department of Education, P. O. Box 336, Pearson, Georgia 31642.

Max Turner, Director of Transportation Richmond County Schools, Augusta, Georgia 30904.

Guy Wilkes, Transportation Director, Muscogee County Schools, 1200 Bradley Drive, Columbus, Georgia 31906.

HAWAII

Henry Imanaka, Administrator, Student Transportation, State Department of Education, 1037 South Beretania Street, Honolulu, Hawaii 96814.

IDAHO

G. Richard Brown, Transportation Contractor, G. M. Brown & Sons Transportation, Serman Avenue, Nampa, Idaho 83651.

Carl W. Warner, Deputy State Superintendent, General Services, State Department of Education, State Office Building, Boise, Idaho 83707.

ILLINOIS

Joseph M. Cindrich, Western Illinois University, 900 West Adams Street, Macomb, Illinois 61455.

Paul Peterson, Willett Motor Coach Company, 700 South DesPlaines Street, Chicago, Illinois 60607.

Wilbur R. L. Trimpe, Superintendent, Educational Service Region, Madison County, P.O. Box 600, Edwardsville, Illinois 62025.

Gordon D. Wixom, Director of Transportation, State of Illinois—Superintendent of Public Instruction, 316 South Second Street, Springfield, Illinois 62704.

Chris Xigogianis, Secretary, Commercial Truck and Body Service, 2121 Maple Lane, Joliet, Illinois 60431.

INDIANA

Jack R. Chatham, Supervisor of Transportation, Tippecanoe School Corporation, R.R. 13, Lafayette, Indiana 47905

Harry A. Fruits, Director, School Traffic Safety Education Division, Office of Superintendent of Public Instruction, Room 125, State House, Indianapolis, Indiana 46204.

James Russell, Assistant Superintendent, Transportation, Benton Community School Corporation, Box 512, Fowler, Indiana 47944.

Glen C. Salmon, President, Indiana State Association of School Bus Drivers, R.R. No. 1, Rosedale, Indiana 42808.

IOWA

William A. Boland, Consultant, Division of Transportation, State Department of Public Instruction, Grimes State Office Building, Des Moines, Iowa 50319.

Neil J. Boyle, Superintendent, Bennett Community School District, Box D, Bennett, Iowa 52721.

Tom Horn, Supervisor of Transportation, Winterset Community School District, 110 West Washington Street, Winterset, Iowa 50273.

Howard S. Miller, Chief, Iowa Highway Safety Patrol, State Department of Public Safety, Lucas State Office Building, Des Moines, Iowa 50319.

Arthur Roberts, Director, Division of Transportation, State Department of Public Instruction, Grimes State Office Building, Des Moines, Iowa 50319.

James Ira Ryan, Superintendent, Eddyville Community School District, Eddyville, Iowa 52553.

KANSAS

Paul R. Dick, Consultant, School Transportation, State Department of Education, 120 East 10th Street, Topeka, Kansas 66612.

Paul Glinn, Director of Transportation, Unified School District No. 500, 6126 Parallel Kansas City, Kansas 66104.

Robert H. Wells, Superintendent of Schools, Unified School District 237, P.O. Box 329, Smith Center, Kansas 66967.

KENTUCKY

Ernest Bivens, Director of Safety Education, Division of Kentucky State Police, Department of Public Safety, Frankfort, Kentucky 40601.

Paul Jones, Assistant Director, Pupil Transportation, State Department of Education, Frankfort, Kentucky 40601.

Charles E. McCormick, Superintendent, Campbell County Schools, 8002 Alexandria Pike, Alexandria, Kentucky 41001.

Carl Spivey, Assistant Superintendent for Transportation, Fayette County Schools, 400 Lafayette Parkway, Lexington, Kentucky 40503.

Louis A. Yandell, Director, Division of Pupil Transportation, State Department of Education, Frankfort, Kentucky 40601.

LOUISIANA (not represented)

MAINE

Robert J. Hasenfus, Consultant of Driver Education, State Department of Education, Education Building, Augusta, Maine 04330.

MARYLAND

Walter M. Gordon, Supervisor of Transportation, Baltimore County Board of Education, Aigburth Manor, Aigburth Road, Towson, Maryland 21204.

Bennie C. Hartmann, Specialist in Transportation, Maryland State Department of Education, State Office Building, 301 West Preston Street, Baltimore, Maryland 21201.

Morris W. Rannels, State Coordinator of Safety Education and Transportation, Maryland State Department of Education, State Office Building, 301 West Preston Street, Baltimore, Maryland 21201.

Theodore H. Schaefer, President, Maryland School Bus Contractors Association, Cedar Lane, Clarksville, Maryland 21029.

Russell R. Schamel, Assistant Director—Planning and Research, Maryland Department of Motor Vehicles, 6601 Ritchie Highway, Glen Burnie, Maryland 21061.

Joseph H. Vance, Supervisor of Transportation, Washington County Board of Education, Commonwealth Avenue, Hagerstown, Maryland 21740.

MASSACHUSETTS

Leo P. Turo, Department of Education, Research and Development Center, Olympia, Avenue, Woburn, Massachusetts 01801.

MICHIGAN

Keith Allen, Coordinator, Traffic Safety Education, Central Michigan University, Mount Pleasant, Michigan 48854.

Homer Earl, Director, Pupil Transportation Services, Western Michigan University, 1211 Knollwood Avenue, Kalamazoo, Michigan 49001.

Zane Gray, Safety and Traffic Division, Michigan Department of State Police, Frandor, Lansing, Michigan 48912.

Erwin Hendershott, Director of Transportation, Oakland Schools Intermediate District, County Service Center, Pontiac, Michigan 48053.

George Pope, Director of Transportation, Battle Creek Public Schools, 73 Capitol Avenue, N. E., Battle Creek, Michigan 49014.

Harold B. Wagner, Supervisor, School Transportation Section, Michigan Department of Education, 1020 South Washington Avenue, Lansing, Michigan 48902.

MINNESOTA

Donald Carlson, c/o Mutual Services Insurance Company, 1919 University Avenue, St. Paul, Minnesota 55104.

James DeVeau, 14900 Margaret Place, Minnetonka, Minnesota 55343.

Michael J. Haggerty, Director, Transportation, State Department of Education, 400 Centennial Building, St. Paul, Minnesota 55101.

William Krause, Bloomington Public Schools, 1900 West 94th Street, Bloomington, Minnesota 55431.

Jerry Pavek, Assistant Director of Transportation, State Department of Education, 400 Centennial Building, St. Paul, Minnesota 55101.

Donald B. Regan, 2550 East Poplar Avenue, North St. Paul, Minnesota 55109.

Bruce Swanson, Transportation Supervisor, Hopkins Public Schools, 1001 Highway #7, Hopkins, Minnesota 55343.

MISSISSIPPI

Harold E. Dacus, Supervisor of Transportation, State Department of Education, P.O. Box 771, Jackson Mississippi 39205.

Ikie Ethridge, Superintendent of Education, Lauderdale County Schools, Meridian, Mississippi 39301.

MISSOURI

W. E. Haynes, Director, District Reorganization and Pupil Transportation, Missouri State Department of Education, P.O. Box 480, Jefferson City Missouri 65101.

Sam Henton, Director of Transportation, Parkway School District, Highway 141 and Ladue Roads, Chesterfield, Missouri 63017.

Ralph Martin, Assistant Superintendent, Raytown C–2 School District, 10500 East 60th Terrace, Raytown, Missouri 64133.

John B. Pace, School Bus Contractor, Pace School Bus Service, 2341 South Woodland, Independence, Missouri 64050.

William F. Saunders, Director of Transportation, Normandy School District, 7837 Natural Bridge Road, St. Louis, Missouri 63121.

Leonard Vaughan, Transportation Director, St. Louis County Special School District, 9820 Manchester Road, Rock Hill, Missouri 63119.

MONTANA

Robert W. Stockton, Pupil Transportation Supervisor, Office of Superintendent of Public Instruction, Capitol Building, Room 106, Helena, Montana, 59601.

NEBRASKA

Martin Dunklau, Business Manager, Omaha West Side Schools, 78 and Cass Street, Omaha, Nebraska 68114.

Jerry McCall, Consultant, School Transportation, State Department of Education, State Capitol Building, Lincoln, Nebraska 68509.

NEVADA

George Getto, Director of Transportation, Washoe County School District, 425 East 9th Street, Reno, Nevada 89502.

James H. Menath, Director, Support Services, State Department of Education, Heroe's Memorial Building, Carson City, Nevada 89701.

R. C. White, Director of Transportation, Clark County School District, 210 North 25th Street, Las Vegas, Nevada 89101.

NEW HAMPSHIRE (not represented)

NEW JERSEY

Jack Doyle, Director of Community Relations Unit, New Jersey State Police, River Road, West Trenton, New Jersey 08628.

George Enslin, Transportation Supervisor, Rockaway Township School District, Administration Building, Richard Mine Road, R.D. #1, Wharton, New Jersey 07885.

Steve J. Lovett, Coordinator of Pupil Transportation, State Department of Education, 225 West State Street, Trenton, New Jersey 08625.

David A. Muir, President, New Jersey School Bus Owners Association, Station Wagon Service, 311 Winifred Drive, Totowa Boro, New Jersey 07511.

Orville G. Parrish, Director of Pupil Transportation, State Department of Education, 225 West State Street, Trenton, New Jersey 08625.

Russell Smith, Enforcement Bureau, Division of Motor Vehicles, Department of Law and Public Safety, 25 South Montgomery Street, Trenton, New Jersey 08608.

NEW MEXICO

Bob Crews, Vice President, Whitfield Bus Lines, P.O. Box 1330, Las Cruces, New Mexico 88001.

John E. Emry, Assistant Business Manager, Los Alamos Public School, P.O. Drawer 90, Los Alamos, New Mexico 87544.

Tom Helweg, School Bus Contractor, P.O. Box 1250, Sandia Park, New Mexico 87047.

Vernon Imoe, School Bus Contractor, 1500 South Abilene, Portales, New Mexico 88130.

Edward G. Kaiser, School Bus Contractor, P.O. Box 1002, Artesia, New Mexico 88210.

C. B. Lemon, Director, School Transportation and Coordinator of Administrative Services, State Department of Education, State Educational Building, Santa Fe, New Mexico 87501.

NEW YORK

Gene Bryson, Transportation Director, Commack Public Schools, 80 Hauppauge Road, Comack, New York 11725.

Edmund Burke, Associate in School Business Management, State Education Department of New York, State Education Building, Albany, New York 12224.

Joseph J. Caruso, Supervisor of School Business Management, State Education Department of New York, State Education Building, Albany, New York 12224.

John DeLano, Director of Transportation, Yorktown Central Schools, 2723 Crompond Road, Yorktown Heights, New York 10598.

Alton Dunklin, Assistant District Administrator, Frontier Central School, Bay View Road, Hamburg, New York 14075.

Everett H. Quinn, Superintendent of Buildings, Grounds and Transportation, Katonah-Lewisboro School, Katonah, New York 10536.

NORTH CAROLINA

Harry M. Arndt, Superintendent, Catawba County Schools, P.O. Box 1000, Newton, North Carolina 28658.

J. B. Lundy, Transportation Supervisor, Iredell County Board of Education, Box 709, Statesville, North Carolina 28677.

W. F. Tillett, Engineer, Division of Transportation, State Board of Education, Raleigh, North Carolina 27602.

C. S. Waters, Director, Department of Motor Vehicles, Division of Driver Education and Accident Records, Raleigh, North Carolina 27602.

Earl M. Waters, Equipment Superintendent, Division of Transportation, State Board of Education, Raleigh, North Carolina 27602.

NORTH DAKOTA (not represented)

OHIO

Earl T. Andrews, Manager, Sales Engineering, Bendix-Westinghouse, Elyria, Ohio 44035. 44035.

Hanford L. Combs, Chief of Pupil Transportation, State Department of Education, Division of School Finance and Transportation, 608 State Office Building, Columbus, Ohio 43215.

H. C. McCord, Superintendent, Worthington City Schools, 799 Hartford Street, Worthington, Ohio 43085.

Paul Orvos, Business Affairs, Mentor Exempted Village Schools, 8880 Lake Shore Boulevard, Mentor, Ohio 44060.

Adolph Somrack, Transportation Supervisor, Willoughby-Eastlake Schools, 38106 Euclid Avenue, Willoughby, Ohio 44094.

OKLAHOMA

Frank Duke, Director of Transportation, State Department of Education, State Capitol, Oklahoma City, Oklahoma 73105.

Robert L. Jones, Assistant Director of Transportation, State Department of Education, State Capitol, Oklahoma City, Oklahoma 73105.

Henry A. Vaughan, Administrator, Section of Safety and Driver Education, Health, and Physical Education, State Department of Education, 4545 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

OREGON

Luther Ellison, Luther Ellison Transportation Company, 205 S.E. Houk Avenue, P.O. Box 636, Roseburg, Oregon 97470.

Jack W. Sperr, Coordinator, Pupil Transportation, Oregon Board of Education, 942 Lancaster Drive, N.E., Salem, Oregon 97310.

PENNSYLVANIA

Robert L. Dunham, Captain, Patrol Services Division, Pennsylvania State Police, P.O. Box 911, Harrisburg, Pennsylvania 17120.

Marshall L. Gemberling, Coordinator Institute of Public Safety, 310 Shields Building, The Pennsylvania State University, University Park, Pennsylvania 16802.

Ray Leipensperger, Vice President, Pennsylvania School Bus Association, East Texas, Pennsylvania 18046.

John A. Lukens, Assistant to the Commissioner of the Bureau of Traffic Safety, Bureau of Traffic Safety, Department of Revenue, P.O. Box 911, Harrisburg, Pennsylvania 17127.

Jesse J. Ritenour, Chief Pupil Transportation, School Administrative Services, State Department of Education, P.O. Box 911, Harrisburg, Pennsylvania 17126.

Ernest Marketell, Director, Pennsylvania School Bus Association, 1010 Clearview Drive, Latrobe, Pennsylvania 15650.

RHODE ISLAND (NOT REPRESENTED)

SOUTH CAROLINA

R. A. Durham, Deputy Superintendent, Division of Finance and Operations, State Department of Education, 1009 Rutledge Building, Columbia, South Carolina 29201.

Ralph M. Hendrix, Director, Office of Transportation, State Department of Education, 1106 Rutledge Building, Columbia, South Carolina 29201.

SOUTH DAKOTA

J. M. Eckman, Assistant Safety Director, South Dakota Highway Patrol, Safety Department, Pierre, South Dakota 57501.

Elwin R. Schmidt, Consultant, School Transportation, State Department of Public Instruction, State Capitol Building, Pierre, South Dakota 57501.

James C. Schooler, Assistant Superintendent Administrative Services, State Department of Public Instruction, State Capitol Building, Pierre, South Dakota 57501.

TENNESSEE

Joe Adkisson, Director, Pupil Transportation Services, State Department of Education, 111–D Cordell Hull Building, Nashville, Tennessee 37219.

Estelle Burgess, Supervisor of Transportation, Cumberland County Schools, Crossville, Tennessee 38555.

Billy V. Evans, Business Manager, Maury County School System, Columbia, Tennessee 38401.

Ernest Farmer, Coordinator, Pupil Transportation Services, Tennessee State Department of Education 111–D Cordell Hull Building, Nashville, Tennessee 37219.

Wendell L. Poole, Supervisor of Pupil Transportation, State Department of Education, 111–D Cordell Hull Building, Nashville, Tennessee 37219.

TEXAS

Richard M. Cummins, Program Director for School Transportation, Texas Education Agency, 201 East 11th Street, Austin, Texas 78711.

William R. Graeber, Assistant Superintendent for Business, Lamar Consolidated Independent School District, State Board of Control, 119 Sam Houston State Office Building, Austin, Texas 78711.

J. D. Littrell, Transportation Director, Dallas County Schools, 300 Records Building, Dallas, Texas 75202.

Charles I. Walker, Assistant Superintendent for Business, Ector County Independent School District, P. O. Box 3912, Odessa, Texas 79760.

UTAH

Dale D. Astin, Transportation Supervisor, Granite School District, 340 East 3545 South, Salt Lake City, Utah 84115.

Duane S. Carr, Transportation Specialist, Auxiliary Services, Utah State Board of Education, 1400 University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Joe E. Reidhead, Superintendent, Nebo School District, 50 South Main, Spanish Fork, Utah 84660.

VERMONT (NOT REPRESENTED)

VIRGINIA

R. A. Bynum, Assistant Superintendent, Pupil Transportation, State Board of Education, Richmond, Virginia 23216.

G. Winston Gilbert, Assistant Supervisor, Pupil Transportation, State Board of Education, Richmond, Virginia 23216.

Bob Wilson, Assistant Supervisor, State Board of Education, Richmond, Virginia 23216.

Raymond L. Wimbish, Supervisor of Pupil Transportation, State Board of Education, Richmond, Virginia 23216.

WASHINGTON

Lewis G. Bloom, Consultant for Pupil Transportation, Office of the Superintendent of Public Instruction, P. O. Box 527, Olympia, Washington 98501.

WEST VIRGINIA

Clarence Brock, Assistant Superintendent, West Virginia Department of Education, Room W–127, Capitol Building, Charleston, West Virginia 25305.

Lucian McDaniel, Transportation Director, Monongalia County Schools, 263 Prairie Avenue, Morgantown, West Virginia 26505.

Paul McDaniel, Transportation Director, Berkeley County Schools, 401 South Queen Street, Martinsburg, West Virginia 25401.

Roy W. Walter, State Director, School Transportation and Driver Education, West Virginia State Department of Education, 1615 Washington Street, East, Charleston, West Virginia 25311.

WISCONSIN

Robert G. Cromey, Motor Vehicle Department, Hillfarm State Office Building, 351 Hillfarms, Madison, Wisconsin 53702.

Robert Graff, President, Wisconsin School Bus Operation Association, Waterford, Wisconsin 53185.

Theodore A. Sorenson, Program Administrator, State Department of Public Instruction, 126 Langdon Street, Madison, Wisconsin 53702.

WYOMING

Glen Mangus, Assistant Superintendent, School District No. 6, Park County, Cody, Wyoming 82414.

OTHER PARTICIPANTS

C. Morris Adams, Regional Manager, P. A. Thomas Car Works, Inc., P. O. Box 1849, High Point, North Carolina 27761.

Robert W. Amundsen, Sales Administrator, Leece Neville, 1374 East 51st Street, Cleveland, Ohio 44103.

Henry Backstrand, Sales Engineer, Dodge Truck Operations, Chrysler Corporation, P. O. Box 2088, Detroit, Michigan 48231.

Robert Baldwin, Safety Education Center, Central Missouri State College, Warrensburg, Missouri 64093.

William J. Bard, Sales, The RCA Rubber Company, 1833 East Market Street, Akron, Ohio 44305.

Charles Bartlett, Director of Sales, Blue Bird Body Company, Fort Valley, Georgia 31030.

William G. Blankenbaker, Director of Pupil Transportation, Jefferson County Board of Education, 3332 Newsburg Road, Louisville, Kentucky 40218.

L. H. Boyd, Supervisor, Product Market Research Department, GMC Truck and Coach Division, 660 South Boulevard, East, Pontiac, Michigan 48053.

Cecil V. Brown, Pac-Kit Safety Equipment Company, Inc., P.O. Box 1306, Greenwich, Connecticut 06830; representing Industrial Safety Equipment Association.

Larry Brown, Sales Manager, School Bus Parts Company, 62 Trenton Avenue, Frenchtown, New Jersey 08825.

Larry Burton, President, Specialty MFG Company, Inc., 305 Foster Avenue, Charlotte, North Carolina 28203.

Sidney Butz, Sales Representative, Specialty MFG Company, 305 Foster Avenue, Charlotte, North Carolina 28203.

Clarence E. Carlson, Jr., Field Reliability Engineer, International Harvester Company, Engineering Department, P.O. Box 1109, Fort Wayne, Indiana 46801.

Norman Carlson, Chief Engineer, Carpenter Body Works, Inc., Mitchell, Indiana 47446.

Harry W. Case, Associate Director, Institute of Transportation and Traffic Engineering, 5531 BH, University of California, 405 Hilgard Avenue, Los Angeles, California 90024

C. D. Chase, Supervisor Motor Vehicle Inspector, New York Public Service Commission, 65 Court Street, Buffalo, New York 14202.

Dean W. Childs, Supervisor, Special Projects, Traffic Engineering and Safety Department, American Automobile Association, 1712 G Street, N.W., Washington, D.C. 20006.

Anthony Cimino, Coordinator of Traffic Safety, Board of Cooperative Educational Service, 125 Jericho Turnpike, Jericho, New York 11753.

Roland R. Clark, c/o Medical Supply Company, 1027 West State Street, Rockford, Illinois 61101; representing Industrial Safety Equipment Association.

Ted Clayton, Regional Market Research, Perley A. Thomas Car Works, Inc., High Point, North Carolina 27261.

Leon Conner, National Highway Safety Bureau, U.S. Department of Transportation, Washington, D.C. 20591.

Conrad H. Cooke, National Highway Safety Bureau, U.S. Department of Transportation, Washington, D.C. 20591.

D. P. Culp, President, East Tennessee State University, Johnson City, Tennessee 37602.

John G. Dallmer, Director of Transportation, Half Hollow Hills Schools, Duryea Road, P.O. Box 637, Melville, New York 11746.

R. P. Donley, President, Weldon, Inc., 2000 South High Street, Columbus, Ohio 43207.

James Dudney, President, Maryland School Bus Contractors Association, 1700 South Crain Highway, Glen Burnie, Maryland 21061.

XUM

William F. Enos, M.D., Pathologist, American Association for Automotive Medicine, 3902 Prosperity Avenue, Fairfax, Virginia 22030.

James Feltus, Supervisor, Pupil Transportation, Mesa County Valley Schools, Grand Junction, Colorado 81501.

Howard Fields, Chairman, Committee on Motorists' Vision and Highway Safety, American Optometric Association, 724 Francis Street, St. Joseph, Missouri 64501.

J. Stephen Foddnill, Assistant to the President, Carpenter Body Works, Inc., Old State Road 37, Mitchell, Indiana 47446.

Calvin Forrest, Service Department, Perley A. Thomas Car Works, Inc., High Point, North Carolina 27261.

Omer Frank, Central Missouri State College, Warrensburg, Missouri 64093.

James E. Gibbs, Chief, Development Staff, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Mordecia Gibson, President, Gibson Equipment, Inc., P.O. Box 946, Annapolis, Maryland 21404.

Leon G. Goldstein, Special Assistant to Director, BSTS, National Transportation Safety Board, 1626 K Street, N.W., Washington, D.C. 20591.

Willis M. Grimm, Assistant Superintendent, Russell County Schools, Box 908, Phenix City, Alabama 36867.

E. Theodore Gunaris, Deputy Registrar, Registry of Motor Vehicles, 100 Nashua Street, Boston, Massachusetts 02114; representing Vehicle Equipment Safety Commission.

Roy Hanser, N. E. Sales Manager, Ward Buses, Box 233, Beaver Falls, Pennsylvania 15010.

G. L. Hartman, Corporate Staff Engineer and Assistant to Vice President and Administrative Manager, Superior Coach Corporation, Lima, Ohio 45802.

Charles P. Hoffman, Jr., Automotive Engineer, National Transportation Safety Board, 1626 K Street, N.W., Washington, D.C. 20591.

Kenneth Holt, Director of Transportation, Bonnie County School District 82, McFarland Building, Sandpoint, Idaho 83864.

Gene E. House, Montana Department of Education, P.O. Box 1253, Billings, Montana 59103.

David S. Jenkins, Executive Director, Maryland School Bus Contractors Association, R.F.D. 5, Box 9, Annapolis, Maryland 21401.

K. B. Johns, Engineer of Safety, Highway Research Board, National Academy of Sciences, 2101 Constitution Avenue, Washington, D.C. 20418.

Pete Jordon, Wayne Division of Wayne Corporation, P.O. Box 908, Industries Road Exchange, Richmond, Indiana 47374.

Edward F. Kearney, Executive Director, National Committee on Uniform Traffic Laws and Ordinances, 525 School Street, Washington, D.C. 20024.

W. R. Keller, Supervisor, Product Market Research Department, GMC Truck and Coach Division, 660 South Boulevard, Pontiac, Michigan 48053.

Kenneth L. Kelly, Office of Colorimetry, Institute of Applied Technology, A 319 MET, National Bureau of Standards, U.S. Department of Commerce, Washington, D.C. 20234.

W. G. Knight, President, K. & E. Bus Lines, Inc., Bus Contractor, Star Route Box 500, Eagle River, Alaska 99577.

Charles F. Koors, Vice President and Division Manager, Special Coach Division, Crown Coach, 2500 East Twelfth Street, Los Angeles, California 92001.

C. T. Kope, Special Vehicles Engineer, Truck Engineering, Ford Motor Company, 20000 Rotunda Drive, Building #1, Dearborn, Michigan 48121.

A. C. Kreutziger, President, Coach and Equipment Corporation, Penn Yan, New York 14527.

Richard L. Kreutziger, Vice President, Coach and Equipment Sales, Inc., P.O. Box 36, Penn Yan, New York 14527.

Robert Kurre, Director of Engineering, Wayne Division of Wayne Corporation, P.O. Box 908, Industries Road Exchange, Richmond, Indiana 47374.

Joe Leep, National Highway Safety Bureau, U.S. Department of Transportation, Washington, D.C. 20591.

Jack Lilley, National Highway Safety Bureau, U.S. Department of Transportation, Washington, D.C. 20591.

Robert J. Maginnis, Assistant to the President, American Associated Companies, Safety Brake Seat Division, 451 Stephens, S. W., Atlanta, Georgia 30302.

L. H. Major, Ashland Oil, Inc., Freedom, Pennsylvania 15042.

Stanley J. Marx, Gillig Brothers, P.O. Box 330, Hayward, California 94543.

Robert Massaferi, Supervisor, School Transportation and Safety, Newark School District, 83 East Main Street, Newark, Delaware 19711.

J. Richard Mayhue, Engineering Technician, GSA–FSS–FMA (Automotive Standards Division), General Services Administration, GMBg. 4, Room 425, Washington, D.C. 20406.

William Norman, Vice President, Ward Body Works, Inc., P.O. Box 311, Conway, Arkansas 72032.

Authur W. Norris, General Manager, W. E. Transport, Inc., 130 Birchwood Park Drive, Jericho, New York 11753.

Bill Norwicki, Chief Engineer, Bus, Special Bodies, Lima Division, Superior Coach Corportation, Lima, Ohio 45801.

Steve Palladina, Project Engineer, Carpenter Body Works, Mitchell, Indiana 47446.

F. C. Palmer, Safety Officer, Manpower Administration, Department of Labor, 1726 M Street, N.W., Washington, D.C. 20210.

R. H. Paradise, President, Schoolway Transportation Company, 6370 South 108th Street, Hales Corners, Wisconsin 53130; representing Committee on Motor Vehicle Traffic Safety at Railroad Grade Crossings, Traffic Conference, National Safety Council.

W. E. Petersen, Sales Engineering Consultant-Trucks, International Harvester Company, 401 North Michigan Avenue, Chicago, Illinois 60611.

Dick Premo, Chief Engineer, Corporate, Bus and Special Bodies and Motor Homes, Superior Coach Corporation, Lima, Ohio 45802.

Peter Redding, Vice President, Energy Absorption Systems, 221 North La Salle Street, Chicago, Illinois 60601.

Donald B. Regan, President, National Association of School Bus Contract-Operators, 2880 Stillwater Road, St. Paul, Minnesota 55119; also member of Minnesota delegation.

J. J. Retich, Product Design Engineer, Ford Motor Company, The American Road, Dearborn, Michigan 48121.

Kenneth A. Roberts, General Counsel, Vehicle Equipment Safety Commission, 1026 17th Street, N.W., Washington, D.C. 20036.

Walter F. Roberts, Director, Automotive Standards Division, General Services Administration, Federal Supply Service, Washington, D.C. 20016.

Virgil Ross, Union City Bus Company, Inc., 1015 West Pearl Street, Union City, Indiana 47390.

George W. Ruggles, Transportation Manager, Ithaca City School District, 150 Bostwick Road, Ithaca, New York 14850.

Wilbur C. Rumph, Vice-President in charge of Engineering, Blue Bird Body Company, Fort Valley, Georgia 31030.

E. M. Ryan, Chief Design Engineer, Ward Body Works, Inc., Conway, Arkansas 72032.

Ray Schofield, Field Sales Manager, Blue Bird Body Company, Fort Valley, Georgia 31030.

Lewis I. Seaver, Heavy Truck Sales and Marketing Office, Ford Motor Company, P.O. Box 1558, Dearborn, Michigan 48121.

H. V. Semling, P.O. Box 674, Benjamin Franklin Station, Washington, D.C. 20044; representing Trailer Body Builders.

Tom Shields, Manager of School and Transit Coach Division, Superior Coach Corporation, Lima, Ohio 45802.

Robert Skilliter, Vice President, ACME Specialty MFG, 2298 Smead Avenue, Toledo, Ohio 43606.

Patricia Spross, Coordinator, Division of State Agency Cooperation, BESE, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Paul T. Stewart, Staff Consultant, School Transportation, National Safety Council, 425 North Michigan Avenue, Chicago, Illinois 60611.

Raymond T. Stoops, Area Transportation Supervisor, Indian River School District, P.O. Box 444, Georgetown, Delaware 19947.

J. B. Summers, Vice President, Sales, Superior Coach Corporation, Lima, Ohio 45802.

Peter Suto, Information Specialist, Motor Truck Manufacturers Division, Automobile Manufacturers Association, 1619 Massachusetts Avenue, Washington, D.C. 20036.

Karl F. Swem, Assistant in Transportation, Board of Education of Baltimore County, Towson, Maryland 21204.

G. W. Tannahill, Staff Specialist, Safety Compliance, Chrysler Corporation, Dodge Truck Operations, P.O. Box 2088, Detroit, Michigan 48231.

Louis Taub, Design Engineer, Chevrolet Engineering Center, Room 207, Tiffany Building, 30003 Van Dyke, Warren, Michigan 48090.

E. H. Taylor, President, Midwest Audio Cord, 5707 West Division Street, Chicago, Illinois 60651.

John W. Thomas, Jr., Vice President of Sales, Perley A. Thomas Car Works, Inc., High Point, North Carolina 27261.

James Tydings, Chief Engineer, Perley A. Thomas Car Works, Inc., High Point, North Carolina 27261.

J. T. Vance, Director, Sales Promotion, Thomas Car Works, Inc., 1408 Courtesy Road, High Point, North Carolina 27261.

Dick Verheul, Chief, Project Engineer, Blue Bird Body Company, Fort Valley, Georgia 31030.

Ben Walberg, Executive Secretary, National Association of School Bus Contract-Operators, P. O. Box 163, Mount Prospect, Illinois 60056.

Terry Walker, Western Salesman, Ward School Bus, 13129 West Ohio Avenue, Denver, Colorado 80228.

R. L. Wannamaker, Sales Representative, Ward School Bus, P. O. Box 233, Beaver Falls, Pennsylvania 15010.

Henry Warburton, Sales Manager, Delbar Products, 7th Spruce Court, Perkasis, Pennsylvania 18944.

Charles D. Ward, President, Ward Body Works, Inc., Conway, Arkansas 72032.

Gordon F. Ward, Safety Engineer, U.S. Department of Labor—LSB, 405 Railway Labor Building, 1st and D Streets, N.W., Washington, D.C. 20001.

Walter W. Washabaugh, Engineering Technician GSA–FSS–FMA (Automotive Standards Division), CMbg. 4, Room 425, Washington, D.C. 20406.

Eric Weaver, Supervisor of Transportation Services, Board of Cooperative Educational Services, 125 Jericho Turnpike, Jericho, New York 11753.

E. C. Welshimer, Director of Research, Carpenter Body Works, Inc., Mitchell, Indiana 47446.

Thomas E. Winter, Sales Engineer, Allison Division GMC, P.O. Box 894, Indianapolis, Indiana 46250.

Hugh Yeats, Safety Officer, Youth Safety Division, Office of Occupational Safety, U.S. Department of Labor, Washington, D.C. 20210.

Andrew Young, Treasurer, National Association of School Bus Contract Operators, 11172 Western Avenue, Stanton, California 90680.

XUM

REPRESENTATIVE FROM CANADA

H. J. T. Young, CSA Committee on School Buses, Canadian Standards Association, 178 Rexdale Boulevard, Rexdale 603, Ontario.

PRESS REPRESENTATIVES

Alice C. Harding, *NEA Journal*, National Education Association, Washington, D.C. 20036.

Ben Walberg, Executive Secretary and Editor, *School Bus Fleet*, National Association of School Bus Contract-Operators, P.O. Box 163, Mount Prospect, Illinois 60056.

STAFF

Norman Key, Executive Secretary, National Commission on Safety Education.

Stanley A. Abercrombie, Associate Executive Secretary.

William D. Cushman, Assistant Executive Secretary.

Jean L. Proetsch, Senior Staff Associate.

Joseph J. Arduini, Membership and Business Assistant.

John A. Cook, Program Assistant.

Joan C. Boeker, Secretary.

Gail A. Powers, Secretary.

Mary M. Davis, Secretary.

Suzanne Wade, Secretary.

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE REPORT ON DRAFT PUPIL TRANSPORTATION SAFETY STANDARD—JUNE 30, 1970

The Committee was furnished a copy of the draft standard and referred it to an ad hoc group (Messrs. McLaughlin, Grady, Dumas, Hess, Kachlein, Petitto, Roberts, Sommers, Leonard, and Riggs) chaired by Gen. McLaughlin. This group discussed the draft on May 4 and made the following report to the full Committee on May 5:

"The Bureau intended originally to cover youth transportation in general, such as for camps, religious groups, etc. The need for such broad coverage is strong but for the time being the immediate necessity of getting out a standard covering most of the problem governed the Bureau. The Committee agrees but strongly urges that the Bureau ultimately cover by standard the entire problem of group transportation not under the jurisdiction of the Bureau of Motor Carrier Safety."

"In general, the draft was well received by the Committee. In particular, the Committee favors the following provisions:

—no standees;

—uniform warning system;

—definition of a school bus to cover the tremendous variety of buses needing standardization as to safety features."

"The Committee approves of the omission of safety belts. Present school bus seat backs are only minimally padded, which means that a child belted could be severely injured when jacknifed against the seat back."

"The Committee believes that the draft should include a provision requiring monitors or proctors on the bus, thus freeing the driver to concentrate on the driving task. The monitor would also supervise unloading."

"Another provision which should be considered for inclusion is the periodic reevaluation or re-qualification of drivers. Mr. Riggs suggested that drivers also be required to have first aid training. Finally, several members concurred in the need to require that school buses used for other purposes cover their school bus signs when so used. The Committee was divided over the issue of the school bus as a traffic control device."

The Committee recommended that the draft be submitted to the States and private organizations for comment together with the above report.

NATIONAL HIGHWAY BUREAU TRAFFIC SAFETY PROGRAM STD. 17 PUPIL & YOUTH TRANSPORTATION SAFETY

INTRODUCTION

The transportation of millions of children and youth to and from school and other activities is often attended by needless hazards and tragedies. Inadequately trained drivers, non-uniformity of State laws and regulations, sub-standard design and maintenance of the transporting vehicles often subject young people to considerable risk.

This program area seeks to assist the States in the improvement of transporting children safely in urban and rural areas by giving attention to proper and safe equipment and the selection, training and supervision of drivers and maintenance personnel.

BACKGROUND

"* * * section 402 of the proposed Highway Safety Act is intended to assist the States in initiating safety program elements they do not now have and in improving those they do."—Report No. 1700, House of Representatives, 89th Congress, second session, July 15, 1966, page 22.

"* * * discussion of the standards listed in section 402 of title 23 as contained in this bill is not intended to be limiting; rather it is intended to serve as guidelines to what the Congress intends should be included among the minimum elements of the State highway safety programs. They must necessarily be expanded and revised as changing conditions demand."—Report No. 1700, House of Representatives, 89th Congress, second session, July 15, 1966, page 20.

PURPOSE

To assist the States in achieving the highest attainable level of safe transportation for pupils and youth.

PART I. PUPIL TRANSPORTATION

A. Each State, in cooperation with its school districts and its political sub-divisions, shall have a pupil transportation safety program to assure that school buses are operated and maintained to achieve the highest possible level of safety.

B. A "School Bus" is any motor vehicle while being used for the transportation of any school pupil to or from a public or private school or to or from public or private school activities, except the following:

1. A passenger vehicle designed for and when actually carrying not more than eight persons, including the driver.

2. A nine passenger station wagon when used for the transportation of not more than eight pupils and the driver, other than the regular transportation of pupils to and from a public or private school or the transportation of mentally retarded or physically handicapped pupils.

3. A motor vehicle of any type carrying only members of the household of the owner thereof.

4. A motor vehicle operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned transit system, or scheduled runs but not used exclusively for the transportation of school pupils.

5. A motor vehicle operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned transit system, or by a passenger charter-party carrier and used under a contractual agreement to transport pupils to and from school activities but not used regularly to transport pupils to and from a public or private school.

C. Each school bus shall be painted National School Bus Chrome and black enamel. The school bus chrome shall meet the colorimetric specification of the National Bureau of Standards[1] and black enamel shall meet Federal Standard No. 595a.[2] The chassis, including wheels and front bumper, shall be black enamel; the hood, cowl and fenders shall be in National School Bus Chrome.

D. Each school bus, when used to transport children to or from school, must have the following in black letters located between the warning signal lamps as high as possible without impairing their visibility.

1. The words "School Bus" in letters at least four inches high on both the front and the rear of the bus; and

2. The words "Stop When Lights Flash" in letters at least four inches high on both the front and rear of the bus. Required signs may be moveable or detachable.

E. Each school bus shall be equipped with:

1. A system of signal lamps that conforms to the requirements of paragraph 3.1.3 of Federal Motor Vehicle Safety Standard No. 108 (49 CFR 371.21, February 3, 1967) for the eight light system; and

2. A National Highway Safety Bureau approved school bus stop warning device with alternately flashing red lamps. The signal lamp system and the stop warning device are to be controlled by a single switch, and must be operable by the driver when the school bus is stopped on the highway to take on or discharge children. This warning system shall not operate in connection with any other device.

F. SELECTION, TRAINING AND SUPERVISION

1. The program must include a plan for the selection, training, and supervision of all persons whose duties involve the transportation of school children so that those persons will attain a high degree of competence and knowledge of their duties.

2. Every person who drives a school bus occupied by school children must—

a. Hold a valid operator's license, qualifying him to operate a school bus, issued by the State's driver licensing agency;[3]

b. Meet any special requirements for school bus drivers established by the State agency having primary administrative responsibility for pupil transportation; and

c. Be qualified as a driver under the Motor Carrier Safety Regulations of the Federal Highway Administration.[*] if he or his employer is subject to those regulations.

3. At least twice during each school year, each child who is regularly transported on a school bus must be instructed in safe riding practice, and participate in emergency evacuation drills.

G. OPERATIONS AND MAINTENANCE

1. The program must include a plan to minimize hazards to occupants of school buses, other highway users, pedestrians and property by—

a. planning of safe routes:[4]

b. providing for loading and unloading zones off the main traveled parts of highways whenever it is practicable to do so;

c. establishing restricted loading and unloading areas for use of school buses at or near schools; and

d. being able to inform motorists that a school bus is stopping or has stopped by use of warning devices that comply with Section E of this standard.

2. When a school bus is in motion, each occupant of the bus must be seated in a seat which includes a designated position as defined in title 49 CFR 371.3[*]

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[1] Color chips are available from the General Services Administration Business Service Center, Region 3, 7th and D Street, S.W., Washington, D.C. 20407. Specify Federal Standard 595a, chrome yellow enamel #13432.

[2] Color chips are available from source given in footnote 1. Specify Federal Standard 595a, black enamel #17038.

[3] See Highway Safety Program Standard No. 5, *Driver Licensing*, June 27, 1967.

[*] Title 49 Code of Federal Regulations, Part 291, January 1, 1968.

[4] See Highway Safety Program Standard No. 14, *Pedestrian Safety*, November 2, 1968.

[*] "Designated seating position" as defined in Title 49 Code of Federal Regulations 371.3 means any plane view lateral location intended by the manufacturer to provide seating accommodation for a person at least as large as a 5th percentile adult female, except auxiliary seating accommodations such as temporary or folding jump seats (32 F.R. 11776—August 16, 1967).

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3. When a school bus is operated on a highway and is transporting primarily, passengers other than children, the signs and signals required by Sections D & E of this standard, as well as all other marketing (except license plates) on its front and rear identifying it as a school bus shall be removed, covered, or otherwise concealed.

4. Each school bus must be maintained in safe operating condition through a systematic preventative maintenance program. Each school bus must be inspected at least semiannually in accordance with Highway Safety Program Manual Vol. 1, published by the Department of Transportation January, 1969. If the operations of a school bus are subject to the Motor Carrier Safety Regulations of the Federal Highway Administration, the bus must be inspected and maintained in accordance with those regulations (Title 49 CFR Parts 393 and 396).

5. Each school bus driver shall perform a daily pre-trip inspection of the bus he drives. At the completion of his day's work or tour of duty, the driver shall report in writing any defect or deficiency in the school bus discovered by, or reported to, him which may affect the safety of the vehicle's operation or result in its mechanical breakdown.

H. *Rules of the Road*. The program must include the enactment of uniform rules for overtaking and passing school buses. The rules shall require that—

1. Except as provided in paragraph 2, the driver of a vehicle meeting or overtaking a school bus that is stopped on a highway to take on or discharge children and on which the warning signals specified in Section E are in operation must stop his vehicle before it reaches the school bus and must not proceed until the warning signals are deactivated; and

2. The rules in paragraph 1 do not apply to the driver of a vehicle upon a highway with separate roadways when meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading or unloading zone which is part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway.

I. ADMINISTRATION

1. The program must include enactment of a rule prohibiting the operation of a vehicle displaying the words "SCHOOL BUS" unless that vehicle conforms to the requirements of Sections C, D, E of Part I of this standard.

2. The program must include a plan for the systematic collection and reporting of information needed to improve the safety of school bus operations.[6]

3. One State agency shall have primary administrative responsibility for pupil transportation. This agency must employ at least one full-time professional in this field to carry out its responsibilities for pupil transportation.

4. The program shall be evaluated at least annually by the State agency having primary administrative responsibility for pupil transportation. The National Highway Safety Bureau shall be provided with a summary of each evaluation.

PART II. YOUTH TRANSPORTATION

A. Each State, in cooperation with its school districts and its political sub-divisions, shall have a youth transportation safety program to assure that whenever groups of children are transported in a motor vehicle that it shall be operated and maintained to achieve the highest possible level of safety.

B. Motor vehicles used under this Part shall not display the words "School Bus" nor be equipped as indicated in Part I–E of this Standard.

C. Any motor vehicle which is used primarily or regularly to transport groups of children shall be subject to this Part of the Standard, except the following:

1. A motor vehicle of any type, carrying only members of the household of the owner thereof.

2. A motor vehicle identified as a "School Bus".

D. SELECTION, TRAINING AND SUPERVISION

Provisions of Part I–F should be modified to cover drivers of all kinds of motor vehicles.

E. OPERATION AND MAINTENANCE

Provisions should cover control of children not traffic, loading and unloading practices and inspection procedures comparable to those for school buses.

[From Safety, May–June 1969]

Seat Belts for School Buses

The "School Transportation" section of this issue presents conflicting information regarding the efficacy of seat belts or restraining systems for school bus passengers.

On the one hand is a growing tendency toward legislation at both the State and Federal levels to mandate that belts be available for all children on all school buses. The rationale, if our interpretation is correct, is that persons who are thrown from their seats (or from vehicles) during mishaps, stand a greater chance of injury than do those who remain in their seats, *and* that restraining systems, be they lap belts, shoulder harnesses, or combinations of the two, do what their name implies, i.e., restrain or hold the passenger in his seat. Therefore, children should be protected, to wit, strapped in.

Others, including the National Highway Safety Bureau, say that more research on seat design and construction as well as on effective types of restraints is needed before lap belts or any restraining devices should be recommended.

Still another point of view, based primarily on the anatomical characteristics of children (particularly those under age 10 or 11) suggests that some types of belts may create dangers from lesions, say to the kidney or bladder. Indeed, injuries of this type have already been recorded. Proponents of this position hold, therefore, that no legislation should be passed at this time mandating seat belts for pupils riding in school buses.

Safety goes along with those who oppose the mandating of restraining equipment for all school bus passengers at the present time. We agree that more attention needs to be focused on seat design and particularly on anchorage facilities for the belts or restrainers. The medical admonishments are also sobering and must be given credence.

There is another factor, however, previously not mentioned, that should be considered before such equipment is made mandatory. We are concerned with practically from the standpoint of usage. We've no doubt that, under carefully supervised conditions, the wearing of appropriately designed restraining devices could be successfully accomplished. But by and large, supervisory practices across the nation have not reached the level of sophistication required to facilitate seat belt usage at present.

Until such time as the management of school transportation is more comprehensive and effective, including supervision on the bus itself, we can see a number of potential shortcomings to the mandating of restraining devices. A few examples are offered for consideration.

We have difficulty, for instance, visualizing six straps per 39 inch seat on the typical school bus. This is the number that would be required if each child were to have an individual belt. Even if retractors were used, manipulation of the belts by three students would be difficult. And can you picture youngsters garbed with heavy coats, their arms laden with books, gym clothes, and lunch bags, crowding into their seats and property affixing the restraining devices? Imagine the potential for conflict when it is found that "She's sitting on my seat belt" or "He's using my strap and his buckle," or "There goes my stop and I'm tied to my seat."

If belts were mandated for every passenger (again lacking effective supervision), we predict that they'd be used to trip students in the aisle. They'd serve as whips for boys to use on one another. They'd be knotted, slashed, and stolen.

We should hasten to add that these few difficulties would be but a starting point. Resourceful kids would expand the possibilities to unknown ends.

Let's hope that our legislators, instead of mandating seat belts for school buses, will appropriate needed funds a) to provide a seat for every pupil who rides in a school bus, or b) to enable local school districts to provide adequate supervision for the school transportation program, or c) to make possible a first-rate school bus inspection and maintenance program.

Lap-type belts for pupils in school buses with low-back seats—and that's virtually every school bus in the Nation today—are out!

Who says so?

The National Highway Safety Bureau: ". . . until more research is completed on seat design and construction as well as on effective types of restraints, the installation of lap-belts for passengers in present day school buses is *not recommended*."[1] (William Haddon, Jr., M.D., former director of the National Highway Safety Bureau in a letter dated 30 Jan. 1969 to Congressman Louis Sherman of the Pennsylvania House of Representatives.)

University of California at Los Angeles: "It is *strongly recommended that seat belts not be installed*[1] in school buses unless higher seatbacks are also included with appropriate padding applied to all sides of the seatback." (UCLA Institute of Transportation and Traffic Engineering in their 1967 report on "School Bus Passenger Protection.")

Legislative Research Commission of Kentucky: "We are on the brink of a new era in school bus safety design and it is *suggested that* the General Assembly *enact no statutes at this time relating to school bus passenger seat belts*."[1] (1967 report on "School Bus Safety and the Seat Belt.")

Orthopaedic surgeon: "Amongst the striking characteristics of the child's skeleton as compared with the adult, is that its prominences taken as a whole are much less * * *. If we devise a restraint to hook over a particular prominence, when we come to the child, we may find that the prominence is in fact not there. A case in point is the familiar seatbelt—if the seat belt is permitted to ride up above the iliac crest, there is nothing from a skeletal standpoint between it and the backbone. We are already seeing brand-new visceral lesions produced by seat belts, including crushed kidneys, ruptured bladders, . . . If the seat belt is worn properly as a lap belt, it hooks between the thigh bones and the anterior-superior iliac spines of the pelvis. These are broad strong bony projections, hooking slightly downward, that completely prohibit such injuries which can occur only when the seat belt is worn too loose and the patient slides out from under it, or else worn too high. But in a child, these bony prominences are too rounded. The thigh is relatively larger and the pelvis itself is smaller. Therefore, it is almost impossible to apply a seat belt to a youngster in such a way that, with a decelerative force, the child's weight will not be thrown directly upon the viscera.

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[6] See Highway Safety Program Standard No. 10, *Traffic Records*, issued June 27, 1967.

[1] Italics supplied throughout.

"* * * I don't really know how you are going to get anything approaching any lap belt that I have ever seen that would be safe to put on a young child, much less effective. I don't know how old a child must be to safely wear a lap belt, but I would guess the age of 10 or 11." (From transcription of an address by H. Rolf Noer, M.D., Arlington, Virginia, before the Child's Restraint Systems Subcommittee of the Society of Automotive Engineers, in 1968.)

So what are legislators now doing?

They're introducing bills that would require seat belts in school buses. Here are examples:

Oklahoma (H.B. 1383): ". . . No school bus shall be operated on the streets or highways in this state unless same is equipped with seat belts for the number of passengers for which the bus is designed to carry as determined by the local school board."

New York (A. Int. 719): Would add a section to the vehicle and traffic law to make it unlawful, on and after September 1, 1969, to operate a motor vehicle used for transportation of children to and from public or private schools unless equipped with seat safety belts of type approved by motor vehicles commissioner.

Connecticut (H.B. 5518): ". . . and every seat on each school bus will be equipped with a safety belt in conformance with the requirements of section 14–100a."

Rhode Island (H. 1177): "All motor vehicles used in the transportation of nursery school students are hereby required to be equipped with safety harnesses and/or seat belts in a number equal to the number of children who are being transported in said motor vehicle. . . "

91st Congress (H.R. 162): "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the manufacture for sale, the sale, or the offering for sale, in interstate commerce. . . . of any motor bus manufactured on or after the effective date of this Act shall be *unlawful unless each passenger seat location on such motor bus is equipped with a seat belt.*"

The above bills were 'alive' as this issue of Safety went to press. Some or all may be killed by the time you read this. But next year and the one after that, and still another after that will bring more bills calling for seat belts in school buses.

The *Federal Register* of last January 24 carried a notice that the U.S. Department of Transportation (DOT) is considering a proposed new Federal Motor Vehicle Safety Standard that would impose minimum requirements for child seating systems for use in passenger cars. The purpose would be to specify "requirements for child seating systems to minimize the likelihood of death and injury to children in vehicle crashes or sudden stops by ejection from the vehicle, contact with the vehicle interior, or contact with a child seating system."

One month later, DOT indicated that it is considering extending the application of the above proposed standard from passenger cars to any type of motor vehicle. Clearly, this would include school buses and all other vehicles used in transporting school children. The standard as proposed would become effective January 1, 1970.

NOT A STANDOFF

The two sides of the coin here presented are parodoxical; they suggest a standoff and no further action. Not so! Unless those closest to the firing line—principals, superintendents, school transportation supervisors, and others—make their feelings known,[3] *SAFETY* predicts that legislation will indeed be enacted *requiring* seat belts on school buses. We feel further, that such legislation, at any level, would be ill advised at this time.

[From School Bus Fleet, April-May 1967]

NO. WE DO NOT NEED SEAT BELTS IN SCHOOL BUSES

The seat belt, which is certainly a disaster-preventing device in some situations, has become a cause-celebre as far as school buses are concerned.

To have us travel at breakneck speed down the road to seat belts in school buses against our will, may very well be against our better judgment.

At the beginning of the great push for the seat safety belt, the National Safety Council was predicting 40,000 automotive fatalities in one year. Cornell Aeronautical Laboratories was postulating that the use of seat belts could reduce accident-produced injuries 29%, and Drs. Cikas and Huelke of the University of Michigan estimated 34% fewer fatalities if seat belts had been used in the cases investigated by them.

I am certain that I need not belabor the economic implications of 12,500 lives each year. When these estimates became available, it was a simple judgment to make. The value of the seat belt far outweighed its cost. We were convinced that the passenger must be kept inside the vehicle. When the door flew open in the crash, the passenger stood a better chance to survive by being inside the car. The seat belt accomplished this goal. The seat belt, however, was not felt to be the "Be All" and "End All" of passenger safety. It became a factor in automobile safety because it was a satisfactory restraining device from an engineering standpoint, and economically feasible.

Being against seat belts in school buses is a little like being against motherhood, but I should like you to consider some of the arguments that can be advanced.

First, let us look at the basic purpose of the belt—to keep the passenger in the vehicle. The functional design of the automobile with its seats next to the doors demands a restraining device of some sort. The school bus, however, is not similarly designed. There are normally only two doors, and neither of these is in proximate relationship to the passenger. The student passenger is normally seated with a window at shoulder height; a window that is something about 27-inches wide. In some states, a bar is placed across the window for additional security. I submit that it is indeed difficult to eject this passenger.

Indeed, to facilitate his removal, we have mandated emergency doors, push-out windows, and kickout windshields. In this context, I believe that it is interesting to examine the arguments being advanced by the Interstate Commerce Commission in its Ex Parte Order #69 in which it seeks to force interstate buses to be equipped with seat belts. The August 1966 issue of Traffic Safety tells us: "Twenty years ago our greatest concern when inter-city bus was involved in an accident was the problem of getting the passengers out. . . . We required a specific minimum escape area for each seated passenger with a requirement for push-out sash. . . . Modern bus design favors scenic windows that are so large that when a bus overturns the main problem is keeping the people in." The school bus does not have that problem. Our passengers remain in the vehicle.

SCHOOL BUS ACCIDENTS

A recent report by Paul Stewart of the National Safety Council to the School Business Officials Conference at Atlantic City, N.J., contains these figures about school bus accidents. During 1965, 220,000 vehicles transported 16,000,000 pupils daily and operated a combined total distance of 1,750,000,000 miles. There were 32,000 incidents; 22,000 collisions with other vehicles; 3,000 collisions with fixed objects; 2,500 non-collision accidents and 4,500 other. Far too many, of course. However, let's look at the fatalities. There were 60 pupil deaths. Four died in collisions with other vehicles. No deaths from collision with fixed objects. Five pupils deaths in non-collision accidents. Six in other types of accidents. Appallingly, however, there were 15 pupils killed by their own bus and 30 by another vehicle as they approached or left the bus.

Thus, there were nine deaths inside the vehicle as a result of 27,500 accidents. How many could seat belts have saved?

It would be easy to say 3 or 4 by using the 34% which we have from the work done in auto safety. However, we must remember that by far the greatest number of these deaths occurred when passengers were ejected from their automobiles. This type of fatality does not occur in school buses. I think that the number would be closer to one than to three, if any lives could be saved at all.

Now, let us look at the cost. The estimates of installation costs for seat safety belts in 60 passenger buses vary from $240 to $290 per bus. The basic cost then to equip 220,000 school buses in the United States would range from $52,800,000 to $63,800,000. I have used the term "basic" for a very good reason. I do not believe that the cost is such a simple problem in mathematics. I see some other problems.

BASIC PROBLEMS

The first problem is that of the standing passenger. The seat belt is just that. It keeps the passenger in his *seat*. Is the standee a second class citizen? Whose child shall stand? Yours or mine? What protection would you afford him?

The immediate reply is to eliminate the standing passenger. Fine! Wisconsin has done it. But again, let us look at the cost! The annual cost for school transportation in New York is $75 million. Our law permits a 20% passenger standing load. While we may say that its purpose is to take care of contingencies, in actual practice, the 60 passenger bus is considered to be available for 72 passengers. Thus, New York's transportation bill would rise nearly $15 million a year before seat belts could be installed. Project the cost in your state and the nation involved in removing the standing passenger.

I know that we may be charged with placing a dollar value of human life, and especially on the lives of our children. But I feel that we must ask whether education can stand this additional burden in this function of transportation which basically adds nothing to the education of the student. How many more dollars can we demand for auxiliary services from our taxpayers in an economy now burdened with a foreign incident that drains a billion dollars a month from it.

In the early 1960's, my company became involved in a pilot project to install seat belts in school buses. We installed one seat belt for each seat in the vehicle, thus strapping three passengers together. We attached the belt to the seat frame. We continued the experiment for something over a month.

A letter from a New York State official calling attention to the pilot project stated that since no accidents occurred during the period of the experiment, the results were not conclusive. His statement was true in its proper context, of course. We didn't have any accidents, but we certainly had a rash of incidents.

Our experiment told us many things. First, it told us that the American school child is a healthy, enthusiastic creature prone to pranks without regard for their consequences. That piece of webbing with a buckle on the end is an irresistably attractive nui-

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[3] Interested persons should contact State Legislators, United States Congressmen and Senators, and Secretary of Transportation, John Volpe.

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sance, and it was used more as a weapon or a Yo-Yo than as a safety device. Then, when it was discarded, it ended up across the aisle so that it could be tripped over by a book-carrying student eagerly shoving his way to the door to freedom.

We had high hopes that we might help the educational process by having children use belts and then have the experience carry over into the home. Instead, we began to develop a discipline problem. This became an area in which a student might disobey the driver without serious consequence. The opportunity for controversy developed. Quote—"My father says anyone who wears a seat belt is a nut!"—Unquote.

We understand that our method of installation was not the approved one, but I hesitate to conjecture on what the results might have been with three sets of seat belts belted to the floor behind the seat.

Our conclusion was that although we had not proved whether seat belts had any value at all as a life-saving device when installed in a school bus, we were convinced that the belt as currently engineered was ineffectual and potentially dangerous. I have seen no development in the seat belt since that time to change my opinion.

To this point I have been negative in my approach, and I know that this will not satisfy the clamor that is certain to arise when legislators begin to get on this popular bandwagon. What do I think should be done?

Two things stand out as a result of my research in this field. First, the Crash Test Program at U.C.L.A. The occupant of seat 8–R on the aisle is thrown forward into the aisle, injuring his rib cage, but he lives. Next to him, the occupant of the window seat in 8–R is belted in. At the moment of impact he lunged forward, held in by his belt and strikes his head on the bar of the seat in front of him. He could not have survived the crash.

Second, forty-five school children were killed outside of the bus in 1965. Fifteen by their own bus, and thirty by vehicles passing the bus as the students were loading or unloading.

New York State is involved in a Safety Car Feasibility Study. This study is the result of the conviction that the vehicle in which we ride must be made safe for the "second accident" that the passenger experiences. It asks the question whether the interior of the vehicle can be designed to reduce the seriousness of injury to the passenger. I believe that we might well spend some of these projected millions on an improvement of the interior of our school buses.

New York State mandates crash pads on seat rails, shoulder panels and door headers on its district owned vehicles. This requirement instituted by Maurice Osborne, when he was Director of Field Financial Services in the State, have materially decreased injuries in New York. I am convinced that there are other areas inside the bus that could benefit by good safety engineering.

The development of the New Jersey type light by Dr. Orville G. Parish, Director of Pupil Transportation, Department of Education, State of New Jersey, is an example of the valid expenditures of dollars to save some of the 30 lives that are lost outside of the vehicle to other cars. The mandatory cross-over mirror in New York State can save some of those 15 lives lost to the school bus. Further, dollars spent in driver training will save more of those nine lives lost inside the bus than any safety device ever could.

[From the South Shore Record, Hawlett, N.Y., Aug. 6, 1970]

TERM SEAT BELTS HAZARDOUS

Should school buses be equipped with seat belts? The question, raised in the aftermath of the Hillel School bus tragedy, was answered here this week with a unanimous "No" from school authorities and bus operators.

Among the reasons given were these:

The seat belt provides, not safety, but a hazard. In a collision, it would act as a fulcrum, throwing the child's torso forward so that his head would be struck on the seat ahead, and then throwing him back in a whiplash motion. Without a belt, the child would slide to the floor and injuries would be less severe.

Where seat belts have been installed (they are required by state law in "mini buses" and station wagons), the children use them as weapons. Said one bus operator, "These kids start swinging at one another with the buckles—if they don't swipe the buckles first."

If belts were made mandatory, every bus would need a matron to be sure the restraining devices were on, and adjusted. Time for the trip to school and the return would be more than doubled.

It would be impossible to install restraining devices three abreast. School buses have 10 rows of seats, accommodating 20 older children or 60 younger children, the latter seated in threes. (State law permits school buses to carry up to 72 passengers, with no more than 12 standees.)

The New York State Education Department specifically opposes installation of seat belts on the grounds that they would not contribute to greater safety and could increase hazards.

Asked by the Record if harness restraints might be feasible, one bus operator said that they could not be installed in present-day buses. Another, asked by this reporter, if he favored padding bus interior said, "we have 1970 buses, padded all over, and the kids have already ripped the padding to shreds." Baumann Bus, which is the carrier for District 14, has padded seat bars on all its equipment.

All the operators agreed that for long trips, school buses should not be used, and that coaches should be hired. (This is standard procedure in Districts 14 and 15.) "That's the place for seat belts," said John Krpata of Brothers Coach in Hewlett. Mr. Krpata added that he would like to see long-haul buses altered. At present they are equipped with so-called safety windows that open on impact and, as in the Hillel accident, make it possible for a child to be thrown out.

Dr. Samuel Cohen, District 15 superintendent of schools, this week issued a statement on school bus safety, to the effect that there is no clear-cut evidence that seat belts are desirable or necessary, especially when they are opposed by the state Education Department and the National Highway Safety Bureau. The latter states that until there is intensive research on seat design and methods of restraint, present-day belts are not advised.

Dr. Cohen listed the safety precautions taken in District 15, which is served by the Independent Coach Company. Each bus must be inspected every three months by the PSC. Every driver must have an annual physical and must have a Class 2 license in valid condition. Every driver hired by Independent must be approved by the district. The district reserves the right to fire any driver without specifying the reason. Drivers must wear seat belts.

He added that the District 15 board of education is conducting its own investigation of the feasibility of seat belts. "Within the next few months," he said, "the board will announce either its conclusion that the State Education Department's position is justified or that certain specific actions will be taken to make changes in school buses for greater student safety."

THE ANSWER?

"Education, not seat belts, is the answer to the problem. I would like to see the PTA's and the administrations conduct safety programs in school. These kids should be taught how to board a bus and how to get off. They should learn not to stick their heads and arms out of the windows. They should be educated to stay in their seats, not jump up and down on them. They should be taught not to run in the aisles and not to distract the driver. Discipline is the biggest safety problem we have. I believe that if you train a child early enough, you've got the battle won. We have a safety engineer who will go out and talk at assemblies, but the schools don't seem to make the time available more than once in a while."

LEO D'AMATO,
Baumann Bus Corp.

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR THE ANTIPOVERTY PROGRAM

Mr. JAVITS. Mr. President, the authorization of appropriations for programs under the Economic Opportunity Act of 1964 will expire June 30, 1971. We will be appropriating funds for the rest of this fiscal year, but I am sure that Senators will want to know what the future of our antipoverty efforts is likely to be. It is for that reason that I speak today.

Mr. President, I rise today to make three basic recommendations to the administration and to the Congress for consideration during the coming months in respect to continuation of the poverty program.

First, I urge that the administration and the Congress support legislation to authorize appropriations for at least an additional 5 years—through June 1976. I also recommend that we express a general long-term commitment to the elimination of poverty by giving the programs and the agency "permanent" status by eliminating the various "duration of programs" provisions, under which the basic authority for the existence of the Office of Economic Opportunity, and for carrying out of the programs, would expire June 30, 1972. Although programs could not be meaningfully continued without corresponding authorizations of appropriations even with the removal of these time limitations, we must express next year a long-term commitment.

Second, I urge that the extension be accompanied by a strong commitment on the part of the administration and the Congress to the principle of involvement by community action agencies and other community-based organizations, and a strong commitment to programs and activities that encourage meaningful self-help and self-determination by the poor.

Third, I hope that the administration and the Congress will explore new ways of providing adequate funds for poverty programs, and new ways to increase the Office of Economic Opportunity's ability to act as the independent advocate for the poor.

FIVE-YEAR EXTENSION

Mr. President, last year, with the full support of the administration, the poverty program was given a 2-year extension. The time has come to give the Office of Economic Opportunity and the programs thereunder a tenure sufficient to provide full opportunity to implement the legislative goal of the Economic Opportunity Act:

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> To eliminate the paradox of poverty in the midst of plenty in this Nation by opening to everyone the opportunity to work, and the opportunity to live in decency and dignity.

While so many agencies and programs serving particular constituencies enjoy the security of permanent status, the poverty programs are put up for "reelection" every 1 or 2 years, resulting often in an undermining of the antipoverty effort. Since the Economic Opportunity Act was enacted in 1964, the poverty program has been extended five times. As a result, not only has undue pressure been put on the Office of Economic Opportunity to dampen program initiatives, but appropriations are too often not acted upon until well after the year has begun because the fate of authorizing legislation is unknown. Local efforts and the efforts of thousands of dedicated poverty workers are held up. As important, instead of demonstrating new approaches over 3 or 4 years to get meaningful results, test projects are often limited to the short tenure of the most recent authority—sometimes resulting in a limited return on efforts.

It is my hope that next year we can break with these shortsighted efforts of the past and give our antipoverty efforts the security which the poor need.

As I indicated, the legislation I recommend would provide a 5-year extension of the authorization of appropriations through June 1976, and would make the general authority for the programs permanent in the sense that any time limitations upon the continued existence of the Office of Economic Opportunity for the carrying out of programs under the act would be eliminated. These general authorities will expire otherwise on June 30, 1972.

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Although the programs should be made permanent, we need not conclude that poverty will be permanent. In fact, I hope that we will accompany next year's legislation with a revival of a practice authorized under the original Economic Opportunity Act, and initiated, but never fully implemented, by the previous administration: the formulation of a 5-year poverty action plan. Such a plan was prepared first in 1965 and was revised annually, but the plans and revisions were never submitted to the Congress.

I urge that such a plan be prepared by the executive branch and submitted to the Congress so that we can establish our goals, determine the relationships between various antipoverty efforts, and give those efforts the same benefit of the preplanning that has accompanied our efforts in defense and in space.

RENEWED COMMITMENT TO COMMUNITY ACTION AGENCIES AND OTHER COMMUNITY-BASED ORGANIZATIONS AND TO THE PRINCIPLES OF SELF-DETERMINATION

Mr. President, not only must we extend the poverty program, but we must extend it in such a way that we indicate our full commitment to the backbone of the program—the community action agencies—and to programs and activities founded on the principle of self-determination of the poor.

In his July 8, 1970 message to the Congress, which set forth widely acclaimed recommendations for Indian Affairs, the President said:

> Even as we reject the goal of forced termination so must we reject the suffocating pattern of paternalism . . . There should be no reason why Indian communities should be deprived of the privilege of self-determination merely because they receive monetary support from the Federal government.

Mr. President, while there are special circumstances involved in the case of the Indians, the same basic philosophy should underlie our policies for the Nation's ghettos, barrios and rural poverty pockets. While we must seek an integration of all people and avoid unhealthy, divisive segregation, we must recognize the need for self-determination on the part of those who are seeking to escape from a life of poverty.

To that end, I propose that the administration and Congress take the following steps:

First, I urge that the highest priority in efforts and funding be given to local-initiative activities; those programs and activities initiated by the poor themselves through their community action agencies. There are more than 1,000 such agencies in the Nation. These activities may be distinguished from the so-called national emphasis programs, such as Headstart—which are most often also conducted by community action agencies—by their essentially indigenous nature. Such programs include efforts to provide food or transportation assistance and to undertake new educational programs.

Local initiative has been a great source of new solutions for the problems of poverty; indeed, a number of significant approaches in the national emphasis programs—for example, the emergency food and medical services program—have been fed by the local level to the national level. It is appropriate that the administration's concept of the Office of Economic Opportunity as an "incubator" for new programs and new ideas be applied to community action agencies.

However, according to information prepared by the Office of Economic Opportunity, the percentage of community action funds allocated to local initiative dropped from 48.7 percent in fiscal 1965 to 34.2 percent in fiscal 1967 and to 31.2 percent in fiscal 1970.

Mr. President, last year in the Economic Opportunity Amendments of 1969, the Congress made a basic commitment to local initiative by reserving $328,900,000. It is essential that the commitment be maintained—and indeed expanded—by legislation if necessary. An essential part of next year's legislation must be a specific allocation of funds for this purpose.

Second, I urge the administration and the Congress to guarantee that vital programs such as legal services, VISTA, and other national programs are run to further the clear interest of the poor, independent of controls by State and local governments. It is appropriate that State and local governments be involved in antipoverty efforts generally where they demonstrate both a true commitment to the poor and an ability to take meaningful action, but I am opposed to any action that would give the States coercive control over the activities of those on the local level. The administration has espoused the doctrine of "New Federalism," under which control of manpower and social services programs would be transferred from the Federal Government to the States and to the cities. It is essential that this concept be made a viable part of the poverty program. The doctrine that those on the local level can best determine the "mix" of services that will meet their needs must not stop at the statehouse or at the city hall, but must extend to those in poverty communities.

I think that it is essential that we insure in next year's legislation that VISTA and other programs are not impeded on the State level.

Third, I hope that the administration and the Congress will make it clear that community action agencies are to be the peaceful spokesmen for the poor when it comes to needed services, as well as the providers of those services. The administration has stressed the role of OEO as advocate for the poor within the councils of government at the Federal level. This doctrine should apply also on the local level where the poor are so frequently excluded from the councils of State and local government.

Fourth, if those on the community level are to be heard we must have a legal services program truly independent and uninhibited by adverse pressure—whether on the national, regional, or local level. I shall oppose any effort to limit in any way the basic independence of the legal services program. If the poor are given any basis for losing faith in that program, then what recourse will they have?

The Director of the Office of Economic Opportunity is testifying this morning before the Subcommittee on Employment, Manpower, and Poverty of the Committee on Labor and Public Welfare relating to the legal services program. I know of no single more important service that can contribute to the dignity, community effort, and peace of the individual than legal services.

As John D. Robb, chairman of the American Bar Association's Committee on Legal and Indigent Defenders told members of the Subcommittee on Employment, Manpower, and Poverty of the Senate Committee on Labor and Public Welfare last November 14:

> I think this is terribly important. I cannot really get across to the committee our sense of urgency about the need for expansion of legal services to try to repair the divisions that are taking place in our society. We know from documented reports by various presidential commissions and by hearings that you yourselves have participated in that the poor by and large have little confidence in our society, in its structure, in its institutions, in lawyers, in the law, in the court system, and as a result, when their own rights are not honored it is not too surprising, I think, that they riot in the streets and that there is violence on our campuses. What we are trying to do in this program is to have a peaceful vehicle where these disputes can be taken from the strife-torn campuses, in the streets and the fire and burnings that are taking place and give these people a peaceful forum in which the grievances that they have against society

can be aired, where their position can be set forth and where nobody can interfere with that lawyer's sole obligation to represent his client.

Mr. Robb feels, and I agree with him, that this is one of the greatest incentives to stop the riots in ghettos and slums, the kinds of riots which have been such a deplorable feature of our society in the last few years.

Fifth, I hope that there will be an expanded effort in those national program areas which stress local involvement. Greater attention should be given to programs such as the original Special Impact program—modeled after the successful activities in Bedford-Stuyvesant in Brooklyn—under which funds are provided to focus on programs conducted by the poor in their own areas. The Bedford-Stuyvesant project in New York was begun by the late Senator Robert F. Kennedy, Mayor Lindsay, and me. This is a remarkable demonstration project and I hope very much it will be encouraged.

The Special Impact program is to be conducted with an emphasis on community involvement.

We also need a great expansion of neighborhood health centers and of the legal services programs so that health services and legal services are more convenient to the poor.

Sixth, we must insure that community action agencies and other community-based organizations have a role in new antipoverty efforts and in existing programs which were originally established under the Economic Opportunity Act but have been "spun-off" for administration by other departments or agencies of the Federal Government. Expenditures for programs under the Economic Opportunity Act are now less than one-tenth of total Federal expenditures for the poor, and so we must be alert to the involvement of community action agencies in these newly defined efforts. The Senate recently indicated its awareness of this need by adopting the Employment Opportunities and Training Act of 1970, which contains provisions insuring that community action agencies and other community-based organizations will have an appropriate role in operating manpower programs. It is essential that legislation before the Congress in respect to child care, welfare, and other areas stake out a similar role for these vital organizations. I urge the administration to give study to the potential role for community action agencies and other community-based organizations in these new and existing efforts to make specific recommendations to the Congress in respect thereto early next year.

This is a good concept but we have to be very watchful that it is not inundated in bureaucracy and departmentalism. This will take surveillance by us, the OEO and the administration. I take this occasion to give that warning.

On September 11, 1969, in response to a letter from me and Senator GAYLORD NELSON, President Nixon wrote reaffirming:

> The Administration's resolve to improve and strengthen the Community Action agencies now serving through the country. These agencies will be improved to play a more vital role in mobilizing local resources, involving the poor in program and operation, and in training new Neighborhood leadership . . ." "It is my determination to strengthen the Office of Economic Opportunity and its community action arm in contributing to the goal of providing full economic opportunity for every American.

I hope that the President will indicate again his personal commitment to the vital activities of community action agencies and to the concept of self-determination generally as it applies to the poverty program.

NEW ADMINISTRATIVE FORMS AND NEW SOURCES OF FUNDING

Mr. President, in each case I have stressed the importance of the need for freedom from undue adverse interference for those on the local level.

I believe that there is a corresponding need for independence to do the job on the national level.

The Congress has enacted, and the President has signed into law, the administration's far-reaching reform of the U.S. Postal Service. A principle objective of that legislation is to provide the Post Office with sufficient autonomy to serve the public interest.

I hope that the administration will join with me and other interested Members of the Congress in exploring similar ways—whether through a corporate form or otherwise—to give our antipoverty programs freedom to serve the interests of the poor.

In that connection, I also urge the administration to consider additional means of providing more secure and more substantial sources of funding "in trust" for the poverty program. The President has underscored his commitment by requesting increased amounts for the poverty programs in each of the 2 fiscal years of his administration. However the fact remains that while the number of poor persons in the Nation has been decreasing, the net increase of funds for the poor under the poverty program will amount to only $1.30 per poor person in this coming fiscal year over last. By way of illustration, the funds requested for fiscal year 1971 will meet the needs of less than 31 percent of all poor children ages 3 to 6 who need early childhood education; only 1.7 percent of the hard core drug addicts among the poor; only 8.9 percent of those who could benefit from Family Planning services; only 7 percent of the poor who need legal services; and only 7.3 percent of the migrant and seasonal farmworkers.

Mr. President, the administration has evidenced its basic commitment to the poor through its historic proposals for a reform of our welfare system, an expansion of manpower training and related efforts, and increases in efforts to eliminate hunger in America. But the poor are not "home" yet. The Family Assistance Act will cover only 65 percent of those in poverty and provide them with only half the cash assistance needed to sustain an adequate level of life.

Food stamp programs and commodity programs now reach only 9,500,000 of the Nation's 24.3 million poor, and even under the administration's plans for an expansion of those two programs, total participation over the next 2 years will reach only 17,500,000 poor persons, or approximately three-quarters of the poor. Manpower training programs for fiscal year 1971 are projected at a level which is higher than last year, but which will provide employment and training opportunities to less than one-tenth of the unemployed and underemployed persons who can benefit from such programs according to Department of Labor estimates.

The programs under the Economic Opportunity Act are necessary not only to fill gaps in these programs, but to insure their effective "outreach" and to provide the essential ingredient of action initiated by the poor themselves.

We will reach in 1976 both the end of the first 5-year poverty plan which I have proposed, and our bicentennial celebration.

Mr. President, with a poverty program secure in tenure, committed to the concept of self-determination for the poor, conducted with sufficient funds, and free to serve the interest of the poor, we will have evidenced a commitment that should result in making that anniversary a more meaningful celebration for all of our people.

Mr. President, I wish to pay tribute to those who started the antipoverty program: Former President Lyndon Johnson and many of us in Congress.

I hope early next session to introduce legislation to implement these and other proposals.

Mr. President, I close as I began. The reason I speak today is that I believe Senators who will be asked to devote more money to the antipoverty program when the appropriation bill comes up should have an idea what I as the ranking minority member of the committee feel should be the future of the antipoverty program, how far we have come, and how far we have yet to go.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will take up the consideration of routine morning business, with a 3-minute limitation applying, for not to exceed 30 minutes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HOLLINGS) laid before the Senate the following letters, which were referred as indicated:

REPORTS ON OVEROBLIGATIONS OF APPROPRIATIONS

A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of the Interior for "Education and welfare services", Bureau of Indian Affairs, for the fiscal year 1971, had been apportioned on a basis which indicates the need for a supplemental estimate of appropriation; to the Committee on Appropriations.

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A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of the Interior for "Resources management", Bureau of Indian Affairs, for the fiscal year 1971, had been apportioned on a basis which indicates a need for a supplemental estimate of appropriation; to the Committee on Appropriations.

REPORT OF U.S. INFORMATION AGENCY

A letter from the Director, U.S. Information Agency, Washington, D.C., transmitting pursuant to law, a report of that Agency, for the 6-month period ended December 31, 1969 (with an accompanying report); to the Committee on Foreign Relations.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the Special Impact Program in Los Angeles is Not Meeting Goal of Providing Jobs for the Disadvantaged, Department of Labor, dated October 7, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Substantial Cost Savings From Establishment of Alcoholism Program for Federal Civilian Employees, dated September 28, 1970 (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. HOLLINGS):

A resolution adopted by the Sheet Metal Workers' International Association, Washington, D.C., praying for the enactment of legislation to establish a comprehensive national health insurance program; to the Committee on Finance.

A resolution adopted by the Farragut Ruritan Club, Concord, Tennessee, pledging support to the President and local officials; to the Committee on the Judiciary.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. HOLLINGS) announced that on today, October 7, 1970, he signed the enrolled bill (S. 2264) to amend the Public Health Service Act to provide authorization for grants for communicable disease control and vaccination assistance, which had previously been signed by the Speaker of the House of Representatives.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

H.R. 16997. An act for the relief of Colie Lance Johnson, Junior (Rept. No. 91–1283).

By Mr. McGOVERN, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 13519. An act to declare that the United States holds 19.57 acres of land, more or less, in trust for the Yankton Sioux Tribe (Rept. No. 91–1284); and

H.R. 15624. An act to convey certain federally owned land to the Cherokee Tribe of Oklahoma (Rept. No. 91–1285).

By Mrs. SMITH of Maine, from the Committee on Armed Services, without amendment:

H.R. 9654. An act to authorize subsistence, without charge, to certain air evacuation patients (Rept. No. 91–1287);

H.R. 10317. An act to adjust the date of rank of commissioned officers of the Marine Corps (Rept. No. 91–1288); and

H.R. 14322. An act to amend section 405 of title 37, United States Code, relating to cost-of-living allowances for members of the uniformed services on duty outside the United States or in Hawaii or Alaska (Rept. No. 91–1286).

By Mr. HART, from the Committee on Commerce, with amendments:

H.R. 12475. An act to revise and clarify the Federal Aid in Wildlife Restoration Act and the Federal Aid in Fish Restoration Act, and for other purposes (Rept. No. 91–1289).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Artemus E. Weatherbee, of Maine, who was confirmed by the Senate, September 1, 1970, as U.S. Director of the Asian Development Bank, to serve on the Bank with the rank of Ambassador;

Christopher H. Phillips, of New York, to be the deputy representative of the United States of America to the United Nations with the rank and status Ambassador Extraordinary and Plenipotentiary; and

G. Edward Clark, of the District of Columbia, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Senegal, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary to the Republic of The Gambia.

Mr. FULBRIGHT. Mr. President, from the Committee on Foreign Relations, I also report sundry nominations in the Diplomatic and Foreign Service which have already appeared in the CONGRESSIONAL RECORD and ask unanimous consent, to save the expense of printing them on the Executive Calendar, that they may lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

John P. Clyne, of the District of Columbia, and sundry other persons, for appointment and promotion in the Diplomatic and Foreign Service.

By Mr. EASTLAND, from the Committee on the Judiciary:

Edwin L. Mechem, of New Mexico, to be a U.S. district judge for the district of New Mexico;

Paula A. Tennant, of California, to be a member of the Board of Parole;

Roger C. Cramton, of Michigan, to be Chairman of the Administrative Conference of the United States;

Fred C. Mattern, Jr., of Virginia; John H. Schneider, of Virginia; and Saul I. Serota, of Maryland, to be examiners-in-chief, U.S. Patent Office;

Curtis C. Crawford, of Missouri, to be a member of the Board of Parole;

L. Clure Morton, of Tennessee, to be U.S. district judge for the Middle District of Tennessee;

John Paul Stevens, of Illinois, to be a U.S. circuit judge for the seventh circuit;

Robert H. McWilliams, Jr., of Colorado, to be U.S. circuit judge for the 10th circuit;

Sam C. Pointer, Jr., of Alabama, to be a U.S. district judge for the northern district of Alabama;

Walter K. Stapleton, of Delaware, to be a U.S. district judge for the district of Delaware; and

Frank J. McGarr, of Illinois, to be a U.S. district judge for the Northern District of Illinois.

By Mr. BYRD of West Virginia, from the Committee on the Judiciary:

Irving W. Humphreys, of West Virginia, to be U.S. marshal for the southern district of West Virginia.

By Mr. SCOTT, from the Committee on the Judiciary:

Donald W. VanArtsdalen, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania;

Edward R. Becker, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania;

Daniel H. Huyett, III, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania;

J. William Ditter, Jr., of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania;

William W. Knox, of Pennsylvania, to be a U.S. district judge for the western district of Pennsylvania; and

Malcolm Muir, of Pennsylvania, to be a U.S. district judge for the middle district of Pennsylvania.

BILLS AND A JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. DODD:

S. 4440. A bill for the relief of Kevin Tomas; and

S. 4441. A bill for the relief of Mr. and Mrs. Jean-Paul Etienne Picot and Francois and Yves Picot; to the Committee on the Judiciary.

By Mr. COTTON:

S. 4442. A bill for the relief of Vera Lucia Carvalho, Marcia Maria Carvalho and Marcos Vinecius Carvalho; to the Committee on the Judiciary.

By Mr. MILLER:

S. 4443. A bill to amend the Internal Revenue Code of 1954 to allow a carry back and carry forward, in computing the minimum tax on tax preferences, for certain income taxes paid or accrued in years in which a taxpayer is not liable for the minimum tax; to the Committee on Finance.

By Mr. EASTLAND:

S. 4444. A bill for the relief of Mavis Blake; to the Committee on the Judiciary.

By Mr. PACKWOOD:

S. 4445. A bill to amend the Soil Conservation and Domestic Allotment Act, as amended, to permit sharing the cost of agriculture-related pollution prevention and abatement measures; to the Committee on Agriculture and Forestry.

By Mr. MONDALE:

S. 4446. A bill for the relief of Lidiette Bolanos Vargas; and

S. 4447. A bill for the relief of Lau Siu Chsung; to the Committee on the Judiciary.

By Mr. INOUYE (by request):

S. 4448. A bill for the relief of Mrs. Kong Sook Lee; to the Committee on the Judiciary.

By Mr. NELSON:

S.J. Res. 241. Joint resolution designating the third week of April of each year as "Earth Week"; to the Committee on the Judiciary.

(The remarks of Mr. NELSON when he introduced the joint resolution appear below under the appropriate heading.)

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SENATE JOINT RESOLUTION 241—INTRODUCTION OF A JOINT RESOLUTION DESIGNATING THE THIRD WEEK OF APRIL OF EACH YEAR AS "EARTH WEEK"

Mr. NELSON. Mr. President, I introduce for appropriate reference a Senate joint resolution to name the third week in April of each year "Earth Week."

Congressman PAUL N. MCCLOSKEY, JR., of California, who served with me as cochairman of the nonpartisan, educational Earth Day effort last April, today is introducing the same measure as a House joint resolution.

The purpose of this measure is to give appropriate congressional recognition to the need for a continuing nationwide effort to increase the awareness of environmental problems and how to deal with them. The objective which we all share is to protect and actually enhance the quality of our environment. This is as important a goal as has ever been established by this Nation: The decency of life in America, and ultimately, the survival of the human race, are at stake.

Further, designation of an annual Earth Week would provide the Nation and all its citizens the opportunity for a regular assessment of progress from the community level up towards improving environmental quality, and for a determination of further steps needed to achieve a decent environment.

Recognizing the importance of a sustained environmental effort at all levels in America, the National Governors' Conference in August adopted unanimously a resolution for the Governors to declare the third week in April Earth Week in their respective States.

Earth Day last April has come to symbolize a great awakening across the country to the serious and growing threat to our environment and consequently to the quality of American life. The old and the young, the conservative and the liberal, Democrats and Republicans, participated in this nationwide event, dramatic evidence that Earth Day reached the grassroots in our communities and cities to tap a great common concern. It is estimated that 3,000 colleges and universities, 10,000 high schools and grade schools, and an additional 2,000 communities were involved in this educational, broad citizen participation effort.

The challenge now, as pointed out in the Senate joint resolution is to encourage a continuing commitment by all interests, including education, agriculture, business, labor, Government, civic, and private organization, and individuals, to join together in a cooperative effort to preserve the integrity and livability of our environment.

In view of the fact that Earth Day last April received wide participation and support in Congress Congressman MCCLOSKEY and I will write all Senators and Congressmen shortly asking their cosponsorship of this resolution.

Mr. President, I ask unanimous consent that the text of the Senate joint resolution and the text of the resolution adopted by the National Governors' Conference be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. SCHWEIKER). The joint resolution will be received and appropriately referred; and, without objection, the joint resolution and resolution of the National Governors' Conference will be printed in the RECORD.

The joint resolution (S.J. Res. 241) designating the third week of April of each year as "Earth Week," introduced by Mr. NELSON, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S.J. RES. 241

Whereas 3,000 colleges and universities, 10,000 high schools and grade schools, and 2,000 communities participated in programs last April which culminated in Earth Day, and,

Whereas this nonpartisan, constructive, educational effort involved and demonstrated the shared environmental concerns of a wide spectrum of Americans of all ages, interests and political persuasions, and,

Whereas the activities which culminated in the week-long programs of "Earth Day" represented and promoted a much greater American awareness and understanding of the serious environmental problems facing the nation, and,

Whereas there is a need for continuing environmental education and for a continuing nationwide review and assessment of environmental progress and of further steps which must be taken, and,

Whereas there is a need to encourage a continuing commitment by all interests, including education, agriculture, business, labor, government, civic and private organizations, and individuals, to join together in a cooperative effort to preserve the integrity and livability of our environment: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the third week of April of each year is designated as "Earth Week," a week to review and assess environmental progress and to determine what further steps must be taken, to continue the nationwide effort of education on environmental problems, and to renew the commitment of each American to restoring and protecting the quality of the environment.

The resolution, presented by Mr. NELSON, is as follows:

RESOLUTION: THE ESTABLISHMENT OF AN ANNUAL EARTH WEEK

Whereas, there is an urgent need to promote a broader awareness and understanding of the environmental crisis facing each and every state in the United States; and

Whereas, there is a compelling need to encourage a continuing commitment by all interests including education, agriculture, business, labor, and civic and private organizations, to work to solve these fundamental environmental problems;

Now, therefore, be it resolved that we as Governors assist in focusing the nation's attention on environmental problems and their solutions by declaring the third week in April "Earth Week" in our respective states and seek the broadest participation in its activities.

ADDITIONAL COSPONSORS OF BILL

S. 3596

At the request of the Senator from New York (Mr. GOODELL) the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 3596, to amend the Fur Seal Act of 1966 by prohibiting the clubbing of seals after July 1, 1972, the taking of seal pups, and the taking of female seals on the Pribilof Islands or on any other land and water under the jurisdiction of the United States.

S. 4348

At the request of the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 4348, to prohibit assaults on State law enforcement officers, firemen, and judicial officers.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 7, 1970, he presented to the President of the United States the following enrolled bills:

S. 1933. An act to provide for Federal railroad safety, hazardous materials control, and for other purposes; and

S. 2264. An act to amend the Public Health Service Act to provide authorization for grants for communicable disease control and vaccination assistance.

NOMINATION OF DR. ELBURT OSBORN TO BE DIRECTOR OF THE BUREAU OF MINES—NOTICE OF HEARING

Mr. ALLOTT. Mr. President, today the President announced his nomination of Dr. Elburt Osborn to be Director of the Bureau of Mines, in the Department of the Interior. Dr. Osborn is now vice president for research at Pennsylvania State University.

I wish to announce to the Senate and the public that hearings will be held on Dr. Osborn's nomination on Monday, October 12, at 2 p.m., in room 3110, New Senate Office Building.

Any Senator or other citizen who would like to participate in the hearing is hereby invited to do so. Anyone wishing to testify should notify the committee.

Mr. President, Dr. Osborn has an impressive background. I ask unanimous consent that biographical data supplied to the committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DR. ELBURT F. OSBORN

Osborn, Dr. Elburt Franklin, b. Winnebago Co, Ill, Aug. 13, 11; m. 39; c. 2. Geology. B.A, DePauw, 32; fel. Northwestern, 32–34, M.S., 34; fel. Calif. Inst. Tech, 34–37, Ph. D. (geol.), 38; hon. Sc. D. Alfred 65. Lab. asst mineral, DePauw, 32; geologist, Que-on-Gold Mines, Can, 36; instr. geol., Northwestern, 37; geologist, Val d'Or, Can., 38; petrologist, geophys. lab, Carnegie Instit, 38–42; phys. chemist, Nat. Defense Res. Cmt, 42–45; res. chemist, Eastman Kodak Co., N.Y., 45–46; prof. geochem & head dept. earth sci, col. mineral industs, Pa. State, 46–52, assoc. dean, 52–53, dean 53–59, V. Pres. Res, 59– Nat. Sci. Found. sr. fel. Cambridge, 58. Mem. adv. cmt, geophys. br, Off. Naval Res, Nat. Acad. Sci-Nat. Res. Coun, 47–50; earth sci. panel, Nat. Sci. Found, 53–55, div. cmt. math, phys. & eng. sci, 55–59, chmn, 57–58, mem. ad. panels course content improve prog., 60–61, phys. sci. facilities, 60–64; dir. Am. Geol. Inst, 56–59; mem. adv. panels, mineral prod. div, Nat. Bur. Standards, 58–62, chmn, 58–59, metall. div, 58–64, mem. div. chem. & chem. tech,

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60–63; adv. cmt. basic res., U.S. Army Res. Off Ceramics, 60–63; Mat. Adv. Bd., Nat. Acad. Sci-Nat. Res. Coun, 65–69; mem. Int. Union Geol. Sci. Alternate bd. mem, Inst. Defense Anal, 58–; mem. bd., Univ. Corp. Atmospheric Res., 59–; v. Chmn, SIRIMAR Corp, Italy, 61–63; mem. bd. Geisinger Med. Center, 62–; Pa. Health Res. Inst. 66. Award, Am. Iron & Steel Inst, 54. Fel. AAAS; fel. Am. Ceramic Soc. (v. pres, 63, pres. elect, 64, pres., 65); fel. Geophys. Union; fel. Geol. Soc; fel. Mineral Soc. Am. (v. pres, 60, pres, 61); Inst. Min, Metall. & Petrol. Eng; Chem. Soc; Geochem. Soc; Newcomen Soc; Soc. Econ. Geol. (v. pres, 65); Can. Ceramic Soc; Mineral. Asn. Can; Mineral. Soc. Gt. Brit. & Ireland; Int. Asn. Volcanology; Int. Mineral. Asn Physicochemical and structural petrology; glass technology; physical chemistry of refractories; blast furnace and open hearth slags; phase equilibria in mineral systems; industrial minerals; mineral synthesis Address: 207 Old Main Bldg., Pennsylvania State University, University Park, Pa. 16802.

Biographical Data, February 1970

Elburt Franklin Osborn, Vice President for Research, the Pennsylvania State University.

Birthplace and Family:

Birth: Winnebago County, Illinois, August 13, 1911.

Parents: William F. Osborn (deceased). Anna (Sherman) Osborn (deceased).

Brothers: Lowell S. Osborn, Staten Island, New York. Wendell L. Osborn, Georgetown, Texas.

Married: Jean McLead Thomson, Canada, August 12, 1939.

Children: James F. Osborn; B. 1942. Ian C. Osborn, B. 1946.

Education:

West Chicago High School 1924–1926.

Roosevelt High School, Chicago, Illinois 1926–1928.

Crane Jr. College, Chicago, Illinois, 1928–1929.

DePauw University, Greencastle, Indiana 1929–1932, B.A.

Northwestern University, Evanston, Illinois 1932–1934, M.S.

California Institute of Technology, Pasadena, California 1934–1937, Ph. D.

Employment:

Teaching Fellow, in geology, Northwestern University 1932–1934.

Teaching Fellow, California Institute of Technology 1934–1937.

Geologist, Que-on-Gold Mines, Ltd., Quebec 1936.

Instructor in geology, Northwestern University 1937.

Geologist, Val d'Or, Quebec 1938.

Petrologist, Geophysical Laboratory, Carnegie Institution of Washington 1938–1942.

Physical Chemist, Division 1, National Defense Research Committee, Office of Scientific Research and Development 1942–1945.

Research Chemist, Eastman Kodak Company, Rochester, New York 1945–1946.

Professor of Geochemistry and Chairman of the Division of Earth Sciences, College of Mineral Industries, The Pennsylvania State University 1946–1952.

Associate Dean, College of Mineral Industries, The Pennsylvania State University 1952–1953.

Dean, College of Mineral Industries, The Pennsylvania State University 1953–1959.

Vice President for Research, The Pennsylvania State University 1959– .

Professional Societies Membership:

American Association for the Advancement of Science.

American Ceramic Society.

American Chemical Society.

American Geophysical Union.

American Institute of Mining, Metallurgical and Petroleum Engineers.

Canadian Ceramic Society.

Geochemical Society.

Geological Society of America.

Geological Society of Washington.

International Association of Volcanology.

Mineralogical Society of America.

Mineralogical Association of Canada.

National Association of State Universities and Land-Grant Colleges.

National Council of University Research Administrators.

Pennsylvania Research Corporation.

Society of Economic Geologists.

Western Pennsylvania Conservancy.

Principal Professional Offices and Committees:

American Association for the Advancement of Science Council 1964–1968 (Representative of American Ceramic Society); 1960–1961 (Representative of Society of Economic Geologists).

American Ceramic Society:

Edward Orton, Jr. Memorial Lecturer for 1970.

Long Range Planning Committee 1970.

Honorary Members Committee 1966– , Chairman 1970— .

Engineering Committee 1967— .

Continuing Education Committee 1966– .

Trustees Nominating Committee 1964–1967, Chairman 1964–1965.

President 1964–1965.

President Elect 1963–1964.

Vice President 1962–1963.

Publications Committee 1958–1963, Chairman 1960–1963; 1968— , Chairman 1970— .

Board of Trustees 1962–1965, 1958–1961.

Executive Committee 1962–1965, 1958–1959.

Technical Advisory Committee, National Bureau of Standards 1954–1958, Chairman 1957–1958.

Basic Science Division Trustee 1957–1960, Chairman 1951–1952.

American Geological Institute:

Member, House of Representatives 1968– .

Director 1956–1959.

American Institute of Mining, Metallurgical and Petroleum Engineers, Inc.:

Hal Williams Hardinge Award Committee 1969– .

Geochemical Society:

President 1967–1968.

Vice President 1966–1967.

Councilor 1958–1960.

Geological Society of America:

GSA Representative to U.S. National Committee on Geochemistry 1968– .

Ad Hoc Committee on Revision of By-Laws 1961–1963.

Councilor 1959–1962.

Policy and Administration Committee 1956–1958.

International Mineralogical Association: Representative of Mineralogical Society of America 1961–1964.

International Union of Geological Sciences: National Committee Member 1961–1964.

Mineralogical Society of America:

Chairman, 50th Anniversary Celebration Symposium: "Mineralogy and Petrology of the Upper Mantle", November 1969.

Representative to the American Geological Institute 1968– .

President 1960–1961.

Vice President 1959–1960.

Associate Editor American Mineralogist 1953–1955.

Councilor 1950–1953.

National Academy of Sciences—National Academy of Engineering—National Research Council:

Committee on Engineering Aspects of Environmental Quality 1970– .

Executive Committee, Division of Earth Sciences 1969– .

U.S. National Committee on Geochemistry 1968– .

Committee on Mineral Science and Technology, Chairman 1966– .

National Materials Advisory Board 1969– .

Materials Advisory Board 1965–1969.

Committee on Basic Research Advisory to the U.S. Army Research Office in Ceramics 1960–1963.

Division of Chemistry and Chemical Technology 1960–1963.

Advisory Panel to the Metallurgy Division of the National Bureau of Standards 1958–1964.

Advisory Panel to the Mineral Products Division of the National Bureau of Standards 1958–1962, Chairman 1958–1959.

Committee Advisory to Geophysics Branch of Office of Naval Research 1947–1950.

National Association of State Universities and Land-Grant Colleges: Water Resources Committee 1965– .

National Science Foundation:

Advisory Panel for Physical Sciences Facilities 1960–1964.

Advisory Panel on Course Content Improvement Programs 1960–1961.

Divisional Committee for Mathematical, Physical and Engineering Sciences 1955–1959, Chairman 1957–1958.

Earth Sciences Panel 1953–1955.

Pennsylvania Research Corporation, Secretary.

Society of Economic Geologists: Vice President 1965.

Honorary societies:

Keramos.

Phi Betta Kappa: President, Penn State University, Chapter 1951.

Phi Kappa Phi.

Phi Lambda Upsilon.

Sigma Xi:

The Committee on National Lectureships 1969– .

National Executive Committee 1961–1964.

President, Penn State University Chapter 1952.

Boards:

The Institute for Medical Education and Research, The Geisinger Medical Center, Board of Directors, 1969– .

Earth Sciences Advisory Board, Stanford University 1969– .

Pennsylvania Science of Engineering Foundation, Member of Board 1968– .

Pennsylvania Health Research Institute, Board of Directors 1966– .

SIRIMAR Corporation, La Spezia, Italy, Board of Directors, Vice-Chairman 1961–1963.

The Geisinger Medical Center, Board of Directors, Danville, Pennsylvania 1962– .

University Corporation of Atmospheric Research, Board of Directors 1959–1967 (PSU Representative at Corporation Members' Meeting 1967–).

Honors and Awards:

Member National Academy of Engineering 1968.

Doctor of Science (honorary) Alfred University 1965.

Fellow American Association for the Advancement of Science.

Fellow American Ceramic Society.

Fellow American Geophysical Union.

Fellow Geological Society of America.

Fellow Mineralogical Society of America.

Honorary Life Member Canadian Ceramic Society 1965.

Edward Orton, Jr. Memorial Lecturer for 1970, American Ceramic Society.

National Science Foundation, Senior Post Dictoral Fellow, Cambridge University, England 1958.

American Iron and Steel Institute Regional Technical Meetings Award Medal 1954.

War-Navy Certificate of Appreciation June 1, 1947.

War Department Certificate of Appreciation November 30, 1945.

Publications: See Separate Listing.

Other organizations:

Cosmos Club.

Delta Tau Delta: Faculty Advisory, Penn State, University Chapter 1953–1958.

NOTICE OF HEARING ON NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, October 13, 1970, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Carl O. Bue, Jr., of Texas, to be U.S. district judge for the southern district of Texas, vice Joe McDonald Ingraham, elevated.

Peter T. Fay, of Florida, to be U.S. district judge for the southern district of Florida, vice a new position created by Public Law 91–272, approved June 2, 1970.

James L. King, of Florida, to be U.S. district judge for the southern district of Florida, vice a new position created by Public Law 91–272, approved June 2, 1970.

James R. Miller, Jr., of Maryland, to be U.S. district judge, district of Maryland, vice a new position created by Public Law 91–272, approved June 2, 1970.

Paul H. Roney, of Florida, to be a U.S. circuit judge for the fifth circuit, vice George H. Carswell, resigned.

Robert H. Schnacke, of California, to be U.S. district judge for the northern district of California, vice George B. Harris, retired.

Nauman S. Scott, of Louisiana, to be U.S. district judge for the western district of Louisiana, vice a new position created under Public Law 91–272, approved June 2, 1970.

Gerald B. Tjoflat, of Florida, to be U.S. district judge for the middle district of Florida, vice a new position created by Public Law 91–272, approved June 2, 1970.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. Eastland), chairman; the Senator from Arkansas (Mr. McClellan), and the Senator from Nebraska (Mr. Hruska).

ADDITIONAL STATEMENTS OF SENATORS

NASA REDUCTION IN FORCE ACTIONS

Mrs. SMITH of Maine. I have received many complaints from employees of the National Aeronautics and Space Administration concerning NASA's administration, policies, and decisions in its reduction-in-force actions resulting from the reduction in research and personnel management funds for fiscal year 1971 as voted by Congress and approved by the President.

Over a month ago, I received a very comprehensive complaint in the mail from an unidentified source. I made copies of that complaint and sent them to the Chairman of the Aeronautical and Space Sciences and the Post Office and Civil Service Committees of the Senate and the Chairman of the Civil Service Commission.

Today, I received a report from the Chairman of the Civil Service Commission. The Senate Aeronautical and Space Sciences Committee is conducting an inquiry into the matter. I have no indication that the Senate Post Office and Civil Service Committee is looking into the matter.

Because I know that this is a matter of great personal interest to NASA employees affected by the reduction-in-force actions, I ask unanimous consent that the anonymous complaint be printed in the Record, to be followed by the report of the Chairman of the Civil Service Commission on that anonymous complaint. I call attention of these two statements not only to the Members of this body but to NASA employees as well.

There being no objection, the statements were ordered to be printed in the Record, as follows:

NASA Reduction in Force Actions

(1) In effecting an overall reduction in personnel strength which the Congress was led to believe would amount to 200 employees at NASA headquarters, NASA has issued separation notices to 71 headquarters personnel.

(2) The majority of the RIFs were technical senior-level people—generally in grades GS–14/15. Little action was taken to reduce the large overhead in GS–16 and Excepted Positions. Only one GS–16 was separated and only one Excepted Position resulted in a separation.

(3) Policies and procedures which were prescribed to select personnel for separation appear to be arbitrary in some cases and are suspect with regard to integrity, good management, and the best interests of the taxpayer and the government. It appears that these policies will now cause unwarranted hardship and discrimination in some cases, and these have also resulted in the filing of a lawsuit against NASA management in the District courts. Some discrepancies and comments follow:

(a) No bumping in in same category. The CSC advised that NASA could permit bumping either laterally in the same sub-group category, or that bumping could be to lower grades as determined by NASA. NASA policy was not to permit bumping laterally. It is believed that CSC does not have the authority to permit NASA to disallow lateral bumping and has thereby usurped the rights of the individual as prescribed by Congress. People working for many years for this right now find they do not have them, and it appears that this policy is not responsive to the taxpayer by throwing away his investment in the employee. (It is reported that the CSC follows the practice of permitting bumping by a like grade within the same sub-group for personnel actions within their own office.)

(b) An example is a GS–15 (non-veteran, career status with 28 years service) being bumped by a GS–15 (veteran, career status with 5 years service.) This is proper and is permitted by law. However, the first GS–15 who is fully qualified is not permitted by NASA policy to bump other non-veterans laterally, and cannot bump downward because of lack of a position in his specialty. He will be separated in spite of his seniority and years of experience and service, while persons having less service are not separated. NASA personnel office officials have stated that to permit lateral bumping would "just cause too much trouble and chaos."

(c) Dr. Low in an official meeting has said that he desires to decrease the average age in the agency—wants bright, new men. Agency policy has been, in filling excepted positions, to hire preponderantly from outside instead of promoting from within. This has resulted in NASA being staffed with GS–15's who cannot be promoted; the grades below are therefore blocked and there is no room to bring in the new young men at the bottom. Since it was decreed that excepted positions could not be touched, and since it was decided to prohibit the lateral bumping procedure, about 70 percent of the employees being separated are in grades 14/15 in technical positions. The taxpayer is the loser with excepted personnel being retained who have relatively short periods of service, and by the loss of experienced, senior technical employees.

(d) The actual procedures for selecting the RIF personnel left much room for discriminatory and arbitrary action. Managers and supervisors were permitted to submit what amounts to two lists in order: (1) Cannot touch. (2) Can touch. This meant that supervisors could use the RIF exercise as a house-cleaning operation, and permitted personalities and other factors such as how an employee "stood with the boss" to be a criteria in his selection regardless of his qualifications and competitive rights. Supervisors were also permitted to claim undue interruptions. Letters from supervisors claiming this undue interruption were collected but were immediately placed in the hands of NASA's General Counsel, and nobody is permitted to see them. Many employees feel those being retained are less qualified than they. In view of the secrecy surrounding all this, it appears that the justifications for undue interruption retention may be false in some instances.

(e) Most employees were carried on "one-man lists" by job code in the personnel accounting system, rather than a grouping with others who have like qualifications. With generally every technical man being on a separate list, this meant that a supervisor could get rid of anyone at any time by abolishing the position, and knowing that the employee cannot bump anyone else. This is considered a particularly devious and unethical practice by many employees and is one of the subjects of the lawsuit against NASA.

(f) During the RIF proceedings, all persons who hold excepted positions, i.e., high paid, policy-making, serve-at-the-will-of-the-administrator jobs, were excepted from any separation considerations. Only one such is scheduled to leave the agency, a Dr. (Medical) Blacksheer who had previously announced that he was resigning effective September 10. Inclusion of his name in the RIF list gives the impression that he was separated because of the RIF, when in fact he was not. A Dr. Turnock has now been added to the list. Although the Mission Operations Directorate of the Office of Manned Space Flight was completely deleted with a determination it was no longer needed, and with the working staff being disbursed by separation or reassignment action, the Director and two GS–16's were retained. A Mr. Huff of the Advanced Manned Missions Program Directorate of OMSF is now the only GS–16 NASA headquarters employee who is being separated.

(g) The NASA Office of Public Affairs has had a Mr. V. C. Jones on the payroll since January 1969 as an "Expert/Consultant". Even though NASA headquarters has a RIF in process, the NASA Personnel Office has been instructed to convert his position to civil service status. Mr. Jones is 62 years of age.

(h) Although separation notices were handed to employees on August 17th to be effective October 1, as of August 28, two weeks later, NASA had not met its statutory obligation to make the Displaced Employee information available to the CSC, or completed the distribution of prescribed priority employment "stopper lists." This can result in unwarranted hardship to employees who

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need this assistance for further employment without delay.

(4) The foregoing has been a distillation of some of the many unsatisfactory situations in which the agency is felt to have used the RIF exercise to houseclean instead of using the Performance Rating system. The net effect of this is: (a) To remove whomever the agency please and for any reason, with the employee having no recourse as would be the case if their supervisors and managers followed the prescribed procedures for "removal for cause", and (b) Those being removed but not because of any problems with their supervisors, are also being hurt. Prospective employers, checking back with NASA supervisors, find that some of the employees are being given very poor references, and they are wary of all the others because of it.

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION,
Washington, D.C., August 24, 1970.

MEMORANDUM FOR ALL HEADQUARTERS EMPLOYEES

This is my fourth report to you on the current status of the reduction-in-force activity.

Last week reduction-in-force notices were given to 213 Headquarters employees. Our target was to reduce the Headquarters ceiling from 2056 to 1856, a reduction of 200. However, because of previous actions—restrictions on the filling of vacancies since early in FY 1970, an employment freeze starting on June 15, and extended discontinued service annuities for voluntary retirement—the actual number of separation notices was held to 71. These actions also minimized the number of reduction-in-grade notices resulting from "bumping and retreating." There were 62 offers of a position at a lower grade, and 80 reassignments at the same grade level.

Acceptances or declinations are due this week from those who were offered either reassignments or lower-grade positions. Each offer that is declined may result in one or more less-adverse notices issued to other employees who received initial notices. A less-adverse notice would either withdraw a separation notice or offer a higher-grade position than that previously offered.

I want to remind all of you who have been affected by the reduction-in-force to solicit the help of the Employment Assistance Center if you have not yet done so. Several agencies have already sent representatives to look for candidates to fill vacancies which they have. Last Saturday brief resumes on 71 employees who had requested assistance were mailed to 300 government agencies and private companies.

Based on reports I have received from the Centers, it appears that we will achieve our reduced overall personnel ceiling of 29,850 by October 1, as planned.

GEORGE M. LOW,
Deputy Administrator.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., October 6, 1970.
Hon. MARGARET CHASE SMITH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SMITH: This is a further reply to your letter of September 3 regarding NASA reduction-in-force actions. The following paragraphs are numbered the same as the paragraphs in the memorandum that accompanied your letter.

(1) NASA officials tell us that there will be a reduction of some 200 in the number of people employed in the headquarters. The bulk of the reduction will be accomplished by voluntary separations such as retirements, resignations, and transfers. Only 71 employees had to be scheduled for separation by reduction in force. By the time of our inquiry there had been two more voluntary separations, and only 69 were scheduled for reduction in force. Each additional voluntary separation permits one more employee to be kept on the job.

(2) It is the responsibility of management officials of the agency to determine how to accomplish a necessary reduction in force. On the basis of their knowledge of the funds available and the importance of the various activities of the agency, they must decide the numbers and types of positions that can be abolished without disruption or with the least necessary disruption of the work assigned to the agency. The decision to make a number of cuts among the senior-level technical people reflects a responsible determination that they are no longer vital to the accomplishment of the work remaining to be done. Employees in other types of grades of work did not receive proportionate cuts because, in the judgment of the officials who had to make the decision, they will be of greater value to the remaining program.

The figures we have show that of the 69 now scheduled for separation, 5 are in grade GS–13, 29 are in GS–14, 23 are in GS–15, 1 is in GS–16, and all but 2 are in the competitive service. These represent responsible management determinations and are not subject to review by the Civil Service Commission.

(3) The selection of personnel to be separated may appear—to those selected—to be arbitrary and otherwise indicative of error. The basic decision to be made is on the relative importance of the various types of work the agency is doing. When these priorities are established, the next decision identifies the activities that can be reduced or discontinued without undue disruption. From this can be worked out the types, numbers, and grades of positions to be abolished in each activity. It is only at this point that the competing employees can be identified and those with the lowest retention standing marked for separation. This is not an arbitrary procedure.

(3a) Civil service regulations do not give one employee the right to bump another employee in the same subgroup—either in the same grade or in lower grades. The only bumping our regulations call for is against employees in lower subgroups. This is the arrangement by which veteran bumps nonveteran and career bumps noncareer. Our regulations permit the agencies to follow the practice of bumping within the same subgroup, but few agencies do, and NASA, for one, has never followed the practice.

(3b) The GS–15 nonveteran who is bumped by a veteran has no right under civil service regulations to bump another nonveteran. The person he would like to bump has a right not to be bumped, except by someone—such as a veteran—who has an enforceable right to take his job.

(3c) Given the necessity for reduction in force, which Congress has directed in this case, the sensible thing is to make use of whatever latitude the regulations allow in selecting the types of employees who are least valuable to the agency. Value is not determined by seniority or by experience in lines of work that are being discontinued.

(3d) The planning that must precede a reduction in force necessarily includes the establishment and adjustment of priorities. It makes sense for all levels of supervision and management to participate in the preliminary planning—with the final decisions and adjustments reserved to the top levels, where the final responsibility rests.

(3e) The grouping of employees into competitive levels—or the assignment of an employee into a one-man level—does not depend solely upon the qualifications of the employees. The employees in any competitive level will have similar if not identical qualifications, because they must be interchangeable with one another. But employees with identical qualifications may properly be in different competitive levels because their jobs are different. This may be illustrated by comparing stenographers and their jobs with typists and their jobs. All stenographers must type and take shorthand. Typists must type, but they need no shorthand. Some typists may be skilled in shorthand, but this does not put them in a competitive level with stenographers. They compete only with other typists.

This principle applies to technical personnel in this way: Similar qualifications are required for entry into a particular kind of technical work. Some of the people may, in fact, have identical education, training, and experience at the time of entry. As long as they work on identical jobs, doing the same kind of work, they are interchangeable with one another and would be in the same competitive level in case of reduction in force. But in the higher grades of technical, professional, scientific, and engineering work, it is not unusual for the individual job to become so technical and specialized that the employee is no longer interchangeable with other employees who have their own specializations within the same general line of work.

These and other considerations which enter into designations of competitive levels are discussed in some detail in the Federal Personnel Manual. For your convenience I am enclosing a copy of our instructions on competitive level.

(3f) This appears to relate to the voluntary separations which help make up the total reduction in the number of employees in the headquarters office.

(3g) The retention and conversion of an employee such as Mr. Jones in the Office of Public Affairs is not inconsistent with the separation of surplus employees in other lines of work.

(3h) The employees' concern is understandable when there is any delay in getting their names on the list for priority consideration. There has been no exceptional delay in this case, however. The names were put on the list on September 2, as soon as the necessary work could be completed.

(4) The only proper purpose of any reduction in force is to trim the agency to the proportions dictated by lack of work or funds. Once the extent of the trimming is determined and the parts to be trimmed are identified, management must follow the regulatory procedures in selecting the employees to be laid off. It does not seem realistic to accuse management of picking out employees who should have been separated for inefficiency or other reasons. The career employees who are separated in reduction in force are fully satisfactory employees who have a high priority for reemployment in their own agency and for placement in other agencies of the Government.

In summary, all of the information available to me indicates that NASA has done a thorough and conscientious job in planning and carrying out this reduction, but the propriety of any individual action will be subject to review and decision upon appeal by the employee through the regulator appellate channels.

Sincerely yours,

ROBERT E. HAMPTON,
Chairman.

REORGANIZATION OF CONGRESS

Mr. METCALF. Mr. President, with approval yesterday by the Senate of a bill to reorganize the Congress, it is appropriate to review the circumstances that gave rise to this historic legislation.

The opening paragraphs of the final report of the Joint Committee on the Organization of the Congress describe the dilemma of 20th-century legislators operating within a 19th-century organization.

Let me read them to the Senate:

> The Congress of the United States is the only branch of the Federal Government regularly and entirely accountable to the American people. Indeed, it is the people's branch. Our constitutional system is based on the principle that Congress must effectively bring to bear the will of the people on all phases of the formulation and execution of public policy.
>
> However, it is becoming more and more difficult for any collective decision-making entity like Congress to meet its responsibilities. A global foreign policy in an age of nuclear confrontation requires a timely and cohesive national response. Moreover, an increasingly complex society produces social, economic, and technological problems of staggering complexity.
>
> Many contend that Congress no longer is capable of exercising initiative in the solution of modern problems. A fundamental reason for this loss of initiative is the lack of organizational effectiveness. Under the pressure of modern circumstances, the Congress has tended to delegate authority to the executive branch of the government. While Congress has not abdicated its role, it has permitted that role to become diluted.
>
> Fundamental differences of opinion exist as to the proper role of Congress. Generally, the members of the joint committee agree that Congress should be maintained as a study and deliberative body, that the machinery of Congress must be modernized in order to provide for efficient handling of the Nation's affairs and that rule by majority must be preserved with adequate protection for the rights of the minority.

Mr. President, Senate approval yesterday by a vote of 59 to 5 of the Legislative Reorganization Act of 1970 culminates a 5-year effort in both Houses. The heroic builders of the first legislative reform act in 24 years and the second in the history of Congress are a part of the legislative history of the bill, in the hearings, the long executive sessions of markup and the debates that followed.

This tribute to their labor is merely a footnote to the history they themselves wrote.

Former Senator A. S. Mike Monroney, architect with the late Robert LaFollette of the 1946 Reorganization Act, served as cochairman with the Honorable RAY MADDEN, of the bipartisan Joint Committee on the Organization of Congress that was established in 1965 to study the "organization and operation of the Congress" and "recommend improvements." Together they heard the testimony of 76 Senators and Representatives and received the written statements of 30 others. They received the views of 123 public witnesses and built a hearing record totaling 15 volumes. Following weeks of executive sessions, the joint committee filed its report to the Congress and the special Senate Committee on the Organization of Congress, headed by Senator MONRONEY, was formed to draft a bill. Following additional hearings and markup, a bill was reported to the Senate in the 89th Congress. It was agreed that consideration of this complicated and comprehensive bill should be deferred to the next Congress and so S. 355 was made the first order of business in the Senate in 1967.

With infinite forebearance and competence, Senator Monroney saw the bill through 17 days of debate, 31 rollcall votes and the adoption of 40 amendments before final passage in the Senate on March 7, 1967, by a vote of 75 to 9. He was ably assisted on the Democratic side by the ranking Senate member of the committee, the distinguished senior Senator from Alabama, Senator SPARKMAN, in the 6 long weeks of Senate debate.

During all of this time, from the first hearing on May 10, 1967, until March 7, 1967, nearly 2 years later, the distinguished Senator from South Dakota, KARL MUNDT, worked side by side with Senator Monroney toward their common goal. He attended nearly every session of the two committees and with his long experience in both Houses brought to our deliberation special qualities of understanding and an informed judgment.

Senator CASE, the distinguished senior Senator from New Jersey, was a thoughtful, articulate member of a committee whose substantial contribution earned the respect of all.

The distinguished junior Senator from Michigan (Mr. GRIFFIN) was briefly a member of the joint committee prior to coming to the Senate. I am personally most grateful to him for his responsible and substantial assistance yesterday during our debate.

Finally, I want to thank Senator BOGGS, the distinguished junior Senator from Delaware, for his constant participation in the deliberations of both committees, for his participation in the debates in 1967 and for his great helpfulness yesterday as we saw legislative reorganization through its perhaps final stage before enactment. His contribution in behalf of his party and his cooperation are examples of the highest qualities of leadership.

I wish that the absent and former Members of the Senate might have been present yesterday to see the culmination of their work. The Legislative Reorganization Act of 1970 is truly a memorial to each of them.

WIVES OF PRISONERS UNDER GREAT PRESSURE

Mr. COOK. Mr. President, seldom in our history has so much pressure been exerted on a group of Americans to serve the devious cause of an enemy as has been put on the families of Americans being held prisoner by the North Vietnamese.

And never has any group withstood that pressure more nobly.

Many of the wives and mothers of the 1,400 Americans missing or prisoners of war do not know whether their husbands and sons are alive or dead. They do not know whether, if alive, they are well or wounded. They know little or nothing.

The Communists have done this deliberately; they have with callous intent prevented any communication directly between the men and their families. This uncertainty is a constant misery to the families.

Time and again Communists or their friends in this country have approached these ladies and suggested they could find out more about their husbands if they would just play ball—make propaganda statements in favor of the North Vietnamese or against the United States.

The women have steadfastly refused to do so. They have remained fiercely loyal to their men and to their Nation. The whole country owes to them the same loyalty and devotion. We must do all in our power to gain for the Americans being held prisoner more humane treatment and at least minimal direct contact with their families. We can do no less.

A LOOK AT THE NATION'S CAPITAL—A FORTRESS CITY

Mr. McINTYRE. Mr. President, a task force of the National Commission on Violence has warned that violence in our cities is increasing so rapidly that many of our citizens are being forced to live in residential fortresses or compounds. Our cities are becoming increasingly fortified. Violent crime and the fear of it is forcing our citizens to restrict their freedoms, to withdraw behind locked doors, to become, in effect, prisoners within their own homes. The commercial centers of many of our large cities are assuming a garrison-like character and large sections of these centers are shutting down at night because our citizens fear walking the streets at night.

Ironically, this disclosure comes at a time when officials in our Nation's Capital are declaring the crime wave has been broken, when merchants associations are making special efforts to encourage shoppers to come downtown at night.

Realtors, to save fine residential apartment projects, are fortifying—putting 6-foot-high steel fences around their projects, hiring armed security guards, and resorting to elaborate forms of electronic security. Some cannot survive even with this heightened security. Some contend that policies of the city and Federal governments are encouraging wholesale urban decay and promoting an increase in crime and violence.

The author of the Fortress City Report suggests that the total volume of violent crime may be actually increasing at a time when our officials report it is in decline.

If we are, in fact, developing modern counterparts to the fortified medieval city, the prospects are frightening. In the words of the staff report to the National Commission on the Causes and Prevention of Violence:

> If present trends are not positively redirected by creative new action, we can expect further social fragmentation of the urban environment, formation of excessively parochial communities, greater segregation of different racial groups and economic classes, imposition of presumptive definitions of criminality on the poor and on racial minorities, a possible resurgence of communal vigilantism and polarization of attitudes on a variety of issues. It is logical to expect the establishment of the 'defensive city,' the modern counterpart to the fortified medieval city, consisting of an economically declining central business district in the inner city protected by people shopping or working in buildings during

daytime hours and 'sealed off' by police during nighttime hours. High-rise apartment buildings and residential 'compounds' will be fortified 'cells' for upper, middle, and high income population living at prime locations in the inner city. Suburban neighborhoods geographically removed from central city will be 'safe areas' protected mainly by racial and economic homogeneity and by distance from population groups with the highest propensities to commit crimes. Many parts of the central cities will witness frequent and widespread crime, perhaps out of police control. The fragile sense of community that enables us to live and work peaceably together in common institutions is in danger. Unchecked criminal violence can conceivably lead even to a collapse of the nation and society as we know them, or to a dictatorship to restore order by repression. Short of this extreme, the legacy of bitterness, distrust, and consequent violence among hostile groups will produce an increasingly weakened society. We must act now if the trend is to be reversed.

Mr. President, I suggest that these conclusions are alarming and deserving of our most serious consideration. As chairman of the Subcommittee on Small Business of the Banking and Currency Committee and a members of the Select Committee on Small Business, I am deeply concerned because of the impact this has on many small businesses.

A study of the application of the Fortress City theory in our Nation's Capital has been made into an hour-long television document by WMAL–TV, Channel 7. It is to be shown Friday, October 16, from 7:30–8:30 p.m. I recommend that Senators take the time to see this program as a prelude to our continuing consideration of conditions affecting most of of our citizens who live in or around our central cities.

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THE LEGISLATIVE REORGANIZATION BILL

Mr. BOGGS. Mr. President, yesterday the Senate approved, with only five dissenting votes, the Legislative Reorganization Act of 1970.

This, I believe, was a most important action. The legislation will do much to modernize the operations of the Congress and enable it to keep up with the changing times.

There are those, perhaps, who do not think this legislation went far enough in its reform aspects. There are those, also, who believe it went too far. Both arguments, I believe, have some merit because in a 155-page comprehensive bill it would be impossible to please everyone on every item.

The bill, though, is an important vehicle for the improvement of congressional operations, and I am certain we soon will feel the benefits of its enactment.

It was my great pleasure and privilege to work closely with the Senator from Montana (Mr. METCALF) on this project. His knowledge of the legislation and his guidance were of immeasurable value to me and to this body.

Two members of the Joint Committee on the Operation of Congress were not with us yesterday on the final enactment of the bill; yet they deserve much of the credit for it.

The former Senator from Oklahoma, Mr. Monroney, was chairman of the Joint Commitee, and he worked long and hard on the basic legislation. The Senator from South Dakota (Mr. MUNDT) was the driving force behind reorganization and the chief sponsor of the original Senate version of the bill. This legislation, I believe, is a tribute to him.

Likewise, the other Senate members of the Joint Committee labored mightily to see this legislation come to pass. The Senator from Alabama (Mr. SPARKMAN) and the Senator from New Jersey (Mr. CASE) are to be congratulated for their efforts.

Finally, Mr. President, this legislation could never have been enacted without the interest, help, and guidance of the distinguished chairman of the Government Operations Committee, Mr. MCCLELLAN, and without the aid of the leadership on both sides of the aisle.

PERSPECTIVES ON CAMPUS TURMOIL

Mr. BAKER. Mr. President, a country sometimes becomes so caught up in the emotionalism of a particular issue that it loses sight of the fundamental questions involved. This is much the case, I believe, with the issue of youth disenchantment in our society. On the one hand, there is a tendency among the adult community to lump all youth together as suddenly revolting against the established order. This is, of course, a great exaggeration. On the other hand, there is a trend among youth today to lump all their elders together as supporting a decadent, unjust, insensitive system. This is, I need hardly say, an equal exaggeration, growing out of the heat of an argument. In such a situation, then, it is exceedingly welcome and important to hear voices which speak with moderation, which cut through the emotionalism to the heart of the issues. Such a voice, I think, is that of Stephen Hess, National Chairman of the White House Conference on Children and Youth. In a recent speech before the American Association of Student Governments, for example, Mr. Hess touched upon some of the basic questions raised by campus dissent today. I think it important that Senators have this speech available to help them to see these matters more clearly, more calmly, and in a truer light than is generally available. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

AS THE SCHOOL YEAR BEGINS: PERSPECTIVES ON CAMPUS TURMOIL

(By Stephen Hess)

The American university as a social institution has been described by one irreverent observer as "the soft underbelly" of our society. Its vulnerability to attack from both inside and outside its ivyed-walls is well documented.

At its simplest, the university is a combination of human elements in a constantly volatile state.

Even when everything is going well, the regents, administrators, faculty and students must be viewed as an uneasy coalition whose interests are not always identical.

But everything is presently *not* going well on our campuses.

In June we concluded, what one university president termed, "the most turbulent year in the history of American higher education."

Perhaps some of you are now refreshed by the summer hiatus and ready for further battle. But for others I suspect the nerve endings that were last semester rubbed raw are still painfully exposed.

Nor, of course, can we anymore consider the university as some hermetically-sealed community of scholars seeking truth in splendid isolation. Rather we find, more than ever before, that the university is under constant surveillance by a less than enchanted collection of "outsiders"—alumni, donors, parents, legislators and taxpayers—all of whom have varying degrees of power to influence how the university might wish to govern itself.

What then does this outsider tell a "Presidents to Presidents Conference"? What advice can I possibly give to the student council presidents and university presidents who will be on the firing line as the new school year begins?

First, let me address myself to university presidents.

Many of you have probably heard the story of the distinguished professor who, overwhelmed by demands on his time—to be a consultant to government and business, to deliver a long-overdue manuscript to his publisher, to write a learned paper, to serve on a proliferation of administrative committees—decides to videotape his lectures. One day as he is passing his old lecture hall he hears his own voice, realizes that his class is in session, and decides to drop in to see how the course is going. When he opens the door he finds that the room is empty. From the front of the room he sees his face on the screen. But no students. Rather on each student's desk there is a tape recorder mechanically transcribing the professor's words.

Recently some 7,800 faculty members and administrators answered a questionnaire on what they viewed as the goals of American universities. The results were presented by a University of Minnesota professor (Paul V. Grambsch) to the American Political Science Association.

These findings, in my opinion, are both instructive and amazing.

The number one goal of the professors was "protect academic freedom," followed by: "2—increase or maintain prestige; 3—maintain top quality in important programs; 4—ensure confidence of contributors; 5—keep up-to-date."

These are fine goals. Very necessary. It is just that not one of them mentions *students*. Indeed, students did not directly figure in this exhaustive survey of university goals until goal #6, which was "train students for scholarship/research."

Goals 7 through 12 again make no mention of students. They range from "carry on pure research" (#7) to "carry on applied research" (#12).

Only when we get to goals 13 and 14 do we find "prepare students for useful careers and "cultivate students' intellect."

It is not very farfetched to extrapolate from this data that the supreme goal of many professional academics is a university without students!

Another recent survey, this one of almost 7,000 students conducted by Columbia University, concludes that most of the tensions and conflicts in junior and senior high school arise from the governance of the institution, not from social or national political issues.

Without belaboring the point, campus unrest began not with demands to get out of Viet-Nam, but with demands for academic reform.

This hardly detracts from the deeply felt convictions that students today hold on national issues. It is only to say that for educators to blame all their woes on government or the larger society is to erect a nonintellectual smokescreen.

I have said in other speeches that "it is doubtful that we can truly attempt to rebuild confidence in our national institutions until young people come to believe that the government is seriously trying to extricate itself from Southeast Asia." (e.g.) Commonwealth Club, San Francisco, June 12, 1970.)

I would now like to say as a corollary that, in my judgment, it is doubtful that we shall ever have "peace" on our campuses until faculty and administration reorder priorities and restore the teaching of students to its rightful place as the core of higher education.

In an August report to the alumni on last spring's disturbances on his campus, Lincoln Gordon, President of The Johns Hopkins University, wrote, "Steps were already underway before April to face these questions of 'governance,' but a useful by-product of the spring disturbances was a *speeding up* of those steps . . ." (italics added). Here is an administration that was among the most progressive. Yet clearly the job of a university president is to do more than respond or react. You must initiate needed change—before legitimate "complaints" have become "demands."

You must come to grips with an educational system in which faculty avoidance of undergraduate teaching is often a goal to be fervently cherished; where the phrase "publish or perish" needs no further explanation; where there is still heavy reliance on standardized testing; and where educational content has changed little in the past 25 years.

To continue down the same old path means to me that the story of videotape teaching the tape recorder may not for long remain a joke.

I also have some equally unpleasant things to say to students, especially to student leaders.

It strikes me that judging from recent "demands," you are often abysmally ignorant of the constraints on and roles of university presidents, administrators and faculty. Often you make demands of the "wrong" people, people who have neither the power nor the responsibility to enact them. In other cases, where your demands are laudable your tactics are reprehensible and counterproductive.

For example, in some instances you make demands that are simply economically impossible. How many of you truly understand the present financial crisis in higher education? Discussing these financial problems recently, the President of Knox College said, "The Day of Judgment is upon us. You will note I did not forecast its arrival at a future time. It is here—now." Over 21 institutions have closed their doors since the academic year 1968–69. One small college in Missouri offered to rename the institution after any benefactor who would give it $5 million. There were no takers. When a school goes out of business no one gains—not faculty, not students, not community, not the Nation.

Today the costs of operating a college are rising dramatically. Inflation is one of the chief culprits. This is because large portions of college budgets are devoted to labor costs, which are particularly sensitive to inflationary pressures. The colleges are also being hurt by depressed business conditions, which adversely affects private and corporate giving.

But, equally true, campus unrest costs money: both because it takes money to pay for increased insurance, campus security, and physical damage to buildings, and, more importantly, because of retaliatory actions by state legislatures, such as the elimination of faculty salary increases in California, or by voters, such as the recent rejection of a major bond issue for construction at the University of Maine.

It is often your political demands that make it more difficult to realize your academic demands. You should be aware of this, and, of course, weigh the competing goals. It is thus incumbent upon student leaders, in my opinion, to understand and explain to your constituencies the distribution of power as it affects the university, as well as the primary, secondary and tertiary implications of possible actions.

Moreover, in giving your support to nonidentifiable and unrealistic demands and activities of the numerically minute extremist elements on your campuses, you must consider that you may well alienate those allies you have among the faculty. Many faculty members, particularly those in positions of greatest responsibility, recall the era of Senator Joseph McCarthy. All are sensitive to threats to academic freedom, particularly *their* academic freedom.

But very often campus confrontations never get to the point of assessing political or economic realities. Long before that can occur a process of obfuscation has usually set in.

When students want the university to help sponsor low-cost housing in the surrounding community the demand somehow becomes a call for the cessation of "urban imperialism." When minority groups seek more representation in admissions the issue too often becomes "the racists versus the people." And university administrators are quite adept at this technique also. Reasonable requests for university action are changed in administration statements into unreasonable demands that threaten the very life of the institution.

Even more distasteful is the tendency for some students, professors, administrators and trustees to attempt to use campus unrest for their own selfish purposes. Those who make statements whose sole purpose is to be quoted in the *New York Times* serve only to further weaken the university and make a mockery of both movements for reform and attempts to preserve the university.

Furthermore, you should be aware that the potential alliance between students and younger faculty members could also be seriously endangered by the current academic job market. For the first time in recent academic history, there are more young Ph. D.s than there are desirable jobs available. Consider when attempting to force a professor into a hard line position that he may now be choosing between displeasing a minority of students and alienating those who can determine what happens to his professional career.

At the present time my mandate is to organize a White House Conference on Youth, the first of its kind in the Nation's history. Please note: this is not to be a *students'* conference; it is a *youth* conference, which takes as its constituency all those between 14 and 24, some 40 million young people. You are probably aware that only 16 percent of this age group attends colleges and universities; 42 percent are working youth; 14 percent are primarily teenage housewives; 8 percent are in the military; many are poor and unemployed.

It has certainly been my experience that youth is not monolithic; young people have all sorts of problems, attitudes and hang-ups. Youth in the ghettos are less concerned with the governance of educational institutions than they are with how to find work without academic credentials; blue-collar youth are less concerned with "relevancy" than they are with what they perceive to be the coddling of those who reject traditional norms.

It is my job to see that all of these youth are represented and heard. Further, it is my job to give them—students and non-students—the opportunity to interact with the adult institutional leaders of this country. It is then my *hope* that out of this interaction will come a clearer understanding of what youth wants of the society in which it lives and of how youth can be given a greater voice in the processes from which evolve the decisions that affect their lives.

Let me state very selfishly that some recent actions of some students have made my job infinitely more difficult. In short, the voices of students have often drowned out the voices of youth. The attention lavished upon students by the mass media, particularly the "good" stories like the bombing of a building, have short-changed the amount of public acceptance that we can get for consideration of the problems of youth who are poor, youth who are not students, while, at the same time, such actions are actually increasing the polarization *between* youth.

I think, in conclusion, that what I am basically trying to get at is this message; moral fervor and idealism are necessary and understandable, but not sufficient. What students also must have is both trained intelligence and a heightened awareness of the forces that shape our social institutions, including the institution of higher education.

Hardly anyone seriously questions the need for change. Rather, what the presidents here assembled must direct your energies and wisdom to are the questions of how change is brought about in a democratic society, what changes are desirable, and in what order.

PULASKI DAY

Mr. WILLIAMS of New Jersey. Mr. President, during the American Revolution a Polish army officer and nobleman volunteered to fight with the American patriots against the British forces. Count Casimir Pulaski, although not an American colonist, offered his services in the cause for American freedom and gave his life for this country on October 11, 1779. In 1946, President Truman signed the legislation establishing October 11 as General Pulaski Memorial Day.

Fighting many battles with his "Pulaski Legion," he rapidly received great distinction and respect from his fellow officers. His participation in and loyalty to our struggle for independence earned him an esteemed rank of brigadier general and an honored title of chief of Cavalry. His contribution to American history was shortened, however, as fatal wounds sustained in the battle at Savannah in 1779, ended his brilliant career.

Since that time successive generations of Polish-Americans have continually demonstrated their support of the ideals of this Nation and have contributed greatly to our cultural and economic development.

Mr. President, Pulaski Day appropriately recognizes the major Polish contributions to the American way of life.

On October 4, the citizens of the city of Bayonne, N.J., dedicated Pulaski Street and the mayor, Francis G. Fitzpatrick, and councilmen, Dennis P. Collins and Alfred E. Dworzanski, and John J. Conaghan, Neil Desena, and John Fekety, proclaimed October 4, 1970, as General Casimir Pulaski Day.

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I ask unanimous consent that the proclamation be printed in the Record.

There being no objection, the proclamation was ordered to be printed in the Record, as follows:

Proclamation by the Mayor and Councilmen of the City of Bayonne

We do hereby ordain and proclaim General Casimir Pulaski Day, Sunday, October 4th, 1970, in memory of a great American's 191st anniversary 1779–1970.

The thousands of Hudson and Bergen County citizens of Polish descent have a right to be proud of Gen. Casimir Pulaski, who gave his life on Oct. 11, 1779, in helping the Colonists to throw off the yoke of England's tyrannical rule. The great service rendered by this famous son of Old Poland was recognized by Congress which passed a bill establishing that day as Gen. Pulaski Memorial Day. The legislation was signed by President Truman on June 21, 1946.

Carrying a letter of introduction from Benjamin Franklin, Pulaski arrived in Philadelphia in August, 1777. The letter he took to Gen. Washington read: "Count Pulaski of Poland, an officer famous throughout Europe for his bravery and conduct in defense of liberty of his country against the three great invading powers of Russia, Austria and Prussia, will have the honor of delivering this into your hands. The court here (Paris) has encouraged and promoted his voyage from an opinion that he may be highly useful in our service."

That he was of very great use became quickly recognizable. He joined Washington's embattled army in 1777 at the age of 29. He distinguished himself at Brandywine, where his gallantry gained his appointment as chief of dragoons with the rank of brigadier general. He fought at Germantown and in other battles in the disheartening winter of 1777–78. Later he formed an army known as the Pulaski Legion. These volunteers, many of foreign birth like himself, were badly decimated near Egg Harbor, N.J., when surprised by the British, who had learned of their presence through a traitorous deserter.

Later, he re-formed an army known as the Pulaski Legion. These volunteers defended Charleston, S.C., in May, 1779, but he was mortally wounded October 9 of that year leading an unsuccessful attack against the British in Savannah, where in 1824, General Lafayette laid the cornerstone of a monument to the valiant fighting Pole. Other monuments have since been erected to pay homage to his memory. New Jersey has paid tribute to him in the naming of Pulaski Skyway and Bayonne with the naming of Pulaski Technical High School.

The Public is invited to attend Dedication of Pulaski Street on Sunday, October 4, 1970 at 1 P.M. at Pulaski Street and Route 169, Bayonne, New Jersey.

Francis G. Fitzpatrick,
Mayor.

EDITORIAL COMMENTS ON PRESIDENT NIXON'S ADDRESS AT KANSAS STATE UNIVERSITY ON SEPTEMBER 16, 1970

Mr. DOLE. Mr. President, many newspapers have commented on the meaning and effect of President Nixon's address at Kansas State University on September 16, 1970.

These editorials provide an insight to the thoughts of many Americans on the vital issues facing us today. These Americans may live in large urban centers or rural communities but they possess many similar qualities.

I ask unanimous consent that these editorials be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Kansas City Star, Sept. 17, 1970]

At K-State Nixon Begins a New Conversation With Youth

Yesterday at Kansas State University in Manhattan President Nixon made a valiant attempt to bridge the gap between the great and venerable authority of government, as personified in the presidency, and the irreverent questioning of youth.

Whether he succeeded hardly can be judged now. But at least the beginning has been made.

Mr. Nixon was talking about the anguish of a war which he hopes to end and the irrational dissent that can not only prolong that war but tear down the American foundation that can make a better world.

The best sense of his message—that this society has the mechanism in which ideas can be discussed and change occur peaceably—was underlined by the loud antics of a few exhibitionistic boors in the crowd of more than 15,000. The heckling was thin-voiced and rather pathetic. It emphasized the President's point that there are those who follow the law until they are defeated, and then insist on knocking down the whole structure of democracy.

Yet even at K-State—which Mr. Nixon described as the heart of America in his paraphrase of an Eisenhower speech—there were those seeds of dissent, and it must be recognized that on other campuses the reception would have been far less friendly.

What happened at Manhattan was almost a casebook example of how the few can disrupt the best-laid plans of the many. On the television screen, at least, the catcalls of rude disorder seemed to come across with more effect than may have been apparent in the field house. Yet the net result was only to emphasize what the President was saying: That there are those who are afraid to hear the opinions of others; who resort to bombs and arson because they cannot persuade; who will drown out debate with mere noise. If the dissenters weren't so self-centered and swollen with their own sense of making an imprint on events, one would almost suspect that the Republican national committee had hired an anti-Nixon claque to bring in a tide of sympathy for the President.

Mr. Nixon's words really were not new, and their meaning may have been diluted by his introductory remarks on the importance of football in the structure of higher education. But they were important words. He said that in a democracy you play by the rules of the game and that if you lose, that doesn't mean that democracy is a failure. You might even ask yourself whether the other fellow was right. He said that at some of our great universities "small bands of destructionists have been allowed to impose their own rule of arbitrary force." And he is right. But this has not really happened at many schools, despite occasional spectacular outbursts, and those small bands of destructionists are not listening to the President anyway.

It may have been in this election year that Mr. Nixon was speaking to the older generation that will be going to the polls in November as well as to the students in Ahearn field house. He did not tell the young generation *what* to do so much as he told them what *not* to do—a parental admonition with which most of the President's contemporaries can agree.

But that is not the way to lead young people or to bring them together for a cause. The President opened a promising dialogue at Manhattan but his advice must be more than a list of "thou shalt nots" if he wants them to listen.

[From the Kansas El Dorado Times, Sept. 18, 1970]

Smash Hit at Manhattan

President Nixon's appearance and address kicking off the Landon Lecture Series for this year at Manhattan was a knockout.

All reports from that affair on Wednesday were the same, namely an address that took its hearers by storm, a deeply absorbed and respectful student body and the creation of a beneficial effect that should leave its mark on Kansas and the rest of the state.

Keynote of the address probably was contained in the following paragraph—though all of it was quotable and memorable: "The time has come for us to recognize that violence and terror have no place in a free society, whatever the purported cause of perpetrators may be. In a system like ours, which provides the means for peaceful change, no cause justifies violence in the name of change."

The President received six spontaneous standing ovations, which may be a record for Kansas as well as elsewhere. There were a few hecklers and "antis" in the crowd—a possible fifty out of an audience that crammed the capacity of Ahearn field house but the shouts and obscenities of these few kept well in check. It was not a day for revolutionaries at Kansas State.

The President said that education is facing its "greatest crisis" in the history of America. And then he introduced a note that is seldom heard in all the debates and discussions of the moment. He hinted that much of the support (for education) comes from Americans who have not had the advantages of higher education, and said: "It is time for responsible university and college administrators, faculty and student leaders to stand up and be counted. Only they can save higher education in America."

The President's appearance on the already successful Landon Lecture Series gave that institution a boost which will dignify all its future course. Moreover, he gave the people of Kansas the benefit of his own courage and optimism for the future—flashes of the spirit the great common people of this republic must have to solve the myraid problems which lie before them.

[From The Kansas El Dorado Times, Sept. 18, 1970]

All Hail to K-State

Standing on an equal parity were the clear tone of the President's address and the altogether respectful behavior of Kansas State University students in that extraordinary gala at Manhattan Wednesday.

It was more—much more than a number on the lecture series. It was a confrontation and a communication between more than fifteen thousand students of a great university and the executive administrator of their republic. It found both guest and host in a rare mood of accord—crowning the occasion with its compatibility and charm and setting an example to be followed on a national scale.

The great majority of students gave President Nixon most polite and decorous attention. They laughed when he pointed to his purple and white necktie (the school colors and a gift from Kansas congressmen who accompanied him) and admitted ruefully that the program chairman had told him these shades would clash on television with the blue suit he was wearing. They gave him a spontaneous standing ovation six times during the course of his address. They paid no attention to the rude shouts of the few hecklers who were herded in the balcony,

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and they gave him the most appreciative ovation of all when he said:

"The destructive activists of our universities and colleges are a small minority but their voices have been allowed.

"My text at this point reads: 'The voices of the small minority have been allowed to drown out the responsible majority.' That may be true in some places—but not at Kansas State."

All of us in Kansas, no matter what our university or college affiliation may be, will cherish that accolade to Kansas State and to the prairie state which stands squarely behind this institution which typifies so well its own character.

[From the Kansas Fredonia Wilson County Citizen, Sept. 17, 1970]

NIXON VISIT

Maybe the hecklers at President Nixon's speech at Kansas were valuable—if obnoxious—addition to the mess of misinformation about student attitudes in the United States. For it was abundantly clear to all viewers and listeners that the main body of students were attentive, polite, and found the small minority of the hirsute unwashed as disgusting as everyone else.

It is time that we quit giving so much time, space and tongue-clacking over the boors, and a little more credit to the students who are interested in their rights, too. . . . but are civil about it.

[From the Kansas Council Grove Republican, Sept. 16, 1970]

SEVERAL STANDING OVATIONS

Nixon received a standing ovation when he stated, "It's time for responsible university and college administrators, faculty and student leaders to stand up and be counted . . . only they can save higher education in America."

He also received a standing ovation when he mentioned there should be a willingness to listen to what others have to say without trying to shout them down.

After asserting that "The destructive activists at our colleges and universities are a small minority," many of the President's listeners rose to applaud.

Once the cheering had died down, Nixon said his prepared text at that point would have him say that the minority has been allowed to drown out the responsible majority. Departing from his manuscript, he went on, "That may be true in some places, but not at Kansas State."

[From the Kansas Burlington Daily Republican, Sept. 16, 1970]

A GREAT DAY

This has been a great day for Kansas, for Kansas State university and for Alf M. Landon, former governor of Kansas, with President and Mrs. Nixon, Kansas Senators Dole and Pearson and the Kansas congressmen in Washington guests at the Landon program at KSU. The President wore a purple tie for the occasion and received a tremendous acclaim from the students.

ONE HUNDREDTH ANNIVERSARY OF TEMPLE B'NAI JEHUDAH IN KANSAS CITY, MO.

Mr. EAGLETON. Mr. President, Friday, October 2, Temple B'nai Jehudah of Kansas City, Mo., celebrated its 100th anniversary. The occasion marked a milestone in the history of the Jewish community of Kansas City, as B'nai Jehudah is the oldest and largest congregation in the area. Its members have made significant spiritual, moral, and civic contributions to the city of Kansas City, the States of Missouri and Kansas, and the Nation.

I ask unanimous consent that three articles detailing the history of Temple B'nai Jehudah from the Kansas City Jewish Chronicle of October 1, 1970, be printed in the RECORD at this point.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

THE MEN WHO FOUNDED B'NAI JEHUDAH

Who were the 25 men who founded Congregation B'nai Jehudah on October 2, 1870?

The record no longer exists, but it may be said with assurance that they were among the following who are known to have joined the congregation's ranks within the first 2 years:

Isaac Bachrach, Wolf Bachrach, Abraham Baer, Frederick H. Baum, Moses Baum, Joseph Cahn, Bernhardt Davidson, Adolph Dittenhoeffer, Charles Dobriner, Benjamin A. Feineman, Adolf S. Flersheim, Bruno S. Flersheim, Bernhard Ganz, Henry Ganz, Herman Ganz, Morris Gershel, Manheim Goldman (resident of Liberty, Mo. from 1852), Julien Haar, Charles Haller, Louis Hammerslough, Martin Josephson, Henry Kahn, Isadore Kamsler, Isaac A. Levy, David Loeb, Joseph Lorie, Bernard Meyer, Henry Miller, Max Rice, Herman Rosenthal, Louis Rothschild, Robert Sachs, William Schloss, Bernhard Schradsky, and Moses Waldauer.

Where did they originate? Julien Haar may have been the only one among them who was born in the United States. Bernhardt Davidson was of Polish birth (as was Rev. Marcus R. Cohen, B'nai Jehudah's first "officiating minister").

The others who have been identified all hailed from Germany, or had emigrated from lands under German cultural influence (Austria, Bohemia, Hungary, and Alsace-Lorraine), although several of the names suggest origins in Eastern Europe.

What were their occupations? At the time, 13 of the 35 men listed above were propietors of men's clothing stores, 4 were tobacconists, 3 operated dry goods stores, one was a wholesaler in liquors, one had a butcher store, and one was a saloon keeper. The remaining 12 were store clerks, bookkeepers, or cigar makers. Only a few of them were poor, a majority having attained "middle class" status by 1870.

MAZEL TOV TO B'NAI JEHUDAH!

The Kansas City Jewish community experiences an important "first" this weekend, with the celebration Friday evening of the 100th anniversary of the founding of Temple B'nai Jehudah. It is the first centennial observance in our Jewish community, and a notable *Simcha* for all.

Jews have been part of the Kansas City scene for some 130 years, since the opening of the Cahn & Block general store at Westport Landing in 1840. The first indication of a Jewish communal organization was evidenced 7 months after the Civil War ended, when *"The Israelite,"* an Anglo-Jewish weekly published in Cincinnati by Rabbi Isaac Mayer Wise, carried an item which announced the formation of a "Hebrew Benevolent Society of Kansas City," with a cemetery purchase and sporadic High Holy Day services.

An influx of new arrivals and new leadership gave impetus to the formation of Congregation B'nai Jehudah during the High Holy Day season in 1870. Benjamin A. Feineman, who had previously been a founder of Congregation Adath Joseph in St. Joseph, Missouri, became the first president of B'nai Jehudah in 1870, and served for a total of 10 years. The new congregation elected Reverend Marcus R. Cohen as its first spiritual leader.

From the very beginning, B'nai Jehudah's aim was "Progress and Reform," with services patterned along the lines of the Reform prayerbook, *"Minhag America."* By 1873, the new congregation had grown to 40 members and became a founding synagogue of the Union of American Hebrew Congregations. For almost two decades, B'nai Jehudah was the only Jewish congregation which conducted regular weekly Sabbath services here.

Congregation B'nai Jehudah achieved early and lasting prominence through its rabbis and lay leaders who were, and are today, in the forefront of Jewish and secular community life, both locally and nation-wide. Its present comprehensive program of worship, education, cultural pursuits and social action is a model of strength and vitality.

The celebration of the 100th anniversary is a cause for rejoicing for the entire Jewish community here. It is with confidence and religious enthusiasm that Congregation B'nai Jehudah enters its second century of service to its membership and the community. We pray that it may continue to grow "from strength to strength."

B'NAI JEHUDAH'S MARCUS R. COHEN WAS KANSAS CITY'S FIRST RABBI; KNOWN AS "THE MOHEL OF THE WEST"

"The Rev. M. R. Cohen of Chicago," as Temple B'nai Jehudah's first spiritual leader was identified in the press notice of the congregation's founding, enjoyed a varied and colorful career during his 20 years of Kansas City residence.

Frank J. Adler, the Temple's administrative director whose centennial history of B'nai Jehudah is to be published in 1971, has learned from extensive research that Marcus R. Cohen was born in Poland and was said to have come to America by way of Australia.

He pursued the calling of a Mohel, and he was developing a reputation as "a good operator, quick and self-possessed," in the spring of 1870 when he opened an office in Chicago.

Cohen was brought to Kansas City in September, 1870, to officiate at the Bris of the first-born son of Joseph Cahn, a local men's clothier who headed the "Hebrew Benevolent Society of Kansas City." This was a burial society which the community's pioneers had formed in 1865; it was from its ranks that B'nai Jehudah emerged in 1870 to serve the needs of the living.

Cohen remained in town after the Cahn Bris to conduct High Holy Day services. B'nai Jehudah elected him at its organizational meeting on the Sunday following Rosh Hashana, and re-elected him in 1871 by unanimous vote. But he resigned a few months later and advertised his availability "in town and country" as "The well-known, practical and skillful Mohel of the West" and as a dispenser of "medicated vapor baths."

Anglo-Jewish press notices during the remainder of the 1870's and throughout the 1880's attest to his Mohel services in Topeka and Marshall, Missouri, as well as in Kansas City. Cohen secured an M.D. degree in 1881 and maintained a physician's office thereafter in downtown Kansas City.

Cohen's English-born wife, Julia, served as the first secretary of the "Hebrew Ladies' Relief Society" which was formed as a B'nai Jehudah auxiliary during the congregation's first year (it was the community's principal charity for more than a decade).

Mrs. Cohen retained office in the Temple's affiliate society until her death in 1874, even though her husband had become estranged from his former flock. Upon her passing, a handful of Orthodox members of the community started a Chevra Kadisha in her memory and installed her husband at its head. He conducted irregularly scheduled worship services for this group during its 3-year existence.

Although this Chevra Kadisha passed from the scene in a short time, its demise did not conclude Cohen's activities as a sometime functionary at worship services here. The "American Israelite" of Cincinnati reported in the fall of 1883 that "Dr. M. R. Cohen" had led a High Holy Day minyan under the auspices of the "Chevra Bikur Cholim" of Kansas City.

This referred to a society which had purchased cemetery ground at 18th and Porter (now Cleveland) the year before. Its 1883 High Holy Day services were the first to receive mention in Anglo-Jewish papers. Since the present Congregation Beth Shalom traces its origin to the Chevra Bikur Cholim, Marcus R. Cohen could lay claim to having been the first rabbi of both B'nai Jehudah and Beth Shalom Congregations.

Cohen apparently was again regarded as part of the Reform group when he died in 1890, at 63. B'nai Jehudah's Rabbi Henry Berkowitz eulogized the "sterling worth" of his life at the funeral which was held on the eve of Rosh Hashana—exactly 20 years from the day on which he had first conducted worship services in Kansas City.

Cohen is buried in the B'nai Jehudah section of Elmwood Cemetery, next to his wife, on a lot which had been personally donated to him by B. A. Feineman, the congregation's first president.

The inscription on the grave marker perpetuates the memory of "M. R. Cohen, First Officiating Minister of the Cong. B'nai Jehudah"—the first religious functionary for the Jewish community of Kansas City, 100 years ago.

LABOR PRIORITIES IN LATIN AMERICA

Mr. CHURCH. Mr. President, Mr. Joseph A. Beirne, the president of the Communications Workers of America, is not only one of the Nation's leading trade unionists, but is also an authority on the development of free labor unions in Latin America.

He recently spoke at Georgetown University, where a class of trade union economists from various South and Central American nations had just completed a training program under the auspices of the American Institute for Free Labor Development. In his speech, Mr. Beirne emphasized 10 points in the form of priorities for labor in the 1970's. They warrant our careful attention.

Mr. President, I ask unanimous consent that the complete text of Mr. Beirne's address be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

LABOR PRIORITIES FOR THE AMERICAS IN THE SEVENTIES

(Speech by Joseph A. Beirne)

What kind of America will we be living in at the end of the 1970's? When I say "America," I mean the entire Western Hemisphere! Projecting the rate of development of communications, and the population growth of our continents, we are bound to be drawn more closely together. We will undoubtedly be sharing, even more than today, each other's problems and achievements.

What kind of America will be be living in? Hopefully, most of us here today will be around. It is safe to say that most of you, future labor economists of Latin America, will be in the midst of your careers. Your performance could have a great deal to do with the kind of America we will live in at the end of this decade.

What kind of Latin America will there be in 1980? Right now there is a wave of discontent throughout the continent. There is the disintegration of old patterns without enough constructive efforts to fill their place. We see the emergence of new forms of revolutionary nihilism. These disturbing events cause some to fear that Latin America in the next thirty years may succumb to the kind of social psychosis that has gripped Communist China recently. In that event, some Latin American nations could become ominous threats to other countries. Certainly, such a development would endanger the existence of a civilized society in Latin America itself.

There is another possibility, however. That is the prospect of a Latin America, true to its great cultural heritage, emerging from its present difficulties a dynamic, progressive New World. If so, Latin America will be among the global leaders in lifting humanity to new higher levels of spiritual and cultural, as well as material, attainments.

Unlike the Marxists, we of the free labor movements of the Americas believe that the course of history *can* be influenced by determined human efforts. We do not accept the *diamat* theory that history is like a pre-set machine running its inexorable course.

We have seen the progress made by the free labor movements of Latin America with the cooperation of the AFL–CIO and the American Institute for Free Labor Development during the past eight years. We are confident, now that the foundation has been laid, even more significant results for the whole society will be achieved in the decade of the seventies. This is not simply a pious hope. We are determined, and our Latin American brothers share this determination, that effective labor programs during these coming years will set Latin America's course toward more substantial social and economic progress, with individual freedom, in an open society.

The decade just ended may well have proved *inconclusive* with respect to Latin America's future path. The labor leaders of all the Americas must succeed in making the seventies a decade in which our countries will *conclusively* move in the direction of social justice with freedom!

OUR RECORD TO DATE

In cooperation with our Latin American labor colleagues, the American Institute for Free Labor Development (AIFLD) has been taking stock of the situation of the working people of Latin America, past and present. We have assessed our eight-year old program, reaching into more than twenty countries of the Hemisphere. As you all know, the Institute's goal is to help our brothers in the countries to the south to help themselves build stronger and more viable democratic labor movements. All of us, north and south, see such growth of the democratic worker organizations as essential not only to the raising of living standards, but to the emergence of increasingly democratic institutions and societies.

It is an article of faith of the free labor movements in all the Americas that free trade union organizations can thrive only in the framework of a democratic society and, conversely, that a society can not be free unless its workers are at liberty to organize themselves, freely bargain with employers and strike! This viewpoint has received the backing of all recent U.S. administrations, including the present one, and of the Congress of the United States, as reflected in the foreign assistance legislation of the last eight years. It has also received recognition in the declarations of the labor ministers of the Hemisphere in the conferences of Cundinamarca, Caraballeda and in Washington.

LOOKING AHEAD

The main purpose of this year's AIFLD review of its past record and the present labor situation has not been, however, simply to assess the amount of progress made to date. Rather, it is to look ahead and delineate the labor priorities for the Americas in the crucial decade of the seventies.

The past eight years of AIFLD collaboration with our brothers in the other Americas, seen in retrospect, have been years of groundbreaking, the laying of foundations, and some experimentation. Nothing quite like this attempt has ever been tried on this scale before. In a multifaceted joint effort, we have sought to accelerate the growth of democratic labor institutions from continent to continent, country to country, union to union, and working brother to working brother!

An examination of the detailed information in our survey shows that the overall effort has been successful, although there has been a wide divergency among sectors in the degree of progress made.

On balance, it is clear that much remains to be done, despite the accomplishments of the last eight years. This fact does not surprise or dismay our Latin American friends, the AIFLD or AFL–CIO. We are too conversant with the gradual evolution of the labor movements in Europe and the United States to expect many far-reaching structural changes to take place swiftly in the societies of developing countries. In fact, it is the beginning of wisdom in this field to recognize that solid and lasting growth can be achieved only at a deliberate and sure pace. Any growth of social institutions, experience shows, is a complex process involving many interrelated changes in structure and attitudes as well as accompanying alterations in the entire surrounding social environment.

Progress can be too slow in coming, however! The very stagnation gripping so many of the developing countries of the Hemisphere is no doubt responsible for so-called revolutions of several kinds which themselves constitute, ironically, major obstacles to real transformations of conditions in ways that will truly benefit the peoples of those countries. Such "revolutions," generally speaking, either fall short of bringing any substantial improvements—amounting to no more than *coups d'etat*—or, as in Cuba, uproot the good with the bad and impose alien dictatorial systems even more tyrannical than any in the past, and far more difficult to remove!

The most ominous tendency in many of the countries, whatever their political leanings to left or right, is a tendency toward increased state-centralism and a growth of stifling controls over the lives of citizens. These later-day forms of paternalism stunt the evolution of the autonomous forces and institutions which provide the healthy and fruitful diversity characteristic of open societies.

Despite some setbacks, however, there are some hopeful signs. There are, fortunately, freedom-loving elements in the societies of this Hemisphere which are struggling to maintain their birthright of liberty and opportunity, and to make their own unique contributions to social progress. In the forefront of these countervailing forces that keep alive the hope of pluralistic economic, social and political democracy, are the free labor movements.

PRIORITIES FOR THE SEVENTIES

The better to achieve our common goals, we of the American Institute for Free Labor Development, in collaboration with the Inter-American Organization of Workers (ORIT) and all of our trade union brothers of the Americas, have formulated a set of ten priorities for the decade of the seventies. These priority objectives are the following:

(1) *A better quality of life in every respect for the working people of the Americas.* By this we mean substantial gains in wages, salaries, and fringe benefits, undiluted by excessive inflation; greater job security and

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improved retirement and disability benefits; better housing, schools, food, medical attention, and education; and greater opportunities for cultural activities and recreation.

(2) *A maximum contribution by free labor to pluralistic economic development and evolution of democratic institutions.* It is clear that a better quality of life for the workers cannot be won without a greater voice for free organized labor in economic and social planning. Labor must be a primary force for the establishment and growth of governmental and non-governmental bodies essential to a democratic society.

(3) *The growth of increasingly effective free trade unions, federations, confederations and regional labor organizations.* It is no less clear that the significance of labor's role in furthering the interests of the workers and helping to shape economic and social policies will depend upon the strength of free labor organizations, from locals to national confederations, and upon the drive and ability of their leadership.

(4) *The broadening of the free labor movements to include more of the agricultural and unorganized workers.* The North American free labor movement, as well as those of the other Americas, recognizes more and more the importance of the farm workers in the labor force. In both parts of this Hemisphere, we are working hard to organize agricultural workers into rural trade unions. The beneficial results of this for the total strength of the labor movements will be far greater in the countries to the south, because of the larger proportion of rural workers. At all costs, the free labor movements of the entire hemisphere must intensify their efforts to bring into their ranks workers of every kind. This will also help to minimize harmful friction between urban and rural workers, the skilled and the unskilled, and the blue and white collar workers.

(5) *Continued improvement in collective bargaining capabilities, union structure, leadership, and dues collection.* While union growth is desirable, by itself it will not result in important gains for organized labor without improvements in negotiating skills, the strengthening of union structures, more effective dues collection, and the growth of leadership capabilities among those who hold positions of responsibility and trust in the free labor movement at all levels. The whole concept of free collective bargaining between organized workers and their employers, whether public or private, as the cornerstone of workers' freedom, must be promulgated everywhere!

(6) *Continued growth of leadership training and other education programs.* Encourcouraged by the results of eight years of pioneering work in this field, with long-term dividends still to be reaped from such efforts, AIFLD plans to continue to work closely with the Inter-American Regional Organization of Workers (ORIT) and the free labor movements of the Americas in expanding and increasing still more the effectiveness of the many types of labor education programs now in progress.

(7) *Continuation and expansion of local and community service projects.* In this field, too, AIFLD will continue to collaborate with the free labor movements of the Hemisphere in the planning and execution of social and community service projects that respond to the needs of the membership, attract new members, and inspire self-confidence among the workers and their leaders. These projects give union locals the opportunity to learn to administer and finance their own projects and programs. They also earn the unions prestige as well as greater respect from employers, governmental authorities and other significant sector of the community. Such community development by free trade unions is the best example of grass-roots institution building. To the wide variety of social projects activities of the past, new types of projects and programs will be added during this decade, including new types of workers and campesino credit institutions and cooperatives, a growing number of child-care centers with increased emphasis on child development, medical and dental services for rural as well as urban workers and their families, consumer and environmental protection for the working people, and legal aid and counseling, among many others.

(8) *Intensification of skill-training programs, job placement services and other manpower programs.* In the light of the success of the skill-training program which AIFLD assisted the free labor movement of Guyana in developing over the past five years, the Institute is planning to respond to requests from other free labor movements in the Hemisphere for skill-training, job placement and other manpower activities. These will be developed in response to local labor market conditions and the demand for new or improved skills.

(9) *The strengthening of trade union capabilities in economic research and analysis, and the supply of economic and legal counseling services.* Seeking to help the free labor movements of the Hemisphere in developing their own capabilities in the fields of economic research and analysis, drawing upon the talent of their most gifted members where possible, the Institute will continue with its training programs for labor economists, which has just graduated its fourth class at Georgetown University. With such growing capabilities, the Hemisphere labor movements can bargain with employers on a more equal footing, exercise a greater influence on the drafting of social legislation, and participate more effectively in national and international economic and social planning councils and other high-level bodies. As they develop their own expertise, the free labor movements will be less dependent upon data and counseling from non-union sources, and can thus better protect and further their interest and autonomy in an increasingly complex, competitive and technological world.

(10) *Improved relations with employers, governmental authorities and other sectors with which labor must deal; and improved trade union capabilities in the use of public media.* Experience in several countries has shown that increasingly well organized democratic unions under responsible leadership have, generally, been able to deal with employers, and even governments, from a position of equality. This is partly the result of education on both sides, a growing respect on the part of management (and government) toward organized labor's role and prerogatives, and a growing understanding on the part of labor's leadership of the economic and administrative realities of the business world. This achievement of a better dialogue is not always easy to attain, and it certainly cannot be won by simply surrendering to management demands. On the contrary, fair-minded but determined trade union leaders have been able to win not only respect, but important concessions from management. These include not only substantial increases in wages, but such significant gains as grants of land and financing for worker-owned housing, facilities for worker-operated cooperatives, day-nurseries, receation centers and other social benefits for the workers. Improved dialogue with governmental authorities, the press and other sectors of public power and opinion are also high priority goals for the free labor movements. Labor has in many instances gained less public support for its just goals than it might because of insufficient experience in making use of the public press and other media. AIFLD will cooperate in programs designed to improve the public relations expertise of free labor movements of the Hemisphere.

LABOR PROGRAMS AND THE ADMINISTRATION'S AID POLICY

On September 15, President Nixon proposed to the Congress of the United States a major transformation in U.S. assistance programs. We shall be commenting on this message and its implications at the appropriate time. For the present, it will suffice to say that the President's recommendations for multilateralization of assistance to the lower income countries may be an inevitable reorientation. Its heavy emphasis on aid funneled through governments and an investment banker's approach to the problems of development, however, could spell disaster for the *social* dimensions of progress in the recipient countries and the reinforcing of popular elements, such as the free trade unions, as catalysts for evolution toward a more open society.

We welcome the President's phrase concerning the third purpose of U.S. foreign assistance, which he identifies as "the building of self-reliant and productive societies in the lower income countries," and his references to "economic and *social* development" and to the opportunity offered by foreign aid "to help others to fulfill their aspirations for justice, dignity and a better life." But we note that the role of labor is not specifically mentioned in the President's message.

We firmly believe, that the attainment of these goals mentioned by the President requires the following:

(a) A real, not token, participation by free labor in the policymaking of both the U.S. and multilateral development assistance programs;

(b) continued funding at a realistic level of U.S. bilateral programs designed to strengthen the democratic labor movements of the Hemisphere; and

(c) as called for by the AFL–CIO, at least 1% of our Gross National Product to be devoted to foreign assistance programs.

Our *Labor Priorities for the Americas in the Seventies* are a commitment to continue and expand the AFL–CIO and AIFLD's pioneering effort to achieve more justice, dignity and a better life for the great mass of the population in the lower income countries of the Hemisphere. And we *do not* intend to do this by waiting for benefits to trickle down from governments, but by building a more dynamic and democratic society from below through the action of the working people organized in their free trade unions!

Our top priority for the seventies, as always, is for a heightened quality of life for the individual man, woman and child throughout the Americas, and we shall marshall every resource available in striving for that goal!

THE BALTIC STATES AND EUROPEAN SECURITY ARRANGEMENTS

Mr. PERCY. Mr. President, Vaclovas Sidzikauskas, the distinguished chairman of the Committee for a Free Lithuania, headed the Lithuanian delegation to the convention of the Assembly of Captive European Nations in New York City in mid-September 1970. At the opening session Mr. Sidzikauskas made a significant address in which he expressed his deeply felt views on possible European security arrangements as they affect the future of the Baltic States.

Whether one agrees or disagrees with Mr. Sidzikauskas' opinions, I am sure that all will profit from considering them.

I ask unanimous consent that Mr. Sidzikauskas' speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY VACLOVAS SIDZIKAUSKAS

Mr. Chairman, Distinguished Guests, Fellow Delegates, all major international events affect to a greater or lesser degree the captive part of Europe and the policies of the regimes imposed upon the nations of East-Central Europe by the Soviet Union. But the most significant developments on the international scene during the last session of our Assembly, which are of direct and vital interest to the captive nations of East-Central Europe, undoubtedly were: (1) The attempt of the USSR Government to bring about the normalization of the political situation in East-Central Europe on its terms, that is, the consolidation of Soviet colonial empire by means of bi-lateral agreements between West Germany, on one side, and the Soviet Union, Poland and Czechoslovakia, on the other, and the convocation of the Moscow-proposed European Security Conference; (2) Federal Republic of Germany's new "Ostpolitik," as initiated and promoted by Chancellor Willy Brandt.

The announced gradual disengagement of the United States in Asia and Europe has to some extent encouraged the Soviet Union to grasp the given opportunity for activization of her policy in Europe.

As the drift toward a Soviet-proposed European Security Conference gathers speed, the spectre of high-level talks at which the rulers of the Kremlin and their satellites would take part, is again haunting the minds of the captive Lithuanian people. Eager as they are for a negotiated settlement of their problem in freedom and justice, they cannot dismiss from their minds the Molotov-Ribbentrop pact of August 1939 and the secret protocols of August and September of the same year attached to this pact.

The problem of Lithuania, as well as that of Latvia and Estonia, victims of Soviet-Russian imperialism, is part of the unsolved legacy of World War II. The Lithuanian people have hoped that a peace conference, similar to that which ended the first world war, would have the authority and the power to reestablish in East-Central Europe legal order and peace based on international treaties and wartime and postwar commitments and pledges of the belligerent states.

The Soviet aims are obvious. They are striving to secure the international recognition of their conquests in East-Central Europe and thus to solidify their colonial empire founded on the suppression of liberty of 100 million Europeans. It is also their goal to secure their European flank for the eventual aggravation of their relations with Mao Tse-tung's China.

Even more dangerous than an unlikely prospect of an outright guarantee of the present *status quo* are the many devious schemes by which the Soviets are trying to achieve their aims indirectly. Take, for example, the not long ago proposed non-aggression pact between the NATO powers and the regimes of the so-called Warsaw Treaty. Such pacts would merely serve as an indirect condonement of Soviet conquests. To this category also belong the recently concluded bilateral agreements between West Germany and the Moscow-subservient regimes of Poland and Czechoslovakia. All this is meant as a prelude to the European Security Conference, a substitute for a peace conference and for the peace treaty with Germany.

On August 23, 1939, Hitler and Stalin concluded a deal that unleashed the second world war and gave the Soviet Union actual possession of the Baltic States—Estonia, Latvia and Lithuania. By virtue of this deal, supplemented by a secret agreement of September 28, 1939, Soviet Russia went on to incorporate the three Baltic States by force and to establish a military occupation which has continued ever since, thus illegally and one-sidedly extending her frontiers in Europe.

Thirty-one years later, on August 12, 1970, the Federal Republic of Germany concluded a new pact with the USSR, recognizing *inter alia* the "present frontiers of the European states." But the legal frontiers of the Soviet Union in Europe cannot be anything but those of pre-September 1939, established by international treaties.

Undoubtedly, this question will lead to much controversy. Be it as it might, the Moscow-Bonn pact is limitative in scope and restrictive in character. As Bonn's chief negotiator, Herr Bahr, pointed out in the Government's official bulletin (I quote from London's "The Economist"), *"the situation as it is includes not only the continuing right of the Big Four to have the final word on the frontiers, but also West Germany's unchanged aim of state unity and free self-determination."*

After the tragic experience that my country, Lithuania, had with the bilateral treaties with the Soviet Union, some of which as the Convention between Lithuania and the Soviet Union for the Definition of Aggression, bear my signature next to that of the Soviet Foreign Minister, Maxim Litvinov, I cannot resist the temptation to cite here an American journalist on the reactions in Europe: "Europeans are welcoming the West German-Russian treaty with all the caution of a flood victim climbing aboard a raft already carrying a poisonous snake."

Nothing stresses more forbodingly the extent of the moral crisis of our times than the fact that the democracies do not hesitate to condone the misdeeds of the tyrannical dictatorship.

It stands to logic that a European Conference is thinkable only within the framework of an overall European settlement which would also include the righting of the wrongs done to the Baltic States during the Second World War. The problem of Lithuania, as well as that of the other states of East Central Europe, is within the competence of World War II Alliance. They have assumed responsibilities toward an equitable solution of this problem. For the great Western Powers, members of Second World War Alliance, the prospective European Security Conference should be not only a challenge, but also an opportunity to compel the Soviet Union to honor their wartime commitments and pledges, among others the provisions of the Declaration by the United Nations, signed by the members of World War II Alliance, including the Soviet Union, on January 1, 1942, the pertinent articles of which read as follows:

"They desire to see no territorial changes that do not accord with the freely expressed wishes of the people concerned;

"They respect the right of all peoples to choose the form of government under which they will live; and they wish to see sovereign rights and self-government restored to those who have been forcibly deprived of them . . ."

For Lithuania, as for all freedom-loving peoples, there is no substitute for political independence and freedom. Political morality in this case is equivalent to political realism.

MINK FARMERS NEED ASSISTANCE

Mr. PROXMIRE. Mr. President, last week the Committee on Agriculture and Forestry held hearings on S. 3921, introduced by the Senator from Utah (Mr. Moss), to provide emergency loans to mink ranchers. As a cosponsor of the bill, I believe that Congress must act quickly to alleviate the present price and credit squeeze now facing this Nation's mink farmers. S. 3921 would do just that.

Mr. President, I ask unanimous consent that my testimony on S. 3921 before the Agricultural Credit and Rural Electrification Subcommittee be printed in the RECORD. I believe it clearly describes the very serious problems the mink farmers of America are facing today, and how S. 3921 can come to their assistance.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR WILLIAM PROXMIRE ON S. 3921

Mr. Chairman, I greatly appreciate having the opportunity to submit testimony on S. 3921, Senator Frank Moss' bill to provide emergency loans to mink farmers. As a cosponsor of this bill, I believe that Congress must act quickly to alleviate the present price and credit squeeze now facing this nation's mink farmers. S. 3921 would do just that.

The key provisions of S. 3921 are quite simple. The bill would expand the authority of the Farmers Home Administration to make emergency loans to mink farmers who suffer severe losses caused by economic conditions. It would amend subtitle C of the Consolidated Farmers Home Administration Act of 1961, which presently authorizes emergency loans to farmers and ranchers who have suffered severe losses caused by natural disasters, to extend the same loan opportunities to mink farmers who are in trouble as a result of disastrous economic conditions.

Mr. Chairman, this bill has been necessitated by the enormous problems that presently confront the mink farmers. These problems have reached crisis proportions over the last ten years. Let me briefly review three of these problems.

First, foreign fur importers, encouraged by this nation's duty free entry policy, captured nearly half the domestic fur market in 1960. By 1966, imports had climbed to 5.7 million skins, thus glutting the market with an over-supply from which it has not recovered to date. In 1967, prices fell from $19.48 to $14.00 per pelt. Today, American auction prices are less than $11.00 per pelt. According to the National Board of Fur Farm Organizations, this price decrease has eliminated two-thirds of the mink farmers known to be in business in 1962.

Secondly as a result of the influx of cheap foreign mink and a consequent reduction in the luxury appeal of the product—an appeal based on the scarceness of mink pelts—consumption in the United States has dropped more than 25 percent in the last three years.

Finally, due to the squeeze on the credit market brought about by high money rates, the mink farmer has found it extremely difficult to find credit. Normal sources of credit, such as Production Credit Banks, the Farmers Home Administration, local banks, and auction companies have not been able to supply the relief credit needed.

All of these problems have combined to place the future of this nation's mink farmers in serious jeopardy. Their very survival is at stake. Unless credit can be provided from emergency loans, a substantial number of mink farmers will face liquidation.

S. 3921, it should be stressed, is not aimed at any particular section of the country. In fact, there are mink producers in forty-two of our fifty states. The ten states producing the largest number of mink pelts are scattered throughout the country. They are: Minnesota, Utah, Washington, Ohio, Oregon, Illinois, Pennsylvania, Michigan and New York.

Overall production figures indicate there will be a quantity reduction in the number of furs produced in all but two of the mink producing states between 1969 and 1970. In Wisconsin, where 1,749,000 pelts were produced in 1969, a quantity reduction of 546,500 is expected. This would be a cutback of 31.25 percent. This cutback is symptomatic of the sorry state of the mink market.

Mr. Chairman, the emergency loans that would be authorized by S. 3921 would enable the mink farmer to hold on until the fur market improved. And, according to the National Board of Fur Organizations, this improvement should come in the foreseeable future. Imports will be down from 3.7 million in 1969 to 2.4 million in 1970. Furthermore, production abroad is reported to be down this season for the first time in many years. And, finally, high money rates are gradually easing, thus increasing the hope for a more active market.

Mr. Chairman, in conclusion, I urge the subcommittee to give this bill its utmost consideration. S. 3921 is desperately needed by our mink farmers. I am convinced Congress should act now to assist these farmers during their days of economic crisis so that, in the near future, they can contribute to the strength of our overall economy through a strong and healthy mink industry.

PRESIDENT NIXON LAUDS SENATOR SCOTT

Mr. COOK. Mr. President, I ask uanimous consent that a letter from the President to our Republican leader, Senator Scott, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

THE WHITE HOUSE,
Washington, September 9, 1970.

Hon. Hugh Scott,
U.S. Senate,
Washington, D.C.

Dear Hugh: This Administration has counted heavily on your leadership in the Senate and I want to express my appreciation to you for the great energy and dedication you have shown at this key time in America's history.

The challenge of government today demands the best available men and women and I am particularly glad you are seeking to return to the Senate. Your outstanding service to the people of Pennsylvania and the nation gives us an example we can point to with pride. Your initiative, energy and enthusiasm gives us strength and inspiration as we work to build progress as a free nation.

I have every hope that the voters of Pennsylvania will once again give you the support you need to remain in Washington to help this Administration with its work. I look forward to working with you in the months and years ahead.

With my appreciation and best personal regards,

Sincerely,

RICHARD NIXON.

SENATOR SCOTT'S ROLE IN WASHINGTON

Mr. COOK. Mr. President, for 12 years, Senator Hugh Scott has served the Commonwealth of Pennsylvania in the U.S. Senate. As Senate Republican leader, he has continued to serve Pennsylvania while he serves the Nation.

I ask unanimous consent that an article by columnist Mason Denison, in which Senator Scott describes his role as Pennsylvania's representative in Washington, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

THE PENNSYLVANIA STORY: SCOTT CAMPAIGNS ON EXPERIENCE, LEADERSHIP

(Editor's Note.—In this "The Candidates Speak" series the two major candidates for Pennsylvania's U.S. Senate seat have been asked by Mason Denison to express their unedited views on the theme: "How Important is the U.S. Senate Seat to Pennsylvania?")

(By Hugh Scott, Republican candidate)

Harrisburg.—A famous American once said that "in the last analysis, what we pay for in this life is good judgment."

Twice, the people of Pennsylvania have elected me to be their United States senator, and a year ago, my 42 colleagues on the Republican side of the aisle chose me to serve as the Majority Floor Leader. I believe that my elections—by my 12 million Pennsylvania constituents and by associates in the upper house of Congress—are for the purpose of exercising my best judgment.

My leadership position, as well as my ranking positions on vital Senate committees whose actions daily affect the people of the Commonwealth, enable me to do the utmost for my fellow Pennsylvanians.

Of course, being the Minority Leader—in which role I do my best to espouse President Nixon's position on the Senate floor—has many built-in advantages for Pennsylvania and its citizens. Because I enjoy a close relationship, with the President, it is much easier for me to make known to him the needs of our state.

In addition to the White House my leadership position also opens other doors, and sharpens up the hearing of other federal officials, to the importance of Pennsylvania's well-being and her relationship with her sister states.

There are many examples; I shall cite only a few. The designation of Philadelphia as the site of the 1976 Bicentennial International Exposition—a role which will have tremendous impact all over Pennsylvania—is a major example. So are the innovative mass transit system for Pittsburgh, the new court house for Philadelphia and the new federal court setup for Allentown.

But day in, day out—with energy and persuasion—I am able to help provide funding for local projects designed to make living a little better for our people. I have generated and impressed upon the federal officials increased interest in Pennsylvania's local government projects such as public housing and water and sewer improvements.

For many years, Pennsylvania's industries and her workers have been concerned about the imports of leather, steel, flat glass, electronics items and other products and manufacturing materials which play havoc with our state's economy.

Quite simply, I say to them as I say to the White House and the departments involved: I stand for stringent import quotas, controls over foreign imports.

I have gone right to the President on these matters, notably on flat glass imports. I have been successful. The same is true of textile imports.

In this regard as in others, my voice—Pennsylvania's voice—is being heard. My message—Pennsylvania's message—is being heeded.

Experience, so important a factor in Washington, is successfully wedded to influence. I believe my experience and the influence gained by my election as Minority Leader of the United States Senate, blend successfully for the benefit of my fellow citizens.

Because my oath as a senator is to do my duty to the Constitution and the people I represent, I am prevented by the long sessions of Congress from spending my time in what traditionally is called "campaigning."

My days, sometimes late into the night, are spent in the business of the Senate—which is the business of Pennsylvania. My weekends are occupied in criss-crossing the State of Pennsylvania, telling the people of our accomplishments and soliciting their support.

But to me, the very act of being a senator is campaigning of a sort. My attendance record is nearly perfect. I take my job seriously. I take my constituents seriously. I say, and I believe—good government is the best politics.

THE NEW U.S. POSTAL SERVICE

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Texas (Mr. Tower), who is necessarily absent today, I ask unanimous consent that a statement by him concerning the new U.S. Postal Service be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

THE NEW U.S. POSTAL SERVICE

Mr. Tower. Mr. President, today, I am happy to go on record as favorably endorsing President Nixon's announcement of nine individuals who will be charged with the vital task of implementing our new United States Postal Service.

I refer to the new system which by law: "shall have as its basic function the obligation to provide postal services to bind the Nation together through personal, educational, literary and business correspondence of the people."

To assist in the fulfillment of this important task, the President has reached out across the country in assembling one of the nation's most needed task forces.

In so doing, he has brought together an assortment of talent from divergent fields. Also significant is the fact that the group represents a cross-section of geographical areas of our great nation.

These nine distinguished people will serve as members of the Board of Governors. Working together as a team, I am most confident that they will serve the American public to the best of their abilities in converting our present mail system into a modern, up-to-date mail service for which we all can be proud.

POSTELECTION SESSION WOULD BE OPPORTUNE TIME TO CONSIDER RATIFICATION OF GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it has occurred to me that the most opportune time for the Senate to consider ratification of the Genocide Convention might possibly be in the postelection session. A session after the election is virtually assured at this time. I also realize that it would be impossible to consider this important convention before the scheduled adjournment on the 14th of October.

Certainly the Genocide Convention is worthy of consideration by the entire Senate. It is my hope that the Senate Foreign Relations Committee will give its utmost consideration to bringing this important convention to the floor of the Senate during the postelection session. Continued delay on this subject is not in the best interest of this country. This tactic would assure prompt action on this important issue.

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THOMAS M. STORKE, A DEMOCRATIC PARTY LEADER IN CALIFORNIA

Mr. CRANSTON. Mr. President, retired California publisher Thomas M. Storke has played a significant part in the history of California and the Nation, both through his outstanding newspaper efforts and through the leadership he gave the Democratic Party in my State.

Mr. Storke had an historic role in the nomination of Franklin D. Roosevelt, a role recalled recently by James A. Farley, former Postmaster General and now board chairman of the Coca-Cola Export Corp.

I ask unanimous consent that the article published in the Santa Barbara News-Press of August 16, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SIGNING OF POSTAL REFORM BILL OF SPECIAL INTEREST TO STORKE

President Nixon's signing of the postal service reform bill, in the presence of James A. Farley and all other living postmasters general who could attend, was news of special personal interest to Thomas M. Storke, a former Santa Barbara postmaster and longtime friend of Farley.

Recently returned home from a hospital stay, Storke had just received a cordial letter from Farley which said in part:

"I am very glad to learn you have returned from the hospital and sincerely hope and trust you will continue to improve and that before long you will be up and around again.

"I can never think of you without recalling the porminent part you played in making possible the switch of the California delegation which made certain the nomination and subsequent election to the presidency of Governor Roosevelt. There were few men who played a more important part than you did and I know that President Roosevelt always appreciated your generous efforts in his behalf.

"I shall always retain pleasant memories of the generous assistance you always extended to me down the years when we worked for the interests of our party but more important for the interestes of our country."

Storke was appointed by President Wilson as postmaster here when the "new" post office—now a part of the Museum of Art at State and Anapamu—was opened in 1914. In 1920 he was an alternate in the California delegation to the Democratic convention in San Francisco, favoring William G. McAdoo as a logical successor to Woodrow Wilson.

The nomination, however, went to James Cox, with Roosevelt as running mate. Storke was a delegate to the famous 1924 convention in Madison Square Garden, supporting McAdoo in 102 ballots against Al Smith, only to see John W. Davis nominated as a compromise candidate. In 1932, again a delegate, he played a part, as Farley's letter notes, in swinging the Garner-pledged California delegation to Roosevelt and breaking a dangerous deadlock.

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CHANGING JUDICIAL PHILOSOPHY OF THE SUPREME COURT

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Texas (Mr. TOWER), I ask unanimous consent that a statement by him concerning the changing judicial philosophy of the Supreme Court and an article on the subject be printed in the RECORD.

There being no objection, the statement and article were ordered to be printed in the RECORD, as follows:

CHANGING JUDICIAL PHILOSOPHY OF THE SUPREME COURT

Mr. TOWER. Mr. President, a most interesting analysis of the changing judicial philosophy of the Supreme Court appeared recently in Dun's Review.

The article, by New York Times writer Fred P. Graham, presents a concise explanation of the Court's evolving attitudes in such areas as labor relations, anti-trust, the rights of employers and employees, and other decisions affecting business. The philosophic change is, of course, attributable to the temperament and convictions of the Nixon appointees: Chief Justice Burger and Associate Justice Harry Blackmun.

So that other Senators may have the opportunity to read Mr. Graham's article, I insert it in the RECORD.

[From Dun's Review, October 1970]

BUSINESS AND THE NIXON COURT

(By Fred P. Graham)

Last spring, after the Senate had turned down the Supreme Court nominations of G. Harrold Carswell and Clement Haynsworth, there was some talk that President Nixon's inexperience in picking judges was beginning to show. But Chief Justice Warren E. Burger pointed out that, on the contrary, Richard Nixon was one of the most experienced selectors of Justices in United States history. Substituting for the President as the after-dinner speaker at a Washington banquet, the new Chief Justice tucked his tongue in his cheek and noted that no President since George Washington had nominated as many Justices in so short a time as President Nixon.

Getting a laugh out of the White House's discomfiture without hurting anyone's feelings was an adroit performance in itself. Yet there was more than a shadow of prophecy in the teasing reference. For not only did the retirement of Chief Justice Earl Warren and the departure of Justice Abe Fortas give the President a rare early opportunity to place a conservative stamp on the Supreme Court by replacing two of its most liberal members; given the age and infirmities of three of the remaining Justices (84-year-old Hugo Black and septuagenarians John Harlan and William O. Douglas), it is likely that President Nixon will be able to appoint a Supreme Court majority, the first President to be afforded such an opportunity since Franklin D. Roosevelt.

By appointing pro-New Deal Justices back in the late 1930s, Roosevelt was able to overturn many of the court's "strict constructionist" decisions and to set its tone for a generation. Now, given President Nixon's campaign criticism of the high court and his pledge to appoint "strict constructionists" if elected, there is every reason to believe that a Nixon-appointed court will reverse the trend once again.

While it is clear that a staunchly conservative court would have a profound impact on such controversial areas as civil rights and the rights of criminal suspects, how would such a shift to the right affect the many complex decisions that concern business? The first year of the Burger court provided only hints of the future course of the new Chief Justice's decisions. But several impressions did emerge.

For one thing, most of Burger's labor decisions favored management. His only pronouncement on the general subject of labor implied that he believes in a Constitutional "right to work"—a First Amendment right to refuse to join a union. This came when the court refused to hear the appeal of a former New York Teamster member who had been denied unemployment compensation because he invoked "conscientious objections" against rejoining the union and thus could not accept a job offer in a union shop. In the odd-couple act of the year, liberal Justice Douglas joined Burger in a dissenting opinion that the denial of benefits "places a burden on the petitioner's freedom of association." Using the terminology employed by the Supreme Court in its defense of a young man's right to become a conscientious objector to military duty, Burger argued that the worker's opposition to union membership could be a "deeply felt belief which falls in the First Amendment area."

The suggestion that workers have a Constitutional right to ignore compulsory union membership arrangements is one that few judges have been willing to kick around in public. Burger's apparent approval of the idea suggests that this unusually independent jurist may have some unhappy moments in store for organized labor.

The court's other labor decisions of last term did not give Burger an opportunity to amplify his philosophy, but his decisions on the rather narrow and technical cases that were decided must have given union lawyers some sober thoughts. Out of ten rulings that decided controversies between workers or their unions and management, he agreed with the employer's position eight times. In the two instances in which he rejected the employer's contention, the issue was apparently so clear-cut that the decision was unanimous.

Burger's conservatism on labor and other issues seems to stem primarily from three beliefs: a feeling that courts should not shortcut established procedures and lines of authority, a conviction that as many problems as possible should be handled by the states, and a strict constructionist's belief that the Constitution and laws should not be given generous reading to accommodate individuals' claims for expanded rights.

What impact will this philosophy have on the court's antitrust decisions, which during Earl Warren's tenure invariably upheld the Justice Department? There is not much to go on here, since antitrust cases were a rare commodity at the court's last session. But in the one case that did come before the court, Burger, joined by Justice Harlan, did not accept the government's contention that the merger of two Phillipsburg, New Jersey banks violated the antitrust laws. Both Justices, in fact, pointed out the benefits of the merger.

THE FOURTH MAN?

Although he did not join them on that case, Justice Potter Stewart showed a definite tendency at the court's last session to join Burger and Harlan in objecting to strict governmental regulation of business. Now, as the court term opens this month, the key question as far as business is concerned is whether the court's newest Justice, Harry Blackmun, will be the fourth man in an emerging pro-business alignment.

There are many signs, in addition to his lifelong friendship with the Chief Justice, that Blackmun shares the philosophy of the three conservative justices. Most significantly, he is an unabashed admirer of the late Justice Felix Frankfurter, who was the intellectual leader of the Warren Court's conservative minority.

Blackmun joined the court too late last spring to participate in many cases. But he wrote one dissenting opinion that could prove to be a straw in the wind: He joined Burger and Harlan in favor of giving the states broader discretion to supress prurient films, books and magazines. This opinion has nothing to do with business, of course. But it indicates a generally conservative outlook and an intellectual kinship with Burger and Harlan.

If those four Justices do gravitate towards a philosophical alignment on the court's right, it could have a significant impact on several business-related cases that are now on the court's docket. And if they were joined in any one case by Justice Byron White, frequently the court's "swing man" between the liberals and conservatives, they would form a majority.

The old problem of secondary boycotts in the construction trades will be back before the court—this time to test the legality of a union's pressure on a neutral employer. The right of national banks to compete with mutual funds by operating commingled agency investment accounts will be decided as well as the authority of state and federal courts to make unions pay damages to workers who have been wrongfully stripped of their union membership.

But the most intriguing set of business-related questions are the increasing instances in which individuals seek to invoke concepts of free speech and equal treatment against private companies. In fact, such cases could become the major concern of corporate lawyers.

Item: Ida Phillips of Orlando, Florida was denied a job by Martin Marietta Corp. under a company rule that barred all mothers of pre-school-age children. She claimed that this violated the Civil Rights Act's rule against sex discrimination. Lower courts agreed with the company's assertion that she was excluded not because she was a female, but because her responsibilities to three small children might detract from her work. Should employers be forbidden to lay down such blanket rules regarding women, and be required to prove in each individual case that the woman would be handicapped in her job because of her sex?

Item: Black workers at the Duke Power Co. plant in Draper, North Carolina were segregated into menial jobs until the federal equal-employment law was passed in 1964. But ever since that time, few of them have been able to move up because the company has instituted a requirement of a high-school diploma or a specified score on an intelligence test as a prerequisite for promotion: Negroes have not fared well on either score. Should employers be barred from applying such a test, even though it is applied equally to all races, unless it can be shown that the tests actually do measure the employees' capacity to do the work?

Item: An interracial group in Chicago felt that Jerome Keefe, a real-estate broker, was guilty of "blockbusting" in their neighborhood—that is, of attempting to panic white homeowners into selling out at deflated prices by suggesting that blacks were moving in. They distributed leaflets that expressed this view but were ordered to stop by a state judge. Does the right of privacy of Keefe and his family outweigh the protesters' First Amendment right to express their views?

Although this issue came to the Supreme Court as a small businessman's racial dispute, many lawyers think that it will come to plague officials of large companies, and not always over racial questions. Large corporations are increasingly becoming the targets of antiwar and environmental activists, who may adopt the tactic of picketing corporate officers' homes if the Supreme Court gives the strategy its blessing. Similar questions seem to be imminent.

What right, for instance, do union members have to demand entry into a privately owned skyscaper in order to picket a company that has offices inside? Does the Constitution give individuals legal recourse against companies that poison the environment with pollutants and radiation? Can a company that holds government contracts be required to go beyond nondiscrimination to hire a certain percentage of Negroes?

These are questions that are either on their way to the Supreme Court now or are likely to gravitate there soon. And there ultimate disposition could certainly be determined by the amount of time that elapses until these cases are heard. For if, say, Justices Black or Douglas—or both—should decide to call it a career, a conservative majority would almost automatically be assured. There is strong indication in the writings of Warren Burger that the Warren Court was presumptuous in some of its declarations of individual rights against the state. Thus, as efforts are made to extend these rights to an individual's relationship with a corporation, a Nixon-appointed court would be almost certain to demur.

It is, of course, true that a man's previous record is not always an accurate guide to how he will act when he takes his seat on the hallowed top court. After all, President Eisenhower was under the impression that Earl Warren was a middle-of-the-roader when he named him Chief Justice.

But President Nixon has selected only men from the Federal Courts of Apepal who have solid track records as conservatives on the types of legal questions that tend to come before the Supreme Court. This is why many lawyers believe that Nixon may indeed succeed in molding a staunchly conservative court that could—much like its liberal predecessor—affect the life of the nation for a generation.

As far as the business community is concerned, such a rightward shift could reshape the court's position in such thorny areas as labor law and antitrust and effectively bar the door to a rush of private complaints against corporations. To quote the late Chief Justice Charles Evans Hughes in one of his unguarded moments, "The law is what the judges say it is."

OCCUPATIONAL HEALTH AND SAFETY BILL

Mr. **WILLIAMS** of New Jersey. Mr. President, tomorrow or Friday the Senate will begin the consideration of the occupational health and safety bill (S. 2193), which I introduced over a year ago. Enactment of this bill for the benefit of American workers is essential to deal with the fatalities and disabilities in the work force. In order to emphasize the concern generated by the need for this legislation and to underscore the necessity of prompt and effective action, I ask unanimous consent to have printed in the RECORD a letter that I have received from Mr. Ralph Nader in support of the pending bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 7, 1970.

Senator HARRISON WILLIAMS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: Your Senate Committee's recent passage of Occupational Health and Safety legislation, S. 2193, and the House's imminent consideration of the very similar Daniels bill, is a significant contribution to the beginning efforts of the Congress to meet the needs of American working men and women. However, since recent newspaper accounts have referred to another bill in the House, and contained a favorable reference to that bill by me, your Committee should know that this reference was based on the major improvements in that bill over previous Administration drafts, and my belief that the choice for the actual situs of standard-setting and enforcement was not as essential as the guidelines which Congress promulgates to govern any such agency or bureau and the quality of legislative oversight. However, by any standard, your present bill promises to be far more effective legislation at this time.

More specifically, I would like to reaffirm that strong support for the Williams bill, S. 2193, particularly when that bill is compared with S. 4404, and H.R. 19200, which are bills on the same subject recently introduced by Senator Dominick, and in the House of Representatives by Representatives Steiger and Sikes. The Dominick, Steiger and Sikes bills are seriously defective in protecting working men and women in the following ways:

a. The Dominick and Steiger bills allow any employer to veto the right of even one employee to accompany the safety and health inspector on his inspection. Such veto power is not present in your bill. This right is absolutely necessary for employees to learn about hidden hazards that may be emerging or imminent and the best means for the worker to protect himself.

b. The Dominick and Steiger bills do not provide adequate authority for the installation of monitors for noise or harmful dust, or other dangerous working conditions which can be objectively measured. Such monitors are a highly effective and low-cost method of allowing employees to know of the dangers in their work environment. As such, the Dominick bill, and the Steiger and Sikes bill have substantially weaker monitoring provisions than are needed.

c. The Dominick and Steiger bills have less effective sections to prevent imminent dangers (once uncovered) from continuing and have unduly long and burdensome provisions for review of health or safety standards set by the Government.

I hope these comments will remove any doubt that I support any legislation which so drastically weakens these essential parts of the Williams' bill, S. 2193.

Sincerely,

RALPH NADER.

FRANCHISING AND THE FUTURE OF SMALL BUSINESS

Mr. **McINTYRE**. Mr. President, the franchise system of business operation has now reached an estimated sales of $90 billion a year with more than 1,000 franchisers and approximately 600,000 franchisees across the country. Senator ALAN BIBLE, chairman of the Small Business Committee and the senior Senator from Nevada, recently delivered a very interesting speech regarding the state of the American economy, with particular emphasis on small business and on the role of franchising. There has been a great deal of publicity lately about franchising, some of it critical. Senator BIBLE's speech was delivered to the national convention of franchisees for General Business Services, a Washington-based franchiser which operates nationwide and which in many ways exemplifies what franchising can mean to the small businessman.

I believe that Senator BIBLE's speech brings to this subject a balanced perspective that I have found lacking in so many of the recent statements and articles, and I am pleased to ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

SMALL BUSINESS LOOKS AT THE 1970's

(Address of Senator ALAN BIBLE)

Mr. Chairman, small businessmen and businesswomen and friends and guests of your convention. It is a distinct pleasure for me to accept the invitation of President Browning today to address a gathering of small entrepreneurs who daily help other small entrepreneurs across this nation. This first national convention of General Business Services Corporation is a graphic demonstration of how new industries can grow up within the free enterprise economy of this country. More particularly, it reflects just how the franchise field mirrors the real potential of our economic system—imagination and innovation.

Some months ago your convention officials asked me what my topic would be so they could use it in advance announcements of your convention. I bravely said the general title would be "Small Business Looks at the 1970's." Whether I would be brave enough again today, in all honesty, to pick that topic in view of our economic jitters these days, I would seriously doubt. Be that as it may, I believe you will agree with me that any look at our business future through today's economic-clouded glasses takes a daring crystal-gazer no matter whether it is a financial expert or novice doing the predicting.

Today we have prices and wages moving upwards feeding the inflation spiral. At the same time unemployment is increasing and the rate of business failures is on the upswing, highlighted this past week by the nation's largest railway system going into bankruptcy, adding more confusion to a jumping-jack stock market.

Over the past year, we have noted with mounting concern the triple squeeze on our small businessmen from credit policies restricting money in the private sector, tax changes adverse to small firms and a cutback of nearly 60 percent in the last-resort lending programs of the Small Business Administration.

Three months ago, the First National City Bank of New York forecast a severe economic downturn, the first in a decade, "as a result of the tight money policies pursued throughout 1969." Wall Street commentators in April and May were saying:

"All indicators point to severe . . . pressures on profits during the first half of the year . . . perhaps more than 20 percent on a before-tax basis."

Net corporate working capital, from December 1968 to April 1970, rose only $2 billion (or less than 1%). The bulk of this increase was in inventories (at the highest ratio to sales in 9 years) and accounts receivable; while cash and government securities both declined more than 10 percent. As a result, we are seeing liquidity difficulties, particularly for communications, finance, and railroad companies, with Penn Central being the most notable victim.

Across the spectrum of commerce, the number of business failures increased 20.5 percent in the past year with the annual failure rate in a comparable rise from 36.4 firms per 10,000 to 43.7 percent.

Unemployment, according to Governor Brimmer of the Federal Reserve System, may average 5.5 percent for the next six months.

Prices in the past 12 months rose at their steepest rate in 20 years.

Since December of 1968 the Dow-Jones Industrial Average has declined roughly 300 points, or about 30 percent of its value.

Requests to the President to supplement the Administration's financial policies, which have been described under a heading of "gradualism," have come from among others, the Managing Director of the International Monetary Fund, the Organization for Economic Cooperation and Development, the Chairman of the Federal Reserve System, and distinguished Members of Congress from both parties.

Already serious doubts have been expressed that merely making a monthly identification of inflationary wage and price increases will not do the job that is needed to reverse these trends.

In continuing the process of gathering information, correctly interpreting it, and making proper decisions on the action to be taken about our economy, we need to bring to bear all the wisdom and experience this Nation possesses.

And what does all of this mean? I assure you I am not here to paint a drab economic picture of the future because the country's top economic prognosticators differ widely and deeply in their predictions. As a legislator and someone who listens to what the various economists, bankers and business leaders predict, just as you do, I see no valid reason for a crying-towel or a doom-and-gloom recitation at this time. And as for you directly, one big reason is that as franchisees, you are participants in one of the most dynamic features of our economy today. What about franchising?

According to estimates of Senator Harrison Williams' Subcommittee of my Small Business Committee, which held 6 days of franchise hearings earlier this year, the number of franchise holders is now over one-half million. The Small Business Administration projects an increase to 650,000 units by 1976. Our Subcommittee estimates that the franchising industry now generates about $90 billion in sales annually, almost one-third of the country's retail total, and nearly one-tenth of our entire gross national product.

And why is franchising such a dynamic force today. It offers a prospective businessman with limited capital and experience the opportunity to own and operate a business which has been settled into a relatively established format. However, a major ingredient is the franchisee himself and the drive, discipline and willingness to work long hard hours which he brings to his endeavor. I therefore congratulate you for your part in a classic American success story.

There is an almost natural law that big businesses tend to deal or do business with other big businesses. Likewise, small businesses tend to trade with other small businesses. It doesn't have to be that way, but that is what the facts seem to prove out. You franchisees who serve small business are witness to the operation of this law, for you are small businesses dealing with small businesses. You are performing a creditable and necessary function, because you work every business day to strengthen the vitality of our Nation's small businesses.

Many students of business size have a tendency to emphasize the advantages of big business over small business, but that is a mistake. Those who are close to the small businesses of America know very well that they are truly the foundation of the American economy . . . its true well spring, if you please.

There, flexibility, quick adaptation, native unincorporated intelligence, personalized relations with employees, other businesses and the general public, and above all the vital element of high personal risk-taking, have an opportunity to dominate and flourish.

There is the tough frontier for new risk-taking entrepreneurs to enter, the new land of opportunity which hundreds of thousands choose to enter each year. There is the opportunity for responsibility and decision-making and the challenge of risk-taking, which are the seedbed for our best managers in both large and small American businesses. And there is the retreat, the self-renewal for which thousands of managers, scientists, and engineers abandon big business each year to refind themselves in the small business crucible of renewed enthusiasm, challenge and new horizons.

The tremendous service which you are performing for these small businesses in your every work day bring to them some of the advantages of large-scale business through your specialized services. You relieve them of tedious routine or the burden of operations which can better and more cheaply be performed by specialists like yourselves. Thereby, you leave them free to concentrate on their unique capability . . . their thing . . . which is their business acumen.

The American people have wisely been aware of the vitality with which its small businesses strengthen our economic life, and have wisely embodied their appreciation in the great organic legislation, the Small Business Act of 1953. On the legislative side, the Congress has seen fit to create two special Select Committees on Small Business to help monitor the well being of small business. In the executive branch of the Government, the Small Business Act is translated into reality by the Small Business Administration in its relationship with other branches of government and the general public as well.

Now, I should like to tie toegther for you the points I have sought to make thus far today by means of a simple comparison. I have rarely seen it expressed this way but I believe it sets forth the absolute wisdom of the American people in their belief in small business.

At the very heart of economic strength must be found a vigorous decision-making process and a stringent over-riding risk-taking. That is the nucleus of the free enterprise system. The decision-making is indispensable because of the lightning-fast changes which characterize our age of innovation. On the other hand, personal risk-taking is the whiplash which keeps businessmen honing the competitive razor in the marketplace.

Now, in these terms let us compare our economic system here in the United States with that in Russia. Yes, when the chips are down, and when the problems get heavy, the Russians always have one economic decision-maker, *the Kremlin,* and *no* personal businessman risk-takers.

But what about the United States? We have over 11 million risk-takers, businessmen and women, that is. And 99 percent of our businesses are small businesses. They provide a deep, vibrant, challenging, freedom-of-choice, self-motivated challenge to do better and reap the personal rewards of their personal endeavors through personal profit. Our Soviet neighbors across the seas have no comparable challenge.

That is the essence of the differences between the Russian economy and ours. That explains why Russia has over 15 percent greater population than the United States yet 50 percent less Gross National Product. The Union of Soviet Socialist Republics recently celebrated its 50th anniversary. Fifty years have been more than enough to achieve a much closer gap with the productive capability of the United States. Certainly, the Japanese and the Germans have done better in 25 years subsequent to their World War II defeats.

I believe you will find the reasons for our greater economic gains lie in the number of independent, self-governing businesses. We have no Gosplan; we have no Central Party Committee to dictate to each business enterprise. We have over 11 million individual, independent businesses. That is the American strength.

And what about these 11.4 million businesses, just who and what are they? About 80 percent are sole proprietorships, another 12 percent are corporations and the remaining 8 percent are partnerships.

Farms numbered about 3.4 million, or 30 percent of the total. Retail, services, and finance, insurance and real estate groups number about 5.8 million, or 50 percent. Manufacturing had 410,000 businesses for 4 percent and contract construction had 880,000 for 8 percent. The balance of 8 percent were in mining, wholesale trade and various utilities.

By size, almost all farms are small business although big corporate farming is on the rise. Of the 8 million non-farm businesses, 85 percent had annual business receipts under 100,000, and another 13 per-

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cent were bigger but under $1 million. Thus, 98 percent of the non-farm businesses were small by the definition of the receipts under $1 million, and over 99 percent if farms are included.

Thus, I repeat, that is the American strength.

And what is another challenge as small business looks at the 1970's? May I read to you from a letter I received several months ago from a business management executive. He said:

"During the 1960's, growth was the prime objective of business effort. The 1970's may have brought us to a plateau. Managements tend to concentrate today on efficiency although growth, of course, is still desired. But greater efficiency may be the key to survival."

And, of course, that message is particularly significant for all of you as you think about yourself and the 1970's. You have businesses which provide a medium for upgrading efficiency of other business firms throughout the small business segment of our economy.

That is not only your personal challenge but the challenge to all small businesses as you seek to enrich and strengthen the American economy.

In closing, may I wish you well as small businesses in your own right, and as allies of other small businesses you serve across this land. Those of us in the legislative halls of the Congress with special responsibilities to assist small business will continue to work hand-in-hand with you as the 1970's present their challenges, their burdens and their benefits.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. If there be no further routine morning business, the period for its consideration is concluded.

EQUAL RIGHTS FOR MEN AND WOMEN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The ACTING PRESIDENT pro tempore. The joint resolution will be stated by title.

The assistant legislative clerk read the joint resolution by title, as follows:

> A joint resolution (H.J. Res. 264) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BAYH obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator yield to me to make a brief opening address?

Mr. BAYH. I yield.

Mr. MANSFIELD. Mr. President, I am in receipt of a letter, as I am sure all other Senators are, from the distinguished Congresswoman from Michigan, MARTHA W. GRIFFITHS. The letter reads as follows:

> DEAR SENATOR MANSFIELD: This letter is a plea for you to vote for the Equal Rights Amendment, H.J. Res. 264, as it is, without any amendments.
>
> Most opponents and all supporters of this amendment agree that the Fourteenth Amendment, properly interpreted would make the new amendment redundant; but the truth is that in 100 years of effort the Supreme Court never has interpreted "person" in the Fourteenth Amendment to mean a woman.
>
> Let me give you one instance. In 1961, in the case of Hoyt v. Florida, the Supreme Court held that Florida's exemption of women from jury service, is based upon a reasonable classification and therefore does not violate the Fourteenth Amendment: Justice Harlan saying, "this Court's dictum in Strauder v. West Virginia, 100 U.S. 303,310 (1879) to the effect that a State may constitutionally 'confine' jury duty 'to males' . . . has gone unquestioned for more than eighty years in the decisions of the Court," adding "even if it were to be assumed that this question is still open to debate. . . ."
>
> In the Strauder case of 80 years earlier which dealt with a West Virginia statute restricting jury service to white males, the Supreme Court held that it violated the Fourteenth Amendment and said:
>
> "The very fact that colored people are singled out and expressly denied by a statute all right to participate in the administration of the law, as jurors, because of their color, though they are citizens, and may be in other respects fully qualified, is practically a brand upon them, affixed by the law, an assertion of their inferiority, and a stimulant to that race prjeudice which is an impediment to securing to individuals of the race that equal justice which the law aims to secure to all others."
>
> The Court found that the Fourteenth Amendment was not intended to prohibit such a classification on the basis of sex. "Looking at [the Fourteenth Amendment's] history, it is clear it had no such purpose. Its aim was against discrimination because of race or color." 100 U.S. at 310.
>
> The opponents then of "equal rights" are really suggesting that this Congress insist that the Supreme Court, which has never found women to be "persons", be the legislators where women are concerned, and that the cost of that legislative process be borne by individual women in individual suits.
>
> The Supreme Court, Senator, is a poor legislator. Legislation is our business. It is the thing we are paid by the taxpayers to do.
>
> Please vote for this amendment and let us then, with the state legislators, direct our attention to making the laws of this country apply equitably and equally to men and women.
>
> Sincerely yours,
>
> MARTHA W. GRIFFITHS,
> *Member of Congress.*

Mr. President, I am in full accord with Congresswoman GRIFFITHS' proposals. I intend to do all I can to assist her over here in the outstanding work which she undertook in the House and the outstanding achievement which she secured in the pending legislation.

Mr. ERVIN. Mr. President, since we are talking about equal rights for men and women, I would like to proceed on the assumption that a male Member of Congress has an equal right with a female Member of Congress to express an opinion in respect to what the Supreme Court held in the case of Hoyt against Florida.

The Supreme Court of the United States held exactly the opposite from what the distinguished Congresswoman from Michigan said in the letter to Senator MANSFIELD. The Supreme Court said in that case, in as clear words as can be found in the English language, that the equal protection clause embodied in the first section of the 14th amendment prohibits a State from making any legal distinction between men and women except in those cases where the legal distinction is founded on a rational basis.

If all that the distinguished Congresswoman from Michigan and those for whom she speaks desire is what she says in the letter to Senator MANSFIELD, the adoption of the women's rights amendment is wholly unnecessary. Not only is it wholly unnecessary, but it might jeopardize the constitutional rights of millions and millions of women and millions and millions of little girls.

The reason why I say that is that she says:

> Our objective is the same as the objective of the 14th Amendment.

The 14th amendment is already a part of the Constitution, and if another amendment to the Constitution were adopted no court could very rationally say that the adoption of the other amendment was merely to make effective what was already in the Constitution. The Supreme Court would have to say that the Congress intended to change something by proposing the amendment and the States, by adopting the amendment, proposed to change something. That is the only kind of rational decision the Supreme Court could come to.

One of the most knowledgeable men in the field of constitutional law in the United States is Prof. Paul A. Freund, of Harvard Law School. He pointed out back in 1953, and he pointed out again in testimony before the Senate Judiciary Committee a few weeks ago, that the interpretation which might well be put on the women's rights amendment by the Supreme Court is that it is intended to change the 14th amendment. And if it is interpreted to change the 14th amendment and to do what some of its proponents say it is intended to do; namely, to make it impossible to have any legal distinction of any kind between men and women no matter how reasonable and rational the legal distinction may be—it is indeed the most drastic and radical proposal ever made here, and will rob millions of wives, homemakers, mothers, and widows of rights they now enjoy.

Mr. President, this is not the Senate's grandest hour. It is not the Congress' grandest hour. This measure was passed in the House without any committee hearings. The total amount of time allowed for debate in the House when it was considered was approximately 80 minutes.

The bill came to the Senate. We have a Committee or the Judiciary which, under the rules that govern, or are supposed to govern, the actions of this body, has jurisdiction to consider and pass upon proposed constitutional amendments.

This House-passed resolution was not permitted to go to the Judiciary Committee. It was placed upon the calendar. The Judiciary Committee has never had an opportunity to consider it.

After that action was taken—that is, after the resolution was placed upon the Senate Calendar instead of being permitted to take its normal course and be referred to the Committee on the Judiciary for study—I attended a meeting of the Committee on the Judiciary, and the committee, with far more than a quorum present—and a quorum of that committee is nine members—voted, with one dissenting vote and with one abstaining vote, to request the Senate leadership to let the House-passed resolution be referred to the Senate Committee on the Judiciary for normal consideration and action.

The plea of the overwhelming majority of the Senate Judiciary Committee, including several Senators who were cosponsors of the House-passed resolution, has been ignored. Mr. President, we ought to have regularity of procedure observed in the Senate of the United States. It has not been observed in respect to this amendment.

Notwithstanding the fact the the leadership ignored the request of the Senate Judiciary Committee, which had jurisdiction of the House-passed resolution under the rules of the Senate, the distinguished chairman of the Committee on the Judiciary scheduled hearings by the full committee on this subject, and we had the testimony of some of the greatest legal scholars in the United States on the subject. One of them was Prof. Paul A. Freund, to whom I have already referred. Another was Prof. Philip B. Kurland, of the University of Chicago Law School. These gentlemen are among the outstanding legal scholars in the United States, and they both advised that the Senate ought not to approve the House-passed resolution for equal rights for women in its present form.

They pointed out that the resolution in its present form would place in jeopardy every statute, Federal and State, which makes any distinction between men and women. It has been pointed out by attorneys general of several of the States—and I shall introduce some of their statements subsequently—that the passage of this resolution and its ratification by the States would result in years and years of litigation, which would be necessary in order to elucidate its meaning.

This is not only a peculiar resolution in these respects but, Mr. President, I recur to the fact that the House of Representatives had no hearings whatever on the resolution.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. BAYH. I do not wish to interrupt the eloquent presentation of my friend from North Carolina, but I just wanted to be able to determine the direction of his argument.

According to most precedents, the proponents of legislation have the first opportunity to speak. They are allowed at least to express their support. I yielded to the majority leader briefly for a statement from Representative GRIFFITHS. I am most anxious to have the Senator's opinion, and, of course, the Senator from North Carolina is always a real tiger in pursuing his case, but I think it would be——

Mr. ERVIN. If the Senator will be willing to listen, I will give him my opinion.

Mr. BAYH. The Senator came over to the Senator from Indiana and asked if he would yield the floor for 2 or 3 minutes. I did so out of deference and great respect to my friend from North Carolina. But I think I am obliged to suggest that there has not yet been an opportunity for the chairman of the Subcommittee on Constitutional Amendments, who is the principal proponent of the bill on the floor, to make a speech about the measure now before the Senate.

Mr. ERVIN. Will the distinguished Senator from Indiana permit me to make two little observations?

Mr. BAYH. I do not want to deny my friend from North Carolina the opportunity to make all the observations he wants. I just thought that, from the standpoint of precedent and proper order, I should be able to make my case and give him something to shoot at.

Mr. ERVIN. The Senator permitted the distinguished Congresswoman from Michigan to make a speech to the Senate by indirection, and I thought maybe that it would be in order for me to set the record straight with respect to the Hoyt case before the Senate proceeded further.

I would like to say that I have tried to make an investigation, in the limited time I have had, and so far as I can find, this is the only amendment that has been proposed since about 1860 that has been submitted to the States with authority for ratification any time between now and, to use one of my favorite expressions, when the last lingering echo of Gabriel's horn trembles into ultimate silence. Every other proposed amendment of recent years has provided that it should be ratified within 7 years after submission to become a part of the Constitution.

And another thing: I do not believe anyone in the House of Representatives read this resolution, because it has the same thing in it twice. Its mere perusal shows how half-baked the drafting of the resolution has been as well as how half-baked its consideration has been, both in the House of Representatives and in the Senate.

Here is what it says:

> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

That was all that was necessary on that subject. But the drafters did not stop there. They put in a section 2 in this joint resolution, which repeats the same thing:

> SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States.

That would be put in the Constitution, as a part of this amendment. It has no place there, because the Constitution already provides that. So the Representatives who supported the resolution in the House of Representatives and the Senators who have advocated it in the Senate have not even taken the pains to point out what a half-baked resolution this is, simply from the standpoint of drafting.

I shall offer an amendment to strike out, at the appropriate time, this surplusage, this section 2. I shall offer an amendment to provide that this resolution must be ratified within 7 years, just as all other such resolutions have provided since 1860, or thereabouts.

Also, according to its terms, this amendment would go into effect in 1 year, and possibly invalidate every State law making any distinction between men and women, such as the right of dower and the right of primary support of the wife by the husband. Many of the State legislatures do not meet every year. The Legislature of my State of North Carolina meets every 2 years. So I shall offer an amendment to modify the resolution accordingly.

I shall also offer an amendment which all of the proponents of the resolution, including the distinguished Representative from Michigan, ought to join me in supporting in order to eliminate the fears which the resolution has engendered in the minds of constitutional scholars; namely, that it will invalidate all laws making any distinction between men and women, no matter how reasonable particular distinctions may be.

The amendment I propose to offer says that this House-passed resolution shall not rob the women of this country of any constitutional right they now have under the fifth amendment or any constitutional right they now have under the 14th amendment. I hope my distinguished friend, the Senator from Indiana, will join me in asking for the yeas and nays on that amendment, because I want to see how many Members of the Senate are going to vote to rob the millions of women in America of their constitutional rights under the fifth amendment and under the 14th amendment.

The truth is, Mr. President, that this has become a contest between a relatively small group of business and professional women, on the one hand, and the wives, mothers, and the widows of this country, on the other hand. Why the former want to deprive their sisters of necessary legal protection in the name of a specious equality, I cannot comprehend.

I am going to offer another amendment and give the Members of the Senate an opportunity to say that they do not believe that women ought to be drafted for compulsory military service and that they are unwilling to nullify laws which are reasonably designed to promote the health, the safety, the privacy, the education, or the economic welfare of women, or which are reasonably designed to enable them to perform their duties as homemakers or mothers.

I want to see how many Members of the U.S. Senate are going to vote against that proposal.

Mr. BAYH. Mr. President, will the Senator yield? Would the Senator care to observe whether the 3 minutes for which he asked the Senator from Indiana to yield have gone by?

I must again point out that the propo-

XUM

nents of this measure have not had a chance to make any kind of speech on it. In light of what has happened, I deeply regret that the Senator from Indiana yielded to the majority leader as a courtesy to read a letter into the Record. What the Senator from North Carolina is doing is totally unprecedented. I have patience and I have courtesy, but the Senator from Indiana deserves the same courtesy he has given to the Senator from North Carolina. Because of a previous unanimous-consent order, we have only 1 hour on this measure this morning, and if things continue as they are now, the Senator from North Carolina, an opponent of the bill, is going to use up the full hour before the proponents even have a chance to make a comment, much less a speech on the subject.

Mr. ERVIN. I promise the distinguished Senator from Indana that I will yield the floor—and extend to him my great gratitude for affording me this opportunity to speak—in just a moment.

I have received a letter from a lady who said she was going to do what she could to purge me from the Senate if I dare to persist in the fight against this amendment. She said I was wasting my time in doing so, anyway, because, as she said, a majority of the U.S. Senate would not dare to change a single dot over a single "i" in this resolution as it was passed by the House.

I think the lady expressed a very low opinion of the courage of U.S. Senators. I do not agree with her. I think they love their country well enough to listen to debate and to consider amendments that would avoid the disastrous consequences that this amendment could make possible.

I trust that the Senator from Indiana, in the magnanimity of his heart, will forgive me if I have trespassed a little beyond the time I thought I would need and have said more than what he thinks I ought to have said.

I now yield the floor, with profound gratitude to the Senator from Indiana for giving me the opportunity to point out that the case of Hoyt against Florida holds exactly the opposite of what the distinguished Representative from Michigan said it holds. While I regret to disagree with her, I am constrained to assert without fear of successful contradiction that the Supreme Court declared in the Hoyt case that the equal protection clause of the 14th amendment makes unconstitutional a State law which makes a legal distinction between men and women unless such law is based upon reasonable grounds. Surely, the Constitution ought not to make unreasonable or irrational laws constitutional.

Mr. BAYH. Mr. President, the Senator from Indiana has nothing but the greatest respect for his friend, the Senator from North Carolina. However, I must say that on this issue the Senator from North Carolina's usual good judgment about the relative merits is not up to par. I was happy to yield. I would not have interposed an objection except for the fact that only limited time is available for any discussion of this matter today. It seemed that the entire hour would pass with only the eloquent argument of the Senator from North Carolina opposing the measure before the proponents could make their case.

Before proceeding with my prepared remarks, I must say that I think the record should be clarified, or expanded, so that the entire picture will be shown.

The Senator from North Carolina pointed out that the Senate Judiciary Committee adopted a resolution with only one dissent and one abstention, asking that the present bill be taken from the Senate Calendar and referred to the committee for hearings. I think the record of that committee will speak for itself.

The Senator from Indiana was the one who dissented. He dissented because he was only too familiar with the parliamentary rights of any Senator to kill any piece of legislation that ever gets to that committee. The record will show that we have had extensive hearings on Senate Joint Resolution 61, which is identical to House joint resolution now before the Senate. Senate Joint Resolution 61 was reported out of subcommittee to the full committee. It is still there because, very frankly, the Senator from Indiana was denied the chance to put the question of whether the committee would have reported Senate Joint Resolution 61. Earlier in this Congress we had a 4- or 5-month delay because one of our colleagues in the Judiciary Committee prohibited another constitutional amendment from even seeing the light of day. Therefore, the Senator from Indiana feels that the majority leader adopted the only reasonable course that could have been adopted. I simply will not remain silent and let some suggest that this matter has not been adequately heard. It was and it is being adequately heard.

A unique situation presently exists in the Judiciary Committee. Even if the proponent of a bill or the chairman of a subcommittee has held extensive hearings on a measure, if the opponents of this measure desire, they are given the opportunity to hold full Judiciary hearings. This has happened twice. It happened on the direct election proposal, and it happened on the women's rights amendment.

It seems to me that this might establish an undesirable precedent. In an effort to delay and to keep the measures reported by the subcommittee from seeing the light of day, the committee has been having two sets of hearings. As if this were not bad enough, we now have the opponents coming on the floor and saying that there has not been adequate discussion, after two full sets of committee hearings.

I think this is rather ridiculous, Mr. President, but I will not spend a great deal of time on the point.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. BAYH. I would just as soon have a chance to finish my remarks, and then I will yield to the Senator from North Carolina.

I must admit I have been a little sensitive on this issue. This measure has been kicked around Congress for 47 years. It has been the subject of every kind of dilatory tactic to keep it from passing. Now there are those who suggest that if we really love our country, we are going to be opposed to this; if we really believe in protecting children or wives or mothers or widows, we are going to be opposed to this. This is rather ridiculous. I think we are presented with a basic question of equality. All we are trying to do is accord legal equality to all.

We are trying to provide equal protection for mothers, wives, widows—for all the citizens of this country.

Mr. COOK. Mr. President, if the Senator from Indiana will yield for just a few minutes, all I want to say, before the Senator from Indiana gets started on his prepared remarks, is that I, being on the minority side, have been the subject of both their hearings. I have been the subject of the will of the majority in this regard, to listen to all the proponents and all the opponents.

I might say to you, Mr. President, just in passing and listening to some of the arguments, that people are not too swayed when the distinguished Senator from North Carolina talks about the fact that there was a limitation on the constitutional amendment. There has only been a limitation of years in four out of the five amendments now on the Constitution of the United States. That is not a very large percentage, really and truly, when we consider that, somehow or other, someone adopts the theory there should be a limit of 7 years and everyone picks it up, that there is authority, or a rule of law for it, and no great hue and cry occurs when one considers that four out of five have had that limitation. We can argue that for some time. However, it has not been here for 43 years, but for 47 years. There have been sufficient hearings. The Senator from Indiana has held hearings, as has the Senator from North Carolina.

Mr. ERVIN. Mr. President, will the Senator from Kentucky yield for a question?

Mr. COOK. I would like to finish, because I have only 2 minutes, and then I will be glad to yield.

Mr. President, there is only one point I want to try to develop through this whole thing, that two citizens stand before their country. They both look at their country and they say to it, "I pledge to you all of my love, all of my faith, all of my energy, and all of my tribute."

The image of that country looks back and says to them, "Thank you very much, but I am going to give more to him than I am going to give to her."

Mr. President, if this is a constitutional government, if this is a government based on equality, then this Government will look at both of those two citizens and say to them, "To you I treat alike. To you I treat equally. To you, under a constitutional government, I treat the same."

Mr. President, that Government need not say to those two citizens, sitting side by side, earning the same salaries, contributing the same to social security, and contributing the same to their Govern-

XUM

ment employees' pension programs, "To you, sir, I will always give greater benefits. To you, ma'am, you will always get less."

Mr. President, that is not equality. That is what is required. That is in respect to all the things that will make a widow cry. She will have something taken away from her. We can listen to the kind of political oratory can make people in a town square cry, but we are talking about the dignity of people—the dignity of people under the Constitution of the United States, that, by George, in this free Nation, every individual, be they male or female, will be treated equally.

PRIVILEGE OF THE FLOOR

Mr. BAYH. Mr. President, I ask unanimous consent that members of the Judiciary Committee staff may have access to the floor during the remainder of the debate on this joint resolution.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask that they stay out of the aisles and keep the aisles clear.

The ACTING PRESIDENT pro tempore. Under the rule, the aisles will be cleared.

Mr. BYRD of West Virginia. I also suggest, Mr. President, that there are supposed to be no demonstrations of approved or disapproved from the galleries under rule XIX.

The ACTING PRESIDENT pro tempore. Rule XIX will be enforced. There will be order in the galleries.

XUM

Mr. BAYH. Mr. President, I should like to take a few minutes of the time of the Senate to lay the basic premise for this constitutional amendment which has been knocking around for almost five decades. Then I am sure that the Senate will be given a thorough opportunity to discuss it. I hope that this debate will be limited to discussing and exploring the strengths and alleged weaknesses of this amendment. I hope that we will not have a repeat of the past few weeks, in which the Senate was denied the opportunity to vote up or down an important constitutional amendment.

Mr. President, I rise to express my enthusiastic support for House Joint Resolution 264, the proposed amendment to the Constitution to guarantee equal rights for men and women.

As the chairman of the subcommittee which has held hearings on this matter, and as one of the principal sponsors, I feel that it is important to set out the interpretation of the supporters of the measure relative to some of the controversial points. This is important in hopes of persuading some to join in support who otherwise would not. I am also sure that the courts at some future date might look to see what certain of us felt the critical points of the amendment should be interpreted to mean.

In my judgment, Mr. President, only by passing the equal rights amendment can we abolish the discrimination which exists today in the eyes of the law on the basis of sex.

For almost one-half a century, we have failed to take action on this amendment and by failing to act have allowed the women of our country, in many respects, to suffer the burdens of second-class citizenship—burdens which by no reasonable explanation can be justified or should be tolerated.

This proposed amendment provides that—

> Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. Congress and the several States shall have the power, within their respective jurisdictions, to enforce this article by appropriate legislation.

The language of the amendment warrants careful study, for there is considerable controversy over what it does or does not mean. It would not eliminate all the differences between the sexes. Congressional enactment would not and should not eliminate the natural physiological differences between the sexes. But Federal, State, and local governments can be prohibited from imposing legal distinctions based on sex. That is exactly what the equal rights amendment is designed to do—no more, no less.

As Prof. Thomas I. Emerson, of the Yale Law School, pointed out so eloquently at the recent Judiciary Committee hearings:

> The fundamental legal principle underlying the Equal Rights Amendment, then, is that the law must deal with the individual attributes of the particular person, not with a vast overclassification based on the irrelevant factor of sex.

LEGISLATIVE HISTORY

Mr. President, some complaints have been heard that this amendment has been presented without adequate study. No amendment has been more thoroughly studied than this one. The amendment itself is not new. Resolutions proposing this amendment have been introduced in every Congress since 1923. In earlier years, hearings were held by the House Judiciary Committee in 1948, and by the Senate Judiciary Committee in 1956. The amendment was reported favorably by the Senate Judiciary Committee in the 80th, 81st, 82d, 83d, 84th, 86th, 87th, and 88th Congresses.

In addition, the bill was debated twice previously by this body, in 1950 and 1953. However, both times this measure was passed it had been amended by the addition of the so-called Hayden rider. That rider provided that the amendment "shall not be construed to impair any rights, benefits, or exemptions now or hereafter conferred by law, upon person of the female sex." All supporters of the amendment agreed that the rider effectively destroyed the intended result of the amendment. For it is under the guise of "rights and benefits" that women have often been deprived of rights which are available to men.

In other words, the term "rights and benefits," although well-intentioned phraseology, actually has served to penalize women and deny them rights.

It is for this reason that in the 86th Congress, after the Hayden rider had again been added during the floor debate, sponsors of the bill agreed to recommit the bill to committee, rather than have it enacted in that form.

More important, there has been significant new action in this Congress. The Subcommittee on Constitutional Amendments, which I serve as chairman, held 3 days of extensive hearings on the amendment—on May 5, 6, and 7, 1970. We heard 42 witnesses, representing all possible points of view about the amendment, and compiled a record of printed hearings comprising almost 800 pages. The Subcommittee on Constitutional Amendments reported the measure favorably to the full Judiciary Committee on July 28, 1970.

But that is not the full extent of study in this Congress, Mr. President. The Judiciary Committee held a series of additional hearings, including comments from a series of distinguished law professors.

This year for the first time this amendment was debated on the floor of the House of Representatives. And the way in which it was brought to the floor in the House indicates the wide-spread support that this proposal has across the country. Since the House Judiciary Committee had never reported the joint resolution, Representative GRIFFITHS filed a discharge petition and obtained the requisite number of signatures. The bill was brought before the House on August 10, 1970, and passed by the overwhelming vote of 350–15.

So, Mr. President, I think that this record of floor action and at least four separate sets of hearings clearly refutes the charge of inadequate consideration of this bill. This measure has been before us and the subject of general discussion for more than 47 years. Now is the time for action.

Now is the time to stop pretending that we are in favor of women, widows, and children and to actually give them more equal treatment. Representative GRIFFITHS had to resort to the parliamentary discharge petition, and the majority leader had to ask that that measure be kept on the calendar, rather than being sent back to committee, because only by such tactics can we prevent a few people who are opposed to this measure from keeping us from having a chance to discuss it at all.

Of course, the record of committee study and previous floor action does not mean that there is no need for debate in this body. I welcome the opportunity for debate. I know that all of its supporters do, as well. It is incumbent upon this body as a whole to consider carefully all the issues raised by the joint resolution. The amendments of the Senator from North Carolina should be carefully considered. No change should be made in the Constitution without complete study and full debate. But I think that when my colleagues study this proposed amendment and the record of the hearings which have been held, they will conclude along with me that it is the Senate's turn to act. It is time to assure equality of legal rights for all our citizens.

NEED FOR AMENDMENT

Some opponents of the equal rights amendment argue that it is unnecessary. They feel that the 14th amendment together with a series of statutes have effectively eliminated the type of discrimination which the equal rights amendment would make unlawful. I disagree.

Let there be no doubt about it. We have made considerable progress in recent years. Especially in the last few years the courts have taken great strides toward providing the kind of equality I believe is necessary. I believe that if given enough time the Supreme Court would eventually hold that the equal protection clause of the 14th amendment demands the kind of equality between the sexes which the equal rights amendment would guarantee. But that process would take far too long in my judgment. As Professor Emerson pointed out, the Congress should act now because "There is, in short, a certain amount of legal deadwood which must be cleared away before the courts will be prepared to make clearcut and rapid progress."

Mr. President, inasmuch as our distinguished colleague, the Senator from North Carolina, has challenged the assertions contained in Mrs. GRIFFITHS' letter read by our majority leader, I ask Senators to read the case of *Hoyt* v. *Florida,* 368 U.S. 57 (1961), which involved a Florida statute which did not treat women equally in relation to their availability for jury service is concerned. I think if anyone reads that case and places a reasonable interpretation upon it, he would come to the contrary conclusion.

It seems to me that the Supreme Court has never interpreted the 14th amendment as treating women as truly equal.

A three-judge panel in *White* v. *Crook,* 251 F. Supp. 401 M.D. Ala. (1966), struck down an Alabama statute denying women the right to serve on juries. That case was not appealed to the Supreme Court, and the Supreme Court has not spoken on the matter since then.

The case of Phillips against Martin-Marietta is presently before the Court on certiorari. But if we look at the Government's argument against Martin-Marietta, they do not make their case under the 14th amendment. They make a case based upon title VII of the Civil Rights Act of 1964. They do not make it on the right of women to be treated as equal persons under the 14th amendment.

I cannot see how anyone conversant with the law can look at the Hoyt case and deny the fact that there the Supreme Court of the United States permitted a State statute to stand which, in essence, denies women the same right and opportunity to serve on juries as men. This will come out in the debate, I am sure, in greater detail.

Mr. President, the courts have not been alone. In 1963, Congress passed the Equal Pay Act. It provides that no employer subject to the act shall discriminate in salary "because of sex between different employees for equal work on jobs the performance of which requires equal skill, effort, and responsibility." Another important step was taken in title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment on the basis of sex, in addition to race and national origin.

It was this section of the Civil Rights Act of 1964 on which the Government bases its contention that Martin-Marietta discriminated against Mrs. Phillips. The Supreme Court has now granted certiorari in that case. As I read the 14th amendment's language, it should encompass women. But just because it ought to does not mean that the court has not interpreted it in this manner. Hoyt was decided by the highest court in the land.

The State legislatures have also made great forward strides in recent years. Many of them have worked hard to eliminate discrimination against women in terms of limitations on hours and conditions of work, minimum wages, the age of legal majority, jury service, and many other areas.

Indeed, we have made progress, through Federal and State legislation, through judicial decisions, and through executive action. But much remains to be done.

Let me provide only a few examples. If we are really concerned about these mothers and widows and children, let us look at a few examples of the laws that exist today and see how they treat these women and widows and children.

Until 1966, three States excluded women from juries altogether. In one State, women—but not men—must register specially to be eligible to serve on juries.

In one State, there is a statute allowing women to be committed for up to 3 years in the reformatory for offenses such as "drug using" and "habitual intoxication," although men cannot be sentenced to more than 30 days for drunkenness. That hardly seems like equality.

In at least eight States women cannot contract or sign leases until they are 21, while men can do so at 18.

If women mature at an earlier age than men, why should we give the opposite right to men in these States where men are permitted to contract at the age of 18 and women are not permitted until the age of 21?

California and four other States require a married woman to obtain a court order before establishing an independent business. Eleven States place special restrictions on the right of a married woman to contract. In three States, a married woman cannot become a guarantor or surety.

Women continue to be discriminated against in admissions to public colleges. In the fall of 1968, only 18 percent of the men entering public 4-year college had received high school grade averages of B-plus or better.

But 41 percent of the freshmen women had attained such grades. One State university has published an admissions brochure saying that "Admission of women on the freshman level will be restricted to those who are especially well qualified." There was no such requirement made for men.

Sex discrimination still exists in the labor laws of every State in the Union except Delaware. And despite contrary decisions under title VII of the 1964 Civil Rights Act by the Equal Employment Opportunity Commission, two Federal appeals courts, and several State attorneys general, a recent survey showed that 51 percent of major employers continue to enforce these restrictions.

Thirty-nine States and the District of Columbia impose limitations on the number of hours worked by women. These provisions often preclude women from occupying supervisory jobs requiring overtime.

This is a specific example of what I mentioned a moment ago.

These so-called protective laws which are supposed to give special privileges and rights to women are really "privileging" them right out of meaningful advancement and opportunities in the employment market.

During the hearings the committee was told that 26 States have laws or regulations which completely bar adult women from certain occupations or professions. For example, in nine States, women are not allowed to mix, sell, or dispense alcoholic beverages.

One witness pointed out that the weight-lifting laws in New York only "protect" women from lifting weights in foundries.

As Prof. Norman Dorsen of the New York University Law School said:

> The theory, apparently, is that some mystical essence in foundry weight lifting will injure women, while lifting the same weights in other industries, will not.

Mr. President, those are a few specific examples of some of the discrimination that is going on. I will not bother the Senate with a further list of detailed acts of discrimination, but it is going on. Chapter and verse will come out in the RECORD.

Mr. President, it is clear that there is a legal need for the equal rights amendment. But to my mind the most important reason for enacting this amendment is its symbolic value. The amendment will not eradicate, immediately upon passage, all the unduly discriminatory habits and customs of this country. No amendment or statute could immediately solve the whole problem of unfair discrimination based on sex. The bulk of the prejudice and unfairness against women does not stem from the command of specific statutes. It is much more subtle. It comes from socially engrained ideas about the "proper role of women."

We want to make sure women have the dignity and legal status to which they are entitled. As the Senator from Kentucky pointed out, it is a proper role for women to pay taxes, it is a proper role to serve in the Armed Forces, in philanthropic agencies, and to nurse the sick and administer to the poor, and it is a proper role to provide all sorts of services to the country. Those are proper roles. But many males believe that this "proper role" should keep women from developing their full potential.

But I believe that passage of this amendment will go a long way toward providing the kind of dignity and legal status to which every American is entitled. It would prod the courts into taking long-overdue action. It would prod many employers into reevaluating their

XUM

employment practices, to see whether they, too, hire, assign work, and determine pay scales on the basis of sex, instead of making those decisions on the basis of an honest evaluation of each individual's personal abilities.

The addition of this amendment to the Constitution will symbolize the dedication of this country to providing true equality for all. It will show the world that all our citizens are in fact equal in the eyes of the law. We must not minimize the importance of such symbolic action. Even if there were no State discrimination which would be made illegal by the passage of this amendment, I would still be an ardent proponent.

For the past hundred years we have been in the midst of a peaceful revolution, to make sure that all our citizens, whether or not part of a minority, are truly equal. An explicit statement in our Constitution that both sexes are equal before the law is long overdue.

EFFECTS OF THE AMENDMENTS

Some critics, Mr. President, have charged that this amendment should not be passed by this body because it would cause chaos in the courts, and upset many relationships in our society. I strongly disagree. When this joint resolution was brought before the House of Representatives, Representative GRIFFITHS explained exactly what the amendment would and would not do. I ask unanimous consent to have an extract from her statement printed in the RECORD at this point in my remarks.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

STATEMENT BY MRS. GRIFFITHS

What will be the effect of the amendment?

The amendment would restrict only governmental action, and would not apply to purely private action. What constitutes "State action" would be the same as under the 14th amendment and as developed in 14th amendment litigation on other subjects. In 1964 Civil Rights Act granted far more rights to women and other minorities than this amendment ever dreamed of. That act applies against private industry. This amendment applies only against government.

Special restrictions on property rights of married women would be unconstitutional; married women could engage in business as freely as a member of the male sex; inheritance rights of widows would be same as for widowers.

Women would be equally subject to jury service and to military service, but women would not be required to serve—in the Armed Forces—where they are not fitted any more than men are required to so serve.

The real effect before this amendment is finally passed would probably be to permit both sexes to volunteer on an equal basis, which is not now the case.

Where the law confers a benefit, privilege or obligation of citizenship, such would be extended to the other sex, i.e. the effect of the amendment would be to strike the words of sex identification. Thus, such laws would not be rendered unconstitutional but would be extended to apply to both sexes by operation of the amendment. We have already gone through this in the 15th and 19th amendments.

Examples of such laws include: minimum wage laws applying only to women; laws requiring lunch periods and rest periods only for women; laws which permit alimony to be awarded under certain circumstances to wives but not to husbands would permit the Judge to determine who gets the alimony. Social security and other social benefits legislation which give greater benefits to one sex than the other would extend the benefits to the other sex.

Any expression of preference in the law for the mother in child custody cases would be extended to both parents—as against claims of third parties. Children are entitled to support from both parents under the existing laws of most States. Child support laws would be affected only if they discriminate on the basis of sex. The amendment would not prohibit the requiring of one parent to provide financial support for children who are in the custody of the other.

Where a law restricts or denies opportunities of women or men, as the case may be, the effect of the equal rights amendment would be to render such laws unconstitutional.

Examples are: hours and weight lifting laws but four States have repealed "so-called" protective legislation which restricts women: Delaware has repealed all restrictive legislation in 1967, and there has never been a lawsuit. The idea that this would cause unlimited lawsuits, is ridiculous. Georgia has repealed its hours law. Oregon and Vermont have repealed their hours laws. Fifteen States have declared such laws unenforceable either through action of their supreme court or by some official of the government: Arizona, District of Columbia, Maryland, Kansas, New Mexico, Michigan, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Dakota, North Dakota, Tennessee, Virginia, and Wyoming.

And let me say that there has never been an hours law which keeps a woman from working more than 40 hours a week. This is just not true. The law prohibits an employer from employing her. She can work 16 hours a day, and there is nobody that protects that woman—certainly not the AFL–CIO.

Separation of the sexes by law would be forbidden under the amendment except in situations where the separation is shown to be necessary because of an overriding and compelling public interest and does not deny individual rights and liberties.

For example, in our present culture the recognition of the right to privacy would justify separate restroom facilities in public buildings.

The amendment would not change the substance of existing laws, except that those which restrict and deny opportunities to women would be rendered unconstitutional. In all other cases, the laws presently on the books would simply be equalized, and this includes the entire body of family law. Moreover, this amendment does not restrict States from changing their laws. This law does not apply to criminal acts capable of commission by only one sex. It does not have anything to do with the law of rape or prostitution. You are not going to have to change those laws.

Mr. BAYH. The statement points out eloquently what this measure will do and what it will not do. One particular passage of importance, I think, is the discussion of the draft. I do not agree with the contention of some persons that if this measure becomes law women will automatically be drafted.

As Mrs. GRIFFITHS pointed out, in some cases the existing legal distinctions based on sex will be retained because of "an overriding and compelling public interest." I think that such an interest is present here. Combat duty is more dangerous and demanding than any other job. Because combat demands absolutely unique abilities, Congress might justifiably decide that women are not physically suited for it, just as it has decided that men without the requisite physical characteristics are not suited. And since all soldiers must be trained for combat duty, there is no reason to believe that women would be drafted any more than men who are not considered, in the judgment of Congress, to be suited, are drafted. The only likely effect of the amendment would be to prevent Congress from setting arbitrary limits on the number of women who may enlist, unless those limits are directly related to the proven needs of the military. The amendment would thus allow those women who wanted to serve to volunteer.

Some have charged that this amendment would end the benefits that women, particularly in their role as wives and mothers, enjoy. However, the purpose of the amendment is not to cut down benefits accorded to only one sex, but to extend them to both sexes. Prof. Norman Dorsen of the New York University Law School put it this way:

> There is abundant evidence that if the amendment is ratified it would result in the general extension of certain benefits to men that now are available only to women, rather than invalidating them altogether.

I cite but one example, but it is of significance to all of us. What do we do when we have broken families? There has been much discussion of the problem of alimony. Some say if this measure passes it will prevent the proper support of people from broken homes.

The passage of the equal rights amendment would not make alimony unconstitutional. It would only require a fair allocation of it on a case-by-case basis. In the great bulk of cases, women would still receive alimony or support payments. I see no reason not to make all men eligible for alimony, as is already the case in nearly one-third of the States. A man might justifiably collect, for example, if the man were disabled and unable to work, and the woman was independently wealthy.

We are suggesting that we should make uniform the practice presently followed in one-third of the States. In those States the questions of who should provide alimony and child support, are decided on a case-by-case basis. In most cases the man would provide it, but in the case I mentioned earlier, if the man were crippled and unable to work, and if the woman has independent sources of income, it seems to me the judge ought to be able to take that into consideration.

One of the most eloquent discussions of the impact of this amendment on family law was given before the full committee hearings by Professor Dorsen.

Mr. President, I ask unanimous consent that excerpts from Professor Dorsen's testimony relative to family law be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF PROF. NORMAN DORSEN BEFORE THE SENATE JUDICIARY COMMITTEE ABOUT EFFECTS OF THE EQUAL RIGHTS AMENDMENT ON FAMILY LAW

Concern has been voiced that women would lose their right to support and alimony if the Equal Rights Amendment passes.

XUM

There are several answers to this concern. First, as already noted, the right to alimony and support can be extended to men by legislative act or as a matter of interpretation of the Amendment. Indeed, in one-third of the states alimony can be awarded to either spouse, and is based on the circumstances of the particular case, such as relative economic needs, duration of the marriage, and relative contributions to the marriage.

As for the right to support, although it has been much relied on, it is of somewhat illusory value to women. In the first place, in most jurisdictions not until the parties are separated, or sometimes even divorced, does a wife have the right to get a court order for a specific amount of support money. See H. H. Clark Law of Domestic Relations 181, 186 (1968). More important, the chief legal remedy for the wife during marriage—the ability to purchase household "necessaries" and charge them to the husband—is of far less value than is generally believed. As one authority has stated:

"The doctrine of necessaries may once have been an effective way of supporting wives and children (though one doubts it). Today, however, it is hedged about with so many limitations that few merchants would wish to rely on it. More importantly, it is of least value to those most in need of support, those wives and children too poor to be able to get credit. For these reasons the doctrine is of little practical value in the solution of the non-support problem." Clark, supra at p. 192.

The National Conference of Commissioners on Uniform State Laws recently adopted a Uniform Marriage and Divorce Act which takes an approach similar to that contemplated by the Equal Rights Amendment. It provides for alimony or maintenance for either spouse, and child support by either or both spouses, by defining all duties neutrally in terms of functions and needs of the people involved, rather than in terms of their sex.[1] The action by the Commissioners, a respected and prudent body, deserves special consideration.

Their approach—based on individual circumstances and needs—underlies the Equal Rights Amendment also. Put another way, laws which differentiate on the basis of sex are unjust because they arbitrarily treat all members of a class without looking at individual qualifications. State labor laws are unjust and do not protect women because they arbitrarily assume all women have stereotyped and uniform characteristics, which many individual women do not have. Alimony and support laws also have unjust consequences for both men and women when they assume that all women are weak, dependent, caretakers of children. Just as some men may need alimony, some women may prefer to pay maintenance to allow their husbands to be caretakers of children. In this connection, it is worth observing that several states already require a wife to support a husband unable to support himself.

The Uniform Marriage and Divorce Act eliminates definitions based on sex and substitutes those based on function. This is what the Equal Rights Amendment is intended to do. By passing it, we will help insure more genuine protection for those who really need it, and end the many injustices women still face.

Mr. BAYH. Mr. President, protective labor legislation is also an issue in this debate. It has been said that women workers would be exploited if this legislation were nullified by passage of the equal rights amendment. Of course, protection of workers against unethical or unhealthy labor practices is of the utmost importance. Therefore, we were especially careful to explore this charge carefully at our hearings.

Mr. President, I ask unanimous consent to have printed in the Record at this point in my remarks the complete statement of Professor Dorsen relating to the problem of protective labor legislation.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT OF PROF. NORMAN DORSEN BEFORE THE SENATE JUDICIARY COMMITTEE ABOUT THE EFFECTS OF THE EQUAL RIGHTS AMENDMENT ON LABOR LEGISLATION

I would like to turn now to the problem most frequently stressed by those opposing the Amendment—the alleged impact on labor laws that protect women but not men. The fact is that the effect of the Amendment on protective labor legislation provides no sound basis for opposing it.

There are three interrelated points here. First, the crazy quilt of existing state protective laws reveal graphically that there is no consensus on what is needed protection for either men or women, and that much of the legislation, instead of providing solutions to the real problems of women workers, actually "protect" them out of jobs they are perfectly capable of fulfilling. Second, under Title VII of the Civil Rights Act of 1964 much state legislation of this type is being invalidated and will be of no long term importance. Third, such laws that confer genuine benefits can and should be extended to men under the Equal Rights Amendment.

First. The pattern across the country of state laws shows that there is no coherent system of protection provided for women. For instance, while women are allowed chairs for rest periods in 45 states, they are given job security for maternity leaves of absence in *no* state and maternity benefits under temporary disability insurance laws in only two states. Women are even excluded from temporary disability benefits for pregnancy leaves in these two states.

Furthermore, in the benefit areas most people would consider most important—a minimum wage and a day of rest—men do receive substantial protection already. Only seven states have minimum wage laws for women only, but twenty-nine states, plus the District of Columbia and Puerto Rico, cover both men and women. More important, the federal minimum wage law covers both men and women at *higher* rates than all state laws except one (Alaska).

In contrast, maximum hour laws are a major area where men are not covered. Thirty-eight states cover women only, and three states cover men and women. Since the Supreme Court has upheld the validity of maximum hour legislation for both sexes since 1941, one can only suspect that unions have not pushed for maximum hour legislation, given their success in obtaining nationwide minimum wage laws for both sexes. This analysis would give credence to the EEOC and federal court decisions which have concluded that hour laws have been used as an excuse to keep women out of better-paying jobs.

Opponents of the Equal Rights Amendment often neglect to note the twenty-six states which altogether prohibit women from performing certain jobs. When forty states allow women to be barmaids, but ten bar them from this employment, can anyone seriously propose that women are thereby protected in those ten states? If anyone is protected, it would appear to be male bartenders.

Similar explanations suggest themselves regarding the eighteen states proscribing night work, and the six states prohibiting work for periods before and after childbirth. Women have not campaigned to obtain these "protections." This is for a very good reason. Women in fact do night work all the time. Nurses, telephone operators, airline reservationists, and scrub women have not been protected from night work. Pregnant women, too, often choose to work right up to the birth date. Who ever heard of a housewife being allowed time off from her housework and small children just because she was pregnant, or of a state law which prohibited her from working.

Weight laws also are of doubtful protection for women. There are only four states with weight limits applicable to all jobs, and these limits are set so low that, if literally applied, they would prohibit women from doing any serious labor, including carrying an unborn child. In the remaining few states with weight limits, they apply only to certain industries. In New York, for instance, women are "protected" from lifting weights only in the foundries. The theory, apparently, is that some mystical essence in foundry weight lifting will injure women, while lifting the same weights in other industries will not. Possibly it is the male workers in foundries who are being protected—from job competiton.

Thus, when all of the state laws applying only to women are examined closely, it becomes clear that they do not provide a coherent system of meaningful protection. Nor do they deal with the real problem for women—exploitation by being underpaid and funneled into the lowest-paying, most menial jobs of our society. State labor laws have never dealt with this problem. Furthermore, the premise that real protection can be based on legislating by sex is fallacious.

Sex is an insufficient criterion to predict with accuracy who needs what protection. If injury due to lifting weights is a problem the answer is to forbid employers to fire individuals—both men and women—who refuse to lift weights above a safe limit. If some men and some women don't want to work overtime, laws should be passed forbidding employers to fire those who refuse overtime; both men and women who do want overtime pay should not be penalized.

In short, analysis of state laws that apply exclusively to women does not establish that they protect women in any important way. In fact, these laws do not protect women in the one area clearly applicable to women only—maternity benefits and job security; they are ineffective in dealing with the exploitation of women through lower pay than men; and they are used to dis-

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[1] Section 308, which deals with maintenance, is typical of the Act's approach:

(a) In a proceeding for dissolution of marriage or legal separation . . ., the court may grant a maintenance order for either spouse only if it finds that the spouse seeking maintenance:

(1) lacks sufficient property, including marital property aportioned to him, to provide for his reasonable needs, and (2) is unable to support himself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

(b) The maintenance order shall be in such amount and for such periods of time as the court deems just, without regard to marital misconduct, and after considering all relevant factors including:

(1) the financial resources of the party seeking maintenance, . . . and his ability to meet his needs independently . . .; (2) the time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment; (3) the standard of living established during the marriage; (4) the duration of the marriage; (5) the age, and the physical and emotional condition of the spouse seeking maintenance; and (6) the ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance.

XUM

criminate against women in job, promotion, and higher-pay opportunities. They do not furnish a reliable basis for opposition to the Equal Rights Amendment.

Second. In light of the above it is not surprising that the Equal Employment Opportunity Commission, the federal agency charged with interpreting and administering Title VII, has concluded that state "protective" laws were superseded by Title VII and could not lawfully be enforced. The Commission stated that:

"Such State laws and regulations, although originally promulgated for the purpose of protecting females, have ceased to be relevant to our technology or the expanding role of the female worker in our economy. The Commission has found that such laws and regulations do not take into account the capacities, preferances, and abilities of individual females and tend to discriminate rather than protect." 29 C.F.R. § 1604.1(b).

The federal courts are apparently moving in the same direction. These federal district courts—including one within the last month—have now squarely held that Title VII supersedes such restrictive state laws. In addition, both the Fifth and Seventh Circuits have held that company-imposed restrictions, paralleling state laws—that is, placing private weight limits on women's jobs—also violate Title VII. For instance, in *Weeks* v. *Southern Bell Telephone & Telegraph Co.*, 408 F. 2d 288 (5th Cir. 1969), the court set a stringent standard for establishing a "bona fide occupational qualification" exception to Title VII. This is the exception under which employers have argued that state laws allow them to discriminate against women workers. The *Weeks* court held that:

The employer has the burden of proving that he has reasonable cause to believe, that is a factual basis for believing, that all or substantially all women would be unable to perform safely and efficiently the duties of the job involved.

Some states have also taken action under Title VII. Delaware has repealed all its labor laws for women only. So far, there has been no outraged cry from women workers. Five states have repealed their hours laws; in six states and the District of Columbia, the Attorneys General have ruled that state laws are superseded by Title VII or state fair employment practices laws; in another six states, women workers covered by the Fair Labor Standards Act are exempted from the state laws; in two states, there are no prosecutions under state laws; in two states, there are exemptions from laws if the employee voluntarily agrees; and in one, the weight lifting regulation has been extended to men. In other words, twenty-two states and the District of Columbia have already repealed or greatly weakened the effect of the state labor laws on women.

Given this action of the EEOC, of the Federal courts, and of the States, can we really say that the impact of the proposed amendment on State labor laws furnishes any basis for opposition to it? We must recognize that these laws are already invalidated or being invalidated. It appears that opponents of the amendment are trying to erect bridges which were crossed five years ago, when Title VII went into effect.

Third and finally with respect to State labor legislation. There is abundant evidence that if the amendment is ratified it would result in the general extension of certain benefits to men that are now available only to women rather than invalidating them altogether. I recognize that this issue has been the subject of some controversy before the Committee. Nevertheless, I suggest there is ample precedent already on the books to substantiate the conclusion that the fears of wholesale elimination of benefits for women are unwarranted.

In the first place, until Title VII the EEOC has consistently held that laws giving women benefits—such as a lunch break—must be extended to men. The Seventh Circuit has indicated it would be the same, when it held in *Bowe* v. *Colgate-Palmolive Co.*, 416 F. 2d 711 (7th Cir. 1969), that the company-imposed weight limit could be validly extended to men under Title VII, provided the company allowed members of either sex to show he or she could perform the job in question. And Georgia took a similar approach to its weight-lifting regulation, which was extended to men and rephrased to prohibit "strains or undue fatigue" rather than a set weight limit.

In other areas of the law, courts have also indicated a willingness to extend benefits to a class of people unconstitutionally excluded from the benefit, rather than voiding the law under which the class was improperly excluded. As long ago as 1880, in *Neal* v. *Delaware*, 103 U.S. 370, the Supreme Court ruled that a state constitution giving whites only the vote was not void under the Fifteenth Amendment, but rather that the right to vote must be extended to blacks. Likewise, in *Levy* v. *Louisiana*, 391 U.S. 68 (1968), when a Louisiana statute denied illegitimate children the right to recover for their mother's wrongful death, the Supreme Court held that the Fourteenth Amendment required the extension of protection to them rather than voiding the legitimate children's right to recover.

Clearly, if the courts have authority to extend benefits to an excluded class under the Fourteenth and Fifteenth Amendments, they will have the same authority to extend benefits under the proposed Equal Rights Amendment. Moreover, courts have a general obligation to interpret instruments reasonably. If this means granting a day of rest to men, rather than destroying this right for women, the courts should and presumably will follow that path, especially in view of the very ample expression of opinion by members of the Congress and witnesses that some protective laws should be extended to both sexes rather than voided.

Finally, with respect to this problem, we should not lose sight of the fact that the Congress and state legislatures will have the opportunity to enforce the Amendment and fashion its general command to specific situations in a comprehensive and reasonable manner.

Mr. BAYH. Mr. President, to my mind these arguments effectively refute the charges that the equal rights amendment would disrupt family law and protective labor legislation in the States. I would also, however, like to call to the attention of the Senate the probing analysis of Prof. Thomas I. Emerson of the Yale Law School. He described the effect of the amendment on our legal system as follows:

> First, the courts are entirely capable of laying down the rules for a transitional period in a manner which will not create excessive uncertainty or undue disruption. Actually the courts face similar problems every time they hold that part of a statute is unconstitutional, and they have developed detailed rules for handling these issues under the concept of "separability" (or "severability"). The essential question is whether the legislature would have intended the statute to stand in its modified form. In making this decision the courts have the aid of legislative history, which can be supplied in this case. There is no reason to suppose, therefore, that formulation of a coherent legal theory applicable to the Equal Rights Amendment is too complex or too difficult for the legal system to cope with.
>
> Second, there has been a great deal of talk that passage of the Equal Rights Amendment will cause vast changes in many features of our national life. I am inclined to feel that the alarms and warning are, as usual, overplayed. Whether that be the case or not, however, if such great changes do occur it will be only because they are necessary. Those opponents of the measure who stress this aspect of the Amendment are acknowledging that widespread discrimination against women persists throughout our society.
>
> Third, it has been argued that adoption of a constitutional amendment will bring about, almost inadvertently, drastic alterations in important institutions of society before there has been time to work out the major policy changes required by the new provision. The example most frequently given is the Selective Service system. But one need not conclude that, in those few areas where major new policy must be formulated, there is not adequate time in which to do it. If Congress adopts the Equal Rights Amendment it will surely have full opportunity during the period of ratification by the States to take up amendments to the Selective Service Act. Other areas of our law, such as the marriage and divorce laws, may need similar attention from State legislatures. It is not a weakness but a strength of the Amendment that it will force prompt consideration of some changes that are long overdue.

Mr. President, I think that I have shown that there is indeed a great need for the equal rights amendment. We must make it abundantly clear for future years that we will not tolerate discrimination based on sex, instead of the attributes of each individual. I think, further, Mr. President, that there is ample evidence to show that this measure has been fairly and completely studied. It is legally sound. As Professor Emerson concluded:

> My conclusion from this survey of the legal problems raised by the Equal Rights Amendment is that the method chosen is the proper one and the instrument proposed is constitutionally and legally sound. I urge the Senate to accept the pending Resolution and submit the Amendment to the States for ratification.

I can only repeat what Professor Emerson said. The amendment is needed. It is sound. It has been passed by the House. Now it is time for this body to act.

Mr. President, I ask unanimous consent to have the following material printed in the RECORD at the conclusion of my remarks:

A letter and statement from Prof. Robert Braucher of the Harvard Law School, expressing his support for the equal rights amendment;

An excellent article on Women in the Law, an empirical study by Dorothy Glancy of the Harvard Law School;

A summary of State Labor Laws Affecting Women, prepared by the Department of Labor;

A legal memorandum on the Age of Majority;

A legal memorandum on Women as Jurors;

A paper by Susan Deller Ross of the New York University Law School on Sex Discrimination and Protective Labor Legislation;

An article by Faith Seidenberg from the Cornell Law Review on trends in the law of women's rights;

A telegram indicating support for the proposed amendment from members of the Harvard Law School faculty; and

A legal memorandum by Carol Sher-

XUM

man of the Harvard Law School on the effects of the equal rights amendment.

There being no objection, the material was ordered to be printed in the Record, as follows:

Law School of Harvard University,
Cambridge, Mass. September 4, 1970.
Hon. Birch E. Bayh,
U.S. Senate,
Washington, D.C.

Dear Mr. Senator: Enclosed is my statement in support of the Equal Rights Amendment, for such use as you care to make of it. The statement was stimulated by my personal discussion of the subject with my colleague, Professor Freund of the Harvard Law School, who I understand will testify against the amendment next week. Although the statement is my own, I am also authorized to represent the Unitarian Universalist Association in its endeavor to secure passage and ratification of the Amendment.

Ordinarily I have the highest respect for Professor Freund's judgment on constitutional problems, and I have been puzzled by his uncharacteristically stand-pat views on this subject. Perhaps it is relevant that he has been a life-long disciple of Mr. Justice Brandeis and that the justice made much of his reputation in the famous case of *Muller* v. *Oregon*, where he argued successfully that a state could constitutionally limit the working hours of women. Of course such limitations now serve primarily as a device to discriminate against women, and are a primary target of the proposed amendment.

In any event, I urge you to stand firm in support of the amendment.

Sincerely,

Robert Braucher,
Professor of Law.

Statement in Support of the Equal Rights Amendment for the Unitarian Universalist Association

(By Prof. Robert Braucher)

I am Robert Braucher, Professor of Law in Harvard University, Republican, chairman of the National Commission on Consumer Finance by appointment of President Nixon, and a Massachusetts Commissioner on Uniform State Laws by appointments of Governors Herter, Furcolo, Peabody and Sargent. I was chairman of the committee which prepared the Uniform Law Commissioners' Model Anti-Discrimination Act, in which prohibitions against discrimination on account of sex were included. I speak for myself and for the Unitarian Universalist Association in endeavoring to secure passage and ratification of the Equal Rights Amendment.

It is argued against the proposed Amendment, first, that it is unnecessary in view of the equal protection clause of the Fourteenth Amendment and the Civil Rights Act of 1964, and, second, that to the extent that it goes beyond existing law it opens a "Pandora's box" of unknown problems. My argument in response is: first, that it is extremely unclear at the present time whether the law provides the same equality for women that it provides for Negroes; second, that the "Pandora's box" has already been opened; and, third, that true equal protection of the laws for women can be achieved in a more orderly and legitimate way by cooperative effort of legislative, executive and judicial branches of Federal and State governments, responding to a Constitutional Amendment, than could ever result from the most enlightened and progressive decisions of the Supreme Court.

The present law.—The latest pronouncement of the Supreme Court, in *Hoyt* v. *Florida*, 368 U.S. 57 (1961), upholds a provision as to women jurors that would have been obviously unconstitutional as to Negro jurors. A pending case, *Phillips* v. *Martin Marietta Corp.*, 411 F. 2d 1, 416 F. 2d 1257 (5th Cir. 1969), cert. granted March 2, 1970, upholds a discrimination against women in employment on a theory which would be absurd and tragic if applied to Negroes. It is to be hoped that the Supreme Court will overrule the jury case and reverse the employment case, but the justices would undoubtedly feel more secure in taking such action if they could be confident that they were moving in harmony with rather than in opposition to the elected branches of the Government.

The unkown problems.—Many of the problems have been identified. At the one extreme, few people would defend today a rule that women are forbidden to serve alcoholic beverages, though the Supreme Court upheld such a prohibtion in *Goesaert* v. *Cleary*, 335 U.S. 464 (1948). At the other extreme, the advocates of the Equal Rights Amendment do not believe it would require maternity leave for men or the repeal of laws against rape. In between are the much-discussed problems of selective service, a host of restrictions on women often euphemistically labelled "protections," and a host of senseless differences between men and women as to capacity to contract, capacity to marry, the burden of being treated as adult criminals, the power to manage their own property, the right to various retirement benefits, and the distribution of property on the death of the owner. All should be eliminated.

The need for cooperative effort.—Judicial reform of obsolete laws under the banner of "equal protection of the laws" is likely to savor of usurpation when the obsolete law is hallowed by widespread acceptance over a long period of time. Moreover, when the question is whether men and women should both be entitled to social security benefits at 62 (the present rule for women) or at 65 (the present rule for men), judicial decision is likely to be far more disruptive and confusing than a clear-cut legislative decision, with a clear effective date and a provision for funding. A Constitutional Amendment gives the judges a mandate to which they can respond with confidence that they are in step with the democratic process. It also gives the legislatures, both Federal and State, a mandate to make the numerous choices needed, and I would hope that those who sponsor the Amendment would after ratification sponsor implementing legislation. Congress need not enter into all the areas traditionally left to the States. If a State legislature leaves a law on the books that a married woman has capacity to buy a house at 18 but her husband does not until he is 21, at least the judges will know that they are authorized to do modern justice.

The equal protection clause of the Fourteenth Amendment has been on the books for more than 100 years. It was clearly designed to provide equal protection for Negroes, and we are at long last beginning to see actual protection for Negroes. This did not happen by judicial decision alone; it required action by Congress and the President as well, and it will not be fully effective until State and local governments fully cooperate. It is not at all clear that the Fourteenth Amendment was intended to establish equal protection for women, and it is very clear that it has not done the job. I hope it will not take 100 years to establish equal protection for women. However long it takes, it is time to start. And the best start is a fundamental declaration of national policy, clearly legitimated by the full democratic process as the Supreme Law of the Land.

[From the Harvard Law School Bulletin, June 1970]

Women in Law: The Dependable Ones

(By Dorothy J. Glancy)

Harvard Law School had been in existence for more than 130 years before it began to admit women as candidates for the LL.B. (now J.D.) degree. In the last seventeen years approximately 240 women have received law degrees from Harvard.[1] What has happened to these rather extraordinary women since they left the Law School? Are they practicing law? Raising children? Making as much money as their male counterparts? Facing bitter discrimination? Rather than leave the answers in the realm of mythology and speculation, some of the women students became interested in discovering the facts. They proposed to Dean Derek C. Bok that a survey be conducted of all the women graduates of the Law School, and he agreed to support such a project. By late February, 1970, I formulated and mailed a questionnaire to 825 men and 238 women graduates of the Law School. By the last week of April, 565 replies from 400 men and 165 women had been keypunched and analyzed by an IBM Computer-7094.

The subjects for the survey were seletced by matching each woman with men who were in the same class and had about the same grade average. The idea was to find out if there were any differences in post Law School performance and attitudes of men and women who were similarly situated at the time they graduated.[2] As it turns out, the differences are neither so great nor so pervasive as one might expect, but there are differences and even a few surprises.[3]

Like all of the other information reported in this study, the figures are, of course, only as accurate as the responses received. Errors in memory, in understanding of the questions, or in the recording of the subjects' responses may have affected the results. Moreover, the results reflect only generalized percentages of the men and women in the sample. They should not be extrapolated to indicate the characteristics of any individual man or woman, but only the general tendencies of the class. The sample being relatively small may not be representative of all men and women graduates of Harvard Law School, much less the entire legal profession.

BACKGROUND

The men and women in the sample tended to have come to Harvard Law School from basically similar academic backgrounds. Almost 50% of both men and women graduates came from co-educational undergraduate colleges, although the women tended to have come from small colleges, with less than 3,000 students.

Only 66% of the women in the sample are married, as compared with 81% of the men. The divorce rate is low—only 5% of the sample indicated that they have been married more than once, with no difference between the men and the women. Of the married women in the sample 63% were married to lawyers. Interestingly enough, only 2% of the married men were married to lawyers. This seems like a very large differential until one stops to realize that fewer than 3% of the nation's legal profession is made up of women lawyers. (There simply are not enough to go around.) Very few of the spouses of both sexes seem to disapprove of a legal career. But the husbands of the women lawyers tended to be more enthusiastic or approving of their lawyer-wives legal careers than the wives of the men in the sample. Only 69% of the married women indicated that they have children, as compared with 82% of the married men. In addition, the women in the sample, had fewer children, only one or two, (73%) than the men (58%). This difference may be explained by the fact that a larger proportion of the women are younger than the men. But when controlled for a number of years out of Law School, the women in each of the three general age groups continued to show a greater tendency to have only one or two children. One could speculate that the legal careers for women have tended to limit the size of their families.[4]

Footnotes at end of article.

PLACEMENT

Because of the way in which the sample was selected (by matching men and women graduates for grade average) the results do show much the same overall performance in Law School, including membership on the *Law Review*, Board of Student Advisers and Legal Aid. When it became time to look for a job, about a third of both men and women secured employment through the Placement Office and almost half of the sample through independent application. But the women were likely to have more interviews than the men. Twenty-three percent of the women reported having had 12 or more interviews as compared with 15% of the men. Even though most men had fewer interviews, they had more firm job offers whereas only 45% of the women received two or more offers.

Only about 13% of both men and women reported receiving no offers at all. One might say then, "Well, what are the women complaining about, at least they are as likely to get jobs as the men." But that is not the point. What is important is that the women's choices were more circumscribed than the men's. Such a restriction on the women's opportunity may substantiate the impression of some women graduates that they are treated by some interviewers as "freak[s] . . . Perhaps a pleasant or stimulating interview, but never something to be taken seriously—certainly not to hire." This attitude is not the overt discrimination for which the Placement Office threatens stern reprisals. It is a more subtle sort of attitude on the part of some members of the legal profession that a woman lawyer or law student will be neither as good nor as useful as her male counterpart. This negative attitude, ordinarily given the harder-sounding name of prejudice is, we hope, withering away with the advent of more and more women in all aspects of the legal profession. In fact, one of the most striking aspects of the survey is that we found no evidence to substantiate this negative attitude.

EMPLOYMENT

Of all of the rationalizations used to support the negative attitude toward women lawyers, perhaps the most frequently expressed is the assertion that women law students do not use their legal training—they "cop out" and become "mere" housewives and mothers. The fact is that almost all of the women graduates of the School are employed (84%). Admittedly this figure is somewhat lower than the men (98%) who are employed.[5] Virtually all (90%) of these women seem to have left the legal profession because they have very young children. Almost all of the 16% not now employed were employed immediately after they graduated from Law School and stated their intention to practice law again in the future.

Some of the women indicated that if there were adequate child care available this hiatus would be sharply reduced. Given enough public concern and support, perhaps there will be day-care centers in the future. It would be possible, for example, for a law firm or a business to organize really adequate centers for the children of all the lawyers, secretaries and other personnel, probably on some sort of charge-for-use basis. Were such facilities available, probably a much smaller portion of women lawyers would find it necessary to leave their legal careers.[6]

Short of the more radical proposal suggested above, law firms and businesses should reassess their positions on the hiring of lawyers (men or women) part-time. Almost 25% of the women graduates now working indicated that they are working less than full time.[7] Moreover, as many as half the women not now working expressed a desire to work part-time while their children were young, if they could only find a law firm or business which would agree to hire them on that basis. However, of those who answered the question, over 62% (and a significantly higher percentage of men than women) did not feel that "law firms tend to be willing to work out arrangements for those women attorneys who want to work only certain hours so that they can be with their families." This kind of inflexibility on the part of firms results both in a senseless waste of legal talent and in needless frustration for women attorneys who want to work but can do so only part-time.[8]

POSITIONS

But what about the 84% of women graduates who are working? What are the characteristics of the occupations in which they are engaged? The short answer is, of course, diversity. But in more specific terms, there are some aspects in which the women in the sample differ significantly from the men. Over half of both men and women in the sample are practicing with law firms or as sole practitioners. But a much higher percentage of men (72%), than women (52%), initially went to work for a law firm upon graduation. From the women's comments there seems to have been a reluctance on the part of some law firms to hire women attorneys.

By the time the men had reached their present positions, a large percentage had shifted out of law firms and into business positions, while about half of the women remained in law firms, primarily in firms with fewer than 50 members. The Federal Government initially employed a slightly greater proportion of women in the sample (16%) than men (11%). But this differential has leveled out so that at present, only about 7% of both men and women are employed by the Federal Government. It appears that the women who left the Federal Government went primarily into state and local government, business and such specialized positions as non-profit foundations. Legal Aid accounts for a significantly larger proportion of the women (9%) than the men (1%).

About half the respondents (slightly more men than women) indicated that they are also employed in one or more additional positions besides their primary employment. The men are evenly spread out between private practice, teaching, consulting, business and "other". Almost no women (only 1%) responded that they are engaged in private practice as additional employment as compared with 5% of the men. The women also consult part-time only half as frequently as the men. A few of the women who checked "other" noted that this additional employment is housework ("exclusive of wife-and-mothering," as one woman phrased it), which takes anywhere from 15 to 40 hours a week.

PUBLIC SERVICE

I had expected that most of the recent Harvard Law School graduates would be engaged in some sort of public service activities. About half of the sample indicated that they devote some of their time to volunteer public service work. Of those who do, almost all of them devote no more than five hours per week to it. More, approximately two-thirds of the sample (and men somewhat more than women), indicated that they engage in non-compensatory public service activities during their business time. About half of those engaged in such business public service devoted less than 5% of their business time; an additional third of those engaged in business public service devoted from 5% to 15% of their business time. Most respondents, women slightly more frequently than men, indicated that these public service activities are law-related.

Those lawyers in law firms and legal education tend to do more than their share of this public service work—almost 75% of the men and women in the sample who are employed by law firms, and 82% of those in legal education indicated that they do public service work during their business time. In contrast, only about half of those employed in businesses said that they engaged in such public service activities.

FIELDS

Although women from Harvard have succeeded in making a place for themselves in virtually every field of law, there are some fields in which women seem to be either over-represented or under-represented. It was to be expected that a large number of women would work in fields where they have been traditionally accepted, for example, poverty law, family law, as well as in trusts and estates, probate, real estate and tax (where a fairly large proportion of both men and women lawyers in the sample practice). But a high proportion of the women also indicated that they practice in legislation, as well as the traditionally male fields of corporate and commercial law and litigation. A much larger proportion of the men lawyers, however, is engaged in the practice of corporate law (50%), litigation (24%) and commercial law (24%).[9]

Almost one quarter of the men indicated that they are engaged in general practice, as opposed to only 9% of the women. This tendency of women not to go into general practice, but rather to specialize was also noted by Professor James J. White in his study, "Women in the Law."[10]

MOBILITY PATTERNS

Most of the above findings were fairly predictable. The real surprises came in the mobility patterns in and out of the particular fields of law. The percentage of both men and women now practicing in poverty law is double that indicated for initial employment. Conversely, litigation is indicated by both sexes only about two-thirds as frequently for present employment as for initial employment. It seems that Harvard Law School graduates are shifting out of litigation and into poverty law, although the same individuals may not be involved. Even more striking is the mobility of women out of corporate law. The men indicated that a few more of them are practicing corporate law in their present positions than they were initially. In contrast, the women tended to practice corporate law in their initial position about 50% more frequently than at present.

This mobility of women lawyers out of corporate work probably indicates an atmosphere inhospitable to women. If, as almost a third of the lawyers in the sample *voluntarily* asserted, men, and women are equally capable of practicing in all fields, it would seem that something is keeping or driving women out of the corporate field. Maybe it is boredom or distaste. Unlikely. Perhaps it is long hours—which the women in the sample indicated they were less likely to work—but there is no indication that corporate work requires significantly longer hours than other fields.

The mobility of women out of corporate work is best explained, therefore, by the argument most frequently used to dissuade women lawyers from entering corporate law, i.e., that corporate clients simply will not accept them.[11]

CLIENTS

Women lawyers in the sample indicated that they deal with far fewer clients than the men. For whatever reason, client prejudice is undoubtedly a factor. Twelve percent of the women responded that they speak with no clients in an average week (as opposed to 1% of the men). An additional 37% of the women said they speak with less than four clients (as opposed to 17% of the men).[12]

These facts are strangely inconsistent with the opinions of nearly three-quarters of both men and women who felt that "women attorneys should be allowed to deal with clients." Some clients, perhaps many clients, refuse to deal with women attorneys. It

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seems incumbent upon the legal profession to bear the responsibility of informing and persuading both its own members and its clients that women lawyers are capable of and deserve the opportunity to practice in all fields in law on an equal basis. One Washington law firm, confronted by a client who refused to work with a woman associate assigned to a problem, replied that the woman attorney was the best lawyer for the job. If the client was unwilling to accept her advice and counsel, that client would have to find another law firm. It took telling the client twice, but the result was that the client accepted the woman lawyer—reluctantly at first, but later with great enthusiasm—and she was found to be capable.

Not every law firm is in a position to do this. Many are, but they are simply unwilling to make the effort or to run the risk of losing a bigoted client.

INCOME

In their initial positions, both men and women received the same salaries. But the present income figure presents a different picture. Fewer than 12% of the women are making more than $20,000 as compared wtih 57% of the men. These figures indicate that although most women graduates of Harvard Law School can get jobs, and even start out at about the same income levels, most of them will never reach the high-income high-status positions many of their male counterparts achieve. Professor White's study in 1967 showed a similar pattern.[13]

There are at least four factors which may tend to mitigate, but probably do not eliminate, this income differential. First, some fields of law may be more remunerative than others. The sample of 565 was not large enough to run adequate controls on this factor. But even if so-called "women's fields," such as poverty or probate, were to pay significantly less than so-called "men's fields," such as corporate law, that would merely emphasize the injustice of making it difficult for women to practice in the higher paying fields.[14] Second, is the factor of part-time work. Almost all of the women who are employed less than full time (25%) reported incomes of $15,000 or less. But that statistic accounts primarily for the fact that 57% of the women are making less than $15,000 but only 21% of the men. Thus, the percentages fit almost exactly. A third factor, related to the second, is the number of hours a lawyer works. Eighty-seven percent of the men reported that they work more than forty hours a week, as compared with 57% of the women. These figures may be slightly distorted by the number (one-quarter) of the women working only part-time. Even so, the difference is significant, and may account for some, but probably not all, of the upper income differential. Two percent of the women reported that they work more than sixty hours a week—and 2% of the women also report incomes of more than $30,000. For men the relation between long hours and income is less direct: 28% men report incomes of more than $30,000, but only 12% of them are working more than sixty hours a week. In other words, more than twice as many of the men are making high incomes than the long-hour factor would explain.

The fourth factor, which we expected to be most important, is tenure. Comparing the incomes of the men and women who graduated from 1953 through 1959, 84% of the men, but only 30% of the women, report incomes of more than $20,000. Taking the group who graduated between 1960 through 1964, 58% of the men, but only 18% of the women, report incomes of more than $20,000. The most recent graduates, from 1965 through 1969 indicate that 17% of the men are making more than $20,000, but none of the women.[15] It is probable that the number of years a lawyer has been in a position also affects income levels. Seventy-five percent of the women, but only 52% of the men, have been in their present positions less than three years. Similarly, 18% of the women indicated that they have been in their present job seven or more years as compared with 28% of the men. That the men are half again as likely to have been in their present position longer than the women is probably not sufficient to explain the fact that the men in the sample were more than four times as likely as the women to be making more than $20,000. It is improbable that the entire forty-five percentage-point differential between the men and the women can be explained away entirely by this factor. Unfortunately, the sample is not large enough to run all of these controls simultaneously and get any significant results. Are women lawyers discriminated against with regard to income? There is at least a very wide differential between men and women in the upper income brackets.

JOB CHANGES

Of all of the rationalizations used to support a negative attitude toward women lawyers, one of the most frequently asserted is that women lawyers cannot be depended upon. They move around from job to job, it is said, either because of whim, because of maternal responsibilities, or because their husbands move.[16] This assertion is simply not borne out by the facts. Over 55% of the women in the sample have made no more than one change in employment as compared with only 39% of the men. However, 34% of the men have changed employers three or more times as compared with 24% of the women.

LOCATION

We expected that Harvard Law School graduates would tend to congregate in the eastern part of the country, and that women graduates would be inclined to start out in the large eastern cities where law firms and businesses are more receptive to women lawyers. We did not expect to find 73% of the women (as compared with 50% of the men) starting out in New York (31%), Boston (23%) and Washington (19%).

The most surprising difference of all was that 23% of the women, but only 9% of the men, initially worked in Boston. Because 83% of the women started out somewhere in the East (compared with 67% of the men), the rest of the nation did not initially absorb many of the women graduates. At present, both sexes seem to be more dispersed away from Boston, New York and Washington, although these three cities still account for 45% of the men in the sample and 58% of the women. The differentials between the proportions of men and women practicing in most locations have narrowed, particularly in the South which at present accounts for 9% of the men in the sample and 8% of the women. The only area that is still significantly out of balance is the Midwest which accounts for 12% of the men, but only 5% of the women.

MOTIVES

Asking people why they do something rarely elicits real reasons. Asking lawyers, whose metier all too often involves the fine art of obfuscation and ducking hard questions, is probably even more unreliable. However, some rather interesting results came from the survey when the lawyers were asked why they took their initial positions, why they left them and why they took their present positions.

The overall results were fairly predictable—probably because people find it easier (both in the sense of not having to think and in the sense of not revealing themselves) to answer such questions the way they think they are expected to answer them. And so we found that the men in the sample frequently said that they took or changed employment for more remuneration and advancement opportunities; they did so significantly more often than women.

In taking their first jobs, men and women were equally motivated by remuneration; however, it was location that appeared to be the single most important motive. They cited remuneration almost twice as frequently as a reason for taking their present jobs. For the men it seems that the desire or need for more money sets in *after* the first job. This tendency may be explained by increasing family obligations—over 87% of the men are married, and their wives are usually not working (78%). In contrast remuneration seems to become less important to the women as they change from their initial to their present positions. But of the 66% women in the sample who are married, almost all (98%) have husbands who are working. The women, on the other hand, said that they were motivated by intellectual stimulation, socially important problems and opportunities for service.

These motives are thoroughly consistent with the female role in our society, which tends to frown on aggressive women who would come right out and express a desire to compete for advancement and high income.[17] The women preferred to see themselves as helping others rather than competing with them, as developing a private sense of intellectual accomplishment divorced from competitive success.

Interestingly enough, fewer women than expected responded that family, marriage or maternal reasons affected their decision to take or leave employment. But 20% of the women who gave reasons for leaving their first employment stated that they did so because of the birth of a baby—that figure matches well with the 16% of the women in the sample who are not working, since some of the women who left the ranks of the employed to have children have by now returned to their profession. Surprisingly, 3% of the men also left their first jobs because of the birth of a baby. Almost the same percentage of men as women either took or left employment for family reasons—although the men seemed to take their first job for family reasons, and the women were more likely to leave their first job and take their present job for family reasons.

SATISFACTION

When asked about changes in their aspirations, the women tended to say slightly more often than the men that they changed their minds both during and after Law School. By the same token, the women indicated that they would choose an occupation (position, field of law) different from the one they are now engaged in, significantly more frequently than the men. Thirty-six percent of the women (but only 16% of the men) indicated that they are not now engaged in the occupation of their first choice. This relatively high dissatisfaction rate on the part of the women can be read in a number of ways—innate fickleness, general dissatisfaction with everything, a greater willingness to admit dissatisfaction, or some force keeping women graduates out of those occupations, which they would most like to pursue.

It is my impression from the women's comments that it is this latter force that provides the best explanation. It seems to be, in fact, a combination of external and internal factors. Both out-right discrimination, and the subtle dictates of a negative attitude toward women, direct them out of litigation, labor law or corporate work. Rather than fight the system, some women change their minds and redirect their aspirations from such fields to less competitive "women's fields." The result is that many women, therefore, are not doing the kind of work they would most like to do and may be most capable of doing.

There is no excuse for society, and the legal profession in particular, to penalize women for entering the traditionally male fields. It is interesting to note that over a third of the

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lawyers who responded to the questionnaire emphatically commented that whether a man or woman is suited to a particular field or occupation depends primarily on the individual's desires and abilities, not on his or her sex.

The internal factors explaining the higher incidence of dissatisfaction and aspiration change in the women are closely related to the external factors. Time and again women reported a change in aspiration from male-dominated, competitive fields to those fields that have absorbed a large number of women lawyers for years.

As one woman states, "The unfortunate fact about private practice (litigation in particular) is that the characteristics which make you successful, like aggressiveness and desire for material wealth, are often the very qualities that make you an unrewarding human being." She mentions how enjoyable litigation is—"providing you win occasionally." This conflict reaches to the very core of a woman lawyer's identity and rests on top of whatever overt discrimination is impinging on her from the outside. The result is that women lawyers tend to both change their aspirations and to feel less satisfied with their present positions than their male counterparts.[18]

Ironically, when asked whether they would return to Law School if they could make the choice again, the women in the sample tended to be slightly more affirmative than the men, although over 90% of both sexes responded in the affirmative. When asked to elaborate, one woman put it:

> Our society takes women seriously only if they have impressive credentials, such as degrees from well-known law schools. I want to be taken seriously . . . so I needed the credentials.

Over ten times as often as the men, the women responded that they would return to law school and Harvard Law School in particular, to gain the status necessary to be taken seriously as well as to do something significant about the problems of society.

XUM

ATTITUDES

One of the most interesting portions of the questionnaire was the experimental section through which we hoped to find out something about the attitudes of the men and women, and perhaps even to derive some insights into their psychological make-up.

We experimented with a variety of techniques, although none was perfect because of the absence of control conditions. The responses came back in a wide variety of forms—some of them blank, others confused, and a few outright incensed. But as many as three-quarters of the respondents answered at least part of the attitudinal section.

However, we attempted to adapt a mailed questionnaire to some of the techniques of testing motivation through thematic apperception tests (TAT). The results, although not a valid test of motivation, were intriguing. A true TAT, given under controlled conditions, gives a valid and reliable measure of individual differences in the strength of various motives. The subjects usually are gathered together in a room with an examiner to explain that the subjects will be given four mintues to write a story based on a verbal or pictorial cue, such as a picture of a young boy talking with an older man, or, "After first-term finals, Anne finds herself at the top of her medical school class."[19] Our questions IV 1 and 2 and IV 1 and 2-A, introducing hypothetical lawyers named George Andrews and Barbara Robbins, as Deputy Solicitor General and partner in a large New York law firm, were similarly designed.[20]

I was interested in finding out whether the women in the sample showed the expectancy of negative consequences from success, or anxiety about success, which Dr. Horner has found repeatedly in from 65% to 85% of college-age women tested; and whether, as in Dr. Horner's study, the women in the sample did so significantly more often than the men.[21]

The results are rather startling. The women showed anxiety about success three to four times as frequently as the men. In other words, approximately one-third of the women who responded to the cues showed such success anxiety as compared with less than one-tenth of the men.[22] This significant relation was not affected by the number of years out of Law School, nor by the kind of success cue (whether partner or Deputy Solicitor General), nor by nature of occupation. There seemed to be no significant relation between the women who showed anxiety about success, and the fields of law in which they were practicing.[23]

Dr. Horner's study of University of Michigan undergraduates uncovered some rather bizarre results—even markedly sadomasochistic feelings toward successful females on the part of some of the women in her study. The responses from Harvard Law School women were more reserved, possibly because the subjects had more time to reflect about their responses.

Female responses exhibiting anxiety (often unconscious) about success, typically attributed a loss of femininity and personal and family difficulties to Barbara, the successful woman lawyer, whether she was Deputy Solicitor General and president of the *Law Review* or partner in a large New York law firm. "Being president of *Law Review* isn't so great—they're usually prigs. She's probably blonde and frigid," was one response. It is fairly clear that it was flippant and possibly even meant to be funny. It is significant, however, that the respondent chose to be flippant in a way that focussed on particular negative attributes and consequences. Another female response spoke in terms of the successful woman's "family (husband et al) and friends" as "tools to be used in the advancement of her career." One way to make the succes less threatening is to deny effort or intellectual responsibility for its attainment. Anxiety about success, therefore, also manifests itself as a tendency to undercut the success of a woman lawyer by describing it as the result of luck, family connections, or other reasons unrelated to ability; or by denying that she was really successful at all:

> . . . better than most men in her field, always second and probably feels successful. A "token" to women's rights who will probably be expected to do an enormous amount of work out of gratitude.

Note that Barbara may be better than most men in her field; but that is not why she succeeded. She succeeded only as a result of "tokenism." The subject cannot, in fact, fully accept that Barbara is really successful at all and therefore rates her as "second." The respondent goes on to mention the enormous amount of work Barbara will be expected to do out of gratitude—as a kind of punishment or price for succeeding.

The result of anxiety about success, particularly in able, highly educated women otherwise likely to be very high in achievement motivation, is conflict. They desire to succeed, but at the same time fear that success will deny or destroy their identities as women. One woman encapsulated such a conflict in her response to Barbara as a partner in a large N.Y. law firm: "Perhaps wistfully, (I) wish I were her—but only momentarily—how dull." This kind of conflict and anxiety are undoubtedly complexly bound up in an individual woman's core identity and her sense of her role as a female.

Dr. Horner feels that fear of success is a learned motive, probably deriving from very early childhood when little girls are made to understand that they are not expected to be as aggressive or competitive as boys, and that the proper way for a girl to act is to let the boys win. Much more research will have to be done before such speculations can be substantiated. What we do know now is that such a fear of success motive operates and interrelates in complicated ways with the many motives that determine the level of accomplishment in achievement-oriented activities, and women tend to be adversely affected by them significantly more often than men.

In addition to the findings about success-anxiety, the descriptions of the hypothetical lawyers, George and Barbara, also show some of the ways respondents see themselves and react to lawyers of the opposite sex.

On the whole, both men and women had more to say about Barbara. Whether as partner or as Deputy Solicitor General, she was most often to be described in positive terms. This may be explained in part by the surprise with which her success was greeted. George was also described positively but significantly less often than Barbara.

The tendency to describe Barbara in favorable terms remained fairly constant when controlled for the number of years the subjects had been out of Law School, although she received slightly more mixed responses from the more recent graduates and far more positive responses from those who graduated between 1960 and 1964.

The picture for George is all down hill. The more recent classes much more often described him in mixed or negative terms, and less frequently in neutral terms. The difference may be explained by a generally less favorable attitude on the part of recent classes toward the traditional modes of success embodied in the cues. But it is odd that the pattern does not hold true with regard to a woman succeeding in the same ways. Perhaps the fact that a woman succeeds in the legal profession at all is revolutionary enough to satisfy recent classes who, according to popular wisdom, are supposed to be more skeptical of traditional roles and methods.

Barbara was, more often than George, described as unusual, aggressive, and hard-working and much more aggressive as a partner than as Deputy Solicitor General. Both Barbara and George were described more often as attractive than unattractive, but those responding seemed to be more concerned with Barbara's personal appearance than with George's. He was more often described as cold and calculating and one who manipulates people. This "machiavellian" quality was also attributed to Barbara but less than half as frequently. George was much more often described as dull—almost six times as often as Barbara. He was also described as a "WASP" twice as often. With regard to intelligence, there did not seem to be much difference between Barbara and George. The Deputy Solicitor General, whether as a man or a woman, was described more often as intelligent and socially conscious than the partner. In contrast, the partner was described more often as personally attractive and aggressive.

The response pattern of the women tended to be different from that of the men. For example, they diminished the success of both George and Barbara by saying that it was the result of luck, family connections or some other factor not related to ability. They also ascribed to both George and Barbara the qualities of attractiveness, dullness, and perseverance and described the successful lawyers as "unusual" or as "grinds." When given the option of agreeing or disagreeing, with no neutral response available, the women were more likely to qualify the statement. Possibly this response pattern indicates that the women were more interested in and had more intense feelings about that section of the questionnaire. It may also be that women

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have learned to look at and talk about the legal profession differently from men.

CONCLUSION

Probably the most heartening statistic of all is that 27% of the men and 50% of the women took the trouble to explain why they refused to answer some of the questions, which, they stated, tended to elicit stereotypes. On the whole, the men were more vehement in their denial of prejudice against women attorneys; in fact, they said they opposed it. Some of them roundly criticized the narrow, naive, prejudiced little mind, which authored such questions. Ironically, the questions and statements about women lawyers, appearing in the last section of the questionnaire, had their origins in statements made to women law students by interviewers who came to Harvard Law School. In general, these interviewers have graduated from the very classes from which the sample of this study was drawn.

It is a very good sign that so many of the lawyers, particularly the men, were so militantly opposed to prejudice against women lawyers. Women should be able to look forward to a time when the men, having stated their beliefs, will both persuade others and put their beliefs into practice.

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FOOTNOTES

[1] The women represent approximately 3% of the total of 7,926 LL.B. (J.D.) graduates of the Harvard Law School during these seventeen years.

[2] Overall women at the Law School tend to graduate around the upper middle of their classes. Relatively few (fewer than one might predict from their LSAT scores), are at the top of their classes. The relatively low percentage on *Law Review*, Board of Student Advisers and Legal Aid reflects this fact. One possible explanation lies in the internal conflict about competition and success which Dr. Matina Horner discovered in her research on women's achievement motivation (See *Psychology Today*, Nov., 1969, "Why Women Fail."). The intensely competitive atmosphere of HLS, inhabited mostly by men, is the paradigm situation for eliciting the "fear of success motive" which Dr. Horner found tends to make women perform less well both than their male counterparts and than the women themselves would perform outside of such competitive situations. Some of the ramifications of this conflict are discussed further in this article.

[3] The data collected actually covers a broad range of information about the classes graduating from 1953 through 1969, beyond the differences between the men and women graduates upon which this article focuses. A copy of the data cards, program and computer print-out are on file at the Law School and available through the Dean's Office for further use.

[4] The fact that out of the 20 married women who indicated that they are not working, 18 also indicated that they had children, and one indicated that her first child was due to be born this summer.

[5] A subject was considered "employed" if he or she was in some gainful position even remotely connected with the law. This definition excluded, for example, the women who are housewives, and one male graduate who is a professional dancer.

[6] This proposal is meant neither to denigrate nor to deny that many women *prefer* to raise their own children. It is meant to suggest an alternative for those women who are forced to give up the practice of law in order to raise children.

[7] One percent of the men in the sample were employed part-time.

[8] This argument, of course, assumes that there is legal work of a nature that lends itself to part-time work. And there is no real indication of a shortage. The practical reality is that many full-time practicing attorneys devote part of their time to a number of different clients or problems. There is no reason why a lawyer could not spend a smaller fraction of his or her time at the office. But the real difficulty is that most law firms and businesses refuse even to entertain the theoretical possibility of such an arrangement, much less to give it a try. Were such arrangements available it is quite possible that men would also choose a more varied, mixed-discipline, life style.

[9] The percentages will add up to more than 100% because each lawyer was directed to indicate the four fields to which he or she devotes most of his or her time.

[10] The present study of women graduates of the Harvard Law School derived a great deal of its inspiration and some of its hypotheses from Professor White's article, "Women in the Law"; 65 Mich. L.R. 1051.

[11] Interestingly enough, such a rationalization would not pass muster as a justification for sex discrimination in hiring under Title VII of the Civil Rights Act of 1964.

[12] Such a difference might in part be explained by the fact that some women lawyers do not choose to deal with clients. One would expect, however, a more equal proportion of men and women would share this taste for the "quiet life."

[13] White, *supra*.

[14] This assumes, of course, that there are capable women who would want to practice in higher paying fields. Almost one quarter of the women who responded to the questionnaire indicated that remuneration was one of the most important reasons for taking their present employment.

[15] The size of the sample necessitated grouping classes together in order to have significant numbers in all categories.

[16] The results of the survey show that this latter proposition is absurd. To assume that there is some special migratory tendency in the husbands of women lawyers is completely unsubstantiated by factual proof. In fact, the most significant characteristic of the husbands of women lawyers is that they are themselves lawyers (63% of the present sample). In six out of ten cases, to assume that a woman lawyer is likely to leave her job because her husband will move, is also to assume that a male lawyer is as likely to change jobs. The other 4 out of 10 husbands would have to be very restless and rootless (and there is no proof to that effect) to make any significant difference between men and women lawyers who leave employment because they have moved out of town.

[17] Many of the married women with working husbands did not have to approach employment as a money making proposition.

[18] Such a conflict, of course, may also affect men lawyers and law students, particularly in this age of reassessing priorities and modes of living. Perhaps the women, in their concentration on intellectual stimulation and social usefulness merely ride the first wave of a less aggressive, competitive and materialistic future. It is interesting to note that the more recent classes seem to reflect a markedly different attitude toward what is important in life. They tend to exhibit a greater social consciousness, less materialism (at times, in fact, anti-materialism) and generally less satisfaction with themselves and their society than their older counterparts do.

[19] The latter cue was developed by Dr. Matina Horner as a test for achievement motivation and the motive to avoid success. (See, "Why Women Fail," *Psychology Today*, Nov. 1969. See also *Feminine Personality and Conflict*, co-authors, Drs. Horner, Bardwick, Douran and Futmann, to be published by Books/Cole Publishers, Inc., Belmont, Calif., in the summer, 1970.)

[20] The cues for half of the men and half of the women in each class were:

IV. 1. If you were to receive an announcement that George Andrews has become a partner in a large New York law firm, how would you describe him?

IV. 2. If Barbara Robbins, formerly president of the Harvard *Law Review*, had just been appointed Deputy Solicitor General, how would you describe her?

For the other half they were:

IV. 1–A. If George Andrews, formerly president of the Harvard *Law Review*, had just been appointed Deputy Solicitor General, how would you describe him?

IV. 1–A. If you were to receive an announcement that Barbara Robbins has become a partner in a large N.Y. law firm, how would you describe her?

We used two forms of these questions in order to control for any possible difference in the cues which might distort our results. On the whole, the type of cue (whether partner or Deputy Solicitor General) had little effect on the subjects' responses, except in the ways discussed in the text below. The cues were selected because they represent two types of traditional success situations in the legal profession.

[21] Such expectancy of negative consequences from success is one of several criteria for scoring the motive to avoid success in a standard TAT. Such a motive operates as unconscious anxiety which inhibits all other motives. Dr. Horner's research indicated that incidence of the motive to avoid success predicts performance decrements in competitive situations in over 75% of the women in which it occurs.

In this survey, the lower incidence of success anxiety among the women lawyers may be explained by several factors. Only about 60% of the women returning questionnaires responded to the cues. Since, in Dr. Horner's study, denial and avoidance are characteristic of anxiety about success, one can speculate that a number of those not responding would also show fear of success imagery under proper testing conditions. Moreover, the women attorneys might also have developed ways to handle the success anxiety, or their life situations might not arouse it, i.e., where the important men in their lives approve and encourage them in their endeavors.

[22] Five percent of the men in the sample, who showed anxiety about success, tended to congregate in those fields such as family law, probate and trusts and estates, in which women are more readily accepted. It is possible that these fields are less competitive and therefore more comfortable for men who are subject to internal conflicts about success. But the women showing anxiety did not fall into this pattern. Rather, they seem to be scattered out across a much wider variety of fields, including the more competitive ones such as litigation and corporate work.

[23] The men exhibiting anxiety about negative consequences from success also tended to focus on personal or family problems as bound up with being successful. They described George as "burned out," or with "disoriented priorities with respect to family and community." Typical male responses showing anxiety about success concentrated on the high cost of success in terms of time and emotional strain: "He has worked long hours for seven or eight years, seeing little of his family, and may be divorced because of the great strain from his work."

SUMMARY OF STATE LABOR LAWS FOR WOMEN [1]

During a century of development, the field of labor legislation for women has seen a tremendous increase in the number of laws and a notable improvement in the standards established. Today the 50 States, the District of Columbia, and Puerto Rico have laws relating to the employment of women. The principal subjects of regulation are: (1) minimum wage; (2) overtime compensation; (3) hours of work, including maximum daily and

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Footnotes at end of article.

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weekly hours, day of rest, meal and rest periods, and nightwork; (4) equal pay; (5) fair employment practices; (6) industrial homework; (7) employment before and after childbirth; (8) occupational limitations; and (9) other standards, such as seating provisions and weightlifting limitations.

Although legislation in one or more of these fields has been enacted in all of the States, the District of Columbia, and Puerto Rico, the standards established vary widely. In some jurisdictions different standards apply to different occupations or industries. Laws relating to minors are mentioned here only if they apply also to women.

MINIMUM WAGE

A total of 36 States, the District of Columbia, and Puerto Rico have minimum wage laws with minimum rates currently in effect. These laws apply to men as well as women in 29 States, the District of Columbia, and Puerto Rico. In 7 States minimum wage laws apply only to women or to women and minors. An additional 3 States have minimum wage laws, applicable to females and/or minors, which are not in operation.

In general minimum wage laws are applicable to all industries and occupations except domestic service and agriculture, which are specifically exempt in most States. The laws of 9 States—Arkansas, California, Colorado, Michigan, New Jersey, North Dakota, Utah, Washington, and Wisconsin—either set statutory minimum wage rates or permit a wage board to set minimum rates for both domestic service and agricultural workers. In Wisconsin wage orders cover both groups. The Michigan statutory rate applies to agricultural employees (except certain employees engaged in harvesting on a piecework basis) and domestic service workers, but is limited to employers of 4 or more. The Arkansas law is limited to employers of 5 or more and applies to agricultural workers, with some exceptions, whose employer used more than 500 man-days of agricultural labor in any 4 months of the preceding year. The New Jersey statutory rate applies to agricultural workers and excludes domestic service workers, but the law permits them to be covered by a wage order. California has a wage order applicable to agricultural workers, but has none for domestic service workers. The remaining 4 States—Colorado, North Dakota, Utah, and Washington—have no wage orders that apply to domestic service or agricultural workers.

Seven jurisdictions—the District of Columbia, Hawaii, Massachusetts, New Mexico, Oregon, Puerto Rico, and West Virginia—cover either domestic service or agricultural workers, but not both. West Virginia does not exclude domestic service workers as a group, but coverage is limited to employers of 6 or more. Some or all agricultural workers are covered under the minimum wage law or orders in the District of Columbia, Hawaii, Massachusetts, New Mexico, Oregon, and Puerto Rico.

Since the Federal Fair Labor Standards Act (FLSA) of 1938, as amended, establishes a minimum hourly rate for both men and women engaged in or producing goods for interstate commerce and for employees of most large retail firms and other specified establishments, as well as some workers in agriculture, State minimum wage legislation applies chiefly to workers in local trade and service industries.

HISTORICAL RECORD

The history of minimum wage legislation began in 1912 with the enactment of a law in Massachusetts. At that time minimum wage legislation was designed for the protection of women and minors, and did much to raise their extremely low wages in manufacturing (now covered by the FLSA) and trade and service industries. Between 1912 and 1923 laws were enacted in 15 States,[2] the District of Columbia, and Puerto Rico.

Legislative progress was interrupted by the 1923 decision of the U.S. Supreme Court declaring the District of Columbia law unconstitutional, and no new minimum wage laws were passed during the next 10 years.

The depression years of the 1930's brought a revival of interest in minimum wage legislation, and 13 additional States and Alaska enacted laws.

In 1937 the U.S. Supreme Court upheld the constitutionality of the minimum wage law in the State of Washington, expressly reversing its prior decision on the District of Columbia law.

In 1941 Hawaii enacted a minimum wage law, bringing to 30 the number of jurisdictions with such legislation.

From 1941 through 1954 no State enacted a minimum wage law. However, there was a considerable amount of legislative activity in the States with minimum wage legislation on their statute books. In some States the laws were amended to extend coverage to men; in others, to establish or increase a statutory rate; and in still others, to strengthen the procedural provisions.

In the period 1955–66:

10 States—Delaware, Idaho, Indiana, Maryland, Michigan, New Mexico, North Carolina, Vermont, West Virginia, and Wyoming—enacted minimum wage laws for the first time, making a total of 40 jurisdictions with such laws.

7 States—Maine, New Jersey, New York, Oklahoma, Pennsylvania, Rhode Island, and Washington—and the District of Columbia, with wage board laws enacted statutory rate laws, retaining, with the exception of Maine and Oklahoma, the wage board provision. The enactments in 5 States—Maine, New Jersey, Oklahoma, Pennsylvania, and Washington—and the District of Columbia also extended coverage to men.

4 States—Kentucky, Nevada, North Dakota, and South Dakota—amended their laws to extend coverage to men.

16 States—Alaska, Connecticut, Hawaii, Idaho, Maine, Massachusetts, Nevada, New Hampshire, New Mexico, New York, North Carolina, Rhode Island, South Dakota, Vermont, Washington, and Wyoming—amended their laws one or more times to increase the statutory rates.

2 States—Massachusetts and New Jersey—and the District of Columbia amended their premium pay requirements. Massachusetts amended its minimum wage law to require the payment of not less than 1½ times an employee's regular rate for hours worked in excess of 40 a week, exempting a number of occupations and industries from the overtime provision. In New Jersey and the District of Columbia new statutory rate laws were enacted which included overtime pay requirements covering most workers.

Other amendments in a number of States affected coverage of the minimum wage laws, clarified specific provisions, or otherwise strengthened the laws.

In 1967:

1 State—Nebraska—enacted a minimum wage law for the first time, bringing to 41 the total number of jurisdictions having such laws. This law establishes a statutory rate applicable to men, women, and minors, and is limited to employers of 4 or more.

1 State—Oregon—with a wage board law applicable to women and minors, enacted a statutory rate law applicable to men and women 18 years and over.

1 State—New Hampshire—made its wage board provisions applicable to men.

1 State—Maryland—extended coverage by eliminating the exemption for employers of less than 7.

12 States—Connecticut, Delaware, Idaho, Indiana, Maine, Maryland, New Hampshire, New Mexico, Rhode Island, Vermont, Washington, and Wyoming—amended their laws to increase their statutory rates.

2 States—California and Wisconsin—with wage board laws, revised wage orders, setting a single rate for all occupations and industries.

2 States—New Mexico and Massachusetts—extended coverage to some or all agricultural workers.

1 State—Michigan—amended its minimum wage regulations to decrease allowable deductions and strengthen enforcement.

In 1968:

1 State—Arkansas—with a statutory rate law applicable to females, enacted a new law establishing a statutory rate applicable to men, women, and minors, effective January 1, 1969.

1 State—Delaware—amended its law to set a minimum rate for employees receiving gratuities.

1 State—Pennsylvania—amended its law to increase the statutory rate and to require overtime pay.

ROSTER OF MINIMUM WAGE JURISDICTIONS

The 41 jurisdictions with minimum wage legislation are:

Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Hawaii
Idaho
Illinois[3]
Indiana
Kansas[3]
Kentucky
Louisiana[2]
Maine
Maryland
Massachusetts
Michigan
Minnesota
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Dakota
Utah
Vermont
Washington
West Virginia
Wisconsin
Wyoming

Eight States, the District of Columbia, and Puerto Rico have laws that set a statutory rate and also provide for the establishment of occupation or industry rates based on recommendations of wage boards. Nineteen States have statutory rate laws only; that is, the rate is set by the legislature. Twelve States (including 3 with no minimum wage rates currently in effect) have laws that set no fixed rate but provide for minimum rates to be established on an occupation or industry basis by wage board action.

The following list shows, for the 41 jurisdictions, the type of law and employee covered:

1. Statutory rate and wage board law for: *Men, women, and minors*

Connecticut
District of Columbia
Massachusetts
New Hampshire
New Jersey[4]
New York
Pennsylvania
Puerto Rico
Rhode Island
Washington[4]

2. Statutory rate law only for: *Men, women, and minors*

Alaska
Arkansas (eff. 1/1/69)
Delaware
Hawaii
Idaho
Maine
Maryland
Nebraska
Nevada
New Mexico
North Carolina (16 to 65 years)
South Dakota (14 years and over)
Vermont
West Virginia

Men and women

Indiana (18 years and over).
Michigan (18 to 65 years).
Oklahoma (18 to 65 years).
Oregon (18 years and over).
Wyoming (18 years and over).

3. Wage board law only for: *Men, women, and minors.*

Footnotes at end of article.

Kentucky and North Dakota.

Women and minors:

Arizona
California
Colorado
Illinois[5]
Kansas[5]
Minnesota
Ohio
Utah
Wisconsin

Females.

Louisiana[5]

OVERTIME COMPENSATION

Sixteen States, the District of Columbia, and Puerto Rico have laws or regulations, usually part of the minimum wage program, that provide for overtime compensation. These generally require the payment of premium rates for hours worked in excess of a daily and/or weekly standard. Premium pay requirements are both a deterrent to excessive hours of work and an impetus to the equitable distribution of work.

Statutory requirements

Statutes of 10 States and the District of Columbia require the payment of 1½ times the regular rate of pay after a specified number of daily and/or weekly hours. Generally these statutes are applicable to men, women, and minors. The following list of jurisdictions with statutory overtime rates show the hours after which premium pay is required:

	Daily standard	Weekly standard
Alaska	8	40
Connecticut (July 1, 1969)		42; 40
District of Columbia		40
Hawaii		40
Idaho[6]	8	48
Maine		48
Massachusetts		40
New Jersey		40
Pennsylvania (Feb. 1, 1969)		42; 40
Vermont		48
West Virginia		48

Wage order requirements

Wage orders as part of the minimum wage program in 6 States and Puerto Rico require the payment of premium rates for overtime. Generally the orders provide for payment of 1½ times, or double, either the minimum rate or the regular rate of pay for hours in excess of a daily and/or weekly standard. The following list of jurisdictions with wage orders that require overtime rates (for men, women, and minors unless otherwise indicated) shows the premium rate established and the hours after which the premium is payable. Most of the jurisdictions have issued a number of wage orders with varying standards for different occupations. The one shown is the highest standard of general application.

Rate		Daily Standard	Weekly Standard
California[7]	1½ times the regular rate.	8	40
	Double the regular rate.	12; 8 on 7th day.	
Colorado[7]	1½ times the regular rate.	8	40
Kentucky[8]	1½ times the minimum rate.		44
New York	1½ times basic minimum rate.		40
Oregon[7]	1½ times the minimum rate.	8	40
Rhode Island	do		45
Puerto Rico	Double the regular rate.	8	44

HOURS OF WORK

The first enforceable law regulating the hours of employment of women became effective in Massachusetts in 1879. Today 46 States, the District of Columbia, and Puerto Rico have established standards governing at least one aspect of women's hours of employment; that is, maximum daily or weekly hours, day of rest, meal and rest periods, and nightwork. Some of these standards have been established by statute; others, by minimum wage or industrial welfare order.

Maximum daily and weekly hours

Forty-one States and the District of Columbia regulate the number of daily and/or weekly hours of employment for women in one or more industries. These limitations have been established either by statute or by order. Nine States—Alabama, Alaska, Delaware, Florida, Hawaii, Idaho, Indiana, Iowa, and West Virginia—and Puerto Rico do not have such laws; however, laws or wage orders in 5 of these jurisdictions—Alaska, Hawaii, Idaho, Puerto Rico, and West Virginia—require the payment of premium rates for time worked over specified hours.

Hours standards for 3 of the 41 States—Georgia, Montana, and South Carolina—are applicable to both men and women. In addition there are 3 States—New Mexico, North Carolina, and Washington—which cover men and women in some industries and women only in others.

The standard setting the fewest maximum hours which may be worked, in one or more industries, is shown for each of the 41 States and the District of Columbia.

	Maximum hours	
	Daily	Weekly
Arizona	8	48
Arkansas	8	(9)
California	8	48
Colorado	8	
Connecticut	8	48
District of Columbia	8	48
Georgia	10	60
Illinois	8	48
Kansas[10]	8	48
Kentucky	10	60
Louisiana	8	48
Maine	9	50
Maryland	10	60
Massachusetts	9	48
Michigan	9	54
Minnesota		54
Mississippi	10	60
Missouri	9	54
Montana	8	48
Nebraska	9	54
Nevada	8	48
New Hampshire	10	48
New Jersey	10	54
New Mexico	8	48
New York	8	48
North Carolina	9	48
North Dakota	8½	48
Ohio	8	48
Oklahoma	9	54
Oregon[11]	8	40
Pennsylvania	10	48
Rhode Island	9	48
South Carolina	8	40
South Dakota	10	54
Tennessee	10	50
Texas	9	54
Utah	8	48
Vermont	9	50
Virginia	9	48
Washington	8	48
Wisconsin	9	50
Wyoming[12]	8	48

A brief summary of the above table shows that in one or more industries:

Two States have a maximum of 8 hours a day, 40 hours a week.

Twenty-three States and the District of Columbia have set maximum hours of 8 a day, 48 a week, or both.

Eight States have a maximum 9-hour day, 50- or 54-hour week. (This includes Michigan with an average 9-hour, maximum 10-hour, day.)

Minnesota has no daily hours limitation in its statute, but limits weekly hours to 54.

Seven States have a maximum 10 hour day, 50- to 60-hour week.

However, many of these hours laws contain exemptions or exceptions from their limitations. For example:

Work is permitted in excess of the maximum hours limitations for at least some employees in 16 States if they receive overtime compensation: Arizona, Arkansas, California, Colorado, Kansas, Nevada, New Mexico, North Carolina, Oklahoma, Oregon, Rhode Island, South Carolina, Texas, Virginia, Wisconsin, and Wyoming.

Four States (North Carolina, Oregon, South Carolina, Virginia) exempt workers who are paid in accordance with the overtime requirements of, or who are subject to, the Fair Labor Standards Act, the Federal minimum wage and hour law of most general application. Arizona exempts employers operating in compliance with the Fair Labor Standards Act, provided 1½ times the regular rate is paid for hours over 8 a day. California permits airline and railroad personnel and women protected by the Fair Labor Standards Act, with some industry exceptions, to work up to 10 hours a day and 58 hours a week if they are paid 1½ times their regular rate for hours over 8 a day and 40 a week. Kansas exempts most firms meeting the wage, overtime, and recordkeeping requirements of the Fair Labor Standards Act or comparable standards set by collective bargaining agreements. New Mexico exempts employees in interstate commerce whose hours are regulated by acts of Congress.

One State, Maryland, exempts employment subject to a bona fide collective bargaining agreement.

State agencies in Arkansas, Kansas, Massachusetts, Michigan, Minnesota, Oregon, Pennsylvania, and Wisconsin have broad authority to permit work in excess of the maximum hours limitations on a case-by-case basis; to vary hours restrictions by industry or occupation; or to regulate hours by requiring premium pay for overtime. Premium pay for overtime work is required by law or order regulating hours in Arkansas, Kansas, Oregon, and Wisconsin (page 9), and the minimum wage laws or orders of Massachusetts, Oregon, and Pennsylvania require premium pay for overtime work (page 7). Twenty-eight more States have specific exceptions to the hours restrictions for emergencies, seasonal peaks, national defense, and other reasons.

Some or all women employed in executive, administrative, and professional positions are exempt from hours laws limitations in 26 States and the District of Columbia.

Since 1963, 16 States (Arizona, California, Colorado, Illinois, Kansas, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New York, North Carolina, Oregon, Pennsylvania, Virginia, Washington) and the District of Columbia modified their maximum hours laws or orders one or more times to permit work beyond the limits established by the maximum hours laws under regulated conditions, to exempt additional groups of workers from hours restrictions, or to establish administrative procedures for varying hours limitations. One State, Delaware, eliminated hours restrictions altogether.

In Michigan the State Occupational Safety Standards Commission has promulgated a standard which removes the limitations on women's daily and weekly hours of work, effective February 15, 1969, subject to modification by the State legislature.

Day of Rest

Twenty States, the District of Columbia, and Puerto Rico have established a 6-day maximum workweek for women employed in some or all industries. In 8 of these jurisdictions—California, Connecticut, Illinois, Massachusetts, New Hampshire, New York, Puerto Rico, and Wisconsin—this standard is applicable to both men and women. Jurisdictions that provide for a 6-day maximum workweek are:

Arizona, Arkansas, California, Connecticut, District of Columbia, Illinois, Kansas, Louisiana.

Massachusetts, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio.

Oregon, Pennsylvania, Puerto Rico, Utah, Washington, Wisconsin.

Of the remaining 30 States, 20 have laws that prohibit specified employment or activities on Sunday:

Alabama, Florida, Georgia, Idaho, Indiana, Kentucky, Maine.

Maryland, Mississippi, Missouri, New Mexico, Oklahoma, Rhode Island, South Carolina.

South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia.

Meal Period

Twenty-three States, the District of Columbia, and Puerto Rico provide that meal periods, varying from 20 minutes to 1 hour in duration, must be allowed women employed in some or all industries. In 3 States—Indiana, Nebraska, and New York—these provisions apply to men as well as women. Jurisdictions that provide for the length of the meal period by statute, order, or regulation are:

Arkansas, California, Colorado, District of Columbia, Indiana, Kansas, Louisiana, Maine, Maryland.

Massachusetts, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon.

Pennsylvania, Puerto Rico, Rhode Island, Utah, Washington, West Virginia, Wisconsin.

Combining rest period and meal period provisions, Kentucky requires, before and after the regularly scheduled lunch period (duration not specified), rest periods to be granted to females, and Wyoming requires two paid rest periods, one before and one after the lunch hour, to be granted to females employed in specified establishments who are required to be on their feet continuously.

Rest period

Twelve States and Puerto Rico provide by statute or wage order for rest periods (as distinct from meal periods) for women workers. The statutes in 4 of these States—Alaska, Kentucky, Nevada, and Wyoming—cover a variety of industries (in Alaska and Wyoming applicable only to women standing continuously); laws in New York and Pennsylvania apply to elevator operators not provided with seating facilities. Rest periods in one or more industries are required by wage orders in Arizona, California, Colorado, Oregon, Utah, Washington, and Puerto Rico. Most of the provisions are for a 10-minute rest period within each half day of work. The North Dakota Manufacturing Occupation Order prohibits the employment of women for more than 2 hours without a rest period (duration not specified).

Arkansas manufacturing establishments operating on a 24-hour schedule may be exempt, when necessary, from the meal period provision if females are granted two 10-minute paid rest periods and provision is made for them to eat at their work.

Nightwork

In 18 States and Puerto Rico nightwork for adult women is prohibited and/or regulated in certain industries or occupations.

Nine States and Puerto Rico prohibit nightwork for adult women in certain occupations or industries or under specified conditions:

Connecticut, Kansas, Massachusetts, Nebraska, New Jersey, New York, North Dakota, Ohio, Puerto Rico, Washington.

In North Dakota and Washington the prohibition applies only to elevator operators; in Ohio, only to taxicab drivers.

In 9 other States, as well as in several of the jurisdictions that prohibit nightwork in specified industries or occupations, the employment of adult women at night is regulated either by maximum hour provisions or by specified standards of working conditions. For example, in one State women and minors are limited to 8 hours a night.

California, Illinois, New Hampshire, New Mexico, Oregon, Pennsylvania, Rhode Island, Utah, Wisconsin.

Arizona and the District of Columbia prohibit the employment of females under 21 years of age in night messenger service; the Arizona law also is applicable to males under 21.

EQUAL PAY

Thirty-one States have equal pay laws applicable to private employment that prohibit discrimination in rate of pay based on sex. They establish the principle of payment of a wage rate based on the job and not on the sex of the worker. Five States with no equal pay law have fair employment practices laws and the District of Columbia, an ordinance, that prohibit discrimination in rate of pay or compensation based on sex.

Historical record

Public attention was first sharply focused on equal pay for women during World War I when large numbers of women were employed in war industries on the same jobs as men, and the National War Labor Board enforced the policy of "no wage discrimination against women on the grounds of sex." In 1919, 2 States—Michigan and Montana—enacted equal pay legislation. For nearly 25 years these were the only States with such laws.

Great progress in the equal pay field was made during World War II when again large numbers of women entered the labor force, many of them in jobs previously held by men. Government agencies, employers, unions, organizations, and the general public were concerned with the removal of wage differentials as a means of furthering the war effort.

During the period 1943–45 equal pay laws were enacted in 4 States—Illinois, Massachusetts, New York, and Washington.

In the next 4 years 6 States—California, Connecticut, Maine, New Hampshire, Pennsylvania, and Rhode Island—and Alaska passed equal pay laws.

New Jersey enacted an equal pay law in 1952. Arkansas, Colorado, and Oregon passed such legislation in 1955.

In 1957 California amended its equal pay law to strengthen existing legislation, and Nebraska adopted a resolution endorsing the policy of equal pay for equal work without discrimination based on sex and urging the adoption of this policy by all employers in the State. Hawaii, Ohio, and Wyoming passed equal pay laws in 1959.

In 1961 Wisconsin amended its fair employment practices act to prohibit discrimination because of sex and to provide that a differential in pay between employees, when based in good faith on any factor other than sex, is not prohibited.

In 1962 Arizona passed an equal pay law, and Michigan amended its law (which previously covered only manufacture or production of any article) to extend coverage to any employer of labor employing both males and females.

During 1963 Missouri enacted an equal pay law, and Vermont passed a fair employment practices law which also prohibits discrimination in rates of pay by reason of sex.

Also in 1963 the Federal Equal Pay Act was passed as an amendment to the FLSA.

In 1965, 3 States—North Dakota, Oklahoma, and West Virginia—enacted equal pay laws, and 3 States with no equal pay law—Maryland, Nebraska, and Utah—passed fair employment practices laws which prohibit discrimination in compensation based on sex. Amendments in California, Maine, New York, and Rhode Island strengthened existing equal pay laws.

In 1966, 4 States—Georgia, Kentucky, Maryland, and South Dakota—enacted equal pay laws. Massachusetts enacted a law that provides equal pay for certain civil service employees.

In 1967, 2 States—Indiana and Nebraska—enacted equal pay law.

ROSTER OF EQUAL PAY STATES[13]

The 31 States with equal pay laws are:

Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Georgia, Hawaii, Illinois, Indiana,[14] Kentucky.

Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota.

Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Washington, West Virginia, Wyoming.

Equal pay laws in Colorado, Georgia, Indiana, Kentucky, Maryland, Montana, Nebraska, North Dakota, and Pennsylvania are applicable to public as well as private employment. (A Massachusetts law contains an elective equal pay provision, applicable to employees of cities or towns who are in the classified civil service; and a Texas law requires equal pay for women in public employment.) In 21 States the laws apply to most types of private employment; in general those specifying exemptions exclude agricultural labor and domestic service. The Illinois law applies only to manufacturing.

FAIR EMPLOYMENT PRACTICES

Title VII of the Federal Civil Rights Act of 1964 prohibits discrimination in private employment based on sex, in addition to race, color, religion, and national origin. Title VII covers private employment and labor organizations engaged in industries affecting commerce, as well as employment agencies, and applies to such employers and unions with at least 25 employees or members.

Thirty-seven States, the District of Columbia, and Puerto Rico have fair employment practices laws, but only 15 of the States and the District of Columbia include a prohibition against discrimination in employment based on sex. Prior to the enactment of title VII, the laws of only 2 States, Hawaii and Wisconsin, prohibited sex discrimination in employment.

The 37 States with fair employment practices laws are:

Alaska, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois.

Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota.

Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio.

Oklahoma,[15] Oregon, Pennsylvania, Rhode Island, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming.

The 16 jurisdictions whose fair employment practices laws prohibit discrimination in employment based on sex are:

Arizona, Connecticut, District of Columbia, Hawaii, Idaho.

Maryland, Massachusetts, Michigan, Missouri, Nebraska.

Nevada, New York, Oklahoma,[15] Utah Wisconsin, Wyoming.

In 2 additional States—Alaska and Vermont—the fair employment practice law prohibits discrimination based on sex, in wages only. In a third State—Colorado—the law only prohibits discrimination based on sex in apprenticeship, on-the-job training, or other occupational instruction, training, or retraining programs.

OTHER LABOR LEGISLATION

Industrial homework

Nineteen States and Puerto Rico have industrial homework laws or regulations:

California, Connecticut, Hawaii, Illinois, Indiana, Maryland, Massachusetts.

Michigan, Missouri, New Jersey, New York, Ohio, Oregon, Pennsylvania.

Puerto Rico, Rhode Island, Tennessee, Texas, West Virginia, Wisconsin.

These regulations apply to all persons, except that in Oregon the provisions apply to women and minors only.

Footnotes at end of article.

In addition, the Alaska and Washington minimum wage and hour laws authorize the issuance of rules and regulations restricting or prohibiting industrial homework where necessary to safeguard the minimum wage rate prescribed in the laws.

Employment before and after childbirth

Six States and Puerto Rico prohibit the employment of women in one or more industries or occupations immediately before and/or after childbirth. These standards are established by statute or by minimum wage or welfare orders. Women may not be employed in:

Connecticut: 4 weeks before and 4 weeks after childbirth.

Massachusetts: 4 weeks before and 4 weeks after childbirth.

Missouri: 3 weeks before and 3 weeks after childbirth.

New York: 4 weeks after childbirth.

Puerto Rico: 4 weeks before and 4 weeks after childbirth.

Vermont: 2 weeks before and 4 weeks after childbirth.

Washington: 4 months before and 6 weeks after childbirth.

In addition to the prohibition of employment, Puerto Rico requires the employer to pay the working mother half her regular wage or salary during an 8-week period and provides for job security during the required absence.

Rhode Island's Temporary Disability Insurance Act provides that women workers covered by the act who are unemployed because of sickness resulting from pregnancy are entitled to cash benefits for maternity leave for a 14-week period beginning with the sixth week prior to the week of expected childbirth, or with the week childbirth occurs if it is more than 6 weeks prior to the expected birth.

The New Jersey Temporary Disability Benefits Act provides that women workers to whom the act applies are entitled to cash payments for disability existing during the 4 weeks before and the 4 weeks after childbirth.

Also, the Oregon Mercantile Order recommends that an employer should not employ a female at any work during the 6 weeks preceding and the 4 weeks following the birth of her child, unless recomended by a licensed medical authority.

Occupational limitations

Twenty-six States have laws or regulations that prohibit the employment of adult women in specified occupations or industries or under certain working conditions that are considered hazardous or injurious to health and safety. In 17 of these States the prohibition applies to women's employment in or about mines. (Clerical or similar work is excepted from the prohibition in about half of these States.) Ten States prohibit women from mixing, selling, or dispensing alcoholic beverages for on-premises consumption, and 1 State—Georgia—prohibits their employment in retail liquor stores. (In addition, a Florida statute authorizes the city of Tampa to prohibit females from soliciting customers to buy alcoholic beverages.)

The following States have occupational limitations applicable to:

Mines

Alabama, Arizona, Arkansas, Colorado, Illinois, Indiana.

Maryland, Missouri, New York, Ohio, Oklahoma, Pennsylvania.

Utah, Virginia, Washington, Wisconsin, Wyoming.

Establishments serving alcoholic beverages

Alaska, California, Connecticut, Illinois,[16] Indiana, Kentucky, Ohio, Pennsylvania, Rhode Island, Wyoming.

Eleven States prohibit the employment of women in other places or occupations, or under certain conditions:

Arizona—In occupations requiring constant standing.

Colorado—Working around coke ovens.

Massachusetts—Working on cores more than 2 cubic feet or 60 pounds.

Michigan—Handling harmful substances; in foundries without approval of the Department of Labor.

Minnesota—Placing cores in or out of ovens; cleaning moving machinery.

Missouri—Cleaning or working between moving machinery.

New York—Coremaking, or in connection with coremaking, in a room in which the oven is also in operation.

Ohio—As crossing watchman, section hand, express driver, metal molder, bellhop, gas or electric meter reader; in shoeshining parlors, bowling alleys as pinsetters, poolrooms; in delivery service on motor-propelled vehicles of over 1-ton capacity; in operating freight or baggage elevators if the doors are not automatically or semiautomatically controlled; in baggage and freight handling; trucking and handling by means of handtrucks, heavy materials of any kind; in blast furnaces and smelters.

Pennsylvania—In dangerous or injurious occupations.

Washington—As a bellhop.

Wisconsin—In dangerous or injurious occupations.

The majority of the States with occupational limitations for adult women also have prohibitory legislation for persons under 21 years. In addition, 10 States have occupational limitations for persons under 21 years only. Most of these limitations apply to the serving of liquor and to the driving of taxicabs, schoolbuses, or public vehicles; others prohibit the employment of females under 21 years in jobs demanding constant standing or as messengers, bellhops, or caddies.

Seating and weightlifting

A number of jurisdictions—through statutes, minimum wage orders, and other regulations—have established employment standards for women relating to plant facilities such as seats, lunchrooms, dressing rooms, restrooms, and toilet rooms and to weightlifting. Only the seating and weightlifting provisions are included in this summary.

Seating.—Forty-five States, the District of Columbia, and Puerto Rico have seating laws or orders; all but one (the Florida law) apply exclusively to women. Delaware, Hawaii, Illinois, Maryland, and Mississippi have no seating laws or orders.

Weightlifting.—Ten States and Puerto Rico have statutes, rules, regulations, and/or orders which specify the maximum weight women employees may lift, carry, or lift and carry. Following are the standards established for weightlifting and carrying in the 11 jurisdictions. Some States have standards varying by occupation or industry and are, therefore, listed more than once.

Any occupation: "excessive weight" in Oregon; 30 pounds lifting and 15 pounds carrying in Utah; 35 percent of body weight, or 25 pounds where repetitive lifting in Alaska; 25 in Ohio; 40 in Massachusetts; 44 in Puerto Rico; 50 in California.

Foundries and core rooms: 25 pounds in Maryland, Massachusetts, Minnesota, and New York.

Specified occupations or industries (by orders): 25 pounds in California; 25 to 50 in Oregon; 35 pounds and "excessive weight" in Washington.

Women's Bureau publications on wages, hours, equal pay, and related subjects may be obtained, at prices quoted, from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402—

State Minimum Wage Laws. Leaflet 4. April 1966. 5¢.

Analysis of Coverage and Wage Rates of State Minimum Wage Laws and Orders. August 1, 1965. Bull. 291. 1965. 40¢.

Fringe Benefit Provisions From State Minimum Wage Laws and Orders. September 1, 1966. Bull 293. 1967. 55¢.

State Hour Laws for Women. Bull. 277. 1961. 35¢.

Equal Pay Facts. Leaflet 2. May 1966. 5¢.

1965 Handbook on Women Workers. Bull. 290. 1966. $1.00.

From the Women's Bureau, Wage and Labor Standards Administration, U.S. Department of Labor, Washington, D.C. 20210—

Labor Laws Affecting Women. (Specify State).

Labor Laws Affecting Private Household Workers. July 15, 1967.

Laws on Sex Discrimination in Employment. April 1, 1967.

What the Equal Pay Principle Means to Women. August 1966.

Weightlifting Provisions for Women by State. July 1966.

Why State Equal Pay Laws? June 1966.

Action for Equal Pay. January 1966.

Getting the Facts on Equal Pay. January 1966.

FOOTNOTES

[1] As of December 1968.

[2] One of these laws was repealed in 1919 (Nebraska); another, in 1921 (Texas).

[3] No minimum rates in effect.

[4] Wage orders applicable to women and minors only.

[5] No minimum rates in effect.

[6] The premium pay requirement is separate from the minimum wage program and is applicable only to women.

[7] Applicable to women and minors only. In California, minors under 18 limited to 8 hours a day, 6 days a week.

[8] Since the issuance of wage orders applicable to women and minors only, statutory coverage of the wage board program has been extended to men.

[9] A 6-day week limitation provides, in effect, for 48-hour workweek.

[10] Maximum hours standards set by Labor Commissioner under minimum wage program.

[11] See footnote 10.

[12] If the 8 hours of work are spread over more than 12 hours in a day, time and a half must be paid for each of the 8 hours worked after the 12-hour period.

[13] Fair employment practices acts in 5 States with no equal pay law—Idaho, Nevada, Utah, Vermont, and Wisconsin—prohibit discrimination in rate of pay or compensation based on sex. In the District of Columbia there is an ordinance prohibiting discrimination based on sex.

[14] Indiana included an equal pay provision in its amendments to the minimum wage law.

[15] Effective May 16, 1969.

[16] Illinois State law empowers city and county governments to prohibit by general ordinance or resolution.

[Legal memorandum: "Age of Majority"]

THE LIBRARY OF CONGRESS,
LEGISLATIVE REFERENCE SERVICE,
Washington, D.C., June 8, 1970.

To: Senate Constitutional Amendment Subcommittee.

From: American Law Division.

Subject: The Age of Majority for Men and Women in Eight States.

This will refer to your inquiry of June 5, 1970 with regard to the age of majority for men and women in a selection of eight States. The following is a list of the eight States, the sources used in compilation, that age of majority, and the applicable sections of the State Codes.

(1) *Idaho: General Laws of Idaho Annotated, 1969 Cumulative Pocket Supplement.*

(a) The age of majority is age 21 for males and age 18 for females. (§ 32–101).

(2) *Illinois: Illinois Annotated Statutes, 1970 Cumulative Pocket Part.*

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(a) Males 21 and females 18 years of age are of legal age for all purposes, except that it is unlawful to sell, give or deliver alcoholic liquor to any male or female under the age of 21 years (§ 43–131); and except as provided in the Illinois Uniform Gifts to Minors Act. (§ 3–31). For the purpose of the Uniform Act all persons under 21 years of age are minors. (§ 3–531).

(3) *Montana: Revised Codes of Montana, 1969 Cumulative Pocket Part.*

(a) The age of majority is 21 years of age for males and 18 years of age for females. (§§ 13–202; 64–101).

(4) *Nevada: Nevada Revised Statutes.*

(a) All male persons of the age of 21 years and all females of the age of 18 years, who are under no legal disability, shall be capable of entering into any contract. (§ 129.010).

(5) *North Dakota: North Dakota Century Code, 1969 Supplement.*

(a) Males attain their majority at the age of 21 years, and females at the age of 18 years. (§ 14–10–02).

(6) *Oklahoma: Oklahoma Statutes Annotated 1969–1970 Cumulative Pocket Part.*

(a) The age of minority for males is 21 and 18 for females. (§ 15–13).

(7) *South Dakota: South Dakota Compiled Laws, 1970 Pocket Supplement.*

(a) Males become of age, for the purpose of entering contracts, at 21 and females at 18. (§§ 26–1–1; 26–2–1; 26–2–3).

(8) *Utah: Utah Code Annotated 1969 Pocket Supplement.*

(a) The age of majority for males is 21 years and 18 years for females. (§ 15–2–1).

David Keaney,
American Law Division.

LEGAL MEMORANDUM: WOMEN ON STATE JURIES

The Library of Congress,
Legislative Reference Service,
Washington, D.C., June 10, 1970.

To: Senate Constitutional Amendments Subcommittee.

From: American Law Division.

Subject: Women As Jurors On State Juries.

The fifty State survey presented below is submitted in response to your request for a determination as to whether there is any sex discrimination as to qualifications for serving on the juries of the various States, and as to what exemptions or excuses are specifically directed at women. It should be noted that provisions dealing with service depending on separate or adequate facilities for female jurors or with the procedure for claiming any allowed exemption or excuse have not been considered here. With regard to exemptions provided for women who have care of a child, we have included those States which phrase the exemption in terms of a "person" having care of a child. Likewise, although there are male nurses, included here are those States which provide an exemption from jury duty for nurses.

Since the Library of Congress has not yet received many of the laws enacted by the 1970 sessions of those State legislatures which met in 1970, they have not been included in this survey. However, it is possible that some of these States have acted in this area either by changing or adding to any of the provisions mentioned here.

A search of the laws of the fifty States appears to indicate that in all of the jurisdictions there is no distinction between males and females as to the basic qualifications for service on juries. With regard to whether women are permitted to serve on juries, one State, Washington, deserves a special discussion and treatment below. Of the other forty-nine States, twenty-six do not appear to have any distinction between males and females and to qualifications (although some affirmative act may have to be performed by a woman or a determination made by the body listing potential jurors before service may be allowed) and no specific exemptions are directed at females, and the remaining twenty-three States do not appear to have any distinction between males and females as to qualifications but contain specific exemptions or excuses for women or for female-dominated professions or categories.

NO DISTINCTION, NO FEMALE EXEMPTIONS

Alaska—Alaska Stats. §§ 09.20.010, 09.20.030.

Arizona—A.R.S. §§ 21.201, 21–202.

Arkansas—Ark. Stats. § 34–101 et seq. A provision that a woman was not compelled to serve as a juror against her will was repealed in 1969.

California—Code of Civil Proc. § 198 et seq.

Colorado—Col. Rev. Stat. § 78–1–1 et seq.

Delaware—10 Del. C. § 4504 et seq.

Florida—F.S.A. § 40.01 et seq.

Hawaii—Hawaii Rev. Stats. § 609–1 et seq.

Idaho—Idaho Code, § 2–201 et seq.

Illinois—S.H.A. ch. 78, §1 et seq.

Indiana—Burn's Ind. Stat. § 4–7115.

Kentucky—Baldwin's Rev. Stat., §§ 29.025, 29.035.

Maine—14 M.R.S.A. § 1201 et seq.

Maryland—Ann. Code of Md., Art. 51, § 1 et seq.

Michigan—M.C.L.A. §§ 600.1306, 600.1307.

Mississippi—Code Miss. 1942 § 1762 et seq.

Nebraska—R.R.S. 1943 (R.S. Supp. 1967), § 25–1601 et seq. Particular exemptions provided for women repealed in 1967.

New Mexico—N.M. Stats. Ann. 19–1–1 et seq.

North Carolina—Gen. Stats. of N.C., § 9–1 et seq.

North Dakota—N.D. Cent. Code, 27–09–01 et seq.

Oregon—ORS § 10.010 et seq.

Pennsylvania—17 P.S. § 971 et seq.

South Dakota—SDLC 1967, § 16–13–1 et seq.

Vermont—Vt. Stats, Ann., T.12, App. VII, Rules 1 to 31.

West Virginia—West Va. Code § 52–1–1 et seq.; Const. Art. 3, § 21.

Wisconsin—W.S.A. 246.15, 255.01 et seq.

NO DISTINCTIONS, FEMALE EXEMPTIONS

Alabama—Code of Ala. Tit. 30, §§ 21.21(1). A female has a right to be excused for good cause shown in the discretion of the judge (§ 21).

Connecticut—C.G.S.A., § 51–217 et seq. Exemption, if desired, for any woman who is a trained nurse in active practice, an assistant in a hospital or an attendant nurse or who is nursing a sick member of her family, or who cares for one or more children under the age of 16 years (§ 51–218).

Georgia—Code of Ga. Ann., § 59–106 et seq. Excuse provided for a housewife with children 14 years or younger (§ 59–112(b)), and any woman who does not desire to serve may notify jury commissioner to that effect and her name will not be placed in jury box (§ 59–112(d)).

Iowa—Iowa Code Ann., § 607.1 et seq. Exemption for registered nurses (§ 607.2(2)).

Kansas—K.S.A. 43–101 et seq. Duty of each township and city assessor to inquire of each woman elector whether she desires to be exempt from jury service (§ 43–117).

Louisiana—L.S.A.–R.S. 13:3055, 13:3056. A woman shall not be selected for jury service unless she has previously filed with the clerk of the court of the parish in which she resides a written declaration of her desire to be subject to jury service (13:3055).

Massachusetts—M.G.L.A. c. 234, § 1. Exemption for trained nurses, attendant nurses, mothers of children under 16 years of age or women having custody of such children, and women members of religious orders.

Minnesota—M.S.A. §§ 593.01 et seq., 628.49. A woman may be excused upon request in the discretion of the court (§ 628.49).

Missouri—V.A.M.S. § 494.010 et seq. Excuse provided for any woman who requests exemption before being sworn as a juror (§ 494.031(2)).

Montana—Rev. Codes of Montana, § 93–1301 et seq. Exemption provided for nurses engaged on a case of a "person" caring directly for one or more children (§ 93–1304 (12)).

Nevada—NRS 6.010 et seq. Exemption for any woman for one year periods upon filing of a written statement claiming exemption (6.020(3)).

New Hampshire—RSA 500:1 et seq. Exemption provided for any woman who has care of one or more children under the age of twelve years if she so desires (500:1).

New Jersey—N.J.S.A. 2A: 69–1, 2A: 69–2. Exemption for any "person" who has the actual physical care and custody of a minor child.

New York—Judiciary Law, §§ 500 et seq., 590 et seq. Exemption provided for a woman (§§ 507(7), 597(7)).

Ohio—Page's Ohio Rev. Code Ann. § 2313.01 et seq. Exemption for registered nurses and nuns (§ 2313.34).

Oklahoma—38 Okl. St. Ann. § 28. Exemption, if claimed, for all women with minor children.

Rhode Island—Gen. Laws of R.I., 9–9–1 et seq. A woman can be excused upon notice (9–9–11).

South Carolina—Code of Laws of S.C., § 38–52 et seq. Excuse, declared by presiding judge, for any woman who has the legal custody and duty of care of a child under seven years of age.

Tennessee—Tenn. Code Ann. § 22–101 et seq. A woman has the option of serving or not when summoned to jury duty (§§ 22–101, 22–108).

Texas—Vernon's Ann. Civ. St. Art. 2133, art. 2135. Exemption for all females who have legal custody of a child or children under the age of sixteen (art. 2135(7)), and for all registered, practical and vocational nurses actively engaged in the practice of their profession (art. 2135(8)).

Utah—Utah Code. Ann. § 78–46–1 et seq. Exemption for a female citizen who has the active care of minor children (§ 78–46–10 (14)).

Virginia—Code of Va., § 8–174 et seq. Women are exempt (§§ 8–178(30), 8–182).

Wyoming—Wyoming Stats Ann. § 1–77 et seq. A woman may be excused from jury service "when household duties or family obligations require her absence" (§ 1–80).

WASHINGTON

The provisions of Washington relating to women serving on juries have been isolated here for separate treatment only because a reading of the pertinent provisions thereof makes it unclear as to which of the two categories mentioned above it belongs. In fact, a literal reading would appear to indicate that although women are qualified to be jurors, if they have an exemption, it is mandatory that they exercise it.

Prior to 1967, RCWA 2.36.080 provided an exemption for women. In a law approved March 15, 1967, this section was amended and no longer provides for an exemption for women. On March 21, 1967, the provision dealing with the drawing of jury lists was amended (RCWA 2.36.060), and this sentence can now be found therein: "Any woman who upon being listed upon the list as in this section provided shall claim her exemption to serve as a juror, shall not be listed in the preparation of the list of jurors."

Daniel Hill Zafren,
Legislative Attorney.

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SEX DISCRIMINATION AND "PROTECTIVE" LABOR LEGISLATION

(By Susan Deller Ross, Arthur Garfield Hays Civil Liberties Fellow, New York University Law School)

PART I: INTRODUCTION

In 1970, the Equal Rights Amendment to end sex discrimination against women has gained new political impetus. Yet many continue to oppose the proposed Amendment—or equal legal treatment for women under the 14th Amendment to the Constitution—because they fear that it would invalidate a great variety of State labor laws applying only to women workers. These laws have traditionally been considered to be important labor standards legislation, providing genuine protection to women workers.

Recent developments have thrown doubt on that proposition. The most important of these is Title VII of the 1964 Civil Rights Act, which prohibits job discrimination on the basis of sex. Title VII has had a decisive effect on these State laws. In addition, both the Equal Employment Opportunity Commission (EEOC) and numerous States have challenged the laws. Finally, women's groups and labor unions have also gone on record against the State labor laws.

It is therefore imperative to reexamine that opposition to the Equal Rights Amendment which has been based on the need to preserve State labor laws for women. This paper sets forth the new factors to be considered in that reevaluation.

PART II: BACKGROUND INFORMATION

Before turning to the analysis of these various factors, some background information about employed women should be presented. More than one-third of the nation's working force is female. But women are funneled into low-paying, low-prestige jobs with little or no chance for advancement. Sex is as important as race in determining salaries. Thus, the full-time employed white male had a median income in 1968 of $7,870; the black male, $5,314; the white woman, $4,580; and the black woman, $3,487. Women college graduates employed year-round full-time earned less than men high school dropouts. Women high school graduates earned less than men with less than 8 years of education.[1]

As EEOC has pointed out—the difference between the average work-life expectancy of men and women has narrowed significantly. Yet: In 1968, the unemployment rate for women was much greater than for men, 4.8% compared to 2.9%.

Many women hold jobs which are far below their training and talent. In 1968, approximately one-fifth of working women who had completed four years of college were non-professional; employed in clerical, sales, service worker or semi-skilled operative categories.

Women not only are concentrated in the lower-level jobs, but are paid relatively less than men for comparable work. The median income of year-round full-time workers in 1966 was:

Men	$6,848
Women	$3,973

In 1966, less than 1% of women earned salaries of $10,000 or more; the proportion for men was almost 20 times greater.[2]

In response to this kind of situation, Title VII of the Civil Rights Act of 1964 was passed. Broadly speaking, it prohibits discrimination in employment on the basis of sex. There are numerous exceptions to this doctrine,[3] but the most important one is the "bona fide occupational qualification" exception of § 703(e), otherwise known as a "bfoq". Under this section, an employer is allowed to discriminate on the basis of sex if he can show that sex is an occupational qualification for the job in question. Thus, a broad interpretation of the bfoq (which the courts have ultimately refused to adopt) would have practically nullified the prohibition on sex discrimination, since many admitted cases of discrimination could thereby have been excused as necessary to a business. In the context of the bfoq, then, State "protective" labor legislation, "protecting" women only against various supposed evils, was of crucial importance, since it was originally possible to interpret these laws as coming within the bfoq exception, thus allowing employers to refuse to hire or promote women where violation of a State law would occur. For example, if a State prohibits women from working more than 48 hours a week, and a woman applies for a higher paying job requiring work of 50 hours a week, the employer could refuse her the job under a broad interpretation of the bfoq exception. His sole ground would be that she is a woman, and because of the State law and the requirements of the job for 50 hours of work, only men can fill the job; that is; the male sex is a bfoq for any job requiring more than 48 hours of work per week.

Restrictive labor legislation applicable to women only offered a way out to employers bent on discrimination, then, and it was not a minor out. In order to understand this out, these State laws should be analyzed more closely.

PART III: RESTRICTIVE STATE LAWS APPLICABLE TO WOMEN ONLY

There are many categories of such State legislation, but basically it can be broken down into two broad types: 1) *laws conferring supposed benefits,* such as minimum wages, a day of rest, a meal or rest period, maternity benefits, provision of chairs for rest periods, and; 2) *laws prohibiting women from working* in certain jobs, such as in mining or bartending, or under certain conditions—i.e., weight limits and hour limits have been imposed on women's jobs, and nightwork and work before and after childbirth is either prohibited or restricted. At first glance, it might appear that these laws would help women, and indeed, the rubric of "protective legislation" augments that impression. The President's Commission on the Status of Women and some labor unions have accepted that interpretation. The EEOC originally subscribed to a version of that view, although, as will be shown later, it has now categorically rejected it.

But closer analysis of the State legislation is required before a favorable interpretation can be accepted. Initially, it should be noted that business observers of the early legislative period . . . allege that the motivation for 'protecting' child and female labor was more the protection and advancement of the male's status at work than a humanitarian attitude for the women and children in our society. The National Safety Council subscribes to this view by describing unreasonable statutory limitations and tacit unfair employment practices as a deliberate attempt to exclude the possibility that a large group of workers (women) may enter into competition with those already in the trade (men).[4]

Two Congresswomen, speaking in support of the sex amendment to Title VII subscribed to the same view. Representative Griffiths stated:

"Some people have suggested to me that labor opposes 'no discrimination on account of sex' because they feel that through the years protective legislation has been built up to safeguard the health of women. Some protective legislation was to safeguard the health of women, but it should have safeguarded the health of men, also. Most of the so-called protective legislation has really been to protect men's rights in better paying jobs."[5]

Representative St. George, speaking against nightwork prohibitions for women, stated:

"Protective legislation prevents, as my colleague from the State of Michigan just pointed out—prevents women from going into the higher salary brackets."[6]

Support for this view can also be gathered from situations where all male or male-dominated labor unions have clearly sought to exclude women from work or from the most remunerative job categories. For example, the Bartender's League of America once picketed a restaurant and tavern owner to secure a union shop agreement which would exclude women members and therefore force the employer to fire three female employees.[7] It is no accident that labor unions are often codefendants with employers in suits charging sex discrimination under Title VII,[8] since they engineer collective bargaining agreements which clearly discriminate against their women members. For example, one might point to the description of the collective bargaining agreement in *Bowe* v. *Colgate-Palmolive Co.,* 272 F. Supp. 332, 340–47 (S.D. Ind. 1967), *reversed* 416 F. 2d 711 (7th Cir. 1969), which reserved the highest paid jobs for men only. (This raises the interesting question of whether labor unions are fulfilling their duty of fair representation as to their female members.)

However, even aside from the question of the motivation for the legislation, a closer examination of the legislation will show that it often actively hurts women, and fails to help where help is needed. The most obvious harm is that both categories of State legislation have been used as an excuse not to hire women or not to promote them to better paying jobs. This should be clear as to the whole second class of legislation, which, it will be remembered, actually *prohibits* the employment of women in specified situations; and a study of the case law reveals the details of how this system works to deny jobs to women (for the case law, see Part V of this memorandum).

The discriminatory effect is also true as to the first category of "benefit" legislation, since even when an employer complies with the applicable laws, compliance can hurt women's employment opportunities. For example, in one EEOC case, a Washington State law requiring 30-minute lunch breaks for women only was used by an employer to create different work shifts for men and women. The men received no formal lunch break—but ate "on the fly"—and worked in three regular 8-hour shifts. In contrast, women were given a lunch break, but to do this, the employer cut the day's third shift to 6 hours and 45 minutes. With a weekly rotating schedule of shifts, every third week a woman's pay check would be cut from pay for 40 hours to pay for 33¾ hours. Over a work year of 50 weeks, the "protection" of a lunch break would thus cost a woman employee the loss of 2⅗ weeks of take-home pay—rather a costly lunch break. And in the bargain, if lunch breaks are really considered that important to a worker's health, all the male employees were exploited by the denial of a formal lunch break. Ironically enough, the EEOC found that the State law did not require this result—but the important fact for our attention is how the *employer* had interpreted State law.

Another example of the harm caused by this kind of benefit is found in *Richards* v. *Griffith Rubber Mills,* 300 F. Supp. 338 (D. Ore. 1969), where one of the grounds relied on by the employer to deny a woman's application for the job of Press Operator B (and give it to men with less seniority) was a union contract requiring two ten-minute rest periods for women. It can be seen then, that such "benefit" laws hurt women by denying them job opportunities and hurt men by denying them the "benefit". The same cannot be said about the prohibitory category of laws, since to confer their "pro-

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Footnotes at end of article.

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tection" on men would not help men but would only serve to eliminate many jobs—*e.g.*, bartending, mining, jobs requiring the lifting of 25 pounds, jobs requiring overtime work (with premium pay rates), and so forth. These laws hurt only women then: those women who are perfectly capable of fulfilling the prohibited jobs, and in fact, anxious to do so for the pay, the pay increase, the improvement in status, the increased job satisfaction, the preferred hours, or whatever factor may motivate a particular woman to want a particular job.

Turning to a more detailed analysis of State laws, further inadequacies can be discovered. The following tables show the patterns of these laws. The tables are based on information available in December 1968,[9] but even though they are not completely current, they do indicate the general trends.

STATE "BENEFIT" LAWS

Type of law	Number applicable to women only	Number applicable to men and women
Minimum wage	7 3 (not in operation).	29; District of Columbia; Puerto Rico; Federal Fair Labor Standards Act.
Day of rest prescribed	14; District of Columbia.	7; Puerto Rico, 28; ("Sunday blue laws" which achieve the same result), 35; Puerto Rico.
Meal period (20 minutes to 1 hour).	20; District of Columbia; Puerto Rico.	3.
Rest period (10 minutes for each ½ day of work).	12; Puerto Rico	0.
Chairs to be provided	44; District of Columbia; Puerto Rico.	1.
Maternity benefits	2; Puerto Rico	
Job security during absence for childbirth.	0; Puerto Rico	

STATE LAWS PROHIBITING EMPLOYMENT

Occupations totally	26—Including— 17—Work in or about mines. 10—Bartending. 1—Work in retail liquor stores. 11—Other occupations, including wrestling.	0.
Weight limits (work requiring lifting more than set amount—ranging from 15 to 50 pounds—is prohibited).	10; Puerto Rico	0.
Hour limits (work over the limit—with desirable premium pay rates for overtime—is prohibited).	38; District of Columbia (3 of the 38 States cover both men and women in some industries; only women in others).	3.
Nightwork (either prohibited or regulated).	18; Puerto Rico	0.
Childbirth (employment before and after prohibited).	6; Puerto Rico	

It is evident from the bare outlines that so-called protection has been very uneven. For instance, while women are chivalrously allowed chairs for rest periods in 45 States, they are given job security for maternity leaves of absence in *no* State, and maternity benefits in only two. Surely the latter are the more important to women, and surely it is revealing that legislatures have so overwhelmingly chosen chivalry over substantive protection in the area where women always need protection that men do not need. This should not be allowed to obscure the fact that not all women become pregnant, and that laws dealing with this subject do not need to treat women as a class, but only pregnant women.

Ohio regulations go so far as to prohibit women's employment: As crossing watchman, section hand, express driver, metal moulder, bellhop, gas or electric meter reader; in shoeshining parlors; bowling alleys as pinsetters, poolrooms; in delivery service on motor-propelled vehicles of over 1-ton capacity; in operating freight or baggage elevators if the doors are not automatically controlled; in baggage and freight handling by hand trucks of heavy materials of any kind; operating emery wheels, belts; in blast furnace and smelter.[10]

Another interesting revelation is that in the "benefit" areas which most people would consider most important—*i.e.*, minimum wage and a day of rest—men *do* receive substantial protection. In fact, as to the minimum wage, Federal nationwide law covers both men and women, at *higher* rates than State law except one (Alaska). Of course, the fact does remain that a few men could be hurt in the 7 States with no minimum wage for men where they are not covered by Federal standards, and in the 14 States where men are not included in the coverage of the day of rest statute. This would seem to be the major area where attempts at ending sex-discriminator laws could focus on *extending* female protection to men under both Title VII and the equal protection clause of the 14th Amendment.

More important, the existence of minimum wage laws applying to women only in 7 States should not be allowed to obscure the fact that such laws simply do not deal with the *real* problem for women—exploitation by being underpaid and funneled into the lowest-paying, most menial jobs of our society. Women constitute more than 75% of the total employed in the following fields: bookkeepers; cashiers; dressmakers, seamstresses; housekeepers, private-household; nurses, professional; office-machine operators; operatives, apparel and accessories; operatives, knitting mills; practical nurses; schoolteachers; stenographers, typists, and secretaries; telephone operators; waitresses.[11] Preserving minimum wage laws for women has only resulted in a situation where full-time employed women earn about 60% of what full-time employed men earn.[12] That is why it was necessary to pass the Equal Pay Act of 1963, and Title VII of the Civil Rights Act of 1964.

In remaining areas of State laws, the crucial fact is that these laws either directly prohibit the employment of women who want to do certain jobs or are used as excuses by employers not to hire women. This has already been pointed out as to lunch hours and rest periods, and the later section on case law under Title VII (Part V) reveals the same pattern as to prohibited jobs and weight and hour limits. Under the aegis of such laws, women seeking work in retail liquor stores or as bartenders are denied the chance; female employees who have worked for as long as 19 or 22 years bid for higher paying jobs as switchman or agent-telegrapher and see them go to men with less seniority; women are closed out, under a union contract, from the most highly paid jobs in a plant and are also laid off before men with less seniority; women telephone operators, framemen, and engineers who want to work longer hours are forbidden to do so; jobs such as press operator and commercial representative are closed to women and again go to men with less seniority.

Both the EEOC and the Federal judges have begun to realize that the weight and hour limits are not justifiable because they are not based on scientific proof that all or substantially all women cannot lift certain amounts of weight or work more than a set number of hours. Two cases are especially noteworthy: *Cheatwood* v. *Southern Bell Telephone & Telegraph Co.*, 303 F. Supp. 754 (M. D. Ala., 1969), and *Bowe* v. *Colgate-Palmolive Co.*, 416 F. 2d 711 (7th Cir. 1969).

Both explore the concept of weight limits at length in light of contemporary studies and scientific knowledge (see discussion infra, at pp. 14–15). It is no more scientifically demonstrable that women have different health needs as a class in the hours area than do men, yet the pervasive hours limits (applying to women in a total of 41 States and in D.C., but to men in only 3 States) have the effect of preventing women from earning extra money, often at premium overtime rates. This is especially important when it is recalled that women head 4.6 million families (10% of U.S. families; 25% in the poverty area), that 1 million working women have unemployed husbands (disabled or retired), and that 6 million working women are single.[13] Single men and male heads of household are presumed to want and need extra money; single women and female heads of household are presumed not to. It may be true that some women do not want to work overtime; it may also be true that some men do not want to work overtime. Judging from the number of States (3) where men are covered by hours laws, it would appear that the majority of men prefer advantageous overtime. Women should not be discriminated against by exclusion from this lucrative area, in the name of 1) family responsibilities which millions of working women do not have, and which millions of others deem secondary to the need for more money, 2) alleged "female" health needs which cannot be scientifically proven to exist, and 3) a supposed feminine lack of desire to make more money, which the poverty status alone of many women would seem to contradict.

One additional point should be made about the weight and hours laws, and indeed, about all the laws based on the premise that all women and no men need special protection. The reality is that such laws simply do not accomplish their aim—*real protection*. Real protection would not bar a 5'10" woman who weighs 180 pounds from lifting 15 pounds (which will enable her to earn $1000 more per year) nor could it force a 5'4" man who weighs 130 pounds and has a hernia to lift 100 pounds on a regular basis. Real protection would not bar from overtime and premium pay hours a single girl who is trying to save money for college or a widow who is the sole support of two teenage sons; nor would it limit a family which prefers an arrangement whereby the father cares for his children and does not work overtime while his wife works at night, for instance, as a nurse.

The point is that sex as a criterion cannot predict with sufficient accuracy who needs what protection. If injury due to lifting weights is a problem the answer is to find out what every *individual* can safely lift with modern techniques and then forbid employers to fire individuals who refuse to lift weights above that limit. If some men and some women don't want to work overtime and unions want to protect the right not to work overtime, laws should be passed forbidding employers to fire those who refuse overtime, but those men and women who *do* want overtime pay should not be penalized because of the desires of those who do not want it.

As for night work, men must come to realize that many women might *prefer* to work at night—for better pay or because husbands could take care of children at this time or because they could study at this time while going to school in the daytime, and so. As Congresswoman St. George once pointed out rather bitterly, nightwork laws don't protect scrubwomen, but do "protect" women from working in such nighttime jobs as elevator

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operators where the work is less than during the daytime and the pay is more.

Finally, women should not be forced to quit work when pregnant, or to stay away from work after childbirth, unless it can be scientifically *proved* that that particular woman is incapable of performing that particular job at that particular time. Even then perhaps employers should be required to transfer a pregnant woman into a job she can do if she wants to continue work. A skeptical eye should be cast on legislation which may reflect male embarrassment at having pregnant women around them, rather than a concern for women's safety, especially when it is remembered that the housewife cannot stop working just because she is pregnant.

It should be noted that pregnant teenage girls (married or not) are usually expelled from school when the fact becomes evident—hardly the best way to manifest concern for their welfare. In contrast, New York City has set up special schools for pregnant students and has allowed them to choose whether to remain in their home school, transfer to the special school or not attend school. Attendance has been encouraged by school officials with great success.

In conclusion, analysis of State laws applying to women only does not support the idea that they protect women in any important way. In fact, these laws do not protect women in the one area clearly applicable to women only—maternity benefits and job security; they are ineffective in dealing with the exploitation of women through lower pay than men; they are used to discriminate against women in job, promotion, and higher-pay opportunities; and in those few areas where they might be said to have real value, they exploit men by subjecting them to bad working conditions. Even more important, the existence of these laws reflects a basic perception that all women and men are inherently different in the amount and kind of work they can do.

PART IV: THE EEOC RECORD

Even though restrictive State laws thus appear both undesirable and discriminatory, the EEOC was initially unsure what approach to take toward them as bfoq defenses in Title VII cases. Starting in 1965, it adopted successive, conflicting policies evidencing, at different times, a desire to avoid the controversy, an idea that some of the laws might be helpful, and a possibility that Congress had intended to leave State laws in effect. But recently the EEOC seems to have come to a final conclusion which is favorable to women and rejects the earlier policies.

The development of the final position can be traced in the regulations the EEOC has issued under 29 C.F.C. § 1604.1. The first was issued on December 2, 1965, and was based on the assumption that Congress had not intended to override State laws. In effect, the regulation allowed restrictive State laws to be used as a bfoq defense, provided that the employer acted in good faith and that the State law effectively protected women rather than discriminated against them. This last proviso begged the question, of course, since the EEOC did not explain what was protection and what discrimination. The "benefit" type laws (minimum wage, overtime pay, rest periods, or physical facilities) could not be used as a bfoq however, and in fact, in its case law, the EEOC requires not only that women be hired under these laws but that the benefit be extended to men.[14]

Less than a year later, on August 19, 1966, the EEOC announced in a press release, incorporated in all pertinent Commission decisions, that where there was a square conflict between Title VII and the State laws, it would refrain from making a decision, since EEOC interpretations could not insulate employers against State liability for violation of State statutes and since the EEOC could not institute suits to challenge the State law. It would, however, advise complainants of their right to bring suit, reserving the right to appear as amicus curiae, because it thought litigation was necessary to resolve the conflict.[15] It was apparent that the EEOC was beginning to be troubled by the State laws, for it dealt at length with the hours laws and a case then before the Commission which challenged the California version. A more realistic appraisal of State laws is now evident, when the Commission states:

"The facts indicate that the female charging parties are being denied promotional opportunities and the opportunity to earn premium pay for overtime. . . . There is no suggestion in the facts before us that the health or welfare of the charging parties would be adversely affected by permitting them to work in excess of 48 hours a week. . . .

"Over forty States have laws or regulations which, like California's, limit the maximum daily or weekly hours which women employees may work. . . . the Commission believes that in fact these laws in many situations have an adverse effect on employment opportunities for women.[16]

More than a year after this, on February 24, 1968, the EEOC rescinded the 1966 policy and reaffirmed the original 1965 guideline—that is, that the EEOC would decide whether State legislation was superseded by Title VII in cases where the effect of State law is discriminatory rather than protective. Again, "discriminatory" and "protective" were not defined, although the Commission did announce that it would consult with State authorities about the purpose and effect of the laws.

Finally, on August 19, 1969, the EEOC confronted the issue head on, and issued a complete new regulation, revoking 29 U.S.C. § 1604.1 (a) (3), (b) and (c), and substituting a new subsection (b). All mention of the "benefit" type law was omitted, and it was made clear that *no prohibitory law* could now be used as a bfoq. The new regulation reads as follows:

"(b)(1) Many States have enacted laws or promulgated administrative regulations with respect to the employment of females. Among these laws are *those which limit the employment of females, e.g.*, the employment of females in certain occupations, in jobs requiring the lifting or carrying of weights exceeding certain prescribed limits, during certain hours of the night, or for more than a specified number of hours per day or per week.

"(2) The Commission believes that *such State laws and regulations, although originally promulgated for the purpose of protecting females, have ceased to be relevant to our technology or to the expanding role of the female worker in our economy.* The Commission has found that *such laws and regulations do not take into account the capacities, preferences, and abilities of individual females and tend to discriminate rather than protect.* Accordingly, the Commission has concluded that such laws and regulations conflict with Title VII of the Civil Rights Act of 1964 and will not be considered a defense to an otherwise established unlawful employment practice or as a basis for the application of the bona fide occupational qualification exception." (emphasis added).

This is an important development because the EEOC has recognized the unfairness of dealing with women as a class, and has gone on record against those discriminatory State laws which persist in treating women as a class with stereotyped characteristics. The EEOC stand should also strengthen the trend which has been developing in the Federal courts toward invalidating State laws. The next section of the memorandum will discuss this case law.

PART V: THE FEDERAL COURT APPROACH

By December 1968, the effect of Title VII of the 1964 Civil Rights Act on restrictive State labor laws applying to women only was still unclear. Up to that time, the courts had not really faced the issue. In *Coon* v. *Tingle*, 277 F. Supp. 304 (N. D. Ga. 1967), the court dismissed the constitutional challenge to the Georgia law—which prohibits women from working in retail liquor stores—on procedural grounds, but implied in dictum that it would abstain on this issue in any case. In *Mengelkoch* v. *Industrial Welfare Commission*, 284 F. Supp. 950, 956 (C. D. Cal. 1968), *appeal dismissed* 393 U.S. 83, the court actually adopted the abstention approach. The women plaintiffs were seeking an injunction against the enforcement of California's maximum hours law, but the court wanted to avoid unnecessary friction in the Federal system. And in *Ward* v. *Luttrell*, 292 F. Supp. 162 (E. D. La. 1968), fourteen women engineers, framemen, and telephone operators sought an injunction against the enforcement of the Louisiana maximum hours laws. The three-judge district court dismissed the constitutional equal protection and due process claims on the ground that they were unsubstantial, but remanded the case to a one-judge court for a hearing on the supremacy issue under Title VII. The court also ruled, in *Ward* v. *Luttrell*, 292 F. Supp. 165 (E. D. La. 1968), that the case could not be brought as a class suit, on the ground that not all women would like the result plaintiffs were urging, and therefore, plaintiffs could not fairly and adequately protect the interests of the class.

However, since those cases were decided, the courts have started dealing with the issue and a trend toward invalidating the State restrictive laws now seems to be developing.

The first case to announce the change was *Rosenfeld* v. *Southern Pacific Co.*, 293 F. Supp. 1219 (C.D. Cal. 1968), appeals pending Nos. 23,983 and 23,984 (9th Cir.) decided six months after the Mengelkoch decision. Leah Rosenfeld, an employee of 22 years, bid for the position of agent-telegrapher with Southern Pacific. Although she was the most senior employee bidding for the job, it was awarded to a male with less seniority, on the grounds that to award the job to plaintiff would violate the California hours and weight laws restricting the employment of women and would also violate company policy. The court held that the California hours and weight legislation discriminates against women on the basis of sex, that it does not constitute a bfoq, and that therefore the legislation is void as contrary to the supremacy clause.

The *Rosenfeld* court did not discuss the issues at length, but the First Circuit did do so in the landmark case of *Weeks* v. *Southern Bell Telephone & Telegraph Co.*, 408 F. 2d 228 (5th Cir. 1969), *reversing in pertinent part* 277 F. Supp. 117 (S.D. Ga. 1967). In *Weeks*, an employee of 19 years bid for the job of switchman, which was again granted to a male with less seniority, ostensibly on the ground that Georgia weight regulation (30 pounds limit for women) forbade awarding the job to a woman. This was in fact the ground relied on by the District Court in its holding for the defendant.

After the District Court had ruled, Georgia repealed the specific weight limit and in its place a rule was promulgated which applied also to men and limited the lifting of weights only ". . . to avoid strains or undue fatigue." Even though this legislation did not apply to all women, the company—significantly—still refused to consider plaintiff for the switchman position. On appeal, the company relied on the District Court's finding that the job was strenuous and on its right to use a private restrictive 30 pound weight policy for women only, contending that both factors came within the bfoq exception. The Circuit Court reversed the lower court and set forth a test for establishing a bfoq exception:

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"The employer has the burden of proving that he has reasonable cause to believe, *that is a factual basis* for believing, that *all or substantially all women* would be unable to perform safely and efficiently the duties of the job involved." (emphasis added)

It held that the company had failed to meet this burden, since it had submitted no evidence on the issue, but rather had relied on unproven, stereotyped assumptions about the lifting abilities of women. Finally, the court dismissed the company's alleged concern about emergencies and late-night work, in far-reaching language:

"A speculative emergency like that could be used as a smoke screen by any employer bent on discriminating against women. It does seem that switchmen are occasionally subject to late hour call-outs. Of course, the record reveals that other women employees are subject to call after midnight in emergencies. Moreover, *Title VII rejects just this type of romantic paternalism as unduly Victorian and instead vests individual women with the power to decide whether or not to take on unromantic tasks. Men have always had the right to determine whether the incremental increase in remuneration for strenuous, dangerous, obnoxious, boring or unromantic tasks is worth the candle. The promise of Title VII is that women are now to be on equal footing.* We cannot conclude that by including the bona fide occupational qualification exception Congress intended to renege on that promise." (emphasis added)

Of course, the *Weeks* decision is not directly relevant to the issue of the conflict between Title VII and restrictive State laws, since the Georgia regulation was repealed before the appellate decision. However, it should be added that the *Weeks* court cited the *Rosenfeld* decision with approval. More important, it established a test for the bfoq exception which could have a decisive role in invalidating restrictive State laws. It is difficult to imagine how States, employers, or labor unions are going to prove, for example, that all or substantially all women cannot lift more than 30 pounds, work more than 40 hours a week, or serve drinks safely and efficiently. Even the stereotyped model of the suburban housewife and mother is required to do all these tasks on a daily basis. Babies and groceries often weigh more than 30 pounds, work continues 12 hours a day, 7 days a week (84 hours), and it is certainly common social practice now for men and women to consume alcoholic beverages together without disorder, and female bartenders are common all over the country.

Finally, the *Weeks* decision is relevant to the conflict issue in its understanding that a broad interpretation of the bfoq exception would have the effect of completely nullifying Title VII.

The Seventh Circuit followed the *Weeks* lead, when it invalidated another company-imposed weight restriction (35 pounds) applied to women only in *Bowe* v. *Colgate-Palmolive Co.*, 416 F. 2d 711 (7th Cir. 1969). This case also has ramifications which could affect the resolution of the Federal-State law conflict. First, *Rosenfeld* is once again noted with approval. Second, the court holds that although the weight requirement is invalid, if applied only to women, the company can retain the weight lifting requirement, but apply it to all employees, both male and female. Any employee would be allowed to bid for any job, with an opportunity to prove his or her ability to do it. This approach could also be followed in those cases where State laws give some kind of benefit. In fact, this is being done in a suit brought on behalf of male farm workers in Wisconsin. Under Title VII and the 14th Amendment, they are seeking an injunction which would in effect extend the protection of the State minimum wage law to men, *Bastardo* v. *Warren*, No. 69–C–143 (M) (W.D. Wis.).

The facts of the *Bowe* case are also of interest in the patterns of discriminatory employment practices which they reveal. It is first of all apparent that the restrictive State laws can have an even greater effect than their strictly legal force. Even though there was no State weight law, Colgate-Palmolive deliberately set out to copy existing laws in other States. Revealingly, the company did not do so until after passage of Title VII, under which the existing sex-segregated job system in the plant would be illegal. By setting up a weight limit, the company in effect managed to retain a sex-segregated job system, at least for women.

Ironically, men did get some benefit from the new policy, which should be more fully explained. Under the old system, the plant was divided into male and female jobs—the highest pay in the female category being equal to the lowest pay in the male category. Under the new system, the 35 pound limit was used to keep the women in the same lowest-paying jobs, but allowed men to compete for these jobs also. This would not seem to be an advantage, until it is realized that workers were laid off on weekly basis, with bidding for the available jobs on a seniority basis. Thus, the most senior employees with first choice were least likely to be laid off every week. Under the old system, each sex could bid only for jobs within its sex classification. Under the new system, all could bid for any job for which they qualified. Since men qualified for all jobs, but women only qualified for the under-35 pound categories, men were now given a competitive advantage as to lay-offs over women with greater seniority. For example, if one supposes 50 under-35 pound jobs and another 150 plant-wide jobs, women could only bid for 50 jobs before being laid off. In other words, the company's "compliance" with a Title VII, designed to help women, succeeded in keeping women in the lowest paying jobs while increasing their competitive *disadvantage* with men as to lay-offs.[17]

The Circuit Court reversed the District Court's ruling that the weight limitation was *reasonable* and therefore a valid bfoq. Like the *Weeks* court, it realized that such a broad construction of the bfoq would in effect nullify Title VIII itself, and refused to adopt a test of reasonableness in establishing a bfoq.

The *Bowe* decision could also affect the resolution of the State law-Federal law conflict by its realistic treatment of weight limitations. The court sees the lower court's assumption that State laws were not affected by Title VII as erroneous, but goes further. It adopts the approach of the Secretary of Labor that *individual* qualifications and conditions should always be considered, and concludes that—

"Most of the State limits were enacted many years ago and most, if not all, would be considered clearly unreasonable in light of the average physical development, strength, and stamina of most modern American women who participate in the industrial work force."

Rosenfeld, Weeks, and *Bowe* are the leading cases in this area, but other cases indicate that other courts are heading in the same direction. In *Richards v. Griffith Rubber Mills,* 300 F. Supp. 338 (D. Ore. 1969), a company was held to have violated Title VII by awarding two jobs of "Press Operator B" to men with less seniority than the woman applicant. The company relied on two factors for a bfoq defense: 1) a union contract requiring two ten-minute rest periods for female employees, and 2) the Oregon weight lifting regulation. Chief Judge Solomon ruled that the union contract could not be used to discriminate on the basis of sex, and that the Oregon regulation was void under the supremacy clause citing *Rosenfeld* and *Longacre v. Wyoming,* 448 P. 2d 832 (1968). In interpreting the bfoq, the court noted that, "Except in rare and justifiable circumstances, 42 U.S.C. § 2000e–2(e), *the law no longer permits* either employers or the *States to deal with women as a class* in relation to their employment *to their disadvantage.*" (emphasis added)

Longacre, cited by the *Richards* court, was not directly in point, since Title VII was not in issue, but it does reinforce the trend toward invalidating restrictive State laws. The State court there held that the State law prohibiting the employment of female bartenders was repealed by implication by the State Fair Employment Practices Act, which prohibited discrimination in employment on the basis of sex.

Another bar maid ordinance is involved in *McCrimmon v. Daley,* 61 LC 9352 (7th Cir. 1969). The District Court had dismissed, *sua sponte,* the challenge to the Chicago ordinance—prohibiting the employment of female bar maids—on the ground that it was not subject to constitutional attack, relying on *Goesart v. Cleary,* 335 U.S. 464 (1948). The Circuit Court reversed the dismissal, hinting that *McCrimmon* could be distinguished from *Goesart,* and also that there might be a violation of Title VII. (This issue had not been raised in District Court.) The case was remanded for a hearing on these issues.

One final case which could be used by the courts to help invalidate State laws is *Cheatwood v. South Central Bell Telephone,* 303 F. Supp. 754 (M.D.Ala. 1969). In an opinion by Judge Johnson, the author of the *Weeks* opinion, the court dealt at length with another company-imposed weight limit of 40 pounds, which had been used to deny the job of commercial representative to a woman. The court swiftly dismissed the company's supposed fears about a woman changing tires and collecting money in bars and poolrooms, characterizing the first as a makeweight and the second as having no functional relationship to sex (adding that no one was forced to bid for the job).

More interesting, however, was the prolonged discussion of the weight issue. For the first time, proof was taken on the issue of whether all or substantially all women were incapable of performing the job safely and efficiently (the *Weeks* test for a bfoq).

The job did require lifting heavy coin box cases, varying from 45 to 80 pounds and averaging 60¾ pounds. Occasionally, a case weighed over 90 pounds. Two doctors testified on the musculo-skeletal and genetic differences between men and women. The doctor which the court found more reliable stated that 25 to 50 percent of all women could perform the job; and even the defendant's doctor admitted that at least some women could perform the job. On the basis of this testimony, the court held that the employer had not met the burden of proof necessary to establish a bfoq, and enjoined the employer to reconsider all applicants for this job on the basis of their individual qualifications. The opinion is noteworthy for its scientific treatment of women's lifting abilities. Such an approach would go far toward invalidating the restrictive State laws.

Two cases which do not fit into the above general pattern should be mentioned. The first is *Gudbrandson v. Genuine Parts Co.,* 297 F. Supp. 134 (D. Minn. 1968). A company-imposed weight limit (40 pounds) was here upheld. However, the case was decided only a month after the *Rosenfeld* decision, and relies on the lower court decisions in *Weeks* and *Bowe,* both of which were subsequently overruled, as well as on an early EEOC guideline which has also been rejected. The case would thus appear to carry very little weight as precedent.

More important is the recent case of *Phillips* v. *Martin-Marietta Corp.* 411 F. 2d 1

Footnotes at end of article.

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(5th Cir. 1969), in which the court held it was not discrimination based on sex for an employer to refuse to hire mothers of pre-school age children when father of pre-school age children could be hired, since sex was not the only factor involved in the decision. Of course, the potential impact of such a doctrine is very broad; as Chief Judge Brown pointed out in his dissent to the denial of a rehearing, 416 F. 2d 1257 (5th Cir. 1969). "If 'sex plus,' stands, the Act is dead." Accordingly, the NAACP Legal Defense Fund has agreed to take the case for an appeal to the Supreme Court. However, the case is not directly relevant to the question of whether restrictive State laws will be allowed to stand under the bfoq exception, or will fall under the supremacy clause, since the company did not raise a bfoq defense. The issue, as formulated by the court, was whether the company policy *constituted* discrimination based on sex, not whether such discrimination was *allowed* under the bfoq exception.

In conclusion, then, it appears that, starting with *Rosenfeld*, recent cases support a trend toward invalidating restrictive State laws applying to women only. This trend is evidenced by invalidation either of State laws or of company policies that parallel State laws. The relevance of the latter type of case is strengthened by court approached to the bfoq which could readily be applied to invalidate the State laws.

PART VI: CONCLUSION

The analysis above shows that State labor laws applying to women only are discriminatory and harmful, and that they have been rejected by the EEOC and the Federal courts. It should also be pointed out that NOW (National Organization for women), the most establishment-oriented of the new women's rights groups, is also strongly opposed to these State laws, stating, "NOW believes that State labor standards which are applicable only to women are inconsistent with the concept of equality."[18] NOW, also supports the Equal Rights Amendment. Betty Friedan, the past president of NOW, also had this to say about the new EEOC regulations of August 19, 1969:

"The EEOC finally ruled that equal employment opportunity under the Federal law superseded the so-called State protective laws—which means that we have won all of our major goals reversing the original travesty of Federal enforcement of the civil rights' law on sex discrimination which led to NOW's founding in 1966."[19]

Some labor unions have also taken a stand against the State laws. In Wisconsin, the first State Women's Conference for the AFL–CIO was held on March 7, 1970. The women delegates passed resolutions in favor of the Equal Rights Amendment and opposing State labor laws for women. They stated:

"This Wisconsin State AFL–CIO Women's Conference recognizes that the protective laws for women passed in the early 1900's may well have met the needs of the time, but today serve only to limit opportunity in employment for women and discriminate against both men and women.

"We further realize that certain decent minimum standards of treatment for all workers regardless of sex are necessary."[20]

As early as May 1967, Counsel for the International Union, UAW, and the International Chemical Workers testified at EEOC Hearings in opposition to the State labor laws. Steven Schlossberg, for the UAW, stated that:

"More and more employers have been able to discriminate against women because of anachronistic, so-called "protective" State laws regulating the employment of women. Because of State laws and regulations limiting the weights a woman may lift, or the hours a woman may work, employers have been able to deprive women of jobs, promotions and overtime. Provisions in UAW collective bargaining contracts prohibiting discrimination and regulating senority are avoided and evaded through employer reliance on these outmoded laws.

"It is a plain fact of life that the discrimination against women in the employment market is class discrimination almost as gross and as evil as race discrimination. It cannot be rectified through a faint-hearted approach."[21]

David Feller, a distinguished labor attorney, speaking for the International Chemical Workers, found the same patterns of discrimination against women under the cover of State labor laws:

"And what is in fact happening as a result of the simultaneous existence of State protective legislation and Title VII is that the impact of the law as it is being administered today [a policy changed since 1967] is to deprive women of job opportunities—not simply not to help them—but actively hurt them."[22]

Finally, many States have modified State policy in view of Title VII. Measures have included: outright repeal of laws (3 States); rulings that State laws are superseded by Title VII (8 States); rulings that Title VII prevents prosecution under State laws (2 States); exempting women workers who are subject to the Fair Labor Standards Act from State hours laws (6 States); providing exemptions for women workers who apply for them (1) or sign special agreements (1); and, extending laws to men (1).[23]

In conclusion, then, conditions today do not warrant support for State labor laws which discriminate against women on the basis of sex. The EEOC, Federal courts, women's groups, labor unions, and States have all begun to recognize this fact. Therefore, "protective" labor laws for women should no longer furnish any basis for opposition to the Equal Rights Amendment.

FOOTNOTES

[1] U.S. Department of Commerce, Bureau of the Census, CPR 60, No. 66.

[2] EEOC, "Toward Job Equality for Women" (1969), 1–2.

[3] Broadly speaking, employers and labor unions having fewer than 25 employees or members, and employment agencies dealing with such employers are not covered. In addition, the national, State, and local governments and agencies are exempted, as well as U.S. public corporations. Other exempt categories include Indian tribes, private clubs, religious groups, and educational institutions. Communist employees are not protected. Finally, where sex, religion, or national origin (but *not* race or color) is a "bona fide occupational qualification," discrimination is permitted. See §§ 701, 702, 703 of the Act.

[4] Cromer, "Sex Discrimination in Private Employment: The Conflict Between the Civil Rights Act of 1964 and State Labor Laws for Women," An advanced Study Project in Industrial Relations for degree of Master of Business Administration (1967), 13.

[5] 110 *Cong. Rec.* 2580 (1964).

[6] *Id.*

[7] *Wilson v. Hacker,* 101 N. Y. S. 2d 461 (1950); see also, Kanowitz, *supra*, at 278, n. 11 for other examples of discriminatory collective bargaining agreements.

[8] Examples are the *Rosenfeld* and *Bowe* cases, cited and discussed, *infra*, at 11–14.

[9] U.S. Department of Labor, Women's Bureau, *Summary of State Labor Laws for Women* (March 1969).

[10] *Id.* at 18.

[11] Cromer, *Supra*, at 5.

[12] Remarks of President Kennedy in signing Equal Pay Act cited in *Phillips* v. *Martin-Marietta Corp.*, 416 F. 2d 1257, n. 15 (5th Cir. 1969).

[13] Remarks of Congresswoman Green, cited in Phillips, *Supra* n. 13.

[14] EEOC, "Toward Job Equality for Women" (1969), 7.

[15] Brief for the EEOC as Amicus Curiae, *Rosenfeld* v. *Southern Pacific Co.*, Nos. 23, 983 and 23, 984 (9th Cir.), 33.

[16] *Id.*, at 32.

[17] These facts are outlined in the lower court decision, 272 F. Supp. 332, 340–347 (S.D. Ind. 1967).

[18] NOW brochure.

[19] Friedan, Newsletter to Members of NOW, November 1969, 2.

[20] Proceeding of Women's Conference, Labor Temple-Wisconsin Rapids, Wisconsin, March 7, 1970, 7–8.

[21] Statement of the International Union, UAW to the Equal Employment Opportunity Commission at Public Hearing on May 2, 1967, 4, 9.

[22] Transcript of Hearings, EEOC, May 3, 1967, 230–231.

[23] Government Actions Relating to State Protective Laws for Women Since the Enactment of Title VII of the Civil Rights Act, C. East, Citizens' Advisory Council on the Status of Women, Washington, D.C. 20210.

(From 55 Cornell L. Rev. 262 (1970))

THE SUBMISSIVE MAJORITY: MODERN TRENDS IN THE LAW CONCERNING WOMEN'S RIGHTS

(Faith A. Seidenberg*)

The popular assumption that the law is even-handed does not hold true in the area of women's rights. Under the guise of paternalism (and you notice the word refers to a father), women have systematically been denied the equal protection of laws. Recently, however, there has been an upsurge of the feminist movement, and men are being forced to take a second look at some of the paternalistic laws they have propounded. Although challenge to the laws adversely affecting women is presently at about the same stage that the civil rights movement occupied in the 1930's, in the last few years there has nevertheless been a small beginning towards equal rights.

I: CRIMINAL LAW

The idea that a "bad" woman is much worse that a "bad" man probably can be traced to the witch hunts that took place in the early days of the American Colonies; however, it survives to the present day. For example, it is a crime for a woman to engage in prostitution[1] but not for her customer to use her services. She is breaking the law, it seems, while he is only doing what comes naturally. However, in *City of Portland* v. *Sherill*[2] a city ordinance that punished women but not men who offered themselves for immoral purposes was held unconstitutional.

In addition, in several states higher penalties are imposed on a woman who commits a crime than on a man who commits the same crime.[3] The constitutionality of greater penalties for women was recently challenged in two cases. In *Commonwealth v. Daniels*[4] a woman was first sentenced to a term of from one to four years for the crime of robbery; one month later the sentence was vacated and the defendant resentenced to up to ten years under Pennsylvania's Muncy Act.[5] The Muncy Act provided that a woman imprisoned for a crime "punishable by imprisonment for more than a year" should be sentenced to an indeterminate period of up to three years except when the crime for which she was sentenced had a maximum of more than three years, in which case she had to receive the maximum sentence. That is, for a crime carrying a sentence of one to ten years, a man might have been sentenced to one to four years, but a woman could only be sentenced to an indefinite term of up to ten years. The discretion of the trial judge to set a maximum term for a woman of less than the maximum for the crime involved was thereby eliminated. The Superior Court of Pennsylvania affirmed the trial court's action, hold-

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ing that longer incarceration for women is justifiable because of "the physiological and psychological make-up of women . . . their roles in society [and] their unique vocational skills and pursuits. . . ."[6] Whatever their significance, these characteristics did not convince the Pennsylvania Supreme Court that the Muncy Act's classification was reasonable. The court held that women are entitled to the protection afforded by the equal protection clause of the United States Constitution and, since the maximum sentence is the real sentence, that a sentence of ten years for women as opposed to four years for men is unconstitutional.[7] In *United States ex rel. Robinson v. York*[8] a federal district court held a Connecticut statute[9] similar to the Muncy Act unconstitutional. The decision was appealed by the state's Attorney General, but he withdrew the appeal after the decision came down in the *Daniels* case. Sixteen women, who had already served more time than a man's maximum sentence, were released.[10]

Criminal abortion statutes[11] are another example of the law's discrimination against women. That a woman has a right to control her own body is perhaps an idea whose time has yet to come, but there is at least a glimmering in some legal minds. Most lawyers and legislators, if they are talking about the subject at all, are still talking in terms of abortion reform instead of abortion repeal.[12] They discuss a need for change, but they sound a cautious note.[13] One case moving against the prevailing winds, however, is *People v. Belous*,[14] recently decided in the Supreme Court of California. The defendant was convicted for performing an abortion, and an amicus curiae counsel argued that

> [t]he right of reproductive autonomy sought to be protected here is clearly more basic and essential to a woman's dignity, self-respect and personal freedom than those personal rights . . . for which Constitutional protection has already been afforded. Probably, nothing except death itself can affect a woman's life more seriously than enforced bearing of children and enforced responsibility for them for perhaps the remainder of her and their lives. The choice must be that of the woman unless some overwhelming state interest requires otherwise, and those state interests generally adverted to will be shown below to be significantly, for constitutional purposes, less important than the interest of the woman herself. That right should be protected to the fullest by a holding that no state interest can control this field.[15]

In New York two bills, one for reform of abortion[16] and one for repeal,[17] were before the state legislature in the spring of 1969. Only the former had any chance of passing. Had it not been for the National Organization for Women's coming out strongly in 1968 for abortion repeal,[18] followed by agreement by the State Council of Churches[19] and the American Civil Liberties Union[20] on this position, the bills would probably not have been considered at all. However, as is beginning to be seen in California, where the abortion laws were just reformed,[21] abortion reform is worse from the standpoint of freedom of choice for the woman than no reform at all.[22]

II: CIVIL RIGHTS

For untold years there have been so-called "protective" laws regulating the working conditions of women. Necessary changes are beginning to be made, but the progress is slow; even legal experts do not always recognize the full dimensions of the problem. One commentator, for example, has remarked of women's working laws:

> With regard to social policy, the initial reaction is that the modern woman should not be subjected to state protective restrictions on her right to work should she choose to experience the conditions from which she is being protected. However, it is clear that the extent to which sex differences constitute "discrimination" is a question of degree, depending upon what social mores it seems desirable to perpetuate. . . . [Here], *considerations of preserving femininity and motherhood appear.*[23]

Unfortunately, this misses the point. The net effect of these laws is to limit the advancement of women in industry and, since women are everywhere the majority, to ensure that there is always a large supply of poorly-paid persons.

California has a particularly stringent system of governing women's employment. Section 1350 of the California Labor Code,[24] for example, prohibits an employer from employing women workers for more than eight hours a day or forty-eight hours a week. The effect of this restriction is to prevent women, solely because of their sex, from pursuing certain better-paid occupations, such as running test equipment, doing final assembly work, and working as supervisors, and from earning overtime pay in the positions they now hold. In addition, paragraph 17 of the California Industrial Welfare Commission's Order No. 9–68[25] not only regulates wages, hours, and working conditions of women and minors in the transportation industry but also limits the number of pounds a woman may lift to twenty-five.

This regulatory system was recently challenged. In *Mengelkoch* v. *Industrial Welfare Commission*[26] plaintiffs asked that a three-judge court be convened because the constitutionality of section 1350 was an important constitutional issue to be resolved. The request was denied. However, in a similar case, *Rosenfeld* v. *Southern Pacific Co.*,[27] the judge ruled in favor of plaintiff. This case concerned both section 1350 and paragraph 17. In it, plaintiff, a woman, applied for a job that had just opened up at the defendant company's facilities at Thermal, California.

Although she was the most senior employee bidding for the position and was fully qualified, the company assigned a male with less seniority than plaintiff. The company never tested or evaluated plaintiff's ability to perform the work required, but argued that the appointment was within its discretion as an employer and, since plaintiff was a woman, that her assignment to the position would violate the California Labor Code. The court, however, held both that the California hours and weights legislation discriminates against women and is therefore unconstitutional and that defendant's refusal to assign plaintiff to Thermal was not a lawful exercise of its discretion as an employer.

Restrictions on the amount of weight a woman can legally lift[28] are under attack in other states. An employer's thirty-five pound limitation[29] was tested in *Bowe* v. *Colgate-Palmolive Co.*,[30] where the court held it legal and proper for an employer to fix a thirty-five pound maximum weight for carrying or lifting by female employees. In another case, *Weeks* v. *Southern Bell Telephone & Telegraph Co.*,[31] defendant company took the position that because the job of switchman required lifting weight in excess of thirty pounds, the legal limit in Georgia,[32] a woman could not hold the job. The company conceded that plaintiff had seniority over the male awarded the position and that she was paid $78 per week as opposed to the $135 she would receive if she were a switchman. The sole issue in the case was whether or not sex is a bona fide occupational qualification, entitling defendant to bar a woman, as such, from consideration for the job of switchman, her capacities notwithstanding. The lower court held for defendant, but the Fifth Circuit reversed, finding illegal discrimination based on sex.

Segregated "help wanted" advertisements are another aspect of discrimination against women. Although the Civil Rights Act of 1964 forbids most such ads to be placed in newspapers[33] and forbids discrimination by sex in employment, the Equal Employment Opportunity Commission guidelines[34] nonetheless allowed two columns classified by sex to stand in the newspapers. In July 1968, therefore, the National Organization for Women brought a mandamus suit against the EEOC to compel it to enforce the law as written. The court summarily dismissed the complaint, saying that obviously some jobs were better suited to men and others to women,[35] but the suit did cause the EEOC to change the guidelines to conform with the law.[36] The American Newspaper Publishers Association brought an action to enjoin enforcement of the guidelines;[37] both the district court and the court of appeals found for the EEOC. However, although the *New York Times* and some other New York newspapers have now desegregated their want ads, most newspapers around the country still refuse to abide by the law.

The public accommodations section[38] of the Civil Rights Act of 1964, unlike the employment section, does not forbid discrimination on account of sex. A test case[39] was recently brought in New York against a Syracuse hotel that does not allow women to sit at the bar unescorted, and the action was dismissed. The court emphasized, first, that there was no state action, since the women who sat in at the bar were not arrested; and second, because the public accommodation law does not forbid discrimination on the basis of sex, that the hotel could discriminate if it so wished.[40]

The case was not appealed because the author, whose case it was, thought it would be relatively easy to obtain state action in an arrest. Accordingly, she and another member of the National Organization for Women sat in at several bars, including one in New York City that has not served women for the last one hundred and fourteen years. Although they suffered many indignities, they were not arrested. The author then decided to bring an action in a New York state court under a new section of the state civil rights law[41] that makes it illegal to refuse to serve a customer "without just cause." Summary judgment was granted to defendants and the case was dismissed. The author filed a third case, however, that was heard on August 6, 1969 and that was decided in favor of plaintiff.

III: PRIVATE LAW

Some colleges have strict rules covering the hours when coeds must be in their dormitories and an inflexible system of signing in and out.[42] Regulation is the product of the idea that a university stands *in loco parentis* to its students, an idea that is hopefully changing. After all, a married women of eighteen is considered to be "emancipated" from her parents under the law.[43] Why then is a college student living away from home not equally adult? But in any case, the rationale is not consistently applied; male students are not subjected to the same restrictions as women in the use of the dormitories, or even to the requirement that they live on campus. The Oneonta College curfew was challenged, but the case was dismissed on technical grounds without examination of the merits. Possibly because of the suit, however, the college voluntarily rescinded its curfew regulations,[44] so the students were the ultimate winners.

A double standard is also apparent in the law governing married women. Under present law, a married woman loses her name and becomes lost in the anonymity of her husband's name. Her domicile is his no matter where she lives,[45] which means she cannot vote or run for office in her place of residence if her husband lives elsewhere. If she wants an annulment and is over eighteen, in certain cases she cannot get one,[46] but her husband can until he is twenty-one.[47] In practice

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Footnotes at end of article.

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if not in theory, she cannot contract for any large amount, borrow money, or get a credit card in her own name. She is, in fact, a non-person with no name.

Women receive little in exchange for this loss of status. Although in theory the husband and wife are one person, the relationship "has worked out in reality to mean . . . the one is the husband."[48] For example, husband and wife do not have equal rights to consortium,[49] the exclusive right to services of the spouse and to his or her society, companionship, and conjugal affection.[50] Until recently it was everywhere the law that only the husband could recover for loss of consortium, and this is still the law in about two-thirds of the states.[51] The major breakthrough came in 1950 in *Hitaffer v. Argonne Co.*,[52] which reversed the prevailing rule. In a more recent case, *Karczewski v. Baltimore & O.R.R.*,[53] the court concluded, "[m]arriage is no longer viewed as a 'master-servant relationship.'"[54] and in *Owen v. Illinois Baking Corp.*[55] the court held that denying a wife the right to sue for loss of consortium while permitting such suit to a husband violates the equal protection clause.[56]

The unreasonableness of denying an action for loss of consortium to the wife is well expressed by Michigan Supreme Court Justice Smith:

> The gist of the matter is that in today's society the wife's position is analogous to that of a partner, neither kitchen slattern nor upstairs maid. Her duties and responsibilities in respect of the family unit complement those of the husband, extending only to another sphere. In the good times she lights the hearth with her own inimitable glow. But when tragedy strikes it is a part of her unique glory that, forsaking the shelter, the comfort, and warmth of the home, she puts her arm and shoulder to the plow. We are now at the heart of the issue. In such circumstances, when her husband's love is denied her, his strength sapped, and his protection destroyed, in short, when she has been forced by the defendant to exchange a heart for a husk, we are urged to rule that she has suffered no loss compensable at the law. But let some scoundrel dent a dishpan in the family kitchen and the law, in all its majesty, will convene the court, will march with measured tread to the halls of justice, and will there suffer a jury of her peers to assess the damages. Why are we asked, then, in the case before us, to look the other way? Is this what is meant when it is said that justice is blind?[57]

CONCLUSION

In theory all persons should be equal, but in practice women are less "equal" than men. In all phases of life women are second-class citizens leading legally sanctioned second-rate lives. The law, it seems, has done little but perpetuate the myth of the helpless female best kept on her pedestal. In truth, however, that pedestal is a cage bound by a constricting social system and hemmed in by layers of archaic and anti-feminist laws.

FOOTNOTES

[*] President, Syracuse Chapter of National Organization for Women. B.A. 1944, J.D. 1954, Syracuse University.

[1] *See* THE SOCIAL EVIL (Seligman ed. 1902); George, *Legal, Medical and Psychiatric Considerations in the Control of Prostitution*, 60 MICH. L. REV. 717 (1962).

[2] No. M-47623 (Circuit Ct., Multnomah county, Ore., Jan. 9, 1967).

[3] *E.g.*, Pennsylvnaia, Connecticut. *See* statutes upheld in *Ex parte Gosselin*, 141 Me. 412, 44 A.2d 882 (1945); Piatt v. Commonwealth, 256 Mass. 539, 152 N.E. 914 (1926).

[4] 210 Pa. Super. 156, 232 A.2d 247 (1967).

[5] PA. STAT. tit. 61, § 566 (1964), *as amended*, (Supp. 1969).

[6] 210 Pa. Super. at 164, 232 A.2d at 252. The philosophy of the statute is more cogently, if not convincingly, explained as follows:

> There is little doubt in the minds of those who have had much experience in dealing with women delinquents, that the fundamental fact is that they belong to a class of women who lead sexually immoral lives . . .
>
> [Such a statute] would remove permanently from the community the feeble-minded delinquents who are now generally recognized as a social menace, and would relieve the state from the ever increasing burden of the support of their illegitimate children.

Commonwealth v. Daniels, 210 Pa. Super. 156, 171 n.2, 232 A.2d 247, 255 n.2 (1967) (dissenting opinion). Oddly enough, the material quoted from the *Daniels* case was supplied by Philadelphia District Attorney Arlen Specter in a brief urging the *un*constitutionality of the Muncy Act.

[7] 430 Pa. 642, 243 A.2d 400 (1968). Shortly thereafter the Pennsylvania legislature enacted a statute that required the court to set a maximum sentence, but prohibited it from setting a minimum term. PA. STAT. tit. 61, § 566 (Supp. 1969).

[8] 281 F. Supp. 8 (D. Conn. 1968).

[9] CONN. GEN. STAT. ANN. § 17-360 (1958).

[10] Middletown Press, Aug. 12, 1968, at 1, col. 1 (Middletown, Connecticut).

[11] *E.g.*, CAL. PENAL CODE § 274 (West 1955). Prior to its liberalization in 1967, it was similar to statutes in 41 other jurisdictions. Leavy & Kummer, *Criminal Abortion: A Failure of Law*, 50 A.B.A.J. 52 n2 (1964).

[12] *But see* Brief for Appellant as Amicus Curiae at 37-38, People v. Belous, 71 Cal. 2d 996, 458 P.2d 194, 80 Cal. Rptr. 354 (1969), reporting that Father Robert Drinan, Dean of Boston College Law School, has come out for repeal on the grounds that it should be a matter of individual conscience, not law.

[13] *See, e.g.*, L. KANOWITZ, WOMEN AND THE LAW: THE UNFINISHED REVOLUTION 27 (1969):

> Though very few people would urge the legalization of all abortions, the principle of legal equality of the sexes is an additional reason for extending the circumstances under which therapeutic abortions should be legally justified.

[14] 71 Cal. 2d 996, 458 P.2d 194, 80 Cal. Rptr. 354 (1969).

[15] *Belous* Brief, *supra* note 12, at 10-11 (footnotes omitted).

[16] (1969) Assy. Int. No. 3473-A (Mr. Blumenthal).

[17] (1969) Assy. Int. No. 1061 (Mrs. Cook).

[18] *See* 2 Now Acts 14 (Winter-Spring 1969).

[19] New York State Council of Churches Leg. Release No. 8 (Feb. 10, 1969).

[20] American Civil Liberties Union Release (March 25, 1968).

[21] CAL. PENAL CODE § 274 (West Supp. 1968).

[22] Two actions were just filed in New York to have that state's abortion statutes declared unconstitutional. N.Y. Times, Oct. 8 1969, at 53, col. 1; *id.*, Oct. 1, 1969, at 55 col. 3.

[23] Oldham *Sex Discrimination and State Protective Laws*, 44 DENVER L. REV. 344, 375 (1967) (emphasis added). *But see* R. Seidenberg, *Our Outraged Remnant*, 6 PSYCHIATRIC OPINION, Oct. 1969, at 18:

> The exaggeration of the difference between the sexes has been used to justify misogyny. Our young people want to make it difficult to distinguish between the sexes to show that everything feminine is not contemptible. One can wear long hair proudly; to be taken for a woman is not something to despair. Make the sexes undifferentiated, and then, perhaps, the mythology of "feminine" and "masculine" will be revealed for what it really is—a ruse to keep women subjugated and to guarantee men an unearned superiority.

[24] CAL. LABOR CODE § 1350 (West Supp. 1968):

> No female shall be employed in any manufacturing, mechanical, or mercantile establishment or industry, laundry, . . . cleaning and dyeing establishment, hotel, public lodging house . . . in this state, more than eight hours during any one day of 24 hours or more than 48 hours in one week . . . .

Females covered by the Fair Labor Standards Act, however, are exempt from the prohibitions of § 1350. *Id.* § 1350.5.

[25] CAL. ADMIN. CODE. tit. 8, § 11460 (1968). The division of public welfare is given specific enforcement power of § 1350. CAL LABOR CODE § 1356 (West Supp. 1968).

[26] 284 F. Supp. 950 (C.D. Cal) *vacated*, 393 U.S. 993 (1968).

[27] 293 F. Supp. 1219 (C.D. Cal. 1968).

[28] The typical restriction to 30 or 35 pounds is ironic if the goal is to preserve the femininity of women laborers; mothers commonly lift their children until they are 6 or 7 years old, when they weigh at least 70 pounds.

[29] Originally instituted because of substantial female employment during World War II, this practice continued even when the men returned to work. Bowe v. Colgate-Palmolive Co., 272 F. Supp. 332, 340 (S.D. Ind. 1967).

[30] 272 F. Supp. 332 (S.D. Ind. 1967). The provision was also challenged in Sellers v. Colgate-Palmolive Co., — F.2d — (7th Cir. 1969), which held in favor of the plaintiffs.

The *Bowe* court did hold, however, that use of a seniority list segregated by sex, which resulted in certain female employees being laid off from employment while males with less plant seniority were retained, resulted in discrimination in violation of the 1964 Civil Rights Act. 272 F. Supp. at 359.

[31] 408 F.2d 228 (5th Cir. 1969).

[32] Rule 59, promulgated by Georgia Commissioner of Labor, pursuant to GA. CODE ANN. § 54-122(d) (1961): "[f]or women and minors, not over 30 pounds." A more flexible rule, setting no specific limitations, replaced Rule 59 in 1968. *See* 408 F.2d at 233.

[33] Civil Rights Act of 1964, § 704(b), 78 Stat. 257, 42 U.S.C. § 2000e-3(b) (1964):

> It shall be an unlawful employment practice for an employer, labor organization, or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

[34] 31 Fed. Reg. 6414 (1966).

[35] The court pointed out that secretaries are obviously female, despite the presence in front of the bench of the male stenographer.

[36] 29 C.F.R. § 1604.4 (1969).

[37] American Newspaper Pub. Ass'n v. Alexander, 294 F. Supp. 1100 (D.D.C. 1968).

[38] 42 U.S.C. § 2000a (1964).

[39] DeCrow v. Hotel Syracuse Corp., 288 F. Supp. 530 (N.D.N.Y. 1968).

[40] *Id.* at 532 It is interesting to note that the court did not find the hotel's admitted discrimination offensive; this is in accord with public opinion. The *Syracuse Post-Standard* said in a lead editorial:

> The campaign waged for several months by the National Organization for Women (NOW) against Hotel Syracuse for its long-standing policy of refusing to serve drinks to unescorted women at the bar in the Rainbow Lounge has reached another absurd point.
>
> All sororities at Syracuse University have been asked to refuse to patronize Hotel Syracuse "because they discriminate against women at their bar," in a letter from Faith

A. Seidenberg, one of three directors of the Central New York Chapter of NOW.

Hotel Syracuse has had the no-escorted-women-at-the-bar rule ever since Prohibition was repealed in an effort "to maintain the dignity of the room" and to discourage undesirables and wouldbe pickups from frequenting the Rainbow Lounge, which is at street level, just off the main entrance to the hotel.

Hotel Syracuse should be commended for running a decent place, instead of being subjected to the repeated persecution of sit-ins and boycott efforts. Surely any women's rights group could find a better cause than this!

Syracuse Post-Standard, Nov. 8, 1968, at 12, col. 1.

[41] N.Y. Civ. Rights Law § 40–e (McKinney Supp. 1969).

[42] *E.g.*, Syracuse University at Syracuse, N.Y. Letter sent to parents of freshmen, January 1969 (freshman curfew); State University of New York at Oneonta, Experimental Women's Hours Policy, spring semester 1968 (freshman curfew).

[43] *E.g.*, N.Y. Dom. Rel. Law § 140(b) (McKinney 1964).

[44] State University of New York at Oneonta Experimental Women's Hours Policy (Rev. Sept. 1968).

[45] New York Trust Co. v. Riley, 24 Del. Ch. 354, 16 A. 2d 772 (1940). *But see* N.Y.Dom, Rel. Law § 61 (McKinney 1964).

[46] *E.g.*, Cal. Civ. Code §§ 56, 82 (West Supp. 1968).

[47] *E.g.*, *id.*

[48] United States v. Yazell, 382 U.S. 341, 361 (1966) (dissenting opinion).

[49] Burk v. Anderson, 232 Ind. 77, 81, 109 N.E.2d 407, 408 (1952) (dictum).

[50] Smith v. Nicholas Bldg. Co., 93 Ohio 101, 112 N.E. 204 (1915).

[51] *See* Moran v. Quality Alum. Casting Co., 34 Wis. 2d 542, 549–50 nn.15 & 16, 150 N.W. 2d 137, 140 nn.15 & 16 (1968); Simeone, *The Wife's Action for Loss of Consortium—Progress or No?*, 4 St. Louis U.L.J. 424 (1957).

[52] 183 F.2d 811 (D.C. Cir. 1950).

[53] 274 F. Supp. 169 (N.D. Ill. 1967).

[54] *Id.* at 175. The court summarized the rationale of the prevailing rule:

> The early status of women during the sixteenth and seventeenth centuries vitally affected the common law attitude toward relational marital interests. The wife was viewed for many purposes as a chatel of her husband, and he was entitled to her services in the eyes of the law. . . . The wife, however, as a "servant" was not entitled to sue for the loss of services of her husband, since in theory he provided none. *Id.* at 171.

[55] 260 F. Supp. 820 (W.D. Mich. 1966).

[56] "To draw such a distinction between a husband and wife is a classification which is unreasonable and impermissible." *Id.* at 822.

[57] Montgomery v. Stephan, 359 Mich. 33, 48–49, 101 N.W.2d 227, 234 (1960), *quoted with approval*, Millington v. Southeastern Elev. Co., 22 N.Y.2d 493, 503–04, 239 N.E.2d 897, 900, 293 N.Y.S.2d 305, 309 (1968).

[Telegram to Hon. Birch Bayh,
Sept. 28, 1970]

Cambridge, Mass.

Hon. Birch Bayh,
U.S. Senate,
Washington, D.C.:

The undersigned are members of the Harvard Law School faculty having considered the legal arguments against the equal rights amendment we urge you to vote in support of the amendment without change.

Derick Bell, Robert Braucher, Abram Chayes, Jerome Cohen, Vern Countryman, Alan Dershowitz, Philip Heymann, Charles Nesson, Samuel Thorne, Lawrence Tribe, Lloyd Weinreb.

[Legal memorandum to Hon. Birch Bayh]

To Senator Birch Bayh, U.S. Senate.
From Carol Sherman, Harvard Law School.
Re Precedents dealing with protective legislation and statutory classification: tendencies by the courts to either extend legislation to include the unprotected or adversely affected group or to invalidate the statute so as to strike it down completely.

Where a statute denies equal protection by making an unconstitutional classification, the classification can be abolished by making the statute operate either on everyone or on none.[1] The cases dealing with such legislation are, however, few. Protective legislation has not often been challenged, and in those cases where it has, the courts have made every attempt to find the classification reasonable and within the discretion of the legislature.

In treating this problem, Justice Harlan stated in his opinion in *Welsh* v. *U.S.* (1970),[2] "If an important congressional policy is to be perpetuated by recasting unconstitutional legislation, as the court has done here, the analytically sound approach is to accept responsibility for this decision. Its justification cannot be by resort to legislative intent, namely the presumed grant of power to the courts to decide whether it more nearly accords with Congress' wishes to eliminate its policy altogether or extend it in order to render what Congress plainly did intend." It is most likely that the courts will find themselves in this position at the passage of the proposed equal rights amendment.

CRIMINAL LAW

In the field of criminal law, the courts have been unwilling to extend legislation if a statute defining a crime is before the court. Such an extension to formerly untouched groups would make behavior criminal that had not been so before. However, the consequence of invalidation might be unacceptable if the legislation is necessary to an important public purpose.[3] Thus in those cases where different statutory sentences and procedures have been applied on an unreasonable, racial and/or sexual basis for the same substantive crimes, the courts have tended to invalidate the discriminatory statute as applied to the petitioner and have extended the alternative statute to the petitioning class:

U.S. ex rel. Robinson ve Janet York, Supt. Connecticut State Farm for Women 281 F. Supp. 8 (1968)—Petitioners made an equal protection argument saying that the Connecticut statute permitting adult women to be imprisoned for periods in excess of the maximum term applicable to men guilty of the same substantive crime was a violation of the Fourteenth Amendment.[4] The court, while noting the discretion allowed to the legislature in classification based upon sex, struck down the statue for being an invidious discrimination repugnant to the equal protection of the laws and extended to women the sentencing statute as applied to men. (c.f. *U.S. ex rel. Ada Sunrell v. Janet York,* 288 F. Supp. 956 (1968))

Comm. v. Daniel, 430 Pa. 642, 243 A2d 400 (1968)—The court struck down the Muncy Act, holding that it violated the equal protection clause of the Constitution. The Act stated that a judge sentencing a woman under the Act had no discretion in fixing the maximum period during which she must be imprisoned while a judge sentencing a man may consider extenuating facts and factors.

U.S. ex rel. Shuster v. Herold, 410 F2d 1071 (1969)—The court held that a law authorizing more lenient procedural measures for the involuntary commitment of an individual convicted of a crime to a mental institution than those followed for the involuntary commitment of a civilian was a denial of equal protection of the law. The court struck down the offending statute (c.f. *Baxstrom v. Herold,* 383 U.S. 107 (1966))

U.S. Reese, 92 U.S. 214 (1875)—The question presented was whether two election inspectors who denied a Negro the right to vote in a municipal election could be punished under a federal law which did not specifically permit such punishment. The law only provided for punishment for denying an individual the right to vote on a basis other than race. The court held the law unconstitutional in its entirety as not appropriate legislation under the Fifteenth Amendment rather than rewrite the law to include an offense based upon a racial discrimination. Although this case did not extend the law to include the excluded class, it can be distinguished from the cases above by the fact that there were not two opposing statutes in question.

In those cases, however, where classification held unconstitutional has been determined by other factors such as the nature of the crime itself, the courts may choose to invalidate the entire statute rather than to extend it to include the formerly excepted class:

Skinner v. *Oklahoma,* 316 U.S. 535 (1942)—The court held, in an opinion by Justice Douglas, that a statute calling for the sterilization of habitual criminals was in violation of equal protection of the laws.[5] The court discussed the unconstitutionality of the classification and the exception made. It then went on to say, "whether the severability clause would be so applied as to remove this particular constitutional objection is a question which may be more appropriately left for adjudication by the Oklahoma courts. . . . It is by no means clear whether, if an excision were made, this particular constitutional difficulty might be solved by enlarging on the one hand or contracting, on the other, the class of criminals who might be sterilized."

On remand, the state court held the entire act unconstitutional and declined to use the severability clause to remove the exception that created the condition of discrimination. (*Skinner* v. *Oklahoma,* 195 Okl. 106, 155 P. ad 715, (1948))

Those crimes, however, which involve classification and are sexual by their very nature (rape, statutory rape, prostitution, etc.) may be considered by the courts in relation to the public purpose to be served, the anatomical factors of the participants and the statutes presently operative that may affect or be affected by the acts in question.

EMPLOYMENT

The cases and statutes dealing with employment in equities may be divided into two categories. One includes those statutes, justified in protective terms, which prohibit women from entering particular vocations such as mining and bartending,[6] and those practices and statutes which either set a weight lifting limit or bar women from specific promotions and positions. Such practices and legislation can not be extended, to do so would fatally cripple or illegalize certain industries. Such legislation might, however, be recast to permit individual women as well as men to establish that they can perform the work without harmful effects:

Bowe v. Colgate-Palmolive Co., 416 F. 2d 711 (1969)—The court held that the limits on the weight an employee may lift must be applied on an individual basis to both men and women and not on the basis of sex. The court then said that where an employer was imposing a 35 pound weight-lifting limit on jobs open to females, he was acting in violation of Title VII of the Civil Rights Act.

Shpritzer v. Lang, **224 N.Y.S. 2d 165** (1962)—The court held that where a police-

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Footnotes at end of article.

woman could perform enough of the functions of command and administration which a male sergeant in the N.Y.C. police department performs, then the Administrative Code provision prohibiting promotion of a policewoman to the rank of sergeant must be unconstitutional on the ground that the statutory qualification on the basis of sex is arbitrary and capricious and the provision may violate the equal protection of the law.

In addition, the courts could require states to supplement statutes with others which would require employers to install labor saving machines where they are available.[7]

The other category of legislation, that affecting wage and hours limitation, would not have such drastic consequences. The extension of such legislation would merely increase labor costs; industry would still function. There would be a problem, however, to such an extension in that the legislature did not intend such protection for men and in fact might not have passed the legislation if it had thought that it would be applied to men. The courts have, however, already entered the area of wage and hour control. Thus through *Miller v. Oregon*, 208 U.S. 412 (1908), the Court upheld protective legislation as applied to women, and in *U.S. v. Darby*, 312 U.S. 100 (1940) it overruled *Lochner v. N.Y.*, 198 U.S. 45, (1905) and upheld legislatively imposed limits on hours and wages. Although the states did not react to *Darby v. U.S.* by extending previous women-only protection to men, it is not necessarily true that the state legislatures were opposed to such an extension. It is only very recently that the effects of such one-sided laws on women's employment opportunities have been brought to the attention of the states' political processes.[8] The extension of such protective legislation could, in many cases, be looked upon as a reasonable and legitimate remedy to statutes and practices held to be unconstitutional under an equal rights amendment.

The Department of Labor has issued the following interpretation of sec. 218 of the Federal Labor Standards Act and a provision of the Equal Pay Act of 1963: [9]

"State laws providing minimum wage requirements may affect the application of the equal pay provisions of the Fair Labor Standards Act. If a higher minimum wage than that required under the Act is applicable to a particular sex pursuant to State law, and the employer pays the higher State minimum wage to male or female employees, he must also pay the higher rate to employees of the opposite sex for equal work in order to comply with the equal pay provisions of the Act." [10]

Further:

"The application of the equal pay provisions of the Act may also be affected by State legal requirements with respect to overtime pay. If as a result of a State law, female employees in an employer's establishment are paid overtime premiums for hours worked in excess of a prescribed maximum in any workday or workweek, the employer must pay male employees performing equal work in such establishment the same overtime premiums when they work such excess hours, in order to comply with the equal pay provisions of the Fair Labor Standards Act." [11]

By extending protective legislation in the minimum wage area to men, an employer could no longer invoke the state maximum hour limit for women workers as a bona fide occupational qualification permitting him to discriminate arbitrarily against a female job applicant in favor of a male job applicant.[12]

In other fields involving classification, the courts have proceeded as follows:

JURY SERVICE

White v. *Crook* 251 F. Supp. 401 (1966)—The court held that a state may not exclude Negroes and women from jury service. It struck down the statue prohibiting women from jury service and also extended jury service to Negroes.

WELFARE

Shapiro v. *Thompson* 394 U.S. 618 (1968)—The Court held that the Pennsylvania, Connecticut and District of Columbia provisions denying welfare assistance to persons who were residents and met all the eligibility requirements except that they had not resided within the jurisdiction for at least a year immediately preceding application for assistance created a classification which was a denial of equal protection. The Court struck down the offending provision and extended welfare benefits to those previously excluded.

ACTION FOR LOSS OF CONSORTIUM

Owen v. *Illinois Baking Corp.*, 260 F. Supp. 820 (1966)—The federal district court in Michigan invalidated a discriminatory consortium rule which permitted a husband to sue while denying the wife access to the courts on the gronds that the rule was a denial of equal protection. The court, therefore, extended the right to sue to women. (c.f. *Clem* v. *Brown*, 3 Ohio Misc. 167, 207 N.E. 2d 398 (1965); *Black* v. *U.S.*, 263 F. Supp. 470, 480 (1967))

TAXING AND LICENSING

National Life Insurance Company v. *U.S.*, 277 U.S. 508 (1928)—The Court held that aspects of the tax law as applied to the gross income of insurance companies was unconstitutional. The Court left the question of severability to the states. Justice Brandeis said, in his dissent, "even if the clause permitted the act to enlarge the scope of deductions allowed by a taxing statute, the present case would be wholly inappropriate for the exercise of such power. Here the asserted unconstitutionality can be cured as readily by striking out the whole of the paragraph as by enlarging it." He went on to say that such legislation was not conferred in the Court.

Morey v. Doud, 354 U.S. 457, 77 S. Ct. 1344 (1957)—The Court held that a provision of the Illinois Commission of Currency and Exchange Act that called for the licensing, inspection, bonding and regulation of all currency exchanges engaging in the business of selling and issuing money orders but exempted the American Express Company from all of its provisions was a violation of the equal protection clause and therefore unconstitutional. The Court went on to say that the case need not be remitted to the Illinois court for a determination if the exception should be severed under the severability clause because the Supreme Court of Illinois had already indicated that the clause was not severable. (*McDougall v. Louder*, 389 Ill. 141, 151, 58 N.E. 2d 899, 904 (1945)—The Supreme Court of Illinois said "the General Assembly would not have passed the act if it thought that the companies (Western Union, Postal Telegraph, American Express) would be made subject to its rules and regulations. . . . There is no necessary reason for choosing the intent to exclude one group over the intent to include another. Courts may reason that without legislation none would be covered, and that invalidating the exemption therefore amounts to illegitimate judicial legislation over the remaining class not previously covered. The conclusion then is to invalidate the whole statute no matter how narrow the exemptions have been.")

Iowa-Des Moines National Bank v. Bennet, 284 U.S. 239 (1931)—The Court held that the state denied petitioners equal protection of the laws by taxing them more heavily than the competition. "The right involved is that to equal treatment and such treatment will be maintained if either their competitors' taxes are increased or theirs are reduced". The Court said that it was impractical to require the aggrieved party to assume the burden of seeking to increase the taxes of the others and that therefore he was entitled to recover for overpayment.

ILLEGITIMACY

Levy v. Louisiana, 391 U.S. 68 (1968)—The Court held that a statute which denied the right of recovery by illegitimate children in contrast to legitimate children for the wrongful death of their mother was an invidious discrimination contravening the Equal Protection Clause of the Fourteenth Amendment, since legitimacy or illegitimacy of birth has no relation to wrongs allegedly inflicted on the mother. The Court invalidated the legal classification and did not destroy the entire statute. It extended the right to recovery to the previously excluded class, (c.f. *Glona v. American Guaranty Liability Insurance Company*, 391 ULSL 73 (1968)).

The potential danger in constitutional challenge to laws conferring a benefit on one sex but withholding it from another has been that if the challenge succeeded, the benefit might be withdrawn. In the cases discussed above, it seems that the majority of the courts have extended the benefit to the previously excluded class. Under the authority of *Levy* v. *Louisiana*, it would appear to be consistent with the Supreme Court's role as a final interpreter of the equal protection clause for it to confer the same benefit upon the sex from which it had been previously withheld.[13] Those cases, however, where the courts seem to have been reluctant to support such an extension appear to involve clear legislative intent (*Morey* v. *Doud*) or practical necessity. It would seem therefore to be most beneficial to the enforcement of the equal rights amendment to include some kind of general statement of legislative intent in the specific fields most likely to be presented for adjudication. Thus a combination of a guideline to legislative intend and the cases previously discussed, such as *Levy* v. *Louisiana*, would make adjudication of cases brought under the equal rights amendment a clearer and more defined process and might point the way towards the extension of protective legislation.

FOOTNOTES

[1] *Skinner* v. *Oklahoma*, 316 U.S. 535, (1942).

[2] *Welsh* v. *U.S.*, June 15, 1970.

[3] Harvard L. R. 1136.

[4] The state based its argument on the premise that the statute was an expression of the state's concern to provide for "women and juveniles a special protection and every reformative and rehabilitative opportunity." The Court rejected the argument.

[5] Habitual criminals were defined as criminals convicted two or more times of felonies involving moral turpitude. Crimes of embezzlement were excepted. It was upon this exception that Justice Douglas based his argument.

[6] *Goesart* v. *Cleary*, 335 U.S. 464 (1948).

[7] Kanowitz, Leo, *Women and the Law*, Univ. of New Mexico Press, Albuquerque, 1969, p. 183.

[8] *ibid.*, p. 185.

[9] 29 U.S.C. sec. 206(d)(1) (1964).

[10] 29 C.F.R. sec. 800.161 (1967).

[11] 29 C.F.R. sec. 800.162.

[12] Kanowitz, p. 121.

[13] *ibid.*, p. 159.

Mr. BAYH. Mr. President, as one who has long been a strong supporter of this measure, I want the record to be very clear that I do not approve of some of the tactics and antics that have been followed by some enthusiastic supporters of this particular piece of legislation. In fact, I think the record will show that I am deeply concerned because some of these tactics and some of these acts perpetrated in the name of furthering the cause of equal opportunity for women are really doing more damage than anything that has been said by the opponents of this particular legislation.

We are not, let me emphasize—nor would we do it had we the ability to—remaking women in men's image. God forbid. What we are trying to do is once and for all wipe away the vestiges of second-class treatment in education, in employment, in conducting business, and in the other facets of normal American life which, it cannot be denied, exist on the statute books, in employment policies, and in the hearts and minds of many of our citizens.

One hundred years ago this Nation wiped away the vestiges of second-class citizenship based on race. After this debate, I hope the Senate will join the House in ending such second-class citizenship based on sex. Every citizen, man and woman, black, brown, white, must be equal in the eyes of the law.

Mr. GRIFFIN. Mr. President, I ask unanimous consent to have printed in the RECORD some remarks prepared for delivery by the Senator from Texas (Mr. TOWER).

There being no objection, Senator TOWER's statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR TOWER

Mr. President, it is apparent that the values of the country are changing rapidly relating to the role of women in our culture. Women have gradually taken more and more of an active role in business, politics, and professional life, to the extent now that the traditional concept of women as purely homemakers has substantially disappeared, even though many women today actually remain, and often prefer to be, homemakers. The cultural differences between the roles of men and women have become much less pronounced in most fields of activity. Women today want full legal equality in education and employment to complete this peaceful cultural revolution leading to the greater utilization of their capabilities and energies. And who can blame them for wanting this expansion of their horizons? Certainly not the American male, who has constantly pushed back horizons in the search for greater fulfillment as economic provider and as molder of his own environment. He must understand that the same motivation and energy abides in women too, and that they long for an equal chance to express themselves in our accomplishment-oriented world.

Men should not feel that the passage of and ratification of this Constitutional Amendment would result in the loss of existing jobs. The result of this Amendment, with a favorable economic climate, should be no more than the gradual expansion of the job market, position-wise and salary-wise, to include most of the women who want to work and who want to improve their pay levels. This should result in an expanded economy and the expanded production of goods and services. It will probably result in an increase in per capita income for all employed persons due to the improvement in resource utilization.

It should be noted that the progress of the expansion of woman's role in our society does not depend on the passage of this Amendment to any great degree. What we have seen as a general progressive cultural change in women's role over the past fifty and even one hundred years will continue in the future, with or without this Amendment. The forces of cultural change—wider and better education, rapid and widespread communications, technological change, higher incomes—help push the emancipation of women and will insure that their improved positions in our economy will be accompanied by the appropriate cultural attitude changes in both male and female elements of the society needed to make this complete transition orderly and successful.

Passage of this Amendment would, therefore, really represent a symbol of accomplishment for the expanded role of women in our society more than an instrument of change itself. The cultural process that has made possible this expansion will continue to function, whether this legal recognition of equal status is passed and ratified immediately, or whether it takes some additional time to accomplish this task. In either case, women are in the final stages of transition to an assured cultural and legal equality. With this Amendment, we in Congress can give formal recognition to this accomplishment and perhaps help give women incentive to contribute more of themselves to participation in the economy and the society at large than they have ever had.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATUS OF HOUSE JOINT RESOLUTION 264 UNTIL CONCLUSION OF MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that House Joint Resolution 264 remain in a temporarily laid-aside status until the conclusion of morning business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

The PRESIDING OFFICER. The hour of 11:30 a.m. having arrived, the Chair lays before the Senate H.R. 18583, relating to the Public Health Service Act, which the clerk will state by title.

The legislative clerk read the bill (H.R. 18583) by title, as follows:

A bill (H.R. 18583) to amend the Public Health Service Act, and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

The PRESIDING OFFICER. The pending amendment is No. 1026, offered by the Senator from Iowa (Mr. HUGHES) for the Senator from California (Mr. CRANSTON) et al.

PRIVILEGE OF THE FLOOR

Mr. HUGHES. Mr. President, I ask unanimous consent that two additional members of the staff, Mr. Richard Wise and Mr. Jay Cutler, be permitted to remain on the floor during the debate on H.R. 18583.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGHES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, to call up a privileged matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESTABLISHMENT OF PLYMOUTH-PROVINCETOWN CELEBRATION COMMISSION

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2916.

The PRESIDING OFFICER (Mr. EAGLETON) laid before the Senate the amendment of the House of Representatives to the bill (S. 2916) to establish the Plymouth-Provincetown Celebration Commission which was to strike out all after the enacting clause, and insert:

That, in recognition of the three hundred and fiftieth anniversary, in 1970, of the landing of the Pilgrims at Provincetown and Plymouth, which led to permanent settlements whose influence on our history, culture, law, and commerce extends through the present day, there is hereby established the Plymouth-Provincetown Celebration Commission (hereafter referred to as the "Commission"), for the purpose of developing suitable plans for such anniversary and conducting celebrations at appropriate times throughout the period beginning September 1, 1970, and ending November 30, 1971.

SEC. 2. (a) The Commission shall be composed of thirteen members as follows:

(1) four Members of the Senate, two from each of the two major political parties, to be appointed by the President pro tempore of the Senate;

(2) four Members of the House of Representatives, two from each of the two major political parties, to be appointed by the Speaker of the House of Representatives; and

(3) five members to be appointed by the President.

(b) The President shall, at the time of appointment, designate one of the members appointed by him to serve as Chairman.

(c) The members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(d) Within ninety days after the termination of such celebration, the Commission shall furnish a report of its activities, including an accounting of funds received and expended, to the Congress. Upon submission of such report to the Congress, the Commission shall terminate.

SEC. 3. In order to carry out the purposes of this Act, the Commission is authorized—

(1) to appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(2) to obtain the services of experts and consultants, in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed $100 per diem;

(3) to accept and to utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(4) to solicit and to accept gifts of money or property;

(5) to procure supplies, services, and property, and to make contracts, without regard to the laws and procedures applicable to Federal agencies;

(6) to request the assistance and advice of, and to cooperate with, civic, historic, and patriotic bodies, institutions of learning, and State and local governments;

(7) to request the cooperation and assistance of such Federal departments and agencies as may be appropriate;

(8) to invite the participation of such other nations as may be appropriate, with the assistance and advice of the Department of State; and

(9) to make such expenditures as it may deem advisable from funds appropriated or received as gifts.

SEC. 4. Any property acquired by the Commission remaining upon termination of such celebration is the property of the United States and may be used by the Secretary of the Interior for purposes of the national park system, or may be disposed of as surplus property. The net revenue, after payment of Commission expenses, is the property of the United States and shall be deposited in the Treasury of the United States.

SEC. 5. There is hereby authorized to be appropriated the sum of $100,000 to carry out the purposes of this Act.

Mr. BYRD of West Virginia. Mr. President, this matter has been cleared on the other side of the aisle. I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 3529) for the relief of Johnny Mason, Jr. (Johnny Trinidad Mason, Jr.), with an amendment in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills of the Senate, severally with amendments, in which it requested the concurrence of the Senate:

S. 368. An act to authorize the Secretary of the Interior to make disposition of geothermal steam and associated geothermal resources, and for other purposes;

S. 1461. An act to amend section 3006A of title 18, United States Code, relating to representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the United States; and

S. 2755. An act for the relief of Donal N. O'Callaghan.

The message further announced that the House having disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 14685) to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes, had agreed to the amendment of the Senate to the bill, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 768) directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 15424, in which it requested the concurrence of the Senate.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries.

REPORT ON ACTIVITIES UNDER THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91–398)

The PRESIDING OFFICER (Mr. RIBICOFF) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce:

To the Congress of the United States:

Pursuant to provisions of section 120 of the National Traffic and Motor Vehicle Safety Act, I am transmitting herewith for the information of the Congress the third annual report on the administration of the Act. The report covers activities under the Act from January 1 through December 31, 1969.

The report conveys the unavoidable fact that motor vehicle accidents continue to take a costly toll. There were 56,000 deaths and countless injuries in 1969. A small but hopeful trend, however, emerges from the statistics contained in the report: there continues to be a slowdown in the highway death rate, first observed in last year's report to you.

The report presents dramatic examples of survival from crashes which heretofore meant certain death—survival made possible through injury reduction features required by Federal standards for newly manufactured vehicles. The proven success of these features has persuaded the Department of Transportation to assign the highest priority to crash survivability in its programs administered under the National Traffic and Motor Vehicle Safety Act. Significant reductions in the casualty toll are anticipated from new crash survival features which are receiving intensive rulemaking attention in 1970.

While much has been done in these safety programs, I am sure the Congress agrees that a greater commitment by every American will be required to rid our nation of the terrible cost of lives, injuries, and property damage caused by motor vehicle accidents.

RICHARD NIXON.

THE WHITE HOUSE, *October 7, 1970.*

REPORT ON ACTIVITIES UNDER THE HIGHWAY SAFETY ACT—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91–397)

The PRESIDING OFFICER (Mr. RIBICOFF) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Public Works:

To the Congress of the United States:

Pursuant to provisions in section 202 of the Highway Safety Act of 1966, I am transmitting herewith for examination by the Congress the third annual report on the administration of this Act. The report covers activity under the Act from January 1 through December 31, 1969.

The report conveys the unavoidable fact that highway crashes continue to take a costly toll: 56,000 deaths and countless injuries in 1969. A small but hopeful trend, however, emerges from the statistics contained in the report: there continues to be a slowdown in the highway death rate, first observed in last year's report to you.

Safety considerations in the design and construction of highways have played a major role in creating this trend. Equally important have been the efforts of each State to mount comprehensive safety programs. These programs cover a wide range of measures dealing, largely, with drinking behavior.

No program is more important than one seeking to control the problem of drunk driving, which accounts for half the nation's highway fatalities. For this reason, the report before you gives the highest priority to the control of drunk driving.

While much has been done in these safety programs, I am sure the Congress agrees that a greater commitment by every American will be required to rid our nation of this terrible cost in lives, injuries, and property damage.

RICHARD NIXON.

THE WHITE HOUSE, *October 7, 1970.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. RIBICOFF) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUGHES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

The Senate resumed the consideration of the bill (H.R. 18583) to amend the Public Health Service Act, and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

Mr. HUGHES. Mr. President, as I begin this morning on amendment No. 1026, I should like to state to the manager of the bill that I am ready to agree to a time limitation on discussion of this matter. A time limitation of 1 hour on each side would be perfectly suitable with me and agreeable with me, and I should like the RECORD to show very clearly that there is no effort on my part to delay bringing this matter to a vote. I am more than willing to vote, if we can agree to a time limitation.

Mr. DODD. Mr. President, will the Senator yield?

Mr. HUGHES. I yield.

Mr. DODD. I should like an opportunity, before committing myself individually, to talk with the Senator from Nebraska (Mr. HRUSKA) and some others.

Mr. HUGHES. I can clearly understand that the Senator wants to discuss it with the ranking minority member of his committee and to have an opportunity to bring it up. After he has had that opportunity, I hope we can discuss it further.

Mr. DODD. Very well.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. HUGHES. I yield.

Mr. BROOKE. I merely want to protect Senator HRUSKA's rights. It is the intention of the Senator to ask for a unanimous-consent agreement?

Mr. HUGHES. I do not intend to ask for it until the Senator from Connecticut has had an opportunity to talk with the Senator from Nebraska, which he has not had at this point. I just want the record to show clearly that I am ready to reach a time agreement and bring this matter to a vote, with 1 hour on each side, if we can get them to agree to it.

Mr. President, I would just like to touch on several points which came up during the initial debate upon my substitute amendment to H.R. 18583 last night. They are points which do not require extended debate. I think they are quite clear.

The Senator from Connecticut and the Senator from Nebraska have asked why we are bringing up the subject matter in this amendment at this late date. Mr. President, the subject matter is already before the Senate. The House already has put a title I, dealing with prevention and rehabilitation, in this bill. In fact, the title of the bill is so designated, as such a bill. So the subject matter is already before us. And now that it is before us, we are being asked to simply take the House version of this title and live with it, whether we like it or not. I, for one, feel that I have an obligation to do better than that. I am sure that the other members of the Labor and Public Welfare Committee, who are cosponsors of this amendment, feel the same—all of them. We are putting this amendment before this body after 18 months of careful study. We have held 23 days of hearings on the subject matter contained in the amendment—and we have held many more days of hearings on the subject of alcoholism, an area closely related to this one in the field of public health. That is the only connection I am making between alcohol and drugs at the moment. We unanimously reported the alcoholism bill, which was unanimously approved by this body, and this amendment is modeled after the bill which was passed by the Senate.

The Senator from Connecticut and the Senator from Nebraska have introduced a summary of objections to our substitute amendment, which has been provided to them by the administration. We heard from the Department of Justice and the Department of Health, Education, and Welfare in our hearings. The objections are not new to us. They were presented in our hearings. Mr. President, Congress has obligations of its own. A committee, like our own, has an obligation to study the matters before it and make its own recommendations—not to follow the company line, so to speak. This is too important a matter for that. We are carrying out our obligation.

President Nixon has stated:

> One of the great tragedies of the past decade has been that our schools, where our children should learn the wonder of life, have often been the places where they learn the living—and sometimes actual—death of drug abuse. There is no priority higher in this administration than to see that children—and the public—learn the facts about drugs in the right way and for the right purpose through education.

Last year, Mr. President, the Federal Government had $1,807,000 in its drug abuse information budget; it had $2,112,000 in its information budget for smoking and health information. We spent more on trying to convince Americans to stop smoking than we did to try to educate young people to distinguish among, and make intelligent decisions, about the drugs that move freely in their schools, that are advertised every evening on television, and that are often making tragedies of beautiful young lives. Obviously, I do not feel that we should be spending less on antismoking information—we should spend more on it. It is working. But proportionally, we should be spending far more on drug information than on smoking information. The figures do not indicate a high priority on education to me.

When the Federal Government had only $1,807,000 in its drug abuse information budget, when it is common knowledge that in every school in this Nation, on every college campus, in every high school, in every junior high school, and in many of the elementary schools—where every witness who testified before our subcommittee indicated that drug abuse education should begin, at 6, 7, and 8 years of age—certainly it is indicative that we are not spending even a pittance.

The statistics now indicate that there are between 12 and 20 million users of marihuana and experimenters therewith in this country; that there are other hundreds of thousands of heroin addicts and other hundreds of thousands of those using the amphetamines, the barbiturates, the uppers, the downers, the hallucinogens.

As a result of that, not only do we have the problem of meeting the current need in our educational programs and stopping the input into this drug scene, not only do we need to apprehend and shut off the sources and to do everything we can in this way, but also, we need somehow to get at the core causes and reasons, and prevent people from going into the experimenting and using of drugs in America.

By doing this, we can stop this massive input that the Senator from Connecticut mentioned last night. If I recall correctly, he referred to 12,000 heroin users in this country since the bill was debated in the Senate earlier this year. This indicates a tremendous input into this scene. It emphasizes the absolute necessity of preventive measures in this country.

This is precisely why it is imperative that we do the job correctly in the proposed legislation that is before the Senate today and that we not simply buy the company line. What has been done in the past is not enough. It is not a correct measure for the future, and it has not succeeded in stemming the input into the drug scene in America today or in the past.

Mr. President, let me give some examples:

In fiscal 1970, we spent $174 million on heart and lung disease. This is a high priority item.

One hundred and ninety-five million dollars on cancer. Another high priority item.

Three hundred and six million dollars on mental health—exclusive of drugs and alcoholism. Another very high priority item.

One hundred and four million dollars on allergy and infectious diseases. A very high priority item.

One hundred and forty-seven million dollars on neurological diseases and stroke. A very high priority item.

Mr. President, I am indicating this only to show that we not only need to be doing the things I have just enumerated—we need to do more in these areas—but that we need to do more in the area of drug abuse and drug dependence which has boomed into epidemic proportions in this Nation in recent years.

The Division of Narcotic Addiction and Drug Abuse within NIMH, where our major drug program is, spent only $48 million in 1970, according to HEW officials. Much of that money is only in indirect expenditures. For example, the departmental research expenditure used for fiscal 1970 is $16,263,000. But only $3,295,000 went to grants specifically for drug research. The rest had drugs only tangentially related or as a small component of the research.

So it is time we had a focus on this problem. It is time we put all of the authorities in one spot and had a central-

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ized place of coordination and identity that the American people can look to as the place to which they may turn for direction, guidance, resources, and accurate information on prevention, treatment, and rehabilitation of those in the drug scene in America—something which is nonexistent today.

It is time we did this. It is time we had someone we can talk to who is totally responsible for this specific area. In short, it is time we had a congressional mandate for action in this area about which so many Americans are concerned. It is their children and our children that we are talking about here today.

Mr. President, there is no one in America who are parents of children at almost any age, 6 to 25, who are not concerned about their children in the public and the private schools of American today.

To say that we cannot and must not do these things in the proper fashion, when this bill is now before the Senate, is really to deny the emphasis that this country has been demanding in the past two years in many areas. People are almost in a state of panic, because they do not know what to do, and because there has been so much misguided and bad information given out to people—well-meaning people—but improper and incorrect information, causing the wrong emphasis and not reaching the people it should reach. It is absolutely essential to coordinate these matters in the government, in an intergovernmental coordinating agency, so that the average citizen of America will have the full benefit of them.

These things are basically what this amendment reaches out to do.

Mr. President, the problems in the pending bill which we are attempting to solve are not new. They have been thoroughly studied. This is a matter we must act on, which this body must consider with great deliberation. We must do everything we can to see that it is done properly.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. (Mr. ALLEN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I support the pending amendment to establish a comprehensive drug education, rehabilitation and research program in the Department of Health, Education, and Welfare.

I am privileged to serve on both the Judiciary Subcommittee on Juvenile Delinquency and the Labor and Public Welfare Subcommittee on Alcoholism and Narcotics. On the basis of my experience on both of these subcommittees which jointly are responsible for developing the Senate's programs on drug dependence and drug abuse, I am convinced that this amendment to title I of H.R. 18583 is critically important for a balanced bill and a comprehensive approach to the problem. That is why I have cosponsored the amendment. That is why I strongly urge its passage.

In seeking solutions we must avoid the mistake of thinking that drug abuse will disappear if we simply concentrate on revision in penalties and enforcement. We must probe the underlying factors which are driving people to drugs. And we must recognize that drug abuse is at least a four-dimensional problem—including law enforcement, prevention, rehabilitation, and research.

In this broader context, Mr. President, the administration's program and present proposal on drugs are a farce.

A year ago the administration sent up a drug bill which dealt almost wholly with penalties and enforcement. Initially they even favored stronger penalties across the board. Later they compromised to the present position of dropping minimum penalties and going after pushers and professionals rather than casual users.

But to date the administration has failed to submit a strong prevention and treatment bill. It has failed to endorse the approach of Senator HUGHES, myself and 22 other Senators who have sponsored S. 3562. It has failed to endorse the present amendment sponsored by all members of the Committee on Labor and Public Welfare. It has failed to devote more than passing rhetoric and minor adjustments to a comprehensive approach to drugs.

With its emphasis almost wholly on the law enforcement approach to drug abuse and drug addiction the administration demonstrates the same kind of tunnel vision which for years has held back development of lasting and effective solutions to the problems.

The total amount requested by the administration for HEW drug programs in fiscal 1971 is only $56 million. The total requested for community facilities is less than $10 million. Yet New York State alone has spent over $300 million in the last few years on its drug programs. And the $10 million requested would barely serve the 4,000 heroin addicts in Boston alone.

The Narcotics Addict Rehabilitation Act has been ignored, both by those in HEW who are responsible for providing the rehabilitation and medical facilities, and by those in the Department of Justice who are responsible for identifying and referring participants. Imaginative and forward looking prosecutorial policies could bring into the NARA program many persons who might benefit from it and be removed from the drug scene permanently in a healthy return to society. Those policies are lacking.

Programs under the Juvenile Delinquency Act—which should have been a key component in our war on drug abuse—have been almost totally neglected. The office was allowed to go for over a year without appointment of a director. It is in such bad shape that the administration requested only $15 million despite the fact that Congress authorized $75 million.

I support adequate enforcement. I support an all-out, full-scale effort to vigorously seek out and prosecute importers, illegal manufacturers, distributors and others who make a big business—and big profit—out of destroying the lives of others. We should pursue these drug traffickers relentlessly and throw the book at them when caught. We should seek to cut off the supply at the source.

However, for those who are users but not pushers—for our many young people today who have grown up in a drug culture and are experimenting with drugs—the emphasis should be prevention and rehabilitation, not simply throwing them in jail. We should not automatically burden these youngsters with the albatross of a criminal felony conviction to wear for the rest of their lives.

In terms of establishing a more rational set of penalties for the spectrum of offenses from mere possession to trafficking, titles II and III of the present bill are for the most part sound, in large part because of the excellent work of the Judiciary Committee in rewriting the penalty structure in the administration's original bill. They end mandatory minimum penalties. They lessen the penalties for simple possession of controlled substances, and make the crime a misdemeanor. They provide for striking the guilty conviction and giving a clean slate after a year's probation for first time offenders. They provide harsh penalties for continuing criminal enterprises, and for those who push drugs to minors.

Unfortunately, the bill as introduced by the administration has completely failed to follow through on the medical, educational, treatment, rehabilitation, and research aspects of the problem. And even though the House made some improvements, title I is still weak and inadequate—and the weakness of the title is all the more striking, and all the more tragic, when we consider how basically sound titles II and III are. This is an added reason for the Senate to follow through and add a first-rate, comprehensive, responsible substitute for title I.

The amendment offered by Senator HUGHES, myself and all members of the Committee on Labor and Public Welfare would establish a new National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence in the Department of Health, Education, and Welfare.

It would pull together the authority for a visible, high priority large-scale effort on drugs. It would authorize $190 million over the next 3 years—$55 million for formula grants to States for planning and development of State facilities, and $135 million for project grants to community-based programs, including "peer group assistance" programs.

The amendment would give the Institute comprehensive authority over prevention, education, training, treatment, rehabilitation, and nonenforcement-related research. It would at last establish one place in government to make sure that these programs are working, to make sure that they are utilized, to make sure that they are funded, to make sure that they coordinate with one another, to make sure that the Congress will is carried out.

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Let me list just a few of the reasons why the amendment should be passed.

First, the amendment specifically provides for Federal aid to so-called peer group assistance programs. As the author of this provision in the amendment, I think its immediate passage is vital. It would provide aid for telephone hotline services; for store-front drop-in centers; for therapeutic, self-help programs run by ex-addicts such as Synanon in California, Daytop Village in New York City, and Marathon House in Rhode Island and Massachusetts; and for other programs primarily organized and operated by persons with the same social, cultural and age backgrounds as those of the persons served.

Communities throughout the United States are finding that peer group oriented activity is the most constructive in meeting the problems of youth. Young people trust other young people—those who have shared the common frustrations and the experience of growing up in the drug culture—much more than they trust established institutions. The company and encouragement of peers gives youngsters the strength to resist harmful drugs. The availability of a place to go and friends to talk with gives them an alternative to running away.

Mr. President, in my own State of Massachusetts, we have numerous community-based drug education, rehabilitation, and treatment centers. They have developed out of local concern. They are offering the comprehensive, community-oriented assistance which is necessary to reach the factors underlying the turn to drugs.

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In Boston, Project Place is a drop-in center, a counseling service, and a 24-hour-a-day switchboard or "hotline." But because of inadequate resources it is overcrowded and often must turn runaways and youths back out into the streets after a few days.

The Martha Eliot Clinic, staffed by two ex-addicts, provides group therapy sessions and other outpatient rehabilitation. It cannot afford in-patient services.

Boston State Hospital has 20 beds for in-patient therapy and an extensive after-care program and out-patient treatment for about 200 a week. They too lack resources for adequate expansion.

Project First's halfway house is limited to a few beds, and its outpatient program is far short of meeting demand.

In the suburbs also, shortage of funds is curtailing a number of community-based programs. Project Concern in Winchester sends educational material to every resident, offers speakers to neighborhood groups, and has organized student-run education programs in the schools. But they still must refer youngsters who come to them for help to other rehabilitation programs.

Project Acid in Malden is a structured, therapeutic program and rehabilitative center—including a residential house, sensitivity sessions, and overall adolescent counseling in drugs and other problems. Marathon House in Attleboro offers a long term, residential, self-help program for addicts similar to Daytop Village and Synanon House. In each case, the directors must devote disproportionate time to seeking money—too often without success.

Young citizens in Newton are establishing a Freeport house for youths. Melrose a few months ago had a successful demonstration of a mobile van with material and young people discussing drug education. New Bedford is raising over $100,000 all on its own for a new program.

These are small operations, struggling to make ends meet. And they can never really do the job without vastly increased resources—at the local, State and Federal levels.

Just 2 weeks ago Lt. Salvi A. Pascucci, the head of the local police juvenile bureau in Framingham, Mass., expressed this need. In discussing the town's consideration of a drug education and rehabilitation center for the area, Lieutenant Pascucci said:

> We need this center badly and now. People don't know just how bad the problem is here, and in surrounding towns.
>
> My department gets calls every day from parents whose children are on drugs. They want help, but we have no means to help them.

And the lieutenant emphasized:

> Such a program must be away from the police and courts or the kids won't participate.

Mr. President, Massachusetts and other States desperately need help for peer group assistance programs. The amendment before us makes a start.

Second, by establishing a National Institute, the amendment would give the Federal fight against drugs the priority and prominence and urgency which it desperately merits. At present, despite the pressing urgency of the drug problem, we have no high level Federal agency or official with responsibility for the nonenforcement side of drug abuse control. The Institute would provide an effective mechanism for coordinating drug abuse activity. It would serve as a focal point to which concerned citizens and communities could turn for advice and assistance in developing local programs. In my visits to communities in Massachusetts, a major complaint is that activity and information about government programs on drugs are spread out in a bureaucratic maze. A National Institute would cut through the maze and reduce the confusion and overlap.

Third, the pending amendment offers a comprehensive approach to what is at least a four-dimensional problem. The institute would have responsibilities for administration, planning, research, training, education, collection and dissemination of information, and so on. It would make grants and coordinate activity for all aspects of drug education, prevention, treatment, rehabilitation and research.

Fourth, the amendment would at long last bring a new, up-to-date, responsive approach to drug abuse. Title I of the bill as passed by the House is simply more of the same—the same programs which have not worked in the past, and cannot work in the future. I say let us not futilely try to patch up the old; let us put drugs in a separate administrative agency which can take a broad, intensive, high-priority approach.

Fifth, the amendment incorporates the approach to education which has been approved overwhelmingly both by the House, and, to date, by the Senate Committee on Labor and Public Welfare. The House passed H.R. 14252, the Drug Abuse Education Act, by a vote of 204 to 0. On September 28, the Senate Committee on Labor and Public Welfare reported it unanimously. H.R. 14252 puts education in the hands of the Secretary, so he can draw on all elements of the Department for a comprehensive program. It includes training of professional personnel, preservice and inservice training programs, community education, peer group assistance, and a number of other aspects not covered in title I of the bill before us. The present amendment would take the approach so overwhelmingly approved by the House and the Senate Committee.

Mr. President, the whole matter of drug education is, of course, extremely important. Education takes place both in the schools, and outside of the school system. The Secretary should work on both aspects when it comes to the question of drugs.

As far as in-school activity, we should recognize that the Commissioner of Education has the background, experience, expertise, and methodology for working with State and local school districts. Any activity by the Secretary or by the Institute, therefore, should be very closely coordinated with the Commissioner.

If carried out in this fashion, the education program would carry forward the thrust of H.R. 14252. That excellent bill was proposed and carried forward in the House of Representatives by Congressman Meeds of Washington. Congressman Meeds showed a great deal of foresight as a leader on drug education, and the background in the development of H.R. 14252 should be a guide in carrying out its provisions as included in this amendment. In particular, in-school education should be the province, not of the National Institute of Mental Health, but of the Secretary and the new Institute on Drug Abuse generally.

As far as out-of-school activity, peer group assistance programs—such as telephone hotlines, drop-in centers, and therapeutic self-help communities are established as the primary approach under the amendment.

In the long run, we of course hope that schools will develop the capacity and ability to offer responsive drug education—education which will be credible and effective for our youngsters. I would expect, therefore, that the House and Senate Committees and Subcommittees with primary responsibility for education generally will follow this aspect of the Institute's activity very closely and offer appropriate changes when necessary.

Sixth, the amendment puts a higher priority on research than does the present title I—which merely expands the optional authority under the Public Health Service Act to do research on drugs, without adding funds or making research imperative.

On this question of research, Mr. President, I am pleased to note that in section 502(d) of the bill now before us the Attorney General is given authority to grant immunity from State or Federal prosecution not only on his own motion, but also at the request of the Secretary of Health, Education, and Welfare. I think that this is extremely important to facilitate carrying out the forward-looking research which is absolutely essential to any lasting solution to the problem of drug abuse.

In many States, including my own State of Massachusetts, severe problems have arisen in situations where even after the Federal Government has given approval to a researcher's project—and in some cases even offered to provide him with the substance to be studied—there have been many months of delay in trying to secure immunity from criminal prosecution for posession of the substance which is illegal under State law.

Section 502(d) provides a means for the researcher to receive immunity promptly and without a great deal of redtape and bureaucratic difficulty. It is expected that the Attorney General would grant the immunity requested by the Secretary except in exceptional circumstances in which the Attorney General determines that granting immunity to the particular individual recommended by the Secretary would present a serious risk of illegal diversion of the controlled substance.

With regard to this close consultation and working relationship between the Secretary and the Attorney General, I also note that section 306(a) of the bill gives authority to the Attorney General to establish production quotas for controlled substances in schedules I and II in order to provide for the estimated medical, scientific, research, and industrial needs of the United States. The Secretary, with his background and expertise, should have significant input in determining the legitimate medical, scientific and related research, and industrial need for a scientific substance. The Attorney General, then, is expected to consult with the Secretary on this question—just as he consults with him on the question of scheduling substances in the first place—and give substantial weight to the Secretary's recommendations in his field of expertise.

Seventh, the amendment is almost exactly analogous to S. 3835, the bill on alcohol addiction and alcohol abuse which the Senate passed unanimously just two months ago. I believe we should be consistent. I believe we should give the same priority to drug abuse and drug dependence which we gave to alcoholism.

Eighth, the amendment presents the carefully considered and endorsed suggestions of the whole Committee on Labor and Public Welfare, which has jurisdiction over title I. The Subcommittee on Alcoholism and Narcotics had 28 days of hearings, including field hearings in Los Angeles, Denver, New York City, Cherry Hill, N.J., and Winchester and Lynn, Mass. This substitute amendment embodies the ideas of the Subcommittee which grew out of those hearings.

The Senate should not ignore the experience and expertise of the committee with jurisdiction and background on the subject. The committee's proposal can serve as a guide, just as it served as a guide on the alcoholism bill which the Senate passed.

Normally this House bill, H.R. 18583, would have been referred to the Committee on Labor and Public Welfare for consideration of title I. But because we are pressed at the end of the legislative session, the bill was held at the desk by agreement of both the Judiciary and the Labor and Public Welfare Committees. This is no excuse to be sloppy, however, or to do an incomplete job. Fortunately, we have the chance to receive the well-considered input of the Labor and Public Welfare Committee in the form of this substitute amendment.

Ninth, even a casual look at the House-passed bill suggests that the same thorough care was not given to education, rehabilitation, and research in title I as was given to enforcement in title II. Title I has four sections, covering nine pages. Title II has 51 sections covering over 110 pages. I certainly do not suggest that quantity is an indication of quality. But I do suggest that this wide disparity inevitably reflects a failure to revamp education, rehabilitation, and research in the same way that enforcement has been revamped. And I further suggest that the need for reform and revision is just as important and just as overdue in the former as it is in the latter.

The problem of drug abuse continues to grow at a staggering rate. And it threatens especially to destroy the minds and the lives of our young people. Every day in New York City an adolescent dies of a heroin overdose. Every day in Massachusetts and around the Nation youngsters in high school, junior high school, and even grade school are being offered a wide variety of drugs.

In many of our communities, over 50 percent of the youth 12 to 18 are experimental drug users. During hearings which I conducted in a Massachusetts high school last April, the president of the senior class testified that a student could get any drug except heroin by the end of the day right there in the high school. Heroin, he said, might take a day or two to obtain. He estimated that 50 to 60 percent of the students at the high school had smoked marihuana, and that perhaps half that number had tried other drugs such as "speed" and LSD.

With arrests doubling every year, the average age of the user in Boston had dropped from 27 to 21 in the last 5 years.

Mr. President, I have before me a telegram from Dr. Matthew Dumont, director of the Division of Drug Rehabilitation, Massachusetts Department of Mental Health. The telegram reads as follows:

Senator Edward M. Kennedy,
Old Senate Office Building,
Washington, D.C.:

I have served as chief of the metropolitan center at the National Institute of Mental Health, and presently as director of the division of drug rehabilitation for Massachusetts. The most pressing and immediate need is a comprehensive Federal education, rehabilitation and research program along the lines suggested by Senator Hughes and you and many of your colleagues. Federal assistance is desperately needed for peer group assistance programs such as telephone hotlines, drop in centers, and self help residential facilities. Such programs have been extremely helpful in curbing drug abuse and drug dependence in communities throughout the United States. But these and other facilities are struggling for survival, many existing and potential programs will be destroyed without Federal aid. I urge the Senate to add a title to H.R. 18583 providing peer group assistance and the comprehensive education, rehabilitation and research proposed in Senator Hughes' and your amendment. Such an amendment would give a priority approach to drugs similar to the alcoholism bill which the Senate passed a few weeks ago. It would make the bill infinitely more balanced and responsive, and will help curtail drug abuse and drug dependence among our young people in all parts of the nation.

Dr. Matthew Dumont,
Director, Division of Drug Rehabilitation, Massachusetts Department of Mental Health.

Mr. President, in conclusion I wish to say that I think the country is way ahead of Congress and the Senate in this field. There are several dozen community-sponsored programs in the Greater Boston area, initiated locally and supported from local funds. Unfortunately, up to this time they are poorly coordinated, and rarely interrelated, or interconnected. This springing up of local groups, which I mentioned in my statement—whether it is Project RAP in Beverly, Mass., or Project ACID that is so effective in Malden, or so forth—has occurred principally because the communities feel a strong and compelling need.

We should be able to provide some kind of assistance in communities to help and assist young people who are experimenting with drugs and whose lives have been tragically scarred by the use of drugs.

I find in my State of Massachusetts the need for some kind of help and assistance in rehabilitation, research, and education. This need is demonstrated by the support of local efforts in this area.

It seems amazing to me that we in the Senate, who are about to consider a comprehensive drug bill, would hesitate as long as we have when the committee headed by the Senator from Iowa (Mr. Hughes) has made the kind of persuasive case it has and collected such an extraordinary amount of evidence and testimony from all over the length and breadth of this country in support of the amendment.

The need is desperate. The localities are crying for it.

The amendment fits in with the kind of program the President has said is worthy of support.

The only argument is, "Why should we bring this up now? We are going to delay the bill and we need more careful thought." I think this bill certainly has been delayed too far, and I think that a comprehensive approach to drugs has been delayed too far. We have a chance to get moving, a chance to act fully and responsibly by adopting this amendment which is so essential in terms of our country and the young people of our Nation.

Mr. President, we cannot wait to act

on a problem and a need of this magnitude. The time is here; the time is now. We owe it to the children of this generation—teenagers who even today may be popping multicolored pills, puffing on a "joint," or jabbing a dirty needle into their arms—to follow through on education, rehabilitation and research.

I hope that my colleagues will pass this substitute amendment by an overwhelming margin.

Mr. HUGHES. Mr. President, I thank the distinguished Senator from Massachusetts for his eloquent statement in regard to the great need in this country for this type legislation.

I wish to assure the Senator from Massachusetts that I thoroughly agree that this question is before this body. This section is already in the bill as it came from the House. We urge that the Senate perfect the bill with the substitute amendment, which is based on the many months of research and hearings we have held, I know that the Senator from Massachusetts has held hearings in his State and in Boston. Those hearings disclose to him a great need for this type of legislation in his State, I find the same thing in my State. To pass this bill without considering the amendment in this body would be irresponsible.

I thank the Senator for his contribution, his presence at the many hearings we have held across the country, and for his great service to the country in giving of his capabilities to bring about some legislation that will be a great improvement in meeting the need of this country.

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Mr. KENNEDY. I thank the Senator from Iowa.

Mr. DOMINICK. Mr. President, for many months, I have been working on the Alcohol and Narcotics Subcommittee with the distinguished Senator from Iowa, the distinguished Senator from Massachusets, the distinguished Senator from New York, and other Senators. We have held hearings in many different areas of the country in connection with drug house and drug education.

We had one hearing in my State of Colorado. There, it became apparent that the denomination of "Crystal City" as applied to the city of Denver did not apply to our crystal clear air; it referred to the drug abuse that was going on in the entire metropolitan area of Denver. In Colorado, the problem is not restricted to Denver, but as that is where the hearings were held and most of the evidence came from that particular location.

Mr. President, it seems to me it is long past the time that we must come to grips with what is not only a national problem, but can be called a national disgrace. It is too early to tell whether this bill will be effective in being able to solve the basic problem of why people use drugs. But it seems to me that there is a responsibility for us to establish a program under the section, giving the possibility of both education and rehabilitation for those who are afflicted by the curse of drug abuse.

We are not dealing with the law enforcement aspects of drug abuse at all in the amendment. We are dealing with a program to provide funds by which the local communities will be able to provide help and rehabilitation for those people who have been overcome by drug abuse.

I fail to see why anyone would object to it. The only objection I have heard up to this time has been that passage of this amendment might slow up the bill in the conference with the House. Nor are we saying, "Turn all drug abusers loose." What we are saying is, "For heaven's sake, let us look rationally at the facts. We have a problem and let us give the victims the chance of being rehabilitated." The local communities, on their own funds, have been trying to do this throughout the country.

This is a terrible problem on the local level. Talking about drug abuse to a family and recommending that they should do something about their neighbors' children or their own children is like talking about tuberculosis in the old days. Nobody would talk about it, because they thought it was some kind of disease so horrible that it was not to be discussed. Drug abuse is a horrible problem. But unless we take steps to do something about helping those people who have been victims of drug abuse, we are not, in my opinion, exercising the leadership or responsibility which we should as Members of Congress.

I applaud the hard work which has been put in by the Senator from Iowa (Mr. HUGHES). I think he has conducted a series of hearings which have been very effective in producing evidence which shows clearly what the problems are. As I said, none of us are able at this point, as far as I know, to get at the basic problem, the question of why a person gets trapped in the drug syndrome. Among the younger people, it would appear that much of it is peer prestige and pressure, the desire to stay on a par with their in group who are going down the drug road.

We have had evidence, if it can be believed, that 10-year-olds are using syringes as a prestige symbol, injecting themselves with Kool-Aid, peanut butter oil, and ice water. "This needle-culture" has nothing to do with narcotic addiction, of course, but it does have something to do with giving young people infected arms, and hepatitis. And it obviously foreshadows what they may do as they go on to their older and teenage years.

We have had evidence of what is going on in all the school systems around this country. For example, one cannot go into any one of the District of Columbia schools here without finding the place rife with drug abuse. One can buy heroin, marihuana, or other drugs. As a matter of fact, we have had testimony before our Armed Services Committee indicating that families of military personnel in the Washington area wanted us to create a separate school at Bolling Air Force Base because their children go to District of Columbia schools and have to pay money to keep from getting beaten by the people who spread marihuana and other drugs.

Drug abuse is a national disgrace. Unless we face up to this problem now, unless we provide mechanisms so that the local communities in this country, whether they be in the District of Columbia, Colorado, or Alabama, the State which the present Presiding Officer, Mr. ALLEN, serves so ably, we are not living up to our responsibilities in this extremely important health area in this country.

Granted that the House has placed provisions in the bill for the community mental health centers. However, most of the addicts we have talked to, most of the police officers who have been involved in picking them up, and many of the users who are still on drugs, have said over and over and over again addicts are not going to go to a community mental health center, because it indicates they have some kind of mental problem and they are not going to admit it.

So there must be a whole variety of institutions and programs to be able to cope with a problem which is growing so fast. That is what the amendment, of which I am happy to be a cosponsor, provides. That is what we have been trying to do in developing this program for the last 20 months.

I fail to see why we should really have serious objections to it. The money involved is not big. We provide for formula grants and project grants. It is designed to have the States start a program which will bind together the State agencies, the local and community agencies, and the private ones operating in this field. Project grants are given for the special informal, peer-groups oriented facilities that are expert in treating people who have been overcome by drug addiction.

It seems obvious to me, when we see the havoc that has been wrought among our younger people, whether they be taking barbiturates, amphetamines, LSD, or heroin, that although we have an obvious need to try to do something to control the distribution of these products and punish those who are selling them, we also have an obligation to try to give to the persons who have become victims as users a chance to get back into the mainstream of society. That is what I feel the amendment will do.

Mr. HUGHES. Mr. President, will the Senator yield?

Mr. DOMINICK. I am happy to yield.

Mr. HUGHES. I want to thank the distinguished Senator from Colorado because, in all the time since the subcommittee has been created, the Senator from Colorado has attended every hearing around the country and every one in Washington.

As the Senator has disclosed in his statement here this morning, he has a great awareness and insight into the problems relating to education, rehabilitation, public health, and the use of narcotics and drugs in our country. He has a great and compassionate concern for doing something about it.

I listened with care to his statement about the need to bring the amendment up. The provision is already before the body. The section is already in the bill. If there is a fear of delaying this bill in the conference committee, I cannot see the danger.

I think this is a matter which must be

considered. This amendment should be adopted. I think the some 20 months of hearings and thousands of pages of testimony we have taken indicate that. We would be derelict in our duty, after having served on the committee, if we did not insist upon it.

Mr. DOMINICK. I appreciate the kind comments of the Senator from Iowa. I feel this is not a partisan matter as between the parties whatsoever. I. is a national problem that affects everybody, regardless of his political affiliation.

As far as the conference is concerned, I could see that if we were going to adjourn by Saturday, that would be a problem, but, as I understand it, we are going to recess until November. So even if the conference could not come to us with its report by next Wednesday, certainly the matter could go on again in November and we could resolve whatever differences there are in that period.

I really feel quite strongly about this measure. I have been called by a number of people, asking if I had strong feelings on it. I told them I was deeply committed to it. I do not think one could sit through the hearings we have had all over the country without feeling the need for this program.

Mr. HUGHES. I appreciate the comments of the Senator from Colorado about this being a nonpartisan matter. Certainly there is nothing partisan about dealing with this problem of drug abuse and drug dependence. It is our wish, on both sides, to support the best procedures we can get to meet this problem, and support them fully. It is also our intention to bring to the Senate the best measures on rehabilitation and health that we can. There has never been any partisanship on this issue during the months that the committee has been in existence.

I once again wish to express to the Senator from Colorado my appreciation. I am sure he shares my willingness to agree to a time limitation on debate, so that we can get the matter voted on and get about our business, and get to the conference, if we are to have it. I assume the Senator from Colorado would agree with that statement.

Mr. DOMINICK. I would have no problem on that at all.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. HUGHES. The Senator from Colorado has the floor.

Mr. DOMINICK. I yield to the Senator from North Carolina.

Mr. ERVIN. As I interpret the objective of the amendment offered by the Senator from Iowa, it is that the best way, and the most satisfactory way, ultimately, to produce results in respect to drug addiction, particularly among young people, is to treat it as a problem which requires psychiatric and other therapeutic treatment, rather than to treat it strictly as a criminal problem; is that correct?

Mr. HUGHES. That is our belief and intent; yes.

Mr. ERVIN. I would like to say to the distinguished Senator from Iowa that that embodies the concept I have on this problem, and it will be a pleasure to vote for the amendment offered by the distinguished Senator from Iowa.

Mr. HUGHES. I thank the Senator.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. HRUSKA. Has the Senator from North Carolina taken into account the considerations that form the basis for the report of the House of Representatives and the action there, that there are aspects of this amendment by way of a substitute which actually impair and downgrade the ability of law enforcement efforts against the illegal use and the deviation of supplies of drugs?

There is no quarrel with the merit of the approach that the substitute has taken. There is no quarrel with that at all. This matter was plowed; it was considered thoroughly in January of this year. There were offers made to the Senator from Iowa that we would support him in this kind of approach for prevention.

Mr. HUGHES. Mr. President, will the Senator yield? This is the approach.

Mr. HRUSKA. For rehabilitation, for education, and for all those things. We will do it. But not at the expense of impairing the law enforcement measure which we are considering today. It is basically a law enforcement measure that we are now considering.

There is nothing in the amendment that is not already provided for and authorized by the present statutes, as supplemented and amended by title I as it appears in the bill, with funds authorized for those purposes. But there are provisions in the amendment proposed by the Senator from Iowa which will impair the ability of the Department of Justice to treat with manufacturers who are not selling properly or clinics which are not distributing properly, and other phases of law enforcement.

That is what is involved here. The House of Representatives has carefully considered this matter. They say the same thing. They say:

> We will go into that matter, but not in connection with a law enforcement measure.

The Senate debated the issue in January, taking 4 days to do it, and decided that the two problems are separable, and that in fact they cannot be considered together because of the impingement upon law enforcement proceedings which will be found in the substitute proposal of the Senator from Iowa.

In yesterday's discussion of the matter, I outlined some of those objections. I propose to go into them again today.

It is nice to talk about rehabilitation, and I am for it, Mr. President. No one can be against it. It is nice to talk about education, and publicity, and prevention, and research. It is good to do that. But not at the expense of impairing our ability to deal with the pusher, the dishonest manufacturer, the importer, and all those other matters; and that would be the effect of this substitute, as I shall explain in detail, line by line, Mr. President, and word by word.

That is what is involved here. We are not against these things that are in the substitute bill. But this is the wrong place, and the price which would be paid is much too great.

Furthermore, this is a matter of urgency. If this amendment is adopted, it will force a conference. That has already been plainly indicated. We will not get at it until November or December. Legislatures are going to meet in January of 1971. They need the prompt enactment of a bill which will lay a foundation for the consideration and, hopefully, the passage of the model uniform bill which is built upon the type of bill that we have here, for law enforcement purposes.

Mr. HUGHES. Mr. President, could I make a parliamentary inquiry?

The PRESIDING OFFICER. If the Senator will yield for that purpose.

Mr. HUGHES. Who has the floor, Mr. President?

The PRESIDING OFFICER. The Senator from North Carolina had the floor, and yielded to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, if the Senator from Iowa wants to have the floor, he is surely welcome to it. I will yield the floor, if he objects to my explaining some of these things which I undertook to ask about in connection with the statement of the Senator from North Carolina. But if he objects to my statement that there will be objections to his amendment, I shall defer my remarks until a future occasion.

Mr. HUGHES. The Senator from Nebraska knows very well that the Senator from Iowa does not object to his replying to any statement by anyone.

Mr. HRUSKA. The Senator interrupted my statement.

Mr. HUGHES. I understood that any Senator has the right to make a parliamentary inquiry as to who has the floor. I thought I had it.

Mr. HRUSKA. I see.

Mr. HUGHES. And if so, I wanted to respond to certain of the Senator's statements as he went along.

Mr. HRUSKA. Very well. Let me conclude briefly, then, and then the Senator can proceed as he chooses.

As I have stated, this bill must be enacted soon in order to do any good in assisting law enforcement—in the neighborhood, on the campus, in the high schools, and in the grade schools. The longer it is delayed, the less the likelihood that there will be any action by State legislatures based upon it. That is what we are facing, Mr. President.

Mr. ERVIN. Mr. President, if I may interject myself at this point, I disclaim any right to the floor, because there was a colloquy going on between the distinguished Senator from Iowa and the distinguished Senator from Colorado, and I interjected myself into it with the request that I might ask the distinguished Senator from Iowa a question. I did not obtain the floor in my own right, but by suffrance.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Colorado is no longer in the Chamber, so he does not have the floor. The Senator from North Carolina has disclaimed the right to the floor. The Senator from Nebraska has taken his seat, and the Senator from Iowa is on his feet; so the Chair recognizes the Senator from Iowa.

Mr. HUGHES. Mr. President, I submit that the Senator from Nebraska is mistaken in the statements he has made

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to this body, and I shall listen with interest to his further explanation on the points he has brought out here.

Everyone, as he has indicated, favors rehabilitation, education, and prevention. We are all for it.

We are all for law enforcement, too. We have proved that in this body by the fact that there was not a single vote against the original bill that came out of the subcommittee of the Senator from Connecticut, that I can recall, which certainly is evidence that there is no one against law enforcement, nor any intention to interfere with it.

And this is certainly the place to bring it up, since there is a title already in the bill in the field of education, health, prevention, and rehabilitation—the very points that we are speaking to. It is time to debate the issue, and to do it properly and thoroughly.

Mr. President, since all the principals are on the floor, I should like to make a unanimous-consent request for a time limitation on debate on this particular amendment. I am willing to agree to a time limitation of my amendment, if the proponents of the bill are willing to agree to it. As I have already submitted twice, I submit again that almost any agreement on time limitation is agreeable to me, up to an hour on each side.

The PRESIDING OFFICER. Does the Senator make a specific request for unanimous consent?

Mr. HUGHES. Yes.

The PRESIDING OFFICER. What is the request?

Mr. HUGHES. I ask unanimous consent that there be a time limitation of 1 hour on each side on Amendment No. 1026.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. Reserving the right to object, Mr. President, we face this situation in the matter of a limitation of debate. A little canvass has been conducted as to the attendance in Washington of various Members of this body. There are a considerable number of absentees on both sides. There has not been any consideration of this subject to acquaint the Members of this body, busy as they are in the closing days of this session, to refresh their minds on the arguments that were laid out here last January—January 23 to January 28—involving the same issues; and it resulted in a rejection of the approach that is now renewed by the Senator from Iowa. We have not had the time to communicate with them.

It would ill become this body to take the substance of a bill that had once been rejected by it and that has not had the proper processing and to do that under the limitation that is proposed. It is not practical. Everyone knows the effect of a limitation on debate. There is disappearance from the precincts here to reconvene and reassemble here at the hour of vote and voting.

The stakes are so high in this matter that we need expeditious enactment of this measure. We will not get it by adopting the substitute amendment for title 1. We will bar the country from getting it by traveling that route. I think that can be demonstrated—and in fact it is demonstrated—by the attitude of the other body, which has taken that viewpoint, and they will stand adamant. They have so indicated.

I say in all good conscience, as we said last January, that there are two problems. Let us not try to merger here of the two problems in such a way that will impair both of them. Later I will go into the matters one by one.

Because of this, I am constrained to suggest that any request for a limitation of time not be made at this time. If the Senator from Iowa persists in making the request, I should like to hear from him at this time.

Mr. HUGHES. Mr. President, I want to make it perfectly clear that the Senator from Iowa is not delaying a vote on this amendment. I believe that is perfectly clear. I withdraw my request for a time limitation on the amendment.

I again state that I am ready to reach an agreement on time limitation at any time the Senator from Connecticut and the Senator from Nebraska are ready to so agree. I would be more than willing to resubmit the request to the leadership at that point.

The PRESIDING OFFICER. The request is withdrawn.

Mr. HUGHES. Mr. President, in reply to the distinguished Senator from Nebraska, I must state that the subject matter in this amendment is already in this bill. It is already before this body. It is not an injection of something new into the debate. The continuous repetition and drumbeat of the fact that we are taking on a subject that has not been brought up, to imply that this is a hasty action, after we have held many days of hearings, is simply an indication of a total misunderstanding of what has gone into this amendment. This is the very subject matter that I understood the Senator from Nebraska and the Senator from Connecticut to indicate last January that they would support after hearings were held and due consideration given. That is now the matter before the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUGHES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR DURING CONSIDERATION OF DRUG CONTROL AND CRIMINAL LAW BILLS

Mr. HRUSKA. Mr. President, I ask unanimous consent that during the consideration of the drug control and the criminal laws bills, members of the staff of the Committee on the Judiciary have the privilege of the floor.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object, under the rules there is an automatic number of four on each committee staff——

The PRESIDING OFFICER. Four from the committee staff and two from the Senator's personal staff.

Mr. BYRD of West Virginia. How many additional members does the Senator desire?

Mr. HRUSKA. Mr. President, this problem recurs each time we get into a major measure. We have 40 staff members on the Judiciary Committee. I have been barred from getting my member of the Judiciary Committee expert in this field on the floor because the quota has been used up. I do not know how else to put this unanimous-consent request; but obviously, when the quota is used up, this Senator is deprived of the assistance he needs in this very complicated piece of legislation.

If the Senator from West Virginia, the acting majority leader, has some other method to approach this matter in a practical and yet limiting way, I will be happy to entertain it.

Mr. BYRD of West Virginia. The Senator from West Virginia does not want to place an obstacle in the way of the distinguished Senator. The Senator from West Virginia does not know, in the first place, how many members are on the Judiciary Committee staff. Just to make it a wide-open consent here, I would prefer that we not do that; but if the Senator could indicate by way of identification of the persons, or at least a number—three, four, or whatever he wishes—I would have no objection.

Mr. HRUSKA. I limit my unanimous-consent request at this time, then, to the person of Malcolm Hawk of the subcommittee staff.

The Senator from Connecticut might have some additional thoughts on that.

Mr. DODD. I did not hear the statement of the Senator from Nebraska.

Mr. HRUSKA. I asked unanimous consent that members of the staff of the Judiciary Committee have the privilege of the floor during the consideration of this bill and the crime control bill. The suggestion has been made that we have it limited by naming the person, but the quota has been filled, and this Senator and other Senators similarly situated are completely immobilized.

Mr. BYRD of West Virginia. The Senator should have some assistance from staff members, and it is not this to which I object. If there are 25 members on the Judiciary Committee staff, I would not want to agree to a unanimous-consent request that all 25 may be on the floor at one time. I do not want to object to the Senator having one, two, or three assistants.

Mr. HRUSKA. I recognize the practical difficulty. This form of unanimous-consent request was suggested to me by another official of the Senate. I will put it in that fashion. I will withdraw it in favor of the unanimous-consent request that Mr. Malcolm Hawk of the Judiciary Committee staff be allowed the privilege of the floor during the consideration of this bill and the criminal laws bill.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent that Mr. Eugene W.

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Gleason of the Judiciary Subcommittee staff have the privilege of the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

What is the pleasure of the Senate?

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. RIBICOFF). Without objection, it is so ordered.

LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that H.R. 17654, the Legislative Reorganization Act of 1970, be printed as it passed the Senate on yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM FRIDAY TO MONDAY, OCTOBER 12, 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on Friday next, it stand in adjournment until 10 o'clock Monday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

The Senate continued with the consideration of the bill (H.R. 18583) to amend the Public Health Service Act, and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is on amendment No. 1026.

Mr. BYRD of West Virginia. Mr. President, I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HRUSKA. Mr. President, we are considering today a total recasting of the pending bill by the proposal that title I be stricken in its entirety and a substitute title I be adopted.

The substitute amendment is really, in essence, a measure which would go very extensively into the field of rehabilitation, education, prevention, and matters of that kind.

The pending bill is one which is based upon law enforcement procedures. It is a very complicated bill, one upon which much effort has been given. It updates the field of law enforcement and drug abuse and the illicit sale or importation of drugs and dangerous substances.

The two subjects of these separate pieces of legislation do not mix. They should not be incorporated into a single bill—especially without coordination from the very beginning.

The bill revises laws which are based upon the Harrison Narcotics Act, adopted some 60 years ago. It is thought that this is a good bill. I believe that it is. It is scientific. It has the flexibility necessary to deal with the matter. But it has zeroed in on the field of law enforcement. Now comes a substitute amendment and it seeks to add to the bill many extraneous matters not related to the other titles. Its impact would be to impair many of the law enforcement features contained in title II of the bill.

We know these things. We know that the Department of Justice and the Department of Health, Education, and Welfare are opposed to the substitute amendment.

The Senate originally considered this issue in January of this year. From January 23 until January 28, the bulk of the debate in this Chamber was about this subject matter. At that time it was decided that, as meritorious, as urgent, and as fine as the contents of the substitute amendment are, this is not the place to put them into the form of legislation.

The other body considered this amendment and they rejected it the same as the Senate rejected it.

We have a repetition now of the request that we go through that whole procedure once again. I strongly urge that we do not.

Mr. President, there is great conflict and contradiction between the terms of the substitute and title II of the bill, bearing in mind that the bill is a law enforcement measure, and bearing in mind again that the Senate has already decided that the law enforcement measure and the rehabilitation measure should have been considered separately.

Adoption of the amendment, Mr. President—and these words should be marked well—will result in a heavily detrimental impact upon the law enforcement sections of this much-needed measure.

Urgency is of considerable value here for a number of reasons. This bill was first sent up by the administration in July 1969. It was acted on by the Senate in January of this year. Long ago it should have been enacted into law so that we could get down to the business of dealing with this cancer that is growing and growing within the Republic. So that we could get at the drug traffickers who prey on our innocent citizens.

There has been a lot of talk about it. There has been a lot of rhetoric about it. But there has not been any action.

The academic year started a month ago. This bill should have been enacted at that time for psychological purposes if nothing else, to serve notice on the academic communities, the high schools, and even the grade schools that there is now a basis whereby not only the Federal Government but also the State governments will be able to get into this matter of policing the actual users as well as the purveyors of these dangerous drugs, dangerous substances, and narcotics and their derivatives. That has not been done.

Another reason why delay would be so harmful is that a model bill for enactment by State legislatures has been prepared and is awaiting State action. It is based upon the enactment into Federal legislation of the pending bill in a form that will not bear radical or fundamental changes from the form in which it was adopted in the other body.

To adopt this substitute will mean that the bill will necessarily go into conference. That is not a fatal procedure normally. It may not be fatal now. However, it will be heavily expensive.

We will not go into conference nor will we get this finished before the latter part of November. By the very nature of things, we will not do it. It would not be too far from accurate to say that this bill could not under any circumstances be enacted before the first part of December. It takes some doing to promulgate these measures to the several legislatures of the Union that will be meeting next January.

It takes some doing to implement it and to get at the proper regulations and explanation. That information would be going out tardily to the legislatures. Many of the legislatures are limited in the amount of time that they have for the purpose of transacting their business for the year. It will mean, therefore, that in many instances the States will not be able to enact this model law which is so important to get at the field operations of pushers, users, as well as importers and manufacturers, which will fall within the purview of this legislation.

There is another matter. The Bureau of Narcotics and Dangerous Drugs has in this bill the authorization for its increased appropriation. That is very important because without the money they are entitled to have and should have they will be impaired in their functioning and a delay will be very serious, indeed, in that field, as well. Speedy action would enable the Appropriations Committee to consider this request now.

The amendment provides for a number of things. It provides for many provisions in regard to drug prevention, treatment, education, rehabilitation, and so forth. This fact, however, cannot be controverted: There is ample statutory authority now existing, and it is supplemented by title I as approved by the other body, to enable progress to be made in all of these activities without the substitute being adopted. Not only that but there is ample funding contained in title I, as adopted by the other body.

So we have here a measure which will

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be very, very difficult to countenance because of all these facts.

In what ways will this amendment impinge upon title II of the pending bill? In what way will real harm be done? We can be specific about it. The Department of Justice felt certain portions of the amendment conflicted with the language of title II. It was the considered judgment of representatives of the Department of Justice that that was true.

There are certain new provisions of the amendment that are objectionable. For example, in the congressional findings of the amendment that "drug dependence is an illness or disease," there is found great fault. That legislative finding in a bill geared to law enforcement raises the specter that the allegation of drug dependence could be asserted as an affirmative defense in any criminal prosecution. This is contrary to our existing Federal law; yet the adoption of this amendment would have that effect. That is why the law enforcers of this Nation are heavily concerned with that part of the substitute amendment, and other parts, as well.

The word "classification" in subsection 112(k) of the amendment, defining the term "prevention and treatment," gives implied authority to the Secretary of Health, Education, and Welfare to classify controlled substances for rehabilitation and treatment purposes in a manner similar to that provided for in section 309 of S. 3562, which is contained in the counterpart, in the House-approved bill.

The Department would object to any additional drug classification as being necessary in light of the classification scheme contained in title II of H.R. 18583.

To confer upon the Department of Health, Education, and Welfare that authority for classification would mean there would be a duplication of that activity. It would create conflicts and confusion.

If we are to have any sense in a law-enforcement program there must be only a single source of classification. Otherwise, one finding will nullify the other. It will confuse the investigative people and the prosecutors and in general visit much harm upon the entire program.

Further possible conflicts may arise between the statistical functions of the Secretary of Health, Education, and Welfare set out in section 125 of the amendment and the statistical functions of the Department of Justice contained in subsection 503(a)(4) of title II. On the one hand, statistics gathered by public agencies pursuant to regulations promulgated under section 125 may not reveal the identity of drug-dependent persons. On the other hand, subsection 503(a)(4) authorizes the Department of Justice to catalog information and statistics, including records of controlled substance abusers and offenders, and make such information available for Federal, State, and local law-enforcement purposes. Making records of controlled substance abusers available for enforcement purposes obviously necessitates revealing their identities.

For police purposes, control purposes, and law enforcement, names and addresses are needed; in fact, they are indispensable. Without the names, how can anyone be indicted? Without the names, how can anyone be charged with violation of the laws relating to the distribution, the importation, or manufacture of drugs? The law enforcement agency needs the capacity and must have it to get names and addresses in order to trace the source of the drug, and if that source is dispensing those drugs illegally and improperly, there will be proper prosecution. Without those names and the ability to get information and witnesses it cannot be done.

We have to make up our minds. Are we going to have a law enforcement measure in this field or not? If we do not want it and if by the adoption of this amendment we find many of the provisions for law enforcement are nullified and held for naught, we will have to bear the consequences and we will have to go forth to the public and say, "We have such a meausre here for strict enforcement, but we nullified it because we paid undue and untimely consideration to rehabilitation, education, and preventive measures."

Mr. President, there is room for both of them, but they must not conflict with each other, as this measure would do. The immediate need now is for a strict and very effective law enforcement program. Once we have this bill we can proceed to the orderly consideration of this additional proposal.

There is further objection to the provisions of subsection 126(a)(6) of the amendment. This requires all Federal agencies to submit to the Department of Health, Education, and Welfare all unpublished data pertinent to toxicology, pharmacology, and epidemiology of drug abuse and the dangers to public health posed by controlled substances.

All such information under the terms of this section is to be made widely available. This provision is much too broad and will require Federal agencies to submit information for publication which is not intended for public consumption. The Department of Justice, for example, would be required to submit all data pertaining to a drug which is being considered for control, long before a determination is made to initiate control proceedings.

The intent in the amendment is for rehabilitation, education, and research for the purpose of publication and promulgation, but a byproduct arises out of that provision which is very objectionable.

Again we get into the matter of adversary proceeding. Here is a file compiled to make a case against an importer or to make a case against an illegal distribution by a manufacturer or one of its agencies, and that information would have to be published in advance, and it would completely confound and make ineffective the law enforcement procedures.

Disclosure prematurely would enable the manufacturer or the one who is suspected of improper conduct in the distribution, sale, or importation of drugs, to alter or even terminate the practices in which he has engaged, to re-establish them somewhere else under some other circumstances, with different people doing it; and the processes of law enforcement would be frustrated. Such disclosure would also terminate the decision-making process with regard to control on the part of the Department of Justice before it even gets started.

This could be done in a number of ways, because their raw files would have to be widely available. Imagine the impasse that would occur if the raw files of a law enforcement agency had to be opened for the disclosure of that information. The files will contain names of witnesses. It will enable the manufacturer or distributor to contact witnesses who have given the case history and persuade them, if possible, to change or withhold their stories or to do other things which would be at variance with a proper investigation of the subject at hand.

It would enable such a person to write and publish articles in journals that are purported arguments for their production and, in an untimely fashion, make a case for public opinion, one way or the other, before the necessary information is procured by the law enforcement agency. There could even be efforts to work an influence, directly or indirectly, upon the HEW advisory committee that has the duty of studying these files and the substances, and the making of a recommendation. That disclosure would also make that information available long before a case was put together by the Department of Justice.

Again, I say we must make up our minds. Do we want strict law enforcement with respect to the abusers, the pushers, the manufacturers who have these drugs distributed in devious fashion, or do we not? That is the purpose of the bill, and we find it frustrated and nullified in great measure, in many instances.

Much of this type of information that will have to be made widely available is not of any interest or benefit to the public. Its publication would only serve to complicate drug control procedures.

Now we come to the confidentiality provisions of subsection 126(b). They are also much too broad and possibly in conflict with the record-keeping provisions of section 307 of title II. The provisions of section 307 of title II are applicable to researchers as well as the legitimate pharmaceutical industry. Subsection 126(b), which is contained in the substitute amendment, provides that any information obtained through research shall be used in such a way that no name or identifying characteristic of a research subject shall be divulged without the approval of the Secretary and the consent of the research subject. This section does not take into account research conducted pursuant to the investigational new drug procedures of the Federal Food, Drug, and Cosmetic Act, which may require that the identity of the research subjects be made known in order to establish

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that they are, in fact, subjects of legitimate research.

As a result of this confidentiality provision in the substitute, we will find that the names of those who are the subjects of research cannot be divulged and no policing of those eligibilities on the part of the subjects can be done. The provisions in the law, therefore, which qualify certain persons as being objects or subjects of research cannot be enforced. It will totally nullify those provisions of the bill.

That is only one objection.

The provisions of subsection 307(e) of title II, relating to the regulations promulgated by the Secretary for researchers using controlled substances under the procedures of the Food, Drug, and Cosmetic Act, require the Secretary to consult with the Attorney General in promulgating regulations deemed necessary to insure the security and accountability of controlled substances used in research.

So with that agency charged with the responsibility of maintaining and insuring security and accountability of that process on the one hand, and on the other hand being denied the information and the files that make it possible for them to take any step toward that end, it just seems to the Senator from Nebraska that it is the old game of put and take. You put it there and you take it here.

That will be of great comfort to those who, through illegal means, improperly, and for profit, get into an illicit trade. I wonder how much comfort will be derived by the victims of these drugs and substances, and how much comfort will be derived as a result of the growing menace on the campuses, in high schools and grade schools, and in the minds of the people whose respect for the law will become even lower than in many instances it is today, who will say, "Look we have this problem. Why don't you do something about it?"

Frankly, the Department of Justice will have to say, "An amendment was adopted in October of 1970 which says we cannot get the information we need in order to enforce these laws."

There is another evil involved in this matter of disclosure. Take the example of a physician, or a technical man, or a scientific man, who is engaged in research. The Department of Justice learns about it and it gets a copy of the unpublished report on the use of amphetamines and cocaine, for example. A comparison is made in its formative stage. They have the copy of the unpublished report. The law requires that they make it widely available.

It will do more harm than it will do good. It would be premature and untimely, but the statute does not say that. The statute says when they get the information, they are to make it widely available. Scientific purposes for well-considered and perfected articles of research and provisions for research—excellent. But when we try to make that rule apply to law enforcement agencies, then we are going to get into trouble, and deep trouble.

That is what this amendment is about. We set up a law enforcement act, and side by side we take out the basis for it in title I, and substitute in its place a measure, a title, which bears a great number of pages, Mr. President. It contains 56 printed pages. This body has no committee report on it. We have no analysis, no opportunity for having the minority of the committee explain what this Senator, in his feeble way, is now trying to explain. We do not have the advantage of that. We are simply told that title I of the bill shall be stricken—that the eight well-considered pages of title I are to be stricken, and 56 pages inserted in their place, without having the information and the knowledge as to what impact will be vested upon the succeeding titles, title II and title III.

Title II is captioned "Control and Enforcement," and title III has to do with the importation, the exportation, and the revenue law amendments. That is what we are facing here today.

I say it is a travesty upon the legislative process, despite the good intentions, the good goals, and the laudable objectives of the sponsors of this amendment, to engage in this method of legislating. That is what we are faced with. Unless this law enforcement bill, substantially in its present form, is soon enacted, we shall be visited with a great deal of trouble and serious delay.

Mr. President, an example—the Department of Defense is studying the effects of marihuana. Its study is not yet completed. There is a tentative report. The idea is that that tentative report must be checked and rechecked and evaluated.

Yet, copies of that tentative study find their way into the hands of this agency. This copy is transmitted to HEW, and it is to be made widely available. It is to be published, in effect, and it will vest more harm, and will result in more misinformation, than any other possible procedure could envision.

The provisions of title I, as presently drafted, relating to confidentiality of records, were worked out by the members of the House Interstate and Foreign Commerce Committee and representatives of the Department of Justice and the Department of Health, Education, and Welfare. All of them agree that they are more than adequate to insure the privacy of research subjects.

However, section 126(a)(4) of the amendment requires the Secretary of Health, Education, and Welfare to establish the criteria pursuant to which a registered researcher is to be authorized to manufacture or acquire controlled substances for research, and this section clearly conflicts with the regulatory provisions of title II of the bill.

There is no question about it. It is not only an intimation. It is no conjecture. There is a 180 degree clash between those two provisions.

These provisions in title II are applicable to the manufacture and handling of controlled substances by researchers as well as by the legitimate pharmaceutical industry, and they are adequate to insure that there will be adequate supplies of controlled substances available for legitimate research.

But here, Mr. President, we are faced with a document 56 pages in length which takes liberties with that well-considered conclusion reached by the committees of the House of Representatives that worked on this bill, by the Department of Justice, and by the Department of Health, Education, and Welfare, and endorsed by the action of the other body on its floor.

That is not good legislation. It is very imprudent legislation. Again I say that I commend the authors and sponsors of this amendment for their zeal and their enthusiasm to do something in the fields of rehabilitation, education, and research. We wish them Godspeed. But, Mr. President, not at the cost of impairing heavily and rendering almost impotent many of the important law enforcement procedures contained in title II. If that is the price we must pay for the adoption of this amendment, then it will be expensive indeed. Then indeed we will be saying, "Let the abusers, let the illicit traffic pushers, let the criminal importers and criminal manufacturers roam at large, and spread the supplies of these drugs and these dangerous substances without let or hindrance, and we will pin our faith exclusively on rehabilitation, prevention, education, and the like."

It does not make sense, Mr. President. And again I say, there is room for both concepts. That was testified to by Dr. Egeberg, in March of this year. There is room for both concepts, but not to have them both adopted in such a way that only parts of them are adopted, and there will be irreparable harm to both of them.

Dr. Egeberg testified in the Senate hearings on the drug bill before the Special Subcommittee on Alcoholism and Narcotics, a subcommittee of the Committee on Labor and Public Welfare. I shall read from his testimony as found on page 273 of part I of the record of those hearings. This particular testimony was given on March 24.

He testified, in substance, that there is nothing in the proposed amendment which we have before us now which is not already contained in existing law or in the text of title I, as it is found in the House passed bill. Let me read Dr. Egeberg's testimony on that point:

> We do not believe, however, that S. 3562—

Which is the equivalent of the pending amendment—

> would provide a significant degree of improvement in the authority we now have, and in some instances the bill would tend to constrain our ability to respond to the need in these areas. While I would be the last person to say that we have everything we might possibly need to mount needed programs to solve problems of drug abuse and dependency, I submit that, in terms of statutory authority and the capacity for effective coordination, our present arrangements are more desirable than those proposed in S. 3562.

He goes on to say, at a later point:

> While it is true that this bill recognizes the fact that community mental health centers are an acceptable treatment resource, such centers are by no means designated as the treatment resource of choice. The bill continues the belief—mistakenly, in our

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> opinion—that adequate treatment can and should be offered in separate hospital-like facilities.
>
> For my part, I cannot subscribe to such a view, nor can the Department endorse it. To shift now from the mental health center approach to one that would assign persons in need of treatment to facilities specifically geared to drug abuse and dependency would be, in our view, unwise and unwarranted.

Mr. President, here is the man at the head of the Office of Health and Scientific Affairs, and he says it is unwise and unwarranted. That is getting down to the point of the substance of the amendment. We have had no opportunity to see the results of the workings of the best legislative minds through the regular legislative process on a measures 56 pages long—complicated, far-reaching, expensive, highly needed to be sure, but not properly attuned to other legislation which exists on this subject.

Dr. Egeberg continues in his testimony at page 276:

> Dr. Miller's testimony today and our forthcoming report will comment on the bill in more detail. I would only say in conclusion that the problem of prevention and control of drug abuse is not going to be solved by any one piece of legislation or any single program nor in any single place in the federal bureaucracy.
>
> If there is an optimum way of dealing with these problems, it will be found through the patient and knowledgeable efforts of elected and appointed officials at all levels of government, scientists, mental health workers, the patient and his family, and others who devote their best talents to solving this most difficult and tragic problem.
>
> I am greatly encouraged by the efforts of this subcommittee and its Chairman to help evolve the improved approaches that are needed in the area of drug abuse. If we in the Department cannot subscribe to the provisions of S. 3562 we can most definitely subscribe to the objectives they seek to reach.
>
> I would personally suggest that we, myself, other members of our group, would be delighted to discuss such things with the Chairman.

Mr. President, I subscribe to that sentiment and that declaration. We are in sympathy with the objectives of this bill. But let us achieve it in such a way that we will not impair the highly necessary and indispensable law enforcement procedures that are set out in titles II and III. And that is what is being done. Proper processing and proper coordination of the substitute in title I simply has not occurred in the procedure that we are now pursuing.

I might point out that some discussion has occurred on the floor of the Senate that there is no funding or that there is inadequate funding for the purposes at hand for this research, prevention, and education. That is not quite true, if it was said in that fashion. It is not quite true, because it should be pointed out that title I in the bill as passed by the other body authorizes $75 million for community mental health centers, $29 million for drug-abuse education, and an additional $60 million for special projects relating to drug abuse, education, and research. It should be kept in mind that the funding provisions of the amendment are very close to the existing title. There is $164 million in the House version and $190 million in the Hughes amendment, which requires State contributions as well.

Again I say, Mr. President, that section 126(a)(4) of the amendment, which requires the Secretary of Health, Education, and Welfare to establish criteria pursuant to which a registered researcher is to be authorized to manufacture or acquire controlled substances for research, clearly is in conflict with the regulatory provisions of title II of the bill. These provisions are applicable to the manufacture and handling of controlled substances by researchers as well as by the legitimate pharmaceutical industry. They are adequate to assure that there will be sufficient supplies of substances available for legitimate research.

But under the terms of the substitute, much of the information, much of the access to information, many of the procedures used for purposes of maintaining security and accountability of controlled substances are abrogated; they are made unavailable to those who are held responsible for the security and the accountability of controlled substances.

So I say that it is a game of put and take—you put it there and take it away, and then we must try, in the succeeding confusion which results, to try to reconcile those viewpoints.

It is the administration's position that this amendment is not acceptable at this time and in this place. That has been the conclusion and that has been the message from the Department of Justice and from the Department of Health, Education, and Welfare. It is the administration's position that the provisions of Senator HUGHES' amendment should be treated as separate legislation and that the House Interstate and Foreign Commerce Committee should be given an adequate opportunity to act on it. That has not been done.

I know that there are sponsors here and the author has sponsors, and that is fine. It is not a completion of the legislative process procedures, however, as we know them and as we must depend upon them in a measure of this length, of this complexity, and of this thrust into a field which is so important and so vital.

Title I as presently drafted is not intended to establish new and expansive programs and functions relating to drug abuse within the Department of Health, Education, and Welfare. It is rather intended to increase efforts in the rehabilitation, treatment, and prevention of drug abuse through existing channels and modalities, through the use of increased appropriations. The Department of Justice strongly urges that any comprehensive legislation relating to drug abuse, rehabilitation, treatment, education, and prevention should be considered as a separate piece of legislation rather than as a title to a bill which is primarily law enforcement oriented. That is why the Department of Justice recommends against the adoption of the amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a statement of John E. Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs, that was presented before the Subcommittee on Alcoholism and Narcotics on March 26 of this year.

The PRESIDING OFFICER (Mr. GOLDWATER). Without objection, it is so ordered.

(See exhibit 1.)

Mr. HRUSKA. I read the concluding paragraphs:

> In conclusion, the overall intent and goals of S. 3562 are meritorious, but as indicated during the course of my testimony, many provisions create serious problems for the Department of Justice and require thoughtful reconsideration so that they meet the objectives sought without hampering or interfering with the law enforcement goals. Further, I would recommend resolution of any conflict between this legislation and the recently Senate-approved Controlled Dangerous Substances Act. As the President stated in his July 14 Message on Drug Abuse to the Congress, relating to Federal and State legislative programs, what is needed is an interlocking trellis of laws for the Federal-State effort. So too here—we need a complementary interlocking trellis of laws dealing with law enforcement on the one hand and rehabilitation and education on the other.

Mr. President, I submit again: Let each of these approaches and these concepts proceed under its own power, in its own jurisdiction, but let us not make the very grievous error of trying to get instant legislation here, where there has been inadequate effort to get the perfect coordination between the measure that has been very well considered in this Chamber, very well considered in the other Chamber of this Congress and now have it vastly changed and added to by 53 printed pages of intricate and complex provisions. Many of these are necessary, but they must comport with the provisions contained in titles II and III. If they do not, we will be in deep trouble.

Mr. President, by way of conclusion, the pending amendment is strongly opposed by the administration principally because it adds very little that is new in the way of statutory authority to the jurisdiction of the Department of Health, Education, and Welfare.

Further, the House Subcommittee on Public Health and Welfare specifically ignored the very same bill in writing title I of the bill which was approved by the other body. It deferred action on the Hughes amendment approach pending further study and analysis by the committee. It is the position of the administration that the provisions of the pending amendment should be treated as separate legislation and that the House Interstate and Foreign Commerce Committee should be given adequate opportunity to act on it.

It should be pointed out that title I of the House-approved bill authorizes $75 million for community mental health centers, $29 million for drug abuse education and an additional $60 million for special projects relating to drug abuse, education, and research.

The Department of Health, Education, and Welfare has repeatedly stated that they have sufficient statutory authority to deal with the programs of rehabilitation, education, and research in the drug field. What they need is money. That is what title I of the House passed bill provides. It provides it in a way not interfering with the law enforcement procedures of titles II and III, which is basically a law enforcement measure.

The pending amendment does interfere and does impinge upon the provisions of titles II and III as has already been indicated.

The pending amendment conflicts with some of the key enforcement provisions of title II which is before us. It does so in regard to the confidentiality of records provision and overlaps similar provisions in title II, but inadvertently also affects the recordkeeping provisions of section 307. Although it is assumed that this was not intended, the Hughes amendment would restrict accountability audits of dispensing practitioners by the Department of Justice since their records would not be open for inspection. This overturns an established procedure of some 56 years relating to narcotic drugs and some 5 years relating to dangerous drugs. That 56-year-old history commenced with the enactment of the Harrison Narcotics Act in 1914.

Basically, what the amendment would do would add another bureaucratic layer to the HEW complex with doubtful value in the context which is sought in this point of the enactment of a very much needed measure.

Mr. President, I yield the floor.

EXHIBIT 1

STATEMENT BY JOHN E. INGERSOLL, DIRECTOR, BUREAU OF NARCOTICS AND DANGEROUS DRUGS, BEFORE THE SUBCOMMITTEE ON ALCOHOLISM AND NARCOTICS OF THE SENATE COMMITTEE ON LABOR AND WELFARE, MARCH 26, 1970

Mr. Chairman and members of the Subcommittee, it is a pleasure to appear before you today to express the views of the Department of Justice on S. 3562, a bill entitled, "The Federal Drug Abuse and Drug Dependence Prevention, Treatment, and Rehabilitation Act of 1970." Accompanying me today is Mr. Michael R. Sonnenreich, Deputy Chief Counsel of the Bureau of Narcotics and Dangerous Drugs.

I think we all recognize that law enforcement, education, research, and rehabilitation are integral and necessary parts of any total drug abuse control approach by the Federal Government. Some of us emphasize one aspect more than the others because of our current responsibilities. But that does not mean that we are not concerned and interested in the total process.

Speaking for the law enforcement side of this quadrant, I am pleased with the recent Senate passage of S. 3246, the Controlled Dangerous Substances Act, which is a major impetus toward achieving a more effective and systematic approach in the area of narcotic and dangerous drug law enforcement. With that Act as law, one part of the equation will have been legislatively realized. It is with the knowledge that other aspects of the problem also must be faced that the Department of Justice applauds this Subcommittee's interest and efforts to meet, analyze, and resolve these most complex areas of concern.

We are all aware that no single approach, standing alone, will be effective in adequately resolving the burgeoning drug abuse dilemma. I think Dr. Roger O. Egeberg, Assistant Secretary for Health and Scientific Affairs of the Department of Health, Education, and Welfare, made clear in his testimony on March 24, 1970, the progress which has been made, and which is being made, in the areas of education, treatment, and rehabilitation. These are areas which primarily concern the Department of Health, Education, and Welfare, and the Department of Justice defers to the views of that Department in its area of concern and expertise. However, I would like to discuss specific provisions of S. 3562 which bear either directly or indirectly on the functions of the Department of Justice in the area of drug abuse control and enforcement.

Certain statements made in the bill's Findings and Declarations pose potential problems of a prosecutive and enforcement nature to the Department of Justice. The generalization in subsection 101(a) that drug dependence is an illness or disease goes far beyond the decision rendered by the Supreme Court in *Robinson v. California*. The inclusion of such a statement in a Congressional finding will raise the specter that the allegation of drug dependence could be used as an affirmative defense in any criminal prosecution, which is contrary to existing Federal law. I might add that such a Congressional finding is not in keeping with current medical knowledge and could be a serious impediment to criminal prosecutions. The Department of Justice recommends against inclusion of such a broad finding, as it extends existing case law and creates a defense based on a definition of "drug dependence" which has never been tested in the courts.

While the Department of Justice concedes, as in the *Robinson* case, that *narcotic addiction* is a form of illness and consequently a crime of status, it is also felt that these concepts should be given reasonable application. For example, Justice Harlan in a concurring opinion in the *Robinson* case stated that he did not feel that it was irrational nor cruel and unusual punishment for a State to held narcotic addicts liable for violations of the criminal law. Mr. Justice Harlan stated further that, "Insofar as addiction may be identified with the use or possession of narcotics within the State . . . in violation of local statutes prohibiting such acts, it may surely be reached by the State's criminal law."

The Department of Justice agrees with Justice Harlan in his analysis in this area. While the Department of Justice agrees that medical treatment should be utilized when practicable, it does not subscribe to a potential argument of a defense of drug dependence. For these reasons, this finding should be modified to properly reflect both medical and prosecutive needs.

The definition of "drug related offense" in subsection 202(g) is in need of notification since, as presently drafted, it is too broad and encompasses within its definition the entire spectrum of controlled drugs, from heroin to over-the-counter cough syrups. In other words, an individual who consumes a quantity of an over-the-counter exempt narcotic preparation, such as paregoric or one of the codeine cough syrups, and then engages in criminal activity, would be committing a "drug related offense" within the definition of that term. Such a result clearly could not have been intended. If such were the intent, then every prospective criminal would be advised to consume a tranquilizer or other controlled substance so that in the event of capture, he could say that he was committing a drug-related crime. The Department of Justice feels that the definition should be seriously modified and restricted to a more limited class of drugs.

Turning now to the provisions of Title III, the Department of Justice questions the need for the establishment of a Drug Abuse Prevention, Treatment, and Rehabilitation Administration within the Department of Health, Education, and Welfare. Here again, since this is a matter primarily affecting the Department of Health, Education, and Welfare, the Department of Justice will defer to the views and recommendations expressed by Dr. Egeberg in his testimony before this Subcommittee. However, I might add that there is a considerable overlapping of functions between this newly created Administration and certain of the agencies within the Department of Justice. For example, the Administration's authority under subsection 302(b) to administer a treatment and rehabilitation program for Federal criminal offenders overlaps with the role of the Bureau of Prisons in this area. Other functions overlap with those of the Law Enforcement Assistance Administration and the Bureau of Narcotics and Dangerous Drugs. For this reason, the Department of Justice joins with the Department of Health, Education, and Welfare in recommending against the creation of such an Administration.

Subsection 304(h), authorizing this new Administration to cooperate with the medical profession in disseminating guidelines on the use of controlled dangerous substances, poses particular problems for the Department of Justice. Under both present and proposed law, these guidelines or regulations will generally be prepared and disseminated jointly by the Bureau of Narcotics and Dangerous Drugs in the Department of Justice and the Food and Drug Administration in the Department of Health, Education, and Welfare. S. 3562 would change this by vesting this function within the proposed Administration. I feel this change is unnecessary. The present system has proved to be satisfactory.

The subsection goes on further to outline the criteria under which a practitioner can prescribe, administer, or dispense controlled substances. These criteria directly conflict with the regulatory provisions contained in the Controlled Dangerous Substances Act, S. 3246, passed by the Senate on January 28, 1970, and presently pending action in the House. The Department of Justice strenuously opposes this provision as the Senate has already spoken to this issue.

Subsections 306 (b), (c), and (d) of S. 3562, which set out the research functions of the proposed Administration, would also appear to conflict with the provisions of the Controlled Dangerous Substances Act, and as such cannot be supported by the Department of Justice. Under S. 3246, a person wishing to conduct research using Schedule I substances, which are those drugs which have the highest abuse potential and no accepted medical use, must be registered by the Attorney General after he receives the advice in writing of the Secretary of Health, Education, and Welfare as to the competency of the researcher and the merits of the research protocol. Such a registration can only be denied under certain specified grounds enumerated in section 303(f) of the Controlled Dangerous Substances Act. S. 3562 would have the effect of transferring this authority into the proposed Administration or, at the least, duplicating the requirements individuals must perform in order to conduct research. Such a transferral does not take into account the fact that the Secretary of Health, Education, and Welfare presently has the ability and machinery to pass on the scientific qualifications of researchers and their research, and that the Attorney General, through the Bureau of Narcotics and Dangerous Drugs, is best qualified to determine if a researcher has established proper recordkeeping procedures and has undertaken proper safeguards to prevent diversion of controlled drugs into illicit channels. The procedures established in the Controlled Dangerous Substances Act cover this area, and the Department opposes the intent of S. 3562 in this area.

Section 309 of S. 3562, which authorizes the Administration to classify all controlled dangerous substances into one of three classes, is superfluous and conflicts with the drug scheduling contained in the Controlled Dangerous Substances Act. The criteria used for drug placement have no defined or accepted legal meanings. Criteria such as "harmful effects on health" or "significantly contribute to crimes of violence against persons or to other grave felonious conduct" have no defined legal meaning and may be found to be constitutionally deficient because of vagueness. The Department is opposed to this classification system because it is questionable whether such criteria are legally sustainable, and because the classification system established in S. 3246 is sufficient, both medically and enforcementwise, for the intended purposes of this Act.

I have been informed by letter from the Chairman that this Subcommittee does not wish a discussion of the provisions in Titles IV and VI, and the last two sections of Title V today. However, I have been advised that the Department will be afforded an opportunity at a later time to address comments to these provisions, and therefore I will reserve any comments until that time.

In discussing the provisions of Title VII, dealing with Federal assistance for State and local programs, the Department of Justice defers to the views of the Department of Health, Education, and Welfare, since these are areas within their special expertise. However, certain of the provisions in section 704, authorizing grants and contracts for the prevention and treatment of drug abuse, overlap with the present functions of the Law Enforcement Assistance Administration. Paragraphs (5) and (7) of subsection 702(a) authorize the Secretary of Health, Education, and Welfare to make grants or enter into contracts to provide prevention and treatment services in correctional institutions, and to instruct the legal and law enforcement professions in the causes, effects, and prevention of drug dependence. The Department feels that these are more properly the functions of the Law Enforcement Assistance Administration through its grant authority, and of the Bureau of Narcotics and Dangerous Drugs through its current law enforcement training programs.

The Department of Justice questions the need for the appointment of an Advisory Committee on Drug Abuse and Drug Dependence under Title VIII. There are already a number of similar committees in existence. Dr. Egeberg mentioned the DHEW Committee in his testimony. There is a Scientific Advisory Committee under the aegis of the Department of Justice. Also the White House Interdepartmental Committee on Drug Use and Abuse, is an ad hoc committee designed to coordinate the activities of the various Federal agencies involved with the drug abuse problem. In addition, section 802 of the Controlled Dangerous Substances Act calls for the establishment of a Committee on Nongovernmental Drug Abuse Prevention and Control, to study the extent to which nongovernmental organizations are involved in the prevention and control of drug abuse, and advise as to how such organizations can best be fostered.

In conclusion, the overall intent and goals of S. 3562 are meritorious, but as indicated during the course of my testimony, many provisions create serious problems for the Department of Justice and require thoughtful reconsideration so that they meet the objectives sought without hampering or interfering with the law enforcement goals. Further, I would recommend solution of any conflict between this legislation and the recently Senate-approved Controlled Dangerous Substances Act. As the President stated in his July 14 Message on Drug Abuse to the Congress, relating to Federal and State legislative programs, what is needed is an interlocking trellis of laws for the Federal-State effort. So too here—we need a complementary interlocking trellis of laws dealing with law enforcement on the one hand and rehabilitation and education on the other.

That concludes my statement, Mr. Chairman. I will be happy to answer any questions the Subcommittee may have at this time.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Goldwater). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I address myself to the amendment offered to the pending legislation by the Senator from Iowa.

I have struggled over this matter considerably since last night, and have come to the conclusion that I must object to the amendment. I want to state my reasons for doing so.

First of all, I think—as I thought last January when we debated substantially the same question—that it is a mistake to put into this law enforcement bill the rehabilitation and research and education and information aspects of the matter.

I think it will only hamper the enforcement of this good narcotics law which we can pass. This will set back the effort, slow down this war against narcotics pushers and manufacturers. That is the first thing that has to be stopped. Unless we do that as a first order of business, we will not be getting anywhere with the rehabilitation that needs to be done because the peddlers are still going to be at their same old stands.

Mr. President, every hour in this country 12 young people are arrested for narcotics violations. Since we have been debating this bill, something in the neighborhood of 50 youngsters have been arrested for possession or abuse of narcotics. Since we undertook the matter 14 months ago thousands of them have been caught in this awful situation.

Secondly, I believe the country wants us to move first against the peddlers and the pushers, the criminal element that has really brought about this situation. The people of this country have been anxiously waiting for us to pass this bill.

Now, I want to say for the record that I do not think anyone will deny that our subcommittee, and I include myself, probably has been the chief proponent of drug legislation reform. This position includes my own record regarding law enforcement, drug legislation, and drug education, rehabilitation, treatment, and research.

In 1965 the Drug Abuse Control amendments come out of our committee. That legislation is helping us a great deal. Then, we got this bill passed last January in the Senate and it went over to the House.

The Addict Rehabilitation Act came out of our committee. I made reference to that here yesterday and I was answered by my colleague who said it did not have enough money. It does not have enough money; it should have more money, but the act is there. We passed that in 1966.

Within the past half hour, I have been informed by Representative Paul Rogers, is the ranking member of the subcommittee of the Interstate and Foreign Commerce Committee in the House, that if this amendment offered by the Senator from Iowa is agreed to, that would be the end of the Narcotics Act this year. They simply would not take it in the House. They think they wrote a very good title on rehabilitation and they took many, though not all, of the recommendations of the Senator from Iowa. For one thing, they could not hold hearings during the remainder of the session.

If this amendment is agreed to by the Senate, we must conclude that it is the end of the narcotics bill this year. It would be a cruel thing to do to the American people.

I cannot say strongly enough that we need this rehabilitation, research, education, and treatment just as much as we need the law enforcement bill, but they must be done separately. That is why I worked to move S. 2346 through this body this year. It is a regulatory act and it does not involve drug rehabilitation.

I urge the Senate to consider the fact that this amendment is very broad in scope. It represents several new and unique approaches. Many of them are meritorious, but the fact is that the Senate has not had time to consider them as they should be considered. There is no report before the Senate and as far as I know none was ever prepared or printed.

I recall that when substantially the same amendment was offered in January we told the proponents to get a bill ready and we said, "We will help you get it passed." That was 8 months ago. It never was prepared; it never came before the Senate, or before our committee.

This amendment is basically the bill introduced by the Senator from Iowa in March of this year, which was referred to the Committee on Labor and Public Welfare. I understand some hearings were held on that bill and that the committee has considered that bill. I repeat most emphatically that S. 3562 which is basically the amendment we are now considering, has not been reported to the Senate by the Committee on Labor and Public Welfare. For whatever reasons, the committee has not acted, and the Senate has not had an opportunity to study any committee report of the measure.

That was the point Representative Rogers made a while ago when I talked to him. He said, "We could not handle it. There just could be no further action on it."

In title I which passed the House there is much of the bill of the Senator from Iowa, S. 3562. We do not have any report from the committee. It is the customary procedure in this body to consider committee action on such a major piece of legislation as is included within the framework of this amendment before acting on it. I see no justification for even considering the amendment favorably and I would have to vote to reject it.

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This is a painful thing to do and I think every Senator would feel the same way. One is placed in the position of being against rehabilitation, research, and education, which is not so.

I am perfectly willing to accept the House version of title I of the bill having to do with rehabilitation. I do it mostly because I think this bill has to be on the books and made the law of the land.

Under this bill, if passed, we will have some 500 or 600 new narcotics agents. They are badly needed right now if we are to do anything about this epidemic of drug abuse and misuse.

Lest anyone argue that the amendment before us is not a major piece of legislation, I will review the major provisions. It refers to the establishment within the Department of Health, Education, and Welfare of a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence. I do not find any fault with the concept. However, I do object to the manner in which this major piece of legislation is being thrust upon this body. For example, we have had no time to examine in detail this amendment or determine if the approach is the best one to reduce the massive drug problem in the United States. Perhaps others have had the opportunity, but I have not.

Among other things, the institute established by the pending amendment would have broad functions, including those related to administration, planning, coordination, research, and all the ramifications of a drug prevention and treatment program at the Federal level. These provisions alone would provide a new, and I believe uncharted, approach to solving one of this Nation's most pressing problems. Surely such a proposal should not be tacked onto the pending legislation, or to any other bill, for that matter. It is a major piece of legislation we are undertaking—without a committee report—loosely, in the form of an amendment. It is substantially the same thing that the Senate refused to take in January and which the House says it cannot take in this shape and form.

I am trying to emphasize the point that if this amendment is put on the bill, we can say goodby to any narcotics law, certainly this year.

I note that the amendment also contains much of the text of title I of the House bill, but I also note that the amendment makes no reference to the Narcotic Addict Rehabilitation Act of 1966, which I, and many other Members of the Senate consider to have been a pioneering Federal effort directed at narcotic rehabilitation.

It would seem to me that any new, major drug rehabilitation legislation, such as that proposed in this amendment, would be so structured as to either encompass or expand or cross-reference provisions contained in the Narcotic Drug Rehabilitation Law of 1966.

By this statement I am simply trying to point out how inadequate the proposal is as it comes before us. It has not had the treatment it deserves. It has not had the hearings it deserves, and we do not have a report.

Thus I reluctantly must oppose this amendment, for the reasons I have given.

In conclusion, I emphasize the fact that this amendment is so broad in scope and applicability that it should not be handled in this way on the floor of the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. GOLDWATER). The Chair, on behalf of the Vice President, appoints the Senator from Texas (Mr. YARBOROUGH) to attend the 55th—Maritime—session of the International Labor Conference, to be held at Geneva, Switzerland, October 14–31, 1970.

AMENDMENT OF INTERNATIONAL TRAVEL ACT OF 1961, AS AMENDED

Mr. INOUYE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 14685.

The PRESIDING OFFICER (Mr. GOLDWATER) laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 14685) to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes, which was in lieu of the matter proposed to be inserted by the Senate amendment, insert:

That section 3 of the International Travel Act of 1961 (75 Stat. 129; 22 U.S.C. 2121–2126) is amended by changing the period at the end of clause 4 of subsection (a) to a semicolon, and by inserting after such clause the following:

"(5) upon the application of any State or political subdivision or combination thereof, or private or public nonprofit organization or association, may make grants for projects designed to carry out the purposes of this Act if he finds that such projects will facilitate and encourage travel to any State or political subdivision or combination thereof by residents of foreign countries. No financial assistance will be made available under this clause unless the Secretary determines that matching funds will be available from State or other non-Federal sources and in no event will the amount of any grant under this clause for any project exceed 50 per centum of the cost of such project. The Secretary is authorized to establish such policies, standards, criteria, and procedures and to prescribe such rules and regulations as he may deem necessary or appropriate for the administration of this clause;

"(6) may enter into contracts with private profit- or non-profit-making individuals, businesses, and organizations for projects designed to carry out the purposes of this Act whenever he determines that such projects cannot be accomplished under the authority of clause (5) of this subsection; and

"(7) may make awards of merchandise manufactured and purchased in the United States to travel agents and tour operators in foreign countries as an incentive for their promotion of travel to the United States by residents of foreign countries. The Secretary is authorized to establish such policies, standards, criteria, and procedures as he may deem necessary or appropriate for the administration of this clause."

SEC. 2. Section 3 of such Act (22 U.S.C. 2123) is amended by adding at the end thereof the following new subsections:

"(c) Each recipient of assistance under clause (5) of subsection (a) of this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(d) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the assistance received under clause (5) of subsection (a) of this section."

SEC. 3. (a) Section 4 of such Act (22 U.S.C. 2124) is amended to read as follows:

"SEC. 4. There is established in the Department of Commerce a United States Travel Service which shall be headed by an Assistant Secretary of Commerce for Tourism who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report directly to the Secretary. All the duties and responsibilities of the Secretary under this Act shall be exercised directly by the Secretary or by the Secretary through the Assistant Secretary of Commerce for Tourism. In addition, the Secretary shall designate at least one individual to serve as Deputy Assistant Secretary of Commerce for Tourism who shall be under the supervision of the Assistant Secretary of Commerce for Tourism."

(b) Paragraph (12) of section 5315 of title 5, United States Code (relating to level IV of the Executive Schedule), is amended by striking out "(5)" and inserting in lieu thereof "(6)".

SEC. 4. Section 6 of such Act is amended to read as follows:

"SEC. 6. For the purpose of carrying out the provisions of this Act, there is authorized to be appropriated not to exceed $15,000,000 for each of the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973. Funds appropriated under this section shall be available without regard to the provisions of section 501 and 3702 of title 44 of the United States Code. Funds appropriated under this section for printing of travel promotion materials are authorized to be made available for two fiscal years."

SEC. 5. Section 7 of such Act is renumbered "SEC. 8." and a new section 7 is inserted to read as follows:

"SEC. 7. As used in this Act, the term 'United States' and the term 'State' are defined to include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands."

SEC. 6. (a) There is established a commission to be known as the National Tourism Resources Review Commission (hereafter in this section referred to as the "Commission") composed of fifteen members as follows:

(1) One representative of the Department of Commerce designated by the Secretary of Commerce.

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(2) One representative of the Department of the Interior designated by the Secretary of the Interior.

(3) One representative of the Department of State designated by the Secretary of State.

(4) One representative of the Department of Transportation designated by the Secretary of Transportation.

(5) Eleven individuals appointed by the President from private life who are informed about and concerned with the improvement, development, and promotion of United States tourism resources and opportunities or who are otherwise experienced in tourism research, promotion, or planning. The President shall designate one of the individuals appointed by him to serve as Chairman of the Commission.

(b) The Commission shall make a full and complete study and investigation for the purpose of—

(1) determining the domestic travel needs of the people of the United States and of visitors from other countries at the present time and to the year 1980;

(2) determining the travel resources of the United States available to satisfy such needs now and to the year 1980;

(3) determining policies and programs which will insure that the domestic travel needs of the present and the future are adequately and efficiently met;

(4) determining a recommended program of Federal assistance to the States in promoting domestic travel; and

(5) determining whether a separate agency of the Government should be established, or whether an existing department, agency, or instrumentality within the Government should be designated, to consolidate and coordinate tourism research, planning, and development activities presently performed by different existing agencies of the Government.

The Commission shall submit a comprehensive report of its activities and the results of such study and investigation, together with its recommendations with respect thereto, to the President and to the Congress not later than two years after the first meeting of the Commission. The Commission shall cease to exist sixty days after the date of the submission of its comprehensive report. The comprehensive report of the Commission shall propose such legislative enactments and administrative actions as in its judgment are necessary to carry out its recommendations.

(c) The Secretary of Commerce shall make available to the Commission such secretarial, clercial, and other assistance as the Commission may require to carry out its functions under this section. The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance it deems necessary to carry out its functions under this section; and each such department, agency, and instrumentality is authorized to cooperate with the Commission and; to the extent permitted by law, to furnish such information and assistance to the Commission upon request made by its Chairman.

(d) In order to carry out the provisions of this section, the Commission is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of the operations of the Commission;

(2) to appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this section and to prescribe their authority and duties; and

(3) to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(e)(1) Members of the Commission from private life, while engaged in the performance of their duties as members of the Commission, shall receive compensation at a rate to be fixed by the President, not to exceed $100 each day, including traveltime, and shall, while so serving away from their homes or regular places of business, be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) Members of the Commission who are officers or employees of the United States shall serve without additional compensation, but shall be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(f) There are authorized to be appropriated such sums, not to exceed $750,000, as may be necessary to carry out the provisions of this section.

Mr. INOUYE. Mr. President, in its present form, H.R. 14685 passed the House of Representatives on October 6. It is identical to a conference report which the Senate adopted on July 15, except that the authorization in the House-passed bill is $750,000 for the National Tourism Resources Review Commission, whereas the amount in the conference report we adopted would authorize $1,250,000 for that Commission. In other words, there is a reduction of $500,000.

When that conference report was before the Senate on July 15, the very able chairman of the Commerce Committee, the distinguished senior Senator from Washington (Mr. MAGNUSON) thoroughly set forth the need for this legislation and the reasons for its adoption. I shall not, therefore, take the Senate's time to repeat those reasons.

Nor will I trouble the Senate with a recitation of the facts surrounding the rather circuitous route by which this legislation appears before us once again.

Suffice it to say that H.R. 14685 in the form we are now considering it is, with the one exception I mentioned earlier, identical to the provisions the Senate previously adopted and has the bipartisan support of both Houses. It is a good bill.

Mr. President, I move that the Senate concur in the amendment of the House.

Mr. JAVITS. Mr. President, this is a matter of very great importance. It originated in the establishment of the U.S. Travel Agency some years ago in a bill which I sponsored with the Senator from Washington (Mr. MAGNUSON), who took the matter up here and got something done which I had been trying to do for 10 years or more, and I think it was a great service to our country.

This particular bill begins to rec- and I am very grateful for the gifted ognize the issue. It is a combination of a bill of mine and a bill which Senator MAGNUSON developed in the committee, leadership of Senator INOUYE in dealing with the matter. The conference has not resulted in everything that we wanted, but it does have a provision with respect to the National Tourism Resources Commission which is critically important. It does for the first time really tie in the travel programs of the various States, many of which have done individually far more than the United States as a whole. Promoting foreign travel to the United States is critically important in terms of the balance of payments as well as in terms of our international posture as a leader of the world.

The bill also recognizes the important contribution being made by the U.S. Travel Service under its excellent and imaginative Director Langhorne Washburn. Both the increase in authorizations for the Travel Service and the elevation of its Director to the rank of Assistant Secretary of Commerce will mark positive steps toward putting this country on a par with the rest of the world in its efforts to attract international tourism. I ascribe this show of confidence in the U.S. Travel Service in part to the thorough review of our travel programs—the first of its kind since passage of the Travel Act of 1961—by the House and Senate Commerce Committees under their very able chairmen.

On the whole, I feel that the Senate did about as well as it could, though there is still a very long way to go before we really redeem the promise which is inherent in the fact that the United States is probably the greatest tourist attraction in the world. Other nations, far smaller and poorer than the United States, do infinitely more in terms of the world effort to stir tourism than we do. There is still an enormous area for improvement. In many, many ways, including immigration requirements, we are far from where we ought to be in terms of encouraging tourism. On a local level, for example, very few of the great cities have police officers or other officials who speak the languages of many of our visitors.

But this bill does represent the second landmark step after the passage of the original legislation. It does adopt some of the major features of the measure I introduced, and I am very hopeful that it can be made to mark a major step forward in encouraging travel to the United States, which is now generally recognized to be important to our country.

I should like to point out again what has been pointed out time and again—that in an imbalance in international payments which has hovered around the $4 billion mark for some years, over $2 billion is attributable to the travel gap—that is, what our tourists spend abroad compared with what is spent here by tourists.

None of us begrudges this travel by American tourists; on the contrary, we applaud and encourage it. But we deserve to do very much better on the interchange than we have done. This bill will help some, but we would be deluding the Senate—I am sure Senator Inouye would agree—if we led the Senate to believe that this is the whole ball game. It is far from it. It will help, however, and we must be grateful that we have come a bit further than where we were.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Hawaii that the Senate concur in the amendment of the House.

The motion was agreed to.

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ORDER OF BUSINESS

Mr. **GRIFFIN**. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **INOUYE**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. **INOUYE**. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **BYRD** of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SCHWEIKER). Without objection, it is so ordered.

Mr. **BYRD** of West Virginia. Mr. President, there is an indication that a live quorum is desired. I therefore suggest the absence of a quorum and ask that the Senate attachés put the word out to Senators on both sides of the aisle that this will be a live quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 361 Leg.]

Allen
Baker
Bible
Boggs
Brooke
Byrd, W. Va.
Case
Cotton
Cranston
Dodd
Dole
Dominick
Ellender
Ervin
Griffin
Gurney
Hart
Hollings
Hruska
Hughes
Javits
Long
Magnuson
Mansfield
Mathias
McIntyre
Miller
Packwood
Pastore
Percy
Ribicoff
Saxbe
Schweiker
Scott
Stennis
Thurmond
Young, N. Dak.

Mr. **KENNEDY**. I announce that the Senator from Nevada (Mr. CANNON), the Senator for Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. McGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Georgia (Mr. TALMADGE), the Senator from Texas (Mr. YARBOROUGH), the Senator from Ohio (Mr. YOUNG), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

Mr. **GRIFFIN**. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The PRESIDING OFFICER (Mr. SCHWEIKER). A quorum is not present.

Mr. **BYRD** of West Virginia. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay the following Senators entered the Chamber and answered to their names:

Allott
Anderson
Bayh
Bennett
Burdick
Byrd, Va.
Church
Cook
Cooper
Curtis
Eagleton
Eastland
Fulbright
Hansen
Hatfield
Holland
Inouye
Jackson
Jordan, Idaho
Kennedy
McCarthy
McClellan
McGovern
Metcalf
Mondale
Nelson
Pearson
Pell
Proxmire
Randolph
Russell
Smith, Maine
Spong
Stevens
Williams, N.J.
Williams, Del.

The PRESIDING OFFICER. The quorum is present.

The question is on agreeing to the amendment of the Senator from Iowa.

Mr. **DODD**. Mr. President, I may say that I understand a motion to table the amendment of the Senator from Iowa will be made very shortly. At this time I would like to repeat what I said before. I am not opposed to the idea of the narcotics bill. As I said, a good title I was put in by the House committee, which had studied the matter for a long time. I have taken my opposition to the amendment because, as I said earlier, we have been given notice that we can say goodbye to a narcotic bill this year if the amendment is passed. I think that is a compelling reason for opposing the amendment.

The bill has a good title on narcotic rehabilitation. It is a good provision. I hope it will be possible for the country to get a good narcotic law. I get more mail and phone calls on the subject of narcotics than I do anything else, from fathers, mothers, ministers, and others. I suppose the hoodlums are watching us, as they did in January. They are hoping the bill fails.

I urge the Senate to reject the amendment, highly motivated as it is, and notwithstanding that we need a program of drug rehabilitation. We have to do separate things separately.

Mr. **HOLLAND**. Mr. President, will the Senator yield?

Mr. **DODD**. I yield.

Mr. **HOLLAND**. I am glad the Senator from Connecticut referred to the fact that my colleague, Representative ROGERS, of West Palm Beach, came over to visit the Senator. He also visited with me. He said he was sure his committee would be glad to study all of the subject matters that were embodied in this particular amendment, that they had not had a chance to do so, that they had worked long on the other bill, that he was reasonably certain that if we adopted this amendment, the House, which is going home right away, all of them running for election, would never find it possible to go into it in the detail which would be required, and that it would mean loss of the bill.

I am not an expert in this matter. I do not know all the contents of this amendment. I do know that that is what my distinguished colleague told me very seriously, and I know that he meant what he said. I wanted to corroborate completely the statement of the Senator from Connecticut in that regard, and I thank him for yielding to me.

Mr. **DODD**. I thank the Senator from Florida for his contribution.

I should have said earlier, and I want it clearly understood that, as far as I am concerned, I am willing to take the House bill. I am not saying it is all it should be, but we never get all we want. It has a good rehabilitation section in it. If we send it to the President, we will have a narcotics law that we badly need. One thing we all can agree on. We cannot delay it any longer. As I said, every day 12 youngsters less than 21 years of age are arrested for narcotics violations.

I hope the Senate will not approve the amendment.

I yield to the Senator from Washington (Mr. JACKSON).

DESIGNATION OF CERTAIN LANDS AS WILDERNESS

Mr. **JACKSON**. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3014.

The PRESIDING OFFICER, laid before the Senate the amendment of the House of Representatives to the bill (S. 3014) to designate certain lands as wilderness, which was to strike out all after the enacting clause, and insert:

DESIGNATION OF WILDERNESS AREAS WITHIN NATIONAL WILDLIFE REFUGES

SECTION 1. In accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)), the following lands are hereby designated as wilderness;

(a) certain lands in the (1) Bering Sea, Bogoslof, and Tuxedni National Wildlife Refuges, Alaska, which comprise about forty-one thousand one hundred and thirteen acres, three hundred and ninety acres, and six thousand four hundred and two acres, respectively, and which are depicted on maps entitled "Bering Sea Wilderness—Proposed", and "Bogoslof Wilderness—Proposed", and "Tuxedni Wilderness—Proposed", dated August 1967, and (2) the lands comprising the Saint Lazaria, Hazy Island, and Forrester Island National Wildlife Refuges, Alaska, which comprise about sixty-two acres, forty-two acres, and two thousand six hundred and thirty acres, respectively, and which are depicted on maps entitled "Southeastern Alaska Proposed Wilderness Areas", dated August 1967, which shall be known as the "Bering Sea Wilderness", "Bogoslof Wilderness", "Tuxedni Wilderness", "Saint Lazaria Wilderness", "Hazy Islands Wilderness", and "Forrester Island Wilderness", respectively;

(b) certain lands in the (1) Three Arch Rocks and Oregon Islands National Wildlife Refuges, Oregon, which comprise about seventeen acres and twenty-one acres, respectively, and which are depicted on maps entitled "Three Arch Rocks Wilderness—Proposed", and "Oregon Islands Wilderness—Proposed", dated July 1967, and (2) the lands comprising the Copalis, Flattery Rocks, and Quillayute Needles National Wildlife Refuges, Washington, which comprise about five acres, one hundred and twenty-five acres, and forty-nine acres, respectively, and which are depicted on a map entitled "Washington Islands Wilderness—Proposed", dated August 1967, as revised January 1969, which shall be known as "Three Arch Rocks Wilderness", "Oregon Islands Wilderness", and "Washington Islands Wilderness", respectively;

(c) certain lands in the Bitter Lake National Wildlife Refuge, New Mexico, which comprise about eight thousand five hundred acres and which are depicted on a map entitled "Salt Creek Wilderness—Proposed", and dated August 1967, which shall be known as the "Salt Creek Wilderness";

(d) certain lands in (1) the Island Bay and Passage Key National Wildlife Refuges, Florida, which comprise about twenty acres each and which are depicted on maps entitled "Island Bay Wilderness—Proposed" and "Passage Key Wilderness—Proposed", dated August 1967, and (2) the Wichita Mountains National Wildlife Refuge, Oklahoma, which comprise about eight thousand nine hundred acres and which are depicted on a map entitled "Wichita Mountains Wilderness—Proposed", dated October 1967, which shall be known as "Island Bay Wilderness", "Passage Key Wilderness", and "Wichita Mountains Wilderness", respectively;

(e) certain lands in (1) the Seney, Huron Islands, and Michigan Islands National Wildlife Refuges, Michigan, which comprise about twenty-five thousand one hundred and fifty acres, one hundred and forty-seven acres, and twelve acres, respectively, and which are depicted on maps entitled "Seney Wilderness—Proposed", Huron Islands Wilderness—Proposed", and "Michigan Islands Wilderness—Proposed", (2) the Gravel Island and Green Bay National Wilderness Refuges, Wisconsin, which comprise about twenty-seven acres and two acres, respectively, and which are depicted on a map entitled "Wisconsin Islands Wilderness—Proposed", and (3) the Moosehorn National Wildlife Refuge, Maine, which comprise about two thousand seven hundred and eighty-two acres and which are depicted on a map entitled "Edmunds Wilderness and Birch Islands Wilderness—Proposed", all said maps being dated August 1967, which shall be known as "Seney Wilderness", "Huron Islands Wilderness", "Michigan Islands Wilderness", "Wisconsin Islands Wilderness", and "Moosehorn Wilderness", respectively;

(f) certain lands in the Pelican Island National Wildlife Refuge, Florida, which comprise about three acres and which are depicted on a map entitled "Pelican Island Wilderness—Proposed" and dated August 1970, which shall be known as the "Pelican Island Wilderness"; and

(g) certain lands in the Monomoy National Wildlife Refuge, Massachusetts, which comprise about two thousand six hundred acres but excepting and excluding therefrom two tracts of land containing approximately ninety and one hundred and seventy acres, respectively and which are depicted on a map entitled "Monomoy Wilderness—Proposed" and dated August 1970, which shall be known as the "Monomoy Wilderness".

DESIGNATION OF WILDERNESS AREAS WITHIN NATIONAL PARKS AND MONUMENTS

Sec. 2. In accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)), the following lands are hereby designated as wilderness:

(a) certain lands in the Craters of the Moon National Monument, which comprise about forty-three thousand two hundred and forty-three acres and which are depicted on a map entitled "Wilderness Plan, Craters of the Moon National Monument, Idaho", numbered 131-91,000 and dated March 1970, which shall be known as the "Craters of the Moon National Wilderness Area";

(b) certain lands in the Petrified Forest National Park, which comprise about fifty thousand two hundred and sixty acres and which are depicted on a map entitled "Recommended Wilderness, Petrified Forest National Park, Arizona", numbered NP-PF-3320-O and dated November 1967, which shall be known as the "Petrified Forest National Wilderness Area".

DESIGNATION OF WILDERNESS AREAS WITHIN NATIONAL FORESTS

Sec. 3. In accordance with section 3(b) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(b)), the following lands are hereby designated as wilderness: the area classified as the Mount Baldy Primitive Area with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Proposed Mount Baldy Wilderness", dated April 1, 1966, comprising an area of approximately seven thousand acres, within and as a part of the Apache National Forest, in the State of Arizona.

Sec. 4. As soon as practicable after this Act takes effect, a map and a legal description of each wilderness area shall be filed with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

Sec. 5. Wilderness areas designated by or pursuant to this Act shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

Mr. JACKSON. Mr. President, this legislation represents the single largest effort to designate certain lands as part of our national wilderness system since the enactment of the original Wilderness Act in 1964.

It is a type of omnibus bill which represents the distillation of many hours of legislative hearings and committee action on proposals for additions to the national wilderness preservation system, both in the Senate and the House of Representatives.

This legislation, as amended by the House, brings together in one measure the wilderness legislation considered and passed by the Senate in connection with several bills. The areas are located in 12 States and together total approximately 201,000 acres that would be added to the wilderness system.

Differences between this legislation and that which the Senate has approved includes the deletion by the House of two Arizona primitive areas, Pine Mountain and Sycamore Canyon, which a Senate passed bill, S. 710, would have placed in wilderness. I understand this action to delete these areas was taken at the request of Congressman Steiger of Arizona. It is certainly my hope that these two fine mountain areas can be added to the system in the future, but the Senate will not object to their deletion now because to do so at this late hour in the session might jeopardize the entire bill.

The House bill also increases the size of the proposed Craters of the Moon Wilderness Area in Idaho by 2,243 acres by including Big Cinder Butte; excludes some 260 acres of the proposed Monomoy Island Wilderness in Massachusetts for nonconforming uses, and also would include as wilderness a portion of the Petrified Forest National Park in Arizona. The Senate is willing to accept these changes.

I do want to clarify one other point raised by the House amendment.

Section 5 of S. 3014 as amended makes applicable to the national park system wilderness areas the provisions of the Wilderness Act governing areas designated by that act, as if such areas were designated upon the passage of the Wilderness Act of 1964. Thus, the prohibitions in certain provisions of the 1964 Wilderness Act on certain uses in wilderness areas are made applicable to the wildernesses in these two park areas of the present bill. This does not apply, it should be pointed out, in other provisions of the 1964 act which specifically refer to "national forest wilderness areas."

Section 4(a)(3) of the Wilderness Act is in no way mitigated by section 5 of the subject bill. This is the section which states the designation of a portion of a national park system unit as wilderness shall in no way lower the standards for use and protection which have evolved over the years. Other provisions of the Wilderness Act such as mining, grazing, and the like would not be applicable to these two park areas because the 1964 act provides for these uses only within national forest wildernesses.

The effect of section 5 on S. 3014 is, therefore, beneficial in that it preserves existing administrative authority with respect to the management of these two national park system areas while imposing the additional protective limitations on uses that may be made of these designated wildernesses. While national park system areas, wildlife refuge areas, and national forest areas are designated wildernesses by this act, there are certainly dissimilarities in how they will be administered, but this bill, S. 3014, provides a uniform elevation of the degree of protection against antiwilderness usage.

The report of the House committee, I believe, reinforces the legislative history of my statement on this point, and I quote:

> In considering these proposals, the committee found that each of the three agencies involved, that is, the Forest Service of the Department of Agriculture and the National Park Service and the Bureau of Sport Fisheries and Wildlife of the Department of the Interior, had recommended language for the administration of their respective areas that was not uniform. The adoption of the recommended language would have allowed and permitted certain activities in wilderness areas created from National Parks and Monuments and Wildlife Refuges not authorized or contemplated by the Wilderness Act of 1964. For this reason, the committee adopted the language contained in the 1964 act as

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the standard for the administration of all wilderness areas whether created from parks, monuments, refuge areas or from the national forests. It should be added, however, that this does not authorize any activities presently prohibited within these areas. For example, where mining, mineral leasing, hunting or grazing of livestock is now prohibited or restricted, as is the case in most national parks and monuments, these activities would remain prohibited or restricted.

With this understanding, Mr. President I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

The Senate resumed the consideration of the bill (H.R. 18583) to amend the Public Health Service Act, and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug-dependent persons; and to strengthen existing law: enforcement authority in the field of drug abuse.

Mr. HART. Mr. President, from the comments just made by the Senator from Connecticut, I understand that a motion shortly shall be made to table the pending amendment, the Hughes amendment.

Mr. DODD. Mr. President, I understand the Senator from Nebraska will make such a motion.

Mr. HART. I am grateful for the information, because I have some remarks to make before that motion is made, a motion which I will oppose.

Mr. President, no problem is more critical to the concern over crime, and violence, and human waste in America, than the Nation's drug crisis.

Drug abuse is at the heart of our major cities' law-enforcement failures. Experts agree that addicts, driven by their drug hunger, commit nearly half of the street crime in our cities. Meanwhile, the huge profits from the illicit traffic bankroll other underworld enterprises.

For the addicts themselves, life truly becomes a treadmill to oblivion. For the society, their lives are at best a tragic human waste. But the addict is not the only one who suffers from his affliction. When addicts resort to crime to support their expensive habits, it is the innocent victims of those crimes who ultimately pay. Particularly in our metropolitan areas, that price is frightfully high.

For example, testimony before Congress last spring indicated that some 6,000 addicts now walk the streets of Detroit. The best estimate of local authorities is that each addict needs about $50 a day to support his habit. To raise that amount he must steal $200 worth of property or cash daily. Thus, this condition now costs Detroit an annual toll of about $438 million—not to mention the terrible toll of human tragedy.

At the same time, yet additional thousands are in the process of becoming drug abusers of other sorts.

For years, we in Congress have proclaimed alarm at the drug crisis, but failed to make the full commitment necessary to make a real dent in the problem. We can wait no longer.

This bill marks an important step because it formally indicates congressional recognition that a sustained two-pronged attack is needed: tougher, more effective enforcement against illegal traffic, combined with a massive national effort to treat and rehabilitate addicts and drug abusers.

The bill properly strengthens efforts to control drug traffic and improve control of dangerous substances. It places drug-enforcement emphasis where it should be: on wiping out the pushers and mobsters behind the distribution networks, rather than on isolated arrests and disproportionately severe punishment of individual beginning offenders. It provides the flexible tools needed to deal appropriately with each category of offender.

But strengthened penalties and controls will ultimately be worth little without a vastly expanded effort to reduce crime by treating addicts' drug hunger and preventing addiction of others not yet trapped. While addicts who commit crimes must be prosecuted, the revoling-door approach—arrest, imprisonment, and eventual return to the street, still an addict—will not make a lasting impact on the problem.

That is why I was happy to cosponsor the comprehensive drug abuse prevention treatment and rehabilitation measure introduced by the able junior Senator from Iowa (Mr. HUGHES). The Senator from Iowa has labored long to draft an integrated and expanded Federal effort in every aspect of drug-abuse control—through education, through research, and through treatment. Much of this legislation would be incorporated into the bill before us by the Senator from Iowa's substitute amendment for title I.

I am particularly pleased that the proposed substitute title I authorizes substantial assistance to local drug-treatment projects, both public and private, in addition to the funds which would be made available for comprehensive statewide planning and programs in the drug field. It is this title substitute which now is pending.

The amendment also takes the important step of creating a central Federal agency with stature appropriate to the priority we must give the drug problem and assures adequate coordination of research, education, and treatment efforts.

I strongly endorse the Senator's amendment and urge my colleagues to support it, as we unanimously supported the Senator's farsighted efforts in the field of alcoholism prevention and control.

Mr. President, I hope very much that we shall not table the Hughes amendment, an amendment which I cosponsor. I hope the tabling motion is rejected and the amendment of the Senator from Iowa is agreed to. The bill, especially with the strength that would be added by the adoption of the Hughes amendment, is something that the country desperately needs; and I rise now to commend again the Senator from Iowa for the thought, effort, and energy he spent in raising the sights of all of us. I hope we do not table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

Mr. HUGHES. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HRUSKA. Mr. President, it is my intention to move to lay the amendment on the table after a very few brief remarks.

We are considering here a very important bill. It is a well-considered bill. It was considered by this body last January, and after 4 days of debate, it was passed without dissent. It was the result of deliberate action here as well as in the House of Representatives, for the purpose of enacting a law-enforcement bill.

Now we are faced with a vote, shortly, upon an amendment 56 printed pages in length, which seeks to be substituted for title I of the bill, which has eight printed pages. It is the position of the Department of Justice, of the Department of Health, Education, and Welfare, of the House committee, and of the House of Representatives itself by its action on the measure, that the substance of that substitute amendment is unwise, unwarranted, and highly untimely.

The objectives of the amendment in the fields of research, rehabilitation, prevention, and education are good, but the trouble is that in the substitute are found many provisions which conflict with other provisions to be found in titles II and III, which contain the law enforcement provisions. There are contradictions, and there will be many uncertainties. The impingement upon the law-enforcement provisions will be considerable in the field of classification of drugs, in the field of confidentiality of records, in the field of researchers' registration, in the field of enabling the Department of Justice to carry out its obligations for security, and in the policing of the present criminal statute.

There would be a provision for making widely and indiscriminately available all material—all material, Mr. President, not only the research material, not only the educational material, but all material—that any of the agencies obtain on this subject, and that includes the Department of Justice. It would be entirely impossible for the Department of Justice, caught between the publication of information and the confidentiality of records, to investigate a case to a point where it could make a proper prosecution of a case, or secure reclassification of a drug.

There is clear indication, Mr. President—and I would like to make this clear to my colleagues—that the House of Representatives will not accept the substitute amendment. It is my information that the substance of the substitute amendment is the subject of a bill now pending there. Clear indication and representation has been made to me that they will insist upon hearings on that bill, and they will not now accept it as a part of this bill. Because it is too broad and it is without the necessary coordination between the substitute and titles II and III of this law-enforcement bill, it will not be acceptable, and I therefore, suggest the very high probability that it may result in no bill being enacted at all during this Congress.

Mr. President, I cannot imagine any greater tragedy in the field of law enforcement generally. All of us know the impact on sidewalk crime and crime generally by the drug traffic, and the impact of the use of drugs. But there is that high probability that by adopting this amendment we will be saying this Congress does not want a drug bill this year.

This is an urgent bill. It is extremely urgent. It is urgent for the reason that there is a model bill for State legislatures to consider, which is based upon the passage of this bill. Come January, we will have legislatures meeting, and they will want to know that this bill is law, so that they may proceed to the consideration of the model bill, which will undertake policing and enforcement on the local scene, on campuses, and in high schools and grade schools.

Delay would be fatal in this regard.

I, therefore, strongly urge that clear consideration be given in reviewing this amendment, as this body did last January. That decision was made in January, and this is the same proposition. The field covered by the substitute amendment is good, and we need it and should have it, but we should not have it in a bill that will impair the law-enforcement law, which is also a great need. We can have both, separately, but we cannot have both if the substitute is adopted.

Mr. President, before I make the motion, I should like to ask if any other Senator wishes to be heard.

Mr. HUGHES. Mr. President, I should like to have an opportunity to be heard, if I may, before the motion is made.

Mr. HRUSKA. I yield to the Senator from Iowa.

Mr. HUGHES. Mr. President, I have listened very carefully to the arguments that have been made most of today and last night against this particular amendment. I really have nothing to say at this time about the amendment that has not already been said, but on the chance that some of the Members of this body did not have an opportunity to read the RECORD this morning, nor have they had an opportunity to hear the debate during the day because of other business activities that have kept them out of the Chamber, I would simply like to restate some of the things that have already been stated.

This is not a quickly thought-out matter that somehow got brought in as a substitute amendment. It is a product that is supported by every member of the Committee on Labor and Public Welfare of this body. It is an amendment that is supported, I might add very strongly, by the members of that committee on a bipartisan basis. There is nothing partisan about it. The distinguished Senator from Colorado (Mr. DOMINICK) has, I think, addressed himself very eloquently to the amendment, in its behalf.

We have held 20 months of hearings in this subcommittee. We have labored long and hard in trying to develop the matters now before this body. It was said last night that this was something new being injected into a law-enforcement bill, but the matter is already in the bill, in title I, and already before this body. It is a proper matter for consideration, and it should be considered keeping in mind the depth of investigation that has been done by the appropriate committee of this body, which has spent months and months and held hearings all across the length and breadth of this land, that have wound up in the culmination of the presentation of the pending amendment.

This does not deal with the law-enforcement subjects that are in the bill. Everyone in this body, I am assuming, is for law enforcement. Everyone is for education, prevention, and rehabilitation. The big question seems to be, Is this the proper vehicle?

It seems to me to have been presented here today that some Members of the House of Representatives have indicated that if this body should decide to adopt this amendment, there would be no bill at all, law enforcement or otherwise. I cannot conceive of that, under any possible sort of circumstances, that the Members of the House of Representatives would indicate they would not support a law-enforcement bill because it had rehabilitation, education, and prevention procedures in it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. No such thing was said by Representative PAUL ROGERS, and I did not say it, either, and I never heard anyone else say it.

Mr. HUGHES. I apologize to the Senator if that was not said. I understood it that way.

Mr. HRUSKA. Mr. President, that is not the reason the House of Representatives would refuse at this time to consider this bill—not because it has educational, rehabilitation, and research provisions in it. It is the fact that the bill has not been reported by the Committee on Labor and Public Welfare. I do not know why. It has been here 20 months. And it is the fact that the House of Representatives has not even had hearings. They want a bill; they say they do. But they want one considered and balanced, and one that will not interfere with law-enforcement procedures.

Mr. DODD. Furthermore, we should point out that as the bill came back to us from the House of Representatives, title I was in the bill, added by the House. It covers the same subject matter. The position of the House Members with respect to this amendment is what I said it was. They said they had had no chance to go through this; and that they did the best they could, after months of hearings. They knew that the Committee on Labor and Public Welfare in this body did not even print a report on this amendment. That is the difficulty. But the Members of the House of Representatives are not opposed to rehabilitation in the bill. They have it in already.

Mr. HUGHES. Mr. President, if I misquoted what I thought I heard here on the Senate floor, I apologize to any of the Members of this body whom I apparently misunderstood. The RECORD will indicate whatever was said. There was no intention on my part to misquote anyone in representation of what they have said here. The RECORD speaks for itself.

I should simply like to invite the attention of Senators to the fact that apparently the leadership of both Houses have agreed to return in November. I know of no reason why we cannot proceed with the debate on this bill today and possibly finish it tonight, for all I know, and a conference could be held if this amendment is adopted immediately. If it cannot be held, it can be held in November, when we return, and there still could be a bill.

I have listened to the arguments that State legislatures will be meeting in January and they need to know and they need the appropriation. I am familiar with the problems of State governments, having been a Governor recently of my own State for three terms and working with State general assemblies, realizing the necessity of Federal funding to reach down through this tripartite system of government—Federal, State, and local—and to those organized bodies working outside of governmental structures that are also reaching out and retrieving those people who are drug dependents or narcotics addicts.

I believe this amendment speaks to those points as an absolute necessity, and I believe this body should adopt this amendment, with this particular bill, and it would increase and strengthen the bill rather than take from its main direction.

I yield the floor.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. JAVITS. Mr. President, I am the ranking minority member of the Special Subcommittee on Alcoholism and Narcotics, and Senator HUGHES is the chairman. I strongly support him, and I hope very much that the Senate will adopt this amendment.

We have heard the argument that the other body will not go to conference, that they will kill it in conference. When they pass a bill, they are anxious to get it put into law, just as we are; hence, these problems arise.

The Senator from Nebraska (Mr. HRUSKA) raises, quite properly what happens in conference. These differences are settled. Every one of us has served on conference committees, and we know that we reconcile bills which have these problems all the time.

What is important here is that we tell the American people that drug abuse prevention, treatment, and rehabilitation are among the most pressing problems before us. When we have an opportunity to substitute for a very generalized House provision, which attempts to cover exactly the same ground that Senator HUGHES' amendment—joined in by every member of the Committee on Labor and Public Welfare—seeks to cover, we should not miss it. Therefore, we ought to take the better articulated, the more completely detailed amendment, with a

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better chance, in terms of administration, of doing the job, rather than the once-over-lightly title I which is contained in this bill on the prevention, treatment, and rehabilitation phase.

I have confidence that the conferees, once the Senate gives them a mandate, will loyally carry out that mandate and will in conference work out the problems insofar as they affect the criminal phases and retain the best elements of the rehabilitation sections, which are those contained in the Hughes amendment.

I have two other points, Mr. President, and I shall not detain the Senate very long.

First, why did not the committee report this amendment as a bill? The committee is unanimously behind this amendment. They have all endorsed it, with more unanimity than we often find in reporting a bill. The reason why we did not report it is that we were very much occupied with writing the alcoholism bill, and we simply could not do both at the same time. But the turn of this comprehensive drug abuse prevention, treatment, and rehabilitation bill was, as it were, right around the bend. We had just recently completed the alcoholism bill; hence, we simply had not caught up with our work for the very good reason, as I have explained, that the alcoholism bill had the priority, quite properly, and we wrote that first.

Second, and very important, is that the time to act on this matter is now. The whole country looks to the Federal Government for a better answer than it has given.

I should like to pay all honor and tribute—he was not present yesterday when I said this—to the Senator from Arkansas (Mr. McClellan), opposite whom I sat in the Judiciary Committee, when the first provision with respect to rehabilitation and the medical treatment of narcotics addicts was tacked onto another bill and the first money was provided—approximately $15 million.

It is now time that we took the second major step, well implemented, well thought out, based upon very extensive hearings. This will be a meaningful contribution to the efforts of States and cities like my own. New York is unhappily the narcotics addiction capital of the United States. That it is a terribly depressing thing to say, because we think that as much as 50 percent of our crime is attributable to the issue of narcotics addiction. It is a dreadful thing for the largest city in the United States.

The way to meet it is to give us a well articulated plan at the earliest possible moment, and this is the earliest possible moment.

So I hope that the Senate will act in answer to this national exigency, notwithstanding, with the greatest deference and respect to the feeling of the managers of the bill on both sides, that it will present problems to them in the negotiations. I think that we have a right to have confidence in them, that if the Senate says it wants this, they will negotiate the problems in respect to criminal prosecution, which Senator Hruska, as I have said, has quite properly pointed out, and will retain the very best features of the bill.

In conclusion, we have tried the criminal route time and again. We tried it 20 years back, when I was a Member of the House of Representatives. We passed the Boggs bill, very much escalating the penalties on pushers and dealers; and now we still have the biggest narcotics problem that the country has seen. Some other approach is needed to assist the various New York City Addiction Services Agency and community prevention, treatment, and rehabilitation programs such as the following:

New York City narcotic addiction and drug abuse programs

Type:	*Approximate No.*
Therapeutic communities	30
Day care centers	10
Community orientation centers	40
Youth centers	21
Detoxification facilities	4
Confinement facilities	4
Teacher training programs	100
Methadone maintenance programs	10
Peer group leadership programs	12

Examples of above:

1. Phoenix House; Daytop; Logos, Samaritan Harlem Confrontation; Exodus; Harlem ARC.
2. Reality House; Samaritan Hospital.
3. Brownsville COC; South Jamaica COC; Harlem COC; Queens COC.
4. Ditto No. 3.
5. Lincoln, Beth Israel, Harlem, Interfaith Hospitals.
6. Edgecomb; Manhattan Rehab.

7 & 9. Public schools.

8. Beth Israel; Mt. Sinai; Harlem & Roosevelt Hospitals.

That is what is sought to be accomplished by the Hughes amendment. I hope very much that the Senate will adopt it.

I thank the Senator for yielding.

Mr. HRUSKA. Mr. President, I move to lay the pending amendment on the table.

Mr. HUGHES. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nebraska. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BIBLE (after having voted in the affirmative). On this vote I have a live pair with the Senator from Massachusetts (Mr. Kennedy). If he were present and voting, he would vote "nay." I have previously voted "yea." I withdraw my vote.

Mr. ELLENDER (after having voted in the affirmative). On this vote I have a live pair with the Senator from Maine (Mr. Muskie). If present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Tennessee (Mr. Gore), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Missouri (Mr. Symington), and the Senator from Maryland (Mr. Tydings) are necessarily absent.

I further announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Georgia (Mr. Talmadge), the Senator from Texas (Mr. Yarborough), the Senator from Ohio (Mr. Young), and the Senator from Alabama (Mr. Sparkman) are absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. Gravel), the Senator from Texas (Mr. Yarborough), the Senator from Ohio (Mr. Young), and the Senator from Oklahoma (Mr. Harris) would each vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from Hawaii (Mr. Fong), the Senator from New York (Mr. Goodell), the Senator from California (Mr. Murphy), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

On this vote, the Senator from Texas (Mr. Tower) is paired with the Senator from New York (Mr. Goodell). If the present voting, the Senator from Texas would vote "yea," and the Senator from New York would vote "nay."

On this vote, the Senator from South Dakota (Mr. Mundt), is paired with the Senator from California (Mr. Murphy). If present and voting, the Senator from South Dakota would vote "yea," and the Senator from California would vote "nay."

The result was announced—yeas 21, nays 49, as follows:

[No. 362 Leg.]

YEAS—21

Allott
Baker
Bennett
Boggs
Cook
Cooper
Cotton
Curtis
Dodd
Dole
Griffin
Gurney
Hansen
Holland
Hruska
Jordan, Idaho
McClellan
Miller
Scott
Williams, Del.
Young, N. Dak.

NAYS—49

Allen
Anderson
Bayh
Brooke
Burdick
Byrd, Va.
Byrd, W. Va.
Case
Church
Cranston
Dominick
Eagleton
Eastland
Ervin
Fulbright
Hart
Hatfield
Hollings
Hughes
Inouye
Jackson
Javits
Long
Magnuson
Mansfield
Mathias
McCarthy
McGovern
McIntyre
Metcalf
Mondale
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Russell
Saxbe
Schweiker
Smith, Maine
Spong
Stennis
Stevens
Thurmond
Williams, N.J.

PRESENT AND GIVING LIVE PAIRS AS PREVIOUSLY RECORDED—2

Bible, for.
Ellender, for.

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NOT VOTING—28

Aiken
Bellmon
Cannon
Fannin
Fong
Goldwater
Goodell
Gore
Gravel
Harris
Hartke
Jordan, N.C.
Kennedy
McGee
Montoya
Moss
Mundt
Murphy
Muskie
Prouty
Smith, Ill.
Sparkman
Symington
Talmadge
Tower
Tydings
Yarborough
Young, Ohio

So Mr. HRUSKA's motion to lay Mr. HUGHES' amendment on the table was rejected.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Iowa. On this question the yeas and nays have been ordered.

MERCHANT MARINE PROGRAM—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15424) to amend the Merchant Marine Act, 1936. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. SCHWEIKER). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(For conference report, see House proceedings of Oct. 5, 1970, pp. 34877–34878, CONGRESSIONAL RECORD.)

Mr. LONG. Mr. President, I think it is fair to say that, from the Senate point of view, this was a very successful conference except for one item on which the Senate was unable to prevail. That is the item relating to the proposed continuation of the operation of the *Delta Queen*.

It is unfortunate from the Senate point of view that the House conferees were absolutely adamant on this matter and completely unyielding. They had the support of the Coast Guard, the Department of Transportation, and the Bureau of the Budget. On that item they were completely unyielding.

It was generally agreed that the House conferees, who are members of the appropriate committee and subcommittee in the House, would be willing to help us pass a bill to replace the *Delta Queen* and to provide a subsidy with which to do so. They were unwilling to yield to the Senate position on that amendment, however, because of several reasons.

With regard to the grandfather clause, with regard to the cargo preference, and with regard to the definition of foreign commerce, very important items, the Senate provisions prevailed. That is also true with regard to the St. Lawrence Seaway.

I see the Senator from Kentucky is present on the floor. I wish to say to him and to those others who feel as I do with regard to the *Delta Queen* amendment, that we did the best we could. However, that was one of the things on which we could not influence the House conferees.

Mr. GRIFFIN. Mr. President, I join the distinguished Senator from Louisiana (Mr. LONG), the chairman of the Merchant Marine Subcommittee of the Committee on Commerce and a member of the conference committee, in urging adoption of the conference report.

This is landmark legislation. It is the product of a legislative effort spanning several years. It represents delivery on one of the most important requests made by President Nixon as part of his legislative program.

In a special message to Congress in October 1969, President Nixon said:

> It is my hope and expectation that this program will introduce a new era in the maritime history of America, an era in which our shipbuilding and ship operating industries take their place once again among the vigorous, competitive industries of this Nation.

I share that hope of President Nixon as we prepare now to take this final step in the legislative process toward enactment of this historic legislation.

Mr. President, this legislation marks the most significant step for the Great Lakes-St. Lawrence Seaway since the opening of the Seaway in 1959.

This bill includes important provisions for the Great Lakes region because Senators and Congressmen of both parties from that area have worked very hard, and because this administration has provided commendable leadership and support.

In particular, I wish to commend the Maritime Administrator, Mr. Andrew Gibson, and the Administrator of the St. Lawrence Seaway Development Corp., Mr. David Oberlin, for the efforts to obtain fair treatment for the Seaway.

Mr. Gibson's support for provisions to include Great Lakes shipping industry within the scope of the Merchant Marine Act of 1936 was very helpful, His tour of the Great Lakes this past summer, the first such inspection ever by a U.S. Maritime Administrator, opened lines of communication between the Maritime Administration and Great Lakes shipping interests which, in the words of the Administrator, "have been virtually nonexistant" over the years.

The untiring efforts of Administrator Oberlin were particularly effective in securing adoption of the administration's proposal to cancel the interest on Seaway indebtedness.

Before summarizing some of the provisions of this bill which are of particular interest to the Great Lakes-St. Lawrence Seaway, I would like to focus briefly on the progress that has been achieved over the past decade and the potential for development in the future. Critics of the seaway sometimes point out that estimates of the volume of oversea trade forecast prior to construction of the seaway have not been realized. Although that is true, the growth in traffic that has occurred since the seaway opened in 1959 is very significant.

The annual overseas tonnage increased from 300,000 gross tons in the preseaway era to 14.6 million tons in 1967. In addition, the value of overseas trade during this period increased from $100 million to $1.6 billion. In fact, as Professor Hazard of Michigan State University has pointed out:

> The Seaway has been the fastest growing major trade route in the United States or Canada.

On the other hand, only about 3 percent of the foreign trade through the seaway is carried on U.S.-flag vessels. Furthermore, the value of cargo transported via the seaway each year is less than 18 percent of the value of all overseas exports originating in the Midwest region. While a substantial amount of military cargo shipped overseas by the Defense Department is generated in the immediate six-State area bordering the Great Lakes, in 1969 only about 4 percent of this cargo was shipped through the seaway. The lack of available American-flag service and the prohibition in the Military Cargo Preference Act against the use of any foreign vessel accounts for this situation.

What does the present legislation do to help realize this potential? First, the bill eliminates the longstanding inconsistency in the Merchant Marine Act of 1936 which excludes operators of U.S.-flag ships in foreign commerce on the Great Lakes from the operating-differential subsidy program.

Second, the bill includes Great Lakes ports within the policy declaration of the 1936 act which directs the Maritime Administrator to enter into contracts with private carriers so as to serve equitably the foreign trade requirements of all ports on the three major seacoasts. The lack of any development program for establishing an American Merchant Marine fleet on the Lakes has been particularly noticeable. Not only are operating and construction differential subsidies needed to encourage ship operators to serve Great Lakes ports, but up until recently no concern was evidenced with respect to the design of ships capable of traversing the Seaway locks. Some hopeful signs in the area of ship design, however, have been forthcoming from the Maritime Administration. Mr. Gibson has informed me that modifications have been made in the Maritime Administration's standardized ship design program which would permit at least two of the proposed vessels to meet the size limitations of the locks.

Third, the maritime legislation passed by Congress includes a provision which would permit operators of the Great Lakes carrier fleet to set aside earnings in a tax deferred fund for purposes of ship-construction and modernization. Such tax deferral privileges have been available to ocean carriers for over 30 years. The needs of the Great Lakes fleet are evident by the fact that the average age of the fleet is 43.8 years. In 1960, approximately 314 ships with a carrying capacity of 3.5 million gross tons were in existence on the Great Lakes. In 1970, there are only 193 vessels with a carrying capacity of 2.6 million gross tons still in existence.

Fourth, an amendment was added to H.R. 15424 which will cancel accrued interest of $22.4 million, as well as future interest obligations on the debt owed by the Seaway Corporation to the U.S. Treasury. Since the opening in 1959, all of the operating and maintenance costs have been paid out of toll revenues. In addition, $36.2 million in interest has already been paid back to the U.S. Treasury. During this period there have been

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no appropriations by Congress for any activities of the Corporation.

The effect of the amendment will be to enable the United States, in negotiations with Canada, to press for keeping tolls at their present levels. Higher tolls would stifle shipping growth, reduce total toll revenues and push the Seaway further into debt. Such a restructuring of the debt obligations of the Seaway should also act as an inducement to Canada to follow suit. Even with this transformation of the Seaway obligation from an interest bearing to an interest free loan, there is still a heavier financial burden placed on this waterway than on any other waterway in the United States.

While this legislation is not a panacea for all the ills of the Great Lakes-St. Lawrence Seaway, it does provide a framework for achieving a much greater utilization of this important transportation artery. There are still other reforms, such as an extended shipping season, elimination of rate discrimination from connecting modes of transportation, more equitable administration of the cargo preference laws, as well as port development and informational programs designed to bring about a greater public awareness of the benefits of the Great Lakes-St. Lawrence Seaway.

I am confident that the challenge presented by this legislation will be met by those concerned in the Great Lakes region, and that this legislation will help significantly to further develop a strong, viable Seaway which, as Secretary Volpe has said, "is an essential part of the Nation's transportation system."

Mr. COTTON. Mr. President, as the senior Republican member of our Committee on Commerce I was one of the managers on the part of the Senate in the committee of conference on the bill, H.R. 15424. I now wish to express my personal support for the conference report and urge its adoption by the Senate.

In doing so, Mr. President, I would like to commend the distinguished chairman of our Committee on Commerce (Mr. MAGNUSON) and the chairman of our Subcommittee on Merchant Marine (Mr. LONG) for the commendable work which each did in asserting the position of the Senate. Largely owing to their efforts, we now have under final congressional consideration a workable legislative blueprint for the much-needed revitalization of the American maritime industry.

Mr. President, I suppose to many of my colleagues this is but one of many legislative proposals brought before them for consideration. Yet, for me this one, H.R. 15424, has a special significance and I cannot help but be a little bit nostalgic. This is truly a memorable occasion. It represents the final hurdle prior to presentation to President Nixon of a maritime program proposal which was the subject of his messages in October of last year. It has as its objective a goal for which many of us here in this body have worked long and hard over the past several years. Unfortunately, one who has done yeoman service in this effort is no longer with us—the late distinguished Senator from Alaska, Bob Bartlett.

Mr. President, I believe that all of my colleagues present in the Chamber today who were acquainted with Bob Bartlett will concede to his legislative expertise in the field of maritime affairs. During his tenure in office, and most particularly during the later years as chairman of the Subcommittee on Merchant Marine and Fisheries, he worked long and hard for the goal which we are about to attain today. Well do I recall that day in April in 1967 when as chairman of that subcommittee the late Senator Bartlett commenced an extensive hearing which would mark, in his words:

> The beginning of a process that, if successful, will have a profound effect upon the future of our merchant fleet.

Mr. President, today we are approaching the conclusion of that voyage on which we commenced under the leadership of Bob Bartlett. He has left us. But, it was his statesmanlike navigation which charted our course enabling us to successfully conclude the voyage. And, I believe that in future years this legislation on which we are about to place the last stamp of congressional approval will stand out among the many legislative achievements of Bob Bartlett as a hallmark.

I, therefore, deem it particularly appropriate, Mr. President, to conclude my remarks with the following words of the late Senator from the great State of Alaska:

> We must solve our maritime problems without further delay. Committing ourselves to seek an effective, equitable, and sound solution should provide sufficient common ground for success.

Mr. President, H.R. 15424 is that "common ground for success" alluded to by our dearly departed colleague. In his memory I am deeply honored to strongly urge adoption by the Senate of the United States of the conference report on H.R. 15424.

The **PRESIDING OFFICER.** The question is on agreeing to the conference report.

The conference report was agreed to.

RESOLUTION DIRECTING THE CLERK OF THE HOUSE OF REPRESENTATIVES TO MAKE A CORRECTION IN THE ENROLLMENT OF H.R. 15424

Mr. LONG. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 768.

The **PRESIDING OFFICER** laid before the Senate House Concurrent Resolution 768, which was read as follows:

> *Resolved by the House of Representatives (the Senate concurring)*, That in the enrollment of the bill (H.R. 15424) to amend the Merchant Marine Act, 1936, the Clerk of the House of Representatives shall add at the end thereof the following new section:
>
> "SEC 44. This Act may be cited as the "Merchant Marine Act of 1970'."

The **PRESIDING OFFICER.** Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 768) was considered and agreed to.

NEW MARITIME PROGRAM IS A TRIBUTE TO SENATOR E. L. (BOB) BARTLETT

Mr. MAGNUSON. Mr. President, Congress has completed action on a vast new program to revitalize the U.S. merchant marine. This is a goal which was vigorously pursued by many of us here in the Senate for a number of years.

Throughout these many years we have worked and fought to develop a new maritime program many Senators and Congressmen have labored toward that end, but no man worked harder for the American merchant marine and to achieve a new maritime program than the late Senator E. L. "Bob" Bartlett.

As chairman of the Merchant Marine Subcommittee of the Senate, Bob Bartlett devoted the last 2 years of his life to an intensive effort to revitalize the American merchant marine. The program we have approved is substantially identical to the program that Bob Bartlett advocated and developed during the years he chaired the Merchant Marine Subcommittee. It is his leadership, it is his devotion, and it is his goal that has been realized by the Congress.

REPRESENTATION OF CERTAIN DEFENDANTS IN CRIMINAL CASES

Mr. ERVIN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1461.

The **PRESIDING OFFICER** (Mr. SCHWEIKER) laid before the Senate the amendments of the House of Representatives to the bill (S. 1461) to amend section 3006A of title 18, United States Code, relating to representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the United States, which were:

> Page 2, line 3, after "title)" insert "or with juvenile delinquency by the commission of an act which, if committed by an adult, would be such a felony or misdemeanor".
>
> Page 2, line 4, after "arrest," insert "when such representation is required by law,".
>
> Page 2, line 6, strike out all after "or,", down through and including "counsel.", in line 8, and insert "(4) for whom the Sixth Amendment to the Constitution requires the appointment of counsel or for whom, in a case in which he faces loss of liberty, any Federal law requires the appointment of counsel.".
>
> Page 3, line 10, after "title)", insert "or with juvenile delinquency by the commission of an act which, if committed by an adult, would be such a felony or misdemeanor".
>
> Page 4, strike out line 25, and insert "exceeding $30 per hour for time expended in court or before a United States magistrate and $20 per hour for time reasonably expended out of court, or such other hourly rate, fixed by the Judicial Council of the Circuit, not to exceed the minimum hourly scale established by a bar association for similar services rendered in the district. Such attorney".
>
> Page 10, line 4, strike out "The organization" and insert "An organization for a district or part of a district or two adjacent districts or parts of districts".
>
> Page 10, line 9, after "served.", insert "Nothing contained herein shall be deemed to authorize more than one Federal Public Defender within a single judicial district."
>
> Page 10, line 20, strike out all after "service," down through and including "Com-

pensation" in line 21, and insert "full-time attorneys in such number as may be approved by the Judicial Council of the Circuit and other personnel in such number as may be approved by the Director of the Administrative Office of the United States Courts. Compensation".

Page 11, line 4, after "districts.", insert "Neither the Federal Public Defender nor any attorney so appointed by him may engage in the private practice of law."

Page 11, lines 8 and A, strike out "to the President" and insert ", similarly as under title 28, United States Code, section 605, and subject to the conditions of that section,".

Page 12, after line 7, insert:

"(c) A new subsection (l) is added as follows:

"(l) Applicability in the District of Columbia.—The provisions of this Act, other than subsection (h) of section 1, shall be applicable in the District of Columbia. The plan of the District of Columbia shall be approved jointly by the Judicial Council of the District of Columbia Circuit and the District of Columbia Court of Appeals."

Page 12, line 11, strike out "the first section" and insert "section 1".

Page 12, strike out lines 14 through 18, inclusive, and insert:

Sec. 3. The amendments made by section 1 of this Act shall become effective one hundred and twenty days after the date of enactment.

Mr. ERVIN. Mr. President, I am extremely gratified that the House has completed action on S. 1461, a bill to amend and perfect the Criminal Justice Act of 1964.

The Criminal Justice Act was adopted 6 years ago in recognition of the Government's responsibility to insure that defendants in criminal cases were represented by legal counsel and that that representation was to be real and not merely token. The act established a system of appointment of private attorneys to act as defense counsel and provided compensation for both court time and pretrial preparation. The 6 years of its operation are generally if not unanimously considered to be a demonstration of the success and the validity of public compensation for appointed defense counsel.

Despite the substantial success of the 1964 act, a review of the legislation by Congress and by the legal profession has demonstrated the necessity of certain revisions and the desirability of an expansion of the original legislation. Almost 2 years ago to this very day, Senator Hruska and I introduced the first proposals to revise the act. Following hearings by the Constitutional Rights Subcommittee this legislation was itself revised and perfected and late this past spring our work was completed when the Senate passed S. 1461.

This legislation makes three major changes in the original scheme. First, it expands the scope of representation for which compensation is authorized to be coextensive with the legal and constitution requirements of counsel in criminal and quasi-criminal proceedings. By "quasi-criminal" proceedings I mean those which are technically "civil" in name but which are related to or are a part of the legal process of determining an individual's fate following a charge of a criminal violation. Second, it modernizes the scale of compensation to make it more realistic in terms of present-day costs of legal compensation. Third, it goes beyond the original concept of having private attorneys provide representation by giving support to community defender programs and by authorizing the creation of Federal public defender offices. The creation of these offices means that for the first time the Government is assuming full responsibility for legal defense of citizens in the same manner as it now has responsibility for prosecution.

For many years doubts and discomfort accompanied the idea of a government defense function. It was thought that this would create a conflict of interest. For some, it would interfere with the Government's main responsibility to prosecute. For others, it was feared the defense function would be subordinate to prosecution-minded Government. After much thought and consideration over the past 6 years, these doubts have been put to rest. The language in S. 1461 which authorizes Government defender offices is specially designed to insure that those who defend an accused will perform the responsibilities no less conscientiously than those who prosecute. The defender organizations are meant to be independent from the Justice Department and, no less important, from the judiciary in all but minor administrative matters.

I am extremely pleased that the House has made no changes of a substantial nature and I wish to join with the Senator from Nebraska (Mr. Hruska) in urging that the Senate accept the House amendments.

The House amendments are for the most part merely technical or perfecting. Only a few of them require comment. First, the House felt that explicit mention should be made of juvenile delinquency cases. It was our feeling that juvenile cases would be covered by the language in section 1(a)(4) which authorizes counsel whenever required by the Constitution or Federal law. This House amendment merely makes explicit what we felt was implicit in the legislation. It does not, in my judgment, narrow the intent of the legislation to provide representation for juveniles in any proceeding of a criminal-like nature where they are accused of wrongdoing.

Second, the House, at the suggestion of the Justice Department, added the words "when required by law" to the authorization for representation for persons under arrest. Although this is a narrowing of the Senate intent, under present law the gap in time between arrest and when the constitutional right to counsel attaches is no longer very great. I myself would have preferred that this limitation not be added, but I am content to defer to the wishes of the other body.

Third, the Senate language would have permitted the expansion of the act automatically as new Federal legislation or judicial decision expanded the right to counsel. Again, at the insistence of the Justice Department, the House added narrowing language such that a person must face loss of liberty before he has a right to compensated counsel under this provision. The reason for this narrowing language is a fear that the Criminal Justice Act may be used to compensate counsel should Congress legislate a right to representation in civil cases. So far, Congress has permitted but not required the appointment of counsel in certain noncriminal proceedings. Should our notions of justice develop in the future such that Congress feels it necessary to give persons in civil proceedings a right to appointed counsel, I have no doubt that a system of compensation similar to or perhaps even identical to the Criminal Justice Act will be created. This, however, is pure speculation and I am content to defer to the supercautious vision of the Department. It is my understanding, however, that the intention of this language does not in any way restrict an individual's right to compensated counsel in any proceeding where the loss of liberty or the threat of a restriction on liberty is present. The intent to provide coverage for mental commitment proceedings of a civil nature is not affected by this new language since a loss or a restriction of liberty is involved in these cases.

Fourth, it was the committee's judgment that pretrial preparation was as important as the time an attorney spends in court during the trial. For this reason, the Senate made no distinction in compensation between these two facets of legal work. The House, however, has chosen to retain the distinction originally made in the 1964 act by giving increased compensation for time spent in the courtroom. The House also added an escalator clause which permits these rates to increase as the minimum rates of legal assistance may increase in various parts of the country.

There is an advantage of permitting the rates to increase as inflation or other factors in time tend to make the legislative rates less realistic. It also permits rates to vary in different parts of the country and this flexibility may also be an advantage. On the other hand, this change means that local bar associations and Judicial Councils will be setting the rates and not Congress. I do not favor this kind of delegation of congressional responsibility. The maximum rates set out in this legislation are generous indeed. If in time they need be raised, then I believe the legal profession should address Congress for an increase and at that time give an accounting of the way it has discharged its responsibilities under the act. Despite, however, my disapproval of this language, which I hope will be exercised rarely if at all, I do not believe the issue is serious enough to delay final action on this bill.

These are the only changes made by the House which I consider require comment. Once again, I would like to commend the Senator from Nebraska (Mr. Hruska), the Senator from Arizona (Mr. Goldwater), the Senator from Massachusetts (Mr. Kennedy), Prof. Dallin Oaks of the University of Chicago Law School, Judge Harvey Johnson of the Eighth Circuit Court of Appeals, Maynard Toll of the National Legal Aid and Defender Association, Gen. Charles Decker, director of the National Defender project, and all the other persons who have worked so hard and so diligently on this legislation. It is my judgment that

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legislation such as this—thoughtfully and carefully worked out—is the kind of legislation which makes a real impact on the problem of crime. Although it has not received the attention of other anticrime proposals in Congress, it is at least as important as any of the others that have come before us.

Mr. President, for these reasons I join the distinguished Senator from Nebraska, the other coauthor of the amendment, in urging the Senate to concur in the House amendments.

Mr. HRUSKA. Mr. President, the other body has passed by a vote of 277 to 21 S. 1461, amended, a bill to amend section 3006A of title 18, United States Code, relating to representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the United States. The Senate previously approved this bill on April 30 of this year. I agree with the Senator from North Carolina (Mr. ERVIN) and the chairman of the Committee on the Judiciary (Mr. EASTLAND), that the Senate concur in the House amendments to this bill and send the measure to the President for approval.

The purpose of this bill is to improve and expand the operation of the Criminal Justice Act of 1964. That Act was designed to make more effective the constitutional right to counsel in Federal criminal cases by providing compensated counsel and other defense services to those who cannot afford to obtain their own. The act has been in effect for nearly 5 years, and the experience gained demonstrated its great success as well as the need for both its expansion and improvement. S. 1461 meets this need.

Mr. President, S. 1461 is a milestone in the efforts of the Congress, the bench and the bar to bring the Federal law enforcement system closer to the ideal of assuring every citizen the full benefit of the sixth amendment.

As approved by the Senate S. 1461 expanded the coverage of the 1964 act to cover the criminal process from the arrest stage to appeals, postconviction proceedings, and ancillary proceedings related to the criminal trial. The act was thus made coextensive with the sixth amendment right to counsel as now interpreted. It also allowed for expansion of coverage as judicial decisions based on the sixth amendment and as Federal statutes establishing right of counsel create new instances where counsel is considered essential to protect a person's liberty but where the person may be too impoverished to pay for counsel and defense services.

The bill also provided for the creation of Federal defender offices operating under the guidance of the district and appellate courts, but independent of both the Federal judicial and prosecution systems. The defender system has two important features: First, participation by the private bar is required in a substantial proportion of the criminal cases in each court. Second, provision is made for community defender organizations, supported by the local community, to operate in lieu of, and in conjunction with, the Federal offices.

S. 1461, as approved by the Senate, also increased the hourly rate to $30 an hour and increased the total compensation limits available to attorneys providing representation under the act. A number of other changes have also been made in the 1964 act.

Widespread support for these provisions was manifest at the hearings on S. 1461 conducted in 1969 by the Constitutional Rights Subcommittee. Not one single witness questioned the desirability of the amendments proposed in the bill.

The House Judiciary Committee made several changes in the language of the Senate bill, most of which are technical amendments designed to clarify the scope of the bill with regard to the defense of certain classes of criminal cases. The one major substantive change concerns the fee schedule to be paid to private attorneys who undertake to represent indigent defendants. The Senate bill provided a flat maximum of $30 per hour for reasonable in court and out of court work. The House altered this schedule to a maximum of $30 for in court work and a maximum of $20 for out of court work, with the proviso that the judicial councils of the circuits may alter these maximums up to the minimum rates set by the local bar association. Comparably, where bar association minimums are lower than the $30 to $20 maximums, these bar association minimums should serve to remind the judicial council that in setting approximate rates within the $30 to $20 maximums, the lower bar association rates are relevant.

The Senate bill was, Mr. President, a better bill in many respects in my estimation than the one approved by the other body. However, it is very late in the year, and these improvements in the 1964 act are much needed.

I might say that these improvements and the amendments proposed are the result of very intensive work on the part of the committee, emanating from the Judicial Conference, as well as some very distinguished members of the bar.

The administration has indicated that it is disposed to accept the House-passed bill. I have discussed the situation with my distinguished colleague from North Carolina and we have agreed that it would be best for the Senate to accept the bill now before us, as amended, so that we can get to the very crucial business of seeing that all of our citizens have the protection of counsel afforded them by the sixth amendment to the Constitution. For these reasons I ask that the Senate concur in the House amendments and that we approve the bill and send it on to the President for his signature.

The **PRESIDING OFFICER.** The question is on agreeing to the motion to concur in the House amendments.

The motion was agreed to.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION BILL, 1971 — CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17575) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1971, and for other purposes.

I ask unanimous consent for the present consideration of the report.

The **PRESIDING OFFICER.** Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(For conference report, see House proceedings of September 30, 1970, p. 34330, CONGRESSIONAL RECORD.)

Mr. McCLELLAN. Mr. President, I shall make only a few brief remarks.

The total of appropriations allowed is $3,108,074,500. This sum is $143,125,500 below the total budget estimates, is $14,006,000 below the total sum recommended by the Senate, and $1,118,000 above the total allowed by the House.

In my judgment, it is a fairly good bill; the amounts provided for some items are not entirely in accordance with my personal best judgment; however, in the main there will be adequate funds to meet necessary expenses of the three departments, the Judiciary, and related agencies in fiscal year 1971. As Members know, the rate of expenditures since July 1 has been under a continuing resolution of Congress, and will be until such time as the pending bill becomes law.

Major items that were added by the Senate and were approved, reduced, or denied in conference are the following:

For the Department of State, the conference approved the $1,100,000 for protection costs of our overseas officials and $650,000 for the Government's contribution to the retirement fund; also, the reduction of $3,700,000 which represented the undisbursed portion of the amount to be paid as the U.S. assessment for membership in the International Labor Organization, an item included in the appropriation "Contributions to international organizations." Disapproved was the $100,000 Senate recommendation for the International Pacific Salmon Commission for the U.S. share of the first year's costs of the construction project on the Nadina River.

For the Department of Justice, approval was given to the $2,750,000 Senate recommendation to enable the Federal Bureau of Investigation to reinstitute the processing of non-Federal applicant fingerprint program. Also approved was $350,000 of the $550,000 recommendation for the Bureau of Prisons to proceed with the design and planning of the specialized medical facility at Butner, N.C.

For the Department of Commerce, planning, technical assistance, and research activities of the Economic Development Administration, the sum of $20,795,000 was approved instead of $21,390,000 recommended by the Senate and $20,200,000 proposed by the House.

And, for the regional development programs, the conference agreed to the sum of $39,000,000 instead of $45,000,000, the Senate recommendation, and $29,000,-

000 allowed by the House. The allowance will materially assist in the financing of essential programs planned this fiscal year in the various designated areas, and in addition will provide $600,000 for administrative costs of the planned new Upper Missouri and the Mid-South Regional Economic Development Commissions that the Appropriations Committee and the Senate agreed should be initially funded this year.

Mr. MANSFIELD. Mr. President, will the Senator yield right there?

Mr. McCLELLAN. I yield.

Mr. MANSFIELD. The Senator from Arkansas, who is chairman of the committee and of the conferees, is aware of the language inserted in the RECORD at page 35166 by the chairman of the Appropriations Subcommittee in the House, Mr. ROONEY; is he not?

Mr. McCLELLAN. Yes.

Mr. MANSFIELD. Does the Senator care to read it?

Mr. McCLELLAN. The Senator has it before him.

The language inserted by the chairman for his conferees reads:

> In connection with the item for the Regional Action Planning Commissions we have no objection to the use of $600,000 to equally fund the Federal share of the administrative costs of the two planned commissions; namely, the Mid-South and the Upper Missouri Regional Economic Development Commissions.

I may say that the Senate provided $300,000 for each of these commissions, and it was to come out of the $29 million that had been allowed by the House. We restored the full amount of $45 million. Then the conferees agreed on a total of $39 million. Thus, these items were intended not to add funds but to make them available out of the total $39 million appropriated for this purpose, so that they might be applied to those two regional economic development commissions.

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Mr. MANSFIELD. Mr. President, will the Senator yield for the purpose of making the record straight?

Mr. McCLELLAN. I yield.

Mr. MANSFIELD. Does the appropriation of $39 million for the Regional Development Commissions include any funds to cover the Federal share of administrative costs for the planned Upper Missouri Regional Economic Development Commission?

Mr. McCLELLAN. Yes; it includes $300,000 for that regional commission and also $300,000 for the Mid-South Regional Commission.

Mr. MANSFIELD. Will the Senator yield further?

Mr. McCLELLAN. I yield.

Mr. MANSFIELD. I appreciate the chairman's assurance that $300,000 is included for the Upper Missouri Commission, however, in order that the record will be crystal clear, am I correct in my understanding that the $6 million reduction made by the conferees from the Senate recommendation of $45 million, will in no way affect the allocation of $300,000 for this planned Commission?

Mr. McCLELLAN. It will in no way affect it. The $6 million was to come out of whatever amount was appropriated. The House conferees interposed no objection whatever to it. That was the intent of the conferees, and that is what we have undertaken to do.

It is expected, I might say, that the Secretary of Commerce will give favorable consideration both to the expressions on the part of the House conferees and to the expression that we make here this afternoon about it.

But there was no question raised about it at any time.

Mr. MANSFIELD. Mr. President, may I say that the Secretary of Commerce, Mr. Stans, has been somewhat reluctant, and perhaps understandably, but now he has justification, and the distinguished Senator will recall, I am sure, that the Senate report specially indicated that of the $45 million recommended for this appropriation, the sum of $600,000 was earmarked to finance the first year's administrative costs for the Upper Missouri and the Mid-South Commissions.

Mr. McCLELLAN. That is correct; and the only action taken by the conferees was to reduce the total amount of the appropriation, not on these items, but on the overall appropriation for the line items.

Mr. MANSFIELD. I thank the Senator.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the able Senator from Arkansas will recall that when I brought from the Committee on Public Works the original Appalachian Regional Development Act, there was not only an intense and knowledgeable interest by the Senator from Arkansas, who presents this conference report, but there was also the recognition on my part and on the part of many members of the Committee on Public Works and of other Senators that the Appalachian program was moving because the projects had been clearly defined over a period of study of almost 2 years. I made the promise explicitly, as we debated the matter, that other regional development commissions seeking similar authority, would be given the attention of the authorizing committee just as quickly as possible.

So we have done that in the Committee on Public Works, keeping the promise made originally at the time the original Appalachian Regional Development Commission was brought into being by law.

I am not attempting to praise the Committee on Public Works especially, or my own activity at that time, but I think it is very important for us always to realize that within the Senate, we cannot always do the job for everyone on the same date. But we can recognize the validity of other regions of this country, as we did originally, and follow through with the authorizations.

I commend the Senator from Arkansas for doing as he has done with his conferees, recognizing that the programs in these five regional commissions can be of course, as complete as the program, which has been highly successful, in the Appalachian region to date.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. McCLELLAN. In a moment. I wish to thank the Senator from West Virginia, who has stated the background and the history of this matter absolutely correctly. His committee, as he indicated, or promised, if he wishes to put it in stronger language, at the time the Appalachian region was considered, assured us then that these other regions would have proper consideration and be given legislative attention. He has followed through on that, and we have the authorization in these other regions, which do merit comparable recognition to what the Appalachian region received, and are now in a position to be accorded that recognition and financing, as has been true for the Appalachian region. Thus the whole country, in this area, is moving forward in this particular field of developing our national resources and dealing with the less developed economic areas throughout the country.

Mr. RANDOLPH. Would the Senator from Arkansas indulge me one further comment?

Mr. McCLELLAN, Yes, indeed.

Mr. RANDOLPH. I think it is important also to state that it was our desire, in this developing partnership of the State and Federal governments, as the Senator from Arkansas and other interested Senator well know, that there was not to be, on the part of the Federal Government, a senior partnership; it was to be a true partnership between the States and the Federal Government, in the States and the areas within the States in which these commissions were to operate, and in the Committee on Public Works we moved as promptly and yet as thoroughly as possible in sending to the Senate the nominations of the Federal cochairmen for this commission and the other commissions that have been created.

Mr. McCLELLAN. Again I want to say, for the RECORD, that I thank the distinguished Senator from West Virginia, and I certainly express my appreciation as a Member of this body, and also as a Senator from my State, for the expeditious attention and consideration that he and his committee have given to the requests of myself and my colleague from Arkansas, and to the needs of our people with respect to this program. I indeed thank him.

I also thank the distinguished majority leader for the contribution he made in helping to develop this issue.

I now yield to the distinguished Senator from Nebraska.

Mr. HRUSKA. Mr. President, I wish to say I am grateful for the recounting of the legislative history of these commissions that was afforded us by the chairman of the Committee on Public Works. It was the recollection of that history by the Senator from Arkansas and this Senator which led to this additional amount for the initial funding of the Mid-South Regional Economic Development Commission and the Upper Missouri Regional Economic Development Commission. We wished every success to the funding which had been accorded other regions and other commissions, but that did not help us, Mr. President, insofar as getting even the initial funding for these commissions in other areas, which are not only fully as deserving, but more importantly, fully as needful of the activities of such a commission; and I should like to take this occasion to express my appreciation for what the chairman of the Public Works Committee has done, as well as the contribution made by the chairman of our Appropriations Subcommittee on Public Works, particularly, to see that this would eventuate.

Mr. McCLELLAN. I thank the distinguished Senator from Nebraska for his cooperation and his work on the Appropriations Committee, not only with respect to items in this category, but as to all that are covered by this particular appropriation bill. His cooperation has been substantial and most valuable; and by reason thereof, with other members of our committee, we have been able to save considerably under the budget recommendation.

It is my hope that the Secretary of Commerce will approve the Senate recommendation.

The conference agreed to the Senate recommendation of $7,235,000, an increase of $200,000 over the House allowance, for the Business and Defense Services Administration in order to provide for additional positions needed in the textile tariff negotiations. For salaries and expenses, international activities, the conference approved the House allowance of $21,500,000 instead of $22,000,000 recommended by the Senate. And for the office of field services, the conferees sustained the House allowance of $5,851,000 instead of $5,951,000 recommended by the Senate.

For salaries and expenses of the foreign direct investment program, the conference approved the sum of $2,750,000 instead of $3 million recommended by the Senate and $2,500,000 allowed by the House. For the newly established National Industrial Pollution Control Council, the conference committee approved the $300,000 recommendation of the Senate.

For the Environmental Science Services Administration, the sum of $140,713,000 was agreed to by the conferees instead of $141,426,000 recommended by the Senate and $140 million by the House. The $713,000 increase provided over the House allowance will help finance the initiation of river and flood forecasting services in critical areas of the United States, provide for a river forecast service center for the Lower Mississippi River Valley, and afford assistance to the air pollution forecast program. And, in the facilities, equipment, and construction programs of ESSA, the conference agreed to the sum of $4,365,000, an increase of $115,000 over the House allowance of $4,250,000 and a reduction of $200,000 below the Senate recommendation of $4,565,000. For the appropriation Research and Technical Services, National Bureau of Standards, the conference agreed to $42,050,000 instead of $42,350,000 recommended by the Senate and $41,750,000 allowed by the House.

Offsetting the Commerce Department increases agreed to by the conferees were the two decreases proposed by the Senate to the House allowances, one in the amount of $5,721,000 that related to the 19th decennial census appropriation, and the other, a reduction of $12 million from the House allowance of $199,500,000 to provide instead a total of $187,500,000 for ship construction.

With respect to the research and development program of the Maritime Administration, and the language proposed by the Senate to provide $1,700,000 for initial layup of the NS *Savannah* instead of the House amendment to provide $4 million, for continued operation of the ship, it was agreed by the conference committee to delete such provisions recommended by both Houses. The effect of this agreement is that the conference committee has made no specific directive as to the continued operation or layup of the NS *Savannah* in fiscal 1971.

For the judiciary branch, the conferees agreed to the Senate recommendation for a net increase of $2,914,999 above the House allowances and which related to the implementation of the Federal Magistrates Act this fiscal year.

Under the heading of Related Agencies, major changes concerned the following:

For expenses of the Equal Employment Opportunity Commission, the conference approved $15,485,000 instead of $14,313,000 allowed by the House and $19 million recommended by the Senate; and for salaries and expenses of the Small Business Administration the House allowance of $18,950,000 was agreed to instead of $19,950,000, the Senate recommendation.

The Special Representative for Trade Negotiations was allowed the Senate recommendation of $597,000 instead of $550,000 provided by the House.

For Special International Exhibitions of the U.S. Information Agency, the conference committee agreed to the sum of $4,033,000 instead of $3,500,000 allowed by the House and $4,566,000 recommended by the Senate. The $533,000 increase provided over the House allowance will be spent on trade fairs and exhibitions planned in Eastern Europe.

I move the adoption of the conference report.

The PRESIDING OFFICER (Mr. SCHWEIKER). The question is on agreeing to the conference report.

The report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendment in disagreement.

The assistant legislative clerk read as follows:

> *Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment, as follows:
>
> "Omit the matter stricken by the Senate amendment, omit the matter inserted by the Senate amendment, and on page 31, line 21, of the House engrossed bill, strike out [, of which], and insert: ': *Provided*,' "

Mr. McCLELLAN. Mr. President, I move that the Senate concur in the amendment of the House of Representatives to the amendment of the Senate, No. 23. That was a technical amendment, and this procedure is necessary.

The motion was agreed to.

Mr. McCLELLAN. Mr. President, I submit a summary of the bill and ask unanimous consent that it be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1970 AND THE BUDGET ESTIMATES FOR FISCAL YEAR 1971

PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—TRUST FUNDS

[Becomes available automatically under earlier, or "permanent" law without further, or annual, action by the Congress. Thus, these amounts are not included in the accompanying bill]

Agency and item	New budget (obligational) authority, 1970	Budget estimates of new (obligational) authority, 1971	Increase (+) or decrease (−)
(1)	(2)	(3)	(4)
DEPARTMENT OF STATE			
Educational exchange fund	$353,000	$353,000	
International center, Washington, D.C.	1,020,000		−$1,020,000
Payment to the Republic of Panama	1,930,000	1,930,000	
Total, Department of State	3,303,000	2,283,000	−1,020,000
DEPARTMENT OF COMMERCE			
Maritime Administration:			
Operating-differential subsidies	213,738,000	176,000,000	−37,738,000
State marine schools	1,415,000	1,348,000	−67,000
Total, Department of Commerce	215,153,000	177,348,000	−37,805,000

Footnotes at end of table.

Agency and Item (1)	New budget (obligational) authority, 1970 (2)	Budget estimates of new (obligational) authority, 1971 (3)	Increase (+) or decrease (−) (4)
SMALL BUSINESS ADMINISTRATION			
Payment of participation sales insufficiencies	$5, 872, 000	$4, 681, 000	−$1, 191, 000
Grand total, permanent new budget (obligational) authority, Federal funds	224, 328, 000	184, 312, 000	−40, 016, 00
DEPARTMENT OF STATE			
Foreign Service retirement and disability fund	19, 329, 000	16, 760, 000	−2, 569, 000
Miscellaneous permanent appropriations	620, 000	184, 000	−436, 000
Gifts and bequests, National Commission on Educational, Scientific, and Cultural Cooperation	54, 000		−54, 000
Educational exchange trust funds	310, 000	310, 000	
Total, Department of State	20, 313, 000	17, 254, 000	−3, 059, 000
DEPARTMENT OF COMMERCE			
General administration:			
Gifts and bequests	494, 000	65, 000	−429, 000
Special statistical work	2, 000	2, 000	
Office of Business Economics: Special statistical work	25, 000	25, 000	
Bureau of the Census: Special statistical work	3, 600, 000	3, 030, 000	−570, 000
Regional action planning commissions	7, 581, 000	11, 887, 000	+4, 306, 000
Business and Defense Services Administration: Special statistical work	13, 000	12, 000	−1, 000
International activities: Contributions, educational and cultural exchange	1, 625, 000	1, 961, 000	+336, 000
Environmental Science Services Administration: Special statistical work	181, 000	180, 000	−1, 000
National Bureau of Standards: Clearinghouse for technical information	3, 100, 000	3, 400, 000	+300, 000
Total, Department of Commerce	16, 621, 000	20, 562, 000	+3, 941, 000
THE JUDICIARY			
Judicial survivors' annuity fund	1, 500, 000	1, 540, 000	+40, 000
Operation of the Legal Aid Agency for the District of Columbia	700, 000	1, 100, 000	+400, 000
Total, the Judiciary	2, 200, 000	2, 640, 000	+440, 000
RELATED AGENCIES			
American Battle Monuments Commission: Contributions	7, 000	7, 000	
U.S. Information Agency: Trust funds	152, 000	7, 000	−145, 000
Total, related agencies	159, 000	14, 000	−145, 000
Grand total, permanent new budget (obligational) authority, trust funds	39, 293, 000	40, 470, 000	+1, 177, 000

Note.—Some items are indefinite in amount, and thus are subject to reestimation.

ADMINISTRATIVE EXPENSES OF GOVERNMENT CORPORATIONS

[Limitation on amounts of corporate funds to be expended]

Agency and item (1)	New budget (obligational) authority, fiscal year 1970 (2)	Budget estimates of new (obligational) authority fiscal year 1971 (3)	New budget (obligational) authority recommended in House bill (4)	Amount recommended by Senate Committee (5)
DEPARTMENT OF JUSTICE				
Federal Prison Industries, Incorporated	($3, 667, 000)	($5, 204, 000)	($4, 854, 000)	($4, 854, 000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1970 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1971

[Note—All amounts are in the form of appropriations unless otherwise indicated]

Item (1)	New budget (obligational) authority, fiscal year 1970 (2)	Budget estimate of new (obligational) authority, fiscal year 1971 (3)	New budget (obligational) authority, recommended in House bill (4)	Senate bill (5)	Conference action (6)
TITLE I—DEPARTMENT OF STATE					
ADMINISTRATION OF FOREIGN AFFAIRS					
Salaries and expenses	$220, 495, 600	$222, 300, 000	$220, 100, 000	$221, 850, 000	$221, 850, 000
Representation allowances	993, 000	993, 000	993, 000	993, 000	993, 000
Acquisition, operation, and maintenance of buildings abroad	13, 277, 000	14, 300, 000	14, 300, 000	14, 300, 000	14, 300, 000
Acquisition, operation, and maintenance of buildings abroad (special foreign currency fund)	2, 186, 000	6, 690, 000	6, 500, 000	6, 500, 000	6, 500, 000
Emergencies in the diplomatic and consular service	1, 600, 000	2, 100, 000	2, 100, 000	2, 100, 000	2, 100, 000
Total, administration of foreign affairs	238, 551, 600	246, 383, 000	243, 993, 000	245, 743, 000	245, 743, 000
INTERNATIONAL ORGANIZATIONS AND CONFERENCES					
Contributions to international organizations	131, 437, 000	144, 611, 000	144, 611, 000	140, 911, 000	140, 911, 000
Missions to international organizations	4, 320, 000	4, 384, 000	4, 384, 000	4, 384, 000	4, 384, 000
International conferences and contingencies	2, 150, 000	1, 913, 000	1, 850, 000	1, 850, 000	1, 850, 000
Total, international organizations and conferences	137, 907, 000	150, 908, 000	150, 845, 000	147, 145, 000	147, 145, 000
INTERNATIONAL COMMISSIONS					
International Boundary and Water Commission, United States and Mexico:					
Salaries and expenses	981, 000	1, 005, 000	990, 000	990, 000	990, 000
Operation and maintenance	2, 475, 000	2, 485, 000	2, 475, 000	2, 475, 000	2, 475, 000
Construction	400, 000	4, 200, 000	4, 200, 000	4, 200, 000	4, 200, 000
American sections, international commissions	603, 000	613, 000	613, 000	613, 000	613, 000
International fisheries commissions	2, 400, 500	2, 566, 000	2, 505, 800	2, 605, 800	2, 505, 800
Total, international commissions	6, 859, 500	10, 869, 000	10, 783, 800	10, 883, 800	10, 783, 800

Footnotes at end of table.

XUM

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1970 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1971—Continued

[Note—All amounts are in the form of appropriations unless otherwise indicated]

Item (1)	New budget (obligational) authority, fiscal year 1970 (2)	Budget estimate of new (obligational) authority, fiscal year 1971 (3)	New budget (obligational) authority, recommended in House bill (4)	Senate bill (5)	Conference action (6)
EDUCATIONAL EXCHANGE					
Mutual educational and cultural exchange activities	$32,125,000	$40,000,000	$36,500,000	$36,500,000	$36,500,000
English language teaching program in Poland (special foreign currency program)		800,000			
Center for cultural and technical interchange between East and West	5,260,000	5,474,000	5,260,000	5,260,000	5,260,000
Total, educational exchange	37,385,000	46,274,000	41,760,000	41,760,000	41,760,000
Total, title I, Department of State	420,703,100	454,434,000	447,381,800	445,531,800	445,431,800
TITLE II—DEPARTMENT OF JUSTICE					
LEGAL ACTIVITIES AND GENERAL ADMINISTRATION					
Salaries and expenses, general administration	8,134,000	9,298,000	8,598,000	8,598,000	8,598,000
Salaries and expenses, general legal activities	30,264,000	33,595,000	33,400,000	33,400,000	33,400,000
Salaries and expenses, Antitrust Division	9,761,000	10,397,000	10,250,000	10,250,000	10,250,000
Salaries and expenses, U.S. attorney and marshals	51,862,000	54,585,000	54,365,000	54,365,000	54,365,000
Fees and expenses of witnesses	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000
Salaries and expenses, Community Relations Service	3,307,000	4,995,000	4,300,000	4,300,000	4,300,000
Total, legal activities and general administration	108,828,000	118,370,000	116,413,000	116,413,000	116,413,000
FEDERAL BUREAU OF INVESTIGATION					
Salaries and expenses	250,310,000	257,485,000	257,485,000	260,235,000	260,235,000
IMMIGRATION AND NATURALIZATION SERVICE					
Salaries and expenses	102,963,000	111,980,000	111,480,000	111,480,000	111,480,000
FEDERAL PRISON SYSTEM					
Salaries and expenses, Bureau of Prisons	79,409,000	88,380,000	86,100,000	86,100,000	86,100,000
Buildings and facilities	5,440,000	27,350,000	21,800,000	22,350,000	22,150,000
Support of U.S. prisoners	8,750,000	9,500,000	9,500,000	9,500,000	9,500,000
Total, Federal prison system	93,599,000	125,230,000	117,400,000	117,950,000	117,750,000
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION					
Salaries and expenses	268,000,000	480,000,000	480,000,000	480,000,000	480,000,000
BUREAU OF NARCOTICS AND DANGEROUS DRUGS					
Salaries and expenses	27,547,000	34,445,000	34,445,000	34,445,000	34,445,000
Total, title II, Department of Justice	851,247,000	1,127,510,000	1,117,223,000	1,120,323,000	1,120,323,000
TITLE III—DEPARTMENT OF COMMERCE					
GENERAL ADMINISTRATION					
Salaries and expenses	5,920,000	6,500,000	6,065,000	6,065,000	6,065,000
OFFICE OF BUSINESS ECONOMICS					
Salaries and expenses	3,400,000	4,050,000	3,790,000	3,790,000	3,790,000
BUREAU OF THE CENSUS					
Salaries and expenses	19,641,000	22,724,000	21,500,000	21,500,000	21,500,000
Nineteenth Decennial Census	155,572,000	50,279,000	45,000,000	39,279,000	39,279,000
1972 census of governments	200,000	320,000	320,000	320,000	320,000
1972 economic censuses		1,400,000	1,200,000	1,200,000	1,200,000
Modernization of computing equipment		3,000,000	3,000,000	3,000,000	3,000,000
Survey of population change		200,000			
1967 economic censuses	3,769,000				
Total Bureau of the Census	179,182,000	77,923,000	71,020,000	65,299,000	65,299,000
ECONOMIC DEVELOPMENT ADMINISTRATION					
Development facilities	174,500,000	162,800,000	160,000,000	160,000,000	160,000,000
Industrial development loans and guarantees	[1] 50,000,000	56,400,000	50,000,000	50,000,000	50,000,000
Planning, technical assistance, and research	[2] 27,000,000	22,200,000	20,200,000	21,390,000	20,795,000
Operations and administration	[3] 20,621,000	21,600,000	21,100,000	21,100,000	21,100,000
Total, Economic Development Administration	272,121,000	263,000,000	251,300,000	252,490,000	251,895,000
REGIONAL ACTION PLANNING COMMISSIONS					
Regional development programs	(4)	45,000,000	29,000,000	45,000,000	39,000,000
BUSINESS AND DEFENSE SERVICES ADMINISTRATION					
Salaries and expenses	6,923,000	7,800,000	7,035,000	7,235,000	7,235,000
INTERNATIONAL ACTIVITIES					
Salaries and expenses	19,835,000	25,050,000	21,500,000	22,000,000	21,500,000
Salaries and expenses (special foreign currency program)	200,000	200,000	200,000	200,000	200,000
Export control	5,804,000	5,900,000	5,900,000	5,900,000	5,900,000
Total, international activities	25,839,000	31,150,000	27,600,000	28,100,000	27,600,000
OFFICE OF FIELD SERVICES					
Salaries and expenses	5,654,000	6,275,000	5,851,000	5,951,000	5,851,000
FOREIGN DIRECT INVESTMENT REGULATION					
Salaries and expenses	3,100,000	3,000,000	2,500,000	3,000,000	2,750,000

Footnotes at end of table.

XUM

Item (1)	New budget (obligational) authority, fiscal year 1970 (2)	Budget estimate of new (obligational) authority, fiscal year 1971 (3)	New budget (obligational) authority, recommended in House bill (4)	Senate bill (5)	Conference action (6)
MINORITY BUSINESS ENTERPRISE					
Salaries and expenses	$1,294,000	$1,850,000	$1,850,000	$1,850,000	$1,850,000
NATIONAL INDUSTRIAL POLLUTION CONTROL COUNCIL					
Salaries and expenses		475,000		300,000	300,000
U.S. TRAVEL SERVICE					
Salaries and expenses	4,500,000	6,500,000	4,500,000	4,500,000	4,500,000
ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION					
Salaries and expenses	130,008,000	146,680,000	140,000,000	141,426,000	140,713,000
Research and development	25,539,000	29,695,000	27,500,000	27,500,000	27,500,000
Facilities, equipment, and construction	5,425,000	5,975,000	4,250,000	4,565,000	4,365,000
Satellite operations	7,378,000	25,820,000	25,000,000	25,000,000	25,000,000
Total, Environmental Science Services Administration	168,350,000	208,170,000	196,750,000	198,491,000	197,578,000
PATENT OFFICE					
Salaries and expenses	47,635,000	51,100,000	50,000,000	50,000,000	50,000,000
NATIONAL BUREAU OF STANDARDS					
Research and technical services	39,187,000	44,230,000	41,750,000	42,350,000	42,050,000
Research and technical services (special foreign currency program)	500,000	500,000	500,000	500,000	500,000
Plant and facilities		1,395,000	965,000	965,000	965,000
Total, National Bureau of Standards	39,687,000	46,125,000	43,215,000	43,815,000	93,515,000
OFFICE OF STATE TECHNICAL SERVICES					
Grants and expenses	290,000				
MARITIME ADMINISTRATION					
Ship construction	15,918,000	199,500,000	199,500,000	187,500,000	187,500,000
Operating-differential subsidies (appropriation to liquidate contract authority)	(194,400,000)	(193,000,000)	(193,000,000)	(193,000,000)	(193,000,000)
Research and development	11,100,000	20,700,000	20,700,000	20,700,000	20,700,000
Salaries and expenses	21,324,000	20,750,000	20,750,000	20,750,000	20,750,000
Maritime training	6,368,000	6,800,000	6,800,000	6,800,000	6,800,000
State marine schools	820,000	977,000	977,000	977,000	977,000
(Appropriation to liquidate contract authority)	(1,415,000)	(1,348,000)	(1,348,000)	(1,348,000)	(1,348,000)
Total, Maritime Administration	55,530,000	248,727,000	248,727,000	236,727,000	236,727,000
Total, title III, Department of Commerce	819,425,000	1,007,645,000	949,203,000	952,613,000	943,955,000
TITLE IV—THE JUDICIARY					
Supreme Court of the United States:					
Salaries	2,729,000	3,044,000	2,934,500	2,943,500	2,943,500
Printing and binding Supreme Court reports	195,000	215,000	215,000	215,000	215,000
Miscellaneous expenses	164,000	249,000	224,000	224,000	224,000
Care of the building and grounds	410,000	462,000	462,000	462,000	462,000
Automobile for the Chief Justice	9,900	11,000	11,000	11,000	11,000
Books for the Supreme Court	40,000	46,000	46,000	46,000	46,000
Total, Supreme Court	3,547,900	4,027,000	3,901,500	3,901,500	3,901,500
Court of Customs and Patent Appeals: Salaries and expenses	599,000	615,000	615 000	615,000	615,000
Customs Court: Salaries and expenses	2,106,500	2,308,600	2,128,800	2,128,800	2,128,000
Court of Claims: Salaries and expenses	1,872,000	1,941,000	1,941,000	1,941,000	1,941,000
Courts of appeals, district courts, and other judicial services:					
Salaries of judges	22,765,000	22,975,000	22,957,000	22,975,000	22,975,000
Salaries of supporting personnel	52,327,000	54,086,000	54,078,000	53,862,000	53,862,000
Fees and expenses of court-appointed counsel	4,300,000	4,300,000	4,300,000	4,300,000	4,300,000
Fees of jurors	15,500,000	14,930,000	15,800,000	14,930,000	14,930,000
Travel and miscellaneous expenses	7,500,000	8,273,000	7,950,000	7,950,000	7,950,000
Administrative Office of the United States Courts	2,235,000	2,513,000	2,375,000	2,375,000	2,375,000
Salaries and expenses of United States Magistrates	550,000	5,866,000	560,000	4,560,000	4,560,000
Salaries of referees (special fund)	6,230,000	6,232,000	6,232,000	6,232,000	6,232,000
Expenses of referees (special fund)	9,258,000	9,520,000	9,400,000	9,400,000	9,400,000
Total, other courts and services	120,638,000	128,695,000	123,670,000	126,584,000	126,584,000
Federal Judicial Center: Salaries and expenses	600,000	975,000	700,000	700,000	700,000
Total, title IV, the judiciary	129,273,400	138,561,600	132,956,300	135,870,300	135,870,300
TITLE V—RELATED AGENCIES					
American Battle Monuments Commission: Salaries and expenses	2,716,000	2,739,000	2,739,000	2,739,000	2,739,000
Arms Control Disarmament Agency: Arms control and disarmament activities	9,5000,000	8,300,000	8,250,000	8,250,000	8,250,000
Commission on Civil Rights: Salaries and expenses	2,650,000	3,200,000	3,200,000	3,200,000	3,200,000
Office of Education: Civil rights education	19,000,000	24,000,000	19,000,000	19,000,000	19,000,000
Equal Employment Opportunity Commission: Salaries and expenses	13,400,000	19,000,000	14,313,000	19,000,000	15,485,000
Federal Maritime Commission: Salaries and expenses	3,943,000	4,629,000	3,929,000	4,749,000	4,479,000
Foreign Claims Settlement Commission: Salaries and expenses	706,000	750,000	710,000	710,000	710,000
National Commission on Reform of Federal Criminal Laws: Salaries and expenses	300,000	100,000	100,000	100,000	100,000

Footnotes at end of article.

XUM

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1970 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1971—Continued

[Note—All amounts are in the form of appropriations unless otherwise indicated]

Item (1)	New budget (obligational) authority, fiscal year 1970 (2)	Budget estimate of new (obligational) authority, fiscal year 1971 (3)	New budget (obligational) authority, recommended in House bill (4)	Senate bill (5)	Conference action (6)
Small Business Administration:					
Salaries and expenses:					
Appropriation	$17,308,000	$24,100,000	$18,950,000	$19,950,000	$18,950,000
Transfer from revolving funds	(50,000,000)	(53,100,000)	(53,100,000)	(53,100,000)	(53,100,000)
Business loan and investment fund		242,000,000	200,000,000	200,000,000	200,000,000
Payment of participation sales insufficiencies	1,757,000	1,340,000	1,340,000	1,340,000	1,340,000
Disaster loan fund	175,000,000				
Total, Small Business Administration	194,065,000	267,440,000	220,290,000	221,290,000	220,290,000
Special Representative for Trade Negotiations: Salaries and expenses	533,000	757,000	550,000	597,000	597,000
Subversive Activities Control Board: Salaries and expenses	401,400	401,400	401,400	401,400	401,400
Tariff Commission: Salaries and expenses	4,139,000	3,845,000	3,845,000	3,845,000	3,845,000
U.S. Information Agency:					
Salaries and expenses	167,633,000	168,300,000	165,433,000	165,433,000	165,433,000
Salaries and expenses (special foreign currency program)	10,800,000	13,000,000	13,000,000	13,000,000	13,000,000
Special international exhibitions	2,783,000	[6] 5,456,000	3,500,000	4,566,000	4,033,000
Special international exhibitions (special foreign currency program)		332,000	332,000	332,000	332,000
Acquisition and construction of radio facilities		800,000	600,000	600,000	600,000
Total, U.S. Information Agency	181,216,000	187,888,000	182,865,000	183,931,000	183,398,000
United States-Mexico Commission for Border Development and Friendship: Salaries and expenses	159,000				
Total, title V, related agencies	432,728,400	523,049,400	460,192,400	467,542,400	462,494,400
Total, titles I, II, III, IV, and V, new budget (obligational) authority—appropriations	2,653,376,900	[7] 3,251,200,000	3,106,956,500	3,122,080,500	3,108,074,500
Memoranda:					
Appropriations to liquidate contract authorizations	(195,815,000)	(194,348,000)	(194,348,000)	(194,348,000)	(194,348,000)
Total appropriations, including appropriations to liquidate contract authorizations	(2,849,191,900)	(3,445,548,000)	(3,301,304,500)	(3,316,428,500)	(3,302,422,500)

[1] Includes $16,500,000 for "Regional development programs."

[2] Includes $6,800,000 for "Regional development programs."

[3] Includes $339,000 for "Regional development programs."

[4] $23,639,000 funded from appropriations under Economic Development Administration.

[5] Includes $250,000 requested in H. Doc. 91-305.

[6] Reflects reduction of $629,000 submitted in H. Doc. 91-305.

[7] Includes $7,295,000 budget amendments to Senate as follows: $1,900,000, S. Doc. 91-90, Department of State, salaries and expenses; $475,000, S. Doc. 91-91, Department of Commerce, National Industrial Pollution Control Council; $4,220,000, S. Doc. 91-69, The Judiciary; $700,000 S. Doc. 91-92, Federal Maritime Commission.

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

The Senate resumed the consideration of the bill (H.R. 18583) to amend the Public Health Service Act, and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

Mr. DOLE. Mr. President, we have before us today legislation which is truly of major significance in its impact upon this country. H.R. 18583, the Comprehensive Drug Abuse Prevention and Control Act of 1970, gives the opportunity at long last to make a positive legislative contribution in the war against drugs.

No one can possibly deny the epidemic proportions which the drug abuse problem has reached today. Throughout the country, drug availability continues to alarm concerned citizens and particularly parents whose children are exposed daily to offers from friends who want company in the drug abuse habit. Brightly colored capsules and pills whose effects are virtually unknown are being circulated through our schools and other public places with an appalling lack of control. It is an unfortunate fact, as President Nixon pointed out in his message to Congress on drug abuse that:

It is doubtful that an American parent can send a son or daughter to college today without exposing the young man or young woman to drug abuse.

In my State of Kansas, the Kansas Bureau of Investigations has reported that narcotics arrests are up 130 percent for the first 6 months of 1970, as compared to the same period in 1960. In 1969 alone, arrests for narcotic violations increased 100.9 percent over 1968 and in 1970 the figures for the first 6 months indicate there was a 135-percent increase.

With an increase in narcotic arrests, has come an increase in the rate of crime. In the period from 1966 to 1969, the overall crime rate increased 29 percent. This included: 89 percent for robberies; 56 percent for auto theft, and 50 percent for larceny. It is not clear how much crime is attributable to drug abuse. However, estimates involving the relationship between drug addiction and street crime range from 50 percent to an even higher percentage.

The Evening Star of October 6, contained an interesting editorial describing the preliminary results of a study on the relationship between crime and drug addiction. I ask unanimous consent that the editorial be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DRUG AND CRIME

While the relationship between crime and drug addiction is only one aspect of the narcotics problem, it is certainly a major consideration in this city. The monthly statistics continue to show an encouraging decline in serious crime here. And it seems logical to assume that that trend is being influenced to some degree by the stepped-up war on narcotics, especially through efforts of the District's new Narcotics Treatment Administration.

No one can yet put these factors clearly in perspective. But the other day the local narcotics administrator, Dr. DuPont, reported findings of the first pilot study on the subject—a four-month assessment of the arrest experience of 150 drug addicts, nearly all with criminal backgrounds, who were enrolled at one of the agency's treatment centers last May 1. The results are significant, and we think they are extremely hopeful in terms of the future.

On an over-all basis, DuPont said, 14.7 percent of the 150 addicts had been arrested since May 1—a rate considerably below that reported in similar studies involving participants of previous city drug programs.

The more interesting findings, however, lay within that raw statistic. Among a substantial number of persons who completely dropped out of the NTA program, the arrest rates were high. Among one group of 87 heroin addicts who remained with the methadone maintenance program, however, the arrest rate was only 4.6 percent. And this, as it turned out, also was considerably better than the record among addicts enrolled in treatment programs not involving methadone.

The full significance of these findings will of course have to be evaluated later—in terms of longer experience with many more addicts than were covered in the pilot study. Still, the figures cited by DuPont at this stage of the game (the new program is not yet eight months old), are surely encouraging.

Their ramifications were to have been examined in more detail at a Senate District Committee hearing last week, called to assess the NTA's over-all progress. We trust that the hearing, which unfortunately had to be canceled, will be rescheduled by Chairman Tydings before Congress adjourns for the year.

Mr. DOLE. Mr. President, H.R. 18583, which is similar to S. 3246 as it passed this body by unanimous vote last January, contains devices for the control of drug availability which should be satisfying and encouraging to every Member of Congress and every concerned citizen. The well-planned system of registration relating to manufacturers and distributors of drugs, when coupled with the system of scheduling drugs under the authority of the Attorney General, should go a long way toward reducing drug availability. This regulation of the legitimate industry will undoubtedly cut down on the tremendous diversion of legally manufactured dangerous drugs to illicit users.

The improved export and import controls in title III will enable law enforcement officials to keep a closer watch on the drugs that move across our borders, a factor affecting not only border States but States like Kansas, in America's heartland. The heroin addict in Kansas must get his supply from outside the United States, since this drug is not produced within this country.

XUM

The treatment and rehabilitation provisions of title I should significantly contribute to a reduction in the demands for these dangerous substances, a need which must have equal priority with a reduction in the supply. Regarding the supply, however, this bill also makes available increased tools for law enforcement personnel in the performance of their extremely hazardous duties. The broader arrest powers for Federal agents, the provision for limited "no knock" and administrative inspection warrants, and the clarification of the attorney general's authority in various areas relating to enforcement are all important landmarks in this legislation.

Of particular interest to citizens of Kansas and other States where marihuana grows wild in some abundance, is the provision authorizing the attorney general to conduct programs, in cooperation with appropriate agencies, aimed at eradicating wild or illicit growth of plants which can produce dangerous drugs. Kansas presently has a pilot marihuana eradication program underway and with the assistance of the law enforcement assistance administration, next year eradication will take place on 68,000 acres in 40 of our counties.

Although this legislation will be of assistance, it must be made clear that the ultimate responsibility for education and enforcement remains with the State and local government. We are revising and modernizing only the existing Federal laws and in no way do we seek to preempt existing State laws, but the Federal Government must provide the leadership, and by passing this bill, we will be encouraging the States to make greater efforts to protect our young people. In August, Kansas launched a drug abuse program which is designed to saturate every community in the State with information. After a series of training sessions which will extend to every local school district, every Kansan will have been exposed to accurate information.

Mr. President, the American people have already waited far too long for the passage of this legislation. Let us not delay this measure, and the relief it will provide, any longer.

Mr. NELSON. Mr. President, earlier this year Senator HAROLD HUGHES addressed the annual convention of the National Association of Secondary School Principals here in Washington. Senator HUGHES' address, "Social Problems and the Curriculum: The School and Drugs," went to the heart of the drug abuse crisis which is eroding the security and health of this society and focused attention on the necessary role which education and the school system must play in any successful program to combat narcotics addiction.

From the vantage point of his position as chairman of the Senate Subcommittee on Alcoholism and Narcotics, which has conducted extensive hearings throughout the Nation on addiction problems, Senator HUGHES first of all pointed out that:

> It is important for anyone who wants to develop some understanding of the (drug) problem to set aside any preconceived, rigid and doctrinaire attitudes based more on prejudice than on experience . . . We need a variety of approaches and the wisdom of many professional disciplines plus, above all, human understanding to make any real headway in meeting a problem that is unbelievably complex, many-faceted and deeply rooted in the contemporary culture of our society.

It is becoming increasingly apparent the degree and pervasiveness of drug abuse in this Nation, particularly among our youth, has not been effectively controlled by law enforcement and harsh punishment alone. While strong laws and firm enforcement are a necessary component in dealing with the network of narcotics distribution, this approach has not been successful with the user. While the crackdown on marihuana coming into this country from Mexico was successful in shutting down the market supply of "pot" in this country, it did not stem the tide of drug abuses, as the vast simultaneous increase in the use of amphetamines and harder drugs such as heroin by young people demonstrated.

In his February 9 address, Senator HUGHES put the issue squarely before us when he concluded that:

> An effective drug control program will require a total effort by our whole society—on a dimension few have yet grasped—we must be prepared to invest billions at all levels of government in contrast to the pittance that is being put into existing programs. I am referring to massive treatment, research, education and rehabilitation programs.

Today we have before us an opportunity to begin to translate some of our rhetorical concern and understanding of drug abuse into a concrete administrative structure capable of mandating and carrying out a coordinated and broadly based attack upon drug dependence and narcotic addiction. To help achieve this goal, I am cosponsoring and supporting Senator HUGHES' substitute amendment to title I of H.R. 18583. Whereas titles II and III deal with the necessary law enforcement aspects of this problem, it is necessary to complete our commitment to combat drug abuse and provide for the prevention, treatment, and rehabilitation side of the drug problem. We cannot seriously claim to be working to end this menace, unless we are willing to provide for all the necessary aspects of the issue in addition to enforcement.

The substitute amendment for title I will complement the law enforcement provisions of the remaining titles of the drug abuse bill by setting up a five-point administrative structure to provide the necessary research educational tools, and program support of prevention, treatment, and rehabilitation efforts.

This substitute amendment to title I would:

First. Establish a National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence within the Public Health Service of the Department of Health, Education, and Welfare. In this manner, the Secretary of Health, Education, and Welfare, through the Institute, would be able to coordinate the administrative, educational, training, research, planning, coordinating, statistical, and reporting responsibilities necessary to design and implement a specific and comprehensive national drug abuse and drug dependence prevention, treatment and rehabilitation plan. The plan would be developed and then implemented by the Secretary, through the Institute, and submitted annually for congressional review.

Second. Authorize a formula grant program and a project grant program to assist States and communities in planning, establishing, and carrying out a wide range of coordinated and comprehensive activities in the areas of drug education, prevention, treatment, and rehabilitation.

Third. Establish an Intergovernmental Coordinating Council on Drug Abuse and Drug Dependence consisting of Federal, State, and local governmental officials to provide for a coordinated channel of governmental communication and comment on prevention, treatment, and rehabilitation programs; and establish an independent National Advisory Council on Drug Abuse and Drug Dependence to provide an outside advisory resource for the Secretary to assist in his efforts under this title.

Fourth. Provide for the establishment of prevention, treatment, and rehabilitation programs for all Federal civilian employees.

Fifth. Incorporate the provisions in the House version of title I which broaden the authority in the Public Health Service Act dealing with educational and research activities.

Mr. President, to seriously combat drug abuse, we must begin to put as much effort and resources into taking preventive measures to arm and fortify our youth against addiction and saving and treating drug dependents as we have in our attempts to catch and punish the drug user and the network of suppliers.

The substitute amendment would begin to make this additional and necessary commitment.

Mr. President, I ask unanimous consent that Senator HUGHES' prescient remarks before the National Association of Secondary School Principals last winter be printed at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HAROLD E. HUGHES

As a United States Senator and a three-term Governor who has always regarded education as a top priority on the agenda of the nation, I am privileged to be here this morning.

I have very deep feelings about the drug problem, U.S.A. and the role of the school system in coping with that problem.

I am happy that a highly qualified representative of the medical profession, Dr. Lewis, is on this panel with me to cover the technical and scientific aspects of the drug problem.

I have strong convictions too that if we are to deal with the drug problem effectively we must rely heavily on the best scientific and medical talent we have in our society.

On the floor of the Senate in recent days, I fought for the adoption of a series of amendments to the Administration's drug enforcement bill designed to place securely in the hands of the scientists and doctors of the Department of Health, Education, and Welfare the responsibility for making judgments regarding the classification of dangerous drugs and research and education programs.

I might add that we lost this particular battle, but I am not ready to concede that we have lost the war.

Since the drug problem among children and youth vaulted into the national headlines, I know that you school administrators have received reams of material about drug abuse and narcotics addiction with a variety of suggested approaches to what schools should be doing about it.

Some of this material is valuable; some of of it, I am sure, is confusing. About the only point that is generally agreed on is that the problem of drug abuse and narcotics addiction among American children and youth is critically serious, widespread and growing at an alarming rate. It is a national epidemic that threatens the security and well being of our society.

It seems to me that the most valuable purpose I can serve here this morning is to share with you some very basic, personal impressions I have accumulated from the hearings we have conducted across the nation with the Senate Subcommittee on Alcoholism and Narcotics which I am privileged to chair.

In the first place, I believe it is important for anyone who wants to develop some understanding of the problem to set aside any preconceived, rigid and doctrinaire attitudes based more on prejudice than on experience. For my own part, I can tell you that what we found in our hearings was in many respects far different from what I had vaguely expected to find.

Moreover, if there is a single, neat, surefire solution, I have not yet seen it and frankly do not believe it exists.

I am reminded of my favorite modern proverb: there is no solution; seek it lovingly.

We need a variety of approaches and the wisdom of many professional disciplines plus, above all, human understanding to make any real headway in meeting a problem that is unbelievably complex, many-faceted and deeply rooted in the contemporary culture of our society.

First, let me flash before you a few vignettes which will suggest the subtlety and pervasiveness of the problem.

In our Los Angeles hearings, we heard this testimony from a 15 year old boy:

"My name is Gary H. I am a resident of Los Angeles. I am 15 years old and a junior in high school.

"I have done a lot of growing up on the Sunset Strip.

"It is a true statement when I tell you there is no chemical or drug in my bloodstream. My body has been completely clean for about three months.

"I would like to fill you in on my past experiences as a narcotics addict and an alcoholic.

"I was in the 6th grade and 10 years old when my experience in drugs began. My first exposure was with tranquilizers and sleeping pills. I found some pills in the bathroom of my home. I did not know what they were and I really don't know why I did, but I took them to my room and took four of them.

"In about an hour or so I got a—I don't know if it was physical or mental—but I got a lift from them. I felt good. I felt like I could do things I could have never done before—like I had a powerful command over things. So I thought if I felt that good, another pill would make me feel better. Anyhow, within a few days the 20 pills were gone, except for two. I saved two of them and showed them to a friend of mine who said he could get me more. He said they were sleeping pills and tranquilizers. That was the beginning and I went on a search for more.

"Almost right away I did not only want the pills—I needed them. I used to think of them as my food and water. My body had to have them. I would get sick and shaky without them.

"This turned into an expensive habit for me, and so I found alcohol. I heard it was cheaper and with the alcohol I felt I wouldn't need the pills anymore. However this wasn't true.

"So over a period of time when the alcohol didn't help to cure me, I went back to the pills. I now know that it is all the same thing but in a different form. That is my opinion, but my experience with the pills and the alcohol, they are all one. So I began taking them both together.

"I was 12, and pretty soon after that I started on other chemicals or dangerous drugs such as marihuana, hashish, cocaine, barbiturates, benzedrine and LSD.

"Within a year or so I discovered the wonderful world of methedrine. It was as easy to buy the drug as it was to buy food in the super-market. At that time it was harder to get the money than it was to get the drugs.

"If you want to know how a 13 year old gets the money to support his addictions, I would have to tell you. I would buy the drugs at the street market cost on the Strip from men in white shirts and ties. If one wasn't there, there was always another one around. Then, in turn, I would sell it at a profit to other young users. That's how I supported my addictions. However, there are many other ways to support them.

"The important thing I want to tell you is that I couldn't function without the drugs and alcohol. I couldn't function as a musician or as an athlete. I couldn't perform well in football without popping 35 to 50 pep pills down my throat. It gave me a sense of security in my music and in football it gave me a fearless sense of aggression. I could not function without them.

'That's my story. My life was completely unmanageable. But now I have found a way to live, my life, not run it, and only with the help of many other people could I have achieved this goal. I now choose not to use drugs or alcohol. I have chosen life instead of hell. I could never have done it alone."

Consider now the case of Paul Jahoda, also age 15, who resided here in the Washington metropolitan area.

Paul Jahoda's body was found May 7 inside a large storm sewer in the affluent Fairfax subdivision of Mantua.

To the Fairfax County medical examiner, Paul Jahoda was a suicide who had taken an overdose of sleeping pills following a fight with his father.

To the police the death appeared to be a mystery, probably an accident.

To Joseph Jahoda, his only son was "a victim of the times."

Whatever the cause of his death, Paul was a lonely, introverted boy who was learning to play the guitar. Schoolmates recounted that he used to "try out" drugs that others brought to school to "see if he could get a high without getting sick . . ."

"He would take the pills they gave him, and if he didn't get sick, and got a high, then they'd know it was okay. Paul said it was all right to do because it hadn't hurt him."

Another friend recalls: "He really liked the high he got from being drunk more than any other high. But when his father ended his drinking, Paul took up drugs because he could get them into the house without being caught.

"He'd do anything for kicks—for highs."

You perhaps read about the case of Isabel Salazar, the 12-year-old daughter of a wealthy New York psychiatrist who was found in an upper west side apartment building, heavily drugged from a narcotics binge that began when she ran away from home. The 4-foot-9-inch girl, who had dropped out of an exclusive girls' school earlier because of her drug problem, had been introduced to drugs by acquaintances in Central Park soon after her 11th birthday.

A month ago I was back home in Iowa, visiting the detoxification center in Des Moines, where the Director of the center, Dr. Keith Simpson, told me of a baby who was born to parents who were heroin addicts under his care. The baby was born with heroin withdrawal symptoms. It became evident that the baby could not live without drugs in the early weeks so the doctors were compelled to treat the infant for drug withdrawal, along with the parents. Now all three are off drugs, but obviously this infant faces an uncertain future.

A suburban mother, whose 17 year old daughter attends a fashionable girl's school in Georgetown, told me recently that the use of alcohol and marihuana is widespread among her daughter's friends. The girl's father, slightly drunk on martinis at the time, tried to talk to the girl about it. She ran away from home. When found by the polce she refused to come home, preferring to spend two days in a detention home.

Another young boy from a comfortable middle-class home told me recently: "Dad wants to be a good father. He'll say, 'Jim, let's you and me be pals, tell me about what you're doing, what are your friends interested in . . .' and I'll say: 'Well, dad, most of the kids I know are smoking pot. I tried a joint at a party last weekend and . . .' and before I can finish the sentence he orders me out of his sight and out of the house. All the while he's drinking scotch and smoking cigarettes which all the kids know are worse for you than pot."

While drug abuse and narcotics addiction have been—for very understandable reasons—highly concentrated in the ghettos, the epidemic has now reached the rich suburbanites and the sons and daughters of the famous.

A blonde-haired youth, heir to a Washington fortune, was picked up in the men's room of a Bethesda gas station last year with LSD in his possession.

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He admitted to the judge that he had tried LSD, marihuana, hashish, amphetamines and barbiturates.

It is not an unfamiliar story. He began serious involvement with drugs after flunking out of an exclusive boys' school.

"I did well until the seventh grade," he said. "It seemed too staid to me—all boys and too competitive. My social life was pretty nil. I didn't get along well with the masters and the students. I was sort of a loner."

The parents, who are divorced, differed on where the boy should be sent. His mother favored a private co-ed school in New England. His father favored a military academy.

"I believe in the use of the uniform," the father said. "This kid needs a firm hand put over him. . . ."

In Philadelphia, the son of the Governor of New Jersey was arrested on a charge of possessing marihuana; in New York, the son of a wealthy, prominent candidate for the Governorship was picked up on charges of possession of hashish and methedrine; while in Hartford, Connecticut, the 17-year old son of the city manager was charged with selling LSD.

The tragic death of Art Linkletter's daughter misted the eyes of the whole country, and I could go on indefinitely listing the names of famous personages whose children have been victims of the drug culture.

These ominous signs of the times would seem to be obvious:

(1) The number of drug abusers and experimenters is increasing at what seems to be geometric progression; (2) drug use is spreading to ever younger children—especially in the elementary grades in the larger cities; (3) hard narcotics are invading the suburbs and the small towns; (4) an ever-increasing number of substances—from glue to injected peanut butter—are being used to induce kicks; and (5) drugs are being employed in weird and dangerous combinations—starting out, usually, with alcohol and pills.

While strict laws and strict law enforcement in connection with drug abuse and distribution are necessary; excessively harsh punishment alone is not getting the job done.

In fact, it would appear that the sadistically severe punishment sometimes meted out for minor marihuana offenses has only served to exacerbate the situation, to reinforce the determination of youth to "turn on."

You see, the kids know, for the most part, more about it than we do. They learn about it at school, they read the reports, they study the evidence. They know the credibility gap between what their parents say and what the evidence shows. And they hate us for our hypocrisy—or pity us for our ignorance.

What impels the youth of this generation to "turn on," to proceed deliberately from one dangerous unknown to another "for kicks?"

I can only tell you that I am convinced it all begins from a deep loneliness, a sense of not belonging to the present social order and not believing that meaningful future exists.

Most adults are incapable, without great effort, of understanding this emotional hangup, and it is probable that the kids don't really understand it themselves.

You get the feel of it from the youth symbols of our times, the rock music, the bizarre styles, the blunt vernacular . . . and the drugs.

If these sound like imprecise statements, I can only say that the problem itself is imprecise, fuzzy, haunting, almost psychedelic in character.

The generation gap is very real, tragically dangerous.

We can only keep searching, listening, working, reasoning, trying to understand.

We must never slam the door.

It is not a job that schools can do alone, where parents have failed or where stable home background is lacking.

It will require a total effort by our whole society—on dimension few have not grasped.

As I have told my colleagues in the Congress, we must be prepared to invest billions at all levels of government in contrast to the pittance that is being put into existing programs. I am referring to massive treatment, research, education and rehabilitation programs.

We have spent lavishly to put pot-smokers and narcotics addicts in jail, only to see them emerge in due time to be imprisoned again or to die.

And what has this accomplished?

The time has come to put as great an effort and investment in curing people and saving lives as we have been putting into apprehending and punishing those caught up in the drug mesh.

What is needed is open-mindedness, patience and faith in the indestructibility of the value of a human being.

These youthful lives are salvageable—and worth salvaging.

School administrators, counsellors, teachers are on the front lines. It is essential that they realize how subtle and sensitive and diversified the drug problem is.

Mr. MILLER. Mr. President, I regret very much that I must oppose the amendment offered by my colleague from Iowa (Mr. Hughes), because we share a common concern over the need for prevention, treatment, and rehabilitation in the area of drug abuse.

However, that concern must be matched by good legislation if it is to become meaningful. The amendment has been thoroughly analyzed by the Department of Health, Education, and Welfare—see page 35053 of the Record for October 6—and it quite obviously is seriously defective.

Among the numerous defects pointed out in the Department's analysis, I am especially concerned over my colleague's proposal to take away from the National Advisory Mental Health Council its authority to review projects and policy advice to the Secretary of Health, Education, and Welfare, thus divorcing drug abuse prevention, treatment, and rehabilitation from the broad framework of the mental health program; and I am concerned over his proposal to abolish the provisions of the Community Health Centers Act with respect to grants for construction and staffing of facilities for the treatment and rehabilitation of narcotics addicts which require that such projects either be established within the framework of a Community Mental Health Center or that at least there be arrangements whereby comprehensive services would be provided or made available by the grantee.

The title of the House-passed bill which would be replaced by my colleague's amendment empowers the Secretary—section 3(a)—to give broad protection to researchers against being compelled to disclose the identity of individuals who are the subjects of research, regardless of whether the research is conducted under authority of this particular title; whereas the proposed amendment would limit this protection to research conducted only under this title, and would further destroy this protection by authorizing courts to compel disclosure. This title of the bill was all worked out between members of the House committee and representatives of the Departments of Justice and Health, Education, and Welfare, and I cannot understand why such carefully considered draftsmanship must now be scuttled.

It has been pointed out that this amendment was the subject of a separate bill which my colleague introduced last March 9 as S. 3562. The bill received hearings before his Subcommittee on Alcoholism and Narcotics of the Committee on Labor and Welfare, and strong objections to many of its provisions were voiced by representatives of the Departments of Justice, and Health, Education, and Welfare. To date, the committee has not seen fit to approve the bill and report it to the Senate for action.

Notwithstanding the committee's failure to act favorably on the bill, we are now asked to approve it in the form of an amendment to a law enforcement bill—one which is desperately needed by our law enforcement agencies seeking to slow down the terrible traffic in drugs. The managers of the House-passed bill have warned that the adoption of this amendment would delay if not defeat the bill altogether, and because in its present state, the House will not agree to this amendment. I can understand this position because the amendment is the same as a bill which our own Senate committee has not approved.

The amendment should be withdrawn and the bill which it represents should be carefully reworked. If this is done, I should think it could be approved by the committee and eventually by the Senate. It would be tragic to push an amendment subject to so many defects at the risk of delaying or defeating action long overdue for better law enforcement and revision of penalties to accord with better justice.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Iowa. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the motion by the Chair to vote on the pending amendment be voided.

The PRESIDING OFFICER. The Chair states that the rollcall has not begun since no Senator has responded.

Mr. MANSFIELD. So it can be done. The Senator from Nebraska is not on the floor.

Mr. HRUSKA. Mr. President, I was removed 6 feet from where I stand now—and I now stand by the desk of the majority leader—and the motion was considered and an attempt was made to pass it. As I understand it, the yeas and nays have been ordered.

Mr. MANSFIELD. The yeas and nays are going to be called. It was not going to be passed by voice vote. The clerk started to call the roll, but no Senator has answered as yet.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Iowa. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DODD (after having voted in the negative). On this vote I have a live pair with the Senator from Maine (Mr. Muskie). If he were present, he would vote "Yea." If I were permitted to vote, I would vote "Nay." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Virginia (Mr. Byrd), the Senator from Nevada (Mr. Cannon), the Senator from Arkansas (Mr. Fulbright), the Senator from Tennessee (Mr. Gore), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Georgia (Mr. Russell), the Senator from Missouri (Mr. Symington), and the Senator from Maryland (Mr. Tydings) are necessarily absent.

I further announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Alabama (Mr. Sparkman), the Senator from Georgia (Mr. Talmadge), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) are absent on official business.

I further announce that, if present and voting, the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from Texas (Mr. Yarborough), the Senator from Ohio (Mr. Young), the Senator from Oklahoma (Mr. Harris), and the Senator from Missouri (Mr. Symington) would each vote yea.

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from Hawaii (Mr. Fong), the Senator from New York (Mr. Goodell), the Senator from California (Mr. Murphy), the Senator from Kansas (Mr. Pearson), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Kansas (Mr. Pearson) would vote "yea."

On this vote, the Senator from New York (Mr. Goodell) is paired with the Senator from South Dakota (Mr. Mundt). If present and voting, the Senator from New York would vote "yea" and the Senator from South Dakota would vote "nay."

On this vote, the Senator from California (Mr. Murphy) is paired with the Senator from Texas (Mr. Tower). If present and voting, the Senator from California would vote "yea" and the Senator from Texas would vote "nay."

The result was announced—yeas 44, nays 23, as follows:

[No. 363 Leg.]

YEAS—44

Allen
Anderson
Bayh
Brooke
Burdick
Byrd, W. Va.
Case
Church
Cranston
Dominick
Eagleton
Eastland
Ellender
Ervin
Hart
Hatfield
Hollings
Hughes
Inouye
Jackson
Javits
Long
Magnuson
Mansfield
Mathias
McCarthy
McGovern
McIntyre
Metcalf
Mondale
Nelson
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Spong
Stennis
Stevens
Thurmond
Williams, N.J.

NAYS—23

Allott
Baker
Bennett
Bible
Boggs
Cook
Cooper
Cotton
Curtis
Dole
Griffin
Gurney
Hansen
Holland
Hruska
Jordan, Idaho
McClellan
Miller
Packwood
Scott
Smith, Maine
Williams, Del.
Young, N. Dak.

PRESENT AND GIVING A LIVE PAIR—1

Dodd, against.

NOT VOTING—32

Aiken
Bellmon
Byrd, Va.
Cannon
Fannin
Fong
Fulbright
Goldwater
Goodell
Gore
Gravel
Harris
Hartke
Jordan, N.C.
Kennedy
McGee
Montoya
Moss
Mundt
Murphy
Muskie
Pearson
Prouty
Russell
Smith, Ill.
Sparkman
Symington
Talmadge
Tower
Tydings
Yarborough
Young, Ohio

So Mr. Hughes' amendment was agreed to.

Mr. HUGHES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS and Mr. DOMINICK moved to lay the motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1031

Mr. DOMINICK. Mr. President, I call up my amendment No. 1031 and ask that it be stated. Let me advise my colleagues that discussion on it will be quite short.

The PRESIDING OFFICER (Mr. Cranston). The amendment will be stated.

The legislative clerk read as follows:

Amendment No. 1031

TITLE IV—REPORT ON ADVISORY COUNCILS

Sec. 1200. (a) Not later than March 31 of each calendar year after 1970, the Secretary of the Department of Health, Education, and Welfare shall submit a report on the activities of advisory councils (established or organized pursuant to any applicable statute of the Public Health Service Act, Public Law 410, Seventy-eighth Congress, as amended, or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, Public Law 88-164, as amended) to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report shall contain, at least, a list of all such advisory council, the names and occupations of their members, a description of the function of each advisory council, and a statement of the dates of the meetings of each advisory council.

(b) If the Secretary determines that a statutory advisory council is not needed or that the functions of two or more statutory advisory councils should be combined, he shall include in the report a recommendation that such advisory council be abolished or that such functions be combined.

(c) As used in this section, the term "statutory advisory council" means any committee, board, commission, council, or other similar group established or organized pursuant to any applicable statute to advise and make recommendations with respect to the administration or improvement of an applicable program or other related matter.

Mr. DOMINICK. Mr. President, if I may have the attention of my colleagues, it is my hope that the manager of the bill will accept the amendment. It would add a new title IV, to provide that the Secretary of Health, Education, and Welfare, on March 31 of each calendar year, starting next year, would submit a report on the activities of advisory councils established under the Public Health Service Act and Mental Retardation Facilities and Community Mental Health Centers Construction Act to the Committee on Labor and Public Welfare and also to the Interstate and Foreign Commerce Committee of the House.

This report would contain a list of all the advisory councils, the names and occupations of the members, a description of their functions, and a statement of the dates of their meetings for that year.

If the Secretary determines, in the process of preparing his annual report, that an advisory council is not needed, and should be abolished, or that the functions of two or more might be combined, he would include in his report recommendations to that effect. Congress would decide whether to act on such recommendations. It would not be automatic.

In order to illustrate what I am talking about, these publications contain nothing but lists of the advisory councils, and their memberships, established in connection with just three of the operating agencies of the Public Health Service—the National Institutes of Health, the Health Services and Mental Health Administration, and the Environmental Health Service.

Without trying to be dramatic, I am sure there is no one in this Chamber who knows what they are, what they do, or what membership they represent.

There are about 325 statutory advisory councils with about 3,375 appointed members. These individuals and their staffs are entitled to compensation of $50 to $100 per day, in addition to expenses for travel and subsistence.

I am not saying that we need to abolish them all, but it does seem to me, since we have so much money involved here, that we ought to have some kind of periodic survey and report to see what accommodation we might have in the way

XUM

of streamlining the procedure. That is all I am asking in the amendment.

It is my hope that the manager of the bill will accept the amendment.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment of the Senator from Colorado.

Mr. **HRUSKA**. Mr. President, will the Senator yield?

Mr. **DOMINICK**. I yield.

Mr. **HRUSKA**. Mr. President, it is the understanding of this Senator that the purpose of the amendment is to cause the Secretary of Health, Education, and Welfare to inventory all of these bodies, whether they be commissions, committees, or anything else, to evaluate their present effectiveness and to determine whether their mission has been accomplished and discharge them, or whether there is any further need for any of their originally declared purposes.

Mr. **DOMINICK**. The Senator is correct. We have gone further than that, because we had the same problem in the educational field. We have a provision in the educational law now which, of course, gives the Secretary the authority to abolish them unless either House of Congress objects. This would not work in that way. We ask him to make a report and then the Congress can abolish them or not as it chooses.

Mr. **HRUSKA**. Mr. President, if the origin of the body is in the executive branch, would that prohibition still apply?

XUM

Mr. **DOMINICK**. They would still be able to do it, but they would have to report to us as to what they were doing and why.

Mr. **HRUSKA**. So that we would be informed.

Mr. **DOMINICK**. The Senator is correct.

Mr. **HRUSKA**. Otherwise, if they were created by statute, the recommendation would run from the Secretary to the Congress for its good judgment.

Mr. **DOMINICK**. The Senator is correct. Congress would have the right to act or not to act as it saw fit.

Mr. **HRUSKA**. Is there any time limit on the assignment matter?

Mr. **DOMINICK**. We are asking him to do it once a year, not later than March 31.

Mr. **DODD**. Mr. President, I think this is a good amendment. I am happy to accept it.

Mr. **HRUSKA**. Mr. President, I concur with the Senator from Connecticut.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

RESOURCE RECOVERY ACT OF 1970—CONFERENCE REPORT

Mr. **RANDOLPH**. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11833) to amend the Solid Waste Disposal Act in order to provide financial assistance for the construction of solid waste disposal facilities, to improve research programs pursuant to such Act, and for other purposes. I ask unanimous consent for the present consideration of the report.

The **PRESIDING OFFICER** (Mr. Cranston). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report, as follows:

Conference Report (H. Rept. No. 91–1579)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11833) to amend the Solid Waste Disposal Act in order to provide financial assistance for the construction of solid waste disposal facilities, to improve research programs pursuant to such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: That this Act may be cited as the "Resource Recovery Act of 1970".

TITLE I—RESOURCE RECOVERY

Sec. 101. Section 202(b) of the Solid Waste Disposal Act is amended to read as follows:

"(b) The purposes of this Act therefore are—

"(1) to promote the demonstration, construction, and application of solid waste management and resources recovery systems which preserve and enhance the quality of air, water, and land resources;

"(2) to provide technical and financial assistance to States and local governments and interstate agencies in the planning and development of resource recovery and solid waste disposal programs;

"(3) to promote a national research and development program for improved management techniques, more effective organizational arrangements, and new and improved methods of collection, separation, recovery, and recycling of solid wastes, and the environmentally safe disposal of nonrecoverable residues;

"(4) to provide for the promulgation of guidelines for solid waste collection, transport, separation, recovery, and disposal systems; and

"(5) to provide for training grants in occupations involving the design, operation, and maintenance of solid waste disposal systems."

Sec. 102. Section 203 of the Solid Waste Disposal Act is amended by inserting at the end thereof the following:

"(7) The term 'municipality' means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law with responsibility for the planning or administration of solid waste disposal, or an Indian tribe.

"(8) The term 'intermunicipal agency' means an agency established by two or more municipalities with responsibility for planning or administration of solid waste disposal.

"(9) The term 'recovered resources' means materials or energy recovered from solid wastes.

"(10) The term 'resource recovery system' means a solid waste management system which provides for collection, separation, recycling, and recovery of solid wastes, including disposal of nonrecoverable waste residues."

Sec. 103. (a) Section 204(a) of the Solid Waste Disposal Act is amended to read as follows:

"Sec. 204. (a) The Secretary shall conduct, and encourage, cooperate with, and render financial and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and promote the coordination of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to—

"(1) any adverse health and welfare effects of the release into the environment of material present in solid waste, and methods to eliminate such effects;

"(2) the operation and financing of solid waste disposal programs;

"(3) the reduction of the amount of such waste and unsalvageable waste materials;

"(4) the development and application of new and improved methods of collecting and disposing of solid waste and processing and recovering materials and energy from solid wastes; and

"(5) the identification of solid waste components and potential materials and energy recoverable from such waste components."

(b) Section 204(d) of the Solid Waste Disposal Act is repealed.

Sec. 104. (a) The Solid Waste Disposal Act is amended by striking out section 206, by redesignating section 205 as 206, and by inserting after section 204 the following new section:

"SPECIAL STUDY AND DEMONSTRATION PROJECTS ON RECOVERY OF USEFUL ENERGY AND MATERIALS

"Sec. 205. (a) The Secretary shall carry out an investigation and study to determine—

"(1) means of recovering materials and energy from solid waste, recommended uses of such materials and energy for national or international welfare, including identification of potential markets for such recovered resources, and the impact of distribution of such resources on existing markets;

"(2) changes in current product characteristics and production and packaging practices which would reduce the amount of solid waste;

"(3) methods of collection, separation, and containerization which will encourage efficient utilization of facilities and contribute to more effective programs of reduction, reuse, or disposal of wastes;

"(4) the use of Federal procurement to develop market demand for recovered resources;

"(5) recommended incentives (including Federal grants, loans, and other assistance) and disincentives to accelerate the reclamation or recycling of materials from solid wastes, with special emphasis on motor vehicle hulks;

"(6) the effect of existing public policies, including subsidies and economic incentives and disincentives, percentage depletion allowances, capital gains treatment and other tax incentives and disincentives, upon the recycling and reuse of materials, and the likely effect of the modification or elimination of such incentives and disincentives upon the reuse, recycling, and conservation of such materials; and

"(7) the necessity and method of imposing disposal or other charges on packaging, containers, vehicles, and other manufactured goods, which charges would reflect the cost of final disposal, the value of recoverable components of the item, and any social costs associated with nonrecycling or uncontrolled disposal of such items.

The Secretary shall from time to time, but not less frequently than annually, report the results of such investigation and study to the President and the Congress.

"(b) The Secretary is also authorized to carry out demonstration projects to test and demonstrate methods and techniques developed pursuant to subsection (a).

"(c) Section 204 (b) and (c) shall be applicable to investigations, studies, and projects carried out under this section."

(b) The Solid Waste Disposal Act is amended by redesignating sections 207 through 210 as sections 213 through 216, respectively, and by inserting after section 206 (as so redesignated by subsection (a) of this section) the following new sections:

"GRANTS FOR STATE, INTERSTATE, AND LOCAL PLANNING

"SEC. 207. (a) The Secretary may from time to time, upon such terms and conditions consistent with this section as he finds appropriate to carry out the purposes of this Act, make grants to State, interstate, municipal, and intermunicipal agencies, and organizations composed of public officials which are eligible for assistance under section 701(g) of the Housing Act of 1954, of not to exceed 66⅔ per centum of the cost in the case of an application with resepct to an area including only one municipality, and not to exceed 75 per centum of the cost in any other case, of—

"(1) making surveys of solid waste disposal practices and problems within the jurisdictional areas of such agencies and

"(2) developing and revising solid waste disposal plans as part of regional environmental protection systems for such areas, providing for recycling or recovery of materials from wastes whenever possible and including planning for the reuse of solid waste disposal areas and studies of the effect and relationship of solid waste disposal practices on areas adjacent to waste disposal sites.

"(3) developing proposals for projects to be carried out pursuant to section 208 of this Act, or

"(4) planning programs for the removal and processing of abandoned motor vehicle hulks.

"(b) Grants pursuant to this section may be made upon application therefor which—

"(1) designates or establishes a single agency (which may be an interdepartmental agency) as the sole agency for carrying out the purposes of this section for the area involved;

"(2) indicates the manner in which provision will be made to assure full consideration of all aspects of planning essential to areawide planning for proper and effective solid waste disposal consistent with the protection of the public health and welfare, including such factors as population growth, urban and metropolitan development, land use planning, water pollution control, air pollution control, and the feasibility of regional disposal and resource recovery programs;

"(3) sets forth plans for expenditure of such grant, which plans provide reasonable assurance of carrying out the purposes of this section;

"(4) provides for submission of such reports of the activities of the agency in carrying out the purposes of this section, in such form and containing such information, as the Secretary may from time to time find necessary for carrying out the purposes of this section and for keeping such records and affording such access thereto as he may find necessary; and

"(5) provides for such fiscal-control and fund-accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the agency under this section.

"(c) The Secretary shall make a grant under this section only if he finds that there is satisfactory assurance that the planning of solid waste disposal will be coordinated, so far as practicable, with and not duplicate other related State, interstate, regional, and local planning activities, including those financed in part with funds pursuant to section 701 of the Housing Act of 1954.

"GRANTS FOR RESOURCE RECOVERY SYSTEMS AND IMPROVED SOLID WASTE DISPOSAL FACILITIES

"SEC. 208. (a) The Secretary is authorized to make grants pursuant to this section to any State, municipal, or interstate or intermunicipal agency for the demonstration of resource recovery systems or for the construction of new or improved solid waste disposal facilities.

"(b)(1) Any grant under this section for the demonstration of a resource recovery system may be made only if it (A) is consistent with any plans which meet the requirements of section 207(b)(2) of this Act; (B) is consistent with the guidelines recommended pursuant to section 209 of this Act; (C) is designed to provide areawide resource recovery systems consistent with the purposes of this Act, as determined by the Secretary, pursuant to regulations promulgated under subsection (d) of this section; and (D) provides an equitable system for distributing the costs associated with construction, operation, and maintenance of any resource recovery system among the users of such system.

"(2) The Federal share for any project to which paragraph (1) applies shall not be more than 75 percent.

"(c)(1) A grant under this section for the construction of a new or improved solid waste disposal facility may be made only if—

"(A) a State or interstate plan for solid waste disposal has been adopted which applies to the area involved, and the facility to be constructed (i) is consistent with such plan, (ii) is included in a comprehensive plan for the area involved which is satisfactory to the Secretary for the purposes of this Act, and (iii) is consistent with the guidelines recommended under section 209, and

"(B) the project advances the state of the art by applying new and improved techniques in reducing the environmental impact of solid waste disposal, in achieving recovery of energy or resources, or in recycling useful materials.

"(2) The Federal share for any project to which paragraph (1) applies shall be not more than 50 percent in the case of a project serving an area which includes only one municipality, and not more than 75 percent in any other case.

"(d)(1) The Secretary, within ninety days after the date of enactment of the Resource Recovery Act of 1970, shall promulgate regulations establishing a procedure for awarding grants under this section which—

"(A) provides that projects will be carried out in communities of varying sizes, under such conditions as will assist in solving the community waste problems of urban-industrial centers, metropolitan regions, and rural areas, under representative geographic and environmental conditions; and

"(B) provides deadlines for submission of, and action on, grant requests.

"(2) In taking action on applications for grants under this section, consideration shall be given by the Secretary (A) to the public benefits to be derived by the construction and the propriety of Federal aid in making such grant; (B) to the extent applicable, to the economic and commercial viability of the project (including contractual arrangements with the private sector to market any resources recovered); (C) to the potential of such project for general application to community solid waste disposal problems; and (D) to the use by the applicant of comprehensive regional or metropolitan area planning.

"(e) A grant under this section—

"(1) may be made only in the amount of the Federal share of (A) the estimated total design and construction costs, plus (B) in the case of a grant to which subsection (b)(1) applies, the first-year operation and maintenance costs;

"(2) may not be provided for land acquisition or (except as otherwise provided in paragraph (1)(B)) for oprating or maintenance costs;

"(3) may not be made until the applicant has made provision satisfactory to the Secretary for proper and efficient operation and maintenance of the project (subject to paragraph (1)(B)); and

"(4) may be made subject to such conditions and requirements, in addition to those provided to in this section, as the Secretary may require to properly carry out his functions pursuant to this Act.
For purposes of paragraph (1), the non-Federal share may be in any form, including, but not limited to, lands or interests therein needed for the project or personal property or services, the value of which shall be determined by the Secretary.

"(f)(1) Not more than 15 percent of the total of funds authorized to be appropriated under section 216(a)(3) for any fiscal year to carry out this section shall be granted under this section for projects in any one State.

"(2) The Secretary shall prescribe by regulation the manner in which this subsection shall apply to a grant under this section for a project in an area which includes all or part of more than one State.

"RECOMMENDED GUIDELINES

"SEC. 209. (a) The Secretary shall, in cooperation with appropriate State, Federal, interstate, regional, and local agencies, allowing for public comment by other interested parties, as soon as practicable after the enactment of the Resource Recovery Act of 1970, recommend to appropriate agencies and publish in the Federal Register guidelines for solid waste recovery, collection, separation, and disposal systems (including systems for private use), which shall be consistent with public health and welfare, and air and water quality standards and adaptable to appropriate land-use plans. Such guidelines shall apply to such systems whether on land or water and shall be revised from time to time.

"(b)(1) The Secretary shall, as soon as practicable, recommend model codes, ordinances, and statutes which are designed to implement this section and the purposes of this Act.

"(2) The Secretary shall issue to appropriate Federal, interstate, regional, and local agencies information on technically feasible solid waste collection, separation, disposal, recycling, and recovery methods, including data on the cost of construction, operation, and maintenance of such methods.

"GRANTS OR CONTRACTS FOR TRAINING PROJECTS

"SEC. 210. (a) The Secretary is authorized to make grants to, and contracts with, any eligible organization. For purposes of this section the term 'eligible organization' means a State or interstate agency, a municipality, educational institution, and any other organization which is capable of effectively carrying out a project which may be funded by grant under subsection (b) of this section.

"(b)(1) Subject to the provisions of paragraph (2), grants or contracts may be made to pay all or a part of the costs, as may be determined by the Secretary, of any project operated or to be operated by an eligible organization, which is designed—

"(A) to develop, expand, or carry out a program (which may combine training, education, and employment) for training persons for occupations involving the management, supervision, design, operation, or maintenance of solid waste disposal and resource recovery equipment and facilities; or

"(B) to train instructors and supervisory personnel to train or supervise persons in occupations involving the design, operation, and maintenance of solid waste disposal and resource recovery equipment and facilities.

"(2) A grant or contract authorized by paragraph (1) of this subsection may be made only upon application to the Secretary no such application shall be approved unless at such time or times and containing such information as he may prescribe, except that it provides for the same procedures and reports (and access to such reports and to other records) as is required by section 207(b)

(4) and (5) with respect to applications made under such section.

"(c) The Secretary shall make a complete investigation and study to determine—

"(1) the need for additional trained State and local personnel to carry out plans assisted under this Act and other solid waste and resource recovery programs;

"(2) means of using existing training programs to train such personnel; and

"(3) the extent and nature of obstacles to employment and occupational advancement in the solid waste disposal and resource recovery field which may limit either available manpower or the advancement of personnel in such field.

He shall report the results of such investigation and study, including his recommendations to the President and the Congress not later than one year after enactment of this Act.

"APPLICABILITY OF SOLID WASTE DISPOSAL GUIDELINES TO EXECUTIVE AGENCIES

"SEC. 211. (a) (1) If—

"(A) an Executive agency (as defined in section 105 of title 5, United States Code) has jurisdiction over any real property or facility the operation or administration of which involves such agency in solid waste disposal activities, or

"(B) such an agency enters into a contract with any person for the operation by such person of any Federal property or facility, and the performance of such contract involves such person in solid waste disposal activities,

then such agency shall insure compliance with the guidelines recommended under section 209 and the purposes of this Act in the operation or administration of such property or facility, or the performance of such contract, as the case may be.

"(2) Each Executive agency which conducts any activity—

"(A) which generates solid waste, and

"(B) which, if conducted by a person other than such agency, would require a permit or license from such agency in order to dispose of such solid waste,

shall insure compliance with such guidelines and the purposes of this Act in conducting such activity.

"(3) Each Executive agency which permits the use of Federal property for purposes of disposal of solid waste shall insure compliance with such guidelines and the purposes of this Act in the disposal of such waste.

"(4) The President shall prescribe regulations to carry out this subsection.

"(b) Each Executive agency which issues any license or permit for disposal of solid waste shall, prior to the issuance of such license or permit, consult with the Secretary to insure compliance with guidelines recommended under section 209 and the purposes of this Act.

"NATIONAL DISPOSAL SITES STUDY

"SEC. 212. The Secretary shall submit to the Congress no later than two years after the date of enactment of the Resource Recovery Act of 1970, a comprehensive report and plan for the creation of a system of national disposal sites for the storage and disposal of hazardous wastes, including radioactive, toxic chemical, biological, and other wastes which may endanger public health or welfare. Such report shall include: (1) a list of materials which should be subject to disposal in any such site; (2) current methods of disposal of such materials; (3) recommended methods of reduction, neutralization, recovery, or disposal of such materials; (4) an inventory of possible sites including existing land or water disposal sites operated or licensed by Federal agencies; (5) an estimate of the cost of developing and maintaining sites including consideration of means for distributing the short- and long-term costs of operating such sites among the users thereof; and (6) such other information as may be appropriate."

(c) Section 215 of the Solid Waste Disposal Act (as so redesignated by subsection (b) of this section) is amended by striking out the heading thereof and inserting in lieu thereof "GENERAL PROVISIONS"; by inserting "(a)" before "Payments"; and by adding at the end thereof the following:

"(b) No grant may be made under this Act to any private profitmaking organization."

SEC. 105. Section 216 of the Solid Waste Disposal Act (as so redesignated by section 104 of this Act) is amended to read as follows:

"SEC. 216. (a) (1) There are authorized to be appropriated to the Secretary of Health, Education, and Welfare for carrying out the provisions of this Act (including, but not limited to, section 208), not to exceed $41,500,000 for the fiscal year ending June 30, 1971.

"(2) There are authorized to be appropriated to the Secretary of Health, Education, and Welfare to carry out the provisions of this Act, other than section 208, not to exceed $72,000,000 for the fiscal year ending June 30, 1972, and not to exceed $76,000,000 for the fiscal year ending June 30, 1973.

"(3) There are authorized to be appropriated to the Secretary of Health, Education, and Welfare to carry out section 208 of this Act not to exceed $80,000,000 for the fiscal year ending June 30, 1972, and not to exceed $140,000,000 for the fiscal year ending June 30, 1973.

"(b) There are authorized to be appropriated to the Secretary of the Interior to carry out this Act not to exceed $8,750,000 for the fiscal year ending June 30, 1971, not to exceed $20,000,000 for the fiscal year ending June 30, 1972, and not to exceed $22,500,000 for the fiscal year ending June 30, 1973. Prior to expending any funds authorized to be appropriated by this subsection, the Secretary of the Interior shall consult with the Secretary of Health, Education, and Welfare to assure that the expenditure of such funds will be consistent with the purposes of this Act.

"(c) Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation for grants, contracts, or other payments under any provision of this Act for any fiscal year beginning after June 30, 1970, shall be available for evaluation (directly, or by grants or contracts) of any program authorized by this Act.

"(d) Sums appropriated under this section shall remain available until expended."

TITLE II—NATIONAL MATERIALS POLICY

SEC. 201. This title may be cited as the "National Materials Policy Act of 1970".

SEC. 202. It is the purpose of this title to enhance environmental quality and conserve materials by developing a national materials policy to utilize present resources and technology more efficiently, to anticipate the future materials requirements of the Nation and the world, and to make recommendations on the supply, use, recovery, and disposal of materials.

SEC. 203. (a) There is hereby created the National Commission on Materials Policy (hereafter referred to as the "Commission") which shall be composed of seven members chosen from Government service and the private sector for their outstanding qualifications and demonstrated competence with regard to matters related to materials policy, to be appointed by the President with the advice and consent of the Senate, one of whom he shall designate as Chairman.

(b) The members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

SEC. 204. (a) The Commission shall make a full and complete investigation and study for the purpose of developing a national materials policy which shall include, without being limited to, a determination of—

(1) national and international materials requirements, priorities, and objectives, both current and future, including economic projections;

(2) the relationship of materials policy to (A) national and international population size and (B) the enhancement of environmental quality;

(3) recommended means for the extraction, development, and use of materials which are susceptible to recycling, reuse, or self-destruction, in order to enhance environmental quality and conserve materials;

(4) means of exploiting existing scientific knowledge in the supply, use, recovery, and disposal of materials and encouraging further research and education in this field;

(5) means to enhance coordination and cooperation among Federal departments and agencies in materials usage so that such usage might best serve the national materials policy;

(6) the feasibility and desirability of establishing computer inventories of national and international materials requirements, supplies and alternatives; and

(7) which Federal agency or agencies shall be assigned continuing responsibility for the implementation of the national materials policy.

(b) In order to carry out the purposes of this title, the Commission is authorized—

(1) to request the cooperation and assistance of such other Federal departments and agencies as may be appropriate;

(2) to appoint and fix the compensation of such staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competition service, and without regard to the provisions of chapter 51 and subchapter III of such title relating to classification and General Schedule pay rates; and

(3) to obtain the services of experts and consultants, in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed $100 per diem.

(c) The Commission shall submit to the President and to the Congress a report with respect to its findings and recommendations no later than June 30, 1973, and shall terminate not later than ninety days after submission of such report.

(d) Upon request by the Commission, each Federal department and agency is authorized and directed to furnish, to the greatest extent practicable, such information and assistance as the Commission may request.

SEC. 205. When used in this title, the term "materials" means natural resources intended to be utilized by industry for the production of goods, with the exclusion of food.

SEC. 206. There is hereby authorized to be appropriated the sum of $2,000,000 to carry out the provisions of this title.

And the Senate agree to the same.

JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
THOMAS F. EAGLETON,
J. CALEB BOGGS,
HOWARD H. BAKER, Jr.,
Managers on the Part of the Senate.

HARLEY O. STAGGERS,
JOHN JARMAN,
PAUL G. ROGERS,
WILLIAM L. SPRINGER,
ANCHER NELSEN,
Managers on the Part of the House.

Mr. RANDOLPH. Mr. President, I invite the Senate's attention to the conference report on the Resource Recovery Act of 1970. This legislation, passed by the Senate in early August, represents a

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dramatic reorientation of the Federal effort in solid waste management.

This bill, H.R. 11833, extends for 3 years and extensively rewrites the Solid Waste Disposal Act of 1965. By shifting the emphasis from conventional waste disposal to the recycling and recovery of materials and energy from solid waste, this act represents an important step toward the alleviation of current solid waste problems and the long-range conservation and protection of the environment.

The Senate and House versions were similar in content and approach. The Senate bill originally was S. 2005, introduced by Senator Muskie, chairman of the Subcommittee on Air and Water Pollution, myself, and other members of the Committee on Public Works. The House bill was introduced by Representative Paul Rogers. The primary differences were in authorization figures, in the Senate's treatment of the Bureau of Mines involvement in solid waste, and in the contrast between the House's program for the construction of solid waste disposal facilities and the Senate's demonstration of areawide resource recovery systems.

The conference substitute authorizes $460,750,000 over 3 fiscal years for new and expanded programs under the Solid Waste Disposal Act, as well as $2 million to support a 2-year study by the National Commission on Materials Policy proposed by Senator Boggs.

The Bureau of Mines in the Department of the Interior would continue its role in research on metal and mineral solid waste problems, subject to consultation with the Administrator of the Environmental Protection Agency to assure consistency with the purposes of the Solid Waste Disposal Act. The conference substitute authorizes for the Secretary of the Interior $8.75 million in fiscal year 1971, $20 million in fiscal year 1972, and $22.5 in fiscal year 1973.

As reported by the conference, the legislation follows the House and Senate mandate in expanding the basic Federal research program to emphasize resource recovery, and in authorizing in a new section 205 a study of important issues related to recycling. These issues—means of recovering materials and energy, changes in production and packaging practices, including disposal charges, to reduce wastes; the use of Federal procurement to develop market demand for recovered resources; and incentives and disincentives to recycling, including tax policies—were part of a 2-year study in a separate title in the Senate bill. The conference substitute makes it an ongoing study with annual reports. It should be clear that under this language, the Administrator would have authority comparable to that in section 204 to demonstrate at pilot scale any of the fruits of this study.

The conference substitute also provides for an expanded planning grant program which combines the similar language of the two bills. Grants for planning activities would be extended to municipal and intermunicipal agencies, where only State and interstate agencies are presently aided. These grants would include funds to prepare proposals for resource recovery systems demonstration grants and programs for the removal and processing of abandoned motor vehicle hulks. Grants for the implementation of plans, proposed by the House bill, have been dropped. The Federal share of planning grants is 66⅔ percent for single municipalities and 75 percent in all other cases.

The Senate bill proposed to add several sections to the act, which have been adopted in substance by the conference: a program of training grants for personnel in the design, operation, and maintenance of solid waste disposal and resource recovery equipment and facilities; a national disposal sites study; guidelines and technical information on solid waste handling to be published by the Administrator of the Environmental Protection Agency; and a requirement of compliance by Federal facilities and federally licensed activities with these guidelines.

The most important element of the conference report is the treatment of demonstration and construction grants. Rather than stay with a program of demonstrating resource recovery systems, as the Senate proposed, or a categorical construction grant program as in the House bill, the conferees blended the two into a sharply focused program for funding innovations in solid waste management.

The conference substitute authorizes grants for the construction of new or improved solid waste disposal facilities and the demonstration of resource recovery systems. These grants could reach 75 percent of the total design and construction costs, except that a single municipality constructing a facility—rather than a system—could receive only 50 percent. In the system demonstration projects, first-year operation and maintenance costs would also be eligible for funding.

All projects under this combined section 208 approach must be consistent with the guidelines called for by this act and with any planning for the area involved.

The combination of these approaches gives the solid waste disposal program maximum flexibility. Long-term solutions must rely on recycling; immediate improvements can be made in such subsystems as collection, transportation, processing, separation, and recovery or disposal.

In fiscal 1971, the conference substitute authorizes $41.5 million to carry out this section 208 and the other activities under the act. This will also give the Administrator the greatest possible flexibility to commit as much money as possible in fiscal 1971 for resource recovery systems and solid waste disposal facilities, yet utilize as much as necessary for other functions.

In fiscal year 1972, $80 million is authorized specifically for section 208 demonstration and construction grants, with $72 million for other activities. For fiscal 1973, $140 million is authorized for section 208, and $76 million for the remainder of the act. Of this money, no more than 15 percent of the authorization for section 208 in any 1 year can be granted in any one State.

Title II of the conference substitute is the amendment Senator Boggs offered originally to the Senate bill. This creates a National Commission on Materials Policy, which would report by June 23, 1973, on future materials requirements, means for the extraction, development and use of materials susceptible to recycling or nonpolluting disposal, and the proper governmental agency to implement the national materials policy it recommends.

Mr. President, this conference report represents a valuable accommodation of the different approaches of the House and Senate. As chairman of the conference and of the Committee on Public Works, I wish to personally and officially stress that we have given an important redirection of the Federal effort in solid waste management from conventional disposal to innovative techniques of management and recycling of resources.

STATEMENT BY SENATOR MUSKIE

Mr. President, the knowledgeable chairman of our Subcommittee on Air and Water Pollution is necessarily absent this afternoon.

At the request of the distinguished junior Senator from Maine (Mr. Muskie), I ask unanimous consent that there be printed at this point in the Record a statement prepared by the Senator from Maine with reference to this matter. The Senator from Maine was one of the conferees.

There being no objection, Senator Muskie's statement was ordered to be printed in the Record, as follows:

Statement of Senator Muskie

Mr. President, the conference report on the Resource Recovery Act of 1970 combines the most useful and imaginative approaches to solid waste management included in the House bill, sponsored by Representative Paul Rogers, and the Senate bill, which I initially introduced and which was improved by the Subcommittee on Air and Water Pollution and the Senate Committee on Public Works.

Section 208 of the conference substitute for H.R. 11833 reflects the concern of the Rogers bill for funding innovative solid waste disposal facilities as well as the need to demonstrate areawide resource recovery systems.

Under Section 208 grants would be available to municipalities, States, or interstate or intermunicipal agencies to construct improved solid waste disposal facilities or to demonstrate areawide resource recovery systems. An improved solid waste disposal facility is one which advances the state of the art by applying new or improved techniques for reducing the environmental impact of solid waste. These facilities would be eligible for a Federal grant of 50% of the cost of construction in the case of a single municipality and 75% for other projects.

Resource recovery systems are eligible for 75% of the costs of design, construction, and first-year operation and maintenance costs. They must also include a means for distributing the costs among the users of the system.

The conferees authorized $80 million for fiscal 1972 and $140 million in fiscal 1973. No more than 15% of the annual authorization could be granted in any one State. While the conference bill does not specifically authorize funds for Section 208 in fiscal 1971, funds are available from the $41.5 million authorization for Section 208 grants to be allocated among States as demands require.

The total authorization figures in the conference substitute are basically those proposed by Representative Rogers' bill, scaled to what will be needed in fiscal 1971. In addition to the $41.5 million in fiscal 1971 and

XUM

the specific sums for section 208, the bill authorizes $72 million for fiscal 1972 and $76 million for fiscal 1973 for the remainder of the programs under the Solid Waste Disposal Act.

The Senate bill had eliminated the Act's separate authorization to the Secretary of the Interior for the Bureau of Mine's research in metal and mineral solid waste problems. The conference substitute accepts the position of the House, and authorizes for the Secretary of the Interior $8.75 million in fiscal 1971, $20.0 million in fiscal 1972, and $22.5 million in fiscal 1973, but requires that the Secretary consult with the Administrator of EPA before committing funds to any solid waste disposal project.

Several sections which the Senate bill added to the Act were accepted by the conference. These included a program of training grants, a national disposal sites study, and a requirement for compliance, with solid waste guidelines included in both House and Senate proposals, by Federal facilities and Federally licensed activities.

The language of the House and Senate bills was similar on amendments to the research and planning grants section of the Act. The conference agreement generally follows the House language for planning grants, except to add provision for grants to develop proposals for demonstration and construction grants and provision to plan programs for the removal of abandoned motor vehicles, which the Senate bill proposed. The conference agreement deleted provision for grants for the implementation of plans included in the House bill.

The conference also accepted Title II of the Senate bill, establishing the National Commission on Materials Policy. This was the amendment offered by Senator J. Caleb Boggs. It authorized the Commission to study and report by June 30, 1973 on materials policy and to ascertain which agency of the government should be responsible, on a continuing basis for implementing that policy. The Title includes an authorization of $2 million.

Senator Jennings Randolph, Chairman of the Senate Committee on Public Works and Chairman of the conference committee, deserves special recognition for his effort both in the formulation of the original Senate bill and in this agreement.

The Resource Recovery Act of 1970 will be a major weapon in the battle against the "third pollution." If adequate funding and manpower are provided for this program important steps can be taken to abate a growing menace to our water, air and land resources. The diseases that inadequate solid waste management foster and the aesthetic blight of litter and dumps can be eliminated.

These are the goals of this legislation. Its importance should be underscored. Once again Congress has taken the lead to deal with a difficult environmental problem. I urge adoption of the conference report.

Mr. BOGGS. Mr. President, will the Senator yield?

Mr. RANDOLPH. Mr. President, I am delighted to yield to the distinguished Senator from Delaware.

Mr. BOGGS. Mr. President, I rise to express my support for the report by the committee on conference on H.R. 11833, the Resource Recovery Act of 1970.

There are numerous aspects of this legislation that are of great importance to the Nation. However, I should like to confine my remarks to two aspects in the legislation.

First, I wish to discuss the funds authorized under section 208 for grants to demonstrate and construct innovative facilities and systems for resource recovery systems and solid waste disposal. No specific sum is authorized for this program during the current fiscal year. This decision was taken due to the uncertainty as to the number of States and cities that could prepare proposals in the remaining few months of fiscal year 1971. A total of $41,500,000, however, is authorized for the entire bill during fiscal year 1971. I anticipate that the Bureau of Solid Waste Management would seek a significant sum, possibly as much as $20 million, to support section 208 projects this fiscal year, for section 208 lies at the heart of what this legislation seeks to accomplish.

There is a great need to seek technologically innovative systems and facilties for the purpose of resource recovery and solid waste disposal. The need was amply demonstrated during extensive hearings on the subject by our Committee on Public Works, and I am convinced we must move ahead rapidly on this subject.

In addition, Mr. President, I wish to note title II of this bill. This title appeared in the bill passed by the Senate. It creates a National Commission on Materials Policy to examine and analyze the need for a national materials policy. The committee on conference added to the Senate language a requirement that the Commission make recomendations on which Federal agency is best equipped to oversee, on a continuing basis, the implementation of the national materials policy once the Commission's activities cease. This directive was implicit in the original Senate bill. Nevertheless, I believe the new language is helpful as it makes this directive more specific.

Again, Mr. President, I wish to commend the members of the committee on conference for their work on this bill. The chairman of the full committee (Mr. RANDOLPH) was particularly effective in his arguments in support of the Senate position. I commend him. I also wish to thank the Members of the House who served on the committee on conference for their most helpful and effective effort in seeking to resolve the differences between our two bills.

This bill, H.R. 11833, should prove to be a landmark in our effort to reduce solid waste and thus enhance our environment, I commend it to my colleagues.

Mr. COOPER. Mr. President, although not a member of the conference committee on the bill, H.R. 11833, the Resource Recovery Act of 1970, as ranking minority member of the Committee on Public Works, I want to commend the Senate conferees for bringing back this important bill in basically the same form as it passed the Senate.

This represents the second major piece of environmental legislation coming from the Committee on Public Works this session, the other being the Water Quality Improvement Act of 1970 signed into law in April. In addition, the committee is presently in conference with the House on the National Ambient Air Quality Standards Act of 1970 which passed the Senate last month.

As the environmental problems grow, the legislative response becomes more difficult and complex and the committee has been steadfastly working toward providing responsive legislation. I expect that when we resume after the elections we will consider water pollution legislation, thus rounding out a very successful and historically significant session of Congress with respect to the environment.

The committee, particularly the chairman, Senator RANDOLPH, the subcommittee chairman, Senator MUSKIE, and Senator BOGGS, the ranking minority member of the Subcommittee on Air and Water Pollution, all of whom served as conferees, and Senators BAKER and EAGLETON, who were also conferees deserve special credit. One of the trademarks of the Committee on Public Works has been the bipartisan nature of its activity and the fact that all members participate fully. Even in these difficult times this pattern has been adhered to and the entire committee stands as an outstanding example of how the legislative process can and should work.

Mr. BAKER. Mr. President, the Senate members of the conference committee on H.R. 11833 have brought back to the Senate a bill which in all substantial respects parallels the bill passed by the Senate on July 31.

As several members of the Committee on Public Works pointed out on the floor when the bill was passed, this is very important legislation in that it recognizes the urgent needs of the country in the management of solid waste while being, at the same time, fiscally responsible. The conference bill is consistent with these purposes. In only one respect has there been significant change from the Senate version of the bill, and that change results from the incorporation of certain elements of the House bill providing for the construction of new and improved solid waste facilities. There is no intention on the part of the conference committee that this bill be construed as establishing a new categorical grant-in-aid program under which every community in the Nation would be eligible for Federal construction assistance. The bill does provide, however, for Federal assistance designed to stimulate the development of new systems and technology necessary to respond to the growing solid waste crisis. Following the experience gained under this federally assisted research and development program, systems and technology will be available for general application at a later date.

The conference bill is consistent with the report of the Public Works Committee that accompanied the Senate bill. I ask unanimous consent that there be printed at this point in the RECORD pertinent excerpts from that report.

There being no objection, the excerpts from the report were ordered to be printed in the RECORD, as follows:

RESOURCE RECOVERY SYSTEMS

After analysis of the completed hearing record on pending solid waste legislation, particularly testimony on Section 208 of the bill, the Committee determined that the authorization of a new unrestricted construction grant program for solid waste disposal is not justified at this time. As the bill reported from the Committee clearly reflects, there is an urgent need to redirect the thrust of waste management from disposal to the maximum recovery of reusable materials and energy. The authorization of a construction

XUM

grant program at this time could result in a massive commitment to presently available technology oriented towards disposal. To avoid stimulating investment in inadequate technology the Committee has substituted a system demonstration provision for the proposed construction grant provision.

At the same time the Committee recognizes that many communities across the Nation, particularly rural and small municipalities, have severe waste disposal problems, with constraints on past practices of waste management resulting from compliance with air and water quality standards. The cost and administration of disposal techniques such as sanitary land fill and modern incineration are expenses that should be borne by the producers of such waste, whether industrial or residential household.

The Committee does recognize that information regarding technology developed in part pursuant to the Solid Waste Disposal Act of 1965 regarding sanitary landfill and improved incineration has not been generally available to the communities throughout the Nation. Therefore, Section 209(c) of the reported bill would authorize a greatly expanded information dissemination function for the Secretary, so that all areas of the Nation can benefit from knowledge of sound waste management practices and technology currently available.

Consistent with the judgment that the Nation cannot afford merely to dispose of the tremendous volume of material that is generated by our industrial and consuming society, especially in urban concentrations, and recognizing further that a great deal of research has been done on resources recovery, the Committee has substituted for the construction grant proposal a new program of grants to municipalities to achieve demonstration of resources recovery systems on an areawide basis. This program is designed to stimulate, in the shortest time, the development of systems of technology necessary to manage growing volumes of community wastes and achieve maximum recovery of materials and energy from such wastes.

Throughout the hearings on resources recovery, testimony was received describing various technologies and systems to achieve resources recovery. The Committee believes it is urgent national policy to move these proposals into actual application and operation in as many different areas, from large metropolitan complexes to smaller communities, as necessary to demonstrate innovative and responsive resources recovery systems. Such systems can then be applied, as appropriate, to all areas of the country in which similar problems exist.

The program would provide 75 percent Federal assistance to develop and construct advanced systems of resources recovery in various categories of communities established by the Secretary in order to demonstrate systems applicable in different urban and rural conditions.

It is the Committee's intent that the program authorized shall be one which will, in many respects, parallel the type of research and development procurement conducted by the Department of Defense and the National Aeronautics and Space Administration in the sense that the Secretary is authorized to promulgate regulations describing the categories of systems for which applications will be received, specifying that such applications are to be received by a certain date and further establishing guidelines for review of such applications.

Grants are to be awarded only to those applications which the Secretary finds to be clearly superior with respect to the system of resources recovery proposed, the economics of the system and, the potential for general application for solution of the myriad of waste problems. It should be emphasized that the selection procedure, thereby established is not competition based strictly upon low cost, but rather is competition to stimulate innovative systems, of general application which are both economically and commercially viable and which recover the maximum amount of materials and energy.

The Committee was particularly impressed with testimony received in San Francisco describing a proposed municipal resources recovery system for the San Francisco Peninsula area, and the advanced state of development which that system proposes. The Committee received many other impressive descriptions and displays. It is the Committee's judgment that well researched methods, similar to those described in California, should be given an on-site demonstration application as soon as possible. The Nation can no longer afford to await more study and analysis and must move from the great deal of information presently available to full scale demonstration of recovery systems.

It is expected by the Committee that responsible government officials in municipalities and communities across the country will take advantage of the program proposed in the bill and will develop proposals for the most advanced and responsive systems imaginable, for consideration by the Secretary. The Committee encourages such municipalities to work very closely with relevant private industry talent and resources through contract or otherwise, to develop systems which will provide increased public service in waste management, combined with maximum recovery of materials and energy in such waste and economic viability through the use of user charges and markets for recovered material and energy.

The Committee looks upon the proposed demonstration grant program as a method of stimulating not just the development of technology and its areawide application, but it will also cause communities to study their own circumstances with respect to waste management. Through such studies, communities will be able to provide better public service to their citizens in the future and be in a position to apply systems that are developed pursuant to these demonstration grants as they become available. The Committee hopes that communities will take immediate advantage of this program, and seeks to encourage that result by Section 207(a)(3) of the reported bill, which would authorize Federal assistance to develop proposals for resource recovery demonstration grants for submission to the Secretary.

The **PRESIDING OFFICER**. The question is on agreeing to the conference report.

The conference report was agreed to.

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

The Senate resumed the consideration of the bill (H.R. 18583) to amend the Public Health Service Act, and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

Mr. **DODD**. Mr. President, I call up my amendment No. 1034 and ask that it be stated.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows: The Senator from Connecticut (Mr. DODD) proposes an amendment as follows:

On page 39, between lines 7 and 8, insert the following and renumber succeeding terms accordingly:

"(4) Chlordiazepoxide.

"(5) Diazepam."

TRANQUILIZERS LIBRIUM AND VALIUM

Mr. **DODD**. Mr. President, I do not think this amendment will take very long. I do not intend to ask for a rollcall vote. I say that because I think the Members of the Senate will agree that this amendment should be agreed to.

Mr. President, I propose an amendment to the pending H.R. 18583 which would add to title II of that bill controls over two widely abused tranquilizers, known in the trade as librium and valium.

I do so because of the fact that when drug legislation passed this body unanimously in January of this year, controls over librium and valium were included in S. 3246, the Controlled Dangerous Substances Act.

The other body dropped from its bill, the pending H.R. 18583, the controls which the Senate included in our bill without controversy during floor debate on the mesaure.

Since these two drugs have serious addictive propensities, this amendment is introduced to reintroduce the necessary elements of balance and realistic concern into the legislation.

Drug addiction in the United States has reached frightening proportions.

Appearing before the Subcommittee on Juvenile Delinquency, John Ingersoll, the Director of the Bureau of Narcotics and Dangerous Drugs, said:

> The issue of drug abuse and misuse in the United States is one of increasing concern in the minds of so many Americans. It is a problem that is critical and requires congressional attention if we are to meet effectively the challenge it presents to our system of justice. There is little doubt that addiction and drug abuse have reached epidemic proportions over the last several years. No community has been left unscathed. No group within the community has remained untouched. It has permeated all segments of our society and we can now rightfully consider it to be an American dilemma.
>
> The types of drugs abused have grown enormously in the last decade. While the use of narcotics continues to be a growing problem, it is overshadowed by the rapid increase in the use of the amphetamines, the barbiturates, and the hallucinogens, which include marihuana. We must keep in mind that to focus attention solely on today's drug of choice, which is marihuana, would be to miss the central issue. We must examine the total picture to insure that the drug of choice of tomorrow does not create the problems that we face with marihuana today. Therefore, I earnestly request that this subcommittee recognize the fact that it is legislating not just the drug problem of today, but also the prospective drug problems of the 1970's.

While I must express satisfaction that the urgently needed bill finally was passed by the House almost 9 months later, I must also express deep concern, indeed consternation, at the amended version which excludes librium and valium from the regulatory powers of the Department of Justice which will regulate its enforcement.

To understand fully the implication of this amendment, one must go back to the hearings of the Subcommittee on Juvenile Delinquency which were held for 8 days in September and October 1969.

These hearings were certainly among the most extensive and exhaustive ever undertaken by the subcommittee. We

XUM

heard physicians, psychiatrists, psychologists, people representing the pharmaceutical industry, and executives from the Bureau of Narcotics and Dangerous Drugs.

Almost everybody who testified at these hearings agreed that the new law would be a substantial step toward the control of the increasingly dangerous drug culture in this country. There were, however, a few notable exceptions.

Hoffman-LaRoche, the manufacturers of the tranquilizers known as librium and valium, strenuously objected to the inclusion of their products in the schedule devised under the law. Their allegation was that these drugs were not addictive or even habituating in any sense of the word; that they were not aware of a single case which conclusively proved the addictive or habituating potential of these products.

It is clearly evident, however, that their objection to the inclusion in the law of librium and valium are not so much based on sound medical practice as they are on the slippery surface of unethical profits.

In one recent year, sales of librium and valium amounted to nearly $200 million. Given the profit margin in the pharmaceutical industry which amounts to 21 percent, the highest of any industry in this country, the profits thus amount to more than $40 million, a tidy sum which Hoffman-LaRoche has done a great deal to protect.

Thus the fee reportedly paid by Hoffman-LaRoche to a Washington law firm to lobby the librium-valium provision out of the bill is three times that of the total subcommittee staff budget for this year. No wonder that the Senate first, and then the House, was overrun by Hoffman-LaRoche lobbyists.

XUM

During the hearings which we held last year, ample evidence of the addictive qualities of librium and valium was produced.

Their inclusion as controlled drugs was emphatically endorsed by Dr. Roger Egeberg, the then Secretary for Health and Scientific Affairs of Health, Education, and Welfare.

And John Ingersoll, the Director of the Bureau of Narcotics and Dangerous Drugs, testified that a very limited survey, covering 2½ years, showed that 1,353 people attempted suicide using librium or valium, or both; of these, 93 people were successful in their attempts to take their own lives. These drugs simply are not as safe and harmless as the maker makes them out to be.

Perhaps more important still, a survey of pharmacies in only six States: Massachusetts, Rhode Island, New York, Florida, Texas, and California indicated inventory shortages of librium and valium amounting to 753,434 doses.

Traditionally, it is only the addictive drug which is most likely to show shortages, caused by larceny, illegal diversion, and the like. Nobody steals such things as aspirin, or calamine lotion, because these things are useless to the illegal trader or user of habituating drugs.

In this connection, it is important to note the memorandum submitted by the Bureau of Narcotics and Dangerous Drugs, dealing with the two specific drugs, librium and valium, which I would like to introduce into the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

EXHIBIT 1

REPORT ON ABUSE OF LIBRIUM AND VALIUM SUBMITTED TO THE SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY BY U.S. DEPARTMENT OF JUSTICE, BUREAU OF NARCOTICS AND DANGEROUS DRUGS.

INTRODUCTION

The evidence introduced at the original hearing dealt with examples of abuse or studies showing the potential for abuse which were developed prior to August, 1966. To determine the current status of these drugs' potential for abuse, the Bureau of Narcotics and Dangerous Drugs initiated a limited survey within each of the Bureau's 14 Regions for the years 1967 through 1969. The study was quite restricted in that generally only the headquarters city of the Region, the State agencies wherein the Regional headquarters is located and one additional city were covered. Great reliance was placed on the local authorities to provide information which they already had and to initiate new information gathering programs.

The following information is summarized by State, by Region. Complete back up material is on file with the Bureau.

GENERAL SUMMARY

State and number of pharmacies audited	Shortages	
	Librium	Valium
I. Evidence relating to diversion:		
Massachusetts (3)	65, 499	39, 959
Rhode Island (2)	2, 023	1, 989
New York (22)	102, 270	84, 376
Florida (10)	141, 673	190, 501
Texas (6)	68, 171	17, 530
California (13)	20, 800	18, 643
Total	400, 436	352, 998
Total, both drugs	753, 434	

II. Individuals taking Librium and/or Valium on their own initiative or not pursuant to sound medical advice:

Attempted Suicides, 1,256.

Suicides, 97.

Adult "Accidental Ingestion", 929.

III. Illegal activities involving Librium and/or Valium: 99.

REGION 1. MASSACHUSETTS

I. Accountability audit investigations of pharmacies were conducted jointly by the Bureau of Narcotics and Dangerous Drugs and the Massachusetts Board of Pharmacy. A summary of the findings of these audits follows:

Pharmacy	Period covered	Shortages[1]	
		Librium	Valium
Medford	May 1969 to October 1969	2, 730	1, 930
F. & E. Bailey & Co	April 1969 to October 1969	1, 950	3, 285
Star	do	60, 819	34, 744
Total		65, 499	39, 959
Total, both drugs		105, 458	

[1] By number of capsules. Various dosage units for each drug are combined in totals. Not all dosage units or both drugs audited in every store.

II. The following table contains a summary of some of the cases in which Librium and Valium were detected during police investigation of other drug offenses in Massachusetts:

Date, August 1969; Cambridge—Defendant arrested for possession of marihuana. Search of premises revealed marihuana, Librium and other dangerous drugs.

Date, April 1969; Cambridge—Defendant arrested for possession of marihuana and barbiturates. Valium also seized at time of arrest.

Date, April 1969, Cambridge—Three defendants arrested for unlawful possession of marihuana. Librium also found.

Date, February 1969; Cambridge—Acting on a search warrant for marihuana and LSD, police uncovered LSD and Librium.

Date, September 1969; Cambridge—Marihuana, Librium and LSD taken in drug raid.

Date, March 1969; Medford—Defendant originally arrested for speeding found to be in possession of narcotics and Librium.

Date, March, 1969; Medford—Case involved forged prescription for Librium and forged application for MEDICAID. Five defendants arrested in raid and marihuana, Librium and other dangerous drugs seized. Defendants previously involved with glue sniffing.

Date, 2/69; Medford—Defendants arrested for robbery of pharmacy in which narcotics, DACA drugs, Librium and Valium were taken. Previously been arrested in other possession of harmful drugs cases.

Date, 7/69; Sommerville—Defendant arrested in connection with drug store robbery. Drugs recovered included narcotics, DACA drugs, and Librium.

Date, 4/69; Dedham—Four juveniles arrested in automobile found to be in possession of Librium and marihuana.

III. A survey of several public health facilities, poison control centers and law enforcement agencies within the State of Massachusetts revealed the following data on incidents indicative of abuse of Librium and Valium:

Drug	Suicide	Attempted suicide	Adult "accidental ingestion"[1]
Librium alone		15	11
Librium plus other drugs	1	13	5
Valium alone		7	7
Valium plus other drugs		5	
Total	1	40	23

[1] Includes ingestion by children over 12 years of age and adults under 60 which, though not classified as suicide attempts by responsible medical or public authorities, indicate suicidal situations because of other drugs ingested simultaneously with the Librium and/or Valium or for other reasons.

REGION 1. RHODE ISLAND

I. Accountability audit investigations were conducted on two pharmacies by the State of Rhode Island Division of Drug Control. A summary of their findings follows:

Pharmacy	Period covered	Shortages[1]	
		Librium	Valium
Adams Drug Store	January 1968 to October 1969	1, 555	636
Adams Drug Co	October 1968 to November 1969	468	1, 353
Total		−2, 023	1, 989
Total, both drugs		4, 012	

[1] By number of capsules. Various dosage units for each drug are combined in totals. Not all dosage units or both drugs audited in every store.

II. The following is a summary of incidents indicative of abuse of Librium and Valium which were received from public health officials in Rhode Island for the period 1967–1968.

Drug	Attempted suicide	Suicide	"Kicks"	Adult accidental ingestions[1]
Librium alone	5	1		
Librium plus other drugs	4		1	1
Valium alone	2			
Valium plus other drugs	1			
Total	12	1	1	1

[1] Includes ingestion by children over 12 years of age and adults under 60 which, though not classified as suicide attempts by responsible medical or public authorities, indicate suicidal situations because of other drugs ingested simultaneously with the Librium and/or Valium or for other reasons.

REGION 1. CONNECTICUT

Police authorities of the State of Connecticut reported for 1968 twelve criminal cases where the defendants were found to be in possession of Librium in violation of the law.

REGION 2. NEW JERSEY

I. The Professional Board of Inspectors of the New Jersey State Board of Pharmacy initiated six investigations of pharmacies from 1968 to the present which resulted in undercover purchases of Librium (no attempt was made to purchase Valium). Each store was subsequently involved in disciplinary action for these illegal sales.

Pharmacy	Number of sales	Amount of librium purchased	Board action
White's	3	535	$600 fine.
Lebow's Pharmacy, Inc.	8	110	$2,500 fine plus license suspended for 14 days.
Belmont	2	20	$100 fine.
Roseville Drug Center.	4	50	$500 fine.
Edwards	2	35	Do.
Phillips	3	35	License suspended for 14 days.
Total	22	765	

II. A survey of the Newark, New Jersey Police Narcotic Squad for the year 1968 revealed the following:

Case No. 5790: 12/7/68, 1 defendant: Creating a disturbance and illegal possession of Tuinal and Librium.

Case No. 6032: 2/20/68, 2 defendants: Illegal possession of Librium and Heroin.

Case No. 5879: 11/22/68, 1 defendant: Illegal possession of Librium and marihuana.

Case No. 5433: 7/28/68, 3 defendants: Illegal possession of Librium and loaded firearms.

REGIONAL 2. NEW YORK

I. An examination of the records of the New York State Board of Pharmacy from 1967 to date revealed that out of a total of thirty-seven illegal drug sales made to inspectors of the Board by pharmacies, Librium and/or Valium were involved in ten of the sales. Accountability audit investigations were made by the Bureau of Narcotics and Dangerous Drugs in conjunction with the State authorities in the ten stores which had illegally sold the Librium and Valium and in twelve other stores involved in illegal sales of drugs. Twenty of these audits were conducted in New York City and two in Buffalo. The audits covered the period from January 1 to September 26, 1969. A summary of the findings of these audits follows:

Drug short	Number of stores in which drug short	Amount to be accounted for from Jan. 1, 1969, to Sept. 26, 1969	Amount short	Percent short
Librium caps, 5 mgs	14	72,800	23,723	32.58
Librium caps, 10 mgs	19	217,150	78,547	36.17
Valium tabs, 2 mgs	13	57,900	21,717	37.50
Valium tabs, 5 mgs	16	141,400	62,659	44.31
Total		489,250	186,646	[1] 38.14

[1] Average.

II. An examination of the records of the New York City Poison Control Center for the years 1967, 1968 and the first nine months of 1969, reveals numerous incidents of excessive ingestion of Librium, Valium and other tranquilizers. Although the causes of injury are not available for the years 1967 and 1968, from the nature of the operation of the Poison Control Centers they can be attributed to either accidental or intentional (suicidal) overdoses. For the cases reported in the first nine months of 1969, it is known that ten involved attempted suicides. One of the cases involved an accidental overdose by an adult who admitted he illegally obtained the Librium from one of the pharmacies discussed in the previous section. A summary of the results of the examination of the Poison Control Center records follows. The figures do not contain incidents of ingestion by children under 12 years of age or adults over 60 years of age.

III. Information obtained from the files of the New York State Department of Health for the years 1967 and 1968 also shows 223 incidents of poisonings involving Librium and 114 involving Valium, either alone with each other or in conjunction with other harmful drugs. Although the information generally did not distinguish between suicides, attempted suicides and accidental ingestions, the age of the person and other drugs ingested indicated a suicidal tendency in 55 of these cases, at least one of which resulted in death. The figures do not contain incidents involving children under 12 years of age or adults over 60.

Drug	1967	1968	1969 (Jan. 1–Sept. 30)
Librium	173	205	21
Valium	84	105	20
Unspecified tranquilizers	17	19	
Total	274	329	41

IV. An examination of the records of the New York City Medical Examiners revealed several examples of deaths in which Librium and Valium were involved. These findings are summarized below:

REGION 2—NEW YORK

Date of death	Sex	Age	Laboratory findings
November 1967	Female	26	Librium metabolite.
April 1967	do	59	Librium.
August 1967	Male	46	Librium poisoning.
Do	do	45	Librium and Placidyl.[1]
August 1968	Female	45	Acute barbiturate poisoning.[2]
September 1968	do	27	Acute barbiturate poisoning.[3]
Do	do	57	Overdose of Seconal.[4]
December 1968	do	43	Overdose of Librium.
Do	do	35	Overdose of Librium and Darvon.
February 1968	Male	40	Placidyl.[5]
August 1968	Female	36	Darvon.[6]
January 1968	Male	43	Overdose of unknown drugs.[7]
February 1968	Female	49	Barbiturates and Placidyl found.[2]
April 1968	do	58	Barbiturates found.[8]
June 1968	do	39	Barbiturates and Doriden detected.
July 1968	Female	35	Barbiturates and morwhinne.[10]
September 1968	do	23	Overdose of Valium.[9]
June 1968	Male	25	Overdose of Librium.
January 1969	Female	33	Alcohol detected.[2]
Do	Male	40	Amobarbital and Secobarbital found[8]
May 1969	do	43	Phenothazine and Impramine found.[3]
Do	do	26	Valium found.
June 1969	Female	76	Barbiturates found.[11]
Do	Male	26	Darvon found.[12]
Do	Female	51	Barbiturates found.[13]
Do	Male	50	Amobarbital and Secobarbital found.[2]
Do	Female	58	Barbiturates found.[14]
February 1969	Male	39	Librium and Darvon found.[15]
March 1969	Female	38	Overdose of Librium, Benedryl and barbiturates.
June 1969	Male	23	Opiates not detected.[16]

[1] Vials of Librium, Doriden, Tuinal, and Placidyl found at scene of death.
[2] Librium found at scene of death.
[3] History of taking Librium.
[4] History of suicidal ingestion of Librium and Seconal.
[5] Liorium, Antobuse, and Chloral Hydrate found at scene of death.
[6] 2 empty boxes of Librium and Darvon found at scene of death.
[7] History of taking Valium, Doriden, and Thorazine.
[8] Empty bottle of Valium and barbiturate found at scene of death.
[9] History of using Valium and Doriden.
[10] History of using Valium and Seconal.
[11] Suicide note and empty bottles of Valium, Librium, and sleeping pills found at scene of death.
[12] 9 empty vials of Librium, Darvon, and other drugs found at scene of death.
[13] Librium and Tuinal found at scene of death.
[14] Suicide note, Librium, Valium, and Seconal found at scene of death.
[15] Empty vials of Valium, Librium, and Darvon found at scene of death.
[16] History of using marihuana and thorazine. Found dead with Valium and Mellaril nearby.

REGION 3. DELAWARE

Information obtained from various authorities in the State of Delaware reveal the following incidents of drug abuse indicative of abuse of Librium:

1. One suicide attributed to Librium.
2. Four adult deaths where Librium, either alone or in conjunction with other drugs, was found in the system.
3. The F.B.I. reported the case of an individual who was found nude outside an apartment building posing as a statue. He was found to be under the influence of LSD. In his apartment were found 24 hypodermic needles which were stolen from a VA hospital, and a 10 ounce bag of Librium.

REGION 3. NEW JERSEY (MIDDLE AND SOUTHERN NEW JERSEY)

Information obtained from various public health officials in Southern and Middle New Jersey revealed the following incidents involving Librium and Valium which were indicative of abuse:

Drug	Attempted suicides	Adult accidental ingestions
Librium alone	22	4
Librium plus other drugs	1	
Valium alone	14	
Total	37	4

[1] Includes ingestion by children over 12 years of age and adults under 60 which, though not classified as suicide attempts by responsible medical or public authorities, indicate suicidal situations because of other drugs ingested simultaneously with the Librium and/or Valium or for other reasons.

REGION 3. PENNSYLVANIA

I. A survey of several public health facilities, poison control centers and law enforcement agencies within the State of Pennsylvania revealed the following data on incidents indicative of abuse of Librium and Valium:

Drug	Attempted suicide	Adult "accidental ingestions"[1]	Adult deaths (drugs found in system)[2]
Librium alone	33	5	8
Librium plus other drugs	5	1	
Valium alone	6	2	2
Valium plus other drugs	1	1	
Total	45	9	10

[1] Includes ingestion by children over 12 years of age and adults under 60 which, though not classified as suicide attempts by responsible medical or public authorities, indicate suicidal situations because of other drugs ingested simultaneously with librium and/or valium or for other reasons.

[2] Information supplied by Philadelphia County medical examiner's office.

REGION 4—MARYLAND

1. The following information was received from the Baltimore Medical Examiner's Office concerning deaths where Librium was involved:

Age 39, Sex Female, intoxication, alcohol, Librium and Placidyl.

Age 24, Sex Male, overdose Librium and Darvon. Known to use narcotics and LSD (ruled suicide).

Age 65, Sex Female, overdose Tuinal, Librium, Mellaril.

Age 35, Sex Male, overdose Dilantin, Librium.

Age 57, Sex Male, overdose Librium and Darvon.

Age 23, Sex Female, overdose Librium and barbiturates (ruled suicide).

II. Information obtained from the Maryland Poison Information Center, Baltimore City Health Department, and several hospitals in Maryland and Virginia revealed 63 cases of adult ingestions of Librium and Valium:

REGION 5—FLORIDA

I. During 1969, the Florida State Board of Pharmacy conducted accountability audits for Librium and Valium in 10 pharmacies only. The results of the audits follow:

Pharmacy	Period covered	Shortages[1]		Action by Board of Pharmacy
		Librium	Valium	
1. Corazon de Jesus	January 1968–February 1969	34,581	46,310	Pending.
2. Andres' Pharmacy, Inc	July 1968–March 1969	37,339	37,669	Fine.
3. Farmacia Continental	January 1968–March 1969	23,298	36,296	Pending.
4. Williams City Drug	January 1968–May 1969		2,080	Hearing received.
5. San Roque	January 1969–August 1969	743	1,685	Do.
6. Drug Center	January 1968–May 1969		10,885	Hearing scheduled.
7. Riverside Prescription	July 1968–March 1969			None.
8. Williams Rexall	January 1968–May 1969		4,091	Probation.
9. Coral Way	January 1969–July 1969	4,218	4,367	Hearing scheduled.
10. Central	January 1968–April 1969	41,494	47,118	License revoked.
Total		141,673	190,501	
Total, both drugs		332,174		

[1] By number of capsules. Various dosage units for each drug are combined in totals. Not all dosage units or both drugs audited in every store.

II. A survey of numerous public health facilities, poison control centers and law enforcement agencies within the State of Florida revealed the following data on incidents indicative of abuse of Librium and Valium.

Drug	Suicide	Attempted suicide	Adult "accidental ingestion"[1]	Illegal sale, possession
Librium alone				3
Librium—no record of other drugs		23	10	
Librium plus other drugs	2	1		1
Valium alone		1	1	
Valium—no record of other drugs		4	7	
Valium plus other drugs				2
Total	2	28	18	6

[1] Does not include persons under 12 or over 60 or persons whose age is unknown. An ingestion is classified "accidental" unless a physician or competent public official has specifically ruled that it was suicidal attempt. Questionable cases classified as accidental.

REGION 5. GEORGIA

I. A survey of numerous public health facilities, poison control centers and law enforcement agencies within the State of Georgia revealed the following data on incidents indicative of abuse of Librium and Valium.

Drug	Suicide	Attempted suicide	Adult[1] accidental ingestion	Illegal sale, possession
Librium alone				
Librium—no record of other drugs		2		20
Librium plus other drugs		2		23
Valium alone				
Valium—no record of other drugs		2		17
Valium plus other drugs				3
Total		6		63

[1] Does not include persons under 12 or over 60 or persons whose age is unknown. An ingestion is classified accidental unless a physician or competent public official has specifically ruled that it was suicidal attempt. Questionable cases classified as accidental.

REGION 5. SOUTH CAROLINA

A case report was received by the Columbia, South Carolina Office of the Bureau of Narcotics and Dangerous Drugs from the Office of Naval Intelligence concerning the abuse of dangerous drugs by a young Navy WAVE. The subject, a rather immature and highly emotional person, admitted to taking various dangerous drugs off and on over a period of two years. The drugs abused included Librium, Valium, Ritalin and Meprobamate. On two occasions the girl attempted suicide. Once with Librium and Darvon and the second time with Valium alone. The drugs in question were obtained both by prescription and by pilferage. She admitted to giving some of these drugs to her friends on various occasions but denied selling them. The Navy did not institute court-martial action nor was any action initiated against the girl by the Bureau of Narcotics and Dangerous Drugs.

REGION 6. MICHIGAN

Information obtained from hospitals in Michigan indicated the following suicide attempts involving Librium:

Pontiac General Hospital: Two cases of attempted suicide with Librium during 1968.

Blodgett Hospital: Three cases of attempted suicide with Librium during 1967–1968.

St. Joseph Hospital (Ann Arbor): Twenty-three year-old female attempted suicide with Librium in 1968.

Fifty-two year-old female attempted suicide with Librium in 1968.

Thirty year-old female attempted suicide with Librium and Donnatal in 1968.

REGION 6. OHIO

I. The Cuyahoga, Ohio, County Coroner's Office provided the following information relating to deaths involving Librium and Valium:

Age 51, sex female, June 1967: Suicide—Valium in combination with other drugs.

Age 47, sex female, August 1967: Suicide—Librium, barbiturates and other drugs.

Age 49, sex male, August 1967: Librium and Doriden.

Age 58, sex male, November 1968: Probable suicide—Valium and Elavil.

II. Information obtained from the Good Samaritan Hospital for the year 1967 revealed the following:

One case of attempted suicide involving Librium and Darvon.

One case of attempted suicide involving Librium, Valium, alcohol and Darvon.

REGION 7. ILLINOIS

I. The Chicago Police Department reported 18 cases involving illegal sale and/or possession of Librium for the period January 1, 1967 to August 31, 1969. In four of the cases the persons were sentenced by the court. The remaining cases either are pending or have been discharged, usually because the evidence was obtained by a faulty warrant.

II. The Illinois Department of Public Health reported the following deaths involving Librium and Valium for the years 1967–1969.

Drug	Age	Sex	Date	Circumstances
Librium	63	M	August 1966	Suicide.
Do	60	F	April 1966	Accident.
Librium, Teldrin	58	M	May 1966	Undetermined.
Librium, Darvon, opiate	25	M	May 1967	Do.
Librium	45	M	August 1967	Do.
Valium	60	F	September 1967	Do.
Chloral hydrate	42	F	October 1967	Suicide.
Valium, aspirin, thoraxine, stelazine, potassium chloride, diazide, nardel, dexedrine.	47	F	December 1967	Suicide.
Librium	46	F	July 1968	Undetermined.
Do	72	F	August 1968	Suicide.
Librium, meprobamate	38	M	July 1968	Do.
Valium, chlorpromazine	55	M	May 1958	Accident.
Valium, triavil	56	F	September 1968	Undetermined.

III. The Illinois Department of Public Safety, Division of Narcotic Control, reported the following cases of illegal activities involving Librium and Valium during the period July 1967 to July 1969

Circumstances	Case No.	Date
Large number of 25 mg. Librium and 55 cigarettes impregnated with Librium purchased by State narcotic agent.	S-316-D	August 1967.
Valium—illegal possession	S-333-D	January 1967.
Librium—illegal possession	C-220-D	December 1967.
Librium and Valium—illegal possession	S-559	Do.
Librium—illegal possession	S-353-D	February 1968.
Do	S-612	May 1968.
Librium purchased by State narcotic agent from non-pharmacist in drugstore.	S-426-D	March 1969.
Librium and Valium—illegal possession	S-451-D	July 1969.
Librium—illegal possession	S-452-D	Do.
Valium—illegal possession	S-399-D	November 1968.
Librium—illegal possession	S-287-D	January 1969.
Do	S-426-D	March 1969.
Valium—illegal possession	S-441-D	June 1969.
Librium—illegal possession	S-445-D	July 1969.
Librium and Valium—illegal possession	S-451-D	Do.
Librium—illegal possession	S-462-D	August 1969.

IV. Police officials in Rockford, Illinois, reported the following illegal activities involving Librium:

Sex, male; age, 30; circumstances: Librium—illegal possession. November 1968.

Sex, male; age, 22; circumstances: Librium—illegal possession. March 1969.

Sex, male; age, 22; circumstances: Librium—illegal possession. June 1968.

Sex, male; age, 18; circumstances: Librium—illegal possession. October 1968.

The Rockford Coroner's Office also reported that a 23-year-old woman committed suicide with Librium.

V. The Northern Illinois Crime Laboratory reported the following:

1. A 37-year-old man was involved in an automobile accident while driving under the influence of Librium.

2. A 39-year-old woman was involved in a three-car accident while driving under the influence of Valium.

I. The Hammond, Indiana Poison Control Center and the Hammond Police reported the following attempted suicides involving Librium and Valium:

Drug	1965	1966	1967	1968	1969
Librium	5	6	9	4	7
Librium plus other drugs					2
Valium		1	1	1	2
Valium plus other drugs					1
Total	5	7	10	5	12
Total, all drugs			39		

II. Police and public health officials in Luke County, Indiana reported the following:

Drug	Attempted suicide	Suicide	Deaths due to overdose
Librium alone	1		2
Librium plus other drugs		1	
Total	1	1	2

III. POLICE AND PUBLIC HEALTH OFFICIALS IN INDIANAPOLIS REPORTED THE FOLLOWING

Drug	Attempted suicide	Suicide
Librium alone	3	
Librium plus other drugs	2	1
Valium plus other drugs	2	
Total	7	1

REGION 8. LOUISIANA

Inquiries made of various police and public health officials in Orleans Parish, Louisiana with respect to incidents involving Librium during the year 1968, revealed the following:

Drug	Attempted suicide	Suicide	Illegal possession
Librium	12	1	1
Librium and Darvon	1		
Valium	1		
Total	14	1	1

REGION 8. TENNESSEE

Inquiries made of various police and public health officials in Davidson County, Tennessee with respect to incidents involving Librium and Valium, for the year 1968, revealed the following:

[Attempted suicides]

Drug:	
Librium	16
Valium	4
Total	20

REGION 9. WISCONSIN

A survey of public health and police officials in the greater Milwaukee metropolitan area revealed the following incidents indicative of abuse of Librium and Valium:

Drug	Adult accidental ingestion [1]	Deaths	Illegal possession
Librium	44	3	5
Librium plus other drugs	1		
Valium	19		
Valium plus other drugs	1		
Total	65	3	5

[1] Includes ingestion by persons over 12 years of age but less than 60. No figures were available as to which of these constituted attempted suicides. Figures do not include 50 cases of ingestion of Librium and 33 cases of ingestion of Valium which required hospitalization but for whom the age of the patient was not reported.

REGION 10. IOWA

I. The following information was obtained from various police officials in the State of Iowa relative to the abuse of Librium and Valium:

Sex, age and circumstances:

Sex, male; age ?; December, 1968: Defendant arrested for unlawful possession of dangerous drugs. Also found to be in illegal possession of Librium.

Sex, female; age 22; November 1968: Defendant arrested for unlawful possession of dangerous drugs. Also found to be in illegal possession of Librium.

Sex, male; age 21; November 1968: Defendant arrested for unlawful possession of dangerous drugs. Also found to be in illegal possession of Librium.

Sex, male; age 21; November 1968: Defendant arrested for unlawful possession of dangerous drugs. Also found to be in illegal possession of Librium.

Sex, female; age 32; July 1968: Defendant arrested for unlawful possession of dangerous drugs. Also found to be in illegal possession of Librium.

Sex, male; age 22; March 1968: Defendant arrested by Des Moines Police Department for unlawful possession of dangerous drugs. Also found to be in unlawful possession of Librium. Defendant was subsequently arrested by agents of the Bureau of Narcotics and Dangerous Drug for illegal sale of LSD.

Sex, male; age, 17; February 1968: Defendant arrested for unlawful possession of dangerous drugs. Also found to be in illegal possession of Librium and Valium.

II. The Iowa Poison Information Center and the Polk County Medical Examiner furnished the following information relative to th abuse of Librium and/or Valium.

1. A 45-year-old woman attempted suicide by ingesting 107 capsules of Valium—strength unknown.

2. A 50-year-old woman committed suicide with Valium.

3. A 44-year-old male died in jail following a drinking spree during which large quantities of Librium were ingested. The subject known to have obtained 100 Librium capsules on a falsified prescription the day before his death occurred.

REGION 10. MISSOURI

I. The St. Louis County Coroner's Office provided the following information relative to adult deaths in which Librium and/or Valium were involved:

Age	Sex	Date	Circumstances
55	F	June 1968	Valium and Carbrital—ruled suicide.
46	M	July 1968	Librium—open verdict but probable suicide—subject very despondent.
30	F	August 1968	Valium and whiskey—accidental fatal overdose.
39	M	July 1968	Librium and Boctin—open verdict—no witnesses.
40	F	January 1967	Librium, Placidyl, Sodium Butisol—suicide.
?	M	March 1967	Librium, Noludar, and whiskey.
36	F	March 1967	Librium, Darvon, and Preludin—suicide.
38	F	do	Librium, Doriden, Seconal, alcohol—suicide.
64	M	do	Librium, Tuinal, alcohol.
46	F	May 1967	Librium, Elavil—suicide.
58	M	September 1967	Librium, Tuinal, Amytal, Seconal—suicide.
77	F	do	Librium, Methyprylon—suicide.
64	M	October 1967	Librium—suicide.

XUM

II. Information obtained from various police and public health officials in Kansas City, Missouri, revealed the following incidents involving Librium and Valium:

Drug	Attempted suicide	Suicide
Librium	39	
Librium plus other drugs	19	1
Valium	6	1
Valium plus other drugs	4	
Total	68	2

REGION 11. OKLAHOMA

I. The following information was obtained from the Oklahoma City Police Department relative to abuse of Librium and Valium for 1967–1969.

Drug	Attempted suicide	Adult "accidental ingestion" [1]
Librium	6	14
Librium plus other drugs	1	
Valium	4	2
Valium plus other drugs	1	2
Total	12	18

[1] Includes ingestion by persons over 12 and less than 60 years old which were not officially designated as attempted suicides.

II. The Bureau of Narcotics and Dangerous Drugs received a communication from an adult male who claimed to be dependent on Librium. The habituation evolved out of P.R.N. prescription for the drug which was given to the patient by his physician many months previously. Although the patient indicated he was under the care of a physician in his attempt to break the habituation, he was experiencing considerable difficulty in doing so.

REGION 11. TEXAS

I. The following information relative to Librium and Valium was received from authorities at Parkland Hospital, Dallas, Texas, and police officials:

Drug	Attempted suicide	Adult accidental ingestions [1]	Illegal possession
Librium	3		
Librium plus other drugs	2	1	1
Valium	2		
Valium plus other drugs	2		1
Total	9	1	2

[1] Includes overdoses by persons over 12 and under 60 years of age which were not officially designated as attempted suicides, but which could possibly have been suicidal.

II. The Texas State Board of Pharmacy reported that it completed a violation hearing on 20 pharmacies during September 1969. Of these cases, 12 involved the refilling of prescriptions by pharmacists, and 5 involved the refilling of prescriptions by unlicensed persons, without authorization by the prescribing physician.

II. The Texas State Board of Pharmacy reported that it completed a violation hearing on 20 pharmacies during September, 1969. Of these cases, 12 involved the refilling of prescriptions by pharmacists, and 5 involved the refilling of prescriptions by unlicensed persons, without authorization by the prescribing physician.

III. Accountability audit investigations of pharmacies were conducted jointly by the Bureau of Narcotics and Dangerous Drugs and the Texas Board of Pharmacy. A summary of the findings of these audits follows:

Pharmacy	Period covered	Shortages [1]	
		Librium	Valium
Drive-in prescription shop	January to October 1969	17,136	1,266
Lorrine pharmacy	May to October 1969	4,836	10,023
Rexall super	January to October 1969	29,166	1,067
St. Anthony hotel	do		80
Ford-Painter	do	7,091	434
Dorchester	do	9,942	4,660
Total		68,171	17,530
Total both drugs		85,701	

[1] By number of capsules. Audit covered only Libruim 10 mg. and Valium 10 mg.

REGION 12. ARIZONA

I. The following information was obtained from the Arizona State Narcotics Enforcement Division and other Arizona law enforcement agencies:

Date of Arrest, November 1968; drug, valium; defendant charged with possession of marihuana and dangerous drugs.

Date of Arrest, March 1969; drug, librium; defendant, a practitioner of naturopathy, was charged with possession of dangerous drugs including Meprobamate and Librium. Though not licensed to practice medicine, he was allegedly dispensing various drugs to his "patients."

Date of Arrest, January 1969; drug, librium; defendant charged with sale of dangerous drugs—librium.

Date of Arrest, March 1969; drug, valium; defendant charged with possession of marihuana. He also had possession of valium and prescriptions for valium.

Date of Arrest, November 1968; drug, valium; defendant charged with possession of marihuana, valium and numerous other dangerous drugs. He received $150 fine on dangerous drugs charges. The marihuana charge is pending.

Date of Arrest, March 1969; drug valium; subject died as a result of a self-administered valium poisoning.

II. Records obtained from the Arizona Poison Control Center, University of Arizona, for the years 1967–1969, indicate numerous incidents involving librium and valium. A summary of the data found in those records follows:

Drug	Attempted suicides	Adult accidental ingestions [1]	Deaths
Librium alone	43	12	
Librium plus other drugs	47	2	1
Valium alone	30	7	
Valium plus other drugs	20	3	
Total	140	24	1

[1] Does not include persons under 12 years of age or over 60 or persons whose age was unknown. An ingestion is classified "accidental" unless a physician or competent public official has speicfically ruled that it was a suicidal attempt. Questionable cases classified as accidental.

REGION 12. COLORADO

I. Data on Colorado incidents involving Librium and Valium were obtained from several hospitals in Colorado including the Denver General Hospital, Saint Luke's, Colorado General, General Rose Memorial, Valley View, Saint Mary Corwin and Fitzsimons Army Hospital. A summary of the data, which covers the years 1967 through September 1969, follows:

Drug	Attempted suicides	Adult "accidental ingestions" [1]	Suicides	Drugs taken for "kicks"	Drug dependency
Librium alone	31	2			
Librium plus other drugs	70	9	2	1	2
Valium alone	21	6			
Valium plus other drugs	32	3			
Total	154	20	2	1	2

[1] Includes ingestion by children over 12 years of age and adults under 60 which, though not classified as suicide attempts by responsible medical or public authorities, indicate suicidal situations because of other drugs ingested simultaneously with the Librium and/or Valium or for other reasons.

II. Data obtained from the Denver and El Paso County Coroners revealed the following deaths:

Date of occurrence	Sex	Age	Drug involved
December 1966	F	61	Valium, Percodan, sodium amytal.
August 1967	F	25	Librium, barbiturates, and alcohol.
February 1967	F	44	Librium, Darvon.
March 1969	M	61	Librium, alcohol.

REGION 12. NEW MEXICO

A review was made of the records of the Albuquerque Police Department for the period July 1967, to the present for incidents involving Librium and Valium. A summary of the findings follows:

Drug	Attempted suicide	Adult [1] overdose
Librium [2]	23	4
Valium	1	
Total	24	4

[1] No determination as to whether overdose constituted attempt at suicide.

[2] In addition, there were 43 attempted suicides attributed to unnamed tranquilizers.

REGION 12. UTAH

On January 15, 1969, a 57-year-old woman died from a self-administered overdose of Librium and meprobamate. The decedent had a history of excessive use of meprobamate, aggravated depression and prior suicide attempts.

REGION 13. OREGON

The Oregon Poison Control Registry provided the following information relative to reported cases of poisoning involving Librium and Valium during the years 1967–1968. The figures include all age groups:

Drug	1967	1968	Total
Librium	23	24	47
Valium	19	40	59
Meprobamate	9	18	27

REGION 13. WASHINGTON

The following information concerning incidents which occurred during 1967–1968 relating to abuse of Librium and Valium was received from various police and public health officials:

Drug	Suicide	Illegal possession
Librium	2	8
Valium	2	1
Total	4	9

REGION 14. CALIFORNIA

I. Accountability audit investigations were conducted for 13 pharmacies by the California Board of Pharmacy. A summary of the findings of these audits follows:

Pharmacy	Period covered	Shortages[1]	
		Librium	Valium
Hidalgo drugs	January 1969 to October 1969		893
Million dollar	do	16,216	7,956
Commerce	do	455	7,564
West 11th	do		
Walker	do	200	75
Serv-'' and Midwest Medical[2]	do	1,216	
Hillside	do	148	
Ames Drug	do		97
Carella	do		
Frank's	do	51	1,362
Millard	do		
Eddy-Taylor	do	2,514	696
Total		20,800	18,643
Total both drugs		39,443	

[1] By number of capsules or pills. Various dosage units for each drug are combined in totals. Not all dosage units or both drugs audited in every store.

[2] Composite audit.

REGION 14. CALIFORNIA

II. The following is a summary of information relative to the abuse of Librium and Valium during the period 1967–1969 as reported by the Poison Information Center, Los Angeles, and the Community Hospital of San Diego County.

Drug	Suicide	Attempted suicide	Adult "accidental ingestion"[1]
Librium		146	2
Librium plus other drugs		75	2
Valium		313	15
Valium plus other drugs	3	30	5
Total	3	564	24

[1] Includes overdoses by adults which were not classified as suicides.

III. The Orange County Coroner's Office reported the following deaths associated with Librium and Valium:

Date of death	Age	Sex	Drug
January 1968	56	M	Librium, Darvon, alcohol.
February 1969	39	M	Librium.
July 1969	72	M	Librium and Secobarbital.
March 1969	62	F	Valium and Meprobamate.

IV. The California Board of Pharmacy reported the following deaths associated with Librium and Valium:

Year	Drug	Number of deaths
1965–66	Librium and combination	17
	Valium and alcohol	2
	Valium	2
1966–67	Librium and combination	17
	Valium and alcohol	2
	Valium	1
	Valium and barbiturates	8
1967–68	Librium and combination	11
	Valium	4
	Valium and alcohol	2
	Valium and barbiturates	2
Total		68

REGION 14. CALIFORNIA

IV. The following information concerning deaths associated with Librium and/or Valium during 1967–1969, was obtained from the San Francisco and Oakland County Coroner's Offices:

Age	Sex	Circumstances
41	M	Librium and alcohol—ruled accidental.
40	F	Valium, Thorazine, Librium, Darvon, and Seconal.
51	F	Barbiturates, Valium and alcohol.
57	F	Barbiturates and Librium—suicide.
50	M	Valium and Darvon—suicide.
27	F	Valium and alcohol.
57	M	Librium and Doriden.
46	M	Barbiturates, Valium, meprobamate—suicide.
26	M	Valium, alcohol—suicide.
Adult	F	Alcohol, barbiturates, Librium—ruled accidental.

V. The following information concerning incidents involving Librium and/or Valium for the years 1967-1969 was obtained from the San Francisco General Hospital and the San Francisco County Department of Public Health:

Drug	Attempted suicide	Suicide	Adult "accidental ingestion"[1]
Librium	8		27
Librium plus other drugs	6	1	7
Valium	2		13
Valium plus other drugs	2		
Total	18	1	47

[1] Includes adult overdoses which were not officially designated as suicidal.

Mr. DODD. Mr. President, apart from the overwhelming statistics which indicate the addictive propensities of librium and valium, there has recently come to light some very interesting information which almost by accident, and certainly unnoticed by the House of Representatives, slipped into the hearings which we held in August to investigate the use of narcotics by our soldiers stationed in Vietnam.

Dr. John K. Imahara, an Army psychiatrist who was stationed in Vietnam last year referred to librium and valium and said:

> These tranquilizers are dispensed by doctors . . . in an attempt to help people out, to cope with the situation. At times I felt that the soldiers abused them. At times I felt that the soldiers abused these, used it in such great quantities that they were incapacitated.

When asked to explain what he meant by the term "incapacitated" Dr. Imahara said:

> Incapacitated in the sense that they were not functioning.

When the Subcommittee on Juvenile Delinquency held its hearings last year, expert medical personnel and laymen told us of their experiences with valium and librium which every one of these people judged to be addictive.

Former drug addicts testified that they had used librium and valium either on their road to heroin, or as a stopgap when the more dangerous drug was not immediately available.

Doctors told us that they had discovered the addictive or habituating qualities almost by accident when their patients asked more and more for prescriptions for those two drugs.

There is, in short, not the slightest doubt in my mind, and in the minds of the majority of experts, that these drugs are highly dangerous; that they are addictive; and that the very least they are habituating.

Nevertheless, Hoffman-LaRoche at least for the moment, have reason to celebrate a singular triumph, the triumph of money over conscience. It is a triumph, however, which I hope will be short-lived.

In recent days, the newspapers have reported that the bill passed by the House is the pharmaceutical manufacturer's dream come true. No more accountability for librium and valium; and, because that proposition punctures the dike there are all sorts of possibilities of getting other addictive drugs off the schedule and off accountability in the foreseeable future.

My amendment, No. 1034, I believe, is almost as important as the legislation itself. It will express the spirit of the times; and the spirit of the times is not to put profits before all other considerations, but to consider the social consequences of any action before it is undertaken.

I urge the Senate to adopt this amendment.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. DODD. I yield.

Mr. HRUSKA. The two drugs which are the subject of this amendment had been included in the bill approved by this body in January. Is that correct?

Mr. DODD. They were.

Mr. HRUSKA. And they were deleted in the bill passed by the other body?

Mr. DODD. That is correct.

Mr. HRUSKA. This Senator does not recall any explanation for that action. It would appear very appropriate, in my judgment, that we do restore them by means of this amendment and have a discussion of it and decision upon it made in the conference.

Therefore, Mr. President, I am glad to support the Senator's amendment.

Mr. DODD. Mr. President, I do not wish to take long on this matter, but this is the right action to take.

Mr. HART. Mr. President, will the Senator yield?

Mr. DODD. I yield.

Mr. HART. Mr. President, I associate myself with the comments just made by the Senator from Nebraska. I do have a recollection of the sequence of events in our committee and subsequently and I hope that the Senate agrees to the amendment.

Mr. DODD. I thank the Senator for his support.

The PRESIDING OFFICER (Mr. Cranston). The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment was agreed to.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT—APPROVAL OF JOINT RESOLUTIONS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that on October 6, 1970, the President had approved and signed the following joint resolutions:

S.J. Res. 218. Joint Resolution providing for the designation of a "Day of Bread" and "Harvest Festival Week"; and

S.J. Res. 228. Joint Resolution to authorize the President to designate the period beginning October 5, 1970, and ending October 9, 1970, as "National PTA Week".

REPORT ON OCEAN DUMPING—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91–399)

The PRESIDING OFFICER (Mr. Cranston) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce:

To the Congress of the United States:

The oceans, covering nearly three-quarters of the world's surface, are critical to maintaining our environment, for they contribute to the basic oxygen-carbon dioxide balance upon which human and animal life depends. Yet man does not treat the oceans well. He has assumed that their capacity to absorb wastes is infinite, and evidence is now accumulating on the damage that he has caused. Pollution is now visible even on the high seas—long believed beyond the reach of man's harmful influence. In recent months, worldwide concern has been expressed about the dangers of dumping toxic wastes in the oceans.

In view of the serious threat of ocean pollution, I am today transmitting to the Congress a study I requested from the Council on Environmental Quality. This study concludes that:

—the current level of ocean dumping is creating serious environmental damage in some areas.

—the volume of wastes dumped in the ocean is increasing rapidly.

—a vast new influx of wastes is likely to occur as municipalities and industries turn to the oceans as a convenient sink for their wastes.

—trends indicate that ocean disposal could become a major, nationwide environmental problem.

—unless we begin now to develop alternative methods of disposing of these wastes, institutional and economic obstacles will make it extremely difficult to control ocean dumping in the future.

—the nation must act now to prevent the problem from reaching unmanageable proportions.

The study recommends legislation to ban the unregulated dumping of all materials in the oceans and to prevent or rigorously limit the dumping of harmful materials. The recommended legislation would call for permits by the Administrator of the Environmental Protection Agency for the transportation and dumping of all materials in the oceans and in the Great Lakes.

I endorse the Council's recommendations and will submit specific legislative proposals to implement them to the next Congress. These recommendations will supplement legislation my Administration submitted to the Congress in November, 1969 to provide comprehensive management by the States of the land and waters of the coastal zone and in April 1970 to control dumping of dredge spoil in the Great Lakes.

The program proposed by the Council is based on the premise that we should take action before the problem of ocean dumping becomes acute. To date, most of our energies have been spent cleaning up mistakes of the past. We have failed to recognize problems and to take corrective action before they became serious. The resulting signs of environmental decay are all around us, and remedial actions heavily tax our resources and energies.

The legislation recommended would be one of the first new authorities for the Environmental Protection Agency. I believe it is fitting that in this recommended legislation, we will be acting—rather than reacting—to prevent pollution before it begins to destroy the waters that are so critical to all living things.

Richard Nixon.

The White House, *October 7, 1970.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. Cranston) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

The Senate continued with the consideration of the bill (H.R. 18583) to amend the Public Health Service Act, and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

AMENDMENT NO. 979

Mr. ERVIN. Mr. President, I call up my amendment No. 979 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 95, line 6, strike out "(a)".

On page 95, beginning with line 12, strike out all through line 3 on page 96.

(The language sought to be stricken is as follows:)

(b) Any officer authorized to execute a search warrant relating to offenses involving controlled substances the penality for which is imprisonment for more than one year may, without notice of his authority and purpose, break open an outer or inner door or window of a building, or any part of the building, or anything therein, if the judge or United States magistrate issuing the warrant (1) is satisfied that there is probable cause to believe that (A) the property sought may and, if such notice is given, will be easily and quickly destroyed or disposed of, or (B) the giving of such notice will immediately endanger the life or safety of the executing officer or another person, and (2) has included in the warrant a direction that the officer executing it shall not be required to give such notice. Any officer acting under such warrant, shall, as soon as practicable after entering the premises, identify himself and give the reasons and authority for his entrance upon the premises.

Mr. ERVIN. Mr. President, I ask unanimous consent that the names of the distinguished Senator from Virginia (Mr. Byrd), the distinguished Senator from Michigan (Mr. Hart), and the distinguished Senator from Maryland (Mr. Mathias) be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a question?

Mr. ERVIN. I yield.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on the amendment of the Senator from North Carolina.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is it the intention of the Senator from North Carolina to ask that the amendments be considered en bloc?

Mr. ERVIN. Mr. President, it is my purpose to call up only one of the amendments. This is amendment No. 979. I have two other amendments, but I am not going to call them up.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, might it be possible to get a time limitation agreement on this amendment? If so, what would the Senator suggest?

Mr. ERVIN. Mr. President, I do not think I will take an hour, but I would like to have an hour, so that if anyone else wishes to say something in behalf of the amendment he could do so.

Mr. BYRD of West Virginia. Will the Senator yield further?

Mr. ERVIN. I yield.

Mr. BYRD of West Virginia. I wish to inquire of the Senator from Nebraska (Mr. HRUSKA) if he would be agreeable to a time limitation on this amendment of 1 hour to a side?

Mr. HRUSKA. It is all right with me if it is satisfactory with the Senator from Connecticut.

Mr. DODD. I have no objection.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on the amendment of the able Senator from North Carolina (Mr. ERVIN) be limited to 2 hours, the time to be equally divided and controlled between the mover of the amendment (Mr. ERVIN) and the manager of the bill (Mr. DODD).

The PRESIDING OFFICER. Is there objection?

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. HOLLAND. Mr. President, I shall not object but I wonder, in view of the fact that that would take us until 7:30, if it would be appropriate to place the vote on this matter at, say, 10:30 in the morning when we resume.

Mr. BYRD of West Virginia. Mr. President, if the Senator from North Carolina will yield, it is the hope of the leadership—and I speak with the authority of the majority leader, having heard him express his hope—that we would go untl 7:30 or 8 o'clock tonight; it is this hope that we finish action on the bill tonight. It is possible the Senator from North Carolina may yield back part of his time. He indicated he might not take 1 hour. The leadership expresses the hope that we complete action on the amendment and the bill and then lay down the crime bill tonight.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. ERVIN. This is not on my time, I hope.

Mr. HRUSKA. No. No agreement has been reached yet.

Mr. HOLLAND. Since we are going so late in the evening and some of us have matters which have been set a long time ago, and I am one, it might be appropriate to vote at 10:30 in the morning.

Mr. DODD. I am wondering about other amendments.

Mr. BYRD of West Virginia. I know of only one other amendment to be offered, and that is to be offered by the Senator from Missouri (Mr. EAGLETON). He indicated he would not require much time on the amendment. Therefore, I think if we can reach an agreement on the amendment of the Senator from North Carolina, there is a fair likelihood we could complete action on the bill this evening.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request for a 2-hour time limitation on the amendment of the Senator from North Carolina? The Chair hears no objection, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator.

The PRESIDING OFFICER. The Chair wishes to address a question to the Senator from North Carolina. In view of the fact the Senator's amendment relates to two separate sections on one page, is it the Senator's desire to request that the amendments be considered en bloc.

Mr. ERVIN. Yes. All I am doing in section (a) is to strike out the (a); all I am trying to do is strike out the provisions of subsection (b). I ask that the amendments be considered as one amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

How much time does the Senator yield to himself?

Mr. ERVIN. Mr. President, I yield myself as much time as I may use.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, the men who drafted the Bill of Rights loved liberty and loathed tyranny; and they recognized that one of the most unjustified tyrannies which could be practiced by government upon its citizens consisted of unwarranted intrusions into the homes of citizens.

Mr. President, today I call upon the Senate to protect one of the most basic rights of all American citizens—the right to enjoy privacy in their own homes. Many poets have spoken on the home as a privileged sanctuary, but no one has said it more eloquently than Mississippi's great novelist, William Faulkner. He called the home that "last vestige of privacy without which man cannot be an individual." The right of American citizens to be free from unreasonable government intrusion in their homes is the issue before us today.

In their efforts to facilitate law enforcement, the drafters of the Comprehensive Drug Abuse Prevention Control Act of 1970 have included a section 509B, which would allow law enforcement officers, showing little more than the easy destructibility of certain evidence, to break into a man's home without advising the homeowner that he is there and without ever telling the homeowner that he is an officer of the law and without ever telling the homeowner that he has a search warrant. My amendment would strike section 509B from the proposed act.

The provision reads as follows:

> Any officer authorized to execute a search warrant relating to offenses involving controlled substances the penalty for which is imprisonment for more than one year may, without notice of his authority and purpose, break open an outer or inner door or window of a building, or any part of the building, or anything therein, if the judge or United States magistrate issuing the warrant (1) is satisfied that there is probable cause to believe that (A) the property sought may and, if such notice is given, will be easily and quickly destroyed or disposed of, or (B) the giving of such notice will immediately endanger the life or safety of the executing officer or another person, and (2) has included in the warrant a direction that the officer executing it shall not be required to give such notice. Any officer acting under such warrant, shall, as soon as practicable after entering the premises, identify himself and give the reasons and authority for his entrance upon the premises.

Mr. President, I believe that it is wrong to allow our policemen to catch criminals by acting like criminals; it is wrong to allow our policemen to enter the dwelling houses of American citizens in exactly the same manner in which burglars now enter—either by stealth or by force and without notice.

Today the Senate is dealing with a rule, basic to our common law and our constitutional heritage, which holds that law officials must announce themselves before entering a home. Actually, the rule was pronounced in 1603 in Semayne's case where the court said:

> In all cases where the King is party, the sheriff (if the doors be not open) may break the party's house, either to arrest him, or to do other execution of the King's process, if otherwise he can not enter. But before he breaks it, he ought to signify the cause of his coming, and to make request to open doors. . . .

Thus, the rule of announcement is well established in English common law and was widely recognized in England and in the United States when the fourth amendment was drafted, submitted, and ratified. The remarks of William Pitt in 1763 are just an example of the eloquent expressions of our deep historical commitment to the general principles of protection which a man's home affords him from the forces of governmental authority:

> The poorest man may in his cottage bid defiance to all of the forces of the crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter; the rain may enter; but the King of England cannot enter—all his force dares not cross the threshold of the ruined tenement.

Because of the numerous remarks by the proponents of section 509(b) that it is necessary to control drug traffic, I am reminded of another statement by William Pitt in which he said:

> Necessity is the plea for every infringement of human freedom. It is the argument of tyrants; it is the creed of slaves.

I deny that there is any necessity for altering a doctrine that every man's home is his castle which goes back even before Semayne's case in 1603.

Early in our history, Congress codified the rule in a statute, section 3109 of title 18, which we still have with us, and most States have the rule, either by common law or statute.

With all due respect to everyone concerned, I would say that it is astounding to have the Congress, in a country which is supposed to be a free society, advocate, in the year of our Lord 1970, that a rule which had reached full fruition in England as early as 1603 ought to be nullified, and that a man's home should no longer be regarded his castle.

Because the announcement rule had been embodied in a Federal statute, the courts rarely had the occasion to consider the constitutional implications of the rule, but there is no doubt that the recent case of Ker against California can only be read as establishing the rule as a constitutional requirement of the fourth amendment. Mr. Justice Brennan's views for four Justices clearly states it. Mr. Justice Clark's opinion for four Justices make no sense unless it is viewed as proceeding from constitutional premises because the Supreme Court has no authority to review State criminal proceedings except upon constitutional grounds. In that case, Justice Clark minutely reviews the facts to find that the officers' actions in entering without notice in Ker qualified under one of the traditional exceptions to the announcement rule, a pointless procedure if the actions were to be governed by California's statute rather than the fourth amendment.

Thus, we are considering a constitutional rule and we cannot expand upon the common law exceptions which the rule embodies. These common law exceptions have been summarized by Justice Brennan as:

> (1) Where the persons within already know of the officers' authority and purpose, or (2) where the officers are justified in the belief that persons within are in imminent peril of bodily harm, or (3) where those within made aware of the presence of someone outside (because for example, there has been a knock at the door) are then engaged in activity which justifies the officers in the belief that an escape or the destruction of evidence is being attempted.

It is to be noted that in every one of the exceptions to the rule that an officer executing a search warrant must announce his presence, his purpose, and his authority, rests upon the facts existing at the time the officer undertakes to execute the search warrant, and not upon some facts or surmises or suspicions or prophesies which the officer may state to the judge or the magistrate at the time he applies for the search warrant.

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It will be argued that 509B does little more than codify these common law exceptions to the announcement rule. However, there is absolutely no foundation for any belief that the common law ever contained an exception based solely upon the nature of the evidence sought, as would be allowed under 509B. Thus, exceptions, particularly that based on the likelihood of the destruction of evidence, are based almost entirely on the actual knowledge of the suspect that the police were about to enter his dwelling at that time. Under 509B, the suspect could not know this because, in fact, the officer would be miles away securing the "no knock" warrant. Thus, the only way an officer would be able to get a search warrant in almost every case would be to swear to facts which were false at the time they were sworn to; that is, that the occupant of the house would destroy the evidence, the narcotics or the marihuana, if the officer did not break into the house without notice to them.

It is an absurdity to maintain that an officer who goes before a judge or a U.S. commissioner for a search warrant at a place which may be miles and miles from the house to be searched can have any knowledge that the people are going to destroy the narcotics which they obtained for their own use or for peddling to others, when they do not even know the officer is coming and have no knowledge of the issuance of the warrant. Because the police cannot have the advance knowledge that the emergencies mentioned in 509B exist, the section will be unconstitutional in virtually every instance in which it is used.

I wish to direct the attention of the Senate at this point to the fourth amendment, which incorporates in the Bill of Rights the doctrine that every man's home is his castle. That amendment provides:

> The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

I would emphasize, above all things, that the amendment says that "no warrants shall issue, but upon probable cause."

Probable cause necessarily relates to facts existing at the time the search warrant is applied for. It cannot be supplied by suspicion as to future actions. It cannot be supplied by false prophecies as to the future. And this no-knock provision, which my amendment seeks to strike, is based entirely, not upon facts known to the applying officer at the time he seeks to obtain the search warrant, but upon facts which the officer prophesies or predicts are going to exist in the future, at the time he undertakes to execute the search warrant, at a place which may be many miles away, hours and hours later.

I do not know of any officer of the law who is gifted with such powers of prophecy, but even if there were such a being, his prophesying would not satisfy the requirement of the fourth amendment that there must be probable cause for the issuance of the warrant.

I wish to call the attention of the Senate to what one of the most recent commentaries upon the Constitution of the United States has to say on this point. I refer to Bernard Schwartz's "Rights of the Person," volume I, pages 184 and 185.

Mr. Schwartz says this:

> Basic to the protection of the right of privacy guaranteed by the Fourth Amendment is its requirement that no search warrants "shall issue but upon probable cause supported by oath or affirmation." The requirement of probable cause, in connection with the securing of a search warrant, is largely the same as the probable cause which must exist before an arrest may be made without a warrant. Consequently, much of the discussion in section 360 is also pertinent to the present discussion. Here, too, the fundamental rule is that mere suspicion is not enough to constitute probable cause; hence a warrant for the search of a dwelling, issued only on affirmation of "cause to suspect and . . . believe" that contraband liquor was in such dwelling, and without any statement of supporting facts, was ruled invalid: "Mere affirmance of belief or suspicion is not enough."

This statement of the writer is based squarely upon the decision of the Supreme Court of the United States in the case of *Nathanson* v. *United States*, (290 U.S. 41).

I submit that a prophecy as to what is going to happen in the future, when an officer undertakes to execute a search warrant, is merely a suspicion as to what is to happen in the future. In other words, it is equivalent to the application for the warrant in the Nathanson case which alleged that the officer had cause to "suspect and believe." That is as far as an officer can go when he applies for one of these no-knock search warrants which are to be issued on the basis of what he predicts will happen in the future.

I do not see, in the first place, how the Supreme Court could possibly sustain a search warrant based upon an oath or affirmation stating what is going to happen in the future, that is, at the time the officer undertakes to execute the search warrant. Even if the Court could find some way to stretch the words of the Constitution with respect to the necessary probable cause to such lengths as that, it would necessarily follow that in virtually every case where a motion is made to suppress evidence upon a no-knock warrant of this character, the Court will have to say that the officer had nothing more than a mere suspicion, nothing more than a mere belief, nothing more than a mere prophecy, that he had no probable cause, and the evidence would be excluded under the rule which governs the enforcement of the fourth amendment.

In the previous Senate debate and in the press it was contended that 29 States—at least—have authorized no-knock intrusions and that these have not been voided. Using the data of the Justice Department's own attorneys, CONGRESSIONAL RECORD, January 24, 1970, pages 1001–1008, it can be shown that the figure is erroneous. Five States have enacted statutes which authorize the inclusion of no-knock provisions in warrants. One State's high court has recently approved the practice by decision.

In all the other States there is either a notice requirement by statute or the common law applies. In either case, presumably, the common law exceptions apply—that is, the exceptions formulated by Justice Brennan in the Ker case. In many of the States there are no decisions by the courts; in 23, there are. Proponents have thus added these 23 to the six mentioned above and come out with 29. Although there may be some confusion in some of the decisions, the general statement is true that practically all the 23 adhere to the common law rule which the House bill will change.

Another argument which the proponents of the House-passed drug bill have skillfully employed is the additional requirement that the evidence "will be easily and quickly destroyed or disposed of." I submit that whether one uses "may" or "will" in terms of the evidence being destroyed makes little difference. "Will" no doubt requires that an officer present just a little more to the magistrate to make a showing than "may" does, but the important point is that what has to be established to the magistrate's satisfaction in each case is not that the evidence "may" or that the evidence "will" be destroyed but "probable cause" that the evidence "may" or "will" be destroyed. In other words, the supposed stricter requirement of "will" is illusory, because in any event all the officer has to show is that the evidence probably "may" or "will" be destroyed. At that point in time all he can show to the magistrate is that the evidence is of such nature that it could easily be destroyed. No matter what embellishments he comes up with, no matter what detail he piles on, at the time of the issuance of the warrant all he can know is the nature of the evidence sought. The supposed protection accorded the privacy of our citizens by having a magistrate pass on the no-knock request evaporates upon examination.

The policy underlying the rule of announcement is made up of several strands. One purpose is to protect the officers, both from innocent house holders and from criminals. Under the decisions of every State of the Union and in England, a householder has the right to kill an officer of the law who attempts to enter without announcing and his killing under the law would be justifiable homicide. The announcement rule protects the police from criminals because the average narcotics violator, though he might be inclined to shoot unidentified intruders, is highly unlikely to shoot it out with police officers. Criminals who do present a real hazard to officers can be taken care of under a well established exception to the rule which we need not codify.

As a matter of fact, I know of no provision of law which puts officers of the law in more jeopardy of life and limb than a provision of the law which undertakes to authorize no-knock searches of the homes of our citizens. When someone attempts to break into the dwelling house of the average citizen in the night time, the average citizen is not going to wait to ascertain whether it is an officer of the law or whether it is a burglar. He is going to resist to the utmost, even to the taking of life, the unwarranted intrusion into his house by some man who attempts to enter without notice, without identifying himself, without revealing his status as an officer of the law, and who attempts to enter by force, in like manner as forcible burglars.

It is ridiculous to say that an officer under those circumstances is likely to protect his life by breaking without notice. The truth is the opposite. He is more likely to lose his life if he attempts to break without notice.

Beyond the practical considerations, the announcement rule was founded to protect the right of privacy to which a man in his home is entitled. Also, the fourth amendment's protections against unreasonable searches and seizures were drafted while still burning fresh in people's minds were the abuses of British power by the infamous writs of assistance and the dreaded general search warrants. There is no reason to turn back the clock at this point to allow unannounced forcible entries by the police authorized by a blanket rule based on the type of crime or evidence involved. There is no doubt that with this type of authority, law enforcement officers will be tempted to greatly abuse this section by pretending that they are searching for narcotics in all cases for the purpose of securing this type of warrant.

Proponents of section 509(b) argue that because of the demand of effective criminal investigation and law enforcement, this legislation is necessary.

Of course, it is never popular to cast a vote that can be misinterpreted as favoring criminals, as hampering law enforcement. Yet, it makes no sense to state that we protect criminals by this rule. The Bill of Rights applies to everyone, even drug peddlers. If our standard is going to be that if a constitutional guarantee serves to protect criminals, we are going to be free to disregard it, then we are in trouble. On that theory, society would have to disregard every basic right given to any person in our society. As Mr. Justice Sutherland said:

> If the provisions of the Constitution be not upheld when they pinch as well as when they comfort, they may as well be abandoned.

Mr. Justice Jackson even more eloquently dealt with this argument of legislative necessity. He said:

> We meet in this case, as in many, the appeal to necessity. It is said that if such arrests and searches cannot be made, law enforcement will be more difficult and uncertain. But the forefathers, after consulting the lessons of history, designed our constitution to place obstacles in the way of a too permeating police surveillance, which they seemed to think was a greater danger to a free people than the escape of some criminals from punishment.

Actually, because the present common law exceptions to the announcement principle allow Federal and State officers to disregard it in exigent circumstances involving danger, destruction of evidence, or escape of suspects, I do not believe a failure to enact such provision at all will have a deleterious effect on law enforcement. Also, there is the possibility that section 509(b) will impede law enforcement because it will give every person entitled under the law to this protection against such search an opportunity to raise the question as to whether any information or evidence which was obtained was obtained in violation of the fourth amendment.

In many cases, Congress does not have the benefit of sound advice regarding its legislating in a certain field. But in the area of prior notice before entering, Mr. Justice Brennan, writing for the court in the Miller case, lays down very sound and plain policy considerations to guide us. He said:

> The requirement of prior notice of authority and purpose before forcing entry into a home is deeply rooted in our heritage and should not be given grudging application.

I hope the Senate will take Justice Brennan's advice and vote to strike section 509(b) from the Comprehensive Drug Abuse Prevention Control Act of 1970.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, first let me say, as I am sure all Members of the Senate will say, that we are always attentive to the observations of the great Senator from North Carolina. It is not an ordinary senatorial courtesy to say that. He is a great lawyer and was a great judge, and he is a great Senator. I do not ignore or treat lightly his views on anything. I am privileged to sit beside him on the Judiciary Committee, and have had 12 years of opportunity to observe his erudition, his scholarship, his justice, and his decency. So when I rise in opposition, it is with some feeling of apology. But I suppose this is what makes contests in our country, and it is good for us that it does.

Really, this is the same argument we had in January. I do not believe there is anything new that the Senator has introduced by way of argument.

He argued then, that he felt that this was an infringement upon the important fundamental constitutional rights of the American people. I understand his concern. I, too, am worried about it. I am more on his side, perhaps, than it would appear. But we are faced with a very difficult situation, and we need new tools with which to meet that situation.

This no-knock provision, as someone called it, it is not a provision in the sense that that term connotes violence, lack of notice, invasion, or instrusion. It is a no-knock provision only by the definition of its terms, the right of law-enforcement officers to get into places where dope peddlers store their filthy goods with the capability of destroying them before law-enforcement officers can get in and take possession of them. That is what this is all about.

It is easy for dope peddlers and pushers to take a vial of pills worth $100,000 and flush it down the toilet or down the kitchen sink.

What are we going to do about it?

Are we paralyzed? Are we so enchanted by our constitutional privileges that we are no longer able to defend ourselves?

Mobs take advantage of every right and every privilege. I do not ask that we adopt their style, but I do say, let us meet them in a decent, orderly, and constitutional way.

I say to my good friend from North Carolina, who is a distinguished lawyer, that the so-called no-knock provision—I should not call it that, because it is not what the term implies. It should be called something different. This provision in the bill is a guarded and careful provision of law. It is not a triviality, I am sure the Senator from North Carolina will agree, to have a law enforcement officer required to go before a Federal judge, as he has to do, for a search warrant, and prove that the requirements under this section are greater than those for a search warrant. The law enforcement officer has to be specific and say, "Your honor, at 21 Smith Street there is a house, where on the second floor there is a front room on the right, and in that room there is a bureau. In the right front drawer of that bureau there is a vial. We know what we are talking about, and we want the right to go in there and seize that vial because the people in that house are drug peddlers, making addicts of our young people and perpetuating the crime of drug addiction. Unless we can get in quickly, they will be able to throw the vial away, or destroy it, so that we will not be able to confiscate the evidence and later be able to convict them."

What is so outrageous about that? I

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have great confidence in our Federal judges. I do not believe for one minute that they will treat this matter lightly. I am sure that they will require, as they have with search-and-seizure requirements, careful application of the rule. We will have to show the Federal judge that there are these circumstances which are necessary for his approval of the kind of application that is before him.

What better protection do we have than our judges to control this kind of situation?

I believe that the Senator's argument on the grounds of constitutionality is scholarly. There is no question about it. I wish we did not need this provision. I wish we could go back to the early days when those great and wonderful men wrote the Constitution and the Bill of Rights for our country. However, that was a different society. If they were living today, I am sure that they would say that is right and that is what we should do.

Mr. President, the argument I made here last January is the same argument I make tonight. Nothing is changed. Everything is the same. I do not know how we can win the fight against the hoodlum and the drug peddler unless we have this new, carefully guarded, and carefully controlled, legal weapon in our jurisprudence. I regret that I must differ with the Senator from North Carolina. I wish it would not be so. But what brings on these problems is the misuse of constitutional liberty. It was never intended by our Founding Fathers that our liberties would be used against the free people of this country. They were not that small or narrow. These problems did not exist then. They could not foresee the vast jungle of organized crime today, not only in this country but stretching across the world.

I say to my good friend from North Carolina, be not too upset. We are not trying to write anything into the law of the country that will tear apart our constitutional liberties. We are trying to keep up to date with contemporary conditions.

If hoodlums can hide safely behind the safeguards of our liberties and prepare and distribute narcotics that cause addiction beyond my ability to enumerate, then a free people becomes paralyzed and cannot cope with the situation.

I wish the Senator would withdraw his amendment. I ask that in all earnestness because he is a great constitutional lawyer.

Mr. President, my own State of Connecticut has had the so-called no-knock law since 1834. We are known as the constitutional State. We have never had a case where our police, under the laws of Connecticut over that long period of time were involved in any question concerning it. Not once.

There are over 30 States which have the same provision. Since we debated this matter last January, I have received reports from several States which have adopted the provision. They tell me they are doing very well with it and do not have any constitutional problems.

New York State is one. There are also Alaska, Arizona, California, Connecticut, Delaware, Floride, Louisiana, Maine, Missouri, Montana, Nebraska, New Jersey, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Vermont, Washington, and West Virginia.

All these jurisdictions permit what is before us tonight.

As I have just stated, no one has ever complained about the provision in Connecticut. Our police have not abused their power and neither have the courts. I do not believe that any Federal judge in this country will abuse it, either.

Mr. President, I do not want to belabor this question any further.

Does the Senator from North Carolina insist on a rollcall vote?

Mr. ERVIN. Yes, sir.

Mr. DODD. Well, Mr. President, I may have something to say later, but I believe now that the Senator from Nebraska (Mr. HRUSKA) wishes to speak.

Mr. HRUSKA. Mr. President, will the distinguished Senator from Connecticut yield me 5 minutes?

Mr. DODD. I am happy to yield to the Senator from Nebraska all the time he wants.

Mr. HRUSKA. Mr. President, section 509 of the bill authorizes unannounced entries under defined circumstances in the execution of search warrants relating to felony offenses involving controlled substances. Considering and passing on two other bills, the Controlled Dangerous Substances Act and the omnibus District of Columbia crime bill—both of which contained no-knock provisions, the Senate has had before it amendments similar to the one the Senator from North Carolina has introduced. On both occasions these amendments were defeated. The position of the Senate has been confirmed.

By now the line of demarcation between the proponents and antagonists of this amendment has been well delineated and floor debate will probably serve little or no purpose from the standpoint of convincing one side or the other. The Department of Justice has repeatedly stated, before both committees of the Senate and the House that it can find no constitutional defect in the no-knock provision and that adequate safeguards have been incorporated to insure that it will not be abused or used indiscriminately. The Department has further stated that this provision is not designed for use in the routine type of drug investigation. Rather, it is intended to be used to apprehend and successfully prosecute the highly organized and sophisticated professional drug trafficker who is either willing and capable of destroying evidence quickly, or predisposed toward taking the life of a Federal agent.

The restrictions and limitations on obtaining a no-knock authorization are many. First, no-knock authority is only permitted in the execution of search warrants relating to offenses involving controlled substances, the penalty for which is imprisonment for more than 1 year. Second this authority extends only to Federal agents authorized to conduct investigations relating to controlled substances. Third, as well as showing sufficient facts to justify the issuance of a conventional search warrant, the officers must demonstrate sufficient facts to justify a judge or magistrate finding that there is probable cause to believe that if the officers knocked and announced their authority and purpose, either the evidence sought would be quickly and easily destroyed or disposed of, or the officers placed in danger of physical harm. In addition, the warrant must contain a statement on its face that an unannounced entry is authorized, and the officers executing the warrant must identify themselves as soon as it is practicable after gaining entry.

In reality, this section does little more than codify the common law exceptions to the general rule requiring officers executing search warrants to knock and announce their authority and purpose. Furthermore, the limitations incorporated into the section strike a balance between the need to protect individual privacy and the need to provide law enforcement with effective tools which will allow them to meet the demands imposed on them.

The following are a list of States that permit peace officers to enter dwellings without announcing their authority and purpose to either protect themselves or to prevent evidence from being quickly disposed of or destroyed. This no-knock authority is permitted either by statute or by case law.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD a list of States that permit no-knock authority.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

STATE LAWS PERMITTING NO-KNOCK AUTHORITY

1. Alaska.
2. Arizona.
3. California.
4. Connecticut.
5. Delaware.
6. District of Columbia.
7. Florida.
8. Georgia (only for arrest warrants).
9. Hawaii (no-knock permitted if door is open).
10. Illinois.
11. Indiana.
12. Louisiana.
13. Maine.
14. Maryland.
15. Massachusetts.
16. Missouri.
17. Montana.
18. Nebraska.
19. New Jersey.
20. New York.
21. North Dakota.
22. Ohio.
23. Oregon.
24. Pennsylvania.
25. Rhode Island.
26. South Carolina.
27. South Dakota.
28. Texas.
29. Utah.
30. Vermont.
31. Washington.
32. West Virginia (no-knock permitted for structures other than for "dwellings").

Mr. HRUSKA. Mr. President, it is my hope that the amendment will be rejected in line with similar action taken on previous occasions when the same type of amendment was considered by the Senate.

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Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, first I wish to thank my good friend, the distinguished Senator from Connecticut for his very gracious personal remarks concerning me. Also, I would like to pay tribute to him and to the Senator from Nebraska for their work in bringing the narcotics bill to its present stage.

The distinguished Senator from Connecticut has worked on this matter for years and years. The American people owe him a deep debt of gratitude for his diligence and his untiring and intelligent efforts in this direction.

However, I deeply regret the fact that the Senator does not place as much value on the fourth amendment as the fourth amendment deserves.

I point out again that the Constitution says that no warrant shall issue but upon probable cause, supported by oath or affirmation.

This requirement of the fourth amendment that no warrant shall issue but upon probable cause supported by oath or affirmation requires knowledge of facts. We cannot issue a search warrant on suspicion. We cannot issue a search warrant on prophecy. We have got to issue a search warrant on the basis of what the officer knows and what he swears to in respect to existing facts at the time he applies for the warrant.

Now, I want to take issue with my good friends about what the laws of the States are. The laws of the States are just like the law enunciated by Justice Brennan in the Ker case.

The laws of the States say that there are certain exceptions to the absolute rule which ordinarily governs; namely, that no officer, even if armed with a search warrant, can break into a man's house without first knocking, without first informing the occupant of the house of his presence, and not only of his presence, but of his purpose; and not only of his purpose, but of his authority under the search warrant.

Every one of these State rules that have been alluded to are not rules which justify the kind of no-knock warrant that is authorized by section 509(b). They are rules which justify a failure to knock, a failure to announce the presence and the purpose of the officer based upon facts which exist at the precise moment that he undertakes to enter the house, at the precise moment he undertakes to execute the search warrant.

They are stated by Mr. Justice Brennan in *Ker* v. *State of California*, 374 U.S. 23.

I particularly call the attention of the Senate to page 47 of that opinion. It says: "Even if probable cause exists."

Mind you, even if there is probable cause, an officer has no right to enter a house either to make an arrest or to execute a search warrant without knocking, without apprising the occupants of the house of his presence and purpose except under certain conditions which have to exist, not at the time he applies for a search warrant somewhere else and at some other time, but conditions which must exist at the precise moment when he attempts to execute the search warrant or to enter the house.

At this time, I shall explain the common law exceptions to the announcement rule as outlined by Justice Brennan in the Ker case. These are the only exceptions that the States recognize.

Justice Brennan in the Ker case states that even if probable cause exists for the arrest of the person within, the fourth amendment is violated by an unannounced police intrusion into a private home with or without an arrest warrant, except, first, where the persons within already know of the officers' authority and purpose. Manifestly that is a condition which can only exist and must exist under the exception at the precise moment that the officer undertakes to execute the warrant or make the arrest; not at some prior time when he applies to a judge or magistrate for a search warrant.

The second exception is where the officers are justified in the belief that persons within are in imminent peril of bodily harm. Manifestly an officer cannot know that except when he is there on the premises, outside the house, for the purpose of making the arrest or executing the search warrant.

The third exception, Mr. Justice Brennan says, is where those within, made aware of the presence of someone outside because, for example, there has been a knock at the door, are then engaged in activity which justifies the officers in the belief that an escape or the destruction of evidence is being attempted.

It does not say "will be attempted at some time in the future" but is being attempted then and there at the time the officer is present at the house. It has to be attempted at that very moment. That is the kind of probable cause that must exist, and the facts establishing that probable cause can only exist at the precise time that the officer is on the premises for the purpose of making the arrest or executing the search warrant. That is the probable cause that has to exist. It is not something you can foretell about. It is not something you can expect. It is not something you can imagine will occur in the future. It is not something you can prophesy about.

This no-knock provision is inconsistent with the laws of the States because they require the existence of these emergency conditions at the precise moment the officer undertakes to make an arrest or execute a search warrant.

The trouble with the no-knock provision is that it attempts to substitute for probable cause based on existing facts at the time the warrant is applied for, something that is going to happen in the future.

This no-knock provision is absolutely inconsistent with the law as stated in this case by the four judges in the majority or the four judges in the minority.

This no-knock provision that is embodied in the bill is an attempt to have Congress repeal by statute the fourth amendment, and that cannot be done. It may be that these great basic rights that are created by our law for the protection of the privacy of citizens, and for the other protections of citizens, such as the presumption of innocence, may be handicaps in the enforcement of the law, but we should not get to the point where we would do as they did in the Star Chamber. We should not abolish the presumption of innocence or the requirement that no man is required to incriminate himself and make him testify against himself as was done in the Star Chamber. We should not destroy the idea that a man's home is his castle. All of these things are impediments to the conviction of parties. But they are designed to protect all men, regardless of whether they are good men and regardless of whether they are bad men. Mr. President, when you stop giving basic constitutional protection to bad men it is just a short time until they are denied to good men.

The only way to enforce a constitutional protection, such as the fourth amendment, is to give that protection to all our citizens, regardless of whether they are good or bad, wise or foolish, powerful or weak, rich or poor.

I say the Senate should strike out of this bill an iniquitous provision and make the bill harmonize with all the wise provisions in the bill. Let me not destroy a good bill by polluting it with a section which manifestly has contempt for the fourth amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD the opinion in the case of Ker against State of California.

There being no objection, the decision was ordered to be printed in the RECORD, as follows:

*[374 US 23]

*GEORGE D. KER ET AL., PETITIONERS,

v.

STATE OF CALIFORNIA

374 US 23, 10 L ed 2d 726, 83 S Ct 1623

[No. 53]

Argued December 11, 1962. Decided June 10, 1963.

SUMMARY

On the day following a California police officer's encounter with a known marijuana dealer, including the purchase from the dealer of a package of marijuana, other police officers observed an encounter between the dealer and the defendant husband, which occurred under identical surrounding circumstances except that the officers did not see any substance passing between the two men. The officers following the defendant lost contact with him when he made a U-turn in the middle of a block. Without securing a search warrant, the officers, among them one having information that the defendant husband was selling from his apartment marijuana possibly secured from the dealer, obtained from the building manager a passkey to defendants' apartment, and entered the apartment, where they found the defendant husband in the living room. The defendant wife emerged from the kitchen, and one of the officers, after identifying himself, observed through the open doorway of the kitchen a package of marijuana on a scale atop the kitchen sink. The officers then arrested both defendants and searched the apartment, finding additional marijuana in the kitchen cupboard and atop the bedroom dresser.

The defendants were convicted in the Superior Court of Los Angeles County of possessing marijuana. Their convictions were affirmed by the California District Court of Appeal on the grounds that there was probable cause for the arrests, that the officers' entry into the apartment was for the purpose of arrest and was not unlawful, and that the search, being incident to the arrests, was likewise lawful and its fruits admissible in evidence against the defendants. (195 Cal App 2d 246, 15 Cal Rptr 767.)

On certiorari, the United States Supreme Court affirmed. The ultimate issue before the Court concerned the admissibility, in defendants' trial, of the marijuana seized in their apartment. Eight members of the Court agreed on the nature of the standards applicable to determine the reasonableness of a state search and seizure, but split 4 to 4 as to whether these standards were violated under the circumstances of the present case. The remaining member—Mr. Justice HARLAN—concurred in the affirmance of the judgment below.

In an opinion by CLARK, J., expressing the views of eight members of the Court, it was held that the question of reasonableness of a state search and seizure is governed by federal constitutional standards, as expressed in the Fourth Amendment and the decisions of the Court applying that amendment. On the other hand, HARLAN, J., expressed the view that state searches and seizures shoud be judged by the more flexible concept of "fundamental" fairness, or rights "basic to a free society," embraced in the due process clause of the Fourteenth Amendment.

The question whether federal constitutional standards of reasonableness were violated by the search in the present case was answered in the negative in an opinion by CLARK, J., joined by BLACK, STEWART, and WHITE, JJ. These justices held that the search without warrant was valid as incident to a lawful arrest, made upon probable cause, and that the officers' method of entry was not unreasonable. On the other hand, BRENNAN, J., joined by WARREN, Ch. J., and DOUGLAS and GOLDBERG, JJ., expressed the view that federal constitutional standards were violated because the unannounced intrusion of the arresting officers into defendants' apartment violated the Fourth Amendment.

ANNOTATION REFERENCES

1. As to the rules governing, prior to the Mapp Case, the admissibility of evidence obtained by illegal search, see 24 ALR 1408, 32 ALR 406, 41 ALR 1145, 52 ALR 477, 88 ALR 348, 134 ALR 819, 150 ALR 566, 50 ALR2d 531. See also 93 L ed 1797, 96 L ed 145, 98 L ed 581, 100 L ed 239, 6 L ed 2d 1544 (dealing with United States Supreme Court cases in point). For the law developed on the same subject in and after the Mapp Case, see 84 ALR2d 959.

2. Federal constitution as a limitation upon the powers of the states in respect of search and seizure. 19 ALR 644.

3. Right of search and seizure incident to lawful arrest without a search warrant, 32 ALR 680, 51 ALR 424, 74 ALR 1387, 82 ALR 782. See 4 L ed 2d 1982 (collecting Supreme Court cases in point).

4. What constitutes "probable cause" or "reasonable grounds" justifying arrest of narcotics suspect without warrant. 3 L ed 2d 1786.

HEADNOTES—CLASSIFIED TO U.S. SUPREME COURT DIGEST, ANNOTATED

Evidence § 681; Search and Seizure § 5—restrictions on states—admissibility of evidence illegally obtained.

1. The Fourth Amendment is enforceable against the states by the same sanction of exclusion of evidence as is used against the federal government and through the application of the same constitutional standard prohibiting "unreasonable searches and seizures." [*See annotation references* 1, 2]

Evidence § 859; Supreme Court of the United States § 9—rules of evidence in federal criminal trials.

2. The principles governing the admissibility of evidence in federal criminal trials are not restricted to those derived solely from the Federal Constitution; in the exercise of its supervisory authority over the administration of criminal justice in the federal courts, the United States Supreme Court has formulated rules of evidence to be applied in federal criminal prosecutions, but the Court assumes no supervisory authority over state courts.

Courts § 683—federal and state—conflicts.

3. The very essence of a healthy federalism depends upon the avoidance of needless conflicts between state and federal courts.

Search and Seizure § 4—constitutional prohibitions.

4. Implicit in the Fourth Amendment's protection from unreasonable searches and seizures is its recognition of individual freedoms; that safeguard is of the very essence of constitutional liberty the guaranty of which is as important and as imperative as the guaranties of the other fundamental rights of the individual citizens.

Search and Seizure § 6—persons protected.

5. The Fourth Amendment forbids every search that is unreasonable, and protects those suspected or known to be offenders as well as the innocent.

Search and Seizure § 8—place of search.

6. The Fourth Amendment's prohibition of unreasonable searches and seizures extends to the premises where the search was made.

Search and Seizure § 5—standards governing reasonableness.

7. The principle that standards of reasonableness of searches and seizures are not susceptible of Procrustean application is carried forward when the Fourth Amendment's proscriptions are enforced against the states through the Fourteenth Amendment. [*See annotation reference* 2]

Evidence § 681; Search and Seizure § 5; Supreme Court of the United States § 9—obtained through unlawful search and seizure—distinctions.

8. Although the standard of reasonableness of searches and seizures is the same under the Fourth and Fourteenth Amendments, there is a distinction between evidence held inadmissible because of the United States Supreme Court's supervisory powers over federal courts and evidence held inadmissible because prohibited by the United States Constitution. [*See annotation references* 1, 2]

Search and Seizure § 5—unreasonableness—determination by trial court.

9. The reasonableness of a search is in the first instance a substantive determination to be made by the trial court from the facts and circumstances of the case and in the light of the fundamental criteria laid down by the Fourth Amendment and in opinions of the United States Supreme Court applying that amendment.

Appeal and Error § 806.5—state court findings—United States Supreme Court review.

10. On review of a state court judgment of conviction of crime, the United States Supreme Court will respect the state court's findings of reasonableness of a search and seizure only insofar as the finding is consistent with federal constitutional guaranties.

Appeal and Error § 806.5—United States Supreme Court review of state court findings—federal constitutional rights.

11. On review by the United States Supreme Court of state court judgments of conviction of crime, findings of state courts involving federal constitutional rights are by no means insulated against examination by the United States Supreme Court; while the Court does not sit as in nisi prius to appraise contradictory factual questions, it will, where necessary to the determination of constitutional rights, make an independent examination of the facts, the findings, and the record so that it can determine for itself whether in the state court findings, such as a finding as to the reasonableness of a search and seizure, the constitutional criteria established by the Supreme Court have been respected.

Arrest § 1; Evidence § 681; Search and Seizure § 4—power of state.

12. The states have power to develop workable rules governing arrests, and searches and seizures, to meet the practical demands of effective criminal investigation and law enforcement in the states, provided that those rules do not violate the Fourth Amendment's proscription of unreasonable searches and seizures, and the concomitant command that evidence so seized is inadmissible against one who has standing to complain. [*See annotation reference* 1]

POINTS FROM SEPARATE OPINIONS

Evidence § 681; Search and Seizure § 12—search as incident to lawful arrest.

13. Evidence obtained by a search without search warrant is admissible only if the search was incident to a lawful arrest. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference* 3]

Arrest § 2—without warrant—probable cause.

14. The lawfulness of an arrest without warrant must be based upon probable cause, which exists where the facts and circumstances within the arresting officers' knowledge and of which they had reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Arrest § 2—without warrant—for narcotics offense—reasonable grounds.

15. Information within the knowledge of state narcotics officers at the time they arrested a suspect at his apartment furnishes grounds for a reasonable belief that the suspect had committed and was committing the offense of possession of marijuana, where some of the officers observed an encounter between a known marijuana dealer and the suspect on the evening of the arrest and, although the officers did not see any substance pass between the two men, their encounter was a virtual re-enactment of the previous night's encounter between the dealer and another narcotics officer, including the sale by the dealer to that officer of a pound of marijuana, the virtual identity of the surrounding circumstances warranting a strong suspicion that the one remaining element, a sale of narcotics, was a part of the encounter preceding the arrest, as it was the previous night, and where, moreover, the officer had information from a reliable informer as well as from other sources, not only that the suspect had been selling marijuana from his apartment but also that his likely source of supply was the dealer. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference* 4]

Arrest § 2—without warrant—probable cause—hearsay information.

16. That information in possession of a police officer is hearsay does not destroy its role in establishing probable cause supporting an arrest without warrant. [From seprate opinion by Clark, Black, Stewart, and White, JJ.]

Arrest § 2—without warrant—for narcotics offense—probable cause.

17. Probable cause for the arrest, without warrant, of the wife of a narcotics suspect, and a reasonable ground for the belief of state narcotics officers that the wife was in joint possession of marijuana with her hus-

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band, exist where, upon the officers' entry into the spouse's apartment and announcement of their identity, one of the officers, walking to the doorway of the kitchen, from which the wife had emerged, and without entering the kitchen, observed a package of marijuana in plain view on a scale atop the kitchen sink, and moreover the officers had reliable information that the husband had been using his apartment as a base of operations for his narcotics activities. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference* 4]

Courts § 625—arrest without warrant—governing law.

18. In cases under the Fourth Amendment the lawfulness of arrests for federal offenses is to be determined by reference to state law insofar as it is not violative of the Federal Constitution; a fortiori, the lawfulness of an arrest made by a state officer for a state offense is to be determined by state law. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Courts § 625; Search and Seizure § 12—search in connection with arrest—governing law.

19. Where a person's federal constitutional protection from unreasonable searches and seizures by state police officers for a state offense is to be determined by whether the search was incident to a lawful arrest, the United States Supreme Court is warranted in examining that arrest to determine whether, notwithstanding its legality under state law, the method of entering the home may offend federal constitutional standards of reasonableness and therefore vitiate the legality of an accompanying search. [From separate opinion by Clark, Black, Stewart, and White. J.J.] [*See annotation reference* 3]

Arrest § 1—"breaking."

20. The common law recognizes that under certain circumstances breaking a person's house is permissible in executing an arrest. [From separate opinion by Clark, Black, Stewart and White, J.J.]

Search and Seizure § 29—execution of search warrant.

21. Under California law the presence of exigent circumstances constitutes an exception to the notice requirement of a statute authorizing a police officer to break open any part of a house to execute a search warrant if, after notice of his authority and purpose, he is refused admittance. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Arrest § 2—without warrant—probable cause.

22. In determining the lawfulness of entry and the existence of probable cause supporting an arrest without warrant, the court concerns itself only with what the arresting officers had reason to believe at the time of their entry. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Search and Seizure § 3—legality of search—result.

23. A search is not to be made legal by what it turns up; in law it is good or bad when it starts and does not change character from its success. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Arrest § 1; Search and Seizure § 12—searches incident to lawful arrest—officers' method of entry.

24. Notwithstanding the failure of state narcotics officers to give notice of their authority and purpose to a narcotics suspect prior to his arrest and the search of his apartment, their method of entry, sanctioned by state law, by obtaining a passkey from the manager of the building is not unreasonable under the standards of the Fourth Amendment as applied to the states through the Fourteenth Amendment, where, in addition to the officers' belief that the suspect was in possession of narcotics, which could be quickly and easily destroyed, his furtive conduct in eluding them shortly before the arrest was ground for the belief that he might well have been expecting the police. [From separate opinion by Clark, Black, Stewart, and White, JJ. Contra: separate opinion by Brennan, J., Warren, Ch. J., and Douglas and Goldberg, J.J.] [*See annotation references,* 2, 3]

Search and Seizure § 12—in connection with arrest.

25. The doctrine that a search without warrant may be lawfully conducted if incident to a lawful arrest is consistent with the Fourth Amendment's protection against unreasonable searches and seizures. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference* 3]

Search and Seizure § 12—in connection with arrest—practicability of obtaining warrant.

26. The practicability of obtaining a warrant is not the controlling factor when a search is sought to be justified as incident to arrest. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference 3*]

Search and Seizure § 12—in connection with arrest—practicability of obtaining search warrant.

27. A search without warrant, incident to a lawful arrest, is not unreasonable, and hence not violative of the Fourth Amendment in that the state narcoics officers involved could practicably have obtained a search warrant, where the officers' observations and their corroboration, which furnished probable cause for the suspect's arrest, occurred at about 9 p.m., approximately one hour before the time of arrest, and the officers had reason to set quickly because of the suspect's furtive conduct and the likelihood that the marijuana in his possession would be distributed or hidden before a warrant could be obtained at that time of night. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference 3*]

Search and Seizure § 12—in connection with arrest—extent of premises searched.

28. The search, as an incident to a narcotics suspect's lawful arrest, of the kitchen and bedroom of his apartment, is within the rule that such search may, under appropriate circumstances, extend beyond the person of the one arrested to include the premises under his immediate control. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference 3*]

Search and Seizure § 12—in connection with arrest.

29. The rule that an arrest may not be used merely as the pretext for a search without warrant is not violated where the record shows that the arresting officers entered the suspect's apartment for the purpose of arresting him and that they had probable cause to make that arrest prior to the entry. [From separate opinion by Clark, Black, Stewart and White, JJ.] [*See annotation reference 3*]

Search and Seizure § 2—what constitutes search.

30. The discovery by a police officer entering a suspect's apartment of a brick of marijuana on a scale atop the kitchen sink does not constitute a search, since the officer merely saw what was placed before him in full view. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

31. California law does not require that an arrest precede an incidental search as long as probable cause exists at the outset. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference* 3]

Appeal and Error §§ 1084(2), 1088, 1123—questions not properly raised.

32. On review of a state court judgment of conviction of crime, the United States Supreme Court will not reach the question of the reasonableness of the search of defendant's automobile on the day subsequent to his arrest where that question was not raised in the petition for certiorari, nor discussed in the brief filed in the United States Supreme Court, nor in the state trial court nor in the state appellate court, and the latter court did not adjudicate it. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Appeal and Error § 1104; Courts § 95.3—scope of review—questions not raised.

33. Ordinarily the United States Supreme Court does not reach for constitutional questions not raised by the parties, nor extend its review beyond those specific federal questions properly raised in the state court. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Appeal and Error § 431—from state court—federal question.

34. There can be no question as to the proper presentation of a federal claim when the highest state court passes on it. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Arrest § 1; Search and Seizure § 12—search as incident to arrest—prerequisities of validity.

35. Even if probable cause exists for the arrest of a person within, the Fourth Amendment's prohibition of unreasonable searches and seizures is violated by an unannounced police intrusion into a private home, with or without an arrest warrant, except (1) where the persons within already know of the officers' authority and purpose, or (2) where the officers are justified in the belief that persons within are in imminent peril of bodily harm, or (3) where those within, made aware of the presence of someone outside (because, for example, there has been a knock at the door) are then engaged in activity which justifies the officers in the belief that an escape or the destruction of evidence is being attempted. [From separate opinion by Brennan, J. Warren, Ch. J., and Douglas and Goldberg, JJ.]

Search and Seizure § 5—constitutional protection—lawful entry.

36. A lawful entry is the indispensable predicate of a reasonable search within the meaning of the Fourth Amendment guaranteeing the right of the people to be secure against unreasonable searches and seizures. [From separate opinion by Brennan, J., Warren, Ch. J., and Douglas and Goldberg, JJ.]

Courts § 95.3—constitutional question.

37. The United States Supreme Court will not decide constitutional questions when a nonconstitutional basis for decision is available. [From separate opinion by Brennan, J., Warren, Ch. J., and Douglas and Goldberg, JJ.]

APPEARANCES OF COUNSEL

Robert W. Stanley argued the cause for petitioners.

Gordon Ringer argued the cause for respondent.

Briefs of Counsel, p. 1312, infra.

OPINION OF THE COURT

*[374 US 24]

*Mr. Justice Clark delivered the opinion of the Court with reference to the standard by which state searches and seizures must be evaluated (Part I), together with an opinion applying that standard, in which Mr. Justice Black, Mr. Justice Stewart and Mr. Justice White join (Parts II–V), and announced the judgment of the Court.

This case raises search and seizure questions under the rule of Mapp v Ohio, 367 US 643, 6 L ed 2d 1081, 81 S Ct 1684, 84 ALR2d 933 (1961). Petitioners, husband and wife, were convicted of possession of marijuana in violation of § 11530 of the California Health and Safety Code. The California District Court of Appeal affirmed, 195 Cal App 2d 246, 15 Cal Rptr 767, despite the contention of petitioners that their

*[374 US 25]

arrests in their *apartment without warrants lacked probable cause[1] and the evidence seized incident thereto and introduced at their trial was therefore inadmissible. The California Supreme Court denied without opinion a petition for hearing. This being the first case arriving here since our opinion in Mapp which would afford suitable opportunity for further explication of that holding in the light of intervening experience, we granter certiorari. 368 US 974, 7 L ed 2d 437, 82 S Ct 840. We affirm the judgment before us.

The state courts' conviction and affirmance are based on these events, which culminated in the petitioners' arrests. Sergeant Cook of the Los Angeles County Sheriff's Office, in negotiating the purchase of marijuana from one Terrhagen, accompanied him to a bowling alley about 7 p.m. on July 26, 1960, where they were to meet Terrhagen's "connection." Terrhagen went inside and returned shortly, pointing to a 1946 DeSoto as his "connection's" automobile and explaining that they were to meet him "up by the oil fields" near Fairfax and Slauson Avenues in Los Angeles. As they neared that location, Terrhagen again pointed out the DeSoto traveling ahead of them, stating that the "connection" kept his supply of narcotics "somewhere up in the hills." They parked near some vacant fields in the vicinity of the intersection of Fairfax and Slauson, and, shortly thereafter, the DeSoto reappeared and pulled up beside them. The deputy then recognized the driver as one Roland Murphy, whose "mug" photograph he had seen and whom he knew from other narcotics officers to be a large-scale seller of marijuana currently out on bail in connection with narcotics charges.

*[374 US 26]

*Terrhagen entered the DeSoto and drove off toward the oil fields with Murphy, while the Sergeant waited. They returned shortly, Terrhagen left Murphy's car carrying a package of marijuana and entered his own vehicle, and they drove to Terrhagen's residence. There Terrhagen cut one pound of marijuana and gave it to Sergeant Cook, who had previously paid him. The Sergeant later reported this occurrence to Los Angeles County Officers Berman and Warthen, the latter of whom had observed the occurrences as well.

On the following day, July 27, Murphy was placed under surveillance. Officer Warthen, who had observed the Terrhagen-Murphy episode the previous night, and Officer Markman were assigned this duty. At about 7 p.m. that evening they followed Murphy's DeSoto as he drove to the same bowling alley in which he had met Terrhagen on the previous evening. Murphy went inside, emerged in about 10 minutes and drove to a house where he made a brief visit. The officers continued to follow him but, upon losing sight of his vehicle, proceeded to the vicinity of Fairfax and Slauson Avenues where they parked. There, immediately across the street from the location at which Terrhagen and Sergeant Cook had met Murphy on the previous evening, the officers observed a parked automobile whose lone occupant they later determined to be the petitioner George Douglas Ker.

The officers then saw Murphy drive past them. They followed him but lost sight of him when he extinguished his lights and entered the oil fields. The officers returned to their vantage point and, shortly thereafter, observed Murphy return and park behind Ker. From their location approximately 1,000 feet from the two vehicles, they watched through field glasses. Murphy was seen leaving his DeSoto and walking up to the driver's side of Ker's car, where he "appeared to have conversation with him." It was shortly before 9 p.m. and the distance in

*[374 US 27]

the *twilight was too great for the officers to see anything pass between Murphy and Ker or whether the former had anything in his hands as he approached.

While Murphy and Ker were talking, the officers had driven past them in order to see their faces closely and in order to take the license number from Ker's vehicle. Soon thereafter Ker drove away and the officers followed him but lost him when he made a U-turn in the middle of the block and drove in the opposite direction. Now, having lost contact with Ker, they checked the registration with the Department of Motor Vehicles and ascertained that the automobile was registered to Douglas Ker at 4801 Slauson. They then communicated this information to Officer Berman, within 15 to 30 minutes after observing the meeting between Ker and Murphy. Though officers Warthen and Markman had no previous knowledge of Ker, Berman had received information at various times beginning in November of 1959 that Ker was selling marijuana from his apartment and that "he was possibly securing this Marijuana from Ronnie Murphy who is the alias of Roland Murphy." In early 1960 Officer Berman had received a "mug" photograph of Ker from the Inglewood Police Department. He further testified that between May and July 27, 1960, he had received information as to Ker from one Robert Black, who had previously given information leading to at least three arrests and whose information was believed by Berman to be reliable. According to Officer Berman, Black had told him on four or five occasions after May 1960 that Ker and others, including himself, had purchased marijuana from Murphy.[3]

*[374 US 28]

*Armed with the knowledge of the meeting between Ker and Murphy and with Berman's information as to Ker's dealings with Murphy, the three officers and a fourth, Officer Love, proceeded immediately to the address which they had obtained through Ker's license number. They found the automobile which they had been following—and which they had learned was Ker's—in the parking lot of the multiple-apartment building and also ascertained that there was someone in the Kers' apartment. They then went to the office of the building manager and obtained from him a passkey to the apartment. Officer Markman was stationed outside the window to intercept any evidence which might be ejected, and the other three officers entered the apartment. Officer Berman unlocked and opened the door, proceeding quietly, he testified, in order to prevent the destruction of evidence,[3] and found petitioner George Ker sitting in the living room. Just as he identified himself, stating that "We are Sheriff's Narcotics Officers, conducting a narcotics investigation," petitioner Diane Ker emerged from the kitchen. Berman testified that he repeated his identification to her and immediately walked to the kitchen. Without entering, he observed through the open doorway a small scale atop the kitchen sink, upon which lay a "brick-like—brick-shaped package containing the green leafy substance" which he recognized as marijuana. He beckoned the petitioners into the kitchen where, following their denial of knowledge of the contents of the two-and-two-tenths-pound package and

*[374 US 29]

*failure to answer a question as to its ownership, he placed them under arrest for suspicion of violating the State Narcotic Law. Officer Markman testified that he entered the apartment approximately "a minute, minute and a half" after the other officers, at which time Officer Berman was placing the petitioners under arrest. As to this sequence of events, petitioner George Ker testified that his arrest took place immediately upon the officers' entry and before they saw the brick of marijuana in the kitchen.

Subsequent to the arrest and the petitioners' denial of possession of any other narcotics, the officers, proceeding without search warrants, found a half-ounce package of marijuana in the kitchen cupboard and another atop the bedroom dresser. Petitioners were asked if they had any automobile other than the one observed by the officers, and George Ker replied in the negative, while Diane remained silent. On the next day, having learned that an automobile was registered in the name of Diane Ker, Officer Warthen searched this car without a warrant, finding marijuana and marijuana seeds in the glove compartment and under the rear seat. The marijana found on the kitchen scale, that found in the kitchen cupboard and in the bedroom, and that found in Diane Ker's automobile[4] were all introduced into evidence against the petitioners.

The California District Court of Appeal in affirming the convictions found that there was probable cause for the arrests; that the entry into the apartment was for the purpose of arrest and was not unlawful; and that the search being incident to the arrests was likewise lawful and its fruits admissible in evidence against petitioners. These conclusions were essential to the affirmance, since the California Supreme Court in 1955

*[374 US 30]

had held that evidence *obtained by means of unlawful searches and seizures was inadmissible in criminal trials. People v. Cahan, 44 Cal 2d 434, 282 P2d 905, 50 ALR2d 513. The court concluded that in view of its findings and the implied findings of the trial court, this Court's intervening decision in Mapp v Ohio, 367 US 643, 6 L ed 2d 1081, 81 S Ct 1684, 84 ALR2d 933, supra, did "not justify a change in our original conclusion." 195 Cal App 2d, at 257 15 Cal Rptr, at 773.

I.

In Mapp v Ohio, 367 US at 646, 647, 657, we followed Boyd v United States, 116 US 616, 630, 29 L ed 746, 751, 6 S Ct 524 (1886), which held that the Fourth Amendment,[5] implemented by the self-incrimination clause of the Fifth,[6] forbids the Federal Government to convict a man of crime by using testimony or papers obtained from him by unreasonable searches and seizures as defined in the Fourth Amendment. We specifically held in Mapp that this constitutional prohibition is enforceable against the States through the Fourteenth Amendment.[7] This means, as we said in—Headnote 1—Mapp, that the Fourth Amendment "is enforceable against them [the states] by the same sanction of exclusion as is used against the Federal Government," by the application of the same constitutional standard prohibiting "unrea-

*[374 US 31]

sonable *searches and seizures." 367 US, at 655. We now face the specific question as to whether Mapp requires the exclusion of evidence in this case which the California District Court of Appeal has held to be lawfully seized. It is perhaps ironic that the initial test under the Mapp holding comes from California, whose decision voluntarily to adopt the exclusionary rule in 1955 has been commended by us previously. See Mapp v Ohio, supra (367 US at 651, 652); Elkins v United States, 364 US 206, 220, 4 L ed 2d 1669, 1679, 80 S Ct 1437 (1960).

Preliminary to our examination of the search and seizures involved here, it might be helpful for us to indicate what was not decided in Mapp. First, it must be recognized

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Footnotes at end of article.

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that the "principles governing—Headnote 2—the admissibility of evidence in federal criminal trials have not been restricted . . . to those derived solely from the Constitution. In the exercise of its supervisory authority over the administration of criminal justice in the federal courts . . . this Court has . . . formulated rules of evidence to be applied in federal criminal prosecutions." McNabb v United States, 318 US 332, 341, 87 L ed 819, 824, 63 S Ct 608 (1943); cf. Miller v United States, 357 US 301, 2 L ed 2d 1332, 78 S Ct 1190 (1958); Nardone v United States, 302 US 379, 82 L ed 314, 58 S Ct 275 (1937). Mapp, however, established no assumption by this Court of supervisory authority over state courts, cf. Cleary v Bolger, 371 US 392, 401, 9 L ed 2d 390, 396, 83 S Ct 385 (1963), and, consequently, it implied no total obliteration of state laws relating to arrests and searches in favor of federal law. Mapp sounded no death knell for our federalism; rather, it echoed the sentiment of Elkins v United States, supra (364 at 221),—Headnote 3—that "a healthy federalism depends upon the avoidance of needless conflict between state and federal courts" by itself urging that "[f]ederal-state cooperation in the solution of crime under constitutional standards will be promoted, if only by recognition of their now mutual obligation to respect *the same fundamental criteria* in their approaches." 367 US, at 658. (Emphasis added.) Second, Mapp did not attempt the impossible task

*[374 US 32]

of laying *down a "fixed formula" for the application in specific cases of the constitutional prohibition against unreasonable searches and seizures; it recognized that we would be "met with 'recurring questions of the reasonableness of searches' " and that, "at any rate, '[r]easonableness is in the first instance for the [trial court] . . . to determine,' " id. 367 US at 653, thus indicating that the usual weight be given to findings of trial courts.

Mapp, of course, did not lend itself to a detailed explication of standards, since the search involved there was clearly unreasonable and bore no stamp of legality even from the Ohio Supreme Court. Id. 367 US at 643–645. This is true also of Elkins v United States, where all of the courts assumed the unreasonableness of the search in question and this Court "invoked" its "supervisory power over the administration of criminal justice in the federal courts," 364 US, at 216, in declaring that the evidence so seized by state officers was inadmissible in a federal prosecution. The prosecution being in a federal court, this Court of course announced that "[t]he test is one of federal law, neither enlarged by what one state court may have countenanced, nor diminished by what another may have colorably suppressed." Id. 364 US at 224. Significant in the Elkins holding is the statement, apposite here, that "it can fairly be said that in applying the Fourth Amendment this Court has seldom shown itself unaware of the practical demands of effective criminal investigation and law enforcement." Id. 364 US at 222.

Implicit in the Fourth Amendment's protection from unreasonable searches and seizures is its recognition of individual freedom.—Headnote 4—That safeguard has been declared to be "as of the very essence of constitutional liberty" the guaranty of which "is as important and as imperative as are the guaranties of the other fundamental rights of the individual citizen . . . ." Gouled v United States, 255 US 298, 304, 65 L ed 647, 650, 41 S Ct 261 (1921); cf. Powell v Alabama, 287

*[374 US 33]

US *45, 65–68, 77 L ed 158, 168–170, 53 S Ct 55, 84 ALR 527 (1932). While the language of the Amendment is "general," it "forbids every—Headnote 5—search that is unreasonable; it protects all, those—Headnote 6—suspected or known to be offenders as well as the innocent, and unquestionably extends to the premises where the search was made . . . ." Go-Bart Importing Co. v. United States, 282 US 344, 357, 75 L ed 374, 382, 51 S Ct 153 (1931). Mr. Justice Butler there stated for the Court that "(t)he Amendment is to be liberally construed and all owe the duty of vigilance for its effective enforcement lest there shall be impairment of the rights for the protection of which it was adopted." Ibid. He also recognized that "(t)here is no formula for the determination of reasonableness. Each case is to be decided on its own facts and circumstances." Ibid; see United States v Rabinowitz, 339 US 56, 63, 94 L ed 653, 658, 70 S Ct 430 (1950); Rios v United States, 364 US 253, 255, 4 L ed 2d 1688, 1690, 80 S Ct 1431 (1960).

This Court's long-established recognition that standards of reasonableness under the—Headnote 7—Fourth Amendment are not susceptible of Procrustean application is carried forward when that Amendment's proscriptions are enforced against the States through the Fourteenth Amendment. And, although the—Headnote 8—standard of reasonableness is the same under the Fourth and Fourteenth Amendments, the demands of our federal system compel us to distinguish between evidence held inadmissible because of our supervisory powers over federal courts and that held inadmissible because prohibited by the United States Constitution. We—Headnote 9—reiterate that the reasonableness of a search is in—Headnote 10—the first instance a substantive determination to be made by the trial court from the facts and circumstances of the case and in the light of the "fundamental criteria" laid down by the Fourth Amendment and in opinions of this Court applying that Amendment. Findings of reasonableness, of course, are respected only insofar as consistent with federal constitutional guarantees. As we have stated above and in other cases involving

*[374 US 34]

*federal constitutional rights, findings of state courts are—Headnote 11—by no means insulated against examination here. See, e.g., Spano v New York, 360 US 315, 316, 3 L ed 2d 1265, 1267, 79 S Ct 1202 (1959); Thomas v. Arizona, 356 US 390, 393, 2 L ed 2d 863, 866, 78 S Ct 885 (1958); Pierre v Louisiana, 306 US 354, 358, 83 L ed 751, 760, 59 S Ct 536 (1939). While this Court does not sit as in nisi prius to appraise contradictory factual questions, it will, where necessary to the determination of constitutional rights, make an independent examination of the facts, the findings, and the record so that it can determine for itself whether in the decision as to reasonableness the fundamental—i.e., constitutional—criteria established by this Court have been respected. The States are not thereby—Headnote 12—precluded from developing workable rules governing arrests, searches and seizures to meet "the practical demands of effective criminal investigation and law enforcement" in the States, provided that those rules do not violate the constitutional proscription of unreasonable searches and seizures and the concomitant command that evidence so seized is inadmissible against one who has standing to complain. See Jones v United States, 362 US 257, 4 L ed 2d 697, 80 S Ct 725, 78 ALR2d 233 (1960). Such a standard implies no derogation of uniformity in applying federal constitutional guarantees but is only a recognition that conditions and circumstances vary just as do investigative and enforcement techniques.

Applying this federal constitutional standard we proceed to examine the entire record including the findings of California's courts to determine whether the evidence seized from petitioners was constitutionally admissible under the circumstances of this case.

II.—SEPARATE OPINION †

The evidence at issue, in order to be admissible, must be the product—Headnote 13—of a search incident to a lawful arrest, since the—Headnote 14—officers had no search warrant. The lawfulness of the arrest without warrant, in

* [374 US 35]

turn, must be based
upon * probable cause, which exists "where 'the facts and circumstances within their [the officers'] knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that' an offense has been or is being committed." Brinegar v United States, 338 US 160, 175, 176, 93 L ed 1879, 1890, 69 S Ct 1302 (1949), quoting from Carroll v United States, 267 US 132, 162, 69 L ed 543, 555, 45 S Ct 280, 39 ALR 790 (1925); accord, People v Fischer, 49 Cal 2d 442, 317 P2d 967 (1957); Bompensiero v Superior Court of San Diego County, 44 Cal 2d 178, 281 P2d 250 (1955).—Headnote 15—The information within the knowledge of the officers at the time they arrived at the Kers' apartment, as California's courts specifically found, clearly furnished grounds for a reasonable belief that petitioner George Ker had committed and was committing the offense of possession of marijuana. Officers Markman and Warthen observed a rendezvous between Murphy and Ker on the evening of the arrest which was a virtual reenactment of the previous night's encounter between Murphy, Terrhagen and Sergeant Cook, which concluded in the sale by Murphy to Terrhagen and the Sergeant of a package of marijuana of which the latter had paid Terrhagen for one pound which he received from Terrhagen after the encounter with Murphy. To be sure, the distance and lack of light prevented the officers from seeing and they did not see any substance pass between the two men, but the virtual identity of the surrounding circumstances warranted a strong suspicion that the one remaining element—a sale of narcotics—was a part of this encounter as it was the previous night. But Ker's arrest does not depend upon this single episode with Murphy. When Ker's U-turn thwarted the officer's pursuit, they learned his name and address from the Department of Motor Vehicles and reported the occurrence to Officer Berman. Berman, in turn, revealed information from an informer whose reliability had been

* [374 US 36]

tested previously, as * well as from other sources, not only that Ker had been selling marijuana from his apartment but also that his likely source of supply was Murphy himself.—Headnote 16—That this information was hearsay does not destroy its role in establishing probable cause. Brinegar v. United States, 338 US 160, 93 L ed 1879, 69 S Ct 1302, supra. In Draper v United States, 358 US 307, 3 L ed 2d 327, 79 S Ct 329 (1959), we held that information from a reliable informer, corroborated by the agents' observations as to the accuracy of the informer's description of the accused and of his presence at a particular place, was sufficient to establish probable cause for an arrest without warrant.[8] The corroborative elements in Draper were innocuous in themselves, but here both the informer's tip and the personal observations connected Ker with specific illegal activities involving the same man, Murphy, a known marijuana dealer. To say that this coincidence of information was sufficient to support a reasonable belief of the officers that Ker was illegally in possession of marijuana is to indulge in understatement.

Probable cause for the arrest of petitioner Diane Ker, while not—Headnote 17—present at the time the officers entered the apartment to arrest her husband, was nevertheless present at the time of her arrest. Upon

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Footnotes at end of article.

their entry and announcement of their identity, the officers were met not only by George Ker but also by Diane Ker, who was emerging from the kitchen. Officer Berman immediately walked to the doorway from which she emerged and, without entering, observed the brick-shaped package of marijuana in plain view. Even assuming that her presence *[374 US 37] * in a small room with the contraband in a prominent position on the kitchen sink would not alone establish a reasonable ground for the officers' belief that she was in joint possession with her husband, that fact was accompanied by the officers' information that Ker had been using his apartment as a base of operations for his narcotics activities. Therefore, we cannot say that at the time of her arrest there were not sufficient grounds for a reasonable belief that Diane Ker, as well as her husband, was committing the offense of possession of marijuana in the presence of the officers.

III.

It is contended that the lawfulness of the petitioners' arrests, even if they were based upon probable cause, was vitiated by the method of entry. This Court, in cases under—Headnote 18—the Fourth Amendment, has long recognized that the lawfulness of arrests for federal offenses is to be determined by reference to state law insofar as it is not violative of the Federal Constitution. Miller v United States, 357 U.S. 301, 2 L ed 2d 1332, 78 S Ct 1190, supra; United States v Di Re, 332 U.S. 581, 92 L ed 210, 68 S Ct 222 (1948); Johnson v United States, 333 U.S. 10, 15, note 5 92 L ed 436, 441, 68 S Ct 367 (1948). A fortiori, the lawfulness of these arrests by state officers for state offenses is to be determined by California law. California Penal Code, § 844,[9] permits peace officers to break into a dwelling place for the purpose of arrest after demanding admittance and explaining their purpose. Admittedly the officers did not comply with the terms of this statute since they entered quietly and without announcement, in order to prevent the destruction of contraband. The California District Court * [374 U.S. 38] of Appeal, * however, held that the circumstances here came within a judicial exception which had been engrafted upon the statute by a series of decisions, see, e.g., People v Ruiz, 146 Cal App 2d 630 304 P2d 175 (1956); People v Maddox, 46 Cal 2d 301, 294 P2d 6, cert den 352 U.S. 858, 1 L ed 2d 65, 77 S Ct 81 (1956), and that the noncompliance was therefore lawful.

Since the petitioners' federal constitutional protection from unreasonable searches and—Headnote 19—seizures by police officers is here to be determined by whether the search was incident to a lawful arrest, we are warranted in examining that arrest to determine whether, notwithstanding its legality under state law, the method of entering the home may offend federal constitutional standards of reasonableness and therefore vitiate the legality of an accompanying search. We find no such offensiveness on the facts here. Assuming that the officers' entry by use of a key obtained from the manager is the legal equivalent of a "breaking," see Keiningham v United States, 109 App DC 272, 276, 287 F2d 126, 130—Headnote 20—(1960), it has been recognized from the early common law that such breaking is permissible in executing an arrest under certain circumstances. See Wilgus, Arrest Without a Warrant, 22 Mich L Rev 541, 798, 800–806 (1924). Indeed, 18 USC § 3109,[10] dealing with the execution of search warrants by federal officers, authorizes breaking of doors in words very similar to those of the California statute, both statutes including a requirement of notice of authority and purpose. In Miller v United States, 357 U.S. 301, 2 L ed 2d 1332, 78 S Ct 1190, supra, this Court held unlawful an arrest, and therefore its accompanying search, on the ground that the Dis- *[374 US 39] trict of *Columbia officers before entering a dwelling did not fully satisfy the requirement of disclosing their identity and purpose. The Court stated that "the lawfulness of the arrest without warrant is to be determined by reference to state law. . . . By like reasoning the validity of the arrest of petitioner is to be determined by reference to the law of the District of Columbia." 357 US, at 305, 306. The parties there conceded and the Court accepted that the criteria for testing the arrest under District of Columbia law were "substantially identical" to the requirements of § 3109. Id. 357 US at 306. Here, however—Headnote 21—the criteria under California law clearly include an exception to the notice requirement where exigent circumstances are present. Moreover, insofar as violation of a federal statute required the exclusion of evidence in Miller, the case is inapposite for state prosecutions, where admissibility is governed by constitutional standards. Finally, the basis of the judicial exception to the California statute, as expressed by Justice Traynor in People v Maddox, supra (46 Cal 2d at 306), effectively answers the petitioners' contention:

"It must be borne in mind that the primary purpose of the constitutional guarantees is to prevent unreasonable invasions of the security of the people in their persons, houses, papers, and effects, and when an officer has reasonable cause to enter a dwelling to make an arrest and as an incident to that arrest is authorized to make a reasonable search, his entry and his search are not unreasonable. Suspects have no constitutional right to destroy or dispose of evidence, and no basic constitutional guarantees are violated because an officer succeeds in getting to a place where he is entitled to be more quickly than he would, had he complied with section 844. Moreover, since the demand and explanation requirements *[374 US 40] *of section 844 are a codification of the common law, they may reasonably be interpreted as limited by the common law rules that compliance is not required if the officer's peril would have been increased or the arrest frustrated had he demanded entrance and stated his purpose. (Read v. Case, 4 Conn. 166, 170 [10 Am. Dec. 110]; see Rest., Torts, § 206, com. d.) Without the benefit of hindsight and ordinarily on the spur of the moment, the officer must decide these questions in the first instance."

No such exigent circumstances as would authorize noncompliance with the California statute were argued in Miller, and the Court expressly refrained from discussing the question, citing the *Maddox Case* without disapproval. 357 U.S., at 309.[11] Here justification for the officers' failure to give notice is uniquely present. In addition to the officers' belief that Ker was in possession of narcotics, which could be quickly and easily destroyed, Ker's furtive conduct in eluding them shortly before the arrest was ground for the belief that he might well have been expecting the police.[12] We therefore hold that in the particu- *[374 US 41] Headnote 24—lar *circumstances of this case the officers' method of entry, sanctioned by the law of California, was not unreasonable under the standards of the Fourth Amendment as applied to the States through the Fourteenth Amendment.

IV.

Having held the petitioners' arrests lawful, it remains only to consider whether the search which produced the evidence leading to their convictions was lawful as incident to those arrests. The doctrine that a search without warrant—Headnote 25—may be lawfully conducted if incident to a lawful arrest has long been recognized as consistent with the Fourth Amendment's protection against unreasonable searches and seizures. See Marron v United States, 275 US 192, 72 L ed 231, 48 S Ct 74 (1927); Harris v United States, 331 US 145, 91 L ed 1399, 67 S Ct 1098 (1947); Abel v United States, 362 US 217, 4 L ed 2d 668, 80 S Ct 683 (1960); Kaplan, Search and Seizure: A No-Man's Land in the Criminal Law, 49 Cal L Rev 474, 490–493 (1961). The cases have imposed no requirement that the arrest be under authority of an arrest warrant, but only that it be lawful. See Marron v United States, supra (275 US at 198, 199); United States v Rabinowitz, supra (339 US at 61); cf. Agnello v United States, 269 US 20, 30, 31, 70 L ed 145, 148, 46 S Ct 4, 51 ALR 409 (1925). The question remains whether the officers' action here exceeded the recognized bounds of an incidental search.

Petitioners contend that the search was unreasonable in that the officers could practicably have obtained a search warrant. The practicability—Headnote 26—of obtaining a warrant is not the controlling—Headnote 27—factor when a search is sought to be justified as incident to arrest, United States v Rabinowitz, 339 US 56, 94 *[374 US 42] L ed 653, 70 S Ct 430, supra; *but we need not rest the validity of the search here on Rabinowitz, since we agree with the California court that time clearly was of the essence. The officers' observations and their corroboration, which furnished probable cause for George Ker's arrest, occurred at about 9 p.m., approximately one hour before the time of arrest. The officers had reason to act quickly because of Ker's furtive conduct and the likelihood that the marijuana would be distributed or hidden before a warrant could be obtained at that time of night.[13] Thus the facts bear no resemblance to those in Trupiano v. United States, 334 US 699,, 92 L ed 1663, 68 S Ct 1229 (1948), where federal agents for three weeks had been in possession of knowledge sufficient to secure a search warrant.

The search of the petitioners' apartment was well within the limits—Headnote 28—upheld in Harris v. United States, 331 US 145, 91 L ed 1399, 67 S Ct 1098, supra, which also concerned a private apartment dwelling. The evidence here, unlike that in Harris, was the instrumentality of the very crime for which petitioners were arrested, and the record does not indicate that the search here was as extensive in time or in area as that upheld in Harris.

The petitioners' only remaining contention is that the discovery of the brick of marijuana cannot be justified as incidental to arrest since it preceded the arrest. This contention is of course contrary to George Ker's testimony, but we reject it in any event. While an arrest may not—Headnote 29—be used merely as the pretext for a search without warrant, the California court specifically found and the record supports both that the officers entered the *[374 US 43] apartment for *the purpose of arresting George Ker and that they had probable cause to make that arrest prior to the entry.[14] We cannot say that it was unreasonable for Officer Berman, upon seeing Diane Ker emerge from the kitchen, merely to walk to the doorway of that adjacent room.—Headnote 30—We thus agree with the California court's holding that the discovery of the brick of marijuana did not constitute a search, since the officer merely saw what was placed before him in full view. United States v Lee, 274 US 559, 71 L ed 1202, 47 S Ct 746 (1927); United States v Lefkowitz, 285 US 452, 465, 76 L ed 877, 882, 52 S Ct 420, 82 ALR 775 (1932); People v West, 144 Cal App 2d 214, 300 P2d 729 (1956). Therefore, while California—Headnote 31—

Footnotes at end of article.

law does not require that an arrest precede an incidental search as long as probable cause exists at the outset, Willson v Superior Court of San Diego County, 46 Cal 2d 291, 294 P2d 36 (1956), the California court did not rely on that rule and we need not reach the question of its status under the Federal Constitution.

V.

The petitioners state and the record bears out that the officers searched Diane Ker's automobile on the day subsequent to her arrest.—The reasonableness of Headnote 32—that search, however—Headnote 33—was not raised in the petition for certiorari, nor was it discussed in the brief here. Ordinarily "[w]e do not reach for constitutional questions not raised by the parties," Mazer v Stein, 347 US 201, 206, 98 L ed 630, 636, 74 S Ct 460 note 5 (1954), nor extend our review beyond those specific

*[374 US 44]

federal questions *properly raised in the state court. The record gives no indication that the issue was raised in the trial court or in the District Court of Appeal, the latter court did not adjudicate it and we therefore find no reason to reach it on the record.[15]

For these reasons the judgment of the California District Court of Appeal is

Affirmed.

FOOTNOTES

[1] This contention was initially raised prior to the trial. Section 995, California Penal Code, provides for a motion to set aside the information on the ground that the defendant has been committed without probable cause. Evidence on that issue was presented out of the presence of the jury, and following the court's denial of the motion, the petitioners were tried and convicted by the jury.

[2] During the hearing on the § 995 motion, see note 1, supra, Black testified for the defense, admitting that he knew the petitioners but denying that he gave Officer Berman information about George Ker. Black first denied but then admitted that he had met with Officer Berman and another officer in whose presence Berman said the information about Ker was given.

[3] Arresting Officers Berman and Warthen had been attached to the narcotics detail of the Los Angeles County Sheriff's office for three and four years, respectively. Each had participated in hundreds of arrests involving marijuana. Warthen testified that on "many, many occasions" in his experience with narcotics arrests "persons have flushed narcotics down toilets, pushed them down drains and sinks and many other methods of getting rid of them prior to my entrance. . . ."

[4] For the reasons discussed in § V of this opinion, we find that the validity of the search of the automobile is not before us and we therefore do not pass on it.

[5] "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

[6] "No person . . . shall be compelled in any criminal case to be a witness against himself. . . ."

[7] Our holding as to enforceability of this federal constitutional rule against the States had its source in the following declaration on Wolf v Colorado, 338 US 25, 27, 28, 93 L ed 1782, 1785, 69 S Ct 1359 (1949):

"The security of one's privacy against arbitrary intrusion by the police—which is at the core of the Fourth Amendment—is . . . implicit in 'the concept of ordered liberty' and as such enforceable against the States through the Due Process Clause."

†Editor's Note: As stated on p. 732, supra, Parts II–V hereof represent the separate opinion of Clark, Black, Stewart, and White, JJ.

[8] In Draper the arrest upon probable cause was authorized under 26 USC, § 7607, authorizing narcotics agents to make an arrest without warrant if they have "reasonable grounds to believe that the person to be arrested has committed or is committing such violation." Under § 836, California Penal Code, an officer may arrest without a warrant if he has "reasonable cause to believe that the person to be arrested has committed a felony. . . ."

[9] "To make an arrest, . . . in all cases a peace officer, may break open the door or window of the house in which the person to be arrested is, or in which . . . [he has] reasonable grounds for believing him to be, after having demanded admittance and explained the purpose for which admittance is desired."

[10] "The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute a search warrant, if, after notice of his authority and purpose, he is refused admittance or when necessary to liberate himself or a person aiding him in the execution of the warrant."

[11] Nor has the Court rejected the proposition that noncompliance may be reasonable in exigent circumstances subsequent to Miller. In Wong Sun v United States, 371 US 471, 9 L ed 2d 441, 83 S Ct 407 (1963), the Court held that federal officers had not complied with § 3109 in executing an arrest. There the Court noted that in Miller it had reserved the question of an exception in exigent circumstances and stated that "[h]ere, as in Miller, the Government claims no extraordinary circumstances—such as the imminent destruction of vital evidence, or the need to rescue a victim in peril—. . . which excused the officer's failure truthfully to state his mission before he broke in." Id. 371 U.S. at 483, 484.

[12] A search of the record with the aid of hindsight may lend some support to—Headnote 22—the conclusion that, contra the reasonable belief of the—Headnote 23—officers, petitioners may not have been prepared for an imminent visit from the police. It goes without saying that in determining the lawfulness of entry and the existence of probable cause we may concern ourselves only with what the officers had reason to believe *at the time of their entry*. Johnson v United States, 333 US 10, 17, 92 L ed 436, 442, 68 S Ct 367 (1948). As the Court said in United States v Di Re, 332 US 581, 595, 92 L ed 210, 220, 68 S Ct 222 (1948), "a search is not to be made legal by what it turns up. In law it is good *or bad* when it starts and does not change character from" what is dug up subsequently. (Emphasis added.)

[13] In cases in which a search could not be regarded as incident to arrest because the petitioner was not present at the time of the entry and search, the absence of compelling circumstances, such as the threat of destruction of evidence, supported the Court's holdings that searches without warrants were unconstitutional. See Chapman v United States, 365 US 610, 615, 5 L ed 2d 828, 832, 81 S Ct 776 (1961); United States v Jeffers, 342 US 48, 52, 96 L ed 59, 64, 72 S Ct 93 (1951); Taylor v United States, 286 US 1, 5, 76 L ed 951, 953, 52 S Ct 466 (1932).

[14] Compare Johnson v United States, note 12, supra (333 US at 40). There the Court held that a search could not be justified as incident to arrest since the officers, prior to their entry into a hotel room, had no probable cause for the arrest of the occupant. The Court stated that "[a]n officer gaining access to private living quarters under color of his office and of the law which he personifies must then have some valid basis in law for the intrusion." Here, of course, probable cause for the arrest of petitioner George Ker provided that valid basis.

[15] The record shows that petitioners made no objection to the admission of any of the evidence, thus failing to observe a state procedural requirement, People v Brittain, 149 Cal App 2d 201, 308 P2d 38 (1957); see Mapp v Ohio, supra (367 US at 659, note 9). However, the District Court of Appeal passed on the issue of the narcotics seized in the apartment, presumably on the ground that petitioners preserved that question by their motion under § 995, California Penal Code, which was directed toward the principal objection to that search—the alleged lack of probable cause. While "[t]here can be no question as to the proper—Headnote 34—presentation of a federal claim when the highest state court passes on it," Raley v Ohio, 360 US 423, 436, 3 L ed 2d 1344, 1354, 78 S Ct 1257 (1959), there is no indication in the court's opinion that it passed on the issue of the search of the automobile, nor is there any indication in the petitioners' briefs in that court that the issue was presented.

ADDITIONAL SEPARATE OPINIONS

Mr. Justice Harlan, concurring in the result.

Heretofore there has been a well-established line of demarcation between the constitutional principles governing the standards for state searches and seizures and those controlling federal activity of this kind. Federal searches and seizures have been subject to the requirement of "reasonableness" contained in the Fourth Amendment, as that requirement has been elaborated over the years in federal litigation. State searches and seizures, on the other hand, have been judged, and in my view properly so, by the more flexible concept of "fundamental" fairness, or rights "basic to a free society," embraced in the Due Process Clause of the

*[374 US 45]

Fourteenth Amendment. *See Wolf v Colorado, 338 US 25, 27, 93 L ed 1782, 1785, 69 S. Ct 1359;[1] cf. Rochin v. California, 342 US 165, 96 L ed 183, 72 S Ct 205, 25 ALR2d 1396; Palko v Connecticut, 302 US 319, 82 L ed 288, 58 S Ct 149. Today this distinction in constitutional principle is abandoned. Henceforth state searches and seizures are to be judged by the same constitutional standards as apply in the federal system.

In my opinion this further extension of federal power over state criminal cases, cf. Fay v Noia, 372 US 391, 9 L ed 2d 837, 83 S Ct 822; Douglas v California, 372 US 353, 9 L ed 2d 811, 83 S Ct 814; Draper v Washington, 372 US 487, 9 L ed 2d 899, 83 S Ct 774—all decided only a few weeks ago, is quite uncalled for and unwise. It is uncalled for because the States generally, and more particularly California, are increasingly evidencing concern about improving their own criminal procedures, as this Court itself has recently observed on more than one occasion (see Gideon v Wainwright, 372 US 335, 345, 9 L ed 2d 799, 806, 83 S Ct 792; ante, p. 736, and because the Fourteenth Amendment's requirements of fundamental fairness stand as a bulwark against serious local shortcomings in this field. The rule is unwise because the States, with their differing law enforcement problems, should not be put in a constitutional straitjacket and also because the States, more likely than not, will not be placed in an atmosphere of uncertainty since this Court's decisions in the realm of search and seizure are hardly notable for their predictability. Cf Harris v United States, 331 US 145, 175–181, 91 L ed 2d 1399, 1419–1422, 67 S Ct 1098 (Appendix to dissenting opinion of Mr. Justice Frankfurter). (The latter point is indeed forcefully illustrated by the fact that in the first application of its new constitutional rule the majority finds itself equally divided.) And if

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Footnotes at end of article.

the Court is prepared to relax Fourth Amendment standards in order to avoid unduly

*[374 US 46]

fettering the States, this would be in *derogation of law enforcement standards in the federal system—unless the Fourth Amendment is to mean one thing for the States and something else for the Federal Government.

I can see no good coming from this constitutional adventure. In judging state searches and seizures I would continue to adhere to established Fourteenth Amendment concepts of fundamental fairness. So judging this case, I concur in the result.

Mr. Justice Brennan, with whom The Chief Justice, Mr. Justice Douglas and Mr. Justice Goldberg join.

I join Part I of Mr. Justice Clark's opinion and the holding therein that "as we said in Mapp . . . the Fourth Amendment 'is enforceable against . . . [the States] by the same sanction of exclusion as is used against the Federal Government,' by the application of the same constitutional standard prohibiting 'unreasonable searches and seizures.'" Only our Brother Harlan dissents from that holding; he would judge state searches and seizures "by the more flexible concept of 'fundamental' fairness, of rights 'basic to a free society,' embraced in the Due Process Clause of the Fourteenth Amendment."

However, Mr. Justice Clark, Mr. Justice Black, Mr. Justice Stewart and Mr. Justice White do not believe that the federal requirement of reasonableness contained in the Fourth Amendment was violated in this case. The Chief Justice, Mr. Justice Douglas, Mr. Justice Goldberg and I have the contrary view. For even on the premise that there was probable cause by federal standards for the arrest of George Ker, the arrests of these petitioners were nevertheless illegal, because the unannounced intrusion of the arresting officers into their apartment violated the

*[374 US 47]

Fourth Amendment. Since the *arrests were illegal, Mapp v Ohio, 367 US 643, 6 L ed 2d 1081, 81 S Ct 1684, 84 ALR2d 933, requires the exclusion of the evidence which was the product of the search incident to those arrests.

Even if probable cause exists for the arrest of a person within, the Fourth Amendment is—Headnote 35—violated by an unannounced police instrusion into a private home, with or without an arrest warrant, except (1) where the persons within already know of the officers authority and purpose, or (2) where the officers are justified in the belief that persons within are in imminent peril of bodily harm, or (3) where those within, made aware of the presence of someone outside (because, for example, there has been a knock at the door), are then engaged in activity which justifies the officers in the belief that an escape or the destruction of evidence is being attempted.

[1] Mapp v Ohio, 367 US 643, 6 L ed 2d 1081, 81 S Ct 1684, 84 ALR2d 933, did not purport to change the standards by which state searches and seizures were to be judged; rather it held only that the "exclusionary" rule of Weeks v United States, 232 US 383, 58 L ed 652, 34 S Ct 341, LRA1915B 834, was applicable to the States.

I.

It was firmly established long before the adoption of the Bill of Rights that the fundamental liberty of the individual includes protection against unannounced police entries. "[T]he Fourth Amendment did but embody a principle of English liberty, a principle old, yet newly won, that finds another expression in the maxim 'every man's home is his castle.'" Frenkel, Concerning Searches and Seizures, 34 Harv L Rev 361, 365 (1921); Frank v Maryland, 359 US 360, 376–382, 3 L ed 2d 877, 887–891, 79 S Ct 804 (dissenting opinion). As early as Semayne's Case, 5 Co Rep 91a, 91b, 77 Eng Rep 194, 195 (1603), it was declared that "[i]n all cases when the King is party, the sheriff (if the doors be not open) may break the party's house, either to arrest him, or to do other execution of the K[ing]'s process, if otherwise he cannot enter. *But before he breaks it, he ought to signify the cause of his coming, and to make request to open doors* . . . ." (Emphasis supplied.) Over a century later the leading commentators upon the English criminal law affirmed the

*[374 US 48]

continuing vitally of *that principle. 1 Hale, Pleas of the Crown (1736), 583; see also 2 Hawkins, Pleas of the Crown (6th ed 1787), c. 14, § 1; Foster, Crown Law (1762), 320–321.[1] Perhaps its most emphatic confirmation was supplied only 35 years before the ratification of the Bill of Rights. In Curtis' Case, Fost, 135, 168 Eng Rep 67, decided in 1756, the defendant, on trial for the murder of a Crown officer who was attempting an entry to serve an arrest warrant, pleaded that because the officer had failed adequately to announce himself and his mission before breaking the doors, forceful resistance to his entry was justified and the killing was therefore justifiable homicide. In recognizing the defense the court repeated the principle that "peace officers, having a legal warrant to arrest for a breach of the peace, may break open doors, *after having demanded admittance and given due notice of their warrant*"; the court continued that "no precise form of words is required in a case of this kind" because "[i]t is sufficient that the party hath notice, that the officer cometh not as a mere trespasser, but claiming to act under a proper authority . . . ." Fost, at 136–137, 168 Eng Rep., at 68. (Emphasis supplied.) The principle was again confirmed not long after the Fourth Amendment became part of our Constitution. Abbott, C.J., said in Launock v Brown, 2 B & Ald 592, 593–594, 106 Eng Rep 482, 483 (1819):

> ". . . I am clearly of opinion that, in the case of a misdemeanour, such previous demand is requisite . . . . It is reasonable that the law

*[374 US 49]

> should be so; for if no *previous demand is made, how is it possible for a party to know what the object of the person breaking open the door may be? He has a right to consider it as an aggression on his private property, which he will be justified in resisting to the utmost."[2]

The protections of individual freedom carried into the Fourth Amendment, Boyd v United States, 116 US 616, 630, 29 L ed 746, 751, 6 S Ct 524, undoubtedly included this firmly established requirement of an announcement by police officers of purpose and authority before breaking into an individual's home. The requirement is no mere procedural nicety or formality attendant upon the service of a warrant. Decisions in both the federal and state courts have recognized, as did the English courts, that the requirement is of the essence of the substantive protections which safeguard individual liberty.[3] The Court of Appeals for the District of Columbia Circuit has said: ". . . there is no division of opinion among the learned authors . . . that even where an officer

*[374 US 50]

may *have power to break open a door without a warrant, he cannot lawfully do so unless he first notifies the occupants as to the purpose of his demand for entry." Accarino v. United States, 85 App DC 394, 400, 179 F2d 456, 462.

Similarly, the Supreme Judicial Court of Massachusetts declared in 1852:

> "The maxim of law that every man's house is his castle . . . has not the effect to restrain an officer of the law from breaking and entering a dwelling-house for the purpose of serving a criminal process upon the occupant. In such case the house of the party is no sanctuary for him, and the same may be forcibly entered by such officer after a proper notification of the purpose of the entry, and a demand upon the inmates to open the house, and a refusal by them to do so." Barnard v. Bartlett, 64 Mass (10 Cush) 501, 502, 503; cf. State v. Smith, 1 NH 346.

Courts of the frontier States also enforced the requirement. For example, Tennessee's high court recognized that a police officer might break into a home to serve an arrest warrant only "after demand for admittance and notice of his purpose," McCaslin v. McCord, 116 Tenn 690, 708, 94 SW 79, 83; cf. Hawkins v. Commonwealth, 53 Ky (14 B Mon) 395. Indeed, a majority of the States have enacted the requirement in statutes substantially similar to California Penal Code § 844 and the federal statute, 18 USC § 3109.[4]

*[374 US 51]

*Moreover, in addition to carrying forward the protections already afforded by English law, the Framers also meant by the Fourth Amendment to eliminate once and for all the odious practice of searches under general warrants and writs of assistance against which English law had generally left them helpless. The colonial experience under the writs was unmistakably "fresh in the memories of those who achieved our independence and established our form of government."[5] Boyd v. United States, supra (116 US at 625). The problem of entry under a general warrant was not, of course, exactly that of unannounced intrusion to arrest with a warrant or upon probable cause, but the two practices clearly invited common abuses. One of the grounds of James Otis' eloquent indictment of the writs bears repetition here:

> "Now one of the most essential branches of English liberty is the freedom of one's house. A man's house is his castle; and whilst he is

*[374 US 52]

> quiet, he is as well * guarded as a prince in his castle. This writ, if it should be declared legal, would totally annihilate this privilege. Custom-house officers may enter our houses when they please; we are commanded to permit their entry. Their menial servants may enter, may break locks, bars, and everything in their way; and whether they break through malice or revenge, no man, no court, can inquire. Bare suspicion without oath is sufficient." Tudor, Life of James Otis (1823), 66–67.

Similar, if not the same, dangers to individual liberty are involved in unannounced intrusions of the police into the homes of citizens. Indeed in two respects such intrusions are even more offensive to the sanctity and privacy of the home. In the first place service of the general warrants and writs of assistance was usually preceded at least by some form of notice or demand for admission. In the second place the writs of assistance by their very terms might be served only during daylight hours.[6] By significant contrast, the unannounced entry of the Ker apartment occurred after dark, and such timing appears to be common police practice, at least in California.[7]

*[374 US 53]

* It is much too late in the day to deny that a lawful entry is as essential to vindication of the protections of the Fourth Amendment as, for example, probable cause to arrest or a search warrant for a search not incidental to an arrest. This—Headnote 36—Court settled in Gouled v. United States, 255 US 298, 305, 306, 65 L. ed. 647, 651, 41 S. Ct.

Footnotes at end of article.

XUM

261, that a lawful entry is the indispensable predicate of a reasonable search. We held there that a search would violate the Fourth Amendment if the entry were illegal whether accomplished "by force or by an illegal threat or show of force" or "obtained by stealth instead of by force or coercion." Similarly, rigid restrictions upon unannounced entries are essential if the Fourth Amendment's prohibition against invasion of the security and privacy of the home is to have any meaning.

It is true, of course, that the only decision of this Court which forbids federal officers to arrest and search after an unannounced entry, Miller v. United States, 357 US 301, 2 L ed 2d 1332, 78 S Ct 1190, did not rest upon constitutional doctrine but rather upon an exercise of this Court's supervisory powers. But that disposition in no way implied that the same result was not compelled by the Fourth Amendment.—Headnote 37—Miller is simply an instance of the usual practice of the Court not to decide constitutional questions when a nonconstitutional basis for decision is available. See International Asso. of Machinists v Street, 367 US 740, 749, 750, 6 L ed 2d 1141, 1149, 1150, 81 S Ct 1784. The result there drew upon analogy to a federal statute, similar in its terms to § 844, with which the federal officers concededly had not complied in entering to make an arrest. Nothing we said in Miller so much as intimated that, without such a basis for decision, the Fourth Amendment would not have required the same result. The implication, indeed, is quite to the contrary. For the history adduced in Miller in support of the nonconstitutional ground persuasively demonstrates that the Fourth Amendment's protections include the security of the householder against unannounced invasions by the police.

II.

*[374 US 54]

* The command of the Fourth Amendment reflects the lesson of history that "the breaking an outer door is, in general, so violent, obnoxious and dangerous a proceeding, that it should be adopted only in extreme cases, where an immediate arrest is requisite." 1 Burn, Justice of the Peace (28th ed 1837), 275–276.

I have found no English decision which clearly recognizes any exception to the requirement that the police first give notice of their authority and purposes before forcibly entering a home. Exceptions were early sanctioned in American cases, e. g., Read v. Case, 4 Conn 166, but these were rigidly and narrowly confined to situations not within the reason and spirit of the general requirement. Specifically, exceptional circumstances have been thought to exist only when, as one element, the facts surrounding the particular entry support a finding that those within actually knew or must have known of the officer's presence and purpose to seek admission. Cf. Miller v United States, supra (357 US at 311–313). For example, the earliest exception seems to have been that "[i]n the case of an *escape* after arrest, the officer, on fresh pursuit of the offender to a house in which he takes refuge, may break the doors to recapture him, in the case of felony, without a warrant, and without notice or demand for admission to the house of the offender."[8] Wilgus, Arrest Without

* [374 US 55]

a *Warrant, 22 Mich L Rev 541, 798, 804 (1924). The rationale of such an exception is clear, and serves to underscore the consistency and the purpose of the general requirement of notice: Where such circumstances as an escape and hot pursuit by the arresting officer leave no doubt that the fleeing felon is aware of the officer's presence and purpose, pausing at the threshold to make the ordinarily requisite announcement and demand would be a superfluous act which the law does not require.[9] But no exceptions have heretofore permitted unannounced entries in the absence of such awareness on the part of the occupants—unless possibly where the officers are justified in the belief that someone within is in immediate danger of bodily harm.

Two reasons rooted in the Constitution clearly compel the courts to refuse to recognize exceptions in

* [374 US 56]

other situations * when there is no showing that those within were or had been made aware of the officers' presence. The first is that any exception not requiring a showing of such awareness necessarily implies a rejection of the inviolable presumption of innocence. The excuse for failing to knock or announce the officer's mission where the occupants are oblivious to his presence can only be an almost automatic assumption that the suspect within will resist the officer's attempt to enter peacefully, or will frustrate the arrest by an attempt to escape, or will attempt to destroy whatever possibly incriminating evidence he may have. Such assumptions do obvious violence to the presumption of innocence. Indeed, the violence is compounded by another assumption, also necessarily involved, that a suspect to whom the officer first makes known his presence will further violate the law. It need hardly be said that not every suspect is in fact guilty of the offense of which he is suspected, and that not everyone who is in fact guilty will forcibly resist arrest or attempt to escape or destroy evidence.[10]

*[374 US 57]

*The second reason is that in the absence of a showing of awareness by the occupants of the officers' presence and purpose, "loud noises" or "running" within would amount, ordinarily, at least, only to ambiguous conduct. Our decisions in related contexts have held that ambiguous conduct cannot form the basis for a belief of the officers that an escape or the destruction of evidence is being attempted. Wong Sun v United States, 371 US 471, 483, 484, 9 L ed 2d 441, 452, 453, 83 S Ct 407; Miller v United States, supra (357 US at 311).

Beyond these constitutional considerations, practical hazards of law enforcement militate strongly against any relaxation of the requirement of awareness. First, cases of mistaken identity are surely not novel in the investigation of crime. The possibility is very real that the police may be misinformed as to the name or address of a suspect, or as to other material information. That possibility is itself a good reason for holding a tight rein against judicial approval of unannounced police entries into private homes. Innocent citizens should not suffer the shock, fright or embarrassment attendant upon an unannounced police intrusion.[11]

* [374 US 58]

Second, the requirement * of awareness also serves to minimize the hazards of the officers' dangerous calling. We expressly recognized in Miller v United States, supra (357 US at 313, note 12), that compliance with the federal notice statute "is also a safeguard for the police themselves who might be mistaken for prowlers and be shot down by a fearful householder."[12] Indeed, one of the principal objectives of the English requirement of announcement of authority and purpose was to protect the arresting officers from being shot as trespassers, ". . . for if no previous demand is made, how is it possible for a party to know what the object of the person breaking open the door may be? He has a right to consider it as an aggression on his private property, which he will be justified in resisting to the utmost." Launock v Brown, 2 B & Ald 592, 594, 106 Eng Rep 482, 483 (1819).

These compelling considerations underly the constitutional barrier against recognition of exceptions not predicated on knowledge or awareness of the officers' presence. State and federal officers have the common obligation to respect this basic constitutional limitation upon their police activities. I reject the contention that the courts, in enforcing such respect on the part of all officers, state or federal, create serious obstacles to effective law enforcement. Federal officers have

* [374 US 59]

operated for five years under * the Miller rule with no discernible impairment of their ability to make effective arrests and obtain important narcotics convictions. Even if it were true that state and city police are generally less experienced or less resourceful than their federal counterparts (and the experience of the very police force involved in this case, under California's general exclusionary rule adopted judicially in 1955, goes very far toward refuting any such suggestion,[13] see Elkins v United States, 364 US 206, 220, 221, 4 L ed 2d 1669, 1679, 80 S Ct 1437), the Fourth Amendment's protections against unlawful search and seizure do not contract or expand depending upon the relative experience and resourcefulness of different groups of law-enforcement officers. When we declared in Mapp that, because the rights of the Fourth Amendment were of no lesser dignity than those of the other liberties of the Bill of Rights absorbed in the Fourteenth, ". . . we can no longer permit . . . [them] to be revocable at the whim of any police officer who, in the name of law enforcement itself, chooses to suspend [their] . . . enjoyment," 367 US, at 660—I thought by these words we had laid to rest the very problems of constitutional dissonance which I fear the present case so soon revives.[14]

III.

*[374 US 60]

*I turn now to my reasons for believing that the arrests of these petitioners were illegal. My Brother Clark apparently recognizes that the element of the Kers' prior awareness of the officers' presence was essential, or at least highly relevant, to the validity of the officers' unannounced entry into the Ker apartment, for he says, "Ker's furtive conduct in eluding them shortly before the arrest was ground for the belief that he *might well have been* expecting the police." (Emphasis supplied.) But the test under the "fresh pursuit" exception which my Brother Clark apparently seeks to invoke depends not, of course, upon mere conjecture whether those within "might well have been" expecting the police, but upon whether there is evidence which shows that the occupants were in fact aware that the police were about to visit them. That the Kers were wholly oblivious to the officers' presence is the only possible inference on the uncontradicted facts; the "fresh pursuit" exception is therefore clearly unavailable. When the officers let themselves in with the passkey, "proceeding quietly," as my Brother Clark says, George Ker was sitting in his living room reading a newspaper, and his wife was busy in the kitchen. The marijuana, moreover, was in full view on the top of the kitchen sink. More convincing evidence of the complete unawareness of an imminent police visit can hardly be imagined. Indeed, even the conjecture that the Kers "might well have been expecting the police" has no support in the record. That conjecture is made to rest entirely upon the unexplained U-turn made by Ker's car when the officers lost him after the rendezvous at the oil fields. But surely the U-turn must be disregarded as wholly ambiguous conduct; there is absolutely no proof that the driver of the Ker car knew that the

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See footnotes at end of table.

*[374 US 61]

officers were *following it. Cf. Miller v United States, supra (357 US at 311); Wong Sun v United States, supra (371 US at 483, 484).

My Brother Clark invokes chiefly, however, the exception allowing an unannounced entry when officers have reason to believe that someone within is attempting to destroy evidence. But the minimal conditions for the application of that exception are not present in this case. On the uncontradicted record, not only were the Kers completely unaware of the officers' presence, but, again on the uncontradicted record, there was absolutely no activity within the apartment to justify the officers in the belief that anyone within was attempting to destroy evidence. Plainly enough, the Kers left the marijuana in full view on top of the sink because they were wholly oblivious that the police were on their trail. My Brother Clark recognizes that there is no evidence whatever of activity in the apartment, and is thus forced to find the requisite support for this element of the exception in the officers' testimony that, in their experience in the investigation of narcotics violations, *other* narcotics suspects had responded to police announcements by attempting to destroy evidence. Clearly such a basis for the exception fails to meet the requirements of the Fourth Amendment; if police experience in pursuing other narcotics suspects justified an unannounced police intrusion into a home the Fourth Amendment would afford no protection at all.

The recognition of exceptions to great principles always creates, of course, the hazard that the exceptions will devour the rule. If mere police experience that some offenders have attempted to destroy contraband justifies unannounced entry in *any* case, and cures the total absence of evidence not only of awareness of the officers' presence but even of such an attempt in the *particular* case, I perceive no logical basis for distinguishing unannounced police entries into homes to make *arrests for *any*

*[374 US 62]

crime involving evidence of a kind which police experience indicates might be quickly destroyed or jettisoned. Moreover, if such experience, without more, completely excuses the failure of arresting officers before entry, at any hour of the day or night, either to announce their purpose at the threshold or to ascertain that the occupant already knows of their presence, then there is likewise no logical ground for distinguishing between the stealthy manner in which the entry in this case was effected, and the more violent manner usually associated with totalitarian police of breaking down the door or smashing the lock.[15]

My Brother Clark correctly states that only when state law "is not violative of the Federal Constitution" may we defer to state law in gauging the validity of an arrest under the

*[374 US 63]

Fourth Amendment. Since the California *law of arrest here called in question patently violates the Fourth Amendment, that law cannot constitutionally provide the basis for affirming these convictions. This is not a case of conflicting testimony pro and con the existence of the elements requisite for finding a basis for the application of the exception. I agree that we should ordinarily be constrained to accept the state fact-finder's resolution of such factual conflicts. Here, however, the facts are uncontradicted: the Kers were completely oblivious of the presence of the officers and were engaged in no activity of any kind indicating that they were attempting to destroy narcotics. Our duty then is only to decide whether the officers' testimony—that in their general experience narcotics suspects destroy evidence when forewarned of the officers' presence—satisfies the constitutional test for application of the exception. Manifestly we should hold that such testimony does not satisfy the constitutional test. The subjective judgment of the police officers cannot constitutionally be a substitute for what has always been considered a necessarily objective inquiry,[16] namely, whether circumstances exist in the *particular* case which allow an unannounced police entry.[17]

*[374 US 64]

*We have no occasion here to decide how many of the situations in which, by the exercise of our supervisory power over the conduct of federal officers, we would exclude evidence, are also situations which would require the exclusion of evidence from state criminal proceedings under the constitutional principles extended to the States by Mapp. But where the conduct effecting an arrest so clearly transgresses those rights guaranteed by the Fourth Amendment as does the conduct which brought about the arrest of these petitioners, we would surely reverse the judgment if this were a federal prosecution involving federal officers. Since our decision in Mapp has made the guarantees of the Fourteenth Amendment coextensive with those of the Fourth we should pronounce precisely the same judgment upon the conduct of these state officers.

FOOTNOTES

[1] Hale's view was representative: "A man, that arrests upon suspicion of felony, may break doors, if the party refuse upon demand to open them . . . ." 1 Hale, Pleas of the Crown (1736), 583. See generally Miller v. United States, 357 US 301, 306–310, 2 L ed 2d 1332, 1336–17338, 78 S Ct 7190; Accarino v. United States, 85 App DC 394, 398–402, 179 F 2d 456, 460–464; Thomas, The Execution of Warrants of Arrest, [1962] Crim L Rev 520, 597, 601–604.

[2] Compare also the statement of Bayley, J., in Burdett v Abbott, 14 East 1, 162–163, 104 Eng Rep 501, 563 (1811):

"Now in every breach of the peace the public are considered as interested, and the execution of process against the offender is the assertion of a public right; and in all such cases, I apprehend that the officer has a right to break open the outer door, provided there is a request of admission first made for the purpose, and a denial of the parties who are within."

See also Ratcliffe v Burton, 3 Bos & Pul 223, 127 Eng Rep 123 (1802); Kerebey v Denby, 1 M & W 336, 150 Eng Rep 463 (1836); cf. Park v Evans, Hob 62, 80 Eng Rep 211; Penton v Brown, 1 Keble 698, 83 Eng Rep 1193; Percival v Stamp, 9 Ex 167, 156 Eng Rep 71 (1853).

[3] See generally Gatewood v United States, 93 App DC 226, 229, 209 F 2d 789, 791; 1 Bishop, New Criminal Procedure (2d ed 1913), § 201; 1 Varon, Searches, Seizures and Immunities (1961), 399–401; Day and Berkman, Search and Seizure and the Exclusionary Rule: A Re-Examination in the Wake of Mapp v Ohio, 13 West Res L Rev 56, 79–80 (1961).

[4] Ala Code, Tit 15 § 155; Ariz Rev Stat Ann § 13–1411; Deering's Cal Penal Code § 844; Fla Stat Ann § 901.19(1); Idaho Code § 19–611; Burns' Ind Ann Stat § 9–1009; Iowa Code Ann § 755.9; Kan Gen Stat § 62–1819; Ky Rev Stat § 70.078; Dart's La Crim Code, Art 72; Mich Stat Ann § 28,880; Minn Stat Ann § 629.34; Miss Code § 2471; Mo Rev Stat § 544.200; Mont Rev Code § 94–6011; Neb Rev Stat § 29–411; Nev Rev Stat § 171.275; McKinney's NY Crim Code § 178; NC Gen Stat § 15–44; Page's Ohio Rev Code Ann § 2935.15; Okla Stat Ann, Tit 22, § 194; Ore Rev Stat § 133.320; SC Code § 53–198; SD Code § 34.1606; Tenn Code Ann § 40–807; Utah Code Ann 77–13–12; Wash Rev Code § 10.31.-040; Wyo Comp Stat § 10–309.

Compare Code of Crim Proc. American Law Institute, Official Draft (1930), § 28:

"Right of Officer to break into building. An officer, in order to make an arrest either by virtue of a warrant, or when authorized to make such arrest for a felony without a warrant, as provided in section 21, may break open a door or window of any building in which the person to be arrested is or is reasonably believed to be, if he is refused admittance after he has announced his authority and purpose."

[5] See also Henry v. United States, 361 US 98, 100, 101, 4 L ed 2d 134, 137, 138, 80 S Ct 168; Lasson, The History and Development of the Fourth Amendment to the United States Constitution (1937), c. II; Barrett, Personal Rights, Property Rights, and the Fourth Amendment, 1960 Supreme Court Review 46, 70–71; Comment, Search and Seizure in the Supreme Court: Shadows on the Fourth Amendment, 28 U of Chi L Rev 664, 678–679 (1961). Compare East-India Co. v Skinner, Comb 342, 90. Eng Rep 516.

[6] Lasson, The History and Development of the Fourth Amendment to the United States Constitution (1937), 54.

[7] In these two respects, the practice of unannounced police entries by night is also considerably more offensive to the rights protected by the Fourth Amendment than the use of health-inspection and other administrative powers of entry, concerning the constitutionality of which this Court has divided sharply, Frank v Maryland, 359 US 360, 3 L ed 2d 877, 79 S Ct 804, supra; Ohio ex rel. Eaton v Price, 364 US 263, 4 L ed 2d 1708, 80 S Ct 1463. Since my Brother Clark does not rely upon either of those decisions, I have no occasion to discuss further the applicability of either to the case at bar. For further consideration of problems raised by those cases, see generally, Waters, Rights of Entry in Administrative Officers, 27 U of Chi L Rev 79 (1959); Comment, State Health Inspections and "Unreasonable Search": The Frank Exclusion of Civil Searches, 44 Minn L Rev 513 (1960).

[8] It is not clear whether the English law ever recognized such an exception to the requirement of notice or awareness. See, e.g., Genner v Sparks, 6 Mod 173, 87 Eng Rep. 928. It is stated in an English annotator's note to Semayne's Case, supra, that "if a man being legally arrested, escapeth from the officer, and taketh shelter though in his own house, the officer may upon pursuit break open doors in order to retake him, having first given due notice of his business and demanded admission, and been refused." 77 Eng Rep. at 196. The views of other commentators are ambiguous on this point. See e.g., 2 Hawkins, Pleas of the Crown (6th ed 1787), c. 14, § 8. Blackstone's view was that "in case of felony *actually* committed, or a dangerous wounding, whereby felony is like to ensue . . . [a constable] may upon probable suspicion arrest the felon; and for that purpose is authorized (as upon a justice's warrant) to break open doors and even to kill the felon if he cannot otherwise be taken. Commentaries 292.

[9] See Professor Wilgus' comment: "Before doors are broken, there must be a necessity for so doing, and notice of the authority and purpose to make the arrest must be given and a demand and refusal of admission must be made, *unless this is already understood, or the peril would be increased."* Wilgus Arrest Without a Warrant, 22 Mich L Rev 541, 798, 802 (1924). (Emphasis supplied.) Cf. Accarino v. United States, 85 App DC 394, 398–402, 179 F2d 456, 460–464.

Compare Lord Mansfield's statement, in 1774, of the rationale for the requirement of announcement and demand for admission: "The ground of it is this; that otherwise the consequences would be fatal: for it would leave the family within, naked and exposed to thieves and robbers. It is much better therefore, says the law, that you should wait for another opportunity, than do an act of violence, which may probably be attended with such dangerous consequences." Lee v Gansel, 1 Cowp 1, 6–7, 98 Eng Rep 935, 938.

[10] The comment of Rooke, J., in Ratcliffe v Burton, 3 Bos & Pul 223, 230, 127 Eng Rep 123, 127 (1802), is relevant here: "What a privilege will be allowed to sheriffs' officers if they are permitted to effect their search by violence, without making that demand which possibly will be complied with, and consequently violence be rendered unnecessary!" This view of the requirement of notice or awareness has its parallel in the historic English requirement that an arresting officer must give notice of his authority and purpose to one whom he is about to arrest. In the absence of such notice, unless the person being arrested already knew of the officer's authority and mission, he was justified in resisting by force, and might not be charged with an additional crime if injury to the officer resulted. The origin of this doctrine appears to be Mackalley's Case, 9 Co Rep. 65b, 69a, 77 Eng Rep 828, 835. See also Rex v George, [1935] 2 DLR 516 (BC Ct App); Regina v Beaudette, 118 Can Crim Cases 295 (Ont Ct App). Compare, e.g., People v Potter, 144 Cal App 2d 350, 300 P2d 889, in which noncompliance with § 844 was excused because the defendant was known to have been convicted of three previous robberies and was suspected of a fourth—though in fact, upon entering his hotel room unannounced and by means of a key obtained from the manager, the officer found the defendant in bed, with the lights off, and unarmed. The entry occurred after midnight.

[11] The importance of this consideration was aptly expressed long ago by Health, J., in Ratcliffe v Burton, 3 Bos & Pul 223, 230, 127 Eng Rep 123, 126–127 (1802):

"The law of England, which is founded on reason, never authorises such outrageous acts as the breaking open every door and lock in a man's house without any declaration of the authority under which it is done. Such conduct must tend to create fear and dismay, and breaches of the peace by provoking resistance. This doctrine would not only be attended with great mischief to the persons against whom process is issued, but to other persons also, since it must equally hold good in cases of process upon escape, where the party has taken refuge in the house of a stranger. Shall it be said that in such case the officer may break open the outer door of a stranger's house without declaring the authority under which he acts, or making any demand of admittance? No entry from the books of pleading has been cited in support of this justification, and Semayne's case is a direct authority against it."

[12] See also McDonald v United States, 335 US 451, 460, 461, 93 L ed 153, 160, 161, 69 S Ct 191 (concurring opinion) for Mr. Justice Jackson's comment: "Many homeowners in this crime-beset city doubtless are armed. When a woman sees a strange man, in plain clothes, prying up her bedroom window and climbing in, her natural impulse would be to shoot."

[13] See, e.g., Kamisar, Public Safety v Individual Liberties: Some "Facts" and "Theories," 53 J Crim L, Criminology and Police Science 171, 188–190 (1962); Rogge, Book Review, 76 Harv L Rev 1516, 1522–1523 (1963).

[14] Compare Justice Traynor's recent comment:

"Nevertheless the United States Supreme Court still confronts a special new responsibility of its own. Sooner or later it must establish ground rules of unreasonableness to counter whatever local pressures there might be to spare the evidence that would spoil the exclusionary rule. Its responsibility thus to exercise a restraining influence looms as a heavy one. It is no mean task to formulate far-sighted constitutional standards of what is unreasonable that lend themselves readily to nation-wide application." Traynor, Mapp v Ohio at Large in the Fifty States, 1962 Duke LJ 319, 328.

[15] The problems raised by this case are certainly not novel in the history of law enforcement. One of the very earliest cases in this field, decided more than three centuries ago, involved facts strikingly similar to those of the instant case. The case of Waterhouse v. Saltmarsh, Hob 263, 80 Eng Rep 409, arose out of the service by a sheriff and several bailiff's of execution upon a bankrupt. These officers, having entered the outer door of the house by means not described, "ran up to the chamber, where the plaintiff and his wife were in bed and the doors lockt, and knocking a little, without telling what they were, or wherefore they came, brake open the door and took him . . . ." The sheriff was fined the substantial sum of £200—for what the court later described in a collateral proceeding as "the unnecessary outrage and terror of this arrest, and for not signifying that he was sheriff, that the door might have been opened without violence . . ." Hob, at 264, 80 Eng Rep, at 409. Compare another early case involving similar problems, Park v. Evans, Hob 62, 80 Eng Rep 211, in which the Star Chamber held unlawful an entry effected by force after the entering officers had knocked but failed to identify their authority or purpose. The Star Chamber concluded that "the opening of the door was occasioned by them by craft, and then used to the violence, which they intended."

[16] Any doubt concerning the scope of the California test which may have survived People v. Maddox, 46 Cal 2d 301, 294 P2d 6, must have been removed by the later case of People v. Hammond, 54 Cal 2d 846, 854, 855, 9 Cal Rptr 233, 357 P2d 289, 294:

"When there is reasonable cause to make an arrest, and the facts known to the arresting officer before his entry are not inconsistent with a good faith belief on his part that compliance with the formal requirements of . . . . section (844) is excused, a failure to comply therewith does not invalidate the search and seizure made as an incident to the ensuing arrest."

[17] I think it is unfortunate that this Court accepts the judgment of the intermediate California appellate court on a crucial question of California law—for it is by no means certain that the Supreme Court of California, the final arbiter of questions of California law, would have condoned the willingness of the District Court of Appeal to excuse noncompliance with the California statute under the facts of this case. For the view of the California Supreme Court on the scope of the exception under § 844, see e.g., People v. Martin, 45 Cal. 2d 755, 290 P2d 855; People v. Carswell, 51 Cal 2d 602, 335 P2d 99; People v. Hammond, 54 Cal 2d 846, 9 Cal Rptr 233, 357 P2d 289.

An examination of the California decisions which have excused noncompliance with § 844 reveals the narrow scope of the exceptions heretofore recognized—confined for the most part to cases in which officers entered in response to cries of a victim apparently in imminent danger, e.g., People v. Roberts, 47 Cal 2d 374, 303 P2d 721; or in which they first knocked at the door, or knew they had been seen at the door, and then actually heard or observed destruction of evidence of the very crime for which they had come to arrest the occupants, see e.g., People v. Moore, 140 Cal App 2d 870, 295 P2d 969; People v. Steinberg, 148 Cal App 2d 855, 307 P2d 634; People v. Williams, 175 Cal App 2d 774, 1 Cal Rptr 44; People v. Fisher, 184 Cal App 2d 308, 7 Cal Rptr 461. See generally, for summary and discussion of California cases involving various grounds for noncompliance with § 844, Fricke, California Criminal Evidence (5th ed 1960), 432–433; Comment, Two Years With the Cahan Rule, 9 Stan L Rev 515, 528–529 (1957).

Mr. DODD. Mr. President, I will take just a few minutes. I do not want to detain the Senate, but it bothers me that the RECORD might not be clear for those who have not been here during all of the discussion. It bothers me also that the great Senator from North Carolina is troubled, as he is.

I suggest to him most respectfully that the trouble is he does not realize that in this age and time in law enforcement work we have devices and techniques never dreamed of at the time our Constitution was written. We have chemical analysis, electronic devices, and other things in the field of narcotics and they are authorized in these cases. We know by common experience that these rogues can easily dispose of evidence we must have. That is the danger.

Mr. President, I hope the Senate will reject the amendment offered by the Senator from North Carolina.

Mr. NELSON. Mr. President, on January 28, 1970, I joined with my Senate colleagues in unanimously approving S. 3246, the Controlled Dangerous Substances Act, better known as the Drug Control Act. While recognizing the necessity for a coordinated and unified Federal approach to the serious national problem of narcotics and dangerous drug control, I expressed grave reservations in January about one section of this legislation—the authorization for "no knock" entries which would allow law enforcement officers to enter premises without notice. Before voting for final passage of that bill, I cast my dissent against inclusion of "no knock" authority in three separate rollcall votes.

At the time of the Senate debate on the Drug Control Act in January, it was my conviction that whatever "no knock" authority may be permissible under the Constitution should be settled by the courts on a case by case basis rather than codified by statute which would, I think, be subject to serious administrative abuse.

"No knock" authority was included in the District of Columbia crime bill that was before the Senate this July. Although grave doubts were expressed by many over the wisdom and the justice of including "no knock" in the District of Columbia crime bill, there was apparently the feeling that it would be too difficult to explain this opposition to constituents. Furthermore, there was no necessity for an explanation since the reach of the District of Columbia crime bill would not touch home. My vote against "no knock" for District of Columbia was in the minority.

There are, however, some important distinctions between the issue before the Senate today and the issue that the Senate faced in July with the D.C. crime bill. First of all, this authority will not be restricted to an isolated unrepresented jurisdiction but will pervade every State in this Union. Second, it will not be necessary to vote against an entire bill in order to oppose this provision. There is no conference report that could be totally frustrated as was the argument on the D.C. crime bill. There is instead a simple and direct amendment which will delete this "no-knock" authority in this legislation on a national level and preserve the valid and necessary provisions of a much needed bill.

So the issue is rather direct and straightforward.

The issue is not whether to do something about drug abuse and law enforcement. Nor is the issue one of coddling criminals. The issue is how to guarantee strong law enforcement actions consistent with the constitutional guarantees of all citizens.

The fourth amendment of the Constitution guarantees the right of people in this country "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." There is no more important right secured by our Constitution and valued by our society.

The case against "no-knock" was eloquently stated by William Pitt in debate in the House of Lords:

> The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail. Its roof may shake. The wind may blow through it. The storm may enter. The rain may enter. But the King of England cannot enter. All his force dares not cross the threshold of that ruined tenement.

William Pitt's statement was made 204 years ago. Today the issue is the same. There is a need to reaffirm the validity of his statement and the freedom from repressive and arbitrary governmental action. For this reason, I will again vote against "no-knock" authority. At the same time I will give my support to the other provisions of this bill and work to strengthen title I so as to provide for a balanced and coordinated attack upon drug and narcotics abuse that itself does not abuse constitutional prerogatives.

Mr. President, at this point I ask unanimous consent that an editorial from the Milwaukee Journal entitled "Good, Bad of Drug Bill" be printed at this place in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GOOD, BAD OF DRUG BILL

President Nixon's general approach to crime blends some sound proposals with quite a few disquieting ideas. This is reflected anew in the drug abuse bill that has passed the House with administration blessing. A similar bill cleared the Senate in January.

On the plus side, the bill brings a touch of reason to the harsh way we criminalize drug abuse. It would make first-offense possession of an illicit drug a misdemeanor instead of a felony and the offender could wipe his record clean if he satisfactorily completed a probation period. This could reduce the way so many young people, arrested only once for drug use, run the risk of a lifelong felon record. At the same time, penalties for drug peddlers would be stiffened.

The bill would commendably increase spending on rehabilitation, research and education programs—a further indication that the government is now willing to treat drug abuse as more of a medical than a criminal problem. The bill also would create a special study commission on marijuana and other drugs. The marijuana study, due within a year, would address the question of legalizing pot, currently tangled in conflicting claims as to the drug's harmfulness. This seems badly needed.

Other features of the bill, however, are disturbing. One would authorize "no-knock" raids by narcotic agents. After obtaining a warrant from a judge, agents could without warning break into a home or office in search of evidence. This raises a chilling challenge to the concept of privacy as well as the prospect of shootouts between police and startled householders.

The bill also has several alarming sentencing provisions. The 10 year mandatory minimum for drug peddlers involved with five or more persons in distributing narcotics is a needless hamstringing of judicial discretion. At the same time, the bill swings wildly in the other direction by permitting a judge to impose an additional sentence (up to a total of 25 years) if he deems a defendant a professional criminal. It could be done on the basis of evidence that the defendant was unable to contest, and even if a jury had found him guilty of a violation carrying a far lesser penalty. This appears to be a serious abridgement of constitutional rights.

It is to be hoped that the House-Senate conference committee, summoned to reconcile the two versions of the bill, will withdraw bad features while retaining the good. But given the clamor for "law and order" in an election year, the chance of balanced judgment seems slender.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks announced that the House had agreed to the concurrent resolutions (S. Con. Res. 81) authorizing the printing of additional copies of Senate hearings on Copyright Law Revision (S. 597, 90th Congress).

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 6114. An act for the relief of Elmer M. Grade;

H.R. 9087. An act to authorize the Secretary of the Interior to convey certain mineral interests of the United States in certain lands located in Wagoner County, Okla., to I. Earl Nutter;

H.R. 10233. An act for the relief of Commander Albert G. Berry, Junior;

H.R. 13806. An act for the relief of Irwin Katz;

H.R. 14543. An act for the relief of Mrs. Rolando C. Dayao;

H.R. 15767. An act for the relief of Mrs. Maria Zahaniacz (nee Bojkiwska);

H.R. 15770. An act to provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes;

H.R. 15922. An act for the relief of Somporn (Leeta Noi) Bell;

H.R. 16502. An act for the relief of Gary W. Stewart;

H.R. 16857. An act for the relief of Soon Ho Yoo;

H.R. 17272. An act for the relief of certain employees of the Department of Defense;

H.R. 17431. An act for the relief of Jacqueline and Barbara Andrews;

H.R. 17508. An act for the relief of Jung Yung Mi and Jung Ae Ri; and

H.R. 17912. An act for the relief of Jin Soo Park and Moon Mi Park.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (H.R. 2043) for the relief of Keum Ja Franks, and it was signed by the President pro tempore.

HOUSE BILLS REFERRED

The following bills were severally read twice by their title and referred, as indicated:

H.R. 6114. An act for the relief of Elmer M. Grade;

H.R. 10233. An act for the relief of Comd. Albert G. Berry, Jr.;

H.R. 13806. An act for the relief of Irwin Katz;

H.R. 14543. An act for the relief of Mrs. Rolando C. Dayao;

H.R. 15767. An act for the relief of Mrs. Maria Zahaniacz (nee Bojkiwska);

H.R. 15922. An act for the relief of Somporn (Leeta Noi) Bell;

H.R. 16502. An act for the relief of Gary W. Stewart;

H.R. 16857. An act for the relief of Soon Ho Yoo;

H.R. 17272. An act for the relief of certain employees of the Department of Defense;

H.R. 17431. An act for the relief of Jacqueline and Barbara Andrews;

H.R. 17508. An act for the relief of Jung Yung Mi and Jung Ae Ri; and

H.R. 17912. An act for the relief of Jin Soo Park and Moon Mi Park; to the Committee on the Judiciary.

H.R. 9087. An act to authorize the Secretary of the Interior to convey certain mineral interests of the United States in certain lands located in Wagoner County, Okla., to I. Earl Nutter; to the Committee on Interior and Insular Affairs.

H.R. 15770. An act to provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes; to the Committee on Commerce.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the vote on the amendment offered by the able Senator from North Carolina occur not later than 7:15 p.m. today.

The PRESIDING OFFICER. Is there objection?

Mr. EAGLETON. Mr. President, reserving the right to object, would that preclude me from offering an amendment during the intervening period? We could agree to a vote on my amendment to accommodate the desires of all.

Mr. BYRD of West Virginia. It would not prevent it by unanimous consent, if that could be arranged. How long would the Senator want on his amendment?

Mr. EAGLETON. I think 15 or 20 minutes as an absolute maximum on my side, and I suspect even less than that on the other side, which added together would put the time at 7:15 p.m., and the votes, if possible, could occur back to back.

Mr. BYRD of West Virginia. Does the Senator intend to have a rollcall vote on his amendment?

Mr. EAGLETON. That was my expectation, yes.

Mr. BYRD of West Virginia. My purpose in asking that the vote on the amendment of the Senator from North Carolina be delayed was that we might proceed to lay the pending business aside temporarily and take up the Sleeping Bear Dunes bill, dispose of it, and then come back to the drug control bill.

We have some Senators on both sides who are presently at the White House. We are trying to protect them.

Mr. EAGLETON. I understand. If I could respond to the Senator from West Virginia, the interval between now and 7:15 is ample time, if not more than ample time, to dispose of the debate on my amendment, which will require a roll call vote. Then we would be continuing on the instant subject matter, the drug abuse control bill.

Mr. BYRD of West Virginia. Mr. President, I make the following unanimous-consent request: I ask unanimous consent that time on the amendment to be offered by the able Senator from Missouri (Mr. EAGLETON) be limited to 20 minutes, the time to be equally divided.

Mr. EAGLETON. Could we make it 30 minutes, 15 minutes on a side?

Mr. BYRD of West Virginia. Mr. President, I will change the request to 30 minutes, the time to be equally divided between the mover of the amendment and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. Mr. President, reserving the right to object, what is the nature of the amendment?

Mr. DODD. It reduces the classification of amphetamines from classification 3 to classification 2.

Mr. EAGLETON. I think, more correctly, it would increase the elevation; elevate it.

Mr. DODD. I am sorry.

Mr. HRUSKA. Mr. President, this is a very important and serious change. It changes the entire administrative procedures in the bill. I wonder if we should do it for amphetamines. I know reasons why it should not be done. I do not think 10 minutes would be sufficient time to debate it. This amendment is not simple. The reasons are not simple. I doubt if 10 minutes would be enough.

Mr. BYRD of West Virginia. Does the Senator object?

Mr. HRUSKA. If the request is renewed, I do, for the time being, object.

Mr. BYRD of West Virginia. Mr. President, I withdraw the request. I present the following unanimous-consent request:

I ask unanimous consent that the pending business be temporarily laid aside and that the Senate proceed to the consideration of Calendar No. 1281, H.R. 18766, the so-called Sleeping Bear Dunes bill; that time on any amendment to that bill be limited to 20 minutes, the time to be equally divided between the author of the amendment and the manager of the bill; and that a vote on the amendment which is to be offered by the able Senator from Michigan (Mr. GRIFFIN) be voted on no later than 7 p.m. today; that a vote on the Sleeping Bear Dunes bill follow immediately after the vote on Mr. GRIFFIN's amendment; and that the Senate then return to the consideration of the drug bill, with a vote to occur on the amendment that has been offered by the able Senator from North Carolina (Mr. ERVIN) immediately; and that following the vote on that amendment, the Senator from Missouri (Mr. EAGLETON) be recognized to offer his amendment.

Mr. DODD. Mr. President, will the Senator yield to me before we take action on that request?

Mr. BYRD of West Virginia. I yield.

Mr. DODD. I ask the attention of the Senator from Nebraska. I think this amendment has great merit. Perhaps the Senator does not agree. But, as I understand it—and I misstated it, but I did know—what the Senator from Missouri is trying to do is toughen up, tighten up, the law with respect to amphetamines. I do not think it is excessive. I wonder if the Senator from Nebraska would not agree.

Mr. HRUSKA. Mr. President, I would oppose the amendment for reasons which I believe are very sound and valid, and I do not know that 10 minutes is enough time to do it.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request proposed by the Senator from West Virginia?

Mr. BYRD of West Virginia. Mr. President, let me restate that request so that it will be understood by all.

I ask unanimous consent that the pending business be temporarily laid aside and that the Senate proceed to the consideration of Calendar Order No. 1281, the Sleeping Bear Dunes bill; and the time on the amendment to be offered by the Senator from Michigan (Mr. GRIFFIN) be limited to not to exceed 25 minutes—I assume that he will immediately lay down his amendment—and that a vote on that amendment occur at the expiration of the 25 minutes, which would be circa 7 o'clock tonight; that the vote on the bill occur immediately after the vote on the amendment offered by the Senator from Michigan (Mr. GRIFFIN); and that a vote on the Ervin amendment then occur.

Mr. BIBLE. Mr. President, reserving the right to object—and I shall not object—are the 25 minutes to be divided equally?

Mr. BYRD of West Virginia. Yes.

Mr. HRUSKA. Mr. President, reserving the right to object, is there assurance that there are no further amendments?

Mr. BYRD of West Virginia. That is my understanding.

Mr. BIBLE. The Senator is talking about the Sleeping Bear Dunes bill?

Mr. HRUSKA. No; the other bill; the drug bill.

Mr. BYRD of West Virginia. No; I am not so assured on that bill.

Mr. HRUSKA. I thought the Senator was referring to the drug bill when he talked about voting on the amendment of the Senator from North Carolina.

Mr. BYRD of West Virginia. Yes; we would come back to that bill after disposition of the Sleeping Bear Dunes bill.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, let me rephrase the request, so there will be no misunderstanding.

I ask unanimous consent that the pending drug bill be temporarily laid aside; that the Senate immediately proceed to the consideration of Calendar Order No. 1281, the Sleeping Bear Dunes National Lakeshore bill; that the time on any amendment to that bill be limited to not more than 25 minutes, the time to be equally divided between the mover of the amendment and the manager of the bill; and that immediately following the expiration of the 25 minutes on the amendment to be offered by the Senator from Michigan (Mr. GRIFFIN) there be a vote on that amendment; and that the vote on the bill, Calendar Order No. 1281, occur immediately; and that following the vote on the bill, the vote on the amendment to the drug bill offered by the Senator from North Carolina, the yeas and nays having already been ordered, immediately occur; and that following the vote on the amendment by the able Senator from North Carolina (Mr. ERVIN), the able Senator from Missouri (Mr. EAGLETON) be recognized for the purpose of offering his amendment to the drug bill.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. CHURCH). The Chair would like to make an announcement.

The Chair, on behalf of the Vice President, pursuant to Public Law 84-689, appoints the following Senators as delegates to the North Atlantic Assembly, The Hague, Netherlands, November 6-11, 1970:

John Sparkman (Chairman), Henry M. Jackson, Harrison A. Williams, Jr., Thomas J. McIntyre, Birch Bayh.

Edward M. Kennedy, Gaylord Nelson, Joseph D. Tydings, Ernest F. Hollings, William B. Spong, Jr., Thomas F. Eagleton.

Clifford P. Case, John Sherman Cooper, Jacob K. Javits, Charles H. Percy.

Robert P. Griffin, Marlow W. Cook, Ted Stevens, Charles McC. Mathias, William B. Saxbe, Richard S. Schweiker.

SLEEPING BEAR DUNES NATIONAL LAKESHORE

By unanimous consent the Senate proceeded to consider the bill (H.R. 18776) to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes.

Mr. BIBLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is Calendar No. 1281, H.R. 18776, pursuant to the unanimous-consent order, and the Senator from Nevada is recognized.

The clerk will first state the bill by title.

The assistant legislative clerk read the bill by title, as follows:

H.R. 18776, to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes.

Mr. BIBLE. Mr. President, this bill will authorize the establishment of the Sleeping Bear Dunes National Lakeshore in the State of Michigan. The National Lakeshore will be a unit of our national park system, established and administered to preserve the natural features of the area and to insure that the public may benefit from and enjoy the area.

The Sleeping Bear Dunes National Lakeshore will encompass 71,068 acres of land and water. The main area, some 40,000 acres, is located along the Lake Michigan coast west of Traverse City, Mich. The Chicago and Detroit metropolitan areas are some 250 to 300 miles to the south, within easy access to this area. In addition to the mainland unit, the lakeshore will include all of two nearby islands: 5,300-acre South Manitou Island and 14,000-acre North Manitou Island. In all, some 65 miles of Lake Michigan shoreline will be involved, and I need not emphasize how rapidly we are losing public access to such shoreline areas.

There is no dispute about the great natural values and indeed, national significance of the Sleeping Bear Dunes area. The dunes themselves form one of the Nation's outstanding displays of this natural phenomenon. Here are high headlands, whipped by strong winds off the lake which create ever-changing patterns. The interaction of the shifting sands with various forms of vegetation is itself a fascinating study. The dunes, the headlands and the basic structure of this area are easily recognizable and interesting artifacts of the last ice age. Here the evidence of glacial landforms is clear, offering an outstanding opportunity for interpretation to the public of the lessons of geology, natural history, and ecology.

It is not simply the dunes themselves that call our special attention to this area, for the dunes are set within a magnificent and diverse landscape of high wooded hills, vast sandy plains along the sweeping bays of Lake Michigan, and sparkling inland lakes. The Manitou Islands offer an unusual opportunity for varied recreational experiences, and they have their own special natural features which are of great interest.

This is, Mr. President, a truly outstanding area, one offering a fine opportunity for the kind of preservation policy and recreational opportunities which our National Park System has been developed to assure. I have been impressed in my own visit to the area with the very great potential we have here to secure for the American people a superb sample of the Great Lakes environment and landscape, and I know that this will be a great legacy for future generations.

Our action on this proposal is not coming any too soon. This is a superb area, as I have pointed out. For that very reason, it is severely endangered. While long-established residents have worked to maintain its natural values, the pressures of population and private recreational subdivision and development are growing mightily. Such pressures focus first on just this kind of really outstanding area. As a result, we are seeing piecemeal development encroaching on this area at an accelerating pace. Indeed, even as we work on this proposal, development is moving forward. We have a real obligation to proceed now to implement this proposal, if we are to secure this area in its full values for public enjoyment and benefit.

Now, this is not like setting up a park area on undeveloped land. There are homes and communities in this area. This is a problem we have dealt with more and more frequently in our Subcommittee on Parks and Recreation as the Nation has moved to bring recreational and natural areas within reach of the populous centers of our country. It is not an easy task, because we must find a fair and effective balance between the public interest and the rights and interests of local residents, property owners and communities. It is always a difficult problem, but I know of no proposal in recent years in which a greater or more persistent effort has been made to find this balance in an effective way. As a result, this legislation contains greater safeguards for existing local interests than any we have previously brought to the floor. I think it is an excellent bill in this regard and I point to the broad support the proposal now has in Michigan as evidence of the effectiveness of this effort.

Mr. President, this is not a new proposal to the Senate. Legislation for this area was first introduced in the Senate in the late 1950's, when a preliminary survey of the Great Lakes shoreline revealed this area to be one of the most worthy of national status and most needing sound protection. More detailed studies by the National Park service resulted in a detailed National Lakeshore plan, and legislation to implement that was introduced in 1961 by the distinguished senior Senator from Michigan and our late colleague, Pat McNamara.

Hearings have been conducted in the local area and in Washington through the intervening years. In 1963 the Senate passed the proposal, but no action followed in the other body. Again in 1965 we cleared the bill, and the following year the House Committee on Interior and Insular Affairs did report the Senate bill favorably, adding some important lands as a result of suggestions by the distinguished junior Senator from Michigan. Unfortunately, that bill did not receive a rule in time for floor action in the other body before the close of the 89th Congress.

In returning to this proposal, we have awaited action first from the other body. I am pleased to say that we now have the House-passed bill before us. Indeed, as reported by our Committee on Interior and Insular Affairs, H.R. 18776 is identical with the Sleeping Bear Dunes National Lakeshore bill passed by the House on September 22, with the support of the Michigan delegation.

This is significant progress inasmuch as this proposal has been, in the past, a subject of much controversy. We have gone into the matter thoroughly in hearings before our Subcommittee on Parks and Recreation, focusing particularly on the changes in the new bill from the bill we last approved here in 1965. There are a number of these changes, all of which we found to be most desirable and helpful, and I will highlight those here:

First, the present bill has enlarged the boundaries to include three additional tracts of land, all of which are highly qualified and desirable additions to round out the National Lakeshore area. Thus, the total land acreage in the bill now before the Senate is 60,748, an increase of 14,645 acres over the bill we passed in 1965. Section 2(b) of the bill has also been altered to specify that the State of Michigan may retain control of up to 300 acres of lands in the Platte Bay section for management in connection with its Coho salmon fisheries program. Otherwise, as is our usual practice, the State of Michigan will be required to donate its State-owned lands within the area to the Federal Government as a precondition to the formal establishment of the National Lakeshore. The State has expressed its intention to cooperate fully in this project.

Second, the bill includes the necessary updating of cost authorizations, which are set now at $19,800,000 for land acquisition and $18,769,000 for development. These are up-to-date estimates and can be maintained if the National Lakeshore is implemented in a timely way. I would add that this bill is approved as a part of the President's program and the Department of the Interior reported favorably on the exact version now before the Senate. The administration assures us that it has programed the expenditures involved for a 4-year period under the available resources of the augmented land and water conservation fund.

Third, the bill now contains a new section 3 which prescribes a mechanism by which lands are to be classified for varying land acquisition policies and limitations. The purpose here—and this is not any departure from standard Park Service procedures—is to end the uncertainty of individual property owners as to their long-term status under the proposal and to do this as promptly as possible. That is only fair.

Fourth, the bill now contains a provision requiring a study of areas within the National Lakeshore which may be suitable for special designation under the terms of the 1964 Wilderness Act.

Fifth, the first section of the bill has been rephrased to state more precisely the intent of Congress as regards the purpose of the legislation. This rephrasing makes clear that the "maximum protection of the natural environment within the area" is the primary objective, and that provision of public recreational opportunities is to be consistent with that priority. There is no necessary inconsistency between preservation and appropriate recreation as goals, so long as this fundamental priority for the long term is recognized and followed.

Mr. President, this is an excellent and very carefully drawn bill. I believe it goes to the points of concern which have been expressed over these years by local people and meets those concerns in a way which will work to the benefit of all. It will bring into our National Park Service a really remarkable area of great potential, and by doing so it will assure that this potential is maintained and wisely managed for long-term benefits. I urge that H.R. 18776 be approved, without amendment.

Mr. President, I reserve the remainder of my time.

Mr. GRIFFIN. Mr. President, I send to the desk an amendment in the nature of a substiute, and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BIBLE. I ask unanimous consent that further reading of the amendment

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be dispensed with, and that the amendment be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Griffin's amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That in order to preserve for the benefit, inspiration, and recreational use of the public a significant portion of the shoreline of Lake Michigan that remains undeveloped, the Secretary of the Interior (hereinafter referred to as "the Secretary") is authorized to take appropriate action, as herein provided, to establish in the State of Michigan the Sleeping Bear Dunes National Park (hereinafter referred to as "the park").

Sec. 2. The Sleeping Bear Dunes National Park area shall include the Sleeping Dunes, the D. H. Day State Park, the Benzie State Park, North Manitou Island, South Manitou Island, together with certain land and water lying between Lake Michigan and State Highways M–109 and M–22, which park area is more particularly described hereafter in section 11.

Sec. 3. (a) The Secretary shall not be authorized to acquire by condemnation any improved property (as hereinafter defined in section 4) except that the Secretary shall be authorized to acquire by condemnation, if necessary, with payment of just compensation, the following limited interests in improved property: (1) a scenic easement (in the nature of a covenant running with the land) which requires the owner thereof to maintain the character and condition of such property and to use such property only for the purposes for which it was being used on December 31, 1968; and (2) an option (in the nature of a covenant running with the land) providing that before the owner sells any right, title, or interest in or to any of such property to another purchaser, the United States shall have a prior right to purchase such right, title, or interest at a price equal to that offered in good faith by any other prospective purchaser.

(b) Except as otherwise provided in paragraph (a) of this section, the Secretary is authorized to acquire by purchase, gift, condemnation, transfer from another Federal agency, exchange, or otherwise, any real property or interest therein within the boundaries of the park area as described in section 11 of this Act.

(c) Any real property or interest therein owned by the State of Michigan or any political subdivision thereof may be acquired under this Act only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the Federal agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of this Act.

Sec. 4. (a) As used in this Act, the term "improved property" means a detached building which is used as a dwelling, or is used for a commercial purpose that is compatible with, and does not impair the usefulness or attractiveness of, the park, construction of which building was begun before December 31, 1968; and such improved property shall include so much of the land on which such building is situated (such land being in the same ownership as the building) as the Secretary shall designate to be reasonably necessary for the continued use and enjoyment of such building, together with any structures accessory to the same which may be situated on the lands so designated. In every such case, the amount of land so designated shall be at least three acres in area, or all of such lesser acreage as may be held in the same ownership as such building. In making such designation the Secretary shall take into account the manner of use in which the building and land have customarily been enjoyed.

(b) Within ninety days after a written request therefor is made to the Secretary by the owner of any commercial property, the Secretary shall furnish to such owner a certificate indicating whether, and under what conditions, if any, such commercial property is deemed to be "improved property" within the meaning of this Act. If the owner is not satisfied with the Secretary's determination, as evidenced by such certificate, then the owner may institute a proceeding in the Federal district court, within whose jurisdiction the property is situated, for the purpose of amending or setting aside such certificate.

Sec. 5. (a) Any property, or interest therein, acquired by the Secretary under this Act (other than by gift, transfer, or exchange) shall be acquired at not less than its fair market value.

(b) With respect to any property, or interest therein, which the Secretary is authorized under this Act to acquire by condemnation, no condemnation proceeding shall be instituted unless the Secretary shall have notified the owner of such property of his intention to acquire such property by condemnation. If within sixty days from such notice the owner of the property shall so request, the United States district court, within whose jurisdiction such property is situated, shall appoint three qualified persons who shall make an independent appraisal to determine the fair market value of such property and report such amount to the parties concerned and to the court. All costs of such appraisal shall be borne by the United States. Thereafter, if the owner and the Secretary are unable to agree on a purchase price for such property, the Secretary may institute proceedings for its condemnation.

Sec. 6. (a) As soon as funds are available the Secretary shall proceed expeditiously to acquire all property, other than improved property, which he is authorized by this Act to acquire.

(b) If, and at such time, as the owner of improved property may offer such property for sale to the United States, the Secretary shall give immediate and careful consideration to such offer and the Secretary shall purchase such property if offered for a price which does not exceed its fair market value. In the event the owner and the Secretary cannot agree as to the fair market value, then, if the owner so requests, the United States district court, within whose jurisdiction such property is located, shall appoint three qualified persons who shall make an independent appraisal to determine the fair market value of such property and report such amount to the parties concerned and to the court. All costs of such appraisal shall be borne by the property owner.

Sec. 7. The United States shall make payments to local subdivisions of State government (including school districts) in lieu of real property taxes upon property which was subject to local taxation before acquisition under authority of this Act. Such payments shall be equal to the amount of taxes, and shall be paid at such times, as would be required if title to such real property were held by a private citizen. Such payments in lieu of taxes shall not exceed the amount of taxes payable for debt retirement purposes which would have been assessed if such property had remained in the same condition as when acquired by the Secretary. This section shall not authorize payment by the United States of any amount in lieu of taxes after any and all bonded indebtedness which may have been incurred by such local subdivision prior to the effective date of this Act shall have been paid in full.

Sec. 8. In administering the park the Secretary shall permit hunting and fishing on lands and waters under his jurisdiction in accordance with the laws of the State of Michigan: *Provided, however,* That the Secretary, with the approval of the Michigan Department of Conservation, may designate zones and establish periods where and when no hunting shall be permitted for reasons of public safety, administration, or public use and enjoyment. The Secretary may, after consultation with such department, issue such regulations, consistent with this section, as may be necessary to carry out the purposes of this Act.

Sec. 9. (a) There is hereby established a Sleeping Bear Dunes National Park Advisory Commission (hereinafter referred to as the "commission").

(b) The commission shall be composed of ten members, each appointed for a term of four years, as follows:

(1) Two members to be appointed by the Board of Supervisors of Benzie County and two members to be appointed by the Board of Supervisors of Leelanau County;

(2) Four members to be appointed by the Governor of the State of Michigan, at least two of whom shall be members of the Michigan State Conservation Commission; and

(3) Two members to be appointed by the Secretary.

(c) The commission by majority vote shall designate one member to be chairman. Any vacancy in the commission shall be filled in the same manner in which the original appointment was made.

(d) A member of the commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the commission in carrying out its responsibilities under this Act on vouchers signed by the chairman.

(e) The Secretary or his designee shall consult with the commission on all matters relating to the establishment, development and operation of the park and the commission is authorized from time to time on its own initiative to submit to the Secretary such recommendations as it deems appropriate.

Sec. 10. (a) Except as otherwise provided in this Act, the property acquired by the Secretary under this Act shall * * *

(1) Beginning at the point of intersection with the shore of Lake Michigan of the east line of section 20, township 29 north, range 14 west, forming the northeast corner of the D. H . Day State Park:

thence south along the east border of said State park one-half mile, more or less, to the point of intersection with the north right-of-way of State Highway M–109; thence west along the north right-of-way of said State highway one-half mile, more or less, to the junction of said State highway with State Highway M–209; thence south along the west right-of-way of said State Highway M–109 1½ miles, more or less, to the point of intersection with the south line of lot 1, section 29, township 29 north, range 14 west;

then west along the south line of said lot 1 to the northeast corner of lot 1, section 31, township 29 north, range 14 west; then west along the north border of said lot 1 to the northwest corner of said lot 1; thence south along the west border of said lot 1 and the west borders of lots 2 and 3 of said section 31 to the southwest corner of said lot 3; thence east along the south border of said lot 3 to the point of intersection of the west right-of-way of State Highway M–109; thence southeast along the west right-of-way of said State Highway M–109 one-half mile, more or less, to the point of intersection with the north line of section 5, township 28 north, range 14 west;

thence south along the west right-of-way of said State Highway M–109 2 miles, more or less, to its junction with State Highway M–22; thence southwest along the west right-of-way of said State Highway M–22 one half mile, more or less, to its point of intersection with the east-west quarter section

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line of section 17 of said township 28 north, range 14 west;

thence west along said east-west quarter section line of said section 17 and the east-west quarter section line of section, township 28 north, range 14 west, and the east-west quarter section line of section 13, township 28 north, range 15 west, to the shore of Lake Michigan;

thence northerly along the shore of Lake Michigan to the point of beginning; also

(2) Beginning at the point of intersection with the shore of Lake Michigan of the south line of lot 1 of section 25, township 28 north, range 15 west;

thence east along the south line of said lot 1 to its meeting point with the west line of section 30, township 28 north, range 14 west; thence north along the west line of said section 30 to the northwest corner of said section 30; thence east along the north line of said section 30 300 feet, more or less, to the point of intersection with the south right-of-way line of State Highway M–22; thence east along the south right-of-way of said State Highway M–22 1,500 feet, more or less, to the point at which State Highway M–22 turns southeast;

thence southeast along the west right-of-way of said State Highway M–22 three-fourths of a mile, more or less, at which point State Highway M–22 meets the west line of the northeast quarter of the southeast quarter of said section 30; thence southwest along the west right-of-way of said State Highway M–22 to the point at which State Highway M–22 meets the north-south quarter section line of said section 30; thence south along the west right-of-way of said State Highway M–22 500 feet, more or less, to the point of intersection with the south line of said section 30;

thence south along the west right-of-way of said State Highway M–22 as said State highway passes along the north-south quarter section line of section 31, township 28 north, range 14 west, to the south line of said section 31 at which point the said State Highway M–22 intersects the Leelanau-Benzie County line into Benzie County;

thence south along the west right-of-way of said State Highway M–22 as said highway passes along the north-south quarter section line of section 6, township 27 north, range 14 west, and along the north-south quarter section line of section 7, township 27 north, range 14 west, and along the north-south quarter section line of section 18, township 27 north, range 14 west, to the point of intersection of the said north-south quarter section line with the south line of said section 18;

thence west along the north right-of-way of said State Highway M–22, as said State highway passes along the south line of said section 18, 1,320 feet, more or less, to the point at which State Highway M–22 turns southeast; thence along the west right-of-way of said State Highway M–22 1 mile, more or less, to the south line of section 24, township 27 north, range 15 west; thence west along the north right-of-way of said State Highway M–22 to the point of intersection with the west line of said section 24;

thence west along the north right-of-way of said State Highway M–22 2 miles, more or less, to the west line of section 27, township 27 north, range 15 west; thence southwest along the west right-of-way of said State Highway M–22 to the point of intersection with the north-south quarter section line of section 33, township 27 north, range 15 west, thence west along the north right-of-way of said State Highway M–22 1½ miles more or less to the west line of section 32, township 27 north, range 15 west,

thence north along the west line of said section 32 to the southeast corner of section 30, township 27 north, range 15 west; thence west along the south line of said section 30 and the south line of section 25, township 27 north, range 16 west, to the southeast corner of said section 25; thence north along the west line of said section 25 one-half mile more or less to the point of intersection with the shore of Lake Michigan;

thence northeasterly along the shore of Lake Michigan to the point of beginning; also

(3) North Manitou Island; also

(4) South Manitou Island.

SEC. 12. As soon as practicable after the date of enactment of this Act and following the acquisition by the Secretary of an acreage within the boundaries of the area designated for inclusion in the park which in his opinion is efficiently administrable for the purposes of this Act, he shall establish the Sleeping Bear Dunes National Park by publication of notice thereof in the Federal Register.

SEC. 13. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Amend the title so as to read: "An Act to establish the Sleeping Bear Dunes National Park.".

Mr. GRIFFIN. Mr. President, as the distinguished chairman of the subcommittee, the Senator from Nevada (Mr. BIBLE) has indicated, this is a subject that has been under consideration for a number of years. Indeed, I believe that the first bill was introduced back in 1961. It has been the subject of much controversy in my home State. While I share the interest and the desire of all Members of this body to preserve and conserve our natural resources, I must say that I have serious reservations about this legislation in its present form.

That does not mean I am not in favor of taking steps to preserve the Sleeping Bear Dunes, or, indeed, to establish a national park. As a Member of the House of Representatives, I introduced a bill on January 21, 1963, to establish a Sleeping Bear Dunes National Park—rather than a recreational lakeshore area, as is contemplated by the reported bill. The amendment I have offered in the nature of a substitute, closely follows the lines of the bill I introduced back in 1963.

By adopting this amendment we could provide the benefits of a national park for all the people with the least damage and disruption for the ecology and the residents of the area.

The principal advantages of my proposal over H.R. 18776 are as follows:

First. The acreage is reasonable. Under my proposal the park area would comprise about 37,000 acres rather than the 60,748 land acres designated in the pending bill.

Incidentally, the acreage which would be included under my amendment would conform more closely to the original recommendation submitted in 1959 by the Advisory Board on National Parks.

Second. Under my amendment, the park would be confined primarily to the undeveloped Lake Michigan shoreline area. My proposal would include in the national park the Sleeping Bear Dunes, the D. H. Day State Park, and all the land and Lake Michigan shoreline to the south thereof, which lies west of Highways M–109 and M–22, except the town of Empire, down to and including the Benzie State Park. My proposal would accomplish the two purposes proclaimed by the National Park Service: First, to preserve for posterity the beautiful Sleeping Bear Dunes, and, second, to set aside a significant portion of the diminishing undeveloped Lake Michigan shoreline.

Third, under my proposal, more of the developed property in the area would be protected from Federal condemnation. Under the reported bill, the Federal Government could condemn any property improved after December 31, 1964, more than 5 years ago. Under my proposal, property improved after December 31, 1968, could be condemned.

Under my proposal, the owners of improved or developed property on which building construction was begun prior to December 31, 1968, would continue to own, occupy, and enjoy their property without threat of condemnation. The Federal Government could acquire from the owner, by paying just compensation therefore, only two limited interests in such improved property: First, a scenic easement required that the general character and condition of the property be maintained; and second, an option to purchase such property if and when the owner, or his heirs, should ever desire to sell it.

By the time the reported bill could become law it would permit the Federal Government to condemn property improved 5½ to 6 years ago. Mr. President, I believe the cutoff date is unrealistic—and, perhaps, unconstitutional.

Mr. President, it is noteworthy that longtime owners of improved property have not been so severely treated in the establishment of other national parks in the recent past. Consider the precedents indicated by the national parks legislation listed below:

Popular name of act	Cutoff date	Date introduced	Effective date
Cape Cod National Seashore	Sept. 1, 1959	Feb. 9, 1961	Aug. 7, 1961
Fire Island National Seashore	July 1, 1963	Apr. 25, 1963	Sept. 11, 1964
Assateague Island National Seashore	Jan. 1, 1964	Jan. 6, 1965	Sept. 21, 1965

Both Cape Cod and Assateague Island National Seashore Acts were introduced less than 2 years after the established cutoff date. It is interesting to note that the Fire Island cutoff date was established later than its date of introduction.

Fourth, my proposal provides more protection for owners of undeveloped property. Unimproved or undeveloped property within the park area would be subject to condemnation requiring payment at fair market value. Indeed, under my amendment the Secretary of the Interior would be required, as soon as funds are available, to proceed expeditiously to acquire such property.

If the owner and the Park Service could not agree on a fair market value, then the owner could request the Federal district court to appoint three quali-

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fied, independent appraisers. All costs of such appraisal would be borne by the Government.

Fifth. Under my amendment, Federal payments would be required in lieu of taxes.

When a school district floats a bond issue, and investors purchase the bonds, they do so relying upon the taxability of the real estate situated within the school district. When the Federal Government thereafter takes title to a portion of that real estate, and removes it from the tax rolls, I believe it is only fair and reasonable that the Government be required to make payments in lieu of the taxes which otherwise would be assessed until such time as the bonded indebtedness is paid.

Sixth. Under my amendment, the chairman of the Advisory Commission would be named by a majority of the Commission. The earlier legislation would have provided for an Advisory Commission of 10 members appointed by the Secretary of the Interior. My proposal provides that the 10 members would be named as follows: Two by the Benzie County Board of Supervisors; two by the Leelanau County Board of Supervisors; and four by the Governor of Michigan, two of which would be members of the Michigan State Conservation Commission. The two remaining members would be appointed by the Secretary of the Interior. Instead of allowing the Secretary to designate a chairman, my proposal would empower the Commission to name its own chairman by majority vote.

Seventh. Under my proposal, specific provision is made to require that adequate sewage treatment facilities be provided. If we are concerned about the ecology, we should make sure that the lakes in the area will not be polluted when the area becomes a lakeshore.

Mr. President, I believe my amendment deserves the support of the Senate, and I hope it will be adopted.

If this amendment is passed, I will then be able to vote for the legislation and the establishment of this national park.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

Mr. BIBLE. Mr. President, how much time do I have remaining, since we are under a time limitation?

The PRESIDING OFFICER. Under the unanimous-consent agreement, there is 14 minutes remaining on all amendments, the stipulation of the agreement being that the vote must come by 7 o'clock.

Mr. BIBLE. How much time do I have remaining? Do I have 7 minutes?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. BIBLE. Mr. President, I shall be very brief, because I realize the time is running.

The main thrust of the substitute offered by the distinguished Senator from Michigan—and it has a number of facets to it—is on the cutoff date, the provision is to roll forward the date we have in our particular bill as reported out of the Senate committee.

The effect of this amendment is to bring under the protective clause of the cutoff date some 171 residences which have been built since December 31, 1964. My position, in which I was sustained in the committee, is that the people of this area certainly had ample notice that there was great interest in the Sleeping Bear Dunes, that the oill had passed the Senate twice, and that it had passed the House committee on one occasion, and I think they have been on notice from 1963 forward that they were acting at great risk if they were to build homes and expect them to be completely excluded from possible condemnation.

The difficulty with rolling the cutoff date forward is that it does take a very beautiful part of the Sleeping Bear Dunes and lakeshore area and, in effect, would have it subdivided.

The argument is made, as it was made within the committee, and as it was considered by the House of Representatives and rejected, to the effect that the people had built their homes there, and would not have the protection to which they were entitled.

As I say, I think the answer to that is that they acted with their eyes open, with the very distinct possibility that this bill would be enacted and that their homes would be taken.

It should be said that they are going to be fully compensated if the homes are taken. The Senate report, in part, specified that most property improved since December 31, 1964, which is the cutoff date in the bill before us, as reported out by the committee and as passed by the House of Representatives, would probably not be acquired without the owners' consent if the lands involved are not found to be needed for public use and development, so long as they are used in a manner compatible with the lakeshore.

In my judgment, the broad public interest would be preserved by adopting the bill as reported out by the Senate committee, and as sent to us by the House of Representatives.

I might say that the present Representative from the very district that the distinguished Senator from Michigan (Mr. GRIFFIN) formerly represented was in full favor of the bill. As a matter of fact, he made a speech against the rolling forward of the cutoff date beyond the 1964 date.

Accordingly, I think that the bill as passed and that the substitute should be defeated.

I yield the remainder of such time as I have left to the distinguished Senator from Michigan (Mr. HART).

Mr. HART. Mr. President, for the third time, the Senate is asked to authorize the Sleeping Bear Dunes National Lakeshore in Michigan. As I have done twice in past Congresses, I urge that the Senate approve this important conservation measure. On those two earlier occasions, the Senate did approve.

First of all, I wish to express my gratitude to the able chairman of the subcommittee, Senator BIBLE, for his patience and unending cooperation—over the years—with those of us who have sought to bring this lakeshore into being. Certainly, the contribution that my colleague from Michigan, Senator GRIFFIN, has made thru these years is very great. As he has indicated, he still feels strongly about the desirability of a much smaller area, a change in the cutoff date and additional provisions with respect to developed properties. My appreciation extends, of course, to the distinguished chairman of the committee, the Senator from Washington (Mr. JACKSON), and to all who have helped us arrive at this day—including, prominently, my colleagues, Representatives JAMES O'HARA, GUY VANDER JAGT, PHILIP RUPPE, and others of the Michigan delegation.

The Committee on Interior and Insular Affairs has unanimously reported H.R. 18776, and I am delighted to support this bill. As was the case when we passed this proposal in the 88th Congress and again in the 89th Congress, H.R. 18776, in its present form, has the full support of the administration, the Department of the Interior, and the National Park Service, the Michigan Legislature, the Governor of Michigan, the Michigan Department of Natural Resources, and all of the leading conservation organizations, nationally, as well as in Michigan.

But this time, Mr. President, there is a major difference, for today, we are considering a bill which already has been approved—in the identical form—by the other body.

Thus, the Senate today has an opportunity to complete congressional action on a long-pending, extremely important, and increasingly urgent conservation effort. To secure the preservation of the Sleeping Bear Dunes as a unit of our national park system long has been a dream of the conservation-minded people of Michigan.

This is a highly unusual, fabulously diverse area, offering unparalleled potential for nature study and appropriate forms of public recreational use. It is a landscape of unquestioned national significance, one which should be assured full protection as a legacy to our children's children of the beauty of the unspoiled Great Lakes scene.

The first national attention to this area came in 1957, when the National Park Service undertook a survey of the remaining natural areas and recreational potential of the Great Lakes shoreline. That survey concluded that the Sleeping Bear Dunes area was of paramount importance, that its nationally significant values and potential required that a more detailed onsite study be undertaken in order to find how best to preserve the area. On the basis of those studies, in 1961, our late colleague, Pat McNamara, and I introduced legislation to establish the area as a unit of our national park system. Hearings were held in the local area, and many deficiencies in our first legislative proposal were pointed out by local people. Those people had—and have today—the same interests as we do: to assure the wise preservation of a truly outstanding area. They questioned some of the provisions proposed, and those questions set us on the course of finding the refinements and improvements that would assure that our legislation would do the best job in the interests of all concerned.

Mr. President, this is a point that I wish to emphasize: The bill we have before us today is a better, fairer, more effective bill because of the many contributions made constructively by concerned people in the immediate area involved. There have been a few who have simply been opposed—"period"; but the vast majority of local citizens have sought exactly the same thing we have sought, and as a result, a sound and well-balanced bill is before us today.

In 1963, the Senate first passed a Sleeping Bear Dunes bill. Unfortunately, it did not receive attention in the other body. Again in 1965, the Senate passed this proposal, in a bill calling for a 40,100-acre Sleeping Bear Dunes National Lakeshore. The following year, after extensive hearings, the House Committee on Interior and Insular Affairs favorably reported the Senate-passed bill, having added two key tracts at the suggestion of my distinguished colleague from Michigan (Mr. GRIFFIN). The resulting bill, which would have established a 60,000-acre National Lakeshore, did not, unfortunately, reach the floor of the House for final action before the adjournment of the 89th Congress. Having come so close, we had to begin again.

From that point forward, I no longer felt I could come back to the Senate and ask for action without solid action first on the House side. During the 90th Congress, priority attention on the important Redwoods and North Cascades National Parks and on the wild and scenic rivers bill, prevented the House committee from taking up the Sleeping Bear bill until the last few days of the Congress, when hearings were held.

XUM

Thus, we came into the 91st Congress, but on much different footing. For it was becoming increasingly evident that the people of Michigan wanted to see this conservation effort succeed, and concern over encroachments on the lakeshore area was growing. Given those factors, the Michigan congressional delegation and the officials of our State joined together, and the result has been most encouraging. Much credit is due in particular to Michigan Representatives JAMES O'HARA, PHILIP RUPPE, and GUY VANDER JAGT. As the Representative of the district involved, GUY VANDER JAGT devised ways to resolve remaining issues and to come up with a broadly acceptable bill. This has been accomplished, with the full cooperation of all the Members of the House from our State.

The result has been refinement of a new Sleeping Bear Dunes bill, one which can give maximum protections to local interests and the rights of present property owners, while also meeting the increasingly urgent conservation need. That bill, H.R. 18776, was unanimously reported by the House Committee and passed the other body on September 22, by voice vote.

This present bill, H.R. 18776, differs in a few particulars from the bill last passed by the Senate in 1965. Each of the differences is a definite improvement, and each has my full support. Basically, the bill does these things:

First, it authorizes the Secretary of the Interior to establish a 60,000-acre Sleeping Bear Dunes National Lakeshore as a unit of the National Park System.

It authorizes the Secretary to acquire lands within the boundaries of the National Lakeshore. However, lands owned by the State of Michigan can be acquired only by donation and all such lands—with one exception—must be donated before the Secretary may actually establish the national lakeshore. The exception is a tract of 300 acres at the mouth of the Platte River, which the State of Michigan wishes to retain under its own management in connection with the Ohio salmon fishery program.

The bill authorizes the Secretary to acquire private lands within the area by a variety of means, including through eminent domain proceedings where necessary. But—and I emphasize this—the Secretary's power of eminent domain is, in turn, given explicit limits. This is done out of recognition that it is not necesary to acquire long-established homes within the area—of which there are some 250—Thus, it has been possible to write into the bill a provision specifically protecting those long-establish improvements from condemnation, so long as they are maintained in a way that does not detract from the overall landscape patterns. This protection against condemnation is perpetual, it runs with the land and so can be conveyed by sale or inheritance.

In developing that protection, we have had to choose a mechanism that would grant this compatible protection to long-established properties, but not to recent improvements which may, in fact, have been built with just such a hope for later protection within the park in mind. To make this distinction—which is essential if the quality of the lakeshore is to be maintained and the public interest protected—we have used the common mechanism of a cutoff date; that is, homes constructed before 1965 are protected from condemnation, those built subsequently are not. The December 31, 1964, date has been selected—and approved by the House and by our committee—because it represents the time since which the property owners within the area have been well on notice of the pending legislation to create the national lakeshore as Senator BIBLE has noted. Persons building since that time have done so fully within their rights, but also with full notice through many media that a bill involving their lands was under active congressional consideration. As I have detailed earlier, this has certainly been the case.

Mr. President, I give this detail about the so-called cutoff date because it has been a point of some confusion. Let it be clear, therefore, that this date has absolutely nothing whatever to do with anyone's rights to property or with anyone's right to just compensation if his property is taken by the Federal Government for the purposes of the national lakeshore. Clearly under the Constitution the Congress has the power to take the entire area by eminent domain for public purposes. In determining we need not do so and that we can compatibly grant certain protections to long-established property owners, we are choosing to limit the power we clearly have. There is nothing even remotely unconstitutional about this mechanism, which is, indeed, something we have used in every park bill in recent years.

If an individual's property which was improved since December 31, 1964, is, in fact, taken under eminent domain by the Federal Government, then that individual will receive full market value for his land and all improvements as of the date of the taking, regardless of whether the improvements were constructed before or after the cutoff date. The cutoff date has absolutely no relation to the matter of compensation in any way whatsoever.

To conclude on this discussion of the so-called cutoff date, let me just point out that most of the homes which fall under its effect—that is, homes or improvements constructed after December 31, 1964—will probably not be taken by the Federal Government in any case. But what is essential is that we grant the Secretary the flexibility on this point which he must have to discharge the conservation purpose we are assigning him. To alter the cutoff date would be to seriously upset this flexibility.

The bill as reported also provides a very explicit statement of just what the purpose of this national lakeshore is to be. It makes clear that the priority purpose intended by Congress is to secure the preservation of the important natural features of the area. Within the limits imposed by that priority, the National Park Service is to provide recreational opportunities to the public which are "consistent with the maximum protection of the natural features within the area."

This is a clear and unequivocal statement of congressional intent, and I mention it so that the legislative history will be abundantly evident. I do know that the National Park Service has administratively chosen to divide the areas under its care into various management categories and that national seashores and national lakeshores are somewhat arbitrarily placed within their recreational area category, but I want it to be on the record here that, regardless of how they choose to categorize the area, it is the intention of Congress that preservation be the priority purpose to be served.

In that same vein, the House has added to the bill, and I support, a new subsection 6(c) which requires the Secretary to undertake a study of lands within the national lakeshore to determine which, if any, may be suitable for further special designation under the Wilderness Act of 1964. Wilderness is not a common feature of our part of the country, but if any lands within the national lakeshore are suitable to wilderness standards, we should determine that fact and take the appropriate action. Obviously, any wilderness areas which may be identified in this area will be smaller than the extensive wilderness lands we have been able to preserve in less developed regions of the country.

Mr. President, these two matters I have touched upon—the question of the limitations on condemnation authority and the question of preservation policy—have been of particular concern to the people in the area of the national lakeshore. I want to take note of the fact that it is because Representative VANDER JAGT has so diligently worked on these problems—and I have had the satisfaction of working with him on them—that they have been so well resolved. In the same way, he has been able to assure concerned officials in his district that the State of Michigan will undertake to reimburse any tax revenue losses that may ensue in implementing this national lakeshore.

These have not been simple or easily resolved problems, but they have been resolved, and the bill we have today is the better for it. Many people have made important contributions to that result, but none greater than the bipartisan work of my colleagues in the Michigan delegation in the other body.

Representative VANDER JAGT, in his eloquent statement on the House floor when this bill was considered there, made a particularly cogent remark:

> But an interesting thing has happened to this bill on its way to this moment in its legislative history. Although the opposition in 1966 really centered around those two fundamental problems, now that the problems have been removed, the opposition remains.
>
> As we look at the opposition, we see that those who are opposed have not been as interested in solving problems as in using the problems to defeat the legislation.

I repeat Mr. VANDER JAGT's observation here because it is so accurate a portrayal of our experience. But I am happy to say that I find little opposition now remaining to this bill. In fact, I recall no bill which, having once been so thoroughly and widely controversial, now has such overwhelming, bipartisan support.

As I have pointed out, the present House-passed bill, H.R. 18776, differs in some ways from the bill I had introduced last year. Each of those changes is an improvement, and I support this bill in its present form.

In the same way, H.R. 18776 has been specifically endorsed, in its present form, by the administration and the Department of the Interior. It has the support—in this form—of the Governor of Michigan and the Michigan Department of Natural Resources. The proposal has been unanimously supported by the Michigan Legislature, by the Great Lakes Commission, and by the Upper Great Lakes Regional Commission. Dr. Ralph MacMullan, the director of our State department of natural resources, has called it the single most important action the Federal Government could take to aid the overall conservation and recreation program of the State of Michigan.

Furthermore, this bill is endorsed by every major conservation group in the State of Michigan and by every leading national conservation group. Any listing of these is likely to be incomplete, but the following are some of the groups supporting H.R. 18776:

The Sierra Club and its Mackinac chapter.

The Wilderness Society.

The National Wildlife Federation.

The Michigan United Conservation Clubs.

The National Audubon Society and the Michigan Audubon Society.

The Izaak Walton League of America.

Friends of the Earth.

The American Forestry Association.

The Citizens Committee on Natural Resources.

The National Recreation and Park Association.

The National Park and Conservation Association.

Trout Unlimited and its Michigan council and chapters.

The Michigan Parks Association.

The Federation of Western Outdoor Clubs.

The Michigan Chapter of the American Society of Landscape Architects.

The Conservation Committee of the Garden Clubs of America.

The Michigan Division of the Association of American University Women.

The United Automobile Workers.

The Michigan AFL-CIO.

The West Michigan Environmental Action Council.

The Holland Area Environmental Action Council.

The Michigan Trailfinders.

The Michigan Recreation and Park Association.

The Defenders of Wildlife.

Environmental Action.

Enact—Environmental Action for Survival—at the University of Michigan.

The Student Coalition for Environmental Protection.

The Michigan Association of Conservation Ecologists.

The Michigan Natural Areas Council.

The Michigan Botanical Club.

This is impressive support. It is evidence, Mr. President, of the national importance attached by conservationists to this long-overdue legislation. But the support that is perhaps most important is that in the local area.

As all of us realize, this was a controversial proposal in the Sleeping Bear Dunes area. There has been much discussion on both sides. But, increasingly, local people have recognized that the national lakeshore will do just what they want done—it will protect the magnificent Sleeping Bear Dunes area without adverse local impact. As a result, local support has been growing rapidly over recent years. In June, the Board of Commissioners of Benzie County went on record—after opposing the bill in the past—as supporting this proposition. And a local citizens group, the Save the Sleeping Bear Dunes Committee, gives evidence of the broad and committed support right in the immediate area of the national lakeshore. Individuals in the region—too numerous to list—have worked courageously and steadfastly over the years to bring this effort to culmination.

Mr. President, this support has been growing, not just because people have seen what the national lakeshore can do to preserve their area but because they have seen visible evidence of what is going to destroy the area without such protection. The Sleeping Bear Dunes region is very attractive, and, for just that reason, pressures of development and subdivision are growing enormously. Just since 1964, nearly 200 new structures have been built within the boundaries set forth in this bill. Each—taken by itself—may be a fine, high-quality home, but, taken together, they are turning the area from a natural landscape into a subdivision. Nothing is going to stop this, unless it is our firm decision that the values at stake are too significant and of too great a public value to be allowed to slip away in this piecemeal fashion.

That is the decision before us this evening as we act on this bill: to secure a great national lakeshore and protect a unique part of the American heritage for all time, or to fail in our responsibility to constituents not yet born and to permit a great treasure to be divided up and squandered forever. If we are to measure up in the eyes of those who will receive this land and judge our stewardship, this park must be created.

A key part in realizing the potential of this national lakeshore, however, will remain the responsibility of the people. For that reason, we have given full opportunity for wide public participation in making those decisions which will determine how this area should be developed and managed. Section 4 of the bill establishes a Sleeping Bear Dunes National Lakeshore Advisory Commission to work with the Secretary and the National Park Service during the years in which the national lakeshore is being implemented. It is essential that this Commission be broadly representative of local and statewide interests involved here, and that it take part in the important decisions from the very outset. I want particularly to note that under section 3 of the bill, a key decision regarding the classifications of lands within the lakeshore will be made by the Secretary of the Interior within 30 days "or as soon as possible thereafter." It is my hope—and I am writing to the officials involved on this point—that the members of the Commission can be appointed on an urgent basis, so that they will have a realistic part in this earliest decision about the land management of the national lakeshore.

In the same way, Mr. President, I believe it is essential that the public fully review the plans for development within the national lakeshore before they are implemented. A master plan has been developed for the national lakeshore, but has yet to be made public. I urge the National Park Service to make that plan widely available immediately and to provide full and well-announced opportunities—through public hearings or meetings—for public comment on the details of the plan. Such meetings should offer full opportunity for public comment and involvement. I would think this would be an absolutely prerequisite to any major congressional funding of the development plan. I am particularly concerned that the routing and design of the scenic road authorized in section 12 of the bill be cautiously and carefully worked out, with full public discussion of the decisions as they are considered, before they are implemented. I believe a formal hearing should be held on the routing plan, and a separate hearing once the design features are then worked out. It would seem to me most advisable that environmental experts and ecologists outside the National Park Service work in this effort on an advisory basis, and I know that professional groups such as the Michigan Natural Areas Council and the Michigan Association of Conservation Ecologists would be happy to cooperate.

If the national lakeshore is viewed not simply as a unit, but as the focus of a regional opportunity, then it offers a great stimulus and potential to bring effective regional planning to this area as a whole. The agencies of the Federal and State governments are alert, I know, to these possibilities, and I am confident all possible efforts will be made along these lines, as for example, in regional waste water treatment systems and transportation planning.

Over the years as we have sought to improve this bill and broaden public support, my able colleague, Senator GRIFFIN, has shared with all of us an undestanding of the desirability that an area of "the Bear" be stabilized and protected. Some changes he has urged have been incorporated. As his position is made clear today, he remains strongly in support of even further modification. While the committee and our colleagues in the other body do not accept—and I hope the Senate will not accept—further amendments, the sincerity of my colleague in his efforts is acknowledged by all.

Mr. President, the Sleeping Bear Dunes National Lakeshore holds the promise of achieving lasting conservation benefits for the public interest. It can do this, under the terms of this bill, with minimum adverse impact on existing patterns. Indeed, it can hold a key to regional improvement on a wide level. By passing this bill, the Congress can secure an essential preservation objective, can provide recreational opportunities of major importance, and can achieve this in a way that will be of lasting benefit to all concerned. We owe no less to future generations.

I urge approval of H.R. 18776 as it stands. I hope that the Senate tonight will support the recommendations of our committee, which reviewed and put its imprimatur on the earlier action of the House.

Two additional points should be made about the amendment offered by my colleague (Mr. GRIFFIN). First, the Governor of the State of Michigan has indicated his intention to propose State legislation to assist the local governments with relation to replacement of any lost tax revenues.

Second, the Senator's amendment would provide an additional authorization of $1 million for sewage treatment facilities for the national lakeshore. Interior Department witnesses testified that the $18,769,000 authorized for development costs in the committee bill includes provision for sewage treatment facilities adequate for the lakeshore.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD several communications from national conservation groups on the cutoff issue, in response to an inquiry which I made of them.

There being no objection, the communications were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
October 7, 1970.

Senator PHILIP A. HART,
U.S. Senate,
Washington, D.C.

Responding to your recent inquiry, National Wildlife Federation and our affiliate, Michigan United Conservation Clubs, warmly endorse H.R. 18776, Sleeping Bear Dunes National Lakeshore.

We feel that any amendment changing the December 31, 1964, cutoff date would be most ill-advised. This would weaken a vital feature of the bill. H.R. 18776, as written, is a strong and well-balanced conservation measure of real importance.

THOMAS KIMBALL,
Executive Director, National Wildlife Federation.

THE WILDERNESS SOCIETY,
Washington, D.C., October 7, 1970.

Hon. PHILIP A. HART,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: Thank you for the opportunity to respond to the questions you raised in your recent letter.

The Wilderness Society an its Michigan members and cooperators view the proposed Sleeping Bear Dunes National Lakeshore as a most important conservation issue. Members on our staff have spent considerable time in that area and are well aware of its special values and those threats which place the area in such jeopardy at this time. We believe enactment of H.R. 18776 to be one of the most vital parkland conservation goals for the 91st Congress.

We have carefully studied the matter of the cutoff date (sections 11 and 13) in the bill. The Wilderness Society believes it would be a serious error to advance the December 31, 1964, cutoff date. The effect of any such action would be to grant permanent protection to additional numbers of recently built structures—they would become lasting features of what is supposed to be a dominantly natural park area. We view this measure to be a strong piece of legislation that can effectively preserve the enormous public values of Sleeping Bear Dunes Lakeshore area.

We gladly join other conservationists in being most hopeful that H.R. 18776 will be enacted without amendments.

Sincerely,

STEWART M. BRANDBORG,
Executive Director.

SIERRA CLUB,
Washington, D.C., October 7, 1970.

Senator PHILIP HART,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: Thank you for your letter with reference to H.R. 18776, the Sleeping Bear Lakeshore Bill.

As we testified before the Senate Subcommittee on Parks and Recreation, we endorse and strongly support this bill, both its general intent and its specific language. We would view any amendment which would alter the so-called cut off date as a serious threat to the fundamental conservation purpose of the bill. This is a technical matter, but its impact is clear; to advance the cut off date would seriously compromise the natural quality of the Sleeping Bear Dunes Lakeshore.

We note that the Department of the Interior supports H.R. 18776 in its present form and specifically testified in opposition to any such amendment.

In our view any such amendment would gravely weaken the bill and strike at the very heart of its conservation purpose. The Sierra Club urges that you actively oppose any amendment of this altogether excellent bill. We appreciate your leadership and the opportunity to respond to your inquiry.

Sincerely,

W. LLOYD TUPLING,
Washington Representative.

THE IZAAK WALTON LEAGUE OF AMERICA, INC.,
Washington, D.C., October 7, 1970.

Hon. PHILIP A. HART,
U.S. Senate,
Washington.

DEAR SENATOR HART: Thank you for your letter in which you requested our views concerning Sections 11 and 13 of H.R. 18776, the proposed Sleeping Bear Dunes National Lakeshore bill. As you know, the League has had a longstanding commitment in support of the Sleeping Bear Dunes National Lakeshore, and we very much appreciate the opportunity to comment.

In response to your specific question, we believe it would be most undesirable to extend the cut-off date in Sections 11 and 13 of the bill. In fact, extension of the cut-off date would conflict with the public conservation purposes which will be served by the National Lakeshore.

As we understand it, the cut-off date in the bill controls which existing structures within the boundaries of the Lakeshore may be subject to condemnation. Extending the cut-off date from December 31, 1964 to a more recent date would have the practical effect of granting perpetual protection from condemnation to a number of very recently constructed properties. In other words, some structures, whether they are compatible with the National Lakeshore or not, would be locked in as permanent features. It is our general belief it is far more desirable to rely on the usual procedure, which is to grant protection against condemnation to long-established properties when they are compatible with the conservation purposes to be served by the Lakeshore.

This existing procedure is not only more flexible, but affords a greater degree of protection to those landowners and residents who are using their properties in ways which are thoroughly consistent with the preservation of the natural features of the area.

In our judgment, H.R. 18776 deserves the support of the Senate as written. Its terms provide some latitude in what has been a very difficult set of circumstances, while at the same time securing an important objective of preserving the natural values of the Sleeping Bear Dunes as a permanent legacy for future generations. Members of our staff very recently visited the area, and in our considered judgment H.R. 18776 should be enacted as is as expeditiously as possible. You have our wholehearted support for your good work in this area.

With best wishes, I am,

Cordially,

J. W. PENFOLD,
Conservation Director.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally charged against both sides.

Mr. BIBLE. That is entirely agreeable.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Church). Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Michigan (Mr. Griffin).

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virgina. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Virginia (Mr. Byrd), the Senator from Nevada (Mr. Cannon), the Sentor from Arkansas (Mr. Fulbright), the Senator from Tennessee (Mr. Gore), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Minnesota (Mr. McCarthy), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Georgia (Mr. Russell), the Senator from Mississippi (Mr. Stennis), the Senator from Missouri (Mr. Symington), and the Senator from Maryland (Mr. Tydings) are necessarily absent.

I also announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Alabama (Mr. Sparkman), the Senator from Georgia (Mr. Talmadge), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) are absent on official business.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. Harris), the Senator from Maine (Mr. Muskie), the Senator from Missouri (Mr. Symington), and the Senator from Massachusetts (Mr. Kennedy) would each vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from Hawaii (Mr. Fong), the Senators from New York Mr. Goodell and Mr. Javits), the Senator from California (Mr. Murphy), the Senator from Kansas (Mr. Pearson), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Utah (Mr. Bennett), and the Senator from North Dakota (Mr. Young) are detained on official business.

If present and voting, the Senator from South Dakota (Mr. Mundt) would vote "yea."

On this vote, the Senator from Kansas (Mr. Pearson), is paired with the Senator from New York (Mr. Goodell). If present and voting, the Senator from Kansas would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 22, nays 39, as follows:

[No. 364 Leg.]

YEAS—22

Allott
Baker
Boggs
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Griffin
Gurney
Hansen
Hatfield
Hruska
Jordan, Idaho
Miller
Percy
Saxbe
Scott
Smith, Maine
Thurmond
Williams, Del.

NAYS—39

Allen
Bayh
Bible
Brooke
Burdick
Byrd, W. Va.
Case
Church
Cranston
Dodd
Eagleton
Eastland
Ellender
Ervin
Hart
Holland
Hollings
Hughes
Inouye
Jackson
Magnuson
Mansfield
Mathias
McClellan
McGovern
McIntyre
Metcalf
Mondale
Nelson
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Spong
Stevens
Williams, N.J.

NOT VOTING—39

Aiken
Anderson
Bellmon
Bennett
Byrd, Va.
Cannon
Fannin
Fong
Fulbright
Goldwater
Goodell
Gore
Gravel
Harris
Hartke
Javits
Jordan, N.C.
Kennedy
Long
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Muskie
Pearson
Prouty
Russell
Smith, Ill.
Sparkman
Stennis
Symington
Talmadge
Tower
Tydings
Yarborough
Young, N. Dak.
Young, Ohio

So Mr. Griffin's amendment was rejected.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BIBLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIBLE. Mr. President, I ask unanimous consent that extracts from the report on the Sleeping Bear Dunes National Seashore bill be printed in the Record as a part of my remarks and immediately at the conclusion thereof.

There being no objection, the extracts were ordered to be printed in the Record, as follows:

PURPOSE

The purpose of H.R. 18776 is to establish the Sleeping Bear Dunes National Lakeshore in one of the most scenic of all scenic areas of the Lake Michigan region. The lakeshore is readily accessible to some 30 millions of urban dwellers of the Midwest and other parts of the country.

The national lakeshore would encompass 71,168 acres of land and water, of which the total land area would be 60,748 acres in three closely associated mainland units and two lake islands. It would bring into public ownership for preservation and public enjoyment 65 miles of Lake Michigan shoreline, a great public resource that is dwindling at an alarming rate. Here, along the only one of the five Great Lakes that is entirely within the United States, are towering sand dunes and gracious beaches with a backdrop of forested hillsides and beautiful inland lakes.

In addition, parts of the area have outstanding scientific values in their flora and fauna.

LEGISLATIVE HISTORY

Bills to establish a National Lakeshore in the storied Sleeping Bear area have been before successive Congresses for more than a decade, beginning with S. 2460, 86th Congress, of which the late Senator Pat McNamara and Senator Philip Hart of Michigan were sponsors. This was a general measure for preservation of shoreline areas of outstanding recreational values.

In the next Congress, the 87th, Senators Hart and McNamara introduced S. 2153 on June 27, 1961, the first of a long series of specific bills for a Sleeping Bear Lakeshore.

Understandably, the initial proposed legislation, involving acquisition of substantial tracts of privately-owned lands and curtailment of some commercial activities, was subject to some little controversy. Over the years, hearings have been held, views exchanged, compromises made and differences of opinion smoothed out.

Twice, in 1963 and again in 1965, the Senate passed Sleeping Bear bills, only to have them die in the other body.

In this Congress, Senator Hart introduced a bill that became S. 1023 on February 17, 1969, but the Senator did not press for action by the Senate committee until it became apparent that favorable action by the House on one of the companion bills was likely. Public hearings were held in the Senate committee on August 26, 1970, and Senators Hart and Griffin appeared in support of H.R. 18776 as had been reported favorably by the House Interior Committee, embodying many of the recommended amendments.

Also appearing in support were representatives of the State of Michigan, including a spokesman for the Governor, and various Michigan citizens and regional conservation groups. The State legislature submitted a resolution strongly in support.

It cannot be said that everyone interested endorses H.R. 18776 without qualification. However, most of those expressing views did support the objectives of the bill, that is, the protection of this magnificent area, much of it still in substantially its pristine beauty, from developments that would destroy its values for the spiritual and physical refreshment of the citizens of our Nation. The bill provides for a large degree of local autonomy in the area, and it is anticipated that the local government entities will make good use of the provisions both to protect the quality of the area and the interests of local residents. This intent and purpose can be accomplished under the bill by cooperation between Federal, State, and local entities.

PROVISIONS AND ANALYSIS

Section 1 states the general purposes of the legislation and emphasizes that the thrust of the lakeshore shall be to protect the scenic beauty and natural character of the area not only for the recreational enjoyment of the general public but for the local residents as well. It emphasizes that, in planning the recreational features of the lakeshore, all governmental entities should cooperate to preserve the values inherent in the area.

Section 2 authorizes the establishment of the national lakeshore as soon as sufficient lands within the boundaries designated have been acquired. Under the terms of the bill, the lands of the State Coho salmon program on the Platte River will be included in the lakeshore boundaries, but will be retained by the State and administered by it in cooperation with the administration of the lakeshore.

Section 3 provides that within 30 days after the effective date of the act, the Secretary of the Interior will classify all lands within the lake-shore boundaries into three categories. Under category I, lands classified for public use and development are to be acquired as soon as possible after appropriations are made available. Within 150 days after enactment, he is required to determine which lands should be classified for environmental conservation (category II) or private use and development (category III) and, in these areas, he is authorized to acquire less than fee interests (e.g., rights-of-way and

XUM

scenic easements). If, after notice, the owners of category II and III lands agree to limit the use and development of their lands, then the Secretary would be prohibited from condemning them unless the owner violates the restrictions to which he agreed or unless the land is later needed for some public use facility. The language of section 3 does provide, however, that the Secretary shall retain the power to acquire the fee simple title if the cost of the lesser interest is substantial.

Section 4 authorizes the creation of a 10-member advisory commission to serve without compensation for 10 years from the date of enactment of the act. Such commission can serve a useful function in developing a harmonious atmosphere for the lakeshore as it begins to mature. Not only do such commissions permit local participation in the planning and development of the area involved, but they serve as useful arenas for the exchange of ideas.

Section 5 contains the usual language concerning hunting and fishing in recreation areas. Unlike national parks and monuments, hunting is generally permitted in national lake shores, seashores, and recreation areas, subject to State and Federal laws and reasonable regulations issued by the Secretary of the Interior.

Section 6 provides that the area shall be administered in accordance with the general laws applicable to the administration of areas of the national park system and it further provides that the Secretary shall prepare an appropriate land and water use management plan and that he shall review the areas involved to determine their suitability for inclusion in the national wilderness system.

Section 7 makes it absolutely clear that the establishment of the lakeshore is in no way intended to prohibit the assessment and collection of taxes on any privately held real property interest within the lakeshore boundaries.

Section 8 authorizes the Secretary to acquire the necessary lands and interests in lands for the purposes of this act and permits him to acquire an entire tract if it is only partially within the lakeshore in order to avoid severance damages, but any lands acquired outside the authorized boundaries are to be used for the purposes of exchange for lands in the lakeshore or disposed of in accordance with the provisions of the Federal Property and Administrative Services Act. Properties within the lakeshore which are owned by the State of Michigan may be acquired only by donation and the Secretary is required to consider all offers of individual owners to sell, to expedite offers made under hardship circumstances, and to make a reasonable effort to acquire privately held property by negotiation before initiating condemnation proceedings.

Section 9 requires the Secretary to assist local units of government in the establishment of suitable zoning bylaws. When such governmental units promulgate valid zoning bylaws, which are approved by the Secretary, then the Secretary is prohibited from acquiring qualified improved properties by condemnation so long as the owner complies with the ordinances. The authority to condemn an improved property will remain suspended in the event that no zoning bylaws are approved if the individual owner of such property notifies the Secretary of his intention to use it in a manner consistent with the objectives and provisions of the act. If the owner fails to comply with the restrictions, the prohibition against condemnation may be suspended. Before this suspension of condemnation may be lifted by the Secretary, he must notify the owner in writing and describe to him the nature of the activity which is not in compliance with the restrictions. Such owner is permitted 60 days to discontinue the activity before the Secretary may initiate condemnation proceedings.

Section 10 permits owners of qualifying improved residential property within the lakeshore boundary to retain such property for a term of 25 years, or for life, if such use is not incompatible with the purposes of the act. If the owners elect to retain a limited interest, then the purchase price is reduced accordingly.

Section 11 defines improved property to mean "a detached, one-family dwelling, construction of which was begun before December 31, 1964." While the alternatives available to owners of properties improved prior to 1964 are not to be extended to owners who subsequently improved their properties, it should be recognized that—

(1) Any improved property acquired by condemnation or otherwise must be purchased at fair market value or at the negotiated price.

(2) Properties improved since December 31, 1965, would probably not be acquired without the owner's consent if the lands involved are not found to be needed for public use and development so long as they are used in a manner compatible with the lakeshore.

Section 12 authorizes the Secretary of the Interior to acquire lands for the purposes of the scenic road depicted on the map and to construct and administer it in accordance with standards suitable to the purposes for which it is intended.

Section 13 prohibits the Secretary from condemning commercial properties within the lakeshore which were in existence on December 31, 1964, if, in his opinion, such properties are not detrimental to the lakeshore and if they are compatible with it.

Section 14 requires the Secretary to provide any owner of a property which is not subject to condemnation with a certificate indicating that such authority is prohibited and the reasons therefore.

Section 15 authorizes limited appropriations for the acquisition of lands and interests in lands and for the development of the area. (See discussion following.)

COSTS

The amounts authorized to be appropriated for land acquisition are limited to $19,800,000. Such appropriations will be made from moneys available in the land and water conservation fund which are devoted to the Federal outdoor recreation land acquisition programs.

In addition, the bill authorizes the appropriation of $18,769,000 (June 1970 prices) for the development of the area. It is anticipated that these moneys, when appropriated, will be used for the construction of a visitor center, roads, campgrounds, overlooks, picnic areas, trails, beach facilities, comfort stations, and other public use facilities. The committee adopted the language recommended by the Department with respect to changing construction costs so that in the event that general costs increase, the amounts authorized to be appropriated may vary accordingly. While the committee recognizes the desirability of allowing this modest measure of flexibility, it expects to be fully advised of any developments which occur which will, or may, result in a request for appropriations in excess of the amount stipulated.

The **PRESIDING OFFICER**. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was read the third time.

The **PRESIDING OFFICER**. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 18776) was passed.

Mr. **BIBLE**. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. **HART**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 378. An act for the relief of Peter Rudolf Cross;

S. 583. An act to provide for the flying of the American flag over the remains of the U.S.S. *Utah* in honor of the heroic men who were entombed in her hull on December 7, 1941;

S. 732. An act for the relief of Mrs. Nimet Weiss;

S. 1123. An act for the relief of Ah Mee Locke;

S. 1628. An act granting the consent of Congress to the Western Interstate Nuclear Compact, and related purposes;

S. 2176. An act to implement the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, and for other purposes;

S. 2314. An act to amend section 4 of the Revised Organic Act of the Virgin Islands relating to voting age;

S. 3138. An act for the relief of Ruth E. Calvert;

S. 3154. An act to provide long-term financing for expanded urban mass transportation programs, and for other purposes;

S. 3167. An act for the relief of Kimoko Ann Duke;

S. 3212. An act for the relief of Curtis Nolan Reed;

S. 3263. An act for the relief of Maria Pierotti Lenci;

S. 3265. An act for the relief of Mrs. Anita Ordillas;

S. 3600. An act for the relief of Kyung Ae Oh;

S. 3675. An act for the relief of Ming Chang;

S. 3813. An act for the relief of Kim Julia and Park Tong Op;

S. 3822. An act to provide insurance for member accounts in State and federally chartered credit unions and for other purposes;

S. 4073. An act for the relief of Hyun Joo Lee and Myung Joo Lee;

S. 4235. An act to continue the jurisdiction of the United States District Court for the District of Puerto Rico over certain cases pending in that court on June 2, 1970; and

S. 4247. An act to amend the Bankruptcy Act, sections 2, 14, 15 17, 38, and 58, to permit the discharge of debts in a subsequent proceeding after denial of discharge for specified reasons in an earlier proceedings, to authorize courts of bankruptcy to determine the dischargeability or nondischargeability of provable debts, and to provide additional grounds for the revocation of discharges.

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

The Senate resumed the consideration of the bill (H.R. 18583) to amend the Public Health Service Act, and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and

XUM

rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may be permitted to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senator will be seated.

Mr. BYRD of West Virginia. Mr. President, under the previous order the Senate will now proceed to vote on the amendment offered by the able Senator from North Carolina (Mr. Ervin). At the request of the majority leader, I wish to ask before the rollcall begins, whether there are any amendments to the drug bill, other than the amendment to be offered by the Senator from Missouri (Mr. Eagleton). Apparently there will be none.

Mr. President, I ask unanimous consent that time on the amendment to be offered by the able Senator from Missouri (Mr. Eagleton) immediately following the vote on the so-called no-knock amendment, be limited to 30 minutes, the time to be equally divided and controlled between the mover of the amendment (Mr. Eagleton), and the manager of the bill, the Senator from Connecticut (Mr. Dodd), that immediately following the vote on the Eagleton amendment, the bill be advanced to third reading, and that the time on the bill be limited to 20 minutes, to be equally divided between the manager of the bill, the Senator from Connecticut (Mr. Dodd) and the ranking minority member, the Senator from Nebraska (Mr. Hruska), and that at the expiration of the 20 minutes, there be a vote on final passage.

Mr. CRANSTON. Mr. President, reserving the right to object, speaking on behalf of the Senator now presiding (Mr. Hughes) he wishes to speak in connection with his amendment No. 1028.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on the amendment to be offered by the able Senator from Iowa (Mr. Hughes) be limited to 10 minutes, to be equally divided between the author of the amendment and the manager of the bill.

Mr. HRUSKA. Mr. President, reserving the right to object, how many pages does the amendment have; what does the amendment consist of? We do not know whether it should be 5 minutes or 45 minutes. We have no information. We cannot make a judgment as to whether 5 minutes is ample or excessive.

Mr. MANSFIELD. Will the Senator consider 5 minutes?

Mr. HRUSKA. I do not know what the amendment is.

Mr. HUGHES. The amendment has been distributed. This is it.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER (Mr. Eagleton). Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I wonder if we may get action on the unanimous-consent request excepting the amendment to be offered by the Senator from Iowa (Mr. Hughes).

The PRESIDING OFFICER. Is there objection to the unanimous-consent request, eliminating the Hughes amendment? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Virginia (Mr. Byrd), the Senator from Nevada (Mr. Cannon), the Senator from Arkansas (Mr. Fulbright), the Senator from Tennessee (Mr. Gore), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. McCarthy), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Georgia (Mr. Russell), the Senator from Mississippi (Mr. Stennis), the Senator from Missouri (Mr. Symington), and the Senator from Maryland (Mr. Tydings) are necessarily absent.

I also announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Alabama (Mr. Sparkman), the Senator from Georgia (Mr. Talmadge), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young), are absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Maine (Mr. Muskie), the Senator from Massachusetts (Mr. Kennedy), the Senator from Arkansas (Mr. Fulbright), would each vote "yea."

I further announce that, if present and voting, the Senator from Missouri (Mr. Symington), would vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from Hawaii (Mr. Fong), the Senators from New York (Mr. Goodell and Mr. Javits), the Senator from California (Mr. Murphy), the Senator from Kansas (Mr. Pearson), the Senator from Illinois (Mr. Smith) and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Utah (Mr. Bennett), and the Senator from North Dakota (Mr. Young) are detained on official business.

If present and voting, the Senator from South Dakota (Mr. Mundt), the Senator from Kansas (Mr. Pearson), and the Senator from Texas (Mr. Tower) would each vote "nay."

On this vote, the Senator from New York (Mr. Goodell) is paired with the Senator from Illinois (Mr. Smith). If present and voting, the Senator from New York would vote "yea" and the Senator from Illinois would vote "nay."

On this vote, the Senator from New York (Mr. Javits) is paired with the Senator from California (Mr. Murphy). If present and voting, the Senator from New York would vote "yea" and the Senator from California would vote "nay."

The result was announced—yeas 20, nays 42, as follows:

[No. 365 Leg.]

YEAS—20

Allen
Bayh
Brooke
Case
Church
Cook
Cooper
Cranston
Ervin
Hart
Hughes
Inouye
Jackson
Mathias
McGovern
Metcalf
Mondale
Nelson
Ribicoff
Stevens

NAYS—42

Allott
Baker
Bible
Boggs
Burdick
Byrd, W. Va.
Cotton
Curtis
Dodd
Dole
Dominick
Eagleton
Eastland
Ellender
Griffin
Gurney
Hansen
Hatfield
Holland
Hollings
Hruska
Jordan, Idaho
Long
Magnuson
Mansfield
McClellan
McIntyre
Miller
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Saxbe
Schweiker
Scott
Smith, Maine
Spong
Thurmond
Williams, N.J.
Williams, Del.

NOT VOTING—38

Aiken
Anderson
Bellmon
Bennett
Byrd, Va.
Cannon
Fannin
Fong
Fulbright
Goldwater
Goodell
Gore
Gravel
Harris
Hartke
Javits
Jordan, N.C.
Kennedy
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Muskie
Pearson
Prouty
Russell
Smith, Ill.
Sparkman
Stennis
Symington
Talmadge
Tower
Tydings
Yarborough
Young, N. Dak.
Young, Ohio

So Mr. Ervin's amendment (No. 979) was rejected.

Mr. MANSFIELD. Mr. President, will the Chair recognize me before the Senator from Missouri?

The PRESIDING OFFICER. The Senator from Montana is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the amendment to be offered by the distinguished Senator from Missouri, debate on the amendment to be offered by the distinguished Senator from Iowa (Mr. Miller) be limited to 5 minutes, the time to be equally divided between the manager of the bill and the Senator from Iowa.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, for the information of the Senate, there will not be a rollcall requested on that amendment. It is the intention of the Senator from Connecticut and this Senator to accept the amendment.

Mr. EAGLETON. Mr. President, I call up my amendments and ask for their immediate consideration en bloc.

Mr. MANSFIELD. Mr. President, will the Senator yield once more? I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON's amendment is as follows:

> Page 36, insert between lines 2 and 3 the following:
>
> (c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
>
> (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
>
> (2) Phenmetrazine and its salts.
>
> (3) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.
>
> (4) Methylphenidate.
>
> Page 36, strike out line 4 and all that follows down through and including line 15.
>
> Page 36, line 16, strike out "(b)" and insert in lieu thereof "(a)".
>
> Page 37, line 8, strike out "(c)" and insert in lieu thereof "(b)".
>
> Page 37, line 9, strike out "(d)" and insert in lieu thereof "(c)".
>
> Page 40, line 16, strike out "or (b)".
>
> Page 131, line 9, strike out "or (b)".

Mr. EAGLETON. Mr. President——

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. EAGLETON. We have 15 minutes to a side, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. EAGLETON. I yield myself 10 minutes.

Mr. DODD. Mr. President, will the Senator yield me 1 minute?

Mr. EAGLETON. I yield.

Mr. DODD. I am inclined to be in favor of this amendment of the Senator from Missouri. It was in our original bill last January, and I think it is a good amendment. I wonder if the Senator from Nebraska would concur, and we might save a lot of time here, in accepting them.

Mr. EAGLETON. Mr. President, I think the yeas and nays have already been ordered, and I would like a rollcall vote.

The PRESIDING OFFICER. The Senator can withdraw the yeas and nays by unanimous consent.

Mr. EAGLETON. That is all right, but we could save a lot of debate about it.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that a quorum call may be ordered, the time to be equally divided between the two sides.

Mr. EAGLETON. Mr. President, will the Senator withhold that request? I have yielded the Senator from Connecticut another 30 seconds.

Mr. BYRD of West Virginia. I withdraw the request.

Mr. DODD. Would the Senator from Missouri consider not having a rollcall vote on the amendments? We will accept his amendments and take it to conference. I am for his proposal; it was in my original bill, and I think they are good amendments. I will protect the Senator on it, and we could save some time.

Mr. EAGLETON. With all respect to the Senator from Connecticut, the yeas and nays have been ordered, and I would like a rollcall vote.

Mr. DODD. That does not mean we cannot dispense with the order.

Mr. EAGLETON. I think the rollcall can be expeditiously handled. I would like a rollcall vote on the amendment. I am willing to put my statement in the RECORD.

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. EAGLETON. Mr. President, I yield myself 8 minutes.

This amendment would change the classification of amphetamines and amphetamine-like substances to schedule II, rather than schedule III as approved by the House. The net effect of this amendment would be the tightening of controls on these drugs—commonly referred to as "pep pills" and "speed."

Testimony before Representative PEPPER's Select Committee on Crime in the House of Representatives indicated that there is a pressing need for stricter controls of these substances. The following facts were presented, for example:

Eight billion dosage units of amphetamines are produced in this country each year—enough for 40 doses for every man, woman, and child in the United States.

The legitimate medical need in this country for amphetamines is only in the thousands of dosage units.

There are, in fact, only two noncontroversial medical uses for these drugs—treatment of hyperkinetic children, and narcolepsy, which, in laymen's language, is a very rare type of sleeping sickness. A third possible use under FDA regulations is their short-term use—and I emphasize short-term use—for weight reduction.

Over 50 percent of the "legally" manufactured amphetamines in the United States are diverted into illegal channels—and, according to the report of the House Interstate and Foreign Commerce Committee on H.R. 18583, this extraordinarily high diversion rate has continued for at least 5 years.

Eighty percent of the Federal Bureau of Narcotics and Dangerous Drugs amphetamine seizures in 1968 were originally "legally" manufactured.

Drug companies have not voluntarily curtailed production.

The street term for high dosage amphetamine use is "speed." Each injection causes euphoria and hyperactivity. The only limitation on the length of the user's trip is when—because of exhaustion—he is forced to "come down." It is at this point that the paranoid reaction or other personality disorder is accentuated. The user often has been known to attack other persons or cause serious injury to himself.

Other harmful side effects are hepatitis, malnutrition, and the undermining of the individual's health due to irregular sleeping and eating patterns. There are also numerous recorded cases of permanent brain damage, damage to unborn children, and even death.

And most disturbing of all—the use of "speed" is on the increase, even down to the grade school level.

I would point out that this amendment is not intended to protect only the so-called speed freaks. Proper controls on these substances will also cut back on abuse by the weight-conscious housewife, the weary long-haul truckdriver, and the young student trying to study all night for his exams.

Section 306(a) of the House-passed drug bill provides that:

> The Attorney General shall determine the total quantity and establish quotas for each basic class of controlled substance in Schedules I and II to be manufactured in each calendar year to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks.

I invite the attention of my colleagues to the language of this section to point out that the Attorney General is directly to set quotas only for schedule I and II substances. If my amendment is rejected, amphetamines—as class III substances—would be exempt from manufacturing quotas. The over-production and diverting in great quantity of these substances to illegal use would most certainly continue.

In addition to requiring manufacturing quotas for amphetamines, this amendment would have other effects, as well—all designed to more strictly control the manufacture and distribution of these "speed" drugs.

First, moving amphetamine-like substances up to schedule II would make it illegal for any person to distribute these drugs without a written order issued by the Attorney General. These written orders are already required for all narcotic drugs distributed in this country. And this procedure had reduced the diversion of legally produced narcotics into illegal channels to an irreducible minimum.

Second, under my amendment, amphetamines could only be dispensed by a physician with a written prescription—and a doctors permission would be required for a refill of the prescription. The bill as passed by the House allows for "speed" prescriptions good for 6 months and refillable up to five times.

Finally, my amendment would tighten the import and export restrictions on amphetamine-like substances. It would become illegal to import amphetamines unless the Attorney General found it necessary to provide for the medical, scientific, or other legitimate needs of the country. Compare that to the House-passed provision whereby an unlimited quantity of speed can be imported, subject only to the requirement that the importer notify the Attorney General that he intends to do so.

With regard to the exporting of am-

XUM

phetamines, my amendment would permit exporting only when a permit has been issued by the Attorney General. This would prevent, for example, the continuation of the current practice whereby vast quantities of "speed pills are being shipped to Tijuana, Mexicali, and other Mexican border towns—and then smuggled back across the border to be sold on the streets of our Western cities.

I want to point out that this amendment has the support of the American Psychiatric Association, the American Public Health Association, and the National Association of Secondary School Principals.

If we are committed to facing the drug abuse problem head on, let us face the fact that a large part of this problem relates to the use of "speed." It is no answer to say that we should let the Attorney General look into this Schedule change under his rule-making authority. We know now—we know this very minute, we know this very night—that these drugs are dangerous—that "speed" kills. We know now that they are abused. We know now that stricter controls are necessary.

I appeal to my colleagues to join me in support of this amendment.

I yield 3 minutes to the Senator from New Hampshire.

LET'S SLOW DOWN "SPEED"

Mr. McINTYRE. Mr. President, I rise to support the amendment offered by the distinguished Senator from Missouri (Mr. EAGLETON). I believe this proposal is important to deliberations here and its passage is a vital factor in the better control of drugs.

This amendment would put tighter controls on amphetamines. Amphetamines have a place in health care. They are useful in the treatment of narcolepsy, a rare sleeping sickness and they have some usefulness in the treatment of obesity.

There is some misuse of amphetamines to stay awake while driving, to stay awake to study for an exam, to excel in an athletic contest. This sort of misuse is sometimes dangerous but it is not the real problem which exists with amphetamines.

Mr. President, the real abuse is the misuse that is being made with this drug is the swallowing of handfuls of the pills, the so-called snorting of the drug in powder form, or its injection in the vein in the form of a solution. Experts say that the progression of use is from swallowing, to sniffing, to intravenous injection. The drug most frequently used in this country for this purpose is methamphetamine—speed, crystal, and meth.

Experts also report that the continued use of amphetamines in large doses is physically addicting, meaning that tolerance builds up and definite withdrawal symptoms occur when the drug is discontinued.

There are many examples of the horror of misuse of amphetamine. The user faces panic, paranoid states, malnutrition, prolonged nervous breakdowns. Infections occur in many instances. It has even been demonstrated in animals that prolonged use of the amphetamines over a long period of time may lead to brain cell damages.

Representative CLAUDE PEPPER, of Florida, who has done such a brilliant job of studying drugs as part of his work as chairman of the Select Committee on Crime in the House of Representatives, reported recently:

> In our hearings in San Francisco, there were 13 bins of amphetamines somewhat like Benzedrine, as I recall, that had 1,200,000 of these pills in the bins, and they were consigned by a manufacturer in Chicago to a consignee in Tijuana, Mexico. The Federal Bureau of Narcotics and Dangerous Drugs acting on information furnished by our committee staff checked up on it, and they found that the address of the so-called consignee was the 11th hole of the golf course in Tijuana and that a customs broker had diverted these amphetamines at the border into the black market.

This kind of example makes it clear that existing controls such as now practiced are inadequate. It is evident that the present system of controls places the major risk, pain, and financial burden of amphetamines directly on the consumer.

In addition, those who do not use drugs must be taxed to control the social disruption resulting from this drug abuse.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a letter which Representative PEPPER received from the American Psychiatric Association, the 18,000-member group representing the professional medical manpower of the Nation because this letter so clearly points to drastic need for amphetamine control as expressed by this organization of dedicated experts.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McINTYRE. Mr. President, the amendment which the Senator from Missouri has offered and which I support would move amphetamines from schedule 3 to schedule 2 of drug control. It would allow us to control imports of amphetamines. It would prohibit the refilling of amphetamine prescriptions without the doctor's personal approval. It would put other restrictions on this dangerous drug and provide the same control over amphetamines that we have over narcotics.

This is the least we can do I think as one further part of our effort to bring about better control of drug abuse in our Nation. I hope my colleagues will join with the Senator from Missouri as I have in taking this important action.

EXHIBIT 1

AMERICAN PSYCHIATRIC ASSOCIATION,
Washington, D.C., September 22, 1970.

Hon. CLAUDE PEPPER,
Chairman, Select Committee on Crime, House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The American Psychiatric Association, whose 18,000 members represent the primary professional medical manpower for the treatment of the mentally ill in our country, shares with the Select Committee on Crime of the United States House of Representatives its grave concern over the abuse of the family of amphetamine drugs.

It is clear that mental health problems of varying magnitudes can occur with the abuse of these drugs, and that there are serious indications in our society of a high incidence of abuse.

Hallucinations and acute psychoses have been observed in those who have taken overdoses or who have indulged for prolonged periods. The greater danger lies principally in the use of methamphetamines by parenteral intravenous injections. Nevertheless, it is evident that even the intermittent use of the drug in average doses may impair the ability to make complex judgments and fine discriminations.

It is acknowledged that the bona fide medical therapeutic use of the drug is limited to the treatment of narcolepsy, hyperkinesia, mild depression, and as starter doses for obesity.

Our Association agrees that stricter controls on the production and distribution of these drugs, consistent with the legitimate medical, scientific, industrial, and other needs of this country, might be a step forward in combatting what is seen by many as the advent of a special problem area in the kaleidoscopic picture of drug abuse in our nation.

However, we firmly believe that if drugs in general are to be classified into schedules by the federal government according to their potential for abuse, currently accepted medical use, and degree of physical and/or psychological dependence, that the final decision for scheduling must logically be made by medical authority, such as that of the Department of Health, Education and Welfare, rather than by the Department of Justice to whom we look to enforce our laws.

Therefore, we agree in principle with the findings of your distinguished committee that the unlimited manufacture and lax distribution of these drugs foster a situation which can only be deleterious to the public interest of our country and its citizens.

With best personal regards, I am,

Respectfully yours,
ROBERT S. GARBER, M.D.,
President, American Psychiatric Association.

Mr. EAGLETON, I reserve the remainder of my itme.

Mr. HRUSKA. Mr. President, will the Senator yield me 5 minutes?

Mr. DODD. I yield 5 minutes to the distinguished Senator from Nebraska.

Mr. HRUSKA. Mr. President, this amendment would seek to transfer from schedule III between 4,000 and 6,000 products of the amphetamine family. Some of them are very dangerous. They are very harmful, and some should be transferred from schedule III to schedule II. But a procedure is set up in this bill, an administrative procedure, whereby the parties who are involved and the public are given a chance to come in and make a showing with reference to reclassification of these drugs, any of these items, so that they may be upgraded.

The decision of the Attorney General, if that administrative proceeding is resorted to, is final and conclusive as to its going into effect. The parties can appeal if they want to, but in the meantime the transfer is made from schedule III to schedule II.

What is involved here is whether we, as a legislative body, would seek to substitute our judgment for the HEW's professional judgment on an extremely complex scientific issue. In the other body, Dr. Egeberg was asked by Mr. STAGGERS to present HEW's professional judgment on the drug classifications provisions of H.R. 18583; and after reviewing the scheduled criteria and the schedules themselves, Dr. Egeberg advised the committee that the Department of Health, Education, and Welfare found them "substantially acceptable" except for a few minor points. What is important in Dr. Egeberg's letter is its implicit approval of the drug abuse bill's classification of amphetamines in schedule III.

The administration is opposed to this amendment, and for a very solid reason. All the people who are producing or distributing between 4,000 and 6,000 items will be thrown into the same category as this particularly harmful drug—"speed"—which is the methamphetamine to which reference has been made.

The Director of the Bureau of Narcotics and Dangerous Drugs has pledged that there will be a quick review of the situation in the light of the vast studies which have already been made, the administrative procedure will be resorted to, and in the case of these obviously and patently dangerous drugs a decision will be made soon.

It is submitted that we should not impose our judgment on a complex scientific issue of this kind but should leave it to the regular functioning of the administrative procedures which we are setting up. A judicial review can be asked, but in the meantime the change is made from one schedule to the other, regardless of the other, so the appeal would have to be upheld before there would be a reordering of procedures.

In a letter dated September 15, addressed to Representative CLAUDE PEPPER, of Florida, this is what the Director of the Bureau of Narcotics and Dangerous Drugs said. I will read excerpts from it, and I ask unanimous consent that at the conclusion of my remarks the entire letter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HRUSKA. I read an excerpt from the letter:

> As you are aware, this matter has been under considerable review by the Bureau of Narcotics and Dangerous Drugs and the Food and Drug Administration for the past year.
>
> H.R. 18583 will permit the Federal government to move drugs in schedule III, which includes the amphetamines, into schedule II and impose quotas on them. At the present time it is the intention of the Bureau of Narcotics and Dangerous Drugs to move some of the amphetamines, particularly the methamphetamines, into schedule II via the new streamlined administrative procedures of H.R. 18583. This will afford the manufacturers of those products the right to present their case at that time. However, it should be noted that it is not the intention of the Bureau, at this time, to move all the amphetamines under the quota requirements of schedule II since we are still in the process of gathering all the information on these myriad drugs and their combinations.
>
> It is the Bureau's position that the rampant abuse of amphetamines, particularly methamphetamines, is creating a serious public health and law enforcement problem in the United States. You can be assured that the Bureau does anticipate utilizing the new provisions of H.R. 18583 to insure that the proper regulatory controls are imposed over those amphetamines found to require the imposition of quotas.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HRUSKA. Will the Senator yield me 2 additional minutes?

Mr. DODD. I yield 2 additional minutes to the Senator.

Mr. HRUSKA. Mr. President, it seems to me that when we are setting up an orderly and expeditious procedure for the purpose of handling all these things, we should resort to it. It is modern; it is not subject to abuse by long court delays; it will be more fair to those amphetamines in this list which are not that dangerous, which may have some use; and it should be allowed to proceed on that basis.

If the Attorney General wants to, he can temporarily move certain of the dangerous drugs from schedule III to schedule II immediately, pending the findings of the administrative hearing. That is what Mr. Ingersoll, Director of the Bureau, indicates. It is our hope that we will proceed on this by way of law, by way of orderly procedure, well calculated to the ends we seek to achieve and not try to legislate in a hammer and tongs way to put wisdom in the bill on a subject which is so very, very intricate.

It is the hope of this Senator, and I speak on behalf of the Bureau and on behalf of those who support my position, that the amendment will be rejected. In the other body such an amendment was proposed, and it was rejected.

EXHIBIT 1

SEPTEMBER 15, 1970.

Mr. CLAUDE PEPPER,
Chairman, Select Committee on Crime, House of Representatives, Congress of the United States, Washington, D.C.

DEAR MR. PEPPER: Thank you for your letter of September 3, 1970, relating to your prospective amendment regarding the classification of amphetamines in schedule II as opposed to schedule III in H.R. 18583. As you are aware, this matter has been under considerable review by the Bureau of Narcotics and Dangerous Drugs and the Food and Drug Administration for the past year.

H.R. 18583 will permit the Federal government to move drugs in schedule III, which includes the amphetamines, into schedule II and impose quotas on them. At the present time it is the intention of the Bureau of Narcotics and Dangerous Drugs to move some of the amphetamines, particularly the methamphetamines, into schedule II via the new streamlined administrative procedures of H.R. 18583. This will afford the manufacturers of these products the right to present their case at that time. However, it should be noted that it is not the intention of the Bureau, at this time, to move all the amphetamines under the quota requirements of schedule II since we are still in the process of gathering all the information on these myriad drugs and their combinations.

It is the Bureau's position that the rampant abuse of amphetamines, particularly methamphetamines, is creating a serious public health and law enforcement problem in the United States. You can be assured that the Bureau does anticipate utilizing the new provisions of H.R. 18583 to insure that the proper regulatory controls are imposed over those amphetamines found to require the imposition of quotas.

Sincerely,

JOHN E. INGERSOLL,
Director.

Mr. EAGLETON. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER (Mr. CURTIS). The Senator from Missouri is recognized.

Mr. EAGLETON. Mr. President, I should like to respond to the arguments which the Senator from Nebraska (Mr. HRUSKA) has just made.

First, he mentions that there are 4,000 to 6,000 types of amphetamines. But that number includes a large number of products of the same general substance, manufactured under a multitude of brand names—brands X, Y, Z, and what have you.

We are actually talking about only four drug manufacturers who are making these dangerous items.

I want to place their names in the RECORD at this point:

Arenol Products Corp., Long Island City, N.Y.

Hexagon Laboratories, Inc., Bronx, N.Y.

Roehr Chemicals, Inc., Long Island City, N.Y.

Smith Kine & French Laboratories, Long Island City, N.Y.

Mr. President, these four manufacturers can be easily and quickly controlled if these drugs come under the schedule II regulations.

Second, the Senator from Nebraska says there is a procedure for upgrading drugs to schedule II. There is. It is the same procedure whereby drug companies and others who seek redress can have them downgraded to title III. It goes both ways. But in terms of a quick review, it is estimated that it would take from 3 to 5 years for the Attorney General to upgrade an item from schedule III to schedule II. We have to consider that there will be delays in the rulemaking process, followed by a time-consuming judicial review procedure. At this point, there is a backlog of cases in the courts of up to 3 years.

Finally, the Senator from Nebraska quotes a letter from Dr. Egeberg of the Department of Health, Education, and Welfare.

I, too, would like to quote a letter from the Department of Health, Education, and Welfare, from the Surgeon General of the United States, addressed to Mr. CLAUDE PEPPER, dated March 2, 1970.

It reads in part:

> Considerable research on the effects of amphetamines has been accomplished at the NIMH Addiction Research Center at Lexington, Kentucky. The Center has found that methamphetamine and dextroamphetamine have approximately the same order of abuse potential. Other amphetamines and related stimulants have a somewhat lesser abuse potential but of a degree serious enough to warrant the same degree of regulation under law.

Mr. President, I repeat what I said in my opening remarks—speed kills. Aside from the fact that amphetamines can be used in the treatment of a limited number of diseases, billions of speed pills are being manufactured by the big four manufacturers whose names I have placed in the RECORD. And these items are being sold with reckless abandon to the public detriment. I believe that this situation constitutes a clear and present danger to the public health of the Nation.

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The burden should be placed on the four manufacturers to have their products downgraded to schedule III, if they can carry that burden.

I do not believe that they cannot carry that burden. They are making dangerous products. There is no control over their dissemination or distribution. These companies are making money out of the misery of many individuals. We know the facts. We know them now.

I respectfully commend my amendment to the attention and approval of the Senate.

Mr. DODD. Mr. President, as I said earlier, I have spoken for the Senator's amendment, but I am worried about it. I am disposed to be for it, but what troubles me is that while this is a useful drug for medicine, it also has, like so many other useful drugs, great capacity for harm. Because it has, I believe it should be strictly controlled.

That is my case. That is all there is to it.

The Senator from Missouri has made a good case for his amendment.

I understand what my colleague from Nebraska on the other side of the aisle is arguing for. However, I believe that we should do this with stricter controls, as we do with many other good drugs which, if abused, can cause widespread harm.

Mr. PASTORE. Mr. President, do I correctly understand the Senator from Connecticut to say that he is for the amendment?

Mr. DODD. Yes, I am.

Mr. PASTORE. I want to thank the Senator from Connecticut.

Mr. HRUSKA. Mr. President, we have heard remarks about the horrible dangers and harm that can come from these drugs. If it is apparent to anyone not knowledgeable in the scientific complexities of this issue, as most of us here in this Chamber are not, is it not reasonable to suppose that the Attorney General and the Director of Narcotics and Dangerous Drugs and the Secretary of Health, Education, and Welfare are similarly possessed of that knowledge and conviction? More so. They are charged specifically with the responsibility of the classifications and this specialty. It is therefore my suggestion that we defer to their superior knowledge rather than depending on our own limited knowledge of the subject.

Mr. DODD. I understand what the Senator suggests. The hazard is so great that, if it is found not to be as dangerous as the Senator says, then the Attorney General could easily declassify it. It will not be any great task to do that.

Mr. HRUSKA. But the effect of the amendment would be to take these 4,000 to 6,000 items and place them on schedule III not schedule II, imposing quotas on them and, of course, other stricter controls that would come under schedule II.

Mr. DODD. Would it not be wiser to be on the safe side?

Mr. HRUSKA. There are many of these items that are not harmful, yet they will be considered harmful. That is the point.

Mr. DODD. If they are not harmful, people will not suffer. Only the big powerful manufacturers of these pills may find a reduction in their profit. The people will not be harmed.

Mr. HRUSKA. I am not interested in whether it would be harmful to the manufacturers.

Mr. DODD. Of course. But the little people of the country should be protected. Let us put the controls on and find out more about it. If there is evidence that they are not damaging to people, then we can remedy the situation.

Mr. HRUSKA. I refer again to what the Director of the Bureau said. It seems to me it makes good sense.

The PRESIDING OFFICER (Mr. Curtis). Does the Senator from Nebraska yield back his time?

Mr. HRUSKA. I yield back the remainder of my time.

Mr. DODD. Mr. President, I yield back the remainder of my time, but, Mr. President, I should like my colleague and friend from Nebraska, who has been in the forefront of this debate, to understand that I am sympathetic to his point of view. I understand what he is trying to say. However, I honestly believe that we should have stricter controls, and if we find we have too tight it is easier to relax them than to tighten them up still further.

The PRESIDING OFFICER. (Mr. Curtis). All time on the amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Missouri (Mr. Eagleton).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Virginia (Mr. Byrd), the Senator from Nevada (Mr. Cannon), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from Arkansas (Mr. Fulbright), the Senator from Tennessee (Mr. Gore), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Florida (Mr. Holland), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Minnesota (Mr. McCarthy), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Georgia (Mr. Russell), the Senator from Mississippi (Mr. Stennis), the Senator from Missouri (Mr. Symington), and the Senator from Maryland (Mr. Tydings) are necessarily absent.

I also announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Alabama (Mr. Sparkman), the Senator from Georgia (Mr. Talmadge), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) are absent on official business.

I further announce that, if present and voting, the Senator from Maine (Mr. Muskie), the Senator from Missouri (Mr. Symington), the Senator from Florida (Mr. Holland), and the Senator from Massachusetts (Mr. Kennedy) would each vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from Hawaii (Mr. Fong), the Senators from New York (Mr. Goodell and Mr. Javits), the Senator from Kansas (Mr. Pearson), the Senator from California (Mr. Murphy), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Utah (Mr. Bennett) and the Senator from North Dakota (Mr. Young) are detained on official business.

If present and voting, the Senator from California (Mr. Murphy) and the Senator from Kansas (Mr. Pearson) would each vote "yea."

On this vote, the Senator from New York (Mr. Goodell) is paired with the Senator from South Dakota (Mr. Mundt). If present and voting, the Senator from New York would vote "yea" and the Senator from South Dakota would vote "nay."

On this vote, the Senator from Illinois (Mr. Smith) is paired with the Senator from Texas (Mr. Tower). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Texas would vote "nay."

The result was announced—yeas 40, nays 16, as follows:

[No. 366 Leg.]

YEAS—40

Allen
Bayh
Bible
Brooke
Burdick
Byrd, W. Va.
Church
Cook
Cooper
Cotton
Dodd
Dole
Eagleton
Ellender
Ervin
Hart
Hatfield
Hollings
Hughes
Inouye
Jackson
Magnuson
Mansfield
McGovern
McIntyre
Metcalf
Miller
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott
Spong
Stevens
Williams, N.J.

NAYS—16

Allott
Baker
Boggs
Case
Curtis
Dominick
Griffin
Gurney
Hansen
Hruska
Jordan, Idaho
Mathias
Saxbe
Smith, Maine
Thurmond
Williams, Del.

NOT VOTING—44

Aiken
Anderson
Bellmon
Bennett
Byrd, Va.
Cannon
Cranston
Eastland
Fannin
Fong
Fulbright
Goldwater
Goodell
Gore
Gravel
Harris
Hartke
Holland
Javits
Jordan, N.C.
Kennedy
Long
McCarthy
McClellan
McGee
Mondale
Montoya
Moss
Mundt
Murphy
Muskie
Pearson
Prouty
Russell
Smith, Ill.
Sparkman
Stennis
Symington
Talmadge
Tower
Tydings
Yarborough
Young, N. Dak.
Young, Ohio

So Mr. Eagleton's amendments were agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

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Mr. McINTYRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1028

Mr. HUGHES. Mr. President, I call up my amendment No. 1028 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HUGHES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 64, between lines 17 and 18, insert the following:

"(4) Any person who, in violation of this Act, distributes a small amount of marihuana for no remuneration shall be subject to the penalties provided in section 404 of this title."

Mr. HUGHES. Mr. President, I ask unanimous consent that the names of the Senator from New York (Mr. JAVITS), the Senator from Colorado (Mr. DOMINICK), and the Senator from Massachusetts (Mr. KENNEDY) be added as cosponors of this amendemnt.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGHES. Mr. President, I ask unanimous consent to have printed in the RECORD a statement that would have been made by the Senator from Massachusetts (Mr. KENNEDY) had he been able to be present this evening.

There being no objection, the statement of Senator KENNEDY was ordered to be printed in the RECORD, as follows:

PENALTIES FOR DISTRIBUTION OF A SMALL QUANTITY OF MARIHUANA WITHOUT REMUNERATION

Mr. KENNEDY. Mr. President, this amendment would provide that persons who distribute a small quantity of marihuana, without sale or remuneration, would be subject to the penalties for possession, rather than the heavier penalties for manufacture and heavy trafficking. Passage of the amendment would make the bill more equitable and more responsive to the situation of our nation's young people.

Many youngsters may be in a situation where they are with friends, where they give a marihuana cigarette or a small quantity of marihuana to one or two others—not as professional pushers, not to make a profit, but in a casual and informal way.

It would be an unrealistic overeaction to treat persons convicted of such activity in the same way as large-scale pushers of heroin are treated. Yet that is the effect of the bill at the present time.

Persons so convicted would be subject to five years in jail and a fine of up to $15,000 for the first offense. They would not be eligible for the provision in the possession section whereby the court may put an offender on probation for one year and then, in its discretion, strike the guilty finding from his record so that he is not restricted for life as a result of his marihuana offense as a youth.

An estimated 12–20 million Americans have tried marihuana. In hearings which I chaired last spring at a Massachusetts high school, the president of the senior class testified that an estimated 50–60% of the students have tried marihuana.

This is a widespread phenomenon. We must respond with compassion and understanding and try to correct it in a reasonable fashion.

I am opposed to the legalization of marihuana. I do not believe that society should have another legal intoxicant, besides alcohol. I believe, however, that we must pursue vigorously the studies called for in this bill and presently underway on the likely effects if marihuana were legalized.

But in the meantime, we aso should not penalize a whole generation of young persons who are growing up fully exposed, fully tempted by the mysteries of the drug culture. We should not brand them for life for the lesser marihuana violations.

Therefore, I urge my colleagues to vote for this amendment.

Mr. HUGHES. Mr. President, this amendment has been accepted by the managers of the bill.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HUGHES. Mr. President, this amendment is an amendment that was passed by the Senate last January in the original Senate-passed bill. It would make those persons who are guilty of distributing marihuana for no remuneration subject to the same penalties as those persons who are charged with possession, rather than subject to penalties for trafficking and distribution.

The penalty for first offense possession is up to 1 year, up to $5,000 or both; second and subsequent offenses are double this.

The penalty for first offense trafficking or distribution is up to 5 years, up to $15,000 or both, and a special parole term of 2 years; second and subsequent offenses are double this.

Also, if a person at least 18 years old distributes to a person under 21, any penalty for distribution is doubled.

Trafficking provisions should apply to the large distributor, rather than to the person who is only using the drug with his friends. The latter individual falls within the intention of the possession provisions.

A provision very similar to this was adopted by the Senate as section 501(c) (4) of S. 3246, the Controlled Dangerous Substances Act of 1969, when it passed the Senate earlier this year.

Mr. President, this amendment would place those persons who are guilty of distributing marihuana for no remuneration in the same category as those persons who are charged with possession. The amendment refers to those persons who have small amounts of marihuana or smoke it with friends. They would be subject to the same penalties as those persons charged with possession rather than subject to penalties for trafficking and distribution.

Mr. DODD. Mr. President, I believe we should accept the amendment. This is a compassionate amendment, and it is in keeping with the bill we passed in January. I commend the Senator for offering the amendment. I believe it should be agreed to.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. HUGHES. I yield.

Mr. HRUSKA. Mr. President, I concur with the Senator from Connecticut. The objective of the amendment is good. It had been discussed in committee and was considered. Legalistically it may present some difficulty because of the definition of the word "small." But it is an amendment to which I have no objection, and I join the Senator from Connecticut in accepting it.

Mr. DOMINICK. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. HANSEN). The time of the Senator has expired.

Mr. HRUSKA. Mr. President, I yield the Senator from Colorado 1 minute.

Mr. DOMINICK. Mr. President, there are a great number of young people who have been experimenting with marihuana. It has not proven to be something to which they are addictive or that would ruin their health. Unless we do something about decreasing the penalties, as suggested by the Senator from Iowa, I think we are further increasing the problems of credibility of the Government as far as young people are concerned.

I support the amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a preliminary report on marihuana and health by the Department of Health, Education, and Welfare.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

MARIHUANA AND HEALTH—A PRELIMINARY REPORT

INTRODUCTION

The "Marihuana and Health Reporting Act" (Title V of P.L. 91–296) requires the submission by the Secretary of Health, Education and Welfare of a preliminary report on the health consequences of marihuana usage.

This report summarizes the present state of research development concerned with the health consequences of marihuana use upon which future investigations and more definitive findings may be based. "Health consequences" for the purpose of this report are defined as drug effects on the individual's physical and psychological health including his social and vocational adjustment. Further the report summarizes steps taken to foster responsible drug abuse education.

THE PROBLEM AND THE CONTROVERSY

Marihuana is among the oldest and most widely used drugs. The earliest record of man's use of marihuana is a description of the drug in a Chinese compendium of medicines, the Herbal of Emperor Shen Nung, dated 2737 B.C. Marihuana was a subject of extravagant social controversy even in ancient times. It has been eaten and drunk, snuffed and smoked since then by unrecorded numbers, and currently is used throughout the world by hundreds of millions of people. Nevertheless, opposing and divergent opinions about whether the effects of usage are harmful, harmless or beneficial to human functioning remain unresolved.

Current knowledge concerning the health consequences of marihuana use is controversial, contradictory, fragmentary, with

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major gaps. In the Interim Report of the Commission of Inquiry into the Non-Medical Use of Drugs, April 1970, by a Canadian Government group, the following statement regarding the current state of knowledge was made:

"Although the current world literature in cannabis numbers some 2000 publications, few of these papers meet modern standards of scientific investigation. They are often ill-documented and ambiguous, emotion-laden and incredibly biased, and can, in general be relied upon for very little valid information. Scientific expertise in the area of cannabis is limited by the simple fact that there is little clearly established scientific information available, and preconceived notions often dominate the interpretation of ambiguous data."

This preliminary report does not try to summarize present knowledge on marihuana and health, which will be presented in a more complete submission next January. However, it does indicate the reasons why the controversy on marihuana has not yet been resolved, outlines the steps presently being taken to generate data in marihuana research, and indicates areas to be programmed for future necessary research.

Certain questions are of paramount importance in regard to the health consequences of marihuana use. These are:

1. What are the acute and chronic physical, psychological and psychosocial effects of the drug itself when used by physically and emotionally normal, healthy individuals? How are these effects modified in individuals whose physical and/or mental health is other than optimum?

2. What are the implications for our society of increasing marihuana use?

Why are these questions unanswered at present after such a long worldwide experience with this substance? The reason involves the unusual complexities of the interactions of the drug, the people who use it and the society in which it is used.

Prior to 1967, little marihuana research meeting high standards of scientific reliability was carried out for socio-political as well as scientific reasons. This was especially true of adequately reproducible work involving the pharmacology of the substance and its physiological effects.

For many years, the illegality of marihuana discouraged research in the United States. Although possession of marihuana for research was permitted in theory, the requirements to be met in order to obtain materials and to do research were formidable. In addition, neither the medical profession nor the pharmaceutical industry could see much therapeutic value to the drug and hence commercial potential in studying it. As a consequence, research on marihuana has been and continues to be primarily supported by the government or carried out under university auspices. Since 1967, 42 clinical studies have been initiated on marihuana or related products. The plans for the studies were reviewed jointly by the Food and Drug Administration and the National Institute of Mental Health of this Department.

The Department of Defense because of an interest in chemical warfare agents has done some marihuana-related research. The data accumulated through this program has only recently become available on an unclassified basis. The work involved was done on related synthetic compounds, not on marihuana itself. It therefore has only peripheral relevance to the problem.

MARIHUANA—CHARACTERISTICS OF THE DRUG ITSELF

Along with other research obstacles, marihuana investigation has been slow to generate adequately reproducible research findings because of the complexity and diversity of forms of the material itself. Marihuana and related natural materials such as the concentrated resin, hashish, are all products of the hemp plant, *Cannabis sativa*. Its principal commercial use is in the production of rope and bird seed. The plant is an annual which grows readily either cultivated or as a weed throughout much of the world, including the entire United States. *Cannabis* plants occur in both a male and female form. Contrary to prior belief, both contain psychoactive material. However, the female plant is bushier and its flowering tops secrete the clear, varnish-like concentrated resin called hashish that contains the most potent psychoactive material. The small leaves or bracts surrounding the female flowers are more potent in terms of active constituents than the lower leaves, while the seeds, roots and stems are not psychoactive. Thus, various types of preparations of *Cannabis* such as charas, ganja and bhang in India, kif and dagga in North and South Africa, are available for use and vary in pharmacological potency. The two *Cannabis* preparations most commonly used in the United States are native or imported marihuana and imported hashish.

It is known that psychoactive potency varies considerably with different *Cannabis sativa* specimens and drug users prefer certain sources of marihuana, identified by such names as "Panama Red, Texas Black, Acapulco Gold, and Vietnam Red." Recent evidence from the research program of the Department of Health, Education, and Welfare has demonstrated that potency of *Cannabis* plants is determined genetically, and to a lesser extent by soil and climate where grown. The parts of the plant used are also important. If more bracts are included, for example, the sample has a higher potency. Inclusion of stems and other non-active parts results in a less potent mixture. While most plants cultivated in Europe and the United States have been chosen for their fiber production, it is also possible to produce plant forms with very high drug content.

The absence, until recently, of objective measures correlating psychoactive potency of the sample being studied with its chemical composition has resulted in considerable ambiguity in interpretation of studies of *Cannabis*. Prior to 1966, researchers used either crude marihuana (often confiscated material of unknown origin and stored for varying lengths of time) or extracts from it, notably variable in composition. It was not until 1964 that the major active component in *Cannabis*, the Delta-9-1-transtetrahydrocannabinol (Delta-9-THC; also sometimes called Delta-1-THC) was isolated in a pure form and its structure finally defined.

In the last few years, intensive chemical investigations sponsored by this Department have considerably clarified the rather complex chemistry of marihuana's active components. The principal natural cannabinoids have now been isolated and their structures elucidated but their biological activities are still little known. Their apparent lack of psycho-activity has resulted in lesser research interest in them.

At the same time, the Department through its National Institute of Mental Health, began a program for growing marihuana in the United States under well-defined conditions to obtain a standard product of *reliable composition* and known horticultural history. Seeds from various localities in the United States and abroad have been collected and grown; the plants are processed under standard conditions. The effects of age, exposure to light and/or different temperatures, soil conditions, etc., have been investigated. Analytical methods (gas chromatography and/or thin layer chromatography) have been developed which allow quantitative as well as qualitative determination of cannabinoids.

The Department has also supported research and development for production of the tetrahydrocannabinols (THCs) by chemical synthesis, since extraction of these compounds from the natural plant is both time consuming and produces low yields. Synthesized and natural materials are now distributed to qualified investigators free of cost as an important means of encouraging more adequate research. Natural materials are now being employed in a wide range of animal and human studies designed to elucidate their physical and psychological effects. Results of this work, still in progress, are for the most part not yet available. The synthetic materials are now being tested in animals prior to human studies.

It should be emphasized that there is considerable variability in the potency of different forms of marihuana and related material. The potency of some of the Department's cultivated material has been as much as seventy times as great in very potent samples as in other, less potent material. The way in which the plant material is processed (e.g. how much of the most psychoactive parts are found in any given mixture) makes a considerable difference. It should be emphasized that American experience has been largely limited to weaker materials with considerable question as to the implications that general availability of strong material might have. Hashish, the concentrated resin, is from five to ten times more potent than the more typically available plant mixture sold illicitly. The percentage of psychoactive ingredient may range from as low as a fiftieth of one percent to as high as 8 percent (four hundred times as potent) for high quality hashish. The tendency of marihuana preparations to deteriorate in potency over time depending on storage conditions also contributes to the variability.

Better understanding of the chemistry of the drug and the ready availability of supplies of uniform type for research has made possible a greatly expanded program of research into the pharmacological and clinical properties of natural and synthetic forms of the drug. It should be emphasized that so-called Delta-9-THC, while presumably the major psychoactive ingredient of marihuana is by no means the only one. Other compounds almost certainly also play a role (Delta-8-THC which occurs naturally in smaller amounts is also known to be psychoactive).

METHODS OF CONSUMPTION

While in the United States marihuana is typically smoked in cigarettes or pipes, this is by no means the only means of consumption possible. It can be ingested as food or drink. Generally, it requires significantly larger amounts of the drug to produce the same effects when ingested rather than smoked. It may be that the process of smoking in itself (which involves high temperature combustion) results in significant chemical changes. The nature of these changes is currently being studied because of the obvious need for further clarification. Because little time elapses between smoking marihuana and feeling its effects (a matter of minutes) it is generally easier for the smoker to control his intake so as to insure a desired level of "high." When ingested, however, effects may be delayed for several hours and are more difficult for the user to control. Given a highly variable material the chances of consuming a larger quantity than intended is probably greater when marihuana is eaten with potentially unpleasant consequences.

PHARMACOLOGICAL CLASSIFICATION

Marihuana is not a narcotic. Neither is it primarily a stimulant, sedative, tranquilizer or hallucinogen, although it shares some properties with each of these. At the same time, it lacks many of their other properties. In small doses it produces stimulation followed by sedation. In high doses it acts as a hallucinogen and can produce subjective changes somewhat resembling those of small

XUM

amounts of LSD. Unlike many drugs (e.g., opiates and amphetamines) which require increasingly higher dosages over time to produce the same effect, marihuana users frequently report that with repeated use smaller doses produce the original effects. The apparent rapid disappearance from the blood of such substances as Delta-9-THC and Delta-8-THC following their injection indicates that they are rapidly transformed into other compounds. This change is a stumbling block to easily developing measures of the amount of pharmacologically active material in the blood stream or other body fluids analogous to blood alcohol tests to measure alcohol intoxication. Considerable effort is being devoted to studying the new compounds resulting from the original marihuana constituents. The questions are: What are these metabolites, how can we identify and then measure them and how can we relate their levels in the blood to the intake of the original material and to possible behavioral consequences.

MEASUREMENT OF EFFECTS

Marihuana shares with other psychoactive drugs the problem of adequately describing and defining its subjective effects. There is considerable variability in the way in which the different sensations produced are interpreted by the user. What appear to be similar subjective states may be quite differently interpreted by different users. The same effect may be pleasurable to one user and unpleasant, even frightening, to another. It may also be that those finding the experience predominantly pleasant are inclined to minimize or ignore the less pleasant effects.

Although the state of intoxication is frequently vivid as described by the user, an observer may see little change from a normal state. Mild states of intoxication often go completely undetected. The user's mood may be quite variable from being happy and gregarious to quiet and detached. At higher doses, speech may be slowed or slurred. Physiological changes are notably minimal. Increase in pulse rate and bloodshot eyes are the most obvious. Dry mouth and throat, along with an increase in appetite are common. Other physiological effects often are inconsistent or not reproducible.

Generally, simple physical and psychological performances are not much affected in short-term, moderate dosages while more complicated physical and psychological performances may be impaired. This may be due to an effect of marihuana intoxication on immediate memory. There is, however, great variability between users and little is presently known about the effects of long-term, chronic use on performance. Subjectively, time distortion appears common with users reporting that a minute appears more like several minutes passage of time. Other subjective effects range from pleasant relaxation to acute anxiety, loss of reality contact, hallucinations and panic. These latter reactions are less common and much more likely when unexpectedly large doses of active material are consumed.

As is true of other psychoactive drugs, much appears to depend on the expectations of the user and the circumstances under which he uses the drug (set and setting). The user's set, referring to his total psychological makeup, mood at time of use and personal expectations, make a considerable difference in the effects experienced, especially in low to moderate dosages. The external conditions of use, or setting, also make a great deal of difference in the total experience. A user feeling emotionally secure in a pleasant setting free of fear of detection is likely to have a different experience from someone taking the drug under more anxiety-producting conditions. The more neutral setting of the research laboratory may produce still different experiences. It is generally conceded that the individual and group expectations involved in the typical circumstances of marihuana use are important although difficult to evaluate aspects of the drug reaction.

Patterns of marihuana consumption vary widely. For many, use is on an infrequent or one time experimental basis. As the number of such experimenters increases, the user becomes less distinguishable from the general population. A significant portion of those who have tried marihuana in the United States have done so only once or several times and have chosen not to repeat it or continue the experience. Others use it occasionally, perhaps on weekends, and a still smaller number use it on a more frequent basis. In evaluating possible health consequences of marihuana use it is, therefore, essential that consideration be given to:

1. The period of time over which the drug is used.

2. The dosage (i.e. potency and amount) consumed and the frequency with which it is used.

3. The physical and mental health of the user.

It must also be remembered that marihuana consumption in the United States has been primarily by youthful users. The use of a relatively low potency material by an unusually healthy age group may be quite misleading if the limited impressions involved are extended to older, less healthy portions of the population.

While research to date has been heavily concentrated in youthful populations with limited duration of drug use, increasing emphasis is currently being placed on examining the long-range chronic implications of use in cultures where such use has been widespread for many years.

Evaluation of the drug effects is further complicated by the illegality of marihuana use. The complexities introduced by the life style and multi-drug use history of some users are difficult to surmount in order to separate out the effect of marihuana. In this population, it is almost impossible to clarify the cause and effect relationship between drug consumption and consumer personality as related to consequences of drug use.

It is difficult to know to what extent the pathology that may be observed in some heavy users is the result of pre-existing psychological and social difficulties which made heavy drug use attractive or is an effect of the drug itself. Thus, some individuals lacking the conventional goals and motivation may find heavy marihuana use appealing. Their apparent lack of more conventional goal-directed behavior (the so-called amotivational syndrome) may then be inaccurately attributed to the drug. Attempts are currently underway to examine carefully the early life history of users as well as changes that occur over several years of marihuana use to determine what are the interactive effects of personality and drug use.

RESEARCH PROBLEMS AND DIRECTIONS

Research supported principally by the National Institute of Mental Health has laid the groundwork for the resolution of many of the basic research questions concerning marihuana. Work already completed or currently underway in animals is providing some of the basic understanding of the drug necessary, before more extensive human research is possible. However, laboratory experiments with animals to measure the effects of marihuana are fraught with many difficulties. Since no single species of animal exactly duplicates the characteristics of man, the choice of an appropriate experimental animal is frequently difficult. There are many technical problems that need to be surmounted. Because animals cannot readily be induced to smoke marihuana in a manner similar to that of humans, considerable effort is going into developing alternative methods of administration. Although intravenous injection in animals best approximates smoking in humans for immediacy of effect, it is not possible to use over long periods of time with present techniques. Another difficulty is the fact that THC and the marihuana extracts are not soluble in water or other inert solvents, making it difficult to separate out their effects from those of the material in which they are dissolved. Development of standardized and stable dosage forms, essential to comparability of research studies, is also being actively pursued.

Carefully controlled studies of the effects of long-term use of marihuana and related materials in populations of chronic users are now underway. To date, such populations have been found only outside the United States, greatly complicating the problem of doing adequate research. Effects of drug usage may be obscured by such factors as state of nutrition, economic status, and other cultural considerations. It is not always easy, therefore, to determine the significance of any one foreign study for the rapidly changing drug situation here in the United States. However, as lines of evidence derived from animal experimentation, human laboratory findings, survey techniques, and clinical research increasingly converge it will be possible to provide more reliable answers to the questions, "What are the health consequences of marihuana usage?"

The preceding discussion has attempted to convey something of the complexity of the marihuana problem and some of the many difficulties which have been or are being surmounted in obtaining a meaningful answer to the question of marihuana's health implications. The National Institute of Mental Health, utilizing the skills of distinguished physicians and scientists who are knowledgeable in this area, has devoted several years of effort to devising a research plan to provide an adequate scientific basis for public policy in this area. The brief outline below shows the procedures being followed in this plan. Although certain of the research phases must precede others (e.g. materials development was necessary before adequate pharmacological analysis was possible), wherever possible research activities are being carried on along as many lines simultaneously as the nature of the problem will permit. Thus, an attempt is being made to learn some of the implications of long-term, chronic use, although some of the information that might be useful in planning this work is not yet available. By investigating several areas simultaneously in this way the Department hopes to expedite the development of data to permit a responsible estimate of the health hazards posed by marihuana.

It must be kept in mind that no single study is likely to be definitive. Each of the succeeding reports that will be made to the Congress and the American people is likely to be more detailed and to more adequately assess the problem. Because our society is different in many important ways from that of other countries in which the use of marihuana has been widespread for many years, foreign experience is not easily translatable into guidelines for the United States. By their very nature, longitudinal studies of long-term users in our own culture will require significant periods of time to complete. The picture is fragmentary now and will continue to be so for a period of time. It is clear that several years will be required before preliminary findings can be interpreted with confidence and the relation between marihuana and health can be adequately defined.

Most of the research described in the following outline is currently in progress or planned. Because of the need for adequate replication of results and the inherent complexity of the problem, many phases of the investigation will continue after a sufficient basis may have been provided for beginning other types of work. Attempts to assess the patterns of use are on a continuing basis

XUM

since this is an area marked by constant change. Although much of the materials development phase is completed, there will be an ongoing need to continue to supply these materials to the research community. For convenience in description, the research is broadly divided into the biologically oriented and psychosocial-sociological research although, of course, such a separation is to some extent arbitrary.

CHEMICAL AND BIOLOGICAL INVESTIGATION

I. Materials development—involves the provision of standard marihuana and related natural synthetic materials in a variety of forms in order to permit well controlled comparable investigations with materials of known composition and potency.

A. Provision of Materials:

1. Cultivation of the plant and its varieties and/or synthesis of standard products.

2. Confiscated materials—for processing into potent materials extracts.

B. Analytical:

1. Identification of active and inactive constituents, i.e., the complete composition of the drug.

2. Identification of products of pyrolysis.

3. Procedures for control of purity.

4. Stability studies of product and its constituents.

5. Qualitative and quantitative determination of drug levels.

a. Urine, feces, blood, breath, saliva.

b. Vital organs.

II. Adverse Effects:

A. Toxicology:

1. Preclinical (animal).

a. Define appropriate dosage levels, acute, subacute, and chronic studies and associated pathology.

b. Characteristics of tolerance, physical dependence, and withdrawal leading to abuse potential.

c. Behavioral-central nervous system toxicity.

i. Psychological state changes.

ii. Social behavior disruption.

iii. Task performance.

iv. Neurological deficits.

2. Clinical (human) includes chronic studies overseas.

a. Define appropriate dosage levels and acute, subacute, and chronic studies and associated pathology.

b. Characteristics of tolerance, physical dependence, and withdrawal leading to abuse potential.

c. Behavioral-central nervous system toxicity.

i. Possible personality changes.

ii. Effects on thought processes, higher mental functions.

iii. Effects on social behavior.

iv. Possible neurological deficits related to use.

III. Genetic Damage:

A. Mutagenesis—Possible genetic changes produced by marihuana.

1. Human population screening.

a. Population monitoring.

b. Retrospective studies.

c. Prospective studies.

2. Non-mammalian assays (virus, bacteria, fungi, drosophila).

3. Mammalian assays (dominant lethal, host mediated).

4. Animal cytological studies.

a. in vitro.

b. in vivo.

5. Human cytological studies.

a. in vitro.

b. in vivo.

6. Structure-activity relationships of marihuana and synthetic derivatives.

B. Teratogenesis—Possible abnormalities in fetus or newborn infant produced by drug's effects on uterine development.

1. Human populations.

a. Population monitoring.

b. Retrospective studies.

c. Prospective studies.

2. Animal assays.

3. Structure-activity relationship of marihuana and synthetic derivatives.

C. Carcinogenesis—Possible cancer inducing aspect to marihuana.

1. Human populations.

a. Population monitoring.

b. Retrospective studies.

c. Prospective studies.

IV. Pharmacology:

A. General pharmacological effects (cardiovascular-renal pulmonary, gastrointestinal, endocrine, others).

B. Central nervous system pharmacology—site and mechanism of action.

1. Specific effects on brain.

a. Electrophysiological.

i. animals—by experiment.

ii. human—by observation.

b. Biochemical (biogenic amines, acetylcholine, envymes, electrolytes).

c. Micro-anatomical-histological.

2. Behavioral effects—psychopharmacology.

C. 1. Structure-activity relationships.

2. Development of substitute and/or antagonists.

3. Physiological and psychological aspects of euphoria, "turn-on," high, dependence and analgesia.

4. Evaluation of efficacy, potency and strength between various preparations.

a. Differences between species.

b. Differences between various routes of administration.

5. Drug interactions (MAO inhibitors, reserpine, sympathetic blocking agents, histamine, enzyme induction).

V. Biochemistry:

A. Distribution in body: evaluation of absorption, tissue levels binding and storage.

B. Metabolism: Identification of metabolites, their activity.

C. Excretion—By-products of marihuana and derivatives.

PSYCHOSOCIAL AND SOCIOLOGICAL RESEARCH

I. Epidemiology of marihuana use—research directed at learning the incidence and prevalence of marihuana use in various populations and its demographic correlates.

II. Psychosocial correlates of drug use—research on the processes and conditions which promote initiation, persistence, discontinuation, and relapse in drug use, relation of marihuana to other drug use, activities related to drug use and possible psychosocial consequences of such use—studies are both ongoing and planned.

1. Patterns of Use.

2. Longitudinal History of Marihuana Use in Selected Populations.

III. Personality dynamics ad psychological characteristics of drug users.

IV. Interpersonal, social and cultural correlates of use—the relationship of marihuana use to such aspects as academic and career development, attitudes, values, crime, and the role of child rearing.

V. Characteristics of drug using subgroups—research directed at understanding the characteristics of heavily drug using subgroups to determine possible effects of such use and possible intervention techniques to prevent use.

VI. Effects of marihuana use on simple and complex psychological and psychomotor tasks—this includes the effects of marihuana on various kinds of mental functioning, including problem solving, memory, intelligence, coordinated performances such as driving a motor vehicle, etc., in short, a wide range of possible areas in which performance might be effected adversely to the detriment of the individual or the society.

Research of the type outlined above is being carried out on many different types of populations including preliminary attempts to learn the implications of chronic marihuana use in overseas populations.

EDUCATIONAL ACTIVITIES

Working through its Office of Education this Department is engaged in the training of educational personnel to be more effective in encouraging students to avoid drug abuse, including the use of marihuana. This is being accomplished through three programs.

Qualified personnel and young people from across the Nation have selected 10 drug education curricula prepared by State or local education agencies and these are being used as representative samples to aid other agencies in the preparation of their curricula. The samples contain factual information on marihuana.

The 50 States and the Territories are participating in a national drug education training program. State and Territory teams were trained at four national training centers in the summer of 1970 to be trainers of local school community teams during the present school year, 1970–71. The local teams will train school personnel in their districts to develop drug education programs and integrate them into the overall school programs. Factual information on marihuana will be included.

There is a continuing prevention program to train highly selected ex-addicts as counselor aides to work in schools and communities with young people and adults. In this program factual information on marihuana is presented and discussed.

The NIMH public information campaign which in its initial mass media phase stimulated 20-million requests for information is being expanded. New publications, posters, films, exhibits and other communications techniques are being developed to augment educational efforts. The National Clearinghouse for Drug Abuse Information at NIMH, established by President Nixon on March 11, 1970, and now operational, provides a central Federal source for community leaders, parents, educators, and students. It makes available upon request and through a dissemination program the latest factual information on marihuana and other drugs of abuse.

These educational activities represent the best thinking not only of this Department but also of other Federal agencies whose advice has been solicited in the planning process.

The **PRESIDING OFFICER**. Do Senators yield back their time?

Mr. **HUGHES**. Mr. President, I yield back the remainder of my time.

Mr. **DODD**. I yield back the remainder of my time.

The **PRESIDING OFFICER**. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

The **PRESIDING OFFICER**. The bill is open to further amendment. If there be no further amendment, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. **BYRD** of West Virginia. Mr. President, I am pleased to support H.R. 18583, the Comprehensive Drug Abuse Prevention and Control Act of 1970. Legislation similar to this act—S. 3246, the Controlled Dangerous Substances Act—was passed by the Senate last January 28.

The dangers of drug abuse has been one of continuing concern to me. The insidious menace of drugs knows no social or economic boundaries, and it has reached epidemic proportions throughout the United States. It is a problem so widespread that it has touched the lives of nearly half of our high school and college students. In suitable re-

XUM

sponse, this legislation is farreaching in scope. It is legislation of the highest priority, and it should be speedily enacted into law.

This bill will strengthen, clarify, and extend existing laws controlling the manufacture, commerce, and usage of dangerous drugs and substances. It aims at cutting off the source of illegal drugs—both those produced domestically and those imported—and it distinguishes between the unfortunate user and the dealer or pusher. Its strong criminal penalties for those who traffic in illegal narcotics include a term of imprisonment up to 15 years, a maximum fine of $25,000, or both for first offenders; and a term of imprisonment up to 30 years and/or a fine of up to $50,000 for repeated offenders.

When these new penalty provisions are enacted into law, the professional criminal should no longer find it profitable to market his narcotics.

Mr. President, this legislation sheds new light on the entire problem of drug abuse—drug abuse that is eating away at the moral fiber of our Nation. It provides for rehabilitation and treatment of existing addicts, for prevention through education, and for additional knowledge through research.

This legislation will establish a multifold approach—medical, educational, control, and enforcement—to answer a problem of staggering dimensions. It will be strong enough to dissuade even the most hardened criminal, discerning enough to keep the most impulsive youth from being led astray into a life of crime, and comprehensive enough that the rising tide of drug abuse within our country will be turned. It is a significant weapon with which to fight the drug-induced ravages of body and mind which today are destroying so many of our young people, and I fully support its passage.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. DODD. I yield back my time.

Mr. HRUSKA. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is: Shall the bill pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Virginia (Mr. Byrd), the Senator from Nevada (Mr. Cannon), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from Arkansas (Mr. Fulbright), the Senator from Tennessee (Mr. Gore), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Florida (Mr. Holland), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from Minnesota (Mr. McCarthy), the Senator from Arkansas (Mr. McClellan), the Senator from Washington (Mr. McGee), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Georgia (Mr. Russell), the Senator from Mississippi (Mr. Stennis), the Senator from Missouri (Mr. Symington), the Senator from Maryland (Mr. Tydings) are necessarily absent.

I also announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Alabama (Mr. Sparkman), the Senator from Georgia (Mr. Talmadge), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young), are absent on official business.

I further announce that, if present and voting, the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Florida (Mr. Holland), the Senator from North Carolina (Mr. Jordan), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington, Mr. Magnuson), the Senator from Arkansas (Mr. McClellan), the Senator from Maine (Mr. Muskie), the Senator from Missouri (Mr. Symington), the Senator from Texas (Mr. Yarborough), the Senator from New Mexico (Mr. Montoya), would each vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from Hawaii (Mr. Fong), the Senators from New York (Mr. Goodell and Mr. Javits), the Senator from California (Mr. Murphy), the Senator from Kansas (Mr. Pearson), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Utah (Mr. Bennett), the Senator from Colorado (Mr. Allott), and the Senator from North Dakota (Mr. Young) are detained on official business.

If present and voting, the Senator from New York (Mr. Goodell), the Senator from New York (Mr. Javits), the Senator from South Dakota (Mr. Mundt), the Senator from California (Mr. Murphy), the Senator from Kansas (Mr. Pearson), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) would each vote "yea."

The result was announced—yeas 54, nays 0, as follows:

[No. 367 Leg.]

YEAS—54

Allen
Baker
Bayh
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Case
Church
Cook
Cooper
Cotton
Curtis
Dodd
Dole
Dominick
Eagleton
Ellender
Ervin
Griffin
Gurney
Hansen
Hart
Hatfield
Hollings
Hruska
Hughes
Inouye
Jackson
Jordan, Idaho
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Miller
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Scott
Smith, Maine
Spong
Stevens
Thurmond
Williams, N.J.
Williams, Del.

NAYS—0

NOT VOTING—46

Aiken
Allott
Anderson
Bellmon
Bennett
Byrd, Va.
Cannon
Cranston
Eastland
Fannin
Fong
Fulbright
Goldwater
Goodell
Gore
Gravel
Harris
Hartke
Holland
Javits
Jordan, N.C.
Kennedy
Long
Magnuson
McCarthy
McClellan
McGee
Mondale
Montoya
Moss
Mundt
Murphy
Muskie
Pearson
Prouty
Russell
Smith, Ill.
Sparkman
Stennis
Symington
Talmadge
Tower
Tydings
Yarborough
Young, N. Dak.
Young, Ohio

So the bill (H.R. 18583) was passed.

Mr. DODD. Mr. President, I ask unanimous consent that in the engrossment of the Senate amendments to the bill (H.R. 18583), the Secretary of the Senate be authorized to make technical and clerical corrections.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Hughes, Mr. Yarborough, Mr. Randolph, Mr. Eastland, Mr. McClellan, Mr. Dodd, Mr. Javits, Mr. Dominick, Mr. Hruska, and Mr. Thurmond conferees on the part of the Senate.

Mr. BYRD of West Virginia. Mr. President, I have been asked by the Senator from Washington (Mr. Magnuson) and the Senator from Arkansas (Mr. McClellan), both of whom are unavoidably absent, to state that had they been present for the vote on the passage of the bill, they would have voted in the affirmative.

THE ILLEGAL TRANSPORTATION, USE, OR POSSESSION OF EXPLOSIVES

Mr. BYRD of West Virginia. Mr. President, for the purpose of making it the pending business, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 1233.

The PRESIDING OFFICER. The bill will be stated by title.

The Assistant Legislative Clerk. Calendar No. 1233, S. 3650, a bill to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. BYRD of West Virginia. Mr. President, there will be no action on S. 3650 this evening.

LIMITATION ON STATEMENTS DURING THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, immediately following the prayer and the disposition of the Journal and any unobjected-to bills on the Legislative Calendar, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF HOUSE JOINT RESOLUTION 264 TOMORROW

Mr. BYRD of West Virginia. Mr. President, under the order earlier today, at the conclusion of the period for the transaction of routine morning business on tomorrow, the equal rights amendment (H.J. Res. 264) will be laid before the Senate; is that correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD of West Virginia. I ask unanimous consent that time on the equal rights amendment (H.J. Res. 264) tomorrow be limited to not to exceed 2 hours.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

STATUS OF UNFINISHED BUSINESS TOMORROW

Mr. BYRD of West Virginia. Then, Mr. President, I ask unanimous consent that when House Joint Resolution 264, the unfinished business, is temporarily laid aside tomorrow, it remain in that status until the conclusion of morning business on Friday morning next.

The PRESIDING OFFICER. Without objection it is so ordered.

CONSIDERATION OF THE ILLEGAL TRANSPORTATION, USE, OR POSSESSION OF EXPLOSIVES BILL TOMORROW

Mr. BYRD of West Virginia. I ask unanimous consent that at the time Senate Joint Resolution 264 is temporarily laid aside tomorrow, S. 3650, the pending business just laid before the Senate, again be laid before the Senate and made the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970—PERSONAL STATEMENTS

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. MAGNUSON. I understand that the Senator from West Virginia has just announced me in favor of the bill just passed. I wanted to say for the Record that I was here, and had no information such as given to other Senators that the vote was occurring. They have been checking everyone's clock, have they not, in each Senator's office to make sure that it rings and shows a light? Mine apparently was not fixed very well. Someone came and knocked on my door and said we should be here. But I appreciate the Senator's action. I am heartily in favor of the bill, and I appreciate the great courtesy of the Senator from West Virginia.

Mr. BYRD of West Virginia. I thank the Senator. I am sorry that the situation developed as it did.

Mr. MAGNUSON. It did not develop; it is just a question that sometimes this happens to all of us.

Mr. DODD. Mr. President, I do not want to leave the Chamber tonight without thanking my colleagues for the passage of this bill. It has been a long and difficult struggle, and everyone has helped. I do not know of anyone who has been opposed to it, though we have had differences as to how it should be done.

Prime among the Senators who have contributed so much is the Senator from Iowa (Mr. Hughes), who made a massive contribution, as did others as well. I hope we will get this bill agreed to by the House conferees, so that we can get on with it, make it the law of the land, and do what needs to be done. I express my deep gratitude to all who have participated in this task, and I thank my colleagues for making it possible.

Mr. HUGHES. Mr. President, I thank the distinguished Senator from Connecticut for his comments, and also for the courtesy he has extended to me in the debate and for the leadership in this area that he has presented in this body in guiding this bill through the Senate twice in almost identical form. I do appreciate his courtesies extended to me. I am very pleased with what I think is a good bill, and I compliment the Senator from Connecticut.

Mr. DODD. I thank the Senator from Iowa.

PRESIDENT NIXON'S PEACE INITIATIVE FOR INDOCHINA

Mr. PERCY. Mr. President, in just a few moments the President of the United States will be taking to the television and radio to address the Nation and the world on a new initiative for peace in Indochina. From what I understand the President is about to say in a moment or two, I commend him on taking this initiative, which is both timely and reasonable. It sets the stage for real negotiation at Paris and provides the basis for a political settlement fair to all parties.

I am especially pleased that the President chose to offer a cease-fire arrangement to stop the killing. Since my Senate speech of July 27 urging a cease-fire during which all prisoners would be repatriated, I have undertaken a number of efforts and participated in others to stimulate interest in a cease-fire proposal. I have discussed specifics with the President's leading foreign affairs advisers.

Now I have much hope that there can be a political settlement if the other side will negotiate in good faith. The basis for a settlement is now on the table.

The President should be particularly commended for calling for an Indochina peace conference. I have long felt that an Asian peace conference would be the best basis on which to negotiate a settlement, and the initiative taken by the President in this regard is to be commended.

He has called for a timetable for complete withdrawal of all forces, and indicated our solemn intention to maintain our present schedule of withdrawal of our forces. He has called for a political settlement which takes into account the existing arrangement of forces in South Vietnam, and he has called for taking the situation as a whole and settling the entire Indochina problem, rather than just looking at one particular piece of the puzzle there.

Finally, and most important to the many, many people who are concerned about our prisoners of war—and all of us have talked with the mothers, the parents, and the wives of the prisoners of war—he calls for the immediate and unconditional release of all prisoners of war.

When these proposals are laid forward in Paris on the conference table tomorrow, the responsibility rests upon Hanoi, the responsibility rests upon the VC, to see that they now seize this initiative that has been taken by the President and respond favorably. The world will be awaiting the answer, because clearly if they continue the war and do not respond favorably to these initiatives of the President, the responsibility for the continuation of this tragic war will be theirs, not ours.

Once again, I commend the President on his message to the Nation and to the world this evening.

Mr. President, I ask unanimous consent to have the President's speech printed at this point in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Text of a Radio and Television Address by the President: New Initiative for Peace in Southeast Asia

Tonight I would like to talk to you about a major new initiative for peace.

When I authorized operations against the enemy sanctuaries in Cambodia last April, I also directed that an intensive effort be launched to develop new approaches for peace in Indochina.

In Ireland on Sunday, I met with the chiefs of our delegation to the Paris talks. This meeting marked the culmination of the Government-wide effort begun last spring on the negotiation front. After considering the recommendations of all my principal advisors, I am tonight announcing new proposals for peace in Indochina.

This new peace initiative has been discussed with the governments of South Vietnam, Laos, and Cambodia. It has their full support. It has been made possible in large part by the remarkable success of the Vietnamization policy over the last 18 months. Tonight I want to tell you what these new proposals are and what they mean.

First, I propose that all armed forces throughout Indochina cease firing their weapons and remain in the positions they now hold. This would be a "cease-fire-in-place." It would not in itself be an end to the conflict, but it would accomplish one goal all of us have been working toward: an end to the killing.

I do not minimize the difficulty of maintaining a ceasefire in a guerrilla war where there are no front lines. But an unconventional war may require an unconventional truce; our side is ready to stand still and cease firing.

I ask that this proposal for a ceasefire-in-place be the subject for immediate negotiation. My hope is that it will break the logjam in all the negotiations.

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This ceasefire proposal is put forth without preconditions. The general principles that should apply are these:

A ceasefire must be effectively supervised by international observers, as well as by parties themselves. Without effective supervision a ceasefire runs the constant risk of breaking down. All concerned must be confident that the ceasefire will be maintained and any local breaches of it quickly and fairly repaired.

A ceasefire should not be the means by which either side builds up its strength by an increase in outside combat forces in any of the nations of Indochina.

A ceasefire should cause all kinds of warfare to stop. This covers the full range of actions that have typified this war, including bombing and acts of terror.

A ceasefire should encompass not only the fighting in Vietnam but in all of Indochina. Conflicts in this region are closely related. The United States has never sought to widen the war. What we seek is to widen the peace.

Finally, a ceasefire should be part of a general move to end the war in Indochina.

A ceasefire-in-place would undoubtedly create a host of problems in its maintenance. But it has always been easier to make war than to make a truce. To build an honorable peace, we must accept the challenge of long and difficult negotiations.

By agreeing to stop the shooting, we can set the stage for agreements in other matters.

The second point of the new initiative for peace is this:

I propose an Indochina Peace Conference. At the Paris talks today, we are talking about Vietnam. But North Vietnamese troops are not only infiltrating, crossing borders and establishing bases in South Vietnam—they are carrying on their aggression in Laos and Cambodia as well.

An international conference is needed to deal with the conflict in all three states of Indochina. This war in Indochina has been proved to be of one piece; it cannot be cured by treating only one of its areas of outbreak.

The essential elements of the Geneva Accords of 1954 and 1962 remain valid as a basis for settlement of problems between states in the Indochina area. We shall accept the results of agreements reached between those states.

While we pursue the convening of an Indochina Peace Conference, we will continue negotiations in Paris. Our proposal for a larger conference can be discussed there as well as through other diplomatic channels. The Paris talks will remain our primary forum for reaching a negotiated settlement, until such time as a broader international conference produces serious negotiations.

The third part of our peace initiative has to do with United States forces in South Vietnam.

In the past twenty months, I have reduced our troop ceilings in South Vietnam by 165,000 men. During the spring of next year these withdrawals will total more than 260,000 men—about one-half the number in South Vietnam when I took office.

As the American combat role and presence have decreased, so have American casualties. Their level since the completion of the Cambodian operations was the lowest for a comparable period in the last four and one half years.

We are ready to negotiate an agreed timetable for complete withdrawals as part of an overall settlement. We are prepared to withdraw all our forces as part of a settlement based on the principles I spelled out previously and the proposals I am making tonight.

Fourth, I ask the other side to join in a search for a political settlement that truly meets the aspirations of all South Vietnamese.

Three principles govern our approach:

We seek a political solution that reflects the will of the South Vietnamese people.

A fair political solution should reflect the existing relationship of political forces.

We will abide by the outcome of the political process agreed upon.

Let there be no mistake about one essential point: The other side is not merely objecting to a few personalities. They want to dismantle the organized non-communist forces and insure the takeover by one party, and they demand the right to exclude whomever they wish from government.

This patently unreasonable demand is totally unacceptable.

As my proposals today indicate, we are prepared to be flexible on many matters. But we stand firm for the right of all the South Vietnamese people to determine for themselves the kind of government they want.

We have no intention of seeking any settlement at the conference table other than one which fairly meets the reasonable concerns of both sides. We know that when the conflict ends, the other side will still be there. The only kind of settlement that will endure is one both sides have an interest in preserving.

Finally, I propose the immediate and unconditional release of all prisoners of war held by both sides.

War and imprisonment should be over for all these prisoners. They and their families have already suffered too much.

I propose that all prisoners of war, without exception and without condition, be released now to return to the place of their choice.

I propose that all journalists and other innocent civilian victims of the conflict be released immediately as well.

The immediate release of all prisoners of war would be a simple act of humanity.

But it could even be more. It could serve to establish good faith, the intent to make progress, and thus improve the prospects for negotiation.

We are prepared to discuss specific procedures to complete the speedy release of all prisoners.

The five proposals which I have made tonight can open the door to an enduring peace in Indochina.

Ambassador Bruce will present these proposals formally to the other side in Paris tomorrow. He will be joined in that presentation by Ambassador Lam representing South Vietnam.

Let us consider for a moment what the acceptance of these proposals would mean.

Since the end of World War II, there has always been a war going on somewhere in the world. The guns have never stopped firing. By achieving a ceasefire in Indochina, and holding firmly to the ceasefire in the Middle East, we could hear the welcome sound of peace throughout the world for the first time in a generation.

We would have some reason to hope that we had reached the beginning of the end of war in this century. We might then be on the threshold of a generation of peace.

The proposals I have made tonight are designed to end the fighting throughout Indochina and to end the impasse in negotiations in Paris. Nobody has anything to gain by delay and only lives to lose.

There are many nations involved in the fighting in Indochina. Tonight, all those nations but one announce their readiness to agree to a ceasefire. The time has come for the government of North Vietnam to join its neighbors in a proposal to quit making war and to start making peace.

As you know, I have just returned from a trip which took me to Italy, Spain, Yugoslavia, England and Ireland.

Hundreds of thousands of people cheered as I drove through the major cities in these countries.

They were not cheering for me as an individual. They were cheering for the country that I was proud to represent—the United States of America. For millions of people in the free world, the non-aligned world and the communist world, America is a land of freedom, of opportunity, of progress.

I believe there is another reason they welcomed me so warmly in every country I visited despite their wide differences in political systems and national backgrounds.

In my talks with leaders all over the world I find that there are those who may not agree with all of our policies. But no world leader to whom I have talked fears that the United States will use its power to dominate another country or destroy its independence. We can be proud that this is the cornerstone of America's foreign policy.

There is no goal to which this nation is more dedicated, and to which I am more dedicated than to build a new structure of peace in the world where every nation including North Vietnam as well as South Vietnam can be free and independent with no fear of foreign aggression or domination.

I believe every American deeply believes in his heart that the proudest legacy the United States can leave during this period when we are the strongest nation in the world is that our power was used to defend freedom, not to destroy it; to preserve the peace, not to break the peace.

It is in that spirit that I make this proposal for a just peace in Vietnam and in Indochina.

I ask that the leaders in Hanoi respond to this proposal in the same spirit.

Let us give our children what we have not had during this century, a chance to enjoy a generation of peace.

Mr. DODD. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. DODD. Mr. President, I am happy to join the Senator in his words of approval of the President's speech tonight to the American people. I think he is right.

I do not say this in any vain way, but there are many Senators here who recall that we suggested practically the same thing in 1967 and 1968, when the President was not in office. I think the President is doing what is right in his efforts to get us out of this dreadful war.

PROTECTION OF THE MARINE ENVIRONMENT

Mr. PELL. Mr. President, I congratulate President Nixon on his endorsement of the Council on Environmental Quality's report calling for the banning of unregulated dumping and for strict legislation with regard to the dumping of material that is harmful to the marine environment. I am glad that the administration not only requests the estalishment of legal controls, but provision is made that the Coast Guard shall be the enforcement agency. This strong message on the part of the administration is to be commended.

The problem is real and immediate. It is possible that within the lifetime of our children the Atlantic Ocean can become another Lake Erie, polluted and barren of life. Let us remember the important role living matter in the oceans play in the refurbishing of oxygen. Let us remember that phytoplankton and zooplankton, can exist without we humans, but we humans cannot exist without

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these minute particles of basic animal life. Then we realize the importance of these proposed measures.

In this regard, I ask unanimous consent that the President's message be inserted in the RECORD.

There being no objection, the President's message was ordered to be printed in the RECORD, as follows:

To the Congress of the United States:

The oceans, covering nearly three-quarters of the world's surface, are critical to maintaining our environment, for they contribute to the basic oxygen-carbon dioxide balance upon which human and animal life depends. Yet man does not treat the oceans well. He has assumed that their capacity to absorb wastes is infinite, and evidence is now accumulating on the damage that he has caused. Pollution is now visible even on the high seas—long believed beyond the reach of man's harmful influence. In recent months, worldwide concern has been expressed about the dangers of dumping toxic wastes in the oceans.

In view of the serious threat of ocean pollution, I am today transmitting to the Congress a study I requested from the Council on Environmental Quality. This study concludes that:

The current level of ocean dumping is creating serious environmental damage in some areas.

The volume of wastes dumped in the ocean is increasing rapidly.

A vast new influx of wastes is likely to occur as municipalities and industries turn to the oceans as a convenient sink for their wastes.

Trends indicate that ocean disposal could become a major, nationwide environmental problem.

Unless we begin now to develop alternative methods of disposing of these wastes, institutional and economic obstacles will make it extremely difficult to control ocean dumping in the future.

The nation must act now to prevent the problem from reaching unmanageable proportions.

The study recommends legislation to ban the unregulated dumping of all materials in the oceans and to prevent or rigorously limit the dumping of harmful materials. The recommended legislation would call for permits by the Administrator of the Environmental Protection Agency for the transportation and dumping of all materials in the oceans and in the Great Lakes.

I endorse the Council's recommendations and will submit specific legislative proposals to implement them to the next Congress. These recommendations will supplement legislation my Administration submitted to the Congress in November, 1969 to provide comprehensive management by the States of the land and waters of the coastal zone and in April, 1970 to control dumping of dredge spoil in the Great Lakes.

The program proposed by the Council is based on the premise that we should take action before the problem of ocean dumping becomes acute. To date, most of our energies have been spent cleaning up mistakes of the past. We have failed to recognize problems and to take corrective action before they became serious. The resulting signs of environmental decay are all around us, and remedial actions heavily tax our resources and energies.

The legislation recommended would be one of the first new authorities for the Environmental Protection Agency. I believe it is fitting that in this recommended legislation, we will be acting—rather than reacting—to prevent pollution before it begins to destroy the waters that are so critical to all living things.

RICHARD NIXON.

THE WHITE HOUSE, *October 7, 1970.*

COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970—INQUIRY ON APPOINTMENT OF CONFEREES

Mr. HRUSKA. Mr. President, a little earlier, the announcement was made of the membership of the conference committee on the bill that has just been voted on, H.R. 18583. This Senator would like to make inquiry as to how that list was composed and from whom the names were procured and what arrangement was made with reference to the composition of that committee.

Mr. DODD. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. DODD. Insofar as this Senator is concerned, Senator EASTLAND this afternoon or this evening came to me and said that he most likely could not be here at this hour. He gave me a list of names of those whom he would nominate to be conferees. I turned this list over to Mr. Ferris, which was the extent of my involvement with it.

Mr. HRUSKA. This Senator would like to be informed as to how the additional five names were added to the list of conference committee members.

This is a bill which is in the jurisdiction of the Judiciary Committee. It originated there as to titles II and III, and that is where it would be referred. Now we find five additional names. This Senator would like to know how it was composed and by what authority the five additional names from the Committee on Labor and Public Welfare were put on it.

Mr. DODD. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. DODD. I do not think the Senator from Nebraska or the Senator from Connecticut have any objection to Senators from the Committee on Labor and Public Welfare being named as conferees. I am sure he would agree that Senator HUGHES should be on the conference committee. I am not distinguishing him from anybody else. I do not fuss about it. I am sure that we can all work our way out of this and get a good bill.

Mr. HRUSKA. I am not making a fuss about it, but as one of the managers of this bill, it seems to me that, in all common courtesy, if nothing else, aside from propriety, this Senator should have been consulted and given a chance to speak on the subject. I just raise the point at this time, and I reserve the right to pursue the point further at a later time.

Mr. DODD. I do not want the Senator to misunderstand me. He has been a strong man in this whole struggle. We have men on this conference committee, all of whom are interested in this problem. Why can we not get along all right?

Mr. HRUSKA. Mr. President, this bill has three titles. The third title emanated from the House Ways and Means Committee. Does that mean that someone can walk up to the bench and submit a list of five names from that committee so that we will have a conference committee of 15 members? Where is the orderly procedure in this matter?

It seems to me that it is a gratuitous way of composing the committee, and totally without any knowledge on the part of the managers of the bill. I take serious objection to it, and I so state.

The PRESIDING OFFICER (Mr. HANSEN). Under the rules, the Chair has no authority to appoint conferees. But the request was that the Chair be authorized to appoint the conferees, which request was granted by the Senate. It is the normal procedure for the list to be sent up to the Chair, which the Chair has reported to the Senate.

Mr. HRUSKA. Then, let me ask this question: If the Senator from Nebraska undertook to submit a list of five, also, would that list have been added to the list of 10?

The PRESIDING OFFICER. It was the Chair's understanding that this list had been cleared with the parties concerned.

Mr. HRUSKA. With whom?

Mr. BYRD of West Virginia. With the parties concerned.

Mr. HRUSKA. The Senator knew nothing about it until the names were read, and this Senator is a comanager of this bill. That understanding, if it existed, is erroneous.

I raise the point, and I reserve it for further discussion in due time.

Mr. BYRD of West Virginia. Mr. President, may I say that I can appreciate the strong feelings that have been expressed by the able Senator from Nebraska (Mr. HRUSKA). I think he should have been consulted as the ranking minority member. But I can understand how, through inadvertence, he was not consulted. I wish he had been, and I wish to express regret that he was not consulted.

May I point out that this is a bill which does have dual jurisdiction insofar as committees are concerned. It came to the Senate from the House. It was stopped at the bar of the Senate. It was placed on the calendar without reference to committees. And this is not without precedent. There have been instances heretofore in which, because of dual jurisdiction of committees, conferees have been appointed from different committees, each having jurisdiction. So it is not without precedent.

I do, however, understand the feeling of the Senator from Nebraska. I wish he had been consulted. He has every reason to be perturbed. But inasmuch as the inadvertence has occurred, I hope that he will not make a point of it at a further date and that we may get on with the business.

I had nothing to do with the matter, and I regret that it happened. I feel that it was an unfortunate oversight.

Mr. HRUSKA. Mr. President, here is a bill that is law enforcement in its character, in its nature, in its very thrust. A hundred pages are devoted to that purpose. Fifty pages were added as an amendment here. Yet, we have five members from two committees, and they are on a parity with each other with reference to the entire bill.

I have no personal animosity to any of the members who have been named. I question the orderly procedure very seriously; and, notwithstanding the respectful request of the acting majority leader,

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this Senator does reserve the point for future discussion.

Mr. DODD. Mr. President, I hope the Senator from Nebraska understands that I was only consulted as to the five members of the Judiciary Committee, and I did not have any knowledge about anybody else being appointed. However, it does not bother me now that others were named, for reasons I gave earlier. I wish the Senator from Nebraska would understand. Why not get their views and sit down with them and try to work it out?

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following additional routine business was transacted:

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT AMENDMENTS OF 1970—AMENDMENT

AMENDMENT NO. 1035

Mr. STEVENS. Mr. President, I submit an amendment and ask that it be printed. This amendment would add a new title to the Omnibus Crime Control Safe Streets Act Amendments of 1970 (H.R. 17825) authorizing awards to law-enforcement officers for extraordinary valor in the line of duty and for exceptional contribution in the field of law enforcement.

A little less than 2 years ago, certain elements of our society found it convenient, and even popular, to attempt to make a policeman or a fireman the scapegoat of the various ills affecting our great Nation. The cries of gestapo and pig reverberated through our streets and campuses and came directly into our homes via television and radio. This development was a national disgrace.

As a former U.S. attorney, a former State legislator, and as a U.S. Senator, I am pleased to see this un-American phenomenon fade from our national scene. The determination of President Nixon to restore the faith and respect of this Nation in our peace officers, the sense of urgency felt in Congress to stop the unprecedented and unparalleled wave of lawlessness in our Nation, and the recognition by the law enforcement leaders of our communities of the need to be responsible to as well as responsible for, the public has served to strengthen the forces of law, order, and justice. It is only fit and proper that the devoted men and women who risk their very lives to protect us from those in our society who endanger our lives and destroy our property in violation of our laws be afforded a formalized and continued manner of national recognition.

It is with this goal in mind that I originally introduced a bill to create these law enforcement awards. The Department of Justice has indicated its strong support of the bill. Unfortunately, because of the press of time, the Judiciary Committee, which has been doing a tremendous job in getting this crime bill ready, has not been able to report on my original measure.

I am therefore offering the substance of my bill as an amendment to the Omnibus Crime Control and Safe Streets Act Amendments of 1970 now before us. I hope this amendment will have the support of the distinguished Senator from Arkansas (Mr. McClellan) and the distinguished Senator from Nebraska (Mr. Hruska).

I ask unanimous consent that the amendment be printed in the Record at this point.

The PRESIDING OFFICER (Mr. Eagleton). The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the Record.

The amendment (No. 1035) is as follows:

AMENDMENT NO. 1035

On page , line , insert the following new title:

"TITLE —PRESIDENT'S AWARD FOR DISTINGUISHED LAW ENFORCEMENT SERVICE

"Sec. . This title may be cited as the "Distinguished Law Enforcement Service Act".

"Sec. . There is hereby established an honorary award for the recognition of outstanding service by law enforcement officers of State, county, or local governments. The award shall be known as the President's Award for Distinguished Law Enforcement Service. Each award shall be suitably inscribed and an appropriate citation shall accompany each award.

"Sec. . The President's Award for Distinguished Law Enforcement Service shall be presented by the President, in the name of the President and the Congress of the United States, to law enforcement officers, including corrections officers, for extraordinary valor in the line of duty or for exceptional contribution in the field of law enforcement.

"Sec. . The Attorney General shall advise and assist the President in the selection of persons to whom the award shall be tendered. In performing this function, the Attorney General shall review recommendations submitted to him by State, county, or local government officials, and shall decide which of them, if any, warrant presentation to the President. The Attorney General shall transmit to the President the names of those persons determined by the Attorney General to merit the award, together with the reasons therefor. Recipients of the award shall be selected by the President.

"Sec. . There shall not be awarded in any one calendar year in excess of twelve such awards.

"Sec. . The Department of Justice shall list in its annual budget request a sum of money equal to that necessary to carry out the provisions of this Act."

AMENDMENTS NOS. 1036 AND 1037

Mr. HART. Mr. President, I am submitting today two amendments intended to be proposed by me to H.R. 17825, which will be considered by the Senate shortly. These amendments would strengthen the Safe Streets Act by insuring, first, that the Law Enforcement Assistance Administration has adequate resources for the urgent task of aiding local law enforcement and, second, by insuring that the added moneys are channeled where the need is greatest. I offered esesntially similar amendments in the Committee on the Judiciary.

One amendment would increase the funds available for discretionary grants from the LEAA directly to local agencies. This would enable LEAA to give extra support to local law enforcement in high crime urban areas; it would "put the money where the crime is."

The second amendment would increase the overall authorization for the safe streets program from the level proposed by the committee bill. For fiscal 1971, my amendment would authorize a full $1 billion, while the committee bill authorizes only $650 million. The amendment authorizes $1.5 billion and $2 billion in fiscal 1972 and 1973, respectively. The committee bill authorizes only $1,150 million and $1,750 million for those 2 years.

These higher funding levels for LEAA would permit the program of block grants to the States to continue undiminished even though the discretionary grant portion is increased. In fact, under my amendments more financial aid would be available for block grants than would be available under the present 85-percent allocation to block grants at the funding levels in the committee bill.

I ask unanimous consent that the amendments be printed and that they also be printed in the Record at the conclusion of these remarks.

The PRESIDING OFFICER (Mr. Hanson). The amendments will be received and printed, and will lie on the table; and, without objection, the amendments will be printed in the Record.

The amendments (Nos. 1036 and 1037) are as follows:

AMENDMENT NO. 1036

On page 33, line 3, strike "$650,000,000" and insert "$1,000,000,000" in lieu thereof,

On page 33, line 5, strike "$1,150,000,000" and insert "$1,500,000,000" in lieu thereof, and

On page 33, line 7, strike "$1,750,000,000" and insert "$2,000,000,000" in lieu thereof.

AMENDMENT NO. 1037

On page 21, line 17, strike "Eighty five per centum" and insert in lieu thereof "Sixty six and two-thirds per centum," and on line 23, strike "Fifteen per centum" and insert in lieu thereof "Thirty three and one-third per centum."

AMENDMENT OF SECTION 837, TITLE 18, UNITED STATES CODE—AMENDMENT

AMENDMENT NO. 1038

Mr. HART submitted an amendment, intended to be proposed by him, to the bill (S. 3650) to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 1040

Mr. HRUSKA submitted an amendment, intended to be proposed by him, to Senate bill 3650, supra, which was ordered to lie on the table and to be printed.

ASSAULT, ASSASSINATION, OR KIDNAPING OF A MEMBER OF CONGRESS OR A MEMBER OF CONGRESS-ELECT—AMENDMENT

AMENDMENT NO. 1039

Mr. HART submitted an amendment, intended to be proposed by him, to the bill (S. 642) to make it a Federal offense to assassinate, kidnap, or assault a Member of Congress or a Member of Congress-elect, which was ordered to lie on the table and to be printed.

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ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 8 o'clock and 59 minutes p.m.) the Senate adjourned until tomorrow, Thursday, October 8, 1970, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 7, 1970:

Office of Economic Opportunity

John Oliver Wilson, of Connecticut, to be an Assistant Director of the Office of Economic Opportunity, vice William P. Kelly, Jr.

Bureau of Mines

Elburt Franklin Osborn, of Pennsylvania, to be Director of the Bureau of Mines, vice John F. O'Leary, resigned.

U.S. Army

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Jonathan Owen Seaman, 224-52-3830, Army of the United States (major general, U.S. Army).

The following-named officers to be placed on the retired list in grades indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Ferdinand Joseph Chesarek, 224-52-4856, Army of the United States (major general, U.S. Army).

To be lieutenant general

Lt. Gen. Austin Wortham Betts, 081-22-5961, Army of the United States (major general, U.S. Army).

UNESCO Representatives

The following-named persons to be representatives of the United States of America to the 16th session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization:

John Richardson, Jr., of Virginia.
Louise Gore, of Maryland.
Pierre R. Graham, of Illinois.
Harold Taft King, of Colorado.
Kimon T. Karabatsos, of Virginia.

The following-named persons to be alternate representatives of the United States of America to the 16th session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization:

Edward T. Brennan, of Massachusetts.
Edward O. Sullivan, Jr., of New York.
R. Miller Upton, of Wisconsin.
Tom R. Van Sickle, of Kansas.

Louise Gore, U.S. member of the Executive Board of the United Nations Educational, Scientific, and Cultural Organization, to serve on the Executive Board with the rank of Ambassador.

U.S. Circuit Courts

Paul H. Roney of Florida, to be a U.S. circuit judge, fifth circuit, vice George H. Carswell, resigned.

U.S. District Courts

William C. Frey, of Arizona, to be a U.S. district judge for the district of Arizona vice a new position created by Public Law 91-272, approved June 2, 1970.

Samuel Conti, of California, to be a U.S. district judge for the northern district of California vice a new position created by Public Law 91-272, approved June 2, 1970.

Gordon Thompson, Jr., of California, to be a U.S. district Judge for the southern district of California vice a new position created by Public Law 91-272, approved June 2, 1970.

J. Clifford Wallace, of California, to be a U.S. district judge for the southern district of California vice a new position created by Public Law 91-272, approved June 2, 1970.

Peter T. Fay, of Florida, to be a U.S. district judge for the southern district of Florida vice a new position created by Public Law 91-272, approved June 2, 1970.

James L. King, of Florida, to be a U.S. district judge for the southern district of Florida vice a new position created by Public Law 91-272, approved June 2, 1970.

Gerald B. Tjoflat, of Florida, to be a U.S. district judge for the middle district of Florida vice a new position created by Public Law 91-272, approved June 2, 1970.

Charles A. Moye, Jr., of Georgia, to be U.S. district judge for the northern district of Georgia vice a new position created by Public Law 91-272, approved June 2, 1970.

William C. O'Kelley, of Georgia, to be a U.S. district judge for the northern district of Georgia vice a new position created by Public Law 91-272, approved June 2, 1970.

C. Rhodes Bratcher, of Kentucky, to be a U.S. district judge for the western district of Kentucky vice a new position created by Public Law 91-272 approved June 2, 1970.

John Feikens, of Michigan, to be a U.S. district judge for the eastern district of Michigan vice a new position created by Public Law 91-272 approved June 2, 1970.

Philip Pratt, of Michigan, to be a U.S. district judge for the eastern district of Michigan vice a new position created by Public Law 91-272 approved June 2, 1970.

Clarkson S. Fisher, of New Jersey, to be a U.S. district judge for the district of New Jersey vice Reynier J. Wortendyke, Jr., a retired.

John J. Kitchen, of New Jersey, to be a U.S. district judge for the district of New Jersey vice a new position created by Public Law 91-272 approved June 2, 1970.

Frederick B. Lacy, of New Jersey, to be a U.S. district judge for the district of New Jersey vice a new position created by Public Law 91-272, approved June 2, 1970.

Robert B. Krupansky, of Ohio, to be a U.S. district judge for the northern district of Ohio, vice a new position created by Public Law 91-272 approved June 2, 1970.

Nicholas J. Walinski, Jr., of Ohio, to be U.S. district judge for the northern district of Ohio, vice Gerald E. Kalbfleisch, retired.

Owen D. Cox, of Texas, to be a U.S. district judge for the southern district of Texas vice a new position created by Public Law 91-272 approved June 2, 1970.

Robert M. Hill, of Texas, to be a U.S. district judge for the northern district of Texas vice a new position created by Public Law 91-272 approved June 2, 1970.

William M. Steger, of Texas, to be U.S. district judge for the eastern district of Texas vice a new position created by Public Law 91-272 approved June 2, 1970.

John H. Wood, Jr., of Texas, to be a U.S. district judge for the western district of Texas vice a new position created by Public Law 91-272, approved June 2, 1970.

Department of Justice

George J. Long, Jr., of Kentucky, to be U.S. attorney for the western district of Kentucky for the term of 4 years vice Ernest W. Rivers, resigned.

EXTENSIONS OF REMARKS

POPE PAUL VI AND PRESIDENT NIXON SEND GREETINGS TO THE MOST REVEREND CHRISTOPHER J. WELDON, D.D., FOURTH BISHOP OF ROMAN CATHOLIC DIOCESE OF SPRINGFIELD, MASS., AND TO PEOPLE OF GOD IN THE DIOCESE ON OCCASION OF 100TH ANNIVERSARY OF ESTABLISHMENT OF DIOCESE OF SPRINGFIELD BY POPE PIUS IX IN 1870

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. BOLAND. Mr. Speaker, the 100th anniversary of the creation of the Roman Catholic diocese of Springfield, Mass., was celebrated in solemn and memorable services in St. Michael's Cathedral, Springfield, on Saturday, September 26.

More than 1,000 of the people of God assembled in the beautiful cathedral for the Mass of Thanksgiving, whose principal celebrant was the Most Reverend Luigi Raimondi, apostolic delegate to the United States, who imparted the apostolic blessing of Pope Paul VI on those attending.

The mass was sung in the presence of more than a score of archbishops, bishops, monsignori, priests, and nuns of the diocese. Adding an ecumenical note to the occasion was the presence of the Right Reverend Alexander D. Stewart, the new and recently consecrated bishop of the Episcopal diocese of western Massachusetts; Rabbi Herman E. Snyder, rabbi emeritus of Sinai Temple in Springfield, and several ministers of Protestant denominations.

Concelebrating the mass with Archbishop Raimondi were the Most Reverend Christopher J. Weldon, D.D., fourth bishop of the diocese of Springfield; Auxiliary Bishop Thomas J. Riley of the mother archdiocese of Boston; Bishop Bernard J. Flanagan of Worcester and Auxiliary Bishop Timothy J. Harrington of the diocese of Worcester; the Right Reverend Monsignor Walter C. Connell, prothonotary apostolic and vicar general of the Springfield diocese; Rt. Rev. Msgr. Timothy J. Leary, rector of St. Michael's Cathedral; Rt. Rev. Msgr. Eugene E. Guertin, pastor of St. Rose de Lima Church, Aldenville, Mass.; Rev. John E. Aubertin, pastor of St. John Cantius Church, Northampton, Mass.; Very Rev. Adam Zajdel, O.F.M. Conv., president of St. Hyacinth College and Seminary, Granby, Mass., and Rev. Camillo Santini, C.S.S., pastor of Our Lady of Mount Carmel Church, Springfield.

Mr. Speaker, I attended the Thanksgiving mass and the dinner which followed with my colleague from western Massachusetts, Congressman SILVIO O. CONTE, whose congressional district also embraces the diocese of Springfield. Joining us was the distinguished senior Senator from Massachusetts, Senator Edward M. Kennedy.

The program of sacred music was one of the finest I have ever heard sung at mass. This excellent presentation was by the choir of St. Paul's Choir School in Cambridge, Mass., under the direction of Theodore Marier. The enthusiastic singing participation by the congregation, under the leadership of Rev. James P. Sears, director of music for the diocese of Springfield, reached its peak with the offertory hymn, "The Church's One Foundation."

President Richard M. Nixon telegraphed his greetings to Bishop Weldon and the religious and laity of the diocese, and Archbishop Raimondi read the greetings of Pope Paul VI.

Mr. Speaker, on this momentous occasion of the centennial of the creation of the diocese of Springfield by Pope Pius IX in 1870, I have included with my remarks in the Record the messages from Pope Paul VI and President Nixon, Richard Cardinal Cushing, archbishop of Boston, Bishop Weldon, to the people of God of the diocese of Springfield; a translation from Latin of the decree by Pope Pius IX establishing the diocese of Springfield on June 14, 1870. Also, messages from Senator Kennedy, Mayor Frank H. Freedman, of Springfield, and my message; the sermon of Archbishop Raimondi and news stories from the Springfield Sunday Republican of September 27, 1970.

Telegram From President

The White House,
Washington, D.C., September 25, 1970.

Most Rev. Christopher J. Weldon,
Roman Catholic Bishop of Springfield,
Springfield Mass.:

It is a great pleasure to greet you and all the members of the Roman Catholic Diocese of Springfield as you celebrate its one hundredth anniversary. In the decade of the seventies, the work of America's religious institutions will be more needed than ever and the proud history of your diocese contains many examples of civic-minded men and women inspired by their faith to meet the responsibilities of community life just as this milestone is an inspiration for all your fellow citizens, so too I am confident will it set the tone of another ten decades of spiritual and moral leadership which will assist us all in recording new victories in our unwavering search for human dignity and social justice.

Richard Nixon.

Cablegram From Pope

Vaticano.

Auspicious occasion hundred years Diocese of Springfield. Holy Father joining in joy of diocese imparts participants ceremonies and all faithful of Springfield, Massachusetts special apostolic blessing.

Cardinal Villot,
Vatican Secretary of State.

Brighton, Mass.,
September 1, 1970.

The Most Reverend Christopher J. Weldon,
Springfield, Mass.

Dear Bishop Weldon: With my heart's full measure of love, blessings and felicitations, I send you this message of greetings and good wishes on the occasion of the centennial celebration of the Diocese of Springfield. This is a year indeed which the Lord has made!

I have happy memories of your consecration as a bishop on March 24, 1950 and your subsequent installation as the fourth bishop of Springfield. During the past twenty years we have been more than neighboring bishops. We have been spiritual shepherds with common aims and interests. We have been mindful at all times of our responsibility to bring the good news of the gospel to those whom we are privileged to serve. In the words of The Pastoral Constitution On The Church In The Modern World: "All pastors should remember that by their daily conduct and concern they are revealing the face of the church to the world and men will judge the power and truth of the Christian message thereby. By their lives and speech, in union with religious and the faithful, may they demonstrate that the church is an unspent fountain of those virtues which the modern world needs the most. . . . It is more necessary than ever that priests, under the guidance of the bishops and the supreme pontiff, erase every cause of division so that the whole human race may be led to the unity of God's family."

To your faithful priests and religious, to the wonderful people of western Massachusetts under your jurisdiction and to you, my dear Bishop, I offer my heartfelt congratulations. I pray that you may find continued happiness and fulfillment in your apostolic work. I am confident that the Diocese of Springfield, faithfully adhering to the gospel, will continue to "foster and elevate all that is found to be true, good and beautiful in the human community and will strengthen peace among men for the glory of God."

Asking a remembrance in your prayers and wishing you every blessing, I am

Yours fraternally in Christ,
Richard Cardinal Cushing.
Archbishop of Boston.

Bishop's Residence,
Springfield, Mass., September 26, 1970.

Dear Friends: It is a pleasant duty to welcome you in the name of the People of God of the Diocese of Springfield to our diocesan centennial celebration.

This is an event which puts all of us for a moment into the center of a continuum. It cannot be understood without reference to the past or to the future.

The past is easier to evaluate because its symbols surround us. The Diocese is today no less than the sum total of the efforts of a legion of priests, Religious and laity who down the years cooperated with God's grace and poured out their lives and their labor for its progress. Truly, the words of Scripture apply to them: "By their fruits you will know them." In every county of the Diocese—and in Worcester county as well—stand the proofs of their dedication: the crosses above the churches, schools, convents, rectories and myriad charitable institutions.

But more importantly, there stands also a host of families whose members continue to draw upon the heritage of the past to enrich the parishes, the towns and cities of the present.

The Christian, who must be concerned for the future, cannot stop long to count and recount his inheritance. He must, as did the prudent servant of Scripture, invest what he has received. He must take the heroic efforts of the pioneers and the self-sacrifice of his forebears and add to them his own effort, his own dedication. Each generation contributes to the building of the Kingdom of God; none completes it.

This centennial celebration, then, is a pause between centuries. May that pause help us to appreciate more deeply a century past and challenge us to move prayerfully into a century ahead with gratitude for what has been done and with awareness of what still needs to be done.

Let us be conscious of, use effectively and glory in the bonds of Christ's love that unite us to one another, particularly to His Vicar on earth, our beloved Holy Father, Pope Paul VI.

Sincerely yours in Christ,
Christopher J. Weldon,
Bishop of Springfield.

A Translation of the Decree of Establishment—Pope Pius IX

The Record of an Act—In the discharge of heavy responsibilities incumbent upon Our pastoral office, We are accustomed to perform with an eager and willing heart all those acts which We acknowledge to be important to the good of the Christian cause and to the advantage and welfare of the Lord's flock.

Our Venerable Brothers, the Archbishop and Bishops of the ecclesiastical Province of New York in the United States of America have earnestly requested that We separate from the very extensive Diocese of Boston, which lies within the limits of this New York Province, some sections, to wit, those counties which bear the name of Berkshire, Franklin, Hampshire, Hampden and Worcester, and that from these counties We erect by virtue of Our Apostolic Authority a new See in the State of Massachusetts.

The matter has been carefully and maturely considered by their Eminences, the Cardinals charged with the Propagation of the Faith. Since We recognize that this would greatly enhance the welfare of religion and cause an increase of the Faith, We are favorably inclined to comply with this request and have decided with the advice of Our Venerable Brothers to proceed to the erection of a new See in the State of Massachusetts.

Wherefore, from the fullness of Our Apostolic Power, We hereby create a new Diocese in the State of Massachusetts, which will be composed of the Counties of Berkshire, Franklin, Hampshire, Hamden and Worcester. Accordingly, we separate those counties from the Diocese of Boston, and free them altogether from the jurisdiction of its Bishop and cede them to this new Diocese.

The new Diocese is constituted a Suffragan See of the Bishop of New York, Its Episcopal See is established in the City of Springfield and We order that this Diocese is to derive its name from that self-same City.

We further enjoin that this new Diocese of Springfield is fully to enjoy all the rights, honors and privileges which are enjoyed by other Bishoprics.

This We order and command ordaining that this document is and will remain an enduring and valid one and that it possesses full and integral force. We also ordain that it must be sustained fully and in every way by those to whom it may concern and in time might concern. We further order that it must be defined and interpreted by those ordinary Judges and even those delegated Auditors of the Apostolic Palace. Finally, We enjoin that it would be null and void for anyone by whatever authority to seek either knowingly or not to annul this document.

Notwithstanding Our legal regulation and that of the Apostolic Chancery whereby vested rights are not to be taken away and the legislation of Our Predecessor Benedict XIV on the separation of goods and notwithstanding all other general or special Constitutions and Ordinances, whether Apostolic or promulgated by universal, provincial or synodal councils, and all other things to the contrary.

Given at St. Peter's, Rome, under the Seal of the Fisherman the fourteenth day of June 1870, the twenty-fifth of Our Pontificate.

For his Lordship,
Cardinal Paracciani Clarelli.
F. Profili,
Substitute.

Seal of Pope Pius IX.

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U.S. Senate,
Washington, D.C., August 1, 1970.
The Most Rev. Christopher J. Weldon,
Bishop's Residence,
Springfield, Mass.

Your Excellency: It gives me great pleasure to join in the 100th anniversary celebration of the establishment of the Diocese of Springfield. On this historic occasion, we look with pride to the spiritual and community leadership that has grown within the Diocese over the past century. And we look with confidence to the future of continued growth and service.

With my respectful regards, and my gratitude to you for your twenty years of dedicated service to the Diocese of Springfield.

Sincerely,
Edward M. Kennedy.

City of Springfield, Mass.,
September 9, 1970.
The Most Reverend Christopher J. Weldon,
Bishop of Springfield, Bishop's Residence,
Springfield, Mass.

Your Excellency: It is an honor for me, as Mayor of the City of Springfield, to host the centennial observance of the Diocese of Springfield and to take part in the celebration of the Mass of Thanksgiving noting 100 years of service to God and our community.

Equally important, it is a source of great personal pleasure to be able to express my own deep friendship for you and for the members of your flock by joining in observing this 100th anniversary of the founding of the diocese. Springfield and the entire area have benefited tremendously from the labors and the accomplishments of our friends of the Catholic faith, and I am happy to be given the opportunity to exemplify the gratitude of the entire community on such an auspicious occasion.

May I extend a most cordial welcome to the Most Reverend Luigi Raimondi, D.D., Apostolic Delegate to the United States, to all the visiting clergy and to members of the laity and officials on this 100th anniversary, and a wish for many more years of the cordial relationship which has existed between us personally and among all persons of all faiths in our home area.

With warmest personal regards,
Frank H. Freedman,
Mayor of Springfield.

House of Representatives,
August 14, 1970.
Most Reverend Christopher J. Weldon, D.D.,
Roman Catholic Bishop of Springfield,
Springfield, Mass.

Dear Bishop Weldon: On this momentous and solemn occasion marking the Centennial of the establishment of the Roman Catholic Diocese of Springfield, I wish to bring the greetings of the Congress of the United States to Your Excellency, the Monsignori, priests, religious brothers and sisters, and the laity of Western Massachusetts.

Our immigrant forebears who came onto American shores during the 19th Century in search of economic opportunity or in flight from political oppression were proud and impoverished people. They brought with them multiple native cultures, a tremendous capacity for hard work, a love of family, and a deep and abiding faith in their Catholic religion.

Pope Pius IX in 1870 created the See of Springfield embracing some 100,000 laity, 43 priests, two orders of religious nuns and 38 parishes in Central and Western Massachusetts, and the College of the Holy Cross in Worcester. Succeeding decades saw a fantastic growth of the Diocesan population and a manifestation of the zeal of the Bishops of Springfield, the priests and the nuns in their mission to preach, to teach, and to pray; to care for the sick and the elderly; and to fight the unceasing battle for social justice.

I join with all people of good will in our community in praying for you and the continuing successful benefits of the Diocese of Springfield as you offer Thanksgiving Mass to Almighty God on this Centennial Anniversary.

Respectfully yours,
Edward P. Boland,
Member of Congress.

Apostolic Delegate's Talk

(Note.—The following is the text of the message given by Archbishop Luigi Raimondi, Apostolic Delegate to the United States, at the end of the Mass of Thanksgiving marking the 100th anniversary of the Diocese of Springfield.)

When your beloved Bishop Weldon asked me to share in your festivities commemorating the centennial of the Diocese, I accepted with pleasure and gratitude.

Nothing could give greater satisfaction to the Holy Father's representative than to be able to have his presence felt whenever any portion of the Church is experiencing a significant moment in its life.

This is certainly true in the case of the Diocese of Springfield today.

Established one hundred years ago, this Diocese, under the wise and zealous guidance of dedicated prelates, has developed along the lines of a solid Christian spirit.

The many institutions, churches, and organizations, which have sprung up during the century of its existence, stand as witness to the faith, loyalty and spiritual sensibility of this splendid community.

Formed of groups diverse in origin and cultural background, the faithful of Springfield have found in the Church, in the bishops, priests and religious a unifying element; the Church has been their spiritual home—in a sense—their mother.

Their Christian life has been assiduously cared for; the sacraments nourished their souls; in a spirit of brotherhood they found a genuine sense of community; in their common effort they found the solution to many moral and spiritual problems.

The ceremony of today takes on the character of grateful recollection and remembrance, of thanksgiving for the accumulated benefits received and inherited, and it also offers an opportunity of pausing, in order to assess the work done, what has been achieved and what remains to be done.

The problems of our age are different in many ways from those of yesterday.

* * * * *

The Church and its individual members have to adapt themselves to these external changes, lest they be cut off from the mainstream of life.

It is clear, however, that this adaptation does not mean a departure from the love and loyalty due to Christ and His Church as founded by Him.

It is from this Church that we continue to receive the benefits of the redemption wrought by Christ.

It is in this Church that the means of sanctification are deposited and in it that we have to live our lives as children of God.

Methods and means may vary, but not the essentials.

As a result of the Second Vatican Council and under the inspiration and guidance of Pope John XXIII and Pope Paul VI, the faithful all over the world, while striving to overcome initial difficulties and uncertainties related to the spirit of the renewal movement set in action, are most anxious to respond to their vocation and to fulfill the duties which are theirs by reason of their baptism, their acceptance of the faith and their dignity as sons of God.

We are hopeful because of these new and promising developments.

Everywhere we find signs of searching for new depths and for commitment to the apostolic tasks of the Church.

We realize that this challenge is not exempt from dangers, illusions and, perhaps, overconfidence and reliance not so much on the power of the Holy Spirit but rather on purely human resources.

The mission to be carried out is not our own, but Christ's; the means are not those of human wisdom, but those willed and guaranteed in efficacy by Christ Himself.

What is most expected is that in all things we proceed with genuine faith, in full awareness of the constant loving presence, the action, the power and the love of God.

Viewed at that level, the Church is strong, not so much because of the determination of her own members, but because of the power of grace made effective through their humble service.

The lesson of the past calls for renewed determination, a new awareness of our Christian responsibility to measure up to and to accept our duties as Christians, as people enjoying salvation through Christ and called to cooperate in building up the kingdom of God on earth in a spirit of justice and charity.

As the Council put it so precisely:

"Our work as Christians is to be directed to manifest Christ's message by words and deeds, and also to penetrate and perfect the temporal sphere with the spirit of the Gospel" (Decree on the Apostolate of the Laity, n. 5).

We may add that this tremendous task calls for unity and wholehearted cooperation with those who have received from Christ the grace and the charisma to perform those essential services in the Church which are contained in the office of authentic teachers of the faith, ministers of the grace and leadership of the People of God.

This has been the beautiful example and the precious heritage of the generations throughout the first ten decades of this Diocese's history.

And we like to see the future of Springfield in this perspective.

For this we have been praying this afternoon.

Today is a milestone in the life of this exemplary and loyal community, but it must also be the beginning of a new era of generous Christian service, of praiseworthy Christian spirit, of dedicated selfless Christian responsibility.

On this special day of rejoicing and celebration, I wish to congratulate your dear Bishop very warmly; his untiring service for twenty years finds a most deserved reward today.

Our cordial congratulations also go to the devoted and loyal priests, cooperating zealously with him, and indeed these sentiments extend to the entire Diocese.

I am particularly happy, then, to announce the paternal participation of the Holy Father in this historic and beautiful event, as expressed in the following message. . . .

"Auspicious occasion, hundred years Diocese of Springfield, Holy Father, joining in joy of Diocese, imparts participants ceremonies and all faithful of Springfield, Massachusetts, special apostolic blessing.

"Cardinal Villot".

Catholic Diocese Marks 100 Years

[From the Sunday Republican, Sept. 27, 1970]

Celebration of the 100th anniversary of the Diocese of Springfield began Saturday in St. Michael's Cathedral.

Principal celebrant of the Mass of thanksgiving was Archbishop Luigi Raimondi, apostolic delegate to the United States, who brought a greeting from Pope Paul VI and the blessing of the Vatican.

The Mass was offered in the presence of

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more than a score of archbishops and bishops, a large number of priests and nuns, representatives of all parishes in the diocese and all faiths, and civic dignitaries, including Mayor Frank H. Freedman.

Celebrating the Mass with Archbishop Raimondi were four bishops, The Most Rev. Christopher J. Weldon of Springfield; the Most Rev. Bernard J. Flanagan and the Most Rev. Timothy J. Harrington, both of Worcester, and the Most Rev. Thomas J. Riley of Boston.

Several special practices were observed during the service.

Parishioners exchanged the "sign of peace," and received an ancient custom, centennial commemorative medallions struck for the occasion and bearing the message of peace and a map of the diocese.

The prayers of intercession were read in 10 languages, representing the major ethnic groups which make up the diocese. The languages were English, French, Polish, Lithuanian, Italian, Slovak, Spanish, Lebanese, Portuguese and Gaelic.

Ten youngsters from the Cathedral Elementary School presented gifts of altar decorations during the offertory. The gifts were received by Archbishop Raimondi.

The nearly two-hour Mass of thanksgiving was preceded by a procession of dignitaries, led by an honor guard from the Fourth Degree of the Knights of Columbus, in special crimson and black costume, and carrying the American, State and diocesan flags.

The procession formed at the school. Following a thurifer, crucifer and two acolytes were members of the clergy, which included priests, nuns of various orders, seminarians Rabbi Herman E. Snyder and several Protestant ministers.

At the chancery office, Knights of Malta, in long, black robes, and the Ladies of Malta, in long, black dresses and veils, joined the procession with the Knights of the Holy Sepulchre.

At this point, the concelebrants joined the line.

At the cathedral rectory, the three archbishops and 20 bishops who participated in the service took their positions. Each of the prelates was accompanied by two priest-chaplains.

The procession wound down Elliot Street to the front of the cathedral and entered to an organ processiona, Bach's Fantasy in G Major. The congregation joined in the refrain of the processional hymn, "Lift High the Cross," sung by the choir.

Music for the Mass was provided by the St. Paul Choir School of Cambridge under the direction of Theodore Marier. John Dunn was organist and Edward Haugh, trumpeter. Cathedral organist was George Hart.

Upon entering the sanctuary, Archbishop Raimondi bearing the gilt, jeweled staff, incensed the altar and gave the greeting and penitential rite.

Following the singing of the Kyrie ("Lord have mercy; Christ have mercy") the service continued with the Liturgy of the Word, necessary preparation for the Liturgy of the Eucharist.

The first reading, from Deuteronomy 7, 6-9, was read by Earl V. Gauntt, lector. The second reading, from the First Epistle of Peter, 2, 4-10, was given by Harry G. Graham, lector.

Following each reading, the Bible was kissed by the Archbishop.

[From the Sunday Republican Sept. 27, 1970]

DIOCESE LOYALTY PRAISED

A message of congratulations on the 100th anniversary of the creation of the Diocese of Springfield was carried to St. Michael's Cathedral Saturday by the papal representative from Rome.

Archbishop Luigi Raimondo, apostolic delegate to the United States, was the principal celebrant of the Mass of thanksgiving the beginning of Diocesan centennial observances.

"Today is a milestone in the life of this exemplary and loyal community," he said. "But it must also be the beginning of a new era of generous Christian service, of praiseworthy Christian spirit, of dedicated, selfless Christian responsibility."

Archbishop Raimondo praised the Diocese's loyalty to the papal seat in Rome and its dedication in the following decision of the Vatican.

He said church officials were "hopeful" because of "new and promising developments" of the Second Vatican Council.

"The Church and its individual members have to adapt themselves to these external changes, lest they be cut off from the mainstream of life," he said.

"The celebration of today takes on the character of grateful recollection and remembrance, of thanksgiving for the accumulated benefits received and inherited, and it also offers an opportunity of pausing, in order to assess the work done, what has been achieved and what remains to be done," Archbishop Raimondo said.

"This Diocese, under the wise and zealous guidance of dedicated prelates, has developed along the lines of a solid Christian spirit," he said. "The many institutions, churches, schools and organizations which have sprung up during the century of its existence stand as witness to the faith, loyalty and spiritual sensibility of this splendid community."

POPE PAUL VI AND PRESIDENT NIXON SEND GREETINGS TO THE MOST REVEREND CHRISTOPHER J. WELDON, D.D., FOURTH BISHOP OF ROMAN CATHOLIC DIOCESE OF SPRINGFIELD, MASS., AND TO PEOPLE OF GOD IN THE DIOCESE ON OCCASION OF 100TH ANNIVERSARY OF ESTABLISHMENT OF DIOCESE OF SPRINGFIELD BY POPE PIUS IX IN 1870

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. CONTE. Mr. Speaker, on September 26 the Roman Catholic diocese of Springfield, Mass., celebrated its 100th year anniversary, a truly memorable occasion in the lives of all the religious and laity of that diocese.

I was honored to be invited to both the Mass of Thanksgiving at St. Michael's Cathedral in Springfield and to the centennial banquet which followed at the Highpoint Motor Inn, Chicopee.

The Most Reverend Christopher J. Weldon, bishop of the Springfield diocese since 1950, celebrated the mass and delivered a stirring sermon on the church, the diocese, and the role it has played in western Massachusetts over the years and during these changing times.

The occasion was a joyous one of thanksgiving and celebration. The beauty of the recently remodeled cathedral, the splendor of the music, and the obvious enthusiasm of the participants all blended with the glory of the mass to make the occasion an unforgettable one for those who had the honor of attending.

More than 1,000 persons attended the banquet following the mass and were thrilled by a most powerful talk on the role of the church by the Most Reverend Luigi Raimondi, D.D., the apostle delegate to the United States.

Along with my good friend and colleague, the gentleman from Massachusetts (Mr. BOLAND), I felt a great pride in being a member of this fine diocese which has made such great progress over the decades.

The See of Springfield was created by Pope Pius IX in 1870. At that time the four western counties that comprised the diocese held nearly 100,000 Catholics, 38 parishes, and 43 diocesan priests.

The first bishop was Patrick Thomas O'Reilly, a native of Ireland and, at 37 years of age, a man possessed of great capacity for work. This was a fortunate attribute for the infant diocese as he began a tradition of ceaseless work for Springfield bishops that has carried down to the present day.

Today the diocese under Bishop Weldon has 427 priests serving in 136 parishes and 115 missions, stations, and chapels, as well as 38 brothers and 631 sisters staffing 10 high schools, 52 elementary schools, two homes for the aged, two orphanages, and four hospitals.

Mr. Speaker, these impressive statistics of growth, as inspiring as they are, certainly do not tell the entire story of the Springfield diocese's first 100 years.

They only indicate how a strong Christian life has been emphasized throughout those four counties. They only hint at the faith in God that has been fostered and strengthened, the solace that has been given to thousands, and the love that has been given to all through the teachings of God.

These were the real accomplishments that were celebrated at that very impressive ceremony and banquet in Springfield last month. And these are the thoughts and impressions I wanted to share with my colleagues today as I take this opportunity to congratulate all of the faithful of the Springfield diocese as they begin their second century of service to God.

At this time, Mr. Speaker, I would like to include with my remarks in the RECORD the letter from President Nixon, messages from Archbishop Raimondi, Massachusetts Gov. Francis W. Sargent, Senator EDWARD W. BROOKE, and my message; also Bishop Weldon's homily for the centennial mass, and the newsstory from the diocesan newspaper, The Catholic Observer of October 2, 1970, detailing the centennial celebration:

THE WHITE HOUSE, *Washington, D.C.*,
July 22, 1970.

To the members of the Diocese of Springfield, Mass.:

It is a great pleasure to send each of you my warm congratulations on the one hundredth anniversary of your Diocese, and to express the hope that the occasion will be as memorable as the community service it reflects.

Your leadership in the future will be more needed than ever. And I know that it will continue to help America record new vic-

XUM

tories in our unwavering search for true human dignity and social justice.

May you continue to derive joy and satisfaction from the strength and success of your commitment to this goal.

RICHARD NIXON.

APOSTOLIC DELEGATION,
UNITED STATES OF AMERICA,
Washington, D.C., July 20, 1970.

The Most Rev. CHRISTOPHER J. WELDON,
Bishop of Springfield,
Springfield, Mass.

YOUR EXCELLENCY: On the joyous occasion of the Centenary Anniversary of the Diocese of Springfield, it gives me great pleasure to extend to you my heartiest congratulations and prayerful best wishes.

This is indeed a memorable and significant occasion which commemorates great accomplishments for the honor and glory of God. During these one hundred years the Shepherds of the Diocese of Springfield as well as the clergy, religious, and apostolic laity have striven whole-heartedly for the propagation of the faith, their own spiritual perfection, and the salvation of souls.

I know that this Anniversary will be replete with special blessings from on high, and it is while conscious of this that I join Your Excellency and the Flock of the Diocese of Springfield in offering thanks to God for His many graces and countless blessings of the past, and a prayer that the future will be marked with plentiful benediction.

With renewed felicitations and sentiments of esteem, I remain

Sincerely yours in Christ,

LUIGI RAIMONDI,
Apostolic Delegate.

THE COMMONWEALTH OF MASSACHUSETTS,
State House, Boston, July 21, 1970.

The Most Rev. CHRISTOPHER J. WELDON,
Bishop's Residence,
Springfield, Mass.

YOUR EXCELLENCY: I am pleased to extend the greetings of the Commonwealth to you, the clergy, and laity of the Roman Catholic Diocese of Springfield on the occasion of the 100th Anniversary of the establishment of the Diocese.

I note also that this year you are observing your Twentieth Anniversary as the fourth Ordinary of the Diocese of Springfield.

In this dual observance the people of the Springfield Diocese have much for which to be grateful.

The Catholic Church, like most institutions of society today, faces the task of renewing its mandate in order to better meet the needs of today's world.

However, for both Church and Government, the task of renewal does not mean we must abandon cherished traditions. We must make of these traditions viable instruments in the renewal process.

And so, as you observe the 100th Anniversary of the establishment of your Diocese, as you note the progress made, you have all the more reason to appreciate the rich harvest which your traditions have made possible.

I extend my hope that in its second century of service, the Diocese of Springfield will continue to enjoy the choicest blessings of Providence.

With best wishes,

Sincerely,

FRANCIS W. SARGENT.

U.S. SENATE,
Washington, D.C., August 13, 1970.

The Most Reverend CHRISTOPHER J. WELDON,
Bishop's Residence,
Springfield, Mass.

DEAR BISHOP WELDEN: Though I wish I could be present as the Diocese of Springfield celebrates its One Hundredth Anniversary, I send my warmest greetings to you and your parishioners on this joyful occasion.

In the century that has passed since the establishment of the Diocese, Springfield and the nation have undergone many changes. But the Church has continued to serve the religious, social and educational needs of its people.

I extend my sincere best wishes to all of those attending the Mass at St. Michael's Cathedral. I know it will be an inspiring opportunity to join together in the true spirit of Christianity.

Sincerely yours,

EDWARD W. BROOKE.

HOUSE OF REPRESENTATIVES,
Washington, D.C., Aug. 4, 1970.

The Most Reverend CHRISTOPHER J. WELDON,
Bishop's Residence,
Springfield, Mass.

DEAR BISHOP WELDON: As the Diocese of Springfield celebrates the completion of its first century of service to God, I extend to you and to all the faithful of the diocese my warmest congratulations.

The growth of our diocese over the past 100 years has truly been remarkable. We can all be proud of the many churches, schools, hospitals and extensive exercises in charity which symbolize our dedication to doing God's work on earth.

As necessary and laudatory as these accomplishments are, however, they do not by themselves tell the entire story of the Springfield Diocese's first 100 years. For how does one measure the fostering of love of God and fellow man; the inspiration which leads toward a strong Christian life; the love, hope and solace given to hundreds of thousands through the teachings of Christ?

These spiritual activities of 100 years are the real bases for this celebration and, one beneficiary of these accomplishments, I am pleased to add my voice to those giving thanks on this joyful occasion.

To you, Bishop Weldon, and to all the religious and laity of our diocese, I send my most sincere best wishes at this happy time. Through your leadership, and that of your predecessors, the Springfield Diocese now begins its second century with faith and confidence in its ability to continue God's work.

Cordially yours,

SILVIO O. CONTE,
Member of Congress.

[From the Catholic Observer, Oct. 2, 1970]

TEXT OF BISHOP WELDON'S HOMILY AT CENTENNIAL MASS

(NOTE.—The following is the text of the homily preached by Bishop Christopher J. Weldon at the Centennial Mass of Thanksgiving celebrated in St. Michael's Cathedral, Sept. 26, 1970.)

"Abide in me, and I in you. As the branch cannot bear fruit of itself unless it remain on the vine, so neither can you unless you abide in me. I am the vine you are the branches." (John 15:4–5)

One hundred years ago yesterday there assembled here in this very Cathedral Archbishop John McCloskey from New York, Bishop John J. Williams of Boston and Bishop John J. Conroy of Albany to consecrate a new bishop, Patrick Thomas O'Reilly.

While they were here in their own right exercising their own episcopal powers, it was, however, to implement the decrees of another bishop, the Supreme Pontiff, the Vicar of Christ on earth, Pope Pius IX.

On the fourteenth day of June, that year, 1870, Pope Pius IX had signed a decree separating the five western counties of the Commonwealth of Massachusetts—Worcester, Hampden, Hampshire, Franklin and Berkshire—from the Diocese of Boston and erecting them as a new ecclestical jurisdiction.

In a subsequent decree he designated Patrick Thomas O'Reilly, a priest of the Boston Diocese, pastor of St. John's Church, Worcester, to be the first bishop of the new diocese, which was to have Springfield as its Episcopal See.

During the intervening one hundred years and a day a great deal of human living has been written into the history books of both the Church and the world and it can be simply and factually stated that the now centenarian diocese has made and is making a substantial contribution in both categories.

God alone knows the full record.

Few human beings would have the capacity to comprehend and appreciate even as little as 10 or 15 per cent of the total story.

We all can understand, however, that the ramifications of what was done here for God and for man during those hundred years go almost to the four corners of the earth and are still on the march.

Likewise we can understand that the story has many facets any one of which can be a lengthy study in itself.

I, therefore, will restrict myself to an expression of heartfelt gratitude and the consideration of one aspect of our lives that most appropriately can and should be highlighted on an occasion such as this and which for all too many of us is not given the attention it deserves on a day-to-day basis.

I refer to our relationship, individually and collectively, to the Vicar of Christ on earth, our Holy Father, the Pope.

We exist as a diocese because of the solicitude and care shown the people of this area by Pope Pius IX.

We have been greatly enriched through all these years by the equally dedicated spirit and service of the seven popes who have succeeded him in the Chair of Peter.

Though far removed from us in distance, and for the major part of this century in travel-time as well, they none the less have been aware of and concerned about us.

While their fatherly care has been extended to all the peoples of the earth they still have been of very great service to us.

When our first bishop died in 1892 Pope Leo XIII designated Thomas Daniel Beaven to succeed him.

Some twenty-two years later upon Bishop Beaven's death Pope Benedict XV sent us Thomas Mary O'Leary.

Following Bishop O'Leary's death in late 1949, Pope Pius XII divided the Springfield Diocese and on January 14, 1950 erected the new Diocese of Worcester.

In Christ's name he sent Bishop John Wright to the new diocese and called me to the episcopacy to come here to serve you.

It is over twenty years now that we have been laboring together for the Lord and always with a deep sense of loyalty to and union with His Vicar, whom we acknowledge ourselves privileged to call our Spiritual Father.

When the Diocense of Springfield was inaugurated in territory from the jurisdiction of Boston, both Springfield and Boston were suffragan dioceses of New York.

In 1875 New England was constituted a new ecclesiastical province with Boston as the Archdiocese by decree of Pope Pius IX.

In 1953 Pope Pius XII gave New England another ecclesiastical province covering Connecticut and Rhode Island with Hartford as the Archdiocese.

While military strategists subscribe to the principle of "Divide and Conquer," it is quite clear that the papacy, advancing the Kingdom of Christ, proceeds on the basis of "Divide and Strengthen."

All the foregoing, however, is merely the tabulating of necessary efficient procedures in the administration and development of the Church.

The more important matter of the spiritual nourishment of Christ's flock has been car-

XUM

ried on devotedly, generously, courageously and with similar efficiency, at the same time.

Over one hundred and seventy-five encyclical letters were sent us by the eight popes covering this past one hundred years.

These dwelt with practically every subject concerning or touching on man's life as an individual or on his relationships to his fellow man in that life.

They have confidently and courageously led us on the path to God and true peace even when there has been extreme turbulence and distrust in the family of man.

Popes Leo XIII and Pious XI teamed to give us "Magna Chartas" as it were on the Condition of the Working Classes and Social Reconstruction.

These documents have influenced and benefited the thinking of men of practically all faiths, cultures and traditions.

Pope Pius IX and Pope John XXIII called ecumenical councils into session and Pope Paul VI reconvened the second Vatican Council interrupted by Pope John's death.

Pope St. Pius X served us well in the liturgy and the sacrament of the Eucharist.

Pope John XXIII through his encyclicals "Christianity and Social Progress" in 1961 and "Peace on Earth" in 1963 stirred the whole world in days when a steadying influence was clearly, not to say desperately, needed.

Our present devoted Holy Father by his encyclicals, advancing the work and spirit of Vatican Council II, particularly "The Development of Peoples" in 1967 and "Of Human Life" in 1968; by his several journeys to lands far from the Vatican has made clear his selfless commitment to us in Christ's name.

We are deeply grateful to Christ for having so constituted His Church that we have such an office as His Vicar on earth, the successor to St. Peter who was the leader of the college of the Apostles.

Innumerable blessings came to the members and friends of the Diocese of Springfield during this first century.

With full hearts we thank both God Himself and all those He has sent us in the role of benefactors, but in a particular way we express our thanks for all we have received from and through the Holy See.

At the time Springfield started out as a diocese conditions in the world and in the Church were somewhat similar to what they are today—except, of course, for the magnification and intensification that the speed and "efficiency" of the news media give to all our problems today.

There was much trouble about the temporalities.

The so-called papal states in Italy were under military attack and eventually were overwhelmed and practically speaking confiscated.

This difficulty led to the Pope considering himself a "prisoner," as it were, in the Vatican from about 1870 to 1929.

The loss of this temporal power was, however, only one of the many trials besetting Pope Pius IX.

A false liberalism gathering momentum in many areas threatened to destroy not just the structured Church as we might call it today, but also the very essence of spirituality, faith, trust, love.

Things looked very dark and discouraging.

Yet the Pope, the servant of the servants of God, stood up to the challenge of the times, to the responsibility of his office and gave a demonstration of heart-warming strength and leadership.

Pope Pius IX gave us a thrilling example of love for and trust in both God and his fellow man.

Undaunted by the calamities, misunderstandings and burdens, which might understandably have crushed him, he served the longest period of anyone as pope—some thirty-two years.

He called Vatican Council I to help straighten things out.

He gave great service to the Catholic Church throughout the world, but I would like to refer to some of his services to us here in America. He erected some 36 dioceses in this country (presently we have about 160—31 archdioceses anJ 129 dioceses) and created nine Vicariates Apostolic.

He even established at his own expense in Rome in 1859 a college for seminarians from the United States.

In 1854 he proclaimed the dogma of the Immaculate Conception of our Blessed Lady—and as we all know, she is, under that title, the heavenly patroness of our country.

As we start our second century it is fitting that we place and keep in clear focus our relationship to the Vicar of Christ.

The same Lord gave us Pope Pius IX in the troubled times of a century ago, has given us all his successors to face and solve varying problems and puzzles since then.

He has given us our present Holy Father, Pope Paul VI, to meet the present need and challenge and to lead us safely on to the fulfillment of Christ's mission, the recognition and acceptance of our Heavenly Father's will.

We are privileged to have his personal representative in the United States as the principal celebrant of this jubilee Mass today.

We thank the Apostolic Delegate, Archbishop Luigi Raimondi, for being with us on this joyous occasion and we ask him to convey our message of love, loyalty and devoted service to His Holiness, Pope Paul VI.

We want very much to be branches tied in through him to the vine who is Christ.

With our Holy Father and with Christ, we want mightily to bear much and excellent fruit.

[From the Catholic Observer, Oct. 2, 1970]

CENTENNIAL MASS BEAUTIFUL, MEMORABLE

SPRINGFIELD.—One thousand of the People of God assembled in St. Michael's Cathedral on Saturday, Sept. 26, to celebrate the hundredth anniversary of the establishment of the Diocese of Springfield.

Untold thousands more watched the solemn, colorful ceremonies on television or listened to an account of the Mass of Thanksgiving on one of the four radio stations which broadcast the impressive ritual.

Despite unseasonal heat and a brief power failure—which stymied organists John Dunn and George Hart long enough to preclude the singing of the Gloria by the 50-voice choir of St. Paul's Choir School—the liturgy was performed admirably, with reverence and elan.

The temperature outside the Cathedral had reached 85 degrees and a slight breeze was blowing at 4 p.m., when the honor guard of the Knights of Columbus, a page out of history in their medieval dress, led the procession up the broad, hedge-lined sidewalk from State Street and into the Cathedral, where congregants were already making use of programs to create their own breeze.

Members of the honor guard carried four flags which they later positioned in the Cathedral sanctuary; the U.S. flag, the flag of Massachusetts, the flag of Springfield and the Papal flag.

Following the Knights of Columbus in the procession were the thurifer; the crucifer and acolytes; the choir; scores of priests; sevreal provincials of Religious orders; Monsignori; more than 20 bishops (led by newly consecrated Episcopal Bishop Alexander D. Stewart), each flanked by two chaplains; Knights of Malta; Knights of Ladies of the Holy Sepulchre; the two lay readers, Earl V. Gauntt and Harry G. Graham; the deacon of the Mass, the Rev. Mr. William Cyr; and the 11 concelebrants.

Bishop Christopher J. Weldon and Archbishop Luigi Raimondi, Apostolic Delegate to the United States, were the last to enter the church.

They paused at the entrance for a brief ceremony, during which Bishop Weldon officially welcomed the Delegate for the first time to his church and Diocese by presenting him with a crucifix, which the Delegate kissed. Then Archbishop Raimondi sprinkled holy water on the congregation.

As the procession, which had initiated at the Cathedral School on Elliot Street, walked up the aisle of the Cathedral a thousand voices gave life to the thrilling words of "Lift High the Cross."

Arriving at the altar, the Archbishop first kissed and incensed it and then took his place at the president's chair, against the back wall of the church facing out over the altar at the congregation.

He pronounced the Sign of the Cross to begin the Mass proper.

It was a mass made beautiful and memorable by many elements:

The dignity of Archbishop Raimondi;

The participation of the congregation. Enthusiastic throughout the Mass, it reached a peak in the singing of the Offertory hymn, "The Church's One Foundation." Father James P. Sears directed the congregational singing.

The excellence of the choir of St. Paul's Choir School, of Cambridge, directed by Theodore Marier.

The vigorous readings of the word of God by Mr. Cyr, Guantt and Graham. Graham gave an especially moving presentation of First Peter 2: 4–10, "You are a holy nation, a purchased people . . ."

The timely homily of Bishop Weldon, with its stress on the role of the Papacy.

The touching Offertory procession, which had 10 youngsters from Cathedra. School carrying the bread, wine and other materials used during the Sacrifice and presenting them, one by one, to Archbishop Raimondi.

The children were Anne Noonan from Grade 3; Lynn and Lisa Nelsen, twins from Grade 2; Rosemary Richards, Grade 3; Mary Beth Driscoll, Grade 6; Michael LaValley, Grade 4; John LaPorte and George Stec, Grade 5; Joseph Brzys and John Ingari, Grade 6.

The unusual Prayer of the Faithful. Petitions were offered in nine languages, representing the various ethnic groups of the Diocese: English, by Atty. James Egan; French, by Wildred Forbes; Polish, by Bruno Chmura; Italian, by Pat Romano; Slovak, by Mrs. Ann Grzyskiewicz; Spanish, by Mrs. Norma Caron; Lebanese, by James Elsamar; Portuguese, by Aguinaldo Santos; and Gaelic, by Father John Corbett, C.Ss.R.

A person of Lithuanian ancestry was to offer a petition in that language, but was unable to attend the Mass. In his place, Father Howard W. McCormick prayed another English petition.

The Sign of Peace. Priests distributed to everyone in the church quarter-sized medallions bearing the seal of the Diocese and the words "God's Peace Be With You" on one side, and an outline map of the four counties of the Diocese on the order.

In addition to Archbishop Raimondi and Bishop Weldon, the concelebrants of the Mass of Thanksgiving were Bishop Bernard J. Flanagan and Auxiliary Bishop Timothy J. Harrington, of Worcester; Auxiliary Bishop Thomas J. Riley of Boston; Msgr. Walter C. Connell, diocesan vicar general; Msgr. Timothy J. Leary, Cathedral rector; Msgr. Eugene E. Guerin, pastor of St. Rose de Lima Parish, Aldenville.

Also, Father John E. Aubertin, pastor of St. John Cantius Parish, Northampton; Father Adam Zajdel, O.F.M. Conv., president of St. Hyacinth College and Seminary, Granby; and Father Camillo Santini, C.S.S., pastor of O. L. of Mt. Carmel Parish, Springfield.

The bulk of the congregation was made up of four representatives from each of the 141 parishes in the Springfield Diocese.

Adding an ecumenical note to the occasion

XUM

was the presence of Bishop Stewart and Rabbi Herman E. Snyder, Rabbi emeritus of Sinai Temple, Springfield.

A centennial banquet was held at the Highpoint Motor Inn, in Chicopee, Saturday evening.

The mass and banquet took place 100 years and a day from the date of another major event in St. Michael's Cathedral—the consecration of Springfield's first bishop, Bishop Patrick T. O'Reilly.

The date of the establishment of the Diocese was June 14, 1870.

"IMPOSSIBLE DREAM" FESTIVAL ST. CLAIR, MICH.

HON. JAMES HARVEY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. HARVEY. Mr. Speaker, it will be my pleasure on Saturday, October 10, to participate in a unique celebration in St. Clair, Mich. This community will be celebrating its new look in a program called the "Impossible Dream" Festival.

I believe the fine newspaper story by Dennis Shere, financial editor of the Detroit News, which appeared in that paper's September 27 edition, provides the facts on a magnificent accomplishment of a community that simply would not accept the "death of its downtown business section."

On the contrary, St. Clair's solid citizens launched their "impossible dream" to clear its dilapidated downtown buildings, thanks to a great extent to the Federal Government's urban renewal program, and to start anew.

The new downtown look includes a 31-store shopping center with an open mall; a new park along the St. Clair River; a 62-unit senior citizens apartment complex; and many other new buildings.

Cost of financing the $5.5 million downtown redevelopment was shared by the Federal Government as well as State, city, and private resources.

Downtown St. Clair stands as the finest example of cooperative effort by all levels of government and, most importantly, by all the people involved.

I am proud to salute the citizens of St. Clair. The newspaper article follows:

ST. CLAIR'S DOWNTOWN THRIVES: A COMMUNITY IS REBORN

(By Dennis Shere)

ST. CLAIR, MICH.—Eight years ago, you couldn't buy a pair of shoes in this community of 4,800 because there was no shoe store.

The only grocery store was small, and it was next to impossible to steer a cart down its narrow aisles.

Finding a parking space in downtown St. Clair was a nerve-grating experience. There was no parking lot, just a few spaces on Riverside, the main street.

St. Clair's downtown was dying in 1962, and these were just a few of the signs.

There were eight empty stores, out of about 30, and the city's residents were spending three-quarters of their disposable income outside St. Clair, in nearby communities like Port Huron and Marine City.

Local business leaders like George Thompson, owner of a furniture store, and Franklin Moore, president of the town's only bank, realized that unless something was done, St. Clair would soon have, figuratively at least, a ghost downtown.

"I felt if we didn't do something about it, shopping centers would spring up around us," Thompson said.

Indeed, a group of investors bought some land on the outskirts of St. Clair and told city officials they had been approached by a large chain store that wanted to use the land for a shopping center.

Thompson, Moore and several other businessmen met with city officials urging them to take action. As a result, a Detroit consulting firm was hired.

The firm's recommendation, put in roughest terms, was, "rip out the downtown and start over."

That recommendation met opposition from some townspeople who liked the community just as it was.

"Some didn't have high horizons," explained John C. Cobourn, who was mayor of St. Clair when the redevelopment decisions were made.

"We felt we had to go for an all or nothing deal," he said.

Cobourn said that despite the opposition, he felt most townspeople issued a "mandate" by electing to city offices those who supported redevelopment of the downtown.

What St. Clair did was to ask the federal government for urban renewal funds to clear out the dilapidated downtown buildings. At the same time, 56 of the city's residents formed the St. Clair Progress Corp., a nonprofit organization that could undertake the redevelopment with federal assistance.

Each of the 56 citizens chipped in $100 as "seed money" and some local philanthropists donated additional money.

The project area was the entire downtown—46 acres, nine blocks long and two blocks wide.

Demolition began in June, 1967. Now, more than three years later, St. Clair is getting ready to celebrate the reality of its "impossible dream." The city will formally dedicate the new downtown during a one-day festival on October 10.

St. Clair's new look downtown includes:

A 31-store shopipng center with an open mall.

A park along the St. Clair River.

A 62-unit senior citizen apartment complex.

Several other new stores.

In addition, the city and state have constructed a 102-slip boat harbor. Richard Caruso. St. Clair's urban renewal director, said the harbor is attracting 1,000 boaters into the city on weekends.

Cost of financing the $5.5 million redevelopment were borne by the federal government, as well as state, city and private resources.

Caruso said St. Clair's redevelopment comprises one of the few urban renewal projects encompassing an entire downtown—though it is obviously on a small scale compared with projects in major cities.

Caruso also pointed out that the shopping center development is unusual because the merchants are purchasing their stores instead of renting space.

Moore, president of the Commercial and Savings Bank of St. Clair County, explained that "we decided we didn't want to have an out-of-town developer come in, build our business district, own it and rent to everybody. We wanted local people to own it."

Because it was an urban renewal project most of the merchants in the shopping center have been able to secure low-interest loans from either Moore's bank or the Small Business Administration.

The downtown redevelopment has made businessmen like Thompson highly competitive even outside St. Clair.

Raymond Gellein, executive director of the St. Clair Progress Corp., said business in St. Clair has jumped from $2.5 million in 1965 to $8 million this year.

"And we're a long way from reaching our peak," he says.

Thompson opened a 40,000-square-foot furniture store in the new shopping center. The store has 121 room displays and has become an attraction for out-of-towners.

THE ASSAULT ON AMERICAN INDUSTRY

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. HOSMER. Mr. Speaker, I would like to bring to the attention of my colleagues an important speech by Mr. Robert Anderson, president and chief operating officer of North American Rockwell Corp., about the socalled Military-Industrial Complex.

As one who represents a district with a large amount of defense and aerospace industry, I was pleased to read Mr. Anderson's speech, which places these important industries in their true perspective.

The speech was excerpted in the latest issue of the Aerospace Industries Association publication, Aerospace. The story follows:

THE ASSAULT ON AMERICAN INDUSTRY

The military/industrial relationship that we hear so much about in this country was not invented in 1968 or 1969.

It's existed for nearly two hundred years, but it's only become a significant factor with the advent of sophisticated weapons systems which demand the closest teamwork between industry and the government.

That teamwork has meant much to this nation's security.

Yet, despite the high priority we all place on national survival, the defense industry today is being subjected to incredible denunciation. The attack has a violence unparalleled in American history.

Although some of the provocative headlines would have us believe otherwise, most Americans do *not* believe that large corporations are inherently evil, or that preparation for defense is *of itself* immoral.

Yet so vehement have been the attacks, that many sincere people are troubled when they read of excessive profits, cost overruns, lack of government control over expenditures, and so on.

We have a two-fold danger facing us in the continued harangue by those who oppose this relationship. The first is the undermining of public confidence in the integrity of defense procurement. The other is the destruction of morale of the dedicated men and women who are part of the defense establishment—whether in government or industry.

I can't be entirely objective in my approach, for North American Rockwell is one of the nation's major aerospace contractors and was recently awarded the very large Air Force B–1 weapons system contract.

However, I do believe there are two factors that enable me to take a broad view of the entire controversy. First, North American Rockwell is one of the major aerospace companies that is substantially engaged in both commercial and government activities. Also, in my own case, because I came from the automotive industry less than three years ago, I believe I can view the matter with a new perspective.

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LARGEST MANUFACTURING EMPLOYER

Aerospace represents a great portion of American industry. There are one million, two hundred thousand people employed in building this country's military and commercial aircraft, its defense missiles, its space vehicles, its advanced guidance systems and its rocket engines. It's the largest manufacturing employer in the nation.

Aerospace in 1969 had sales of more than $28 billion. Its export sales of more than $3.1 billion made it the biggest industrial contributor to our balance of payments.

The opponents of this business, which has contributed so much to the military security and the economic growth of the country, have rallied around the phrase, "The military industrial complex," giving the words an accusatory ring.

It was General Eisenhower, as you know, who originated the phrase when he urged the nation to guard against "the acquisition of unwarranted influence by this complex," and he has been quoted out of context ever since.

Completely lost in the sound and fury created by those who picked up only the partial statement is the full meaning of his remarks. "A vital element in keeping the peace," General Eisenhower continued, "is our military establishment. Our arms must be mighty, ready for instant action, so that no potential aggressor may be tempted to risk his own destruction . . . We can no longer risk emergency improvisation of national defense; we have been compelled to create a permanent armaments industry of vast proportions."

It is essential to keep in mind that the role of the military/industrial complex is not in *making* public policy, but in carrying it out. Viewed in that respect, industry and government must work together toward common goals. It would be a national disgrace *if they did not.*

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THE CHARGES

One of these pertains to the size of the defense and aerospace industry. "Most of the big military contractors," they say, "could not survive without weapons business,"—with the implication that corporations are influencing defense expenditures.

True, there are a handful of major aerospace companies almost entirely devoted to government work. However, according to *Moody's Industrials,* the defense portion of the 25 largest prime defense producers in 1969 accounted for *less than one-seventh* of their total business. Most aerospace companies are becoming increasingly diversified, with a wide range of commercial and industrial endeavors. Typically, they subcontract half of their prime contracts.

Let me assure you that American industry *can* survive without the so-called "crutch" of defense spending. Nevertheless, the defense industry *is* being hurt badly by the ceaseless attack on the integrity of its highly skilled employees who see years of dedicated effort being dismissed as of no importance or as of outright moral harm.

Another belief propagated is that spending for aerospace and defense needs has grown during the past five or six years at the expense of providing for health, income security, aid to the poor, education, and other social programs.

First, let me emphasize that it is the elected representatives of the people, and not industry, who rightfully set national priorities.

The significance of Congressional-established national priorities was stated with great clarity last December by Dr. Arthur Burns, now chairman of the Federal Reserve Board, who said, "The explosive increase of federal spending during (the decade of the '60s) is commonly attributed to the defense establishment, or more simply to the war in Viet Nam.

"The fact is, however," Dr. Burns continued, "that civilian programs are the preponderant cause of the growth of the federal budget. When we compare the budget of 1964 with the estimates for this fiscal year, we find that total federal spending shows a rise of $74 billion, while defense outlays are larger by only $23 billion . . . Thus, the basic fiscal fact is that spending for social programs now dominates our public budgets."

Dr. Burns' comments are underscored by the fact that in this current fiscal year, we will spend less on defense as a percentage of our gross national product—7 percent—than in any one year in the past 20 years.

RESEARCH AND DEVELOPMENT

This country is in second place behind the Soviet Union in the development of new weapons system. Let me repeat, we are behind the Russians at this moment.

The Soviet Union has invested the equivalent of $16 billion this year in defense-related research, development and applications. What has the United States allocated?

$13 billion—$3 billion less than the Soviet Union.

Those figures, by the way, are taken from statements by Dr. John S. Foster, Director of Defense Research and Engineering.

What adds to the seriousness of this lagging research and development effort is the certainty that never again will we have the luxury of time to catch up if an enemy attacks. Never again will we have the nearly two years between the invasion of Belgium and the sinking of the Lusitania. Never again will we have a year and more between the battle of Britain and the disaster at Pearl Harbor.

Defense-related research and development is a vital activity.

However, the critics are suspicious of any activity, including research and development, because of what they contend are the "fat profits" in aerospace participation.

DEFENSE PROFITS

The most penetrating and exhaustive anallysis of corporate profits was a study by the Logistics Management Institute, a non-profit organization, which compared the profits of 40 companies substantially engaged in defense production, with 3,500 companies not engaged in defense.

The results of this broad-based analysis showed that profit on sales for the commercial and industrial companies was almost double that for defense-related works, and profit on investment in non-defense efforts, since 1963, was 40 per cent to 74 per cent greater.

At North American Rockwell, we've had a striking demonstration of this disparity in percentage of profits. Our Commercial Products Group, last year, had sales which amounted to only 40 per cent of the $2.6 billion corporate total—yet that group contributed over 75 per cent of our entire corporate earnings.

What could be more graphic than those percentage figures?

Related to this matter of profits is another popular myth about the supposedly low risk involved in aerospace programs. The critics would have the public believe there is no risk in advancing the frontiers of technology; or to the extent there *is* risk, that the federal government underwrites all the risk involved in space and defense programs.

Again, the facts just do not support this belief.

FINANCIAL RISKS

Until recently, when there was a change in the contract ground rules, financial risk had shifted so heavily to the industry side that a company could be betting its corporate existence that it would be able to remain afloat while producing the goods or services required by the government.

As an automative man, I was amazed by my first encounter with the Total Package Procurement Concept.

The fixed-price total package procurement process embraces the entire span of a program from concept through development, into production. The concept was supposed to eliminate both schedule slips and unpredictable cost increases. Further, it was intended to balance the contractor's commitment along the thin line between appropriate financial risk, on the one hand, and catastrophic corporate loss on the other.

In practice, the concept not only delayed the procurement of many needed systems and equipment, but it also fostered an utterly unrealistic budgeting process.

The *Harvard Business Review* referred to this concept as "being at war with reality." It simply did not recognize the facts of life as known by American industry.

Can you imagine an automobile manufacturer contracting at a fixed price to deliver a model 1977 automobile six years from now? And an automobile, let me add, is infinitely less complicated than a modern weapons system.

That's exactly what was asked of the aerospace industry.

Those much-publicized cost overruns were not synonymous with waste; neither were they a symbol of excessive profits. Rather they were the surface reflection of the cost uncertainties inherent in developing and manufacturing advance systems.

No business is ever perfect, of course, but what is never captured in the blazing headlines of cost overruns is the reality of endless changes, of inflation, of the costly impact of solving problems which could not be foreseen. These are the realities which accompany the advancement of technological frontiers.

Under Deputy Secretary of Defense David Packard we have new, positive, realistic thinking on this contract question. Recently, he issued a milestone directive that talks common sense regarding improvement in the management of programs, the necessity for practical trade-offs between operating requirements and engineering design, risk assessment, and sensible program scheduling.

The Secretary placed his finger on the solution when he said, "When risks have been reduced to the extent that realistic pricing can take place, fixed-price type contracts should be used."

With the major contracts now being let by the Department of Defense, Industry will be able to fulfill its responsibilities more effectively and efficiently than in the past. They allow the latitude necessary in developing these highly complex, highly sophisticated weapons systems, while at the same time giving the government its full dollar's worth.

AEROSPACE EXPERTISE

In this troubled world beset by man-made problems in population, in transportation, in housing, in communications, and in pollution, there is need for exactly the type of expertise demonstrated by the aerospace industry during this past year in America.

The problems facing us are gigantic, nation-wide, even world-wide in scope. Their solution will require technical skill and management skill of the highest order. The best management, in terms of inventiveness is in the industry that has built the world's foremost supersonic, trisonic, and hypersonic aircraft; the industry that has developed "miracle" guidance systems; the industry that has ringed this nation with defensive ICBM's, and bridged the gap to the moon.

But I do not want to leave you with the mistaken impression that we stand now as pillars of strength ready to take on all adversaries. We have been hurt by this endless tirade of abuse, and all of us in business must act vigorously to overcome this constant erosion of American defense capability.

We are determined to resist that erosion.

This nation *must* continue its technological leadership. To default, to let that leadership slip away to Russia without further protest, means the passive acceptance of major risks in our national security.

And without security all else is fruitless.

America's defense shield must not be shaped by harangue and denunciation and newspaper headlines.

It must continue to be forged in the councils of the Presidency, within the Joint Chiefs of Staff, and in the Congress of the United States.

The need for a strong industrial base, for a strong, free American industry to help carry out their decisions, is self evident.

In this technological age, let us continue to answer the world-wide technological challenge

Let the industry that has responded so many times before get on with the job.

THE PALESTINIAN LINE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. MICHEL. Mr. Speaker, Arabs and Jews alike have achieved some extraordinary achievements of late in the critical area of maintaining peace in the Middle East.

Many hundreds of other people the world over have also put their minds and energies to the task of improving Israel's relations with her neighbors.

This atmosphere of reasoned calmness is encouraging and yet there are still those who rattle the war swords, who still deluge us with false propaganda and who, if we are not aware of their deceitfulness, can lead that part of the world back into chaos.

I recommend to all my colleagues who are interested in the truth about Israeli-Arab relations the following editorial by Mr. Charles Dancey which appeared on October 5, 1970, in the Peoria Journal Star:

The Palestinian "Line"

(By C. L. Dancey)

The recent chorus of the doctrine that "the Mideast situation will never be solved until the parties recognize the Palestinians have a right to a voice and an entity" is a rather new and mysterious fact of 1970.

In the midst of the mass hijackings that "shocked the entire civilized world", not all the "civilized world" was really shocked. The New York Times wasn't. They dismissed the hijacking crisis, the lives of 400 innocent international travelers from many countries, with a line or two and went on to discuss how it demonstrated the necessity to come to grips with the problem of the Palestinians and their rights.

Earlier, network coverage introduced the same claim, the idea that peace in the Mideast must be based on the rights of the Palestinians.

What is curious about the present propaganda pitch for a "Palestinian state" is that there was dead silence on this subject for 20 years—then suddenly, in concert, a chorus that such is "basic", "essential", inevitable, and all the rest.

Why, if it was so at the root of things, was there no hint of this burning desire and burning necessity for 20 years? And why did it suddenly surface so abruptly and pervasively?

The idea of a Palestinian state (and a Jewish state) was first proposed by the United Nations in the 1948 study of that part of the world. The idea was promptly, flatly, and abusively rejected out of hand by Egypt, by Jordan, by Syria, by Lebanon, by Iraq, etc., and by the Palestinians, themselves.

Instead, they attacked Israel, in concert, and staked out Egyptian, Jordanian, Syrian, etc. claims to the territories in Palestine.

Their armies failed to make those claims good, although Jordan did manage to seize Old Jerusalem (which the UN proposed should become an international city not part of a new Palestinian state much less part of Jordan) and Samaria, etc.

That was in 1948, and it was not until 1968, rather suddenly, that Palestinians abruptly began to chorus the "Palestinian state" line, obviously with the blessing of the Communist powers that began heavily subsidizing their activities then and the blessing of the Arab countries which "hosted" them and their training camps.

It is a brand new political ploy, therefore, of the enemies of Israel—Arab, Soviet and Chinese—freshly invented after non-existence for a 20 year period (and rejection prior to that, by the same folks whipping it up now).

For their "party line" to be grabbed and touted as a "solution" to the Middle East problem by supposed "friends" of Israel and of freedom in the United States is a sucker game.

Yet, it has taken place, with the usual sources acting in chorus, once again, and adopting as the ideal American policy that which was clearly conceived just two years ago by those who wish America no good. For purposes of simplicity, one might truthfully say that the Soviet policy designed to deal with losing the 1967 war, and making Israel vulnerable once again, is being touted as an ideal "American policy" which we are supposed to pressure Israel into adopting!

Another emerging "line" that defeat "only made the Arabs more intransigent, more desperate and more fanatic and the only answer is appeasement" is also pure nonsense.

Israel clobbered Egypt in 1956, after a wave of fedayeen terrorism, and for 11 years thereafter the "guerrilla problem" was insignificant. Indeed, for more than a full year after the 1967 defeat, the problem remained insignificant.

The "fanaticism" and intransigence did not emerge from that defeat. Peace was within reach. Arab-populated areas were safe and peaceful. I was there.

The new wave of terrorism began almost a year and half later when the Arabs were convinced they had a protector and supplier in the Soviet Union, and when guerrillas were being financed, trained, and armed by Communist powers.

And just how "desperate" and determined and willing to give their lives for this dedicated cause were they then? Enough to plant a dynamite truck in Jerusalem with a time clock, while they ran away and hid. Enough to sneak across at night, set up an ambush on a road, and bazooka a school bus full of children—but not an army patrol of three armed men!

Enough to flood Amman and seek political power, but not enough to make a single determined attack with a small earth stockade manned against an outpost deep in Syria by less than a hundred youngsters, men and women, operating as soldier-farmers.

That is the reality. Soviet support, protection, encouragement, money and arms has managed to promote sneak raids aimed at unarmed civilians by very small groups, and creation of large masses of armed men who engage in loud talk and internal politics, only.

It is an artificial situation.

Meanwhile, tens of thousands of Palestinian Arabs very cheerfully volunteer to work in Israeli areas for more money than ever before!

There are a good many more Palestinians at peace than in the entire complex of "guerrilla" organizations.

The politics of terror will not bring true representation nor improvement in the situation of Palestinian Arabs.

And the politics of terror holds no sane promise for peace in the Middle East. To proclaim a policy in the U.S. that relies on an alliance with the politics of terror is rather weird.

To proclaim it as a "peace policy" is worse than weird.

HUNGARIAN FREEDOM FIGHTERS CARRY ON THE FIGHT AGAINST COMMUNISM

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. SCHERLE. Mr. Speaker, too often the pragmatic pressures of political necessity and the everyday reality of coexistence with the Communists make us forget that much of the world barely subsists in a struggle for survival under Red rule. Those who have once experienced Communist domination, however, never forget it, and the fortunate few who have escaped it carry on the fight wherever and however they can.

One group which has made a concerted effort to keep up a kind of resistance movement outside their homeland is the Hungarian freedom fighters. Their primary weapons are their own vivid memories and the power of the printed word. Following is a summary of some of their recent activities:

Hungarian Freedom Fighters Carry on the Fight Against Communism

The World Federation of Hungarian Freedom Fighters held its sixth Congress in London, United Kingdom, between August 28 and 31 of this year. The Hungarian Freedom Fighters Federation U.S.A. was represented by its president, Dr. Andras Pogany, it co-president, Istvan B. Gereben, Washington, D.C., and two of its Executive Committee members, Gyorgy Lovas, New York City, and Dr. Attila Sooky, Pittsburgh.

The meetings were chaired by General Lajos Veress de Dalnok, president of the World Federation of Hungarian Freedom Fighters, a resident of London and frequent visitor to the United States. President Veress is a much decorated soldier who in 1944 was captured by the Nazis and sentenced to death for his resistance to totalitarian German domination of Hungry. His sentence was later reduced to life imprisonment. By the war's end he escaped in the confusion of the retreat of the defeated German Army and assumed a prominent role in the underground opposition to Russian rule of Hungary. In 1947 General Veress was among the several members of the underground who were sentenced to death for their activities by the Soviet controlled coalition government. This sentence also was altered to life imprisonment. He was freed in 1956 by the freedom fighters during the revolution. He is president of the World Federation of Hungarian Freedom Fighters since 1962. He has been reelected for four terms.

The World Federation of Hungarian Freedom Fighters was organized by the former

XUM

participants of the Hungarian Revolution, now living in various countries of the Free World. The organization has approximately 10,000 members.

The Hungarian Freedom Fighters Federation U.S.A.—a member organization of the World Federation of Hungarian Freedom Fighters—is a fraternal, educational and charitable organization.

The Federation on behalf of the enslaved Hungarian nation, which is forced to live under the worst regime of terror in its long history, and in the immortal spirit of freedom born anew on the bloody streets of Budapest in 1956, and in accordance with sixteen United Nations Resolutions emphatically works for the implementation of the demands of the Hungarian people as expressed during the revolution:

1. Withdrawal of Soviet troops from Hungary in accordance with the 1947 peace treaty.

2. Immediate release of all political prisoners, including the countless Hungarians still in far away Russian Siberia.

3. Restoration of the right to self-determination by internationally supervised free elections with the participation of multiple political parties. Hungary is entitled to choose freely which political, economic social and cultural systems should govern her.

In order to achieve these demands the federation considers one of its main purposes to inform the American public about the history, accomplishments and plight for liberty of the Hungarian people. Serving this purpose the Federal sponsors two English language publications: a periodical, The Hungarian Freedom Fighter and a newsletter, The Fight for Freedom. The federation also publishes in Hungarian the Magyar Szabadsagharcos, aimed to the Hungarian speaking members, and Uzenet/Message/ sent into Hungary through regular mail.

The Federation published a book; The Hungarian Revolution in Perspective edited by Francis S. Wagner.

XUM

VOLUNTEER ARMY

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. SEBELIUS. Mr. Speaker, the editor of the Dodge City Globe, Mr. Jack Chegwidden, recently wrote a straight-from-the-hip editorial regarding the proposed streamlining of our Armed Forces that I think should be required reading for all those, including myself, who are intent on improving our military service.

Jack Chegwidden's editorials in Dodge's newspaper are always down to earth and full of that commodity so rare in Congress—commonsense. I commend his editorial to the attention of my colleagues, especially the veterans of the "old Army." Mr. Chegwidden's article follows:

EDITORIALS—VOLUNTEER ARMY

The U.S. Army isn't what it used to be.

Reveille call is on the way out for the new volunteer Army, as are seven-day work weeks and that old sergeant's favorite "make work." The final decision rests with Army Chief of Staff William C. Westmoreland.

Brig. Gen. James Adamson, chief of the group studying ways to make the Army more attractive, and all-volunteer at the same time, is one who advocates dispensing with reveille, midnight inspections and "make work." In fact, there are some 800 things that need working out to make a volunteer Army a going concern. They call it "streamlining."

Apparently the soldier of tomorrow will be awakened with gentle music, may report for work on his own volition, and possibly have a 40-hour work week, or less.

We, who served under the old Army system, will be watching with interest to see what kind of top fighting man the new "kill 'em with kindness" treatment will produce.

Of course the "new" Army man of tomorrow may want to belong to a union, and engage in collective bargaining with the U.S. government. After all, those in a volunteer Army will include many mercenaries. We wonder if strikes will be authorized.

We can just hear the sergeant in the new volunteer Army say: "Would you gentlemen care to fall in?"

Or the boot camp sergeant might say to the recruit private: 'Your quarters look a little sloppy today. Your bed isn't made. Maybe you had better change your maid service."

How about the reading of the "Code of Conduct" to the men? (World War II vets remember this as Articles of War.) Wouldn't this be harsh? After all, is this not the volunteer Army and they need to be handled with kid gloves—to keep the service attractive, of course.

And the new volunteer soldier will surely have the option of quitting under fire and resign, or terminate for insufficient wages.

We are, of course, being overly facetious. However, we cringe at the thought of a milktoast Army as compared to an Army where men are men, able to take anything that comes along and ask for more.

But we must keep in mind—de-escalation of all that is military is popular now. Yet we will become a vulnerable nation without a hardcore of tough fighting men.

PROPOSING A MORATORIUM ON PRESIDENTIAL COMMISSIONS

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. SCHMITZ. Mr. Speaker, for many years there has been a standard formula, politically almost sure-fire, for responding to difficult problems: appoint a committee to study them. After the savage city riots of 1967, we had the Presidential Commission on the Causes and Prevention of Violence—the Kerner Commission. After the wave of violence and terrorism culminating in the disruption of a third of the Nation's colleges and universities last May, we had the Presidential Commission on Campus Unrest—the Scranton commission. Between them, they seem to have set a pattern for Presidential commissions, which is more than enough reason to declare a moratorium on them.

The pattern is roughly this: to spend large amounts of money—$680,000 for the Scranton commission in just 3 months—to produce a massive, agonized bleat that the Nation is in very bad shape, that the rioters are right, but that it's a shame they aren't milder and more decent in their righteousness. The real fault lies, so the commissions tell us, with the ordinary American who just can't see why his country should be torn apart.

The reports of both these Presidential commissions are ultimately based on two unstated but clearly evident premises: that truth is irrelevant, and that evil does not exist. Since most Americans would hardly agree with either, it is not surprising that they are found chiefly to blame.

To take the more recent report in particular, the Scranton commission has a great deal to say about student opinion on the Vietnam war. But as Vice President AGNEW rightly pointed out in South Dakota, September 29:

> The commission tells us that many students believe ours is a corrupt repressive society engaged in an immoral war—but the commission could not muster the moral courage to declare the utter falsehood of that charge.

The Commission repeatedly recommended that we bring the Vietnam war to an end, apparently in deference to student feelings, but had not a word to say about how we might begin convincing them that our defense of South Vietnam against Communist aggression and terrorism was and is right. This undoubtedly would be difficult, perhaps even impossible, but since it is the truth, we ought to try. But the Commission does not appear to be much interested in truth.

It is even less interested in evil, because evidently in the happily pluralistic minds of the commissioners, there is no such thing. Violence is rejected, even condemned. Some acts are called "despicable" which are exactly that. But we are told that virtually all of those who engage in such acts do so for the very highest motives, in an excess of youthful idealism and disillusionment with the hypocrisy of their elders and the imperfections in America.

Clearly, many confused and originally well-meaning young people are drawn into disruptive protests and even into violence without actually willing it in advance. Just as clearly, there are others who intended violence and terrorism all along. The Scranton Commission rises to a veritable Mount Everest of naivete in its one lone paragraph mentioning the role of the "agitator"—its relatively mild term for the professional revolutionary. According to the commission the agitator can only work in "an atmosphere of tension, frustration, and dissent. What, then, created this atmosphere? The 'agitator' theory cannot answer this question."

The answer, of course, is that the agitators did create the atmosphere, by building up minor grievances and taking advantage of the permissiveness of educators who share the commission's views on the irrelevance of truth and the nonexistence of evil. The commission could have found out just how that works by studying the published writings and recorded operations of the Communist Party in any country where it has taken over or has established a strong foothold.

The utter superficiality of the Scranton Commission's thinking and "research" is most vividly apparent in its chief recommendation: That President Nixon should give some sort of speech along the lines of ex-President Lyndon

Johnson's "Come, let us reason together" and then everything will be all right.

This is the counsel of a bewildered child. The times call for men.

UNIVERSITY AND COLLEGE ADMINISTRATORS MUST STAND FIRM AGAINST LAWLESSNESS, VIOLENCE, AND ANARCHY

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. EVINS of Tennessee. Mr. Speaker, as colleges and universities open for the fall semester throughout the Nation, it is most important that officials of these institutions of higher learning stand firm against possible acts of renewed violence and lawlessness on campuses.

In this connection and because of the interest of my colleagues and the American people in this most important matter, I place my recent newsletter, Capitol Comments, in the RECORD.

The newsletter follows:

UNIVERSITY AND COLLEGE ADMINISTRATORS MUST STAND FIRM AGAINST LAWLESSNESS, VIOLENCE, AND ANARCHY

As our colleges and universities open for the fall sessions, Administrators and other university officials in many areas of our Nation are bracing for possible acts of renewed violence and lawlessness on campuses.

This week I was privileged to hear an address by Chancellor Alexander Heard of Vanderbilt University, appointed by the President to report on campus unrest throughout the country. His address was analytical and thought-provoking.

In many schools new and more stringent rules have been adopted in an effort to prevent outbreaks of violence and to better control incidents should they occur.

The President and other national leaders are urging University Administrators, Presidents and officials to stand firm this year against the small minority of students that threaten to disrupt many of our institutions of higher learning.

Many leaders in government and education have indicated that this could be a crucial year in the history of higher education in America.

These leaders fear that continued and worsening disruptions will destroy many major universities as we know them today. In some areas students have learned to manufacture bombs and university buildings have been bombed and shattered—with resultant deaths.

A small minority of anarchists must not be permitted to rule our campuses and universities through terror, intimidation and destruction.

Educators have said that many of those involved in disturbances in the past are either dropouts or part-time students who take only a few courses to maintain a student status. Certainly these individuals must not be permitted to use our universities and colleges as a vehicle for fomenting violence.

The great majority of students who attend classes want to receive their education, and this must be guaranteed to them—the right to develop their God-given potential and birthright. Education is the key to this Nation's growth, success and progress.

Certainly the right of dissent is guaranteed by the Constitution. The Constitution guarantees the right of peaceful assembly and petition—but it does not guarantee immunity for those who would destroy, bomb and kill as a form of protest.

We must maintain law and order on our college campuses which traditionally have been the citadels of reason, contemplation, study and development of the intellect.

The rule of reason—and not the rule of terror—must prevail.

GRAND PRAIRIE SENIOR SPEAKS OUT ON DRUGS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. COLLINS. Mr. Speaker, Grand Prairie senior students took a realistic appraisal of the drug problem confronting teenagers. In this progressive high school there is a close interchange between students, faculty, and administration.

The students wrote a theme regarding drugs and their dangers. Students can discuss student problems best when discussing with their classmates. The clearest statement was by Nancy McGlothlin who speaks from a high school senior's heart.

We are all proud of the enlightened leadership where Browning Combs is superintendent of schools and Earl Tom Keel is coordinator of secondary education and music.

Nancy is an excellent student, but behind every good student is an inspiring teacher. In serving on the Education Committee here, in Congress, I am impressed more and more with the importance of strong, teaching leadership. So, I want to thank Mr. Belias Thrasher, senior English teacher, for his stimulating motivation.

Here is the essay written by Nancy McGlothlin:

TOO HIGH A PRICE

Few high school students realize the dangers associated with using drugs. Not only are drugs harmful from the physical and mental standpoints, but also from the social standpoint. Losing the love of family, the respect of friends, and all self-esteem, is a high price to pay for "turning on" with pot or pills.

The relations between members of a family are strained or completely broken when drugs enter the home. Many teens turn to stealing and lying to support their habit, while trying to hide their actions from objecting parents. The family withdraws from the active community in order to shield the wayward youth. As the drugs begin to take effect, the youth becomes irresponsible toward duties as a family member and upsets the entire household.

As the drug user withdraws deeper into this protective shell of drugs, his old friends begin to shun his new image. He lies about his feelings, telling his friends and himself, that he has found something better than friendship. In an effort to be deep and philosophical, he becomes unresponsive, and, finally finds himself alone. His "new friends" are merely kids sharing a common problem—not really "friends" at all—for they are unable to help him.

The drug user often finds that he can't be himself anymore. He is expected, by himself and others, to play his new role. He realizes the mess he's in but is unable to find his way back. Self hate forms as he must admit to himself that he has made the wrong decision about drugs.

The drug user may overcome his social barriers not only through the counseling and therapy of various drug organizations, but also through the aid of concerned friends who are sympathetic to his problem. With this help, he can, in time, make new friends, regain his responsibility and self respect, and return to a normal life.

YOUTH—DUE PRAISE

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. BURTON of Utah. Mr. Speaker, recently I submitted for the RECORD an article entitled, "Student Activism." The article stressed how the majority of our young Americans are engaged in worthwhile projects across the Nation. Today I would like to spotlight one of these worthy projects. Distributive Education Clubs of America, better known as DECA, are youth-oriented clubs interested in marketing, merchandising, and management.

National president of DECA's high school division this year is David Colburn of South Carolina. This young man gave an outstanding speech at a recent Washington breakfast explaining in detail the purposes and functions of this valuable organization.

The address follows:

DECA—WHAT IT IS—WHAT IT DOES

WHAT IS HE?

Distributive Education identifies a program of instruction which teaches marketing, merchandising and management.

WHAT IS DECA?

DECA identifies the Program of Youth Activity relating to DE—Distributive Education Clubs of America—and is designed to develop future leaders for marketing and distribution.

DECA is the only national youth organization operating in the nation's schools to attract young people to careers in marketing and distribution.

DECA AND THE STUDENT

DE students have common objectives and interests in that each is studying for a specific career objective. DECA activities have a tremendous psychological effect upon the attitudes of students and many have no other opportunity to participate in social activities of the school or to develop responsibilities of citizenship.

DECA members learn to serve as leaders and followers, and have opportunity for state and national recognition that they would not have otherwise.

DECA AND THE SCHOOL

DECA Chapter activities are always school-centered, thus contributing to the school's purpose of preparing well-adjusted, employable citizens. Chapter activities serve the Teacher-Coordinator as a teaching tool by creating interest in all phases of marketing and distribution study, and serve as an avenue of expression for individual talent.

The Chapter is the "show window" for student achievement and progress, and is the public relations arm of the DE instructional program. It attracts students to the DE pro-

XUM

gram who are interested in marketing management and distribution careers and assists in subject matter presentation.

DECA AND THE COMMUNITY

DECA members have made numerous studies and surveys to aid the economic development of their own community. Individual and group marketing projects continue to encourage this type of contribution.

Many businesses favor hiring DE students because of their interest in training and their related school study of that particular business. Many leaders in business and government have praised the DECA program for its civic-related activities.

DECA AND THE NATION

DE instruction and DECA activity constantly emphasize America's system of competition and private enterprise. Self-help among students is the rule rather than the exception, and DECA leaders give constant encouragement to continued education.

History has proven that whenever a nation's channels of distribution fail to function, that nation is shortlived. As DECA attracts more of our nation's youth to study marketing and distribution, the total DE program becomes a vital necessity to our national security.

NATIONAL DECA WEEK

The purposes of National DECA Week are to call attention to the Distributive Education program, to enhance the educational facilities of your school, and to highlight the activities of DECA. The date is set annually by the Board of Directors, and has traditionally been held to coincide with *American Education Week*. Promotional materials are made available to Chapters and State Associations at a nominal cost.

THE DECA CREED

I believe in the future which I am planning for myself in the field of distribution, and in the opportunities which my vocation offers.

I believe in fulfilling the highest measure of service to my vocation, my fellow beings, my country and my God—that by so doing, I will be rewarded with personal satisfaction and material wealth.

I believe in the democratic philosophies of private enterprise and competition, and in the freedoms of this nation—that these philosophies allow for the fullest development of my individual abilities.

I believe that by doing my best to live according to these high principles, I will be of greater service both to myself and to mankind.

I have a story which I would like to relate to you. Please listen carefully.

After the takeover, they told me that the words they scrawled above the entrance to the Capitol simply read, "We Hate Your Country." They also told me that there really wasn't much left of what was once the greatest city in the world. It seems that they had managed to reach this city without any difficulty whatsoever.

I came to the conclusion that somewhere along the line, something went wrong somewhere.

At first, I couldn't believe that corruption and wickedness had actually been allowed to breed among the highest levels of a once economically stable government.

They did it all across the nation, so I'm told—everything went to pieces—total confusion.

My history professor told me that it would never had happened if only there had existed some driving force, some motivating concern, of the young people themselves, for their great nation and its philosophies.

After all of the worrying and debating about maintaining that essential balance of power, we ended up destroying our own selves.

This is a nightmare; however, it could realistically happen except for one factor—the youth of today will not allow this nightmare to exist.

So you may ask: What is today's youth doing to show their concern for the direction of this nation?

125,000 young members of the Distributive Education Club of America have a creed in which they believe. It's called the DECA Creed. Listen to what it says along with my own interpretations.

VERSE 1

Nowadays you don't hear too many persons saying "I believe in the future." We of DECA believe in the future, not only our future but also our country's as well. We're concerned about our country's economic future and in effect, we are planning for futures in the field of distribution. We are also aware that our respective vocations will open the door to unlimited opportunities for us. The fact is that we are the future leaders in marketing and distribution.

VERSE 2

How much are we willing to give? We of DECA are going to put everything we have into life for the purpose of attaining our objectives. What we get out of life is the end results of our input. Our input is measured by the services we, in fact, render to our own vocation, our fellow man, our country, and our God. In the same sense, our rewards are measured by the personal satisfaction which we obtain from giving of our selves. Along with this comes material wealth.

VERSE 3

We of DECA are acutely aware of the importance of private enterprise and competition to our nation's wellbeing. Not only do we acquire an understanding but also we develop a respect for these philosophies. What can we say about freedom? Freedom was acquired by our forefathers and ever since that time it has persevered because Americans valued it enough as far as to sacrifice their lives for it. DECA believes in the American system because under this system, each of us has the chance to fully develop our own individual talents and abilities. This is what America is all about. America is government of the people, by the people, and for the people.

We of DECA respect the lawmakers of this nation's government for displaying the competence and leadership desperately needed during such critical and trying times.

VERSE 4

This speaks for itself. The 125,000 members of the Distributive Education Club of America are, in fact, young crusaders.

We are flag raisers—not burners; patriots—not anarchists; freedom lovers—not draft card burners; and also

We are potential business leaders—not dead weights.

This is our creed. We live by its philosophies and yet, it is basically a guideline in which all mankind should believe.

There is no need for fear of a nightmare because, standing in the path of the present undermining forces, is a brick wall composed of 100,000 dedicated young people. There are other brick walls present also. However, we still need more support; we need support for this nation's lawmakers, by the powers needed in determining the directions this country needs to take.

If you are really concerned about today's youth and this country's future, you will lend a helping hand. We of DECA need your personal and legislative support, and, needless to say, this country needs DECA and thousands more like us.

Yes, we believe in the future.

DAVID COLBURN,
President, Distributive Education Clubs of America, South Carolina.

REFLECTIONS ON DISSENT

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. BRAY. Mr. Speaker, the following speech given by the Honorable Graham Martin, Special Assistant to the Secretary of State, is one of the very best it has ever been my privilege to read on the much-abused term "dissent." I am happy to commend it to my colleagues:

REFLECTIONS ON DISSENT

(By Hon. Graham Martin)

I have just returned from Istanbul where I represented the United States Government at the XXI World Conference of the Red Cross. Our headlines are usually devoted to violence and tension. This Conference, attended by the Representatives of the national Red Cross and Red Crescent Societies of 96 nations and by government delegations representing 84 countries, bears eloquent testimony that there is still overwhelming concern in the great humanitarian objectives which constituted the agenda for this conference.

On the way, I again visited Geneva. It is fascinating to renew contacts with old friends, to discuss what is happening in the world and to speculate on how future events may unfold. Most useful is the deeper perspective one gains from the opportunity to learn how this great nation really looks to experienced, dispassionate and perceptive observers of other nations.

In talking to one old friend, one of Europe's most distinguished scholars, I told him that I had been asked to deliver an address at the Fall Convocation at my old school. I said that I regarded the award of the degree of Doctor of Laws from Wake Forest University as one of the highest honors I had ever received in a career that had given me more honors than I could possibly deserve. I hoped, therefore, I would have something useful to say.

My friend was silent for a moment. He then said that he was very glad that I so regarded it. He believed, he said, along with his British colleague, C. P. Snow, that the church-related liberal arts institutions in the United States were rapidly becoming one of the last bastions for the preservation of that particular sense of responsibility imparted through an acquaintance with and respect for the humanities. If these basic values are not preserved, he thought, it is not likely that our civilization can make the necessary adaptations that will insure its continued dedication to the principle of individual human dignity.

There are many things it would be useful to say, he went on. You could comment on the failure of the communications media to adequately inform our peoples. The virtual revolution in communications technology has so deluged us with unrelated facts that we are in great danger of losing the perspective that is essential to survival in a nuclear world. I said that I agreed with him but that I had already alluded to this dangerous drift in some comments I had made before the Overseas Press Club in New York in 1966.

He asked what I had chosen as a theme. I replied that I wanted to offer a few reflections on dissent. He looked out over the terrace and pointed across the lake to the old city of Geneva. It is good that you stopped by here, he said, you can start by thinking again of our Jean Jacques Rousseau and the influence of his writings on your Thomas Jefferson. This ancient Republic and Canton of Geneva has had an historic connection with the quality of dissent in America, he

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went on, and we, as in fact does the entire world, are watching with fascination how you are handling it now because on your success may very well depend our survival.

(So, I am going to speak about dissent. Our system cannot really endure without it. Yet, unbridled, it can destroy all that we cherish.)

If students are going to have any influence on the larger establishment they will soon join, dissent from "conventional wisdom" which has lost its relevance simply must become part of their baggage.

Some of us can testify from experience that it will never be a non-hazardous undertaking. Some of us can also say that if dissent is to be effective, that dissent must be not only vigorous but also informed and intelligent.

Few would contend that dissent on the American scene today is marked by a lack of vigor. Fewer still, I think, would contend that, on the whole, it is an informed dissent, or, very often, that it is an intelligent dissent. Nevertheless, the unparalled revolution in communications technology now guarantees that certain aspects of current American dissent, particularly those involving dramatic instances of violence, are immediately known throughout the world. Herein, I suggest, lies a very great danger which must give us most serious concern.

Many observers of our free and open society have been confused by the toleration toward violent expression of dissent that has been a consistent part of the American tradition. The man I consider the most distinguished living alumnus of Wake Forest graphically described this phenomenon in a terse, tightly reasoned essay entitled "The Inscrutablity of the Yankee".

The universality and pervasiveness of the influence of the values absorbed by those exposed to the great Wake Forest faculties is once again illustrated by the fact that I first encountered this essay in Cairo in 1943 where it had been reprinted in an English language literary journal.

Gerald W. Johnson, as only he could with his uniquely masterful command of the art of lucid and cogent exposition, made an arresting and compelling point. It was that while we ascribe to the Orient a certain talent for obscuring real meaning by an impassivity of countenance and circumlocution of expression, it is really we Americans who often totally confuse the rest of the world.

Gerald Johnson was calling attention to such events of the thirties as the Johnson Act, the Neutrality Act, the extension of the draft in the House of Representatives by a one-vote margin, and Roosevelt's 1940 campaign speech in Boston with the assurance given "Again, Again and Again" that our sons would not be involved in a foreign war.

These instances, Johnson pointed out, and others like them could be and were interpreted by Hitler's analysts of the American scene as clear evidence that they could pursue their ambitions without effective American opposition. Yet, as Gerald Johnson correctly concluded, underneath the surface indices provided by these individual instances, there was clearly emerging, apparent to all truly perceptive observers, a consensus that would rapidly insure the full employment of American resources against the aggressors of that historical time-frame.

The intervening quarter-century has revalidated time and again the perceptive observations of Gerald Johnson on "The Inscrutability of the Yankee". In my own mind, there is no doubt that the Korean War and the Cuban Missile Crisis had their origins in the same basic misreading of the American scene. The latter event brought us to the edge of the abyss of nuclear confrontation. Therefore, it seems to me that elementary prudence indicates, now and in the foreseeable future, a compelling necessity to take into account the effects our dissent may have abroad. Another such serious miscalculation, in an age of growing nuclear stockpiles, may involve, quite literally, the continued existence of mankind.

If, as I have already observed, our system cannot really endure without dissent, we must consider the nature of the duty to dissent and try to locate the appropriate limits on the right to dissent. Another of the truly great American journalists, J. R. Wiggins, has put it very well:

"Let us begin with the duty to dissent from the policy of government when that policy seems to the individual citizen to constitute a departure from national interest or moral rectitude. That there is such a duty, it seems to me, is the very essence of self-government, the very vital spark of a democratic system. A people devoid of this impulse would induce such passivity into an electorate as to make the form of government a matter of indifference. And a people with this impulse will invest even the most unsatisfactory system of government with the vigor and force that may make it adequate to deal with society's problems."

Wiggins went on to point out that "When we quarrel with today's dissenters we may be differing with tomorrow's conformists. Some principles are changeless and immutable, but must policies are transient and perishable." Not only the change from generation to generation but the change from day to day must concern us when we deal with contemporary dissent, he added, calling attention to the plaint of Thomas Decker in 1603: "Upon Thursday it was treason to cry God save King James of England, and upon Friday, high treason not to cry so."

"Americans then", Mr. Wiggins said, "are inclined to tenderness toward dissent by the instruction of their own history, by the exhortation of their philosophers, by the knowledge that truth is changing and by the counsels of their heart—which incline them, if the truth be told, toward the disrespect of authority and the admiration of nonconformity."

But he went on quickly to add that this inherited characteristic was balanced by another in the American makeup "deriving from their respect for order, their belief in representative government, their confidence in the wisdom of the majority and their belief in the integrity of their own government."

My friend in Geneva had referred to the intellectual debt we owed to Jean Jacques Rousseau, the violent anti-monarchist who helped set Europe aflame with revolution and who had a profound influence on Jefferson. But revolution was not all that we absorbed from Rosseau. As Wiggins reminds us, in his elaboration the theory of the Social Contract, Rousseau called it "an agreement of individuals to subordinate their judgment, rights and powers to the needs and judgement of their community as a whole." He saw all citizens as entering implicitly into this contract to conform to the general will—a combination to the will of the majority, the lessons of the past and the fate of the future. And he thought that if, as often happens, an individual does not agree with that will as expressed in law, the state may justly force him to submit. This was not viewed as a violation of freedom, but as a preservation of it, even for the refractory individual; for in a civil state it is only through law that the individual can enjoy freedom from assault, robbery, persecution, calumny and a hundred other ills. He thought this especially true in Republics for "obedience to a law which we prescribe to ourselves is liberty".

Francis Bacon in his essay "Of Seditions and Troubles" wisely urged rulers to make every effort to ascertain the causes of discontent and to remove them. If this failed he advocated facing the discontented with overwhelming military force. During Shay's rebellion Washington gave almost exactly the same advice when he wrote to Henry Lee on October 31, 1786: "Know precisely what the insurgents aim at. If they have real grievances, redress them if possible; or acknowledge the justice of them, and your inability to do it in the present moment. If they have not, employ the force of the government against them at once . . . Let the reins of government then be braced and held with a steady hand, and every violation of the Constitution reprehended."

I have cited these brief references to emphasize that while the essentiality of dissent is as important today as it has always been in our system, our history illustrate that deep in our national fabric are precedents for not permitting dissent to degenerate into anarchy. Our tradition insures that of the two alternatives set out by Bacon and Washington the former is not only more preferable but is also usually perfectly feasible, given the enormous resources and the demonstrated ingenuity this country has available. We should therefore confidently persevere in making rapid progress in diminishing the legitimate discontents.

But for those who are not really interested in the rights and responsibilities of dissent within the framework of a democratic society, for those who are interested in the overturn of that society, for those who dissent from the system of government and not just the policy of government, our tradition insures a simple answer. It is that a government and a society, if it intends to survive, has no recourse against them but the second alternative set out by Bacon and Washington.

For those included in this particular special group, we need not overly concern ourselves with trying to ascertain the appropriate limits on their rights and duties, since they admit of no responsibility and demand unlimited right including the right to use force and violence. Even Dr. William Sloane Coffin has said that "You cannot ask the government to respect your right to be a revolutionary".

I have said that to be constructive and effective, dissent must be informed, intelligent and intellectually honest. But before turning to this type of dissent, may I venture a few comments on some identifiable types of dissent that I find to be distasteful.

The first we might term The Chronic Dissenter. We are all familiar with this type, the perenial nay-sayer, the born pessimist, the intellectual hypochondriac.

They are only mildly annoying. One usually feels sorry for them as one does for those who suffer chronic indigestion. It is unfortunate that we have not yet discovered an intellectual Pepto-Bismol, both to alleviate their discomfort and also our own when we have to listen to them for very long. It is hard to keep one's mind accurately focused on the particular issue they are dissenting on at any given moment. The listener's mind tends to wander. One is apt to find oneself speculating on the possible traumas and frustrations of this dissenter's upbringing that have lead to imprisonment in a permanent cage of adolescent rebellion, chirping away unendingly like a busy canary complaining about the inferior quality of his birdseed. One reluctantly concludes that only Group Therapy might be useful and that even there the prognosis would likely be for only marginal improvement.

The second category might be termed The Status Dissenter, who is terribly concerned that his intellectual hemlines are adjusted precisely to the prevailing mode. Although they may be aware from automatic empirical observation that mini-skirts may be a delight or a disaster depending on the quality of what is revealed, they seldom seem aware that such automatic adjustment of their intellectual hem-lines just possibly might reveal a mini-brain. A sub-category of this species might be termed The Melodramatic Status Dissenter. These may be found in all walks of life. Recently we have noted their emergence from the groves of academe whence, moth-like, they are irresistably attracted by the glare of TV kleig lights to become "instant" experts on the rather intricate and complex factors dealing with the life and death of nations. Unfortunately, at times, their contributions have seemed to possess an inverse ratio of value to their legitimate experise in biology or pediatrics.

A third category we might term The Loud Dissenters. My hackles still rise when I think of our former Secretary of State, Dean Rusk, who like you received his basic training in the humanities here in North Carolina at Davidson, who was himself a splendid listener, as well as one who showed unfailing courtesy to others, being shouted down by hoots, bullhorns and stamping feet while trying to deliver a speech. I regret that I am compelled to say that to me this is the eternal howl of the tormented infant, who can bear no more frustrations, who must have his way or tantrums must surely follow. Devoid of manners, contemptous of the well established rules of fair play which have long characterized discussion of public issues in this country, they fail to realize the offense they give and that they automatically signal that the principles they allegedly advocate quite likely could not win acceptance in the acid test of free and rational discussion.

The tragedy is at times their grievances are real, are legitimate, are in need of redress, but this fact becomes quickly obscured in the universal revolution against the tactics they have chosen.

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A fourth category might be called The Violent Dissenters. Without wishing to minimize in the slightest the major social questions left still unanswered in today's world, it is my opinion that those dissenters who choose violence as their mode of expression raise a question which towers over all others. They raise the question of our very survival as a nation and a society under law.

In commenting on the increasing incidence of violence, J. R. Wiggins observed that "Nothing is more certain than that one side to a public controversy will not long enjoy a monopoly on the use of force to harass those with whom they disagree. This is a technique perfected by the Fascists and the Nazis. Those who are in dissent ought to be the last to encourage a contest in which the side with the most numbers and least scruples is bound ultimately to triumph. Those in dissent, if they are at all farsighted, should be the first to demand for those who speak in opposition to them full personal security. The business of breaking heads is not an enterprise involving so much ingenuity that others cannot be instructed in it or learn to profit by it, if it becomes one of the necessities of public life. When it does, however, dissenters and non-conformists will not gain the greatest advantage from it. . . . Ours is not a phlegmatic or passive people and recurrent acts of violence will call forth reprisal. Innocent citizens will be the victims of such disorders, but the greatest casualty will be the political institutions which rest upon freedom of speech."

It is essential, I submit, that we clearly recognize the consequences of failing to insure that the level of violence begins to subside. Wiggins noted "the tendency of dissent and repression to occur in cycles of some kind—to work themselves out through a discernible sequence beginning with disagreement, proceeding to debate and verbal dissent, verging into passive resistance and civil disobedience and culminating in violence. This violent climax has then been followed by a reaction that has tended to reverse the process by starting out to discourage violence alone and that has often proceeded down the scale toward the repression of civil disobedience, passive resistance and even verbal dissent."

Such a process of reaction may well already be underway. All of us, I am certain, devoutly hope that we may be spared future excesses of violence which otherwise, will certainly accelerate the inevitable reaction down the scale elaborated by Mr. Wiggins.

A fifth category might be called The Opportunistic Dissenter. I personally find those I would place in this category almost as dangerous as The Violent Dissenter, and far more distasteful. Whatever excuses may be advanced for the misguided zeal of those in other categories do not seem to me to be applicable here.

Usually well-informed, usually quite aware of the importance of the issues to the national safety and wellbeing, they are, nevertheless, quite capable of attempting to advance their own careers by supporting a particular aspect of a popular topic of dissent. Such an aspect is usually either distorted out of its true context, or quite often is really irrelevant to the basic issue, but its endorsement does give the illusion of participation while providing ample room for rapid disengagement when no longer profitable.

The degree of the confidence of the opportunistic dissenters that they can successfully disengage before the deluge engulfs their sincere followers is only matched by their cynical assumption that the memory of the American people does not extend beyond today's headline. That they are often gambling with the nation's safety is unimportant in comparison with the fleetingly transient advantage they calculate to be theirs.

Fortunately, the American people seem to have an innate ability to detect and finally reject the phony, and I am very grateful that there still remain enough honest, sincere, and dedicated journalists to insure that the American people finally get all the facts.

But there is another kind of dissent. It is rather like a rare flower—it takes a particular happy accident of circumstances and environment to bring it about. It is intelligent dissent. It is marked by several characteristics. I would like to allude to two or three of them.

The intelligent dissenter has taken the trouble to become informed. He not only knows there are two sides to an argument, he has taken the trouble to know as much as he can about both of them. And in this process he exercises a certain skepticism about what he reads and, most particularly, about what he sees on television.

He recognizes that our modern revolution in communications has posed certain problems with which we are still struggling; that one such problem is the tendency to emphasize only the dramatic; that the emphasis on the dramatic inevitably underscores the chaos often attendant on rapid change and tends to obscure the slow and steady progress that is surely being made. He seeks for perspective, for he knows that without perspective knowledge cannot be equated with wisdom. He is skeptical about the validity of assumptions which dedicated advocates sometimes distort to support the desired rationale. He would not be impressed, for example, by the working papers produced at the Detroit conference in 1947 of the National Council of Churches. The premise that the government of the United States was wholly wrong was never challenged.

Wiggins notes that "in fact, this was so clearly the first premise of the session that no occasion arose to even formulate this assumption." I think our intelligent dissenter might have remembered that after leaving the Presidency Thomas Jefferson wrote in 1811 to William Duane:

"It is true that dissentients have a right to go over to the minority, and to act with them. But I do not believe your mind has contemplated that course; that it has deliberately viewed the strange company into which it may be led, step by step, unintended and unperceived by itself. . . . As far as my good will may go (for I can no longer act), I shall adhere to my government, Executive and Legislative, and, as long as they are republican, I shall go with their measures whether I think them right or wrong, because I know they are honest, and are wiser and better informed than I am."

The intelligent dissenter will take time to listen. He listens not simply out of courtesy, although that should always be a basic motivation. He listens not just to gather breath for a new onslaught, or to wait to pounce on the flaws of an opposing argument. He listens, rather, in the hope of learning something he didn't know before. He listens to find out what flaws there might have been in his own argument, and is quick to acknowledge them where they appear, in the hope of closing on some common ground. He listens because his conviction is basically intellectual, not emotional, and can therefore be changed if the weight of the evidence indicates a change or modification.

The intelligent dissenter knows that his dissent must be responsible. He will remember the words of Zechariah Chafee, in his classic work "Free Speech in the United States," when he said: "I want to speak of the responsibilities of the men who wish to talk. They are under a strong moral duty not to abuse the liberty they possess. All that I have written goes to show that the law should lay few restraints upon them, but that makes it all the more important for them to restrain themselves. They are enjoying a great privilege, and the best return they can make is to use that privilege wisely and sincerely for what they genuinely believe to be the best interests of their country."

The intelligent dissenter will also remember Chafee's admonition that it would be extremely dangerous "if speakers and writers use their privilege of free discussion carelessly or maliciously, so as to further their own ambitions or the immediate selfish interests of their particular minority. By abusing liberty of speech," he said, "they may easily further its abolition."

That warning, the intelligent dissenter knows, is as valid today as when it was given just before World War II.

The intelligent dissenter will know that restraint must be an integral part of his baggage and that he must force himself to display a degree of tolerance that, at times, will be extremely difficult to attain. The intelligent dissenter will remember St. Paul's injunction that the greatest of virtues is that spirit of Christian charity which we profess but too often honor in the breach.

And, above all, the intelligent dissenter will never forget that in the end, however high the temporary cost may seem to be, he must be true to his own sense of personal integrity. I have had the great good fortune to be sustained all my life by the example of my father who was born a bit to the north of this campus on the banks of the Dan one hundred years ago. He loved this institution, as he did all the Baptist institutions of this State, and it would have given him great pleasure to see me here today. He served his demonination and his State for more than fifty years as a Minister of the Gospel of Jesus Christ. As I grow older I recognize ever more fully that were I allotted twice the normal life span I just might hope to be half the man he was.

Although he never sought controversy, he seemed to be always involved in dissent. I recognize now that his towering personal integrity would permit no other course. The twenties were turbulent years also and one incident I remember involved one of the great Presidents of this institution, Dr. William Louis Poteat. It seems incredible now that such a gentle man as Dr. Poteat, the most Christian of Christians, could be subjected to such scathing attacks by both the clergy and the laity of the Baptists of his State for quietly maintaining, as indeed his own integrity demanded, that Darwin was, after all, right.

I remember accompanying my father to an Association meeting in Cabarrus County. Speaker after speaker denounced Dr. Poteat until my father could no longer take it. He demanded the floor and I sat spellbound as he lashed them for the ultimate sin of blasphemy in daring to substitute their finite, limited comprehension for the omniscience and omnipotence of God. I still remember the hushed quiet as he closed with the quotation of the exhortation of Oliver Cromwell: "I beseech you, in the bowels of Christ, think it possible that you may be mistaken".

I do not remember the name of the speaker at my own Commencement 37 years ago, and only a line or two of his deathless words of wisdom. Perhaps, if you remember two of mine 37 years hence, I will have bettered par for the course. Then, we had other things on our minds as we set out to carve a small niche for ourselves in the establishment. We soon found, as you will, that you don't join the establishment—it joins you. While I hope you will be intelligent dissenters from such of its manifestations your conscience dictates you must oppose, I also hope you will handle with equal intelligence the dissent you will encounter against those of its institutions in which you deeply believe.

"Think it possible that you may be mistaken." I never forgot that line. I commend it to you. It will make intelligent dissent a little less difficult if you remember, as you encounter a succession of minds that enjoy the rare certainty of complete conviction, that the presence of a reasonable doubt is not an unmitigated disaster in human society.

Thank you for letting me be with you today.

DOUBLE STANDARD OF JUSTICE IN OUR COUNTRY

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. SEBELIUS. Mr. Speaker, Lloyd Ballhagen, editor of the Hays Daily News, has been raising editorial clouds of dust ever since he settled in Hays to run the News, a newspaper with a reputation for editorials that not only open your eyes, but sting a little, too.

Several weeks ago, Mr. Ballhagen made a very good point regarding the double standard of justice in our country. More important, the article applies to public officials in Washington. I commend the Hays Daily News editorial to the attention of my colleagues. Mr. Ballhagen's editorial follows:

LOOT IN ROBBERY DOES NOT COUNT

The former mayor of Newark, N.J., Hugh J. Addonizio, a congressman for 14 years, went to jail the other day.

His sentence: 10 years in prison and a $25,000 fine.

His crime: 63 counts of extortion and one count of conspiracy involving the extortion of $1.5 million from contractors who do business with Newark.

A teen-age boy in Arkansas, William Radcliff, Little Rock, went to jail last year.

His sentence: three years in prison.

His crime: a robbery in which he netted 10 cents.

Justice is indeed blind.

VOLUNTARY SCHOOL PRAYER

HON. JOHN WOLD

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 6, 1970

Mr. WOLD. Mr. Speaker, one of several projects on which the Congress should act before recess or adjournment is, in my judgment, the discharge petition before the Judiciary Committee with respect to voluntary school prayer.

At a time when the moral fiber of the Nation is in question, there is a clear need to reaffirm the right of students and teachers to voluntary pay obeisance to divine providence. The question of voluntary school prayer is tied up now in a constitutional amendment which is in turn tied up in committee.

I support the discharge petition to bring this matter to a vote and am hopeful that the action can be successful before the business of the House is completed before this Congress.

Law and order ranks as one of the most critical problems facing America. Enough has been said and written about the subject to fill a library. Much of it represents an emotional and overgeneralized treatment of a complex subject. Looking for scapegoats and faultfinding rather than the search for solutions is a popular theme. Ironically, our law enforcement agencies are singled out all too often for the lion's share of the criticism and faultfinding. One is left with the impression that the police are on trial rather than the criminal elements running rampant in this country.

It is time to put teeth back into our laws. It is time to strengthen the court system of America so that the guilty are tried and punished quickly, fairly, and firmly.

It is a refreshing departure from the familiar rhetoric of our time when one reads a positive and thoughtful article offering suggestions to help our overworked and harried law enforcement agencies. This month's FBI Law Enforcement Bulletin contains such an article by Miss Mary Creese, news editor, Rock Springs Daily Rocket-Miner, Rock Springs, Wyo.

Entitled "We Can Help You, If You'll Let Us," Miss Creese offers some thoughtful suggestions on ways in which the police and news media can work together more effectively.

I hope this well-written article receives the careful attention of the law enforcement and news media communities.

In order that the large audience that reads the RECORD has an opportunity to read Miss Creese's article, I include it in the RECORD at this point:

WE CAN HELP YOU, IF YOU WILL LET US

(By Miss Mary Creese)

While some law enforcement officers shy away from news reporters, and some are reluctant, with good reason, to trust the news media, we in the newspaper business can be a help to you—*if* you'll let us.

It took many columns of type and a lot of extra hours to persuade one sheriff that those of us who were aware of the truth knew the search for a missing teenage boy was done thoroughly and professionally, even though it was unsuccessful.

We knew that, because of his fatigue and disappointment, the sheriff was reluctant to report his day's efforts. I joined in the search, garnered information from many other sources, and wrote sympathetically, but truthfully, of his activities to show that everything possible was being done.

BUILT ON CONFIDENCE

Good news stories, of course, are possible because of the confidence of law enforcement officers in the news reporter—a confidence that grows only after years of sustained accuracy, objectivity, and sound ethics.

Most law enforcement officers will agree that there is no deterrent to crime like a wide publicity campaign, that nothing helps prevent traffic accidents and slows the drivers, at least for a time, quite so much as the knowledge that "it can happen to you" or "it did happen to your neighbor."

Most officers will also agree that, if bogus currency is afloat or check artists are at work, newspaper publicity can serve notice to merchants to intensify their lookout for counterfeit bills and forged checks. As a result, the culprits may be more readily apprehended.

The professional, mature newspaper reporter and photographer wants, needs, and deserves your confidence. Between you and him can develop a mutual trust, respect, and understanding. He will guard your secrets and will appreciate your occasional need for silence.

LOSS OF CONFIDENCE

The police agency which withholds legitimate news from the press will soon gain a reputation of "managing the news." There will be a breach in relations, and confidence and respect will suffer. On the other hand, a reporter who violates the trust of a police official and reports on a case prematurely in order to scoop the opposition will soon find that a valuable source of information has dried up. It is a matter of dual responsibilities in which the rights of the public rest on the integrity of both the news media and law enforcement.

I, too, have no use for the movie-type reporter, who almost puts a "press" tag in his hatband, affects a trench coat, and runs everywhere, coattails flying and eyes wide, searching for a "story."

There are reporters who must be cautioned that they are not investigators—merely observers. They are employed to write about, not probe into, criminal activity.

AIR CRASH MAKES HEADLINES

While working as a reporter with the Longmont, Colo., Times-Call in November 1955, I had occasion to cover the crash of a United Airlines DC–6B which went down in flames east of Longmont killing 44 persons. The plane took off from Denver at 6:52 p.m., November 1, bound for Seattle, Wash. Eleven minutes later, when the plane had reached almost 6,000 feet, witnesses reported there was an explosion and a flash and the aircraft plunged to earth.

In a fast-breaking story of this magnitude, excellent liaison and cooperation with law enforcement officials pay off. My associates and I received tremendous assistance from willing law enforcement agencies from the very beginning. Since it was apparent from the information available at the outset that the crash resulted from a midair explosion, the big question was what caused the explosion and was it accidental or—was the aircraft sabotaged?

Six days after the crash, I learned from a reliable source outside law enforcement and official agencies concerned with the incident that a dynamite blast in the number 4 cargo pit caused the crash. Further, I was told that baggage in this particular pit had been loaded only in Denver.

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You can imagine the temptation to break this shocking information in a big story nationwide under a Longmont dateline. But, we did not. The FBI had opened a criminal investigation of the case, and we did not want to jeopardize the possibility of a quick solution and arrest. Further, I really had no right to use the information as it had been given to me in confidence.

Soon thereafter an official release was made that a bomb had caused the crash. On November 14, the FBI arrested Jack Gilbert Graham, 23, whose mother had been killed in the crash, on a charge of sabotage. A few days later, the State of Colorado charged him with the murder of his mother. Graham was tried on the murder charge, convicted, and sentenced to death. He was executed on January 11, 1957.

SOUND JUDGMENT

I believe that we at the Longmont Times-Call did what any responsible professional news staff would have done in holding off on the tip about the dynamite blast. Even though the source was reliable, and later developments corroborated the fact, we had no official confirmation. Further, we had good reason to believe that public disclosure at the time might jeopardize the possible success of the intensive investigation by the FBI and other agencies assisting. The temptation was great, but, in looking back, I am convinced our judgment was sound and in keeping with the highest traditions of the profession.

I thought at one point several years ago I had the full confidence of a local law enforcement official. However, when I inquired of him one day about a report of vandalism in a nearby school, he said there was nothing to it.

Since my source seemed reliable, I took my camera and drove out to the school. I found there that the enforcement official had indeed investigated extensive damage inside the building. When members of the school board unlocked the building (closed until damage could be repaired), I prepared a good, interesting story, which included the fact that flour, sugar, eggs, and other foods in the school kitchen had been thrown about with abandon. Pictures told the sad story of complete, ruthless vandalism. We did not, however, print the picture of a shoe print with an identifiable heel mark. I held that one out.

It was a livid official who confronted me the next day with my story folded out on his paper, with which he pounded my desk, demanding to know where I got the story and why I chose to write it, and stating that if he had wanted it in the paper, he would have given it to me.

I told him if he did not want the story in the paper, all he would have had to do was tell me and give me a good reason for withholding it.

HELPFUL EVIDENCE

He calmed down and apologized, saying that the case was still under investigation. I asked if he had any prime suspects, to which he replied, "Two, but we can't prove anything." I offered him my picture of the heelprint, with which he later confronted one of the suspects, matched the picture with the heel of his shoe, and obtained a confession.

It is true that the professional, mature news reporter wants to do his bit to help law enforcement officers. You can ask any responsible reporter or editor for cooperation in withholding a story pending certain developments and, if your request is valid, he will go along with you. He will, of course, expect you to advise him immediately when the story can be reported. Further, he will also depend on you to help protect his interest should the story become known to other news media which may not respect the agreement. However, a story with any significant news value cannot, as all officers and reporters know, be suppressed for long.

COOPERATION WITH NEWS MEDIA

I have found that the degree of cooperation between the press and law enforcement differs from area to area. The length of the acquaintance between a reporter and an enforcement official will, of course, have some bearing on cooperation. However, some police agencies are not news oriented. By nature or by habit, the officials and officers are close-mouthed and offer little, if any, assistance to newsmen. Some departments apparently have no plans or procedures for making available to the press information from public records, such as police blotters. Consequently, a reporter does not like to deal with departments of this type, but he welcomes the chance to work with agencies whose personnel recognize the rights of the public as represented by a free press and who furnish what information and help they can without infringing on the rights of others and without making prejudicial statements.

REARDON REPORT

Many representatives of news media in this area, as do others in all parts of the country, believe that the highly publicized Reardon Report* of the American Bar Association is a marked encroachment on freedom of speech and freedom of the press.

The first amendment to the Constitution of the United States, adopted December 15, 1791, 179 years ago, is a stipulation forbidding any law abridging the freedom of speech or of the press.

But today many lawyers and law enforcement agencies claim the Reardon Report—only a report, mind you—is aimed only at lawyers and law enforcement agencies to restrict the release of prejudicial statements about accused persons, and that it does not affect the release of news about crime or criminal investigations.

Most newsmen see it differently. They feel it would black out arrest records and preliminary hearings. It would muzzle police officers and prosecutors and judges. It would forbid mentioning the existence of confessions, prior criminal records, and police laboratory tests.

It would allow a police officer to state that an accused individual denied charges against him, but if he *admitted* charges, that could not be printed. The lawyers would have a complete record of closed pretrial hearings transcribed, and then after the trial or disposition of the case without trial, the lawyers would have the court reporters write up all those notes and issue copies to the press.

By then, who wants them? No newspaper which has anything to do with news would touch them. Thus the public would be deprived of another bit of public information.

TRUTH WILL WIN

Even Justice Paul Reardon, author of the bar report which bears his name, has warned that the proposals should not be used by anyone "as a cover for what should be out in the open."

As pointed out in one newspaper editorial, "The press upholds the traditional democratic ideal that truth will win in a free and open market place.

"The bar tends to believe, on the other hand," the editorial continues, "that truth is best served when filtered through the various technicalities of the court room. . . .

"If statements by law enforcement and court officials are limited to a short list of specific formalities, the public clearly will have less opportunity to learn how law enforcement is carried out in their society."

Further, some members of the bar claim that the press uses crime news to sell papers—whereas more than 80 percent of the 61 million copies of daily newspapers are presold by subscription, and the press does not rely on so-called "sensational" stories to survive.

NO THREAT TO FAIR TRIALS

In this section of the country, to have the additional curtain, as proposed by the Reardon Report, dropped between us and news sources would constitute a definite threat to the freedom of the press.

To my knowledge, no one has come up with any positive support for charges that the press imperils the concepts of fair trials. The people have a definite right to know what their courts and law enforcement officers are doing. No one denies the dangers of excluding the press from proceedings in any type of trial, from the slightest misdemeanor to first degree murder. If such procedures were condoned, it would follow that the greater part of every criminal trial could be conducted in secrecy behind closed doors.

The public trial, in the words of a Los Angeles writer challenging the exclusion of the press, has a therapeutic function in reducing community tension, in superseding private vengeance, in removing excuses for lynch and vigilante law, in protecting the rights of the public as well as those of the defendant, and in providing values which, perhaps, society has been inclined to take for granted in recent years.

CRIMINAL JUSTICE

Properly conducted public trials maintain the confidence of the community in the honesty of its institutions, in the competence of its public officers, in the impartiality of its judges, and in the capacity of its criminal law to do justice.

We have cooperated to the fullest with the judges who insist we withhold the names of juveniles involved in serious crimes—and we do cooperate, if the case goes into juvenile court. However, with the percentage of juvenile "repeaters" growing, even those judges are leaning toward the publication of names, ages, names of parents, and even street addresses of juvenile offenders.

Basically our role, with yours as officers, is protecting constitutional rights while making sure of a keener awareness of responsibility in publishing news—all the news.

That is good reason to say "no" when we are requested to withhold the name of an offender whose case goes through a court of public record. For if we comply with one request, where are we to stop?

A common complaint against newspapers is that we are unduly sensational in our handling of crime news—that such items may be an incentive to crime, that the pander to the cheap surface emotions of the herd mind.

Nothing could be further from the truth.

PRESS' DUTY

The truth is that a complete, factual, and mercilessly accurate account of a crime is the duty of responsible newspapers. In the first place, crime news is not solely the concern of low-grade morons. It is also the concern of responsible law-abiding citizens.

If the youth of this country, reading the facts on a race riot or massacre or murder, are tempted to purchase machineguns and start shooting, then there is little hope for American youth and the adults who bore and reared them.

Generally, crime news, complete and even blatant, is necessary before any serious move for reform is ever attempted.

Without publicity which brings out details of crimes, which the private citizen may recognize and therefrom offer his assistance, the tough solutions could be even tougher. With no news story, the person who stumbles over evidence of crime in remote places probably would never get his information to the law enforcement agencies.

We do not want to be told what to print;

we will not surrender the right to public reports of events we consider newsworthy or of public interest; we will continue to publish any statement made in open court, whether or not it is stricken from the record, and we will defend our freedom to publicize wrongdoing wherever it exists, including the actions of law enforcement officers, lawyers, and judges. And we will print our own names in the news if we are the offenders.

Because the public ultimately is responsible for the administration of justice, the public is entitled to know how justice is being administered. No one has the right to keep the press and the public in darkness.

FREEDOM OF THE PRESS

Freedom to gather news is at the heart of any concept of a free press. When you close out sources of news, you cripple the functioning of the press. It is a combination of the rights to gather, print, and distribute which is the cornerstone of true freedom of the press.

If we have a fault, it is to underpublicize, rather than overpublicize, as staffs and space often are too small to give all areas the attention they demand and deserve.

IT IS UP TO YOU

We try to attract to our business persons with an insatiable curiosity and an ability to look and listen and report—without distortion—what they see and hear. True, some reporters follow devious methods in getting there first, regardless of the end result. We have contemptible persons in our business, but you will find them wherever the pressures of competition make it necessary to perform first and explain later.

However, we can be the agency which presents your story, accurately and sympathetically, as we understand that law enforcement is one of the most hard-pressed, underpaid, and senselessly abused groups in the Nation. We can help give you the status you deserve. But what good is the professional, knowledgeable reporter, if a curtain separates him from law enforcement news? That curtain ties our hands so that we are unable to help you. It's up to you.

SHOULD U.S. TAXPAYERS SUBSIDIZE LARGE CORPORATIONS $1 BILLION YEARLY?

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Wednesday, October 7, 1970

Mr. METCALF. Mr. President, the trade bill, H.R. 18970, that was recently reported by the House Committee on Ways and Means contains an amendment to the Internal Revenue Code that would allow U.S. corporations to set up separate corporate subsidiaries, called Domestic International Sales Corporations—DISC's—through which they would funnel their export operations. Through these DISC's would flow whatever is now exported, and all income taxes now paid on this portion of a corporation's business would henceforth be deferred. DISC's would remain tax free as long as their profits were kept within the subsidiary and not distributed to shareholders. Ostensibly, DISC's purpose is to spur exports by rewarding the U.S. producing company with a total release from taxes unless distributed. Unfortunately, the provision does not require more exports, merely the formation of a new corporation to handle export sales and other export-related activities. In fact, exports could decline and the tax bonanza would continue.

The beneficiaries of the $500 million to $1 billion yearly tax cut would be corporations that now export to other countries. Hopefully, DISC would provide other corporations with an incentive to export. The U.S. Treasury experts told the Committee on Ways and Means that 93 U.S. firms now account for one-half of U.S. manufactured exports. Because the DISC could provide a tax cut to these firms immediately—without any added exports—the proposal really means that every American citizen who has his income tax withheld from his wage or salary would be required to help pay the cost of a windfall tax benefit to such firms as General Motors, IBM, Ford, and other companies which now account for half of U.S. manufactured exports.

Who will make up this loss in U.S. funds? The U.S. taxpayer will. However, the average taxpayer, already overburdened, has strong reason to question the new subsidy. Experts disagree about how many export gains would be made, but all experts agree that the Treasury could lose at least $500 million in revenue.

At a time when the Congress seeks ways to pay the higher costs of governing this Nation, it is time to make sure that it understands the potential cost of what might appear on the surface like a way to improve the trade balance.

U.S. tax law now defers income tax payments earned by foreign subsidiaries of U.S. firms; experience shows the deferral is unfair to domestic industry. The answer to this problem should be to end the foreign tax deferral. Instead, the administration proposal would create a new tax deferral—and in many cases an exemption—for U.S. subsidiaries at home.

In considering benefits to U.S. exports, the Congress should ponder these points:

First, is this free trade a subsidy to U.S. exports—or is it retaliation against the countries which subsidize exports to the United States? Second, how can our Nation benefit from this subsidy when experts cannot agree if it will stimulate exports; third, why must the average American taxpayer subsidize the giant corporations?

Should the average taxpayer pay more income tax—and thus have less to improve his living standards—so that huge exporting firms can escape taxation?

GOD GIVE US MEN

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. SCHMITZ. Mr. Speaker, one of my constituents, Mary Blanche Leahy of Laguna Hills, Calif., Leisure World, recently called to my attention the poem, "God Give Us Men," by Josiah Gilbert Holland, which she kept always on her desk during her many years of work for the city of Oakland, Calif. As a high school student I memorized this poem, and believe we could all draw inspiration from it:

GOD GIVE US MEN

(By Josiah Gilbert Holland)

God give us men! A time like this demands
strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor—men who will not lie;
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking.

ADDRESS BY THE HONORABLE JERRY L. PETTIS TO THE THIRD ANNUAL ARMED FORCES AUDIO VISUAL COMMUNICATIONS CONFERENCE

HON. DURWARD G. HALL

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. HALL. Mr. Speaker, as a member of the Subcommittee on Communications of the Committee on the Armed Services, I have long been interested in the concept of audiovisual communications. On Tuesday, October 6, the Honorable JERRY L. PETTIS, Member of Congress, addressed the Third Annual Armed Services Audio Visual Communications Conference. No better man could have been chosen for the task, and no more enlightened critique of the field could have been presented.

To those who are interested in this vital subject, I offer the text of Congressman PETTIS' remarks:

ADDRESS BY HON. JERRY L. PETTIS

I was very pleased to be invited to participate in this conference. Your Air Force hosts are to be congratulated for organizing such an outstanding seminar of experts and presentations.

I have appreciation for the creative thought, the planning, the coordination and the hours of effort that go into producing such a comprehensive, in-depth program.

The dynamic field of audio visual communication interests me greatly. I am aware of the power generated by the modern AV Communication media. I respect AVCOM power. I'm particularly interested in how it is directed to make an impact upon the minds and emotions of our own people—as well as the peoples of the world. I'm sure that most of my associates in the political field are aware of it. They should be. Their survival as active politicians may well depend upon the AVCOM media.

Before I was elected to Congress, I had some experience in applying audio communication techniques to airline and other industrial uses—and in the development of new methods for the high speed duplication of ¼ inch magnetic tapes.

I'm sure that many of you know that the Aerospace Audio Visual Service is headquartered in my district. I've had the opportunity to tour that impressive Air Force facility at Norton Air Force Base in San Bernardino and to see the scope of the day-to-day operations in support of a global AV Communication capability. I was particularly pleased to learn that some of the top professionals at Hq. AAVS had been conducting regular educational programs, on their own time, to teach local teenagers how to produce motion

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pictures. That's an excellent way to serve our nation's future, reduce the generation gaps and train the next generation of AV Communicators.

Prior to my election to the Ways and Means Committee, I had been a member of the Science and Astronautics Committee, and of the subcommittee that monitors the NASA programs. I know that many of you helped to develop the techniques of AV Communication—and the photographic, TV and graphic art presentations that contributed so much to the great success of our ballistic missile and space systems—as well as to the lunar exploration.

I don't believe that we could begin to comprehend the meaning of space age sciences and technologies without the spectacular photographs, the film reports and the real-time TV broadcasts that have permitted us all to participate in the making of history by bringing man's first lunar exploration into homes all over the world.

This kind of global AVCOM can make a great contribution toward unifying peoples and creating a true and lasting peace—whenever the major governments of the planet agree to make cooperation a primary objective. Your talents and abilities, when skillfully applied, could make people want to achieve planetary stability.

I doubt that anyone in our Armed Forces would be unhappy to see the military profession become a relic of the past—so we could all progress to more productive and creative applications of our time and talents—like developing planetary resources to serve the legitimate needs of the global population—if—everyone would honestly agree to that simple objective.

But today we face a world in a dangerous condition—a very unstable condition. The countries of Eastern Europe have been deprived of their freedom—even the limited kind that Czechoslovakia was trying to achieve. There is trouble in the middle East—serious trouble—that could yet directly involve the major world powers. There are repeated threats from Red China against the smaller nations of Asia. Latin America is not immune from revolutionary "exports" imposed upon them from outside forces.

It is obvious that we still need strong, alert and well equipped Armed Forces. It's not yet time to convert your AVCOM "swords" into "plow-share" productions. One day,—we earnestly hope—but not yet.

Why not? What threatens the peace of the "global village"? What forces are destabilizing our traditionally peace-loving America? You are communicators and I'm a Congressman and we all ought to know—so we can communicate and legislate to re-establish and maintain our internal stability.

I'm disturbed to realize that you work under a handicap. While you stand at your stations, minding your own missions, your professional images are being diffused and distorted. Your uniforms are being redesigned and often disgraced—as costumes for careless comics. Your rightful place of respect and gratitude in the hearts of your countrymen has been challenged and replaced—to an alarming degree—by ridicule, prejudice or apathy. A strongely uniformed guerrilla band of militant "anti-heroes" is trying to convince our young people that they have the right to the name "revolutionary"—in the honored tradition of "Sons of Liberty" with the dedication and integrity of a Washington, or a Jefferson—a Franklin or an Adams—a Paul Revere, Patrick Henry or a Nathan Hale.

Who wants your swords to rust? Who tarnishes your shields? We have an urgent need to know.

We could learn a lot from the "original revolutionaries" of the 13 little colonies. They were not "aggressors." They certainly weren't "imperialists"—but neither were they appeasers. They weren't so much *against* the tyranny of a ruthless monarch—as they were *for* the dignity of man and the right to live and grow. They were for freedom. But they knew that freedom and responsibility were inseparable. They accepted the responsibility to fight, if necessary. They thought they fought for everyone's freedom. Were they impractical? They dreamed of a world without tyranny. Were they naive?

Ben Franklin summed it up: "Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety."

We seem to be giving up both these days. We need more real revolutionaries like wise old Ben Franklin. But instead, we seem to be getting "pseudo-revolutionaries."

There is an interesting book available in paperback. It's by Phillip Abbott Luce and Douglas Hyde. It's called "The Intelligent Student's Guide to Survival". It should be of value to people like you who have responsibility for ensuring our survival. I'd like to quote some passages from this book, from time to time. You probably haven't heard of the authors. I hadn't. They had been working diligently in relative obscurity. They were known among their Communist associates. One taught Marxist dogma in England, training young "converts." The other was born an "American." They have both defected to bring a vital message to the American people. They are convinced the message is urgent.

Some of you may remember Whittaker Chambers—who unwittingly propelled a young California Congressman into a very successful career during the Alger Hiss case.

"Guide to Survival" says "Chambers is quoted as alluding to a feeling that he left the winning side for the losing side." We think he's wrong. But here is the record:

"When the communists talk of building 'a communist world'—they mean the whole world.—In the past 45 years or so they have achieved one third of their aim. They have still two-thirds not achieved. But never in man's history has a small group of people, who set out to win a world, achieved more in less time."

Effective communication has played a decisive part in this success.

David Lawrence wrote an editorial in U.S. News and World Report about a year ago. It's still timely. It was entitled "Communication." He made these points:

"If there is a lack of patriotism, it is not due to a diminished love of country. The cause can be simply explained—a lack of communication between the people and their government." He concluded, "It is time for us to concentrate our attention on better communication, not only between our people and the peoples of the world, but among the citizens of our own country. We have too long overlooked the obvious. Communication is our biggest problem today."

There's nothing more useless than devoting all of our time to identifying and describing a problem instead of defining and applying a solution.

You and your fellow communicators can do a great deal toward providing the solutions we need. It's your opportunity. It's your responsibility.

There is the power of our American Heritage to help you. The traditional concept of an American way of communication should to re-defined as a national political principle.

Thomas Jefferson wanted all Americans to learn to participate in government as independent, educated individuals. The citizen-constituency of a republic had to be well informed—to understand the goal of a better way of life—to communicate their own best interest to elected representatives—and to evolve and mature together with the new political system. That's why Jefferson wanted universal education and the privileges of free speech and freedom of the press—representing "freedom to communicate".

In a way it's a shame that we still can't debate like Lincoln and Douglas. Of course, there were advantages and disadvantages to that early "AVCOM system."

The audience participated as an essential part of the information system. Their responses were processed in real time. It was hard to "manage the news." Of course, the size of the audience was limited and you had to travel a lot by foot or horse to get even a fair sampling on the "public opinion polls." But what you got was accurate. You knew where you stood—and so did the people. It was an honest-debate environment.

The candidates could directly influence each voter's "decision making process." And the people directly affected the national decision making practice—as far as they could reach—on a person-to-person basis.

Today—a modern decision making information system could go a long way toward establishing an honest-debate environment, on a national scale. We need it. An honest debate environment could eliminate our most serious communication problems—problems caused by misunderstandings—so effectively exploited by those who challenge the viability of our American Way of Life.

You hear the slogan "Power to the People". In a perfect republic, the people have the power. The people represent the individual units of government which constitute the only real "Establishment"—the collective constituent—ideally united in purpose or cause, in mission and dedication.

But that's an ideal. Few human beings are ideal. In our form of government we must really stand united or fall divided. If we are divided, it's largely the fault of communicators who aren't doing their jobs. We could give some credit to the anti-communicators who are effectively distorting information and confusing our minds—the better to separate us—the better to "bury us".

There was never greater need for the traditional freedoms of speech and press—or the freedom to communicate. But the freedom is needed instead of license to distort, subvert or pervert.

"Guide to Survival" reminds us that "the Communist Party has over 42 million members, of which 6 million are in the free world." That's enough. Not quite enough to get under every bed—but enough to hide a few in closets here and there.

"Yet this small group of people has influenced public opinion profoundly. It is almost impossible to pick up a newspaper or to switch on your radio or TV to the news without hearing some reference to Communists. They make us aware of their presence the whole of the time. This isn't just an accident. There are reasons for it."

Are we helping their cause by giving them more exposure that we give ourselves? That's not profitable. Ben Franklin wouldn't approve.

You are communicators. You should be aware of the reasons for the success of our competitors—and especially the writers among you.

Lenin allegedly instructed his followers to "confuse the vocabulary. Lenin was smart. He knew that thinking can be done only in words and that accurate thinking requires words of precise meaning. Confuse the vocabulary and the unsuspecting majority is at a disadvantage when defending itself against the small but highly disciplined minority, which knows exactly what it wants, and which deliberately promotes word confusion, as the first step, in its efforts to divide and conquer."

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The freedoms of speech and press are still essential to the American concept. But now, speech and press are spoken and reproduced—and both of them distributed at the speed of light. Even half-truths travel at the speed of light. Speech can only remain free in an environment of honest debate where all sides of an issue are equally and simultaneously revealed.

We have a national need to know "the whole truth and nothing but . . ."

There are expert communicators at large in our society who are masterful at creating credibility gaps. We must become just as effective at bridging those gaps.

A lot is being said about environmental pollution. It's an important issue. However, the most dangerous form of environ-mental pollution may well be mental pollution—information pollution. Anything that degrades or stagnates the freely flowing stream of information is communication pollution and is extremely dangerous to national health.

Can't we appeal to the idealism of our youth to help us clean up environmental pollution? Our opponents know how to harness youthful idealism. Recent history has proven that "youthful idealism"—without accurate information—can become a powerful weapon system in ruthless hands.

I don't want to be tagged as "anti" anything. I'm for freedom. I'm also for free exchange of accurate information.

Did you know the Communists are recruiting more people between the ages of 15 and 19 than from any other age group? They plan ahead. Shouldn't we?

Some pseudo-revolutionaries are disclaiming any connection with the more conventional establishment. But then, why do they keep worshipping the same old dogma at the same old shrine?

In 1905, Lenin gave his disciples these orders:

"Go to the youth: Organize, at once and everywhere, fighting brigades among the students and particularly among workers. Let them arm themselves with whatever weapons they can get—knife, revolver, oil-soaked rags for setting fires. Some can undertake to assassinate a spy or blow up a police station. Others can attack a bank to gain funds for uprising. Let every squad learn if only by beating up police."

That's an excellent sampling of environmental pollution. It might be relevant to review Lenin's version of "freedom of speech."

"We must be ready to employ trickery, deceit, law-breaking, withholding and concealing truth . . ."

Or his interpretation of "freedom of the press" . . .

"We can and must write in a language which sows among the masses hate, revulsion, scorn, and the like, toward those who *disagree* with us."

I think he's talking about *me!*

I don't want to be unfair to Lenin by quoting him too much—but his words sound strangely familiar still. Some misguided people are passing off his old scenarios as—"entertainment."

Only an honest debate environment can overcome informational pollution and save our national decision-making process. The "Guide to Survival" points out wisely that it is the element of truth that makes communist propaganda get across. It is because they put something true in it—even though most of it is false. Think of the implication. If it is the element of truth which makes propaganda acceptable, our message ought to be even more acceptable! It is the truth that keeps us free.

But "truth" is only a word, setting no one free, unless it is recognized, verified, realized, understood, informed, and communicated to the people—and then understood and implemented by the people. It can then be returned—as a new national resource—"response-ability," expressed through the free will choice of the constituency. That's our way of ensuring "power for the people."

I appreciate the need for a well informed—and responsibly informing—Congress. I'm partial to the Congressional side of the legislative body because we most closely represent the people—at the grass roots level—on a national scale—*if* we're kept informed by well informed constituents. Lenin clearly recognized the people as the ultimate source of power and taught his followers to get close to the people, to understand the people's language and the people's needs. The vital thing is *how* you *use* that power—*for* the people—gained from the people.

If we knew what the people truly needed and could communicate the plans and distribute the resources to meet those needs—if we could then hear directly from the people—with accurate and timely feedback—we could always respond to their best interests at the national level. Our problems are caused by our separateness, our differences, our misunderstandings, our disunity. All of these diseases can be cured by more effective communication.

We have the scientific and technical capability to develop and implement a real-time referendum system. What does that mean? It means that more effective use of "instant" AVCOM technology could, theoretically, permit every voter to record his viewpoint—based on his individual decision-making process—on any number of vital issues, simultaneously, all over the nation. This might be developed as a modification to presently available TV or telephone systems. Or it could be some form of advanced "visual telephone". The new instrumentation should be available to all registered voters. Computer technology could be used to check coded credentials—like social security numbers—to reject duplication and to record accurate totals. We could have instant responses to "real-time newsletters" and accurate opinion polls on any major issue.

In Washington we'd know exactly how you wanted us to vote on vital issues. And we'd vote that way—if we wanted to be reelected. But we'd also be able to present our own views to constituents in a clearer, more efficient and understandable way—based on the best information we could get.

If we truly want democracy to work, to grow, to survive—in the form of a republic—if we really believe in our system of government, we'd better permit the true and able leadership to emerge from the people, through the free expression of their individual wills. Only this way will our nation be governed by those people and for those people. A really new and absolutely reliable system of sensing and serving the will of the American people is essential to our survival.

Perhaps you will help us design, develop and operate this kind of real time information system. It would improve individual "response-ability"—and better define national responsibilities. It would help greatly to re-establish our traditional environment of honest debate in the speed-of-light age. It may be the best way to eliminate communication pollution. Then, instead of permissively permitting anyone else to "bury us"—we could give the rest of the world—a better way of life.

NIXON'S FALSE PROMISES TO BLACK BUSINESSMEN

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. NIX. Mr. Speaker, since the presidential campaign of 1968, Richard Nixon has been dangling the promise of financial help for minority businesses in front of blacks to encourage their hope that they could fully participate in the bounty of this country. Many members of minority groups across the Nation were led to hope and dream that they themselves could realize the American dream of being self-supporting, of having their hard work result in security for their family, and of providing a better life for their children. This dream of hope has cruelly been founded on Nixon's empty promises.

During the 1968 presidential campaign, Richard Nixon stated that one of the main objectives of his administration would be to eliminate poverty among the minority groups by bringing them into the mainstream of American business. Nixon promised to help the people of the ghettos acquire their own businesses through Federal aid. Since the Nixon administration took office, the President has sent Secretary of Commerce Maurice Stans around the country to promise minority groups that money was available to help them become businessmen.

The promised funds have been difficult to find. The Small Business Administration was supposed to have a goal of guaranteed loans of $144.4 million, but 2 weeks before the end of the fiscal year the SBA had only guaranteed $81.7 million in loans for minority businessmen.

The Office of Economic Opportunity was supposed to have $56 million to help minority businessmen. Only about $37 million of this money was used, but OEO stated even this amount of money might only have "indirect benefits" for minority businessmen.

After sifting through the rhetoric, it has been more difficult to discover evidence of other funds allocated for minority enterprises.

But it is campaign time again, and after 19 months in office President Nixon has realized that he must do something to make these hopeful minority groups think that he is trying to help them become established in business. Any results he might have to point to are so meager that he dare not mention them, for any funds the Nixon administration has made available to minority groups for business are embarrassingly short of the President's promise.

Three weeks before this election, President Nixon announces that $100 million will be deposited in banks owned or controlled by minority groups to help black businessmen. When the banks are charging the highest interest rate in a hundred years, it is questionable whether it is the banks or the black businessmen who are being helped.

The President's announcement this money will be deposited in minority banks might look good until one realizes that this high interest rate will make meaningful loans cost the borrower a rate of interest that could make the difference between success or failure in his business venture. The Nixon announcement might look good until one remembers it is campaign time again, and Nixon's often repeated intention during the 1968 campaign to make help available for black businesses has never been fulfilled.

Mr. Speaker, the facts speak for themselves. The President has promised help to minorities for business reasons many times, but all we have seen are the promises. Promises are not what black businessmen need to operate their business. Unfortunately, depositing $100 million in banks offers less hope than Nixon's 1968 promises did, for the banks lending this money will charge such a high interest rate that few blacks will be able to borrow it, even if they can qualify for a bank loan.

THE ATTORNEY GENERAL SPEAKS ELOQUENTLY TO ALL AMERICANS

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. MINSHALL. Mr. Speaker, last Friday the Attorney General, John Mitchell, addressed a Republican National Committee conference of Republican heritage groups and nationality leaders.

His speech, which received a standing ovation, details the Nixon administration's efforts, successful efforts I might add, to cope with some of the problems most on the minds of nationality groups. I think that the Attorney General's statement speaks eloquently to all Americans as well, and I insert it in the RECORD:

THE U.S. ATTORNEY GENERAL SPEAKS

Ladies and Gentlemen: I'm pleased to be asked to join with the Heritage Groups represented here today. I'd like to talk about a situation which I think you can evaluate with perhaps more perspective than other Americans. I want to talk about the use of civil disturbance for political purposes—a phenomenon which I feel has no justification whatever in a society having the machinery for peaceful debate and orderly change.

When President Nixon took office in January 1969, people of both parties were agreed that he faced the most formidable array of problems of any President in recent memory—a seemingly endless entanglement in Southeast Asia; widespread defiance of draft laws that seemed to threaten the nation's very security; civil strife that had boiled over in certain areas; rampant inflation that seemed headed for economic crisis.

You will recall that few could understand why anyone would want to become President in a time like that. A grim joke was making the rounds that President Nixon was demanding a recount.

But Richard Nixon believed in the American system of Government, in the capacity of Americans to use it, and in their wisdom to use it well.

Twenty months later, under his leadership, the American involvement in Vietnam is shrinking. It is shrinking in a way that will not lose Southeast Asia to the Communists and will not give license to every would-be aggressor around the world. While much difficulty lies ahead, a just and honorable end is in sight.

Twenty months later the draft laws have been revised in a fair and practical way, so that every young man knows where he stands and can plan accordingly. The awful time of draft card burnings and flights to Canada has passed.

Twenty months later, minority rights are being protected and expanded in accordance with the American way of life. Again, much remains to be done, but this Administration has given the lie to those who said it has no interest in minorities. Two long, hot summers have passed without the massive incidents that were predicted.

Twenty months later, the rate of inflation has been reduced. In the process, the economy went through a test period and now appears stronger than ever.

We are not fresh out of problems, nor have some of the formidable ones that we inherited been completely solved. But they *are* being solved, and through the peaceful Constitutional processes that are as old as the Magna Carta and as new as the proposed Women's Rights Amendment.

Certainly our country has problems, but it also has the capacity to solve them. The ballot, the Bill of Rights, the system of laws framed by elected representatives responsible to the people, the checks and balances that prevent any branch of Government from assuming too much power, these constitute the machinery by which we effect change.

This system may sometimes be slow. I can testify that getting a bill through Congress *can* be excruciating. And while it is the duty of the President to lead, he cannot move very far without public support.

Now, the overwhelming majority of Americans believe in these Constitutional processes and also recognize that they work.

But these same Americans are shocked and bewildered by the growing resort to violence for political ends. Riots, bombings, burnings, vandalism, building seizures, hostage-holding, hijacking—these crimes are often employed in the name of political causes.

More than this, underground newspapers and spokesmen for extremist organizations call openly for revolution, for the murder of policemen, for the gathering of firearms and the making of bombs.

On our campuses alone, 322 bombings and arsons or attempted arsons were committed in the past two academic years. In the same period there were 513 sit-ins and building seizures; 11,200 arrests; 12½ million dollars in property damage; 9 deaths; and 587 injuries—all in campus disturbances alone.

The traditional concept of the university as a center of enlightenment and a forum for the free exchange of ideas has been threatened by mobs shouting obscenities and throwing rocks. Listen to this quote from one university official, taken from the recent report of the Commission on Campus Unrest:

"When I look out my window, when I try to carry on my job, I would simply have to break into hysterical laughter if someone came in and told me that what was happening in that school right then was that the students were being repressed. The fact of the matter is they have got me locked in the room; the rocks are coming through the window; nobody has been punished for anything; the whole judicial process has collapsed; whatever standard you think is important in any area of drugs or law or sex or clothes or anything else has been abandoned; and just under my door has been slipped a copy of an openly published newspaper which says things no newspaper has ever before dared to say. A howling mob is outside and nobody is going to do anything about it and I am supposed to believe that students are repressed?"

Amazingly, such lawless acts—both on and off the campus—are performed in the name of reform, progress and change. In their infinite wisdom these rioters and vandals know so well what this country needs that they can presume to force it on the rest of us, trampling on our hard-won liberties in the process. As President Nixon said in his speech at Kansas State:

"In a system like ours, which provides the means for peaceful change, no cause justifies violence in the name of change."

Now we are aware from investigation that many of these lawless acts are stimulated by extremist organizations. Their tactics are right out of the revolutionary handbooks.

They only talk about what is wrong with America—never conceding that anything can be good—to establish a feeling that nothing is really worth saving.

They spread the idea that any act—no matter how monstrous—is justifiable if it is in a good cause—their cause. This is the old "end justifies the means" philosophy of the Leninists.

They try to make others believe that progress is futile by Constitutional means, and that the only recourse is force.

They shout down and even attack those who disagree with them—a sure sign that their arguments are bankrupt.

In short, these extremist organizations are well trained and disciplined, frankly ruthless in their approach, and openly dedicated to pulling down Constitutional processes and substituting mob rule.

Some of you, or your parents, came from other lands where repression was more than a slogan. You know at first hand what happens when law is dethroned by raw power, when no Constitution, no Bill of Rights, no election stands guard against terror.

This was the kind of rule which nearly 200 years ago sent European volunteers who loved liberty to help in our War of Independence—Pulaski and Kosciusko from Poland, de Kalb and von Steuben from Germany, Lafayette from France. It is the kind of rule that has since sent millions to our shore in search of freedom and opportunity.

I am sure you will join with me in saying to the self-styled revolutionaries in our midst today:

"If you want change, use the magnificent system we have for effecting change. Don't rob the rest of us of the rights and liberties we came here to win."

In my opinion, civil disturbance is heading down a one-way street. It is running out of emergency issues by which it can inflame others. As I outlined at the beginning of my remarks, these and other issues are being solved within our system of law.

In addition, a law abiding society will not stand idly by and allow mob rule. The vast majority of Americans are repelled by it, and are demanding an end to it. The Administration has sponsored a measure in Congress to improve the control of explosives and incendiaries, increase the penalties for bombings, and enable the FBI to investigate bombings that occur at institutions receiving Federal funds. This measure is expected to pass Congress and become law very soon.

Through these kinds of measures, those who represent public administration duly elected by the people are serving notice that civil disturbance is wrong, that it will be punished, and that it will give way to the rule of law in this country.

Let me close with the observation that we have heard too much from the extremists about what is wrong with this country. Let us put in a word for what's right with America.

Let's talk about the political system by which the people rule, through elected representatives, and by which change is effected through debate and ballot.

Let's talk about the economic opportunity for the individual to reap a growing reward for his talents in terms of living standards for himself and his family. Such opportunity is far greater here than in any other country in the world.

Let's talk about the educational system—again, the greatest in the world—which gives a person the basic tools he needs for the best use of his abilities.

Let's talk about our country's technical capabilities which, through a unique cooperation between Government, industry and universities, have enabled us to lead the world in medicine, engineering, transportation, communication, manufacture, and living standards.

Let's talk about the moral precept that still rules most Americans—respect for others, honesty in personal and business affairs, reverence for a higher being and a higher order in the world.

All this, and much more, is what is right with America. There's so much that is right that we don't have to go around apologizing for our country because of what is wrong.

Nor should we, in recognizing what is right, soothe ourselves into the smug idea that nothing *is* wrong. We *do* have problems some of them very big. An existence without problems is, so far as I can see, one meant for angels, not human beings.

But we have the peaceful mechanism to examine these problems and meet them. The quality of American life *is* improving. It is going to continue improving—not through the pillage and riot of extremists, but through the devotion to law that is far more basic to the American mind.

A NEW CUBAN MISSILE CRISIS?

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. WYMAN. Mr. Speaker, this country cannot tolerate the construction of a Soviet Submarine Base in Cuba. This is not because of conflicting ideologies or international "imagery" or any other such amorphous concept.

It is because the national security of the United States is directly threatened by the construction of a relatively invulnerable concrete fortress for Communist missile carrying nuclear powered submarines 90 miles off our shores. The military, naval, and tactical consequences of such a development are of near disaster proportions that no amount of "don't talk about it" directives from the Pentagon cannot suppress.

Whatever it takes it is the most solemn responsibility of the Government of the United States to stop any further construction of a Soviet Military and Naval Base in Cuba. The Cuban Government should be told in so many words that this is "no dice" or else. Hopefully, the United Nations would act but this is too much to expect. Once again we'll have to go it alone, in all probability.

But now this is in our own back yard, so-to-speak, where if we must go it alone it is fitting and proper that we do so.

In the meantime it is something approaching ridiculousness to be spending billions to hold the line against Communist advances in Indochina while allowing Communists to build a submarine base less than a hundred miles from the United States. If there ever was a situation in which our President can show his undeniable expertise it is now in this Cuban development to keep the Soviets out of this hemisphere.

It was said that the late President Kennedy stopped the Soviets and made them take their missiles out of Cuba. Maybe they did. Maybe they did not. We actually never took a look, and the so-called confrontation was largely the appearance of confrontation rather than a literal military and naval power play. In the meantime the military situation has deteriorated in Cuba with the latest report involving the claim that the Communists are now openly building a nuclear submarine missile base there. In a very real sense this is worse than the so-called crisis that faced the Kennedy administration, for Panama and the Caribbean are vital U.S. waters.

It is the urgent responsibility of the Government of this country to act decisively and without delay to keep this Soviet base out of Cuba. In this connection Joseph Alsop's column in today's Washington Post is significant:

THAT SOVIET BASE IN CUBA

(By Joseph Alsop)

When members of the Senate Foreign Relations Committee were briefed on the new Soviet submarine base now being built in Cuba, Senator Frank Church of Idaho produced a splendid example of his amiable idiocy about such matters. How could we be sure, he asked, that this was really going to be a *Soviet* base?

Well, there is a simple answer that even Senator Church may perhaps comprehend. Because of the past influence of the horrible American imperialists, Cubans to this day are mainly baseball players, whereas Russians are passionate soccer players. And the sports facilities with which the new base at Cienfuegos is being provided, very conspicuously center on a fine soccer field.

There are, of course, other, less simplistic reasons why the U.S. government is quite certain that the new submarine base is intended exclusively for Soviet use. Above all, it is being built to handle the largest and most advanced Soviet nuclear submarines, of the "Yankee" class, carrying 16 nuclear missiles apiece.

The real question, in fact, is not whether the base is strictly for Soviet use. The real question is why the Soviet war planners want such a base, when they have always before handled their distant submarines as we do, by ships specially built as submarine-tenders.

The only possible answer is extremely disagreeable. In brief, there are certain kinds of repair and maintenance—particularly on the submarines' vital nuclear missiles—that are extremely difficult to carry out at sea, at least in large volume and continuously.

Hence a base like Cienfuegos is needed, when really large numbers of nuclear submarines are to be continuously at sea and far from home. That is the true explanation of the base. And the explanation means, in turn, that the Soviets are now planning continuous deployment of very large numbers of "Yankee" class and other nuclear submarines in the Caribbean and along the American coast.

They will have plenty of them to deploy, God knows! Norman Polmar, one of the authoritative editors of "Jane's Fighting Ships," forecasts that the Soviet nuclear submarine fleet will be as large as our own by the end of this year. He further forecasts that the Soviets will have 50 more nuclear submarines than we do by the year 1974.

In the circumstances, the construction of the Cienfuegos base is an even more ominous development than the attempted deployment of Soviet nuclear missiles on Cuban bases in 1962. It reveals an undoubted Soviet intention to gain a solid capability to knock out the entire land-based bomber component of the U.S. deterrent, plus the controls of the "Safeguard" ABM system.

The most horrifying single aspect of the story of the Cienfuegos base is the response the bad news has met with in this country. Consider a simple comparison.

In 1962, the U.S. Senate was in flames over mere rumors of Soviet missiles in Cuba, long before the presence of those missiles was confirmed by U-2 reconnaissance photographs. Contrast this with Senator Church's amiable idiocy, and the senatorial silence that has engulfed the news from Cienfuegos ever since!

Or think of the Kennedy administration's memorable reaction to the undesired and, indeed, the quite unexpected bad news in 1962. And then think of the Nixon administration's response to this news that is even worse!

It is being said, of course, that the administration let the Soviets know we knew about their intended submarine base, "as a signal." The signal, it is claimed, will stop the further construction of the base, with no more fuss. If you can believe that, however, you can believe anything at all, including the theories of world politics held by men like Senator Church and Sen. J. William Fulbright.

Meanwhile, Secretary of Defense Melvin Laird has now clamped down an iron lid on any further Defense Department discussion of the Cienfuegos base and its ominous meaning. The obvious intent was, and is, to prevent the public from growing alarmed, when we should be deeply alarmed. And this intent is natural, in view of the progressive American disarmament being shockingly carried on in the face of growing danger!

GOOD NEWS ABOUT OUR ECONOMY

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. DEVINE. Mr. Speaker, back on April 28, President Nixon said that if he had any money he would be buying stocks. I recall that there were Members across the aisle who made it a point to report to this body that the market dipped shortly thereafter.

I do not see those same Members making their financial reports today. Perhaps they do not wish to remind the public that from 724 on April 28 when President Nixon spoke, the market has gone up to 782 as of the close on Tuesday. Those who followed President Nixon's advice on buying stocks last April 28 would today be well ahead of the game, a reflection of the upward movement of our economy.

The stock market has been called a bellweather of our economy. It is on the move—upward, just as our economy is on the move. True, unemployment is threatening to match the Kennedy years—but, while he was winding up a war to end unemployment, President Nixon is winding down a war to turn workers loose for the pursuits of peace.

President Nixon is working for the long pull. Those who rushed to report ill news across the aisle were hoping to reap short-term political benefits.

I cannot blame those on the other side of the aisle for not wanting to spread the good news about our economy, after their tirades about gloom and doom. However, I do hope that they are not suffering personally, that they did not let their political yearning interfere with following the sound business advice of President Nixon.

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HON. FLETCHER THOMPSON'S LATEST NEWSLETTER

HON. FLETCHER THOMPSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. THOMPSON of Georgia. Mr. Speaker, because of the large number of requests I receive for copies of my newsletters and in order to make the text of the current issue of my newsletter available to Members of this and the other body, I hereby insert the text of the newsletter into the RECORD:

NEWSLETTER

DEAR FRIEND: Staying on the job.—A long session of Congress in an election year presents special problems for many Congressmen, including yours. Though each of us would like to be home full time as elections approach, our first obligation is to serve you in Washington . . . and that obligation will be met. However, as often as time permits during brief recesses of our sessions, your Congressman will be back in the Atlanta area attending as many meetings as my duties in Congress will permit.

A big heart.—While in Israel a month ago during the Labor Day recess, Bernard Abrams and I visited the Hadassah Hospital with Mrs. Fay Schenck, National President of Hadassah. Though this hospital in Jerusalem is supported by contributions from Jews, it warmed my heart while visiting the children's ward to find that the Hadassah women have opened more than half of the children's facilities to Arab children. At left I am pictured with an Arab grandfather, Bernard and three Arab children suffering from leukemia.

(Photo not printed in RECORD.)

To the Israelis, a religious difference makes no difference when children are in need.

National security.—Perhaps no people recognize the need for national security more than the Israelis. They've had to fight for their freedom in three wars in recent years. All Israelis I talked to expressed dismay at Americans who advocate surrender in Vietnam and disarmament at home. They know that freedom is not free and must be protected every day. Therefore, when your Congressman was rated recently by the American Security Council as having voted 100% of the time in the interest of national security, I could not help but think of the Israeli who told me that freedom must be protected every day.

A change is needed.—It is not fair to allow profiteers and land speculators to obtain apartment zoning on the pretense of building regular or luxury-type private apartments and then, after the zoning hearings are over, change the use to low-income, taxpayer-subsidized public housing without further hearings on the change of use. Yet, the Fulton County laws allow this to happen. In DeKalb County, a developer must build the type project he says he will build when the zoning was obtained. Property owners in Fulton County deserve the same protection. You should insist on the local laws being changed to prevent a moral injustice being done to innocent home-owners by denying them a right to be heard on the change of land use from private to public housing.

Realistic housing approach.—While your Congressman has and will continue to vigorously oppose allowing local housing agencies to deny you the right to have a hearing when land use is changed from private to public housing, if due process and equal protection of the law is afforded by allowing the local residents a hearing on what is to be built in their community before the decision to rezone is made, then the funding will not be opposed. But I will not support projects where your rights are denied.

POW film.—For the benefit of those who have loved ones they believe to be prisoners of war in North Vietnam, we obtained at our own expense a print of a 16-mm. film made in a North Vietnamese POW camp. Many have already identified loved ones in this film. If you know of someone who would like to view it, call my Atlanta District office at 524-1275 and we will help you.

Your vote's vital.—Are you going to let someone else make your decisions? In a Colorado election this year, 27 votes decided the candidate for Congress. In Maryland, 38 votes decided another Congressional race. In 1966, 360 votes determined the outcome of a Congressional race in Georgia. Though you may not realize it, your one vote can determine the outcome of an election. If you don't vote in November, someone else is going to decide the future of your country for you . . . and you may not like the results.

Watchdog of the Treasury.—Two years ago, your Congressman was honored by being named a "Watchdog of the Treasury" by the National Associated Businessmen, Inc., for protecting your tax dollar from excessive federal spending. For the second time, this award has just been granted me. One of the most effective ways I can serve you in Congress is to guard against too much government spending which causes inflation and makes your dollars buy less at home. I am proud of this award at a time when people are beginning to realize inflation is caused by excessive government spending.

What's your opinion.—To truly represent you in Washington, I want to know how you feel about the vital issues listed below. Please give me your opinions on this questionnaire and send them to me at 514 Cannon Building, Washington, D.C. 20515.

It is a high honor for me to serve you in Congress.

Yours very truly,

FLETCHER THOMPSON,
Member of Congress.

(Printing & paper paid for by myself & with donations sent in.)

THE ISSUES

1. Should armed guards be placed on airliners to prevent hijackings?
2. Should the U.S. have a treaty with Cuba to return all hijackers of boats or airplanes to the other?
3. Should the U.S. take diplomatic steps to prevent construction of a Russian submarine base in Cuba?
4. Should a homeowner have a voice on changing land use from private to public housing in his neighborhood?
5. Should the Congress, except in national emergencies, limit federal spending to bring the budget into balance?
6. Would you pay more for a car that needs less repairs after a minor collision?
7. Should the people of America be concerned about growing Russian missile and naval strength?

FEDERAL EMPLOYEES COMPENSATION ACT

HON. ALLARD K. LOWENSTEIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. LOWENSTEIN. Mr. Speaker, I am pleased and honored to join with the distinguished gentleman from Indiana (Mr. JACOBS) and other colleagues in sponsoring the wise legislation that would extend benefits of the Federal Employees Compensation Act to all policemen and firemen killed or totally disabled in the line of duty.

Our bill provides that a widow who is the sole survivor of a policeman or fireman would be eligible to receive approximately 45 percent of the monthly wage of her deceased husband. The compensation would continue as long as she did not remarry. If there are dependent children, the widow would receive 40 percent and each child 15 percent, up to a total of 75 percent of the monthly wage of the deceased. In cases of total disability, the wife's benefits would equal two-thirds of the monthly wage rate if there are no other dependents, but would be increased to three-fourths of the monthly wage if there are dependents.

During the 90th Congress Federal Employees Compensation Act benefits were made available to police officers who fell while upholding Federal law. This is a step in the right direction, but it does not go far enough. Our proposal does not distinguish between officers who fall in defense of Federal, State, or local law; benefits will be granted if they fall in the line of duty. And this legislation brings firemen under the coverage of the act—something that should have been done long ago. Men who lay down their lives to protect their communities give literally everything they have to help their fellow citizens and the least the rest of us can do for them is to guarantee that neither they nor their dependents will suffer undue economic hardship because of physical harm incurred while answering the call to duty.

I am surprised and saddened to learn that the Justice Department opposes taking this step, which seems especially appropriate at a time when police and firemen face increasing risks. The notion espoused by the Justice Department that somehow local government would be adversely affected by extending the coverage of the Federal Employees Compensation Act as proposed in this bill today seems to me strangely misguided.

Neither criminals nor fires respect jurisdictions, and outbreaks of lawlessness or arson affect us all. I hope we can look forward to swift and favorable action on this important matter.

NO EXCUSE TO DELAY WELFARE REFORM

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. WIGGINS. Mr. Speaker, as the end of the session draws near, I am hopeful my colleagues in the Senate will have the opportunity to consider President Nixon's family assistance plan and to act favorably upon it as those of us in the House of Representatives did.

To underscore the urgency of this landmark legislation, I include in the RECORD the Los Angeles Time's editorial, "No Excuse To Delay Welfare Reform":

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NO EXCUSE TO DELAY WELFARE REFORM

(*Issue.*—Now that Mr. Nixon has shown a disposition to compromise, is there any excuse for further inaction on welfare reform?)

President Nixon has wisely decided to accept a Democratic-sponsored compromise to get his welfare reform proposal unstuck from the Senate Finance Committee, where it has been languishing for more than four months.

It is now up to Senate liberals to display a corresponding sense of urgency and responsibility so the measure can be enacted before Congress adjourns for the year.

Practically everybody agrees that the existing welfare system is a mess. It is expensive. It contributes to the breaking up of homes. And it does precious little to encourage recipients to get off welfare and into jobs.

Under the reform program proposed by Mr. Nixon a year ago, every family with children would, in effect, be guaranteed a minimum annual income based on the size of the family—provided the head of the family is willing to work or take job training.

Since the proposed program would include the working poor, the initial cost would be somewhat higher than that of the existing system. But if it succeeded in breaking the welfare dependency cycle, it would save the taxpayers money in the long run.

President Nixon has squelched Democratic charges that he was not serious about the proposal by waging an intensive lobbying campaign among conservative Republicans on the committee.

Now he has announced that he is willing to accept an amendment proposed by Sen. Abraham Ribicoff (D-Conn.), providing for a one-year trial in three areas before the new system would go into effect in the country as a whole.

Senate Majority Leader Mike Mansfield predicts, as a result, that the committee will report out the bill in October and it will be voted upon by the Senate this year.

We hope Long and other obstructionists on the committee feel likewise. This is too important a bill to die because of either conservative opposition—or a seeming reluctance among some Democrats to see a Republican President get credit for a landmark piece of social legislation.

SENATE—*Thursday, October 8, 1970*

The Senate met at 10 a.m. and was called to order by Hon. ERNEST F. HOLLINGS, a Senator from the State of South Carolina.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Give unto us, O Lord, that quietness of mind in which we can hear Thee speaking to us, illuminating our minds, directing our actions, controlling our emotions, for Thy name's sake.

Gracious Father, who willest us to cast our care on Thee, who carest for us, preserve us from all faithless fears and selfish anxieties, and grant that no clouds of this mortal life may hide from us the light of the love which is immortal and which Thou hast manifested to us in Jesus Christ our Lord, but that we may this day walk in the light of Thy countenance, be guided by Thine eye, be sanctified by Thy spirit, and be enabled to live to Thy glory. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication from the President pro tempore of the Senate (Mr. RUSSELL).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 8, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. ERNEST F. HOLLINGS, a Senator from the State of South Carolina, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. HOLLINGS thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, October 7, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

AMBASSADORS

The assistant legislative clerk read the following nominations:

Artemus E. Weatherbee, of Maine, who was confirmed by the Senate September 1, 1970, as U.S. Director of the Asian Development Bank, to serve on the Bank with the rank indicated, to be an ambassador.

Christopher H. Phillips, of New York, to be the deputy representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary.

G. Edward Clark, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

Mr. FULBRIGHT. Mr. President, the Committee on Foreign Relations has favorably reported the nomination of Mr. Artemus E. Weatherbee to be given the rank of Ambassador. Mr. Weatherbee was confirmed by the Senate as U.S. Director of the Asian Development Bank on September 1, 1970. The present action is taken strictly to give him additional status; it has no bearing on his duties or his remuneration.

In recommending that the Senate approve this nomination I would like to make a few points quite clear to the Senate. These have nothing to do with Mr. Weatherbee himself, but relate to the circumstances surrounding this particular administration request. Indeed, since we approved Mr. Weatherbee's nomination to be U.S. Director on the Asian Bank, a vote of confidence has already been given to him as a person.

The case for granting ambassadorial rank to our permanent representative at the Asian Development Bank rests entirely on the circumstance that the headquarters of the Bank are in Manila in the Philippines. Other comparable international financial institutions, such as the World Bank and the Inter-American Bank, have their headquarters here in Washington, D.C., and it is presumed that the tasks and the living and working conditions of the U.S. executive directors in these institutions are made easier by this fact.

When the Asian Development Bank was established in 1966, Public Law 89-369 provided that the U.S. Director of the Asian Bank could be given the status of a chief of mission, class 2, within the meaning of the Foreign Service Act of 1946, as amended. Although not provided for in the law, our first representative was also given the personal rank of Ambassador on the grounds that it would heighten his prestige and influence in Asian Bank circles in Manila. Leaving the question of justification to one side, the Committee on Foreign Relations has been concerned that the general practice of according a personal rank in such fashion bypassed the Senate's constitutional right and duty to confirm ambassadorial nominees.

In response to the committee's expression of concern about this and numerous other cases the administration has not unilaterally given Mr. Weatherbee the personal rank of ambassador. Rather, the President has submitted his nomination to be ambassador in the regular way. The committee welcomes this straightforward method of doing business.

However, it should be emphasized that in approving this nomination, the Foreign Relations Committee has made no judgment about the comparative merits of the various international financial institutions. And, most importantly, it does not believe that this action should be regarded in any way as a precedent either in terms of future U.S. Directors of the Asian Bank or in terms of the rank of U.S. representatives to other international organizations and institutions.

With this understanding clearly stated the committee has asked the Senate to approve this nomination.

Mr. MANSFIELD. Mr. President, I ask

unanimous consent that the nominations be confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are confirmed en bloc.

U.S. CIRCUIT COURTS

The assistant legislative clerk proceeded to read sundry nominations in U.S. circuit courts.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. DISTRICT COURTS

The assistant legislative clerk proceeded to read sundry nominations in U.S. district courts.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

The assistant legislative clerk read the nomination of Roger C. Cramton, of Michigan, to be Chairman of the Administrative Conference of the United States.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. PATENT OFFICE

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Patent Office.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE DIPLOMATIC AND FOREIGN SERVICE

The assistant legislative clerk proceeded to read sundry nominations in the Diplomatic and Foreign Service which had been placed on the Secretary's desk.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Intergovernmental Relations of the Committee on Government Operations, and the Subcommittee on Internal Security of the Committee on the Judiciary, both be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures on the calendar to which there is no objection, beginning with Calendar No. 1293.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORIZATION FOR PAYMENT OF CERTAIN EXPENSES INCIDENT TO DEATH OF MEMBERS OF THE ARMED FORCES WHERE NO REMAINS ARE RECOVERED

The bill (H.R. 11876) to amend section 1482 of title 10, United States Code, to authorize the payment of certain expenses incident to the death of members of the Armed Forces in which no remains are recovered, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 91–1275), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of H.R. 11876 is to provide for the furnishing of a flag and for a reimbursement allowance for memorial services to be paid to next of kin in cases where the remains of deceased members of the Armed Forces are not recovered.

The bill if enacted would be limited in its application to cases where death has occurred subsequent to January 1, 1961, and would place a time limit of 2 years for filing of claims for reimbursement.

BACKGROUND OF THE BILL

Section 1482 of title 10 of the United States Code provides for the payment by the Secretary concerned of the necessary expenses connected with the recovery care, and final disposition of the remains of members of the Armed Forces.

It is under this law that the Armed Forces provide for a cash allowance to be paid as reimbursement for interment costs at destination when remains have been recovered. If interment is made in a civilian cemetery, the maximum amount allowable is $500; for remains delivered to a funeral home for subsequent burial in a Government cemetery, the maximum is $250; and for expenses incident to interment when the remains are delivered directly to a Government cemetery, the maximum is $75.

These maximum allowances are based upon the average costs of the essential services usually performed in connection with interment, and they are reviewed for equity and adequacy on an annual basis.

The provisions of 10 U.S.C. 1482 are limited to cases where remains have been recovered and do not provide for any services incident to honoring those servicemen whose remains have not been recovered. On the other hand, pursuant to other legislation, memorial markers and memorial plots in national cemeteries are provided for nonrecoverable (24 U.S.C. 279a and 279d). The small cost of memorial services for nonrecoverable cases has not been previously authorized.

The bill would authorize an amount not to exceed the maximum allowable for interments when the Government provides the gravesite, currently $250. Such memorial service reimbursement could be used to cover the costs of the services if desired or may be used to cover any of the normally appropriate costs incident to such services.

Further, it is proposed to limit applicability of the legislation to cases where the death has occurred subsequent to January 1, 1961, and would place a time limit of 2 years for filing claims for reimbursement.

From January 1, 1961, until the present time there have been 630 cases where remains have not been recovered. In normal times the annual incidents of nonrecovery of remains is minimal.

FISCAL DATA

It is estimated that the maximum cost in the first 2-year period after enactment of this legislation as amended, would be $157,500 and that annually thereafter the cost would be minimal. While these costs have not been included in any estimate for appropriations submitted through budgetary channels by the Department of Defense, they could be absorbed within current amounts appropriated.

REPEAL OF OBSOLETE SECTIONS OF TITLE 10, UNITED STATES CODE, AND SECTION 208 OF TITLE 37, UNITED STATES CODE

The bill (H.R. 15112) to repeal several obsolete sections of title 10, United States Code, and section 208 of title 37, United States Code as considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 91–1276), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

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PURPOSE

The purpose of this proposal is to repeal sections 4539, 4623, 5981, 6159, and 6406 of title 10, and section 208 of title 37, United States Code all of which are now considered as obsolete provisions of law.

BACKGROUND

The bill repeals certain obsolete sections of the United States Code which are no longer required by the military departments.

Specifically, this legislation would repeal sections 4539, 4623, 5981, 6159, and 6406 of title 10, and section 208 of title 37, United States Code.

Section 4539 of title 10 requires horses and mules to be brought in the open market at Army posts within maximum prices prescribed by the Secretary of the Army. To the extent horses and mules may be required by the Army, they can be procured under the general authority for procurement of property for the Department of Defense (ch. 137 of title 10).

Section 4623 of title 10 requires the Quartermaster General to sell not more than 16 ounces of tobacco a month to any enlisted member of the Army on active duty who requests it.

Section 5981 of title 10 authorizes the President to select any officer on the active list of the Navy not below the grade of commander and to assign him to command a squadron, with the rank and title of a flag officer. This section may be repealed as obsolete, since it is not used.

Section 6159 of title 10 provides for the payment of a pension to a person who has served as an enlisted member or petty officer in the Navy or Marine Corps for at least 20 years and who, because of age or infirmity is disabled from sea service. There is no comparable provision of law applicable to members of the Army or the Air Force. Section 6159 may be repealed as unnecessary in view of the comprehensive provisions for physical disability retirement in chapter 61 of title 10 and the provisions for transfer to the Retired Reserve, Fleet Reserve, and Fleet Marine Corps Reserve in sections 6327 and 6330 of title 10.

Section 6406 of title 10 authorizes the Secretary of the Navy to furlough any officer of the Regular Navy or the Regular Marine Corps. Section 208 of title 37 provides that an officer who is furloughed under section 6406 of title 10 is entitled to pay at the rate of one-half of his basic pay to which he was entitled at the time of being furloughed. These provisions originated in the days of sail when, in time of peace, the limited number of ships and the very few shore billets necessitated the placing of seagoing officers in a half-pay "retainer" status to keep them available for wartime expansion.

PAY AND ALLOWANCES FOR ENLISTED MEMBERS ACCEPTING APPOINTMENT AS OFFICERS COMMENSURATE WITH ENLISTED STATUS

The bill (H.R. 16732) to amend title 37, United States Code, to provide that enlisted members of a uniformed service who accept appointments as officers shall not receive less than the pay and allowances to which they were previously entitled by virtue of their enlisted status was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1277), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of this proposal is to provide that enlisted members of a uniformed service who accept appointments as officers or warrant officers shall not receive less than the pay and allowances to which they were previously entitled in their enlisted status.

BACKGROUND

This is a Department of Defense legislative proposal which is designed to eliminate a factor which deters officer procurement from the senior enlisted ranks.

In many instances, the consequence of a senior noncommissioned officer accepting a commission or warrant results in a reduction in his gross pay and allowances. Thus, in accordance with a study conducted by the Department of the Army, one reason senior enlisted members in the pay grades of E-7 through E-9 reject tendered warrants or commissions is that the total compensation of a second lieutenant or a warrant officer (W-1), is lower than the gross pay and allowances received by some enlisted members.

It is a logical assumption that the current law has, to some degree acted as a deterrent to the procurement of some highly qualified officers from the enlisted grades, particularly the senior enlisted grades. The current table listing comparative salaries between enlisted men, warrant officers, and commissioned officers supports this assumption. For example, an E-7, with 12 years of service, receiving in addition to his base pay, proficiency pay, quarters, clothing, and subservice, receiving in addition to his base pay, would receive a pay reduction of approximately $65 a month, or about $780 a year, if he accepted appointment as a warrant officer, W-1. This pay reduction becomes more severe as time in service for pay purposes increases and the enlisted grades get higher. They must also consider the discontinuance of eligibility for a reenlistment bonus which they may be eligible to receive as NCO's but will not receive as officers. In other words, there is a forced reduction in pay for some individuals, particularly those in the senior NCO category, when they "advance" from enlisted to warrant or commissioned officer status.

This discrepancy is due in large part to the proficiency and incentive pays for special duty received by enlisted members which are not transferable to an officer's status.

It appears that the Navy and Marine Corps now have authority to protect enlisted members who accept temporary warrants from a reduction in pay (secs. 5596 and 5597 of title 10, United States Code). However, neither the Army nor the Air Force has this authority.

Enactment of this legislation would provide general authority to all the uniformed services to remedy this problem.

This bill will apply to all the various pays and allowances which are regularly payable to military personnel. It is important to point out, however, that proficiency pay, incentive pay, or special pay would not be included in this savings provision unless the enlisted member who accepts a commissioned or warrants status continues to perform the duty which would otherwise entitle him to such extraordinary pay if he remained in an enlisted status.

MICRONESIAN CLAIMS ACT OF 1970

The joint resolution (S.J. Res. 211) to authorize an ex gratia contribution to certain inhabitants of the Trust Territory of the Pacific Islands who suffered damages arising out of the hostilities of the Second World War, to provide for the payment of noncombat claims occurring prior to July 1, 1951, and to establish a Micronesian Claims Commission was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 211

Whereas certain Micronesian inhabitants of the Trust Territory of the Pacific Islands, formerly under League of Nations Mandate to Japan, suffered from the hostilities of the Second World War;

Whereas the United States, while not liable for wartime damages suffered by the Micronesians, has responsibility for the welfare of the Micronesian people as the Administering Authority of the Trust Territory of the Pacific Islands;

Whereas the Governments of Japan and the United States entered into an agreement on April 18, 1969, to contribute ex gratia the equivalent of $10,000,000 to the Micronesian inhabitants of the Trust Territory of the Pacific Islands in view of the suffering caused by the hostilities of the Second World War, each Government contributing the equivalent of $5,000,000, Japan's contribution to take the form of products and services;

Whereas payment of these ex gratia contributions to certain Micronesian inhabitants of the Trust Territory of the Pacific Islands will meet a long-standing Micronesian grievance and will promote the welfare of the Micronesian people;

Whereas certain Micronesian inhabitants of the Trust Territory of the Pacific Islands claim to have suffered damage to or loss or destruction of property, personal injury, or death caused by military and civilian employees of the United States Government and arising out of accidents or incidents between the dates of the securing of the various islands of Micronesia by the United States Armed Forces and July 1, 1951, and within an area under the control of the United States at the time of the accident or incident;

Whereas the United States is desirous of making an equitable settlement of these claims by way of a monetary contribution: Therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this resolution may be cited as the "Micronesian Claims Act of 1970".

TITLE I

SECTION 1. (a) It is the purpose of this title that, with respect to war claims, the United States should make an ex gratia contribution of $5,000,000 matching an equivalent contribution of the Government of Japan, to Micronesian inhabitants of the Trust Territory of the Pacific Islands who are determined by the Micronesian Claims Commission to be meritorious claimants, in particular amounts to be awarded by the Micronesian Claims Commission, and that the High Commissioner of the Trust Territory of the Pacific Islands, hereinafter referred to as High Commissioner, or his designee, shall pay to said Micronesian claimants as soon as possible following his receipt of the final report of the Micronesian Claims Commission on the claims allowed, such amounts as are finally certified pursuant to section 4 hereof:

(b) A "Micronesian inhabitant of the Trust Territory of the Pacific Islands" is defined for the purposes of this joint resolution as a person who—

(1) became a citizen of the Trust Territory

of the Pacific Islands on July 18 1947, and who remains a citizen as of the date of filing a claim; or

(2) if then living, would have been eligible for citizenship on July 18, 1947; or

(3) is the successor, heir, or assign of a person eligible under subsection (1) or (2) and who is a citizen of the Trust Territory of the Pacific Islands as of the date of filing a claim.

SEC. 2. (a) There is hereby authorized to be appropriated to the Trust Territory of the Pacific Islands $5,000,000, in addition to the normal budgetary expenditures for the Trust Territory of the Pacific Islands and in addition to the appropriations authorized by section 2 of the Act of June 30, 1954, as amended, to be paid into a Micronesian Claims Fund. The High Commissioner is hereby authorized to create and manage said Micronesian Claims Fund.

(b) Funds approximating $5,000,000 appropriated to the Trust Territory of the Pacific Islands for supplies or capital improvements in accordance with the Act of June 30, 1954, as amended, shall be paid into a Micronesian Claims Fund as the products of Japan and the services of the Japanese people in the amount of one billion eight hundred million yen (currently computed at $5,000,000) are provided by Japan pursuant to article I of the "Agreement between the United States of America and Japan", signed April 18, 1969. These funds, together with the sum authorized to be appropriated by subsection (a) of this section, shall constitute the whole of the Micronesian Claims Fund.

SEC. 3. (a) There is hereby established a Micronesian Claims Commission, hereinafter referred to as the Commission, such Commission to be under the control and direction of the Chairman of the Foreign Claims Settlement Commission. The Commission shall be composed of five members, who shall be appointed, in consultation with the Secretary of the Interior, by the Chairman of the Foreign Claims Settlement Commission, one of whom he shall designate as Chairman. Two members shall be selected from a list of Micronesian citizens nominated by the Congress of Micronesia. Any vacancy that may occur in the membership of the Commission shall be filled in the same manner as in the case of the original appointment. The members of the Commission shall serve at the pleasure of the Chairman of the Foreign Claims Settlement Commission. No Commissioner shall hold other public office or engage in any other employment during the period of his service on the Commission, except as an employee of the Foreign Claims Settlement Commission.

(b) The members of the Commission shall receive compensation and allowances as determined by the Chairman of the Foreign Claims Settlement Commission by application of the rules and regulations which apply to officers and employees of the Trust Territory of the Pacific Islands, but in no event shall traveling and other expenses incurred in connection with their duties as members, or a per diem allowance in lieu thereof, exceed that prescribed in accordance with the provisions of subchapter 1 of chapter 57 of title 5, United States Code. The term of office of the members of the Commission shall expire at the time fixed in subsection (e) for winding up the affairs of the Commission.

(c) The Commission may, subject to the approval of the Chairman of the Foreign Claims Settlement Commission, appoint and fix the compensation and allowances of such officers, attorneys, and employees of the Commission as may be reasonably necessary for its proper functioning, which employees shall be in addition to those who may be assigned by the Chairman of the Foreign Claims Settlement Commission to assist the Commission in carrying out its functions. The compensation and allowances of employees appointed pursuant to this section shall be within the rules and regulations which apply to officers and employees of the Trust Territory of the Pacific Islands, but in no event to exceed the amount of allowances prescribed in subchapter 1 of chapter 57 of title 5, United States Code. In addition, the Commission, with the approval of the Chairman of the Foreign Claims Settlement Commission, may make such expenditures as may be reasonably necessary to carry out its proper functioning. Officers and employees of any other department or agency of the Government of the United States or the Government of the Trust Territory of the Pacific Islands may, with the consent of the head of such department or agency, with or without reimbursement, be assigned to assist the Commission in carrying out its functions. The Commission may, with the consent of the head of any other department or agency of the Government of the United States or the Government of the Trust Territory of the Pacific Islands, utilize, with or without reimbursement, the facilities and services of such department or agency in carrying out the functions of the Commission.

(d) The Commission shall, subject to the approval of the Chairman of the Foreign Claims Settlement Commission, prescribe such rules and regulations as are necessary for carrying out its functions. As expeditiously as possible and, in any event, within three months of its appointment, the Commission shall give public notice in the Trust Territory of the Pacific Islands of the time when, and the limit of time within which, claims may be filed, which notice shall be given in such manner as the Commission shall prescribe: *Provided*, That the final date for the filing of claims shall not be more than one year after the appointment of the full membership of the Commission. A majority of the membership of the Commission shall be necessary to transact business: *Provided, however,* That an affirmative vote of at least three members shall be required for the promulgation of rules and regulations, and for the final adjudication of any claim.

(e) The Commission shall wind up its affairs as expeditiously as possible and in any event not later than three years after the expiration of the time filing claims under this Act.

SEC. 4. (a) The Commission shall have authority to receive, examine, adjudicate, and render final decisions, in accordance with the laws of the Trust Territory of the Pacific Islands and international law, with respect to claims of the Micronesian inhabitants of the Trust Territory of the Pacific Islands who suffered loss of life, physical injury, and property damage directly resulting from the hostilities between the Governments of Japan and the United States between December 7, 1941, the dates of the securing of the various islands of Micronesia by United States Armed Forces and those claims arising as post war claims on or before July 1, 1951. When all claims have been adjudicated, the Commission shall certify them to the High Commissioner for payment, the claims covered by title I of this Act shall be paid from the Micronesian Claims Fund, except that as to claims based on death, up to $1,000 shall be paid immediately upon adjudication, and the claims covered by title II of this Act shall be paid by the High Commissioner from the funds appropriated for such purpose.

(b) No later than six months after its organization, and annually thereafter, the Commission shall make a report, through the Chairman of the Foreign Claims Settlement Commission, to the Congress of the United States concerning its operations under this Act. The Commission shall, upon winding up its work, certify to the Chairman of the Foreign Claims Settlement Commission, the Secretary of the Interior, and to the Congress of the United States the following:

(1) a list of all claims allowed, in whole or in part, together with the amounts of each claim and the amount awarded thereon;

(2) a list of all claims disallowed;

(3) a copy of the decision rendered in each case.

(c) In the event that funds remain in the Micronesian Claims Fund after all allowable and adjudicated claims are paid, such remaining funds shall be transferred from the Micronesian Claims Fund to the Treasury of the Trust Territory of the Pacific Islands for appropriation by the Congress of Micronesia for the welfare of the people of the Trust Territory of the Pacific Islands. In the event that the allowable and adjudicated claims covered by title I of the Act exceed a total of $10,000,000, the High Commissioner shall make pro rata payments.

(d) No payment shall be made on an award of the Commission unless the claimant shall first execute a full release to the United States and Japan in respect to any alleged liability of the United States or Japan, or both, arising before the dates of the securing of the various islands of Micronesia by the United States Armed Forces.

SEC. 5. There is authorized to be appropriated such sums as may be necessary for the operation and administrative expenses of the Foreign Claims Settlement Commission, to the extent needed to cover activity connected with this Act, and of the Commission in order to carry out the purposes of this Act.

SEC. 6. The agreement for the payment of the Micronesian claims covered by title I of this Act having been reached by negotiators of the Governments of the United States and Japan, and since personnel to be appointed by the High Commissioner or the Commission will be available to assist the people of the Trust Territory of the Pacific Islands insofar as may be necessary in filing all claims covered by this Act, no remuneration on account of services rendered on behalf of any claimant, or any association of claimants, in connection with any claim or claims shall exceed, in total, 1 per centum of the amount paid on such claim or claims, pursuant to the provisions of this Act. Fees already paid for such services shall be deducted from the amounts authorized by this Act. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

TITLE III

SECTION 1. It is the purpose of this title that, for the purpose of promoting and maintaining friendly relations by the settlement of meritorious postwar claims, the Micronesian Claims Commission is authorized to consider, ascertain, adjust, determine, and make payments, where accepted by the claimant in full satisfaction and in final settlement, of all claims by Micronesian inhabitants against the United States on account of damage to or loss or destruction of private property both real and personal, or personal injury or death of Micronesian inhabitants of the former Japanese Mandated Islands, now the Trust Territory of the Pacific Islands administered by the United States under a trusteeship agreement with the United Nations, including claims for damage to or loss or destruction of personal property bailed to the United States Government or the Government of the Trust Territory of the Pacific Islands, and claims for damages incident to the use and occupancy of real property, whether under a lease, express or implied, or otherwise, when such damage, loss, destruction or injury was caused by the United States Army, Navy, Marine Corps or Coast Guard, or individual members thereof, including military per-

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sonnel and United States Government civilian employees, and including employees of the Trust Territory Government acting within the scope of their employment: *Provided,* That only those claims shall be considered by the Commission which are presented in writing as provided for in section 3(d) of title I of this Act and the accident or incident out of which the claim arose occurred prior to July 1, 1951, within the islands which now comprise the Trust Territory of the Pacific Islands and within an area under the control of the United States at the time of the accident or incident: *Provided further,* That any such settlements made by such Commission and any such payments made by the High Commissioner under the authority of this title shall be final and conclusive for all purposes notwithstanding any other provision of law to the contrary and not subject to review.

SEC. 2. There is hereby authorized to be appropriated, the amount of $20,000,000 to be expended by the High Commissioner for the purposes of making payments to the extent authorized by this title of this Act.

SEC. 3. Any funds appropriated for the purposes of this title which remain after the settlement of claims under the provisions of this title shall be covered into the Treasury of the United States.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1278), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of Senate Joint Resolution 211, introduced by Senator Jackson, is to provide necessary authorization to accomplish the following four objectives:

(1) Implement an Executive Agreement, dated April 18, 1969; between Japan and the United States providing compensation equivalent to $10 million to inhabitants of the Trust Territory of the Pacific Islands who suffered damages during the second World War.

(2) Authorize the adjudication of claims of Micronesians arising during the war and those arising during the post secure period from actions of members of the armed services or employees of the U.S. Government.

(3) Establish a Micronesian Claims Commission responsible for determining the validity of the claims that may be filed.

(4) Authorize the appropriation of $25 million over and above funds regularly appropriated for the trust territory to make payments on claims adjudicated by the Commission.

BACKGROUND

The islands which form the trust territory lie in three major archipelagoes to the north of the Equator in the western Pacific. The land area totals less than 700 square miles, but it is scattered over almost 3 million square miles of open ocean. About 97 of the more than 2,000 islands are inhabited; they range from low-lying coral atolls to high islands of volcanic origin.

These islands were governed between World War I and World War II by the Japanese as a League of Nations mandate. Converted into military bases by the Japanese they were captured by allied forces during World War II and placed under Navy military government. Japanese colonists and military personnel were returned to their homeland after the war and in July 1947 the United States placed the former mandate under the newly established United Nations trusteeship system. In recognition of the defense value of these islands, the provisions of the United Nations Charter relating to strategic areas were brought into play, and the trusteeship agreement was concluded between the United States and the Security Council. Under the trusteeship agreement, the United States has undertaken to promote the educational, social, political, and economic development of the people of the territory.

Extensive damage to private property resulted from actions of U.S. and Japanese military forces, and for more than 25 years the Micronesians have been seeking a forum before which to submit their claims.

The Treaty of Peace with Japan provided that claims of the inhabitants of Micronesia against Japan and claims of Japan and its nationals against the administering authority shall be the subject of special arrangements. On April 18, 1969, the United States and Japan entered into an agreement providing that the two Governments will make equal ex gratia contributions for the welfare of the Micronesians. A copy of the agreement is included in the communication from the Department of the Interior which accompanies this report.

In addition to wartime damages, the people of Micronesia sustained certain damages and takings resulting from securing the various islands captured from the Japanese, and these claims for damages likewise have not been settled.

EXPLANATION OF THE RESOLUTION

Senate Joint Resolution 211 contains two titles. Under title I there is established a five-member Micronesian Claims Commission to adjudicate claims of Micronesian inhabitants of the trust territory resulting from the hostilities of the Governments of the United States and Japan during World War II. It will establish also a Micronesian Claims Fund, the whole of which Fund will be $10 million, and authorize the appropriation of $5 million to be paid into this Fund by the United States as its share of the Fund. The High Commissioner of the trust territory shall pay such meritorious claims as are adjudicated by the Micronesian Claims Commission to the defined Micronesian inhabitants of the Trust Territory of the Pacific Islands.

Section 2 of title I authorizes the appropriation of $5 million to be paid into a "Micronesian Claims Fund," which sum is separate from funds appropriated and subject to the limitation of appropriations contained in section 2 of the act of June 30, 1954, as amended. As the products of Japan and the services of the Japanese people, having an aggregate value of 1.8 billion yen, are made available to the government of the trust territory, the cash equivalent of such products and services to the extent of approximately $5 million shall be transferred by the High Commissioner from the funds regularly appropriated to the trust territory for supplies or capital improvements to the Micronesian Claims Fund. These funds, together with the funds authorized to be appropriated, shall constitute the whole of the Micronesian Claims Fund.

Section 3 establishes a Micronesian Claims Commission to be composed of five members such Commission to be under the control and direction of the Chairman of the Foreign Claims Settlement Commission. The five members shall be appointed, in consultation with the Secretary of the Interior, by the Chairman of the Foreign Claims Settlement Commission, who shall designate one member as chairman. Two of the members shall be selected from a list of Micronesian citizens nominated by the Congress of Micronesia. The other three members will be selected from the staff of the Foreign Claims Settlement Commission. Other subsections of section 3 provide for the fixing of compensation and allowances of the members and for the appointment, compensation, and allowances of such staff personnel as the Commission may reasonably require for its proper functioning, and authorize the promulgation of necessary rules and regulations and set final dates of filing claims (not more than 1 year after the appointment of the Commisison). The Commission shall proceed as expeditiously as possible and shall conclude its affairs no later than 3 years after the expiration of the time for filing claims.

Section 4 gives the Commission authority to receive and adjudicate claims of the Micronesian inhabitants of the trust territory who suffered loss of life, physical injury, and loss of or damage to personal property directly resulting from the hostilities between the Governments of Japan and the United States between December 7, 1941, and the dates of the securing of the various islands of Micronesia by the Armed Forces of the United States.

Six months after its organization, and annually thereafter, the Commission shall report to the Congress concerning its operations, and that upon completion of its work it shall certify to the Chairman of the Foreign Claims Settlement Commission, the Secretary of the Interior, and the Congress a list of all claims allowed, in whole or in part, together with the amount of each claim and the amount awarded thereon; a list of all claims disallowed; and a copy of the decision rendered in each case.

In the event funds remain in the claims fund after all claims are paid, such balance shall be paid into the treasury of the Trust Territory of the Pacific Islands for appropriation by the Congress of Micronesia for the welfare of the people of the trust territory. If all adjudicated claims exceed $10 million, the High Commissioner shall determine the necessary proration and make payments accordingly. Settlement of the claims shall be by a full release to the United States and Japan in respect to the liability of either or both.

Section 5 authorizes the appropriation of such sums as may be necessary for the operation and administratve expenditures of the Foreign Claims Settlement Commission and the Micronesian Claims Commission.

Section 6 imposes a limitation upon attorney's fees which is applicable to both wartime and postwar claims.

Title II of the resolution authorizes the Micronesian Claims Commission to consider, ascertain, adjust, determine, and make payments, where accepted by the claimant in full satisfaction of final settlement of all the claims of Micronesian inhabitants against the United States arising as a result of damage to or loss or destruction of private property, both real and personal, or personal injury or death of the inhabitants of the Trust Territory of the Pacific Islands as a result of acts by members of the U.S. armed services, employees of the U.S. Government including employees of the trust territory, who were acting in their official capacities. The claims to be considered by the Micronesian Claims Commission must be presented in writing within 1 year after the effective date of the act. Only those claims that arose prior to July 1, 1951, will be considered by the Commission.

Any settlements made by the Commission and any payments made by the High Commissioner as a result of those settlements shall be final and conclusive and not subject to review.

Section 2 of title II authorizes the appropriation of $20 million for use by the High Commissioner for the purpose of making payments on claims adjudicated by the Micronesian Claims Commission.

Section 3 of title II provides that any funds appropriated for the purposes of title II which remain unexpended after settlement of all claims provided for under title II shall be returned to the Treasury of the United States.

XUM

COMMITTEE COMMENT

The committee has been advised by the Interior Department that the amounts set forth in the resolution are believed adequate to adjust known claims outstanding. Further, the committee wishes to make clear that the Claims Commission shall only consider the valuation placed on these claims as the value of the property at the time of its loss or destruction. The payment of interest on awards is not authorized.

INCREASING AUTHORIZATION FOR INTERNATIONAL PEACE GARDEN, N. DAK.

The Senate proceeded to consider the bill (S. 233) to increase the authorization for the appropriation of funds to complete the International Peace Garden, N. Dak., which had been reported from the Committee on Interior and Insular Affairs with an amendment in line 7, after the word "thereof", strike out "$1,325,000." and insert " '$1,454,000'."; so as to make the bill read:

S. 233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act entitled "An Act to authorize an appropriation to complete the International Peace Garden, North Dakota", approved October 25, 1949 (63 Stat. 888), as amended, is amended by striking out "$400,000" and by inserting in lieu thereof "$1,454,000".

Mr. BURDICK. Mr. President, a source of enduring pride to citizens of the United States and of Canada is the existtence of the world's longest unfortified boundary which separates the two nations. In 1928 a visionary citizen of Canada, Henry J. Moore of Islington, Ontario, conceived the idea of establishing on that border a garden dedicated to the many years of peace that have existed between these two North American nations.

Soon the "International Peace Garden, Inc." was formed under the laws of New York. Two Americans and one Canadian were appointed to find a suitable site. The committee eventually selected a site in the Turtle Mountains of North Dakota and Manitoba midway between the Atlantic and Pacific Oceans, only 35 miles from the spot that was then the geographic center of the North American continent.

The garden was formally dedicated in 1932. At this ceremony, a stone table bearing the following inscription was unveiled: "To God in His Glory . . . we two nations dedicate this garden and pledge ourselves that as long as men shall live, we will not take up arms against one another."

The International Peace Garden consists of 2,330.3 acres comprising a small—80 acres in each country—formal garden and a surrounding informal woodland park. The formal garden is bisected by the international boundary. The informal area is developed on each side with picnic areas, group camps, an amphitheater, and administrative complexes. The area is developed and administered by International Peace Garden, Inc., which acts for the State of North Dakota and the Province of Manitoba in carrying out the development of the area. This organization consists of a board of directors whose membership is divided equally between United States and Canadian citizens. Title to the portion of the area in the United States—about 888 acres—is held by the State of North Dakota in trust for the benefit of International Peace Garden, Inc.

A general design for the formal garden and the informal area on the American side was approved by International Peace Garden, Inc., in 1938. Since then, the United States, pursuant to the 1949 act, as amended, has contributed $400,000 for the garden. A sum approximating this amount has been provided by Canadian sources for the development of the Canadian side.

The formal garden is now about half complete. Yet to be constructed is the crowning feature of the area—the peace tower—which was included in the original design plans. It is contemplated that the tower will be chosen on the basis of an international competition. A master plan for the completion of the formal and informal parts of the garden has been completed and approved by the representatives of the National Park Service of the Department of the Interior, the State Historical Board of North Dakota, the Parks and Recreation Branch of the Province of Manitoba, the Department of Northern Affairs and Cultural Resources of Canada, and International Peace Garden, Inc.

The Department of the Interior has conducted certain discussions regarding the negotiation of a supplementary cooperative agreement with the State of North Dakota under which the agreed master plan for completing the garden can be carried out.

This is the world's only garden dedicated to peace. Of the many purposes to which public projects are dedicated, none can be more worthy than this. It stands as a continual reminder that nations can live in peace.

The bill which I have introduced, with the cosponsorship of the Senator from North Dakota (Mr. YOUNG), and which is under consideration today, S. 233, would authorize appropriation of funds to complete the garden. The Department of the Interior has estimated that the U.S. share of the cost of the peace tower will be approximately $500,000; and that of the remainder of the formal area, approximately $554,000. The total cost of the U.S. share of the formal area will be approximately $1,054,000.

Mr. President, I urge the enactment of S. 233, as amended by the Committee.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1279), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 233 is to increase the authorization for the appropriation of funds to complete the International Peace Garden, North Dakota.

The increase in authorization, amounting to $1,454,000, would be in fulfillment of the Federal Government's responsibility with respect to the cost of completion of the garden. This cost is being shared by the State of North Dakota and the Government of Canada.

BACKGROUND

The International Peace Garden commemorates what has now been more than 150 years of peace and friendship between the United States and Canada. The overall area is approximately 2,340 acres. Eighty acres in each country are part of the formal garden which is bisected by the international boundary line; the remaining acreage makes up the surrounding informal woodland park. This informal park includes picnic areas, campgrounds, administrative buildings and an amphitheater. The entire area is administered by International Peace Garden, Inc., for the State of North Dakota and the Province of Manitoba.

This development has been financed by the U.S. Government, by the State of North Dakota, the Province of Monitoba, Canada, and the Government of the Dominion of Canada. In addition to the joint efforts of these governments, many private groups have also contributed both money and monuments to the International Peace Garden. It is one of the most beautiful areas in the United States. The fine relationship and cooperation which exists on the Board of Directors of the International Peace Garden is indicative of the relationships which exist between the citizens of our two countries.

INCREASED USE BY PUBLIC

As with all of our parks and recreation areas, public use and enjoyment of the International Peace Garden is increasing annually. In 1969, during the period of May to September, when the garden is open and has tour guides available 66,000 motor vehicles entered the garden. During the same period this year, some 90,000 vehicles, including 140 buses, entered the garden. The National Park Service advises the committee that a factor of 3.5 persons per car could be applied to these figures to obtain an estimate of the number of visitors to the garden. This would be 231,000 in 1969 and 315 000 in 1970. Without question, the number of visitors to this beautiful spot will continue to increase in future years.

COST AND AMENDMENT

Under the approved plan Federal funds will be used to defray one-half of the cost to complete the formal area, with the remainder of the cost of the formal area and the entire cost of the informal area to be borne by other non-Federal sources.

At the hearing on S. 233 the Department of the Interior testified that the U.S. share of the cost of the peace tower, which is a central feature of the project, was estimated to be approximately $500,000. The cost to the United States for the remainder of the formal area is estimated to be approximately $554,000, which would increase the appropriation limitation by $1,054,000. This additional amount will be all that is necessary to complete the project. The bill as introduced provided for an increase of $925,000, but in view of the Department's recommendation the committee has adopted the figure of $1,054,000, thus substituting in the bill the amount of $1,454,000 for the figure $1,325,000.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now proceed to the conduct of routine morning business with a time limitation of 3 minutes therein.

XUM

PRESIDENT NIXON'S FIVE-POINT PROPOSAL ON VIETNAM

Mr. MANSFIELD. Mr. President, I commend President Nixon for his five-point proposal because it is a proposal of substance; it is not a matter of take it or leave it; it does offer a set of definite proposals; and it is worthy of united support of both political parties and the people of this Nation.

Everyone, I am sure, is aware of my position on Vietnam, my opposition to our becoming involved in the first place, my continuing opposition since. Vietnam is the most tragic mistake in the history of this Republic and since our involvement, it has been nothing but a continuing tragedy. I have differed with three Presidents on Vietnam, in private and in public as well, but every move they have made toward a diminution of hostilities I have approved, and every endeavor they have proposed seeking to bring about a responsible settlement I have endorsed. I endorse President Nixon's definitive proposals wholeheartedly and without any reservations. I hope the members of my party and the people of the Nation will present a united front at this time to the end that North Vietnam will be made cognizant that, as a people, we support the President's proposals; that this offer is being made in good faith; and that we think it should be accepted at face value.

We must bring this tragic war to a close. It has cost us too much already in casualties, which number almost 53,000 dead and almost 290,000 wounded, for a total casualty list in excess of 341,000. We have paid too high a price in the blood of our sons—which is the most important; we have paid too high a price in the expenditure of our treasure in carrying on this war and bolstering regimes connected with it and, as a result, we have too many problems at home unsolved, too many questions unanswered, too much yet to be done.

As a Senator from the State of Montana, as the majority leader of the U.S. Senate, I urge my colleagues to give the President every possible support in his latest endeavors. I do so because it is the well-being of this Nation—it is the future of this Republic that counts.

Mr. PROXMIRE. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I am happy to yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I join the distinguished majority leader in commending President Nixon on his speech last night. It was an excellent speech. The proposals he made are sound. I certainly support them—as does the majority leader—without reservation.

Let me add to what the majority leader has said, however, and recall that many, many times over the past several years, as early as 1967—perhaps earlier—the distinguished majority leader called for precisely the very same action that President Nixon called for last night—namely, the distinguished majority leader has repeatedly called for a ceasefire and stand fast.

The distinguished majority leader in his prescience and his judgment has been vindicated again by the fact that the President of the United States has concurred in the majority leader's decision.

I congratulate both the majority leader and the President of the United States.

Mr. MANSFIELD. I thank the Senator from Wisconsin.

Mr. SCOTT. Mr. President, the distinguished majority leader, as always, has demonstrated his patriotism and his firm support of our foreign policy initiatives, including this important peace proposal by the President.

No one knows, of course, that we may not now, indeed, be standing at the threshold of peace. We hope that we are.

The killing is at least diminishing. Casualties last week—all casualties are tragic—amounted to 38 killed, the lowest in 4½ years of war. Last week's casualties, running at the rate of four or five a day among Americans, reflects the increase in Vietnamization of the war.

Mr. President, I would like to say that I also attended the briefing given the joint leadership by the President, the Secretary of State, the Secretary of Defense, and General Westmoreland last night. What impressed me particularly was the unanimity with which all congressional leaders supported the President's peace efforts, their strong desire to see that American public opinion rallies solidly behind him, and their good wishes and responsible support.

I am delighted. I hope that this effort will succeed. If it does, it will mark the first time since the Second World War that no organized forces will be facing each other in combat. That, of course, would be the first step toward the fullness of peace which has been known in this century.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the speech of the President and certain remarks I made following that speech last night.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RADIO AND TELEVISION ADDRESS BY THE PRESIDENT: NEW INITIATIVE FOR PEACE IN SOUTHEAST ASIA

Tonight I would like to talk to you about a major new initiative for peace.

When I authorized operations against the enemy sanctuaries in Cambodia last April, I also directed that an intensive effort be launched to develop new approaches for peace in Indochina.

In Ireland on Sunday, I met with the chiefs of our delegation to the Paris talks. This meeting marked the culmination of the Government-wide effort begun last spring on the negotiation front. After considering the recommendations of all my principal advisors, I am tonight announcing new proposals for peace in Indochina.

This new peace initiative has been discussed with the governments of South Vietnam, Laos, and Cambodia. It has their full support. It has been made possible in large part by the remarkable success of the Vietnamization policy over the last 18 months. Tonight I want to tell you what these new proposals are and what they mean.

First, I propose that all armed forces throughout Indochina cease firing their weapons and remain in the positions they now hold. This would be a "cease-fire-in-place." It would not in itself be an end to the conflict, but it would accompilsh one goal all of us have been working toward: an end to the killing.

I do not minimize the difficulty of maintaining a ceasefire in a guerrilla war where there are no front lines. But an unconventional war may require an unconventional truce; our side is ready to stand still and cease firing.

I ask that this proposal for a ceasefire-in-place be the subject for immediate negotiation. My hope is that it will break the logjam in all the negotiations.

This ceasefire proposal is put forth without preconditions. The general principles that should apply are these:

A ceasefire must be effectively supervised by international observers, as well as by the parties themselves. Without effective supervision a ceasefire runs the constant risk of breaking down. All concerned must be confident that the ceasefire will be maintained and any local breaches of it quickly and fairly repaired.

A ceasefire should not be the means by which either side builds up its strength by an increase in outside combat forces in any of the nations of Indochina.

A ceasefire should cause all kinds of warfare to stop. This covers the full range of actions that have typified this war, including bombing and acts of terror.

A ceasefire should encompass not only the fighting in Vietnam but in all of Indochina. Conflicts in this region are closely related. The United States has never sought to widen the war. What we seek is to widen the peace.

Finally, a ceasefire should be part of a general move to end the war in Indochina.

A ceasefire-in-place would undoubtedly create a host of problems in its maintenance. But it has always been easier to make war than to make a truce. To build an honorable peace, we must accept the challenge of long and difficult negotiations.

By agreeing to stop the shooting, we can set the stage for agreements on other matters.

I propose an Indochina Peace Conference. At the Paris talks today, we are talking about Vietnam. But North Vietnamese troops are not only infiltrating crossing borders and establishing bases in South Vietnam—they are carrying on their aggression in Laos and Cambodia as well.

An international conference is needed to deal with the conflict in all three states of Indochina. This war in Indochina has been proved to be of one piece; it cannot be cured by treating only one of its areas of outbreak.

The essential elements of the Geneva Accords of 1954 and 1962 remain valid as a basis for settlement of problems between states in the Indochina area. We shall accept the results of agreements reached between those states.

While we pursue the convening of an Indochina Peace Conference, we will continue negotiations in Paris. Our proposal for a larger conference can be discussed there as well as through other diplomatic channels. The Paris talks will remain our primary forum for reaching a negotiated settlement, until such time as a broader international conference produces serious negotiations.

The third part of our peace initiative has to do with United States forces in South Vietnam.

In the past twenty months, I have reduced our troop ceilings in South Vietnam by 165,000 men. During the spring of next year these withdrawals will total more than 260,000 men—about one-half the number in South Vietnam when I took office.

As the American combat role and presence have decreased, so have American casualties. Their level since the completion of the Cambodian operations was the lowest for a comparable period in the last four and one half years.

We are ready to negotiate an agreed timetable for complete withdrawals as part of an overall settlement. We are prepared to withdraw all our forces as part of a settlement based on the principles I spelled out previously and the proposals I am making tonight.

Fourth, I ask the other side to join in a search for a political settlement that truly meets the aspirations of all South Vietnamese.

Three principles govern our approach:

We seek a political solution that reflects the will of the South Vietnamese people.

A fair political solution should reflect the existing relationship of political forces.

We will abide by the outcome of the political process agreed upon.

Let there be no mistake about one essential point: The other side is not merely objecting to a few personalities. They want to dismantle the organized non-communist forces and insure the takeover by one party, and they demand the right to exclude whomever they wish from government.

This patently unreasonable demand is totally unacceptable.

As my proposals today indicate, we are prepared to be flexible on many matters. But we stand firm for the right of all the South Vietnamese people to determine for themselves the kind of government they want.

We have no intention of seeking any settlement at the conference table other than one which fairly meets the reasonable concerns of both sides. We know that when the conflict ends, the other side will still be there. The only kind of settlement that will endure is one both sides have an interest in preserving.

Finally, I propose the immediate and unconditional release of all prisoners of war held by both sides.

War and imprisonment should be over for all these prisoners. They and their families have already suffered too much.

I propose that all prisoners of war, without exception and without condition, be released now to return to the place of their choice.

I suppose that all journalists and other innocent civilian victims of the conflict be released immediately as well.

The immediate release of all prisoners of war would be a simple act of humanity.

But it could even be more. It could serve to establish good faith, the intent to make progress, and thus improve the prospects for negotiation.

We are prepared to discuss specific procedures to complete the speedy release of all prisoners.

The five proposals which I have made tonight can open the door to an enduring peace in Indochina.

Ambassador Bruce will present these proposals formally to the other side in Paris tomorrow. He will be joined in that presentation by Ambassador Lam representing South Vietnam.

Let us consider for a moment what the acceptance of these proposals would mean.

Since the end of World War II, there has always been a war going on somewhere in the world. The guns have never stopped firing. By achieving a ceasefire in Indochina, and holding firmly to the ceasefire in the Middle East, we could hear the welcome sound of peace throughout the world for the first time in a generation.

We would have some reason to hope that we had reached the beginning of the end of war in this century. We might then be on the threshold of a generation of peace.

The proposals I have made tonight are designed to end the fighting throughout Indochina and to end the impasse in negotiations in Paris. Nobody has anything to gain by delay and only lives to lose.

There are many nations involved in the fighting in Indochina. Tonight, all those nations but one announce their readiness to agree to a ceasefire. The time has come for the government of North Vietnam to join its neighbors in a proposal to quit making war and to start making peace.

As you know, I have just returned from a trip which took me to Italy, Spain, Yugoslavia, England and Ireland.

Hundreds of thousands of people cheered as I drove through the major cities in these countries.

They were not cheering for me as an individual. They were cheering for the country that I was proud to represent—the United States of America. For millions of people in the free world, the non-aligned world and the communist world, America is a land of freedom, of opportunity, of progress.

I believe there is another reason they welcomed me so warmly in every country I visited despite their wide differences in political systems and national backgrounds.

In my talks with leaders all over the world I find that there those who may not agree with all of our policies. But no world leader to whom I have talked fears that the United States will use its power to dominate another country or destroy its independence. We can be proud that this is the cornerstone of America's foreign policy.

There is no goal to which this nation is more dedicated, and to which I am more dedicated than to build a new structure of peace in the world where every nation including North Vietnam as well as South Vietnam can be free and independent with no fear of foreign aggression or domination.

I believe every American deeply believes in his heart that the proudest legacy the United States can leave during this period when we are the strongest nation in the world is that our power was used to defend freedom, not to destroy it; to preserve the peace, not to break the peace.

It is in that spirit that I make this proposal for a just peace in Vietnam and in Indochina.

I ask that the leaders in Hanoi respond to this proposal in the same spirit.

Let us give our children what we have not had during this century, a chance to enjoy a generation of peace.

Statement by Senator Hugh Scott, Republican Leader, October 7, 1970

President Nixon has written a new chapter in the diplomatic history of the United States with his bold move to end this unpopular war, to establish peace in Southeast Asia and to reach a political settlement which would permit all men to live in security under governments of their choice.

I am proud that the President has adopted and incorporated in this major peace initiative the cease-fire which I and 13 of my colleagues proposed in a letter to President Nixon on September 1.

Should the Nixon peace plan be accepted, this would mark the first time since the Second World War that no organized forces will be facing each other in combat.

The President's proposals should—and, hopefully, will—be as attractive to the North Vietnamese and Vietcong as they are to Americans. The plan also has the approval of all the Nations of Indo-China.

If these suggestions are turned down at Paris, the burden of the continuing war clearly, unmistakably and inexcusably must be borne by the other side.

To achieve any one of the President's objectives would be a loud success indeed. Should he succeed in all of them, such a turn of events truly would signal a new era of peace on earth.

I am delighted that the President has included the release of all prisoners of war by both sides, and that he has suggested the Vietnam peace conference be broadened to include all of Indo-China.

This is a great plan, and a great moment for Americans. Hopefully, we stand on the threshold of peace in the world.

Mr. MANSFIELD. Mr. President, I think I should state for the record that on September 17, the North Vietnamese, for the first time, presented a set of definitive proposals which did not call for the immediate withdrawal of all American troops and which, for the first time, called for discussion relative to the prisoners of war.

I do not know what reaction our Government had to that suggestion by North Vietnam in private, if any. But I think it is significant to note that they became definitive for the first time, and the President became more definitive on yesterday, though not for the first time.

There may well be no connection between the two sets of proposals. But it does create the possibility that there is a certain amount of flexibility, a certain amount, perhaps, of give and take in the offing.

I am encouraged by the President's initiative and not discouraged by the reports from Paris this morning that the North Vietnamese, the chiefs of the mission, reacted negatively. That was to be expected.

I do think, on the basis of what both sides have suggested, that there is a good possibility, perhaps a probability, that at long last negotiations will be undertaken and will replace the talks around the conference table which have been so fruitless in Paris for so many months.

So, with the hope and the prayer that the President has, perhaps, broken the impasse, I devoutly wish that the two sides would get together and that an Indochinese settlement would be achieved. The time for such a settlement is long overdue.

Mr. President, I ask unanimous consent to have printed at an appropriate place in the Record a comparison of the positions on peace over the past several months, covering the different parties, covering the areas of cease-fire, withdrawal of troops, prisoners of war, interim provisional government, elections, reunification, and foreign policy contained in the New York Times edition of today and also the very brief article in the Los Angeles Times of today.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, Oct. 8, 1970]

Comparison of the Positions on Peace

Washington, October 7.—Following, for comparison with the proposals made by President Nixon tonight, is a summary of the latest proposals by the Vietcong, issued Sept. 17, plus proposals made by Mr. Nixon, in June, 1969, and by the Vietcong in May, 1969:

CEASE-FIRE

Nixon today—Immediate negotiations for cease-fire in place throughout Indochina to be internationally supervised.

Latest Vietcong—To be carried out after an agreement on all other points to end the war.

Nixon 1969—International body acceptable to both sides to supervise cease-fires (presumably local), plus a cessation of combat after a year of troop withdrawals.

Vietcong 1969—Not specifically mentioned.

XUM

WITHDRAWAL OF TROOPS

Nixon today—Agreed timetable for complete withdrawals as part of an over-all settlement, based on principles previously defined.

Latest Vietcong—Total withdrawal of U.S. and allied troops by June 30, 1971; no attacks by Vietcong during withdrawal.

Nixon 1969—Gradual withdrawal of most United States, allied and North Vietnamese forces over 12 months following agreement on mutual withdrawals; remaining forces not to engage in combat; remaining United States and allied troops to be withdrawn completely as North Vietnamese forces leave South Vietnam, Cambodia and Laos.

Vietcong 1969—Unconditional withdrawal of all foreign troops, with no date set.

PRISONERS OF WAR

Nixon today—Immediate and unconditional release of all prisoners on both sides.

Latest Vietcong—Ready now to discuss release if United States agrees to withdrawal by June 30, 1971.

Nixon 1969—Earliest possible release on both sides.

Vietcong 1969—Release to be negotiated after war is over.

INTERIM PROVISIONAL GOVERNMENT

Nixon today—Standing firm for right of South Vietnamese self-determination; no exclusion of specific personalities.

Latest Vietcong—Thieu, Ky and Khiem out, Vietcong to negotiate with new Saigon government.

Nixon 1969—Full participation of all political elements not using force; no coercion to impose any form of government.

Vietcong 1969—Coalition of all political tendencies that stand for peace, independence, neutrality; no names mentioned.

ELECTIONS

Nixon today—Fair political solution that reflects will of South Vietnamese and existing relationship of political forces.

Latest Vietcong—All citizens to participate under supervision of provisional government.

Nixon 1969—Elections open to all who renounce use of force, under international supervision.

Vietcong 1969—South Vietnamese to decide for themselves without foreign interference.

REUNIFICATION

Nixon today—Not mentioned; presumably previous principle stands.

Latest Vietcong—To be achieved step by step, through peaceful means, without foreign interference.

Nixon 1969—No objection if decision reflects free choice of South Vietnamese.

Vietcong 1969—Same as September, 1970.

FOREIGN POLICY

Nixon today—Not mentioned; presumably previous principle stands.

Latest Vietcong—Neutrality, respect for Cambodian and Laotian sovereignty, diplomatic relations with all nations.

Nixon 1969—Neutrality acceptable if South Vietnamese choose it.

Vietcong 1969—Same as September, 1970.

[From the Los Angeles Times, Oct. 8, 1970]

Principal Points of Reds' Conditions

Paris.—Principal points on which the Viet Cong and North Vietnam are insisting in the Paris peace talks:

Total unconditional withdrawal from South Vietnam of all U.S. military personnel and war materiel, and those of other foreign countries in the U.S. camp.

Formation of a provisional coalition government in Saigon that does not include President Nguyen Van Thieu, Vice President Nguyen Cao Ky or Premier Than Thien Khiem.

In presenting an eight-point program for solution of the war Sept. 17, Mrs. Nguyen Thi Binh, the Viet Cong's chief Paris negotiator, said if the U.S. government would pledge to withdraw all U.S. and foreign allied troops by June 30, 1971, the Communist-led forces would:

Refrain from attacking troops of the United States and its foreign allies.

Join immediately in discussions on the questions of assuring safety for total withdrawal from South Vietnam of U.S. and foreign allied troops and of releasing prisoners of war.

SOME HOPE FOR NEGOTIATING PRISONER ISSUE APPEARS

Mr. SCOTT. Mr. President, last night President Nixon made a very strong and substantial appeal to North Vietnam for negotiations on the problem of prisoners of war.

The President's proposal—namely that all prisoners be freed and allowed to return to their homes of any other place of their choice—provides a solid and useful basis for discussion.

Last month, the North Vietnamese took a first small step in the direction of prisoner of war negotiation. They suggested the issue could be resolved after a military and political settlement had been reached. This was the first time they had even mentioned prisoners of war.

Although the President's proposals of last night and the earlier Communist mention of prisoners are both hopeful signs, the problem is far from a happy conclusion. It is now obvious the Communists would like to use American prisoners as a piece of blackmail at the peace negotiations. This, as the President said this spring, we cannot allow. We will not permit our prisoners to become hostages.

The fact is, though, that the matter is now open for discussion and thus open for negotiation. This is a move in the right direction. It is a sign of hope for the families of those American men being held and a sign of hope for the men themselves.

EXPLANATION OF POSITIONS ON THE EAGLETON AMENDMENT AND PASSAGE OF H.R. 18583

Mr. HOLLAND. Mr. President, during my necessary absence from the Senate last night which I had to leave sometime after 7:30 p.m., I note there were two rollcall votes taken on neither of which was my position shown; whereas I was backing the position taken by the committee handling the legislation, H.R. 18583, as represented by the floor leader, the senior Senator from Connecticut (Mr. Dodd). I ask unanimous consent, therefore, that my positions on the two votes which were taken after my necessary departure from the Senate be shown for the record as follows:

On vote No. 366 legislative, the Eagleton amendment, I would have voted "yea" had I been present.

On the final passage of the legislation, vote No. 367 legislative, I would have voted "yea" if present.

I simply want the printed Record to reflect my position on these two votes which were taken during my necessary absence.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I be recognized for 5 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1971—AMENDMENT

AMENDMENT NO. 1041

SUBMISSION OF PROXMIRE-MATHIAS AMENDMENT TO CUT HOUSE PROPOSED MILITARY APPROPRIATIONS BILL TO $65 BILLION FOR FISCAL YEAR 1971

Mr. PROXMIRE. Mr. President, on behalf of myself and the Senator from Maryland (Mr. Mathias), and the Senator from California (Mr. Cranston), the Senator from Missouri (Mr. Eagleton), the Senator from New York (Mr. Goodell), the Senator from Oklahoma (Mr. Harris), the Senator from Michigan (Mr. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Oregon (Mr. Hatfield), the Senator from South Dakota (Mr. McGovern), and the Senator from Wisconsin (Mr. Nelson), I submit an amendment intended to be proposed by us, jointly, to H.R. 19590, the military appropriations bill, and ask that it be appropriately referred.

PROPOSED HOUSE CUTS

The military appropriations bill as proposed by the House covered requests by the President and the Pentagon of some $68,745,666,000. The House committee proposed that only $66,656,561,000 of this amount be appropriated. This was a most welcome cut of $2,089,105,000.

CUT TO $65 BILLION

The Proxmire-Mathias amendment would cut even below this amount. It states that—

> From the amounts appropriated in this Act, the total available for expenditures shall not exceed $65 billion.

We want to commend the House committee for their action. While the $2.1 billion cut in the military budget by the House committee is the best news the American taxpayers have had this year, the Pentagon is determined to restore these cuts in the Senate.

CONGRESSMAN MAHON, UNSUNG HERO

The Congressman from Texas, Mr. Mahon, is one of the unsung heroes in the Congress. Year after year he and his committee have done a superb job in defending both the security of the country and the interests of the American people. I hope that more people will give attention to what he and his committee have done in their quiet way.

Mr. President, the report of the House Appropriations Committee is an excellent report. It certainly merits attention by all Members of the Senate.

The Proxmire-Mathias amendment

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demonstrates our confidence that there is strong sentiment in the Senate not only to support the House cuts, but to cut below their figures.

STRENGTHEN HAND OF SENATE COMMITTEE

It is designed to strengthen the hand of the Senate Appropriations Committee in its battle of the budget bulge so that we can approach or reach a $65 billion level this year.

The Pentagon has already stated that it will ask for more money next year than it has asked for this year. Our amendment will let them know that we will continue to fight to cut fat and waste, to reduce the duplication of weapons, to reform procurement practices, and to strike a much better bargain for the American people in defense contracting and buying of supplies.

EXCESSIVE REPROGRAMINGS

By cutting out waste, we can actually strengthen the military might of this country. One of the major constructive acts of the House committee was to indicate the extensive volume of reprogramings by the Pentagon. These clearly show that there is poor planning in the obligation and spending of billions of dollars. By opening that issue and by concentrating on it, the House committee has laid the groundwork for further cuts in the military budget of funds which are now poorly used.

VAST CARRYOVER OF FUNDS

In addition, as the House report so clearly points out, there are billions of dollars in carryover funds—unobligated and unexpended balances—which must be brought under control. Bringing an end to the "no-year" appropriations policy could reduce the military budget by billions in a relatively short period of time. And these acts would make us stronger, not weaker.

DEFENSE, YES; WASTE, NO

The basic principle of the Proxmire-Mathias amendment is simply stated. We are for defense. We are against waste. Several cuts by the House committee carry out that principle in a clear and uncompromising fashion. Here are some examples.

CUT IN PUBLIC RELATIONS FUNDS

The committee cut the funds for public affairs, public information, and public relations—or for Pentagon Propaganda—by over $7 million.

TRAINING HIGH BRASS TO FLY HELICOPTERS

The committee investigations found that the Army had implemented plans to train colonels and generals to fly helicopters. It costs $24,210 to train a senior officer to fly one. It takes 32 weeks of training. There are added costs for the maintenance of helicopters for proficiency flying. Flight pay adds $1,980 a year for generals and $2,940 a year for colonels.

The committee wrote that—

> Flying helicopters would not appear to be the most efficient use of executive time and talent and directed the Army to ". . . cease training generals and colonels to fly rotary wing aircraft."

EXCESSIVE HEADQUARTERS STAFF

The House committee found that there was an excessive number of jobs at headquarters. In 1970 alone, the number of headquarters staff had gone up by 492 personnel. The committee wisely cut $59.5 million in the funds for headquarters staff.

ROOM FOR CUTS

They prove that these are examples of military waste. There is plenty of room for budget cuts without weakening our military security.

For all of these reasons, but primarily to strengthen the hand of the Senate Appropriations Committee in its action on the 1971 bill—and I assume the Appropriations Committee will be acting on that in the next few days—we are offering this amendment today. We want to support the committee position and we are hopeful that its decisions will give us sound ground to do so.

The ACTING PRESIDENT pro tempore. The amendment will be received and appropriately referred.

The amendment (No. 1041) was referred to the Committee on Appropriations.

COMMITTEE MEETING DURING SENATE SESSION

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT—APPROVAL OF A BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on October 7, 1970, the President had approved and signed the act (S. 3558) to amend the Communications Act of 1934 to provide continued financing for the Corporation for Public Broadcasting.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. HOLLINGS) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HOLLINGS) laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on management improvements needed at the United States Armed Forces Institute, dated October 8, 1970 (with an accompanying report); to the Committee on Government Operations.

REPORT OF LOAN APPLICATION FROM TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT OF TEHACHAPI, CALIFORNIA

A letter from the Deputy Assistant Secretary of the Interior, reporting, pursuant to law, the receipt of a loan application in the amount of $6,500,000 from the Tehachapi-Cummings County Water District of Tehachapi, California; to the Committee on Interior and Insular Affairs.

REPORT OF COMMISSION ON CIVIL RIGHTS

A letter from the Chairman, U.S. Commission on Civil Rights, transmitting, pursuant to law, a report of the Commission for release on October 12, 1970 (with an accompanying report); to the Committee on the Judiciary.

MEMORIAL

The ACTING PRESIDENT pro tempore (Mr. HOLLINGS) laid before the Senate a letter, in the nature of a memorial, from Elizabeth Hoseck, of Kalamazoo, Mich., remonstrating against House bill 18776, the Sleeping Bear Dunes bill, which was ordered to lie on the table.

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. HOLLINGS) announced that on today, October 8, 1970, the President pro tempore signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

S. 378. An act for the relief of Peter Rudolf Cross;

S. 583. An act to provide for the flying of the American flag over the remains of the U.S.S. *Utah* in honor of the heroic men who were entombed in her hull on December 7, 1941;

S. 732. An act for the relief of Mrs. Nimet Weiss;

S. 1123. An act for the relief of Ah Mee Locke;

S. 1628. An act granting the consent of Congress to the Western Interstate Nuclear Compact, and related purposes;

S. 2176. An act to implement the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, and for other purposes;

S. 2314. An act to amend section 4 of the Revised Organic Act of the Virgin Islands relating to voting age;

S. 2661. An act for the relief of Kathryn Talbot;

S. 3138. An act for the relief of Ruth E. Calvert;

S. 3154. An act to provide long term financing for expanded urban mass transportation programs, and for other purposes;

S. 3167. An act for the relief of Kimoko Ann Duke;

S. 3212. An act for the relief of Curtis Nolan Reed;

S. 3263. An act for the relief of Maria Pierotti Lenci;

S. 3265. An act for the relief of Mrs. Anita Ordillas;

S. 3600. An act for the relief of Kyung Ae Oh;

S. 3675. An act for the relief of Ming Chang;

S. 3813. An act for the relief of Kim Julia and Park Tong Op;

S. 3822. An act to provide insurance for member accounts in State and federally chartered credit unions and for other purposes;

S.4073. An act for the relief of Hyun Joo Lee and Myung Joo Lee;

S. 4235. An act to continue the jurisdiction of the United States District Court for the District of Puerto Rico over certain cases pending in that court on June 2, 1970; and

S. 4247. An act to amend the Bankruptcy Act, sections 2, 14, 15, 17, 38, and 58, to permit the discharge of debts in a subsequent proceeding after denial of discharge for specified reasons in an earlier proceeding, to authorize courts of bankruptcy to determine the dischargeability or nondischargeability of provable debts, and to provide additional grounds for the revocation of discharges.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHURCH from the Committee on Interior and Insular Affairs, without amendment:

H.R. 9164. An act to permit the use for any public purpose of certain real property in the State of Georgia (Rept. No. 91–1294).

By Mr. HATFIELD from the Committee on Interior and Insular Affairs, without amendment:

H.R. 13601. An act to release and convey the reversionary interest of the United States in certain real property known as the McNary Dam Townsite, Umatilla County, Oreg. (Rept. No. 91–1293); and

H.R. 15405. An act to render the assertion of land claims by the United States based upon accretion or avulsion subject to legal and equitable defenses to which private persons asserting such claims would be subject (Rept. No. 91—1290).

By Mr. BURDICK, from the Committee on the Judiciary, without amendment:

H.R. 2175. An act to amend title 18 of the United States Code to authorize the Attorney General to admit to residential community treatment centers persons who are placed on probation, released on parole, or mandatorily released (Rept. No. 91–1292).

By Mr. MATHIAS, from the Committee on the Judiciary, without amendment:

S. 3940. A bill for the relief of certain employees of the Department of Defense (Rept. No. 91–1307).

By Mr. SCOTT, from the Committee on the Judiciary, without amendment:

S. Res. 19. Resolution to refer the bill (S. 263) entitled "A bill for the relief of the H. and H. Manufacturing Company, Incorporated" to the Chief Commissioner of the U.S. Court of Claims for a report thereon (Rept. No. 91–1308); and

S. Res. 20. Resolution to refer the bill (S. 266) entitled "A bill for the relief of the O'Brien Dieselectric Corporation" to the Chief Commissioner of the U.S. Court of Claims for a report thereon (Rept. No. 91–1309).

By Mr. HRUSKA, from the Committee on the Judiciary, with an amendment:

S. 3132. A bill to amend section 3731 of title 18, United States Code, relating to appeals by the United States in criminal cases (Rept. No. 91–1296).

By Mr. COOK, from the Committee on the Judiciary, with amendments:

H.R. 6114. An act for the relief of Elmer M. Grade (Rept. No. 91–1295).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

S.J. Res. 165. Joint resolution granting the consent of the Congress to an agreement between the State of Florida and the State of Georgia establishing a boundary between such States (Rept. No. 91–1291).

By Mr. EAGLETON, from the Committee on the District of Columbia, without amendment:

H.R. 17146. An act supplemental to the Act of February 9, 1821, incorporating the Columbian College, now known as the George Washington University, in the District of Columbia and the acts amendatory or supplementary thereof (Rept. No. 91–1298).

By Mr. SPONG, from the Committee on the District of Columbia, without amendment:

S. 3944. A bill to authorize the District of Columbia to enter into the Interstate Agreement on Qualification of Educational Personnel (Rept. No. 91–1300); and

H.R. 13307. An act to amend chapter 3 of title 16 of the District of Columbia Code to change the requirement of consent to the adoption of a person under 21 years of age (Rept. No. 91–1301).

By Mr. EAGLETON, from the Committee on the District of Columbia, with an amendment:

H.R. 4183. An act to provide that the widow of a retired officer or member of the Metropolitan Police Department or the Fire Department of the District of Columbia who married such officer or member after his retirement may qualify for survivor benefits (Rept. No. 91–1299).

By Mr. SPONG, from the Committee on the District of Columbia, with an amendment:

H.R. 9017. An act to amend the District of Columbia Alcoholic Beverage Control Act (Rept. No. 91–1302).

By Mr. EAGLETON, from the Committee on the District of Columbia, with amendments:

S. 2695. A bill to provide for the retirement of officers and members of the Metropolitan Police force, the Fire Department of the District of Columbia, the U.S. Park Police force, the White House Police force, and of certain officers and members of the U.S. Secret Service, and for other purposes (Rept. No. 91–1297).

By Mr. SPONG, from the Committee on the District of Columbia, with amendments:

S. 3010. A bill to authorize the District of Columbia a program of public day-care services; and to amend the District of Columbia Public Assistance Act of 1962 so as to relieve certain adult children of the requirement of support and to provide public assistance in the form of foster home care to certain dependent children (Rept. No. 91–1303);

H.R. 670. An act to amend section 19(a) of the District of Columbia Public Assistance Act of 1962 (Rept. No. 91–1304);

H.R. 12671. An act to amend the Act of May 29, 1928, to facilitate and encourage the employment of minors in the District of Columbia between the ages of fourteen and sixteen during the summer and other school vacation periods, and for other purposes (Rept. No. 91–1305); and

H.R. 18086. An act to authorize the Commissioner of the District of Columbia to sell or exchange certain real property owned by the District in Prince William County, Va. (Rept. No. 91–1306).

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. STEVENS:

S. 4449. A bill to provide for grants and loans to communities for construction, maintenance and operation of Marine Ways facilities; to the Committee on Commerce.

(The remarks of Mr. Stevens when he introduced the bill appear below under the appropriate heading.)

By Mr. MATHIAS:

S. 4450. A bill for the relief of Charles Henry Michel; to the Committee on the Judiciary.

S. 4449—INTRODUCTION OF A BILL RELATING TO FEDERAL MARINE WAYS GRANT AND LOAN PROGRAM

Mr. STEVENS. Mr. President, the fishing industry in Alaska is the large private employer in my State. More Alaskans are directly or indirectly dependent on fishing than on any other industry. It is second only to oil in the amount of revenue it brings into the State.

Fishing in Alaska involves thousands of independent fishermen living in dozens of small towns scattered over thousands of miles of Alaskan coastline. Should one of these fishermen have trouble with his boat, he is immediately in serious financial trouble, because his boat is likely to be out for the entire fishing season.

The reason for the seriousness of the consequences of so ordinary a problem as having a boat in need of repair is that there are too few places where the repairs can be effected. The owner will often have to take his boat to the "South 48" to have it repaired and the journey to and from a point so distant from Alaska will consume almost the entire fishing season.

The solution to this problem is simple. Facilities for the repair and maintenance of vessels should be built at several of the fishing communities where the boats are moored. But, as is so often the case in these small communities, there simply is not enough capital available to finance the large investment required to provide adequate marine ways facilities.

I am introducing a bill today which will provide for Federal grants covering up to 50 percent of the cost of such facilities with Federal loans for the remainder. The Bureau of Commercial Fisheries already provides for loans for fishing vessels from the fisheries loan fund, the life of which Congress has just extended. The loan portion of the marine ways facilities would be made from the same fund. Additional capital would be added to the fund to compensate for the additional demand the marine ways program would generate.

The grant portion of the program would be financed by a $5 million appropriation and would be operated by the Bureau of Commercial Fisheries. Grants would be made only to communities which were located at least 100 statute miles by sea from the nearest existing marine ways facilities adequate to their needs. This requirement would limit the program to those areas which have great need, but have thus far been unable to find the required capital.

Mr. President, the present lack of marine ways facilities in my State makes a malfunction in a vessel that would normally be an annoyance into a financial disaster bringing hardship to the fisherman, his family, and the State. The program I am proposing will generate the capital necessary to allow these fishermen to help themselves by collective action in their local communities.

I ask unanimous consent that the text of this bill be printed in the Record at this point.

The PRESIDING OFFICER (Mr. Packwood). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the Record.

The bill (S. 4449) to provide for grants and loans to communities for construction, maintenance, and operation of marine ways facilities, introduced by Mr. Stevens, was received, read twice by its

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title and referred to the Committee on Commerce.

ADDITIONAL COSPONSORS OF BILLS

S. 3939

At the request of the Senator from Kentucky (Mr. Cook), on behalf of the Senator from Illinois (Mr. Smith), the Senator from Alaska (Mr. Stevens) was added as a cosponsor of S. 3939, to amend the Federal Aviation Act of 1958 in order to provide for an Air Travel Protection Agency.

S. 4307

At the request of the Senator from Illinois (Mr. Percy), the Senator from Vermont (Mr. Prouty) was added as a cosponsor of S. 4307, to amend the Environmental Quality Improvement Act of 1970 in order to establish a Corps of Engineers Environmental Advisory Board.

DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1971—AMENDMENT

AMENDMENT NO. 1041

Mr. PROXMIRE (for himself, Mr. Mathias, Mr. Cranston, Mr. Eagleton, Mr. Goodell, Mr. Harris, Mr. Hart, Mr. Hartke, Mr. Hatfield, Mr. McGovern, and Mr. Nelson) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 19590) making appropriations for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes, which was referred to the Committee on Appropriations and ordered to be printed.

(The remarks of Mr. Proxmire when he submitted the amendment appear earlier in the Record under the appropriate heading.)

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AMENDMENT OF THE CONSTITUTION RELATIVE TO EQUAL RIGHTS FOR MEN AND WOMEN—AMENDMENTS

AMENDMENT NO. 1042

Mr. ALLEN proposed an amendment to the joint resolution (H.J. Res. 264) proposing an amendment to the Constitution of the United States relative to equal rights for men and women, which were ordered to be printed.

(The remarks of Mr. Allen when he proposed the amendment appear later in the Record under the appropriate heading.)

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 8, 1970, he presented to the President of the United States the following enrolled bills:

S. 378. An act for the relief of Peter Rudolf Gross;

S. 583. An act to provide for the flying of the American Flag over the remains of the U.S.S. ship *Utah* in honor of the heroic men who were entombed in her hull on December 7, 1941;

S. 732. An act for the relief of Mrs. Nimet Weiss;

S. 1123. An act for the relief of Ah Mee Locke;

S. 1628. An act granting the consent of Congress to the Western Interstate Nuclear Compact, and related purposes;

S. 2176. An act to implement the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, and for other purposes;

S. 2314. An act to amend section 4 of the Revised Organic Act of the Virgin Islands relating to voting age;

S. 2661. An act for the relief of Kathryn Talbot;

S. 3138. An act for the relief of Ruth E. Calvert;

S. 3154. An act to provide long-term financing for expanded urban mass transportation, and for other purposes;

S. 3167. An act for the relief of Kimoko Ann Duke;

S. 3212. An act for the relief of Curtis Nolan Reed;

S. 3263. An act for the relief of Maria Pierotti Lenci;

S. 3265. An act for the relief of Mrs. Anita Ordillas;

S. 3600. An act for the relief of Kyung Ae Oh;

S. 3675. An act for the relief of Ming Chang;

S. 3813. An act for the relief of Kim Julia and Park Tong Op;

S. 3822. An act to provide insurance for member accounts in State and federally chartered credit unions and for other purposes;

S. 4073. An act for the relief of Hyun Joo Lee and Myung Joo Lee;

S. 4235. An act to continue the jurisdiction of the U.S. district court for the district of Puerto Rico over certain cases pending in that court on June 2, 1970; and

S. 4247. An act to amend the Bankruptcy Act, sections 2, 14, 15, 17, 38, and 58, to permit the discharge of debts in a subsequent proceeding after denial of discharge for specified reasons in an earlier proceeding, to authorize courts of bankruptcy to determine the dischargeability or nondischargeability of provable debts, and to provide additional grounds for the revocation of discharges.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. HRUSKA. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

George J. Long, Jr., of Kentucky, to be U.S. attorney for the western district of Kentucky for the term of 4 years, vice Ernest W. Rivers, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Tuesday, October 13, 1970, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARING ON NOMINATION BEFORE COMMITTEE ON THE JUDICIARY

Mr. HRUSKA. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, October 13, 1970, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nomination:

C. Rhodes Bratcher, of Kentucky, to be a U.S. district judge for the western district of Kentucky, vice a new position created by Public Law 91-272, approved June 2, 1970.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. Eastland), chairman; the Senator from Arkansas (Mr. McClellan), and the Senator from Nebraska (Mr. Hruska).

NOTICE OF HEARING ON NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, October 13, 1970, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Charles A. Moye, Jr., of Georgia, to be U.S. district judge for the northern district of Georgia, vice a new position created by Public Law 91-272, approved June 2, 1970.

William C. O'Kelley, of Georgia, to be U.S. district judge for the northern district of Georgia, vice a new position created by Public Law 91-272, approved June 2, 1970.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. Eastland), chairman; the Senator from Arkansas (Mr. McClellan) and the Senator from Nebraska (Mr. Hruska).

ADDITIONAL STATEMENTS OF SENATORS

PRAISE FOR THE PRESIDENT'S NEW PROGRAM FOR PEACE

Mr. BAKER. Mr. President, I join other Members of the Senate in their praise of the new program for peace announced last night by the President of the United States. He means it when he says that he is working toward a goal of an entire generation of peace. He needs and deserves the support of the Congress.

I suppose that some will find fault with the President's new proposals. Others will graciously note that the President is finally doing what they have been counseling him to do all along.

What is important is that the President is moving toward peace in Indochina. American battle deaths are at a 4½-year low, a most encouraging sign in spite of the fact that even one casualty is too many. The President's policy of Vietnamization and his firm action in the Cambodian sanctuaries have made possible this new initiative for peace.

The initial reaction of the other side has been as negative as was expected. However, there has been a history of public intransigence on all sides during the course of the formal Paris talks. If face can be saved and honor protected by such belligerent public statements they serve a useful purpose. What goes on in private discussions is what matters most in the long run.

The tragic cost of this interminable war is well known. The desire of all of the people to end the war is well known. Last night the President took a most significant step toward a realistic political settlement of what is and has always been a political war. The prospect of an end to the firing of weapons and thus to casualties on all sides must have some appeal to the leaders of the other side, who must bear the responsibility of brave men dying young. The prospect of a prompt exchange of prisoners—we have more of their men than they do of ours—must elicit in the other side the same prayerful expectancy that it does in the American people. The prospect of participation in the political process of the South must encourage the NLF and the generals in Hanoi.

Surely it is in the interest of all concerned that the proposals of the President should be given the most prompt and sympathetic attention. We have so many other things to do.

CONTROL OF BEARS IN YELLOWSTONE NATIONAL PARK

Mr. HANSEN. Mr. President, recently a very timely and interesting story concerning the control of bears in Yellowstone National Park, Wyo., was published in my hometown newspaper, the "Jackson Hole News."

The author of the article is Frank C. Craighead, Jr. Dr. Craighead and his brother John are noted scientists in the Jackson area. Their probing work into the natural and esthetic aspects of our environment has won them recognition and acceptance as leaders in this important field.

Many of the questions which we are now raising about the effect various programs and projects have on our environment were first raised quite some time ago by the Craighead brothers. They have been true pioneers in this area of endeavor.

In the article, Dr. Craighead challenges the National Park Service's bear control program in Yellowstone Park. As he points out, bears which become dependent on domestic food do not readily adapt back to natural sources of food.

In some cases, it has been the National Park Service's policy to eliminate bears which persist in seeking domestic food sources. During the last year it has become evident to many of the frequent travelers through Yellowstone Park that there are not as many bears visible as in previous years. In view of this, I sent a letter to the Superintendent of Yellowstone National Park requesting information on the number of bears that have been eliminated during the past year. According to a letter which I received only yesterday, between May and September of this year 20 grizzly and eight black bears were killed or sent to zoos as a part of the bear management program in Yellowstone.

In view of the concern that has been expressed over the bear management program in Yellowstone, I ask unanimous consent that the complete text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CRAIGHEAD CHALLENGES YELLOWSTONE BEAR POLICY

(By Frank C. Craighead, Jr.)

The National Park Service with the aid of special appropriated funds has been making an all out effort to maintain naturalness in Yellowstone Park by eliminating the earth-filled garbage dumps (some have existed for over 80 years) while simultaneously developing a management plan for the grizzly bear consistent with the changed conditions. As commendable as these efforts are, the present bear control policy is not "working beautifully" as stated by Park officials in the August 20, 1970, issue of the Jackson Hole News, perhaps because it is based on several false assumptions.

To begin with there are two separate populations of grizzlies; wild ones, and semi-domesticated ones "hooked" on garbage that come to dumps and enter campgrounds. Practically all of the Yellowstone grizzlies feed at open-pit garbage dumps sometime during their lives. Thus, a "wild population" cannot be made by killing the so-called semi-domesticated grizzlies until only wild bears remain.

It has also been erroneously assumed that the earth-filled dumps can be abruptly closed before Park campgrounds and garbage disposal sites outside the Park are sanitized. The assumption is that grizzlies suddenly deprived of garbage will turn immediately to natural food rather than to easily available food in campgrounds within the Park and to garbage disposal areas outside.

The recommendations of Dr. John J. Craighead and myself in 1967 after eight years of studying the grizzly in Yellowstone (1967—Management of Bears in Yellowstone National Park) were that, though it would be desirable to eliminate these dumps, they should be phased out very slowly. Otherwise, with the abrupt removal of this food supply and consequent altering of foraging habits developed over the years, grizzlies would move into campgrounds. Here they would cause trouble with resulting injuries to humans and consequent stepped-up "control."

This is exactly what has been occurring over the last three years with the change in grizzly bear management. The grizzly is generally considered troublesome or dangerous if it enters a campground and is trapped and released two or more times. Such a bear is then a candidate for a death sentence or sent to a zoo.

The present Park management of grizzlies is encouraging more and more of them to enter campgrounds. According to Park Service figures, the grizzly bear control kill averaged about three per year for about forty years. Since the instigation of new Park Service management practices, the average number of grizzlies dispatched each year by control methods (killing, or removing to zoos) have averaged 12 animals per year.

In 1970 with the abrupt closing of the Rabbit Creek dump 20 grizzlies or approximately 1/10 of the Yellowstone grizzly bear population has been eliminated through control measures. This management program has been in effect for three years in spite of research evidence from marked and radio-instrumented bears showing that all or most grizzlies within and from far beyond the Park sooner or later visit the earth-filled dumps for varying periods of time. It is obvious that if a policy of abruptly closing dumps thus forcing grizzlies into campgrounds and then eliminating the two-time offenders is continued the Yellowstone grizzly population will be reduced to a point of near extermination in a short time.

How low the population can be reduced and still maintain itself is not known. However only about 15 mature sows out of a population of 200 grizzlies give birth to cubs each year. If the present management is continued, survival of the species in Yellowstone and adjacent areas could be seriously threatened. We might just be around after the grizzly is gone.

Now might be the time to listen to "Some people's good intention . . ."

PRESIDENT NIXON SEEKS TO ENCOURAGE ACTION TOWARD PEACE

Mr. RANDOLPH. Mr. President, I am encouraged by the President's statement on a standstill cease-fire in Indochina. It seems to me to be a forthright proposal and a basis for a settlement that could enhance not only the withdrawal of American troops but an end to the fighting in that area of the world. I do not believe it is politically motivated but part of a continuing reevaluation of our involvement.

In July 1969, I stated:

> I am firmly convinced the United States should propose an in-place cease-fire in Vietnam. A cease-fire could be accompanied by the formulation of an international peace-keeping force to oversee the cease-fire, political settlement, and withdrawal of all outside military forces.

We must continuously explore every avenue to encourage movements for peace in Southeast Asia and in the Middle East, as well. By so doing we exercise leadership as a people on paths to peace to benefit all mankind.

It is my hope the North Vietnamese and the Vietcong will accept the proposal which can set in motion the machinery for peace in Indochina. I commend the President's initiative.

REDUCED CASUALTIES—AS PREDICTED

Mr. SCOTT. Mr. President, among the most significant statements made by President Nixon last night was, in my opinion, his reference to the reduced casualty rates in Vietnam following the successful conclusion of the Cambodian operation.

The President said:

> As the American combat role and presence have decreased, American casualties have also decreased. Our casualties since the completion of the Cambodian operation are at the lowest level for a comparable period in the last four-and-a-half years.

The significance of this statement lies with the words "completion of the Cambodian operation." I would like to emphasize these words.

The fact that the American presence has decreased in Vietnam for the past 3 months is due wholly to the successful operation in Cambodia. The fact that our forces are involved less and less in combat is due to the success of the Cambodian operation. The fact that our casualties are lower than they have been in any comparable period for 4½ years is thus due to the successful conclusion of the Cambodian operation.

Last spring when the President announced the opening of the brief Cambodian campaign he told the Nation its purpose was to reduce the chances of

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American casualties and by that means enable Americans to pull out of Vietnam in greater numbers and with adequate security for those remaining.

There were those who doubted the President at that time. I do not question the sincerity of their doubts. I do, however, suggest that the facts since Cambodia bear out completely the President's assurances of last April and May.

Throughout his discussions of the war in Vietnam, there has been one continuous thread, and that is the total candor with which the President has spoken. There have been no allusions to light at the end of the tunnel, nor glib promises of all the boys home by the end of the year. President Nixon has been blunt; he has been forthright; and his predictions of what will happen have inevitably been borne out.

He has been careful in what he said so as not to raise hopes too high. He has promised no instant solutions to the complex Vietnam problem.

He has, however, delivered on what he has promised.

TELL WHAT IS RIGHT WITH AMERICA—PROJECT OF MONTGOMERY, ALA., CIVITAN CLUB

Mr. ALLEN. Mr. President, the Montgomery, Ala., Civitan Club has a distinguished record of achievement over the years by reason of its adoption of innumerable worthy projects not the least of which are projects to promote good citizenship. The club is currently promoting a project known as "Tell What's Right With America." The fact that this project was commenced by the Montgomery, Ala., Civitan Club gives me great pride. The project reflects favorably upon the membership of the club, the city of Montgomery, and the people of Alabama. So that Senators and the public may become better acquainted with the nature of this project, I ask unanimous consent that a recent resolution on this subject adopted by the club board of directors be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Resolution

Whereas, in the year Sixteen Hundred A.D., the Colony of Jamestown was established on the Continent of America and thereafter in the year 1625 A.D. the Pilgrims landed to commence the establishment of the greatest nation ever to exist, and

Whereas, from that humble beginning a Nation of 13 original Colonies with less than 250,000 people declared its independence on July 4, 1776, and from those 13 tiny outposts, the United States of America finally evolved, and

Whereas, throughout its short existence this great Nation has been the World leader in obtaining freedom for men, advancements for the benefit of all mankind and has accomplished more than any other Nation ever to exist and has been a world leader in discoveries of all types which have benefited not only its own Citizens but people over the face of the Globe. This Nation carved out of a wilderness a Country of 200,000,000 people who enjoy the greatest standard of living and reside in the greatest cities ever known to mankind. This same Nation which has increased the span of life for its citizens from 47 years average in the year 1900 to over 70 years average today. A Nation which has reduced the industrial workers hours per week to an average of 38 hours per week and has provided more leisure time and recreational facilities for its Citizens than have ever been known to mankind heretofore.

With its industrial giants the United States has led the World in its discoveries and accomplishments in the field of medicine, communications, transportation, agricultural, spiritual and educational. In each field the United States has been a leader in providing advancement. This Country having twice defeated axis powers in World conflicts in an effort to preserve freedom for all mankind. The United States, among its many medical achievements having removed from the face of the earth, the dread polio, yellow fever, having performed the first open heart surgery, provided the first iron lung and the first heart lung machine.

Its many industrial giants and world renown scientists having provided for the World the first telephone, the first transistor, the first airplane, the first tractor, the light bulb, and atomic energy just to name a few. It having placed the first man on the moon and made other discoveries in the field of space which have resulted in medical benefits, scientific and industrial benefits to all of its Citizens and those of the entire World. The United States having brought its people through one of the worst World depressions ever known to man only to achieve the greatest economic strength and heights than ever before envisioned.

Now therefore, Be it Resolved, that this Great Nation, The United States of America, stronghold of freedom for the entire World and the Nation that has given man its highest standard of living ever known, should be given credit and praise for these accomplishments and every Citizen owes a duty to publicly acknowledge the accomplishments of this great Nation and to continually bring forth the news of its accomplishments by actively engaging in that project adopted and commenced by the Montgomery Civitan Club known as "Tell What's Right With America".

Be it further Resolved, that this project "Tell What's Right With America" be proclaimed as a continuing project of the Montgomery Civitan Club and that every member wholeheartedly endorse and work towards the successful accomplishment of this project.

Be it further Resolved, that a copy of this Resolution be spread upon the minutes of the Montgomery Civitan Club, and that a copy be sent to each member of the Congress of the United States from the State of Alabama.

Dated this the 1st day of September, 1970.

Adopted by Montgomery Civitan Club Board of Directors Sept. 1, 1970.

Adopted by Montgomery Civitan Club Members Sept. 4, 1970.

SENATOR HOLLINGS: A CALL FOR RESTRAINT

Mr. MUSKIE. Mr. President, restraint and reason are two qualities sadly lacking in much of the political rhetoric of 1970. Two weeks ago the junior Senator from South Carolina (Mr. Hollings) delivered an important speech which combined these two qualities with a plea for mutual tolerance and understanding.

Speaking at the Blue Key annual banquet at the University of Georgia, Senator Hollings warned:

I say, in all solemnity, there is a disturbing similarity between our America of 1970 and the America of 1860. A hundred years ago we lost patience with one another—we ran out of tolerance. We lost the spirit of compromise. We came apart at the seams. The nation disintegrated and it took the bloodiest war in our nation's history to put this country together again. It seems that everyone would realize that America did not grow to maturity on a one-way street of non-negotiable demands. It progressed instead on a broad avenue of give and take—of reasonable argument and of taking what was best from the many diverse groups who settled in this land.

Mr. President, those of us in the Senate have long been aware of Senator Hollings' political courage and willingness to speak out on the tough issues. His speech at the University of Georgia enhances that reputation. And by his reasoned and clear call for mutual understanding and a willingness to work for change within our political framework, Senator Hollings has performed a service to us all.

Mr. President, I commend Senator Hollings for his excellent speech, and I recommend it to Senators on both sides of the aisle. I ask that it be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows

Address by Senator Ernest F. Hollings

My temptation today is to give a rip roaring speech, because we in Georgia and South Carolina live hard, we work hard, and we are proud of our progress. But, somehow it strikes me that we have had enough rips and roars in our society today and that what is needed most is a talking of sense to our people. For truly America is fed up—America is in turmoil. Everyone is shouting and no one is listening. And, rather than bring us together, the mood at this moment is—leave us alone. Gone is the old sense of community that united us for the challenges of the past. We don't face problems together anymore. We meet them at special interest groups, as members of impatient minority blocs and organizations. We identify not as Americans, but as hard hats or students or militants or women liberators or as members of the silent majority.

As little groups and cliques we shout our non-negotiable demands, attempting to drown out all differing points of view. We fight for a spot in front of the television camera in the street, on the misguided assumption that emotional outbursts will somehow bring needed change. Our own group is always right. Our own group, if given its way, could usher in the millennium. The radical demands thorough change by sun-up tomorrow. "I have seen the vision," he says. "Follow me to Utopia." The arch-conservative sits, stubborn as a mule, refusing to concede that any change is desirable. Each group must have things its own way. Each would construct an America in its own straight jacket image. And the creed is—do things my way or get out. "America, love it or leave it"—but always with the stipulation that "I will decide what America means." The hard hat wants no dialogue with the student—he wants the student to shut up. The student seeks no compromise with the hard hat—he hopes for an America without hard hats. The clamour of rhetoric increases decibel by decibel until the voices of reason are now effectively silenced. Meanwhile, everyone is in flight—fleeing from the city to the suburb, fleeing from the disorder of crime and violence, fleeing from government. And, more important, fleeing from responsibility to one another. A country once excited by the challenge of change is now beset by fear. And so, the challenge tonight is the same as 100 years ago—"shall we

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meanly lose or nobly save the last best hope on earth."

I say, in all solemnity, there is a disturbing similarity between our America of 1970 and the America of 1860. A hundred years ago we lost patience with one another—we ran out of tolerance. We lost the spirit of compromise. We came apart at the seams. The nation disintegrated and it took the bloodiest war in our nation's history to put this country together again. It seems that everyone would realize that America did not grow to maturity on a one-way street of non-negotiable demands. It progressed instead on a broad avenue of give and take—of reasonable argument and of taking what was best from the many diverse groups who settled in this land. It seems that everyone would remember the day when we depended on each other—when Franklin set the mood of this country with his cry, "We must all hang together, or assuredly we shall all hang separately." It seems that we would realize that a society wherein each group sees itself infallible will choke on its pride—a society in which each insists on doing his own thing is a society wherein nothing gets done. And, it seems that we would remember our 100 years of trying it alone without national government.

South Carolina is presently celebrating its 300th birthday. But the nation is only 200 years old. We are just now refreshing our memory of that hundred years without a representative national government. Just above the name of John Hancock is written the founding spirit of this Republic, "We mutually pledge each other our lives, our fortunes, and our sacred honor." We cannot be reminded too forcefully that in the Declaration of Independence, there was also a declaration of dependence. "United we stand, divided we fall." That was the challenge of the 1770's. That is challenge of the 1970's.

No one can visit a college campus and discuss the nation's problems without giving attention to the role of youth today. Many of my friends are annoyed by the attention public officials now accord the students. Twenty years ago, the only attention the student received from a Senator was a commencement talk on graduation day. It was a one-time appearance. We spoke and the students listened. Today, the average campus will be visited by four or five Senators or Congressmen. Some students won't listen to anything. But, the overwhelming majority are listening. They are more concerned about the future of this country and what it stands for than my generation. They approach their vision of what America should be with a religious zeal. They ask questions—they want results.

The student will want to know why people still go hungry in this land of plenty. Why do we want to start another Vietnam in Cambodia? And, why do we in America want to emulate the sayings of Mao that all power is derived from the barrel of a gun? There will be dialogue—there will be questions that you can't answer—and there will be questions that you can't leave unanswered. Students will have an effect. The Senator takes his homework back to Washington and the legislative mill begins to grind.

We can credit the students with consumer protection, automobile safety, meat inspection and the fairness doctrine. The test for each Senator now is—is it fair? The draft law—is it fair? The tax law—is it fair? And, many times while the best brains of industry are telling us it can't be done, the students prove otherwise.

I have just left Washington with America's automotive industry up in arms. Not just because of a strike, but because of a requirement under consideration for the production of an emission free automobile engine. The House bill required a 90 percent emission free standard by 1980 and the Senate is prepared to require this by 1975. Impossible say the Detroit industrialists. Yet, this past Labor Day a group of some 50 students under the sponsorship of MIT drove their self-designed automobiles across the country and two of the winners actually exceeded the standards envisioned for 1980. What the industrial establishment says can't be done, the students have done. So, society learns from its students.

Of course, the students must learn from society. For one thing, once the students decide a matter, they believe it is right for America. Students must learn that they are not a majority. Even if all America's students agreed upon a point, there are nearly 200 million other citizens and 75 million other voters. In fact, they are a minority of the young. The Bureau of the Census reports that there are 10½ million 18, 19 and 20 year olds. Only a quarter of these are students. Fifty percent—or five million—of this age group are breadwinners, workers and hard hats. One million are new mothers. So, when we discuss finding out what the young people want, we go not just to the campus, but to those other vital groups too.

Many times, the students seem to know the cost of everything and the value of nothing. They come into your office and, in expert fashion, describe and psychoanalyze the Viet Cong. They can give you his height and weight, how he lives, and how he thinks, and give you his reaction. But, the student has not the remotest idea of how the hard hat lives, what he thinks, and why he reacts the way he does. Yes, the student knows all there is to know about an Asian peasant 10,000 miles away, but often shows no understanding whatever for the guy next door who, in his way, is working and building this country.

Impatience is the mark of the student. Born and bred on instant food, raised and schooled on instant credit, they expect instant government. The student movement that followed Gene McCarthy was motivated by the hope for peace and new leadership. The students made their mark in over a dozen primaries. But, when they failed in Chicago, they immediately cried fraud and quit. Our generation would have savored the progress made, come back and tried again. But, not today's generation—they fail to appreciate that America and the road to freedom is not the 100 yard dash, but the endurance contest.

We in the establishment must understand that we are responsible for the contest; that we need self-discipline just as much as the students—that we need to listen. And, we must be responsive.

I don't speak politically. I don't speak as a member of one political party, for I realize as DeTocqueville said over 130 years ago, "There are many men of principle in both parties in America, but there is no party of principle." That has not changed. Lyndon Johnson is just as much responsible for today's inflation as is Richard Nixon. Lyndon Johnson stumbled and fumbled on the war just as much as Richard Nixon and, unfortunately, both lead from concensus rather than concern. Both attacked the politics of the problem rather than the problems themselves. If we can outlive the age of demonstrations—if we can outlive government by political polls, we shall be a blessed nation indeed.

On the other hand, how many of you really feel that government is responsive to the needs and desires of the average American? How many really find credible the words and actions of our government? Who knows what the policy is? Who can truthfully say they feel a sense of trust in the nation's leadership? Who feels that the idea of America persists—"All government shall derive its just powers from the consent of the governed"? If I sense the tempo of America today, people feel that government is deriving its just powers from dissent rather than consent. People just don't feel themselves a part of government anymore.

Part of the fault lies with a government too quick to politick. We never have come clean with a position on this war. The policy is retreat, but the rhetoric is attack. You ask why would anyone politick with war. We know that President Nixon would like to end it all in the next hour. But each President has feared the reaction of the home front when it learned he had failed at the battle front. No one has wanted to be in the chicken coop when the chickens come home to roost. Kenneth O'Donnell writes that President Kennedy's decision to get us out of Vietnam was delayed by his not wanting to face the reaction of the people on the heels of withdrawal. President Johnson thought he could politick it. It would be a painless war—there would be no threat of World War III because there would be no threat to annihilate the enemy. We would come with men and machines, bluff and gusto—but we wouldn't let the military really fight. We would minimize casualties so as to minimize complaints from home. No one would stay over a year. We wouldn't call up the National Guard or Reserve. We would have guns and butter both—business as usual. If the people at home didn't suffer—if they didn't feel any real impact of war, then his mandate for a Great Society in 1964 could be repeated in 1968.

At first, it appeared that Mr. Nixon and the Congress would stop trying to out-politick each other on the war and get in step with a clear policy. Mr. Nixon stated that he no longer sought military victory and announced in June of last year a policy of withdrawal. In the same month the United States Senate approved Senator Fulbright's commitment resolution, stating that hereafter no foreign commitment of the United States would be considered valid unless approved by the Congress as well as the Executive. President Nixon approved this policy. When debate ensued on Laos and Thailand, 81 Senators joined together and approved the first Cooper-Church Amendment prohibiting U.S. ground combat troop activity in Laos and Thailand. Cambodia was not specifically included because of Administration statements that it was a sanctuary and no action was contemplated there. The President stated that he was pleased with the amendment and signed it into law on December 29th.

However, when the Cambodian fiasco occurred and the United States Senate with the second Cooper-Church Amendment tried to get back in step with the President so that we could present a united front to the people of this land, the President chose the political route of his predecessor. At no time did Mr. Nixon object to the substance of this measure. He did not object to the restriction on combat activity. In fact, he said no American troops would be used in Cambodia after July 1st. And he denied any commitment to the Lon Nol government. But, instead of working with Congress, which after six years of bloody warfare was trying desperately to set a policy as to our Far Eastern commitments, the President filibustered. Cooper-Church advocates were pictured as less than 100 percent Americans. They were accused of undercutting his authority as Commander-in-Chief. They were even said to be encouraging the first military defeat the United States had ever suffered. The President's floor leader stated that the introduction of the amendment was an affront to him as an American. But, later, he voted "aye" and so did 75 percent of the people's representatives in the United States Senate.

Relishing the popularity shown in political polls on this score, Mr. Nixon supplanted his Southern strategy with a "Support the Commander-in-Chief Strategy." It is somehow un-American to criticize the President. The strategy is applied now not just to the South, but to the entire land by sending the Vice President to the attack. And, for an Adminisration dedicated to "Bring us Together" the Vice President in ranting rhetoric rips us apart.

The office of Vice President over the years has been built to one of responsibility. The Vice President could bring us together as Chairman of the President's Council on Youth Opportunity. But, in his first 16 months in office, Mr. Agnew has not once convened a council meeting. Quite a record for the self-styled expert on youth. And, while I have been trying desperately for an oceans program, Mr. Agnew refused for ten months to meet with the Marine Science Council—yet he is its chairman. In February, the President created a new Office of Intergovernmental Relations. The Vice President is its head, charged with improving federal relations with state and local governments. But, when the governors met in Missouri this summer, the Vice President was absent. Last Spring, the President named Mr. Agnew to chair a cabinet committee on school desegregation. But, the Vice President missed its last seven meetings in the critical weeks before the schools opened this Fall. The Vice President is Chairman of the National Aeronautics and Space Council; the President's Council on Indian Opportunity; and the President's Council on Physical Fitness. But, he has ignored all three. Most importantly, he has ignored his primary constitutional duty—President of the United States Senate. As campaigner-in-chief for the "Support the Commander-in-Chief Strategy," he has been absent 98 percent of the time roaming the land, tearing down the Senate as an institution.

The "Support the Commader-in-Chief" or else "you are un-American" jag is supposed to carry until November 3. Come 1971, dramatic Vietnamization will occur. The news of large numbers of returning troops will be laid on for the 1972 election. For whatever reason, we will welcome it.

But when the day arrives when it will no longer be unpatriotic to ask the question why, the exacerbation of disappointment and disillusionment fostered by Mr. Agnew will certainly make a chaotic country for our boys to come home to.

Leadership by political bamboozle is equally rampant when it comes to the issues of domestic life. We have heard much about the hunger issue in the past couple of years. The President held a top-level White House Conference on Hunger and told it, "that hunger and malnutrition should persist in a land such as ours is embarrassing and intolerable." Yet, he has given no leadership on the problem of eradicating hunger.

On another front, the school board member sacrifices good name and good will in his community when he agrees to implement controversial guidelines to bring progress on the racial front. What happens? He is quickly cut down by another department of government. The assistant secretary of commerce who tells it like it is, is promptly fired. The leader dedicated to a program is turned away by being told that his first allegiance must be politics. And, the Cabinet member who opens his eyes is swiftly blindfolded with a White House rebuff. And just last week a top Justice Department official warned federal employees that those who publicly differ with the Nixon Administration can expect to possibly lose their jobs.

What confidence can there be in an Administration whose announced creed is "judge us by what we do, not by what we say?" Why must there be any difference between what government says and what it does? We have been practicing the art of self-government for nearly 200 years. I believe we are mature enough to face the truth. We won't be practicing self-government very much longer if that government tells us to ignore what it says. That is not the way Andrew Jackson or Woodrow Wilson or Harry Truman ran the Presidency. Perhaps they made mistakes, but at least the people knew where their government stood. The great Presidents used rhetoric to implement action, not to obscure it. Courthouse politics is not good enough for the courthouse, leave alone the White House. By no means can we afford courthouse politics at the highest level. We can't say "no more Vietnams" and then start another one in Cambodia under the guise of self-defense. We cannot have a Nixon plan for the East and a Marshall plan for the West. We can't go to New Orleans saying we don't like Northerners pointing their fingers at the South and then when we try to get equal treatment for the South with the Stennis Amendment have the President order his congressional lieutenants to kill the amendment. We can't, in the name of eliminating the separate but equal doctrine, establish a separate but unequal policy by calling segregation in the South de jure and the same segregation in the North de facto. We can't jawbone against inflation by publicly vetoing education and hospital bills while refusing to jawbone the labor and business leaders to stop the spiral of wages and prices. We cannot signal the creed of this Administration as "Bring us Together" and then legislate us apart with a take over of the electoral college and by direct elections, write into the law status for every divisive group in America.

I cannot honestly tell you what the President's intention was when he invaded Cambodia. If I told you that I knew what the President's plan to end the war is, what his terms are, I would be less than candid. I don't know what the President really thinks about civil rights, and neither does anybody I talk to in Washington. I don't know where he stands on stopping inflation, eradicating poverty, on school busing, on textile imports, or on anything else.

We must quit playing politics and lead. The country stands in need of a clarion call, a summons to greatness. It was Paul in his first epistle to the Corinthians who said, "If the trumpet give an uncertain sound, who shall prepare himself for battle." We are not preparing and the reason is the uncertain trumpet of our national leadership. The road ahead is by no means clear. Shall we continue down this clamorous road of drift and division, insuring the collapse of all that has been built by patient toil and sweat? Or, can we get back on the road of a forgotten America?

The first thing we must do is go to work. We have given up on politics too soon. John Gardner recently said, "Out of thousands of years of experience in domesticating the savagery of human conflicts, man has distilled law and government and politics. As citizens we honor law—or we have until recently. We neglect government and we scorn politics. No wonder we are in trouble." Gardner went on to say, "It is precisely in the political forum that free citizens can have their say, trade out their differences and identify their shared goals. Where else, how else can a free people orchestrate their conflicting purposes?"

There is no other way. Only through rational government and politics can we find the road to meaningful change. The hard hat will not find a pot of gold at the end of the rainbow simply by ridding America of the student. Nor will the young find a brave new world simply by insistence on everyone doing his own thing.

Like 100 years ago, the politics of hope have given way to the politics of despair. Too many of us are seeking change outside the political realm, outside all the institutions which can make productive change possible. Our problems cannot be solved in the streets. A just society cannot be built on the ashes of burned buildings or the beaten bodies of those with whom we disagree. A just society cannot be built when so many of us sit home in front of the TV, cheering for our side as our adversaries receive their comeuppance.

No problem confronts this country that cannot be solved within the system. We must all do our part. The citizen must rededicate himself to the spirit of tolerance and compromise that makes meaningful change possible. This demands self-discipline. A just society must be an orderly society. We must discipline to fulfill our responsibilities as citizens. The blessing of civilization is to have open exchange and open expression and a pursuing of one's talent to its ultimate development. This open-ended pursual and free expression can only be done within an ordered system. From the Supreme Court on down to the average citizen, we must act on the belief that while the First Amendment says you can think as you please and speak as you please, you cannot do as you please. The law of the jungle cannot co-exist with the rule of law.

This movement must be led. We in the Congress, those in city hall and statehouse, all in government must realize that our function is to make headway and not headlines. Government must be responsive. The Congress cannot legislate truth-in-lending and practice secrecy in voting. Most importantly, the President must summon the American people to renewed greatness. We stand in need of Presidential leadership that will move decisively to tackle the many issues which currently plague us. Action must supplant rhetoric, and government must come clean with the people. In an era of grave dissension, we can ill afford leadership that feeds on the disunity of the nation.

Finally, a just society must have compassion. It was a wise doctor who prayed that he would never lose the sense of pain felt by his patients. One cannot heal wounds that he cannot feel. The Negro is edgy that his newly-won gains of the past decade might be lost. His fear is deeply felt. All the while he is being pressured by the black militant. Unless we feel this sense of pain and fear, the militant will gain influence in the black community. The housewife is disillusioned at the grocery bill, and there must be compassion for her when we contemplate costly new welfare programs. The mother wonders when drugs will hit her child. The workingman wonders how long he can hold his job. The head of the house worries for the safety of his family as the crime statistics soar ever higher. In the meantime, our sons continue to die without knowing the reason why. Unless we realize that every man has hopes and dreams, grievances and fears, we will lack the spirit of community necessary to a united fight against our many problems. We need not only confidence in government, but confidence in each other. Wise leadership can encourage that dedication, but first we must find it in our will to make a national declaration of dependence.

Whatever decision we make, there is a new America around the corner. What kind of America will it be? It is up to you and me to decide.

WHAT IS THE SPIRIT OF 1776 AND WILL IT STILL HAVE VALUE IN 1976?: HIGH SCHOOL STUDENTS GIVE OPINIONS IN ESSAY CONTEST

Mr. SCOTT. Mr. President, high school students across the country participated in a national eassy contest sponsored last year by the Washington Crossing Foundation, Washington Crossing, Pa.

Mrs. Ann Hawkes Hutton, a member of the American Revolution Bicentennial Commission, and the widely quoted author of a number of books, including "Portrait of Patriotism," "George Washington Crossed Here," and "House of Decision," is chairman of the nonprofit corporation which conducted the contest. In addition to being a historian, Mrs. Hutton also is a member of the bar. She has extracted a few excerpts from the essays written last year by these young men and women and they should make interesting reading as our Nation enters the bicentennial era.

I ask unanimous consent that these excerpts be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

What Was the "Spirit of 1776" and Will It Still Have Value in 1976?

Wayne Micheletti, No. 1 Award Winner from Texas LaMarque High School, LaMarque, Texas: "The Spirit of 1776 is as difficult to define as it is to hold in one's hand. It is a living heritage which serves as the intangible foundation of American Patriotism. It is not merely a group of words which is pleasing to the ear. It is more a feeling; a mood, an electrifying atmosphere."

"A nation is only as strong as the faith of its citizens. The immeasurable Spirit of 1776 is an undying flame in the hearts of all Americans and will eternally radiate devotion to the cause of freedom and equality."

Joe H. Hill, Shawnee High School, Shawnee, Oklahoma: "There is no need to repeat the names of those who appear in history books. They knew they would be well remembered, as they are. It was the vast number of others to whom we are truly thankful, those whose names are recorded simply as the 'spirit', who did so much anonymously. To them we should dedicate ourselves to preserve their dream, and to be certain that the 'Spirit of 1976' stands for 200 years' progress, not recession."

Peggie Copple, Pateros High School, Pateros, Washington: "The Spirit of 1776 is a deep-rooted love for all things which make man truly free."

Sherri Riddle, Italy High School, Italy, Texas: "The 'Spirit of 1776' just might lose all value. If enough true Americans stand up and make people hear, the Spirit could survive and have value; but . . . this is your responsibility and mine. If we remain the 'silent majority' much longer, we will find ourselves the 'silent minority'."

Susan Benke, San Marcos, Texas: "If more movements were organized to spread national spirit, then many more individuals might realize the value of Americanism."

Harry Solomon, Memorial High School, Haddonfield, New Jersey: "The Spirit of 1776 is not indigenous to any one time, . . . nor to the United States alone . . . This is the universal aspect of our heritage."

Nancy Martin, Portville Center, Portville, New York: "It was their courage, their determination and their loyalty to what they believed in that was called the spirit of "76'."

Karen Stuckman, Greater Latrobe High School, Latrobe, Pennsylvania: "The blood of patriots is necessary to nourish the seed of Freedom's tree."

Mary Lou Pausewang, Patchogue Sr. High School, Patchogue, New York: "This Spirit of '76 was more than mere embryonic enthusiasm . . . The Spirit of '76 was men fighting to make a dream a reality."

Pamela Berlin, Hampton High School, Hampton, Virginia: "The 'Spirit of 1776' was a complete metabolic process of breaking down and then planned, systematic building up. The present youth revolution would do well to look at both integral parts. Any revolution needs a goal; 1776 had a monumental one."

Patricia Maiorino, Bishop Conwell High School, Levittown, Pennsylvania: "The Spirit of 1776 is . . . saluting our flag and remembering how it all came about."

Jane Shargel, Union High School, Union, New Jersey: "The Spirit of 1776 was the enthusiasm of the men who really loved America."

Gaile Steele, Angleton High School, Angleton, Texas: ". . . it was the Spirit of 1776 that served as clothes to keep men warm when they had only rags."

"The Spirit of 1776 . . . shaped the history of the future years."

Jesse Garza, Santa Rosa High School, Santa Rosa, Texas: "The spirit will always be in the hearts of the people of the United States. It will become the pride of the past. If history continues to be written, the 'Spirit of 1776' will be remembered for as long as people in the U.S. exist."

Jeffrey Gibbs, Union High School, Union, New Jersey: "Back in 1776 it looked like a fledgling nation was about to fall before Great Britain. We were successful then. It is no less imperative that we triumph now. How? By using the Spirit of 1776, the spirit where the people believed in something and gave their all for that cause. Nothing less than total dedication by the people can save us now. We did it before. Shall we waste the lesson of 200 years ago? The choice is ours. We'd better make the right one."

Rosanne Devins, Union High School, Union, New Jersey: "A faith as strong as Washington's in his fight for freedom must always reign in the hearts of some, in order that life in America as we know it exists . . . perhaps in 1976 we will have won an even greater battle than that of Washington's. One for peace."

Clyde Click, San Marcos High School, San Marcos, Texas: "Will there be cause for national spirit in 1976? Yes. Communist aggression and the possibilities of World War III will . . . cause an uprising of national spirit such as the world has never seen. The spirit of 1776 will have more value to the people of the future than anything else, as it will set a standard for them to follow in their defense of democracy."

Georgia Shinker, Ainsworth Sr. High School, Ainsworth, Nebraska: "A dedicated few of yesterday eliminated the sourness of oppression so that the fortunate masses of today could taste the sweetness of Independence."

Anne Horowitz, Maury High School, Norfolk, Virginia: "Patriotism rings out like a golden bell, with a tone so sweet that one cannot ignore it . . . Enthusiasm and inspiration make possible this glorious thing called liberty."

Betsy Miller, Maury High School, Norfolk, Virginia: "Young people who abide by high moral standards despite communist and radical sources, strengthen the fiber of their country. These modern patriots are the backbone of America."

Michael Bowen, Chester High School, Chester, Pennsylvania: "Liberty is a quality to be passed on, it also must be cherished! It can neither be bought nor sold!"

Eileen Conroy, Haddonfield Memorial High School, Haddonfield, New Jersey: "Liberty demands constant vigilance. Now, more than ever, this spirit of concern and participation, 'the spirit of 1776', is of value to America."

Johanna Zuroski, Johnsonburg Area High School, Johnsonburg, Pennsylvania: "Is the spirit of 1776 alive today? Men with the courage to fight for what they believe in regardless of great personal sacrifice will always have this 'spirit'."

William Hine, Southern Columbia, Catawissa, Pennsylvania: "Patriotism is indeed alive and well and living in the hearts of millions of Americans."

Eric Lerner, Pequannock Township High School, Pompton Plains, New Jersey: "Whether it be a nation, or people, trying to win their independence or an effort to keep, preserve and expand it, there will always be a Spirit of 1776."

WATER RESOURCE PROJECTS APPROVED BY THE COMMITTEE ON PUBLIC WORKS

Mr. RANDOLPH. Mr. President, in order that the Senators and other interested parties may be advised of various projects approved by the Senate Committee on Public Works, I ask unanimous consent to have printed in the RECORD information on this matter.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Projects approved by the Senate Committee on Public Works on Oct. 7, 1970, under the Watershed Protection and Flood Prevention Act, Public Law 566, 83d Cong., as amended

[Project and estimated Federal cost]

Upper Ouachita River, Ark	$1,417,000
Crooked Arroyo, Colo	1,169,000
Clear Creek, Ill	1,014,000
Fish Stream, Maine	572,000
West Branch, Westfield River, Mass	3,564,000
East Upper Maple River, Mich	4,989,000
Bahala Creek, Miss	1,402,000
Newlan Creek, Mont	1,356,000
McKay-Rock Creek, Oreg	4,790,000

RENAISSANCE IN EDUCATION

Mr. MATHIAS. Mr. President, I hardly need to remind Senators of the degree to which the campuses of this country have been the focus of attention in recent years. The attention they have received in many cases has not been favorable, in fact, the universities have been identified by some as the breeding grounds of many of the problems in our society. This is perhaps predictable when we consider not the incidents of violence or even of confrontation which so easily capture our attention, but the degree to which a renaissance is occurring within our educational institutions.

Let me digress for a moment to the subject of renaissance as it is most commonly applied, that is, to the period of intense and relatively rapid change in European history. May I suggest that the Renaissance was a period which was itself characterised by foment and which led to dynamic changes within the institutions of Europe for centuries thereafter.

It would seem perhaps that a similar situation exists today in our universities. Moreover, as a whole, the universities seem to be responding to the multifaceted crises of renaissance with great wisdom and insight. Perhaps exemplary of the enlightened educators of today is Dr. Elizabeth Geen, the recently elected president of Mount Saint Agnes College in Baltimore. Dr. Geen is among those leading the way to greater relevance in our university curriculums, relevance which is demanded of our universities not so much by our youth as by our times.

May I suggest that the challenges facing our universities, that is, the burden of educating the generation which must inherit this world, are truly awesome.

Mr. President, I ask unanimous consent to have printed in the RECORD a feature article published in the Baltimore Sun of August 19, 1970. It focuses on the reforms that Dr. Geen hopes to achieve at Mount Saint Agnes but goes further to provide some keys to the nature of the quiet, momentous events that never reach the headlines.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRUE CATHOLICITY: MOUNT SAINT AGNES NAMES DR. GEEN PRESIDENT

(By Jane Howard)

The fact that Dr. Elizabeth Geen, a Protestant, was recently elected president of the Catholic-sponsored Mount Saint Agnes College is itself a notable educational achievement; but the acquisition of the position has an even deeper meaning for the intense, dedicated Dr. Geen.

"The presidency means to me," Dr. Geen explained, "the liberality that one expects, hopes for—the openings of the true catholicity—small c—of the trustess of Mount Saint Agnes."

"Mount Saint Agnes," she continued, "is under (sponsored by) those who are both Catholic and catholic." The trustees of the college are both Catholic and Protestant, "an example of what might be called 'ecumenism,'" she said, smiling warmly as her thoughts took form.

"One of the best proofs is that they chose someone who does not subscribe to certain precepts," the president explained. She also feels that the catholicity encourages a creative atmosphere within the college.

Dr. Geen, who succeeds John H. Ford as the college's president, comes to Mount Saint Agnes from a two-year involvement with the Commission on Higher Education of the Middle States Association, which studies and accredits colleges throughout the middle Atlantic states.

She was previously dean of Goucher College and professor of English there for 18 years, retiring in 1968 to her Middle States Association consultantship and to the administrative assistantship to the dean and president of Mount Saint Agnes.

In her studies and examinations of many junior colleges and community colleges during the past two years, Dr. Geen found what she believes to be "an extremely new phenomenon of higher education in the United States"—meaning the impact that the smaller colleges are having and are expecting to continue to have on the four-year college throughout the country.

ADDED DEPTH

The main point, Dr. Geen explained, is that there are many factors causing larger colleges to subject themselves to review and revision today.

One is the call of the student for relevance in his college experience. As Dr. Geen expressed this situation, "it is more and more a cry for added depth."

The most practical and valuable method for adding "depth" to the student's college life, which is being utilized to a larger extent each year in our colleges, is the laboratory-type experience—what Dr. Geen calls "the intellectual experience seen in the flesh."

The lab work may be in the form of student teaching, projects, actual job experience, work in a science laboratory or other forms which "relate the theories to the pragmatic experience," as Dr. Geen explained it.

It is here, as she has learned through her experience and studies, that the junior colleges and community colleges are playing an increasingly major role in higher education by providing the pragmatic experience and by causing four-year colleges and universities to re-examine their curricula and programs in order to provide the student with the same relevant experiences.

"Training in career, professional and paraprofessional programs is begun much earlier in community or junior colleges," Dr. Geen said. "The four-year college will be influenced by this preparedness or just by educational thinking. The smaller college, in turn, tends to follow the pattern of the four-year college; it needs to free itself."

Dr. Geen emphasized the fact that the community and junior college input is only one factor contributing to the self-examination of the senior college. Another is the increasing number of transfer students into the larger college, which will be forced to adopt a greater flexibility in order to grow and flourish.

TRANSFER STUDENTS

The four-year college will also have to adjust to two and three-year tracts, the president continued, because of the increasing number of transfer students from different areas.

(The lower tuitions of the community college afford many students who would not be able otherwise to attend college the opportunity to begin an education, therefore increasing the number of transfer students.)

Also, as Dr. Geen pointed out, in the community college situation, one often finds the student who really wants to go on to a four-year college, but may have to work first and save the money. This student, who becomes a product of his own drives, will also have his influence, as far as curriculum and programs are concerned, on the senior college.

Still another effect on the senior college comes as a result of the location of the junior and/or community colleges. "Many of them become feeders into local senior colleges," explained Dr. Geen, "therefore building up the student registration in a particular city."

Dr. Geen, so completely engrossed in her subject that she leaned forward in her chair with an apparent eagerness to enlighten, explained yet another factor which will have its effect on the senior college's self-review.

The master of arts program in the senior college will increase, "as far as being part of an up-to-this-point undergraduate college," the president continued. "There will be more interest in staying for graduate school if the student has been in a large college only two years, instead of four." Therefore, graduate programs will increase in number and in size.

A situation within the realm of college patterns which is undergoing a change in character, as Dr. Geen pointed out, is the college calendar. This phenomenon relates quite strongly to the previously mentioned idea of the laboratory experience in the college life.

INTO COMMUNITY

"The four-one-four calendar," said Dr. Geen, "encourages projects which go out into the community where the student can relate theories to pragmatic experience. The short term in the middle of the school year accommodates itself to this lab-type work—the corollaries to the classroom."

The practical use of this middle term probably came with the awareness of a "lame duck" session after the Christmas holiday seen in the semester system, widely used in the senior college.

"Of course, there is a danger to allocating to one term 'a term for having pragmatic experience,'" the whitehaired president commented, "but it does solve the problem of the split terms and answers the student's desire for the intellectual experience seen in the flesh."

The four-one-four system is seen most often in the community college.

The question of meaning and relevance in the college experience, which is such a popular theme today among student liberals, is a very important issue to Dr. Geen.

"After all, the object of education is to develop in students, ultimately, a self-knowledge—not only knowledge that is unified, but also integrated—integrated with life. The lab part—that's life."

Mount Saint Agnes College itself is experiencing a kind of lab work, explained Dr. Geen, in the fact that nuns and priests are taking themselves out and becoming involved in social work and teaching within the community, as well as in the college. "Actually it is happening to all those who are teaching today," the president continued. "And it seems to me all to the good."

"One of the wonderful things happening is that the colleges are responding to the student's wants and needs," the educator said, very sure of her convictions and ideals. "They are becoming communities of learning, not only for the students, but for the faculty, as well. The period of isolation of the college is past."

Looking intently out her office window at a leaf and beyond, Dr. Geen discussed the future of the college in America, and truly in all parts of the world.

"The dangers of extremism are manifest. If a college has anything to offer, it must encourage a close examination of all facts, be tolerant of all points of view. Socrates said to doubt wisely."

Dr. Geen, who is well-known in the field of higher education and found in Who's Who In America, received bachelor's and master's degrees form the University of California at Berkeley. She did postgraduate work at Radcliffe, the University of Hamburg, Germany, and the University of Iowa, where she received her Ph.D. in 1940.

In 1942, taking a leave from the position of chairman of freshman English and chairman of tutors at Mills College, Calif., Dr. Geen became one of the first women to join the United States Navy, Women's Reserve.

INTEREST IN FORM

"This was at the outbreak of the war," Dr. Geen said. "My interest, as I have always loved peace, was not in the war but in the consistency of the form with the thing contained."

This interest may be compared with her feeling for her role as administrator—"to find the form consistent with the educational program and the object of the institution."

Dr. Geen found herself "very happy to be caught in the orbit of higher education," when the Middle States job was offered. Now she is a central figure in a different position of the same orbit—the interweaving of the educational processes of the colleges of Notre Dame of Maryland, Mount Saint Agnes and Loyola.

"Loyola and Mount Saint Agnes have done more so far, but we are trying to make that tie stronger—to make a union joining strengths in an effort to reduce our weaknesses," she explained, adding "it is not a consortium, but an actual merger."

A NEW INITIATIVE

Mr. DOLE. Mr. President, last night President Nixon offered a "bold new initiative for peace" to the world. The

XUM

President's offer placed the responsibility for the continuation of the war in Indochina squarely upon the shoulders of the Communist leaders in Hanoi.

This administration has made every reasonable effort to bring about a state of peace among the peoples of Indochina. And this new proposal must be recognized as a great step toward the realization of that goal.

I spoke with President Nixon at length after his televised address, and he assured me that the United States under this administration would continue to work on every level for peace, a lasting peace, a peace that can be enjoyed not for the moment and not for just a part of the world's people but a peace for all and a peace that will endure.

There is no more pressing need, no more vital cause. All of us must support this effort, regardless of personal ambition or prejudice. This is the great call we must all hear, the great cause of our time.

I believe President Nixon evidenced his dedication to the successful fruition of this goal. If any did not realize it before, they should now; they need only listen to the President's message.

ATLANTIC TREATY ASSOCIATION REPORT

Mr. JACKSON. Mr. President, the 16th General Assembly of the Atlantic Treaty Association, of which the Atlantic Council of the United States is the U.S. member, was held in The Hague from September 21 to 25. The assembly of about 350 delegates from the 15 NATO countries and Malta devoted its debates to "Peace in the 1970's."

At the end of the week of sessions a final report was adopted dealing with urgent concerns of the Atlantic Alliance. I believe this report will be of interest to Senators. I ask unanimous consent that it be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Atlantic Treaty Association XVIth General Assembly, The Hague, September 21–25, 1970

FINAL RESOLUTION

The Atlantic Treaty Association meeting in The Hague for its Sixteenth Annual Assembly, discussed the role of the Alliance in the light of the present world situation. The theme of the conference being the maintenance of "Peace in the 70's," not only political and defense problems, but also problems of environment which are the results of the extremely rapid scientific industrial development of our modern society, as well as information problems linked to defense and to the spreading in the world of the ideals of freedom and genuine democracy, were examined. The discussions in the Assembly were conducted with the help of introductory statements by the Netherlands Prime Minister, Mr. Piet de Jong; the Secretary General of NATO, Mr. Manlio Brosio; the Chairman of the Military Committee, Admiral Henderson; and the Supreme Commander Europe, General Goodpaster, and of reports from Sir Evelyn Shuckburgh (political), General Combaux (defense), Professor Randers (environment) and Mr. Green (information).

POLITICAL AND DEFENSE COOPERATION

1. As regards the political and military situation, the Assembly, while recognizing that due to the existence of the North Atlantic Treaty Organization the citizens of the Member States in the Atlantic area have been able to live and can still live in security, views for the following reasons the present situation with great concern:

(a) The expansionist character of Soviet policy in the Middle-East—an area of vital importance to the members of the Alliance—combined with a rapid build-up of the naval capabilities of the Soviet Union into an instrument for political pressure and coercion to be exerted in areas all over the world where conflicts have arisen or might arise. Although the Soviet Union now seems anxious to avoid a direct confrontation, this type of indirect and circumventing strategy might in the long run have the gravest consequences for the future of NATO countries and of the European member countries in particular.

(b) an increasing complacency and apathy, and in some cases, a growing negative attitude towards NATO;

(c) the lack of willingness among most of the European countries to take their proper share of responsibility for collective security.

2. In view of these tendencies, the Assembly stresses the continuing need for the Atlantic Alliance, for strengthening NATO and for effecting a broader political harmonization between all the members of the Alliance and the complete coordinaion of their defense measures. Wherever necessary, adequate measures must be taken to correct qualitative imbalances of NATO forces. Further unilateral reductions of forces must not take place. NATO should maintain the determination and the capability for an integrated and immediate defense of all the territories of the Alliance.

However, in the opinion of the Assembly, no real and lasting solution for present problems will be found if NATO policy is to be restrictive to reacting to events. To meet the Soviet grand strategy which combines military and revolutionary methods, the policies of the Atlantic Alliance, which must be based on the deepest convictions of its populations, must not only be fully understood by them, but cover spiritual, political and economic as well as defense issues.

3. In this respect the present tendency in many countries to criticize NATO, especially among the younger generations, should be weighed seriously. Because of this the problem of information—on which subject some specific recommendations will be given at the end of this resolution—is not only a problem of greater knowledge but requires a genuine dialogue between the responsible authorities and the constructive critics in our society. In this sense the recommendations of the Information Committee should be the basis for a positive general information policy for NATO, the Member States and for the ATA national assocations.

4. The continued presence in Western Europe of substantial North American military forces is indispensable to the security of Member States of the Atlantic Alliance. Any unilateral reductions of NATO's forces would undermine NATO's call for mutual and balanced force reductions. As part of an integrated defense force in NATO, there is need for organizing more effective West Europe's defense force, so that greater sharing of the responsibility for common defense by West European states may reflect more adequately the increased economic capacity of Western Europe.

5. The Assembly discussed how far the European peoples are willing to go to shape their own future and their readiness to create not only economic but also political and military unity within the framework of the Atlantic Alliance. The Assembly is convinced that a United Europe—the Six enlarged by the four applicant States and open to any other European States with the same democratic values—is in the interest not only of Europe but of all the member countries of the Alliance.

6. The Assembly recognizes that political stability on the European continent and peaceful and orderly change in East-West relations are objectives common to the peoples of all States which seek to resolve the central issues of European security. The Assembly reiterates that NATO must continue to explore with the Soviet Union and the other countries of Eastern Europe the possibilities for a relaxation of tensions and the strengthening of peaceful political, economic and cultural relations. Agreements with the East must include, however, progress toward resolving the German problem and satisfactory arrangements on Berlin. The Assembly calls attention to the fact that it is meaningless to discuss or pledge mutual renunciations of force unless these discussions also include realistic consideration of mutual reductions of the instruments of force.

7. Soviet diplomatic initiatives should be countered by a policy of initiative, of courage and of self-confidence. For the success of conferences on European security close consultation and careful preparation among the Allies is essential. The Allies should have enough confidence to take the initiative, more especially since their case is sound in comparison with Soviet Policy. It should not be forgotten that the Brezhnev doctrine is completely in contradiction with the fundamental principles of the United Nations Charter. Nor should we forget the obvious reluctance in the Soviet Union to admit a free flow of information and of people between East and West.

ENVIRONMENT

8. The Assembly welcomes the creation of NATO's Committee on the Challenges of Modern Society for furthering the aims of Article 2 of the North Atlantic Treaty by promoting conditions of stability as well as the physical and social wellbeing of man. The urgency to solve problems of modern society has been recognized and highlighted throughout the world, and as a consequence many organizations, private and public in many countries, are currently initiating programs to improve the quality of life. NATO has rightly taken its place in this massive effort because among other things it has demonstrated the ability to command attention at the highest levels of government, which is so vital to solving problems of environment.

9. The Assembly therefore recommends that CCMS continue and expand its scientific investigations to include data collection projects; that it encourages member countries to seek common programs and work towards multinational solutions to problems, in so far as practicable, in order to minimize discriminatory consequences in domestic and international trade and to achieve improved environmental quality goals; and further that CCMS coordinates and cooperates with other international organizations to minimize duplication of effort and to maximize the initiation of action programs in the shortest possible time.

INFORMATION

10. The Assembly stresses the necessity for a more effective presentation of all aspects of the Atlantic Alliance. Its peaceful and defensive purposes should be emphasized. Its military aspects should be presented as a means to an end and not as an end in itself—as means to preserve the freedom and the prosperity of the member nations of the Alliance. The information activities should

XUM

stress also the physical, economic and social wellbeing of our peoples.

11. The Assembly considers that an appropriate information policy, in which the Atlantic Treaty Association and its national associations play an essential role, requires:

That the international and national authorities realize the vital importance of information and accept their responsibilities in this field.

That the information budgets, which are now ridiculously modest, be considerably increased.

Furthermore special attention should be paid to the following improvements:

(a) Frequent and regular surveys on a scientific basis to determine public attitudes, financed as part of the NATO international budget.

(b) The encouragement of an uninterrupted interchange of information as well as a better coordination of the activities between NATO, the member governments (including the national information offices) and the national ATA associations.

12. The Assembly recommends that the Council explore the feasibility of establishing a committee to study further the problem of effective information and to make recommendations at the next annual Assembly in London. This Committee should be asked to pay special attention to the attitudes of the younger generation to NATO.

PRESIDENT NIXON'S PEACE PROPOSAL

Mr. PEARSON. Mr. President, the peace proposal advanced by President Nixon in his statement last night represents a bold and historic step by this administration to end the war in Vietnam.

The Communist representatives in Paris have already rejected this proposal. But this initial rejection was to be expected. We all hope that it will not prove to be an absolute and final rejection. We hope the North Vietnamese and the Vietcong will give the President's proposal the serious attention it deserves and that as a result the logjam in Paris will be broken.

The proposed standstill cease-fire linked with the President's offer to negotiate a precise timetable for withdrawing American forces clearly demonstrates, not only to the Communists but to the world at large, our commitment to an early and reasonable settlement. The Vietcong and North Vietnamese have been put on the spot by this new American peace position.

Mr. President, all Americans, of course, are especially prayerful that the Communists will accept President Nixon's proposal that all prisoners of war be released immediately and unconditionally.

Mr. President, under this administration's leadership we have taken great steps toward achieving a satisfactory settlement in Vietnam. Under President Nixon's leadership we have stopped escalating the war and have significantly reduced our involvement. All of us are grateful for the resulting decline in American casualties.

President Nixon's leadership has given Americans reason to believe that the end of our involvement in that tragic conflict is in sight. His peace proposal announced last night serves to renew the Nation's confidence in his bold and imaginative leadership. It is a good proposal. It is a sound proposal. It represents the basis for an equitable settlement to this tragic conflict.

REPORT OF COMMISSION ON OBSCENITY AND PORNOGRAPHY ADVOCATES LIBERALIZATION OF PORNOGRAPHY LAWS

Mr. ALLOTT. Mr. President, it is now well-known that the President's Commission on Obscenity and Pornography has issued a report advocating liberalization of pornography laws.

This recommendation is repellant to me. But I am also disturbed by the behavior of the Commission which produced it. In fact, when one examines this behavior, one comes to understand how it could be expected to arrive at such a disagreeable conclusion, and why it is not necessary to take this conclusion seriously.

Mr. President, I very much fear that a new division of the social sciences is emerging. This new division will be called "commissionology" and will pertain to the study of the waywardness of Government commissions.

Recently, speaking of the President's Commission on Campus Unrest, I listed several weaknesses inherent in commissions. At that time I said that commissions are technically irresponsible because they have no continuing responsibility for implementing—or facing the consequences of—the policies they advocate.

Now the President's Commission on Obscenity and Pornography has reported and has called attention to yet another major weakness inherent in commissions. This weakness is that there is virtually no way to require commissions to be faithful to their mandate.

The opening statement of Public Law 90–100 creating the Commission said this:

> The Congress finds that the traffic in obscenity and pornography is a matter of national concern.

The report of the Commission majority boils down to the assertion that the Nation is wrong to be concerned about pornography. But all the majority report indicates is that whoever assembled this Commission was mistaken in his selection of personnel.

This Commission was given a four-part mandate. The four parts were as follows:

First. With the aid of leading constitutional law authorities, to analyze the laws pertaining to the control of obscenity and pornography; and to evaluate and recommend definitions of obscenity and pornography;

Second. To ascertain the methods employed in the distribution of obscene and pornographic materials and to explore the nature and volume of traffic in such materials;

Third. To study the effect of obscenity and pornography upon the public, and particularly minors, and its relationship to crime and other antisocial behavior; and

Fourth. To recommend such legislative, administrative, or other advisable and appropriate action as the Commission deems necessary to regulate effectively the flow of such traffic, without in any way interferring with constitutional rights.

Mr. President, the Commission on Obscenity and Pornography has chosen to distort this mandate. It has been responsive only to point three. In doing so, it has ignored the obvious relationship between the four parts of the mandate.

It is clear that the four points are listed in ascending order of importance. The first three are subordinate to the fourth point. That is, the Congress funded the Commission because we believe that there should not be a free market in filth. Congress did not fund this Commission in order to have the Commission tell us that what commonsense and clear moral axioms tell us to be true is, in fact, false.

The fourth and culminating mandate for the Commission enjoined it to focus on the problem of regulation—effective regulation.

As happens with such depressing regularity when technically irresponsible people are given generous subsidies and controversial topics with which to play, the Commission majority decided that its mandate was not really binding. A sense of self-importance seized the Commission majority and it decided that it had no obligation to do the work asked for by those who were funding it.

Rather, the Commission decided to rebut the premises on which the mandate rested. That is, the Commission decided to "demonstrate" that there is no need to find effective and constitutional means of regulating pornography.

I do not think I need to dwell on the inadequacies of this putative "demonstration." The nexus between the cause and effect in social life is never as simple as the programs to which social scientists are willing to reduce their experiments. Suffice it to say two things. First, the "demonstration" which satisfied the Commission majority as to the innocuousness of pornography would only satisfy those who were possessed by an overwhelming desire to be satisfied. It would seem that the Commission majority suspended its critical faculties and rushed to embrace a conclusion in which they had a well-developed ideologial investment.

Second, it should be noted that the flimsy "demonstration" was arrived at by means of some "experiments" which in fact only demonstrate the arrogant refusal of the Commission majority to abide by the stated will of Congress.

This ludicrous attempt at "demonstrating" the innocuousness of pornography involved paying young people to expose themselves to pornography. I shall not elaborate here on the exact nature of this "experiment," but it is a matter of record. This, despite the fact that the Chairman of the Commission had previously told Congress that such experiments would not take place. See page 1052 of testimony given June 10, 1969, before the Senate Appropriations Committee—Senate Hearings; Treasury, Post Office and Executive Office Appropriations; H.R. 11582, 91st Congress, first session, fiscal year 1970. He subsequently

XUM

gave his personal authorization to the experiments. Not to put too fine a point on it, the Chairman's statements to Congress did not match his subsequent behavior.

So what do we now have before us in this majority report? We have a document based on a primitive understanding of social complexities; involving trival and debasing examples of sand-box science; and the whole report reflects proceedings which were chaired by a man who mislead Congress. All in all, this has been a deplorable, shocking waste of the taxpayers' money.

Mr. President, there is only one aspect of this fiasco that gives me pleasure.

This ill-starred Commission was not assembled by the current administration.

I must say, however, that the minority on this Commission, surrounded by examples of irresponsibility and duplicity, waged an energetic fight to keep the Commission true to its mandate, and to advance the cause of common decency. The majority report which has enjoyed so much publicity indicates that even a determined and skillful minority can only achieve so much. But while the report bears the unmistakable and depressing imprint of the majority, the minority has won the war while losing the battle.

They have presented their views in a cogent dissenting report which will be guiding public policy long after the majority report has sunk from memory. In addition, they have demonstrated an important, timeless truth.

By their behavior they have demonstrated that fidelity to a public trust will not go unrewarded. In contrast, consider the sorry spectacle of the majority of the Commission. They set out to improve our moral understanding. Yet their own behavior involved disenginuousness. They make unconvincing moral savants.

THE PRESIDENT'S PEACE PROPOSAL—TIME FOR FULL SUPPORT

Mr. ALLOTT. Mr. President, this is a day of pride for all Americans, and especially for the Senate.

Last night President Nixon made a generous, statesmanlike proposal which, if accepted by the enemy in the spirit in which it was offered, will bring peace to the tragic Indochina region. All Americans can take pride from the fact that our Chief Executive now stands forth as the world's most articulate spokesman for peace.

In addition, Mr. President, the Senate can take pride from the fact that it helped make this high statesmanship possible.

In last evening's address, the President proposed a standstill cease-fire and a widened peace conference which would more accurately reflect the wide nature of the Indochina conflict.

As the President indicated, the central purpose of the cease-fire would be to facilitate the effective functioning of the widened peace conference, and the central concern of the peace conference would be to negotiate timetables for reciprocal troop withdrawals. We should all pause to remember that, not very long ago, there was a move here in the Senate to require the President to give away unilaterally what should be negotiated and reciprocal.

Throughout the summer there were those who thought the time had come for the Senate to usurp the traditional and constitutional powers of the President in his role as Commander in Chief. At that time I, and many others of similar persuasion, argued that if peace is to come to that tortured area, it will come as a result of delicate, prudent Presidential initiative.

During the prolonged debate on the question of Presidential latitude in foreign affairs, I pointed out that the United States has compiled a remarkable record of conciliatory moves—all of which were a result of Presidential initiative.

I stated that there was a time when we were told that meaningful negotiations would begin if only we would make some gesture of willingness to negotiate. We made numerous such gestures, in public and private, through regular and irregular channels, and the Communists still showed no inclination to enter into meaningful negotiations.

We were told that meaningful negotiations would begin if only we limited the bombing of North Vietnam. We did so, but the meaningful negotiations did not materialize.

We were told that meaningful negotiations would begin if only we stopped all bombing of the North. We did so, and still meaningful negotiations did not materialize.

We were told that meaningful negotiations would begin if only we could get the South Vietnamese to participate. We did get them to participate, and still there have been no meaningful negotiations.

We were told that meaningful negotiations would begin if only we would agree to the inclusion of representatives of the Vietcong in the negotiations, thereby tolerating the fiction that the Vietcong are truly independent of North Vietnam. We did agree to include the Vietcong in the negotiations, and still there have been no meaningful negotiations.

We were told that meaningful negotiations would begin if only we began to withdraw some troops from South Vietnam. We began withdrawing troops, and still no meaningful negotiations began.

Mr. President, we have agreed to no less than 14 holiday cease-fire. The enemy has violated every one of them, and even launched the infamous Tet offensive of 1968 during such a cease-fire.

In addition, we worked for the neutralization of Laos. But the enemy kept 67,000 troops in the country.

Most recently—and most implausibly—we were told that meaningful negotiations would begin if only we would send a "top level" personage to head our negotiating team in Paris. We sent Ambassador Averell Harriman and then Ambassador Henry Cabot Lodge and now Ambassador David Bruce to lead our Paris delegation, and still there have been no meaningful negotiations.

This record makes two things clear. First, the United States has shown generosity and good faith in the pursuit of peace. Second, this pursuit of peace has been made possible by deft and judicious uses of Presidential latitude in subtle foreign dealings.

President Nixon's bold address last evening is another distinguished example of peacemaking at the highest levels, and it is a rebuke to those who have labored so long—and, fortunately, so unsuccessfully—to place unprecedented and unconstitutional restraints on the President.

Now is the time to put aside our past differences and to recognize that the burden of waging the peace is a burden that must be carried by the man in the White House.

It is time to call a halt to partisan sniping and institutional jealousies. It is time to give the President full support as he begins the final, difficult tasks of completing the honorable disengagement from this conflict.

THE OCCUPATIONAL HEALTH AND SAFETY BILL

Mr. SAXBE. Mr. President, the occupational health and safety bill will come before the Senate for consideration on Monday next. A substitute bill will be offered.

I invite Senators to study the two bills, and for that purpose I ask unanimous consent to have printed in the Record a statement of the major differences between the two measures.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Major Differences Between the Occupational Safety and Health Bill Reported by the Senate Labor and Public Welfare Committee and the Substitute Bill (S. 4404)

I. GENERAL

Before discussing the important differences between these bills, we should first put things in perspective by pointing out that both mesaures have much in common; they both share the same purpose and, in fact, have a number of comparable provisions.

The shared objective of the bills is to reduce the number and severity of work-related injuries and illnesses which, in spite of current efforts, continue at high levels, and which cause human misfortune and economic waste.

Both measures recognize that, while private initiative and State efforts to make the workplace safe and healthful have been excellent in certain cases, these efforts are uneven, unbalanced, and incomplete. For example, the average injury frequency rate for employers who are members of the privately sponsored National Safety Council is 4.6 disabling injuries per million employee-hours worked; but for non-member employers that rate is 15.6. We see a similar lopsided situation in the States. One State spends as much as $2.70 per worker per year on safety; others spend less than one cent.

Existing Federal legislation in the area of job safety and health is also uneven in its application. Some Federal laws apply only to certain industries such as the maritime industry or coal mining. Other safety legislation is applicable only in limited circumstances, e.g., the safety requirements of the Walsh-Hanley Public Contracts Act apply only to work involving certain Government contracts.

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Both bills reflect the fundamental judgment that what is needed is comprehensive Federal legislation which would apply to all industries, and in a single national effort would (1) establish adequate occupational safety and health standards; (2) provide for greater coordination of existing Federal safety and health responsibilities; (3) bolster State programs not only by furnishing Federal grants, but by providing a floor of Federal standards which the States can build upon; and (4) take advantage of, and encourage further private initiative to assure safe and healthful employment.

Briefly, both bills would attack the problem of work hazards on three fronts: research, education, and regulation.

One more point before discussing the differences between the bills. This point concerns the regulatory aspect; the research and education provisions of both bills are not controversial. Neither bill contains, as one might reasonably imagine, a list of specific "do's and don'ts" for keeping workplaces safe and healthful. Industrial safety and health problems are as complex and changing as American industry itself. They cannot be solved by a lengthy list of prohibitions spelled out in a statute.

Instead, the bills would set up a legal structure; that is, they would empower an administrative agency to issue detailed safety and health regulations, called standards, which will have the force and effect of law. They also provide the legal procedures for investigating cases of alleged violations of standards; for conducting hearings to determine whether the standards have been violated, and, if the standards have been violated, for imposing sanctions on violators.

In each bill the structure includes authority to issue citations to employers, authority to issue orders to correct violations, and where necessary, authority to enforce those orders in the Federal courts.

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II. GENERAL DIFFERENCES

The difference between the bills lies not in their purpose but in the type of structure each sets up for achieving that purpose. The reported bill's manner of achieving its purpose can only be self-defeating.

The true goal of any occupational safety and health bill can be stated simply: to foster improved standards of health and safety for American workers and do it in a way that is reasonable and fair. The reported bill is, in a word, unfair.

If legislation is going to be genuinely effective in promoting safe and healthful working conditions, it must be based on the clear recognition that its success ultimately depends upon the cooperation and day-to-day concern of employers regarding the many faceted problems of job safety and health. This does not in any way imply a naive faith in voluntarism. But it does mean that all the good that could be achieved through a bill's education, research and enforcement provisions should not be rendered ineffective by inevitable disillusionment with its unfair regulatory procedures. Unfair regulatory procedures will only alienate employers from State and Federal officials who ought to be guiding employers toward compliance.

The reported bill follows the simplistic approach of placing all functions in the Secretary of Labor. He would set the safety and health standards, conduct the inspections, prosecute violations before Labor Department hearing examiners; and he again, would be the one to issue citations and corrective orders, and to assess the monetary penalties. The reported bill's regulatory procedures have been compared to having the Chief of Police, in addition to his regular duties of conducting inspections, also write the criminal laws and then act as judge and jury.

The substitute bill, on the other hand, refocuses responsibility for job safety and health by distributing the regulatory functions. In an effort to insure the fairest and most efficient procedures for administering and enforcing the new law, the substitute bill would set up an independent Occupational Safety and Health Board whose five members would be appointed by the President. The Board would perform the sole function of issuing occupational safety and health standards.

Under both bills, the Secretary of Labor would be authorized to conduct inspections and investigations. But under the substitute bill, the Secretary would not hear the case and pass judgment on the offender. Instead, the substitute proposal would create an independent Presidentially appointed Occupational Safety and Health Appeals Commission whose only function would be to conduct hearings on alleged violations discovered by the Secretary; and the Commission would, on the basis of its decision, issue any necessary corrective orders, as well as assess civil penalties.

Establishing separate governmental agencies not only for the purpose of insuring fair procedures, but also for emphasizing the importance of new programs, is neither new nor out-of-date. There are any number of agencies which are independent of the Labor Department although they have responsibilities in the labor field; for example, the Federal Mediation and Conciliation Service, the National Labor Relations Board, and the National Mediation Board. Recently, a body of private citizens appointed by former President Johnson to make an extensive investigation of consumer-safety matters recommended the establishment of a separate independent National Commission on Product Safety to set safety standards for household products.

The five members of the standards-setting Board, which would be set up under the substitute bill, would be appointed by the President solely because they are high-calibre professionals in the field of safety and health. The members would serve at the pleasure of the President so that they could not become the servant of any special interest and would remain responsible to the President.

Lastly, the Administration's desire to create an independent standards-setting Board has been in response to the recommendations of a number of prestigious and respected organizations which have been successfully working over the years in the field of occupational safety and health. The following organizations have all recommended the creation of a special governmental body to work in the development of occupational safety and health standards: The National Safety Council, The American Industrial Hygiene Association, The Industrial Medical Association, The American Academy of Occupational Medicine, The American Society of Safety Engineers, and a number of State health or industrial safety agencies.

III. SPECIFIC DIFFERENCES

1. *Standards*

The substitute proposal provides for setting permanent standards through the formal procedures of the Administrative Procedure Act (APA). This means that the type of hearing to be held would be one where a great variety of views could be heard. The substitute would provide the kind of forum which permits the greatest degree of participation and involvement of those who will be affected by the standards which the Board seeks to issue. These formal procedures also provide that the Board's standards would be based on the substantial evidence in the record which is developed in connection with the hearings.

In contrast, the reported bill provides for setting permanent standards using only the informal procedures of the APA. This means that interested persons may send in their written views on proposed standards to the Labor Department. If the Secretary wishes, he may hold a hearing; but in this optional hearing no formal record would be made, so the standards could not be based on the substantial evidence of record.

The reported bill, however, does require a hearing in one instance, i.e., where an objection to a proposed standard is made by an affected person. But the reported bill's language is unclear about the nature of the hearing in this particular situation. It is possible that even this hearing would be like the one just discussed; that is, it would be informal and have no record for developing substantial evidence. In short, the reported bill provides for the minimum amount of participation in the standard-setting process by those who business, and health and lives would be affected by the standards.

2. *Procedures in imminent danger situations*

The reported bill would permit an inspector to order the closing of a plant where there is an imminent danger to the lives of employees. It is true that the reported bill requires that the Secretary be assured that in such circumstances there is no time to obtain a court order. It is also true that if the Secretary delegates his power to an inspector, the inspector must check with his superiors in the Labor Department in connection with exercising this power. Nevertheless, the fact remains that the reported bill clearly places the power to close down an employer's business in the sole hands of Labor Department personnel; and the power can be used.

The substitute bill also provides for closing down a plant operation where workers lives are at stake, but, here again, there is a difference in the manner in which this would be done. The substitute bill, with its emphasis on fair procedures, would not give this power to an inspector. Instead, the substitute proposal would authorize the Secretary of Labor to seek quickly obtainable injunctive relief from the appropriate Federal district court.

Under the reported bill's imminent-harm provisions, Labor Department personnel would play the roles of prosecutor, judge, and jury. On the other hand, by providing that relief in these situations come exclusively from the district court, the substitute bill would again provide the needed element of fairness.

3. *General safety and health requirement*

The substitute bill recognizes that specific standards could not be fashioned to cover every conceivable situation, and that lives should not be put in jeopardy merely because some specific standard has not been promulgated to cover a situation which from all appearances is dangerous. Therefore, the substitute proposal includes a general safety and health requirement to cover such circumstances. So, in addition to requiring employers to comply with specific standards promulgated by the Board, the substitute bill would require employers to furnish employment and places of employment which are free from any hazards which are readily *apparent* and are likely to result in death or serious harm to employees.

The reported bill also has a general requirement. But it provides that an employer maintain working places "free from recognized hazards." The reported bill's language of this requirement is clearly less precise than its counterpart in the substitute bill. The word "hazard" is vague; and standing alone without explanation it may be subject to many interpretations. This deficiency in the reported bill's general requirement would be overcome by the substitute bill which provides, both clearly and fairly that an employer shall furnish working conditions "which are free from any hazards which are readily apparent and are causing or are likely to cause death or serious physical harm to his employees."

4. Penalties

Both the reported bill and the substitute bills are similar in the sense that for the most part they rely on civil monetary penalties rather than criminal sanctions as the means of assuring compliance with the Act's requirements. Both measures, however, would make it a crime to forcibly impede enforcement activities.

However, there is one important difference with respect to criminal penalties; that is, the reported bill would make it a crime to give advance notice of an impending inspection. This provision of the reported bill is probably the clearest example of the police-oriented approach which permeates that bill. The reported bill obviously does not consider the occupational safety and health proposal as remedial social legislation. Rather than guiding employers by showing them how best to improve working conditions, the reported bill assumes that many employers are furtive wrongdoers who must be caught in the act. A criminal provision of this type has no place in legislation which primarily seeks to enlist the necessary goodwill and cooperation of employers. Strong enforcement tools and sanctions should, indeed, be included in this legislation. They are included in the substitute bill.

5. Demand for inspections

The reported bill would permit employees or their representatives to request the Secretary in writing to make an inspection where they believe (1) that a violation of a safety and health standard exists that threatens physical harm, or (2) that an imminent danger exists.

Under this provision, if the Secretary determines that there are reasonable grounds that the alleged violation or danger exists, then he is required to conduct a special inspection.

While no such provision is expressly included in the substitute bill, it is contemplated that the Secretary would, of course, give full consideration to employee complaints of safety and health violations, and he would conduct necessary inspections. The Secretary now does exactly this under existing safety and health laws he administers, such as the Maritime Safety Act. In fact, complaints from employees are often the chief means through which the Secretary learns about safety violations and initiates inspections.

However, under existing safety laws the Secretary is not *required* to respond to every complaint. And rightly so, because of the limited resources at his disposal.

On the other hand, the reported bill would require the Secretary to make an inspection in every instance where a written employee-complaint has any reasonable basis. The reported bill contains no language to help the Secretary perform the obviously overwhelming task of carrying out the responsibility of responding to what could be literally thousands of such complaints.

Given the Secretary's limited resources, the reported bill's harsh provisions on this point could easily be criticized as nothing more than heroics which will only serve to lessen the Secretary's prestige because of the impossibility of his task; and consequently, to frustrate employees' expectations raised by false promises of a massive response to their request for help.

THE FEDERAL CITY BICENTENNIAL CORPORATION

Mr. ALLOTT. Mr. President, on August 8, I introduced S. 4196 to establish the Federal City Bicentennial Corporation.

In the words of the President, this proposal will "fulfill in this city a magnificent vison of the men who founded our Nation and at the same time create a standard for the rest of the Nation by which to measure their own urban achievement, and on which to build visions of their own."

I ask unanimous consent to have printed in the RECORD an editorial entitled "The Avenue, Too," pertaining to S. 4196, published in yesterday's Evening Star.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE AVENUE, TOO

Urban reclamation in Washington has a multitude of meanings. The term is not restricted solely to the rebuilding of riot-torn 7th and 14th Streets, to unmet public housing needs, to the rebirth of dismal, deserted Southeast neighborhoods, or to a modern, balanced circulatory system of transit and roads. It means all those things. It means, too, realizing the vast potentials of the Pennsylvania Avenue improvement plan.

Yet, that essential point was missed entirely by a least a couple of witnesses at this week's Senate hearings on the bill to create a Bicentennial Development Corporation to deal with the dilapidated downtown blocks north of the avenue. To one, the plan was a program for "monuments"—not people. Another saw it as a diversion of money that otherwise would automatically flow somewhere else. They were both dead wrong.

As Mayor Washington noted in his own testimony, the Pennsylvania Avenue legislation does not suggest a competitive alternative to any other form of District renewal.

What it emphatically does propose is a determination to vest new life and new human vitality in an area which, it is perfectly evident, has become a social and an economic drag upon the community. In the process, the opportunity exists to reclaim a thoroughfare of great historic importance to the whole nation. Most pertinent of all, perhaps, the basic thrust of the new corporation would be to achieve these aims not by spending enormous numbers of tax dollars, but by creating a framework in which private investment would, for the first time, become possible at minimal public expense.

Any social scientist can recite, at the drop of a hat, his own generalized explanations for the faltering pace of urban renewal in this country over the past two decades. But if we have learned one thing, it is that there are no pat answers—that within every city there are a good many unique situations which require different approaches. The administration's Pennsylvania Avenue proposal recognizes that fact, and suggests a promising solution for one part of the city which Congress should endorse this year.

A SIGN OF HOPE IN THE MIDDLE EAST

Mr. HATFIELD. Mr. President, the turmoil in the Middle East heightened by recent events in Jordan and the tragic, untimely death of President Nasser has greatly frustrated peace initiatives being made by many of the parties concerned. Perhaps of equal importance to the continuing diplomatic efforts are activities such as those recently reported by Jame Feron in the New York Times of October 7, 1970. Mr. Feron reports that Israel in conjunction with Arabs living on the West Bank are considering building, through their joint effort, an Arab university on the West Bank. This proposal and the type of dialog between the two parties which this proposal has elicited is an example of the much needed ingredient to help foster understanding and contribute to a mutually desired resolution of their conflict—direct contact between those involved and their working together to fulfill common needs.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ISRAEL HELPS PLAN ARAB UNIVERSITY—ALLON SAYS INITIATIVE CAME FROM WEST BANK

(By James Feron)

JERUSALEM, October 6.—Israeli authorities disclosed today that they were coordinating plans for the establishment of an Arab university on the occupied west-bank area of Jordan.

Yigal Allon, the Minister of Education and Deputy Premier, confirmed reports that Arab and Israeli experts were about to draw up a detailed plan.

Mr. Allon said in an official statement that he had been asked by "leading personalties" on the west bank "to help in the establishment of a university," and that he had agreed in principle.

He said "there are good prospects of international funds contributing to the establishment and maintenance of such a university."

Sources close to the project indicated tonight that the school might be situated in Ramallah, a relatively quiet and prosperous town, just north of Jerusalem, containing several training schools and junior colleges.

MANY STUDY ABROAD

There are approximately 1,500 university students in the west-bank area who attend institutes in the Arab world and abroad, especially in the United States, according to Arab experts.

A "home-town" school of acceptable standards would attract many of them and help form the basis of a cohesive social and political west-bank structure.

This would appeal to west-bank Arab leaders and to Israelis who consider stability in the region a tremendous asset whether it becomes an independent state or is returned to Jordan.

There are also Arab and Israeli leaders who believe the area's future is tied closely to the establishment of a moderate Palestinian leadership that could serve as an alternative to the radical Arab guerrilla organizations.

Although Israeli leaders have sought to emphasize that the idea for a west-bank university was from the Arab side, the momentum toward its establishment is in the hands of moderate Israelis.

KOLLEK ASKED FOR PROPOSAL

According to one version, Aziz Shehadi, a prominent Ramallah lawyer, and Nadim al-Zaru, the former Mayor of Ramallah, who was deported to Jordan last October for alleged subversive activities, presented the idea to Defense Minister Moshe Dayan in 1968.

Later developments are somewhat obscure, but it is known that Jerusalem's mayor, Teddy Kollek, asked a five-member committee to draft a proposal for such a university, and the report was recently turned over to the Minister of Education.

The committee recommended establishment of a school of about 2,000 students, with courses taught in English, Arabic or both. It suggested that the school be affiliated with a well-known university abroad, perhaps one in Britain, and proposed that it be open to non-Arabs.

It also recommended that the institution

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begin on a limited scale, perhaps preparing students for college-entrance examinations at first. The emphasis, the committee said, should be on social sciences rather than natural sciences. It was first thought that the school should be in Jerusalem, but the political difficulties stemming from Israel's controversial annexation of the former Jordanian sector after the 1967 Arab-Israeli war made this proposal unfeasible.

Sources in Ramallah said facilities for a university exist in and around the town at Bir Zeit College, a two-year institution, and a number of teachers' training colleges. Most of the money for Bir Zeit and the other institutions come from United States sources, including foundations, Christian organizations, oil companies and private individuals.

ADDRESS BY SECRETARY OF COMMERCE MAURICE H. STANS BEFORE AMERICAN MINING CONGRESS CONVENTION

Mr. ALLOTT. Mr. President, the American Mining Congress Convention meeting in Denver on September 28 was fortunate to hear a most interesting address by Secretary of Commerce Maurice H. Stans.

Secretary Stans spoke on a topic concerning which he is eloquent and expert—the social responsibilities of business, with special reference to problems of the environment and energy policy.

So that all Senators may profit from the Secretary's enlightened address, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY THE HONORABLE MAURICE H. STANS

On many occasions in the past several months, I have discussed the responsibilities of corporate citizenship with American businessmen throughout the country.

Briefly, I would like to do the same with you here today, and then turn to another matter of equal concern—both to you in private enterprise and to those of us in government. For we have a common interest in a basic reality of 1970, a reality involving ecology, energy, raw materials and natural resources. Together they need urgent attention, in the national interest, and in your own interest.

ENVIRONMENTAL PROBLEMS

Perhaps no industry in America is more immediately involved with the environmental troubles of business today than is the American mining industry. Your own production and the use of the resources you provide are directly involved in the problems of air, land and water which have become matters of such great national concern.

The mining industry, by its very nature, is a contributor to certain pollution problems. Whether you engage in strip mining, open pit mining, or underground mining, inevitably you are engaged in operations which disturb the environment.

The ore you produce, for the great benefit of America, almost always will be moved and handled several times before it is processed, and inevitably this creates dust and noise, and often other forms of air pollution as well. Mining wastes and drainage, and the removal of unnecessary materials, contribute to the pollution of our streams. The smelting and processing of ore almost always add to air deterioration.

But the American mining industry is to be commended for working long and hard to minimize the environmental impact of its operations. Many in the industry understandably take pride in the responsible manner in which they have sought to conduct their operations.

Only recently have you had to begin to take into account the cost of clean air, clean water, and an attractive and quiet environment. These have been the so-called free resources on which all of our country, and all of our industry, have drawn in the past. Today they are no longer free. They have been used and often abused, and we must all pay for that.

Laws and regulations at local, state, and Federal levels have sometimes served as constraints, but only in the last year or two have these begun to play a major part in the planning and management of mining enterprises. All of you are aware of this complex array of new environmental regulations appearing at every governmental level.

LEGAL SOLUTIONS

Undoubtedly most of these are well intentioned. But many fail to take into account the amount of time and investment needed for their achievement. Just as you are having to control pollution practices the hard and slow way, Congress and the regulatory agencies are having to learn the hard way that not every pollution problem lends itself to instant solution.

Ultimately reason seems to prevail in most cases. But this does not mean that you are free to continue without change. The most that you can hope for is that you will be given sufficient time to carry out firm environmental quality improvement programs which are technically feasible and economically tolerable. And, of course, that you will be able to recover the added costs in your prices.

ADMINISTRATION EFFORTS

The Administration is taking a number of steps aimed at protecting the environment and at the same time providing a more tolerable economic framework within which to conduct essential industrial activity.

Early next month we expect the President's Reorganization Plan will come into effect creating the Environmental Protection Agency. This will bring together in one enforcement agency the Federal regulatory authority relating to water, air, radiation, and agricultural chemicals. When this agency is fully operable around the end of this year, it should be possible to achieve better coordination of Federal regulations in these crucial areas.

The Administration also has made major recommendations to strengthen and clarify the regulations to achieve clean air, and we are hopeful that a reasonably satisfactory bill will come out of Congress as a result.

We are also seeking improvements in the Federal water quality legislation.

RESPONSIBILITIES

Now let us assume for a moment that we solve the environmental problems which presently concern the country. What other impact remains ahead for you and your industries?

First, you will have to maintain continuing attention throughout your organizations to concerns for the environment.

Second, you will have to reassess your cost structure and your competitive position as a result of environmental requirements—and you will either have to pass on your added costs to your customers, or absorb them.

Third, you will face additional competitive problems in world markets, for many other countries do not yet share our regard and concern for the environment.

Finally and perhaps most important, you will have to spend more of your top management time working with the community in which you live—because your community and your country will tolerate nothing less than activities which accommodate the new environmental values demanded by our society.

PROFIT SYSTEM

Having said all of this about the environment, I would like to turn now to the other concern which I wish to share with you here today.

In our desire to achieve the short-term gains of corporate citizenship and to reach the long-term goal of a better society, we must never lose sight of the fact that the first responsibility of American business is to maintain a vigorous, dynamic, strong, competitive economy.

Business must operate at a profit, and have a pride in the profit-making system.

Business must be profitable if it is to carry the many new burdens it is expected to bear for the benefits of its community and country. American business and industry are looked upon more and more as the principal sources of jobs and job training, of research and development, investment capital, support for common causes, and various other public benefits.

But they can fulfill these expectations only to the extent that their earnings permit.

As profit making industries, you in the extractive fields are confronted with some very real problems and concerns.

Largely because of the problems of pollution of American air and water—but not completely because of them—the Nation is on the verge of more concern over its minerals, raw materials and other natural resources than at any time in the past. This concern centers not only around our use of the resources you develop, but around their supply and distribution as well.

In the months and years ahead a Nation which has always boasted of its abundance is going to feel hampered at times by tight supplies of some resources. Because of this the demands on you and your associates may become more severe than any you have ever known.

Let me look ahead with you for a moment to discuss these problems which we will have to cope with together.

FUEL PROBLEMS

First, our supply of natural gas is critically low in some areas of the Nation, and because shortages will probably develop in the months ahead, some curtailment of industry this winter may be likely, if not inevitable.

Second, our supply of coal is uncertain, not so much from the standpoint of overall supply, as you know, but because of problems of distribution.

We now permit rail shipment of export coal to ports only in those cases where merchant shipping actually is available to take it abroad. In this way, it does not sit in cars on a dock waiting for a ship. Coal cars which are critically needed to keep the domestic supply flowing have been put under close controls by the Interstate Commerce Commission to insure their maximum use.

Third, the critical political condition of the Middle East—complicated by production cutbacks and interruption of pipeline movements in that part of the world—has led to tighter supplies and higher prices of Middle Eastern oil. As a result, we face the threat of residual fuel oil shortages this winter, possibly followed by some shortage of asphalt next summer during the height of the home and highway construction.

Because of the uncertainties of overseas oil supplies, Secretary Hickel and I, joined by the Chairman of the Federal Power Commission, expressed our feelings in a report to the President eight months ago that it would be foolhardy for the United States to adopt a tariff-based oil import policy dependent on supplies of oil from insecure foreign sources. We held out for a well-administered quota system.

As you know, tanker rates are at a premi-

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um today, raising the price of Middle Eastern oil in the United States to the point where a significant portion of such imports is roughly at the same price as domestic oil. The net result is that new efforts are being made to increase the production of oil in Texas and Louisiana and other areas, action which underlines the essential need for a viable domestic oil industry.

ENERGY PROBLEMS

Each of these problems will be aggravated by the continuing growing demands for electric power. We know, for example, that the power reserves are very limited along much of the Eastern Seaboard, and the demands facing the Tennessee Valley Authority are the heaviest in its history.

On top of all that, the Weather Bureau, which is an agency of the Department of Commerce, has informed the Congress that we may expect a severe winter this year in the Eastern half of the Nation. But despite all these difficulties, we can still assure Americans that they will not have cold homes this winter.

TIGHT SUPPLY

Now all of these problems revolve around energy resources. They do not touch upon the quality or availability of other raw materials which many of you produce.

But problems involving the energy resources are intensely dramatic and can affect our daily lives. They tend to dwarf concerns over other resources. If energy problems become severe to the point of slowing down production, or closing plants, or causing unemployment, then very quickly the Nation's interests in the environment will be overshadowed by an immediate interest in the status of all of our natural resources.

On a short-range basis, we do face many problems, as some of you know. Tight supply conditions exist with such items as nickel, copper, and bituminous coal; and, of course, we are dependent on imports of tin, chromite, and manganese, to name only a few basic materials.

As you know so well, the United States today is facing an unprecedented competition for raw materials throughout the world.

At a time when we are preoccupied with dramatic, short-range energy needs for the winter ahead, some countries are searching the world very vigorously for mineral deposits for future use, and they are entering into contracts around the globe and even in the United States for long-run exploitation of raw materials.

LONG-RANGE VIEW

There can be no question that we need to do the same. The supply of resources available to us will have many implications on our future.

If we are preempted from the use of key resources for any reason, our society can be jeopardized in many ways.

Discounting our needs for national defense, discounting even the energy needs which confront us now, shortages of key raw materials inevitably will lead at least to higher prices for consumers. Beyond that, shortages will jeopardize our capacity to produce goods for export, or they can put us at a severe disadvantage in our own domestic markets and in third countries. Above all, shortages can lead to weakening our national security.

None of this is meant to imply that the American well of natural resources has suddenly run dry. But the fact is that we have a serious lack of knowledge on what we have, what we need, and even what we use in connection with some of our materials.

We need to study the outlook and the demand for raw materials, including our energy resources, at the earliest possible time.

Many of you will remember the President's Materials Policy Commission, known as the Paley Commission, established by President Truman almost 20 years ago to study our need for resources up to 1975. The inventory of supply and demand which resulted from the work of that Commission helped this Nation to do something about its material requirements throughout the great economic growth periods of the 1950s and 1960s.

NEW COMMISSION

Today that inventory needs to be brought up to date.

Recognizing this need—recognizing conditions that exist in the world today—I am pleased to announce this morning that President Nixon has authorized the creation of a new National Industrial Materials Commission to be managed jointly by the Department of Commerce and the Department of the Interior.

This Commission will analyze the Nation's requirements, its sources and its available supplies of mineral resources—other than energy materials, which already are being studied by another Committee—between now and the end of the 20th Century.

It will define our needs and our competition, at a time when the world's rapid growth in population places an unprecedented premium on the limited resources of this planet.

It will review our potential use and our commitment of those resources in the face of increased affluence and growing demand by many other countries which will seek raw materials just as eagerly and just as voraciously as the United States.

The creation of this Commission is another act of forward-looking statesmanship by President Nixon—another effort to serve the Nation's needs far into the future.

FUTURE COURSE

We do not know precisely where this review will lead, either in government efforts or in the course of private development.

But we do know that in the use of resources it is no longer enough to look ahead just one year, two years or five. Corporate responsibility, which begins in the mining industry with increased efforts to contain and reduce the effects of environmental pollution, can be evidenced by joining us in a long-range look to the future needs of our country, thirty years or more from today.

CONCLUSION

More than ever these are times that call for a close bond between business and government. The new minerals study is one example.

Through the National Industrial Pollution Control Council, many of your members already have helped us in guiding industry to more effective voluntary action in the preservation of the Nation's environment.

We look forward to continued progress in that effort, and to your added help in the new effort we are about to begin. It can succeed only with your cooperation.

In return we will do everything possible to help you to achieve the Nation's environmental goals in an economically tolerable manner—and we hope to chart a future course for the Nation's resources which will keep this great country materially strong, economically competitive, and forever free.

HUMAN RIGHTS BEST ACHIEVED BY NONVIOLENT MEANS

Mr. PROXMIRE. Mr. President, I invite attention to an excellent article entitled, "Dolci, Poverty, and Nonviolence," published in today's Washington Post.

Recently, many people have stated that they believe nonviolence is no longer a viable alternative for effecting change. Danilo Dolci, who has worked successfully with the poverty stricken people of Sicily, would heartily disagree Mr. Dolci, who has also been nominated for the Nobel Peace Prize on more than one occasion, completely denounces violence as a means for effecting change. He said:

> In a world weary of murders, betrayals and useless death, a more direct relationship can be established between the human conscience and the movement for change, provided this movement is as forceful as it is nonviolent.

All of us are aware of the need to correct the injustices that cause many people in this country to go hungry. Danilo Dolci beliefs and concepts should be studied as a nonviolent means to bring an end to these injustices.

Likewise, the human rights conventions of the U.N. are nonviolent means of assuring basic human rights of all men. In this regard, Mr. Dolci's philosophy is both apt and timely.

Mr. President, I ask unanimous consent that this excellent article, written by Colman McCarthy, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE INGENIOUS ONE—THE DREAMER: DOLCI, POVERTY AND NONVIOLENCE

(By Colman McCarthy)

The Work of Danilo Dolci, begun 18 years ago in the no-hope country of Sicily, is well known in Europe but only lately has it attracted wide attention in America. Nominated for the Nobel peace prize several times, Dolci, now 46, has succeeded in organizing the illiterate peasants of western Sicily—*gli-ultima*, the lowest—into informal communities of progress. On stony, good-for-nothing land, his followers have built houses, sewers, roads, dams and health centers. As sure proof that his work is producing change, over the years Dolci has been jailed by the government, denounced by the church and shot at by the rich. In common with Gandhi, Camus, Schweitzer and other complex men who simplified life by making it sacred, Dolci is unintelligible to many of the intelligent.

Thanks to the Fellowship of Reconciliation, Dolci was in town this week, speaking Tuesday night at Georgetown University. His philosophy is needed in this country because he insists that peaceful change is possible from within and from below. In the early days of the Peace Corps, when still planned by President Kennedy, a Dolci book, "To Feed the Hungry," was a prime source of inspiration.

The early years of Dolci, son of a stationmaster, were spent in northern Italy. "After I turned 16," he has written, "the need to read, to acquaint myself through the printed word with the experience and thought of men who had lived before me, became so strong that if I had not found books in my immediate surroundings . . . I would have stolen them." Dolci read so much that his family nickname was "let-me-finish-the-chapter."

His values were formed by the Bible, the Upanishads, the dialogues of Buddha, by writers from Dante to Tolstoli. Dolci refused to fight in World War II, a choice that led to prison but also to a stronger belief in nonviolence. On release, he went to Nomadelfia, a community where the orphans of war were cared for. His education from books was now reinforced by direct experience. "Hoeing weeds," he recalled in 1967 in Saturday Review's "What I Have Learned" series, "building latrines in the camps, living with orphans, former petty thieves, many of them sick, I discovered what it means to grow together; after several months of common endeavor, even abysmally stupid faces become more human and sometimes beautiful."

A few years later, with affectionate farewells, Dolci left northern Italy "for the most wretched piece of country I have ever seen"—Sicily. The indirect violence caused by poverty and ignorance was matched only by the direct violence of the Mafia, the criminal substate whose ambassadors are so well received in America.

Dolci settled in and became part of the misery. In time, he bought a piece of land, and with volunteers built a home for impoverished children and old people. In the style of reformers who quickly move beyond the romance of "saving people," Dolci bore down hard on reachable social objectives. Build a house, fix a road, clear a field, put up a dam; soon, you are not only tampering with physical structures but also social structures.

Dolci's writing, backed by years of his own sweat and frustration, constantly explores the importance of immediate objectives and the individual's self-awareness as a true source of power.

"There can be no development unless men have an opportunity to work for it and take part according to their own needs and convictions."

"It was essential to broaden contacts among individuals, to organize these largely isolated men and families into research and action groups increasingly aware of the need to develop resources by developing themselves."

"To build a dam was important because the water would bring to the parched land, along with bread, the green shoots of experience the proof that it is possible to change the face of the earth; but it was important also because the building of the dam meant a worker's union, a democratic management of the irrigation system, grape growers' and other agricultural cooperatives. In other words, it meant the organization of chaos; it meant the beginnings of true democratic planning."

Dolci's ideas, though applied in Sicily, have a familiar sound. By coincidence, they are the basis for much of what has worked in the hundreds of community action programs across this country. Somebody woke up the poor, convinced them they were important and said that self-help was better than self-pity. This rarely led to neat and tidy social change, neither in Sicily nor here. Predictably, politicians in both places preferred it the old way when the poor were silent and colonial.

Dolci, who knows the world too well to have illusions, has often been jailed or beaten for his work. He wrote: "Those who want things to remain as they are, to preserve the present 'order,' will try to put out of the running anyone who promotes change. That is how things are; and those of us who have been thrown into prison, labeled as criminals, denounced over and over again, know it well, as do all those who are striving toward a new life anywhere in the world. It is naive to be surprised or shocked by it."

At many American colleges and universities, and places where people still hope without embarrassment, Dolci's philosophy is intensely studied. In his current lecture tour the crowds have been large, and far into the night has Dolci talked privately with students. Part of his popularity comes from his passion for non-violence. With Martin Luther King and Thomas Merton dead, the Berrigans put away and Dorthy Day now worn out, Dolci's voice is one of the few that totally renounces arms and violence. "In a world weary of murders, betrayals and useless death, a more direct relationship can be established between the human conscience and the movement for change, provided this movement is as forceful as it is non-violent."

How is this done? "The powerful, the exploiters, the real outlaws can hardly maintain themselves in their positions unless they are supported and defended by those who have sold out to them. But there is as yet no clean and widespread understanding of the need not to collaborate with, and to boycott, insane initiatives."

Over and over, Dolci insists that violence is not needed for a true revolution. First, the public must be told the precise reasons why poverty is not an accidental condition. It is caused by a few who keep the world's wealth to themselves and their backers and who hire either soldiers or lawyers to ward off the people. "It is not enough to know, to document, to denounce. We must not only deflate these monsters by not feeding them and not allowing them to feed on us. We must clearly realize, we must know in every fiber of our being, that we have built these monsters and that we can destroy them."

Through his study and action centers in Sicily, Dolci has brought change to a feudal-minded and lost people. Personal awareness and personal assertion work. The houses and dams are there as proof—not happy-ending proof, perhaps, but enough to face tomorrow. Because he believes that institutions, corporations and party politicians have failed the world, Dolci has been called ingenous and a dreamer. He answers: "I'd say that he who hasn't yet understood that the discovery of truth is the strongest force of all, he's the ingenious one, he's the dreamer."

JAPAN'S RED HERRING

Mr. THURMOND. Mr. President, the Greenville News of October 4, 1970, contained a very fine editorial entitled "Japan's Red Herring." I commend the Greenville News, one of the outstanding newspapers in this country, and its dedicated and responsible editorial staff. I recommend to all Members of Congress the reading of the editorial.

The editorial brushes away a smokescreen that has been created around the foreign textile import quota issue and succinctly presents the facts in their true light.

Mr. President, almost every week for the past 2 months, I have read statements of various politicians claiming that President Nixon, by the stroke of the pen, could solve the textile problem. These statements are irresponsible and untrue. In my judgment, the editorial will be helpful in letting the people know the truth, for it correctly states that the only real hope for relief for the textile industry is "through legislation."

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

JAPAN'S RED HERRING

The Japanese government at the insistence of the Japanese textile industry has been absolutely inflexible on American textile imports. During many months of negotiations, Japan refused to give one inch.

Japanese intransigence has thwarted President Nixon's pledge to obtain relief for the hard-pressed American textile industry, which is suffering badly from Japanese and other foreign imports. There is little or no hope now of voluntary agreements.

The only real hope for relief is through legislation imposing reasonable limits on foreign textile imports, because present law does not give the President sufficient authority to limit imports by executive order.

Imports legislation in the pending trade bill is in trouble in Congress because of political considerations, including the view of many American politicians and economists that this country should sacrifice American jobs in order to help other countries.

The legislative situation is fluid, since the trade bill has been stalled until after the November elections. Its fate then is uncertain.

Now comes the Japanese government with a hint that there has been a slight change in the attitude of the Japanese textile industry. Japan's economic minister smilingly suggested the other day that American and Japanese industrialists should work out an industry-level agreement.

The American industry is less than enthusiastic about that idea—and rightly so. It has the smell of a red herring thrown out to defeat the trade bill's textile provisions. Who would enforce an industry-level agreement, if one were negotiated?

The textile issue has been negotiated long enough. If the Japanese have a concrete offer on textiles, let them state it clearly for the consideration of the United States government. Otherwise, American textile industrialists should say "no" to any suggestion about industry-level negotiations.

THE PRESIDENT'S FIVE-POINT PEACE PROPOSAL

Mr. MILLER. Mr. President, it is my prayerful hope that the entire Nation, indeed the world, will rally behind the President in his efforts to end the conflict in South Vietnam and Southeast Asia.

The President's five-point proposal, set forth in his address to the Nation last night, is timely and balanced. It offers a way out of the stalemate which has bogged down the negotiations at the peace table in Paris. It demonstrates clearly that the United States intends to be flexible and it calls upon Hanoi to respond in a like manner. As the New York Times declared in its lead editorial this morning:

> Mr. Nixon has made a valid offer to the adversary, one deserving of serious and profound exploration in extended private negotiations. It is an offer that will reveal whether the Communists really want to achieve a compromise. Hanoi can ask no more as an American opening bid.

The proposal is timely, because we know that the strategy of the North Vietnamese has been to "win the war in Washington" because of continued high levels of American casualties, and that strategy has been going down the drain as Vietnamization moves rapidly ahead. American combat troops are pulled out, and—especially since Cambodia—our casualties have dropped to the lowest point in four and a half years. Until this happened, it was generally doubted that the North Vietnamese would become seriously interested in negotiations. The action of their representatives in Paris on September 17 in advancing some proposals, while unacceptable, was a sign that they could be facing up to the failure of their strategy and might become genuinely interested in negotiations. As the President pointed out last evening, the casualties for last week were the lowest in four and a half years.

The President's proposal is balanced. Those of us who have been over there know that peace in Southeast Asia will

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not come unless all of the affected countries are left alone by North Vietnam, and we know that North Vietnam has all of them in her target sights. By calling for an Indochina nations peace conference, the President has, to a marked degree, echoed my own call for a Far East Asian peace conference—one which I sounded early in 1966 following my return from my first visit to that area.

I ask unanimous consent that the editorial entitled, "A Plan To End the War," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A PLAN TO END THE WAR

President Nixon's far-reaching five-point proposal for the Paris talks, including a cease-fire in place, fully warrants its advance description as a "major new initiative" for peace. Along with the recent eight-point Vietcong plan, it provides for the first time a realistic agenda both sides can accept for the serious private negotiations needed to achieve a compromise solution.

The offer of a cease-fire in place, as part of a general move to end the war, implies a willingness to accept the status quo—political, military and territorial—as the basis of a provisional settlement. This impression is reinforced by Mr. Nixon's emphasis on his April 20 "principles," proposing a "fair political solution" that would reflect "the existing relationship of political forces" within South Vietnam and fairly "apportion" political power.

The wider Indochina conference Mr. Nixon proposes presumably would initiate negotiations on Laos and Cambodia and, once Paris agreements on Vietnam are in sight, incorporate all into a general settlement for the area. Mr. Nixon also offers to negotiate an agreed timetable for the complete American withdrawal Hanoi demands. His final proposal, immediate release of prisoners of war, is well justified by the rest of his plan.

Earlier American insistence on winner-take-all elections does not appear in the new Nixon plan. In fact, the word elections does not appear as such. The emphasis on a negotiated settlement is proof of a flexible and realistic approach.

Mr. Nixon rejects the Communist proposal that the three top leaders of the Saigon Government be removed before negotiation of a political settlement. But his formula does not exclude some Communist participation in the Saigon Government as well as in the National Assembly.

Negotiation of a standstill cease-fire, however, would put initial emphasis on defining the status quo. It would presumably mean a regional division of power at the start rather than an effort, after three decades of bitter conflict, to try to share power at the center immediately through the provisional coalition government the Communists propose.

There appear to be no preconditions in the Nixon plan. The Communists are not asked to accept all five points, although they are interlocking, or any single point, entirely or in principle, before opening negotiations. It would appear that parts of the package—such as the standstill cease-fire, the prisoner release, the political settlement and the wider Indochina conference—could be implemented as they are agreed. A timetable for complete American withdrawal could even be fixed, but its terminal date would have to depend on the over-all settlement.

All these matters will presumably become more clear as the proposals are discussed in Paris. What seems evident is a desire to be flexible, to discuss anything in any order, if the Communists will withdraw their earlier preconditions that, before negotiations start, the United States agree to dismantle the Saigon leadership and fix a date for unilateral withdrawal.

Mr. Nixon has made a valid offer to the adversary, one deserving of serious and profound exploration in extended private negotiations. It is an offer that will reveal whether the Communists really want to achieve a compromise. Hanoi can ask no more as an American opening bid.

THE PRESIDENT'S POLITICAL MANEUVERS HOODWINK SOUTH CAROLINA TEXTILE WORKERS

Mr. HOLLINGS. Mr. President, as a Senator from South Carolina, my policy toward the President is that when the President is right I support him, and when he is wrong I oppose him. We have only one President, and it is in the interest of both South Carolina and the Nation that we get along. Recently I was commended by the administration for my leadership in establishing an oceans program. The President had given leadership, and I praised him for it. We had tried for an oceans program under Presidents Eisenhower, Kennedy, and Johnson—all to no avail. Now, under President Nixon, we have finally taken the first step toward the safe and sane development of our ocean resources.

Now for the other side of the ledger. When the President said he was for freedom of choice and then reneged, I joined the Senator from South Carolina (Mr. THURMOND) in criticizing Mr. Nixon. Today I must strongly condemn the President's political maneuvers to hoodwink the textile workers of South Carolina.

As most Senators know, there has recently been a newspaper wrangle about the President's executive authority to take action on textiles. I stated the following in an April newsletter:

> Under Paragraph 3, section 204 of the Agriculture Act, the President can enter into an agreement with a friendly nation on woolens and manmade fibers and then, under the provisions of GATT, extend this agreement to a textile-exporting nation—Japan.

This was just one of four courses open to the President under present law which I outlined. For 2 years the administration did nothing, and Nixon spokesmen actually argued against taking such action.

Candidate Nixon had made rosy pledges in 1968—

> I will promptly take steps necessary to extend the concept of international trade agreements to all other textile articles involving wool, man-made fibers and blends.

But nothing came of them. Candidate Nixon promised:

> We're going to do something about it, and I know the men who can do it.

But when he became President, he showed his true colors by appointing Carl Gilbert, a well-known enemy of the textile industry, as his special representative for trade negotiations. The President's long-time friend, Donald Kendall of Pepsi-Cola, is presently chairman of the Emergency Committee on American Trade—a group of businessmen interested in international trade profits rather than American jobs. Kendall is Mr. Nixon's former law client. He provides much of the money going into the newspaper advertisements against American textiles. Pepsi is not worried about imports—it does not import water to bottle its soft drinks. It is interested in expanding foreign markets. When the Assistant Secretary of Commerce, Kenneth Davis, Jr., pointed this out last June, he quickly found himself without a job. And when we passed a textile amendment last December, the White House actually opposed us. Recently his congressional lieutenants were busy trying to keep the Mills trade bill, which provides a long-term solution to the textile problem, from reaching a vote on the floor of the House.

Election time is here again, and the President finds himself in hot water again. People are wondering whatever became of all those rosy 1968 campaign promises. Mr. Nixon is looking for a way out—a way that will, first, kill the Mills bill, which he has threatened to veto, and second, still keep him in the good graces of the southern voter. Nixon's solution: Adopt his friend Kendall's sensitive article approach which was rejected earlier this spring as subterfuge by the entire textile industry. Although spokesmen for the President, including Senator THURMOND, have denied that he could take executive action, the President has suddenly decided that he can after all. Last month the administration entered into an agreement with Malaysia on woolens and manmade fibers, and now it is in a position to extend that agreement to Japan. The Japanese are, for the first time, listening. They are afraid of the Mills bill. And to avoid the quotas contained in the Mills bill, they might agree to reopen discussions. They might even agree to a temporary arrangement on textiles. The Japanese believe they can have their cake and eat it too—by agreeing to a weak, temporary deal, they can remove the threat of long-term textile quotas. So there is the possibility that they will accept the Kendall plan and, in so doing, get home free. The Japanese have much to gain. So does President Nixon. Such a deal would kill the Mills bill, and it would also give the Republican political leaders in the South something to crow about until after the election. But then we will be back in the same old mess again. What the President refuses to do is to deal from strength. He has never been willing to use maximum pressure on the Japanese. If he was really interested in textiles, he would press for passage of the Mills bill and then use the Mills bill, along with his other executive authority, to force the Japanese into meaningful concessions. Instead he chooses the partisan political route. When he meets with textile leaders he excludes Democrats such as Representative DORN and myself. He ignores the one weapon Congress could give him which would bring results. And he plays grandstand politics by waiting until election eve to take action and by playing fast and loose with thousands of American textile jobs. He is taking us all for suckers.

ED JORGENSON FIGHTS BACK

Mr. MILLER. Mr. President, the Washington Daily News today relates the heartwarming story of a young Iowan who stared death in the face but, after overcoming his initial desire to die, willed himself to live.

It also is the story of this young man's parents who refused to let their son give up when it would have been much easier to have done so.

Ed Jorgenson, who worked in my Washington office on several occasions, was felled by a creeping paralysis known as Guillain-Barre syndrome last fall. As the News noted in quoting one physician:

> If he had not had the facilities of a modern medical center and a rapid diagnosis, he would have been dead.

But because he refused to die, Ed Jorgensen is today visiting other patients who have been paralyzed "to show them I made it." He is serving as an inspiration to others who also, in moments of despair, may feel death would be welcome. He also is advising doctors, as the News points out, "on how to improve the respirator machine that saved his life."

I ask unanimous consent that the article telling the story of this young law student be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GW STUDENT FIGHTS BACK: "I FELT MY MIND WAS IMPRISONED"

Ed Jorgensen, 24, skipped his law school classes at George Washington University one Monday last October and staggered four blocks to the university hospital. His arms and legs, he complained, felt like jelly.

He was admitted, but the paralysis continued, each day, to spread, creeping up his legs thru his chest. By Friday he was moved to intensive care and tied to a hissing respirator which pumped air to his lungs thru a plastic tube stuck into a three-quarter inch hole in his throat.

His parents, both in their 60s, flew from Clinton, Iowa, to be with him.

"He begged us to let him die," said his mother, Mrs. Winifred Jorgensen. "We talked to him to make him want to live. It would have been so much easier to give up."

MYSTIFIED DIAGNOSIS

Hospital doctors called in Dr. Harold Stevens, a District neurologist. He diagnosed the case as Guillain-Barre syndrome which is often mistaken for polio.

Specialists theorize it's an allergic reaction to an infection, said Dr. Stevens. There is no cure; it usually corrects itself.

"I see half a dozen cases a year," said Dr. Stevens. He said 10 to 20 per cent of the people who contract the disease dies. If the paralysis spreads above the waist the mortality rate is higher. If he had not had the facilities of a modern medical center and a rapid diagnosis, he would have been dead," said Dr. Stevens.

Mr. Jorgensen, of 2115 F-st nw., is back in law school today. Leg braces that can be discarded in another few months are the only reminders of his sickness.

MYSTERY

He does not know why he caught the disease.

"I was in the best condition I'd ever been in my life. I'd been lifting weights for a year. Then the headaches started. The loss of coordination. It comes thru the hands and feet and moves thru the body until every muscle is paralyzed.

"I felt like my mind was imprisoned in a non-functional but extremely excruciating body."

Hearing was the only sense unimpaired. He kept the radio going constantly to relieve "the hellishness of it all."

By clicking his tongue, he talked to his parents. They'd run thru the alphabet and he'd click at a certain letter. The process was repeated until words were spelled.

Through this method he could alert them to any malfunction in the machine.

CLOSE CALL.

He had a terrible scare one evening when a private duty nurse relieved his parents. After she suctioned the mucous from his lungs, she forgot to replace the air tube, said Mr. Jorgensen.

"I thrashed my head back and forth. It was the only thing I could move. Then when she came I pointed out as best I could to the air tube with my tongue."

After that his parents never left his side.

"I was aware of every little sound, hiss and creak in the respirator," Mr. Jorgensen said. "My biggest worry was that I couldn't attract someone's attention. I'd just lay there and suffocate."

Mrs. Jorgensen slept in two chairs pulled together in the waiting room while her husband stood guard.

"It was horrible . . . I can't even talk about it without crying," she said. "I was just numb I was so frightened. Several times the air tube popped out and I panicked."

Gradually, the paralysis subsided as strangely as it came. On Dec. 13, Mr. Jorgensen swallowed. "It was the most dramatic day of my life . . . the beginning of recovery."

Now he's visiting other paralyzed patients "to show them I made it," and advising doctors on how to improve the respirator machine that saved his life.

THE BEAR CONTROL PROBLEM

Mr. HANSEN. Mr. President, earlier in the day I placed in the RECORD an article concerning the bear control program in Yellowstone National Park, published in the Jackson Hole News.

My colleague from Wyoming (Mr. MCGEE) has asked that I place in the RECORD a news report on this article which was written by Naturalist Frank Craighead and published in the Casper Star Tribune.

Mr. President, my colleague has asked that I point out that this is no small matter, in that millions of Americans use and appreciate our national parks every year. Their safety and, indeed, their right to enjoy the wonders of nature, including the bears and other animals, are important matters.

I ask unanimous consent to have printed in the RECORD a report on Frank Craighead's objections to present grizzly bear management practices as published in the Casper Star-Tribune of October 7, 1970.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CRAIGHEAD CHALLENGES PARK GRIZZLY POLICY

JACKSON.—Frank Craighead Jr., one of the well-known Naturalist Craighead brothers, has challenged the policy of the National Park Service concerning the grizzly bears of Yellowstone National Park.

Craighead, in an article written for last week's Jackson Hole News, said the current policy toward the grizzlies is not "Working beautifully" as reported by park officials in the same newspaper Aug. 20.

The policy he was referring to is to eliminate the earth-filled garbage dumps in the park and simultaneously develop a management plan for the grizzlies who often feed from these dumps.

In finding fault with the officials' statement, Craighead said in his article that there are two separate grizzly populations in the park. One is wild, and the other is semi-domesticated and "hooked" on garbage from the dumps.

"Practically all of the Yellowstone grizzlies feed at open-pit garbage dumps sometime during their lives. Thus, a 'wild population' cannot be made by killing the so-called semi-domesticated grizzlies until only wild bears remain," the naturalist said.

"It has also been erroneously assumed that the earth-filled dumps can be abruptly closed before Park campgrounds and garbage sites outside the Park are sanitized. The assumption is that grizzlies suddenly deprived of garbage will turn immediately to natural food rather than to easily available food in campgrounds within the Park and to garbage disposal areas outside," he continued.

He cited recommendations made by his twin brother, John J. Craighead and himself in 1967 after an eight-year study of the Yellowstone grizzly in which they said the garbage dumps should be phased out very slowly.

"The brothers warner then that with the abrupt removal of this food supply and consequent altering of foraging habits developed over the years, grizzlies would move into campgrounds where they would cause trouble with resulting injuries to humans and consequent stepped-up 'control.'

"This is exactly what has been occurring over the last three years with the change in grizzly bear management," Craighead said.

He said that if a grizzly enters a campground and is trapped or released two or more times the bear then is a candidate for a death sentence or is sent to a zoo.

"The present park management of the grizzlies is encouraging more and more of them to enter campgrounds," he said.

He then cited figures provided by the Park Service which showed grizzly bear control kill averaged about three per year for about 40 years. Since the instigation of the new Park practices the average number of grizzlies dispatched each year by control methods, either by killing or sending them to zoos, has been 12 per year.

He continued by saying that in 1970, 20 grizzlies, or 10 of the Yellowstone grizzly population, has been eliminated through control measures since the closing of the Rabbit Creek Dump. Craighead then said studies of instrumented bears show that sooner or later all in the park visit the earth-filled dumps for varying periods of time. He said the policy of closing the dumps will subsequently force the grizzlies into campgrounds and in the long run endanger the Yellowstone grizzly population through enforcement of the elimination of two-time offenders.

BOSTON SEEKS FUNDS FOR LEAD POISON TESTS

Mr. KENNEDY. Mr. President, one of the hazards that faces children who live in slum housing is lead-based paint poisoning. Boston, like so many of our large cities is known to have a "lead belt" where as many as 5 to 10 percent of all preschool age children may be lead poisoned.

Last year, I introduced a bill, S. 3216, that is designed to combat the hazards of lead-based paint poisoning. One of the provisions of my bill would authorize communities like Boston to develop screening programs to seek out victims who may be lead sick. Health officials believe that too many youngsters are afflicted with this insidious malady be-

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cause too little has been done to treat victims and even less effort has been made to make communities aware of the hazards of lead-based paint poisoning.

Today, however, Boston announced plans to develop a program that will identify all preschool children who may be lead sick. That program has been spurred on by the recent development of machinery that makes easy and accurate analyses of high lead levels in young victims.

The Boston Globe, in articles by staff writer Herbert Black, describes the machinery as well as the city's plans to implement a screening program.

Mr. President, I ask unanimous consent that both articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Oct. 8, 1970]

BOSTON PLANS TO TEST ALL PRESCHOOL CHILDREN FOR LEAD POISONING

(By Herbert Black)

Preschool children of Boston may be mass screened for lead poisoning in the near future as a result of a report in The Globe about a new testing device and quick action last night by Mayor White.

The device is a highly sensitive fluorimeter developed in Waltham by Space Sciences division of Whittaker Corp. It measures light waves to detect the presence in the blood of protoporphyrin, a respiratory piament that increases when lead is present.

Dr. Rowland Mindlin director of Maternal and Child Health, Department of Health and Hospitals, tested the device recently and asked for a machine and four people to operate it in neighborhood screenings.

Mayor White asked Dr. Andrew P. Sackett commissioner of Health and Hospitals, to report on the effectiveness of the machine and instructed city hall aides to try to find funds to buy a machine. Each unit costs $5000.

A city hall spokesman said the reason for trying to speed the matter, and not let the request of Dr. Mindlin go through routine channels, which would require waiting for the next annual budget, is the danger to children from lead poisoning.

In a test conducted with the new machine in Roxbury it was found that 31 children of 280 screened had elevated protoporphyrin levels, with the levels high enough in 21 instances to be considered serious.

Lead poisoning, when it persists, enters the tissues and the bones in addition to the blood. It may cause retardation and can result in permanent brain damage.

The poisoning occurs when children eat peeling paint. It is estimated that 225,000 children are affected in the U.S. annually. Since World War II, most interior paints have not contained lead.

The new machine is called LK–598. It is housed in a suitcase weighing less than 30 pounds. It operates on house current and requires only a few drops of blood to make measurements. The whole process takes just a couple of minutes.

The diagnosis in 1500 cases in four cities, Boston, Philadelphia, New York and Baltimore have shown no false positives.

Sometimes a positive testing indicates liver dysfunction or iron deficiency anemia. But this does not deflate the value of the tests as these conditions require medical attention, as does the lead poisoning.

It is estimated the five to 10 percent of all children who live in substandard housing now suffer from lead poisoning.

BOSTON SEEKS FUNDS FOR LEAD POISON TESTS

(By Herbert Black)

City of Boston health officials have tried out a new machine to test preschool children on a mass basis for lead poisoning and are seeking funds to institute a city-wide screening program.

Dr. Rowland Mindlin, director of Maternal and Child Health, Boston Department of Health and Hospitals, said today he is asking authority to purchase a machine and to hire four people to conduct programs in various neighborhoods.

The equipment was developed in Waltham by Space Sciences, Inc., a subsidiary of Whittaker Corp. At present, each unit costs $5000.

Lead poisoning, often called the "silent epidemic," afflicts perhaps 225,000 children annually in the United States. It leaves these children dull, disinterested or mentally retarded. Brain damage can be permanent if lead content rises in the blood and bones and collects over a period of time.

The children most often affected are those who live in the 10 million homes of the nation built before World War II, when lead was a common ingredient of interior paint. Ninety-three percent of all poisonings occur among children aged one to four, who eat peeling paint.

It is estimated that lead poisoning occurs in five to 10 percent of all children living in dilapidated dwellings.

One of the problems in preventing accumulation of lead in children is that symptoms are similar to such common ailments as cold or flu—irritability, abdominal pains and a feeling of lassitude. A goal of public health officials has been to obtain equipment with which mass screening could be done quickly and efficiently to detect elevated lead levels before brain damage is irreversible.

The system up to now considered most reliable for lead poison detection is atomic absorption spectroscopy, a laboratory technique that requires a fairly large amount of blood. Analysis in a laboratory plus interpretation of results by skilled personnel takes time, so this method has not been considered ideal for mass testing.

For the past four months, however, the Space Sciences device has been given field trials in Boston, New York, Philadelphia, and Baltimore, which have indicated its adaptability for large scale screenings. The new device, called LK–598, is a highly sensitive fluorimeter which measures light waves to detect quickly the presence in the blood of a substance called protoporphyrin. This is a respiratory pigment and the presence of lead raises its level in blood.

Dr. Mindlin tested the equipment recently at Roxbury Community School. A total of 280 preschoolers were tested and 31 were found to have high protoporphyrin levels.

Of the 31 children, 21 were found on backup tests to have lead blood levels high enough to be considered serious.

These children have been referred for medical treatment. Dr. Mindlin said that high protoporphyrin levels can in some instances indicate iron deficiency anemia or liver dysfunction. But since these require medical attention, nothing is lost if the positive test does not turn out to be lead poisoning.

Needless to say, brain damage resulting from lead poison causes great personal and social problems for a family. It has been estimated that one brain-damaged person can cost the government up to $200,000 to sustain over a lifetime.

The results of testing 1500 children in the four cities produced no false negatives.

Spokesman for Space Sciences said the new equipment appears superior to other methods because it will reveal lead's presence even after it has left the blood stream and entered tissues and bones. The protoporphyrin level remains high in the blood as long as six months after setting of lead in tissue and bones.

He said this suggests that protoporphyrin screening every six months would be a fail safe method of detecting lead poisoning.

The LK–598 is housed in a small suitcase weighing less than 30 pounds. It operates on house current and requires only a few drops of blood. The blood is blown into a test tube containing acetone and then placed in the machine two tubes at a time. The reading of the protoporphyrin level is provided a digital meter.

THE PRESIDENT'S PEACE PROPOSALS

Mr. COOPER. Mr. President, the proposal of President Nixon is the most comprehensive and the fairest that has yet been submitted as a basis for the ending of the war in Southeast Asia.

His call for a ceasefire, the end of all forms of warfare, terror, and killing, and for the immediate exchange of prisoners of war is humane, and should not be refused by North Vietnam and the Vietcong.

It provides a means for a political settlement and for representation of all parties in the Government of South Vietnam. While maintaining negotiations in Paris, he has proposed an Indochina Peace Conference, "to deal with the conflict in all three states of Indochina." For, if a lasting peace is to be secured, I believe such a conference and settlement is necessary.

There are no preconditions to his proposals. The New York Times stated correctly in its leading editorial today:

> Mr. Nixon has made a valid offer to the adversary, one deserving of serious and profound exploration in extended private negotiations. It is an offer that will reveal whether the Communists really want to achieve a compromise. Hanoi can ask no more as an American opening bid.

The President's offer is moral and just. It will have the support of our country and I believe of world opinion.

URBAN MASS TRANSPORTATION ASSISTANCE ACT OF 1970—A LANDMARK MEASURE

Mr. HART. Mr. President, on Tuesday we completed congressional action on a bill which will certainly be of great benefit to our cities in their efforts to satisfy their growing transportation needs. I refer to the Urban Mass Transportation Assistance Act of 1970, a landmark measure which would authorize significant sums for the development of new mass transit systems throughout the country.

Of some note in the measure are the strong environmental safeguards which are included in its language. Attention should be called particularly to section 6 of the bill. Here the Secretary of Transportation may approve no mass transit project under the program unless he first finds either that no adverse environmental effect is likely to result from such project or there exists no feasible and prudent alternative to such effect.

While this is no doubt a stringent requirement, the environmental degradation we have suffered and the fears that such degradation may continue if unchecked clearly dictate such stringency. Especially in an area where Federal money is involved, it seems only sensible to insist that environmental damage be kept to an absolute minimum.

The language would supplement existing pollution control laws in several important respects. First of all, it would require that as between reasonable alternative locations for new transit systems, only the least damaging to the environment could be chosen. Moreover, Federal spending would be prohibited for buses or other facilities unless they incorporated the latest feasible developments in pollution-control technology. Thus to the extent that future HEW standards for buses under the Clean Air Act do not require such technology across the board, it will nonetheless be required for buses purchased with Federal money. Also to the extent that such standards do not extend to certain pollutants—as is now the case with oxides of nitrogen—these nonetheless will have to be minimized in buses purchased under the program. Even more significant, pollution from used buses—for which HEW is presently without authority to set standards—will also have to be minimized to the extent feasible.

The approach taken here is similar in many respects to that of the environmental safeguards of the recently passed Airport/Airways Act of 1970. There, as here, the distinguished Senator from Virginia (Mr. SPONG) joined me in urging that only minimal environmental damage should be tolerated in the development of our national transportation system. It is my hope that in the future that principle will be incorporated into all authorizing legislation for transportation expansion. Whether our subject be planes, trains, highway, or what have you, the principle seems equally applicable. In all these cases, it could serve as a valuable reminder that our demand for increased transportation, while basic, must be balanced against and coordinated both our equally significant demand for healthful and esthetically pleasing surroundings.

ECONOMIC ANALYSIS OF ALASKA LAND SETTLEMENT

Mr. KENNEDY. Mr. President, an analysis of the Senate-passed Alaska claims bill has recently been published by the Association on American Indian Affairs. This analysis examines the economic consequences of the bill on Alaska Natives, and concludes that the provision for allowing Natives to retain only 10 million acres of their land is "obviously inadequate."

The Natives, of course, have always held this view. As Mrs. Margaret Nick Cooke, secretary of the Alaska Federation of Natives observed:

> If we lose the land, we will lose our people.

Speaking of the cultural loss to the Native people, Mrs. Cooke continued:

> Our culture is tied to the land, and if the land is taken from us our culture will be killed and we will be forced to live like all others, dependent on a cash economy.

Speaking of the economic loss to the Natives, State Representative William Hensley said:

> If there is no settlement or a poor one, we will have a generation of leaders who fought for years to protect their land and lost. This may start a chain of events in which it is seen by future generations of Natives as a disaster for us—an injustice that will mar the relations between Natives and whites for many years. It may bring defeatism to the people and prevent us from becoming an integral part of Alaska's social and economic development.

Mr. President, I ask unanimous consent that the analysis of the claims bill prepared for AIA be printed in the RECORD.

There being no objection, the analysis ordered to be printed in the RECORD, as follows:

THE SENATE VERSION OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT: AN ECONOMIC ANALYSIS OF THE LAND-TITLE PROVISION

The proposed settlement in S. 1830 is economically unsound, for the Alaska Native people and for the nation. It will impoverish many Alaska Natives by substituting an unlivable annual cash income supplement ($53 per person in the first year, rising to $418 in 20 years) for their present right to make a subsistence living (and some cash income) by hunting, fishing, berrying, trapping on the lands that this bill strips from them. (See Table 1.) It does this without offering these Natives the means of transition from a subsistence style of life to a full cash/job economy.

Yet the policy guiding the proposed legislation is to require this transition by the very terms of the settlement: the Senate report on the bill notes that "the historic way of life" of the natives should not be "perpetuated" by Congressional action, because "civilization" has and must come to the Native people. Certainly the processes of change from the historic ways of life cannot be held off, but just as certainly the settlement should provide for a dignified, humane, and economically sound transition.

The proposed settlement attempts to cushion the transition by two major provisions: First, it gives the individual Alaska Native in the initial year about $201 worth of social services, decreasing to $27 worth of services in the 20th year. Whatever the worth of these services, they are not a substitute for a subsistence or a cash income.

Second, it provides the Natives with title to a mere fraction of the land they are now using to get food, clothing, and shelter from. Of the 60 million acres now in use by the Natives, the Act allows clear title to only 10 million. Yet, as the Senate report rightly states, "Without title to the lands they use and occupy, Alaska Natives are defenseless against commercal development which changes the character of and sometimes depletes subsistence resources . . .".

Let us take a close look at the current situation: Typically, villages with populations of around 200 Natives (the most usual village size) regularly use an area with a radius of 40–50 miles for hunting, fishing, and so forth—the Federal Field Committee reports. Thus, for their livelihood they rely directly on an area of 5,000–7,500 square miles. This area is scoured intensively, because the wildlife resources—like moose, caribou, and salmon—must often be harvested to their fullest extent simply to meet subsistence requirements. Among the reasons why such large areas are necessary are the limited yield of lands in that part of the world, the migratory habits of the wildlife, and the fact that different forms of essential wildlife often are not to be found on the same kind of land.

Under the Act, instead of a minimum 5,000 square miles they have been using, villages like these would each have title to only 36 square miles at one location—together with scattered 5-acre campsites. (Even that title might become worthless as changes in the environment from competing uses—commercial and sports fishing, hydroelectric plants, pulp industry, etc.—in surrounding areas threaten the wildlife and its migratory patterns.) There is simply no source of livelihood for such villages that would replace the subsistence and cash income from the use of their wide ranges.

The Federal Field Committee states that the annual cash value of the subsistence activities of a family of five village Natives lies between $1,000 and $3,000. The proposed settlement would provide that family with about $265 cash per year for five years, with increasing amounts later that would not rise to $1,000 per year before 1982, or $3,000 before 1996. Clearly, that is no substitute for the land rights lost to these families—who comprise about 30,000 of the 53,000 total Native population (1968 figures). The cash settlement is meaningful only to those who already live in towns and cities and have little or no subsistence activities.

Because proposed benefits are distributed equally without regard to dependence upon the land, some 20,000 villagers who are most dependent on the land will lose heavily in the first 10–15 years of the settlement. Of these, some 7,000 who live in Native villages in the Interior will never recoup their losses (even in dollar mathematics) over the whole time period of the settlement; they will simply suffer confiscation.

In short, the incomes of the village Natives (which are, after all, already at poverty levels) will be severely reduced to an intolerable point and, under the additional pressure of population increase, many Natives will be forced to migrate to the non-Native urban centers. There, without skills and education, facing outright discrimination, they will join the present 11,500 urban Natives, most of whom are poor themselves. Such a migration can only have the most destructive effects upon the migrants and upon the cities to which they flee. The transition required in this legislation is in effect a transition to greater poverty and to greater urban problems.

The economic fallacy of the settlement clearly lies in the swift deprivation of the traditional livelihood lands. A settlement that will not end up making the Natives welfare wards of the Federal government (or of the State of Alaska) must provide them title to a sufficient number of acres so that each Native can continue to feed, clothe, and shelter himself.

The title to the land must be definite, since the privilege of hunting on someone else's land cannot be guaranteed, even though the settlement seems to assume that somehow the Natives will indefinitely be allowed to use other people's land. Moreover, the acreage and rights must suffice to offer a chance for an improvement in the currently low standard of living—through proposed economic development activities—especially in view of projected population increases.

Since any Native economic development program will be a long-term proposition, there must be enough land to offer subsistence in the meantime. Job and income opportunities will not increase fast enough to nullify the need for subsistence lands for a generation in many areas of Alaska. In addition, to the extent that the growth of Alaska will not be in Native hands, they will not be able to insist upon access to the jobs that such growth will create. (The experience of blacks in economic growth throughout U.S. metropolitan areas, including the inner cities, provides ample evidence for this, as does the recent experience of urban Alaska Natives themselves.)

What actually should be the number of acres that will support the livelihood of the Native population while offering the opportunity for development from the subsistence culture? A computation on sheer economic grounds is complex and must vary not merely with population counts but also ecology and present and future land use.

Given the present unchallenged figure of a minimum of 60 million acres now in use by the Natives, the 10 million acre settlement is obviously inadequate. The recommendation of the Alaska Federation of Natives of 40 million acres would appear to be reasonable as a figure that permits an orderly transition in a growing Alaska in which the economic rights of the Natives will be protected.

TABEL I.—PROPOSED CASH SETTLEMENT COMPARED TO INCOME DEPENDENT UPON CURRENT LAND USE BY NATIVES

		For a family of 5		
			Annual projected cash settlement[3]	
Location	Number of Natives[1]	Cash value of land use[2]	1971–75	1990
Non-Native cities and towns	15,000	$100	$265	$2,090
Large Native towns	8,000	500	265	2,090
Native villages mainly dependent on sea	10,000	1,000	265	2,090
Native villages, some dependence on sea	13,000	2,000	265	2,090
Native villages, totally dependent on land	7,000	3,000	265	2,090

[1] Cited in the Federal Field Committee report as estimates made by them in 1967 (see "Alaska Natives and The Land," U.S. Government Printing Office, 1968).

[2] Rough estimates developed from materials presented in the Federal Field Committee report.

[3] Adapted from table 8, report of the Senate Committee on Interior and Insular Affairs (S. Rept. No. 91-925). Note that by 1990, only about ½ of the Native population will be eligible for these cash settlements—due to population increase.

PRESIDENT NIXON'S PROPOSALS

Mr. THURMOND. Mr. President, I congratulate the President for his clear analysis of the problems in Vietnam and his fine proposals calculated to bring about peace not only to Vietnam, but to the whole region.

I believe that his report will find a good acceptance with the American people because they will recognize that he is honestly trying to deal with the situation and is presenting reasonable proposals which put the burden upon the Communists.

His proposal for a standstill cease-fire is a fine proposal, although it will be difficult to make it work and will require close supervision to see that it is not violated. We have just had experience in the Middle East with the way in which a cease-fire is easily violated, when we merely depend upon good intentions for enforcement. On the other hand, I believe that we should avoid United Nations supervision of a cease-fire in Indochina because the United Nations has clearly shown in the past that it does not have the capability for impartial and practical action in such cases.

I agree that the proposed peace conference should cover the entire area in Indochina. Those who view the Vietnam war in isolation are making a great mistake. This is obviously one war in which North Vietnam, with the military and technical support of the Soviet Union, is coordinating the entire offensive both in Vietnam, Laos, and Cambodia. The Communists have extended the war to the entire peninsula and peace will never come unless this extension of the war by the Communists is considered as part of the whole action.

The present proposal for withdrawal is a sound proposal providing that South Vietnam is in a position to protect itself. We certainly cannot withdraw from Vietnam until we have completed the Vietnamization procedure so that the South Vietnamese are in a position to resist aggression as violations occur. The withdrawal can work only if the North Vietnamese observe the ceasefire and require the Vietcong to do likewise. Withdrawal, in my judgment, should also be dependent upon agreement with the Soviet Union to stop sending supplies and advisers into North Vietnam. The Soviets have been in a position all along to wind down this war if they wish to do so simply by turning off the supply lines which have kept the North Vietnamese prepared for offensives against the south.

Finally, the President's proposal for prisoner of war exchange will be greeted with heart-felt joy not only by the relatives of these prisoners, but also by our entire Nation. This is the first time a really constructive step has been proposed to bring about the much sought after release of these men.

I think that in judging the President's proposal we have to put it along side of the proposals made by the Communists on September 17 in Paris. It is only when we look coldly at the Paris proposals that we can see by contrast the reasonableness of President Nixon's plan.

In the first place, the press does not point out the fact that we are not negotiating in Paris directly with the Vietcong or Hanoi. The leader of the Communist side in Paris is Madame Binh, a Communist terrorist from South Vietnam who styles herself "Minister for Foreign Affairs and Chief of the Delegation of the Provisional Revolutionary Government of the Republic of South Vietnam." This is not solely the Vietcong group, but a Communist front movement which includes the Vietcong and many other leftist forces in South Vietnam. This group brings together the guerrilla operation directed by Hanoi in the south as well as all of the leftist revolutionary forces, including the National Front for Liberation and the Vietnam Alliance of National Democratic and Peace Forces. Needless to say, this group is Soviet Communist controlled. Madame Binh is a guerrilla fighter herself, who boasts of nearly a dozen murders which she has personally committed for the cause. She has been in charge of the Paris negotiations since June 10, 1969.

The significance of Madame Binh's so-called provisional revolutionary government—PRG—is that it claims to be the legitimate government of South Vietnam, and charges that the Thieu government is a puppet supported by the imperialist aggressors. The PRG was formed at a conference on May 23, 1969, held in South Vietnamese territory adjacent to the now famous Parrot's Beak area, which at that time was totally under Vietcong control.

The formation of a provisional revolutionary government is a standard procedure of the Communist technique in a takeover of a country. Such a provisional government is then put in a position of negotiating with the legitimate government and thereby acquires a kind of de facto recognition of its claims. Thus a self-appointed group suddenly begins demanding concessions and acting as though it had some real claim to rule the people.

It is also significant that the Soviet Union regards this so-called provisional revolutionary government as the official government of South Vietnam. The PRG was given diplomatic recognition by Hanoi on June 11, 1969, by North Korea on June 12, 1969, and by the Soviet Union on June 13, 1969. Thus, there is no doubt whatsoever that the negotiations in Paris are being supervised directly by the Kremlin.

I have in my hand a memorandum on the formation of the provisional revolutionary government which was prepared for me by the Institute of International Studies of the University of Plano, in Plano, Tex., which admirably sets forth the history of the formation of this Communist maneuver.

Mr. President, I ask unanimous consent that this material be printed in the RECORD at the conclusion of my remarks.

Let us now look at some of the proposals which Madame Binh gave to the Paris Conference on September 17.

It is not my intention to go into all of them in detail, but I do have the complete text of her so-called proposals. Mr. President, I ask unanimous consent that this so-called peace initiative by Madame Binh be also printed in the RECORD at the conclusion of my remarks.

The first point which Madame Binh makes is that the United States must withdraw immediately and unconditionally. This means not only that we withdraw our troops, but that we stop Vietnamization, that we withdraw all the war material and weapons and dismantle all the bases without any conditions whatsoever. In other words, we would be compelled to leave South Vietnam completely at the mercy of the Communists before this Moscow mouthpiece will even consider discussing anything else. If we should surrender South Vietnam utterly and completely, then Madame Binh will consider discussing questions for the safety of U.S. troops during withdrawal and the question of releasing captured prisoners of war. Thus there is no real proposal here for withdrawal or for releasing the prisoners of war. The Communists merely ask that we give up completely and utterly, and then they may consider discussing these problems. There is no promise that they will come to an agreement or offer a proposal, but that they will merely consider the question.

The next key point in Madame Binh's proposal is that the Thieu government be completely eliminated. Madame Binh demands a coalition government, which will consist of persons from the Communist PRG, persons in the present administration who are sympathetic to the Communists, and third persons from "various political forces and tendencies standing for peace", which is obviously another synonym for pro-Communist elements. Thus she is demanding a coalition government, in which the three kinds of participants are all pro-Communist. It is significant that this coalition of Communists, Communists, and Communists, would implement all agreements.

Madame Binh does call for elections, but she says that the "South Vietnam people" will supervise the elections, and it is plain that by such a phrase she is referring to the same coalition which we have been discussing. She even insists that among those participating in these elections will be so-called political exiles, which again will be largely Communist or leftist sympathizers.

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It is plain, therefore, that Madame Binh is proposing nothing more than abject surrender on the part of South Vietnam and the United States. It is highly remarkable that a party which is on the defensive, which has continually lost ground over the past 18 months, should make such outrageous proposals. The defeated party, or the party which is under the most pressure on the battlefield, is not in a position to sue for terms. The only hope which this Communist front has is to attempt to win the war on the battlefields of the United States, where again a broad front has been set up, which includes various kinds of revolutionaries and Communists and, unfortunately, has the sympathy of some well-meaning people.

I think when we contrast the President's peace proposals with the so-called proposals of Madame Binh, that we can see immediately which is the most reasonable, and which is the greatest step forward to peace.

The President is to be commended for his 5-point peace proposals. He has taken the initiative. A cease-fire is desirable if the Communists truly observe it and do not use such a condition to build up their military strength as they have in Egypt.

Unfortunately, it is probable that the North Vietnamese and their chief sponsor, the Soviets, will reject the President's proposals. The Communists are not likely to abandon their tactics in Indochina for the following reasons: First, they still have tied down, in a no-win war, several hundred thousand American military personnel; second, they are causing the United States to spend billions of dollars, thereby, continuing to weaken our economy and defense structure; third, they are prolonging a war which has split this country wide open with division and dissent. I strongly favor Vietnamization as, in reality, it remains the main lever left to bring peace and victory in Indochina. If by pretending to talk peace, the Communists can weaken or delay Vietnamization, they might accept some of the Nixon proposals. I urge the President to press forward with Vietnamization to the maximum extent possible.

The American people should be reminded that the reasonably stable situation of the war in Vietnam is a direct result of the President's courageous and wise decision to go into Cambodia. Communist forces in Vietnam and Cambodia have been greatly weakened by this military thrust which has already indirectly saved thousands of lives. Communist sympathizers in America tried to bring the President to his knees when he took this necessary action. Unfortunately the reaction in America will certainly weaken the resolve of future leaders who truly recognize the insidious nature of the enemy we face.

This very day, the Soviets are violating the Monroe Doctrine by building a submarine base in Cuba for handling their missile launching subs. They are in the process of placing in bondage the cities of America. Further, the Soviets have boldly violated the cease-fire in the Middle East, by constructing missile bases in Egypt. It is disheartening to see these aggressive steps accepted by so many apparently responsible people in this country.

Unless the people of the United States have the vision to recognize the true nature of the Soviet threat as it exists today, and the courage to take firm steps concerning it, then our children and grandchildren will surely pay a high price for the lack of resolve this country has shown in these years of trial.

There being no objection, the items were ordered to be printed in the Record, as follows:

Memorandum on the Formation of the Provisional Revolutionary Government

One of the most significant developments in the Vietnam situation is the formation of the so-called Provisional Revolutionary Government of South Vietnam. The significance of this Government can best be seen by comparing its chronology with the preparations for the International Conference of Workers and Peoples Parties held in Moscow in June, 1969.

The Provisional Government idea first emerged in public at a so-called consultative conference on May 23, 1969, between a delegation of the Federal Committee of the South Vietnamese National Front for Liberation (NLF) and the Delegation of the Federal Committee of the Vietnam Alliance of National Democratic and Peace Forces (VANDPF). The NLF was formed in 1961 contemporaneous with the advent of the Kennedy Administration, and following a treaty of friendship and trade relations between Moscow and Hanoi. The VANDPF was formed in April 1968 following the Tet Offensive which the Communist forces claimed as a victory.

Thus the coming together of the NLF and the VANDPF represents a coalition of Hanoi's military guerrilla operations and revolutionary Peoples' Committees. At the conference of May 23, the two groups spontaneously decided to convene a Congress of Peoples' Representatives for June 6, 7 and 8. This coincided with the opening of the International Conference in Moscow.

The Congress of National Delegates of South Vietnam opened on June 6 "in a locality in the liberated areas." The purpose of this meeting was to appoint a Provisional Revolutionary Government (PRG) and an Advisory Council to the Government. Eighty-eight delegates and 72 guests were present, and if we may judge by the official communique, they were chosen to symbolize a broad spectrum of the South Vietnamese society. This Congress claimed that it manifested "the will and desires of 14 million people of valiant South Vietnam." The Chairman of the Congress said that the purpose was "to consider the establishment of a Provisional Revolutionary Government, a body of centralized power which is trusted, which comprises the most representative elements of different strata of the people, religions, and nationality, and which is full of virtues and talents to mobilize the greatest efforts of our South Vietnam armed forces and people. It will develop into a high degree the amalgamated strength of the peoples' war and of all phases and all patriotic and peace and democracy loving individuals in the urban and rural areas delta and jungles."

The President of the NLF said that the "victory in early Mau Than Spring (1968) has moved our peoples' struggle to a new stage, the stage of general offensive and uprising, the highest stage of our peoples revolutionary war, the stage whose main content is that we develop the strategy of general offensive to its peak." He described the Revolutionary Government in the so-called liberated zones as "a government which actually represents the rights and just expectations of our people, has made its appearance." This claim is important because it is first of all a claim to legitimacy as well as a claim to *de facto* operation.

The Congress later described the Provisional Revolutionary Government as a "resistance government" fighting against U.S. aggression. In typical Marxist fashion, a list of candidates was submitted to the Congress and unanimously approved.

The so-called "basic resolution" by the Congress stated its goals as "independence, sovereignty, unification and territorial integrity." Commenting upon the 1968 Tet Offensive, which gave birth to the VANDPF, the resolution said: "The U.S. aggressors are obviously defeated, but they remain very stubborn, continuing to oppose the legitimate demands of our people, Americans and the peace loving people world-wide. These demands are: End the aggressive war and withdraw all U.S. troops."

According to the "basic resolution", the PRG was given the mandate to organize free general elections and to seek neutrality proceeding toward national re-unification. The PRG was given "full power to direct and solve all domestic and foreign problems of the country."

Thus, in the Communist mind, the Provisional Revolutionary Government is the legitimate government of South Vietnam and the Saigon Government is an illegitimate puppet.

The first act of the PRG was to take charge of the Paris negotiations and it did so at Paris on June 10. Madame Nguyen Thi Binh, Minister of Foreign Affairs for the PRG was named head of the Paris Conference Delegation. On June 11 the PRG was vividly hailed by Hanoi radio in terms which left no doubt that the PRG was Hanoi's alter ego. Ho Chi Minh immediately extended his warmest regards.

On June 12 Kim Il Sung Premier of North

Korea sent a cable of recognition to the PRG. The same day Radio Moscow Broadcast the message which was sent from the International Conference in Moscow to the PRG in South Vietnam.

On June 11 Kosygin received the Moscow Representative of the NLF at the Kremlin and listened to a plea for the recognition of the PRG. Kosygin stressed that the Soviet Union has always given aid and support to peoples fighting for their freedom and national independence. On June 13 Kosygin sent a telegram to the PRG granting full recognition.

Peace Initiative

(Statement made by Minister Mme. Nguyen Thi Binh at the Paris Conference on Vietnam on September 17, 1970)

FOREWORD

On May 8, 1969, the Delegation of the South Vietnam National Front for Liberation put forward at the Paris Conference on Vietnam the principles and main content of a 10-point Overall Solution to the South Vietnam problem to help restore peace in Vietnam.

But since then, the Nixon administration persists in pursuing its policy of a colonialist aggressor. It tries its best to implement the Vietnamization of the war, i.e. the scheme of prolonging it as well as U.S. military occupation, while unwilling to withdraw rapidly and totally American troops from South Vietnam and maintaining the Saigon puppet army and administration to use them as an instrument for the U.S. neo-colonialist policy in South Vietnam and the partition of Vietnam. At the same time, the Nixon administration further widens the war to the whole of Indo-China, piling up more crimes against the peoples of Vietnam, Laos, and Cambodia.

At the Paris Conference on Vietnam, the Nixon administration strives to oppose the South Vietnam people's legitimate demands as enunciated in the 10-point Overall Solution, and to compel the South Vietnam people to accept the puppet Thieu-Ky-Khiem administration the U.S. has set up. The above situation has caused the stalemate of the Paris Conference on Vietnam.

Broad sectors of public opinion in the world, the United States included, have severely condemned the Nixon administration's warlike policy. The South Vietnam people resolutely oppose the U.S. Vietnamization of the war and have inflicted upon it heavy failures. The South Vietnam urban population of all walks of life is waging ever stronger resistance to the Thieu-Ky-Khiem administration and wants to overthrow it, at the same time calling for peace, independence, democracy and neutrality, and demanding that the U.S. put an end to its war of aggression, withdraw from South Vietnam all its troops together with those of the other foreign countries in the American camp.

With a view to making the Paris Conference on Vietnam move forward and settling rapidly the Viet Nam problem peacefully, Minister Mme Nguyen Thi Binh, Chief of the Delegation of the Provisional Revolutionary Government of the Republic of South Viet Nam, made on September 17, 1970, a Statement which further elaborates on certain points of the 10-point Overall Solution.

The September 17, 1970, Statement is an important peace initiative and a further proof of the goodwill and serious attitude of the Provisional Revolutionary Government of the Republic of South Viet Nam in the settlement of the South Viet Nam problem.

This pamphlet includes the aforesaid important Statement as well as the 10-point Overall Solution.

PEACE INITIATIVE

(Statement by Mme Nguyen Thi Binh, Minister for Foreign Affairs and Chief of the Delegation of the Provisional Revolutionary Government of the Republic of South Viet Nam, at the 84th Plenary Session of the Paris Conference on Viet Nam, September 17, 1970).

To respond to the deep desire for peace of broad sectors of the people in South Viet Nam, in the United States and in the world, on the instructions of the Provisional Revolutionary Government of the Republic of South Viet Nam, I would like to further elaborate on a number of points in the 10-point Overall Solution as follows:

1. The U.S. Government must put an end to its war of aggression in Viet Nam, stop the policy of Vietnamization of the war, totally withdraw from South Viet Nam troops, military personnel, weapons, and war materials of the United States as well as troops, military personnel, weapons, and war materials of the other foreign countries in the U.S. camp, without posing any condition whatsoever, and dismantle all U.S. military bases in South Viet Nam.

In case the U.S. Government declares it will withdraw from South Viet Nam all its troops and those of the other foreign countries in the U.S. camp by June 30, 1971, the People's Liberation Armed Forces will refrain from attacking the withdrawing troops of the United States and those of the other foreign countries in the U.S. camp; and the parties will engage at once in discussions on:

The question of ensuring safety for the total withdrawal from South Viet Nam of U.S. troops and those of the other foreign countries in the U.S. camp.

The question of releasing captured militarymen.

2. The question of Vietnamese armed forces in South Viet Nam shall be resolved by the Vietnamese parties among themselves.

3. The warlike and fascist Thieu-Ky-Khiem administration, an instrument of the U.S. policy of aggression, are frantically opposing peace, striving to call for the intensification and expansion of the war, and for the prolongation of the U.S. military occupation of South Viet Nam, and are enriching themselves with the blood of the people. They are serving the U.S. imperialist aggressors who massacre their compatriots and devastate their country. They have stepped up the pacification campaigns to terrorize the people and hold them in the vice of their regime, set up a barbarous system of jails of the type of tiger cages in Con Dao and established a police regime of the utmost cruelty in South Viet Nam. They carry out ferocious repression against those who stand for peace, independence, neutrality and democracy, regardless of their social stock, political tendencies and religions; they repress those who are not of their clan. They increase forcible pressganging and endeavour to plunder the property of the South Viet Nam people so as to serve the U.S. policy of Vietnamization of the war.

The restoration of genuine peace in South Viet Nam necessitates the formation in Saigon of an administration without Thieu Ky, and Khiem, an administration which stands for peace, independence, neutrality, which improves the people's living conditions, which ensures democratic liberties such as freedom of speech, freedom of press, freedom of assembly, freedom of belief, etc., and releases those who have been jailed for political reasons, and dissolves concentration camps so that the inmates therein may return to and live in their native places. The Provisional Revolutionary Government of the Republic of South Viet Nam is prepared to enter into talks with such an administration on a political settlement of the South Viet Nam problem so as to put an end to the war and restore peace in Viet Nam.

4. The South Viet Nam people will decide themselves the political regime of South Viet Nam through really free and democratic general elections, elect a national assembly, work out a Constitution of a national and democratic character, and set up a government reflecting the entire people's aspirations and will for peace, independence, neutrality, democracy, and national concord.

The general elections must be held in a really free and democratic way. The modalities of the elections must guarantee genuine freedom and equality during the electoral campaigns and vote proceedings to all citizens, irrespective of their political tendencies, including those who are living abroad. No party shall usurp for itself the right to organize general elections and lay down their modalities. The general elections organized by the U.S. puppet administration in Saigon at the bayonets of the U.S. occupying troops cannot be free and democratic.

A provisional government of broad coalition is indispensable for the organization of really free and democratic general elections and also for ensuring the right to self-determination of the South Viet Nam people during the transistory period between the restoration of peace and the holding of general elections.

5. The provisional coalition government will include three components:

Persons of the Provisional Revolutionary Government of the Republic of South Viet Nam.

Persons of the Saigon Administration, really standing for peace, independence, neutrality, and democracy.

Persons of various political and religious forces and tendencies standing for peace, independence, neutrality and democracy including those who, for political reasons, have to live abroad.

The provisional coalition government will implement the agreements reached by the parties.

The provisional coalition government will carry out a policy of national concord, ensure the democratic freedoms of the people, prohibit all acts of terror, reprisal, and discrimination against those who have collaborated with either side, stabilize and improve the living conditions of the people and organize general elections to form a coalition government.

The provisional coalition government will pursue a foreign policy of peace and neutrality, practise a policy of good neighbourhood with the Kingdom of Laos and the Kingdom of Cambodia, respect the sovereignty, independence, neutrality and territorial integrity of these two countries; it will establish diplomatic relations with all countries regardless of their political regime, including the United States, in accordance with the five principles of peaceful coexistence.

6. Viet Nam is one, the Vietnamese people is one. The reunification of Viet Nam will be achieved step by step, by peaceful means, on the basis of discussions and agreements between the two zones, without coercion or annexion from either side, without foreign interference. The time for reunification as well as all questions relating to the reunification will be discussed and agreed upon by both zones. Pending the peaceful reunification of the country, the two zones will reestablish normal relations in all fields on the basis of equality and mutual respect, and will respect each other's political regime, internal and external policies.

7. The parties will decide together measures aimed at ensuring the respect and the correct implementation of the provisions agreed upon.

8. After the agreement on and signing of accords aimed at putting an end to the war and restoring peace in Viet Nam, the parties will implement the modalities that will have been laid down for a cease-fire in South Viet Nam.

To attain a peaceful settlement of the Viet Nam problem, the Provisional Revolutionary

Government of the Republic of South Viet Nam declares its readiness to get henceforth in touch with the forces or persons of various political tendencies and religions in the country and abroad, including members of the present Saigon Administration, except Thieu, Ky and Khiem.

DEMOCRACY IS DEAD IN GREECE

Mr. CRANSTON. Mr. President, in a viable democracy there is one class of citizens on whom the rest of the Nation must rely for truthful and unbiased information. The role of the press in the functioning of the democratic process is vital to the survival of the democratic tenet of widespread citizen participation in the workings of the State.

Democracy died in Greece when the Colonels overthrew the constitutional government 3 years ago. At that time 25 journalists left their native country because they were denied freedom of expression. These men represent all shades of the political spectrum. I may not agree with everything they stand for. I do not know all that each stands for. But I support their view of the present regime in Greece.

On October 3, these journalists wrote President Nixon to inform him that reports that Greece was turning toward democratic parliamentarism were incorrect. This letter was delivered to the State Department by Mr. Elias P. Demetracopoulos.

Senators on both sides of the aisle should read this letter because it explains how the constitutional veneer of the regime in Athens in no way means that there is democracy once again in the country which gave birth to this concept.

I ask unanimous consent that the open letter of Greek publishers and journalists be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 3, 1970.

MR. RICHARD M. NIXON,
The President of the United States.

MR. PRESIDENT: On the 22d of September 1970, on the occasion of the decision to resume the shipment of heavy arms to Greece, the State Department's official spokesman, Mr. Robert J. McCloskey, added to the announcement the following statement: "In Greece—the trend toward a constitutional order is established. Major sections of the Constitution have been implemented, and partial restoration of civil rights has been accomplished. The government of Greece has stated that it intends to establish parliamentary democracy . . ."

As Greek journalists living out of Greece because in our country we have been denied the freedom of expression, speaking for ourselves and also in the name of colleagues still working in Greece, we feel obliged to bring to your attention, that this decision, of such importance to our country, is based upon lies.

The truth, which every well informed person of good faith already knows about the present situation in Greece, is as follows:

1. Greece is still under Martial Law, with all that implies in respect of the deprivation of basic individual liberties and human rights.

2. The military courts continue to take their daily toll of the liberty of any who happen to believe differently from those in power, handing out life sentences for the printing of "illegal literature."

3. Hundreds of political prisoners, holding views ranging from the extreme left to the extreme right, are still in prisons, concentration camps or in exile. They are useful hostages, available for release in periodic acts of "clemency" to impress public opinion.

4. A few "freedoms" sporadically accorded in response to international pressure—the freedom to travel, to express mild criticism, to hold a meeting—are available in Greece today not by the rule of law, but at the whim of the dictators. They are given to some as a favor; as a punishment, they are denied to others who have no legal redress.

5. The Press is strangled by a draconian Press Law by which any expression of disagreement can be interpreted as a "national crime". One recent example: Our colleague Ioannis Kapsis, was sentenced to five years imprisonment because as editor of the newspaper "Ethnos" he allowed the publication of an interview in which a former politician called for the formation of a coalition government.

6. The whole fabric of the State—the judiciary, the Civil Service, the Trades Unions, the schools, the universities and all the agencies of cultural life—continue to be permeated by the retrograde ideas of the rulers, and administered by a personnel harassed and demoralized by constant, thorough-going purges.

7. The so-called "Constitution" the implementation of which appears to be Washington's ultimate test of the Greek regime's claim to respectability is in reality a formula for the perpetuation of military power in the government of Greece. It comes as a shock to the free democratic world that Washington in 1970 can apply the term "constitutional" to its authoritarian and illiberal provisions.

8. The Greek regime has not, to this day, after three and a half years in power, given the slightest proof that it ever intends to return to parliamentary democracy. On the contrary, it has repeatedly refused to name a date for the holding of elections, an event which one of its leaders has recently declared, would be "catastrophic".

Mr. President, we do not protest only for the act of support and encouragement to the present Greek regime, a protest already expressed by political leaders and responsible people all over the world.

As publishers, editors and journalists, members of a profession whose duty it is to inform public opinion, we can not allow this blatant distortion of the truth about the situation in Greece to go unchallenged.

And in sending you this letter we are convinced that we are contributing to the survival of the democratic values which are under threat throughout the world.

Respectfully yours,

Signatories: Andreas Arnakis (Frankfurt), Paul Bakoyannis (Munich), Nikos Delipetros (Paris), Elias Demetracopoulos (Washington), Antonis Drossopoulos (Vienna), Aris Fakinos (Paris), and Spyros Giannatos (London).

Sypros Granitsas (New York), Costas Hadjiandreou (Frankfurt), George Katiforis (London), Ioannis Katris (Minneapolis), Michael Kostopoulos (London), Panayotis Lambrias (London), and Ioannis Lampsas (Geneva).

Anghelos Maropoulos (Bonn), Basil Mathiopoulos (Bonn), Basil Mavridis (Cologne), Costas Nikolaou (Cologne), Marios Ploritis (Paris), Evangelos Panteleskos (Rome), Asteris Stangos (Rome), Richard Someritis (Paris), George Yannopoulos (London), Helen Vlachos (London), and George Voukelatos (Bonn).

ROSE McCONNELL LONG

Mr. LONG. Mr. President, my senior colleague (Mr. ELLENDER) made a speech about the passing of my mother, former Senator Rose McConnell Long, earlier this year. It might be well for me to add a few words for historical purposes.

After the death of her husband, the late Huey P. Long, his widow was appointed to succeed him in the U.S. Senate. She served in this body from January 31, 1936 for the remainder of that year. Thereafter, she devoted her life primarily to her children and her family.

It always seemed to me that she was the strong person of her family—always available to go where she was needed and to do whatever needed doing to assist her brothers, sisters, children, and grandchildren.

While my sister and I were in college at Louisiana State University, she maintained a home at Baton Rouge. During World War II, when her sons and son-in-law were in the service, she chose to sell her home at Baton Rouge and consolidate the women of our family at our family home in Shreveport, La. During the remainder of her life, Shreveport was her home. Whenever I was privileged to visit that city, I stayed at her residence, as did my sister and our families. My brother, Palmer Reid Long, established his home at Shreveport and my brother-in-law and sister, Dr. and Mrs. O. W. McFarland, moved to Boulder, Colo. She made it a point to visit each of her children at least for a while each year. She spent much of her time with my sister in Boulder, Colo., and she would usually spend the Easter holidays with me and my family. She never forgot a birthday or anniversary—never failing to send us a greeting and a present on such occasions.

While she declined to actively participate in governmental affairs after her retirement from the Senate of the United States, she nevertheless continued her interest in matters of State. It was my good fortune that she was usually present when I addressed civic and political groups in Shreveport, La.

When she passed away, the newspapers of the Nation, and those of Louisiana in particular, were most kind in according her a number of well-deserved tributes which I would like to make a part of the RECORD.

I ask unanimous consent that this statement and a number of news articles and editorials about her be printed in the RECORD at an appropriate point:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Shreveport (La.) Journal, May 28, 1970]

HUEY LONG'S WIDOW DIES

Mrs. Rose McConnell Long, widow of the late Louisiana Gov. Huey Long and mother of Sen. Russell Long (D-La.), died Wednesday night in Boulder, Colo. She was 78.

"She was the nearest thing I knew to an angel. Now I am sure she is an angel," said Sen. Long, who was at his mother's side when she died about 11 p.m. in Boulder Memorial Hospital apparently of cancer.

Sen. Long and his wife left Washington, D.C., Tuesday afternoon and flew to Boulder when they learned his mother was in critical condition. Mrs. Long had undergone surgery for cancer two years ago in Shreveport.

The senator will arrive in Shreveport later today and stay at his mother's home here. The body is being brought to Shreveport this afternoon by plane and will be taken to Osborn Funeral Home.

Funeral services are tentatively scheduled for Friday or Saturday.

Mrs. Long was born in 1893, in Greensburg, Ind., and moved with her parents to Shreveport in 1901.

She met her husband as the 17-year-old winner of a cake-baking contest in Shreveport. The future governor, then the sales representative of a firm which sponsored the contest, presented the prize—a $10 gold piece—and struck up a correspondence that lasted until they were married in 1913 in Memphis, Tenn. Mrs. Long was a secretary for a Shreveport hardware store prior to her marriage to Huey Long, who was to serve the state as governor and later as a U.S. Senator.

Long served in the Senate from March 4, 1931, until his assassination on Sept. 10, 1935, in the state capital in Baton Rouge. Mrs. Long was appointed to serve out the remainder of his term in the 74th Congress, and was sworn in on Jan. 31, 1936. She served until Jan. 2, 1937, after which the seat was assumed by Sen. Allen J. Ellender, political ally of Huey Long.

Russell Long is the only senator whose mother and father both served in the Senate.

Mrs. Long was a member of the First Methodist Church and the Daughters of the American Revolution.

She maintained a home in Shreveport, but had been staying with her daughter, Mrs. Rose McFarland in Boulder.

Mrs. McFarland and her husband, Dr. O. W. McFarland, and their two daughters, Mrs. Charles Mazel and Mrs. Edward Fluke, Sen. and Mrs. Long and their daughter, Mrs. Kay Mosley of Baton Rouge, were at Mrs. Long's bedside when she died.

Survivors include another son, Palmer R. Long of Shreveport; a brother and sister, both of Shreveport; and seven grandchildren and two great-grandchildren.

Dr. Kenneth Snyder, pathologist at the Boulder hospital, said an autopsy had been scheduled for today to determine exact cause of death.

Mrs. Long's daughter said simple graveside services will be held in Shreveport, but the time has not been set.

[From the (Baton Rouge, La.) Advocate, May 29, 1970]

Mrs. Long's Funeral Set for Saturday

Shreveport.—Funeral services for Mrs. Rose McConnell Long, 77, mother of U.S. Sen. Russell B. Long and widow of Huey P. Long, are tentatively set for 2:30 p.m. Saturday at Osborn Funeral Home, 3631 Southern, Shreveport.

Mrs. Long died at 11 p.m. Wednesday at Boulder Memorial Hospital, Boulder, Colo. She had been staying with her daughter, Mrs. O. W. (Rose) McFarland in Boulder.

The body is being brought from Boulder to the Osborn Funeral Home. It will arrive about 9 a.m. Friday. Visiting at the funeral home will be from noon to 10 p.m. Friday and from 10 a.m. until time of services Saturday. Burial will be in Shreveport.

Mrs. Long, who had been living in Shreveport, was named to the U.S. Senate in 1936 by Gov. James A. Noe to fill the unexpired term of Huey Long after his assassination in 1935. She was the third woman to serve in the U.S. Senate at that time and is the only woman from the State of Louisiana ever to serve in that capacity.

The Long trio—Huey, Mrs. Long and Russell—is the only such family group to have ever served in the Senate.

But the legend of Mrs. Long, her husband and her son, goes further.

Huey Long sat in the chair once occupied by John C. Calhoun, South Carolina.

Russell Long occupied that chair, too, but was challenged to its occupancy when J. Strom Thurmond, South Carolina, wanted the chair as a matter of state pride.

Sen. Long gave the chair to the Carolinians but moved to the seat formerly occupied by his mother.

"She was the nearest thing I knew to an angel," Sen. Long said Thursday morning. "Now I am sure that she is."

Mrs. Long was born in 1893 on a farm south of Greensburg, Ind. Her parents, Mr. and Mrs. Peter McConnell, moved to Shreveport when she was 10 years old.

Mrs. Long attended schools in Shreveport and was graduated from a Shreveport business college after finishing high school.

She first met Huey P. Long when he was 17 and working as a cotton seed oil salesman. The firm he worked for sponsored a cake-baking contest in Shreveport and she won.

It was his duty to deliver the prize, a $10 gold piece, to her at her home and the meeting began a correspondence which led to their marriage three years later, in April, 1913, in Memphis, Tenn.

Mrs. Long worked with her husband as a salesman in their early years.

She was an aid in his early struggles as a lawyer and a politician but after he rose to national prominence, she devoted more time to their three children and took little part in his political and social affairs.

During most of the time Long was governor, she did not live in the executive mansion her husband built but chose to live in their home in Shreveport. Later she lived in New Orleans.

After Huey Long's death, Mrs. Long said, "His part was to go out all over the country and help the people and work for them, and make speeches. My part was to stay at home, take care of my home and the children."

After her time in the Senate, Mrs. Long moved to Baton Rouge but in 1941, sold the house and moved to Shreveport here she lived since.

In addition to Sen. Long and Mrs. McFarland, Mrs. Long is survived by another son, Palmer R. Long, Shreveport, and several grandchildren.

[From the Shreveport (La.) Journal, May 30, 1970]

Services Held for Mrs. Long

Graveside services were held at 11 a.m. today at Forest Park Cemetery for Mrs. Rose McConnell Long, 78, mother of U.S. Senator Russell B. Long, and widow of Huey Long, former Louisiana governor and U.S. senator.

Mrs. Long died Wednesday in Boulder, Colo., after a long illness.

Pallbearers included former governor James A. Noe, Sen. Allen J. Ellender, Chief Justice John B. Fournet of the State Supreme Court, Wilton H. Williams Sr., Calhoun Allen, Glen O. Dunmire, Robert E. Hunter, William H. Wright Jr., George W. D'Artois, Hunter Pierson and James H. Gill.

Dr. D. L. Dykes, pastor of the First Methodist Church, officiated.

Mrs. Long lived at 305 Forrest, but had been staying with her daughter, Mrs. Rose McFarland, in Boulder.

Other survivors include another son, Palmer R. Long of Shreveport; a brother, David B. McConnell; a sister, Mrs. Alan L. Hollenshead, both of Shreveport; seven grandchildren and two great-grandchildren.

[From the Shreveport (La.) Journal, May 28, 1970]

House Pays Tribute to Mrs. Long

Baton Rouge.—The House Wednesday unanimously passed a tribute to Mrs. Rose McConnell Long of Shreveport, the widow of Huey P. Long and mother of U.S. Sen. Russell B. Long. She died Wednesday at the home of her daughter in Colorado.

The memorial resolution states:

"Whereas, it is with deep regret and great sorrow that the members of the Louisiana Legislature have learned that God in his infinite wisdom has called to his presence Rose McConnell Long, widow of the late honorable Huey P. Long, governor of the state of Louisiana and member of the Senate of the Congress of the United States, and mother of the honorable Russell B. Long, United States senator; and

"Whereas, Rose McConnell Long was a native of Louisiana and a life long resident of Shreveport, Lousiana, where she was constantly active in civic affairs and charitable endeavors; and

"Whereas, Mrs. Long was the epitome of the Southern gentlewoman of poise and great worth, who possessed a sterling character, impeccable taste, seraphic sense of humor and a commendable sense of duty which dictated her meritorious service as a member of the Senate of the Congress of the United States for the remainder of her late husband's term; and

"Whereas, it is fitting and proper that the members of the Louisiana legislature pause in their deliberations on this legislative day to pay tribute to the exemplary life of a fine Louisianian and to express their feeling of great and profound sense of loss at her passing.

"Therefore, be it resolved by the House of Representatives of the legislature of Louisiana, the Senate thereof concurring, that the members of the legislature, for themselves and for the citizens of Louisiana, do hereby express their sincere and heartfelt regrets, condolences, and sympathies in the passing of the honorable Rose McConnell Long.

"Be it further resolved that a copy of this concurrent resolution shall be transmitted to the honorable Russell B. Long, the honorable Palmer Long and Mrs. Rose Long McFarland.

"Be it further resolved that when the House and Senate of the legislature of Louisiana adjourn on their next regular adjournment that they shall do so out of respect to and in memory of the honorable Rose McConnell Long."

[From the Shreveport (La.) Journal, May 29, 1970]

Mrs. Rose McConnell Long

Louisianians will remember Mrs. Rose McConnell Long not only as a gracious First Lady but also as a great lady. The greatness of the widow of Huey P. Long consisted of integrity, devotion to family and friends, a fine sense of duty, charm, compassion and the ability to keep state and national politics from affecting her personality.

Death came for Mrs. Long in Boulder, Colo., while she was staying with her daughter. Shreveport was the home of Mrs. Long for most of her 78 years. A native of Greensburg, Ind., she moved here with her parents in 1901 when she was nine years old. It was here that she met her late husband at a cake contest sponsored by a manufacturer of shortening for whom he was working. She and Mr. Long were married by a Baptist in the Gayoso Hotel, Memphis, Tenn., April 12, 1913.

Dr. T. Harry Williams, Louisiana State University professor of history, says in his definitive biography of Governor Long: "She brought a needed element of discipline to the way he lived. She brought other gifts as well. She was gentle, tactful, calm—qualities noticeably absent in Huey. She made a quietly attractive background for his brilliance, and remaining by preference in the background, she could manage him, sometimes."

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She had a unique part in the advancement of his political career. Only to her did he confide his ambitions. When they were struggling financially she made dollars go far. In Shreveport, at her mother's home, she established headquarters for his race for the State Railroad Commission.

During the tumultuous years when he was governor and U.S. Senator she brought him serenity in periods of upheaval. At social affairs in the Governor's Mansion in Baton Rouge she was a delightful hostess. After the assassination of the senator, she completed his term, carrying out responsibilities in her practical manner.

Mrs. Long has lived unobtrusively here these last years. She was a member of the First Methodist Church and the Daughters of the American Revolution.

The Journal extends sympathy to her sons, Sen. Russell B. Long of Washington, D.C., and Palmer R. Long of Shreveport; her daughter, Mrs. Rose McFarland of Boulder, Colo.; her sister, Mrs. Alan L. Hollenshead of Shreveport; her brother, David B. McConnell of this city; and other survivors.

[From the (Baton Rouge, La.) State Times, May 29, 1970]

Mrs. Huey P. Long

She was a gentlelady, Rose McConnell Long, whose death at Boulder, Colo., came yesterday.

The century was only a few years old when she became Mrs. Huey P. Long, one who was to leave the brand of his personality and meteoric, dramatic career as governor and United States senator as indelibly a mark on the Louisiana of his times and later as is the Mississippi River on the literal face of the state.

When her husband succumbed of the mortal wound which felled him in the Capitol, Mrs. Long was designated his successor in the Senate.

She saw her son, Russell, elected to the same Louisiana seat in the U.S. Senate and returned to the post again and again by the voters of the state.

The gentleness and devotion of Rose McConnell Long to her family, holding apart from the turbulences which roared around her household from her husband's first venture into politics, were honored in this state. Men who were harsh, angry and bitter foes of her spouse would doff their hats in sincere gentility at her approach on the street, or rise in gentlemanly courtesy to a gracious and quiet lady on her entrance into a room.

In her later years, she made her home with a daughter, Rose, Mrs. Osmyn F. McFarland, in Boulder.

Now she is coming back to the state that was her home, and of which she once was First Lady.

The memory of the goodness and gentleness of Rose McConnell Long will be green as long as there lives one Louisianian who knew her.

[From the Washington (D.C.) Post, May 29, 1970]

Ex-Sen. Rose Long Dies, Widow of Huey

(By Martin Weil)

Rose McConnell Long, 78, widow of Louisiana politician Huey Long and his successor in the U.S. Senate after his assassination in 1935, died of cancer Wednesday in Boulder, Colo., where she was staying with a daughter.

Mrs. Long, who served in the Senate from Jan. 31, 1936, to Jan. 3, 1937, was the mother of Sen. Russell B. Long (D-La.), making him the only senator both of whose parents served in the upper house.

The death was announced yesterday on the Senate floor by Sen. Allen J. Ellender (D-La.) who succeeded Mrs. Long at the conclusion of her husband's unexpired term.

Sen. Long had gone Tuesday to Colorado because of his mother's illness.

At the time of her appointment to succeed the slain "Kingfish," Mrs. Long was only the third woman to serve in the Senate.

Born in Greensburg, Ind., she was descended on her mother's side from a distinguished line of planters, physicians and lawyers. She was a member of the Daughters of the American Revolution.

Her husband was a penniless traveling salesman when they met, in Shreveport, La., where she had moved with her parents.

The meeting came when she won a cake-baking contest that he sponsored to promote the lard substitute he was selling.

Long began a correspondence that lasted until their marriage in Memphis in 1913. According to one account, they started married life with only $10 between them.

After sharing in her husband's struggles as a salesman and as a law student, Mrs. Long was an aide to the governor in his early rise in law and politics.

Later, however, she was less closely associated with political affairs. As a hostess during her husband's stormy years as governor, she was known as unobtrusive and self-effacing.

Aides to Gov. Long once identified one of her greatest contributions to his career as her willingness and ability to take the responsibility for raising his family and maintaining his home.

They also cited the constant sympathy and understanding she showed him in victory and defeat. In 1924, when Long lost a try for governorship, they recalled, Mrs. Long smiled and said: "What does it matter whether you're elected this time or next?"

Known for picturesque speech and unconventional ways, Huey Long was elected governor in 1928, introducing sweeping and successful public-works programs and concentrating political power in the executive branch.

Elected senator in 1930, he was shot to death in September, 1935, in the state capitol at Baton Rouge. Gov. O. K. Allen was named to fill his unexpired term.

After Allen died, Gov. James A. Noe appointed Mrs. Long, who later also was elected for the unexpired term.

A corsage of orchids on her shoulder, the 5 feet 4, hazel-eyed widow was sworn in Feb. 10, 1936, telling interviewers she would "work for the cause of the farmer and of labor."

Once, when asked about her tastes in reading, Mrs. Long said they ran to biography, particularly of women.

"The senator was the greatest man who ever lived," she told an interviewer. "After knowing him, who could be thrilled by stories of other men?"

In addition to her son, Russell, and her daughter Mrs. O. W. McFarland, Mrs. Long is survived by another son, Palmer R. Long, of Shreveport; a brother; a sister, seven grandchildren and two great grandchildren.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

EQUAL RIGHTS FOR MEN AND WOMEN

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 264) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the period for the consideration of the joint resolution which is not to exceed 2 hours, the time be equally divided and controlled by the Senator from North Carolina (Mr. Ervin) and the Senator from Indiana (Mr. Bayh).

Mr. ERVIN. Mr. President, I am constrained to object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. BYRD of West Virginia. Does the Senator wish to control the entire 2 hours himself?

Mr. ERVIN. I do not wish anyone to control the time.

Mr. BYRD of West Virginia. The reason why I formulated the request was that a "rhubarb" developed yesterday over who had so much time or because somebody had 1 minute more than somebody else. I was attempting to avoid that situation today.

Mr. ERVIN. The reason I pose an objection is that I was informed yesterday by the distinguished Senator from Massachusetts (Mr. Kennedy) that he and the distinguished Senator from Maryland (Mr. Mathias) intend to offer an amendment to the resolution today, and I assume they still have that intention. I also have read press statements which indicate that they intend to offer such an amendment today and press for a vote on it. I thought under those circumstances perhaps the Senator from Massachusetts or the Senator from Maryland should have control of the time.

Mr. BYRD of West Virginia. Very well. I understand the able Senator's reasons for objecting. Therefore, I do not renew my request.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I send to the desk an amendment to the pending House joint resolution and ask that it be stated and made the pending order of business.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read the amendment as follows:

Amendment No. 1042

On page 1, line 3, beginning with the word "That" strike out everything down through line 7 and insert in lieu thereof the following: "That the articles set forth in sections 2 and 3 of this joint resolution are proposed as amendments to the Constitution of the United States, and either or both articles shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after being submitted by the Congress to the States for ratification.".

XUM

On page 1, lines 7 and 8, insert the following:

SEC. 2. The first article so proposed is the following:

On page 2, after line 7, insert the following:

SEC. 3. The second article so proposed is the following:

"ARTICLE ——

"Each State shall have sole and exclusive jurisdiction of the organization and administration of all public schools and public school systems within the State. The courts of each State shall have exclusive jurisdiction to determine all rights, privileges, and immunities of citizens of the State with respect to public schools and public school systems within the State. No officer or court of the United States shall have power to impair or infringe any right so reserved to the States."

The ACTING PRESIDENT pro tempore. The question is on the adoption of the amendment of the Senator from Alabama.

Mr. ALLEN. Mr. President, I do not plan at this time to discuss at length the merits of the pending amendment. It was the understanding of the junior Senator from Alabama that the distinguished Senator from Massachusetts (Mr. KENNEDY) was, on today, planning to introduce an amendment to House Joint Resolution 264 which would provide, in effect, for statehood for the District of Columbia insofar as representation in the two Houses of Congress is concerned.

I would, of course, be strongly opposed to any such amendment. Now I am advised, however, that the distinguished Senator from Massachusetts will not be present at the proceedings of the Senate before 2 o'clock this afternoon. Feeling that the Senate should have before it a matter to be considered, it occurred to me that by the introduction of this amendment, we might possibly have a discussion of the proposal to return the public schools of this Nation to State and local governments, or to the people of the respective States.

Early in the 91st Congress, during the first session of this Congress, I introduced such a resolution. It was and is Senate Joint Resolution 80, and it does provide for the return of the public schools of the Nation to the respective States, providing for local control of the public school systems of the various States.

That resolution has not made a great deal of progress through the legislative machinery. It lies dormant in the Senate committee. So it occurred to the junior Senator from Alabama that one way to get a vote on that resolution, Senate Joint Resolution 80, is to submit it as an amendment to the pending House joint resolution providing for equal rights for women.

Mr. President, as I understand, it is possible to submit in one resolution any number of proposed constitutional amendments. It is not necessary to have a separate resolution on each proposed amendment to the Constitution. After Congress submits to the States the various proposed amendments to the Constitution, then they are each on their own; but there is nothing to prevent the Senate from considering whether it would like to add this proposed constitutional amendment to the amendment providing for equal rights for women, which I support. So the purpose of the amendment is not to displace the equal rights for women proposed constitutional amendment, but to allow this proposed constitutional amendment also to be submitted, alongside the amendment for equal rights for women.

Mr. President, later in the day it is my purpose to discuss this amendment at some greater length. I do not plan to engage in extended discussion of the proposed additional amendment. But it is not an amendment in lieu of the other amendment; it is an amendment in addition to the other amendment.

Mr. President, the junior Senator from Alabama has been thwarted in his efforts to get Senate Joint Resolution 80 before the Senate for consideration. I would like to have had a vote on that resolution long ago, but I have been unable to get the amendment reported out of the Senate committee. So the Senate will be given an opportunity to express itself with respect to that amendment, and vote it up or down.

Mr. GRIFFIN. Mr. President, will the distinguished Senator yield for a question, for clarification?

Mr. ALLEN. I would be delighted.

Mr. GRIFFIN. Is the amendment of the Senator from Alabama a printed amendment, at the desk?

Mr. ALLEN. No. I have a copy, though, which I should be glad to give the distinguished Senator from Michigan.

Mr. GRIFFIN. As I understand it, the language proposed would be in addition to the wording of the equal rights for women amendment?

Mr. ALLEN. I sought to explain that matter.

Mr. GRIFFIN. I am sorry; I was not present in the Chamber during the explanation.

Mr. ALLEN. It is an additional amendment.

Mr. GRIFFIN. Additional.

Mr. ALLEN. As I understand, it is not requisite that there be a separate resolution for each proposed constitutional amendment. It would be possible, theoretically, for 100 proposed amendments to be submitted in the same resolution. But then, when they go out to the States, they are each considered separately, and there is no connection whatsoever between the proposed amendments, after Congress submits the amendments that Congress sees fit to put into the resolution.

It is my purpose to get a vote on my resolution. I might state to the distinguished Senator from Michigan that the exact wording of the present amendment is found in Senate Joint Resolution 80.

Mr. GRIFFIN. Senate Joint Resolution 80.

Mr. ALLEN. Yes, it has been pending before the Senate for more than a year. So this is not a matter that has just been thought up here on the spur of the moment, and put in to occupy time, because it is not my purpose to engage in a lengthy discussion of the amendment. I would like for the Senate to act on the amendment—to vote it up or down, as I hear the expression used so often here in the Senate with respect to other matters.

Mr. GRIFFIN. If the distinguished Senator would be so kind as to yield further, am I correct in my understanding that under his amendment, State courts would have exclusive jurisdiction insofar as the interpretation of laws affecting schools are concerned? Is that the thrust of it?

Mr. ALLEN. Yes. That is correct. In other words, they would be turned over to the States, which the junior Senator from Alabama understands should properly be the law now, so as to afford State control—not control by the courts, but State control—of the school systems.

Mr. GRIFFIN. As I understand it, then, if the Senator's amendment were adopted, this would be the only situation where the Supreme Court of the United States would be the court of last resort in terms of interpreting the Constitution of the United States as it might apply to local schools. Am I correct?

Mr. ALLEN. The schools would be turned over to the States under the amendment, I will state to the distinguished Senator from Michigan.

Mr. GRIFFIN. Then I would interpret the effect of the proposed amendment as saying that the Supreme Court of the United States could interpret and apply the Constitution in all other areas except with regard to schools.

Mr. ALLEN. No; I beg to differ with the distinguished Senator from Michigan, because the amendment itself would put the schools under State control.

So all they would be doing then would be interpreting the Constitution as amended by the amendment that is submitted. If the distinguished Senator from Michigan would care to seek to amend the proposed amendment, I am sure the Senate could consider that amendment.

Mr. GRIFFIN. Since the Senator from Alabama indicates that he may press for a vote on this, I am at this point just trying to better understand the meaning of his amendment.

Mr. ALLEN. The entire amendment is only approximately seven lines long.

Mr. GRIFFIN. The several States also have control over the State government. Yet, the junior Senator from Alabama will have to acknowledge that some provisions of the Constitution of the United States are limitations upon the States. The 14th amendment, as one example, is a limitation upon State government.

So I go back to the point again which seems quite apparent, that the effect of the amendment of the junior Senator from Alabama would be to say that the Supreme Court of the United States, in effect, could interpret the Constitution of the United States, except that it would not be able to interpret and apply the Constitution of the United States if it affected schools.

Mr. ALLEN. The junior Senator from Alabama, in answer to that, would say that the amendment itself would provide that in the area of administration of schools, the State authorities, the State courts, have jurisdiction, rather than the Supreme Court, as regards the management and operation of the school systems of the respective States.

XUM

Mr. GRIFFIN. I thank the Senator for responding to my inquiries. I think I better understand his amendment; I now realize the impact of it; and I must say most respectfully that I would have to vote against it.

Mr. ALLEN. Well, I am not surprised to hear the attitude of the distinguished Senator from Michigan. That would be his right and his privilege. It is not going to be the purpose of the junior Senator from Alabama to prevent the distinguished Senator from Michigan from casting his vote against the amendment. The junior Senator from Alabama has expressed the opinion that he would like to see a vote on the proposed amendment.

The amendment he submitted more than a year ago has been languishing in the Senate committee and has not been brought to the floor, and in this way the amendment is brought before the entire Senate. So there will be an opportunity, before many hours have elapsed, to get a vote, in the judgment of the junior Senator from Alabama.

Mr. GRIFFIN. Perhaps I could make one additional comment. The junior Senator from Michigan, like the junior Senator from Alabama, is not always pleased with the decisions of the Supreme Court of the United States. Indeed, I have been deeply disturbed by some of its decisions in recent years. But, as I have indicated during other debates on related matters, I would certainly resist any effort at this time to remedy that situation by eroding or reducing the jurisdiction of the Supreme Court of the United States.

XUM

I have been among those who have tried to improve upon the membership of the Supreme Court. But I certainly would be very much opposed to a move to deprive or reduce the jurisdiction of the Supreme Court of its authority to interpret the Constitution of the United States.

Mr. ALLEN. I appreciate the remarks of the distinguished Senator from Michigan. But would the distinguished Senator from Michigan agree with the junior Senator from Alabama that the Supreme Court, after all, is a court of limited jurisdiction; that Congress, without a constitutional amendment, would have authority to withdraw or limit the jurisdiction of the Supreme Court?

Mr. GRIFFIN. Yes. The junior Senator from Alabama makes a valid point. By the terms of the Constitution, Congress does have discretion, to a degree, to affect, or limit the jurisdiction of the Supreme Court. But I think it would be a most unwise policy on the part of Congress, either by statute or by a constitutional amendment, to deal with the Supreme Court by cutting away at its jurisdiction to interpret the Constitution. At least, I feel that way now. I just will not move in that direction.

Mr. ALLEN. In a limited field, though, the junior Senator from Alabama would point out to the distinguished Senator from Michigan. I appreciate his concession that the Supreme Court, under the Constitution, is a court of limited jurisdiction, so that it would not be any great departure from the intent and spirit of the Constitution to do this even by statute. But the junior Senator from Alabama is seeking to do this by a constitutional amendment.

COMMITTEE MEETING DURING SENATE SESSION

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

EQUAL RIGHTS FOR MEN AND WOMEN

The Senate continued with the consideration of the joint resolution (H.J. Res. 264) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

Mr. ERVIN. Mr. President, a great attempt is made by the proponents of the pending resolution to picture all those who do not support the resolution as the enemies of women. The Senator from North Carolina opposes the resolution, not because he is an enemy of women but because the women of America have no greater friend in the Senate of the United States than the Senator from North Carolina.

It is absurd to picture any man who opposes this amendment as an enemy of women. I had a mother. My mother was a woman. And I would say this: The good Lord never created a finer woman than my mother. I have a wife. My wife is a woman. And I would say that the good Lord never created a finer woman than my wife. I have two daughters. I have three granddaughters. What I am fighting for in opposing this amendment is to make it as certain as possible that the United States will be just as good a country, with just as sound a Constitution, when I shuffle off this mortal coil, as now.

I am motivated at least by as lofty a motive as my friend Joe Hicks was when he disturbed religious worship in my county around the turn of the century.

We had a bricklayer in my home town named John Watts. He was highly skilled in the laying of bricks and the arts of masonry. But John was about as proficient in theology as is the Senator from North Carolina.

Unfortunately, John took a notion that he was called on to preach as well as to lay bricks. When he could find a rural church whose pulpit was vacant and could secure the consent of the members of the church to occupy that pulpit and exhort them to righteousness according to his views of theology, John would avail himself of the opportunity to preach.

One day John Watts was preaching in a small rural church in my home county of Burke. One of his fellow citizens was Job Hicks, who, as we notice, had the good biblical name of Job, a great character of the Bible. Unfortunately on this particular occasion, Job Hicks had been imbibing Burke County corn whisky, sometimes called white lightning, sometimes called white mule, and sometimes called moonshine.

Job Hicks came staggering by this little church where John Watts was preaching and looked in and saw John in the pulpit. Being a man faithful to the Gospel as he understood it as delivered to the saints, he did not appreciate the brand of theology John Watts was expounding. So Job staggered up the aisle, grabbed John by his coat collar, dragged him down the aisle, and threw him out of the building.

Job was indicted in the superior court of Burke County as a result of this action, under a statute making it a criminal offense willfully to disturb a religious service. Job's case was tried before Judge Robinson of Goldsboro, N.C.—a very rare character and a great judge—and a jury.

The jury convicted Job of the misdemeanor of willfully disturbing a religious worship in violation of the statute.

As a consequence, Job had to be sentenced by Judge Robinson. Judge Robinson never expressed any ideas as to how sound he thought the theology John Watts was expounding on the occasion I have described, but I infer, however, that the judge had some doubt as to its soundness. At least, being a merciful man, he was seeking some way to temper the wind of the shorn lamb who stood before the bar of justice to receive sentence.

The judge said to Job Hicks, "Mr. Hicks, when you were guilty of this unseeming conduct on the Sabbath day, you must have been so intoxicated as not to realize what you were doing."

I suspect the judge may have had some sound basis for his conclusion about the state of intoxication of Job Hicks. This is so because I have heard by rumor that Burke County corn is a very potent beverage. But when the judge intimated by his question that he thought Job Hicks was so intoxicated as not to be able to realize the enormity of his offense, Job Hicks made this response to the judge:

"Judge, it is true that I had several drinks, but I would not want Your Honor to think that I was so drunk I could stand by and hear the word of the Lord being mummicked up like that, without doing something about it."

The reason I oppose the women's rights amendment is that I do not want the Constitution of the United States to be mummicked up as it would be mummicked up by the amendment.

If the amendment should be submitted by the Congress to the States and ratified by the States, the Constitution would suffer serious injury—which could be illustrated by another story.

Jim was walking up the railroad tracks when last seen in life. A train passed and a bystander who had seen Jim walking up the tracks, could see him no more. The bystander walked up the track and found Jim's body lying on and around the tracks, indicating that he had been hit by the train. But no one actually saw the train strike him.

Jim's administrator brought suit for Jim's wrongful death. The bystander was the only witness who was able to give any account of the events which preceded Jim's demise. The witness testified as a witness for the administrator to the effect that he was standing near the railroad station and he saw Jim walking up the tracks and then he saw the train pass and he did not see Jim any more.

The witness further testified that thereupon he walked up the tracks and he saw Jim's head lying on one side of the tracks and the mangled remains of the rest of him lying on the other side of the tracks.

Thereupon counsel for the administrator put this question to the witness:

"What did you do when you saw these gruesome relics lying along the tracks?"

The witness replied, "I said to myself, 'Something serious must have happened to Jim.'"

Now, Mr. President, something very serious will happen to the Constitution of the United States if the women's rights amendment is submitted by Congress to the States and ratified by the States.

I am not the only one who entertains this view. We hear a great deal of discussion to the effect that business and professional women's organizations demand passage of this resolution, that they demand the Senate not change a single dot over an "i", or a cross-mark over a single "t." In other words, they demand that the Senate abdicate the exercise of its intellectual functions and its legislative powers and approve the resolution in the exact words in which it was passed by the House.

The truth of it is that there are a few—and I contend a relatively few—business and professional women who demand the adoption of this resolution. This resolution would be disastrous in its consequences if it should become a part of the Constitution and should be interpreted according to what some of its proponents say it means.

In that event it would rob the women who elect to be housewives and mothers and the women who, unfortunately, become widows, of hundreds of rights which they now enjoy under the Constitution and laws of the United States and the several States.

There are undoubtedly some laws that ought to be repealed. There are undoubtedly some laws which ought to be passed in order to remove legal discriminations against women. But unfortunately this resolution, if adopted as part of the Constitution, would deprive the Congress of the United States and the legislatures of all the States of the Union of the legislative power to extend any rights or any protections to women which they are now permitted to extend by the fifth and 14th amendments.

I am not the only one who entertains this opinion. I have a statement in my hand which has been endorsed by some of the great leaders of this Nation which I propose to read to the Congress. I also have letters from attorneys general of many States proclaiming the undoubted truth that the submission and approval of this resolution would bring chaos into the laws of the States.

This statement has been endorsed by some of the leaders of great organizations in this country and by some of the most distinguished women of this Nation.

This statement bears out the observation made by one of the smartest lawyers known to me, Justice Susie Sharp, of the Supreme Court of North Carolina, who said in a letter which appears in the RECORD of the hearings conducted by the full Judiciary Committee that the women who advocate the resolution are simply ambushing themselves.

Mr. President, I digress a moment to note that unfortunately the evidence taken at the hearings of the full Senate Judiciary Committee after my friend, the distinguished Senator from Indiana, the chairman of the Subcommittee on Constitutional Amendments, declined to conduct any further hearings, have not yet been printed. They should be printed before the Senate votes on this resolution and thereby be made available to all Senators before they cast their ballots.

The statement I propose to read is entitled, "What Does Equality Mean Under the Equal Rights Amendment?" It asks and answers what it calls "A Few Thoughtful Questions."

Here is question No. 1:

> Does the Equal Rights Amendment create new rights for women?

Here is the answer:

> No, it does not. In fact, the Amendment—
>
> Does not require equal pay for equal work.
>
> Does not require promotion of women to better or "decision-making" jobs.
>
> Does not provide free 24-hour community-controlled children's day care centers for working mothers.
>
> Does not elect more women to public office.
>
> Does not abolish abortion laws or make available safe birth control devices.
>
> Does not convince men they should help with the housework.
>
> And, furthermore, does not put a woman astronaut into space!

That is the answer to the first of the thoughtful questions set forth and answered in this statement.

The second question is, and it is a question which would give millions of wives and mothers and widows concern if they had an organization here in Washington to lobby for them:

> Could the Equal Rights Amendment destroy some important women's rights?

The answer is:

> Yes, it could destroy rights and cause new problems . . . by creating new obligations for women to support their husbands and children.
>
> Weakening men's duty to support their wives and children.
>
> Wiping out laws fixing such benefits as minimum wages, maximum hours, and safety standards for women, simply because many of these laws don't apply to men.
>
> Drafting women into military service.
>
> Weakening the legal presumption that a woman should keep custody of her children and should receive financial support in the event of a divorce.
>
> Endangering the tax-exempt status of nonprofit "women only" institutions, such as the YWCA and Girl Scouts.
>
> Destroying laws that require separate rest rooms and dressing rooms for women workers.

Some of the supporters of the resolution say that it is fantastic to say that this resolution will have the effect of making women subject to the draft or the effect of incapacitating Congress to enact a draft law which drafts men for service in combat and does not draft women for like service.

The signers of this statement from which I have read said that it could create new problems for women by drafting women into military service.

That is exactly what the proponents of this resolution asserted in a memorandum which was printed in the CONGRESSIONAL RECORD of March 26, 1970, by request of the distinguished Congresswoman from Michigan, Mrs. GRIFFITHS.

I direct the attention of the Senate to the 13th objection made by the memorandum in respect to distinctions based upon sex of which the advocates of the resolution make complaint.

The 13th objection is this: Exclusion of women from the requirements of the Military Selective Service Act of 1967. The Military Selective Service Act of 1967 expressly provides that men can be drafted to serve in the combat forces of this Nation to defend it against an enemy of the United States; that the draft is restricted to males; and that females are excluded from the draft.

By the memorandum the proponents of this amendment confess that one of the laws they wish to have nullified by their amendment is the law which provides for the drafting of men and the exemption of women from compulsory military service.

The laws that govern voluntary enlistments in the Armed Forces of the United States would also fall under the interpretation placed on the amendment by its proponents. These laws provide for the voluntary enlistment of men for combat service, but they provide, in substance, that no woman shall be voluntarily enlisted for combat service in the Armed Forces of the United States. Women are permitted to enlist for service in nursing, the Wacs, the Waves, and the like. They are permitted to enlist voluntarily for noncombatant service in the Armed Forces. But they are not permitted by existing laws to volunteer for service in combat.

Not only that, Mr. President, but the laws establishing the Military Academy at West Point, the Naval Academy at Annapolis, and the Air Force Academy at Colorado Springs, expressly provide that the only persons who will be admitted as cadets or midshipmen to those institutions are men. According to the interpretation which was placed upon this amendment in the memorandum on the proposed equal rights amendment to the Constitution in the House of Representatives on March 26, 1970, this amendment would have the effect of depriving Congress of any power to pass any laws to draft any man for service in the Armed Forces unless the same law provided for the drafting of women. It would deprive Congress of the power to authorize the voluntary enlistment of men for combat service unless it also authorized the voluntary enlistment of women for like service.

Furthermore, it would require Congress, if we are going to have any service academies like West Point, the Naval Academy, or the Air Force Academy, after this amendment becomes law, to convert those institutions into coeducational war colleges. I say these things and I base them on what the House memorandum declares.

It is stated in this memorandum:

> The purpose of the proposed amendment would be to provide constitutional protection against laws and official practices that treat men and women differently. At the present time, the extent to which women may invoke the protection of the Constitution against laws which discriminate on the basis of sex is unclear. The equal rights amendment would insure equal rights under the law for men and women and would secure the right of all persons to equal treatment under the laws and official practices without differentiation based on sex.

I digress momentarily to observe that women can successfully invoke the Equal Protection Clause to invalidate any State action which arbitrarily or inviduously discriminates against them.

A little further the memorandum states:

> The proposed amendment would secure the right of all persons to equal treatment under the law without any distinction as to sex.

Then, it states further:

> The equal rights amendment would simply require that men and women be treated the same under the law.

That is what the advocates of the amendment say. That is what they declared in the memorandum which was inserted in the CONGRESSIONAL RECORD on March 26, 1970: Hence, they assert that the proposed amendment would require that every law must apply in exactly the same way to men and women, or otherwise would be unconstitutional.

XUM

I have to confess I am not smart enough to know how a legislative body is going to make the same law apply the same way to men and women in respect to such subjects as abortion, carnal knowledge of girls under the age of consent, rape, pregnancy; and the like. Maybe the proponents of this resolution can draft laws like that; but the Senator from North Carolina confesses his incapacity to do so.

Mr. President, I resume my consideration of the statement which as I said, has been endorsed by some of the most distinguished leaders of our Nation and some of the most distinguished women of our Nation.

The third question set out in the statement is this:

> Is this constitutional amendment really needed to achieve women's rights?

This is the answer to the question:

> No. Because the Constitution already protects the rights of women, particularly under the 5th and 14th Amendments.
>
> Unfair or discriminatory laws can be repealed by legislatures or challenged in the courts under these Amendments. That has already been done successfully in many cases.
>
> New rights and freedoms for women will come from enactment of new laws and the effective enforcement of existing ones—not from a new Constitutional Amendment.

Mr. President, after asking and answering these questions, the statement has a subheading entitled "Some Real Worries."

The subheading reads:

> Nobody knows for sure what results the Equal Rights Amendment would bring. But here are some "real worries" you ought to think about:
>
> Many state laws enacted to prevent harsh industrial or commercial exploitation of working women are likely to go out the window—whether women want them to or not. The "equality" arguments can be turned right around by powerful employer interests who don't want *any* of their workers protected by labor laws—either men *or* women. If the courts don't throw out the women's labor laws right away, the legislatures can be pressured into quick repeal.
>
> Divorced, separated, and deserted wives struggling to support themselves and their children through whatever work they can get may find their claims to support from the father even harder to enforce than they do right now.
>
> For many American women, particularly those in the lower income brackets, that's a heavy price to pay for a theory of equality.
>
> Wives and mothers who are not in the labor force—and they are a substantial majority—may find they can no longer choose to stay at home to care for their families.
>
> Under the Equal Rights Amendment, they may become obligated for furnishing half the family support. The right of choice for these women should be protected.

These are some of the worries for the wives, for the mothers, for the widows, and for the working women—of America to think about.

The statement concludes with advice to the women of America—and, incidentally, I might say, to their representatives in the Senate of the United States. This advice is headed by the statement: "Don't Buy a Gold Brick!"

It reads:

> America's women are increasingly expert consumers.
>
> They've learned the hard way that you can't always trust the language on the label . . . or extravagant advertising claims.
>
> That's true for legislation, too.
>
> The Equal Rights Amendment to the Constitution, for instance, sounds great . . . like the end of sex discrimination.
>
> Sounds easy . . . But most sex discrimination is a matter of private practice, not of public law, and will not be affected by the Amendment.
>
> And laws that treat women differently are not necessarily "discriminatory" or unfair.
>
> That's why many women's organizations, trade unions and individuals with long experience in human and industrial relations problems, urge rejection of the Equal Rights Amendment.
>
> Let's keep the good laws we've won and see that they're enforced. Let's repeal or amend the bad laws . . . and go on from there to achieve real equality for every American.

That concludes the statement.

I have stated that this statement has been endorsed by some of the leaders of America. It has been endorsed by some of the most intelligent women in America. I want to read a list of those who have endorsed this statement:

1. Chauncey Alexander, Executive Director, National Association of Social Workers.
2. Joseph A. Beirne, President, Communications Workers of America.
3. Margaret Berry, Executive Director, National Federation of Settlements and Neighborhood Centers.
4. Mary F. Callahan, Former Member, President's Commission on the Status of Women, Citizens' Advisory Council on the Status of Women.
5. Cesar Chavez, Director, United Farm Workers Organizing Committee.
6. Patrick E. Gorman, Secretary-Treasurer, Amalgamated Meat Cutters and Butcher Workmen.
7. Dorothy Height, President, National Council of Negro Women.
8. Dolores Huerta, Vice President, United Farm Workers Organizing Committee.
9. Paul Jennings, President, International Union of Electrical, Radio and Machine Workers.
10. Mary Dublin Keyserling, Former Director, Women's Bureau—U.S. Department of Labor.
11. Margaret Mealey, Executive Director, National Council of Catholic Women.
12. Ruth Miller, Former Chairman, California Advisory Commission on the Status of Women.
13. Sarah Newman, Central Secretary, National Consumers League.
14. William Pollock, President, Textile Workers Union of America.
15. Jacob S. Potofsky, President, Amalgamated Clothing Workers of America.
16. Louis Stulberg, President, International Ladies' Garment Workers' Union.
17. Mary E. Switzer, Former Administrator, Social and Rehabilitation Service, U.S. Department of Health, Education, and Welfare.
18. Dr. Cynthia Wedel, Former Member, President's Commission on the Status of Women.
19. Mrs. Leonard H. Weiner, National President, National Council of Jewish Women.
20. Elizabeth Wickenden, Professor of Urban Studies, City University of New York; Former Member, Citizens' Advisory Council on the Status of Women.
21. Myra Wolfgang, Vice President, Hotel and Restaurant Employees' and Bartenders' International Union.

Mr. President, I have in my hand letters from attorneys general of various States of the Union, which I may present now if the distinguished Senator from Maryland (Mr. MATHIAS) does not desire the floor for the purpose of offering an amendment.

Before I proceed to read these letters from the attorneys general of the various States, which point out in very emphatic fashion the devastating effect which the so-called women's rights amendment could have upon the laws of the States, I would like to refer to the case of *Hoyt* v. *Florida*, 368 U.S., page 57.

This is the case which was mentioned in the letter written by the distinguished Representative from Michigan Mrs. GRIFFITHS, to the distinguished Senate majority leader, and which was read to the Senate yesterday by the majority leader.

That letter contained a very strange statement, namely, that the Supreme Court of the United States had never held that women are persons within the meaning of the 14th amendment.

This very case shows that women are regarded as persons within the meaning of the 14th amendment. This was a case where a Florida woman was charged with the murder of her husband. She was tried before an all-male jury, and was found guilty by the jury of the crime of murder in the second degree. I would say that she was probably lucky to have been tried by a jury of men rather than a jury of women. If she had been tried by a jury of women, she might have been found guilty of murder in the first degree. I do not know about that.

But she appealed, and eventually her case reached the Supreme Court on the allegation that she had been unjustly discriminated against because Florida excluded women from service on the jury.

Yesterday I stated, and I reiterate without fear of successful contradiction, that in this case the Supreme Court recognized that any State law which makes any legal distinction between men and women is unconstitutional under the equal protection clause of the 14th amendment, unless the distinction is based upon rational grounds.

On pages 59 and 60 of the Hoyt case, the Supreme Court said:

> We address ourselves first to appellant's challenge to the statute on its face.
>
> Several observations should initially be made. We of course recognize that the Fourteenth Amendment reaches not only arbitrary class exclusions from jury service based on race or color, but also all other exclusions which "single out" any class of persons "for different treatment not based on some reasonable classification."

By this statement, the Supreme Court says that the 14th amendment applies to all persons, and that it protects all persons, whether they be men, whether they be women, whether they be boys, or whether they be girls, from any State action which singles them out for different treatment, not based on some reasonable classification.

The Court then proceeded to pass upon the question raised by this woman from Florida. The law of Florida provided that men and women should both be eligible to serve on juries in the State courts of Florida.

The law did make a distinction between men and women. The law of Florida, which is similar to the laws of some 16, 17, or 18 other States, provided that no woman should be compelled to serve on a jury if jury service was incompatible with her other responsibilities in life, and that no woman should be summoned for jury service unless she notified the clerk of the court that she considered that service upon the jury would not interfere with the performance with the other duties devolving upon her.

The Supreme Court of the United States held that that law was perfectly valid, that it made a reasonable distinction between men and women, taking into consideration the respective responsibilities and the respective functions of men and women.

The Supreme Court said:

> In the selection of jurors Florida has differentiated between men and women in two respects. It has given women an absolute exemption from jury duty based solely on their sex, no similar exemption obtaining as to men. And it has provided for its effectuation in a manner less onerous than that governing exemptions exercisable by men: women are not to be put on the jury list unless they have voluntarily registered for such service; men, on the other hand, even if entitled to an exemption, are to be included on the list unless they have filed a written claim of exemption as provided by law. Fla. Stat. 1959, § 40.10.
>
> In neither respect can we conclude that Florida's statute is not "based on some reasonable classification," and that it is thus infected with unconstitutionality. Despite the enlightened emancipation of women from the restrictions and protections of bygone years, and their entry into many parts of community life formerly considered to be reserved to men, woman is still regarded as the center of home and family life. We cannot say that it is constitutionally impermissible for a State, acting in pursuit of the general welfare, to conclude that a woman should be relieved from the civic duty of jury service unless she herself determines that such service is consistent with her own special responsibilities.
>
> Florida is not alone in so concluding. Women are now eligible for jury service in all but three States of the Union. Of the forty-seven States where women are eligible, seventeen besides Florida, as well as the District of Columbia, have accorded women an absolute exemption based solely on their sex, exercisable in one form or another. In two of these States, as in Florida, the exemption is automatic, unless a woman volunteers for such service.

The advocates of this resolution condemn this case. Why they do so I cannot comprehend. It does not keep any business or professional woman from serving on a jury. If such a woman resides in Florida and wants to serve on a jury, she can communicate her willingness to serve and be summoned for jury service just as a man can.

The objection to this decision illustrates the attitude of some of the militant women who back this amendment. They want to take rights away from their sisters. They want laws which compel their sisters who have little children to nurture and homes to keep, to leave their children and abandon their work as homemakers and go to court either to serve on a jury or to beg a kindhearted judge, or perhaps a hardhearted judge, to excuse them from jury service so they can perform the duties imposed upon them by God and nature.

Mr. President, I do not know whether the Senator from Maryland wants to present his amendment. If he does, I would be glad to yield the floor so that he could do so.

Mr. COOK. Mr. President, I have tried to communicate with the Senator from Maryland, and he indicated to me that the Senator from Massachusetts would not be available until 2 p.m. I am not quite sure what that does. Perhaps the majority leader might get into this discussion, because I thought the time limitation today was to be until 12:30, that this matter would then be set aside.

Mr. MANSFIELD. That is correct—for not to exceed 2 hours.

The PRESIDING OFFICER. The time is 12:20.

Mr. COOK. So, apparently, this amendment will not be debated at all today, if other matters are taken up by the Senate.

I might say to the Senator from North Carolina that it is my understanding that the pending business is the amendment of the distinguished Senator from Alabama and that if the Senator from Alabama wishes to pursue his amendment, he may well take this opportunity, although obviously he can hold it until a later time.

Mr. ERVIN. Under the circumstances, since the Senator from Maryland and the Senator from Massachusetts cannot be here to present their amendment, I will proceed.

I wrote several attorneys general and asked them for their opinions on this resolution. I have a letter from the office of Helgi Johanneson, attorney general of the State of North Dakota, dated September 10, which reads as follows:

STATE OF NORTH DAKOTA,
September 10, 1970.

Hon. SAM J. ERVIN,
Senator, U.S. Senate,
Washington, D.C.

DEAR SENATOR ERVIN: After examining the proposed House passed Equal Rights Amendment, the question is raised whether or not § 34-06-06 of the North Dakota Century Code would be constitutional if the House passed Equal Rights Amendment were to become a part of the United States Constitution.

The aforementioned section provides as follows:

"Hours of labor for females limited—exceptions.—Notwithstanding any other provision of this chapter or any standard, rule, or regulation issued thereunder, it shall be unlawful to employ any female within this state in any manufacturing, mechanical, or mercantile establishment, or in any hotel or restaurant, or in any telephone or telegraph establishment or office, or in any express or transportation company, for more than eight and one-half hours in any one day, or for more than six days, or for more than forty-eight hours in any one week. This section, however, shall not apply to:

"1. Females working in any municipality having a population of less than five hundred inhabitants;

"2. Females working in rural telephone exchanges;

"3. Females working in small telephone exchanges or telegraph offices where the commissioner has determined after a hearing that the condition of the work is so light that it does not justify the application of the provisions of this section;

"4. Females who are required to work in cases of emergency, and in cases arising under this subsection females may be employed for ten hours in any one day and seven days in one week but shall not be employed for more than forty-eight hours in any one week. An emergency is deemed to exist under the provisions of this subsection:

"a. In the case of the sickness of more than one female employee in which case a doctor's certificate must be furnished showing that it will not be dangerous to human life to continue employment in the establishment involved;

"b. When such employment is required in connection with a banquet, convention, or celebration or because a session of the legislative assembly is in progress;

"c. In the case of the employment of a female as a reporter in any of the courts of this state.

"In cases arising under subsection 3 of this section, the commissioner shall make and establish reasonable rules and regulations under which females may be employed."

The North Dakota Supreme Court in State vs. Ehr, 57 ND 310, 221 NW 883, held that the state had the right, under its police powers, to regulate the length of hours females may be employed. It was held that the aforementioned section does not violate the Due Process or Equal Protection clauses of the Federal or State Constitution.

However, if the aforementioned Equal Rights Amendment were to become law, it would be questionable whether a statute regulating the hours of employment for females would be valid.

On the lighter side, the 1969 Legislative Assembly enacted Chapter 315 making it unlawful to discriminate between horse jockeys on the basis of sex and provided that all women jockeys shall be permitted to ride a

XUM

horse in any horse race conducted in accordance with the laws of this state. It further provided that anyone violating this provision is guilty of a misdemeanor.

We trust this information will be useful as well as interesting.

Yours very truly,

Paul M. Sand,
First Assistant Attorney General.

I have a letter from the distinguished attorney general of the State of Wyoming, the Honorable James E. Barrett. This letter is dated September 15, 1970, and reads as follows:

Dear Senator Ervin: I regret that I have not been able to sooner respond to your very welcome letter of August 28th, wherein you so kindly enclosed to me a copy of House Joint Resolution 264, proposing an amendment to the Constitution of the United States relative to equal rights for men and women, and wherein you further enclosed the copy of your Senate speech relative to this subject made Friday, August 21, 1970.

I, too, join with you in the hope that the House-passed Equal Rights Amendment to the Constitution will be referred to the Senate Judiciary Committee for intelligent study and analysis. I am not prepared to submit any constitutional opinion with respect to the meaning and possible implications of the amendment, but I am seriously concerned about the remarks made by Professor Paul Freund of the Harvard Law School which you quoted in your speech to the Senate on August 21.

Wyoming enacted the Fair Employment Practice Act of 1965 which, among other things, prohibits an employer from refusing to hire or promote or to otherwise discriminate in matters of compensation against any person because of race, sex, creed, color, national origin or ancestry. In 1966 the Wyoming Supreme Court in the case of *Longacre* v. *State of Wyoming,* reported in 488 P.2d 832, held that the above referred to provision of the Fair Employment Practice Act of 1965 repealed by implication, a provision in the Wyoming Liquor Code prohibiting females from being employed as bartenders in a room holding a retail liquor license. The court held that the legislative intent in the enactment of the Fair Employment Practice Act was such as to prohibit discrimination universally throughout the State of Wyoming.

With very best wishes and kindest personal regards, I am.

Sincerely yours,

James E. Barrett,
Attorney General.

Mr. President, I have a copy of a letter which was originally addressed to the Honorable Emanuel Celler, chairman of the Committee on the Judiciary of the House of Representatives, and which was mailed to me by the Attorney General of Louisiana in response to my inquiry.

The letter reads:

My Dear Representative Celler: Your letter of July 27, 1970 informs me that the following proposed Constitutional Amendment is being studied by your committee:

"Section 1. Equality of rights under law shall not be denied or abridged by the United States or by any State on account of sex. Congress and the several States shall have power, within their respective jurisdictions, to enforce this article by appropriate legislation. . . ."

In general, it is my observation that any state law which makes a distinction based on sex might be in jeopardy if the proposal is adopted. For example, laws requiring the sexes to be housed in different prisons might well be subject to being declared invalid unless specifically excepted from operation of the proposal.

More specifically, I attach hereto a list of Louisiana laws which, in my opinion, could be affected by the proposed amendment.

Sincerely yours,

Jack P. F. Gremillion,
Attorney General.

I want to read the enclosure:

Louisiana Laws that might be affected by proposed Federal Constitutional Amendment as to equality of sexes.

Jurors.—Louisiana Constitution of 1921, Art. 7, Sec. 41, Louisiana Code of Criminal Procedure, Art. 402 and La. Revised Statutes 13:3055, provide that no woman shall be drawn for jury service unless she has previously filed with the Clerk of the District Court a written declaration of her desire to be subject to such service.

Schools.—Some schools in Louisiana are segregated by sexes. Such a practice would be vulnerable to attack under the proposed Constitutional Amendment.

Family Law—Community of Acquets and Gains.—Husband as head and master of the community with the right to administer all property acquired during the marriage without the wife's consent as provided in Art. 2404 of the Louisiana Civil Code, would be affected. The wife's right to damages for personal injuries as her personal property with no reciprocal right to the husband under Art. 2402 of the Louisiana Civil Code, would be affected.

I digress here, Mr. President, from reading, to say to those Senators who represent States which have community property laws, that it would be wise to pay some heed to the suggestion of the attorney general of Louisiana that the pending resolution, if it becomes a part of the Constitution, could invalidate those community property laws.

I now proceed further with reading the statement concerning the Louisiana laws that might be affected by the proposed constitutional amendment as to equality of the sexes:

Alimony.—The right of the wife to claim alimony under Art. 160 of Louisiana Civil Code without a reciprocal right in the husband, would be affected.

Tutorship.—Art. 264 of the Louisiana Civil Code provides that when ascendants of different sexes in the some degree of relationship claim the tutorship of a minor child, preference is given to the male, would be affected.

Labor Laws.—Louisiana Constitution, Art. 4, Sec. 7 and Louisiana Revised Statute, Title 23:291 et seq. provide for minimum wages and the regulation of the hours and working conditions of women, would be affected.

Prisons.—Louisiana Revised Statute, Title 15:854 and 15:1011.1 provide for the separation of prisoners according to sex and Louisiana Revised Statute 15:752 and 753 providing for separate bathing facilities of males and females, would be affected.

Sex Offenses.—The proposed Constitutional Amendment could affect certain sex offenses and offenses against public morals.

Mr. President, I have another copy of a letter addressed to Representative Emanuel Celler by the attorney general of the State of Kentucky, dated August 6, 1970. The letter was signed by Attorney General John B. Breckinridge, and reads as follows:

Dear Mr. Celler: This is in answer to your letter of July 27 in which you as Chairman of the Committee on Judiciary of the House of Representatives wish to be advised as to what major laws if any, of this state will be affected by the adoption of the proposed constitutional amendment declaring that equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

In response to your question, Kentucky appears to have numerous minor statutes that would be affected by the referred to constitutional amendment. Among them are KRS 244.320 prohibiting females from being served alcoholic beverages at a bar and KRS 244.100 prohibiting a retail alcoholic beverage licensee that sells alcoholic beverages for consumption on the premises, from employing any female for any duties respecting the sale of alcoholic beverages except to wait upon tables or serve as cashier or usher. These statutes were, however, recently attacked in a suit styled Dixie Sherman Burke v. State Alcoholic Beverage Control Board, in the Franklin Circuit Court and declared unconstitutional. This case will, of course, be appealed to the Kentucky Court of Appeals.

Aside from the above statutes we cite the following: KRS 337.365 (rest periods for females), KRS 337.370 (maximum hours for infant females), KRS 337.380 (maximum hours for any females in specialized industries), KRS 337.390 (bookkeeping for female employees), KRS 337.400 (posting statutes protecting females), KRS 337.410 (Department of Labor's jurisdiction to enforce such statutes), KRS 338.110 (minimum number of seats for females) and KRS 338.120 (toilet and washroom facilities for females). Further, the present minimum wage orders would have to be superseded or modified to cover males as well.

There are other areas in which such a constitutional amendment would require statutory revision such as dower and courtesy laws, divorce and *custody* laws and every statute in which there are distinguishments between males and females.

We trust the above information will be of some help to the Committee, however, if we can be of any further assistance please do not hesitate to advise.

Yours very truly,

John B. Breckinridge.

Mr. President, I received the following letter from Attorney General Daniel R. McLeod, of the State of South Carolina. The letter is dated September 10, 1970, and it is addressed to me.

It reads as follows:

Hon. Sam J. Ervin, Jr.,
U.S. Senate, Senate Office Building, Washington, D.C.

Dear Senator Ervin: Thank you for your recent letter questioning the effects of the House-passed Equal Rights Amendment upon the laws of South Carolina.

We have in this State, as in many states, laws which have been enacted, or preserved from the common law, which are designed specifically to protect the interests of women. These laws are founded upon a recognition of the generally inferior physical capabilities of women, their sexuality, and their frequent economic dependence during coverture and thereafter. As a result, these laws embodied in our statutes, and in our case law, are such as could be construed as discriminatory, not so much as to women, but rather as to men. More specifically, I refer you to the following sections of the South Carolina Code of Laws (1962):

§§ 19–101 to 169. *Dower, Curtesy and Jointure*—which sections abolish tenancy by curtesy but retain the right of dower in a wife; §§ 20–112 to 114 and § 20–116. *Alimony*—which sections provide for maintenance and support of a wife under appropriate circumstances during and after a divorce; § 10–803. *Females to be arrested only in certain cases*—which section prohibits the arrest of women for civil offenses except where wilfull injury to persons, property, or character is invalid; and §§ 40–81, 40–256 and 64–5, which provide, respectively,

XUM

that women are limited to twelve hour working days and sixty-hour work weeks (in mercantile establishments), and that they must be provided chairs and reasonable opportunities to rest (mercantile establishments), and that women may not work on Sundays (mercantile establishments or factories). Additionally, we require separate and suitable latrine facilities in all establishments employing two or more males and two or more females (§ 40–257).

Of the above statutes, undoubtedly the most widely applied are those dealing with dower and alimony. Our statutes dealing with employment of women have been weakened in certain cases by other wage and hour legislation and by dictates of the federal Equal Employment Opportunity Commission; nevertheless, they are on our books. The validity of these laws could be attacked in the light of the House Amendment, if adopted.

If this office can be of further assistance, please let me know.

Sincerely,

DANIEL R. MCLEOD,
Attorney General.

Mr. President, I received the following letter from the Honorable Robert Morgan, attorney general of the State of North Carolina. The letter is dated September 14, 1970.

It reads as follows:

Senator SAM J. ERVIN, Jr.,
U.S. Senate
Washington, D.C.

DEAR SENATOR ERVIN: This is in response to your inquiry regarding possible effects on the laws of the State of North Carolina should the proposed "Equal Rights for Women" Amendment to the Constitution of the United States be ratified.

Perhaps the greatest effect of the Amendment would be the potential invalidation of several sections of the criminal laws of North Carolina. The crimes of rape and kindred offenses (G.S. 14–21 through 14–26), for example, might well violate such an Amendment. The crimes specified in these sections either apply to men only or make distinctions between crimes committed by men and women.

Other criminal statutes which would possibly be unconstitutional to the extent that they distinguish between men and women include G.S. 14–43 Abduction of Married Women, G.S. 14–48 Slandering Innocent Women, G.S. 14–180 Seduction, G.S. 14–198 Lewd Women Within Three Miles of Colleges and Boarding Schools, and G.S. 14–274 Disturbing Students at Schools for Women.

The proposed Amendment would also seem to remove the father's primary duty of support of the family as set forth in *Sanders v. Sanders*, 167 N.C. 319, 83 S.E. 490 (1914). Other laws providing for protection of the family which would be subject to constitutional challenge would include G.S. 14–322 Abandonment by Husband or Parent, G.S. 14–324 Order to Support from Husband's Property or Earnings, G.S. 14–325 Failure of Husband to Provide Adequate Support for Family, and G.S. 14–326 Abandonment of Child by Mother. Any law regarding alimony would be unconstitutional to the extent that it distinguished between men and women.

With certain minor exceptions, the proposed constitutional Amendment granting "equal rights for women" should have very little effect upon the real property law of North Carolina. For the most part, our legislature has already granted men and women equal rights with respect to real property.

Perhaps the most notable effect of the proposed constitutional Amendment in North Carolina will be the elimination of the requirement of a privy examination of the wife when she conveys real property to her husband or enters into a contract with her husband regarding her real property. Under G.S. 39–13.4 (e) and G.S. 52–6, a privy examination of the wife is presently required in such situations. Although the statutory provisions were designed to protect the wife, they may be regarded as discriminatory under the proposed Amendment.

The Amendment may also have an effect upon G.S. 31A–5 dealing with tenancies by the entirety when either husband or wife slays the other. Under the present law, if the wife is the slayer, one-half of the property passes immediately to the husband's estate and the other one-half is held by the wife during her life, subject to pass upon her death to the estate of the husband. On the other hand, when the husband is the slayer, he holds all of the property during his life subject to pass upon his death to the estate of the wife. There may be other minor provisions regarding real property which will be affected by the proposed constitutional Amendment. However, the proposed Amendment should not result in substantial changes in this area of the law.

State income tax laws could possibly be altered by the Amendment. Article V, Section 3 of the State Constitution provides an exemption from income tax "for a married man with a wife living with him, or to a widow or widower having minor child or children, natural or adopted, not less than $2,000; to all other persons not less than $1,000 . . ." The Revenue Act, of course, implements those provisions with the result that a man is entitled to a $2,000 exemption while his wife with income receives only a $1,000 exemption.

Although it is not clear that our Constitution would be in conflict with the proposed Amendment to the Constitution of the United States, such a contention would be (in fact, is) made by many taxpayers. If a result were eventually reached which required married women with income to be allowed the same exemption as married men, the revenue loss to the State of North Carolina has been estimated to be $14,000,000 annually.

North Carolina's labor laws regarding women would also be subject to immediate attack. In fact, similar laws in other states have already been attacked as a denial of equal protection of the law.

North Carolina, by statute (G.S. 95–17), prohibits any woman from working more than a forty-eight hour week. Men, however, are permitted to work up to fifty-six hours a week. Further, G.S. 95–29 requires all employers to provide proper and suitable seats for all females during the working day.

North Carolina has taken the position that laws intended to protect women against exploitation and hazards may not be used to discriminate against them in any manner. It is the State's position that employers are required by the Constitution of the United States to give all potential employees equal consideration and, that employers can in no way discriminate against women who are required by State law to work fewer hours per week than men. In other words, when a man and woman are being considered for the same job, the fact that a woman is not permitted to work as many hours as a man may not be held against her.

Finally, G.S. 95–48 through 95–53 require an employer to maintain separate rest rooms for males and females. By applying a blind and mechanical analogy to the Fourteenth Amendment and the Civil Rights Acts, it could be argued that a requirement for separate rest rooms denies equal protection of the laws on the basis of sex. It is possible, however, that the Supreme Court of the United States would not see fit to allow such an argument to prevail.

If this Office can be of further assistance to you with regard to this or any other matter, please do not hesitate to call on us.

With warmest personal regards, I am

Very truly yours,

ROBERT MORGAN,
Attorney General of North Carolina.

COMMITTEE MEETING DURING SENATE SESSION

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Subcommittee on National Penitentiaries of the Committee on the Judiciary be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 12870) to provide for the establishment of the King Range National Conservation Area in the State of California.

The message also announced that the House had passed a joint resolution (H.J. Res. 1396) to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1971, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the following concurrent resolutions, in which it requested the concurrence of the Senate:

H. Con. Res. 712. Concurrent resolution authorizing the printing of additional copies of the committee's annual report for the year 1969, House Report No. 91–983, 91st Congress, second session;

H. Con. Res. 732. Concurrent resolution providing for the printing as a House document of "The Pledge of Allegiance to the Flag";

H. Con. Res. 740. Concurrent resolution authorizing the printing of additional copies of the hearings accompanying the Legislative Reorganization Act of 1970;

H. Con. Res. 748. Concurrent resolution authorizing the printing of additional copies of hearings entitled "Cuba and the Caribbean" for use of the Committee on Foreign Affairs, House of Representatives;

H. Con. Res. 753. Concurrent resolution authorizing the printing of additional copies of publication entitled "Supplement to Cumulative Index to Publications of the Committee on Un-American Activities, 1955 Through 1968 (Eighty-fourth Through Ninetieth Congresses)"; and

H. Con. Res. 770. Concurrent resolution authorizing the printing of additional copies of "Anatomy of a Revolutionary Movement: 'Students for a Democratic Society'," 91st Congress, second session.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were referred to the Committee on Rules and Administration:

H. Con. Res. 712. Concurrent resolution authorizing the printing of additional copies of the committee's annual report for the year 1969, House Report Numbered 91–983, 91st Congress, second session;

H. Con. Res. 732. Concurrent resolution providing for the printing as a House document of "The Pledge of Allegiance to the Flag";

H. Con. Res. 740. Concurrent resolution authorizing the printing of additional copies of the hearings accompanying the Legislative Reorganization Act of 1970;

H. Con. Res. 748. Concurrent resolution authorizing the printing of additional copies of

XUM

hearings entitled "Cuba and the Caribbean" for use of the Committee on Foreign Affairs, House of Representatives;

H. Con. Res. 753. Concurrent resolution authorizing the printing of additional copies of publication entitled "Supplement to Cumulative Index to Publications of the Committee on Un-American Activities 1955 Through 1968 (84th through 90th Cong."; and

H. Con. Res. 770. Concurrent resolution authorizing the printing of additional copies of "Anatomy of a Revolutionary Movement: 'Students for a Democratic Society' ", 91st Congress, second session.

ILLEGAL TRANSPORTATION, USE, OR POSSESSION OF EXPLOSIVES

The PRESIDING OFFICER (Mr. HART). The hour of 12:20 p.m. having arrived, and pursuant to the previous order, the Senate will now proceed to the consideration of S. 3650, which the clerk will state.

The assistant legislative clerk read as follows:

Calendar No. 1233, S. 3650, a bill to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments, on page 2, line 19, after the word "explosion," insert "but excluding small arms ammunition and components intended for use therein"; in line 22, after the word "or" where it appears the second time, strike out "attempts" and insert "endeavors"; on page 3, line 6, after the word "shall", insert "also"; in line 12, after the word "an", strike out "attempt" and insert "endeavor"; in line 13, after the word "alleged", strike out "attempt" and insert "endeavor"; at the beginning of line 20, strike out "attempts" and insert "endeavors"; on page 4, at the beginning of line 14, strike out "attempts" and insert "endeavors"; on page 5, after line 20, insert a new section, as follows:

SEC. 2. Paragraph (c), subsection (1), section 2516, title 18, United States Code, is amended by adding "section 837 (use, transportation, or possession, or threats or false information concerning)," after "section 664 (embezzlement from pension and welfare funds).".

And on page 6, at the beginning of line 1, change the section number from "2" to "3"; so as to make the bill read:

S. 3650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 837 of title 18, United States Code, is amended to read as follows:

"§ 837. Explosives—illegal transportation, use, or possession; threats or false information

"(a) As used in this section—

" 'commerce' means commerce between any State, the District of Columbia, or any Commonwealth, territory, or possession of the United States, and any place outside thereof; or between points within the same State, the District of Columbia, or any Commonwealth, territory, or possession of the United States but through any place outside thereof; or within the District of Columbia, or any territory or possession of the United States;

" 'explosive' means gunpowder, powders used for blasting, all forms of high explosives, blasting materials, fuzes (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, other explosive or incendiary devices within the meaning of paragraph (5) of section 232 of this title, and any chemical compounds, mechanical mixture, or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion, *but excluding small arms ammunition and components intended for use therein.*

"(b) Whoever transports or receives, or endeavors to transport or receive, in commerce any explosive with the knowledge or intent that it will be used to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property, shall be imprisoned for not more than ten years, or fined not more than $10,000, or both; and if personal injury results shall be imprisoned for not more than twenty years or fined not more than $20,000, or both; and if death results shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment as provided in section 34 of this title.

"(c) Whoever, through the use of the mail, telephone, telegraph, or other instrument of commerce, willfully makes any threat, or maliciously conveys false information knowing the same to be false, concerning an endeavor or alleged endeavor being made, or to be made, to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property by means of an explosive shall be imprisoned for not more than five years or fined not more than $5,000, or both.

"(d) Whoever maliciously damages or destroys, or endeavors to damage or destroy, by means of an explosive, any building, vehicle or other personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States or any department or agency thereof, shall be imprisoned for not more than ten years or fined not more than $10,000, or both; and if personal injury results shall be imprisoned for not more than twenty years, or fined not more than $20,000, or both; and if death results shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment as provided in section 34 of this title.

"(e) Whoever possesses an explosive in any building in whole or in part owned, possessed, or used by, or leased to, the United States or any department or agency thereof, except with the written consent of the agency, department or other person responsible for the management of such building shall be imprisoned for not more than one year, or fined not more than $1,000, or both.

"(f) Whoever maliciously damages or destroys, or endeavors to damage or destroy, by means of an explosive, any building, vehicle, or other real or personal property used for business purposes by a person engaged in commerce or in any activity affecting commerce shall be imprisoned for not more than ten years or fined not more than $10,000, or both; and if personal injury results shall be imprisoned for not more than twenty years or fined not more than $20,000, or both; and if death results shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment as provided in section 34 of this title.

"(g) Whoever possesses an explosive with the knowledge or intent that such explosive will be transported or used in violation of this section shall be imprisoned for not more than five years or fined not more than $5,000, or both.

"(h) Nothing in this section should be construed as indicating an intent on the part of Congress to prevent any State, territory, or possession of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section, nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for investigating and prosecuting actions that may be violations of this section and that are violations of State and local law.

"(i) No investigation or prosecution of any offense described in this section shall be undertaken by the United States except upon a determination by the Attorney General, or an Assistant Attorney General designated by the Attorney General, that in his judgment an investigation or prosecution by the United States is in the public interest."

SEC. 2. Paragraph (c), subsection (1), section 2516, title 18, United States Code, is amended by adding "section 837 (use, transportation or possession, or threats or false information concerning)," after "section 664 (embezzlement from pension and welfare funds).".

SEC. 3. The reference to section 837 in the analysis of chapter 39, title 18, United States Code, is amended to read as follows:

"837. Explosives—illegal transportation, use, or possession; threats or false information."

ORDER OF BUSINESS

Mr. ERVIN. Mr. President, I had not finished the speech I was making on House Joint Resolution 264. I yield the floor, but I ask unanimous consent that I be allowed to continue this speech at the first available opportunity, without having these remarks and subsequent remarks in the same speech counted as two speeches.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. YOUNG of North Dakota. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR CONDUCTING REFERENDUM WITH RESPECT TO NATIONAL MARKETING QUOTA FOR WHEAT

Mr. YOUNG of North Dakota. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 1396.

The PRESIDING OFFICER (Mr. HART) laid before the Senate House Joint Resolution 1396, to extend the time for conducting the referendum with re-

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spect to the National Marketing Quota for Wheat for the marketing year beginning July 1, 1971, which was read twice by its title.

Mr. YOUNG of North Dakota. I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. YOUNG of North Dakota. Mr. President, under the law the Secretary of Agriculture is required to hold a referendum among wheat growers as to the approval of a wheat price support program for wheat next year under the act of 1963. This referendum is scheduled for October 15, 1970. The ballots are waiting to be mailed out now and unless this resolution is agreed to by the Senate they will have to be mailed out tomorrow.

The Secretary of Agriculture has only to October 12, which is next Monday, to postpone the election. An election now would be practically meaningless.

Most farmers thought that by now Congress would have passed a new farm bill, but we are not certain when a new farm bill will become law. Certainly, it will not before next Wednesday.

So the resolution, which is requested by Secretary of Agriculture Harden, and approved by the leadership of both the majority and the minority, and by the chairman and members of the Senate Committee on Agriculture and Forestry, is now before the Senate, and I believe it is very important that we approve it.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 1396) was read the third time and passed.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ILLEGAL TRANSPORTATION, USE, OR POSSESSION OF EXPLOSIVES

The Senate resumed the consideration of the bill (S. 3650) to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes.

Mr. McCLELLAN. I thank the Chair.

Mr. President, at 3:45 a.m., on August 24 of this year Robert Fassnacht lost his life at the University of Wisconsin in Madison when a terrorist bomb, aimed at Army-funded mathematics center on the second and fourth floors of the building, demolished the physics lab below. Lost, too, was the life's work of Prof. Joseph R. Dillinger, who has spent the last 23 years constructing, step by painful step, an intricate assemblage of cryogenic machinery, which was totally wiped out by the blast. Faced with this destruction of his own life's work, Dillinger, according to Life magazine—September 18, 1970, at page 41, column 3—is bewildered and bitter. "Fassnacht is dead and nothing can bring him back," he says. "That's the biggest loss of all. As for my lab, I could rebuild it all for about $150,000. It would take me about 6 years, but I could do it. But by then I'd be 60. And suppose they blew it up again? What's the point?"

Mr. President, it is in this tragic context that we now consider S. 3650, which is proposed by the Attorney General for the purpose of strengthening the existing Federal statute, 18 U.S.C. 837, to expand its scope, improve its effectiveness, and increase its penalties in several significant respects.

Mr. President, we are at a point in the history of this great Nation where we must come to the somber realization that our country faces a very dangerous and critical threat from the forces of subversion and revolution that are now committing repeated acts of bombing, arson, and sabotage. The magnitude and frequency of such acts of terrorism and destruction directed against the sovereignty of Government and the lives and property of our citizens furnish ample warning that we are fighting for the survival of our free society.

Responsible officials in many fields of Government testified before the Permanent Subcommittee on Investigation, which I am privileged to chair, that the stated objectives of the revolutionaries and anarchistic criminals, who are responsible for the atrocities, are the destruction of our traditional institutions and the overthrow of our governmental system.

Documentary evidence in the subcommittee files and record shows clearly that a large proportion of the fanatical and malicious bombings and assaults have been the work of groups which were organized to conduct and proliferate a reign of terror. Their own words, printed in their publications, specify their criminal intentions, exhort others to violence, and give explicit instructions on how to make and use explosive and incendiary devices. They urge warfare in the streets; they call for deadly attacks upon police; they extol murder, arson, and terrorism as weapons of revolution.

None of the witnesses before the subcommittee were optimistic about the future with respect to any anticipated diminution of this campaign of fear and terror. The record established in the subcommittee shows that they believe without exception that the bombings will continue and probably will accelerate, that the challenge to our society will become more severe and intensified, and that the dangers of revolution, anarchy, and chaos are present and real and will not just dissipate and go away. Strong and effective repellent measures are required to combat this growing menace. Almost all of the public officials who testified stated their beliefs that terroristic tactics could be suppressed only by vigorous prosecution and enforcement of the law and by appropriate punishment of those who are guilty of these acts of terrorism.

Summarizing the crisis with which we must deal, we find in the record before the subcommittee the appalling total of more than 5,000 bombings in the United States during the 18 months preceding April 15, 1970. More than 1,200 of them were of the high explosive type; the rest were committed with incendiary devices. According to a U.S. Treasury Department survey there were, from January 1, 1969, through April 15, 1970, more than 40,000 bombings, attempted bombings, and threats of bombings. At least 43 persons have been killed and about 400 others injured. Property damage has exceeded $25 million.

Testimony has established that during 1968, 1969, and the first half of 1970, 23 law enforcement officers have been killed by terroristic attacks, and 326 have been injured. These numbers have increased since our hearings were held in May of this year. As indicators of the magnitude of the crisis we face, those statistics call upon us to act swiftly and forcefully to bring to a halt the savage assaults upon our system of law and order. We must act, or we will fall victims to the mob.

It was in this context, therefore, that the President on March 25, 1970, requested legislation which would substantially revise and strengthen 18 U.S.C. 837. As submitted by the Department of Justice the proposal would:

Amplify the kinds of explosives and incendiary devices to which the statute applies;

Broaden its scope to proscribe the transportation or receipt of explosives or incendiary devices in commerce with the knowledge or intent that they will be used to kill, intimidate or injure persons, or unlawfully damage buldings, vehicles or property, without requiring proof of a specific objective;

Proscribe the malicious damage or destruction of property owned or leased by the Government by means of an explosive, and forbid the unauthorized possession of explosives in Government buildings;

Prohibit malicious damage by means of an explosive to real or personal property used for business purposes by anyone engaged in interstate commerce, or in an activity affecting commerce;

Add a provision covering the possession of explosives with the knowledge or intent that they will be transported or used in violation of the foregoing provisions; and

Revise the penalties upward in several significant respects.

The Committee on the Judiciary agreed that the legislation proposed by the administration would make a significant contribution to the Federal legal framework designed to deal with the unlawful use of explosives. The committee made three amendments to the bill designed to perfect the statute even further.

First, the term "endeavors" has been substituted for the term "attempt" throughout the bill. Unlike the latter term, judicial construction of "endeavors" has developed free of much of the traditional learning in the attempt area, where prosecutions have been defeated, for example, where it has been possible to intervene before the act of bombing has been consumated or the bomb itself fails to explode.

Second, language has been added to the bill that would exempt from its coverage legitimate sporting activities of some 10,000 of our citizens who legitimately use black powder, smokeless powder and primers, percussion caps, and fuses in connection with muzzle-loaded rifles and other guns for hobbies, sporting events, and other similar endeavors.

Third, language has been added to the proposed legislation to include section 837 in those Federal offenses in the investigation of which electronic surveillance and immunity techniques may be employed. The committee believes that bombings and arsons should obviously be included among the other serious offenses to which these techniques are applicable.

The most significant of the penalty provisions of the bill, as compared with existing law, are found in subsections (b), (d), and (f) of proposed section 837. These subsections cover the transportation or receipt of explosives in commerce with knowledge or intent that they will be used in violation of the statute, the bombing of Federal buildings and other property, and the bombing of buildings or property used for business purposes by persons engaged in commerce. For each of these illegal activities, the bill would authorize maximum penalties of 10 years imprisonment or a fine of $10,000, or both. These penalties would be doubled if personal injury resulted, with additional imprisonment of up to a life term or the death penalty if death resulted.

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The existing statute similarly authorizes the death penalty for bombing incidents resulting in fatalities. However, the existing provision requires a jury recommendation for imposition of the death penalty, and is therefore unconstitutional under the 1968 Supreme Court decision in United States against Jackson.

Despite the fact that the bill would merely remove the constitutional defect in the statute, rather than authorize the death penalty in a statute in which it was not previously authorized, the issue of capital punishment is before us today.

In recent years there has been considerable argument on both sides of the issue. I believe that the death penalty, limited to the most heinous of crimes, serves as an effective deterrent to many who could otherwise commit such crimes. Others disagree, and contend that capital punishment is not a deterrent.

The President's Commission on Law Enforcement and Administration of Justice took neither position, for the reason that we just do not know enough to say with certainty which side is correct. Instead, the Commission stated that "whether capital punishment is an appropriate sanction is a policy decision to be made by each State." It went on to recommend that where it is retained, the types of offenses for which it is available should be strictly limited.

Mr. President, I subscribe to the view of the President's Commission. As a result, I urge that the Senate approve without change the provisions of S. 3650 which authorize the death penalties when fatalities occur; for if there is any offense which warrants the imposition of the extreme penalty, it is the wanton killing of innocent persons by the bombs of the terrorists. The revulsion and horror which I felt last month when reading about the tragic death of the research professor in a bombing at the University of Wisconsin was, I am certain, shared by all of my colleagues.

I urge the Senate to approve this important legislation and expedite its passage here today.

AMENDMENT OF TITLE I OF THE LAND AND WATER CONSERVATION FUND ACT OF 1965

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1708.

The PRESIDING OFFICER (Mr. HART) laid before the Senate the amendment of the House of Representatives to the bill (S. 1708) to amend title I of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), and for other purposes which was to strike out all after the enacting clause, and insert:

That subsection 2(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C.) 4601–5(c)) is amended as follows:

(a) In clause (1), strike out "five fiscal years beginning July 1, 1968, and ending June 30, 1973" and insert "fiscal years 1968, 1969, and 1970, and not less than $300,000,000 for each fiscal year thereafter through June 30, 1989."

(b) In clause (2), after "$200,000,000" insert "or $300,000,000" and after "for each of such fiscal years," insert "as provided in clause (1),".

SEC. 2. Section 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484), is further amended by redesignating section 203(k)(2) as section 203(k)(3), and by adding a new section 203(k)(2) as follows:

"(k)(2) Under such regulations as he may prescribe, the Administrator is authorized, in his discretion, to assign to the Secretary of the Interior for disposal, such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Secretary of the Interior as needed for use as a public park or recreation area.

"(A) Subject to the disapproval of the Administrator within thirty days after notice to him by the Secretary of the Interior of a proposed transfer of property for public park or public recreational use, the Secretary of the Interior, through such officers or employees of the Department of the Interior as he may designate, may sell or lease such real property, including buildings, fixtures, and equipment situated thereon, for public park or public recreational purposes to any State, political subdivision, instrumentalities thereof, or municipality.

"(B) In fixing the sale or lease value of property to be disposed of under subparagraph (A) of this paragraph, the Secretary of the Interior shall take into consideration any benefit which has accrued or may accrue to the United States from the use of such property by any such State, political subdivision, instrumentality, or municipality.

"(C) The deed of conveyance of any surplus real property disposed of under the provisions of this subsection—

"(i) shall provide that all such property shall be used and maintained for the purpose for which it was conveyed in perpetuity, and that in the event that such property ceases to be used or maintained for such purpose during such period, all or any portion of such property shall in its then existing condition, at the option of the United States, revert to the United States; and

"(ii) may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Secretary of the Interior to be necessary to safeguard the interests of the United States.

"(D) 'States' as used in this subsection includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States."

SEC. 3. The first sentence of subsection (n) of section 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(n)), is amended by striking "(k)" and substituting "(k)(1)" in lieu thereof.

SEC. 4. Subsection (o) of section 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484 (o)), is amended to read as follows:

"(o) The Secretary of Health, Education, and Welfare, with respect to personal property donated under subsection (j) of this section, and the head of each executive agency disposing of real property under subsection (k) of this section shall submit during the calendar quarter following the close of each fiscal year a report to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House if the House is not in session) showing the acquisition cost of all personal property so donated and of all real property so disposed of during the preceding fiscal year."

SEC. 5. Section 13(h) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(h)) is amended by—

(1) striking out the phrase "public park, public recreational area, or" in paragraph (1) thereof; and

(2) striking out the first full sentence of paragraph (2) thereof.

And amend the title so as to read: "An Act to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes."

Mr. JACKSON. Mr. President, on June 26, 1969, the Senate passed S. 1708, the Federal Lands for Parks and Recreation Act. On August 10, 1970, the House of Representatives passed an amended version of the same bill. The House version of S. 1708 is an outgrowth of two bills, H.R. 15913, reported by the House Committee on Interior and Insular Affairs, and H.R. 18275, reported by the House Committee on Government Operations. Though its approach is slightly different, S. 1708 as amended by the House would accomplish all the principal objectives of the Senate-passed bill. In addition, S. 1708 as amended by the House would increase the minimum funding level of the land and water conservation fund from $200 million to $300 million annually.

The principal differences between the House and Senate versions are:

The Senate bill grants authority to the Secretary of the Interior to transfer surplus Federal real property for less than 50 percent of fair market value only through fiscal year 1973. The House amendment grants this authority in perpetuity. This provision of the House-passed bill is desirable, because it recognizes that the Nation's need for urban park and recreational facilities is a continuing one. This provision will put park and recreational purposes on a par with other purposes for which discounts of up to 100 percent are available, on a permanent basis.

The House amendment modifies the Senate formula for setting prices for properties transferred pursuant to the act by vesting authority in the Secretary of the Interior to establish the prices on the basis of "benefit which has accrued or may accrue to the United States from the use of such property" by the transferee. This authority is identical to that vested in the Secretary of Health, Education, and Welfare with respect to transfers for health and educational purposes. The following exchange of letters indicates the views of the Secretary of the Interior on that provision, as well as on a provision allowing him to lease rather than sell properties to eligible recipients:

AUGUST 27, 1970.

Hon. WALTER J. HICKEL,
Secretary of the Interior,
Washington, D.C.

MY DEAR MR. SECRETARY: On August 10, 1970, the House of Representatives passed S. 1708, relating to the disposal of surplus Federal properties for park and recreational purposes, which the Senate had passed on June 26, 1969. The House version directs the Secretary of the Interior, in setting the price to be paid by State and local governments and their agencies for surplus Federal properties transferred pursuant to the Act, to "take into consideration any benefit which has accrued or may accrue to the United States from the use of such property by any such State, political subdivision, instrumentality, or municipality." The report of the House Committee on Government Operations (Report No. 91–1313) which accompanied the bill containing this language declares that the discount would be "100 per cent in all but the rarest of cases." I have reviewed the criteria established by the Bureau of Outdoor Recreation which, in your June 4, 1970, letter to Chairman Aspinall of the House Interior and Insular Affairs Committee, you propose to use in the determination of discounts if the bill is enacted containing the present House language with respect to price. In preparing for further Senate action on S. 1708, I would appreciate your answers to the following questions:

1. Do you concur that the discount would be "100% in all but the rarest of cases"?

2. In what kinds of cases if any would the transfers not qualify for a 100% discount?

In addition, the version of S. 1708 passed by the House of Representatives would authorize the Secretary of the Interior to lease rather than sell properties eligible for transfer pursuant to the Act. With respect to this provision I would appreciate your answer to the following questions:

1. Would any properties qualifying for transfer under the Act be leased instead of conveyed in fee?

2. If so, in what kinds of instances would they be leased rather than conveyed in fee?

Any amplification you would care to add to your answers to the above questions would of course be appreciated. In order to assure final action on this legislation during the 91st Congress, I would appreciate receiving your reply by Tuesday, September 8, 1970.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 8, 1970.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This complies with your request of August 27, 1970, for information regarding the implementation of the House amendment in S. 1708 of Section 203 (k) (2) (B) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484), which reads as follows:

"(B) In fixing the sale or lease value of property to be disposed of under subparagraph (A) of this paragraph, the Secretary of the Interior shall take into consideration any benefit which has accrued or may accrue to the United States from the use of such property by any such State, political subdivision, instrumentality, or municipality."

You ask for information on circumstances under which 100 percent public benefit allowances would not be available, and for information on when available properties would be leased rather than sold.

I. PUBLIC BENEFIT ALLOWANCE SYSTEM FOR SELLING OR LEASING SURPLUS LANDS FOR PARK AND RECREATION PURPOSES

The Secretary, in fixing the sale or lease value of property to be disposed of for park and recreation purposes, would be required to use a public benefit allowance system with discounts of up to 100 percent of the fair market value of the property.

Three types of public benefit allowances would be available:

1. An applicant would qualify for a basic 50 percent public benefit allowance if he agreed to develop and/or maintain the property for which he was applying in public park and recreation uses in perpetuity. To qualify for this basic allowance, an application, including a proposed land utilization plan would be required which would show:

a. current or future need for the land and planned facilities;

b. ability and authority of the applicant to develop, operate, and maintain the facilities;

c. evidence that the area sought was suitable or adaptable for the proposed use; and

d. evidence that the area sought would not allow discrimination on the basis of race, color, creed or national origin.

The application would have to meet *all four* of the above requirements to qualify for a 50 percent basic public benefit allowance.

2. An applicant would qualify for up to an additional 50 percent public benefit allowance based on the capability of the area sought to meet public recreation needs. This allowance would be determined by analyzing the application and the accompanying utilization plan, taking into account the following factors:

a. need, as identified in the Nationwide Outdoor Recreation Plan and in Statewide Comprehensive Outdoor Recreation Plan;

b. expense of converting the property to suitable, needed recreation uses;

c. accessibility of the property to population centers; and

d. commitment to develop the property in accordance with an approved public park or recreation plan within a specific period of time (5 to 10 years, depending on size of the development).

The Bureau of Outdoor Recreation now operates an evaluation system called COMPARE to assess outdoor recreation programs. Factors 2(a) through 2(d) would be evaluated based on the experience gained in operating the COMPARE system.

3. A special consideration allowance of up to 50% would be given for the following factors:

a. accessibility to the property by public transportation—10 percent;

b. provision of needed urban core recreation areas and facilities—10 percent;

c. preservation of outstanding scenic or historic resources as auxiliary benefits of the recreation project—10 percent; and

d. such other special or unusual factors as the Secretary might determine should be taken into account—20 percent.

We have screened forty properties by the above Public Benefit Allowance System that were transferred to States or local governmental units for park and recreation purposes at a 50 percent discount from 1966 to 1969 and each property would have qualified for a 100 percent discount. Also, based on the information available to us, properties such as Fort Lawton in Seattle, Washington, and Fort Snelling in Minneapolis, Minnesota, would qualify for 100 percent discounts.

II. CONVEYANCES WITH LESS THAN 100 PERCENT PUBLIC BENEFIT ALLOWANCES

In response to your request for our concurrence that the discount would be "100% in all but the rarest of cases," we note that, as reflected in the legislative history, conveyances of surplus Federal property suitable for public recreation would seldom be made except with 100 percent public benefit allowances. We anticipate that exemptions would largely involve areas which primarily serve recreation purposes but which contain facilities or installations not suitable for recreation purposes. A small building housing manufacturing facilities leased to a private operator in the midst of a large recreation tract might be an example of a property for which an applicant might receive less than 100 percent public benefit allowance. This same type of exception could also occur in the case of runways on airports, transmitting towers and other installations which would not be suitable for recreation and park use.

III. LEASING ARRANGEMENTS

A lease arrangement for properties qualifying for transfer under the Act might be necessary and advantageous when the State or local government unit is able to assume operation and maintenance of an area prior to finalizing an approved recreation use and development plan upon which to establish a sale price. A lease arrangement may also be necessary when the State or local governmental unit making application for the land does not have legal authority to purchase or acquire land.

If you would like additional information, please do not hesitate to contact me.

Sincerely yours,

WALTER J. HICKEL,
Secretary of the Interior.

Mr. President, the House version of S. 1708, unlike the Senate version, affords greater discretion to the Administrator of the General Services Administration in acting upon recommendations of the Secretary of the Interior that particular parcels be transferred for park and recreational purposes. This discretionary authority is presently vested in the Administrator with respect to properties recommended by the Secretary of Health, Education, and Welfare for transfer for health and educational purposes, and would allow the Administrator to make an overall assessment of the merits of respective proposals in view of the public interest in each case. The following exchanges of correspondence set forth the Administrator's views on the language of the House amendment:

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SEPTEMBER 22, 1970.

Mr. ROBERT L. KUNZIG,
Administrator, General Services Administration, Washington, D.C.

MY DEAR MR. ADMINISTRATOR: On August 10, 1970, the House of Representatives passed, with amendments, S. 1708, providing in part for the transfer to State and local governmental units of surplus Federal real property for park and recreational purposes, at less than fair market value. The House version unlike the Senate bill, provides for the amendment of the Federal Property and Administrative Services Act of 1949 and vests considerable responsibility in the office of the Administrator of General Services. In preparing for further Senate action on the legislation I would appreciate receiving your views on some of the provisions of the House amendment, in lieu of formal departmental report.

Section 2 of the House amendment provides in part:

Under such regulations as he may prescribe, the Administrator [of the General Services Administration] is authorized, in his discretion, to assign to the Secretary of the Interior for disposal, such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Secretary of the Interior as needed for use as a public park or recreation area.

The same section further provides that the Secretary of the Interior may sell or lease surplus real property,

[s]ubject to the disapproval of the Administrator [of the General Services Administration] within thirty days after notice to him by the Secretary of the Interior of a proposed transfer of property for public park or public recreational use. . . .

I would be happy to have the benefit of your comments on the above provisions, particularly with reference to:

(a) procedures to assure that the Secretary of the Interior will be afforded an opportunity to evaluate each parcel of real property that is declared surplus for its potential value for park and recreational purposes;

(b) standards to assure that the recreation needs of the country receive a high priority in the evaluation of the recommendations of the Secretary of the Interior.

The following specific questions are posed to aid you in addressing the matters set forth above:

1. Would the Secretary of the Interior receive notification of the fact that property is surplus at the same time as the Secretary of Health, Education, and Welfare?

2. Would there be any circumstance in which the Secretary of the Interior would not be afforded an opportunity to formulate a recommendation that a parcel of surplus property be transferred for park or recreational use?

3. Do you anticipate formulating any standards by which to assess the suitability of property for park or recreational uses in comparison with other potential uses? If so, what do you anticipate they might be?

4. Would the existence of an alternative proposal for transfer at less than fair market value pursuant to statute be necessary before a recommendation by the Secretary of the Interior for transfer for park or recreational use would be disapproved?

5. Would the probability that the property could be sold by negotiated sale or auction be likely to affect a decision to disapprove a recommendation of the Secretary of the Interior that certain property be transferred for a park or recreational use?

6. Would you be likely to ask the Secretary of the Interior to inform you of the price he intended to set with respect to a recommended transfer? Would the proposed price be likely to affect the decision as to whether to approve his recommendation?

I regard this legislation, which I sponsored in the Senate, as vitally important in our national effort to provide needed facilities for park and recreational purposes, and am anxious to assure that it will be administered in such a way as to assure this objective. It is my understanding through his sponsorship of similar legislation and from his numerous public statements on the subject that President Nixon shares my views on the importance of this legislation. I have asked the Secretary of the Interior for his interpretation of certain provisions of the House amendment and have obtained a gratifying response, a copy of which I am enclosing for your information.

In view of the short time remaining for further Congressional action this year, I would appreciate receiving your reply by September 28, 1970. I trust that your familiarity with the language in the House of Representatives amendment will make it possible for you to meet this deadline.

Sincerely yours,
HENRY M. JACKSON,
Chairman.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., September 30, 1970.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of September 22 concerning S. 1708.

The provisions of this proposed legislation are similar to those established by section 203(k) of the Federal Property and Administration Services Act of 1949, as amended (40 U.S.C. 484(k)), authorizing the Administrator of General Services to assign to the Secretary of Health, Education, and Welfare (DHEW) surplus real property recommended by the Secretary as being needed by eligible State and local public agencies for health or educational purposes.

Because of our deep concern over the need for open spaces and recreational areas, particularly in urban communities, we will make every effort to see that appropriate unneeded Federal land is similarly made available for park and recreational use if S. 1708, as amended, is enacted. However, the recommendations of the Secretary of the Interior could receive no higher priority than those of the Secretary of Health, Education, and Welfare with respect to health or educational applications. Also, applications from eligible public agencies to acquire surplus real property under the other laws of general application would have to be considered as well as the benefits to be derived from negotiated or competitive sale of the property involved. Our comments follow on your specific questions in the order in which they were asked:

1. Yes, the same procedure and timing would be followed that is now followed to notify the Secretary of Health, Education, and Welfare.

2. Yes, where a property is clearly unsuitable for park use (to cite one example, a contractor-operated Government-owned industrial facility) the Secretary of the Interior would not be afforded such an opportunity. This too is the procedure currently followed in notifications to the Secretary of Health, Education, and Welfare.

3. No, each property has its own characteristics and, therefore, our only criteria can be what will best serve the overall interest of the Federal Government and the community consistent with the nature of the property. In arriving at a determination, we carefully consider the character of the surrounding area, the nature of the Government property, community needs, and proposed use.

4. No, our comments on question number three would apply here. It would not be necessary to have an alternate proposal for transfer at less than fair market value for us to make a decision on a recommendation by the Secretary of the Interior. The decision will be made on the merits of the Secretary's proposal in each case.

5. No, the probability that surplus real property could be sold would not affect a decision on a recommendation by the Secretary of the Interior. As a practical matter, our experience indicates that there is no property that cannot be sold. As previously stated, the benefits to be derived from sale would have to be weighed against other uses such as park and recreation or health and education before we would reach a final decision in a particular case.

6. We would ask the Secretary of the Interior to inform us of the price set for the conveyance of surplus real property for park and recreational use, but such information would not affect our decision on his recommendation. Here again, this is the procedure presently followed in health and educational conveyances.

Sincerely,
ROBERT L. KUNZIG,
Administrator.

SEPTEMBER 23, 1970.

Mr. ROBERT L. KUNZIG,
Administrator, General Services Administration, Washington, D.C.

MY DEAR MR. ADMINISTRATOR: It has come to my attention that the House of Representatives recently passed, with amendments, S. 1708, relating to the transfer of surplus Federal property to State and local governments for park and recreational purposes. It is my understanding that the House amendment, unlike the Senate bill, amends the Federal Property and Administrative Services Act of 1949 and vests considerable discretion in your office.

Because of this Committee's interest in the subject of surplus real property disposal, I would appreciate receiving your views on the criteria you anticipate would be established for the evaluation of recommendations of the Secretary of the Interior that particular parcels be transferred pursuant to the legislation. For example, would you approve recommendations of the Secretary of the Interior that the following properties be transferred to State or local governmental applicants at a public benefit discount?

(1) Camp Atterbury, Indiana;
(2) Camp Parks, California;
(3) Fort Lawton, Washington;
(4) Fort Snelling, Minnesota;
(5) Fort Tilden, New York;
(6) Fort Totten, New York.

A discussion of the criteria relevant to a decision in each of these cases would be appreciated.

As S. 1708 is now awaiting action before the Senate before adjournment, I would appreciate receiving your answer at the earliest possible convenience.

With kindest personal regards, I am.

Sincerely yours,
JOHN L. MCCLELLAN,
Chairman.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., October 1, 1970.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of September 23 concerning transfers of surplus Federal property to State and local governments for park and recreational purposes as contemplated by S. 1708.

Each property has its own special characteristics and each case must be decided on its individual merits. Therefore, it would be difficult to establish across the board criteria for evaluating recommendations submitted by the Secretary of the Interior. The procedure for evaluating a recommendation by Interior would be similar to that now followed with respect to requests for property by the Department of Health, Education, and Welfare. Because of past disposal

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activities, we have some familiarity with Camp Atterbury, Indiana; Fort Snelling, Minnesota; and Fort Tilden, New York, and we believe, considering location, value, topography, and known community desires that park and recreational use of these properties would be appropriate. Property at Camp Atterbury has been conveyed for park and recreational purposes in the past and recent studies of Fort Snelling and Fort Tilden indicate that both properties are suitable for such use. Therefore, if S. 1708, as amended, becomes law, and depending upon the substance of recommendations received from the Secretary of the Interior, we would probably approve any proposed park and recreational use of these properties at public benefit allowance.

We are not yet in a position to make a determination with regard to Camp Parks, California; Fort Lawton, Washington; or Fort Totten, New York.

Fort Lawton has not been reported to us as excess to the requirements of the Department of Defense. However, we are conducting a survey of this property pursuant to Executive Order 11508 and it appears that portions of this installation are appropriate for park use.

Although we have portions of Camp Parks and Fort Totten, we have made no preliminary disposal studies due to Federal requirements for both properties. The property at Camp Parks is being held for exchange to acquire other property needed to satisfy existing Federal requirements. With the exception of the old fort itself, the Fort Totten property is under permit to the Department of Labor for use in connection with a Job Corps program. We have advised the State of New York that the old fort area, consisting of approximately 11 acres, is available for historic monument use.

Please let us know if we may be of further assistance.

Sincerely,

Rod Kreger,
Acting Administrator.

Mr. President, the House version, in addition to its surplus property provisions, would establish the minimum level of the land and water conservation fund at $300 million per year for the life of the fund. Present law establishes that minimum at $200 million per year through fiscal year 1973, with no prescribed minimum after that. The House provision would accomplish the same result as S. 3505, which carries the sponsorship of every member of the Senate Committee on Interior and Insular Affairs, and is very much in accord with the long-range recreational needs of this country.

Mr. President, I introduced S. 1708 earlier in this Congress because it is my view that, as a nation, we are not meeting the need of present and future generations of Americans for parks, for open spaces and for recreational opportunity. We are not meeting this need because we have failed to appropriate money to set aside enough land for these purposes.

Those of us who have the honor to serve in the Congress are the trustees of the land and the environment for those who come after us. Our decisions today determine the shape of our country's future environment. Our decisions determine whether our legacy to the future is a quality life in quality surroundings or whether it is a legacy of social unrest bred in conditions of crowding, congestion, ugliness, and lack of recreational opportunity and natural beauty.

It is my judgment that S. 1708 as passed by the Senate and amended by the House will play an important role in insuring that our legacy to future generations is a quality life in a quality environment.

The purpose of this measure is twofold: First, to make surplus Federal property available to State and local governments for park and recreational purposes at prices which reflect the important role recreation and open spaces play in our contemporary life. Second, to increase the minimum funding level of the land and water conservation fund from $200 million to $300 million a year for the life of the fund.

I consider the surplus property provisions of S. 1708 as passed by the Senate to be preferable to the House amendment in several important respects. The Senate passed bill, unlike the House amendment, established: First, congressional criteria concerning the suitability of particular parcels for park and recreational use; second, a congressional priority for park and recreational uses, in keeping with the Nation's urgent need for such facilities, particularly in and near our urban areas; and third, a more definite pricing formula, with particular emphasis on historical equity. Consequently, if time were not of the essence, I would recommend that the Senate disagree to at least some of the House amendments.

However, time is running short for the 91st Congress. Moreover, because of the dual jurisdiction exercised over this legislation in the House of Representatives by the Committee on Interior and Insular Affairs and the Committee on Government Operations, as well as the extensive ramifications of the change in surplus property disposal procedures and priorities that might result from the Senate bill, and further delay in approving the legislation would, in my judgment, jeopardize its enactment this year.

With this in mind, I decided to seek the views of the Secretary of the Interior and the Administrator of the General Services Administration in whom the House version of S. 1708 vests considerable discretion. Their responses, which I have placed in the Record, indicate their strong desire to carry out the congressional mandate and the President's declared policy to provide park and recreational facilities where there is a demonstrated need at no cost or at minimal cost to local governments. In view of these assurances and in view of the legislative history in both Houses of Congress of similar purport, and in consideration of the vital importance of this legislation and of the short time remaining in which to act on it, I recommend that the Senate concur in the amendments of the House.

This procedure will establish a means whereby State and local government can immediately begin to acquire surplus Federal property for park and recreational purposes at little or no cost. As the report of the House Committee on Government Operations noted at page 2:

> For all practical purposes that benefit [the public benefit discount] would be 100 percent in all but the rarest of cases since absent such substantial benefit the property would not qualify for transfer under this legislation.

During floor debate on the House amendment, Congressman Meeds asked the author of the amendment, Congressman Brooks the following question about the cost of property transfers:

> Mr. Meeds. Is this committee using this language in the context that the Secretary is, as it says, in all except the rarest cases, to transfer this property for all intents and purposes free of charge to the municipalities and States involved?
>
> Mr. Brooks. The gentleman is correct . . ." (page 28068, Congressional Record, August 10, 1970).

Accepting the House amendment at this time will also insure that the minimum funding level of the Land and Water Conservation Fund will be increased from $200 million a year to $300 million a year for the life of the fund. The fund is, of course, the backbone of the Federal Government's and the State government's park and recreation land acquisition program.

S. 1708 is in accord with and in furtherance of our longstanding national policy to encourage State and local governments to acquire and develop lands for parks and outdoor recreation.

This measure is of special importance to metropolitan areas where the need for parks and open spaces is greatly increasing while at the same time the limited land available is being dedicated to other, often incompatible, uses. If we are to improve the quality of life and surroundings for the American people, we will have to take advantage of every future opportunity to acquire land adjacent to where people live for recreational and park purposes.

In spite of our longstanding national policy to encourage and assist State and local governments in the acquisition of open spaces, we are not coming close to meeting the need. Because of the high price of potential park and recreation areas which are located where they are needed most—where the people are—many cities are unable to meet the demand. One way to meet the Nation's critical need for parks and recreation areas is to take advantage of every available opportunity to see that appropriate parcels of surplus Federal property—property owned by all Americans—are dedicated to the highest and best uses for the American public. Park and recreational use may not be the use that generates the most immediate revenues, but government is not a business for profit. And the success of government is not measured by maximizing the monetary return on investment. It is measured by the caliber and the quality of the life made available to the people which government serves.

Sections 2 through 5 of S. 1708 would authorize the transfer of lands from one public purpose for which they are no longer needed to another public purpose for which the need is critical. The utility and reasonableness of such intergovernmental property transfers have already been recognized. Transfers are presently authorized on a no-cost, or at reduced-cost basis of 0 to 50 percent of fair-market value, to make surplus Federal property available to States and their political subdivisions for use for health and education purposes, for historic sites, for wildlife conservation and airports. S. 1708 places the needs of people for parks, recreation and for open space on a par with their need for health and education facilities. It places the needs of our young people for recreational opportunities on a more comparable basis with the public's need for historic sites, for wildlife conservation and for airports.

Today there are over 30 million acres of land presently held in fee ownership and used by the Department of Defense alone. Periodically, portions of this property are declared surplus. Many of these surplus military installations are located in or near major metropolitan areas and afford a great opportunity for urban park and recreational complexes. Authorizing disposition of those properties which are suitable for park and recreational purposes can be a concrete demonstration that swords can be hammered into park benches, and that military parade and training grounds can be turned into ball parks for our youth. Surplus property held by other departments of the Federal Government afford similar opportunities.

The alternative to enactment of S. 1708 is, of course, to continue to deal with surplus Federal property as we have in the past. Of the thousands of acres of surplus property disposed of every year, less than 5 percent by valuation have been dedicated to park and recreational purposes. I don't believe this is adequate. I do not believe it fits the real needs of our Nation and our people. In fiscal year 1968 only 22 properties totaling a mere 2,740 acres were conveyed to State and local government for park and recreational purposes under the provisions of the present law.

Mr. President, adoption of the House-passed bill will make it possible for the Congress to insure that the States and units of local government in this Nation have a chance—a financially realistic chance—to acquire surplus Federal lands for park and recreational purposes.

Mr. President, as I noted in my statement on March 27, 1969, when S. 1708 was introduced, I became aware of the urgent need for legislation when it became apparent that Fort Lawton—a military installation in the city of Seattle—would soon be declared surplus to Federal needs. The problem Seattle and many other units of local government face is that paying 50 percent of fair-market value for property of this nature may be financially impossible. This is especially true when the property is located in or near a major metropolitan area and the land appraisals are based on commercial, industrial, or high-density residential development.

The problem posed is national in scope. The great need in our cities to develop facilities for public recreation is self-evident. The escalating costs of land acquisition often preclude purchase of additional property at market value. Where unique opportunities exist to turn surplus Federal lands to such use, it surely is in the public interest to do so.

The surplus property provisions of S. 1708 are an important and necessary adjunct to our Nation's park and recreational program. They are designed to allow property which would otherwise be sold for private and industrial development to be dedicated for public use and enjoyment. We have both an opportunity and a responsibility to see that surplus lands held in Federal ownership are reviewed for their park and recreational potential, and where the lands are suited for these purposes, that State and local government have an opportunity to acquire the property for park and recreational use.

This measure will be of great benefit to our cities and our urban areas. It is no answer to the public's needs for open space to say that the cities should go out on the open market and purchase property for park and recreational use. Property which has park and recreational value is in great demand by real estate developers and by business interests for commercial and industrial purposes. State and local government cannot compete with these groups. And as a result, history shows that they have not acquired the property needed for these purposes.

We already have enough concrete in our cities. What we need is grass, trees, and open spaces. We need a policy to reverse the one-way process of urban sprawl, development and shrinking open spaces.

Mr. President, I am in basic and fundamental disagreement with those who propose that the Federal Government should let marketplace economics dictate whether and where our States and cities will have park and recreational facilities. We need only to look around any major city to see that the marketplace does not make decisions which are in the public interest. The marketplace makes decisions which maximize private profits. And at the same time, it generates air and water pollution; it gobbles up land with urban sprawl and concrete; and it initiates many other private actions which are often flatly opposed to the public interest.

The provision of the House amendment to S. 1708 increasing the funding authorization of the land and water conservation fund to $300 million per year is also much needed, as the May 18, 1970, hearing held by the Interior Committee's Subcommittee on Parks and Recreation on a companion measure, S. 3505, clearly indicated. Both administration and public witnesses stressed the urgency of the need for all levels of government to acquire additional recreational lands.

I introduced S. 3505 because I believe further delays in acquiring and developing lands will only mean that less and less land can be acquired in the future for outdoor recreation purposes. Recent statistics indicate that land values are increasing annually on the average of 5 to 10 percent. The rate has been significantly higher for recreation lands, especially for water-oriented lands. The demand for outdoor recreation use has accelerated at a rate greater than the population increase, and the suitable lands for recreation are more scarce relative to land use generally, causing a greater acceleration in recreation land prices.

The fact remains inescapable that if future recreation needs are to be met, the land base must be acquired within 5 to 10 years. After such time either the cost of recreation lands will be prohibitive, or the lands will become committed to other competitive uses. We already know, through a report on land price escalation prepared last year by the Department of the Interior, that total Federal and State needs under the land and water conservation fund for the next 10 years is about $3.6 billion. On a 5-year projection, the need is estimated at $1.5 billion.

I am pleased to note that Senator ALLOTT, the ranking minority member of the Committee on Interior and Insular Affairs, and all other members of the committee, on both sides of the aisle, have joined me in sponsoring this legislation. I ask unanimous consent that a copy of S. 3505 and the Interior Department's report on the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3505

A bill to amend the Land and Water Conservation Fund Act, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c)(1) of section 2 of the Land and Water Conservation Fund Act of 1965 (Public Law 88–578; 78 Stat. 897), as amended, is further amended to read as follows:

"(c)(1) OTHER REVENUES.—In addition to the sum of the revenues and collections estimated by the Secretary of the Interior to be covered into the funds pursuant to this section, as amended, there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated such amounts as are necessary to make the income of the fund not less than $300,000,000 for each fiscal year beginning July 1, 1970.

"(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund amount to $300,000,000 for each fiscal year, an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.): *Provided*, That, notwithstanding the provisions of section 3 of this Act, moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purpose of this Act."

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 15, 1970.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee has requested the views of this Department on S. 3505, a bill "To amend the Land and Water Conservation Fund Act, and for other purposes."

We recommend the enactment of the bill with amendments recommended herein.

S. 3505 would increase the $200 million deposited in the Land and Water Conservation Fund under section 2(c) of the Land with Water Conservation Fund Act of 1965 (78 Stat. 897) as amended, to $300 million for each fiscal year beginning July 1, 1970. The additional $100 million needed to reach the proposed funding levels would come from

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appropriations from the general fund of the Treasury or, in the absence of such appropriations, from the mineral leasing receipts under the Outer Continental Shelf Lands Act.

This Department has carefully considered the need for an increase in the authorization level of the Land and Water Conservation Fund to allow establishment of recreational facilities, with urban areas having a first priority. As President Nixon said in his Environmental Message to Congress: "Increasing population, increasing mobility, increasing incomes, and increasing leisure will all combine in the years ahead to rank recreational facilities among the most vital of our public resources. Yet land suitable for such facilities, especially near heavily populated areas, is being rapidly swallowed up."

In support of the President's statement, Secretary Hickel recently stated:

"Three-quarters of the population live in and around our major cities and that concentration is increasing. We must bring more 'parks to the people' to relieve the social pressures in these crowded areas."

Secretary Hickel has expressed concern that the past practice of simply authorizing new Federal areas without the money to pay for them has left us sitting on a backlog of "parks" that exist only on paper, while their cost skyrockets. We feel that we must keep our authorizations and appropriations parallel, so that we can pay for recreation areas at the same time we select them.

In addition, Secretary Hickel said: "In order to provide needed lands and waters at minimum cost, we recommend that the assured authorized level of the Fund be raised to $300 million."

We recommend that on line 4, page 2, the year "1970" be deleted and the words "1971 and for each fiscal year thereafter" be inserted. The President has already requested in his 1971 budget that the amount of $357.4 million be appropriated from the Fund.

The Bureau of the Budet advises that there is no objection to the presentation of this report and that enactment of S. 3505, if amended as recommended above, would be in accord with the program of the President.

Sincerely yours,
FRED J. RUSSELL,
Acting Secretary of the Interior.

Mr. JACKSON. Mr. President, I also ask unanimous consent that portions of report No. 91-1313 on H.R. 18275 from the Committee on Government Operations of the House of Representatives be printed at this point in the RECORD, together with appropriate excerpts from report No. 91-1225 on H.R. 15913 from the Committee on Interior and Insular Affairs of the House of Representatives.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOUSE REPORT No. 91-1313

PURPOSE

H.R. 18275 would amend the Federal Property and Administrative Services Act of 1949 as amended, to provide for the sale or lease of surplus Federal property to State and local governments, at discounts of up to 100 percent, for park and recreational use.

The objective of the program is to allocate a larger portion of this Nation's land area to park and recreational uses, to preserve our fast-disappearing open spaces, and to assist local governments in providing more and better facilities to meet the recreational needs of our growing communities. As America becomes increasingly urbanized and industrialized, the need for public parks and recreational areas becomes more apparent each day and, at the same time, more difficult to meet.

BACKGROUND

The Federal Government has long had a program to assist State and local governments in acquiring park and recreational areas. One facet of this program has been a provision making surplus Federal property available to State and local governments for park and recreational purposes at 50 percent of fair market value.

This program has aided some communities in their park development programs but for the most part has been ineffective. Cities, hardpressed for additional tax funds for priority programs, have had great difficulty in generating the revenues needed to meet the 50 percent requirement. The requests for surplus property under this program have been decreasing in recent years.

DISCUSSION

This legislation would make surplus Federal real property, including buildings, fixtures, and equipment thereon, available by sale or lease to State and local governments at discounts of up to 100 percent depending on the benefits which have accrued or may accrue to the public of the United States in the continuing use of the property. For all practical purposes, that benefit would be 100 percent in all but the rarest of cases, since absent such substantial benefit the property would not qualify for transfer under this legislation.

* * * * *

The intent of this legislation is to assist the local governments in meeting their responsibilities for providing park and recreational areas. The national park program cannot meet all of the requirements. Traditionally, the States and cities have supplemented that program with regional and local park areas. The Nation's needs will be met only if both programs are adequately and enthusiastically supported.

HOUSE REPORT No. 91-1225

THE FEDERAL LAND AND WATER CONSERVATION FUND PROGRAM

The Land and Water Conservation Fund Act of 1965 (Public Law 88-578, 78 Stat. 897) authorized a Federal program which has as its sole objective the expansion of outdoor recreation opportunities in every region of the Nation for the enjoyment, inspiration and physical benefit of all Americans. To accomplish this goal, the Congress authorized a two-pronged Federal program. One element permits the Secretary of the Interior to assist the States in the expansion of their outdoor recreation programs; the other enables the Federal agencies with outdoor recreation responsibilities to pursue their authorized land acquisition programs. Together, this joint effort constitutes the essence of the national outdoor recreation program.

1. Background of the land and water conservation fund program

In recognition of the growing outdoor needs throughout the Nation the Congress enacted legislation establishing the Outdoor Recreation Resources Review Commission. To that body it assigned the task of ascertaining not only what the immediate outdoor recreation needs of the Nation were, but also what the long-term requirements would be if the American people were to continue to enjoy the quantity and quality of recreation oppotunities to which they had become accustomed.

All of the data developed by the Commission pointed to increased demand for more recreational opportunities. Projections of more people with more leisure time and greater mobility and financial resources led to the inevitable conclusion that the impact on existing outdoor areas would continue to increase in the years ahead. As a result, long before the environment began to receive all of the attention it presently receives, the Congress began to develop an orderly, constructive program to meet the problem before it became a crisis.

The cornerstone of the national outdoor recreation program is the Land and Water Conservation Fund Act. From it and through it the Congress has endeavored to systematically resolve the problems foreseen by the three-year Outdoor Recreation Resources Review Commission study. The essence of the Federal program is—

(1) to make matching assistance available to the States and their local subdivisions to enable them to provide expanded outdoor recreation opportunities for their residents and their out-of-state guests, and

(2) to make funds available to Federal agencies for the acquisition of lands having nationally-significant natural, recreation, historic or scientific value.

It would be extremely difficult, if not impossible, to provide for the accelerated expansion of the outdoor recreation programs without this program.

2. Matching assistance for the States and localities

When the Land and Water Conservation Fund Act was being considered, it was a recognized fact that most people would continue to seek most of their recreational enjoyment in their spare hours—hours after school or work or for a one-day outing. Most of the time, these needs can best be met by providing appropriate facilities nearby. The State and local governments, naturally, can most reasonably be expected to provide them, and the Act encourages the States to play this pivotal role.

Under the terms of the Act, every State is assured a share of the monies distributed from the Land and Water Conservation Fund. By law, forty percent of the matching money is divided equally between the participating States, and the remainder is apportioned on the basis of demonstrated need. As a result of this element in the Federal program, the States have been encouraged to make a substantial investment in their outdoor recreation programs and more than $300,000,000 has been distributed to them since the Land and Water Conservation Fund programs was established (for details on a State-by-State basis, see Table A at the end of this report).

3. Federal agencies under the Land and Water Conservation Fund Act

While the Federal program makes a significant contribution by providing matching assistance to the States, its effect is not limited to that element alone. It also provides the method for financing the recreation land acquisition activities of Federal agencies having outdoor recreation responsibilities. Since the Outdoor Recreation Resources Review Commission completed its study and made its recommendations, the Congress has authorized the establishment of many new outdoor areas. But for the existence of the Land and Water Conservation Fund, such places as the Redwoods National Park in California, Assateague Island National Seashore in Maryland and Virginia, Padre Island National Seashore in Texas, Fire Island National Seashore in New York, Delaware Water Gap National Recreation Area in Pennsylvania and New Jersey, Indiana Dunes National Lakeshore in Indiana, and Biscayne National Monument in Florida—to mention only a few—may never have been added to our inventory of outdoor resources for the use of all Americans for generations yet to come.

The programs of the Federal agencies are not substitutes for the State and local programs discussed above. They are mutually complementary. In reality, they are one Federal program designed to meet one objective—to provide the maximum possible benefits of outdoor recreation opportunities to all Americans. Under the program, the States

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are encouraged to provide more locally-oriented recreation facilities, while the efforts of the Federal agencies concentrate on the acquisition of areas having national significance. (For details on the apportionment of funds to Federal agencies see Table B at the end of this report.)

4. Source of revenues for the land and water conservation fund

Originally the Land and Water Conservation Fund derived its receipts from three sources:

(1) entrance and user fees,

(2) motorboat fuel taxes, and

(3) revenues from the sale of surplus real property and related personal property.

Revenues from these sources never reached the levels anticipated at the time that the Land and Water Conservation Fund Act was enacted. As a consequence, the Congress reviewed the program in 1968 and, in recognition of its demonstrated ability to effectively stimulate local and national interest in expanding the outdoor recreation program, it developed a modified formula for revenues for the Fund.

By enacting Public Law 90-401 (82 Stat. 354) in 1968, the Congress assured a program level of $200 million for a period of five fiscal years. Revenues from the above-mentioned sources were to continue to be deposited in the Fund. In addiiton, the Act authorized the appropriation of sufficient moneys to the Fund to make up any deficiencies between these receipts and the $200 million maximum. If the appropriations were not made, then a mechanism diverting the necessary revenues from the Outer Continental Shelf receipts was automatically triggered so that the Fund would be assured of having an income of $200 million.

This guaranteed annual income to the Land and Water Conservation Fund has transformed it from an unpredictable recreation program into the useful and reliable tool which it was always intended to be. Now, instead of gambling on the future, the Congress can develop a reasonable, progressive park and recreation program which should be devoid of most of the handicaps of the past because the amounts of money available for appropriation from the Fund each year can be calculated precisely and the moneys can be appropriated to meet program objectives expeditiously.

* * * * *

2. Increased level of the land and water conservation fund

In 1968, the Congress amended the Land and Water Conservation Fund Act to increase the level of the fund to $200 million annually for a five-year period. That action was taken to assure the availability of adequate funds to underwrite the anticipated investment in the outdoor recreation program for a period of five years.

Compared to the earlier years of the program, the guaranteed annual income to the Land and Water Conservation Fund has produced a stable program allowing a reasonable rate of progress. Unlike the inital years of the Fund, when it was impossible to project precisely how much money would be available for the program from year to year, the $200 million program has enabled all levels of government to develop their plans with some degree of assurance that the funds to make them a reality will be available for appropriation. This aspect of the program has been significantly bolstered by the commitment of this Administration to utilize the moneys available to it to expand the program of assistance to the States and to expedite the acquisition of the authorized Federal park and recreation areas.

Perhaps the principal advantage of expanding the level of the Fund for the years ahead is that it will expand the benefits of the program so that the States and their localities, which are in the best position to make recreation opportunities available where they are needed the most, can receive substantially more money for their programs. It is a recognized fact, as the Outdoor Recreation Resources Review Commission report stated, that "The most important recreation of all is the kind people find in their everyday life." The acceleration of the State assistance program is generally considered to be one of the most effective ways to meet the recreation needs of the public.

The States and localities are more eager than ever to meet this challenge. Between 1960 and 1969, 47 States approved recreation bond issues exceeding $1.4 billion and local entities have approved an additional amount totaling $232.4 million. Almost half of this (over $700 million) is the product of the last two years—and much of it is still available for matching under the Land and Water Conservation Fund Act. As further evidence of the commitment of the States to this program it is interesting to note their increased capacity to keep pace with the matching funds made available to them through appropriations made for this program.

Percent of total appropriation obligated (cumulative)

Fiscal year ending:	
June 30, 1965	1.97
June 30, 1966	15.37
June 30, 1967	64.13
June 30, 1968	79.29
June 30, 1969	93.68
June 30, 1970 (estimated)	100.00

The State matching assistance program is not the only reason for recommending the increase in the level of the Fund. The Committee is looking ahead to the future fund requirements of the Federal agencies which have outdoor recreation responsibilities. Just as the urban thrust requires a substantial State and local effort it has affected the programs of the recreation-oriented Federal agencies. In recent years new concepts have emerged which have led to the expansion of national outdoor recreation areas nearer our population centers. Naturally this development has had a tremendous impact on the Federal investment required for land acquisition. In making our recommendations to the Congress the Committee has confined its efforts to nationally significant areas. Sometimes these involve an interstate complex or a large area which is beyond the financial capacity of the State and local agencies but every effort has been made to limit the programs of the Federal agencies to areas worthy of national recognition.

At the present time, it is estimated that over $165 million is needed to complete the land acquisition programs in authorized areas of the national park system and an additional $320 million is projected to be needed for the Forest Service and the Bureau of Sport Fisheries and Wildlife over the next five years. This, of course, does not include any funds which will be needed if new areas are authorized by the Congress. If the *status quo* were to be maintained most of the backlog of authorized Federal areas could be quickly eliminated, but the fact remains that recreation land values are increasing so rapidly that it is still in the public interest to accelerate the program while the areas worthy of national recognition remain available for purchase at a relatively reasonable price.

A number of new urban-oriented recreation areas, as well as several potential rural outdoor areas, are presently in the process of being studied. If they are deemed suitable, and if the Congress authorizes them, it is anticipated that the Land and Water Conservation Fund will be the principal source of the land acquisition monies. Each of these proposals must be reviewed on its individual merits, but possible authorization by Congress should not be foreclosed by the inability of the Land and Water Conservation Fund to underwrite the land acquisition costs which will be incurred.

Mr. JACKSON. Mr. President, I urge the Senate's adoption of S. 1708 as amended by the House. By enlarging the land and water conservation fund and establishing new procedures for dedicating surplus Federal property to park and recreational use this measure will go far toward meeting the Nation's growing recreational needs.

Mr. President, I have cleared this matter with the ranking minority member of the Committee on Interior and Insular Affairs, the Senator from Colorado (Mr. ALLOTT).

Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 30) relating to the control of organized crime in the United States, with an amendment, in which it requested the concurrence of the Senate.

ILLEGAL TRANSPORTATION, USE, OR POSSESSION OF EXPLOSIVES

The Senate resumed the consideration of the bill (S. 3650) to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, the committee amendments are considered and agreed to en bloc, and the bill as amended will be treated as original text for further amendment.

Mr. HRUSKA. Mr. President, the bill now before the Senate, S. 3650, is one of two administration proposals which this Senator has sponsored seeking to deal with the rash of bombing and terrorism besetting the Nation. I introduced S. 3650 on behalf of the Attorney General on March 26, 1970.

In testimony before the Permanent Investigations Subcommittee last summer, administration officials testified that their statistics indicate that in an 18-month period ending in April of this year there were more than 1,000 bombings involving explosives and over 3,500 bombings involving incendiary devices in this country. I am sure that every Member of this body is well aware of the terror that the bombings created during the period covered by the administration's statistics and during the period ensuing since then. They have included bombings of police stations, courthouses, Federal buildings, college campuses, and even booby trap bombings directed at the police themselves. One of the most tragic of this latter class occurred recently in

XUM

my home city of Omaha, when Patrolman Minard lost his life in a suitcase bombing.

There can no longer be any doubt that tough Federal legislation is needed to keep explosives out of the hands of persons who are likely to use them as instruments of terror. Also, there can be no question that such legislation is necessary to give the Federal Government the power to deal with the extremist groups who use explosives and incendiary devices to achieve their ends. The two administration proposals which I have mentioned would satisfy both needs.

S. 3650 would amend the Federal criminal explosives statute, 18 U.S.C. 837, by both broadening its scope and increasing its penalty provisions. Some of the key changes are:

The definition of explosives in subsection (a) of section 837 is expanded to include incendiary devices. Thus, those who use such devices as "molotov cocktails" will be covered by the statute, as well as those who use ordinary explosives.

Subsection (b), which now covers transportation of explosives for certain illegal purposes, is substantially broadened to cover transportation of explosives with the intent to use them in any crime or violence. In addition, the existing penalties of up to a year's imprisonment or a fine of up to $1,000 or both, are increased to up to 10 years or $10,000, or both. These penalties would be doubled if personal injury resulted, with additional imprisonment for up to a life term or the death penalty if death resulted.

Subsection (c) relating to bomb threats—now covered by section 837 (d)—has been revised to conform to the broadened coverage of subsection (b), and the maximum penalties are increased from a year's imprisonment and a $1,000 fine, to 5 years and a $5,000 fine.

New subsection (d) covers malicious destruction or damage by explosives of Federal buildings and other Federal property. The range of penalties in this subsection, including the death penalty if death results, is the same as that proposed for subsection (b).

New subsection (e) covers unauthorized possession of explosives in Federal buildings. This is the only provision of the new statute which would punish mere possession. The penalty however is that for a misdemeanor.

New subsection (f) covers malicious damage or destruction of property used for business purposes by a person engaged in commerce or any activity affecting commerce. Since the term "affecting commerce" embraces the fullest jurisdictional breadth constitutionally permissible under the commerce clause of the Constitution, this is an extremely broad provision. It is designed to give the Federal Government investigative and prosecutive jurisdiction over most bombing incidents. Like subsections (b) and (d), it provides for more severe penalties, including the death penalty in appropriate cases.

New subsection (g) covers possession of explosives with the knowledge or intent that they will be transported or used to violate the section. Penalties of up to 5 years imprisonment or a $5,000 fine or both are prescribed.

Subsection (h) is a revision of existing subsection (e) of section 837 dealing with the effect of the section on State laws. It constitutes a congressional declaration of intent not to preempt the field in which the statute applies.

Subsection (i) is a further expression of congressional intent not to displace State and local jurisdiction, and requires approval of the Attorney General for Federal investigative or prosecutive action.

The administration's proposal will, in my opinion, provide legal tools of substantial value in dealing with the increasingly violent nature of the bombing incidents which the country has been subjected to.

I urge its approval by the Senate.

AMENDMENT NO. 1040

Mr. President, I call up my amendment No. 1040 and ask that it be stated.

The PRESIDING OFFICER (Mr. Hughes). The amendment will be stated.

The legislative clerk read as follows:

> On page 3, line 24, amend proposed section 837(d) of title 18, United States Code, by inserting after "department or agency thereof,": "or an institution or organization receiving Federal financial assistance, or used in a program or activity receiving Federal financial assistance.".

Mr. HRUSKA. Mr. President, the amendment which I propose to S. 3650 is intended to broaden the coverage of the bill principally to make malicious bombings on college campuses a Federal offense.

I propose the amendment on behalf of the administration. Last month the President said, at Kansas State University:

> The time has come for us to recognize that violence and terror have no place in a free society, whatever the purported cause or the perpetrators may be. And this is the fundamental lesson for us to remember: in a system like ours, which provides the means for peaceful change, no cause justifies violence in the name of change.

Two weeks ago in proposing the same amendment to the House Judiciary Committee, which was considering identical legislation, President Nixon explained:

> In dealing with terror tactics in general and bombings in particular we must direct our attention specifically to those outrageous acts that occur in the colleges and universities of America. Three weeks ago, you will recall, in the bombing at the University of Wisconsin, one man lost his life, four were injured, and years of research by a score of others was destroyed. This sort of barbarism is intolerable.

Parenthetically, I should note here that the House committee approved the proposal, and just yesterday the other body passed it as part of an amended version of S. 30, the organized crime control bill.

Mr. President, by including all organizations and institutions receiving Federal financial assistance in the bill, we will enable the FBI to investigate, and the Attorney General to prosecute, bombings and attempted bombings which occur on virtually all campuses throughout the country. While this is the primary purpose of the amendment, it should be noted that it is not limited to educational institutions. Other organizations and institutions which receive Federal financial assistance include State and local governmental units and agencies, eleemosynary institutions, as well as commercial activities. Thus, the amendment would cover police stations, jails, and court houses, hospitals and libraries, airports, and railroad stations, and so forth.

I urge the support of the Senate for this important amendment.

Mr. President, I ask unanimous consent to have printed at this point in the Record President Nixon's letter with respect to this amendment and the President's statement on bombings and bomb threats.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE WHITE HOUSE.

Hon. WILLIAM H. McCULLOCH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN McCULLOCH: In your capacity as ranking Republican on Subcommittee Number 5 of the House Judiciary Committee, you have my deep appreciation for your leadership in bringing the proposed Organized Crime Control Act, S. 30, to the point where it is about to be reported to the full Committee. This bill is a cornerstone of my legislative program to deal with crime in the United States. It contains many of the vital elements of my organized crime program announced in April of 1969.

I have been advised that the Subcommittee will add to this legislation the measures which we submitted to the Congress to help deal with the rash of bombings occurring throughout the country. This is certainly a welcome development.

I said last Wednesday at Kansas State University:

"The time has come for us to recognize that violence and terror have no place in a free society, whatever the purported cause or the perpetrators may be. And this is the fundamental lesson for us to remember; in a system like ours, which provides the means for peaceful change, no cause justifies violence in the name of change."

In dealing with terror tactics in general and bombings in particular, we must direct our attention specifically to those outrageous acts that occur in the colleges and universities of America. Three weeks ago, you will recall, in the bombing at the University of Wisconsin, one man lost his life, four were injured, and years of research by a score of others was destroyed. This sort of barbarism is intolerable. I believe it necessary that S. 30 contain a provision which clearly gives to the FBI investigative jurisdiction and to the Attorney General prosecutive jurisdiction with respect to bombings on our campuses.

I would appreciate it if you would present the amendments to accomplish these essential changes in the bill.

Again, for myself and the American people, our thanks to you and the other members of the Subcommittee.

Sincerely,

RICHARD M. NIXON.

BOMBINGS AND BOMB THREATS

(Statement by the President on Legislative Proposals With Regard to Explosives. March 25, 1970)

Recent months have brought an alarming increase in the number of criminal bombings in the cities of our country. In recent weeks, the situation has become particularly acute, as telephoned threats and actual bombings have sent fear through many American communities.

Schools and public buildings have had to be evacuated; considerable property has been destroyed; lives have been lost. Clearly, many of these bombings have been the work of political fanatics, many of them young criminals posturing as romantic revolu-

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> tionaries. They must be dealt with as the potential murderers they are.
>
> Under existing law, the transport of explosives across State lines is, under some circumstances, a Federal crime. I am proposing an extensive strengthening and expansion of that law. In the proposals being sent to the Congress, it is asked that:
>
> Anyone involved in the transport or receipt in commerce of explosives, intending their unlawful use, be made subject to imprisonment for 10 years or a fine of $10,000 or both. The current maximum penalty is a single year in prison or a thousand dollar fine or both.
>
> The maximum penalty be doubled to 20 years in prison or a twenty thousand dollar fine or both if anyone is injured as the ultimate result of such transport of explosives.
>
> Penalties for bomb threats be raised from 1 year in prison to a maximum of 5 years or five thousand dollars fine or both.
>
> Incendiary devices be included in the category of "explosives," bringing such devices under the anti-bombing provisions.
>
> Use of explosives to damage or destroy any building, vehicle, or other property owned or leased to the Federal Government be made a Federal crime.
>
> Possession, without written authorization, of any explosive in such a building be made a Federal crime.
>
> Use of explosives to damage or destroy any building or property used for business purposes by any person or firm engaged in interstate commerce, or in any activity affecting such commerce, be made a Federal crime.
>
> Possession of explosives with the intent to damage either Federal property or property used in its business by a person engaged in interstate commerce also be made a Federal crime.
>
> The individual engaged in the transport or use of explosives in violation of these provisions be made subject to the death penalty if a fatality occurs.
>
> Our purpose in bringing these crimes under Federal jurisdiction is not to displace State or local authority. Federal investigations and prosecutions would begin only after the Attorney General had determined that intervention by the National Government is necessary in the public interest. Our purpose is rather to assist State and local governments in their efforts to combat the multiplying number of acts of urban terror. I am also asking that Law Enforcement Assistance Administration funds be specifically designated for special training programs for State and local law enforcement agencies to aid them in coping with this latest threat to the public safety and to the maintenance of a free and open society.
>
> The anarchic and criminal elements who perpetrate such acts deserve no more patience or indulgence. It is time to deal with them for what they are.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. McCLELLAN. Mr. President, if I understand the Senator's amendment, it broadens the scope of the coverage of subsection (d) on page 30 of the bill, whereas the bill as reported by the committee would cover only buildings, vehicles, or other personal or real property in whole or in part owned, assessed, or used by or leased to the United States or any department or agency thereof.

The Senator proposes by his amendment to add to these buildings that may be owned, rented, leased, or used by the Federal Government, or any agency thereof, by extending the coverage of this bill to include the bombing or attempted bombing of any institution or organization receiving Federal fiscal assistance.

Would that apply to public schools throughout the country?

Mr. HRUSKA. Yes, it would.

Mr. McCLELLAN. Mr. President, would it apply to a local hospital that had received Hill-Burton assistance?

Mr. HRUSKA. It is this Senator's understanding that it would.

Mr. McCLELLAN. Mr. President, would it apply, let us say, to a water or sewer line or to any other project that had received economic development assistance from the Federal Government?

Mr. HRUSKA. What was the question?

Mr. McCLELLAN. Mr. President, we have an agency of the Government now that makes grants and assistance loans to local agencies of Government such as municipalities to extend their water lines, to improve their sewer systems, and to do many things. Grants are made by the Federal Government to the local entity, such as a city, municipality, or county, to do many of these things.

Where the Government has an investment in the property by reason of a grant, would this apply?

Mr. HRUSKA. It is my knowledge that it would apply. It is intended to cover that type situation.

Mr. McCLELLAN. Mr. President, I am confident that it would where a loan has been made. But where there has been an outright grant, is it intended to apply?

Mr. HRUSKA. This Senator thinks that it would because of the language contained in the words, "or used in a program or activity receiving Federal assistance."

Mr. McCLELLAN. Mr. President, I want to make the history of this legislation clear for the RECORD. If a grant is made by the Federal Government to a municipality, county, or to any other institution to accomplish some results such as the construction of a building or the construction of some project, the Government has an investment in that to the extent that it is proper to protect it from destruction by bombing, and so forth.

Mr. HRUSKA. That is my understanding.

Mr. McCLELLAN. Mr. President, I am thinking particularly of educational institutions primarily. Of course, we are helping municipalities along the lines I have just indicated by making grants toward the extension of water and sewer systems and making improvements along those lines. In fact, grants are today being made for many purposes, to aid local communities in some project, to help them construct and operate a project.

Mr. HRUSKA. The Senator is correct.

Mr. McCLELLAN. Mr. President, I take it this language is broad enough and intended to be so, that where one destroys, or attempts to destroy by bombing, property for which the Federal Government has given financial assistance, then that would come under the penalties of the act.

Mr. HRUSKA. That is my understanding.

Mr. McCLELLAN. Mr. President, I think it is pretty broad. I am not opposing it. In fact, I applaud the Senator for observing what I regard as some deficiencies in the bill as reported by our committee.

Certainly, I should like to see it applied to public schools and to educational institutions, colleges, and universities. I would certainly like to see that. But in reading it, I thought it went further and would be applicable even to a water or sewer system where someone blew up say, a water tank, if the Federal Government had actually made an investment and given financial aid in the building of it.

Mr. HRUSKA. Mr. President, the Senator might be interested in the comment that the other body made in considering this amendment when deleting the words "or used in a program or activity receiving Federal financial assistance."

That would be in keeping with the Senator's observation that perhaps as written and proposed here it is more broad than it probably should be.

I am wondering, however, if in the interest of considering this jointly in conference, we could not leave this language in and then have a decision on the matter.

Mr. McCLELLAN. Mr. President, I have no objection to it being left in for the present. However, I would like to see the statute made as broad as is practical and feasible, taking into account all practical consideration and the enforceability of it. I have no objection to it.

I think this clause, however, needs some further consideration and study. But I commend the Senator for observing and detecting this weakness in the bill as reported by the Committee on the Judiciary. I commend him for his efforts to strengthen it.

I hope the amendment is agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. ERVIN. Mr. President, I rise with the greatest reluctance to announce my opposition to the amendment posed by my good friend, the distinguished Senator from Nebraska. I do this with sorrow because there is no Member of the Senate whose ability, whose devotion to his country, and whose dedication to senatorial duty are more highly respected by me.

But we have a Constitution which attempts to make distinctions between the functions of the Federal Government and the functions of the States. In my judgment this Constitution contemplates that enforcement of criminal laws which are not designed to support powers expressly or impliedly given to the Federal Government by the Constitution shall be left to the States. I do not contend that the amendment offered by the Senator from Nebraska is necessarily unconstitutional. I am aware of the statement made by the late Justice Jackson in one of the Supreme Court decisions that it is hardly a lack of due process for Congress to regulate what it subsidizes. But an unfortunate practice which prevails in our country today is that every institution of learning, every municipality, and I might add, every individual who wants any money for any purpose, comes to the Federal Government to have his financial needs met; and if Congress is going to attempt to exercise jurisdiction by legislation over the things which are subsidized by the Federal Government, Congress is going to take over the entire control of all affairs of this Nation. Despite my great reluctance, I am constrained to oppose this amendment because I think it would be a long step toward the destruction of the federal system of government, and the assumption by Congress of control over all the affairs of the States. We are all distressed by bombings on the campuses of institutions of higher learning in this country. I am sure no one is more distressed by them than the Senator from North Carolina. I believe the function of punishing people for these crimes which are committed wholly within the borders of the States is the function of State government.

Without doing violence to our existing system, we could certainly allow members of the FBI to go upon the campuses and conduct necessary investigations. But I am very reluctant to see the Federal Government assume responsibility for prosecuting and punishing these local crimes. I think it would mean the Federal Government would swallow up everything, because it subsidizies virtually every institution of higher learning in this country it subsidizes virtually every school in this country, it subsidizes virtually all farming in this country; indeed, it subsidizes almost every activity in this country today.

The proposal to extend Federal jurisdiction solely upon the basis that Federal funds have gone into these institutions or other activities is not justified. I abhor these bombings, but I do not favor making them Federal crimes where they are only State crimes. I favor leaving it to the States to perform their constitutional duties. I favor legislation to allow the FBI to investigate these matters, but to leave it to the States to prosecute and punish the perpetrators of the crimes. I am unwilling to have jurisdiction of riots perpetrated on the college campuses given to the Federal Government, while other riots on the public streets of a town are rightly left to the jurisdiction of the States.

In the light of my philosophy, which in so many respects is similar to that of my friend, the Senator from Nebraska, I cannot support the amendment.

Mr. HRUSKA. Mr. President, the concern of the Senator from North Carolina is understandable. He has constantly reminded those of us who are members of the Committee on the Judiciary of similar situations when they arise and the dangers that are inherent in them. Philosophically, as well as legalistically, there is a good point in what he raises in this afternoon's discussion. However, I would like to point out these two things. One of them is the severity, volume, and the apparent pattern or scheme which has developed in these bombings and dynamitings in this country.

Just this morning there is reported in the press on the ticker tape in the cloak room of this body two reports on this subject.

One report is from San Francisco where three bombings occurred overnight, one in a National Guard Armory, one in a university building which houses naval and ROTC offices, and one in a court room. Another dispatch from South Bend, Ind., refers to fire bombs being hurled into a high school and a store last night, and more than 60 persons were arrested last night in connection with the resulting disorder.

Mr. President, I ask unanimous consent to have printed in the Record at this point of my remarks the news dispatch to which I have referred.

There being no objection, the news dispatch was ordered to be printed in the Record, as follows:

San Francisco.—A trio of bombs up and down the west coast early today rocked a courtroom, a national guard armory, and the basement of a university building which houses Navy and ROTC offices. There were no injuries.

The first blast wrecked the San Rafael, Calif., courtroom of Superior Judge Joseph G. Wilson who has been holding some hearings within San Quentin State prison. It occurred at 1:27 a.m. in the Marin County Civic Center, the same location where another Marin County jurist and three other persons were killed two months ago in an unsuccessful attempt by three convicts and an accomplice to escape from a courtroom.

At 2:44 a.m., a single bomb exploded in the basement of Clark Hall at the University of Washington in Seattle. A janitor who was in the building managed to get out before the explosion, after security officers were told 22 minutes before that a bomb was set to go off.

The third blast hit a National Guard armory at Santa Barbara, Calif., blowing out a door and several windows in the west wing of the building and ripping out chunks of concrete.

The 4:15 a.m. explosion rocked the entire downtown area.

South Bend, Ind.—Firebombs were hurled into a high school and a store last night in another round of disorders on the city's west side.

More than 60 persons were arrested during yesterday's disorders. Damage to the Nuway Feed Store, was estimated at $230,000. Considerable damage also was caused to classrooms in LaSalle High School.

A firebomb was thrown into a residence. Firemen rescued a woman trapped on the second floor. There were at least three other reports of firebombings of cars and garages within a two-mile radius of the high school.

Police were called to the Nuway fire to protect firemen from stone throwers.

The arrests came as classes took up and, later, after they let out yesterday afternoon. Thirty juveniles loitering near the school were arrested before classes.

Four white youths were chased from their car near the high school. The car then was set ablaze.

Mr. HRUSKA. Mr. President, the volume of these bombings, the common pattern, and the common characteristics are something with which the country must come to grips. I am in full sympathy with the idea that we should perhaps consider narrowing the language further in this amendment, as was done in the other body. Maybe there is too much scope embraced in it. But I should like also to call attention to subsections (h) and (i) on page 5 of the bill which deal with this very situation.

Mr. President, I ask unanimous consent that subsections (h) and (i) may be printed in the Record.

There being no objection, the subsections were ordered to be printed in the Record, as follows:

(h) Nothing in this section should be construed as indicating an intent on the part of Congress to prevent any State, territory, or possession of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section, nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for investigating and prosecuting actions that may be violations of this section and that are violations of State and local law.

(i) No investigation or prosecution of any offense described in this section shall be undertaken by the United States except upon a determination by the Attorney General, or an Assistant Attorney General designated by the Attorney General, that in his judgment an investigation or prosecution by the United States is in the public interest.

Mr. HRUSKA. Mr. President, subsection (h) reads:

(h) Nothing in this section should be construed as indicating an intent on the part of Congress to prevent any State, territory, or possession of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section, nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for investigating and prosecuting actions that may be violations of this section and that are violations of State and local law.

This language was inserted in the bill for the purpose of preventing outright exclusive preemption in this broad type of investigation and prosecution.

It is further provided, in subsection (i) that:

(i) No investigation or prosecution of any offense described in this section shall be undertaken by the United States except upon a determination by the Attorney General, or an Assistant Attorney General designated by the Attorney General, that in his judgment an investigation or prosecution by the United States is in the public interest.

It is believed by those who favor this way of approaching the problem that, certainly when there are three bombings within a small area, during the course of 1 night, for example, it should be quite clear and quite obvious that it is part of a pattern either of individuals in that area or perhaps members of an organization, or members of an organization that has national headquarters, which is engaging in this type of activity in a preconcerted and deliberate pattern.

If that is true, or even if there is any intimation of that, we get into the idea that local authorities or State authorities would be unable to conduct the investigations that are necessary and to have them coordinated in such a fashion that would be the most effective way of dealing with the problem.

We, of course, have the idea of expansion of the activities of the Federal Government into a local police situation; but it is believed that this section, with the language contained in subsections (h) and (i), and with the traditional fashion in which Attorneys General throughout our history as a nation have acted—and they have acted with restraint—would serve the purpose well in dealing with the crisis—the revolutionary crisis; literally a revolutionary crisis—which this Nation is facing.

It is for that reason that we advocate the extension that is found in the amendment which is now pending.

Mr. ERVIN. Mr. President, I do not repose much weight in the expression of an opinion by the Department of Justice that it is necessary to expand its powers. I have never met an executive officer who was not in favor of anything that was designed to increase his power. I would venture the assertion that if we ever find an executive officer who does not want his power increased, we ought to retire him from his office and put him with the other curiosities in the Smithsonian Institution.

I recognize, as does the Senator from Nebraska, that we have a very critical situation with respect to activities of this nature on the campuses of our colleges, but necessity is a very dangerous siren. To change from a course of action which has proven wise in the past because of the siren voice of necessity is something we should not do. If we are willing to listen to the siren voice of necessity, we can make a case for any assumption—of power on the part of the Federal Government. Under that theory, Federal Government can take over all the functions of the States.

Mr. President, we can destroy the States in several ways. We can destroy the States by depriving them of their powers, but we can also destroy the States by relieving them of their obligations. And when Congress passes a law which provides that a criminal activity which is local in nature is to be prosecuted by the Federal Government, it offers the State a temptation to allow its powers in that field to atrophy—and that is just as dangerous to the viability of the State as depriving it of its powers.

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That is all I am going to say on the matter. I wish to be recorded as voting against the amendment, reluctant as I am to take that step in opposition to the able and distinguished Senator from Nebraska.

Mr. McCLELLAN. Mr. President, I appreciate the position of the Senator from North Carolina and the views he has expressed. They have a pretty strong appeal. I would join him wholeheartedly except for two things. The first is that crime, revolutionary tactics, anarchy, rebellion—I use all of the terms—have reached such proportions in this country that it is imperative that all forces, all legal instrumentalities that we can devise within the framework of the Constitution need to be inaugurated and brought into play against the forces that are creating this terroristic condition in our society. For that reason I am going to support it.

The Federal Government helps to finance universities and helps to finance our public schools. It has a duty, as I see it, to help protect them from destruction. I see nothing wrong in it. There may be cause to regret, some day, that the Federal Government has become involved in so many of those activities of Government that were originally intended to be vested solely in the States. But great changes have come about in this country. The distinguished Senator from North Carolina said today, not only the citizens, but institutions like hospitals, educational institutions, and municipalities are all looking to the Federal Government and it is responding by providing this Federal assistance.

I do not see how we can say that we will continue to have this burden on the Federal Government and not protect it against the depredations of arsonists and anarchists.

As I understand, the House has rejected that part of the Senator's amendment in the closing sentence of the paragraph beginning on line 4, after the word "assistance": "or used in a program or activity receiving Federal financial assistance."

As I understand the distinguished Senator, the House has rejected that language.

Mr. HRUSKA. That is my understanding.

Mr. McCLELLAN. Then I would most respectfully suggest it be stricken. I have some doubts about it. I do feel, as I have said, with particular reference to educational institutions, that when the Federal Government finances them, helps to finance them, or subsidizes them, if that is the correct word, it is not out of line for the Federal Government to protect them from depredations, if we have to do so.

But I would urge, without recording my unalterable opposition to it, that the distinguished Senator from Nebraska modify his amendment by striking therefrom, at the end of it, the clause or phrase "or used in a program of activity receiving Federal financial assistance."

I would most respectfully urge that he modify his amendment to that extent, and I hope he will do so.

Mr. HRUSKA. Mr. President, we did not have, in the full Judiciary Committee nor in the subcommittee, an opportunity to consider and discuss this amendment. I do not feel pride of authorship or sponsorship to the point that I would want to defend it in its originally proposed form. The arguments advanced by the Senator from North Carolina and the apprehension of the Senator from Arkansas lead me to the conclusion that if it would be of any assistance, and if it would be of any help for the consideration of this amendment as originally conceived, I would have no objection at all to striking the words in the amendment referred to by the Senator from Arkansas.

Mr. President, I suggest that my amendment be modified as follows: By striking, in lines 4 and 5, all the language following the word "or" in line 4, and to have the amendment considered on the basis of the remaining language.

Mr. McCLELLAN. The Senator means following the word "assistance", does he not?

Mr. HRUSKA. After the word "assistance". The language to be stricken commences with the word "or" after the word "assistance", yes.

Mr. McCLELLAN. Yes.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

Mr. HRUSKA. It is my hope that the Senate will agree to the amendment as so modified. I feel that it would result in a great deal of constriction and restraint in that field.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska, as modified.

The amendment was agreed to.

Mr. HRUSKA. I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLELLAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITION OF SENATOR ERVIN AS A CONFEREE ON H.R. 18583

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the name of the able Senator from North Carolina (Mr. ERVIN) be added as a Senate conferee on H.R. 18583, the drug control bill which passed the Senate yesterday.

The PRESIDING OFFICER (Mr. HUGHES). Is there objection? The Chair hears none, and it is so ordered.

ILLEGAL TRANSPORTATION, USE, OR POSSESSION OF EXPLOSIVES

The Senate continued with the consideration of the bill (S. 3650) to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HART. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 3, line 7, strike the words "or to the death penalty";

On page 4, line 4, strike the words "or to the death penalty"; and

On page 4, line 23, strike the words "to the death penalty".

Mr. HART. Mr. President, yesterday this amendment was printed as No. 1038. My attention was called to the fact that it would have had the effect of striking the death penalty at only one point in the bill. There are two other points at which the death penalty is referred to, and the amendment as read by the clerk, and the question now pending, proposes to strike the application of the death penalty at all 3 points.

The bill before us strengthens and expands the antibombing provision of section 837 of title 18 of the United States Code.

Back in 1960, when the Civil Rights Act of that year was before us and this section was a part of it, I, of course, as a cosponsor of that bill, supported it. I support now the needed efforts to strengthen it.

Whether we were in agreement 10 years ago about the appropriateness of the Federal Government attempting to move in on bombings or not, we appear to be now. However, I have one reservation about the bill before us now—one which I perhaps should have voiced 10 years ago.

As passed 10 years ago, the statute provided for capital punishment if the jury so recommended. I do not claim that this distinguishes the position of one opposing capital punishment now from his position 10 years ago. My awareness and my sensitivity about capital punishment have grown over the years, and culminated, Mr. President, in my introducing a bill in 1966 to eliminate capital punishment from every Federal crime.

My memory is not fresh on the subject, but it is my impression that there are several score of Federal criminal offenses which provide for capital punishment. I have reintroduced in each Congress since 1966 the bill to eliminate capital punishment for Federal crimes. The able chairman of our Subcommittee on Criminal Laws and Procedures authorized hearings on that bill, and we had testimony from many authorities in the field of criminology and penology.

I remember very clearly the most persuasive testimony of Jim Bennett, the long-time and widely respected Director of the Federal Prison System. I remember the testimony of the long-time warden at San Quentin, Mr. Duffy, a man, as I recall, whose father had been a correctional guard, and who himself had been born, as he put it, "in a Federal pen."

These men stated flatly that they were of the opinion that capital punishment deterred no one. The purpose of punishment by the State is to deter people and to rehabilitate people. No one is going to argue that capital punishment rehabilitates the recipient thereof; and these men, speaking from a background far broader than very many of us possess, state that we are unmitigatedly mistaken in taking a life under these circumstances, because we have not borne the burden of proof that it does deter.

I know a good case can be made that if the question is in doubt as to whether executing a man deters others from similar or associated crimes, we should resolve it in favor of society and execute the man; maybe it will work.

I like to think that civilization has advanced to the point where society feels compelled, itself, to establish, by carrying the burden of proof, that it does have this beneficial deterrent effect, before it says, "Take the fellow's life." True, the life taken is usually that of a very poor, very friendless, generally odious character. Not many people are around to grieve. I suspect many are there silently cheering. But I suggest that it does something to us as a people to take life when we are not able really effectively to say that it works as a policy of deterrent.

The able Senator from Arkansas, whose opening remarks in bringing this bill to the floor were thorough and objective, cited the report of the Commission on Law Enforcement and Administration of Justice. As I recall, that commission said that one cannot tell, one cannot make a judgment, as to whether capital punishment deters or not. It suggests that the state should regard capital punishment as a matter for policy decision, and it cautions us that its application should be in a very restricted area.

I do not quarrel, really, with the person who adopts that position and concludes in this bill, and others of these Federal statutes that contain capital punishment, that as a policy decision this or that particular crime is so heinous, so offensive, so outrageous, so frightening that we will execute the man who does it, and perhaps as a result of that execution somebody else will not do the same thing.

This, parenthetically, gets us into an argument over what is one's favorite heinous crime. Currently, it is the killing of policemen. The killer of a policeman is the fellow who should be executed. Perhaps one takes the other approach and says that the killer of an innocent, helpless infant, not the killer of the man with a gun and a badge, is the one who most deserves execution. And there are many choices in between. Perhaps the fellow who killed somebody but who spent 6 hours before killing him torturing him should be executed. Or perhaps the assassin of a President. I would hate to have put to a popular vote the question of the assassination of Senators, but perhaps someone has that as his favorite crime.

Mr. ERVIN. I might observe that that might be justifiable homicide. [Laughter.]

Mr. HART. And I am sure it would not deter.

So, Mr. President, I suggest that we would be better off to strike from this bill the provision for capital punishment. I continue to be proud that the State of Michigan was first among all the States to eliminate capital punishment, and we have survived since that decision was made in 1847. And we rub shoulder to shoulder with two States that have capital punishment, Ohio and Illinois—yes, and Indiana—and, for whatever the figures are worth, there is a lower murder rate in Michigan than to be found with our friendly neighbors. So, so far as that corner of the Great Lakes Basin is concerned, one certainly cannot make the case that capital punishment deters.

If anyone really wants to play a game with figures, he can argue that the absence of capital punishment is the best deterrent. I am not suggesting that, but I am suggesting that the proof burden in this situation very clearly argues that one cannot make the case from murder rates.

I see the Senator from Wisconsin in the Chamber, another neighbor of ours. Wisconsin has been an abolition State for over a hundred years, and its murder rate is below ours in Michigan.

Anyone interested in this subject can find very thoughtful publications bearing on it. Dr. Thorsen Seland's "The Death Penalty and Police Safety" analyzes a disturbing and frightening trend now current, the killing of policemen. He studied 266 cities of over 10,000 population in 17 States. Six had abolished the death penalty, and 11 had the death penalty. His conclusion is that, on the whole, abolition States seem to have fewer police killings, but the differences are small.

I am confident that the trend of history is to the elimination of the death penalty. I hope that all of us can participate in trimming back on it before we leave this place to history. It is for that purpose, Mr. President, that I ask support for the amendment that is pending.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. McCLELLAN. Mr. President, I support the provisions of the bill as reported by the Committee on the Judiciary, and I oppose the amendment of the distinguished Senator from Michigan.

The argument that the death penalty is not a deterrent to crime, followed to its logical conclusion, means that any penalty under the law is not a deterrent, because the death penalty is the most severe penalty that can be imposed; and if the death penalty will not deter, neither will life imprisonment, neither will 5 years for stealing an automobile, neither will 1 year for simple assault, and so forth. Then our whole system of criminal justice is in error.

I do not agree that punishment does not deter. I can recall from my youth, from the cradle almost on up, that the knowledge that I would be punished for doing wrong was a deterrent. It deterred me then, and I suspect at times that it deters me now.

If we start with abolishing the death penalty, the next thing will be to abolish life imprisonment and the next will be to reduce all penalties, and finally to abolish penalties.

I do not agree with those who say it is not a deterrent. We have an organized crime syndicate in this country. I have a little knowledge of it from extensive hearings we have held from time to time. I have a little knowledge of how it operates. There is an organization sometimes called the Mafia, sometimes called the Cosa Nostra, sometimes called "the syndicate." I can say one thing: They do have a death penalty for any man who betrays them to the law. In all its history of operation, I know of only one man who has betrayed it, and that is Mr. Valachi. Today he is under Government protection, in an isolated place, where his former associates in organized crime cannot reach him. Yes it is a deterrent. He is the only one who has ever come forth.

Why are our laws not deterrents—they are not enforced. That is why one ceases to be apprehensive. Our criminal laws are not being enforced. Only about one in 20 who commits a serious crime today is ultimately punished for it. Of course our laws do not deter where they are not enforced. We are moving in that direction pretty fast, Mr. President, We are just gradually relaxing everything. We just give them a lecture and say they should not do it or we make some excuse or give an alibi for letting them get by with it.

I ask you, Mr. President, what right has a man in his right mind, who takes several sticks of dynamite and throws them into a school building where there are children or who, as in the case of the illustration, places dynamite in an educational institution where there is at work an innocent man, following the

XUM

pursuit of his profession as a chemist or as a scientist, and blows him, an innocent man into eternity.

What right does the man who murders another have to live? He forfeits his right to live in a civilized society.

There are times when there are extenuating circumstances. of course. This bill, as in most cases and in most all statutes, so far as I know, where the death penalty is imposed, leaves it discretionary so that those extenuating circumstances, if they exist may be taken into account.

But when we advertise, "Mr. Bomber, Mr. Arsonist, Mr. Murderer, you can do it and still live; have no fear," of course it is not a deterrent.

We are deterring them when there is something that raises apprehension, a sense of fear, a sense of doubt that they will not get by with it. That is when we are deterring.

Writing laws, putting more laws on the statute books, with stiffer penalties, is not a deterrent within itself. It is the high probability of punishment and that the law will provide a penalty and in its being actually imposed. That is what deters.

I shall not contribute, Mr. President, to any consolation that would be given to the arsonist, the revolutionary, the saboteur in our country today who is willing to kill the innocent. And do not think for one moment that they are not willing to kill the innocent, because they are. Just read their literature. They advocate it. They publish it. They even publish instructions how to do it, knowing that, if carried out, innocent blood will be spilled and some life—many lives may be snuffed out, wafter into eternity in the twinkling of an eye.

Yet some argue that a brute like that, an animal even if he is in human form—unless he is not in his right mind—is so depraved that he feels he has the right to be a perpetrator of death upon the innocent and not be punished for it.

I do not agree.

Mr. HART. Mr. President, will the Senator from Arkansas yield at that point?

Mr. McCLELLAN. I yield.

Mr. HART. Is the Senator suggesting that I have taken a position that they should not be punished?

Mr. McCLELLAN. I will add to it: to be punished by death in some instances.

If death will not deter, or the prospect of death, then life imprisonment will not deter.

Do we deter them, or not? We can take our choice.

Mr. President, I believe that we have gone too far in this country with laxity in law enforcement, finding excuses and alibis to justify not punishing the perpetrators of violence and death.

I may stand alone, but I cannot go along with removing more and more deterrents or in codoning—as I have not done, I hope—some important decisions that I think have brought about a laxity of law enforcement. I hope that a reversal in the trend in law enforcement—whether it is this administration, the next, or whichever one, will take place. But it will never take place by hampering law enforcement. It will never take place by coddling the criminal. It will never take place by alibiing and excusing crimes committed by those who have the intellect and the experience to know right from wrong. That is what I think has been one of the troubles in this country today; namely, the criminals get by with it. The odds today of anyone being convicted for a serious crime have diminished.

I do not need to argue this any further, Mr. President. Studies have been made. Commissions are still studying the issue. It will ultimately have to be settled when that issue comes squarely before the Senate, not as to one bill, or one crime, or the character of one crime, but it will have to be ultimately settled on the basis of a national policy.

As long as there is no law prohibiting it, as long as there is no constitutional prohibition, I shall continue to believe that men dare not go far in crime against other human beings, against innocent people, taking their lives maliciously and wantonly without risking a penalty suitable to the crime. I still believe that they can go only so far and then they forfeit their right to live in a civilized society.

Mr. President, I shall have to oppose the amendment.

Mr. HART. Mr. President, if I may reply briefly, we are not debating whether we should remove a deterrent. No one would stand alone if he were arguing that we should not remove a deterrent.

I make the suggestion that we are kidding ourselves if we think we are keeping a more effective deterrent by retaining capital punishment.

It is not a logical piece of reasoning to say that if capital punishment does not effectively deter, then life imprisonment, therefore, goes out of the window, too.

I am suggesting that capital punishment does not deter any more than life imprisonment. My point is that the evidence shows that life imprisonment would have the same effect, so far as society is concerned, with respect to its protection.

Admittedly, I speak not as a criminologist and without too much experience as a prosecutor, although a brief one.

Let me read to the Senate, as we approach the vote, the testimony of Warden Duffy, at San Quentin, who is, I think, a qualified authority. He is not running for public office or worried about public opinion or whether it is at the moment popular or unpopular. He tells us, out of a deep belief, his conclusion:

> From 1929 to 1952 I talked with every man that was convicted in San Quentin under penalty of death. Many of these men have been executed, others commuted to life imprisonment, some without possibility of parole. A few have had new trials or reversals. Some have died while serving their sentence in prison walls. I have asked personally every man (and two women) if they gave any thought to the fact that they might be executed should they commit a murder or a crime that is covered by the death penalty. I have asked hundreds—yes thousands of prisoners who have committed homicides, and who were not sentenced to death, whether or not they thought of the death penalty before the commission of their act. I have interviewed and have asked the same question of thousands of robbers who used a gun or other deadly weapon, in the commission of their "stick up." They of course are potential murderers. I have to date, not one person say they had ever thought of the death penalty prior to the commission of their crime.

There are many others who bring to this sensitive question an experience which is as broad as that of Warden Duffy. They are not do-gooders. They are not soft on crime. They are not running for office. They are just men who are trying to convey to this segment of our society which decides whether we will have the death penalty, their strong petition and their understanding that it is not a deterrent.

Mr. President, I am glad we have had an opportunity again to raise the question. I continue to believe that as time passes, our people will move as a nation to the position that our people in the States are moving.

I can read the clock of history as well as the next fellow. I know that the time, 1970, is not about to be the time we are going to do it.

I think a few more voices will be raised in support of it when the cycle turns. But I think we advance the cause of those of us who believe in it by rising to speak to the point, whether it is a popular moment in history to do it or not.

I hope that the amendment is agreed to.

Mr. McCLELLAN. Mr. President, I want to make a few observations.

The first is that I would be interested in knowing what answer the warden would get had he asked those people who were condemned to death if they had known or believed at the time of the murder that they would be condemned to death and electrocuted, whether they would have still have done it. I would like to have an answer to that question. I can tell the Senator of one example where a fellow is in the process of robbing a bank with a gun and an officer comes in and gets the drop on him. The officer says, "Drop your gun or I will kill you." What does the fellow do? If he believes he is going to be killed, he drops the gun. Is it a deterrent?

If the officer said, "Drop your gun, or I am going to slap you in the face, or I am going to give you a kick, or I am going to break your arm" it might not be sufficient. But I point out to the Senator that it is a deterrent if enforced and if the criminals know and are conscious of the fact that they are going to pay the penalty and that the price is the death penalty. They will not do it. But if there is no penalty, they will.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. ERVIN. Mr. President, it has been quite some time since I checked on this matter, but does not the Senator from Arkansas have the same recollection as the Senator from North Carolina, that several States have professed to abolish the death penalty. But they have statutes which provide for the death penalty for prisoners serving life terms in State prisons who murder guards or, perhaps, other persons.

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Mr. McCLELLAN. Mr. President, the Senator is correct. I do not know that I can name a particular State. The Senator may have such a State in mind. However, I would say the Senator is correct.

Of course, a fellow in prison does not have the same opportunity to protect himself against a fellow prisoner that we do in ordinary life or in a free society. But if a person will take a bomb and place it in a schoolhouse or place it in a courthouse or place it in an institution or in a place where innocent people are going to be killed, he must know, when he does it, that innocent persons will be killed and he must know that he will face the gravest penalty.

I believe a man who has that intelligence ordinarily—and there might be an exception now and then because a man would be so demented that he would not know—would know what the consequences would be. If the death penalty were imposed, I think it would be a deterrent.

Mr. ERVIN. Mr. President, does not the Senator from Arkansas agree with the Senator from North Carolina that laws similar to those which the Senator from North Carolina has mentioned, disclose the belief on the part of the legislatures which enacted them that such laws deter people from killing other people while serving terms in prisons?

Mr. McCLELLAN. Mr. President, a man may be serving a life sentence in prison. He knows he has a life sentence. The next highest penalty that could be imposed, I assume, under our civilized system, next to a life sentence is the death penalty.

If a person is serving a life sentence, I think that would be a deterrent. He would rather take his chances and hope that someday he would be able to get his release from prison by pardon or parole. I think it would be a deterrent.

Mr. SAXBE. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. SAXBE. Mr. President, I cannot support the amendment. One of the reasons why that I cannot support it is because of some experience in law enforcement in Ohio. For years we had a custom where if a man shot a policeman in the performance of the policeman's duty, he was pretty sure that he was going to be convicted and executed.

Then they began to wear that penalty down by means of the Governor giving pardons, by the jury recommending mercy—which means a life sentence—and by other means whereby the death penalty has gradually gone out. So, today we have not had an execution in Ohio in 7 years.

I know that it is national. But today policemen are being killed in my State. We have had more than our share of policemen killed. I cannot help feeling that if the old attitude existed today where a man knew that if he killed a policeman in the performance of his duty, he would be convicted and executed, it would be a deterrent. It was a deterrent at that time and would be today.

With the idea that this man is a misunderstood criminal and that he is going to be readjusted when he gets in prison because we will straighten him out, things are getting worse.

Most of the men who kill policemen are cold blooded killers. They intend to kill these policemen and they do it. It is not done in hot blood. It is with the intention of killing that policeman.

We do away with the death penalty. Sure, we are more civilized. Sure, the educators and the preachers say that this is the only way we should approach the matter. But we are living in rough days. We have people, as the Senator has said, who are dedicated to overthrowing the Government and killing us and killing the policemen who protect us. This happens. It is not something we talk about. It happens all the time.

I have never advocated doing away with the death penalty. I recognize it is important here. I think we should look at the matter before we gradually erode away this matter completely. It has been a deterrent as long as man has lived, and I do not think man has changed that much.

Mr. McCLELLAN. The Senator used the right terminology when he said we are eroding it. It would be a greater deterrent if it were enforced. That is like other penalties that are not enforced.

Mr. SAXBE. The Supreme Court ruling that a jury cannot be examined as to their attitude toward the death penalty struck a blow we have not yet recovered from. With that provision I doubt we have the death penalty now. In Ohio this prohibition extends to the lower court and if you cannot examine the jury on attitude you cannot get a verdict for the death penalty.

Mr. McCLELLAN. There is nothing I can do about that situation now but I can continue my influence and my voice and my vote against any further eroding. I believe this penalty is a deterrent when it is enforced.

If ever there is a time when we need law enforcement in this country and, indeed, to make the country aware of the fact that there are penalties for violations of the law, that time is now, because in my judgment the criminal has the upper hand, in America today. I have said over and over that we are going to have to fashion every tool we can within the framework of the Constitution and make those tools available to our law-enforcement officials and governmental agencies.

Mr. HRUSKA. Mr. President, I rise in opposition to the amendment which seeks to eliminate the death penalty in this bill. It is not my purpose to get into a discussion of the philosophy of the death penalty as a deterrent or something which debases, downgrades, or demeans people when the death penalty is invoked.

Certainly the Senator from Nebraska could not improve upon the argument or eloquence of the Senator from Arkansas on these points, and the very splendid contribution of the Senator from Iowa, who has had practical experience as a prosecutor and attorney general of one of our great States in this field.

I wish to make an observation on one of the arguments we heard this afternoon to the effect that to execute for crime is not only depriving a human being of life, but it is also debasing, downgrading, and demeaning to the public and people at large.

There is also something demeaning in considering what little is left of the body of a scientific researcher at the University of Wisconsin after the dynamiting occurred there. That incident is degrading, demeaning, and debasing. It is also degrading, debasing, and demeaning to people generally when a policeman by the name of Maynard in Omaha, Nebr., in responding to a call, picks up a suitcase which is a boobytrap and which blows him into smithereens. That is also demeaning.

So, the larger question is: If there is application and enforcement of the death penalty will there be fewer incidents such as those which occurred at Madison, Wis., or Omaha, Nebr., or other incidents?

Mr. President, rather than to get into that matter, I should like to explain why we find this provision for the death penalty in the pending bill. There is a reason why we have reiterated it in this bill.

The antibombing provisions of the pending bill replace the existing transportation of explosives statute—namely, section 837 of title 18, United States Code. Many of my colleagues will recall that section 837 was added to the law as part of the Civil Rights Act of 1960. It was enacted principally in response to the rash of church bombings of that period, and the 86th Congress in its wisdom decided that violations of the statute which result in death should be subject to the extreme penalty.

As pointed out in the committee's report on S. 3650, there is a constitutional defect in the death penalty provision of section 837. This defect stems from the requirement of a jury recommendation for imposition of the penalty. In 1968, in United States against Jackson, the Supreme Court decided that a similar death penalty provision in the Federal kidnaping statute was unconstitutional because it put a chilling effect on the defendant's right to trial by jury.

Certain other death penalty provisions in the Federal criminal code do not have the same infirmity. An example is section 34 of title 18. Thus, to cure the defect, the death penalty provisions of S. 3650 eliminate the section 837 language and substitute a reference to section 34.

In sum, Mr. Chairman, we are not enlarging on the death penalty, provision of existing law, but merely repair that provision to make it the equivalent of existing law, as it stood prior to the Supreme Court decision.

Mr. President, so this is not something new that is being added: it was the law until the Supreme Court decision 2 years ago.

The problem should be considered not by way of picking an individual instance and saying, "This will not have a death penalty attached to it." The problem should be approached from the standpoint of attacking the entire death penalty as a concept, and not just the concept embraced in the measure introduced by the Senator from Michigan (Mr. HART), but as bearing on the proposition

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that there is now in existence and functioning, and about to report soon, a Committee for Revisions of the Federal Criminal Code.

One of the recommendations of that Commission will bear on this subject. At that time when we get to the point of considering the recommendations in proper form and with an opportunity to review their pertinent reference to the existing death penalties and statutes containing them, we should get into this matter and not do it on a piecemeal basis.

So in addition to the sound and very eloquent reasons of the Senator from Arkansas, I would strongly urge the Senate to reject the pending amendment.

Mr. HUGHES. Mr. President, I associate myself with the remarks of the distinguished Senator from Michigan. I wish to congratulate him on raising this question here today, even though it is only a part of the total question that he has presented on another piece of legislation that is in the process of being considered and reviewed by committees of this body. But I do think it is time that this matter is publicly viewed, clearly, through the processes of hearings; and I intend to support the amendment today, for the reasons the Senator from Michigan stated.

I realize that the amendment today has very little chance of being adopted, but it is time for discussion on it. It is time we faced very seriously the whole question and that we have the best focus of attention and time given to it.

Certainly none of us condones the savagery of a crime such as bombing and burning, which can takes lives and snuff them out instantaneously, as indicated by the distinguished Senator from Arkansas. We all agree that the savagery of such crimes is unbelievable, and it is unbelievable that people should do this. Undoubtedly, if the death penalty is deserved, it is deserved in such crimes as these, where there is an obvious intent and it is known that death will result from this type of criminal activity. We all decry it.

My own State has had a history of having capital punishment, repealing it, reinstating it, and then repealing it again. When I was Governor of my State from 1962 to 1969 we repealed capital punishment after long debate and committee hearing process. The light was focused on it. Since that time the incidence of capital crime in my State has not risen. However, some savage crimes have been committed, one of them among the most savage that has been committed in the history of my State, and immediately the hue and cry went up to reinstate capital punishment as a result of that crime. The effort was turned back.

Mr. President, punishment of crime is absolutely essential. Apprehension, swift trial, and punishment are absolutely necessary I think all of us agree on that basic principle. I think the disagreement about the effectiveness and the deterrence of capital punishment is one that well deserves proper debate in this country, and I am sure when this matter is brought to attention and focus is put on it clear across the spectrum of Federal law, we will have a better grasp than we will be able to get today. But it is my intention to support the amendment of the Senator from Michigan. I want to congratulate him for what he has done today. We do not have time enough to have it properly brought to attention, and although chances of the amendment being adopted are small, I shall support it.

Mr. HART. Mr. President, I thank the Senator from Iowa.

Mr. HANSEN. Mr. President, first I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, I oppose the amendment. As is the case with the distinguished Senator from Iowa, I, too, have served as Governor of my State of Wyoming. We have the death penalty in Wyoming. The last execution in the State was during my term of office. The details of the crime are not particularly relevant or important to recount at this time, but before the person who was given a sentence calling for execution was put to death, a long and traumatic trial took place. A change of venue had been called for. The case attracted wide attention because the accused had raped and then mutilated two little girls, and then subsequently murdered both of them. Feelings ran very high.

One of the witnesses who was called to testify was the superintendent, and is now the superintendent, of the State hospital in Evanston, Wyo., our State mental institution. He wrote me a long letter, about four pages, as I recall, and he prefaced it by saying that he had always been opposed to the imposition of capital punishment, but he said, "After sitting through this trial, as I have, and having testified as I did for some 3 or 4 days, I am completely convinced that every argument that I have given in the past against the death penalty now must be weighed in the judgment of the evidence that came before the court."

He said:

> I think it would be a travesty of justice if this young man were not executed. I think society would be the loser. I must say that my mind has been completely changed, and I earnestly recommend that you do not intervene in the full execution of that sentence.

I heeded his advice.

I know it is popular these days, as we contemplate the problems that are more and more in evidence throughout our society, to view wrongdoers with compassion, to make allowances, and to try to understand some of the frustrations and some of the stresses that are inherent in our society as reasons for the acts of individuals who do not conform as most of us agree all citizens should conform. There are some who believe that perhaps we have not gone far enough in trying to give everyone a second chance, or a third chance, or a fourth chance; that society, rather than the individual, has been at fault. But when we examine some other facts and the experience that other countries have had, we may come to a different conclusion. I am told that in Great Britain, for instance, before the abolishment of the death penalty, the typical English bobby did not carry a gun. Today, because the murder of policemen in Great Britain has escalated so very rapidly, it is necessary that the British bobbies be armed for their own protection.

Many arguments can be made on either side, but when people deliberately go into buildings and deposit bombs, when people set fire to buildings—and we have seen it happen throughout America—as we saw it happen in Washington several years ago. Three innocent victims, I am told, all blacks, were burned to death because somebody, after looting a store, thought it would be perfectly all right to put the torch to it. That certainly convinces me it is time that we stopped and thought about what steps we should take in order to better protect society and our citizens who, in the great majority, are willing to abide by the laws.

By that I mean they accept the responsibility that all citizens should shoulder, in saying, "I will obey all the laws. Some I like. Some I do not like. But, as a citizen of this country, as a good member of society, it is my responsibility to obey every law."

There is reason to feel that, more and more, this type of individual is receiving less and less protection from the very society of which he is a part.

I hope we will not adopt the pending amendment. I am convinced that there are some people who would deliberately, wilfully, premeditatedly snuff out human life in order to achieve certain of their own objectives. Even if it could be said that some of these persons who take the lives of others could be rehabilitated, I think we are paying far too high a price in going along with a policy that will not embrace in its total system of justice the philosophy that a person can be executed for his wrongdoing.

I know of another instance that happened in the State of Wyoming when I was Governor, that I think has some relevance. A young babysitter was killed by a young man and her body was thrown into the Platte River. A few days later, it became known or there were great suspicions held by many that he had committed this atrocious act, and when he was apprehended he voluntarily admitted that he had done it.

Because he did not happen to have an attorney present when he made this admission in a pretrial conference, the prosecuting attorney agreed with the defendant's counsel, in the presence of the judge, that because not every single step that had been called for by some of the more recent Supreme Court decisions had been complied with, the prosecution did not have a case on which it could proceed and feel that it would have the supporting evidence if an appeal of that case were taken to the Supreme Court.

As a consequence, that man was turned loose, and for some several months, thereafter, he openly boasted about how he knew how to take a life and beat the rap.

It was not too long until it became evident that people in the little town where he was living had become so angry that there was some talk that his wellbeing might be in some danger, and he left the town of Douglas, Wyo., and

XUM

went elsewhere, after several months had elapsed following the death of the babysitter.

It is time that we face up to this decision, even if we were to admit—and I do not for one moment admit—that the death penalty is not a deterrent. It is a deterrent, and I think it is a particularly meaningful deterrent in restraining persons who premeditatedly contemplate actions such as must be envisaged by those who place bombs in buildings. In that sort of situation it is a real deterrent; because if they are faced with the rather certain assurance that if they are convicted they will be or they are in great risk of being put to death, then I say that I think a person who coldly and clearly, in his right mind, contemplates such an action may indeed be deterred.

But even if we were to assume, as I say I do not, that there was no deterrent, I still think society is better off without that kind of an individual longer being alive and present.

Let me illustrate. The distinguished former Governor of Iowa spoke about the actions taken by his State; how they had capital punishment in the State of Iowa one moment, and the next moment they changed it, and that it was changed back and forth a time or two. And as I understood him, he said they do not now have it, following further consideration and action taken by the State legislature.

But as the present distinguished occupant of the chair (Mr. Jordan of Idaho) knows, having himself been Governor of the State of Idaho, and, having sat, as I am certain he did, on parole boards, just as I have in Wyoming, and just as the Senator from Iowa has in his State when he was Governor, we know perfectly well that the record is replete with case after case after case of persons who are convicted of first-degree murder, committed in cold blood, committed with full premeditation, and we see those individuals released within 5 or 10 or 15 years. First they have their sentences reduced, and then they are released.

So I say, Mr. President, contemplating just this fact alone, that we ought not to accept, well intentioned though it is, the amendment proposed by the distinguished Senator from Michigan.

The PRESIDING OFFICER (Mr. Jordan of Idaho). The question is on agreeing to the amendment of the Senator from Michigan (Mr. Hart). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Cannon), the Senator from Connecticut (Mr. Dodd), the Senator from Tennessee (Mr. Gore), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Massachusetts (Mr. Kennedy), the Senator from Minnesota (Mr. McCarthy), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Missouri (Mr. Symington), and the Senator from Maryland (Mr. Tydings) are necessarily absent.

I further announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Alabama (Mr. Sparkman), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) are absent on official business.

I further announce that, if present and voting, the Senator from Ohio (Mr. Young) would vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senator from Colorado (Mr. Dominick), the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from Hawaii (Mr. Fong), the Senator from New York (Mr. Goodell), the Senator from Florida (Mr. Gurney), the Senator from California (Mr. Murphy), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) and the Senator from New York (Mr. Javits) are absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. Dominick), the Senator from South Dakota (Mr. Mundt), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) would each vote "nay."

On this vote, the Senator from New York (Mr. Goodell) is paired with the Senator from California (Mr. Murphy). If present and voting, the Senator from New York would vote "yea" and the Senator from California would vote "nay."

The result was announced—yeas 22, nays 46, as follows:

[No. 368 Leg.]

YEAS—22

Boggs
Brooke
Case
Church
Cranston
Eagleton
Hart
Hatfield
Hughes
Inouye
Jordan, Idaho
Magnuson
Mathias
McGovern
Metcalf
Mondale
Muskie
Nelson
Packwood
Pell
Proxmire
Williams, N.J.

NAYS—46

Allen
Allott
Anderson
Baker
Bennett
Bible
Burdick
Byrd, Va.
Byrd, W. Va.
Cook
Cooper
Cotton
Curtis
Dole
Eastland
Ellender
Ervin
Fulbright
Griffin
Hansen
Holland
Hollings
Hruska
Jackson
Long
Mansfield
McClellan
McIntyre
Miller
Pastore
Pearson
Percy
Randolph
Ribicoff
Russell
Saxbe
Schweiker
Scott
Smith, Maine
Spong
Stennis
Stevens
Talmadge
Thurmond
Williams, Del.
Young, N. Dak.

NOT VOTING—32

Aiken
Bayh
Bellmon
Cannon
Dodd
Dominick
Fannin
Fong
Goldwater
Goodell
Gore
Gravel
Gurney
Harris
Hartke
Javits
Jordan, N.C.
Kennedy
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Prouty
Smith, Ill.
Sparkman
Symington
Tower
Tydings
Yarborough
Young, Ohio

So Mr. Hart's amendment was rejected.

Mr. McCLELLAN. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. HRUSKA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I ask for a third reading.

The PRESIDING OFFICER (Mr. Packwood). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. GRIFFIN. Mr. President, on March 25, 1970, President Nixon expressed the concern of the entire Nation when he issued his important statement on bombings and bomb threats. He said:

> Recent months have brought an alarming increase in the number of criminal bombings in the cities of our country. In recent weeks, the situation has become particularly acute, as telephoned threats and actual bombings have sent fear through many American communities.
>
> Schools and public buildings have had to be evacuated; considerable property has been destroyed; lives have been lost. Clearly, many of these bombings have been the work of political fanatics, many of them young criminals posturing as romantic revolutionaries. They must be dealt with as the potential murderers they are.

The legislation President Nixon proposed in March is now before the Senate in the form of S. 3650. It both expands the scope of the existing Federal statute on transportation of explosives, and increases the penalties under that statute. This bill would proscribe actual or attempted bombings of Federal buildings and buildings used in interstate commerce. In addition, the Hruska amendment which was offered on behalf of the President—and which has already been adopted—would apply the statute to bombings on college campuses.

Mr. President, hearings conducted in August of this year by the Permanent Subcommittee on Investigations chaired by the distinguished Senator from Arkansas (Mr. McClellan) revealed that there have been over 5,000 bombings in the United States during the past year and a half.

Just last night, in fact, the ROTC building at the University of Washington in Seattle was rocked by a bomb explosion which caused property damage but, fortunately, no personal injuries.

Mr. President, events of recent months and, indeed, as recent as last night make it clear beyond doubt that this legislation is needed.

I urge the support of all my colleagues for this legislation proposed by the President. In his words:

> The anarchic and criminal elements who perpetrate such acts deserve no more patience or indulgence. It is time to deal with them for what they are.

I ask that an AP wire story concerning the bombing last night at the University of Washington be printed in the Record.

There being no objection, the news report was ordered to be printed in the Record, as follows:

SEATTLE.—A bomb caused a "pretty bad explosion" today at the University of Washington's Clark Hall, which Houses the School's Navy ROTC unit, fire officials reported.

It was unknown whether anyone was inside the building.

A small fire broke out in the basement of the structure, firemen said.

The bomb blew out windows and set doors ajar.

Police said a bomb squad was being sent to the university.

SEATTLE, WASH.—An explosion that police said was caused by a bomb blew out windows, doors and caused interior damage to Navy and Air Force ROTC facilities at the University of Washington today.

No one was in the building, Clark Hall, where the blast occurred, but a janitor was taken out shortly beforehand when the fire department, the University and the Seattle Times received separate telephone calls warning of an imminent explosion.

The blast occurred in a locker room in the building's northeast wing, used for Air Force and Navy Reserve Officer Training, and lighting fixtures and doors were blown off.

The phone calls were placed about 25 minutes before the explosion, police said. A female called the Times and a male talked to the university they said. There was no indication of the sex of the other caller.

A small fire in the basement of the building occurred at the time of the blast, but was extinguished quickly, firemen said.

A university spokesman, Irv Blumenfeld, said the building had been locked at 5 p.m. the day before and he supposed the bomb had been inside at that time. He described the explosion as "one loud, sharp blast."

A police bomb squad roped off the building and went inside to investigate.

XUM

Mr. HART. Mr. President, this legislation was proposed by the Attorney General as a means of strengthening the Federal laws in response to the recent series of bomb explosions and bombing threats. The bill would revise 18 U.S.C. section 837 to expand its scope, improve its effectiveness, and increase its penalties in several significant respects. The potential loss of life, the destruction of property, and the disruption of the daily activities of our people, our economy and our Government require that prompt legislative action be taken in this area.

Section 837 of title 18 was enacted 10 years ago as part of the Civil Rights Act of 1960 and I was a sponsor of the bill which was passed as section 837.

I supported the need for stringent measures to prevent these horrendous acts of terrorism then, and I support efforts to strengthen and improve such protection now. The present measure would remove several loopholes in the existing law and enable law enforcement agencies to combat terrorist bombing more effectively.

The record shows that capital punishment has not deterred the bombing and other vicious crimes which, of course, we all condemn. Hence my offer to eliminate capital punishment from this bill, a proposal the Senate now has rejected.

The bill expands the definition of "explosive" in the present law to include incendiary devices. However, it excludes sporting ammunition and its components, in order to insure that small arms ammunition is excluded, and that sportsmen who use smokeless propellants in ammunition reloading may continue to do so. The bill also amends present law: First, to include interstate receipt as well as transportation of explosives, second, to abolish the test of specific forbidden purposes in favor of a general requirement of knowledge or intent that the explosives would be used in substantially any crime of violence, and third, to increase the applicable penalties.

It is an intelligent response to the dismaying series of bombings and bombing threats in this land. When I cosponsored the 1969 act, which this bill will strengthen I said that motives behind bombings may be many; that none is defensible and each should be brought under prosecution to the extent the Constitution permits. The experience in the intervening 10 years shows the need and way further to strengthen our tools in this fight.

Mr. MILLER. Mr. President, the distinguished Senators from Colorado and Kansas placed in the RECORD on August 28 an Evans-Novak column entitled, "The Terrible Summer of 1970." Quite properly, they commended the columnists for drawing attention to the serious threat posed by the violent activities of various revolutionary groups. To complete the record, however, I believe it is appropriate to sum up the legislative picture on the problem of bombings and terrorism.

The distinguished chairman of the Committee on Government Operations has concluded investigative hearings by his permanent Subcommittee on Investigations, having heard testimony on the activities of the terrorists from witnesses from across the Nation, from both the public and the private sector. Senator McCLELLAN's subcommittee's findings will, I know, form a solid basis for legislation to counter the threat.

In the meanwhile, the administration has responded to the challenge by sending to the Congress two important legislative proposals, one of which, S. 3650, is before us now.

In March, following a statement by President Nixon on the necessity for legislation, the Attorney General transmitted a bill to broaden the coverage and to stiffen the penalties provided by the existing Federal explosives statute. The measure would provide for the death penalty where a fatality occurs and would double the penalty—to 20 years and $20,000 fine—if injury results. Bomb threats would be punished by 1 year's imprisonment or a fine of $5,000.

In July, the Secretary of the Interior sent us a proposal designed to dry up the source of supply of explosives to terrorists and other radicals. All manufacturers, importers, and dealers of explosives would be licensed, permits would be required for commercial purchasers, possession by certain undesirables such as felons would be prohibited, and stiff penalties for falsifying applications and recordkeeping would be provided.

The need for action is obvious. An FBI survey of 776 bombing and arson incidents in the period September 1, 1968, to March 15, 1970, showed 11 deaths—six self-inflicted due to premature or accidental explosions—and more than 100 injuries with damages estimated at nearly $24 million.

Assistant Secretary of the Treasury Rossides, in testimony before Senator McCLELLAN's subcommittee, reported a total of more than 4,300 bombing or incendiary incidents from January 1, 1969, to April 15, 1970, with a total of 40 killed, 384 injured.

Assistant Attorney General Wilson told the subcommittee that the fall of 1969 was marked by the start of an unprecedented wave of terrorist tactics. It involved a series of explosions in New York City, with corporate offices, public buildings, courts, and police stations as targets. In the spring of 1970 there was a renewed wave involving a Greenwich Village townhouse and Manhattan skyscraper offices of three of the largest business corporations.

A San Francisco police station was bombed and one officer killed and six injured. Other bombings included the Cambridge, Md., courthouse, a 10-story office building in Buffalo, a Cental Intelligence Agency recruiting office in Ann Arbor, Mich., a National Guard building in Salt Lake City, the statehouse in Baton Rouge, La. In Berkeley, Calif., an 80-foot high voltage utility tower was toppled. Recently, the bombing of the University of Wisconsin Math Research Center killed a research professor and injured others. There have been several bombings—college and police stations—in my own State of Iowa.

In addition, there were explosions involving military recruiting offices and ROTC buildings in many communities and campuses.

The General Services Administration reported 46 bomb threats to Federal buildings in fiscal year 1969, including 13 bombings resulting in $7,520 damage. During fiscal year 1970, ending June 30, 1970, there had been 386 threats and 38 incidents resulting in $612,569 damages.

In the first 6 months of 1970 there were 130 evacuations of Federal buildings because of bomb threats, resulting in a loss of $2.2 million in wasted man-hours.

Who is responsible for these acts of terrorism? President Nixon said in his March statement that many of the bombings "have been the work of political fanatics, many of them young criminals posturing as romantic revolutionaries." He added:

> The anarchic and criminal elements who perpetrate such acts deserve no more patience or indulgence. It is time to deal with them for what they are.

Mr. President, we can help the law-enforcement officials of the country to deal with the fanatics by providing the additional tools proposed by the administration in the two bills I have mentioned. I commend the Senate Judiciary Committee for acting favorably on S. 3650, of which I am a cosponsor, and I urge all of my colleagues to support this bill and to give their favorable attention to S. 4107 when it comes up before the full Senate.

In view of what has occurred, action cannot come too quickly. The sooner we get these laws on the books, the sooner we will be able to take effective steps to stop these terroristic actions.

Mr. SAXBE. Mr. President, I ask unanimous consent to have printed in the

Record an article from the Catholic Standard, Washington, D.C., May 22, 1959.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington (D.C.) Catholic Standard, May 22, 1959]

Life Or Death

(By Rev. Robert H. Wharton)

A woman was called for jury duty, but refused to serve because she didn't believe in capital punishment. Trying to persuade her to serve, the judge explained: "This is only a case where a wife is suing her husband because she gave him $1,000 to pay down on a fur coat, and he lost the money in a poker game."

Immediately the woman said, "I'll serve. I could be wrong about capital punishment."

Two recent motion pictures have made the Church's stand on capital punishment a timely subject. Orson Welles' closing courtroom oration in "Compulsion," a film based on the Leopold-Loeb murder trial, is the latest cinema victory for opponents of the death penalty. *Information* magazine also points out that "the sentimental appeal for its abolishment suggested in 'I Want to Live' is also being used by groups seeking to establish life imprisonment as the maximum sentence for all states."

QUESTION OF RIGHT

I heard one advocate of the death penalty loudly proclaim, "All I have to say is that capital punishment was good enough for my ancestors, and it's good enough for me!" I have more to say than that. The issue is not whether the death penalty is the most effective way of preventing serious crimes. The problem here is rather the state's *right* to punish by death.

In fact, it's not correct to say there's a "Catholic viewpoint" on capital punishment. It is not the Church's concern how much this penalty deters crime. We may, as individuals, take the stand that life imprisonment doesn't seem an effective deterrent from serious crimes; the prisoner always has a hope of pardon or escape. In the past few decades, three-fourths of the prisoners sentenced to "life" in state and Federal prisons were released in ten years. But, as we said, this is for criminologists to study and for us private citizens to argue about.

LAWFUL AUTHORITIES

You may be one of those who cry that capital punishment is murder, that we are punishing crime by committing another crime. If so, you are getting away from the Church's teaching on the subject. We may discuss the advisability of using the death penalty—but a Catholic cannot deny the right of lawful authorities to put offenders to death.

The official doctrine of the Church is that the State does have the right to inflict the death penalty for serious crimes. It is true that some countries and states have abolished such severe methods. We may think this is the wisest course—but we have to maintain that not using the right doesn't take it away.

This subject is not new to the Church. St. Thomas Aquinas, referring to capital punishment, said that "such killing is not murder." The Council of Trent, which can always be counted on to state the Catholic position, said that magistrates are "not only not guilty of murder, but eminently obey the law which prohibits murder" when they condemn a criminal to death.

The real argument for the right to condemn to death comes from the State's right of self-defense. An individual may defend himself against someone who wants to take his life, even if it requires killing the attacker. Society, the collection of these individuals, has the right to defend itself from those who threaten it—whether the threat comes from an unjust aggressor in war or from a criminal.

One reason (not the only one) there is such opposition to capital punishment is this: denial of freedom of the will. Some say heredity and environment—not the criminal—are responsible for the crime. But we can't go along with this thinking completely. We do recognize the adverse effect of bad heredity and environment in the lives of some.

FOR SERIOUS CRIMES

If you carry this denial of responsibility too far, it's not safe to go out on the streets at night. "My mother was sickly and my companions were louses," Muggo can say as he is caught standing over your body with smoking revolver in his hand. And you can get rid of old Uncle Zeke, blaming the whole thing on being deprived of ice cream when you were young.

Obviously, capital punishment should be limited to the most serious crimes—like murder, treason and kicking dogs. In 18th century England, more than 160 offenses were punishable by death. Besides being far too harsh, this careless condemnation to death made almost everyone a poor insurance risk.

We're not crying for a return of the old "eye for an eye, tooth for a tooth." While the Church insists on the right of lawful authorities to inflict death, she has never said this is the only way to prevent great crimes. The Church has often called for mercy toward criminals. And lest some think the Church is lobbying for severity, clergymen are not allowed to cooperate in any way in the administration of the death penalty. (Not that I'd want to. I'll take my bloodshed on television, thank you.)

A little lady told me the other day she's not against capital punishment "as long as it's not too severe." I'm afraid it is a bit severe. There's something final about gas chambers, electric chairs and gallows that modern science hasn't been able to eliminate. But if these means weren't so drastic, there might be many more bodies lying around with bullets, knives and poison in them. It is a human being's very right to life that justifies extreme punishment for those who take away that life.

Mr. MAGNUSON. Mr. President, the terrorist acts of bombing, attempted bombing, and threats of bombing are reprehensible acts which cannot be condoned by any civilized nation. They are acts which cannot possibly be justified as lawful expressions of dissent. These acts, Mr. President, are clearly and simply criminal acts which are diametrically opposed to the most fundamental principles of civil liberties and human freedom. The essence of liberty, Mr. President, is the right to be secure against those who would so endanger life or property.

This fundamental right of freedom has been, and continues to be, violated by a rapidly accelerating outbreak of bombings throughout the Nation. Just this morning, Mr. President, the Navy ROTC building on the campus of the University of Washington in Seattle was bombed and damages are estimated to be in excess of $100,000. This same facility was gutted by arsonists last year. Fortunately, there were no injuries nor loss of life. However, as Seattle Mayor Wes Uhlman told the subcommittee on investigations this summer, during the period from January 1969 through June 1970, there were a total of 66 bombings in the city of Seattle alone. In addition, during that same period there were 44 incidents in which explosive devices were discovered before they were detonated. And, finally, in the same period there were 347 recorded bomb threats.

Seattle officials have undertaken a concerted effort to combat this serious threat. Special units have been established in both the police and fire departments of the city to respond to bombing incidents. The city has made special efforts to increase its information-gathering capability, and as one part of those efforts has even established an informational reward system. Public safety personnel have been given special training to aid them in identifying and handling explosive devices.

But as the bombing on the University of Washington campus this morning indicates, the city alone cannot cope with this spiraling threat. Congress must establish strict statutes concerning bombers, would-be bombers, and those who make bomb threats.

S. 3650 is, with only one exception, a good bill which offers the substantial legal sanctions which we must impose on those who terrorize the public with their bombs. And even that one exception can easily be repaired here today by passage of Senator Hart's amendment.

As I noted earlier, Mr. President, the acts of the bomber, the would-be bomber, their accomplices, and those who maliciously make bomb threats cannot be justified and cannot be condoned.

In sum, Mr. President, I urge passage of S. 3650. And, at the same time, I beseech the Senate, the House of Representatives, and the administration to continue to make every effort to eliminate those factors which give rise to such unthinking acts. If we solve those problems, Mr. President, then we may well never have to pass more antibombing legislation.

Mr. President, I ask unanimous consent that the bombing statistics for the period of January 1, 1969, through April 15, 1970—statistics supplied by State and local law enforcement agencies—for Washington State, be printed in the Record.

There being no objection, the statistics were ordered to be printed in the Record, as follows:

State of Washington

Explosive bombings	90
Incendiary bombings	80
Total bombings	170
Attempted bombings	27
Bombing threats	452
Property damage (in thousands)	442
Personal injury	3
Deaths	5

Mr. THURMOND. Mr. President, we are confronted with the somber realization that our country faces a very dangerous and critical threat from the forces of subversion and revolution that are now committing repeated acts of bombings, arson, and sabotage. The magnitude and frequency of such acts of terrorism and destruction directed against the sovereignty of government and the lives and property of our citizens furnish ample warning that we are fighting for the survival of our free society.

XUM

The legislation we have before us today will make a significant contribution to the Federal legal framework designed to deal with the unlawful use of explosives. This legislation, which strengthens the laws relating to the illegal use, transportation or possession of explosives, is needed to combat the increasing incidence of violence our country is now experiencing.

Among other things, the law would—

Amplify the kinds of explosives and incendiary devices to which existing law applies;

Broaden its scope to proscribe the transportation or receipt of explosives or incendiary devices in commerce with the knowledge or intent that they will be used to kill, intimidate, or injure persons, or unlawfully damage buildings, vehicles or property, without requiring proof of a specific objective;

Proscribe the malicious damage or destruction of property owned or leased by the Government by means of an explosive; and forbid the unauthorized possession of explosives in Government buildings;

Prohibit malicious damage by means of an explosive to real or personal property used for business purposes by anyone engaged in interstate commerce, or in an activity affecting commerce.

This bill also has a provision covering the possession of explosives with the knowledge or intent that they will be transported or used in violation of the foregoing provisions.

Mr. President, in my judgment, this legislation will prove to be an effective tool in the fight against the unlawful use of explosives. I urge the Senate to give its approval to this important measure.

Mr. BYRD of West Virginia. Mr. President, we cannot stand idly by and endure the continued wave of civil disobedience, demonstrations, and bombings which have swept the country during the last few years.

The right of peaceful assembly is protected by the Constitution, and so is the right to petition our Government against grievances; but continued acts of arson, bombings, and sabotage are heinous crimes—the work of fanatics—and they cannot be tolerated by a civilized nation.

During the period of January 1, 1969, through April 15 of this year, Department of the Treasury figures indicate that there were approximately 1,000 explosive bombings and approximately 3,400 incendiary bombings. An additional 1,500 bombings were attempted, and over 35,000 threats of bombings were received during this period by law enforcement officials throughout the country. At least 43 persons have fallen victim to these acts of sabotage, and property damage has exceeded $25 million.

The General Services Administration, which has 2,800 Federal properties under its jurisdiction throughout the Nation, reports that bombings of Federal buildings have increased by 170 percent in fiscal year 1970 over the statistics of fiscal year 1969. Bomb threats have increased by 750 percent during that time period, and instances of vandalism have increased by almost 140 percent. Other crimes, including assaults, forced entry, and demonstrations have increased 6,860 percent in fiscal year 1970 over the figures of fiscal year 1969.

Thus the evidence is compelling for the need for stronger legislation to prohibit these malicious bombings. I support the pending bill, S. 3650, which would, by amending title 18 of the United States Code, expand and strengthen current laws concerning the illegal use, transportation, or possession of explosives.

Revolutionaries in our country today openly urge murder, arson, and terrorism. Law enforcement officials indicate that in those cases of actual, attempted, or threatened bombings which can be attributed, approximately 56 percent were attributed to campus disturbances, 19 percent were attributed to black militants, 14 percent were attributed to white extremists, 2 percent were attributed to labor disputes, 1 percent was attributed to attacks on religious institutions, and 8 percent were attributed to other criminal activities such as extortion and robbery.

It is clear that the institutions and functions of Government have become symbolic targets of extremists. The issue is whether such terrorists should be able to disrupt the normal functions of government through the threat or act of violence—in this case, bombing.

There is no question but that our Government has a responsibility to provide certain services without interference. Moreover, it has a right to protect such facilities as are needed to provide these services against explosions or any other act of willful destruction.

If representative democracy means anything, it means that the lives and property of our citizens, the daily activities of our people, our economy, and our Government will be protected against the forces of subversion and revolution committed to anarchy and destruction.

Prompt Senate passage of this bill will help to limit the current rash of bombings—one of the most despicable crimes invented by man.

Mr. HRUSKA. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada, (Mr. CANNON), the Senator from Connecticut, (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS), are necessarily absent.

I further announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Texas (Mr. YARBOROUGH), the Senator from Ohio (Mr. YOUNG), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Ohio (Mr. YOUNG), the Senator from New Mexico (Mr. MONTOYA) and the Senator from Missouri (Mr. SYMINGTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Colorado (Mr. DOMINICK), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from Florida (Mr. GURNEY), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) and the Senator from New York (Mr. JAVITS) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from New York (Mr. GOODELL), the Senator from Florida (Mr. GURNEY), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 68, nays 0, as follows :

[No. 369 Leg.]

YEAS—68

Allen
Allott
Anderson
Baker
Bennett
Bible
Boggs
Brooke
Burdick
Byrd, Va.
Byrd, W. Va.
Case
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Eagleton
Eastland
Ellender
Ervin
Fulbright
Griffin
Hansen
Hart
Hatfield
Holland
Hollings
Hruska
Hughes
Inouye
Jackson
Jordan, Idaho
Long
Magnuson
Mansfield
Mathias
McClellan
McGovern
McIntyre
Metcalf
Miller
Mondale
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Russell
Saxbe
Schweiker
Scott
Smith, Maine
Spong
Stennis
Stevens
Talmadge
Thurmond
Williams, N.J.
Williams, Del.
Young, N. Dak.

NAYS—0

NOT VOTING—32

Aiken
Bayh
Bellmon
Cannon
Dodd
Dominick
Fannin
Fong
Goldwater
Goodell
Gore
Gravel
Gurney
Harris
Hartke
Javits
Jordan, N.C.
Kennedy
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Prouty
Smith, Ill.
Sparkman
Symington
Tower
Tydings
Yarborough
Young, Ohio

So the bill (S. 3650) was passed, as follows:

S. 3650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 837 of title 18, United States Code, is amended to read as follows:

"§ 837. Explosives—illegal transportation, use, or possession; threats or false information

"(a) As used in this section—

" 'commerce' means commerce between any State, the District of Columbia, or any Commonwealth, territory, or possession of the United States, and any place outside thereof; or between points within the same State, the District of Columbia, or any Commonwealth, territory, or possession of the United States but through any place outside thereof; or within the District of Columbia, or any territory or possession of the United States;

" 'explosive' means gunpowder, powders used for blasting, all forms of high explosives, blasting materials, fuzes (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, other explosives or incendiary devices within the meaning of paragraph (5) of section 232 of this title, and any chemical compounds, mechanical mixture, or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion, but excluding small arms ammunition and components intended for use therein.

"(b) Whoever transports or receives, or endeavors to transport or receive, in commerce any explosive with the knowledge or intent that it will be used to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property, shall be imprisoned for not more than ten years, or fined not more than $10,000, or both; and if personal injury results shall be imprisoned for not more than twenty years or fined not more than $20,000, or both; and if death results shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment as provided in section 34 of this title.

"(c) Whoever, through the use of the mail, telephone, telegraph, or other instrument of commerce, willfully makes any threat, or maliciously conveys false information knowing the same to be false, concerning an endeavor or alleged endeavor being made, or to be made, to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property by means of an explosive shall be imprisoned for not more than five years or fined not more than $5,000, or both.

"(d) Whoever maliciously damages or destroys, or endeavors to damage or destroy, by means of an explosive, any building, vehicle or other personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States or any department or agency thereof, or an institution or organization receiving Federal financial assistance, shall be imprisoned for not more than ten years or fined not more than $10,000, or both; and if personal injury results shall be imprisoned for not more than twenty years, or fined not more than $20,000, or both; and if death results shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment as provided in section 34 of this title.

"(e) Whoever possesses an explosive in any building in whole or in part owned, possessed, or used by, or leased to, the United States or any department or agency thereof, except with the written consent of the agency, department or other person responsible for the management of such building shall be imprisoned for not more than one year, or fined not more than $1,000, or both.

"(f) Whoever maliciously damages or destroys, or endeavors to damage or destroy, by means of an explosive, any building, vehicle, or other real or personal property used for business purposes by a person engaged in commerce or in any activity affecting commerce shall be imprisoned for not more than ten years or fined not more than $10,000, or both; and if personal injury results shall be imprisoned for not more than twenty years or fined not more than $20,000, or both; and if death results shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment as provided in section 34 of this title.

"(g) Whoever possesses an explosive with the knowledge or intent that such explosive will be transported or used in violation of this section shall be imprisoned for not more than five years or fined not more than $5,000, or both.

"(h) Nothing in this section should be construed as indicating an intent on the part of Congress to prevent any State, territory, or possession of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section, nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for investigating and prosecuting actions that may be violations of this section and that are violations of State and local law.

"(i) No investigation or prosecution of any offense described in this section shall be undertaken by the United States except upon a determination by the Attorney General, or an Assistant Attorney General designated by the Attorney General, that in his judgment an investigation or prosecution by the United States is in the public interest."

SEC. 2. Paragraph (c), subsection (1), section 2516, title 18, United States Code, is amended by adding "section 837 (use, transportation or possession, or threats or false information concerning)," after "section 664 (embezzlement from pension and welfare funds).".

SEC. 3. The reference to section 837 in the analysis of chapter 39, title 18, United States Code, is amended to read as follows:

"837. Explosives—illegal transportation, use, or possesion; threats or false information."

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROTECTION OF THE PRESIDENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1269, S. 2896.

Mr. President, for the information of the Senator, following action on this bill, we have two, and maybe three, more crime bills to take up. There may be rollcall votes.

The PRESIDING OFFICER (Mr. PACKWOOD). The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2896) to prohibit unauthorized entry into any building or the grounds thereof where the President is or may be temporarily residing, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments on page 1, after line 5, strike out:

"(a) It shall be unlawful for any person or group of persons willfully and knowing—

"(1) to enter or remain in any building or the grounds thereof where the President is or may be temporarily residing, or to enter or remain in any building or the grounds thereof in which temporary offices of the President or his staff are located, without proper authority or in violation of the regulations and orders governing admission thereto;

"(2) to utter loud, threatening, or abusive language, or to engage in disorderly or disruptive conduct in or near any building or the grounds thereof enumerated in paragraph (1) with intent to impede, disrupt, or disturb the orderly conduct of Government business or official functions;

"(3) to obstruct or to impede ingress or egress to or from any building or the grounds thereof enumerated in paragraph (1) or to engage in any act of physical violence within such buildings or grounds.

And, in lieu thereof, insert:

"(a) It shall be unlawful for any person or group of persons—

"(1) willfully and knowingly to enter or remain in

"(i) any building or grounds designated by the Secretary of the Treasury as temporary residences of the President or as temporary offices of the President and his staff, or

"(ii) any posted, cordoned off, or otherwise restricted area of a building or grounds where the President is or will be temporarily visiting, in violation of the regulations governing ingress or egress thereto;

"(2) with intent to impede or disrupt the orderly conduct of Government business or official functions, to utter threatening or abusive language or to engage in disorderly or disruptive conduct in, or within such proximity to, any building or grounds designated in paragraph (1) when, or so that, such language or conduct, in fact, impedes or disrupts the orderly conduct of government business or official functions;

"(3) willfully and knowingly to obstruct or impede ingress or egress to or from any building, grounds, or area designated or enumerated in paragraph (1); or

"(4) willfully and knowingly to engage in any act of physical violence against any person or property in any building, grounds, or area designated or enumerated in paragraph (1).

On page 3, line 18, after the word "and," strike out "attempts" and insert "endeavors"; in line 22, after the word "and", strike out "attempts" and insert "endeavors"; on page 4, after line 1, strike out:

"(d) The Secretary of the Treasury is authorized to prescribe regulations and orders governing admission to the buildings and grounds enumerated in this section.

And, in lieu thereof, insert:

"(d) The Secretary of the Treasury is authorized—

"(1) to designate by regulations the buildings and grounds which constitute the temporary residences of the President and the temporary offices of the President and his staff, and

XUM

"(2) to prescribe regulations governing ingress or egress to such buildings and grounds and to posted, cordoned off, or otherwise restricted areas where the President is or will be temporarily visiting.

In line 23, after the word "section," strike out "or"; and in line 24, after "Stat. 170)," insert "or by section 1752 of title 18, United States Code,"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United State Code, is amended by adding the following new section after section 1751:

"§ 1752. Temporary residence of the President

"(a) It shall be unlawful for any person or group of persons—

"(1) willfully and knowingly to enter or remain in

"(i) any building or grounds designated by the Secretary of the Treasury as temporary residences of the President or as temporary offices of the President and his staff, or

"(ii) any posted, cordoned off, or otherwise restricted area of a building or grounds where the President is or will be temporarily visiting,

in violation of the regulations governing ingress or egress thereto;

"(2) with intent to impede or disrupt the orderly conduct of Government business or official functions, to utter threatening or abusive language or to engage in disorderly or disruptive conduct in, or within such proximity to, any building or grounds designated in paragraph (1) when, or so that, such language or conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions;

"(3) willfully and knowingly to obstruct or impede ingress or egress to or from any building, grounds, or area designated or enumerated in paragraph (1); or

"(4) willfully and knowingly to engage in any act of physical violence against any person or property in any building, grounds, or area designated or enumerated in paragraph (1).

"(b) Violation of this section, and endeavors or conspiracies to commit such violations, shall be punishable by a fine not exceeding $500 or imprisonment not exceeding six months, or both.

"(c) Violation of this section, and endeavors or conspiracies to commit such violations, shall be prosecuted by the United States attorney in the Federal district court having jurisdiction of the place where the offense occurred.

"(d) The Secretary of the Treasury is authorized—

"(1) to designate by regulations the buildings and grounds which constitute the temporary residences of the President and the temporary offices of the President and his staff, and

"(2) to prescribe regulations governing ingress or egress to such buildings and grounds and to posted, cordoned off, or otherwise restricted areas where the President is or will be temporarily visiting.

"(e) None of the laws of the United States or of the several States and the District of Columbia shall be superseded by this section."

SEC. 2. Section 3056, title 18, United States Code, is amended by designating the present paragraph as "(a)" and adding a new paragraph at the end thereof as follows:

"(b) Whoever knowingly and willfully obstructs, resists, or interferes with an agent of the United States Secret Service engaged in the performance of the protective functions authorized by this section, by the Act of June 6, 1968 (82 Stat. 170), or by section 1752 of title 18, United States Code, shall be fined not more than $300 or imprisoned not more than one year, or both."

Mr. McCLELLAN. Mr. President, I call up for consideration S. 2896—Calendar No. 1269—a bill which would provide an increased degree of protection for the security and person of the President by prohibiting unauthorized entry into any building or surrounding grounds where the President is or may be temporarily residing.

Mr. President, I need not dwell upon the importance of the position of President of the United States today: He is—simply—the Chief of State of the most powerful Nation the world has ever known. S. 2896 is designed to provide the necessary security for the proper functioning of his office.

The National Commission on the Causes and Prevention of Violence characterized the position of the Presidency as the symbol of the Government, the personification of the national character, and the leader of the Nation in world affairs. Because of this, the risk of assassination falls, the Commission found, most heavily on him. Attacks have been made against the lives of only eight of the estimated 1,300 Governors, eight of the 1,655 Senators—including Senator Kennedy—and nine of the 8,400 Representatives—five in the 1954 attack on the House floor—who have served in our Nation's history.

In contrast, eight of the 35 Presidents—23 percent of the total—have been shot at—including five of the last 12. In direct contrast, no Vice President or Supreme Court Justice has ever been the target of an assassination attempt. Moreover, the rising tide of violence here in America requires stricter security precautions. Political violence is becoming more intense within our Nation. There is today much talk of revolution and urban guerrilla warfare. Constantly, too, we hear the excoriation of America's institutions and leaders that will destroy their virtue and legitimacy in the eyes of some segments of society, and which are calculated to inspire new attempts to inflict injury on them and on the President himself.

Mr. President, these developments must be placed in the context of the growing tendency for Presidents not only to travel more but also to use their privately owned homes for temporary retreats from Washington: at Hyde Park, at Key West, at Hyannis Port and Palm Beach, at the Texas White House, and at San Clemente and Key Biscayne. I might include also Camp David. Although these retreats have all been privately owned, except Camp David, they attract a great deal of attention because of the importance and publicity surrounding the Presidency.

Protecting the President under these conditions is a formidable task for the Secret Service, which is charged with safeguarding the personal life of the President. As difficult as this task is, however, it is rendered even more difficult because the Secret Service's present powers are somewhat limited. Title 18, section 3056 of the United States Code authorizes the Secret Service to protect the life of the President, but does little more. Consequently, the Service must rely upon a patchwork of State laws and local ordinances and local officers to clear areas for security perimeters, to provide for free ingress and egress when the President is visiting, and to protect the President's private homes from trespassers. Serious problems have arisen because the State laws and local ordinances vary widely as to application and extent of conduct proscribed, and it has often been difficult to establish the exact jurisdiction to determine who has the power to make an arrest to clear an area or turn back an intruder—and, even if then, too often no State or local police officer is immediately available to make the arrest.

S. 2896 will deal with and answer these problems. It is a precisely and narrowly drawn criminal statute that will make it a Federal offense to willfully and knowingly interfere with the functioning of the Office of the Presidency. S. 2896 is designed for two types of applications: First, temporary visits of the President to any location; and, second, temporary homes or offices of the President. In the case of a temporary visit, the bill would make it a Federal offense:

First, to willfully and knowingly enter or remain in any posted, cordoned off, or otherwise restricted area of a building or grounds where the President is or will temporarily be visiting; or

Second, to willfully and knowingly obstruct or impede ingress or egress to or from any such area; and

Third, to willfully and knowingly engage in any act of physical violence within such area.

These provisions of S. 2896 will enable the Secret Service carefully and effectively to establish and maintain a security perimeter wherever the President travels, without having to depend primarily and necessarily upon local ordinances or local officials to move people on or to arrest them.

In the second application—that of temporary homes and offices of the President—the scope of the proposed statute is little more expanded. Initially, such homes and offices would be designated by the Secretary of the Treasury in the Federal Register. Here, too, S. 2896 would outlaw unauthorized entry or presence, obstructing or interfering with ingress or egress, and engaging in any act of physical violence within such designated homes and offices. In addition, however, because of the day to day, ongoing official functions occurring at presidential homes and offices, S. 2896 would make it a Federal offense to utter threatening or abusive language or to engage in disruptive or disorderly conduct first, with the intent to impede or disrupt the orderly conduct of Government business or official functions, and second, when such language or conduct, in fact, does impede or disrupt such orderly conduct of Government business or official functions. Thus, the effective functioning office of the Presidency will be secured.

S. 2896 will not supersede any existing laws, and the Secret Service will still rely upon State and local police for most crowd control as they have done in the

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past. It would, however, provide a minimum, uniform standard for the Secret Service to provide for the security of the President.

Mr. President, this bill is I think, a narrowly drawn and precisely focused measure. I previously said that S. 2896 would provide a minimum standard. I believe that two examples should suffice to illustrate my point: The Washington Post reported on September 18 that the assistant attorney general of the State of Kansas noted that the persons who heckled President Nixon when he was in Kansas could be prosecuted under the disorderly conduct provisions of the Kansas criminal code.

People who intentionally disrupt a lawful assembly, of course, should be prosecuted, but they could not be prosecuted under S. 2896, because it is not designed to deal with this problem. It would have applied, however, had these people attempted to enter the security perimeter surrounding the President or had blocked ingress or egress to that perimeter. Similarly, S. 2896 would not apply to a disorderly group of people three blocks away from the San Clemente home, unless they were obstructing or impeding ingress or egress to San Clemente itself. This would be a matter for the State and local police, as it has always been in the past. S. 2896 is, in short, primarily a security protection, not a crowd control bill.

Mr. President, when S. 2896 was first forwarded to the Congress its reach was somewhat wider. Legitimate objections were raised to it, and the committee carefully redrew its provisions. Now, however, there is nothing in S. 2896, as carefully amended by the committee, that would isolate the President from the people. It will not ban demonstrations near presidential residences. It will always be possible to assemble peaceably wherever the visible symbol of the Government is located. No longer, though, will presidential security depend upon differing local ordinances, some of which may be of dubious constitutionality. S. 2896 will provide for the consistent, uniform enforcement of a narrow, precisely drawn statute that proscribes specific conduct for the protection of the President and his environment.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc; and that the bill as thus amended be considered as original text for the purpose of amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I am in favor of the real objective of this bill, and I would like to pay tribute to the chief counsel for the Subcommittee on Criminal Laws and Procedures, Robert Blakey, who did about the finest job of revising and rephrasing of the original bill as can be imagined.

Those of us who serve in the Senate are conscious of the fact that we owe so much to the staff members of the committees and subcommittees and our aides in the performance of our duties, and I would like to pay tribute to the chief counsel of the Subcommittee on Criminal Laws and Procedures, because I have never known of a finer job of redrafting being done.

Mr. President, I move to strike out the following words on line 5 of page 3 of the committee amendment:

> utter threatening or abusive language or to—

The deletion of those words will not affect in any way the overall objective of the bill. The reason why I object to those words are set forth in the minority views which I filed, and which I ask unanimous consent to have printed at this point in the body of the RECORD as a part of my remarks.

There being no objection, the views were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF SENATOR SAM J. ERVIN ON S. 2896

I find myself unable to join with the majority in recommending the passage of S. 2896 in its present form because of my concern about its possible impact on the first amendment freedoms of the American people.

I certainly share with the majority the unhappy but tragically necessary recognition of the need to protect the President when he moves to temporary residences, or travels about the country, as well as in Washington. Thus, I have no objection to those portions of S. 2896 which govern access to, or control unauthorized presence on, the grounds of specific places where the President stays or might go.

However, I am seriously troubled by one aspect of the bill. Paragraph (a)(2) would make it a Federal crime "to utter threatening or abusive language" in or in the vicinity of the buildings or grounds serving as temporary residences or offices of the President. The Supreme Court has held, however, that the first amendment protects even verbal threats against the President which were no more than "political hyperbole," although uttered near the White House. *Watts* v. *United States*, 394 U.S. 705 (1969).

Although paragraph (a)(2) applies to acts "in or sufficiently close to" the grounds of Presidential residences so as "to be disruptive," there is no reason to believe that demonstrations will be permitted inside the grounds of such places any more frequently than they are now presently permitted inside the gates of the White House. Thus, the bill seems really aimed at demonstrations near, but beyond the perimeters of, these temporary Presidential headquarters. So limited, the risk of physical danger to the President is remote, and the risk of a chilling effect on free speech and peaceful assembly is pressing.

I am convinced that paragraph (a)(2) should not be defended as necessary to protect the President. Instead, it must be opposed because it will permit the Government to insulate the President from the petitions of the people. The lowest level of possible interference with the operation of his staff would be grounds for a criminal prosecution. I believe it is essential to the continued health of our political system that we protect, not punish, those who wish to communicate grievances to the President. To a certain extent, all demonstrations falling under the protection of the first amendment have as their goal the disruption of "the orderly conduct of government business." The nailing of a 95-point thesis on a church door in October of 1517 was an exercise in religious freedom, but it undoubtedly disturbed those within the Cathedral of Wittenberg. The very purpose of the exercise of free speech is to be heard—often by noisy, boisterous, excited means of communication. The central teaching of the first amendment is that this kind of conduct must be protected.

Thus, because I do not believe that the level of disturbance covered by paragraph (a)(2) creates a threat of physical danger to the President, I cannot support the suppression of dissent inherent in this bill, which would, indeed, have the effect of both insulating the President from the sounds of dissent and deterring people from engaging in legitimate first amendment activities. I, therefore, urge that the words "to utter threatening or abusive language" now in paragraph (a)(2) be deleted.

Mr. ERVIN. Mr. President, my purpose in moving to strike those words is that they make it an offense to speak, that is, to utter words, and they come very close to trespassing on the protected area of the first amendment.

Since these words really add nothing of a substantial nature to the overall objective of the bill, which is to protect the President when he is required to travel to areas outside of Washington and have there his temporary home and his temporary office for the discharge of his duties. I hope the floor manager of the bill and the Senate will accept the amendment.

Mr. McCLELLAN. Mr. President, as I read the bill and the language to which the Senator from North Carolina has alluded, and which he moves to strike, it seems to me the following phrase and paragraph are adequate to cover what we are seeking as the objective of the bill. The paragraph reads:

> with intent to impede or disrupt the orderly conduct of Government business or official functions.

Omitting the words that the Senator from North Carolina would like to strike, it would then read:

> To engage in disorderly or disruptive conduct in, or within such proximity to, any building or grounds designated in paragraph (1) when, or so that, such language or conduct, in fact, impedes or disrupts . . .

Therefore, I think if the language was threatening or abusive, if it was to the extent or in an area where it disrupted, it would be in a violation. The language itself would be, without having to use the term "threatening or abusive language."

In other words, if a person were in such an area and used abusive language under such conditions that it would not disrupt or interrupt or interfere, it would not be a crime; but if it were a disruption or interference, or a part of conduct which did obstruct, then it would be a part of the crime.

I think I am correct in that.

Mr. ERVIN. I think the words "disorderly conduct" go far enough to cover any kind of conduct which would be disruptive in character.

Mr. McCLELLAN. We are not trying to prevent a man from using threatening language in any way if he does not interfere with the orderly processes of government. That is not what we are seeking to do.

I have no objection to accepting the amendment, and I will accept it if there is no objection. I hear none, and I am ready to take a vote on the amendment.

Mr. COOK. Mr. President, before that, will the Senator yield?

Mr. McCLELLAN. I yield.

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Mr. COOK. I really direct my question to the Senator from North Carolina. I wish to have the attention of the chairman also.

Is this the language that we discussed in the committee, where there was some doubt relative to the authority to limit the right of a person under the first amendment?

Mr. ERVIN. Yes. In other words, this is the very language that the Senator from Kentucky, the Senator from Michigan, and the Senator from North Carolina expressed grave doubts about in committee. I am just seeking to strike out that part of the bill which deals with spoken words, without affecting the overall objective of the bill in any respect.

Mr. McCLELLAN. There was just a weak discussion of it, as Senators will recall, in the committee. I may say that a study of the other language of the bill with that language out seems to me to be adequate to reach the objectionable conduct that we are trying to prohibit.

Mr. ERVIN. I think my motion should take care of the misgiving which the Senator from Kentucky and the Senator from Michigan expressed in the committee.

Mr. COOK. As the Senator will recall, there was a discussion about the right of petition under the first amendment. I must admit this sounds like it solves the problem, perhaps not totally, but I think our discussion will fulfill the rest of the void in regard to the right of petition and in regard to those rights under the first amendment which we felt might be enlarged upon in this bill to the extent that this could very well take care of the situation.

Mr. McCLELLAN. I think so. The purpose of the bill is, first, to protect the President in his body and in his person, and, second, to make certain nothing disrupts or obstructs the carrying on of the function of his Office. That is the objective or goal we are seeking to achieve with this legislation.

Mr. HART. Mr. President, will the Senator yield briefly?

Mr. McCLELLAN. I yield.

Mr. HART. Mr. President, as the Senator from Kentucky indicated, there were those of us in the committee who had reservations with respect to the reach of the language of the bill. It would be nice if petitions could be addressed to the Government and Government agents in a graceful, civilized fashion, but the meat and potatoes of our theory of the first amendment is that sometimes the fellow who wants to talk is very tough looking and has a vocabulary that is outrageous; but, you know, Mr. President, he may have a good idea. In order to assure that we have a fighting chance to get sound answers to our problems, all of us should be sensitive that we do not reject from any source a potentially good idea.

This country is very blessed that it has a Senator from North Carolina with the name of SAM ERVIN, who, in good days and bad days, whether it is popular or unpopular, is ready to blow the whistle on any proposal which would trade for comfort and gentility the protections of the first amendment. I am glad he has again spoken.

Mr. ERVIN. Mr. President, I rise to express my deep gratitude to the Senator from Michigan for what I consider to be exceedingly high tribute. I will reciprocate the compliment in favor of the Senator from Michigan.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. Is there objection?

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McCLELLAN. Mr. President, the last amendment was agreed to, was it not?

The PRESIDING OFFICER. The amendment was agreed to without objection; yes.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2896) was ordered to be engrossed for a third reading, and was read the third time.

Mr. HRUSKA. Mr. President, S. 2896 is a bill to prohibit unauthorized entry into any building or the grounds thereof where the President is or may be temporarily residing. Hearings were held on this bill by the Subcommittee on Criminal Laws and Procedures in March, 1970. After amendment, this bill was ordered favorably reported by the Judiciary Committee.

S. 2896, as amended, would add a new section 1752 to title 18 of the United States Code designed to increase the protection of the President while he is in a temporary residence and while he is temporarily visiting in a designated area. The Secretary of the Treasury would be authorized to designate by regulations buildings and grounds which are temporary residences of the President and temporary offices of the President and his staff. The Secretary also would be authorized to prescribe regulations for admission to such buildings and grounds and to post or cordon off restricted areas where the President is or will be temporarily visiting.

Section 1752 would make it unlawful for anyone to enter such building or grounds in violation of the regulations promulgated by the Secretary. Further, it would be unlawful to utter threatening or abusive language or engage in disorderly conduct in or near such buildings or grounds with the intent of disrupting the orderly conduct of business if the language or conduct has a disruptive effect. Section 1752 further prohibits anyone from obstructing or impeding ingress and egress to or from such buildings and grounds, and it prohibits any act of physical violence therein.

The penalty for violating any of these prohibitions would be a fine not to exceed $500, imprisonment not to exceed 6 months, or both.

S. 2896 would also amend section 3056 which deals with the powers and responsibilities of the Secret Service. S. 2896 would increase their authority by making it unlawful for anyone to resist or interfere with a Secret Service agent engaged in performing his protective functions. Violators would be fined not more than $300 or imprisoned not more than 1 year, or both.

Nine times in the history of this Nation, the President has been the subject of an assassination attempt. In this century six attempts have been made on the lives of Presidents or candidates, and of course there are a numerous incidents that are not reported publicly or which are stopped before they fully develop. The majority of these attempts have occurred outside of Washington, and hence, in buildings or on grounds that are not under Federal jurisdiction.

At the present time there is no Federal statute restricting entry to areas where the President maintains a temporary residence or office. Nor is there a Federal statute prohibiting disorderly or disruptive conduct near an area temporarily occupied by the President. All restrictions which exist are the result of State law or local ordinances. As a result, the Secret Service, which is charged with protecting the President, must rely on local authorities to arrest disruptive persons, and this situation has become increasingly unsatisfactory. Local law-enforcement personnel often are not present when a specific offender needs to be arrested. Moreover, the differences in criminal statutes from one jurisdiction to another often create uncertainty as to the legal extent of the Secret Service's authority and make uniform enforcement or planning impossible.

There can be no doubt that the Office of the President is extremely vulnerable and is increasingly threatened. In the report submitted after Senator Kennedy's death, the Eisenhower commission expressed its grave concern over future threats to public officials. The verbal and physical violence which we have witnessed in the past 2 years, highlighted by the recent rash of bombings, supports the conclusion that we are in a period of extreme social and political upheaval. Many of the extremist conditions usually associated with political assassination are developing in this country. While we must strive to change these conditions, we must recognize that they do exist and that they do increase the threat to an already vulnerable President.

With growing frequency, Presidents have been using privately owned homes as temporary retreats from Washington. It would be unconscionable not to recognize the obvious fact that the President's vulnerability is maximized when he is traveling or residing temporarily in another section of the country. It would be unconscionable not to recognize the obvious fact that the Secret Service does not presently possess adequate Federal authority during these most vulnerable occasions. This body cannot ignore the obvious responsibility and duty it has at this moment to create the needed protection and authority.

Of course, the creation of adequate protection for the President must be balanced against the constitutional rights of private individuals.

The Judiciary Committee is satisfied that the uniform Federal protection pro-

XUM

vided by S. 2896 is consistent with our free society. Most of the conduct proscribed by this legislation is presently outlawed in some form by State statute or local ordinance. The bill improves the present situation by making the proscribed conduct a Federal offense, so that the Secret Service may exercise uniform authority to protect against this conduct and to enforce these prohibitions. Such uniform enforcement of a single Federal statute instead of a myriad of State and local provisions will improve the protection afforded the President.

At the same time this legislation specifically provides that other Federal and State laws would not be superseded. The intent of this legislation is to provide a uniform minimum of Presidential protection in certain specified situations. Hence, it is still necessary and desirable to rely also upon other, existing Federal and State laws and local ordinances.

This legislation meets the tests which have been laid down by the Supreme Court to protect first amendment freedoms. While individuals have the right to assemble and to voice their grievances, the Government clearly has the authority to control certain types of speech and conduct in certain areas. This authority was recognized in *Adderley* v. *Florida*, 385 U.S. 39 (1966). In the case of *Edwards* v. *South Carolina*, 372 U.S. 229 (1963), the Supreme Court stated that conduct could be controlled by legislation, provided the restrictions resulted from a precise and narrowly drawn regulatory statute evincing a legislative judgment that certain specific conduct be limited or proscribed. S. 2896 meets these requirements. It exercises the important governmental interest in protecting the person of the President at specific places. The areas that would be subject to this legislation must be so designated by the Secretary. They would appear in the Federal Register along with regulations governing admission to these areas.

The legislation restricts only specified forms of conduct which this Congress feels unduly imperil the President's welfare. A person must enter a predesignated area or violate the Secretary's regulation knowingly and willfully.

Entrance into a predesignated area or obstruction of ingress or egress, and violation of the Secretary's regulations, and physical violence against persons or property in a predesignated area, is prohibited only if it is done knowingly and willfully. Threatening or abusive language or conduct in or near a predesignated area is prohibited only if it is done with the intent to impede the orderly conduct of Government business or official functions, and it must be successful. It does not prevent the communication of grivances in ways that are not disruptive or disorderly or at places other than those specified by the Secretary. Hence, the legislation would not have a "chilling effect" on lawful dissent.

This legislation does not impose an absolute ban on demonstrations near temporary Presidential residences. It does not suppress lawful dissent. It will not isolate the President from the people. Rather, S. 2896 would create a minimum of needed, consistent and uniform Federal protection of the President. It does so through a narrow, precisely drawn Federal statute which proscribes specific forms of conduct deemed by Congress to unduly jeopardize the President's safety. No longer would the security of the President depend completely on differing State statutes and local ordinances. No longer will the Secret Service lack needed uniformity and authority at those times when the President is most vulnerable. The only question that can be asked regarding this legislation is why it was not enacted sooner. And I contend that this body cannot and must not postpone this matter any longer.

The **PRESIDING OFFICER** (Mr. PACKWOOD). The bill having been read the third time, the question is, Shall it pass?

The bill (S. 2896) was passed, as follows:

S. 2896

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, is amended by adding the following new section after section 1751:

"§ 1752. Temporary residence of the President

"(a) It shall be unlawful for any person or group of persons—

"(1) willfully and knowingly to enter or remain in

"(i) any building or grounds designated by the Secretary of the Treasury as temporary residences of the President or as temporary offices of the President and his staff, or

"(ii) any posted, cordoned off, or otherwise restricted area of a building or grounds where the President is or will be temporarily visiting.

in violation of the regulations governing ingress or egress thereto;

"(2) with intent to impede or disrupt the orderly conduct of Government business or official functions, to engage in disorderly or disruptive conduct in, or within such proximity to, any building or grounds designated in paragraph (1) when, or so that, such language or conduct, in fact, impedes or disrupts the orderly conduct of government business or official functions:

"(3) willfully and knowingly to obstruct or impede ingress or egress to or from any building, grounds, or area designated or enumerated in paragraph (1); or

"(4) willfully and knowingly to engage in any act of physical violence against any person or property in any building, grounds, or area designated or enumerated in paragraph (1).

"(b) Violation of this section and endeavors or conspiracies to commit such violations, shall be punishable by a fine not exceeding $500 or imprisonment not exceeding six months, or both.

"(c) Violation of this section, and endeavors or conspires to commit such violations, shall be prosecuted by the United States attorney in the Federal district court having jurisdiction of the place where the offense occurred.

"(d) The Secretary of the Treasury is authorized—

"(2) to prescribe regulations governing ingress or egress to such buildings and grounds which constitute the temporary residences of the President and the temporary offices of the President and his staff, and

"(2) to prescribe regulations governing ingress or egress to such buildings and grounds and to posted, cordoned off, or otherwise restricted areas where the President is or will be temporarily visiting.

"(e) None of the laws of the United States or of the several States and the District of Columbia shall be superseded by this section."

SEC. 2. Section 3056, title 18, United States Code, is amended by designating the present paragraph as "(a)" and adding a new paragraph at the end thereof as follows:

"(b) Whoever knowingly and willfully obstructs, resists, or interferes with an agent of the United States Secret Service engaged in the performance of the protective functions authorized by this section, by the Act of June 6, 1968 (82 Stat. 170), or by section 1752 of title 18, United States Code, shall be fined not more than $300 or imprisoned not more than one year, or both."

Mr. **McCLELLAN**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **MANSFIELD**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONGRESSIONAL ASSASSINATION, KIDNAPING, AND ASSAULT

Mr. **MANSFIELD**. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1268, S. 642.

The **PRESIDING OFFICER**. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 642) to make it a Federal offense to assassinate, kidnap, or assault a Member of Congress or a Member of Congress-elect.

The **PRESIDING OFFICER**. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments on page 2, line 8, after the word "whoever", to strike out "attempts" and insert "endeavors"; and on page 3, after line 8, to insert:

"(h) Paragraph (c), subsection (1), section 2516, title 18, United States Code, is amended by striking the word 'or' in the last phrase of the subsection and inserting at the end thereof between the parenthesis and the semicolon 'or section 351 (violations with respect to congressional assassination, kidnaping, and assault)'.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part I of title 18 of the United States Code is amended by inserting, immediately after chapter 17, a new chapter as follows:

"Chapter 18.—CONGRESSIONAL ASSASSINATION, KIDNAPING, AND ASSAULT

"Sec.

"351. Congressional assassination, kidnaping, and assault; penalties.

"§ 351. Congressional assassination, kidnaping, and assault; penalties

"(a) Whoever kills any individual who is a Member of Congress or a Member-of-Congress-elect shall be punished as provided by sections 1111 and 1112 of this title.

"(b) Whoever kidnaps any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

"(c) Whoever endeavors to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

"(d) If two or more persons conspire to kill or kidnap any individual designated in

XUM

subsection (a) of this section and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

"(e) Whoever assaults any person designated in subsection (a) of this section shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(f) If Federal investigative or prosecutive jurisdiction is asserted for a violation of this section, such assertion shall suspend the exercise of jurisdiction by a State or local authority, under any applicable State or local law, until Federal action is terminated.

"(g) Violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

"(h) Paragraph (c), subsection (1), section 2516, title 18, United States Code, is amended by striking the word 'or' in the last phrase of the subsection and inserting at the end thereof between the parenthesis and the semicolon 'or section 351 (violations with respect to congressional assassination, kidnaping, assault)'."

Sec. 2. The table of contents to part I of title 18, United States Code, is amended by inserting after the following chapter reference:

"17. Coins and currency.............. 331"

a new chapter reference as follows:

"18. Congressional assassination, kidnaping, and assault............ 351".

Mr. BYRD of West Virginia. Mr. President, I am pleased to speak in support of S. 642, legislation introduced by me to make it a Federal offense to assassinate kidnap, or assault, or conspire to do same to a U.S. Representative, a U.S. Senator, or a Member-of-Congress-elect.

This legislation not only gives the Federal courts jurisdiction over such offenses, but would bring the investigation of such cases under the superior resources of the Federal Bureau of Investigation. It would add a new chapter to part I of title 18 of the United States Code.

I first introduced this bill shortly after the untimely assassination of Senator Robert F. Kennedy. This bill is patterned after Public Law 89-141, which the Congress considered in 1965, making it a Federal crime to assassinate the President or the Vice President of the United States.

Mr. President, political violence has intensified greatly since I first introduced this bill. Many fanatics have discarded the politics of reason for the politics of violence and confrontation in order to achieve their own political objectives.

This violence manifests itself in our Nation's streets and in the political process itself. There have been 81 recorded political assassinations or attempted political assassinations during our history. In the last year, several of our colleagues in the Senate have received threats against their lives. While I may not be in full accord with all the statements my distinguished colleagues give in the Senate, I defend their right to speak freely and without fear of coercion or intimidation.

According to a staff report of the National Commission on the Causes and Prevention of Violence, the number of political assassinations and acts of general political violence in the United States is high when compared with other nations, particularly the more developed countries. The commission further reported that the risk of assassination is considerably greater for nationally elected public officials than for appointed public officials—no matter how much power an appointed official may wield. In addition, it is pointed out that the risk of assassination is directly proportional to the size of the elected official's constituency.

Enactment of this legislation would in no way impair the normal political processes. Its purpose is to protect U.S. Representatives and U.S. Senators from physical intimidation and physical injury. State law in many cases is inadequate to handle the offenses covered by this bill, and it is important that the law protecting Members of Congress be uniform throughout the Nation. It is the intent of this legislation that in determining assault, the courts would consider the fact that Members of Congress, as they discharge their public duties, are likely to encounter rougher physical treatment among all manner of people than would the ordinary citizen.

This legislation is needed to protect representative democracy. Passage would help to guarantee the right of any Member of Congress to fulfill his constitutional duties and responsibilities as an elected official of our country.

Mr. President, a single infamous act brought enactment of similar legislation for the President and the Vice President. We remember the tragic death of the junior Senator from New York. The Senate should take those actions needed to help prevent a parallel course of events in the future.

Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

The bill is open to further amendment.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that it be in order to offer a technical amendment to correct one of the committee amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. I offer an amendment for the correction of a technical error, which amounts to a renumbering, I believe, of the second section, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 3, line 9, strike the quotation marks and "(h)" and insert in lieu thereof "Sec. 2"; and in line 15, renumber "Sec. 2" as "Sec. 3."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ERVIN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 2, beginning with line 19 through line 21, strike out all of subsection (e) and insert the following:
>
> "(e) Whoever assaults any person designated in subsection (a) of this section shall be fined not more than $5,000, or imprisoned not more than one year, or both; and if personal injury results, shall be fined not more than $10,000, or imprisoned for not more than ten years, or both."

Mr. ERVIN. Mr. President, the section which I seek to strike is on lines 19, 20, and 21 of page 2. It provides as follows:

> Whoever assaults any person designated in subsection (a) of this section shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

Now, the term "assault" is a very broad term, and it would include not only a murderous assault, or an assault with intent to commit murder, or an assault with intent to commit mayhem, but it would include also a simple assault.

A simple assault may be committed even though the man who commits the assault does not even touch the person of the Member of Congress. As I recall, the definition of an assault at common law is an offer or an attempt with force or violence to do bodily harm to another, under circumstances indicating at least an apparent ability to carry the offer or attempt into effect. If a man draws back his fist and strikes at a Member of Congress, without striking him or if he slaps a Member with his open hand, he would be guilty of assault under this provision, although that, under the laws of most States, would be a simple assault, and in the State of North Carolina a man convicted thereof could not be punished by more than 30 days' imprisonment or a $50 fine.

This section, as presently drawn, would provide a maximum punishment by fine of as much as $10,000, or imprisonment of 10 years, or both, for such a simple act as that, where no harm was done and even where the person of the Congressman was not even touched.

I certainly think that my amendment, which would restrict punishment, in simple assaults, to imprisonment of 1 year, or a $5,000 fine, or both, is more than adequate; and therefore I hope the distinguished Senator from West Virginia will accept the amendment.

Mr. COOK. Mr. President, will the Senator yield?

Mr. ERVIN. I am delighted to yield to the Senator from Kentucky.

Mr. COOK. Will the Senator accept the definition that an appearance of assault can be simple assault, under the law, and that under those circumstances, merely to wave your fist in someone's face, as under the laws of the commonwealth where I come from, constitutes a simple assault? What the Senator has done, as I understand, is make a distinction, between simple assault and aggravated assault, so that there can be no misunderstanding in that regard as to the terms of the bill; and I would hope that the Senator from West Virginia would accept the amendment.

Mr. BYRD of West Virginia. Mr. President, this matter was discussed in the

XUM

Judiciary Committee, and during the discussion, the Senator from North Carolina very properly raised this point. It was my suggestion at that time that the Senator prepare an amendment which would cure the evil which he recognized, and he has done that.

This amendment recognizes a distinction between simple assault and aggravated assault and makes the penalties proportionately different. I think it is a good amendment. I am willing to accept it. I think the Senator has performed a service.

Mr. ERVIN. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1039

Mr. HART. Mr. President, I call up amendment No. 1039.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 2, line 2, strike the words "as provided by sections 1111 and 1112 of this title" and insert the words "by imprisonment for any term of years or for life" in lieu thereof.

On page 2, line 6, strike the words "death or".

On page 2, line 17, strike the words "death or".

Mr. HART. Mr. President, consistency alone would require that I call up the amendment that has now been stated. Within the past hour, effort was made to eliminate the death penalty from the bombing bill. I have, as I did in the Judiciary Committee, sought to eliminate the death penalty from the pending bill, the bill which makes it a Federal crime to assassinate, kidnap, or assault a Member of Congress or a Member of Congress elect.

I must confess some surprise at the number of the votes that supported the proposal with respect to bombing. It had not been my intention nor did I seek to have a rollcall vote on that bill. I know that it is a difficult vote. My primary purpose was to raise and keep alive at any appropriate time the issue, the wisdom of this society to continue to have a conviction that capital punishment has been proved to deter. Certainly, having raised my objection to capital punishment and then having others ask a rollcall vote on the deletion of the death penalty from the new antibombing legislation, it would be very difficult to explain why I did not call this amendment up when we were talking about what we would do to those who want to assassinate us.

I know that there are no bookmakers in the Senate, but I would suspect that one could get pretty good odds on the proposition that nobody is going to be deterred from shooting any of us because there is a provision in the statute books which provides, among other sanctions, execution. We did not go into that in the hearings on my bill to abolish capital punishment in all Federal criminal laws with Warden Lawes, Warden Duffy, and Commissioner Bennett. The figures do not support the proposition that capital punishment works. The murder rate in Michigan, where the penalty was abolished in 1847, parallels that of Indiana and Illinois, death penalty States; Wisconsin, an abolition State for over 100 years, has a rate significantly below Michigan, again indicating that the murder rate is not affected by the presence or absence of the death penalty. What about police officers? It is often argued that the death penalty will prevent police killings. But a 1950 study of 266 cities of over 10,000 population in 17 States—6 abolition, 11 death penalty—revealed that:

> On the whole, abolition states seem to have fewer police killings but the differences are small. Dr. Thorsten Sellin, "The Death Penalty and Police Safety."

So far as I know, they had never had experience with anybody who attempted to shoot a Member of Congress; but they have had long experience with the behavior of convicted killers and they had the deep conviction, which I share, that capital punishment deters nobody.

It may make us feel better or let us think that we are fighting crime more effectively. But in there is even psychiatric testimony that we are brutalizing the society and contributing, occasionally, to violent assaults by those who are free on the streets but ought to be in mental institutions.

We had a very distinguished university professor tell us that the existence on the statute books of capital punishment, in his judgment, had activated, had caused, some murders.

It is not because of that last testimony that I suggest that we ought to eliminate capital punishment when it bears on our treatment of us as Members of Congress. But, as I opposed it earlier, I shall oppose it so long as the statistics disprove that capital punishment deters murder any more than life imprisonment. I move by this amendment that we eliminate the capital punishment feature of the sanctions.

Mr. BYRD of West Virginia. Mr. President, provision is made in subsections (a) and (b) for the death penalty. It should be noted that the death penalty provision only becomes operative if the Representative or Senator is directly killed or if death results from a kidnaping. The death penalty provided is not mandatory and merely gives the judge and the jury this additional discretionary punishment if it suits the nature of the particular crime.

These provisions incorporate from 18 U.S.C. 1111–12 the same penalties as are there provided for the murder of persons on Federal reservations. Therefore, this provision is consistent with present laws and present policies, and the proper place for debating the overall question of the death penalty is not here but in the area of penal reform.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan (putting the question).

The amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ERVIN. Mr. President, I reluctantly oppose this bill. I do so because I know the interest which the distinguished Senator from West Virginia has in the enactment of this measure. I entertain for the distinguished Senator from West Virginia the deepest affection and the highest admiration, and for that reason I reluctantly oppose this bill.

I oppose this bill for two reasons. The first is that under our system of Government, the duty to prosecute and to punish people for crimes of violence rests upon the States, and this bill would make an assault upon or the murder of a Member of Congress a Federal crime for the first time in our history.

I recognize that Congress has taken such action with respect to the President. But I do not think that we should go further than that and convert what has always been a State crime into a Federal crime.

This bill not only would do that, but also would temporarily suspend the power of a State to prosecute until it is determined whether the Federal Government is going to assume the duties of prosecuting the case. I do not know of many Senators or Representatives, in the history of this country, who have been assassinated. There may have been some. But I do not think a sufficient basis has been shown for converting what has always been a State crime into a Federal crime and to make the beneficiaries of its protection Members of Congress only.

My second reason for opposing the bill arises out of the fact that nothing truer was ever said than that every journey to a forbidden end begins with a single step. We started out by making the assassination of a President a Federal crime. Now we propose to do the same thing with respect to Congressmen. It will not be long before there is a proposal made to extend it to all Federal officers, and then the next step will be to extend it to all Federal employees.

Speaking in humorous vein, I suggest that in bygone days, it was a favorite pastime of moonshiners in mountainous States, like mine, to shoot revenue officers. The next thing we know, we will have a proposal made that it be made a Federal crime to shoot revenue officers. That would certainly interfere with one of the historic pastimes of moonshiners in the mountainous areas of this country.

But, speaking seriously, I apprehend that the enactment of this bill will encourage the proposal that we make assaults upon Federal employees or the murders of Federal employees a Federal crime instead of a State crime.

I cannot find it within my better judgment—if I have any such judgment—to support the pending bill. I take this position with great reluctance because I know of the conviction of my good friend from West Virginia that the bill is necessary.

But, we are doing these two things; namely, converting what have always been State crimes into Federal crimes and taking a step toward what I consider to be a forbidden goal, that those who work for the Federal Government should be given Federal protection, which is denied to the rest of the people of this country. I am afraid that is what Congress will wind up doing.

For these reasons, Mr. President, I reluctantly shall vote against the bill.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that two members of the Judiciary Committee's staff, Mr. Thomas M. Susman and Mr. James F. Flug, be permitted on the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I want briefly to indicate my support for the bill and to commend the distinguished Senator from West Virginia for introducing it and for his leadership in connection with it.

When my attention was first brought to the bill, I wondered whether an amendment should be offered so that it would also cover Federal judges. I am mindful of the fact that Congress passed legislation last year, I believe, which applies to the President and the Vice President of the United States. I asked the staff to do some research to see whether judges are now covered and, if not, what language might be appropriate.

I want now to indicate in this debate that there is a provision, title 18, section 1114, which makes it a Federal crime to kill a judge of a U.S. court, a U.S. attorney, or a U.S. marshal.

So this legislation, in a sense, will complete a logical approach—it will protect by a Federal law the three branches of the Government, at least at the top level.

I share the concern of the Senator from North Carolina. I think we could go too far in this direction. It is difficult to know where to draw the line but, on the other hand, if it makes sense to have the law apply to the President and Vice President, to Members of the Supreme Court, and to Federal judges—and I think it does—then I also believe it makes sense to have a similar law apply to Members of Congress.

I think it might be in the interest of orderly procedure, at a later point, for the Committee on the Judiciary to take a look at all three of the provisions and make sure there is some uniformity in their application. We may very well find that members of the judiciary do not have the same or as much protection as Members of Congress, and if that is the case, I think it should be corrected.

As I have said, I support the bill of the distinguished Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator from Michigan (Mr. GRIFFIN), for his support and his statement. I, too, appreciate the concern expressed by the very able Senator from North Carolina (Mr. ERVIN), who is the most outstanding constitutional expert in this body.

I feel, however, that Members of Congress who have to take controversial positions and have to express themselves in public gatherings, sometimes, in situations where the atmosphere is dangerously charged, run high risks which are not incumbent upon the average Federal employee, to use the able Senator's reference.

We are living in a time when many persons, demented or otherwise, apparently have a craving for notoriety, even if they have to go to the extent of assassinating someone in order to get their names in the papers. In my judgment, they should be confronted with the prospects for execution at the end of the road.

Mr. President, some States no longer have the death penalty. My State of West Virginia happens to be one of them. I happen to be one who favors the death penalty, although there was a time when I would have voted against it. However, having seen the crime wave sweeping this country as it has, and watching from day to day the spiraling crime rate going up and up in the Nation's Capital and in other States of the Union, I have come to the conclusion that there should be a death penalty—certainly for premeditated murder; forcible rape, and treason.

I believe that a Senator or a Member of the House of Representatives, who goes into a State like West Virginia, which no longer has the death penalty should certainly have the same kind of protection as if he had gone into a State where the death penalty is still part of the law.

It was for that reason that I sought to introduce this legislation to make assassination of a Member of Congress or a Member of Congress-elect a Federal crime, not making the death penalty mandatory but making it applicable if the facts warrant.

I feel that if certain other crimes are to carry the death penalty under Federal law, and certain other Federal officials are to be protected in this way, a Member of Congress and a Member of Congress-elect should be treated in the same manner.

Again I express my appreciation for the concern expressed by the distinguished Senator from North Carolina, but I think the Senate has taken the proper action today in placing Members of Congress and Members of Congress-elect on a level already recognized under Federal law regarding the President of the United States and the Vice President, Federal judges, U.S. attorneys, and U.S. marshals.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. Mr. President, I yield to the Senator from Colorado.

Mr. ALLOTT. Mr. President, I have listened to the remarks of the distinguished Senator from West Virginia with great interest. Like all lawyers, I suppose that I have gone through various phases of dealing with this particular matter.

As a district attorney I had certain thoughts on these questions, and later as chairman of the parole board of the State of Colorado. It has been a subject in which I have had a constant and continuing interest.

I am very much in favor of the idea of reforming and rehabilitating, as far as possible, criminals. However, one who has had this broad experience in this area knows that there are some crimes that must carry and bear the possibility of the death penalty.

For perhaps too long a time, the subject matter of the bill which the distinguished Senator from West Virginia has introduced has gone unnoticed and untouched. But the times are born anew now, and we must learn to deal with the times anew.

So, I commend the Senator very much and congratulate him because this measure is overdue, perhaps by years. With the unfortunate permissiveness to be found in many of our courts and the great concern for the criminal and the very little, sometimes almost absent, concern for the individual who is injured by crime, I think it is time that we started looking anew at this subject.

I am reminded of a famous speech, later supported by editorials written by Jenkins Lloyd Jones of the Tulsa paper entitled, "Let's Weep for the Innocent."

I think it is time that we start looking at this question and thinking about the people who are injured, maimed, and killed by the criminals on the streets of this country.

I do congratulate the Senator from West Virginia. I certainly will support the bill with my vote.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator from Colorado.

The PRESIDING OFFICER. The bill is open to amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 642) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 642

An act to make it a Federal offense to assassinate, kidnap, or assault a Member of Congress or a Member-of-Congress-elect

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part I of title 18 of the United States Code is amended by inserting, immediately after chapter 17, a new chapter as follows:

"Chapter 18.—CONGRESSIONAL ASSASSINATION, KIDNAPING, AND ASSAULT

"Sec.

"351. Congressional assassination, kidnaping, and assault; penalties.

"§ 351. Congressional assassination, kidnaping, and assault; penalties

"(a) Whoever kills any individual who is a Member of Congress or a Member-of-Congress-elect shall be punished as provided by sections 1111 and 1112 of this title.

"(b) Whoever kidnaps any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

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"(c) Whoever endeavors to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

"(d) If two or more persons conspire to kill or kidnap any individual designated in subsection (a) of this section and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

"(e) Whoever assaults any person designated in subsection (a) of this section shall be fined not more than $5,000, or imprisoned not more than one year, or both; and if personal injury results, shall be fined not more than $10,000, or imprisoned for not more than ten years, or both.

"(f) If Federal investigative or prosecutive jurisdiction is asserted for a violation of this section, such assertion shall suspend the exercise of jurisdiction by a State or local authority, under any applicable State or local law, until Federal action is terminated.

"(g) Violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding."

SEC. 2. Paragraph (c), subsection (1), section 2516, title 18, United States Code, is amended by striking the word "or" in the last phrase of the subsection and inserting at the end thereof between the parenthesis and the semicolon "or section 351 (violations with respect to congressional assassination, kidnaping, and assault)".

SEC. 3. The table of contents to part I of title 18, United States Code, is amended by inserting after the following chapter reference:

"17. Coins and currency.............. 331"

a new chapter reference as follows:

"18. Congressional assassination, kidnaping, and assault.......... 351".

APPEALS BY THE UNITED STATES IN CRIMINAL CASES

Mr. MANSFIELD. Mr. President, there is a bill which was reported earlier today and which has not been printed. I understand there is no objection to it. With the consent of the acting minority leader I will have that measure called up.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3132, the Criminal Appeals Act, which I understand was reported earlier today.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. The bill (S. 3132) to amend section 3731 of title 18, United States Code, relating to appeals by the United States in criminal cases.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That section 3731 of title 18, United States Code, is amended—

(a) by striking out the first eight paragraphs and inserting in lieu thereof the following:

"Except as otherwise expressly provided by this section, in a criminal case an appeal by the United States shall lie to a court of appeals from a decision, judgment, or order of a district court dismissing an indictment or information or terminating a prosecution in favor of a defendant as to any one or more counts, except that no appeal shall lie from a judgment of acquittal.

"Except as otherwise expressly provided by this section, an appeal by the United States shall lie to a court of appeals from a decision or order of a district court suppressing or excluding evidence or requiring the return of seized property in a criminal proceeding, not made after the defendant has been put in jeopardy and before the verdict or finding on an indictment or information, if the United States attorney certifies to the district court that the appeal is not taken for purpose of delay and that the evidence is a supstantial proof of a fact material in the proceeding.";

(b) by striking out the word "or" in the ninth paragraph and inserting in lieu thereof a comma, and inserting "or order" following the word "judgment" in the same paragraph;

(c) by inserting between the ninth and tenth paragraphs the following:

"An appeal pursuant to this section from a decision, judgment, or order based in whole or part on a determination of the invalidity of an Act of Congress shall lie directly to the Supreme Court if—

"(1) the district judge who rendered the decision, judgment, or order, sua sponte, enters an order stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice; or

"(2) the Attorney General files in the district court a certificate stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice.

"A court order pursuant to (1) or a certificate pursuant to (2) must be filed within fifteen days after the filing of a notice of appeal. When such an order or certificate is filed, the appeal shall be docketed in the time and manner prescribed by the rules of the Supreme Court, and the Court shall thereupon either (1) dispose of the appeal in the same manner as any other direct appeal authorized by law, or (2) in its discretion, deny the direct appeal and remand the case to the court of appeals, which shall then have jurisdiction to hear and determine the same as if the appeal therein had been docketed in the court of appeals in the first instance."

(d) by striking out the last two paragraphs and inserting in lieu thereof a new paragraph as follows:

"The provisions of this section shall be liberally construed to effectuate its purposes."

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I might make a brief announcement. I do not anticipate any opposition to the bill we are now considering. The bill ought to be disposed of in a short while.

Following the disposition of this bill, we will next call up H.R. 17825. That is a bill having the amendments to the Law Enforcement Administration Act. There will be a number of votes to that measure, I am confident. Some of them will be controversial. I do anticipate some rollcall votes—one or more.

I make this anouncement so that the Senate might be advised and Senators can be governed accordingly.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a letter from the Honorable Erwin N. Griswold, Solicitor General of the United States, under date of October 6, 1970. The letter is addressed to me. In the letter he strongly supports the bill and concludes by saying, and this was before the full committee acted:

> I hope that the full committee will be able to consider, and favorably report S. 3132 so that Congress may act on the matter before it adjourns. It is for this purpose that I am taking the opportunity to commend this legislation to you and to the other members of the Judiciary Committee.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 6, 1970.

Hon. JOHN L. MCCLELLAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCCLELLAN: I was pleased to learn that the bill to amend the Criminal Appeals Act (S. 3132) has been favorably reported from the Subcommittee on Criminal Laws and Procedures to the full Committee on the Judiciary. This bill would be of substantial aid to the just administration of the federal criminal law in this country. As you know, in June of this year the Supreme Court strongly suggested the advisability of amending the Criminal Appeals Act. The Court remarked that the current Act reflects no "coherent allocation of appellate responsibility" and is written in confusing language "based on pleading distinctions that existed at common law but that in most instances, fail to coincide with the procedural categories of the Federal Rules of Criminal Procedure." *United States* v. *Sisson*, 399 U.S. 267, 307–308. The Court also noted that "[c]larity is to be desired in any statute, but in matters of jurisdiction it is especially important", and that judged "in these terms, the Criminal Appeals Act is a failure." *Id.* at 307.

The present Act gives rise to serious problems in three basic areas: 1. The antiquated common law terminology of the Act has left the Justice Department and the courts in a constant state of confusion as to when the government can appeal an adverse legal ruling in a criminal case, and, if an appeal is available, as to the forum in which the appeal lies. A great deal of our time and the Court's time is spent every year in dealing with the needless ambiguities of this statute. 2. The Act, as interpreted, precludes the government, for no apparent reason, from taking any appeal in a number of common situations. 3. The Act requires most appeals in criminal cases to be taken directly to the Supreme Court, rather than to the courts of

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appeals, thereby overburdening the Supreme Court, discouraging the government from appealing cases in which we feel that our position is correct, and denying the Supreme Court the benefit of having lower court decisions on the issues which the Court decides.

S. 3132 would eliminate the Act's confusing language and permit an appeal from all rulings terminating a prosecution other than by an acquittal. It would also reallocate the present system of appeals so that in nearly all cases an appeal would be taken to a court of appeals in the first instance, rather than to the Supreme Court. I do not believe that S. 3132 endangers the constitutional rights of criminal defendants in any way, and do not feel that the bill should be controversial. I do believe that passage of the bill in the current session of Congress would enable us to avoid the unnecessary problems with which we have struggled in recent terms.

Last spring I wrote a letter to you outlining these problems in some detail and setting forth my views on the benefits that would result from passage of S. 3132. My letter, a copy of which I enclose for your convenience, describes the range of problems which we faced in the criminal appeals area last term, and would give you a fuller understanding of the urgent need for amendment of the current Act. The letter, incidentally, was written before the Court urged amendment of the Criminal Appeals Act in the *Sisson* case.

I hope that the full Committee will be able to consider, and favorable report S. 3132 so that Congress may act on the matter before it adjourns. It is for this purpose that I am taking the opportunity to commend this legislation to you and to the other members of the Judiciary Committee.

Sincerely,

ERWIN N. GRISWOLD,
Solicitor General.

Mr. HRUSKA. Mr. President, the Subcommittee on Criminal Laws and Procedures and the full Judiciary Committee favorably reported this measure to the Senate. I strongly urge that the Senate adopt it.

The Supreme Court strongly suggested the need to amend the Criminal Appeals Act in the Sisson case decided last June. The act, whose basic provisions date from 1907, is written in confusing common law language and arbitrarily restricts the Government's right to appeal in a number of common situations. The Supreme Court stated that "clarity is to be desired in any statute but in matters of jurisdiction it is especially important" and that judged in these terms, "the Criminal Appeals Act is a failure."

The present act has created three basic problems which the pending bill will rectify. The ambiguous and ancient language used by the act, such as the term "motion in bar" which has not been given any settled meaning by the courts, has left the courts and the Department of Justice in a constant state of confusion as to when the Government can appeal an adverse legal ruling by a district judge and, if so, whether the appeal must be taken to the Supreme Court directly or to a court of appeals. In addition, the act precludes the Government arbitrarily from taking appeals in a number of common situations such as from dismissals based on refusal to comply with discovery orders believed to be erroneous. It also precludes any appeal from rulings made after the swearing of the jury or an equivalent stage in a nonjury trial, thus leaving the Government at the mercy of a judge or defendant who waits until a later stage of the trial before making or deciding a motion to dismiss the case. The third problem with the present act is that it routes a large number of appeals directly to the Supreme Court, thus forcing that overburdened Court to decide difficult legal questions without the benefit of an analysis of the issues by a court of appeals. In addition, since many cases of this type which could be appealed are not deemed of sufficient national importance by the Solicitor General to warrant taking to the Supreme Court, the Department of Justice is often compelled not to appeal but instead to acquiesce in lower court decisions believed to be wrong.

The present bill would obviate these problems. It provides that the Government has the right to appeal any ruling by a district court in a criminal case which dismisses a prosecution in favor of a defendant except where the ruling is an acquittal. In addition, it provides that, except in a single category where the ruling is based on a district court decision that an act of Congress is invalid, the appeal must be taken to a court of appeals; and even in the situation where a statute is held unconstitutional, the Supreme Court retains discretion to order the appeal to be first heard and decided by a lower appellate court.

The Solicitor General in a recent letter to the members of the Judiciary Committee, clearly indicated that S. 3132 does not endanger the constitutional rights of defendants in any way. The bill, in short, is noncontroversial legislation which would do away with unnecessary and perplexing jurisdictional problems in appeals by the Government in criminal cases which hamper effective law enforcement efforts. This bill would also be of aid to the Supreme Court and the Federal judicial system generally.

I strongly urge, therefore, that the Senate adopt and pass the bill.

Mr. President, I ask unanimous consent that portions of a brief, introductory statement explaining the background of the act which I made several months ago be printed at this point in the RECORD along with a letter from the Solicitor General dated March 27, addressed to the chairman of our subcommittee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE SOLICITOR GENERAL,
Washington, D.C., March 27, 1970.

Hon. JOHN L. MCCLELLAN,
Committee on the Judiciary,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MCCLELLAN: In response to your recent request for my comments on S. 3132, a bill to amend the Criminal Appeals Act, let me assure you that I strongly support the bill and hope that it will be passed by the Congress and made effective as soon as possible.

Basically I believe that S. 3132 will greatly alleviate the three major procedural problems which the Government currently faces in appealing adverse rulings in criminal cases. I shall first describe the nature of these problems and explain what S. 3132 will help accomplish. You may then find it helpful to learn of several recent cases in which the current Act has caused difficulty.

1. Under the present form of the Criminal Appeals Act, the Justice Department and the courts are in a state of confusion, both as to whether the Government has any right at all to appeal from a particular ruling, and, if an appeal is available, as to the forum in which the appeal lies. The crux of the problem is that the Act as presently drafted attaches great significance to the antiquated common law terms "motion in bar" and "arrest of judgment". Judicial interpretation of these terms is perplexing, see, *e.g., United States* v. *Mersky*, 361 U.S. 431, and the Solicitor General is constantly faced with the time-consuming necessity of guessing whether a particular adverse determination is "a judgment sustaining a motion in bar" or an "arrest of judgment". Major sections of at least four briefs which we filed in the Supreme Court this term are devoted to these issues, and this is but a minor reflection of the frequency with which the problem arises. Aside from the uncertainty of these phrases, I believe that confusion in this area has also resulted generally from the fact (to be discussed shortly) that the current Act draws artificial and arbitrary lines between various kinds of rulings, so that the courts have never really found a satisfactory rationale to apply in close cases.

S. 3132 clarifies and simplifies the criteria for Government appeals by, in effect, allowing an appeal in all cases except those in which the defendant enjoys the protection of the constitutional prohibition against double jeopardy. The choice of forum is also simplified by requiring direct appeal to the Supreme Court only when the adverse "order is based solely on a determination of the invalidity of an Act of Congress . . ." These are the cases which should go at once to the Supreme Court. Other decisions in criminal cases can be reviewed by the courts of appeals as in the case of all appeals from criminal convictions.

2. The current Act, as interpreted, produces a number of common situations in which, for no apparent reason, the Government is barred from taking any appeal. For example, the present law prohibits an appeal by the Government from a wide range of adverse determinations if those determinations are made after jeopardy has attached (*i.e.*, after the jury has been impaneled or after the first witness has been sworn), even though the court's ruling has nothing to do with the factual issues in the case, and even though the ruling terminating the trial is entered at the defendant's request, so that a governmental appeal would in no way affect the defendant's right not to be placed in double jeopardy, or his right to proceed to verdict before the original jury. Furthermore, the Act leaves the Government with no right to appeal from a pretrial dismissal based on some reason other than the insufficiency of the indictment or information or a defect in the statute, even though, again, there is no problem of double jeopardy.

As stated above, S. 3132 closes these gaps by allowing the Government an appeal from any dismissal except one amounting to a "judgment of acquittal," *i.e.*, a factual judgment that the defendant is not guilty of the crime charged and is thereby entitled to protection against double jeopardy. I do not believe that there is any rational basis for the present gaps in availability of governmental appeal, nor do I feel that S. 3132 poses any threat to the constitutional rights of criminal defendants. I doubt that the number of governmental appeals in criminal cases will proliferate, if S. 3132 is passed, to an extent that will impose a substantial burden on the courts; indeed, I am confident that the great majority of appeals in criminal cases—perhaps 99%—will continue to be instituted by defendants.

3. The current Act requires the majority of available appeals in criminal cases to be taken directly to the Supreme Court, rather than to the circuit courts of appeals, which

are, of course, the usual federal forum for initial appellate review. Unless a ruling clearly raises problems as to the constitutionality of a federal criminal statute, I see no good reason why government appeals in criminal cases should not be taken first to the courts of appeals. The situation has serious disadvantages. For one thing, the Government is frequently reluctant to take to the Supreme Court a case which is itself important, but whose result is not likely to have a substantial impact on the law generally. Some cases which we would think appropriate to appeal to an intermediate court are now dropped because they are not of sufficient general significance to merit an appeal to the Supreme Court. Furthermore, we would prefer to take some of the cases which we do appeal to the Supreme Court to a court of appeals, in order to give the Supreme Court (and our attorneys) the additional perspective that resutls from an intermediate appeal. We generally feel that the Supreme Court benefits significantly by having not only the instant case before it, but also from having a range of related appellate opinions from various courts of appeals. In certain areas (such as the definition of legal insanity), we have specifically asked the Court to defer consideration of issues that have not been sufficiently developed in the courts of appeals.

S. 3132 channels all of our appeals to the courts of appeals except when a ruling is based *solely* on a determination that the underlying statute is invalid. In that instance, as I have indicated, the importance of getting a prompt decision whether the statute is valid justifies a direct appeal to the Supreme Court.

As I mentioned earlier, the variety of problems brought about by the present Criminal Appeals Act is illustrated in at least four briefs filed by us in the Supreme Court this term.

In the well-publicized case of *United States* v. *Cotton, et al.*, No. 1022, in which the Government charged fifteen defendants with mutilation and destruction of records of the Selective Service System, the district court in Milwaukee dismissed the prosecution on the ground that an impartial jury could not be empaneled. After careful consideration, we concluded that an appeal to the Supreme Court did not lie under the present criminal appeals act, and that our proper remedy was to seek a writ of mandamus in the Court of Appeals for the Seventh Circuit. As a protective measure, we filed a notice of appeal in both courts. The Seventh Circuit denied out petition for mandamus, holding (erroneously, we believe), that our only recourse was a direct appeal to the Supreme Court. By the time the Seventh Circuit rendered its decision, it was nearly three weeks beyond the time allowed for docketing an appeal in the Supreme Court. Nonetheless, we filed a jurisdictional statement explaining to the Supreme Court why our appeal had been docketed late, and asked that our case be heard. We also filed a petition for certiorari to review the decision of the Seventh Circuit. The Court denied our petition for certiorari to the Seventh Circuit, and also dismissed the appeal as having been docketed out of time, thereby ending prosecution of the case.

In *United States* v. *Weller*, No. 1082, in which the defendant was charged with failure to submit to induction, the district court dismissed the indictment on the ground that the defendant had been denied the right to be represented by counsel before his local Selective Service Board. We felt initially that appeal lay with the Supreme Court under the "motion in bar" branch of the Act, and filed a notice of appeal to the Supreme Court in the district court. On further consideration, we concluded that appeal should have been taken to the court of appeals under that part of the Act allowing appeals from a "decision . . . dismissing any indictment" where the basis of the decision is not the "invalidity or construction" of the underlying statute. We filed a motion in the Supreme Court to remand the case to the Ninth Circuit. That motion was recently denied by the Court, but the jurisdictional question was left undecided, and we are still not entirely certain that an appeal will be available.

In *United States* v. *Sweet*, No. 577, the defendant was charged with assault with intent to kill, assault with intent to rob, and assault with a deadly weapon. The district court dismissed the indictment on grounds that the Government had not brought the case to a sufficiently speedy trial. We concluded that the appeal should be taken to the Court of Appeals for the District of Columbia Circuit, and an appeal was filed there. But that court concluded that the district court's decision amounted to the sustaining of a "motion in bar", and certified the case to the Supreme Court. In the absence of a Supreme Court Rule providing for a procedure in this event, we have filed a Statement Respecting Jurisdiction, asking that the Court either reverse the district court (if it agrees with the D.C. Circuit that jurisdiction lies) or, if it agrees with us on the jurisdictional issue, to remand the case to the Court of Appeals. The court has not yet acted on our request. In either event the present law has produced great delay, and a great deal of wasted effort and motion.

Finally, in *United States v. Sisson*, No. 305, which involved a refusal to submit to induction, the district court entered an order, after a verdict of guilty, granting defendant's "motion in arrest of judgment" on the ground that the statute in question could not constitutionally be applied to the defendant. We filed a notice of appeal in the Supreme Court, which determined that decision on the jurisdictional issues should be heard together with the merits of the case. Our brief on the merits contains a lengthy argument to the effect that the district court decision came within the "motion in arrest" provision, even though the trial judge utilized, as part of the circumstantial predicate for his legal rulings, certain undisputed facts, which did not appear in the indictment. If the Supreme Court decides this issue adversely to us, the Government will have no further method of appeal. If so, the district judge will have determined the appealability of our case merely by the timing of his ruling on a point of law. I may add that when I was arguing the *Sisson* case before the Supreme Court, on January 21, 1970, I read to the Court the text of S. 3132, and advised the Court that the Department of Justice was supporting the enactment of this bill, and hoped that it would be passed by the Congress. It was obvious that the Court was much interested in this information. There can be no doubt, I think, that the enactment of S. 3132 would provide a substantial improvement in our criminal procedure. It would not, in my judgment, materially increase the number of appeals in criminal cases. It would, however, eliminate a considerable number of fruitless issues which are presented under the present law, and would clarify the great uncertainty which exists under the present law as to the court where the appeal should be taken.

The cases described above represent a fair sampling of the kinds of problems which the Government faces in the course of a Supreme Court term under the current Act. There have been other troublesome cases this term which never reached the stage of a Supreme Court filing. Had S. 3132 been in effect during the term, I believe that all of the difficult situations described above would have been avoided, at no cost to the legitimate rights of the defendants, and with a considerable saving of time.

Yours very truly,

Erwin N. Griswold,
Solicitor General.

Appeals by the United States in Criminal Cases

The bill is in the form of a clarifying amendment to 18 U.S.C. section 3731, entitled "Appeals by the United States." I ask unanimous consent that the bill and letter of transmittal be printed following my remarks.

The present section 3731 provides generally for appeal by the Government in a criminal case. Under existing law, an appeal may be taken directly to the Supreme Court of the United States by the Government when the judge's decision setting aside an indictment is based on the invalidity of the statute upon which the indictment is founded. An appeal would also be well taken from a motion at bar when a defendant has not been put in jeopardy. Jeopardy usually attaches to a defendant when the jury is empanelled and sworn, and certainly by the time the Government begins to present its evidence.

Many trial court rulings, made appealable by existing law, involve questions which do not warrant Supreme Court consideration. They are questions involving narrow factual interpretations and not questions involving broad constitutional doctrines and issues. However, an adverse trial court ruling can seriously impede the administration of criminal justice, by nonsuiting the Government's prosecution of a criminal defendant, and for this reason should be appealable in fact as well as in law.

In addition, the courts have interpreted the present law to limit the time within which the Government can file its appeal. As I mentioned above, the appeal can only be taken before jeopardy attaches. But many questions of law arise during the actual presentation of evidence. These are questions that are critical to the orderly statement of facts reflecting a violation of laws. Yet, the Government has no recourse from an adverse trial ruling.

The instant bill remedies these two defects in the operation of 18 U.S.C. section 3731. First, the Government is allowed to appeal to a U.S. circuit court from the district court. Thus, the Supreme Court is no longer burdened with questions of little constitutional moment but the Government is still afforded appellate review of adverse trial court decisions. Second, the existing law is clarified to insure that the Government may file appeals at all stages of the trial process.

The **PRESIDING OFFICER** (Mr. **Packwood**). The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The **PRESIDING OFFICER**. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (S. 3132) was read the third time and passed.

Mr. **HRUSKA**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **McCLELLAN**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OMNIBUS CRIME CONTROL ACT OF 1970

Mr. **MANSFIELD**. Mr. President, I ask unanimous consent that the Senate turn

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to the consideration of Calendar No. 1270, H.R. 17825.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (H.R. 17825) to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Omnibus Crime Control Act of 1970".

TITLE I.—OMNIBUS CRIME CONTROL AND SAFE STREETS ACT AMENDMENTS

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

SEC. 2. Section 101 of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 198) is amended to read as follows:

"SEC. 101. (a) There is hereby established within the Department of Justice under the general authority of the Attorney General a Law Enforcement Assistance Administration (hereinafter referred to in this title as 'Administration') composed of an Administrator of Law Enforcement Assistance and two Associate Administrators of Law Enforcement Assistance, who shall be appointed by the President, by and with the advice and consent of the Senate. Beginning after the end of the term of either of the present incumbents, one of the Associate Administrators shall be a member of a political party other than that of the President.

"(b) The Administrator shall be the executive head of the agency and shall exercise all administrative powers, including the appointment and supervision of Administration personnel. All of the other functions, powers, and duties created and established by this title shall be exercised by the Administrator with the concurrence of either one or both of the two Associate Administrators."

PLANNING GRANTS

SEC. 3. (a) The third sentence of subsection (a) of section 203 of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 199) is amended to read as follows: "Insofar as it is not inconsistent with the provisions of any other law, the State planning agency and any regional or local planning units within the State shall be, within their respective jurisdictions, representative of the law enforcement agencies, unit or divisions of general local government, other public agencies maintaining programs to reduce and control crime, and the general community within the State."

(b) Subsection (c) of section 203 of such Act is amended by inserting the following after the period at the end of the first sentence: "The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required under this part. In allocating funds under this subsection, the State planning agency shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level."

(c) Subsection (c) of section 203 is amended further by striking out the words "the preceding sentence" and inserting in lieu thereof "this subsection".

(d) Section 204 of such Act is amended by striking the second sentence.

GRANTS FOR LAW ENFORCEMENT PURPOSES

SEC. 4. Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 199–203) is amended as follows:

(1) Subsection (b) of section 301 is amended by adding at the end thereof the following new paragraphs:

"(8) The establishment of a Criminal Justice Coordinating Council for any unit of general local government or any combination of such units within the State, having a population of two hundred and fifty thousand or more, to assure improved planning and coordination of all law enforcement activities.

"(9) The development and operation of community based delinquent prevention and correctional programs, emphasizing halfway houses and other community based rehabilitation centers for initial preconviction or postconviction referral of offenders; expanded probationary programs, including paraprofessional and volunteer participation; and community service centers for the guidance and supervision of potential repeat youthful offenders."

(2) Subsection (c) of section 301 is amended to read as follows:

"The portion of any Federal grant made under this section for the purposes of paragraph (5) or (6) of subsection (b) of this section may be up to 75 per centum of the cost of the program or project specified in the application for such grant. The portion of any Federal grant made under this section for the purposes of paragraph (4) of subsection (b) of this section may be up to 50 per centum of the cost of the program or project specified in the application for such grant. The portion of any Federal grant made under this section to be used for any other purpose set forth in this section may be up to 70 per centum of the cost of the program or project specified in the application for such grant. No part of any grant made under this section for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under this section to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the cost of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. At least 50 per centum of the non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated for the purpose of the shared funding of such programs or projects."

(3) Subsection (d) of section 301 is amended to read as follows:

"Not more than one-third of any grant made under this section may be expended for the compensation of police and other regular law enforcement personnel. The amount of any such grant expended for the compensation of such personnel shall not exceed the amount of State or local funds made available to increase such compensation. The limitations contained in this subsection shall not apply to the compensation of personnel for time engaged in conducting or undergoing training programs or to the compensation of personnel engaged in research, development, demonstration or other short-term programs."

(4) Section 303 is amended by inserting after the first sentence thereof the following new sentence: "No State plan shall be approved as comprehensive unless the Administration finds that the plan provides for the allocation of an adequate share of the benefits of assistance to areas characterized by high law enforcement activity to deal with the special law enforcement problems of such areas."

(5) Paragraph (2) of section 303 is amended to read as follows:

"Provide that at least the per centum of Federal assistance granted to the State Planning Agency under this part for any fiscal year which corresponds to the per centum of the State and local law enforcement expenditures funded and expended in the immediately preceding fiscal year by units of general local government will be made available to such units or combinations of such units in the immediately following fiscal year for the development and implementation of programs and projects for the improvement of law enforcement. Per centum determinations under this paragraph for law enforcement funding and expenditures for such immediately preceding fiscal year shall be based upon the most accurate and complete data available for such fiscal year or for the last fiscal year for which such data are available. The Administration shall have the authority to approve such determinations and to review the accuracy and completeness of such data.

(6) Section 303 is amended by striking "the 75" in the third sentence and inserting in lieu thereof "such".

(7) Section 305 is amended to read as follows:

"SEC. 305. Where a State has failed to have a comprehensive State plan approved under this title within the period specified by the Administration for such purpose, the funds allocated for such State under paragraph (1) of section 306(a) of this title shall be available for reallocation by the Administration under such paragraph to other States."

(8) Section 306 is amended to read as follows:

"SEC. 306. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:

"(1) Eighty-five per centum of such funds, plus any additional amounts made available by virtue of the application of the provisions of section 509 of this title to the grant of any State, shall be allocated among the States according to their respective populations for grants to State planning agencies.

"(2) Fifteen per centum of such funds may, in the discretion of the Administration, be allocated among the States for grants to State planning agencies, units of general local government, combinations of such units, or other appropriate grantees or contractors, according to criteria, terms, and conditions that the Administration determines are consistent with this title.

Any grant made from funds available under paragraph (2) of this subsection may be up to 70 per centum of the cost of the program or project for which such grant is made. No part of any grant under such paragraph for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under such paragraph to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the cost of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. The limitations on the expenditure of portions of grants for the compensation of personnel in subsection (d) of section 301 of this title shall apply to a grant under such paragraph. At least 50 per centum of the non-Federal funding of the cost of any program or project to be funded by a grant under such paragraph shall be of money appropriated for the purpose of the shared funding of such programs or projects.

"(b) If the Administration determines, on the basis of information available to it dur-

XUM

ing any fiscal year, that a portion of the funds allocated to a State for that fiscal year for grants to the State planning agency of the State will not be required by the State, or that the State will be unable to qualify to receive any portion of the funds under the requirements of this part, that portion shall be available for reallocation to other States under paragraph (1) of subsection (a) of this section."

TRAINING, EDUCATION, RESEARCH, DEMONSTRATION, AND SPECIAL GRANTS

Sec. 5. (a) Part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 203–05) is amended as follows:

(1) Section 406 is amended—

(A) by striking "in areas directly related to law enforcement or preparing for employment in law enforcement" in the first sentence of subsection (b) and inserting in lieu thereof "in areas related to law enforcements or suitable for persons employed in law enforcement";

(B) by striking out "tuition and fees" in the first sentence of subsection (c) and inserting in lieu thereof "tuition, books, and fees"; and

(C) by inserting at the end thereof the following new subsections:

"(d) Full-time teachers or persons preparing for careers as full-time teachers of courses related to law enforcement or suitable for persons employed in law enforcement, in institutions of higher education which are eligible to receive funds under this section, shall be eligible to receive assistance under subsections (b) and (c) of this section as determined under regulations of the Administration.

"(e) The Administration is authorized to make grants to or enter into contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the development or demonstration of improved methods of law enforcement education, including—

"(1) planning for the development or expansion of undergraduate or graduate programs in law enforcement;

"(2) education and training of faculty members;

"(3) strengthening the law enforcement aspects of courses leading to an undergraduate, graduate, or professional degree; and

"(4) research into, and development of, methods of educating students or faculty, including the preparation of teaching materials and the planning of curriculums. The amount of a grant or contract may be up to 75 per centum of the total cost of programs and projects for which a grant or contract is made."

(b) Part D of title I of such Act is further amended by inserting after section 406 the following new section:

"Sec. 407. The Administration is authorized to develop and support regional and national training programs, workshops, and seminars to instruct State and local law enforcement personnel in improved methods of crime prevention and reduction and enforcement of the criminal law. Such training activities shall be designed to supplement and improve, rather than supplant, the training activities of the State and units of general local government, and shall not duplicate the activities of the Federal Bureau of Investigation under section 404 of this title."

(c) Part D of title I of such Act is amended by inserting after the section 407 (added by subsection (b) of section 5 of this Act) the following new section:

"Sec. 408. (a) The Administration is authorized to establish and conduct a permanent training program for prosecuting attorneys from State and local offices engaged in the prosecution of organized crime. The program shall be designed to develop new or improved approaches, techniques, systems, manuals, and devices to strengthen prosecutive capabilities against organized crime.

"(b) While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 570 (b) of title 5, United States Code, for persons employed intermittently in the Government service.

"(c) The cost of training State and local personnel under this section shall be provided out of funds appropriated to the Administration for the purpose of such training."

GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

Sec. 6. (a) Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 205) is amended by inserting immediately after part D the following:

"PART E—GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

"Sec. 451. It is the purpose of this part to encourage States and units of general local government to develop and implement programs and projects for the construction, acquisition, and renovation of correctional institutions and facilities, and for the improvement of correctional programs and practices.

"Sec. 452. A State desiring to receive a grant under this part for any fiscal year shall, consistent with the basic criteria which the Administration establishes under section 454 of this title, incorporate its application for such grant in the comprehensive State plan submitted to the Administration for that fiscal year in accordance with section 302 of this title.

"Sec. 453. The Administration is authorized to make a grant under this part to a State planning agency if the application incorporated in the comprehensive State plan—

"(1) sets forth a comprehensive statewide program for the construction, acquisition, or renovation of correctional institutions and facilities in the State and the improvement of correctional programs and practices throughout the State;

"(2) provides satisfactory assurances that the control of the funds and title to property derived therefrom shall be in a public agency for the uses and purposes provided in this part and that a public agency will administer those funds and that property;

"(3) provides satisfactory assurances that the availability of funds under this part shall not reduce the amount of funds under part C of this title which a State would, in the absence of funds under this part, allocate for purposes of this part;

"(4) provides satisfactory emphasis on the development and operation of community-based correctional facilities and programs, including diagnostic services, halfway houses, probation, and other supervisory release programs for preadjudication and postadjudication referral of delinquents, youthful offenders, and first offenders, and community-oriented programs for the supervision of parolees;

"(5) provides for advanced techniques in the design of institutions and facilities;

"(6) provides, where feasible and desirable, for the sharing of correctional institutions and facilities on a regional basis;

"(7) provides satisfactory assurances that the personnel standards and programs of the institutions and facilities will reflect advanced practices;

"(8) provides satisfactory assurances that the State is engaging in projects and programs to improve the recruiting, organization, training, and education of personnel employed in correctional activities, including those of probation, parole, and rehabilitation; and

"(9) complies with the same requirements established for comprehensive State plans under paragraphs (1), (3), (4), (5), (7), (8), (9), (10), (11), and (12) of section 303 of this title.

"Sec. 454. The Administration shall, after consultation with the Federal Bureau of Prisons, by regulation prescribe basic criteria for applicants and grantees under this part.

"Sec. 435. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:

"(1) Eighty-five per centum of the funds shall be allocated among the States according to their respective populations for grants to State planning agencies.

"(2) The remaining 15 per centum of the funds may be made available, as the Administration may determine, to State planning agencies, units of general local government, or combinations of such units, according to the criteria and on the terms and conditions the Administration determines consistent with this part.

Any grant made from funds available under this part may be up to 75 per centum of the cost of the program or project for which such grant is made. No funds awarded under this part may be used for land acquisition.

"(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State or granted to an applicant for that fiscal year for grants to the State planning agency of the State or for programs or projects of an applicant will not be required by the applicant or will become available by virtue of the application of the provisions of section 509 of this title, that portion shall be available for reallocation under paragraph (1) of subsection (a) of this section."

(b) Section 601 of such Act is amended by inserting at the end thereof the following new subsection:

"(1) The term 'correctional institution or facility' means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses."

(c) Part E and part F of title I of such Act are respectively designated as part "F" and part "G".

ADMINISTRATIVE PROVISIONS

Sec. 7. Part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 205) (as redesignated by section 6(c) of this Act) is amended as follows:

(1) Section 505 is amended by striking "section 5315" and inserting "section 5314" and by striking "(90)" and inserting "(55)".

(2) Section 506 is amended by striking "section 5316" and inserting "section 5315" and by striking "(126)" and inserting "(90)".

(3) Section 508 is amended by inserting the following before the period at the end of the section: ", and to receive and utilize, for the purposes of this title, funds or other property donated or transferred by any other Federal agenices, States, units of general local government, public or private agencies or organizations, institutions of higher education, or individuals."

(4) Section 515 is amended by inserting at the end thereof the following new sentence: "Funds appropriated for the purposes of this section may be expended by grant or contract, as the Administration may determine to be appropriate."

(5) Section 516(a) is amended by striking out the period and inserting in lieu thereof the following: ", and may be used to pay the transportation and subsistance expenses of persons attending conferences or other assemblages notwithstanding the provisions of the Joint Resolution entitled 'Joint Resolution to prohibit expenditure of any moneys for housing, feeding, or transport-

XUM

ing conventions or meetings', approved February 2, 1935 (31 U.S.C. sec. 551)."

(6) Section 517 is amended to read as follows:

"SEC. 517. (a) The Administration may procure the services of experts and consultants in accordance with section 3109 of Title 5, United States Code, at rates of compensation for individuals not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5, United States Code.

"(b) The Administration is authorized to appoint, without regard to the civil service laws, technical or other advisory committees to advise the Administration with respect to the administration of this title as it deems necessary. Members of those committees not otherwise in the employ of the United States, while engaged in advising the Administration or attending meetings of the committees, shall be compensated at rates to be fixed by the Administration but not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5 of the United States Code and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently."

(7) Section 519 is amended to read as follows:

"SEC. 519. (a) On or before December 31 of each year, the Administration shall report to the President and to the Congress on activities pursuant to the provisions of this title during the preceding fiscal year.

(b) Not later than February 1, 1971, the Administration shall submit to the President and to the Congress recommendations for legislation to promote the integrity and accuracy of criminal justice data collection, processing and dissemination systems funded in whole or in part by the Federal Government, and to protect the constitutional rights of all persons covered or affected by such systems."

(8) Section 520 is amended to read as follows:

"SEC. 520. There is authorized to be appropriated $650,000,000 for the fiscal year ending June 30, 1971, of which $100,000,000 shall be for the purposes of part E; $1,150,000,000 for the fiscal year ending June 30, 1972, of which $150,000,000 shall be for the purposes of part E; and $1,750,000,000 for the fiscal year ending June 30, 1973, of which $250,000,000 shall be for the purposes of part E. Funds appropriated for any fiscal year may remain available for obligation until expended.

(9) Section 521 is amended by inserting at the end thereof the following new subsection:

"(c) The provisions of this section shall apply to all recipients of assistance under this Act, whether by direct grant or contract from the Administration or by subgrant or subcontract from primary grantees or contractors of the Administration."

SEC. 8. (a) Section 5314 of title 5, United States Code, is amended by striking "(1) Deputy Attorney General," and renumbering "(2)" through "(54)" respectively "(1)" through "(53)".

(b) Section 5313 of title 5, United States Code, is amended by adding at the end thereof "(20) Deputy Attorney General."

DEFINITIONS

SEC. 9. Section 601 of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 209) is amended as follows:

(1) Subsection (a) is amended to read as follows: "'Law enforcement' means any activity pertaining to crime prevention, control or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies, activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction."

(2) Subsection (d) is amended by striking out "or" the second place it appears and by striking out the period and inserting in lieu thereof the following: ", or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia and funds appropriated by the Congress for the activities of such agencies may be used to provide the non-Federal share of the cost of programs or projects funded under this title."

SEC. 10. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 209) is amended by inserting immediately after part F (as redesignated by section 6(c) of this Act) the following:

"PART H—CRIMINAL PENALTIES

"SEC. 651. Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property which are the subject of a grant or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Administration, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"SEC. 652. Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursant to this title or in any records required to be maintained pursuant to this title shall be subject to prosecution under the provisions of section 1001 of title 18, United States Code.

"SEC. 653. Any law enforcement program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Administration, shall be subject to the provisions of section 371 of title 18, United States Code."

SEC. 11. Section 5108(c) of title 5 of the United States Code is amended by inserting at the end thereof the following new paragraph:

"(10) the Law Enforcement Assistance Administration may place a total of twenty-five positions in GS–16, 17, and 18."

TITLE II.—LAW ENFORCEMENT OFFICERS' GROUP LIFE INSURANCE

DEFINITIONS

SEC. 12. For the purpose of this title—

(1) The term "month" means a month which runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except where the last month has not so many days, in which event it expires on the last day of the month.

(2) The term "full time" means such period or type of employment or duty as may be prescribed by regulation promulgated by the Attorney General.

(3) The term "law enforcement officer" means, pursuant to regulations promulgated by the Attorney General, an individual who is employed full time by a State or a unit of local government primarily to patrol the highways or otherwise preserve order and enforce the laws.

(4) The term "State" means any State of the United States, the Commonwealth of Puerto Rico; and any territory or possession of the United States.

(5) The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose subdivision of a State, or any Indian tribe which the Secretary of the Interior determines performs law enforcement functions.

ELIGIBLE INSURANCE COMPANIES

SEC. 13. (a) The Attorney General is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits provided under this title. Each such life insurance company must (1) be licensed to issue life insurance in each of the fifty States of the United States and in the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Attorney General have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

(b) Any life insurance company issuing such a a policy shall establish an administrative office at a place and under a name designated by the Attorney General.

(c) The Attorney General shall arrange with each life insurance company issuing any policy under this title to reinsure, under conditions approved by him, portions of the total amount of insurance under such policy with such other life insurance companies (which meet qualifying criteria set forth by the Attorney General) as may elect to participate in such reinsurance.

(d) The Attorney General may at any time discontinue any policy which he has purchased from any insurance company under this title.

PERSONS INSURED; AMOUNT

SEC. 14. (a) Any policy of insurance purchased by the Attorney General under this title shall automatically insure any law enforcement officer employed on a full-time basis by a State or unit of local government which has (1) applied to the Attorney General for participation in the insurance program provided under this title, and (2) agreed to deduct from such officer's pay the amount of the premium and forward such amount to the Department of Justice or such other agency as is designated by the Attorney General as the collection agency for such premiums. The insurance provided under this title shall take effect from the first day agreed upon by the Attorney General and the responsible official of the State or unit of local government making application for participation in the program as to law enforcement officers then on the payroll, and as to law enforcement officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this title shall so insure all such law enforcement officers unless any such officer elects in writing not to be insured under this title. If any such officer elects not to be insured under this title he may thereafter, if eligible, be insured under this title upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Attorney General.

(b) A law enforcement officer eligible for insurance under this title is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
0	$8,000	$10,000	$10,000
$8,000	9,000	11,000	11,000
$9,000	10,000	12,000	12,000
$10,000	11,000	13,000	13,000
$11,000	12,000	14,000	14,000
$12,000	13,000	15,000	15,000
$13,000	14,000	16,000	16,000
$14,000	15,000	17,000	17,000

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If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
$15,000	$16,000	$18,000	$18,000
$16,000	17,000	19,000	19,000
$17,000	18,000	20,000	20,000
$18,000	19,000	21,000	21,000
$19,000	20,000	22,000	22,000
$20,000	21,000	23,000	23,000
$21,000	22,000	24,000	24,000
$22,000	23,000	25,000	25,000
$23,000	24,000	26,000	26,000
$24,000	25,000	27,000	27,000
$25,000	26,000	28,000	28,000
$26,000	27,000	29,000	29,000
$27 000	28,000	30,000	30,000
$28,000	29,000	31,000	31,000
$29,000		32,000	32,000

The amount of such insurance shall automatically increase at any time the amount of increases in the annual basic rate of pay places any such officer in a new pay bracket of the schedule.

(c) Subject to the conditions and limitations approved by the Attorney General and which shall be included in the policy purchased by him, the group accidental death and dismemberment insurance shall provide for the following payments:

Loss	*Amount payable*
For loss of life.	Full amount shown in the schedule in subsection (b) of this section.
Loss of one hand or of one foot or loss of sight of one eye.	One-half of the amount shown in the schedule in subsection (b) of this section.
Loss of two or more members or loss of sight in both eyes.	Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

(d) The Attorney General shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

TERMINATION OF COVERAGE

SEC. 15. Each policy purchased by the Attorney General under this title shall contain a provision, in terms approved by the Attorney General, to the effect that any insurance thereunder on any law enforcement officer shall cease thirty-one days after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier.

CONVERSION

SEC. 16. Each policy purchased by the Attorney General under this title shall contain a provision for the conversion of such insurance effective the day following the date such insurance would cease as provided in section 5 of this title. During the period such insurance is in force the insured, upon request to the office established under section 3(b) of this title, shall be furnished a list of life insurance companies participating in the program established under this title and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums be granted insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount of premiums if the insured engages in law enforcement activities. In addition to the life insurance companies participating in the program established under this title, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Attorney General and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

WITHHOLDING OF PREMIUMS FROM PAY

SEC. 17. During any period in which a law enforcement officer is insured under a policy of insurance purchased by the Attorney General under this title, his employer shall withhold each month from his basic or other pay until separation or release from full-time duty as a law enforcement officer an amount determined by the Attorney General to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this title while on full-time duty as a law enforcement officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount determined by the Attorney General to be charged any law enforcement officer for each unit of insurance under this title may be continued from year to year, except that the Attorney General may redetermine such monthly amount from time to time in accordance with experience.

SHARING OF COST OF INSURANCE

SEC. 18. For each month any law enforcement officer is insured under this title the United States shall bear not to exceed one-third of the cost of such insurance or such lesser amount as may from time to time be determined by the President to be a practicable and equitable obligation of the United States in assisting the States and units of local government in recruiting and retaining personnel for their law enforcement forces.

INVESTMENT; EXPENSES

SEC. 19. (a) The sums withheld from the basic or other pay of law enforcement officers as premiums for insurance under section 17 of this title and any portion of the cost of such insurance borne by the United States under section 8 of this title, together with the income derived from any dividends or premium rate readjustment from insurers shall be deposited to the credit of a revolving fund established in the Treasury of the United States. All premium payments on any insurance policy or policies purchased under this title and the administrative cost of the insurance program established by this title to the department or agency vested with the responsibility for its supervision shall be paid from the revolving fund.

(b) The Attorney General is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative cost of the program of the department or agency designated by him, and all current premium payments on any policy purchased under this title. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield.

BENEFICIARIES; PAYMENT OF INSURANCE

SEC. 20. (a) Any event of insurance in force under this title on any law enforcement officer or former law enforcement officer on the date of his death shall be paid, upon establishment of a valid claim therefor to the person or persons surviving at the date of his death, in the following order of precedence:

First, to the beneficiary or beneficiaries as the law enforcement officer or former law enforcement officer may have designated by a writing received in his employer's office prior to his death;

Second, if there be no such beneficiary, to the widow or widower of such officer or former officer;

Third, if none of the above, to the child or children of such officer or former officer and descendents of deceased children by representation;

Fourth, if none of the above, to the parents of such officer or former officer or the survivor of them;

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer;

Sixth, if none of the above, to the other next of kin of such officer or former officer entitled under the laws of domicile of such officer or former officer at the time of his death.

(b) If any person otherwise entitled to payment under this section does not make claim therefor within one year after the death of the law enforcement officer or former law enforcement officer, or if payment to such person within that period is prohibited by Federal statute or regulation, payment may be made in the order of precedence as if such person had predeceased such officer or former officer, and any such payment shall be a bar to recovery by any other person.

(c) If, within two years after the death of a law enforcement officer or former law enforcement officer, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Attorney General nor the administrative office established by any insurance company pursuant to this title has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Attorney General be equitably entitled thereto, and such payment shall be a bar to recovery by any other person. If, within four years after the death of the law enforcement officer or former law enforcement officer, payment has not been made pursuant to this title and no claim for payment by any person entitled under this title is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 8 of this title.

(d) The law enforcement officer may elect settlement of insurance under this title either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer the beneficiary may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary may elect settlement in thirty-six equal monthly installments.

BASIC TABLES OF PREMIUMS; READJUSTMENT OF RATES

SEC. 21. (a) Each policy or policies purchased under this title shall include for the first policy year a schedule of basic premium rates by age which the Attorney General shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, this schedule of basic premium rates by age to be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Attorney General in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance issued to large employers.

(b) Each policy so purchased shall include a provision that, in the event the Attorney General determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Attorney General may approve the determination of a tentative average group life premium, for the first or any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate shall be redetermined by the Attorney General during any policy year upon request by the insurance company issuing the policy, if experience indicates that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Attorney General on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance issued to large employers. Such maximum charges shall be continued from year to year, except that the Attorney General may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Attorney General to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

(d) Each such policy shall provide for an accounting to the Attorney General not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Attorney General, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of the total of items (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Attorney General as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Attorney General determines that such special contingency reserve has attained an amount estimated by the Attorney General to make satisfactory provisions for adverse fluctuations in future charges under the policy, and further excess shall be deposited to the credit of the revolving funds established under this title. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

BENEFIT CERTIFICATES

SEC. 22. The Attorney General shall arrange to have each member insured under a policy purchased under this title receive a certificate setting forth the benefits to which the member is entitled thereunder, to whom such benefits shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the member. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

FEDERAL ASSISTANCE TO STATES AND LOCALITIES FOR EXISTING GROUP LIFE INSURANCE PROGRAMS

SEC. 23. (a) Any State or unit of local government having an existing program of group life insurance for law enforcement officers which desires to receive Federal assistance under the provisions of this section shall—

(1) inform the law enforcement officers of the benefits and premium costs of both the Federal program and the State or unit of local government program, and of the intention of the State or unit of local government to apply for the Federal assistance under this section; and

(2) hold a referendum of law enforcement officers of the State or unit of local government to determine whether such officers want to continue in the existing group life insurance program or apply for the Federal program under the provisions of this title. The results of the referendum shall be binding on the State or unit of local government.

(b) If there is an affirmative vote of a majority of such officers to continue in such State or local program and the other requirements set forth in subsection (a) are met, a State or unit of local government may apply for Federal assistance for such program for group life insurance under such rules and regulations as the Attorney General may establish. Assistance under this section shall not exceed one-fourth of the cost to the Federal Government of directly providing such insurance under this title, and shall be reduced to the extent that the Attorney General determines that the existing program of any Sate or unit of local government does not give as complete coverage as the Federal program. Assistance under this section shall be used to reduce proportionately the premiums paid by the State or the unit of local government and by the appropriate law enforcement officers under such existing program.

ADMINISTRATION

SEC. 24. (a) The Attorney General may delegate any of his functions under this title, except the making of regulations, to any officer or employee of the Department of Justice.

(b) In administering the provisions of this title, the Attorney General is authorized to utilize the services and facilities of any agency of the Federal Government or a State government in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

ADVISORY COUNCIL ON LAW ENFORCEMENT OFFICERS' GROUP LIFE INSURANCE

SEC. 25. There is hereby established an Advisory Council on Law Enforcement Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office Management and Budget, each of whom shall serve without additional compensation. The Council shall meet once a year, or oftener, at the call of the Attorney General, and shall review the administration of this title and advise the Attorney General on matters of policy relating to his activities thereunder. In addition, the Attorney General may solicit advice and recommendations from any State or unit of local government participating in the law enforcement officers' group life insurance program.

JURISDICTION OF COURTS

SEC. 26. The district courts of the United States shall have original jurisdiction of any civil action or claim against the United States founded upon the title.

PREMIUM PAYMENTS ON BEHALF OF LAW ENFORCEMENT OFFICERS

SEC. 27. Nothing in this title shall be construed to preclude any State or unit of local government from making payments on behalf of law enforcement officers of the premiums required to be paid by them for any group life insurance program authorized by this title or any such program carried out by a State or unit of local government.

EFFECTIVE DATE

SEC. 28. The insurance provided for under this title shall be placed in effect for the law enforcement officers of any State or unit of local government participating in the law enforcement officers' group life insurance program on a date mutually agreeable to the Attorney General, the insurer or insurers, and the participating State or unit of local government.

TITLE III—ATTORNEY GENERAL'S ANNUAL REPORT

SEC. 29. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 209) is amended by inserting after part H (as designated by section 10 of this Act) the following new part:

"PART I—ATTORNEY GENERAL'S ANNUAL REPORT ON FEDERAL LAW ENFORCEMENT AND CRIMINAL JUSTICE ASSISTANCE ACTIVITIES

"SEC. 670. The Attorney General, in consultation with the appropriate officials in the agencies involved, within ninety days of the end of each fiscal year shall submit to the President and to the Congress an Annual Report on Federal Law Enforcement and Criminal Justice Assistance Activities setting forth the programs conducted, expenditures made, results achieved, plans de-

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veloped, and problems discovered in the operations and coordination of the various Federal assistance programs relating to crime prevention and control, including, but not limited to, the Juvenile Delinquency Prevention and Control Act of 1968 (82 Stat. 462) the Narcotics Addict Rehabilitation Act of 1968 (80 Stat. 1438) and the Gun Control Act of 1968 (82 Stat. 1213)."

Mr. MANSFIELD. Mr. President, it is my understanding that there may well be rollcall votes on this bill so the membership should be alert to that possibility.

PRIVILEGE OF THE FLOOR

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the following members of the staff of the Subcommittee on Criminal Laws and Procedures be allowed on the floor of the Senate for the duration of the consideration of H.R. 17825: G. Robert Blakey, Max Parrish, and Malcolm Hawk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendment in the nature of a substitute be agreed to and that the bill as thus amended be considered as original text for the purpose of amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, 2 years ago, Congress passed the Omnibus Crime Control and Safe Streets Act of 1968—Public Law 90–351—which has given this Nation its first comprehensive Federal-State-local program to reduce crime and improve criminal justice.

The program is directed by the Law Enforcement Assistance Administration which has been operating for most of those 2 years. We are now considering in this bill legislative amendments that would make changes in the LEAA program.

The past 2 years have been very important ones for those directly involved in this program—cities, counties, States, criminal justice agencies, and the Federal Government. This has been a period of honest appraisal of discovery, and of new commitment. And—I believe—of a new attitude toward, and within, criminal justice.

These past 2 years are well worth our attention as we deliberate the future course of the LEAA program.

From the beginning, there were skeptics who questioned certain fundamentals of the program. Statewide law enforcement planning—the State block grant concept—better communications among criminal justice agencies—Federal leadership that is creative, but not autocratic—equitable focus on the Nation's large cities and high-crime areas. These were the untested, key concepts of the program.

Indeed, considering the quality of the criminal justice system, and the rapid pace of crime, there was reason to doubt.

There was no established mechanism—and scant precedent—for statewide law enforcement planning or action programs. City governments usually did not confer with counties, or with other cities. Each of the criminal justice agencies—police, courts, corrections—went its own way. Crime control efforts were seriously fragmented.

Moreover, an aura of neglect—two centuries of it—surrounded the so-called system of criminal justice. This in itself had an insidious effect. If so little had happened in 200 years, what could happen in 3 or 4? in 10 years?

Now that we have had the program for 2 years, I am optimistic. Difficulties have been experienced, but they are being worked out.

I will highlight some of the program's achievements. But, first, a brief summary.

The LEAA is a major effort by the Federal Government, designed to help the States and cities with what is essentially a local problem: Crime. It is a "matching fund" program. When the LEAA makes grants to the States and cities, they are matched with State and local funds. Its overall purpose is to help the States and localities help themselves upgrade and create fair and effective systems of criminal justice.

In fiscal year 1969, the LEAA's appropriation was $63 million; in fiscal 1970, it was $268 million; while the pending budget request is $480 million for 1971. In the first 2 fiscal years, the LEAA awarded about $322 million in grants.

Most of the LEAA funds are distributed to the States in block grants, the amounts based on population. State law enforcement planning agencies administer these funds and are required to make a certain amount available to local governments. The States receive planning grants—to finance the planning, monitoring, and evaluation of statewide plans for improving criminal justice—and they make at least 40 percent of these grants available to local governments. Last fiscal year the States received $21 million. The action block grants are larger—last year they totaled over $182 million—and are used to finance State and local improvement programs. The States make at least 75 percent of this money available to local governments.

The LEAA makes five other types of grants, and these were the amounts awarded last year:

The sum of $32 million was awarded at the discretion of the LEAA, to finance city, county, and statewide criminal justice programs.

An award of $18 million was made to 735 colleges and universities for academic assistance under the LEAA's Law Enforcement Education program. These funds are used to make grants and loans to finance college study by law enforcement personnel and by those preparing for law enforcement careers.

The amount of $7.5 million went for research and development. These grants and contracts were made by the LEAA's research arm, the National Institute of Law Enforcement and Criminal Justice.

A total of $1.2 million was spent on technical assistance, to help States carry out their criminal justice programs.

The sum of $1 million was used to establish within the LEAA the National Criminal Justice Information and Statistics Service.

Although LEAA's granting activities are important, the program is significant from other standpoints. First, it has proved the merits of statewide planning.

The LEAA program has made possible a State-by-State assessment of problems and in so doing has created a national criminal justice planning system. Through this system, we have begun a comprehensive attack on crime.

In 2 years, each State and territory has painstakingly gathered the facts and made a realistic analysis of its crime problem. Thousands and thousands of people have been involved—not only police, judges, prosecutors, correctional administrators, probation officials, mayors, county managers, researchers, criminologists, educators—but also interested citizens of our communities who serve on the local and regional planning boards and have a say in the planned programs.

Many shortcomings in the criminal justice systems—some more serious than suspected—have been revealed by this process of comprehensive assessment, review, and planning. New data—ranging from police salary levels to court caseloads—have been collected for the first time in a coordinated way. New goals and reexamined priorities have been set by every State.

A major difficulty of the first year of LEAA was a disproportionate emphasis on police as opposed to courts or corrections. The States' early plans—submitted in fiscal 1969—included correctional programs that amounted to 6 percent of the block grants and court programs amounting to 5.7 percent. The rest—75 percent—was for police.

This emphasized several deficiencies. For one, that correctional agencies and courts were unable during the first stages of the program to identify their key problems or to propose and articulate significant improvements. It also was an early warning signal that said the whole program and the planners must begin concentrating more fully upon court and correctional needs.

After reviewing these 1969 plans, the LEAA decided that it would put a high priority on, and assist with, improvements in these two areas.

During fiscal 1970 the LEAA committed more than one-third—$410,000—of its technical assistance funds to the corrections area alone. It provided national advisory services—sending experts around the country to help develop adult and juvenile rehabilitation programs, to examine existing jails and institutions, and to help plan new facilities.

From all standpoints, this offer of leadership by LEAA has been fruitful. In fiscal 1970, the State programed 27 percent—$49 million—of their block grants for corrections. They developed imaginative, far-reaching programs including statewide job training-placement programs for offenders, community centers to rehabilitate juveniles, work-release, planning of multi-purpose centers—many regional and some serving several States—to replace decrepit, unsafe jails. They created special treatment programs for alcoholics and narcotics addicts. These programs are involving a wide variety of people and institutions—schools, community organizations, ex-offenders, volunteer aides.

In addition to the program supported by the block grants, LEAA awarded grants from its own discretionary funds for other correctional programs. Thus, all LEAA funds for correctional programs topped the $68 million mark. This is a dramatic improvement over the corresponding figure—$2 million—spent in fiscal 1969.

Similar attention was given to courts last year, and more emphasis will be given in the future. Of fiscal 1970 funds, States allocated $13 million—7 percent of their grants—on improving courts, while the LEAA made discretionary grants totaling $1.2 million. That total—over $14 million—is striking compared with the $1.5 million in block grant and discretionary funds that was spent in fiscal 1969. The court projects range in size from a $10,500 award for training assistant district attorneys to $357,000 to support a series of integrated court management studies in approximately 10 metropolitan courts.

Critics of the first years of this program have also suggested that the cities have not received their rightful share of Federal assistance. Nevertheless, a special LEAA analysis shows that as of last December 31, 60 percent of all action funds distributed by States to local governments went to the Nation's 411 cities that have over 50,000 population. These cities contain less than 40 percent of the Nation's population and account for about 62 percent of the serious crimes. Thus, fund distribution was in almost direct proportion to the incidence of crime. Further, those figures apply only to the specific grants that the States make to their local governments. If you add the amount spent on regional or statewide programs—for example, programs to improve corrections and courts which are usually operated by State governments—the figures would be higher.

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Moreover, although States are required to make only 75 percent of their block action grants available to local governments, at least one-third of the States awarded them more than that.

Last year, the LEAA also set aside $11 million—more than a third of its discretionary funds—for programs to help the cities. The agency gave highest priority to 125 cities. During the first quarter of this year, the LEAA continued that focus and added 42 counties to the priority group, inviting applications for $15 million in discretionary funds.

Given adequate funding, I know the LEAA will continue to meet the needs of the Nation's larger cities and counties which are most plagued by the crime problem.

The LEAA has aided a wide variety of program improvements in law enforcement, and in criminal justice as a whole. Let me cite only a few examples.

It awarded more than $1 million, so that law-enforcement agencies could create much-needed crime laboratories, some serving several regions, or expand existing ones. These funds are enabling the local and State agencies to operate elite mobile labs and buy new analytical equipment they need for narcotics cases.

The LEAA is financing a study of police weaponry by the International Association of Chiefs of Police. The IACP is giving special attention to chemical aerosol sprays which are now used by four out of five police agencies. And the IACP will draw up standards on their procurement and use.

And the LEAA is sponsoring another program that has great promise. This is the pilot cities program. Dayton and Santa Clara County-San Jose, Calif., have already been selected. Five additional cities will be chosen. Each will be a test city in which the best, newest methods of crime control will be tried. This is the first time that any locality has attempted such a thing—the simultaneous adoption of innovative programs, new knowledge, and technology, for its police, courts and correctional system.

In addition, and most important, the LEAA has fostered inter-State cooperation and jurisdictional coordination.

Or, put more simply, the LEAA has people working together on joint projects. The Federal program has inspired a new sense of trust and understanding between States, between agencies, and between people. This program is helping to dispel the Nation that it is safer to go it alone. Agencies—like people—fear being swallowed up or forgotten in a conglomerate or merged project. Jurisdictions jealously guard their prerogatives. Under the LEAA program, however, the situation is starting to change. Equipment—particularly that needed for civil disorders—is being pooled. Manpower reserves are shared. Several States are investigating the possibility of complete or partial consolidations of law enforcement agencies. Plans are also being made to consolidate correctional facilities, some serving several counties, others as multistate centers.

One of the most outstanding multistate efforts is project SEARCH—system for electronic analysis and retrieval of criminal histories—a 10-State project for sharing computerized criminal justice records. The States are Arizona, California, Connecticut, Florida, Maryland, Michigan, Minnesota, New York, Texas, and Washington.

Another is the four-State border cooperative movement which involves Texas, New Mexico, Arizona, and California in a joint effort to control narcotics traffic and illegal border crossings.

In the past 2 years, from its appropriations that totaled $331 million, the LEAA has set in motion 15,000 local improvement programs funded through State block grants, 455 such programs financed by its discretionary grants, academic assistance programs at 735 colleges and universities, and more than 100 research and development projects.

These are solid achievements for the first 2 years.

As enacted in 1968, title I of the Omnibus Crime Control and Safe Streets Act authorized LEAA to carry out its programs during fiscal year 1968 and the 5 succeding fiscal years. However, the act authorized the appropriation of funds only through fiscal year 1970. H.R. 17825 now authorizes the appropriation of funds for the remaining 3 fiscal years—1971, 1972, and 1973. The bill also makes a number of substantive changes in the act designed to strengthen the block grant program and to bring about improved utilization of appropriated funds.

As reported by the committee, the bill would accomplish the following major changes in the present act:

First. Authorize appropriations, as noted above, for the next 3 fiscal years,

Second. Revise the administrative management of the Law Enforcement Assistance Administration.

Third. Relax in defined areas the matching requirements for discretionary and block grants.

Fourth. Relax certain of the restrictions on the use of grant funds for salaries.

Fifth. Authorize waivers of the mandatory requirement that specified percentages of State planning funds be made available to local units.

Sixth. Revise the provisions under which a part of each State's block action grant must be made available to local units.

Seventh. Provide that each State must allocate an adequate share of the benefits of title I block grant funds to areas characterized by high law enforcement activity.

Eighth. Establish a new program for the construction, acquisition, and renovation of correctional facilities and programs.

Ninth. Expand the law enforcement education programs.

Tenth. Make numerous changes in the administrative provisions of title I of the act designed to increase the operational efficiency and staff capability of the administration.

Although many of the provisions of the House bill are retained in identical or similar form, the committee bill is a substitute for the House-passed bill. I will not attempt here to explain every provision of the committee bill or to explain every respect in which it differs from the House bill. I shall insert in the RECORD at this point a comparative analysis of the present act, the House bill, and the committee substitute and then touch only on what I consider to be the major points in the committee bill and the major differences between it and the House bill. Mr. President, I ask unanimous consent to have the text of this comparative analysis appear in the RECORD at this point.

There being no objection, the analysis was ordered to be printed in the RECORD.

TITLE I OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968 AS PRESENTLY ENACTED	HOUSE AMENDMENTS TO TITLE I OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968 AS PASSED IN H.R. 17825**	SENATE AMENDMENTS TO TITLE I OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968 AS REPORTED BY THE COMMITTEE ON THE JUDICIARY**
PRESENT LEGISLATION	HOUSE AMENDMENTS	SENATE AMENDMENTS
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Crime Control and Safe Streets Act of 1968". TITLE I—LAW ENFORCEMENT ASSISTANCE DECLARATIONS AND PURPOSE Congress finds that the high incidence of crime in the United States threatens the peace, security, and general welfare of the Nation and its citizens. To prevent crime and to insure the greater safety of the people, law enforcement efforts must be better coordinated, intensified, and made more effective at all levels of government. Congress finds further that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively. It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement at every level by national assistance. It is the purpose of this title to (1) encourage States and units of general local government to prepare and adopt comprehensive plans based upon their evaluation of State and local problems of law enforcement; (2) authorize grants to States and units of local government in order to improve and strengthen law enforcement; and (3) encourage research and development directed toward the improvement of law enforcement and the development of new methods for the prevention and reduction of crime and the detection and apprehension of criminals.	No change.	No change.
PART A—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION SEC. 101. (a) There is hereby established within the Department of Justice, under the general authority of the Attorney General, a Law Enforcement Assistance Administration (hereafter referred to in this title as "Administration").	PART A—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION SEC. 101. (a) There is hereby established within the Department of Justice, under the general authority of the Attorney General, a Law Enforcement Assistance Administration (hereafter referred to in this title as "Administration").	SEC. 101. (a) There is hereby established within the Department of Justice under the general authority of the Attorney General, a Law Enforcement Assistance Administration (hereinafter referred to in this title as "Administration") *composed of an Administrator of Law Enforcement Assistance and two Associate Administrators of Law Enforcement Assistance, who shall be appointed by the President, by and with the advice and consent of the Senate. Beginning after the end of the term of either of the present incumbents, one of the Associate Administrators shall be a member of a political party other than that of the President.*
(b) The Administration shall be composed of an Administrator of Law Enforcement Assistance and two Associate Administrators of Law Enforcement Assistance, who shall be appointed by the President, by and with the advice and consent of the Senate. No more than two members of the Administration shall be the same political party, and members shall be appointed with due regard to their fitness, knowledge, and experience to perform the functions, powers, and duties vested in the Administration by this title.	[(b) The Administration shall be composed of an Administrator of Law Enforcement Assistance and two Associate Administrators of Law Enforcement Assistance, who shall be appointed by the President, by and with the advice and consent of the Senate. No more than two members of the Administration shall be the same political party, and members shall be appointed with due regard to their fitness, knowledge, and experience to perform the functions, powers, and duties vested in the Administration by this title.]	[(b) The Administration shall be composed of an Administrator of Law Enforcement Assistance and two Associate Administrators of Law Enforcement Assistance, who shall be appointed by the President, by and with the advice and consent of the Senate. No more than two members of the Administration shall be the same political party, and members shall be appointed with due regard to their fitness, knowledge, and experience to perform the functions, powers, and duties vested in the Administration by this title.]
	(*b*) *The Administration shall consist of an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall exercise the functions, powers, and duties vested in the Administration by this title. The Administrator shall be assisted in the exercise of his functions, powers, and duties by two Associate Administrators who shall be appointed by the President, by and with the advice and consent of the Senate.*	(*b*) *The Administrator shall be the executive head of the agency and shall exercise all administrative powers, including the appointment and supervision of Administration personnel. All of the other functions, powers and duties created and established by this title shall be exercised by the Administrator with the concurrence of either one or both of the two Associate Administrators.*

**Language of existing law proposed to be deleted is enclosed in brackets and new matter is underlined.

Comments appear at end of comparative.

PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
(c) It shall be the duty of the Administration to exercise all of the functions, powers, and duties created and established by this title, except as otherwise provided.	(c) It shall be the duty of the Administration to exercise all of the functions, powers, and duties created and established by this title, except as otherwise provided.	(c) It shall be the duty of the Administration to exercise all of the functions, powers, and duties created and established by this title, except as otherwise provided.
PART B—PLANNING GRANTS		
SEC. 201. It is the purpose of this part to encourage States and units of general local government to prepare and adopt comprehensive law enforcement plans based on their evaluation of State and local problems of law enforcement.	No change.	No change.
SEC. 202. The Administration shall make grants to the States for the establishment and operation of State law enforcement planning agencies (hereinafter referred to in this title as "State planning agencies") for the preparation, development, and revision of the State plans required under section 303 of this title. Any State may make application to the Administration for such grants within six months of the date of enactment of this Act.	No change.	No change.
SEC. 203. (a) A grant made under this part to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be created or designated by the chief executive of the State and shall be subject to his jurisdiction. The State planning agency shall be representative of law enforcement agencies of the State and of the units of general local government within the State.	SEC. 203. (a) A grant made under this part to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be created or designated by the chief executive of the State and shall be subject to his jurisdiction. [The State planning agency shall be representative of law enforcement agencies of the State and of the units of general local government within the State.] *The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement agencies, units of general local government, and public agencies maintaining programs to reduce and control crime.*	SEC. 203. (a) A grant made under this part to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be created or designated by the chief executive of the State and shall be subject to his jurisdiction. [The State planning agency shall be representative of law enforcement agencies of the State and of the units of general local government within the State.] *Insofar as it is not inconsistent with the provisions of any other law, the State planning agency and any regional or local planning units within the State shall be, within their respective jurisdictions representative of the law enforcement agencies, units or divisions of general local government, other public agencies maintaining programs to reduce and control crime, and the general community within the State.*
(b) The State planning agency shall— (1) develop, in acordance with part C, a comprehensive statewide plan for the improvement of law enforcement throughout the State; (2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement; and (3) establish priorities for the improvement in law enforcement throughout the State.	(b) The State planning agency shall— (1) develop, in accordance with part C, a comprehensive statewide plan for the improvement of law enforcement throughout the State; (2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement; and (3) establish priorities for the improvement in law enforcement throughout the State.	(b) The State planning agency shall— (1) develop, in accordance with part C, a comprehensive Statewide plan for the improvement of law enforcement throughout the State; (2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement; and (3) establish priorities for the improvement in law enforcement throughout the State.
(c) The State planning agency shall make such arrangements as such agency deems necessary to provide that at least 40 per centum of all Federal funds granted to such agency under this part for any fiscal year will be available to units of general local government or combinations of such units to enable such units and combinations of such units to participate in the formulation of the comprehensive State plan required under this part. Any portion of such 40 per centum in any State for any fiscal year not required for the purpose set forth in the preceding sentence shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this part.	(c) The State planning agency shall make such arrangements as such agency deems necessary to provide that at least 40 per centum of all Federal funds granted to such agency under this part for any fiscal year will be available to units of general local government or combinations of such units to enable such units and combinations of such units to participate in the formulation of the comprehensive State plan required under this part. Any portion of such 40 per centum in any State for any fiscal year not required for the purpose set forth in the preceding sentence shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this part.	(c) The State planning agency shall make such arrangements as such agency deems necessary to provide that at least 40 per centum of all Federal funds granted to such agency under this part for any fiscal year will be available to units of general local government or combinations of such units to enable such units and combinations of such units to participate in the formulation of the comprehensive State plan required under this part. *The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required under this part. In allocating funds under this subsection, the State Planning Agency shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level.* Any portion of such 40 per centum in any State for any fiscal year not required for the purpose set forth in [the preceding sentence] *this subsection* shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this part.

Comments appear at end of comparative.

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PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
SEC. 204. A Federal grant authorized under this part shall not exceed 90 per centum of the expenses of the establishment and operation of the State planning agency, including the preparation, development, and revision of the plans required by part C. Where Federal grants under this part are made directly to units of general local government as authorized by section 305, the grant shall not exceed 90 per centum of the expenses of local planning, including the preparation, development, and revision of plans required by part C.	No change.	SEC. 204. A Federal grant authorized under this part shall not exceed 90 per centum of the expenses of the establishment and operation of the State planning agency, including the preparation, development, and revision of the plans required by part C. [Where Federal grants under this part are made directly to units of general local government as authorized by section 305, the grant shall not exceed 90 per centum of the expenses of local planning, including the preparation, development, and revision of plans required by part C.]
SEC. 205. Funds appropriated to make grants under this part for a fiscal year shall be allocated by the Administration among the States for use therein by the State planning agency or units of general local government, as the case may be. The Administration shall allocate $100,000 to each of the States; and it shall then allocate the remainder of such funds available among the States according to their relative populations.	No change.	No change.
PART C—GRANTS FOR LAW ENFORCEMENT PURPOSES	PART C—GRANTS FOR LAW ENFORCEMENT PURPOSES	PART C—GRANTS FOR LAW ENFORCEMENT PURPOSES
SEC. 301. (a) It is the purpose of this part to encourage States and units of general local government to carry out programs and projects to improve and strengthen law enforcement.	SEC. 301. (a) It is the purpose of this part to encourage States and units of general local government to carry out programs and projects to improve and strengthen law enforcement.	SEC. 301. (a) It is the purpose of this part to encourage States and units of general local government to carry out programs and projects to improve and strengthen law enforcement.
(b) The Administration is authorized to make grants to States having comprehensive State plans approved by it under this part, for—	(b) The Administration is authorized to make grants to States having comprehensive State plans approved by it under this part, for—	(b) The Administration is authorized to make grants to States having comprehensive State plans approved by it under this part, for—
(1) Public protection, including the development, demonstration, evaluation, implementation, and purchase of methods, devices, facilities, and equipment designed to improve and strengthen law enforcement and reduce crime in public and private places.	(1) Public protection, including the development, demonstration, evaluation, implementation, and purchase of methods, devices, facilities, and equipment designed to improve and strengthen law enforcement and reduce crime in public and private places.	(1) Public protection, including the development, demonstration, evaluation, implementation, and purchase of methods, devices, facilities, and equipment designed to improve and strengthen law enforcement and reduce crime in public and private places.
(2) The recruiting of law enforcement personnel and the training of personnel in law enforcement.	(2) The recruiting of law enforcement personnel and the training of personnel in law enforcement.	(2) The recruiting of law enforcement personnel and the training of personnel in law enforcement.
(3) Public education relating to crime prevention and encouraging respect for law and order, including education programs in schools and programs to improve public understanding of and cooperation with law enforcement agencies.	(3) Public education relating to crime prevention and encouraging respect for law and order, including education programs in schools and programs to improve public understanding of and cooperation with law enforcement agencies.	(3) Public education relating to crime prevention and encouraging respect for law and order, including education programs in schools and programs to improve public understanding of and cooperation with law enforcement agencies.
(4) Construction of buildings or other physical facilities which would fulfill or implement the purposes of this section.	[(4) Construction of buildings or other physical facilities which would fulfill or implement the purposes of this section.] *(4) Renting, leasing, and constructing buildings or other physical facilities which would fulfill or implement the purpose of this section, including local correctional facilities, centers for the treatment of narcotic addicts, and temporary courtroom facilities in areas of high crime incidence.*	(4) Construction of Buildings or other physical facilities which would fulfill or implement the purposes of this section.
(5) The organization, education, and training of special law enforcement units to combat organized crime, including the establishment and development of State organized crime prevention councils, the recruiting and training of special investigative and prosecuting personnel, and the development of systems for collecting, storing, and disseminating information relating to the control of organized crime.	(5) The organization, education, and training of special law enforcement units, to combat organized crime, including the establishment and development of State organized crime prevention councils, the recruiting and training of special investigative and prosecuting personnel, and the development of systems for collecting, storing, and disseminating information relating to the control of organized crime.	(5) The organization, education, and training of special law enforcement units to combat organized crime, including the establishment and development of State organized crime prevention councils, the recruiting and training of special investigative and prosecuting personnel, and the development of systems for collecting, storing, and disseminating information relating to the control of organized crime.
(6) The organization, education, and training of regular law enforcement officers, special law enforcement units, and law enforcement reserve units for the prevention, detection, and control of riots and other violent civil disorders, including the acquisition of riot control equipment.	(6) The organization, education, and training of regular law enforcement officers, special law enforcement units, and law enforcement reserve units for the prevention, detection, and control of riots and other violent civil disorders, including the acquisition of riot control equipment.	(6) The organization, education, and training of regular law enforcement officers, special law enforcement units, and law enforcement reserve units for the prevention, detection, and control of riots and other violent civil disorders, including the acquisition of riot control equipment.
(7) The recruiting, organization, training and education of community service officers to serve with and assist local and State law enforcement agencies in the discharge of their duties through such activities as recruiting; improvement of police-community relations and grievance resolution mechanisms; community patrol activities; encouragement of neighborhood participation in crime prevention and public safety efforts; and other activities designed to improve police capabilities, public safety and the objectives of this section: *Provided*, That in	(7) The recruiting, organization, training and education of community service officers to serve with and assist local and State law enforcement agencies in the discharge of their duties through such activities as recruiting; improvement of police-community relations and grievance resolution mechanisms; community patrol activities; encouragement of neighborhood participation in crime prevention and public safety efforts; and other activities designed to improve police capabilities, public safety and the objectives of this section: *Provided*, That in	(7) The recruiting, organization, training and education of community service officers to serve with and assist local and State law enforcement agencies in the discharge of their duties through such activities as recruiting; improvement of police-community relations and grievance resolution mechanisms; community patrol activities; encouragement of neighborhood participation in crime prevention and public safety efforts; and other activities designed to improve police capabilities, public safety and the objectives of this section: *Provided*, That in

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Comments appear at end of comparative.

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PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
no case shall a grant be made under this subcategory without the approval of the local government or local law enforcement agency.	no case shall a grant be made under this subcategory without the approval of the local government or local law enforcement agency.	no case shall a grant be made under this subcategory without the approval of the local government or local law enforcement agency.
	(8) The establishment of a Criminal Justice Coordinating Council for any unit of general local government or any combination of such units within the State to assure improved coordination of all law enforcement activities, such as those of the police, the criminal courts, and the correctional system.	*(8) The establishment of a Criminal Justice Coordinating Council for any unit of general local government or any combination of such units within the State, having a population of 250,000 or more, to assure improved coordination of all law enforcement activities.* *(9) The development and operation of community based delinquency prevention and correctional programs, emphasizing halfway houses and other community based rehabilitation centers for initial preconviction or postconviction referral of offenders expanded probationary programs, including paraprofessional and volunteer participation; and community service centers for the guidance and supervision of potential repeat youthful offenders.*
SEC. 301. (c) The amount of any Federal grant made under paragraph (5) or (6) of subsection (b) of this section may be up to 75 per centum of the cost of the program or project specified in the application for such grant. The amount of any grant made under paragraph (4) of subsection (b) of this section may be up to 50 per centum of the cost of the program or project specified in the application for such grant. The amount of any other grant made under this part may be up to 60 per centum of the cost of the program or project specified in the application for such grant: *Provided,* That no part of any grant for the purpose of construction of buildings or other physical facilities shall be used for land acquisition.	SEC. 301. (c) The [amount of any Federal grant made under] *portion of any Federal grant made under this section for the purposes of* paragraph (5) or (6) of subsection (b) of this section may be up to 75 per centum of the cost of the program or project specified in the application for such grant. The [amount of any grant made under] *portion of any Federal grant made under this section for the purposes of* paragraph (4) of subsection (b) of this section may be up to 50 per centum of the cost of the program or project specified in the application for such grant. The [amount of any other grant made under this part] *portion of any Federal grant made under this section to be used for any other purpose set forth in this section* may be up to 60 per centum of the cost of the program or project specified in the application for such grant: *Provided,* That no part of any grant for the purpose of [construction of] *renting, leasing or constructing,* buildings or other physical facilities shall be used for land acquisition.	SEC. 301. (c) The [amount of any Federal grant made under] *portion of any Federal grant made under this section for the purposes of* paragraph (5) or (6) of subsection (b) of this section may be up to 75 per centum of the cost of the program or project specified in the application for such grant. The [amount of any grant made under] *portion of any Federal grant made under this section for the purposes of* paragraph (4) of subsection (b) of this section may be up to 50 per centum of the cost of the program or project specified in the application for such grant. The [amount of any other grant made under this part] *portion of any Federal grant made under this section to be used for any other purpose set forth in this section* may be up to [60] *70* per centum of the cost of the program or project specified in the application for such grant. [:Provided, That no] *No* part of any grant *made under this section* for the purpose of [construction of] *renting, leasing or constructing* buildings or other physical facilities shall be used for land acquisition. *In the case of a grant under this section to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the cost of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. At least 50 per centum of the non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated for the purpose of the shared funding of such programs or projects.*
301 /(d) Not more than one-third of any grant made under this part may be expended for the compensation of personnel. The amount of any such grant expended for the compensation of personnel shall not exceed the amount of State or local funds made available to increase such compensation. The limitations contained in this subsection shall not apply to the compensation of personnel for time engaged in conducting or undergoing training programs.	301 /(d) Not more than one-third of any grant made under this [part] *section* may be expended for the compensation of *police and other regular law enforcement* personnel. The amount of any such grant expended for the compensation of personnel shall not exceed the amount of State or local funds made available to increase such compensation. The limitations contained in this subsection shall not apply to the compensation of personnel for time engaged in conducting or undergoing training programs, *nor to the compensation of personnel engaged in research, development, demonstration, or other short-term programs.*	Same as House.
SEC. 302. Any State desiring to participate in the grant program under this part shall establish a State planning agency as described in part B of this title and shall within six months after approval of a planning grant under part B submit to the Administration through such State planning agency a comprehensive State plan formulated pursuant to part B of this title.	No change.	**No change.**

Comments appear at end of comparative.

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PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
SEC. 303. The Administration shall make grants under this title to a State planning agency if such agency has on file with the Administration an approved comprehensive State plan (not more than one year in age) which conforms with the purposes and requirements of this title. Each such plan shall—	SEC. 303. The Administration shall make grants under this title to a State planning agency if such agency has on file with the Administration an approved comprehensive State plan (not more than one year in age) which conforms with the purposes and requirements of this title *No State plan shall be approved unless the Administration finds that the plan provides for the allocation of an adequate share of assistance to deal with law enforcement problems in areas of high crime incidence.* Each such plan shall—	SEC. 303. The Administration shall make grants under this title to a State planning agency if such agency has on file with the Administration an approved comprehensive State plan (not more than one year in age) which conforms with the purposes and requirements of this title. *No State plan shall be approved as comprehensive unless the Administration finds that the plan provides for the allocation of an adequate share of the benefits of assistance to areas characterized by high law enforcement activity to deal with the special law enforcement problems of such areas.* Each such plan shall—
(1) provide for the administration of such grants by the State planning agency;	(1) provide for the administration of such grants by the State planning agency;	(1) provide for the administration of such grants by the State planning agency;
(2) provide that at least 75 per centum of all Federal funds granted to the State planning agency under this part for any fiscal year will be available to units of general local government or combinations of such units for the development and implementation of programs and projects for the improvement of law enforcement;	(2) provide that at least 75 per centum of all Federal funds granted to the State planning agency under this part for any fiscal year will be available to units of general local government or combinations of such units for the development and implementation of programs and protects for the improvement of law enforcement, *and that with respect to any such program or project the State will provide not less than one-fourth of the non-Federal funding;*	(2) [provide that at least 75 per centum of all Federal funds granted to the State planning agency under this part for any fiscal year will be available to units of general local government or combinations of such units for the development and implementation of programs and projects for the improvement of law enforcement] *provide that at least the per centum of Federal assistance granted to the State planning agency under this part for any fiscal year which corresponds to the per centum of the State and local law enforcement expenditures funded and expended in the immediately preceding fiscal year by units of general local government will be made available to such units or combinations of such units in the immediately following fiscal year for the development and implementation of programs and projects for the improvement of law enforcement. Per centum determinations under this paragraph for law enforcement funding and expenditures for such immediately preceding fiscal year shall be based upon the most accurate and complete data available for such fiscal year or for the last fiscal year for which such data are available. The Administration shall have the authority to approve such determinations and to review the accuracy and completeness of such data;*
(3) adequately take into account the needs and requests of the units of general local government in the State and encourage local initiative in the development of programs and projects for improvements in law enforcement, and provide for an appropriately balanced allocation of funds between the State and the units of general local government in the State and among such units;	(3) adequately take into account the needs and requests of the units of general local government in the State and encourage local initiative in the development of programs and projects for improvements in law enforcement, and provide for an appropriately balanced allocation of funds between the State and the units of general local governments in the State and among such units;	(3) adequately take into account the needs and requests of the units of general local government in the State and encourage local initiative in the development of programs and projects for improvements in law enforcement, and provide for an appropriately balanced allocation of funds between the State and the units of general local government in the State and among such units;
(4) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of law enforcement dealt with in the plan, including descriptions of: (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the extent appropriate, the relationship of the plan to other relevant State or local law enforcement plans and systems;	(4) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of law enforcement dealt with in the plan, including descriptions of: (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the extent appropriate, the relationship of the plan to other relevant State or local law enforcement plans and systems;	(4) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of law enforcement dealt with in the plan, including descriptions of: (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the extent appropriate, the relationship of the plan to other relevant State or local law enforcement plans and systems;
(5) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment;	(5) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment;	(5) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment;
(6) provide for research and development;	(6) provide for research and development;	(6) provide for research and development;
(7) provide for appropriate review of procedures of actions taken by the State planning agency disapproving an application for which funds are available or terminating or refusing to continue financial assistance to units of general local government or combinations of such units;	(7) provide for appropriate review of procedures of actions taken by the State planning agency disapproving an application for which funds are available or terminating or refusing to continue financial assistance to units of general local government or combinations of such units;	(7) provide for appropriate review of procedures of actions taken by the State planning agency disapproving an application for which funds are available or terminating or refusing to continue financial assistance to units of general local government or combinations of such units;
(8) demonstrate the willingness of the State and units of general local government to assume the costs of improvements funded under this part after a reasonable period of Federal assistance;	(8) demonstrate the willingness of the State and units of general local government to assume the costs of improvements funded under this part after a reasonable period of Federal assistance;	(8) demonstrate the willingness of the State and units of general local government to assume the costs of improvements funded under this part after a reasonable period of Federal assistance;

Comments appear at end of comparative.

PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
(9) demonstrate the willingness of the State to contribute technical assistance or services for programs and projects contemplated by the statewide comprehensive plan and the programs and projects contemplated by units of general local government;	(9) demonstrate the willingness of the State to contribute technical assistance or services for programs and projects contemplated by the statewide comprehensive plan and the programs and projects contemplated by units of general local government;	(9) demonstrate the willingness of the State to contribute technical assistance or services for programs and projects contemplated by the statewide comprehensive plan and the programs and projects contemplated by units of general local government;
(10) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would in the absence of such Federal funds be made available for law enforcement;	(10) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would in the absence of such Federal funds be made available for law enforcement;	(10) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would in the absence of such Federal funds be made available for law enforcement;
(11) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of funds received under this part; and	(11) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of funds received under this part; and	(11) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of funds received under this part; and
(12) provide for the submission of such reports in such form and containing such information as the Administration may reasonably require.	(12) provide for the submission of such reports in such form and containing such information as the Administration may reasonably require.	(12) provide for the submission of such reports in such form and containing such information as the Administration may reasonably require.
Any portion of the 75 per centum to be made available pursuant to paragraph (2) of this section in any State in any fiscal year not required for the purposes set forth in such paragraph (2) shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development and implementation of programs and projects for the improvement of law enforcement and in conformity with the State plan.	Any portion of the 75 per centum to be made available pursuant to paragraph (2) of this section in any State in any fiscal year not required for the purposes set forth in such paragraph (2) shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development and implementation of programs and projects for the improvement of law enforcement and in conformity with the State plan.	Any portion of [the 75] *such* per centum to be made available pursuant to paragraph (2) of this section in any State in any fiscal year not required for the purposes set forth in such paragraph (2) shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development and implementation of programs and projects for the improvement of law enforcement and in conformity with the State plan.
SEC. 304. State planning agencies shall receive applications for financial assistance from units of general local government and combinations of such units. When a State planning agency determines that such an application is in accordance with the purposes stated in section 301 and is in conformance with any existing statewide comprehensive law enforcement plan, the State planning agency is authorized to disburse funds to the applicant.	No change.	No change.
SEC. 305. Where a State fails to make application for a grant to establish a State planning agency pursuant to part B of this title within six months after the date of enactment of this Act, or where a State fails to file a comprehensive plan pursuant to part B within six months after approval of a planning grant to establish a State planning agency, the Administration may make grants under part B and part C of this title to units of general local government or combinations of such units: *Provided, however,* That any such unit or combination of such units must certify that it has submitted a copy of its application to the chief executive of the State in which such unit or combination of such units is located. The chief executive shall be given not more than sixty days from date of receipt of the application to submit to the Administration in writing an evaluation of the project set forth in the application. Such evaluation shall include comments on the relationship of the application to other applications then pending, and to existing or proposed plans in the State for the development of new approaches to and improvements in law enforcement. If an application is submitted by a combination of units of general local government which is located in more than one State, such application must be submitted to the chief executive of each State in which the combination of such units is located. No grant under this section to a local unit of general government shall be for an amount in excess of 60 per centum of the cost of the project or program with respect to which it was made.	[SEC. 305. Where a State fails to make application for a grant to establish a State planning agency pursuant to part B of this title within six months after the date of enactment of this Act, or where a State fails to file a comprehensive plan pursuant to part B within six months after approval of a planning grant to establish a State planning agency, the Administration may make grants under part B and part C of this title to units of general local government or combinations of such units: *Provided, however,* That any such units or combination of such units must certify that it has submitted a copy of its application to the chief executive of the State in which such unit or combination of such units is located. The chief executive shall be given not more than sixty days from date of receipt of the application to submit to the Administration in writing an evaluation of the projects set forth in the application. Such evaluation shall include comments on the relationship of the application to other applications then pending, and to existing or proposed plans in the State for the development of new approaches to and improvements in law enforcement. If an application is submitted by a combination of units of general local government which is located in more than one State, such application must be submitted to the chief executive of each State in which the combination of such units is located. No grant under this section to a local unit of general government shall be for an amount in excess of 60 per centum of the cost of the project or program with respect to which it was made.]	[SEC. 305. Where a State fails to make application for a grant to establish a State planning agency pursuant to part B of this title within six months after the date of enactment of this Act, or where a State fails to file a comprehensive plan pursuant to part B within six months after approval of a planning grant to establish a State planning agency, the Administration may make grants under part B and part C of this title to units of general local government or combinations of such units: *Provided, however,* That any such unit or combination of such units must certify that it has submitted a copy of its application to the chief executive of the State in which such unit or combination of such units is located. The chief executive shall be given not more than sixty days from date of receipt of the application to submit to the Administration in writing an evaluation of the project set forth in the application. Such evaluation shall include comments on the relationship of the application to other applications then pending, and to existing or proposed plans in the State for the development of new approaches to and improvements in law enforcement. If an application is submitted by a combination of units of general local government which is located in more than one State, such application must be submitted to the chief executive of each State in which the combination of such units is located. No grant under this section to a local unit of general government shall be for an amount in excess of 60 per centum of the cost of the project or program with respect to which it was made.]
	Sec. 305. Where a State has failed to have a comprehensive State plan approved under this title within the period specified by the Administration for such purpose, the funds allocated for such State under paragraph (1) of section 306(a) of this title shall be available for reallocation by the Administration under paragraph (2) of section 306(a).	*Sec. 305. Where a State has failed to have a comprehensive State plan approved under this title within the period specified by the Administration for such purpose, the funds allocated for State under paragraph (1) of section 306(a) of this title shall be available for reallocation by the Administration under such paragraph to other States.*

Comments appear at end of comparative.

PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
SEC. 306. Funds appropriated to make grants under this part for a fiscal year shall be allocated by the Administration among the States for use therein by the State planning agency or units of general local government, as the case may be. Of such funds, 85 per centum shall be allocated among the States according to their respective populations and 15 per centum thereof shall be allocated as the Administration may determine, plus such additional amounts as may be made available by virtue of the application of the provisions of section 509 to the grant to any State.	[SEC. 306. Funds appropriated to make grants under this part for a fiscal year shall be allocated by the Administration among the States for use therein by the State planning agency or units of general local government, as the case may be. Of such funds, 85 per centum shall be allocated among the States according to their respective populations and 15 per centum thereof shall be allocated as the Administration may determine, plus such additional amounts as may be made available by virtue of the application of the provisions of section 509 to the grant to any State.] *Sec. 306. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:* *(1) Eighty-five per centum of such funds shall be allocated among the States according to their respective populations for grants to State planning agencies.* *(2) Fifteen per centum of such funds, plus any additional amounts made available by virtue of the application of the provisions of sections 305 and 509 of this title to the grant of any State, may, in the discretion of the Administration, be allocated among the States for grants to State planning agencies, units of general local government, or combinations of such units, according to the criteria and on the terms and conditions the Administration determines consistent with this title.* *Any grant made from funds available under paragraph (2) of this subsection may be up to 90 per centum of the cost of the program or project for which such grant is made; however, if the Administration determines that the applicant is unable to provide sufficient funds the amount of such grant may be up to 100 per centum of the cost of such program or project. No part of any grant for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition.* ***(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year for grants to the State planning agency of the State will not be required by the State, or that the State will be unable to qualify to receive any portion of the funds under the requirements of this part, that portion shall be available for reallocation under paragraph (2) of subsection (a) of this section.***	[SEC. 306. Funds appropriated to make grants under this part for a fiscal year shall be allocated by the Administration among the States for use therein by the State planning agency or units of general local government, as the case may be. Of such funds, 85 per centum shall be allocated among the States according to their respective populations and 15 per centum thereof shall be allocated as the Administration may determine, plus such additional amounts as may be made available by virtue of the application of the provisions of section 509 to the grant to any State.] *Sec. 306. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:* *(1) Eighty-five per centum of such funds, plus any additional amounts—made available by virtue of the application of the provisions of section 509 of this title to the grant of any State, shall be allocated among the States according to their respective populations for grants to State planning agencies.* *(2) Fifteen per centum of such funds may, in the discretion of the Administration, be allocated among the States for grants to State planning agencies, units of general local government, combinations of such units, or other appropriate grantees or contractors, according to criteria, terms and conditions that the Administration determines are consistent with this title.* *Any grant made from funds available under paragraph (2) of this subsection may be up to 70 per centum of the cost of the program or project for which such grant is made. No part of any grant under such paragraph for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under such paragraph to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. The limitations on the expenditure of portions of grants for the compensation of personnel in subsection (d) of section 301 of this title shall apply to a grant under such paragraph. At least 50 per centum of the non-Federal funding of the cost of any program or project to be funded by a grant under such paragraph shall be of money appropriated for the purpose of the shared funding of such* ***(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year for grants to the State planning agency of the State will not be required by the State, or that the State will be unable to qualify to receive any portion of the funds under the requirements of this part, that portion shall be available for reallocation to other States under paragraph (1) of subsection (a) of this section.***
SEC. 307. (a) In making grants under this part, the Administration and each State planning agency, as the case may be, shall give special emphasis, where appropriate or feasible, to programs and projects dealing with the prevention, detection, and control or organized crime and of riots and other violent civil disorders. (b) Notwithstanding the provisions of section 303 of this part, until August 31, 1968, the Administration is authorized to make grants for programs and projects dealing with the prevention, detection, and control of riots and other violent civil disorders on the basis of applications describing in detail the programs, projects, and costs of the items for which the grants will be used, and the re-	No change.	No change.

Comments apear at end of comparative.

PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
lationship of the programs and projects to the applicant's general program for the improvement of law enforcement.		
PART D—TRAINING, EDUCATION, RESEARCH, DEMONSTRATION, AND SPECIAL GRANTS		
SEC. 401. It is the purpose of this part to provide for and encourage training, education, research, and development for the purpose of improving law enforcement and developing new methods for the prevention and reduction of crime, and the detection and apprehension of criminals.	No change.	No change.
SEC. 402. (a) There is established within the Department of Justice a National Institute of Law Enforcement and Criminal Justice (hereafter referred to in this part as "Institute"). The Institute shall be under the general authority of the Administration. It shall be the purpose of the Institute to encourage research and development to improve and strengthen law enforcement. (b) The Institute is authorized— (1) to make grants to, or enter into contracts with, public agencies, institutions of higher education, or private organizations to conduct research, demonstrations, or special projects pertaining to the purposes described in this title, including the development of new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement; (2) to make continuing studies and undertake programs of research to develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement, including, but not limited to, the effectiveness of projects or programs carried out under this title; (3) to carry out programs of behavioral research designed to provide more accurate information on the causes of crime and the effectiveness of various means of preventing crime, and to evaluate the success of correctional procedures; (4) to make recommendations for action which can be taken by Federal, State, and local governments and by private persons and organizations to improve and strengthen law enforcement; (5) to carry out programs of instructional assistance consisting of research fellowships for the programs provided under this section, and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects authorized by this title. (6) to carry out a program of collection and dissemination of information obtained by the Institute or other Federal agencies, public agencies, institutions of higher education, or private organizations engaged in projects under this title, including information relating to new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement; and (7) to establish a research center to carry out the programs described in this section.	No change.	No change.
SEC. 403. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Administration shall require, whenever feasible, as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purpose for which the grant is sought.	No change.	No change.
SEC. 404. (a) The Director of the Federal Bureau of Investigation is authorized to— (1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide, at the request of a State or unit of local government, training for State and local law enforcement personnel;	No change.	No change.

Comments appear at end of comparative.

PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
(2) develop new or improved approaches techniques, systems, equipment, and devices to improve and strengthen law enforcement; and (3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local law enforcement personnel. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs and their deputies, and such other persons as the State or unit may nominate for police training while such persons are actually employed as officers of such State or unit. (b) In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General. Sec. 405. (a) Subject to the provisions of this section, the Law Enforcement Assistance Act of 1965 (79 Stat. 828) is repealed: *Provided*, That— (1) The Administration, or the Attorney General until such time as the members of the Administration are appointed, is authorized to obligate funds for the continuation of projects approved under the Law Enforcement Assistance Act of 1965 prior to the date of enactment of this Act to the extent that such approval provided for continuation. (2) Any funds obligated under subsection (1) of this section and all activities necessary or appropriate for the review under subsection (3) of this section may be carried out with funds previously appropriated and funds appropriated pursuant to this title. (3) Immediately upon establishment of the Administration, it shall be its duty to study, review, and evaluate projects and programs funded under the Law Enforcement Assistance Act of 1965. Continuation of projects and programs under subsections (1) and (2) of this section shall be in the discretion of the Administration.	No change.	**No change.**
Sec. 406. (a) Pursuant to the provisions of subsections (b) and (c) of this section, the Administration is authorized, after appropriate consultation with the Commissioner of Education, to carry out programs of academic educational assistance to improve and strengthen law enforcement. (b) The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for loans, not exceeding $1,800 per academic year to any person, to persons enrolled on a full-time basis in undergraduate or graduate programs approved by the Administration and leading to degrees or certificates in areas directly related to law enforcement or preparing for employment in law enforcement, with special consideration to police or correctional personnel of States or units of general local government on academic leave to earn such degrees or certificates. Loans to persons assisted under this subsection shall be made on such terms and conditions as the Administration and the institution offering such programs may determine, except that the total amount of any such loan, plus interest, shall be canceled for service as a full-time officer or employee of a law enforcement agency at the rate of 25 per centum of the total amount of such loans plus interest for each complete year of such service or its equivalent of such service, as determined under regulations of the Administration. (c) The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for tuition and fees, not exceeding $200 per academic quarter or $300 per semester for any person, for officers of any publicly funded	Sec. 406. (a) Pursuant to the provisions of subsections (b) and (c) of this section, the Administration is authorized, after appropriate consultation with the Commissioner of Education, to carry out programs of academic educational assistance to improve and strengthen law enforcement. (b) The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for loans, not exceeding $1,800 per academic year to any person, to persons enrolled on a full-time basis in undergraduate or graduate programs approved by the Administration and leading to degrees or certificates in areas [directly related to law enforcement or preparing for employment] *related to law enforcement or suitable for persons employed* in law enforcement, with special consideration to police or correctional personnel of States or units of general local government on academic leave to earn such degrees or certificates. Loans to persons assisted under this subsection shall be made on such terms and conditions as the Administration and the institution offering such programs may determine, except that the total amount of any such loan, plus interest, shall be canceled for service as a full-time officer or employee of a law enforcement agency at the rate of 25 per centum of the total amount of such loans plus interest for each complete year of such service or its equivalent of such service, as determined under regulations of the Administration. (c) The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for [tuition and fees] *tuition, books, and fees,* not exceeding $200 per academic quarter or $300 per semester for any person, for offi-	**Same as House.**

Comments appear at end of comparative.

PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
law enforcement agency enrolled on a full-time or part-time basis in courses included in an undergraduate or graduate program which is approved by the Administration and which leads to a degree or certificate in an area related to law enforcement or an area suitable for persons employed in law enforcement. Assistance under this subsection may be granted only on behalf of an applicant who enters into an agreement to remain in the service of the law enforcement agency employing such applicant for a period of two years following completion of any course for which payments are provided under this subsection, and in the event such service is not completed, to repay the full amount of such payments on such terms and in such manner as the Administration may prescribe.	cers of any publicly funded law enforcement agency enrolled on a full-time or part-time basis in courses included in an undergraduate or graduate program which is approved by the Administration and which leads to a degree or certificate in an area related to law enforcement or an area suitable for persons employed in law enforcement. Assistance under this subsection may be granted only on behalf of an applicant who enters into an agreement to remain in the service of the law enforcement agency employing such applicant for a period of two years following completion of any course for which payments are provided under this subsection, and in the event such service is not completed, to repay the full amount of such payments on such terms and in such manner as the Administration may prescribe. (d) *Full-time teachers or persons preparing for careers as full-time teachers of courses related to law enforcement or suitable for persons employed in law enforcement, in institutions of higher education which are eligible to receive funds under this section, shall be eligible to receive assistance under subsections* (b) *and* (c) *of this section as determined under regulations of the Administration.* (e) *The Administration is authorized to make grants to or enter into contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the development or demonstration of improved methods of law enforcement education, including—* (*1*) *planning for the development or expansion of undergraduate or graduate programs in law enforcement;* (*2*) *education and training of faculty members;* (*3*) *strengthening the law enforcement aspects of courses leading to an undergraduate, graduate, or professional degree; and* (*4*) *research into, and development of, methods of educating students or faculty, including the preparation of teaching materials and the planning of curriculums.* *The amount of a grant or contract may be up to 75 per centum of the total cost of programs and projects for which a grant or contract is made.*	
No comparable provision.	*Sec. 407. The Administration is authorized to develop and support regional and national training programs, workshops, and seminars to instruct State and local law enforcement personnel in improved methods of crime prevention and reduction and enforcement of the criminal law. Such training activities shall be designed to supplement and improve, rather than supplant, the training activities of the State and units of general local government, and shall not duplicate the activities of the Federal Bureau of Investigation under section 404 of this title.*	Same as House.
No comparable provision.	**No comparable provision.**	*Sec. 408.* (*a*) *The Administration is authorized to establish and conduct a permanent training program for prosecuting attorneys from State and local offices engaged in the prosecution of organized crime. The program shall be designed to develop new or improved approaches, techniques, systems, manuals, and devices to strengthen prosecutive capabilities against organized crime.* (b) *While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 570*(b) *of title 5, United States Code, for persons employed intermittently in the Government service.* (c) *The cost of training State and local personnel under this section shall be provided out of funds appropriated to the Administration for the purpose of such training.*

Comments appear at end of comparative.

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PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
	Part E—Grants for Correctional Institutions and Facilities	
No comparable provision.	*Sec. 451. It is the purpose of this part to encourage States and units of general local government to develop and implement programs and projects for the construction, acquisition, and renovation of correctional institutions and facilities, and for the improvement of correctional programs and practices.*	Same as House.
No comparable provision.	*Sec. 452. A State desiring to receive a grant under this part for any fiscal year shall, consistent with the basic criteria which the Administration establishes under section 454 of this title, incorporate its application for such grant in the Comprehensive State plan submitted to the Administration for that fiscal year in accordance with section 302 of this title.*	Same as House.
No comparable provision.	*Sec. 453. The Administration is authorized to make a grant under this part to a State planning agency if the application incorporated in the comprehensive State plan—*	*Sec. 453. The Administration is authorized to make a grant under this part to a State planning agency if the application incorporated in the comprehensive State plan—*
	(1) sets forth a comprehensive statewide program for the construction, acquisition, or renovation of correctional institutions and facilities in the State and the improvement of correctional programs and practices throughout the State;	*(1) sets forth a comprehensive statewide program for the construction, acquisition, or renovation of correctional institutions and facilities in the State and the improvement of correctional programs and practices throughout the State;*
	(2) provides satisfactory assurances that the control of the funds and title to property derived therefrom shall be in a public agency for the uses and purposes provided in this part and that a public agency will administer those funds and that property;	*(2) provides satisfactory assurances that the control of the funds and title to property derived therefrom shall be in a public agency for the uses and purposes provided in this part and that a public agency will administer those funds and that property;*
	(3) provides satisfactory assurances that the availability of funds under this part shall not reduce the amount of funds under part C of this title which a State would, in the absence of funds under this part, allocate for purposes of this part;	*(3) provides satisfactory assurances that the availability of funds under this part shall not reduce the amount of funds under part C of this title which a State would in the absence of funds under this part, allocate for purposes of this part;*
	(4) provides for advanced techniques in the design of institutions and facilities;	*(4) provides satisfactory emphasis on the development and operation of community-based correctional facilities and programs, including diagnostic services, halfway houses, probation, and other supervisory release programs for preadjudication and postadjudication referral of delinquents, youthful offenders, and first offenders, and community-oriented programs for the supervision of parolees;*
	(5) provides, where feasible and desirable, for the sharing of correctional institutions and facilities on a regional basis;	*(5) provides for advanced techniques in the design of institutions and facilities;*
	(6) provides satisfactory assurances that the personnel standards and programs of the institutions and facilities will reflect advanced practices;	*(6) provides, where feasible and desirable, for the sharing of correctional institutions and facilities on a regional basis;*
	(7) provides satisfactory assurances that the State is engaging in projects and programs to improve the recruiting, organization, training, and education of personnel employed in correctional activities, including those of probation, parole, and rehabilitation; and	*(7) provides satisfactory assurances that the personnel standards and programs of the institutions and facilities will reflect advanced practices;*
	(8) complies with the same requirements established for comprehensive State plans under paragraphs (1), (3), (4), (5), (7), (8), (9), (10), (11), and (12) of section 303 of this title.	*(8) provides satisfactory assurances that the State is engaging in projects and programs to improve the recruiting organization, training, and education of personnel employed in correctional activities, including those of probation, parole and rehabilitation; and*
		(9) complies with the same requirements established for comprehensive State plans under paragraphs (1), (3), (4), (5), (7), (8), (9), (10), (11), and (12) of section 303 of this title.
No comparable provision.	*Sec. 454. The Administration shall, after consultation with the Federal Bureau of Prisons, by regulation prescribe basic criteria for applicants and grantees under this part.*	Same as House.
No comparable provision.	*Sec. 455. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:*	*Sec. 455. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:*
	(1) 50 per centum of the funds shall be available for grants to State planning agencies.	*(1) 85 per centum of the funds shall be allocated among the States according to their respective populations for grants to State planning agencies.*

Comments appear at end of comparative.

XUM

PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
	(2) The remaining 50 per centum of the funds may be made available, as the Administration may determine, to State planning agencies, units of general local government, or combinations of such units, according to the criteria and on the terms and conditions the Administration determines consistent with this part.	*(2) the remaining 15 per centum of the funds may be made available, as the Administration may determine, to State planning agencies, units of general local government, or combinations of such units, according to the criteria and on the terms and conditions the Administration determines consistent with this part.*
	Any grant made from funds available under this part may be up to 75 per centum of the cost of the program or project for which such grant is made. No funds awarded under this part may be used for land acquisition.	*Any grant made from funds available under this part may be up to 75 per centum of the cost of the program or projected for which such grant is made. No funds awarded under this part may be used for land acquisition.*
	(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds granted to an applicant for that fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 509 of this title, that portion shall be available for reallocation under paragraph (2) of subsection (a) of this section.	*(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State or granted to an applicant for that fiscal year for grants to the State planning agency of the State or for programs or projects of an applicant will not be required by the applicant or will become available by virtue of the application of the provisions of section 509 of this title, that portion shall be available for reallocation under paragraph (1) of subsection (a) of this section.*
PART E—ADMINISTRATIVE PROVISIONS	PART [E] *F*—ADMINISTRATIVE PROVISIONS	PART [E] *F*—ADMINISTRATIVE PROVISIONS
SEC. 501. The Administration is authorized, after appropriate consultation with representatives of States and units of general local government, to establish such rules, regulations, and procedures as are necessary to the exercise of its functions, and are consistent with the stated purpose of this title.	No change.	No change.
SEC. 502. The Administration may delegate to any officer or official of the Administration, or, with the approval of the Attorney General, to any officer of the Department of Justice such functions as it deems appropriate.	No change.	No change.
SEC. 503. The functions, powers, and duties specified in this title to be carried out by the Administration shall not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress.	No change.	No change.
SEC. 504. In carrying out its functions, the Administration, or upon authorization of the Administration, any member thereof or any hearing examiner assigned to or employed by the Administration, shall have the power to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.	No change.	No change.
SEC. 505. Section 5315 of title 5, United States Code, is amended by adding at the end thereof— "(90) Administrator of Law Enforcement Assistance."	No change.	SEC. 505. Section [5315] *5314* of title 5, United States Code, is amended by adding at the end thereof— "[(90)] *(55)* Administrator of Law Enforcement Assistance."
SEC. 506. Section 5316 of title 5, United States Code, is amended by adding at the end thereof— "(126) Associate Administrator of Law Enforcement Assistance."	No change.	SEC. 506. Section [5316] *5315* of title 5, United States Code, is amended by adding at the end thereof— "[(126)] *(90)* Associate Administrator of Law Enforcement Assistance."
SEC. 507. Subject to the civil service and classification laws, the Administration is authorized to select, appoint, employ, and fix compensation of such officers and employees, including hearing examiners, as shall be necessary to carry out its powers and duties under this title.	No change.	No change.
SEC. 508. The Administration is authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department of Justice and of other civilian or military agencies and instrumentalities of the Federal Government, and to cooperate with the Department of Justice and such other agencies and instrumentalities in the establishment and use of services, equipment, personnel, and facilities of the Administration. The Administration is further authorized to confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other local agencies.	No change.	SEC. 508. The Administration is authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department of Justice and of other civilian or military agencies and instrumentalities of the Federal Government, and to cooperate with the Department of Justice and such other agencies and instrumentalities in the establishment and use of services, equipment, personnel, and facilities of the Administration. The Administration is further authorized to confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other local agencies *and to receive and utilize, for the purposes of this title, funds or other property donated or trans-*

Comments appear at end of comparative.

XUM

PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
		ferred by any other Federal agencies, States, units of general local government, public or private agencies or oganizations, institutions of higher education or individuals.
SEC. 509. Whenever the Administration, after reasonable notice and opportunity for hearing to an applicant or a grantee under this title, finds that, with respect to any payments made or to be made under this title, there is a substantial failure to comply with— (a) the provisions of this title; (b) regulations promulgated by the Administration under this title; or (c) a plan or application submitted in accordance with the provisions of this title; the Administration shall notify such applicant or grantee that further payments shall not be made (or in its discretion that further payments shall not be made for activities in which there is such failure), until there is no longer such failure.	No change.	No change.
SEC. 510. (a) In carrying out the functions vested by this title in the Administration, the determination, findings, and conclusions of the Administration shall be final and conclusive upon all applicants, except as hereafter provided. (b) If the application has been rejected or an applicant has been denied a grant or has had a grant, or any portion of a grant, discontinued, or has been given a grant in a lesser amount than such applicant believes appropriate under the provisions of this title, the Administration shall notify the applicant or grantee of its action and set forth the reason for the action taken. Whenever an applicant or grantee requests a hearing on action taken by the Administration on an application or a grant the Administration, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations at such times and places as the Administration deems necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made by the Administration with respect thereto shall be final and conclusive, except as otherwise provided herein. (c) If such applicant is still dissatisfied with the findings and determinations of the Administration, following the notice and hearing provided for in subsection (b) of this section, a request may be made for rehearing, under such regulations and procedures as the Administration may establish, and such applicant shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved. The findings and determinations of the Administration, following such rehearing, shall be final and conclusive upon all parties concerned, except as hereafter provided.	No change.	No change.
SEC. 511. (a) If any applicant or grantee is dissatisfied with the Administration's final action with respect to the approval of its application or plan submitted under this title, or any applicant or grantee is dissatisfied with the Administration's final action under section 509 or section 510, such applicant or grantee may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such applicant or grantee is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administration. The Administration shall thereupon file in the court the record of the proceedings on which the action of the Administration was based, as provided in section 2112 of title 28, United States Code. (b) The determinations and the findings of fact by the Administration, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may re-	No change.	No change.

Comments appear at end of comparative.

PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
mand the case to the Administration to take further evidence. The Administration may thereupon make new or modified findings of fact and may modify its previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact or determinations shall likewise be conclusive if supported by substantial evidence. (c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Administration or to set it aside in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.		
SEC. 512. Unless otherwise specified in this title, the Administration shall carry out the programs provided for in this title during the fiscal year ending June 30, 1968, and the five succeeding fiscal years.	No change.	No change.
SEC. 513. To insure that all Federal assistance to State and local programs under this title is carried out in a coordinated manner, the Administration is authorized to request any Federal department or agency to supply such statistics, data, program reports, and other material as the Administration deems necessary to carry out its functions under this title. Each such department or agency is authorized to cooperate with the Administration and, to the extent permitted by law, to furnish such materials to the Administration. Any Federal department or agency engaged in administering programs related to this title shall, to the maximum extent practicable, consult with and seek advice from the Administration to insure fully coordinated efforts, and the Administration shall undertake to coordinate such efforts.	No change.	No change.
SEC. 514. The Administration may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of its functions under this title.	No change.	No change.
SEC. 515. The Administration is authorized— (a) to conduct evaluation studies of the programs and activities assisted under this title; (b) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement in the several States; and (c) to cooperate with and render technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, in institutions in matters relating to law enforcement.	SEC. 515. The Administration is authorized— (a) to conduct evaluation studies of the programs and activities assisted under this title; (b) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement in the several States; and (c) to cooperate with and render technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, or institutions in matters relating to law enforcement. *Funds appropriated for the purposes of this section may be expended by grant or contract, as the Administration may determine to be appropriate.*	Same as House.
SEC. 516. (a) Payments under this title may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administration.	SEC. 516. (a) Payments under this title may be made in installment, and in advance or by way of reimbursement, as may be determined by the Administration, *and may be used to pay the transportation and subsistence expenses of person attending conferences or other assemblages, notwithstanding the provisions of the Joint Resolution entitled "Joint Resolution to prohibit expenditure of any moneys for housing, feeding, or transporting conventions or meetings", approved February 2, 1935 (31 U.S.C. sec. 551).*	Same as House.
(b) Not more than 12 per centum of the sums appropriated for any fiscal year to carry out the provisions of this title may be used within any one State except that this limitation shall not apply to grants made pursuant to part D.	(b) Not more than 12 per centum of the sums appropriated for any fiscal year to carry out the provisions of this title may be used within any one State except that this limitation shall not apply to grants made pursuant to part D.	
SEC. 517. The Administration is authorized to appoint such technical or other advisory committees to advise the Administration with respect to the administration of this	[SEC. 517. The Administration is authorized to appoint such technical or other advisory committees to advise the Administration with respect to the administration of this	Same as House.

Comments appear at end of comparative.

PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
title as it deems necessary. Members of such committees not otherwise in the employ of the United States, while attending meetings of the committee, shall be entitled to receive compensation at a rate to be fixed by the Administration but not exceeding $75 per diem, and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.	title as it deems necessary. Members of such committees not otherwise in the employ of the United States, while attending meetings of the committees, shall be entitled to receive compensation at a rate to be fixed by the Administration but not exceeding $75 per diem, and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.] *Sec. 517. (a) The Administration may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates of compensation for individuals not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5, United States Code.* *(b) The Administration is authorized to appoint, without regard to the civil service laws, technical or other advisory committees to advise the Administration with respect to the administration of this title as it deems necessary. Members of those committees not otherwise in the employ of the United States, while engaged in advising the Administration or attending meetings of the committees, shall be compensated at rates to be fixed by the Administration but not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5 of the United States Code and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.*	
SEC. 518. (a) Nothing contained in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other law enforcement agency of any State or any political subdivision thereof. (b) Notwithstanding any other provision of law nothing contained in this title shall be construed to authorize the Administration (1) to require, or condition the availability or amount of a grant upon, the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance or to eliminate racial imbalance in any law enforcement agency, or (2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this title to adopt such a ratio, system, or other program.	No change.	No change.
SEC. 519. On or before August 31, 1968, and each year thereafter, the Administration shall report to the President and to the Congress on activities pursuant to the provisions of this title during the preceding fiscal year.	SEC. 519. On or before [August 31, 1968, and each year thereafter] *December 31 of each year* the Administration shall report to the President and to the Congress on activities pursuant to the provisions of this title during the preceding fiscal year.	SEC. 519. [On or before August 31, 1968, and each year thereafter, the Administration shall report to the President and to the Congress on activities pursuant to the provisions of this title during the preceding fiscal year.] *(a) On or before December 31 of each year, the Administration shall report to the President and to the Congress on activities pursuant to the provisions of this title during the preceding fiscal year.* *(b) Not later than February 1, 1971, the Administration shall submit to the President and to the Congress recommendations for legislation to promote the integrity and accuracy of criminal justice data collection, processing and dissemination systems funded in whole or in part by the Federal Government, and to protect the constitutional rights of all persons covered or affected by such systems.*
SEC. 520. For the purpose of carrying out this title, there is authorized to be appropriated the sums of $100,111,000 for the fiscal years ending June 30, 1968, and June 30, 1969, $300,000,000 for the fiscal year ending June 30, 1970, and for succeeding fiscal years such sums as the Congress might authorize: *Provided, however,* That of the amount appro-	[SEC. 520. For the purpose of carrying out this title, there is authorized to be appropriated the sums of $100,111,000 for the fiscal years ending June 30, 1968, and June 30, 1969, $300,000,000 for the fiscal year ending June 30, 1970, and for succeeding fiscal years such sums as the Congress might authorize: *Provided, however,* That of the amount appro-	[SEC. 520. For the purpose of carrying out this title, there is authorized to be appropriated the sums of $100,111,000 for the fiscal years ending June 30, 1968, and June 30, 1969, $300,000,000 for the fiscal year ending June 30, 1970, and for succeeding fiscal years such sums as the Congress might authorize: *Provided, however,* That of the amount appro-

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Comments appear at end of comparative.

PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
priated for the fiscal years ending June 30, 1968, and June 30, 1969— (a) the sum of $25,000,000 shall be for the purposes of part B; (b) the sum of $50,000,000 shall be for the purposes of part C, of which amount— (1) not more than $2,500,000 shall be for the purposes of section 302(b)(3); (2) not more than $15,000,000 shall be for the purposes of section 302(b)(5), of which not more than $1,000,000 may be used within any one State; (3) not more than $15,000,000 shall be for the purposes of section 302(b)(6); and (4) not more than $10,000,000 shall be for the purposes of correction, probation, and parole; and (c) the sum of $25,111,000 shall be for the purposes of part D, of which $5,111,000 shall be for the purposes of section 404, and not more than $10,000,000 shall be for the purposes of section 406.	priated for the fiscal years ending June 30, 1968, and June 30, 1969— [(a) the sum of $25,000,000 shall be for the purposes of part B; [(b) the sum of $50,000,000 shall be for the purposes of part C, of which amount— [(1) not more than $2,500,000 shall be for the purposes of section 301(b)(3); [(2) not more than $15,000,000 shall be for the purposes of section 301(b)(5), of which not more than $1,000,000 may be used within any one State; [(3) not more than $15,000,000 shall be for the purposes of section 301(b)(6); and [(4) not more than $10,000,000 shall be for the purposes of correction, probation, and parole; and [(c) the sum of $25,111,000 shall be for the purposes of part D, of which $5,111,000 shall be for the purposes of section 404, and not more than $10,000,000 shall be for the purposes of section 406.]	priated for the fiscal years ending June 30, 1968, and June 30, 1969— (a) the sum of $25,000,000 shall be for the purposes of Part B; (b) the sum of $50,000,000 shall be for the purposes of part C, of which amount— (1) not more than $2,500,000 shall be for the purposes of section 302(b)(3); (2) not more than $15,000,000 shall be for the purposes of section 302(b)(5), of which not more than $1,000,000 may be used within any one State; (3) not more than $15,000,000 shall be for the purposes of section 302(b)(6); and (4) not more than $10,000,000 shall be for the purposes of correction, probation, and parole; and (c) the sum of $25,111,000 shall be for the purposes of part D, of which $5,111,000 shall be for the purposes of section 404, and not more than $10,000,000 shall be for the purposes of section 406.]
	Sec. 520. There is authorized to be appropriated $650,000,000 for the fiscal year ending June 30, 1971, and $1,000,000,000 for the fiscal year ending June 30, 1972, and $1,500,000,000 for the fiscal year ending June 30, 1973. Funds appropriated for any fiscal year may remain available for obligation until expended. Not less than 25 per centum of the amounts appropriated shall be devoted to the purposes of corrections, including probation and parole.	*Sec. 520. There is authorized to be appropriated $650,000,000 for fiscal year ending June 30, 1971, of which $100,000,000 shall be for the purposes of Part E; $1,150,000,000 for the fiscal year ending June 30, 1972, of which $150,000,000 shall be for the purposes of Part E; and $1,750,000,000 for the fiscal year ending June 30, 1973, of which $250,000,000 shall be for the purposes of Part E. Funds appropriated for any fiscal year may remain available for obligation until expended.*
SEC. 521. (a) Each recipient of assistance under this Act shall keep such records as the Administration shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. (b) The Administration and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purpose of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this title.	SEC. 521. (a) Each recipient of assistance under this Act shall keep such records as the Administration shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. (b) The Administration and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purpose of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this—title. *(c) The provisions of this section shall apply to all recipients of assistance under this Act, whether by direct grant of contract from the Administration or by subgrant or subcontract from primary grantees or contractors of the Administration.*	Same as House.
SEC. 522. Section 204(a) of the Demonstration Cities and Metropolitan Development Act of 1966 is amended by inserting "law enforcement facilities," immediately after "transportation facilities,".	No change.	No change.
PART F—DEFINITIONS	PART [F] *G*—DEFINITIONS	PART [F] *G*—DEFINITIONS
SEC. 601. As used in this title— (a) "Law enforcement" means all activities pertaining to crime prevention or reduction and enforcement of the criminal law.	SEC. 601. As used in this title— [(a) "Law enforcement" means all activities pertaining to crime prevention or reduction and enforcement of the criminal law.] *(a) "Law enforcement" means all activities pertaining to the administration of criminal justice, including, but not limited to, police efforts to prevent crime and to apprehend criminals, activities of the criminal courts and related agencies, and activities of corrections, probation, and parole authorities.*	SEC. 601. As used in this title— [(a) "Law enforcement" means all activities pertaining to crime prevention or reduction and enforcement of the criminal law.] *(a) "Law enforcement" means any activity pertaining to crime prevention, control or reduction or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies, activities of corrections, probation or parole authorities, and programs relating to the prevention, control or reduction of juvenile delinquency or narcotic addiction.*
(b) "Organized crime" means the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racketeering,	(b) "Organized crime" means the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racket-	(b) No change.

Comments appear at end of comparative.

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PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
and other unlawful activities of members of such organizations.	eering, and other unlawful activities of members of such organizations.	
(c) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.	(c) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto, and any territory or possession of the United States.	(c) No change.
(d) "Unit of general local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, or an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior.	(d) "Unit of general local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, [or] an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, *or any agency of the District of Columbia government performing law enforcement functions in and for the District of Columbia. Funds appropriated by the Congress for the activities of such agencies of the District of Columbia may be used to provide the non-Federal share of the cost of programs or projects funded under this title.*	(d) "Unit of general local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, [or] an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, *or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia. Funds appropriated by the Congress for the activities of such agencies may be used to provide the non-Federal share of the cost of programs or projects funded under this title.*
(e) "Combination" as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement plan.	(e) "Combination" as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement plan.	(e) No change.
(f) "Construction" means the erection, acquisition, expansion, or repair (but not including minor remodeling or minor repairs) of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment therefor.	(f) "Construction" means the erection, acquisition, expansion, or repair (but not including minor remodeling or minor repairs) of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment therefor.	(f) No change.
(g) "State organzed crime prevention council" means a council composed of not more than seven persons established pursuant to State law or established by the chief executive of the State for the purpose of this title, or an existing agency so designated, which council shall be broadly representative of law enforcement officials within such State and whose members by virtue of their training or experience shall be knowledgeable in the prevention and control of organized crime.	(g) "State organized crime prevention council" means a council composed of not more than seven persons established pursuant to State law or established by the chief executive of the State for the purpose of this title, or an existing agency so designated, which council shall be broadly representative of law enforcement officials within such State and whose members by virtue of their training or experience shall be knowledgeable in the prevention and control of organized crime.	(g) No change.
(h) "Metropolitan area" means a standard metropolitan statistical area as established by the Bureau of the Budget, subject, however, to such modifications and extensions as the Administration may determine to be appropriate.	(h) "Metropolitan area" means a standard metropolitan statistical area as established by the Bureau of the Budget, subject, however, to such modifications and extensions as the Administration may determine to be appropriate.	(h) No change.
(i) "Public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing.	(i) "Public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing.	(i) No change.
(j) "Institution of higher education" means any such institution as defined by section 801(a) of the Higher Education Act of 1965 (79 Stat. 1269; 20 U.S.C. 1141(a)), subject, however, to such modifications and extensions as the Administration may determine to be appropriate.	(j) "Institution of higher education" means any such institution as defined by section 801(a) of the Higher Education Act of 1965 (79 Stat. 1269; 20 U.S.C. 1141(a)), subject, however, to such modifications and extensions as the Administration may determine to be appropriate.	(j) No change.
(k) "Community service officer" means any citizen with the capacity, motivation, integrity, and stability to assist in or perform police work but who may not meet ordinary standards for employment as a regular police officer selected from the immediate locality of the police department of which he is to be a part, and meeting such other qualifications promulgated in regulations pursuant to section 501 as the administration may determine to be appropriate to further the purposes of section 301(b)(1) and this Act.	(k) "Community service officer" means any citizen with the capacity, motivation, integrity and stability to assist in or perform police work but who may not meet ordinary standards for employment as a regular police officer selected from the immediate locality of the police department of which he is to be a part, and meeting such other qualifications promulgated in regulations pursuant to section 501 as the administration may determine to be appropriate to further the purposes of section 301(b)(7) and this Act.	(k) No change.
	(l) The term "correctional institution or facility" means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses.	*(l) The term "correctional institution or facility" means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses.*
No comparable provision.	No comparable provision.	*Part H—Criminal Penalties* *Sec. 651. Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property which are the subject of a grant or contract or other form of assistance pursuant to this title, whether received*

Comments appear at end of comparative.

PRESENT LEGISLATION—continued	HOUSE AMENDMENTS—continued	SENATE AMENDMENTS—continued
		directly or indirectly from the Administration, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.
No comparable provision.	No comparable provision.	*Sec. 652. Whoever knowingly and willfully falsifies, conceals or covers up by trick, scheme, or device any material fact in any application for assistance submitted pursuant to this title or in any records required to be maintained pursuant to this title shall be subject to prosecution under the provisions of section 1001 of title 18, United States Code.*
No comparable provision.	No comparable provision.	*Sec. 653. Any law enforcement program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Administration, shall be subject to the provisions of Section 371 of title 18, United States Code.* *Part I—Attorney General's Annual Report on Federal Law Enforcement and Criminal Justice Assistance Activities*
No comparable provision.	No comparable provision.	*Sec. 670. The Attorney General, in consultation with the appropriate officials in the agencies involved, within ninety days of the end of each fiscal year shall submit to the President and to the Congress an Annual Report on Federal Law Enforcement and Criminal Justice Assistance Activities setting forth the programs conducted, expenditures made, results achieved, plans developed, and problems discovered in the operations and coordination of the various Federal assistance programs relating to crime prevention and control, including, but not limited to, the Juvenile Delinquency Prevention and Control Act of 1968 (82 Stat. 462) the Narcotics Addict Rehabilitation Act of 1968 (80 Stat. 1438) and the Gun Control Act of 1968 (82 Stat. 1213).*
TITLE XI—GENERAL PROVISIONS SEC. 1601. If the provisions of any part of this Act or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.	No change.	No change.

AMENDMENTS TO OTHER LAWS

PRESENT LEGISLATION	HOUSE AMENDMENTS	SENATE AMENDMENTS
	TITLE 5—UNITED STATES CODE—GOVERNMENT ORGANIZATION AND EMPLOYEES Sub-part D.—Pay and Allowances * * * * * Chapter 51.—CLASSIFICATION § 5108. Classification of positions at GS-16, 17, and 18. * * * * *	TITLE 5—UNITED STATES CODE—GOVERNMENT ORGANIZATION AND EMPLOYEES Sub-part D.—Pay and Allowances * * * * * Chapter 51.—CLASSIFICATION § 5108. Classification of positions at G–16, 17, and 18. * * * * *
No comparable provision.	(10) *the Law Enforcement Assistance Administration may place a total of fifteen positions in GS–16, 17, and 18.*	(10) *the Law Enforcement Assistance Administration may place a total of twenty-five positions in GS–16, 17, and 18.* Subchapter II.—Executive Schedule Pay Rates * * * * *
No comparable provision.	No comparable provision.	§ 5513. Positions at level II. Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is $42,500; * * * * *
No comparable provision.	No comparable provision.	*(20) Deputy Attorney General.* § 5314. Positions at level III. Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is $40,000: [(1) Deputy Attorney General.] (Renumber "(2)" through "(54)" "(1)" through "(53)".)

Comments appear at end of comparative.

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NEW LEGISLATIVE PROVISIONS

PRESENT LEGISLATION

No comparable provision.

HOUSE AMENDMENTS

No comparable provision.

SENATE AMENDMENTS

Law Enforcement Officer's Group Life Insurance***

Definitions

Sec. 12. For the purposes of the Title—

(1) The term "month" means a month which runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except where the last month has not so many days, in which event it expires on the last day of the month.

(2) The term "full time" means such period or type of employment or duty as may be prescribed by regulation promulgated by the Attorney General.

(3) The term "law enforcement officer" means, pursuant to regulations promulgated by the Attorney General, an individual who is employed full time by a State or a unit of local government primarily to patrol the highways or otherwise preserve order and enforce the laws.

(4) The term "State" means any State of the United States, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(5) The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose subdivision of a State, or any Indian tribe which the Secretary of Interior determines performs law enforcement functions.

Eligible Insurance Companies

Sec. 13. (a) The Attorney General is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits provided under this Title. Each such life insurance company must (1) be licensed to issue life insurance in each of the fifty States of the United States and in the District of Columbia and (2) as of the most recent December 31 for which information is available to the Attorney General, have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Attorney General.

(c) The Attorney General shall arrange with each life insurance company issuing any policy under this Title to reinsure, under conditions approved by him, portions of the total amount of insurance under such policy with such other life insurance companies (which meet qualifying criteria set forth by the Attorney General) as may elect to participate in such reinsurance.

(d) The Attorney General may at any time discontinue any policy which he has purchased from any insurance company under this Title.

Persons insured; amount

Sec. 14. (a) Any policy of insurance purchased by the Attorney General under this title shall automatically insure any law enforcement officer employed on a full-time basis by a State or unit of local government which has (1) applied to the Attorney General for participation in the insurance program provided under this title, and (2) agreed to deduct from such officer's pay the amount of the premium and forward such amount to the Department of Justice or such other agency as is designated by the Attorney General as the collection agency for such premiums. The insurance provided under this title shall take effect from the first day agreed upon by the Attorney General and the responsible official of the State or unit of local government making application for participation in the program as to law enforcement officers then on the payroll, and as to law enforcement officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this title shall so insure all such law enforcement officers unless any such officer elects in writing not to be insured under this title. If any officer elected not to be insured under this title he may thereafter, if eligible, be insured under this title upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Attorney General.

(b) A law enforcement officer eligible for insurance under this title is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

If annual pay is—		*The amount of group insurance is—*	
Greater than—	*But not greater than—*	*Life*	*Accidental death and dismemberment*
0	*$8,000*	*$10,000*	*$10,000*
$8,000	*9,000*	*11,000*	*11,000*
$9,000	*10,000*	*12,000*	*12,000*
$10,000	*11,000*	*13,000*	*13,000*
$11,000	*12,000*	*14,000*	*14,000*
$12,000	*13,000*	*15,000*	*15,000*
$13,000	*14,000*	*16,000*	*16,000*
$14,000	*15,000*	*17,000*	*17,000*
$15,000	*16,000*	*18,000*	*18,000*
$16,000	*17,000*	*19,000*	*19,000*
$17,000	*18,000*	*20,000*	*20,000*
$18,000	*19,000*	*21,000*	*21,000*
$19,000	*20,000*	*22,000*	*22,000*
$20,000	*21,000*	*23,000*	*23,000*
$21,000	*22,000*	*24,000*	*24,000*
$22,000	*23,000*	*25,000*	*25,000*
$23,000	*24,000*	*26,000*	*26,000*
$24,000	*25,000*	*27,000*	*27,000*
$25,000	*26,000*	*28,000*	*28,000*
$26,000	*27,000*	*29,000*	*29,000*
$27,000	*28,000*	*30,000*	*30,000*
$28,000	*29,000*	*31,000*	*31,000*
$29,000		*32,000*	*32,000*

The amount of such insurance shall automatically increase at any time the amount of increases in the annual basic rate of pay places any such officer in a new pay bracket of the schedule.

(c) Subject to the conditions and limitations approved by the Attorney General and which shall be included in the policy purchased by him, the group accidental death and dismemberment insurance shall provide for the following payments:

Loss	*Amount payable*
For loss of life.	*Full amount shown in the schedule in subsection (b) of this section.*
Loss of one hand or of one foot or loss of sight of one eye.	*One-half of the amount shown in the schedule in subsection (b) of this section.*
Loss of two or more members or loss of sight in both eyes.	*Full amount shown in the schedule in subsection (b) of this section.*

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

(d) The Attorney General shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

Termination of coverage

Sec. 15. Each policy purchased by the Attorney General under this Title shall contain a provision, in terms approved by the Attorney General, to the effect that any insurance thereunder on any law enforcement officer shall cease thirty-one days after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier.

Conversion

Sec. 16. Each policy purchased by the Attorney General under this Title shall contain a provision for the conversion of such insurance effective the day following the date such insurance would cease as provided in section 5 of this Title. During the period such insurance is in force the insured, upon request to the office established under section 3(b) of this Title, shall be furnished a list of life insurance companies participating in the program established under this Title and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums be granted insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount of premiums if the insured engages in law enforcement activities. In addition to the life insurance companies participating in the program established under this Title, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Attorney General and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

Withholding of premiums from pay

Sec. 17. During any period in which a law enforcement officer is insured under a policy of insurance purchased by the Attorney General under this title, his employer shall withhold each month from his basic or other pay until separation or release from full-time duty as a law enforcement officer an amount determined by the Attorney General to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this title while on full-time duty as a law enforcement officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount determined by the Attorney General to be charged any law enforcement officer for each unit of insurance under this title may be continued from year to year, except that the Attorney General may redetermine such monthly amount from time to time in accordance with experience.

Sharing of cost of insurance

Sec. 18. For each month any law enforcement officer is insured under this title the United States shall bear not to exceed one-third of the cost of such insurance or such lesser amount as may from time to time be determined by the President to be a practicable and equitable obligation of the United States in assisting the States and units of local government in recruiting and retaining personnel for their law enforcement forces.

Investment expenses

Sec. 19. (a) The sums withheld from the basic or other pay of law enforcement officers

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***This amendment establishes a completely new program. The section numbers refer to sections in H.R. 17825 as reported by the Senate Committee on the Judiciary.

Comments appear at end of comparative.

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as premiums for insurance under section 7 of this title and any portion of the cost of such insurance borne by the United States under section 8 of this title, together with the income derived from any dividends or premium rate readjustment from insurers shall be deposited to the credit of a revolving fund established in the Treasury of the United States. All premium payments on any insurance policy or policies purchased under this title and the administrative cost of the insurance program established by this title to the department or agency vested with the responsibility for its supervision shall be paid from the revolving fund.

(b) *The Attorney General is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative cost of the program to the department or agency designated by him, and all current premium payments on any policy purchased under this title. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield.*

Beneficiaries; payment of insurance

Sec. 20. (a) *Any event of insurance in force under this title or any law enforcement officer or former law enforcement officer on the date of his death shall be paid, upon establishment of a valid claim therefor to the person or persons surviving at the date of his death, in the following order of precedence:*

First, to the beneficiary or beneficiaries as the law enforcement officer or former law enforcement officer may have designated by a writing received in his employer's office prior to his death;

Second, if there be no such beneficiary, to the widow or widower of such officer or former officer;

Third, if none of the above, to the child or children of such officer or former officer and descendants of deceased children by representation;

Fourth, if none of the above, to the parents of such officer or former officer or the survivor of them;

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer;

Sixth, if none of the above, to other next of kin of such officer or former officer entitled under the laws of domicile of such officer or former officer at the time of his death.

(b) *If any person otherwise entitled to payment under this section does not make claim therefor within one year after the death of the law enforcement officer or former law enforcement officer, or if payment to such person within that period is prohibited by Federal statute or regulation, payment may be made in the order of precedence as if such person had predeceased such officer or former officer, and any such payment shall be a bar to recovery by any other person.*

(c) *If, within two years after the death of a law enforcement officer or former law enforcement officer, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Attorney General nor the administrative office established by any insurance company pursuant to this title has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Attorney General be equitably entitled thereto, and such payments shall be a bar to recovery by any other person. If, within four years after the death of the law enforcement officer or former law enforcement officer, payment has not been made pursuant to this title and no claim for payment by any person entitled under this title is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 8 of this title.*

(d) *The law enforcement officer may elect settlement of insurance under this Act either in a lump sum or in thirty-six equal installments. If no such election is made by such officer the beneficiary may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary may elect settlement in thirty-six equal monthly installments.*

Basic tables of premiums; readjustment of rates

Sec. 21. (a) *Each policy or policies purchased under this Title shall include for the first policy year a schedule of basic premium rates by age which the Attorney General shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, this schedule of basic premium rates by age to be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Attorney General in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance issued to large employers.*

(b) *Each policy so purchased shall include a provision that, in the event the Attorney General determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Attorney General may approve the determination of a tentative average group life premium, for the first or any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate shall be redetermined by the Attorney General during any policy year upon request by the insurance company issuing the policy, if experience indicates that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.*

(c) *Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Attorney General on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance issued to large employers. Such maximum charges shall be continued from year to year, except that the Attorney General may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Attorney General to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.*

(d) *Each such policy shall provide for an accounting to the Attorney General not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Attorney General,* (1) *the amounts of premiums actually acrued under the policy from its date of issue to the end of such policy year,* (2) *the total of all mortality, dismemberment, and other claim charges incurred for that period, and* (3) *the amounts of the insurers' expense and risk charge for that period. Any excess of the total of item* (1) *over the sum of items* (2) *and* (3) *shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Attorney General as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Attorney General determines that such special contingency reserve has attained an amount estimated by the Attorney General to make satisfactory provision for adverse fluctations in future charges under the policy, any further excess shall be deposited to the credit of the revolving funds established under this Title. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.*

Benefit certificates

Sec. 22. The Attorney General shall arrange to have each law enforcement officer insured under a policy purchased under this title receive a certificate setting forth the benefits to which the law enforcement officer is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the law enforcement officer. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

Federal assistance to States and localties for existing group life insurance programs administration

Sec. 23 (a) *Any State or unit of local government having an existing program of group life insurance for law enforcement officers which desires to receive Federal assistance under the provisions of this section shall—*

(1) *inform the law enforcement officers of the benefits and premium costs of both the Federal program and the State or unit of local government program, and of the intention of the State or unit of local government to apply for the Federal assistance under this section; and*

(2) *hold a referendum of law enforcement officers of the State or unit of local government to determine whether such officers want to continue in the existing group life insurance program or apply for the Federal program under the provisions of this Title.*

The results of the referendum shall be binding on the State or unit of local government.

(b) *If there is an affirmative vote of a ma-*

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jority of such officers to continue in such State or local program and the other requirements set forth in subsection (a) are met, a State or unit of local government may apply for Federal assistance for such program for group life insurance under such rules and regulations as the Attorney General may establish. Assistance under this section shall not exceed one-fourth of the cost to the Federal Government of directly providing such insurance under this Title, and shall be reduced to the extent that the Attorney General determines that the existing program of any such State or unit of local government does not give as complete coverage as the Federal program. Assistance under this section shall be used to reduce proportionately the premiums paid by the State or the unit of local government and by the appropriate law enforcement officers under such existing program.

Administration

Sec. 24. (a) The Attorney General may delegate any of his functions under this title, except the making of regulations, to any officer or employee of the Department of Justice.

(b) In administering the provisions of this Title, the Attorney General is authorized to utilize the services and facilities of any agency of the Federal Government or a State government in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Title.

Advisory Council on Law Enforcement Officers' Group Life Insurance

Sec. 25. There is hereby established an Advisory Council on Law Enforcement Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet once a year, or oftener, at the call of the Attorney General, and shall review the administration of this Title and advise the Attorney General on matters of policy relating to his activities thereunder. In addition, the Attorney General may solicit advice and recommendations from any State or unit of local government participating in the law enforcement officers' group life insurance program.

Jurisdiction of courts

Sec. 26. The district courts of the United States shall have original jurisdiction of any civil action or claim against the United States founded upon the Title.

Premium payments on behalf of law enforcement officers

Sec. 27. Nothing in this Title shall be construed to preclude any State or unit of local government from making payments on behalf of law enforcement officers of the premiums required to be paid by them for any group life insurance program authorized by this Title or any such program carried out by a State or unit of local government.

Effective date

Sec. 28. The insurance provided for under this Title shall be placed in effect for the law enforcement officers of any State or unit of local government participating in the law enforcement officers' group life insurance program on a date mutually agreeable to the Attorney General, the insurer or insurers, and the participating State or unit of local government.

COMMENTS

AMENDMENTS TO SECTION 101

The House bill abolished the three-member Administration (so-called "troika") under which LEAA has operated since its inception and substituted a single Administrator to exercise all title I powers. The Senate subcommittee has restored the troika, but has designated the Administrator as the executive head of the agency to exercise all administrative management authority, and provided that all substantive powers be exercised by the concurrence of the Administrator and at least one Associate Administrator, thus removing the existing requirement that all three members concur on proposed actions.

The Senate amendment is based upon the judgment of the Attorney General that the troika arrangement is the best way to operate the LEAA program, since it makes available the expertise of three individuals with diverse backgrounds and experience in law enforcement in resolving the many difficult questions involved in the allocation and utilization of title I funds. However, the Attorney General agreed that the requirement for unanimous concurrence should be removed and that the management efficiency of the Administration would be increased by vesting all administrative management authority in one individual. The requirement that the Administrator must concur (with at least one Associate Administrator) in proposed exercises of substantive powers would mean that the Associate Administrators could never take substantive actions over his objection. Thus the Administrator would hold the balance of power in the agency.

AMENDMENTS TO SECTION 203(a)

The House and Senate amendments both require that the State planning agency and any regional planning units within the State shall be representative of law enforcement agencies, units of general local government and public agencies maintaining programs to reduce and control crime. The Senate amendment adds a requirement that representation must include the general community within the state, and makes the representation requirements applicable to local planning units as well as state and regional planning units.

AMENDMENTS TO SECTION 203(b)

The Senate Amendments insert a provision requested by the Department of Justice authorizing LEAA to waive the requirement in section 203(c) of the Act that at least 40 per cent of all planning funds granted to a State be "passed through" to local units within the State. The House Committee Report stated that the Committee omitted this amendment and a companion amendment authorizing LEAA to waive the 75-per cent "pass-through" requirement applicable to action funds because it felt that LEAA could interpret existing provisions of the Act to permit it to authorize such waivers in appropriate cases. This Senate amendment is made because express statutory authority to grant "pass-through" waivers is preferable to an administrative interpretation. The Senate amendments also require the State Planning Agencies to assure that major cities and counties within the State receive planning funds.

AMENDMENT TO SECTION 204

The Senate amendment to section 204 is a technical amendment and is made to delete obsolete language.

AMENDMENTS TO SECTION 301(b)

The House amendments authorized funds granted for the purpose of constructing buildings or other physical facilities to be used for the additional purposes of renting or leasing such buildings or facilities. Renting and leasing of buildings and facilities is currently authorized by LEAA under provisions of the Act requiring States and localities to contribute 40 per cent of the cost of such projects. The effect of the House amendment, together with a related House amendment to section 301(c) of the Act, would be to require that the States and cities contribute 50 per cent of the cost of such projects. The Senate amendments deleted this amendment and the related amendment to section 301(c) to continue the more favorable matching arrangement.

The House and Senate both authorize action grants for the establishment of "Criminal Justice Coordinating Councils." The function of such councils is to provide improved coordination of all law enforcement activities; i.e., police, court corrections. The Senate amendments limit this to units of general local government or combinations of such units having a population of 250,000 or more.

The Senate amendments also authorize action grants for the development and operation of community-based correction facilities, half-way houses and the like. LEAA currently has this authority under other provisions of section 301(b). However, this amendment seeks to make express the intention of Congress in this section.

AMENDMENTS TO SECTION 301(C)

The House and Senate amendments make clear that the various matching requirements to Federal expenditures set forth in 301(c) apply only to block grants made under section 301 and not to discretionary grants made under section 306, which are covered by a matching formula in section 306.

The Senate amendments also (1) increase the Federal share of certain projects from 60 percent to 70 percent; (2) authorize LEAA to waive the matching requirements for action grants to Indian tribes or other aboriginal groups which cannot supply the requisite non-Federal funding; and (3) require that at least one-half of the non-Federal matching funds for any program or project shall be money, as opposed to donated services or property (or other forms of "soft match").

AMENDMENTS TO SECTION 301(d)

The House and Senate amendments change section 301(d) of the Act to complement section 301(c), as amended.

Section 301(d) is further amended to make clear that the personnel compensation limitations set out in the section apply only to restrict the use of grant funds for the payment of the salaries of police and other regular law enforcement personnel. Such a relaxation of the limitations on salary payments should provide the States and local governments a greater degree of flexibility in developing anticrime programs. It should also diminish the tendency to substitute requests for "hardware" for new programs whose effectiveness depends on personnel. It is intended that the use of block grant funds for the salaries of personnel whose primary responsibility is to provide assistance, maintenance, or auxiliary services or administrative support to the regular operational components of law enforcement agencies shall not be subject to the limitations set forth in section 301(d), nor would the section apply to salary support for personnel engaged in research and development projects or other short-term programs supported under a title I grant. Such salary support, however, would remain subject to the State and local matching fund requirements set forth in section 301(c) of the Act.

AMENDMENTS TO SECTION 303

The House amendments to section 303 require LEAA to find that a State's comprehensive plan provides for the allocation of an adequate share of assistance to deal with law enforcement problems in areas of high crime incidence. The House amendments would also require that a State provide at least one-fourth of the non-Federal funding with respect to each program undertaken by its units of general local government with block grant funds.

The Senate amendments change the House amendments by requiring LEAA to find that a State's comprehensive plan provides for the allocation of an adequate share of *benefits* of assistance to areas characterized by high law enforcement activity to deal with the special law enforcement problems of such areas. The Senate amendments make it clear that where, for example, criminals from areas characterized by high law enforcement activity are regularly incarcerated in a State's corrections system, then a proportionate share of block grant funds expended by a State in its corrections programs will accrue to the benefit of these areas of high crime activity. The Senate amendments also make clear that the comprehensive plan must allocate an adequate share of the benefits of assistance not just to areas "of high crime incidence" but to areas "characterized by high law enforcement activity."

The Senate amendments eliminate the requirement that the State contribute at least 25 per cent of the non-Federal funding for local programs and projects. Most States are voluntarily increasing their financial commitments to the law enforcement assistance program to the extent that they can. The House amendments add an inflexible standard which may have the effect of requiring some States to withdraw from the program because of inability to meet the increased matching requirements.

The Senate amendments also change section 303(2) of the Act, which requires that 75 per cent of all action funds granted to a State planning agency must be passed through to local units of government by providing a flexible pass through.

Section 303(2) was included in the Act to reflect a finding by the Congress that approximately 75 per cent of total nationwide law enforcement expenditures by State and local governments is spent by local governments. This finding was based upon information developed by the President's Crime Commission and the Census Bureau showing total *nationwide* expenditures, not State-by-State breakdowns. An examination of individual States reveals that the 75 per cent pass-through formula does not reflect the State-local division of law enforcement expenditures in many States, and, in fact, is wholly inappropriate in a few States which bear very high portions of the total Statewide expenditures for law enforcement. The Senate amendments provide that the percentage of money passed through by each State to its units of local government will be in proportion to the law enforcement expenditures in that State.

AMENDMENTS TO SECTION 305

The Senate amendments in conjunction with amendments to section 306 are intended to eliminate obsolete language and to close an apparently inadvertent loophole in the House bill which could serve to seriously undermine the block grant mechanism.

The House bill provides that, if a State fails to have a comprehensive plan approved by LEAA or fails to apply for all of its allocated share of block grant funds, the unused portion of such funds shall revert to LEAA's discretionary fund program for distribution to cities within the State or to other States. The problem is created by the additional House amendment lowering the matching requirement for discretionary grants from the block grant level (40 per cent for most programs) to 10 per cent with discretion in LEAA to waive the 10 per cent requirement. The effect is to provide an incentive for States and cities to forego applying for allocated block grant funds in order that such funds shall revert to the discretionary fund and become available on a much more favorable matching basis. The result could be a widespread defection from block grant participation and a substantial increase in LEAA's direct categorical grant program. The Senate amendments preclude this undesirable development by providing that unused block grant funds shall revert to LEAA for distribution as block grant funds to other States, instead of as discretionary funds.

AMENDMENTS TO SECTION 306

The House and Senate Amendments make clear LEAA's authority to distribute at its discretion 15 per cent of action funds. These funds may be distributed to State planning agencies, units of general local government or combination of such units, as well as contractors or other appropriate grantees under the Senate amendments.

The House amendments would provide that the Federal share of discretionary grant programs could be up to 90 per centum and the Senate amendments provide that the Federal share could be up to 70 per centum. The Senate amendments recognize the need to increase the Federal share but at the same time require a substantial financial commitment by grantees.

The Senate and House amendments both allow LEAA to provide up to 100 per cent of the cost of Indian or other aborignial law enforcement programs. At present, most Indian tribes or other aboriginal groups do not have sufficient income to provide the required non-Federal share.

In addition, under the House amendments to section 301(d), limitations on the use of action funds for the compensation of personnel will not apply to discretionary grants. The Senate amendments make it clear that these limitations will apply to discretionary grants as well as to block grants. The Senate amendments also make the "one-half hard-match" requirement applicable discretionary grants. The result is that discretionary grants will be made on approximately the same terms as block grants.

AMENDMENTS TO SECTION 406

The House and Senate amendments to section 406 make a number of changes and additions to existing law under which the Administration today makes grants to colleges and universities for programs of academic assistance to improve and strengthen law enforcement. Such grants are for loans and grants for persons enrolled in law-enforcement studies—either persons already employed in law enforcement, or students desiring to pursue law enforcement careers.

The amendments conform the language in section 406(b), describing the types of degree and certificate programs that qualify under the loan provisions of the Act to the language of section 406(c) describing the programs that qualify under the grant provisions. It is intended that the applicable standards be the same in both cases.

The amendments to section 406(c) permit grant funds to be used for the purchase of books as well as for tuition and fees. This would permit participation in the grant program by students in States which provide free tuition and fees in State-supported colleges and universities.

The amendments also add a new subsection (d) authorizing LEAA to make loans and grants for persons employed or preparing for employment as full-time teachers of courses related to law enforcement. This would enable LEAA to help to relieve the present short supply of qualified teachers to staff the new and developing law enforcement degree programs. New subsection (e) would also authorize LEAA to make grants to develop and revise programs of law enforcement education and to develop curriculum materials, so that LEAA can exercise national leadership in this important area.

NEW SECTION 407

This new section is added to authorize the Administration to develop and support regional and national training programs, workshops and seminars to instruct State and local law-enforcement personnel in improved methods of law enforcement. Such training programs would be designed to complement the training activities of the State and local governments, and would be restricted principally to regional training programs and to training activities, such as organized crime training, which individual cities and States rarely are able to develop for themselves.

To date, LEAA has developed and funded 15 training projects for State and local personnel of operating law-enforcement agencies and personnel involved in law-enforcement planning. These projects, involving total awards of approximately $475,000, were funded through States, local governments, and private organizations, utilizing 15-percent discretionary funds appropriated under part C of the Act. The proposed amendment would enable LEAA to support a continuing training program from funds appropriated for that specific purpose, so that large sums of discretionary funds will not be diverted.

Section 407 also provides explicitly that LEAA's training activities will not duplicate the authority of the Federal Bureau of Investigation under section 404 of the Act.

NEW SECTION 408

This new section, which is added by the Senate amendments, would authorize LEAA to establish a permanent training program for attorneys from State and local governments engaged in the prosecution of organized crimes. The need for this training was recognized by the President's Commission on Law Enforcement and Administration of Justice which recommended that the Federal Government should conduct organized crime training sessions in such areas as prosecutive techniques.

NEW PART E

The House and Senate amendments add a new part E entitled "Grants for Correctional Institutions and Facilities." This part makes special provision for the development of new correctional facilities and the improvement of correctional programs. So-called correction institutions—jails, juvenile detention facilities and prisons have been neglected for generations and in the opinion of many experts have been a considerable factor in promoting confirmed criminality. The Congress is seeking to make express by Part E its intention to assist States and units of local government in this area. This intention is further expressed by Senate amendments which authorize in section 520 expenditures of $100 million in fiscal year 1971, $150 million in fiscal year 1972 and $250 million in fiscal year 1973 for Part E programs.

NEW SECTIONS 451 AND 452

Section 451 sets forth the purpose of this part—to encourage States and units of general local government to develop and implement programs and projects for the construction, acquisition, and renovation of correctional institutions and facilities, and for the improvement of correctional programs and practices.

Section 452 would require a State to apply for grants under this part by incorporating its application in the comprehensive State plan required for all law enforcement programs under the Act. The application would have to meet the regulations and criteria which section 454 authorizes LEAA to prescribe.

NEW SECTION 453

New section 453 authorizes LEAA to make a grant to a State planning agency if its application incorporated in the State's comprehensive State plan meets certain requirements as set forth in the following subsections:

Subsection (1) requires that the plan set forth a comprehensive Statewide program for the construction, acquisition, or renova-

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tion of facilities and the improvement of correctional programs and practices.

Subsection (2) requires that satisfactory assurances be provided by the State planning agency that the control of funds granted and title to property derived therefrom shall be in public agency for the uses and purposes under this part and that such agency will administer those funds and that property.

Subsection (3) requires that the State planning agency provide satisfactory assurances that the availability of funds under this part will not reduce the amount of funds which normally would be allocated for correctional improvement programs under other provisions of this Act. This provision is intended to insure that the availability of funds under the new part E will not be used to reduce financial support for corrections-related programs under part C of the Act. The Senate amendments add a new subsection (4) which would require that satisfactory emphasis be given to the development and operation of community-based corrections facilities and the like.

Subsection (4) (House), (5) (Senate) requires that the State plan provide for advanced techniques in the design of institutions and facilities.

Subsection (5) (House), (6) (Senate) requires the State plan to provide, where feasible and desirable, for the sharing of correctional institutions and facilities on a regional basis. Today, many States are too small to make special provision for such special types of offenders as women, the mentally ill, the sexual deviant, the long termers, and the violence-prone. This provision would require States sharing this problem to cooperate in the development of multi-State arrangements for the care and treatment of such offenders. Another problem involves the jails and juvenile detention facilities. It would not be feasible, nor can the Nation afford, to replace all of the existing unsatisfactory jails with correctional centers. In most States, it is possible for several counties, or for combinations of counties and cities, to use a central facility. This provision is intended to encourage such regionalized arrangements where possible.

Subsection (6) (House), (7) (Senate) requires that the State plan provide satisfactory assurances that the personnel standards and programs of correctional institutions and facilities reflect advanced practices. New facilities would be largely wasted unless they are staffed with qualified, well trained, and adequately paid personnel. The personnel standards to be observed, therefore, are essential to the improvement of corrections.

Subsection (7) (House), (8) (Senate) requires that the State plan provide satisfactory assurances that the State is engaging in projects and programs to improve the recruiting, organization, training, and education of personnel employed in correctional activities including those of probation, parole, and rehabilitation. This provision is intended to complement the requirements of subsection (6).

Subsection (8) (House), (9) (Senate) incorporates the same requirements for comprehensive State planning for corrections as are applicable for law-enforcement planning under section 303 of the Act except for the requirement in section 303(2) that the States pass-through to units of general local government a stated percentage of the Federal grant.

NEW SECTION 454

Section 454 authorizes the Law Enforcement Assistance Administration, after consultation with the Federal Bureau of Prisons, to promulgate basic criteria and regulations for applicants and grantees under this part. Among other matters, such regulations would embrace standards for the design and construction of facilities; personnel recruitment, qualifications, and training. Such regulations might also emphasize the desirability of community-based rehabilitation centers as an alternative to institutional confinement of offenders.

NEW SECTION 455

Section 455(a) provides for the manner in which funds shall be allocated by the Administration under part E.

The House bill allocated 50 per cent of correctional funds for block grants to States (not allocated according to population) and 50 per cent for discretionary grants to States or to local units. The Senate amendments allocate 85 per cent of such funds for block grants to the States according to population and 15 per cent for discretionary grants. The Senate allocation formula brings part E into accord with the allocation formula for part C action funds.

Section 455(a) also provides that any grants made under this section may be up to 75 per cent of the cost of the particular program or project.

Section 455(b) provides that if the Administration determines, on the basis of information available to it, that a portion of the funds granted to an applicant will not be required by the applicant or will become available because of a substantial failure to comply with the provisions of the Act, that portion may be reallocated to other applicants. This provision would insure that all of the funds appropriated under part E would be, in fact, used for the purpose of correctional improvement.

AMENDMENTS TO SECTION 505

The Senate amendments change the level of pay for the Administrator and Associate Administrators of LEAA to bring them more in line with other Federal agencies exercising similar authority.

AMENDMENTS TO SECTION 508

The Senate amendments to section 508 authorize LEAA to accept and utilize for title I purposes funds or property donated or transferred by other Federal agencies, States, local units of government, public or private agencies, educational institutions or individuals. Express statutory authority is necessary in order for Federal agencies to receive and utilize funds from any source other than Congressional appropriations. This authority will permit LEAA to accept gifts from outside sources in augmentation of its appropriation and use such gifts in carrying out its responsibilities under title I. Such authority is common among similar agencies conducting programs in which private financial participation is desirable.

AMENDMENTS TO SECTION 515

The House and Senate amendments change section 515 of the Act to authorize LEAA to expend by grant or contract funds appropriated for the purposes of the section. Section 515 authorizes LEAA to conduct evaluation studies of the programs and projects it assists, to collect, evaluate, publish, and disseminate statistical and other data on the condition and progress of law enforcement throughout the country, and to cooperate with and render technical assistance to States, units of local government, combinations of such States or units, or other public or private agencies, organizations or institutions in matters relating to law enforcement. The purpose of this amendment is to expressly provide grant authority to the Administration, thus clarifying the original intent of this section. In other words, the amendment should be interpreted retroactively.

AMENDMENTS TO SECTION 516

The House and Senate amendments to section 516(a) of the Act specifically authorize LEAA to pay the transportation and subsistence expenses of persons attending conferences or meetings in the District of Columbia or elsewhere. This provision was recommended by LEAA in connection with national and regional workshops sponsored by LEAA. The amendments anticipate that as a general matter State and local governments will be encouraged by LEAA to bear the travel costs of their own officials who participate in such conferences and meetings. It is also expected that the authority granted LEAA to contribute to such travel and subsistence costs will be prudently exercised. This amendment, like the amendment to section 515, is intended to clarify the intent of Congress in the 1968 Act, and is intended to be interpreted retroactively.

AMENDMENTS TO SECTION 517

The House and Senate amendments to section 517 of the Act authorize LEAA to appoint individual consultants as well as technical committees now authorized by the Act. Section 517, as amended, also would raise the maximum daily rate of compensation for such consultants and technical committee members from $75 to the daily equivalent for the rate of GS–18.

AMENDMENTS TO SECTION 519

Section 519 of the Act is amended by the House and Senate to change the deadline for submission of LEAA's annual report to the President and the Congress from August 31 to December 31. This will permit LEAA's report submission date to coincide with that of the annual report of the Department of Justice, and will afford more time to LEAA to compile relevant statistics after the close of the fiscal year.

The Senate amendments also add a requirement that a special study be conducted and legislative recommendations be made to the President and Congress on the preservation of the integrity and accuracy of criminal justice data collection, processing and dissemination systems. One such system is the Project SEARCH system for electronic analyses and retrieval of criminal histories. Project SEARCH is a multi-State effort and is financed by LEAA and the participating States. A report on the security and privacy considerations in SEARCH has recently been completed by the Project SEARCH Committee on Security and Privacy.

AMENDMENTS TO SECTION 520

The House and Senate amendments to section 520 authorize appropriations for fiscal years 1971, 1972 and 1973. The Senate authorized appropriations up to $650 million for fiscal year 1971; $1.15 billion for fiscal year 1972; and $1.75 billion for fiscal year 1973. This differs from the House in that $100 million of the $650 million in fiscal 1971 is earmarked for Part E and $150 million is added in fiscal 1972 and $250 million is added in fiscal 1973 for the purposes of Part E.

Both the Senate and House provide that funds appropriated for any fiscal year may remain available for obligation until expended. At present, funds not obligated by the end of the fiscal year revert to the Treasury. Experience has indicated that an appropriation by Congress at a time well into the fiscal year may cause hasty judgments to be made by Federal agencies in trying to spend all appropriated funds by the close of the fiscal year. The provision is intended to serve as a safety valve in such a situation.

The Senate amendments also delete the House authorization language requiring that at least 25 percent of LEAA's appropriated funds be allocated for corrections, including probation and parole, and substitutes specific authorizations for the new correctional construction and improvement program. The Committee believes this approach to be a preferable method of emphasizing the need for increased correctional activity, particularly in view of the inflexibility and difficulty of enforcement of the House provision.

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AMENDMENTS TO SECTION 521

The Senate and House amend section 521 to require that all recipients of assistance under the Act, whether by direct grant or contract from LEAA, or by subgrant or subcontract from primary grantees or contractors shall keep such records as LEAA shall prescribe. As amended, section 521 also requires that such recipients shall make their records accessible to LEAA and the Comptroller General of the United States for the purposes of audit and examination.

AMENDMENTS TC SECTION 601

The Senate and House amendments to section 601(a) expand on the definition of "law enforcement" to show that it includes but is not limited to police efforts, activities of criminal courts and related agencies and the activities of corrections, probation and parole authorities. In addition, the Senate amendments provide that law enforcement includes but is not limited to problems relating to the prevention, control or reduction of juvenile delinquency or narcotic addiction.

The House and Senate amend section 601(d), which defines "unit of general local government," to make clear that any agency of the District of Columbia government comes within the definition. It also makes clear that funds appropriated by the Congress for the activities of such agencies in the District of Columbia may be used to provide the non-Federal share of the cost of programs or projects funded under this title.

The Senate amendments add additional language to the House amendments to make it clear that Federal agencies and instrumentalities performing local law enforcement functions in the District of Columbia are eligible for title I assistance and may use their regularly appropriated funds to provide the necessary non-Federal contribution to the costs of programs in which they participate. Such agencies include the United States District Court and Court of Appeals for the District of Columbia and the United States Attorney's Office. These amendments appear necessary inasmuch as the District of Columbia is included within the definition of a "State" under the Act and is authorized to receive and dispense funds as a State.

NEW PART H

The Senate amendments add a new Part H to the Omnibus Crime Control and Safe Streets Act of 1968 setting forth criminal penalties for theft, embezzlement, misapplication or fraudulent use of title I funds, for misrepresentation or false statements in applications for title I funds or in records required to be maintained under title I and for conspiracy to defraud the United States. These criminal penalties shall be applicable in the case of any of the enumerated offenses involving funds or property which are the subject of any form of assistance under title I. Thus, offenses involving funds or property in the hands of direct recipients from LEAA are punishable as are offenses involving funds or property in the hands of subgrantees or subcontractors.

The general Federal Criminal Laws such as 18 U.S.C. 1001, dealing with false and fraudulent statements, and 18 U.S.C. 371, dealing with conspiracies to defraud the United States, apply to LEAA program without the addition of new part H. New part H is added only to make clear the application of these provisions.

NEW PART I

The Senate amendments add a new Part I to the Safe Streets Act requiring the Attorney General to submit an annual report to the President and Congress on the anticrime activities of the Federal Government. One of the purposes of the amendment is to promote overall coordination of Federal anticrime programs.

AMENDMENTS TO OTHER LAWS

The House amendments to 5 U.S.C. § 5108 authorized LEAA to place 15 additional positions at the GS-16, 17 and 18 level. The Senate amendments authorized 25 such positions in order to enable LEAA to complete its staff with personnel possessing the necessary experience and qualifications, particularly in view of the expanded activities authorized by other amendments in the Bill. The Senate amendments also raise the status of the Deputy Attorney General position from level III of the Executive Schedule to level II of the Executive Schedule.

NEW LAW ENFORCEMENT OFFICERS' GROUP LIFE INSURANCE

The Senate amendments establish a new program under which the Federal Government would be authorized to pay up to one-third of the cost of providing life insurance for every law enforcement officer in the country.

The program is patterned after the Serviceman's Group Life Insurance Program and would be administered by the Federal Government. Each participating officer will be entitled to coverage in the amount of his annual salary plus $2,000 rounded to the next highest thousand, with a minimum coverage of $10,000. He would be covered on or off the job and would receive double indemnity for accidental death. There would also be coverage for loss of limb or eyesight. There would be a uniform premium for all officers everywhere.

The Committee amendment provides for the retention of existing group life insurance plans with a Federal contribution where the police officers prefer that to the Federal group plan. It provides an opportunity for the officers themselves to decide whether the existing plan or the Federal Government plan offers them a better combination of costs and benefits.

LEAA MANAGEMENT

Mr. McCLELLAN. Mr. President, the committee has revised the changes made by the House bill in the management provisions of title I. The House bill abolished altogether the three-member Administration—the so-called troika—under which LEAA has operated since its inception, and substituted a single Administrator to exercise all title I powers. The committee bill retains the troika and the concept of shared responsibility, but designates the Administrator as the executive head of the agency to exercise all administrative management authority and provides that all substantive powers shall be exercised by the Administrator with the concurrence of either one or both Associate Administrators. The provision removes the existing requirement that all three members must concur on proposed actions. The committee substitute, therefore, retains the broad concept and the principle of "check and balance," but no longer runs the risk of stalemate. These changes, I believe, are sufficient to assure the operational and management efficiency of LEAA without running the danger, in a program involving national impact on police power, of placing too much authority in any one man.

As enacted in 1968, the act placed LEAA under the general authority of the Attorney General. The language is retained in the committee revision of the management provisions of the act. Nevertheless, I think it is appropriate at this point to set out more particularly the relationship between the Attorney General and LEAA and to indicate my misgivings about the testimony on this point during the hearings by the Criminal Laws Subcommittee.[*] Their testimony revealed that officers of the Department of Justice may have involved themselves in the day-to-day operations of the LEAA program to a greater degree than was contemplated by the act.

Mr. President, the 1968 act created LEAA as a separate Agency within the Department of Justice and vested in it all of the operational and administrative authority necessary to enable it to accomplish the purposes of title I of the act. I would have preferred to see the Agency wholly independent. I wanted it to be free of politics and free of the appearance of politics. But I relented. The buck must stop somewhere, and someone has to be the chief law enforcement officer of the Nation. Consequently, it was not to be wholly independent of the Attorney General. It was to be subject to the general authority of the Attorney General. But in its day-to-day operations, the Agency should still function as an independent entity with all necessary powers—grantmaking, contracting, rulemaking, and administrative management authority, for example—derived from express statutory grants.

The general authority of the Attorney General over LEAA empowers him to set major policy guidelines within which the Agency would function, and where necessary, to resolve major disputes between the Chief Administrator and the Associate Administrators. But neither he nor any other officer of the Department of Justice should attempt to become involved in the day-to-day functions of LEAA. The LEAA program is not just one more division in the Department headed by an Assistant Attorney General. To emphasize this, the committee bill raises the status of the Administrators. The special relation LEAA has to the States and local government and the wide impact of its policy decisions for the Nation's law enforcement officers and our overall system of criminal justice make it unique. Too much is at stake to forget this. Congress has spelled out quite precisely what this Agency may do and what it may not do—unlike the divisions or bureaus within the Department. LEAA is subject to the Attorney General, but in its own special way and for its own purposes. Otherwise, the establishment of the three-member Administration would prove to be an exercise in futility and the word "general," describing the authority of the Attorney General over LEAA, might as well be left out.

PLANNING FUND ALLOCATION TO LOCAL UNITS

The committee bill includes a provision requested by the Department of Justice authorizing LEAA to waive the requirement in section 203(c) of the act that at least 40 percent of all planning funds granted to a State be passed through to local units within the State. This provision would enable LEAA to approve a more realistic pass-through formula in a few States in which the local units have very little law enforcement responsibility and hence no need for a full 40 percent of the State's planning funds. The House

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[*] See Senate Hearings 508, 515.

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omitted this amendment and a companion amendment authorizing LEAA to waive the 75-percent pass-through requirement applicable to action funds because it felt that LEAA could interpret existing provisions of the act to permit it to authorize such waivers in appropriate cases. The Senate committee felt that express statutory authority to grant pass-through waivers is preferable to an administrative interpretation. Accordingly, it added the amendment.

MATCHING REQUIREMENTS

The committee modified the provisions of the act which set forth the limitations on the percentages of the cost of various programs that may be paid from Federal funds. The committee bill raises from 60 to 70 percent the percentage of Federal funding for most LEAA programs. The experience of LEAA has indicated that the local matching requirement will become a serious problem for most States should it remain at its present rate of 40 percent for most programs. In addition, there is a clear and pressing need to put more funds into the criminal justice system. Lowering the requirement to 30 percent will afford substantial relief and will diminish the extent to which the States must rely on counting the value of donated goods and services, rather than money, to make up the non-Federal share of program costs. In this regard, the committee included a requirement that at least one-half of the non-Federal share of the cost of any program or project shall be money appropriated expressly for the shared funding of such program or project. This provision should work to guarantee that these new Federal funds will, in fact, draw new State and local funds into the criminal justice system and avoid the real danger that Federal funds will merely replace State and local funds in financing the present system.

The committee also included in section 301(c) and section 306 a provision authorizing LEAA to waive the matching requirements for block or discretionary action grants to Indian tribes or other tribal groups which cannot supply the requisite non-Federal funding. Indian tribes and Eskimo groups have severe law enforcement deficiencies and in many cases have no funds to pay any part of the cost of improvement programs. Although the House bill relaxes matching requirements for discretionary grants, affording one avenue of direct LEAA relief for Indian tribes, the committee believes that the law enforcement problems of Indian tribes should be dealt with primarily in the context of the block grant programs of the States in which they are located. To permit this, the Senate bill permits the block grant matching requirements to be waived specifically to accommodate Indian tribes and to encourage their inclusion in the comprehensive action grant plans of the States.

SALARY SUPPORT

The committee bill amends section 301(d) to make clear that the personnel compensation limitations set out in the section apply only to restrict the use of grant funds for the payment of the salaries of police and other regular law enforcement personnel. Such a relaxation of the limitations on salary payments should provide the States and local governments a greater degree of flexibility in developing anticrime programs. It should also diminish the tendency to substitute requests for hardware for new programs whose effectiveness depends on personnel. It is intended that the use of block grant funds for the salaries of personnel whose primary responsibility is to provide assistance, maintenance, or auxiliary services or administrative support to the regular operational components of law enforcement agencies shall not be subject to the limitations set forth in section 301(d), nor would the section apply to salary support for personnel engaged in research and development projects or other short-term programs supported under a title I grant. The House bill included an identical provision.

ACTION FUNDS FOR LOCAL UNITS

The bill amends section 303 of the act by requiring that approval by LEAA of a State plan for law enforcement must be based on a finding that a State's comprehensive plan provides for the allocation of an adequate share of the benefits of assistance to areas characterized by high law enforcement activity to deal with the special law enforcement problems of such areas. This is one of the provisions of the bill designed to benefit primarily the cities and other areas with abnormally severe law enforcement problems. The amendment makes it clear that each State plan must provide for the allocation of an adequate share of the benefits, rather than funds, to areas characterized by high law enforcement activity. Thus, the benefits accruing to such areas from State-supported programs should be considered in determining compliance with the requirement.

Where, for example, criminals from cities characterized by high law enforcement activity are regularly incarcerated in a State's corrections system, then a proportionate share of block grant funds expended by a State in its corrections programs will accrue to the benefit of these cities. The amendment also makes clear that the areas entitled to this special emphasis would be those areas with particularly serious law enforcement problems, but not necessarily those with the highest incidence of reported crime. Such problems would include, of course, high reported crime as well as high arrest activity, congested court calendars, or crowded correctional facilities. The comparable House language was susceptible to the construction that "dollars and cents" were to follow "reported offenses." In contrast, the Committee language seeks to direct the benefit of Federal assistance to the special problems of the overall system without running the risk of creating statistical crime waves as a means of obtaining Federal funds and distributing such funds without a balanced consideration of the needs of all aspects of the criminal justice system.

THE STATE "BUY-IN"

The committee deleted the House amendment requiring each State to contribute at least 25 percent of the non-Federal funding for local programs and projects, the so-called buy-in provision. All of us are, of course, sympathetic to the proportion that the States should increase their financial commitments to the law enforcement assistance program. Nevertheless, most States are now doing so voluntarily. In addition, I, for one, do not wish to see an inflexible standard included in the act now which might have the effect of requiring some States to withdraw from the program because of inability to meet the increased matching requirements. Fifteen State planning directors have informed the committee that should this requirement be in the final form of the act now, it is their judgment that their States will not be able to participate in the program. This is testimony that we should not ignore.

ACTION FUNDS FOR LOCAL UNITS

The committee added new language to section 303(2) of the act, which now requires each State to make available to local units at least 75 percent of its block action grant funds each year. This has been a troublesome and unfair requirement in States that bear significantly more than 25 percent of total statewide law enforcement expenditures. The 75-percent figure was based on the estimate of the President's Crime Commission in 1967 of the ratio of Federal, State, and local expenditures. An examination of individual States reveals that the 75-percent pass-through formula does not reflect the State-local division of law enforcement expenditures in many States, and, in fact, is wholly inappropriate in a few States which bear very high portions of the total statewide expenditures for law enforcement.

The committee believes that enforcement of the existing pass-through requirement in all States uniformly does not achieve the appropriately balanced allocation of funds between the State and its local units as required by section 303(3) of the act. The amendment substitutes, therefore, a flexible pass-through formula which provides that each State shall make available to local units a portion of its block grant that corresponds to the portion of total statewide law enforcement expenditures for the preceding fiscal year which was expended by local units. Under this formula, the division of title I block grant funds between the State and its local units will follow exactly the ratio of State-local contributions to statewide law enforcement expenditures for the preceding year, and thus, will reflect from year to year any significant increases during the year before in the contributions of either the State or its local units. This provision should result in fair treatment for all without involving the grant of objectionable discretion to anyone.

DISCRETIONARY GRANTS

The committee bill modifies substantially the House amendment to section 306 of the act dealing with discretionary grants. The changes are designed to spell out expressly the authority of LEAA to make discretionary grants and the limitations applicable to them. In general, the same limitations applicable to block grants under section 301 are made applicable to discretionary grants. Thus, the personnel compensation limitations are made applicable, and the share of the cost of programs and projects that may be paid from Federal funds is limited to 70 percent, the limitation applicable to most block grant programs. The Administration could make 100 percent grants only to Indian tribes or other aboriginal groups, as is the case with block grants, noted above. And at least one-half of the non-Federal funding for all discretionary programs and projects would have to be of money, as distinguished from donated goods or services.

EDUCATIONAL GRANTS

The bill makes a number of changes and additions to existing law under which LEAA makes grants to colleges and universities for programs of academic assistance to improve and strengthen law enforcement. Such grants are for loans and grants for persons enrolled in law-enforcement studies—either persons already employed in law enforcement, or students desiring to pursue law-enforcement careers. One change would permit grant funds to be used for the purchase of books as well as for tuition and fees. This would permit participation in the grant program by students in States which provide free tuition and fees in State-supported colleges and universities. Another change would authorize LEAA to make loans and grants for persons employed or preparing for employment as full-time teachers of courses related to law enforcement. This would enable LEAA to help to relieve the present short supply of qualified teachers to staff the new and developing law-enforcement degree programs. A final change would authorize LEAA to make grants to develop and revise programs of law-enforcement education and to develop curriculum materials, so that LEAA can exercise national leadership in this important area. All of these amendments are included in the House-passed bill.

REGIONAL AND NATIONAL TRAINING PROGRAMS

The bill adds two new sections to title I authorizing LEAA to expand its training, authorize the development and support of regional and national training programs, workshops, and seminars to instruct State and local law-enforcement personnel in improved methods of law enforcement. Such training programs would be designed to complement the training activities of the State and local governments, and would be restricted principally to regional training programs and to training activities, such as organized crime training, which individual cities and States rarely are able to develop for themselves.

The second new section would authorize LEAA to establish a permanent training program for attorneys from State and local governments engaged in the prosecution of organized crimes. The need for this training was recognized by the President's Commission on Law Enforcement and Administration of Justice which recommended that the Federal Government should conduct organized crime training sessions in such areas as prosecutive techniques.

CONSTRUCTION OF CORRECTIONAL FACILITIES

One of the most significant provisions in the bill adds a new part E to title I authorizing LEAA to establish a new matching grant program to improve correctional facilities and techniques. Of all the activities within the criminal justice process, corrections appears to offer the greatest potential for significantly reducing crime. Ironically, it has been the most neglected component of the system, principally because of the very high cost of building or renovating prisons and other correctional facilities. The availability of part C action funds has not greatly helped to reduce this accumulated backlog of construction needs because of the competing demands for other law-enforcement programs. Under the amendment, grant funds specifically earmarked for planning and implementation of correctional construction and renovation programs and facilities would be distributed to the States and localities. Because of the high cost of such programs, the Federal share would be up to 75 percent, instead of the 50-percent limit for construction now contained in part C of the act. The committee believes that this program can make substantial headway in reducing the social and economic cost of crime committed by repeaters.

ADMINISTRATIVE PROVISIONS

The bill makes a number of changes in the administrative provisions of title I designed to increase the operational efficiency and staff capability of LEAA. I shall mention only the most significant.

Sections 515 and 516 of the act are amended to make it clear that LEAA has grant authority under section 515—the provision under which LEAA renders technical assistance to States and cities—and that title I funds may be used to pay transportation and subsistence expenses of persons attending technical assistance conferences and other such meetings. I think it is certain that Congress originally intended LEAA to have that authority. But there is some question as to whether the language of the 1968 statute was sufficient in that regard. The amendments clarify this possible ambiguity and are intended to apply retroactively—that is, to establish the fact that LEAA has had this authority since its inception.

Similarly, section 521 is amended to make it clear that LEAA has the authority—and always has had the authority—to require indirect recipients of title I funds to keep prescribed books and records and to make them available for audit and examination.

AUTHORIZATION OF FUNDS

The bill authorizes the appropriation of up to $650 million for fiscal year 1971; $1.15 billion for fiscal year 1972; and $1.75 billion for fiscal year 1973. Of such funds, $100 million in fiscal 1971, $150 million in 1972, and $250 million in fiscal 1973 shall be used for the purposes of part E. Funds appropriated for any fiscal year may remain available for obligation until expended. At present, funds not obligated by the end of the fiscal year revert to the Treasury. Experience has indicated that an appropriation by Congress at a time well into the fiscal year may cause hasty judgments to be made by Federal agencies in trying to spend all appropriated funds by the close of the fiscal year. The provision is intended to serve as a safety valve in such a situation.

THE DISTRICT OF COLUMBIA

The bill amends the definition of "unit of general local government" to make it clear that any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia is eligible for title I funds. It also makes clear that funds appropriated by the Congress for the activities of such agencies in the District of Columbia may be used to provide the non-Federal share of the cost of programs or projects funded under this title. These amendments appear necessary, inasmuch as the District of Columbia is included within the definition of a "State" under the act and is authorized to receive and dispense funds as a State. However, much of the responsibility for local law enforcement in the District is borne by Federal agencies, such as the U.S. District Court, the U.S. Court of Appeals and the U.S. Attorney's Office. It is difficult to imagine a comprehensive effort to improve law enforcement in the District of Columbia which does not include these agencies. It is important to understand that these agencies are included merely to establish their eligibility for title I funds. However, since they are not technically units of government—that is, they have no general political jurisdiction—they should not be considered local units of government for all purposes of title I. Hence, those provisions of the act which are logically applicable to States and their political subdivisions—such as, for example, the pass-through provisions in sections 203 and 303 and the "half-hard match" provisions in sections 301 and 306—would not be applicable in the District of Columbia.

CRIMINAL PENALTIES

Finally, the bill adds a new part H to the Omnibus Crime Control and Safe Streets Act of 1968 setting forth criminal penalties for: First, theft, embezzlement, misapplication or fraudulent use of title I funds; second, for misrepresentation or false statements in applications for title I funds or in records required to be maintained under title I, and third, for conspiracy to commit such offenses or to defraud the United States—either under the block grant or discretionary grant programs. These criminal penalties shall be applicable in the case of any of the enumerated offenses involving funds or property that are the subject of any form of assistance under title I. Thus, offenses involving funds or property in the hands of direct recipients from LEAA are punishable on the same basis as are offenses involving funds or

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property in the hands of grantees or subgrantees, contractors or subcontractors. These criminal penalties have been added out of an abundance of caution, since it seems clear that provisions of present law already cover some or all of these acts.

Mr. President, before we consider any amendments that may be offered, I would like to make this observation. This is a new agency of government. It has been established for only two years. Up to now only two full years have passed since the statute was enacted and this agency created. During that period of time there has been a change in administration and, therefore, a change in administrative personnel.

This agency is in its infancy. It has great potential for good in the field that it is involved in. It is my hope, and I say this as one who strongly supports this measure and strongly supports the objectives of the LEAA program, that Senators will recognize that this is an infant agency, that it is just getting organized and just getting into a position where it can really function. I would hope we will be considerate and not undertake at this time to load it down with increased responsibilities and expanded programs until it has had what might be termed a shakedown run and gotten into a position to give, let us say, more efficient program administration. That is no reflection on those who are undertaking to administer the program.

What I am saying is: let us keep it in the realm of productiveness. Now, as it goes forward and administers some of these programs successfully and demonstrates the benefits that flow from them, we can expand the program, increase the funding, and thus get a good return on the money we spend.

I am hoping we will do this. As I have said, there are opportunities for expanding the program. There will be a need for expanding it. Meritorious amendments can be offered that in time—and I hope soon—can be accepted, and should be accepted, the additional functions and activities effectively administered, and the administrative officials of that agency authorized to carry them out.

But I would hope we would not overload it and thus possibly waste some money and cause a lack of good administration, or contribute to the lack of effective administration, until this agency gets its muscles, so to speak, and is able effectively to carry out the intent of Congress in enacting the LEAA program.

Mr. HRUSKA. Mr. President, in the 2 years of its existence, the Law Enforcement Assistance Administration program already has made a number of notable contributions to our national life.

The LEAA program was created by title I of the Omnibus Crime Control and Safe Streets Act of 1968. Both the critics and supporters of the LEAA program might do well to take a fresh look at the words in the title of the act.

Title I clearly calls for moving at last to resolve one of this nation's grimmest problems. Crime is a horrible fact of life in the United States today, and each year victims of crime number in the millions.

We do indeed want to control crime and make the streets safe once again. But we want to do more than make the streets alone safe. The LEAA program is designed to bring a high measure of security for citizens wherever are are—in the streets, in their homes, in the places where they work. It also is designed to reduce the fear of crime, which can be so debilitating, by reducing the incidence of crime.

The reduction of crime is a complicated matter. First, there must be more policemen—and they must be both better trained and better equipped than they have been in the past. The court system must provide speedy and fair trials. The corrections system must rehabilitate offenders. In short, the LEAA program seeks to reduce crime by the improvement and reform of the entire criminal justice system.

As with any Government service—whether it be at the local, State, or Federal level—adequate funds must be available to carry out needed programs. For scores of years, criminal justice agencies have been forced to operate with inadequate budgets. This is the major purpose of the LEAA program—to give financial assistance that will give law enforcement and criminal justice the tools to do a better job.

It its first year of operations, in fiscal 1969, LEAA's budget was small—only $63 million. In fiscal 1970, it grew to $268 million. For the current fiscal year, a $480 million budget has been proposed. With this level of funding, the program can now begin to make a real impact, putting large sums of money where it is needed to make substantial inroads on crime.

The problem of crime control might be relatively simple if only more funds were involved, but the matter is more complex.

By and large, criminal justice agencies also have been plagued with lack of advance planning and lack of coordination.

It is in these areas that the LEAA program has made what may be its most significant contribution to date.

Before LEAA was created, there was no nationwide crime control program. Agencies in every major component of criminal justice usually went their own separate ways, and frequently had to scramble merely to keep abreast of things. To make it worse, the major components of the system—police, courts, and corrections—usually did not work together, and often had no real idea of what the others were doing. Cooperation between and among States also was sadly lacking.

But in the 2-plus years since LEAA began, all that has changed. In a remarkably short period of time, a nationwide crime control program has become a reality. Every State has set up a top-level planning agency, working with its units of local government to both plan and then initiate a wide variety of criminal justice improvement programs.

Within each State, the police and courts and corrections agencies are becoming coordinated—making a real system that really functions. Beyond that, States are cooperating with each other in a variety of ways—including creation of organized crime programs and a unique system, called Search, for quick retrieval by computer of offender records.

My point is this: Little more than 2 years ago, many persons wondered, with some justification, if a national crime control program could be created. Now it has been done, and the benefits already are substantial. If an adequate level of funding is reached, if the program can be made to function even more efficiently, then I think we will rapidly approach the day when our country will indeed be much safer—for all of its citizens.

The administration of the LEAA program—both by LEAA itself and by State and local governments participating in it—will, I believe, be made more productive by the bill now before the Senate for consideration. I would like to turn now to a discussion of the bill.

The Omnibus Crime Control and Safe Streets Act as enacted in 1968 authorized appropriations for only fiscal years 1968, 1969, and 1970. The pending bill, H.R. 17825, arose out of the need to provide LEAA with further funding authorizations. The bill, as reported by the Committee on the Judiciary, authorizes expenditures of $650 million for fiscal year 1971, $1.15 billion for fiscal year 1972 and $1.75 billion for fiscal year 1973. The bill also makes a number of substantive changes in the present act designed to strengthen the LEAA program. The bill is a substitute for the House-passed version. However, many of the provisions of the House bill have been retained.

The major provisions in the reported bill in addition to authorizing appropriations for the next 3 fiscal years would amend the Safe Streets Act to:

Reorganize the Administrative Management of the Law Enforcement Assistance Administration.

Revise the planning fund pass-through requirements.

Relax the matching requirements for certain block and discretionary grant programs.

Relax in certain areas the restrictions on the use of grant funds for the salaries of law enforcement personnel.

Specify that each State must allocate an adequate share of the benefits of block grant funds under part c of title I to areas characterized by high law enforcement activity.

Change the provisions under which a part of each State's block action grant must be made available to local units.

Expand the law enforcement education program.

Establish a new program for the construction, acquisition, and renovation of correctional facilities and programs.

Provide for numerous changes in the administrative provisions in order to enable LEAA to increase its operational efficiency and staff capability.

In addition, the bill reported by the committee would:

Establish federally subsidized life insurance for every State and local government law enforcement officer in the country;

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Provide certain criminal penalties for misconduct arising out of the use of LEAA funds.

Provide for an overall Attorney General's Annual Report on Federal Law Enforcement and Criminal Justice Assistance Activities, which "would bring together information from crime control and related programs throughout the Government."

I would now like to discuss specific amendments in the bill reported by the Committee and note the differences between the pending bill, the present act and the House bill.

ADMINISTRATIVE MANAGEMENT OF LEAA

Under the present legislation, all the powers, duties and functions of the Law Enforcement Assistance Administration are vested in an administrator and two associate administrators. The House bill abolished this "troika" arrangement and substituted a single administrator. The Judiciary Committee bill retains the "troika" for all substantive powers while designating the administrator as the executive head of the agency to exercise all administrative management authority. The bill provides that action may be taken on substantive matters by 2 members, so long as one concurring member is the administrator.

WAIVER OF PLANNING FUND PASS-THROUGH REQUIREMENT

The Senate amendments have inserted a provision requested by the Department of Justice authorizing LEAA to waive the requirement in section 203(c) of the act that at least 40 percent of all planning funds granted to a State be "passed through" to local units within the State. The House Committee Report stated that the committee omitted this amendment and a companion amendment authorizing LEAA to waive the 75 percent "pass-through" requirement applicable to action funds because it felt that LEAA could interpret existing provisions of the act to permit it to authorize such waivers in appropriate cases. The Senate Committee added the requested provision because it felt that express statutory authority to grant "pass-through" waivers is preferable to an administrative interpretation.

The Senate amendments would permit LEAA, in its discretion, to waive the requirement in section 203(c) of the act that each State planning agency assure that at least 40 percent of all planning funds granted to it by LEAA for any fiscal year "will be made available" to local governmental units within the State to permit such units to participate in the formulation of the State's comprehensive law enforcement plan. The legislative history of this provision indicates that the 40 percent local availablity provision law was included to reflect the fact that most of the crime in the country is concentrated in the large cities and the fact that the bulk of law enforcement expenditures in the country is made by cities and other local units. While the act was intended to emphasize central statewide planning for criminal justice reforms, it was felt that a significant portion of each State's planning funds should be passed on to local units to enable them to contribute to the development of a comprehensive plan adequately reflecting local needs, particularly the needs of the large cities. The experience of LEAA has been that, while the 40 percent local availability requirement is appropriate in most States, in a few States it is inappropriate and works to the detriment of effective comprehensive planning. In these States, where the State law enforcement commitment is inordinately heavy, it would seem inappropriate to make large sums of planning funds available to local units which have little or no law enforcement responsibility. In other small States, the total annual planning grants, which are based generally upon population, are relatively small. In these States, the local 40-percent share of planning funds, when divided among the many local units entitled to participate, will not support effective planning efforts. In such a case, a central planning effort, with all local units represented on the State planning agency or its advisory committees, would seem to be a much more effective way of developing a comprehensive statewide plan.

The proposed amendment would permit LEAA to waive the local availability requirement in appropriate cases such as those described above, and permit the State planning agencies in such States to provide central planning services for the local units within the States in lieu of making a share of planning funds available to them. Such a waiver would be authorized only where a State planning agency could show that strict adherence to the local availability requirement would not contribute to the efficient development of the required comprehensive State plan. LEAA would issue regulations prescribing the limits within which its waiver discretion would be exercised and the documentation and other material that would be required from a State planning agency in support of a request for a waiver. It is anticipated that only 6 or 8 States would qualify for a waiver and all waivers would be partial; that is, the "local availability" share would be reduced, not removed altogether.

In addition the Senate amendments require that in allocating funds under this subsection, the State planning agency in each State shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate action programs at the local level. The purpose of this provision is to require that planning funds pass through beyond the regional planning level to major local population centers. This requirement may be modified where LEAA authorizes the waiver of the 40-percent pass through requirement. What constitutes a major city or county under the amendment is open for administrative determination by LEAA but I anticipate that it would consist at a minimum of the cities and counties within the Standard Metropolitan Statistical Areas—SMSA.

MATCHING

The committee bill increases the Federal match for many block grant programs from 60 to 70 percent. There was no similar provision in the House bill. Similarly the committee raised the Federal share of all discretionary grant programs to 70 percent. The House bill would increase the Federal share to 90 percent for discretionary grants. The Senate provision is more desirable than the House amendment, I believe, because it recognizes that States and units of local government have difficulty supplying the needed matching funds but at the same time recognizes the need for the States and units of local government to make a substantial financial commitment to action programs. Furthermore the Senate amendments will have a greater impact on reducing the financial burden of the States and cities because the increased Federal share applies to both block and discretionary grants.

The proposed bill also recognizes that many Indian tribes which encounter severe law-enforcement problems have little or no funds to provide the non-Federal match. The committee amendments will allow LEAA to pay up to 100 percent of the cost of block and discretionary grant programs carried out by Indian tribes who qualify for assistance under the Safe Streets Act. This is a significant improvement over the House bill which would allow 100-percent payments for Indians only under discretionary grants.

SALARY SUPPORT

Funds granted by LEAA from money appropriated for the purposes of part C are available for salary supplements under existing law subject to the limitations of section 301(d) of the act. The committee bill has included some relaxation of these limitations in its amendments to the act and these amendments are also in H.R. 17825 as passed by the House. These amendments would exclude law-enforcement personnel engaged in research and development projects, demonstration projects, or other short-term innovative functions supported with action grants under part C of the act from the salary support limitations of section 301(d). These amendments would exclude in the same manner administrative, maintenance, and other nonoperational personnel from the limitations of section 301(d) of the act.

In the Senate debate on section 301(d) of the Safe Streets Act in 1968 I opposed the use of grant funds to supplement the salaries of operational, as opposed to nonoperational, law-enforcement personnel because of the possibility that large-scale Federal support of State and local police could lead to undue State and local dependence on Federal funds for this important function and to Federal domination of law enforcement throughout the country. That situation has not yet developed, although the possibility is still there. These new amendments do not create that problem because they apply primarily to short-term programs or nonoperational personnel. These amendments are desirable because they would increase the flexibility of the States and units of local government in developing new anticrime programs, thus decreasing the emphasis in some areas on hardware.

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ALLOCATION OF AN ADEQUATE SHARE OF BENEFITS TO AREAS OF HIGH CRIME INCIDENCE

H.R. 17825, as passed by the House, proposes to amend section 303 of title I of the Safe Streets Act to provide that—

> No State plan shall be approved unless the Administration finds that the plan provides for the allocation of an adequate share of assistance to deal with law enforcement problems in areas of high crime incidence.

The committee bill revises that language to read—

> No State plan shall be approved as comprehensive unless the Administration finds that the State plan provides for the allocation of an adequate share of the *benefits of assistance to areas characterized by high law enforcement activity* to deal with the special law enforcement problems of such areas.

The committee bill is preferable to the House in this instance because it provides for the allocation of the benefits of assistance, not dollars necessarily, to heavily burdened areas. It makes clear that where, for example, criminals from areas characterized by high law enforcement activity are regularly incarcerated in a State's correction system, a proportionate share of block grant funds expended directly by a State in its correctional programs accrue to the benefit of those areas of high crime activity.

In addition, in many States the corrections and court systems are statewide systems and must be dealt with at the State level. If a greater portion of LEAA funds go to the cities, which are generally the areas of "high crime incidence," more money will be spent on police operations and less on corrections and courts. Yet it has been recognized by many, including the urban coalition in its recent report, "Law and Disorder II," that more LEAA funds should be spent on courts and corrections and less on police operations. Under the Senate amendments it is clear that more money can be spent on corrections and courts by the States because the "benefits" of this spending will accrue to the cities in partial satisfaction of the responsibility of the States to see to the adequate funding of the cities.

Finally, the House amendments to section 303 could generate a statistical crime wave, with certain areas inflating the number of reported crimes in order to qualify for more funds. However, the Senate amendments make it clear that the areas entitled to special emphasis would be those areas with particularly serious law enforcement problems and not necessarily those areas with the highest incidence of reported crime.

FLEXIBLE PASS-THROUGH AMENDMENT

The committee bill amends section 303(2) of title I of the act by providing a flexible pass-through arrangement in lieu of the present requirement that 75 percent of all action funds granted to a State planning agency must be passed through to local units of government.

Section 303(2) originally was included in the act to reflect a finding by the Congress that approximately 75 percent of total nationwide law enforcement expenditures by State and local governments is spent by local governments. This finding was based upon information developed by the President's Crime Commission and the Census Bureau showing total nationwide expenditures, not State by-State breakdowns. The 75-percent pass-through formula is not representative of the State-local division of law enforcement expenditures in many States. The flexible pass-through amendment provides that the percentage of money passed through by each State to its units of local government will be in proportion to the law enforcement expenditures by the units of local government in that State for the preceding fiscal year. Expenditures for corrections, police operations and the courts will be considered.

The purpose of the committee in providing the flexible pass-through is to assure that there is an "appropriately balanced allocation" of action funds between the States and their local government units, as required by section 303(3) of the act. Enforcement of the existing pass-through requirement in States such as Alaska, Delaware, Rhode Island, North Carolina and Vermont, which bear up to 75 percent of the cost of some or all components of law enforcement in the State, cannot result in an "appropriately balanced allocation" of action funds between these States and their units of local government, and operates to the detriment of these States.

THE LAW ENFORCEMENT EDUCATION PROGRAM

Under section 406 of the Safe Streets Act LEAA presently makes grants to colleges and universities which in turn make educational loans and grants to in-service law enforcement officers and persons preparing for careers in law enforcement. The grants are made only for tuition and fees whereas the loans are used to pay personal living expenses as well as tuition and fees. The academic assistance program is presently aiding 65,000 persons, most of whom are law enforcement officers, to pursue degrees in criminal justice studies in more than 700 universities. The success of the academic assistance program has encouraged many States to set up similar programs with block grant funds.

The House and Senate bills make identical changes to section 406 to improve and strengthen this program.

TRAINING PROGRAMS

Presently there is a need for improved training programs in the law enforcement field at the regional and national levels in such areas as organized crime where the States or units of local government are not equipped or prepared to provide the necessary training. The House and Senate bills contain identical provisions to remedy this by authorizing LEAA to establish and conduct such training programs. In addition, the committee bill would specifically authorize LEAA to establish and conduct a permanent training program for attorneys from State and local government engaged in the prosecution of organized crime.

CONSTRUCTION OF CORRECTIONAL FACILITIES

A key aspect of the committee bill is the establishment of a new grant program to improve correctional facilities and improve correctional programs.

Correctional facilities of the Nation—the jails, juvenile detention facilities, and prisons—have been neglected for years. Repeated studies have shown that the former inmates of these facilities experience rates of recidivism as high as 75 percent. Because of deficiencies in physical plants, personnel standards and programs, many of these facilities, in the opinion of many experts, actually brutalize offenders and are an important factor in contributing to the increasing crime rate. Without question, major improvements must be made in the Nation's corrections facilities and systems.

The committee bill adds a new part E to the Safe Streets Act specifically authorizing a program for the construction, acquisition, and renovation of correctional facilities as well as the improvement of correctional programs and practices by the States and units of local government. In doing this the committee may express its intention that major improvements are necessary in the Nation's corrections systems.

The House bill with two exceptions contains a similar new part E. One Senate change adds a requirement that applications under part E provide satisfactory emphasis on the development and operation of community based correctional facilities. The other Senate change revises the allocation formula to bring it in line with the formula for part C action funds. The committee amendment allocates 85 percent of part E funds for block grants according to population and 15 percent for discretionary grants. The amendment thus maintains the formula for distribution of block grant funds established in part C of the Safe Streets Act.

The committee bill also deletes the requirement in the House bill that 25 percent of all appropriations under the Safe Streets Act be expended for corrections programs and instead in section 520 of the Safe Streets Act specifically authorizes the expenditure of $100 million in fiscal year 1971, $150 million in fiscal year 1972, and $250 million in fiscal year 1973 for part E grants.

It should be noted that the committee bill provides that funding for corrections under the new part E is not to be used to substitute for the funding that would normally be expected under part C. The difficulties that this provision imposes on the administration of both parts, as far as corrections is concerned, are understood. However, a firm and vigorous administration of the Safe Streets Act brought the funding for corrections up from approximately 13.5 percent of available action funds in fiscal year 1969, to double that much in fiscal year 1970. It is therefore to be expected that an equally strong enforcement of this provision in the pending bill will insure that the funding for corrections under part C will remain substantially at the same proportion achieved in 1970 and that the additional funds appropriated for part E will be used to supplement that funding. In addition, it is anticipated that correctional construction under the Safe Streets Act will be funded in most part, whether by block or discretionary grants, under the new part E.

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I would like to point out that under the proposed amendment to the Safe Streets Act establishing a part E for correctional facilities and programs, additional potential resources are being made available for the rehabilitation of drug addicts. These resources will be used, in addition to funds appropriated for part C, for the improvement of probation and parole and the jails and penal institutions. I am informed by the many correctional administrators with whom I am in contact around the country that addicts comprise a growing proportion of the offenders who are committed to them for care and treatment.

The drug offenders are in most instances juveniles and young people. The State comprehensive law enforcement plans submitted to the Law Enforcement Assistance Administration as a part of their applications for block grants typically assign high priority to juvenile and youth corrections, and this priority has been adopted by LEAA in the distribution of the discretionary and other funds directly administered by that agency.

The types of rehabilitation programs already being funded are characterized by a variety of approaches. Perhaps among the most common are programs to educate youngsters as to the dangers inherent in the use of drugs. But there are also outpatient clinics, halfway houses, special probation caseload projects, community treatment centers, methadone maintenance projects, and the training of personnel engaged in addiction treatment programs. The flexibility of the Safe Streets Act in funding different types of programs for the treatment of addiction suggests that it may be unnecessary for the Congress specifically to authorize new types of programs.

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The funding also promises to be substantial. Under the proposed amendments to the Safe Streets Act corrections programs of all types will be eligible for funding under both part C and the new authorization for part E. Under either the House or Senate versions of the appropriations authorized for the next 3 fiscal years for parts C and E it can be expected that by fiscal year 1973, the total commitments of block and discretionary funds for corrections programs will total three to four hundred million dollars. If funding for treatment programs for the rehabilitation of drug addicts remains at about the same proportion as for fiscal 1970, this means that a minimum of $50 million will go to such programs, not counting the additional funds that will be committed for drug prevention and enforcement programs.

We can also expect that in the event the drug problem in this country becomes worse, which may very likely be the case, the administration of the Safe Streets Act is more than sufficiently flexible to adjust spending levels among the various elements of the criminal justice system to accommodate the need for increased resources. This flexibility has already been demonstrated. For example, although LEAA's action funds increased approximately eight times in 1970 over 1969, from about $25 million to $215 million, the amount committed to correction increased about 30 times, from approximately $2 million in 1969 to $60 million in 1970.

We must conclude, therefore, that the Safe Streets Act represents perhaps the greatest resource immediately at hand, and perhaps the greatest resource we will have in the foreseeable future, in what can be done to reduce drug addiction in this country.

One LEAA program that I feel should be mentioned is the National Bomb Data Center. This program is being funded by LEAA under its technical assistance authority and its purpose is to provide the State and local law enforcement agencies with comprehensive information on bombing, explosive devices and security precautions as well as statistics on bombing incidents, injuries, and death.

The bomb is the ultimate weapon of the anarchist and revolutionary. More and more we read about property being destroyed and lives being lost through bombing. The police need help now to enable them to deal with these incidents and protect their communities. LEAA's National Bomb Data Center is intended to assist the State and local police in this area and it is hoped that States and units of local government will use their block grant funds to set up their own networks for collecting and disseminating information on bombing incidents. These networks can supplement the information in the National Bomb Data Center and can provide a rapid response to police needs.

ADMINISTRATIVE CHANGES

The committee bill makes a number of administrative changes designed to improve the operation of LEAA. The committee amendments authorize LEAA to accept funds or property donated or transferred to LEAA from outside sources. This authority is common among similar agencies conducting programs in which private financial participation is desirable. The amendments also change the submission date of LEAA's annual report from August 31 to December 31. This permits LEAA's report submission date to coincide with that of the Department of Justice and will give LEAA more time to compile relevant statistics after the close of the fiscal year.

Among the administrative changes are provisions making it clear that LEAA has authority to make technical assistance grants to States and units of local government and to pay the transportation and subsistence expenses of persons attending technical assistance conferences, training seminars and workshops, and similar meetings. As a sponsor of the Safe Streets Act in 1968, it seems clear to me that Congress has always intended that LEAA have this authority, and these amendments are made only to clarify this intention.

Section 521 is amended to make it clear that LEAA has the authority to require indirect recipients of title I funds to keep and make available certain records. Again, I think that LEAA has always had this authority.

Finally, the committee bill authorizes LEAA to place 25 additional positions at the GS–16, 17, and 18 level. These positions are in addition to those GS–16, 17, and 18 positions which LEAA has at this time. The House bill authorized 15 additional positions at these levels. However, the committee believes that the full 25 positions are necessary for LEAA to complete its staff with personnel possessing the necessary high level of experience and qualifications, particularly in view of the expanded activities authorized by other amendments in the bill. It is our intention that these 25 new positions be filled in LEAA and not elsewhere in the Department of Justice. It is also our intention that these 25 positions will not be used to supplant LEAA's existing positions at the GS–16, 17, and 18 level and that LEAA will retain all of the positions at these levels that it already has.

THE INSURANCE PROVISIONS

The insurance title in the committee bill was originally introduced as Senate bill S. 3. It authorizes the Attorney General to establish a group life insurance program which would provide life insurance for every law enforcement officer in the country. The program would be administered by the Department of Justice and the Government would be authorized to pay up to one-third of the cost of each law enforcement officer's insurance premium. The remaining costs of the premium would be deducted from the salary of the law enforcement officer and would be forwarded to the Government by the State or unit of local government employing the officer.

I fully support the concept that law enforcement officers should be provided with life insurance as part of their salaries. The law enforcement officer's role in the community is a hazardous one. More and more we read in the newspapers that policemen are being killed on the job. These men have wives and children who need the protection that life insurance can provide.

I believe, however, that it is premature to enact into law the program authorized by the insurance provisions in the committee bill. There are many approaches to providing insurance protection for law enforcement officers and the LEAA's National Institute of Law Enforcement and Criminal Justice is currently studying the insurance needs of law enforcement officers. If the bill is enacted before the National Institute's study is completed, the Federal Government will be committed to a program which the study may prove unworkable or undesirable. It will be difficult at that point to change the program.

The LEAA study is being conducted by the College of Insurance and is specifically directed towards determining the types of life insurance presently available to law enforcement officers and where there is a need to improve, expand or otherwise change these programs. When this study is completed, we will be in a better position to consider the insurance needs of law enforcement personnel and the best means for improving them.

Furthermore, no hearings have been conducted on this provision. We have not had the opinion of law enforcement personnel who would be affected by the provision nor of insurance experts. In addition, contrary to the Judiciary Committee report, the International Association of Chiefs of Police has not endorsed this provision, I understand.

I also object to the insurance provision as presently written because it could place the Federal Government in the position of directly subsidizing the compensation of every law enforcement officer in the Nation. Title I of the Safe Streets Act presently authorizes LEAA under the block grant program to fund up to one-third of the salary of law enforcement officers. In the Judiciary Committee report on this act, the late Senator Dirksen and Senators SCOTT, THURMOND, and myself opposed this provision because we fear that "he who pays the piper calls the tune" and that dependence upon the Federal Government could be an easy street to Federal domination and control. I think this statement applies with equal force to the life insurance provision added by the committee's bill.

I feel that the block grant program in title I of the Safe Streets Act is the proper vehicle for support of this program. Under the block grant structure the States and units of local government order their own law-enforcement priorities in accordance with broad guidelines established by LEAA. Ample authority presently exists under the police salary support provisions of title I and Office of Budget and Management Circular A-87 for States and units of local government to set up their own group insurance programs for law-enforcement officers where they feel they are necessary or desirable. I am of the opinion that the Federal Government should make no further intrusions in this area of State and local concern than is demonstrably necessary.

S. 3 was discussed by the Attorney General in recent hearings conducted by the Senate Subcommittee on Criminal Laws and Procedures. When asked for the Department of Justice's position on S. 3, Attorney General Mitchell said:

> Well, the basic point is that upgrading of the law enforcement activities through assistance by LEAA and through hopefully additional funding by the States and the localities should provide a base whereby the proposed insurance arrangements should be taken care of in the States and not in the Federal Government.

The Attorney General also said he opposed "direct Federal involvement" in this area.

I agree with the Attorney General. I, too, oppose "direct Federal involvement" in providing life insurance to every State and local law enforcement officer in the country and I also oppose a long term commitment to such an extensive and expensive nationwide program without hearings or further study.

CRIMINAL PENALTIES

It is an unfortunate fact that in the Office of Economic Programs, model cities programs and many other Federal grant programs, funds have been stolen, embezzled, or otherwise misapplied. While at this time no such problems have emerged from the LEAA programs, the committee felt that criminal provisions should be added to the Safe Streets Act. The amendments provide criminal penalties for: First, theft, embezzlement, misapplication or fraudulent use of title I funds, second, misrepresentation or false statements in applications for title I funds or in records required to be maintained under title I, and third, conspiracy to commit such offenses or to defraud the United States—either under the block grant or discretionary grant program. These criminal penalties shall be applicable in the case of any of the enumerated offenses involving funds or property that are the subject of any form of assistance under title I. Offenses involving funds or property in the hands of subgrantees or subcontractors are punishable on the same basis as are offenses involving funds or property in the hands of direct recipients from LEAA.

It should be noted that these provisions incorporate provisions of present law, such as sections 1001 and 377 of title 18 of the United States Code, which already cover some or all of these acts.

Mr. President, the program of the Law Enforcement Assistance Administration has been the subject of intense scrutiny since it was created by Congress slightly more than 2 years ago.

As Congress mandated, the LEAA program is an ambitious one. It seeks to combat and reduce crime, improve every component of the criminal justice system, and enhance the quality of safety for every American.

The method for working toward all of these goals is unique in the history of the Nation's law enforcement and criminal justice system. It involves a partnership among local, State, and Federal governments. LEAA provides financial and technical assistance to criminal justice agencies. Those agencies, at the State and local levels, must not only supply an appropriate share of the funds, but must also expend the bulk of the effort in the improvement programs.

In its short span, the LEAA program has been studied by a variety of groups, organizations, and individuals—and the scrutiny has included hearings by both the House and the Senate.

There has been much praise for the program, and some criticism. Something new has now been added to the arena of public discussion concerning LEAA and the new national crime control program.

In Colorado last month, LEAA officials held their second annual weeklong conference with the directors of the State planning agencies which administer the new anticrime program in each of the States.

The highlight of the conference was the appearance in Denver of President Nixon, who took part in a lengthy working session with the delegates. His participation in the meeting was but one more solid indication of the high degree of importance placed upon crime control by Mr. Nixon and his administration.

Much of the meeting was devoted to a report to Mr. Nixon of what the LEAA program is doing and what it is accomplishing.

Attorney General John N. Mitchell made the opening remarks about the importance of the national crime control effort, and then Richard W. Velde, an Associate Administrator of LEAA, detailed the work of his agency over the past 2 years.

There then followed a series of presentations by the heads of State planning agencies in four States. These reports by the States themselves give us one of the clearest views ever offered of what the crime control program is doing at the grassroots level, and what it means to officials and agencies at the primary level of criminal justice responsibility.

The remarks by the State officials are not all complimentary. Indeed, they were not intended to be. They were designed to be frank, forthright discussions of what the States are doing, and what they see as both priority areas for action and problem areas.

But certain threads are clear throughout all of the reports—the LEAA program already has accomplished a great deal, it is of immense importance to the well being of the people of this Nation, and the potential for landmark progress over the next few years is enormous.

Mr. President, because all of the reports at the Denver meeting together give us an excellent insight into the LEAA program, I request permission that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRESENTATION BY RICHARD BARTLETT, CHAIRMAN, NEW YORK STATE OFFICE OF CRIME CONTROL PLANNING

Much of the crime control effort in New York has involved creative partnership between the State and units of local government.

Since the passage of the Safe Streets Act, the law enforcement partnership has taken on an important new dimension. It has become a *Federal* State and local enterprise.

The objective of the partnership—of course—is to strengthen society's effort to prevent and control crime.

To carry out the responsibilities imposed by the Safe Streets Act, Governor Rockefeller (in December, 1968) established by Executive Order the CCPB and the OCCP as New York's planning agency.

In an effort to improve our operating, we recently adopted what we call a "problem-centered approach." It is based on the recognition that crime control problems in Syracuse, Rochester and Buffalo differ from each other; and these problems differ from the problems in New York City; *and* problems confronting our large cities are a world of difference from crime control problems in less populated communities.

We believe that crime control planning is most effective if it is problem-centered *and* individualized for each community.

This individualized approach is based on the conviction that broad presentations of statewide problems are of limited value.

Instead, we believe in determining (in as precise a manner as is possible) the actual dimensions of the crime problem for an individual community (e.g. whether robberies occur in business districts or in ghetto streets; whether "soft" or "hard" drugs are used, and by whom).

The planning process has a two-fold purpose:

1. To assist in the identification of specific criminal behavior that threatens a particular community.

2. To provide a framework within which to develop a program of priority projects designed to prevent and control that behavior.

We began the planning process in January by initiating a series of meetings with chief executives and other officials of major cities

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in New York designed to analyze their crime problems *and* to develop programs addressed to these problems.

This approach is based on the conviction that a joint effort by our office staff and local representatives offers the best opportunity to develop the most effective tailor-made programs for utilizing Federal funds.

In addition, we believe that the analysis of information about local problems and programs and agency operations will lead to a sharp picture of statewide crime control issues.

The first step in the planning process is the identification of critical issues.

For crime control planning purposes, the emphasis must be upon the identification of specific criminal conduct, as well as the context in which it ocurs.

This information cannot be obtained from a simple analysis of crime statistics as usually reported.

It is, of course, true that such statistics may give an indication of the types of crime that should command attention because of their volume.

However, they do not provide sufficient detail for planning crime control programs.

For example, the reported statistics may indicate that a particular city has a relatively high robbery rate; but these statistics do not indicate whether these robberies are bank holdups, street muggings, or purse snatchings.

The control and prevention of these three types of behavior patterns certainly require different methods.

To design the most effective programs, it is necessary to have as detailed information as possible about the concerns of people in the community; the specific patterns of criminal behavior and the context in which it occurs; the characteristics of the offender and the victim; the characteristics of neighborhoods where crimes, victims and offenders are concentrated.

The range of program possibilities can be increased by the collection and analysis of this kind of data.

The second step in the planning process is the development of a range of program alternatives to control crime.

The objective at this point is to identify all those courses of action that could possibly ameliorate the identified problems, and then to assess their potential control effectiveness.

The third step in the planning process involves the examination of existing public and private operational capabilities in relation to the range of program alternatives developed in the second step.

The fourth planning step involves the selection of what are believed to be the most effective programs from the range of alternatives. It is, of course, the responsibility of local officials to select those programs that they believe should be funded by the SPA.

I would like to contrast the above planning process with the so-called project development process previously utilized by our agency.

The "project development process" starts with the formulation of a statewide comprehensive crime control plan containing statewide needs, goals and programs.

Local officials and others then select certain programs from the "shopping list".

This project development process is inadequate for a number of reasons:

First, the statewide formulation of needs, goals, and programs is not individualized for sharply different communities with radically different crime control problems.

Second, this process conceptualizes the task in terms of specific, narrow projects rather than in terms of identification and analysis of critical problems and the development of broad programs addressed to these problems.

In Rochester, Buffalo and Syracuse, we have just completed an initial application of our new problem-centered approach. In New York City and other major metropolitan areas, the new planning process is at various states of application.

In Rochester and Buffalo, detailed analysis were made of such factors as the specific criminal behavior patterns in high crime areas, the characteristics of certain offenders and victims, *and*, to the extent data was immediately available, characteristics of neighborhoods where offenses, victims and offenders are concentrated.

After the written analyses were completed, a number of meetings were held with representatives of the Mayor's Office, officials of various city agencies, and private citizens, who provided considerable experience and first-hand knowledge of local problems.

The objective of these meetings was to develop programs directed to the specific problems revealed by the analyses and discussions.

The result of this process was the funding last month by our office of an initial program in each city for crime prevention and policing (each program totals $1.3 million).

Let me briefly illustrate the types and varieties of projects that have been developed and funded as a result of the planning process in Rochester. Crime analysis showed that 47 percent of all arrests made during the study period were for public intoxication. Quite clearly, these arrests take a great deal of police time, and contribute to court backlog, as well as crowded detention and correctional facilities.

Thus, a grant award was made to Rochester to finance a project designed to reduce police time spent in making arrests for public intoxication. Staff members of the County Mental Health Department will respond to public intoxication complaints. The intoxicated individual will be given an opportunity to participate in a detoxification program. Besides freeing police, court, detention and correctional resources for more pressing police problems, the project will provide alcoholics with the opportunity to participate in a long-term rehabilitation program.

Rochester has recently experienced a series of disturbances by youngsters, particularly in the high crime neighborhoods. These areas have been characterized by high unemployment among teenage youth and by the absence of constructive activities to engage them. Thus, a project was funded to provide a variety of educational, employment, and recreational opportunities to disadvantaged youth in these high crime neighborhoods.

Another project funded in Rochester is designed to provide probationers with the job skills necessary to maintain employment. It is based on the belief that unemployment and underemployment are related to recidivism.

The crime analysis report for Buffalo indicated that the offenses studied tended to be concentrated heavily in particular sections of the city. Thus, a project was funded that will concentrate 40 men and their needed equipment in these high crime sections.

Police officers assigned to this preventive patrol project will not respond to routine non-crime emergency calls for service, but will serve exclusively as a deterrent, detection and apprehension patrol during the high crime hours.

This project was made possible by the development of another project designed to replace 40 police officers (operating the "911" communication center) with 40 civilian operators. Besides releasing 40 policemen for partol duty, the project will effect savings in the personnel costs required to man the communication center.

In the past year, some 150 grant awards (total near $8 million) were made by our agency to assist recipients in carrying out a broad variety of law enforcement programs. These programs include:

Development of a narcotics detector and a bomb detector.

Computerizing police operations.

Improving the techniques for identifying latent fingerprints.

Reducing court congestion.

Upgrading crime laboratories.

Encouraging minority group recruitment by police departments.

Improving police-community relations.

Federal funds awarded to New York under the Safe Streets Act are being utilized to support projects that we believe have the greatest potential for dealing with critical crime control problems—with priority attention being given to the major urban areas.

In the coming months we expect the new Federal-State-local partnership to improve and flourish. With the cooperation and assistance which we have received from the administrators and the staff of LEAA, I am sure it will.

Remarks by the Honorable John N. Mitchell, Attorney General of the United States

Mr. President: I am happy to present to you, with my colleagues in the Law Enforcement Assistance Administration and the Nation's State law enforcement planning agencies, an account of our work under Title I of the Omnibus Crime Control and Safe Streets Act of 1968.

You have made crime control a matter of high National interest and priority. The incidence of serious crime and the special law enforcement problem areas—narcotics and drug abuse, organized crime, street crime, violent disorders—threaten our social order.

Today, we have the opportunity to explore the frontline of the Nation's crime control effort. We will discuss the complexities of large scale Federal aid and the new "block grant" method by which the Federal government has recently entered into partnership with State and local governments to fight crime.

To me one of the most significant aspects of this program is how far it has come in such a short time. The agencies represented here today—including state planning agencies for all 50 states—did not exist 20 months ago.

State and local governments are hampered by not enough money, public support, trained personnel, research, coordination and planning, nor enough new programs. LEAA was designed to provide leadership, funding and technical assistance to help the States in what is basically their problem responsibility.

The keystone of the program is that Federal anticrime funds go to the States in block grants according to their population. These block grants are for planning activities and action programs. Action funds are allocated in accordance with comprehensive State law enforcement plans prepared in each State which provides for improvement of all facets of criminal justice—police, courts, corrections, and even citizen action. These plans are drawn up by the State planning agency and based on local priorities and judgments on how best to employ funds. When approved by LEAA as conforming to statutory requirements, States receive their block grants.

Other funds are spent in discretionary grants to states and cities to supplement the Federal funds they are already receiving within the State block grant concept. The remainder of the LEAA funds are devoted to research, higher education for law enforcement personnel, a National information and statistics program, and special technical assistance projects.

Mr. President, I now call upon Pete Velde, Associate Administrator of LEAA, to provide further details on LEAA activities for us.

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Presentation by the Honorable Richard W. Velde, Associate Administrator, Law Enforcement Assistance Administration

Mr. President: The men you see here in this room are part of a pioneering effort—the first comprehensive effort to reduce crime and improve the criminal justice system in the United States.

I know you have followed the progress of this new effort closely. The Attorney General has termed LEAA the cutting edge of the new federalism—putting the responsibility where the problem is, and then putting the money where the responsibility is.

The men you see here are the men who drew up the comprehensive plans which each state submitted to LEAA last year for approval, and who spent the $183 million in block action grants LEAA gave them to implement those plans. These men are the men who execute the program, and it is their hard work and their insight and knowledge that have made this partnership between Federal, state and local governments work.

I am proud to say that LEAA funds provide 90 percent of the funds to operate the state planning agencies these men direct. These planning agencies have many outstanding accomplishments to their credit. I could go on indefinitely citing examples from each state, but we have several state presentations ready for you. I want to stress what I consider their most important accomplishment, and one that is too often overlooked—the creation of a comprehensive, integrated planning effort to improve the entire system of criminal justice.

This is vitally important, because our criminal justice system historically has grown up as a number of independent areas—police, courts, and corrections. Improvements in one area have often led to overloading another area, with a resulting breakdown in the entire justice system. We must have more policemen, and better-trained policemen, if we are to apprehend more suspects and prevent more crime. But it does little good to apprehend more criminals if an overloaded court system cannot handle their cases effectively and fairly. It does little good to try more cases if the men sentenced to prison are going to enter institutions so overcrowded that the result is often to brutalize them, to turn them out bitter men, confirmed criminals.

Furthermore, the entire criminal justice system has suffered from two centuries of neglect. Twenty-five prisons are more than a century old. Police education has been sadly neglected. In one eastern state only 150 police departments out of more than 1,000 in the state have any way of communicating besides the telephone. That is the price the criminal justice system has paid for 200 years of public indifference during which other public needs were repeatedly placed ahead of it. The crime problem in America is the price we are paying for that indifference now.

So the whole effort of LEAA is to stem rising crime by improving the entire criminal justice system—and these men here today are the men who draw the plans and spend the money to do the job. Most crime is state and local crime, and it is fitting that these men represent states.

We have just finished the second year of LEAA operation in this partnership effort, and we're here to discuss it.

In creating LEAA in the Omnibus Crime Control and Safe Streets Act of 1968 Congress made it clear that most of the money should go to the states, and then be subgranted by them to the local communities, in order to put the money where the crime was, and do it in a coordinated way.

The Administration has heartily endorsed that approach from the outset, and LEAA's main job has ben to carefully review state plans, work with the states to improve them, and then provide the money to implement them as soon as they were approved.

Therefore most of LEAA's funds go, in accordance with the statutory requirements, directly to the states in the form of block grants—grants allocated among the states on the basis of population.

Of last year's $268 million budget, $21 million went to the states in planning grants. Of that amount, sixty cents of every dollar went to support the state planning agencies here today, and 40 cents was passed on to local governments to support the 450 regional planning agencies around the country, who put local community input into the state planning process. Incidentally, some 800 people are involved in the state agency planning process alone—compared to 300 people in all of LEAA, including its seven regional offices—so you can see there is a minimum of federal bureaucracy in the program.

Most of the money went in block action grants to the states to implement those plans. The total last year was $183 million, more than seven times the total of the year before. And of this total 75 cents out of every dollar went from the state agencies to local communities, as required by the 1968 Act. In two years of operation the state planning agencies have made more than 15,000 subgrants to fund local projects, and the total of $208 million from LEAA in that time amounts to about a dollar for every man, woman and child in the United States.

Another $32 million in funds last year went for discretionary action grants—to fund a total of 450 projects in states and local communities approved at the discretion of LEAA. We made a particular effort to help large cities, and as a result more than $11 million—over a third—of the discretionary money went to them.

Another $18 million was spent by LEAA on academic assistance. The criminal justice system needs more personnel. But today we lack quality as well as quantity. Studies show only seven percent of policemen and only three percent of line corrections workers have college degrees. A policeman must be versed in more than the use of the nightstick and the pistol. He must have the skills and knowledge to cope with scores of complex tasks: How to prevent more crime; how to apprehend more suspects; how to combat narcotics rings; how to effectively fight organized crime; how to deal with skill and understanding in the volatile areas of civil disorders prevention and enhanced community relations. Technical training is vital, but it is not enough. There are skills that only college training can impart. LEAA provides funds for college studies by law enforcement personnel and promising students preparing for such careers. During fiscal 1970, some 800 colleges and universities took part in the program, and gave LEAA aid to more than 50,000 persons—nearly one out of every 10 employees in the criminal justice system.

Another $7.5 million went for research. Crime cannot be brought under control by relying on techniques and equipment developed 100 years ago. Until the LEAA program began, there was no national effort to bring modern technology to bear on crime and criminal justice problems. The National Institute of Law Enforcement and Criminal Justice is the research and development arm of LEAA. Its mandate is to produce new equipment and new techniques for use by every part of the criminal justice system. Its efforts are varied: development of a sensor device to sniff out hidden heroin; development of a night vision device for street patrols; development of a miniaturized police radio; development of new techniques to assign patrolmen by computer to utilize manpower most effectively against street crime; new techniques to rehabilitate offenders; new techniques to process court cases more efficiently and fairly; developing new methods to prevent the nation's awesome toll of street crimes. The largest share of the Institute's budget for the past two years has been devoted to police equipment and systems, because police have by far the greatest needs for improved technology. It must be stressed that the Institute budget has been very small. We hope those funds can be expanded, for the fruits of science and technology must be applied quickly and effectively to crime problems.

Another $1 million went for statistical research. LEAA has established a National Criminal Justice information and Statistics Service. The reason is simple: we cannot hope to succeed completely in fighting crime if we do not have hard, reliable facts on the extent of crime and what happens to offenders within the criminal justice system. Today, we do not know the extent of crime precisely. We have no reliable national statistics on how many ex-inmates commit new crimes. We do not have reliable national statistics on court dispositions, and the results of parole and probation practices. But today, LEAA is working closely with the states to develop a nation-wide program of comprehensive statistics for all parts of the system, and a number of key studies have begun. LEAA also has awarded $1.4 million to 10 states to develop and test the prototype of a computerized criminal justice data system. It is called Project SEARCH, and the details will be given to you at the state briefings later.

The LEAA budget has grown sharply in the past two-plus years—from $63 million to $268 million in fiscal 1970, to the $480 million request you submitted to Congress and which has already been approved by the House. While the Administration has not yet submitted its appropriation request for next year, the House has authorized a $1 billion budget for fiscal 1972 and $1.5 billion for fiscal 1973. It seems certain that the crime control budget will increase—but two things must be kept at the forefront of LEAA and state considerations: First, the funds must be used effectively, with maximum value extracted from every dollar; and second, state and local governments must develop their own resources to match the growing federal grants. Larger LEAA budgets will do little good if state and local governments fail to provide the matching funds required to qualify for federal assistance.

There are problems in the new crime control program. No nationwide effort in a field as complex as criminal justice could escape having some difficulties. We are aware of them and have moved promptly to resolve them. Let me cite two examples:

First, there has been concern that large cities with urgent crime problems might not receive enough action funds from state block grants. That has been the concern of the League of Cities and a number of mayors in large urban areas. That has also been the concern of LEAA. We recognize that fighting crime in the cities is a priority. A special LEAA survey shows that as of last December 31, 60 percent of all action funds distributed by states to local government went to the nation's 411 cities of over 50,000 population. Those 411 cities contain less than 40 percent of the nation's population and about 62 percent of its serious crimes. Fund usage was running in nearly direct proportion to incidence of crime. It must be noted that the 60 percent figure includes only direct grants to cities and counties. The percentage would be larger if it included programs funded separately which are of enormous benefit to cities—for instance, programs to improve corrections and courts, which normally are operated by states but into which the cities send the bulk of offenders.

There have been some instances of inadequate participation by large cities. In some instances, states did not move quickly enough in sub-granting funds, but this is being resolved. In other instances, cities themselves did not take needed initiatives, but we are taking special efforts to help them become fully involved. Most of the criticism of large cities stemmed from the funds they received from the fiscal 1969 budget—which was only $63 million and included only $25 million in block action grants. That was not enough to satisfy the needs of anybody, no matter how it was stretched. With the much larger budgets of last year and this year, we are confident the needs of the cities will be met adequately. Some responsibility for delay must also be borne by the federal government. No implementing agency was established by the prior administration until four months after the Safe Streets Act became law.

A second problem area is development by the states of comprehensive coordinated programs to fight crime which embrace all parts of the criminal justice system—police, courts, and corrections—and the private sector as well. The first-year effort was a start on this comprehensive approach—but only a start. In fiscal 1969, state plans allocated 79 percent of action funds for police, but only 14 percent for corrections and six percent for courts. The police, of course, comprise the bulk of the criminal justice system, and their needs are great. But all parts of the system must be improved together if any one component is to achieve lasting progress. For instance, up to 70 percent of all offenders may commit new crimes after release from prison. Effective rehabilitation of offenders may be one way to make quick inroads against street crime.

You took note of the serious problems in corrections last November and directed the Attorney General to take action in a number of important areas. Substantial benefits already have flowed from that. One of the greatest benefits was the national effort to strengthen corrections by the states in drafting their 1970 plans. The result was to have the states increase the corrections' share of block grant funds from less than 14 to 27 percent in a single year. In fiscal 1969, the states spent $3.5 million of LEAA money for corrections. In fiscal 1970, that rose to nearly $58 million.

I urge the states to now press for greater allocation of resources for our court system. The court share of state block action funds in fiscal 1970 was only seven percent, compared to six percent a year earlier. That is not enough. Courts are a vital part of our criminal justice system. Where there are delays in bringing suspects to trial—and those delays exist almost everywhere—justice is denied to both the accused and to society.

Two years ago, no national crime control program existed. Today, it is a reality. The nation has far to go, but an excellent start has been made by this new partnership among state, local and federal governments. The increase in crime has not yet been halted. It has not yet been reversed. But if we continue to use every bit of our energy and all of the resources at our command, that day will come—and it may come sooner than many realize. State and local governments bear the major burdens under the crime control program, and they have responded in admirable ways. We in LEAA believe we also have carried our share of the burden. Faced with stringent deadlines and a small staff, our start-up time compares more favorably with that of the Model Cities Program of HUD or the Juvenile Delinquency Program of HEW. But much work must be done—and done now—and that is the reason for the meeting this week between state officials and LEAA. Until the streets are safe, there are no laurels for the criminal justice system to rest upon.

Presentation by John C. MacIvor, Formerly the Executive Director, Colorado Governor's Council on Crime Control

Mr. President, we, the criminal justice planners of the Nation, gathered here today, are deeply honored by your presence with us this afternoon. This auspicious occasion is one we will long remember and we thank you for sharing your time with us.

Now, I would like to talk briefly about how Colorado has implemented the Safe Streets Act.

We recognized immediately that in order to carry out the intent and purposes of the Act we must first develop a competent staff—and then begin educating the criminal justice community with respect to the Act and its potential.

Colorado's success in implementing the safe streets program has been largely due to the selection of a professional and competent staff, coupled with close personal contact between the staff and the various criminal justice disciplines. This working and learning together, as a team, has truly developed into a Federal, State, and local partnership.

Now, in order to stimulate planning at the local level, Colorado was divided into 14 planning regions, each represented by a local planning board representative of the region. This approach provided a grassroots-sounding board for local units of government. These regional boards provided the input to the Governor's crime council which was so essential to the development of the State's comprehensive plan. The formation of the regional boards provided an additional benefit, in that, for the first time we had police chiefs, sheriffs, judges, district attorneys, and elected public officials all seated together at the same table—communicating with one another—working toward common goals and objectives.

We also recognized, early in the game, that if we were to be successful in Colorado—we must take a double-barreled approach to solving the problems. First, in order to truly upgrade the disciplines and unite them into a complete system, we would require not only time and extensive funding but also long-range planning—which must be initiated immediately—while at the same time, we must also address the immediate problem of crime in the streets—so during our first 2 years of operation, Colorado has been involved in long-range planning while at the same time funding short-term projects that would produce immediate results.

Through this approach we were able to make approximately 350 small to medium sized grants and in doing so we accomplished two prime objectives—first, was the immediate funding of a large number of crises-type projects—and second, quite frankly, it bought a tremendous amount of good will which is so essential to the future effectiveness of the program.

Now, you must understand—that in Colorado—law enforcement is very parochial, and initially there was great suspicion and concern that this program would be a Federal-State take over of local law enforcement. This early low-level funding has clearly demonstrated to the local police that this is not the case—to the extent that local support for the program is now overwhelming—and has far exceeded our early expectations.

Now, we could not have carried out this double-barreled approach without comprehensive State planning and block grant funding—nor could it be done without a true Federal, State, and local government partnership—for without the block grant approach, there could be no comprehensive planning—and without the partnership, there could be no comprehensive implementation of action programs as a result of that planning. This is not to say that Colorado has been without problems—for we have surely had our share—and now, I would like to mention just a few.

One of the major problems we have encountered is the rising inability of State and local agencies to develop the matching funds as required by the act and this situation is becoming increasingly severe.

Another problem is the communication gap that is sometimes apparent with respect to policy and administrative procedures in LEAA. This to a great extent can be attributed to an early—low level of professional staffing—which—has consistently show improvement—however—inadequate staffing at the Federal level can and will frustrate effective and timely implementation of the program at the State level.

Also of great concern is what appears to be the beginning of federally imposed national priorities which may not be germane to all States—this movement, we believe, is in direct conflict with the original intent of Congress and the block grant concept. For example, the present proposed House amendment requiring 25 percent of the total Safe Streets Appropriation to be allocated for corrections.

And finally, the disproportionate scale of funding between planning and action monies—now, let me briefly explain what I mean—ideally, planning should be the primary function of the State Planning Agency—however, in Colorado—and in most other States we have found this not to be the case—instead—we have found that Grant administration has preempted our primary responsibility of planning. For example, in 1969, we funded 95 action projects.

Thus far in 1970, we have funded 215 and we anticipate reaching a level of about 300.

The impact of the Grant administration responsibility is overwhelming when involved with such a large number of grants. This requires providing technical assistance to grantees in the preparation of applications—also the preauditing of grant applications—then project monitoring and also the necessary followup on quarterly fiscal reports—all of this requires a major effort by the planning staff.

From this brief discussion, it is easy to see that there can be little time left for comprehensive planning.

The obvious solution to the problem is to provide a greater allocation of funds to States for the purposes of not only planning but for grant administration as well.

We would strongly urge that Congress address this need at the earliest possible opportunity—for without adequate planning funds, the quality of the action program will surely be compromised.

I thank you, Mr. President!

Presentation by Arthur J. Bilek, Chairman, Illinois Law Enforcement Commission

Mr. President, gentlemen: I see our crime problem in the United States this way: The losses and damages being inflicted on our citizens are so great, our system of law enforcement and administration of justice is so inadequate, that many of our citizens are experiencing a loss of confidence in society, in America if you will.

Illinois is no exception. This comes despite some noteworthy improvements in the Illinois criminal justice system in recent years. We have a model, unified court system, with a centralized administration and discipline strong enough to remove a wayward Chicago judge from the bench last month. We have a model criminal code. We have strengthened our laws aimed at organized crime. Yet our crime totals increase by approximately 10 percent every year.

We are running up against the same underlying shortcomings in the criminal justice system mentioned by the previous speakers—*lack of information, lack of planning, and lack of professionalism.*

The very existence of our state planning agency is a major step toward overcoming the deficiencies involving lack of information and planning. With our staff of 40 carefully selected professionals, backed up by 36 regional planning groups and their staffs, we have begun to plan methodically and thoroughly. We develop needed information and statistics in the process, some through research grants to universities for studies of juvenile delinquency and organized crime.

To counter lack of professionalism, we are financing improved and expanded training and college education.

We also find another significant problem—*system fragmentation*. We have over 800 police departments, more than 100 in Cook County alone. There's also the fragmentation effect produced by multiple levels of government—federal, state, county and municipal.

We can't reduce the number of local governments, or change the four levels of government. But we are striving to minimize the *effects* of fragmentation, through coordinated planning, joint communications systems and training facilities.

We have also provided two million dollars for a statewide emergency police radio network involving the placing of a second radio in all 3,700 police vehicles in the state for direct communication with each other across county or municipal lines.

So, as a football coach would put it, we're getting back to fundamentals. Minimizing or even overcoming these basic shortcomings may not be the entire answer, but if we can block and tackle well, we'll have a far better chance of winning the game.

At the behest of Governor Ogilvie, the Illinois legislature in the last year and a half has made major improvements in the state's criminal justice machinery, and has greatly increased criminal justice operating funds. This determined new state drive to control crime dovetails perfectly with the federal effort under the Omnibus Act. We have quickly developed an effective federal-state partnership that is touching every aspect of criminal justice in Illinois.

Our state planning agency has even developed a beginning rapport with the courts and judges, who tended initially to resist attempts at coordination and planning. But the state court system administrator is now a member of our commission and we intend to systematically identify the most urgent needs in the criminal adjudication process.

The commission's largest single grant to date is an award of over two million dollars to strengthen public defender services throughout the state, at both the trial and appellate levels.

Four district offices have been established to handle criminal appeals for indigents, and an experimental store-front office has been opened in one community beset by economic hardship and racial friction to provide both trial and appellate defender services. The store-front office is doing a brisk business.

On the other side of the fence, we have granted almost one million dollars to improve prosecution. The Cook County State's Attorney is adding 21 assistant prosecutors and five investigators to focus on gang violence, organized crime, planning and training, and improving coordination with local police departments. The grant also provides funds for a model state's attorney's office in a judicial circuit outside Chicago, and an innovative regional team to serve an appellate court district of 13 counties.

We're not ignoring the man behind the bench. We are now providing training in sentencing for criminal court judges, and this fall we'll begin a training program for juvenile court judges.

Let us now look at corrections. Here, unlike the obstacles encountered in our dealings with the court systems, our state planning agency has the good fortune to work with a new department and an aggressive young director who are moving ahead at full speed.

The Department of Corrections has increased salaries and enlarged professional staffs. They are placing important new emphasis on work release, halfway houses and minimum security facilities. They are offering inmates training in a widening variety of useful job skills including computer programing. The state planning agency is working together with the Department of Corrections to attain its ambitious objectives with financial support and coordinated planning.

For instance, one of the department's major thrusts is to improve juvenile programs. Of the 3,000 juveniles admitted to Illinois youth institutions last year, 44 percent were parole violators.

So the Illinois Law Enforcement Commission has granted funds to the department for six community homes to provide group counseling, job placement, tutoring and other services to juvenile parolees and other young people under state supervision.

We have also funded a program giving specialized training to one juvenile worker in every state corrections facility or office. The worker in turn becomes a teacher to pass on his knowledge to others in his unit.

We are also providing funds for a wide-ranging spectrum of special projects in corrections, including a live-in narcotics rehabilitation center where addicts *and their families* receive counseling and learn to live together better; a program of volunteer probation aides who reside in the same communities as the probationers they work with, not in some other part of town; the development of standards for detention facilities and regular inspections of every jail in Illinois; a total revision of the correctional code; and development of flow charts and systems design to improve the movement of a person through the correctional process.

Just last month LEAA granted through the state planning agency nearly 200-thousand dollars to the Portland Cement Association and the corrections departments of Illinois, Michigan, Indiana and Wisconsin. This will help construction companies in the four states to train and hire 200 to 400 ex-inmates. It's an imaginative program, designed carefully to train men in cement finishing, masonry and other trades where a shortage of skilled workers is expected over the next five years.

I want to emphasize one important point: We in Illinois believe in the Omnibus Crime Control Act. It should be continued, reinforced and expanded, maintaining the essential principles of block grants and comprehensive statewide planning.

Illinois believes in the program to the extent of committing 13 million dollars appropriated to the state planning agency by the General Assembly. *The grants made so far by the Illinois Law Enforcement Commission have in fact carried more state money than federal.*

We have even set up our own program called Project Action Now of expeditious 100 percent state grants—no federal money—to meet certain high-priority needs: police department management studies, community relations projects, and training for criminal justice personnel. This demonstrates how the Act is stimulating new efforts by the states and is creating a true federal-state partnership, the New Federalism in action.

However, even with these energetic federal and state efforts under the Omnibus Act, I am not unqualifiedly optimistic about solving the problem of crime in Illinois or in America. Improving criminal justice, making it more efficient in apprehending and convicting criminals, will not alone, prevent most crime from being committed.

I am deeply concerned that no matter how well we succeed in improving law enforcement, our nation will continue to have a crime problem of major proportions unless two additional changes occur: one, alleviation of the unsatisfactory environmental and social conditions that provide the breeding ground for great masses of crime; and two, regaining throughout this Nation a basic moral outlook founded on principles of love, truth and justice.

Presentation by Robert H. Lawson, Executive Director, California Council on Criminal Justice

Mr. President, we appreciate the opportunity to share with you some of our concerns for people, crime, and the criminal justice system in California with particular reference to the police function.

A few statistics indicate the enormity of the situation confronting law enforcement in California. The State population is expected to reach 20 million during 1970. Simultaneously, incidence of the seven major offenses will show an increase of 150 percent during this decade. 1970 will also see more than 200,000 adult felony arrests (up 107 percent from 1960) and 100,000 juvenile felony arrests, an alarming 198 percent increase.

An especially disturbing problem is in the area of drug violations in which juvenile arrests are up 2,630 percent over 1960 and adult arrests up 433 percent.

Police in our State are confronted by the same problems that exist elsewhere—but magnified and intensified by the population concentration and the existence of 400 separate cities. Many subsumed in large metropolitan areas.

The police function is extremely broad and technical with thousands of skills and knowledges required for the increasing complexity of contemporary society. A relatively small percentage of our reported crime is cleared by the arrest of the perpetrator. A major reason for this is the lack of time, manpower, and technological assistance to adequately cover a crime scene and methodically collect, identify, and preserve evidence. Another limitation is due to the officers inability to communicate with the neighborhood, particularly with the decline of the foot patrol.

To attempt to deal successfully with the basic issues facing the police, the California council on criminal justice has identified as number of major areas of need. The emphasis has definitely been on new and better ways of doing things rather than just more money to do what we have been doing. I will mention three with illustrative examples of specific projects.

Police community relations is a very real problem in California. The number of project requests from local agencies reflects this. For example, two separate grants have been made to the city of Compton to meet the needs they have identified. The first establishes a special service center to process community complaints and provide assistance to people with specific problems. A detoxification center will be added. The second established an apprentice police program whereby youths age 17–21 were hired as uniformed community service officers. The purpose is to improve police services and provide a reservoir of trained manpower for police recruitment.

Because we also recognize that the best time to solve tomorrow's problems is today, we have addressed the need to develop a better understanding of the problems of law enforcement on the part of young people. To that end we have funded projects in Ventura County and the city of Davis which bring police and sheriffs officers into elementary and high schools to teach various topics but also to meet with students informally in the halls and school yards to create a more positive image and encourage more communications between our young people and the police.

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Another area of need in police services is to encourage the coordination and pooling of certain basic support functions. One example is the project to design a police information system for the San Francisco Police Department. Another will create a joint crime information system for police departments in four cities in Contra Costa County. This same county is developing a very exciting proposal which would result in a restructuring of the police services within that county which includes 14 cities. This will involve devising a county-wide revenue plan to support the police function, dividing the county into policing areas; a reallocation of duties and responsibilities between the city police departments and the sheriffs office, and coordination of area-wide activities and manpower utilization.

Inasmuch as the total criminal justice system in California requires the expenditure of $1 billion annually to support, the amount of money received through the Omnibus Crime Control and Safe Streets Act obviously is not of sufficient magnitude alone to create spectacular results.

For its 1968–69 action grant program California received a $2.3 million block grant. For 1969–70 $17.3 million was received.

The California Council on Criminal Justice has authorized over $5.5 million in more than 100 action grant awards. Of this amount, $3,776,000 have gone to units to local government and $1,779,000 to State, private and other agencies.

The method through which Federal grants are made produces a situation which stimulates total improvement of the system. Such a program has a far greater and more lasting impact than could be achieved through the mere addition of Federal monies to our existing budget. Thus we can, by long-range planning and continued block grants, develop programs more responsive to local needs and with the most favorable cost/benefit ratio.

Finally—and this may be actually more significant than the funding of all the projects I have mentioned—we have now established a mechanism whereby the many components of the criminal justice system are engaging in a joint analysis of their problems with the result of broadened awareness and better understanding of the inter-relationships of the system.

It is most encouraging to participate in a meeting where police officers, city councilmen, county supervisors, probation officers, judges, and citizens *together* are discussing methods of preventing and controlling crime. On such an occasion, one can believe that perhaps the problem is not as insoluble as statistics would make it appear.

PRESENTATION BY PAUL WORMELI, VICE PRESIDENT, PUBLIC SYSTEMS, INCORPORATED, OF SACRAMENTO

Search is an acronym standing for system for the electronic analysis and retrieval of criminal histories. Search responds to a longstanding need of criminal justice agencies, namely, to be able to determine rather quickly whether or not a person with whom they are in contact has a prior criminal record. If so, then it usually is important to know the nature of the prior criminal behavior, and to identify the other specific departments or agencies which have dealt with the individual.

The police require this knowledge in making decisions relative to arrest and in case investigation. The courts increasingly need a quick way of establishing prior record to assist in setting bail, in determining the proper charge, and in selecting preventive detention. Correctional officers want to know the results of prior correctional programs in deciding on the treatment to be given an offender. Most of these agencies need the data in minutes or hours rather than days or weeks as is now the case with the present manual system of mailing out the paper summary of arrests.

Project search was created by LEAA and the States to develop and demonstrate a prototype computerized system which meets these needs for quick access to prior record data.

There are 15 States participating in the project. These states, when grouped together, account for 75 percent of the reported crime in the United States. One of the most valuable outcomes of this project has been the development of the organizational mechanisms which we have created to achieve agreement on data content and system operation. A policy board, consisting of an executive-level representative from each State, was created to control the project and to work out the interstate aspects of the system for maximum mutual benefit.

The system concept that we are testing has 3 basic components. First, there are some 600 computer terminals placed around the country in police, courts, and correctional agencies. Second, each participating State has on its own computer system a computerized file of 10,000 detailed offender criminal histories. Third, we have created a national center index, or directory, containing limited criminal summaries for the offender records maintained in all of the state files. The central index, then, depends on and is derived from the state systems.

The terminals are connected by telephone lines to their state computer system. Each state computer is directly linked by a telephone line to the computerized central index which is temporarily maintained by the Michigan State Police in Lansing, Michigan. As we will demonstrate, a user can first make an inquiry to the central index and find out if an individual has a record, what it briefly consists of, and which state holds the detailed record. If more information is required, any user can, by means of computerized switching, go directly into the computer in the state holding the record and retrieve the detailed criminal history.

We began project search 1 year ago. Our schedule called for the original 6 states to be on line on July 1, 1970. On this date, we began a 2-month demonstration of the system with Arizona, California, Maryland, Michigan, Minnesota, and New York completely hooked up and operating. Florida is coming on-line this week. Connecticut, Texas, and Washington are converting their 10,000 manual paper files into computerized form and will be finished in December. Five other States, Colorado, Illinois, New Jersey, Ohio, and Pennysivania are observing in preparation for joining the system in the future. We plan an evaluation period starting September 1, and by December we intend to have worked out the final design of a future national operating system.

A few loose ends remain. The communication load, with all of this data being exchanged, requires a lot of telephone line capability. We are discussing with NASA the feasibility of using a satellite for this purpose and we may conduct an experiment using an existing satellite to determine the optimum configuration of such a system. A second problem yet to be solved is to provide an equally fast way of verifying the identity of an individual about whom an inquiry is made. With fingerprints as the only positive means of identification, we need to develop high-speed methods of fingerprint transmission and classification or verification. We are investigating the use of satellites with wide band-width transmission capabilities and the use of laser-based holography for high-speed fingerprint comparison.

Before we turn the system on for you I would like to mention a second part of search that may have more ultimate impact on the effectiveness of criminal justice agencies than this sophisticated information retrieval capability. We have designed and are testing the feasibility of a prototype new approach to the collection and analysis of criminal justice statistics. As you have heard today, we have very little data available for the workload, efficiency, and efficacy of criminal justice agencies in this country. We are trying, in project search, to illustrate a complete statistical system that follows offenders through the various processes, thereby linking agencies and processes to describe the criminal justice system and its complicated interrelationsips.

Mr. HRUSKA. In conclusion, I would like to say that I feel the LEAA program has been extremely successful. State and local governments are not able now to deal with the crime problem all by themselves. There is not enough money, nor enough public interest, nor enough trained personnel, nor enough research, nor enough coordination and planning, nor enough new programs. The LEAA was designed to provide leadership, funding and technical assistance to help the States and cities in what is basically a local problem. This is what LEAA is doing and is doing well, I believe.

If the amendments contained in the committee bill are accepted, LEAA will be able to improve its operations and continue to effectively assist States and local governments in improving and strengthening law enforcement.

ATTORNEY GENERAL FINDS WIRETAPPING AIDS IN WAR ON CRIME

Mr. HRUSKA. Mr. President, 2 years ago Congress authorized the Attorney General to utilize wiretapping under controlled circumstances to combat crime in this Nation. Title III of the Omnibus Crime Control and Safe Streets Act of 1968 outlawed wiretapping by private parties but permitted its use by Federal law enforcement agencies and by State and local police departments in States which permit it.

Following the passage of that act the Department of Justice was headed by an official who declined to use that authority. Now however we have as Attorney General a man who believes in using every legitimate weapon available to him in the war against crime. This Senator is pleased that that is the present case.

In a speech before the International Association of Chiefs of Police in Atlantic City, N.J., on Monday, Attorney General Mitchell called electronic surveillance the most valuable tool in the Federal arsenal in the war against organized crime.

> Court-authorized wiretapping is a key factor in our plans and it has amply demonstrated its effectiveness. We cannot afford to shun a method that is both effective and compatible with constitutional law.

I want to read a few additional statements from the Attorney General's address, but at this point I ask, Mr. President, unanimous consent to have printed in the RECORD at the conclusion of my remarks the complete text of the address and a story concerning his remarks from the Washington Post.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HRUSKA. During 1969, 30 Federal wiretaps and 241 State wiretaps were authorized and executed, Mr. Mitchell said, adding that 80 percent of the mes-

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sages intercepted contained incriminating evidence and that the taps resulted in 139 arrests—an average of more than four per wiretap.

He said:

> I believe this shows conclusively that we have done our homework, that we are not on fishing expeditions, that we were pretty sure of our ground when we asked for the court orders.

From February of 1969 to July 13, 1970, he said 133 Federal wiretaps were authorized and installed and that arrests resulted in all but 12 of the wiretaps. Of the 419 arrests, 325 persons were indicted.

> Unfortunately, the subject of wiretapping is charged with emotion and prejudice. Wiretap triggers in many people all manner of bogeys—flagrant invasion of privacy, thought control, and repression, to use a word you and I have heard lately.
>
> In reviewing our use of wiretapping in the past year-and-a-half, I think you will agree that the only repression that has resulted is the repression of crime.

Mr. Mitchell pointed out that although the previous administration had the power to seek court-authorized wiretaps, it refused to request any.

He said:

> The Nixon administration is committed to use every legal weapon against organized crime. If lawmakers give you a tool for enforcement purposes, you should use it.

He noted that in emergencies involving conspiratorial activities characteristic of organized crime, the Attorney General may authorize a wiretap without a court order.

> In such cases, a court order must be obtained within 48 hours after the tap is in use. To date I have not found it necessary to exercise that power.

Mr. Mitchell said that one of his first acts as Attorney General was to authorize filing of the first Federal application for court-authorized wiretap under title III in February 1969.

That wiretap, he said, resulted in the seizure of 124 pounds of heroin and the conviction of two defendants in a major international narcotics smuggling conspiracy.

In a recent narcotics investigation, he said, wiretaps not only produced evidence of a substantial narcotics distribution scheme, but also details of a planned bank robbery and a planned murder—both of which were prevented as a result.

> Perhaps the most dramatic operation owing its success to wiretapping was called "Operation Eagle"—a 6-month surveillance followed by the roundup of a major cocaine and heroin smuggling ring.
>
> Simultaneous raids in 10 cities last June led to the arrest of 139 persons and the seizure of large quantities of narcotics, firearms, automobiles, and cash. Since that time we have made 27 additional arrests based on the same information and we are seeking 33 fugitives.

He said:

> On the other side of the coin we are pursuing a vigorous and effective program to enforce the prohibition against the private use of wiretap.
>
> The effectiveness of our enforcement program may be measured by the fact that complaints against private wiretapping have dropped to about one-third their former rate.

Mr. Mitchell said the Department had obtained a conviction against a person who had tried to spy on the proceedings of the 1968 Democratic platform committee and last month secured the conviction of a wiretap expert in Nevada for carrying an electronic surveillance device across State lines.

In another case, he said, a private detective was sentenced to 6 years in prison for extensive use of wiretapping in connection with divorce cases.

In stressing the constitutionality of electronic surveillance, Mr. Mitchell said there are eight requirements which must be adhered to in all taps used under title III.

They are: Securing a court order from a judge; specifying the offenses under investigation and the types of conversations to be overheard; limiting the time period of the surveillance; terminating the wiretap once the stated objective has been achieved; renewing the wiretap authorization only by showing a continued probable cause; showing that normal investigative procedures have been tried and failed or are too dangerous to be used; showing why the objective would be thwarted if the person to be overheard were notified of the wiretap, and reporting on the results of each wiretap.

Exhibit 1

Address by John N. Mitchell

Gentlemen: I am especially pleased to be here today, because at a time when certain types of crime are on the rise, there is much that law enforcement officers of different jurisdictions can gain from mutual discussion.

In this connection I want to talk about a particularly effective weapon in the war against organized crime. I refer to the various forms of electronic surveillance, which I will hereafter refer to simply as wiretapping.

It is now more than two years since passage of the Omnibus Crime Control and Safe Streets Act of 1968. Among other things, it clarified the legal status of wiretapping in this country.

Under this act, wiretapping by private parties was outlawed. At the same time, controlled use of wiretapping was authorized for federal law enforcement authorities and such authorities at the state and local level in those states authorizing its use.

With the perspective provided by two years of authorized wiretapping, it's time for us to review the history of this subject to see whether we are going in the right direction; to examine whether the fears of those opposing wiretapping are justified; to see if the results since 1968 in terms of criminal apprehension were worth it; and on the basis of these determinations to chart future policy.

Unfortunately, the serious and critical subject of wiretapping is charged with emotion and prejudice. The term "wiretap" triggers in many people all manner of bogeys—flagrant invasion of privacy, thought control, and (to use a word you and I have heard lately) repression.

Well, in reviewing our use of wiretapping in the last year-and-a-half, I think you'll agree that the only repression that has resulted is the repression of crime.

The reason is that wiretapping has a history of perhaps a hundred years—if we go back to the telegraphic age—of confused and foggy status, which in turn facilitated widespread use by public agencies and private individuals alike. This kind of license in a practice as sensitive as wiretapping naturally led to a torrent of opposition.

Not long after Morse invented the telegraph in the 1840's the sending of a message over the wire was matched by the interception of it—both by private citizens and the authorities. In the Civil War telegraphy was used by both sides for military messages, and wiretapping quickly became a means of espionage. The telephone, invented by Bell in 1876, was tapped by New York Police as early as 1895.

The first public uproar on this subject occurred in 1916 when a committee of the New York State Legislature investigated wiretapping by the New York City Police. The mayor of New York pointed out that "conviction on conviction has been obtained which otherwise would have been impossible." In view of the present posture of some of our newspapers, it is interesting to note the 1916 editorial comment of one of the newspapers in New York City:

"The *Times* feels too few wires have been tapped, not too many, and that the exposé has hurt the cause of justice."

Still more sensational was an investigation by a subcommittee of the U.S. Senate Committee on Interstate Commerce in 1940. It revealed widespread wiretapping of private individuals by public officials; of public officials by private individuals; of private individuals by other private individuals; and of public officials by other public officials.

For a number of years afterward, there was a great range of wiretap control and abuse—depending on the laws in particular states and the degree of enforcement. Wiretapping devices were openly advertised for private use.

The result was a growing fear of electronic eavesdropping and a public clamor for its control. Civil libertarians attacked with equal virulence the clandestine private tapper and the law officer using wiretap in obtaining evidence to convict a public enemy. Their only consideration was the sanctity of individual privacy. In short, they wanted to throw the baby out with bathwater.

Throughout this period, legislators and jurists were grappling with wiretap law. The California Legislature prohibited interruption of the telegraph as early as 1862 and extended this to the telephone in 1905. Other states followed suit in varying degrees. Today more than half the states have laws outlawing wiretapping, but in many it's still unclear whether this applies to law enforcement authorities or whether evidence obtained from wiretapping is admissible in court. Some states specifically authorize wiretap by law enforcement agencies under sanction of a court order. Others have no law in this area.

Before going into federal law on this subject, I'd like to touch on the status of wiretapping in Great Britain, with whom we share a common legal heritage.

In Great Britain the Government may tap wires for the prevention and detection of serious crime and for the national safety. Since 1937 this has required a warrant from the Secretary of State. Such evidence is admissible in court if it's relevant to the issue at hand and does not operate unfairly against the accused.

Studies made by the Department a few years ago show that in general, the history of wiretapping has been similar in many other countries.

In short, it appears that Great Britain and a number of other countries of the free world have operated with authorized wiretapping without too much public concern that it was threatening basic freedoms.

For many years United States federal law was virtually silent on this subject. But in 1928 the Supreme Court heard a case—*Olmstead* v. *United States*—in which wiretap evidence had been used against bootleggers in a federal prosecution in Oregon, a state that had outlawed wiretapping without court order. The question was, could information so obtained be admitted as evidence? The Supreme Court ruled by a five to four decision that the Fourth Amendment was not violated since there was no unlawful entry and no seizure of tangible things.

This simply meant that wiretap evidence obtained in violation of a state law could still be admitted in federal court. In the absence of Congressional action on the subject, this decision ruled the situation for the next few years.

But in 1934, when Congress passed the Federal Communications Act, it included a provision against intercepting and divulging any wire or radio communication. This has been interpreted by the courts as ruling out of federal trials any evidence obtained either directly or indirectly by wiretapping. It left to the states, however, the admissibility of illegal wiretap evidence in state courts

In fact, in the 1967 case of *Katz* v. *United States*, the Supreme Court went further and, without confining its interpretation to the Federal Communications Act, overturned the 1928 Olmstead decision. In this important case, a Government agent used an electronic device to hear and record a subject's words in an adjoining telephone booth. The Supreme Court ruled that the subject had justifiably relied on the privacy of the phone booth and that even though the bugging device had not physically penetrated the wall, it constituted a "search and seizure" within the meaning of the Fourth Amendment.

But at the same time the Supreme Court in both the *Katz* case and another case, *Berger* v. *U.S.*, indicated that a wiretrap or other form of electronic surveillance could be constitutional if it followed the warrant procedure used in searches and seizures. This meant obtaining a court order after showing probable cause, and submitting to continual judicial supervision. These decisions reopened the legal use of wiretapping by law enforcement agencies, pointing the way to new legislation.

I have gone through this brief history of wiretapping to show, first, how confused the situation was before the 1968 act, and second, how the excessive objections to wiretapping rose and flourished in this country.

In any case, guided by the *Katz* and *Berger* decisions, Congress provided the wiretap provision in Title III of the Omnibus Crime Control and Safe Streets Act of 1968. It replaced the blanket prohibition against interception in the Federal Communications Act, and substituted a clear delineation between prohibition of private use on the one hand, and court-authorized use by law enforcement agencies on the other.

More specifically, Title III continued to prohibit wiretapping by private parties and spelled it out in more certain terms. For example, it outlawed the manufacture, distribution, possession and advertising of wiretap devices by private parties where the mails or interstate commerce are involved.

More important to our discussion here, Title III specifically permitted the controlled use of wiretapping by law enforcement authorities in certin heinous crimes that are associated with organized syndicates—murders, kidnaping, extortion, certain bribery offenses, narcotic offenses and others.

In doing so, Title III speicfied the due process of law required to control the use of wiretap in these criminal cases. These include securing a court order from a judge; showing probable cause; particilarizing the offenses under investigation and the type of conversations overheard; limiting the time period of the the surveillance; terminating the wiretap once the stated object is achieved; renewing the wiretap authorization only by showing a continued probable cause; showing that normal investigative procedures have been tried and failed or are too dangerous to be used; showing why the objective would be thwarted if the person to be overheard were notified of the wiretap; and finally reporting on the results of each wiretap.

In emergecny situations involving conspiratorial activities characteristic of organized crime, the Attorney General can authorize a wiretap without the due process I outlined. But in such cases a court order must be obtained within 48 hours. To date I have not found it necessary to exercise this power.

Now, these provisions are vital, for they follow the cherished American legal tradition in securing warrants in the related example of a house search. They give us the confidence that in using the wiretap under these limitations we are reaffirming the constitutional safeguards going back to the Bill of Rights. Our experience under this statutory grant of authority leads us to the conclusion that we need not apologize to the absolute civil libertarains.

In brief, the 1968 act gave law enforcement authorities a viable charter to use wiretap in a sparing and circumscribed manner.

I believe it is Constitutional. I believe it answers those who object to wiretap on grounds of the Fourth Amendment. I believe that its use by federal authorities is not only a right, but a duty. And I believe the same is true for other authorities in those states where wiretap is not outlawed.

Let's now examine the effects of the 1968 Act in terms of wiretap use and resulting arrests.

For the first half-year of its existence, the authority granted by Title III of the Act was not used at the federal level because the incumbent Administration refused to allow the filing of any application for court-authorized wiretap.

In 1969 the Nixon Administration came to office committed to use every legal weapon against organized crime. One of the first acts—in February 1969—was to authorize the filing of the first federal application for court-authorized wiretap under Title III.

I would like to contrast the positions of the two administrations, and I think you'll agree that if your lawmakers give you a tool for enforcement, you should use it.

As you know, the statute requires the filing of reports of wiretaps with Congress. The reports for the 1969 calendar year show that 30 federal wiretaps and 241 state wiretaps were authorized and executed. The eight states reporting were Arizona, Colorado, Florida, Georgia, Maryland, New Jersey, Rhode Island and New York. It shoud be noted that these reports were for calendar 1969; since then more states have availed themselves of the authorization of in Title III.

Do these 271 federal and state wiretaps represent an excessive use of this statute? The FBI's Uniform Crime Report Index for seven serious types of crime showed a total of nearly five million offenses in calendar 1969. While these seven crimes do not compare exactly with the crimes for which wiretapping is authorized, I think this gives an adequate order of magnitude for comparative purposes, and I hardly think the 271 federal and state wiretaps occurring last year in the United States constitute an abuse of the privilege.

Now, what about the results of this restrained use of wiretap?

The 30 federal wiretaps in calendar 1969 averaged 1,498 intercepts per individual tap. An average of 1,228 intercepts were incriminating. In other words, on the average, approximately 80 percent of the messages intercepted contained incriminating evidence. In one wiretap, 5,889 phone calls were intercepted and 5,594 were incriminating. In another, 17,690 calls were intercepted and 17,513 were incriminating.

I believe this shows conclusively that we have done our homework, that we were not on fishing expeditions, that we were pretty sure of our grounds when we asked for the court orders.

Next, let's look at the number of arrests and indictments resulting from these taps. Bearing in mind the 271 federal and state wiretaps executed, 625 arrests resulted. And the 30 federal wiretaps executed resulted in 139 arrests—an average of more than four arrests per tap. The two examples of federal wiretapping that I previously said had such high rates of incriminating phone calls resulted in 26 and 23 arrests, respectively.

Other examples—the total of four state wiretaps installed in Essex County, New Jersey, resulted in 13 arrests. In four counties in New York City, 109 wiretaps installed brought 166 arrests. One single wiretap in Henry County, Georgia, resulted in 27 arrests.

It was generally too early at the time of filing the 1969 reports to give data on convictions, but as a matter of interest, one wiretap in Bronx County, New York, resulted in 13 persons arrested and 13 convicted. The 1970 reports should help to fill in this total picture.

However, our own figures in the Department of Justice bring the story almost up to date for federal wiretapping since the filing of the 1969 report. From January 1969 to July 13, 1970, 133 federal wiretaps were authorized and installed—principally on gambling, narcotics and extortion offenses. Arrests resulted in all but 12 of these wiretaps. The arrests totaled 419, of which 325 resulted in indictments. Undoubtedly more arrests and indictments will result from the wiretap evidence of the January to July period.

Let me give some details of the specific cases made under these wiretappings. The first wiretap that I authorized in February 1969 resulted in the seizure of 124 pounds of heroin and the conviction of two defendants in a major international narcotics smuggling conspiracy.

In a recent narcotics investigation, wiretaps brought not only evidence of a substantial narcotics distribution scheme, but also evidence of other illegal activities, including the planning of a bank robbery and of a murder. As a result of this information, Federal agents were able to apprehend the bank robbery suspects. The combined efforts of Federal agents and local police also resulted in the prevention of the murder attempt and the arrests of the suspects by local authorities. Federal narcotics and robbery indictments have been returned in this case.

Another wiretap in an investigation of the theft of stolen bonds resulted in the arrest of several figures connected with organized crime on interstate theft charges and the recovery of half a million dollars' worth of bonds.

As a result of wiretaps, Federal agents recently conducted massive raids on approximately sixty locations involved in a large-scale interstate numbers operation. These raids brought the seizure of gambling records and paraphernalia as well as over $50,000 in cash. Indictments have been returned against more than 60 individuals involved in this organized numbers operation on Federal gambling charges.

Perhaps the most dramatic operation owing its success to wiretapping was what our Department called Operation Eagle—a six-month surveillance and final roundup of a major cocaine and heroin smuggling ring.

Before we ever applied for wiretap court orders, our undercover agents reached the point where further effort by normal means could not reveal the identities of all the major traffickers. In fact, at that point, some of our agents conducting normal surveillances were fired on by some of the subjects.

It was only then that we made application for wiretap court orders. Through the subsequent wiretaps we were able to get the evidence we needed to identify all the major

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traffickers in this ring and prepare for a large-scale roundup.

Armed with complaints and warrants obtained through this wiretap information, we used 350 special agents for simultaneous raids in 10 cities over a weekend in June 1970. We arrested 139 persons and seized large quantities of narcotics, firearms, automobiles and cash. Since that time we have made 27 additional arrests based on the same information, and we are seeking 33 fugitives. Altogether there are 199 named in complaints and indictments.

I believe the results shown in these figures and case histories speak for themselves.

Let me also emphasize that these are just some of many examples of wiretap success where there was no other way to get the evidence. Informants are, of course, very useful, but there are many instances where it is far too risky for informants to acquire evidence or testify in court. We can and do, however, install a wiretap on the basis of a tip from an informant. That is, the informant tells us what to look for and where, and we take over with the wiretap. I should add that such an informant must meet the Supreme Court's standard for reliability established in the case of *Spinelli* v. *United States*.

On the other side of the coin, we're pursuing a vigorous and effective program to enforce the prohibition against the private use of wiretap. Here are a few examples:

In November 1969 we secured a conviction against a party who had attempted to spy on the proceedings of the 1968 Democratic Platform Committee.

Early in 1970 we obtained a six-year prison sentence against a private detective in Salt Lake City for extensive wiretapping in connection with various divorce cases.

A few days ago we secured the conviction of a wiretap expert in Nevada for carrying an electronic surveillance device across state lines.

We have virtually completed an action against a West Coast electronics firm for the forfeiture of surveillance devices which it illegally possessed and advertised.

With this tightening of enforcement, we are finding that private detectives are coming forward to give us information that will prevent illegal wiretapping by competitors. The effectiveness of this enforcement program may be measured by the fact that complaints against private wiretapping have dropped to about one-third their former rate.

We believe it is our duty to be just as diligent in halting the illegal use of wiretap as in using authorized wiretap to combat organized crime. If this can be done at all levels of Government, we will go far toward removing fear of wiretap and establishing public respect for its proper use.

Today I have tried to show how the furor over wiretapping began and why it continues; how the 1968 Act answers the objections to wiretapping in Constitutional terms; and how wiretap is extremely useful—in fact, critical—in the war against organized crime.

Some of you are from states where authorized wiretapping is legal, and where it is being used to good effect. Others are from the majority of states that have not yet enacted legislation indicating the extent to which official interception under Title III will be permitted. Until appropriate parallel legislation is enacted in such states, I must emphasize that the federal requirements for official wiretapping make no exception for police action that is not properly authorized by state law conforming to Title III.

Certainly, in this period of intensive organized crime activity, we cannot afford to shun a method that is both effective and compatible with Constitutional law. As President Nixon told us in his Special Message to Congress last year:

"I must warn our citizens that the threat of organized crime cannot be tolerated any longer. It will not be eliminated by loud voices and good intentions. It will be eliminated by carefully conceived, well-funded and well executed action plans."

I submit, gentlemen, that court-authorized wiretapping is a key factor in such plans, that it has amply demonstrated its effectiveness and that it has won an appropriate place in the American legal structure.

Mitchell Says Wiretaps Have Been Productive

(By Ken W. Clawson)

Calling electronic surveillance the best weapon in fighting organized crime, Attorney General John N. Mitchell said yesterday federal wiretaps were used 133 times during the first 18 months of the Nixon administration and resulted in 419 arrests and 325 indictments.

Mitchell said 80 per cent of the messages intercepted by federal agents and by police in states that also permit wiretapping contained incriminating evidence.

"I believe this shows conclusively that we have done our homework, that we are not on fishing expeditions, that we were pretty sure of our ground when we asked for the court orders," the attorney general said in a speech before the International Association of Chiefs of Police in Atlantic City.

Mitchell characterized as unwarranted the fears that the 1968 federal wiretapping law would lead to an invasion of privacy and indiscriminate use of police power.

"I think you will agree that the only repression that has resulted is the repression of crime," he said.

Mitchell told the police chiefs that 30 federal wiretaps were authorized by courts in 1969 and 103 more through July 13 of this year. In most cases, he said, the wiretaps sought evidence in gambling, narcotics and extortion cases.

These wiretaps resulted in 419 arrests and 325 indictments, with only 12 of them failing to produce enough evidence to make arrests. Most of the messages intercepted by federal agents contained incriminating evidence, he added. In one wiretap, which was understood to involve a gambling operation, the attorney general said that of 17,690 calls intercepted, 17,513 of them were incriminating.

In addition, Mitchell said, police in the eight states where wiretapping was permitted last year used them 241 times. Most of the cases are pending in the courts.

STATES REPORT ON TAPS

States reporting wiretaps in 1969 were Arizona, Colorado, Florida, Georgia, Maryland, New Jersey, Rhode Island and New York. Since then, Massachusetts, Wisconsin, South Dakota, Nebraska and Minnesota have passed laws permitting wiretapping. Under the 1968 Omnibus Crime Control and Safe Streets Act, the states are required to report instances of electronic surveillance at the end of each year.

Mitchell urged the increasing use of wiretapping where it can fit the criteria of the 1968 act.

"I believe that its use by federal authorities is not only a right, but a duty. And I believe the same is true for other authorities in those states where wiretap is not outlawed."

The wiretap law was enacted by Congress in June, 1968, but then Attorney General Ramsey Clark refused to use it during the last six months of his tenure except in national security cases. Clark told Sen. John L. McClellan (D-Ark.) at the time of the law's passage that he had never seen a wiretap case that was efficient.

Wiretapping in non-national security cases was used prior to enactment of the law, but under questionable authority. The 1968 law required the following conditions to be satisfied before wiretapping:

Securing a court order from a judge; specifying the offenses under investigation and types of conversations to be overheard; limiting the time period of surveillance; ending the wiretap when the objective has been achieved; showing that normal investigative procedures had been tried and failed or were too dangerous to be used, and reporting the results of each wiretap.

Under new legislation proposed by President Nixon and expected to pass the House this week, wiretapping will be permitted in campus bombing cases. The proposed law would permit immediate federal intervention in bombings or threats of bombings.

The 1968 law specifically prohibited private use of wiretapping, and Mitchell said yesterday a person who tried to spy on the 1968 Democratic Platform Committee had been convicted under the law as well as other private wiretap experts.

Complaints against private eavesdropping have been reduced to two-thirds, he said.

Acknowledging that the Johnson administration would not permit wiretaps under the 1968 law, Mitchell said President Nixon is committed to "use every legal weapon against organized crime. If lawmakers give you a tool for enforcement purposes, you should use it."

One of his first acts as Attorney General was to wiretap an international narcotics smuggling operation. The result was the seizure of 124 pounds of heroin and the conviction of two defendants, he said.

In one recent wiretap in a narcotics investigation, the Attorney General said agents learned of a planned murder and bank robbery, both of which were prevented.

The most extensive use of federal wiretapping was in "Operation Eagle," a six-month surveillance that led up to raids in 10 cities last June. These raids yielded large quantities of narcotics, guns, cars and cash as well as the arrest of 139 persons and the subsequent arrest of 27 more.

On the state level, Mitchell said that four state wiretaps in Essex County, N.J., resulted in 13 arrests; four counties in New York installed 109 wiretaps and arrested 166 persons, and that a single wiretap in Henry County, Ga., resulted in 27 arrests.

THE FIGHT AGAINST CRIME

Mr. SCOTT. Mr. President, as a former assistant district attorney and presently as a member of the Senate Judiciary Subcommittee on Criminal Laws and Procedures, I have had the opportunity both to witness crime and its manifold effects and to hear, study, and take action on the enlightened views of this Nation's law enforcement and criminal justice officials.

In 1968, the Congress responded to the increasing problem of crime in our Nation by enacting the Omnibus Crime Control and Safe Streets Act, creating the Law Enforcement Assistance Administration. I am proud to have cosponsored and helped draft this important legislation.

This year, we are being asked to review the law enforcement assistance program and evaluate a group of amendments proposed to improve LEAA's effectiveness in reducing and preventing crime.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT

The Law Enforcement Assistance Administration—LEAA—was created by title I of the Omnibus Crime Control and Safe Streets Act of 1968. The LEAA has done a commendable job in its effort to provide assistance to local law enforcement for the purpose of improving our criminal justice system. A quote from the

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Judiciary Committee report states the role of LEAA in precise terms:

> Under the Act, LEAA's role was defined as that of a partner with State and local governments—to aid them in the reduction of crime and the improvement of the Nation's criminal justice system. Under this partnership concept, LEAA provides both financial and technical assistance to aid State and local governments in the improvement and modernization of their entire criminal justice systems—police, corrections, and courts.
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> LEAA is not, however, an enforcement agency—it conducts no investigations, makes no arrests, prosecutes no cases. The bulk of its budget is used for financial grants to State and local governments to help them improve each criminal justice component and to help them function together as a true system. LEAA awards planning grants to help support each State and its units of local government in drawing up comprehensive, State-wide plans for law enforcement and criminal justice improvement programs. LEAA awards annual action grants to each State for implementation of the improvement plans by local and State governments. LEAA awards grants and contracts for research and development to provide more effective equipment and techniques for all parts of the criminal justice system. LEAA provides funds for college studies by law enforcement and criminal justice personnel in an effort to bring greater professionalism to the system. Finally, LEAA provides technical assistance to State and local governments to help implement plans and projects, and to help make criminal justice agencies operate more efficiently.

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ACTION PROGRAMS

The action funds referred to above may be used for a variety of purposes: to improve training for police and corrections personnel, to purchase new equipment for police, to hire more police personnel, to improve anticrime patrols and techniques, to develop more effective crime prevention programs, to conduct programs to inform the public on steps they can take to enhance their safety, to improve police-community relations, to improve court systems for speedier and fairer processing of cases, to improve corrections programs for rehabilitation of inmates—and in particular the creation of community-based treatment programs as an alternative to confinement in institutions. In addition funds may be awarded for two priority areas—prevention and control of organized crime activities and prevention and control of riots and other violent civil disorders.

Although LEAA has done a great deal to create a workable system for providing the needed assistance to local law enforcement, I believe the committee bill will provide additional tools to aid LEAA in its role as the Federal partner in the joint enterprise to fight crime in the States, cities, and townships of our Nation. I support the Judiciary Committee bill and it is my sincere desire that before the funds authorized by this bill have been expended we will have accomplished our goal of decreasing crime in America.

PLANNING AND COORDINATING THE ATTACK ON CRIME

Our proposed revision of section 203(a) would make the State and local planning agencies representative of the general community, as well as law enforcement agencies, units of general local government and public agencies maintaining programs to reduce and control crime. This will not only result in better representation of all components of a given community, but will also give the planning agencies a better view of the scope of the law enforcement problems in their respective areas.

A second amendment would assure that major cities and counties would receive planning funds so that they may prepare local components of the State comprehensive plan.

A third amendment would authorize funding for the Criminal Justice Coordination Councils established by section 301(b)(8) of the House bill, to units of general local government or combinations of such units having a population of 250,000 or more. These Councils would provide improved coordination of all law enforcement activities, and the Senate amendment expresses the intent to concentrate this assistance in heavily populated areas which are the ones generally characterized by high law enforcement activity.

REGIONAL AND NATIONAL TRAINING PROGRAMS

I am also pleased to see that the House provision establishing section 407 to provide support for regional training programs has been retained. This provision authorizes the Law Enforcement Assistance Administration to develop and support regional and national training programs, workshops, and seminars to instruct State and local law enforcement personnel in improved methods of crime prevention and reduction and enforcement of the criminal law. Such training activities would supplement and improve, rather than supplant, the training activities of the State and units of general local government. Hopefully, this type of project will help focus attention on specific needs peculiar to individual regions, as well as providing a forum for different regions to exchange information.

TRAINING FOR ORGANIZED CRIME PROSECUTIONS

In addition, the Judiciary Committee has inserted a new section 408 authorizing the Law Enforcement Assistance Administration to establish and conduct a permanent training program for State and local organized crime prosecutors. The program would emphasize the development of new or improved approaches, techniques or devices to strengthen prosecutive capabilities against organized crime. I strongly support this provision.

MEETING PROBLEMS IN HIGH CRIME AREAS

Finally, I would particularly like to stress the importance of three of our amendments which will be of special value in reducing the burden of law enforcement on large urban centers. The first of these, which is embodied in section 303, would require the State plans to provide an "adequate share of the benefits of assistance to areas characterized by high law enforcement activity."

The House amendments have a similar provision; however, it requires that an adequate share of assistance, rather than its benefits, go to areas of high crime incidence as opposed to areas of high law enforcement activity. Areas with reported crime, high arrest activity, congested courts, and crowded corrections facilities clearly have a high level of law enforcement activity, and these are generally the large population centers. Under our version, there is more flexibility so that States could provide funds to county or State-run courts and correctional facilities where the benefits of such assistance would accrue to the benefit of the big cities. In many instances, this would be more beneficial than giving the money directly to cities which frequently do not control many aspects of law enforcement activity in their area.

Second, we have changed the current 75 percent pass-through figure which the State must provide to units of local government under section 303(2), to a flexible amount based on the percentage of non-Federal funds expended by such units for law enforcement in the previous fiscal year. This provision will undoubtedly benefit the big cities—they are afflicted with the highest amount of crime, have a commensurately high proportion of law enforcement activity, and deserve an equitable share of Federal assistance. If the local units in one State bear the burden of 90 percent of the law enforcement activity in that State, their assistance should not be limited to an arbitrary 75 percent. At the same time, if a State bears a larger portion of the law enforcement activity within its borders than do its cities, it should not be required to pass on 75 percent of the Federal funds. This provision will see that the money gets to the areas that need it—and that is a major step on the road to stopping crime.

Finally, and perhaps most significantly, we have amended the act to raise the level of Federal funding from 60 percent to 70 percent for a majority of action projects. The amendment will, therefore, reduce from 40 percent to 30 percent the amount of matching funds that States and units of local government must presently put forward. The reduced match requirements will aid all grantees, but will be a special boost to urban areas which are generally characterized by a low tax base and heavy law enforcement responsibilities. The committee amendment contains specific safeguards to guarantee that these additional Federal funds will, in fact, draw new State and local funds into the criminal justice system and avoid the real danger that Federal funds will merely replace State and local funds in financing the present system.

POLICEMAN'S LIFE INSURANCE PROGRAM

The policeman's job is increasingly complex and dangerous. Policemen deserve not only up-to-date training and equipment, but also up-to-date benefits.

Unfortunately, a very crucial benefit—adequate life insurance—is now denied many police officers. Police officers are often charged higher than average insurance premiums which they cannot afford and are often unable to obtain double indemnity protection. While many local communities are providing some insurance benefits to policemen, these benefits are usually extremely limited.

To remedy this situation, the committee amendment establishes a new law enforcement group life insurance program to provide local police officers injured or killed in the course of preventing Federal crimes, with a federally subsidized low-cost insurance plan.

This proposal would not only provide direct financial assistance and enhancement of the professional stature of our police, but would demonstrate the great debt owned by the Federal Government to State and local law enforcement officials for assisting Federal law enforcement efforts.

The proposed insurance plan would be written by private life insurance companies, and, where State and local plans were already in effect, would subsidize the existing insurance. This measure is vital to filling some of the gaps in the Federal Government's efforts to aid in local crime prevention and control.

The proposal in no way involves the Federal Government in the supervision or control of State and local police agencies. The Federal Government merely arranges for the establishment of the group policy, propounds the rules and regulations for its implementation and arranges for the collection of premiums.

The proposal has the endorsement of the International Association of Chiefs of Police and of numerous law enforcement organizations and individual officers.

This amendment was approved by a one-vote margin in committee and I am extremely pleased that I cast the deciding vote for this much needed provision.

GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

Section 6(a) of the bill reported by the Senate Judiciary Committee amends title I of the Omnibus Crime Control and Safe Streets Act of 1968 by adding a new part E entitled "Grants for Correctional Institutions and Facilities."

The so-called correctional institutions of the country—the jails, juvenile detention facilities, and prisons—have been grossly neglected for generations. Because of the years of neglect, failure to replace outmoded facilities or build new facilities where they are needed, a staggering requirement for construction has accumulated.

Most States, counties, and communities in the country simply cannot afford to finance new facilities. In order to get the job done, the Federal Government must provide financial assistance on a massive scale.

The grant program established under this section is designed to encourage States and units of general local government to develop and implement programs and projects for the construction, acquisition, and renovation of correctional institutions and facilities, and for the improvement of correctional programs and practices.

In order to receive funds under this section, States and units of local government must meet several criteria designed to assure forward-looking and meaningful action in the corrections area. Specifically, part E, section 453, subsection (4) requires that the State plans provide satisfactory emphasis on the development and operation of community-based correctional facilities and programs, including diagnostic services, halfway houses, probation, and other supervisory release programs for readjudication and postadjudication referral of delinquents, youthful offenders, and first offenders, and community-oriented programs for the supervision of parolees.

Subsection (5) requires that the State plan provide for advanced techniques in the design of institutions and facilities.

Subsection (6) requires the State plan to provide, where feasible and desirable, for the sharing of correctional institutions and facilities on a regional basis. Today, many States are too small to make special provision for such special types of offenders as juveniles, women, the mentally ill, the sexual deviant, the long termers, and the violence-prone. This provision would require States sharing this problem to cooperate in the development of multi-State arrangements for the care and treatment of such offenders.

Subsection (7) requires that the State plan provide satisfactory assurances that the personnel standards and programs of correctional institutions and facilities reflect advanced practices. New facilities would be largely wasted unless they are staffed with qualified, well trained, and adequately paid personnel. The personnel standards to be observed, therefore, are essential to the improvement of corrections.

Subsection (8) requires that the State plan provide satisfactory assurances that the State is engaging in projects and programs to improve the recruiting, organization, training, and education of personnel employed in correctional activities including those of probation, parole, and rehabilitation.

LAW ENFORCEMENT EDUCATION GRANTS

At the present time, the Law Enforcement Assistant Administration is authorized to make grants to colleges and universities for programs of academic assistance to improve and strengthen law enforcement. Such grants are for loans and grants for persons enrolled in law enforcement studies—either persons already employed in law enforcement, or students desiring to pursue law enforcement careers.

The Senate Judiciary Committee has added two important provisions. The first would authorize LEAA to make loans and grants for persons employed or preparing for employment as full-time teachers of courses related to law enforcement. This would enable LEAA to help to relieve the present short supply of qualified teachers to staff the new and developing law enforcement degree programs.

The other would authorize LEAA to make grants to develop and revise programs of law enforcement education and to develop curriculum materials, so that LEAA can exercise national leadership in this important area.

BENEFITS TO PENNSYLVANIA

Mr. President, I would like to take note of the financial benefits which have gone to the State of Pennsylvania in the first 2 years of funding of the law enforcement assistance program. In fiscal year 1969, $2,816,789 in LEAA funds were awarded in Pennsylvania. In fiscal year 1970, the following totals were awarded in Pennsylvania: Planning funds—$998,000; action grants—$10,591,000; discretionary grants—$903,097; national institute grants—research—$261,244; academic assistance—college student loans and grants—$826,256; and, technical assistance—$50,000, for a total of $13,629,597. In fiscal year 1971, Pennsylvania will probably receive $20,993,000 for planning and action grants to carry on its programs under the Omnibus Crime Control and Safe Streets Act. This amount is more than seven times the total received by the State in 1969.

Mr. President, without the authorization contained in H.R. 17825, Pennsylvania would not receive this $20 million nor would the other States receive the assistance they need.

ACTION NEEDED NOW

I am convinced that the Senate bill is a good bill. This measure will extend a wide range of new assistance to the cities and towns without jeopardizing local independence. It will improve a program which has already been of significant benefit to my State. I am pleased to express my support for H.R. 17825 as amended by the Senate Judiciary Committee, and I urge my colleagues to support it. The need for prompt action is clear.

Mr. PEARSON. Mr. President, I would like to express my support of H.R. 17825, the bill to amend the Omnibus Crime Control and Safe Streets Act of 1968. Certainly, the serious rise in the increase and rate of crime in the United States provides ample need for the continuation and expansion of programs under this law.

This law established the Law Enforcement Assistance Administration in the Department of Justice to assist State and local governments in controlling crime and improving the quality of criminal justice. Experience in administering this agency has shown the need for some revisions in the law and these amendments would provide needed improvements.

H.R. 17825 authorizes appropriations for the LEAA for the next 3 fiscal years and revises the administrative management of the LEAA. The Senate bill, in defined areas on a showing of need, relaxes the matching requirements for discretionary and block grants and relaxes certain of the restrictions on the use of grand funds for salaries. This bill before us now also authorizes waivers of the mandatory requirement that specified percentages of State planning funds be made available to local units and revises the provisions under which a part of each State's block action grant must be made available to local units. Also important is the fact that the Senate version provides that each State must allocate an adequate share of the benefits of title I block grant funds to areas characterized by high law enforcement activity.

Mr. President, the Senate bill also adds three other important provisions to the act, one of which originated in the House version of H.R. 17825. This House provision, also incorporated in the Senate bill, is one which would establish a new

XUM

program for the construction, acquisition, and renovation of correctional facilities and programs. The Senate bill makes several important changes in the House provision in this regard, the most significant of which is this: Rather than the House version of allocating 50 percent of correctional funds for block grants to States and 50 percent for discretionary grants to States or to local units, the bill before us today would allocate 85 percent of such funds for block grants to States according to population and 15 percent for discretionary grants. This change, in my opinion, assures the proper relationship between the new program and the existing block grant efforts.

Two completely new provisions added by the Senate bill are these:

First. The establishment of a federally subsidized plan of low-cost life insurance for certain State and local law enforcement officers, patterned on the servicemen's group life insurance program, and to be underwritten by private life insurance companies. The policeman's job is increasingly complex and dangerous and I believe, along with the Senate Judiciary Committee, that policemen deserve not only up-to-date training and equipment but also up-to-date benefits. Adequate life insurance is now denied many police officers and they are often charged higher than average insurance premiums which they cannot afford. Also, they are often unable to obtain double indemnity protection. While many local communities are providing some insurance benefits to policemen, these benefits are usually extremely limited.

Second. The provision for an overall Attorney General's annual report on Federal law enforcement and criminal justice assistance activities, which would bring together information from crime control and related programs throughout the Government. This is the only way to assure that all Federal programs are closely coordinated, fully operative, and properly funded.

I am in complete accordance with these two new provisions added by the Senate Judiciary Committee.

Mr. President, we feel that the LEAA has been a great boon to law enforcement in the State of Kansas. There have been some problems involved, as there naturally are when a new program is being worked out. However, I feel that H.R. 17825 goes a long way toward resolving many of these problems.

The Crime Commission in 1967 concluded that every part of the criminal justice system is undernourished:

> There is too little manpower and what there is is not well enough trained or well enough paid. Facilities and equipment are inadequate. Research programs that could lead to greater knowledge about crime and justice, and therefore to more effective operations, are almost non-existent. To lament the increase in crime and at the same time to starve the agencies of law enforcement and justice is to whistle in the wind.

The 90th Congress took these words seriously and initiated a full-scale Federal assistance program aimed at improving all aspects of State and local law enforcement and criminal justice. The bill before us today is an extension and, in some aspects, a refinement of that program. I urge its passage by the Senate.

The PRESIDING OFFICER. The bill is open to amendment.

AMENDMENTS NO. 1019

Mr. SPONG. I call up my amendments No. 1019.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read the amendments, as follows:

AMENDMENTS NO. 1019

> On page 19, line 11, strike the word "At" and insert in lieu thereof the words "Effective July 1, 1971, at".
>
> On page 19, line 13, before the word "for" insert the words "in the aggregate, by State or individual unit of government,".
>
> On page 22, line 19, strike the word "At" and insert in lieu thereof the words "Effective July 1, 1972, at".
>
> On page 22, line 22, before the word "for" insert the words "in the aggregate, by States or individual unit of government,".

Mr. SPONG. Mr. President, this amendment seeks to achieve two purposes—to delay the effective date of the half-hard-match provision until the start of the fiscal year 1973 and to clarify the intent of existing language to assure that a single appropriation at the State level and at the individual local government level will meet the requirements of the new matching rules of H.R. 17825.

It is important that these changes in the text of the committee bill be made, and I understand that they are acceptable to the committee. Although Congress continues to struggle with the fiscal year 1971 budget, State and local governments already have their budgets set. Passage of the new hard-match requirement, unless its effective date is postponed, could result in mandating special sessions of legislative bodies or throwing a number of States into technical default under the statute. It is important that States demonstrate their willingness to allocate new moneys to crime programs as a condition of receiving increased Federal assistance, but I am sure that all will agree that there is no necessity to make this requirement so difficult to meet that the overall objectives of the bill might be frustrated.

The second aspect of the amendment clarifies an intention that I am sure all would concede is already implicit in the committee bill. What is needed is a commitment of new moneys to crime control programs in the aggregate, not to specific programs. There is no need to require that the local legislative processes appropriate on a line basis for each project. Aggregate appropriations by State or unit of local government is administratively more workable than line appropriations. The number of individual projects undertaken yearly with LEAA funds is already over 5,000. It is estimated that the number may pass 10,000 this year, which is an average of 200 per State. It will be helpful if the language of the bill does not lend itself to a construction that might impede the administrative flexibility of State and local planning agencies.

Mr. HRUSKA. Mr. President, the managers of the bill and the members of the committee have coordinated their efforts in support of this amendment. They believe it is a meritorious amendment, one that lies well in the present situation, and we are happy to inform the Senator from Virginia that we are ready to accept it.

Mr. SPONG. I thank the Senator from Nebraska.

I ask unanimous consent that the name of the Senator from Indiana (Mr. HARTKE) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendments of the Senator from Virginia.

The amendments were agreed to.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. SPONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NO. 983

Mr. CRANSTON. Mr. President, I call up my amendments, No. 983.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read the amendments, as follows:

> By adding the following subparagraph to paragraph 402(b):
>
> "(8) to carry out research on and testing of nonlethal weapons and police protective equipment."
>
> On page 14, line 5, after the period insert the following new sentence: "Of the sums appropriated for fiscal year ending June 30, 1971, by the first sentence of this section not less than $5,000,000 shall be expended for the purposes set forth in paragraph (9) of section 402(b)(8).

Mr. CRANSTON. Mr. President, I ask unanimous consent that the RECORD reflect that the following Senators are cosponsors of the amendment: BENNETT, GOODELL, HART, PELL, SCHWEIKER, TYDINGS, and WILLIAMS of New Jersey.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, the Federal Bureau of Investigation recently announced that crime in the United United States increased 11 percent during the past 6 months. The continual increase in crime in this country must be stopped. Americans have the right to walk the streets, by day or night, in peace and confidence.

They have the right to be secure in their homes. They have the right to run their businesses without fear of harmful interference by outsiders.

Our democratic traditions of freedom, diversity, and individualism cannot survive in a climate of disorder and violence. While it is urgent that we root out the basic causes of crime and civic disruption, it is equally urgent that we devise better ways of controlling their consequences.

At the very time when we are most in need of professional police protection and of attracting qualified police officers, the policeman's life has become more burdensome and unduly hazardous. His very reason for existence is being challenged by anarchists in the streets and killers on the rooftops.

Many policemen feel they are being asked to do a monumental job for which

XUM

they have not been adequately trained or equipped. And when the task is larger than the capacity, the result is often frustration and low morale. To retain the best officers and recruit the best men in the future, we must offer policemen better pay, better training and better equipment so they can protect themselves and innocent bystanders, and do a more effective job of law enforcement and criminal apprehension. It is the size of the task and the recommitment of adequate resources on which we must concentrate.

Only the Federal Government is in a position to provide the necessary funds and coordination. We must close the technological and training gap that handicaps good law enforcement. We should give our defense and aerospace industries, which have done such an outstanding job in developing equipment, the opportunity to use their ingenuity in helping our law enforcement people. They need such help desperately.

When I was campaigning for the Senate in 1968, I made it a practice to talk with police chiefs, sheriffs, and district attorneys throughout California as I traveled the State, and I received many ideas from them that I have since been planning to implement, relating to the amendment I have now called up and one more amendment which I shall call up.

Furthermore, early this year I sent a questionnaire to every chief of police, sheriff, and district attorney in California, asking them some specific questions about their problems, about help which they feel might be rendered through the Federal Government, and about the working of LEAA. I received back some very illuminating responses that have led to the two amendments I am offering.

The first amendment deals with providing research funds, for research in police protective equipment and in the research, development, and testing of nonlethal weapons for use in law enforcement in our country.

Just a week ago last Saturday, the National Advisory Commission on Civil Disorders issued its report. That report stated, in part:

> After the disorders of 1967, the National Advisory Commission on Civil Disorders urged that the government undertake a crash program of research to develop improved non-lethal weapons. Nothing much has come of this research and recommendation. The need for something more effective than tear gas and less deadly than bullets is greater than ever before. We recommend that the federal government actively continue its research to develop nonlethal control devices for use in campus and civil disorders.

Obviously, this is also needed for simple, straight law enforcement activities in the streets of our cities.

Since the 1967 Advisory Commission Report, there have been only two federally financed projects for research and testing of nonlethal weapons and police protective equipment. While $15 million has been spent by the LEAA Institute for law enforcement related research, only 1 percent of that amount, $150,000, has been spent for research and testing of nonlethal weapons and police protective equipment. Even if we add to this, the $300,000 spent by the Department of Defense for nonlethal weapons research, the grand total of only $450,000 has been spent on this needed research and development since 1967. We cannot delay any longer. Delay in developing protective equipment has cost the lives of police officers. Delay in developing nonlethal weapons has cost the lives of innocent citizens and has deprived police of alternatives, and perhaps more effective ways of combating crime and civil disorder. More rapid progress must be made in developing nonlethal weapons if police are to fulfill their fundamental responsibility of safeguarding the rights and lives of peaceful protestors while protecting the lives and property of those they are protesting against.

Police departments are often limited to a choice of using too much or too little force in their law enforcement efforts.

The National Advisory Committee stated:

> Our police departments today require a middle range of physical force with which to restrain and control illegal behavior more humanely and more effectively.

An examination of crime prevention problems encountered by police substantiates that conclusion. Too often a policeman is confronted with the terrible choice of either firing at a fugitive, and risking hitting an innocent bystander, or letting the suspect get away. Let us help the police to devise, invent, discover nonlethal means of stopping an escaping suspect. Let us concentrate more of our know-how on improved police techniques.

Nonlethal weapons must also be developed to control civil disorders and campus unrest. When a crowd on the move throws rocks at buildings and commits other acts of vandalism, police departments do not possess the nonlethal alternatives to control the disorder. And no less an authority than the FBI says the best way of controlling mobs is by nonlethal rather than lethal means. The FBI manual points out that:

> The basic rule, when applying force, is to use only the minimum force necessary to effectively control the situation. Unwarranted application of force will incite the mob to further violence, as well as kindle seeds of resentment for police that, in turn, could cause a riot to recur. Ill-advised or excessive use of force will not only result in charges of police brutality but also may prolong the disturbances.

As the FBI manual indicates, if lethal weapons are used to control the crowd of vandals, resentment might prolong or enlarge the disturbance or cause it to recur at some later date. Inaction by the police, however, would leave unchecked the destruction of property owned by innocent citizens.

A parallel dilemma arises where police have to risk taking human lives in order to protect someone's private property. No matter how much we value property, it must never be placed on a par—let alone above—the value of human life. And it is unfair to the police to put them into the kind of bind where they must choose between shooting protestors or letting them stone a building. Nonlethal weapons must be devised to provide solutions to these dilemmas.

Police departments in California faced with the kinds of dilemmas described above have urged me to propose legislation to foster research and development of nonlethal weapons. The chief of police of Berkeley, Calif., wrote me that one of the areas most in need of Federal research is the development of nonlethal weapons. We have an obligation to respond to the request of these police forces.

It is also necessary for the Congress to appropriate funds for the development and testing of police protective equipment. Every policeman must be provided with equipment to protect him from injury in the performance of his duties. Concrete, glass, and metal pipes are often thrown at police officers during civil disorders. There have been all too many incidents like one in California last year when a brick thrown by a protestor at San Francisco State College struck and killed a police officer. This tragic and untimely death of a young policeman and father, like the tragic deaths of students at Kent State this past spring must be averted in the future. We have a duty to provide the policeman who safeguards our society adequate protective equipment to safeguard his life. We have a duty to develop nonlethal weapons to prevent future Kent States.

There have been only two federally financed projects which have done research and testing of nonlethal weapons and police protective equipment. The report of the first study, made by the Army's Land Warfare Laboratory, was issued in May of this year. The second study is currently being conducted by the International Association of Chiefs of Police. The Army study broadly outlined specifications needed in nonlethal weapons and protective equipment, and evaluated available equipment against the specifications. At the conclusion of the study, the Army recommended that the more comprehensive research be undertaken to further define specifications and perform field tests of available equipment. The Army report was then turned over to the LEAA for followup.

Officials of the Land Warfare Laboratory, private contractors who did the subcontract studies for the laboratory, the International Association of Chiefs of Police and the LEAS estimated that it would take $5 million to complete followup studies. Only $150,000 has been granted by the LEAA for the followup. We cannot continue research in this vitally important area at this snail's pace. The amendment I am introducing will, for the first time, earmark funds for research and testing of nonlethal weapons and police protective equipment, and in sufficient amounts to do the job. Because of the urgency of the situation, I am proposing a crash program which authorizes an expenditure of $5 million for research and testing of nonlethal weapons and police protective equipment in fiscal 1971. This amendment provides sufficient funds to complete that research within the coming year so we can get on with the important task of production and purchase.

In the coming session of Congress I intend to introduce legislation which will

XUM

authorize expenditures for the development of nonlethal weapons and protective equipment by private industry. Where development is completed, it will still be necessary to make it economically feasible for police departments to purchase this sophisticated equipment. Production will not take place unless manufacturers are assured that there is a market. Our local communities and their police departments need Federal help to make these purchases. The skyrocketing property tax and other sources of revenue are simply not visible to produce the needed funds. The legislation I will introduce in the coming session will make provision for these purchases.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Is the bill open to amendment?

Mr. CRANSTON. I have an amendment pending at the present time.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. McCLELLAN. I had to be absent from the Chamber for a moment. Which amendment is it that the Senator has pending?

Mr. CRANSTON. The one on nonlethal weapons and police protective equipment, No. 983.

Mr. McCLELLAN. Yes. Mr. President, I understand that the Senator has two or three amendments, this one and probably another one or two, that I might say at the outset appear to have some merit. They are amendments that are beyond the scope and purpose of this bill, but they are amendments that can and should, at the proper time, be considered and possibly agreed to.

However, we have had no hearings on these particular proposals. As to the amendment with respect to the $5 million for research on weapons, there is money in this bill for research. Money is authorized for that purpose, and any of it that the agency thinks should be so applied may be used for that purpose.

I commend the Senator for the other amendments he has in mind and I want to say to him that this is not opposition. This is not an expression of opposition to the merits of these proposals. It is simply saying, as I said a moment ago, Mr. President, that we could load this bill down and get this agency trying to do more than it should be undertaking to do until it gains some experience in this field.

I hope that our colleagues will go along with the Committee on the Judiciary. We have gone over this bill; we had votes on it in the committee; we produced it in a way that we think is a decided improvement over the House bill; and I am hoping that we will not burden the conference with a lot of amendments that will make our job more difficult in trying to get the best bill possible out of this.

I would say to the Senator that this proposal and the others I understand he has in mind are proposals that are in line. I would say that they are within the scope of what our Committee on the Judiciary, and particularly the Subcommittee on Criminal Laws and Procedures of which I am chairman, handles. These proposals will receive attention either next year or the next when we consider further amendments to this bill; and my judgment is, I say in all candor, that as we gain experience with the administration of this act, from time to time we are going to come in with amendments to broaden the powers, broaden the scope, and increase the responsibilities of the administrators of this act.

We are moving with some caution. We want our money to be productive. We could, I think, try to move too fast before we get this program well organized and functioning as it should function. I repeat that we must move with caution in order that the program give the service and produce the results that we are anticipating it will produce. I have every confidence that it will.

I have every faith that this agency, this program, this law, are going to do immeasurable good. I said on the floor of the Senate when we passed the bill some 2 years ago that this was an experiment, and we would have to move gradually and take 4, 5, or 6 years before we actually began to see the fruits of it. That is true; and I hope we can keep this matter in proper perspective and move as we gain the experience. As that experience dictates, we should expand and increase the operations in this field of activity.

I hope the Senator will appreciate this. I am in sympathy with what he is trying to do. I have said over and over, and I reiterate again, I think the responsibility is on us today, in view of the conditions that prevail, to fashion every weapon that it is possible to fashion within the framework of the Constitution, and to make those weapons and the necessary funding available to our law enforcement officials and agencies, to the end that we may more efficiently and successfully combat the crime that prevails in this country today.

I commend the Senator. I know he supports this legislation, and we will support it. We want him to be patient with us, keep these matters before us, and let them have the proper hearings, and let the committee take action on them. Then, I urge the Senator to bring them in here in due time, Mr. President, so that we can keep this program intact and keep it growing in strength and effectiveness.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. HRUSKA. Mr. President, I should like to associate myself with the remarks of the Senator from Arkansas.

This is a far-reaching and very vast program. It is going to take a long while to season and to mature. Many meritorious suggestions have come to the committee from time to time, and I think they will continue to come as we go along. But it would be well for this revised and revamped State and local law enforcement pattern which has made its appearance in the Nation, in almost miraculous fashion, by reason of the establishment of a crime program in each of the 50 States, to level off. When that has leveled off a little and we can get our bearings on it, we will be able to consider new ideas and good ideas, constructive ideas, such as those that obviously inhere in the amendments suggested and proposed by the Senator from California.

I think these amendments are in the class of a number of potential improvements that can be and in due time will be considered. The subcommittee, I am sure, will be happy to consider them and will welcome hearings on them. But it would be well at this time if we would adhere to the admonitions of the chairman of our subcommittee on this subject, that we not overburden the bill at this time.

I thank the Senator for yielding.

Mr. CRANSTON. Mr. President, I thank the two Senators who have provided the leadership on this bill for their generous remarks about the efforts I am making to do what I think would strengthen the proposed legislation.

I recognize the difficulties in overburdening members of this new agency with too many responsibilities before they have mastered their original responsibilities, and apparently they have not yet done that. I know that there is great confusion in the administration of this law in the States, that the cities feel cut off from the assistance they would like to have come directly to them; and I know that those responsible for law enforcement locally are gravely concerned about delay, about commission after commission after commission making study after study after study, with action still not being taken.

I am concerned that, although substantial appropriations are suggested in the proposed legislation, the money that is proposed would be divided among a number of the different divisions of the LEAA Institute; and I understand that no more than $200,000 is budgeted for nonlethal weapons research under the present proposals. Nonetheless, I recognize the validity of the statements made by the Senator from Arkansas and the Senator from Nebraska. With their assurances that both amendments—with one relating to nonlethal weapons, which I have called up, and the one relating to education and training which I have intended to call up—will be given serious consideration, that there will be an opportunity for suggestions along these lines to be considered in the next session of Congress, along with hearings where there will be an opportunity to develop the case for them, and with high hopes that we will be able to move effectively and swiftly in the next session, I withdraw my amendment and will not offer the other amendment at this time.

Mr. McCLELLAN. Mr. President, I thank the distinguished Senator from California for his cooperation. I extend to him now an invitation to participate in our next hearings and bring these amendments and these proposals before us at that time, so that the committee may consider them and give credit to him, as the originator of the idea.

Mr. CRANSTON. I thank the Senator.

The PRESIDING OFFICER. The amendment of the Senator from California is withdrawn.

The bill is open to further amendment.

AMENDMENT NO. 1037

Mr. HART. Mr. President, I call up Amendment No. 1037.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

> On page 21, line 17, strike "Eighty-five per centum" and insert in lieu thereof "Sixty-six and two-thirds per centum," and on line 23, strike "Fifteen per centum" and insert in lieu thereof "Thirty-three and one-third per centum."

Mr. HART. Mr. President, if I could have the attention of the able chairman of the committee and the manager of the bill, I would suggest proceeding this way, in view of the hour and some unexpected time that has been consumed during the afternoon: namely, that he permit me to make a statement in support of this amendment and include in that statement reference to an amendment which I would call up immediately following the disposition of this one; namely, No. 1036. I think the two are related for purposes of discussion. When the discussion concludes, perhaps we will be in a position to vote rather promptly on both of them, without delay. This is not intended to inhibit any Senator's discussion at any point, but I thought I would outline to the chairman that approach and that, if he does not object, I would pursue it.

Mr. President, as a Member proud to serve on the Judiciary Committee, and equally proud of my membership on the Subcommittee on Criminal Laws and Procedure, which is chaired by the Senator from Arkansas, I rise, first, to commend the Senator from Arkansas and his subcommittee staff for the efforts they have made to provide improvements in the Safe Streets Act—efforts that go beyond that, to insure that this essential program is authorized for an additional 3 years.

I am going to make two suggestions which I believe, if adopted, would further improve the effort.

Some changes that have been reported by the committee delete provisions in the House-passed version and add new provisions. Some of these actions, I think, are not sound; and while I would not intend to raise them at this point, perhaps in conference there can be a resolution or personal accommodation to those concerns which some members of the committee discussed and set out in the separate views which are a part of the report. I believe that the two points on which I do propose amendments are most critical.

I think the adoption of these amendments would zero in more effectively than the existing formula on those areas about which we are really worried. The targets of the war on crime should be those areas which show up on the national map as having the highest incidence of crime.

The first amendment, the one that is pending, would increase the money available for discretionary grants from the Law Enforcement Assistance Administration directly to local agencies, directly to those places where the overlay on the map shows the real crime to be. It would enable the LEAA to give additional support to law enforcement and criminal justice needs in the high crime urban areas of this country. Perhaps there are people who are afraid to walk the streets in their neighborhoods in the small, rural towns of this country. But in percentage they are vastly fewer than those of us who have the same fear after dark in walking the streets of our neighborhood in the big cities. When the public listens to us make these speeches about fighting crime, they hope we have in mind that kind of crime, and I hope we have it in mind, too. It is for that purpose I offer the first amendment.

The second amendment, briefly, would increase the overall authorization for the safe streets program to the level recommended by the committee. This is a money authorization amendment, pure and simple.

For fiscal 1971, the amendment would authorize $1 billion. The committee bill authorizes $650 million, the same figure as the House authorization.

The second amendment would authorize $1.5 billion and $2 billion in fiscal years 1972 and 1973. The bill authorizes lesser sums—$1.15 billion and $1.75 billion for these 2 years.

It is pretty hard to move around either here or in any State legislature, I expect, without running into someone who does not have a crime bill. There is a great deal of crime legislation under consideration these days. That is understandable. Crime and the fear of crime is perhaps the most urgent problem of our society.

But, for a moment, let us stand back and seek to take a little perspective on the problem. Even if almost every one of the bills that people run around with and talk with and talk about were to become law today, the unhappy unlikelihood is that they would not make much of a major dent in the raging crime wave in the cities because—and this is a harsh but sad truth—the system of criminal justice has broken down.

All of us have read—those of us permitted to serve on various commissions, as I was permitted to serve on the Commission on Violence and have written about it—that it is not just a shortage of policemen, it is not just the desire that the police be better trained, but the whole business of clogged court calendars, and the interminable delays between indictment and disposition of cases. There is also a tragic shortage of probation and parole personnel. One of the longstanding offenses against civilization that we have permitted to go on is the so-called correctional institutions in this country—which are graduate schools for criminals and scarcely a source of rehabilitation. They are mostly revolving doors. The whole sweep of those activities in our system of criminal justice has broken down, not for lack of will, not because of venality or any other things that occasionally we assign to it; but simply a failure on our part to allocate to the whole system the resources which its critical importance to our survival requires.

Now the Crime Commission's findings, which the Commission on the Causes of Violence made, referred to in its report on page 153, alerted us to this some years ago. The Violence Commission says:

> Too little attention has been paid to the Crime Commission's findings that the entire criminal justice system, Federal, State, and local, including all police, all courts, and all corrections, is under-financed, receiving less than 2 percent of all government expenditures. On this entire system, we spend less each year than we do on Federal agricultural programs and little more than we do on the space program.

That is speaking of every level of every aspect of the system of criminal jurisprudence, all the Federal spending, all the spending in the 50 States, and all the local spending, whether it be county sheriff, the city jail, a juvenile home—the whole kit and caboodle there—to all the courts, Federal, State, and local—we allocate that rather modest percentage of our total resources, about what we spend for space. So a little more than on the Federal agricultural programs. It is that sort of thing that disturbs not just the youth of this country but others as well and make them demand that we get our priorities reordered.

That is the purpose of these amendments, to try to reorder the allocation of some of our resources to what all of us in our speeches say we are committed to; namely, all-out war and total victory over crime.

The Violence Commission reminds us that the Crime Commission's caution was simply a repeat of the Wickersham Commission of some 30 to 40 years ago. The recommendations of those two commissions, so far as our responses to them are concerned, could have been described as not having been listened to very well. We are all guilty of that. It does not make sense to spend $70 billion a year to guard our interests around the globe from potential enemies, when we spend not more than $6 billion a year here at home on this whole system of criminal jurisprudence. We can make a pretty good case, without being a radical, that safe streets are more important to us than space ships, subsidies to special interests.

Mr. President, it is understandable that people would hope there is some quick and cheap way to respond to the crime threat. There is not. Loud law-and-order speeches will not reduce the epidemic of crime. They will not intimidate, so far as I am aware, one single criminal. Most important, they will not get the cities of the country—your cities and mine, Mr. President—the manpower, the equipment, and the programs so desperately needed to strengthen law enforcement.

Unless we supply resources, and not simply rhetoric and peripheral measures, we are not fighting crime. Moreover, after several years, we can suggest that the present funding level of the safe streets program has been misspent. I know that is 20-20 hindsight, and our own family budgets can show that about our spending programs year after year, but it is not surprising that we can say

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that about some Federal programs. But the fact remains, that the major metropolitan areas, where we find the bulk of violent crime, have not managed to get their fair share under the existing pattern.

We had testimony to this in misallocation congressional hearings from city officials and urban groups from every part of the Nation. I have every confidence that there are examples of what I am talking about in perhaps every State—certainly most States.

A recent study by the Intergovernmental Relations Council showed that in 33 States the five largest cities had received a share of financial assistance significantly below their burden of the crime in their States. We are told that the States are rectifying these inequities in the allocation of block grant funds under the program, but we should not wait for adjustment over the next few years in the distributive channels. I think we are agreed that crime is a crisis in the city streets now.

The other source of funds for high crime areas is the discretionary grant program under the LEAA, making direct aid to city programs. However, only 15 percent of the action funds are now available for such discretionary grants. In fiscal 1970, this meant that LEAA disposed of some $33 million and was able to allocate $10 million of that for special aid to large cities having high crime rates. That is $10 million, when our Nation's 43 largest cities spent almost a billion and a half dollars on criminal justice in 1969.

Detroit's criminal justice budget alone is $83 million for fiscal 1970.

My proposal would increase the discretionary grant share of the action funds available under part C of the Safe Streets Act from the present 15 percent to 33⅓ percent. That is the proposal contained in the amendment now pending. Incidentally, the able junior Senator from Massachusetts (Mr. BROOKE) urged this formula in 1968, when the law was first enacted. The Senate rejected that proposal. I think the several years of operating experience have shown the wisdom of the suggestion then made by the Senator from Massachusetts.

I think it is clear that still more is needed for LEAA's direct assistance in high crime areas. No one is suggesting that we ignore the desirability of comprehensive State planning or that we dismiss the crime problems of our rural areas and smaller communities. With substantially increased funding for the safe streets program, which is the proposition I shall offer in a second amendment, the present distribution of the funds by the States to localities, as well as statewide programs and planning, could continue at present levels.

At the same time discretionary funds would be available for expanding intensive programs in high crime areas to reform courts, control drug-related crime, and improve police protection.

With the higher authorization levels I propose, not only would the block grant program be continued undiminished, but States would actually receive more block grant money under my two amendments than they would under the present 85-percent allocation to the block grant program at the funding levels recommended by the committee bill.

Specifically, with regard to the second amendment that I shall call up, Mr. President, it calls for $1 billion more than the committee bill over the next 3 years, or an average increase of slightly more than $300 million a year. If we are serious about making crime our No. 1 priority, surely that is not too much to spend on the main concern of most Americans. It would not be too much to set as a target, available if the careful appropriation process identifies it as an expenditure which can be prudently made within the existing structure and experience.

We do not need more studies. We know where the problem is. We know the basic needs. And we know basic programs which work and which already have been funded in the cities by the LEAA, but in pitifully small amounts.

Mr. President, I close simply by again calling attention to the recent findings from a commission which had some responsibility in this general area. I refer to the Commission on the Causes and Prevention of Violence, on which the able ranking minority member of the Judiciary Committee, the Senator from Nebraska (Mr. HRUSKA) and I had the privilege to serve. It summarizes a great many days and many research papers in chapter 6, entitled "Violence and Law Enforcement." The report is entitled "To Establish Justice, to Insure Domestic Tranquility."

Mr. President, it is not a particularly long chapter. I ask unanimous consent that the chapter to which I have referred be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HART. Mr. President, the report states in part:

> In this Commission's judgment, we should give concrete expression to our concern about crime by a solemn national commitment to double our investment in the administration of justice and the prevention of crime, as rapidly as such an investment can be wisely planned and utilized.

That recommendation, if our ballpark estimate—which is about $6 billion being the total amount we are putting into the whole system of criminal jurisprudence in this country—is correct, means that we should jack that up as promptly as we can to $12 billion.

I am suggesting here only an additional $1 billion over a 3-year period in addition to the figure recommended by the committee.

The report notes:

> When the doubling point is reached, this investment would cost the nation an additional five billion dollars per year—less than three-quarters of one percent of our national income and less than two percent of our tax revenues. Our total expenditure would still be less than 15 percent of what we spend on our armed forces. Surely this is a modest price to pay to "establish justice" and "insure domestic tranquility" in this complex and volatile age.

I know that the people of this country are very sensitive about the tax burden which rests on them and on each of us. All of us are sensitive to it. But I have a deep conviction, Mr. President, that those whom we represent would have less quarrel with us after we reach the point that the violence commission urges us to reach in an effort to stop violence and crime than they will have with us until we do get there.

True, the report of the Commission notes: "Money alone will not secure crime reduction." A number of non-dollar programs are suggested if we are to develop a pattern which will enable us realistically to claim that we are dead serious in this fight on crime.

Nonetheless prayer and good works alone are not going to do it. Absent a miracle, they will not put a single light on a dark street in the cities of America, or improve the training of a single policeman, or add a single judge to the bench of a court that is overloaded with accumulated documents, or produce a single parole or probation man or woman. Absent more money, we are not going to improve the prisons, despite all the good will and search for divine guidance which may stir our prison administrators. None of that is going to come about unless we take care of the most essential element, the money.

Mr. President, I hope the Senate agrees to the two amendments I have proposed. The amendment now pending is the amendment to increase the discretionary sum available for direct grants to the States by 33⅓ percent.

VIOLENCE AND LAW ENFORCEMENT

Order is a prerequisite of society, a mainstay of civilized existence. We arise every workday with unspoken expectations of order in our lives: that the earth will be spinning on its axis, that the office or factory will be functioning as before, that the mail will be delivered, that our friends will still be friends, that no one will attack us on the way to work.

Our expectations are not always met. The technological creations on which modern life depends do not always function with the predictability of the physical laws of the universe. Human behavior is even less predictable. To ensure reasonable predictability to human behavior, to minimize disorder, to promote justice in human relations, and to protect human rights, societies establish rules of conduct for their members.

In a far earlier day—and still, to some extent, in small and traditional societies—the rules of conduct had only to be passed from one generation to the next by teaching and example. Universal acceptance and long tradition gave force to the rules, as did the knowledge that rule-breakers could be quickly identified by the tightly knit community, that culprits had nowhere to run, that the community would ostracize them for their misdeeds. Still, every society in history has produced deviant members. And as societies have grown larger and more complicated, so have the problems of maintaining the social order.

In modern societies many of the rules of social conduct have come to be codified as laws. The intricacies of life in the twentieth century require laws. The act of driving an automobile from one place to another requires a book full of regulations concerning speed, traffic lanes, signals, safety devices of the vehicle, and the skill of the driver. Many other realms of social interaction also require legal regulation for the sake of justice, safety, and preservation of the social order.

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Law furnishes the guidelines for socially acceptable conduct and legitimizes the use of force to ensure it. If utopian conditions prevailed—if all citizens shared a deep commitment to the same set of moral values, if all parents instilled these values in their children and kept close watch over them until adulthood, if all lived in stable and friendly neighborhoods where deviants would face community disapproval—then perhaps we would seldom need recourse to the negative sanctions of the law. But these are not the conditions of today's pluralistic society, and the law is needed to reinforce what the other institutions for social control can only do imperfectly.

This function of the law requires that it be backed by coercive power—that it be enforced. Agents of the legitimate authority must function effectively to deter lawbreaking and apprehend lawbreakers, and the laws must provide sanctions to be applied against wrongdoers. When law is not effectively enforced, the odds become more enticing for the potential offender, crime increases, and the legal system—government itself—becomes discredited in the eyes of the public. As respect for law declines, crime increases still more.

To acknowledge these basic truths is not, of course, to argue in favor of oppressive conduct by police or retributive treatment of offenders. On the contrary, police lawlessness, degrading prison conditions, and other deficiencies in criminal justice damage the goal of an orderly society by making the law seem unworthy of obedience. That, too, breeds crime and disorder.

Likewise, to say that the law requires force as a condition of effectiveness is not to argue that law enforcement must be total. The surveillance that would be required to deal swiftly with every offense, major or minor, would be astronomically costly and an insufferable intrusion upon the lives of a free people that would not be long endured. Indeed, as *Law and Order Reconsidered*, the Report of our staff Task Force on Law and Law Enforcement, suggests, some offenses like minor traffic infractions and intoxication now command a disproportionate share of our criminal justice resources, and many of these offenses would better be handled by various means outside of the criminal justice process.

Devotion to the principle of law is one of the great strengths of the American society, a source of the nation's greatness. As Theodore Roosevelt remarked, "No nation ever yet retained its freedom for any length of time after losing its respect for the law, after losing the law-abiding spirit, the spirit that really makes orderly liberty." Today, however, respect for law in America is weakened by abuses and deficiencies within our legal system, and it is these which are the basis of our concern.

Respect for law is also threatened by some types of civil disobedience, notably the activities of normally law-abiding citizens, regrettably including even some leaders in public life, in deliberately violating duly enacted, constitutionally valid laws and court orders. Moreover, those who violate such laws often claim they should not be punished because in their view the law or policy they are protesting against is unjust or immoral. Civil disobedience is an important and complex subject, and we shall examine the dangers to society of deliberate lawbreaking as a political tactic in Chapter 4, "Civil Disobedience." Every society, including our own, must have effective means of enforcing its laws, whatever may be the claims of conscience of individuals. Our present statement is concerned with the fairness and efficiency of our law enforcement system, which must apply, without fear or favor, to all who violate the law.

As a preface to our discussion, then, we offer these two reminders:

First: order is indispensable to society, law is indispensable to order, enforcement is indispensable to law.

Second: the justice and decency of the law and its enforcement are not simply desirable embellishments, but rather the indispensable condition of respect for law and civil peace in a free society.

I. GOVERNMENT AND THE POOR

The American system of government has been one of the most successful in modern history. But despite the reservoir of citizen trust and deference toward the government which has been a stabilizing feature of our democracy, there has always been in our history a competing attitude of insistence on results, on government's achievement of the aims supported by the citizen, as a precondition of his consent to the exercise of governmental power.

In American political theory, governments are humanly created institutions to serve human ends. The principles are stated in the Declaration of Independence: first, that the purpose of democratic government is to secure the rights of life, liberty, and the pursuit of happiness for all citizens; second, that the powers of government are derived from the consent of the governed.

Governments in the United States—local, state, and federal—must therefore be cognizant of the needs of citizens and take appropriate action if they are to command continuing respect and if their laws are to be obeyed. Disenchantment with governmental institutions and disrespect for law are most prevalent among those who feel they have gained the least from the social order and from the actions of government.

A catalog of the features of American life that push people toward alienation and lawlessness usually emphasizes evils in the private sector; landlords who charge exorbitant rents for substandard housing, the practice of "blockbusting" that feeds on racial antagonism to buy cheap and sell dear under inequitable purchase contracts, merchants with unscrupulous credit-buying schemes, employers and unions who discriminate against minorities. But we need also to consider how the institutions of law and government, often inadvertently, contribute to the alienation.

There are few laws and few agencies to protect the consumer from unscrupulous merchants. There are laws for the protection of tenants defining what landlords must provide, but housing inspection agencies have little power and are understaffed; often they can act only in response to complaints and seldom can they force immediate repairs, no matter how desperately needed. Welfare agencies, designed to help the poor, operate under strictures that contribute to the degradation of the poor. As the President recently stated, our welfare system "breaks up families, . . . perpetuates a vicious cycle of dependency . . . [and] strips human beings of their decency."

If welfare assistance is arbitrarily cut off, if a landlord flagrantly ignores housing codes, if a merchant demands payment under an unfair contract, the poor—like the rich—can go to court. Whether they find satisfaction there is another matter. The dockets of many lower courts are overcrowded, and cases are handled in assembly-line fashion, often by inexperienced or incompetent personnel. Too frequently courts having jurisdiction over landlord-tenant and small claims disputes serve the poor less well than their creditors; they tend to enforce printed-form contracts, without careful examination of the equity of the contracts or the good faith of the landlords and merchants who prepare them.

The poor are discouraged from initiating civil actions against their exploiters. Litigation is expensive; so are experienced lawyers. Private legal aid societies have long struggled to provide legal assistance to the poor, but their resources have been miniscule in comparison to the vast need for their services.

Some of this is changing. The President has recently proposed reforms in the welfare system designed to preserve family structures, sustain personal dignity, eliminate unfairness and preserve incentives to work. Private groups and new government programs are beginning to respond to the legal needs of the poor. In 1968 the Legal Services Program of the Office of Economic Opportunity handled almost 800,000 cases for the poor and won a majority of the trials and appeals. In test cases the OEO lawyers won new standards of fair treatment of the poor from welfare agencies, landlords, inspectors, urban renewal authorities, and others. They were assisted in their work by VISTA volunteers with legal training and Reginald Heber Smith Fellows, law school graduates with one year fellowships who are assigned to OEO Legal Services offices. But the 8,800 OEO Legal Services Program lawyers, 700 VISTA lawyers, and 250 Smith Fellows, together with 2,000 legal aid attorneys, are still only a small beginning in the long-range task of assuring justice for the poor. Many more attorneys are needed. Indeed, the entire bar must also assume a larger share of the responsibility, as many younger lawyers and law firms are now beginning to do.

In recent years the legal profession has contributed an increasing portion of its time to aiding the poor and this trend will undoubtedly continue despite the financial problems involved.

We recommend that federal and state governments take additional steps to encourage lawyers to devote professional services to meeting the legal needs of the poor.

Specifically, we recommend that:

1. The Legal Services Program of the Office of Economic Opportunity, which already has won the strong support of the organized bar and the enthusiasm of graduating law students across the country, should be continued and expanded. The more recently started VISTA lawyers program and the Smith fellowships program should also be enlarged. Experiments should be encouraged with new programs to provide trained attorneys to deal with particular types of legal problems faced by the poor, such as welfare rights and consumer protection. The independence of all government-supported programs providing legal services to the poor should be safeguarded against governmental intrusion and into the selection of the types of cases government-financed lawyers can bring on behalf of their indigent clients. The relationship between lawyer and client is as private as that between doctor and patient, and the fact of poverty must not be the basis for destroying this privacy.

2. All states should provide compensation to attorneys appointed to represent indigent criminal defendants in the state and local courts. A state may wish to provide such compensated legal assistance through the use of paid Public Defender staff lawyers, or it may choose to compensate private court-appointed attorneys at a specific rate, on the model of the Federal Criminal Justice Act.

3. The federal government and the states should provide adequate compensation for lawyers who act in behalf of the poor in civil cases. Payment—either full or partial depending on the client's ability to pay—could be made on the basis of certificates issued by the court as to the need of the client and (in suits for plaintiffs) the good faith of the action. Other appropriate safeguards could be introduced to be administered by the courts with the assistance of the local bar associations. Some federal funding for the state court programs might also be required.

The institution of government that is the most constant presence in the life of the poor is the police department. Crime rates are high in the urban slums and ghettos, and the police are needed continually. As they do their job, the police carry not only the burden of the law but also the symbolic

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burden of all government; it is regrettable, yet not surprising, that particularly the tensions and frustrations of the poor and the black come to focus on the police. The antagonism is frequently mutual. Racial prejudice in police departments of major cities has been noted by reliable observers.[1] Prejudice compromises police performance. Policemen who systematically ignore many crimes committed in the ghetto, who handle ghetto citizens roughly,[2] who abuse the rights of these citizens, contribute substantially to disaffection with government and disrespect for law.

Our laws provide for civil and criminal sanctions against illegal police conduct, but these are rarely effective. The so-called exclusionary rule also has some deterrent effect; it prevents use of illegally obtained evidence in trials, but this does not affect unlawful searches and seizures or other police activities that do not result in arrest and trial. A citizen can take his complaint of misconduct directly to the police department. Every major police department has formal machinery for handling citizen complaints and for disciplining misbehaving officers. But for a variety of reasons, including inadequate investigative and hearing procedures and light punishments for offenses, this internal process of review is largely unsatisfactory.

Even if all the compromising practices were eliminated, however, it is doubtful whether internal review boards could engender widespread trust—simply because they are internally administered. New York, Philadelphia, Washington and Rochester are among the few large American cities to have experimented with an external review board composed primarily of civilians. In the four months that New York City had a civilian review board, more than twice as many complaints were processed than during the preceding twelve months by the police department's own board. These experiments have fallen victim to organized opposition, however, most vocally from the police themselves. The police argue that civilian review lowers police morale, undermines respect of lower echelon officers for their superiors, and inhibits proper police discretion by inducing fear of retaliatory action by the board. The police also resent being singled out among all local governmental officials for civilian review.

The resentment is understandable. The police are not the only public servants who sometimes fall short of their duties or overstep their powers, who act arbitrarily or unjustly. If an independent agency is to exist for handling citizen grievances, it should be open to complaints concerning every governmental office: the welfare agency, the health department, the housing bureau, the sanitation department, as well as the police.

Independent citizens' grievance agencies would be a useful innovation. They could investigate and, where justified, support individual complaints against public servants. They could also perform a broader function—recommend policy changes to governmental institutions that will make them more responsive to public needs. By encouraging and goading governmental institutions to greater responsiveness, and by vindicating them against unfounded complaints, these grievance agencies could strengthen public respect for the institutions of government and thus strengthen the social order.

Both the President's Commission on Law Enforcement and Administration of Justice (Crime Commission) and the National Advisory Commission on Civil Disorders (Kerner Commission) recommended that local jurisdictions establish adequate mechanisms for processing citizen grievances about the conduct of public officials. That recommendation has not received the attention or the response it deserves.

To increase the responsiveness of local governments to the needs and rights of their citizens, we recommend that the federal government allocate seed money to a limited number of state and local jurisdictions demonstrating an interest in establishing citizens' grievance agencies.

Because of the novelty of this function in American government, the allocating federal agency should encourage diversity in the arrangements and powers of the grievance agencies in the experimenting states and cities, should provide for continuing evaluation of the effectiveness of the differing schemes, and should publicize these evaluations among all state and local jurisdictions so that each can decide the arrangement best suited for itself. Consideration should also be given to the creation of a federal citizens' grievance agency to act on complaints against federal employees and departments. The federal agency could also serve as an experimental model for similar agencies in the cities.

We have supported this recommendation upon evidence that the poor experience special frustrations in their relationships with the government and that these frustrations breed disrespect for law. To undergird that support we add the obvious notation that the poor are not the only ones who feel that government is unresponsive to their needs. The alienation of "the forgotten American," living above the poverty affluence, is also genuine and a matter for compassionate concern.

Law-abiding, patriotic, a firm believer in traditional American values, "the forgotten American" is angered and distrustful about the same institutions of government—except for the police—that alienate the poor. Some extremists prey upon his frustration and alienation by promising simplistic solutions and pointing at scapegoats—usually Negroes. The festering and sometimes violent antagonisms between lower-middle-class whites and poor blacks have their ironic side, for the two groups share many needs: better jobs, better schools, better police protection, better recreation facilities, better public services. Together they could accomplish more than they can apart. Citizens' grievance agencies could provide a modest but important start toward the reconciliation of antagonisms and the restoration of respect for the institutions of government among all citizens.

While we strongly urge innovative devices such as citizens' grievance agencies, we must not ignore the strengthening of such time-honored mechanisms of popular government as the right and the duty to vote. Extension and vigorous enforcement of the 1965 Voting Rights Act, and intensified efforts to persuade all qualified citizens to vote, remain the most direct method for citizens to shape the quality and direction of their government. Equally important as creating new citizens' grievance agencies is the continuing effort to develop more effective voter education and registration programs.

II. THE CRIMINAL JUSTICE PROCESS

Our society has commissioned its police to patrol the streets, prevent crime, and arrest suspected criminals. It has established courts to conduct trials of accused offenders and sentence those who are found guilty. It has created a correctional process consisting of prisons to punish convicted persons and programs to rehabilitate and supervise them so that they can become useful citizens. It is commonly assumed that these three components—law enforcement (police, sheriffs, marshals), the judicial process (judges, prosecutors, defense lawyers) and corrections (prison officials, probation and parole officers)—add up to a "system" of criminal justice.

A system implies some unity of purpose and organized interrelationship among component parts. In the typical American city and state, and under federal jurisdiction as well, no such relationship exists. There is, instead, a reasonably well-defined criminal *process*, a continuum through which each accused offender may pass: from the hands of the police, to the jurisdiction of the courts, behind the walls of a prison, then back onto the street. The inefficiency, fall-out and failure of purpose during this process is notorious.

According to the 1967 report of the President's Crime Commission, half of all major crimes are never reported to the police.[3] Of those which are, fewer than one-quarter are "cleared" by arrest. Nearly half of these arrests result in the dismissal of charges. Of the balance, well over 90 percent are resolved by a plea of guilty. The proportion of cases which actually go to trial is thus very small, representing less than one percent of all crimes committed. About one quarter of those convicted are confined in penal institutions; the balance are released under probation supervision. Nearly everyone who goes to prison is eventually released, often under parole supervision. Between one-half and two-thirds of all those released are sooner or later arrested and convicted again, thereby joining the population of repeater criminals we call recidivists.

Nearly every official and agency participating in the criminal process is frustrated by some aspect of its ineffectiveness, its unfairness or both. At the same time, nearly every participant group itself is the target of criticism by others in the process.

Upon reflection, this is not surprising. Each participant sees the commission of crime and the procedures of justice from a different perspective. His daily experience and his set of values as to what effectiveness and fairness require are therefore likely to be different. As a result, the mission and priorities of a system of criminal justice are defined differently by a policeman, a prosecutor, a defense attorney, a trial judge, a correctional administrator, an appellate tribunal, a slum dweller and a resident of the suburbs.

For example: The police see crime in the raw. They are exposed firsthand to the agony of victims, the danger of streets, the violence of lawbreakers. A major task of the police officer is to track down and arrest persons who have committed serious crimes. It is discouraging indeed for such an officer to see courts promptly release defendants on bail and permit them to remain free for extended periods before trial, or prosecutors reduce charges in order to induce pleas of guilty to lesser offenses, or judges exclude incriminating evidence, or parole officers accept super-

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[1] *E.g.*, Donald J. Black and Albert J. Reiss, Jr., "Patterns of Behavior in Police and Citizen Transactions," *Studies in Crime and Law Enforcement in Major Metropolitan Areas*, Field Survey III, Vol. 1, a Report of a Research Study Submitted to the President's Commission on Law Enforcement and Administration of Justice (Washington, D.C.: Government Printing Office, 1967).

[2] In a survey conducted by this Commission most white Americans disagreed with the statement: "The police frequently use more force than they need to when carrying out their duties." But a majority of Negro respondents agreed with the statement, as did a third of the lower-income people and 40 percent of the metropolitan city dwellers. In many of our recent urban disturbances, the triggering event was an arrest or other police encounter that appeared to bystanders to be unfair.

[3] President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* (Washington, D.C.: Government Printing Office, 1967, pp 20–22. Major crimes are homicide, rape, robbery, aggravated assault, burglary, larceny over $50 and auto theft.

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vision of released prisoners but check on them only a few minutes each month.

Yet the police themselves are often seen by others as contributing to the failure of the system. They are charged with ineptness, discourtesy, dishonesty, brutality, sleeping on duty, illegal searches. They are attacked by large segments of the community as being insensitive to the feelings and needs of the citizens they are employed to serve.

Trial judges tend to see crime from a more objective position. They see facts in dispute and two sides to each issue. They may sit long hours on the bench in an effort to adjudicate cases with dignity and dispatch, only to find counsel unprepared, or weak cases presented, or witnesses missing, or warrants unserved, or bail restrictions unenforced, or occasional juries bringing in arbitrary verdicts. They find sentencing to be the most difficult of their tasks, yet presentence information is scanty and dispositional alternatives are all too often thwarted by the unavailability of adequate facilities.

Yet criminal courts themselves are often poorly managed and severely criticized. They are seriously backlogged; in many of our major cities the average delay between arrest and trial is close to a year. All too many judges are perceived as being inconsiderate of waiting parties, police officers and citizen witnesses. Too often lower criminal courts tend to be operated more like turnstiles than tribunals. In some jurisdictions, many able jurists complain that some of their most senior colleagues refuse to consider or adopt new administrative and managerial systems which could improve significantly the quality of justice and the efficiency of the court and which would also shorten the time from arrest to trial.

Corrections officials enter the crime picture long after the offense and deal only with convicted persons. Their job is to maintain secure custody and design programs which prepare individual prisoners for a successful return to society. They are discouraged when they encounter convicted persons whose sentences are either inadequate or excessive. They are frustrated by legislatures which curtail the flexibility of sentences and which fail to appropriate necessary funds. They are dismayed at police officers who harass parolees, or at a community which fails to provide jobs or halfway houses for ex-offenders.

Yet, with a few significant exceptions, the prisons and correctional facilities operate in isolation and reject pupil scrutiny. Programs of rehabilitation are shallow and dominated by greater concern for punishment and custody than for correction. Prison inmate work assignments usually bear little relationship to employment opportunities outside. Internal supervision is often inadequate, and placed in the hands of inmates. Thus correctional administrators are often said to be presiding over schools in crime.

While speaking of prisons, it should be noted that jails—institutions for detaining accused persons before and during trial and for short misdemeanor sentences—are often the most appalling shame in the criminal justice system. Many are notoriously ill-managed and poorly staffed. Scandalous conditions have been repeatedly reported in jails in major metropolitan areas. Even more than the prisons, the jails have been indicted as crime breeding institutions. Cities are full of people who have been arrested but not convicted, and who nevertheless serve time in facilities worse, in terms of overcrowding and deterioration, than the prisons to which convicted offenders are sentenced. Accused first offenders are mixed indiscriminately with hardened recidivists. In most cases, the opportunities for recreation, job training or treatment of a nonpunitive character are almost nil. These deficiencies of jails might be less significant if arrested persons were detained for only a day or two, but many unable to post bail or meet other conditions of release are held in jail for many months because the other components of the legal system do not provide for speedy trials.

In the mosaic of discontent which pervades the criminal process, public officials and institutions, bound together with private persons in the cause of reducing crime, each sees his own special mission being undercut by the cross-purposes, frailties or malfunctions of others. As they find their places along the spectrum between the intense concern with victims at one end, and total preoccupation with reforming convicted lawbreakers at the other, so do they find their daily perceptions of justice varying or in conflict.

These conflicts in turn are intensified by the fact that each part of the criminal process in most cities is overloaded and undermanned, and most of its personnel underpaid and inadequately trained. Too little attention has been paid to the Crime Commission's finding that the entire criminal justice system—federal, state and local, including all police, all courts and all corrections—is underfinanced, receiving less than two percent of all government expenditures. On this entire system, we spend less each year than we do on federal agricultural programs and little more than we do on the space program.

Under such circumstances it is hardly surprising to find in most cities not a smooth functioning "system" of criminal justice but a fragmented and often hostile amalgamation of criminal justice agencies. Obvious mechanisms for introducting some sense of harmony into the system are not utilized. Judges, police administrators and prison officials hardly ever confer on common problems. Sentencing institutes and familiarization prison visits for judges are the exception rather than the rule. Usually neither prosecutors nor defense attorneys receive training in corrections upon which to base intelligent sentencing recommendations.

Nearly every part of the criminal process is run with public funds by persons employed as officers of justice to serve the same community. Yet every agency in the criminal process in a sense competes with every other in the quest for tax dollars. Isolation or antagonism rather than mutual support tends to characterize their intertwined operations. And even when cooperative efforts develop, the press usually features the friction, and often aggravates it.

One might expect the field to be flooded with systems analysts, management consultants and publicly-imposed measures of organization and administration in order to introduce order and coordination into this criminal justice chaos. It is not. A recognized profession of criminal justice system administrators does not exist today.

In fact, most of the criminal justice subsystems are also poorly run. For example, court administrators are rare, and court management by trained professionals is a concept that is taking hold very slowly. The bail "system," which should involve coordination among at least a half dozen agencies, is presided over by no one. Few cities have neutral bail agencies to furnish bail-setting magistrates with reliable background data on defendants. In making their bail recommendations prosecutors usually ignore community ties and factors other than the criminal charge and the accused's criminal record. Defense lawyers infrequently explore nonmonetary release conditions in cases involving impecunious clients. Detention reports on persons held long periods in jail prior to trial are rarely acted on by courts, and bail review for detainees is seldom requested. Enforcement of bail restrictions and forfeitures of bond for bail-jumpers are unusual. Bail bondsmen go unregulated.[4]

Effective police administration is hard to find. The great majority of police agencies are headed by chiefs who started as patrolmen and whose training in modern management techniques, finance, personnel, communications and community relations are limited. Lateral entry of police administrators from other departments or outside sources such as military veterans is usually prohibited by antiquated Civil Service concepts.

Apart from lack of leadership, the process of crime control in most cities lacks any central collection and analysis of criminal justice information. It has no focal point for formulating a cohesive crime budget based on system needs rather than individual agency requests. It has no mechanism for planning, initiating or evaluating systemwide programs, or for setting priorities. It has no specialized staff to keep the mayor or other head of government regularly informed of the problems and progress of public safety and justice. Crime receives high-level attention only as a short-term reaction to crisis.

Nor does the criminal justice process function in coordination with the more affirmative social programs for improving individual lives. For example, a major goal of an offender's contact with the criminal process is said to be corrective—rehabilitation followed by reintegration into the community, with enhanced respect for law. Yet the opposite is often true: the typical prison experience is degrading, conviction records create a lasting stigma, decent job opportunities upon release are rare, voting rights are abridged, military service options are curtailed, family life disruptions are likely to be serious, and the outlook of most ex-convicts is bleak. The hope of the community that released offenders have been "corrected" is defeated by outdated laws and community responses.

Experienced judges have resorted increasingly in recent years to various forms of post-conviction probation. They have done so after weighing the possibilities for rehabilitation if the offender is so released against the usually disastrous prognosis which would accompany his incarceration. It is a painful choice, little understood by the public. But the decision to seek correction of an offender in the community reflects not a compassionate attitude towards law-breakers, but a hardheaded recognition, based on data, that long term public safety has a better chance of being protected thereby.

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[4] The Report of the Commission's Task Force on Law and Law Enforcement contains a study of our bail system and recent proposals for "preventive detention" of persons arrested for serious crimes who, in the judgment of the court on a preliminary hearing, are deemed likely to commit a serious crime if released on bail while awaiting trial. The Commission agrees with the conclusion of the American Bar Association in approving the Report of the Special Committee on Minimum Standards for the Administration of Criminal Justice that "because of the drastic effects of preventive detention, the difficulties inherent in predicting future criminality and the unresolved constitutional issues," preventive detention should not be adopted. While there is a very real public interest in preventing criminal activity by released persons awaiting trial this interest would be better served by reforming the criminal justice system to expedite trials than by adding the additional burden of a preliminary trial to predict the likelihood of future criminality. (It should be noted that even at present some crimes, such as first degree murder, are not bailable.)

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The bleak picture of criminal justice we have painted is not without its bright spots. Within the past few years, scattered about the country, innovations have been introduced, new leadership has emerged, modern facilities have appeared, and systems analysis has been undertaken.[5] The impact has to date been small, but hopes have been raised. States here and cities there have demonstrated that something can be done to improve crime control with justice. The question is whether these incidents will initiate a national trend or will disappear as isolated sparks doused by the rain.

III. TOWARD A CRIMINAL JUSTICE SYSTEM

The administration of criminal justice is primarily a state and local responsibility. The grave deficiencies we have noted reflect the fact that our states and cities lack both the resources to make a substantial investment in physical improvements, personnel, and research, and the management techniques to operate the system efficiently. Acting on the findings and recommendations of the Crime Commission, the federal government in recent years has sought to make additional resources available.

In the Omnibus Crime Control and Safe Streets Act of 1968, the Congress created the Law Enforcement Assistance Administration, for the purpose of making grants for law enforcement planning and operation to the states, and its subsidiary, the National Institute of Law Enforcement and Criminal Justice, to encourage research and development in the field of law enforcement. In another 1968 enactment, Congress also authorized the Department of Health, Education, and Welfare to carry on comparable activities in the field of juvenile delinquency and youth opportunity. Both of these programs, however, have only a modest degree of funding; fiscal 1970 appropriation requests for law enforcement are less than $200 million—a sum which, together with matching state funds, would increase the nation's expenditures in that field by less than 10 percent. About $15 million is being requested for the youth programs.

The nation is justifiably concerned about the increased rate of crime and about the conditions that give rise to crime, including our inadequate system of criminal justice.

In this Commission's judgment, we should give concrete expression to our concern about crime by a solemn national commitment to double our investment in the administration of justice and the prevention of crime, as rapidly as such an investment can be wisely planned and utilized.

When the doubling point is reached, this investment would cost the nation an additional five billion dollars per year—less than three-quarters of one percent of our national income and less than two percent of our tax revenues. Our total expenditure would still be less than 15 percent of what we spend on our armed forces. Surely this is a modest price to pay to "establish justice" and "insure domestic tranquility" in this complex and volatile age.

Given the realities of state and local financial resources, the federal government will have to take the lead in making this commitment, and in providing most of the required funds under the matching grant formulas already contained in the 1968 statutes. The federal commitment should be made in a manner that will convince the states, cities and the public that they can rely on the seriousness and continuity of the undertaking, and that they can invest matching funds of their own without fear that the federal portion may be curtailed midway in the program.

Congress has available a variety of tested methods for making meaningful long-term commitments along these lines. These include:

(a) Amending the 1968 statutes to authorize the Law Enforcement Assistance Administration and the Department of Health, Education, and Welfare to enter into long-term contracts with state and local agencies, committing the federal government to expenditures for the capital and operating costs of specified projects over a period of up to 10 years. Actual disbursements would be subject to annual appropriation measures.

(b) Amending the 1968 statutes to authorize the issuance of federal guarantees of long-term bonds issued by state and local agencies to cover capital costs of the construction of new facilities and obtaining major items of new equipment (e.g., communications systems), with an underlying contract under which annual contributions in a predetermined amount would be made by the federal government toward payment of interest and amortization of principal on the bonds. Actual expenditures would be subject to annual appropriation measures, but the credit of the United States would stand behind the bonds. The Public Housing program is financed in this manner.

(c) Multi-year appropriation measures, such as those that have been made for urban renewal, federal construction projects, defense contracting and similar purposes.

Money alone will not secure crime reduction, however. Wealthy states and localities which have limited their activity merely to expending more funds have become no more noticeably crime-free than jurisdictions which have not. Similarly, a substantial portion of the Crime Commission's proposals in 1967 are remarkably similar to those urged by the Wickersham Commission established by President Hoover 37 years earlier—yet despite that Commission's equally impressive documentation, conservatism and presidential prestige, little follow-through occurred. Experience with crime commissions at the state and local levels shows similar results.

This pattern suggests the existence of substantial built-in obstacles to change. It suggests that unless much more attention is given to the inability and unwillingness of present crime control systems to effectuate reform, new money may go down old drains. Vexing problems of politics, organization and leadership underlie the maintenance of the status quo and need to be faced directly.

In the search for more effective ways of carrying out Crime Commission recommendations, we have noted two promising but comparatively untried strategies based on recent experiments on the frontiers of criminal justice; these are:

(1) a program to coordinate criminal justice and related agencies more effectively by establishing central criminal justice offices in major metropolitan areas; and

(2) a program to develop private citizen participation as an integral operating component, rather than a conversational adjunct, of criminal reform.

The two innovations complement one another; the success of citizen participation will in many ways be dependent on the establishment of a central criminal justice office, and vice versa.

The Criminal Justice Office

The pervasive fragmentation of police, court and correctional agencies suggests that some catalyst is needed to bring them together. An assumption that parallel and overlapping public agencies will cooperate efficiently can no longer suffice as a substitute for deliberate action to make it happen in real life.

Periodic crime commissions—which study these agencies, file reports and then disappear—are valuable, but they are much too transient and non-operational for this coordinating role. A law enforcement council—consisting of chief judges and agency heads who meet periodically—is usually little more than another committee of overcommitted officials.

A full-time criminal justice office is basic to the formation of a criminal justice system. Its optimum form, *i.e.*, line of staff, and its location in the bureaucracy, need to be developed through experimentation.

The function could be vested in a criminal justice assistant to the mayor or county executive, with staff relationships to executive agencies, and liaison with the courts and the community. Alternatively, it could operate as a ministry of justice and be given line authority under the direction of a high ranking official of local government (*e.g.*, Director of Public Safety or Criminal Justice Administrator), to whom local police, prosecutor, defender and correctional agencies would be responsive. (Special kinds of administrative ties to the courts would be evolved to avoid undermining the essential independence of the judiciary.) A third alternative might take the form of a well-staffed secretariat to a council composed of heads of public agencies, courts and private interests concerned with crime. To avoid the ineffectiveness of committees, however, either the chairman of the council or its executive director would have to be given a good measure of operating authority.

Whatever its form, the basic purposes of the criminal justice office would be to do continuing planning, to assure effective processing of cases, and to develop better functioning relationships among the criminal justice subsystems and with public and private agencies outside the criminal justice system. For example:

It would develop a system of budgeting for crime control which takes account of the interrelated needs and imbalances among individual agencies and jurisdictions.

It would initiate a criminal justice information system which would include not simply crime reports (as is typical today), but arrests, reduction of charges, convictions, sentences, recidivism, court backlogs, detention populations, crime prevention measures, and other data essential to an informed process.

It would perform or sponsor systems analysis and periodic evaluation of agency programs and encourage innovations and pilot projects which might not otherwise have a chance in a tradition-oriented system.

It would perform a mediating and liaison role in respect to the many functions of the criminal process involving more than one element of the system, *e.g.*, to devolop programs for the reduction of police waiting time in court, to improve pretrial release information and control, to enlist prosecutors and defense attorneys in cooperative efforts to expedite trials, to bring correctional inputs to bear on initial decisions whether to prosecute, to improve relations between criminal justice agencies and the community.

It would also perform the vital but neglected function of coordinating the criminal justice agencies with programs and organizations devoted to improving individual lives—*e.g.*, hospitals, mental health organizations, welfare and vocational rehabilitation agencies, youth organizations and other public and private groups.

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[5] For example, the new Federal Judicial Center under the leadership of retired Supreme Court Justice Tom Clark has initiated several innovative administrative and managerial projects which offer great promise for reduction of court backlogs and the shortening of time periods to trial. It is reported that one project in the U.S. District Court for the District of Columbia resulted in the judges reducing the criminal docket in a recent two-week period more than they had in the entire prior year. Another example of important work being done is the course of instruction for District Attorneys being given by the National College of District Attorneys.

It would develop minimum standards of performance, new incentives and exchange programs for police, court attaches and correctional personnel.

The comprehensive grasp of the system by an experienced criminal justice staff would facilitate informed executive, judicial and legislative judgments on priorities. It would help decide, for example, whether the new budget should cover:

A modern diagnostic and detention center to replace the jail, or an increase of comparable cost in the size of the police force;

Additional judges and prosecutors, or a prior management survey of the courts;

A computerized information system or a new facility for juveniles;

New courtrooms or new halfway houses.

For a full-time well-staffed criminal justice office to be successful, it must achieve a balanced perspective within its own ranks on the problems of public safety and justice. Practical experience in law enforcement, in the protection of individual rights, and in the efficiency and effectiveness of programs must be represented, as must the interests of the community. Such representation can be provided through an advisory board to the criminal justice office and through involvement of relevant persons in task force efforts to attack particular problems. Broad-based support of the office is quite important.

The transition from today's condition to a well-run system will not be easy. Especially troublesome is the fact that the criminal justice process does not operate within neat political boundaries. Police departments are usually part of the city government; but county and state police and sheriffs usually operate in the same or adjacent areas. Judges are sometimes appointed, sometimes elected, and different courts are answerable to local, county and state constituencies. Correctional functions are a conglomerate of local and county jails, and county and state prisons. Prosecutors may be appointed or elected from all three levels of government. Defense lawyers usually come from the private sector but are increasingly being augmented by public defender agencies. Probation systems are sometimes administered by the courts, sometimes by an executive agency.

If this confusing pattern makes the creation, location, staffing and political viability of a criminal justice office difficult, it also symbolizes why little semblance of a system exists today and why criminal justice offices are so badly needed in our major metropolitan areas.

To encourage the development of criminal justice offices, we recommend that the Law Enforcement Assistance Administration and the state planning agencies created pursuant to the Omnibus Crime Control and Safe Streets Act take the lead in initiating plans for the creation and staffing of offices of criminal justice in the nation's major metropolitan areas.

The creation of criminal justice offices will require the active participation and cooperation of all the various agencies in the criminal justice process and of officials at many levels of state and local government. Helpful insights in establishing the first such offices may be derived from the experience of some of the state law enforcement planning agencies (e.g., Massachusetts) now making efforts in this direction, from the criminal justice coordinating role developed by the Mayor's office in New York over the past two years, and from the experience of the Office of Criminal Justice established in the Department of Justice in 1964.

Private citizen involvement

Government programs for the control of crime will be most effective if informed private citizens, playing a variety of roles, participate in the prevention, detection and prosecution of crime, the fair administration of justice, and the restoration of offenders to the community. New Citizen-based mechanisms are needed at the local and national levels to spearhead greater participation by individuals and groups.

In recent years, an increasing number of citizen volunteer programs have become allied with one or another phase of the criminal justice process. These are in addition to long-standing efforts of organizations like the Big Brother movement and Boys' Clubs. Remarkable have been certain programs utilizing citizen volunteers for probation supervision and guidance of juvenile and misdemeant offenders.[6]

Perhaps the most successful of private organizations in attacking the broad range of crime control problems through a public-private partnership is New York City's Vera Institute of Justice.[7] Its unique role in cooperation with the system has developed over eight years. Its nonbureaucratic approach has permitted it to test new programs, through experiments and pilot projects, in a way no public agency would likely find successful. Its core funding is entirely private; its individual project financing comes from federal, state, and private sources.

Vera has achieved a number of concrete successes. Its Manhattan Bail Project resulted in bail reforms so successful in New York City that they became the basis of the federal Bail Reform Act of 1966. Its summons project proved the practicability of permitting the police to issue station house citations for minor offenses, sparing both police and citizens the time-consuming process of arraignment and similar pre-trial court procedures.

There are a number of reasons why private organizations such as Vera can be successful where a public agency cannot. Because municipal agencies are chronically understaffed and underfinanced, they are unable to divert resources for experimental purposes except in the most limited manner. Private organizations do not pose threats to existing agencies and carry no residue of past misunderstandings. They can intercede with a city's power structure without being bound by chains of command. They can test programs through a pilot project carried out on a small scale, which can be easily dismantled if it proves unsuccessful. If it proves effective, it can be taken over as a permanent operation by the public agency and the private group can move on to a new area.

In the broader field of improving urban society, citizens' organizations have launched programs in a number of major cities to stimulate both public and private efforts to improve housing, schools, and job opportunities for the urban poor, to identify and treat the juvenile offender, and to improve relations between the police and residents of the inner city.[8] These efforts are of vital importance, because improvements in the criminal justice machinery, isolated from improvements in the quality of life, *e.g.*, education, housing, employment, health, environment, will merely return convicted offenders to the hopelessness from which they came.

The successes of such groups have demonstrated that public institutions are receptive to changes proposed by private organizations. Organizations such as these should receive maximum encouragement and every effort should be made to extend their influence on the broadest scale. Of particular importance is the potential supporting role which private groups can have in relation to the new offices of criminal justice we have recommended.

We urge the creation and continuing support—including private and public funding—of private citizens' organizations to work as counterparts of the proposed offices of criminal justice in every major city in the nation.

A catalyst is needed at the national level to help in the formation of such local citizen groups.

We therefore recommend that the President call upon leading private citizens to create a National Citizens Justice Center.

A similar presidential initiative led to the formation in 1963 of the Lawyers Committee for Civil Rights Under Law, a private group which has enlisted the organized Bar in the effort to make civil rights into a working reality.

The membership of the Center could be drawn from many sources, such as the National Council on Crime and Delinquency, the Amercan Bar Association, and the members, staffs and consultants of the four federal commissions which have recently studied the problems of crime, violence, and social disorder—the President's Commission on Crime in the District of Columbia, the President's Commission on Law Enforcement and Administration of Justice, the National Advisory Commission on Civil Disorders, and this Commisson.

The Center would supplement rather than duplicate the promising and important work of existing private entities. Following the successful precedent of Vera, the Center would concentrate on the various aspects of the criminal justice system, from crime prevention and arrest to trial and correction, including the specialized treatment of actual and potential juvenile offenders. We would expect it to receive financial support from foundations, business and labor sources, as well as from the legal profession.

The Center would help to form and support local private counterparts of Vera in our major urban areas, to work alongside local governmental agencies on specific operating and administrative problems. It would act as a clearing house for transmitting news of successful innovative procedures developed in one city to the attention of agencies faced with similar problems in another. It would cross-fertilize new approaches, and provide continuing public education about the complexity of crime prevention and the treatment of offenders. It would offer workable answers to the persistent citizen question—what can I do to help? Not least important, it might lessen the future need for *ad hoc* presidential commissions in this field, by assuring greater use of the findings and recommendations of the many commissions that have gone before.

IV. CONCLUSION

The levels of funding and the various public and private mechanisms we have suggested could go a long way toward organizing our criminal justice agencies into an effective system; our recommendations of additional legal services for the poor and new citizens' grievance agencies could do much

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[6] Example programs in this area include those outlined by Volunteers in Probation, Inc. (formerly Project Misdemeanant Foundation), Royal Oak, Michigan, and the Juvenile Court of Boulder, Colorado.

[7] The Vera Institute was founded in 1961 by industrialist Louis Schweitzer and named for his mother. Until 1966, it was funded entirely by the Schweitzer family. In 1966, in order to expand and start special projects, Vera was given a 5-year grant from the Ford Foundation, and since then it has also received other federal, state and private grants earmarked for special projects. Herbert Sturz has been the Director of the Institute since 1961.

[8] Among the leading national organizations working in these fields are the League of Women Voters, the Urban League, the American Friends Service Committee, the National Council on Crime and Delinquency, the Lawyers Committee for Civil Rights Under Law, the Urban Coalition, and the Legal Defense Fund of the N.A.A.C.P.

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> to strengthen respect for legal processes and for the institutions of government.
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> The injection of federal funds into state crime control programs in 1968 was an important step, and the Law Enforcement Assistance Administration is doing a commendable job with limited resources. Much more money must be provided, and must be injected into research, development, and pilot projects, if the outdated techniques of yesterday are to be converted into an effective criminal justice system tomorrow.
>
> Until more funds are committed, and until staffed organizations—public and private—are developed to assure wise investment and monitoring of new funds, the control of violent crime will be a campaign fought with bold words and symbolic gestures, but no real hope of success. The mobilization of private and public resources toward an ordered society—one in which the rights of all citizens to life, to liberty, to the pursuit of happiness and safeguarded by our governing institutions—deserves a high priority for the decade of the 1970's.
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> SEPARATE STATEMENT
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> Commissioner Ernest W. MacFarland notes that many of the findings and recommendations of the Commission Chapter on Violence and Law Enforcement were addressed largely to the problems and needs of the larger cities. He does not believe that all the recommended changes are needed or are applicable to Arizona and some of the other less urbanized states even though definite change and improvement are required in the larger cities. Upon this basis, he stated he was willing to vote for the recommendations, hoping they would be carefully studied by all the communities and states to determine whether, even if not wholly applicable, some part might be helpful in meeting their needs.

Mr. McCLELLAN. Mr. President, the underlying assumption behind the amendments offered by the distinguished Senator from Michigan, in my judgment, is wrong. The first amendment, of which the Senator spoke, assumes the urban areas are not now getting funds that they need. Of course, that may be true. The whole program may not be getting all the funds it needs or could use, but that is not the case in the context that the Senator makes use of it. They are getting the benefit of the program, comparable to all other sections of our country.

The Attorney General testified before the Subcommittee on Criminal Laws and Procedures as follows:

> [His] studies show the nation's 411 cities of 50,000 persons or more have fared well under the federal anticrime effort.
>
> Under the law, 40 percent of the planning grant money must go to local governments and at least 75 percent of the action grant money must go to local governments. As a matter of fact, many states have exceeded the 75 percent requirement with some states redistributing to local governments as much as 90 percent of the federal funds.
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> The nation's 411 cities of 50,000 contain less than 40 percent of the total population and have 62 percent of the serious reported crimes. It is our initial estimate that these cities have been granted 60 percent of all FY 1969 action funds distributed to local governments by the state governments. The block grant funds for FY 1970 were only recently awarded to the states and are currently being redistributed to local governments.
>
> In addition, the fiscal 1970 budget contained $32 million in discretionary funds, of which a major share was distributed by LEAA directly to cities. At least $10 million went to 125 cities with major crime problems. These awards ranged from a maximum of $250,000 for cities of more than one million to a maximum of $150,000 for those under one million [Senate Hearings at 491.]

Mr. President, I point out that much of the initial work of the program has to be planning. Just appropriating the money without a program or plan worked out as to how the money is going to be spent is no answer to the crime problem.

There is another, perhaps just as important, objection to this provision. It would circumvent the comprehensive approach to law enforcement that is presently embodied in the Safe Streets Act. Criminal justice systems in this country are not local systems but are statewide systems embodying the elements of police, courts, and corrections and must be dealt with on a statewide basis. This was the intention of the Congress in requiring the establishment of the State planning agencies under the Safe Streets Act and the development of comprehensive plans covering all aspects of the criminal justice system.

In many jurisdictions, the corrections and courts systems are statewide and must be treated at the State level. They are not limited to urban areas in the State. By giving money directly to the cities—the hope of this amendment—the problems of the corrections and courts systems will not be solved. We may improve for a time the law enforcement problems in an urban area. More arrests might be made. More crimes might be solved, but unless we at the same time reduce the backlog in the courts and improve the correctional functions, we will lose the ground we temporarily gained by improving the operation of the police. We will have thrown good money after bad. Indeed, the Urban Coalition in its recent report, "Law and Disorder II," noted that more money must be spent on courts and corrections and less in police operations.

Mr. President, this attempt to replace the present statutory arrangements for the division of action funds going for project grants to individual State agencies and local jurisdictions is well-meaning but mistaken. All wisdom does not reside in Washington. The State planning agency is in the best position to supervise, direct, and coordinate the efforts of local governments, regional units, and State agencies in formulating and updating a statewide comprehensive law enforcement plan.

This proposal, if enacted, will prove to be disruptive. It will prevent the coordination of the various parts of the act that contemplate the channeling of this money through State planning agencies. It is a fact that cities can be given direct grants to implement and supplement what they may be getting under the State distribution plan. I believe it would be a mistake now to disrupt this process, this program as presently established, certainly until there has been more experience and something is developed to demonstrate that the State planning system is not effective and not working.

Once State, regional, and local law enforcement and criminal justice needs have been identified, priorities have been determined, timetables have been worked out, and interrelationships have been established, the State is much better equipped than a Federal agency to translate these plans into action programs and to oversee and assist in their implementation. The Federal Government simply is not prepared to mesh separate crime control plans and to evaluate the individual project proposals submitted by possibly 50 State and approximately 18,000 municipalities, 3,000 counties, and 40,000 police departments.

We have this program well established and I think if we tamper with it and try to change it before we get a real test, we are going to create confusion and not contribute to effective results. If we did this, we would have 50 States, approximately 18,000 municipalities, 3,000 counties, and 40,000 police departments eligible, all coming here to the Federal Government with their particular plans.

Since crime is not confined to jurisdictional boundaries, only the State can weigh local priorities against regional and statewide needs. And only the State can mesh planning and action efforts under the Safe Streets Act with other States as well as regionally and locally administered and financed anticrime programs. Bypassing the State, then, would reinforce rather than reduce the fragmentation which currently exists among the various components of the law enforcement and criminal justice system.

I most respectfully urge rejection of this amendment.

Again, I plead with my colleagues not to start tampering with this bill and tearing it apart, detracting from the overall concept of this assistance program in the law enforcement field. Let us test what we have done, get the experience, find where the weaknesses are, and then remedy them. But let us not try to change the system and change the program before we have given it a proper test and given ourselves a proper opportunity to learn the benefits that can be derived and are being derived from the program we have already established. When I say "program," I mean also the procedures that are already established and that are now in use.

As to the second amendment the distinguished Senator offers to increase the amount of authorizations, again I warn my colleagues that money alone is not the solution to crime. If another $1 billion, if another $5 billion, if another $10 billion, or if any amount of money would solve the crime problem, I know that the Congress would appropriate the money. There would not be a dissenting vote. Congress would pass it tonight even if we had to borrow the money and increase the national debt or make some sacrifices somewhere else. I dare say every Member of Congress would vote to wipe out the crime problem if the appropriation of money alone were the answer and the solution.

I do not believe it is necessary at this time to further raise the authorization for the programs of the Law Enforcement Assistance Administration. The Committee on the Judiciary—note this, Mr. President—has already, in the bill now before us, which the distinguished Senator seeks to amend, increased authorizations for fiscal 1972 and 1973 in the amounts of $150 million and $250 million respectively, above the figure which was first authorized by the House.

We raised it, hoping that we could come in here with the bill and get the support of our colleagues in the Senate, go to the House with these differences, and get as much approved as we could. I would like to see it all approved. I do not think it would be excessive.

But I point out that, notwithstanding a proposed authorization of $650 million for this fiscal year—and we have already passed the appropriation bill—only $480 million is appropriated, or $170 million less than this authorization. But it does give some leeway. When we come back in January and these funds have been distributed and allocated under the present law, and there are State plans that have been approved where additional funds can be expended judiciously and effectively during the remainder of this fiscal year, there is no reason why Congress cannot, and there is no reason why the administration should not, submit an additional budget for further appropriations up to the amount of this authorization.

I am sure if the administration does that, if it comes here with a proposal for another $100 million, and makes a case, the Appropriations Committee would not hesitate one moment to make the funds available. But there can be no point in simply raising these authorizations in such a fashion that it may simply give false hope to some overambitious agency or community to say, "Well, there is a lot of money up there. We had better get our share. Let us grab." That is not the way the program is going to be successful.

There is every indication that the $480 million—and we have appropriated every dollar of it—requested by the President is a sufficiently large amount to meet the needs of States and local units of government for this fiscal year—as much, apparently, as can be prudently expended.

It is just not necessary at this time to further increase the amounts of authorization over those amounts which have been authorized by the House of Representatives, and particularly over the amounts by which we have increased the House authorization. Indeed, it seems clear that the law enforcement system is absorbing about all the funds it is capable of at the present time. Over 50 percent of the money already allocated to projects on the local level remains unspent by the cities themselves. The simple truth is that it takes time to spend funds wisely even where the needs are great. There is more to fighting crime than authorizing the spending of money. It must be spent well, and it must be spent where it is needed. It must be spent when it is needed. It must be spent when it can get results. Other than that, Mr. President, we are wasting money.

Again I hope we will not have to go to the House of Representatives with an issue of greater difference in these figures. It would be my hope that the House will accept the figures that we now have in this bill. If it does, Mr. President, I say that we will have every dollar that can be effectively expended.

If a situation arises at any time during that period, as I pointed out a while ago as to the remainder of this fiscal year, when this program proves to be working effectively and efficiently, and the States and local governments have their machinery developed to the point where they can receive and spend more of these moneys constructively, again I say I do not believe there will be the slightest hesitancy on the part of Congress, not only to increase the authorization upon a showing being made to that effect, but to appropriate the money immediately.

I do not believe Congress would hesitate 1 minute, as I said earlier, to appropriate a billion dollars, $1.5 billion, $2 billion, or even $10 billion, if we were going to get value received from its expenditure in this war on crime. But I think that simply raising the authorization, under these circumstances, while it could not do a great deal of harm, would simply be uncalled for, and might create false hopes, and cause pressures to be applied to get a fair share of the inflated appropriation, or to get Congress to appropriate more money than the States and localities could effectively spend.

I hope that the amendment will be rejected. I have no personal interest in it. I would like to support more money. I would like to appropriate more money. Because when we talk about dangers to our country, I think there is far more danger to America's survival today from within than there is from any foreign source. I think crime, corruption, and the revolution that is being formented in this country create a greater danger to our country than does the prospect of any missile or bomb from any foreign country.

I hope we will keep our balance here and reject these amendments. Let us go to the House of Representatives with the increase we have already allocated, and try to persuade them that this bill, with the amounts we have in it, is a good balance and should be accepted. We think it is adequate, and that further authorizations at this time are not needed.

UNANIMOUS CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I am authorized by the majority leader to propound the following unanimous consent request, after having discussed it with the principal parties thereto:

Mr. President, I ask unanimous consent that debate on each amendment, with two exceptions, be limited to 30 minutes, the time to be equally divided between the mover of the amendment and the manager of the bill, the first of the two exceptions being the amendment to be offered by the able Senator from Massachusetts (Mr. Kennedy), time on that amendment to be limited to 1 hour, the time to be equally divided and controlled by the offerer of the amendment and the manager of the bill, the other exception being the pending amendment and the subsequent amendment to be offered by the Senator from Michigan (Mr. Hart); with the further proviso, Mr. President, that the time on the bill be limited to 1 hour, the time to be equally divided between the manager of the bill (Mr. McClellan) and the ranking minority member (Mr. Hruska); it being further ordered that either of the two Senators in control of the time on the bill may allot such time to any Senator on any amendment, if need be.

Mr. HRUSKA. Mr. President, reserving the right to object, is it understood that the time limitation on the Hart amendments will commence at the conclusion of the remarks by the Senator from Nebraska?

Mr. BYRD of West Virginia. There would be no limitation on the amendments to be offered by the Senator from Michigan (Mr. Hart).

Mr. McCLELLAN. Mr. President, reserving the right to object, does the Senator from Michigan desire any further time on the two amendments he has already discussed?

Mr. HART. Mr. President, as I have explained to the acting majority leader, I am willing to act on the pending amendment and the amendment immediately following without any further discussion.

Mr. McCLELLAN. Why do we not vote on those amendments immediately, then, and let the request apply only to the amendment of the distinguished Senator from Massachusetts? I know of no other amendments. If there are any, I would like to know it.

Mr. BYRD of West Virginia. Mr. President, the request applies to the amendment to be offered by the Senator from Massachusetts and any and all other amendments, except the amendments by the Senator from Michigan.

I have discussed this with the Senator from Michigan, and it was his feeling that we would get along faster without having any limitation on his amendments.

Mr. McCLELLAN. I just asked for information. I thought probably the Senator was about through discussing the two amendments he has.

As I understand the request, it is for 30 minutes on any amendment that may be offered, the time to be equally divided, after these two amendments are disposed of, except as to the amendment to be offered by the Senator from Massachusetts (Mr. Kennedy), and that will be one hour, the time to be equally divided; and that thereafter there will be one hour on the bill, the time to be equally divided?

Mr. BYRD of West Virginia. That is correct.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on the amendment of the Senator from Michigan.

The yeas and nays were ordered.

Mr. HRUSKA. Mr. President, I rise in opposite to the amendment offered by the Senator from Michigan, number 1037. Its essence is that the discretionary funds in the appropriation available to the Law Enforcement Assistance Administration would be changed, in percent-

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age, from the present 15 percent to 33⅓ percent of the total.

Mr. President, in considering the wisdom of this change, we ought to bear in mind that the amendment would bring about an erosion of the block grant concept upon which this program has always been funded. That concept has been firmly implanted within the Law Enforcement Assistance Administration ever since it inception, and also for the current fiscal year. In the other body, in its committees as well as on its floor, it was thus considered, and of course in this instance, on this side of the Capitol, in the Committee on the Judiciary.

It ought to be pointed out that the discretionary funds and the percentage thereof were considered in depth in 1968, and it was thought that 15 percent was the wisest percentage, for a number of reasons.

One of the reasons is this: That this program is one for comprehensive planning of the various law enforcement agencies within each of the several States.

Another factor is that the object of the appropriations under this bill is not to fund ongoing and existing systems, as we call them; the object is to find improvements and innovations, to find pioneering, new approaches in the field of law enforcement.

Furthermore, in order to raise the cities' percentage of law enforcement funds, we should bear in mind that the cities do not have jurisdiction over courts and corrections, in the main. The cities do find their chief expenditure in the field of police work—the actual man on the beat, in the patrol car, and in similar activities. Therefore, when we speak of high incidence of crime within any metropolitan area, it does not necessarily mean that there is great expenditure in the police work alone. There are other expenditures, chiefly in the category of the State's expenditures for courts, for parole and probation officers, for corrections, and so forth.

To adopt the amendment would tend to throw off balance the program in which we are now engaged, and it is in its incipient stages. We are now in the second complete year of the program, and to devote up to 33⅓ percent in direct discretionary allotments by the Law Enforcement Assistance Administration to the cities would mean that the cities would be getting a disproportionate share for the activities of the police force proper.

There is one further objection which is quite fatal, in my judgment, and it is this. If the amendment is adopted, it would mean that the Law Enforcement Assistance Administration will have to become the planner for each of the municipalities which would make application for discretionary funds. As has already been indicated, there are some 18,000 municipalities in the United States. In addition to the statistics just recited, there are more than 400 cities that have a population of 50,000 or more. In order to make a proper allocation of the 33⅓ percent of the moneys available for discretionary funding, the Law Enforcement Assistance Administration would have to become an expert in the situation of each of those applicants from the ranks of 18,000 municipalities and of 400 cities with 50,000 population or more.

In our hearings, we discovered that there was testimony to the effect and opinion to the effect, among those in charge of this program, that such a program, with such a large percentage of discretionary funds, would literally bog down the administration of this program. It would collapse under its own weight.

That is one of the considerations that led Congress, back in 1968, to adopt the block grant system of allocation of funds—to get away from the necessity of innumerable pipelines leading from the Attorney General's office to each of the many municipalities that would like to participate in these funds.

So it is the hope of this Senator—and I concur fully with these and the additional arguments recited by the Senator from Arkansas—that we reject the Hart amendment which would change the 15 percent discretionary funds to a total of 33⅓ percent.

Linked with this amendment, with the first amendment which was discussed, is the second amendment proposed by the Senator from Michigan, Amendment No. 1036, the burden and essence of which is to increase the authorizations for fiscal years 1971, 1972, and 1973.

There is this basic proposition in connection with authorizations and appropriations: Both authorizations and appropriations should grow at a speed and at a degree to adjust to the seasoned progress and development of the program. It would be idle to authorize $1 billion for fiscal year 1971, ending June 30 in that year. It would be idle—in fact, it would be harmful—to do that; because by no stretch of the imagination can that much money or any amount approximating it be intelligently and effectively spent under the terms of this bill and under the law. It just is not in the pattern and in the realm of practicality.

The amounts contained in the bill are more than ample. They are $650 million for this fiscal year, $1.150 million for next fiscal year, and $1.750 million for fiscal 1973. This is only a 3-year span, and that is as far as the committee felt we could go in outlining and approximating the moneys that conceivably could be used in this program effectively and intelligently. But if the estimates of authorizations should develop to be too light, if they should be inadequate, if they prove to be too small, the remedy is simple. Congress is now in session virtually for 12 months of the year. There is every indication that we are going to be here until the month of December this year.

If the necessity arises for an increase in the authorization, the legislative processes are very readily available to increase the amounts—not only the amount of the authorization but also the supplemental appropriation that would be required—at any time.

One might say, "Why not put these amounts into the category called for by the amendment of the Senator from Michigan?" The answer is simple, Mr. President, and I believe it is quite irrefutable.

First of all, it is more realistic and it is more fair. It is more realistic because the amounts mentioned are far beyond what can be practicably spent. It is more fair becaue it makes for sound fiscal management, it makes for better budgeting, and it will also avoid false hopes and disappointment—the disappointment that will be generated and created when there is the realization that the hope created was a false one.

To have a figure of $1 billion for fiscal 1971 floating around in the minds of the public generally is almost cruel. It is a hoax, in fact, considering that both bodies of this Congress have now agreed upon the total appropriation for this fiscal year of $480 million. That amount is not in conference. In fact, the conference report has been approved, and the bill is on its way to the President for signature. To approve an amount of $1 billion for authorization with that background is nothing short of cruel and a hoax, really. I suppose a Senator could vote for it and favor it and then go back to his native State and say, "I really favor law and order. I support the plans for law enforcement to the tune of a billion dollars," knowing full well all the time that that simply was not in the cards.

It is not something that will be realized, and it cannot be realized, because in the next 6 months there is no possibility of our reaching a development in the progress of this program that would call for the expenditure of that money.

With all these considerations in mind, it seems to those of us on the committee who have followed the development of this program so carefully and so assiduously during the last 2 years that we are on the right track. We do have a plan which, as time goes on and as experience is gathered, we will be able to authorize and appropriate an increasing amount. But it would have to be funded upon the progress that is made. The idea of statewide crime plans is new. Up until a year ago we did not have such a thing in every State in the Union. We do now. But it is a new concept. It is a new idea. Virtually all of the States will require the passage of time to prove the validity of the existing plans. It will require the passage of time in order to find out what adjustments will be necessary and what increases can be indulged in and what reductions can be made in the premises.

So, in sum and substance, we have here two amendments which deal with the fiscal management of the program. It has been the considered judgment of the Judiciary Committee by a good margin, that the decisions made by this body and the decisions made by the majority on the committee, in the case of the 15-percent discretionary funds last year and 2 years ago, as well as the judgment of the House and its committee, was deliberately made, and made following hearings and consideration of the evidence adduced at the hearings.

Mr. President, I urge that both amendments be rejected.

Mr. HART. May I clarify the purpose of second amendment, so that it will be completely clear. It would increase the authorization from the committee in the first year by the sum of $350 million, in the second year by another $350 million, and in the third year $250 million.

I am reasonably satisfied that if we could get the mayors of the 10 biggest cities in the United States here tonight and say to them, "Look, if we gave you an additional $35 million for law enforcement the first year, and another $35 million the second year, and $25 million the third year to support police work, could you use it?" they would say, "Yes, of course."

And certainly if we had the 100 mayors of the 100 major cities and said to them, "Could you use an additional $3.5 million a year extra," of course they would say. "You bet." Of course another $3.5 million could be used prudently by them in each city. Many of these cities have criminal justice budgets close to $100 million dollars. So we can see in this perspective how relatively modest the commitment of our resources to this fight on crime really is.

This is why I hope the Senate will agree to both the first and the second amendments.

Mr. HRUSKA. Mr. President, let me say briefly, it has been suggested that if we get the mayors of the 10 big cities here tomorrow morning or even tonight, and put them in a room and ask them if they could use $100 million, $200 million more, they would say, "Yes." The reason they would say that, is, at the present juncture, it would mean simply the funding of the present system of law enforcement. But that is not the purpose of the act. It is to find new methods, to have innovation, pioneering methods, and modern methods in fighting crime.

The second answer is this: Nationwide, only approximately 50 percent of the fiscal year 1969 funds have been expended by the cities and States. Generally, the cities have been slower in using the money pursuant to the provisions of this law than the States. The States have been using the money, not the cities.

For example, on the 1969 awards to the large cities, Detroit, for example, for an electronic robbery stakeout system, was awarded $100,000 as of June 30, 1969, but its expenditures up until June 30, 1970, were only $1,572.

Mind you, Mr. President, $100,000 for an award and expenditures of less than $1,600.

In the city and county of San Francisco, there was an award for a digital communication unit, $100,000, as of June 30, 1969. As of March 31, 1970, a little over half has been spent, but not more.

Mr. President, I ask unanimous consent to have a list of certain 1969 discretionary awards to large cities printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

1969 DISCRETIONARY AWARDS TO LARGE CITIES

	Amount	As of—
1. DF 006 City of Detroit, Mich.: Electronic robbery stake-out system:		
Award	$100,000.00	June 30, 1969
Expenditures	1,572.05	June 30, 1970
2. DF 007 City and County of San Francisco, Calif.: Digital communication:		
Award	100,000.00	June 30, 1969
Expenditures	57,562.20	Mar. 31, 1970
3. DF 009 City of Houston, Tex.: Opportunity House program:		
Award	99,815.00	June 30, 1969
Expenditures	55,705.00	June 30, 1970
4. DF 016 City of Los Angeles, Calif.: Closed circuit TV:		
Award	50,000.00	June 30, 1969
Expenditures		June 30, 1970
5. DF 017 City of Los Angeles, Calif.: Management development program:		
Award	50,000.00	June 30, 1969
Expenditures	8,982.00	May 26, 1970
6. DF 019 City of Dallas, Tex. 1st offender project:		
Award	18,752.00	June 30, 1969
Expenditures	3,410.00	Mar. 31, 1970
7. DF 013 City of New York, N.Y.: Operation Quick Make:		
Award	98,596.00	June 30, 1969
Expenditures		Aug. 22, 1970
8. 307B Grant City of New York, N.Y.: Motion picture film production:		
Award	[1] 40,000.00	
Expenditures	[2] 5,000.00	Sept. 23, 1970
9. 307B Equipment City of Los Angeles, Calif.: TV in helicopter:		
Award	55,100.00	June 12, 1969
Expenditures		Sept. 23, 1970
10. 307B Los Angeles County, Calif.: Information project:		
Award	47,300.00	Apr. 23, 1970
Expenditures		(3)

[1] Oct. 1, 1968, extended to June 30, 1970.

[2] Drawn only $15,000, charged to written material.

[3] Extended, start date: Oct. 1, 1970.

Mr. HRUSKA. Mr. President, let me say, in closing, that we are not ready for the spending under the act. We cannot possibly be, unless we want to participate indiscriminately in funding the system that we have. That is not the purpose of this law.

Mr. THURMOND. Mr. President, the role of the law enforcement agent is more important today than ever before. The last 20 years have seen this country grow into a complex society with all of the societal ills this complexity generates. We have had civil disturbances before, but nothing to match the violence in our cities of recent years. We have also had crimewaves before, but none have clogged our courts as has the crime rate of recent years.

Today's policeman requires a special kind of man. He must be the strong arm of the law and at the same time be an understanding and compassionate individual. He must make on-the-spot difficult legal decisions without the benefit of being able to retreat to a law library for quiet research. He must be able to restrain himself when confronted with unjust abuse and criticism from those who would destroy the very principles on which this country was founded.

In order to attract this kind of individual to the field of law enforcement, we must make it possible for our States to find a means of upgrading their law enforcement facilities and programs.

However, in doing this we must be careful that the Federal Government does not assume the responsibilities of operating our local police forces through the manipulation of the purse strings. I am in favor of giving financial aid to the States so that they may upgrade their law enforcement program, but in my judgment the use and distribution of these funds should be left to the individual States.

I therefore urge the Senate to retain the block grant approach to State funding.

Mr. NELSON. Mr. President, the continued increase of crimes of violence and forceful destruction or theft of property in this Nation is perhaps the major threat to our domestic security and freedom. The 1968 toll of 12,000 killed, 200,000 hospitalized, and loss of property in excess of $1 billion due to criminal activity has sounded a national alarm. This justified public concern over the apparent inability of our institutions of government to deal with criminal actions has also taken a terrible toll in decreased public confidence and trust—in their public bodies and officials, in attempts to make progress in other aspects of social justice, and even a growing mistrust between neighbors.

It is in this dangerous and emotionally charged atmosphere of fear that we must carefully put together the best efforts and resources of our system and society to meet the problem of crime head on without exacerbating the dark forces and furies of repression and retribution. Crime in this country will not be stopped by pitting group against group, or through passionate charges and countercharges on any one individual's "tough stance on crime."

The crime problem of this country is of such magnitude that it will require the commitment and coordination of all people and all levels of government. It will also require the recognition that our criminal justice system has stagnated through years of national neglect.

We must begin to realize, as was pointedly stated by the National Commission on the Causes and Prevention of Violence, that our national concerns and priorities for the last three decades have been the national defense, wars and foreign affairs, economic growth, and the conquest of space. While these issues have commanded more than two-thirds of our Federal budget, and about half of the expenditures of all governmental units, the requirements of a social justice system and the needs of law enforcement agencies have been given secondary support. Because the burden of law enforcement activities have also been the traditional perogative of state and local government, the financial resources which have been needed to combat criminal activity have been woefully inadequate. With local tax revenues unable to support even basic law enforcement activities at a satisfactory level, there has also been a growing gap in the development and implementation of innovative programs and modern methods of police work.

Needless to say, not only has there been a failure to adequately support the police function of crime control, but there has been steady deterioration in the other aspects of an effective criminal and social justice system as well. Courts with decaying, antiquated facilities, and not enough judicial manpower are years behind in their backlog of court cases in many jurisdictions. And our prison systems which are meant to rehabilitate those convicted of crime, are instead very successful training institutions which produce hardened criminals because of the lack of resources for modern penology.

Under our form of government and concepts of society, law enforcement and the administration of justice must remain the basic responsibility of State and local governments. But it is imperative that our local police departments and State courts and correctional facilities be given adequate and up-to-date tools, budgets, and the manpower to do their jobs.

The main vehicle by which the Federal Government assists the States and local governments in fighting crime is the Omnibus Crime Control and Safe Streets Act of 1968. Through the Federal Law Enforcement Assistance Administration, Federal aid is channeled to local agencies of law enforcement and criminal justice.

After 3 years of experience with this program it is apparent that this Federal program of assistance has not reached its potential. The basic reasons for the inability of LEAA to demonstrate much impact upon our national crime efforts have been twofold: First, failure to focus assistance programs in our major metropolitan areas where the highest rates and total numbers of crime occur; and, second, the failure to provide the financial support needed to make more than a token gesture against crime.

There is no doubt that crime is not spread uniformly throughout the Nation. For example, Wisconsin, my home State, had the 11th lowest rate of crime in the Nation in 1968, while our largest State had a total crime index that was almost three times the total crime index of Wisconsin, and more than six times the crime per capita of other States.

Within the States, the concentration of crime within the cities is even more extreme. Thus half of the total violent crimes in this country occur in our 26 largest States, but these cities account for only 17 percent of national population. It is therefore unreasonable to base a law enforcement assistance program upon a set financial amount per capita. It is necessary to concentrate the resources where the high crime rates are located. And high crime rates are concentrated in this Nation's urban centers.

Recent studies of the Urban Coalition and the National League of Cities/U.S. Conference of Mayors, as well as the Advisory Commission on Intergovernmental Relations have shown that the present Federal crime assistance program has not been successful in getting the necessary funds to the areas of our country with the greatest crime problems.

New York City accounts for 75 percent of the crime in the State of New York, but it receives only 43 percent of the LEAA funds. Detroit accounts for almost half the crime in the State of Michigan, but receives only 18 percent of the LEAA funds for the State of Michigan. In Florida, only 2.7 percent of LEAA funds for action program of law enforcement went to the five largest cities in the State which, between them, account for 34.4 percent of the crime in Florida.

The State of Wisconsin has been quite successful in the administration of its State program and has been diligent in putting the resources available to them through the LEAA program to the high-crime areas in the State. 43.9 percent of the LEAA action funds given to Wisconsin are passed through to the four largest cities in my State—Milwaukee, Madison, Green Bay, and LaCrosse. These four cities account for 41.1 percent of the crime reported in Wisconsin, so, as you can see, the State of Wisconsin has actually concentrated their greatest emphasis on the areas of high-crime incidence.

This, unfortunately, is an exception to the program, and while commendable as an example to LEAA and other States, does not obviate the need to make the necessary legislative changes to insure that our Federal crime-fighting efforts are focused where the greatest need exists. I do not think that the residents of Wisconsin would be in disagreement with this approach, since they have adequately demonstrated their concurrence with this through their own program.

I am therefore supporting both of the approaches which are offered by Senator HART and Senator KENNEDY to put LEAA financial impact where it can do the greatest good—in the cities with the greatest crime problem. Both of the approaches suggested by the amendments of the Senators from Michigan and Massachusetts are reasonable methods to accomplish this goal. By increasing the discretionary funds available to the LEAA administrators to 33⅓ percent as in the Hart amendment, more funds would be made available for high impact action programs in the cities. This would also be accomplished through Senator KENNEDY's approach of setting up a special block grant program for cities and counties over 100,000 population.

Neither of these two amendments detract from the block grant approach in the bill since an increased authorization will enable the States to receive as much funds as they would have otherwise. It merely directs an increased emphasis on assisting high-crime areas—which has always been the stated purpose of this legislation and program.

Mr. CRANSTON. Mr. President, the Omnibus Crime Control and Safe Streets Act was enacted 3 years ago to help local police combat the continuing increase in urban crime.

This past spring I conducted a survey of California law enforcement officers to find out how they thought the law was working and how they would like to see it improved.

I received more than 80 lengthy responses from sheriffs, chiefs of police, and district attorneys from all sections of the State.

While all of the law enforcement officers who responded supported Federal aid to improve local law enforcement, more than half of the replies were critical of the operation of the LEAA program as it had been administered in California.

The most persistent criticism of California's LEAA program was that it delayed grant application in an endless series of bureaucracies.

A southern California chief of police described the application process in the following way:

> A unit of government interested in applying for an action grant must submit a request at the local level, and the request must receive approval from a regional task force, and the sub-regional advisory board, a regional advisory board, a State task force operations committee, and finally the California council on criminal justice.
>
> In each case there is a chance that the action grant will be denied.

California police officials have also criticized the LEAA program for its State and regional emphasis.

They alleged that program plans devised by State officials do not account for the needs of local police forces, that regional task force review of local applications submerge local needs under regional considerations, and that local areas with high crime rates are not receiving a proportionate share of State action funds.

California's troublesome experience with the LEAA program is not unique.

The National League of Cities and the U.S. Conference of Mayors have reported that the problems which have plagued the California program have occurred in many other States.

They have suggested that the Congress bypass the States and increase direct grants to local governments for law enforcement purposes.

The National Governors' Conference, responding to this criticism has acknowledged the failure of many State-administered LEAA programs.

They have argued, however, that it is premature to drop the programs and replace them with direct grants to the cities.

They assert that State governments should be allowed to work out the problems which have beset their LEAA programs.

I agree with the Governors' Conference.

States should be given the opportunity to correct mismanagement of their LEAA programs.

California has already taken major steps to correct the misadministration of its crime control program.

But while States are given this chance, cities should not be ignored.

They should be provided with direct interim funding to help them cope with their pressing crime problems.

I therefore support the amendment offered by Senator HART.

The necessity of providing cities intrim funding while States correct past and persisting mistakes was made clear by the city manager of Inglewood, Calif., during testimony on the LEAA before the House Judiciary Committee.

He stated:

> I am still hopeful that the several states can pull themselves together and administer a true block grant program.

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> But even sophisticated California is having extreme difficulties.
>
> There is hope but little time.
>
> I would like to give the states a chance, but we have a crisis situation on our hands. I am looking for money.

He then concluded:

> The present system doesn't work.
>
> Maybe it will, maybe it won't.
>
> We cannot afford to gamble waiting for inexorable data, computers and cool men.

As this official points out, we cannot afford to gamble with the needs of our cities.

We cannot wait 3 more years to find out whether States can remedy misadministration of LEAA programs.

Increasing crime in our urban centers will not wait for us.

The crime problem in our cities is pressing and immediate.

We must provide immediate assistance.

Interim aid should be granted to our major urban centers, so they can start needed programs to combat crime.

If the States can get their LEAA systems to work, this interim aid should be terminated.

But in the meantime, we must end the delay.

The PRESIDING OFFICER (Mr. Eagleton). The question is on agreeing to the amendment of the Senator from Michigan (Mr. Hart).

Mr. HRUSKA. Mr. President, a parliamentary inquiry. Is that the first amendment, No. 1037?

The PRESIDING OFFICER. The Senator from Nebraska is correct.

Mr. HRUSKA. I thank the Chair.

The PRESIDING OFFICER. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Cannon), the Senator from Connecticut (Mr. Dodd), the Senator from Mississippi (Mr. Eastland), the Senator from Louisiana, (Mr. Ellender), the Senator from Arkansas (Mr. Fulbright), the Senator from Tennessee (Mr. Gore), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senator from Washington (Mr. Jackson), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pell), the Senator from Georgia (Mr. Russell), the Senator from Missouri (Mr. Symington), the Senator from Maryland (Mr. Tydings), the Senator from New Jersey (Mr. Williams), and the Senator from Minnesota (Mr. McCarthy), are necessarily absent.

I also announce that the senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Alabama (Mr. Sparkman), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young), are absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. Gravel), the Senator from Rhode Island (Mr. Pell), the Senator from New Jersey (Mr. Williams), the Senator from Ohio (Mr. Young), the Senator from Nevada (Mr. Cannon), and the Senator from Missouri (Mr. Symington) would each vote "yea."

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson) would vote "nay."

Mr. SCOTT. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senator from Colorado (Mr. Dominick), the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from Hawaii (Mr. Fong), the Senator from New York (Mr. Goodell), the Senator from Michigan (Mr. Griffin), the Senator from Florida (Mr. Gurney), the Senator from California (Mr. Murphy), the Senator from Ohio (Mr. Saxbe), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) and the Senator from New York (Mr. Javits) are absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. Dominick), the Senator from Florida (Mr. Gurney), the Senator from South Dakota (Mr. Mundt), and the Senator from Texas (Mr. Tower) would each vote "nay."

On this vote, the Senator from New York (Mr. Goodell) is paired with the Senator from California (Mr. Murphy). If present and voting, the Senator from New York would vote "yea" and the Senator from California would vote "nay."

On this vote, the Senator from New York (Mr. Javits) is paired with the Senator from Illinois (Mr. Smith). If present and voting, the Senator from New York would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 18, nays 42, as follows:

[No. 370 Leg.]

YEAS—18

Brooke
Case
Cranston
Eagleton
Harris
Hart
Hollings
Hughes
Kennedy
Magnuson
McGovern
Mondale
Muskie
Nelson
Pastore
Proxmire
Ribicoff
Spong

NAYS—42

Allen
Allott
Anderson
Baker
Bennett
Bible
Boggs
Burdick
Byrd, Va.
Byrd, W. Va.
Church
Cook
Cooper
Cotton
Curtis
Dole
Ervin
Hansen
Hatfield
Holland
Hruska
Jordan, Idaho
Long
Mansfield
Mathias
McClellan
McIntyre
Metcalf
Miller
Packwood
Pearson
Percy
Randolph
Schweiker
Scott
Smith, Maine
Stennis
Stevens
Talmadge
Thurmond
Williams, Del.
Young, N. Dak.

NOT VOTING—40

Aiken
Bayh
Bellmon
Cannon
Dodd
Dominick
Eastland
Ellender
Fannin
Fong
Fulbright
Goldwater
Goodell
Gore
Gravel
Griffin
Gurney
Hartke
Inouye
Jackson
Javits
Jordan, N.C.
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Pell
Prouty
Russell
Saxbe
Smith. Ill.
Sparkman
Symington
Tower
Tydings
Williams, N.J.
Yarborough
Young, Ohio

So Mr. Hart's amendment (No. 1037) was rejected.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. McCLELLAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. There is no time on this amendment.

AMENDMENT NO. 1036

Mr. HART. Mr. President, briefly, an amendment which I now call up was discussed prior to the vote we just took. I shall ask the clerk to state the amendment. I have nothing further to say; others may have something to say, but I think we are ready to vote. This amendment increases the authorization of money to the Law Enforcement Assistance Administration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

> On page 33, line 3, strike "$650,000,000" and insert "$1,000,000,000" in lieu thereof,
>
> On page 33, line 5, strike "$1,150,000,000" and insert "$1,500,000,000" in lieu thereof, and
>
> On page 33, line 7, strike "$1,750,000,000" and insert "$2,000,000,000" in lieu thereof.

Mr. HART. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator request that the amendments be considered en bloc?

Mr. HART. Yes.

OCCUPATIONAL SAFETY AND HEALTH LEGISLATION

Mr. ALLOTT. Mr. President, on behalf of the Senator from Colorado (Mr. Dominick), I ask unanimous consent that there be printed in the Record a document entitled "Comparative Analysis of Significant Provisions of the Occupational Safety and Health Bill, S. 2193, reported by the Senate Committee on Labor and Public Welfare, and S. 4404, the Substitute Occupational Safety and Health Bill." It is my understanding that a substitute amendment identical to S. 4404 will be offered by the Senator from Colorado (Mr. Dominick) when S. 2913 is considered and this comparative analysis is intended to aid in the consideration of the substitute.

There being no objection, the document was ordered to be printed in the Record, as follows:

COMPARATIVE ANALYSIS OF SIGNIFICANT PROVISIONS OF THE OCCUPATIONAL SAFETY AND HEALTH BILL, S. 2193 REPORTED BY THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE, AND S. 4404, THE SUBSTITUTE OCCUPATIONAL SAFETY AND HEALTH BILL

COMMITTEE REPORTED BILL, S. 2193	SUBSTITUTE BILL, S. 4404
I. Coverage	*I. Coverage*
Covers all employers engaged in business affecting interstate commerce, excluding as employers both Federal and State and local Governments (secs. 2–3).	Same (secs. 2–3).
II. Exemption and Variance	*II. Exemption and Variance*
Employers may apply to Secretary of Labor for a variance from specific standards if employer provides working condtions just as safe as Federal-standard conditions. (sec. 6(d)).	Same, except substitute bill calls it an "exemption" and not a variance; also employer applies to the *Board* and not the Secretary for the exemption. (sec. 6(l)).
III. Standards	*III. Standards*
1. Authority to issue standards. Secretary of Labor (secs. 6–7).	1. Authority to issue standards. National Occupational Safety and Health Board, separate and independent of other Federal agencies. Board is composed of five members, all qualified by previous training, education, or experience in the field of occupational safety and health; appointed by, and serve at the pleasure of the President. (secs. 6 and 8).
2. Types of mandatory standards	2. Types of mandatory standards
(a) *Early standards of three types:* (1) national consensus standards; (2) already existing Federal standards; and (3) standards also promulgated prior to the date of enactment of this Act by national organizations but by a non-consensus method. The first two types of standards must be issued by the Secretary as soon as practicable within 2 years following the effective date, unless Secretary determines that their promulgation will not result in improved safety or health for certain employees. During the same period, the Secretary may also promulgate the non-consensus standards. (sec. 6). The Secretary, under his authority to set permanent standards, is empowered to "promulgate, modify or revoke any standard." (sec. 6(b)).	(a) *Early standards of two types:* (1) national consensus standards; and (2) already existing Federal standards. The standards must be issued by the *Board,* as soon as practicable within 3 years following the effective date, unless the Board determines that these standards will not assure safer and more healthful working conditions. (sec. 6(b)). There is a specific provision that the early standards remain in effect until superseded by permanent standards.
(b) *Emergency temporary standards* must be promulgated by the Secretary if he determines that they are needed to combat grave danger from toxic or *physically harmful substances,* or from new hazards. These standards stay in effect until replaced by permanent standards which the Secretary is required to issue within six months after emergency temporary standards are issued. (sec. 6(c)).	(b) *Emergency temporary standards.* Same, except *Board,* and not the Secretary, would promulgate them; and under the substitute bill the grave danger would be one which results from "exposure to substances determined to be toxic or from new hazards resulting from new processes . . ."
(c) *Permanent standards.*	(c) Also provides for permanent standards.
3. Procedures for setting the different types of standards	3. Procedures for setting the different types of standards
(a) *Early standards* are promulgated by the Secretary by rule. APA does not apply, except in the case of non-consensus standard where informal APA rulemaking procedures apply; that is, submission of written views with informal hearing in the Secretary's discretion. (sec. 6(a)).	(a) *Early standards,* the same, except as pointed out above, no non-consensus standards are isued under the substitute bill. The *Board,* of course, issues these standards, not the Secretary. (sec. 6(b)).
(b) *Emergency temporary standards* become effective immediately on publication in the Federal Register. (sec. 6(c)(1)).	(b) *Emergency temporary standards,* same, (sec. 6(i)(1)).
Committee Reported Bill, (c) *Permanent standards* are promulgated by the Secretary under informal rulemaking procedures of APA; but a *hearing is required,* if an interested person objects to a proposed standard. The use of advisory committees is authorized, but not mandatory. Secretary is required to issue a standard within 60 days after the expiration of the period provided for the submission of views (as required in informal APA rulemaking), or within 60 days after the hearing (required where an objection is made) ends.	*Substitute Bill, S. 4404* (c) *Permanent standards* are set by the Board, using *formal rulemaking* procedures of APA which include the protection afforded by sections 7 and 8 of the APA. Same as reported bill as far as use of advisory committees is concerned. Board is required to promulgate a standard 60 days after the formal hearing ends (if advisory committee is utilized), and 120 days afterwards (if no advisory committee is used). Also, Secretary of HEW or Secretary of Labor may request the setting or modification of a standard, and the Board *must* commence standard-setting procedures within 60 days after request is made (sec. 6 (j) through (m).
4. Tests for standards	4. Tests for standards
In setting standards, Secretary is required to set the ones which most adequately and feasibly assure that no employee will suffer any impairment of health or functional capacity, or diminished life expectancy even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life (sec. 6(b)(5)).	No comparable provision.
5. Labels, warnings, monitoring or measuring, and medical tests	5. Labels, warnings, monitoring or measuring, and medical tests
Provides that standards shall prescribe the use of labels, warnings, and where appropriate, employer monitoring or measuring of employee exposure to hazards, plus types and frequency of medical examinations or other tests which shall be made available by the employer or at his cost, to employees exposed to hazards. Where medical examinations are in the nature of research, such examinations may be furnished at the expense of HEW. (Sec. 6(b)(6)).	Provides that standards must prescribe the posting of such labels or warnings as are necessary to apprise employees of the nature and extent of hazard and of suggested methods of avoiding or ameliorating them. (sec. 6(m)). Standards promulgated under the substitute bill may also provide for medical examinations and the monitoring or measuring of employee exposure to hazards. Contains provision authorizing an appropriation for the Secretary's purchase of equipment for such monitoring or measuring. (sec. 6(h)).
6. Judicial review of standards	6. Judicial review of standards
Judicial review of standards is provided in the various United States Courts of Appeals. This right may be exercised up to 60 days after the standard is promulgated. (sec. 6(f)). Judicial review of standards would also be possible in enforcement proceedings.	Similar provision, except the United States Court of Appeals for the District of Columbia is the only forum. Unlike the reported bill this judicial review of standards is made an *exclusive* remedy. The time-period for reivew is *30* days after publication of the standard. (sec. 13(b)).
IV. General duty	*IV. General duty*
Contains a general requirement that employers shall furnish employment "which is free from recognized hazards so as to provide safe and healthful working conditions." (sec. 5(a)(1)).	Contains a more detailed general requirement that employers furnish employment free from *readily apparent* hazards *which are causing or are likely to cause death or serious physical harm.* (sec. 5).

XUM

COMPARATIVE ANALYSIS OF SIGNIFICANT PROVISIONS OF THE OCCUPATIONAL SAFETY AND HEALTH BILL, S. 2193 REPORTED BY THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE, AND S. 4404, THE SUBSTITUTE OCCUPATIONAL SAFETY AND HEALTH BILL—Continued

COMMITTEE REPORTED BILL, S. 2193—Continued	SUBSTITUTE BILL, S. 4404—Continued
V. Specific duty	*V. Specific duty*
Contains specific duty that (1) *employers* shall comply with safety and health standards and that (2) *employees* shall comply with standards which are applicable to their own conduct and actions. (sec. 5(b)).	Same as to employers but imposes no duty on employees, although the "purpose" section speaks of "employers and employees having separate but dependent responsibilities and rights with respect to achieving safe and healthful working conditions." (sec. 2).
VI. Enforcement	*VI. Enforcement*
1. In general	1. In general
Enforced by the Secretary of Labor before Labor Department hearing examiners. Where necessary, the Secretary's orders would be enforced in the United States Courts of Appeals. (sec. 10).	Enforced by Secretary of Labor before an independent Federal agency, the Occupational Safety and Health Appeals Commission set up under section 11. Where necessary, corrective orders of the Commission may be enforced by the Secretary in the United States Courts of Appeals. (sec. 10, 11, and 13).
2. Inspections and investigations	2. Inspections and investigations
(a) *In general* Secretary of Labor is authorized to make inspections and investigations to enforce the Act.	(a) In general, same as reported bill.
(b) "*Walk-Around.*" Subject to regulations of the Secretary, permits employees or their authorized representative to accompany the inspector during his inspection, for the purpose of aiding the inspection. If no authorized representative is available then the inspector shall consult with a reasonable number of employees.	(b) Also has "walk-around" provision but the right of an employee-authorized representative to accompany an inspector on inspection is contingent upon the employer's exercising his option to accompany the inspector. There is no provision for substituting a reasonable number of employees where no employee-authorized representative is available. (sec. 9(b)).
(c) *Demand for Inspections.* Permits employees or their representatives to request the Secretary in writing to make an inspection where they believe (1) that a violation of a safety and health standard exists that threatens physical harm, or (2) that an imminent danger exists. If the Secretary determines that there are reasonable grounds to believe that the alleged violations or danger exists, then he is *required* to conduct a special investigation as soon as practicable. (sec. 8(f)(1)). Also, employees may demand a written explanation from the Secretary in cases of his failure to issue a citation. (sec. 8(f)(2)).	(c) No such provision.
3. Citations and civil penalties	3. Citations and civil penalties
Reported bill provides that the Secretary shall issue a citation for every violation unless de minimis, but in de minimis cases he shall issue a "notice."	The substitute bill also provides that the Secretary shall issue a citation for every violation of the Act's requirements unless de minimis, and he must do so within 45 days of the occurrence of the violation; and no citation may be issued after the expiration of three months after the occurrence of a violation. (sec. 10).
Any employer who violates a specific standard, or other requirements of the Act, such as record-keeping, and has received a citation for it, is liable to a civil penalty of up to $1,000 for each violation. Any employer who fails to correct a violation for which a citation has been issued within the time specified or who fails to comply with a shut-down order in an imminent-harm situation is liable for a civil penalty of up to $1,000 for each day such a violation continues. This penalty would, of course, be applicable to citations issued where the general requirement has been violated. Any willful violation of a specific standard or of certain other requirements of the Act is liable to a fine of up to $10,000 plus up to six months in jail; and $20,000 and up to a year in jail for a second conviction of a willful violation. (sec. 14). (See criminal penalty section of this chart).	A *willful* or *repeated* violation of the Act's requirements carries a possible civil penalty of up to $10,000 per violation. It is *mandatory* in the case of a serious violation that the citation include a civil penalty of up to $1,000 per violation; and ordinary violations carry a discretionary civil penalty in the same amount. A violation of a final order (or of a citation which has become a final order through an employer's failure to appeal a citation within 15 days of its issuance) carries a possible civil penalty of up to $1,000 per violation. Each day of continued violation in this case is a separate offense. (sec. 17).
4. Enforcement procedures	4. Enforcement procedures
Where Secretary issues a citation, employer has 15 days within which to contest it by requesting Secretary to hold administrative hearing before Labor Department hearing examiners. On the basis of the hearing, Secretary issues corrective orders. If not timely contested citation becomes final order not subject to review. Secretary may enforce his orders in the United States Courts of Appeals where employers may also seek review, unless the order is one which became final because it was uncontested. (sec. 10).	Establishes Occupational Safety and Health Appeals Commission, composed of three members appointed by the President. When Secretary of Labor issues a citation, employer has 15 days to notify the Secretary of his intention to contest the citation. If employer so contests, Secretary notifies Appeals Commission which shall afford employer with opportunity for a hearing. Enforcement of Commission's orders, where necessary—or review of those orders—would be in United States Courts of Appeals. If citation is not contested within 15-day period, it is deemed a final order of the Commission.
5. Criminal penalties	5. Criminal penalties
(a) Makes it a *misdemeanor* ($10,000 fine and up to six months in jail) to *willfully* violate any specific standard and certain other of the Act's requirements; this sanction is doubled in the case of a second conviction.	(a) No such penalty.
(b) Makes it a *misdemeanor* for any person to give advance notice of an impending inspection.	(b) No such provision. Under the substitute bill the problem of advance notice would be handled administratively by the Secretary (sec. 2(b)(10)); and the States would handle this the same way. (sec. 18(c)(3)).
(c) Amends sec. 1114 of title 18, United States Code to make it a Federal offense to assault or kill Labor Department inspectors. Various penalties including the death penalty would be possible under this provision.	(c) Contains express provisions making it a Federal offense (felony, with varying degrees of fines and jail terms) to assault, to assault with a dangerous weapon, or kill inspectors carrying out the duties *under the Act*. Maximum penalty is life sentence.
(d) Makes it a *misdemeanor* to make a false statement or record etc. (sec. 14).	(d) No express provision; but substitute bill relies on section 1001 of title 18, United States Code, as the means of punishment for false statements etc.
(e) No criminal penalty in cases of discrimination against employees for availing themselves of the protection of the Act. Instead, Secretary holds administrative hearing and orders restitution of employment, back pay, etc. (sec. 10(f)).	(e) Makes it a *misdemeanor* to discriminate against an employee for availing himself of protection under the Act. (civil penalty also provided), (sec. 17).
VII. Imminent danger	*VII. Imminent danger*
Permits Labor Department to order the shut-down of plants or industrial processes where imminent danger exists. However, before such power is exercised, the Secretary must be assured that in such circumstances there is not time to obtain a court order first. And where the Secretary delegates his authority to an inspector, the inspector must first check with his superiors in the Labor Department before exercising his authority.	Provides *only* for United States district court injunctive relief as remedy in imminent-harm situations. Rule 65 of the Federal Rules of Civil Procedure applies, except relief granted by the court without notice is effective for only 5 days. Inspector *must* notify both employer and employees that he is going to recommend to the Secretary that relief be sought.

XUM

COMMITTEE REPORTED BILL, S. 2193—Continued	SUBSTITUTE BILL, S. 4404—Continued
VII. Imminent danger—Continued	*VII. Imminent danger*—Continued
The administratively issued shut-down order may remain in effect for only 72 hours. (sec. 11(b)). Also authorizes the Secretary to seek injunctive relief in the district courts in imminent danger situations. (sec. 11(a)).	
VIII. Mandamus vs. damages	*VIII. Mandamus vs. damages*
(a) If the Secretary *arbitrarily* or *capriciously* fails to issue an order or seek relief to abate an imminent danger, the employees, or their representatives may seek a *writ of mandamus* to compel the Secretary to issue the order or seek relief in the courts. (sec. 11(c)).	(a) If there is an *unreasonable failure* on the Secretary's part to seek relief to abate an imminent danger, the *employees* who are injured either physically or financially by such failure may recover *damages* in the United States Court of Claims.
(b) No comparable provision.	(b) Employer-damages are also provided for. Damages for employers are determined by the United States district court which sets a sum certain which may be recovered as damages by the employer. This method is modeled on Rule 65(c) of the Federal Rules of Civil Procedure (bonding provisions). Thus, the same court which grants the injunctive relief in imminent danger situations would also determine the amount of damages. (sec. 12(e)).
IX. Relationship to other laws administered by the Labor Department	*IX. Relationship to other laws administered by the Labor Department*
(a) Provides that standards under Acts administered by the Labor Department (Walsh-Healey Act, Service Contract Act, the Maritime Safety Act, etc.) are superseded by standards issued under the Occupational Safety and Health Act. (sec. 4(b)(2)).	(a) Essentially the same, but Maritime Safety Act is not mentioned. Therefore, Maritime Safety Act would continue to be administered and enforced just as it has been. (sec. 25(c)).
(b) "Construction Safety Act" (P.L. 91–54) is treated the same way as the Walsh-Healey Act. (see above)	(b) In keeping with the recent policy of Congress with respect to protecting construction workers, the substitute bill would place all construction workers under the protection of the "Construction Safety Act" (Public Law 91–54). Therefore, the substitute bill expressly provides that the Occupational Safety and Health Act would not apply to employers in construction work. The substitute bill would also amend Public Law 91–54 to provide that all construction workers would come under the protection of standards developed by the Secretary of Labor under the procedures of Public Law 91–54. The substitute bill amends Public Law 91–54 to permit the Secretary of Labor to bring cases of alleged violations of construction safety and health standards before the Occupational Safety and Health Appeals Commission, created under the Commission's orders would be enforced in the same way they are enforced under the Occupational Safety and Health Act. The additional sanctions of contract debarment and cancellation now provided for under the "Construction Safety Act" would remain. (sec. 25).
X. Relationship to other Federal programs	*X. Relationship to other Federal programs*
Makes the Act inapplicable to working conditions of employees with respect to which any Federal agency other than the Secretary of Labor exercises statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health. (sec. 4(b)(1)).	Essentially the same, except added to "Federal agency" are "State agencies acting under section 274 of the Atomic Energy Act of 1954 . . ."
XI. Confidentiality of trade secrets	*XI. Confidentiality of trade secrets*
Assures confidentiality of trade secrets. (sec. 13).	Has essentality comparable provisions. (sec. 15).
XII. Variations, tolerances and exemptions	*XII. Variations, tolerances and exemptions*
Variations, tolerances and exemptions from the Act's provisions may be granted by the Secretary in order to avoid "serious impairment of the national defense." (sec. 15).	Same (sec. 16).
XIII. Federal-State relationship	*XIII. Federal-State relationship*
(a) Where no Federal standards exist, State standards would apply and be enforced.	(a) Same.
(b) *State Plans,* States which desire to set their own standards, in order to replace Federal ones, may submit a plan to the Secretary of Labor. If approved by him, the State standard and its enforcement by the State would control. However, the Secretary may apply the Federal law in whole or in part in the plan-approved State until he determines, not later than 3 years after the initial approval, that the plan is operating effectively. But in no event is the Secretary precluded from making inspections at any time to evaluate a State's operations under its plan. (sec. 16).	(b) *State Plans,* same (sec. 18).
(c) *Judicial Review of State Plans* may be obtained in the United States Court of Appeals in the circuit in which the State is located of the Secretary of Labor's decision to reject or withdraw approval of a State plan. Court's test would be whether the Secretary's action was arbitrary or capricious. (sec. 16(g)).	(c) Same (sec. 18(g)).
XIV. Federal employee safety	*XIV. Federal employee safety*
Provides safety and health programs to be established by agency heads; programs will be consistent with standards developed under the Act. Consultation with employee representatives is required. (sec. 17).	Same (sec. 19).
XV. Research, employee training, safety-health personnel education, and grants to the States	XV. Research, employee training, safety-health personnel education, and grants to the States
Provides that the HEW Secretary (1) conduct research (directly or by grants or contracts) in the field of occupational safety and health; (2) produce criteria to assist Secretary of Labor in developing standards; (3) issue regulations requiring employers to measure, record, and make reports on the exposure of employees to substances which the HEW Secretary believes to be dangerous; (4) set up programs of medical examination and tests; (5) publish lists of toxic substances; (6) make industrywide studies of matters of health in the workplace; and (7) set up educational programs for safety and health personnel. Provides that Labor Secretary (1) set up short-term training for safety-health personnel; (2) set up educational programs for employers and employees concerning how to avoid accidents, etc.; and (3) to make planning grants to the States (90% Federal participation) and program grants (50% Federal participation).	Essentially the same, but with some differences, i.e., the substitute bill *does not have any express provisions* under which an employer could be required to measure exposure to toxic substances. Instead, the substitute bill has a provision (sec. 9(h)) authorizing funds to enable the Secretary of Labor to purchase equipment which he deems necessary to measure exposure of employees to working conditions involving ill effects from exposure to toxic substances. Also, the substitute bill does not expressly provide for medical examination, but these could be provided for in standards issued by the Labor Secretary in consultation with the HEW Secretary. In short, the major difference between the research provisions in the reported bill and those in the substitute bill is that the reported bill spells out in detail what could be included in the standards administratively developed by the Board.

COMPARATIVE ANALYSIS OF SIGNIFICANT PROVISIONS OF THE OCCUPATIONAL SAFETY AND HEALTH BILL, S. 2193 REPORTED BY THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE, AND S. 4404, THE SUBSTITUTE OCCUPATIONAL SAFETY AND HEALTH BILL—Continued

COMMITTEE REPORTED BILL, S. 2193—Continued	SUBSTITUTE BILL, S. 4404—Continued
XVI. Economic assistance to small businesses	XVI. Economic assistance to small businesses
Would amend the Small Business Act to permit loans to small businesses as are necessary and appropriate to assist them in meeting certain costs resulting from the enactment of the Occupational Safety and Health Act (sec. 24).	Same (sec. 22).
XVII. Statistics	XVII. Statistics
Has provisions similar to substitute bill (sec. 20).	Contains a separate section to set up a full statistical program in response to one of the greatest needs in the field of occupational safety and health; that is, the lack of adequate statistical data to gain a clear picture of the nature and extent of job hazards. Program would include grants to the States; and the Federal share may be up to 50% of a State's total program cost (sec. 24).
XVIII. Observance of religious beliefs	*XVIII. Observance of religious beliefs*
Essentially the same as substitute bill. (sec. 18(a)(3)).	Provides that the Act shall not be deemed to authorize or require medical examination, immunization, or treatment for those who object on religious grounds, except where such medical procedures are necessary for the protection of the health or safety of others.
XIX. National Institute For Occupational Safety and Health	*XIX. National Institute For Occupational Safety and Health*
To carry out the HEW Secretary's responsibilities under the research section, the reported bill sets up a National Institute for Occupational Safety and Health within the HEW Department. The HEW Secretary appoints the Institute's Director who serves a 6-year term.	No provision.
XX. National Commission on State Workmen's Compensation Laws	*XX. National Commission on State Workmen's Compensation Laws*
Sets up a temporary National Commission to study the subject of workmen's compensation in all its facets and problems. The Commission will make a report to the President and thereafter cease to exist.	No provision.
XXI. Appropriation	*XXI. Appropriation*
Such sums as may be necessary.	Same.
XXII. Additional Assistant Secretary of Labor	*XXII. Additional Assistant Secretary of Labor*
Provides for an additional Assistant Secretary of Labor for Occupational Safety and Health.	No provision.
XXIII. Effective date	*XXIII. Effective date*
First day of the first month which begins more than 30 days after date of enactment.	120 days after enactment.

OMNIBUS CRIME CONTROL ACT OF 1970

The Senate continued with the consideration of the bill (H.R. 17825) to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes.

Mr. HOLLAND. Mr. President, I would like to ask one question of the manager of the bill, the distinguished Senator from Arkansas. Is the leadership, which is handling this bill, supporting or opposing the pending amendment?

Mr. McCLELLAN. This Senator and the distinguished Senator from Nebraska, the ranking minority member of the subcommittee, have both spoken against the amendment. The amendment was presented in full committee. My recollection is that it received two or three votes in committee.

I have explained the amendment and discussed it at some length. I realize some Senators were not present.

We have increased in this bill the authorization of the House bill by $400 million—$150 million for next fiscal year and $250 million for the next fiscal year, and that raises the authorization for 1971 fiscal year to $1.15 billion, whereas the authorization for this year which is contained in this bill is $680 million.

Mr. HART. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. HART. What we are talking about is an amendment that would add $350 million to this year's authorization, raising it to $1 billion; $250 million in each of the succeeding years, which would raise it to $1.5 billion and $2 billion for the next succeeding years as the amount of money to give the Law Enforcement Assistance Administration, involving the subject about which we all make speeches today, the war on crime.

Mr. McCLELLAN. We already have appropriated for this fiscal year $480 million, but the committee has placed in this bill an authorization for $650 million for the present fiscal year, which is partially gone, with the view that if the administration of this agency finds it does need and can use more money, they will have the authorization. If it comes in with the supplemental request. The Senator from Michigan would raise that amount to $1 billion, whereas we have $170 million leeway to play with if they come in with a request for the balance between now and next July 31.

For the next fiscal year the Senator from Michigan (Mr. HART) would raise it to $1.5 billion, whereas we have in this bill $1.15 billion, which is $500 million over and above what we are authorizing for the present fiscal year.

For the next fiscal year we have in this bill $1.750 billion, which is $250 million over the House bill. The amendment of the Senator from Michigan would raise that to $2 billion.

Our position is that the authorizations we have provided are more than adequate, taking into account the necessity for the new agency to get experience and for the several States, towns, and municipalities that are going to receive this grant-in-aid money to get organized and formulate plans.

It would be an illusion to say, "We are going to appropriate $2 billion. Here is $2 billion." I do not think we are going to spend it. I do not think it can be spent judiciously or prudently until we get the machinery organized and operating efficiently.

That has been my position. So far I have been sustained by the committee.

Mr. HRUSKA. Mr. President, the funds authorized for this and the next 2 years are more than ample. The illustration given by the chairman is very spectacular and dramatic.

The authorization under the amendments would be $1 billion for fiscal 1971. The fact is that yesterday or the day before we sent to the President a bill appropriating for this fiscal year $480 million. Even under the present authorization we have a latitude of $275 million if we have to come back for a supplement. The amendment seeks to add $350 million.

The amounts for 1972 and 1973 are ample. If they should, by some stretch of the imagination, prove inadequate, the remedy is simple. It will be available. We can always increase the authorization. We can always get a supplemental appropriation if the need is there.

The amendment should be rejected because it would falsely raise the hopes of the States that they are going to get more than they possibly can.

Mr. HOLLAND. Mr. President, I thank the Senators from Arkansas and Nebraska for their clear explanation of the situation. I had heard part of the argument that preceded the last vote, but it did not cover this particular matter. I am sure other Senators had the same experience. I think the Senators have made the situation clear, and I am indebted to them.

Mr. McCLELLAN. Mr. President, I thank the Senator. I am glad to make the explanation to Senators present who were not here when this authorization was discussed.

As I said before, I believe, in all sincerity, that there is not a Member of Congress who would not vote to spend $2 billion, $5 billion, or $10 billion if the money could be used effectively against crime. It is not a matter of money, and there is no rationality in going to extremes and making a big splash without getting results. Let us get the results, and then we can always provide the money.

Mr. HART. Mr. President, since there were also some Senators who did not hear our side, let me say just think of next year. This amendment would increase by $350 million the sum that would be available. Is it or is it not practicable to conceive of beneficial uses for $350 million as an assist to local units of government to fight crime?

Let us just think of the 10 largest cities in this country, and divide those 10 into $350 million. Do Senators think there is a police chief in any one of those 10 cities who would say, "I cannot, fellows. I would not know what to do with the money" Or take 100 cities and divide them into the $350 million. Do Senators think there is any mayor in them who would say, "Thanks, but the problem is not serious enough here that we can use $3,500,000"?

XUM

Mr. PROXMIRE. Mr. President, the Omnibus Crime Control Act we are considering makes authorizations for the Law Enforcement Assistance Administration in the amount of $650 million for the current fiscal year, $1.15 billion for 1972, and $1.75 billion for 1973. This is a great deal of money, and a very rapid expansion of a program which received $270 million last year, and only $60 million the year before that. We all want to see effective action taken to reduce the incidence of serious crime. It is entirely proper that we are increasing the amount of Federal resources devoted to crime control and that we are doing so rapidly. I support these increased authorizations.

Unfortunately, money alone will not do the job. I wish I were confident that this money will be effectively utilized to achieve major improvements in our criminal justice system. However, based on my present knowledge of the law enforcement assistance program, it is not possible to have any such confidence. The Subcommittee on Economy in Government recently held 2 days of hearings on the effectiveness of the criminal justice system. Several of our witnesses discussed the law enforcement assistance program. The deficiencies they pointed out seem to me so serious that I want to bring them to the attention of the whole Senate. My purpose in doing so is to emphasize the need for continued congressional oversight of this program and continued efforts to bring about improvements. Without such efforts, much of the money we are authorizing in this bill may be wasted—a tragic waste in view of our very urgent national need for an improved criminal justice system.

The witnesses who testified before my subcommittee were well qualified to comment on the law enforcement assistance program. One was police chief in the city of New Haven, Conn. Another had been for 3 years the head of the criminal justice planning agency in Massachusetts. A third had held responsible positions in the Law Enforcement Assistance Administration itself. The brunt of their testimony was that the law enforcement assistance program is not succeeding in encouraging new and more effective approaches to law enforcement and the administration of justice. It is not creating incentives to innovation. Despite the establishment of planning agencies in every State, the quality of criminal justice planning is showing little improvement.

I would like to quote the testimony of Chief James Ahern of the New Haven police in support of the proposition that these Law Enforcement Assistance funds should be spent more innovatively:

> I would encourage them to be sure that State planning agencies in awarding grants promote innovation, promote some kind of research, promote kind of forward moves in police departments, say in courts and corrections, rather than support some past practices that are really horrible. In fact, that is the way the money is being spent now, and it is being spent to reinforce the very worst things in the criminal justice system.

And this is what Mr. Ahern has to say about what the police in this country really need if they are to do a better job:

> Police departments in this country are desperately in need of new talents, improved policies and modern approaches to solving their problems. Yet few, if any, suggestions are offered either from the Federal Government or the State planning agencies on how best to obtain these goals.
>
> Funds provided by the Federal Government can be most effective if efforts were made to develop guidelines that realistically helped localities—cities and regions—meet their needs. The Federal Government should closely monitor how money is used to insure that it does not supplant a city's normal budget expenditures but rather stimulates innovations, develops new programs and allows the components of the criminal justice system to expand and grow.

Nor do we, in Chief Ahern's judgment, have any reason to be satisfied with the police training programs which LEAA is funding. Again, I quote:

> The Law Enforcement Education Program (LEEP) also is a disappointment. It is a system of direct Federal grants to colleges where police and others in the criminal justice system attend school. What this large program has resulted in is a crop of new courses designed more to attract Federal dollars than to be relevant to the student's needs. The money spent on those efforts has produced a second rate system that has more training than education. In fact, the police science courses supported have tended to segregate police on campuses and limit severely their educational experience.

And finally let me quote Mr. Ahern's conclusion concerning the extent to which the law enforcement assistance program has profited by its 2 years of experience:

> . . . And, unfortunately, there is no indication that the patterns established in the past two years are being rethought or changed in the light of operating experience. What began as one of the most important steps by the national government to meet the most urgent urban problems is being diminished by layers of bureaucracy and lack of direction. Unless immediate steps are taken, ones that will encourage police to experiment with new types of staff, improve training and recruitment of new kinds of people, much of the money being spent at present will be wasted. . . . The Federal guidelines are very rigid and very inflexible. It is actually a bureaucracy that has grown old very quickly and may be dying, I think.

Chief Ahern's indictment of the law enforcement assistance program is a powerful one. Let me add that I did not take time to quote what Chief Ahern had to say about our criminal justice statistics or about our tragically inadequate programs to prevent juvenile delinquency. This discouraging evaluation comes from someone who has to deal directly and continuously with the problems of law enforcement. I ask unanimous consent that Mr. Ahern's statement before the Subcommittee on Economy in Government together with excerpts from the subsequent discussion be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PROXMIRE. It seems clear to this Senator that if we are to obtain the results we want from increased expenditures on law enforcement assistance; if we are to really do something effective about crime, we must work closely with the executive branch to obtain major improvements in this program. The legislation we are considering today will remove some of the stumbling blocks which have to date prevented effective administration. Unfortunately, they will not remove them all. One of the most serious weaknesses is the paucity of funds which are being allocated to research and to planning and evaluation.

The law enforcement assistance program is new. Few people are accustomed to thinking of the criminal justice system as a whole. We have few experts trained to analyze its workings and to plan for more effective programs. Yet despite this newness, despite our shortage of trained personnel, only a tiny fraction of the total being expended under this program is being devoted to planning, to research, to evaluation, or to improvements in our totally inadequate criminal justice statistics.

Of course, we must go ahead with an action program now. I am not proposing that we wait until we have all the answers before we start doing something about crime. I am proposing that as we proceed with our action program, we also provide for adequate evaluation and for the research which will lead to a more effective program in the future.

The authorization bill which we are considering does not set aside any specified amount for planning or research functions. And I think it is proper that the authorization contain flexibility with respect to the allocation of funds. However, the appropriation for this year does impose limits. Out of a total appropriation of $480 million, only $7.5 million, 1½ percent, is to be spent on research and on improving our statistics. Only $26 million, 5½ percent, is to be spent on the comprehensive planning process which is supposed to be fundamental to this program. $411.5 million is to go for action grants. These allocations are not well balanced, especially in a new and rapidly growing program.

The appropriation bill for this year has already been enacted. We approved it yesterday. I suppose we must live with it. I presume, however, that there may be a request for a supplemental appropriation, occasioned by the fact that the authorization is substantially above the appropriation and provides for a new program for correctional facilities, which would have to be funded.

So I would urge, that in any supplemental request, attention be given to more adequate funding for the research and evaluation activities of LEAA. I would certainly urge that in appropriation measures for future years, we work out a more balanced allocation among research, planning, and action expenditures.

Mr. Richard Velde, Associate Administrator of the Law Enforcement Assistance Administration, is testifying before my subcommittee on Monday. I am looking forward to getting his views on improving the allocation of funds and to exploring ways in which the program can be made more effective. It is imperative that we have an effective criminal justice system. The legislation we are considering today must be regarded as only the beginning of the effort.

Exhibit 1

Remarks of Chief James F. Ahern Before the Joint Congressional Subcommittee on Economy in Government, September 23, 1970

I am honored by the invitation to speak before the members of this sub-committee. I am especially anxious to share with you my thoughts about the Federal Government's Omnibus Crime Control legislation and how its implementation has affected local police departments.

I would also like to offer several suggestions on how the law can be changed to better able the country's Criminal Justice System to meet its pressing needs.

For nearly two years the national government has provided substantial financial support for expanded and new programs to the various agencies in what is commonly called the "Criminal Justice System."

To date, nearly one billion dollars has gone to support the creation of 50 new state bureaucracies to administer the program. In addition, they perform long-range planning for police, courts and corrections and fund action programs to meet whatever needs are determined at the state level.

The law has created a new federal agency—LEAA—to oversee state activities and provide financial assistance for various programs.

What these funds have produced should be looked at and some assessment of their impact made. But any hard look at so-called "results" must be done in light of the law as written by Congress, and the condition of the system prior to the Act, especially the police.

The Criminal Justice System in this country, including the police, is in a sad condition. There are serious questions whether in fact the system is capable of acting in the best interests of justice. The police have been ignored by the communities they serve for decades. The courts, log-jammed with cases, are rapidly reaching the point of total collapse. Correctional institutions are under financed with meaningful rehabilitation still a utopian concept.

More bluntly, little attention has been paid to the nation's Criminal Justice System. And when it is given, it has sometimes been less than helpful.

The police, with which I am most familiar, have tended to be used by local and state politicians more responsive to partisan needs than professional goals and criteria. Not only have local police agencies been starved financially and not encouraged to improve, but they also have been manipulated in the worst way. No other major local service has been so obviously subject to political intervention and control. Small wonder that police are a target of the young and others concerned with governmental change.

When "Law and Order" became an important political issue—one that nearly every politician irrespective of his party or beliefs attempted to use—it was clear that police had an opportunity to make the important improvements so long needed. For the first time there was broad concern and attention to begin adequate financial support of police service. Of course, change and improvements for the courts and prisons also become possible.

One penalty for the years of community neglect and disinterest, at least for the police, was that when legislators became interested they did not know what to do. Instead of writing a bill that helped focus the problem and suggest solutions, a grant-in-aid program was developed that provided money for a series of unknown efforts.

The law gave broad indications of courses for action that missed the target rather than provide a mandate for substantial change in how the system operates and the types of skills required to make it run effectively.

While I am not suggesting that Federal funds be legislatively earmarked for a narrow range of projects, I am saying that more direction and clarity could have been written into the law. Several provisions also were written into the act that resulted in largely unworkable planning and administrative requirements on an improperly and inadequately prepared level of government—the states.

The Omnibus Crime Control Act of 1968 established the worthy goals of planning while never appearing to take into account whether or not there was a capacity to accomplish such a task.

It assigned this duty to states which, in the vast majority of cases, had never been responsible for solving the problem nor evidenced any inclination to do so.

The law also imposed heavy matching requirements on already over-burdened cities where many of the new programs were expected to take place. The experience of the past several years has clearly shown that cities are not able to produce new sources of income; that somehow the state's and federal government must help them out of a financial crisis. Nevertheless, the Crime Control Act requires local agencies to provide two-fifths—40 per cent—of the cost of nearly all programs. In addition, the law says that any request for personnel be matched on a 50–50 basis, with the locality contributing one dollar for each the Act provides.

One result of the law has been confusion. And this lack of clarity has resulted, I think, in a number of serious problems that must be remedied if the police, specifically, and the criminal justice system, in general, are to meet today's needs.

The confusion of which I speak has been on each level of government. Its results have been poor planning, mundane programs and certainly a high level of frustration among user agencies. Compared with other Federal grant programs, I know of few individuals or groups that defend the Crime Control legislation. Even the expected constituency of self-interested parties has not developed.

I have heard some criticism about alleged heavy expenditures of these Federal funds for hardware or consultants. Some commentators have implied that Crime Control means purchasing tanks, guns and other implements of destruction. Yet, in Connecticut for example, I know of no program for police that has supported armaments or heavy "riot" equipment. I am aware, however, of the great need for new radios, computers and other equipment items. I am also aware of the difficulty in obtaining them, not because there is no money but because the delays in getting the funds from Washington through the state planning agencies to cities are immense.

Equipment needs are paramount to agencies that have been poorly supported over the years. A large number of equipment projects also reflect the need for assistance to develop more meaningful programs and the lack of either direction or assistance by the Federal government or state agencies.

Police departments are required in most cities to recruit from the high school level. From this body of manpower they are expected to produce chiefs, top level administrators and specialists such as systems analysts and trainers. Police departments are relatively unsophisticated agencies yet they are expected to solve problems similar to those facing any large bureaucracy and business. They desperately need planners with new skills, for example. Yet the Crime Control Act allocates 60 per cent of the planning funds to the state level and only 40 per cent of the planning funds to help bring skills and talent on the local level where it would have the most impact and make for substantial change.

Under this arrangement, no matter how much is given to the states, no matter how large a staff is hired there to develop grandiose schemes, when their plans filter to the local level they will be rejected, misused or misunderstood. Change cannot be imposed without participation and access to individuals able to accomplish it.

Police departments in this country are desperately in need of new talents, improved policies and modern approaches to solving their problems. Yet few, if any, suggestions are offered either from the Federal government or the state planning agencies on how best to obtain these goals.

Funds provided by the Federal government can be most effective if efforts were made to develop guidelines that realistically helped localities—cities and regions—meet their needs. The Federal government should closely moniter how money is used to insure that it does not supplant a city's normal budget expenditures but rather stimulates innovations, develops new programs and allows the components of the Criminal Justice System to expand and grow.

Those guidelines should not be rigid and inflexible, but developed with the awareness that change and innovation is a relative phenomenon. The use of advanced techniques or highly skilled staff in one city may be normal; but having a civilian planner, for example in Jackson, Mississippi surprisingly innovative.

The state of the art differs dramatically from city to city, state to state. The Federal government must be aware of this and be flexible but demanding, understanding yet firm in the pursuit of these goals.

Perhaps one of the greatest failings of the current law, in addition to limitations written into it, is the lack of imagination and poor administration of it from Washington.

No other important Federal agency is run on a day-to-day basis by three administrators. Yet the Law Enforcement Assistance Administration (LEAA) has a "Troika" of equally powerful administrators, each with full veto power over the other two.

I suppose it is unrealistic to believe an organization operated in such a fashion could provide imaginative and forceful leadership for 50 newly created state planning agencies and the 40,000 local and state police agencies in this country.

Although most of the action funds in the law area allocated to the states for local distribution, 15 percent is left at the national level for discretionary purposes. To date these funds have been granted for a series of projects without any apparent strategy or focus. There seems, no where within the funding pattern, either nationally or at the state level, a commitment to modernizing police service.

The Law Enforcement Education Program (LEEP) also is a disappointment. It is a system of direct Federal grants to colleges where police and others in the Criminal Justice System attend school. What this large program has resulted in is a crop of new courses designed more to attract Federal dollars than be relevant to the student's needs. The money spent on these efforts has produced a second rate system that has more training than education. In fact, the police science courses supported have tended to segregate police on campuses and limit severely their educational experience.

My comments today must belie the deep sense of frustration that I as a chief of police feel about the Crime Control Act. These feelings are compounded as I serve on my State's planing committee, a group responsible for allocation of Connecticut's action funds.

As in many other States, the police are under-represented on this board, with largely inexperienced administrators making recommendations about what police departments should be doing. Too often, state planning agencies are created for political purposes, with many of its members uninterested in changing an already poorly functioning system. Although the vast bulk of the money allocated to Connecticut is spent by local law enforcement agencies, there are only two local police officials on the 28-member board. Only two other members represent urban areas. The vast majority of the members are attorneys, with a particular point-of-view that is not balanced by others. No one at the national level has moved to remedy this situation, not a unique one.

My frustration with the Crime Control Act and its administration stems, in large part, from the fact that for too long the police of this country have been the forgotten child of municipal services. That police departments are in need of substantial change and improvements is not the question. But that they are unable to fully utilize the support offered by the Federal government for the first time in our history is difficult to accept.

The Federal law does not promote the kind of programs and approaches that police departments must take in order to meet today's demands for service. Funds coming through state agencies—ones unfamiliar with urban problems—are seldom shaped in a way that deal effectively with city police problems.

The law, the Federal and state agencies administering the funds, also do not promote the kinds of changes necessary for today's police agencies. Law and order is not, nor should it be, limited to simply reducing crime. A police department is no longer best characterized by smooth talking detectives in snap brim hats.

Today's police officer deals with some of the most complex human problems facing our cities. He, and the agency he works in, must be equipped to handle a family dispute or the teenager experimenting with drugs. To accomplish such an important objective means that money must be available for a wide-range of programs and these programs will differ from community to community, city to city. No so-called statewide comprehensive plan, as put together by most states, and encouraged by the Federal government is sensitive to these needs. And, unfortunately, there is no indication that the patterns established in the past two years are being re-thought or changed in light of operating experience. What began as one of the most important steps by the national government to meet the most urgent urban problem is being diminished by layers of bureaucracy and lack of direction. Unless immediate steps are taken, ones that will encourage police to experiment with new types of staff, improve training and recruitment of new kinds of people, much of the money being spent at present will be wasted.

Several steps can be taken on the Congressional level to begin to solve the problems I have outlined. These include: reduction of the matching requirement from 40 per cent in most cases to a more realistic 10 per cent. Moves to have states contribute matching funds for local efforts should not be imposed immediately, but phased in so that legislators have adequate time to consider the proposition.

Unworkable restrictions on personnel (especially civilian staff members) should be eliminated from the current law.

Planning funds, heavily weighted toward state planning bodies, should be made available to major cities in each state. Funds for planning also should be increased. At the same time, a national effort to attract capable people into the field and train them to be planners should be made. Planning requirements should be re-thought and made more realistic, in line with local capabilities.

Direct action grants should be made to cities and other major population centers. These should be from both the national and state funds available through the Act.

These suggestions, if implemented, would at least provide a framework for police departments to begin making changes. They should also receive technical assistance and support from the Federal government.

Much time has already been lost. Police departments are not measureably improved despite the notion that much has been done. It simply has not. Unless the Congress and the people you represent come aware of the problems facing police and provide the support they need, past practices will continue.

EXCERPTS FROM SUBSEQUENT DISCUSSION

Senator PROXMIRE. Chief Ahern, there seem to be some very fuzzy questions about how federal law enforcement system funds are allocated. These funds are growing, as we know, rapidly. I do not know if you were here when I pointed out the statistics to the terrific increase since 1969, an increase of about eightfold. Do I understand your position to be that the Federal Government should offer more guidance rather than just accepting whatever plan the state may put together?

Mr. AHERN. I think what I am saying is that they ought to be sensitive to the various problems that differ from one locality to another. The federal guidelines are very rigid and very inflexibile. It is actually a bureaucracy that has grown old very quickly and may be dying, I think.

The courts and police are surprisingly different from California to Connecticut to Mississippi, let's say. Yet this same kind of application is made on a nationwide basis.

I would encourage them, at the same time, to be sure that state planning agencies in awarding grants promote innovation, promote some kind of research, promote kind of forward moves in police departments, say in courts and corrections, rather than support some past practices that are really horrible. In fact, that is the way the money is being spent now, and it is being spent to reinforce the very worst things in the criminal justice system.

Senator PROXMIRE. Why is that? Is that because the local pressure from the local people is that they want to continue, as they always do, what they have been doing and want to continue it and apply pressure to congressmen and senators?

Mr. AHERN. I think it works something like this. The police department is told to make an application. That is a new ball game to them. They have very few skills to do this. They will generate very pedestrian requests for such things as equipment. The state planning body, which is itself fairly unsophisticated and fairly unequipped to deal with these situations, particularly police department problems, rather than working with localities and providing the skills or the planning momentum at the local level, will just react to those applications and they wind up funding very bad things. There is absolutely no thrust, from my personal experience, to change the system. Rather, it is to support it.

In Connecticut, for instance, we have minimum standards for police. That is five weeks of training, which is absolutely ridiculous, considering the scope of activities that a patrolman handles and considering the very tense kind of scene.

Senator PROXMIRE. How does that compare with the national average of various states?

Mr. AHERN. I think planning for police is a fraud—I mean training for police is a fraud. I do not know of any department that has one that is really relevant to what a policeman does.

Senator PROXMIRE. But five weeks is not untypical?

Mr. AHERN. Five weeks, you could not really start.

Senator PROXMIRE. I know that, but I say this is common throughout the country?

Mr. AHERN. I would say so, yes. That is probably the norm. In Connecticut, for instance, 12 weeks of training is required for a hair dresser. It gives you some indication of the type of concern for police. Yet that same 5-week training program, which trains suburban and urban police departments, which have different ranges of activities, is reinforced and supported by federal money, without any demand for change, without any demand for new kinds of people, without any demand or reassessment to see how effective it is. I can tell you very personally it is not effective at all.

Senator PROXMIRE. It would seem to me that especially Connecticut—Connecticut, as I understand it, is not the second richest state or the third or the fourth, it is the richest, per capita; right at the top, at least on many statistics I have seen. If any state can afford to carry the load, it would seem to me it ought to be Connecticut.

Mr. AHERN. You have to make the distinction.

Senator PROXMIRE. You were telling us, you were kind of weeping about how you are having a terrible time getting along with local funds and you have to have the Federal Government assist because you just do not have the funds available to provide the kind of pay, the kind of training, the kind of equipment that you need and this is what the Federal Government should do in a substantially bigger way. At least that is what I got from part of the flavor of your testimony. It is most effective coming from you because you are not the poorest state. As I say, you are richest, the very richest.

Mr. AHERN. I think you have to make the distinction that per capita wealth is not necessarily reflected in city or state budgets.

Senator PROXMIRE. It ought to be.

Mr. AHERN. That is personal wealth. Very little of that personal wealth goes into police departments.

Senator PROXMIRE. Do you have a state income tax?

Mr. AHERN. No, we do not.

Senator PROXMIRE. In our state, we are of average income, but we have a very high state income tax, a sales tax, we have the works, as well as a very big property tax.

XUM

It is partly whether the citizens in the state really are concerned enough about law enforcement to make this kind of an effort, is it not?

Mr. Ahern. It is also partly the political structure and the legislative bodies that do set budgets. It is how they perceive priorities and how serious the problem is. It is also how they perceive the criminal justice system, and police in particular.

Senator Proxmire. You see, no matter how you try to safeguard this, and I think all of us want to do so, I have found in the years I have been here that power does follow the dollar. If we provide money for any kind of a program, we want to have something to say about how it is done. We will provide our standards and our control.

Now, you can look at it in several ways. Some people are very concerned about the possibility of a federal police system. They think it can be very dangerous for a democracy. Others are concerned, as you seem to be, that you will get the dead hand of a federal bureaucracy. That is a very healthy and wholesome concern. Either way, you lose.

It would seem to me that of all of our local spending, this is one that should be, as much as possible, funded on a local basis or at least a state basis, rather than a national basis, except in a research area, where we can provide some innovation and some checking of what works and what does not, but not where we would have the power, rather, because of our appropriations, to control police policy and police activity.

Mr. Ahern. Senator, I do not think it is really a problem in terms of federal control of local police departments. I would not sit here and argue the bloc grant system as being effective or ineffective. But I think the Federal Government can demand some kind of demonstration of effectiveness for their money. That demand can be made on state planning committees to see that their money is spent effectively. I do not see that as control of the local police departments or a national police department.

One of the problems with police departments in this country is that there are 40,000 of them. They all differ very much. There is no profession per se. There is nobody who speaks for local police. There is no major body pushing for improvement, which they need drastically. You can witness some of the things that have happened around the country.

I think, you know, to diminish the number of police departments in this country would be a very healthy thing, either to regionalize them or find some way of coordinating their activities. It is a very mobile society, as was demonstrated by the Chancellor's comments and the police departments really are not equipped to handle the kind of society we live in.

Senator Proxmire. This seems to me to be both unrealistic—and I am not sure it would be desirable to work toward a 90/10 allocation of the kind you request. There is lots of unhappiness about the highway funds. There you have the rationalization that it is a user tax, anyway, that the person who uses the highway buys his gasoline and that tax money should go back into building his road. But if you have a 90/10 funding of police programs, it would seem to me that in the first place, you would get a lot of resistance here. In the second place, you are likely to get federal domination that neither you nor I would want.

Mr. Ahern. The amounts of money that the Federal Government will put into local police departments is really dissipated. It would come to a fraction of the existing local budget. So I doubt very much whether there is any serious problem of control. But police departments, urban police departments, faced with the financial crisis that cities have, have a bare-bones operating expense. It is absolutely just rubber tires and gasoline and there is no money in there for innovation or experimentation. I would expect that the Federal Government should support those kinds of things.

Now, I think the Federal Government has a vested interest in good and proper law enforcement in this country. If cities are faced with the kind of tense scene and the kind of social crunch that they really are faced with and police departments handle these things in inept ways or ways that contribute to the escalation of violence, then it affects everybody and not just states and localities. I would encourage you to look very closely at the 90/10, because without that, I know in the City of New Haven, I in fact can't make application for additional money this year because I have not the matching requirements. I think you are going to find that a good deal of that money is just going to sit there and wait. Because cities just do not have it to spend.

Senator Proxmire. It sounds as if they do not have that much interest in improving your police operations.

Mr. Ahern. I would agree with you. I think police departments traditionally have been the step-children of city government. An awful lot has been demanded of them with very little attention given to their needs. I think things have caught up with cities. They would be more inclined to give you additional cars, more inclined to support operational measures. That kind of thing is coming only out of necessity.

What I am advocating is more federal money, not to replace the budget, but to supplement it, to bring the kinds of skills into the police department that they desperately need, give them the planning capabilities so they can at least spend that money in a worthwhile way. If those matching requirements are not changed, I think the Federal Government is going to find itself at the end of this fiscal year with a good deal of money lying at state bureaucracies, not being able to be spent.

Senator Proxmire. You speak feelingly and it certainly makes sense that the Troika administration of the LEAA is unworkable and should be changed. Would the amendments now before Congress take care of that?

Mr. Ahern. I am not that familiar with them, Senator. I believe there is one that has passed the House to have a single administrator.

Senator Proxmire. Has this administration by committee really been a major factor in inhibiting development of an effective LEAA program?

Mr. Ahern. I believe it has. I base that on information I have received from employees of LEAA who face tremendous problems in getting programs pushed into the operational stage. I think there is some ideological and philosophical difference between the two members who are there now, or three members who were there. I do not think that is a bad thing itself, but I do not think you can operate an action kind of agency, funding agency, and keep it dynamic and keep it responsive to the user agencies with that kind of system. I think you need a single administrator.

There have been a number of problems on discretionary grants and money sent directly by the federal agency to the cities because of these difficulties. I can speak of this personally.

Senator Proxmire. I want to ask both of you gentlemen about the number of crimes committed by young people. We know they are dissatisfied, restless, having trouble finding jobs—16 percent unemployment this summer, 30 percent among black people. They are exposed to drugs as our generation never was, increasingly exposed to temptations of that kind. What has happened to the federal youth programs and programs to prevent delinquency? As I recall, Congress passed a juvenile delinquency prevention control act in 1968 which contained some requirements for comprehensive planning parallel to the safe streets act requirement. It gave responsibility to Health, Education, and Welfare as well as to Justice.

Our witnesses yesterday said that these programs just never got off the ground. What should the Federal role be? What do we have to do to get these programs moving and effective?

Mr. Ahern. Very honestly, Senator, in terms of youth or juvenile problems, I think we really are in a disastrous situation. I can speak only for the State of Connecticut on this side.

The juvenile courts—if you think there are problems with the criminal court system, the juvenile court system is so bad as to be actually not functioning at all—not functioning. The caseload for youth social workers in the juvenile court system in Connecticut is something like 150 per individual. Recommended by the Crime Commission, and at the time it was thought to be quite high, was 35. It is just a system that marks a young person deviant, marks him bad, and then rejects him.

The only alternative is freeing him, which 90 percent of them are, with a letter to their parents—very few ever go before any kind of tribunal. Very few are ever offered any kind of psychiatric or social help in solving their problems. The State of Connecticut, which puts it in the forefront in terms of what is going on around the country, just at this point, just two months ago, decided to give psychiatric help to young people on a part time basis—two psychiatrists for the entire state. How much help can they really be? But that is an advanced step by the standards of the juvenile system.

I do not know what is going to become of that. I do know that on the state level and certainly in an urban environment, it presents tremendous problems to a police department, because that is the only way we have to turn. That is the only system we can plug kids into.

I can say that the social service agencies have become more interested in themselves than in their clientele. An urban police department is faced with this—when the city comes alive at 5 o'clock in the afternoon, every social service agency closes down, a very odd scene. There is very often no support, no help, for a police department. They can only handle it in one way.

I admit that we make too many referrals, some of them for violations that would not be violations if they were adults, for instance.

I think the police are at fault by putting too large an input in there. I think that certainly ought to be changed, and we are making some attempt to change it. Juvenile delinquency is not a problem that the police departments can handle alone. You need the concentrated support of every social service agency, and you need the support of the courts. Those courts, themselves, to the best of my knowledge—and that problem seems to be pretty much the same around the country—just are not working.

Senator Proxmire. I would think this kind of situation would lead to a completely ineffective police operation with regard to those kinds of juvenile crime, so that pretty soon the kids would get the word that they are going to be talked to by policemen, have a letter written to their parents, who, if they cared, the kids would not be in trouble in many cases, at least, and that is the end of it.

So there is no real deterrent, and they have a contempt for the law because it is not enforced, there is no punishment. They hear a lot of stuff about how they are going to go to prison or something and suffer real punishment, but they are not, they know their friends are not.

So I would think this would be a very demoralizing kind of situation.

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Mr. Ahern. It certainly does nothing for the police department's relationship with young people, and it certainly does nothing particularly in terms of minority groups. Because we become the first hand, the first that reaches out and grabs them and puts them into a system that does nothing to support them, nothing to help them.

Senator Proxmire. All it does is keep them from getting a job.

Mr. Ahern. It just marks them down.

Senator Proxmire. As you say, marks them as deviants, as bad.

Mr. Ahern. That is right.

* * * * *

Senator Proxmire. I would like to ask you gentlemen, one function of the Law Enforcement Assistance Administration is supposed to be to improve our statistics on the incidence of crime, on the effectiveness of crime prevention and rehabilitation efforts. What is wrong with the existing crime statistics and what needs to be done to improve those statistics?

Mr. Ahern. No. 1, Senator, it is a voluntary method of reporting. Very honestly, crime rates go up and down according to political pressures, and it is done with a pencil.

Senator Proxmire. Is it really that, so that what you can do——

Mr. Ahern. In all candor and all honesty—I do report honestly; I will make that as a flat statement. I question whether all states and all cities report honestly. There are all kinds of factors that come into play on that.

For instance, when is a burglary a burglary; when does attempted burglary come into it? When is a theft a theft? Was a door open?

Police departments say they gave a general order to all precincts to cut the crime rate. You can just expect——

Senator Proxmire. So they cut the crime rate by not reporting their crimes.

Mr. Ahern. The crime rate, astoundingly, does go down. Any precinct commander with half a grain will do the same if he likes his job and wants to get along well with the boss. It is that inflexible and that consistent.

There is no indication, for instance, of the narcotics problem in the crime rate. That is really the nub of the crime problem, as I see it, or the increasing crime problem. There is absolutely no way of gauging that. There is no way of reporting on it, it does not figure into the statistics at all.

Senator Proxmire. Are there not reports of arrests for narcotics violations? Would that be helpful?

Mr. Ahern. They are not included in the crime rate, that I know of. Certainly narcotics offenses are not included.

Senator Proxmire. That is astonishing.

Mr. Ahern. It is, especially to me.

Senator Proxmire. We have been told again and again, by Jerry Wilson, for instance, who I think is a very fine police chief——

Mr. Ahern. I do, too.

Senator Proxmire. He has said that if he could find some way of cutting the crimes of the two or three hundred hardcore drug users and abusers in the District, he would have a great drop in crime.

Mr. Ahern. That is right.

Senator Proxmire. And we do not have any statistics on this at all.

Mr. Ahern. You have very raw statistics, and nowhere is it assembled in cumulative fashion.

Senator Proxmire. After all, this is a violation of law. Why is that not kept as a statistic? When you pick somebody up as a violator, a user or possessor or pusher of heroin, is that not entered as an arrest for violation of the narcotics laws?

Mr. Ahern. I think we are talking about two different things. We are talking about arrests, and we are talking about the incidence of crime, which is offenses reported, which does not necessarily mean there has been an arrest. What I am saying is that the crime rate has no way of reflecting the tremendous impact that the narcotics problem has on crime.

Senator Proxmire. I see.

Mr. Ahern. Therefore, it is irrelevant.

Yes, we have information on how many arrests were made for different kinds of narcotics by age groups. I am not even sure that is in the FBI report—it is. But it does not, when the FBI annual report comes out and gives a city-by-city rundown with some kind of an index of crime, it really does not tell you very much.

You really do not know, for instance, about Buffalo, New York, whether they do in fact use the criteria that the FBI said. You do not know whether they shade it for political reasons. There is no way of holding you accountable for it. So consequently the different levels in the police departments, some of it will not be dishonesty, just inefficiency or incompetence.

Then, given that crime rate, you have no way of gaging what the total impact of narcotics is on that. That, in itself, makes it kind of irrelevant.

Senator Proxmire. In view of the great variation of reporting crime statistics, and I assume the tendency is to report them more as time goes on, and we have more law enforcement officials, could it possibly be argued that incidence of crime may not have increased at all? This may simply be a statistical illusion?

Mr. Ahern. I very honestly, and this is only a personal belief, I do not think it has increased to the extent that the case has been made. I think there is better reporting now and I think the public is more apt to report crimes to police, which has put a greater burden on the police department in terms of service provided. I also think the public is apt to report more things that they would have overlooked prior to this.

I also think that some police departments use it as a budgetary device, a way of getting additional money into their budget, which may or may not be legitimate. I think it is good to get increased budgets, but not necessarily to tamper with the crime rate.

Mr. HANSEN. Mr. President, for the last 4 years, during which I have been a Member of the U.S. Senate, I have tried to encourage respect for lawful authority.

Recognizing that many laws are not popular with everyone, I believe that good citizens nevertheless willingly obey all of our laws. They understand that without the imposition of a police state, with its concomitant denial of freedom, unless most people obey the law, anarchy will surely follow.

In voting against the amendment offered by the distinguished Senator from Michigan, I do not mean to imply any equivocation about my support of duly constituted authority. Rather, Mr. President, I submit that my record of voting against permissiveness, against ever more tolerant attitudes toward wrongdoers, my insistence for quick apprehension, speedy trials, and appropriately severe sentences underscores my conviction that a continuing fight against crime has great merit.

I have not condemned the police; I have not excused the rioters; I have not found the arsonists and bombers blameless. I have defended the system.

More than money is required to restore security to America—one of the necessary ingredients is unequivocal condemnation of wrongdoing.

More than money is required to assure progress, to guarantee against the infringement of the rights of every citizen.

What is required is a rejection of violence; the acceptance of majority rule; and respect for the law and officers of the law and the courts.

The PRESIDING OFFICER. The question is on agreeing to Amendment No. 1036. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Virginia (Mr. Byrd), the Senator from Nevada (Mr. Cannon), the Senator from Connecticut (Mr. Dodd), the Senator from Mississippi (Mr. Eastland), the Senator from Louisiana (Mr. Ellender), the Senator from Tennessee (Mr. Gore), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senator from Washington (Mr. Jackson), the Senator from Minnesota (Mr. McCarthy), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pell), the Senator from Georgia (Mr. Russell), the Senator from Missouri (Mr. Symington), the Senator from Maryland (Mr. Tydings), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I also announce that the Senator from Alaska (Mr. Gravel), the Senator from North Carolina (Mr. Jordan), the Senator from Alabama (Mr. Sparkman), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) are officially absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. Gravel), the Senator from Rhode Island (Mr. Pell), the Senator from New Jersey (Mr. Williams), the Senator from Ohio (Mr. Young), the Senator from Missouri (Mr. Symington), and the Senator from Nevada (Mr. Cannon) would each vote "yea".

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson) would vote "nay."

Mr. SCOTT. I announce that the Senators from Vermont (Mr. Aiken and Mr. Prouty), the Senator from Colorado (Mr. Dominick), the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from Hawaii (Mr. Fong), the Senator from New York (Mr. Goodell), the Senator from Michigan (Mr. Griffin), the Senator from Florida (Mr. Gurney), the Senator from California (Mr. Murphy), the Senator from Ohio (Mr. Saxbe), the Senator from Illinois (Mr. Smith), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Oklahoma (Mr. Bellmon) and the Senator from New York (Mr. Javits) are absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

On this vote, the Senator from New York (Mr. Goodell) is paired with the Senator from Colorado (Mr. Dominick). If present and voting, the Senator from New York would vote "yea" and the Senator from Colorado would vote "nay."

On this vote, the Senator from Florida (Mr. Gurney) is paired with the Senator from Texas (Mr. Tower). If

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present and voting, the Senator from Florida would vote "yea" and the Senator from Texas would vote "nay."

On this vote, the Senator from New York (Mr. Javits) is paired with the Senator from South Dakota (Mr. Mundt). If present and voting, the Senator from New York would vote "yea" and the Senator from South Dakota would vote "nay."

The result was announced—yeas 18, nays 42, as follows:

[No. 371 Leg.]

YEAS—18

Byrd, W. Va.
Case
Cranston
Eagleton
Fulbright
Harris
Hart
Hughes
Kennedy
Magnuson
Mansfield
McGovern
Metcalf
Mondale
Muskie
Nelson
Pastore
Ribicoff

NAYS—42

Allen
Allott
Anderson
Baker
Bennett
Bible
Boggs
Brooke
Burdick
Church
Cook
Cooper
Cotton
Curtis
Dole
Ervin
Hansen
Hatfield
Holland
Hollings
Hruska
Jordan, Idaho
Long
Mathias
McClellan
McIntyre
Miller
Packwood
Pearson
Percy
Proxmire
Randolph
Schweiker
Scott
Smith, Maine
Spong
Stennis
Stevens
Talmadge
Thurmond
Williams, Del.
Young, N. Dak.

NOT VOTING—40

Aiken
Bayh
Bellmon
Byrd, Va.
Cannon
Dodd
Dominick
Eastland
Ellender
Fannin
Fong
Goldwater
Goodell
Gore
Gravel
Griffin
Gurney
Hartke
Inouye
Jackson
Javits
Jordan, N.C.
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Pell
Prouty
Russell
Saxbe
Smith, Ill.
Sparkman
Symington
Tower
Tydings
Williams, N.J.
Yarborough
Young, Ohio

So Mr. Hart's amendment was rejected.

Mr. SCOTT. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and I shall explain the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Scott's amendment is as follows:

After the final title add the following title:

Section 1. This title may be cited as the "Stricter Sentencing Amendment of 1970".

Sec. 2. Section 924(c) of title 18, United States Code, is amended to read as follows:

"(c) Whoever—

"(1) uses a firearm to commit any felony for which he may be prosecuted in a court of the United States, or

"(2) carries a firearm unlawfully during the commission of any felony for which he may be prosecuted in a court of the United States,

shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than one year or more than ten years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than two nor more than twenty-five years and, notwithstanding any other provision of law, the court shall not suspend the sentence in the case of a second or subsequent conviction of such person or give him a probationary sentence, nor shall the term of imprisonment imposed under this subsection run concurrently with any term of imprisonment imposed for the commission of such felony."

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. SCOTT. I yield myself 5 minutes.

Mr. President, last year, Senator Mansfield and I sponsored S. 849, a bill to provide stricter sentences for criminals using firearms in the commission of Federal felonies. I worked with Senator Mansfield to steer this bill through the Senate Judiciary Committee and to the floor for approval. Unfortunately, the House Judiciary Committee does not seem disposed to act on this important measure.

Available statistics easily prove that the incidence of violent crimes is on the rise. According to the Federal Bureau of Investigation, 19 percent more violent crimes were committed in 1968 than in 1967. Last year's uniform crime report shows that 34 percent more armed robberies were committed, assaults with a firearm increased 24 percent. Ninety-six percent of the 411 policemen killed between 1960 and 1967 were killed by gunfire. Recent hearings of Senator McClellan's subcommittee indicate a dire threat to law enforcement officers from extremist elements in our society.

We must discharge our responsibility to protect society from criminals who misuse firearms and resort to violent crimes. My amendment would provide mandatory consecutive sentences of up to 10 years for criminals who use or carry firearms during the commission of Federal felonies. It would also require judges to mete out 25-year minimum sentences to second offenders.

U.S. sportsmen have repeatedly called for punishment of the real offenders in firearms crimes. These offenders are the criminal element who think nothing of violating existing ammunition and firearms sales registration laws. We must hit this criminal element and hit it hard. Therefore, I ask my colleagues to join with me in passage of this necessary amendment.

I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I am delighted that the distinguished minority leader has brought this amendment to the attention of the Senate.

I would point out that this amendment has passed the Senate twice already, once in the form of a bill, unanimously, and the second time as a part of the District of Columbia crime bill; and now, if it is accepted by the Senate tonight, which we both devoutly hope it will be, it will have a chance of becoming a part of our national anticrime program.

As the Senator has pointed out, what this does is to make it a crime itself the mere carrying of a gun in the commission of a crime. The sentence imposed will be in addition to and not concurrent, with the sentence for the underlying crime.

Furthermore, the first offender—with some leeway given the trial judge—is liable to a stiff sentence of up to 10 years, for a second offense a mandatory sentence of 25 years is provided with no leeway given the court.

This legislation is long overdue. I hope that the Senate will agree to it tonight. I hope that the House will concur when it goes to conference. And I hope above all that this will become a part of our national effort against crime.

Mr. SCOTT. I thank the distinguished majority leader. I have discussed this matter with the distinguished chairman of the subcommittee, the Senator from Arkansas (Mr. McClellan), and I hope that the Senator will see fit to accept the amendment.

Mr. McCLELLAN. Mr. President, I have also mentioned the amendment briefly with the distinguished ranking minority member of our subcommittee (Mr. Hruska), and I find no objection to it. In fact, I strongly support it.

I remembered that the bill had been passed by the Senate, but I did not realize that it had been languishing in the House of Representatives also, like S. 30, which was passed just this week by the House of Representatives after being there since the 23d of January of this year.

We can accept the amendment. The bill on which we are working has to go to conference.

Mr. SCOTT. I so understand.

Mr. McCLELLAN. It will be my hope, by accepting this amendment—and I do not think it is necessary to have a rollcall on it, unless the Senator wants it——

Mr. SCOTT. No, I have not asked for a rollcall.

Mr. McCLELLAN. That we will be able to persuade the conferees of the House of Representatives also to accept this amendment to the pending bill.

Let me say this: I know this is a campaign year, and some politics gets into these things, but this Senate has a record that should absolve it from any blame with respect to expediting consideration and passage of important anticrime legislation.

Mr. SCOTT. I would hope that this amendment would escape the cemeterial aspects which have dogged it heretofore in the other body.

Mr. McCLELLAN. This would be a good opportunity to really have the House members of the conference consider it.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. MANSFIELD. The Senator has raised the question of this being a political year. I would hope that the Vice President of the United States, the Presiding Officer of this body, as he travels up and down the country, would recognize that the body over which he presides has an exemplary record on crime, on pornography, and on drug addiction legislation. If anyone should know what the Senate has done, it is the Vice President of the United States, the Presiding Officer.

To the best of my knowledge, come this evening, we will have passed just about every proposal advanced by the President, except one, and that proposal, having to do with preventive detention, is being delayed because of constitutional questions involved and also because the measure is being tested as part of the new District of Columbia crime program.

Furthermore, this Senate has passed nine additional measures in the field of crime, pornography, organized crime, and drug addiction on the basis of its own initiative.

So I would hope that this record would be remembered by all Senators. The record is not a Democratic record or a Republican record, because all of us together have helped to achieve it, and all of us should be given credit. So far as I am concerned, I am very proud of what the Senate has done in this Congress. And I will continue to point with great pride to this record.

Mr. McCLELLAN. Mr. President, the only reason why I mentioned this is that the Subcommittee on Criminal Laws and Procedures, which I have the honor to chair, and its staff, has worked hard and diligently and faithfully, and we have made concessions and compromises where we could in order to expedite needed legislation.

I just did not want any onus to fall on this body, if there is one anywhere, for failure to get anticrime legislation enacted expeditiously, as has been the hope of many of us that it would be. This body, in my judgment, has acquitted itself in an exemplary manner and should receive commendation for its labors in this field.

Mr HRUSKA. Mr. President, I rise to concur with the Senator from Arkansas in the wisdom of accepting the amendment proposed by the Senator from Pennsylvania. I take this occasion to commend the Senator from Pennsylvania for offering it at this point.

Mr. SCOTT. I thank the distinguished Senator from Nebraska.

Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. HRUSKA. I move to reconsider the vote by which the amendment was agreed to.

Mr. SCOTT and **Mr. McCLELLAN** moved to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. HRUSKA. Mr. President, I have an amendment at the desk, and I ask for its consideration at this time.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HRUSKA. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 53, line 22, after "Report" add "Wiretap Commission".

On page 54, between line 20 and the attestation insert:

"SEC. 30. (a) Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 211) is amended by striking subsection (g) of section 804 and inserting the following:

"'(g) (1) The Commission or any duly authorized subcommittee or member thereof may, for the purpose of carrying out the provisions of this title, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers and documents as the Commission or such subcommittee or member may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such subcommittee or member. Subpenas may be issued under the signature of the Chairman or any duly designated member of the Commission, and may be served by any person designated by the Chairman or such member.

"'(2) In the case of contumacy or refusal to obey a subpena issued under subsection (1) by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, the district court, at the request of the Chairman of the Commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee or member thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

"'(3) The Commission shall be "an agency of the United States" under subsection (1), section 6001, title 18, United States Code for the purpose of granting immunity to witnesses.

"'(4) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title. The Chairman is further authorized to call upon the departments, agencies, and other offices of the several States to furnish, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title.'

"(b) Such title is further amended as follows:

"'(1) In Subsection (h) of Section 804, strike "one-year" and insert "two-year", and

"'(2) In subsection (k) of Section 804, strike "six-year" and insert "fifth year."

"'(c) Section 1212 of the Organized Crime Control Act of 1970 is hereby repealed.'"

Mr. HRUSKA. I yield myself 3 minutes.

Mr. President, in June of 1968 Congress passed a law which set the standards for Federal and State use of electronic surveillance. Section 804 of that law established a National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance which will come into existence in 1973 and file its final report in 1974. At the time the Commission amendment was added to Public Law 90-351, the Commission was not granted subpena, hearing, or immunity powers. In addition, it was, as I noted above, given only 1 year within which to organize itself and study the problem.

Mr. President, this amendment provides that there will be a granting to the Commission of greater flexibility in the filing of its report and also the granting of hearing, subpena, and immunity power. It also assures that the Commission will come into existence as the Congress intended in 1968. I am hopeful that the Senator from Arkansas, who has been given a chance to peruse this amendment and to consider it, will accept it and take it to conference.

Mr. McCLELLAN. Mr. President, I have considered the amendment. I have no objection to accepting the amendment—at least, taking it to conference and hoping that we can have some success with it there.

Mr. HRUSKA. I yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. McCLELLAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 948

Mr. KENNEDY. Mr. President, I call up amendment No. 948, the Urban Crime Amendment of 1970, and I should like to make the following modifications in it.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. CHURCH). Without objection, it is so ordered.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. KENNEDY. I yield myself 10 minutes.

Mr. President, I should like to modify my amendment along the following lines.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. KENNEDY. On page 1, line 7, delete the word "of".

On page 3, line 1, insert a comma after the word "offenders".

On page 3, line 18, delete the comma.

On page 2, line 11, delete the word "county" and insert the words "any of the ten largest counties".

On page 2, line 15, after the word "censuses," insert "computed to the nearest thousand".

The modified amendment reads as follows:

After the final title add the following title:

Section 1. This title may be cited as the "Urban Crime Amendment of 1970".

GRANTS FOR COMBATING CRIME IN CITIES

Sec. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by redesignating part E and part F of such title as part F and part G respectively and by inserting immediately after part D the following new part:

"Part E—Grants for Combating Crime in Cities

"Sec. 451. It is the purpose of this part to provide matching Federal financial assistance to urban areas in order to enable them to accelerate the initiation or expansion of programs and projects designed to cope with the unique and growing problem of urban crime.

"Sec. 452. (a) The Administration shall make a grant under this part to any eligible unit of general local government in the amount of $5 per person multiplied by the population of the eligible unit as determined by the most recently available decennial census, for expenditure by the recipient for the purposes and under the conditions of this part, subject to the limits stated in this part.

"(b) For the purpose of this part the term 'eligible unit of general local government' means any city or any of the ten largest counties of any State, including the District of Columbia and Puerto Rico, having a population of one hundred thousand or more persons as determined by either of the two most recently published decennial censuses computed to the nearest thousand, but the population of any eligible city or part thereof within a county shall be excluded in computing the eligibility of such county: *Provided*, That if a State does not have a city with a population of one hundred thousand or more persons, its largest city shall be an eligible unit.

"Sec. 453. (a) Grants under this part may be used to match expenditures by the grantee from non-Federal funds to initiate or expand any allowable program or project designed to prevent, reduce, or control crime, including the operation of the criminal justice system and the rehabilitation of offenders, within the area under the jurisdiction of the eligible unit of general local government, including programs or projects of coordination and sharing with neighboring jurisdictions.

"(b) For the purpose of this part the term 'allowable program or project' means any program or project meeting one or more of the following descriptions:

"(1) the establishment or support of a criminal justice coordinating and planning agency with full-time staff;

"(2) the coordination or sharing of law enforcement functions with neighboring jurisdictions;

"(3) the establishment of the position of legal advisor to the chief of police;

"(4) drug abuse and narcotic addiction prevention, information, and rehabilitation activities;

"(5) work release programs;

"(6) community-based treatment and rehabilitation services and facilities for those charged with or convicted of criminal offenses, including half-way houses;

"(7) high intensity street lighting in high crime areas;

"(8) pretrial and presentence diagnostic services;

"(9) court administrators;

"(10) implementation and support of procedures and facilities for diverting cases from the criminal justice system;

"(11) bail reform, including summons projects, stationhouse release, and enhanced supervision of bailed arrestees;

"(12) intensive short term programs to reduce court backlogs;

"(13) innovations in court procedures and machinery to accelerate permanently the flow of cases;

"(14) crime and delinquency prevention programs involving education, training, employment services, and the establishment of youth service bureaus;

"(15) police-community relations training;

"(16) the recruitment, training, and support of community service officers;

"(17) enhancement of parole and probation services and related functions;

"(18) short term programs to attract and recruit personnel for criminal justice agencies;

"(19) intensive enforcement of firearms control measures;

"(20) use of mental health agencies and personnel to assist criminal justice agencies;

"(21) establishment or improvement of diagnostic, rehabilitation, education, training, legal, and mental health services in local detention and jail facilities;

"(22) provision of full-time staff in prosecutor or defender agencies, whether through use of city personnel or reimbursement of State, county, or private agencies;

"(23) establishment and support of a centralized criminal justice information system to record progress and outcome of every case proceeding through criminal justice agencies; and

"(24) such other types of programs as the Administrator and Associate Administrators shall unanimously designate no sooner than forty-five days after publication in the Federal Register of the terms proposed designation.

"(c)(1) No portion of a grant received under this part may be used for the construction of buildings or other physical facilities or for the acquisition of land.

"(2) The amount of any grant received under this part expended on nonpolice functions must equal or exceed one-half the amount spent on police functions.

"(3) No portion of a grant received under this part may be used for projects or programs which would be eligible for Federal grants in the amount of 75 per centum of the costs of such project or program under section 301(c) if such grants were made under part C.

"Sec. 454. (a) Any eligible unit of general local government desiring a grant under this part shall submit to the Administration at such time in such manner and accompanied by such information as the Administration may provide, an application which—

"(1) Sets forth a program for utilizing the grants so as to carry out the purposes and meet the conditions set forth in section 453, and describes the source of the funds to be expended by the applicant on new or expended programs or projects, which the Federal grant will match.

"(2) Sets forth information demonstrating that a local criminal justice coordinating agency with representation from all parts of the criminal justice system, and from the public, and with an adequate full-time staff, is in operation in the applicant's area, or that such agency will be immediately established with the grant received under this part, or other available funds.

"(3) Sets forth the manner in which the public and the State planning agency have been informed of the proposed program for utilizing the grant, describes generally the views of the public and the State planning agency toward the proposed program, and sets forth the applicant's response to any adverse views.

"(4) States that such fiscal control and fund-accounting procedures as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the applicant under this title will be provided.

"(5) Provides for making an interim report on the actual expenditures under the grant not later than ninety days before the end of the fiscal year for which the report is made, and a final report not later than thirty days after the end of the fiscal year, in such form as the Administration may prescribe; and provides for keeping such records and for affording such access thereto as the Administration may find necessary to assure correctness and verification of such reports.

"(b) An application for a grant under this part may be approved only if the application or any modification thereof meets the requirements set forth in subsection (a).

"Sec. 455. If the sums appropriated for any fiscal year for making grants pursuant to this part are not sufficient to pay in full the total amounts which all eligible units of general local government are eligible to receive under this part for such year, then the amount available for grants to such eligible units shall be ratedly reduced if necessary.

"Sec. 456. There is authorized to be appropriated $290,000,000 for the fiscal year ending June 30, 1971 for the purpose of carrying out the provisions of this part, and such amounts for the fiscal years ending June 30, 1972 and June 30, 1973, as the Congress shall appropriate."

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I do not think that this amendment, at least from my point of view, should take very much time. I will explain it briefly.

This amendment would leave the present State block grant and discretionary grant provisions intact, but would authorize, in addition, a system of block grants to the highly populated localities where the crime problem is most serious and most concentrated. Under this plan we would be able to provide the additional resources for local crime control which the high crime areas so badly need, and which we are willing to spend, but without placing substantial additional burdens on the Federal and State agencies which administer the present block grant and discretionary programs, and which, for the time being, are not sufficiently prepared to handle the urgently needed increments in Federal anticrime assistance, according to the testimony we received in the Criminal Laws Subcommittee.

Under the urban crime amendment some 170 cities in all 50 States, Puerto Rico, and the District of Columbia, containing about 60 million people, and in which 55 percent of the FBI crime index crimes in the United States occur, and certain counties, will be eligible to receive a block grant of up to $5 per capita, assuming adequate amounts are appropriated. The grants will go to all cities over 100,000 in population, the largest city in States without such cities, and certain counties over 100,000 in population—excluding the population of eligible cities. They will be used to match any local expenditures in 23 types of crime prevention and control programs ranging from high intensity street lighting in high crime areas to recruitment programs for police department expansion.

The full list of allowable uses appears on page 3 of the amendment, and the 23 different categories include:

XUM

First. The establishment or support of a criminal justice coordinating and planning agency with full-time staff. This is being done in New York, among many other cities, and is tremendously successful.

Second. The coordination or sharing of law enforcement functions with neighboring jurisdictions. This was one of the key recommendations of the National Crime Commission.

Third. The establishment of the position of legal adviser to the chief of police. The District of Columbia found this especially useful and helpful.

Fourth. Drug abuse and narcotic addiction prevention, information and rehabilitation activities. The police chiefs in my State have begged me to provide funds for this purpose.

Fifth. Work release programs.

Sixth. Community-based treatment, and rehabilitation services and facilities for those charged with or convicted of criminal offenses, including halfway houses.

Seventh. High-intensity street lighting in high crime areas. The Federal system should really lead the way in this area, and could help provide high-intensity street lighting such as, for example, that now installed on Seventh Street here in the District of Columbia, which contributed dramatically to a feeling of safety and a reduction in the crime rate in that area.

Eighth. Pretrial and presentence diagnostic services.

Ninth. Court administrators.

Tenth. Implementation and support of procedures and facilities for diverting cases from the criminal justice system.

Eleventh. Bail reform, including summons projects, station house release, and enhanced supervision of bailed arrestees.

Twelfth. Intensive short-term programs to reduce court backlogs.

Thirteenth. Innovations in court procedures and machinery to accelerate permanently the flow of cases.

Fourteenth. Crime and delinquency prevention programs involving education, training, employment services, and the establishment of youth service bureaus.

Fifteenth. Police-community relations training.

Sixteenth. The recruitment, training, and support of community service officers.

Seventeenth. Enhancement of parole and probation services and related functions.

Eighteenth. Short-term programs to attract and recruit personnel for criminal justice agencies.

Nineteenth. Intensive enforcement of firearms control measures.

Twentieth. Use of mental health agencies and personnel to assist criminal justice agencies.

Twenty-first. Establishment or improvement of diagnostic, rehabilitation education, training, legal, and mental health services in local detention and jail facilities.

Twenty-second. Provision of full-time staff in prosecutor or defender agencies, whether through use of city personnel or reimbursement of State, county, or private agencies.

Twenty-third. Establishment and support of a centralized criminal justice information system to record progress and outcome of every case proceeding through criminal justice agencies.

Most of the items in this amendment derive from recommendations of the National Crime Commission, and most are programs which are in existence in some cities, or have been tested as pilot programs, and are worthy of consideration by the localities around the country. It is a generous recommendation in terms of numbers and variety. Many city or county areas could find within that list several worthwhile programs that could help and assist them in their battle against crime.

The list of permissible projects could, under the amendment, be expanded by the Law Enforcement Assistance Administration beyond the initial list of 23, so as to provide an even wider range of choices to the localities.

The choice among alternative uses will be left to the discretion of the grantee city or county. The prospective grantee will be required to disclose its proposed uses of the funds to the public and to the State law enforcement planning agency for comment before the application and proposed use plans are submitted for action by LEAA, but otherwise funding will be virtually automatic.

The authorization for the first year is $290 million, and the authorization would continue for only 2 additional years, in the hopes that the Federal and State machinery might then be sufficiently developed to handle the much higher level of funds contemplated.

It was interesting, during the course of the hearings, to have the Attorney General testify that the principal reason why the President had not requested additional funds beyond the $450 million level was that the LEAA Administration and the State anticrime planning agencies were ill-prepared to accept administratively and use effectively such additional resources or funds. I think by providing direct bloc grants to the cities themselves, we can give them the resources they need, and that they are perfectly prepared, willing, and eager to expend in the battle against crime. We would be fulfilling, I think, a great need in the country today.

But the thrust of the amendment is to limit this avenue of funding to the 3-year period in hopes that by then the administration of LEAA would be sufficiently developed so that these special urban bloc grants would not be necessary, and we could follow the existing formulas within the original bill itself.

This amendment should meet with the approval of both those who support the bloc grant system, since it leaves that system intact and does not reduce its funding, and those who recognize the urgent need for sizable increments of funding to high crime areas, since it makes those increments possible.

Mr. President, the cities covered by this bill recorded 70 percent of the violent crime in the United States in 1969, including 81 percent of the robberies and 62 percent of the homicides. They are the cities where many Americans from other areas go to shop, tour, attend cultural events, and do business. They are the key to reversing the trends in crime, and with this amendment we can accelerate this process by 2 or 3 years.

Mr. President, I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, while the amendment does not directly parallel the amendment on which we had a vote earlier, as offered by the Senator from Michigan, in large measure, the consequences and the results would be the same.

The objective sought in the amendment is substantially the same as was sought in that amendment which the Senate rejected.

The proposed amendment to title I of the Safe Streets Act would add a new section, to authorize LEAA to make block grants for law enforcement purposes in cities and counties having a population of 100,000 or more. The amendment would authorize an expenditure of $290 million for these grants.

Now, Mr. President, this is the beginning of a chopping up of the program. Again, it would bring about a disruption of the program as now authorized and as now being administered. I predict that if we make this authorization of $5 per person for each town of 100,000 population, next year we will be back, or soon thereafter, with another request that we reduce the 100,000 to 50,000 and then down to 25,000.

Let me emphasize that the best thing to do with the program is to give it adequate financing as now established and authorized, and give it the opportunity to demonstrate its effectiveness and how it will operate; and when we have had the experience then we can move in other fields and remedy any flaws or defects there may be.

The program is simply too young. It has not been in operation long enough. Under the circumstances, where it has been in operation, with the change of administration and so forth, it requires a little more time to get effective results.

I said, when the bill was up 2 years and when we passed it, that it would be 4 or 5 years before it would level off and we could begin to get real benefit from it. I still say that is true. To come in here and just add more money will not add efficiency or effectiveness to the program, until the program gets in operation and the administration of it is firmly organized and operating.

Attorney General Mitchell in our hearings on H.R. 17825 before the Senate Subcommittee on Criminal Laws and Procedures, of the Committee on the Judiciary, was asked for his comments on the suggestion that large grants of money be given directly to major urban areas. The Attorney General stated:

> I think that is a mistake that has been made in the past, of just adding more money on top of more money without changing the criminal justice system. And that is what this program would do.
>
> I would point out that for the fiscal year 1969, which is the only one we have figures on, the law enforcement agencies got 60 percent of the money. We have to address

XUM

> ourselves to the problems of corrections and recidivism, and we have to change or expedite our court trials and update our court system, so that we have a total picture of criminal justice.

Mr. President, that is a statewide problem. That is not local to any particular city.

The Attorney General said further:

> Now, we just cannot ignore the fact that there are other facets to this problem than just plain law enforcement, and adding more of the same on top of what has not proved to be productive in the past would not solve anything. [Senate Subcommittee Hearings at 553.]

The Attorney General's rationale, it seems to me, clearly applies to the suggested amendments. The money should be given to the State to be spent in accordance with comprehensive plans developed by the State planning agencies for the entire State, including the urban areas.

Finally, and perhaps more important, many of the major urban areas have not spent much of the money which they have received through the State planning agencies under the LEAA program, and there is no reason to believe that they will be better able to spend the money that they would receive under the proposed amendments. Senator Hruska has already inserted in the Record a list showing the amounts of money that 10 major cities in the country have been granted, but have not drawn out of the Treasury. These cities are typical of the national picture.

Mr. President, I would also like to point out that all of the agencies and officials of the States do not subscribe to this proposed change.

I have here a telegram—and in all fairness to my distinguished colleague who offered the amendment I want to read this telegram, so that the Senator might reply to it.

The telegram is addresed to Charles Byrley, director, Federal State Relations Council of State Governments; De Sales, Northwest, Washington, D.C.

The telegram reads:

> The following telegram sent this date to Senator Edward Brooke and Senator Edward Kennedy Senate to vote on amendments to omnibus crime control act today I urge you to support the Senate Judiciary Committee version and to oppose possible floor amendments creating direct grants for cities, etc.
>
> Robert H. Quinn,
> *Attorney General and Chairman Committee on Law Enforcement and Administration and Administration of Criminal Justice.*

The great majority of the communications I have received as chairman, not only from my own State but also from across the country, clearly support the committee's position.

I have received 150 telegrams and letters from 35 States; 21 of them from Governors, 10 from attorneys general, 64 from members of State law enforcement commissions or agencies.

I have also received three other telegrams: one from the National Governors Conference, one from the National Association of Attorneys General, and one from the National Legislative Conference.

I have received no strong appeals, Mr. President, for changing this program as this amendment would do.

I know that if we do this, we break over the line and hereafter we are going to have appeals and requests for special grants here and special grants there.

I point out again that there is a discretionary fund here of 15 percent of the appropriation that this administration in Washington can use in those most critical areas of crime incidence. They are at liberty to use this money to give special aid in some of these cases where they may, in their discretion and wisdom, feel it is needed.

I hope that we will not start now tampering with this program as it is created and established and it is beginning to function.

Mr. President, how much time have I used?

The PRESIDING OFFICER. The Senator from Arkansas has used 9 minutes of his time.

Mr. HRUSKA. Mr. President, will the Senator yield me 5 minutes?

Mr. McCLELLAN. Mr. President, I yield 5 minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, we find in the amendment a further illustration of an attempt to erode the block grant concept. The history of the block grant concept has already been recited here. It is sound and is very firmly planted in the Law Enforcement Assistant Administration and in both bodies of Congress in 1968 and 1969, and so far this year in the other body, as well as in the full Committee of the Judiciary of this body.

One thing to remember again is this idea that this program is for a comprehensive planning of the improvement of law enforcement facilities. Those facilities and the component parts of the law enforcement system in America are to be found, in the cities, chiefly devoted to police work as opposed to corrections system, court system, and other activities within law enforcement.

The courts and the corrections system generally are financed and funded, and they are jurisdictions of the States, not of the cities.

To adopt this amendment would tend to throw the program off balance because there would be a disproportionate share allotted to the cities which have to do principally, and almost exclusively, with actual police work.

But there is a more persuasive reason, it seems to me, why this amendment should be considered defective and therefore not acceptable. That is that there are 411 cities in America with a population of 50,000 or more. This involves about 50 percent of the population of the country.

Sixty-two percent of the crimes actually occur within these municipalities. That is 50 percent of the population and 62 percent of the crime. They are now receiving 60 percent of the funds under the Law Enforcement Assistance Administration.

So, there is a ratable proportion, and that proportion would almost be high. It might be considered high, perhaps too high, considering that some of the features of the law enforcement system in America are not funded and are not the responsibility of these cities.

It represents money that is just about as much as they can use. In fact, pursuant to the chart that had been earlier printed in the Record by this Senator and referred to by the Senator from Arkansas, there are many instances of awards made to municipalities—and particularly the large ones—where the awards are large and where the awards have not been utilized in full, and, in some respects, a relatively small proportion of them have been utilized.

This illustrates, Mr. President, that the cities are getting as much as they need and, if anything, they are getting more than they can expend upon the basis of the provisions of the law as we have it now.

It is suggested that more money should be granted to large metropolitan areas in an effort to fight crime. It is also suggested that a greater emphasis is needed on courts and corrections. Nevertheless, when a careful examination is made of the way in which the various levels of Government have spent Federal assistance, it seems clear that if we wish to emphasize courts and corrections, assistance should be directed toward State and county governments rather than metropolitan areas. This is borne out by an analysis of the expenditures by unit of Government and functions of the 12 States included in the Urban League's study, "Law and Disorder." Excluding Illinois—which received an extraordinarily large police grant—State governments spent their funds 49 percent police, 21 percent courts, and 30 percent corrections, while county government spent their funds 75 percent police, 8 percent courts, and 16 percent corrections. In contrast, local government spent 83 percent police, 3 percent courts, and 14 percent corrections.

I ask unanimous consent that a chart on this matter be placed at this point in the Record.

There being no objection, the chart was ordered to be printed in the Record, as follows:

ANALYSIS OF EXPENDITURES OF STATES INCLUDED IN "LAW AND DISORDER"

(California, Florida, Illinois, Indiana, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas)

	Amount	Percent of total
All 12 States expenditures by type of government for 1969:		
State government	$6,452,329	42
County government	3,564,689	23
Local government	5,186,374	34
Total	15,203,392	
All 12 States expenditures by function:		
Police	11,848,972	78
Courts	1,138,908	7
Corrections	2,215,512	15
Total	15,203,392	
State government expenditures by function:		
Police	4,840,149	75
Courts	677,101	10
Corrections	935,079	14
Total	6,452,329	

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	Amount	Percent of total
County government expenditures by function:		
Police	62, 694, 082	76
Courts	928, 007	8
Corrections	572, 600	16
Total	3, 564, 689	
Local government expenditures by function:		
Police	4, 314, 741	83
Courts	163, 800	3
Corrections	707, 833	14
Total	5, 186, 374	
County and local combined expenditures:		
Police	7, 008, 823	80
Courts	461, 807	5
Corrections	1, 280, 433	15
Total	8, 751, 063	
All 12 States expenditures by type of government:[1]		
State government	3, 164, 229	27
County	3, 564, 689	30
Local	5, 186, 374	40
Total	11, 915, 292	
All 12 States expenditures by function:		
Police	8, 560, 872	72
Courts	1, 138, 908	10
Corrections	2, 215, 512	19
Total	11, 915, 292	
State government expenditures by function:		
Police	1, 552, 049	49
Courts	677, 101	21
Corrections	935, 079	30
Total	3, 164, 229	

[1] Eliminating Illinois State grant to police, $3,288,100.

Mr. HRUSKA. Mr. President, it is my hope that the amendment will be rejected.

I yield the floor and I reserve the balance of my time.

Mr. KENNEDY. Mr. President, I yield myself 4 minutes in response to some of the observations by our distinguished chairman of the Subcommittee on Criminal Laws and by the ranking minority member.

First of all, in terms of the telegram to the Governors Conference that the Senator has read, I assume this came in response to the bulletin which the conference had issued, and of course one of the real problems with that bulletin was that it was a complete distortion of my amendment.

That bulletin, which I assume went out to all the States had language to the effect that:

Senator KENNEDY is expected to push in the Senate on about September 30 for an amendment of his which will weaken the block grant system.

I believe that piece of misinformation led to this and similar responses by some of the Governors and some of the State attorneys general.

Of course, the amendment I have introduced does not weaken block grants at all. We are not varying the formula one bit. We are only trying to provide resources, over and above the existing mechanisms, where they can do the most good in attacking the problems of crime. The record is replete with examples by non-Federal witnesses and statements by the U.S. Attorney General that neither the Federal Government nor the States now have adequate professional personnel to administer large amounts of additional money for block and discretionary grants, and get it out to be effective in the fight against crime. The Attorney General said, for example:

> LEAA is a new agency and we do find that in order to use this amount of money properly, we would have to build on the organization of this new agency and get it started and make sure that these moneys are used appropriately.
>
> * * * * *
>
> And it does take time to provide the funding for the State planning agencies and for them to get the expertise that is necessary to work in the field.
>
> And, as you are probably well aware, there is a great shortage of expertise in this area to implement these plans, to put them together.

This amendment does not change the formula; it respects the formula. We are trying to provide resources to assist those who know the situation best in their cities, the mayors. They know the situation best. That is where the crimes of violence are. They can use this money effectively.

The Department of Justice will still be able, under the terms of this amendment, to insure that this money will be expended effectively, which we are all trying to do. But for the 3-year period, as LEAA administrative machinery is begining to take hold, we will be providing resources to the cities and counties which have a critical need for these resources to help meet the problems of crime.

This amendment is supported by the League of Cities, and it is supported by the National Association of Counties. It has the support of those two great organizations which fully understand the problems of the cities and the counties in this particular area. They want it. They say there is a great need for it. They support it and I hope my colleagues will support the amendment as well.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. PASTORE. Is it not a fact that this problem of crime is best understood at the grass roots level and that those who understand in the city the problems of crime are the mayor and the city council. The same is true in the town. In the town it is the town council.

All the Senator from Massachusetts is trying to do is to place this money where it will do the most good. Is that the purpose of the Senator's amendment?

Mr. KENNEDY. The Senator is correct. And that is exactly the situation. That is where 70 percent of the violent crimes are.

Mr. PASTORE. Mr. President, I wish to commend the distinguished Senator from Arkansas (Mr. MCCLELLAN) for the fine job he has done on all of the crime legislation. I supported him every time and I shall support him. There is no question about that.

I suppose chances are that coming from a State like he does, in a State like mine and a State like Massachusetts it is hard for him to understand what the problem is. We have this crime in the streets and it is the responsibility on the city and town level to solve it.

In my State I do not think it makes much difference because our Governor is very amenable to the cities and towns. But there is an aloofness between the State government and the city government, and we are trying to put the help where it will do the most good.

I support the Senator's amendment.

Mr. KENNEDY. I thank the Senator.

Mr. MCCLELLAN. I want to thank the distinguished Senator from Rhode Island for his complimentary references to the work I have tried to do. I do want to share any credit I am due with members of the committee who have worked diligently. I include the Senator from Massachusetts. Some of these things are a matter of opinion as to the best approach and the best means of getting results. I find fault with no one who may disagree with the position I take, but I am apprehensive. We could chip away at this and the first thing we will have a program that is not properly organized. I would rather keep it organized and systematized as we have it now.

Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia (after having voted in the negative). Mr. President, on this vote I have a live pair with the Senator from Wisconsin (Mr. NELSON). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Having already voted in the negative, I now withdraw my vote.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Wisconsin (Mr. NELSON), are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG), are officially absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Washington

(Mr. JACKSON), the Senator from Ohio (Mr. YOUNG), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Alaska (Mr. GRAVEL), and the Senator from Rhode Island (Mr. PELL), would each vote "yea."

Mr. SCOTT. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Kansas, Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from Michigan (Mr. GRIFFIN), the Senator from Florida (Mr. GURNEY), the Senator from California (Mr. MURPHY), the Senator from Ohio (Mr. SAXBE), the Senator from Illinois (Mr. SMITH) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) and the Senator from New York (Mr. JAVITS) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from South Dakota (Mr. MUNDT), and the Senator from Texas (Mr. TOWER) would each vote "nay."

On this vote, the Senator from Florida (Mr. GURNEY) is paired with the Senator from Colorado (Mr. DOMINICK). If present and voting, the Senator from Florida would vote "yea" and the Senator from Colorado would vote "nay."

On this vote, the Senator from New York (Mr. JAVITS) is paired with the Senator from Kansas (Mr. DOLE). If present and voting, the Senator from New York would vote "yea" and the Senator from Kansas would vote "nay."

On this vote, the Senator from New York (Mr. GOODELL) is paired with the Senator from Illinois (Mr. SMITH). If present and voting, the Senator from New York would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 16, nays 41, as follows:

[No. 372 Leg.]

YEAS—16

Anderson
Brooke
Case
Cranston
Eagleton
Harris
Hart
Hughes
Kennedy
Magnuson
Mansfield
McGovern
Mondale
Muskie
Pastore
Ribicoff

NAYS—41

Allen
Allott
Baker
Bennett
Bible
Boggs
Burdick
Byrd, Va.
Church
Cook
Cooper
Cotton
Curtis
Ervin
Hansen
Hatfield
Holland
Hollings
Hruska
Jordan, Idaho
Long
Mathias
McClellan
McIntyre
Metcalf
Miller
Packwood
Pearson
Percy
Proxmire
Randolph
Schweiker
Scott
Smith, Maine
Spong
Stennis
Stevens
Talmadge
Thurmond
Williams, Del.
Young, N. Dak.

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Byrd of West Virginia, against.

NOT VOTING—42

Aiken
Bayh
Bellmon
Cannon
Dodd
Dole
Dominick
Eastland
Ellender
Fannin
Fong
Fulbright
Goldwater
Goodell
Gore
Gravel
Griffin
Gurney
Hartke
Inouye
Jackson
Javits
Jordan, N.C.
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Nelson
Pell
Prouty
Russell
Saxbe
Smith, Ill.
Sparkman
Symington
Tower
Tydings
Williams, N.J.
Yarborough
Young, Ohio

So Mr. KENNEDY's amendment was rejected.

Mr. HRUSKA. I move to reconsider the vote by which the amendment was rejected.

Mr. McCLELLAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. BURDICK). The bill is open to further amendment.

KENNEDY LAW ENFORCEMENT INTERNS AMENDMENT

Mr. KENNEDY. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY's amendment is as follows:

On page 25, between lines 2 and 3, add the following:

"(f) The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for grants not exceeding $50 per week to any person, to persons enrolled on a full-time basis in undergraduate or graduate degree programs who are accepted for and serve in full-time internships in law enforcement agencies for not less than eight weeks during any summer recess or for any entire quarter or semester on leave from the degree program."

Mr. KENNEDY. Mr. President, this amendment would provide authorization for the LEAA to make contracts with colleges and universities to help fund internships for their students in police departments, courts, corrections agencies, or other agencies falling within the broad definition of "law enforcement" in the Safe Streets Act. Of course, the agency itself would have to express a desire for and willingness to accept young people as interns for their summer recesses, or for an entire quarter or semester. The university would provide up to $50 per week from the Federal funds for subsistence to the interns. The university or college or the agency could, of course, add to this amount if other funds were available.

Mr. President, I think this amendment would be extremely helpful in getting young people interested in criminal justice careers, and would provide assistance to criminal justice agencies in attracting young people. I hope the Members of the Senate will agree that it is useful and helpful, and that the amendment will be accepted by the manager of the bill.

Mr. McCLELLAN. Mr. President, I have no objection to the amendment. We will accept it and take it to conference.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. McCLELLAN. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1035

Mr. STEVENS. Mr. President, I call up my amendment No. 1035.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. STEVENS. I ask unanimous consent that further reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS' amendment is as follows:

AMENDMENT No. 1035

TITLE .—PRESIDENT'S AWARD FOR DISTINGUISHED LAW ENFORCEMENT SERVICE '

SEC. . This title may be cited as the "Distinguished Law Enforcement Service Act".

SEC. . There is hereby established an honorary award for the recognition of outstanding service by law enforcement officers of State, county, or local governments. The award shall be known as the President's Award for Distinguished Law Enforcement Service. Each award shall be suitably inscribed and an appropriate citation shall accompany each award.

SEC. . The President's Award for Distinguished Law Enforcement Service shall be presented by the President, in the name of the President and the Congress of the United States, to law enforcement officers, including corrections officers, for extraordinary valor in the line of duty or for exceptional contribution in the field of law enforcement.

SEC. . The Attorney General shall advise and assist the President in the selection of persons to whom the award shall be tendered. In performing this function, the Attorney General shall review recommendations submitted to him by State, county, or local government officials, and shall decide which of them, if any, warrant presentation to the President. The Attorney General shall transmit to the President the names of those persons determined by the Attorney General to merit the award, together with the reasons therefor. Recipients of the award shall be selected by the President.

SEC. . There shall not be awarded in any one calendar year in excess of twelve such awards.

SEC. . The Department of Justice shall list in its annual budget request a sum of money equal to that necessary to carry out the provisions of this Act.

Mr. STEVENS. Mr. President, I yield myself 5 minutes on the amendment.

Mr. HRUSKA. Mr. President, will the Senator yield me 30 seconds?

Mr. STEVENS. I am happy to yield.

Mr. HRUSKA. Mr. President, I should like to inquire of the chairman of the subcommittee as to the number of amendments remaining. Is it true that this is the last amendment of which we have knowledge, and that it will be followed by a rollcall vote on passage, with very brief, if any, discussion on the merits of the bill?

Mr. McCLELLAN. Mr. President, as far as I know, this is the last amendment that will be offered except an amendment that will be offered by myself.

I propose—if I may say this while we have a number of Senators present and listening—to offer as an amendment to this bill the four bills that the Senate has passed this afternon by unanimous vote on each one.

The reason we have some problem in getting expeditious action, as has been demonstrated here this evening by the distinguished minority and majority leaders, in connection with the amendment that they have offered to this bill, is that the Senate crime control bill passed earlier this year, but has been languishing over in the House of Representatives, with no action taken on it.

We think that these bills we have passed this afternoon are important. If we put them on this bill, the House conferees will have the opportunity to accept them. If so, they will become law. They can reject them, of course, and if they do, then it is up to them, before adjournment of this session of Congress, to move on the bills we have sent over there; otherwise, they will have to go over. But the Senate will have taken every action that it can, within its power, to try to get these important bills passed.

Mr. HRUSKA. I thank the Senator.

Mr. STEVENS. Mr. President, my amendment would add to the bill an award program to be known as the President's Award for Distinguished Law Enforcement Service. There would be a maximum of 12 such awards per year to law enforcement officers of the State, county, or local governments, for extraordinary valor in line of duty, or exceptional contributions in the field of law enforcement.

XUM

The Department of Justice has reported on the bill I introduced previously (S. 4193) to establish such a program, and urged its prompt and favorable consideration.

I have discussed the matter with the ranking minority member and with the chairman of the subcommittee handling the bill, and after my discussions with them I am prepared to yield back the remainder of my time.

Mr. McCLELLAN. Mr. President, I yield myself 1 minute.

I have examined the amendment. I think it is meritorious. I think the Senator should be commended for offering it. I have noted that the letter from the Deputy Attorney General says:

> This legislation will serve as an affirmative, public declaration by the Congress which enacts it, and the President who approves it, of the esteem in which the American people hold law enforcement officers.

In view of the courage that they manifest today, and the dangers that they incur in the performance of their duty, I think this is a very small gesture indeed, but certainly one that is deserved, and I strongly support the amendment.

Mr. STEVENS. I thank the Senator. I ask unanimous consent to have printed in the RECORD a letter to the chairman of the Committee on the Judiciary from Richard G. Kleindienst, Deputy Attorney General, dated August 26, 1970.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE DEPUTY
ATTORNEY GENERAL,
Washington, D.C., August 26, 1970.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on S. 4193, "To establish the President's Award for Distinguished Law Enforcement Service."

This bill establishes an honorary award program to recognize outstanding service by State, county and local law enforcement officers. A maximum of twelve awards annually will be presented by the President for extraordinary valor in the line of duty or for exceptional contribution in the field of law enforcement. The Attorney General will advise and assist in the President's selection of award recipients by reviewing recommendations made by State, county and local officials. The cost of carrying out this award program will be listed in the annual budget request of the Department of Justice.

This legislation will serve as an affirmative, public declaration by the Congress which enacts it, and the President who approves it, of the esteem in which the American people hold law enforcement officers.

The Department of Justice urges its prompt and favorable consideration.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's Program.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment (No. 1035) of the Senator from Alaska.

The amendment was agreed to.

Mr. DOLE. Mr. President, in his state of the Union message of January 22, 1970, President Nixon proposed that—

> As we enter the seventies, we should enter also a great age of reform of the institutions of American government.

The President continued:

> The first principle of reform is that government programs and institutions should be effective. They should deliver what they promise.

Many of President Nixon's legislative proposals have been directed toward making government more responsive to the needs of the American people.

Today, we are considering H.R. 17825, proposed amendments to the Omnibus Crime Control and Safe Streets Act of 1958. The law enforcement assistance administration created by title I of that act has been one of the most successful efforts "to develop," in President Nixon's words, "A new sense of partnership between the Federal Government and State and local governments." It has shown that we, as a Nation, are determined to do more about the crime problem than simply label it, lament it, or place blame for it. We will not accept it as one of the unalterable hazards of the 20th century.

As a former county attorney, the chief prosecutor in my home county, it is encouraging that there has been a real involvement at all levels of government, the universities, and concerned citizens in the formulation of our approach to the critical problem of crime control.

In the 2 years since the passage of the Omnibus Crime Control and Safe Streets Act, we have seen the establishment of the initial phases of a truly integrated system of criminal justice. For the first time in our Nation's history the elements of that system—police, courts, and corrections—are communicating and working together. For the first time every State has prepared a comprehensive crime control plan—gathering the statewide data it probably never collected before, identifying specific problems, setting goals and priorities, and developing programs to cope with these problems. For the first time, on a statewide scale, and consequently on a nationwide scale, we are identifying the full extent of criminal justice problems and taking the initiative to correct them.

And the program has another important effect. Many in this country have felt personally threatened by the magnitude of crime increases. This program is designed to restore their faith in government and their criminal justice agencies.

And while it may be premature to evaluate the program's total success, it is not too soon to assess the preliminary implementation of that program.

Let me relate the effect on Kansas.

Although Kansas was once primarily a rural and agricultural State, industry has grown, population has shifted to urban areas, and crime—as elsewhere in the Nation—has increased. From 1966 to 1969, crime in Kansas rose 29 percent. There were these increases: 89 percent for robbery, 56 percent for auto theft, 50 percent for larceny.

After the LEAA program came into being, our State created its State law enforcement planning agency—the Governor's Committee on Criminal Administration. The Federal funds—over half a million dollars the first year and $2.5 million in the fiscal year that ended June 30—have enabled Kansas to map a detailed plan for crime control and to launch improvement programs.

Of that $3 million the State has received in 2 years, a major portion is being used to improve law enforcement communications and equipment and to upgrade personnel through higher education and training. Funds from the fiscal 1971 grant are being made available to some 300 local law enforcement agencies to buy equipment such as radio base stations, mobile units, walkie-talkies, and various riot control gear. As part of the education and training effort, our State is developing new college programs: Four county community junior colleges will offer associate degrees in law enforcement; Washburn University will offer a baccalaureate degree in penology; and Wichita State University will offer a baccalaureate in police science.

Kansas also developed a unique summer internship program providing funds for law students to work in the offices of various county attorneys, the chief prosecutors in Kansas counties. This program was developed by our law schools at the University of Kansas and Washburn University. After receiving 1 week of training, each intern is placed in one of the participating county attorney's offices where he assists the county attorney in fulfilling his responsibilities.

The state is also funding programs that will involve citizens in crime prevention programs, a study to determine whether Kansas should create a unified court system, probation services for a number of lower courts, jail treatment programs, and community treatment for juvenile offenders.

Finally, I want to point out another development in Kansas that has been greatly enhanced by the LEAA program. We have cooperative arrangements among many law enforcement agencies that will effectively and economically improve public safety. An elite metropolitan police squad serves seven counties in the Kansas City, Kans.—Kansas City, Mo., area. A similar squad has begun in Topeka. In several areas, the county sheriff's department and the police department are combining facilities—jails, communications, records systems, and dispatching capabilities. With LEAA funds, the Kansas league of municipalities is now studying the need for, and effect of, combining law enforcement agencies.

The same interest in coordinated services applies to corrections. Under a small grant—slightly over $12,000—that LEAA awarded from its special action funds, the county attorney in Goodland is directing a preliminary study to decide whether a tri-state correctional facility would be possible and practical. This correctional and rehabilitation center could serve 32 counties in three States—Kansas, Colorado, and Nebraska—and might also serve parts of Texas and Oklahoma.

While such cooperative efforts have not been impossible in the past, they are being encouraged under the national LEAA program.

In its first year of operations, in fiscal 1969, LEAA had only a $63 million budget. The Nixon administration, realizing the need for greater funding of the program, increased LEAA's budget to $268 million in fiscal year 1970.

Under the proposed budget for fiscal year 1971 of $480 million, Kansas can expand the ambitious programs that have begun to take shape in the past 2 years. The anticipated allocation for Kansas in fiscal year 1971 includes $332,000 for planning grants and $3,955,000 for action grants. Other money will probably be made available through the law enforcement education program or the discretionary fund programs.

This bill also proposes various changes in the original act rising out of the experience gained in the past 2 years. The modification in the matching requirements for the State should provide substantial relief.

The programs I have mentioned are by no means the total of Kansas' efforts. There are many others, all helping to shore up an overburdened criminal justice system. Each is important because each element of the system—police, courts corrections—must be improved if we are to reduce crime. I am proud of these programs and believe they typify what is happening throughout the Nation. I am gratified that we are making progress against one of the Nation's most tenacious problems.

I urge support of H.R. 17825.

Mr. McCLELLAN. Mr. President, I send to the desk an amendment consisting of the four bills that have been passed by the Senate this afternoon. They are S. 3650, the antibombing bill; S. 2896, to protect the President; S. 642, to protect Senators and Representatives; and S. 3132, the Criminal Appeals Act.

I ask unanimous consent that this amendment be considered en bloc, consisting of the four bills that we have passed this afternoon as one amendment, and I ask unanimous consent that they be numbered in separate titles and placed at the appropriate place on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered. Without objection, the reading of the amendment will be waived.

Mr. McCLELLAN. Yes; everyone knows what is in them. We have discussed them here today, and know the action that we have taken, and I ask that further reading of the amendment be waived.

We are getting to the close of this session. We are going to recess and go home. When we come back, we will be crowded.

The bill on which we are acting tonight will be in conference. If we think the bills we have passed this afternoon are important, let us put them on here as an amendment to this bill, take them to conference, and give the House of Representatives an opportunity, if they, too, think they are good and should be enacted, to do so before this Congress adjourns.

If they feel otherwise, they can reject them in conference, any one or all of them. They have over there the bills previously passed by the Senate and awaiting their action. I hope my colleagues will agree, and go along with me on this vote.

Mr. HRUSKA. Mr. President, will the Senator yield me 1 minute?

Mr. McCLELLAN. I yield 1 minute to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, the parliamentary course of the Senate bills on criminal procedure and having law enforcement aspects has been a little rocky and sticky, to say the least, this last year. Our majority leader has correctly portrayed the situation, however, and I say, with utmost respect for the other body, that we have been fairly diligent and very productive in this area in this Chamber, and I think the work that has been done here today is a clinching proof of it.

The technique which is described by the Senator from Arkansas for the purpose of advancing expeditiously and yet in duly deliberative fashion the four bills we passed earlier today is a good one. It leaves the options open to the other side. They may either join us in the judgment that these bills are important and that they should be enacted soon—in fact, as soon as possible—or, if they choose, they can reject them and consider them separately as bills already enacted by this body.

I earnestly recommend that the amendment be adopted, so that we may proceed along that route.

Mr. COOPER. Mr. President, is there another crime bill, which was passed by the House yesterday, coming before the Senate?

Mr. McCLELLAN. That was a Senate bill that was passed by the House. That is going to conference.

Mr. HRUSKA. S. 30 was enacted yesterday. That will be here today.

Mr. McCLELLAN. That is right. They took S. 30 and substituted their language for the Senate bill. So that bill will be in conference.

Mr. HRUSKA. Unless the Senate accepts the bill with the House amendments.

Mr. McCLELLAN. In other words, it is not subject to amendment.

Mr. HRUSKA. That is correct. But it is not suitable material to attach to this bill as an amendment. It has independent status of its own.

Mr. McCLELLAN. That is correct.

Mr. COOPER. That bill will still come before the Senate for consideration?

Mr. McCLELLAN. It will—either to ask for conferees or to ask that the Senate accept it.

While I am discussing it, I may say to the Senator that I hope to have my examination of it completed by tomorrow, possibly tomorrow at noon, and be in a position then to recommend to the Senate whether it is to be accepted or to ask for a conference. In the rush of things, in the stress of this work today and yesterday, I have not had time to give that the consideration I had hoped to give it.

Mr. President, I yield back the remainder of my time on the amendment.

Mr. HRUSKA. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ALLOTT and Mr. McCLELLAN moved to lay the motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. McCLELLAN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

XUM

XUM

PROGRAM

Mr. ALLOTT. Mr. President, while Senators are present, I should like to address an inquiry to the majority leader as to the legislative schedule for the remainder of the day and for tomorrow.

Mr. MANSFIELD. Mr. President, I am delighted to respond to the distinguished acting minority leader.

Tomorrow we will spend some time on the Equal Rights Amendment. I had hoped that there would be some amendments which could be voted on tomorrow, but unfortunately the rumor has gotten around that no final action will be taken on the Equal Rights Constitutional Amendment until we come back next month. I say it is most unfortunate because what it does is to hold up the consideration of amendments which ought to be voted on while the Senate has time, and this is an important enough resolution to be worthy of consideration.

So we will do the best we can, spend as much time as possible; but I must say, in all candor, that up to this time the Senate has shown extremely little interest, by and large, in the Equal Rights Amendment, which I think is very important.

Tomorrow we will also take up Senate Resolution 399, relating to the creation of a world environmental institute, and S. 4432, to revise and restate certain functions of the Comptroller General of the United States.

On Monday, the occupational health bill will take some time; also, women's rights.

On Tuesday, women's rights; military construction appropriations.

On Wednesday, Labor-HEW appropriations; and sometime in between, the continuing resolution on appropriations and what matters may come on the calendar in the meantime or may be cleared for consideration as well.

Mr. ALLOTT. May I ask the distinguished majority leader whether this means that we will not be able to take up the Defense appropriations bill before we adjourn?

Mr. MANSFIELD. We will give it consideration, but I understand they are not going to take it up in the House until Tuesday. I will make some inquiries. It looks as though there will be too much debate on it, and I think it would be futile.

Mr. ALLOTT. I thank the distinguished majority leader.

OMNIBUS CRIME CONTROL ACT OF 1970

The Senate continued with the consideration of the bill (H.R. 17825) to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes.

The PRESIDING OFFICER (Mr. BENNETT). Do Senators yield back their time?

Mr. HRUSKA. I yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the bill has been yielded back.

The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), The Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are absent on official business.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Ohio (Mr. YOUNG), the Senator from New Mexico (Mr. MONTOYA), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. SCOTT. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from Michigan (Mr. GRIFFIN), the Senator from Florida (Mr. GURNEY), the Senator from California (Mr. MURPHY), the Senator from Ohio (Mr. SAXBE), the Senator from Illinois (Mr. SMITH) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) and the Senator from New York (Mr. JAVITS) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senators from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Florida (Mr. GURNEY), the Senators from New York (Mr. JAVITS and Mr. GOODELL), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Vermont (Mr. PROUTY), the Senator from Ohio (Mr. SAXBE), the Senator from Illinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) would each vote yea.

The result was announced—yeas 59, nays 0, as follows:

[No. 373 Leg.]

YEAS—59

Allen
Allott
Anderson
Baker
Bennett
Bible
Boggs
Brooke
Burdick
Byrd, Va.
Byrd, W. Va.
Case
Church
Cook
Cooper
Cotton
Cranston
Curtis
Eagleton
Ervin
Hansen
Harris
Hart
Hatfield
Holland
Hollings
Hruska
Hughes
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGovern
McIntyre
Metcalf
Miller
Mondale
Muskie
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott
Smith, Maine
Spong
Stennis
Stevens
Talmadge
Thurmond
Williams, Del.
Young, N. Dak.

NAYS—0

NOT VOTING—41

Aiken
Bayh
Bellmon
Cannon
Dodd
Dole
Dominick
Eastland
Ellender
Fannin
Fong
Fulbright
Goldwater
Goodell
Gore
Gravel
Griffin
Gurney
Hartke
Inouye
Jackson
Javits
Jordan, N.C.
McCarthy
McGee
Montoya
Moss
Mundt
Murphy
Nelson
Prouty
Russell
Saxbe
Smith, Ill.
Sparkman
Symington
Tower
Tydings
Williams, N.J.
Yarborough
Young, Ohio

So the bill (H.R. 17825) was passed.

Mr. McCLELLAN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. HRUSKA. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that in the engrossment of the amendments on H.R. 17825 the Secretary of the Senate be permitted to make any necessary clerical and technical corrections and that the act be printed as it passed the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I move that the Senate insist upon its amendment and request a conference with the House and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed by Mr. MCCLELLAN, Mr. ERVIN, Mr. HART, Mr. EASTLAND, Mr. KENNEDY, Mr. BYRD of West Virginia, Mr. HRUSKA, Mr. SCOTT, Mr. THURMOND, and Mr. COOK conferees on the part of the Senate.

Mr. MANSFIELD. Mr. President, I need not again reiterate the outstanding record of the Senate with regard to its handling of crime legislation. The passage of these measures today—the antibombing proposal, the presidential protection, and Member of Congress proposals, the local law enforcement assistance authorization—all serve to demonstrate again the deep commitment of every Member of this body to the problem of crime. Rising crime is a fact. It is not a political fact. It is a fact of life in the United States. Particularly, it is a fact of life in our large, congested metropolitan areas where those who suffer the ravages of crime cry out for help day after day.

I can say, without doubt, that the Senate has heard that cry and it has responded. As I said before, the Senate has passed every major crime proposal—save one, that is shrouded in constitutional ambiguity—that it has had before it. And it has been the efforts of many Senators, if not all Senators on both sides of the aisle, that have been responsible for such an outstanding record.

Noteworthy have been the efforts of the senior Senator from Arkansas (Mr. McClellan), the chairman of the subcommittee on Criminal Laws and Procedures. His splendid handling today of these latest anticrime measures speaks abundantly for his commitment to this grave problem. His crime fighting record is unsurpassed.

Joining Senator McClellan to assure the swift and efficient passage of these and all anticrime proposals was the distinguished Senator from Nebraska (Mr. Hruska). The Senate is deeply grateful.

The Senate is grateful as well to the distinguished senior Senator from Michigan (Mr. Hart). His long devotion to solving the problems of crime is well known. Again today he exhibited his deep understanding of the great needs involved.

Many other Senators are to be equally commended. The distinguished Senator from Massachusetts (Mr. Kennedy), the distinguished Senator from Wyoming (Mr. Hansen), and many others joined to contribute immensely to the discussion. We are grateful.

To the Senate as a whole goes my deepest thanks for again cooperating so splendidly to assure the disposition of more crime-fighting tools on the highest priority basis.

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following additional routine business was transacted:

SENATE RESOLUTION 474—RESOLUTION SUBMITTED AND AGREED TO EXPRESSING SUPPORT FOR THE NEW U.S. PEACE INITIATIVE

Mr. PERCY (for himself, Mr. Aiken, Mr. Allott, Mr. Baker, Mr. Brooke, Mr. Church, Mr. Cooper, Mr. Griffin, Mr. Hansen, Mr. Hatfield, Mr. Hughes, Mr. Inouye, Mr. Jordan of Idaho, Mr. Mansfield, Mr. McGovern, Mr. Packwood, Mr. Proxmire, Mr. Ribicoff, Mr. Scott, Mrs. Smith of Maine, Mr. Smith of Illinois, Mr. Thurmond, and Mr. Williams of Delaware) submitted a resolution (S. Res. 474) expressing support for the new U.S. peace initiative, which was considered and agreed to.

(The remarks of Mr. Percy when he submitted and discussed the resolution appear later in the Record under the appropriate heading.)

BILL INTRODUCED

A bill was introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. KENNEDY:

S. 4451. A bill to establish a National Transportation Trust Fund, and for other purposes; to the Committee on Banking and Currency.

(The remarks of Mr. Kennedy when he introduced the bill appear below under the appropriate heading.)

S. 4451—INTRODUCTION OF A BILL TO ESTABLISH A NATIONAL TRANSPORTATION TRUST FUND

Mr. KENNEDY. Mr. President, I introduce today a bill to establish a single National Transportation Trust Fund for comprehensive planning and carrying out of transportation programs in the United States. Trust funds which presently exist for highways, airports, and airways and other specific categories would be terminated and absorbed into the more comprehensive fund proposed in my bill.

Mr. President, the state of transportation in the United States today is an absolute mess.

Especially in our urban areas, coordination between the different modes of transportation—highway, rail, air, mass transit, and so on—is rare. Comprehensive planning is rare. Efficient use of limited resources is rare.

The essential problem is that programs have developed separately for the different modes of transportation. A region, or a State or a local community does not have the option of obtaining a certain amount of funds and spending it on whatever modes would fit the particular needs of the area. The outmoded Federal policy of categorical programs has denied the badly needed flexibility in transportation policy.

As a result, at present the Federal Government devotes a disproportionate amount of resources to highways, and not enough, for example, to mass transit. States and cities often face the possibility of either obtaining money for highway construction or getting no money at all. So they are building highways when their needs may really be for other transportation facilities.

Two or three decades ago, the categorical programs made more sense. The primary need was for interregional transportation, for long-distance highways, for airport and air travel development.

But the situation today has changed. Increasingly, our population is bunched into metropolitan areas. And as metropolitan areas expand, they are merging with one another into heavy population corridors—such as the "Northeast Corridor" in my own section of the country.

So while we have to a great extent succeeded, through categorical programs, in moving people between metropolitan and regional areas, we have failed to develop successful programs to move them within metropolitan and regional areas. Meeting the short- and intermediate-range needs is all the more important when we consider that less than 10 percent of all intercity passenger trips are for more than 500 miles.

Any lasting solution to the transportation problems in our society today must view them as just that—transportation problems, not simply highway problems, or air problems, or railroad problems. And it must recognize that regions and States and local communities are better able to evaluate their specific needs than the Federal Government. While we can set overall policy on transportation at the Federal level, the best allocation of resources between different modes to meet those needs can best be carried out by appropriate governmental bodies in the areas involved.

The essential purpose, then, in setting up a national transportation trust fund is to permit greater flexibility to the regions, States, and local communities in meeting their transportation needs.

The national trust fund would receive the revenues going into the Highway Trust Fund and Airport and Airway Trust Fund recently established by the Congress. Also to be paid into the National Trust Fund would be revenues from the excise taxes imposed on the sale of new highway vehicles. The new fund would be established on July 1, 1972, and the existing highway and airport and airway trust funds terminated at that time.

It is the intent of this bill to overcome some of the objections to trust fund financing frequently voiced by the Office of the Budget and the Department of Transportation by preserving to the President and Congress in the annual budget process the determination of the total amounts to be budgeted for expenditure from the trust fund. Also there is a provision in the bill which requires the President to review expenditures from the fund every 3 to 5 years. A surplus above a certain amount would be returned to the general fund of the Treasury.

This procedure will assure that the President and Congress have the opportunity in the budget process to relate expenditures from the transportation trust fund to other Federal expenditures. On the other hand it will also provide for retention for a period of time in the trust fund, revenues received from the various taxes. In this way considerable flexibility can be maintained for the President and Congress to respond to changing priorities, while States are assured a continuing flow of funds for transportation purposes. The trust fund would receive interest payments from the Treasury on the occasion of moneys being temporarily put to other uses.

Allotments to the States from the trust fund will be on the basis of State populations as determined in the most recent decennial census. It would appear that today when population pressures—rather than the vast distances which traditionally have governed American transportation policy—are the source of the most acute transportation problems, fund allotments should be based on populations in the several States.

The most important provisions in the bill center on the encouragement given to the regions, States, and metropolitan areas with populations of 50,000 or over to prepare and maintain comprehensive transportation plans. No State will

XUM

be granted annual allotments unless it has in existence a comprehensive State transportation plan which has been approved by the Governor and by the State legislature and which includes comprehensive plans for transporation in each metropolitan area of 50,000 or more. The Governor of a State would be able to reject a plan prepared by a metropolitan area but he would not be able to amend it. The prospective loss of funds for failure to develop a comprehensive transportation plan for a whole State and its metropolitan areas will encourage the Governor, the State legislature, and the State's metropolitan areas to reach agreement.

The allotments to the States would require that adequate amounts be spent on developing and maintaining the States comprehensive transportation plans. In turn, a substantial part of the States' allotments for planning would be passed on to metropolitan areas of 50,000 or more population.

The bill also stresses the notion that two or more States might get together to plan and carry out their transportation programs on a regional basis. This extremely important approach could further avoid duplication and inefficiency. I would hope that States would move in that direction.

Mr. President, Congresman Koch of New York has introduced a somewhat similar version of this bill in the House of Representatives. We have worked together on development of a National Transportation Trust Fund, and I commend Congressman Koch for his work.

Mr. President, this bill is certainly not intended to be the final or only mechanism for setting up a National Transportation Trust Fund. I realize that there will not be time for hearings or action this year. But I am hopeful that introduction of the bill at this time will set the stage for prompt action next session. And I look forward to the further comments and suggestions in this interim period from those who I know are so concerned and interested in this serious need.

Mr. President, I ask unanimous consent for the bill to be printed in the Record. I also request that the following supporting materials be included in my remarks for the Record: "The State Role in Balanced Transportation Planning and Development," from the Policy Positions of the National Governors' Conference, August 1970; my testimony before the Senate Commerce Committee in support of S. 2425, the National Transportation Act, on April 14, 1970; and my testimony before the Senate Public Works Committee on the National Highway Act of 1970, on July 14, 1970.

The PRESIDING OFFICER (Mr. Bennett). The bill will be received and appropriately referred; and, without objection, the bill and other matters will be printed in the Record, as requested by the Senator from Massachusetts.

The bill (S. 4451) to establish a National Transportation Trust Fund, and for other purposes, introduced by Mr. Kennedy, was received, read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the Record, as follows:

[The bill will be printed in a subsequent edition of the Record.]

The matters, presented by Mr. Kennedy, are as follows:

Excerpt From Policy Positions of the National Governors' Conference, August 1970

THE STATE ROLE IN BALANCED TRANSPORTATION PLANNING AND DEVELOPMENT

The Governors of the States pledge their continued action to deal with the expanding and changing transportation needs in the decade of the Seventies.

1. We commend the U.S. Transportation Department for its development of a National Transportation Policy which centers the responsibility and power for priority decision-making in the chief executive of the States.

2. We call upon all States to study the need to develop administrative and legal mechanisms to plan, develop, finance, construct, administer and regulate the comprehensive transportation system which the citizens of our States deserve. Many States have taken such action by creating state departments of transportation.

3. We strongly endorse the continuation of the Highway Trust Fund as an inviolate source of revenues to the States. We strongly urge the early completion of the Interstate System, with funds thereafter being available to the States for the updating and renewal of our primary and secondary highways, as well as urban systems.

4. We endorse the creation of the Airport/Airways Development Trust Fund, supported by a separate fund source and not from the Highway Trust Fund.

5. We urge the creation of an Urban Transportation Trust Fund, supported by a separate fund source and not from the Highway Trust Fund.

6. We urge the continuation of federal financial assistance programs dealing with railroads, waterways, and highway safety.

7. Each State should be guaranteed that its proportionate share of funds under each trust fund will not be reduced. Furthermore, the Federal Government should not be permitted to divert any trust funds.

8. The Governor, as the elected chief executive of his State, is in the best position to determine the transportation needs and priorities of his own State. Therefore, the Governor must be free from federally imposed restrictions in determining transportation priorities. Federal legislation should be amended to allow each state chief executive the flexibility to carry out the state-determined priorities and needs for transportation development. The Governor should be permitted to exercise his executive prerogatives in meeting the needs of his State by having the ability to transfer, upon a limited basis, funds among the various federal transportation trust funds and grant programs to meet his own State's priority transportation needs.

TRANSPORTATION AND THE ENVIRONMENT

The National Governors' Conference pledges a continued fight against the pollution of our environment by the wastes and by-products of our growing transportation system.

The Governors believe the following problems should be the subject of a sustained antipollution effort by the States and the Federal Government:

1—air pollution caused by gasoline powered automobiles, diesel trucks, locomotives and ships, and aircraft fueled with kerosene and gasoline;

2—water pollution caused by the spillage from vessels of untreated sewage, oil from machinery and bilges, and crude petroleum spills from tankers;

3—land pollution caused by sewage from railroad trains, by abandoned automobiles, by litter, and the scarring of landscape from removal of coal and other fuel sources;

4—noise pollution and nuisance caused by aircraft, autos, trucks, railroad trains, and ships, and by heavy construction associated with transportation.

Perhaps in no other aspect of transportation is there a greater need for States to be free from restrictive federal pre-emption. The Governors call upon the federal government to provide effective minimum standards to protect the basic health and safety of every citizen, while leaving state governments free to deal with problems that have reached extra-ordinary severity, or to respond to citizen demands for a higher level of environmental quality than that which would be supported nationwide.

The Governors pledge a sustained effort to develop a combination of laws and programs which will punish pollutors of the environment, while providing incentives where necessary to those whose efforts can combat environmental decline. The Governors call upon the Federal Government to join with the States in a vast research effort to measure pollution and to apply innovative technology in discovering new sources of energy and new techniques of reducing and disposing of wastes produced by our transportation system.

The Governors pledge increased emphasis in the design of highways and other transportation systems so that these facilities complement rather than conflict with the total environment in both its natural and man-made aspects. Further, programs for the preservation and development of historic and scenic vistas along transportation corridors should be encouraged by the reward of additional federal financial assistance for increased state and local action, rather than by the present threat contained in the Highway Beautification Act, of a ten percent penalty in highway funds.

Testimony of Senator Edward M. Kennedy Before the Senate Commerce Committee in Support of S. 2425, the National Transportation Act

(Senator Edward M. Kennedy today called for the establishment of a National Transportation Trust Fund to provide the financing needed for the development of a balanced, intermodal transportation system for the seventies.

(The Senator cited the transportation crisis facing the major urbanized sectors of the nation as the most pressing evidence for the establishment of such trust fund.

(In describing the need for a balanced intermodal transportation system for these sectors of the country, Senator Kennedy stated that "What we have today is a non-system. A non-system which grew from our unplanned reaction to the new technologies developed in this century. A non-system which, while failing to meet the transportation needs of these regions, has succeeded in polluting their environment and in adding to the deterioration and dehumanization of their cities."

(The Senator made his recommendations in testimony before the Senate commerce Committee which is considering S. 2425, The National Transportation Act.

(A complete text of the Senator's testimony is attached.)

I consider this legislation important and far-reaching in its intent to provide for comprehensive transportation planning. I consider its provision to establish a broad research and development effort in the transportation field a necessity. And I applaud its emphasis on a regional approach to these programs and on the development of balanced transportation systems for the future.

Today, this nation faces a transportation crisis of unprecedented magnitude in its urbanized centers. In these regions, the demand for the transportation of people and

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products has outstripped the system's capacity. The viability of these large regions—which are the most rapidly growing regions of the country—is clearly at stake in the resolution of this crisis.

The economic life of this country revolves around the ability of the transportation system to carry workers to their jobs; to carry raw materials to industry; to carry food to the marketplace; to carry finished products to the consumer. Many parts of the transportation network that now provide these services are inefficient, unbalanced, costly, slow and frustrating.

The problem is that these economically complex, highly urbanized regions, demand an overall transportation *system* to meet their needs. What we have today is a non-system. A non-system which grew from our unplanned reaction to the new technologies developed in this century. A non-system which, while failing to meet the transportation needs of these regions, has succeeded in polluting their environment and in adding to the deterioration and dehumanization of their cities.

S. 2425 gives us the opportunity to do what we should have done thirty years ago—an opportunity to plan, develop, and execute rational regional transportation systems that are linked coherently to a comprehensive national transportation policy.

Nowhere is the failure of our present transportation policies and programs more apparent than in the Northeast Corridor section of the country. The word "megalopolis" was coined to describe the densely populated, highly developed area spanning the central east coast of the nation—from Massachusetts to Virginia, one continuous industrial and residential development. The transportation required by the emergence of these corridors is different from that required in the past. Within megalopolis, the major need is for short-distance transportation service. But at the same time, adequate terminal access is important for the long distance needs of the population and for the corridor's import and export needs.

The Northeast Corridor, today, is characterized by over-crowded highways in urban areas; inadequate public transit; underused and deteriorating railroad facilities; and inefficient air travel systems. The national emphasis on transcontinental and even intercontinental transportation over the last several years has delayed the resolution of these problems of such importance to the majority of the traveling population. The need is for a more balanced and coordinated system. To achieve such a system, advanced planning to determine the most effective use of the new technologies already available in the transportation field—high-speed rail vehicles, tracked air cushion vehicles, short take off and landing aircraft, vertical take off and landing aircraft—is necessary. It is imperative that decisions about the use of these new transportation modes be made in light of the overall transportation needs of the corridor—not independently by individual-Federal agencies, states or cities.

Such independent decisions in the past led to many of the problems besetting the transportation situation in magalopolis today. For example, in the Northeast Corridor—and in other major urbanized sectors of the country—the automobile has been both a blessing and a burden. Automobile traffic and highway construction programs create a serious drain on the resources available for the development of transportation facilities. Although we continue to construct highways at a record pace, we have slowly come to realize that private automobile transport is the most inefficient and costly method of inner-city and inter-city transportation. Citizen preference, however, indicates that it is this method which is most satisfactory to the short distance traveller.

After only a brief appraisal of existing public transit systems and of the difficulty and delay involved in the use of air transport for short distance travel, is not difficult to understand such preference. However, recognition of this preference should not dictate that we concentrate our construction programs on highway development as we have done for the past twenty years. Instead, we should be improving other modes of transportation to make them more attractive to the short distance traveler. The Metroliner, from Washington to New York, and the Turbo-train, from Boston to New York, are examples of the creative alternatives to the automobile that can be developed for inter-city transport. Commuting problems within megalopolis are more difficult to resolve. If I may, I would like to insert in the record of the hearings an article from the *Boston Sunday Globe* which outlines one of the problems faced by the Boston metropolitan area in any attempt to encourage commuters to utilize railroad services as a means to get to and from the core city.

Examination of the specific, or the overall, transportation problems in urbanized areas quickly leads to the recognition of the value of the regional transportation authorities suggested in S. 2425. Establishment of such authorities in the Northeast Corridor is, to my mind, essential. And, in some respects, this sector of the country is already moving in the directions emphasized in S. 2425.

Since 1964, the Department of Commerce and then the Department of Transportation, have been involved in a comprehensive study of transportation in the Northeast Corridor. I know that Mr. Robert Nelson, former Director of the project, has testified before the Committee and outlined some of the conclusions and recommendations of this study.

Publication of the full report is, as I understand it, expected shortly. This report will serve as a firm and comprehensive foundation for determining the transportation needs of the region. In addition, the corridor boasts one existing regional commission. The New England Regional Commission was established under an amendment I offered to the Public Works and Economic Development Act of 1965. (Because the New England states form a contiguous economic unit, they have a long history of inter-state cooperation.) The New England Regional Commission has already completed two comprehensive studies of the transportation needs of this portion of the Northeast Corridor.

The establishment of other regional authorities within the corridor will be necessary. However, I hope that the Committee will recommend the authorization of the existing New England Regional Commission as a Regional Transportation Planning Authority, I also hope that the final legislation will allow representatives of one authority membership in other, related authorities. Without such participation, total cooperative planning will not be possible in the Northeast Corridor. Mr. Chairman, I want to take this opportunity to commend Senator Magnuson and the members of this Committee for their long and dedicated work in this most important field. However, I would hope that in its deliberation of the need for a national transportation policy, the Committee would recognize that the Congress itself contributes to the inefficiency plaguing current attempts to develop such a policy.

I have focused my remarks on the Northeast Corridor thus far in my testimony for two reasons. First, because as a Senator from Massachusetts, I am most familiar with the problems and the transportation needs of this section of the country. However, I am sure that the Committee will agree that these problems and needs are emerging, or already exist, in other parts of the country as they form into separate corridors of continuous industrial and residential development. The situation in the Northeast Corridor is more acute at this time, however, the seriousness of the situation in these other areas should not be questioned.

TRUST FUND

No fewer than three Committees in each House of the Congress share in the responsibility for the drafting and consideration of legislation in the transportation field. Thus, instead of a national transportation trust fund to give greater flexibility to the financing, development, and construction of needed intermodal transportation facilities, we now have a National Highway Trust Fund, a $14.5 billion National Airport Development Trust Fund, and a $3.1 billion urban mass transit program. We have not, in the past, provided for the coordinated. development of these different transportation modes.

The House is currently considering an amendment to the Senate passed Urban Mass Transportation Act to allow the use of monies from the Highway Trust Fund for the financing of the mass transit program. And, while citizens support for this measure is becoming increasingly apparent, its chances for adoption are limited. Unfortunately, supporters of highway development programs are not necessarily supporters of mass transit. Different modes of transport tend to compete with each other or funding under our present laws. And decisions by the Federal government concerning each mode are made in a vacuum without consideration of the effect of those decisions on the overall transportation system for a city or a region.

May I respectfully suggest that this Committee, in concert with other Congressional Committees, give careful consideration to the establishment of a National Transportation Trust Fund to replace existing funds and to provide the financing needed for the development of a balanced, intermodal transportation system for the seventies. Without Congressional action to establish such a fund, I fear that the programs authorized under this legislation and the goal it sets for the achievement of a national transportation policy are doomed to failure. We must recognize the fact that separate trust funds, almost necessarily, are self-perpetuating. They continue long after they have fulfilled the purpose for which they were established. Who can predict today that an airport trust fund will be needed thirty years from now? Who can argue convincingly that we must continue the highway trust fund in its present form?

I urge this Committee to give immedate consideration to the establishment of a National Transportation Trust Fund to ensure the realization of the goals established under the legislation you consider today.

Mr. Chairman, S. 2425 addresses itself to another aspect of the total transportation planning effort which has been neglected to date—the need for an on-going, comprehensive research and development program related to the needs of urbanized regions. I would like to comment briefly on this provision of the bill.

There can be no question that serious research and development efforts should be a part of every major Federal program designed to deal with the quality of American life. Without such a program, we find ourselves reacting to new technologies, rather than creating them. We find ourselves shackled with the unwanted side effects of technological advancement, rather than planning to offset them. We find ourselves spending scarce resources on projects that don't work, rather than allocating these resources to tested and proven programs.

Today, with the current de-emphasis in the field of defense-related research and de-

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velopment which has as its purpose the development of more sophisticated weapons of war, we must act to take advantage of the scientists and engineers who have lent their skills to these programs. This nation has a large investment in the education and training of these professionals. It also has an important vested interest in the maintenance of a viable scientific community. It is our responsibility to see that the funds cut from the Defense budget's research and development programs are distributed to other Federal agencies with responsibilities for programs designed to enhance the quality of life here in America.

S. 2425, in establishing a broad transportation research and development program is a step in the right direction. Also, the recent announcement by the Administration conveying the former NASA Research Center at Cambridge, Massachusetts to the Department of Transportation, indicates the Administration's recognition of the importance of a transportation research and development effort. I hope that the Committee will be in touch with the Department to learn how the center at Cambridge can best be utilized in concert with the program suggested by S. 2425. I sincerely hope that this center is not geared to research which merely satisfies a wish to extend our engineering capabilities. I think it is apparent that our immediate transportation needs are for the improvement of inner-city and inter-state transport. The Transportation Research Center at Cambridge should serve as an adjunct to the Regional Transportation Authorities established under this bill. It should devote its efforts to the resolution of the problems facing the major traveling population.

In concluding, Mr. Chairman, may I state that I have long recognized the need for the approach which would be authorized by S. 2425. I have urged the New England Regional Commission to place transportation high on its list of regional priorities. The region's distance from the major industrial and food study areas of the nation contributes significantly to the overall economic problems of the region. Its smaller metropolitan centers—always the basis of the economic viability of New England—find themselves—in this day of the large jet aircraft—increasingly remote from the major commercial travel routes of the country and therefore at a growing economic disadvantage. The legislation you consider today would offer new hope for the resolution of the region's transportation problems. I urge its favorable consideration and I offer my support during Senate consideration.

In concluding, Mr. Chairman, I would like to make two additional suggestions for consideration by the Committee.

First, the absence of Trust Fund financing, I suggest further study of the financing mechanism suggested in S. 2425. Recognition of the long-term and costly nature of the task the bill proposes to undertake, prompts me to recommend that the Committee make every effort to eliminate the need for yearly Congressional consideration of appropriations. I would also recommend that the Committee provide for the allocation of appropriated funds in block grants to the various Regional Authorities. I make these recommendations in response to my concern about the frustration and delay created by the yearly appropriation procedure; and the need for wide latitude at the local level in determining the allocation of funds for priority projects.

Second, I would ask the Committee to reconsider the role of the Federal Co-Chairman in the Regional Authority decision making process. Since the intent of the Act is to place full responsibility for transportation planning at the regional level, I question the wisdom of conferring veto power on the Federal Co-Chairman. His role should be more one of an advisor who ensures that project proposals conform to the minimum standards required by the Department of Transportation. He should, of course, participate fully in the decision making process of the Authority. However, his vote should not have the power to overrule a unanimous opinion.

Mr. Chairman, I want to thank you again for the opportunity to appear before you today. S. 2425 is a bill of far-reaching import to the nation. It's emphasis on the decentralization of Federal authority in the transportation field reacts to the demands of our citizens for increased local participation in the planning of programs affecting their communities and their regions. Because of this emphasis I would hope the bill will receive the support of this Administration which has called time and again for such decentralization, under the rubric of "the New Federalism." And, finally, its approach to the resolution of existing transportation problems and the development of new, balanced transportation systems, offers the best hope we have for the attainment of these goals.

TESTIMONY OF SENATOR EDWARD M. KENNEDY BEFORE THE SENATE PUBLIC WORKS COMMITTEE ON THE NATIONAL HIGHWAY ACT OF 1970

Mr. Chairman: I am pleased to have this opportunity to testify before the Committee as you consider the preparation of the National Highway Act of 1970. I want to express my appreciation to you and to the members of the Committee for giving me this chance to express my views on the future of our national transportation policy.

There can be no question that the programs authorized under this legislation have contributed significantly to the economic well being of this nation. The Interstate highway system is the cornerstone of our national ground transportation network and the vital link among our states and our people. However, it is imperative that we review existing legislation in light of today's needs and today's problems.

As a Senator from Massachusetts—one of the nation's most densely urban and highly industrialized states—I urge the Committee to consider the programs of the National Highway Act in terms of the urban transportation crisis. This crisis is most acute in the Northeast Corridor Section of the country. However, the recently published report of the Northeast Corridor Transportation Project indicates that similar corridors or megalopolitan areas are developing in other parts of the country, and unless we plan adequate transportation systems now, they will face the problems of the Northeast Corridor in a very short time.

These economically complex, highly urbanized regions demand an overall transportation system to meet their needs. What we have today is a non-system: a non-system which grew from our unplanned reaction to the new technologies developed in this century; a non-system which, while failing to meet the transportation needs of these regions, has succeeded in polluting their environment and in adding to the deterioration and dehumanization of their cities.

The automobile has been both a blessing and a burden. Highway construction programs create a serious drain on the resources available for the development of inter-modal transportation facilities. Although we continue to construct highways at a record pace, we have slowly come to realize that private automobile transport is the most inefficient and costly method of inner-city and inter-city transportation.

This Congress has done much to recognize the need for new approaches to the resolution of our national transportation problems. The Senate has considered and passed legislation creating an Airport Development Trust Fund, a $3.1 billion mass transit program and a rail passenger bill. And so, as we begin deliberation of the National Highway Act, I ask the Committee to keep these new efforts in mind and amend the existing act to reflect our new emphasis on the development of a balanced, inter-modal transportation system for the seventies.

Mr. Chairman, I would like to take this opportunity to express my views on the need for a National Transportation Trust Fund to replace the existing Highway Trust Fund, Airport Development Trust Fund, and rail and mass transit financing mechanisms. I feel it is particularly appropriate to bring this matter up before this Committee because of its responsibilities for highway development. I have expressed similar views before the Commerce Committee and will do so before the Finance Committee. Without Congressional action to establish such a fund, I fear that our attempt to resolve existing transportation problems and plan for the development of a national transportation system is doomed to fail. We must recognize the fact that separate trust funds are self-perpetuating. They continue long after they have fulfilled their original purpose. Who can predict today that an airport trust fund will be needed thirty years from now? Who can argue convincingly that we must continue the highway trust fund in its present form after the completion of the interstate system in the late 1970's?

I urge this Committee, in concert with the Commerce Committee, the Banking and Currency Committee, and the Finance Committee, to give immediate consideration to the establishment of a National Transportation Trust Fund to ensure the realization of our transportation goal.

In addition to the development of a National Transportation Trust Fund, I submit, for your consideration, the following proposals to improve our national highway legislation.

First: The National Highway Act should require comprehensive inter-modal transportation planning at the state level. Such planning should be the responsibility of the Governor or of the Department of Transportation in those states where such a department has been established. For too long we have made highway decisions in a vacuum. Wherever adequate access to a community or a city was lacking, we have responded by paving a portion of that city or community. We have separated neighborhood from neighborhood and people from employment. We have eliminated housing when we should be building houses; and we have polluted our environment to the point where the air we breathe is a public health hazard.

A state-wide transportation plan would mean that highways would be constructed only when other forms of transportation such as mass transit or public transportation could not satisfy the need of the community. Such state planning proceses must include the consultation and approval of local government officials before any method of transportation development is approved.

Second, Section 128 of Title 23, USC should be amended to require that public hearings held in accordance with this section be held by local officials and that the transcript of such hearings be submitted to the Secretary along with the application for corridor approval. It has been my experience, Mr. Chairman, that the public hearings required by the law are being held but that the information obtained receives little or no consideration. By requiring that the transcript of such hearings be presented to the Secretary, it would be his responsibility to see whether a proposal for corridor designation reflects the view and the needs of the local community.

Third, additional expenses incurred by constructing a depressed highway through densely populated areas should be shared by the Federal Government in the same ratio

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as it participates in primary and secondary road construction costs.

Mr. Chairman, the citizens of Massachusetts, and especially those in the Bsoton area, have been required to make great sacrifices in the name of the inter-state highway system. In Cambridge, Somerville, Brookline and Roxbury, much of the opposition to the so-called Inner Belt could have been avoided if these communities had played a significant role in route determination and if the Massachusetts Department of Public Works had had the authority to incur the additional expense of depressing the proposed Belt. Until these communities have the opportunity to see their views and their needs represented in the state's proposal for the Inner Belt, I will continue to oppose its construction at every opportunity and at every level of the Federal government.

Fourth: Trust Fund monies should be used to pay the cost of replacement housing. The problem of replacement housing is again, Mr. Chairman, especially acute in our urban areas. Most often, highways are constructed through older neighborhoods where residents live in single unit dwellings. Traditionally, alternative single dwelling accommodations for these residents cannot be obtained merely at the cost of their present housing. Most often, these residents are forced to look for housing in new sections of the community where prices are significantly higher than the value of their present housing.

Again, Cambridge is a good example of this problem. Residents of Cambridge who live in single unit housing facilities are being forced to look for homes valued at $10–20,000 more than the value of the homes they now own. We must recognize our responsibility to these citizens. We cannot force such families into public housing or multi-family housing. In many cases, their families are too large to be accommodated in apartment type dwellings. Authorization of the use of Trust Fund monies for replacement housing would allow us to be of more assistance to these citizens who have been displaced in the name of progress and overall community benefit.

Finally, Mr. Chairman, I recommend in the strongest terms that Trust Fund monies be authorized for use in the expansion of existing mass transit systems in our core cities and urban areas. I have long voiced my concern about the need for improved mass transit systems for our cities. We can no longer continue to build highways through and around our core metropolitan areas. Such highways only further contribute to an already impossible and unmanageable traffic problem in these cities. We must look to mass transit for the solution to this most difficult and important problem of meeting the needs of our mobile society. As this nation experiences the population growth of the next few decades, we will come to the time when seventy-five percent of our population lives in urban areas. We must plan for their transport. It is obvious that our cities cannot accommodate much more in the way of private transportation.

The nation's cities are being strangled by traffic congestion and immobility, which is only increased as we continue to pave our metropolitan areas. Mr. Chairman, this year the Senate adopted legislation to establish a $3.1 billion mass transit program. These funds will be used to construct new mass transit systems and to improve existing systems. The money is woefully inadequate to meet the demand for such systems. Authorization of the use of Trust Fund monies for the expansion and improvement of existing systems would go far to augment these funds. The National Highway Act should be amended to allow the Secretary when he determines that the highway needs of any urban area of more than 50,000 can be significantly reduced by applying highway funds to the improvement and expansion of existing public transit systems to release Highway Trust funds for such purposes.

In conclusion, Mr. Chairman, I want to thank you again for affording me this opportunity to express these views. I know that you will give them your most careful consideration and I hope that the bill reported will contain the intent of these recommendations.

SENATE RESOLUTION 474, EXPRESSING SUPPORT FOR THE NEW U.S. PEACE INITIATIVE

Mr. MANSFIELD. Mr. President, on behalf of the distinguished minority leader and myself, we would like at this time to ask the Chair to recognize the distinguished Senator from Illinois (Mr. PERCY), who has a resolution to offer which, so far as we can determine, has the almost unanimous, if not the unanimous, approval of the Senate.

Mr. SCOTT. Which the distinguished majority leader and I enthusiastically support, Mr. President.

Mr. PERCY. Mr. President, on behalf of myself and Senators AIKEN, ALLOTT, BAKER, BROOKE, CHURCH, COOPER, GRIFFIN, HANSEN, HATFIELD, HUGHES, INOUYE, JORDAN of Idaho, MANSFIELD, MCGOVERN, PACKWOOD, PROXMIRE, RIBICOFF, SCOTT, Mrs. SMITH of Maine, Mr. SMITH of Illinois, Mr. THURMOND, and Mr. WILLIAMS of Delaware, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BENNETT). The resolution will be stated.

The assistant legislative clerk read as follows:

> *Resolved,* That it is the sense of the Senate that President Nixon's peace initiative of October 7, 1970, is fair and equitable and lays the basis for ending the fighting and moving toward a just settlement of the Indochina war.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

There being no objection, the resolution was considered and unanimously agreed to.

Mr. SCOTT. Mr. President, I move that the vote by which the resolution was agreed to be reconsidered.

Mr. PERCY. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I commend the distinguished Senator from Illinois (Mr. PERCY) for taking advantage of a situation and achieving a piece of legislation which will indicate a spirit of cohesiveness and a feeling of unity which we all hope will be useful in implementing the President's proposal seeking to achieve a just peace and an end to the fighting in Indochina.

I commend once more the distinguished Senator from Illinois for his initiative in this regard.

Mr. PERCY. Mr. President, I wish to express my deep appreciation to the majority leader as well as to the minority leader for their support.

I feel that we do have differences of party and we do have differences of ideology. But when we in the Senate, and the country, are confronted with a difficult situation, frequently we can speak with one voice.

I believe that at this time it is very important that we speak with one voice for the President of the United States in the initiatives he has taken—initiatives for which he should be highly commended.

We wish the negotiators in this effort Godspeed in the work that they are carrying forward to end this tragic war in Indochina.

WORLD ENVIRONMENTAL INSTITUTE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of morning business tomorrow, the unfinished business, the equal rights amendment, be temporarily laid aside and that the Senate proceed to the consideration of Calendar No 1274, Senate Resolution 399.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET AND ACCOUNTING IMPROVEMENT ACT OF 1970

Mr. MANSFIELD. Mr. President, following that, I ask unanimous consent that, on tomorrow, the Senate proceed to the consideration of Calendar No. 1282, S. 4432, and that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EQUAL RIGHTS FOR MEN AND WOMEN

Mr. MANSFIELD. Mr. President, following disposition of that bill, I ask unanimous consent that the unfinished business, the equal rights amendment for men and women, be made the pending business on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM MONDAY, OCTOBER 12, 1970, TO 10 A.M. TUESDAY, OCTOBER 13, 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday next, October 12, 1970, it stand in adjournment until 10 a.m. Tuesday, October 13, 1970.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TUESDAY, OCTOBER 13, 1970, TO OCTOBER 14, 1970, AT 10 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the Senate completes its business on Tuesday next, October 13, 1970, it stand in adjournment until 10 a.m. on Wednesday, October 14, 1970.

The PRESIDING OFFICER. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that immediately following the disposition of the reading of the Journal on tomorrow morning and the disposition of any unobjected-to items on the legislative calendar, that there be a period for the transaction of routine morning business of not to exceed 30 minutes, with the statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 8 o'clock and 10 minutes p.m.) the Senate adjourned until tomorrow, Friday, October 9, 1970, at 10 a.m.

XUM

NOMINATIONS

Executive nominations received by the Senate October 8, 1970:

U.S. COAST GUARD

The following named officers of the Coast Guard for promotion to the grade of lieutenant (junior grade):

Newton L. Bennett
William S. Merchant
Larry W. Fulkerson
James C. Perry
Frank E. Lange
James A. Murphy
Dean G. Roath
Salvador Romo, Jr.
Zacarias S. Chavez
Merritt E. Hall
Franklyn C. Rogers, Jr.
Ralph D. Deloatcha
George J. Whiting
Richard D. Clark
Leo T. Weyenberg
Guy Taylor, Jr.
John Perez
Carl E. Wolcott
Daniel E. Norman
Thomas W. Pearson, Jr.

The following named Reserve officers to be permanent commissioned officers of the Coast Guard in the grade indicated:

To be lieutenant commander

Eugene E. Morgan
John B. Armstrong

To be lieutenant

Dennis R. Robbins
Stephen E. Goldhammer
Peter A. Luistro
Bruce S. Washburn
Robert A. Yubas

IN THE ARMY

The following-named persons for appointment in the Regular Army, by transfer in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be colonel

Pinto, Ralph D., 131–14–9538.

To be major

Muntz, David C., 364–32–3459.

To be captain

Dodd, Edwin N. Jr., 228–40–4005.
Mercado, Robert K., 452–58–7602.

To be first lieutenant

Butler, Craig D., 253–66–1879.
David, James R., 387–36–9470.
Doty, Richard D., 569–60–5359.
Freeley, Douglas A., 065–38–1518.
Griffin, Robert F., 430–82–3760.
Hubert, George P., 085–34–0502.
Jackson, Joseph P., Jr., 250–62–4783.
Jenna, Russell W., Jr., 223–60–7916.
Mooney, Darrel L., 519–50–4249.
Reed, Podge M., Jr., 437–60–7228.
Rogers, Jack A., Jr., 573–66–1409.
Savory, Carlton G., 527–72–8958.
Stalker, William H., 311–44–1116.
Wheeler, Leigh F., Jr., 214–42–6308.
Williams, Robert K., 068–36–8735.
Wilson, Lynnford S., Jr., 223–60–7067.
Wilson, Torrence M., 252–62–9561.
Zych, Kenneth A., 356–36–1159.

To be second lieutenant

Aker, Alan B., 071–38–9973.
Besanceney, Charles F., 084–36–4393.
Billingsley, Michael L., 524–54–1329.
Coogler, Arthur C., Jr., 248–76–8281.
Cummings, Douglas M., 430–88–9037.
Curl, Walton W., 524–62–0656.
Duff, William P., 579–62–7106.
Garcia, Victor F., 134–38–3214.
Grabowski, William S., 552–62–6789.
Henry, Joseph R., 214–46–0433.
Kremenak, Kenneth J., 585–14–7241.
Laswell, George II, 334–38–4508.
Potter, Michael W., 541–50–1210.
Roberts, Donald L., 232–74–0275.
Romash, Michael M., 192–36–8034.
Sweet, Ross B., 114–38–9662.

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be lieutenant colonel

Keeling, William M., 412–30–2144.

To be major

Auth, Richard W., 289–28–1860.
Barner, John V., 238–48–0436.
Brennand, Thomas C., 562–34–6859.
French, William C., 524–22–8099.
Nowicki, John C., 153–24–7544.
Quinones, Antonio, 580–36–2031.
Smith, Frank H., Jr., 336–20–1446.

To be captain

Barker, Jack L., 252–53–5785.
Batten, Gail N., 244–42–0858.
Bither, Rodney D., 005–32–5794.
Bowring, Louis T., 529–42–9067.
Burleigh, William M., 101–32–2573.
Cannon, David A., 066–28–6347.
Carey, Carl D., 306–38–7864.
Carlton, Melvin W., Jr., 466–56–8873.
Carmichael, Herry G., III, 405–52–5151.
Christopher, John C., 455–46–9766.
Clark, Carlton L., 031–30–2274.
Crew, David E., 482–36–0164.
Culver, Lester A., Jr., 036–24–6837.
Dillon, Robert M., 459–56–4475.
Evans, Loyal G., Jr., 136–26–9724.
Flory, Alan J., 314–38–1979.
Fujito, Wayne T., 554–48–9305.
Gough, David C., 515–40–0564.
Guthrie, Jack N., 349–24–4500.
Herre, Thomas A., 393–36–3006.
Humphreys, Carl L., 429–58–7355.
Kane, Thomas M., Jr., 376–32–7822.
Kidd, John B., 456–64–4231.
Kimes, Kenneth E., 450–60–1150.
Lagrua, Brooks B., 040–32–0858.
Malebranche, Reginald, 057–32–8929.
Markee, Joseph E., Jr., 241–56–9780.
Martin, George C., 376–36–0315.
Mayon, George E., 570–52–6137.
Measels, David A., 458–68–3630.
Miner, Denison W., Jr., 040–32–8296.
Moe, James B., 469–48–7871.
Narbuth, Benjamin L., 206–22–7539.
Nichols, Charles R., 451–52–6233.
Pierce, Francis D., Jr., 004–36–7055.
Rockwell, Richard F., 056–32–9745.
Turlington, Philip B., 246–48–8345.
Varley, James E., 471–44–8135.
Wilson, Otis G., 223–46–0156.

To be first lieutenant

Accardo, Wilbert J., 062–36–4227.
Albee, Donn. J., 254–66–3905.
Alexander, Duane R., 514–34–4022.
Alexander, John B., 388–38–3091.
Ammann, Marie T., 284–38–4091.
Anderschat, Richard W., 327–32–3489.
Anzalone, Russell J., 334–32–5419.
Ashby, Richard E., 181–30–4150.
Aubuchon, William F., Jr., 427–88–2022.
Baker, Robert J., 534–36–5235.
Baldridge, James H., Jr., 136–40–1316.
Beasley, Lonnie S., Jr., 455–68–2612.
Beauchamp, George R., 326–34–3905.
Bell, William L., 430–80–7560.
Berry, Jerry L., 247–60–9695.
Billings, Darryl R., 450–58–6798.
Bolin, Daniel H., 287–40–8828.
Breed, Rolla M., 467–60–1299.
Broussard, Harry L., 439–60–7819.
Butler, Gary R., 541–50–7973.
Buzby, Brian, 172–34–8377.
Calloway, Thomas C., 327–36–7699.
Canfield, Lawrence J., 168–32–2032.
Canon, Charles M, III, 419–52–6233.
Carden, Charles H., 261–52–1316.
Cardinal, Gary W., 397–40–1911.
Cepak, Charlie J., 454–64–7943.
Chamberlin, Richard H., 096–32–8873.
Chee, Francis K., 575–44–2862.
Chiaramonte, William V., 585–10–2888.
Christian, Stanley, Jr., 443–42–9606.
Coats, Landis R., 239–52–7957.
Collins, James L., 254–64–6234.
Combs, Darrel T., 516–50–2689.
Cook, Billie R., 433–50–1252.
Coonradt, Leo J., 528–46–9690.
Cooper, Claude E., Jr., 248–66–2560.
Cosand, Charles L., 311–38–0253.
Cowings, John S., 093–36–3294.
Crown, Francis J., Jr., 231–56–8225.
Crybiskey, Harry E., 165–34–3785.
Cunningham, Bobby J., 424–48–7789.
Curley, Stephen P., 016–32–2991.
Denson, Herbert A., 425–84–2940.
Dobbins, Raymond H., 259–52–3208.
Dowd, Douglas L., 454–66–8737.
Drew, Frederick A., 553–64–1575.
Earley, Michael W., 548–50–6727.
Evans, Gordon E., 230–56–9007.
Evans, James P., 430–92–8229.
Faulk, Albert W., Jr., 420–46–0411.
Fitch, Logan D., 458–60–6852.
Foley, Dennis R., 267–62–2755.
Fritts, Richard O., 536–36–7964.
Froat, Edward F., 142–30–4688.
Graham, Benjamin W., 253–66–2984.
Graham, James E., 403–48–0411.
Greer, Harold E., Jr., 258–64–3519.
Gritz, John P., 572–68–3421.
Grubbs, Judson B., II, 275–34–1140.
Gunter, Terry A., 305–44–7191.
Haag, Donald E., 312–42–7804.
Halbrook, Earl L., 351–34–2664.
Hanks, Douglas T., 537–42–4672.
Hansen, Howard K., Jr., 156–34–3030.
Haramoto, Donald I., 576–40–2825.
Hardy, John T., Jr., 223–44–8371.
Harrelson, Joe F., 257–68–9534.
Harris, Betty J., 419–56–0976.
Hearrell, Jack L., II, 465–62–8016.
Henry, Thomas F., 015–34–9367.
Hoffman, Melvin, 456–66–4060.
Holbrook, James R., 388–38–3041.
Hyder, Charles F., 261–54–4572.
Jewell, Neal A., 300–36–9477.
Johnson, Richard L., 446–42–2640.

Jones, Noel E., 444-40-7988.
Jurgevich, Nancy J., 170-30-1551.
Kaiser, Dennis A., 330-34-6709.
Kawka, Louis R., 121-32-8255.
Knight, Lonnie E., Jr., 261-52-5676.
Kossman, Albert J., Jr., 425-74-6087.
Kronitis, Ivars I., 031-28-3051.
Lee, Roger B., 554-50-7739.
Leisy, Jelrod W., 514-42-4811.
Magasin, Michael R., 549-60-7595.
McDonald, James R., 537-38-4763.
McIver, Walter R., 513-46-5294.
McKenzie, James B., Jr., 545-62-2025.
Miller Darrell M., 543-48-2317.
Mobley, Larry L., 265-56-1659.
Moreno, Francisco G., 526-46-1829.
Moseley, James H., 556-58-0108.
Mostella, Kenneth E., 249-64-7117.
Mullen, Edward J., 290-40-5899.
Neil, Robert S., 050-30-8408.
Newbill, John L., 216-42-7484.
O'Brien, Robert M., 388-40-2700.
O'Neal, Bobby G., 415-64-4926.
O'Sullivan, Peter C., 224-48-2426.
Oszczakiewicz, Walter M., Jr. 575-44-9299.
Peebles, David L., 044-32-3620.
Pflaster, Darrell J., 508-44-8633.
Porter, Steven J., 483-46-9228.
Pummill, David L., 467-64-9331.
Quirk, Charles D., 325-36-5110.
Ramirez, Carlos A., 454-62-1772.
Robinson, Glen E., 541-38-4456.
Roix, Robert J., 390-40-1014.
Russell, Robert B., 535-38-2488.
Salinas, Carlos R., 459-70-0770.
Shannon, Edward J., 035-26-7209.
Simmons, John R., 326-34-3475.
Spillane, Joseph A., 010-34-0070.
Spinetto, John D., 386-44-0672.
Strange, Theodore R., Jr., 237-62-2041.
Stringham, Glenn P., 357-36-9587.
Taylor, James A., 267-64-4655.
Timar, Joseph J., 559-54-9725.
Turmenne, Paul E., 212-44-9225.
Tuton, Beauford W. III, 401-50-1228.
Vasey, Dennis P., 390-36-2828.
Warren, Larry D., 239-70-2941.
Webb, Thomas J., 397-34-9033.
Zegarski, John J., 201-26-9362.

To be second lieutenant

Booton, Paul M., Jr., 440-44-5585.
Brock, Clifford L., 542-50-8198.
Brock, Robert W., 270-40-2293.
Cleaver, Ronald H., 522-60-3787.
Dietz, Thomas A., 562-58-6125.
Garoutte, Michael D., 446-66-2214.
Geis, Craig E., 265-80-6307.
Hardin, Steven L., 492-44-7965.
Harris, James W., 490-48-8987.
Hayden, Nolen M., 461-68-7248.
Hesters, Allan E., 261-90-0765.
Hodge, Henry E., 459-78-3743.
Huffman, Walter B., 454-72-7206.
Kirby, Robert F., 339-40-2223.
McAvoy, Kevin J., 057-36-6169.
McCabe, Laurence W., III, 141-34-7596.
Mensch, Eugene M., II, 511-46-3080.
Osmundsen, John R., 358-34-2106.
Paniak, Walter T., 360-42-4024.
Peacock, Robert C., 450-96-0833.
Piller, Jerry L., 524-58-8598.
Snedeker, Donald C., 407-66-2605.
Stafford, James B., 273-40-1933.
Suggs, William J., III, 264-68-4704.
Theobald, Arthur E. Jr., 585-24-1475.
Thorne, James R., 462-62-6066.
Wallace, John A., 428-84-7195.
Wood, Kenneth R., 404-66-4488.

The following-named distinguished military students for appointment in the Regular Army of the United States, in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, and 3290:

Abernathy, Julian R. III, 366-46-3935.
Allis, Charles D., Jr., 565-68-1657.
Anderson, Phillip R., 227-68-3613.
Bastian, Robert K., 288-46-5721.
Batizy, Botond G., 414-82-2596.
Batson, Charles F., III, 431-86-0558.
Beam, Aaron E., 264-92-1159.
Bely, Dennis C., 503-60-3496.
Boladeres, Guillermo A., 299-44-4126.
Bowers, James E., 450-78-6266.
Bray, Robert M., 462-84-2542.
Britt, Robert E., 093-34-0931.
Buchanan, Douglas L., 539-48-6500.
Busch, Louis A., 342-42-4761.
Cashore, Thomas J., 208-40-4386.
Chidester, Earl J., 552-68-5182.
Clark, Robert T., 224-66-7273.
Crissey, William F., 257-78-7410.
Desmond, Joseph G., 565-76-6585.
Devine, Charles V., Jr., 190-38-6748.
Domino, Joseph V., 261-72-0674.
Downing, Thomas A., 372-50-9329.
Druva, Ronald S., 523-70-6487.
Duke, Ransom B., 462-74-7811.
Easter, Jack C., 424-60-1579.
Eckrich, Gilbert H., 212-48-2679.
Edwards, Jerry D., 450-80-2102.
Englin, Robert G., 309-52-4691.
Faulkner, John R., 455-82-8302.
Frye, Curtis B., 425-98-7165.
Gandy, William F., Jr., 127-38-7467.
Gardner, Allan O., 501-46-9999.
Germany, Joseph L., 434-66-5584.
Gilbert, Raybon, 585-12-6832.
Gray, Danny T., 429-90-6936.
Gray, Kenneth E., 514-48-8698.
Gulgowski, Paul W., 065-36-9071.
Gunlicks, James B., 506-58-9886.
Gunning, Joel L., 527-80-5453.
Hehn, Quinton R., 516-60-4584.
Hemingway, David F., 585-24-6629.
Holcomb, Robert M., 467-80-6598.
Jenkins, Daniel C., 492-52-4563.
Jessup, Bruce E., 523-62-1455.
Johnson, Steven E., 502-54-8016.
Kloster, Martin G., 504-60-3867.
Lane, Thomas M., Jr., 414-78-4133.
Lockhart, Stephen C., 430-86-3981.
Maki, Orville A., Jr., 263-90-2670.
McConnaughhay, Donald G., 402-68-1768.
Merz, Michael P., 528-66-1263.
Middlemiss, Ivan R., 523-58-8910.
Miller, James E., 269-44-2605.
Mitten, Terry L., 315-52-9798.
Moman, Frankie L., 405-66-2600.
Neal, Kent C., 244-72-4621.
Nunnelly, William H., 412-76-0236.
Oglesby, Forrest E., Jr., 230-70-2934.
Orecchia, Paul M., 561-74-3182.
Parker, Larry M., 425-94-0935.
Parvin, Gary F., 432-80-7981.
Plante, Quentin R., 388-50-0117.
Rawlings, Thomas C., 218-42-7356.
Redd, Don S., 529-62-4949.
Ritchey, Robert J., 189-36-0855.
Roberts, John T., 291-48-7965.
Schmittner, Lester C., 028-36-4542.
Schexnayder, Michael C., 438-70-4229.
Shaw, James E., 256-70-2085.
Sherwood, Richard W., 268-48-4324.
Sparks, Charles E., 429-92-1490.
Strait, Larry F., 103-36-9911.
Summerhays, Richard T., 537-48-4085.
Summers, John W., 463-74-2815.
Swenson, Daniel L., 534-46-8970.
Symanski, Michael W., 335-40-1020.
Tarr, Ronald W., 266-86-0059.
Townsend, Lawrence C., 293-46-8657.
Urness, Steven V., 491-52-6596.
Uselton, Billy D., 410-84-0336.
Veazey, William W., 517-54-4745.
Weatherly, Eugene M., Jr., 465-78-8387.
Weiss, Thomas W., 499-48-6597.
Williams, Karl B., 074-42-5405.
Wilson, Ronald W., 282-44-1302.
Winn, Thomas E., 257-72-1560.
Wood, Thomas B., 294-44-5706.
Worrell, Homer W., 422-60-7458.
Wright, Clyde K., 499-48-7090.
Wright, James E., 308-48-4738.
Yancey, Carlton W., 236-78-7579.

The following-named scholarship students for appointment in the Regular Army of the United States in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2107, 3283, 3284, 3286, 3287, 3288, and 3290:

Elliott, Richard P., 456-80-3213.
Guerra, Karl E., 038-32-5430.
Hall, Johnnie B., 212-46-2049.
Hoon, John M., 178-40-3081.
Irick, Edward F., III, 520-88-2967.
Jones, William C., II, 541-58-0742.
Miller, John E., 031-38-8578.
Walker, David J., 523-66-2172.

IN THE NAVY

The following-named officers of the Navy for permanent promotion to the grade of lieutenant as indicated:

LINE

Aardal, Marvin Roy
Abbey, Donald Lewis
Abbey, James Robert
Abbott, Ernest Lee, Jr.
Abbott, John Charles
Abbott, Richard Leroy
Abel, Warren Robert
Abrahamsen, David Lloyd
Abrams, Steven Selby
Adair, Roy Ernest, Jr.
Adams, Alton Lee
Adams, Charles Edward
Adams, John Robert
Adams, Robert Frederick
Adams, William Victor, Jr.
Adaschik, Anthony Joseph
Addicott, Raymond Walter
Addison, Michael Robert
Adell, James M.
Adkerson, Roy Gene
Afdahl, Darwin Frank
Agamaite, James Norbert
Agle, Roy Lindsay
Agnew, Afred Howard
Ahern, David Gaynor
Ahlborn, Edward Richard, Jr.
Aiken, William Paul
Akita, Richard Mitsuo
Albers, Steven Conn
Albright, Richard Charles
Albright, Robert Ernest
Alexander, Marion Romaine, Jr.
Alford, John Warren
Alich, John Arthur, Jr.
Allen, Harry Benjamin
Allen, Henry Carter
Allen, Henry Dewar
Allen, Noel Matthew
Allin, John Wilfrid
Allison, William Stuart, III
Almond, John Warren, Jr.
Althouse, Thomas Stephenson
Amos, Robert Edward
Amundsen, Rickard Oliver, Jr.
Anastasi, George Martin
Anawalt, Richard Arthur
Anciaux, Louis Navin
Andersen, Franklyn Dayle
Andersen, Kenneth Eugene
Andersen, Robert Viggo
Anderson, Cecil Charles
Anderson, Daniel Stonewell
Anderson, Gerald Lee
Anderson, Harold Murray
Anderson, Philip Crawford
Anderson, Raymond Charles
Anderson, Richard Glenn
Anderson, Robert Louis
Anderson, Ross Kay, Jr.
Anderson, Thomas Patrick
Anderssen, Arthur Harald
Andrews, James Randolph
Andrews, Larry Joe
Andrews, Michael Keeney
Andridge, Phillip Carl
Anselmo, Philip Shepard
Anson, Robert, Jr.
Antrim, Benjamin Franklin, III
Apple, Lester Arthur
Aquizap, Bruce Fall
Armstrong, Arthur John, Jr.
Armstrong, William Louis
Arnest, Charles Sherman
Arnold, David Phillips
Arnold, Larry James
Arnold, William Tamm
Arnold, William Knowles, Jr.

XUM

Arnswald, Richard Joseph
Arny, Louis Wayne, III
Arrison, James Matthew, III
Arthur, John Robert
Asher, John Wilson, III
Asher, Philip Gillepsie, Jr.
Astor, Lawrence Ira
Atchley, Brian Kay
Athanson, John Wayne
Atherholt, William Bradshaw
Atkinson, Sid Eugene
Atwell, Felton Gerard
Aubuchon, Robert George
Aucella, John Paul
Auer, James Edward
Aulenbach, Thomas Harry
Austin, Donald Gene
Austin, Marshall Harlan, Jr.
Austin, Michael Gaylord
Austin, William Mirl
Avery, Donald William, Jr.
Avery, Robert Young
Axtman, Darold Steven
Badger, Rodney Reid
Baffer, Roger Alexander
Bagby, James Lovelace, Jr.
Bailey, James Lindsey
Bailey, Jerry Robert
Bailey, Larry Weldon
Bailey, Larry Wayne
Bain, Paul Stevenson
Baird, Don Wilson
Baker, Brent
Baker, David James
Baker, John Lee
Baker, John Sherman
Baker, William Henry
Bakewell, Richard Bergen
Baldwin, John Milton III
Baldwin, Richard Charles
Balian, Alexander George
Ball, Harry Francis, Jr.
Ball, Kent Alden
Ball, Robert Harold
Ballard, Don Eugene
Ballard, Michael Hitchcock
Ballard, Robert Clayton
Ballback, Leonard John, Jr.
Baloga, Stephen Joseph
Baltutis, John Stanley, Jr.
Balut, Stephen John
Bane, Thomas James
Barber, Stanley Duane
Barbour, Richard Elwood
Bard, Albert Eugene
Barker, Edward Phillips
Barker, Herbert Calvin
Barker, Kenneth Dale
Barker, Ross Daniel
Barlow, Wayne Cooper
Barnes, Edwin Ray
Barnes, Thomas Raymond
Barnett, David Israel
Barnett, Thomas Joseph
Barnett, William Richard
Barney, William Clifford
Barnum, Charles Edward
Barrows, Blair
Barry, James Anthony, Jr.
Barry, Robert Francis
Barsosky, John Joseph
Barstad, David Deland
Barthold, Todd Alan
Bartlett, Robert Charles
Bartol, John Hone, Jr.
Bartolomei, Marino James
Barton, Harry Leroy
Barton, William Robert
Bassett, Larry Allen
Bates, Allen Webster, Jr.
Bates, Robert Carroll
Batie, Howard Franklin
Batts, Charles Jackson
Batzel, Thomas Joseph
Bauer, Maurice Dean
Bauer, Wayne Edmund
Baumhofer, William James
Baumstark, James Schilling
Beall, David Albert
Beall, James Mandaville, Jr.
Bealle, William Edgar
Beals, Robert Orville, Jr.
Bean, Charles Dunbar
Beard, Tommy Hugh
Beard, Travis Newton
Beardsley, John William
Beasley, Fenn Coffin
Beasley, Robert Lee
Beaton, John Hudson
Beaudry, Frederick Howard
Beaver, Jerald Colbert
Becker, Dennis Edward
Becker, Richard Earl
Beckham, Robert Frederick
Beddingfield, James Otis
Beedle, Ralph Eugene
Begley, Jerry Noonan
Behrend, Robert Michael
Belnad, Conrad Lucien
Belanger, Raymond Louis
Bell, Corwin Allan
Bell, Dennis Joseph William
Bell, Duncan William James Jr.
Bell, John Martin
Bell, Merlin Gene
Bell, Richard Moilan
Bell, Robert Stevens
Bell, Ronald Irving
Bellamy, Gary Storme
Bellingham, Herbert John
Bellis, James Richard
Belmore, Richard Kenneth
Belser, Richard Baker, III
Belton, David Calvin
Belyan, Michael Paul
Benepe, John Wesley
Benner, Francis Joseph
Bennet, David Hughes, Jr.
Bennett, Bobby Elton
Bennett, David Cushing
Bennett, Denis Franklin
Bennett, Paul Lawrence
Bennett, Richard Allan
Bennett, Robert Gordon
Bennitt, Brent Martin
Benson, Jeffrey Lloyd
Benson, Paul Eugene
Berg, John Stoddard
Berkey, Thomas Joe
Berkowitz, Michael Charles
Bern, Russell Harry
Bernstein, William Peter, III
Berrio, William John, Jr.
Berry, Billy W.
Berry, John David
Berry, Russell Elliott, Jr.
Berry, William Lee
Bewick, James Stephenson
Beyer, Dean Harder
Beyman, David Earl
Bezrutch, Rudolph Art
Biddle, James Edward
Bienlien, Daniel Edward
Bieraugel, Eugene Edwin
Bierig, Frederick Arthur
Bignell, James Patrick
Bilbrey, Harlan Kenneth
Billingsley, Christopher
Billue, Sidney Kent
Bingham, Glenn Stevenson
Bingham, John Edward
Bishop, Bruce Byron
Bishop, Joseph Brooke
Bishop, Richard Kilgus
Bishop, Robert Willis
Bissonnette, Laurence Arthur
Biswanger, Charles Theodore, III
Bivins, Howard Vernon
Bjorkner, Arthur Charles
Blackwelder, James Michael
Blackwell, Bert Eugene
Blakeley, William Robert
Blakely, Donald Ray
Bland, Robert Fulton, II
Blank, Gilbert Casey
Blankenship, Monte John
Blesch, Jerry Morgan
Blevins, Ladelle F.
Bloom, John Lester
Blumberg, Lawrence Bertram
Boasberg, Robert, Jr.
Bobo, Wilton Cornelius, Jr.
Bogard, Thomas Hugh
Boggess, Randolph Cowan
Bohley, Carl Martin
Bolan, Robert Stuart, Jr.
Bole, Robert Fulton, Jr.
Bolger, Robert Kevin
Bolster, James John
Bondi, Robert Carl
Bonds, John Bledsoe
Bonewitz, Richard Frederick
Bookhultz, John Wesley
Boone, George Junior
Boorda, Jeremy Michael
Borchers, Carl Bruce
Borghoff, Francis A.
Boss, Ronald Arthur
Boston, Michael Rhodes
Bosworth, Robin
Boucher, Charles Eugene
Boughton, Louis Charles
Bourdo, John David
Bowden, Peter Klaus
Bowers, Fred Forest
Bowers, Richard Claude
Bowes, William Charles
Bowman, Gene Melvin
Bowman, William Toft
Boyce, Robert William
Boyd, John Theodore
Boydston, James Laymance
Boyen, Richard Edward
Boyer, Bruce Alden
Boyer, Philip Albert, III
Boyle, Robert Scott
Bracht, Steven Edward
Brackx, Omer Maurits
Bradford, William Evans
Bradshaw, Wilton Drexel
Brady, Carl Owen
Brady, Charles Raymond
Brady, Timothy Sterling
Bragunier, William Edwin
Braham, Donald Francis
Braly, Sam Walter
Branch, Allen Drue
Brearton, Gerald Arthur
Breeland, Loran Virgil
Bremner, Bruce Barton
Brennan, William John
Bretz, Benjamin Craig
Bricker, Havel Duane
Brickett, John Francis
Brickman, Edward Perry
Briggs, Steven Russell
Briggs, William Allan
Brink, James Andrew
Brittain, Ronald Marvin
Brittingham, Edward Michael
Brodehl, Richard Brian
Broesamle, Robert Roger
Brokaw, Charles Roger
Bronson, Marshall Wilkes
Brooks, Edward James
Brooks, Leon Preston, Jr.
Brough, Robert Franklyn
Brouwer, Frederick Paul, II
Brown, Boyd Paterno, Jr.
Brown, Buell Leroy, Jr.
Brown, Carroll Dean
Brown, Charles Franklin
Brown, David Melton
Brown, David Charles
Brown, Emory Worth, Jr.
Brown, George Elliott, Jr.
Brown, Jeffrey Lynn
Brown, Joseph Richard
Brown, Joseph Zachariah
Brown, Noel Warren
Brown, Paul Frederick
Brown, Roger Donald
Brown, Ronald Lee
Brown, William Bruce
Browne, Peter Aidan
Brucato, Philip Edward
Bruce, John Henry
Brugh, Lon Edgar
Bruins, Berend Derk
Brunelle, William Thomas
Bryan Herbert Francis
Bryant, Herbert Victor

XUM

Bryant, James Culver
Bryant, Leon Cullen
Buck, Arthur Edwin, Jr.
Buck, Earl Franz
Buckley, Peter Patrick
Buckley, Robert Farrell, Jr.
Buckley, Russell Henry, Jr.
Buckley, Thomas Daniel
Buckley, William Francis
Buell, Kenneth Richard
Buescher, Stephen Meredith
Bugg, William Edmunds
Bunker, Michael George
Bunnell, Melvin Leroy
Burch, Othney Phelps
Burcham, Devirda Houston, II
Burges, Rufus Thurman, Jr.
Burgess, Clifford Thomas, Jr.
Burke, Alan Britton
Burke, Charles Russell
Burke, Gary Leigh
Burke, Kevin James
Burke, Michael Edward
Burman, George Alfred
Burnham, John Lansing
Burns, James Leslie
Burns, Richard James
Burns, Robert Louis
Burr, David Shepherd
Burrell, Donald Overton
Burritt, James Graham
Burroughs, Gerald Clark
Burroughs, Lawrence David
Burrow, James Barrington, Jr.
Burrows, John Shober, III
Burton, Hurshel Bruce, Jr.
Bushnell, Earle Scott
Bussey, Laurence Throckmort
Bustamante, Charles Joseph
Butler, Francis Wayne
Butler, John Harrison
Butler, Richard Montague
Buttram, Robert Henry
Byerly, James Hampton, Jr.
Byerly, Kellie Sylvester
Byers, John Arthur
Byrne, Donn Howard
Byrnes, David Thomas
Byrnes, James Daniel
Byster, Martin Benjamin
Cablk, Steven Richard
Cacchione, David Americo
Cahill, Allen Lewis
Calande, John Joseph, Jr.
Calder, Michael D.
Caler, John Earl
Calhoun, David Larche
Calhoun, Ronald Joel
Callahan, Gary Wilson
Callahan, Paul Lawrence
Calloway, Charles Lee
Calvano, Charles Natale
Cameron, John Ross
Cameron, V. King
Camp, Norman Thomas
Campbell, Cletus Leroy
Campbell, David Russell
Campbell, Edward Lee
Campbell, Guy Reeder, III
Campbell, James John
Campbell, John Angus, Jr.
Canaday, Carlton Weaver
Canady, Paul Allen
Canepa, Louis Robert
Cannon, Olin Charlie, Jr.
Cantele, John Anthony
Capewell, John, Jr.
Capie, Donald James
Carey, David Jay
Carey, James Robert
Cargill, Lee Bruellman
Carl, Lester William
Carlmark, Jon William
Carlsen, Kenneth Leroy
Carlson, Eric
Carlson, James Leeroy
Carlson, John Algot
Carmichael, William Reginal
Carney, James Allen
Carolan, James Cummings
Carpenter, Allan Russell
Carroll, Hugh Edward, II
Carroll, Joseph Francis
Carson, Wiliam Henry, II
Carswell, Herschel Ronald
Carter, Clyde Louis
Carter, James O'Neill
Carter, Lynn Dewey
Carter, Ronnie Gene
Cash, Roy, Jr.
Cashin, Joseph William, Jr.
Caskey, Maurice Russell
Cass, Dudley Eugene
Cassiman, Paul Arthur
Cate, Eugene Noel, Jr.
Cebrowski, Arthur Karl
Ceckuth, Richard Edward
Cepek, Robert Joseph
Cerruti, E. Richard Joseph
Chace, Alden Buffington, Jr.
Chadwick, Stephen Kent
Chafin, Thomas Lee
Chalkley, Henry George
Challender, Jack Lee
Chamption, Robert Harold
Chandler, James Francis
Chapman, Austin Eugene
Chappell, James Reid
Chappell, Stephen Francis
Charles, David Montgomery
Charlton, Anthony William
Chasey, August Anthony
Chastain, Max Ivan
Chasteen, Robert Wayne
Chatsworth, Thomas John
Chauncey, Gregory Arthur
Chenault, David Waller, II
Cherin, Antony Cyrus
Chesbrough, Geoffrey Lynn
Chesser, Marvin Brooks, Jr.
Chinnes, Bennie Allen
Chotvacs, Charles Julius
Christensen, Charles Leslie
Christensen, Clyde Vernon
Christensen, Edward Louis
Christensen, Ernest Edward, Jr.
Christensen, George Ainsworth
Christian, George Frederick
Christian, Michael D.
Christie, Warren Byron, Jr.
Churbuck, James Forrest
Church, James Arthur
Cinco, Raymond, Jr.
Ciszewski, Robert Allen
Claassen, Steven Hurley
Clair, Robert Arthur
Clarey, Stephen Scott
Clark, Arthur Doron
Clark, Arthur
Clark, Christopher Michael
Clark, David George
Clark, Henry Herman
Clark, Hiram Ward, Jr.
Clark, Howard Bowman
Clark, Jackie Lee
Clark, James Ward
Clark, Ralph Belmont, Jr.
Clark, Ronald Woodrow
Clark, Vady Robert
Clark, Walter Thomas
Clarke, Edward Joseph
Clarke, Frederic Tomlinson
Clason, Aryl Benton
Clayton, Vincent John, Jr.
Cleary, Francis Paul
Cleater, John Francis
Clemenger, John William
Clemmer, Everett Dean
Cline, Robert Neil
Clough, Geoffrey Armstrong
Clow, Wallace Gilbert, Jr.
Cloward, Richard Stuart
Clugston, Joe Edward
Clyma, Dale Curtis
Coady, Philip James, Jr.
Coburn, Clarence Dowell, Jr.
Cochran, Frederick Franklin
Cochran, John Robert, Jr.
Cockrell, Milford Norman, Jr.
Coe, Dana Alden
Coffey, Edward Charles
Cohen, Steven Robert
Cohen, William David
Colavito, Thomas Joseph
Cole, Legrande Odgen, Jr.
Coleman, Jon Suber
Collier, Arthur Hugh
Collins, James Alexander
Collins, Marshall Barb
Collins, Michael Raymond
Collins, Richard Xavier
Collins, Walter Sever
Collins, William Gerard, Jr.
Collman, Charles Bonham
Colthurst, Wallace Richardson
Colucci, Anthony Robert
Colvin, Clarence Earl
Combe, Andrew John
Comfort, Anthony Jerome
Comfort, Richard Lawrence
Compton, Andrew Jerome
Comstock, George Alfred
Conant, Edward Harvey
Conaway, Larry Joseph
Conley, Dennis Ronald
Connell, Daniel Edward
Conner, Bryan Thomas
Connolly, Michael Brian
Conrey, Thomas Rolland
Conroy, John Dennis
Conway, Frank Mark, III
Cook, Bruce Conrad
Cook, Chandler, Lewis
Cook, Douglas Watkins
Cook, James Ray
Cook, John Francis, Jr.
Cook, Raymond Lee
Cooke, Oren Boyd
Cooper, George Thomas
Cooper, Samuel Allen, Jr.
Cope, Alfred Lovell, Jr.
Copeland, Aaron Clifford
Copley, David Ronald
Coppola, Ernest James
Corbin, Floyd Eugene
Corcoran, Joseph Francis
Corgan, Michael Thomas
Corgnati, Leino Bart, Jr.
Corn, Robert Holt
Cornforth, Clarence Michael
Corsette, Richard Bemis
Coshow, George Horace, II
Costarakis, Dennis Andrew
Costello, John Patrick, II
Coulon, Maurice Walker
Coulter, William Laurence
Counts, Jimmie Allen
Coupe, Jay, Jr.
Cousins, Belmont William
Covey, Robert Wesley
Covington, William Ellerbe
Covitz, Andrew John
Coward, Asbury, IV
Coward, Jimmie K.
Coward, John Michael
Cox, Charles Claude
Cox, John Hannan
Cox, Landon Greaud, Jr.
Cox, Virgil Glenn
Craddock, John Raymond
Craig, Norman Lindsay
Craig, Philip Charles
Crane, Mark Francis
Crane, Stephen Herman
Crawford, Charles Russell
Crawford, Frederick Roberts
Crawford, Leslie Paul
Creecy, Carson Henry, Jr.
Creighton, Charles Benson
Creps, Stephen George
Cressy, Peter Hollon
Crews, Thomas Walter, III
Crisafulli, Miguel Joseph
Croix, Larry Edmond
Croll, Larry Richard
Crombie, Kenneth Michael
Cronin, Michael Paul
Cronin, Robert Redmond
Crooks, Stephen Chapman
Cross, Robert Clinton, Jr.
Cross, Stanley Owen
Crossman, Alan Edward
Crossman, Walter Augustine

XUM

Crowe, Lucious Brannon
Crowley, Edward Joseph
Croy, Paul Alan
Crumly, Jerry MacLean
Culbertson, Charles Francis, Jr.
Culler, David Allen
Culver, John Bergen, III
Cunha, George Daniel Martin
Cunningham, Melvin Dennis
Curley, Richard Charles
Currey, John Michael
Currie, Daniel Lee, Jr.
Curtin, Andrew James
Curtin, Peter Maxime
Curtis, Donald Lee
Curtis, Richard Bradford
Curtis, Robert Edwin
Cushing, John Scott
Custodi, George Louis
Cybul, Harvey John
Dade, Thomas Brodrick
Dahl, Dennis Kay
Dahlvig, Alan Lee
Daisley, Richard Avery
Dalager, Neil Robert
Dalberg, Richard Leo, Jr.
Daley, Michael James
Dallas, Stephen Walter
Dalton, Clem Edward
Dalton, Gerard Holbrook
Dalton, Henry Frederick
Dambaugh, John Arthur
Dambrosio, Robert Joseph
Dangel, John Henry
Daniels, James Edward
Daniels, John Henry
Dannheim, William Taylor
Dansker, Alfred Steven
Dantone, Joseph John, Jr.
Daramus, Nicholas Thomas, Jr.
Darsey, Edgar Bruce
Dau, F., III
Daugherty, Shaun Michael
Daughters, Milo Philip, II
Davidson, Alan Norton
Davidson, Edward Raymond
Davidson, Wayne Fred
Davies, William Edgar, Jr.
Davis, Alden Carter
Davis, Aubrey, Jr.
Davis, Dean Dudley
Davis, Edward Anthony
Davis, George Harrison, Jr.
Davis, George McMillan
Davis, Gerald, Jr.
Davis, Henry Hooper, Jr.
Davis, James Willard, Jr.
Davis, James David
Davis, John Paul, Jr.
Davis, Martin Dorner
Davis, Milton Edwin, Jr.
Davis, Ralph Richard
Davis, Richard Edward
Davis, Richard Clinton
Davis, Robert Lee
Davis, Ronald Lewis
Davis, Theron Lee
Davis, Thomas Cahill, Jr.
Davis, Walter Barry
Davis, William Edward
Dawson, Richard Wesley
Day, Charles James
Day, J., Jr.
Day, Patrick Arthur
Dean, Victor Edwin
Deboer, James Keith
Deburkarte, Donald Eugene
Decarli, Wiley Paul
Decker, Russel Herd, Jr.
Decker, Wilbur Leon
DeClercq, Keith Laverne
Deevy, Thomas Joseph
DeFloria, Joseph George, Jr.
DeFries, Melton Ellis, Sr.
Dehnert, Charles Eugene
Deitrick, Jack Lee
Dekker, Jon Karel
Deklever, Vaughn Gerard
Dekshenieks, Vidvuds
Delgaizo, Theodore John
Dell, Julius Bloxhem, Jr.
Demchik, Robert Paul
Demech, Fred Ralph, Jr.
Denault, Donald Raymond
Denbow, Kenneth Duane
Dennenberg, Harvey Allen
Denning, William James, III
Dennis, James Augustin, Jr.
Derf, Tad Arlen
Deroco, Alan Preston
DeRousie, William Louis
Deselms, Verl Dean
Desens, Robert Bruce
DesRosiers, Richard Albert
Dettman, Bruce Maxwell
Deutermann, Peter Thomas
Dewey, John Robert
Dias, Gerald Freitas
Diaz, Donald Gilbert
Dick, Albert Gano
Dick, Allen Howard
Dickson, James William
Diehl, Robert Walter Johns
Dietz, Gary Conrad
Dietzler, Andrew John
Dill, Donald Lloyd
Dillon, John W., Jr.
Dillon, Leo Glenn
Dirren, Frank Matthew, Jr.
Ditchey, Robert Louis
Ditmore, George Walter, II
Dixon, Douglas Mack
Dixon, Thomas Earl
Dobberteen, James David
Dobbins, William Peyton, Jr.
Dodd, James Lloyd
Doherty, Dennis Carl
Dollard, John Anthony
Dommers, Richard Walter
Donahue, Drake Allen
Donahue, James John
Donahue, John Cliff, III
Donaldson, William Jay
Donegan, John Joseph, Jr.
Doneux, Dennis Craig
Donnelly, John Thomas, Jr.
Donnelly, William Wise, Jr.
Donovan, Charles Anthony, Jr.
Dopson, Michael Imler
Dorman, Craig Emery
Dorman, Merrill Herrick
Doroshenk, Theodore
Dorrenbacher, John Stewart
Doswell, Eugene Varnon
Doty, Wells Blakeslee
Dougherty, Robert Joseph
Dow, Paul Richard
Dowd, James Lawrence
Dowling, Edgar Joseph, Jr.
Downs, Charles Patrick
Doyle, Joseph Leo
Doyle, Michael William
Doyle, Thomas Francis, Jr.
Drake, Albert Wayne
Draper, Robert Albert
Dreifke, Hilmer William
Drennan, Arthur Paul
Drew, James Joseph
Driscoll, Kurt Allen
Driscoll, Thomas John
Droste, James Bentley
Dryden, Victor Duane
Duda, Daniel Martin
Duffy, James Michael
Dufresne, Michael Paul, Jr.
Duhamel, Philip David
Dukat, Frank
Dunagan, Jerry Mac
Dunbar, Perry Joseph
Duncan, Duane Stewart, Jr.
Dunham, Donald Tolbert
Dunlap, Calvin Ray, III
Dunn, Michael Edward
Dunne, Gerald William
Dunstan, Richard Alan
Dunton, Lewis Warren, III
Durbin, James Lanius, Jr.
Durden, John Delano
Durfee, David Loyd
Durham, Andrew Canton
Durham, Dan Wilson
Durham, Jere Carlton
Dyches, Fred Dennis
Dykeman, Paul Richard
Eakin, Brian Sidney
Earner, William Anthony, Jr.
Earnest, Richard Lee
Earnhardt, John Baughn
Easley, George Alfred
Easton, Robert William
Eckstein, Eric Rockhill
Eddy, Rodman Michael
Edgar, James Raun, Jr.
Edge, Jacob, II
Edington, Donald Edwin
Edleson, Stuart Kaufmann, Jr.
Edmiston, James Benjamin
Edrington, Frank Roberts, II
Edwards, Harry Sanford, Jr.
Edwards, Henry Banks, Jr.
Edwards, Joseph William
Edwards, L. Vernon, Jr.
Efird, William Alexander
Egg, William Charles
Ehlers, Theodore Jay
Ehret, Howard Charles
Eidenshink, Gerald Michael
Eischen, Gerald Nicholas
Eissing, Frank Eugene, III
Ek, Roger Wayne
Ekins, Harvey Horton
Elberfeld, Lawrence George
Eldred, William Alexander
Elkins, Frank Callihan
Elkins, Roger Neil
Eller, John Christian
Ellis, George Jeremiah
Ellis, John Richard
Ellis, Richard Hoff
Ellis, Samuel Henry
Ellis, Winford Gerald
Ellison, William Theodore
Ellsworth, Thomas Burpee, Jr.
Elrod, Stephen Anthony
Elsasser, Thomas Charles
Emarine, Larry Lee
Emerson, David Charles
Emerson, Norman Perry
Emery, George Williams
Emrich, Roger Gene
Endrizzi, Raymond Louis
Engman, Lee Mathew
Engwell, Darrell Wayne
Ennis, Michael Kirby
Epstein, Joseph Lawrence
Erickson, Lawrence Einar
Ericson, Walter Alfred
Erlandson, John Lyle, Sr.
Erskine, Donald Alexander
Esbeck, Leonard John
Estell, William Andrew, Jr.
Estes, Donald Harold
Etheredge, Jerry Maurice
Eubanks, Glen Earl
Eustis, David Leeds
Evanguelidi, Cyril Gregory
Evans, Gerard Riendeau
Evans, Irvin Christopher, Jr.
Evans, Jimmie Wayne
Evans, John Morgan
Everett, Jack Wilcox, Jr.
Ewert, Lawrence Edward
Ewing, Donald Ralph
Fabac, Blair Henry
Faddis, Jack Harvey
Faddis, Walter Huston
Fagaley, Donald Clifford
Falcon, Michael Francis
Fant, Glenn Ernest, Jr.
Fant, Robert St. Clair, Jr.
Fantin, Jonnie Ronald
Farber, Donald Joseph
Farmer, Claude Smith, Jr.
Farmer, Michael Arthur
Farrar, David Wayne
Farris, Robert Owen, Jr.
Faticoni, John Anthony
Fegan, Robert Joseph, Jr.
Fenner, David Lynn
Feeney, Harry Joseph, III
Felps, Lowell Douglas
Fenton, Paul Herbert
Ferguson, James Beaty, III

XUM

Ferguson, Jerry Edward
Ferguson, Robert Lee
Ferguson, Robert Dale
Ferguson, Thomas Edward
Fernald, James Gordon
Fernandez, Leabert Roberts, Jr.
Ferraro, Robert Vito
Ferrell, John L.
Ferris, Jeffrey Elwell
Ferriter, Nicholas Mark
Feuerbacher, Dennis George
Field, John Burke
Fields, David Dean
Fields, James Richard
Filippi, Richard Anthony
Finch, Parker Thomas, Jr.
Finley, John Cain
Finn, Edward Stephen
Finney, Donald Wayne
Finney, James Hardin
Fiori, Mario Peter
Firnbach, James Donald
Fischer, Ernest Collis
Fischer, John North, Jr.
Fish, Donald Eugene
Fishburn, Charles George
Fisher, Charles Kellas
Fisher, Gordon Everett
Fisher, Marty Robert
Fister, George Rodwell
Fitrell, Stuart James
Fitts, Joel Rea
Fitzgerald, John Allen
Fitzgerald, James Richard
Fitzgerald, John Edward
Fitzpatrick, Gregory Daniel
Fladd, Wirt Ross
Fleeger, Russell Burnett
Fleming, Richard Thomas
Flentie, David Lee
Fletcher, Paul Reed
Fliegel, Robert Aalbu
Flint, Lewis Ware
Florio, Michael Charles
Flower, Roger Paul
Foerster, Bruce Somerndike
Fogerson, Arron Stephen
Folsom, John Harold
Fones, James Milton, Jr.
Fontana, James David
Fooshee, Terry Warren
Ford, Henry, IV
Ford, Jack Charles
Ford, William John, Jr.
Forsberg, Gary Lee
Forster, Robert Douglas
Forsyth, Robert Larry
Fortner, Michael Thomas
Forys, Michael George
Foster, Brent Dean
Foust, James Eldridge, III
Fox, Brett Herschel
Fox, James Charles, Jr.
Foy, Basil W., Jr.
Fraine, Robert Howard
France, Frederick Michael
Francis, Wayne Hampton
Francis, William Charles
Frank, Allen Jesten
Franklin, Ted Gary
Franson, Alvin Laverne
Franz, David
Franz, Rodney Crane
Frazer, Paul David
Fredericks, Roy Charles
Freeman, Christopher Kitt
Freeman, Ernest Raymond
Freeman, James Wilson, Jr.
Freet, James Francis
Freibert, Ralph William
French, Charles Everett
French, Gary Lester
French, John C., Jr.
French, Thomas Penn, Jr.
Frenzel, Joseph William, Jr.
Frenzinger, Thomas Walter, II
Frick, Dean Earl
Frick, Frederick Mark
Friedman, Marcus Velvil
Friedrichsen, Lewis Johnson
Fritz, Thomas Wayne
Fritz, Thomas Clifford
Froehlich, Edward William, Jr.
Froehlich, Jacob Clare
Frost, David Eugene
Frost, John Allen
Fry, John Lunny
Fryer, James Norman
Fugard, William Harvey
Fuge, Douglas Paul
Fujimoto, Toshio
Fulbright, Terrell Woodrow
Fulkerson, Grant Dale
Fuller, John Paul
Fuller, Robert Davis
Fulton, Rodney Gene
Fulton, Stephen Howard
Fulton, William Lawrence, II
Fulton, William James
Funk, Roland Clement
Futch, George Wiley
Gabriel, Thomas Oscar
Gabryelski, Richard Marion
Gail, Carl Frederick, Jr.
Gaines, George L.
Gaines, William Andrew
Gainor, John Wesley, III
Galanti, Paul Edward
Gallagher, Lawrence Ambrose
Gamboa, Jose Carlos
Gamrath, James Carl
Gapp, Donald Robert
Garber, John William, Jr.
Garde, James Christopher
Garmon, Gerald Sutherland
Garns, Keith Merrill
Garrett, Garland Waddy
Garrett, Philip Trafton
Gates, Jonathan Hubert
Gaudiano, Antonio William
Gaul, James Howard
Gautier, James Berry
Gawne, John Charles
Gaynor, Cornelius William
Geddie, John McPhail, Jr.
Gee, George Nicholas
Gee, John Claude
Geise, Barry Russell
Geissler, Richard Frank
Gemmill, John Wiley
Gender, John Edmond
Gensler, Robert Lewis
Genson, Gary Leroy
Gentry, Donald Gunn
Genung, Edward Noland, Jr.
George, Harold Wayne
George, Paul John
Georgenson, Ronald George
Georgius, David Russell
Geppert, Robert Charles
Gerwe, Franklin Henry, Jr.
Ghirardi, Lawrence Frank
Ghrer, Grady Francis
Giannotti, Sterling Maurice
Gibson, Richard Allen
Giddens, Robert Gregory, Jr.
Gier, Edwin Frank
Gierman, Michael John
Gifford, Corydon Rouse
Gilbert, James Don
Gill, Gary Edward
Gill, James Edward
Gill, Russell Carter
Gilleece, Peter Gerard
Gilmartin, John Thomas
Gilpin, Girard Harold
Gilson, James Donald
Gingras, Peter Southworth
Giorgio, Frank Arthur, Jr.
Gist, David Moore
Given, Robert Ole
Gladwin, Harold Russell
Glaes, Roger Burton
Glasier, Peter Keith
Glass, Arnold Lee
Glenn, Danny Elloy
Glenn, Walter Lewis, Jr.
Glennon, Robert Clifford
Glevy, Daniel Francis
Glover, Jimmy Neal
Glover, William Ferguson Hu
Gluck, John Milton
Gnilka, Charles William
Gobbel, James Thomas, Jr.
Godbehere, Richard Gerald
Godfrey, William Thomas
Goebel, David Maxwell
Gold, Bennett Alan
Goldman, Dan Edgar, Jr.
Goldman, Robert Barry
Gomez, John Ferdinand, Jr.
Gomez, Luis Vilas
Gompper, James Harold
Gonatos, Michael John
Goodgame, Billy Donald
Goodlett, Wallace Duane
Goodloe, Robert Vannerson, Jr.
Goodman, Jerry Edward
Goodwin, James Harvey
Googins, Bruce Russell
Goolsby, Richard Edwin
Gordon, Richard Scott
Gormly, Robert Anthony
Gosnell, Charles Edward
Gottlieb, William Albert
Gottschalk, Gary Ward
Gower, Leon Haskell
Graber, Harold Frederick
Grable, Joe Fuller, Jr.
Graef, Peter John
Graf, Karl Rockwell
Graff, Russell John
Graft, George William
Graham, Clark
Graham, Edward Mary
Graham, Walter Harry
Granger, Alan William
Grant, Donald Edd
Grant, Richard Francis
Grant, Stephen Irving
Grantham, Wiley George
Granuzzo, Andrew Aloysius
Grasser, Philip Farr
Graue, Kenneth Gregory
Graves, George William, Jr.
Graves, John Davis
Graves, William Thomas
Gravely, Thomas Wayne
Gray, Francis David
Gray, Myron Paul
Green, Daniel Ernest
Green, George Leblanc
Green, Norman Richard, Jr.
Green, Robert Leonard
Green, Thomas Ray
Green, William Jennings, Jr.
Greenan, Edward Joseph
Greene, David Lockwood
Greene, Friedel Clarance
Greene, James Bernard, Jr.
Greene, Patrick Ernest
Greeneisen, David Paul
Greenman, Robert Pruyn
Greeson, Bernard Dandridge
Greeson, Tommy Darell
Gregory, Francis Carl
Grieve, James Edward
Griffey, David Rowland
Griffin, Charles Donald, Jr.
Griffin, Harold Craven, Jr.
Griffin, Paul Adolph
Griffith, David Howard
Griffith, Douglas Kent
Griffiths, David John
Grigg, Lewis Wallace
Griggs, Carlton Albert
Griggs, Stanely David
Groman, Alphonse Winslow, Jr.
Grosser, Harold John, Jr.
Grossman, Arthur John, Jr.
Grotenhuis, John Henry
Grove, Frank Henry
Grunwald, Gerald Max
Grzymala, Thomas Chester
Gubbins, Philip Stanley
Guerin, Gerald Welker
Gullett, Fred Wayne
Gunning, James Anthony
Gushaw, Gregory Vance
Gustavson, Michael Anton
Guthrie, Stephen Duane
Gyle, Robert Bentley, III

XUM

Haan, Dale Everett
Habermeyer, Howard William, Jr.
Hack, David Faustin
Hadley, Allan William
Hagy, James Henry Dixon, Jr.
Hahn, William Dillon
Haines, William Robert
Hair, Lester Allen
Hall, James Otto
Hall, James Benjamin
Hall, Thomas Forrest
Hall, William Lowell
Hall, William Ervin
Hallahan, Edward Thomas Jr.
Halperin, Mark Israel
Halpin, Francis John
Hamilton, David Leland
Hamilton, Gerald Kent
Hamilton, Jack Edward
Hamma, John Francis
Hammer, George Charles
Hammer, John Levering, III
Hammond, Thomas Jerry
Hand, William Edward
Handberry, John Edwin
Hanley, James Joseph
Hannam, Donald Charles
Hannsz, Donald Alvin
Hannum, Edmund Pennell, Jr.
Hansen, Carl Kristen
Hansen, Laurence Russell
Hanson, Claude Lee
Hanson, Dale Eugene
Hanson, Donald Edison
Hanson, Robt. T., Jr.
Harder, Ronald Erwin
Hardy, James Cecil Clayborn
Hardy, Richard Wayne
Harken, Jerry Lynn
Harlan, Richard Lavergne
Harley, James Harold
Harms, John Henry
Harrell, George Edmund
Harris, Arthur Charles, III
Harris, Floyd Stevenson
Harris, James Partsch
Harris, Jon Richard
Harris, Michael Jon
Harris, Robert Harlan
Harris, William Ronald
Harris, Wilson Francis, Jr.
Harrison, Edward James, Jr.
Harrison, Gilbert Arthur
Harrison, Russell Winfield, Jr.
Hart, Harvey Hicks, Jr.
Hart, Ronald John
Hartinger, Ronnie Joe
Hartman, Charles William, II
Hartman, Richard Henry
Hartman, William Ray
Haskins, John Bryant
Haskins, Toner Charles, Jr.
Hassell, Benny Kyle
Hassett, Daniel Francis
Hassler, Bobby Vernon
Hastings, Steven Chad
Hatfield, Philip Neal
Hauck, Frederick Hamilton
Hauert, Patrick Charles
Haugen, Ronald Gilbert
Hauhart, James Norval
Hausmann, Gerald Leo
Havey, Brian Joseph
Hawley, John Garland
Hawley, John Alfred III
Hayes, Cornelius Charles, Jr.
Hayes, Richard James
Hays, George Elden, Jr.
Hays, James Malcolm
Heath, Charles Maples, Jr.
Heath, William John
Heatherly, Sherman Luther
Heffernan, Richard Francis
Heinecke, Walter Richard
Heins, Raymond Rice
Heins, Roger John
Heintzelman, Thomas Gary
Heinz, Michael Kasper
Heist, David Wesley
Helbig, Raymond Allan
Helle, Frederick Allan

Helsper, Charles Frederick
Helt, James Franklin
Helyer, Gordon Durward
Henderson, Willie B., Jr.
Hendon, Jerry Edwin
Hendren, Jasper Paul
Hendrick, William Smith
Hendricks, John Neil
Hendricks, Peter Lee
Hennessy, William Joseph, Jr.
Henry, Russell Jones
Hensley, Roy Leo
Herbert, Michael Jay
Herbert, William George
Hering, Frederic Shriver
Hermann, Kermyn Jerome
Herring, Arthur Eugene, Jr.
Herriott, Jack Adair
Herriott, Robert Paul
Herrmann, John Severin
Herron, Francis Joseph
Hershey, David G.
Hess, Gerald R.
Hess, Lee Raymond
Hewett, Harvey Jackson, Jr.
Hewitt, George Michael
Hewitt, John Francis
Hewlett, Harold Eugene
Hey, Donald Bradford
Heyer, Robert Ward
Heyse, Frederick Hugh
Hickman, Aubrey Wayne, Jr.
Hickey, Robert Philip
Hickox, Oscar Jonathan, Jr.
Hicks, Norman Keith
Hicks, Robert Louis
Hicks, William Lloyd
Hiestand, Frank Hilty
Higgins, Edward P.
Hildebrandt, John L., III
Hill, Richard David
Hillis, Robert J.
Hilton, Francis Warren, Jr.
Hilton, Jay Ingrisch
Himbarger, Robert Lee
Himchak, William Alexander
Hinckley, Robert Messinger
Hinds, James Judson
Hines, Henry Lee, Jr.
Hingsberger, Andrew John, Jr.
Hinkle, John Calvin
Hinkley, William Leslie
Hitch, James Harvey
Hitchborn, James Brian
Hoag, David Wesley, Jr.
Hobbs, Marvin Edward
Hodell, John Charles
Hodgdon, Walter Graham
Hodgell, Tolin Wesley
Hoferkamp, Richard Allan, Sr.
Hoff, Robert Glenn
Hoffman, Calhoun Earl, III
Hoffman, Carl Walter
Hoffman, David Wesley
Hoffman, William St. Clair
Hogan, James Joseph, III
Hogan, Jerry Franks
Hohlstein, Julian Geoffrey
Hoivik, Thomas Harry
Hokanson, Anders, Jr.
Holian, James Everett
Holihan, David Helm Miller
Holliday, Harley Junior
Hollinger, Merlin Bruce
Hollingsworth, William Louis
Hollis, Robert Eugene
Holme, Thomas Timings, Jr.
Holmes, Frank Clayton
Holmes, John McBride
Holmes, Milburn Jasper
Holmes, William Clay
Holt, Philip Nelson
Holt, Robert Bryan
Holton, Wilbur Earl
Holz, Arthur Frederick
Holzapfel, Alan Kepler
Homer, James Joseph
Honhart, Daivd Crosby
Hood, John McCoy, Jr.
Hood, John Timothy
Hood, William Thomas Taylor, Jr.

Hooper, Harold Danny
Hooven, Harry Clifford
Hopkinson, Rodney
Horner, Donald Walter
Horst, Rudolph Albert
Horton, Charles Oliver
Horton, Douglas James
Hoshko, John, Jr.
Hotch, John Newell, Jr.
Howard, James Willoughby
Howard, Mark Warren
Howarth, Paul Edward
Howe, Michael Edward
Howell, James Dorn
Howell, Melvin Clay
Howell, Robert Lawrence
Howie, Robert John
Howie, Kenneth Monte
Howson, Richard John
Huber, Donald Henry
Huchthausen, Peter Anthony
Huchting, George Arthur
Hucks, Jerry Pierson
Hudnor, Francis Lee, III
Hudson, Lyndon Ray
Huffman, Kenneth Alan
Hufford, Philip Thomas
Hughes, Faust Francis, Jr.
Hughes, Frank Weber
Hughes, Michael Bryant
Hughes, William Charles, Jr.
Hughes, William Allen
Hulick, Timothy Peter
Huling, John McKee, Jr.
Hull, Kent Sherwood
Hulsey, Virgil Glennwood
Humphrey, David Deane
Humphreys, Wayne Ives
Hunt, Clark Harvey
Hunt, Donald Bayard
Hunt, Paul Delton, Jr.
Hunt, Paul Dean
Hunter, Gordon Waterman
Hunter, Robert Stanley
Hupp, Arnold Jay
Hurd, Michael Fuller
Hurley, Robert Francis, Jr.
Hurst, Cecil Roy, Jr.
Hurst, Paul Drake
Hurvitz, Sheldon Philip
Huss, Jerry Francis
Hutcheson, James Edward, Jr.
Hutmaker, Matthew Aaron, Jr.
Hutt, Gordon William
Hutter, George Richard
Hutton, Joseph John, Jr.
Hydrick, Harry Winfield
Hyland, John Joseph, III
Hyland, William Walker, Jr.
Hynes, Robert Frank
Hynes, William Richard
Iaconis, John Francis, Jr.
Iannone, Niles Alexandar
Iber, William Randolph
Idleberg, Norman
Ince, Joe
Ingram, Alan Falconer
Ingram, Isom Irvin
Ingram, Luther Gates, Jr.
Isaacs, Phillip Warren
Ishiguro, Guy Akira
Ison, William Bradley, Jr.
Itkin, Richard Ivan
Iverson, Michael Martin
Jacanin, John Andrew
Jackson, Grady Lee
Jackson, James Barrett
Jackson, Marshall Neil
Jackson, Robert Joseph
Jackson, Virgil Frank, Jr.
Jacobs, Brent W.
Jacobs, Philip Henley
Jacobs, Philip Roberts
Jacobs, Ralph Edward
Jacobson, Herbert Adolph
James, Charles Lee
James, David, III
James, David Ray
James, Franklin Wilson
Jameson, Clarence Hayes, Jr.

XUM

Jampoler, Andrew Christophe
Janssen, Kenneth Lavern
Jardine, David Andrew
Jarecki, Stephen Allen
Jarvis, Gary Thomas
Jaudon, Joel Bates
Jenkins, Alan Kent
Jenkins, James Alan
Jenkinson, William Raymond
Jenks, Jack Norman
Jennings, James Leslie
Jensen, Jack James
Jensen, Michael George
Jensen, Richard Arthur
Jensen, Roger Chris
Jessel, David George
Jessup, Frederick Don
Jetton, James Robert, Jr.
Jewell, Robert Michael
Jiannas, John Stergos Emman
Joa, William Ray
Johnsen, Bruce R.
Johnsen, William Alfred
Johnson, Alan Joseph
Johnson, Allan Leroy
Johnson, Arne Edward
Johnson, Bradley
Johnson, Charles Bernard
Johnson, Charles Edward
Johnson, Earl Paul
Johnson, Edwin Allen
Johnson, Elton Wendell
Johnson, Francis
Johnson, Gerald Arthur
Johnson, James Frederick
Johnson, John Robert
Johnson, John Lewis
Johnson, John David
Johnson, Kenneth Maine
Johnson, Melvin Ernest
Johnson, Patrick Woodruff
Johnson, Paul Kenneth
Johnson, Philip Homer
Johnson, Raymond
Johnson, Richard Leroy
Johnson, Robert Lawrence
Johnson, Terry Lowell
Johnson, William Spencer
Johnston, George Raymond
Johnston, Glen Edwin
Johnston, Thomas Franklyn
Johnston, Thomas McCorvey
Johnstone, Richard Ober
Johnwick, Robert Leon
Jokela, Carl Richard
Jolley, Ronald Scott
Jones, Dennis Richard
Jones, James Voland
Jones, Kenneth Earl
Jones, Martin Joseph
Jones, Robert Charles
Jones, Robert Drake
Jones, Robert Eugene
Jones, Stephen Howe
Jones, Thomas Leon
Jones, William Dean
Jones, Winslow David
Jontry, Michael Joseph
Joplin, James Edward, Jr.
Jordan, James Alton
Jordan, James Francis
Jordan, Jerry William
Jordan, John Alton
Jordan, John Franklin, Jr.
Jordan, Wesley Earl, Jr.
Josefosky, Kenneth Martin
Joyner, Thomas Woodrow, Jr.
Juarez, David Victor
Judd, Raymond Joseph
Juengling, Robert George
Juerling, James Robert
Justis, Edward Tabb, Jr.
Kaeser, Karl Heinz
Kafka, William Joseph
Kahn, William Morris
Kahrs, J. Henry, III
Kaiser, David Gordon
Kaiser, John Martin
Kaiserian, Harry, Jr.
Kaiss, Albert Lee
Kalal, Lindsey Edward
Kalinoski, Edward Francis
Kalleres, Michael Peter
Kalyn, Richard Adrian
Kammerdeiner, Roger Neil
Kampf, Michael, III
Kane, Charles Roy
Kane, David Charles
Kanning, David Warren
Kantor, William Paul
Kaplan, Murray Arthur
Karl, George John, III
Karns, Norman Milton, Jr.
Karp, Leonard
Karr, Kenneth Richard
Kastel, Bruce Allen
Katona, John Bernard
Katz, Richard Gordon
Kaup, Karl Lee
Kaupas, Thomas Richard
Kautz, Norman Norris
Kay, Norman Bruce
Kearns, Walter Edward
Keating, Michael Lawrence
Keck, Leland Stanford, Jr.
Keefer, James Francis
Keeler, Robert Wendell
Keeling, Robert Austin
Keen, Walter Robert
Keenan, Richard Calvert, Jr.
Keene, Russell Alfred, Jr.
Kehrli, Lynn Clifford
Keim, Edward Franklin
Keith, Roy Edward
Keithley, Charles Leon, Jr.
Keithly, Roger Myers, Jr.
Keleher, John Allen
Kell, Richard Edward
Kellem, Carl William
Keller, Douglas George
Kelley, Thomas James
Kelley, William Emanuel
Kellner, Gary Earl
Kelly, John Patrick
Kelly, William Charles, Jr.
Kelsey, John Paul
Kemple, Morris Michael, Jr.
Kenneally, Thomas Daniel
Kennedy, John Richard
Kenslow, Michael Jay
Keogh, Hugh Dwyer
Kerley, Thomas Owen
Kerns, Kenneth Harper
Kerr, Frank Leigh
Kersey, Paul Conrad
Kesel, Philip Garland
Kesler, Kenneth Lowell
Kesler, Walter Wilson
Key, William Hunter, Jr.
Key, Wilson Denver
Keyser, Carey Stocker
Kidd, George Norman
Kiely, Richard Krake
Kiem, Robert Lang
Kiess, Dean William
Kilby, Kent Thomas
Kile, Thomas Joseph
Kiley, Dennis William
Killam, Kent Hannaford
Killian, James Edward
Kilmer, Ronald Warren
Kimball, Darrell Hiram
Kime, Steve Francis
King, Edward Francis
King, George Leonard, Jr.
King, John Barry
King, John David
King, Preston Baker, Jr.
King, William Henry, Jr.
King, William Walter
Kinne, William Burton
Kinnear, Richard James
Kinsey, David Lawrence
Kinsley, Dudley Joseph
Kipp, John Lowell
Kiraly, Joseph Stephen
Kirk, Gary Lee
Kirk, Kerry Elvin
Kirkebo, John Arnold
Kirkland, Richard Geoffrey
Kirkpatrick, Max Howard
Kisiel, Roger Walter
Kisieleski, Kenneth Raymond
Kislack, Arthur
Kitchen, George Allen
Klein, John Frederick
Klein, Karl Manly, Jr.
Klemm, Richard Eiler
Kleyn, Frederick Gilbert, II
Klintworth, Philip George
Klippert, Richard Hobdell, Jr.
Klocek, Kenneth Duane
Knight, David Michael
Knight, John Michael
Knight, William Eugene
Knight, Windall Ray
Knosky, Michael Joseph, Jr.
Knostman, Paul Brayton
Knubel, John Albert, Jr.
Kobar, Michael Louis
Koch, Dean Henry
Koch, Frank Charles
Kochert, Gary Lee
Koczur, Daniel Joseph
Koeber, Charles John
Koenig, Harold Stephen
Koepke, William Reimers
Kohler, Charles Louis
Kolata, John Dennis
Kolipano, Dante Anthranich
Kopel, Jerome Michael
Korhonen, Kenneth Roger
Kost, John Gregory
Kotchka, Jerry Allen
Kott, James Richard
Kottke, Robert Arthur, Jr.
Kozlowski, Neil Lee
Kraft, James Nicholas
Kraft, James Clinton
Kramer, Lawrence Joseph
Kramer, Robert Lawrence
Kreinik, Eugene Gerard
Kreitzburg, John Walter
Krekich, Alexander Joseph
Krieger, Eric Weston
Knippes, Donald Edward
Krohne, Theodore Karl
Krommenhoek, Jeffrey Martin
Krotz, Charles Kit
Krueger, Dan William
Krueger, Roger William
Krueger, Rudolph Vince
Kruger, Richard Wayne
Krupp, Marvin Mack
Kruse, Harry Rudolph
Kunsky, David Allen
Kutch, Raymond Anthony
Kyzar, Sammy Berton
Laabs, Stephen Kermit
Labyak, Peter Stephen
Lachata, Donald Martin
Lacher, Richard Gray
Ladek, Kenneth Eugene
Ladwig, James Calvin
Lagassa, Robert Edward
Lagreek, Paul William
Laib, Ronald John
Laidlaw, Charles Edward
Laine, Lawrence Leroy
Lamasters, Edward Reid
Lamay, Thomas Vincent
Lamb, Charles Howard
Lamb, James Joseph
Lamb, John Peter
Lambert, John Frederick
Lambrecht, Marvin Wayne
Lamond, John Franklin, Jr.
Lamping, James Richard
Land, Clinton Dale
Landeck, Albert William
Landers, Michael Francis
Landon, John Larue
Lankford, Hugh Kelly
Lantzer, Lawrence Arthur
Laplante, John Baptiste
Larkin, Robert Rene, Jr.
Larsen, Donald Mark
Larsen, Kenneth James
Laskey, Charles Edwin
Lasswell, James Bryan
Latham, Peter Richard
Lauer, John Nikolaus
Lautenbacher, Conrad Charles, Jr.

XUM

Lautrup, Robert William
Laverty, William Kenneth
Lawlor, John Patrick
Lawrence, David Wilson
Lawson, Joseph Hamilton, Jr.
Lawson, Urbie Allen
Lawton, Roy Elwood
Lea, Frank Gannaway
Lecroy, Floyd Garland
Ledoux, Lawrence James
Lee, Charles Richard
Lee, Joe Ramon
Lee, John Douglas
Lee, Richard Neyman
Lee, Ronald Alvin
Leeke, Howard Warfield, Jr.
Leever, George Robert
Lefavous, David Anthony
Lehnus, Ronald Karl
Lehrfeld, Phillip Roy
Leightley, Albert Lewis, II
Lemke, Anthony Michael
Lemon, Frank Michael
Lemons, Doyle Ray
Lennox, Richard John
Lents, John Michael
Leon, Kenneth Francis
Leonard, Edwin Walter
Leonard, Emery Stapleton, Jr.
Leone, Anthony David
Lepak, Ronald Roman
Lesemann, Donald Frederick
Lesh, Vincent Edward
Lessard, Norman Raymond
Lester, David Brent
Lester, Edwin Thatcher
Letart, Laurin Harold
Letourneau, Charles Edward
Lett, Austin Sherwood, Jr.
Levangie, James Clement
Levi, George Elston
Levings, William Headingto, III
Lewis, Eben Willingham, Jr.
Lewis, Ernest Lamar
Lewis, Frederick Lance
Lewis, Jary William
Lewis, Jerry Allen
Lewis, John Huntington
Lewis, Leland Grant
Lewis, Lyle Eugene, Jr.
Lewis, Robert Joseph
Lherrault, David John
Liechtiy, Kenneth Raymond
Liedel, George Anthony
Liemandt, Michael Jerome
Lierman, John Stephen
Lies, Niel Ernest
Lieske, Harvey Arthur
Life, Richard Aaron
Lilly, David Edmund
Limongelli, Joseph Louis
Limstrom, Kenneth Rodger
Lind, Carl Victor, Jr.
Lindell, Colen Richard
Lindeman, John Burton
Linder, Michael Alton
Lindsay, James Henry, Jr.
Lindsay, Lowell Edward
Lingley, Gordon Stewart
Linn, Larry Eugene
Linn, Richard Walter
Lippincott, Richard Jay
Lipscomb, Calvin Duane
Lipscomb, David, II
Litrenta, Peter Louis
Little, Edwards Sanford
Little, Robert Douglas
Littlefield, Gaston Dale
Litvin, Frederick Daugherty
Livesey, James Eugene
Livingston, Donald Joseph
Lockhart, Albert Lewis
Lockhart, Theodore Charles
Lodge, Charles David
Lodge, Raymond Francis
Logan, Carl Flack
Lojko, Boley Alfred
Lombardo, Stephen William
Long, Harry Hoyt
Long, Herman James, Jr.
Long, John Andrew
Long, Michael Darrah
Longcore, Duane Maclyn
Longeway, Kenneth Leighton, Jr.
Longfellow, Dennis Ray
Longshaw, Jeffrey Scott
Lonsdale, Paul Taylor
Lord, William Fred
Loring, William Joel
Losoya, Rodolfo
Losure, Edward Ronald, Jr.
Loucks, Steven Jay
Louk, John David
Lounsberry, William John
Love, George Paul, III
Loveland, Richard Stroud
Lovett, Billy Ray
Lovig, Lawrence, III
Lowell, Bobbie Ray
Lowman, Richard Whitmore
Loy, Michael Howard
Lucas, George Monroe
Lucey, John Francis
Luck, David Lee
Ludlow, Ronald Gene
Luft, John Charles
Lugo, Frank John
Luke, John Davidson
Luksich, John William
Lunde, Roger Kenneth
Lundquist, Dallas Earl
Lundy, George Willis, Jr.
Lunneberg, Thomas Alvin
Lutz, Gilbert Martin
Luxford, Bruce
Lyford, George, Jr.
Lyman, Melville Henry, III
Lynch, Anthony Joseph
Lynch, Charles William
Lynch, Charles Stephen
Lynch, Floyce Matthew
Lynch, James Richard
Lynch, Thomas John
Lynch, Thomas Charles
Lynch, William Benton
Lynge, Oscar Eugene, Jr.
Lyons, Robert Woodrow
Lytikainen, Robert Carl
Mabery, Lester Richard, Jr.
Mabie, Harold Charles
MacAuley, Phillip Hardin
MacDonald, Hugh Huntington, II
MacDonald, Michael John, III
MacDonald, Timothy Angus
MacDonald, William Robert
MacDougall, Donald Gerrad
MacFadyen, Bruce Alan
MacGregor, John Andrew
Mackaman, Bert James
Mackin, Jere Gene
Maclin, Charles Sidney
Macomber, David Blair
Maddocks, Ronald James
Maddox, George Nelson
Madigan, Paul James
Madison, Russell Lee
Magruder, Peyton Marshall, Jr.
Mahaffy, Lorrence Alger, Jr.
Maheu, John Chaisson
Mahon, Roy Oliver, Jr.
Mahoney, Patrick Francis
Maier, Robert Alex
Major, Watson Harris
Malave, Pedro Manuel
Malkus, Kenneth Charles
Mall, Phillip Joseph
Mallen, Frank Harshman
Malloy, Charles Joseph, Jr.
Malmros, Michael Hans
Maness, Anthony Ray
Manke, Joseph William
Manley, Jerry Bell
Mann, Alcide Steyr, Jr.
Mann, Charles Edward
Mann, Edward Bonner, Jr.
Mannarino, Mario Raffaele
Manning, Dennis Brian
Manning, Edward Francis
Mantei, Thomas Joseph
Marano, Augustine Carlo
Marchetti, Michael Joseph
Marciniak, Walter, Jr.
Marik, Charles Weldon
Marik, Rudolph Frank
Markoff, Nicholas Sotir
Marlowe, Gilbert Murray
Marquis, David Stanley
Marrical, Anthony Rolland
Marsden, Phillip Scherrer
Marsden, Richard Alan
Marsh, Charles Lee, Jr.
Marsh, Larry Roy
Marsh, William Lee
Marshall, James Allen
Marshall, John Stevenson
Martin, Barry Jay
Martin, Charles Benjamin
Martin, Daniel Howard, III
Martin, David Arthur
Martin, Edward Francis, III
Martin, Jerome Lawrence
Martin, Michael Joseph
Martin, Michael McNeal
Martin, Ralph Kenneth
Martin, Ronald Weldon
Martin, Ronald Edmund
Martin, Theodore Joseph
Martin, Walter Potts
Martin, Wayne Allen
Martinache, Charles Gilbert
Martinsen, Glenn Tracy
Masciangelo, Frederick John
Mascitto, Eddy Joe
Mason, Henry Boyd
Mason, John Allen
Massey, Scott Spencer, Jr.
Masters, David William
Matheson, Norm Keller
Mathews, Michael Frawley
Mathiowetz, Donald Ray
Mathis, Donald Wayne
Mathis, William Walter
Matjasko, Louis Stephen
Matlock, James Andrew
Matthews, John Garrett
Mattingly, Richard Lee
Mattson, Gary Harrison
Mauney, Louie Alton
Maurer, John Howard, Jr.
Maxey, Fred, Jr.
Maxwell, Malcolm Douglas
May, Cyril Victor, Jr.
Mayer, Luke Ferdinand, Jr.
Mays, Michael Everett
McAlister, Donald Lee
McAllister, James Peter
McAloney, Frank Edward
McAloon, Albert Joseph, Jr.
McAuley, John Anthony, Jr.
McBride, Michael Andrew
McBridge, William Richard
McCallum, James Archibald
McCammon, Peter Leverich
McCann, William Robert, Jr.
McCarthy, James Timothy
McCarthy, Michael James
McCleary, Joseph Raymond
McClellan, William Dean
McClement, Charles Christop
McCloskey, David Junius
McClung, Bernard Davis
McClung, Lonny Kay
McCollough, Ralph Alden
McColly, John Clark
McConnell, James Joseph
McCord, Dennis Marchant
McCormick, James Thomas
McCracken, Wallace Dewey
McCraith, Laurence Paul
McCrory, Donald Lee
McCrumb, James Brayton
McCulloch, David Hamilton
McCullough, Donald Charles
McCullough, William Lee
McCutchen, Frank Kelly, Jr.
McDanel, Brinley Kent
McDaniel, Howard Ray
McDaniel, Robert Bruce
McDaniel, Ronald Aubrey
McDaniel, Ted Owen
McDaniel, Vernon Dale
McDavitt, Frederick Harry
McDermott, Michael Nash

McDevitt, Michael Allen
McDiarmid, James Edward
McDonald, Jay Gale
McDonald, John Edward
McDonald, John Joseph, Jr.
McDonnell, Thomas Edward
McFeely, Thomas Edward
McGee, Robert Thomas
McGhee, Barry Lewis
McGinty, Patrick Eugene
McGonagle, Leo Edward
McGowan, Roy Dewayne
McGrath, John Michael
McGraw, Michael Leonard
McGuide, Jeremiah James
McGuire, John Francis
McGuire, Thomas Patrick
McHenry, John Walter
McHenry, Nicholas J.
McHenry, Wendell Carlton, Jr.
McHugh, Richard Gregory
McHunt, Vincent Joseph
McKay, Dennis Albert
McKay, John Douglas
McKearn, Michael Clark
McKechnie, Thomas William
McKenna, Richard Bernard
McKenna, Russell Edmund, Jr.
McKenney, Lynn Duard
McKinley, David Howard
McKinnon, Clark Davis
McLaren, James Malcolm
McLean, Robert
McManus, Paul Devenport
McMillan, John Hammack
McMillan, Robert Hugh
McMullen, Dale Arthur
McMunn, David James, Jr.
McNeeley, Ellis Eugene
McNeer, William Paul, Jr.
McNeill, Corbin Asahel, Jr.
McNeill, Donald Ray
McPhail, Eugene Bates
McQuown, Michael James
McRae, David, Albert
McRoy, Willie Clifford
McSherry, Bernard Patrick, Jr.
McTigue, John Lawrence, Jr.
McWhinney, John Loren
Meakin, John Deane
Mears, Edward Irving
Mecleary, Read Blaine
Medaglia, Cornelius Peter
Meddings, William Alan
Medley, James Robert
Meek, Danny Lee
Meisner, Julian Robert
Melampy, Ronald Francis
Melander, Errol Norman
Melanson, Alfred Joseph, Jr.
Melecosky, Timothy Stanley
Melendy, David Ray
Mellmer, Darrell Dean
Meneeley, William Thomas
Meno, Timothy Deming Barron
Mercer, David Sparks
Mercer, Thomas Alexander
Merchant, Michael Gordon
Merchant, Steven Lee
Meredith, Kenneth Allen
Merical, Larry Burton
Merrick, Fred Harold
Merrill, Hugh Anthony
Merritts, Michael Henry
Merz, Vincent Paul
Meserve, John Shackford, II
Messmer, William Leroy, Jr.
Meston, Stanley Sercomb
Metcalfe, James Ashford
Mettler, James Henry
Meyer, John Ferrandello
Meyer, Thomas Eugene
Meyer, Victor Alan
Meyers, David William
Meyers, John Moberg
Meyett, Frederick Elwood, Jr.
Mezmalis, Andrejs Modris
Michaels, Gregory A.
Michele, Dennis Allen
Michelini, Raymond Theodore
Mickelsen, Thomas Max
Midgard, John Danner
Mignogna, Rocco Dominic
Mikolajczyk, Ronald Joseph
Miles, Larry Edward
Miles, Richard Jeffrey
Milhiser, Robert Joseph
Milhoan, James Lewis
Milioti, Louis David, Jr.
Millard, August
Millard, John Warren
Miller, Albert Earl
Miller, Andrew Pickens, Jr.
Miller, Calvin George
Miller, George Morey, III
Miller, John Michael
Miller, John Roger
Miller, Luke Horrell, Jr.
Miller, Paul Anthony
Miller, Ralph Rillman, III
Miller, Raymond Paul
Miller, Robert Gordon
Miller, Thomas Hayes
Miller, William Clark, Jr.
Miller, William Charles
Millikin, Stephen Thomas
Millis, Archibald Edward, Jr.
Mills, Bill Lyndall
Mills, Robert Charles
Minard, Julian Edward
Miner, John Odgers, Jr.
Minnich, Richard Willis, Jr.
Minter, Charles Stamps, III
Mirkin, Howard Benjamin
Mister, Richard Woodie
Mitchell, Albert Hoyt, Jr.
Mitchell, Eugene Francis
Mitchell, George Franklin
Mitchell, John Thomas, Jr.
Mitchell, Michael George, Jr.
Mitchell, Robert Marvin
Mitchell, William J.
Mitchell, William Henry, Jr.
Mizner, Malvern Maynard
Moessner, Paul Carl
Moffat, John Wieber
Mohns, Karl Frederick
Moir, Weston Gavin
Moloney, Robert William, Jr.
Monash, Richard Frank
Mondul, Steven Michael
Money, Jack Loyd
Monish, Aubrey Richard
Monk, Clifton Felix
Monroe, Harry, III
Montana, Richard Thomas
Montgomery, Robert Creel
Monticello, John Daniel
Mooberry, William James
Moody, William Brooks Blais
Moore, Charles Leighton, III
Moore, David Baker Ames
Moore, Guy Carroll, Jr.
Moore, John Charles
Moore, Lorie Albert
Moore, Randall Melvin
Moore, Robert Brevard, II
Moore, Ronald Cullen
Moore, Warwick Breckinridge
Moored, Allen Wesley
Moran, Robert Colin
Moran, William Patrick, Jr.
Morawey, Michael Robert
Mordhorst, Rawson Boyd
More, Alan Robert
Morgan, Jerry Robin
Morgan, Joseph Henry, II
Morgan, Richard Keith
Morgan, Thomas Leeroy
Morgan, Thomas Edmund
Morgan, William Lee
Moritz, Carl Arthur, Jr.
Morley, Franklin Michael
Moroney, Joseph Maris
Morrill, Dennis Charles
Morris, David Noel
Morris, James Howell
Morris, Ricky King
Morrison, Vance Hallam
Morrissey, Thomas Kevin
Morrow, Emil David
Morrow, Gary Keith
Morrow, Granval Leroy
Morse, Clayton Kavanaugh
Morse, John Arthur
Morton, Norman Lee
Moseley, Leo Otto, Jr.
Moseley, Thomas James, Jr.
Moser, Alan Brown
Moses, Raleigh Warren
Mosher, Wayne Orville
Moulson, John Alfred
Mount, Donald Lee
Moynihan, Brian George
Mueller, James Walter
Mulholland, Lyle Jerry
Mulkerrin, Joseph Martin
Muller, George John
Mulligan, John Bernard
Mulligan, William James, Jr.
Mullins, David Lynn
Mullins, Willice Ralph, II
Mundell, Jack Lee
Mundhenke, David Jerome
Mundis, John Albert
Munsee, Stewart Frederick
Murphy, Andrew Joseph
Murphy, Charles Robert, Jr.
Murphy, Jerome Thomas
Murphy, Richard Lawrence
Murphy, Thomas Francis
Murray, Alan Adair
Murray, Richard Scott
Murray, Robert Louis
Murray, Thomas Osborne
Musick, George Meredith, III
Musitano, Charles Mario
Mustin, Thomas Morton
Myers, Collin Keith
Myers, James Bruce McIntyre
Myers, John Austin, Jr.
Myers, Richard Timothy
Myron, Terry James
Mysliwiec, Richard Joseph
Najarian, Moses Thomas
Nakayama, Homer Shiro
Naldrett, William John
Nash, Arthur Raymond
Nash, John Mitchell
Nash, Malcolm Peters, III
Nash, Michael Arthur
Navone, Peter Francis
Navoy, Joseph Francis
Neal, Jerome Birt
Neal, John Stephen
Neeb, Karl Anthony
Needham, William Peter
Negin, Jerrold Jay
Nelsen, Lynn Howard
Nelson, Arthur William, III
Nelson, Geoffrey Alan
Nelson, Harvey Gordon
Nelson, Jack Paul
Nelson, Richard Crawford
Nerup, Robert Kent
Neuberger, Douglas Francis
Neuman, Dennis Earl
Newby, Lewis Raymond
Newcomb, William Lee
Newell, Robert Bruce, Jr.
Newell, Thomas Lee
Newton, Eugene Dexter
Newton, Robert Chester
Newton, Roy Irwin
Ng, George Hong
Nicarico, Thomas Joseph
Nichols, Aubrey Allen
Nichols, Charles Lloyd
Nichols, Donald Frederick
Nichols, Douglas Russell
Nichols, Larry Allen
Nicholson, Edwin Parmelee
Nickelsburg, Michael
Nickerson, Robert Gordon
Nicklas, Charles
Niederstadt, Robert Grant
Nipper, Collin Daryl
Niss, Robert Jeffrey
Njus, Ingmar Joel
Noice, Gary Edward
Nolan, George Fred
Norfleet, Richard Norton
Norman, Warren Aubrey, Jr.

Norman, William Stanley
Norris, Dwayne Orange
Norris, Jerry David
Northcraft, Zane Wade
Norris, Jerry David
Northcraft, Zane Wade
Northrup, Paul William
Norton, Jack Trask, Jr.
Norton, James Larry
Norwood, Kenneth Edward
Norys, Robert Martin
Novak, Stuart Michael
Novitzki, James Edward
Nuernberger, John Allan
Nunn, James Willis
Nute, Charles Carter
Nutt, Richard Leverne
Nystrom, Stephen Curtis
Oakes, Charles White
Oakwood, John Phillip
Oates, Anthony Brent
Oatway, William Hanlon, III
O'Brien, John Joseph, Jr.
O'Brien, John Grant
O'Brien, Robert Clark
O'Brien, Robert James
O'Brien, Terence James
O'Brien, Thomas Joseph, Jr.
O'Brien, William George
O'Claray, Daniel George
O'Connel, Robert Leo
O'Connor, James George, Jr.
O'Connor, Kip
O'Connor, Michael Bernard, Jr.
O'Connor, Richard Dennis
O'Connor, Thomas Francis, II
Oden, Leonard Nelson
O'Donnell, Francis Xavier
Oertel, E. James
Oetinger, Mark
Oglesby, Douglas Alan
O'Keefe, Cornelius Francis
O'Keeffe, George Christopher
Okeson, James Clifford
Okeson, Lars Holman
Oldham, George Roberts
Oliphant, Gary Thomas
Oliver, David Edward
Oliver, David Rogers, Jr.
Oliver, Michael Frederick
Olsen, Dieter Heinz
Olsen, Glenn Ray
Olson, David Edward
Olson, Donald Milton
Olson, Harold Muschott, Jr.
Olson, Jerrold Elwood
Olson, Kenneth Paul
Olson, Phillip Roger
Olstad, Vincent Kenneth
Olwin, James Lee
Orejuela, Henry
Orlosky, Robert Andrew
Orluck, James Emmanuel
O'Rouke, Ed
O'Rourke, James Earl
Orriss, David Anthony
Orsburn, John David
Orth, Nelson Edward
Osborne, Ronald Drake
O'Shea, Donald James
Ostromecky, John Raymond
Otis, Robert Busby
Otto, Paul Eugene
Ounsworth, James Alexander
Overby, Rufus Donald
Overstreet, John Wesley, Jr.
Owen, Bruce William
Owen, James Edward
Owen, Kenneth Joseph
Owen, Robert Harrison
Owens, Robert Owen
Owens, Thomas
Owens, William Arthur
Oxboel, Eric Henry
Pagano, Frank Philip
Page, Bruce Dean
Page, Charles Wesley, Jr.
Palen, Don Gilbert
Palenscar, Alexander John, III
Palma, Richard John
Palmer, James M.
Palmer, Robert Earl
Palmer, William Allison, Jr.
Pancoast, Patrick Albert
Pannunzio, Thomas William
Paquin, James Edward
Parchen, William Robert
Parent, Donn Valentine
Parish, Charles Carroll
Park, John Prentiss
Parker, Brance James
Parker, Charles David
Parker, Charles Leslie, Jr.
Parker, Donald Wayne
Parker, Gerald Thomas
Parker, John Eugene
Parker, Raymond Francis
Parkhurst, Nigel Ernest
Parlier, August Emil, Jr.
Parnell, Allan Donald
Paron, John Richard
Parrie, Elman James
Parry, David Jon
Parry, Thomas Leighton, Jr.
Parten, Gary Lee
Patrick, Roger David
Patterson, Bernard Leo, III
Patterson, David Rufus
Patterson, Jeffrey Spear
Patterson, James Kelly
Patterson, Mervil Lafoy
Patton, William Thomas
Paul, Harold Wayne
Paul, Vernon Bennett
Pauling, David Robert
Payne, Charles Simmons
Payne, John Alfred
Payne, William Martin
Payne, William James
Peake, William Walter Franklin
Pearce, James Williams
Pearson, Dale Quimby
Pearson, James Earl
Pearson, Nils Alexander Silliman
Pedisich, John Anton, Jr.
Peebles, Robert Graham, Jr.
Pelot, Kent Barry
Pemberton, Leander Michael
Pendleton, Alan Ray
Penn, William Lyttleton
Pennington, Chad Allen
Penny, Douglas Corrigan
Pereira, Edward Humbert
Perez, Demetrio Jose
Perine, Philip Condit
Perisho, Gordon Samuel
Perkins, Ernest Della, II
Perkins, Henry Grady, Jr.
Perkins, James Blenn, III
Perkinson, Brian Thomas
Pernini, James Kanellos
Perron, Robert Arthur
Perry, Harold Eugene
Perry, Lonnie James
Perry, Rightly Ralph
Pesce, Victor Louis
Pessoney, John Thomas
Peters, Joseph Paschall
Peters, Victor Lee
Peterson, David Allen, Jr.
Peterson, Eric Laurence
Peterson, John Christian
Peterson, Ralph Duane
Peterson, Richard Sprague
Peterson, Robert William
Petrovic, William Kirk
Pettigrew, Kenneth William
Pewett, Robert Haywood
Pfeiffer, John Jacob
Pfingstag, William Carl
Pfister, William Campbell
Phaneuf, Joseph Theodore, Jr.
Phares, Danny Coleman
Phelan, Richard Harris
Phillips, Alexander Martin
Phillips, Jerry Abbott
Phillips, Joseph Larry
Phillips, Roger Vandorn
Phoebus, Charles Richard
Pickett, Larry James
Picotte, Leonard Francis
Pieno, John Anthony, Jr.
Pierce, Cole Jon
Pierce, David Irving
Pierce, Sidney Robert
Pierson, Bruce Kenneth
Pietrzykowski, Richard E.
Pignotti, Dennis Alexander
Pinto, Vito Joseph
Piper, Larry Warren
Pirnie, Morgan Scott
Pittenger, James Arthur
Plath, Richard Neil
Platt, David Van
Plott, Barry Merrill
Plumb, Joseph Charles, Jr.
Plummer, Galen Robert
Plunkett, Garry Ray
Joe, John Raymond
Poellnitz, Walter Durand, II
Polo, Arthur Donald
Pomykal, Glenn Waldo
Poole, James Louis
Pope, Carroll Gene
Popp, Arvel Jerald
Popp, Robert Leonard
Portenlanger, Stephen
Porter, John Dudley
Porter, Philip Edward
Porterfield, Gary Lloyd
Porterfield, James Harold, Jr.
Post, Warren Lee
Poteat, William Otto, Jr.
Powell, Robert Richard
Powers, Robert Lawrence
Powers, William Benton, Jr.
Pozzi, Robert John
Prath, Robert Lee Emerich
Prather, Jerauld Stuart
Pratt, Thomas Rolla
Press, Nicholas Leo
Preston, Joe Wayne
Price, Joseph Maurice
Price, William Woodrow, Jr.
Priest, Edgar Dolan, Jr.
Probst, Lawrence Everett
Procopio, Joseph Guydon
Proffitt, James Robert
Prueher, Joseph Wilson
Pryzby, Stanley John
Puariea, Donald Homer
Pulfrey, Charles Allen
Pulk, Allen Frederick
Pullen, James Robert
Punches, Robert Louis
Purcell, Darrell William
Purdy, Randolph Stanley
Putt, Kenneth Franklin, Jr.
Quade, Edward Lynn
Quanbeck, Brian Richard
Quarles, Herbert R.
Quinn, Jeffrey
Quinton, Peter Douglas
Rabin, William David
Rabine, Virgil Eugene
Raebel, Dale Virgil
Raetzman, Donald Patrick
Raggett, Michael Mark
Rainey, Hugh Thomas
Rainey, Peter Garland
Raiter, Friedrich Eric
Rakestraw, Howard Mickan
Ramm, Edward James
Ramsey, Roger Clinton
Ramsey, William Jasper
Ramskill, Clayton Robert
Rankin, Paul Lee
Rannells, Edward Warder
Ratcliff, John William
Rathjen, Arthur David
Rathsam, Richard Carl Frank
Ratzlaff, Richard R.
Rau, Morton David
Rawls, Hugh Miller, Jr.
Ray, Dennis Edward
Ray, Donald Joseph
Ray, Norman Wilson
Ray, Roy Lafayette, Jr.
Rea, John Paul
Read, David Wilford
Read, Ray Weldon, Jr.
Reader, Robert James
Reber, Peter Michael

Reddoch, Russell
Redford, Thomas Grayson, Jr.
Reed, Gary Allen
Reed, John Jesse
Reemelin, Thomas Edward
Rees, Bob Gary
Reeves, Robert Dulaney
Reff, Roger Gene
Regan, James Peter
Regan, John Thomas
Register, Mahlon Edmond
Reh, Robert Richard
Reich, Donald Gene
Reilly, Errol Francis
Reilly, John Thomas
Reinhardt, David Starr
Reiser, Phillip Douglas
Reistetter, Emery Andrew
Reitmeyer, David Joseph
Rejda, Dennis Paul
Renshaw, George Stephen
Restivo, Joseph Lawrence
Resweber, Owen Joseph, Jr.
Retz, William Andrew
Reumann, Richard Edward
Revesz, William, Jr.
Reynolds, Franklin Eugene
Reynolds, Keith Earl
Rhea, Kennedy J.
Rhode, John R.
Rhodes, Gerry Baxter
Ribolla, Romolo Thomas
Ricci, Enrico Angelo
Rice, Michael Gerard
Rich, James Earl
Richarde, Henry Morgan, Jr.
Richards, Stewart Whitney
Richardson, Earnest Wells
Richardson, David Paul
Richman, Thomas Nelson
Richmond, Frederick James
Riddell, Richard Anderson
Ridgel, Randolph Maurice
Ridgely, Philip Jay
Riess, James Richard
Riess, Joseph Raymond, Jr.
Riffle, Nathan Lucern
Riggle, Gordon Grant
Riker, Robert Townsend
Riley, David Richard
Riley, John Robert
Rinehart, Virgil Wright, Jr.
Ring, Henry Mark
Rinker, Robert Evans
Riordan, Robert Frederick
Risseeuw, Hugh Josias
Ristad, Arnold Clifford
Ritchey, Glenn Wendell, Jr.
Ritt, Dayton William
Ritter, John Erven
Rixse, John Henry, III
Roark, David Leroy
Robb, Thomas Walter
Robbins, Charles Bruce
Robbins, David Leroy
Robbins, Richard James
Robbins, William Arthur
Roberson, Bernard Gordon
Roberts, Keith Carlton
Roberts, Kim Morton
Roberts, William Ray, Jr.
Robertson, Charles Leonard
Robertson, Charles Lowry
Robertson, Neil Alan
Robertson, Thomas James
Robinson, David Brooks
Robinson, Keith Phillips
Robinson, Louis Norman
Robinson, William Burton
Robison, James Clifford
Rochelle, Balford Ray
Rock, Peter Frederick
Rodrick, Peter Thomas
Roeckner, Frank William
Rogers, Clyde William
Rogers, James Stewart
Rogers, Louis Anthony
Rogerson, Henry Porter
Rohm, Fredric William
Roll, Francis Patrick
Romer, Phillip Bruce
Rooney, Philip James
Roper, James Edward
Ross, Ernest Earl
Ross, James Andrew
Ross, Raymond Harper, Jr.
Rossa, Thomas James
Rosselle, William Trevett
Rossi, Joseph Lewis
Rosson, Vernon Lee
Roton, James Richard
Rowan, Donald James
Rowe, Paul Edward, Jr.
Roy, Bill
Roy, Richard Paul
Roy, Rudolph, John, Jr.
Rozelle, Edward Clair
Rubeck, James Thomas
Ruck, Merrill Wythe
Ruckner, Edward Aberle, Jr.
Rueff, James Louis, Jr.
Ruff, John Crawford
Ruff, Paul Gray, III
Ruffin, James Thomas
Ruliffson, James Howard
Runkle, William Auburn, Jr.
Rupprecht, Robert Philip
Russell, Charles Ellis
Russell, Jay Burton
Russell, Lawrence Mack
Russell, Robert Eugene
Rust, Gregory Bedell
Rust, Robert Stanley
Rutherford, Paul Findlay
Rutkiewicz, Richard Clemens
Ryan, Bruce Anthony
Ryland, Robert Baird
Rypka, Allan Edward
Saber, Gerald William
Sadamoto, Theodore Kanji
Safire, George Raymond
Sagerian, Ara
Salcedo, Frederick
Salkeld, Stephen Armstrong
Salmon, Harry Paul, Jr.
Samek, Dan Webster, III
Samford, Jack Wallis
Sampsel, Michael Martin
Sampson, Harry Burnell
Sampson, Neil Elwood
Sanders, James Elliott, III
Sanders, William Milfred
Sandstrom, John Fridolf, Jr.
Sanger, Kenneth Tisdale
Santamaria, Donald Frank
Santi, Ralph Louis
Sargeant, Harry, Jr.
Sargent, Ian Howland
Sargent, William Pierce
Sartoris, Joel Ross
Satrapa, Joseph Frank
Saul, Joe Michael
Saulnier, Steven Craig
Sawatzky, Jerry Dean
Sawert, Ulf
Sawyer, Merrill Clark
Saxon, Ross Elliott
Scanlan, Paul Timothy
Scearce, George Edward
Schaag, Frank Lewis
Schachte, William Leon, Jr.
Schaefer, Lyle Howard
Schafer, Carl Edward II
Schaff, James Carl
Schaller, Martin Nink
Schantz, John Malcolm
Schantz, Robert Edwin
Schardt, Delvin Leroy
Schatz, Arthur David
Schaus, Richard Harris
Schenck, William Herman
Schery, Ferdinand Michael
Schetter, Harry William
Schiffer, John Richard, Jr.
Schiffman, Marvin Cletus
Schiller, Frederick Conrad
Schlichter, Ralph
Schmauss, Henry William, Jr.
Schmeling, Leslie Lynn
Schmidt, Charles Thomas
Schmidt, Clemens Edward
Schmidt, Clifford Bartenhagen
Schmidt, Donahue Henry
Schmidt, Richard Harry
Schmidt, William Carl
Schmitt, Stuart Orin
Schneider, Wayne Eldred
Schrader, John Yale, Jr.
Schram, Richard Weaver
Schroeder, Arthur Frederick
Schroeder, David Donald
Schroeder, Gerald Mark
Schroeder, Roger Glenn
Schroller, Kermit Walter, Jr.
Schropp, John Warren
Schrupp, Manfred Sheldon
Schuerger, Richard Francis
Schufeldt, Coral Vance
Schultz, Henry Francis
Schultz, Peter Hutchisson
Schultz, Robert William, Jr.
Schuyler, Philip
Schwab, James Alexander
Schwartz, Henry William
Schwing, Emil Mark
Scott, Crawford Warick
Scott, David E.
Scott, Gerald Dean
Scott, Jon Paul
Scott, William Joseph
Scoville, Edward Noble II
Scully, Michael Charles
Searcy, Millard Jefferson, Jr.
Sebastian, Gary Frank
Secades, Vincent Cecil
Segal, Harold William
Segen, John Peter
Segrist, Edward Lewis, Jr.
Seiberling, Ronald Keith
Seidensticker, Stephen S.
Seifert, Philip Martin, Jr.
Seiler, Richard Wayne
Sekula, Basil, Jr.
Selden, Thomas Leonard
Seligson, Harold Edward
Sell, Charles Francis
Sellers, Alexander, III
Selzer, Bryan Edward
Senecal, Robert Percy, II
Settlemyer, Charles Talmad
Severin, Lawrence Raleigh
Shackelton, Norman John, Jr.
Shaffer, Howard Calvin, III
Shaffer, Lloyd E.
Shanahan, James Francis
Shanahan, Robert Christopher
Shank, Lewis Preston
Shapard, James Richard, III
Shapley, Frederick Easton
Sharer, Don Allen
Sharp, David Dean
Sharp, David Robert
Sharpe, Joseph Daniel, Jr.
Sharpe, Raymond Alexander, Jr.
Shaver, Raymond Joseph
Shaw, James Ashton, Jr.
Shea, Jerome
Shea, Richard Francis, Jr.
Sheafer, Edward David, Jr.
Sheehan, John Wilfred, Jr.
Sheffield, George Albert
Shepard, Michael Joseph
Shepherd, Gary Lee
Sheridan, Joseph Lawrence
Sheridan, Thomas Caulfield
Sheridan, Thomas Russell
Sherman, Allan
Sherman, Philip Kingsland, Jr.
Shields, Charles Daniel, Jr.
Shields, Donald Kent
Shields, Robert Joseph
Shiffer, William Thurston, Jr.
Shillingsburg, John William
Shindler, Glenn Eric
Shirley, Cloyce Eugene
Shirmer, Dan Armstrong
Shoemaker, Charles Lex
Short, Travis Earl
Shoup, Linn Tyler
Shriver, Ronald Eugene
Shumway, Geoffrey Raymond
Shunk, Robert Schuyler
Shurts, Richard Layne

Shutt, John Jay
Siddens, William Michael
Siebert, Herro Heiner
Siemer, John Robert
Sieren, Gerald Joseph
Silver, Eric Aaron
Silver, Lawrence Michael
Silvert, Robert Miller, Jr.
Simeone, Joseph Frederick
Simmons, William Thomas
Simon, William Frederick
Simpson, Michael Grant
Simpson, Troy Eugene
Singer, Edward Anthony, Jr.
Singler, James Charles
Singstock, David John
Sirmans, James Stanley
Sisson, Harold Denison, Jr.
Sisson, Robert Harsha
Sjuggerud, David Hilton
Skrzypek, John Anthony
Slack, William Michael
Slater, Thomas Stafford
Slaughter, Jimmy Ray
Sloan, Deward Vernon, Jr.
Sloan, William Thomas, Jr.
Sloat, James Walter, Jr.
Slover, William Alden
Small, Selden Matthew
Smalling, John Ambler
Smallwood, Frederick Kohler
Smelley, Allan Ray
Smith, Bradford Donald
Smith, Charles Henry
Smith, Charles Ray
Smith, Dan Howard
Smith, David MacNeill
Smith, Douglas Gould
Smith, Duane Richard
Smith, Ernest Mallory
Smith, Franklin Jerome, III
Smith, Fred William
Smith, Gerald John
Smith, Gordon Lee
Smith, Herbert Clive Lawrence
Smith, John Monroe
Smith, John William
Smith, Joseph Francis
Smith, Lary Don
Smith, Leighton Warren, Jr.
Smith, Leonard Henry, Jr.
Smith, Lyman Hibbard, II
Smith, Michael Ohalloran
Smith, Michael Steele
Smith, Philip Allen
Smith, Ralph Frederick
Smith, Randall Rutledge
Smith, Robert James
Smith, Robert Lynn
Smith, Robert Seaward
Smith, Roger Walter
Smith, Thomas Noel
Smith, William Earl
Smith, William Richard Hawe
Smith, William Steele, Jr.
Smith, Wilton Jeremain, Jr.
Smithlin, Michael James
Smittle, John Howard
Smyth, Gregory Stephen
Snodgrass, Donald James
Snyder, Christian Ross
Snyder, Donald Marshall
Snyder, Keith Reif
Snyder, Ronald D.
Sokol, Stanley Ernest
Soles, Thomas Edwin
Solon, James Davis
Soluri, Elroy Anthony
Soly, Edgar Charles, Jr.
Sootkoos, Donald Richard
Soto, Octavio
Sousa, Clarence Anthony
Southworth, Asahel Dimmick
Soverel, Peter Wolcott
Sowa, Walter, Jr.
Sowers, Joseph Alexander
Sowersby, Roger Lee
Spane, Robert Johnson
Spangenberg, Frank August, III
Spencer, James Luther, III
Spencer, Robert Elwood, Jr.
Spencer, Robert Cornelius
Spencer, Roger Barrett
Spencer, William Dean
Spetrino, David Arthur
Spigai, Joseph John
Spinello, John Anthony
Spofford, Barry Andrew
Spradlin, Dennis Richard
Spring, William Roger
Sprinkle, James Camp
Sprowls, George Franklin
Spruance, James Harvey, III
Spruitenburg, Fredrik Hendrix MA
Stacy, Edward Gerhard
Stahl, Dale Stough, Jr.
Stair, Sammy Dean
Stakel, Robert Wallace
Staley, Joseph Jarlathe, Jr.
Staley, Kevin Thomas
Staley, Richard Jonathan
Stalker, Earl Jr.
Stamper, Russell Clerk
Stamps, David William
Stansbury, Frederick Alexan
Staplin, Ralph Asa
Stark, John Wayne
Stark, William Carleton
Starkey, Russell Bruce, Jr.
Starnes, Phillip Van
Starritt, Douglas Robert
Starwich, Patrick Cullen
Stauffer, Barry Corbett
Steber, Forrest Eugene
Stegina, Robert Francis
Steinbruck, Charles George
Stender, Richard Henry
Stephens, Robert Scott
Stephenson, Gary Phillip
Sterner, David L.
Sterner, George Rudolph
Stevens, John Bradford
Stevens, Orville Lynn
Stevens, Paul Louis
Stewart, Jake William, Jr.
Stewart, Johnny Ballard, Jr.
Stewart, Robert Paul
Stick, Thomas Harold
Stiger, Robert David, Jr.
Stilwell, William Carter
Stinson, William Albrecht
Stmartin, Ronald Clayton
Stoakes, Richmond Bruce
Stock, George Henry
Stoddard, Howard Sanford
Stodulski, Richard Walter
Stolgitis, William Charles
Stonaker, Roland Huntley, Jr.
Stone, Charles Welborn, Jr.
Stone, Roy C.
Stone, Thomas Edward
Stone, Walter Fred
Storms, Kenneth Robert
Story, William Ferguson
Stoufer, Donald Andrew
Stout, Michael Dinsmore
Stowell, Ralph Henry, Jr.
Strand, Richard Charles
Stranick, Francis Joseph
Strasser, Joseph Charles
Stratton, Craig Arthur
Streeter, Donald Wesley, Jr.
Streit, Raymond Stanley, Jr.
Strickland, Walter Leonard
Strickler, James Wilson
Striffler, Paul John
Stringer, Thomas Chester, Jr.
Strole, Douglas Luther
Stromberg, David Lynn
Strong, Barton Dale
Struck, Allan Peter
Stubbs, William Olan, Jr.
Stubsten, Eugene Merrill
Stuckemeyer, John Andrew
Studeman, William Oliver
Sturvist, Gerald Hilding
Suarez, Ralph
Sufana, Ronald John
Sullivan, David Charles
Sullivan, James Edgar
Sullivan, Kenneth David
Sullivan, Michael Edward
Sullivan, Thomas Bernard
Surles, Billy Wayne
Sushka, Peter William, Jr.
Sutton, Gwynn Richard, Jr.
Sutton, Robert
Swan, James Ned
Swan, Thor Olof
Sweat, Arthur Jerome
Szopinski, Robert William
Tabb, Hugh Aurner
Tackney, Michael Oreilly
Taday, Alexander Anthony
Tahaney, Hubert Francis, Jr.
Tait, James Edward, Jr.
Talbot, John Henry, Jr.
Tammy, Michael Anthony
Tanner, Michael
Tansey, Philip Michael
Tasler, Robert Ernest
Tate, James Andrew
Tate, William August
Taulli, Frank Roger
Taylor, Anthony Rogers
Taylor, B. J., Jr.
Taylor, Donald Owen
Taylor, James Samuel
Taylor, John Francis
Taylor, John Mallory, IV
Taylor, Paul Frederick
Taylor, Robert Monard
Taylor, Steven Craig
Taylor, Thomas Lee
Taylor, Wade Hampton, III
Taynton, Lewis Frederick
Teague, Reginald Bailey
Telfer, Grant Richard
Templin, Erwin Benard, Jr.
Tenanty, Joseph Raymond, Jr.
Tenbrook, John Hollis
Tenney, Stuart Lowe
Terhune, Robert Johnson
Terry, Michael Roy
Terry, William Edwin
Testa, Ronald Fred
Testwuide, Robert Louis, Jr.
Thaxton, David Reuben
Theis, John Henry, Jr.
Thesing, Kenneth Lee
Thomas, Edward Curtis, Jr.
Thomas, Evan Foster, Jr.
Thomas, Frank Hughes, Jr.
Thomas, Gary Lee
Thomas, Norman Mattoon, III
Thomas, Peter Donald
Thomas, Peter William
Thomas, Raymond Morgan
Thomas, Stephen Langton
Thomas, William Akins
Thomason, Harper James, II
Thomassy, Louis Edward, Jr.
Thompson, Allan Medley
Thompson, Bryce Anderson
Thompson, Clifford Jackson
Thompson, Gary Ray
Thompson, Joseph Clemenger
Thompson, John Wooten
Thompson, Laile Hunter, Jr.
Thompson, Robert Gutz
Thompson, William Howard, II
Thoren, John Albin, Jr.
Thorn, John Charles
Thuente, John Fahey
Tidball, Douglas D.
Tiernan, Barry Vincent
Tiernan, Michael Connolly
Tilko, John, Jr.
Tillinghast, Theodore Voorhees
Tillotson, Charles Roger
Tillotson, Frank Lee
Timm, Richard Donald
Tinder, William Pete
Tinston, William John, Jr.
Tipper, Ronald Charles
Tisaranni, James
Tobergte, Paul Edwin
Tobey, Gary Harrison
Tobin, Paul Edward, Jr.
Tobolski, Donald Michael
Todd, James Norman
Todd, John Hendrick
Todd, Terrence Stephen
Tolbert, James Kirkland

XUM

Tolbert, William Haywood
Tolley, Richard Lyle
Tomlin, Joseph Mayhew
Tomlin, Kit Pearson
Tompkins, Paul Stuart
Tonti, Louis George
Toone, John Pierce
Torbit, Jerry Bert
Toreson, Arthur Harold, Jr.
Tortora, Carmine
Towers, Edwin Lydell
Townsend, Okey, Jr.
Tracy, Robert Nottingham, Jr.
Trafton, Robert Truman
Trahan, Edward Charles
Trapnell, Robert Gary
Traver, James Emery
Travis, David Timothy
Trease, Charles Jackson, Jr.
Treiber, Gale Edward
Trembley, Forrest George
Triebel, Theodore Wallace
Tripp, Richard Willis, Jr.
Trotman, George, Jr.
Truxell, Thomas Reed
Tryon, Robert Gene
Tsukalas, Denis Nicholas
Tucker, Albert Lee
Tucker, Ronald Dewey
Tudor, Richard A.
Tufts, Herbert William, III
Tuma, David Foster
Turbeville, Fred Morton, Jr.
Turley, Charles Walter
Turley, John, Jr.
Turnbull, James Laverne
Turner, David Andrew
Turner, Delano Franklin
Turner, James Richard
Turner, Laurence Hay, Jr.
Turner, Thomas Willard
Turner, Walter Scott
Tuttle, Arthur Jay
Twardy, Clement Robert
Tweel, John Alexander
Twomey, Daniel Timothy
Twyford, Lee Vernon, Jr.
Tynan, Douglas Michael
Tyner, Jimmie Cortez
Tyree, Edward Christian Glass, Jr.
Uber, Thomas Edward
Ulferts, John James
Ullman, Harlan Kenneth
Ulrich, William Stanley
Umphrey, Willard L.
Underwood, Walter Jo
Unger, Maurice Henry
Ungerman, Michael Kenneth
Unrau, Jerry Lee
Urice, Ronel Morgan
Ursprung, David Leo
Usborne, Roger Way
Ussery, David Lawrence
Vacin, Edward Michael
Vadopalas, Anthony Sharunas
Valenta, Norman Glen
Vallance, Winfred Dan
Vanallman, Alfred Christ
Vanarsdall, Clyde James, III
Vanbrackle, Vernon Lamar, Jr.
Vance, Richard Moon
Vandergrift, Ronald William
Vandervelde, Kent Mills
Vanduzer, Roger Elliott
Vanhoften, Scott Adrianus
Vanhoy, William Lester, Jr.
Vanlue, Kenton Walter
Vannice, Robert Lawrence, Jr.
Vanpelt, Albert Murle
Vansaun, Arthur
Vanslyke, James Corbett, Jr.
Vanwinkle, Pieter Kingsland
Vaughan, Raymond Edmon
Vaupel, David Karl
Vaupel, George Benjamin
Vazquez, Raul
Veeck, Charles Richard, Jr.
Veith, Dennis Alan
Veleker, Donald Lee
Vercessi, George Peter
Verd, George Harris
Verdell, William Stephen
Vernallis, Samuel Larry
Vetter, David Allen
Viafore, Kenneth Michael
Vincent, William Lansing
Vogel, Raymond William, III
Volek, Andre Victor
Volk, John Stanley, II
Vollmar, Fredrick Joseph, Jr.
Vollmer, Ernst Peter
Von der Linden, Arthur Felix
Vonsydow, Vernon Hans
Vosilus, Robert Bruce
Wade, Shelba Henry, Jr.
Wagner, Frank
Wagner, George Francis Adolf
Wainscott, Robert Phillip
Walchli, John Clark
Walden, Kenneth Allen
Walkenford, John Herman, III
Walker, Jerry David
Walker, John Andrew, Jr.
Walker, Ronald Wallace
Walkup, Arthur Lee
Wall, James Herbert
Wallace, Roy Neil
Wallin, Steven Russell
Walsh, Bernard
Walters, Claude Justine
Walters, Jack, Jr.
Walters, John Bennett, III
Walters, Louis Alan
Walters, Ronald Francis
Walther, Arthur Ernest
Walton, Don Holland
Walton, Harold Alexander
Walton, James Allen
Wanamaker, Gregory
Wann, Charles Billy
Waples, Robert Everett
Ward, Allan, Jr.
Ward, John William
Ward, Robert Furman
Warn, Jon Christian
Warnken, Lawrence Francis
Warnock, Ray Arden
Warren, Ferrell Dean
Warren, John Edward
Warren, Roy Dale
Warthin, Jonathan Carver
Waterfield, Russell James
Waterman, George Russell
Watford, Jennings Clement, Jr.
Watkins, Donald Edward
Watkins, John Roquell
Watkins, Prince Luther
Watkins, Richard Smith
Watrous, Timothy Bennett
Watson, Mitchell Louis
Watson, Randolph Grant
Waugaman, Merle Alvin
Weal, Keith Irving
Weale, Gary Dean
Weatherly, Larry Morton
Weaver, Ben Alan
Weaver, Charles Thomas
Weaver, James Edward, Jr.
Webb, Bruce Collin
Weber, Gerald Warner
Weed, Wilson Geoffrey
Weeger, Carl Allen
Wehner, Joseph Louis
Weidman, Robert Hulburt, Jr.
Weidt, Roland Leonard
Weihmiller, Gordon Richard
Weiner, Martin
Weir, Russell Alexander
Weisenburger, Thomas Willis
Weisgerber, Donald Edwin
Weiss, John Nickolas
Welham, Walter Frederick, Jr.
Wellman, Donald Albert
Wells, Bruce
Wells, David Austin
Wells, Robert Mathew
Wells, William Edward
Welsh, Richard G. T.
Welsh, Robert Marvin
Welty, Charles Stephens, Jr.
Wemple, Christopher Yates
Wenger, Charles Albert
Weniger, Marvin Joseph
Werlock, James Peter
Werner, Keith Michael
Werner, Robert Mitchell
Wernsman, Robert Lee
Wertzberger, Charles Reid
West, Karl Grove
West, Walter David III
Westberg, Eric Leonard
Westbrook, Richard Evans
Westhaus, William Arnold
Whalen, Frank Richard
Wheeler, Gerard Charles
Wheeler, John Rutherford
Wheeler, Sidney Earl
Whisler, Glenn Edward, Jr.
Whitaker, Roger Brent
Whitaker, Ronald G.
White, Arthur Edward
White, Chester Gurnett, Jr.
White, Donald Clark
White, John Dwyer, II
White, Larry Raymond
White, Raymond Monroe
White, Robin John
White, Ronal Lee
Whitehead, Albert Edward
Whitehurst, Byron Paul
Whitney, Payson Rogers, Jr.
Whitt, Eugene Nye
Whitten, Audrey Ben, Jr.
Whitus, Ernest Ferrell
Wiggins, James Richard
Wiggins, William Frederick
Wilbourne, David Garner
Wilbur, Gene Leo
Wildman, Robert Alan
Wilkin, Howard Arthur
Wilkins, Joe Louis
Wilikns, Stephen Vincent
Wilkinson, John Glenn, Jr.
Willandt, Theodore August
Willard, James William
Williams, Billy Bryan
Williams, David Daniel
Williams, David Lee
Williams, David Irwin
Williams, Donald Edward
Williams, Gary Orr
Williams, John Henry, Jr.
Williams, Mitchell Lamar
Williams, Michael Vernon
Williams, Richard David, III
Williams, Ronald Lee
Williams, Thomas Dan
Williams, Thomas Jerome
Williamson, Gordon Morris
Willoz, Clifford Paul, Jr.
Wilson, Charles Edward
Wilson, Edmund Powell Anthony
Wilson, Gary Warren
Wilson, George Frischkorn
Wilson, Jack Wesley
Wilson, Richard Alexander
Wilson, Ronald King
Wilson, Stephen Ray
Wilson, Thomas Bryant
Wilson, Torrence Bement, III
Wilson, William Joseph
Winant, Frank Gerard
Winters, Curtis John
Wise, Aubrey Lavoid
Wise, Randolph English
Wisehart, Kenneth Martin
Wisely, Hugh Dennis
Wisenburg, Mark Roberts
Wissing, Frederick Mark
Witcraft, William Robert
Withey, Thomas Arthur
Witman, William Paul
Witt, John Omer
Witter, Ray Cowden
Witzenburg, Gary Martin
Wold, Norman Luther
Wolf, Rexford Elwood
Wolfram, Charles Barrett
Woller, Robert Harry
Womble, George Curtis, Jr.
Womble, Talmadge Anthony
Wood, Forrest Kent
Wood, Virgil West

XUM

Woodbury, Roger Lee
Woodka, Thomas Kenny
Woodroof, Olen C., Jr.
Woodruff, Peter Bayard
Woodruff, Robert Bruce
Woods, Dennis John
Woods, James Raney, Jr.
Woods, Paul Franklin
Woodworth, George Prebble, Jr.
Woolett, Jerry Fredrick
Wools, Ronald Joe
Worcester, John Bowers
Workman, James Franklin, II
Wright, Charles William
Wright, Daniel Andrew
Wright, David Riley
Wright, Donald Jay
Wright, James Joseph
Wright, John Richard
Wright, Julian Maynard, Jr.
Wright, Malcolm Sturtevant
Wright, Robert Ellis
Wright, Timothy Wayne
Wright, Webster Matting, Jr.
Wright, Will Royce
Wright, William Harry, IV
Wunderly, William Louis, Jr.
Wurts, Edward Vanuxem, III
Wyatt, Thomas Walden
Wynne, David Cowgill
Wyttenbach, Richard Harring
Yankura, Thomas William
Yanovsky, Allen John
Yarbrough, Hugh Weyman
Yarbrough, Milton Edward, Jr.
Yeatts, Thomas Reynolds
Yerkes, Alan Craig
Yonkers, David Peter
Yonov, Serge A.
Yost, Dennis Allen
Young, Bruce Albert
Young, David Gunter
Young, Gary Alan
Young, Kenneth Eugene
Young, Robert Allen
Yufer, Kenneth Lee
Yule, Robert Blakeley
Zabrocki, Alan Dale
Zagayko, Andrew Roy
Zanzot, Douglas Harold
Zaretki, John Philip
Zelfer, Gerald Thomas
Zetterberg, Forrest Larry
Zimmermann, Harold Karl
Zimmermann, Claus Erwin
Zint, Harold Oscar, Jr.
Zohlen, John Thomas
Zuberbuhler, William John
Zucca, Gary Joseph

MEDICAL CORPS

Almy, Gary Lee
Amis, Edward Stephen, Jr.
Amis, Edward Stephen, Jr.
Amundsen, Duane George
Anderson, Jim Douglas
Anderson, John Randall
Andrake, William
Anthony, James Alvin
Antle, Regg Vince
Apfelbaum, Jay Henry
Arendale, Stephen Sydnes
Ashley, Lillard G., Jr.
Babka, John Christopher
Bailey, Ralph Emerson
Barnwell, Grady Glenn, Jr.
Barvick, Edward James
Beal, Lowell Richard
Beatty, Hugh Tyrrell
Berryman, John David
Biesecker, Gary L.
Bigley, Harry Alan, Jr.
Bisbee, Allan Charles
Blackman, Edward Leonard
Bloreatine, Stanley Aaron
Boardman, Sheffield, Jr.
Boffman, Harry Randolph, Jr.
Bogle, Lawrence Pierce, III
Bondurant, Robert Eugene
Bowie, James Dwight
Braun, Edward Michael
Brindley, Jack William
Britt, James Clyde
Broadrick, Gary Lee
Brotman, Sheldon
Brown, Forrest Carroll
Brown, Peter Wilcox
Brumfield, James Douglas
Bruther, William Francis
Cuchta, Richard Michael
Buckner, George Standley, Jr.
Burnett, John R.
Burns, Arthur Charles
Burrows, William Mead, Jr.
Butcher, Michael Dane
Caldwell, Craig Wilson
Campbell, Barry Blair
Campbell, James Anthony
Capell, Robert Donald
Carlisle, John Wesley, Jr.
Carr, William Alexander
Carson, Homer Shannon, III
Carter, Conwell Banton
Chalamidas, Steward Louis
Chambers, Robert Edward
Charles Clive Robert
Childers, Marvin Alonzo, III
Christensen, Mahlon Frank
Cibula, Lawrence Michael
Clark, Thomas Alan
Clyde, Harrie Robert
Coker, Joe Edward
Colgan, Diane Leslee
Colley, David Perkinson
Colosi, Nicholas Joseph
Conforti, Victor Alling
Cooley, William Emory, Jr.
Cooper, David Lawrence
Cooper, Edgar Shannon
Cornell, Cornelius John, Jr.
Cotton, John Bert
Cox, Joel Robert, Jr.
Crane, Lawrence
Credle, William Frontis, Jr.
Cross, David, Alan
Culp, Larry H.
Curry, John Lamar
Daniel, Howard Grady
Daniels, Bruce Lynn
Danzer, Dave Benjamin
Danziger, Franklin Samuel
Davis, Claude Dewey, Jr.
Dawsey, James Thomas
Decolli, Joseph Albert
Dehner, Louis Powell L.
Devore, Jay Samuel
Doberbower, Ralph Riddall
Donshik, Gary Ronald
Dorr, Lawrence Douglas
Duane, Lawrence Joseph, Jr.
Duckworth, Dyce Jerome
Duncan, Matthew Winfred
Durham, Cecil Tracy, Jr.
East, Samuel Reed
Eastridge, Ralph Robert, Jr.
Eckert, David William
Edwards, Bruce George
Ellwood, Leslie Clive
Emory, Warden Hamlin
English, Joseph Martin, III
Enoch, Tommy Errice
Ferrazzano, John Vincent
Fields, Marvin Harvey
Flanagan, Michael Cyril
Fleming, James Gregory
Forbes, Thomas William
Freisinger, Gerhard Martin
Gallagher, William Joseph
Gaudet, Paul Thomas
Geary, Brian David
Geraci, Kevin Thomas
Getz, Lawrence Gilbert
Giedraitis, John B.
Gillette, John Roger
Gilson, Mayo Dean
Gingrich, Samuel Philip
Glassman, Peter Michael
Glynn, Thomas William
Goldburg, Bert Richard
Golden, Richard Allen
Goldschmidt, Mark Norman
Gorske, Arnold Lowell
Gortner, David Allen
Granatir, Robert Francis
Greco, Richard Germano
Gregson, Michael James
Grotenhuis, Paul Willard
Gustavus, John Louis
Habib, Michael Anthony
Hageman, Dean David
Hageseth, Christian Ellis
Hall, Robert F., II
Halpin, Thomas Joseph H.
Ham, Charles Lindell
Hammersberg, Jon Robert
Hancock, George Gray, II
Harder, David Franklin
Harris, Richard Ernest
Harter, David John
Harter, Gary Lyon
Hash, Cecil Jackson, Jr.
Hassan, Robert Michael
Hawkins, Michael Lawrence
Hayes, Robert Preston Bushong
Hays, William Alton, Jr.
Hazlett, Donald Arthur
Heisler, Stephen
Hitt, Curtis Lee
Hodgers, John Henry
Hoglund, William John
Hood, Stephen Thomas
Horn, Michael D. D.
Horton, Douglas Leslie
Houghton, James Orville
Houk, William Michael
Howard, Noel Scott
Hubbard, Ronald Eugene
Hulsing, Darel John
Hunt, Hugh Blair
Hunt, Phillip Dean
Isenhart, George Edwin
Izzo, Joseph Leonard
Jackman, William Martineau
Jackson, David Lawrence
Jackson, Seth Huntington
Jacobsen, Paul Mill
Jacquet, James Martin, Jr.
Johnson, David Gary
Johnson, Paul Elmer
Jones, Garry Lynn
Juhala, Curtis Alfred
Kahle, Charles Thomas
Kaiser, Ralph Henry
Keegan, Gerald T.
Kelsey, Gerdi D.
Kimball, Michael William
Kimbrell, Fred Taylor, Jr.
Kindschi, George William
King, Charles Robert
Kleve, Roger Albert
Knapp, Robert Sinclair
Knepper, John Guyton
Knuff, Robert Joseph
Koenig, Harold Martin
Krasnow, Robert William
Krebs, Curtis James
Kunz, Arthur Ernest, Jr.
Labunetz, William Henry
Lambert, Robert McMillan
Lamberty, Leonard Kenneth,
Lee, John Paul
Leist, Frederick Douglas
Lenington, Jerry O.
Lesser, Philip Steven
Lewis, Ronald William
Lichtman, David Michael
Liscomb, Jesse Royal
Lodewick, Peter Alan
Lohner, Thomas
Lomax, William Roger
Louviere, Robert Lee
Love, Robert Alexander, III
Luppi, Lawrence Howard
Lutner, Lawrence
Lyman, William Michael
Lynch, Michael Hardy
Lynch, Thomas Patrick
Lytle, Gary Scott
Mabry, Nicholas Rivero
MacNabb, George Malcolm, Jr.
Mann, Ralph Jerry
Marshall, Larry Joe
Martinson, Alice Marie

XUM

Mason, Jack Fabian
Mattheis, Kenneth Robert
Maxon, Harry Russell, III
McAlary, Brian Gerard
McArtor, Robert Dennis
McConnel, Charles Stewart, Jr.
McCormick, Hugh Bernard
McCoy, Stephen Hartzell
McDaniel, Robert C.
McDonald, Harrison Robert
McDonald, Thomas Gerald
McGill, Willis Alexander
McKean, Joseph Dewey, Jr.
McKee, Edgar Geer
McKee, Paul Jay
McKinney, Douglas Edgar
McLamb, James Norwill
McMahon, Daniel Clayton
McMillan, Donald Malcolm
McMillan, Michael Reid
McMullan, John Barton, Jr.
Meade, Clyde Kingstone
Meek, Tom Joffre, Jr.
Meinecke, Henry Milton
Mendez, Prudencio
Michalko, Charles Harold
Mullen, John Owen
Murphy, David Michael
Murphy, James Aloysius
Muther, Daniel Davis
Nagy, Robert Eugene
Nelson, Fred Ritchie Trew
Nelson, Richard Arnold
Nemeth, Clifford John
Newton, Neil Albert
Nicoolini, Robert
Nicholson, Thomas Cornell
Noel, Kenneth Robert
O'Brien, Michael Patrick
O'Connell, Kevin John
O'Hara, James Patrick
Oller, Dale William
Orsi, James Morgan
Parvin, Thomas Steve
Paul, Francis Ferdinand
Paul, Theodore Otis
Pautler, Thomas George
Pease, Gary Lee
Pekas, Michael Wayne
Pepine, Carl John
Petit, Paul Edward
Philips, Wallace Merritt, Jr.
Pohl, Stephen Eric
Pries, Richard Edwin
Pritham, Howard George
Prosin, Michael Allan
Pryor, Donald Edgar
Pryor, Norman Dale
Rader, Thomas Edward
Radnich, Robert Hays
Rainforth, Douglas Wayne
Rasmussen, Bruce David
Redmond, Roy Ernest
Reed, James Croft
Reed, William Jerome
Reynolds, Walter Joseph III
Rice, Charles Lane
Richardson, George Robert, Jr.
Robertson, William Craig, Jr.
Robinson, James Edmund
Robinson, Joseph Howard
Rodgers, Donald E.
Roduner, Gregory Kenneth
Roelofs, Bruce A.
Rosenthal, Myer Hyman
Routenberg, John Albert
Roy, Thomas Sherrard II
Rust, Robert Edward, Jr.
Ryan, Joseph Michael
Safley, Gary Hueston
Sanford, Frederic Goodman
Satko, Frank Gregory
Savin, Max
Sawyer, Ralph Alphonse
Schaefer, Walter Charles
Schang, Steven Jacob, Jr.
Schefsky, Harvey William
Schloemer, Richard Louis
Schmottlach, David Ralph
Schonauer, Thomas David
Schuler, Frank August III
Schweitzer, Robert Leonard
Scott, Kenneth Neal
Seal, William Clayborn
Seckler, Jerrold Howard
Severy, Philip Robert
Sheffer, Lee Allan
Shetterly, Roger Davis
Sibert, Scott Lee
Siegfried, George Earle
Sire, David John
Smith, Jerrold Rex
Smith, John James, III
Smith, William Roan
Snyder, David Michael
Snyder, John Michael
Spader, Bryan Dale
Sparks, Charles Edward
Spence, Clarence Howard
Spencer, Donald Lynn
Spenler, Charles William
Staker, Larry Victor
Stearns, James Michael
Steele, Samuel McDowell, Jr.
Stehr, Christian Hermann
Steinberg, Steven Marc
Steinkuller, Paul Gilbert
Stenberg, Michael Donald
Stevens, Bruce Lawrence
Stice, Richard Beil
Stickney, Roger Wilde
Stringer, Douglas Lynn
Stromberg, Murray Gage, II
Strong, David Burk
Stubblefield, Wayne
Stuckey, Charles Edward
Swart, Edwin Gifford, Jr.
Sweeney, John Charles
Talton, Brooks Mims, Jr.
Talton, Hugh Johnston
Taylor, Benjamin Thomas
Taylor, Gary Stevens
Templeton, Gilbert Walter
Tenney, Richard Dean
Thomas, Herbert Cushing, Jr.
Thomas, James McNeil
Tozer, James Michael
Turner, Tommy
Tuxill, Thomas Galster
Ulch, George Alan
Unsicker, Carl Lester
Vanderberry, Robert Carroll, Jr.
Volcjak, Edward Eugene
Voneschenbach, Andrew Charles
Voth, Gayle Vernon
Walsh, David Guy
Walsh, John Joseph, Jr.
Walsh, John Patrick
Ward, Franklin Ruel
Weaver, Clyde Marquis
Weaver, Jerry Octave
Werner, Leslie George
White, Matthew
Whitlock, Paul Austin, Jr.
Wilder, William Hamlin
Williams, Robert Raymond
Williams, Theodore Guy
Willmore, Luther James, Jr.
Wilson, Don Allen
Woodburn, Richard
Worthington, Richard Lee
Wyatt, Willie Glen
Yauch, John Allen
Young, Thomas Kemper

SUPPLY CORPS

Abbott, Gerald William
Abernethy, James Robert, Jr.
Actis, Charles Louis
Adams, Don S.
Aleva, David Andrew
Allbaugh, Charles Ulysses
Allen, Robert Francis
Amman, Delos Albert
Anderson, Louis Gary
Andrews, Ernest Lee, Jr.
Arehart, Robert Coffman
Armistead, William Bright
Atkinson, Larry Richard
Ayers, James Dennis
Atkinson, Larry Richard
Baird, Robert Bruce
Baker, Charles Edmund, Sr.
Baker, Roland Jerald
Baldwin, Seth Weaver, II
Barnes, Edmund Lee, Jr.
Bartel, Joseph Richard
Bary, David Sharp
Bates, Richard William
Bates, Richard Allen
Bauman, Thomas William
Bednar, Edmund Joseph
Beer, Robert Oakley, Jr.
Bergeron, Wilfred Joseph, Jr.
Bergquist, John Roy
Berndt, Phillip Albert
Bezanilla, David George
Bice, Fred Junior
Biegner, Frederick, Jr.
Bill, Robert Edward
Birindelli, James Benson
Bissett, John Lynn
Black, Bill Howard
Blankenfeld, Richard Kieth
Blaylock, James Sparkman
Blondin, Peter William
Boalick, Howard Russell
Bondi, Peter Albert
Boone, Paul Robert
Boyd, Terran Ray
Bradley, James Smith
Brandt, Craig Max
Braswell, Carmen Bruce
Breeding, Earnie Rowe
Briggs, Robert John
Brighton, Edward Earl, Jr.
Brochu, Robert Adelard
Bromen, Roger Raymond
Brown, Bernard Elton
Brown, Reed Eaton
Buhr, Joseph David
Bunch, Joseph Robert, Jr.
Burgess, Edward Lamar
Burnett, Michael Howard
Burnham, John Kenneth
Butler, Joel Lee
Canale, Vincent Timothy
Cangalosi, Davis Stewart
Cantrall, Edward Loren
Caplan, David Alan
Carr, William Neil
Carre, Darwin Beach, Jr.
Carroll, John Perry
Casanova, Kenneth Evelio
Ceo, Jerome Joseph
Chalupsky, Raymond Jerome
Chapman, Charles Melvin
Chapman, George Aubrey, Jr.
Chew, Edward Howard, Jr.
Cleary, Richard Thomas, III
Coburn, John Michael
Cole, Chester Benny
Collins, William Arthur
Cone, Bruce E.
Connelley, John Michael
Conner, Frank Hoyt
Conner, John Thomas
Conser, Richard Lewis
Cook, Kendall Raymond
Correll, Charles David
Cox, Thomas Peter
Crabb, Dal Ed
Cribbin, Thomas Michael
Crocker, William Guy
Crooks, Roger Ervin
Curran, John Charles
Dahm, Eugene Emile
Danforth, Lawrence Leo
Daniels, John G.
Danner, Glenn Richard
Davee, Francis William
Davenport, Marvin Eugene
Davidson, James Patrick
Davis, Fredric Cook
Day, James Keith
Dejanovich, James Peter
Delasfuentes, Jose, Jr.
Demetriou, Eugene Mitchem, Jr.
Dilger, Dean Edward
Dixon, Lloyd Arthur
Dominy, John Franklin
Donahue, John Richard
Doran, William Earl
Draper, John Vaughn

XUM

Driskell, James David, III
Drucis, Timothy John
Dunkle, Charles Thomas
Dunkle, James Allan
Dunn, Robert George
Duryea, Robert James
Eadie, Paul Warren
Earhart, Terry Lee
Earle, Samuel Broadus, III
Ebbesen, Preben Ehlers
Elledge, Ira Franklin
Erdahl, Eugene Stanley
Evans, George Albert
Evasovich, John James
Fellows, Fred Yates, III
Field, Leroy Frank, Jr.
Fields, Billy Joe
Fincke, Edwin August
Fischer, Charles Edwin
Fish, Herbert Ellsworth, III
Fisher, Gary Clay
Fitzgerald, Thomas Patrick
Fleming, James Alexander, Jr.
Flint, Ralph Quentin
Flowers, John Holder
Foley, Richard Lynde
Ford, Richard Paul
Foster, Donald Gregory
Fox, George Earle, Jr.
Franke, Donald Keith
Frantz Harold Wayne
Frassato, Robert Charles
Free, Willard Dean
Fuller, Franklin Barry
Gabor, John Bernard, Jr.
Gainey, John Michael, III
Galligan, David Richard
Gallion, Robert Zurill
Garmus, David Paul
Geary, John Paul
Gee Charles Daniel
Gent, Raymond Dale
Gibbins, Donald Bryant
Griffin, Donald Harry
Ginchereau, Eugene Hugh
Glenn, Michael
Glisson, Donald Jerry
Glovik, Richard Joseph
Gordon, John Edward
Gorham, Robert Loreaux
Grant, Robert David
Green, Harold Conrad, Jr.
Green, William Thomas
Grichel, Dietmar Fritz
Griffin, Jon Edward
Grim, James Woodrow
Gross, Royce Alan
Groves, William Dennis
Gushue, William, Jr.
Haas, James John
Habermann, William Frank
Hagerty, William Orme
Hale, Ronald Arthur
Hall, Kenneth Richard
Hall, Robert Gordon
Hamilton, Howard Harvey
Hamilton, James Bevington
Hanson, Harold Charles
Harms, Herbert Martin
Harper, Albert Eugene
Harrington, Phillip Henry
Harris, Christopher Bertram
Harshbarger, Eugene Burks
Hart, Charles Ashley
Hartwell, William Randolph
Hatcher, Robert Cary
Hawthorne, Richard Lee
Heeb, Benny Joe
Hekman, John Gilbert
Helme, Gordon Thomas
Helmuth, Robert Allen
Henderson, Andy Leroy
Henson, Verlin Charter
Hering, Joseph Florian
Hernandez, Edward Simon, Jr.
Hickman, Donald Eugene
Hildebrand, Jarold Ray
Hislop, Charles Edward
Hobbs, Wilbur Neal
Hodapp, Charles Aloysius
Hoffler, Robert Eugene
Hogan, Brian Thomas
Holland, Donald Lee
Holshey, Michael Leonard
Holtz, Richard Earl, Jr.
Hooker, James Stewart
Hopkins Bruce Allan
Hopkins, William Leslie
Howes, Joseph Darryl
Hoyt, Michael Campfield
Hubbard, Robert Edward
Huck, Lloyd Anthony
Hudson, Gary Joe
Hundelt, George Robert
Hunt, George Aloysius
Hunter, Curtis Stanley, Jr.
Hunter, Don Loren
Hurlbutt, James Wilbur
Hyman, William M.
Isackson, Robert Kirk
Jackson, Thomas Avery, Jr.
Jaffin, Frederick Theodore, Jr.
James, William Don
Janse, Anthony Ludwig
Jarosz, Thomas James
Jarvis, William Edward
Jensen, Albert LaGrande
Jenson, Ronald Lee
Johnson, Jesse Benjamin
Johnson, Thomas Lawrence
Johnston, John Michael
Jones, Allan Herron
Jones, Eric Bywater
Jones, William Marcus
Jordan, Charles William, Jr.
Karosich, James Charles
Kasriel, Jerome David
Kaufman, James David
Kavanaugh, John Thomas
Kelly, Timothy Michael
Kerr, Harold Lewis, Jr.
Kieckhefer, Edward Herbert
King, James Marshall
King, William Delano
Kosch, Charles Arthur
Koselka, James Anthony
Koslovski, Michael
Kosmark, Alfred Christopher
Kowalski, Karl Aloysius, Jr.
Krehely, Donald Edward
Kuster, Ulrich Emil
Laehn, David Robert
Laflanza, Bernard John
Lafnitzegger, Frederick Alois
Lambright, John James
Larson, Richard Dean
Laurent, Daniel Henri
Lawrence, Phillip Leroy
Lebel, Robert Francis, Jr.
Leeper, James Edward, Jr.
Lenga, James Richard
Leverett, Guinn Osborne, Jr.
Lewis, James Joseph
Lidberg, Alfred Arden
Logan, Don Edward
Logan, Guy Beauregard, Jr.
Long, Douglas Allen
Lovett, Edwin Lyle
Lovstedt, Joel Mathies
Lutz, Alan Lee
Lutz, Gerald Gilbert
Lutz, Harold Gilbert, Jr.
Lynch, Michael Gerald
MacAulay, Charles Patrick
Mackenzie, Edward Hemond, III
MacMurray Michael McRoberts
Madison, Robert Louis
Magee, Joe Allen
Magrogan, William Francis, Jr.
Maitland, James Raisbeck
Maley, Michael Denton
Malloy, Joseph Michael
Mandel, Allan Lee
Manning, Gary Clifford
Manson, Walter Blaine
Mantonya, Robert Raymond
Marohn, Louis Norman
Marshall, William Baker, III
Mastrandrea, Gary Allen
McClure, John Marvin
McCowan, William Blake, Jr.
McDaniel, Hugh Hines, II
McDermott, John Edward
McDonald, John Francis
McGraa, John Robinson, III
McGray, Andrew Frank
McHaffie, Thomas Gaylord D.
McNutt, Beverly Daniel
Meneely, Frank Thomas
Merritt, Frank Wilbur, Jr.
Mesterhazy, Andrew Paul
Meyer, James Russell
Miller, James Rush
Miller, Richard Eldon
Minnis, Mel Wayne
Mitchell, John Wayne
Mizer, Robert John
Monroe, James Leslie Dukes
Monson, Jon Philip
Monteith, Gary Henry
Moore, Stephen Douglas
Moreland, Richard Dean
Morgan, George Parker, Jr.
Morgan, Ronald Dean
Morris, John David, III
Morris, John Glenn
Mortensen, John James
Mortrud, David Lloyd
Moum, Jerry Davis
Mueller, John Joseph
Murray, Michael Arthur
Murray, Thomas Oliver, Jr.
Musgrave, Alvin William, Jr.
Nair, Sterling Edward, Jr.
Natole, Robert Lester
Nemmers, Robert Stanley
Newton, Kenneth Ray
Nichael, Robert Harold
Nichols, Clifford John
Nichols, Edward Hamilton
Norris, David Carter
Oberg, Russell Carl
Oberle, Michael Joseph
O'Connor, John, Jr.
O'Connor, Joseph Andrew
Oehrlein, William Philip
O'Hara, Patrick Joseph
Olio, John Francis
Olsen, Robert Dean
Orahood, Douglas William
Overhalser, Dennis Dee
Owens, Joseph Frederick
Owens, Robert K.
Packard, Charles Alden
Paine, John Spaulding
Parker, James Fredrick
Parks, Leonard Cranford
Parrott, Ralph Condron
Parsons, Donald Sargent, Jr.
Patterson, Kenneth Leon
Pearson, David Edward
Pedersen, Carl Jens
Perrill, Fredrick Eugene
Perry, Bradford Kent
Perry, James Hilliard, Jr.
Peterson, Ronald Hokan
Phillips, James Donald
Pierce, John Hubert
Pinskey, Carl Walter
Pittman, Harold Sherrod
Ponder, Joseph Edward
Pope, Thomas James
Popik, Michael John
Porter, Robert Cleve
Pressley, Joseph Larry
Price, Clifford Ronald
Price, Robert Francis
Privateer, Charles Russell
Pugh, Richard Charles
Quigley, Patrick Joseph
Quinn, John Thomas
Quinn, Kenneth James
Quinton, Edmund Frank
Rasmussen, Kenneth Herman
Rasmussen, Paul Duane
Rebarick, William Paul
Redman, William Ernest, Jr.
Reynolds, Kevin Thomas
Reynolds, Marvin Dewitt
Rice, Richard Ray
Ricketts, James Beatty
Riedel, William Michael
Ringberg, David Allen

XUM

Rittenhouse, Ferness Levere
Rodgers, Gary Lee
Rooney, Leo Michael, Jr.
Rose, Frank, Jr.
Rosson, Bobby Joe
Rueckert, Jon
Rumsey, Charles Gary
Rutherford, David Owen
Ryder, Thomas Vanbrakle
Ryland, Charles Wayne
Sampson, Thomas Woodrow
Sandeen, John King
Sapera, Leonard Joseph
Sareeram, Ray Rupchand
Sattler, Roger Charles
Savola, Vernon Victor, Jr.
Schaefer, John Fowler
Scharff, Richard Darrell
Schewe, Norman Lee
Schiel, William Arron, Jr.
Schmiege, Thomas John
Schultz, Robert Arthur
Scroggs, Clifton Ray, Jr.
Seddon, Thomas Albert
Semmens, Thomas Perry, Jr.
Sewell, John Burdon
Shandy, Jerome Clifford
Shannon, William Northrop
Shapack, Richard Allan
Shay, Gary Edward
Sherman, Bruce Leslie
Shields, Edward Joseph
Siburt, Forrest Nile, Jr.
Sikes, James Eugene
Simpson, Steven Earl
Smith, Charles Edward
Smith, Olen Brown, Jr.
Smith, Richard Michael
Smith, Stanley Allen
Smith, William James
Sneiderman, Marshall Lewis
Spede, Edward Charles
Spiller, James Thomas
Spyrison, Joseph Akin
Stafford, Joe Roberson
Standish, John Alden
Stangl, Larry Francis
Stanley, John Anthony
Starnes, Bobby Franklin
Stebbins, Lynten Harvey
Steen, George Samuel, Jr.
Stocker, Vernon Dean
Stolark, Edward John
Straupenieks, Imants Alfred
Strickland, Robert Merrill
Sulek, Kenneth James
Summers, John Howard
Sussman, Richard Michael
Suter, David Floyd
Swab, James Robert
Swearingen, John Joseph, Jr
Sweeney, Dennis Campbell
Switzer, Harry Allen
Szalapski, Jeffery Paul
Taube, Arden Raymond
Tennant, Don Louis
Terwilliger, Bruce Kidd, Jr.
Tewelow, William Harrison
Thomas, Dudley Jerome
Thomas, Robert Louis
Thompson, Robert Howard
Tidball, Ronald Glenn
Titus, Robert George
Tomcheck, John Kenneth
Torrey, Tracy Everett
Trager, Douglas Henry
Trandum, William Irving
Trbovich, George Melvin
Treanor, Richard Craig
Trebatoski, Robert Stanley
Trotter, Edgar Stoker, Jr.
Trulli, Bruce Michael
Tully, Albert Paul, Jr.
Ullman, Robert Chester
Unsicker, David Wayne
Vandeveer, Charles Edward
Vanness, Robert Louis
Vantassel, Russel Dale
Vaughan, Woodrow Wilson, Jr.
Verhage, Ronald Glenn
Voyles, Clyde W.
Wagner, Gregory Leonard
Wagoner, John Deal
Walker, Francis Arthur
Walker, Francis David, III
Wallace, James Joseph
Wallace, William Warren
Walton, Joseph Leo
Warren, Robert Morris
Watrach, Dennis Kenneth
Weaver, Edwin Richard, Jr.
Webster, Bert Reed
Weekes, James Ernest
Welch, Kenneth Thompson
Wells, Michael Vance
Wells, Paul Denzil
Wellumson, Douglas Raymond
West, Karl Peterson
Wilde, Charles Lee
Wilkinson, Ronald Carr
Williams, Jilson Lea
Williams, Richard Hardy
Williams, Robert Joseph
Williford, David Allan
Wilson, Michael George
Windbigler, John J.
Wong, Dennis Wai Hung
Woodward, Joseph Albert
Wootten, John Francis
Worsena, Richard Francis
Young, Robert Reese
Zeppieri, Ronald James
Zitlau, Theodore
Zumbro, Sherrod Branson

CHAPLAIN CORPS

Bartholomew, Carroll Eugene
Bergsma, Herbert Leonard
Bruggeman, John Anthony
Cook, Elmer Dean
Coughlin, Conall R.
Curran, Wade Hampton, Jr.
Daly, R. John Raymond, Jr.
Depascale, Daniel Francis
Dorr, Charles Edward
Eckles, James Warren
Erick, Robert James
Fiorino, Alfred Lewis
Fullilove, Ray Weldon
Gibney, Robert George
Gill, Francis
Kuhn, Thomas Walter
Lauer, Robert Erwin
Lowry, Lawrence Raymond
Luebke, Robert Bingham, Jr.
Lyons, Richard Michael
McCoy, Charles Joseph
Meehan, Conon Joseph
Mitchell, Zeak Clifford, Jr.
Murray, Edward Kevin
Olander, Edward Alfred
Reese, Donald B.
Richards, Gerald Thomas
Riley, Robert Joseph
Rowland, William Alfred, Jr.
Roy, Raymond Armand
Smith, Jerry Ronald
Stewart, Lisle Edwin
Taylor, Francis Stuart, III
Winnenberg, John Oscar
Wishard, John William
Wright, John Milton

CIVIL ENGINEER CORPS

Aksionczyk, Leon
Andrews, Richard Earl
Baratta, Mario Anthony
Barron, Richard Maurice
Bass, William Martin, Jr.
Bergstrom, Robert Russell
Bersani, Robert Richard
Beuby, Stephen Charles
Black, Dorwin Clay
Bonderman, Warner Edward
Buckner, Ernest Wesley
Buffington, Jackson Eugene
Camden, Edward Brydges
Carnell, Donald Lee
Chapla, Paul Anthony
Clarke, Wilmot Fred
Clay, Joseph Valentine Franc, III
Clayton, James Busch
Crane, Thomas Clemson
Day, Norman Walter
Delmanzo, Donald Dewees, Jr.
Dillman, Robert Peter
Drennon, Patrick William
Driscoll, Francis John
Drouin, Leon Eugene Jr.
Eckert, James Watts
Edmiston, Robert Clair
Endebrock, Robert Neal
Estes, George Brian
Everett, Ernest James
Falke, John Whelan
Farlow, David Earl
Finn, James Robert
Fisher, Curtis Hoy
Fluharty, David Henning
Forestell, William Lawrence
Fowler, George Edward, III
Fowler, Richard Salsbury
Frankum, Stephen Douglas
Frauenfelder, Henry Roger
Fusch, Kenneth Ericson
Gallen, John James, Jr.
Gallen, Robert Michael
Goin, Paul Thurman
Green, Joseph Behler, Jr.
Greene, Carl Deforest
Gregg, Ronald Irvin
Griffith, Harry Gates
Hadbavny, Ronald Stephen
Hall, Fredrick Spencer, Jr.
Hanks, James Edward
Hansen, Robert Edwin
Harris, William Frank
Hartford, Edward Spaulding
Hathaway, James L.
Hatter, William Hood, Sr.
Haugen, James Arthur
Heffernan, Thomas John
Heine, Richard Frederick, Jr.
Heine, William Anton, III
Henley, John Steele
Henley, Joseph Leo
Hennings, Louis William, III
Herrell, Orval Glenn
Hosey, Gary Ronald
Hudspeth, Robert Turner
Hull, David Nelson
Hyland, Richard James
Jackson, Bruce Lawellin
Jacobs, Paul Francis
Jones, Lloyd S.
Kelley, Kenneth Clyde
Koepp, Gary Eugene
Konold, David William, Jr.
Leake, David Frederick
Leap, Joseph Brian
Long, Thomas Auburn, Jr.
Martinelli, Salvatore Aldo
McCahill, Dennis Francis
McCullagh, Paul William
McLaughlin, Terrence Adrien
Mellon, Paul Edgar
Michna, Thomas Benjamin
Miles, John Henry Thomas
Mitchum, William Ransome, III
Mohl, Roger Keith
Morrison, Paul Albert
Mountjoy, John Leigh
Nadolski, Michael Edward
Nakahara, Jitsuo
Norvell, James David
O'Connell, Brian John
Olsen, Ole Leigh
Olson, Harold Martin
O'Neill, Charles Patrick, Jr.
Pearson, Rufus Judson, III
Peppel, Robert Wayne
Pero, Michael Andrew, Jr.
Perrine, Robert Thomas
Perry, John Ellery, Jr.
Petty, Larry Kiningham
Rabke, Walter Edward
Rein, David Arno
Renzetti, Joseph Leo
Ringel, Duane Arthur
Robertson, William Edmond, Jr.
Rohrbach, Richard Magee
Ross, Gerald Harry
Rudy, Joseph James, Jr.
Rumbold, William Walter, Jr.

XUM

Runberg, Bruce Lee
Schneider, John David
Scott, Garry Hugh
Shalar, Alexander
Shaw, Arthur Robinson
Sheaffer, Donald Ralph
Sherman, Myron Bernard
Smith, Erik Theodore, Jr.
Smith, Homer Francis, II
Smith, Jack Michael
Smith, Ray Allen
Smith, Raymond Carlton
Smith, Sherrill Edwin
Smith, William Alfred
Stamm, John Andrew
Stark, James Reginald
Starr, Ronald Joe
Stevens, Joseph Michael, Jr,
Stewart, Allen Jack
Stewart, Stephen Edgar
Stokes, Stephan Robert
Street, Clifford Gail
Sturmer, Donald Charles
Swyers, Harry Merton
Vaudreuil, Wilfred Joseph, Jr.
Wells, Donald Raymond
Wheeler, David Earl
Woodford, Donald Lynn
Yoder, Dan Samuel
Woodford, Donald Lynn
Zane, Sheldon Sin Hee
Zimmermann, Gerard Alan

JUDGE ADVOCATE GENERAL'S CORPS

Bohaboy, Howard D.
Broussard, Barry David
Brush, James Dillon, II
Carroll, James Edward
Closser, Daniel Penn, Jr.
Coyle, Robert E.
Derocher, Frederic George
Ellis, Donald Porter, Jr.
Gall, William Dudley
Gilliam, Thomas Alfred, Jr.
Henkel, George Edward
Horst, Carl Henry
Hosken, Edward Watters, Jr.
Ise, William Henry
Kjos, Wendell Arthur
Kuhner, Robert Legier
Landen, Walter James
Little, Harvey Edward
Martens, John Jerry
McCoy, Dennis Frederick
McGovern, Peter John
Michael, George Lewis, III
Norgaard, Kenneth Ray
Patterson, Donald Ross
Pierce, Charles David
Rapp, Michael Duer
Rogers, James Nicholas
Rowley, Robert Deane, Jr.
Sanftner, Thomas Richard
Schrotel, John Thomas
Studer, John Armitage
Turner, Patrick Charles
Wheeler, Matthew Joseph, Jr.
Woods, Terrence Joseph
Wulf, Norman Alan
Young, Donald Paul

DENTAL CORPS

Almond, James Frederick
Bacon, William Harrison, III
Balsiger, Verlin Wesley, Jr.
Barton, Terry Lee
Bate, William Santford
Bauer, Myron John
Baycar, Robert Stephen
Bickenbach, Alan Paul
Birtcil, Robert Franklin, Jr.
Blank, Lawrence William
Bleeke, James Morris
Bonhag, Robert Charles
Bosley, James Edward
Bruns, David Joe
Cannon, Richard Leon
Carr, Alan Ralph
Carson, Robert Edward
Chapman, Robert James
Cholaki, George Christ
Coggeshall, William Thomas
Coker, Mack Elbert
Curreri, Robert Charles
Drab, Stanley, Sr.
Dunn, William Paul, Jr.
Ellenbecker, Richard Joseph
Finger, Richard B., Jr.
Fisk, Bruce D.
Fletcher, Ernest Clinton
Freeman, Joe Chris
Frieder, Dennis Allan
Garre, David Colfax
Goldblatt, Lawrence Ira
Goodrich, Clarence Paul
Hammer, Dennis David
Hancock, Everett Brady
Harnett, Jeffrey H.
Hartman, Gerald Lee
Haugen, Jan Clayton
Heilman, Mark Edwin John, IV.
Hensley, Larry Donald
Higgins, Joseph Patrick, Jr.
Hinman, Robert Winfield
Hirst, Robert Charles
Hix, James Ofallon, III
Horton, Charles Bunion
Ingraham, Richard Lewis
Iversen, William Walter
Jack, Robert William
Jucovics, Robert Lewis
Keeker, David Erwin
Kjome, Robert Louis
Lally, Edward Thomas
Leibowitz, Richard Benjamin
Lequire, Anton Kilgore
Licking, Thomas Charles
Macleod, George
Maddox, James Arthur
Maiorana, Joseph James
McIntire, William Oliver
Merlo, Thomas Joseph
Milford, Michael Louis
Mitchell, Donald Leo
Moe, Robert Clarence
Morrow, John Hobert, Sr.
Nagel, Norman John
Neal, John Clarence, Jr.
Nieusma, Gerald Edwin
Nowak, Joseph Paul
Olson, Robert James
Ostrowski, John Stanley
Parker, Richard Warren
Paulk, Glenn Lamar, Jr.
Paulus, Helen Marie
Pfeifer, David Lewis
Poirrier, Maxime James Peter
Rensch, Jerry Allen
Ridley, Michael Travis
Robertello, Francis John
Russell, John Thomas, II
Sepe, Walter William
Shoemaker, Philip Witherell
Smith, Gary Leslie
Stob, John Albert
Stone, Harold Eugene, Jr.
Stratton, Russell John
Sullivan, William Walter
Tagge, David Lee
Taylor, Kent Lee
Taylor, Ronald Norman
Tidwell, Eddy
Tooker, Darrell Thomas
Vanbelois, Harvard John, Jr.
Wiley, Wayne Myers, Jr.
Yavorsky, John Dennis

MEDICAL SERVICE CORPS

Anderson, Francis Glen
Armstrong, Joseph Cunningham
Bain, Donald Keith
Baird, John Robert
Baker, Donald Edward
Bazzell, Samuel Clinton
Beckner, William McCarty
Bell, R. Thomas, III
Bennett, Floyd Edward
Beuchler, Lamarr George
Bienkowski, Faustyn Joseph
Biersner, Robert J.
Bond, James Calvin
Briand, Frederick Francis
Brown, Gary Dale
Brown, Seth Edsel
Brown, Wayne Allen
Buckles, Richard George
Burke, Daniel Brian
Cannizzaro, John Silvio
Carnahan, Clarence Lee
Chatelier, Paul Richard
Coan, Richard Manning
Cook, Elvis Donald, Jr.
Cowan, Morris Joseph, Jr.
Curran, Patrick Michael
Cusick, Richard Allen
Deeter, Victor Raymond
Delaughter, John Douglas
Delisle, Gary Raymond
Denison, Neslund Edward
Devault, Richard Lee
Duley, John Wilbur, Jr.
Duncan, Alexander Robert
Ferguson, John Christian
Fullerton, Jack Gibboney
Funaro, Joseph Francis
Furr, Paul Arthur
Gaines, Richard Noel
Gay, Kenton William
Giard, Emile Normand
Gibson, Richard Stephen
Gillentine, James Donald
Gillespie, Franklin Delano
Gogel, Casper John
Gooch, Roy Lee
Green, Charles Madison
Gregoire, Harvey Gilbert
Hatten, Arthur Dallas, Jr.
Henderson, S. Douglas
Hill, Thomas Alfred
Hutchins, Charles Willis, Jr.
Johns, Jack Elton
Johnson, Jay Arthur
Johnson, Larry Wayne
Johnson, Paul William
Johnson, Robert Alton
Juda, Thaddeus Albin
Karch, Larry Lee
Kinsella, Lawrence Thomas
Lane, Norman Edward
Laughlin, Leo Lemuel, Jr.
McAllister, Robert George
McCroddan, Donald Matthew
McGuire, James Stuart
McIntosh, Wilton Wayne
McPeters, Roland Eudean
Meyers, Wessel Hugh
Morin, Richard Albert
Murrell, William Raymond
Nathan, Howard Wayne
Newell, Richard Lee
Owens, Norman Kenneth
Ozment, Bob Lee
Parrish, William Carroll
Patterson, Patrick Ross
Payton, Richard Alan
Peck, John Allen
Peterson, Warren Roger
Pitts, Lucius Loring, II
Rector, Douglas Eugene
Rhodes, Durward Leon
Rice, Richard Timothy
Robinson, Patsy June
Rosplock, Jerome Donald
Santana, Frederick Joseph
Saye, Clarence Boswell
Schweitzer, James Donald
Self, William Lee
Shackelford, Paul Richard
Shaughnessy, Mary Kay
Skelly, Robert Stanley, Jr.
Smith, James Dudley
Smith, Lamar Richard
Sonntag, Robert Richard, Jr.
Stayton, Richard Allan
Stockman, Roger Emanuel
Theisen, Charles Joseph, Jr.
Thomas, Thomas Edward
Tucker, John Russell, Jr.
Veckarelli, Donald Thomas
Walker, Jerry M.
Wilson, Jason A.
Winningham, Joe

Wood, Duell Eugene
Woods, Allen Oliver

NURSE CORPS

Ancelard, Madeline Mary
Arndt, Karen Irene
Bekkedahl, Marilyn Catherin
Beyerle, Doris C.
Boyle, Mary Maddock
Cascadden, Mary Lou
Caya, Barbara Anne
Coltharp, Dove Antionette
Cote, Clarence William
Curtis, Rose Marie
Darcy, Darlene Elizabeth
Darrah, Elna Ray
Dexter, Marion Caroline
Dillon, Dolores Jo
Dunn, Glenda Gale
Dyer, Alice
Flury, Beverly Joyce
Fox, Patricia Michele
Gallagher, Maryanne Theresa
George, Kay A.
Goodberlet, Joan Marie
Greff, Leah Sue
Handlin, Sondra Kay
Harding, Bonnie Ann
Hennessy, Jo Ann
Hicks, Shirlee Christine
Hill, Shirley Ann
Hubbard, Carol Ann
Huskey, Bobby Gene
Janik, Barbara Ann
Langley, Ann
Linehan, Patricia Ann
Marks, Alita Claire
McCaughey, Anne Marie
McClelland, Jerry Wayne
McDonald, Patricia Kathalee
McKown, Frances Carroll
Medina, Elida Delosangeles
Megonnell, Joann Helen
Newton, Katheryn Eleanor
Odom, Helen A.
Pack, Valaine
Peters, Shirley
Ricardi, Jean Cecilia
Russell, Susanne
Schneider, Blanche Margaret
Sheehan, Lona Wallace
Simler, Monica
Staley, Patricia Louise
Sulkowski, Mary Lee
Watson, Anita Caroline
White, Patricia Margaret
Wildeboer, Henrietta Mae
Witherow, Mary Ann
Word, Helena Mary
Yucha, Shirley Ann
Zuber, Frances Elizabeth

IN THE MARINE CORPS

The following-named officers of the Marine Corps for permanent appointment to the grade of colonel:

Hugh S. Aitken
Ezra H. Arkland
Maurice C. Ashley, Jr.
George T. Balzer
John F. Barr, Jr.
George H. Benskin, Jr.
Charles W. Blyth
Edward J. Bronars
Charles F. Brunnell, Jr.
Richard E. Carey
George Caridakis
Harold L. Coffman
Raymond P. Coffman, Jr.
John D. Counselman
William G. Crocker
Earl M. Cunard, Jr.
Raymond C. Damm
Claude E. Deering, Jr.
Lewis H. Devine
Robert R. Dickey III
Jack W. Dindinger
Grover C. Doster, Jr.
John W. Drury
Robert B. Engesser
Loren T. Erickson
Richard B. Eykyn
Benjamin B. Ferrell
George C. Fox
Floyd K. Fulton, Jr.
Thomas H. Galbraith
James R. Gallman, Jr.
Thomas I. Gunning
Frederick M. Haden
John W. Haggerty III
James E. Harrell
Lawrence P. Hart
Harold A. Hatch
Bruce A. Heflin
Paul F. Henderson, Jr.
Kenneth W. Henry
Wallace A. Heyer
Edward Y. Holt, Jr.
Forest J. Hunt
Merton R. Ives
Mallett C. Jackson, Jr.
Charles V. Jarman
John M. Johnson, Jr.
Richard M. Johnson
Warren R. Johnson
Nick J. Kapetan
Paul X. Kelley
Calhoun J. Killeen
George C. Kliefoth
Randlett T. Lawrence
Gerald L. Lillich
Robert M. Lucy
Herbert V. Lundin
John F. Mader
Lawrence A. Marousek
James W. Marsh
Ronald A. Mason
William J. Masterpool
Daniel F. McConnell
Robert L. McElroy
George C. McNaughton
Ermine L. Meeker
John B. Michaud
John H. Miller
Thomas E. Murphree
Edward S. Murphy
Robert C. Needham
Minard P. Newton, Jr.
Keith Okeefe
Michael V. Palatas
Eugene J. Paradis
Tom D. Parsons
Rober W. Peard, Jr.
Arthur R. Petersen
Louis A. Rann
Thomas E. Ringwood, Jr.
Raymond E. Roeder, Jr.
Edwin M. Rudzis
Alexander S. Ruggiero
William F. Saunders, Jr.
Kenneth M. Scott
William Shanks, Jr.
Philip D. Shutler
Albert C. Smith, Jr.
George W. Smith
Robert N. Smith
Edward W. Snelling
Eugene O. Speckart
Charles E. Spence, Jr.
James W. Stemple
Reuel W. Stephens, Jr.
Vaughn R. Stuart
David O. Takala
Donald W. Tardif
Francis W. Tief
Nicholas M. Trapnell, Jr.
George W. Troxler
Leon N. Utter
Roy R. Vancleve
Floyd H. Waldrop
Joseph R. Wayerski, Jr.
William Wentworth
Harold B. Wilson
Edwin M. Young
James R. Young

The following-named officers of the Marine Corps for permanent appointment to the grade of lieutenant colonel:

John W. Alber
David L. Althoff
Edward R. Alves, Jr.
David H. Anderson
Richard C. Barrett
Douglas C. Binney
Charles H. Black
Richard R. Blair
Wyman U. Blakeman
Lawrence G. Bohlen
Robert D. Boles
Joe E. Bradberry
Virgil B. Brandon
Bernard B. Brause, Jr.
Ray E. Bright
Thomas D. Brooks
James C. Brown
Rangeley A. Brown
Talman C. Budd II
John J. Cahill
Jack R. Catt
Frank C. Chace, Jr.
Guy R. Chaney
Willard E. Cheatham
Holly Clayson
Arthur B. Colbert
Joseph E. Coleman, Jr.
James G. Collier
James J. Connolly
Donald E. Coombe
Eugene S. Courson
John E. Crandell
Robert W. Creighton
Warren G. Cretney
Duane D. Crews, Jr.
Samuel E. Dangelo III
Claude M. Daniels
Clyde D. Dean
Roland H. Dean
Chester P. Dereng
David K. Dickey
Wilbur W. Dinegar
Wales S. Dixon, Jr.
Joseph A. Donnelly
Lawrence T. Drennan, Jr.
Herbert W. Drescher
Thomas J. Dumont
Hollis T. Dunn
Randall W. Duphiney
James R. Eddy
George M. Edmondson, Jr.
Charles H. Egger
David J. Elam
Charles D. Emmons
Carl J. Eversole
Bob W. Farley
Louis I. Fein
Wells L. Field III
Walter D. Fillmore
Robert W. Fischer
John E. Forde, Jr.
Ralph Fortie
Roger D. Foster
James W. Friberg
John R. Fridell
Phillip B. Friedrichs
Robert L. Fry
Gerald F. Gallagher
Marvin T. Garrison
Donald G. Gascoigne
William J. Gash
Clarence U. Gebsen
Robert A. Gillon
Charles W. Gobat
Robert L. Goodall
James C. Goodin
Thomas T. Glidden
Herbert M. Gradl
Howard D. Gress, Jr.
Jerome T. Hagen
Vincil W. Hazelbaker
Richard F. Hebert
Donald C. Heim
John A. Herber
David G. Herron
Edward C. Hertberg
Herbert M. Herther
George A. Hieber
Jack D. Hines
William E. House, Jr.
William D. Hubbard
Earl R. Hunter
Leo J. Ihli
Harold J. Jackson, Jr.
Stanley C. Jaksina
Lewis W. Jarman
James Jaross
Harry E. Jenks II
Clifford H. Johnson
Conrad A. Jorgenson
Raymond C. Kargol
Louis K. Keck
Simon J. Kittler
John K. Knope
Charles H. Knowles
Ronald W. Kron
Bobby T. Ladd
Eddis R. Larson
Raymond F. Latall, Jr.
John B. Lavelle
Rodney H. Ledet
Richard P. Lee
Robert D. Leipold
Robert R. Leisy
Walter R. Limbach
Earle D. Litzenberger
Joseph J. Louder
Earl F. Lovell
William T. Lunsford
Thomas R. Maddock
Arthur O. Malovich
Joseph R. Marosek
Richard L. Martin
Frederick A. Mathews
Donald F. Mayer
John J. McCarthy
Douglas A. McCaughey, Jr.
Arthur T. McDermott
Oliver G. McDonald
Kent A. McFerren
John E. Mead
Clarence B. Miller, Jr.
Robert G. Miller
Thomas R. Moore
Clark S. Morris
Michael Mura
Robert H. Nelson
Buel B. Newman, Jr.
Duane F. Newton
John A. O'Brien
Bruce F. Ogden
Arnold J. Orr
Charles D. Overturf
Billy M. Owen
Richard L. Palmer
Eugene E. Paro, Jr.
Matthew B. Peck, Jr.
Bert W. Peterka
Thomas F. Qualls
Paul G. Radtke
Carroll G. Redman
Clifford E. Reese
John P. Reichert
Harvey T. Reiniche
Frederick J. Reisinger
Lane Rogers
Manuel Rojo, Jr.
William H. Ross, Jr.
Bruce B. Rutherford
Americo A. Sardo
Donald A. Schaefer
Jack E. Schlarp
Walter E. Sears, Jr.
Harry E. Sexton
Walter H. Shauer, Jr.
Speed F. Shea
James R. Sherman
Joseph Sleger, Jr.
Charles V. Smillie, Jr.
Allen H. Somers
Melvin A. Soper, Jr.
Allan J. Spence
Chester J. Stanaro
Ray N. Stewart
Peter L. Stoffelen
Thomas M. Stokes, Jr.
Donald H. Strain
Thomas L. Sullivan
Bennie W. Summers
David A. Teichmann
Dwight R. Timmons, Jr.
George E. Toyeas
Richard T. Trundy
Charles J. Tyson III
Albert J. Vidano
Willard G. Viers, Jr.
John B. Walker, Jr.
Guy W. Ward
George J. Waters
John R. Waterstreet
Donald S. Waunch
Robert J. Weiss
James A. Wells, Jr.
Frank K. West, Jr.
Kenneth H. Wilcox
Donald G. Williams
Frank P. Williams, Jr.
Frank B. Wolcott III
Charles D. Wood
Donald E. Wood
Don L. Yelek

The following-named officers of the Marine Corps for permanent appointment to the grade of captain:

Winfree M. Abernethy
Carl P. Ackerman
Chauncey C. Acrey
Charles N. Adams
Larry G. Adams
Wayne T. Adams
David G. Amey
Robert V. Ande
Donald F. Anderson
Gary M. Andres
Fred W. Anthes
Thomas D. Ashe
Dennis M. Atkinson
Clair E. Averill, Jr.
Larry A. Backus
Richard C. Bannan
Richard K. Bardo
Brent J. Barents
Robert O. Bartlett
Merrill L. Bartlett
Harry C. Baxter, Jr.
Dale S. Beaver
Thomas M. Beldon
George E. Bement
William H. Bennett
Allan E. Berg
Coy T. Best, Jr.
George R. Bettle
Lance V. Bevins
Richard L. Blanchino
Bradley W. Bluhm
Wichard H. Bode, Jr.
Jerome J. Bondanza
John W. Boyan
Thornton Boyd
Gerald P. Brackin
Walter J. Breede III
Anthony D. Brewin
Harold L. Broberg
Gary E. Brown
Raul B. Brown
Richard C. Brown
Robert D. Brown
Robert A. Browning
Curtis B. Bruce.
Clay A. Brumbaugh
Frederick T. Bryan, Jr.
Earl L. Bufton, Jr.
Charles E. Burin
Charles O. Burke
Arthur E. Burns III
Donald E. Burns
Thomas V. Burns
Ronald G. Burnsteel
Gerard J. Burrows
Peple M. Burton, Jr.
Roland E. Butler
Michael J. Byron
William L. Cadieux
Columbus P. Calvert, Jr.
Stephen F. Capppiello
James E. Carlton, Jr.
Kenneth L. Carter
Thomas C. Carter
John B. Caskey
Paul R. Catalogne
Robert C. Champion, Jr.
Kurt J. Chandler
Lonnie S. Chavez
Charles W. Cheatham
Jorel B. Church
Dennis Churchin
James A. Clark

Joe Clark
William B. Clary
Harry F. Clemence, Jr.
Richard W. Clifton
Richard V. Coffel
Michael H. Collier
Bernis B. Conatser
Ronald J. Condon
George M. Connell
Thomas C. Corbe
David C. Corbett
Jerry L. Cornelius
Larry R. Cornwell
Walter J. Costello
Harold W. Courter
Paul H. Courtney
David E. Cox
Wayne N. Crafton
Richard J. Craig
Robert R. Craig
Marvin L. Creel
Ronald R. Critser
Harvey F. Crouch, Jr.
Kenneth L. Crouch
Thomas B. Cullen
Paul W. Culwell
C. D. Cuny
James E. Curran, Jr.
Edward R. Curtis
Marshall B. Darling
James A. Davis
Carmine J. Delgrosso
Angelo C. Demeo
Arlio W. Demien, Jr.
Thomas F. Dempsey
Harris H. Dinkins
Elliott S. Dix
David B. Downing
Robert A. Doyle
Dorris A. Duncan
David S. Durham
William G. Dwinell
Ronald R. Eckert
Paul R. Ek
James F. Ellis
Richard W. Elsworth
John N. Ely
Patric S. Enright
Brian J. Fagan
Robert J. Faught
Peter B. Field
Victor K. Fleming, Jr.
Bert R. Francis
Donald R. Frank
Howard A. Franz
Luis R. Fresquez
Robert D. Fulcher
Sidney R. Gale
Joel R. Gardner
Albert R. Gasser, Jr.
Ronald L. Gatewood
Charles R. Geiger
Aultie G. Gerwig
Michael R. Getsey
James H. Gillespie
Bobby G. Girvin
Aloys A. Glose
Roger F. Gorman
Henry F. Gotard
Edwin T. Gray
Russell M. Greenfield
Donald A. Gressly
Jackie L. Grinstead
Kenneth L. Gross
Thomas H. Guerin, Jr.
John J. Gutter
Joseph S. Hack
Thomas M. Haddock
John F. Hales
Thomas L. Hampton
Francis T. Hankins
Joseph J. Hanley
James H. Hanson
Christian L. Harkness
John D. Harrill, Jr.
John C. Harrison
Everett D. Haymore, Jr.
Stanley E. Haynes
James D. Hayslip
Dennis L. Hellwig
Jerry G. Henderson
Jerry L. Henson
Dennis B. Herbert
Donald H. Hering
Jerome L. Hess
Jon C. Hill
Alan W. Hitchens
Harold M. Hitt
Daniel A. Hitzelberger
James V. Hoekstra
John W. Hogue
Vernon J. Holbrook
Richard J. Hooton, Jr.
Charles R. Huddleston
Walter F. Hudiburg, Jr.
William E. Hudson
Robert A. Hughes
Richard C. Hulit
Gerald Hunt
Robert M. Hunter
Raymond F. Incociati
Orlando Ingvoldstad III
Richard J. Jarlowski
Robert D. Jassem
Gilbert D. Johnson
Kenneth H. Johnson
Thomas L. Johnson
Harlan E. Jones
Robert E. Jones
Robert W. Joyce
Gerard T. Kalt
Dennis W. Kane
Thomas P. Keenan, Jr.
John A. Kelly
Rodney P. Kempf
Allan K. Kerins
Steven B. Kimple
Robert N. Kingrey
Michael P. Kingston
Hague M. Kiser
Francis T. Klabough
Timothy J. Klug
John E. Knight
Edward A. Kolbe
Dennis E. Kraus
Leonard R. Krolak
Wallace F. Krywko
Lawrence C. Kutchman, Jr.
Carlton E. Land
Andrew D. Larson
Linden T. Laviano
David C. Lecount
Corby F. Lewis
John R. Lindsay
Marvin H. Lippincott
David R. Little
Edward J. Lloyd
James F. Lloyd, Jr.
Hubert A. Locke
George P. Lombardo
Charles A. Lyle
Harry T. Mackin
Robert A. Madeo
Chris Madsen
Gerald G. Madson
Gerald R. Magliano
Rudolph J. Maikis
Phillip S. Makowka
Edward J. Manco
William S. Marshall II
Robert J. Martinez, Jr.
Thomas G. Martinson
Ronald R. Matthews
Jeffrey W. Maurer
Tommy L. McCarty
Harry M. McCloy, Jr.
Richard R. McCormick
John J. McCoy
Michael D. McCulley
Kenneth D. McCurry
James J. McDonald
Daniel B. McDyre
Bruce S. McKenna
William H. McKinley
Dennis C. McMahon
Donald M. McVay
Laurence R. Medlin
Bion E. Merry
Perry W. Miles III
Donald J. Miller
James G. Miller
Michael K. Milligan
Terry L. Miner
James R. Mires, Jr.
Robert L. Mitchell
Robert J. Mockenhaupt
Edgar R. Moore
Richard W. Moore
William O. Moore, Jr.
John R. Morgan
Joseph G. Morra
Edward W. Motekew
Charles H. Mulherin, Jr.
Joseph F. Mullane, Jr.
John T. Murphy
Philip J. Murphy
James M. Myatt
James W. Nall
David R. Nay
Eugene T. Nervo
Joseph Q. Nesmith, Jr.
Carl J. Neubig
Ken W. Nisewaner
David N. Noble
Ernest G. Noll, Jr.
Paul W. O'Brien
John P. O'Connor
Loren J. Okrina
Robert V. Olson
Ronald G. Osborne
Jeffrey W. Oster
William R. Otto
John F. Palchak
Alex M. Patterson, Jr.
Jerome T. Paull
Paul D. Payne
William F. Percival
Nicola M. Pereira, Jr.
Leon E. Perry
Allan E. Peters
William E. Phelps
John H. Pierson, Jr.
Richard P. Pierzchala
Thomas E. Pitts
Marvin F. Pixton, III
Joseph R. Pleier
Charley L. Plunkett
Michael E. Popelka
Gary L. Post
Dirck K. Praeger
Charles P. Preston, Jr.
Ernest E. Price, III
David G. Purdy
Stafford D. Purvis, Jr.
Thomas F. Rafferty
John A. Rank, III
Walter O. Raske
Arch Ratliff, Jr.
Henry W. Reed
Clyde M. Regan
Michael J. Reilly
Ronald W. Rensch
Jesse J. Richardson
Terril J. Richardson
James E. Rickmon
Jon K. Rider
Donald G. Ringgold
Larry C. Roberts
Morris R. Roberts
Thomas W. Roberts
Jean O. Robinson
John H. Rodgers
Thomas J. Romanetz
Christopher J. Rooney
Donald L. Rosenberg
Richard Ruthfield
Christopher S. Salmon
Melvin P. Sams
William E. Scaplehorn, Jr.
Martin J. Scheveling
Ludwig J. Schumacher
Gerald E. Scott
Kenneth M. Sears
Edward R. Seiffert
Arthur G. Shadforth
John F. Shea
Stanford E. Shaeffer
Roy H. Shelton, Jr.
John D. Shinnick
David R. Shore
Moyers S. Shore II
Clyde M. Simmons
Louis L. Simpleman
Paul J. Sinnott
David L. Siweck
Clarence D. Smith
George E. Smith, Jr.
Phillip R. Smith
Ronald L. Smith
Paul L. Snead
William F. Space
William M. Sparks
Robert J. Squires
James B. Sramek
Paul M. Starzynski
Kent O. Steen
Ronald M. Stein
William A. Stickney
Frank C. Stolz, Jr.
Simon F. Stover
Kenneth A. Swannack
Herbert H. Swinburne, Jr.
Glenn Takabayashi
Lawrence E. Tanksley
Josenh Taylor
Robert B. Temte
Theard J. Terrebonne, Jr.
Gary E. Thiry
Richard P. Toettcher
David A. Tomasko
Richard D. Tomlin
Patrick L. Townsend
Arthur B. Tozzi
Richard B. Trapp
Timothy M. Treschuk
Kenneth W. Turck
Jimmy Turrietta, Jr.
John D. Tyson, Jr.
David F. Underwood, III
Daniel P. Vangrol III
James K. Vanriper
Paul K. Vanriper
Peter J. Vanryzin
Russell D. Verbael
John S. Walker
Larry D. Walker
Allen B. Webb
John D. Weber
Jerry R. Weibel
Donald A. Wellman
Ronald R. Welpott
David L. White
Robert C. Whitener, Jr
Harold W. Whitten
Wyatt C. Whitworth, Jr.
Clifford Wieden, Jr.
Billy L. Williams
Clarence D. Williams
James T. Williams
Peter D. Williams
Thomas E. Williams, Jr.
Monroe F. Williamson
Samuel C. Winegardner
Thomas J. Wise, Jr.
John A. Woggon, Jr.
Robert M. Wright
Michael G. Wystrach
Richard A. Yaeger
Robert C. Yost
Kenneth W. Zitz

The following-named women officers of the Marine Corps for permanent appointment to the grade of Colonel:

Margaret A. Brewer
Valeria F. Hilgart

The following-named women officers of the Marine Corps for permanent appointment to the grade of lieutenant colonel:

Roberta N. Roberts
Annie M. Trowsdale
Jane L. Wallis

The following-named women officers of the Marine Corps for permanent appointments to the grade of major:

Patricia M. Gormley
Joan Hammond
Mary A. Pierson
Sharyll A. Plato
Georgia L. Swickheimer

The following-named women officers of the Marine Corps for permanent appointment to the grade of captain:

Kathleen V. Abbott
Linda K. Adams
Elizabeth J. Allen
Elaine M. Andreshak
Carolyn K. Bever
Vanda K. Brame
Marguerite J. Campbell
Lynda S. Crawford
Elinor M. Fullerton
Diane L. Hamel
Juanita A. Lamb
Ellen T. Laws
Loretta J. Liehs
Karyl L. Moesel
Adelaide A. Quebodeaux
Barbara Weinberger
Carol A. Wiescamp
Robin D. Valas

The following-named officers of the Marine Corps for temporary appointment to the grade of major:

Gene A. Adms, Jr.
Joseph R. Balthis
Thomas V. Barrett
Frank A. Bendrick
Carl R. Bledsoe
John F. Borders
Frank Bradley
David B. Brown
Robert T. Bruner
John Butchko, Jr.
Frank Butsko
Ronald F. Calta
William R. Campbell, Jr.
Keith E. Carlson
David A. Carter
Conwill, R. Casey
Jack A. Chapman
Paul W. Chapman
Roland W. Coleman
William A. Conger
Terence, P. Connell
Wayne F. Coulter
Roy L. Crane
John C. Cregan
Dennis, E. Damon
Jerry R. Davidson
Charles E. Davis
Richard A. Decker
Roy E. DeForest
Richard A. Delaney
Charles A. Donaldson, Jr.
Ronald E. Downard
John F. Drummond
Leiland M. Duke, Jr.
Raymond, R. Dunlevy
Clifford R. Dunning
Stephen C. Durrant
Roger F. Endert
Donald L. Evans
Paul K. Farmer, Jr.
William R. Filo
Fredric L. Fish
George E. Franklin
Joseph A. Galizio
Dennis O. Gallagher
Dayne G. Gardner
Theodore L. Gatchel
James H. Granger
Brendan M. Greeley, Jr.
James W. Gresham
James P. Griffin
William R. Griggs
Sidney B. Grimes
Jean A. Gruhler, Jr.
Richard L. Guinn
Glen L. Hampton
David W. Hardiman
Andrew D. Harris
James A. Hart
William R. Hart
David G. Henderson
Howard W. Higgins
James H. Holbrook, Jr.
Kenneth M. Holder
Claude M. Holifield, Jr.
Robert W. Holm
Charles T. Huckelbery
Wilton H. Hyde, Jr.
Douglas B. James
Charles S. Jenkins
Harold B. Jensen, Jr.
Kenneth D. Johnson
Richard F. Johnson
John D. Jones
Robert G. Jones
Blaine D. King
Grover C. Knowles
Eugene P. Kummeth
Rene F. Larriva
John Lecornu
Martin J. Lenzini
Frederick E. Lewis
Richard B. Lewis
Melvin H. Long
Albert F. Lucas, Jr.
Frederick J. Mahady, Jr.
Richard E. Maresco
David E. Marks
Norman Marshall
John M. Mattiace
William R. McAdams
Lawrence J. McDonald
James G. McDonough
Dayle O. McGaha
James D. McGowan, Jr.
Thomas K. McKeown
Charles L. Meadows
Richard P. Miller
Robert W. Mitchell, Jr.
Roland E. Monette
James E. Morgan
Patrick J. Morgan
August H. Mulligan
Herbert T. Nance, Jr.
Anthony D. Nastri
James S. Needham
Ives W. Neely, Jr.
William P. Negron

XUM

Caldwell V. Norred III
John M. O'Connell
Larry R. Ogle
Fred E. Ogline
Robert R. O'Neill
Ray T. Pace
Francis D. Pacello
Fred J. Palumbo
Gary W. Parker
Alva E. Peet, Jr.
Robert O. Pelott
Vernon J. Perz
Richard L. Phillips
Floyd C. Plowman, Jr.
Raymond L. Pollard, Jr.
David L. Pospisil
Donald L. Price
William M. Rakow, Jr.
John W. Raymond
John E. Regal
Charles S. Rigby III
Clifford E. Roberson
Robert M. Rose
Richard B. Rothwell
Neal T. Rountree
Peter J. Rowe
William J. Sambito
Michael F. Scanlon
Edwin E. Schreck
Richard G. Schwarz
Bruce L. Shapiro
Carl A. Shaver
Robert J. Sheehan
Charles H. Shelton
Lundie L. Sherretz
Jerry C. Shirley
John S. Sirotniak
Willard E. Slack
Charles R. Smith, Jr.
Paul J. Smith, Jr.
William F. Snyder
Frank R. Soderstrom
James A. Spaith
John A. Speicher
Edgar R. Stebbins
Thomas C. Sullivan
Waverly E. Sykes, Jr.
Kenneth T. Taylor
Sidney E. Thomas
Bruce D. Thoreson
Robert C. Trumpfheller
Frank W. Tuckwiller
Luke J. Urban
George M. Vanorden
Manuel S. Vargas, Jr.
Amilcar Vazquez
Clyde L. Vermilyea
William R. Warren
John C. Weare
Richard D. Weede
William H. West, Jr.
William H. Westhoff
William H. White
John A. Williams
Duane A. Wills
Paul C. Winn
Thomas H. Wold
Harvey L. Zimmerle
Ralph A. Zimmerman

CONFIRMATIONS

Executive nominations confirmed by the Senate October 8, 1970:

DIPLOMATIC AND FOREIGN SERVICE

Artemus E. Weatherbee, of Maine, who was confirmed by the Senate September 1, 1970, as U.S. Director of the Asian Development Bank, to serve on the Bank with the rank of Ambassador.

Christopher H. Phillips, of New York, to be the deputy representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary.

G. Edward Clark, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

U.S. CIRCUIT COURTS

John Paul Stevens, of Illinois, to be a U.S. circuit judge for the seventh circuit.

Robert H. McWilliams, Jr., of Colorado, to be U.S. circuit judge for the 10th circuit.

U.S. DISTRICT COURTS

Sam C. Pointer, Jr., of Alabama, to be a U.S. district judge for the northern district of Alabama.

Walter K. Stapleton, of Delaware, to be a U.S. district judge for the district of Delaware.

Frank J. McGarr, of Illinois, to be a U.S. district judge for the northern district of Illinois.

Edwin L. Mechem, of New Mexico, to be a U.S. district judge for the district of New Mexico.

Edward R. Becker, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania.

J. William Ditter, Jr., of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania.

Daniel H. Huyett III, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania.

William W. Knox, of Pennsylvania, to be a U.S. district judge for the western district of Pennsylvania.

Malcolm Muir, of Pennsylvania, to be a U.S. district judge for the middle district of Pennsylvania.

Donald W. VanArtsdalen, of PennysIvania, to be a U.S. district judge for the eastern district of Pennsylvania.

L. Clure Morton, of Tennessee, to be U.S. district judge for the middle district of Tennessee.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Roger C. Cramton, of Michigan, to be Chairman of the Administrative Conference of the United States for a term of 5 years.

DEPARTMENT OF JUSTICE

Irving W. Humphreys, of West Virginia, to be U.S. Marshal for the southern district of West Virginia for the term of 4 years.

Curtis C. Crawford, of Missouri, to be a member of the Board of Parole for the term expiring September 30, 1976.

Paula A. Tennant, of California, to be a member of the Board of Parole for the term expiring September 30, 1976.

U.S. PATENT OFFICE

The following-named persons to be Examiners-in-Chief, United States Patent Office:

Fred C. Mattern, Jr., of Virginia, vice Nogi A. Asp, resigned.

John H. Schneider, of Virginia, vice Peter T. Dracopoulos, resigned.

Saul I. Serota, of Maryland, vice Pasquale J. Federico, resigned.

HOUSE OF REPRESENTATIVES—*Thursday, October 8, 1970*

The House met at 10 o'clock a.m.

Rev. Robert J. Hartman, Divine Word Missionary to the Congo, offered the following prayer:

Peace is My legacy to you: My own peace is My gift to you.—John 14: 27.

Eternal God, through Your Son we have learned to call You Father. It was His dying wish that nothing less than His peace, the untroubled harmony of His own will with Yours, should also be ours. We implore You to give us His spirit, that all the deliberations of our Congress this day may reflect Your own divine will. We ask You this in the name of Christ, Your Son, our Lord. Amen.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 18776. An act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes; and

H. Con. Res. 768. Concurrent resolution directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 15424.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11833) entitled "An act to amend the Solid Waste Disposal Act in order to provide financial assistance for the construction of solid waste disposal facilities, to improve research programs pursuant to such act, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15424) entitled "An act to amend the Merchant Marine Act, 1936."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17575) entitled "An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1971, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 1461. An act to amend section 3006A of title 18, United States Code, relating to representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the United States;

S. 2916. An act to establish the Plymouth-Provincetown Celebration Commission; and

S. 3014. An act to designate certain lands as wilderness.

The message also announced that the Senate agrees to the House amendment to the Senate amendment to a bill of the House of the following title:

H.R. 14685. An act to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 17654. An act to improve the operation of the legislative branch of the Federal Government, and for other purposes.

CALL OF THE HOUSE

Mr. HALL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 333]

Abbitt
Adair
Anderson, Tenn.
Ashley
Aspinall
Beall, Md.
Berry
Betts
Biaggi
Blackburn
Brock
Brooks
Burlison, Mo.
Burton, Utah
Bush
Button
Cabell
Cederberg
Celler
Chisholm
Clark
Clawson, Del
Clay
Conte
Conyers
Corbett
Cowger
Cramer
Crane
Daddario
Dawson
Derwinski
Diggs
Dowdy
Dwyer
Edmondson
Edwards, La.
Evans, Colo.
Evins, Tenn.
Fallon
Feighan
Fisher
Flynt
Foreman
Gallagher
Gilbert
Gray
Griffiths
Hagan
Haley
Hanna
Harvey
Hébert
Heckler, Mass.
Helstoski
Holifield
Hungate
Jonas
Jones, N.C.
Karth
King
Kleppe
Koch
Landrum
Long, Md.
Lowenstein
Lujan
Lukens
McCarthy
McClory
McCloskey
McCulloch
McKneally
McMillan
Macdonald, Mass.
MacGregor
Mailliard
Mayne
Meskill
Mink
Montgomery
Morse
Murphy, N.Y.
Myers
Nedzi
O'Konski
O'Neal, Ga.
Ottinger
Patman
Pirnie
Pollock
Powell
Price, Tex.
Purcell
Quillen
Reid, N.Y.
Reifel
Rosenthal
Roudebush
Rousselot
Ruth
Sandman
Satterfield
Scheuer
Scott
Skubitz
Snyder
Springer
Stephens
Stratton
Talcott
Tunney
Weicker
Wilson, Bob
Wold
Wright

The SPEAKER. On this rollcall 313 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

XUM

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

TRIBUTE TO FATHER ROBERT HARTMAN

(Mr. GUDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUDE. Mr. Speaker, it was my honor to have Father Hartman, a member of the Divine Word Missionary to the Congo, here to give the opening prayer in the House this morning.

Father Hartman's society was founded in 1875, and it has been totally mission orientated since that time. Today it numbers close to 6,000 members, and it is an international organization. Of all the mission-sending societies, it has the highest proportion of its members in actual mission fields, primarily underdeveloped countries. Their activities in these countries cover a broad spectrum: providing for the religious needs of people in the parishes of large cities, and in the isolated "bush" stations of jungle areas, establishing and staffing universities, colleges, and secondary schools, and in general working toward the economic development of the people, in cooperation with all organizations of good will.

Unfortunately, so many of us are too caught up in the multitude of problems of today. We forget the dedicated work of people in religious organizations who are contributing so much to make the world a better place to live and who work to give a spiritual dimension of life which is so essential if mankind is to endure.

CONCERNING REFERENDUM FOR WHEATGROWERS

(Mr. POAGE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. POAGE. Mr. Speaker, I am not bringing up the conference report on the farm bill today. Some of the Members have anticipated that it would be brought up today. At the moment we hope that it will come up on Tuesday, and that is the reason for asking for this time now.

The present law requires the Secretary of Agriculture to hold a referendum of wheatgrowers in the United States, and under existing law it must be held early next week. It will cost $1.5 million to mail out the ballots, and they must be mailed out by tonight if the Department is to comply with the existing law.

Since we have a conference report agreed upon in connection with the farm legislation which, if adopted, would make this referendum unnecessary, it is our feeing that it would be an utter waste of money to hold that referendum at this time.

I am, therefore, going to ask unanimous consent to bring up a resolution just passed by the Committee on Agriculture to extend the time of that referendum for 30 days, during which time we will determine that we will or we will not pass new farm legislation, and probably save the entire cost.

Mrs. MAY. Mr. Speaker, will the gentleman yield?

Mr. POAGE. I gladly yield to the gentlewoman from Washington, who is the author of the resolution of which I speak. The gentlewoman has been most helpful in working out new wheat legislation.

Mrs. MAY. Mr. Speaker, I wish to agree with the gentleman from Texas on the urgent need for this action. We heard from the Secretary of Agriculture yesterday saying it was necessary to pass this resolution today if we were to save this $1,500,000. It certainly is an easy way to save money and if we do not take action now, there would be a useless waste of funds.

I thank the gentleman from Texas.

Mr. POAGE. I thank the gentlewoman from Washington and, Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H.J. Res. 1396) to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1971.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution as follows:

H.J. Res. 1396

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 336 of the Agricultural Adjustment Act of 1938, as amended, is amended by adding at the end thereof the following: "Notwithstanding any other provision hereof the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1971, may be conducted not later than thirty days after adjournment sine die of the second session of the Ninety-first Congress.

The joint resolution was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 18546 UNTIL MIDNIGHT FRIDAY

Mr. POAGE. Mr. Speaker, as I pointed out, it is necessary to take up the conference report on the farm bill next week. We are writing the report right now. It is long and complicated. The House may or may not be in session tomorrow. Therefore, I ask unanimous consent that the managers on the part of the House may be permitted to file the conference report on the bill, H.R. 18546, by midnight Friday, October 9, 1970.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

THE PRESIDENT'S STATEMENT ON INDOCHINA WAS DISAPPOINTING

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKES. Mr. Speaker, the President's statement was a disappointing one which appears to make dangerous concessions to the Communists. It would give away most of Laos and big areas of Cambodia and South Vietnam to Communist forces in return for nothing. An offer to freeze the Communists in place pending more of the fruitless type of negotiations we have had in Paris would simply be a signal for more aggression. History teaches us the Communists do not give up territory—they just seek more.

The proposal on prisoners of war will have a special appeal to the American people but it is not new. The Communists already know we would exchange prisoners and that they would receive many more of their countrymen than we in such an exchange. They have shown no interest in this or any other humane considerations.

And what about the Russian submarine base in Cuba? It should not have been ignored. This is a greater threat than the missiles which President Kennedy forced the Russians to withdraw years ago.

No one questions the sincerity of the President's search for peace but, regretfully, it must be stated that the President's message will have more impact on the November election than on the effort to achieve a just and lasting peace.

NATIONAL MEDICAL INSURANCE PROGRAM

(Mr. DORN asked and was given permission to address the Hosue for 1 minute and to revise and extend his remarks.)

Mr. DORN. Mr. Speaker, I am pleased to join my distinguished and able colleague, the gentleman from Missouri (Mr. HALL), who is himself an outstanding physician in introducing a national medical insurance program which will protect every American—rich or poor—from being financially wrecked by the cost of catastrophic illness or injury.

Our citizens of moderate wealth are subject to being plunged into abject poverty by the misfortune of catastrophic illness, and this plan, named "Extra-Care," would protect all our citizens from such a financial disaster.

This legislation is a States rights, free-enterprise approach to national medical care insurance. It would utilize existing medical insurance carriers, including Blue Cross-Blue Shield, and it would prevent the misguided plunge toward the national socialization of medical care. It would actually promote the private enterprise medical care that has provided our Nation with the world's highest standard of medical care. The bill would maintain States rights by allowing each State to determine who will qualify for the Government-paid insurance available to indigents.

POLITICAL BROADCASTING

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute.)

Mr. VAN DEERLIN. Mr. Speaker, I think it entirely proper that the Democratic Policy Committee took the action that it did yesterday in seeking to head off a possible veto of the political broadcasting bill. But as a member of the subcommittee that worked on this legislation, and went through a two-session conference on the matter with the other body, I deplore any suggestion that this is somehow partisan legislation, or that it should be so regarded by the White House. In our Subcommittee on Communications and Power, the four Republican members and the five majority members of that subcommittee worked out a bill which apparently met the requirements the White House had hoped for on elimination of section 315, the equal-time provision as it affects presidential campaigns. We carefully compromised and adjusted all conflicting views in regard to the spending limitation. Our bill was approved unanimously.

This bill is a good bill. It is a workable bill. It is not a Democratic bill. It is not an incumbent's bill. In this year of television blitzes, there has been no Republican, no Democratic claim to exclusivity in the efforts by wealthy candidates to buy public office. This is an un-American intrusion on the political processes. It must be stopped, and it can be stopped only by this legislation.

PERSONAL EXPLANATION

Mr. RIVERS. Mr. Speaker, generally I do not explain my absence from the floor, but yesterday I particularly wanted to vote on the crime bill. On the rollcall on that bill, which is No. 332, I am marked as absent. I was absent, but my reason for being absent is that I was called to the White House for a conference. Otherwise I would have been here and voted for the bill, because I wanted to be recorded on it.

ETHNIC SLUR

(Mr. STEIGER of Arizona asked and was given permission to address the House for 1 minute.)

Mr. STEIGER of Arizona. Mr. Speaker, I wish to call to the attention of my colleagues across the aisle a serious ethnic slur perpetrated by Sargent Shriver, who at a Democratic Party rally Monday night suggested that Vice President AGNEW should "go back to Greece." This remark was intemperate, a slur on the fine Americans of Greek origin, unworthy, uncalled for, and out of place in any political campaign. I call on the Democratic Party leadership to repudiate Shriver's base attack on one of America's minority groups.

Coming from Mr. Shriver, these remarks are, indeed, ironic. A close member of his own family has recently become a member of a Greek family by marriage. The Greek people who came to this country have contributed much to our culture and have, by their hard work and energy, helped to build our Nation to greatness. In his desperation to attack the Vice President, who has been telling it like it is across the country, Mr. Shriver has descended into the muck of ethnic slur. We Republicans do not believe in hyphenated Americans, and are proud that our Nation has been a melting pot of diverse and talented nationalities.

It is regrettable that Mr. Shriver has seen fit to launch a verbal attack on Mr. AGNEW's ancestry. It remains to be seen if the Democratic Party leadership, which has in the past claimed an interest in America's racial minorities, will disown these remarks by one of its aspirants for high political office.

SOUTHEAST ASIA

(Mr. BELL of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BELL of California. Mr. Speaker, President Nixon has exerted strong leadership in our striving to bring peace to Southeast Asia.

Last night to a very large extent he reflected an attitude about this war—and a desire to end it—which is shared by Americans of both political parties.

Our Nation has been divided for too long on this issue.

And those in Congress who have disagreed with administration policy have not been hesitant about making this disagreement known to the world.

President Nixon has now offered a set of proposals on which most of us can agree.

My hope is that our support of the President might be just as vocal and just as aggressive.

No solution to our troubles in Southeast Asia is going to be perfect.

No compromise is going to be universally popular even among our own people.

But last night our President did more than just put forward a realistic practical plan for initiating peace negotiations.

He took a major step in bringing our people together again—because he spoke for all of us.

It is possible—even likely—that he will seem to be rebuffed in the first reaction that comes from Hanoi.

We would be well advised not to downgrade the importance of the U.S. proposals, if they are not immediately successful.

Peace negotiation is a slow and painful process.

It is particularly slow and painful in Southeast Asia.

Now, however, we have a sound basis for a beginning.

The passage of time will make the President's proposals seem more—rather than less—realistic.

We will simply have to be patient.

PRESIDENT NIXON'S PEACE PROPOSALS OPEN WIDE THE DOOR TO NEGOTIATION

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GERALD R. FORD. Mr. Speaker, President Nixon has advanced a dramatic new bid for peace in all of Indochina. The President's five proposals for peace place the onus for a continuing war in Indochina squarely on the North Vietnamese and the Vietcong.

Despite the initial negative reaction on the North Vietnamese and Vietcong at Paris, Mr. Speaker, I do believe the President's peace proposals may ultimately produce a breakthrough that could lead to any one or all of his objectives—a silencing of all guns in Indochina, an Indochina peace conference, a mutual withdrawal of all forces, release of prisoners of war, and a political settlement of the conflict.

Mr. Nixon's offer to negotiate a supervised standstill cease-fire and a firm timetable for withdrawal of all U.S. forces is most significant. This could be the trigger for meaningful talks in Paris.

I am pleased that the President has called for a supervised cease-fire rather than one like the 14 holiday cease-fires we have agreed to in the past. The previous cease-fires have been used by the North Vietnamese and Vietcong as a pause that refreshes.

With his five proposals for peace, the President has now laid on the negotiating table the basis for both a military and political settlement of the war in Indochina. The door to negotiation is wide open.

CONGRESS SHOULD EXPRESS WHOLEHEARTED SUPPORT FOR PRESIDENT'S PEACE PROPOSALS

(Mr. ARENDS asked and was given permission to address the House for 1

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minute and to revise and extend his remarks.)

Mr. ARENDS. Mr. Speaker, the President's address to the Nation last night must stand as one of the most meaningful statements of the Nixon Presidency. It clearly identified President Nixon as a man who holds a deep vision of peace for the world.

President Nixon has gone through much unwarranted criticism in this chamber for his moves on the war in Vietnam. I hope now the voices of dissent will be lowered and we will be able to express the wholehearted support of the Congress for the administration's far-reaching initiatives for peace in Southeast Asia.

Many of our colleagues have held differing opinions of the best way to end the war in Vietnam, but it would be difficult to understand how anyone could have a substantial objection to the plan outlined by the President.

His proposals for a cease-fire, the release of all prisoners of war and new negotiations including the prospect of a timetable for the withdrawal of all combatants, cover the whole broad spectrum of disengagement from Southeast Asia. Moreover, the President has couched his proposals in a manner designed for maximum appeal to the other side.

I do not see how the President could have offered a better plan for peace, and I sincerely hope all my colleagues will add their support to the administration's proposal.

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PRESIDENT'S PEACE PROPOSALS FAIR, JUST, AND REASONABLE

(Mr. ZION asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZION. Mr. Speaker, to those of us who have followed very closely the events of the past few months, several points are abundantly clear.

First. The people of the world are most fortunate that we have a President and his close advisers who are very calm, very well informed, and very decisive.

Second. That they are dedicated—not to win a war for the next election, but to win peace for the next generation.

Third. The wonderful proposal that the President made last night is patently fair, just, and reasonable.

About the only people who will not accept his four points are the professional Presidential backstabbers and those who want to sell out to the enemy in Indochina. It is these dissenters who continue to give the Communist delegation in Paris an excuse not to negotiate.

If we can effectively deprive the protestors of the publicity for which they work so hard, we can help the President achieve his dominant ambition—a generation of peace for the first time in this century.

(Mr. MIZELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MIZELL. Mr. Speaker, I rise today in praise of President Nixon's latest initiative to bring peace in Indochina and the world.

I fully support all of his proposals as presented to the American people by the President last night—the cease-fire in place, the Indochina Peace Conference, the complete withdrawal of all troops from the conflict, the quest for a fair political solution to the war, and the immediate and unconditional release of prisoners of war.

All of these proposals speak well of a great Nation's passion for peace, of our generosity, of our perseverance in the cause of freedom.

The American people rejoice today in the hope that this latest peace package will lead to meaningful discussion of the issues of war, and eventually lead to the arrival of peace.

I believe the President's Vietnamization program is largely responsible for our being able to make these kinds of proposals. At this time, I must commend the armed forces of both the United States and South Vietnam for progressing so well in the past 20 months.

The American people are prepared to follow the President's lead, recognizing that the enemy is far from our position, that American boys are still far from home, and that the struggle is still not over.

Ours has not been an easy role to play in the tragedy this war has inflicted on American life and spirit. But we are Americans, and we honor our commitments and live by our word.

Today the American people are united in hope, determined in will and strengthened in spirit as we go forth on this newest quest for peace, a peace so badly desired by every American. I join with them in their desire to see the beginning of a generation of peace.

The fair and generous proposals made by the President last night seem hard to refuse, but if the other side does reject this latest initiative—if peace cannot be won at the conference table—I am confident that the Vietnamization program will continue to succeed, the withdrawal of American troops from Southeast Asia will continue to be made, and the road to peace and security will continue to be traveled.

PERSONAL ANNOUNCEMENT

Mr. CHAMBERLAIN. Mr. Speaker, it was necessary for me to be absent on Monday past, while I was in Michigan, and I was unrecorded on rollcalls No. 326 and No. 327. I should like for the RECORD to show that had I been present I would have voted "yea" in both instances.

THE PRESIDENT'S NEW PEACE PROPOSALS

(Mr. RIEGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIEGLE. Mr. Speaker, I wish to congratulate the President for his new peace proposals and to indicate my endorsement of this new U.S. initiative.

With respect to proposal No. 4, I am hopeful that the language used by the President last night will allow for the formation by negotiation of a new mixed provisional government in South Vietnam, which would:

First. Be acceptable to all parties to the dispute;

Second. Equitably represent the various contesting factions in South Vietnam; and

Third. Which would be subject to ratification or rejection by free elections in South Vietnam.

If this alternative is now available to break the deadlocked negotiations, then I believe we may finally be able to overcome the impasse at the conference table in Paris.

REQUEST FOR WITHDRAWAL OF OIL TANKERS FROM MOTHBALL FLEET

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURKE of Massachusetts. Mr. Speaker, today I sent a message down to the White House with a request that the President bring about the release of at least 15 of the Navy oil tankers that are tied up in the mothball fleet.

Part of the excuse given for the shortage of fuel oil in the Northeast section of the United States is the shortage of oil tankers. It seems to me to be unreasonable for the Navy Department to have these oil tankers tied up in the mothball fleet rusting away when millions of Americans are faced with a shortage of fuel oil in the coming months.

In New England the hospitals, schools, and institutions are all faced with dire shortages. It seems to me that the White House should act immediately, should act forthwith. It is my understanding if they do these oil tankers can be put into condition within 60 days; in other words, these tankers could be in use on or before December 15, 1970.

KING RANGE NATIONAL CONSERVATION AREA

Mr. BARING. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 12870) to provide for the establishment of the King Range National Conservation Area in the State of California, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 6, strike out "10" and insert "9".

Page 5, line 12, strike out "10" and insert "9".

Page 8, line 20, strike out "10" and insert "9".

Page 8, line 22, strike out "7" and insert "6".

The SPEAKER. Is there objection to the request of the gentleman from Nevada?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 19590, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1971

Mr. YOUNG. Mr. Speaker, by direction of the Committee on Rules and on behalf of the distinguished chairman (Mr. Colmer), I call up House Resolution 1237 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1237

Resolved, That upon the adoption of this resolution, notwithstanding any rule of the House to the contrary, it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 19590) making appropriations for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes, and all points of order against said bill are hereby waived.

The SPEAKER. The gentleman from Texas (Mr. Young), is recognized for 1 hour.

Mr. YOUNG. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from California (Mr. Smith), pending which I yield myself such time as I may require.

(Mr. YOUNG asked and was given permission to revise and extend his remarks.)

Mr. YOUNG. Mr. Speaker, House Resolution 1237 provides for consideration of H.R. 19590, making appropriations for the Department of Defense for fiscal year 1971, by waiving the 3-day layover rule and the resolution also provides that all points of order against the bill are waived.

There is lack of legislative authorization affecting appropriations for procurement, research, development, test, and evaluation activities in approximately 20 instances.

The bill would limit the period of availability of funds appropriated affecting approximately 16 appropriations.

For these reasons, the Committee on Rules granted the blanket waiver of points of order on the bill, and Mr. Speaker, I urge the adoption of the rule.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I concur in the remarks made by the distinguished gentleman from Texas (Mr. Young). We have been waiting for this bill for a good many months. We would like to dispose of it, if we can, today and get home to campaign.

I certainly urge acceptance of this resolution so we can get started with this important bill.

Mr. YOUNG. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. MAHON. Mr. Speaker, before I move to go into the Committee of the Whole, I should like to ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill (H.R. 19590) making appropriations for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes, and to include pertinent extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1971

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into the Committee on the Whole House on the State of the Union for the consideration of the bill (H.R. 19590) making appropriations for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes; and, Mr. Speaker, pending that motion I ask unanimous consent that general debate be limited to not to exceed 3 hours, with the time to be equally divided and controlled by the gentleman from Ohio (Mr. Minshall) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 19590, with Mr. Rostenkowski in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Texas will be recognized for one and a half hours and the gentleman from Ohio (Mr. Minshall) will be recognized for one and a half hours.

The Chair now recognizes the gentleman from Texas (Mr. Mahon).

Mr. MAHON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we come to the consideration of the largest and in some respects the most important money bill of the session. It is the bill which provides the funds to promote the cause of peace and the security of the United States.

Throughout all the years that I have worked in the field of defense appropriations my objective has been to help maintain our military superiority and provide sufficient military strength to deter war and promote the security of our country. I am pleased to say that the Committee on Appropriations is dedicated to the cause of national defense and the preservation of our liberties.

I think it can be appropriately said, Mr. Chairman, that many of the remarks that I would like to make in regard to this bill are embraced in the committee report. In a sense, the committee report—certainly the first few pages—represents many of my views in regard to current defense matters. That report has been available to the Members of the House, the press, and the public since Tuesday morning.

In the bill and in the report we did not sweep any problems under the rug. We undertook to present the Defense appropriation bill in a forthright way. In writing this bill, we did not want to take any chance of doing injury to the security of the country. We felt if we should err, we should err, as the distinguished Speaker has so often said, on the side of strength.

Mr. Chairman, the cuts which we propose were made in order to obtain better control over defense spending and to tighten up management of defense expenditures. For a number of years we have been trying to put the bridle on defense spending in order that the Congress could more adequately control it.

As one who comes from the far Southwest I know something about the bronco and the mustang and I know they are very valuable animals especially if they have the bridle on and if they are trained to use their energy for good purposes.

We have had a great deal of trouble in the past with the management of the Defense Department. The problems are huge and complex. Some mistakes are inevitable. No human being can be fully aware of every facet of every problem.

I pay tribute to the dedication of the men and women who work in defense. Their aims are laudable. But, the Defense Department has been operated in such a way in all administrations, especially with respect to procurement and management, that some considerable deserved criticism has been brought upon them in the administration of defense affairs.

There was an urgent plea made to the committee that we provide large sums of money for public affairs for activities relating to the image of the Department, for publicity and public relations. I said to one of my Defense Department friends, "What you need is not more money for cosmetic purposes, for taking people on tours and all those kinds of things; what is needed is more efficiency and better management. This is the best way to improve the image of the Defense Department. Better management will give the Congress and the American people the feeling that they are getting a dollar in value for a dollar expended."

And, I say to you frankly that if the erosion of the image of defense management continues in the Congress and the country, the time may come when it will be difficult and perhaps impossible for those of us who will be desperately pressing to provide for the security of this country to get the money and support necessary. President Nixon referred to our country last night as the "strongest Nation in the world." We must take the necessary steps to keep it so.

It was with that in mind that this bill was written and it is in that spirit that this bill is presented to you today.

Funds for public relations cannot easily erase images created by spectacular evidence of defense bungling. A job well done is the better part of public relations. And I am right about it, and I think you will agree.

So here we are with this bill today, and we hope that we have made a more significant step than we have made in past years in tightening up defense operations. Our objective is better control of the purse and more value for the defense dollar.

As we go through this debate—and I hope I am not going to speak at length—I have no written speech, I would rather

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speak to you straight from the shoulder and right from the heart, because I feel very keenly about the business before us today.

Secretary Laird, Deputy Secretary Packard, and all the defense people cooperated fully with the committee during the long months of preparation of the bill before us. These people are able and dedicated, and we want to help them do the best possible job.

Deputy Secretary Packard occupies an especially important job with respect to procurement and management problems with industry. He recognizes the problems which are confronting the country, and the defense industries. He recognizes the power of the so-called military-industrial complex, and he has had the nerve to speak out and tell the American people something about the problems which confront the Defense Department, and I commend him for it.

Of course, he only took office last year and he had been in office only a few short months when this Defense budget was prepared last fall.

Since the budget was prepared the Deputy Secretary of Defense made a speech about tightening up our defense program, and it is most compelling. He made it in California on the 20th of August of this year before the Armed Forces Management Association. He made reference to the work of the Blue-Ribbon Defense Panel—and I think much of what the panel has done is going to be helpful. The panel made an extensive study over a period of months and recommended many changes that might be brought about to improve defense management. I would like to quote a few paragraphs from Mr. Packard's speech:

> Secretary Laird and I intend to move ahead as quickly as possible to put most of the 113 recommendations into effect. * * *
>
> In short, the problem is not the people—it's the system. * * *
>
> I am only embarrassed that we haven't done a better job. * * *

The committee seriously questioned the wisdom of the Army policy which permits Army generals to take 32 weeks to learn to fly helicopters at a time when the best executive management is needed to serve defense needs.

I continue to quote from Deputy Secretary Packard's speech of August 20.

> Let's face it—the fact is that there has been bad management of many Defense programs in the past. We spend billions of the taxpayers' dollars; sometimes we spend it badly. Part of this is due to basic uncertainties in the Defense business. Some uncertainties will always exist. However, most of it has been due to bad management, both in the Department of Defense and in the Defense industry. * * *
>
> Frankly, gentlemen, in Defense procurement, we have a real mess on our hands, and the question you and I have to face up to is what are we going to do to clean it up. * * *
>
> On the other hand, when we are not in a hurry to get things done right, we over-organize, over-man, over-spend and under-accomplish. * * *
>
> In my memo I talked about policies for development of new weapon systems. The lesson that comes through loud and clear here is we should buy only what we need—not systems you or anyone else thinks they can develop to do something that doesn't need to be done. The Defense Department has been led down the garden path for years on sophisticated systems that you promised would do all kinds of things for some optimistic cost. Too frequently we have been wrong in listening to you, and more frequently you have been unable to deliver on either of these promises—what it would do or what it would cost. And we in the past have sometimes been guilty of over-optimism on our cost estimates and over-demanding in our requirements. We share the blame together, but the mistakes of the past cannot be repeated if we are to provide for the nation's defenses in today's climate of a critical public and a critical Congress. We are going to buy only things that we need, and we are going to make sure they work before we buy. The same thought carries over into full-scale development and production. We must know what we are going to do and how to do it before we go into production. We are not going to put things into development until we are sure we need them, and we are not going to put things into production until we are sure that they work. * * *

I believe you will agree that the words of the Deputy Secretary of Defense speak for themselves.

Now, the following amount will have been appropriated for national security purposes in 1971 by the House if this bill is approved today.

In this bill is $66.6 billion—$66.6 billion out of $68.7—a 3.5-percent reduction.

For military construction $1.9 billion, which is in another bill.

For military assistance $350 million, also in another bill.

For atomic weapons—not in this bill at all—$932 million.

For civil defense $72 million.

For defense $70 billion. If we are not getting a dollar in value for each dollar expended, if we cannot get huge defense dividends for $70 billion, there is something wrong with the system.

That is what Mr. Packard told the industry group to their teeth out in California. I take my hat off to him for laying it on the line.

What do we do in this bill? We are giving the Secretary of Defense, among other things, realizing the dangerous world we live in, $600 million in specific transfer authority so he can meet emergencies that may arise. This gives added flexibility to the Secretary and make us feel more comfortable about some of the reductions which we have made.

The report in the first part states what we actually did by way of the budget in selected areas of committee action. We note procurement funds which failed of authorization total $532 million. The procurement authorization bill cut that part of the defense program by 5½ percent. We cut the budget in this bill by only 3.5 percent. This is what we say in our report:

> REPORT OF COMMITTEE ON APPROPRIATIONS
>
> The Committee on Appropriations submits the following report in explanation of the accompanying bill making appropriations for the Department of Defense for the fiscal year ending June 30, 1971.
>
> APPROPRIATIONS AND ESTIMATES
>
> Appropriations for the military functions of the Department of Defense, including military assistance related to the conflict in Southeast Asia, are provided for in the accompanying bill for the fiscal year 1971. This bill does not provide for other military assistance, military construction, military family housing, or civil defense, which requirements are considered in connection with other appropriation bills.
>
> The new budget (obligational) authority enacted for the fiscal year 1970, the President's budget estimates, and amounts recommended by the committee for the fiscal year 1971 appears in summary form in the following table:

SUMMARY OF BILL BY MAJOR CATEGORIES

Functional title	Appropriation, fiscal year 1970 (new budget obligational authority)	Budget estimate, fiscal year 1971 (new budget obligational authority)	Committee bill	Committee bill compared with—	
				Appropriation, fiscal year 1970	Budget estimate, fiscal year 1971
Title I—Military personnel	$23, 007, 914, 493	$21, 032, 800, 000	$20, 689, 300, 000	−$2, 318, 614, 493	−$343, 500, 000
Title II—Retired military personnel	2, 859, 000, 000	3, 194, 000, 000	3, 194, 000, 000	+335, 000, 000	
Title III—Operation and maintenance	21, 534, 995, 495	19, 512, 045, 000	19, 213, 630, 000	−2, 321, 365, 495	−298, 415, 000
Title IV—Procurement	17, 858, 373, 462	17, 358, 600, 000	16, 243, 810, 000	−1, 614, 563, 462	−1, 114, 790, 000
Title V—Research, development, test, and evaluation	7, 406, 748, 694	7, 345, 600, 000	6, 954, 700, 000	−452, 048, 694	−390, 900, 000
(Transfer authority)	(150, 000, 000)	(150, 000, 000)	(150, 000, 000)		
Title VI—Combat readiness, South Vietnamese Forces		300, 000, 000	358, 500, 000	+358, 500, 000	+58, 500, 000
(Transfer authority)		(150, 000, 000)	(150, 000, 000)	(+150, 000, 000)	
Title VII—Special foreign currency program		2, 621, 000	2, 621, 000	+2, 621, 000	
Title VIII—General provisions (additional transfer authority sec. 836)	(200, 000, 000)	(300, 000, 000)	(300, 000, 000)	(+100, 000, 000)	
Total, Department of Defense	[1] 72, 667, 032, 144	68, 745, 666, 000	66, 656, 561, 000	−6, 010, 471, 144	−2, 089, 105, 000
Transfer authority	(350, 000, 000)	(600, 000, 000)	(600, 000, 000)	(+250, 000, 000)	
Distribution by organizational component:					
Army	23, 267, 941, 402	20, 210, 665, 000	19, 592, 411, 000	−3, 675, 530, 402	−681, 254, 000
Navy	21, 681, 703, 671	21, 200, 700, 000	20, 530, 303, 000	−1, 151, 400, 671	−670, 397, 000
Air Force	23, 065, 431, 678	22, 055, 600, 000	21, 280, 386, 000	−1, 785, 045, 678	−775, 214, 000
Defense agencies/OSD	1, 792, 955, 393	2, 084, 701, 000	2, 059, 461, 000	+266, 505, 607	−25, 240, 000
Retired military personnel	2, 859, 000, 000	3, 194, 000, 000	3, 194, 000, 000	+335, 000, 000	
Total, Department of Defense	[1] 72, 667, 032, 144	68, 745, 666, 000	66, 656, 561, 000	−6, 010, 471, 144	−2, 089, 105, 000
(Transfer authority)	(350, 000, 000)	(600, 000, 000)	(600, 000, 000)	(+250, 000, 000)	

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[1] Includes $760,264,144 allocated from the lump-sum indefinite appropriation in title III, Second Supplemental Appropriation Act, 1970, for the general 6 percent retroactive pay increase.

SCOPE OF THE BILL

The Committee considered budget estimates totaling $68,745,666,000 as presented in the President's Budget for fiscal year 1971.

The accompanying bill recommends appropriations in the total amount of $66,656,561,000, a decrease of $2,089,105,000 below the estimates and $6,010,471,144 below the appropriations enacted for fiscal year 1970.

Congressional action on the authorization bill mandated reductions from budgeted amounts totaling $776,000,000.

The net reductions recommended are three percent of the estimates. Ninety-seven percent of the sum requested is recommended for appropriation.

The sums recommended, when added to the balances remaining available on June 30, 1970, will make a total of $74,000,000,000 available for obligation and a total of $105,000,000,000, including obligated and unobligated funds, available for expenditure in fiscal year 1971.

The specific transfer authority granted the Secretary of Defense is recommended to be increased from $350,000,000 to $600,000,000.

The sums recommended for appropriation are considered to be sufficient to maintain adequate military strength in Fiscal Year 1971 and will provide a basis for carrying that strength forward into subsequent fiscal years. The reductions recommended can be accommodated without denying programs essential to the basic military strength of the country. Many of the actions recommended are intended to provide an increase in military strength through the elimination of practices which tend to dissipate real military strength.

A brief summary of the major areas in which changes from the budget are recommended follows:

Selected major areas of committee action

Procurement funds which failed authorization	−$532,600,000
Research, development test, and evaluation projects not approved in authorization action	−244,000,000
Deferral of production of items on which development and testing is not sufficiently completed	−500,000,000
Funding of naval ships not included in the Budget	+417,500,000
Shortfalls in military personnel resulting from decision of Department not to maintain strength levels proposed in the Budget	−203,450,000
Reduction in numbers of personnel in departmental headquarters	−59,500,000
Civilian personnel reductions	−$48,130,000
Reduction in automatic data processing	−43,300,000
Increase for Vietnamization program	+58,500,000
Reduction in permanent change of station travel for the purpose of providing more stability in military assignments	−95,200,000

[The details of these and other reductions are described hereafter in this report.]

BASIS OF CONSIDERATION

The Committee on Appropriations is dedicated to maintaining the military superiority of the United States. Over the years the Congress has provided the money to accomplish this, and the funds recommended in the accompanying bill are deemed sufficient for fiscal year 1971.

But the competition with the Soviet Union is becoming keener everyday and there is no room for American bungling in the field of defense. In order to maintain our capability over the long-pull, a better job of managing defense dollars must be done. This fact has been a dominant consideration in the drafting of the bill which accompanies this report.

The American people know that the generous outpouring of defense dollars will not in itself get the job done. It does take money to do the job, but it takes money wisely spent and based upon down to earth planning.

The Soviet Union continues to increase its inventory of land-based intercontinental ballistic missiles and sea-based submarine launched ballistic missiles. Soviet naval forces are being augmented steadily and modernized both in surface ships and in submarines.

Although the direct involvement of the United States in the war in Vietnam is decreasing from the peak when 543,000 American military personnel were in the area, we still will have according to the latest estimates, not more than 284,000 personnel in Vietnam in the spring of 1971, a reduction of 259,000 or more, about one-half. Spending for the war in Southeast Asia is expected to decline from a high of almost $30 billion to a rate of $14.5 billion by the end of fiscal year 1971.

The Strategic Arms Limitations Talks have not as yet become a significant factor in permitting a major reduction in defense spending.

This is not a time in which we can afford a "Business as usual" relaxed approach to the management of defense programs. The best performance of our best civilian and military personnel is required for our long range security.

The country has every right to expect that the appropriation of more than $66,000,000,000 will provide formidable military forces throughout fiscal year 1971. Military personnel strength at the end of the fiscal year is estimated to be 2.9 million. The Navy will have 757 commissioned ships in the active fleet including 41 Polaris and Poseidon submarines carrying 656 ballistic missiles and the Air Force will have 1,054 ICBMs on launchers and an active inventory of 13,352 aircraft. These forces, which are described in more detail under "Major Military Programs" later in the report should be adequate to meet the contingencies which may arise.

The effectiveness of the Department of Defense cannot be measured solely in terms of the dollar level of expenditures. Unlimited resources do not overcome inefficiency and mismanagement. Instead, excessive funding produces more inefficiency and mismanagement. What this country needs is more defense for the dollar, not necessarily more dollars for defense.

MIDDLE EAST

The tense situation in the Middle East is of grave concern to the committee. The deepening involvement of the Soviet Union and the danger to world peace resulting from such involvement cannot be ignored by the United States.

In recognition of this situation, the Congress approved section 501 of H.R. 17123, the defense authorization bill.

Funds for this purpose are handled through the military assistance program.

STRATEGIC FORCES

Unless there is substantial progress in the current Strategic Arms Limitation Talks or some other arms limitation agreement, we may be required to begin another large step forward to buttress our strategic military strength. More Polaris type submarines and more Minuteman missiles on lauchers may be required.

While statements presented to the Committee expressed alarm over the growing Soviet strategic power in submarine and land-based intercontinental missiles on launchers, neither the budget nor the authorization bill proposed any funds for additional strategic missiles on launchers at this time. Our country has not yet crossed this bridge, but if there is no arms limitation agreement and the Soviet buildup continues, we must increase our strategic forces or be strategically outgunned.

DEFENSE DEPARTMENT MANAGEMENT

One of the major objectives of many of the reductions which have been recommended by the Committee in the accompanying bill is to tighten up the operations of the Department of Defense and make the Department more efficient for the critical times ahead.

What is said in the report by way of criticism of the Defense Department should not be construed as special criticism of the present holders of defense positions. Our concern relates to problems and procedures of long standing which have been recognized by high Defense officials.

Too often in the past, funds have been appropriated for weapons and other objectives when Defense officials said they needed the money, only to find during the hearings in the following years, that they did not use the money for the purposes for which it had been appropriated. This practice has tended to downgrade the appropriation process. For example, over the last nine years, Congress has appropriated over $1,600,000,000 for 71 new ships and ship conversions which have been canceled by the Navy and most of the funds have been diverted to other shipbuilding programs.

Too often, budget estimates have been made without firm foundations.

This is evidenced by the high level of reprogramming of defense funds which has taken place. For the past fiscal year, 1970, individual reprogramming actions for all purposes received by the Committee involved 299 increases totaling $2,431,763,000 and 422 reductions totaling $2,313,427,000, for a total dollar change of more than $4.7 billion.

Some of these changes were minor. Some merely involved technical budgetary adjustments. But some involved major programs and major national defense decisions. All represent changes to Defense Budget programs presented to Congress and enacted by the Congress. Major programs changed include the Safeguard ABM, the F–14 and F–111 aircraft, the DD 963 destroyer program and other ships and claims for cost overruns in prior year shipbuilding programs, restoration of the USS Guitarro (SSN–665), and Minuteman missiles. In addition, a number of "below the threshold" reprogramming which, under present procedures, do not come before the Committee, have been accomplished.

The Committee does not propose to eliminate the reprogramming process. It fully realizes that some degree of flexibility is necessary. But, the Committee does believe that a better job should be done in defense planning and that better planning would be reflected in fewer reprogrammings. The volume of reprogrammings is a strong indication that much defense planning is superficial and without firm foundation.

DELAY IN REPORTING BILL

The Committee regrets that the Defense Appropriation Bill is being presented at a late date again this year.

The Defense bill was scheduled to be reported from the Committee on Appropriations on June 3, 1970. The Committee completed the hearings on May 13th, exactly on the schedule laid down early in the year, and would have been able to meet the reporting schedule. However, most procurement and all research, development, test, and evaluation appropriations have, in recent years, required annual authorization. The annual authorization legislation conference report did not clear Congress until October 1. The

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House passed the authorizing legislation on May 6, the Senate on September 1. The conferees met first on September 22.

After authorization levels are established on a bill of the magnitude, importance, and complexity of the Defense Appropriation bill, it is desirable that the Appropriations Committee have a reasonable time in which to review the hearings, reach decisions on the many items involved in the bill, write an adequate report, and present the bill to the House of Representatives.

The lateness of the passage of the bill complicates efforts to effectively manage the programs of the Department of Defense. Program managers cannot firmly plan their efforts. Congress is to some extent frustrated in efforts to accelerate or reduce programs since spending for much of the fiscal year is accomplished under continuing resolutions and substantial spending takes place prior to final Congressional action. Programs which Congress wishes to delete or modify continue under the Continuing Resolution and savings which should result from Congressional reductions are diminished. Reductions made late in the fiscal year give Departmental managers a very short time to react to and implement Congressional decisions. Congress must make thorough reviews of Defense budgets, but Congress also needs to improve the timeliness of its actions.

CLOSER CONTROL OF CARRYOVER BALANCES

In its action on the Defense Appropriation Bill for Fiscal Year 1970, the Committee recommended the enactment of limitations which would have made appropriations for Procurement and Research, Development, Test, and Evaluation available for obligation for specific periods of time rather than available until expended. This action was recommended as a means of tightening Congressional control of Defense Department appropriations. The action recommended would have reduced the unobligated and unexpended balances in Defense Appropriations.

When funds remain available until expenditure, financial managers can recoup sums when contracts are cancelled, contingency funds are not utilized, programs slip or are changed in scope, or in other ways. Such funds are held and are applied to other programs as required in subsequent years. A recent example is in a reprogramming request submitted to the Committee on September 24th which "found" unexpended funds from fiscal years 1961, 1962, 1963, 1964, 1965, and 1966, primarily from the construction of POLARIS submarines, as a source of funding. The availability of these funds makes defense planners, to a limited extent, immune from tight Congressional fiscal control.

The Committees involved with defense funding apply a degree of control through the reprogramming process. Changing the present "no-year" appropriations to multiyear appropriations would provide an additional measure of control to the whole Congress.

The House concurred in the Committee's recommendation last year and the provisions referred to were included in the bill passed by the House.

The Senate Committee concurred in the objectives of the House but, after appeals made by the Defense Department, substituted an alternative proposition which continued "no-year" appropriations but required that future budget submissions identify all old balances and recommend them for rescission. The House agreed to the Senate proposition in conference.

The alternate procedure has proven to be difficult and confusing in operation. The fiscal year 1971 budget reported certain amounts for rescission, but contrary to the understanding given the House conferees, included like and offsetting amounts in the budget over and above the program amounts required. This made the proposed rescission action ineffective in reducing balances in that a rescission or reduction in new obligational authority is required in order to reach the budget authority or "President's Budget" amount.

Thus, as presented in the 1971 Budget, the rescissions recommended did not reduce balances since they were offset by appropriation requests in excess of program requirements. The sums appropriated above program requirements then become part of the unobligated balance. This is a fiscal game in which the Committee will not participate.

Further, the amounts estimated for rescission appear to be based on very optimistic obligation rates. Probably, considerably larger amounts should have been reported for rescission.

In order to reduce balances as was anticipated in the enactment of the alternate legislation last year, in the accompanying bill the committee has in each instance made an additional reduction in the same amount as the sum reported for rescission. This second reduction is a valid reduction in the new budget authority requested. The authorizing legislation included similar action.

Additional confusion was created by the way in which the estimates were presented to the authorizing committees. The submission of the Defense Department made it appear that a single reduction from the appropriation estimates would be a reduction in the budget request and erroneously ignored the rescission requirement entirely.

The Committee feels that the language proposed in the accompanying bill is more straightforward and clear and will effectively reduce unobligated balances. The language is the same, except that the dates are changed to reflect the passage of a year, as the language adopted by the House last year.

Appropriations for most major procurements will be available for only three fiscal years, shipbuilding appropriations will be available for only five fiscal years, and research, development, test, and evaluation appropriations will be available for only two fiscal years. The Defense Department recognizes these terms as approximate average spendout periods and in its internal operations requires that the military departments obtain the approval of the Secretary of Defense for the reutilization of any balance available beyond these time periods.

I have been complaining to the Defense Department, as others have for years, "Why don't you put a man on the job and give him time to do it?" Often about the time the project begins to flounder, he is transferred somewhere else.

If you were to run an American business and had a man on the job for a few weeks, a few months, or maybe a couple of years or a bit more, and then transferred him to some other job, you would often have nothing but chaos. That is one of the reasons we have had so much inefficiency in the Department of Defense. Officials often do not let people stay in jobs long enough to know what it is all about. If there is anyone who has hit that point hard, it is that great and admirable military statesman, Admiral Rickover. I am told by officials in the Pentagon that something is going to be done about this. I believe a policy change is in the offing and that is very encouraging. We can get a lot more for our money, and have less likelihood of tax increases, and perhaps additional funds for other programs of a high-priority nature if this can be achieved.

I could go on at great length, Mr. Chairman, but let me quote further from our report:

PERMANENT CHANGE OF STATION TRAVEL

The Committee has long been critical of the frequency with which the services move their people from assignment to assignment. It has been a common practice of the Committee for many years to apply reductions to this area. However, even though the reductions have been made, the services have shown only modest improvement in this area.

During this year's hearings many pages of testimony were devoted to the very serious retention problems now being experienced by the services. One of the major factors leading young officers and enlisted personnel to resign from the service is the frequency with which they are shuffled from assignment to assignment. Yet the rotation policies of the military departments continue unabated.

The Blue Ribbon Defense Panel in their Report to the President and to the Secretary of Defense was highly critical of current rotation policies. The Panel in their report stated:

> Officers and enlisted men are rotated among assignments at much too frequent intervals.
>
> It is clear from the evidence that the rotation practices which have been followed result in (a) excessive and wasteful cost, (b) inefficiencies in management, and (c) difficulty in fixing responsibility.

A staff study of Army, Navy and Air Force promotions to General Officer and Flag rank in 1969 revealed this situation: there were 174 officers in the group and their average service was 24 years; these officers had been given 3,695 assignments, or an average of 21 per man; the average duration per assignment was 14 months.

Looked at another way, the average officers had spent: 8 years in Operational assignments, 5 years in Service Schools and other educational assignments, and 11 years in Staff Assignments.

For fiscal year 1971 the budgets of all branches of the service reflect a reduction in Permanent Change of Station Travel below their 1970 budgeted level. However, this reduction results from decreases in troop strength and not from any improvements in rotation policy. These reductions are reflected in the following table.

PERMANENT CHANGE OF STATION TRAVEL

	Fiscal year 1970	Fiscal year 1971	Reduction
Army	$613,441,000	$524,691,000	—$88,750,000
Navy	264,898,000	229,965,000	—34,933,000
Marine Corps	106,860,000	105,125,000	—1,735,000
Air Force	418,150,000	414,760,000	—3,390,000

While the Committee applauds the above reductions it must be reemphasized that these reductions do not reflect improvements in rotation policy. Therefore, the Committee has applied an additional reduction of 10 percent to each service. However, because of the fact that the fiscal year is now one-fourth over, a 10 percent reduction applied to three-fourths of the year will result in a dollar savings of 7.5 percent. This additional reduction totals $95,175,000.

The Committee appreciates the problems faced by the Military Departments in connection with the high volume of personnel movement necessitated by our commitments in Southeast Asia. This has been taken into account in determining the appropriate reduction and the Committee's action in no way interferes with the funds required to support our withdrawal plans or any permanent change of station moves that will result from such plans.

The current rotation policies of the Military Departments are unrealistic and must be revised. The Committee expects the Department of Defense to thoroughly review existing policy and procedures and to initiate the necessary changes. The Department of Defense is directed to report to the Committee the changes in the permanent change of station assignment regulations as developed. The Committee likewise intends to closely scrutinize the budget request for fiscal year 1972 for Permanent Change of Station Travel and will expect to see a budget request that reflects meaningful change in existing rotation policy.

I might mention one other thing. I have here a newspaper article of August 3 which tells about our firing of a Poseidon missile, the follow-on to the Polaris missile, 20 miles off the coast of Florida. A Russian ship was a short distance from the firing point. We were being rushed more or less by the Soviet ship. Then, after the successful firing, when we attempted to pick up the debris, the Russian ship ran across the bow of our Navy ship, and our ship had to reverse at full speed in order to prevent a collision.

Do indignities like that grow out of the fact that America is weak? Is it evidence that we are weak that these kinds of things happen? Is it because the defense budget is too small? Of course not. That is ridiculous. There was the hijacking on the high seas of the U.S.S. *Pueblo*. Did that little Asian country, which we could liquidate in a few hours, do that because of the military weakness of our country? Was it because of the weakness of our Army or Navy or Air Force? Of course not. We had the power to react, but we chose another course, and I am not passing judgment on the course we chose.

Our lack of military might was not a factor in this incident. Some people do not seem to understand that.

Do Members think the trouble in the Mediterranean is because of the military weakness of the country or the lack of the expenditure of defense dollars by the American people? Do Members think that? Of course not. We know of the troubles which have arisen in the Mediterranean area and of the inroads which have been made by the Soviet Union. Military might has not been the controlling factor.

What I am trying to say is that money will not buy everything. It is not the only factor in the equation. Money cannot give will and stability to people. We do have to spend a great deal of money, and I think the defense budget may be higher next year in some respects if the Soviet Union, which is almost as strong as this country now—although the President spoke last night and referred to us as the most powerful Nation in the world, and, of course, he is right—continues to build up its intercontinental ballistic missiles or the equivalent thereof in submarines, and if the arms limitation talks do not work out successfully, and the arms race continues. If this happens we are going to be outgunned strategically unless we increase our strategic power—and that would mean more intercontinental ballistic missiles. I hope the limitation talks will prove successful. If not, and the arms race continues, more Polaris submarines will be required, in my opinion. I strongly support the submarine launched missile as a deterrent to war.

What I am trying to say is if the President in his peace efforts—and he is devoting his best energy to peace—fails, we, in order to prevent our becoming a military second-class nation, are going to have to spend more in certain areas of defense. I just want to say that bluntly at this time, because in the interests of defense, the Committee on Appropriations believes we must do what is necessary to be strong. Regardless of cost, we must do that which is necessary to preserve the dignity and strength of the United States.

Mr. BYRNES of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Wisconsin.

Mr. BYRNES of Wisconsin. Mr. Chairman, I appreciate the gentleman's remarks with respect to the defense bill, which is currently before us, but I would like to inquire as to whether the gentleman intends in some way to advise the House, before we recess next week, as to where we stand in the area of appropriations vis-a-vis the budget, and with respect to items that will still be held over, and where they are, and what will be before us when we reconvene in November.

I believe many Members would appreciate having a compilation or a tabulation when they go home with respect to where we stand as of the recess next week, and what remains before us.

Mr. MAHON. The gentleman has asked a very pertinent question.

Mr. Chairman, it now appears that in the 14 regular annual appropriation bills dealing with the current fiscal year 1971, the Congress will, in the aggregate, hold the approved total somewhat below the total requested by the President. It is too early to be too precise about the amount, but it seems clear that Congress will probably be below the President's requests in the appropriation bills—perhaps in the range of $1 billion, give or take a few hundred million.

In other words, the Members can say there is every indication that when this Congress adjourns, whenever it is after the election, we will be below the President's budget in the appropriation bills. Just exactly what the figure will be I do not, of course, know at this time, but perhaps it will be in the area of $1 billion, give or take.

Mr. BYRNES of Wisconsin. I am asking the gentleman whether he will have a compilation as to where we stand that he will be able to put in the RECORD or in some way make available to the membership as to each of the appropriation bills on which we have acted, and what is the status of bills that have not gone to the White House as of the time we recess next week. I wonder if the gentleman could do that, either through his staff on the Appropriations Committee of the Joint Committee on Reduction of Federal Expenditures.

I would say to the gentleman, I have difficulty reconciling his last statement with the last report issued by the Committee on Reduction of Federal Expenditures. It seems to me—and perhaps the gentleman's recollection is better than mine—that the last report of that committee showed we were exceeding the budget in any number of areas, either in the House or in the Senate or in both.

Mr. MAHON. The gentleman is referring to a different aspect of the matter. I thought we were referring only to the appropriation bills.

On the nonappropriation bills, in mandatory Treasury spending through backdoor devices or otherwise, the latest budget scorekeeping report showed we were over $2 billion above the budget, mainly by reason of bills from the legislative committees. But, of course, many of the bills—both appropriation and nonappropriation—have not been finalized.

I do not know what the final outcome will be.

Mr. BYRNES of Wisconsin. The gentleman's figure of a billion dollars under the budget, I assume, does not take into consideration the excess over the budget contained in the Independent Offices appropriation bill which was vetoed?

Mr. MAHON. Yes, I was hazarding a guess as to the probable final outcome for all of the 14 regular annual appropriation bills, including a new bill to replace the vetoed bill. Of course that bill, when it passes, will, I assume, be below the total of the one the President vetoed. But even taking that into consideration we are still below the budget, or will be, on the appropriation bills. In the other bills, of course, it looks like a different story.

Mr. BYRNES of Wisconsin. Would the gentleman advise me—he has not advised me yet—whether it will be possible for him to have a compilation as to where we stand which will be available to us when we recess next week?

Mr. MAHON. We certainly will do so. We had planned to do so, just as we have been doing periodically.

Mr. BYRNES of Wisconsin. Then, you will have a current one for us up to date in the early part of next week?

Mr. MAHON. That is correct.

Mr. BYRNES of Wisconsin. I thank the gentleman.

Mr. ADDABBO. Will the gentleman yield?

Mr. MAHON. I yield to the gentleman.

Mr. ADDABBO. On page 5 of the report we discuss the serious question of the Middle East. In the defense authorization bill we have a section 501 relative to aid in that area. Are there any funds or is there any provision in the appropriation bill that would cover any aid for that area?

Mr. MAHON. Yes. There are funds in this bill which would be available for increasing American strength in the Middle East area. Of course, we are aware of elements of the U.S. fleet which we have recently sent there at a cost of $50 million, that is when we compute related costs. So these funds are in some respect available for increasing our strength in that part of the world.

Mr. ADDABBO. Relative to the authorization in the defense authorization under section 501, are those funds stated under the foreign assistance military assistance program?

Mr. MAHON. These have not been provided, but no doubt there will be an increased amount proposed to be made available for American participation in the way of aid, and that will be in a

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budget estimate that will come later in this session.

Mr. ADDABBO. I thank the chairman.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, the committee report refers in its remarks on page 5 to funding the provisions for military sales credits for Israel under the "Military Assistance Program." Am I correct in assuming that this is really a descriptive term and that the funds will eventually be appropriated pursuant to the Military Procurement Act?

Mr. MAHON. I do not know at this time just how the funding request will be forwarded to Congress. I know and I have on very high authority that a budget estimate will be submitted at a later date. How it will be handled by Congress will be determined at that time. I cannot tell how the request will be transmitted to Congress.

I yield to the gentleman from Louisiana (Mr. PASSMAN) for an answer on that.

Mr. PASSMAN. Thank you, Mr. Chairman.

I assume the gentleman's question had to do with the military assistance for Israel.

Mr. FOLEY. Yes, indeed.

Mr. PASSMAN. I spoke with General Warren this morning, and in all probability, at a very early date, there will be a budget request for a supplemental and as quickly as the supplemental request reaches the House I am sure it will be referred to my committee and we will immediately start hearings in order to bring it out as expeditiously as we can. Does that answer your question?

Mr. FOLEY. My question, Mr. Chairman, was for the purpose of correcting what I believe is a possible misunderstanding which could arise from the committee report. I assume that the reference in the committee report to military sales credits for Israel under the military assistance program is merely descriptive and that actually such funds will be appropriated pursuant to section 501 of the Military Act.

Mr. MAHON. The President can request funds under section 501 of the authorization act as he sees appropriate. The fact that section 501 is carried in one bill does not mean that this would necessarily control the appropriation. I think I have taken so much time, Mr. Chairman, and I know Members would like to get on with the bill, that I think I must not take further time.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Chairman, members of this committee are certainly familiar with the distinguished chairman of the committee, the gentleman from Texas, and his farflung subcommittees and their propensity for delving into the very details to which he has addressed himself this morning.

But somewhere in between broncos and mustangs and quoting from the Under Secretary's letter, with the gentleman's "Lincolnese" oratory and his propensity for Shakespearean histrionics, I failed to get whether he is for this bill that his committee brings onto the floor of the House, or not.

Would the gentleman state in the affirmative or in the negative?

Mr. MAHON. I am overwhelmed by the gentleman from Missouri and I am glad to have the opportunity to say that I wholeheartedly support this measure and I hope it will be enacted. It is essential to our security as a nation.

As I said earlier, there are about $70 billion in this bill and others that will be required for defense and then the supplemental which will run into hundreds of millions of dollars involving the Middle East which will be added to that. Then, added to that will be funds for increased pay. So this is not by any means the totality of the cost involved.

Mr. HALL. Mr. Chairman, if the gentleman will yield further, was the gentleman quoting from a letter from someone else or is it his own concluded opinion when, if I may paraphrase him, he said that the Department of Defense was overfunded, overstaffed, and underaccomplished?

Mr. MAHON. I was quoting from the Deputy Secretary of Defense.

Mr. HALL. This is not the distinguished chairman's conclusion, and he thinks we should continue as I heard another part of the gentleman's speech to provide adequate funds——

Mr. MAHON. Yes. Yes. We must provide necessary funds.

Mr. HALL. So that we do not become a second-rate defensive-power nation?

Mr. MAHON. That is right.

Mr. HALL. Becoming a second-rate defensive nation in the world of nations without letting the people of the United States know it, before the fact; is that the gentleman's position? Does he favor this bill with or without amendment?

Mr. MAHON. I favor this bill. However, there are some problems in O. and M. which we will discuss later. Otherwise, I think it is the best we can do under the circumstances and at this time. Additional funds can always be provided if required.

I must say that Mr. Packard is devoted to defense and is devoted to the security of the United States. He is an able man. He is so concerned and anxious to get the house in order so that the credibility of defense will be so great that he can get the money that he needs in future years.

Mr. HALL. Is the gentleman referring to the Fitzhugh panel?

Mr. MAHON. Yes, I am. It endorses everything in the panel——

Mr. HALL. Mr. Chairman, the gentleman's current calmness and equanimity is reasurring me and is very worthwhile.

Mr. MAHON. I thank my friend.

Mr. HALL. Mr. Chairman, I thank the gentleman for yielding.

Mr. MAHON. Mr. Chairman, I yield to the distinguished chairman of the Committee on Armed Services, a great patriot, a great leader. We have all worked together, as friends for the security of the United States and we have helped keep it the strongest power in the world.

Mr. RIVERS. I just want to say to the distinguished chairman that I have listened to his statement. I think, however, that in his zeal to try to save money—and I commend him for his effort to save money—he did say some things which, perhaps, he will want to look over again. We try to save money in our committee all the time. I am sure the gentleman can document the statement he has made that waste exists in the Department of Defense. Everyone else talks about waste in the Department of Defense and the chairman of the Committee on Appropriations, of course, can talk about waste in the Department of Defense.

But, Mr. Chairman, I hope the gentleman will read his speech carefully before he leaves it in the RECORD, because I think when he reads it he will want to modify some of his remarks in order that his real meaning may be perfectly clear to everyone who reads them.

Therefore, I urge the great chairman of the Committee on Appropriations to reread his remarks very carefully lest they be taken out of context, and could be hurtful to Defense officials.

And I am not here trying to give you a lesson in logic, but I have made some remarks myself that I would like to have changed. But as a friend I hope that you will review your remarks carefully.

Mr. MAHON. Well, for example?

Mr. RIVERS. I have finished. But I do want to thank the distinguished gentleman for the nice things he said about me before he finished his statement.

Mr. MAHON. I do not recall any remarks which are out of character; but I would say to my good friend that I am a man of caution and I will carefully review my remarks. I am very pro defense and my only interest is to be helpful. I do believe we must face up to our shortcomings if we are to adequately cope with waste and management.

We cannot sweep the shortcomings of the military or of Congress under the rug. But we must recognize perfection is unattainable. We stand together for strong defense. If we are to err it is better to err on the strong side. I thank my good friend.

Mr. MINSHALL. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, at the very outset I think I would be remiss if I did not at least briefly comment on the President's peace proposal that he made to the Nation and to the world last night. I hope and trust that it is a step toward peace that we all earnestly desire. It was met with acclaim in all of the capitols of the world with the exception of one, and that was Hanoi, and of course silence from Peking and Moscow. I should like also to recall to the House that on September 1 of this year I telegraphed the President recommending that he make such a cease-fire proposal.

Mr. Chairman, as always, my good friend and colleague, the gentleman from Texas (Mr. MAHON), and the distinguished chairman of our Defense Subcommittee, has presented the defense appropriation bill to the House in what

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I believe to be a very succinct and understandable form.

Last December we who serve on the subcommittee took justifiable pride in presenting to the House after many, many months of work, a military budget showing the greatest dollar reduction since fiscal year 1954, at the end of the Korean war. So it is even with more pride that we bring to you today the 1971 appropriation which is more than $6 billion less than the fiscal 1970 figure reported by our subcommittee last year.

Further, the $66 billion plus is almost $2.1 billion below the amount requested for fiscal 1971.

I should also like to point out to the committee that the defense appropriation subcommittee has decreased the budget, the military budget, in the past 4 years alone by $14.5 billion, which is a credible figure and a record that this subcommittee is also very proud.

Now these reductions have real meaning for the taxpayers and added a significance in that they indicate a scaled-down level of spending on the Vietnamese conflict. In that respect, I think all fairminded Members on both sides of the aisle will agree that the President is doing an admirable job of resolving this tragic and overprolonged war.

This administration has fulfilled and is fulfilling every promise and pledge that the President has made regarding the war, including the withdrawal of our troops from Cambodia by last June 30. After the years of frustration and disillusionment created by the overly optimistic promises and broken pledges of the previous administration, the American public is beginning to realize that the new administration keeps its promises—that its word is its bond.

President Nixon said he would Vietnamize the war and this he is doing—the Vietnamization program is working and working well. When he took office 21 months ago, there were 540,000 American troops in Vietnam. That graph has gone down to 375,000 American troops today—that is 165,000 less—with every assurance that at least—and I emphasize that—at least 260,000 will be out by next spring.

President Nixon promised to use every honorable means to bring about peace through negotiations, and I think we are all heartened by the fact that again last night he called for a cease-fire in the hope of encouraging meaningful talks at the peace table in Paris.

President Nixon made that pledge—"to reduce American involvement and not to increase it, to bring peace in accordance with the 1962 Accords and not to prolong the war"—and he is keeping that pledge.

I think tribute is due in great measure, too, to our friend and former colleague, Secretary of Defense Melvin Laird, who sat with us in the subcommittee and we fought side by side against the policies of President Johnson and Secretary McNamara.

Mel Laird is a great Secretary of Defense, totally dedicated to the objectives of peace, a man of the highest principles and integrity who is a strong right hand of President Nixon in restoring credibility to our National Government. He stands in sharp contrast to his predecessor.

Though there is still a road for us to travel, I sincerely believe that the end of this tragic episode in our history is in sight. We can see, at long last, light at the end of the tunnel.

The President's message last night assures us of his unceasing efforts to bring about peace through negotiations. The fact that he has kept every pledge and promise made about the war in the past augurs well for the fact that the pledge he made to end the war, and the bill before us today, with its great reductions, is evidence that the war is indeed being phased out.

It is with great distress that I call to the attention of the House that we had another unfortunate tragic crash of an F–111 aircraft last night in Texas. This is the 16th such crash that the F–111's have had. I want to advise this Committee of the Whole that at the appropriate time, when the bill is being read for amendment, I am going to offer an amendment to take out the funds for the F–111 program which total $548 million in this bill. I hope that the House will agree with me and strike out those funds.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. MINSHALL. I am glad to yield to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding. I also want to thank the gentleman for having been considerate enough to have advised me in advance that he plans to offer such an amendment at the appropriate time.

The gentleman is correct in some of what he says. There have been 16 accidents in F–111's. This is the sixth one that has produced a fatality, and it produced two fatalities. That much is true.

I wonder if the gentleman has compared, however, the fact that considering all other planes that have been built since the early 1950's, for the number of hours flown, there have been more accidents and more crashes in each of those others than in the F–111's. For example, there have been 285 F–111's flown, and six of them have had fatalities. All of us feel deeply regretful of any fatality. In the past year there have been several hundred combat planes that have crashed. I wonder if the gentleman knows that in 1967 there were 67 major accidents in F–4's; there were 62 in 1968; there were 27 F–105's that crashed in 1967 and there were only two F–111's? Each of these others has had more accidents in the past 2 years than the F–111's. Does the gentleman feel that all these other military planes should be cut out of the budget?

Mr. MINSHALL. I understand the concern of the gentleman from Texas over this particular aircraft. I would be glad to discuss the subject at the time I offer my amendment. I have the highest regard and, of course, understanding of why you have such a tremendous interest in this program.

In closing my only additional comment would be I hope that next year, when we bring before you a defense budget again, we can make even greater reductions than we have in fiscal 1971.

Mr. TEAGUE of Texas. Mr. Chairman, will the gentleman yield?

Mr. MINSHALL. I yield to the gentleman from Texas.

Mr. TEAGUE of Texas. I just returned from a trip to the Strategic Air Command in Omaha, Nebr. Would the gentleman also, when he offers his amendment, tell us the attitude of the Air Force or the Department of Defense toward this airplane? I heard nothing but praise about the airplane from the people who are flying it and the people who are managing it.

Mr. MINSHALL. I should be glad to answer the gentleman from Texas' comment at the appropriate time. I understand your interest in this program. I yield back the balance of my time.

Mr. MAHON. Mr. Chairman, I yield 10 minutes to the gentleman from Florida (Mr. SIKES), the ranking majority member of the subcommittee.

Mr. SIKES. Mr. Chairman, a great deal of work has gone into the preparation of this bill. I believe that more effort has been made, under the leadership of a great chairman by a committee which is genuinely concerned about America's defense, and by a very dedicated staff, than in any other bill that has come before us.

The committee has tried, and tried very hard, to pinpoint areas where it was felt that cuts could be made. It has tried very hard to eliminate nonessential items and to withhold funds from those items which are not ready for development or production. We feel we can say at long last we are going to prevent cost overruns. We are trying harder to stop waste in defense. We have tried, and tried very hard, to do these important things.

That does not change the fact that, in my opinion, we have cut too deeply in some sensitive and important areas. I think some cuts are more serious than can be justified, and I think they will do harm to our defense posture in the years immediately ahead. We have become accustomed to saying that, militarily, we are the strongest power in the world. There is some question about that now. There is serious question about it now. Those who are really familiar with Communist power know they are making very significant progress militarily. Mr. Chairman, this bill does not contribute to maintaining our status as the strongest military power in the world. This bill, and two or three more like it, will assure that we become a second-rate power. While we are cutting back, the Russians are forging ahead, and they are forging ahead in very important areas.

We shall have to forge ahead also. We are lagging in modernization and in new weapons and equipment, and in new techniques. We are in that critical posture where we may soon start dropping appreciably behind the Soviets in military strength, and the world will be quick to get the signal. The Soviet Union knows how to flex its muscles, and the world is not fooled when we substitute words for weapons.

The report, which is a very useful one and a very thorough piece of work, does not fully spell out the Soviet threat. It does not fully spell out the strength of the Communist forces. I am afraid, Mr. Chairman, it makes our own forces look more impressive than they are. We are strong and I do not downgrade our strength, but strength is relative. I am convinced that, unless we step up our defense expenditures in important areas, we will be bypassed by 1975 and become a second-rate military power.

Mr. Chairman, I would hope that the Members here today will look carefully at the figures that are before us. The report indicates the committee has taken $2.1 billion out of this bill, but the cut does not include a $400 million add-on for naval ships. That means we have actually cut $2.5 billion out of this bill. That is 3.5 percent below the budget recommendation. But more significantly, the 1971 budget estimate proposes a $4 billion cut below the 1970 defense program. So we are $6.5 billion below the 1970 level of spending, and that is about a 10-percent reduction in funds for our defense forces and our equipment, and modernization for the United States.

This is more significant if we take into consideration the fact that the cut is being made despite much higher costs of defense. This is the smallest fund bill percentagewise for defense expenditures that has been presented to the Congress in years, and, unless I am mistaken, the lowest since before the Korean war.

Now let me add also the fact that the Department of Defense is one of the very few agencies of Government, and I think the only agency, where budget recommendations are lower than they were last year. This is one of the few bills that has been brought to the floor by the Committee on Appropriations this year where there have been significant cuts. In quite a few bills there were add-ons above the budget. This despite the fact that we are short in many areas in defense needs. We are short in equipment for ourselves and our allies. We are short in modernization. We are headed for trouble if this continues. Low budgets are not the fault of the committee, but overcutting adds to the gravity of the problem. Here we have both.

I want the Members to think on the boldness with which the Russians are moving out—diplomatically and militarily. They can read the temper of the American people and of the Congress. They see the demands for less defense and more domestic spending. They see a gradual scaledown in our defense posture. They are encouraged and emboldened. Their progress in the Middle East is too well known to require comment here. Now, for the first time in history, Russian naval units have held maneuvers in the Caribbean. They dared to hamper U.S. testing of its Poseidon missile. They have had the colossal nerve to begin building a submarine base in Cuba.

Mr. Chairman, that submarine base in Cuba is more dangerous than the missile sites which President Kennedy forced the Russians to withdraw some years ago. But the Russians are building it and thus far they have met with nothing more serious than a single protest.

Mr. Chairman, this bill takes into account many different programs and activities. It takes into consideration reductions in personnel which are proposed by the administration for the Armed Forces. I am glad to state this committee does not require any reduction in military personnel. It forces no one out of uniform. It makes cuts because the administration has proposed reductions in uniformed personnel and all of the budgeted figures will not be needed. I am concerned that those cuts in uniformed personnel may be greater than they should be, but I realize that reductions in personnel can be remedied reasonably quickly, although to remedy reductions is costly. It is the slowdown in modernization and the lack of equipment that is most dangerous. Modernization depends upon the development of new weapons and weapons systems, and this takes time. It takes a great deal of time to develop a weapon and to put it in production.

We know ours is an aging Navy with great need for modern ships.

Look at Navy ships. We have money in the bill for a few additional Navy ships. Yet the number is small and it will be years before those modern ships are ready to join the fleet. We need many more and we need them much earlier than they can possibly be made available.

The snail's pace of some of our programs should be shocking to us, but I am afraid the American people have been made to feel we are making tremendous progress.

Look at Safeguard. We are arguing about whether to build one or three or 12 Safeguard sites. We are embarked now on three Safeguard sites, at a very slow pace. Despite all the publicity, a program of this magnitude will not give the American people or our missile sites any significant protection. At this level it is a prototype program only. It should be expanded, for at the present rate it is going to be years and years before the system is a brake on aggression from any source.

These things do not fool the Russians, but I am afraid they may be fooling the American people.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. MAHON. Mr. Chairman, I yield the gentleman from Florida 5 additional minutes.

Mr. SIKES. Mr. Chairman, I am not going to spell out the procurement cuts and operation and maintenance cuts, and research and development cuts. They will be discussed later in sufficient detail. But let me say again, I fear the procurement cuts, the operation and maintenance cuts, and the research and development cuts, in some instances, may be entirely too deep.

Operation and maintenance is cut 12 percent below the figure of a year ago, yet it is in operation and maintenance of forces that we find the heart and the guts of a military organization. If the military organizations cannot maintain their equipment and keep it operational, if they cannot have adequate training and operational funding for personnel, they cannot have effective fighting forces.

If we have cut too deeply in procurement, it means there will not be follow-on of the weapons which will be needed so very badly in the years ahead.

If we have cut too deeply in research and development, it means that the development of new weapons for the next generation is going to be stunted, and we will drop even further behind in this all-important area called modernization.

Yes, Mr. Chairman, I support the efforts for cuts in defense costs where they can be justified. But, in all sincerity, I am afraid we have gone too far in some of the reductions that are made in this bill.

I say that not to be critical of the committee, for its work was done in good faith, but in genuine apprehension for what may happen to our defense on tomorrow.

I know that the taxpayer wants reductions in costs everywhere, but I know also, if I know anything about the American people, that the taxpayer realizes a second-best defense is the most costly luxury we can have. There is no such thing as a second-best poker hand, and we cannot afford the second-best defense in the dangerous world in which we live.

Mr. BRAY. Will the gentleman yield?

Mr. SIKES. I yield to the gentleman.

Mr. BRAY. Referring to title IV, dealing with procurement, on page 15 of the bill, line 3, it says:

> *Provided,* That none of the funds provided in this Act shall be available for the maintenance of more than two active production sources for the supplying of M–16 rifles or for the payment of any price differential for M–16 rifles resulting from the maintenance of more than two active production sources.

I discussed this matter with the gentleman. My interest is that I was the ranking minority member of the committee that went into the investigation of the M–16 rifle. There were serious problems as to both procurement and malfunctioning of the rifle. Congress finally, after 3 or 4 years of effort, did get the Army to secure additional sources of supply. This provision in this legislation is cutting out at least one of those three sources of supply at a time when the M–14 rifle has gone completely off the production line and we are totally dependent on the M–16. I do have information that the plan is to move production of this line, or at least one of those lines, to a foreign country where it will take away business from American labor, and from our experience it costs a good deal more to build these rifles abroad.

I have discussed the matter with the gentleman, and I would like to have it as a matter of record that the gentleman stated he would oppose with all of his ability any plan to move the production line that is being cut down and moved to a foreign country or to stop any production line of this rifle being moved to a foreign country.

Is that correct?

Mr. SIKES. The gentleman's committee should have credit for the effort that it made to increase production of the M–16 rifle at a time when we needed it badly. This was done through their efforts. There are now three production lines for the production of this rifle.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. MAHON. Mr. Chairman, I yield the gentleman 2 additional minutes.

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Mr. SIKES. The Department of the Army testified before our committee that we now actually need, because we have much more capacity than the foreseeable requirements for the M-16, only one source of procurement. It also was stated, to maintain three production sources would cost an additional $14 million a year. Therefore, the committee, not wanting to deny competition but not feeling that we should insist on three sources of supply, wrote language into the bill which was intended to provide that there could be competition and to insure that there would be at least two sources of supply.

I know of no plan to move the third source of supply to another country and produce rifles there for our own forces. I certainly think it would be a mistake to do that, and I would oppose any such effort.

Mr. BRAY. Then, the gentleman would oppose any plan, to the best of his ability, to move production lines for the production of these rifles into a foreign country?

Mr. SIKES. I do not want to state that I would attempt to interfere with the construction of plants in other countries whose governments feel that they need those plants for their own requirements. However, I have said, and I repeat, that I have heard of no efforts to move one of the present production lines in the United States to another country to produce weapons for our own forces. I certainly would oppose that.

Mr. BRAY. Then, you would oppose any appropriation of American money from any source to accomplish that?

Mr. SIKES. To accomplish the purpose that I spelled out.

Mr. MAHON. Mr. Chairman, I yield such time as he may require to the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Chairman, I rise in support of H.R. 19590, the Department of Defense appropriation bill for the fiscal year ending June 30, 1971. As a member of the House Appropriations Committee and its Defense Appropriation Subcommittee, I am pleased with the general approach taken by the committee in reducing nonessential spending. I commend the staff for its outstanding help and work on this bill.

This measure provides a total appropriation of $66,656,561,000, a reduction of more than $6 billion below the appropriations enacted for fiscal year 1970. This rather dramatic shift in emphasis away from increasing defense expenditures I believe meets in part the growing demand and need that tighter controls be placed on Defense Department budget requests and greater emphasis be placed on domestic programs.

This reduction in defense spending together with the $5.2 billion reduction in the 1970 appropriation reflect the greatest cutback in defense spending since the conclusion of the Korean war. I am concerned that this administration has not seen fit to shift priorities with the Congress and assign the necessary priorities to domestic programs in housing, health and education. Unfortunately legislation designed to provide greater assistance to programs in these three areas were all vetoed. I can only hope that by passing this bill before the House today and by overriding vetoes we can convince this administration that Congress intends to establish priorities through the appropriation process.

On balance I am confident that this measure will provide adequate flexibility and funding to assure a strong defense posture for the United States during the next fiscal year as well as in subsequent years. Some of the major areas covered by the bill are:

SAFEGUARD ABM SYSTEM

This bill provides funds for the continuation of phase I sites and deployment at Whiteman Air Force Base in Missouri as well as advanced preparation at Warren Air Force Base in Wyoming. This bill, however, does not include any funds for the four Safeguard sites recommended by the administration for deployment of an area defense against a Chinese Communist ICBM attack. This request was struck from the authorization bill and I supported the deletion of funds for that purpose. This reduction in the scope of the Safeguard ABM program represents a major victory for those of us who have urged a slowdown in our ABM deployment pending the results of the SALT talks and closer scrutiny of the entire ABM program.

PROCUREMENT

The largest reduction in the 1971 Defense appropriation bill is under the broad category of procurement. Here the committee has obtained the agreement of the Department to follow the recommendation of a blue ribbon defense panel whose report of July 1, 1970, states that production efforts should be postponed until development programs are completed, thereby avoiding simultaneous development and production and the errors which can result from such simultaneous programs.

One of the items deleted from the authorization bill was the proposed funding for advanced procurement of nuclear propulsion plant components for a third new naval aircraft carrier—the CVAN-70. I have opposed funding for this carrier after testimony before our subcommittee that its development would not increase our protection at home but would merely increase our ability to land more troops abroad. This program, in my opinion, does not involve the threat of Soviet Union naval buildup.

SOUTHEAST ASIA

Mr. Chairman, while I support H.R. 19590 and believe this is onbalance a good bill, there are several sections which I oppose and wish to point out to my colleagues. These sections relate to our involvement in Asia and the limitations on the use of these appropriated funds for future involvements.

Section 843 of H.R. 19590 provides that no funds shall be used "to finance the introduction of American ground combat troops into Laos or Thailand." The section does not mention either North Vietnam or Cambodia and I am concerned that the absence of reference to these countries may cause some administration officials to believe they may use funds for future invasions of these nations without the consent of Congress. The intent of Congress should be clear—that we oppose the introduction of U.S. combat troops in any part of Asia without prior authorization by the Congress. Naturally, unless by reason of national emergency.

Another section which concerns me is section 838(a)(1) which provides that funds appropriated under this bill may be used "to support: First, Vietnamese and other free world forces in support of Vietnamese forces." This provision does not require that the forces need be fighting in South Vietnam and I am concerned that this section may be construed by some to mean that funds can be used to aid South Vietnamese forces fighting in Cambodia or other forces fighting in countries bordering Vietnam. Again, I believe we should clarify the congressional intent that our role in Vietnam be limited and decreased as rapidly as possible with no repetition of invasions such as the Cambodia invasion of earlier this year without congressional resolution.

MIDDLE EAST

I strongly support the language in the committee report—page 5—which expresses the sense of the committee that the President should have the authority to provide military assistance to Israel in order to restore the balance of military power in the Middle East and lessen the danger to world peace from the crisis in that area. I have been disturbed by the failure of this administration to respond in a more timely manner to the requests by Israel for Phantom jets and other military equipment. Because of this failure our relations with Israel have deteriorated and there is confusion concerning our policy in the Middle East. The statement in the committee report should make clear the position of Congress and give the President the support for appropriate steps to bolster our relations with Israel and we ask that the request for supplemental funds for these needs be immediately forthcoming and acted upon.

Mr. MINSHALL. Mr. Chairman, I yield 15 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Chairman, I wish at the outset to commend the members of the subcommittee and particularly the distinguished chairman of the subcommittee for a very hard-working effort which culminated in the bill which we have before us today.

The hearings were long, the hearings were arduous, they were sometimes interesting and sometimes deadly dull. But they were certainly thorough. I can say to the members of the Committee that insofar as I know there were figuratively speaking, very few stones in the Pentagon building which were not taken out, scraped off and replaced, and we hope that the defense of the country is stronger because of the bill we have before us than it was previously.

I particularly want to thank the Chairman for all of the courtesies which he has extended to the members of the subcommittee, as he always does. He is a very thoughtful, a very thorough man, a very valuable Member of the House of Rep-

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resentatives. It has always been a real pleasure to have the privilege of serving with him and under him.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I am glad to yield to the distinguished chairman of the committee.

Mr. MAHON. I want to thank my friend, the gentleman from Arizona (Mr. RHODES), for those very kind words.

Mr. Chairman, the gentleman from Arizona is a man of stature, of ability and strength. The gentleman is well informed and has performed a good job, along with the other members of the subcommittee.

I do appreciate those generous remarks.

In the markup of the bill, as the gentleman knows, we tried to listen to the views of everyone and, generally, from those views we accepted them or compromised them and came to a compromise agreement on the entire bill which is before the House today; is that correct?

Mr. RHODES. The Chairman is absolutely correct. The markup I think was particularly well handled. The staff was exceedingly well prepared with some very good rifle-shot cuts which I think should and will be sustained.

I would like to say, however, that I have a wide area of agreement with the gentleman from Florida (Mr. SIKES) who preceded me in the well because I think in certain instances we probably cut deeper than we should have.

I am informed that the Chairman at the proper time will offer an amendment to restore certain funds, and I certainly intend to support that amendment and I think most of the members of the subcommittee will.

Mr. Chairman, I think it is fair to go into the recent fiscal background of the Department of Defense. In the years, since the fiscal year 1969 to the present fiscal year, the budget request of the administration is some $5.5 billion lower. In other words, the amount of money appropriated for 1969 was some $5.5 billion higher than the amount of money requested by the administration in fiscal year 1971. During this time the unobligated balances available to the Department of Defense have gone down from a figure of $11.666 billion to $6.233 billion. So, the pipeline has been cut down in those years and in effect the Department of Defense has been living on its fat.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Texas.

Mr. MAHON. The gentleman is making a very interesting talk. I think it would be good to exchange a few ideas here. As the gentleman knows, with the funds provided in this bill and carryovers from previous years, the Department of Defense will have available to it during the current fiscal year $105 billion. But, of course, the gentleman knows that most of these funds, but not all, have been committed. Some of the funds will not be spent this year.

Mr. RHODES. The Chairman is correct.

Mr. MAHON. I think it ought to be said that as the President is winding down the war in Vietnam, there have been many hundreds of millions of dollars that have not been spent that would have been spent had the war continued at the same tempo.

So that is one of the reasons why the reductions have been made possible.

Mr. RHODES. The total figure of unexpended balances at the end of fiscal 1971 will be $35,383,000,000. All but $6,233 billion are unobligated, so that in my way of figuring, whether it is right or wrong, if a dollar is obligated it is the same as spent. There is of course a certain leeway to deobligate, and reobligate funds, but I do not think we can assume that this will be done.

So the figure we use for the funds available for the next fiscal year is $6.233 billion, which is unobligated in the next fiscal year, plus the amount which will be appropriated which is something like $66.5 billion, which makes a total of $72 billion which will be available in the coming fiscal year.

So the pipeline has been reduced.

And I think it would not be fair to say that the Department of Defense is now overly endowed with avoirdupois. It has been cut very considerably, perhaps to the bone, perhaps in some cases into the marrow.

On top of that, we all know that in the past years there has been an erosion in the purchasing price of the dollar, so that perhaps 10 percent of the dollars which we now have available must be taken off if we are to compare the total with the dollars which were available in the year 1969. So we see not only a reduction in dollar balances, but an even greater reduction in the purchasing value of the dollar available which is even more significant.

Now, as a Member of the Congress and as a member of this committee, I would like to beat my chest a bit about these cuts. I think in many ways we can thank the hearings we have held for some of the cuts which we have made, but I think in all fairness that we have to agree that the lion's share of credit for the making of these cuts goes to the Secretary of Defense, the Deputy Secretary of Defense, and the people with whom they work.

In the first fiscal year in which Secretary of Defense Laird was in office, the expenditure level of the Department of Defense was cut by over $3 billion. And as I have stated, the total cut since the Nixon administration took office is something like $5.5 billion, comparing what was appropriated in 1969 as against the request for 1971, and if the cut or cuts stand up, that figure will be $7.5 billion, which shows a very marked decrease.

Most of this has been possible because of the winding down of the war in Vietnam. However, I believe it also is due to the fact that a management team has come to the Department of Defense which knows how to manage a business which is as large as this one is, and it is the largest business in the world. There are still inefficiencies, and there will probably always be inefficiencies. There are still practices which make very little sense, and this will probably always be the case, but by and large the Blue-Ribbon Panel, the Secretary of Defense, and the Deputy Secretary of Defense, and the people under them, has resulted in what I consider to be an outstanding fiscal performance by the Department of Defense.

As I mentioned before, this is a time when we are fighting a war in Vietnam, and also at a time when we are faced throughout the world with a potential enemy which is predatory, which pushes at every chance it gets, and which will probably continue for the foreseeable future to continue to probe throughout the world to try to find a weak spot. I think it is obvious from the actions of the Communist world that it has not given up the dream of world conquest. I cannot help but believe it has less hope that conquest is possible, but still they probe in the hope that weak spots will be found. Consequently it is necessary for us to maintain a defense as storng as a defense can possibly be.

In the past several months we have in the United States found it necessary to revise certain priorities.

We are spending more money now on nondefense items than we spent 2 years ago. We are spending much more than we spent 5, 6, and 7 years ago on nondefense items. This has been a revision of priorities that the American people obviously wanted.

I assume that this revision will continue and the cuts that have been made in this bill will help the Federal Government to finance some of the nondefense activities upon which it had entered and which it will enter, without risking the economic ruin which might ensue if we were not able to come very close to a balanced budget. We will have even worse fiscal problems in the fiscal year 1972 and it will be necessary for the Department of Defense and for all other departments to practice the utmost economy in order to do the jobs that are necessary, and still to maintain a strong economy in the United States, bolstered by a budget that is balanced or very near to being balanced.

Lest we go too far in shifting priorities, let me warn that if the Communist probing finds a fatal weak spot, the good life we seek for all Americans would be a lost dream. Such a life does not exist in a Communist society.

I think it is necessary to take stock of what has happened in the Department of Defense in the last 10 years. We have not had one single new weapon system developed from 1961 to 1969 except the F-111. I intend to support the appropriation for the F-111. It is an airplane which I hope will do the job for which it was intended. It is in difficulty. Even so, its safety record, I am told, is as good as the safety records of other airplanes that have been built from scratch with brand new concepts—advances in the state of the art, if you will, at this time in the development of the system.

More than that, we need this plane. We have to have it. It is the only air-

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plane that I know of that can have the requisite penetration capabilities to be effective today.

If the Department of Defense in the 1960's had been more alert to the problem and the requirements of the 1970's, it might not be necessary for us to continue to try to perfect an airplane which has certainly been ridden with problems from the very beginning. But it is necessary to have the plane, and I think we will have to go ahead with it.

However, in the last 2 years we have started two airplanes, the F-14 and the F-15, which promise to be very fine weapons systems, one an aerial superiority plane for the Navy and the other for the Air Force.

I am glad to say that all of the funds which are asked for research and development for these aircraft are in this bill. We have supported this effort by the Department of Defense 100 percent.

I am also pleased to note that ships requested by the budget for the Navy not only are funded, but there are ships funded which are over and above the budget.

The Committee on Armed Services felt that it was necessary to authorize more ships than were requested in the budget, and the Committee on Appropriations has gone along with the Committee on Armed Services.

I certainly feel that the events of the last few weeks in Jordan and in the Middle East point out the absolute necessity for this country to maintain a strong Navy. I think there is very little doubt that without the presence of the 6th Fleet in the Mediterranean, and without the resoluteness with which the President and the Secretary of Defense used that 6th Fleet that there might have been serious trouble develop in Jordan which might have resulted in a conflagration throughout the Middle East. There certainly is no intent on the part of any member of this subcommittee to do anything other than to make sure that the U.S. Navy, Air Force, and Army are able to take care of the obligations of this country throughout the world.

Again though, may I say, there are those of us who feel that we are very badly extended throughout the world and we hope in the years to come that it will be possible for us to reallocate our global priorities and perhaps restudy some of our commitments. The time is long past when the United States of America can afford to police the whole world.

We have our vital interests and those vital interests must be and will be protected.

But the Nixon doctrine which says and articulates this principle, puts the burdent on each nation to be foremost in the effort to defend itself. This is a doctrine which makes sense. It must be rearticulated often, so that the world will know that this is exactly what the United States means when it talks about its relationship with other countries.

Mr. Chairman, before I sit down I want to thank also my good friend from Ohio (Mr. MINSHALL), distinguished and able ranking minority member of the subcommittee, the gentleman from Wisconsin (Mr. DAVIS), and the gentleman from New Hampshire (Mr. WYMAN) for the fine work they have done and their cooperation, which all of us have appreciated throughout these very arduous months when this bill was being prepared. I have particularly appreciated the outstanding leadership, industry, and perspicacity exhibited by BILL MINSHALL. He has been most considerate to all members, and it has been a pleasure and an honor to serve with him.

Mr. STEIGER of Arizona. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Fifty-nine Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 334]

Abbitt
Adair
Addabbo
Alexander
Ashley
Aspinall
Beall, Md.
Belcher
Berry
Betts
Blanton
Brock
Brooks
Burlison, Mo.
Burton, Utah
Bush
Button
Cabell
Clark
Clausen, Don H.
Clawson, Del
Clay
Collier
Corbett
Cowger
Cramer
Crane
Daddario
Dawson
Derwinski
Diggs
Donohue
Dowdy
Dwyer
Edwards, La.
Fallon
Feighan
Fisher
Flynt
Foreman
Gallagher
Gilbert
Gray
Griffiths
Hagan
Haley
Halpern
Hansen, Wash.
Harvey
Hébert
Horton
Hosmer
Howard
Hungate
Jonas
Jones, N.C.
Karth
King
Kleppe
Landrum
Lowenstein
Lujan
Lukens
McCarthy
McClory
McMillan
Macdonald, Mass.
MacGregor
Mailliard
Meskill
Montgomery
Morse
Morton
Nedzi
O'Konski
Olsen
O'Neal, Ga.
Ottinger
Patman
Pirnie
Pollock
Powell
Pryor, Ark.
Purcell
Quillen
Reid, N.Y.
Reifel
Roudebush
Rousselot
Ruth
Sandman
Satterfield
Scheuer
Shipley
Smith, Calif.
Snyder
Stephens
Stratton
Talcott
Tiernan
Tunney
Weicker
Wiggins
Wilson, Bob
Wold

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 19590, and finding itself without a quorum, he had directed the roll to be called, when 324 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. MINSHALL. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin (Mr. DAVIS).

Mr. DAVIS of Wisconsin. Mr. Chairman, I take this allotted time to express a strong personal vote of confidence in this bill which is now being considered by the House. Although I just returned to this subcommittee at the beginning of 1969, my expression of support is not that of a neophyte. In other years past I have had sufficient experience on this subcommittee to be able to compare this bill—including the staff work on it, and the detailed knowledge, cooperation, and candor of representatives of the Department of Defense—with the situation that existed 20 years ago. I am more satisfied with the action of our committee on this Defense appropriation bill than any Department of Defense appropriation bill in my experience.

Two years ago we had before us an $81-billion recommendation for appropriations in defense. Today we are talking about a $66-billion bill. This reduction is all the more impressive when we take into consideration the reduced purchasing power of the defense dollar. I believe I can assure you that, in spite of this reduction in funds, we are receiving more defense per dollar than at any previous time in my experience. Our committee can take only a portion of the credit for the reductions that have been made. But we can certainly take pride in the committee report which we have submitted to you. This report reflects an admirable effort on the part of the staff, complimented by the inquiring and dedicated concern of our committee members. I am also certain that every member of the subcommittee would want to give due credit to the accomplishments of the Secretary of Defense, his deputy, Mr. Packard, and the man whose job it is to oversee the expenditure of Defense Department funds, Bob Moot. We should give credit to them for many of the improvements that have been made. These include improvements in procurement procedures, and especially the abandonment of total package procurement which has proven so costly, and have accompanied the overruns that scandalized the minds of so many Americans, and the review of personnel, both military and civilian.

A large percentage of the reductions that have been made in this bill reflect the work of Secretary Laird and his staff.

Last year we did not officially receive a revised budget after the new administration had completed its review, based upon the downward reductions which that review accomplished. However, we did receive those suggested revisions in our subcommittee, before final action was taken, and there was a sort of tacit understanding that the committee and the Congress would be permitted to take credit for the reductions that were made. This year this bill also reflects numerous savings which came to light within the Defense Department between the time that the budget was prepared and submitted to us some 10 months ago and the time of our markup.

The report has some harsh words, but I urge you to read the criticism in the light of some of the real accomplishments within the Department, and to interpret the comments in the overall context of the report.

I think in the report the Members will be able to read between the lines and will want to give credit to the efforts of the Department. At the same time Members will want to recognize the need for our committee to keep the Department's feet to the fire in pursuing the improvements that have been so commendably instituted, and in accelerating reforms that have not yet been sufficiently advanced.

In our hearings—and as my colleague, the gentleman from Arizona pointed out, they were both lengthy and detailed—we did uncover a number of situations requiring the direct efforts of our committee, and Members will note on specific pages of the committee report the actions of the committee in relation to those situations.

For instance, on page 24 of the report, there is a discussion of the Public Affairs program. I think it is fair to state that what many people include under the term "public affairs" is not just propaganda by the Defense Department. It certainly includes the information that is provided to the public so it can gain an understanding of our defense effort. It includes the liaison offices of which we make so much use in serving our constituents. And it includes the recognition of the citizen soldiers, sailors, airmen, and marines of this country for their part in defending our entire Nation and its people. All of these are part of the public affairs program.

On page 26 there is committee comment relating to the temporary promotion of higher ranking officers and helicopter training for some of the senior officers in the Army.

On page 46 there is language that will be of interest to many Members relating to Air Force Reserve units, and the follow-up by our committee of the action taken first by the Price Subcommittee and then by the full Armed Services Committee in connection with the retention of those units.

On page 54 there are comments relating to procurement practices, and beginning on page 72 there is an explanation of the add-ons to enforce our recognition of the outdating of our Navy and its need for modernization.

In the report, at the end, there are three separately expressed views. One of these comes from a member of our subcommittee, the gentleman from New Hampshire (Mr. Wyman). I think he raises a point that all of us ought to be greatly concerned with, but it is something which unfortunately we could do nothing about in the light of language that was included in the Defense Procurement bill. Then, two of those separate views are expressed by Members of the House who are members of the full Appropriations Committee, but not the subcommittee that held hearings on the bill. I believe they relate to matters this House has carefully considered before, and made its decision on. I hope we will not take up too much time rehashing things upon which the House has already forcibly expressed itself.

Like my colleague, the gentleman from Arizona, with whom I have the pleasure of serving on two subcommittees of this Appropriations Committee, I intend to support the adjustment in operation and maintenance funds. This, I believe, will come before us by means of an amendment to be offered by the chairman of our full committee. Other than that, and with that single exception, I intend to stand firm with respect to this bill as it has been reported. I believe it has been carefully considered, and I believe it deserves the support of the Members of this Committee of the Whole.

Mr. MAHON. Mr. Chairman, I yield 20 minutes to the gentleman from South Carolina, the distinguished chairman of the Committee on Armed Services (Mr. Rivers).

Mr. RIVERS. Mr. Chairman, I want to thank the distinguished chairman of the Appropriations Committee for giving me this opportunity to further expand on something which I said on this floor on the 28th of September.

I also want to thank the distinguished gentleman for the response he gave to the request I made before his committee, when I asked him to add additional money for one submarine, long leadtime items for another, plus two tenders and other craft at that time. He gave me almost everything I asked for.

On the 28th of September, I spoke at considerable length on the floor of the House on the Soviet threat, especially the naval threat.

Today, I shall be very brief. And I shall speak about one thing: submarines.

Soviet submarines.

One newspaper said of my speech on the 28th that my rhetoric was rather appalling but the facts were hard to challenge.

Today, there will be no rhetoric, only facts. But the facts will be as appalling as any you could hear.

I want to show the House today as quickly, as simply, and as plainly as I can the true facts of the Soviet submarine challenge.

I used a lot of statistics on the 28th. I could throw a lot of numbers at you now. But only a few should get the message across to a thinking citizen.

I talked desperately in the House-Senate conference on the authorization bill, as I am talking desperately now—and for what? To get your support to add two additional submarines to our shipbuilding program. Just two. That will mean four new nuclear subs in this bill and advanced procurement for three more.

If I had the rhetoric of Edmund Burke, the passionate voice of Daniel Webster, the ringing logic and orderly thought process of John C. Calhoun, perhaps I could talk you into supporting as many submarines as all of the shipyards in all of the United States could build. And if I did, how many would that be?

Ten to twelve.

Twelve submarines in 1 year is the most that we could realistically build under present conditions.

The Soviets have one yard that can produce more than that in a year.

The Soviets can build 20 a year on the day shift. Working several shifts, they could probably produce 35.

What does that mean?

It means that the present Soviet drive to overtake us in all categories of submarines is irreversible—irreversible.

The Soviets are ahead of us in total submarines—they have about 360 to our 147. They are ahead of us in most categories of submarines, and they are moving to be ahead in all categories by 1975—and there is nothing, nothing, nothing we can do about it.

Let me tick off the numbers for you:

The Soviets have 220 nonnuclear attack submarines to 59 for the United States.

They have 50 or slightly more ballistic-missile submarines to 41 for the United States. But all 41 of the United States submarines are nuclear, and about 20 to 23 of the Soviet submarines are nuclear.

They have about 65 submarines that fire the cruise missile, about 35 of which are nuclear powered. The United States has no submarines that fire cruise missiles. The cruise missile will go 400 miles. We have nothing like it.

Supposedly, the Russian numerical superiority is offset by our lead in nuclear submarines. But the Russian buildup in nuclear submarine construction capability means that our lead is rapidly disappearing. At present, in total nuclear submarines we have 88 and the Soviets about 80. In all probability, they will be ahead of us by the end of the year. What the relative building capability means is this: Even if we decided now—not tomorrow but now, today, in this House—to try to reverse the trend, it would be at least 5 years before we could begin to do so. And before we could start catching up, the Soviet lead would grow substantially.

The submarine is the best strategic weapon in the world.

That statement should not surprise anybody. We have long referred to the Polaris as our most invulnerable deterrent.

For the Soviets, their attack submarines provide a capability in nonnuclear warfare which promises the best possibility of strategically outflanking us and cutting us off from our allies. By simple numbers alone their submarine force gives them the threat to interdict our sealanes and deny us free use of the seas.

It is impossible for the United States to exercise influence on any continent in the world except the North American Continent without free use of the seas.

But the Soviet ballistic-missile and cruise-missile submarines provide the capability of bringing nuclear warfare to our shores.

The latest Russian Polaris-type submarine, the *Yankee* class, has the ability to fire from a submerged position a ballistic missile with a range of 1,300 miles.

I would like to illustrate to the House the threat that a Soviet submarine with a 1,300-mile-range missile poses to the United States.

If such a submarine is in the Gulf of Mexico, this is the range its missiles would have.

(Mr. RIVERS referred to map in the well of the House.)

Mr. RIVERS. It could lay a missile on Chicago, Detroit, New York, St. Louis, and any city within this range.

But the Soviets are testing a new submarine ballistic missile with estimated range of 3,000 miles. This missile may be back-fitted into the *Yankee* class or put into a new class of submarines being specifically designed for the missile.

The Soviets in the last 2 years have introduced more new submarine designs than have ever been put to sea in all of naval history during a comparable period. They continue to strive for improvement in sub design. The United States in the last 10 years has introduced only one new design submarine.

My authority for those two statements, in case you question them, is Hyman Rickover.

If those Russian submarine missiles have a range of 3,000 miles, you can see on the map here what it means in terms of the threat to the United States.

But a new and dangerous development has come upon the scene to double—yes, I said double—the threat.

Today the Russian *Yankee* class ballistic-missile-firing submarines operate from bases in the Soviet Union. They travel through the Norwegian Sea and across the Atlantic Ocean—a distance of over 4,000 miles—until they get in a position to where they can fire their missiles on our east coast cities. To return home for repairs and crew rest they must again travel over 4,000 miles. It is estimated that half of a 60-day patrol will be spent by a *Yankee* submarine going to and from its patrol station, and during its transit time it will not be within striking range of our cities. But now the Soviets are building a nuclear submarine base in Cuba—at Cienfuegos.

Let us not beat around the bush with conjectures. I tell you the Russians are building a sub base in Cuba.

And I challenge any official of the executive branch to issue an outright denial of that statement.

No one will do so.

Now let me show you where this base is. Here is a map of the Caribbean. They sail submarines into this place here. It becomes their lake.

Now, let me show you photographs of Russian ships that have gone into this harbor—including a submarine tender which is there right now. They have this tender right here, right now, not yesterday.

That submarine tender is not down there on vacation. You can look at this and the other photographs.

Imagine that you had an automobile in Washington that you operated almost continuously, like a day and night taxicab, but that the nearest garage was in Boston. So that every time you needed repairs or an oil change or a little rest away from the automobile for the driver, you had to go to Boston. You would spend half your time going and coming to Boston. But if somebody built a new garage for you in Washington, you could double the time of your taxicab on the streets of Washington.

It would mean the same sort of thing for the Russians to have a submarine base in Cuba.

The submarines could operate within the range of more than half of the United States during their entire patrol period, including the time they are going to and from their base in Cienfuegos. Even when in that port for upkeep, they could maintain their missiles in a state of readiness easily within range of many major U.S. targets.

And they can also blackmail all of South America. They are sure we will back down as the gentleman from Texas (Mr. MAHON) said a while ago.

Cuba as a *Yankee* class submarine base would enable the Russians to about double the time "on target" for their underwater-launched ballistic missiles.

To put it another way, by using Cuba, the Soviets reduce by approximately one-half the number of missile-firing submarines they need to maintain the same coverage.

I am including as a part of my remarks a chart which illustrates the great advantage of a base in Cuba by showing the comparative transit time and days on station for submarines operating out of the Soviet North Fleet area and operating out of Cuba. It will be seen that in a 2-month patrol the on-station time for a ballistic missile submarine in the middle Atlantic is 32 days when operating from the North Fleet and 50 days when operating from Cuba. For a Gulf of Mexico station, it is 20 days on station when operating from the North Fleet and 56 days when operating from Cuba. In addition, as I mentioned, during transit time the subs based in Cuba are within range of targets in the United States. The chart also shows that for attack submarines the days on station are at least doubled if the subs can operate out of Cuba.

The chart follows:

DEPLOYMENT COMPARISON: NORTH FLEET VERSUS CUBA

Station	Transit Time [1] (days)		Days on station	
	North Fleet	Cuba	North Fleet	Cuba
SSBN:				
Middle Atlantic	14	5	32	50
Vicinity Bermuda	15	4	30	52
Gulf of Mexico	20	2	20	56
SSN:				
Panama Canal	19	2	22	56
Florida Str.	18	2	24	56
Windward Pass	16	2	28	56
Mona Pass	16	3	28	56

[1] Assumes 12 kt.

This great increase in the military effectiveness of this strategic force must certainly be appealing to Soviet leaders.

In closing, I want to read you a paragraph:

> The peace of the world and the security of the United States and of all American States are endangered by reason of the establishment by the Sino-Soviet powers of an offensive military capability in Cuba, including bases for ballistic missiles with a potential range covering most of North and South America.

This is the first paragraph of the proclamation issued by President John F. Kennedy in 1962 ordering the interdiction of ships carrying offensive weapons to Cuba. That sentence describes the development that was the basis for President Kennedy taking the action that he did in the Cuban missile crisis of 1962.

I ask you to reflect on what the difference is between that development and the development taking place in Cuba today.

Regardless of what is done on this bill today, the Congress has got to be ready to support the buildup of our submarine force.

In the next Congress I intend to introduce legislation calling for a program—maybe a crash program—at least to start us on our way.

I intend to introduce legislation to force whatever reorganization is necessary in the command structure of the Navy to assure the success of a revitalized submarine program, which the distinguished chairman so eloquently referred to.

But the country must be ready now to face the threat posed by the Soviets.

No one has more sympathy than I have—and you will not see me getting up and criticising Richard Nixon—for the President of the United States. He has a terrible job, and awesome job. The Constitution puts the responsibility for the conduct of foreign affairs on the shoulders of the President whoever he may be. He has to make the decision. As Truman said:

> The buck stops at 1600 Pennsylvania Avenue.

Whatever decision he makes, I know you, like I, will back him up because he has to make a decision—and it is as simple as that.

Mr. Chairman I include the following material at this point in the RECORD:

Vice Adm. HYMAN G. RICKOVER,
USN, Director, Nuclear Power Directorate, Naval Ships System Command, Department of the Navy, Washington, D.C.

DEAR ADMIRAL RICKOVER: I am deeply concerned that the members of Congress and the people of the United States have not been sufficiently informed on the growing threat posed by the Soviet nuclear submarine force. I know that you have repeatedly warned the Congress of the substantial buildup in this area and the emerging facts are bearing out your statements.

In June 1968 you testified before this Committee and gave valuable information on this growing menace and what needed to be done. Your testimony reinforced our support for the continuation of the new design Turbine Electric submarine and the development of a new High Speed submarine.

In spite of these actions it appears to me that our position relative to that of the Soviet Union in submarine warfare continues to deteriorate. I agree with your recent assessment that our defense posture is dangerously growing worse. The more I see of what the Soviets are doing in comparison to our efforts the more I am concerned.

With this in mind I would appreciate your views and opinions on a number of questions relating to the submarine aspects of our defense. I know that the members of the House Armed Services Committee value your comments. If appropriate, I will call a special hearing to focus Congressional attention on this matter.

My questions are:

1. What is the latest assessment of the present and future Soviet submarine program?
2. How does this compare with the United States submarine program as of today?
3. Based on our presently planned submarine program over the next 5 to 10 years, how will the United States submarine force compare with that of the Soviets?
4. In your opinion, what should the United States program be over the next ten years?
5. Do you feel that the methods presently employed by the Department of Defense to produce major weapon systems are capable of handling a matter as urgent as this?
6. What actions must be taken by Congress to strengthen our nuclear submarine program and reestablish our supremacy?

I would appreciate your responses to these questions in an unclassified form. If, for security reasons, you are unable to do this, please supply a supplemental report contain-

XUM

ing the classified information. However, I would hope that to the maximum extent possible you will provide answers on an unclassified basis. This subject is too important to keep it from the American people.

Sincerely,

L. MENDEL RIVERS,
Chairman.

U.S. ATOMIC ENERGY COMMISSION,
Washington, D.C., August 4, 1970.

Hon. L. MENDEL RIVERS,
U.S. House of Representatives.

DEAR MR. RIVERS: This is in response to your letter of July 24, 1970, in which you expressed concern over the growing Soviet nuclear submarine threat and asked for my views and opinions on a number of questions related to that subject.

Before answering your specific questions I would like to say a few words on where we stand relative to the Soviets and on the changing role of the submarine in modern naval warfare—its part not only in today's defense but also in the future.

These remarks are not—nor do I intend them to be—a report representing exhaustive empirical research into every aspect of our naval strength. They should rather be regarded as comments representing my personal convictions—convictions based on much thought, a not inconsiderable knowledge of our present-day naval situation, and a searching examination of some of the issues that face us today.

There are those in this country who with majestic neutrality deprecate the need to maintain military parity with the Soviets, arguing that peaceful coexistence can be maintained without it. It is an appealing argument to many but expresses, in fact, merely a hope. But we must face facts as they are. In military matters as in politics, one should not base judgments on emotion but on fact. A reluctance to face facts is a sort of involuntary moral blindness. We cannot rely on hope or on what seems to us reasonable in choosing the position from which to deal with the Russians.

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History shows that calamities can be brought about by persons of great good will, especially if they are given to abstraction and are themselves not directly involved in decision making. Any abstract theory tends to be neater than life—that is why it appeals to certain people. Then too, remoteness from the consequences of one's actions mists over one's perceptions. Responsible decisions are not likely to be made unless those who make them have to answer personally to all who will be directly or indirectly affected by these decisions.

Reason, too, is an uncertain guide when those we deal with think differently from ourselves. It is highly probable that even the most brilliant application of reason to the conduct of daily diplomacy would have failed to prevent World War II. Hitler's goals, as well as his rhetoric, put him beyond rational communication. The Soviets have made it clear by words as well as by daily actions that they intend their system of government to prevail throughout the world, and that to this end our system of government must be destroyed by whatever means available. Reason cannot prevail against such an avowed policy. Why do we not believe that this is what they intend to do? Hitler, too, in "Mein Kampf" plainly announced his intent to dominate the world. We did not believe him either—until it was nearly too late.

If we cherish our freedom and our form of government, though we may not have achieved perfection in either, we must preserve our military strength. We shall lose both if we take the position that if one country is peaceful and the other is not, the peaceful nation need not maintain its military strength. If history teaches anything it is surely that weakness invites attack; that it takes but one aggressor to plunge the world into war against the wishes of dozens of peace loving nations—if the former is militarily strong and the latter are not.

As long as we have power which matches theirs and the will to use it, they will be dangerous only if we should fail to recognize the significance of their actions. It is worth recalling that of the numerous treaties signed by the Soviet Government during the Stalin period, the Nazi-Soviet pact was the only one they did not break—because Hitler was too strong. We have reason to assume that the present Soviet leaders also will seek to avoid serious trouble with a United States that remains strong. But history also tells us that whenever the United States weakened its defense structure or ignored its world responsibilities or when its leaders hesitated or vacillated, we rarely escaped trouble. Moreover, when the trouble came, it was worse and cost us more dearly in lives and money than had we maintained our strength.

There can surely be no doubt that the overwhelming majority of the American people are opposed to relinquishment of our defense capability, recognizing full well that there will then be no one left to prevent the takeover by Communist power. Whether one takes the optimistic view that a permanent East-West detente can be negotiated, or the pessimistic view that ultimately we shall have to fight for our liberties, this Nation has no future if it allows itself to be outmatched militarily.

We cannot accurately assess our current defense situation vis-a-vis the Soviets, unless we understand the difference between *their* requirements for naval power in war and *ours*.

They do not have to transport large quantities of supplies over the seas; they can do it over land. They have under their control a large contiguous land mass which contains the raw materials they need. The United States is an island lying between the Atlantic and Pacific Oceans. We do not have contiguous land masses whence we can conduct military operations to protect our national interests or from which we can obtain the fuel and materials necessary to sustain our war effort. For these reasons, naval power is not nearly as vital to the security of Russia as it is to that of the United States.

Russia's predominant land position has required mutual defense treaties with but two nations with which she does not share a land border. Our island position, on the contrary, has led us to negotiate treaties with 43 overseas nations. Given our geographic position, the only way by which we can project our national power beyond the range of our land bases is through the Navy.

Despite the tremendous technological progress made in transportation and weapons systems in this century, free use of the seas—which cover three fourths of the earth's surface—continues to be essential to the security of the United States, whether to defend ourselves or to help defend our allies. Please remember that ninety-seven percent of all the material sent to Vietnam has gone by sea. The United States—a maritime nation—cannot maintain its position as a first-rank world power if it does not have free use of the seas.

Because they understand how vital it is for the United States to maintain free use of the seas, the Soviets have structured their naval general purpose forces with the objective of interdicting our sea lanes. Since World War II they have placed increasing priority on submarines as an instrument for denying us free use of the seas. They are fully aware—even if some of us are not—that World Wars I and II were almost lost because of our difficulty and that of our allies in keeping the sea lanes open.

I am sure you remember the large numbers of tankers sunk in World War II by German U-boats—submarines that were much slower and far less capable than those the Soviets have today. Moreover, Germany started the war with only 57 submarines. The United States lost over 130 tankers in the Atlantic Campaign, mostly to German submarines. By mid-1942 the situation was desperate. So many tankers were being sunk that the supply of military fuel to Europe and the Pacific was threatened. Then, too, the deciding factor in our defeat of Japan—also an island empire—was the ability of United States submarine and air forces to interdict the flow of oil from overseas to the home islands; this strangled Japan's industrial and military effort and brought about her collapse.

With the rapid advancement of technology since the end of World War II, the role of submarine in naval warfare has expanded. Nuclear power, long-range missiles, sophisticated electronics, computers—all combine to make the submarine many times more potent and versatile.

Developed within the past fifteen years the nuclear-powered ballistic missile submarine has become our most viable deterrent strategic weapon. The Soviets are now engaged in a massive construction program to build a fleet of similar, though faster, missile submarines—some of which are now on station off our coasts. It is expected that by 1973 or 1974 the size of their ballistic missile submarine fleet will equal or exceed ours.

The Soviets are also building large numbers of high-speed, torpedo-firing nuclear-powered attack submarines, as well as large numbers of modern surface ships and nuclear-powered submarines which can fire long-range cruise missiles. These missiles can probably be armed with nuclear or conventional warheads.

In 1969 the tempo of world-wide Soviet submarine operations reached an all time high. During recent large-scale naval maneuvers which included over 200 ships in both the Atlantic and Pacific Oceans and in nine adjoining seas, the Soviets deployed a large number of nuclear submarines away from their home bases. Admiral Gorshkov, Commander-in-Chief of the Soviet Navy said:

"The pride of our navy is atomic submarines, which are fitted out with missiles of various purposes which can be launched from under water. The submarines, together with naval missile-carrying and anti-submarine aviation having high-speed, long-range airplanes, are the basis of the striking might of the Navy. Up to date surface ships with perfect weapons on board are assigned a major role in solving tasks of the Navy. Ships of the Soviet navy are systematically present in all oceans, including the areas of the presence of the navies of NATO."

In light of these facts it is clear that if our Navy is to carry out its mission of insuring free use of the seas—a mission essential to our national survival in war—we must expand the High-Speed nuclear attack submarine development and building program and also develop a long-range cruise missile firing nuclear submarine capability.

Today it is fashionable to advocate a reduction in defense spending and to urge use of the money saved for domestic purposes; to speak of a "reordering of priorities," as if constantly repeated rhetoric could change fact. Those who so advocate do not test their theories or their deductions against human experience. Soviet Russia is building a military establishment which is already ahead of ours in some respects and by 1975 will be ahead of ours in virtually all respects. These facts should be weighed when assessing the judgment of those who argue for a reduction of American military power while Soviet military power is rapidly expanding.

"Peace for our time!" declared Neville Chamberlain. And what was to follow was six years of one of the bloodiest conflicts ever experienced by mankind—a conflict that nearly wrecked Western Civilization. Let us hope the lessons of appeasement and unpreparedness have not receded into the dim shadows of past victory.

I now turn to your specific questions.

Questions 1 and 2: What is the latest assessment of the present and future Soviet submarine program?

How does this compare with the United States submarine program as of today?

Answer: First, a brief review of the historical background.

Entering World War II with 260 submarines, the Soviets then had the largest submarine force in the world—over four times the size of Hitler's U-boat fleet. However, most of the Soviet submarines were short range and designed primarily for coastal defense. During the war they lost numerical leadership in submarines to Germany. That position, however, was regained shortly after the war and has not been challenged since.

Starting with 200 diesel-powered submarines at the end of World War II, most of which were obsolete, they embarked on the largest peacetime submarine construction program in history, producing over 570 modern submarines in 25 years—most designed for long-range operations. During the same period the United States built 105 submarines. In two years alone, 1955 and 1956, the Soviets completed 150 submarines, one and one half times the total number of submarines this country has produced in the past 25 years.

The Soviets have applied tremendous resources to the expansion and modernization of their submarine construction yards. They now have the largest and most modern submarine building yards in the world, giving them several times the nuclear submarine construction capacity possessed by the U.S.

They are credited with a nuclear submarine production capability of 20 ships a year on a single shift basis. They have the facilities to increase this rate of production considerably. At present, while our Poseidon conversions are going on, the maximum U.S. capacity to build nuclear submarines is less than half that of the Soviets. Upon completion of these conversions—about 1977—the best we could do would still be well below their capacity.

One of the most important steps they have taken has been the development of a large reservoir of trained engineers to support their submarine design and building program. They graduate ten times as many naval architects and marine engineers per year as we. With such an imbalance it is no wonder we are falling behind in submarine technical areas.

According to the latest unclassified data the Soviets now have a total of 355 to 363 submarines, all built since World War II. More than 75 of these are nuclear-powered. The total U.S. force is 147 submarines, 88 nuclear-powered, the remainder diesel-powered. Most of our diesel units are of World War II vintage. A comparison according to types of submarines, nuclear and nonnuclear, is shown below:

COMPARISON OF UNITED STATES AND SOVIET SUBMARINES
JULY 1970

Submarine type	Soviets	United States
Attack:		
Nuclear	20-24	47
Nonnuclear	220-..	59
Ballistic missile:		
Nuclear	20-23	41
Nonnuclear	30-..	0
Cruise missile:		
Nuclear	35-36	0
Nonnuclear	30-..	0
Total:		
Nuclear	75-83	88
Nonnuclear	280-..	59
Grand total	355-363	147

One of the arguments put forth to justify our having a substantially smaller submarine force than the Soviets has been our numerical lead in nuclear submarines. But today, as a result of the Soviets' large-scale construction program, that lead is rapidly disappearing. Based on current force levels and estimated Soviet nuclear submarine building rates, they will be ahead of us numerically before the end of this year. Even if we should decide at once to reverse this trend, our efforts could not begin to bear fruit for half a decade at least; in the interim the Russian lead will grow substantially.

Of even greater concern than total numbers is the fact that since 1968 the Soviets have introduced several new designs besides converting older designs to improve their capabilities. They have introduced significantly improved second-generation versions of their first-generation attack, cruise-missile and ballistic-missile nuclear submarine designs. In the last two years they have introduced more new submarine designs than have ever been put to sea in all of naval history during a comparable period. The U.S. on the other hand, has introduced only one new design submarine in the last 10 years.

It should be realized that the Soviet designs we are now seeing were started several years ago. Having completed these, it is only logical to assume that their design talent is now being used to refine design techniques and to work on the next generation of submarine designs. Within a few years we shall probably see a whole new series of submarine designs.

One of their current new designs is the YANKEE class nuclear-powered ballistic-missile submarine introduced in 1968. These submarines look very much like our ETHAN ALLEN class—our latest Polaris type—and are capable of submerged launching of 16 ballistic missiles with a range of over 1000 miles. Their earlier class of nuclear-powered ballistic-missile submarines can fire only three missiles with a range of 600 miles.

They now have 13 of the YANKEE class operational; additional units are under construction at a rate of about 12 a year. It is estimated that they will surpass our Polaris fleet of 41 by 1973 or 1974, possibly sooner. Further, it must not be forgotten that the Soviets also have over 30 conventional and nuclear-powered ballistic-missile submarines of the earlier design. Thus, we are faced with imminent loss of our lead in numbers of sea-based strategic missiles—no matter what action we take today.

While the extent of their submarine design and construction effort is alarming, this is not the only area of concern. We have long relied on superior quality in our submarines to compensate for lack in numbers. This quality-quantity comparison of effectiveness is valid only when the quantitative advantage of the opposing force remains within reasonable bounds. There is obviously a point at which a large numerical advantage will overcome a qualitative disadvantage. But recent evidence indicates that the Soviets are making considerable progress in all aspects of their submarine capability, thus markedly reducing whatever qualitative advantage we may have had.

One of the most important aspects of submarine quality is speed. For years our planners were confident that U.S. submarines had a speed advantage over the Soviets. We now know that their submarines are much faster than our planners believed. Their entire nuclear-powered submarine force is now credited with a high speed capability. As you know, this one aspect of submarine performance was a key factor in determining the speed of our newest class of attack submarines, the SSN 688 Class, which we are now starting to build. But the first ship of this class will not be completed before 1974.

In varying degrees, they have also made significant improvements in other important submarine areas, such as detection devices, quietness of operation, reliability, crew performance, and operating efficiency. In all these areas our qualitative advantage has decreased, and the designs they are now developing may well be superior to ours.

Take operating efficiency for example. Soviet submarines continue to operate out-of-area for longer periods and at greater distances than ever before. They have established mobile task forces providing for repair of their submarines by large tenders—sea-going bases—thus greatly extending their operating capability. These sea-going tenders can remain at sea for 6 months, servicing and repairing submarines while underway. In addition, the Russians have small tenders which service the large tenders. This is a new and unique contribution to the art of submarine warfare.

The Soviet submarine force, like the entire Soviet Navy, has become capable of sustained open-ocean operations and is being used to support foreign policy in various areas of the world. In 1969 the tempo of worldwide Soviet submarine operations was at an all time high. This tempo has continued to increase in 1970. During the recent large-scale naval maneuvers that included over 200 ships in both the Atlantic and Pacific Oceans and nine adjoining seas, they deployed a large number of nuclear submarines away from their home bases. Admiral Gorshkov commented on these maneuvers:

"Whereas until quite recently some areas of the world's oceans were considered restricted areas in which the navies of imperialist powers ruled supreme and where our ships seldom ventured, now there are no such areas.

"The success of such big ocean naval exercises shows a high level of prepardness of forces of our navy, its tactical maturity, the ability of commanders and headquarters to organize and carry out complicated multistage and many-sided combat actions."

Today the Soviet submarine fleet has competent leadership; the scope of their operations reflects the training and ability of their personnel; they have larger numbers of trained personnel than we.

They are also pulling ahead in submarine weaponry. We rely almost exclusively on the torpedo as our principal tactical submarine weapon. Even here we do not have a modern weapon, due to the continuing delay in the Mark 48 torpedo program. While the Soviets possess a torpedo capability comparable to ours, they have also successfully developed and put to sea some 65 submarines capable of firing long-range anti-ship cruise missiles. These submarine cruise missiles represent a threat to our worldwide surface shipping, our naval surface forces, and our free use of the seas. A comparable weapons capability does not exist in the United States Navy.

The Soviets issued the following press release, describing an encounter during their recent naval exercise:

"Somewhere beyond the horizon a large force of ships was moving. A strike against this force was to be launched by various forces of the fleet. First to go into action was a missile-carrying submarine. Its sonarman detected the hostile force. Officer Blednyy, a Division Commander, carried out the calculation, and then up from under water, one after another, flew missiles that are able to carry a nuclear warhead. Such a salvo can destroy an entire task force of surface ships."

In the area of sea-going ballistic missiles the situation appears more favorable to us at present. As I pointed out earlier, the latest Russian Polaris-type submarines, the YANKEE Class, carry a submerged-launched ballistic missile with a range of over 1000 miles. The ballistic missiles carried in 10 of our Polaris submarines have a range of about 1700 miles while the remaining 31 Polaris submarines carry missiles having a range of about 2500 miles. Work is underway to convert these 31 submarines to carry the POSEIDON missile with its larger and more sophisticated payload.

However, the Russians are testing a new submarine ballistic missile estimated to have a range of 3000 miles. This missile may be backfitted into their YANKEE Class or, more likely, into a new class of submarines specifically designed for it.

In summary, the Soviets have established an impressive technical and industrial base devoted solely to realization of their aim of a submarine force without peer. This has enabled them to pull ahead of the United States in almost every aspect of submarine design, development and construction. We have no comparable resoruces, nor are we taking the necessary steps to acquire them. Our loss of numerial leadership in nuclear submarines is close at hand; our claim to superior quality is questionable. We must face the bitter truth that we no longer lead in submarine warfare capability. To rest on one's laurels invites disaster.

Question 3: Based on our presently planned submarine program over the next 5 to 10 years, how will the United States submarine force compare with that of the Soviets?

Answer: Projections of this kind are difficult because of the imprecise nature of our knowledge of Soviet plans. We know pretty well what they have today; based on current trends, we can try to project what they are likely to have in the future. As I have mentioned, by the end of this year the Soviets will probably assume numerical leadership in nuclear-powered submarines. By the end of 1975, when we put into operation the last submarine currently authorized, the United States will have a total of 109 nuclear submarines. During the same period the Soviets will probably add at least 70 nuclear submarines for a total of 145 to 153—giving them a numerical superiority of fifty percent in nuclear submarines. It should be recognized that the actual Soviet submarine force level in 1975 may well be even higher than this estimate. On the other hand, the U.S. program through 1975 is essentially fixed by budget and procurement decisions already made.

Ten years from now the situation could be even worse if action is not taken *now* to increase beyond three the number of U.S. submarines authorized to be built each year. If this is not done, the Soviets can be expected to keep on outproducing us in nuclear submarines by at least 3 or 4 to 1. Assuming that the U.S. continues to produce submarines at a rate of three a year, our total nuclear submarine force in 1980 would be 124; assuming the Soviets continue to produce at the present rate, their total nuclear submarine force will be 220. Thus, by 1980 they may have almost twice as many nuclear submarines as we. Further, their higher output means that the greater part of their nuclear submarine force would be far more modern than ours: about 65 percent of the Soviet nuclear submarine force would be less than 10 years old compared to 30 percent of ours. We must also assume that they will continue to improve their designs and will turn out several new classes during the next ten years.

Question 4: In your opinion, what should the United States program be over the next ten years?

Answer: Overall, I believe we must undertake a submarine program that will ensure our ability to meet our worldwide commitments in the event of war. In view of the increasing capability of the Soviet submarine force and what we can expect them to accomplish over the next ten years, this will require us to undertake a far-reaching program on an urgent basis; it will require redirection of many outworn policies and practices of our present submarine effort. The advances made in some areas of our submarine program, impressive as they may seem, have not kept pace with the dramatic changes in technology. If we are to have any hope of holding our own in undersea warfare within the next ten years, we must start now to overhaul our submarine effort.

First, the current high-speed attack submarine (SSN 688 Class) building program should be increased from the present level of three to at least five per year, just to maintain the presently approved force level of attack submarines, taking into account the probable retirement of obsolete submarines. I am not in a position to comment on what the SSN force level should be. This depends on many factors and is the responsibility of the Chief of Naval Operations and the Joint Chiefs of Staff.

At the present time the most advanced design available for construction is the SSN 688 Class. We should continue building these at the rate of five a year until new, more sophisticated designs become available sometime in 1974–75.

Second, we must be willing to try out several new design submarines on a single ship basis. The years of wrangling and fighting it took to get approval to build the Turbine-Electric submarine, and the years it took to get approval to start the first High-Speed submarine attest to the unwillingness of the Navy and the Defense Department to prove out new concepts. Under the present system, it takes longer to obtain authority to proceed than it takes to develop the hardware. We cannot hope to make progress, unless a new system is set up that will assure quick approval for trying out new concepts, as they are identified.

Third, development should be started immediately on a new design high-speed submarine capable of firing long-range submarine-to-surface cruise missiles. A parallel effort should be started on an urgent basis to develop for this submarine a reliable missile capable of various modes of guidance. It is patently clear to me that within the next ten to twenty years our Navy will be forced to go more and more underwater. The key to this type of warfare is a submarine that can fire a conventional or nuclear warhead several hundred miles with extreme accuracy from a submerged position. Our attack submarines cannot continue to rely primarily on torpedoes with their limited range and speed. I consider this to be the single most important tactical development effort the Navy must undertake.

Fourth, from the strategic point of view, a replacement for the present Polaris system needs to be started. The advantages of the Polaris system are well-known and will become even more important with time. Yet, Polaris continued invulnerability, secure as it is today, cannot be dependent on to last. The obvious solution to insure continued invulnerability is to increase the range of the missile—thus providing greater ocean areas to hide in. Early stages of development of such a system, the Underseas Long Range Missile System (ULMS), are presently underway within the Navy and funds have been provided by Congress. This program should be continued.

Question 5. Do you feel that the methods presently employed by the Department of Defense to procure major weapon systems are capable of handling a matter as urgent as this?

Answer: No. The record documented over the past six years by official Navy and Department of Defense correspondence, by voluminous testimony before Senate and House Armed Services and Appropriations Committees and the Joint Committee on Atomic Energy, and by reports of these committees constitutes *prima facie* evidence that the capability is not there. The record shows that under present methods and procedures the Department of Defense and the Navy are incapable of recognizing the magnitude of the rapidly expanding Soviet submarine threat, or of formulating an adequate submarine development and building program, or of marshaling the necessary resources to prosecute the program with vigor.

As you are well aware, we would not be developing and building *any* submarines at all had it not been for the powerful and sustained opposition of the Congress to the determined efforts of the Department of Defense in recent years to terminate the nuclear submarine building program entirely.

A factor which greatly contributes to the situation we presently find ourselves in is the lack of submarine design capability in the Navy. The Navy has so fragmented its submarine design process, and it has so dispersed its submarine design talent that it is questionable whether it can develop a new submarine design with significant improvements in any area other than the propulsion plant.

To design a submarine today, many special interest groups in the Navy have to be coordinated: the Naval Ship Systems Command, the Naval Ship Engineering Center, the Naval Ordnance Systems Command, the Naval Electronics Systems Command, the Naval Material Command and the SSN Program Coordinator in the Office of the Chief of Naval Operations. For ballistic missile submarines, the Strategic Systems Project Office is also involved. It is almost impossible to develop a new submarine weapons system under these conditions. No one has the authority to do it.

To further complicate matters, the Navy has been told by the Department of Defense that ships must be designed by a process called "Concept Formulation-Contract Definition." Basically, this involves having industry do the design and construction, constrained only by rudimentary government performance specifications. The idea is that the technical resources of industry will be applied for the benefit of the government. The basic flaw in this concept is that industry works to make a profit, not to turn out the best product for the government. I have learned that to deliver a viable product, given the complexity of today's nuclear combatant ship, it is essential for the government to have men with detailed technical knowledge who control the entire process from conceptual and detailed design fabrication and testing. A contractor can never be in a position to control and coordinate, financially or technically, the myriad developments required for an advanced nuclear submarine design. It is simply not feasible to expect a contractor to meld the constantly varying output of large developmental programs into the most modern combatant submarine. To date, no naval combatant ship has progressed past the design stage using the "Concept Formulation-Contract Definition" process. To proceed down such a path for a nuclear submarine would be disastrous.

When the former Bureau of Ships was reorganized in 1966, it was restructured around the "Concept Formulation-Contract Definition" process, thereby greatly reducing its in-house technical capabilities. To the Naval Ship Systems Command were relegated only managerial functions. Technical support was to be supplied on request from the Naval Ship Engineering Center.

Most of the technical personnel previously involved in submarine work are now widely dispersed in project managers' offices, or at the Naval Ship Engineering Center where they act as advisers with no real responsibility or authority, or they have transferred to other work. The once capable Bureau of Ships has become a center for "managers" who rely on organization charts, progress reports, management studies, cost-effectiveness comparisons, improvement programs and

XUM

brochures, while neglecting the technical details. In this they are aping the systems set up several years ago within the Department of Defense. It is well to remember that no number of gardening books will make plants grow in a drought.

The Soviets have overtaken us in submarines, while we have let our submarine design capability wither away. The seeds were sown many years ago; to catch up will be an immense task requiring resolute and drastic action.

We must find a way to formulate and gain approval of an adequate submarine development and building program and then marshal the resources to carry it out. The present organization and methods prevent this. Most officials in the Navy and DOD bureaucracies actually perform only one major function in the procurement of weapons systems, and that is to give their consent to requests for funds. Until all these officials agree to release funds nothing can or does get done. Because of the decreasing availability of funds, people at all levels of the bureaucracy demand that an ever increasing volume of information be forwarded through the long chain of command, for their review prior to consenting to release of funds. By the time the man in charge of a program translates the actual situations facing him into the forms prescribed by his superiors and in terminology they can understand; by the time he answers all the questions raised by the many principals and staff personnel in the bureaucracy, little time is left over for him to actually manage his job. A working level manager finds countless people in staff positions in organizations superior to his own, each of whom can make demands on his time and require him to justify his actions. He has to funnel the collective technical intelligence through the relatively untrained and undisciplined minds of many of these administrative officials. However, he finds hardly any one among them who appears to realize that he also has a responsibility—other than that of benevolent neutrality—to help get the job done. The failure to understand the distinction between abstract principles and specific problems tends to mute action; those responsible hide their indecision and lack of action behind a screen of rhetoric and mountains of paper. When help is given it is often in the manner of a lord granting a favor to his vassal.

So long as the bureaucracy consists of large numbers of people at many levels who believe they perform their function of evaluation and approval properly, by requiring vast and detailed information to be submitted through the many levels of the bureaucracy, program managers will never be found who can effectively manage their jobs. A program manager today would require at least 48 hours a day of his own time just to satisfy the requests for detailed information from the Navy and DOD bureaucracies, the Congress, the General Accounting Office, and various other parties who have the legal right—and use it—to place demands on his time. As long as we operate a system where the checkers (those charged with the responsibility of evaluating and approving) outnumber the doers (those responsible for carrying out the work), the doers are condemned to spend their time doing paper work for the checkers. Meanwhile the Soviets move forward unhampered by theoretical management doctrines.

The situation compounds itself because the number of people in this world who are truly capable of getting design and technical work done is small, and most of these will not knowingly seek employment under such conditions. Therefore, the system itself inhibits producing capable program managers.

Also, few people are capable and qualified intellectually to evaluate and approve actual performance of complex technical work. Since a reviewer or evaluator who is incapable of performing his job intelligently does more harm than good, it would be far better to abolish these jobs and rely on the program managers, ineffective though some of them may be. That way, at least, the program managers would be spending their time actually getting the technical job done.

You may think I have overstated the case. I assure you I have not. At the working level there is disenchantment with the present system and a deep-seated frustration and resentment at the hordes of reviewers and evaluators let loose on them—let loose to consume so much of their time that they are unable to pay attention to their own responsibilities—even though in many cases these responsibilities may stretch their capabilities to the utmost and call for their fullest attention and energy.

We must establish an adequate submarine program and then we must establish groups of technically competent people with clear authority and responsibility for executing the program, similar to the strong technical management approach that prevailed in the nuclear propulsion program and later in the Polaris program. There is also a need for strong technical groups in the shipyards and industrial contractor organizations to carry out the technical development work under close technical direction from the government headquarters organization. These needs are not being met and will not be met until the present methods are changed.

Another question which must be answered is: are we capable of manning and operating a fleet of highly complex submarines, particularly with the changing mood of young Americans? Under existing policies, the answer is no. Today we find it difficult to operate and maintain our submarine fleet with a 50 percent turnover in crews every year. It takes a long period of training before a young man can be relied upon to operate and maintain the sophisticated equipment in these ships. Means must be found to keep these men in the Navy long enough to provide the necessary stability. If this means more pay, then we must provide it, although pay is not the sole issue.

All of the above point to the need to increase awareness of the importance, and acceptance, of the priority of the submarine role within the Navy and the Defense Department. Without recognition of and emphasis on this priority, the program I have outlined will not succeed. To this end I recommend as a start:

(a) establishing a Deputy to the Chief of Naval Operations for Submarines with the rank of vice admiral

(b) establishing within the Naval Ship Systems Command a Deputy Commander for Submarines of flag rank, and having overall responsibility for submarine design and construction, and with an in-house submarine design organization under his command.

(c) establishing within the Naval Ordnance Command a technical organization for developing a long-range, submerged launched submarine cruise missile; and

(d) establishing within the Bureau of Naval Personnel an office of sufficient authority to be responsible for all submarine personnel matters.

I fully recognize that even if these steps were taken there is little hope for improvement unless present policies and practices within the Navy and Defense Departments are changed.

Question 6: What actions must be taken by Congress to strengthen our nuclear submarine program and reestablish our supremacy?

Answer: This is the most difficult of the questions you have put to me, for it has no simple, factual answer, but I shall try.

Taking into account the magnitude of the Soviet submarine program and current budgetary pressures, I do not think it is possible to reestablish our submarine supremacy in the near future. It will require heroic measures just to establish a submarine program that will halt further erosion of our position and enable us to hold our own in undersea warfare.

We must recognize at the outset that the root of the problem lies not with the Congress but with the labyrinthine and sluggish organization of our defense establishment, the all-pervasiveness of paper men in the bureaucracy. It is most difficult for the Congress to correct this since the Congress cannot assume the burdens and responsibilities of the Defense Department.

I believe the most valuable role Congress can play in the present situation is to goad the defense planners into doing their jobs by requiring them to explain to your satisfaction the steps they will take to establish an adequate submarine program. If we are not to repeat past mistakes it will probably be necessary for Congress to authorize and appropriate funds before agreement is reached with the Defense Department. It was precisely this type of impetus from the Congress that enabled the United States to achieve its original preeminence in nuclear submarine capability and to enjoy our Polaris fleet—now so vital to our defense. As you well know, it was the Congress, not the Executive Branch, that supplied the initiative, wisdom, foresight, determination and courage that gave this country our nuclear Navy.

I think your suggestion to "call a special hearing to focus Congressional attention on this matter" would help to force correction of the bureaucratic inertia and inefficiency which have resulted in dissipation of our lead in this field, and which stand in the way of establishing an adequate submarine program.

Further, such a hearing would help to insure that the Congress and the public thoroughly understand the serious implication for our long-range national interest if we allow Russia—the dominant land power—to become the world's dominant naval power as well.

It is in my opinion that with respect to our submarine program the Congress cannot properly fulfill its constitutional responsibilities "to provide and maintain a Navy" unless it insures that the Defense Department and the Navy are, in fact, responding to this problem as rapidly and effectively as is essential to our national security. This will require constant and thorough familiarity with the Soviet naval threat, the needs of the Navy, and the progress being made to meet those needs. I recognize this will not be easy to do, but I am convinced that without constant, expert oversight from the Congress our ponderous defense bureaucracy, with its glacial slowness, will not take the necessary actions.

CLOSING REMARKS

I would like to end this letter with some observations you may find useful. No one believes more firmly than I that in a free society the military must be under civilian control. But the principle as such does not guarantee that the interests of the people as a whole will be competently executed in military matters. This depends on the quality of the civilian direction; on the caliber and experience of the men in the civilian high command on general staff, as well as on its organization and procedures.

For at least a decade, the civilian high command of our military establishment has made decisions concerning design and procurement of military hardware, largely on the basis of the principles of so-called "scientific management," and specifically of systems analysis and cost-effectiveness. This process continues. It is inappropriate for the

XUM

management of our military establishment which has as its primary and overriding purpose the protection of this country against enemy attack. Numbers like facts are good servants, but bad masters.

At today's level of military technology, the best protection—the only truly effective protection—of this country is an effective deterrent to foreign aggression. Systems analysis and cost-effectiveness as they have been practiced in the Department of Defense are irrelevant when it comes to evaluating how much of a deterrent we need and what will provide the most effective deterrent at the least expenditure of funds. Even the money angle alone is beyond the capacity of those expert in nothing but systems analysis and cost-effectiveness; technical military competence is the indispensable *sine qua non*.

The proof of the pudding is in the eating. The ten year systems analysis-cost-effectiveness regime in the Department of Defense leaves us today in imminent danger of losing the substantial lead we once had in our nuclear submarine Navy. This erosion, moreover, has not been accompanied by more efficient expenditure of taxpayers' money; quite the contrary. My own experience has been that the "scientific-management" people have made it more difficult to keep costs within reasonable limits, even as they have held up the vitally necessary technical work of design and of building nuclear ships to keep abreast of the Russians, besides wasting the time of our few capable technical people by ordering them to do useless paper work for their "studies." We must give up computer thinking on a subject that cannot be computerized, a subject which means your future and mine, the future of the whole American people.

Wherever the social sciences have permeated American life, they have down-graded competence within a specific field and glorified vague generalities supposedly applicable to all situations. This springs from their determination to appear "scientific" in the sense that the natural sciences are so termed. That is, they try for "general laws"—comparable to the law of gravity, for example. No such thing can ever be found in areas concerned with the behavior and interactions of human beings, for people are both free and diverse—they cannot be made into "atoms" or other inert units. In education, pseudo-sociological notions account for the emphasis on competence in teaching *methods* and the neglect of competence in subject *knowledge;* in matters of military procurement, they account for emphasis on management "science"—pseudo-science at best—and neglect of competence in the science and technology of military equipment and operation. Unless the incubus of the social sciences can be removed from our civilian high command, I fear we can count on being made and kept inferior to the Russians. This is an exorbitant price to pay for a doctrine that, however much it is valued by its practitioners, has nowhere proved itself.

We used to be an immensely practical people. Perhaps we admired concrete technical achievement a little too much and theories and research not enough. But under the dominance of the social sciences, so-called—which include the whole "scientific management" concept—we have gone too far the other way. We allow the theoretical research expert to control the technical expert who knows how to get the practical job done. Theory and research are important but where practical work has to be done, they can *never* be a substitute for technical expertise.

It is the fashion in our business schools to claim that managing is an art or a profession that can be learned in the abstract and applied to any kind of activity—kings used to claim that they had inherited or learned the art of governing and nobody else could do it as well as they. Conglomerates today operate on the notion that an organization that does well manufacturing shoes can equally well—with the same management or its equivalent—manufacture ships, toasters and what have you, even nuclear submarines. But it just isn't so.

You remember that Mirabeau said, "to administer is to rule." The "scientific management" people claim to have learned the art of administering *anything*. It is paradoxical that we who began our life as a nation by depreciating the notion that to be raised a king made one fit to rule a country—that we now bow down to those new rulers of ours, the professional administrators, setting them above those who have technical knowledge, skill, and experience and giving them final decision in evaluating their technical work. You can be sure that the Russians would never have made such spectacular advances in the science, technology, and operation of nuclear submarines, had they allowed themselves to be constrained by systems analysis and cost-effectiveness rules. And this, too, is paradoxical. For the Soviet Union is the first nation to have been built entirely on social science doctrines.

One could make a good case, I think, showing that they have been highly successful where they abandoned these doctrines—as in education, science, military technology—and equally unsuccessful where they held on to them against all common sense—as in agriculture and consumer production.

To recapitulate: My criticism of the capability of the Defense Department is based on personal experience extending over a period of a half century of Naval service and nearly a quarter century in the design, development, construction and operation of our nuclear Navy.

Not one technical idea having merit for the naval nuclear propulsion program has emanated from Department of Defense Headquarters although numerous worthless ideas have been urged on us—ideas which have required us to devote much time to refuting them. Conversely, the technical ideas I have recommended have ultimately been accepted—but only after constant opposition and detailed justifications endlessly repeated at every level of the chain of command. In many cases, starting with a NAUTILUS, it was only after Congress intervened that approval was granted. *It is my considered opinion that if today we stood at the threshold of nuclear propulsion as we did in 1947, it would be impossible to obtain Defense Department approval to build a nuclear submarine.*

I know that with growing uneasiness Congress and our people ask themselves whether the Department of Defense is capable of regenerating itself or, for that matter, whether it realizes that such regeneration is essential if the nation is to survive. I am aware that on July 1 the Blue Ribbon Defense Panel submitted a report to the President on the Department of Defense, and I know that the members of that Panel are an intelligent and patriotic group. But I also know that no outside group, no group that has not been subjected to the "management" practices of the Defense Department can "feel" what is wrong, can recognize the impossibility under present rules and procedures of getting anything accomplished within a reasonable time. Some of the most important information in the world, information on how we feel and react, about our fears and passions is not transferable information. It is information that has to be experienced rather than simply listened to or read.

The Blue Ribbon Defense Panel has recommended major changes in the structure of the Defense Department. Things in this world are accomplished by people, not by systems. Therefore, these organizational changes, while they may provide an improved framework, will not by themselves correct the malaise. Such a correction can only come from a change of attitude.

This letter is long. I have been unable to give meaningful answers to the complex issues you raise in any other manner. If I appear too bold in my comments it is because I have taken it for granted all my life that it was my duty to bear a part of the responsibility for the future of our country, and I have never doubted that in a small manner it did lie within my power to affect the future.

I thank you for giving me the opportunity to express my views.

With my warm regards.

Respectfully,

H. G. RICKOVER.

Mr. MINSHALL. Mr. Chairman, I yield 15 minutes to the gentleman from New Hampshire (Mr. WYMAN).

Mr. WYMAN. Mr. Chairman, as the newest member of the subcommittee on the Department of Defense, it was a real privilege to succeed the late, distinguished, dependable workhorse on that subcommittee, the late Honorable Glenard P. Lipscomb, of California.

Everybody misses Glen. But I would like to observe also that his place as ranking minority member on this subcommittee has been filled by one of the hardest working men, one of the most sincere and most effective cross-examiners and conscientious Congressman that it has been my privilege to be associated with, the gentleman from Ohio (Mr. MINSHALL).

I hope people realize his dedication and the extent of his work for America and his efforts to save money while making sure that our country stays strong.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. WYMAN. I yield to my distinguished chairman.

Mr. MAHON. Mr. Chairman, I want to join in the words of commendation with reference to the gentleman from Ohio (Mr. MINSHALL). He has worked closely with all of the members of the committee in a spirit of cooperation so that economies might be achieved and waste reduced in the Defense Department. It would have been difficult if not impossible to have achieved the $2.1 billion reduction recommended by the committee without the efforts and the cooperation of the gentleman from Ohio. I commend my friend for his outstanding contribution to the bill.

We lost our beloved friend, Glenard Lipscomb, and BILL MINSHALL has stepped into the breach and has done a good job.

Mr. WYMAN. Mr. Chairman, I thank the distinguished and congenial gentleman from Texas whom I am honored to be associated with.

I would like to observe, as I have worked within this subcommittee, that the same high standard applies for all of the members of the Subcommittee on Defense on both sides of the aisle. The gentleman from Arizona, is, as the chairman has described him, as solid and dependable as the Rock of Gibraltar. The gentleman from Wisconsin (Mr. DAVIS) is similarly indefatigable in his work as are the very senior members on the Democratic side who have lived and worked with the problems of defense since the days of World War II. They deserve the respect, gratitude, and appreciation of every American citizen.

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I am constantly impressed by the awesome responsibilities of the members of the Defense Subcommittee. The job that faces them is so enormous that it is almost beyond the ability of the individual to grasp. More than half of the controllable spending of the United States budget is in this single subcommittee. The future of the United States, in terms of weapons systems to be planned for, lies with them, and as the gentleman from Arizona has said, there has not been a new one from 1960 to 1969. The ability of a Member of this House to take on a member of the subcommittee in debate on the floor of this House is severely limited because, after all, the responsibilities of the subcommittee involve a great deal of classified information—more than half of the work of the subcommittee and the knowledge of the subcommittee cannot be printed in any report—we are not at liberty to discuss it on this floor. So when a person undertakes to challenge something that the Subcommittee on Defense has done, he can easily be met with the rejoinder, which in many instances is so, that "The gentleman cannot be aware of all the details and all the responsibilities and all of the facts." This is difficult to rejoin.

Weapons systems take years from the time they are first authorized to the time they are off the drawing boards and in the field. Subcommittee members must evaluate the testimony of countless "experts" and then pray they have chosen the right weapons systems to fund.

I would like at this time to make some basic observations in simple language about the defense of the United States of America. I know that later, as this bill is read for amendment, there will be Members in this body who will seek to amend it and to cut it even further. There will be arguments made about ABM and arguments about various technical aspects of the various segments of the report that are funded in the bill. But this country must stay strong, and if there is any system of priorities that is to have true meaningfulness in the United States of America, the defense of this country must remain the first priority of this Nation.

I do not want anyone to suggest that any member of this subcommittee or any Member of this House would imply that a Member who has sought to reduce a particular funding within the Defense Establishment was by that action unpatriotic, or turning the other cheek to what the gentleman from South Carolina has so graphically described as the Soviet threat in the Caribbean at this hour. The truth of the matter is that this budget is cut down below what really ought to be in consequence of tremendous pressures for increased spending for domestic concerns.

The B-1, to follow the B-52, as a manned bomber, is underfunded. Its progress has been too slow. The Poseidon conversions—the gentleman from South Carolina argued for two or more. There ought to be six or eight, if we had the facilities to handle them, but apparently we do not.

ABM, as has been said, is only increased to a third site and even as to this it is not fully funded. The truth of the matter is, that in the long run this country's main defense must look to the ULMS program—for deep sea, submarine weaponry of long range, capable of prolonged concealment under the water, and able to reach any part of hostile areas with its missiles. That is where we must go with defense money in future years because ABM has to depend on eyes in radar on the surface of the earth, and its eyes can too easily be knocked out. If you knock out the eyes, you do not have this defense.

But in the meantime the Soviet all over the world is growing in its missile capability. It has its ABM. It has its new *Yankee* class submarine. It is not controlled by any such deliberative processes as apply to this great body here or to the other body. It has installed cruise missiles without domestic discord. It must be recognized that we do not have the kind of opponent that we can engage in general discussion with. That is why SALT does not work, and never will work until we are so darned strong that we have something they want to trade out in order to protect themselves. The Soviet's naval strength today is such that the 6th Fleet exists in the Mediterranean today at the will of the Soviet Union. We do not have many really new ships. We voted $427 million in this bill for additional ships at the request of the chairman of the Armed Services Committee, but it is not enough. I would vote for $1 billion more if that is what is necessary to keep America strong.

Yesterday on this floor I urged that our great President use the "hot line" to call the Kremlin and tell them to knock off what they are doing in Cuba, because a Communist nuclear submarine base in Cuba is as much a confrontation at this time as it was for the late President John Fitzgerald Kennedy.

No one can remain indifferent to the fact that it is little short of nonsense to be fighting a war and be spending billions of dollars in a confrontation with communism in Southeast Asia and Indochina and still let the Soviets build a submarine base 90 miles from our shore that is going to lead to control of the waters of perhaps the whole Western Hemisphere.

Mr. Chairman, we are hated by the Communist nations. We are despised by Red China and the Soviet Union. We are recognized by the Communist bloc as the only real obstacle to world domination that remains between them and their declared goal of world domination. It is our obligation to our people to continue to remain strong. It is the primary obligation of the Defense Appropriations Subcommittee to make sure that this is the case.

I think we ought to recognize, too, what has been frequently pointed out in the debate today, that the dollars that are appropriated in this package do not buy what dollars used to buy. We are not going to have for the $68 billion-odd that are involved here the buy that we had just a year ago. As the gentleman from Arizona observed, there is a 10-percent difference, a 10-percent loss. Actually the cut in defense, instead of being on the order of $2.5 billion, is on the order of about $9 billion, and the deeper cut is of very, very serious concern, because the question is whether or not we are going to have what we need to protect this Nation.

The F-111 had another crash yesterday in Saginaw, Tex., but as the gentleman from Texas (Mr. WRIGHT) has pointed out, it still has a pretty good safety record. I intend to vote to keep the money for the F-111 in this bill. I think we have to do it, and I am going to vote, as I have in committee, for the money for the C-5A. The cost overruns are deplorable but we must have the planes.

We have got to have more in-house capability, however, within the Defense Appropriations Subcommittee and the full committee to enable the Congress to go out with a staff and keep an eye on these procurements. The staff of the Appropriations Committee is terribly limited for an agency that is given the entire responsibility in the legislative branch to determine how many billions of dollars or tens of billions of dollars or fifties of billions of dollars of the taxpayers' money is to be spent on national defense. Every year there are cost inefficiencies that might have been avoided, that have run into billions of dollars, if we had the staffmen out in the field to observe in the first instance and to report early enough. I believe we should also have a contract review function as a matter of continuing legislative oversight.

The trouble is best illustrated by the problem concerning which I have written separate views in the report, and to which the gentleman from Wisconsin made a brief reference a moment ago. In this bill there is a second incremental funding for the DD-963 class destroyer which is the lead destroyer for the Navy for the next 10 to 20 years, on the order of $500 million. Although this House had passed an amendment requiring that the procurement of this item should be at least from two shipbuilders, this contract was let out and committed by the Navy under the gun and despite the House amendment, and it was given to one single source. I will not mention on this floor at this time who the single source is, and it makes no difference to me as to who a second source might be, but it does seem to me that a great deal of the problem in procurement that defense faces every year is due to the fact that businesses get too big, and too much money is given to a single source.

In this instance, the package on the DD-963 is $2.1 billion. That is $2,100 million. That is a great deal of money to put in one place. Too much. Despite this fact, they put this package into a facility that already had several billion dollars in ongoing defense procurement contracts.

This is not only wasteful, and leads to a prospect of cost overruns or underbidding or concealments of one sort or another, or administrative inefficiencies, but more importantly, what it also does is put all the eggs of the United States in terms of its new destroyer into one basket. I do not think this makes sense nor reflects adequate response to security interests of the Nation.

What we should do, and what I hope

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this Congress at the next session will do, is to require that procurement of ships of this class or any procurements of this magnitude be from a common specification. But manufactured and assembled and put together in diverse locations by at least two separate shipbuilders. There should be at least two outfits building the DD-963.

The prospect of subcontracts does not answer the problem. Nor is it a valid objection that separate builders would have variable components. And I will wager we will find that the variable pitch propellers and the powertrain and some other elements are going to be subcontracted outside the United States of America.

This does not help American jobs or American industry or the American workingman. It is a matter of major concern.

I should like to see the Congress take another hard look at this in the next year, and perhaps come up with a requirement of dual source procurement. I am informed it is likely to be some time before this ship is actually in production. I feel that we will be able to come up with a diversity, with a separation of facilities and production that will do a lot to contribute to the security of the United States, even though in so doing it may be necessary to unfeather some nests.

Mr. Chairman, there is no greater cause than the defense of our Nation. If we do not stay sufficiently strong in the United States of America to deter attack upon us, whether it be from Cuba or from any other source, then all the social welfare programs in the world are to no avail. Those who are so "gung ho" these days for new priorities in this country would do well to reflect on this fact.

I hope that there will not be a major effort made on this floor to reduce the defense appropriations called for in this bill any lower than they have been reduced in the bill. I feel it is essential for the United States to stay strong, and particularly essential at this time for us not only to have something to bargain with at the SALT talks but also to be able to give the impression to the world that we are going to protect our friends and that we have enough reserve to stay with them.

As Members know, we have had Soviet vessels pop up in the midst of our training exercises, and we have had them affront us and affront other nations of the world on the high seas all over the world.

It is a matter of very distressing concern, for our respect of international law on the high seas is well known to the Soviet Union. They take advantage of this to stage confrontation after confrontation that the world takes as evidence of weakness on our part when we fail to respond. Recently, they have intruded upon our naval operations, cruised in the midst of our task forces, and even interfered with underwater missile test launches within sight of U.S. shores.

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Mr. Chairman, with the reservation stated relating to the DD-963 procurement, I support the bill and urge its passage.

The CHAIRMAN. The time of the gentleman from New Hampshire has expired.

Mr. RHODES. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. WYMAN. I yield to the gentleman from Alabama.

Mr. ANDREWS of Alabama. I want to say that the gentleman has made an excellent speech. I have served on this subcommittee a long time, and I can truthfully say that the gentleman in the well now has served as ably as any Member with whom I have ever served. He has grasped the problem quickly. He has been regular in his attendance at committee meetings. He is able. He is a great and loyal American. I want to commend him for the excellent speech he has just delivered.

Mr. WYMAN. I thank the gentleman.

Mr. RIVERS. Mr. Chairman, will the gentleman yield?

Mr. WYMAN. I yield to the gentleman from South Carolina.

Mr. RIVERS. I have been around this place for a long time, Mr. Chairman. I have seen no one who has assimilated the technical terms and the technical know-how of this complicated Military Establishment with all its sophisticated systems more quickly than the gentleman who has just addressed the Committee. He is a scholar. He assigns himself to his task. He has done a splendid job.

The gentleman talks like a veteran on this Committee, and he has done a lot of good. I am happy to associate myself with what the gentleman has said. He is rendering great service to this Committee, to this Congress, and to the Nation. He is a great patriot.

Mr. WYMAN. I thank the gentleman very much for his kind remarks.

I should like to respond by saying that when I was fortunate enough to be assigned to join my brethren the gentleman from Ohio (Mr. Minshall), the gentleman from Arizona (Mr. Rhodes), the gentleman from Wisconsin (Mr. Davis), and the other fine gentlemen on the subcommittee I told Mr. Bow, our good friend the ranking minority member, "Put me on only the Defense Subcommittee because it is a full-time job for the country."

I am just beginning to try to get enough learning to be able to comprehend the terms and the technology in the thousands and thousands of pages of hearings. As for assimilation of that to which the gentleman made reference, I doubt it I could adequately do that in 5 years, but I am profoundly grateful to the gentleman for his generous remarks.

The CHAIRMAN. The time of the gentleman from New Hampshire has again expired.

Mr. MINSHALL. Mr. Chairman, I yield the gentleman 2 additional minutes, and ask the gentleman to yield.

Mr. WYMAN. I yield to the gentleman from Ohio.

Mr. MINSHALL. Mr. Chairman, I, too, would like to commend the gentleman from New Hampshire for the outstanding work he has done on this subcommittee. When he was chosen for this new assignment we looked over his record in the House and we found it was an excellent one. He has certainly proved it in the short time he has taken over his duties.

Mr. WYMAN. I thank the gentleman.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. WYMAN. I yield to the gentleman from Illinois.

Mr. YATES. I want to join in commendation of the gentleman's speech. He made an excellent speech.

I should like to ask the gentleman about the C-5A and the Lockheed proposal. As I understand it, from reading the report and the proposal in the bill, Lockheed is to receive an extra $200 million this year and an extra $200 million next year in order that 81 C-5A's may be completed. This $400 million, as I understand it, is above the contract, a gratuity.

How much do we have to pay for weapons systems of this kind? Suppose $300 million or $400 million had been requested, would the committee have approved it?

From what I can get out of the hearings and from speaking to members of the staff, Lockheed has had poor management. As one of the great weapons-producing corporations of the country, if it is guilty——

Mr. WYMAN. May I respond to the gentleman?

Mr. YATES. Let me finish my question first and then you can respond.

If Lockheed is guilty of bad management, even if there is a need to foster our national security, is there not some other way of doing it than by pouring endless money toward building this aircraft?

The CHAIRMAN. The time of the gentleman has again expired.

Mr. MINSHALL. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. WYMAN. Before I yield to the gentleman from South Carolina who seeks to respond, I would like to make this observation. It is cheaper in the long run to put this money in this bill for this procurement than to wash them out. If we wash them out the billions already spent are lost. We have to have these C-5A's. There have been inefficiencies and problems, but sooner or later I am hopeful under the direction of the able gentleman from Texas and the staff, which is extraordinarily competent, we may be sufficiently implemented by additional staff in the field so we can keep an eye on these things and prevent these overruns.

Mr. RIVERS. Will the gentleman yield?

Mr. WYMAN. I am glad to yield to the distinguished chairman.

Mr. RIVERS. We are giving Lockheed $200 million, and we believe that is justified. We will keep separate accounting on Lockheed to make sure that the expenditure is justified. We in the Government owe them $700 million that we have not paid them. Lockheed is producing this aircraft. It is out of the woods now. Does the gentleman think the 747 is not having trouble? They are. And do you think we ought to knock that down because they are? If we stop production, we will be in trouble, because we need these aircraft.

Mr. MAHON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, I doubt that any of us who will speak today can qualify as experts in this area. We are all dependent upon what we believe after listening to the intelligence community.

The President, the Bureau of the Budget, and the committee have all studied all the facts available to us—and the bill before you is our recommended actions based upon a composite of such study.

Except for a few years, I have served since 1943. With that background I want to take this time to say that I can find much to agree with, in everything that has been said here.

However, all viewpoints can be met if the President and the Congress agree—within the funds recommended here.

The need for additional nuclear submarines has been mentioned. We provided for more than was requested and because the executive department did not agree, you will see that from 1961, 1962, 1963, 1964, 1965, and 1966 a large part of funds the Congress appropriated for the Polaris submarines were not spent for that purpose but for others. The committee approved other uses when not spent for submarines.

My point in taking the floor at this time is to say we have before us a bill that will provide more than $66 billion for Defense for the next fiscal year. But, Mr. Chairman, what has not been stressed is that the Department will have $9 billion that is not committed for expenditure which is available to meet any emergency that might arise. Actually the total available for the year exceeds $105 billion.

I grant you that we would have to straighten it out—and frequently do—after the fact but the fact is we reprogramed more than $4.7 billion this year. They tell the Congress about the changed need and the Congress agrees. We say: "OK, go ahead," which is as it should be.

Mr. Chairman, in the past the Department had so much money in so many pockets that it did not know what it had. Operation "Smoke Out" followed and the Air Force alone found more than $4 billion in dormant accounts.

I am glad here we are limited—the time for which appropriations are made are limited: 3 years for major procurement, 5 years for shipbuilding, and research and development only 2 years. This is a great forward step to regain control. This action should save billions. Under the old system funds secured for a high-priority use frequently ended up being spent for a fifth-rate use.

I repeat, if you get amendments adding funds for additional items, you will be dependent upon the Department of Defense as to whether they use the funds. But if the Department of Defense feels that such items are necessary there are funds—more than $9 billion—that could be so used.

I urge you to support the committee bill, because above all we must retain an economy that can support a war. And may I say if we have one I hope and trust we will have a plan to win—something we have not had in Vietnam where we have used more bombs than World War II and Korea both, mostly dropped in the sea or unoccupied forest—while prime targets have been ruled "off limits." It is a shame.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. MAHON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York (Mr. PIKE).

Mr. PIKE. Mr. Chairman, I appreciate the chairman of the committee yielding to me and I have asked for this time in order to commend him and the committee as a whole for doing what I believe to be a reasonable job in cutting this appropriation down to the point where it is. I am going to support it wholeheartedly.

We were told initially that this was a rockbottom budget. Well, it was not a rockbottom budget. I am glad that the Appropriations Committee has taken some of the rocks out of it. There are some more items I would have liked to see removed, a few I would rather have seen left in, but the committee has been responsible.

I would like to suggest to you that we all too often erroneously justify the tremendous waste which exists in these programs by saying that these are sophisticated programs and that they are breakthroughs. We have new technology and new things we have got to do, and it is this which causes waste.

Well, Mr. Chairman, I want to show you an unsophisticated program which is under procurement right now. This is the total drawing of the program. It constitutes a felt washer, a simple felt washer, 1⅓ inches in diameter and ⅛-inch thick. The person to whom the program was submitted told me they could produce it probably for about one-tenth of a cent apiece.

Now, this is not a technological breakthrough, but in order to bid on it the Pentagon first requires a bidder to look through 61 computer cards, each with a microfilm insert, and the first one blows up into this, and that is the only drawing in the bunch, but there are 61 computer cards each with a microfilm insert, and after that there are 3 pounds and 6 ounces worth of plans and specifications and regulations and instructions to build a felt washer.

If we are truly in danger of becoming a second-rate power, as some people have suggested, it is not because Mel Laird has cut the Defense budget, it is not because the Committee on Appropriations has cut the Defense budget, it is because the Pentagon is peopled with paperpushers, and the defense industry in the United States of America is absolutely drowning in a sea of paper.

The company that sent me this has said they would not bid on this. If they bid $2,000 for the whole procurement, they would probably make $1,000 on it, but the paperwork that they would have to go through to do this simply was not justified.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MAHON. Mr. Chairman, I yield 1 additional minute to the gentleman from New York.

Mr. PIKE. Mr. Chairman, I thank the gentleman for the additional time.

Mr. Chairman, I commend the committee for doing what they have done, but anybody who thinks that this is a rockbottom budget now is really a person who acts on faith and love, and not intellect. Anyone who says that it is necessary to have 61 computer cards with microfilmed instructions, 3 pounds and 6 ounces worth of plans and specifications and regulations and instructions in order to bid on a felt washer which is worth, maybe, one-tenth of a cent, and this is a rockbottom budget, has rocks in his head.

Mr. MINSHALL. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. BRAY).

Mr. BRAY. Mr. Chairman, I am not on the Committee on Appropriations, but there is a matter which I would like to bring to your attention, and I will be brief.

There is a provision in this Defense appropriation bill on page 15 that would cause the Army to cut out a source of supply for the M-16 rifle. I understand an amendment will be offered to eliminate this clause, and I will certainly support that amendment.

The bill as reported originally by the House Armed Services Committee, the authorization bill, and overwhelmingly approved by the House, contained a provision requiring three active production sources for the M-16 rifle during fiscal year 1971.

That provision which passed the House was objected to by the Department of the Army to the Senate Armed Services Committee. The information supplied by the Department of the Army in attempting to justify their objection has proved to be not only misleading, but factually incorrect. In the conference committee on the authorizing legislation the House position prevailed, and the proviso for three active production sources for supplying this vital infantry weapon remained intact, when the facts were brought to the attention of the Senate conferees they readily agreed with the House conferees.

The conference report was approved by the House by a vote of 341 to 11, and approved by the Senate with only one dissenting vote.

The proviso in the authorization bill was not challenged during general debate by any Member of the House, and no amendment was offered by any member from the Committee on Appropriations or any other committee to strike that proviso or to amend it in any way.

After the Congress had exercised its will on this matter the Committee on Appropriations brings before us a bill under a rule waiving points of order and in effect is legislating in an appropriation bill.

If the House goes along with this type of legislating you might as well eliminate

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all requirements for legislation authorizing appropriations, turn everything over to the Committee on Appropriations, and abolish the legislative committees.

Now, in all fairness, I am sure that the members of the Committee on Appropriations who sponsored this provision of the bill will tell you that it was done so at the request of someone in the Department of the Army on the basis that it would save money, possibly as much as $14.3 million. Of course, that alleged saving vanishes when one examines the facts. The facts presented by the Army are clearly inaccurate, and they were studied very carefully by the members of the committee.

The alleged saving is based on the Army's claim that the available unit cost of rifles procured in the manner recommended in the authorization bill would be $163.50.

This is pure speculation because the Army has never requested bid prices from the three producers to continue production at a minimum sustaining rate in order to maintain three hot production lines.

I want to say further that certain officials of the Army came to members of the committee, that is the authorization committee, and asked to eliminate both additional sources of supply and resort to only one.

However, the chairman of the House Armed Services Committee did request prices from the two secondary producers of the M-16 rifle, in an attempt to evaluate the cost data submitted by the Army in their objections.

They wanted to know whether or not the Army data was true or not.

I can report to the Members of the House that the prices received by the Armed Services Committee at the request of the chairman of the full committee were approximately one-third less than those projected by the Army and would, in effect, eliminate any alleged increased costs for maintaining the two additional sources to produce a critical weapon system.

I want you to keep in mind that the same officials in the Army asked us on the Committee on Armed Services, or came to several of us, to eliminate both additional sources and go back to one source, and please remember that it took Congress over 3 years to get the Army to approve of an additional source for the M-16 rifle.

Many of you will recall the efforts made by a number of the Members of the Congress to force the Army to establish the additional production sources for the M-16 rifle. This effort was strongly opposed by certain officials in the Army.

Finally, after 3 or 4 years of effort on the part of the Congress, both the House and Senate authorization committees and also the Committee on Appropriations, the Army negotiated with Colt Industries to acquire the production rights and the technical data package for this weapon system. Finally, additional sources of supply of the M-16 were obtained, principally because of congressional efforts and over the opposition of the Army that are difficult to ascertain.

Just to refresh your memory, the Army paid Colt $4.5 million for that rights and data package, plus agreeing to pay Colt a 5½-percent royalt for all rifles procured by the Department of Defense from any source other than Colt. It has been estimated that this cost to establish two additional production sources of the M-16 rifle totaled more than $30 million. Since the establishment of these additional production sources, most of the problems previously experienced by our soldiers with the M-16 in Vietnam have been eliminated with the deficiencies corrected.

Mr. TEAGUE of Texas. Mr. Chairman, over the past several years I have been a witness—I regret to say a relatively silent witness—of the controversy that has raged around the F-111 fighter-bomber. The principal reason for my silence to date has been my belief that the discussion and appraisal of this aircraft would best be left to those who are truly expert on the subject. But I now feel I must abandon that attitude, and I feel this way for three reasons:

First, the heated discussion in the Congress over the ABM system caused me to start thinking about the alternatives, or I should say the supplements, to our intercontinental missile strength; and entering into these thoughts was the obvious age of even our newest B-52 bombers and the discussions that have centered around the advanced manned strategic aircraft, now called the B-1;

Second, information had come to me concerning the F-111—both the tactical and strategic versions—from a number of sources: congressional, military, and some from interested experts with no particular ax to grind.

In looking into it I came to the conclusion that, regardless of the very bad impression that has been created in the nonexpert public mind about the F-111, there was no plot against the plane, but there certainly was an almost suspiciously large amount of misinformation about it. It seemed to me that for some reason that was not at all clear the F-111 had become a kind of football to be kicked about by some newspaper writers who were short on other material to write about.

My third and last reason was that the F-111 is made in Texas—made in Fort Worth, represented by my friend and colleague, JIM WRIGHT, the most articulate defender of the F-111 that can be imagined.

All of these things then, the proper defense of the country, the seemingly irresponsible and often misleading attitude that I had seen in the press, and the parochial interest of my own State pointed up that I had a responsibility to find out the true story on the F-111.

There was only one way to do this and that was to examine into the facts myself. I have done this and these remarks are designed to set forth what I learned.

I will go into some details later on but I would first like to convey the overall impression that I gained from my study.

My reference here might appear to some to be frivolous but I can assure you that I have no such intent—I merely want to convey as a first thing the kind of immediate impression that arose from my study of the facts. All of us here have at some time or other, probably when we were very young, read "Aesop's Fables." Aesop was a fabulist. He did not tell lies, he told fables, and fables are good fun, especially when they point up a moral precept or tell a story in a fashion that makes some fundamental aspect of human life live in a more vivid fashion. That is what fables are for. But when fables are directed at specific people or specific things they lose their innocence and they lose their true function. My clear impression, Mr. Chairman, is that what we have been hearing and reading about over the years about the F-111 are fables, and little else. But they have been dangerous fables, unfair and unjust fables. If these stories—and I am still referring to the fables—had been directed at air power generally, directed at all aircraft, they would have been recognized for what they are. But having been directed as they have been at an individual kind of aircraft they have taken on the appearance of truth. The events preceding World War II taught us that the constant repetition, for whatever motive, of a particular statement gives that statement the appearance of truth after a certain period of time.

I am certain that there never has been an instance in our history where an aircraft, or any other weapons system for that matter, has been so incorrectly and so unjustly treated by the press of this country. I will not even begin to attempt to explain why this has been so, I will leave that up to someone working on a Ph. D. thesis. Maybe it all goes back to Secretary McNamara and the strong feelings that he generated, maybe it is the drama—and, therefore, the newsworthiness—of the airplane itself with its swing wings and its almost unbelievable ability to fly faster than the speed of sound at only 200 feet above the ground while automatically avoiding everything that might lie in front of it. I do not know what the reason is but one thing I am sure of is that one of the supreme achievements of combat technology has suffered deeply because of this unjust treatment, and the loser, if it continues, will be the defense of this country. I say this with deep conviction. No, I cannot explain why all this has happened, I just know it has happened.

Of course, the true story is told once in a while, usually in a trade or technical journal that is never seen by the public and only seen by Members of Congress who have a special interest or responsibility with respect to the defense of the country. An example of this was a story that appeared in Executive Aviation Report, dated July 31, 1970. I will express the belief that it will be a rare member of this body who had his attention drawn to this article or would ever have heard of it except for the fact that I am going to insert the whole of it—it is brief—at this point in my remarks. I recommend it very highly to not only those who are interested in the F-111 as an aircraft but to every Member of the House because every Member is interested, and responsible for, the defense of this country. Here are just a few of the highlights of the article from this whole responsible and objective journal. It points out, for example, that—

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> The F-111 offers twice the range, 3 times the bomb load and several magnitudes smaller CEP: its adverse weather CEP is better than current aircraft clear day CEP.

The article also points out that four F-111's can deliver 62 bombs on a target a 1,000 nautical miles combat radius. It makes a comparison with an F-4 in this respect and says that at this radius the F-4 can carry two bombs. It says:

> So to put 62 bombs down would require 31 F-4's with a retinue of tankers, electronics scramblers and fighter escort.

It goes on to say that to maintain these 31 F-4's would cost $37.8 million a year, compared with cost of maintenance of four F-111's $6.3 million—one-seventh as much.

These are just a few of the highlights of the brief article, but the whole thing should be read as it appears in these remarks.

This is what it says:

F-111

The 34th aircraft was inspected yesterday. The 35th will be completed the end of this month, 19 in August and then 33 per month until all are inspected by early next year. All will be in service by May. They are cold soaked for 8 hours in a —40 deg C environment and 7.33 g proof-loaded.

Decision on the 40 for FY71 will be taken in about 5 weeks. Cost of the wing fix, estimated at about $31 million would be reduced from the buy. Presumably this would be 2 or 3 aircraft less.

F-111 will take 24 M117 bombs a distance of 750 NM combat radius compared with 6 bombs 420 NM on the F-4. If the F-111 is also restricted to 8 bombs it will take them 1,250 NM. Thus it offers twice the range, 3 times the bombload and several magnitudes smaller CEP: its adverse weather CEP is better than current aircraft clear day CEP.

4 F-111s can deliver 62 M117 bombs on a target 1,000 NM combat radius. An F-4 at this radius can carry 2, so to put 62 bombs down would require 31 F-4s with a retinue of tankers, electronic scramblers and fighter escort. To maintain these 31 would cost $37.8 million a year, compared with cost of maintenance of 4 F-111s $6.3 million—one-seventh as much. If target demolishment instead of bomb release were the test, it would probably require about 100 F-4s, but the comparison becomes almost meaningless.

In Vietnam 80% of F-111 missions were flown in bad weather, and no aircraft were hit. On 44 of the 50 missions North Vietnamese tried to hit the F-111s but were too late. The record compares with B-29s sent out at a comparable stage in their career and over half were shot down.

GD did not build that piece of steel in the wing pivot. The perpendicular crack that escaped magnaflux and ultrasonic scanning devices was a defect not in the F-111 but in aeronautical quality control as a whole.

"We in the Systems Command are accustomed to problems in the development of new weapons systems. The F-111 has encountered problems no more numerous and no more severe than have other weapons systems. Perhaps it has had even fewer difficulties than its predecessors when one considers its advanced capabilities and its complexity". Chief, Systems Command (Gen. Ferguson).

It is a great statement. It gives the facts, facts that are not in any way disputed by the Department of the Air Force but, as I say, it appeared in a journal that has relatively limited and specialized circulation, one that is read almost entirely by people in the business of aerospace. This kind of coverage, accurate as it is and important as it is and obviously well intentioned as it is, simply does not get to the general public. And very much more importantly it does not get to the vast majority of us here in the Congress who are called upon to vote on the authorizations and appropriations that support and continue the F-111 program. I do not want to belabor the poor—I should say destructive—coverage of the F-111 in the large circulation press but recently, and while I was making my own study of the F-111, one of these distorted articles appeared in a Washington newspaper. Fortunately, it was read and objected to by my colleague BOB PRICE who took the article item by item and literally demolished it. This superb job of setting the records straight appears in the August 14, 1970, CONGRESSIONAL RECORD at pages 29123-29125 and I commend it to all Members of the House as a great example of fact answering allegation.

While free and open discussion of matters of national interest—and certainly the future of the F-111 program is just that—is something to be welcomed and encouraged it is my own view that the press has a great responsibility to illuminate the issues, to inform the public, not confuse them.

As a matter of fact any one of us here in the House has readily available to him all of the information—truly factual information—that he needs to make his own decision with respect to the F-111. I am referring of course to the hearings and reports of the committees that have the responsibility for recommending the course of action that the House and the Senate should follow in legislating on our defense.

What do the experts say? Well, one of them, Gen. Otto J. Glasser, Air Force Deputy Chief of Staff, Research and Development, testified this year to the Congress:

> Operationally the Air Force is completely satisfied with the aircraft (F-111) with respect to its ability to perform the mission for which it was designed.

General Ryan, Chief of Staff of the Air Force, has testified:

> The F-111 is now coming into its own as the best fighter attack aircraft in the world for the task of all-weather deep interdiction.

With respect to the questions as to whether the present plans of the Department of Defense contemplate a sufficient number of F-111's, General Glasser testified:

> Given our wishes, we would naturally want to have more of the aircraft.

General Glasser goes on to point out that it is budgetary restrictions that are preventing the acquisition of more of these "best fighter attack aircraft in the world."

This year's House Armed Services Committee report says:

> The F-111 is a unique aircraft. The aircraft inventories of this country and possibly other countries, will someday contain fighter-bomber aircraft superior to the F-111. Such is clearly not the case today and will not be the case for some years to come."

The committee report goes on to refer to the "superb safety record" of the F-111 and to "unquestionable need" and "the unmatched capabilities" of the F-111.

The Senate Armed Services Committee report for this year, although taking a view with which I do not agree with respect to the future of the program, states in unequivocal fashion:

> No other aircraft in the Air Force inventory can compete with the F-111.

And goes on to describe the uniqueness of the F-111 in considerable detail.

The safety record of the plane which is the subject of the grossest misrepresentation of all has been the subject of a number of statements made here on the floor of the House. It is to be hoped that by now this matter has been finally set straight. Suffice it to say that no matter how you figure it, the F-111 has the best, and by far the best, safety record of any of our combat aircraft, a remarkable achievement in view of the very advanced design of the aircraft.

A few minutes ago when I was referring to the overall first impression I got when making my study of the F-111 I said that I would go into some detail later on in my remarks. There are several ways that I could do this but I think the best way of all is to insert at this point in my remarks some direct testimony by the Department of the Air Force itself during its appearance before the House Armed Services Committee. The colloquy that I am going to insert is one between Congressman O. C. FISHER and General Esposito who was representing the Air Force. I will not read this colloquy—it is quite detailed—but I do want it to be printed as part of my remarks as an example of an expert speaking on a subject for which he has personal responsibility. The colloquy is as follows:

The CHAIRMAN. I am going around the board, now. Are there any questions?

Mr. FISHER. I share the concern of many during the past few years about the F-111, its performance, its capability, and the mistakes that have been fed into it and fed out, and so forth. But as a part of the permanent record here that we are making today, I thought it appropriate to ask a few questions based upon a letter written by Congressman Wright of Texas earlier this year, in which he made certain statements about the F-111.

I will repeat them and ask for your comments on each of them. It will just take a moment. I think that would help to firm up the record and make it more complete, as long as we have gone into various aspects of the F-111.

He made this statement:

"In view of the sensational news treatment which has accompanied every single accident suffered by an F-111—treatment never accorded to any other aircraft—it no doubt will come as a very pleasant surprise to many that the F-111 actually has the very best flight safety record of any military aircraft of the Century series."

Do you agree with that statement?

General ESPOSITO. I do, sir.

Mr. PRICE. I wonder if you could elaborate a little bit on that. Give a comparison of the safety record with other aircraft, in the same state of development.

Mr. FISHER. Incidentally, I have in front of me a chart showing the complete record of all the Century series, the F-100 down to and including the F-111, of the 5,000, 10,000, and 20,000 hours, and I would be pleased to put that in the record at this point to make it more complete. It shows the accident record

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of each of those, and the F–111 is considerably lower than any of them.

(The information referred to is as follows:)

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washngton, D.C.

DEAR ———: You will be enormously pleased, I know, with the truly magnificent record which the F–111 aircraft has achieved in two years of actual flying. This record is a thorough vindication of the confidence and judgment of the Congress in authorizing this program and subsequently appropriating monies for its development and production.

Even previously critical news media—as evidence the enclosures—finally are recognizing that Congress was eminently right in authorizing the plane!

In view of the sensational news treatment which has accompanied every single accident suffered by an F–111—treatment never accorded to any other aircraft—it no doubt will come as a very pleasant surprise to many that *the F–111 actually has the very best flight safety record of any military aircraft of the Century Series.*

Here is the comparative record, in number of accidents, based in each case upon 5,000 hours, 10,000 hours, and 20,000 hours of actual flying.

NUMBER OF ACCIDENTS—ALL CENTURY SERIES AIRCRAFT

Aircraft	5,000 hours	10,000 hours	20,000 hours
F–100	7	14	29
F–101	9	16	18
F–102	9	12	22
F–104	14	17	28
F–105	8	12	14
F–106	7	8	11
F–111	[1]3	[1]6	[1]10
F–4	6	8	11

[1] F–111 in each case has produced fewer accidents per hours flown.

Mr. FISHER. Now this additional statement:

"The escape module in the F–111, designed to throw the pilots free in event of a crash, is probably the best and most effective yet built. In most of the highly celebrated F–111 accidents, the pilots actually escaped injury. Unlike many escape systems, the F–111's is effective at the lowest attitude—and even over water."

Do you agree with that statement?

General ESPOSITO. Yes, sir. In fact, the module is effective from sitting still on the runway, throughout the full [deleted] mach envelope of the airplane.

Mr. FISHER. Very well.

Another quotation from the letter:

"The short takeoff and landing characteristic of the F–111 is in one sense a safety factor for emergency operations of various sorts. This aircraft will take off and land on shorter airstrips than any other Air Force model capable of such advanced speeds."

Do you agree with that statement?

General ESPOSITO. Correct, sir; for airplanes in the similar category as the F–111, I do, sir.

Mr. FISHER. "No other aircraft has such a complete redundancy of systems—in other words, a series of spare electric and mechanical systems designed to actuate and take over automatically if the primary systems should fail. So far as possible, these have been designed to protect even against pilot errors."

Do you agree with that statement?

General ESPOSITO. Yes, sir; in general I agree with it. The reliability of the system under operational conditions, this is one of the factors that satisfies the contract requirements.

Mr. FISHER. Very well, One other, quoting again:

"Undoubtedly the most significant—and most revolutionary—safety development of the F–111 is its terrain avoidance system which operates by radar. I've tested this system personally at very, very low levels over extremely mountainous country. It works. With this system actuated, it is just almost impossible for a pilot to fly the plane into a mountain or building even on the darkest night and in the worst of weather."

Would you comment on that statement?

General ESPOSITO. That is what the automatic terrain-following radar is designed to do. It allows the pilot to fly at 250 feet or above, under all weather conditions, and it itself clears any terrain that may be ahead of it.

Mr. FISHER. Very well. One other now.

"Combat tests in Vietnam." We have read quite a bit about those. I have collected a little bit of a file on it, because of understandable interest in this whole subject, and I have noticed a number of pilots have been highly complimentary of the performance of the F–111 in Vietnam, in the limited operations that they had there.

Here is this statement:

"These particular innovations were given an extremely thorough testing in most adverse conditions in Southeast Asia, where the Air Force flew 854 missions including training missions. Fifty-five of them were actual combat strike missions. The planes flew in at such low altitudes that the enemy radar could not pick them up and enemy antiaircraft weapons could not focus on them. They came back without a single hole, and Lt. Colonel Dean Salmeier, who flew some of these missions, has said: 'There is no question in my mind that on most missions the enemy did not even know we were there until we were gone. . . . The aircraft is definitely capable of making strikes at night, in all weather, and with extreme accuracy.' "

Now, does that seem to be a fair statement?

General ESPOSITO. Yes, sir; that is a factual statement.

Mr. FISHER. Is that in accord with other reports you received from these test flights of those actually in combat in Southeast Asia?

General ESPOSITO. Yes, sir.

Mr. FISHER. One other quote:

"The F–111, in spite of its relatively small size, will carry a bigger bomb load over a longer distance than any interdiction aircraft in our arsenal. The next best is the A–7 and the third best is the F–4."

Do you agree with that statement?

General ESPOSITO. I agree with the F–111 and the A–7, and I don't know whether the F–4 has a better range than the F–105 or not.

Mr. FISHER. Very well. One other:

"Compared with the A–7, the F–111 will carry 50 percent more 2,000 pound bombs for more than twice the distance. Or, it will carry 30 percent more bomb load for almost three times the distance."

Do you agree with that?

General ESPOSITO. I don't know what the A–7 can carry in terms of 2,000-pound bombs, so I can't really make a comparison.

Mr. FISHER. Is there anyone here who can answer?

Mr. BLANDFORD. I have it right here.

Mr. FISHER. OK.

Mr. BLANDFORD. A–7 will carry [deleted] bombs for a radius of [deleted] miles, with [deleted] minutes time on station.

General ESPOSITO. The F–111 can carry from, let's say [deleted] bombs, for a little over [deleted] nautical miles, of which [deleted] is at sea level.

Mr. BLANDFORD. How much time on station?

General ESPOSITO. Well, it drops and returns.

Mr. BLANDFORD. I think this is the point. It is an exceedingly outstanding interdiction aircraft. I tried to make that clear earlier this morning. I think personally it is a mistake to criticize the F–111. I think the only thing we are trying to do here is to try to establish for our own guidance how we can do better on the P–15 contract as a result of the errors made in the F–111. The F–111 is an outstanding airplane.

Mr. FISHER. A lot of this is more or less water over the dam. I did recognize that. But I felt it appropriate to make the record complete.

There are two other quotations.

Incidentally, General, if you can add anything, you may, in response to the last question, and put it in the record. I would be pleased.

(The following information was received for the record:)

"A typical weapons load for the F–111A aircraft on a Hi-Lo-Lo-Hi mission, (Hot day conditions) is [deleted.] and the maximum mission radius is [deleted] nautical miles (NM). Later aircraft equipped with the TF–30–P–100 engines will carry the same weapons load for a radius of [deleted.]

In terms of the A–7 type mission with an on station loiter, the F–111A can carry [deleted] bombs out [deleted] nautical miles, spend [deleted] on station—making weapon deliveries on targets of opportunity, and return to base."

The CHAIRMAN. The committee is responsible too. The committee gave McNamara every dime he wanted. So we can't beat this 111 to death. What we want to know is the good things about it now.

Mr. FISHER. Here are two other quotations and I will be through in just a minute:

"The F–111 has the most accurate navigation system of any aircraft ever built. The figures below represent the error in nautical miles for each hour of flight when the Nav system is not updated to a correct position en route."

And then he lists the F–105, error per hour in miles, [deleted.] The F–4, [deleted.] The F–111A [deleted]. The F–111D [deleted].

I don't know how significant that is.

General ESPOSITO. The numbers for the F–111 are correct. Here is one place where I think I can add a little more. The SOR for the F–111 had originally established something around [deleted] nautical miles per hour. We are achieving [deleted]. The contract asked for [deleted] nautical miles per hour. So in this one parameter we are doing considerably better than the contract.

The F–111D, guaranteed [deleted] per hour error. All of our tests to date show it looks like around [deleted.] We are doing very well. This is one parameter that is very important to accuracy in bombing.

The CHAIRMAN. So the mistakes you made in this flying laboratory—that is what it is—it is really not operational now; it it?

General ESPOSITO. Yes, sir. Well, we have some 70 airplanes at Nellis that are assigned to—

The CHAIRMAN. You don't have any operational units now. You moved them out of Vietnam.

General ESPOSITO. That is correct, sir.

In the colloquy that appears at this point in my remarks is a chart comparing the safety record of the F–111 with a number of other of our combat aircraft. Since this colloquy took place last year the F–111 has of course flown a good many more hours. As a matter of fact more than twice as many hours as it had at that time. I have, therefore, brought that chart up to date and I am inserting this up-to-date information at this point. The safety record of each of the seven other aircraft that are being compared with the safety record of the F–111 are at the 60,000-hour point and the F–111 figures at the 55,000-hour point. The reason being, of course, that the F–111 has flown only about 55,000 hours up to this time. Here are the figures.

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Accidents

F-100	59
F-101	35
F-102	40
F-104	51
F-105	34
F-106	22
F-4	24

And how does the F-111 safety record compare with these other combat aircraft? The F-111 has had 18 accidents to which should be added the three aircraft lost in combat in Vietnam. Actually the figure 18 is the fairer and more telling figure to use because none of the other aircraft in any way involve combat. So, in one more attempt to put the subject of the safety of the F-111 to rest, the F-111 has lost 18 aircraft as against those other aircraft that I have mentioned. The safety record of the F-111 is, in a word, superb.

It is interesting to note that the next best safety record, that of the F-106, was made by an airplane built by the same manufacturer, General Dynamics.

Again testifying this year, before the Congress on the F-111, General Esposito, in referring to the F-111 crash of last December pointed up a very significant thing—and one to which I have referred previously; that is, what I will call the nonaeronautical difficulties that the F-111 program has been subject to. General Esposito said:

> Primarily the problem has been the tremendous amount of attention that we get on every technical failure . . . if it had not been the F-111 program . . . I would have recommended to the Washington Staff that we unground the airplanes in January because we were quite confident that this was a material flaw of a very rare occurrence.

The key words here of course are "if it had not been the F-111 program."

I am not going to speak further about this, although there is a great deal more that could be said. I will only say that I hope I have made my points which are, simply, that all those who are hearing these remarks or who will read them should forget just about everything that has been said against the F-111, and that we in the Congress should give the deepest and most serious consideration to what the F-111 in its strategic and tactical versions means to the future of the defense of this country. The F-111 program is very much alive although there are those who, with what I must call unthinking shortsightedness, would call for the end of the F-111. I can think of nothing that would be more expensive—in both senses of the word—in dollars and in national security—than the pursuit of a policy based on a shortsightedness that would dictate the end of the F-111 program.

Let us face it, the B-52's are getting old. There is a controversy raging about our intercontinental ballistic missile force and about an anti-ballistic-missile system. The B-1, which I strongly support, cannot be in our inventory for another 10 years. Just exactly what are we going to do? Are we going to take the chance of the peace talks providing the answers to all-out nuclear-missile war? The alternative is a few aging B-52's and a few strategic FB-111's, 76 of them to be exact. Are we going to tie our whole future security to ICBM's and ABM's? The B-1 may ultimately provide the answer to this question, but the B-1 as an answer is a long way into the future. Our answer for today and the next several years is the F-111.

Mr. Chairman, my study of the F-111, in both its versions, strategic and tactical, have made me a believer. I am persuaded that it is the greatest, most capable aircraft in the world today. Let us not permit inattention to cause this program to end. When it comes time to regret it, it may be too late.

Mr. FOUNTAIN. Mr. Chairman, I rise in support of H.R. 19590, the Department of Defense appropriation bill, 1971.

The vast sums of money involved in this bill, though no surprise after 25 years of not-so-cold war, are certainly enough to call for close scrutiny.

In connection, while I applaud the committee's action in carefully eliminating $2.089 billion from the 1971 Defense budget, leaving it at the level of approximately $66 billion. I have mixed emotions about it. I hope the cuts were not too deep. Of course, $66 billion is an awful lot of money and certainly we should save wherever we can responsibly do so. These are most assuredly times which demand a sense of fiscal responsibility in allocation and expenditure of the taxpayers' money. Neither the Congress nor the Defense Department is exempted from this requirement.

However, we should never lose sight of the extremely serious dangers facing this Nation and the pressing need to maintain a strong national defense force at all times.

We must never let our guard down. The nature of the Communist menace has not changed. It faces us now not only in the land mass of Europe and Asia, but also in the Middle East and on the high seas at every point on the compass.

Defense of liberty has never been cheap or easy. This is as true today as it was in 1776 or 1812. Of course, weapons for defense are vastly more complex today than they were when long rifles and knives were used to defeat the foe at Kings Mountain in the Revolutionary War.

But, thankfully, American know-how and ingenuity, as well as vastly expanded national resources, provide us today with the means to protect ourselves against all comers, no matter who. In addition, the whole free world depends on us for protection against aggression, protection which they themselves are too weak to provide alone.

The actions of the committee in attempting to secure more defense for the dollar is commendable. Wastefulness in military expenditures cannot be tolerated. Our taxpayers do not want and should not have to pay for unnecessary military spending. They are, I am convinced, quite willing to support an adequate level of defense preparedness, remembering that, if we keep militarily strong, it is far less likely that we will ever have to engage in open battle with our major opponent, Communist Russia. And make no mistake about it, Russia is our major foe and our strongest in many ways.

Our Army, Navy, and Air Force—as well as our Reserve arms and the National Guard—must have adequate funds to support needed troop strengths and to buy needed weapons. They also ought to be able to conduct necessary research and development. And regrettably, all these things will have a higher cost so long as the unfortunate war in Vietnam continues.

Never should we become so engrossed in other concerns—whether domestic or international—that we overlook the necessity for strong defense forces. Russia is an implacable foe and understands nothing but power and our ability and willingness to use it, if necessary.

As we consider the expenditures proposed in this bill, let us also be aware that we have a lot of catching up to do in the years directly ahead, especially militarily speaking. We should not forget that Russian naval strength has grown tremendously to confront an aging American fleet in the Mediterranean, as well as the Atlantic and elsewhere; and that Russian missiles and fighters and bombers now may have almost caught up with ours in numbers as well as design.

How well we know—we certainly ought to—that weakness on our part is simply an invitation for trouble with the masters of the Kremlin. We just cannot allow ourselves to become militarily weak.

And so, Mr. Chairman, in passing this bill today, in adding $66 billion more to the defense of this Nation, I sincerely hope we are again serving notice to the world, friend and foe alike, that America intends to remain strong and free.

Mr. SLACK. Mr. Chairman, the Defense Department appropriations bill for fiscal year 1971 represents the sum total of the committee's judgment after extensive and concentrated hearings dating back to January. It recommends a total of $66.6 billion, which is $2 billion below the budget request and $6 billion below the appropriation for fiscal year 1970.

This reduction and the total recommended comes from a determination to tighten up the use of defense funds, and from very thorough investigation of the justifications offered to support requests for individual items.

The total amount requested—$66.6 billion—should be considered against the background of recent trends. The fact is, we have already been readjusting national priorities for several years in the appropriations field.

Nondefense spending has grown by $65 billion since 1964, and now almost equals the defense budget of today.

The defense appropriation recommended will constitute the lowest percentage of the total Federal budget, or of the gross national product, in the last 20 years.

Our domestic programs must be maintained and encouraged, but the shield behind which they find freedom to serve our domestic goals is a strong national defense. We must have a strong national defense as a war deterrent, and as recognized power which will permit our representatives to negotiate for peace and disarmament from a position of strength rather than weakness either real or implied.

Mr. DENT. Mr. Chairman, I would like to address myself at this time to a specific section of this bill which provides relief to a relatively unknown but essential element of our Armed Forces. I am speaking about section 807 of the bill and the revision which will result in the provision of schooling in schools operated by the Department of Defense for the minor dependents of DOD personnel who died while entitled to compensation or active duty pay. This provision will allow widows who are foreign nationals to educate their children in American schools if they return to their country of origin.

Mr. Chairman, this provision is substantially like H.R. 16725, which was introduced by my good friend and colleague, the Honorable WILLIAM D. FORD, and cosponsored by myself and other members of the Committee on Education and Labor.

Back in 1965, I had the honor of leading a subcommittee of the Committee on Education and Labor into the field to visit many overseas schools operated by the Department of Defense. That trip represented the first comprehensive investigation of the school system by a congressional committee. We made subsequent trips—the last of which took place in January of this year—and published reports and recommendations which we feel have resulted in tremendous improvements in the school system. Our most recent report—published this June—listed as a recommendation the precise matter that section 807 of this bill deals with. This problem first came to our attention in Germany and, more recently, in Japan.

So, Mr. Chairman, I salute the distinguished chairman of our Committee on Appropriations, and our other able colleagues on the committee for providing assistance to a group of people whose voice is very soft, but whose need is very great. And I also commend Congressman BILL FORD, and the other members of the Committee on Education and Labor, who have all demonstrated a deep and abiding concern for the education afforded our dependent children overseas.

Mr. REUSS. Mr. Chairman, I rise in support of the Moorhead-Whalen amendment to reduce defense appropriations by $1.6 billion and to bring defense spending more into line with our real needs and available resources.

The President says we cannot afford to spend what this Congress has authorized and appropriated for schools, housing, water pollution control, hospital construction, education and health care. I say we can afford these congressionally approved programs if we follow the wise injunction set out in the Appropriations Committee's report on this year's defense budget:

> What this country needs is more defense for the dollar, not necessarily more dollars for defense.

The Appropriations Committee has made a good start by cutting some $2 billion from the bill before us. I applaud this action. I particularly applaud their record which minces no words in criticizing swollen headquarters staffs, the failure of the three services to get together on joint weapons development programs, seemingly uncontrollable spending on public affairs, premature leaps into production before weapons are adequately tested, and congressional add-ons unrequested by the administration.

I support a strong and modernized Navy. I particularly support the bill's funding of the most effective strategic deterrent we have—our Polaris submarine force. I vigorously oppose spending $417 million for ships not requested by the administration—spending opposed by the other body, and opposed by the Appropriations Committee, which said:

> The Committee is firmly convinced that what is needed, therefore, is an immediate, energetic, and concentrated effort to improve the planning and management of the ship building and conversion program of the Navy, rather than continuing to add funds above the President's budget.

The logic of their adding $417 million above the President's budget for the Navy somehow escapes me.

I oppose rushing into production of a costly new Navy tactical fighter—the F-14—to the tune this year of $658 million. This program is a patent violation of the Secretary of Defense's announced policy of fly before we buy. Cost overruns are already predicted for the engine—$274 million is provided in research and development funds. The $658 million for procurement should be cut by at least $200 million.

I support a low-level research and development effort on a new manned bomber for the Air Force, in the extremely unlikely event that we may need this $30 million bomber in the future. At least $65 million left over from last year's appropriation is available for this year. I oppose appropriating an additional $75 million for this year.

I applaud the committee's telling the Department of Defense that we simply cannot afford to develop and procure three different close-support aircraft for the only marginally different needs of three services. I oppose proceeding to fund continued work on all three. I approve the other body's suggestion that we take out $17 million for the trouble-ridden Cheyenne helicopter.

I oppose rewarding defense contractors for gross mismanagement of weapons programs and intolerable waste and cost overruns. I particularly oppose allotting $200 million to bail out Lockheed Aircraft for bad performance on the C-5A and other programs.

I recognize that the Department of Defense, like other agencies, has to spend a modest amount to keep the public informed about what it is doing. I do not support funding this effort at anywhere near the level of $28 million a year when that money is going for such shenanigans as cross-country junkets and sea cruises for civilian dignitaries. I amply documented this waste in a statement on July 6 this year. Let us cut this spending by the $11 million spent on these activities last year over and above the ceiling the Appropriations Committee thought it had set.

I support a strong and continuing research and development effort on anti-ballistic-missile defense, so that if need be, we may obtain the best possible protection for our land-based strategic deterrent. I oppose deployment at this time of an ABM system that according to a preponderance of expert testimony will not work, will cost twice as much as the $12 billion now predicted, and will jeopardize the success of the arms talks underway. If we doubled the $365 million research and development effort for this year by adding the funds allotted to the ABM in the separate military construction bill, we could save $700 million in procurement and maintenance money in this bill. I believe we should take that step.

I have reached a savings figure of $1.6 billion without even mentioning sums such as $22 million for tinkering with a tank which committees in both bodies have shown to be undeserving of such salvage efforts, or $80 million for a torpedo that has experienced enormous cost overruns without anyone being sure yet that is can be made to work.

I urge adoption of the amendment proposing a $1.6 billion cut in this defense bill.

Mr. DORN. Mr. Chairman, I will tonight fulfill a longstanding engagement to speak to the Boy Scout Court of Honor in North Augusta, S.C. During the ceremonies, I will present the highly coveted Eagle Scout Award to seven outstanding young men. I do not recall attending an occasion when so many Eagle Scout Awards were presented. Mr. Chairman, I feel that communicating with our Nation's youth, particularly those dedicated to Scouting and to God and country, is an important part of our responsibility. The dedication and perseverance of these young men in their pursuit of this high award is truly an inspiration.

Were I present, Mr. Chairman, I would vote in favor of the crucial appropriations bill now before the House. This is a measure for peace. The passage of this bill will guarantee our strong military posture. By sustaining our present military strength the United States will remain a deterrent force against the evils and agressions of communism and those who would seek to destroy freedom throughout the world.

Mr. FUQUA. Mr. Chairman, I rise in support of this measure and in so doing, commend the Committee for the very excellent job which it has done.

In my opinion, this is a sound budget which provides adequately for the defense of this Nation while making certain that every possible nonessential expenditure has been pared.

Providing for the security of this Nation is the most important of the tasks which the Congress must provide and I feel very strongly that this particular measure has accomplished exactly that. I join in urging its passage.

Mr. RYAN. Mr. Chairman, the military appropriations bill, which provides $66.6 billion overall, underwrites the war in Vietnam. For the first time the administration's budget estimate did not include the estimated cost of the war for the forthcoming fiscal year. When the Secretary of Defense testified before the Committee on Appropriations on February 27, 1970, he said that the costs of

XUM

the war in fiscal year 1969 were $28.8 billion, and that they were estimated to be $23.2 billion for fiscal year 1970. However, he asked that the estimate for fiscal year 1971 be classified, and whatever figure he did give the committee was deleted in the printed record of the hearings—hearing, page 411. Although in past years Members of Congress have been told the cost of the war, that information is now being withheld. The administration's concealment is not compensated for by the committee report which states that the rate of spending for the war is "expected to decline from a high of almost $30 billion to a rate of $14.5 billion by the end of fiscal year 1971." (Rept. No. 91-1570, p. 5.) Members are still denied the estimate of the actual costs of the war for fiscal year 1971. Whatever the cost may be—and I suppose $20 billion is a fair guess—another penny is to much.

For the 6th consecutive year since Congress was asked to appropriate money for the war in Vietnam, I point out that, by exercising its power of the purse, Congress can bring about a change in the Vietnam war policy by refusing to finance that tragic war.

Since the first supplemental appropriations bill for the war in Vietnam was before the House on May 5, 1965, I have voted against funding it. It is no more supportable today, October 8, 1970, than it has been in the past.

Frequent commentary by the political pundist in the last few months has centered on the point that the President has "de-fused" the war as a political issue. Perhaps some may confirm this observation in light of last night's address by the President, in which he supposedly made new overtures for peace in Indochina. However, I do not think that the war should be treated as a political issue—acute at some times, quiescent at others. Men are dying. In August there were 319 combat deaths. Innocent civilians are dying. Children are being maimed.

Even the manner in which men are selected to die is unfair—assuming there could be any fair way of making such an awesome decision. Draftees—unwilling pawns in this conflict—shoulder much of the burden. While draftees comprised only 9 percent of the 1.4 million men now serving in the U.S. Army, on July 1 slightly more than 30 percent of the Army's draftees were serving in Vietnam. Of the approximately 43,775 American servicemen who have been killed in combat in Vietnam since the beginning of our involvement, about 32 percent have been draftees. And looking at only the Army personnel, draftees accounted for 55 percent of the battle deaths among Army enlisted men as of August 1970.

I have sought legislative correction of this situation. My bill, H.R. 15030, amends the Selective Service Act of 1967 to prohibit the assignment of any person inducted under that act from serving on active duty in Vietnam unless he consents to such service. By opposing H.R. 19590, which provides funds for sending and maintaining draftees in Vietnam, I am expressing my opposition to the use of unwilling conscripts as the fodder for an undeclared war which serves to prop up a dictatorship engaged in what is essentially a civil war.

To make clear the tragic inequity inflicted upon draftees by this war, I will include at the close of my remarks an article by Andrew J. Glass, published in the August 15, 1970, issue of the National Journal at page 1747 et seq., and entitled "Defense Report/Draftees Shoulder Burden of Fighting and Dying in Vietnam."

The war must end now, regardless of the political repercussions for this, or any other administration or political party.

Thus, as I have done since the beginning of the war, I intend to vote against the bill which provides the money to continue this war. We, the Congress, possess the power of the purse. Exercise that, and we end this nightmare of death and destruction.

For these reasons, I also support the amendment which I have cosponsored, and which will be offered on the floor by our distinguished colleague from Minnesota (Mr. FRASER)—the McGovern-Hatfield amendment to end the war. And for these reasons, also, I am supporting the other amendments to speed withdrawal from Indochina.

I also shall vote against the Department of Defense Appropriations bill for fiscal year 1971 because, in appropriating $66.6 billion for the military, it robs our country of desperately needed funds for dire domestic needs.

I do not wish to appear to dismiss out of hand the efforts of the Appropriations Committee, which under the leadership of the distinguished chairman (Mr. MAHON) did result in cutting the bloated budget request of $68,745,666,000 made by the administration. The $2 billion reduction is to be commended.

However, $66.6 billion is still too much. It is too much when our air is becoming unbreathable and our water undrinkable. It is too much when our cities are festering with inadequate housing, inadequate transportation facilities, and inadequate sanitation systems. It is too much when our educational system desperately needs help, and when health services are far too little and too expensive. For these reasons, I support the amendment to be offered by our colleagues from Pennsylvania (Mr. MOORHEAD) and Ohio (Mr. WHALEN) setting a $65 billion ceiling on defense expenditures.

In brief, our national priorities are awry, and this bill is the main culprit in sustaining a budget which in terms of meeting the needs of the people, is very far out of balance. Because our national priorities must be reordered, and because this bill perpetuates the imbalance, it should be rejected.

Finally, this bill provides moneys for weapons systems which are of dubious wisdom. For example, H.R. 19590 appropriates $1.07 billion for the ABM, and $474 million for land-based MIRV's. There is, in fact, considerable question as to whether the ABM missile system is even workable. But that consideration aside, and more importantly, these systems encourage the devastating arms race which at the least will suck more billions down into the armaments barrel, and at worst, may spur the dreaded day of nuclear holocaust.

I think one point must be made very clear: Our defense apparatus must be sustained in its fullest necessary strength and capability, so that the security of the United States will not be imperiled. But, pouring billions upon unneeded billions of dollars into the military budget is not the answer. As the committee itself says in its report (H. Rept. 91-1570) on the bill before us at page 5:

> The effectiveness of the Department of Defense cannot be measured solely in terms of the dollar level of expenditures. Unlimited resources do not overcome inefficiency and mismanagement. Instead, excessive funding produces more inefficiency and mismanagement. What this country needs is defense for the dollar, not necessarily more dollars for defense.

The article follows:

DEFENSE REPORT/DRAFTEES SHOULDER BURDEN OF FIGHTING AND DYING IN VIETNAM

(By Andrew J. Glass)

Army draftees were killed in Vietnam last year at nearly double the rate of non-draftee enlisted men.

During 1969, Army draftees were being killed in action or wounded at the rate of 234 per 1,000. Draftee deaths were 31 per 1,000.

By contrast, Army enlisted volunteers were killed or wounded at a rate of 137 per 1,000, and 17 per 1,000 died. Both draftees and volunteers serve 12-month tours of duty in Vietnam.

Draftees comprised 88 per cent of infantry riflemen in Vietnam last year while first-term Regular Army men comprised 10 per cent of the riflemen. The remaining 2 per cent were career Army men.

In the past two or three years, draftees have suffered comparatively higher death rates as their proportion of the Army's combat forces has risen from earlier phases of the Vietnam war.

Battle deaths among Army enlisted men have totaled 23,890 men through March 31, 1970, of whom 13,093, or 54.9 per cent, were draftees.

Previously unavailable draftee casualty statistics reveal that over the five years in which Americans have been engaged in combat in Vietnam, draftee casualties (killed and wounded) have run 130 per 1,000 per year and non-draftee casualties have run 84 per 1,000 per year. The Army General Staff prepared the study at the request of *National Journal*.

HOW POLICY IS SET

Under broad guidelines established by the Defense Department, draftee utilization policies reflect the manpower needs of the service that conscripts the draftee.

Jonas M. Platt, the Defense Department's newly named director of manpower utilization, under the assistant secretary of defense for manpower and reserve affairs, Roger T. Kelley, reported that draftee policy for the Army is formulated within the Army. (The Army has inducted 97.2 per cent of all draftees called to duty during the Vietnam war period.) In an exception to that rule, Platt, a retired Marine Corps major general, noted that since 1967 the Office of the Secretary of Defense has sought to impose a uniform policy of using the skills of college graduates who enter the armed services to the best advantage of the military. Three of five college graduates who enter the Army are draftees.

DRAFTEES IN COMBAT

In discussing with *National Journal* the reasons for the disparity between draftee and non-draftee battle deaths, William K.

Brehm, assistant secretary of the Army for manpower and reserve affairs, said:

"The popular jobs are the ones for which people enlist. They don't enlist for the hard-core combat skills. That is why draftees tend to populate the hard-core combat skills: 70 per cent of the infantry, armor and artillery are draftees."

Brehm said that President Nixon's Vietnamization policy will have the effect of bringing Army troop replacements below 20,000 a month by May 1971. But he estimated that one-third to one-fourth of the replacements will still have to be combat soldiers.

"That means we'll have to supply somewhere between 5,000 and 6,000 hard-core combat skills a month. My estimate is that we couldn't come anywhere near the 5,000-man level without the draft," Brehm added. (*For background on Brehm, see biographical box*).

ENLISTMENTS VERSUS INDUCTIONS

The disparity between draftee and volunteer casualty rates directly reflects the tasks that the Army assigns each group of soldiers.

Regular Army volunteers may enlist for two or three years. In the first six months of 1970, 16,243 men enlisted for two years. They were placed in the same manpower pool with the 92,750 draftees called to duty for two years by the Army during the same period.

Three-year volunteers, however, have the option of selecting their Army jobs and four out of five make their own choice. In 1970, less than 3 per cent have asked to serve in the infantry.

"As strange as it sounds," Brehm said, "only 800 young men a month out of 200 million Americans are enlisting for combat. If we went to an all-volunteer force in Vietnam, it's quite conceivable that that's all we might get."

PROCEDURES BEING REVIEWED

The Army Audit Agency, a semi-autonomous watchdog unit, is currently studying the full range of job classification and assignment procedures within the Army.

However, there are no present plans to withdraw or alter the option to serve in non-combat roles being offered three-year volunteers, Brehm said.

"I think, given the circumstances, the draftee is getting a pretty fair shake from the Army," he added.

Several high-level officers and Pentagon civilians interviewed by *National Journal* agreed with Brehm's analysis of the draftee-combat problem—but not with his judgment of the equities involved.

A Defense Department manpower expert, who asked not to be identified by name, said:

"We've studied this problem very carefully. People don't seem to enlist in the Army to fight. We recognize the inequity this causes in a shooting war but we don't know what to do about it."

An Army general who has served more than two years in Vietnam and who asked anonymity said: "Given the way draftees are used by the Army, it's quite obvious that they'll take the brunt of the casualties.

"It's very sad, really. But the whole goddamn war is very sad."

VIETNAM

In Southeast Asia, "grunt" is GI slang for a frontline solider. (The term comes from the grunting sound foot soldiers make while carrying heavy field packs.) The vast majority of grunts in Vietnam are draftees.

FIGHTING FORCE

On July 1, slightly more than 30 per cent of the Army's draftees were serving in Vietnam while 25 per cent of Army volunteers were stationed there.

In Vietnam itself, the ranks of the Army's enlisted and officer force (293,200-men) now include 115,100 draftees, or 39 per cent of the total. (This total is scheduled to drop to about 225,000 Army personnel by May 1971, with a proportional—or better than proportional—drop in grunt-draftees as more and more combat units are deactivated.)

While the Pentagon keeps no statistics on the chances of a draftee serving in Vietnam during his two years in the Army, a comparison against draft calls reveals that a draftee's chances of going to Vietnam have fluctuated between 50 and 80 per cent. (Currently, draft calls are running at a rate of 10,000 men a month, and draftee replacements are being flown to Vietnam at a rate of 8,000 men a month.)

KILLED AND WOUNDED

Draftee casualties in Vietnam are a sensitive matter to the Pentagon. While the Defense Department issues weekly summaries of casualties in Southeast Asia, detailed statistics for draftees are difficult to obtain.

Through March 1970, 13,097 draftees (including four who had become officers) had been killed in Vietnam as a result of enemy action. Another 1,545 had died from other causes, such as air crashes or diseases. Separate records are not kept on the number of draftees who are wounded, hospitalized, missing or captured.

Percentage of draftee deaths—Over the course of the Vietnam war—in which some 43,500 American fighting men have died through mid-August—draftees account for about 32 percent of the total killed in action, 49 percent of the Army dead and 55 percent of the dead among Army enlisted men.

Casualties among draftees, and the implications they raise, have been analyzed by the Army General Staff. The studies have been conducted within a unit known as the Equal Rights-Personnel Affairs Army Command Service Branch, Special Affairs and Review Division, Directorate for Military Personnel Policies, under the deputy chief of staff for personnel.

Chances of surviving—By comparing average monthly force levels in Vietnam against actual deaths, and extrapolating the number of draftee-wounded, the Army has been able to compute the statistically valid chance that a draftee or a Regular Army volunteer has of being killed or wounded during his 12-month tour of duty there.

The Army study shows that, for the course of the war, an average enlisted man or Army officer had a 1.96 percent chance of being killed and an 8.47 percent chance of being wounded seriously enough to require treatment at a medical facility.

Draftee vs. volunteer—However, for an Army draftee, the chance of being killed was 2.44 percent and the chance of being wounded was 10.54 percent—or a total of 12.98 percent.

For a non-draftee enlisted man, the chance of being killed was 1.58 percent and of being wounded 6.84 percent, or a total of 8.42 percent. Thus, a draftee had about a 54 percent greater chance of being killed or wounded than did his Regular Army counterpart.

Early airborne influx—These results are influenced, however, by the fact that the initial surge of Americans in Vietnam brought elite (and largely Regular Army) air cavalry and airborne divisions. (While draftees serve in airborne divisions, they do so voluntarily.)

By contrast, in the later phases of the war, when Americans suffered their heaviest loss of life in Vietnam, the fighting was largely in the hands of infantry, armor, and artillery units with higher proportions of draftees.

Employing the same statistical procedures as in the Army study, the relative chance of a draftee or a volunteer being killed or wounded in 1968 were calculated by *National Journal* as follows:

Draftee—killed, 3.89; wounded, 11.79; total, 15.68.

Volunteer—killed, 2.3; wounded, 6.63; total, 8.96.

Rating previous wars—In revealing these statistics, the Army notes that draftee death rates in Vietnam—even though higher than total Army enlisted losses—are still significantly lower than death rates sustained by the U.S. Army during both the Korean war and World War II.

(In both those wars, the present enlistment system—under which a prospective soldier is guaranteed a non-combat Army assignment if he agrees to serve for three years—did not exist.)

In Korea, Army killed as a percentage of its forces in the war zone came to 4.32—more than double the 1.96 percent over-all rate in Vietnam. During World War II, the figure was 5.19 per cent for the European theater in 1944–45.

Vietnam wounds higher—However, wounded rates for draftees in Vietnam in 1968–69 ran at levels comparable to or higher than Korea or World War II. (For Korea, the figure was 12.11 per cent; for World War II, 15.20 per cent.)

The Army study further shows that 72 per cent of enlisted casualties were sustained by personnel in grades E5 (sergeant) or below. Most of these men do not plan on Army careers and serve either two or three years.

REASONS BEHIND STATISTICS

Disparities between draftee and non-draftee casualties in Vietnam stem from two main factors:

Career Regular Army soldiers, counted as enlisted men in the study, tend to serve in rear-echelon units and in non-combat roles.

Enlisted men who arrive in Vietnam in non-combat jobs (selected by themselves before they enlisted) are subject to less hostile fire than draftees, who have no choice in their Army tasks and who consequently fill about 70 per cent of the combat jobs in the Army.

In private conversation, some high-ranking Army officers express surprise that draftee casualties, given the present system of enlistments, are not actually higher than they have been.

In the course of the war (fiscal 1965–70), about 56 per cent of new enlisted personnel entering the Army have been draftees; this is close to the percentage of draftees who have died in Vietnam among total Army enlisted deaths.

The Army tends to assign its draftees to more hazardous combat roles—a fact which should and does yield higher casualty rates. However, a career Army man sometimes must serve several tours in Vietnam, thus exposing himself to a higher over-all risk of being killed or wounded than a single-tour draftee.

Re-enlistment practices: Until very recently, the Army offered a draftee who was serving in Vietnam a chance to terminate his draftee status and re-enlist for three years from the date of his change of status.

Draftees are eligible for this "re-up" provision after serving eight months in the Army. Most draftees arrive in Vietnam after five months of training and leave time in the United States.

Usually, if a draftee in Vietnam elected to "re-up," he was shipped back to the United States for training in a new MOS. In all likelihood, he would return to Vietnam as a Regular Army enlistee, but to serve in a rear area in a combat-support MOS.

Battlefield recruiting—In an article published last Feb. 8 by *The New York Times Magazine,* entitled "Close-up of a Grunt," James P. Sterba, a *Times* correspondent in Vietnam, reported that Army re-enlistment sergeants regularly approach draftees in infantry rifle companies just after they have been through combat, seeking to induce them to "re-up" in exchange for not having to serve "out there" any longer.

An Army spokesman said that the Sterba report led to an investigation, but he did not disclose its results. William Brehm, the Army's manpower chief, said, however, that re-enlistment rates for draftees, which had

XUM

been running at about 5 per cent, have more recently fallen off to close to zero.

Infantry MOS frozen—On Aug. 11 the *Times* reported in a dispatch from Vietnam that new orders were distributed several weeks ago which, in effect, bar draftees with combat MOS's from re-enlisting in exchange for immediate transfer from the battlefield.

The *Times* cited a confidential Army directive, issued by Lt. Gen. Frank T. Mildren, deputy Army commander in South Vietnam. The directive said 1,298 combat soldiers in the command had changed their MOS's between March 1 and May 1, 1970.

ASSIGNMENTS

Before he receives his first duty assignment, the Army draftee spends, on average, about 19 weeks in what the Pentagon calls the "pipeline."

Draftee pattern: Typically, a draftee's Army career would begin with a day of processing at one of 74 Armed Forces Examination and Entrance Stations throughout the country.

A draftee next spends three or four days at one of 11 Army Reception Stations. From there, he enters a mandatory eight weeks of basic combat training at one of nine Army Training Center.

On completing basic training, which emphasizes infantry skills, a draftee receives advanced individual training (AIT) in a military occupational skill (MOS). This occurs in one of three ways:

Eight weeks of AIT in such combat MOS's as infantry, armor or artillery at an Army Training Center. (Before they are shipped to Vietnam, infantrymen receive an extra week of training in the combat conditions they may expect to find there.)

Four to 10 weeks of MOS training at one of 71 Army schools. The average school cycle is eight weeks.

On-the-job training or an immediate duty assignment in a civilian-acquired skill (CAS) at an Army installation within the continental United States. Most CAS personnel enter the Army with skills that the Army values highly; scientists, engineers, carpenters, electricians and architects are typical of this group. A draftee outside the CAS program may be given an MOS called "duty soldier" and receive on-the-job training in, say, cutting grass.

After AIT, a typical draftee is granted two weeks leave, plus the time he needs to travel to his first assignment. He arrives there having received about four months of Army training.

VOLUNTEER PATTERN

A typical Regular Army volunteer begins his Army career in the same fashion as a draftee. But, after basic training, he may spend the rest of his time in the Army in an occupation he has chosen for himself.

In each case, a volunteer makes this choice before he enters the Army. His recruiting sergeant notes his choice and a place is reserved for him at a school for the time that he would be ready to begin AIT.

In the first six months of 1970, 43,706 three-year volunteers exercised their option to receive specialized training of their choice. This group represented 79.3 per cent of the three-year enlistments (55,099 men) in that period.

COMPUTERIZED SELECTIONS

Since 1965, the Army has assigned virtually all of its MOS's for combat and for specialized training through a computer program.

(One exception to the rule is the MOS for operating the MOS-selection computer program. These soldiers, who work in the Pentagon and who include draftees, are hand-picked.)

Two-tier process—In essence, the Army employs a two-stage formula to assign MOS's to its soldiers. The first stage is relatively simple; the second, highly complex.

In the first stage, the computer matches three-year enlistees with the specialized training berths they have selected. Some coveted MOS's—such as the MOS for optical laboratory specialists—are fully subscribed in this way.

However, less than 5 per cent of the volunteers ask to be trained in a combat-arms specialty. These combat assignments are virtually left open once the "first cut" is completed and must be filled during the second and final "cut."

When the "deck" (as in a deck of cards, the Army's term for prospective MOS holders) is run again, draftees, two-year Regular Army volunteers and three-year volunteers who have not exercised their option are placed in a common manpower pool. (Some volunteers are found to be unqualified for the option they want but enlist anyway and find themselves in the pool.)

Accessions breakdown—In the first six months of 1970, of the 164,092 men who entered the Army, 56 per cent were drafted, 10 per cent enlisted in the Regular Army for two years, 7 per cent enlisted in the Regular Army for three years but failed to exercise their job option and the remaining 27 per cent enlisted for three years with a guarantee from the Army that they would be given the MOS of their choice.

The "second cut" by the computer, therefore, includes the 73 per cent of all new accessions into the Army who are given no choice in picking a military job by the Army or who fail to make a choice.

Shuffling the deck—The computer program attempts to fill each MOS, insofar as vacancies still exist, at what the Army regards as a satisfactory level.

This level is known as "desire" in the computer program. Criteria for what is "desirable" include such factors as the manpower needs of the Army at the time, the qualifications set for a particular MOS, the distance of a soldier from a prospective training site (calculated to minimize transportation costs), the soldier's civilian background, his own preferences as determined during a post-induction interview, and, finally, a detailed profile of the soldier's physical and mental background.

Among the 46 individual bits of information scanned by the computer before it matches a new soldier with an MOS requirement are such factors as his aptitude and intelligence test scores, physical profile, previous education and language proficiency.

"Relax" program—If the computer is unable to fill the quota set for a particular MOS at the "desire" level, it is programmed to "relax" its standards in several successive stages until all the vacancies are filled.

If, after reaching the lowest rung of the "relax" program, the computer has still been unable to fill the quota—known as "the white book requirement"—the machine goes through a final searching sequence.

Down in the pit—This time, the computer is programmed to operate at a "mandatory" level, below which the Army refuses to lower standards for a particular MOS. (For example, the computer is told that it is "mandatory" that no one with a criminal record in civilian life be made a military policeman.)

Sometimes, the program is written in such a way that a set and limited percentage of substandard soldiers is permitted to take a particular MOS. Informally, this is known as a "goofball ceiling."

All combat MOS's now carry a high priority, some of them 100 per cent. Such troops requirements must be filled even if the computer has already scraped the bottom of the barrel and has ceased assigning men. In that event, the quota is filled by hand; Pentagon staff officers use their judgment in further dropping the standards.

These "standards" do not necessarily reflect on the quality of the soldier. For example, the standards the computer follows may prohibit using a college graduate in a menial job or flying a man for training from the East Coast to California.

Operational center—These policies are carried out by the Trainee Assigning Section, Training Input Branch, Requirements Division, Enlisted Personnel Directorate, Office of Personnel Operations of the Army.

Computer vs. draftee—In theory, there is no MOS for which a draftee is ineligible. In practice, however, the computer is programmed, often down to the "mandatory" level, to accept only three-year volunteers for MOS's that involve long training periods.

Such MOS's as medical lab processor, which requires a total of 64 weeks' schooling, are virtually free of draftees. Other MOS's for which the Army prefers (because of the training time involved) to shun draftees include the mechanics who service the Army's various tactical missiles as well as the soldiers who repair such devices as radars, television and microwave systems, teletypewriters and code machines.

Special considerations—Apart from receiving a general set of instructions, the computer is also given certain special orders:

No soldier under the age of 17 years, eight months can be assigned to a combat-arms MOS. (Draftees are usually inducted at age 19.)

College graduates cannot be assigned to such jobs as cook, ammunition handler and tent repairman.

But college graduates can be—and often are—selected as infantry riflemen on the Army theory that they would have a full opportunity to exercise what the Army terms their "leadership potential" in such an MOS.

Analyzing the results: In fiscal 1970, 16,362 (9 per cent of the draftees inducted during the period) were handpicked for the civilian-skills (CAS) program of the "deck." This group was certain to serve its entire two-year tour within the continental United States.

About 80 percent of the draftees who remained in the pool were put into a group of MOS's in which draftees have comprised 50 percent or more of the manpower over the course of the Vietnam war.

This group, heavily laden with draftees, includes the basic infantry, armor and artillery MOS's, various radio and telephone communications jobs, light vehicle drivers, cooks, clerks, military policemen and medical corpsmen. (*For number and percentage of draftees and enlistees trained in selected combat-arms MOS's, see table.*)

About 63 per cent of all draftees entering training were given jobs within this cluster during fiscal 1970—with 20 per cent alone being trained as infantry riflemen.

In the Army as a whole, 11.4 percent of all personnel are assigned to the infantry rifleman MOS—which Pentagon generals call "11 bravo" but which grunts in Vietnam call "11 bush." Two-thirds of the infantry riflemen trained in fiscal 1970 were draftees.

Combat Duty: Only 11 percent of Regular Army volunteers voluntarily serve in an MOS that is heavily laden (50 per cent or more) with draftees. And even among that 11 per cent, there is a strong statistical tendency to become a clerk, a cook or a telephone operator rather than an infantry rifleman, an armor crewman or an artillery spotter.

Only those Regular Army volunteers who select an option under the guarantee program may escape the possibility of combat-arms duty; remaining volunteers, including two-year Regular Army men, are assigned to combat MOS's in about the same proportion to their over-all numbers as draftees.

College men—A college degree also offers no guarantee of being assigned to non-combat duty in the Army. (About 15 per cent of the men entering the Army graduated from college.)

A study of college graduates who entered the Army during fiscal 1969 shows that 61

XUM

per cent of them (23,111 men) were draftees. (No statistics are available, however, on the number or percentage of draftees who are college graduates.)

Of the college graduates who entered the Army in fiscal 1969, 50.5 per cent were assigned to combat-support units and 24 per cent were assigned to combat-arms units, with some 16 per cent entering the infantry.

A separate study released June 18 by Kenne Peterson, a civilian manpower expert attached to the Office of the Secretary of Defense, revealed that 36.2 per cent of the college graduates who entered the Army in calendar 1969 were given combat MOS's, compared with 43.3 per cent of all enlisted men, including draftees.

Duty stations: Once a soldier is assigned to and trained in an MOS, no distinction is made between draftees and volunteers in the selection of their duty stations.

These decisions are made by Policy Branch, Distribution and Readiness Division, Procurement and Distribution Directorate, under the deputy chief of staff for army personnel, Lt. Gen. W. T. Kerwin Jr.

The Pentagon staff officer under Gen. Kerwin who actually makes the theater assignments shuffles a stack of cards (to break up the computerized alphabetical sequence in which he receives them) without knowing which card represents a draftee and which a Regular Army enlistee.

Personnel just completing their advanced training (AIT) are taken first, as a matter of policy, in meeting the levies of overseas commands. About 60 per cent of AIT graduates are assigned directly to a one-year tour of duty in either Vietnam, Thailand or Korea.

Since 70 per cent of the combat-arms MOS's in the Army are filled with draftees, a higher proportion of draftees serve in Vietnam than elsewhere because combat MOS's are in more urgent demand in Vietnam than elsewhere.

At any given time, 54 per cent of all draftees are serving within the continental United States, 30 per cent are in Vietnam and the remaining 16 per cent are in other over-seas assignments.

XUM

PRESSURES

The draft utilization issue comes before the Army at a time when it is reacting with extraordinary sensitivity to public criticism.

Westmoreland view: In a speech before the National Exchange Club, delivered July 27 in Atlanta, Gen. William C. Westmoreland, the Army's chief of staff and former over-all commander in Vietnam, said:

"Some of the criticism leveled at us is indeed justified. Some of it is misdirected, emotional tirade. . . . Some who undoubtedly are well intentioned are doing the country a disservice by unknowingly undermining the confidence of the public in the Army. Others, I believe, have motives less innocent."

In this climate, the Pentagon is encountering political pressure to stop sending draftees against their will to Southeast Asia.

Congressional initiatives: On both sides of Capitol Hill, there is talk over instituting an all-volunteer policy in Vietnam as an interim step before undertaking a complete American military withdrawal.

House—Rep. Garry Brown, R-Mich., introduced a bill (H.R. 18719) on July 30 under which draftees who are inducted after Jan. 1, 1971, could not be assigned without their consent to Vietnam or any other area where the United States is engaged in an armed conflict.

"Philosophically, my proposal is right; pragmatically, it can be implemented," Brown said. "Especially in view of the reduction in personnel in Vietnam, I am confident the Pentagon can work within this limitation on combat service," he added.

Senate—While the Brown bill is likely to be buried in the House Armed Services Committee, the Senate is virtually certain to hold a test vote on this issue in late August.

The initiative is being pressed jointly by three Democrats—Sens. William Proxmire, Wis., Gaylord Nelson, Wis., and Harold E. Hughes, Iowa—in the form of an amendment to the military procurement bill (H.R. 17123), which is the pending business on the Senate floor.

If adopted, the amendment would prohibit the Defense Department from sending draftees to the war zone after President Nixon signs the procurement measure into law.

In presenting the amendment on June 30, Proxmire said on the Senate floor:

"The connection between campus unrest, the war and the inequities in the present Selective Service system lend an urgency to this proposal.

"To stop sending draftees to Southeast Asia," Proxmire said, "is not only feasible and urgent—I also believe it is right. Not only is this an undeclared war, but the draftee has borne an unfair proportion of the fighting burden."

PENTAGON RESPONSE

Defense Secretary Melvin R. Laird has responded to such pressure by publicly holding out the hope that an all-volunteer policy in Vietnam might begin next year.

Thus, in mid-May, Jerry W. Friedheim, deputy assistant secretary of defense for public affairs, told a Pentagon news briefing: "The Secretary (Laird) has said he feels that when we get down to 200,000–240,000 men, that's the time we can begin seriously to think about that possibility."

Troop withdrawals—Laird's overall timetable calls for turning over the ground combat mission to the South Vietnamese Army by May 1971.

By that time, according to the timetable announced by the President, U.S. troop strength in Vietnam will total 284,000 men—a reduction of 265,500 men since Mr. Nixon took office in January 1969.

Pessimistic estimates—In sharp contrast to the hopeful tone being struck by Secretary Laird and his chief spokesman. Army manpower planners see a continuing need to assign draftees to combat roles—a need that stems directly from the policy of granting three-year volunteers a choice of available support assignments.

In the calculations of the Army manpower planners, the fact that draftees comprise only a quarter of the men who entered the U.S. armed forces during the course of the Vietnam war, and only 12 per cent of the combined services' present total strength has little bearing on the problem.

"Even if we hold to the most optimistic schedule of Vietnamization," Brehm told *National Journal*, "we would still need two or three times what we could supply next year without the draft."

Brehm, however, sees no conflict between the Army's continuing need to draft soldiers for combat duty and Lairds' all-volunteer planning.

"The Secretary understands the problem," he said. "He is committed to making the Vietnamization policy work. But he also knows that it would not be possible for us to continue with our present plan if we had to go to an all-volunteer group in Vietnam."

Counterthrust in Senate—In the meantime, the Pentagon is quietly seeking to undermine support in the Senate for the Proxmire-Nelson-Hughes amendment.

On July 9, Leonard Niederlehner, who was serving at the time as acting general counsel of the Defense Department, wrote to Sen. John C. Stennis, D-Miss., chairman of the Senate Armed Services Committee, to express the department's official disapproval of the proposal.

"A great part of the problem," Niederlehner wrote Stennis, "is providing in required numbers personnel who possess the required skills without incurring shortages of these skills in Army units elsewhere.

"Until it is reasonably sure that this problem can be mastered, it would be unwise to restrict the pool of military personnel eligible for service in Vietnam to those who would enter the armed forces voluntarily."

While Niederlehner did not say so, Army manpower experts who echoed his views made it clear that the "skills" to which he referred were infantry, armor and artillery—the hard-core combat group. Niederlehner's letter has not been officially released.

Non-governmental pressures: Peace groups opposed to the American military involvement in Southeast Asia have focused their political efforts on seeking a speedy withdrawal of troops, and have not widely raised the draftee issue.

Draft resistance, however, is tied closely to the Vietnam war.

Court cases—the courts have been reluctant to deal with the issue of whether it is constitutional to send servicemen to fight in Vietnam without a congressional declaration of war. They have ducked the issue by ruling that the question is not justifiable—that it is too broad in scope to be decided in the context of a lawsuit, or that it is a political question.

However, in two recent cases, the courts have addressed the issue. Both cases were brought up by volunteers, but the decisions would apply to draftees as well.

Berk v. Laird—Berk contested the Army's right to send him to Vietnam to fight an undeclared war. On June 19, the 2nd Circuit Court of Appeals ruled that the issue was narrow enough to decide, but that it was a political matter. The appeals court remanded the case to the U.S. district court for the Eastern District of New York. The Justice Department has filed a petition there to dismiss the case, which is being argued by Theodore C. Sorensen for the New York office of the American Civil Liberties Union.

Orlando v. Laird—The U.S. district court for the Eastern District of New York decided the case on the merits; it ruled July 1 that the Army could send Orlando to Vietnam, because Congress, in authorizing and appropriating funds for Vietnam, had acquiesced as if it had actually declared war.

Massachusetts law—The Supreme Court will have an opportunity when it reconvenes in October to consider the legality of sending draftees to fight in Vietnam. On July 22 the state of Massachusetts filed suit in the U.S. Supreme Court contesting the Defense Department's right to draft Massachusetts citizens to fight an undeclared war in Vietnam. The suit was brought under a state law enacted April 2, challenging the legality of the Vietnam war. The Defense Department has until Sept. 22 to file a response to the state's petition.

All-volunteer Army: The problem facing the Pentagon is further compounded by the President's commitment to a policy of reducing draft calls to zero and instituting an all-volunteer Army.

Gates study—In March 1969, Mr. Nixon, fulfilling a campaign pledge, created a 15-member commission headed by Thomas S. Gates Jr., chairman of the executive committee of Morgan Guaranty Trust Co. and a former Secretary of Defense (1959–61), to study the feasibility of an all-volunteer armed force for the United States.

The Commission reported to the President Feb. 21, 1970, unanimously recommending the creation of an all-volunteer force by July 1, 1971, concurrently with the expiration of the present Selective Service Act (81 stat. 100).

An April 23, in a special message to the Congress, Mr. Nixon said: "After careful consideration of the factors involved, I support the basic conclusion of the commission. I agree that we should move now toward ending the draft."

Hatfield overture—The initiative for an all-volunteer Army has been taken up in the Senate by Sen. Mark O. Hatfield, R-Ore., who is planning to offer an amendment to the military procurement bill that would implement the Gates Commission's findings. He has attracted 14 cosponsors for his proposal, ranging across the political spectrum from Sen. George McGovern, D-S. Dak., to Sen. Barry Goldwater, R-Ariz. (The White House has expressed opposition to the Hatfield bill on the grounds that is it premature.)

One feature of the Hatfield bill would compensate servicemen who face enemy fire an extra $200 a month. The measure would also raise the base pay of a first-year enlisted man by $1,700 a year. (Currently, all enlisted men serving in Vietnam, whether or not they are actually in combat assignments, draw an extra $65 a month in "hostile fire pay" and are exempt from federal taxes.)

Insufficient incentives.—Army manpower experts doubt that pay incentives alone, no matter how generous, would bridge the gap between the number of combat soldiers now needed in Vietnam and the number who volunteer for combat duty.

"If I put myself in the position of these young men, money alone wouldn't convince me," Brehm said. "Moreover, it would be a mercenary force. I don't think I like that."

Alternative policy: As a means of giving its draftees and non-draftees a relatively equal chance of surviving in Vietnam, the Army could suspend its enlistment-option system for the duration of the war.

This approach has been followed by the Marine Corps, an elite group whose over-all manpower needs are far smaller than the Army's.

Army manpower experts predict that such a step would increase draft calls sharply as enlistments fell off.

"'We've brainstormed this," Brehm said, "and we've discarded this approach because the policy is to keep the number of draftees in the Army as low as possible.' (The Army took about 200,000 inductees in fiscal year 1970, the lowest number since the 102,555 inductees the Army took in fiscal 1965; and the Pentagon has announced a lower rate of draft calls in the first half of fiscal 1971.)

"It's too bad that the draftees have to do most of the fighting," Brehm added. "Believe me, I don't enjoy signing those draft calls. But, after all, one of the things the Army is all about is combat."

Mr. HANLEY. Mr. Chairman, the current congressional debate over the extent of the U.S. commitment to NATO and the defense of Europe involves one of the more important foreign policy issues of the decade.

Few of us would deny that the security of Western Europe is of utmost importance to the defense posture of the United States. A weak Europe, subject to strong pressure from the Soviet Union, would critically endanger our external security.

Nevertheless, the time has come for us in the Congress to state emphatically and firmly that we cannot—and will not—continue to bear such a disproportionate share of the defense of our European neighbors.

I, therefore, support the amendment to reduce U.S. forces in Europe by 50,000 troops by June 30, 1971.

NATO was created in the wake of World War II to provide a protective shield for a weak Western Europe. At that time it was logical and necessary that the United States assume the great majority of the defense burden for these countries. Our own interests decreed that Europe remain free, our altruism decreed that a stronger neighbor help those ravaged by war get back on their feet.

The economies of France, Germany, Belgium, and our other European allies are humming along beautifully. There is no reason why they cannot come up with their fair share of the cost of defense programs. If they were poor, it would be one thing—but they are not. We have an obligation to the free world, but so do they.

Yet the United States continues to bear the brunt of NATO costs and manpower. The total cost to the United States as a result of our NATO commitment is estimated at $14 billion. Approximately $7 billion is used for the maintenance of troops on the Continent, and $3.1 billion is spent annually for the actual operating costs of U.S. forces in Europe. Our NATO-connected expenditures create an estimated annual balance of payments deficit of more than $1.5 billion.

None of the European countries has lived up to its NATO commitments in terms of money or manpower. In recent years, in fact, Great Britain has eliminated the draft and other European countries have reduced the conscription period. However, we in the United States have kept our 2-year draft—in part so we can maintain a large force in Europe.

For several years now, we have been pressing our allies to assume a fairer share of NATO costs. While these countries agree in principle, they have not yet come up with an acceptable proposal. There have been recent indications that the European countries may be willing to raise as much as $300,000,000 per year. In the face of our own staggering costs and tremendous burdens at home, this figure is unacceptable.

If we cannot be assured of at least enough money to cover our balance of payments deficit, the United States should make immediate plans for withdrawal of a significant segment of our European contingent.

And, in the long run, we should seriously consider a permanent withdrawal of a large number of our troops for budgetary purposes. We could bring many troops home without reducing our ultimate responsibility to our European allies. If our troops are kept prepared on bases throughout this country, they could be airlifted to Europe in a matter of hours if an emergency occurs.

Mr. Chairman, all of us are aware of the many needs which we have here at home. Of course, we must maintain a strong defense and we must help protect our friends.

But the time has come when we must cease to overextend ourselves beyond our means. We have long carried the free world on our shoulders. It is time that some of this burden is shifted and that other nations assume a fair share of their own defense.

The amendment to cut our troop force by 50,000 is worthy of our support for it will put the Europeans on notice that the U.S. Congress is emphatic in its resolve that our allies pay their fair share.

Mr. SCHMITZ. Mr. Chairman, as an American concerned with the safety of the Nation, I vote for the current military appropriations bill with misgivings. In my estimation we are not allocating a large enough portion of our resources for defense purposes. Providing for the common defense of the Nation and promoting the general welfare are not antagonistic concepts. Rightly understood they are complementary functions. When we sacrifice the common defense for nebulous notions of what promotes the common welfare we are embarking on a course which will neither protect nor for long provide.

Neither should we allow the prospect of a possible agreement with the Soviet Union at the strategic arms limitation talks to incline us in the direction of defense cuts. Recent examples of Soviet perfidy are numerous. The latest Soviet test of their fractional orbital bombardment system took place just 2 weeks ago. Many people are of the opinion that the testing of these nuclear attack weapons is a clear violation of the 1967 Space Treaty which the Soviets signed. It is a little difficult to see any sense in holding up deployment of the ABM system, partially on the hope that the Soviets will abide by a new agreement yet to be made, the Soviets are testing a weapons system which gives us only 3 minutes warning time and whose testing is in violation of an agreement they have already signed.

Conservatives such as I, heartily endorse and press for fiscal responsibility. Most conservatives do not, however, endorse insufficient funding for national defense purposes. I would suggest that lowering our defenses to the point of Soviet victory is unwise. There is one thing worse than a nuclear war—losing a nuclear war.

Mr. OTTINGER. Mr. Chairman, I am pleased to note that the Appropriations Committee has finally given overdue recognition to the obvious truth that we can and must get more defense for the dollars we are spending, not more dollars for the low caliber of performance we have been getting over the past years.

There will be some who will cry that the $2 billion lopped off the budget request will harm our national security, but we can dismiss this for the nonsense it is now widely recognized to be. The public has been too well informed of the irresponsibility of both the Pentagon and defense contractors in cases such as the C-5A to be willing to put up with the inviolability of the military budget any longer.

Mr. Chairman, we do indeed have an obligation to provide security for the people of this country. But we have the corollary obligation to see that the services and equipment involved are obtained with efficiency and at equitable cost to the taxpayer. It is only in the last few years that Congress has begun to exercise its responsibility for military spending oversight, and until that time we faced mutely an annual appropriation that grew year by year to totally unnecessary and unwise proportions. The action we will take today is but a further step in the direction of introducing sanity into providing of funds for the military establishment. There will be attempts to cut the expenditure level

XUM

back even further, perhaps to a $65 billion maximum, and I am fully in support of these efforts.

Most importantly, we have once again an opportunity to express the sense of Congress in regard to the funding of the war in Southeast Asia, and I hope that the bipartisan move to write the provisions of House Resolution 1000 into this bill will be successful. By approving the amendment to limit fiscal 1971 funds for Vietnam to $15 billion we will give clear expression to the necessity for winding down the war, and then by voting to terminate funds for ground combat operations after June 20, 1971, we will give the American people a clear signal that we are fully ready to exercise our responsibility to extricate ourselves from our disastrous involvement in Indochina. The people of this country clearly want us out of the war, and today we have the opportunity to set the limits for our engagement in Vietnam. I hope we take it.

Mr. VANIK. Mr. Chairman, upon leaving office, President Eisenhower, a general of the Army, warned the Nation against the dangers of the growing "military industrial complex." In his farewell address to the Nation on television and radio on January 17, 1961, the former Supreme Commander of the Allied Expeditionary Forces said:

> In the counsels of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disasterous rise of misplaced power exists and will persist. We must never let the weight of this combination endanger our liberties or democratic processes. We should take nothing for granted. Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together.

XUM

For 8 years we have ignored the General's warning, despite the fact that the Department of Defense's budget increased from $41.3 in fiscal 1961 to a fiscal 1971 request of $66.6 billion.

However, I am pleased to say, Mr. Chairman, that at last in this year—and to some extent last year—the Congress has lived up to its responsibility of examining and questioning the military budget. We have begun to return to our constitutional obligation "to raise and support Armies," "to provide and maintain a Navy," and "to make rules for the Government and regulation of the land and naval forces."

This is the first Congress of the eight Congresses in which I have served, which has seriously questioned and cross-examined military money requests, the advisability of certain weapons systems, and the validity of certain strategic concepts—such as maintaining 535,000 American military personnel and dependents in Europe at a cost of around $2.9 billion.

This examination is a most encouraging development. Congressional examination and review in this area—an area where the generals and admirals were formerly given carte blanche—is saving the taxpayer literally billions of dollars.

For example, this year's bill before the House today, makes cuts in a number of new programs which are untested or which have run into technical difficulties. It makes no sense to push forward into production of weapons systems in the hope that future research will solve the problems which have already developed. For example, production went ahead on hundreds of Sheridan tanks which had a turret designed to fire a missile shell. Production went ahead on the promise that this new type of shell could be and would be developed. Technical difficulties arose, and hundreds of tanks have had to be stored away since they have no firepower to deliver. This situation may be cleared up, but the interim waste has been fantastic. We must move, as Secretary Laird says, to a "fly before you buy" policy.

Unwanted new weapons systems, such as a new nuclear aircraft carrier and its escorts, have been cut from the budget. It would have been unconscionable for Congress to have provided funds for this project which the administration was uncertain it wanted. The Congress has also raised questions in debate about the strategic soundness behind the idea of a carrier-oriented Navy. The remarkable success of the Soviet built ship-to-ship missile Styx raises real questions about the safety of relying on large surface warships.

The Appropriations Committee is to be commended for expressing concern about the redtape and bureaucracy which has turned our Defense Establishment into an unresponsive and lethargic monster. In cutting the administration's budget request by nearly $2.1 billion, the distinguished chairman of the Appropriations Committee has said that this can be done "without denying programs essential to the basic military strength of the country." He noted that:

> The "effectiveness of the Defense Department cannot be measured solely in terms of dollars. Unlimited resources do not overcome inefficiency and mismanagement. Instead, excessive funding produces more inefficiency and mismanagemet.

A similar view of bureaucractic inefficiency has been expressed by Hyman Rickover, one of America's most brilliant admirals.

In addition, to making cuts in the budget request, the committee has put time limits on which appropriated moneys can be spent. Previous defense appropriations bills had made money available until expended—a practice in direct violation of the Constitution which provides that the Congress in raising and supporting armies, shall not make appropriations to that use—for a longer term than 2 years. In their wisdom, our Founding Fathers saw the dangers of unlimited and uncontrolled appropriations accruing to the military. It is time that we returned to that wisdom.

Despite the committee's improvements, Mr. Chairman, I feel that further improvements can be made.

Total NATO related costs are $14 billion per year, a significant part of which is due to 330,000 servicemen and 205,000 support personnel and dependents stationed in Europe. This force level—and especially the dependent level—should be cut. This commitment of manpower is a terrible drain on our resources. It lightens the defense burden for European nations which have used the resultant saving to improve their productivity and produce consumer goods that have undermined our markets abroad and flooded our markets at home. In addition, from a strategic point of view, we do not have enough—we could not maintain enough men in Europe to stop a massive Soviet attack on Western Europe. And if such an attack occurred, the possibility of it remaining a minor war limited to Europe is extremely remote. Our presence and commitment of defense to the people and democracies of Europe could be demonstrated by a few air units, the 6th Fleet, and a few Army units. But half a million Americans in Europe makes no sense at all.

For these reasons, I supported the amendment to cut the size of our manpower commitment in Europe.

As the Member who offered an amendment in the public debt bill to limit the Department of Defense budget, I will support the amendment being offered today to put a ceiling of $65 billion on the Department's budget. This amendment will not cut any specific program—it leaves the determination on cuts of $1.6 billion to the President and the Defense Department.

This amendment is entirely feasible since there are numerous areas where cuts can be made. For example, we now have 429 major and nearly 3,000 minor bases scattered in 30 nations around the world. Many of these are obsolete and no longer necessary. Admiral Rickover has pointed out that the Uniform Accounting Procedures Act, just signed into law, should save up to $2 billion annually. In line with the President's peace initiatives of last night, troop withdrawals from Vietnam should continue with further reductions in expenditures.

In light of these possibilities, in light of pressing domestic needs and probable budget deficits due to recession-caused reductions in Federal revenues, I believe that the $65 billion ceiling is vital.

Finally, the President's speech of last night offered hope for a cease-fire but was vague on the question of the timing and amount of further withdrawals. As an indication of my support for a definite, continued process of withdrawal, I will support an additional amendment to today's bill which will require that funds appropriated by this act be used only for those operations which are necessary to carry out the safe and orderly withdrawal of United States forces and prisoners of war from Vietnam while working toward a goal of ending U.S. military commitment.

These amendments are important; these amendments are sound.

Our defense spending must be more efficient and more responsive.

I cannot support this huge, conglomerate of expenditure. In its present form it constitutes an invitation to waste.

Mrs. MINK. Mr. Chairman, I would like to commend the chairman of our House Committee on Appropriations for his invaluable assistance in obtaining a singularly important addition to the Department of Defense appropriation bill, H.R. 19590.

I refer to the committee's wise and praiseworthy decision to provide funds in the bill for the schooling of minor dependents of Department of Defense personnel who died while entitled to compensation or active duty pay. This provision will allow such minor dependents to attend school in schools operated overseas by the Department. Widows who are foreign nationals will be able to educate their children in these American schools if they return to their country of origin.

To accommodate this new provision, the limitation on obligations for dependents' education is increased in the bill to $134,400,000 from $129,900,000.

This program is in accordance with legislation, H.R. 16725, which I cosponsored with my colleague, the Honorable WILLIAM D. FORD of Michigan, to accomplish this commendable purpose.

Mr. Chairman, this is a very modest amount for such a worthy objective. One of the most tragic results of our Nation's current military operations is the arbitrary cutoff of funds for educating the children of our military service personnel if the father is killed in the service of his country.

I believe the least our Nation can do for the sacrifice of these personnel is to proceed with the education of their children while they are located overseas. This is a most fitting addition to the bill, and I thank the chairman and other members of the committee for including it in this most important legislation.

I also commend Congressman FORD for his diligence in seeking so successfully this benefit for our defense personnel.

Mr. MINSHALL. Mr. Chairman, I have no further requests for time.

Mr. MAHON. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE III—OPERATION AND MAINTENANCE—
OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, including administration; medical and dental care of personnel entitled thereto by law or regulation (including charges of private facilities for care of military personnel on duty or leave, except elective private treatment), and other measures necessary to protect the health of the Army; care of the dead; chaplains' activities; awards and medals; welfare and recreation; recruiting expenses; transportation services; communications services; maps and similar data for military purposes; military surveys and engineering planning; repair of facilities; hire of passenger motor vehicles; tuition and fees incident to training of military personnel at civilian institutions; field exercises and maneuvers; expenses for the Reserve Officers' Training Corps and other units at educational institutions, as authorized by law; and not to exceed $4,000,000 for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, and his determination shall be final and conclusive upon the accounting officers of the Government; $6,219,011,000, of which not less than $220,000,000 shall be available only for the maintenance of real property facilities.

AMENDMENTS OFFERED BY MR. MAHON

Mr. MAHON. Mr. Chairman, I have amendments which I have discussed with many members of the Committee on Appropriations and the subcommittee which would increase the funds for operation and maintenance in three separate items. One of the items appears on page 6, another on page 8, and still another on page 10. The purpose of this action is to increase funds by $150 million for operation and maintenance of the Armed Forces. I ask unanimous consent to have the amendments read and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. MAHON: On page 6, in line 25, strike out "$6,219,011,000" and insert in lieu thereof "$6,269,011,000"; and

On page 8, in line 7, strike out "$4,681,910,000" and insert in lieu thereof "$4,731,910,000"; and

On page 10, in line 5 strike out "$6,117,136,000" and insert in lieu thereof "$6,167,136,000".

Mr. MAHON. Mr. Chairman, the amount in the bill for operation and maintenance is $19,213,630,000. The amendments I have offered would add $150 million, $50 million each to the Army, Navy, and the Air Force.

Mr. Chairman, the committee made careful reductions in the operation and maintenance appropriation. We insist that these reductions are right and proper as specified.

The Secretary of Defense, upon returning from his trip to the Mediterranean, discussed with me and some of the other Members the fact that he had some concern about operation and maintenance funds. He pointed out that the movement of an aircraft carrier and a brigade of Marines to the Mediterranean had cost some $50 million. He pointed out the expenses that have been incurred in providing hospital facilities in Jordan. He pointed out some of the other unforeseen operation and maintenance costs.

It will be recalled that at the time of the great tragedy in Peru, the Air Force flew large quantities of supplies to that country at considerable cost.

For this reason, I believe it would be wise to increase the operation and maintenance budget by $150,000,000 so that funds would be available for these unbudgeted and unforeseen purposes.

As I stated, the reductions specified are valid and should be carried out as specified in the committee report.

The Congress should be advised in a timely manner of the use of the additional $150,000,000.

As I pointed out earlier, the Secretary has broad transfer authorities which he can utilize in the distribution of the funds according to the requirements as they arise. I believe that this will provide the flexibility requested by the Secretary and still provide the reductions in unnecessarily spending which the committee has tried to achieve.

These amendments are being offered as subcommittee amendments.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Illinois.

Mr. YATES. Do I correctly understand the gentleman to say that it cost $50 million to move a carrier into the Mediterranean?

Mr. MAHON. No, I said that and other purposes incident to the Middle Eastern situation.

Mr. YATES. Does the gentleman mean that the posture struck by the United Sates in the Middle East recently cost $50 million?

Mr. MAHON. The Secretary of Defense stated that the movement of a portion of the fleet, the supplying of additional equipment, and other costs incident to the whole Middle Eastern affair, brought about an additional cost of $50 million, which I am not able to document in detail at this time.

Mr. YATES. I must say that that is an extreme amount of money.

Mr. MAHON. This is a large amount of money, but it covers many other purposes than the purpose to which reference has been made.

Mr. YATES. As one member of the committee, may I say that I was not consulted on this. Most of the committee, I think, probably has not been consulted on this. I certainly believe that members of the committee should be consulted with respect to matters like this before amendments are brought to the floor and represented that they do have the approval of the committee. $50 million is a substantial sum. It ought not be approved by conferring with the Secretary and a few members of the committee.

Mr. MAHON. I am not offering this as an approved committee amendment. I believe I said it had been approved by the members of the subcommittee. It was discussed at the White House last night with some of the Members of the House and with the Secretary of Defense.

Mr. SIKES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I strongly support the action that has been proposed. The bill as presented to the House is $2,321,000,000 below the fiscal year 1970 bill in operation and maintenance funds. This account covers support directly related to the maintenance of combat readiness of Army divisions, air wings, and U.S. fleet units. A further reduction to this degree on top of the very austere administration program will result in a degradation of military readiness. It means equipment and weapons will fail. It means the ability of the Armed Forces to respond to emergency situations will be sharply restricted.

The imposition of reductions of this magnitude will require further reductions in civilian personnel strengths below the 130,000 already programed from June 30, 1969, to June 30, 1971, forcing a curtailment in vital material maintenance and supply support programs for operational units. Under an annual ac-

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count of this nature, a reduction of this magnitude after the end of the first quarter of the fiscal year magnifies the impact of the cut, since effective reductions in personnel and levels of activities cannot be made prior to January 1, 1971. This has the effect of doubling the impact of the reduction on an annualized basis. It would severely disrupt planned programs for support of military forces. The Department of Defense has stated that a minimum of $250 million should be restored to this account.

Mr. Chairman, I support the amendments.

Mr. MINSHALL. Mr. Chairman, I rise in support of the committee amendments.

I sincerely hope the committee will adopt them.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Texas (Mr. MAHON).

The amendments were agreed to.

Mr. FLOOD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of asking the chairman of the full committee, the great gentleman from Texas, do I understand that the overall increase under the amendments will be for general operational expenses and maintenance only?

Mr. MAHON. The gentleman is correct. The answer is "Yes."

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments and the Office of Civil Defense), including administration; hire of passenger motor vehicles; welfare and recreation; awards and decorations; travel expenses, including expenses of temporary duty travel of military personnel; transportation of things (including transportation of household effects of civilian employees); industrial mobilization; care of the dead; tuition and fees incident to the training of military personnel at civilian institutions; repair of facilities; departmental salaries; procurement of services, special clothing, supplies, and equipment; field printing plants; information and educational services for the Armed Forces; communications services; and not to exceed $4,280,000 for emergency and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense for such purposes as he deems appropriate, and his determination thereon shall be final and conclusive upon the accounting officers of the Government; $1,125,750,000, of which not less than $14,000,000 shall be available only for the maintenance of real property facilities.

Mr. CUNNINGHAM. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Fifty-six Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 335]

Abbitt
Adair
Ashley
Aspinall
Baring
Beall, Md.
Belcher
Berry
Betts
Blackburn
Brock
Brooks
Burlison, Mo.
Burton, Utah
Bush
Button
Cabell
Celler
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Corbett
Cowger
Cramer
Daddario
Dawson
Derwinski
Diggs
Dowdy
Dwyer
Edwards, La.
Evins, Tenn.
Fallon
Farbstein
Feighan
Fish
Fisher
Flynt
Foreman
Frelinghuysen
Fulton, Tenn.
Fuqua
Gilbert
Gray
Griffiths
Hagan
Haley
Hammerschmidt
Harvey
Hays
Hébert
Hungate
Ichord
Jonas
Jones, N.C.
King
Kleppe
Kuykendall
Landrum
Leggett
Lowenstein
Lujan
McCarthy
McClory
McCulloch
McMillan
MacGregor
Mailliard
May
Meskill
Montgomery
Morse
Nedzi
Nix
O'Konski
Olsen
O'Neal, Ga.
Ottinger
Patman
Pirnie
Podell
Pollock
Powell
Price, Tex.
Purcell
Quillen
Reifel
Roudebush
Rousselot
Ruth
Satterfield
Scheuer
Shipley
Snyder
Stephens
Stratton
Talcott
Thompson, N.J.
Tunney
Wampler
Weicker
Wilson, Bob
Wilson, Charles H.
Wold
Young

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ALBERT) having assumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 19590, and finding itself without a quorum, he had directed the roll to be called, when 322 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the Committee rose, the Clerk had read through line 5 on page 11. There being no amendments pending, the Clerk will read.

The Clerk read as follows:

TITLE IV—PROCUREMENT

TITLE III—OPERATION AND MAINTENANCE—ARMY

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, equipment, vehicles, vessels, and aircraft for the Army and the Reserve Officers' Training Corps; purchase of not to exceed five thousand two hundred and fifty-four passenger motor vehicles for replacement only; expenses which in the discretion of the Secretary of the Army are necessary in providing facilities for production of equipment and supplies for national defense purposes, including construction, and the furnishing of Government-owned facilities and equipment at privately owned plants; and ammunition for military salutes at institutions to which issue of weapons for salutes is authorized; $2,933,100,000, to remain available for obligation until June 30, 1973: *Provided*, That none of the funds provided in this Act shall be available for the maintenance of more than two active production sources for the supplying of M–16 rifles or for the payment of any price differential for M–16 rifles resulting from the maintenance of more than two active production sources.

Mr. SYMINGTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have no amendment to offer. I merely wish to call the attention of the House to one of the items under title IV which should receive, I think, further consideration. I know the committee gave very close consideration to this item, the British-developed Harrier aircraft, an a number of other close-support aircraft. The reason why I take the time of the House at this moment to mention this aircraft is that it is truly a plane of the future, and it is definitely a plane of the present. The Marine Corps is very anxious to have it, and I am confident the other services would eventually like to have an adaptation of it. The United States has tried without success and at a cost of hundreds of millions, to develop such an aircraft.

As matters stand, because of the fact the plane is built in Britain and costs, of course, less at the moment to buy there, the committee has suggested we proceed in that fashion at least for the first 114 planes on order. It is my sincere hope that the paper which I am submitting herewith to the House and for the RECORD with information concerning tax recoupment and overhead costs shared with other defense production, will be carefully considered.

Mr. MINSHALL. Mr. Chairman, will the gentleman yield?

Mr. SYMINGTON. I yield to the gentleman from Ohio.

Mr. MINSHALL. Mr. Chairman, I think, as the gentleman pointed out in the committee, we have ben advised that to manufacture this aircraft, the Harrier, in the gentleman's home State of Missouri, in St. Louis, would cost nearly twice as much as to manufacture it in England, and this particular item would cost the taxpayers $238 million more.

Mr. SYMINGTON. Mr. Chairman, I thank the gentleman from Ohio. That is the figure contained in the report.

Mr. Chairman, I am submitting a statement to show that over the 5-year period of time of U.S. manufacture, through the recoupment of taxes, the generation of domestic employment, and shared overhead costs, there would be very small difference economically between the purchase of the Harrier aircraft from U.S. sources and from sources abroad, and that the premium for U.S. manufacture could be as low as $36 million.

What I believe even more important is that once we have this technology here in the United States we can build on it ourselves and adopt it to our particular requirements with minimum difficulty. I do suggest this is the very kind of plane this country would wish to have, in considerable numbers and soon perhaps for all the services. It can take off from a small flattop. It needs no runway. It travels 700 miles an hour and can land and take off vertically. With minimum vulnerability on the ground, it greatly outperforms its competitors in the air.

Certainly in the interests of national security we would not wish to rely on a foreign source for a weapons system of this magnitude and this importance.

The gentleman is correct that there is a contract extant between McDonald

Douglas Aircraft Co. and a firm in Great Britain, Hawker-Siddely for the production of this plane.

It is my hope that the House will study carefully all the arguments that can be adduced on both sides of the question of where to get this plane at this time before making a final decision later in conference.

Mr. Chairman, a strong case can be made, I believe, for purchasing the Harrier aircraft from a U.S. supplier. The decision, as reflected in the fiscal year 1971 Defense appropriations bill now before us, to withhold funds for the establishment of a Harrier production line in the United States, merits the attention and careful consideration of this body. The serious implications of this decision, not only for my own constituency, but for this Nation's defense capability and our economy, require that we carefully examine the case for manufacturing this major weapons system here in the United States.

There are two important and fundamental questions we must answer before committing ourselves to dependence on a foreign supplier for this unique aircraft: First, are we willing to rely, in times of calm as well as conflict, on a foreign government, foreign corporation, and foreign labor force, regardless of their traditional relationship to the United States, for the production and support of what will likely prove a major element of our defense forces? And, second, are we willing to forgo the participation of America's defense industry and manpower in the current generation of V/STOL technology represented by the Harrier aircraft?

Dealing with a manufacturer in this country, rather than relying on a foreign producer, provides many advantages stemming from DOD's familiarity with and proximity to the contractor as its source of engineering and service capability, the manufacture of spare parts, and parts for repairs. Beyond these advantages, however, is an even more serious consideration. In this country, as my colleagues well know, the U.S. Government has the authority, even though carefully circumscribed and defined, to insure that the production and delivery of defense-related goods is not interrupted in times of peace or war. Without elaborating on these provisions, it is quite clear that the American people would have no such guarantees if the Harrier aircraft were to be manufactured abroad. If we consider this weapons system essential to our own security and that of our allies then we cannot afford to allow the supply and support of this aircraft to be contingent on the policies and problems of a foreign, even if allied, nation; the decisions of managers subject to foreign stockholders; the policies of foreign labor unions; or in these times of active and sometimes destructive and disruptive political dissent, the political opinions and activities of foreign nationals. If this weapons system is, indeed, essential, then its availability and support must be assured.

At the present time, moreover, European industry is ahead of U.S. industry in one significant area of defense technology: V/STOL. The Harrier aircraft, designed and produced in the United Kingdom, is the first and only successful operational V/STOL fighter. The United States can take advantage of this technology at a fraction of what a normal development cycle would cost through a license agreement between American and British manufacturers. Not only would this provide an advanced Harrier type tactical aircraft at a low technical risk to the United States, but more importantly, the technological transfusion afforded by a U.S. Harrier production program would allow us to develop the technological capability for follow-on V/STOL aircraft at a fraction of the cost. This opportunity is especially noteworthy in view of the history of U.S. efforts to develop this technology. Over half a billion dollars has been expended in the United States in research and development support for V/STOL programs over the past 10 years without producing one U.S. designed system suitable for introduction into the tactical inventory. Especially for this reason, we should welcome this opportunity to fill a void in our technological capability.

Beyond these two fundamental and overriding arguments for producing the Harrier aircraft in the United States, there are sound economic reasons for doing so. These include U.S. tax recoupment, substantial savings on other defense programs through sharing of fixed overhead costs, additional employment in the shrinking aerospace industry, and a more favorable balance of payments.

An example, based on a production program of 114 aircraft, will help to illustrate the economic effects of the decision. Under such a program, the premium paid for a United States-United Kingdom coproduction program over direct purchase from the United Kingdom has been estimated to be $238.5 million. Offsetting this premium are two factors: tax recoupment and savings from overheads shared with other defense programs.

Estimates of tax recoupment vary. However, Federal taxes will approximate 48 percent of expenditures in the first year and a total of about 65 percent in the second year. Using these figures, tax recoupments are calculated to be $184 million for the U.S. production program. U.S. manufacture would also result in lower costs on other defense programs through sharing of fixed overhead costs. This is particularly true if the Harrier were manufactured by the McDonnell Douglas Corp., which currently has a contractual agreement with the Harrier manufacturer. Placement of the planned Harrier contract with McDonnell Douglas would result in the absorption of approximately $27 million in fixed overheads of which $18 million will be a direct savings to other defense programs. Adding tax recoupment to the savings through sharing of fixed overhead costs brings the total savings related to these two factors to $202 million, if both first and second year Federal tax recoupments are considered.

Applying the offset of $202 million dollars from tax recoupment and sharing of overhead costs against the $238.5 million premium for U.S. manufacture produces an estimated premium cost of only $36 million for U.S. production. Moreover, it is my understanding that more recent estimates, related more directly to the program options now being considered, actually produce a premium in favor of U.S. production when tax recoupment and shared overheads are considered. And these estimates do not include the reduction of gold outflow, estimated to be $41 million in the first case, increased U.S. employment, estimated to be 17,000 man-years over a 6-year period, or the unquantified benefits gained by technological transfusion to a well-known U.S. manufacturer. Certainly this makes a sound case for purchasing the Harrier aircraft from a U.S. supplier.

One final factor we should consider in evaluating this decision is its effect on our domestic aircraft industry. The entire European aviation industry has been going through a period of mergers, consolidations, and joint development and production programs mostly at the initiative of their governments and always with full support of these governments. These actions have pulled their previously fragmented operations into a cohesive and very competitive production operation of 470,000 people. With the potential entry of the United Kingdom into the Common Market, European cooperation can be expected to grow and the European aviation industry, with the integration of the United Kingdom industry, can only become even more competitive with the United States, with obvious effects on the U.S. balance of payments.

On balance, the technological and production capability in the United States still leads that of Europe, but the gap is closing and we will be faced with the possible loss of the second largest aircraft market in the world in the mid-to-late 1970's, together with increasingly aggressive competition worldwide. Failure to permit the transfer of the Harrier production under a license program can only contribute to widening the lead the Europeans now have over us in V/STOL technology or force expenditure of large amounts of U.S. funds to permit us to close the lead. Either action would appear to be an illogical response to the challenge of the increasingly competitive European aircraft industry. While no weapons system can be justified on the basis of support for one industry or another, this is one final factor which must enter into the equation.

I am hopeful that my colleagues will agree that this decision must be very carefully considered and that the need to maintain a U.S. supplier for a major weapons system, the need to develop defense-related V/STOL technology in this country, as well as the economic aspects of the decision including tax recoupment, shared overhead costs, increased employment and balance-of-payments effects, not to mention effects on our domestic aircraft industry, argue persuasively for a reevaluation of the decision to purchase this major weapons system from a foreign supplier.

AMENDMENT OFFERED BY MR. COHELAN

Mr. COHELAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

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Amendment offered by Mr. Cohelan: On page 15, line 2, strike out "$2,933,100,000" and insert in lieu thereof "$2,282,100,000".

Mr. COHELAN. Mr. Chairman, I rise, as I have in the past, to oppose the deployment of the ABM.

The $1.07 billion appropriation in this bill for the ABM is to my mind money that is being wasted. We have heard over and over again the arguments both for and against this system. Yet, one fact stands out above them all: the ABM is not operational; it does not work as an integrated system. In my additional views in the committee report on this bill I noted that the central component of the ABM—the soft ware that is to link the radars and the missiles—is not completed and there is no indication of when this complex computer arrangement will be operational. On the other hand, many qualified and competent technicians have told me that the state of the art of computer technology is not capable of handling the demands required to link up the entire ABM system.

The Members of course know from where I come. I am sure they know with whom I have been talking. I suggest in all honesty that what we have here is a battle of the intellectual giants, because there are differing authorities on both sides of this question. I will say that I have been listening to men of the stature of Panofsky of Stanford and Drell of Stanford and many of the great physicists and mathematicians at my own university, and there is strong opposition to the deployment of the ABM system.

One of the most recent papers, by the distinguished Dr. York, was a book recently published on this very point. The whole thesis of the book is on the subject of extending the deployment of the ABM system because of the state of the technology.

So we can see that many qualified and competent technicians have suggested that the state of the art of computer technology is not capable of handling the demands required to link the entire ABM system.

We must remember, too, that none other than Secretary of Defense Laird has stated that the ABM is obsolete against a heavy Soviet attack. What followed from this candid admission was a desperate search for a new opponent and a new rationale for the ABM. Then first the Chinese threat was resurrected, and now the "bargaining chip" theory is being offered as a rationale for the deployment of the ABM. As I said in my additional views:

> This latest rationale—the bargaining chip theory, i.e. we need the ABM to force the Soviet Union to negotiate at the SALT talks—assumes that the Soviets will be forced to negotiate by a weapon system that is not operational and which many knowledgeable specialists say will never work. This assumes incredible naivete on the part of the Soviets.

The cost of the ABM continues to escalate. I have the gravest fears that we are putting money into an illusory defense, a maginot line. It is important for the Members of this House to realize that even though there was a modification in the phase II ABM authorization, deployment is still going ahead as planned at Malmstrom and Grand Forks and Whiteman and we have advanced preparation at Warren Air Force Base. We are slowly approaching a full-scale ABM system whose total cost estimates range from $12 to $30 billion.

I might also point out that the ABM represents a major violation of the publicly announced fly-before-you-buy approach to procurement which Secretary Laird announced recently. It will take more than the contrived tests, such as those of August 31, to convince me that the ABM as an integrated system is operational. To go ahead with deployment seems to bode the same type of cost overruns and nonoperational capability problems as those of the C–5A and the RS–70 bomber. This type of oversight on the part of military planners should not be taken lightly because it will further undermine the confidence of many of our citizens in the ability of the Military Establishment to adequately provide for the defense of this Nation. Therefore, Mr. Chairman, I urge that this money for the deployment of the ABM be deleted from this bill and that the appropriations for the ABM be limited to research and development.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. COHELAN. I yield to the distinguished gentleman from Illinois.

Mr. YATES. I support the gentleman's amendment. Did not Secretary Laird also admit the vulnerability of the radar proposed to be used in Safeguard? Did he not concede in the hearings before the committee the probability of having to move to small radars in order to protect our ICBM sites?

Mr. COHELAN. I agree with the gentleman. In his own great fashion in the House on many occasions he himself has made these arguments. If we only had the time to study these questions, there is so much in the record to support the view that we are arguing here at this moment.

Mr. MAHON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the ABM issue has been debated many times, and we have voted on it many times. It has been approved many times by the Congress.

I ask that the amendment be defeated.

Mr. MINSHALL. Mr. Chairman, I, too, rise in opposition to the amendment.

If we are going to deal from a position of strength with the Russians in the SALT talks, we should have this as one of our bargaining points.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. MINSHALL. I am glad to yield to the gentleman.

Mr. YATES. Does not the gentleman go along with the statement made by the gentleman from New Hampshire (Mr. Wyman) earlier today in which he said that our real defense in this sort of a situation comes from our sea-based submarines armed with Polaris and Poseidon missiles?

Mr. MINSHALL. That is just one of the defenses we have in this country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Cohelan).

The amendment was rejected.

AMENDMENT OFFERED BY MR. PHILBIN

Mr. PHILBIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Philbin: On page 15, line 3, strike all after the colon and through line 8.

Mr. PHILBIN. Mr. Chairman, the House Armed Services Committee remains dissatisfied with the Army's management of the M–16 rifle program, and this necessitated the proviso contained in the procurement bill: namely:

> That none of the funds authorized for appropriation by this Act shall be obligated for the procurement of M–16 rifles until the Secretary of the Army has certified to the Congress that at least three active production sources for supplying such weapons will continue to be available within the United States during fiscal year 1971.

Since 1964 both the House and Senate Armed Services Committees have urged the Army to acquire the patent rights to the M–16 rifle and establish additional production sources. Finally, in 1967, patent rights were acquired at a cost of $4.5 million plus 5.5 percent royalties on all rifles produced by sources other than Colts, Inc.

Production contracts were awarded in April 1968 to the Hydromatic Division of General Motors and to Harrington and Richardson, Inc., whose work force includes many people residing in my district. Also, during 1968, two additional production contracts were awarded to Colts, Inc. Thus, beginning in late 1968 and early 1969, the Army after a long wait finally enjoyed three production sources for this important weapon systems.

The cost to the Government for acquiring the rights-and-date package from the original producer of the rifle—Colts, Inc.—plus the cost of test equipment and facilities provided to the additional producer, exceeded $30 million.

Within less than a year after production began in these two new facilities the Army released proposals to procure an additional 687,000 rifles to meet worldwide requirements. Instead of awarding contracts to meet this requirement on a basis that would take advantage of the newly established capability, and maintain the broadest mobilization base, the Army chose to ward contracts to only two of the companies: one receiving a contract for over 458,000 rifles and the other, for 229,000 rifles.

On the basis of the award, one of the production sources was required to produce at a high rate of 40,000 per month, whereas the other was required to produce at 20,000 per month. It was obvious that it would have been to the advantage of the Government at that time to continue three production lines, each at a rate of 20,000, rather than to require the one source to produce at the high rate of 40,000 rifles per month. In fact, the requirement for the 40,000 rifle production rate—in effect—was a set-aside for one producer alone, since the other two sources did not have the capacity to produce at that high rate.

This year the Army has stated a requirement to the committee for additional M-16 rifles. Army witnesses testified that the M-16 rifle production capabilities would be reduced to one source after the award of the contract to meet these latest requirements.

Mr. Chairman, it does not make sense for the Government to spend more than $30 million to establish two additional production sources for a sophisticated weapon system that is in great demand to meet worldwide commitments for defense and then within 2 years time force the closing of one of these production lines before the military requirements have been fully met.

This is especially critical at this time of worldwide tension. The U.S. Government is committed to support a number of our allies in other areas of the world now experiencing great political tension.

Because of this world tension, I do not believe that we should allow the dismantling of even one capable production line, which would require a minimum of 1 year to reestablish, once the equipment is placed in mothballs, but insure the continued production at a minimum, economical rate until the requirements for the foreseeable future are fully met. The Government urgently needs three-source rifle procurement at this time.

The House approved three sources of production in the procurement authorization bill and this amendment was subsequently adopted in conference. It is now law.

I hope and urge that the committee may adopt this meritorious amendment.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. PHILBIN. I am happy to yield to the very distinguished and able gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I support the amendment which has been offered by the gentleman from Massachusetts (Mr. PHILBIN).

As the gentleman has so well stated, all this amendment actually proposes to do is to provide for three sources for the production of the M-16 rifle.

I do not think the Members of this House and, certainly, the chairman of this committee and the ranking member of the committee have to be reminded of the problems which we have had in the production of rifles in the past several years, not only problems in the production of the M-16, but the M-14 as well.

It seems to me that what the gentleman from Massachusetts (Mr. PHILBIN) is attempting to do here is to say to the Department of Defense, "You have got to maintain three sources of production of the M-16 through fiscal year 1971."

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. PHILBIN) has expired.

Mr. BOLAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what we are saying through the amendment which has been offered by the gentleman from Massachusetts is that the Department of Defense is committed to maintain three sources of production of the M-16.

It is my understanding that the U.S. Government and the Department of Defense is now committed to supplying M-16's worldwide and that we have mothballed our M-14 production capability and that is gone. The only production capability we have is now for the M-16. Therefore, it would seem to me it would be the better part of wisdom to maintain three production lines.

My understanding is, and I can be corrected by the subcommittee, that it will cost just as much to mothball the third production line on the M-16 as it would to keep it in operation. If that is so, it would seem to me it would be wise to keep this production line in operation.

What are we doing here? We are saying there ought to be three production lines for the M-16 rifles. We are not going to give it to two companies, we are going to spread the competition around, and three companies will have the job. That is all we are doing.

That is what was done in the armed services authorization bill. And that bill, as the gentleman from Massachusetts pointed out, does for three sources for fiscal year 1971—and only through 1971.

Mr. Chairman, for years the Congress encouraged the establishment of more than one production source for the M-16 rifle.

The cost to the Government in establishing two additional sources exceeded $30 million.

In view of the present world uncertainties and tensions, we should not phase out or place these production lines in layaway at this time.

The Army contends that to sustain three producers at the minimum sustaining rate would increase the total program cost by $14.3 million. The average cost of rifles allegedly would be $163.50 instead of $107 each if all rifles are procured from one producer.

Mr. Chairman, both General Motors and Harrington & Richardson have assured the Armed Services Committee of the House that they can produce the rifle on a minimum sustaining rate, that is, 5,000 per month—which the Army indicated in their reclama letter as the rate for General Motors and Harrington & Richardson—at the cost of $107 per rifle or less. They have not been asked to submit a bid proposed on that minimum rate.

Based on these assurances by General Motors and Harrington & Richardson the armed services properly challenged the figures used by the Army in their reclama to the provision that was written into the authorizing legislation providing for three sources of production for the M-16 rifle.

Mr. BRAY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

First let me say, Mr. Chairman, that it happens that none of the three sources of supply for the M-16 rifles are within hundreds of miles of the State in which I live.

My special interest in this matter is as a member of the Committee on Armed Services, and also that some years ago I was the ranking minority member of the subcommittee that made a thorough investigation on the M-16 rifle both as to its malfunctioning and the fact that its production was limited to one source of supply, say that for more than 3 years certain officials of the Army had been attempting to prevent the obtaining of additional sources of supply for the M-16's. It was only through the efforts of the Committee on Appropriations of the House and Senate and the authorizing committees of the House and Senate that we were finally able to work out additional sources of supply.

The additional sources of supply—two in number—were determined by the Army, and no one on the committee had anything to do with it. I was utterly disgusted not long ago when members of the Army came into my office and wanted to limit the production of the M-16 to one source of supply. And the fact of the matter is they are planning now to move one of the production lines outside of the United States, and do not let them tell you they are not planning to do so. And again I say that no part of my district is even close to these sources of supply.

We were told by the Army officials that to maintain the additional sources of supply was going to cost a lot of money. The chairman of the Committee on Armed Services, the gentleman from South Carolina (Mr. RIVERS) sent telegrams and found out that absolutely everything they said about the additional costs were absolutely false. The Army has already closed down the only other rifle production line, that is on the M-14, so that they are really trying to place all rifle production into two sources, and the Army wanted to limit it to one source.

Then they went to the Senate, and they got them to go along with a single source of supply, that is Colt. However, after the facts came to the attention of the Senate conferees, then they also went along with the House conferees.

Mr. Chairman, if this body allows the Army to close down one source of supply of the M-16, next the Army will attempt to manufacture their rifles abroad and reduce production in the United States to one source, that is Colt.

Mr. MINSHALL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I hold my friends from Massachusetts in the highest regard, and I can well also understand why they are interested in having three sources of supply for these rifles, but I would merely like to point out that our highest military men have advised us in committee that we have adequate supplies of the M-16 rifles, not only for our own use, but also adequate supplies of the M-16 rifles that we might need for our allies.

Furthermore, the addition of a third supplier will add 54 percent to the cost of producing this weapon at a time when we are trying to save money.

And in view of the fact that we have adequate M-16's on hand for the immediate future, I see no reason why we should have three sources of supply.

Mr. MAHON. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I have the highest personal regard and respect for the distinguished gentleman from Massachusetts. He has been a dedicated Member of this body for a long time and has served diligently and well.

XUM

I realize he has in his district a plant that is one of the three sources for manufacture of the M-16 rifle. I can only give you what the facts are as I understand them.

Because of the provision adopted in the authorizing legislation, the Army would not have the freedom of awarding a competitive contract to the lowest bidder. The Army would have to award a noncompetitive contract to all three bidders in this country who are capable of making the M-16 rifle.

Therefore, under the authorization language which requires that the contract be split among three suppliers, I do not see how there could be any real competition because there are only three manufacturers that make the rifle. The provision in this bill will provide for not more than two manufactures of the M-16 and will provide for competition.

The gentleman from Massachusetts has one of the plants in his district in a position to compete for the proposed fiscal year 1971 buy of the M-16 rifle. So the gentleman's area is in the running, as I understand it, and under the provision in this bill at least two of the three firms could be selected. This will assure competition.

As chairman of the committee, I do not like to oppose any of my colleagues on amendments that are important to them in their district. I just want to point out that the M-16 rifle is estimated to cost about 50 percent more, if we follow the provision in the authorizing legislation. I think the Members are entitled to know that. However, I am perfectly willing for the House to work its will on this matter. This issue depends on how we look at the matter of spending taxpayers' dollars and related matters. My friends views should be carefully weighed by the House.

Mr. O'NEILL of Massachusetts. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would like to ask the chairman of the committee insofar as there are three at the present time and they bid and there is an award to two, then the one that has failed would have to go out of business. So you know when your contract is coming up next year that there would be no competition whatsoever, there would be just those two companies left.

Mr. Chairman, I too support the amendment offered by the gentleman from Massachusetts (Mr. PHILBIN).

Mr. HALL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise in opposition to this amendment as, indeed, I opposed it in the Committee on Armed Services, on the authorizing legislation.

I do this on the basis of a studied opinion long ago, of the M-16 rifle, having lived through but not served with the special subcommittee of our Committee on Armed Services on the M-16 rifle. But primarily because of the increased cost, I oppose it.

Insofar as the last gentleman's question is concerned, it might well be that if there are adequate stores in magazines and in the armamentarium of the country and around the world, we would in our wisdom see fit to reduce the "hot" lines to one in the future, so there would still be competition.

Competition is the key word here—keeping the requisite number only of assembly lines open is the secondary word.

Mr. Chairman, I think the members of the committee should know that if we wish to vent our spleen on one of the three armed services, that is one thing. But to prejudice our position of being able to award a contract at the lowest price and still keep the requisite number of assembly lines open for the production of automatic rifles is quite another thing.

I too was angry with the Army in 1961, when I was responsible for continuing work on the M-16 rifle, by a ruse, if you please, of having a "pilot buy" by the U.S. Air Force and their Air Police of 15,000 of these rifles after the second, third, and fourth Army evaluation board had rejected it as a new principle at the Aberdeen Proving Grounds, and in the Pentagon.

It turned out to be a great rifle. There is no question about the individual companies. As far as I am concerned, like the gentleman from Indiana, there is not one source of such manufacture within a thousand miles of the Ozark hills where I live, for this rifle. I have no interest or conflict involved herein. But I do know the cost of these rifles by lot and contract production. I know the production delivery capability of the companies. If you want to discover it, all you have to do is to read the special report of the subcommittee on the M-16 rifle when tested in the field.

They went to Vietnam and saw it used by the Marines, the Army, the Air Force, and anyone else who was equipped with it. The cost of the three, as far as production of one company being less than $100 per piece, the other being over $100, but none being as high as $164 per piece, except the one company, and that is unconscionable. I do hope that we adhere to the wisdom of the saving shown by the committee and do not vote for this amendment to strike lines 3 through 8 on page 15.

The amendment should be defeated.

The CHAIRMAN pro tempore (Mr. PRICE of Illinois). The question is on the amendment offered by the gentleman from Massachusetts (Mr. PHILBIN).

The question was taken; and on a division (demanded by Mr. PHILBIN) there were—ayes 24, noes 40.

So the amendment was rejected.

The CHAIRMAN pro tempore. The Clerk will read.

PARLIAMENTARY INQUIRY

Mr. YATES. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. YATES. At what page of the bill is the Clerk reading, Mr. Chairman?

The CHAIRMAN. The Clerk read down to line 9 on page 15. The Clerk will read.

The Clerk read as follows:

PROCUREMENT OF AIRCRAFT AND MISSILES, NAVY

For construction, procurement, production, modification, and modernization of aircraft, missiles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands, and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title by the Attorney General as required by section 355, Revised Statutes, as amended; and procurement and installation of equiment, appliances, and machine tools in public or private plants; $3,005,800,000, to remain available for obligation until June 30, 1973.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: On page 15, line 19, delete "$3,005,800,000" and insert in lieu thereof "$2,616,400,000".

The CHAIRMAN pro tempore. The gentleman from New York is recognized in support of his amendment .

Mr. BINGHAM. Mr. Chairman, on previous occasions, I have raised the question of the procurement funds for the F-14 aircraft. In the authorization bill this year and in the authorization bill last year I sought to delete the funds, not research and development for the F-14, but procurement funds for the F-14, and that is what this amendment does.

The F-14 has not yet been flight tested. It is scheduled for testing beginning in January of next year, and that testing will last for quite some time, so the procurement funds in this bill for the F-14 are contrary to the fly-before-you-buy principle. The Secretary of Defense has announced that he is in favor of the fly-before-you-buy principle, and this distinguished committee in its report has devoted considerable space to the fly-before-you-buy principle and upholds that principle at several points in the report.

So it is difficult for me to understand why it is that in this instance the committee is recommending procurement funds for this complex controversial aircraft before it has been tested. Last year the authorization bill included procurement funds. The Appropriations Committee in its wisdom deleted the procurement funds. This year, however, the Appropriations Committee has recommended the sum which is aimed at in this amendment, the sum of $389 million for procurement.

Mr. Chairman, we are not just talking about $389 million. We are talking about whether we are going to spend wisely a much larger sum for the projected purchase of these aircraft. The announced number of these aircraft to be purchased is at this time 722. The present estimates are that the total cost will run over $7 billion. It may run much higher before we are through. The question is: Is it wise to embark upon procurement of this complex and controversial aircraft before it has been thoroughly flight tested? It seems to me it is unwise to do so, that this runs contrary to the principle of fly-before-you-buy that the Secretary of Defense has announced, and contrary to the principle of fly-before-you-buy that is defended and encouraged in the committee report.

Mr. MAHON. Mr. Chairman, I rise in opposition to the amendment. I want to say to the distinguished gentleman from

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New York that I personally have a great deal of respect for the view which has been suggested that perhaps in this aircraft the contract was let too early, and that we should have had more of the fly-before-you-buy element in the contract.

However, the fact is that the contract has been let and that the Government is obligated, and we would necessarily under these circumstances have to proceed with this procurement. I think it would be very harmful and very wasteful and very disturbing for us to incur this great additional cost if we should not proceed with this aircraft.

The indications are that the aircraft will be completely successful. The first flight, I believe, will be late this year, earlier than had been predicted.

One of the reasons why the Navy—and I have great respect for the Navy and the people in the Pentagon who represent the Navy—has had a problem is that it was delayed for several years, because the Navy had planned to participate in the F–111 aircraft buy and it was tied to this program for a long time, but last year the Navy portion of the F–111 buy was canceled, with the concurrence of Congress, and so the Navy desperately needs to proceed with the F–14. That was one of the reasons why the contract was let and the funds provided last year, rather than proceeding with a more delayed approach.

The Navy was somewhat in desperation to get an aircraft to meet their needs in view of the fact that they were denied the use of the F–111.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Minnesota.

Mr. FRASER. The question I am about to ask is to get a better understanding of the procurement policy of the Navy. As I understand what the chairman has said, there is a contract now for the procurement of the F–14 already outstanding.

Mr. MAHON. Right.

Mr. FRASER. There is a valid legal obligation on the part of the Navy.

Mr. MAHON. That is correct.

Mr. FRASER. Is the chairman saying that at the time that contract was entered into there were not the funds on hand to be obligated in support of that contract?

Mr. MAHON. The funds were on hand to support the contract, and funds were provided last year for the contract. There was nothing extraordinary about that.

That is one of the things we are trying to do in this bill. We are trying to prevent going on contract prematurely. We believe premature funding of programs is not good.

Under the circumstances, this development has already taken place. The plane is desperately needed by reason of the matters I have explained. There is nothing irregular. It is a matter of judgment. We cannot turn back now. We must proceed.

Mr. FRASER. If the funds were provided at the time the contract was signed, why in fiscal year 1971 are you asking for new funds?

Mr. MAHON. This is to carry out the contract. There were funds available for the initial phases of the contract last year. This was when the contract was entered into. This will carry on the program and provide for 26 additional airplanes. Otherwise the program would be suspended in midair and it would be a wasteful operation.

Mr. FRASER. How many planes did we contract to buy last year?

Mr. MAHON. My recollection is it was 12.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman. Is it not true that the planes which were bought last year, which the Appropriations Committee approved, were for research and development purposes? There were no planes in the procurement line last year. This year $274 million is proposed for research and development planes, which my amendment would not touch.

Mr. MAHON. The gentleman is correct. Those were research and development planes which were on order and on contract. This would carry on the program into operational production.

Mr. BINGHAM. Is it not true that this is the first time the Appropriations Committee has approved appropriating funds for procurement of these aircraft, as distinct from research and development aircraft.

Mr. MAHON. This is the first contract for the operational version. For the research and development version, of course, we provided the funds last year.

Mr. BINGHAM. I thank the gentleman.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope this amendment will not be agreed to.

The F–14 is, as the chairman of the committee said, a follow-on from the F–111B.

The reason for the haste in production has completely to do with the fact that the Navy in the next few years will have to have an airplane which is adequate for fleet defense and air superiority. The F–14 is an air-superiority fighter. In another version it has a capability of launching missiles which from long range will provide defense for the fleet.

It is needed not only next year; it is needed right now. It is too bad it is not available, but it is not.

It certainly would not be a good idea for us to hold back this program.

The plane will work. All the testimony we have had before the committee indicates it is a good airplane and that the plane will do the job it was intended to do.

The buy this year is for only phase 3 of the whole procurement program.

I say to my friend from New York and to my friend from Minnesota, this apparently is the policy which the Armed Services will be following in the future. At least, we have strongly indicated we want them to follow that policy. They are to buy as little hardware as possible and mitigate possible cancellation costs, until the performance has been proved by testing.

There is a necessity for keeping a production line going, but we do not intend that a production line be accelerated to the peak of production until there has been tests made and we know for certain the airplane not only will fly but also will do the job for which it is intended.

As the gentleman from New York pointed out, the airplane will be tested and there will be an evaluation made early next year. Certainly this will be available to the committee before we go beyond phase 3 of procurement.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Florida.

Mr. SIKES. I believe it would be well, Mr. Chairman, for the members of the committee to bear in mind the fact that this is the first modern aircraft in its field the Navy has had since the F–4 was developed some 10 years ago.

The Navy had anticipated the use of the Navy version of the F–111B, but it did not work out satisfactorily. It had to be dropped, and the Navy had an entire generation gap in modern fighter-type aircraft. It is very important that we move ahead on the F–14 program without further delay. This is probably the most carefully planned and engineered aircraft in our history. The Navy has great hopes for its performance capabilities.

Mr. RHODES. The gentleman will agree with me when I say that the Navy needed this plane yesterday?

Mr. SIKES. Yes.

Mr. BARRETT. Mr. Chairman, will the gentleman yield to me?

Mr. RHODES. Yes. I yield to the gentleman.

Mr. BARRETT. Mr. Chairman, I take this opportunity to commend the Committee on Appropriations and its chairman, the gentleman from Texas, for presenting us with a Department of Defense appropriation bill for fiscal year 1971, which is more than $2.1 billion below that set forth in the budget estimates and more than $6 billion below that enacted for fiscal year 1970. However, I believe there is room and need for still more reductions in the military budget and I intend to support a number of the amendments proposed for that purpose.

I understand that an amendment will be offered to reduce U.S. forces in Europe by 50,000 troops by June 30, 1971. I do not believe that such a reduction will adversely affect our resolve or ability to meet our NATO obligations and will, therefore, support the amendment. I will also support the amendments to limit expenditures in South Vietnam and our military involvement in Indochina.

Mr. Chairman, as I said, I do believe that there is room for further reduction in the total dollars provided in this bill. I will support the amendment to put a total dollar ceiling of $65 billion on this act. This will allow the President and the Department of Defense to determine the specific areas where to apply the cuts.

Mr. Chairman, our domestic needs—the needs of our people here at home—must be squarely faced and met. And to meet these needs there must be a reduction in military spending. The Education and HEW appropriation bills were vetoed on the grounds of excessive spending. The dollars cut out of this bill can go to meet the domestic needs and used in this manner will be less inflationary and more productive.

I urge my colleagues to support the proposed amendments to redirect the use of our Federal dollars; to cut military expenditures and increase the dollars available for our domestic needs.

Mr. BYRNE of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Pennsylvania.

Mr. BYRNE of Pennsylvania. Mr. Chairman, I associate myself with the remarks of the gentleman from California (Mr. COHELAN) concerning the desirability of reducing funds for the ABM in this bill. As the Members of the House know, I was one of the leaders in the efforts to reduce the funds for the ABM during its consideration by the Committee on Armed Services; and I also opposed the ABM during House floor consideration of the authorization bill. I also opposed additional spending for the MIRV—Multiple Independently-Targeted Re-entry Vehicle—both in our committee and on the floor. I oppose these very expensive weapons systems because I believe they could very safely be eliminated and because I believe that it is necessary to put a higher portion of our national income into neglected domestic programs. Our school systems are in serious trouble. We need a higher level of spending on educational programs than has been approved.

The appropriation bill for the Office of Education was vetoed on the grounds that it was inflationary. That bill would have added $453 million to the national budget. More than three times that much could be saved by cutting back on expenditures on ABM and MIRV.

We also have a desperate need for housing in our cities; and representing, as I do, an urban district, I am keenly aware of the need for more housing. I have vigorously opposed the SST, the Supersonic Transport Aircraft program, because I think it represents a serious mistake in the ordering of national priorities. I cannot see why we should spend millions in taxpayers' money to provide an airplane that can zip businessmen to London and Paris in a few hours, where they will be immediately zapped by the time change anyhow. It would make a great deal more sense to put this money into far more pressing domestic purposes like housing, education, and job training. We should be spending more money on controlling pollution instead of spending money to seriously pollute the atmosphere as will be done by the SST.

I wish to express to the chairman of the Appropriations Committee, the gentleman from Texas, my appreciation for the efforts that his committee has made to reduce defense spending. The bill as reported by the Appropriations Committee is over $2 billion below the budget request of President Nixon and is $6 billion below the appropriation for the fiscal year 1970. No one is more aware than the gentleman from Texas of the need to provide a strong national defense. The fact that he is satisfied that these reductions can be made without endangering our national security is proof, I think, that those of us who have been calling for reduction in defense expenditures are correct.

Although I would like to see additional reductions in the ABM spending and in some other areas, I support the defense appropriation bill as I supported the defense procurement authorization bill reported from our Committee on Armed Services. In the times in which we live, facing the grave threat posed by Soviet military might and the continuous increase in Soviet strategic nuclear and naval capabilities, we must maintain a strong and modern military establishment that incorporates the latest technology. I have always supported a strong national defense and I continue to do so now.

I also wish to express to the chairman from Texas (Mr. MAHON) my appreciation and for the continued support for the Philadelphia Naval Shipyard and for the Frankfort Arsenal, both of which are in my congressional district. The gentleman is aware of how hard I have worked to maintain the high work loads in these vital military installations because both of them make an important contribution to our national defense and both of them have capabilities which should not be lost to our defense establishment.

I agree with the Committee on Appropriations that what we need is not more dollars for defense but more defense for the dollars. I believe we can improve our defense capabilities within the dollar limitations set by the committee, and I would like again to express my support for the bill as a whole.

Mr. MINSHALL. Will the gentleman yield to me?

Mr. RHODES. I am glad to yield to the gentleman from Ohio.

Mr. MINSHALL. I heartily concur with my colleague from Arizona that this amendment should be defeated. The F–14 program was initiated by this administration. It did not inherit the F–111B program which was fortunately finally canceled in June 1968 after a series of failures and mismanagements and flight failures throughout the years. I certainly think it is time that we go ahead with this program. I would merely say in passing that the Navy never did want the F–111B, but it was forced down their throat by the then Secretary McNamara.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. RHODES. Yes. I yield to the gentleman.

Mr. EVANS of Colorado. I am sorely tempted to vote in favor of this amendment because of the experience we had with many other weapons systems, particularly the F–111, where a contractor had to take back 25 planes at one time because they did not pass the G test. We bought many of them at that time. But the fact that we have a contract signed—and I am sorry we do have—before we flew and tested this plane, but since we are obligated, I hope we can count on the assurance of the gentleman that the plane will be successful and we will not go through the same experience as we did with the famous F–111.

Mr. RHODES. Bear in mind that the contract only obligates us through phase 3. Before we get into the actual procurement phase, there will be another determination concerning performance and suitability.

Mr. FRASER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take my 5 minutes, but I want to make clear from what the chairman said we do not have a legal obligation to appropriate this money. There is no contract outstanding that this money is required to fund. The contract was entered into last year, as I understand it, to procure 12 airplanes. They have yet to be fully tested. Now what we are funding is a new contract to purchase 26 additional airplanes.

Mr. MAHON. Will the gentleman yield?

Mr. FRASER. I am glad to yield.

Mr. MAHON. The contract which was made last year was a contract with an option to buy the additional planes. This would be lot No. 3 of the aircraft buy. There is an option, but I do not question the fact——

Mr. FRASER. We are not under any legal obligation.

Mr. MAHON. Defense could cancel the contract, but I believe it would be most ill advised at this time.

Mr. RHODES. Will the gentleman yield?

Mr. FRASER. Yes. I am glad to yield to the gentleman.

Mr. RHODES. We are under a legal obligation in that if we cancel now we may be liable for cancellation charges which would have accrued through phase 3.

Mr. FRASER. Let me make clear my understanding. When the contract was entered into there were funds on hand to pay for the contract obligation which was incurred. What we are now doing, according to the chairman, is picking up an option to purchase 26 additional planes. We do not have to pick up that option. It is not the same thing as canceling a legal obligation already in force, as I understand it.

I do not want to prolong this point, but it seems difficult to imagine what scenario is in the minds of those who are planning at the Pentagon for a combat battle between aircraft flown off of our carriers and aircraft from some other country.

I do not know what scenario they have in mind. But I find it difficult to believe that we are in any imminent danger of the kind of air battle that would involve highly sophisticated foreign aircraft that would not move us very rapidly into a much higher level of warfare.

Mr. RHODES. Mr. Chairman, if the gentleman will yield further, of course the gentleman is correct in many ways. I have some doubt in visualizing danger an air battle between major fleets at the present time. However, this plane can operate in support of ground troops. Certainly, aerial superiority over the battlefield is very important and this airplane is designed to assure such air superiority.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield to me?

Mr. FRASER. I would be glad to yield to the gentleman.

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Mr. BINGHAM. Is it not true that one of the problems in the design of this aircraft is that it is intended to cover so many roles, not only fleet defense but also as a missile-carrying aircraft which means additional weight and loss of maneuverability.

In the debate on the procurement of this aircraft last year, it was pointed out that a great many different operational responsibilities were being loaded on this aircraft and this was one of the reasons why it was considered controversial and in some quarters in the Pentagon they thought that the fleet would be better off with a lighter, much cheaper and more maneuverable aircraft in carrying out a fleet defense role.

Mr. RHODES. Mr. Chairman, will the gentleman yield further?

Mr. FRASER. I yield further to the gentleman from Arizona.

Mr. RHODES. Actually, the airplane is much lighter than the F-111B. The reason it failed was because of the reasons that the gentleman from New York stated. It was overloaded. It was an airplane which was not qualified to carry out all the missions which were laid out for it. It couldn't even take off from a carrier, fully loaded. However, this airplane, if it is to be used as a fleet defense system, can carry the Phoenix missile. In other modes, it can be used for other purposes.

Mr. BINGHAM. Mr. Chairman, I would like to comment that I fully concur in the sentiments which have been expressed by the gentleman from Minnesota (Mr. FRASER), that this is not a desperately needed weapon at the present time. This is something the Navy feels it will need down the road somewhere. But I do not see how it can be justified as an emergency need.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such land, and interests therein, may be acquired and construction prosecuted thereon prior to the approval of title by the Attorney General as required by section 355, Revised Statutes, as amended; reserve plant and equipment layaway; and other expenses necessary for the foregoing purposes, including rents and transportation of things; $3,203,000,000, to remain available for obligation until June 30, 1973.

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YATES: On page 18, line 9, strike out "$3,203,000,000" and insert "$3,003,000,000."

Mr. YATES. Mr. Chairman, this amendment strikes out $200 million which the committee has gratuitously made available for the Lockheed Corporation in order to obtain delivery at someplace down the road of 81 C-5A aircraft.

I thought the House ought to take a look at this tragedy of errors which is known as the C-5A program.

The committee takes the position that we must have 81 C-5A planes for airlift purposes, no matter what it costs.

We have already paid the Lockheed Corp. under the original contract. There is appropriated under this contract which my amendment will not touch the sum of $344.4 million. This is for the accelerated costs of extras and various kinds of additions to the contract to which the company was not originally entitled, but which it has been given through its negotiations with the Pentagon.

Lockheed, however, has represented to the Department that it cannot deliver the planes unless it received additional money, and so the committee has gone along with a program under which there will be given to the Lockheed Corporation an additional $200 million this year, and another $200 million next year in the hope that this will bring delivery of the 81 planes. We have no assurances that even this extra $400 million will achieve delivery of the planes. If the past be any precedent, the $400 million will be followed by additional requests.

How much must we pay for the C-5A? Is there no limit to the purchase price? One gets the impression from reading the report, which appears on page 80, that the committee would have been willing to advance any sum of money to obtain the 81 planes from Lockheed, that the C-5A is so vital to national security it will pay any price.

The Pentagon says that in the event the money is not made available to Lockheed the corporation will be forced to go into bankruptcy. That was the same argument that was made with respect to the Penn Central when the amount of $200 million was requested in order to keep that corporation from going into receivership. Yet today, Mr. Chairman, the Penn Central is still continuing to operate, perhaps better under its receivers than before.

As was stated in the hearings, perhaps it would be the best thing for the corporation and for the Air Force if there were a receivership of this corporation. The Government might get the plane at a better price. As it stands now, this Government proposes to make a gratuitous donation of $400 million extra above the $344 million to the Lockheed Corp. in order that that company should keep going, and I do not think it ought to be done. That is the purpose of my amendment to strike the $200 million from the appropriation. I urge support of my amendment.

Mr. MAHON. Mr. Chairman, I rise in opposition to the amendment.

Mr. DAVIS of Georgia. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Georgia.

Mr. DAVIS of Georgia. Mr. Chairman, I want to thank the members of the Appropriations Committee for having given a great amount indeed of its time and thought to the question of providing $200 million as a reserve or contingency fund to assure continuous production of C-5A aircraft pending resolution of the differences between the Lockheed Aircraft Corp. and the Air Force.

I particularly want to emphasize the word "assure" and I want my colleagues to know that in my considered judgment, the word is accurate and the correctness of the amount needed is as well validated as men of integrity and experience can make it be.

It is a fact that the record of the Lockheed-Georgia aircraft factory as to meeting its production schedules, producing quality aircraft that fulfill Air Force specifications and staying within contract costs is better than any major company engaged in building aircraft for the Government.

There are too many people who blandly assume that the only problem involved in building larger and larger aircraft is simply to make a small aircraft longer and higher and wider. Nothing could be more fallacious and those who are victimized by such an assumption have unwittingly jeopardized the security of our country in the area of airlift.

The C-5A represents a whole new concept in airlift. Many, many systems and systems-components had to be invented and developed in the course of the building of this, the largest aircraft by far that mankind has ever made. This is not a case of building an aircraft which has been developed as a shelf item. In the instance of the C-5A there was no testing and no opportunity to test. There was no prototype. There was no shadow of acquired knowledge on the total cost of the bringing into being of such a behemoth.

True there was a cost overrun, but it is equally true that there has been a comparable cost overrun in the construction of the Interstate Highway System, an undertaking which lies well within the skills possessed by our highway builders for many decades and on which the cost should have been quite susceptible to accurate estimation in advance.

The gentleman from Illinois wonders how we know that $200 million is the right amount. I would say to the gentleman that we know it is right because the Lockheed folks say it is and no one can come forward to show that it is not. Not from the Air Force nor from anywhere else.

I would be the first to say that the action we take today needs to be in the best interest of the Air Force which is to say of the Nation—it needs to be fair to the American taxpayer which is again to say fair to the Nation—and it also needs to be fair to Lockheed where many, many thousands of my constituents work and where a reputation for integrity, fair play, and excellence of workmanship was not earned without long years of deserving work. Therefore, Mr. Chairman, I earnestly urge this committee to defeat the amendment.

Mr. MAHON. Mr. Chairman, page 80 of the report outlines this situation very well. If we want this aircraft in our inventory, we have to provide the additional funds. In the authorization bill

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from the Committee on Armed Services certain provisions are laid down in the law which relate to this matter, and restrict the ways in which the $200 million can be used. It can only be used through strict policing of the Department of Defense by the Congress.

The Department of Defense has convinced the committee that we have no alternative under the circumstances. And I am sure it must have been disturbing to the people in the Department of Defense to ask for this money, to place these funds in the budget; but there appears to be no other alternative if we are to have these 81 aircraft, on which we have spent so much, and which are so vital and essential to our military airlift requirements.

Mr. YATES. Mr. Chairman, if the gentleman will yield, is it not the truth that to date we have spent over $2 billion for three aircraft?

Mr. MAHON. As of the time of our hearings in April 1970, 13 were flying, eight had been delivered, but only three had been accepted by the Government, and the other five had been accepted conditionally by the Air Force. If we cancel this program now and bankrupt the company, we will get only a relatively few aircraft for that money. If we proceed with this program, we will get the 81 airplanes which will be, of course, of great benefit to the country.

Mr. YATES. Mr. Chairman, will the gentleman yield further?

Mr. MAHON. Yes; I am glad to yield further to the gentleman.

Mr. YATES. Mr. Chairman, I would say to the gentleman that his argument amounts to this, that even if the $400 million is not adequate, the committee will then come forward with whatever appropriation is necessary to build the aircraft; is that so?

Mr. MAHON. No; the solution to this problem has not been resolved, as I understand it, between the Department of Defense and the Lockheed Corp.

There are negotiations that will be required. This seems to be the only sensible step that we can take at this time. I might point out that Lockheed has apparently overextended its financial position and there appears to have been a lot of bad judgment in this program. There is no doubt about that. But I am not going to undertake to fix the blame for the mistakes that have been made.

Lockheed is in the business of producing the Poseidon missile, building destroyer escort ships, the S-3A aircraft, and working on numerous other highly important defense programs. I hope that we can rely upon the assurance of the Defense Department that this situation will not be allowed to rise again in the future. As you know this contract and this project has been in operation for quite a number of years. This is the best that can be done about this situation at this moment. Maybe, if we look backward, we can see ways that the Defense Department could have done a better job.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman.

Mr. YATES. However, the basic appropriation was in excess of the contract cost.

Now it is proposed to add another $400 million because the department is trying to negotiate some sort of settlement that may not be adequate. This goes on and on.

Mr. MAHON. If the gentleman would permit me to point out, Lockheed takes the position that the Government had ordered 120 planes and was so obligated under the contract.

This is a controversial question between the Government and Lockheed as to how this matter can be resolved.

In view of the reduction already made in the number of planes to be delivered, and in view of the dispute that has arisen, these additional funding requirements have arisen.

I am not undertaking to pass on the merits of the decision which has to be made by the Department of Defense. But this was the appropriation request that was presented to Congress. We had to approve this conditionally if we expect to get any substantial return for the funds spent on this program.

I would hope that additional funds beyond those which have been requested will not be required.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Yates).

The question was taken; and on a division (demanded by Mr. Yates) there were—ayes 11, noes 44.

So the amendment was rejected.

AMENDMENTS OFFERED BY MR. MINSHALL

Mr. MINSHALL. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. MINSHALL: On page 18, in line 9 strike out "$3,203,000,000" and insert in lieu thereof "$2,719,500,000"; and

On page 21, in line 1 strike out "$2,701,100,000" and insert in lieu thereof "$2,636,600,000".

Mr. HALL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Eighty-six Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 336]

Abbitt
Adair
Alexander
Anderson, Tenn.
Aspinall
Baring
Barrett
Beall, Md.
Belcher
Berry
Betts
Biaggi
Blackburn
Blanton
Brock
Brooks
Broyhill, Va.
Buchanan
Burlison, Mo.
Burton, Utah
Bush
Button
Cabell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cohelan
Corbett
Cowger
Cramer
Daddario
Dawson
Derwinski
Diggs
Dingell
Dorn
Dowdy
Dwyer
Edwards, Calif.
Edwards, La.
Eilberg
Esch
Evins, Tenn.
Fallon
Farbstein
Feighan
Fisher
Flynt
Ford, Gerald R.
Foreman
Fulton, Tenn.
Gilbert
Griffiths
Hagan
Haley
Halpern
Hammerschmidt
Harsha
Harvey
Hays
Hébert
Holifield
Hosmer
Hungate
Jonas
Jones, N.C.
Karth
Kastenmeier
Keith
King
Kleppe
Kuykendall
Landrum
Long, La.
Lowenstein
Lujan
Lukens
McClory
McCulloch
McMillan
MacGregor
Mailliard
Meskill
Mills
Morse
Nedzi
Nix
O'Konski
Olsen
O'Neal, Ga.
Ottinger
Patman
Pirnie
Pollock
Powell
Price, Tex.
Purcell
Quillen
Reid, N.Y.
Reifel
Rogers, Colo.
Rooney, N.Y.
Rosenthal
Rostenkowski
Roudebush
Rousselot
Ruppe
Ruth
Satterfield
Scheuer
Shipley
Snyder
Stephens
Stratton
Stuckey
Talcott
Thompson, N.J.
Tunney
Watson
Weicker
Whitten
Widnall
Wilson, Bob
Wold

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Price of Illinois, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 19590, and finding itself without a quorum, he had directed the roll to be called, when 303 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the Committee rose, the Clerk had read through line 10 on page 18, and the Clerk had read the amendments offered by the gentleman from Ohio (Mr. Minshall).

Mr. MINSHALL. Mr. Chairman, I ask unanimous consent that my amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. MINSHALL. Mr. Chairman, I have offered an amendment which in very simple terms takes out $548 million for the F-111A program.

I want to point out that I am no newcomer or Johnny-come-lately in my opposition to the F-111A program.

I have here on the desk in front of me a file that goes back to 1962. It starts first with the F-111B program, which I opposed, and which, if I may quote from a speech I made on the very floor of this House. I first appeared in the well here in 1960 in opposition to what many of you remember as the Bomarc program.

That program was in the amount of some $347 million. At that time my amendment failed.

A short time later the Bomarc program was subsequently voluntarily curtailed by the Air Force. But before it did, it vanished into limbo, with nearly $3 billion of your tax dollars.

Again on June 13, 1967, when I quoted that statement, I spoke out against the F-111B program which is the Navy version of the F-111 program. At that time, I said, "In all candor, I feel that this will be the fate of the F-111B program," and I referred back, of course, to the Bomarc. Just 13 months later the Navy voluntarily abandoned that program after wasting billions on it.

Today we come up with the F-111A program, to the tune of $548 million of your tax dollars, $483 million of it for aircraft procurement, and $64.5 million for R.D.T. & E. This is turning out to be the biggest billion-dollar boondoggle

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in this Nation's history. What started out to be an aircraft estimated to cost only $2.6 million, it is now costing, according to the very latest estimates—these are all facts and figures right here in the RECORD—it will cost the taxpayers nearly $14 million per aircraft. This is utter nonsense and I think we should give up on this program and scrub it before we go any farther down the road.

In the committee they said, "This is a buyout. This will be the end. It is only for 25 more aircraft. In addition there is $200 million in contract adjustments to the manufacturer."

I say to you it is not a buyout. I think it is a sellout of the American taxpayers to go ahead with this ridiculous program. Sixteen of these planes have crashed. The last one crashed, unfortunately, killing two men, only last night at 9:30 near Fort Worth, Tex. I know my friends on the other side of the aisle will say this aircraft has a good safety record compared to other test and evaluation programs. But this is the only program in which structural failure has been accounted for in 14 of these crashes. Two of the aircraft were never found that were lost over Vietnam, but in every case out of the 14 able to be investigated, the crash has been caused by structural failure and not by pilot error or any other cause.

I would like to read to the committee, rather than going through page after page of the testimony that we have, the salient remarks or the essence of the remarks I made when we had these hearings last June. At that time we had General Ferguson, the head of the Air Force R.D.T. & E. program before us. I said:

> I don't want to belabor the F-111 problem any further this morning, but for anyone who thinks that this committee has not inquired into the subject in detail, in previous years, all I ask them to do is refer to the past research and development hearings of the Navy and the Air Force and the hearings with the Secretary of Defense for the past several years. You will find we have inquired into the F-111 program very carefully and in much depth. Each time we have been given a lot of "sugar-coated pills" about how wonderful the program is going, and yet they come back and hang a "carrot" in front of our noses and say, "Give us a little more and everything will be all right." This has been going on too long as far as I am concerned. I have had it up to my eyeballs and I am sure the public feels the same way about spending this amount of money on things like this. It concerns me very much to have people come up here and say, "This will be all right. Just give us another chance." This is the history of the F-111 program.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. MINSHALL was allowed to proceed for 5 additional minutes.)

Mr. MINSHALL. This is the history of a plane, 16 of which have crashed, one as recently as last night.

If I may for a moment, for the uninitiated, just give you some of the salient facts about this construction program. I gave you the cost figures. Let us look into the specifications that were originally made, and I refer now to a staff report which was completed 2 years ago.

On page 7 of the report, dated February 1968, they said:

> As denoted in the chart above, the F-111 aircraft has not met Specific Operational Requirements or contract specifications in several categories. The most significant degradations have occurred in areas of acceleration capability, ferry range, combat ceiling, and the low-low-high nuclear mission of the Air Force.

The report also goes on to say:

> From the above chart it is evident that the F-111A will not perform the Air Force mission for which it was designed, which is a low-low-high nuclear mission, with a total range of 1,600 nautical miles.

It goes along and describes in detail the shortcomings that this bird has had in its actual performance as compared to the contractual specifications that were given to the manufacturer. I could carry on and on and describe the shortcomings of this aircraft. In closing I think we have gone far enough down the road with what I consider to be the worst billion-dollar boondoggle in the history of our Defense Department. I emphasize this is another one of the numerous programs that Secretary Laird and his administration inherited from Secretary McNamara and the Johnson administration.

Mr. TEAGUE of Texas. Mr. Chairman, will the gentleman yield?

Mr. MINSHALL. I yield to the gentleman from Texas.

Mr. TEAGUE of Texas. Mr. Chairman, I have just recently spent 24 hours with the commanding general of our Strategic Air Command in Omaha, Nebr. In the presence of a number of people the general praised this plane and said it was a great plane, and said the Air Force needed it and wanted it, and he said they had no plane to take its place before the B-1 was completed.

The gentleman has quoted himself quite a bit in this debate, but how do we know if we cannot trust the commanding general of the Strategic Air Command? Did the gentleman's committee have the general before the committee? He is the one who manages the flying of this plane.

Mr. MINSHALL. We have had generals and program managers before our committee in countless numbers. We have gone into the F-111A program in every detail.

As long as the gentleman has brought this up, I must admit the fellows who fly it say it is a nice handling plane when it stays in the air, but the trouble is the wings pull off and the skin peels off and they are still not flying at contract specifications. This is one thing I got from the Air Force a few minutes ago. I asked them if there were any restrictions on this bird. They said until they complete the structural integrity program they have an 80-percent flight load restriction on this aircraft today. Only some 80 are flying and over 400 are grounded.

Let me go a little further. Another F-111 incident:

> General Dynamics and the Air Force reported today—

That was about 3 months ago—

> that a team of experts is currently investigating two incidents in which the leading edge of the horizontal tail surface of two F-111E's was damaged in flight while both aircraft were undergoing acceptance flight testing by Air Force crews.

Mr. TEAGUE of Texas. Has the gentleman compared this with any other plane?

Mr. MINSHALL. I certainly have, and it has the worst history of structural failure of any plane this country has tried to develop.

Mr. TEAGUE of Texas. Has the gentleman gone into this in any detail?

Mr. MINSHALL. We have gone into this in great detail, as we do on all military programs.

Mr. TEAGUE of Texas. If this is so, how does the gentleman account for the fact that the pilots are for it and want it?

Mr. MINSHALL. I just told the gentleman that those who fly it like it when it flies, and while it stays in the air, but unfortunately it has crashed because of structural deficiencies.

Mr. TEAGUE of Texas. I will take their point of view as against the gentleman's any time.

Mr. MINSHALL. It is a structurally bad airplane.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the distinguished gentleman from Ohio (Mr. MINSHALL) has offered an amendment which would completely eliminate all the moneys for the F-111 aircraft. The gentleman is correct in pointing out that he has been an opponent of this program from its inception.

It was born in stormy criticism. It has had a record of controversy, particularly in the other body.

But the people who ought to know, the Armed Services Committee of the House, which extensively investigated it this year, insisted on this floor only a few days ago that it is the best aircraft we have in our defense arsenal, that it is needed, and that we need to procure F-III's not only for this fiscal year but additional numbers in the years immediately ahead.

The people who fly it insist it is the best plane they have ever flown, and they need it.

Members of this House, including the gentleman from California (Mr. PETTIS) the gentleman from Texas (Mr. PRICE) and numerous gentlemen on my side of the aisle, including the distinguished chairman of the Armed Services Committee (Mr. RIVERS) have talked personally with pilots who fly it and with commanders who command it, and they are enthusiastic about the airplane.

Let us address ourselves to this question of safety. I have the figures here.

The gentleman from Ohio suggests that one of the reasons which motivates him to offer this amendment today is because there has been an accident. There has been an accident. It is the sixth fatal accident out of 285 airplanes that have been flown in the F-111 series. The sixth.

We lament each of them. Nobody gloats over an accident.

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But, my friends, have we ever eliminated an entire program that the military says it needs simply because there has been an accident?

If we had adopted that policy, we would have no military aircraft. All of them have had accidents, tragic as that fact is.

Other aircraft of recent development have had more accidents, and more fatalities, than the F–111.

Mr. MINSHALL. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Only if the gentleman will agree to let me get some more time after I complete my statement.

Mr. MINSHALL. I will do my best to do so.

Mr. WRIGHT. Then I will yield at this time.

Mr. MINSHALL. I do not believe the gentleman means to say six fatal accidents.

Mr. WRIGHT. I am saying that there were six aircraft accidents which resulted in fatalities.

Mr MINSHALL. Yes; but they have lost 16 "birds".

Mr. WRIGHT. That is correct. There is no argument about that.

Let us compare that with the record of every other aircraft in the century series. Let us compare that number of accidents with the number of accidents for every new aircraft we have built since the early 1950's, including the F–100 and since, at the equivalent number of hours flown.

I have here the figures for the same number of hours of actual flight, almost 60,000, which in the F–111 have produced according to the gentleman from Ohio 16 accidents, six of them fatal.

For the F–106 it is 22 accidents for the same number of flight hours which the F–111 now has logged.

For the F–105 it is 34.

For the F–102 it is 40.

For the F–104 it is 51.

For the F–100 it is 59, more than three times as many as for the F–111.

The difference is that each one of these F–111 accidents has produced a headline story in the news media. The others went largely unnoticed in public print.

Mr. RIVERS. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Of course I yield to the distinguished chairman of the Committee on Armed Services.

Mr. RIVERS. In 1967 the greatest aircraft we have in cur inventory, the F–4 had 44 structural failures. It is the greatest airplane on earth today. We cannot get an airplane without some problem. It would be a mistake to change this program. It would be suicidal. The F–111 is the only aircraft we have to meet certain operational requirements.

Mr. WRIGHT. I thank the distinguished chairman for that comment. He is eminently qualified as a judge. The Committee on Armed Services has looked into this question exhaustively this year, and unanimously issued a report recommending not only this procurement for this fiscal year but also continued procurement so that we could secure the minimum of four wings the Air Force says are minimally necessary and hopefully the six wings it desires. So the question at issue here is not merely the procurement for fiscal 1971 but the continuing, on going program beyond fiscal 1971.

Let us look at one or two other matters, not just safety, so far as the comparative record for aircraft in the century series is concerned. Let us not limit our consideration simply to accidents and fatalities, the measurement of safety. Let us look at the really more significant question: Why do we need the F–111?

We need it because it is the only aircraft which is capable of low-level allweather day-or-night interdiction. It is the only one we have.

The F–111 is an aircraft which will carry three times the bomb load for more than twice the distance as our next best tactical bomber.

It is the one aircraft which has been repeatedly mentioned by the Soviets, the only one they have mentioned, in the SALT talks. Obviously they are aware of its capability and concerned about its capability. It is being stationed in England now. Clearly the Russians are concerned about it.

I would call the attention of the distinguished gentleman from Ohio to the fact that only a few moments ago, addressing himself in opposition to the amendment relating to the ABM, he made the point that we need to be able to move from strength in the SALT talks. Why should we at this moment gratuitously give up the one aircraft about which the Soviets are obviously concerned? Why should we give that up if we want to move from strength?

This airplane has cost a lot of money. Let us make no bones about that. Of course it has. Every time we try to stretch the state of the art that much farther, for every new sophisticated aircraft, it will cost a lot of money—a lot of it. This will be true of the F–14. It will be true of the B–1. Each will cost more than the designers figured at the beginning. But the only way to get cost effectiveness from procurement of any new aircraft is to build enough of them to do the job.

The really big money in any new program is absorbed in the beginning, in the research and development phase. The F–111 is right now at the point where we can begin to capitalize on the original investment in lower unit costs. This is one reason why it is imperative not only that this year's procurement be approved, but that we continue procurement beyond the present fiscal year.

It is true that the F–111 has not met some of the most optimistic original hopes of its designers, but no aircraft has. The General Accounting Office report to which the gentleman from Ohio referred could be made on any aircraft with respect to what it will do compared with what its designers initially hoped that it would do.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 5 additional minues.)

Mr. WRIGHT. Do you know that every aircraft would suffer by the same comparison? Every single one that we have ever developed would suffer by the same comparison. To compare what an aircraft will do ultimately with what its designer set out initially to do is like trying to compare any one of us mature mortals with the man his mother hoped he would be. I surely would not like to be judged by that kind of a yardstick. Could any man measure up?

It is true that this airplane, as pointed out in the GAO report, does not take off in quite as short a runway as its design specifications called for. It takes 770 more feet for takeoff than its planners had hoped. But what the critics do not tell you is that the F–111 requires only one-half—and get this—only one-half the takeoff distance consumed by any other combat aircraft in our arsenal with a single exception of the F–4, and it requires less takeoff distance than the F–4. Compare it with like things, and you will see that it compares very well. Compare it with everything else that we have in our arsenal, and you will find that it is needed. The Air Force says it is needed. They want not only this year's procurement, but they want four wings as a minimum.

The landing distance, equally important with the takeoff distance, is not mentioned by the GAO report, but how about this: equally significant, the distance for landing is 19 percent better than the specifications called for. Now, if you want to nit-pick any design we have, and if you want to talk about accidents, well there have been so-called short falls in all of them and there have been accidents in all of them.

There is one military aircraft which in a little more than 1 week, in a 9-day period—and I will not mention the aircraft by name, because I do not want to besmirch its reputation—had five major accidents in 9 days. Yet we did not hear anything about that because it did not get into the newspapers. And nobody tried to cancel the program.

Mr. MINSHALL. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Of course I yield to the gentleman.

Mr. MINSHALL. If you will turn to page 753 of our hearings, part 5, in which we had the testimony of General Glasser, in that part of it on the point that the gentleman just mentioned, the landing distance, that is one of the spots where you are in error. The specifications were 2,250 feet for the landing distance. According to this, it is 2,500 feet.

Mr. WRIGHT. Will the gentleman compare that with any other existing military airplane?

Mr. MINSHALL. My point is—you said it was better than the specs.

Mr. WRIGHT. I understand that it is 19 percent better than the required specifications.

Mr. MINSHALL. No, it is not. It is actually over the specifications.

Mr. WRIGHT. Compare it with any other combat airplane that we have. Is there one that will land and take off in less distance?

Mr. MINSHALL. I was not comparing that, but you said that it was better than the specifications, and it is actually worse.

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Mr. WRIGHT. The gentleman's figures and my figures are at variance, and I think that mine are accurate.

Mr. MINSHALL. These are Air Force figures not mine.

Mr. WRIGHT. Let us ask some Air Force generals. The gentleman from Ohio quotes General Glasser. General Glasser is for the F–111. Call General Thomas Power, former Air Force Chief of Staff, as a witness. General Power will tell you that it is a very badly needed aircraft in our arsenal today. Let us call Deputy Secretary of Defense David Packard, whose testimony was read into this RECORD only 10 days ago or so, who says that the F–111 will do everything that it was required to do with a reasonable life expectancy of one and one-half times the requirement.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Of course I yield to the distinguished and beloved Speaker.

Mr. McCORMACK. I thank the distinguished gentleman from Texas for yielding.

I might say I remember when this matter was up before, the chairman of the Committee on Armed Services, a great American, was discussing it with me, but also another great American discussed it with me, the distinguished gentleman from Massachusetts (Mr. PHILBIN) who strongly supported this authorization. I want that fact to be noted.

Mr. WRIGHT. I am grateful to the distinguished Speaker for that statement.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield to me?

Mr. WRIGHT. Of course I yield to my good friend from Louisiana.

Mr. WAGGONNER. I think while we are talking about comparisons and costs, would it not be correct to say that in order to service this airplane with tankers, the C–135 tankers, we have to have a lot fewer than we do for one of the F–4 and, as is the case with the B–52's, and do we not save a lot of personnel with the F–111 as compared to all of our other planes that are designed for the same mission?

Mr. WRIGHT. The gentleman is absolutely correct. When we talk about the cost of operation, let us talk about the cost of maintaining and operating. Let us think about that. Four F–111's on a 1,000-mile trip, without refueling, can deliver bombs on an enemy target, in a specific number which is classified.

But in order to deliver that same number of bombs that same distance on an enemy target without the F–111 would require a total of 31 separate aircraft, including tankers, radar scramblers and fighter escorts. Now the four F–111's required to perform that mission can be maintained and operated at a cost of $5.2 million a year, but a year's maintenance and operation of the other aircraft necessary to perform that same identical mission is $37.8 million a year, or seven times as much when you consider the number of aircraft involved to maintain and operate.

I should simply like to say one additional thing, and that is with respect to cost. The F–111 has cost a lot of money. Every new aircraft has cost a lot of money and every other new aircraft that we bring into production is going to cost a lot of money because of the new metals involved, the developmental costs and the installation of new and sophisticated techniques. The only way to get our money's worth is by building the full four operational wings, and I hope the vote against this amendment will be a ringing affirmative on the part of the House that we want this program to continue through this fiscal year and beyond.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. SIKES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to call the attention of the House to some of the fiscal considerations that are involved. This bill contains $283 million for 24 F–111F aircraft and another $102.5 million for the cost of testing and improving the wing structure.

This latter sum is a constractual commitment which cannot be avoided by termination. The actual cost of terminating this contract—and I want you to hear this—is estimated to be $80 million to $100 million, and you get absolutely nothing to fill out that F–111 wing. For an equivalent amount to that $80 million to $100 million which is the estimated termination cost and for other unavoidable costs connected with termination, the Air Force would secure 24 additional new modern aircraft which they need very much.

Mr. Chairman, to kill the program now would cost our country much more in defense capability than the savings could possibly justify. The F–111 has been a hard-luck aircraft in that every accident it has had has made the headlines. Yet, and this has been said time and time again, the accident rate is comparatively low. It is lower than for most modern aircraft.

It is a costly aircraft, but so would any other advanced modern aircraft be costly today. This is a very advanced and very intricate aircraft and it does cost a lot of money. But it is the only modern aircraft we have in inventory. The F–4 is 10 years old. It is a great airplane, but it has been modernized in just about every way that we can possibly hope to modernize it.

In the period since we last developed a new aircraft, the Russians have developed two or three very good ones. Please remember, modernization is one of our serious shortcomings.

Mr. Chairman, the Air Force needs this aircraft. We cannot develop another aircraft for several years. The F–14 is moving along very satisfactorily, but procurement is just getting underway.

The F–15 is still under development and it will be years before that one is ready for operation.

Mr. Chairman, the men who fly the F–111 say they are satisfied with it. They call it a very good aircraft. That is the test. They know what the aircraft will do. They know it is the only modern aircraft we have. We now have a new advanced functional aircraft. To kill the program now would be costly, it would be unwise, it would be sacrificing the money and effort that has gone into it through all the years.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Texas.

Mr. MAHON. I would like to say for the benefit of the Members of the House who have not lived as closely to this problem as some of us have, it is true that the gentleman from Ohio (Mr. MINSHALL) has long opposed the F–111. It is true that this aircraft has had a bad press, but it has a good safety record.

The design and manufacture of this aircraft stretched the state of the art; it was a big leap forward. It will be a valuable plane in our inventory for a decade or more. The plane is not manufactured in my district, far from there, but it is made in my State.

I want to say that the remarks made by the gentleman from Texas (Mr. WRIGHT), insofar as I know are corroborated generally speaking by the people who have appeared before us. As far as I know the members of the Committee on Appropriations generally are in favor of the F–111. Defense has problems with most of its programs, but I do not know of any ground swell of opposition to the F–111. I think we can go ahead and vote on the issue, because I believe we have all made up our minds, and I do not believe that we should force the Department of Defense to cancel the program at this time.

Mr. Chairman, I oppose the amendment.

Mr. LEGGETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the procurement of this aircraft, and I join in the remarks of the gentleman from Texas. I do not believe this is necessarily just a Texas airplane. I think you have to keep in mind that when we decided to contract for this plane we were contracting for a vehicle far beyond the current state of the art, of supersonic high and supersonic low speed, and with a tremendous bomb carrying capacity.

I do not believe we have brought out the fact that it is 42 percent better in navigation than the Government asked for in the contract which inures to the use of the vehicle. It is 33 percent more available, as far as utilization, and it is 8 percent more reliable than the Government asked for. It meets the criteria for maximum speed at sea level, maintenance hours, it meets the maximum sustained speed at altitude, and it has the 800-mile primary mission radius that was required.

When you weigh those factors, I think that the Air Force is correct in making the determination that they have a good aircraft. I would certainly hope that we build these planes, and add them to our inventory.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Alabama.

Mr. ANDREWS of Alabama. I would ask the gentleman if it is not true that this is the only aircraft we have to follow on with the B–52, and the newest, the latest B–52's came off the line in

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October 1962, and the age life of a bomber is 10 years, so the B-52's have about had it, and we cannot possibly have any other before the B-1, and during that time we could well wind up with no aircraft.

Mr. LEGGETT. The gentleman is correct.

(Mr. MILLER of California asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MILLER of California. Mr. Chairman, earlier the gentleman from Ohio announced that he would submit an anmendment to deny all funds designated to procure additional F-111 aircraft. Initially, and somewhat emotionally, since last night's accident this amendment may appear to be a wise one. However, under closer scrutiny I do not believe that to accept this amendment would be a wise decision. As in the development of every new fighter aircraft, the F-111 has had its share of development problems and as our colleague, the gentleman from Texas (Mr. WRIGHT), mentioned earlier today, the F-111 fares better in this category than other modern fighter aircraft. Thus, we should not let the emotion of last night's tragedy blind us to the very real capabilities and potentials this aircraft possesses.

The F-111 has evolved as an attack aircraft with speed and maneuver capability well beyond Mach 2, with adequate ferry range to deploy to Europe without refueling, equipped with advanced penetration aids that will substantially enhance survivability in a hostile environment. The F-111 penetrates hostile areas by hugging the terrain during night or zero visibility weather conditions. As a comparison with other U.S. Air Force and Navy fighter-bomber aircraft, an F-111 will carry three times the payload about twice as far and deliver weapons around the clock with greater accuracy.

This deep penetration weapons delivery capability I have just described will fulfill an urgent Department of Defense need for a long-range all-weather interdiction aircraft. This is by far the most prevalent role of tactical aviation. Historically, the combat sortie distribution for tactical aircraft indicates that the majority are against interdiction targets. These are strikes against airfield, surface-to-air missile sites, and aircraft-missile control and warning sites wherein the low-level delivery capabilities of the F-111 may be exploited. More importantly, these strikes must be made while avoiding enemy air defenses.

As a strategic bomber, the FB-111 displays even more virtues than the F-111 in an interdiction role. The FB-111 has additional navigation features and a later and more accurate navigation-bombing system. It exploits the other deep penetration features of the F-111 and can escape at high speed. It is the only supersonic bomber we have today or will have for many years to come.

We hear much about the F-111 accidents and cost growth, but little about the impressive performance characteristics of this aircraft. How does it compare on a day-to-day basis with similar aircraft? Let me give you some statistics.

Last year the 474th Tactical Fighter Wing at Nellis Air Force Base, Nev., flew 26,515 hours for an average utilization rate of 36 hours per month. Their average operationally ready rate was 75 percent. Is this good? Yes, it certainly is—comparable to the Air Force's most tactical fighters.

Again, much has been said about the dramatic cost growth which the F-111 has experienced. The critics have given little credit to the true reasons for this growth. Let me place this in, what I believe it to be, its proper context.

The initial procurement for the Air Force was 1,388 aircraft. This was subsequently reduced to 531 aircraft. That factor alone has accounted for almost half of the total of the increased cost per aircraft. To achieve increased operational effectiveness we have added an advanced avionics package at a cost of approximately $1 million per airplane, but this has bought us the most effective avionics capability in the world. Another 25 percent of the growth can be attributed directly to inflation.

The $16 million cost figure which has been publicized so highly in the recent past includes the support costs for these aircraft while they are in use by the Strategic and Tactical Air Forces through 1975. In other words, it is a figure far larger than the unit production cost of the aircraft which is the usual way to describe weapon system costs. Latest Air Force calculations on acquisition costs indicate a unit production figure of less than $11 million.

The inherent penetration capability, range, and payload of the F-111, coupled with its great accuracies and kill capability, make it an extremely effective and efficient weapon system. Since the budgets we are now considering will affect our defense capability for years to come, this fact cannot be overlooked.

Thus, I urge my colleagues to join me in voting against Mr. MINSHALL's amendment.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, what is the value of an inventory of F-111's if they are on the ground, and cannot be flown?

According to this morning's newspaper story they have been grounded since last year. Is that not correct? Except for test purposes?

Mr. MAHON. Mr. Chairman, if the gentleman will yield, permit me to say there were some problems with the aircraft.

Mr. GROSS. I asked the question if they have not been grounded since last year?

Mr. MAHON. The answer is "No."

Mr. GROSS. Well, then the newspaper story is wrong that they are grounded?

Mr. MAHON. Some were grounded. They were given certain proof tests after which they were released. The planes used in the research and development test program were not grounded as long as were the others.

About 80 have been now released for flight. While we have funded about 500, only 230 had been delivered through fiscal year 1970. These aircraft have had the most rigorous tests of any other aircraft in history.

Mr. GROSS. Then the newspaper report is inaccurate? They are not grounded; is that correct?

Mr. MAHON. That report is not entirely correct. Some are flying, others are grounded.

Mr. GROSS. How many of them are flying?

Mr. MAHON. About 80 are now flying. The others are being proof tested, and undoubtedly they will be flying too.

Mr. GROSS. How many others, and what kind of security and defense can they contribute to this country if any appreciable number of these so-called planes are grounded as of today.

Mr. MINSHALL. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. MINSHALL. The gentleman in the well is absolutely right. Some of these planes are grounded. There are 80 of them flying today, but are under restrictive weight limitations.

Eighty percent of the weight limitation is all that these 80 planes are allowed to carry.

Mr. GROSS. I am afflicted with at least a small-sized memory. I can remember when the deal for the F-111 was hatched in the Pentagon. The contract had to go to Texas and the General Dynamics Corp., irrespective of any other consideration, and at $400 million more than Boeing offered to build these planes.

General Dynamics was to furnish a dual purpose supersonic plane that would serve both the Air Force and the Navy. The Navy got out of the deal long ago when it found General Dynamics could not live up to its contract and produce a serviceable aircraft.

My memory also tells me that last year or 2 years ago the gentleman from South Carolina (Mr. RIVERS), the chairman of the Committee on Armed Services said the authorization that year would be the last contribution to the F-111. I do not know where or when he got F-111 religion or how he transmitted it to the distinguished Speaker of the House, because he told us then on the floor of the House and for the CONGRESSIONAL RECORD that this plane was going to be washed out and he admitted to having made that previous statement when the authorization bill was before the House a few days ago.

Yes; I remember when this F-111 deal was hatched and some of the principal characters who participated in it. They included a former Fort Worth, Tex., banker who became Secretary of the Navy; Deputy Secretary of Defense Gilpatrick, and last but not least Secretary of Defense Robert Strange McNamara.

It was the former Comptroller General of the United States, Joseph Campbell, testifying under oath before the McClellan Committee investigating the award of the F-111 contract, who said that when his investigators sought to obtain vital information as to the specifications and related costs, they were told by McNamara that he was carrying the information in his head.

This is one of the reasons why we now have the nonflying Edsel, and I reiterate that the original contract was awarded to the Texas-based firm at a cost of $400,000,000 above the cost figures submitted by Boeing.

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Mr. MINSHALL. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. MINSHALL. Mr. Chairman, for the gentleman's information, from the best current figures we have available here at the desk, some 300 of these planes are presently grounded and not allowed to fly. The other 80 in inventory are restricted in their weight-carrying limitation.

Mr. GROSS. Now I yield to the gentleman from South Carolina (Mr. Rivers) if he wishes me to yield.

Mr. RIVERS. I told the gentleman plainly and simply, I had changed my mind.

Mr. GROSS. Yes.

Mr. RIVERS. Now just wait a second.

Mr. GROSS. I said you got religion of some sort.

Mr. RIVERS. And I have sense enough to admit when I get religion, too.

I went down to Texas on my own to talk to the young men flying this aircraft, and I sat in the cockpit. I checked them the best way I knew how with experts on the performance of this aircraft.

These planes were already built when I answered the gentleman. Today I have changed my mind. Originally, I did not like the way it was done, but the plane is now out of the woods. I defy anyone to contradict that statement.

Mr. GROSS. All right; I heard the gentleman, and, in view of what happened yesterday, I take issue with the gentleman. Let me say——

Mr. RIVERS. I will get the gentleman more time. You know we can get more time.

The **CHAIRMAN.** The time of the gentleman from Iowa (Mr. Gross) has expired.

Mr. RIVERS. Of course, if we have to get time, we can get plenty of time. People like to hear us talk anyway because you and I understand each other.

(By unanimous consent Mr. Gross was allowed to proceed for 2 additional minutes.)

Mr. RIVERS. Will the gentleman let me finish?

Mr. GROSS. Let me finish, please.

Mr. RIVERS. To finish what I started to say, this plane was the most tested aircraft in our defense and it cost more than it should have cost. But now it is out of the woods, so for heaven's sake, let us give it a chance. There is always the possibility of pilot errors causing accidents. But this is a sophisticated aircraft. I want to say to the gentleman from Iowa that he is as wrong as he can be on this aircraft.

Mr. GROSS. Let me say to the gentleman that there are two more test pilots from whom he will not get any information. They lost their lives yesterday in Texas test-flying one of these nonflying Edsels.

Much has been said this afternoon about the alleged low accident rate of this plane. It is impossible to have accidents when planes are grounded and cannot be flown except for test purposes.

Yes, we need a new plane for the security of the United States, but we do not need, nor should we depend upon a plane that will not stay in the air. I hope the amendment is adopted.

The **CHAIRMAN** pro tempore. The question is on the amendments offered by the gentleman from Ohio (Mr. Minshall).

The question was taken; and on a division (demanded by Mr. Minshall) there were—ayes 28, noes 89.

So the amendments were rejected.

The **CHAIRMAN.** The Clerk will read.

The Clerk read as follows:

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $2,156,200,000, to remain available for obligation until June 30, 1972.

Mr. HICKS. Mr. Chairman, I move to strike out the last word.

(By unanimous consent, Mr. Hicks was allowed to proceed for an additional 5 minutes.)

Mr. HICKS. Mr. Chairman, I wonder if I might have the attention of the chairman of the committee.

This is a picture of what is known as a surface effects ship. Two of them were authorized by the Armed Services Committee. On page 93 of the report of the Appropriations Committee. Members will find they have determined in their wisdom that one is sufficient. One is being built in Louisiana and one is being built in my district in Tacoma, Wash. This is being built by Aerojet and the one in Louisiana is being built by Bell. They are of different specifications and are different type ships.

With that background I would like to address some questions to the chairman of the committee, Mr. Mahon, if he would be so kind as to respond.

Has the Appropriations Committee determined that a surface effects ship is not a practicable project to pursue, Mr. Chairman?

Mr. MAHON. I would say that I, for one, have not determined that this is not a practicable project to pursue. As I understand the situation, this ship, which would more or less propel itself on top of the water rather than cut through the water like most ships, was a joint project of the Maritime Administration and the Navy. There was a 50–50 program cost sharing arrangement. This year, the funding was to have been $10 million by the Maritime Administration and $10 million by the Navy. But the Maritime Administration withdrew its financial support this year and the Navy is now saddled with this whole burden. Since the Navy needs more attack submarines, and possibly additional Polaris-type submarines, as well as so many other ships, aircraft, and weapons of all kinds it did not seem fair for the Navy to be forced to assume the full financial burden for this development.

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. HICKS. I yield to the gentleman from Florida.

Mr. SIKES. Mr. Chairman, I favor the development of this ship, for I think it can provide a useful new development. We must have new concepts and this appears to be a promising one. Nevertheless, it is the belief of the committee that the Navy can use the $10 million which is left in the budget to continue the effective development of one ship. This will be possible even though the Maritime Administration is no longer interested and has withdrawn its support. The construction of one ship should provide useful information.

The committee feels it is not necessary to have the two ships in order to determine its value.

Mr. HICKS. May I ask the gentleman, is he the one on the committee who is most familiar with this project?

Mr. SIKES. I doubt that I am. I know something about it.

Mr. HICKS. The gentleman was on the Appropriation Committee when the nuclear submarines were developed?

Mr. SIKES. Yes, that is correct.

Mr. HICKS. Is it not true that two were built, the *Sea Wolf* which contained a sodium-cooled reactor and the *Nautilus* with a water-cooled reactor, because they did not know which would be the better design?

Mr. SIKES. I think that is true, but nuclear submarines are a very different story than surface ships. The Navy and the Maritime Administration were working together to build two ships. Now the Maritime Administration has withdrawn its support. The committee does not feel it is necessary for the Navy to absorb an additional $10 million for the second ship.

Again, I support the concept of the ship. It is a matter whether or not we should spend $20 million, when we think we can learn a very considerable amount from the $10 million which is proposed in the bill.

Mr. HICKS. May I ask either the chairman of the committee or the gentleman from Florida (Mr. Sikes) if this is the position the other body took in the military procurement bill. Is that correct?

Mr. MAHON. Exactly. The Senate Armed Services Committee and the Senate took the same action as that which we propose.

Mr. HICKS. The position that the Appropriations Committee is taking now is the exact position that the other body took. This is not the position that the Armed Services Committee took in the authorization bill. Is that correct?

Mr. MAHON. I believe that is correct.

Mr. HICKS. The House Armed Services Committee in the conference prevailed on the other body to recede and report the full $20 million. Is that correct?

Mr. MAHON. In the conference report, yes; that is correct.

Mr. HICKS. But the Appropriations Committee in its wisdom has elected to go back to the other body's position. Is that correct?

Mr. MAHON. The committee supported only the $10 million program for the Navy.

Mr. HICKS. May I ask this question. Is it not true that the full $10 million, with the Navy operating under the continuing resolution, has been obligated already?

Mr. MAHON. It may have been obligated but it has not been expended.

Mr. HICKS. I understand; but it has been obligated.

Mr. MAHON. I believe so.

Mr. HICKS. Is it not true that this ship and the one built by Bell are both about 50 percent completed?

Mr. MAHON. I am not familiar with the accuracy of that statement. However, ships of this general type are not too unique, except that these two are of a larger size. As I understand it, there is a surface effect ship on scheduled commercial crossings of the English Channel.

Mr. HICKS. That is a hovercraft, Mr. Chairman This is not the same.

Mr. MAHON. The gentleman is talking about a new ship which would provide a step forward in the state of the art. In many ways it is quite similiar to other ships throughout the world.

Mr. HICKS. If the Chairman please, I am on the Research and Development Subcommittee of the Committee on Armed Services, and that is not our understanding. That was not the testimony presented.

Let me go further. If this $10 million has been obligated, not expended but obligated, and if we will assume that this ship is 50 percent completed and the one in Louisiana is 50 percent completed, what would be the termination costs for each one of these contracts, if they decide not to go forward?

Mr. MAHON. I would think that the Maritime Administration, which agreed to the joint 50-50 program with the Navy, might very well work out some arrangement whereby it would continue this program if we stand firm. We just did not feel that the Navy ought to pick up the whole tab.

Some are saying that the Defense Department should not fund research which is not strictly for defense purposes. The committee felt that the $10 million for the Navy, as had been planned originally, was sufficient under the circumstances for the Navy portion of this program.

Mr. HICKS. The difference in expenditure is the difference between $20 million to finish it and $10 million to leave it half finished. It is the committee's position that the money will be found from some place by some other agency if they restrict the Navy.

It is true, is it not, Mr. Chairman, that the Navy is pushing hard for both ships to be completed? Is that not correct?

Mr. MAHON. The Navy requested the funds, of course.

Mr. HICKS. Let me ask a further question. If in the rare possibility that the other body should decide to put $10 million back in, making the total $20 million, would the committee take another look at it with a view to permitting that?

Mr. MAHON. The committee would certainly take a careful look at it. If the other body felt some change should be made in the program, it would be very closely considered.

Mr. HICKS. Let me ask one last question.

On page 93 of the report it is stated that there is $10 million from the budget and from the amount that the House had approved in an authorization bill for this particular item, is that not correct?

Mr. MAHON. The gentleman is correct. I hope I am making a good witness.

Mr. HICKS. The point is that I had intended to offer an amendment to put the $10 million back in. Then I found out that such an amendment would be subject to a point of order, based purely on the statement of the chairman, the gentleman from Texas (Mr. Mahon), who confused the gentleman from New York (Mr. Bingham), with me, and the chairman started to make a point of order. He did not give me the courtesy of telling me that my amendment was subject to a point of order.

I should like an explanation, if the chairman cares to give one, as to how the committee can cut $10 million and when one attempts to restore the cut, it is subject to a point of order. This is just for my own edification.

Mr. MAHON. I apologize to the gentleman. I was not at the desk, I believe, when the amendment of the gentleman was presented; it was some member of the staff.

I must say there is not an identical similarity between the distinguished gentleman and the gentleman from New York, but both are very handsome an attractive gentlemen.

Mr. HICKS. I appreciate the gentleman's comment.

Mr. MAHON. I did not have an opportunity to discuss the matter with the gentleman as to the point of order.

From actual experience, as a committee chairman, if one points out a defect in an amendment the Member generally goes back and drafts one that may possibly not be subject to a point of order.

Mr. HICKS. But not possible in this instance, Mr. Chairman, as I understand it.

Mr. MAHON. So one is required, if he is in charge of a bill, to try to see that the bill is passed. That is his responsibility, so long as he deals honestly and forthrightly with the Members.

Now, the reason why the amendment is not in order is that the Committee on Armed Services said that the S-3A, the antisubmarine aircraft, was not ready for production but should stay in research and development and that the funds should be transferred to the research and development account. However, they did not actually put the money in the research and development account. We put the money in research and development, where it was supposed to have been. That brought the amount of the appropriation to just under the authorization ceiling imposed by the gentleman's committee. So we are caught here by an authorization technicality.

Mr. HICKS. I thank the gentleman for his explanation, and I do hope that if the other body does happen to add the $10 million, so that both surface effect ships can be continued that the committee will accept it in conference.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE VIII—GENERAL PROVISIONS

SEC. 801. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bingham: On page 23, line 24, delete the period and insert in lieu thereof the following: ", and no more than $15,000,000 of the funds appropriated by this Act shall be used for public affairs, public information, and public relations, including the personnel costs thereof."

Mr. BINGHAM. Mr. Chairman, last year I proposed an amendment to this appropriation bill which would limit the amount the armed services could spend for public information, public affairs, and public relations programs to $10 million.

My amendment this year calls for a limitation of $15 million, which is 50 percent more than I suggested last year and which represents about a 50-percent cut in the amount that the committee contemplates be spent for such purposes.

I would like to call the attention of the Members to page 24 of the committee report. At one time apparently the committee considered a limitation in the bill to about $30 million for this purpose, but that was apparently changed and there is no fixed limitation in the bill today for these purposes.

What is really striking about this whole matter is the enormous rate of increase that has prevailed here. The increase for these purposes over the last 10 years is about tenfold for the DOD as a whole. If you will look at the top of page 24 of the committee's report, just in the last 3 years the increase for public information, public relations, and public affairs programs is from $9 million to over $34 million. It seems all out of proportion. We are trying to save the taxpayers' money and trying to provide for the national defense. Do we need to provide for elaborate public information and public relations programs?

Some of these funds have been used in the past for the purpose of trying to persuade the American people to go along with controversial weapons systems, but it is not my purpose here to try to attack this particular activity. Certainly, there would be room for that sort of activity under a ceiling of $15 million.

Mr. Chairman, it seems to me that a ceiling of $15 million for public affairs purposes is adequate and the Pentagon ought to be able to operate within it.

I think the Members would be interested to know why the committee decided not to impose even a ceiling of $30,590,000, as apparently was the case, judging from an examination of the draft committee report.

Mr. Chairman, I hope the Members will support me in asking for a cut of approximately 50 percent in the elaborate and expensive public information and public relations programs of the armed services.

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Mr. MAHON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the budget request for public affairs—and there is a place for public affairs in the sprawling Defense Department with its more than $100 billion of available funds for expenditure for the security of the Nation—was $37,663,000. The committee recommended an appropriation of $30,590,000, a reduction of over $7 million.

Under the continuing resolution the Defense Department has probably expended approximately $10 million.

Under the amendment which has been offered by the gentleman from New York, there would perhaps only be $5 million left for the remaining 9 months of the fiscal year.

So, it would seem to me that this would tend to unduly restrict and contain, if not destroy, the program.

It is true that the public needs to know what is being done in defense. This program can be used and is used in most instances in a very helpful way in order that the American people can understand what is being accomplished and undertaken in the Defense Department.

I would hope that the amendment would be defeated.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Arizona.

Mr. RHODES. I am sure the chairman will agree with me that this activity in the last few months has been subjected to a very careful scrutiny by this subcommittee. We understand that as a result of that scrutiny, an accounting system to determine exactly how much is being spent for this activity is being installed and the correct figures will be known for fiscal year 1971.

I would hope that the gentleman from New York would trust the subcommittee to hold this activity down in future years. I agree it is an activity which is important but which can go awry if it is not subjected to rather close surveillance.

I feel that the subcommittee has put in a lumination which allows it to subject the activity to that surveillance and, therefore, I hope that the amendment which has been offered by the gentleman from New York will not be agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was rejected.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

SEC. 843. In line with the expressed intention of the President of the United States, none of the funds appropriated by this Act shall be used to finance the introduction of American ground combat troops into Laos or Thailand.

AMENDMENT OFFERED BY MR. BIESTER

Mr. BIESTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BIESTER: on page 45, line 5, insert the following new section and renumber succeeding sections:

"SEC. 844. After June 1, 1971, no part of the funds appropriated in this Act shall be expended for the support of United States Armed Forces assigned to the United States European Command in excess of 270,000 members."

Mr. BIESTER. Mr. Chairman, I have in conjunction with several other Members sent a "Dear Colleague" letter to the members of the committee with respect to this particular amendment. This amendment is offered in order to provide a limitation of the numbers of American Armed Forces stationed for the most part in Western Europe.

I need not remind the Members of the Committee that for over two decades the subject of the numbers of American forces stationed in Western Europe has been a subject which has vexed both the Congress and one administration after another. If I may do so I could refer back even to an article by former President Eisenhower appearing in the Saturday Evening Post magazine in 1963 which he indicated that it was essential that there be a reduction of American Armed Forces in Europe, and that he had indicated during his 8 years in office as President that the time when that should occur would be when the nations in Western Europe had recovered economically sufficiently to afford their own forces.

There is no question but that those countries have now recovered economically.

Western Europe has a gross national product collectively of over $600 billion annually and, therefore, is one of the major economic powers in the world.

Yet, compared to the sacrifices that the American people make in the diversion of our resources and of our manpower, they divert a very small portion of their considerable gross national product to the defense of that sector of the world which they occupy.

For example, it is estimated that the American taxpayers and the American economy spend out of our gross national product approximately 8 percent for defense including the support of American forces in Western Europe.

While the countries in Western Europe are enjoying one of the greatest economic booms of all times, they spend about an average of 2.8 percent to 4.5 percent of their gross national product in the same effort.

If one wishes to analyze the tax rates paid by the taxpayers of those countries compared to the tax rates paid by the American taxpayers, one sees a similarly cheaper picture in terms of the defense commitment of many European taxpayers.

I realize the need for sustaining an interest on the part of the United States in the defense of Western Europe. I understand the need for the presence of American troops and American forces in Europe. But I also appreciate the need for the diminution in the numbers of those forces.

What we need in Western Europe and around the world are partners not clients.

What we need are allies and friends—and not dependents whom we patronize.

The American taxpayers and the American people are willing to share the burden of defense of Western Europe, but the American people will no longer carry that burden essentially alone.

We cannot forever divert our priorities away from the needs of the American people while those whom we protect decline to make the same kind of sacrifices at the same level of intensity.

Mr. Chairman, the amendment I have offered is a modest amendment. It reduces the number of forces between 30,000 and 50,000 men depending on the size of forces at the moment at which the amendment takes effect.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. BIESTER. I yield to the gentleman.

Mr. BROOMFIELD. Mr. Chairman, I support the amendment to the Defense appropriations bill which would place a limit of 270,000 on the number of American troops in Western Europe. I believe, Mr. Chairman, that we should reassess our military commitment to NATO in a light vastly brighter than the shadow of cold war in the fifties: the light of an era of negotiation.

With the rebirth of Western Europe over the past two decades the relationship of the United States to its NATO allies should have undergone a fundamental change; it has not. We still maintain a 300,000-plus man force in the area—that is to say, our troop commitment has remained relatively stable for the past 20 years. At the same time, the basic political reasons for maintaining this force no longer seem valid.

Within the NATO alliance there has been major political growth: First, with the support of American financial aid Western Europe has recovered economically from the destruction of World War II. The Atlantic nations have established strong and stable governments founded on just this prosperity, so that American men in Europe no longer protect a fragile and disjointed wartime alliance, but a sound and united bloc of nations, capable of a greater role in their own defense.

Second, the magnitude of the American NATO force in the fifties was a demonstration to our European allies that we really were concerned with the threat of Communist aggression and that we would not again withdraw into the shell of our traditional isolationism. The proof has been given. I do not believe any European government need fear a total American withdrawal in the near future.

Third, as is still the case, most of our European-based troops were centered in West Germany. The reasons for this were at that time quite sound: a fear that Germany would rebuild militarily under a vengeful new government or the possibility that it could be overrun by a Communist assault. Under the protection of American forces West Germany has developed a strong economy—perhaps the strongest in Europe—and a stable, democratic government. There is little danger, I believe, of a complete German collapse—with or without all 210,000 American soldiers.

Just as there have been real changes within the countries of the NATO alliance, so there have been substantial changes in the relationship of the alli-

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ance with the Soviet bloc. And both encourage the reduction of American forces in Europe.

Militarily, Mr. Chairman, I doubt that there is at the present time much reason to fear a major Soviet assault on the Atlantic community. Certainly, there was in the fifties, when the West was weak and the American commitment unsure. A more plausible threat of massive retaliation by the West has since been developed with the installation of our broad nuclear umbrella around Europe. The Soviet Union will rely in the future on smaller, more localized actions against individual countries, making inroads all the time, but careful not to touch off a nuclear confrontation.

This new military situation will demand a more mobile and more flexible NATO force, but it will permit troop reductions as well. We know that there is only the most remote chance of a huge attack on the heart of Europe; we might bolster our forces in the Mediterranean area, where surely there is more danger of an explosion. But even here, the 6th Fleet seems sufficient.

On the diplomatic front we have seen a considerable easing of tensions between the NATO allies and Eastern Europe. Perhaps the most encouraging sign was the recent West German-Soviet Nonaggression Treaty; but our own SALT talks and the interest of the Warsaw Pact in discussions for mutual troop reductions have both contributed to the new atmosphere of reconciliation across the continent. The chances of talks with the Warsaw Pact nations would be, I might add, greatly improved if we were to announce a withdrawal of American troops.

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My argument so far has been based on the assumption that our withdrawal would actually reduce the NATO troop level. I think that I have shown that this will not impair the strength of the Atlantic alliance. But there is no assurance that this has to happen: the European nations could and probably will increase their own military commitments. This would be in line, of course, with the President's call for our allies to take upon themselves a greater share of their own defense. It should at the same time enhance the spirit of unity and cooperation that now infuses all of Western Europe.

Mr. BIESTER. I thank the gentleman.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. BIESTER. I yield to the gentleman.

Mr. WIGGINS. Mr. Chairman, I wish to commend the gentleman in the well for the position that he has taken on this matter, and I wish to associate myself with his remarks.

Mr. BIESTER. I thank the gentleman.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. BIESTER. I yield to the gentleman.

Mr. RAILSBACK. Mr. Chairman, I also want to join together with our colleague in commending the gentleman from Pennsylvania, and I hope the amendment he has offered is adopted.

Mr. BIESTER. I thank the gentleman.

Mr. Chairman, I would close by simply saying that if you are concerned about the balance of payments and if you are concerned about the distortion of the priorities in this country and if you are concerned about the inequities in America carrying this tremendous defense load in all parts of the world, then join in support of this amendment to call upon the people of Western Europe to stand up in their own defense and that the burden is going to have to be more fairly shared.

Mr. SIKES. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think most of us feel that we have been providing a disproportionate share of the costs and burdens of defense in Europe as well as in other parts of the world.

Nevertheless, we have made commitments, and we honor them. We help to uphold NATO which has been a very important factor for the preservation of peace in Europe.

I can state that efforts have been in progress to try to resolve the question of troop strength in Europe more favorably from our standpoint. I feel that some progress has been made and it is true that we have been able to bring some forces back. There also have been changes in the deployment programs to permit a lesser number of U.S. forces to be stationed in Europe. The President has made it very clear that he is earnestly seeking to reduce the number of American forces as rapidly as he can from all parts of the world.

I just do not think that this is a time when we should require that a cutback be made in the number of U.S. forces in Europe by law. I think it would be precipitous and unwise. It would be interpreted in a most unfavorable light to us in other parts of the world.

There are other reasons. I do not think we should rock the boat during the SALT talks. We should lead from strength rather than weakness during our negotiations with the Soviets while we seek reasonable arms limitations.

I would like to leave one more thought. There is a crisis in the Middle East. It is a very serious crisis. We do not plan to get involved. We know the American people do not want another war. We are not prepared, either mentally or militarily, for another war. But trouble may come that is not of our choosing. We could find ourselves forced into action in that part of the world, and if that time should come—and again, we do not plan it; we hope that it does not come—but if the time should come when we would find ourselves militarily involved, it would be Europe that would be used for the deployment of American forces. A staging area would be necessary and Europe would provide a logical springboard. Regardless of this, the fact that our forces are there and that we are prepared for emergency should have a quieting effect on events in the Middle East.

Mr. Chairman, we would like to have our share of the costs reduced to a less disproportionate level, but from every standpoint I must hold that, to require by law that Americans be brought back at this time would be most unwise, and I ask for a vote against the amendment.

Mr. FINDLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I am glad to yield to the gentleman from Delaware.

Mr. ROTH. Mr. Chairman, I rise today in opposition to the amendment offered by my distinguished colleague and good friend, the gentleman from Pennsylvania.

I agree that there should be a substantial reduction of American troops in the very near future. However, I do not believe that a matter of such delicacy should be handled through an amendment to this bill.

I have long believed that a greater contribution in terms of manpower and money should be made by our NATO allies in Western Europe. However, at this critical point in time, when the President is seeking to negotiate peaceful solutions to the Near East and Indochina conflicts, I believe we must not, through legislative action of cutting off funds, give any impression of tying the President's hands by weakening our military capability. To me, it is not wise to require by law that a set number of American troops must be withdrawn by a fixed day when future events may require flexibility.

Western Europe is of critical importance to American security and we must maintain our NATO treaty commitments. Our basic contribution should be primarily sea and air power as well as providing a nuclear umbrella, but the Europeans should provide the land forces themselves.

Moving our troops out should be handled with great care. I oppose the imposition of a deadline because the withdrawal of ground troops could have an adverse effect in Europe. It is most important that the reduction of American forces be offset by additional troops of the western democracies. Unless handled properly, the opposite reaction could occur, the Europeans further decreasing their contribution.

I believe the proper course of action is for the Congress to pass a resolution recommending to the President that there should be a substantial reduction of U.S. troops in Europe but leaving to the President the flexibility to determine the rate and timing of these withdrawals. I would hope this expression of congressional intent would help set the stage for mutual pullback of troops by Russia and ourselves and not hinder this prospect, as I fear would be the case under the present proposal.

As a member of the Subcommittee on Europe of the House Committee on Foreign Affairs, I benefited from the hearings held between February 17 and April 9, 1970, on the subject of "United States Relations with Europe in the Decade of the Seventies." I urge the committee to recommend the policy I cited before of withdrawing a very substantial number of troops from Europe, but leaving the specifics of time and number to the discretion of the President.

It is my hope that no later than next year the United States can begin reducing its forces in Europe. I would hope that the number of troops to be withdrawn could be substantially in excess of 50,000, within the next 2 or 3 years. I believe that this policy should be executed to the maximum extent consistent with our security.

It is readily apparent that 25 years after the conclusion of World War II, the time has come for our NATO allies to assume a greater burden of the responsibility for maintaining a conventional warfare capability in their homelands.

Our NATO allies, especially the members of the Common Market, are enjoying vigorous, prosperous economies which could very well absorb higher levels of military expenditures.

In 1969 the United States spent 9.2 percent of our gross national product for defense while the 13 other NATO powers spent an average of 3.6 percent of their gross national products.

In 1969 the United States spent $78.47 billion on defense while 13 of our NATO allies together spent a total of $23.29 billion or an average of $1.79 billion for each country.

We now have 310,000 troops in the U.S. European Command area costing at least $2.9 billion annually. This is the price for maintaining military and civilian personnel in Western Europe and the operating cost of the 6th Fleet in the Mediterranean.

I would hope that the President would make it clear to our European allies what action we will take so that they can make plans to build up their troops. I also hope that this debate in the House today would help put on notice our European allies that they must assume a greater share of the burden.

I believe that the best interests of all nations concerned would be best served by this restructuring of the present arrangements so as to provide new vigor for the Atlantic alliance by increasing the strength of our NATO partners.

Mr. FINDLEY. Mr. Chairman, in considering this amendment, proposing to reduce U.S. troops in Europe by 50,000 we must keep in mind several fundamental factors.

First, most of the major movements in NATO in the past decade have been setbacks. This amendment would be viewed as one more—and a major one.

This interpretation, I am sure, is not accepted by the author of the amendment or by many of his supporters. No doubt they view the amendment as fully justified in military, as well as financial terms.

However, in the context in which it is now being considered the cutback will certainly be considered by many significant people worldwide as a major setback. It will be viewed as one more unhappy event in a rather persistent chain of melancholy events in NATO. At the same time it will be related by some to withdrawal patterns elsewhere—the British pullback from east of Suez, U.S. withdrawal from Vietnam—and to signs of isolationism here.

Let me mention some of the negative developments within the NATO community in recent years.

These include: withdrawal of France from the integrated command; reductions in forces by the United States, Canada, and Britain—partly offset by a recent brigade return; elimination—under NPT—of the NATO nuclear option; loss of naval and air advantages in the Mediterranean, with contrasting Soviet gains; disadvantage resulting from advance positioning of eight more Soviet divisions in Eastern Europe; commencement of the 1-year withdrawal stage under the basic alliance treaty. Positive developments include: NATO North Sea fleet coordination, consultation on SALT, NATO satellite, environmental discussions, additions to the U.S. 6th Fleet.

This amendment is a symptom of trouble ahead.

Domestic pressure for a major cutback in U.S. troops in Europe will increase, keep the administration on the defensive, and eventually prevail. Unless effected with great care, the cutback will enhance substantially Soviet influence throughout the continent. This amendment would not effect a cut with the needed care.

Making U.S. cuts likely are these factors: the general and growing demand for a lower U.S. military profile, a demand that will be intensified as our withdrawal from Vietnam proceeds; the requirements of fiscal and monetary policy; the knowledge that the most essential U.S. contribution to European defense is nuclear, not conventional arms; the belief that Europeans are not doing their share—U.S. NATO cost equals two-third of total defense outlay by other 14 nations.

The second prime fact I will cite is this: If U.S. troops are reduced, other nations will not pick up the slack.

Substantial increases in quantity of military forces from any quarter are unlikely. Quite the contrary. Quality improvements also will not be striking. Bleeding away of forces could quickly become a hemorrhage fatal to the integrated command.

For several reasons Germany will not increase substantially its own troops, nor is it apt to provide direct financing of U.S. troops.

Other allies either do not see a need for stronger military forces or feel an increase in their own conventional forces would have little real importance.

We should recognize, too, that divisive strains within the NATO community over trade, monetary, and political matters will persist, if not intensify.

Protectionist sentiment is rising sharply on both sides of the Atlantic. Northern "Socialist" states are increasingly hostile to Greece. The Italian Government is unstable. Turkey is almost isolated between the explosive Middle East and Soviet seapower. The Common Market is taking on greater protectionist character. Britain is now divided over the wisdom of seeking entry.

Germany's insecurity shows no sign of abating.

Chancellor Brandt's own future depends on gains through "east-politics," but at best he can win only very limited objectives. Under no circumstance will Russia yield control over Eastern Europe, including East Germany. German reunification, at least in the foreseeable future, is unattainable. If West Germany senses that U.S. troops are on the way out, it may lose all confidence in the credibility of U.S. nuclear deterrence and seek accommodation to growing Soviet dominance of the entire continent. This could eventually yield a continent of "Finlands."

In mentioning these factors, I do not argue for the status quo. I believe U.S. troops in Europe can be reduced substantially and safely.

To be safe to our national interest, as well as those of our allies, the reduction must occur in the proper context and setting. Today's deliberations hardly qualify.

When U.S. troops are reduced, the change must occur in a context which will show advance, not retreat.

This amendment simply cuts back on troops. It is stark and bare. This is true because of the restrictions under which amendments to appropriation bills can be considered.

If the U.S. troop cut were announced as a part of a broad long-term plan for NATO, a plan which would include substantial positive features as well as this negative one, a plan formulated within the councils of the alliance and announced as an alliance product—not unilaterally—then the cutback would not harm the cohesion and vitality of NATO. It would not be viewed as a setback.

In fact, I strongly support a troop cutback in such a context. I recently had the privilege of proposing such personally in a discussion with President Nixon. My proposal was that the heads of government of NATO negotiate a 5-year compact, binding—to the extent that the executive can do—member states to these items for the entire 5-year period; that is, minimum force levels, financial arrangements for expenses of common nature, and improvement of purely national character.

In my proposal I suggest the minimum U.S. troop level be two divisions.

Because of the long-term, joint sharing characteristics of the compact, the net effect would be advance for NATO, not retreat, even though U.S. troop cutback would be substantial—more than contemplated in this amendment.

The compact would deal with:

First. Minimum forces to be pledged to the NATO integrated command or otherwise—as with France—kept available for treaty purposes.

For the United States this should include modernization of our nuclear commitment. As the minimum for U.S. troops, I suggest two divisions but recommend that three be maintained for at least 2 years.

France would, I think, agree to maintain forces at certain minimums even though outside the integrated command.

Second. Financial arrangements for meeting expenses of common nature.

The main objective would be to establish a 5-year moratorium on divisive wrangling over offset purchases, budget contributions, intramural debts.

The unpaid claim dating from the transfer of NATO military hearquarters from France to Belgium hopefully could be settled in exchange for French agree-

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ment to specific natonal improvements and to long-term NATO use of French air space.

Third. Improvements in airfields, communications, port facilities, highways, railroads, distribution, and expeditionary force facilities.

These would serve civilian as well as military interests on both community-wide and national scales, and help to give the community a nonmilitary dimension of great appeal and value without subordinating national authority.

The treaty provision under which any member-state may withdraw on 1 year's notice would of course remain in effect—providing each nation with an ultimate way to terminate completely the provisions of the compact. Nevertheless, an executive understanding expressed through this compact would have great force—indeed, a force entirely adequate for the 5-year period.

These are predictable results of the compact:

It would give NATO a powerful, peaceful forward thrust.

It would deal effectively with all of the major factors now working against community interests, that is, by lowering our European military profile, easing our monetary and fiscal problems, putting our NATO contribution on a basis more balanced with that of our allies, retaining undiminished the most essential U.S. contribution—nuclear arms.

It would relieve anxieties—most critical in Germany—about the continuity and effectiveness of alliance deterrence.

It would provide a solid base from which the United States, Germany, and others can proceed, with minimum worry to their allies, in the "era of negotiation" with Communist governments.

It would bring France more prominently and usefully into community affairs, military as well as nonmilitary.

It would tide the alliance over the Vietnam-withdrawal period, one which may develop strong isolationist currents.

It would halt the internal bleeding of forces committed to the integrated command.

It would please powerful segments of public opinion on both sides of the Atlantic who wish NATO to exhibit a lower military profile and broaden activity in nonmilitary areas.

But, troop cuts taken unilaterally, as proposed in this amendment, would be a grave mistake, conceivably triggering a chain of other unilateral cutbacks.

Mr. MIKVA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I compliment the gentleman from Pennsylvania for his diligence in putting forth this amendment.

We have heard in opposition to the amendment that this is not the time. This is an argument that has been made for exactly the last 25 years—every time this subject has been proposed. Some time we have to ask: if not now, then when?

Every time the question of reducing the troop force in Europe has been brought up, immediately some country or other, usually West Germany, has said, "Oh, no, this is not the time."

My hat is off to Willy Brandt and his Finance Minister. I think at this point that they are the slickest bargainers in all Europe. They have certainly outslicked us. When we suggested as an opener that they might possibly start paying the cost of our troops, they said "Oh, horrors, we cannot do that. We cannot even afford to continue to buy our arms in the United States; we may have to buy them in Czechoslovakia." The Members know how our military people responded to that. It could be termed a Pavlovian response.

Then when we suggested that we would call back some of our troops, Mr. Brandt has said, "Of course, we will have to build up a German Army instead." I admit that raises the hackles of many people in Europe and many people in this country—including mine.

But all in all, it results in the fact that we have left over 300,000 hostages in Europe for 25 years, hostages to the question of whether we mean our support of the NATO countries. We have been supporting the NATO countries; unfortunately, West Germany has not been supporting the NATO countries. When Senator MANSFIELD was over in Europe last year, he discovered that some two West German NATO divisions, according to his observations, were not being maintained at full strength.

As Senator MANSFIELD pointed out in his April statement last year:

> West Germany has a lower per capita defense expenditure than Britain, France and the U.S. To make another comparison, West Germany's defense budget constitutes a lower percentage of gross national product than that of 5 other NATO countries (Britain, France, the U.S., Greece, and Portugal.)

They make a lower contribution of their gross national product than any other NATO country to the defense of Europe.

This is not a proposal to pull the American troops precipitously out of Europe. This is not a proposal to cut and run. But if Vietnamization makes sense in Southeast Asia, it certainly makes sense to have a much more gradual Europeanization in Europe.

What the amendment offered by the gentleman from Pennsylvania suggests is that we pull a very modest, almost symbolic beginning of our troops back from Europe, to suggest to West Germany and some of our NATO allies that if the Guam doctrine makes sense in Southeast Asia, it also ought to have some application in Europe.

The gentleman from Florida made reference to the fact that there is a crisis in the Middle East. I can say again that over these 25 years there have been crises in every part of the world. However, I do not believe the presence of troops in Europe can necessarily be relevant to the Middle East crisis at this time unless we propose that they swim across the Mediterranean.

I do not know why Europe would be any better staging area than here, if the troops were here. More important, I do not know why we should even contemplate "staging areas" as solutions to the Middle East crises.

This is not an overall troop cut; it is a cut in the number of troops stationed in Europe. It is a modest amendment. It is a modest amendment that can have a symbolic and significant impact on our NATO allies in terms of their recognizing their responsibility for troop coverage.

It can involve a very substantial cut in our budget here at a time when we need it desperately.

I urge support of the Members.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope the amendment will not be adopted for various reasons. First I shall address myself to the statement made by the gentleman from Illinois, who preceded me, that this amendment would somehow reduce the expenditures of the Federal Government. I refer to page 355 of part one of the hearings, to the testimony given by the Secretary of Defense on this very matter. I read a part of it:

> However, if we return all U.S. forces to the United States and kept them intact and ready for rapid return to Europe, our budget costs would be greater than those we incur by keeping the forces in Europe. It would be necessary to provide the forces two sets of equipment, one set in their hands in the United States to enable them to maintain their combat readiness, and another set in Europe for our use in combat. In fact, because of the practical limits on the prepositioning of equipment and on the feasibility of acquiring all the necessary mobility forces we would have very limited capability for war unless we had a warning time of several months.

So, Mr. Chairman, the idea that returning troops to the continental United States would not inhibit our defense in Europe, the defense of NATO, is a myth. Of course, it would inhibit it.

It seems to me this is not a time to be attacking the very integrity of NATO, as I am afraid this amendment would do.

The President of the United States has justly recently made a trip to the continent of Europe for the very purpose of assuring our allies in NATO that the United States still stands firmly behind its commitments and we are resolute in our support of NATO. I am afraid the adoption of this amendment at this time would undercut the good work of the President.

I have great respect for the gentleman from Pennsylvania, who has offered this amendment. I congratulate him on an amendment which is well prepared and well documented.

I should also say that I share the opinion of many who have spoken here that the nations of Europe should be doing more toward their own defense. I hope they will. However, this is not the way to achieve that end. The way to achieve it is by negotiations between our Government and their governments. The matter should be handled at a diplomatic level and not on the floor of a legislative body, as this amendment seeks to do.

Mr. BIESTER. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Pennsylvania.

Mr. BIESTER. I thank the gentleman for his kind words. I appreciate them a great deal.

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In fairness I believe we should also point out that the cost impact to which the gentleman referred is only one of several possible cost impacts. If in fact the troops withdrawn were no longer rotated as a part of the military unit, that division would close down and there would be a substantial saving.

Mr. RHODES. Of course, the gentleman is presupposing the troop level of the entire armed services would be reduced, and that is not necessarily a fact, because our NATO commitments would still be extant and must be honored.

I should inform the gentleman that much of our NATO commitment is met here in the United States with troops and naval forces stationed here but nevertheless committed to NATO. The only thing that would happen is that the troops the gentleman wishes to reduce would be brought home but would still be a part of the NATO commitment.

I am sorry to say that in my opinion this would not reduce the cost of the armed services but would actually increase them.

I hope the amendment will not be agreed to.

Mr. MONAGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment. There are two reasons why. One is long-range and the other is immediate.

So far as the immediate reason is concerned, it seems to me that it is not good policy for us here on the floor of the House to set a specific limit on the number of troops in any given theater. We have been through this in other areas of the world as well as Europe. I think, too, it is true that this is not the time to take any precipitate action of this type. Today, more than has been the case for a long time, what the United States does, what we do in a particular area on the matter of the withdrawal of our forces has implications that can be read in a certain way by those in the world who are our adversaries. Therefore, we should think very seriously before we take any step such as this.

It is interesting to look at the actual experience of what has happened to troop levels in Europe over the last 10 or 12 years. Actually, since 1961, the number of troops has been reduced from 417,000 to 300,000. That is a reduction of 117,000 over that period. So, as far as the factual situation is concerned then, there has been movement on the part of our Government in two administrations in this direction. We certainly should retain a safe number for the psychological reason, as has already been suggested; namely, the effect that the presence of U.S. troops in Europe has on other nations throughout the world and particularly behind the curtain.

Reference has been made to the visit of President Nixon to the Middle East. We know that some doubts have been raised about the readiness status of our 6th Fleet. Certainly we should not add any further doubt to that question in the minds of those who are making policy in the U.S.S.R. or elsewhere.

There is one other important factor, Mr. Chairman, which is that there is no suggestion of reciprocity here. If we do make reductions here, what about the troops in Poland, the troops in Hungary, the troops that have gone into Czechoslovakia; what about the Soviet fleet in the Mediterranean and also the new adventures that now are taking place in the Caribbean.

It is true that we could have more assistance from the countries of Europe. I think the Germans have done more than most. In fact, I am sure they would be willing to do even more. The fact is that there are offsets of some $800 million of purchases that the Germans are making here at the request of the Treasury Department. But something more in this direction, I am sure, could be achieved.

With the effect that this declaration of Congress would have, with the unfortunate effect that it would have at this time, I suggest we should not take this action and that the amendment ought to be defeated.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. Bingham).

AMENDMENT OFFERED BY MR. BINGHAM TO THE AMENDMENT OFFERED BY MR. BIESTER

Mr. BINGHAM. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Bingham to the amendment offered by Mr. Biester: Delete the period at the end of the sentence and insert: "except that this limitation shall not apply if the President shall determine, after the United States Armed Forces assigned to the United States European Command have been reduced to the level of 290,000, that the Soviet Union has made no comparable withdrawal of forces from the countries of Eastern Europe to the territory of the Soviet Union itself."

Mr. MAHON. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. The gentleman from Texas reserves a point of order against the amendment.

The gentleman from New York (Mr. Bingham) is now recognized.

Mr. BINGHAM. Mr. Chairman, the purpose of this amendment is to seek to introduce some element of reciprocity into the proposed troop reduction. I am in sympathy with the objective of the gentleman from Pennsylvania, but I think there should be some reciprocity. If the Soviet Union shows no inclination to withdraw its forces from the front lines in Eastern Europe, then the full carrying out of this proposed reduction should not be required.

Any substantial reduction of NATO forces cannot be made unless there is a corresponding reduction on the Warsaw pact side.

Mr. MAHON. Mr. Chairman, I make a point of order against the amendment on the ground that it requires a determination on the part of the President.

The CHAIRMAN pro tempore (Mr. Price of Illinois). The Chair has read the amendment and is of the opinion that it does require determinations and additional duties on the part of the President and, therefore, the Chair sustains the point of order.

The Chair recognizes the gentlewoman from Massachusetts (Mrs. Heckler).

Mrs. HECKLER of Massachusetts. Mr. Chairman, I wish to compliment the gentleman from Pennsylvania (Mr. Biester) for his leadership in offering this amendment. I feel that my sponsorship of it should not be interpreted in any sense as a lessening of our commitment to NATO.

I consider the NATO alliance to be a very important part of our commitment in terms of world affairs. At the same time this amendment, a modest one, is designed to recognize the changing realties in Europe and the changing priorities at home. We can hardly be accused of forsaking our commitment to Western Europe so long as America's nuclear arsenal remains the single most important deterrent to overt Soviet aggression. In fact, this small reduction of U.S. forces is insignificant when we consider today's astonishing mobility of troop units, which can be rushed to any part of the world within hours.

Beyond that, I believe this step is responsive to our domestic concerns and the reassessment of national priorities. The deficit in balance of payments resulting from our military presence in Europe is a major strain on the budget and an economy which is sorely pressed by inflation. The burden of the estimated $14 billion annual cost of U.S. support to NATO can be lessened progressively to the advantage of programs to provide urgently needed remedies for domestic ills.

The American taxpayer and citizen is best served, Mr. Chairman, as we prudently unravel the skeins of U.S. military involvement abroad. I might add that I am pleased we have the support of the Friends Committee for National Legislation for this very important and desirable amendment.

I believe that a phased withdrawal of our NATO forces can be begun, without damaging our ability to resist Communist aggression but with immense gain for our people and our Nation. Therefore, Mr. Chairman, I urge the adoption of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. Mikva).

(Mr. FARBSTEIN, at the request of Mr. Mikva, was granted permission to extend his remarks at this point in the Record.)

Mr. FARBSTEIN. Mr. Chairman, as chairman of the Subcommittee on Europe of the Committee on Foreign Affairs, this spring I held extensive hearings on U.S. relations with Europe in the decade of the 1970's. We heard from such expert witnesses as George Kennan, Marshall Shulman, General Goodpaster, General Lemnitzer, and others of equal expertise. It was their opinion that precipitous, unilateral and substantial reduction of U.S. forces in Europe at this time would weaken NATO's conventional capability and could have an unraveling effect upon the strength, unity, and cohesion of the NATO alliance.

It is my opinion that although a reduction of 50,000 of our forces in Europe would not be a substantial reduction, yet I must oppose this amendment because it fixes a date within which this reduction must be effected. I do not believe that this is advisable.

I expect shortly to issue a report based upon an investigation made by a member of the staff of the subcommittee which will call for a reduction of our forces in Europe of at least 50,000 and perhaps as high as 75,000. However, no date is set within which this reduction should take place.

Furthermore, I do not believe that the Congress should, at this time, direct either the time or the extent of such reduction. This is what the amendment would do. I believe that this judgment should be left to the President.

I do not believe that the President should be mandated to order a precipitous and unilateral reduction.

The situation in the Middle East and the increasing Soviet naval power in the Mediterranean could result in a Soviet-American confrontation over the next several months. Hence I do not believe that now is the time to direct the reduction of American military forces in Europe prior to June 30, 1971.

The report that I expect to issue will delineate specifically where I believe there should be such reduction. I might say that the recommendations call for reduction, not of combat troops, but of logistic and support troops and also the turning over of certain missions and functions to our European allies.

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Mr. Chairman, the United States today has approximately 300,000 military personnel in Europe and not 330,000. The bulk of these are in West Germany and it is estimated that the cost of maintaining these troops and civilian personnel in Western Europe, Greece, Turkey, and the 6th Fleet is approximately $2.9 billion annually.

There is no suggestion that the reduction of forces recommended in the amendment would result in a demobilization of these troops. Were they merely to be returned to the United States and retained in the force structure, the budgetary cost would remain the same or even, perhaps, increase.

Our NATO allies realize that because of the crisis in the cities and on the campuses, and the need to reorder our national priorities, they must do more to provide for the defense of Europe. In my opinion, they are willing to do this. As a matter of fact, a NATO study is being made to develop ways and means of offsetting some of the budgetary and balance-of-payments costs resulting from our military presence in Europe. Their report is due in early December. If we were to adopt that amendment, at this time, it could seriously affect the outcome of these negotiations.

There is no doubt that the United States will require a substantial military establishment during the decade of the seventies. These forces will be located either in the United States or in other areas of the world where the presence of U.S. forces is considered to be in the national interest. Reductions in the overall strength of U.S. defense forces are taking place as Vietnamization of the Indochina war continues. It is not likely that greater reductions would take place if the United States were to return forces from Europe. The United States has commitments around the world. The most important of these commitments is the NATO commitment.

I believe that any reduction of American forces in Europe should be done in an orderly and unhurried manner. This amendment, if passed, would not permit that.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, I find myself in great sympathy with the objectives of the amendment to reduce American troop strength in Europe by a substantial number by next June 30. I have expressed my support for such a reduction on previous occasions in this Chamber, and on one such occasion I quoted from an interview with former President Eisenhower in 1966, in which he said, and I quote:

> I do not believe that today the common security requires in American ground strength the six divisions now present in Europe. A fair and logical contribution would be no more than one corps of two divisions with reinforcing artillery and a reconnaissance regiment.

I do not think there are many Americans who realize that today, some 25 years after the allied victory in Europe, there are still 535,000 American personnel in Europe, some 330,000 of which are military personnel, and that the American taxpayer is footing a $2.9 billion annual bill to maintain that presence.

My good friend and colleague, the gentleman from California (Mr. GUBSER), after returning from the biennial military tour of the NATO Assembly, drew this conclusion, and I quote:

> Unless European nations and other members of the NATO Alliance are willing to make commitment of men, materiel, and money, to the extent necesary to make "flexible response" more than a myth, the tremendous U.S. presence and expense to the taxpayer is a waste.

Mr. Chairman, I fully concur with that assessment and think the time has come to serve notice on our NATO allies that they must contribute a greater share to their own defense, that America has been shouldering a disproportionate share of that burden for too long, and that a reduction in American resources and manpower is therefore imminent.

While I strongly feel that we must move in this direction with regards to our NATO commitment, I do not feel that an appropriations bill is the proper vehicle for initiating such a substantive policy change, especially when the change affects our good friends and allies. Serving notice through proper diplomatic channels and negotiations is one thing; serving notice on friends through an amendment to an appropriations bill is quite another and would understandably be interpreted by our allies as a slap in the face.

I am, therefore, reluctantly opposing this amendment and suggesting instead that the administration proceed to negotiate this type of an agreement through normal diplomatic channels. I know from my own discussions with administration officials that this objective is supported by the administration and that work has already begun to achieve it. I therefore urge defeat of this amendment with that understanding firmly in mind.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, I have some reservations about this amendment. I say this because I do believe that the security which these troops afford to Western Europe as a result of the commitment of U.S. forces to NATO is an integral part of the effort by West Germany to build bridges to the East.

I feel that if we unilaterally begin to pull our forces back it may undercut the efforts being made by the political leaders of West Germany to open up a further dialog with Eastern Europe. At the same time I must say I am deeply disappointed at the administration's move to restore full military aid to Greece. That kind of action will erode NATO faster than any other kind of action we might take. It is time that the American people demand that our Government have a decent regard for the political nature of the governments to whom we grant military assistance. Greece should not qualify for such aid under any standards of common decency.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, it is a great deal of expense to the American taxpayers to keep 200,000 troops or more in Germany, and it adversely affects our balance of payments. I think it is time when a progressive and wealthy nation like Germany can take on its own defense. In other words, let the German boys do such fighting as is necessary for Germany to do. Shall we let our own boys be mercenaries, be hired guns for Germany?

I think it is time for us to put this present method of doing things to an end. Germany is a prosperous nation, and can well afford this expense, and at the present time it has reached an agreement, a nonaggression pact with East Germany.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, about 4 years ago the United States unilaterally cut back on its troops assigned to NATO. About 3 years ago Great Britain did the same thing, and last year Canada unilaterally cut its NATO forces in Europe in half. If the United States through this amendment should unilaterally cut its forces still further, doing it on the basis instead of as a result of negotiations through NATO institutions, we would well trigger a hemorrhage fatal to this most essential alliance.

Mr. Chairman, I urge that we oppose the amendment.

The **CHAIRMAN** pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. BIESTER).

Mr. **BIESTER**. Mr. Chairman, the NATO alliance has a reason for being, and its reason for being is recognized by all of the NATO countries. It is that reason for being that will lead them to fill the gap created by our withdrawal of troops. And if the reason for being is so fragile that our withdrawal of that modest number of troops would lead to a wholesale withdrawal from the system itself, then it is more fragile than any of us in this House would suppose it might be.

With respect to the fiscal impact of my amendment I would refer the Members to pages 89 and 90 of the committee hearings, part 1.

Mr. Chairman, I believe that there has been enough said here by me, the hour is late and therefore I will yield back the balance of my time, and urge a vote in favor of my amendment.

The **CHAIRMAN**. The Chair recognizes the gentleman from Texas (Mr. MAHON) to close debate on the amendment.

Mr. **MAHON**. Mr. Chairman, I will yield back the balance of my time and ask for a vote on the amendment.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. BIESTER).

The question was taken; and on a division (demanded by Mr. BIESTER) there were—ayes 32, noes 77.

So the amendment was rejected.

The **CHAIRMAN** pro tempore. The Clerk will read.

The Clerk read as follows:

> SEC. 844. None of the funds appropriated in this Act shall be available for the purposes which would be authorized by section 610 of the Military Construction Authorization Act, 1971, as passed by the Senate.

AMENDMENT OFFERED BY MR. RIEGLE

Mr. **RIEGLE**. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. RIEGLE: On page 45, after line 8, insert the following:
>
> "SEC. 845. Notwithstanding any other provision of this Act, of the aggregate amount appropriated pursuant to titles I, III, IV, and VI of this Act, not more than $15,000,000,000 shall be available for expenditure for military personnel, operation and maintenance, procurement, defense readiness, or any other purpose in support of United States, South Vietnamese, and other allied armed forces in Vietnam."

The **CHAIRMAN** pro tempore. The Chair recognizes the gentleman from Michigan (Mr. RIEGLE).

Mr. **RIEGLE**. Mr. Chairman, this is a very simple amendment.

I think it is a good amendment. It would establish an expenditure limitation for all military expenditures in Vietnam for the fiscal year 1971 at $15 billion.

I would hasten to add that $15 billion is slightly more than the administration has apparently requested in this appropriation which is now before us, as was indicated in the full committee during consideration of this bill.

Let me just say at the outset—some people may ask "well, is this an appropriate amendment to offer today after we heard the President's new peace initiative last night on television?" I think it is. I support the President's peace initiative as I think most people here do.

In fact, this amendment does not interfere with that peace initiative in any way. In fact, it is entirely consistent with it, because, as you know, the administration has said all along it has a two-track policy in Vietnam.

One track is negotiation—and now we have the new set of proposals to advance on that track.

The other track, should negotiation not lead to a settlement, is Vietnamization.

Mr. Chairman, what we are talking about today with this amendment is that second track. We are just talking about Vietnamization. The money that is in this bill with respect to Vietnam is money which the administration has requested to implement its Vietnamization program.

In the defense budget, although it is not specified by line item, the administration is asking for a figure of approximately some $14.5 billion. With my amendment we would establish an expenditure limitation ceiling of $15 billion. So it would provide all the money that is being requested.

But the problem we have with defense appropriations is that over the course of the years of this war, we have not had specific appropriations for Vietnam. Part of the reason for this is that the Congress has been afraid to face up to the issue of Vietnam. In not wanting to face up to the war issue, we, as a Congress, have not wanted to talk in terms of specific amounts to fund the war. By some estimates of the total cost of the war to date, we have spent something on the order of $120 billion, not to mention the 50,000 American lives that have been lost.

So that we are suffering from the same problem today; namely, we do not have a line item amount to spell out the cost for the war in Vietnam.

But, in the light of the budget estimates that have been made, we have reason to believe that $15 billion will cover the program as envisioned by the administration.

What we do with this amendment is to say to the President, "Yes, we understand the request you are making and, under the existing circumstances, we will accede to that request. But we want to lock it in. We want to become coequal partners in this process as the Constitution requires. We want to make sure that you do not spend more than that, unless additional specific congressional authority is sought and granted."

If there is a need later to spend more than that, the President can then properly come back to the Congress and seek an additional amount.

So this amendment that I offer is consistent with the President's Vietnamization program. It is consistent with the constitutional provisions with respect to the declaration of and the sharing and carrying on of war activities.

It provides adequate flexibility as the President can come back to seek additional spending authority in the spring of next year, if he needs it.

Some might say that this is going to tie the hands of the President. This is not so. In fact, if we pass this amendment, we will be granting all the funds that have been requested, but we will be imposing a ceiling.

I would ask that you support this amendment. I think it is a reasonable amendment.

Mr. **MAHON**. Mr. Chairman, the figure that the gentleman referred to, $15 billion, is not the budget figure for the cost of maintaining our forces in Vietnam this year. The cost this year is in excess of $15 billion. The spending rate at the end of the year will be much lower than the rate at the beginning of the year, but the expenditures for the current fiscal year will be above the $15 billion figure. I do not think we should hamper the efforts of the President to bring this war to a satisfactory conclusion. I oppose the amendment and ask for a vote.

Mr. **GROSS**. Mr. Chairman, I move to strike the requisite number of words.

(Mr. GROSS asked and was given permission to revise and extend his remarks.)

Mr. **GROSS**. Mr. Chairman, I take this time to ask the chairman of the Appropriations Committee whether any of the funds contained in this bill may be used to hire mercenaries. In other words, we were paying all the costs of some 2,000 Filipino noncombat troops. I understand that we spent about $40 million and we got no fighting out of them. We extended them PX privileges, and reportedly they did a land-office business at our PX's in Vietnam and black-marketed the products. Can any of the funds in this bill be used to hire mercenaries such as Filipinos and Thais? I understand that we hired a division of Thais who have not done much fighting. I do not know whether the South Koreans have done much fighting over there, either. But are there any funds in this bill for the hiring of mercenaries?

Mr. **MAHON**. I think the word "mercenaries" is not the word applicable here. I would say there are no funds in the bill to hire mercenaries. But there are funds in the bill to help pay our allies who support us and help carry the burden of the war, giving them a part, or enabling them to carry out a part in order to reduce the responsibilities of our own fighting men. We would appreciate more assistance of this type.

Mr. **GROSS**. Is the gentleman saying—and surely he cannot be saying—that 2,000 Filipino noncombat troops have saved our troops from fighting in Vietnam? The gentleman surely cannot be saying that?

Mr. **MAHON**. We have many types of allied troops in Vietnam and, of course, they have made a contribution. To what extent, that may be a matter of discussion. Some are being withdrawn, as I understand it.

Mr. **GROSS**. As Stevedores and as purchasers of supplies from our PX's, which they promptly black market? Is

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this the kind of help that we are getting over there from our so-called allies?

Mr. MAHON. I understand they are support troops and they are contributing to the effort in South Vietnam.

Mr. GROSS. They are stevedores, I guess, and I question the support any of them have given us.

Mr. CONYERS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, in view of the fact that there is apparently less enthusiasm than the gentleman from Michigan (Mr. Riegle) would have wanted in connection with this very important amendment, especially in view of the recently stated posture of the President, I am pleased to go on record in support of this amendment. It is as significant as any consideration we have discussed here today. I have read the gentleman's separate views. I think they are cogent, direct, and I endorse them as well.

We have a House of Representatives that has been voting appropriations for Vietnam for a number of years consistently in violation of the Constitution of the United States, in my judgment. If that is what the gentleman from Michigan was saying in his separate views, I think a number of constitutional authorities will agree with him. I am very pleased to support the gentleman's amendment. I commend him for having not only the good commonsense but the courage to bring it up in this House.

Mr. RIEGLE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Michigan.

Mr. RIEGLE. First, let me say I appreciate the kind remarks of my friend, the gentleman from Michigan. To make sure that the record is clear, let me address the issue of the amount of expenditure that the administration anticipates spending on military operations in Vietnam for fiscal year 1971.

It was my understanding from the discussion of this issue within the full Appropriations Committee that we were talking about a figure of some $14.5 billion. But let us assume for a moment that is not the exact figure. Then I would like to be enlightened by the chairman, or anyone else, as to what a more accurate figure would be for the coming year, because $14.5 billion was the figure that was used in the midst of those proceedings. What is the likely figure we will spend in Vietnam for all military operations for 1971?

Mr. CONYERS. If the gentleman is a member of the committee and he has not found it out until now, I wonder if he is going to get it on the floor today.

Mr. RYAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I simply have this question. The distinguished chairman of the Appropriations Committee did say that the cost of the war would be in excess of $15 billion by a great deal. Would the Chairman enlighten us and tell us what the cost of the war will be in fiscal year 1971?

Mr. MAHON. Mr. Chairman, there are several ways of calculating the cost of the war in Vietnam, and there are many figures that have been used. The cost of the war at one time was about $30 billion, according to the best estimate—and frankly, I do not have too much confidence in these estimates. It all depends on what factors are taken into consideration in arriving at the estimates. The Secretary of Defense gave the committee a figure as to the cost of the war in Vietnam for fiscal year 1971. That figure was classified, but I can say—and I do not know why it should be classified—it is something less than $20 billion and something above $15 billion, which I hope would be satisfactory for our purpose. That is the best I can do under the circumstances.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Riegle).

The amendment was rejected.

AMENDMENT OFFERED BY MR. FRASER

Mr. FRASER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fraser: On page 45, after line 8, insert the following:

"Sec. 845. (a) None of the funds appropriated by this Act shall be used to finance in any manner whatsoever any combat or support operations by any United States armed force in Vietnam other than those such operations which are necessary to carry out the safe and orderly withdrawal of United States forces and United States prisoners of war from Vietnam: *Provided*, That the funds not expended or obligated because of the limitations contained in this section shall not be otherwise expended or obligated.

"(b) Notwithstanding any other provisions of this Act, none of the funds appropriated by this Act shall be available for expenditure nor shall be obligated for expenditure after June 29, 1971 to finance United States military personnel, other than advisors, in Vietnam: *Provided*, That the funds not expended or obligated because of the limitations contained in this section shall not be otherwise expended or obligated."

Mr. FRASER. Mr. Chairman, this is the amendment which, in effect, would carry out the intent of H.R. 1000. It is similar in its thrust to the so-called Hatfield-McGovern amendment in its earlier form, which was discussed in the other body.

What this amendment would do, if accepted by the Congress, is to provide that money for fiscal year 1971 could only be spent for the safe and orderly withdrawal of all U.S. forces from Vietnam, with the withdrawal to be completed by the end of the fiscal year.

It also seeks to obtain the return of American prisoners of war in Vietnam.

Mr. Chairman, since this amendment was first discussed, I think it is fair to acknowledge that the public concern has diminished. In the light of the President's address to the American people last night, it could be argued that this is not a timely proposal to submit to the House. I do not want to be a critic of what the President had to say last night. If what he had to say makes the flickering light of the candle which shows the way to peace a little stronger, I am 100 percent in support of that effort.

There are many uncertainties about what the President had to say last night. There are many unanswered questions, questions which may be explored and I hope will be explored at the negotiating table.

But one thing the President called for was the negotiation of the withdrawal of American troops from Vietnam. Why should the United States negotiate for the withdrawal of American troops? What accountability do we have to Hanoi when we decide the time has come for the United States to disengage from this costly, this ghastly mistake, perhaps one of the most serious mistakes in American foreign policy?

The United States has been in Vietnam longer than it has fought in any other war. The lives lost, the casualties suffered, the billions expended are known to every Member of this Chamber.

I frankly do not have confidence in the possibility of a negotiated political settlement to end American involvement in that war. I hope I am wrong. One has to recognize the nature of this war—to embrace fully the realities—before one can claim with any force or any conviction that a political settlement is in fact a likely way to terminate that war.

Here we have the appropriation bill, which is the jugular vein supplying the money that keeps American troops in Vietnam. Day in and day out I am asked by my constituents, "What are you doing to bring American involvement to an end?" I have to answer that there is only one power in the House, really, with respect to the continuation of our involvement, and that is over the funding of the military operations in Vietnam itself. That is why this amendment becomes the appropriate vehicle to say that the time has come for the United States to recognize that whether we stay there another 12 months or 24 months or 48 months the outcome in Vietnam is very likely to be the same. We cannot write the future history of Vietnam. That has to be settled by the Vietnamese themselves.

So I urge support of an amendment which says the time has come for the United States to begin an orderly and safe withdrawal of its forces and to leave to the Vietnamese the settlement of the future of their nation.

Mr. MOORHEAD. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I do not think the facts have been stated properly on the cost in terms of American lives as well as dollars of the vague withdrawal plans of the Nixon administration. Recently Arnold Kuzmack, an analyst of the Brookings Institution in Washington, made estimates of the casualties and costs for different withdrawal plans from Vietnam. Nixon has neither set a date for withdrawal nor specified the number of men he would leave in Vietnam for technical, logistic, artillery, and air support after the main part of our force has been withdrawn.

Apparently he believes a weekly casualty rate of 50, 70, or 100 Americans is acceptable to the American people. When total estimates of American deaths and dollars are made for different withdrawal rates the results should shock the American people into putting more pressure on the President and the Congress to end this war.

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For example, this analyst estimated that withdrawal at the current rate with a residual force of 50,000 men would cost the United States—between fiscal year 1971 and fiscal year 1795—$25.7 billion, 7,400 additional American lives and 65,450 additional casualties. If the administration—as Secretary Laird has been quoted—left a residual force of 200,000 men the cost to the United States would be $46.4 billion, an additional 14,700 American lives and 130,300 additional casualties.

Now the relevant question that has to be put to the American people is how many more American lives are we willing to invest in this ill-conceived operation—how much more of this Nation's resources and how many more of our boys are we willing to bring home maimed? Is our national interest in Vietnam worth another 14,000 more American lives? I think not.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it shocks me to hear that the very able chairman of the Committee on Appropriations, who I know has been most diligent in determining all of the facts that are available to him, cannot find out, with reasonable precision, what the war in Vietnam costs and cannot reveal to this body on the floor the cost, estimated by the Pentagon, because it is classified. Article I of the Constitution of the United States provides that the Congress shall have the power to levy and collect taxes, to pay the debts, and provide for the common defense. It, solely, has the right to declare war. Yet, when it is called upon to levy the taxes and pay the debts, it cannot know how much the cost of the war is which incurs that debt, because apparently the Pentagon will not tell the Congress what that cost is. I think that is shocking. This body alone makes a decision about levying taxes and making war against our enemies and it alone has the power to initiate taxes to pay those debts, and it has the responsibility of paying those debts. Its great power in the three branches of Government is the power of the purse. Yet we cannot know the amount of the debt involved in a war which we alone can authorize.

Mr. MAHON. Mr. Chairman, will the gentleman yield to me?

Mr. ECKHARDT. I yield to the chairman of the committee.

Mr. MAHON. I would say to my dear colleague from Texas that the Secretary of Defense gave us the precise figure as to his estimated cost of the war in Vietnam this year. He said it was a classified figure, so we did not put it in the record. I have said that it was somewhere between $15 billion and $20 billion. I am not aware of the reason for classifying the figure. But dealing as the committee does with so many of these defense matters, when the Secretary of Defense says it is classified, you hesitate to make the figure public.

Mr. ECKHARDT. I certainly want my colleagues to understand this is in no sense a criticism of the chairman, but I most strongly criticize the Department of Defense for even implying that this is classified, because I see no way in the world that the enemy can gain any advantage by knowing the total amount that we are paying for the war in Vietnam.

Mr. RIEGLE. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I am glad to yield to the gentleman.

Mr. RIEGLE. I think we have to emphasize the fact that this may be their estimate, but if we pass this bill today the Department of Defense has a blank check. It can spend $17 billion or $27 billion or $47 billion in Vietnam. The fact of the matter is that we have no control over it, because we do not want it. We are giving away that control here, as we have with every previous appropriation bill before this Congress, by not specifying the amount of money for Vietnam. It is a blank check. That is what we are doing. We are issuing a blank check for Vietnam, which is wrong, and I object to it.

Mr. ECKHARDT. I certainly agree with my colleague, but what shocks me more than that is that a body of the Government under our control comes to us and tells us that we cannot have for debate on the floor the dollar figure that the Pentagon knows concerning a matter that affects very importantly the welfare of our country.

Mr. CONYERS. Mr. Chairman, will the gentleman yield to me?

Mr. ECKHARDT. Yes. I am glad to yield to the gentleman.

Mr. CONYERS. I am pleased to know that the gentleman does not feel the chairman of the committee is at fault in this matter. Perhaps he is not. But I will say every Member of this body is at fault if they go on record as supporting this continuing acceptance of an unspecified figure when the chairman makes it clear to us that there is no reasonable notion put forward to support why we should not know the exact figure.

Now, Mr. Chairman, I want the gentleman in the well to be assured that whatever that figure when it is revealed turns out to be it would in no way change my opposition to this entire bill and the fact that I am going to vote against it.

Mr. ECKHARDT. Mr. Chairman, I might add that I appreciate the Chairman's estimate between $15 and $20 billion, but in most matters I would like to know within a closer figure than $5 billion what we are spending.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto do now close.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. CONYERS. Mr. Chairman, I object.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. CONYERS. Mr. Chairman, I object.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. CONYERS. Mr. Chairman, reserving the right to object, for about 6 years I have seen this procedure go on in the House, and I think there should be some mention of it at this time.

First of all, it seems more than coincidental that a Thursday was selected to bring up a measure of this significance. I can understand the pressure under which the Members are to return to their districts to meet their obligations to which they are already committed.

Mr. ARENDS. Mr. Chairman, regular order.

Mr. CONYERS. It would seem to me that we might be able on a subject of this magnitude——

Mr. ARENDS. Mr. Chairman, regular order.

The CHAIRMAN pro tempore. The gentleman from Michigan will address himself to the question under consideration.

Mr. CONYERS. Mr. Chairman, I am hopeful that the chairman of the committee will at least extend this to 25 minutes before we close off debate and, if not, I shall continue my objection.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 15 minutes.

The motion was agreed to.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I rise in support of the Fraser amendment which has been rightly called the end-the-war amendment. If adopted, the President's efforts to arrive at a negotiated peaceful settlement in Indochina, would in my judgment be furthered, not frustrated by this amendment.

Considering the buildup for President Nixon's address of last night, and his own characterization of his proposals as moving us closer to a time of peace in the world, the specifics of his proposals came as a distinct anticlimax. What was new was certainly not startling, and I am very much afraid the President's approach is not going to produce the results he deeply desires.

Nevertheless, President Nixon's new proposals for an approach to peace in Indochina should not be dismissed out of hand as a purely political preelection gesture. They are, I am convinced, serious proposals, which come as the result of a great deal of labor in the executive branch, and I hope they will be treated as serious proposals by Hanoi and the NLF and their supporters. If taken together with the eight-point plan put forward the other day by the Communist side they should provide a basis for serious talks, especially if those talks can be held in private.

The President's proposal for a standstill cease-fire is one that the United States should have made a long time ago, not so much because it will succeed—I doubt that it will—but because it puts the United States in the positon of wanting to stop the killing. Even more encouraging for the future of the negotiations is the fact that the steady opposition of the Saigon regime to a standstill cease-fire has been finally overridden, and Messrs. Thieu and Ky were apparently told that they had to accept it, no matter how grudgingly.

If this sets a precedent for the future, and if the Nixon administration will continue to be prepared to insist on following what the United States regards as a reasonable course toward a fair settlement, without allowing the Thieu-Ky regime to exercise a veto power, the prospects for peace will be enormously enhanced.

The President's proposal is also to be welcomed because it contains a clearer commitment than he has made before to the principle of a total American withdrawal of troops once a settlement is arrived at. In addition, the speech was also significant for some of the things it did not contain; for example, President Nixon omitted what has become a customary condemnation of the idea of a coalition government.

On the other hand, surely the administration must recognize that the proposals in their present form will not be acceptable to the other side. A key point in the Communist position is that the government that dominates South Vietnam when elections are to be held must not be the Thieu-Ky regime, and the President gave no hint that he would in any way abandon his full support for that regime. Indeed, the President exaggerated and distorted the Communist position in this regard, making it sound is if the Communists were reverting to their position of 4 or 5 years ago when they were insisting that the NLF must be accepted as the sole representative of the South Vietnamese people.

Also, the President did not make any substantive move toward the Communist position that any cease-fire should follow, rather than precede, a political settlement. However, his speech was subject to the interpretation that the negotiation for a cease-fire and the political negotiations could go forward simultaneously. In this respect, as in other respects, it is to be hoped that the Communist side will choose to interpret the American proposals in their best possible light, as President Kennedy did the proposals of Mr. Khrushchev at the time of the Cuban missile crisis.

Nothing in the President's speech has altered my view that the United States should embark on a fixed and rapid program of total troop withdrawal as the amendment before us would require. To announce such a program would make the Saigon regime recognize the necessity of being much more flexible and amenable to a reasonable political settlement than it has been so far. And it is quite possible that the announcement of such a program would loosen up the other side as well: There is good reason to believe that Hanoi does not really want American forces fully withdrawn until a settlement has been reached.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Chairman, I think all of us applaud the views that the President of the United States expressed last night, and I see nothing inconsistent in the proposal with the goals and purposes and hopes that the President expressed to the American people.

This war has gone on too long, and it has cost far too much in lives and resources. It has accomplished far too little, and its futility is abundantly evident. It has caused frustration at home and abroad with our national goals and purposes, and it is high time that Congress asserted the warmaking power, and expressed the will of the American people to end this ghastly affair.

Mr. Chairman, I wholeheartedly support the amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, I hope that the Members will consider the fact that we are legislating on an amendment that could bring an end to the war, a war for which there has been no constitutional authority, a war for which a great number of the American people have continued to express their opposition in a number of ways. And that here at this late hour in the evening we are now engaged in the practice of cutting off debate by majority consent, so that there is something less than a full discussion on the part of the Members on a bill that requires expenditures of $66.6 billion by the American taxpayers.

Mr. Chairman, I do not think we can legislate under this kind of time restriction in a reflective or responsible manner.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Chairman, I do not know how I could say anything useful in 45 seconds, so I will yield back the balance of my time.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Wisconsin (Mr. DAVIS).

Mr. DAVIS of Wisconsin. Mr. Chairman, it seems to me that at the very least this could be called a meaningless amendment, and that at its worst it is a highly mischievous one, for it raises a question as to just what orderly withdrawal means.

Does orderly withdrawal permit the sending out of armed patrols? Does it permit reconnaissance flights? Does it permit the sending in of supplies for those who are in the process of withdrawing? I think these are questions that need to be answered much more clearly than through consideration of this very general amendment.

I question what those who favor this amendment mean by questioning the constitutional authority of our presence in Vietnam. They seem to concede that it is constitutional if it is within the limits they place, and that they seek to impose, but that it is unconstitutional if it goes below their so-called standards, and I think that is a false premise.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. KOCH).

Mr. KOCH. Mr. Chairman, I rise to support the amendment offered by the gentleman from Minnesota (Mr. FRASER).

Everybody in this House has reached the point where they state they are for orderly withdrawal and for ending the war. I do not know of anyway we can do that better than to support this amendment.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentleman.

Mr. CONYERS. I would beg to correct the gentleman—because everybody here is not for the withdrawal.

Mr. KOCH. They say they are—they say they are. This amendment puts them to the test.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. RIEGLE).

Mr. RIEGLE. Mr. Chairman, I would just like to comment on the question raised as to why anyone would wonder about the constitutionality of this war.

As I read the Constitution, the President is not at liberty to send this country into war or to keep it at war for 2 years or 4 years or 6 years or 8 years.

But we are at war and there has been no formal declaration of it and I know of no other congressional authority that would constitute a proper constitutional authorization.

If someone here can cite such constitutional authorization I would like to hear it.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. RYAN).

Mr. RYAN. Mr. Chairman, as a cosponsor of the McGovern-Hatfield amendment to end the war—House Resolution 1000—I support the similar amendment offered today by our colleague from Minnesota (Mr. FRASER). This amendment sets a deadline for the termination of U.S. involvement in the conflict in Vietnam—June 30, 1971.

The only way to end the death, destruction, and devastation in Southeast Asia is for Congress to exercise its constitutional power over the purse and cease appropriating the money which permits the war to continue.

It is shocking that Members of the House are asked to vote money to finance the war and at the same time are told that the specific amount to be spent is classified. All we have learned from the chairman is that between one-fourth and one-third of the $66.6 billion bill before us is estimated to be for the war.

As one of those seven Members who voted against the first supplemental appropriation bill for Vietnam in 1965, and who has voted against every Vietnam appropriation bill since, I believe the amendment offers Congress an opportunity to begin to end the tragic conflict which has taken some 43,775 American lives in combat. That's the least the House can do. Otherwise the administration will be handed another blank check.

The CHAIRMAN pro tempore. The

XUM

Chair recognizes the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Chairman, we have been talking about negotiation—and we all wish that there could be a negotiated end of this war.

Let me remind you that the only things we have agreed upon after 2 years of negotiation are the place, the time, and the size of the table.

I suggest to you that tying the hands of the President of the United States the way this amendment would do is no way to get a negotiation.

Obviously, the North Vietnamese would only wait then until all American troops have gone out at a time certain, and they would try to move in on the South Vietnamese.

No, gentlemen, the only way to get this war over with is to deal through strength, and this amendment is certainly not doing that. I hope the amendment will be defeated.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, I think it ought to be perfectly clear from the wording of the amendment that it would authorize such operations which are necessary to carry out the safe and orderly withdrawal of U.S. forces.

This leaves it up to the President. All we are asking is that he establish a schedule to bring the troops out by the end of the fiscal year.

If we propose to stay in Vietnam and deal from strength, we are not going to accomplish that either under the President's policy, as it has been followed in the past or under the President's policy, as it was enunciated last night.

The President is taking some troops out, but I think what we need to do is to set a schedule and be sure that we get out within a reasonable time.

(Mr. COHELAN, at the request of Mr. FRASER, was granted permission to extend his remarks at this point in the RECORD.)

Mr. COHELAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Minnesota (Mr. FRASER).

In the aftermath of the Cambodian incursion, a few Members of the House and the Senate began planning to legislate in a manner that would reassert congressional prerogatives in the area of foreign policy, specifically in extricating the United States from the Vietnam quagmire. The result of this action in the Senate was the Hatfield-McGovern amendment and the House is now considering the amendment to assure an end to large-scale U.S. military presence in Vietnam.

Mr. Chairman, the time has long passed to attempt to obscure the issues of this tragic war. Most of the rhetoric about troop withdrawals has been covered in terms of "combat" and "support" troops. When all of the semantic definitions are removed this point remains: after combat troops are removed the United States will still have a manpower commitment of over 200,000 in Vietnam. This, to my mind, is not fulfilling the announced intention to end the direct U.S. military involvement as enunciated in the Nixon doctrine.

In addition, Mr. Chairman, I am not so cynical as to believe that the opponents of the war accept the large-scale U.S. presence even though it does not include draftees as recently announced by the Secretary of Defense. The social and political cost both to our Nation and in Southeast Asia precludes acceptance of such course of action.

I strongly endorse the amendment which has been called the amendment to end the war. In fact the amendment is narrower than that: it provides for the end of the direct participation of the U.S. forces in this war and could pave the way for a realistic settlement in Southeast Asia.

I was pleased with the President's statement on Vietnam last evening and I share the hope that these proposals will contribute to the formulation of a negotiated settlement. In the meantime, however, we must continue to limit our direct military involvement. We must not lose sight of the fact that the Vietnamese war is basically a civil war—one that must be resolved by the Vietnamese themselves. Given this central fact, the United States should continue to remove its troops. This assertion of congressional authority will assure that our troops are withdrawn.

I urge my colleagues to vote for this amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. MAHON) to close debate on the pending amendment.

Mr. MAHON. Mr. Chairman, we all want to see the war brought to an honorable and satisfactory conclusion at the earliest possible moment. I believe that opinion is widely shared by the American people and by this House.

But this amendment would not operate in the best interest of the United States and it would not help us to move toward a satisfactory conclusion of the war.

In my opinion, this amendment complicates the problems and makes the problems of the President more difficult.

I ask that the amendment be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRASER).

The question was taken; and on a division (demanded by Mr. FRASER) there were—ayes 23, noes 65.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. RIEGLE

Mr. RIEGLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RIEGLE: On page 45, after line 8, insert the following:

"SEC. 845. Notwithstanding any other provision of this Act, none of the funds appropriated by this Act shall be available to finance United States ground combat forces in Vietnam after June 20, 1971: *Provided*, That any funds not expended or obligated because of the limitation in this section shall not be otherwise expended or obligated."

The CHAIRMAN pro tempore. The gentleman from Michigan is recognized in support of his amendment.

Mr. RIEGLE. Mr. Chairman, I recognize the lateness of the hour, so I shall not use all my time. I will be as brief as I can in explaining exactly what this amendment would do.

If you read the formal presentation of the plans of the Department of Defense prepared by Secretary of Defense Laird, the most up-to-date formulation of those plans, you will read that it is the announced plan of the administration to completely phase out all American ground combat forces from Vietnam by July 1, 1971. That document is here, and anybody who wants to read it is welcome to do so. Phase 1 of the administration's Vietnamization program, which is the conclusion of all American ground combat operations, is to be concluded by July 1971.

My amendment would provide the funds necessary to complete that transfer of responsibility to the South Vietnamese, and would establish a date of June 20, 1971, to have that job done, and beyond that date there would be no funds provided in this bill to continue American ground combat operations.

The reason the date of June 20 is selected is that it does create a 10-day lag before fiscal year 1972 money would be available to continue American ground combat operations.

We are preparing, with this bill, to sign a blank check for the war. I happen to think that this is a mistake, in the absence of any specific constitutional authority to carry this war forward. Because this war is not declared, not authorized, not over, and it is not in the strategic interest of this country. It is an accidental war. It has been a mistake for our country.

Through this amendment we can put a limitation on how long the dying will continue, and I mean deaths of American troops in ground combat operations. I am saying: Let us take the President's plan; let us take exactly what the administration has said it wishes to do; and let us lock-in that promise and lock-in that commitment, and let us share the responsibility for it. That is what the Constitution of the United States says we ought to do, but which we have avoided successfully, to the peril of this country, for 8 long years. But let us sign up today and shoulder our share of this constitutional responsibility by establishing an expenditure limitation that says: Yes, we will accept your timetable through Phase 1. We want that promise kept, because American boys, if they have to die for another 9 months, that is long enough. But beyond that time we expect that promise to be kept.

So I ask for your support of this amendment because it is consistent with what the President has asked for. It is his plan. It is flexible. It is within the Constitution. And if he wants additional authority, let him come and ask for it next spring, and let us consider it as a body, and at least, at that time, squarely face the issue and not slip out the side door as we have done for 8 years.

(Mr. ROBISON asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ROBISON. Mr. Chairman, I

XUM

warmly welcomed the new initiatives toward peace in Indochina as announced last night by President Nixon. The package put forth by Mr. Nixon is a reasonable—even generous—offer, and constitutes a sound basis for hope, even despite the anticipated public rejection of it this morning by the Communist side at Paris, that the end of this long and tragic war may, indeed, be in sight.

All of us want that war to end—and at the earliest possible date. No one, I am sure, desires its termination more fervently than Mr. Nixon; and no one of us, today, would wish to do anything that might, in any conceivable way, disrupt or impede whatever chance of success the President's new initiatives may have.

However, I find myself, at this moment, in a considerable quandary. As a member of the Select Committee on United States Involvement in Southeast Asia that this House sent to the former Indochina area in June of this year, I saw, for myself, the great strides we have been making, with our South Vietnamese allies, toward Vietnamizing what remains of this war. I returned home especially impressed with the South Vietnamese capability, and willingness, to assume an ever greater share of the burden of all phases of combat in the continuing conflict, but particularly with their present capacity—and their immediate potential—for assuming almost the full burden of ground combat in what remains, as it has always been, a war for them to win or lose.

Though they will have to speak for themselves, I also believe a majority of our committee was similarly impressed and that nearly all of us were hopeful that, by spring or early summer of next year, it would no longer be necessary for American boys to risk their lives and limbs in ground combat missions anywhere in South Vietnam except insofar as such participation might still be required to defend either themselves or their positions. After having viewed nearly every aspect of the Vietnamization program, as being carried out by the several branches of service, some of us even offered a number of recommendations as to how that program might be expedited in various ways, and I think it is safe to say that some of those recommendations have been, or are being, implemented.

In any event, upon my return I offered a resolution—House Concurrent Resolution 698, which was later reintroduced with some other sponsors as House Concurrent Resolution 703, and has since again been reintroduced in a stripped down version, as House Concurrent Resolution 756. In doing so, I had several purposes in mind, primary among which—though I recognized it as too late to redeem past Congresses from the stigma of standing idly by while the buildup in Vietnam went on—was my desire to have this Congress share with the President the burden of framing a proper withdrawal policy, for it is clear, come what may, that we are now withdrawing from Vietnam.

A secondary purpose was to point up the self-evident fact that, while U.S. troop withdrawals can Vietnamize the war, they cannot end it for, as many South Vietnamese said to me while I was over there:

> Vietnamization is a fine thing, and we support the concept since this is our war, but while it means the end of the war for you, for us it means the war will go on and on.

My keener appreciation of this fact, as gained during my visit, and my concern over whether or not the American people are really willing to support a continuing, costly military assistance program to Saigon even after Vietnamization is complete, are complementary reasons why, for me, the President's new initiatives were so welcome.

In any event, my resolution—or resolutions—avoid the fatal defect as I saw it in either the McGovern-Hatfield resolution in the other body or House Resolution 1000 in this; the defect being the attempt to mandate an overall withdrawal deadline on the President through a cutoff of funds. In lieu of that unwise approach. I suggested that Congress should fulfill its advisory capacity toward our Commander in Chief—and thus fulfill in part its shared role with him in framing foreign policy, generally—by recommending, as the "sense of Congress," a withdrawal time frame. I believe we have the capacity, and certainly the responsibility, for going that far. Accordingly, my proposal embodied a recommendation to the President for an end, first, of our participation in ground combat anywhere in Indochina by May 1, 1971, and, second, for an end of our other combat-support activities there by July 1, 1972. Please note, again, whether you agree with my target dates or not, that these were "sense of Congress" recommendations—not mandated deadlines.

Now, I have just voted to help defeat House Resolution 1000, as offered by way of amendment to this bill. I have voted against it because there are so many ambiguities in the present military situation in former Indochina, and the President stands—particularly at this moment—so much in need of all the flexibility and negotiating room he can manage, as to make it most unwise to attempt to force him to what would amount to a total, unilateral withdrawal from Vietnam by next July 1.

But the pending amendment, limited as it is to our continued participation in ground combat, is quite another thing. I still do not like a mandated deadline—via a cutoff of funds—even for this specific purpose and, if the rules of the House permitted, would now be offering that part of my resolution which pertains to ground combat as a substitute for the pending amendment. Such a substitute might have a fair chance of success, since I believe many Members here feel as I do on this point.

Since that door is closed to me, however, I believe I have—in good conscience—no other course to follow but to support the pending amendment.

And I will do so because I believe—very strongly—that we now have, at great cost to ourselves, done about all we can for the people of South Vietnam, and won for them all that was ever winnable in this conflict—which is a chance to stand on their own two feet; and further because, in line with such thoughts, and my own personal observation of the situation in Vietnam, we certainly can, and should—and probably will, anyway—be out of all direct participation in ground combat anywhere in South Vietnam well before next July 1.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. RIEGLE).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MOORHEAD

Mr. MOORHEAD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. MOORHEAD: On page 45, following line 8, insert a new section as follows:
>
> "SEC. 845. Notwithstanding the foregoing provisions of this Act, the aggregate amount to be appropriated by this Act shall not exceed $65,000,000,000."

Mr. MOORHEAD. Mr. Chairman, I rise in support of the amendment which I offer on my own behalf and for the gentleman from Ohio. I believe that the committee, under the able leadership of the gentleman from Texas (Mr. MAHON) is highly deserving of praise. Reviewing and scrutinizing a bill of the size and complexity of this one is a monumental task. The staff of this committee deserves our sympathy.

I understand that there is a total of only six staff members on the subcommittee assigned to scrutinize the $66 billion in appropriations contained in this bill—nearly half of all the appropriations that the House will act on this year. It is not only a technical area to deal with but the mountain of budget justification material is unbelievable. I would submit, Mr. Chairman, that it is impossible for one man to adequately examine $10 billion worth of programs.

I think the American people would applaud an increased expenditure for additional staff to aid the already competent staff of the Appropriations subcommittee.

Yet even with these handicaps the committee, under the able leadership of the chairman, has managed to prune $2.089 billion from the Pentagon's $68.754 billion. This is a notable achievement considering the fact that the Pentagon has claimed this was a "rock-bottom, bare-bones budget."

Many of us in Congress over the last year and a half have called for a new realism in our defense budget and a shift in our national priorities. Today, we have the opportunity to begin to implement these recommendations. Their amendment provides for a sensible ceiling on Pentagon appropriations. It is a major contribution to the fight against inflation and a first step toward reordering our national priorities.

Just a short while ago, the President vetoed significant education and housing bills on the grounds that they were inflationary. But military expenditures are the most inflationary of all government expenditures because they do not supply Americans with any of the goods and services they desire.

The aid to education bill was vetoed because it contained $453 million above the administration request. This bill con-

XUM

tains $435 million above the administration's request for Navy ship construction.

But there are even more pressing reasons to reduce and reallocate military spending. Every American knows what these reasons are—crime, poverty, pollution, inadequate schools, inadequate housing, inadequate transportation. The $1.6 billion saved by this amendment could go a long way toward meeting these domestic problems.

Of course, no reduction in defense outlays would be acceptable if it impaired our national security. But this 2 percent reduction does not do so. There are many areas where substantial cuts can be made without jeopardizing our military posture.

From the information developed by the committee itself, from experts testifying before the Congress and from other studies conducted by Members of Congress as well as the GAO, I still believe the Congress can cut this bill further. And I believe the Moorhead-Whalen limit on appropriations is the way to do it. While the Defense Department should be able to set priorities within the limits of their expertise, only Congress is charged with maintaining a broader view of the Nation's needs. And today our needs are many.

With a $10 to $15 billion or more Federal deficit predicted for fiscal year 1971, and urgent nonmilitary needs to be met, Congress should decide where cuts should be made in the overall Federal budget. We must remain militarily strong—and we will.

A recent Gallup poll indicated that a majority of the Nation's voters would like their Congressman to vote for a reduction in military spending. The committee has cut appropriations by 3 percent. Many experts and especially Charles Schultze, the former Budget Director, has testified that we can cut $10 to $14 billion without adversely affecting our national security. It seems to me that a real change in national priorities as reflected in changes in congressional appropriations demands more of a cut than 3 percent.

Our amendment proposes a cut of an additional 2 percent in appropriations.

The amendment is very simple. It sets a limit of $65 billion on appropriations—a $1.6 billion or a 2-percent cut.

The amendment leaves the specific determination of where to cut up to the President and Department of Defense. We have been opposed in the past on specific cuts on the grounds that only the Pentagon knew where to make the cuts—this amendment overcomes the criticism.

It seems to me that this is a chance for the House of Representatives to work its will in effecting a change in our national priorities.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Texas.

Mr. MAHON. It should be further pointed out that we have an investigative staff of about 35 individuals who are constantly looking into expenditures of the Government, including Defense expenditures.

Mr. MOORHEAD. I would say to the chairman, I believe the American people would applaud increased expenditures for additional staff to aid the already competent staff of the Appropriations Subcommittee.

(Mr. COHELAN, at the request of Mr. Moorhead, was granted permission to extend his remarks at this point in the Record.)

Mr. COHELAN. Mr. Chairman, I rise in support of the Moorhead-Whalen amendment to reduce the Department of Defense appropriations for fiscal 1971 to $65 billion.

My support of this amendment will be no surprise to all Members who know of my opposition to the high level of defense expenditures, and my active efforts to delete the unnecessary weapons system.

As we all realize, there have been some significant cuts by the Appropriations Committee, on which I am privileged to serve, yet more remains to be done. I feel that this small reduction of the Moorhead-Whalen amendment of $1.6 billion is a necessary additional cut.

As many Members are aware, the President has impounded much of the educational funds that this Congress overwhelmingly approved over the Presidential veto. Yet the President has no qualms about asking for increases for nonessential defense expenditures. I think by accepting these cuts the Congress will be in a better position to demonstrate that it is committed not only to an adequate defense budget but also to programs that permit our necessary domestic programs to be fully funded.

The budget reductions, as it is well known, are usually taken from necessary domestic programs. It is gratifying to find that some cuts have been taken from our excessive defense budget. It is important, however, to realize that the suggested cuts made in the Moorhead-Whalen amendment will be made by the Department of Defense itself, but I do not think the Department will find the choices very difficult because there are many projects that could be cut without any diminution of our security. For example, the overruns on 38 major weapon systems is estimated to be $23 billion. This is only overruns—not the cost of the total system. With the implementation of new procurement procedures announced with the requisite fanfare by the Department of Defense, it should be easy to make up the $1.6 billion that is mandated by the pending amendment.

Other areas:

ABM, $1.07 billion could be saved by allowing research and development to continue while halting deployment of the ABM until the system is fully operational.

B–1, $75 million could be saved by cancellation of the money for the B–1 because the F–111 could perform the same function as the proposed B–1 bomber. In fact, the entire logic of a manned strategic bomber should be analyzed.

MIRV, there could be the deferment of the production and deployment of the multiple independently targeted reentry vehicle—MIRV—for the Minuteman III land-based missile pending the SALT talks, which could save $474.7 million.

Aircraft carriers, the reduction of a single carrier with its intended logistic support could save $1.5 billion. Indeed, some strategists suggest that in a nuclear age there is very little reason for a 15 aircraft carrier force.

The "one war plus" strategy recently adopted by the administration should reduce defense expenditures by $14 billion according to Charles Schultz, former Director of the Bureau of the Budget.

There are other examples but I am sure that the officials of the Department of Defense can better allocate the defense dollar. Cutbacks in manpower and in other areas commend themselves immediately to mind.

I commend the work of the gentleman from Pennsylvania (Mr. Moorhead) and the gentleman from Ohio (Mr. Whalen) for offering this constructive amendment to support this small but necessary reduction.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WHALEN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas

There was no objection.

The CHAIRMAN pro tempore. Members standing at the time the unanimous-consent request was agreed to will be recognized for approximately a minute and a half each.

The Chair recognizes the gentleman from Ohio (Mr. Whalen).

Mr. WHALEN. Mr. Chairman, the Appropriations Committee is to be commended for its efforts to weed out unnecessary expenditures from the Defense appropriations bill. The committee's $2.1 billion cut made in the budget request of $68.7 billion is encouraging. Further, this reduction, when coupled with the cuts proposed by the administration, brings the fiscal year 1971 budget $6 billion below last year's appropriations. This clearly indicates the commencement of a reordering of our national priorities.

Perhaps there are two pertinent questions which you, my colleagues, may have regarding the Moorhead-Whalen amendment, which proposes still further cuts.

First, why do we recommend an additional reduction in the military appropriations bill of $1.6 billion? We do so simply because we feel that stringent guidelines must be extended to all areas of Government spending, including military appropriations, in the battle against inflation. As President Nixon has suggested, we must avoid those expenditures which are questionable or unnecessary.

Second, will the proposed $1.6 billion reduction weaken our national security? It will not. In fact, over $600 million of this $1.6 billion can be found in two highly questionable items.

XUM

First, the $200,000,000 which will be used to bail out a private corporation can be eliminated. The Appropriations Committee is not convinced of the necessity of expending these funds. Moreover, the authorization legislation, as well as this appropriations bill, requires that the $200,000,000 not be obligated until the Armed Services and Appropriations Committees are thoroughly briefed on the details of any resolution. It is further stipulated in this bill that such notification will be made at least 30 days prior to the intended commitment or obligation of these funds. Since the committees obviously express some doubt as to the expenditure of this money, I believe we should await this proposed congressional review before the money is appropriated.

There is a second area in which the Appropriations Committee, in its report, clearly expresses uncertainty. The committee states that it has always been sympathetic to the needs of the Navy and wholly endorses the absolute necessity to modernize our aging fleet. The report continues:

> It (the committee) is not completely convinced, however, that the answer lies in numbers of ships alone.

Several paragraphs later, the committee clarifies in what other area it believes the answer lies:

> The committee is firmly convinced that what is needed, therefore, is an immediate, energetic, and concentrated effort to improve the planning and management of the ship building and conversion program of the Navy, rather than continuing to add funds above the President's budget.

XUM

The report concludes:

> Additional money for more ships does not improve management.

It would appear to me that a logical way of achieving better management would be to keep within the President's budget request for naval vessels rather than hand the Navy an admonition and an additional $417 million.

I cite the above two examples only to demonstrate that our proposed additional cut of $1.6 billion can be made within the context of our goal to provide a defense fully adequate to our national security needs. Our amendment does not specify, however, the areas from which these funds should be made. Rather, by imposing the $65 billion ceiling, we give the Department of Defense itself and its various agencies a share of the responsibility for reordering its own and the Nation's priorities.

The **CHAIRMAN**. The Chair recognizes the gentleman from Arizona (Mr. RHODES).

(By unanimous consent, Mr. RHODES yielded his time to Mr. Bow.)

The **CHAIRMAN** pro tempore. The Chair recognizes the gentleman from Ohio (Mr. Bow).

Mr. BOW. Mr. Chairman, this amendment is very familiar to me. It is similar to the old Bow amendment that we have considered many times in the past. But may I say to you, Mr. Chairman, and to my colleagues that this amendment was never offered by me or by those who believed in this kind of amendment when our national defense or our national security was involved. It seems to me that it is improper at this time, after the committee has studied long and hard and has reduced this bill by substantial amounts, to arbitrarily question the defense of our Nation. Therefore, I believe the amendment should be voted down.

Now, on the issue of national priorities, I ask what good is antipollution or the other things talked about if we sacrificed our defense and the Nation could not defend itself? It seems to me the No. 1 priority today is the proper defense of the United States of America.

We have a President who is doing everything he can to stop the war in Vietnam so that we might have an era of peace—as he has said, a generation of peace. If we achieve this generation of peace, then these priorities can assume their proper place, but until that day comes our defense must remain strong. To arbitrarily make this cut, Mr. Chairman, is a dangerous thing. It is not only dangerous to the defense of our country, but also to these other priorities so often discussed. If we lose the country, we lose the opportunity to establish these priorities.

Mr. Chairman, I hope this amendment will be defeated.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield to me?

Mr. BOW. I yield to the distinguished Speaker, the gentleman from Massachusetts.

Mr. McCORMACK. Mr. Chairman, may I make the additional observation that we will never have another opportunity of preparing ourselves after the fact. World War II, after the attack at Pearl Harbor, was the last time that we will ever have that opportunity. That means that we now have to be prepared before the fact.

Mr. BOW. I thank the distinguished Speaker.

The **CHAIRMAN** pro tempore. The Chair recognizes the gentleman from Ohio (Mr. MINSHALL).

Mr. MINSHALL. Mr. Chairman, I rise in opposition to this amendment.

As has been pointed out here earlier today, we on the subcommittee have worked hard and diligently and spent many, many hundreds of hours in interrogating witnesses and examining this Defense budget. We did not use a meat ax approach. That we made selected cuts and I think they were good reductions for that the Defense Department can live with. If for good cause they show us they can not we will take another look at their requests.

I should also like again to point out to the committee that this committee not only cut $2 billion plus out of this bill but, as I pointed out earlier this afternoon, we have taken out of Defense budgets over $14.5 billion over the period of the last 4 years. This is a record of saving the taxpayer a lot money.

Mr. Chairman, this is a great tribute not only to the subcommittee but to the excellent staff that we have.

Their hard work and dedication to duty certainly deserves the plaudits of this entire House. They are the unsung heroes of this tremendously important piece of legislation.

The **CHAIRMAN** pro tempore. The Chair recognizes the gentleman from Texas (Mr. MAHON) to close debate on this amendment.

Mr. MAHON. Mr. Chairman, I would like to repeat that I am dedicated, as I am sure the majority of the Members of this House—a great majority—are dedicated to maintaining the military superiority of the United States. We would be ill-advised to cut this bill by an additional $1.8 billion.

Mr. Chairman, I urge the defeat of the pending amendment.

Mr. GUDE. Mr. Chairman, I rise in support of the Moorhead-Whalen amendment to limit military appropriations to $65 billion.

I am reminded today of Secretary Richardson's comment when he returned to head the Department of Health, Education, and Welfare, where he had once been employed. He said it was like meeting an old friend who had grown very fat.

Our military budget has grown even fatter, and it is past time to restore some tone. The administration, the Fitzhugh Commission, and the Appropriations Committee have all recognized that the principle of economy and efficiency in Government cannot stop at the steps of the Pentagon. A spendthrift approach to the military budget weakens our defenses, and it undermines the real foundation of our military strength, the American economy.

The modest cut proposed in the amendment can safely be made by a number of means, such as cutbacks in unnecessary overseas bases and personnel, and strict adherence to a sensible research and testing program before billion-dollar buying programs are begun. We are supporting a supermarket full of gold-plated weaponry, when we should be concentrating on the programs that will really do the job. This is a luxury no nation can afford, and an inexcusable indulgence in the face of our urgent civilian needs.

The **CHAIRMAN** pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The question was taken; and on a division (demanded by Mr. MOORHEAD) there were—ayes 33, noes 72.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. VANIK: Page 45, line 8, the following new section:
>
> "None of the funds appropriated in this Act shall be used to insure assets or loans on the repayment of the obligations of any corporation or individual."

Mr. RHODES. Mr. Chairman, I reserve a point of order against the amendment.

Mr. VANIK. Mr. Chairman, I would simply like the Clerk to reread the amendment. All I want to do with this amendment is to put the following language in the bill:

> None of the funds appropriated in this Act shall be used to insure assets or guarantee loans or the repayment of the obligations of any corporation or individual.

Mr. Chairman, what I am talking about here should be obvious to every Member of the Committee. I am talking about the open-ended authority which the President of the United States has under the long-gone Korean emergency to commit this country—and he almost did—to guarantee $900 million in loans that were held by the banks on certain assets of the Penn Central Railroad.

I think this is a very dangerous power. Within the last 30 days the Secretary of the Department of Transportation, with a stroke of his pen, committed the taxpayers of the United States to insure America's international airlines a fleet of some 344 planes, to the tune of $3.2 billion. No bill was pending in the Congress to permit this, no hearings took place before any committee. As a matter of fact, the Congress of the United States was not even an information addressee of the administration's decision.

Mr. Chairman, I think this is a very dangerous power. I do not think it should be allowed or that we should permit this bill to provide resources out of which the Federal Government can provide guarantees that are not considered by this Congress and which are not discussed in any committee of this Congress. I think this is a power which must be curtailed at least in an appropriation bill, until we can do something about the blanket, open-ended authority which rests in the Executive to commit the taxpayers of America to billions of dollars of obligations and commitments without asking and without seeking the approval of the people or their representatives.

I think this is a dangerous power. There may be an argument for it with respect to the airline emergency, and I do not argue about that. However, if the Government of the United States is going to be an insurer of last resort then what about the people who cannot buy insurance on their homes because of where they live. What about the people who cannot buy insurance on their automobile or on their automobile driving? Or what about the citizens of this country who are not able to buy health insurance?

If we are going into insurance programs let us do it properly, with legislation before the Congress which we can debate, so that we can measure the cost, and measure the extent of the commitment.

I ask the Members of this Committee to support this amendment. The language is very simple. It does not interfere with any proper defense need or expenditure. It is a perfectly right and decent thing to do to insist that these commitments and guarantees be submitted to the Congress before they become the obligation of the American people.

The CHAIRMAN pro tempore. Does the gentleman from Arizona (Mr. Rhodes) insist on his point of order?

Mr. RHODES. Mr. Chairman, I do not insist on my point of order.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. Vanik).

The question was taken; and on a division (demanded by Mr. Vanik) there were—ayes 50, noes 59.

Mr. VANIK. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman pro tempore appointed as tellers Mr. Vanik and Mr. Mahon.

The Committee again divided, and the tellers reported that there were—ayes 70, noes 82.

So the amendment was rejected.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk concluded the reading of the bill.

(Mr. MAHON asked and was given permission to extend his remarks at this point in the Record.)

Mr. MAHON. Mr. Chairman, as we come to the close of consideration of this all-important bill, I want especially to express my deep thanks and appreciation to the members of the committee who worked so long, so diligently, and so effectively in bringing this bill and report to the House. They were cooperative and helpful every step of the way. They labored through weeks and months of committee hearings, probing, testing, questioning, and analyzing the many defense programs and the budgets for them.

The membership of the Subcommittee on Defense Appropriations—the gentleman from Florida (Mr. Sikes), the gentleman from Mississippi (Mr. Whitten), the gentleman from Alabama (Mr. Andrews), the gentleman from Pennsylvania (Mr. Flood), the gentleman from West Virginia (Mr. Slack), the gentleman from New York (Mr. Addabbo), the gentleman from Ohio (Mr. Minshall), the gentleman from Arizona (Mr. Rhodes), the gentleman from Wisconsin (Mr. Davis), and the gentleman from New Hampshire (Mr. Wyman)—these men deserve our thanks for their diligence and their devotion to the long, hard task of sifting the countless ramifications of a $68 billion budget.

And, Mr. Chairman, I want to make public note of the wonderful dedication and splendid work of the committee staff assigned to this bill. They have labored day and night for weeks and months on end. They have performed effectively and brilliantly. The Committee on Appropriations is fortunate in having a very able staff. The Defense staff, under the able direction of Ralph Preston, also includes John Garrity, Peter Murphy, Robert Foster, and Gary Michalak, assisted generally by Austin Smith.

Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Price of Illinois, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committtee, having had under consideration the bill (H.R. 19590) making appropriations for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. MAHON. Mr. Speaker, I move the previous question on the bill and all amendments thereto to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. RIEGLE

Mr. RIEGLE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. RIEGLE. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Riegle moves to recommit H.R. 19590 to the Committee on Appropriations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the nays appeared to have it.

Mr. YATES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 46, nays 264, answered "present" 1, not voting 119, as follows:

[Roll No. 337]

YEAS—46

Ashley
Bingham
Brasco
Burton, Calif.
Carey
Chisholm
Conte
Conyers
Donohue
Eckhardt
Edwards, Calif.
Fraser
Friedel
Gilbert
Green, Pa.
Gude
Harrington
Hawkins
Hechler, W. Va.
Helstoski
Kastenmeier
Koch
Lowenstein
McCarthy
McCloskey
Macdonald, Mass.
Mikva
Moorhead
Mosher
O'Neill, Mass.
Philbin
Podell
Rees
Reid, N.Y.
Reuss
Riegle
Rosenthal
Roybal
Ryan
Scheuer
Stokes
Vanik
Waldie
Whalen
Wolff
Yates

NAYS—264

Abernethy
Adams
Addabbo
Albert
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Arends
Baring
Beall, Md.
Bell, Calif.
Bennett
Bevill
Biaggi
Biester
Blatnik
Boggs
Boland
Bow
Brademas
Bray

XUM

Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Byrnes, Wis.
Caffery
Camp
Carter
Casey
Cederberg
Chamberlain
Chappell
Cleveland
Collier
Collins
Colmer
Conable
Corman
Coughlin
Crane
Culver
Cunningham
Daniel, Va.
Daniels, N.J.
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Denney
Dennis
Dent
Dickinson
Diggs
Downing
Dulski
Duncan
Edmondson
Edwards, Ala.
Erlenborn
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Ford, William D.
Fountain
Frelinghuysen
Frey
Fulton, Pa.
Fulton, Tenn.
Galifianakis
Gallagher
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Goldwater
Gonzalez
Goodling
Gray
Green, Oreg.
Griffin
Gross
Grover
Gubser
Hall
Halpern
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Hastings
Hathaway
Heckler, Mass.
Henderson
Hicks
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Kazen
Kee
Kuykendall
Kyl
Kyros
Landgrebe
Langen
Latta
Leggett
Lennon
Lloyd
Long, La.
Long, Md.
Lukens
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKneally
Madden
Mahon
Mann
Marsh
Martin
Mathias
Matsunaga
May
Mayne
Melcher
Michel
Miller, Calif.
Miller, Ohio
Minish
Mink
Minshall
Mize
Mizell
Mollohan
Monagan
Montgomery
Morgan
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nelsen
Nichols
Obey
O'Hara
Passman
Patten
Pelly
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Poff
Price, Ill.
Price, Tex.
Pryor, Ark.
Pucinski
Quie
Railsback
Randall
Rarick
Reid, Ill.
Rhodes
Rivers
Roberts
Robison
Rodino
Roe
Rogers, Colo.
Rogers, Fla.
Rooney, N.Y.
Rooney, Pa.
Roth
Rousselot
St Germain
Sandman
Saylor
Schadeberg
Scherle
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Springer
Stafford
Stanton
Steed
Steiger, Ari.z
Steiger, Wis.
Stubblefield
Stuckey
Sullivan
Symington
Taft
Taylor
Teague, Calif.
Thompson, Ga.
Thomson, Wis.
Tiernan
Ullman
Van Deerlin
Vander Jagt
Vigorito
Waggonner
Wampler
Watts
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Charles H.
Winn
Wright
Wylie
Wyman
Yatron
Young
Zablocki
Zwach

ANSWERED "PRESENT"—1

Brown, Calif.

NOT VOTING—119

Abbitt
Adair
Alexander
Ashbrook
Aspinall
Ayres
Barrett
Belcher
Berry
Betts
Blackburn
Blanton
Bolling
Brock
Brooks
Broyhill, Va.
Burlison, Mo.
Burton, Utah
Bush
Button
Byrne, Pa.
Cabell
Celler
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cohelan
Corbett
Cowger
Cramer
Daddario
Dawson
Derwinski
Devine
Dingell
Dorn
Dowdy
Dwyer
Edwards, La.
Eilberg
Esch
Eshleman
Fallon
Farbstein
Feighan
Fisher
Flynt
Ford, Gerald R.
Foreman
Fuqua
Griffiths
Hagan
Haley
Hammerschmidt
Harsha
Harvey
Hays
Hébert
Hungate
Johnson, Calif.
Jonas
Jones, N.C.
Karth
Keith
King
Kleppe
Kluczynski
Landrum
Lujan
McClory
McClure
McMillan
MacGregor
Mailliard
Meeds
Meskill
Mills
Morse
Morton
Moss
Nedzi
Nix
O'Konski
Olsen
O'Neal, Ga.
Ottinger
Patman
Pirnie
Pollock
Powell
Preyer, N.C.
Purcell
Quillen
Reifel
Rostenkowski
Roudebush
Ruppe
Ruth
Satterfield
Shipley
Snyder
Staggers
Stephens
Stratton
Talcott
Teague, Tex.
Thompson, N.J.
Tunney
Udall
Watson
Weicker
Wilson, Bob
Wold
Wyatt
Wydler
Zion

So the motion to recommit was rejected.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Gerald R. Ford.

Mr. Hays with Mr. Ayres.

Mr. Teague of Texas with Mr. Morton.

Mr. Thompson of New Jersey with Mr. Talcott.

Mr. Staggers with Mr. Adair.

Mr. Preyer of North Carolina with Mr. Jones.

Mr. Fuqua with Mr. Harvey.

Mr. Eilberg with Mr. Don Clausen.

Mr. Cabell with Mr. Derwinski.

Mr. Shipley with Mr. Betts.

Mr. Burlison of Missouri with Mr. Keith.

Mr. Nedzi with Mr. O'Konski.

Mr. Patman with Mr. Belcher.

Mr. Mills with Mr. Morse.

Mr. Stratton with Mr. Button.

Mr. Blanton with Mr. Quillen.

Mr. Satterfield with Mr. Broyhill of Virginia.

Mr. Olsen with Mr. Ashbrook.

Mr. Dingell with Mr. Mailliard.

Mr. Clark with Mr. Corbett.

Mr. Johnson of California with Mr. Del Clawson.

Mr. Hungate with Mr. Kleppe.

Mr. Barrett with Mr. Clancy.

Mr. Celler with Mr. Prince.

Mr. Brooks with Mr. Berry.

Mr. Byrne of Pennsylvania with Mr. King.

Mr. Meeds with Mr. McClure.

Mr. Moss with Mr. Snyder.

Mr. Nix with Mr. Ottinger.

Mr. Purcell with Mr. Reifel.

Mr. Rostenkowski with Mr. Bob Wilson.

Mrs. Griffiths with Mrs. Dwyer.

Mr. Flynt with Mr. Roudebush.

Mr. Fisher with Mr. Cramer.

Mr. Edwards of Louisiana with Mr. Ruth.

Mr. Kluczynski with Mr. Harsha.

Mr. Jones of North Carolina with Mr. MacGregor.

Mr. Aspinall with Mr. Devine.

Mr. Landrum with Mr. Brock.

Mr. Karth with Mr. Esch.

Mr. Daddario with Mr. Meskill.

Mr. Dowdy with Mr. Burton of Utah.

Mr. Farbstein with Mr. Clay.

Mr. McMillan with Mr. Cowger.

Mr. Abbitt with Mr. Bush.

Mr. Tunney with Mr. Powell.

Mr. Alexander with Mr. Ruppe.

Mr. O'Neal of Georgia with Mr. McClory.

Mr. Stephens with Mr. Foreman.

Mr. Haley with Mr. Watson.

Mr. Hogan with Mr. Weicker.

Mr. Fallon with Mr. Wydler.

Mr. Cohelan with Mr. Wold.

Mr. Dorn with Mr. Hammerschmidt.

Mr. Udall with Mr. Zion.

Mr. Feighan with Mr. Eschleman.

Mr. Lujan with Mr. Pollock.

Mr. Blackburn with Mr. Wyatt.

Mr. TIERNAN changed his vote from "yea" to "nay."

Mr. BROWN of California. Mr. Speaker, I have a live pair with the gentleman from California (Mr. Moss). If he had been present he would have voted "nay." I voted "yea." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

The doors were opened.

The SPEAKER. The question is on the passage of the bill.

Mr. MAHON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 274, nays 31, answered "present" 2, not voting 123, as follows:

[Roll No. 338]

YEAS—274

Abernethy
Adams
Addabbo
Albert
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Arends
Ashley
Baring
Beall, Md.
Bell, Calif.
Bennett
Bevill
Biaggi
Biester
Blatnik
Boggs
Boland
Bow
Brademas
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Byrnes, Wis.
Caffery
Camp
Carey
Carter
Casey
Cederberg
Chamberlain
Chappell
Cleveland
Collier
Collins
Colmer
Conable
Conte
Corman
Coughlin
Crane
Culver
Cunningham
Daniel, Va.
Daniels, N.J.
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dennis
Dent
Diggs
Donohue
Downing
Dulski
Duncan
Eckhardt
Edmondson
Edwards, Ala.
Erlenborn
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Ford, William D.
Fountain
Frelinghuysen
Frey
Friedel
Fulton, Pa.
Fulton, Tenn.
Galifianakis
Gallagher
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Goldwater
Gonzalez
Goodling
Gray
Green, Oreg.
Griffin
Gross
Grover
Gubser
Hall
Halpern
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Hastings
Hathaway
Heckler, Mass.
Helstoski
Henderson
Hicks
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hunt
Hutchinson
Jacobs
Jarman
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Kazen
Kee
Kuykendal
Kyl
Kyros
Landgrebe
Langen
Latta
Leggett
Lennon
Lloyd
Long, La.
Long, Md.
Lukens
McCarthy
McCloskey
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKneally
Macdonald, Mass.
Madden
Mahon
Mann
Marsh
Martin
Mathias
Matsunaga
May
Mayne
Melcher
Michel
Miller, Calif.
Miller, Ohio
Minish
Mink
Minshall
Mize
Mizell
Mollohan
Monagan
Montgomery
Moorhead
Morgan
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nelsen
Nichols
Obey
O'Hara
O'Neill, Mass.
Passman
Patten
Pelly
Pepper
Perkins
Philbin
Pickle
Pike
Poage
Poff
Price, Ill.
Price, Tex.
Pryor, Ark.
Pucinski
Quie
Randall
Rarick
Reid, Ill.
Reid, N.Y.
Rhodes
Rivers
Roberts
Robison
Rodino
Roe
Rogers, Colo.
Rogers, Fla.
Rooney, N.Y.
Rooney, Pa.
Roth
Rousselot
St Germain
Sandman
Saylor
Schadeberg
Scherle
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Springer
Stafford
Stanton
Steed
Steiger, Ariz.
Steiger, Wis.
Stubblefield
Stuckey
Sullivan
Symington
Taft
Talcott
Taylor
Teague, Calif.
Thompson, Ga.
Thomson, Wis.
Tiernan
Ullman

Van Deerlin
Vander Jagt
Vigorito
Waggonner
Wampler
Watts
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Charles H.
Winn
Wright
Wylie
Wyman
Yatron
Young
Zablocki
Zwach

NAYS—31

Bingham
Brasco
Burton, Calif.
Chisholm
Conyers
Edwards, Calif.
Fraser
Gilbert
Green, Pa.
Gude
Harrington
Hawkins
Hechler, W. Va.
Kastenmeier
Koch
Lowenstein
Mikva
Mosher
Podell
Rees
Reuss
Rosenthal
Roybal
Ryan
Scheuer
Stokes
Vanik
Waldie
Whalen
Wolff
Yates

ANSWERED "PRESENT"—2

Brown, Calif.
Riegle

NOT VOTING—123

Abbitt
Adair
Alexander
Ashbrook
Aspinall
Ayres
Barrett
Belcher
Berry
Betts
Blackburn
Blanton
Bolling
Brock
Brooks
Broyhill, Va.
Burlison, Mo.
Burton, Utah
Bush
Button
Byrne, Pa.
Cabell
Celler
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cohelan
Corbett
Cowger
Cramer
Daddario
Dawson
Denney
Derwinski
Devine
Dickinson
Dingell
Dorn
Dowdy
Dwyer
Edwards, La.
Eilberg
Esch
Eshleman
Fallon
Farbstein
Feighan
Fisher
Flynt
Ford, Gerald R.
Foreman
Fuqua
Griffiths
Hagan
Haley
Hammerschmidt
Harsha
Harvey
Hays
Hébert
Hungate
Ichord
Johnson, Calif.
Jonas
Jones, N.C
Karth
Keith
King
Kleppe
Kluczynski
Landrum
Lujan
McClory
McClure
McMillan
MacGregor
Mailliard
Meeds
Meskill
Mills
Morse
Morton
Moss
Nedzi
Nix
O'Konski
Olsen
O'Neal, Ga.
Ottinger
Patman
Pettis
Pirnie
Pollock
Powell
Preyer, N.C.
Purcell
Quillen
Railsback
Reifel
Rostenkowski
Roudebush
Ruppe
Ruth
Satterfield
Shipley
Snyder
Staggers
Stephens
Stratton
Teague, Tex.
Thompson, N.J.
Tunney
Udall
Watson
Weicker
Wilson, Bob
Wold
Wyatt
Wydler
Zion

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Moss for, with Mr. Brown of California against.

Until further notice:

Mr. Hébert with Mr. Gerald R. Ford.
Mr. Hays with Mr. Ayres.
Mr. Teague of Texas with Mr. Morton.
Mr. Thompson of New Jersey with Mr. Denney.
Mr. Staggers with Mr. Adair.
Mr. Preyer of North Carolina with Mr. Jonas.
Mr. Fuqua with Mr. Harvey.
Mr. Eilberg with Mr. Don H. Clausen.
Mr. Cabell with Mr. Derwinski.
Mr. Shipley with Mr. Betts.
Mr. Burlison with Mr. Keith.
Mr. Nedzi with Mr. O'Konski.
Mr. Patman with Mr. Belcher.
Mr. Mills with Mr. Morse.
Mr. Statton with Mr. Button.
Mr. Blanton with Mr. Quillen.
Mr. Satterfield with Mr. Broyhill of Virginia.
Mr. Olsen with Mr. Ashbrook.
Mr. Dingell with Mr. Mailliard.
Mr. Clark with Mr. Corbett.
Mr. Johnson of California with Mr. Del Clawson.
Mr. Hungate with Mr. Kleppe.
Mr. Barrett with Mr. Clancy.
Mr. Celler with Mr. Pirnie.
Mr. Brooks with Mr. Berry.
Mr. Byrne of Pennsylvania with Mr. King.
Mr. Meeds with Mr. McClure.
Mr. Ichord with Mr. Snyder.
Mr. Nix with Mr. Ottinger.
Mr. Purcell with Mr. Reifel.
Mr. Rostenkowski with Mr. Bob Wilson.
Mrs. Griffiths with Mrs. Dwyer.
Mr. Flynt with Mr. Roudebush.
Mr. Fisher with Mr. Cramer.
Mr. Edwards of Louisiana with Mr. Ruth.
Mr. Kluczynski with Mr. Harsha.
Mr. Jones of North Carolina with Mr. MacGregor.
Mr. Aspinall with Mr. Devine.
Mr. Landrum with Mr. Brock.
Mr. Karth with Mr. Esch.
Mr. Daddario with Mr. Meskill.
Mr. Dowdy with Mr. Burton of Utah.
Mr. Farbstein with Mr. Clay.
Mr. McMillan with Mr. Cowger.
Mr. Abbitt with Mr. Bush.
Mr. Tunney with Mr. Powell.
Mr. Alexander with Mr. Ruppe.
Mr. O'Neal of Georgia with Mr. McClory.
Mr. Stephens with Mr. Foreman.
Mr. Haley with Mr. Watson.
Mr. Hogan with Mr. Weicker.
Mr. Fallon with Mr. Wydler.
Mr. Cohelan with Mr. Wold.
Mr. Dorn with Mr. Hammerschmidt.
Mr. Udall with Mr. Zion.
Mr. Feighan with Mr. Eshleman.
Mr. Railsback with Mr. Pollock.
Mr. Pettis with Mr. Wyatt.
Mr. Blackburn with Mr. Lujan.

Mr. HELSTOSKI changed his vote from "nay" to "yea."

Mr. BROWN of California. Mr. Speaker, I have a live pair with the gentleman from California (Mr. Moss). If he had been present he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 1396. Joint resolution to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1971.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 13564. An act to provide that in the District of Columbia one or more grantors in a conveyance creating an estate in joint tenancy or tenancy by the entireties may also be one of the grantees; and

H.R. 18583. An act to amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 18583) entitled "An act to amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HUGHES, Mr. YARBOROUGH, Mr. RANDOLPH, Mr. EASTLAND, Mr. MCCLELLAN, Mr. DODD, Mr. JAVITS, Mr. DOMINICK, Mr. HRUSKA, and Mr. THURMOND to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 60. An act to create a catalog of Federal assistance programs, and for other purposes;

S. 3389. An act to provide for the protection, development, and enhancement of the public recreation values of the public lands; and

S. 4090. An act to preserve and promote the resources of the Connecticut River Valley, and for other purposes.

LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, in the table of contents, strike out "Sec. 110. Committee funds."

and insert:

"Sec. 110. Committee funds and Senate Appropriations Committee exception."

Page 2, in the table of contents, after the item which reads:

"Sec. 129. Clarification of certain provisions and elimination of obsolete language in certain House Rules."

insert:

"Sec. 130. Senate committee rules.

"Sec. 131. Jurisdiction of standing committees of the Senate.

"Sec. 132. Membership of standing committees of the Senate."

Page 3, in the table of contents, after the item which reads:

"Sec. 235. Assignments of employees of General Accounting Office to duty with committees of Congress."

insert:

"Sec. 236. Agency reports."

Page 3, in the table of contents, strike out

"PART 3—JOINT COMMITTEE ON THE LIBRARY AND CONGRESSIONAL RESEARCH

"Sec. 331. Functions and operations of Joint Committee.

"Sec. 332. Related changes in existing law.

"PART 4—PARLIAMENTARY PRECEDENTS OF THE HOUSE OF REPRESENTATIVES

"Sec. 341. Periodic compilation of parliamentary precedents of the House of Representatives.

"Sec. 342. Periodic preparation by House Parliamentarian of condensed and simplified versions of House precedents."

and insert:

"PART 3—PARLIAMENTARY PRECEDENTS OF THE HOUSE OF REPRESENTATIVES

"Sec. 331. Periodic compilation of parliamentary precedents of the House of Representatives.

"Sec. 332. Periodic preparation by House Parliamentarian of condensed and simplified versions of House precedents."

Page 6, lines 23 and 24, strike out "(except the Committee on Appropriations)".

Page 9, lines 24 and 25, strike out "(except the Committee on Appropriations)".

Page 11, line 24, strike out "(except the Committee on Appropriations)".

Page 13, line 14, strike out "except" and insert: "including".

Page 15, lines 14 and 15, strike out "(except the Committee on Appropriations)".

Page 18, line 8, strike out "except" and insert: "including".

Page 20, after line 16, insert:

"(d) Section 139(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190f(a)) is repealed.".

Page 21, strike out line 7, and insert:

"COMMITTEE FUNDS AND SENATE APPROPRIATIONS COMMITTEE EXCEPTION"

Page 21, line 11, strike out "subsection" and insert: "subsections".

Page 21, lines 12 and 13, strike out "(except the Committee on Appropriations)".

Page 22, line 24, strike out "resolution."." and insert: "resolution.".

Page 22, after line 24, insert:

"(h) Except as otherwise specifically provided by this section, the foregoing provisions of this section do not apply to the Committee on Appropriations of the Senate.".

Page 39, lines 8 and 9, strike out "January 2 of each odd-numbered year beginning on or after" and insert: "March 31 of each odd-numbered year beginning on and after".

Page 55, after line 3, insert:

SENATE COMMITTEE RULES

SEC. 130. (a) Part 3 of title I of the Legislative Reorganization Act of 1946 is further amended by adding after section 133A of such Act, as enacted by this title, the following new section:

"SENATE COMMITTEE RULES

"SEC. 133B. Each standing, select, or special committee of the Senate shall adopt rules (not inconsistent with the Standing Rules of the Senate or with those provisions of law having the force and effect of Standing Rules of the Senate) governing the procedure of such committee. The rules of each such committee shall be published in the Congressional Record not later than March 1 of each year, except that if any such committee is established on or after February 1 of a year, the rules of that committee during the year of establishment shall be published in the Congressional Record not later than sixty days after such establishment. An amendment to the rules of any such committee shall be published in the Congressional Record not later than thirty days after the adoption of such amendment. If the Congressional Record is not published on the last day of any period during which the rules of any such committee, or an amendment to those rules, is required to be published in the Congressional Record by this section, such rules or amendment shall be published in the first daily edition of the Congressional Record published following such day."

(b) Title I of the table of contents of the Legislative Reorganization Act of 1946 is amended by inserting, immediately below the item relating to section 133A contained in that title (as added by section 111(a)(2) of this Act), the following:

"Sec. 133B. Senate Committee Rules."

Page 55, after line 3, insert:

JURISDICTION OF STANDING COMMITTEES OF THE SENATE

SEC. 131. Paragraph 1 of Rule XXV of the Standing Rules of the Senate is amended—

(1) by striking out in subparagraph (e)—

"Committee on Banking and Currency,"

and inserting in lieu thereof—

"Committee on Banking, Housing and Urban Affairs,";

(2) by adding at the end of subparagraph (e) the following item:

"10. Urban affairs generally.";

(3) by striking out in subparagraph (h) (relating to the Committee on Finance) the following numbered items—

"10. Veterans' measures generally.

"11. Pensions of all the wars of the United States, general and special.

"12. Life insurance issued by the Government on account of service in the armed forces.

"13. Compensation of veterans.";

(4) by striking out in subparagraph (m) (relating to the Committee on Labor and Public Welfare)—

"16. Vocational rehabilitation and education of veterans.

"17. Veterans' hospitals, medical care and treatment of veterans.

"18. Soldiers' and sailors' civil relief.

"19. Readjustment of servicemen to civil life.";

(5) by adding at the end thereof the following new subparagraph—

"(q) Committee on Veterans' Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

"1. Veterans' measures generally.

"2. Pensions of all wars of the United States, general and special.

"3. Life insurance issued by the Government on account of service in the armed forces.

"4. Compensation of veterans.

"5. Vocational rehabilitation and education of veterans.

"6. Veterans' hospitals, medical care and treatment of veterans.

"7. Soldiers' and sailors' civil relief.

"8. Readjustment of servicemen to civil life.

"9. National cemeteries."; and

(6) by striking out in subparagraph (k) (relating to the Committee on Interior and Insular Affairs) the following item—

"5. Military parks and battlefields, and national cemeteries."

and inserting in lieu thereof—

"5. Military parks and battlefields."

Page 55, after line 3, insert:

MEMBERSHIP OF STANDING COMMITTEES OF THE SENATE

SEC. 132. (a) Paragraph 1 of Rule XXV of the Standing Rules of the Senate, as such paragraph existed on the day preceding the effective date of this section, is amended—

(1) by striking out in subparagraph (a) the words "to consist of fifteen Senators,";

(2) by striking out in subparagraph (b) the words "to consist of thirteen Senators,";

(3) by striking out in subparagraph (c) the words "to consist of twenty-four Senators,";

(4) by striking out in subparagraph (d) the words "to consist of eighteen Senators,";

(5) by striking out in subparagraph (e) the words "to consist of fifteen Senators,";

(6) by striking out in subparagraph (f) the words "to consist of nineteen Senators,";

(7) by striking out in subparagraph (g) the words "to consist of seven Senators,";

(8) by striking out in subparagraph (h) the words "to consist of seventeen Senators,";

(9) by striking out in subparagraph (i) the words "to consist of fifteen Senators,";

(10) by striking out in subparagraph (j) (1) the words "to consist of fifteen Senators,";

(11) by striking out in subparagraph (k) the words "to consist of seventeen Senators,";

(12) by striking out in subparagraph (l) the words "to consist of seventeen Senators,";

(13) by striking out in subparagraph (m) the words "to consist of seventeen Senators,";

(14) by striking out in subparagraph (n) the words "to consist of twelve Senators,";

(15) by striking out in subparagraph (o) the words "to consist of fifteen Senators,"; and

(16) by striking out in subparagraph (p) (1) the words "to consist of nine Senators,".

(b) Paragraphs 2, 3, 4, and 5 of Rule XXV of the Standing Rules of the Senate are redesignated as paragraphs 4, 5, 6, and 7 thereof, respectively.

(c) Rule XXV of the Standing Rules of the Senate is amended by inserting therein, immediately after paragraph 1, the following new paragraphs:

"2. Except as otherwise provided by paragraph 6 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee	*Members*
"Aeronautical and Space Sciences	14
"Agriculture and Forestry	13
"Appropriations	24
"Armed Services	15
"Banking, Housing, and Urban Affairs	15
"Commerce	17
"Finance	15
"Foreign Relations	15
"Government Operations	14
"Interior and Insular Affairs	14
"Judiciary	15
"Labor and Public Welfare	15
"Public Works	14.

"3. Except as otherwise provided by paragraph 6 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee	*Members*
"District of Columbia	7
"Post Office and Civil Service	9
"Rules and Administration	9
"Veterans' Affairs	9.".

(d) Paragraph 6 of Rule XXV of the Standing Rules of the Senate (as redesignated) is amended to read as follows:

"6. (a) Except as otherwise provided by this paragraph, each Senator shall serve on two and no more of the standing committees named in paragraph 2. Except as otherwise provided by this paragraph, no Senator shall serve on more than one committee included within the following classes: standing committees named in paragraph 3; select and special committees of the Senate; and joint committees of the Congress.

"(b) Each Senator who on the day preceding the effective date of section 132 of the Legislative Reorganization Act of 1970 was serving as a member of any standing committee shall be entitled to continue to serve on each such committee of which he was a member on that day as long as his

XUM

service as a member of such committee remains continuous after that day. Each Senator who (1) on that day was serving as a member of the Committee on Aeronautical and Space Sciences or the Committee on Government Operations, (2) on that date was entitled, under the proviso contained in the first sentence of paragraph 4 of this rule as such rule existed on that day, to serve on three committees named in that sentence, and (3) on June 30, 1971, is serving on three such committees, of which at least one is the Committee on Aeronautical and Space Sciences or the Committee on Government Operations, shall be entitled to continue to serve on each of the committees of which he is a member on June 30, 1971, so long as his service as a member of each such committee remains continuous thereafter. Each Senator who, on the day preceding the effective date of section 132 of the Legislative Reorganization Act of 1970, was a member of more than one committee of the classes described in the second sentence of subparagraph (a) shall be entitled to serve on each such committee of which he was a member on that day as long as his service as a member of that committee remains continuous after that day. Notwithstanding the provisions of paragraphs 2 and 3, each committee of the Senate shall be temporarily increased in membership by such number as may be required to carry into effect the provisions of this subparagraph.

"(c) By agreement entered into by the majority leader and the minority leader, the membership of one or more of the standing committees named in paragraph 2 or paragraph 3 of this rule may be increased temporarily from time to time by such number or numbers as may be required to accord to the majority party a majority of the membership of all standing committees. When any such temporary increase is necessary to accord to the majority party a majority of the membership of all standing committees, members of the majority party in such number as may be required for that purpose may serve as members of three standing committees named in paragraph 2. No such temporary increase in the membership of one or more standing committees under this subparagraph or subparagraph (a) shall be continued in effect after the need therefor has ended. No standing committee may be increased in membership under this subparagraph or subparagraph (a) by more than four members in excess of the number prescribed for that committee by paragraph 2 or paragraph 3 of this rule.

"(d) Notwithstanding the limitations contained in subparagraph (a), a Senator may serve at any time on one additional committee included within the following classes: a temporary committee of the Senate or a temporary joint committee of the Congress which, by the terms of the measure by which it was established as initially agreed to, will not continue in existence for more than one Congress; or a joint committee of the Congress having jurisdiction with respect to a subject matter which is directly related to the jurisdiction of a committee named in paragraph 3 of which that Senator is a member.

"(e) No Senator shall serve at any time on more than one of the following committees: Committee on Appropriations, Committee on Armed Services, Committee on Finance, and Committee on Foreign Relations. Notwithstanding the limitation contained in this subparagraph, a Senator who on the day preceding the effective date of section 132 of the Legislative Reorganization Act of 1970 was a member of more than one such committee may continue to serve as a member of each such committee of which he was a member on that day as long as his service on that committee remains continuous after that day.

"(f) No Senator shall serve at any time as chairman of more than one committee included within the following classes: standing, select, and special committees of the Senate; and joint committees of the Congress except that—

"(1) A Senator may serve as chairman of a joint committee of the Congress having jurisdiction with respect to a subject matter which is directly related to the jurisdiction of a committee named in paragraph 2 or paragraph 3 of which that Senator is the chairman;

"(2) A Senator who on the day preceding the effective date of section 132 of the Legislative Reorganization Act of 1970 was serving as chairman of more than one committee included within the classes described in this subparagraph may continue to serve as chairman of each such committee of which he was chairman on that day as long as his service as chairman of that committee remains continuous after that day; and

"(3) A Senator who is serving at any time as chairman of a committee included within the classes described in this subparagraph may at the same time serve also as chairman of one temporary committee of the Senate or temporary joint committee of the Congress which, by the terms of the measure by which it was established as originally agreed to, will not continue in existence for more than one Congress.

"(g) No Senator shall serve at any time as chairman of more than one subcommittee of the same committee if that committee is named in paragraph 2. Notwithstanding the limitation contained in this subparagraph, a Senator who on the day preceding the effective date of section 132 of the Legislative Reorganization Act of 1970 was serving as chairman of more than one such subcommittee may continue to serve as chairman of each such subcommittee of which he was chairman on that day as long as his service as chairman of that subcommittee remains continuous after that day.".

Page 65, after line 16, insert:

"AGENCY REPORTS

"Sec. 236. Whenever the General Accounting Office has made a report which contains recommedations to the head of any Federal agency, such agency shall—

"(1) not later than sixty days after the date of such report, submit a written statement to the Committees on Government Operations of the House of Representatives and the Senate of the action taken by such agency with respect to such recommendations; and

"(2) in connection with the first request for appropriations for that agency submitted to the Congress more than sixty days after the date of such report, submit a written statement to the Committees on Appropriations of the House of Representatives and the Senate of the action taken by such agency with respect to such recommendations."

Page 67, strike out all after line 2 over to and including line 4 on page 68.

Page 68, line 5, strike out "(f) (1)" and insert: "(b) (1)".

Page 68, line 10, strike out "(g) (1)" and insert: "(c) (1)".

Page 88, lines 14 and 15, strike out ", including payment of such rates for necessary travel time".

Page 91, line 14, strike out "$17,301 to $30,879" and insert: "$18,328 to $32,712".

Page 91, line 20, strike out "$7,446 to $30,879" and insert "$7,888 to $32,712".

Page 91, line 21, strike out "$7,446 to $12,921" and insert: "$7,888 to $13,688".

Page 91, line 25, strike out "$19,272 to $30,879" and insert: "$20,416 to $32,712".

Page 92, line 1, strike out "$13,140 to $19,053" and insert: $13,920 to $20,184".

Page 92, lines 2 and 3, strike out "$7,446 to $12,921" and insert: $7,888 to $13,688".

Page 92, line 9, strike out "$30,879" and insert: "$32,712".

Page 92, line 14, strike out "$32,193" and insert: "$34,104".

Page 92, line 16, strike out "$33,507" and insert: "$35,496".

Page 92, line 20, strike out "$32,193" and insert: "$34,104".

Page 92, line 21, strike out "$33,507" and insert: "$35,496".

Page 93, line 2, strike out "$1,095 or in excess of $33,507" and insert: "$1,160 or in excess of $35,496".

Page 94, line 7, strike out "and Congressional Research".

Page 95, line 13, strike out "and Congressional Research".

Page 103, line 1, strike out "and Congressional Research".

Page 104, strike out all beginning with line 1 over to and including line 5 on page 110.

Page 110, line 6, strike out "4" and insert: "3".

Page 110, line 10, strike out "341." and insert: "331.".

Page 111, line 17, strike out "342." and insert: "332.".

Page 119, line 24, after "House;" insert: "and".

Page 120, line 1, strike out "Capitol; and" and insert: "Capitol.".

Page 120, strike out line 2.

Page 120, strike out lines 11 to 15, inclusive, and insert: "at Arms of the Senate, and the Sergeant at Arms of the House of Representatives.".

Page 128, strike out all after line 17 over to and including line 2 on page 129 and insert:

"Sec. 132. (a) Unless otherwise provided by the Congress, the two Houses shall—

"(1) adjourn sine die not later than July 31 of each year; or

"(2) in the case of an odd-numbered year, provide, not later than July 31 of such year, by concurrent resolution adopted in each House by rollcall vote, for the adjournment of the two Houses from that Friday in August which occurs at least thirty days before the first Monday in September (Labor Day) of such year to the second day after Labor Day."

Page 140, strike out lines 3 to 10, inclusive, and insert:

"(b) A person shall not serve as a page—

"(1) of the Senate before he has attained the age of fourteen years; or

"(2) of the House of Representatives before he has attained the age of sixteen years; or

(except in the case of a chief page, telephone page, or riding page) during any session of the Congress which begins after he has attained the age of eighteen years."

Page 140, line 12, after "convening" insert: "or reconvening".

Page 154, line 21, after "Act" where it appears the second time, insert: ", and section 105 (e) and (f) of the Legislative Branch Appropriation Act, 1968, as amended by section 305 of this Act".

Page 155, after line 10, insert:

"(6) Section 105 (e) and (f) of the Legislative Branch Appropriation Act, 1968, as amended by section 305 of this Act, shall become effective on January 1, 1971.".

Mr. COLMER (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments be dispensed with, and that they be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. SMITH of California. Mr. Speaker, reserving the right to object, and I shall not object, but I think the Members would like to know what took place insofar as the Senate is concerned.

Mr. Speaker, I am pleased to state that

XUM

they did not hurt the House provisions to any extent, in my opinion, but I would appreciate it very much if the distinguished chairman of the Committee on Rules, the gentleman from Mississippi (Mr. COLMER), or the gentleman from California (Mr. SISK), the gentleman who handled the bill, would explain to the House so that they will know, what changes were made and what we are voting on.

Mr. COLMER. Mr. Speaker, will the gentleman yield under his reservation of objection?

Mr. SMITH of California. I am pleased to yield to the gentleman from Mississippi.

Mr. COLMER. Mr. Speaker, before I do turn the matter over to the able and distinguished chairman of the subcommittee, Mr. SISK, who is really more competent and qualified to explain the Senate amendments than I, I should like to make a record of one thing. The bill is not as strong or comprehensive as some would wish. It is not as bad as some think. It is, in my judgment, a happy compromise, with one exception. That exception is the provisions written in on the floor of the House for the taking of teller votes and for so-called expediting of quorum calls. I do not think they are practical and will not, therefore, work. I predict that a movement will be made sooner or later to repeal them. Also, I should again like to express my appreciation to the other members of the subcommittee, as well as Mr. SISK, and the staff. The subcommittee and staff have worked for nearly 2 years on this bill and is entitled to the appreciation of the entire House.

XUM

Therefore I would ask the gentleman from California (Mr. SISK), to respond to the request of the gentleman from California.

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. Mr. Speaker, I am pleased to yield to the gentleman from California.

Mr. SISK. Mr. Speaker, I thank the gentleman for yielding.

Let me say that the majority of the amendments placed in the bill by the other body pertain exclusively and completely to the rules of the other body. They deal exclusively with matters over which the Senate has complete control.

Now in connection with those features which affect in any way the language which the House had, I would like to explain them very briefly. They number some three or four items.

In title II—in connection with the GAO reports, the Senate provides some little additional language with reference to written statements and recommendations concerning Federal agencies. The amendment requires that such reports must be forwarded to the Committee on Government Operations and that such Federal agencies not later than 60 days after the GAO has issued the report shall report to such committees what action they have taken to implement such GAO report on their operations.

The second matter which they changed in connection with the House-passed bill deals with the Joint Committee on the Library and Congressional Research Service.

Members will remember that your House committee beefed up substantially the Joint Committee on the Library and we renamed it the Joint Committee on the Library and Congressional Research.

We gave it some additional duties, increased the membership, and made it a bipartisan committee of six and six.

The other body, and particularly the present chairman of that joint committee, did not see fit to agree with the House language and because of that the Senate changed it back to the present joint committee.

Now they did not in any way revise or affect the Legislative Research Service—that is, our action that we took in beefing up the Legislative Reference Service and changing it to the Congressional Research Service.

They decided to leave the committee as it is now constituted. That is the one item of difference there. They did change in a very minor way the August recess. They provided for the August recess in years other than election years.

This is a matter that we feel is of minor consequence because, certainly, the Congress can, at its will of course, have a recess or not have a recess—as we know.

In connection with the Capitol Guide Service Board, we provided for a minority member appointed by the Senate minority leader and a minority member from the House appointed by the House minority leader.

This was stricken and left as the board is presently constituted otherwise in connection with the Capitol Guide Service Board.

Finally, the only other possible change that would affect the language of the House bill had to do with the fact that the Senate lowered the age of pages to 14.

As you will recall, the House provided for the construction, or authorized actually a study to be made and the construction, if found to be in order, of a school and dormitory facilities for the pages.

Of course, on our side they are restricted to juniors and seniors which, of course, would only require a 2-year school.

If the Senate continues their practice of 14-year-olds, this would mean that you would have to have a 4-year school. In other words, it would have to be a somewhat larger school.

Mr. Speaker, that amounts to all of the changes that the Senate has made in connection with the House language and as to matters on which we would have a concern.

Mr. SMITH of California. I thank the gentleman.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman.

Mr. HALL. Mr. Speaker, this is a historic day for the Congress, for the American people, and for the cause of self-government through elected representatives.

I support the request that the Senate amendments to H.R. 17654, the Legislative Reorganization Act of 1970 be agreed to.

I commend all those who have had a part in fashioning and bringing to fruition efforts for congressional reform.

Mr. Speaker, this is a good bill.

Of course, it does not contain all the reforms or improvements which have been advanced or could be advanced. But to those who say this bill does not go far enough, I would like to point out that the package does contain an agency to study congressional reform on a continuing basis, so that we need not wait for another couple of decades to reexamine congressional structure and procedures. I refer to the creation in title IV of the bill of a Joint Committee on Congressional Operations—provided by an amendment I offered when H.R. 17654 was considered on the floor of the House.

If this joint committee is composed of members who will dedicate themselves to this most basic subject and if the committee acquires an able staff, this one provision of the Legislative Reorganization Act of 1970 would justify its passage.

As one of the original members of the Joint Committee on the Organization of Congress I have labored with problems of congressional reform since March 15, 1965. I have suffered through the controversies, compromises, disappointments, and frustrations which have beset this legislation from its inception.

Today, therefore, Mr. Speaker is a red letter day for me and I salute and congratulate the members of the Rules Committee and particularly the two stalwarts from California, Mr. SISK and Mr. SMITH, who guided this legislation through the House. The passage of this legislation should be particularly gratifying to my able colleague, Mr. SMITH, since it occurs on his birthday.

Mr. Speaker, I would be remiss if I failed to recognize the contribution to this legislation of our former colleague from Michigan, the Honorable George Meader, whose perceptive and expert counsel and assistance has been available to me and others interested in congressional reform, not only during his service as counsel of the Joint Committee on the Organization of Congress but thereafter, and to both bodies of the Congress.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding. I would like to ask my friend from California to refresh my memory as to when this—I do not know what to call it—this improvement goes into effect.

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to my colleague.

Mr. SISK. I am sure my colleague from California could give the answer to that question. In almost all instances it becomes effective at the start of the next Congress.

Mr. GROSS. I am sorry to hear that, because my friend from Missouri just described it as an historic red letter day in the history of the Congress, and I am so sorry that we cannot put that into effect on November 16. I am just awaiting the day when you sign in for quorum calls and all this new-fangled stuff about teller votes, and so forth. I am so sorry to hear that this historic day is being postponed so long.

Mr. SMITH of California. Mr. Speaker, before we conclude our consideration of this measure, I would like to pay respects to two gentlemen who have been unmentioned, both from Missouri: Mr. BOLLING of the Rules Committee, who has devoted a tremendous amount of time to this subject; also the gentleman from Missouri (Mr. HALL), who was on the original joint committee that faithfully worked long and hard on the legislation, I want to mention also our distinguished chairman, Mr. COLMER, who permitted his name to be on this bill, which is the first legislative reform measure since 1946.

Mr. Speaker, I withdraw my reservation of objection and urge the Members to support the Senate amendments.

Mr. SISK. Mr. Speaker, I include a summary of the action of the other body at this point:

SENATE ADOPTED AMENDMENTS TO H.R. 17654

TITLE I

Rules of Senate Committees: Each Senate committee shall adopt rules not inconsistent with the rules of the Senate or provisions of law relating to Senate rules. Each committee shall publish its rules in the Congressional Record not later than March 1 each year. If a committee is established after February 1 of a year its rules shall be published not later than 60 days after adoption.

When a committee amends its rules, such amendments shall be published in the Record not later than 30 days after adoption, or in the first Record published following such 30 days.

Legislative Review Reports by Senate Committees: Senate committees shall submit their biennial reports on their review activities not later than March 31 in odd-numbered years, instead of not later than January 2 of such years. The latter date will still apply to House committees.

Procedures of the Senate Committee on Appropriations:

1. Instead of having a separate exemption for that Senate committee in each of 7 sections relating to Senate committee procedures, one overall exemption is inserted.

2. The general Senate section on proxy voting is made applicable to the Senate Committee on Appropriations.

3. The general Senate section on availability of committee reports 3 days prior to floor consideration is made applicable to that Committee.

4. The Reorganization Act of 1946 is amended so as to make clear that the requirement for a quorum to be present when a committee reports a bill applies to the Committee on Appropriations.

5. Sec. 139(a) of the 1946 Act, which requires that general appropriations bills shall not be considered in either House until printed hearings and reports have been available at least 3 calendar days, is repealed. This repeal has no effect upon the House, since that provision, as amended, is made applicable to the House Committee on Appropriations by other language in H.R. 17654.

Senate Committee on Banking, Housing, and Urban Affairs: Changes the name of the Senate Committee on Banking and Currency to the Committee on Banking, Housing, and Urban Affairs, and adds to its jurisdiction "urban affairs, generally."

This provision was adopted by the Senate in 1967, but was omitted from the House bill.

Senate Committee on Veterans' Affairs: Creates a Senate Committee on Veterans' Affairs, with jurisdiction taken from the Committees on Finance, Labor and Public Welfare, and Interior and Insular Affairs.

Motion to table defeated, roll call vote, 29–37; adopted voice vote; reconsideration tabled, roll call vote, 37–25.

This provision was adopted by the Senate in 1967, but was omitted from the House bill.

Membership of Senate Standing Committees, and Chairmanships: Incorporates into the bill provision relating to the sizes of Senate committees, restrictions on the number of committee assignments for Senators, restrictions on certain kinds of committee assignments for Senators, and restrictions on the number of chairmanships one Senator may hold.

These provisions were agreed to by the Senate in 1967 but were omitted from the House bill.

TITLE II

Agency Statements on GAO Reports: Requires Federal agencies to submit written statements on what action they have taken on GAO recommendations concerning their agencies, to both Government Operations Committees not later than 60 days after the GAO has issued its report and recommendations, and to the two Appropriations Committees in connection with their first requests for appropriations thereafter.

Senate Appropriations Committee Hearings on the Budget as a Whole: Deletion: Strikes the requirement that the Senate Committee on Appropriations shall hold annual hearings on the Budget as a whole. No change in the House requirement for such hearings.

The Senate provision was stricken on the ground that they are unnecessary in view of the House hearings, the general availability to Senators of those hearings, and the prerogatives of the House in the appropriations area.

TITLE III

Compensation of Senate Committee Staffs: Raises permissible level of Senate committee staff pay to approximate parity with highest House committee pay levels.

Agreed to by voice vote; motion to strike the entire section 305 defeated on a roll call vote, 32–34.

Travel Time for Committee Consultants: Strikes language authorizing travel payments for consultants and consultative organizations. The intent is to make clear that the committees would have discretion to decide the extent to which travel time should be included in computing the per diem compensation to be paid consultants.

Joint Committee on the Library: Deletion of Reorganization: Strikes all of part 3, title III, which contained language reorganizing the Joint Committee on the Library by changing its name, and its composition, authorizing staff, and requiring it to make an annual report, and by making conforming changes in existing law. The effect is to retain the present Joint Committee on the Library unchanged.

Conforming changes relating to the name of the Joint Committee are made in sec. 321 dealing with the Congressional Research Service.

TITLE IV

Authority of Congressional Officers: Deletion of Senate Postmaster: Strikes the Postmaster of the Senate from the provision giving officers of both Houses increased authority over patronage employees, on the ground that the Senate Postmaster is not an officer of the Senate.

August Recess for Congress: The August adjournment for both Houses is authorized *only* for odd-numbered (i.e., non-election) years, rather than for every year.

Pay for Senate Pages During Adjournment: Inserts the words "or reconvening" into the Senate provision. Senate officers maintained this additional language as necessary to safeguard the pay of pages during adjournments and recesses.

Capitol Guide Service Board: Removes from the Capitol Guide Board the House provision for an employee appointed by the Senate minority leader and an employee appointed by the House minority leader.

Senate Pages: Ages: Lowers the permissible age for Senate pages from 16, which was in the bill, to 14.

Roll call vote, 48–19.

TITLE VI

Effective Dates, Senate Staff Pay: The raise in pay for Senate committee staff, which appears in title III above, is made effective as of January 1, 1971.

Mr. STEIGER of Wisconsin. Mr. Speaker, I support the acceptance of the Senate amendments to the legislative Reorganization Act.

The fact that H.R. 17654 comes to the House is a surprise to many, but I am both proud and pleased that the work of so many has not been in vain. This is, indeed, a great day for the House, for men like our former colleagues Don Rumsfeld and Tom Curtis, for the floor leaders in the House, Congressmen SISK and SMITH and for the many colleagues with whom I have had the pleasure to work, such as Congressmen CONABLE, DELLENBACK, GIBBONS, FRASER, HALL, and WAGGONNER.

The passage of this bill culminates years of work and has been a long time in coming. It is a good bill—worthy of support.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. SISK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Legislative Reorganization Act.

The SPEAKER pro tempore (Mr. PRICE of Illinois). Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. COLMER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 17809, PREVAILING RATE PAY SYSTEMS FOR GOVERNMENT EMPLOYEES.

Mr. DULSKI. Mr. Speaker, pursuant to rule XX of the Rules of the House,

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and at the direction of the Committee on Post Office and Civil Service, I move to take from the Speaker's table the bill, H.R. 17809, to provide an equitable system for fixing and adjusting the rates of pay for prevailing rate employees of the Government, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

The **SPEAKER** pro tempore. Without objection, the Chair appoints the following conferees: Messrs. DULSKI, HENDERSON, UDALL, CORBETT, and GROSS.

CONFERENCE REPORT ON H.R. 15073, BANK RECORDS AND FOREIGN TRANSACTIONS; CREDIT CARDS; CONSUMER CREDIT REPORTING

Mrs. **SULLIVAN** (on behalf of Mr. PATMAN) filed the following conference report and statement on the bill (H.R. 15073), to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require that certain transactions in U.S. currency be reported to the Department of the Treasury, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 91-1587)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15073) to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require that certain transactions in United States currency be reported to the Department of the Treasury, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—FINANCIAL RECORDKEEPING

Chapter	Sec.
1. INSURED BANKS AND INSURED INSTITUTIONS	101
2. OTHER FINANCIAL INSTITUTIONS	121

Chapter 1.—INSURED BANKS AND INSURED INSTITUTIONS

Sec.

101. Retention of records by insured banks.
102. Retention of records by insured institutions.

§ 101. Retention of records by insured banks

The Federal Deposit Insurance Act is amended (1) by redesignating sections 21 and 22 as 22 and 23, respectively, and (2) by inserting the following new section immediately after section 20:

"SEC. 21. (a)(1) The Congress finds that adequate records maintained by insured banks have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings. The Congress further finds that microfilm or other reproductions and other records made by banks of checks, as well as records kept by banks of the identity of persons maintaining or authorized to act with respect to accounts therein, have been of particular value in this respect.

"(2) It is the purpose of this section to require the maintenance of appropriate types of records by insured banks in the United States where such records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(b) Where the Secretary of the Treasury (referred to in this section as the 'Secretary') determines that the maintenance of appropriate types of records and other evidence by insured banks has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, he shall prescribe regulations to carry out the purposes of this section.

"(c) Each insured bank shall maintain such records and other evidence, in such form as the Secretary shall require, of the identity of each person having an account in the United States with the bank and of each individual authorized to sign checks, make withdrawals, or otherwise act with respect to any such account. The Secretary may make such exemptions from any requirement otherwise imposed under this subsection as are consistent with the purposes of this section.

"(d) Each insured bank shall make, to the extent that the regulations of the Secretary so require—

"(1) a microfilm or other reproduction of each check, draft, or similar instrument drawn on it and presented to it for payment; and

"(2) a record of each check, draft, or similar instrument received by it for deposit or collection, together with an identification of the party for whose account it is to be deposited or collected, unless the bank has already made a record of the party's identity pursuant to subsection (c).

"(e) Whenever any individual engages (whether as principal, agent, or bailee) in any transaction with an insured bank which is required to be reported or recorded under the Currency and Foreign Transactions Reporting Act, the bank shall require and retain such evidence of the identity of that individual as the Secretary may prescribe as appropriate under the circumstances.

"(f) In addition to or in lieu of the records and evidence otherwise referred to in this section, each insured bank shall maintain such records and evidence as the Secretary may prescribe to carry out the purposes of this section.

"(g) Any type of record or evidence required under this section shall be retained for such period as the Secretary may prescribe for the type in question. Any period so prescribed shall not exceed six years unless the Secretary determines, having regard for the purposes of this section, that a longer period is necessary in the case of a particular type of record or evidence.

"(h) The Secretary shall include in his annual report to the Congress information on his implementation of the authority conferred by this section and any similar authority with respect to recordkeeping or reporting requirements conferred by other provisions of law."

§ 102. Retention of records by insured institutions

Title IV of the National Housing Act is amended by adding at the end thereof the following new section:

"SEC. 411. The Secretary of the Treasury shall prescribe such regulations as may be appropriate to carry out, with respect to insured institutions, the purposes set forth in section 21 of the Federal Deposit Insurance Act with respect to insured banks."

Chapter 2.—OTHER FINANCIAL INSTITUTIONS

Sec.

121. Congressional findings and purpose.
122. Authority of Secretary with respect to reports on ownership and control.
123. Authority of Secretary with respect to recordkeeping and procedures.
124. Injunctions.
125. Civil penalties.
126. Criminal penalty.
127. Additional criminal penalty in certain cases.
128. Compliance.
129. Administrative procedure.

§ 121. Congressional findings and purpose

(a) The Congress finds that certain records maintained by businesses engaged in the functions described in section 123(b) of this Act have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings. The Congress further finds that the power to require reports of changes in the ownership, control, and managements of types of financial institutions referred to in section 122 of this Act may be necessary for the same purpose.

(b) It is the purpose of this chapter to require the maintenance of appropriate types of records and the making of appropriate reports by such businesses in the United States where such records or reports have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

§ 122. Authority of Secretary with respect to reports on ownership and control

Where the Secretary determines that the making of appropriate reports by uninsured banks or uninsured institutions of any type with respect to their ownership, control, and managements and any changes therein has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, he may by regulation require such banks or institutions to make such reports as he determines in respect of such ownership, control, and managements and changes therein.

§ 123. Authority of Secretary with respect to recordkeeping and procedures

(a) Where the Secretary determines that the maintenance of appropriate records and procedures by any uninsured bank or uninsured institution, or any person engaging in the business of carrying on in the United States any of the functions referred to in subsection (b) of this section, has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, he may by regulation require such bank, institution, or person—

(1) to require, retain, or maintain, with respect to its functions as an uninsured bank or uninsured institution or its functions referred to in subsection (b), any records or evidence of any type which the Secretary is authorized under section 21 of the Federal Deposit Insurance Act to require insured banks to require, retain, or maintain; and

(2) to maintain procedures to assure compliance with requirements imposed under this chapter. For the purposes of any civil or criminal penalty, a separate violation of any requirement under this paragraph occurs with respect to each day and each separate office, branch, or place of business in which the violation occurs or continues.

(b) The authority of the Secretary under this section extends to any person engaging in the business of carrying on any of the following functions:

(1) Issuing or redeeming checks, money orders, travelers' checks, or similar instruments, except as an incident to the conduct of its own nonfinancial business.

(2) Transferring funds or credits domestically or internationally.

(3) Operating a currency exchange or otherwise dealing in foreign currencies or credits.

(4) Operating a credit card system.

(5) Performing such similar, related, or substitute functions for any of the fore-

going or for banking as may be specified by the Secretary in regulations.

§ 124. Injunctions

Whenever it appears to the Secretary that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any regulation under this chapter, he may in his discretion bring an action, in the proper district court of the United States or the proper United States Court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the Secretary, any such court may also issue mandatory injunctions commanding any person to comply with any regulation of the Secretary under this chapter.

§ 125. Civil penalties

(a) For each willful violation of any regulation under this chapter, the Secretary may assess upon any person to which the regulation applies, and, if such person is a partnership, corporation, or other entity, upon any partner, director, officer, or employee thereof who willfully participates in the violation, a civil penalty not exceeding $1,000.

(b) In the event of the failure of any person to pay any penalty assessed under this section, a civil action for the recovery thereof may, in the discretion of the Secretary, be brought in the name of the United States.

§ 126. Criminal penalty

Whoever willfully violates any regulation under this chapter shall be fined not more than $1,000 or imprisoned not more than one year, or both.

§ 127. Additional criminal penalty in certain cases

Whoever willfully violates any regulation under this chapter, section 21 of the Federal Deposit Insurance Act, or section 411 of the National Housing Act, where the violation is committed in furtherance of the commission of any violation of Federal law punishable by imprisonment for more than one year, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

§ 128. Compliance

The Secretary shall have the responsibility to assure compliance with the requirements of this title and may delegate such responsibility to the appropriate bank supervisory agency, or other supervisory agency.

§ 129. Administrative procedure

The administrative procedure and judicial review provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code, shall apply to all proceedings under this chapter, section 21 of the Federal Deposit Insurance Act, and section 411 of the National Housing Act.

TITLE II—REPORTS OF CURRENCY AND FOREIGN TRANSACTIONS

Chapter	Sec.
1. GENERAL PROVISIONS	201
2. DOMESTIC CURRENCY TRANSACTIONS	221
3. REPORTS OF EXPORTS AND IMPORTS OF MONETARY INSTRUMENTS	231
4. FOREIGN TRANSACTIONS	241

Chapter 1.—GENERAL PROVISIONS

Sec.
201. Short title.
202. Purpose.
203. Definitions and rules of construction.
204. Regulations.
205. Compliance.
206. Exemptions.
207. Civil penalty.
208. Injunctions.
209. Criminal penalty.
210. Additional criminal penalty in certain cases.
211. Immunity of witnesses.
212. Availability of information to other Federal agencies.
213. Administrative procedure.

§ 201. Said title

This title may be cited as the "Currency and Foreign Transactions Reporting Act".

§ 202. Purpose

It is the purpose of this title to require certain reports or records where such reports or records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

§ 203. Definitions and rules of construction

(a) The definitions and rules of construction set forth in this section apply for the purposes of this title.

(b) The term "Secretary" means the Secretary of the Treasury.

(c) The term "person" includes natural persons, partnerships, trusts, estates, associations, corporations, and all entities cognizable as legal personalities. The term also includes any governmental department or agency specified by the Secretary either for the purpose of this title generally or any particular requirement thereunder.

(d) The term "United States", used in a geographical sense, includes the States and the District of Columbia, and to the extent the Secretary shall by regulation specify, either for the purposes of this title generally or any particular requirement thereunder, the Commonwealth of Puerto Rico, the possessions of the United States, United States military establishments, and United States diplomatic establishments.

(e) The term "financial institution" means any person which does business in any one or more of the following capacities:

(1) an insured bank as defined in section 3 of the Federal Deposit Insurance Act;

(2) a commercial bank or trust company;

(3) a private banker;

(4) an agency or a branch within the United States of any foreign bank;

(5) an insured institution as defined in section 401 of the National Housing Act;

(6) a savings bank, building and loan association, credit union, industrial bank, or other thrift institution;

(7) a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934;

(8) a broker or dealer in securities or commodities;

(9) an investment banker or investment company;

(10) a currency exchange;

(11) an issuer, redeemer or cashier of travelers' checks, checks, money orders, or similar instruments;

(12) an operator of a credit card system;

(13) an insurance company;

(14) a dealer in precious metals, stones, or jewels;

(15) a pawnbroker;

(16) a loan or finance company;

(17) a travel agency;

(18) a licensed transmitter of funds;

(19) a telegraph company;

(20) a Federal, State, or local government institution which performs any of the functions of any of the businesses listed above; or

(21) any other type of business or institution performing similar, related, or substitute functions specified by the Secretary by regulation for the purposes of the provision of this title to which the regulation relates.

(f) The term "domestic", used with reference to institutions or agencies, limits the applicability of the provision wherein it appears to the performance by such institutions or agencies of functions within the United States.

(g) The term "financial agency" means any person which acts in the capacity of a financial institution or in the capacity of a bailee, depository trustee, agent, or in any other similar capacity with respect to money, credit, securities, or gold or transactions therein, on behalf of any person other than a government, a monetary or financial authority when acting as such, or an international financial institution of which the United States is a member.

(h) The term "foreign", used with reference to institutions or agencies, limits the applicability of the provision wherein it appears to the performance by such institutions or agencies of functions outside the United States.

(i) References to this title or any provision thereof include regulations issued under this title or the provision thereof in question.

(j) All reports required under this title and all records of any such reports are specifically exempted from disclosure under section 552 of title 5, United States Code.

(k) For the purposes of section 1001 of title 18, United States Code, the contents of reports required under any provision of this title are statements and representations in matters within the jurisdiction of an agency of the United States.

(l) The term "monetary instruments" means coin and currency of the United States, and in addition, such foreign coin and currencies, and such types of travelers' checks, bearer negotiable instruments, bearer investment securities, bearer securities, and stock with title passing upon delivery, or the equivalent thereof, as the Secretary may by regulation specify for the purposes of the provision of this title to which the regulation relates.

§ 204. Regulations

The Secretary shall prescribe such regulations as he may deem appropriate to carry out the purposes of this title.

§ 205. Compliance

(a) The Secretary shall have the responsibility to assure compliance with the requirements of this title and may delegate such responsibility to the appropriate bank supervisory agency, or other supervisory agency

(b) The Secretary may by regulation require any class of domestic financial institutions to maintain such procedures as he may deem appropriate to assure compliance with the provisions of this title. For the purposes of both civil and criminal penalties for violations of this section, a separate violation shall be deemed to occur with respect to each day and each separate office, branch, or place of business in which the violation occurs or continues.

§ 206. Exemptions

The Secretary may make such exemptions from any requirement otherwise imposed under this title as he may deem appropriate. Any such exemption may be conditional or unconditional, by regulation, order, or licensing, or any combination thereof, and may relate to any particular transaction, to the type or amount of the transaction, to the party or parties or the classification of parties, or to any combination thereof. The Secretary may in his discretion, in any manner giving actual or constructive notice to the parties affected, revoke any exemption made under this section. Any such revocation shall remain in effect pending any judicial review.

§ 207. Civil penalty

(a) For each willful violation of this title, the Secretary may assess upon any domestic financial institution, and upon any partner, director, officer, or employee thereof who willfully participates in the violation, a civil penalty not exceeding $1,000.

(b) In the event of the failure of any person to pay any penalty assessed under this title, a civil action for the recovery thereof may, in the discretion of the Secretary, be brought in the name of the United States.

§ 208. Injunctions

Whenever it appears to the Secretary that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of the provisions of this title, or of any order thereunder, he may in his discretion bring an action, in the proper United States court of any territory

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or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the Secretary, any such court may also issue mandatory injunctions commanding any person to comply with the provisions of this title or any order of the Secretary made in pursuance thereof.

§ 209. Criminal penalty

Whoever willfully violates any provision of this title or any regulation under this title shall be fined not more than $1,000, or imprisoned not more than one year, or both.

§ 210. Additional criminal penalty in certain cases

Whoever willfully violates any provision of this title where the violation is—

(1) committed in furtherance of the commission of any other violation of Federal law, or

(2) committed as part of a pattern of illegal activity involving transactions exceeding $100,000 in any twelve-month period,

shall be fined not more than $500,000 or imprisoned not more than five years, or both.

§ 211. Immunity of witnesses

Whenever a witness refuses on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding involving any violation of this title before or ancillary to—

(1) a court or grand jury of the United States,

(2) an agency of the United States, or

(3) either House of Congress, a joint committee of the two Houses, or a committee or a subcommittee of either House,

and the person presiding over the proceeding communicates to the witness an order requiring him to give testimony or provide other information, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination. No such testimony or other information so compelled under the order or evidence or other information which is obtained by the exploitation of such testimony may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

§ 212. Availability of information to other Federal agencies

The Secretary shall, upon such conditions and pursuant to such procedures as he may by regulation prescribe, make any information set forth in reports filed pursuant to this title available for a purpose consistent with the provisions of this title to any other department or agency of the Federal Government on the request of the head of such department or agency.

§ 213. Administrative procedure

Subject to section 203(j), the administrative procedure and judicial review provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code, shall apply to all proceedings under this title.

Chapter 2.—DOMESTIC CURRENCY TRANSACTIONS

Sec.
221. Reports of currency transactions required.
222. Persons required to file reports.
223. Reporting procedure.

§ 221. Reports of currency transactions required.

Transactions involving any domestic financial institution shall be reported to the Secretary at such time, in such manner, and in such detail as the Secretary may require if they involve the payment, receipt, or transfer of United States currency, or such other monetary instruments as the Secretary may specify, in such amounts, denominations, or both, or under such circumstances, as the Secretary shall by regulation prescribe.

§ 222. Persons required to file reports

The report of any transaction required to be reported under this chapter shall be signed or otherwise made both by the domestic financial institution involved and by one or more of the other parties thereto or participants therein, as the Secretary may require. If any party to or participant in the transaction is not an individual acting only for himself, the report shall identify the person or persons on whose behalf the transaction is entered into, and shall be made by the individuals acting as agents or bailees with respect thereto.

§ 223. Reporting procedure

(a) The Secretary may in his discretion designate domestic financial institutions, individually or by class, as agents of the United States to receive reports required under this chapter, except that an institution which is not insured, chartered, examined, or registered as such by any agency of the United States may not be so designated without its consent. The Secretary may suspend or revoke any such designation for any violation of this Act, or section 21 of the Federal Deposit Insurance Act, or section 411 of the National Housing Act.

(b) Any person (other than an institution designated under subsection (a)) required to file a report under this chapter with respect to a transaction with a domestic financial institution shall file the report with that institution, except that (1) if the institution is not designated under subsection (a), the report shall be filed as the Secretary shall prescribe, and (2) any such person may, at his election and in lieu of filing the report in the manner hereinabove prescribed, file the report with the Secretary. Domestic financial institutions designated under subsection (a) shall transmit reports filed with them, and shall file their own reports, as the Secretary shall prescribe.

Chapter 3.—REPORTS OF EXPORTS AND IMPORTS OF MONETARY INSTRUMENTS

Sec.
231. Reports required.
232. Forfeiture.
233. Civil liability.
234. Remission by the Secretary.
235. Enforcement authority.

§ 231. Reports required

(a) Except as provided in subsection (c) of this section, whoever, whether as principal, agent, or bailee, or by an agent or bailee, knowingly—

(1) transports or causes to be transported monetary instruments—

(A) from any place within the United States to or through any place outside the United States, or

(B) to any place within the United States from or through any place outside the United States, or

(2) receives monetary instruments at the termination of their transportation to the United States from or through any place outside the United States

in an amount exceeding $5,000 on any one occasion shall file a report or reports in accordance with subsection (b) of this section.

(b) Reports required under this section shall be filed at such times and places, and may contain such of the following information and any additional information, in such form and in such detail, as the Secretary may require:

(1) The legal capacity in which the person filing the report is acting with respect to the monetary instruments transported.

(2) The origin, destination, and route of the transportation.

(3) Where the monetary instruments are not legally and beneficially owned by the person transporting the same, or are transported for any purpose other than the use in his own behalf of the person transporting the same, the identities of the person from whom the monetary instruments are received, or to whom they are to be delivered, or both.

(4) The amounts and types of monetary instruments transported.

(c) Subsection (a) does not apply to any common carrier of passengers in respect of monetary instruments in the possession of its passengers, nor to any common carrier of goods in respect of shipments of monetary instruments not declared to be such by the shipper.

§ 232. Forfeiture

(a) Any monetary instruments which are in the process of any transportation with respect to which any report required to be filed under section 231(1) either has not been filed or contains material omissions or misstatements are subject to seizure and forfeiture to the United States.

(b) For the purpose of this section, monetary instruments transported by mail, by any common carrier, or by any messenger or bailee, are in process of transportation from the time they are delivered into the possession of the postal service, common carrier, messenger, or bailee until the time they are delivered into or retained in the possession of the addressee or intended recipient or any agent of the addressee or intended recipient for purposes other than further transportation within, or across any border of, the United States.

§ 233. Civil liability

The Secretary may assess a civil penalty upon any person who fails to file any report required under section 231, or who files such a report containing any material omission or misstatement. The amount of the penalty shall not exceed the amount of the monetary instruments with respect to whose transportation the report was required to be filed. The liabilities imposed by this chapter are in addition to any other liabilities, civil or criminal, except that the liability under this section shall be reduced by any amount actually forfeited under section 232.

§ 234. Remission by the Secretary

The Secretary may in his discretion remit any forfeiture or penalty under this chapter in whole or in part upon such terms and conditions as he deems reasonable and just.

§ 235. Enforcement authority

(a) If the Secretary has reason to believe that monetary instruments are in the process of transportation and with respect to which a report required under section 231 has not been filed or contains material omissions or misstatements, he may apply to any court of competent jurisdiction for a search warrant. Upon a showing of probable cause, the court may issue a warrant authorizing the search of any or all of the following:

(1) One or more designated persons.

(2) One or more designated or described places or premises.

(3) One or more designated or described letters, parcels, packages, or other physical objects.

(4) One or more designated or described vehicles.

Any application for a search warrant pursuant to this section shall be accompanied by allegations of fact supporting the application.

(b) This section is not in derogation of the authority of the Secretary under any other law.

Chapter 4.—FOREIGN TRANSACTIONS

Sec.
241. Records and reports required.
242. Classifications and requirements.

§ 241. Records and reports required

(a) The Secretary of the Treasury, having due regard for the need to avoid impeding or controlling the export or import of currency or other monetary instruments and having due regard also for the need to avoid burdening unreasonably persons who legitimately engage in transactions with foreign financial agencies, shall by regulation require any resident or citizen of the United States, or person in the United States and doing business therein, who engages in any transaction or maintains any relationship, directly or indirectly, on behalf of himself or another, with a foreign financial agency to maintain records or to file reports, or both, setting forth such of the following information, in such form and in such detail, as the Secretary may require:

(1) The identities and addresses of the parties to the transaction or relationship.

(2) The legal capacities in which the parties to the transaction or relationship are acting, and the identities of the real parties in interest if one or more of the parties are not acting solely as principals.

(3) A description of the transaction or relationship including the amounts of money, credit, or other property involved.

(b) No person required to maintain records under this section shall be required to produce or otherwise disclose the contents of the records except in compliance with a subpena or summons duly authorized and issued or as may otherwise be required by law.

§ 242. Classifications and requirements

The Secretary may prescribe:

(1) Any reasonable classification of persons subject to or exempt from any requirement imposed under section 241.

(2) The foreign country or countries as to which any requirement imposed under section 241 applies or does not apply if, in the judgment of the Secretary, uniform applicability of any such requirement to all foreign countries is unnecessary or undesirable.

(3) The magnitude of transactions subject to any requirement imposed under section 241.

(4) Types of transactions subject to or exempt from any requirement imposed under section 241.

(5) Such other matters as he may deem necessary to the application of this chapter.

TITLE III—MARGIN REQUIREMENTS

§ 301. Amendment of section 7 of the Securities Exchange Act of 1934.

(a) Section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g) is amended by adding at the end thereof the following new subsection:

"(f)(1) It is unlawful for any United States person, or any foreign person controlled by a United States person or acting on behalf of or in conjunction with such person, to obtain, receive, or enjoy the beneficial use of a loan or other extension of credit from any lender (without regard to whether the lender's office or place of business is in a State or the transaction occurred in whole or in part within a State) for the purpose of (A) purchasing or carrying United States securities, or (B) purchasing or carrying within the United States of any other securities, if, under this section or rules and regulations prescribed thereunder, the loan or other credit transaction is prohibited or would be prohibited if it had been made or the transaction had otherwise occurred in a lender's office or other place of business in a State.

"(2) For the purposes of this subsection—

"(A) The term 'United States person' includes a person which is organized or exists under the laws of any State or, in the case of a natural person, a citizen or resident of the United States; a domestic estate; or a trust in which one or more of the foregoing persons has a cumulative direct or indirect beneficial interest in excess of 50 per centum of the value of the trust.

"(B) The term 'United States security' means a security (other than an exempted security) issued by a person incorporated under the laws of any State, or whose principal place of business is within a State.

"(C) The term 'foreign person controlled by a United States person' includes any noncorporate entity in which United States persons directly or indirectly have more than a 50 per centum beneficial interest, and any corporation in which one or more United States persons, directly or indirectly, own stock possessing more than 50 per centum of the total combined voting power of all classes of stock entitled to vote, or more than 50 per centum of the total value of shares of all classes of stock.

"(3) The Board of Governors of the Federal Revenue System may, in its discretion and with due regard for the purposes of this section, by rule or regulation exempt any class of United States persons or foreign persons controlled by a United States person from the application of this subsection."

(b) The amendment made by subsection (a) of this section does not affect the continuing validity of any rule or regulation under section 7 of the Securities Exchange Act of 1934 in effect prior to the effective date of the amendment.

TITLE IV—EFFECTIVE DATES

§ 401. Effective dates

(a) Except as otherwise provided in this section, titles I, II, and III of this Act and the amendments made thereby take effect on the first day of the seventh calendar month which begins after the date of enactment.

(b) The Secretary of the Treasury may by regulation provide that any provision of title I or II or any amendment made thereby shall be effective on any date not earlier than the publication of the regulation in the Federal Register and not later than the first day of the thirteenth calendar month which begins after the date of enactment.

(c) The Board of Governors of the Federal Reserve System may by regulation provide that the amendment made by title III shall be effective on any date not earlier than the publication of the regulation in the Federal Register and not later than the first day of the thirteenth calendar month which begins after the date of enactment.

TITLE V—PROVISIONS RELATING TO CREDIT CARDS

SEC. 501. Section 103 of the Truth in Lending Act (82 Stat. 146) is amended by redesignating subsections (j), (k), and (l) as subsections (p), (q), and (r), respectively, and by adding after subsection (l) the following:

"(j) The term 'adequate notice', as used in section 133, means a printed notice to a cardholder which sets forth the pertinent facts clearly and conspicuously so that a person against whom it is to operate could reasonably be expected to have noticed it and understood its meaning. Such notice may be given to a cardholder by printing the notice on any credit card, or on each periodic statement of account, issued to the cardholder, or by any other means reasonably assuring the receipt thereof by the cardholder.

"(k) The term 'credit card' means any card, plate, coupon book or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.

"(l) The term 'accepted credit card' means any credit card which the cardholder has requested and received or has signed or has used, or authorized another to use, for the purpose of obtaining money, property, labor, or services on credit.

"(m) The term 'cardholder' means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

"(n) The term 'card issuer' means any person who issues a credit card, or the agent of such person with respect to such card.

"(o) The term 'unauthorized use', as used in section 133, means a use of a credit card by a person other than the cardholder who does not have actual, implied, or apparent authority for such use and from which the cardholder receives no benefit."

SEC. 502. (a) The Truth in Lending Act (82 Stat. 146) is amended by adding after section 131 the following sections:

"§ 132. Issuance of credit cards

"No credit card shall be issued except in response to a request or application therefor. This prohibition does not apply to the issuance of a credit card in renewal of, or in substitution for, an accepted credit card.

"§ 133. Liability of holder of credit card

"(a) A cardholder shall be liable for the unauthorized use of a credit card only if the card is an accepted credit card, the liability is not in excess of $50, the card issuer gives adequate notice to the cardholder of the potential liability, the card issuer has provided the cardholder with a self-addressed, prestamped notification to be mailed by the cardholder in the event of the loss or theft of the credit card, and the unauthorized use occurs before the cardholder has notified the card issuer that an unauthorized use of the credit card has occurred or may occur as the result of loss, theft, or otherwise. Notwithstanding the foregoing, no cardholder shall be liable for the unauthorized use of any credit card which was issued on or after the effective date of this section, and, after the expiration of twelve months following such effective date, no cardholder shall be liable for the unauthorized use of any credit card regardless of the date of its issuance, unless (1) the conditions of liability specified in the preceding sentence are met, and (2) the card issuer has provided a method whereby the user of such card can be identified as the person authorized to use it. For the purposes of this section, a cardholder notifies a card issuer by taking such steps as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information whether or not any particular officer, employee, or agent of the card issuer does in fact receive such information.

"(b) In any action by a card issuer to enforce liability for the use of a credit card, the burden of proof is upon the card issuer to show that the use was authorized or, if the use was unauthorized, then the burden of proof is upon the card issuer to show that the conditions of liability for the unauthorized use of a credit card, as set forth in subsection (a), have been met.

"(c) Nothing in this section imposes liability upon a cardholder for the unauthorized use of a credit card in excess of his liability for such use under other applicable law or under any agreement with the card issuer.

"(d) Except as provided in this section, a cardholder incurs no liability from the unauthorized use of a credit card.

"§ 134. Fraudulent use of credit card

"Whoever, in a transaction affecting interstate or foreign commerce, uses any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card to obtain goods or services, or both, having a retail value aggregating $5,000 or more, shall be fined not more than $10,000 or imprisoned not more than five years, or both."

(b) The table of contents of chapter 2 of the Truth in Lending Act is amended by adding at the end thereof the following:

"132. Issuance of credit cards.
"133. Liability of holder of credit card.
"134. Fraudulent use of credit card."

SEC. 503. The amendments to the Truth in Lending Act made by this title become effective as follows:

(1) Section 132 of such Act takes effect upon the date of enactment of this title.

(2) Section 133 of such Act takes effect upon the expiration of 90 days after such date of enactment.

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(3) Section 134 of such Act applies to offenses committed on or after such date of enactment.

TITLE VI—PROVISIONS RELATING TO CREDIT REPORTING AGENCIES

AMENDMENT OF CONSUMER CREDIT PROTECTION ACT

SEC. 601. The Consumer Credit Protection Act is amended by adding at the end thereof the following new title:

"TITLE VI—CONSUMER CREDIT REPORTING

"Sec.
"601. Short title.
"602. Findings and purpose.
"603. Definitions and rules of construction.
"604. Permissible purposes of reports.
"605. Obsolete information.
"606. Disclosure of investigative consumer reports.
"607. Compliance procedures.
"608. Disclosures to governmental agencies.
"609. Disclosure to consumers.
"610. Conditions of disclosure to consumers.
"611. Procedure in case of disputed accuracy.
"612. Charges for certain disclosures.
"613. Public record information for employment purposes.
"614. Restrictions on investigative consumer reports.
"615. Requirements on users of consumer reports.
"616. Civil liability for willful noncompliance.
"617. Civil liability for negligent noncompliance.
"618. Jurisdiction of courts; limitation of actions.
"619. Obtaining information under false pretenses.
"620. Unauthorized disclosures by officers or employees.
"621. Administrative enforcement.
"622. Relation to State laws.

"§ 601. Short title

"This title may be cited as the Fair Credit Reporting Act.

"§ 602. Findings and purpose

"(a) The Congress makes the following findings:

"(1) The banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence which is essential to the continued functioning of the banking system.

"(2) An elaborate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, character, and general reputation of consumers.

"(3) Consumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.

"(4) There is a need to insure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy.

"(b) It is the purpose of this title to require that consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this title.

"§ 603. Definitions and rules of construction

"(a) Definitions and rules of construction set forth in this section are applicable for the purposes of this title.

"(b) The term 'person' means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

"(c) The term 'consumer' means an individual.

"(d) The term 'consumer report' means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (1) credit or insurance to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) other purposes authorized under section 604. The term does not include (A) any report containing information solely as to transactions or experiences between the consumer and the person making the report; (B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or (C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under section 615.

"(e) The term 'investigative consumer report' means a consumer report or portion thereof in which information on a consumer's character, general reputation, personal characteristic, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any such items of information. However, such information shall not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of consumer or from the consumer.

"(f) The term 'consumer reporting agency' means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

"(g) The term 'file', when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

"(h) The term 'employment purposes' when used in connection with a consumer report means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee.

"(i) The term 'medical information' means information or records obtained, with the consent of the individual to whom it relates, from licensed physicians or medical practitioners, hospitals, clinics, or other medical or medically related facilities.

"§ 604. Permissible purposes of reports.

"A consumer reporting agency may furnish a consumer report under the following circumstances and no other:

"(1) In response to the order of a court having jurisdiction to issue such an order.

"(2) In accordance with the written instructions of the consumer to whom it relates.

"(3) To a person which it has reason to believe—

"(A) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of the consumer; or

"(B) intends to use the information for employment purposes; or

"(C) intends to use the information in connection with the underwriting of insurance involving the consumer; or

"(D) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

"(E) otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

"§ 605. Obsolete information

"(a) Except as authorized under subsection (b), no consumer reporting agency may make any consumer report containing any of the following items of information:

"(1) Bankruptcies which, from date of adjudication of the most recent bankruptcy, antedate the report by more than fourteen years.

"(2) Suits and judgments which, from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

"(3) Paid tax liens which, from date of payment, antedate the report by more than seven years.

"(4) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

"(5) Records of arrest, indictment, or conviction of crime which, from date of disposition, release, or parole, antedate the report by more than seven years.

"(6) Any other adverse item of information which antedates the report by more than seven years.

"(b) The provisions of subsection (a) are not applicable in the case of any consumer credit report to be used in connection with—

"(1) a credit transaction involving, or which may reasonably be expected to involve, a principal amount of $50,000 or more;

"(2) the underwriting of life insurance involving, or which may reasonably be expected to involve, a face amount of $50,000 or more; or

"(3) the employment of any individual at an annual salary which equals, or which may reasonably be expected to equal $20,000, or more.

"§ 606. Disclosure of investigative consumer reports

"(a) A person may not procure or cause to be prepared an investigative consumer report on any consumer unless—

"(1) it is clearly and accurately disclosed to the consumer that an investigative consumer report including information as to his character, general reputation, personal characteristics, and mode of living, whichever are applicable, may be made, and such disclosure (A) is made in a writing mailed, or otherwise delivered, to the consumer, not later than three days after the date on which the report was first requested, and (B) includes a statement informing the consumer of his right to request the additional disclosures provided for under subsection (b) of this section; or

"(2) the report is to be used for employment purposes for which the consumer has not specifically applied.

"(b) Any person who procures or causes to be prepared an investigative consumer report on any consumer shall, upon written request made by the consumer within a reasonable period of time after the receipt

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by him of the disclosure required by subsection (a)(1), shall make a complete and accurate disclosure of the nature and scope of the investigation requested. This disclosure shall be made in a writing mailed, or otherwise delivered, to the consumer not later than five days after the date on which the request for such disclosure was received from the consumer or such report was first requested, whichever is the later.

"(c) No person may be held liable for any violation of subsection (a) or (b) of this section if he shows by a preponderance of the evidence that at the time of the violation he maintained reasonable procedures to assure compliance with subsection (a) or (b).

"§ 607. Compliance procedures

"(a) Every consumer reporting agency shall maintain reasonable procedures designed to avoid violations of section 605 and to limit the furnishing of consumer reports to the purposes listed under section 604. These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. Every consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report. No consumer reporting agency may furnish a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a purpose listed in section 604.

"(b) Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

"§ 608. Disclosures to governmental agencies

"Notwithstanding the provisions of section 604, a consumer reporting agency may furnish identifying information respecting any consumer, limited to his name, address, former addresses, places of employment, or former places of employment, to a governmental agency.

"§ 609. Disclosures to consumers

"(a) Every consumer reporting agency shall, upon request and proper identification of any consumer, clearly and accurately disclose to the consumer:

"(1) The nature and substance of all information (except medical information) in its files on the consumer at the time of the request.

"(2) The sources of the information; except that the sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose need not be disclosed: *Provided*, That in the event an action is brought under this title, such sources shall be available to the plaintiff under appropriate discovery procedures in the court in which the action is brought.

"(3) The recipients of any consumer report on the consumer which it has furnished—

"(A) for employment purposes within the two-year period preceding the request, and

"(B) for any other purpose within the six-month period preceding the request.

"(b) The requirements of subsection (a) respecting the disclosure of sources of information and the recipients of consumer reports do not apply to information received or consumer reports furnished prior to the effective date of this title except to the extent that the matter involved is contained in the files of the consumer reporting agency on that date.

"§ 610. Conditions of disclosure to consumers

"(a) A consumer reporting agency shall make the disclosures required under section 609 during normal business hours and on reasonable notice.

"(b) The disclosures required under section 609 shall be made to the consumer—

"(1) in person if he appears in person and furnishes proper identification; or

"(2) by telephone if he has made a written request, with proper identification, for telephone disclosure and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer.

"(c) Any consumer reporting agency shall provide trained personnel to explain to the consumer any information furnished to him pursuant to section 609.

"(d) The consumer shall be permitted to be accompanied by one other person of his choosing, who shall furnish reasonable identification. A consumer reporting agency may require the consumer to furnish a written statement granting permission to the consumer reporting agency to discuss the consumer's file in such person's presence.

"(e) Except as provided in sections 616 and 617, no consumer may bring any action or proceeding in the nature of defamation, invasion of privacy, or negligence with respect to the reporting of information against any consumer reporting agency, any user of information, or any person who furnishes information to a consumer reporting agency, based on information disclosed pursuant to section 609, 610, or 615, except as to false information furnished with malice or willful intent to injure such consumer.

§ 611. Procedure in case of disputed accuracy

"(a) If the completeness or accuracy of any item of information contained in his file is disputed by a consumer, and such dispute is directly conveyed to the consumer reporting agency by the consumer, the consumer reporting agency shall within a reasonable period of time reinvestigate and record the current status of that information unless it has reasonable grounds to believe that the dispute by the consumer is frivolous or irrelevant. If after such reinvestigation such information is found to be inaccurate or can no longer be verified, the consumer reporting agency shall promptly delete such information. The presence of contradictory information in the consumer's file does not in and of itself constitute reasonable grounds for believing the dispute is frivolous or irrelevant.

"(b) If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The consumer reporting agency may limit such statements to not more than one hundred words if it provides the consumer with assistance in writing a clear summary of the dispute.

"(c) Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrevelant, the consumer reporting agency shall, in any subsequent consumer report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumer's statement or a clear and accurate codification or summary thereof.

"(d) Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the consumer reporting agency shall, at the request of the consumer, furnish notification that the item has been deleted or the statement, codification or summary pursuant to subsection (b) or (c) to any person specifically designated by the consumer who has within two years prior thereto received a consumer report for employment purposes, or within six months prior thereto received a consumer report for any other purpose, which contained the deleted or disputed information. The consumer reporting agency shall clearly and conspicuously disclose to the consumer his rights to make such a request. Such disclosure shall be made at or prior to the time the information is deleted or the consumer's statement regarding the disputed information is received.

"§ 612. Charges for certain disclosures

"A consumer reporting agency shall make all disclosures pursuant to section 609 and furnish all consumer reports pursuant to section 611(d) without charge to the consumer if, within thirty days after receipt by such consumer of a notification pursuant to section 615 or notification from a debt collection agency affiliated with such consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a request under section 609 or 611(d). Otherwise, the consumer reporting agency may impose a reasonable charge on the consumer for making disclosure to such consumer pursuant to section 609, the charge for which shall be indicated to the consumer prior to making disclosure; and for furnishing notifications, statements, summaries, or codifications to persons designated by the consumer pursuant to section 611(d), the charge for which shall be indicated to the consumer prior to furnishing such information and shall not exceed the charge that the consumer reporting agency would impose on each designated recipient for a consumer report except that no charge may be made for notifying such persons of the deletion of information which is found to be inaccurate or which can no longer be verified.

"§ 613. Public record information for employment purposes

"A consumer reporting agency which furnishes a consumer report for employment purposes and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall—

"(1) at the time such public record information is reported to the user of such consumer report, notify the consumer of the fact that public record information is being reported by the consumer reporting agency, together with the name and address of the person to whom such information is being reported; or

"(2) maintain strict procedures designed to insure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.

"§ 614. Restrictions on investigative consumer reports

"Whenever a consumer reporting agency prepares an investigative consumer report, no adverse information in the consumer report (other than information which is a matter of public record) may be included in a subsequent consumer report unless such adverse information has been verified in the process of making such subsequent consumer report, or the adverse information was received within the three-month period preceding the date the subsequent report is furnished.

"§ 615. Requirements on users of consumer reports

"(a) Whenever credit or insurance for personal, family, or household purposes, or employment involving a consumer is denied or the charge for such credit or insurance is increased either wholly or partly because of information contained in a consumer report from a consumer reporting agency, the user of the consumer report shall so advise the consumer against whom such adverse action has been taken and supply the name and address of the consumer reporting agency making the report.

"(b) Whenever credit for personal, family, or household purposes involving a consumer is denied or the charge for such credit is increased either wholly or partly because of information obtained from a person other than a consumer reporting agency bearing upon the consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, the user of such information shall, within a reasonable period of time, upon the consumer's written request for the reasons for such adverse action received within sixty days after learning of such adverse action, disclose the nature of the information to the consumer. The user of such information shall clearly and accurately disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer.

"(c) No person shall be held liable for any violation of this section if he shows by a preponderance of the evidence that at the time of the alleged violation he maintained reasonable procedures to assure compliance with the provisions of subsections (a) and (b).

"§ 616. Civil liability for willful noncompliance

"Any consumer reporting agency or user of information which willfully fails to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to the sum of—

"(1) any actual damages sustained by the consumer as a result of the failure;

"(2) such amount of punitive damages as the court may allow; and

"(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

"§ 617. Civil liability for negligent noncompliance

"Any consumer reporting agency or user of information which is negligent in failing to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to the sum of—

"(1) any actual damages sustained by the consumer as a result of the failure;

"(2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

"§ 618. Jurisdiction of courts; limitation of actions

"An action to enforce any liability created under this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within two years from the date on which the liability arises, except that where a defendant has materially and willfully misrepresented any information required under this title to be disclosed to an individual and the information so misrepresented is material to the establishment of the defendant's liability to that individual under this title, the action may be brought at any time within two years after discovery by the individual of the misrepresentation.

"§ 619. Obtaining information under false pretenses

"Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"§ 620. Unauthorized disclosures by officers or employees

"Any officer or employee of a consumer reporting agency who knowingly and willfully provides information concerning an individual from the agency's files to a person not authorized to receive that information shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"§ 621. Administrative enforcement

"(a) Compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission with respect to consumer reporting agencies and all other persons subject thereto, except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other government agency under subsection (b) hereof. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed under this title shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement by the Federal Trade Commission under section 5(b) thereof with respect to any consumer reporting agency or person subject to enforcement by the Federal Trade Commission pursuant to this subsection, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act. The Federal Trade Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed under this title and to require the filing of reports, the production of documents, and the appearance of witnesses as though the applicable terms and conditions of the Federal Trade Commission Act were part of this title. Any person violating any of the provisions of this title shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though the applicable terms and provisions thereof were part of this title.

"(b) Compliance with the requirements imposed under this title with respect to consumer reporting agencies and persons who use consumer reports from such agencies shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of:

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Federal Reserve Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

"(2) section 5(d) of the Home Owners Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;

"(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

"(4) the Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts;

"(5) the Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or foreign air carrier subject to that Act; and

"(6) the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

"(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title any other authority conferred on it by law.

"§ 622. Relation to State laws

"This title does not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to the collection, distribution, or use of any information on consumers, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency."

EFFECTIVE DATE

SEC. 602. Section 504 of the Consumer Credit Protection Act is amended by adding at the end thereof the following new subsection:

"(d) Title VI takes effect upon the expiration of one hundred and eighty days following the date of its enactment."

And the Senate agree to the same.

Wright Patman,
William A. Barrett,
Leonor K. Sullivan,
Henry S. Reuss,
Florence P. Dwyer,
Managers on the Part of the House,

William Proxmire,
Harrison A. Williams, Jr.,
Edmund S. Muskie,
Thomas J. McIntyre,
Wallace F. Bennett,
Edward W. Brooke,
C. H. Percy,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes in the two Houses on the amendment of the Senate to the bill (H.R. 15073) to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require transactions in the United States currency be reported to the Department of the Treasury, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommend in the accompanying conference report:

GENERAL STATEMENT

The bill, H.R. 15073, was reported by the Committee on Banking and Currency on March 28, 1970, and was adopted by the House on May 25, 1970. The bill, in substantially similar form, was introduced in the Senate (S. 3678) on April 6, 1970, and was adopted by the Senate on September 18, 1970, with a number of amendments, and was then adopted as an amendment in the nature of a substitute to H.R. 15073.

Included in the Senate substitute to H.R. 15073 were the following titles covering subjects in addition to recordkeeping and foreign bank secrecy. These were title V, provisions relating to urban mass transportation; title VI, provisions relating to credit cards; and title VII, provisions relating to credit reporting agencies.

Title V of the Senate substitute to H.R.

XUM

15073, providing for authorization for mass transit assistance, was deleted in conference. The title was deleted because the House, on September 29, passed S. 3154, which provided long-term financing for urban mass transportation programs, and the House-passed bill was accepted by the Senate on October 5, 1970, therefore making title V of the Senate-passed H.R. 15073 superfluous.

FINANCIAL INSTITUTIONS RECORDKEEPING AND BANK SECRECY

Title I—Financial Recordkeeping

The major difference in title I of the two bills was in the degree of discretion granted to the Secretary of the Treasury in requiring the maintenance of records by insured banks and other financial institutions. The House-passed bill required the maintenance of appropriate records where they have a high degree of usefulness in criminal, tax, or regulatory investigation or proceedings. The House provided needed flexibility to the Secretary by permitting the maintenance of other records and evidence in addition to, or in lieu of, those specified in the bill.

The Senate bill amended this Congressional purpose by requiring the maintenance of such records and evidence only where the Secretary determined their usefulness in the various proceedings. The House conferees felt this to be an unwarranted delegation of Congressional authority to the Secretary.

The matter was resolved in conference preserving the House purpose clause (new sec. 21(a)(2) of the Federal Deposit Insurance Act) and relegating the Secretary's authority to a subordinate clause (new sec. 21(b) of such Act). Following this compromise, the words "as he deems appropriate" were deleted from the exemptive power of the Secretary in the new section 21(c) and the phrase "as are consistent with the purposes of this section" was substituted.

Consistent with subsequent changes made in title II, the Senate receded on its deletion of the words "or reported" in the new section 21(e). The House receded to the amendment in the Senate-passed bill which deleted an exemption of financial transactions involving less than $500 from the House bill.

Section 128 of the bill, requiring the Secretary to delegate his authority under title I to the appropriate agencies, added by the Senate, was at the suggestion of the House amended to give the Secretary discretion to delegate.

Other changes in title I to which the House receded were of a clarifying or technical nature.

Title II—Reports of currency in foreign transactions

The House agreed to the Senate amendment of the purposes provision (sec. 202), since the Senate language retained the substance of the House version.

Definition of "Financial Institution"

The Senate amendments added a number of business activities to the definition of the term "financial institution" (sec. 203(e)). These broadened the coverage of the title and the House agreed.

Monetary Instruments

The House agreed to the Senate definition of "monetary instruments" after the Senate agreed to a House request to include "bearer securities and stocks whose title is transferrable by delivery" within that term (sec. 203(1)).

Immunity Provisions

In chapter 1, the House accepted the Senate immunity provisions which are similar in scope to those contained in S. 30, the Administration's crime bill.

Amendments to chapter 1 also included rewriting section 203(h) to clear up ambiguities, concurring with the Senate provisions in section 206 dealing with exemptions, and agreeing to the Senate deletion of "knowingly" from the additional criminal penalty in certain cases (section 210). The House conferees accepted a Senate amendment requiring the Secretary to make information set forth in reports filed pursuant to the title available to other agencies subject to regulations prescribed by him.

Currency Transactions

The Senate amended the bill to give any person required to file a report the option of filing the report directly with the Secretary rather than with the financial institution involved or the Secretary's designee (sec. 223(b)). The House conferees agreed.

Reports of Exports and Imports of Monetary Instruments

The House bill provided that reports be filed on exports and imports of monetary instruments in excess of $5,000 at any one time or $10,000 in any one year. The Senate omitted the $10,000 yearly aggregate. The House conferees concurred.

In addition, the Senate added a new section providing that the Secretary must resort to legal process in obtaining search warrants in his enforcement activities (sec. 235). The House agreed to this amendment and to a minor change in section 231(b) by which the Secretary can require information in the reports in addition to that specifically described in the section.

Foreign transactions

The Senate version of the bill deleted the requirement of reports of transactions with foreign financial agencies, but authorized the Secretary to require such reports. The House bill required the Secretary to issue regulations requiring both reports and records. The House version was retained.

The Senate added a new section 241(b) requiring duly authorized and issued warrants and subpoenas as a condition in obtaining records required to be kept under the section. The House agreed to the Senate language.

Title III—Margin requirement

This title amends section 7(a) of the Securities Exchange Act of 1934. The House conferees agreed to the Senate substitute in section 301. The Senate language applies margin requirements in securities transactions to borrowers who are either United States persons or foreign persons controlled by U.S. persons. The latter case includes any non-corporate entity in which U.S. persons have more than 50 per cent beneficial interest.

Title IV—Effective dates

The effective dates contained in the House bill have remained intact.

CREDIT CARDS

Title V—Provisions relating to credit cards

The Senate bill attached a new title V (amending the Truth-in-Lending Act) regulating the issuance of credit cards, creating liability for the unauthorized use of credit cards, and providing criminal penalties for certain unauthorized uses. The House agreed to the Senate language with an amendment limiting criminal penalties for use of illegally obtained cards to cases involving amounts of $5,000 or more.

CREDIT REPORTING AGENCIES

Title VII—Provisions Relating to Credit Reporting Agencies

The House offered the following amendments to the provisions of the Senate-passed bill, which added to the Consumer Credit Protection Act (82 Stat. 146) a new title VI, dealing with consumer credit reporting.

Definitions and Rules of Construction

The House amendment added the definition of the term "medical information" in the new section 603(i) in restricting this type of information from being examined by the consumer when he attains access to his file as authorized in section 609. The rationale was that raw medical information should only be tendered with the counsel of a physician or other medically trained personnel. The Senate bill contained no similar provision, but was agreed to by the conferees.

The House conferees also intend that the definitions of "consumer reporting agency" not incude insured financial institutions whose lending officers merely relate information about an individual with whom they have had direct financial transactions.

Your conferees also intend that the definition of "consumer credit report" not include protective bulletins issued by local hotel and motel associations, and circulated only to their members, dealing solely with transactions between members of the associations and persons named in the report.

Obsolete Information

The House amendments, which were agreed to, were (1) the deletion of the phrase "or until the governing statute of limitations has expired, whichever is the longer period" from section 605(a)(4) in order not to permit the defeat of the intent of the section to restrict the reporting of delinquent account information to seven years by an inordinately long statute of limitations of the type known to exist in certain jurisdictions; and (2) the raising of the limit on life insurance to $50,000 from $25,000 in section 605(b)(2), which exempts life insurance investigations involving amounts above the limit from the section's prohibitions on the reporting of outdated information.

While no amendment was agreed to in section 605(b)(3) it was clearly understood that the conferees of both Houses intend the annual salary limitation of $20,000 to apply to initial or starting salaries in the employment involved.

Compliance Procedures

The House offered an amendment, which was agreed to by the conferees, to add the requirement that consumer reporting agencies must follow reasonable procedures to assure maximum possible accuracy of the information on an individual in all consumer credit reports.

The House conferees intend that this requirement shall include the duty to differentiate between types of individual bankruptcies (e.g., between straight bankruptcies and chapter XIII wage earner plans), and that the disposition of a wage earner plan where the consumer conscientiously carries out his responsibilities under it should be duly noted.

Disclosure to Consumers

The House offered the amendment to delete the words "The nature and substance of" in section 609(1). The intent was to permit the consumer to examine all the information in his file except for sources of investigative information, while not giving the consumer the right to physically handle his file. The Senate conferees did not agree to this amendment, contending that the existing language already accomplished this result. The conferees of both Houses intend that this important provision be so interpreted.

The House offered the amendment to section 609(2), which was agreed to by the conferees, to permit the plaintiff to obtain the sources of investigative information under the appropriate discovery procedures in the court in which an action is brought.

Requirements on users of consumer reports

The House amendment, which was agreed to by the conferees, deleted the requirement in section 615(a) that the consumer be required to submit a written request after denial of credit, insurance, or employment to obtain the name and address of the consumer reporting agency making the report. The conference substitute now requires the user of the report to convey this information to the consumer immediately upon denial of credit, insurance, or employment.

Civil liability for willful noncompliance

The House amendment to section 616(2), which was agreed to by the conferees, removed the floor and ceiling on the amount of punitive damages the court may allow for willful noncompliance with the new title.

Civil liability for negligent noncompliance

The House amendment to section 617, which was agreed to by the conferees, would establish liability for actual damages sustained as a result of ordinary negligence, instead of only as a result of gross negligence as provided in the Senate bill.

Jurisdiction of courts: Limitation of actions

The House amendment to section 618, which was agreed to by the conferees, would stop the statute of limitations from running, where the defendant has willfully misrepresented any information required under the new title which is material to the establishment of the defendant's liability, until discovery by the individual of the misrepresentation.

The conference substitute also permits a suit in any appropriate U.S. district court without regard to the amount in controversy.

Unauthorized disclosures by officers or employees

The House amendment added a new section 620, which was agreed to by the conferees, to provide criminal penalties for willfully providing information on an individual to an unauthorized person by officers or employees of consumer reporting agencies.

Wright Patman,
William A. Barrett,
Leonor K. Sullivan,
Henry S. Reuss,
Florence P. Dwyer,
Managers on the Part of the House.

CONFERENCE REPORT ON S. 3586, HEALTH TRAINING IMPROVEMENT ACT OF 1970

Mr. ROGERS of Florida (on behalf of Mr. Staggers) filed the following conference report and statement on the bill (S. 3586), to amend title VII of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for institutional grants under section 771 thereof, to extend and improve the program relating to training of personnel in the allied health professions, and for other purposes:

Conference Report (H. Rept. No. 91-1588)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3586) to amend title VII of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for institutional grants under section 771 thereof, to extend and improve the program relating to training of personnel in the allied health professions, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

Section 1. This Act may be cited as the "Health Training Improvement Act of 1970".

TITLE I—SCHOOLS OF MEDICINE, DENTISTRY, OSTEOPATHY, PHARMACY, OPTOMETRY, VETERINARY MEDICINE, AND PODIATRY

INSTITUTIONAL GRANTS

Sec. 101. (a) Section 771 of the Public Health Service Act (42 U.S.C. 295f-1) is amended by adding at the end thereof the following new subsection:

(b) The amendment made by subsection (a) of this section shall be effective only with respect to sums available for grants under section 771 of the Public Health Service Act from appropriations under section 770 of such Act for the fiscal years ending after June 30, 1970.

MEDICAL AND DENTAL SCHOOLS IN FINANCIAL DISTRESS

Sec. 102. (a) Section 772 of the Public Health Service Act (42 U.S.C. 295f-2) is amended—

(1) by adding at the end thereof the following new sentence: "Sums appropriated under section 770 for the fiscal year ending June 30, 1971, for grants under this section to assist any such schools which are in serious financial straits to meet their costs of operation shall remain available to make such grants until June 30, 1972."; and

(2) by insert "(a)" after "Sec. 772." and by adding at the end the following new subsection:

(b) The Congress finds and declares that the Nation's economy, welfare, and security are adversely affected by the acute financial crisis which threatens the survival of medical and dental schools which provide the highest quality of teaching, medical and dental research, and delivery of health care for the Nation. The Secretary shall determine the need for emergency financial assistance to such medical and dental schools and shall report to the Congress on or before June 30, 1971, his determinations of such need and his recommendations for such administrative and legislative action as he determines is necessary to meet such needs.".

(b) The amendment made by paragraph (1) of subsection (a) of this section shall apply only with respect to appropriations under section 770 of the Public Health Service Act made after the date of the enactment of this Act.

TITLE II—ALLIED HEALTH PROFESSIONS

GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES FOR ALLIED HEALTH PROFESSIONS PERSONNEL

Sec. 201. (a) Paragraph (1) of subsection (a) of section 791 of the Public Health Service Act (42 U.S.C. 295(h)(1)) is amended (1) by striking out "and" after "June 30, 1969;", and (2) by striking out the period and inserting in lieu thereof a semicolon and the following: "; $20,000,000 for the fiscal year ending June 30, 1971; $30,000,000 for the fiscal year ending June 30, 1972; and $40,000,000 for the fiscal year ending June 30, 1973."

(b) Paragraph (1) of subsection (b) of such section is amended by striking out "July 1, 1969" and inserting in lieu thereof "July 1, 1972".

GRANTS TO IMPROVE THE QUALITY OF TRAINING FOR ALLIED HEALTH PROFESSIONS

Sec. 202. (a) Effective with respect to appropriations for the fiscal year beginning July 1, 1970, section 792 of the Public Health Service Act (42 U.S.C. 295h-1(a)) is amended as follows:

(1) Subsection (a) of such section is amended to read as follows:

"(d) In the case of a new school of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, or podiatry, which applies for a grant under this section in the fiscal year preceding the fiscal year in which it will admit its first class, the enrollment for purposes of subparagraph (a)(1)(A) of this section shall be the number of full-time students which the Secretary determines, on the basis of assurances provided by the school, will be enrolled in the school, in the fiscal year after the fiscal year in which the grant is made."

"Basic Improvement Grants

"Sec. 792. (a)(1) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, and $15,000,000 for the fiscal year ending June 30, 1973, for basic improvement grants under this subsection."

(2) Subsection (b) of such section is amended—

(A) by striking out the subsection heading,

(B) by striking out "(b)(1)" and inserting in lieu thereof "(2)",

(C) by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)",

(D) by striking out "June 30, 1970" and inserting in lieu thereof "June 30, 1973", and

(E) by striking out "(2)" in paragraph (2) and inserting in lieu thereof "(3)".

(3) Subsection (c) is repealed and the following new subsections are inserted immediately before subsection (d):

"Special Improvement Grants

"(b) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1971, $20,000,000 for the fiscal year ending June 30, 1972, and $30,000,000 for the fiscal year ending June 30, 1973, for special improvement grants to assist training centers for allied health professions in projects for the provision, maintenance, or improvement of the specialized functions which the center serves.

"Special Projects for Experimentation, Demonstration, and Institutional Improvement

"(c)(1) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971, $20,000,000 for the fiscal year ending June 30, 1972, and $30,000,000 for the fiscal year ending June 30, 1973, for grants and contracts for special projects under this subsection.

"(2) The Secretary is authorized, from sums available therefor from appropriations made under this subsection and subsection (b), to make grants to public or nonprofit private agencies, organizations, and institutions, and to enter into contracts with individuals, agencies, organizations, and institutions, for special projects related to training or retraining of allied health personnel, including—

"(A) planning, establishing, demonstrating, or developing new programs, or modifying or expanding existing programs, including interdisciplinary training programs;

"(B) developing, demonstrating, or establishing special programs, or adapting existing programs, to reach special groups such as returning veterans with experience in a health field, the economically or culturally deprived, or persons reentering any of the allied health fields;

"(C) developing, demonstrating, or evaluating new or improved teaching methods or curriculums;

"(D) developing, demonstrating, or establishing interrelationships among institutions which will facilitate the training, retraining, or utilization of allied health manpower;

"(E) developing, demonstrating, or evaluating new types of health manpower;

"(F) developing, demonstrating, or evaluating techniques for appropriate recognition (including equivalency and proficiency testing mechanisms) of previously acquired training or experience; and

"(G) developing, demonstrating, or evaluating new or improved means of recruitment, retraining, or retention of allied health manpower."

(b) Effective with respect to grants from appropriations for the fiscal year beginning July 1, 1970, subsection (d) of section 792 is amended—

(A) by striking out "basic or special improvement" in paragraph (1);

(B) by inserting "in the case of a basic or special improvement grant," immediately after "(A)" in paragraph (2)(A); and

(C) by striking out "for grants under subsection (c)" in paragraph (3) and inserting in lieu thereof "for special improvement grants under subsection (b) and for special project grants under subsection (c)".

(c) Effective with respect to grants from appropriations for the fiscal year beginning July 1, 1970, section 795(3) of such Act (42 U.S.C. 295h–4) is amended by striking out "as applied to any training center for allied health professions" and inserting in lieu thereof ", as applied to any training center for allied health professions or to any private agency, organization, or institution,".

(d) Effective with respect to the fiscal year beginning July 1, 1970, section 794 of such Act (42 U.S.C. 295h–3) is repealed.

TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PROFESSIONS PERSONNEL

SEC. 203. (a) Subsection (a) of section 793 of the Public Health Service Act (42 U.S.C. 295h–2(a)) is amended (1) by striking out "and" after "June 30, 1969;", and (2) by inserting after "June 30, 1970;" the following: "$8,000,000 for the fiscal year ending June 30, 1971; $10,000,000 for the fiscal year ending June 30, 1972; and $12,000,000 for the fiscal year ending June 30, 1973;".

(b) Effective with respect to grants from appropriations for the fiscal year beginning July 1, 1970—

(1) Subsection (b) of such section is amended by striking out "training centers for allied health professions" and inserting in lieu thereof "agencies, organizations, and institutions".

(2) Subsection (c) of such section is amended by striking out "centers" and inserting in lieu thereof "public or nonprofit private agencies, organizations and institutions".

ENCOURAGEMENT OF FULL UTILIZATION OF EDUCATIONAL TALENT FOR THE ALLIED HEALTH PROFESSIONS

SEC. 204. Part G of title VII of the Public Health Service Act is amended by adding immediately after section 793 thereof the following new sections:

"GRANTS AND CONTRACTS TO ENCOURAGE FULL UTILIZATION OF EDUCATIONAL TALENT FOR ALLIED HEALTH PROFESSIONS

"SEC. 794A. (a) To assist in meeting the need for additional trained personnel in the allied health professions, the Secretary is authorized to make grants to State or local educational agencies or other public or nonprofit private agencies, institutions, and organizations, or enter into contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. (5)), for the purpose of—

"(1) identifying individuals of financial, educational, or cultural need with a potential for education or training in the allied health professions, including returning veterans of the Armed Forces of the United States with training or experience in the health field, and encouraging and assisting them, whenever appropriate, to (A) complete secondary school, (B) undertake such postsecondary training as may be required to qualify them for training in the allied health professions, and (C) undertake postsecondary educational training in the allied health professions, or

"(2) publicizing existing sources of financial aid available to persons undertaking training or education in the allied health professions.

"(b) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; and $1,250,000 for the fiscal year ending June 30, 1973.

"SCHOLARSHIP GRANTS

"SEC. 794B. (a) The Secretary is authorized to make (in accordance with such regulations as he may prescribe) grants to public or nonprofit private agencies, institutions, and organizations with an established program for training or retraining of personnel in the allied health professions or occupations specified by the Secretary for (1) scholarships to be awarded by such agency, institution, or organization to students thereof, and (2) scholarships in retraining programs of such agency, institution, or organization to be awarded to allied health professions personnel in occupations for which such agency, institution, or organization determines that there is a need for the development of, or the expansion of, training.

"(b) Scholarships awarded by any agency, institution, or organization from grants under subsection (a) shall be awarded for any year only to individuals of exceptional financial need who require such assistance for such year in order to pursue a course of study offered by such agency, institution, or organization.

"(c) Grants under subsection (a) may be paid in advance or by way of reimbursement and at such intervals as the Secretary may deem appropriate and with appropriate adjustments on account of overpayments or underpayments previously made.

"(d) Any scholarship awarded from grants under subsection (a) to any individual for any year shall cover such portion of the individual's tuition, fees, books, equipment, and living expenses as the agency, institution, or organization awarding the scholarship may determine to be needed by such individual for such year on the basis of his requirements and financial resources; except that the amount of any such scholarship shall not exceed $2,000, plus $600 for each dependent (not in excess of three) in the case of any individual who is awarded such a scholarship.

"(f) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $4,000,000 for the fiscal year ending June 30, 1971; $5,000,000 for the fiscal year ending June 30, 1972; and $6,000,000 for the fiscal year ending June 30, 1973.

"WORK-STUDY PROGRAMS

"SEC. 794C. (a) The Secretary is authorized to enter into agreements with public or nonprofit private agencies, institutions, and organizations with established programs for the training or retraining of personnel in the allied health professions specified by the Secretary under which the Secretary will make grants to such agencies, institutions, and organizations to assist them in the operation of work-study programs for individuals undergoing training or retraining provided by such programs.

"(b) Any agreement entered into pursuant to this section with a public or nonprofit private agency, institution, or organization shall—

"(1) provide that such agency, institution, or organization, will operate a work-study program for the part-time employment of its students or trainees either (A) in work for such agency, institution, or organization or (B) pursuant to arrangements between such agency, institution, or organization and another public or private nonprofit agency, institution, or organization, in work which is in the public interest for such other agency, institution, or organization;

"(2) provide that any such work-study program shall be operated in such manner that its operation will not result in the displacement of employed workers or impair existing contracts for employment;

"(e) The Secretary shall not approve any grant under this section unless the applicant therefor provides assurances satisfactory to the Secretary that funds made available through such grant will be so used as to supplement and, to the extent practicable, increase the level of non-Federal funds, which would in the absence of such grant, be made available for the purpose for which such grant is requested.

"(3) provide that any such work-study program will provide conditions of employment, for the students or trainees participating therein, which are appropriate and reasonable in light of such factors as type of work performed, prevailing wages in the area for similar work, and proficiency of the individual in the performance of the work involved;

"(4) provide that no Federal funds made available to such agency, institution, or organization pursuant to such agreement shall be used for the construction, operation, or maintenance of any facility or part thereof which is used or is to be used for sectarian instruction or as a place for religious worship;

"(5) provide that Federal funds made available to such agency, institution, or organization pursuant to such agreement shall be used only to make payments to its students or trainees performing work in the work-study program operated by such agency, institution, or organization; except that such agency, institution, or organization may use a portion of such funds to meet administrative expenses connected with the operation of such program, but the portion which may be so used shall not exceed 5 per centum of that part of such funds which is used for the purpose of making payments, to such students or trainees, for work performed for a public or private nonprofit agency, institution, or organization other than the agency, institution, or organization receiving such Federal funds pursuant to such agreement;

"(6) provide that such agency, institution, or organization, in selecting students or trainees for employment in such work-study program, will give preference to individuals from low-income families, and that no individual will be selected for employment in such program unless he (A) is in need of the earnings from such employment in order to pursue a course of study (whether on a full-time or part-time basis) for training or retraining of personnel in the allied health professions, provided by such agency, institution, or organization, (B) is capable, in the opinion of such agency, institution, or organization, of maintaining good standing in such course of study while employed under such work-study program, and (C) in the case of any individual who at the time he applies for such employment is a new student or trainee, has been accepted for enrollment in such course of study on a full-time basis or part-time and, in the case of any other individual, is enrolled in such course of study on such a basis and is maintaining good standing in such course of study;

"(7) provide that such agency, institution, or organization shall in the operation of such work-study program, provide all individuals desiring employment therein an opportunity to make application for such employment and that, to the extent that necessary funds are available, all eligible applicants will be employed in such program; and

"(8) include such other provisions as the Secretary may deem necessary or appropriate to carry out the purposes of this section.

"(c) The Secretary shall not approve any grant under this section unless the applicant therefor provides assurances satisfactory to the Secretary that funds made available through such grant will be so used as to supplement and, to the extent practical, increase the level of non-Federal funds which would, in the absence of such grant, be made available for the purpose for which such grant is requested.

"(d) (1) Funds provided through any grant made under this section shall not be used to pay more than—

"(A) 90 per centum, in the case of the period commencing on the date of the enactment of this section and ending with the close of the third June 30th thereafter,

"(B) 85 per centum, in the case of the one-year period which immediately succeeds the period referred to in clause (A),

"(C) 80 per centum, in the case of the one-year period which immediately succeeds the period referred to in clause (B), or

"(D) 75 per centum, in the case of any period after the period referred to in clause (C), of the costs attributable to the payment of compensation to students or trainees for employment in the work-study program with respect to which such grant is made.

"(2) (A) In determining (for purposes of paragraph (1)) the amounts attributable to the payment of compensation to students or trainees for employment in any work-study program, there shall be disregarded any Federal funds (other than such funds derived from a grant under this section) used for the payment of such compensation.

"(B) In determining (for purposes of paragraph (1)) the total amounts expended for the payment of compensation to students or trainees for employment in any work-study program operated by any agency, institution, or organization receiving a grant under this section, there shall be included the reasonable value of compensation provided by such agency, institution, or organization to such students or trainees in the form of services and supplies (including tuition, board, and books).

"(e) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1971, $4,000,000 for the fiscal year ending June 30, 1972, and $6,000,000 for the fiscal year ending June 30, 1973.

"LOANS FOR STUDENTS OF THE ALLIED HEALTH PROFESSIONS

"SEC. 794D. (a) (1) The Secretary is authorized (in accordance with such regulations as he may prescribe) to enter into an agreement for the establishment and operation of a student loan fund in accordance with this section with any public or private nonprofit agency, institution, or organization which has an established program for the training or retraining of personnel in the allied health professions specified by the Secretary.

"(2) Each agreement entered into under this subsection shall—

"(A) provide for establishment of a student loan fund by such agency, institution, or organization for students or trainees enrolled in such program;

"(B) provide for deposit in the fund of (i) the Federal capital contributions paid under this section to the agency, institution, or organization by the Secretary, (ii) and additional amount from other sources equal to not less than one-ninth of such Federal capital contributions, (iii) collections of principal and interest on loans made from the fund, (iv) collections pursuant to subsection (b) (6), and (v) any other earnings of the fund;

"(C) provide that the fund shall be used only for loans to students or trainees enrolled in such program of the agency, institution, or organization in accordance with the agreement and for costs of collection of such loans and interest thereon;

"(D) provide that loans may be made from such fund to students pursuing a course of study (whether full time or part time) in such program of such agency, institution, or organization and that while the agreement remains in effect no such student who is attending such program of such agency, institution, or organization shall receive a loan from a loan fund established under section 204 of the National Defense Education Act of 1958 or pursuant to part B of title IV of the Higher Education Act of 1965; and

"(E) contain such other provisions as are necessary to protect the financial interests of the United States.

"(b) (1) The total of the loans for any academic year (or its equivalent, as determined under regulations of the Secretary) made by agencies, institutions or organizations from loan funds established pursuant to agreements under this section may not exceed $1,500 in the case of any student. The aggregate of the loans for all years from such funds may not exceed $6,000 in the case of any student.

"(2) Loans from any such student loan fund by any agency, institution or organization shall be made on such terms and conditions as it may determine; subject, however, to such conditions, limitations, and requirements as the Secretary may prescribe (by regulation or in the agreement with the agency, institution, or organization) with a view to preventing impairment of the capital of such fund to the maximum extent practicable in the light of the objective of enabling the student to complete his course of study; and except that—

"(A) such loan may be made only to a student who (i) is in need of the amount of the loan to pursue a part-time or full-time course of study at the agency, institution, or organization, and (ii) is capable, in the opinion of the agency, institution, or organization, of maintaining good standing in such course of study;

"(B) such loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins one year after the student ceases to pursue a part-time or full-time course of study in a program for the training or retraining of personnel in the allied health professions at an agency, institution, or organization approved by the Secretary, excluding from such ten-year period all (i) periods (up to three years) of (I) active duty performed by the borrower as a member of a uniformed service, or (II) service as a volunteer under the Peace Corps Act, and (ii) periods (up to five years) during which the borrower is pursuing a full-time course of study at a school leading to a baccalaureate or associate degree or the equivalent of either or to a higher degree in one of the allied health professions;

"(C) not to exceed 50 per centum of any such loan (plus interest) shall be canceled for full-time employment in any of the allied health professions (including teaching any such profession or service as an administrator, supervisor, or specialist in any such profession) in any public or private nonprofit agency, institution, or organization, or in a rural area with an individual practitioner of medicine or dentistry if such service is approved by a local county health department or its equivalent at the rate of 10 per centum of the amount of such loan plus interest thereon, which was unpaid on the first day of such service, for each complete year of such service, except that such rate shall be 15 per centum for each complete year of service in such a profession in a public or other nonprofit hospital, other health service facility or health agency which is determined, in accordance with regulations of the Secretary, to have a substantial shortage of persons rendering service in such profession, and for purposes of any cancellation at such higher rate, an amount equal to an additional 50 per centum of the total amount of such loans plus interest may be canceled:

"(D) the liability to repay the unpaid balance of such loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently and totally disabled;

"(E) such a loan shall bear interest on the unpaid balance of the loan, computed only for periods during which the loan is repayable, at the rate of 3 per centum per annum;

"(F) such a loan shall be made without security or endorsement except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required; and

"(G) no note or other evidence of any such loan may be transferred or assigned by the agency, institution, or organization making the loan except that, if the borrower transfers to another agency, institution, or organization participating in the program under this section, such note or other evidence of a loan may be transferred to such other agency, institution, or organization.

"(3) When all or any part of a loan, or interest, is canceled under this subsection, the Secretary shall pay to the agency, institution, or organization an amount equal to its proportionate share of the canceled portion, as determined by the Secretary.

"(4) Any loan for any year by an agency, institution, or organization from a student loan fund established pursuant to an agreement under this section shall be made in such installments as may be provided in regulations of the Secretary or such agreement and, upon notice to the Secretary by the agency, institution, or organization that any recipient of a loan is failing to maintain satisfactory standing, any or all further installments of his loan shall be withheld, as may be appropriate.

"(5) An agreement under this section with any agency, institution, or organization shall include provisions designed to make loans from the student loan fund established thereunder reasonably available (to the extent of the available funds in such fund) to all eligible students in the agency, institution, or organization in need thereof.

"(6) Subject to regulations of the Secretary, an agency, institution, or organization may assess a charge with respect to a loan from the loan fund established pursuant to an agreement under this section for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under paragraph (2) (B) or cancellation of part or all of the loan under paragraph (2) (C), for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter. The agency, institution, or organization may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the agency, institution, or organization not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

"(7) An agency, institution, or organization may provide, in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this section payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month.

"(c) There are authorized to be appropriated to the Secretary for Federal capital contributions to student loan funds pursuant to subsection (a)(2)(B)(i) $3,500,000 for the fiscal year ending June 30, 1971, $5,000,000 for the fiscal year ending June 30, 1972, and $10,000,000 for the fiscal year ending June 30, 1973, and there are also authorized to be appropriated such sums for the fiscal year ending June 30, 1974, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan from any academic year ending before July 1, 1973, to continue or complete their education. Sums appropriated pursuant to this subsection for any fiscal year shall be available to the Secretary (1) for payments into the funds established by subsection (f)(4), and (2) in accordance with agreements under this section, for Federal capital contributions to schools with which such agreements have been made, to be used together with deposits in such funds pursuant to subsection (a)(2)(B)(ii), for establishment and maintenance of student loan funds.

"(d)(1) From the sums appropriated pursuant to subsection (c) for any fiscal year, the Secretary shall allot to each agency, institution, or organization, which has an established program or programs for the training or retraining of personnel in the allied health professions approved by the Secretary, an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in such program or programs in such agency, institution, or organization approved by the Secretary bears to the total number of persons enrolled on a full-time basis in such programs in all such agencies, institutions, or organizations in all the States. The number of persons enrolled, in such a program, on a full-time basis in such agencies, institutions, or organizations for purposes of the subsection shall be determined by the Secretary for the most recent year for which satisfactory data are available to him. Funds available in any fiscal year for payment to agencies, institutions, or organizations under this section (whether as Federal capital contributions or as loans under subsection (f)) which are in excess of the amount appropriated pursuant to subsection (c) for that year shall be allotted among agencies, institutions, or organizations approved by the Secretary in such manner as the Secretary determines will best carry out the purposes of this section.

"(2) The Secretary shall from time to time set dates by which agencies, institutions, or organizations must file applications for Federal capital contributions and for loans pursuant to subsection (f).

"(3) The Federal capital contributions to a loan fund of an agency, institution, or organization approved by the Secretary under this section shall be paid from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in its loan fund.

"(e)(1) After June 30, 1977, and not later than September 30, 1977, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to subsection (a)(2) by each agency, institution or organization approved by the Secretary as follows:

"(A) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund at the close of June 30, 1977, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to subsection (a)(2)(B)(i) bears to the total amount in such fund derived from such Federal capital contributions from funds deposited therein pursuant to subsection (a)(2)(B)(ii).

"(B) The remainder of such balance shall be paid to the agency, institution, or organization approved by the Secretary.

"(2) After September 30, 1977, each agency, institution or organization approved by the Secretary with which the Secretary has made an agreement under this section shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by it after June 30, 1977, in payment of principal and interest on loans made from the loan fund established pursuant to such agreement (other than so much of such fund as relates to payments from the revolving fund established by subsection (f)(4)) as was determined for the Secretary under paragraph (1).

"(f)(1)(A) During the fiscal year ending June 30, 1971, and each of the next two fiscal years, the Secretary may make loans, from the revolving fund established by paragraph (4), to any public or private nonprofit agency, institution or organization approved by him, to provide all or part of the captial needed by any such agency, institution or organization for making loans to students under this subsection (other than capital needed to make the institutional contributions required of agencies, institutions or organizations by subsection (a)(2)(B)(ii)). Loans to students from such borrowed sums shall be subject to the terms, conditions, and limitations set forth in subsection (b). The requirement in subsection (a)(2)(B)(ii) with respect to institutional contributions by agencies, institutions, or organizations to student loan funds shall not apply to loans made to agencies, institutions, or organizations under this subsection.

"(B) A loan to an agency, institution, or organization approved by the Secretary under this subsection may be made upon such terms and conditions, consistent with applicable provisions of subsection (a), as the Secretary deems appropriate. If the Secretary deems it to be necessary to assure that the purposes of this subsection will be achieved, these terms and conditions may include provisions making the obligation of the agency, institution, or organization to the Secretary on such a loan payable solely from such revenues or other assets or security (including collections on loans to students) as the Secretary may approve. Such a loan shall bear interest at a rate which the Secretary determines to be adequate to cover (i) the cost of the funds to the Treasury as determined by the Secretary of the Treasury, taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Secretary under this subsection, and (ii) probable losses.

"(2) If an agency, institution, or organization approved by the Secretary borrows any sums under this subsection, the Secretary shall agree to pay to it (A) an amount equal to 90 per centum of the loss to it from defaults on student loans made from such sums, (B) the amount by which the interest payable by it on such sums exceeds the interest received by it on student loans made from such sums, (C) an amount equal to the amount of collection expenses authorized by subsection (a)(2)(C) to be paid out of a student loan fund with respect to such sums, and (D) the amount of the principal which is canceled pursuant to subsection (b)(2)(C) or (D) with respect to student loans made from such sums. There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out the purposes of this paragraph.

"(3) The total of the loans made in any fiscal year under this subsection shall not exceed the lesser of (1) such limitations as may be specified in appropriation Acts, and (2) the difference between $35,000,000 and the amount of Federal capital contributions paid under this section for that year.

"(4)(A) There is hereby created within the Treasury an allied professions training fund (hereinafter in this paragraph referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of this subsection. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 102, 103, and 104 of the Government Corporation Control Act, 31 U.S.C. 847–849) for wholly owned Government corporations.

"(B) The fund shall consist of appropriations paid into the fund pursuant to subsection (c), appropriations made pursuant to this paragraph, all amounts received by the Secretary as interest payments or repayments of principal on loans under this subsection, and any other moneys, property or assets derived by him from his operations in connection with this subsection (other than paragraph (2)), including any moneys derived directly or indirectly from the sale of assets, or beneficial interest or participations in assets, of the fund.

"(C) All loans, expenses (other than normal administrative expenses), and payments pursuant to operations of the Secretary under this subsection (other than paragraph (s)) shall be paid from the fund, including (but not limited to) expenses and payments of the Secretary in connection with the sale, under section 302(c) of the Federal National Mortgage Association Charter Act, of participation in obligations acquired under this subsection. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under this subsection, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed the present and any reasonable prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

"(g) The Secretary may agree to modifications of agreements or loans made under this section, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this section."

STUDY OF ALLIED HEALTH PROGRAMS

SEC. 205. Section 798 of the Public Health Service Act (42 U.S.C. 295h–7) is amended to read as follows:

STUDY

"SEC. 798. (a) The Secretary shall conduct a study of the administration of—

"(1) the provisions of this part,

"(2) other provisions of this Act which relate to the allied health professions or the training of individuals to prepare them to engage in any of such professions; and

"(3) provisions of law which are administered by the Commissioner of Education and which relate to the allied health professions or the training of individuals to prepare them to engage in any of such professions;

with a view to determining the adequacy of such provisions and the programs established pursuant thereto to meet the needs of the Nation for allied health professions personnel."

ADVANCE FUNDING

SEC. 206. Part G of title VII of the Public Health Service Act is further amended by adding after section 798 thereof the following new section:

"ADVANCE FUNDING

"SEC. 799. Any appropriation Act which appropriates funds for any fiscal year for grants, contracts, or other payments under this part may also appropriate for the next fiscal year the funds that are authorized to be appropriated for such payments for such next fiscal year; but no funds may be made available therefrom for obligation for such payments before the fiscal year for which such funds are authorized to be appropriated."

LICENSURE REPORT

SEC. 207. Part G of title VII of the Public Health Service Act is further amended by adding after section 799 (as added by section 206 of this Act) the following new section:

"LICENSURE REPORT

"SEC. 799A. The Secretary shall prepare and submit to the Congress, prior to July 1, 1971, a report identifying the major problems associated with licensure; certification, and other qualifications for practice or employment of health personnel (including group practice of health personnel), together with summaries of the activities (if any) of Federal agencies, professional organizations, or other instrumentalities directed toward the alleviation of such problems and toward maximizing the proper and efficient utilization of health personnel in meeting the health needs of the Nation. Such report shall include specific recommendations by the Secretary for steps to be taken toward the solution of the problems so identified in such report."

And the House agree to the same.

That the House recede from its amendment to the title of the bill.

HARLEY O. STAGGERS,
JOHN JARMAN,
PAUL G. ROGERS,
W. L. SPRINGER,
ANCHER NELSEN,
Managers on the Part of the House.

RALPH W. YARBOROUGH,
HARRISON WILLIAMS,
EDWARD M. KENNEDY,
GAYLORD NELSON,
THOMAS F. EAGLETON,
ALAN CRANSTON,
HAROLD E. HUGHES,
PETER H. DOMINICK,
J. K. JAVITS,
GEORGE MURPHY,
WINSTON L. PROUTY,
WM. B. SAXBE,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3586) to amend title VII of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for institutional grants under section 771 thereof, to extend and improve the program relating to training of personnel in the allied health professions, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conference and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute amendment. The committee of conference has agreed to a substitute for both the Senate bill and the House amendment to the text of the bill. Except for technical, clarifying, and conforming changes, the following statement explains the differences between the House amendment to the text of the bill and the substitute agreed to in conference.

START-UP ASSISTANCE FOR NEW HEALTH PROFESSIONS SCHOOLS

The Senate bill contained a provision not in the House amendment which would make new health professions schools eligible for grants in fiscal year 1971 under section 771 of the Public Health Service Act (relating to institutional grants). Under the Senate provision a grant of $25,000 plus such amounts as the Secretary prescribes would be available for the new schools. There was no increase in the authorization for appropriations for grants under such section 771.

The conference substitute provides that in determining the amount of an institutional grant to a new school, the Secretary shall determine the number of students to be considered as the enrollment of the school for the fiscal year prior to the year in which the school will admit its first class on the basis of assurances provided by the school.

The special aid authorized by this provision will be available (only) until such time as the recipient school becomes eligible for (regular) formula grant assistance under the provision of subparagraph (A) of paragraph (1) of subsection (a) of this section. Such special assistance shall be available no earlier than the year before/in which students are actually admitted. Finally, the Secretary may, for the purpose of making grants to such new schools, impute enrollments for such schools under the provision of subparagraph (A) of paragraph (1) of subsection (a) of this section.

EMERGENCY ASSISTANCE FOR DENTAL AND MEDICAL SCHOOLS IN EXTREME FINANCIAL DISTRESS

The Senate amendment contained language authorizing the appropriation of up to $100 million for fiscal year 1971 to establish a fund to provide emergency assistance to medical and dental schools in serious financial distress. The House amendment contained no corresponding provision.

Existing law authorizes appropriations up to $168 million for formula grants and project grants to health professions schools covering a wide variety of purposes. The budget submitted by the administration calls for the appropriation of $113 million of these authorized amounts, leaving approximately $55 million in authorization for appropriations for fiscal year 1971. Among the purposes for which funds may be appropriated pursuant to this remaining $55 million authorization, as described in section 772 of the Public Health Service Act, are appropriations for providing assistance to "any such schools which are in serious financial straits to meet their costs of operation or which have special need for financial assistance to meet the accreditation requirements."

The conference substitute would provide authority to meet the purposes of the Senate amendment by providing that funds appropriated for fiscal year 1971 to meet the needs set out in the previously quoted language are authorized to remain available until expended, or until June 30, 1972, whichever first occurs. To the extent that funds are requested by the administration for this purpose, this authority will permit added flexibility in the use of these funds. The Managers on the part of the House also wish to point out that section 601 of the Hospital Construction and Modernization Amendments of 1970 will apply to funds appropriated pursuant to this authorization, and therefore are not subject to administrative cutbacks or withholding from expenditures, so that if appropriated, these funds will be used for aid to these schools. It is the intention of the conferees that these funds be limited to medical schools and dental schools which are in serious financial distress.

The conferees feel that the situation facing many privately owned medical and dental schools is critical and therefore urge the administration to give serious consideration to the needs of these institutions, with a view to requesting such sums as may be necessary to provide the emergency assistance which these schools require.

In addition, the conference substitute provides a Congressional finding relating to the effect on the Nation of the acute financial crisis threatening the survival of medical and dental schools and directs the Secretary of Health, Education, and Welfare to determine the need for emergency financial assistance to medical and dental schools in financial distress and to report to the Congress on or before June 30, 1971, his determinations of such need and his recommendations for such administrative and legislative action as he determines is necessary to meet such needs.

ALLIED HEALTH PROFESSIONS

Grants and contracts to encourage full utilization of educational talent for allied health professions

The Senate bill contained a provision not in the House amendment which would amend part G of title VII of the Public Health Service Act to provide a five year program (through fiscal year 1975) of grants and contracts to (1) identify individuals of financial, educational, or cultural need who have potential for education or training in the allied health professions, and (2) encourage and assist them, where appropriate, to (A) complete secondary school, and (B) undertake necessary postsecondary training.

The following amounts would be authorized for such program: $.75 million for fiscal year 1971, $1 million for fiscal year 1972, $1.25 million for fiscal year 1973, $1.5 million for fiscal year 1974, and $1.75 million for fiscal year 1975.

The conference substitute is the same as the Senate bill except that the program is limited to fiscal years 1971 through 1973.

Scholarship grants

The Senate bill contained a provision not in the House amendment which would also amend such part G to provide a five year program (through fiscal year 1975) of grants for public or nonprofit private entities with established training programs in the allied health professions to enable them to award scholarships (not to exceed $2,000 for an individual and $600 for each dependent) with exceptional financial need.

The following amounts would be authorized for such program: $6 million for fiscal year 1971, $7 million for fiscal year 1972, $8 million for fiscal year 1973, $9 million for fiscal year 1974, and $10 million for fiscal year 1975.

The conference substitute is the same as the Senate bill except that (1) the program is limited to the three fiscal years, 1971 through 1973, and (2) the appropriation authorizations for each of those three years is reduced by $2 million so that $4, 5, and 6 million are respectively authorized for those three years.

Grants for work-study programs

The Senate bill contained a provision not in the House amendment which would also amend such part G to provide a five year program (through fiscal year 1975) of grants to institutions having established programs for the training or retraining of allied health professions personnel to assist them in the operation of work-study programs for in-

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dividuals undergoing training or retraining in the allied health professions.

The following amounts would be authorized for such program: $2 million for fiscal year 1971, $4 million for fiscal year 1972, $6 million for fiscal year 1973, $8 million for fiscal year 1974, and $10 million for fiscal year 1975.

The conference substitute is the same as the Senate bill except that the program is limited to fiscal years 1971 through 1973.

Student loans

The Senate bill contained a provision not in the House amendment which would also amend such part G to provide a five-year student loan program (fiscal years 1971 through 1975). Under such program allied health professions training institutions would receive grants or loans to establish student loan funds. Loans would be made to students from such student loan funds. Such loans would be repayable with interest at the rate of 3 percent per year. The maximum loan per year would be $1,500 with an aggregate ceiling to any individual of $6,000.

The following amounts would be authorized to be appropriated for the grants and loans to establish student loan funds: $1.5 million for fiscal year 1971, $3 million for fiscal year 1972, $8 million for fiscal year 1973, $12 million for fiscal year 1974, and $16 million for fiscal year 1975.

The conference substitute is the same as the Senate bill except that (1) the program is limited to the three fiscal years, 1971 through 1973, and (2) the authorization for each of those three fiscal years is $3.5, 5, and 10 million respectively.

The amount of the increase provided herein equals the amount by which scholarship authorizations were decreased.

STUDY OF ALLIED HEALTH PROGRAMS

The Senate bill contained a provision not in the House amendment which would direct the Secretary to conduct a study of allied health programs, under the Public Health Service Act and under laws administered by the Commissioner of Education, to determine their adequacy and effectiveness.

The conference substitute contains the provision of the Senate bill.

ADVANCE FUNDING

The Senate bill contained a provision not in the House amendment which would provide that any appropriation Act appropriating funds for any fiscal year for payments under grants or contracts under part G of title VII of the Public Health Service Act could also appropriate for the succeeding fiscal year funds authorized to be appropriated for such payments for such succeeding fiscal year.

The conference substitute is the same as the Senate bill except that it is made clear that funds so appropriated can not be made available for obligation for payments before the fiscal year for which such funds are authorized to be appropriated.

LICENSURE REPORT

The Senate bill contained a provision not in the House amendment which would direct the Secretary of Health, Education, and Welfare to prepare and submit to Congress before July 1, 1971, a report identifying major problems associated with licensure, certification, and other qualifications for practice or employment of health personnel, together with summaries of the activities (if any) of Federal agencies, professional organizations, or other instrumentalities directed toward the alleviation of such problems.

HARLEY O. STAGGERS,
JOHN JARMAN,
PAUL G. ROGERS,
W. L. SPRINGER,
ANCHER NELSEN,
Managers on the Part of the House.

CONFERENCE REPORT ON S. 2846, DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION AMENDMENTS OF 1970

Mr. ROGERS of Florida (on behalf of Mr. STAGGERS) filed the following conference report and statement on the bill, S. 2846, to assist the States in developing a plan for the provision of comprehensive services to persons affected by mental retardation and other developmental disabilities originating in childhood, to assist the States in the provision of such services in accordance with such plan, to assist in the construction of facilities to provide the services needed to carry out such plan, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 91-1589)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2846) to assist the States in developing a plan for the provision of comprehensive services to persons affected by mental retardation and other developmental disabilities originating in childhood, to assist the States in the provision of such services in accordance with such plan, to assist in the construction of facilities to provide the services needed to carry out such plan, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Development Disabilities Services and Facilities Construction Amendments of 1970".

TITLE I—GRANTS FOR PLANNING PROVISION OF SERVICES, AND CONSTRUCTION AND OPERATION OF FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

SEC. 101. (a) Title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, as amended, is amended by striking out the caption and substituting the following:

"TITLE I—SERVICES AND FACILITIES FOR THE MENTALLY RETARDED AND PERSONS WITH OTHER DEVELOPMENTAL DISABILITIES".

(b) Part C of the Mental Retardation Facilities Construction Act, as amended, is amended by striking out the caption and sections 131 through 137 and substituting the following:

"PART C—GRANTS FOR PLANNING, PROVISION OF SERVICES, AND CONSTRUCTION AND OPERATION OF FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

"DECLARATION OF PURPOSE

"SEC. 130. The purpose of this part is to authorize—

"(a) grants to assist the several States in developing and implementing a comprehensive and continuing plan for meeting the current and future needs for services to persons with developmental disabilities;

"(b) grants to assist public or nonprofit private agencies in the construction of facilities for the provision of services to persons with developmental disabilities, including facilities for any of the purposes stated in this section;

"(c) grants for provision of services to persons with developmental disabilities, including costs of operation, staffing, and maintenance of facilities for persons with developmental disabilities;

"(d) grants for State or local planning, administration, or technical assistance relating to services and facilities for persons with developmental disabilities;

"(e) grants for training of specialized personnel needed for the provision of services for persons with developmental disabilities, or research related thereto; and

"(f) grants for developing or demonstrating new or improved techniques for the provision of services for persons with developmental disabilities.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 131. In order to make the grants to carry out the purposes of section 130, there are authorized to be appropriated $60,000,000 for the fiscal year ending June 30, 1971, $105,000,000 for the fiscal year ending June 30, 1972, and $130,000,000 for the fiscal year ending June 30, 1973.

"STATE ALLOTMENTS

"SEC. 132. (a) (1) From the sums appropriated to carry out the purposes of section 130 for each fiscal year, other than amounts reserved by the Secretary for projects under subsection (e), the several States shall be entitled to allotments determined, in accordance with regulations, on the basis of (A) the population, (B) the extent of need for services and facilities for persons with developmental disabilities, and (C) the financial need, of the respective States; except that the allotment of any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for any such fiscal year shall not be less than $100,000 plus, if such fiscal year is later than the fiscal year ending June 30, 1971, and if the sums so appropriated for such fiscal year exceed the amount authorized to be appropriated to carry out such purposes for the fiscal year ending June 30, 1971, an amount which bears the same ratio to $100,000 as the difference between the amount so appropriated and the amount authorized to be appropriated for the fiscal year ending June 30, 1971, bears to the amount authorized to be appropriated for the fiscal year ending June 30, 1971.

"(2) In determining, for purposes of paragraph (1), the extent of need in any State for services and facilities for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services specified, pursuant to section 134(b)(5), in the State plan of such State approved under this part.

"(3) Sums allotted to a State for a fiscal year and designated by it for construction and remaining unobligated at the end of such year shall remain available to such State for such purpose for the next fiscal year (and for such year only), in addition to the sums allotted to such State for such next fiscal year: *Provided*, That if the maximum amount which may be specified pursuant to section 134(b)(15) for a year plus any part of the amount so specified pursuant thereto for the preceding fiscal year and remaining unobligated at the end thereof is not sufficient to pay the Federal share of the cost of construction of a specific facility included in the construction program of the State developed pursuant to section 134(b)(13), the amount specified pursuant to such section for such preceding year shall remain available for a second additional year for the purpose of paying the Federal share of the cost of construction of such facility.

"(b) Whenever the State plan approved in accordance with section 134 provides for participation of more than one State agency in administering or supervising the adminis-

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tration of designated portions of the State plan, the State may apportion its allotment among such agencies in a manner which, to the satisfaction of the Secretary, is reasonably related to the responsibilities assigned to such agencies in carrying out the purposes of this part. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, provided the purposes of this part will receive proportionate benefit from the combination.

"(c) Whenever the State plan approved in accordance with section 134 provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more cooperating States may be combined in accordance with the agreements between the agencies involved.

"(d) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix, to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State for a fiscal year shall be deemed to be a part of its allotment under subsection (a) for such fiscal year.

"(e) Of the sums appropriated pursuant to section 131, such amount as the Secretary may determine, but not more than 10 per centum thereof, shall be available for grants by the Secretary to public or nonprofit private agencies to pay up to 90 per centum of the cost of projects for carrying out the purposes of section 130 which in his judgment are of special national significance because they will assist in meeting the needs of the disadvantaged with development disabilities, or will demonstrate new or improved techniques for provision of services for such persons, or are otherwise specially significant for carrying out the purposes of this title.

"NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES FOR THE DEVELOPMENTALLY DISABLED

"SEC. 133. (a) (1) Effective July 1, 1971, there is hereby established a National Advisory Council on Services and Facilities for the Developmentally Disabled (hereinafter referred to as the 'Council'), which shall consist of twenty members, not otherwise in the regular full-time employ of the United States, to be appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service.

"(2) The Secretary shall from time to time designate one of the members of the Council to serve as Chairman thereof.

"(3) The members of the Council shall be selected from leaders in the fields of service to the mentally retarded and other persons with developmental disabilities, including leaders in State or local government, in institutions of higher education, and in organizations representing consumers of such services. At least five members shall be representative of State or local public or nonprofit private agencies responsible for services to persons with developmental disabilities, and at least five shall be representative of the interests of consumers of such services.

"(b) Each member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that, of the twenty members first appointed, five shall hold office for a term of three years, five shall hold office for a term of two years, and five shall hold office for a term of one year, as designated by the Secretary at the time of appointment.

"(c) It shall be the duty and function of the Council to (1) advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by him in the implementation of this title, and (2) study and evaluate programs authorized by this title with a view to determining their effectiveness in carrying out the purposes for which they were established.

"(d) The Council is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such statistical and other pertinent data prepared by or available to the Department of Health, Education, and Welfare as it may require to carry out such functions.

"(e) Members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate provided for GS-18 of the General Schedule for each day of such service, (including travel time) and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"STATE PLANS

"SEC. 134. (a) Any State desiring to take advantage of this part must have a State plan submitted to and approved by the Secretary under this section.

"(b) In order to be approved by the Secretary under this section, a State plan for the provision of services and facilities for persons with developmental disabilities must—

"(1) designate (A) a State planning and advisory council, to be responsible for submitting revisions of the State plan and transmitting such reports as may be required by the Secretary: (B) except as provided in clause (C), the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise); and (C) a single State agency as the sole agency for administering or supervising the administration of grants for construction under the State plan, except that during fiscal year 1971, the Secretary may waive, in whole or in part, the requirements of this paragraph:

"(2) describe (A) the quality, extent, and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for Federally assisted State programs as may be specified by the Secretary, but in any case including education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health plans, and (B) how funds allotted to the State in accordance with section 132 will be used to complement and augment rather than duplicate or replace services and facilities for persons with developmental disabilities which are eligible for Federal assistance under such other State programs;

"(3) set forth policies and procedures for the expenditure of funds under the plan, which, in the judgment of the Secretary, are designed to assure effective continuing State planning, evaluation, and delivery of services (both public and private) for persons with developmental disabilities:

"(4) contain or be supported by assurances satisfactory to the Secretary that (A) the funds paid to the State under this part will be used to make a significant contribution toward strengthening services for persons with developmental disabilities in the various political subdivisions of the State in order to improve the quality, scope, and extent of such services; (B) part of such funds will be made available to other public or nonprofit private agencies, institutions, and organizations; (C) such funds will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available for the purposes for which the Federal funds are provided and not to supplant such non-Federal funds; and (D) there will be reasonable State financial participation in the cost of carrying out the State plan;

"(5) (A) provide for the furnishing of services and facilities for persons with developmental disabilities associated with mental retardation, (B) specify the other categories of developmental disabilities (approved by the Secretary) which will be included in the State plan, and (C) describe the quality, extent, and scope of such services as will be provided to eligible persons;

"(6) provide that services and facilities furnished under the plan for persons with developmental disabilities will be in accordance with standards prescribed by regulations, including standards as to the scope and quality of such services and the maintenance and operation of such facilities, except that during fiscal year 1971, the Secretary may waive, in whole or in part, the requirements of this paragraph;

"(7) provide such methods of administration, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

"(8) provide that the State planning and advisory council shall be adequately staffed, and shall include representatives of each of the principal State agencies and representatives of local agencies and nongovernmental organizations and groups concerned with services for persons with developmental disabilities: *Provided*, That at least one-third of the membership of such council shall consist of representatives of consumers of such services;

"(9) provide that the State planning and advisory council will from time to time, but not less often than annually, review and evaluate its State plan approved under this section and submit appropriate modifications to the Secretary;

"(10) provide that the State agencies designated pursuant to paragraph (1) will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

"(11) provide that special financial and technical assistance shall be given to areas of urban or rural poverty in providing services and facilities for persons with developmental disabilities who are residents of such areas;

"(12) describe the methods to be used to assess the effectiveness and accomplishments of the State in meeting the needs of persons with developmental disabilities in the State;

"(13) provide for the development of a

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program of construction of facilities for the provision of services for persons with developmental disabilities which (A) is based on a statewide inventory of existing facilities and survey of need; and (B) meets the requirements prescribed by the Secretary for furnishing needed services to persons unable to pay therefor;

"(14) set forth the relative need, determined in accordance with regulations prescribed by the Secretary, for the several projects included in the construction program referred to in paragraph (13), and assign priority to the construction of projects, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need;

"(15) specify the per centum of the State's allotment (under section 132) for any year which is to be devoted to construction of facilities, which per centum shall be not more than 50 per centum of the State's allotment or such lesser per centum as the Secretary may from time to time prescribe;

"(16) provide for affording to every applicant for a construction project an opportunity for hearing before the State agency;

"(17) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this part; and

"(18) contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.

"(c) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (b). The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

"APPROVAL OF PROJECTS FOR CONSTRUCTION

"SEC. 135. (a) For each project for construction pursuant to a State plan approved under this part, there shall be submitted to the Secretary, through the State agency designated pursuant to section 134(b)(1)(C), an application by the State or a political subdivision thereof or by a public or nonprofit private agency. If two or more agencies join in the construction of the project, the application may be filed by one or more of such agencies. Such applications shall set forth—

"(1) a description of the site for such project;

"(2) plans and specifications thereof, in accordance with regulations prescribed by the Secretary;

"(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or nonprofit private agency which is to operate the facility;

"(4) reasonable assurance that adequate financial support will be available for the construction of the project and for its maintenance and operation when completed;

"(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on construction of the project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c); and

"(6) a certification by the State agency of the Federal share for the project.

"(b) The Secretary shall approve such application if sufficient funds to pay the Federal share of the cost of construction of such project are available from the allotment to the State, and if the Secretary finds (1) that the application contains such reasonable assurances as to title, financial support, and payment of prevailing rates of wages and overtime pay, (2) that the plans and specifications are in accord with regulations prescribed by the Secretary, (3) that the application is in conformity with the State plan approved under this part, and (4) that the application has been approved and recommended by the State agency and is entitled to priority over other projects within the State in accordance with the State's plan for persons with developmental disabilities and in accordance with regulations prescribed by the Secretary.

"(c) No application shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

"(d) Amendment of any approved application shall be subject to approval in the same manner as the original application.

"WITHHOLDING OF PAYMENTS FOR CONSTRUCTION

"SEC. 136. Whenever the Secretary, after reasonable notice and opportunity for hearing to the State planning and advisory council designated pursuant to section 134(b)(1)(A) and the State agency designated pursuant to section 134(b)(1)(C) finds—

"(a) that the State agency is not complying substantially with the provisions required by section 134(b) to be included in the State plan, or with regulations of the Secretary;

"(b) that any assurance required to be given in an application filed under section 135 is not being or cannot be carried out;

"(c) that there is a substantial failure to carry out plans and specifications related to construction approved by the Secretary under section 134; or

"(d) that adequate funds are not being provided annually for the direct administration of the State plan,

the Secretary may forthwith notify such State council and agency that—

"(e) no further payments will be made to the State for construction from allotments under this part; or

"(f) no further payments will be made from allotments under this part for any project or projects designated by the Secretary as being affected by the action or inaction referred to in paragraph (a), (b), (c), or (d) of this section;

as the Secretary may determine to be appropriate under the circumstances; and, except with regard to any project for which the application has already been approved and which is not directly affected, further payments for construction projects may be withheld, in whole or in part, until there is no longer any failure to comply (or to carry out the assurance or plans and specifications or to provide adequate funds, as the case may be) or, if such compliance (or other action) is impossible, until the State repays or arranges for the repayment of Federal moneys to which the recipient was not entitled.

"PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION, AND SERVICES

"SEC. 137. (a)(1) From each State's allotments for a fiscal year under section 132, the State shall be paid the Federal share of the expenditures, other than expenditures for construction, incurred during such year under its State plan approved under this part. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend under the State plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this section.

"(2) For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision thereof or by nonprofit private agencies, organizations, and groups shall, subject to such limitations and conditions as may be prescribed by regulations, be regarded as expenditures by such State.

"(b) (1) Except as provided in paragraph (2), the 'Federal share' with respect to any State for purposes of this section for any fiscal year shall be 75 per centum of the expenditures, other than expenditures for construction, incurred by the State during such year under its State plan approved under this part during each of the fiscal years ending June 30, 1971, and June 30, 1972, and 70 per centum of such nonconstruction expenditures during the fiscal year ending June 30, 1973.

"(2) In the case of any project located in an area within a State determined by the Secretary to be an urban or rural property area, the 'Federal share' with respect to such project for purposes of this section for any fiscal year may be up to 90 per centum of the expenditures, other than expenditures for construction, incurred by the State during such year under its State plan approved under this part with respect to such project for the first twenty-four months of such project, and 80 per centum of such nonconstruction expenditures for the next twelve months.

"WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES

"SEC. 138. Whenever the Secretary, after reasonable notice and opportunity for hearing to the State planning and advisory council and the appropriate State agencies or agency, designated pursuant to section 134(b)(1) finds that—

"(a) there is a failure to comply substantially with any of the provisions required by section 134 to be included in the State plan; or

"(b) there is a failure to comply substantially with any regulations of the Secretary which are applicable to this part,

the Secretary shall notify such State council and agency or agencies that further payments will not be made to the State under this part (or, in his discretion, that further payments will not be made to the State under this part for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no further payment to the State under this part, or shall limit further payment under this part to such State to activities in which there is no such failure.

"REGULATIONS

"SEC. 139. The Secretary, as soon as practicable, by general regulations applicable uniformly to all the States, shall prescribe—

"(a) the kinds of services which are needed to provide adequate programs for persons with developmental disabilities, the kinds of services which may be provided under a State plan approved under this part, and the categories of persons for whom such services may be provided;

"(b) standards as to the scope and quality of services provided for persons with developmental disabilities under a State plan approved under this part;

"(c) the general manner in which a State, in carrying out its State plan approved under this part, shall determine priorities for services and facilities based on type of service, categories of persons to be served, and type of disability, with special consideration being given to the needs for such services and facilities in areas of urban and rural poverty; and

"(d) general standards of construction and equipment for facilities of different classes and in different types of location.

After appointment of the Council, regulations and revisions therein shall be promulgated by the Secretary only after consultation with Council.

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"NONDUPLICATION

"SEC. 140. (a) In determining the amount of any payment for the construction of any facility under a State plan approved under this part, there shall be disregarded (1) any portion of the costs of such construction which are financed by Federal funds provided under any provision of law other than this part, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

"(b) In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved under this part, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than this part, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds."

SEC. 102. (a) Section 401 of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, as amended (42 U.S.C. 2691), is amended by—

(1) striking out "; for purposes of this title and title II only, includes the Trust Territory of the Pacific Islands" in subsection (a) and inserting "the Trust Territory of the Pacific Islands," after "Virgin Islands,";

(2) striking out subsection (b) and inserting in lieu thereof the following:

"(b) The term 'facility for persons with developmental disabilities' means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities.";

(3) striking out the words "the mentally retarded" wherever they occur in subsection (d) and inserting the words "persons with developmental disabilities" in lieu thereof;

(4) amending the first sentence of subsection (h)(2) to read as follows: "The Federal share with respect to any project in the State shall be the amount determined by the appropriate State agency designated in the State plan, but, except as provided in paragraph (3), the Federal share (A) for any project under part C of title I may not exceed 66⅔ per centum of the costs of construction of such project; and (B) for any project under part A of title II may not exceed 66⅔ per centum of the costs of construction of such project or the State's Federal percentage, whichever is the lower."; and

(5) adding at the end of the section the following subsections:

"(l) The term 'developmental disability' means a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition of an individual found by the Secretary to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individual.

"(m) The term 'services for persons with developmental disabilities' means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability, and such term includes diagnosis, evaluation, treatment, personal care, daycare, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with such disability and of his family, protective and other social and socio-legal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

"(n) The term 'regulations' means (unless the text otherwise indicates) regulations promulgated by the Secretary."

(b) Sections 403, 405, and 406 of such Act are amended by inserting the words "or persons with other developmental disabilities" after the words "mentally retarded" wherever they occur.

(c) Section 404 of such Act is amended by deleting "134(b)" and inserting "134(c)" in lieu thereof.

EFFECTIVE DATE

SEC. 103. The amendments made by sections 101 and 102 of this title shall apply with respect to fiscal years beginning after June 30, 1970. Funds appropriated before June 30, 1970, under part C of the Mental Retardation Facilities Construction Act shall remain available for obligation during the fiscal year ending June 30, 1971.

TITLE II—AMENDMENTS TO PART B OF THE MENTAL RETARDATION FACILITIES CONSTRUCTION ACT

CONSTRUCTION GRANTS

SEC. 201. (a) The first sentence of section 121(a) of the Mental Retardation Facilities Construction Act is amended—

(1) by striking out "clinical facilities providing, as nearly as practicable, a full range of inpatient and outpatient services for the mentally retarded (which, for purposes of this part, includes other neurological handicapping conditions found by the Secretary to be sufficiently related to mental retardation to warrant inclusion in this part) and";

(2) by striking out "clinical training" and inserting in lieu therof: "interdisciplinary training"; and

(3) by striking out "each for the fiscal year ending June 30, 1969, and the fiscal year ending June 30, 1970" and inserting in lieu thereof: "for each of the next five fiscal years through the fiscal year ending June 30, 1973".

(b) Such section 121(a) is amended by striking out "the mentally retarded" in the second sentence and the second time and third time it appears in the first sentence and inserting in lieu thereof "persons with developmental disabilities".

(c) Sections 124 and 125 of the Mental Retardation Facilities Construction Act are each amended by striking out "the mentally retarded" each place it appears in those sections and inserting in lieu thereof "persons with developmental disabilities".

DEMONSTRATION AND TRAINING GRANTS

SEC. 202. Part B of the Mental Retardation Facilities Construction Act is amended by redesignating sections 122, 123, 124, and 125 as sections 123, 124, 125, and 126, respectively, and by adding the following new section after section 121:

"DEMONSTRATION AND TRAINING GRANTS

"SEC. 122. (a) For the purposes of assisting institutions of higher education to contribute more effectively to the solution of complex health, education, and social problems of children and adults suffering from developmental disabilities, the Secretary may, in accordance with the provisions of this part, make grants to cover costs of administering and operating demonstration facilities and interdisciplinary training programs for personnel needed to render specialized services to persons with developmental disabilities, including established disciplines as well as new kinds of training to meet critical shortages in the care of persons with developmental disabilities.

"(b) For the purpose of making grants under this section, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1971; $17,000,000 for the fiscal year ending June 30, 1972; and $20,000,000 for the fiscal year ending June 30, 1973."

SEC. 203. Section 123 of such Act, as so redesignated by section 202 of this Act, is amended by inserting "(a)" after "SEC. 123.", by inserting "the construction of" before "any facility", by striking out "section 133(3)" and inserting in lieu thereof "section 139(4)", and by adding the following new subsection at the end thereof:

"(b) Applications for demonstration and training grants under this part may be approved by the Secretary only if the applicant is a college or university operating a facility of the type described in section 121, or is a public or nonprofit private agency or organization operating such a facility. In considering applications for such grants, the Secretary shall give priority to any application which shows that the applicant has made arrangements, in accordance with regulations of the Secretary, for a junior college to participate in the programs for which the application is made."

SEC. 204. Section 124 of such Act, as so redesignated by section 202 of this Act, is amended by striking out "for the construction of a facility" and "of construction" in subsection (a) thereof, and by striking out "in such installments consistent with construction progress," in subsection (b).

SEC. 205. Section 125 of such Act, as so redesignated by section 202 of this Act, is amended by inserting "construction" before "funds".

MAINTENANCE OF EFFORT

SEC. 206. Part B of such Act is amended by adding at the end thereof the following new section:

"MAINTENANCE OF EFFORT

"SEC. 127. Applications for grants under this part may be approved by the Secretary only if the application contains or is supported by reasonable assurances that the grants will not result in any decrease in the level of State, local, and other non-Federal funds for services for persons with developmental disabilities and training of persons to provide such services which would (except for such grant) be available to the applicant, but that such grants will be used to supplement, and, to the extent practicable, to increase the level of such funds."

CONFORMING AMENDMENTS

SEC. 207. (a) Section 100 of such title is amended to read as follows:

"SHORT TITLE

"Sec. 100. This title may be cited as the 'Developmental Disabilities Services and Facilities Construction Act'."

(b) The heading for part B of such title is amended to read as follows:

"PART B—CONSTRUCTION, DEMONSTRATION, AND TRAINING GRANTS FOR UNIVERSITY-AFFILIATED FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES"

And the House agrees to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

HARLEY O. STAGGERS,
JOHN JARMAN,
PAUL G. ROGERS,
W. L. SPRINGER,
ANCHER NELSEN,
Managers on the Part of the House.

RALPH W. YARBOROUGH,
HARRISON A. WILLIAMS, Jr.,
EDWARD M. KENNEDY,
GAYLORD NELSON,
THOMAS F. EAGLETON,
ALAN CRANSTON,
HAROLD E. HUGHES,
PETER H. DOMINICK,
J. K. JAVITS,
GEORGE MURPHY,
WINSTON PROUTY,
WM. B. SAXBE,
Managers on the Part of the Senate.

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STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2846) to assist the States in developing a plan for the provision of comprehensive services to persons affected by mental retardation and other developmental disabilities originating in childhood, to assist the States in the provision of such services in accordance with such plan, to assist in the construction of facilities to provide the services needed to carry out such plan, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute amendment. The committee of conference has agreed to a substitute for both the Senate bill and the House amendment to the text of the bill. Except for technical, clarifying, and conforming changes, the following statement explains the differences between the House amendment to the text of the bill and the substitute agreed to in conference.

AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR CONSTRUCTION AND SERVICES

The Senate bill would amend part C of the Mental Retardation Facilities Construction Act to authorize appropriations (through fiscal year 1973) for grants for services and facilities for persons with developmental disabilities. The following amounts are authorized to be appropriated: $100 million for fiscal year 1971, $125 million for fiscal year 1973, and $150 million for fiscal year 1973.

The House amendment authorized the following amounts to be appropriated under such part C: $60 million for fiscal year 1971, $85 million for fiscal year 1973, and $105 million for fiscal year 1973.

The conference substitute authorizes $60 million for fiscal year 1971, $105 million for fiscal year 1972, and $130 million for fiscal year 1973.

PROJECT GRANTS

The Senate bill contained a provision not in the House amendment which would authorize the Secretary of Health, Education, and Welfare to use up to 20 percent of appropriations under such part C to make grants for projects of special national significance to assist the developmentally disabled.

The conference substitute authorizes the Secretary to use up to 10 percent of such appropriations for such grants.

FORMULA GRANTS

Scope of program

The Senate bill would provide under such part C grants for State and local planning, administration, and technical assistance; for construction, maintenance, and operation of facilities; for provision of services; for training of specialized personnel; and for developing and demonstrating new or improved techniques of service.

Under the House amendment grants under such part C would be authorized for State planning; for construction of facilities; and for provision of services.

The conference substitute contains the provision of the Senate bill.

State allotments

The Senate bill would provide that the minimum State allotment under the formula grants under such part C for any fiscal year would be $100,000. However, it is provided that if for any year after fiscal year 1971 the appropriation under section 131 of such part C exceeds the authorization for fiscal year 1971, the minimum allotment would be increased by an amount derived from the difference between the appropriation and the fiscal 1971 authorization. The House amendment would not provide for an increase in the minimum allotment. The conference substitute contains the provision of the Senate bill.

Combination of allotments

The Senate bill contained a provision not in the House amendment which would provide that when a State plan under such part C provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more such cooperating States may be combined. The conference substitute contains the provision of the Senate bill.

National Advisory Council

The Senate bill would provide that members of the National Advisory Council under such part C would be selected from leaders in State or local government, in institutions of higher education, and in organizations representing consumers of services. The House amendment is the same except that it does not provide for the inclusion of leaders from institutions of higher education. The conference substitute contains the provision of the Senate bill.

Federal share

The Senate bill would provide that from a State's allotment under such part C the State would be paid the Federal share of its expenditures for planning, administration, and services. The Federal share would be 80 percent.

The House amendment would provide that a grant for a State for any fiscal year for meeting the costs of developing and administering its State plan could not exceed 5 percent of the State's allotment or $75,000, whichever is less. It would also provide that from a State's allotment, grants to assist a State in meeting the costs of compensation of personnel to provide services could not exceed—

75 percent—first two years,
60 percent—third year,
45 percent—fourth year, and
30 percent—next four years,

except that in urban and rural poverty areas grant for compensation of personnel shall not exceed—

90 percent—first two years,
80 percent—third year,
75 percent—fourth and fifth years, and
70 percent—next three years.

The conference substitute provides the following:

(1) In the case of construction projects, the Federal share may not exceed 66⅔ percent of the costs of construction or 90 percent of such costs in the case of projects providing services for persons in urban or rural poverty areas.

(2) In the case of other projects, the Federal share shall be 75 percent of the costs of the expenditures incurred by the State during fiscal years 1971 and 1972, and 70 percent of such expenditures during fiscal year 1973, except that in the case of projects located in urban and rural poverty areas the Federal share may not exceed 90 percent and 80 percent, respectively.

Harley O. Staggers,
John Jarman,
Paul G. Rogers,
W. L. Springer,
Ancher Nelsen,
Managers on the Part of the House.

CONFERENCE REPORT ON H.R. 17570, REGIONAL MEDICAL PROGRAMS AND COMPREHENSIVE HEALTH PLANNING AND SERVICES ACT OF 1970

Mr. ROGERS of Florida (on behalf of Mr. Staggers) filed the following conference report and statement on the bill (H.R. 17570) to amend title IX of the Public Health Service Act so as to extend and improve the exsting program relating to education, research, training, and demonstrations in the fields of heart disease, cancer, stroke, and other related diseases, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 91–1590)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17570) to amend title IX of the Public Health Service Act so as to extend and improve the existing program relating to education, research, training, and demonstrations in the fields of heart disease, cancer, stroke, and other related diseases, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—AMENDMENTS TO TITLE IX OF THE PUBLIC HEALTH SERVICE ACT

Sec. 101. This title may be cited as the "Heart Disease, Cancer, Stroke, and Kidney Disease Amendments of 1970".

Sec. 102. Section 900 of the Public Health Service Act is amended to read as follows:

"PURPOSES

"Sec. 900. The purposes of this title are—

"(a) through grants and contracts, to encourage and assist in the establishment of regional cooperative arrangements among medical schools, research institutions, and hospitals for research and training (including continuing education), for medical data exchange, and for demonstrations of patient care in the fields of heart disease, cancer, stroke, and kidney disease, and other related diseases:

"(b) to afford to the medical profession and the medical institutions of the Nation, through such cooperative arrangements, the opportunity of making available to their patients the latest advances in the prevention, diagnosis, and treatment and rehabilitation of persons suffering from these diseases;

"(c) to promote and foster regional linkages among health care institutions and providers so as to strengthen and improve primary care and the relationship between specialized and primary care; and

"(d) by these means, to improve generally the quality and enhance the capacity of the health manpower and facilities available to the Nation and to improve health services for persons residing in areas with limited health services, and to accomplish these ends without interfering with the patterns, or the methods of financing, of patient care or professional practice, or with the administration of hospitals, and in cooperation with practicing physicians, medical center officials, hospital administrators, and representatives from appropriate voluntary health agencies."

Sec. 103. (a) (1) The first sentence of section 901(a) of such Act is amended by striking out "and" immediately after "June 30, 1969,", and by inserting immediately before ", for grants" the following: ", $125,000,000 for the fiscal year ending June 30, 1971, $150,000,000 for the fiscal year ending June 30, 1972, and $250,000,000 for the fiscal year ending June 30, 1973".

(2) Such first sentence is further amended by striking out the period after "title" and inserting in lieu thereof "and for contracts to carry out the purposes of this title."

(3) Such section 901(a) is amended by striking out the second sentence and inserting in lieu thereof the following: "Of the sums appropriated under this section for

XUM

the fiscal year ending June 30, 1971, not more than $15,000,000 shall be available for activities in the field of kidney disease. Of the sums appropriated under this section for any fiscal year ending after June 30, 1970, not more than $5,000,000 may be made available in any such fiscal year for grants for new construction."

(b) Section 901 of such Act is further amended by adding at the end thereof the following new subsection:

"(e) At the request of any recipient of a grant under this title, the payments to such recipient may be reduced by the fair market value of any equipment, supplies, or services furnished by the Secretary to such recipient and by the amount of the pay, allowance, traveling expenses, and any other costs in connection with the detail of an officer or employee of the Government to the recipient when such furnishing or such detail, as the case may be, is for the convenience of and at the request of such recipient and for the purpose of carrying out the regional medical program to which the grant under this title is made."

Sec. 104. Section 902(a) of such Act is amended by striking out "training, diagnosis, and treatment relating to heart disease, cancer, or stroke, and, at the option of the applicant, related disease or diseases" and inserting in lieu thereof "training, prevention, diagnosis, treatment, and rehabilitation relating to heart disease, cancer, stroke, or kidney disease, and, at the option of the applicant, other related diseases".

(b) Section 902(f) is amended by striking out "includes" and inserting in lieu thereof "means new construction of facilities for demonstrations, research, and training when necessary to carry out regional medical programs".

Sec. 105. Section 903(b)(4) of such Act is amended—

(1) by striking out "voluntary health agencies, and" and inserting in lieu thereof "voluntary or official health agencies, health planning agencies, and";

(2) by inserting immediately after "under the program", where it first appears therein, the following: "(including as an ex officio member, if there is located in such region one or more hospitals or other health facilities of the Veterans' Administration, the individual whom the Administrator of Veterans' Affairs shall have designated to serve on such advisory group as the representative of the hospitals or other health care facilities of such Administration which are located in such region)"; and

(3) by striking out "need for the services provided under the program" and inserting in lieu thereof "need for and financing of the services provided under the program, and which advisory group shall be sufficient in number to insure adequate community orientation (as determined by the Secretary)".

Sec. 106. That part of the second sentence of section 904(b) of such Act preceding paragraph (1) is amended by striking out "section 903(b)(4) and" and inserting in lieu thereof the following: "section 903(b)(4), if opportunity has been provided, prior to such recommendation, for consideration of the application by each public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan area, or other local area plan referred to in section 314(b) covering any area in which the regional medical program for which the application is made will be located, and if the application".

Sec. 107. (a) Section 905(a) of such Act is amended to read as follows:

"Sec. 905. (a) The Secretary may appoint without regard to the civil service laws, a National Advisory Council on Regional Medical Programs. The Council shall consist of the Assistant Secretary of Health, Education and Welfare for Health and Scientific Affairs, who shall be the Chairman, the Chief Medical Director of the Veterans' Administration who shall be an ex officio member, and twenty members, not otherwise in the regular full-time employ of the United States, who are leaders in the fields of the fundamental sciences, the medical sciences, health care administration, or public affairs. At least two of the appointed members shall be practicing physicians, one shall be outstanding in the study or health care of persons suffering from heart disease, one shall be outstanding in the study or health care of persons suffering from cancer, one shall be outstanding in the study or health care of persons suffering from stroke, one shall be outstanding in the study or health care of persons suffering from kidney disease, two shall be outstanding in the field of prevention of heart disease, cancer, stroke, or kidney disease, and four shall be members of the public."

(b) Of the persons first appointed under section 905(a) of the Public Health Service Act to serve as the four additional members of the National Advisory Council on Regional Medical Programs authorized by the amendment made by subsection (a) of this section—

(1) one shall serve for a term of one year,

(2) one shall serve for a term of two years,

(3) one shall serve for a term of three years and

(4) one shall serve for a term of four years, as designated by the Secretary of Health, Education, and Welfare at the time of appointment.

(c) Members of the National Advisory Council on Regional Medical Programs (other than the Surgeon General) in office on the date of enactment of this Act shall continue in office in accordance with the term of office for which they were last appointed to the Council.

Sec. 108. Section 907 of such Act is amended by striking out "or stroke," and inserting in lieu thereof "stroke, or kidney disease,".

Sec. 109. Section 909(a) of such Act is amended by inserting "or contract" after "grant" each place it appears therein.

Sec. 110. (a) Section 910 of such Act is amended to read as follows:

"MULTIPROGRAM SERVICES

"Sec. 910. (a) To facilitate interregional cooperation, and develop improved national capability for delivery of health services, the Secretary is authorized to utilize funds appropriated under this title to make grants to public or nonprofit private agencies or institutions or combinations thereof and to contract for—

"(1) programs, services, and activities of substantial use to two or more regional medical programs;

"(2) development, trial, or demonstration of methods for control of heart disease, cancer, stroke, kidney disease, or other related diseases;

"(3) the collection and study of epidemiologic data related to any of the diseases referred to in paragraph (2);

"(4) development of training specifically related to the prevention, diagnosis, or treatment of any of the diseases referred to in paragraph (2), or to the rehabilitation of persons suffering from any of such diseases; and for continuing programs of such training where shortage of trained personnel would otherwise limit application of knowledge and skills important to the control of any of such diseases; and

"(5) the conduct of cooperative clinical field trials.

"(b) The Secretary is authorized to assist in meeting the costs of special projects for improving or developing new means for the delivery of health services concerned with the diseases with which this title is concerned.

"(c) The Secretary is authorized to support research, studies, investigations, training, and demonstrations designed to maximize the utilization of manpower in the delivery of health services."

Sec. 111. (a) The heading to title IX of such Act is amended by striking out "STROKE, AND RELATED DISEASES" and inserting in lieu thereof "STROKE, KIDNEY DISEASE, AND OTHER RELATED DISEASES".

(b) Sections 902(a), 903(a), 903(b), 904(a), 904(b), 905(b), 905(d), 906, 907, and 909(a) of such Act (as amended by the preceding provisions of this Act) are each further amended by striking out "Surgeon General", each place it appears therein and inserting in lieu thereof "Secretary".

TITLE II—AMENDMENTS TO TITLE III OF THE PUBLIC HEALTH SERVICE ACT

PART A—RESEARCH AND DEMONSTRATIONS RELATING TO HEALTH FACILITIES AND SERVICES

Sec. 201. (a)(1) Section 304(a) of the Public Health Service Act is amended—

(A) by inserting "(1)" immediately after "Sec. 304. (a)";

(B) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively; and

(C) by redesignating clauses (A), (B), and (C) as clauses (i), (ii), and (iii), respectively.

(2) Section 304(b) of such Act is amended—

(A) by striking out "(b)" and inserting in lieu thereof "(2)"; and

(B) by striking out "this section" each place it appears therein and inserting in lieu thereof "this subsection".

(3) Section 304(c) of such Act is amended—

(A) by striking out "(c)" and inserting in lieu thereof "(3)"; and

(B) by striking out "this section" each place it appears therein and inserting in lieu thereof "this subsection".

(b) Section 304 of such Act is further amended by adding after the provision thereof redesignated as paragraph (3) by subsection (a)(3)(A) of this section the following new subsection:

"Systems Analysis of National Health Care Plans

"(b)(1)(A) The Secretary shall develop, through utilization of the systems analysis method, plans for health care systems designed adequately to meet the health needs of the American people. For purposes of the preceding sentence, the systems analysis method means the analytical method by which various means of obtaining a desired result or goal is associated with the costs and benefits involved.

"(B) The Secretary shall complete the development of the plans referred to in subparagraph (A), within such period as may be necessary to enable him to submit to the Congress not later than September 30, 1971. a report thereon which shall describe each plan so developed in terms of—

"(i) the number of people who would be covered under the plan;

"(ii) the kind and type of health care which would be covered under the plan;

"(iii) the cost involved in carrying out the plan and how such costs would be financed;

"(iv) the number of additional physicians and other health care personnel and the number and type of health care facilities needed to enable the plan to become fully effective;

"(v) the new and improved methods, if any, of delivery of health care services which would be developed in order to effectuate the plan;

"(vi) the accessibility of the benefits of such plan to various socio-economic classes of persons;

"(vii) the relative effectiveness and efficiency of such plan as compared to existing means of financing and delivering health care; and

"(viii) the legislative, administrative, and

XUM

other actions which would be necessary to implement the plan.

"(C) In order to assure that the advice and service of experts in the various fields concerned will be obtained in the plans authorized by this paragraph and that the purposes of this paragraph will fully be carried out—

"(i) the Secretary shall utilize, whenever appropriate, personnel from the various agencies, bureaus, and other departmental subdivisions of the Department of Health, Education, and Welfare;

"(ii) the Secretary is authorized, with the consent of the head of the department or agency involved, to utilize (on a reimbursable basis) the personnel and other resources of other departments and agencies of the Federal Government; and

"(iii) the Secretary is authorized to consult with appropriate State or local public agencies, private organizations, and individuals.

"Cost and Coverage Report on Existing Legislative Proposals

"(2) (A) The Secretary shall, in accordance with this paragraph, conduct a study of each legislative proposal which is introduced in the Senate or the House of Representatives during the Ninety-first Congress, and which undertakes to establish a national health insurance plan or similar plan designed to meet the needs of health insurance or for health services of all or the overwhelming majority of the people of the United States.

"(B) In conducting such study with respect to each such legislative proposal, the Secretary shall evaluate and analyze such proposal with a view to determining—

"(i) the costs of carrying out the proposal; and

"(ii) the adequacy of the proposal in terms of (I) the portion of the population covered by the proposal, (II) the type health care provided, paid for, or insured against under the proposal, (III) whether, and if so, to what extent, the proposal provides for the development of new and improved methods for the delivery of health care and services.

"(C) Not later than March 31, 1971, the Secretary shall submit to the Congress a report on each legislative proposal which he has been directed to study under this paragraph, together with an analysis and evaluation of such proposal."

(c) Subsection (d) of section 304 of such Act is hereby redesignated as subsection (c) and is amended to read as follows:

"(c) (1) There are authorized to be appropriated for payment of grants or under contracts under subsection (a), and for purposes of carrying out the provisions of subsection (b), $71,000,000 for the fiscal year ending June 30, 1971 (of which not less than $2,000,000 shall be available only for purposes of carrying out the provisions of subsection (b)), $82,000,000 for the fiscal year ending June 30, 1972, and $94,000,000 for the fiscal year ending June 30, 1973.

"(2) In addition to the funds authorized to be appropriated under paragraph (1) to carry out the provisions of subsection (b) there are hereby authorized to be appropriated to carry out such provisions for each fiscal year such sums as may be necessary."

(d) The amendments made by subsection (c) of this section shall be effective only with respect to fiscal years ending after June 30, 1970.

SEC. 202. That provision of section 304 of the Public Health Service Act redesignated by section 201(a) of this Act as paragraph (3) of subsection (a) is further amended—

(1) by inserting "(A)" immediately after "(3)"; and

(2) by adding after and below such provision the following new subparagraph:

"(B) The amounts otherwise payable to any person under a grant or contract made under this subsection shall be reduced by—

"(i) amounts equal to the fair market value of any equipment or supplies furnished to such person by the Secretary for the purpose of carrying out the project with respect to which such grant or contract is made, and

"(ii) amounts equal to the pay, allowances, traveling expenses, and related personnel expenses attributable to the performance of services by an officer or employee of the Government in connection with such project, if such officer or employee was assigned or detailed by the Secretary to perform such services,

but only if such person requested the Secretary to furnish such equipment or supplies, or such services, as the case may be."

SEC. 203. That provision of section 304 of the Public Health Service Act redesignated by section 201(a) of this Act as paragraph (1) of subsection (a) is further amended by—

(1) striking out the period at the end thereof and inserting in lieu thereof ", and"; and

(2) adding after and below the clause thereof redesignated by such section 201(a) as clause (iii) the following new clauses:

"(iv) projects for research, experiments, and demonstrations dealing with the effective combination or coordination of public, private, or combined public-private methods or systems for the delivery of health services at regional, State, or local levels, and

"(v) projects for research and demonstrations in the provision of home health services."

PART B—NATIONAL HEALTH SURVEYS AND STUDIES

SEC. 210. (a) (1) Clause (1) of subsection (a) of section 305 of the Public Health Service Act is amended by striking out "and" before "(E)", and by inserting after the semicolon at the end of such clause the following: "(F) health care resources; (G) environmental and social health hazards; and (H) family formation, growth, and dissolution;".

(2) Such subsection is further amended by adding at the end thereof the following new sentence: "No information obtained in accordance with this paragraph may be used for any purpose other than the statistical purposes for which it was supplied except pursuant to regulations of the Secretary; nor may any such information be published if the particular establishment or person supplying it is identifiable except with the consent of such establishment or person."

(b) Section 305 is further amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by adding after subsection (a) the following new subsection:

"(b) The Secretary is authorized, directly or by contract, to undertake research, development, demonstration, and evaluation, relating to the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the Federal, State, and local levels."

(c) The subsection of such section 305 redesignated (by subsection (b) of this section) as subsection (d) is amended to read as follows:

"(d) There are authorized to be appropriated to carry out this section $15,000,000 for the fiscal year ending June 30, 1971, $20,000,000 for the fiscal year ending June 30, 1972, and $25,000,000 for the fiscal year ending June 30, 1973."

PART C—GRANTS TO STATES FOR COMPREHENSIVE STATE HEALTH PLANNING

SEC. 220. (a) (1) The first sentence of section 314(a) (1) of the Public Health Service Act is amended by striking out "June 30, 1970" and inserting in lieu thereof "June 30, 1973".

(2) The second sentence of such section 314(a) (1) is amended by striking out "and $15,000,000 for the fiscal year ending June 30, 1970" and inserting in lieu thereof the following: "$15,000,000 for the fiscal year ending June 30, 1970, $15,000,000 for the fiscal year ending June 30, 1971, $17,000,000 for the fiscal year ending June 30, 1972, and $20,000,000 for the fiscal year ending June 30, 1973".

(b) Section 314(a) (2) (B) of such Act is amended by striking out "State and local agencies" and inserting in lieu thereof "Federal, State, and local agencies (including as an ex officio member, if there is located in such State one or more hospitals or other health care facilities of the Veterans' Administration, the individual whom the Administrator of Veterans' Affairs shall have designated to serve on such council as the representative of the hospitals or other health care facilities of such Administration which are located in such State)".

(c) Section 314(a) (2) (B) of such Act (as amended by subsection (b) of this section) is further amended by inserting "(including representation of the regional medical program or programs included in whole or in part within the State)" immediately after "concerned with health".

(d) Section 314(a) (2) (C) of such Act is amended (1) by inserting "and including home health care" immediately after "private", and (2) by inserting immediately before the semicolon at the end thereof the following: "and including environmental considerations as they relate to public health".

PART D—PROJECT GRANTS FOR AREAWIDE HEALTH PLANNING

SEC. 230. Section 314(b) of the Public Health Service Act is amended—

(1) by striking out, in the first sentence thereof, "June 30, 1970" and inserting in lieu thereof "June 30, 1973";

(2) by inserting after the word "services" the second place it appears therein, the phrase "and including the provision of such services through home health care";

(3) by striking out, in the second sentence thereof, "and $15,000,000 for the fiscal year ending June 30, 1970" and inserting in lieu thereof the following: "$15,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, and $40,000,000 for the fiscal year ending June 30, 1973";

(4) by inserting "(1) (A)" immediately after "(b)"; and

(5) by adding after and below the existing language contained therein the following;

"(B) Project grants may be made by the Secretary under subparagraph (A) to the State agency administering or supervising the administration of the State plan approved under subsection (a) with respect to a particular region or area, but only if (I) no application for such a grant with respect to such region or area has been filed by any other agency or organization qualified to receive such a grant, and (ii) such State agency certifies, and the Secretary finds, that ample opportunity has been afforded to qualified agencies and organizations to file application for such a grant with respect to such region or area and that it is improbable that, in the foreseeable future, any agency or organization which is qualified for such a grant will file application therefor.

"(2) (A) In order to be approved under this subsection, an application for a grant under this subsection must contain or be supported by reasonable assurances that there has been or will be established, in or for the area with respect to which such grant is sought, an areawide health planning council. The membership of such council shall include representatives of public, voluntary, and nonprofit private agencies, institutions, and organizations concerned

XUM

with health (including representatives of the interests of local government, of the regional medical program for such area, and of consumers of health services). A majority of the members of such council shall consist of representatives of consumers of health services.

"(B) In addition, an application for a grant under this subsection must contain or be supported by reasonable assurances that the areawide health planning agency has made provision for assisting health care facilities in its area to develop a program for capital expenditures for replacement, modernization, and expansion which is consistent with an overall State plan which will meet the needs of the State and the area for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner."

Part E—Project Grants for Training, Studies and Demonstrations

Sec. 240. Section 314(c) of the Public Health Service Act is amended—

(1) by striking out, in the first sentence thereof, "June 30, 1970" and inserting in lieu thereof "June 30, 1973"; and

(2) by striking out, in the second sentence thereof, "and $7,500,000 for the fiscal year, ending June 30, 1970" and inserting in lieu thereof the following: "$7,500,000 for the fiscal year ending June 30, 1970, $8,000,000 for the fiscal year ending June 30, 1971, $10,000,000 for the fiscal year ending June 30, 1972, and $12,000,000 for the fiscal year ending June 30, 1973".

Part F—Grants for Comprehensive Public Health Services

Sec. 250. (a) Section 314(d) (1) of the Public Health Service Act is amended by striking out "and $100,000,000 for the fiscal year ending June 30, 1970" and inserting in lieu thereof "$100,000,000 for the fiscal year ending June 30, 1970, $130,000,000 for the fiscal year ending June 30, 1971, $145,000,000 for the fiscal year ending June 30, 1972, and $165,000,000 for the fiscal year ending June 30, 1973".

(b) Section 314(d) (2) (C) of such Act is amended (1) by striking out "and (iii)" and inserting in lieu thereof "(iii)" and (2) by inserting before the semicolon at the end thereof the following: "; and (iv) the plan is compatible with the total health program of the State".

Part G—Project Grants for Health Services Development

Sec. 260. (a) Section 314(e) of the Public Health Service Act is amended by striking out "and" immediately after "June 30, 1969," and by inserting after "June 30, 1970," the following: "$109,500,000 for the fiscal year ending June 30, 1971, $135,000,000 for the fiscal year ending June 30, 1972, and $157,000,000 for the fiscal year ending June 30, 1973,".

(b) The first sentence of 314(e) is further amended by inserting immediately after "cost" the following: "(including equity requirements and amortization of loans on facilities acquired from the Office of Economic Opportunity or construction in connection with any program or project transferred from the Office of Economic Opportunity)".

(c) (1) The second sentence of such section is amended to read as follows: "Any grant made under this subsection may be made only if the application for such grant has been referred for review and comment to the appropriate areawide health planning agency or agencies (or, if there is no such agency in the area, then to such other public or nonprofit private agency or organization (if any) which performs similar functions) and only if the services assisted under such grant will be provided in accordance with such plans as have been developed pursuant to subsection (a)."

(2) The amendment made by paragraph (1) shall be effective with respect to grants under section 314(e) of the Public Health Service Act which are made after the date of enactment of this Act.

Part H—Administration of Grants in Certain Multigrant Projects

Sec. 207. Part A of title III of the Public Health Service Act is amended by adding at the end thereof the following new section:

"Administration of Grants in Certain Multigrant Projects

"Sec. 310A. For the purpose of facilitating the administration of and expediting the carrying out of the purposes of, the programs established by title IX, and sections 304, 314(a), 314(b), 314(c), 314(d), and 314 (e) of this Act in situations in which grants are sought or made under two or more of such programs with respect to a single project, the Secretary is authorized to promulgate regulations—

"(1) under which the administrative functions under such programs with respect to such project will be performed by a single administrative unit which is the administrative unit charged with the administration of any of such programs or is the administrative unit charged with the supervision of two or more of such programs;

"(2) designed to reduce the number of applications, reports, and other materials required under such programs to be submitted with respect to such project, and otherwise to simplify, consolidate, and make uniform (to the extent feasible), the data and information required to be contained in such applications, reports, and other materials; and

"(3) under which inconsistent or duplicative requirements imposed by such programs will be revised and made uniform with respect to such project;

except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law."

Part I—Annual Report, National Advisory Council, Etc.

Sec. 280. Part A of title III of the Public Health Service Act is further amended by adding after section 310A thereof (as added by section 270 of this Act) the following new section:

"Annual Report

"310B. On or before January 1 of each year, the Secretary shall transmit to the Congress a report of the activities carried on under the provisions of title IX of this Act and sections 304, 305, 314(a), 314(b), 314(c), 314(d), and 314(e) of this title together with (1) an evaluation of the effectiveness of such activities in improving the efficiency and effectiveness of the research, planning, and delivery of health services in carrying out the purposes for which such provisions were enacted, (2) a statement of the relationship between Federal financing and financing from other sources of the activities undertaken pursuant to such provisions (including the possibilities for more efficient support of such activities through use of alternate sources of financing after an initial period of support under such provisions), and (3) such recommendations with respect to such provisions as he deems appropriate."

Sec. 281. Title III of the Public Health Service Act is amended by adding after section 315 thereof the following new section:

"NATIONAL ADVISORY COUNCIL ON COMPREHENSIVE HEALTH PLANNING PROGRAMS

"Sec. 316. (a) The Secretary shall appoint, without regard to the civil service laws, a National Advisory Council on Comprehensive Health Planning Programs. The Council shall consist of the Secretary or his designee, who shall be the chairman, and sixteen members, not otherwise in the regular full-time employ of the United States, who are (1) leaders in the fields of the fundamental sciences, the medical sciences, or the organization, delivery, and financing of health care, (2) officials in State and areawide health planning agencies, (3) leaders in health care administration, or State or community or other public affairs, who are State or local officials, or (4) representatives of consumers of health care. At least six of the appointed members shall be individuals representing the consumers of health care, one shall be an official of a State health planning agency, one shall be an official of an areawide health planning agency, and one shall be a member of the National Advisory Council on Regional Medical Programs.

"(b) Each appointed member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, four at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

"(c) Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate specified at the time of service for 95–18 of the General Schedule, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government service employed intermittently.

"(d) The Council shall advise and assist the Secretary in the preparation of general regulations for, and as to policy matters arising with respect to, the administration of section 314 of this title, with increased emphasis on cooperation in the coordination of programs thereunder with the National Advisory Council on Regional Medical Programs, with particular attention to the relationship between the improved organization and delivery of health services and the financing of such services; and shall, in carrying out such functions, review, not less often than annually, the grants made under section 314 to determine their effectiveness in carrying out its purposes."

Sec. 282. Part B of title III of the Public Health Service Act is amended by striking out "Surgeon General" each place is appears and inserting in lieu thereof "Secretary".

Part J—Regulation of Vaccines, Blood, Blood Components, and Allergenic Products

Sec. 291. Section 351 of the Public Health Service Act is amended by inserting, after "antitoxin", each time such word appears, the following: "vaccine, blood, blood component or derivative, allergenic product,".

Part K—Extension of Research Contract Authority

Sec. 292. Paragraph (h) of section 301 of the Public Health Service Act is amended by striking out "five succeeding fiscal years" and inserting in lieu thereof "eight succeeding fiscal years".

TITLE III—COMMUNITY MENTAL HEALTH CENTERS

Sec. 301. Section 201 of the Community Mental Health Centers Amendments of 1970 is amended by adding at the end thereof the following new subsection:

"(c) In the case of any community mental health center—

"(1) for which a staffing grant was made under part B of the Community Mental Health Centers Act for any period which began on or before June 30, 1970; and

"(2)(A) with respect to which the portion of the costs (as described in section 220(a) of such Act) which may be met from funds under a grant under such part B is increased (by reason of the enactment of the preceding subsections of this section) for any period after June 30, 1970; or

"(B) with respect to which the period during which a grant under such part B may be made is extended by reason of the enactment of subsection (a) of this section;

the provisions of section 221(a)(4) of such Act shall be deemed to have been complied with for any period after June 30, 1970, if the Secretary determines that there is satisfactory assurance that the amount of total costs, Federal and non-Federal (as described in section 220(a) of such Act) which will be incurred by such center for staffing purposes for any period after June 30, 1970, will not be less than the amount of such total costs for the period which last commenced on or before June 30, 1970, except that the grantee shall not be required to increase the amount contributed as the non-Federal share in the event the amount of the Federal participation is reduced."

TITLE IV—AUTHORITY FOR GROUP PRACTICE

SEC. 401. (a) The Secretary of Health, Education, and Welfare may, in accordance with the provisions of this section, authorize any carrier, which is a party to a contract entered into under chapter 89 of title 5, United States Code (relating to health benefits for Federal employees), or under the Retired Federal Employees Health Benefits Act, or which participates in the carrying out of any such contract, to issue in any State contracts entitling any person as a beneficiary to receive comprehensive medical services (as defined in subsection (b)) from a group practice unit or organization (as defined in subsection (c)) with which such carrier has contracted or otherwise arranged for the provision of such services.

(b) As used in this section, the term "comprehensive medical services" means comprehensive preventive, diagnostic, and therapeutic medical services (as defined in regulations of the Secretary), furnished on a prepaid basis; and may include, at the option of a carrier, such other health services including mental health services, and equipment and supplies, furnished on such terms and conditions with respect to copayment and other matters, as may be authorized in regulations of the Secretary.

(c) As used in this section:

(1) The term "group practice unit or organization" means a nonprofit agency, cooperative, or other organization undertaking to provide, through direct employment of, or other arrangements with the members of a medical group, comprehensive medical services (or such services and other health services) to members, subscribers, or other persons protected under contracts of carriers.

(2) The term "medical group" means a partnership or other association or group of persons who are licensed to practice medicine in a State (or of such persons and persons licensed to practice dentistry or optometry) who (A) as their principal professional activity and as a group responsibility, engage in the coordinated practice of their profession primarily in one or more group practice facilities, (B) pool their income from practice as members of the group and distribute it among themselves according to a prearranged plan, or enter into an employment arrangement with a group practice unit or organization for the provision of their services, (C) share common overhead expenses (if and to the extent such expenses are paid by members of the group), medical and other records, and substantial portions of the equipment and professional, technical, and administrative staff, and (D) include within the group at least such professional personnel, and make available at least such health services, as may be specified in regulations of the Secretary.

(d) Nothing in this section shall preclude any State or State agency from regulating the amounts charged for contracts issued pursuant to subsection (a) or the manner of soliciting and issuing such contracts, or from regulating any carrier issuing such contracts in any manner not inconsistent with the provisions of this section.

TITLE V—STUDY RELATING TO ENVIRONMENTAL POLLUTION

SEC. 501. (a) The Congress finds that there is general agreement that air, water, and other common environmental pollution may be hazardous to the health of individuals resident in the United States, but that despite the existence of various research papers and other technical reports on the health hazards of such pollution, there is no authoritative source of information about (1) the nature and gravity of these hazards, (2) the availability of medical and other assistance to persons affected by such pollution, especially when such pollution reaches emergency levels, and (3) the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals.

(b) The President shall immediately commence (1) a study of the nature and gravity of the hazards to human health and safety created by air, water, and other common environmental pollution, (2) a survey of the medical and other assistance available to persons affected by such pollution, especially when such pollution reaches emergency levels, and (3) a survey of the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals.

(c) The President shall, within nine months of the enactment of this Act, transmit to the Congress a report of the study and surveys required by subsection (b) of this section, including (1) his conclusions regarding the nature and gravity of the hazards to human health and safety created by environmental pollution, (2) his evaluation of the medical and other assistance available to persons affected by such pollution, especially when such pollution reaches emergency levels, (3) his assessment of the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals, and (4) such legislative or other recommendations as he may deem appropriate.

(d) The President shall, within one year of his transmittal to the Congress of the report required by subsection (c) of this section, and annually thereafter, supplement that report with such new data, evaluations, or recommendations as he may deem appropriate.

(e) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE VI—MISCELLANEOUS

NATIONAL ADVISORY COUNCIL

SEC. 601. (a)(1) Sections 217(b), 432(a), 443(b), and 703(c) of the Public Health Service Act are amended by inserting "or committees" after "councils" wherever it appears therein.

(2) Sections 431, 432(b), 433, 443, and 452 of such Act are amended by inserting "or committee" after "council" wherever it appears therein.

(3) Subsections (b) and (c) of section 222 of such Act are amended by inserting "council or" before "committee" wherever it appears therein.

(4) Such section is further amended by inserting in the heading thereof "councils or" before "committees".

(b)(1) Subsection (c) of section 208 of the Public Health Service Act is amended to read:

"(c) Members of the National Advisory Health Council and members of other national advisory or review councils or committees established under this Act, including members of the Technical Electronic Product Radiation Safety Standards Committee and the Board of Regents of the National Library of Medicine, but excluding ex officio members, while attending conferences or meetings of their respective councils or committees or while otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate specified at the time of such service for grade GS-18 of the general schedule, including traveltime; and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government service employed intermittently."

(2) The second sentence of subsection (d) of section 306, the second sentence of subsection (d) of section 307, the first sentence of paragraph (2) of subsection (f) of section 358, subsection (d) of section 373, subsection (e) of section 641, subsection (d) of section 703, subsection (d) of section 725, subsection (d) of section 774, subsection (c) of section 841, and subsection (c) of section 905 of such Act are deleted.

(3) Paragraph (2) of subsection (f) of section 358 is further amended by striking out "under this subsection" in the second sentence thereof and by inserting in lieu thereof "to members of the Committee who are not officers or employees of the United States pursuant to subsection (c) of section 208 of this Act".

(4) Subsection (d) of section 905 of such Act is redesignated as subsection (c).

(c)(1) Subsection (a) of section 222 of such Act is amended to read:

"(a) The Secretary may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, from time to time, appoint such advisory councils or committees (in addition to those authorized to be established under other provisions of law), for such periods of time, as he deems desirable with such period commencing on a date specified by the Secretary for the purpose of advising him in connection with any of his functions."

(2) Subsection (c) of such section is amended by inserting "or programs" after "projects".

(d)(1) Subsection (g) of section 408 of the Food, Drug, and Cosmetic Act is amended by striking out "as compensation for their services a reasonable per diem, for time actually spent in the work of the committee, and shall in addition be reimbursed for their necessary traveling and subsistence expenses while so serving away from their places of residence." after "shall receive" and by inserting in lieu thereof "compensation and travel expenses in accordance with subsection (b)(5)(D) of section 706."

(2) Subparagraph (D) of paragraph (5) of subsection (b) of section 706 of such Act is amended by striking out the third sentence thereof and by inserting in lieu thereof the following new sentence: "Members of any

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advisory committee established under this Act, while attending conferences or meetings of their committees or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary but at rates not exceeding the daily equivalent of the rate specified at the time of such service for grade GS–18 of the General Schedule, including travel time; and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government service employed intermittently."

TRAINING AUTHORITY OF INSTITUTE OF GENERAL MEDICAL SCIENCES

SEC. 602. Section 442 of the Public Health Service Act is amended by striking out "research" before "training".

And the Senate agree to same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

HARLEY O. STAGGERS,
JOHN JARMAN,
PAUL ROGERS,
W. L. SPRINGER,
ANCHER NELSEN,
Managers on the Part of the House.

RALPH O. YARBOROUGH,
HARRISON WILLIAMS, Jr.,
EDWARD M. KENNEDY,
THOMAS F. EAGLETON,
ALAN CRANSTON,
HAROLD E. HUGHES,
CLAIRORNE PELL,
PETER H. DOMINICK,
J. JAVITS,
GEORGE MURPHY,
WINSTON L. PROUTY,
WM. B. SAXBE,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17570) to amend title IX of the Public Health Service Act so as to extend and improve the existing program relating to education, research, training, and demonstrations in the fields of heart disease, cancer, stroke, and other related diseases, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute amendment. The committee of conference has agreed to a substitute for both the House bill and the Senate amendment to the text of the bill. Except for technical, clarifying, and conforming changes, the following statement explains the differences between the House bill and the substitute agreed to in conference.

The House has passed two separate bills dealing with the subjects embraced in the Senate amendment; H.R. 17570, and H.R. 18110, a bill extending and expanding the program of comprehensive health planning and research and demonstrations relating to the delivery of health services. The Senate amendment deals with the programs contained in both House bills.

REGIONAL MEDICAL PROGRAMS

Scope of program

Both the House bill and the Senate amendment expanded the scope of the program to include kidney disease as well as heart disease, cancer, and stroke. However, the Senate amendment changed coverage of *other related diseases* to *other major diseases and conditions.*

The conference substitute is the same as the House bill. The Managers for both Houses were in doubt as to whether the scope of the program should be limited (as in the House bill) to diseases related to heart disease, kidney disease, cancer, and stroke or whether it should be limited (as in the Senate amendment) to major diseases and conditions other than heart disease, kidney disease, cancer, and stroke and expect the Secretary of Health, Education, and Welfare to conduct a study of the scope of the regional medical program and to report to the appropriate committees of Congress his recommendations.

Construction

The Senate amendment contained a provision not in the House bill which expanded assistance for construction to include assistance for new construction of facilities for demonstrations, research, and training when necessary to carry out regional medical programs.

The conference substitute is identical with the Senate amendment except that it is provided that not more than $5 million may be made available in any fiscal year for grants for such new construction.

Participation of Veterans' Administration personnel

The Senate amendment contained a provision not in the House bill which would (1) make the Chief Medical Director of the Veterans' Administration an ex officio member of the National Advisory Council for the regional medical program, and (2) require local advisory groups to include as an ex officio member the person designated from the local Veterans' Administration health facility.

JOINT ADMINISTRATION OF PROJECTS

The House bill[1] would amend the Public Health Service Act to provide that in the case of projects funded under more than one Federal law, one agency could be designated to administer financial assistance for such projects, single non-Federal share requirements for such projects could be established, and conflicting grant or contract requirement could be deleted.

The Senate amendment contained a similar provision. The authority in the Senate amendment would be limited to projects funded under title III or IX of the Public Health Service Act and no authority for a single non-Federal share requirement or for waiver of conflicting requirements required by law or by regulations required by law would be provided.

The conference substitute is identical with the provision of the Senate amendment.

RESEARCH AND DEMONSTRATIONS RELATING TO HEALTH FACILITIES AND SERVICES

Authorization of appropriations

The House bill would extend for three fiscal years (through fiscal year 1973) the authorization of appropriations for the programs of Federal financial assistance under section 304 of the Public Health Service Act (relating to research and demonstrations). The following amounts would be authorized: $58 million for fiscal year 1971, $79 million for fiscal year 1972, and $94 miliion for fiscal year 1973.

The Senate amendment would extend such program for five years (through fiscal year 1975) and would authorize the following amounts: $80 million for fiscal year 1971, $85 million for fiscal year 1972, $94 million for fiscal year 1973, $110 million for fiscal year 1974, and $130 million for fiscal year 1975.

The conference substitute would extend such programs for three years (through fiscal year 1973) and would authorize the following amounts to be appropriated for such program: $69 million for fiscal year 1971, $82 million for fiscal year 1972, and $94 million for fiscal year 1973.

Research, etc., on delivery of health services

The Senate amendment contained a provision not in the House bill which would authorize grants and contracts under such section 304 for research, experiments, and demonstrations, relating to the effective combination or coordination of methods or systems for the delivery of health services.

The conference substitute contains the provision of the Senate amendment.

Home health services

The Senate amendment contained a provision not in the House bill which would authorize grants and contracts under such section 304 for projects for research and demonstrations in the provision of home health services.

The conference substitute contains the provision of the Senate amendment.

Analysis of national health care plans

The Senate amendment contained a provision not in the House bill which would amend such section 304 to direct the Secretary of Health, Education, and Welfare to develop, through utilization of systems analysis method alternative plans for health care systems designed adequately to meet the health needs of the American people and to report to Congress not later than June 30, 1971, on such plans. Under the amendment, the Secretary would also study bills introduced in the 91st Congress which propose a national health insurance plan or similar plan to determine the costs of such plans and their adequacy. The Secretary would report to Congress not later than December 31, 1970, the results of such study. $4 million would be authorized for fiscal year 1971 for the development of such plans and for the conduct of such study.

The conference substitute is the same as the Senate amendment except that (1) it is made clear that the Secretary is to develop more than one plan for health care systems, (2) the Secretary's report with respect to plans for health care systems is to be made not later than September 30, 1971, (3) the Secretary's report on bills introduced in the 91st Congress is to be made not later than March 31, 1971, and (4) $2 million is authorized for fiscal year 1971.

The national health surveys and studies

The House bill would amend section 305 of the Public Health Service Act to extend for three years (through fiscal year 1973) the program of national health surveys and studies and would authorize for such program the following amounts: $10 million for fiscal year 1971, $21 million for fiscal year 1972, and $22 million for fiscal year 1973.

The Senate amendment would continue the open-ended authorization for such program.

The conference substitute extends such program for three fiscal years and authorizes the following amounts: $15 million for fiscal year 1971, $20 million for fiscal year 1972, and $25 million for fiscal year 1973.

REPORT ON ACTIVITIES UNDER TITLES III AND IX OF THE PUBLIC HEALTH SERVICE ACT

The Senate amendment contained a provision not in the House bill which would amend the Public Health Service Act to direct that on or before January 1 of each year the Secretary of Health, Education, and Welfare report to Congress on activities under titles III and IX of the Public Health Service Act with (1) an evaluation of the effectiveness of such activities in improving the efficiency and effectiveness in research in, planning for, and delivery of, health services, (2) an analysis of the relationship between Federal and local financing, and (3) such recommendations as the Secretary deems appropriate.

The conference substitute is identical with the Senate amendment.

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[1] The reference to the House bill in the discussion of this and the succeeding provisions is to H.R. 18110, as passed the House.

COMPREHENSIVE HEALTH PLANNING

State health plan

Authorization of Appropriations

The House bill would amend section 314(a) of the Public Health Service Act to extend for three years (through fiscal year 1973) the program of grants to States for comprehensive State health planning and would authorize the following amounts: $10 million for fiscal year 1971, $15 million for fiscal year 1972, and $20 million for fiscal year 1973.

The Senate amendment would extend such program through fiscal year 1975 and would authorize the following amounts: $15 million for fiscal year 1971, $17 million for fiscal year 1972, $20 million for fiscal year 1973, $30 million for fiscal year 1974, and $35 million for fiscal year 1975.

The conference substitute extends such program through fiscal year 1973 and authorizes the following amounts: $15 million for fiscal year 1971, $17 million for fiscal year 1972, and $20 million for fiscal year 1973.

Veterans' Administration Representation on State Health Planning Council

The Senate amendment contained a provision not in the House bill which would provide that the State plan under such section 314(a) would include State planning for home health care.

The conference substitute contains the provision of the Senate amendment.

Project grants for areawide health planning

Authorization of Appropriations

The House bill would amend section 314(b) of the Public Health Service Act to extend through fiscal year 1973 the program of project grants for areawide health planning and would authorize the following amounts: $15 million for fiscal year 1971, $25 million for fiscal year 1972, and $40 million for fiscal year 1973.

The Senate amendment would extend such program through fiscal year 1975 and would authorize the following amounts: $20 million for fiscal year 1971, $30 million for fiscal year 1972, $40 million for fiscal year 1973, $50 million for fiscal year 1974, and $60 million for fiscal year 1975.

The conference substitute extends such program through fiscal year 1973 and authorizes the following amounts: $20 million for fiscal year 1971, $30 million for fiscal year 1972, and $40 million for fiscal year 1973.

Home Health Care

The Senate amendment contained a provision not in the House bill which would provide that area plans under such section 314(b) would include home health care services.

The conference substitute is identical with the Senate amendment.

Grants to State Agency

The Senate amendment contained a provision not in the House bill which would provide that under certain circumstances the State planning agency could receive a grant under such section 314(b).

The conference substitute is identical with the Senate amendment.

Areawide Health Planning Council

The House bill would amend such section 314(b) to provide that the areawide health planning council would include representatives of consumers of health services.

The Senate amendment would require that a majority of the membership of such council be representatives of consumers of health services.

The conference substitute is identical with the Senate amendment.

Grants for comprehensive public health services

Authorization of Appropriations

The House bill would extend through fiscal year 1973 the program under section 314(d) of the Public Health Service Act for grants for comprehensive public health services and would authorize the following amounts: $125 million for fiscal year 1971, $140 million for fiscal year 1972, and $160 million for fiscal year 1973.

The Senate amendment would extend such program through fiscal year 1975 and would authorize the following amounts: $130 million for fiscal year 1971, $145 million for fiscal year 1972, $165 million for fiscal year 1973, $180 million for fiscal year 1974, and $200 million for fiscal year 1975.

The conference substitute extends such program through fiscal year 1973 and authorizes the following amounts: $130 million for fiscal year 1971, $145 million for fiscal year 1972, and $165 million for fiscal year 1973.

Project grants for health services development

Both the Senate and House bills, and the conference substitute, provide a continuation of the existing program of project grants for health services development under section 314(e) of the Public Health Service Act, with authorizations for fiscal year 1971 of $109,500,000, $135 million for fiscal year 1972, and $157 million for fiscal year 1973. The conference substitute does not contain the further authorization of appropriations for fiscal years 1974 and 1975 contained in the Senate version.

The conference substitute also authorizes the use of funds appropriated for section 314(e) for meeting obligations heretofore incurred with respect to certain facilities of the Office of Economic Opportunity which have been, or are in the process of being, transferred to the jurisdiction of the Department of Health, Education, and Welfare.

Regulation of certain biological products

The Senate amendment contained an amendment to section 35 of the Public Health Service Act making clear that the authority of that section includes authority to license vaccines, blood, blood components or derivatives, and allergenic products. This amendment is identical to the provision of H.R. 15961, already passed by the House.

With respect to this amendment, the conference substitute is the same as the Senate version.

Authority for group practice

The Senate amendment contained a provision not in the House bill which would authorize the Secretary of Health, Education, and Welfare to authorize insurance carriers, which are parties to, or which participate in the carrying out of, contracts relating to health benefits for active or retired Federal employees, to issue in any State contracts entitling beneficiaries to receive comprehensive medical services from a group practice unit with which the carrier has arranged for the provision of such services.

The conference substitute contains the provision of the Senate amendment.

Receipt of increased staffing grants for currently funded community mental health centers

The Senate amendment contained a provision not in the House bill to change the application of the maintenance of effort requirements under the Community Mental Health Centers Act to facilitate receipt by currently funded community mental health centers of the increased Federal share of staffing costs provided under the Community Mental Health Centers Amendments of 1970 (Public Law 91–211).

The conference substitute contains the provision of the Senate amendment.

Compensation of advisory council members, etc.

The Senate amendment contained a provision not in the House bill which would amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to provide uniform rules on compensation of advisory council members and to authorize committees to be established where there is authority to establish advisory councils. The conference substitute contains the provision of the Senate amendment.

Research contracting authority

The Senate amendment contained a provision not in the House bill which would amend section 301(h) of the Public Health Service Act to eliminate the fiscal year limitation (fiscal year 1971) on the research contracting authority of the Secretary of Health, Education, and Welfare. The conference substitute extends such authority through fiscal year 1973.

Training authority of National Institute of General Medical Sciences

The Senate amendment contained a provision not in the House bill which would amend section 442 of the Public Health Service Act to provide that the National Institute of General Medical Sciences could conduct and support clinical as well as research training. The conference substitute is identical to the Senate amendment.

Study relating to environmental pollution

The Senate amendment contained a provision not in the House bill which directed the Secretary to study (1) the health and safety hazards presented by environmental pollution, (2) medical and other assistance available to persons affected by such pollution, and (3) measures, other than abatement, that can be taken to avoid affect of such pollution on human health.

The conference substitute is the same as the Senate amendment except that the study is to be conducted by the President.

HARLEY O. STAGGERS,
JOHN JARMAN,
PAUL ROGERS,
W. L. SPRINGER,
ANCHER NELSEN,
Managers on the Part of the House.

APPOINTMENT OF CONFEREES ON H.R. 18583, AMENDING PUBLIC HEALTH SERVICE ACT

Mr. ROGERS of Florida. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 18583) to amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. PEPPER. Mr. Speaker, reserving the right to object, I do so in order to make a brief statement.

The able gentleman, my distinguished colleague (Mr. ROGERS of Florida), one of those who handled this bill, is aware of the fact that in the other body by a record vote of 40 to 16, after a very thorough debate, the other body adopted my amendment which I offered on the floor here the other day to move amphetamines from schedule III up to schedule II, where they would be subject to the imposition of a quota by the Attorney General to reduce the 8 billion a year which are now being produced when only a few thousand, according to medical testimony, are needed for medical purposes.

Mr. Speaker, in view of the fact that literally the exact amendment I offered here, with the strong support of my colleagues on both sides of the aisle of the House Crime Committee, was adopted by the other body by this record vote of 40 to 16, I was presented with the question, and my colleagues and I discussed it at great length, as to whether, feeling as strongly as we do about the amendment and the other body having agreed to it in that way, it was my duty as the former author of the amendment to ask the House to instruct the conferees to agree to the amendment as adopted by the other body.

But, on the other hand, it is late in the day, and all the Members are tired, and all of us are reluctant even to suggest that the discretion and the action of our conferees should be in any way hampered when they go into conference with the other body, so I would like to forego having the duty to make that motion if I could get some encouragement on the part of my colleague to believe that in view of the vote of the other body adopting my amendment and there being in this House only a voice vote—I was the one responsible for not getting either a division vote or a teller vote, so I feel a special obligation about the matter—and in view of the fact that this House acted only on a voice vote and the other body acted on a record vote, I feel constrained to ask for some encouragement, or may I have some hope to believe from my distinguished colleague and his colleagues on the conference, that under the circumstances they will view this matter as sympathetically as they think the facts and the evidence they have before them will permit, including the position of the other body.

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Mr. ROGERS of Florida. Mr. Speaker, if the gentleman will yield, of course, knowing the interest of the gentleman and the work he did with his committee in pointing up this problem, and of course, this does affect the drug problem, I am sure the conferees will give sympathetic understanding to the position as the Senate presents it.

Of course we will view the House position and the Senate position as we should, but we certainly will give sympathetic understanding. I appreciate the gentleman's bringing this to the attention of the conferees. I can assure him we will give it sympathetic understanding.

Mr. PEPPER. I thank my colleague very much.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from California.

Mr. WIGGINS. I hope the gentleman from Florida will agree with me on a recommendation to the conferees that in protecting the House bill it might be well to consider at least receding and concurring in this amendment offered by our colleague from Florida, which was accepted on the Senate side, in exchange for the protections of the House bill under title I. Amendments in the other body to title I, as the gentleman knows, were very extensive; and expensive, I might add. In order to protect the House version I hope consideration will be given to receding and concurring in the Senate view on the Pepper amendment.

Mr. ROGERS of Florida. I thank the gentleman for his comments.

Mr. PEPPER. I thank my able colleague.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida? The Chair hears none, and, without objection, appoints the following conferees: Messrs. STAGGERS, JARMAN, ROGERS of Florida, SATTERFIELD, SPRINGER, NELSEN, and CARTER.

There was no objection.

ADJOURNMENT FROM WEDNESDAY, OCTOBER 14, 1970, TO MONDAY, NOVEMBER 16, 1970

Mr. ALBERT. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 774) and ask for its immediate consideration.

The Clerk read the resolution as follows:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Wednesday, October 14, 1970, they stand adjourned until 12 o'clock meridian on Monday, November 16, 1970.

SUBSTITUTE AMENDMENT OFFERED BY MR. HALL

Mr. HALL. Mr. Speaker, I offer an amendment in the nature of a substitute for the concurrent resolution.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. HALL: Page 1, Strike out all after the resolving clause, and insert: "That the two Houses of Congress shall adjourn on Wednesday, October 14, 1970, and that when they adjourn on said day, they stand adjourned sine die until Monday January 11, 1971."

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Missouri (Mr. HALL).

The question was taken; and on a division (demanded by Mr. HALL) there were—ayes 38, noes 73.

So the substitute amendment was rejected.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER OF HOUSE AND PRESIDENT OF SENATE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED AND FOUND TRULY ENROLLED, NOTWITHSTANDING ADJOURNMENT

Mr. ALBERT. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 775) and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution as follows:

HOUSE CONCURRENT RESOLUTION 775

Resolved by the House of Representatives (the Senate concurring), That notwithstanding any adjournment of the House until November 16, 1970, the Speaker of the House of Representatives and the President of the Senate be, and they are hereby, authorized to sign enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM FOR WEEK OF OCTOBER 12

(Mr. ARENDS asked and was given permission to address the House for 1 minute.)

Mr. ARENDS. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader as to the legislative program for next week.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. ARENDS. I am glad to yield to the distinguished majority leader.

Mr. ALBERT. First, may I advise the gentleman that when we announce the program we will ask to go over until Monday.

The program for next week is as follows:

Monday is District day, but there are no District bills. It is also Columbus Day, and there will be no legislative business.

Tuesday and Wednesday we will have the conference reports on H.R. 17604, the military construction authorization for fiscal year 1971, and H.R. 18546, the Agricultural Act of 1970. There will be several other conference reports, some of which have just been filed from the Committee on Interstate and Foreign Commerce, and I believe there is one from the Committee on Banking and Currency. There will be at least six or seven conference reports on Tuesday next.

Also for Tuesday and Wednesday, H.R. 16408, American Revolution Bicentennial Commission amendments, with an open rule with 1 hour of debate; H.R. 19519, the Comprehensive Manpower Act, subject to a rule being granted; H.R. 17849, to provide financial assistance for and establishment of improved rail passenger service, which is subject to a rule being granted.

Under the resolution just agreed to, the recess will begin at the close of business Wednesday, October 14, 1970, and continue until Monday, November 16, 1970.

This announcement is made subject to the usual reservation that conference reports may be brought up at any time, and any further program may be announced later.

ADJOURNMENT TO MONDAY, OCTOBER 12

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ARENDS. Mr. Speaker, I would like to ask the gentleman from Oklahoma if he will give us the tentative program for the next week when we get back.

Mr. HALL. Does the gentleman from Oklahoma mean to recess over until Monday or Tuesday next?

Mr. ALBERT. Monday next. There will be no formal session. We will have no legislative business on Monday.

Mr. HALL. A pro forma session because of Columbus Day?

Mr. ALBERT. That is right. No legislative business.

DISPENSING WITH BUSINESS IN ORDER ON CALENDAR WEDNESDAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the business in order on Calendar Wednesday of next week be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ARENDS. Mr. Speaker, will the gentleman give us some indication of what we will do when we come back on November 16?

Mr. ALBERT. We will have Consent Calendar day. That is the day we return. There will be some suspensions, but we will not be able to announce them in detail. The first major order of business will be the trade bill.

Mr. ARENDS. On which there is a rule granted already?

Mr. ALBERT. Yes.

Mr. SPRINGER. Will the gentleman yield to me?

Mr. ARENDS. I yield to the gentleman.

Mr. SPRINGER. May I ask the distinguished majority leader this question: We go to conference on the drug abuse bill on Tuesday. If we get an agreement at the conference, can we get that bill scheduled for consideration next week?

Mr. ALBERT. Conference reports may be brought up at any time.

Mr. SPRINGER. I mean to inquire of the distinguished majority leader, though, that if we get an agreement on the bill, he will schedule it?

Mr. ALBERT. We do not need to schedule it. If the conference report is ready, all you have to do is get recognition from the Chair. There is no problem. We do not have to schedule conference reports.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. ARENDS. I am glad to yield to the gentleman.

Mr. GROSS. When may we expect to get the bills that will be subject to consideration November 16?

Mr. ALBERT. We will announce the program on Wednesday next.

Mr. GROSS. On Wednesday next?

Mr. ALBERT. Yes.

Mr. GROSS. The distinguished majority leader is saying that there will be suspensions on Monday when we will reconvene as well as the trade bill?

Mr. ALBERT. We will have the Consent Calendar and such suspensions as are requested and recognized by the Speaker. Immediately following that, if we get through with those on Monday, we will start on the trade bill. If not, we will start the trade bill on Tuesday.

Mr. ARENDS. I might say one more thing to the distinguished gentleman from Oklahoma. There are two bills which are listed for next Wednesday which are contingent upon a rule being granted.

Mr. ALBERT. The gentleman is correct.

Mr. ARENDS. Then, we might complete our business on Tuesday night, if the rules are not granted?

Mr. ALBERT. I will state to the distinguished minority whip that we have quite a few conference reports to be considered.

Mr. ARENDS. I thank the gentleman.

POLITICAL BROADCASTING BILL

(Mr. MADDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MADDEN. Mr. Speaker, we have been disturbed by recurring reports that White House political advisers are urging President Nixon to veto the political broadcasting bill. This would be a most unfortunate decision.

I consider the passage of the political broadcasting bill an important addition to the list of positive achievements of this Congress. It is the most significant legislation ever passed on election spending, and I am pleased to note that a majority of both parties in the House and in the Senate have viewed this as a nonpartisan issue and voted for the bill.

It is in keeping with President Nixon's expressed concern for reform and modernization of our political and governmental institutions. It should meet with White House approval because it is designed to permit adequate campaign funding for electronic media while preventing the buying of elections through television and radio "blitzes."

Mr. Speaker, our democratic system cannot tolerate candidates of either party buying an election through excessive expenditures on electronic advertising. We simply cannot permit the packaging and selling of candidates like so much laundry soap if we are to retain a valid democratic electoral process.

Members of the Democratic Steering Committee have unanimously adopted a resolution urging President Nixon to sign this bill in the interest of fair play, honesty, and democracy, and urging the Congress, in the event the President should exercise the veto, to override that veto.

I sincerely hope that it will not be necessary for this Congress to override another Presidential veto in this session.

Mr. Speaker, I include in the RECORD as a part of my remarks the language of the resolution that was unanimously adopted by the Democratic steering committee:

Be it resolved by the House Democratic Steering Committee that, Whereas the Congress has found that certain candidates for state and national office in 1970 are spending unprecedented sums on political broadcasting, and has passed the Political Broadcasting Bill placing reasonable limits on such expenditures, we strongly urge the President in the interest of fair play, honesty, and democracy, to sign S. 3637, and should the President veto it, we urge that the Congress override that veto.

"WE CARE"—THEME FOR NATIONAL 4–H WEEK

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SEBELIUS. Mr. Speaker, I would like to take this opportunity to focus attention on National 4–H Week, October 4-10. The theme for this year's observance is "We Care," a most representative theme, for it typifies the spirit of one of our Nation's most successful youth development programs.

Today, we continually hear about the "wrongdoings" of the youngster generation and the faults of our society and not enough about workable answers or solutions. Young people in 4–H across the Nation are working with little fanfare or publicity to improve our society through positive involvement and community action programs.

The record of 4–H in rural and urban America is an outstanding success story. 4–H provides that rare blend of motivation and discipline which spells progress and achievement. As proof of this success, a Wichita, Kans., probate judge recently stated he had never tried a case involving a 4–H member.

4–H involves 3.9 million rural and urban youth and millions of volunteer leaders and parents. Through individual projects ranging from agricultural projects, domestic skills for girls, citizenship, personal development, and leadership training, 4–H'ers have the opportunity to learn by doing—to make their best better.

4–H'ers through their project work and business meetings, have an opportunity to learn responsibility and must rely on personal initiative and ingenuity for success. They also learn to take responsibility for their actions—a very important lesson in life.

In observing National 4–H Week, I would be remiss if I did not emphasize the vital role USDA Extension Personnel, volunteer leaders, parents, and business and industry play in the 4–H success story. Their self-sacrifice and personal involvement and the response of these young people reveal an important element that is often talked about but ignored in our society—two way communication is necessary to successfully bridge the generation gap.

Through youth-adult cooperation in 4–H work, a depth of understanding and mutual respect is achieved that should serve as a model for successful youth programs and educational programs throughout the Nation.

I think the following poem, "I am 4–H," eloquently summarizes the theme of National 4–H Week:

I AM 4–H

Symbolic of the quiet valleys and gentle meadows in which I was born,

I am a four leaf clover, in verdant green, on a pure white field,
I drew my first breath in the resolve of responsible men and women to help American youth.
Nurtured on the land, I now embrace the busy town.
My goal is to learn and my testament—to learn by doing.
I am 4–H.
In quest of the pattern of life
I bow my head in church
And with confidence look to the days that lie ahead of me.
To this end, I have pledged my Head, Heart, Hands, and Health
To greater loyalty, larger service, clearer thinking and better living.
I am 4–H.

NATIONAL 4–H WEEK

(Mr. MIZELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIZELL. Mr. Speaker, I rise today to commend an organization which has, for almost 70 years, provided valuable training for young people, as well as beneficial service to many communities across the Nation. The 4–H Clubs of America are this week celebrating National 4–H Week; and I feel it is fitting at this time to congratulate the club on its outstanding work throughout its existence.

The 4–H Club assists its members by providing valuable scientific knowledge, and training in agriculture production and management principles. The programs and activities of the club are designed to promote creativity and leadership, bringing better living to its members as well as to the community it serves.

In this day when we see young people taking to the streets in militant protest and destruction, it is indeed gratifying to recognize an organization of young people who pledge themselves to "clear thinking, greater loyalty, service, and better living for club, community, and country."

FREE WORLD FLAGSHIP ARRIVALS IN NORTH VIETNAM

(Mr. CHAMBERLAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include a table.)

Mr. CHAMBERLAIN. Mr. Speaker, the level of free world shipping to North Vietnam continues to be substantially reduced over last year. According to information made available to me by the Department of Defense, during September this traffic consisted of four vessels flying the British flag operating out of Hong Kong. This brings the total arrivals for the first three quarters of 1970 to 52, as compared with 72 during the same period in 1969. This continuous progress is most encouraging, and I commend the administration for its efforts to reduce this aid and comfort to the enemy.

FREE WORLD-FLAG SHIP ARRIVALS IN NORTH VIETNAM

	United Kingdom	Somali Republic	Cyprus	Singapore	Japan	Malta	Total
1969:							
January	8	2	1				11
February	6		1	2	1		10
March	6	1					7
April	7			1	1		9
May	9	1	1			1	12
June	6	2	2	1			11
July	6	1					6
August	4		2				6
September	4		1	1			6
October	4		1		1	1	7
November	7						7
December	7						7
Total	74	7	9	5	3	1	99

	United Kingdom	Somali Republic	Cyprus	Singapore	Japan	Malta	Total
1970:							
January	2	1				1	4
February	5	1					6
March	3	1					4
April	7	2					9
May	6	3					9
June	3	2					5
July	4	3	1				8
August	2			1			3
September	4						4
Total	36	13	1	1		1	52

XUM

TRIBUTE TO RICHARD CARDINAL CUSHING, RETIRED CARDINAL ARCHBISHOP OF BOSTON

(Mr. McCORMACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCORMACK. Mr. Speaker, on October 7, 1970, Richard Cardinal Cushing, Archbishop of Boston, retired as the cardinal archbishop of Boston. Cardinal Cushing is truly one of the great religious leaders, in fact, of all time.

While Cardinal Cushing has retired, reluctantly approved by the Holy Father, as the spiritual leader of the archdiocese of Boston, we all know he will never depart from active work in the service of God, mankind, and country.

Cardinal Cushing will always be deeply embedded in the minds and hearts of the people of the archdiocese of Boston, without regard to race, creed, or color. The life of Cardinal Cushing has inspired and influenced countless of millions of persons throughout the United States and the entire world.

Indeed, of Cardinal Cushing, it can well be said that his diocese is that of the world; an ecumenical house which crossed all boundaries bringing together men and women of all faiths in the cause of serving God, mankind and country and in better serving the poor, the sick, the afflicted, the downtrodden, and those discriminated against.

Throughout his great career as priest, monsignor, auxiliary bishop of Boston, archbishop of Boston and as cardinal archbishop of Boston, this saintly man has adhered to the causes of love and charity, never turning away a challenge; never a deaf ear to a plea for help.

Those of us who know and admire Cardinal Cushing have in turn been inspired by our relationship with him; for there is in this man, the touch of true greatness.

He has been throughout these calamitous changing years a rock-like figure of sustenance and deep faith and strength—always holding out a beacon for a better world and a better life; always extending his hand to provide love, charity, and shelter and extending it always with the same charitable way which made him equally at ease with persons in all walks of life.

We who have known him from when he was a young boy in the streets of South Boston, working through grammar school and high school to contribute to the support of his family, have always been proud of him as a person and we have been particularly proud of him as a churchman.

The world as it came to know him grew equally proud there could be a man who sought nothing for himself but labored despite the severest physical handicaps to achieve a dream others thought was impossible.

While Cardinal Cushing has retired, it is in name only because he will always lead an active life in the service of God, mankind, and country. He will never be forgotten.

It has been said, and truly so, that he is one of the greatest churchmen of the history of all time. For many years before the world heard of the ecumenical spirit, Cardinal Cushing was preaching and practicing it.

Humble, gallant, brilliant, dedicated, warm, understanding, and sensitive, and magnificent. All of these are descriptive of Richard Cardinal Cushing, truly as a churchman and with whom God must be deeply pleased.

I know I express the sentiments of millions of persons in extending to Cardinal Cushing our prayers and hopes that God will continue to bless him for countless of years to come.

To his successor, Humberto S. Madeiros, D.D., Archbishop of Boston, I extend my very best wishes for every future happiness and success. I know that the outstanding service of Cardinal Cushing to God, mankind, and country, will always be an inspiration for Archbishop Madeiros to follow.

CREATION OF KING RANCH NATIONAL CONSERVATION AREA

(Mr. DON H. CLAUSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DON H. CLAUSEN. Mr. Speaker, today the House of Representatives is taking final action on the creation of the King Range National Conservation Area in the heart of our Redwood Empire Congressional District on the North Coast of California.

Many people have been waiting a long time for this legislation to come to the floor for a final vote. For them, especially, this is truly a great day.

I only wish it was possible to name and enumerate the tremendous efforts which have been put forth by so many people who have assisted and cooperated in advancing this major conservation measure.

I do, however, want to recognize and thank Chairmen Aspinall and Baring, ranking Republicans, Mr. Saylor, and Mr. Kyl, members of the Interior Committee on the House side, plus the exceptional and very able staff assistance of Sid McFarland, Bill Shafer, Charley Leppert, and my own legislative assistant, Stan Hulett. All of these gentlemen are most deserving of our sincere thanks and appreciation.

Over on the Senate side, Senators Murphy and Cranston of California, Senators Jackson, Bible, Church, Metcalf, Allott, and Hatfield deserve special recognition as well as Senate Interior staff members Jerry Verkler, Bernie Hartung, and Porter Ward; all of whom made extra efforts during these final days of the 91st Congress.

Within the Department of Interior, I am deeply grateful for the consideration of Secretary Hickel, Undersecretary Russell, and for the outstanding assistance rendered by Lloyd Rasmussen and John Lands.

In addition, and most important, I want to extend special consideration to two gentlemen from California, Knowles Clark and Ken Roscoe of the Mattole Action Committee—as well as the Humboldt County Board of Supervisors and Mr. John Gromala for their enduring patience, encouragement, and support for this legislation over the years.

I have requested and received permission from the Speaker to insert in the Record at this point, a resolution from the Humboldt County Board of Supervisors supporting the creation of the King Range National Conservation Area and urging passage of this national conservation measure.

To you, Mr. Speaker, words cannot adequately express our deep and sincere appreciation for the thoughtful consideration you have extended to the people of California, not only with respect to the legislation now before us, but for other major national conservation legislation affecting our north coast as well. I have particular reference to the establishment of the Redwood National Park and the completion of Point Reyes National Seashore. Certainly, these will serve as great monuments to the outstanding leadership and service you have rendered in the Congress and to the people of the United States.

Resolution

Whereas, H.R. 12870 was introduced in the House of Representatives by the Honorable Don H. Clausen, Representative in Congress, First Congressional District of the State of California, in the First Session of the 91st Congress; and

Whereas, previous legislation to establish the King Range National Conservation Area has been endorsed by this Board of Supervisors;

Now, therefore, be it resolved by the Board of Supervisors of the County of Humboldt, State of California, as follows:

1. That this Board of Supervisors endorses H.R. 12870.

2. That this Board of Supervisors urges Congress to pass H.R. 12870 as amended per departmental reports of October 1, 1969, and May 12, 1970.

3. That the County Clerk is directed to send copies of this resolution to the Honorable Don H. Clausen, Representative in Congress, First Congressional District of the State of California; to the Honorable Alan Cranston and the Honorable George Murphy, United States Senators; to the Honorable Wayne N. Aspinall, Chairman of the House of Representatives' Committee on Interior and Insular Affairs; and to each member of the House of Representatives' Committee on Interior and Insular Affairs.

PRESIDENT NIXON'S BOLD INITIATIVE ON BEHALF OF PEACE IN ALL OF INDOCHINA

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I would like to commend President Nixon for what I consider to be a very bold initiative on behalf of peace in all of Indochina. More than any other Chief Executive, Mr. Nixon has cut to the gut of the issue in his five proposals for ending the conflict in Southeast Asia and bringing an end to American involvement in the war. I consider the challenges for a standstill ceasefire and a negotiated withdrawal timetable as the two most significant proposals. The suggestion for unconditional release of all prisoners is also to be applauded. Because of my past knowledge of and dealings with the North Vietnamese I am not optimistic over the reply we will receive from the Communists at this time.

Mr. Speaker, the important thing is that we realize these proposals are above partisan politics and as the elected leaders of America we should stand behind President Nixon at this time.

MR. PRESIDENT, ABOUT CUBA?

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, we have all heard reports that the Russians are constructing an offensive, nuclear submarine base in Cuba. Today, during the debate we heard and saw presented by the distinguished chairman of the Armed Services Committee, the Honorable Mendel Rivers, pictures and facts.

But what has not been said and is not generally known is that just since June the Russians have moved in close to 30,000 soldiers, and have been deploying such things as 160 mm. cannon to such places as the air force base at San Antonio de los Banos.

Now, surely, 30,000 Russians and 160 mm. cannon cannot in themselves conquer the United States, but they surely can provide us with reason to believe that the Russians have more than benign interests in Cuba.

I cannot understand why the President remains silent about all this.

I also note that the President has gone down to Key Biscayne for the weekend.

I hope the Russians do not torpedo his place, or send some of their troops across the way to kidnap him.

Maybe they will invite him over to see their new installations.

REPRESENTATIVE WHITEHURST INTRODUCES LEGISLATION TO ASSIST SMALL BUSINESS COMMUNITY

(Mr. WHITEHURST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITEHURST. Mr. Speaker, I am today introducing my second piece of legislation to assist our small business community. My first bill was to aid those small businesses that were detrimentally affected by new Federal laws or regulations, such as the Wholesome Meat Act, Occupational Health and Safety Act, pollution control measures, and other consumer protection legislation. The ideas contained in that bill, H.R. 17796, are included in the Steiger occupational health and safety bill and in the small business legislation recently passed by the other body of Congress.

This does indeed give me a degree of satisfaction, as well as some hope for those businesses which face financial loss and in some cases bankruptcy as a result of acts that establish guilt after the fact.

The legislation that I am introducing today is aimed at assisting small business by allowing a percentage credit to small businesses participating in a Government manpower training program when they are bidding for a Government contract.

I recently had the following, not uncommon situation called to my attention: A U.S. small business was bidding for a Federal contract against other U.S. firms and a European concern. The U.S. small business was given 6 percent credit, which was subtracted from the cost of their bid, and the foreign firm was required to add 6 percent to the price of its bid. Even at that, the foreign firm was low, although by less than 0.01 percent.

The American small business was participating in one of the Government's manpower programs, which regardless of the vested interests was adding to the operational costs of the firm. The particular contract involved was a major part of the work of this firm, and if it was not awarded the contract it would not be economically able to continue participation in the training program.

My legislation will allow a percentage credit to a firm participating in a Government manpower program when bidding on Federal contracts. This percentage credit shall be determined by the contracting agency and the Small Business Administration. I certainly hope this legislation will be looked upon with favor before the House adjourns.

Mr. Speaker, while I am on this subject, I cannot let the opportunity pass without speaking in support of legislation that is still in committee.

On August 5, 6, and 7, 1970, the House Banking and Currency Committee held hearings on H.R. 4291, which extends the statutory limitations on the Small Business Administration's financial programs.

In the 17 years the Small Business Administration has been in existence, it has become a symbol to small businesses throughout the Nation. Many of its programs in recent years have meant the difference between success and failure for many small firms.

Since 1964 we have witnessed financial difficulties in the long-term as well as the short-term money market. Many companies that in more favorable economic times would have been successful were forced out of business, or nearly so. SBA has come to the rescue of many of these companies, and it has also served as the prime mover in the creation of many firms that are now growing and in many areas are the prime employers.

Mr. Speaker, the Federal Government has now embarked on yet another campaign, one that could serve as a prime economic equalizer without disrupting existing establishments. I am referring to the efforts in the area of minority business.

Mr. Speaker, the opportunities for the Government to participate in saving small businesses in a time of bigness, and the opportunities the Government has to serve as a prime mover in the area of minority entrepreneurship, should not be allowed to be missed because of a lack of authorization legislation.

Mr. Speaker, H.R. 4291 will extend the life of SBA's Business Loan and Investment Fund by authorizing an increase in the statutory ceiling of debts outstanding at any time. This fund finances regular business loans, displaced business loans, trade adjustment loans, and prime contract activities authorized by the Small Business Act; the small business financial assistance authorized by titles III and IV of the Small Business Investment Act of 1958; and the economic opportunity loan program authorized by title IV of the Economic Opportunity Act of 1964.

Mr. Speaker, I feel that this legislation is vital, and I hope that we will have the opportunity to act on it in the near future.

PROTECTION FOR THE AMERICAN WORKER

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. BUCHANAN. Mr. Speaker, today we are faced with a situation which not only has contributed significantly to our adverse trade balance and balance of payments, but also constitutes a growing threat to American workers.

This situation is the tremendous growth in imports during recent years which has seen this country's trade deficit in some categories increase as much as sevenfold.

The time is past due for this Nation to take action to protect American workers and American products from unfair foreign competition.

We have before us, Mr. Speaker, the means by which this can be at least partially achieved and this is the Trade Act of 1970.

This legislation would extend the authority of the President to act against import restrictions or other acts by our competitors which discriminate against American workers and products.

It will also permit him to impose duties or other import restrictions in cases where unreasonable foreign import restrictions act against the United States.

Yet another provision would establish new criteria for determining when an injury has occurred to an American product or industry.

I had felt great concern that Congress might adjourn before taking action on this vital legislation and I would like to commend the leadership for its wisdom in scheduling this legislation immediately following the recess. We must exert every effort to see that the trade bill is passed.

For, Mr. Speaker, the United States cannot exist as an island of free trade in the middle of a protectionist sea. But that is where we find ourselves today.

By definition, "free trade" can exist only when it is practiced by all nations participating in any particular commercial exchanges.

But while other nations protect their own workers and products by various tariff and nontariff barriers to our exports, our Government does not adequately do the same. I fail to see how we can consider this "free trade" when our workers do not have these same benefits accorded so many of their competitors.

One of the problems is that the State Department consistently, in negotiating trade agreements with other countries, leaves American interests holding the bag and enters into trade agreements which are not truly reciprocal.

As I indicated to a State Department official recently during hearings before the Foreign Affairs Committee, of which I am a member, the State Department has changed the admonition of former President Theodore Roosevelt from "speak softly and carry a big stick" to "speak softly and carry a wet noodle."

As I recommended on that occasion the State Department would do well to consult with the AFL–CIO on how to go about hard-nosed bargaining.

Mr. Speaker, in my district, the Birmingham area, we have large steel, cast iron pipe, and textile manufacturers, among others.

Let me outline a few examples of the problems they face from unfair foreign competition which I indicated in testimony during hearings on this legislation before the Ways and Means Committee earlier this year.

Over the past decade, the annual growth rate for steel imports was 23 percent and in 1968, the amount of the domestic steel market captured by imports was at an all-time high of 16.7 percent.

In recent years, the Southern steel market has grown by 6 million tons, but this increased steel demand was not met by Southern steel, not even by American steel. During this same period, Mr. Speaker, the increase in foreign steel imports to the Southern market was 5.1 million tons.

It does not take a mathematical genius to realize that the American steel producers are getting the short end of the stick in the Southern market.

Granted, there have been some limitations on the importation of steel, such as those announced in 1969. But even with those limitations, this Nation had the second highest year in its history for steel imports.

Why do we import so much steel? Because it is cheaper. In the case of Japan, for example, wages are one-fifth what they are in the United States for steelworkers. But we cannot, Mr. Speaker, ask the American workers, who contribute so much toward this Nation's high standard of living, not to share in that standard.

We cannot ask them to work for a mere pittance so that they can compete in the world market with firms from other nations which are often subsidized or owned by governments or which receive special protection denied our firms. Nor should either labor or industry be penalized in our country because people in some other country are so irresponsible as to pay workers starvation wages. Rather we should protect American workers by whatever means are necessary.

I have worked continuously during my 6 years in the Congress to bring about legislation to rectify this situation, because the problem is not new.

In the imported malleable iron pipe fitting industry, which is of great concern to the people of my district, 10 domestic producers have gone out of business since 1952. At the same time, imports have continued to increase their penetration of the domestic market and we continue to export jobs to foreign and, in some cases, Communist countries while Americans lose jobs.

This story is, regrettably, quite similar in the textile market. Textile imports have absorbed hundreds of thousands of jobs, 65,000 within the past 15 months alone. In 1969, for example, textile imports increased 10 percent over 1968 and represented a textile deficit of nearly $1 billion.

Textile industry statistics are but another indication that our regulations are insufficient to protect our workers and products. For, Mr. Speaker, our cotton garment imports have been regulated since 1962, but these imports have increased 65 percent since those regulations went into effect.

I find it impossible to believe that our industries have not been adversely affected by this vast increase in foreign goods.

And the adjustment assistance for which our laws now provide is insufficient. It comes after the fact, after the damage has been done and workers have lost their jobs.

It has now become obvious that our attempts at voluntary imports controls are not working. This is true, because other nations are looking out for their own workers, their own products.

It is time that the United States began looking out for its own—its steel and textile workers who pay taxes to support our Government while foreign governments pay subsidies to those in competition with America in the world market.

It is for these reasons that I joined with Chairman MILLS in introducing legislation to at least partially remedy this situation. And it is also for this reason that I commend the leadership for its decision to take up this legislation following the election recess.

I, for one, however, would be willing to stay here to election day, or later, to see this legislation passed, the political considerations notwithstanding. Political campaigns must not, cannot stand in the way of what is right for the American worker.

LET US END TAX BREAKS FOR RADICALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRAY), is recognized for 15 minutes.

Mr. BRAY. Mr. Speaker, the American taxpayer does not know it, but he is subsidizing the rantings and ravings of one of the foulest, most inflammatory revolutionaries of the new left.

Jerry Rubin, member of the infamous Chicago Seven and one of those convicted of conspiracy in crossing State lines to incite riot, stands to make no one knows how many thousands of dollars both from his speeches and public appearances, and from his book, "Do It." The book, published in March 1970, by Simon and Schuster, has sold an estimated 200,000 copies at $4.50 apiece. Let me quote a few of Rubin's statements from the book:

> Bonnie Parker and Clyde Barrow are the leaders of the new youth.
>
> To steal from the rich is a sacred and religious act.
>
> Kids should steal money from their parents.
>
> Sirhan Sirhan is a yippie.
>
> Burn Down the Schools. Two hundred psychological terrorists could destroy any major university—without firing a shot.
>
> Drop Out! Why stay in school? To get a degree? Print your own! Can you smoke a diploma?
>
> We're using the campus as a launching pad to foment revolution everywhere!
>
> The Youth International Revolution will begin with mass breakdown of authority, mass rebellion, total anarchy in every institution in the Western world. Tribes of longhairs, blacks, armed women, workers, peasants and students will take over . . .
>
> When in doubt burn. Fire is a revolutionary's god. Fire is instant theater . . . burn the flag. Burn churches. Burn, burn, burn.

In 1969, Rubin's wife, who goes by the name of Nancy Kurshan, filled out some routine IRS forms that led to official IRS recognition of the "Social Education Foundation," also known as the "Jerry Rubin Fund," as a charitable, tax-exempt organization. The "foundation" said the untaxable fund and its income would be used—

> Exclusively for religious, charitable, scientific, literary or educational purposes or for the prevention of cruelty to children or animals.

And the application itself indicated the organization would be operated to create scholarships, prepare and distribute educational materials, and conduct other educational activities.

Tax-exempt status was approved by IRS on May 23, 1969. On June 13, 1969, the State of New York, the foundation's location, granted exemption from State income tax. On June 11, 1969, the trust was amended so it could also be referred to as the "Jerry Rubin Fund." Grantor and sole trustee is Nancy Kurshan, Rubin's wife.

Advantages of such status to Rubin are many. Actual income is safe from State and Federal income taxes; a paid staff could be hired to assist Rubin in whatever troublemaking, pseudo-revolutionary incitation he chose to undertake. The foundation could pay representatives to travel about the country furthering Rubin's ideas of revolution.

And, as has also been pointed out, Rubin's income going into the foundation would protect him from possible damage suits arising from disturbances he might have caused. Technically, he could claim to have no money at all—and under the law he would be correct.

As the Internal Revenue Code now stands, believe it or not, all this is perfectly legal. The most the IRS can do—and is doing—at this time, is to see if Rubin has violated a provision of the law requiring annual reports of income and expenditures. As of the middle of September, such a report, due on May 15, 1970, had not been filed. Regulations do authorize revocation of tax-exempt status for failure to file these reports.

Internal Revenue has been asked to check further into this matter, and to invoke the law if such a report has not been filed. To me, this is not sufficient in and of itself.

I do not believe the American people want laws so loosely drawn as to give a tax haven to the very persons who preach disruption, subversion, and destruction of all the Amreican Republic stands for. I do not believe the Congress of the United States intends for such loopholes to exist, nor do I believe Internal Revenue would be lax in enforcing the provisions, once they were written into law.

Tax legislation is an extremely difficult and complex field, as everyone knows. I am working on draft legislation, with the advice and assistance of legislative counsel, which I will submit for consideration by the Congress, aimed at closing what to me is a serious and gaping loophole. If Rubin uses this, who is next? How many others will seek to shelter their funds in this manner? The matter must be given immediate and serious consideration.

Rubin stands, convicted by a jury of his peers, as a result of the Chicago trial, and also convicted by his own rhetoric and performance. He is beyond a doubt one of the two or three most notorious radical rabble-rousers inflicted upon this country today. By his own words, his mission is one of subversion, degradation, and destruction. This cannot be denied; neither can it be concealed by the pious verbiage accompanying the "foundation's" request for tax-exempt status.

Neither can it be ignored. The Roman, Catullus, 25 centuries ago, pointed out that tolerance is the weakness of the strong. Let it be understood that tolerance of the rights of others is inherent and ingrained in our social and political fabric. But there is nothing in anyone's code of ethics that demands tolerance for exhortations to destruction, hate, revolution and anarchy. This is not tolerance; this is blind stupidity. Tolerance of Jerry Rubin can be a dangerous weakness—one indulged in, by the strong, to the point where it passes its identity as a virtue and borders on the criminally negligent.

The stark and simple truth of the matter is this: Every nickel of tax-exempt money that goes into a foundation means a loss to the Federal Government of tax revenue that must be eventually made by the working taxpayer himself. To be sure, there are many worthwhile and truly outstanding foundations that do highly laudable charitable work in all aspects of American life. No one begrudges their existence, nor does the taxpayer resent their status of tax exemption.

But no American should have to subsidize Jerry Rubin. Our taxes pay for many things, but they do not have to pay to support a litany of hate, violence, and outright incitement to revolution.

A REPORT ON THE 91ST CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 15 minutes.

Mr. VANIK. Mr. Speaker, as this 91st Congress draws to a close, political analysts and historians will begin to evaluate its work. In my 16 years in the House of Representatives, I have seen more productive sessions, but I have never experienced more deliberation or more care in the legislative process.

This Congress is the first in modern times, in fact the first since 1849, in which a President first entered the White House with both the House and the Senate controlled by a political party different from his own. When President Richard M. Nixon assumed office, there was speculation that our constitutional system of divided—as well as shared—powers would not work. But it has—substantially to the public interest.

Most of the President's program has been enacted into law. Debate has been intense and wholesome. In this crucible of legislative effort, programs have been improved. There have been vetoes; some were sustained; others were overridden. When the President was a Member of the House during the Truman administration, he voted to override five vetoes. He understands this constitutional right of the Congress.

He must also understand congressional resistance to two Court appointments which time and circumstances have proven to be unwise.

The Congress has supported most of the President's recommendations—often because these recommendations were tailored to meet pressing needs and concerns shared by the Congress. Old programs have been reexamined and often improved. In many ways, the great social legislation of the past decade is still being digested, modified, and improved.

In this session, the Congress moved to strengthen its constitutional role as the legislative branch of the Government, proposing new and better laws, while reaffirming responsibility for the course of foreign affairs. This is the most important development of these times. It is heartening to see the Congress assert its constitutional power over commitments abroad and the resolution of the war in Southeast Asia which has already taken 52,318 American lives.

XUM

Congressional action will set the terms for withdrawal from Southeast Asia. Congressional reaction limited the incursion to Cambodia. Congressional action limited the extension of the questionable antiballistic system. Congressional action is directing attention to the domestic priorities which have been neglected. Military commitments and military procurement are no longer casual decisions; they must meet more rigid tests in the House and in the Senate. Congress—elected by the people—is more carefully scrutinizing the accounts of public affairs.

CONGRESSIONAL REFORM

In an effort to undertake growing responsibilities, the Congress had to streamline its own operations—to become more efficient, more responsive, and more accountable. In this respect, the Legislative Reorganization Act of 1970 is a milestone, the first time in nearly a quarter of a century in which Congress has tried to modernize itself.

As a result, secret rollcalls will no longer prevail in the House of Representatives or in the committees of the Congress. The public and every constituency will be able to determine how a Representative voted. The elimination of secrecy will enhance the public interest and diminish the strength of special interest groups.

During the consideration of the Reorganization Act, I cosponsored an amendment to strike at the seniority system, a custom which perpetuates the power of the committee chairmen, providing them with legislative fiefdoms. The seniority system has developed Congress into an institution 1½ generations behind the times it is intended to serve.

When rules are considered in the new Congress, I expect to oppose the seniority system along with the procedure under which conglomerate bills covering diverse issues are brought to the House and protected from amendment or change. The filibuster must also be eliminated. The barnacles of the past which have restrained the free legislative process must be removed. If we are to convince the disenchanted that Democracy is a viable, working institution, we must remove the impediments to prompt, conclusive decisions.

FOREIGN AFFAIRS

The dilemma of Southeast Asia has troubled our Nation more than any other problem in my memory. When we were attacked at Pearl Harbor, our decision to fight was clear and apparent. When the Communists swept into South Korea, there was no doubt of the invasion and trespass into a peaceful nation. But when we found ourselves committing men and materiel in seemingly unlimited amounts to the conflict in South Vietnam—the role of our Nation was not clear. The entire region seemed in conflict with itself and it was difficult to determine whether we were protecting against a Communist invader, intervening in a civil war, or protecting a military government's control over its people.

After billions of dollars of expenditure and the loss of 52,318 American lives, we are no closer to understanding our role. In these circumstances of uncertain purpose and uncertain result, it seems most wise to speedily disengage from Southeast Asia, withdraw our troops and offer to help rebuild the destruction of over a decade of warfare. The killing must be stopped.

A year ago, I suggested a standstill ceasefire—in which our troops would stop shooting and shoot only if fired upon. The proposal for ceasefire made by the President on October 7 is conditioned upon other agreements. I believe that our ceasefire offer should be more flexible. It is also my belief that a scheduled withdrawal is in order. It would create a definite determined timetable for the full takeover of responsibility by the South Vietnamese. It could proceed on a schedule related to a termination of hostilities and avoid the political disputes which remain to be solved by the parties involved. This action on the part of our government would most likely lead to prisoner of war releases.

The reaction of Congress to the Cambodian invasion by American forces resulted in limitations on that mission with a specific timetable for withdrawal. As a result of this experience, Congress has reasserted its constitutional power to determine the commitment of the Nation and its resources to any conflict. This should develop into a substantial deterrent to any hasty, ill-advised, or arbitrary involvement of the American Government in a conflict distant and unrelated to American security.

THE MIDDLE EAST

The situation remains tense and unsettled in the Middle East. There, the Soviets seem determined to make the same errors America made in Southeast Asia. The placement of Soviet troops and missiles in Egypt is a certain threat to the peace of the world. The failure of the Administration to protest immediately the move-up of these missiles during the ceasefire which we proposed has placed the Democracy of Israel in a dangerous and perilous position. Until very recently, administration policy was weak and undetermined—principally because of concern over American capital investment in the oil fields in the Arab States.

Our foreign policy should be people-oriented rather than oil-directed. Our policies should be directed toward the support of free institutions built in our image and sharing our purpose as constitutional governments. If there is any substantive basis for the alinement of people and nations—it should be on the grounds of a shared ideal in democracy and freedom. We have every idealistic reason to support the State of Israel and insure its integrity as a nation.

The Congress has been deeply concerned about the shifting balance of power in the Middle East caused by the enormous amounts of assistance given certain Arab nations by the Soviet Union. As a result, the Congress has amended the Military Procurement Act of this year, authorizing the President "to transfer to Israel, by sale, credit sale, or guaranty, such aircraft, and equipment appropriate to use, maintain, and protect such aircraft, as may be necessary to counteract any past, present, or future increased military assistance provided to other countries of the Middle East."

Let us hope that new leadership in the Middle East, by bringing peace to the Holy Land, makes such legislation unnecessary. But while we hope, we must also stand on the alert in the protection of true democracy against the threat of extinction.

DOMESTIC ECONOMY

The last 2 years have been disappointing years for the economy. Every purse has suffered the pinch. The stock market lost $200 billion in values. Retirement funds and retirement plans were evaporated. Since the 90th Congress adjourned, over 1.5 million more people have become unemployed. Official government figures rate unemployment at a 5.5-percent rate—a 6.5-percent rate is more realistic since Government figures exclude strike-related unemployment. Corporate profits fell almost 25 percent and Government revenues decreased. In the meantime, inflation is still on the march. The crunch is on every family. The inflationary spiral will now be kept alive by spiralling utility costs which are generally later starting—but longer lasting.

The Congress offered credit controls but the President refused to use them. The Congress decried high interest and increased unemployment—but the plea was unheeded. The President refused to use jaw boning or Presidential persuasion on price and wage demands and the results have been chaotic.

NATIONAL PRIORITIES

It is in the area of domestic affairs that I have most violently disagreed with the administration.

I have disagreed with the administration on open-ended financing of defense overruns. I voted to defer the billions to be spent on the supersonic jet. I voted against the extensive deployment of the ABM. I voted against the billion-dollar atomic carrier which may already be defenseless against new ship-to-ship missiles. I voted against the quota system in oil imports which costs the consumer $5 to $7 billion in higher fuel prices and which costs the Treasury over $1.5 billion annually in tariff revenue.

I voted against the $992 million Treasury loss involved in providing exporters a tax write-off for continuing exports at present levels.

Just today, when the House was considering the $66.6 billion defense appropriation bill, I offered an amendment to prohibit the use of Defense appropriations to insure assets or guarantee loans or the repayment of the obligations of any corporation or individual.

This amendment was directed against the open-ended power of the President under the long-gone Korean emergency to commit the taxpayers of America to tremendous billion-dollar obligations without the consent of Congress or the people they represent. Under these powers, the President almost committed the Federal Treasury to guarantee $900 million worth of Penn Central loans held by banks.

Within the past 30 days, the same defense emergency clause was utilized by the Secretary of Transportation to provide $3.2 billion in insurance coverage to American international airlines. With a simple stroke of the pen, the taxpayers of America became obligated to provide this insurance commitment on 344 commercial planes substantially owned by banks and other creditors. While there may be need for the Federal Government to become an insurer of last resort, why not also relate this service to citizens who cannot obtain full and adequate insurance coverage on their homes, their automobiles, or their health?

How can we justify insurance commitments of this dimension without the review and approval of the elected representatives, the Congress?

In short, I differ with the administration on several program priorities. I simply happen to believe that education, health, and urban needs are more important and of higher priority than the insurance of bank loans and private corporate ventures, defense overruns, the SST, and an atomic carrier. I oppose misplaced priorities that disregard human needs.

In addition, I believe that much of the unemployment which the country is now experiencing could have been avoided. There is so much to be done in this Nation that it is unconscionable to waste manpower through unemployment. Defense-oriented scientists and technicians should have been moved into the research against pollution. Machinists and metalworkers could have been moved into mass transit production which would have helped improve the life in our cities and end the congestion on our highways. Literally hundreds of thousands of people are needed in the health professions. Manpower training in this area would have avoided unemployment and eased the inflationary squeeze in the health care sector.

TAXES, SOCIAL SECURITY, AND MEDICARE

The 91st Congress was an extremely busy one for the Ways and Means Committee on which I serve. My chairman, WILBUR MILLS said:

> I think it is fair to state that the Committee on Ways and Means has had as heavy a workload in this 91st Congress as it has ever had in its entire history since its creation as a standing committee in 1802, and certainly since the responsibilities which the committee has carried this Congress have been as heavy as those carried by any committee of the House.

One of the most far-reaching pieces of legislation to pass the 91st Congress was the Tax Reform Act of 1969. I led in repealing the investment tax credit, which saves the Treasury over $3.3 billion annually and was one of the most inflationary factors in the economy. I worked for a reduction in the oil depletion allowance, and although I would have liked to have seen a more significant cut, it was a landmark achievement to have it lowered to 22 percent.

I was particularly concerned that the personal exemption—set at the totally unrealistic figure of $600 per person—be raised and that, in general, the entire Federal tax structure be made more equitable. In this Congress, I was successful in increasing the personal exemption, in steps, to $750. I hope that future Congresses will continue to work to make personal exemptions more realistic while eliminating special privilege tax loopholes. Below is a table which outlines the effect of the Tax Reform Act of 1969 on income groups once it is fully effective. This bill reduced Federal taxes 16 percent for the average taxpayer as per the following table:

TABLE 3.—INDIVIDUAL INCOME TAX LIABILITY—TAX UNDER PRESENT LAW AND AMOUNT AND PERCENTAGE OF CHANGE UNDER REFORM AND RELIEF PROVISIONS UNDER THE TAX REFORM BILL OF 1969 WHEN FULLY EFFECTIVE

Adjusted gross income class	Tax under present law (millions)	Increase (+) decrease (−) from reform and relief provisions	
		Amount (millions)	Percentage
0 to $3,000	$1,169	−$816	−69.8
$3,000 to $5,000	3,320	−1,101	−33.2
$5 000 to $7,000	5,591	−1,112	−19.9
$7,000 to $10,000	11,792	−1,859	−15.8
$10,000 to $15,000	18,494	−2,327	−12.6
$15,000 to $20,000	9,184	−791	−8.6
$20,000 to $50,000	$13,988	−$715	−$5.1
$50,000 to $100,000	6,659	−128	−1.9
$100,000 and over	7,686	+557	+7.2
Total	77,884	−8,294	−10.6

Attached to the 1969 Tax Reform Act was a social security amendment which increased benefits by 15 percent. After several years of inflation, this increase was desperately needed. The administration in the spring of 1969 originally proposed a benefit increase of 7 percent and later raised this figure to 10 percent. But by midsummer it was obvious that price increases were forcing millions of older Americans on fixed incomes below the poverty level. As a result, I offered a motion placing the Democratic caucus of the House on record as favoring a 15-percent increase. With this mandate, both the House and Senate passed a 15-percent benefit increase which was effective last spring.

Although I urged a 10-percent increase in social security benefits this year, the House has passed only an additional 5-percent social security benefit increase accompanied by amendments designed to make medicare more efficient and less expensive to both the beneficiary and the Government. The Senate is currently considering this legislation and it is my hope that further improvements can be made. It is most disturbing that in the last 2 years some 200,000 older Americans have been added to the poverty rolls. For the first time since poverty statistics have been compiled, it is apparent that the number of elderly persons in the poverty category have increased rather than decreased. Part of the reason for this is that while benefits have been increased, there has been almost no increase in the minimum monthly payment.

ENVIRONMENTAL PROBLEMS

This Congress has been constantly aware of the urgency of the environmental problem facing America and the world.

The seriousness of the air pollution problem was dramatically demonstrated in late July of this year, when massive air inversions choked most of the eastern half of the Nation. Health specialists have indicated that, outside of a cure for cancer, control of air pollution is the single most important step that could be taken to improve the health and longevity of our urban citizens.

On June 10, 1970, the House passed the strongest air-pollution-control bill to date. Even that bill failed to take adequate action on a definite time schedule against pollution caused by automobiles which cause almost 60 to 85 percent of the air pollution. The Senate on September 22 passed a much stronger air-pollution-control bill which would require auto exhaust emission to be cut by 90 percent by 1975. In addition, it requires all new factories to install and use the best technological pollution control devices known at the time of construction. It is important that the Senate bill be passed in lieu of the House bill. At the present time, I am leading in gathering House cosponsors of the Senate bill as an indication to the House-Senate conferees of the importance of approving the stronger pollution-control bill.

Lake Erie pollution continues—and the cleanup of Lake Erie must continue to be our area's first priority if the growth and health of northeast Ohio is to be assured. At present rates of pollution control, our very drinking water may be in danger and we may need to seek temporary alternative water sources.

A Clean Water Act has already passed this Congress which includes an amendment which I offered to provide for research and demonstration projects on ways to clean up the Great Lakes. Up to the present, the administration does not appear to be adequately utilizing this authorization.

The task before us is a multibillion-dollar one. The President has proposed a $10 billion antipollution program over the next few years, but on closer examination this turns out to be only a $4 billion effort on the part of the Federal Government. The rest is to be financed by the States and local governments—often from relatively inadequate property taxes. It is important that the Federal Government, with its more progressive tax system, pay a larger share of this antipollution effort. In addition, it is obvious that $10 billion, from whatever source, is going to be inadequate to meet the problem.

It is also important that the Federal Government enforce existing laws more vigorously. Since 1899 there has been a law on the books—offered by an earlier Cleveland Congressman, Theodore Burton, who previously represented the 22d District—which prohibits dumping of waste and refuse in navigable waters. For 71 years this law has been unenforced. Now at last it is beginning—just beginning—to be used. I have asked the Justice Department to enforce that law in Ohio, a State where nearly a thousand permits to polute have been granted. While action is beginning in this area, much more needs to be done.

This Congress has been active in considering the problem of solid wastes and garbage disposal. It is my hope that the next Congress can give further consideration to my proposal prohibiting interstate use of nonreturnable and recyclable beverage containers.

The 91st Congress has also made some very important additions to the Nation's national park and wilderness system. As our population continues to expand, we must act now, today, if we are to preserve for future generations America's unspoiled natural wonders. We were fortunate to increase the size of Geneva State Park with Federal funds allocated to Ohio. More recreation space must be developed near population centers.

And it is also time that we begin working with other nations to end pollution throughout the world. One of the world's leading oceanographers, Jacques Cousteau, has recently reported that "the oceans are dying. The pollution is general." World agreement to end dumping of sewage and toxic wastes in the earth's oceans is a top priority. Agreement must also be reached on the pollution problems caused by supersonic transports before we allow massive flights of SST's, Concordes and Soviet TU–144's.

Last week I spoke out in the House against the construction of slurry ships by Japan. These vessels are designed to load iron ore—mixed with water—which will be drained off at sea and remixed for unloading. The drainings from these ships will create "red seas" in our oceans and waterways. This kind of pollution can only be eliminated by international compact.

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CRIME CONTROL

The principal Federal anticrime program, the Safe Streets Act of 1968, was firmly supported by the 91st Congress. The administration requested only $480 million in the coming year for this program of assistance to the States and cities, but the House has increased that amount to $650 million.

There are no simple solutions to the problem of crime. Crime control is going to take more officers on the street, more scientific tools available to law enforcement officials, more judges and better court procedures, and prisons which truly rehabilitate criminals rather than "train" them for future criminal activity. All this will take money and manpower. If we are serious about the problem of street crime, and organized crime, no other solution is open except to dig in and commit ourselves to the fight.

I am pleased that a narcotics control amendment which I offered was accepted. This amendment will give the President authority to terminate or suspend trade with any country which fails to act vigorously against opium production within its borders. Because the trade in opium and heroin is so profitable, several nations have failed to live up to their obligations as members of the world community and have permitted nearly open production of this deadly narcotic—a narcotic which finds its way into the bloodstream of hundreds of thousands of Americans.

A legislative attack on the uncontrolled sale and trafficking in deadly explosives was launched by a bill I introduced after the Shaker Heights Courthouse and Police Station was blown up in early February by a person who was sold 120 pounds of explosives with no questions asked. A variation of my bill has just passed the House and will no doubt be accepted by the Senate. Since State law in this area is nearly nonexistent it is vital that Federal controls and standards be established.

EDUCATION

In the 91st Congress, I continued to support new and innovative education programs—such as the Environmental Quality Education Act—as well as adequate funding of existing programs. During the 1968 presidential campaign, President Nixon said:

> When we talk about cutting the expense of government—either Federal, state or local—the one area we can't shortchange is education.

I agree with the President, and have supported appropriations necessary to meet today's needs. On two occasions this has compelled me, after careful consideration, to vote to override Presidential vetoes of education bills.

The arbitrary Federal cutback in funding private educational institutions will bring about a collapse of our private school system. Every private college and university in America is in trouble. Medical schools are in near collapse. Every citizen will be affected. America must stand by its committment to better education. It is the first line of defense.

HEALTH

Health care service in America is in a crisis. Even in major industrial States like Ohio, we face critical shortages. A recent study has indicated that nearly 25 percent of Ohio's doctors in private practice are over 60. Only 13 of Ohio's 88 counties meet the AMA's desired ratio of doctors to population.

Health manpower shortages are accompanied by rapidly rising prices. Each American is spending twice as much for health care now than he was in 1960. This problem is made more desperate by the fact that 20 percent of the population under 65 has neither hospital or surgical insurance. Over 60 percent of the population has no insurance for doctor's bills outside of a hospital.

Because of these needs—literally life and death needs—I have supported amendments which would provide increased funding for health research, medical facilities, and the training of health care personnel.

CONCLUSION

In this 91st Congress, I have supported the President when I thought he was right—and I have opposed him when I thought he was wrong. This is the way I have worked with three previous Presidents. On foreign affairs, I have supported the President over 80 percent of the time. On domestic issues, I supported the President 55 percent of the time—almost the same percentage of support as was provided by Ohio's junior Senator who is in the President's own party.

In my effort to serve the Nation, Ohio, and the 22d District, I have endeavored always to use sound and independent judgment—free of partisanship. This is my commitment for the future.

In conclusion, this has been a productive and creative Congress that has worked for the Nation's good. As always more remains to be done when the Congress returns from its recess and when the 92d Congress meets next year. But with continued cooperation between the three branches of Government—free of partisanship—the Nation shall continue to move forward, making improvements in our time while holding forth a better vision of the future.

A STEP TOWARD THE SOLVING OF SOLID WASTE MATERIAL MANAGEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. MacGregor) is recognized for 10 minutes.

Mr. MacGREGOR. Mr. Speaker, yesterday I introduced a bill which I hope will begin a new trend in consumer practices. This proposal would prohibit the use of containers for carbonated and malt beverages which do not have a refundable deposit of at least 10 cents. Beyond the immediate ramifications of this measure to reduce the cost of solid-waste management, reduce the quantity of litter that disgraces our streets and parks, conserve our natural resources, and save our consumer dollars from economic waste, the intent is to encourage the use of returnable containers for all types of consumer products.

Statistical estimates indicate that if the present trend of packaging continues, 45.7 billion beverage containers made of glass will be consumed annually by the year 1976. This would account for approximately 23.8 billion pounds of such containers. Similarly, 78.3 billion metal cans are expected to be used to package carbonated and malt beverages in the year 1976, utilizing approximately 12.82 billion pounds of steel and aluminum. These figures become more pressing as we see the trend in the market ebbing swiftly toward the nonreturnable container. Since the returnable bottle is used as many as 19 times, it would appear that the consumption figures and the waste that they denote are 19 times as high as they need to be. This picture not only demonstrates the reason for the high cost of solid-waste management as well as the problem of litter which we experience, it also indicates the great glut of our natural resources. It is also of immediate concern to the consumer. Statistics show that the average 15-cent beverage includes 3.75 cents for the nonreturnable container. During 1976, therefore, 56.5 billion consumer dollars will be wasted. At present the consumer is paying on the average of 23 to 28 percent more for carbonated and malt beverages in nonreturnable containers than in returnable containers. In many instances the consumer does not have a choice in this economic waste because returnable containers are not available or advertising dissuades their purchase. A recent survey by the Metro-Poll, published by the Minneapolis Star, indicated, however, that 70 percent of the consumers polled favored a complete ban on no-return bottles. Eighty-eight percent said they would be willing to return bottles and cans for reuse.

The problem is readily apparent as is the desire to solve it. My bill, though certainly not an end-all to our solid-waste management crisis, is a major step in the right direction. We must take that step now.

WE MUST NOT LOSE THE BATTLE AGAINST POLLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 10 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, one of the gravest threats this Nation faces is the danger of increasing air and water pollution. We are engaged in a battle against pollution that we cannot afford to lose.

If we lose the fight to control and end environmental decay our very existence will be placed in jeopardy. Therefore, improving our environment must be a goal of the highest priority for Congress, for government at every level, for private industry, an dfor each individual.

The most important reason combating pollution must have such a high priority is that it is a difficult and arduous task to complete. It will require a great deal of creativity and perseverance and no small amount of self-discipline from all of us.

To be effective, any proposal aimed at ending environmental decay must be broad based. It must be of sufficient scope to encompass all the sources of pollution and to bring to bear all possible remedies.

Therefore, Mr. Speaker, I am introducing three new bills to add to the series of environmental improvement proposals I have sponsored. These three bills will assist small businesses in the development and use of pollution abatement facilities.

As we move to clean up our air and waterways we must make certain that we do not jeopardize the small businessman. He stands as the backbone of our American economy and, yet, he stands to lose the most if Government merely dictates antipollution standards rather than engaging in a joint effort to improve our environment.

I am confident that big business can meet regulations of increasing stringency and I am hopeful that the larger corporations will go beyond mere compliance in favor of leading the way to eliminating industrial pollution.

On the other hand, smaller businesses are frequently financially marginal and lacking in research and technological resources. The package of three bills I am introducing today will alleviate this problem and allow small business the opportunity to end its contribution to industrial pollution.

Two of these measures provide incentives to the small businessman to begin pollution abatement procedures. The first doubles the investment credit for facilities constructed to control air or water pollution. This provides a meaningful tax incentive for these projects.

The second bill permits beneficial amortization of the costs of air and water pollution facilities. This, too, will encourage the businessman to undertake the necessary improvements.

The third bill in this package will authorize actual financial support to small businesses for the installation of antipollution devices. The assistance would be in the form of small business loans through a requirement that the Small Business Administration give a higher priority to loans for environmental purification purposes.

To complement these three legislative proposals, the Small Business Administration must undertake to improve the services it provides to small businesses by giving them technological advice on ending pollution and by acting as a clearinghouse of information on other antipollution developments that could be useful to the small businessman.

As a broad-based attack on pollution is necessary, I have introduced legislation which would assault the problem on a number of fronts. There is a dire need, for example, for appropriate administrative bodies in government to oversee and regulate the fight against pollution. This is why I supported the creation of the Environmental Quality Council.

The Congress, too, needs to concentrate more attention and expertise on ecological problems. My bill to establish a Joint Committee on Environment and Technology has passed the House and should be approved by the Senate when it begins consideration of its backlog of House-passed measures.

In addition, Mr. Speaker, my bill to create a standing committee in the House on the environment is still pending before this body and I cannot urge too strongly its consideration at the earliest possible opportunity. The reorganization of the executive branch to focus more attention on environmental questions makes it imperative that the Congress not fall behind in this vital field.

Also, it is important that each citizen be aware of the problem and that he have an understanding of opportunities he has to reduce pollution. For that reason I introduced legislation to authorize the Commissioner of Education to establish educational programs to encourage understanding of policies and support of activities designed to enhance environmental quality and maintain ecological balance. This bill has passed the House and should be approved by the Senate at the earliest possible opportunity.

Because the automobile is responsible for roughly 60 percent of all air pollution, I have introduced legislation which will amend current Federal procurement practices to encourage the purchase of low-emission vehicles. Passage of this bill would mean a strong and significant incentive for automobile and truck manufactures to develop vehicles with reduced emissions. This is a goal that must be reached if we are to end air pollution.

Other proposals I have sponsored include a bill to utilize revenues from the leases on the Outer Continental Shelf for marine conservation purposes; Federal revenue sharing with the States to enhance the financial status of State governments and allow them to improve their regulatory efforts in improving our environment; and a proposal to permit the Environmental Quality Council to honor formally persons, firms, and organizations which make a significant contribution to the cause of restoring and maintaining environmental quality in the United States.

Finally, while we must authorize effective programs to deal with threats to our environment, the Congress must go a step further and provide sufficient funds to carry out these obligations. The Clean Air and Water Quality Acts have been underfunded in the past and we must not let lack of support harm these programs in any way.

I have worked diligently to secure the adoption of realistic, noninflationary fiscal policies and to reduce budgetary commitments to low-priority items. However, we cannot sacrifice in our efforts to clean up our environment. I shall continue to work for full funding of these programs.

VOTING RECORD OF LAWRENCE J. HOGAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 30 minutes.

Mr. HOGAN. Mr. Speaker, in an effort to be of every assistance to the residents of the Fifth District of Maryland who

XUM

are at the present time evaluating my efforts to represent them in the 91st Congress, I have prepared a detailed statement of my rollcall votes which I am making public in a form which is easily understood.

Although the following record is complete only through October 7, I will file a supplemental statement at the end of the second session of the 91st Congress:

Voting Record of Hon. Lawrence J. Hogan, 91st Congress

Passed (P) or Defeated (D) by House of Representatives.

AGRICULTURE

Voted:

For a $20,000 limitation for any one person under agricultural price-support programs. (P)

Against assistance to a potato research and promotion program. (D)

Against consideration of the National Forest Timber Conservation and Management Act to develop optimum timber productivity on national forest commercial timber land. (D)

Against the Farm Bill to extend Federal price support of commodities with an individual payment limitation of $55,000 per person, per crop, per year. (P)

For making permanent the temporary suspension of duty on crude chicory roots, including an amendment to repeal the ceiling on the number of participants in the aid to families with dependent children program. (P)

For the Fiscal Year 1970 Agriculture Department Appropriation Bill. (P)

CIVIL RIGHTS

Voted:

For the "Philadelphia Plan" advocated as a means to increase non-white employment by Federal contractors through use of racial goals. (P)

For the nationwide expansion and extension of the Voting Rights Act of 1965 with respect to racial discrimination through the use of tests and devices, including provisions to lower the voting age to 18 in federal, state and local elections. (P)

CRIME

Voted:

For creation of a select committee in the House to study and investigate all aspects of crime. (P)

For 600 additional White House policemen to protect the Embassies in Washington, D.C. (P)

For creation of additional Federal District judgeships. (P)

For D.C. Court Reorganization and Criminal Procedures Act of 1970, including revised procedures for handling juveniles in the District, comprehensive reorganization of the District courts system, and other provisions. (P)

For an additional $650 million in crime control funds for Fiscal Year 1971, plus $1 billion for Fiscal Year 1972 and $1.5 billion for Fiscal Year 1973.

For a new program of Federal grants to improve correctional institutions. (P)

For strengthening the penalties for illegal fishing in the territorial waters and contiguous fishery zone of the U.S.

For legislation regarding the representation of defendants financially unable to obtain adequate defense in criminal cases in U.S. Courts. (P)

For the Organized Crime Control Act of 1970 improving the Federal Government's weapons to fight organized crime. (P)

DISTRICT OF COLUMBIA

Voted:

For $1.1 billion Federal authorization for a Washington rapid transit system. (P)

For a study of the feasibility of extending the D.C. Subway system to Dulles Airport. (P)

For Dwight D. Eisenhower sports arena and convention center. (D)

For a nonvoting delegate for the District of Columbia in the House of Representatives. (P)

For a commission on the organization of the government of the District of Columbia. (P)

For prohibiting permits for use of public property in the District for overnight occupancy or erection of temporary buildings for nongovernmental activity (to prevent repetition of Resurrection City). (P)

Against allowing regulated lenders in D.C. to deduct interest in advance on loans to be repaid in installments. (D)

For strengthening D.C. Criminal laws relating to persons who defraud hotels, motels and other commercial lodging establishments. (P)

For a $10,000 payment to holders of class A, D.C. retailers' liquor licenses who return them for cancellation. (D)

For D.C. Appropriation Bill for Fiscal Year 1970. (P)

EDUCATION

Voted:

For a two-year extension of aid to elementary and secondary education programs at $5.3 billion per year. (P)

For extension of financial aid for medical libraries through Fiscal Year 1973. (P)

For the Joelson amendment adding $894.5 million to the Fiscal Year 1970 Education Appropriation. (P)

For prohibiting funds to any institution not complying with anti-campus disruption provisions of the Higher Education Act of 1968 which also prohibited use of funds for loan, loan guarantees, grants or salaries to individuals engaging in threat, use of force, seizure of property, etc., at colleges. (P)

Against nullifying Senate amendment to language in HEW Appropriation Bill which prohibited use of funds to force busing of students, abolishment of any school, or assignment of any student or parent's choice and forbidding busing as condition to obtain Federal funds. (P)

Against an amendment which would have reduced pay raise for D.C. Teachers under that pay scale provided in the Committee bill for the D.C. Teachers pay raise. (P)

For a National Center on Educational Media and Materials for the Handicapped. (P)

For incentive payments up to 3% to lenders making guaranteed student loans at 7%. (P)

For grants and assistance to education programs for talented and gifted children. (P)

For remedial education programs and supportive services to help children with specific learning disabilities. (P)

For special education programs and activities concerning the use of drugs. (P)

For a National Commission on Libraries and Information Science. (P)

To override President Nixon's veto of HEW Fiscal 1970 Appropriation bill. (D)

To insist on House "freedom of choice" and anti-busing provisions in the Fiscal Year 1971 Education Appropriation Bill. (P)

To override President Nixon's veto of Fiscal Year 1971 Education Appropriation Bill. (P)

For revised HEW Fiscal 1970 Appropriation bill. (P)

ECONOMICS AND ECONOMIC DEVELOPMENT

Voted:

For an increase in the National debt limit from $365 to $377 billion with permanent ceiling from $358 to $365 billion and temporary ceiling from $365 to $377 billion. (P)

For $475 million authorization for Appalachian and other Regional Commissions for Fiscal Years 1970 and 1971. (P)

For placing single bank holding companies under Federal Reserve Board supervision and requiring disposal of banking interests or most kinds of nonbanking interests. (P)

For $5 billion, 10-year program for airport and airways improvement. (P)

Against an increase in appropriation ceiling for Administrative Conference from $250,000 to $450,000 per year. (P)

Against easing controls on American exports of nonstrategic goods to Communist countries. (D)

For extension of authority establishing maximum interest rates on savings and time deposits, increasing insurance limit to $25,000, making available SBA funds to small business investment companies, providing secondary mortgage purchase operation by Federal Home Loan Banks. (P)

For eliminating authority for the Federal Reserve Board to invest in Federally guaranteed mortgages. (P)

For eliminating requirement that Federal Reserve Board purchase $6 million of Federal guaranteed mortgages. (P)

For eliminating proposals for discretionary authority to impose credit controls. (D)

For an increase in the public debt limit (June, 1970). (P)

Against the establishment of a National Development Bank to provide a minimum of $4 billion a year for housing construction loans at interest not to exceed 6½ per cent, requiring huge federal appropriations and forcing pension funds and foundations to buy National Development Bank obligations. (P)

For an increase in the availability of mortgage credit for the financing of homes by creating and expanding secondary mortgage markets. (P)

To permit certain joint operating and production arrangements between newspapers, one or more of whom are in financial distress. (P)

For recommitting the HUD-Independent Agencies Appropriations Bill for Fiscal Year 1971 to reduce total expenditures which was $541 million above President Nixon's budget requests. (D)

Against inclusion of a mandatory freeze on prices, rents and wages and salaries at the May 25, 1970 level, in the Defense Production Act. (P)

For giving the President discretionary authority to freeze prices, interest, rent, wages and salaries. (P)

For sustaining President Nixon's veto of the Independent Agencies-HUD Appropriations Bill for Fiscal Year 1971 because of the excessive expenditures involved. (P)

For authorizing U.S. participation in increases in the resources of certain international financial institutions and to provide for an annual audit of the Exchange Stabilization Fund by the GAO. (P)

For increase in authorization for National Park Service travel promotion program. (P)

For Second Supplemental Appropriation Bill for Fiscal Year 1970 which imposed a ceiling on most fiscal 1970 spending and repealed a restrictive limit on filling various federal employment vacancies. (P)

Against addition to Supplemental Appropriation Bill for Fiscal Year 1970 unbudgeted Funds in the amount of $587.5 million for urban renewal. (D)

For Continuing Appropriation Bill for Fiscal Year 1971. (P)

FOREIGN AID

Voted:

For a reduction of Fiscal Year 1970 Peace Corps authorization from $101 million to $90 million. (P)

For a reduction of Foreign Aid development loan funds from $475 to $425 million for each 1970 and 1971 for total cut of $100 million. (P)

For an extension of authorization for naval vessel loans to various foreign countries. (P)

Against $480 million authorization of U.S. share for International Development Association Loan funds (soft loan operation of World Bank). (P)

Against addition of $54.5 million to Foreign Aid authorization bill to purchase F–4D planes for Nationalist China. (P)

XUM

Against amendment to Foreign Aid Appropriation Bill adding $50 million in military assistance to S. Korea and $54.5 million for military assistance to Nationalist China. (P)

For a cut of $28.8 million from a $98.8 million Peace Corps authorization for Fiscal Year 1971. (D)

For Fiscal Year 1970 Foreign Aid authorization and appropriation bills. (P)

For Fiscal Year 1971 Foreign Aid Appropriation bill. (P)

GOVERNMENT OPERATIONS/GOVERNMENT EMPLOYEES

Voted:

For stabilization and refinancing of Civil Service Retirement Fund; computation of annuities based on high three years and allowing credit of unused sick leave toward total years of service. (P)

For establishment of a Federal pay comparability system to keep Federal wage scales comparable to those in private industry. (P)

For 6% pay raise for Federal classified and postal employees and military personnel, retroactive to December 27, 1969, after voting to cut out certain allowances or benefits for Army Engineer Corps dredge workers and certain persons working at remote worksites. (P)

For partial subsidy of transportation costs for two-year period for HEW employees transferred to Rockville, Maryland. (D)

For creation of a U.S. Postal Service, to improve and modernize the postal operation. (P)

For guaranteeing every Government worker the right to join or to refrain from joining a labor union. (P)

For an increase in the Federal contribution to Federal employees health benefits to 50%, after opposing efforts to reduce this figure to 38%. (P)

For authorizing the Federal government to withhold city income taxes from the pay checks of Federal workers in cities of over 60,000 population. (D)

Against pay increases for the secretaries of the House Democratic Steering Committee and the House Republican Conference. (D)

For an equitable system for fixing and adjusting the rates of pay for prevailing rate (wage board) employees of the Government. (P)

For the purchase of additional systems and equipment for passenger motor vehicles over and above the statutory price limitation.(P)

Against limiting to $20,000 the subsidy resulting from providing postal service to any distributor of second class mail because of the difficulties in determining the amount of subsidy to individual second class mail users. (D)

For appointment of James E. Webb as Citizen Regent on the Board of Regents of the Smithsonian. (P)

For Treasury—Post Office Appropriations Bills for Fiscal Years 1970 and 1971. (P)

For National Aeronautics and Space Administration authorizations for Fiscal Years 1970 and 1971. (P)

For Atomic Energy Commission authorization for Fiscal Year 1970. (P)

For maritime programs authorization.

For HUD-Independent Agencies Appropriation bill for Fiscal Year 1970. (P)

For HUD authorization bill for Fiscal Year 1971.

Against Fiscal Year 1970 Interior Department Appropriation Bill. (P) Although I knew this bill would pass, I voted "nay" as a protest against the Interior Department's refusal to grant approval for an effluent line through Piscataway Park to alleviate sewage problems in my District.

For the Fiscal Years 1970 and 1971 appropriation bills for State, Justice and Commerce Departments. (P)

For authorization of funds for the President's Youth Opportunity Council. (P)

For National Science Foundation authorization for Fiscal Year 1970, (P) after voting to reduce by $27.6 million. (D)

For Transportation Department Appropriation Bill for Fiscal Year 1970. (P)

Against National Science Foundation authorization bill for Fiscal Year 1971. (P)

For Interior Department Appropriation Bill for Fiscal Year 1971. (P)

(I should like to note that while I have voted for final approval of nearly all appropriation bills, I have consistently supported amendments to eliminate "fat" and unnecessary spending from the bills.)

HEALTH/WELFARE/SAFETY

Voted:

For expanded and permanent milk program for nonprofit schools. (P)

For three-year extension of Hill-Burton hospital construction aid program. (P)

Against a bill to forbid the FCC from requiring a health warning in TV and Radio cigarette advertising. (In other words, favoring a requirement that TV and Radio ads include a health warning.) (P)

For diverting $100 million in customs receipts to free or reduced price lunches for needy school children.

For computing overtime pay for hospital employees in the District of Columbia on a 14-day work period. (P)

For authorizing $90 million for motor vehicle safety activities. (P)

For the Child Protection Act to ban marketing of electrically, mechanically or thermally hazardous toys. (P)

For the Coal Mine Safety Act, providing additional coal mine safety measures, closing unsafe mines and compensation for miners with black lung disease. (P)

For a two-year extension of the anti-poverty program. (P)

For giving states more control and responsibility over anti-poverty programs. (D)

For establishment of a Cabinet Committee on Opportunities for Spanish Speaking People. (P)

For a three-year extension of Community Mental Health Centers Construction Act with new aid provisions for centers in poverty areas.

Against rule which prevented amendments on the floor to the welfare reform bill. (P)

For comprehensive reform of the present welfare system, after voting to restrict the provisions permitting benefits in case of refusal of training or employment. (P)

For revision, extension and improvement of programs established under the Public Health Service Act relating to construction and modernization of hospitals and other medical facilities, over President Nixon's veto. (P)

For a three-year extension of programs of assistance for training in the allied health professions. (P)

For a three-year extension and expansion of programs to aid the mentally retarded. (P)

For uniform Federal railroad safety standards and a study of the problem of shipment of hazardous substances. (P)

For extending and expanding authorizations for a variety of public health grants totaling $1,265 million. (P)

For extension for three years of regional medical programs to combat cancer, strokes, heart disease and kidney disease. (P)

For Federal study of state and local laws and regulations governing the operation of youth camps to assess extent and effectiveness of their enforcement. (D)

For the "Comprehensive Drug Abuse Prevention and Control Act of 1970." (P)

For grants for communicable disease control. (P)

For amendments to Federal highway laws, including new formula for allocation of highway safety funds. (P)

For Labor, OEO and HEW Departments Appropriation bill for Fiscal Year 1971.

LABOR

Voted:

For 37-day postponement of a probable railway strikeout and lockout. (P)

For retirement age of 65 for railroad workers; extending to 1975, supplemental railroad retirement benefits. (P)

For limiting to twelve the number of hours a railroad employee can work continuously. (P)

For permitting employer contributions to labor-management funds for joint promotion of construction industry products. (P)

For amendments to preserve independent unions which would have been put out of business by the postal reform bill. (P)

Against expansion of the Unemployment compensation program when brought before House; but later voted approval of amended conference report on this bill. (P)

Against extending unemployment compensation coverage to some farm workers. (D)

MILITARY AND SECURITY

Voted:

For a provision to prohibit most picketing at the Pentagon. (D)

For funds for the Antiballistic Missile System as contained in several procurement and construction bills. (P)

For Presidential implementation of the draft lottery system. (P)

For Vietnam resolution affirming House support for President's efforts to negotiate a just peace in Vietnam and requesting the President to press the North Vietnamese Government to abide by the Geneva Convention in treatment of prisoners-of-war. (P)

For a resolution calling for humane treatment and release of prisoners-of-war held by North Vietnam and the Vietcong. (P)

For continuation and funding of the Un-American Activities Committee as the Internal Security Committee with clearly defined jurisdiction. (P)

For a security screening program for defense facility workers and to better safeguard ships and harbors. (P)

For creation of a select committee to study the Cambodian situation. (P)

Against a modified Cooper-Church amendment to the Foreign Military Sales Act which would have barred use of funds for U.S. troops or advisors in Cambodia. (D)

For extension until 1972 of the Defense Production Act and setting up a board to make recommendations on uniform cost accounting and bid procedures for defense contractors. (P)

For providing guards to accompany aircraft operated by U.S. airline companies. (P)

For Coast Guard vessel and aircraft procurement and improvements. (P)

For extending and amending the Foreign Military Sales Act. (P)

For a straight recommittal motion on Supplemental Appropriation bill for Fiscal Year 1970, which precluded any motion aimed at ending the use of troops in Cambodia. (P)

For Military constuction and family housing for Department of Defense for Fiscal Year 1971. (P)

For Fiscal Year 1969 Supplemental Appropriation for military aircraft procurement. (P)

For Fiscal Year 1970 Military Construction authorization and appropriation bills. (P)

For Fiscal Year 1970 Military procurement authorization and appropriation bills. (P)

For Fiscal Year 1970 Department of Defense Appropriation, including funds for Vietnam, VA Hospitals and ABM.

For authorization for Arms Control Agency.

For Military procurement authorization bill for Fiscal Year 1971.

POLLUTION CONTROL/CONSERVATION

Voted:

For strengthened water pollution control legislation and authorization of $348 million for three-year period. (P)

For $18.7 million for Fiscal Year 1970 for research into fuel and motor vehicle air pollution problems. (P)

For establishment of a Council on Environmental Quality. (P)

For an increase of sewage treatment plant funds to $1 billion in Public Works Appropriation bill for Fiscal Year 1970. (P)

For support of international biological program regarding man and his environment. (P)

For establishment of a Commission on Population Growth and the American Future. (P)

For a more effective program to improve the quality of the Nation's air. (P)

For establishment of a pilot Youth Conservation Corps. (P)

For restoration of the "golden eagle" program of a special pass for entrance to National and state parks. (P)

For a new program of establishing and encouraging educational programs on the subject of preserving and improving the environment and maintaining ecological balance. (P)

For the Emergency Community Facilities Act authorizing funds for sewage treatment plant construction and improvement. (P)

For the establishment of the Apostle Islands National Lakeshore in the State of Wisconsin, after voting to exclude certain mainland areas from the lakeshore. (P)

For construction of an entrance road at Great Smoky Mountains National Park, North Carolina. (P)

For cooperative agreements with the states for research, conservation and means of increasing the supply of various fish which go up streams to spawn. (P)

For financial assistance for construction of solid waste disposal facilities and improving related research efforts. (P)

PUBLIC WORKS

Voted:

For dam and irrigation and flood control facilities on the Merlin Division of Rogue River Basin, Oregon, project. (P)

For construction, operation and maintenance of the Narrows Unit, Missouri River Basin project in Colorado. (P)

For feasibility investigation of certain water resources and development projects. (P)

For the Public Works-Atomic Energy Commission Appropriation Bill for Fiscal Year 1970. (P)

TAX LEGISLATION

Voted:

For establishment of uniform limitations on state power to tax small out-of-state firms. (P)

For six months extension of 10% surtax, plus six months extension at 5% (which expired July 1, 1970) and for repeal of 7% business investment tax credit. (P)

For state authority to tax national banks on the same basis as they tax state banks. (P)

For comprehensive Tax Reform Act of 1969, cutting oil depletion allowance, closing loopholes, increasing standards deduction and personal exemption allowances. (P)

For extension of the interest equalization tax for 18 months, as well as amendment to repeal reporting requirements on the sale of shotgun shells and most rifle ammunition. (P)

VETERANS LEGISLATION

Voted:

For defrayment of hospital or domiciliary costs for veterans 70 years or over. (P)

For a two-year extension of VA Administrator's authority to set interest rates necessary to meet the mortgage market on home loans to veterans. (P)

For pensions for 1916–17 Mexican Border-disturbance veterans and liberalization of eligibility requirements for various veteran benefits. (P)

For an increase in the availability of guaranteed home loan financing for veterans and to increase the income of the national service life insurance fund. (P)

For increases in the rates of disability compensation and to liberalize certain criteria for determining eligibility of widows for benefits under Title 38 of the U.S. Code. (P)

For increasing the rates and income limitations relating to payment of pension and parents' dependency and indemnity compensation. (P)

For restoration of and elimination of the time limitation on entitlement to housing loan guarantee to World War II and Korean conflict veterans.

For authorizing guaranteed and direct loans for mobile homes if used as permanent dwellings.

MISCELLANEOUS

Voted:

For Gerald Ford for Speaker of the House.

For increased authorization for National Park Service travel promotion. (P)

For prohibiting the mailing of smut mail to minors under 17 and providing some protection against receiving such mail. (P)

For Reorganization Plan #2 which would establish a Cabinet-level domestic council and to re-designate the Bureau of the Budget the Office of Management and Budget and strengthen its capabilities. (P)

Against Lincoln's Birthday recess in an effort to permit the House to vote down the Congressional pay raise, which went into effect automatically during recess. (P)

For improving the balance of payments and further promote travel to the U.S.; (P) opposed conference report on this legislation which increased the authorization from $250,000 to $1,250,000; (D) supported Senate amendment which cut amount by $500,000. (P)

For extension of President's authority to submit executive reorganization plans to Congress. (P)

For improvements in judicial machinery in U.S. Customs Court. (P)

Against 20 year retirement for justices and judges. (D)

For fining Adam Clayton Powell $25,000 and stripping him of his seniority. (P)

For additional staff employee for each Member of the House of Representatives. (P)

For independent Federal supervisory agency over federally chartered credit unions. (P)

For continuing President's authority in regard to control of exports, extends provisions of Export Control Act. (P)

For limiting camping in national parks to regularly designated camping areas and "wilderness" type areas to prevent further "Resurrection Cities." (P)

Against an additional $12.5 million for John F. Kennedy Center for Performing Arts and parking facility bonds. (P)

Against $2 million appropriation of a proposed $45 million expansion of the West Front of the Capitol Building. (P)

Against increased authorization for proposed Library of Congress Building until plans were complete. (P)

For Congressional districting plan of electoral college reform (D) and for constitutional amendment providing for direct popular vote election of President and Vice President after Congressional districting plan failed to carry. (P)

For reduction of Public Broadcasting Corporation funds from $20 million to $10 million. (D)

For elimination of $7.5 million funds for the JFK Center for Performing Arts from Appropriation Bill. (P)

For consent to Connecticut-New York Railroad Transportation Compact, permitting states to take over commuter operations of former N.Y.N.H. & H.R.R. (P)

Against establishment of Commission on National Observations and Holidays. (D)

For investigation and travel resolution for House Edeucation and Labor Committee. (P)

For 15% increase in benefits paid to retired railroad workers. (P)

For 15% increase in Social Security benefits effective January 1, 1970. (P)

For amending the Social Security Act to provide automatic cost of living increases in benefits, to improve computation methods, and raise the earnings base under the old-age, survivors and disability insurance system; to make improvements in the medicare, medicaid and maternal and child health programs. (P)

For two additional private citizen members of the Board of Regents of the Smithsonian Institution. (P)

For creation of a commission to study the bankruptcy laws of the U.S. (P)

For a three-year authorization for the National Foundation on the Arts and Humanities. (P)

For a bill to allow custom slaughterers to sell meat, retail and wholesale. (P)

For a bill to provide a civil remedy for consumers in case of misrepresentation of the quality of articles composed of gold or silver. (P)

Against coinage of a copper and nickel one dollar coin and ending use of any silver in half dollars after 1970. (D)

For authorizing the House Committee on Standards of Official Conduct continuing jurisdiction over campaign contributions and lobbying matters. (P)

Against $539.7 million authorization for the National Science Foundation. (P)

For improving the administration of the National Park System. (P)

For a bill to prohibit the use of the mails and other interstate facilities for the transportation of unsolicited obscene advertising. (P)

For the Women's Rights Amendment to the Constitution, for ratification by the states. (P)

For a limitation on TV and radio spending by political candidates for Federal office, state governor and lieutenant governor to seven cents per previous election vote or $20,000 whichever is larger, at lowest unit fee rate. (P)

For a bill to permit unregulated barge carriers to continue to be exempt from certain rate-filing requirements and to permit mixing within certain tows of barges containing regulated commodities with barges containing nonregulated commodities. (P)

For regulating the mailing of unsolicited credit cards. (P)

For the Legislative Reorganization Act to improve the operation of the legislative branch and give fuller public disclosure of votes in Committee and on the floor of the House; (P) to forbid proxy voting in House Committees. (D)

For long-term financing for expanded urban mass transportation programs, after voting to reduce authorization from $5 billion to $3.1 billion. (P)

For citing Arnold S. Johnson for contempt of Congress. (P)

XUM

Against efforts to delete each title of an omnibus claims bill. (D)

For approval of Omnibus Private Claims Bill. (P)

For program preserving additional historic properties throughout the nation. (P)

Against motion to adjourn House thus preventing further speeches on conduct of Supreme Court Justice William O Douglas. (P)

For approval of agreement entered into by Soboba Band of Mission Indians, releasing claim against California water districts and to provide construction of a water distribution system for the Soboba Reservation. (P)

For bill to amend the Merchant Marine Act. (P)

PRESIDENT NIXON'S NEW PEACE INITIATIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. GERALD R. FORD) is recognized for 5 minutes.

Mr. GERALD R. FORD. Mr. Speaker, I include the text of President Nixon's speech made last night outlining his plan for peace in Indochina, which I feel deserves the careful attention of this Congress and the entire Nation:

REMARKS OF THE PRESIDENT ON A RADIO AND TELEVISION ADDRESS ON THE NEW INITIATIVE FOR PEACE IN SOUTHEAST ASIA

Good evening, my fellow Americans.

Tonight I would like to talk to you about a major new initiative for peace.

When I authorized operations against the enemy sanctuaries in Cambodia last April, I also directed that an intensive effort be launched to develop new approaches for peace in Indochina.

In Ireland on Sunday, I met with the chiefs of our delegation to the Paris talks. This meeting marked the culmination of a Government-wide effort begun last spring on the negotiation front. After considering the recommendations of all my principal advisors, I am tonight announcing new proposals for peace in Indochina.

This new peace initiative has been discussed with the governments of South Vietnam, Laos, and Cambodia. All support it. It has been made possible in large part by the remarkable success of the Vietnamization program over the past 18 months. Tonight I want to tell you what these proposals are and what they mean.

First, I propose that all armed forces throughout Indochina cease firing their weapons and remain in the positions they now hold. This would be a "cease-fire-in-place." It would not in itself be an end to the conflict, but it would accomplish one goal all of us have been working toward: an end to the killing.

I do not minimize the difficulty of maintaining a cease-fire in a guerrilla war where there are no front lines. But an unconventional war may require an unconventional truce; our side is ready to stand still and cease firing.

I ask that this proposal for a cease-fire-in-place be the subject for immediate negotiation. And my hope is that it will break the logjam in all the negotiations.

This cease-fire proposal is put forth without preconditions. The general principles that should apply are these:

A cease-fire must be effectively supervised by international observers, as well as by the parties themselves. Without effective supervision a cease-fire runs the constant risk of breaking down. All concerned must be confident that the cease-fire will be maintained and that any local breaches of it will be quickly and fairly repaired.

The cease-fire should not be the means by which either side builds up its strength by an increase in outside combat forces in any of the nations of Indochina.

And a cease-fire should cause all kinds of warfare to stop. This covers the full range of actions that have typified this war, including bombing and acts of terror.

A cease-fire should encompass not only the fighting in Vietnam but in all of Indochina. Conflicts in this region are closely related. The United States has never sought to widen the war. What we do seek is to widen the peace.

Finally, a cease-fire should be part of a general move to end the war in Indochina.

A cease-fire-in-place would undoubtedly create a host of problems in its maintenance. But it has always been easier to make war than to make a truce. To build an honorable peace, we must accept the challenge of long and difficult negotiations.

By agreeing to stop the shooting, we can set the stage for agreements on other matters.

A second point of the new initiative for peace is this:

I propose an Indochina Peace Conference. At the Paris talks today, we are talking about Vietnam. But North Vietnamese troops are not only infiltrating, crossing borders and establishing bases in South Vietnam—they are carrying on their aggression in Laos and Cambodia as well.

An international conference is needed to deal with the conflict in all three states of Indochina. The war in Indochina has been proved to be of one piece; it cannot be cured by treating only one of its areas of outbreak.

The essential elements of the Geneva Accords of 1954 and 1962 remain valid as a basis for settlement of problems between states in the Indochina area. We shall accept the results of agreements reached between those states.

While we pursue the convening of an Indochina Peace Conference, we will continue negotiations in Paris. Our proposal for a larger conference can be discussed there as well as through other diplomatic channels.

The Paris talks will remain our primary forum for reaching a negotiated settlement, until such time as a broader international conference produces serious negotiations.

The third part of our peace initiative has to do with United States forces in South Vietnam.

In the past 20 months, I have reduced our troop ceilings in South Vietnam by 165,000 men. During the spring of next year, these withdrawals will have totalled more than 260,000 men—about one-half of the number that were in South Vietnam when I took office.

As the American and combat role and presence have decreased, American casualties have also decreased. Our casualties since the completion of the Cambodian operation were the lowest for a comparable period in the last four and a half years.

We are ready now to negotiate an agreed timetable for complete withdrawals as part of an overall settlement.

We are prepared to withdraw all our forces as part of a settlement based on the principles I spelled out previously and the proposals I am making tonight.

Fourth, I ask the other side to join us in a search for a political settlement, that truly meets the aspirations of all South Vietnamese.

Three principles govern our approach:

We seek a political solution that reflects the will of the South Vietnamese people.

A fair political solution should reflect the existing relationship of political forces in South Vietnam.

And we will abide by the outcome of the political process agreed upon.

Let there be no mistake about one essential point: The other side is not merely objecting to a few personalities in the South Vietnamese Government. They want to dismantle the organized non-Communist parties and insure the takeover by their party. They demand the right to exclude whomever they wish from government.

This patently unreasonable demand is totally unacceptable.

As my proposals today indicate, we are prepared to be flexible on many matters. But we stand firm for the right of all the South Vietnamese people to determine for themselves the kind of government they want.

We have no intention of seeking any settlement at the conference table other than one which fairly meets the considerable concerns of both sides. We know that when the conflict ends, the other side will still be there. And the only kind of settlement that will endure is one that both sides have an interest in preserving.

Finally, I propose the immediate and unconditional release of all prisoners of war held by both sides.

War and imprisonment should be over for all these prisoners. They and their families have already suffered too much.

I propose that all prisoners of war, without exception and without condition, be released now to return to the place of their choice.

And I propose that all journalists and other innocent civilian victims of the conflict be released immediately as well.

The immediate release of all prisoners of war would be a simple act of humanity.

But it could be even more. It could serve to establish good faith, the intent to make progress, and thus improve the prospects for negotiation.

We are prepared to discuss specific procedure to complete the speedy release of all prisoners.

The different proposals that I have made tonight can open the door to an enduring peace in Indochina.

Ambassador Bruce will present these proposals formally to the other side in Paris tomorrow. He will be joined in that presentation by Ambassador Lam representing South Vietnam.

Let us consider for a moment what the acceptance of these proposals would mean.

Since the end of World War II, there has always been a war going on somewhere in the world. The guns have never stopped firing. By achieving a crease-fire in Indochina, and by holding firmly to the cease-fire in the Middle East, we could hear the welcome sound of peace throughout the world for the first time in a generation.

We could have some reason to hope that we had reached the beginning of the end of war in this century. We might then be on the threshold of a generation of peace.

The proposals I have made tonight are designed to end the fighting throughout Indochina and to end the impasse in negotiations in Paris. Nobody has anything to gain by delay and only lives to lose.

There are many nations involved in the fighting in Indochina. Tonight, all those nations, except one, announce their readiness to agree to a cease-fire. The time has come for the government of North Vietnam to join its neighbors in a proposal to quit making war and to start making peace.

As you know, I have just returned from a trip which took me to Italy, Spain, Yugoslavia, England and Ireland.

Hundreds of thousands of people cheered me as I drove through the cities of those countries.

They were not cheering for me as an individual. They were cheering for the country that I was proud to represent—the United States of America. For millions of people in the free world, the non-aligned world and the Communist world, America is a land of freedom, of opportunity, of progress.

I believe there is another reason they welcomed me so warmly in every country I visited, despite their wide differences in political systems and national backgrounds.

In my talks with leaders all over the world, I find that there are those who may not agree with all of our policies. No world leader to whom I have talked fears that the United States will use its great power to dominate another country or to destroy its independence. We can be proud that this is the cornerstone of America's foreign policy.

There is no goal to which this nation is more dedicated, and to which I am more dedicated than to build a new structure of peace in the world where every nation, including North Vietnam as well as the South Vietnamese, can be free and independent with no fear of foreign aggression or foreign domination.

I believe every American deeply believes in his heart that the proudest legacy the United States can leave during this period when we are the strongest nation of the world is that our power was used to defend freedom, not to destroy it; to preserve the peace, not to break the peace.

It is in that spirit that I make this proposal for a just peace in Vietnam and in Indochina.

I ask that the leaders in Hanoi respond to this proposal in the same spirit. Let us give our children what we have not had in this century, a chance to enjoy a generation of peace.

Thank you. Good night.

Mr. RHODES. Mr. Speaker, a key element of President Nixon's new initiative for peace in Vietnam is the proposal for a cease-fire-in-place. As the President noted, such a cease-fire would create a host of problems, but they are surmountable and a cease-fire is the indispensable first step to a final settlement of the war.

The President—wisely, I think—did not place any preconditions on his cease-fire proposal but did outline the general principles that should apply.

XUM

The administration's plan calls for effective supervision by international observers and would encompass all of Indochina. It would cover all acts of warfare, including bombing and acts of terror. In addition, President Nixon warned Hanoi that a cease-fire should not be the means by which either side builds up its strength by increasing outside combat forces.

These are all essential caveats which are absolutely necessary to an effective cease-fire. However, there is nothing in the President's plan which should deter Hanoi from accepting the cease-fire proposal if they really desire peace in Vietnam.

Mr. TAFT. Mr. Speaker, among the proposals for peace outlined last night by President Nixon, I was particularly encouraged by the President's call for an immediate and unconditional release of all prisoners of war held by both sides.

The terrible plight of our POW's was vividly expressed by Colonel Borman in his recent address to a joint session of Congress. And I am sure that most of our colleagues have seen in the Capitol the graphic display of the horrible circumstances in which they live.

The President should be commented for making their release one of the key points in his broad plan for peace in Vietnam. The release of the prisoners should be without exception and without conditions.

I hope that the leaders of North Vietnam will respond immediately to his proposals. It is a simple act of humanity.

REPORT TO CONSTITUENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. GIAIMO) is recognized for 10 minutes.

Mr. GIAIMO. Mr. Speaker, upon the conclusion of each Congress it has been my custom to report to my constituents on my work and the work of the Congress during the previous 2 years. It is also my practice to bring this report to the attention of the House so that the matters upon which I report and my views regarding them are made a public record. What follows, then, is my report to the people of Connecticut's Third Congressional District.

This Congress has worked in a time of unprecedented crisis and change in our Nation. We all know that the problems which confront us cannot and will not be easily overcome. Those who seek easy, simple solutions seek fool's gold. But it has been frustrating to see many attempts to move forward undermined by ill-conceived policies of the administration. Despite many denials, the administration's policies have not stemmed inflation but, to the contrary, have made it worse. And while this Congress has labored to produce programs that would provide meaningful job opportunities, the economic policies of the President result in the elimination of jobs and increase unemployment. The many attempts by this Congress to reorder our priorities in Federal programs so that the current pressing demand for funds for schools, conservation, health services, housing, and transportation could be met have been opposed by an Executive who seems content to spend our tax moneys on wasteful programs. These conflicts have led to frustrations which the Congress must overcome if the Nation is to be served.

COMMITTEE WORK

Because of the complex nature of our Government, the Congress is forced to spread the details of its work among several committees. I serve on the Appropriations Committee, which, because it oversees the allocation of the Federal Government's funds—is one of the most powerful bodies in Washington. Election to this committee does not come easily. I am proud that after 4 years of service in the Congress I was selected, in 1963, by my colleagues to serve on this powerful committee. I am happy, too, because this assignment places me in an excellent position to serve our district.

I serve on the Independent Offices Subcommittee of the Appropriations Committee. This subcommittee passes on funds for the Department of Housing and Urban Development, the Nation's space programs, civil defense, and the vast network of Veterans' Administration activities—hospitals, pensions, and so forth. We oversee the work of our Government's most important regulatory agencies—the Securities and Exchange Commission, the Federal Communications Commission, the Interstate Commerce Commission, the Federal Power Commission, the Federal Trade Commission, and the Federal Home Loan Bank Board.

These agencies have a tremendous influence on our lives. They regulate our TV and radio stations, they establish policies which may determine our decisions on buying, building, or renting a house, they control our rail and bus travel and administer laws directed at protecting the consumer. Riding herd on their spending is a difficult and complex job and requires many months of investigation by my committee during each fiscal year. But to my mind, no other body of the Congress offers a better opportunity for a Representative to make the interests and views of the voters heard and listened to.

I also serve on the Appropriations Subcommittee for the District of Columbia. The District of Columbia—the city of Washington—is without the right of self-government. The District and all its people are governed by the Congress. I sit on the subcommittee of Congress which determines how much money will be spent by the city. I think this situation, where nearly a million citizens of the United States cannot vote for their mayor or for a Representative in Congress and cannot govern their own affairs, is a disgrace to this democratic Republic. I have sponsored legislation to grant the city a sound, workable method for self-government, and I supported a successful effort by this Congress to permit the city's residents to elect a nonvoting Representative to the Congress.

THE WAY WE SPEND OUR MONEY

The richest family can, through imprudent investments and promiscuous spending, squander its funds and end up wanting for basic necessities. We have all seen or heard of families that boast a fine income and have ready cash for luxuries, yet cannot find the money for doctor bills, insurance payments, or the children's education. The same can happen with a nation and, I fear, it is happening to the United States. Though we are rich in many things—including tax revenues—the inability of the present administration to change with the times and readjust its spending priorities to meet today's needs is plunging us deeper into trouble with our health systems, our mass transportation network—air, rail, ship, and bus—our crime prevention and detection capabilities, our natural resources—air, water, shoreline—and a host of other matters which are vital to a strong nation and sound communities.

I believe that in the coming years the focal point for a showdown on how this Nation spends its wealth will be my committee—the Appropriations Committee. I, for one, will not sit idly by if the administration continues its business-as-usual planning of our budget—allocating over $375 of every $1,000 we spend for the military but only $7.50 in elementary and secondary education; $5 in renewal of our cities. This sort of budgeting—this type of executive leadership—is intolerable when our public school system degenerates and our cities become impossible to live in.

I believe a sizable number of my colleagues agree. It is not a matter of having to spend more money and increasing our already heavy tax burden. It is a question of spending the money presently available wisely and well. The disagreement between Congress and the President over where to spread available amounts of money broke into the open on several occasions during the last year.

While demanding that the Congress spend many billions on the unproven anti-ballistic-missile system, which many prominent defense experts and scientists insist will not work and will probably be obsolete before completion, the President vetoed Congress' approval of new funds for hospital construction, health services, education, housing, and veterans' assistance. To override a President's veto requires a two-thirds vote of the Congress. This kind of vote is not always easy to obtain. Insofar as aid to Office of Education programs and hospital construction was concerned, the Congress did override the President and its position prevailed.

However, the Nation was not so lucky with regard to funds for the Department of Labor and the Department of Health, Education, and Welfare for fiscal year 1970 and for independent offices—Department of Housing and Urban Development for fiscal year 1971. Though the House mustered a majority against the President in both instances, it could not come up with the necessary two-thirds to override the veto. In the case of the Departments of Labor and HEW, a trimmed-down appropriation was finally approved. With regard to independent offices—Department of Housing and Urban Development moneys, we are still, at the time of this writing, trying to come up with new legislation.

This appropriation matter has been a particular source of irritation to me. The budget for these agencies was before my subcommittee. We spent many months scrutinizing each program administered by HUD. We cut this budget to the bone. But we recognized the tremendous needs of our urban communities for housing and for air and water pollution control. And so, we added funds for sewage treatment plants and for housing for the elderly. Under independent offices we also recognized the need for increasing appropriations to meet the rising costs of medical care for our veterans, and we included provisions for this. The President objected to these expenditures and, because of them, he vetoed our appropriations bill.

Coming as it did after the President's vetoes of funds for hospital construction, schools, and health service programs, this veto of funds for housing and urban development and for environmental control served to underscore how out of tune with the growing needs of our Nation the President really is.

His defense is that he had to veto these worthwhile programs in order to fight inflation. But this claim rings false when considered alongside the following facts:

First. In the same week that the President vetoed the education and health bill as "the kind of spending that is wrong for all the American people," he announced a new multibillion dollar increase in military spending by asking Congress for $1.5 billion in 1971 to be used for the discredited ABM weapons system. In the same month that he vetoed hospital funds as inflationary, he advocated spending $200 million to gloss over the mismanagement of the Penn-Central Railroad.

Second. The Administration proved notably reluctant to end the awful waste in military spending uncovered by congressional committees. To the contrary, when the Deputy for Management Systems in the office of the Assistant Secretary of the Air Force revealed that certain defense contractors were running over their estimated costs by many millions of dollars that were being passed on to the taxpayers, he was told his job was to be eliminated. Subsequent investigations by Congress revealed that cost overruns on 35 weapons systems were nearly $20 billion higher than originally planned.

Third. The Congress, in fiscal year 1970, cut more than $6 billion from President Nixon's budget and will no doubt cut substantial funds from his requests for this year.

It seems, then, that the President wishes to save money only when it involves programs that benefit all people in the form of schools, hospitals, medical care, housing, pollution control—for projects that benefit us all—the kind of programs that return tax dollars to the community. But he is a big spender when it comes to major outlays for everything else.

While, in my opinion, there is a great deal of improvement needed in how we spend our money as a nation, I believe it is equally important to reform the manner in which we collect the Government's money—our tax policies.

The Tax Reform Act of 1969 was one important step taken toward tax justice by the 91st Congress. It has become increasingly obvious that the burden of maintaining our Government is not being fairly shared. Congressional hearings last year were able to show that through various tax gimmicks the very wealthy were able to pay little or, in a few cases, no taxes, while Federal, State, and local taxes have been mounting steadily for the average wage and salary earner. True, the 1969 law did not close all these loopholes. True, the oil interests managed to protect their infamous oil depletion allowance. Nevertheless, this measure stands as the most sweeping rewrite of the Federal tax laws since 1912, when the 16th amendment to the Constitution first secured the right of the Federal Government to levy and collect income taxes, and I am pleased to have been able to help in the passage of the 1969 tax reform law.

THE NEEDS OF OUR NATION

I have discussed the actions of this Congress with regard to the collecting and spending of our country's wealth as represented in the tax dollar. I have stated my belief that much more can be done to cut down on wasteful spending for programs that do little to contribute to our health, happiness, and security, and for programs that are so mismanaged that they fail to serve their purpose. I have also indicated some areas where I believe more money—the money saved by eliminating wasteful programs can be invested: Education, training, housing, pollution control, health services. There are other needs crying out for attention.

CRIME CONTROL

It seems ironic to me that while we seek to win peace in the world we are losing it at home—in our own streets. Part of the problem is the very complexity of it. While poverty, overcrowded living conditions, discrimination and improper mental care are no excuses for crimes against innocent people, they are some of the causes and they must be corrected. But part of the problem is also a lack of real commitment to crime deterrence through strict law enforcement on the part of the administration and others. Again, the problem seems to stem from a hesitancy to spend sufficient money, with the result that our police in many areas are underpaid and the police departments are finding it difficult to attract top-notch law enforcement personnel. Not enough funds are put into training programs for law enforcement personnel and very little is expended in researching and developing modern methods for crime detection. In this area, the President has not matched his words with his actions. He failed to seek adequate funding for the omnibus crime control and safe streets program. He requested only $19 million this year for programs that would research and develop new methods of crime detection and prevention. This may seem like a lot, but it represents only a tenth of 1 percent of the nearly $16 billion provided for all Government research programs. In short, law and order has become, to the administration, more a slogan than a program. Therefore, in the future, the Congress must assume leadership in this matter.

And—most important—the responsible leaders of our communities must speak out. Innocent people—storekeepers, the elderly, housewives—are robbed, mugged, and raped with increasing frequency. Yet, there is little or no public outcry from our universities, our press, our TV, our major civic organizations. The reaction, if any, is one of shrugged shoulders which seem to say, "It's too complicated. What can anyone do?" But let there be an allegation of violence committed by law officers on alleged lawbreakers, and the protests are deafening. Then there is an abundance of experts with plenty of ideas on what to do.

I have deplored this situation. I abhor and I have spoken out against the hypocrisy of some who devote tremendous energies to defend the accused but find little to say in behalf of the victims and potential victims of crime. I shall continue my efforts to provide our police, our law enforcement schools, our courts with the funds and cooperation needed to do the job.

DRUG ABUSE

The traffic in drugs has become a national scandal. It is among the contributing causes of our rising crime rate. I

XUM

believe the problem has two distinct facets. When looking at the victims of drugs, it is a health problem. Looking at the pusher, the purveyor, the parasites preying on the young and the addicted, it is a law-enforcement problem. Unfortunately, many of our Federal and State laws on the subject treat victim and criminal indiscriminately so that, too often, the sick addict is punished severely and given little or no treatment while the pusher goes free.

In an effort to mount an effective attack on the drug trade, I have advocated a balanced, two-pronged approach: Medical and counseling help for the drug victim and a massive crackdown on those who illegally traffic in drugs for self-gain. I have sponsored three legislative measures on this subject in this Congress.

First. The comprehensive Narcotic Addiction and Drug Abuse Care and Control Act which would establish programs of medical aid and treatment for the addict to try to cure him before he goes too far and turns to crime to support his addiction. Included in this bill are provisions for increasing efforts to find and apprehend the pusher.

Second. A bill that establishes a nationwide education program against promiscuous drug use and provides for treatment and rehabilitation of those who have been victimized.

Third. Lastly, a bill that would suspend economic and military aid to any country which fails to cooperate in control of the international drug trade.

SENIOR CITIZENS

Once we cut out some of the wasteful and foolish programs that consume so much of the Federal dollar, we will find that we have the capability to care for the older Americans—those who have devoted their lives to their children, their jobs, their community, and their Nation. They deserve, in their twilight years, more than the insecure life of dependency on welfare, charity, or relatives, which now, with rising costs and a worsening economic situation, faces so many of the elderly.

Ever since I entered the Congress I have authored and supported measures to help our senior citizens maintain a measure of economic security. I am pleased, therefore, that this 91st Congress approved several key pieces of legislation that serve this purpose. We increased social security benefits 15 percent in 1969, which is the largest single increase in history, and 5 percent in 1970. We increased the amount a person may earn without being penalized by a reduction in social security benefits, and we provided for automatic increases in allowable earnings in the future. We increased widow and widower benefits. We increased the railroad retirement benefits by 15 percent and liberalized many features of the program. I was particularly happy to have been able to play a role in my committee in saving our programs to encourage decent housing for the elderly under the section 202 program of the Housing Act, despite the administration's efforts to eliminate this worthwhile program.

POSTAL REFORM

Probably one of the most historic actions of this Congress was the far-reaching, top-to-bottom, reform of our entire postal system. Changes were long overdue. I think there is little doubt about that. Whether or not the new structure of a quasi-public organization which has been created to handle our mails is the answer, time alone will tell. And Congress must maintain a watchful eye to see that the promised improvements in mail service become a reality.

THE ENVIRONMENT

Matters of top concern to me as I argue for a shift in priorities in the Federal budget are: The problems that afflict our environment—the air we breathe, the noise that assails us, the water we swim in, fish in, boat in, and drink. It is difficult to overstate the emergency which is facing us and our children with regard to the rapid deterioration of things we have always taken for granted—clean air, pure water, unspoiled woods, and shores. Therefore, I was pleased to see this Congress begin the task of shifting money out of less essential programs and into the battle to save our environment and our very lives.

At the time I write this, eight main pieces of legislation aimed at protecting our environment and natural resources have been enacted into law. I was particularly pleased to have been able to play a part in the work of my own Appropriations Subcommittee, which managed to lead the fight for tripling funds for sewage and water treatment. These additional funds added to the new Federal Water Pollution Control Act passed by this Congress will do much to set this Nation on the road to guarding its rivers and streams and a fresh, clean water supply.

Another piece of conservation legislation which I coauthored, the Coastal Zone Management Act, will be of great help to the shoreline areas of our district. It is now receiving serious consideration and I am hopeful that it will be enacted in the near future. This measure will encourage planning, development, and proper management of the use of bays, wetlands, harbors, beaches, and other coastal areas.

LOCAL PROBLEMS

Of course, all of the issues I have mentioned are very much the concern of all the people in our district. But this Congress and my office were involved in several matters which are of special concern to our community. Space permits me to mention only two: The never-ending fight to make more fuel oil available to bring down the cost of power and heat in New England, and the continuance of valuable research activities at the Milford Marine Biological Laboratory.

The fuel oil controversy has raged for many years—ever since the Republican administration in the 1950's ordered restrictive controls on the importation of crude oil and residual oil. Designed to benefit the coal-producing regions and some oil producers, this unfortunate step has wreaked great harm upon New England because these oils are the major fuel supplying heat and power to our industries, our homes, our schools, hospitals, and other institutions. As the New England economy and population grows, the demand for those fuel oils increased while the supply—because of these import restrictions—has remained relatively stable. The result has been seen in steadily increasing costs—for the homeowner, the factory, for everyone. Recently, criticism of these import restrictions has taken on added strength because a Presidentially appointed task force has taken New England's point of view. I have introduced legislation that would abolish the oil import program entirely, and I have also introduced a bill to provide relief from the program for the New England States. In addition, I have petitioned the President to use his authority to relax this onerous restriction on our fuel supply. I am pleased that many of my colleagues are assisting in this effort. Within recent weeks, the administration has finally relented somewhat, but not enough. It has provided only temporary relief when our economy demands the complete end of this unfair program. I intend to continue my efforts to alleviate the fuel-cost burden which weighs heavily on all of us. The restrictions were without justification when they were imposed. They are an abomination now.

The Milford lab remains in operation—a symbol of this Congress fight defend programs that are in tune with today's needs against the administration's penny-wise and pound-foolish policies. The laboratory is engaged in vital research concerning the ecology of certain sea life. Its experiments in propagating shellfish hold promise for a future in which the sea is seeded, cultivated and harvested for food with as much precision as is the land today. Its programs were authorized by the Congress and money was appropriated for its use.

However, the administration ordered that the funds not be spent and the lab closed. This action not only revealed the shortsightedness of the administration's policies with regard to conservation and ecological matters, but it also was a direct affront to the Congress and the American people it represents. This was not the first time the administration sought to ignore the rights and responsibilities of the Congress and arrogate to itself greater powers than the Constitution and custom accord the executive branch. When it committed U.S. troops to the Cambodian conflict, it ignored the Congress and assumed the sole right to make war, without even so much as consulting with the people's representatives on Capitol Hill. I think such actions are extremely dangerous to our form of government. The proposed closing of the Milford lab was a symbol of the cavalier attitude of this administration. The lab was finally saved by congressional pressure responding to my pleas.

CONVERTING THE ECONOMY TO SERVE OUR REAL NEEDS

Shifting massive Federal expenditures from inflated, unneeded military programs and other wasteful activities to

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programs that serve the growing needs of the taxpayer will require many changes not only in government, but in industry as well. New jobs will be created, and men and women must be trained to fill them. New investments must be made in plant and machinery to satisfy the Nation's demand for better transportation systems, health care facilities, housing, recreation and conservation programs, and so forth. I firmly believe that the demand in such areas is so great that, once we begin tackling it in earnest, we will find that there will be more jobs, better jobs, and whole new fields developed for business. For some workers and some industries, there will be a period of transition which can be eased by the use of constructive Government help.

For many years now, I have lent the services of my office to groups in our community—businessmen, labor organizations, civic organizations, local government agencies—who wish to plan for overcoming the problems of converting our economy to new endeavors. I shall continue my activities in this regard. I have also cosponsored with Senator EDWARD KENNEDY, the Conversion Research and Education Act of 1970. This bill establishes programs to assist small businessmen and skilled workers in the scientific and technological fields who wish to devote their attention, talents and energies to helping meet our domestic needs. I believe this legislation is a first step and a necessary one.

THE ECONOMY

Unfortunately, our best plans for a better life can be thwarted by the continued worsening of our overall economic health. For our Nation, it is impossible to realize the vast wealth potential of our country if bungling at the highest level cripples our production, hampers development and makes men idle. In our community, it is tough to carry out plans for employing the unemployed when, every day, job openings are fewer and more of the employed are laid off. It is difficult to talk about housing the poor and the elderly and bringing new homes within the financial means of everyone when mortgage costs are skyrocketing.

When President Nixon assumed office he inherited an unemployment rate of 3½ percent. It is now 5½ percent. This means approximately 2 million jobs were lost at a time when we must be creating at least a million more jobs a year to keep the unemployment figures stable. In the Stratford and Milford area of our district, unemployment has reached 6.9 percent. This is an intolerable rate of unemployment and it is compounded by the fact that it comes when inflation is running rampant.

The accelerated rate of inflation is alarming. During the first 18 months of the Nixon administration, the Consumer Price Index climbed 11.1 points—nearly double the point increase of the preceding 18 months. Food prices have skyrocketed. Hospital costs have increased substantially. The cost of borrowing has risen at a shocking rate. This interest-rate inflation has added measurably to the economic downturn and intensified the problems of unemployment, housing, small business stability, and production.

In its attempt to stall inflation, the Nixon administration has instead stopped economic growth. Industrial production has fallen steadily over the past year. The gross national product, the measure of our goods and services, points out an economic sluggishness, with growth of the gross national product declining and inflation rising, resulting in economic stagnation.

The 91st Congress initiated numerous efforts to lead our economy from the creeping paralysis which has resulted from the administration's policies. Besides requiring fiscal responsibility from the administration by reducing budget requests and placing a limit on Federal expenditures, this Congress established interest-rate controls and gave to the President standing authority to establish wage and price increase controls.

CONCLUSION

In the limited space afforded by this report, it is impossible for me to discuss every matter which has come before the 91st Congress. I have tried to touch upon some of the highlights and some of the activities which are most pressing.

SENATE SHOULD CONSIDER ELECTORAL REFORM AGAIN AS SOON AS POSSIBLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BOLAND) is recognized for 10 minutes.

Mr. BOLAND. Mr. Speaker, I want to express my disappointment over the Senate's laggardly pace in taking up electoral reform. Two times now Senator BIRCH BAYH, chairman of the Senate Judiciary Committee's Subcommittee on Constitutional Amendments and a leading advocate of electoral reform, has offered a motion to cut off debate. And two times his motion has fallen short of the necessary two-thirds majority vote. It is high time—indeed, it is well past the time—that the Senate acted on Mr. BAYH's legislation to abolish the electoral college in favor of direct popular vote.

The House passed such legislation more than a year ago—legislation substantively identical to the proposed constitutional amendment I introduced the first day of this Congress. Yet the Senate, the legislative body that traditionally takes the lead in proposals to amend the Constitution, remains stonily aloof to the amendment. It has refused—twice—to take a vote.

As each day passes, the danger grows that the amendment will not be enacted in time for the 1972 presidential election. The amendment, of course, must be ratified by three-fourths of the State legislatures. Such a laborious process takes time—perhaps years.

The electoral college, an institution of questionable value even when it was established nearly two centuries ago, threatens to betray the voters' will and push the country to the brink of a constitutional crisis during every presidential election. And the 1972 election, now that George Wallace has implied he will run as a third-party candidate, appears particularly vulnerable. The need to act swiftly on electoral reform could not be more pressing.

The goal of the constitutional amendment is simple: giving every voter in every State an equal voice in electing this country's President, and preventing an antiquated political institution from jeopardizing the democratic principles of American life.

I urge the Senate to consider electoral reform again as soon as possible.

FINALLY, A CALL TO CEASE-FIRE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 30 minutes.

Mr. KOCH. Mr. Speaker, last night the President called for a cease-fire in Vietnam, Laos, and Cambodia. I wholeheartedly support this initiative. It is long overdue and suggests that our policy may finally be committed to saving lives rather than saving face.

On May 15, 1969, I introduced a resolution with the cosponsorship of seven Members proposing that the President call for an immediate stand-still cease-fire in Vietnam. On July 2, 1969, I wrote to the President asking that he take this course of action. The White House response was "a cease-fire is a sensitive and complex question that hopefully will be addressed to an appropriate time in the Paris talks."

Upon receiving the White House reply, I stated on the floor of this House that the Paris peace talks had been going nowhere for a year, and that it was time for a cease-fire without further delay so that the killing might end.

It is now 15 months later; 6,601 more American men have died in Vietnam and the peace talks are still going nowhere. And the total number of Americans killed since the beginning of the Paris peace talks has been 20,592. I hope the President's cease-fire proposal is accepted by all parties involved in the Indochina war.

In his speech last night, perhaps the President finally demonstrated his willingness to accept and act in accordance with the overwhelming desire of the American people to give peace a chance.

HANOI SAYS NO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. RARICK) is recognized for 10 minutes.

Mr. RARICK. Mr. Speaker, the Council on Foreign Relations, appointed representatives of the American people and advisers to President Nixon, have again led him astray.

Henry A. Kissinger, assistant to the President for national security affairs, and Mr. David K. E. Bruce, chief of the U.S. delegation to the Paris talks, both members of the Council on Foreign Relations, must be held responsible for the "peace" fiasco which was so rapidly rejected by the Communists as politically inspired by the November elections.

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One would think that by now our political leaders would have realized that one cannot do business with the Communists—they will not compromise unless it is in their favor.

For years now, under the administration of both national parties, the prestige of our Nation and the lives of our men have suffered under farfetched theories of world social justice dreamed up by members of a sophisticated clan of international intellectuals who call themselves the CFR. They seem to excell in making mistakes and underestimating an enemy, yet these unelected "experts" seem to always end up in control of our common destiny, no matter who serves as our President. Their greatest hangup is that as a closed think-tank complex, they communicate only with each other, study only their own writings, plan, and become barren of reason, and begin to believe that their own proposals are infallible.

Any CFR recommendation starts from the premise that America cannot win—that we should not win. Every alternative is explored, so long as it does not constitute a victory over the enemy.

It is not surprising that Hanoi immediately rejected our latest peace gesture; her leaders by now are convinced that all they need to do is wait, and eventually, relying upon such advice as the President is receiving from his CFR team, we will not only give the Communists Southeast Asia, but we may pay them a ransom for the privilege of retreating.

Now that we have charted an irreversible policy of retreat and offered the Communists the keys for victory, in return for peace, only to be soundly repudiated and knuckle rapped, the question is, "Now what?"

We of the South are chastised in history for having fought for slavery—we now seek to free ourselves and fellow citizens from Communist slavery. All we need is a man in the White House who will take the advice of our military experts instead of a bunch of ineffective left-wing CFR quiz kids.

The latest report identifying some of the CFR men recently appointed by the President to key administration positions and a newspaper clipping follow:

[From the Review of the News, Oct. 7, 1970]

ADDENDA

In *The Review Of The News* for February 4, 1970, we named seventy members of the powerful 1,400-member Council on Foreign Relations who had either been appointed, nominated, or retained by President Nixon since the election of November 1968. In *The Review* for June 10, 1970, we added fourteen names to this list of *Insiders* and their operatives. Following are some of the more recent additions to the Administration selected from the roster of this organization which so often operates as America's secret government:

David E. Bell, member, National Commission on Population Growth and the American Future; Lincoln P. Bloomfield, member, President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations; Courtney C. Brown, member, Commission on International Trade and Investment Policy; David K.E. Bruce, Chief of the U.S. Delegation to the Paris talks; Seymour M. Finger, Alternate to the Twenty-fifth Session of the General Assembly of the United Nations; Richard Gardner, member, Commission on International Trade and Investment Policy; T. Keith Glennan, U.S. Representative, International Atomic Energy Agency; Senator ———, Representative to the Twenty-fifth Session of the General Assembly of the United Nations; Howard W. Johnson, member, National Commission on Productivity; William R. Kintner, member, Board of Foreign Scholarships; Antonie T. Knoppers, member, Commission on International Trade and Investment Policy; George Cabot Lodge, Board of Directors, Inter-American Social Development Institute; Alfred C. Neal, member, Commission on International Trade and Investment Policy; Senator ———, Representative to the Twenty-fifth Session of the General Assembly of the United Nations; John D. Rockefeller, III, Chairman, National Commission on Population Growth and the American Future; Leroy Stinebower, member, Commission on International Trade and Investment Policy; John Hay Whitney, Board of Directors, Corporation for Public Broadcasting; Francis O. Wilcox, member, President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations; and, Walter Wriston, member, National Commission on Productivity.

This brings the number of Mr. Nixon's C.F.R. member-operatives in key Administration posts to over one hundred. Meanwhile such *Insiders* tax and tax, to elect and elect. And the victim, of course, is the American middle class.

[From the Washington Daily News, Oct. 8, 1970]

HANOI SAYS NO—"AN ELECTORAL GIFT"; "LEGALIZED AGGRESSION"

PARIS.—The Viet Cong and North Vietnamese today condemned President Nixon's peace plan even before U.S. negotiator David Bruce could formally present the proposals.

Madame Nguyen Thi Binh, the Viet Cong's chief representative at the peace talks here, said: "This plan does not aim at ending the American aggression and at re-establishing peace and the independence of the Indochinese peoples.

"On the contrary, these propositions are aimed at legalizing American aggression in Indochina."

North Vietnam's chief negotiator, Xuan Thuy, said the plan was a "gift certificate to the American electorate" which will go to the polls Nov. 3 for congressional elections.

Before the 87th session of the Vietnam peace talks in the old Hotel Majestic, the communist Vietnamese diplomats held urgent night-long consultations on Mr. Nixon's proposals.

Mr. Thuy, in his statement, said: "What can one say of the five points put forward last night by President Nixon? Only a gift certificate for the votes of the American electorate and a coverup for misleading world public opinion, whereas new clarifications made by Madame Binh on Sept. 17 constitute an important peace initiative to put an end to the war and settle the Vietnamese problem peacefully."

STUDY OF ELEMENTARY AND SECONDARY EDUCATION PROGRAMS AND NEEDS—PART II

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, on Thursday, September 24, I inserted part I of a preliminary report on the findings of the committee survey of elementary and secondary education programs and needs. The findings presented in that initial report prove conclusively that school children and school districts through the Nation have profited significantly from title I of the Elementary and Secondary Education Act. The report documents also, however, the overwhelming need for more adequate funding of these programs if we are to fulfill the commitment made to educationally disadvantaged children.

Today I will report on the findings of the survey's questions dealing with Federal programs in school library resources, supplementary education centers and services, funds for State departments of education, the vocational education programs, and several questions concerning general attitudes toward all Federal education programs. Certain of the questions also deal with title I.

It will be seen that each of the programs has made a positive contribution to the quality of the educational offerings of local school systems throughout the country. As in the earlier report, the results are tabulated in terms of five enrollment categories, representing altogether an estimated 25,760,000 schoolchildren. The breakdown of the total by enrollment category is as follows:

Enrollment 1: 1 to 1,000 students
3.132 respondents×500=1,566,000 students

Enrollment 2: 1,000 to 5,000 students
3,099 respondents×1,000=3,099,000 students

Enrollment 3: 5,000 to 35,000 students
1,141 respondents×10,000=11,410,000 students

Enrollment 4: 35,000 to 100,000 students
77 respondents×60,000=4,620,000

Enrollment 5: over 100,000 students
Actual count=5,065,060

Total enrollment=25,760,060 students

The first question in today's report concerns several different elementary and secondary school programs. Each superintendent was asked to evaluate how individual programs have affected the quality of education in his particular school system. In each case, the respondent was asked to evaluate a program or requirement by marking one of six possible responses. The question asks:

> What effect have any of the following had on the quality of education in your school district?

The possible answers were: first, improved greatly; second, improved; third, no impact; fourth, reduced slightly; fifth, reduced; sixth, no funds.

Of all the programs enumerated, title I received the most favorable or positive rating—over 96 percent of all districts which received these funds indicated that title I had "improved" or "greatly improved" the quality of education in their district. Twenty-five percent of all respondents said that title I had "improved greatly" the quality of education. One hundred percent of the school officials from districts with over 35,000 students enrolled—a group representing over 9 and a half million pupils—answered in the affirmative. Less than 1 percent of

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those receiving title I funds answered negatively.

Judging from the overwhelmingly favorable responses to this question concerning the effectiveness of title I—and taking into account the findings contained in part I of our report—it seems safe to assume that only the lack of long-term and adequate funding keeps the program from unqualified success.

Title II—School Library and Textbooks—received nearly as great a vote of confidence as title I. Of all the programs listed, title II received the highest percentage of responses that the program had "improved greatly" the quality of education—35.5 percent. Again, without exception, all respondents in the enrollment categories containing over 35,000 pupils answered that title II had "improved" or "improved greatly" the quality of education in their districts. Among all respondents, 95.3 percent indicated positive improvement made possible by the title II program.

Title III funds are used for supplementary centers and services. Over 70 percent of the respondents receiving title III funds answered this question affirmatively, with 94 percent of the respondents in the over 100,000 enrollment group—who speak for, collectively, 5 million pupils—responding either "improved" or "improved greatly."

The 82.3 percent of the responding districts participating in the vocational education programs consider them to "improve" or "improve greatly" the quality of education in their districts. Of the group of superintendents from the largest schools, those with over 100,000 enrollment, 100 percent answered this question in the affirmative.

The 81.3 percent of the respondents in districts enrolling over 1,000 children—this includes over 24 million pupils, all but about 1.6 million of those who are represented in the survey—who receive Public Law 874 funds, responded that they had "improved" or "improved greatly" their districts' educational programs.

The Headstart program, in the judgment of 78 percent of the answering superintendents who have Headstart programs, has a positive effect in improving the quality of education in their districts. Ninety-four percent of those answering the questionnaire in the over 100,000 enrollment category who received Headstart funds replied that they "improved" or "improved greatly" their programs.

The next question asks "Has title II—school library resources—helped to expand or to establish the following: First, school library; second, textbooks; third, instructional materials; fourth, media centers. The possible responses were: "yes, very much"; "yes"; no"; and "no Federal programs."

Title II funds are employed for strengthening basic education resources, particularly printed and instructional materials. As our results show, school libraries have received by far the greatest benefit under this title. The 96.4 percent of all respondents, and 100 percent of all respondents in the systems enrolling over 35,000 pupils and those that receive title II funds, replied that title II has helped expand or establish school libraries. In all categories the proportion answering "yes, very much" exceed those replying merely "yes." Over half—56 percent—answered "yes, very much." Of all respondents who have title II programs, 84.3 percent replied that their scohols had been able to procure additional instructional materials. Less than half of all responding superintendents receiving title II funds have used them for textbook and classroom materials, although over 53 percent of the largest districts—those with enrollments over 35,000—have managed to do so. Media centers have been established or expanded for 64.4 percent of all responding districts who get title II funds; of all districts enrolling more than 5,000 pupils, 75 percent replied yes.

Comments received on this question bear out our data on the opportunities raised and frustrations experienced by the limited funding of title II. The figure in parenthesis following the city and State represents the enrollment figure:

Picher, Oklahoma (750): "We are beginning to get something to work with and the student, teacher and parent response is excellent. Motivational factors play an important role in interest and achievement."

Grover City, Ohio (15,322): "We have placed most of our funds in the area of books and are just now moving into the IMC concept so will be buying much more in the area of other Instruction Materials."

Berne, Indiana (1,870): "Elementary libraries have been established with the help of Title II funds and a systemwide media center is now in operation, upgrading all libraries and providing fine instructional materials services."

Washington, D.C. (149,021): "No instrument has been devised for measuring such an effect, but to the extent that more and bettter materials have been made available to our school libraries, to that extent has the possibility for better teaching and learning resulted."

Auburn, Indiana, (4332): "Monies from Title II have been very much appreciated. Title II has helped the District to advance now in library materials to a point comparable to a local effort of 10 years."

Fairfax, Virginia, (130,343): "Title II, one of the most effective programs, has been directed to achieve a specific need—improved supply differentiated instructional materials."

San Bernardino, California (37,907): "Insufficient funding levels, under Title II, with decreasing amounts provided yearly since inception of program have not permitted expenses of library resources to the level required."

Hillsboro, Kansas, (1039): "One of the best things that the Federal Government has done!"

The next questions concern title III: "Have programs initiated under title III for supplementary educational centers and services contributed to the improvement of overall school programs?" The possible answers were: "Yes, very much"; "Yes"; "No"; "Undecided"; "No title III funds."

Funds under title III are used for the establishment of innovative school programs which the local districts themselves would otherwise be unable to afford. Federal funding for any one program is limited to 3 years, after which time it was hoped that the successful programs would be incorporated into the regular curriculums and be financed with local funds.

The 71.5 percent of all our replies answered this question in the affirmative. Nearly 25 percent answered "yes, very much." Among the responding superintendents who represent districts of over 35,000 enrollment, 84 percent of those who received title III funds replied either "Yes, very much," or "Yes."

Superintendents were then asked: "Has Federal funding for any of your title III programs been discontinued, and if yes, have you found other sources of funding?"

Of those who have had title III programs, just over half of all respondents have had funding of their program discontinued. Of those, 86.3 percent have been unable to find other sources of funding. This particular problem, the inability to continue Title III services after Federal support has been discontinued, plagues smaller districts much more frequently than the larger ones.

Of the responding superintendents in the under 1,000 category of enrollment, a group representing about 1½ million pupils, 71.4 percent of those whose programs had been discontinued reported that they had not found other sources of funding. In the two largest enrollment categories, involving those systems with enrollments higher than 35,000 pupils, 46 percent had not found other sources of funding. From the responses to these two questions, two notable conclusions are evident: First, that in the opinions of over seven out of 10 superintendents responding to this survey, title III-initiated supplementary centers and services have contributed positively to the quality of education in the Nation's schools; and second, that programs have not been funded locally for a majority of those who have had Federal funding discontinued. Comments confirm these conclusions.

Elwood, Nebraska (260): "We have used Title III funds for science and math materials. It was a very good program but seems to be discontinued in our area. Funding will have to be done locally."

Yanceyville, North Carolina (5300): "Caswell Schools received a Mini-Grant and a Title III grant. Both have contributed greatly to the overall improvement of the school program. However, limited funds have limited scope of program."

Red Oak, Iowa (1900): "The Red Oak Community School District had a successful Title III project which was turned into a non-profit corporation when Federal funds were no longer available. Sponsored by the Red Oak Community School District it served an eight-county area. Continued Federal funding and sponsored yet by the Red Oak Community School District would have given stability to this service that it no longer is assured of having."

Oswego, Kansas (640): "Our project was a joint project between four districts but was not refunded at the end of three years and due to tax-lid on school expenditures local districts had to drop all positive gains made."

Baldwin City, Kansas (930): "We have been fortunate to have the services of the Education Modulation Center (a Title III project in Olathe, Kansas.) However, the funding has run out and local funds will not keep it going at full capacity."

Dearborn, Michigan (21,451): "Title III (Project Rebuild) has allowed us to experiment with a program we would not ordinarily have been able to afford. As a result, we have been able to structure a program that will probably be adopted throughout the school system when the project is completed and completely evaluated next year. . . . Title III funds are important for curriculum planning and experimentation. It allows school systems to implement successful experiments at a lower cost because only the successful portion is implemented system-wide."

Spartanburg, South Carolina (5071): "The regional reading center supported by Title III has made a real contribution toward the improvement of our reading program. The center has also assisted in providing valuable inservice training for our staff."

Santa Fe, New Mexico, (11,572): "Santa Fe, New Mexico has a highly successful Title III Summer Program in Grades 1–3 for Under-Achievers. The response on the part of the students, parents, and the school system has been splendid and the young students in the program have shown by standardized tests, marked improvement."

Grove City, Ohio, (15,322): "We have been fortunate enough to have had 3 programs funded and projects completed. Much of what was tried in these projects have now been incorporated into the regular curriculum."

Grinnell, Kansas, (391): "We were able to secure much equipment that we could not have gotten such as language lab, science equipment and shop."

Rochester, New York, (46,675): "The programs of Project UNIQUE, Rochester's exemplary Title III Center, particularly the World of Inquiry School, have pointed the way to better urban education. Unfortunately the District lacks the funds to implement the program in other schools. . . . Some projects have been assumed by Title I (while other Title I programs were dropped.) Some, including the World of Inquiry School, are still seeking private as well as public support. Some have been dropped. All in all, a few hundred thousand dollars have been raised to support $1.5 million dollars in innovative Title III programs."

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Princeton, West Virginia, (14,583): "The West Virginia Region VII PACE Center will be discontinued in August, 1970, because of insufficient funds to continue the program. What a waste!"

Two questions dealt with Federal vocational education programs. The Vocational Education Act and amendments have made possible a considerable range of programs aimed at providing basic vocational training to secondary and postsecondary students. Funds are authorized for work-study, model transition, home economics, and other programs, and opportunities for the disadvantaged and handicapped. The first question asked: "Have the programs initiated under the Vocational Education Act been of benefit to the students in your district?" The possible responses were: "yes, very much," "yes," "no, insufficient funds restrict scope of program," "no," or "no funds."

To this question, 84.8 percent of all respondents, who presently had vocational education programs, and 100 percent of all respondents in districts of over 35,000 enrollment, answered affirmatively. The 12.6 percent of the respondents with such programs indicated expansion, but added that insufficient funds restricted programs. Among all respondents with vocational education programs, 27 percent chose the unqualified "Yes; we have greatly expanded our programs" response.

The second question asked about the 1968 amendments on vocational education: "Has your school district initiated the new programs included in the 1968 Vocational Education Amendments?" Here the possible answers were: "Yes; we have greatly expanded our programs," "Yes," "We have expanded, but insufficient funds have restricted our programs," "No," or "No funds." Ninety-nine percent of the respondents who receive funds in the districts enrolling over 35,000, a group representing collectively approximately 9.6 million pupils, responded that they had expanded their program, but over a quarter of them said that insufficient funds restrict its scope. Among all respondents receiving funds, 61.4 percent said that they had expanded their vocational education offerings. Again the comments of the individual superintendents were revealing:

Princeton, West Virginia, (14,583): "Through Vocational Education we have been able to establish a first class, first rate, superior vocation-technical program. . . . We applied for a summer program for junior high school students but it was not funded—insufficient funds, I guess!"

Buffalo, New York, (6700): "Yes, however funding cut-back has adversely affected this program."

Pittsboro, North Carolina, (7265): "Insufficiency of funds has restricted program to secondary level. I feel junior high is best level for vocational program since trend to drop-out becomes evident at this level."

North Manchester, Indiana, (2189: "This program has been a great help in establishing our new area vocational high school. Five school corporations are cooperating and participating in this project."

San Bernardino, California, (37,907): "Yes, very much. [We have] expanded existing programs and permitted the institution of new ones, i.e., food services, hospital services, business education."

Winona, Minnesota, (6000): "We have a post-high school vocational school and our enrollment has *tripled* as a result of Federal funding making more facilities available."

Nowata, Oklahoma, (1035): "Yes, very much. [The program] provided for a badly needed improvement in our educational program through an area Vocational-technical high school."

Aztec, New Mexico, (1888): "Vocational funds have enabled the school district to provide certain pre-vocational and vocational programs . . . However, limited and new reduced funding have restricted the programs and may necessitate closing of some."

Madison, Kentucky, (403): "It has made programs available to our students that were not available before."

Hutchinson, Kansas, (8428): "Cooperative programs have been initiated which are developing marketable skills and improving the job opportunities of non-college bound students . . . These should be enlarged."

Grove City, Ohio, (15,322): "We have over 50% of our Junior and Senior students in Vocational Programs and a very high employment rate in fields related to training . . . We already had a Vocational School and a good vocational program prior to the 1968 Amendments and have been able to augment it by some of the new provisions incorporated into the 60 Amendments."

Rochester, New York, (46,675): "We have a large and varied program of vocational education, including half-day annexes for students who wish to remain identified with their community high school, a Manpower program for dropouts, and several others."

Hillsboro, Kansas, (1039): "We have initiated a new program this year which has been excellent. Need to start some more. A good idea! Keep it up!"

The next question dealt with title V: "Have the title V funds for State Departments of Education made any noticeable improvement in State services available to you?" The possible responses were: "yes, very much," "yes," "undecided," or "no."

Overall, only about half of the respondents answered this question in the affirmative, and in the lower enrollment categories, less than half answered either "yes" or "yes, very much." The 37 percent of the respondents answered "no." Generally the proportion answering positively was higher in the higher enrollment categories. Less than 40 percent of the respondents from systems of under 1,000 answered "yes," while about 55 percent answered affirmatively in the enrollment groupings of over 35,000.

Another question dealt with various policies and requirements in Federal programs, many of which are directly related to title I. Each superintendent was asked how the following affected the quality of education in his district:

First. The emphasis on disadvantaged in Federal programs;

Second. Provision for participation of nonpublic school children;

Third. Rules, regulations, and guidelines which encourage parental involvement in education programs;

Fourth. Rules, regulations, and guidelines which encourage community participation in education programs; and

Fifth. Federal requirements for evaluation of programs.

Of all these policies, the emphasis on disadvantaged pupils received the highest percentage of favorable response. The 85.1 percent of all the respondents reporting that they received Federal funds felt that such emphasis "improved" or "greatly improved" the quality of education in their school systems. One hundred percent of those over 100,000 responded affirmatively.

The highly favorable feeling toward emphasis on the disadvantaged revealed in this question corresponds closely to the results on our questions dealing directly with title I, which all showed very high evaluations of title I. Only 2 percent of all responding superintendents receiving Federal funds made a negative response to this question, of whom only six-tenths of 1 percent said that emphasis on the disadvantaged "reduced"—and 1.4 percent that it "reduced slightly"—the quality of education in their districts.

Over half of our respondents, 51.8 percent, answered that the provision for participation of nonpublic school children had "no impact" on their schools' educational quality. Of the remainder, nearly all felt that it had benefited their districts. Only 1.5 percent of all responding recipients of Federal funds, and none of those in the enrollment categories of over 35,000, replied that such provision had a deleterious effect. The 45.7 percent of all participating respondents—and 75 percent of those in the over 100,000 category—responded that the participation or nonpublic pupils had "improved" or "improved greatly" the quality of education in their districts.

Regulations encouraging parental involvement in programs were regarded to have "no impact" by a majority of the respondents. Of the rest, nearly all reported that the parental involvement had a positive effect on their schools. Only 5 percent responded that it had "reduced" or "reduced slightly" the quality of education in their districts.

Similarly, regulations which encourage community participation in Federal programs were reported by 54.4 percent of the respondents who received funds to have had "no impact." Forty-one percent of the respondents replied that such regulations, rules, or guidelines "improved" or "improved greatly" the quality of education in their schools while only 2.8 percent reported that these provisions had a negative effect upon their school systems. In the top enrollment category, representing over 5 million pupils, a fifth of the respondents answered "improved greatly" with regard to parental involvement and slightly over a fifth made the same response regarding the regulations relative to community participation.

Many of the respondents expressed concern over the quantity of paperwork involved in participation in Federal programs, much of which is related to evaluation requirements. The last question of this series asks directly whether requirements for evaluation of programs has been beneficial. The results show that over half of all participating respondents considered these requirements to have "improved" or "improved greatly" the quality of education in their schools. Thirty-nine percent felt that evaluation requirements had "no impact." Only 6.4 percent—and none of those from districts of over 35,000 enrollment—reported that the requirements injured the quality of their school systems.

A second question dealt with the superintendents' attitudes toward policies in Federal programs in another way: "Please indicate your assessment of Federal policies in the following areas: parental involvement; coordination with other agencies; evaluation; and non-public school coordination." The possible choices for answers were: "constructive," "burdensome," and "no effect."

Forty percent of the respondents replied that the requirements for parental involvement were "constructive" and another third considered them to have "no effect." Eighty-five percent of the respondents from the largest category of enrollment, those systems of over 100,000 pupils, find the parental involvement provisions "constructive." These findings confirm the results of the question discussed previously, in which 42.3 percent of all respondents who receive Federal funds said that the rules and regulations encouraging parental involvement had a positive impact upon their schools.

Of all respondents to this question, 41.2 percent indicated that coordination with other agencies was "constructive." Another 28.9 percent said this has "no effect." Of the respondents in the categories of all districts enrolling more than 35,000 pupils, 58.6 percent replied that coordination was "constructive."

Fifty-eight percent of the respondents claimed that evaluation requirements have a "constructive" effect upon the programs in their districts; 80 percent in the largest enrollment group made this response. Of all respondents, 13.6 percent felt that evaluation requirements have "no effect." These findings correspond to the findings of previously discussed questions about evaluation, in which it was reported that 54.6 percent of the respondents felt that evaluation requirements have a favorable impact upon their programs.

As to the effect of non-public-school coordination, 31 percent of all the respondents said it is "constructive," and 56.6 percent indicated that it has "no effect" upon their districts. Sixty percent of the respondents from the largest enrollment category reported that non-public-school coordination has a "constructive" effect. These findings bear out the results of the earlier question about the provisions in Federal education programs for the participation of non-public-school children. There we found that 45.7 percent of the respondents considered such provisions to have "improved" or "improved greatly" the quality of education in the districts, and 51.8 percent to view them as having "no impact." In both cases, more of the districts enrolling higher numbers of pupils find the participation of non-public-school children beneficial.

One question dealt with the respondents' attitudes toward the overall effect of Federal programs upon the quality of teaching in their systems: "Do you feel that Federal programs have contributed to improved teacher performance?" The possible responses were: "yes, very much," "yes," "no," "undecided," or "not receiving Federal funds." Of all respondents who receive Federal funds, 76 percent replied that Federal programs had contributed to improved performance of teachers. Fifty-seven percent responded "yes," and 19 percent responded "yes, very much."

The proportion making a positive response rises significantly in the districts of higher enrollment. In the highest enrollment group, those with over 100,000 pupils, 100 percent responded that the teaching in their districts had improved due to Federal education programs. Comments we received on this question bear out the statistical results, and show the variety of benefits in teaching made possible by new approaches and programs:

New Rochelle, New York (18,000): "Our training program has helped teachers to look at children as individuals rather than as stereotypes. We have also introduced multimedia and multi-ethnic materials into the classrooms and have helped teachers in the use of these materials to supplement the basal readers and to reach children where they are."

Athens, Michigan, (1100): "Because of the nature of our program, elementary counseling and social worker, teachers performance has improved where teachers have cooperated with these professionals to improve the disadvantaged child's school environment."

Jackson, New Jersey, (5300): "Experiences gained from our summer programs have carried over to other year round staff members. Especially in the area of environmental education."

Palisades Park, New Jersey, (1900): "In some cases the uniqueness of the federal programs and the students participating provided unusual experiences and new insights for some teachers."

Pennsauken, New Jersey, (6843): "Teachers have an opportunity to implement new, effective techniques through small classes and latest materials. They carry this experience to the regular classroom."

Hoosick Falls, New York (1660): "It has brought the whole problem of the disadvantaged to the fore, and therefore it has made the ripples needed to get educators moving."

Manchester, Tennessee, (1215): "Federal monies have permitted us to get better teachers who have more enthusiasm and whose morale is higher. These factors directly affect teacher and pupil performance. Better quality teachers mean better quality education for us."

Princeton, West Virginia, (14,583): "Yes, to the extent that they have been involved in workshops, training sessions, institutes, etc. Also, I believe Title I has improved teachers' efforts to get the job done because of the urgency school administrators have shown, and are showing, to show results."

East Montpelier, Vermont, (1500): "Title I and Title III have been used in this area to change attitudes and demonstrate new methods."

Capitan, New Mexico, (230): "The additional equipment and materials have done much to improve performance and morale."

Phoenix, Arizona, (2689): "Yes, very much where we have teacher aides under Title I. Yes, for other elementary grades because of corrective reading program."

Abilene, Kansas, (1971): "Education comes slowly—not in leaps and strides. Therefore we would like to say that many of our teachers are beginning to use new and effective teaching methods and materials as a result of the Federal program and it is our aim to influence all."

Farmingdale, New Jersey, (190): "Yes, in the area of being able to cover more material with regular classes due to remedial students receiving special help outside the classroom. Often the slow students hold the whole class back."

Frenchtown, New Jersey, (789): "In our district where teachers have gone on to further training under a Federal program we have benefitted."

Grinnell, Kansas, (391): "We feel that as students improved their reading the teacher was able to cover more materal per class hour."

Falls Village, Connecticut, (2748): "Yes, one of the objectives in the summer program has been to help teachers improve their diagnostic skills, look at the needs of individuals, and improve the learning environment in the hope that there would be improvement in teaching the disadvantaged in the classroom."

Irvington, New Jersey, (7700): "Yes, very much. Each teacher that has had contact with the program has had the opportunity to see and work with children with other than the average background. They now have a different picture and have broadened their knowledge."

Buffalo, New York, (6700): "Yes, very much. Teachers involved have become accustomed to using a wide variety of instructional methods to deal with educationally disadvantaged students. Thus, they have begun to consider individual differences in their programs of instruction."

Caldwell, New Jersey, (4300): "Techniques developed in Title I have proven themselves to classroom teachers so that these techniques are being incorporated into regular class procedures by the teachers' initiative, and with supervisory and financial support of the District. NSF grants have helped initiate elementary science program improvements; NDEA has been excellent support for guidance service which would not otherwise have been achieved. . . . Further 'seed money' would, based on present experience, have solid assurance of returning value."

Dearborn, Michigan, (21,451): "The inservice training programs have helped teachers to better understand the problems in under-privileged homes."

Rochester, New York, (46,675): "Although teacher-training programs have not been far-reaching enough, particularly in the case of experienced teachers, they have helped. Perhaps more important is the partipication of para-professionals from the low-income neighborhoods being served."

Spartanburg, South Carolina, (5071): "Several of our staff members have received certification or are working toward certification in the field where they have been assigned. The reading inservice training provided by the Reading Center has been very valuable to our staff."

Fort Collins, Colorado, (12,068): "Due to an opportunity for in-service training, especially in reading, we feel there has been significant improvement in teacher performance and this would not have been available had it not been for these federal funds. Basically this same statement can be applied to the pre-school program where there is considerable in-service training."

Englewood, Colorado, (6300): "Our Title I programs have served as models for other programs—successfully."

Picher, Oklahoma, (750): "Teachers are happy to see progress in their students. To have materials to work with and equipment to use is a highly teacher motivating factor with our faculty."

Van Homesville, New York, (355): "Absolutely—steps are being taken that are unprecedented."

The last question asks simply: "Have Federal funds contributed to improving the quality of education in your school district?" The possible choices here were: "yes, very much," "yes," "no," or "not receiving Federal funds."

To this question, 95 percent of all our respondents answered affirmatively. Over 98 percent of all respondents from districts of over 5,000 enrollment, a group representing collectively more than 21 million schoolchildren, answered "yes" or "yes, very much." Of the respondents in the over 100,000 enrollment group, 100 percent replied to this question positively. The overwhelming results to the question are further illuminated in the comments—as is the necessity for continuing and strengthening the Federal involvement in elementary and secondary education:

Englewood, Colorado, (6300): "We have been able to try new approaches we could not afford previously. The spin-off especially in staff training has been excellent."

Palmyra, New Jersey, (1910): "We believe our program now in operation in the lower grades will in time significantly improve education—The earlier we define our problem the better the future for the youngster, school, community and nation—That is our philosophy."

Auburn, Nebraska, (1200): "Many children are now achieving success whereas before they were in deep trouble."

Ponca, Nebraska, (410): "Improvements have been made in the academic attitudes, habits, progress rate for 90 percent of those participating in the Title I program."

Taos, New Mexico, (3100): "There has been a significant change in this regard in our school district. The improvements in the various instructional and supportive service areas which were possible only with Federal assistance have certainly upgraded our program in every way."

Watertown, South Dakota, (3968): "We have enabled students, through the use of federal funds, an opportunity to work with more people or teachers. This improves any educational program."

Spartanburg, South Carolina, (5071): "Federal funds have provided materials, equipment and services which could not have been made available from State and local funds."

Winona, Minnesota, (6000): "The programs inaugurated with Federal funds have provided an outlet for trying new things which in turn are made known to the classroom teachers. As a result, the quality of education has improved with the Federal programs."

San Bernardino, California, (37,907): "Availability and use of Federal funds have encouraged and permitted creative experimentation in program development and implementation. Staff development programs, in addition to the variety of facilities, materials and equipment available, have contributed to the improvement of the quality of our educational program."

Green Bay, Wisconsin, (21,876): "Child study, instructional media, and guidance programs have benefitted our general program through initial federal subsidies. There is little way to measure community reaction to federal programs except by parental appreciation and Board of Education support for the new programs. Despite the recent budget cuts, educational expenditures of our district have more than doubled within five years."

Buffalo, New York, (6700): "When available, ESEA Title II funds produced a measurable impact upon district school libraries including private schools. NDEA Title III has greatly assisted in the acquisition of needed equipment. Our basic skills instructional program has been an excellent assist to students enrolled in the ESEA Title I program."

Nowata, Oklahoma, (1035): "We are providing programs that would not be possible without federal funds."

Picher, Oklahoma, (750): "Testing and personal observations confirm improvement. Our product is superior in many areas due to a better school program—food, culture, equipment, programs, specialized classes, etc."

Falls Village, Connecticut, (2748): "Yes, the introduction of new methods, techniques, materials, and the application of the latest research has resulted in some 'fall out' on the quality of education in the district."

Auburn, Indiana, (4332): "Funding in Title II has allowed us to provide Curriculum Centers, two elementary libraries, and many materials. Title III NDEA has provided an extension to the equipment and materials dollar."

East Montpelier, Vermont, (1500): "Yes—with no hesitation. We have had non-local funds, even within restrictive guidelines, to try new ideas, improve teaching situations, expand offerings to certain groups which have had carry-over."

Wakeeney, Kansas, (975): "Yes, through increased teacher efficiency, remedial and developmental summer school activities, increased funds for both hardware and software."

Mercer Island, Washington, (5612): "Although Federal funding has been quite small, the new dimensions and interest they have created have improved the quality of our program."

La Mesa, California, (14,914): "1. They have given focus to needs not previously recognized.

"2. They have brought about improved adult/student ratios.

"3. They have pioneered the use of paraprofessionals in our district.

"4. They have established a precedent for elementary school libraries in our district."

Lakehurst, New Jersey, (766): "Yes, the expansion of library facilities, addition of books, records, machines such as movie-overhead-filmstrip projectors, phonographs, maps, globes, and other audiovisual aids have improved the quality of education."

New Rochelle, New York, (18,000): "Much of the change that has come about has been due to our ability to experiment and innovate, made possible with Federal funds. More and more of our teachers have expressed an interest in, or are experimenting with, the Infant School philosophy of the English schools. In addition, we have developed a Black History curriculum, grades 1–12, and have given many children educational experiences during the summer to bridge the gap between June and September. None of this would have been possible without Federal funds and much more remains to be done."

Kennebunk, Maine, (2200): "Yes, very much. Through increased equipment, innovation library books, teacher enthusiasm—But now that it is rolling, really put it in 'high gear' and develop our most precious resource—our children—to fullest potential. Cut it off and there will be disillusioned people, top to bottom."

Capitan, New Mexico, (230): "Federal funds are a *must* if we are to continue the improvement in our educational programs."

PERCENT OF RESPONSES BY ENROLLMENT CATEGORY

"Have Federal funds contributed to improving the quality of education in your district?"

Enrollment category	Under 1, 000 (1)	1,000 to 4, 999 (2)	5,000 to 34, 999 (3)	35,000 to 99, 999 (4)	Over 100, 000 (5)
A. Yes, very much	24	25	31	24	25
B. Yes	67	71	67	74	75
C. No	4	3	1	1	0
D. Not receiving Federal funds	4	1	4	0	0

PERCENT OF RESPONSES BY ENROLLMENT CATEGORY FOR THOSE RECEIVING FUNDS

"Do you feel that Federal programs have contributed to improved teacher performance?"

Enrollment category	Under 1,000 (1)	1,000 to 4 999 (2)	5,000 to 34,999 (3)	35,000 to 99,999 (4)	Over 100,000 (5)
A. Yes, very much	17	18	25	23	30
B. Yes	53	59	63	68	70
C. No	14	10	5	1	0
D. Undecided	16	13	8	8	0

PERCENTAGE OF RESPONSES BY ENROLLMENT CATEGORY FOR THOSE RECEIVING FUNDS

"WHAT EFFECT HAVE ANY OF THE FOLLOWING HAD ON THE QUALITY OF EDUCATION IN YOUR SCHOOL DISTRICT?"

[In percent]

Enrollment category	Under 1,000 (1)	1,000 to 4,999 (2)	5,000 to 34,999 (3)	35,000 to 99,999 (4)	Over 100,000 (5)	Total
(a) ESEA—Title I:						
1. Improved greatly	24.2	24.8	29.7	21.8	20.0	25.3
2. Improved	71.1	27.1	68.5	78.2	80.0	71.5
3. No impact	2.0	2.0	1.5	0	0	2.6
4. Reduced slightly	1.5	1.0	.5	0	0	.5
5. Reduced	.5	1.0	0	0	0	.1
(b) ESEA—Title II:						
1. Improved greatly	30.0	38.5	41.2	31.2	39.0	35.5
2. Improved	62.1	58.4	57.0	68.8	61.0	59.8
3. No impact	6.6	2.0	1.5	0	0	4.2
4. Reduced slightly	2.0	1.5	.5	0	0	.3
5. Reduced	1.5	.5	0	0	0	.2
(c) ESEA—Title III:						
1 Improved greatly	16.8	16.5	20.7	17.9	22.0	17.5
2. Improved	50.7	53.3	55.2	65.7	72.0	53.1
3. No impact	31.7	29.3	23.1	16.5	6.0	28.6
4. Reduced slightly	.5	.5	.5	0	0	.4
5. Reduced	.3	.4	.5	0	0	.4
(d) Vocational Education Act:						
1. Improved greatly	17.2	22.2	30.0	34.7	30.0	22.3
2. Improved	57.4	62.0	59.2	61.3	70.0	60.0
3. No impact	23.5	14.6	10.0	4.0	0	16.4
4. Reduced slightly	1.0	.7	.4	0	0	.7
5. Reduced	1.0	.6	.5	0	0	.7
(e) Public Law 815	6.2	20.7	29.5	31.0		
1. Improved greatly					43.0	14.3
2. Improved	12.2	33.6	39.0	41.4	43.0	22.8
3. No impact	57.1	45.5	31.4	27.6	0	32.0
4. Reduced slightly	1.0	0	0	0	14.0	.4
5. Reduced	.9	.3	0	0	0	.2
(f) Public Law 874:						
1. Improved greatly	20.5	30.6	35.4	23.4	22.2	26.3
2. Improved	29.3	48.4	49.5	64.1	67.0	39.8
3. No impact	24.9	19.7	14.8	12.5	5.0	17.5
4. Reduced slightly	6.5	.4	.5	0	5.0	2.3
5. Reduced	0	.9	.5	0	0	.3
(g) Headstart:						
1. Improved greatly	17.5	18.5	20.6	20.0	6.0	27.8
2. Improved	52.0	56.4	63.8	64.6	88.0	52.3
3. No impact	27.6	23.8	14.6	15.4	6.0	20.0
4. Reduced slightly	1.1	.9	.5	0	0	.7
5. Reduced	1.8	.4	.5	0	0	.8
(h) Emphasis on disadvantaged in Federal programs:						
1. Improved greatly	12.7	14.2	20.8	18.7	26.0	15.1
2. Improved	68.3	71.1	70.2	78.7	74.0	70.0
3. No impact	16.6	12.5	8.6	0	0	12.9
4. Reduced slightly	1.5	1.8	.3	2.7	0	1.4
5. Reduced	1.1	.5	.1	0	0	.6
(i) Provision for participation of nonpublic school children:						
1. Improved greatly	3.0	6.1	9.5	8.1	0	6.1
2. Improved	25.3	42.5	48.3	51.4	75.0	39.6
3. No impact	68.9	49.3	39.8	36.5	20.0	51.8
4. Reduced slightly	1.3	1.3	1.5	4.0	5.0	1.4
5. Reduced	1.5	.8	.9	0	0	1.0
(j) Rules, regulations, and guidelines which encourage parental involvement in education programs:						
1. Improved greatly	2.8	2.7	5.6	5.1	20.0	3.4
2. Improved	33.6	38.2	48.7	65.4	70.0	38.9
3. No impact	57.1	54.8	41.6	24.4	10.0	52.7
4. Reduced slightly	3.5	2.4	2.4	2.5	0	2.8
5. Reduced	2.9	1.9	1.6	2.5	0	2.2
(k) Rules, regulations, and guidelines which encourage community participation in education programs:						
1. Improved greatly	2.8	2.5	4.7	2.6	21.0	3.1
2. Improved	33.8	36.6	46.8	64.1	63.0	37.9
3. No impact	58.0	56.8	44.1	29.5	10.0	54.4
4. Reduced slightly	2.5	2.6	2.9	1.3	5.0	2.6
5. Reduced	2.8	1.5	1.3	2.6	0	2
(l) Federal requirements for evaluation of programs:						
1. Improved greatly	1.9	4.5	7.9	11.0	32.0	4.6
2. Improved	30.2	49.8	61.0	69.9	58.0	50.0
3. No impact	43.8	39.7	28.7	19.2	10.0	39.0
4. Reduced slightly	5.4	3.6	1.9	0	0	3.9
5. Reduced	3.5	2.4	.5	0	0	2.5

"PLEASE INDICATE YOUR ASSESSMENT OF FEDERAL POLICIES IN THE FOLLOWING AREAS:"

Enrollment category	Under 1,000 (1)	1,000 to 4,999 (2)	5,000 to 34,999 (3)	35,000 to 99,999 (4)	Over 100,000 (5)	Total
Parental involvement:						
(a) Constructive	36.4	38.9	53.5	66.2	85	40.4
(b) Burdensome	25.3	27.4	24.6	23.4	10	26.0
(c) No effect	38.3	33.7	21.9	10.4	5	33.6
Coordination with other agencies:						
(a) Constructive	38.5	39.8	50.7	59.5	55	41.2
(b) Burdensome	28.3	32.0	28.8	31.6	35	30.0
(c) No effect	33.2	28.2	20.5	8.9	10	28.9
Evaluation:						
(a) Constructive	52.0	59.1	71.0	71.8	80	58.0
(b) Burdensome	32.1	28.1	19.4	16.7	15	28.3
(c) No effect	15.9	12.8	9.6	11.5	5	13.6
Nonpublic school coordination:						
(a) Constructive	17.3	34.8	51.1	55.1	60	31.0
(b) Burdensome	10.2	13.8	13.4	19.2	25	12.4
(c) No effect	72.5	51.3	35.5	25.6	15	56.6

"HAS TITLE II (SCHOOL LIBRARY RESOURCES) HELPED TO EXPAND OR TO ESTABLISH THE FOLLOWING?"

Enrollment category	Under 1,000 (1)	1,000 to 4,999 (2)	5,000 to 34,999 (3)	35,000 to 99,999 (4)	Over 100,000 (5)	Total
A. School library:						
1. Yes, very much	47.9	58.0	61.8	58.1	75.0	54.6
2. Yes	46.0	40.0	36.6	41.9	25.0	41.8
3. No	6.0	2.0	1.6	0	0	3.6
B. Textbooks:						
1. Yes very much	12.7	13.5	13.8	9.8	6.7	13.2
2. Ye,s	29.4	32.4	35.3	44.3	46.7	32.0
3. No	57.9	54.1	50.9	45.9	46.7	54.8
C. Instructional materials:						
1. Yes, very much	27.1	31.3	35.3	35.2	27.8	30.4
2. Yes	52.1	55.8	53.3	54.9	61.1	53.9
3. No	20.8	12.9	11.4	9.9	11.1	15.7
D. Medical centers:						
1. Yes, very much	22.2	24.3	30.1	31.0	31.6	24.7
2. Yes	36.5	40.1	44.6	46.5	42.1	39.7
3. No	41.3	35.5	25.3	22.5	26.3	35.6

"HAVE PROGRAMS INITIATED UNDER TITLE III FOR SUPPLEMENTARY EDUCATION CENTERS AND SERVICES CONTRIBUTED TO THE IMPROVEMENT OF OVERALL SCHOOL PROGRAMS?"

Enrollment category	Under 1, 000 (1)	1,000 to 4, 999 (2)	5,000 to 34, 999 (3)	35,000 to 99, 9999 (4)	Over 100, 000 (5)
A. Yes, very much	24	24.0	27.5	27	23.5
B. Yes	44	48.0	49.0	58	59.0
C. No	21	19.0	15.0	13	18.0
D. Undecided	11	9.5	8.0	3	0

"HAVE TITLE V FUNDS FOR STATE DEPARTMENTS OF EDUCATION MADE ANY NOTICEABLE IMPROVEMENT IN STATE SERVICES AVAILABLE TO YOU?"

Enrollment category	Under 1,000 (1)	1,000 to 4,999 (2)	5,000 to 34,999 (3)	35,000 to 99,999 (4)	Over 100,000 (5)
A. Yes, very much	7.4	9.3	12.4	8.1	11.1
B. Yes	32.4	39.6	42.5	47.3	44.4
C. No	39.1	32.0	27.4	29.7	27.8
D. Undecided	21.0	19.0	17.7	14.9	16.7

"HAVE THE PROGRAMS INITIATED UNDER THE VOCATIONAL EDUCATION ACT BEEN OF BENEFIT TO THE STUDENTS IN YOUR DISTRICT?"

Enrollment category	Under 1,000 (1)	1,000 to 4,999 (2)	5,000 to 34,999 (3)	35,000 to 100,000 (4)	Over 100,000 (5)
A. Yes, we have greatly expanded our program	18.8	27.8	40.6	60.5	55.6
B. Yes	41.7	48.5	47.5	36.8	44.4
C. We have expanded, but insufficient funds restrict scope of program	13.8	12.5	11.9	2.6	0
D. No	25.7	11.2	5.3	0	0

"HAS YOUR SCHOOL DISTRICT INITIATED THE NEW PROGRAMS IN THE 1968 VOCATIONAL EDUCATION AMENDMENTS?"

Enrollment category	Under 1,000 (1)	1,000 to 4,999 (2)	5,000 to 34,999 (3)	35,000 to 99,999 (4)	Over 100,000 (5)
A. Yes, we have greatly expanded our programs	6.0	10.7	17.4	19.7	22.2
B. Yes	19.0	30.2	34.0	47.4	55.6
C. We have expanded, but insufficient funds have restricted our programs	19.7	26.1	30.4	31.6	22.2
D. No	55.3	33.0	18.3	1.3	0

COAL MINE SAFETY

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, in connection with the continued concern to see that the Federal Coal Mine Health and Safety Act of 1969 is fully enforced in line with congressional intent, there follow three letters which I wrote to Secretary of Interior Walter J. Hickel and Assistant Secretary of the Interior Hollis Dole, dated August 31, September 14, and September 25, 1970, and two replies, dated September 22 and September 24, 1970:

AUGUST 31, 1970.

Hon. WALTER J. HICKEL,
Secretary of the Interior,
Department of the Interior,
Washington, D.C.

DEAR SECRETARY HICKEL: I have just been informed that the Interior Department instituted about four to six weeks ago a practice of requiring that its inspectors first contact by telephone the Deputy Director of Health and Safety or the Assistant Director for Coal Mine Safety of the Bureau of Mines before issuing a closing order under section 104 (b) of the Federal Coal Mine Health and Safety Act of 1969. The objective, as I understand it, is to give the operator an additional opportunity to correct a violation that gave rise to the issuance of a notice by the inspector under section 104(b), but which was not corrected within the "reasonable time" prescribed by the inspector in that notice.

I further understand that Under Secretary Fred J. Russell has sanctioned this practice.

Section 104(b) of the Act provides:

> Except as provided in subsection (i) of this section, if, upon any inspection of a coal mine, an authorized representative of the Secretary finds that there has been a violation of any mandatory health or safety standard but the violation has not created an imminent danger, he shall issue a notice to the operator or his agent fixing a reasonable time for the abatement of the violation. *If, upon the expiration of the period of time as originally fixed or subsequently extended, an authorized representative of the Secretary finds that the violation has not been totally abated, and if he also finds that the period of time should not be further extended, he shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons*, except those referred to in subsection (d) of this section, *to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that the violation has been abated.* (Italic supplied.)

This section specifically provides that only "an authorized representative of the Secretary" shall make the findings in the second sentence of the above section. Once made, such person has an obligation to issue a closing order "promptly" without referring to any superior before doing so. The Department has delegated to the Federal coal mine inspectors the duties prescribed in section 104(b).

I call upon you to issue appropriate orders publicly terminating this illegal phone call requirement immediately and making it clear that the inspector who is on the scene of the violation, not his superiors, who are far removed, will be the sole judge of (a) whether or not a closing order should be issued under this section and (b) whether or not additional time should be granted to abate a violation. The operator, if he disagrees with the inspector, can seek review of the inspector's action under the appeals procedure established under the statute.

Every day this illegal practice is allowed to continue will jeopardize the health and safety of the miners.

Please provide to me a copy of the Deputy Director's memorandum or other document pursuant to which this practice was instituted.

Sincerely,

KEN HECHLER.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 22, 1970.

Hon. KEN HECHLER,
House of Representatives,
Washington, D.C.

DEAR MR. HECHLER: This is in reply to your letter of August 31 concerning a requirement in the Bureau of Mines for coal mine inspectors to call Washington before issuing an order requiring mine workers to be withdrawn from a mine where there is not an "imminent danger," but where the operator has failed to abate a violation in the "reasonable time" specified by an inspector. Because your letter indicates that copies were sent to Senator Harrison A. Williams, Jr. and Congressman John H. Dent, we are also sending them copies of this reply.

Bureau of Mines inspectors were informed on September 4 that the subject telephone calls are no longer required. A copy of a telegram which was sent by the Assistant Director—Coal Mine Health and Safety to all of the Coal Mine Health and Safety District Managers on September 4 is attached.

We have discontinued this practice because we feel that it has served its purpose in the early days of the law's enforcement when there was some uncertainty among some mine operators and some of our inspectors as to the law's requirements, and because the publicity afforded the practice might encourage some operators to delay the abatement of violations until after a telephone call is made.

We do not agree with your statement that the practice was illegal or that it jeopardized the health and safety of the miners. We recognize that the inspectors have the responsibility and the authority to prescribe "reasonable time" for the abatement of violations, but our officials in Washington also have the responsibility and the authority to inform the inspectors regarding the factors which shall be considered in determining "reasonable time." The practice was not followed where there was an imminent danger to the miners. In such circumstances, our inspectors order the workers to be withdrawn from the mine immediately. In a nonimminent danger situation, the "reasonable time" determination is not so precise as to make inappropriate the inclusion of enough time for a couple of telephone calls to be made.

The purpose of the calls was to reinforce the efforts of the inspectors by calling the attention of top management officials, as well as the managers at the mines, to their responsibilities to achieve compliance with the law. As you know, the new law recognizes more than ever before the necessity for well-defined corporate, as well as at-the-mine, health and safety responsibility. In no case was the judgment of an inspector compromised. In every case, either the violation was abated in a reasonable time or a withdrawal order was issued.

The instructions regarding the telephone calls were issued orally, and consequently, we cannot comply with your request for a copy. They went from the Deputy Director—Health and Safety to the Assistant Director—Coal Mine Health and Safety and from there to the District Managers and the inspectors.

Sincerely yours,

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

SEPTEMBER 4, 1970.

A. C. MOSCHETTI,
Bureau of Mines,
Denver, Colo.:

Effective immediately, inspectors shall no longer be required to call this office before issuing withdrawal orders for failure to abate violations in the reasonable time specified in notices of violations and modifications thereof.

JOHN W. CRAWFORD,
Acting Assistant Director,
Coal Mine Health and Safety.

RÉSUMÉ OF DONALD E. PIERCE

Born: March 17, 1922—Sheridan, Wyoming.

Parents: Frank E. & Katie I. Pierce (deceased).

Married: May 26, 1955—Mary Agnes Pierce.

Children: John M., July 25, 1949 (adopted); Nancy B., November 17, 1950 (married) (adopted), and Robert E., March 15, 1959.

Residence: Elizabeth Park, Shoshone County, Idaho, Box 945, Kellogg, Idaho.

Education: Grades 1–12, Kellogg Public Schools; 1945 (3 months), University Training Center, Florence, Italy.

Military: April 1944, Drafted U.S. Army; July 1946, Honorable Discharge—1st Sergeant; July 1946, U.S. Army Reserve; End September 1943, Active Duty Escort Detachment—WW II—(Graves Registration); June 1949, Discharged 1st Sergeant, and May 1964, Retired U.S. Army Reserve—1st Sergeant.

Employment: Presently President, N.W. Metal Workers Union (Independent) 1969; 1968, Bunker Hill Co.—Lead man—Paint Crew; 1964, President, N. W. Metal Workers Union, Independent; 1949, Bunker Hill Co.—Painter; 1948, U.S. Army 1st Sergeant; 1946, Bunker Hill Co.—Electrolitic Operator; 1944, U.S. Army Sergeant, and 1942, Bunker Hill Co.—Laborer—Box 29, Kellogg, Idaho.

Résumé of Kenneth C. Kellar

Date of Birth: January 6, 1906, Lead, South Dakota.

Education: Lead High School; A.B. degree University of Michigan, 1926; Michigan Law School 1927–28; J.B. degree Stanford University, 1929.

State Senator, South Dakota Legislature, 1930–37–41 (R). Member of South Dakota Resources Commission by gubernatorial appointment (R) 1955–59. Employer-delegate, ILO Tripartite meeting on mining, other than coal, Geneva, Switzerland, November 1956. Western Governor's Mining Advisory Council 1965, 1966. President, Greater South Dakota Association, 1952.

Memberships: Sigma Delta Chi professional journalistic fraternity No. 584 early in the formative days of that organization; 32d degree Mason, Shriner; State Bars of both South Dakota and California; and American Bar Association.

Director: First National Bank of the Black Hills, 1950—to date; Homestake Mining Company; American Mining Congress; and National Association of Manufacturers.

Vice-President: Homestake Mining Company and Chief Counsel at Lead, South Dakota.

During World War II, served in the Ordnance Department U.S. Army and held rank of Major at time of discharge. During assignment to the Pueblo Ordnance Depot at Pueblo, Colorado, 1942–43, as well as Security Officer at that depot, was also the Safety Officer charged with safety responsibilities concerning all personnel both civilian and military, as well as having the fire and guard forces under his jurisdiction.

Résumé of Howard Levi

Hartman, Prof. Howard Levi, b. Indianapolis, Ind., Aug. 7, 24; m. 47; c. 2. Mining Engineering. B.S., Pa. State Col., 46, M.S., 47; Ph.D. (mining eng.), Minnesota, 53. Instr. mining eng., Pa. State Col., 47–48; jr. mining eng., Phelps Dodge Corp, Ariz., 48–49; state mine dust eng., Ariz. State Mine Inspectors Off., 49–50; instr. mining eng., Minnesota, 50–54; asst. prof., Colo. Sch. Mines, 54–55, assoc. prof., 55–57; prof. mining & head dept., PA STATE, 57–63, ASSOC. DEAN ENG., 63– Consult, Minn. Tax Cmn, 51–54; Colo. State Hwy. Dept. 56; U.S. Dept. Justice, 54–57; Am. Peoples Encyclop, 58; U.S. Steel Corp, 60; Standard Oil Co., N.J., 60–; H.E. Fletcher Co, 61–; Ingersoll-Rand Co., 63–; U.S.N.R., 44–46, Lt. (jg). Inst. Min, Metall. & Petrol. Eng. (Mineral Indust. Ed. Award 65); Soc Eng. Ed. Mine dust control; Ventilation; air conditioning; rock drilling, penetration. Business Address: School of Engineering, Sacramento State College, Sacramento, California. Home Address: 2728 Morley Way, Sacramento, California 95825.

Résumé of Robert Nixon Stewart

Born, Bartholomew County, Indiana, March 7, 1929. Married, has one daughter.

Graduate, Franklin College, Indiana, 1951; A.B. in History, Economics and Sociology; Phi Delta Theta Social Fraternity; Phi Alpha Theta History Honorory; and Blue Key Men's Honorary.

U.S. Naval Reserve 1950–1952.

Owner, grain and stock farm in Dectaur County, Indiana. Owner, Stewart Agricultural Limestone Service since 1958. Vice-President of Sales, Cave Stone, Inc., Flat Rock, Ind., Meshberger Stone, Inc., Columbus, Ind., U.S. Aggregates, Inc., Plainfield, Ind.

President, Columbus, Indiana Rotary Club, 1967. Director, Bartholomew County Hospital Foundation 1970. Treasurer, Bartholomew County Library Association, 1969. Director, Franklin College Alumni Council since 1967.

State Chairman, Indiana Republican Central Committee 1963–1965. Delegate, Republican National Convention 1964. Chairman, Indiana Delegation, Republican National Convention 1964. Member, Executive Committee, Republican National Committee 1964.

Recipient, Distinguished Service Award, Columbus, Indiana, Junior Chamber of Commerce, 1965.

Résumé of Hugh C. Matlock

Birth date: March 13, 1907.

Birth place: Delta, Colorado.

Education: High School.

Experience: Worked for Climax Molybdenum Company June 1941 to March 1, 1967.

1944 to 1953, served several terms as President of Climax Molybdenum Workers Union, which is now Local 24410 of the Oil, Chemical, and Atomic Workers Union, AFL–CIO. I am a lifetime member of this Local Union. Served on all Climax Union negotiating committees 1944 to 1953. Handled union grievances and arbitrations 1944 to 1953. All grievances, arbitrations and negotiations were settled amicably 1944 to 1953.

1946 and 1947 was a Representative for International Union of Mine, Mill, and Smelter Workers, CIO. At that time the Climax Union was IUMM&SW Local 801. In 1948, led the movement which resulted in the Climax Union seceding from IUMM&SW because of the communist activities and vote for Wallace for President program of IUMM&SW. In 1949 the Climax Union affiliated with the AF of L as a directly affiliated union known as Climax Molybdenum Workers Local Union 24410, AFL.

Went on Climax management as first line supervisor in 1953.

Established and developed orientation program for new employees in 1953. This program aided in reducing turnover from 266% in 1952 to 166% in 1953, to 46% in 1954.

Held position of Training Manager 1957 to 1960. Set up and developed a "Management Development Program," the scope of which covered Labor Law, Purchasing, Labor Contract Interpretation, Company Policy, Fringe Benefits, Employee Evaluation, Grievance Handling, Employee Motivation, Safety, First Aid, etc. Set up an indentured training program for electricians. Set up a school to train welders. Was a member of American Society of Training Directors.

Held position of Director of Industrial Relations 1960 to 1966. This department included Personnel, Labor Relations, Safety, Training, Protection and Hospital.

Personnel recruited, screened and hired approximately 1,000 new employees per year. Set up and developed a college recruiting program in 1961. Handled negotiations, grievances, and arbitrations for the company. Developed an employee counseling program.

Member of B.N.A. Personnel Policy Forum 1965–1966.

Industrial Relations Consultant to Climax Molybdenum Company from 1966 to March 1, 1967.

Congress of the United States,
House of Representatives,
Washington, D.C., September 14, 1970.

Hon. Walter J. Hickel,
Secretary of the Interior, Department of the Interior, Washington, D.C.

Dear Secretary Hickel: Recently, several petitions have been filed with Interior's Office of Hearings and Appeals pursuant to section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S. Code, Supp. V, 861(c)). The petitions are entitled "Petition for Modification of Safety Standard" and notice thereof was published in the *Federal Register*. A list of those petitions is enclosed.

Section 301(c) of the Act authorizes the Secretary of the Interior to modify "the application of any mandatory safety standard to a mine." Upon receipt of a petition requesting such modification, the Secretary must (1) publish notice of such petition; (2) give notice, in these cases, to the representatives of miners in each of the affected mines, and (3) "cause such investigation to be made" as the Secretary deems appropriate. This investigation must also provide an opportunity for a public hearing at the request of anyone. The Secretary must, upon completion of the investigation and, when held, the public hearing, make findings of fact and issue a decision. The Secretary's decision is subject to judicial review under section 109 of the Act.

The Interior Department's regulations of March 28, 1970 (35 F.R. 5221, 5256), which were adopted without an opportunity for public comment, set forth the form of the petition. These regulations also provide that "the Bureau and any other party affected" must file "an answer with the Examiner assigned to the case" within "20 days after the date of service" (see Sec. 301.33 of regulations).

It is not my intention to go to the merits of any of these petitions. I believe, however, that the Department has committed serious procedural errors in connection with these petitions and the March 28 regulations and the Act. I request that the petitions be dismissed and that the regulations be modified in light of the following comments:

1. As I have said, section 301(c) of the Act directs the Secretary to conduct an "investigation" when a petition is filed and notice thereof given. Yet section 301.33 of the Department's regulations give the Bureau of Mines and the miners only 20 days to file an answer to the petition.

(a) How can the Bureau conduct a meaningful investigation to determine if the petitioner's allegations concerning the application of a standard to its mine are sound from a safety standpoint and file an answer within 20 days, particularly when several petitions cover more than one coal mine?

(b) If the Bureau or the miners fail to meet this unreasonable deadline are they forever precluded from objecting to the petition?

(c) If the answer to (b) is yes, please state what is the basis for imposing such a deadline?

(d) If the answer to (b) is no, please state what basis there is under the regulations for considering answers filed after the deadline without the petitioner's concurrence to an extension of that deadline.

(e) When does the 20 day period begin to run in the case of "other"parties affected who want to file an "answer" but have not been served?

(f) How does such "other party affected" learn who the "Examiner" is with whom he must file?

2. Notice of each petition was published in the *Federal Register* by the chairman of the Board of Mine Operations Appeals in differing form.

The notice of the first petition (Carbon Fuel Co.) contains a detailed statement by the petitioner describing his mining system and setting forth his arguments for modification. No similar statement is contained in any of the other petitions.

(a) Why did the Board fail to follow this notice procedure of the first petition in the case of all of the petitions?

(b) Since the Board adopted a notice procedure in the first petition that informs the public of the modification sought, are not all the other notices defective unless such procedure is also followed in their case?

3. The last paragraph of the first petition provides that an "opportunity is hereby given to interested parties to present information" relative to the petition within 20 days "from the date of publication of this notice" in the *Federal Register*. Also, the paragraph provides for reply comments and for requesting a public hearing within 30 days after such notice. No similar provision is found in the notice published in regard to the other petitions. The notice was filed with the *Federal Register* on June 9, 1970, but not published until June 17, 1970.

(a) Is the term "information" used in the above cited paragraph intended to be an "answer" under section 301.33 of the March 28 regulations?

(b) If the answer to (a) is no, what is intended?

(c) If the answer is yes, hasn't this notice, in effect, extended the time for filing an answer beyond the 20 days permitted under section 301.33 of the March 28 regulations?

(d) If the answer to (c) is yes, what is the basis for granting this extension?

(e) Who are the "interested parties" referred to in the above cited paragraph? Are (i) the Bureau, (ii) the miners, (iii) a State or, (iv) a congressman interested parties?

(f) Why wasn't this paragraph included in all of the other notices published in the *Federal Register*?

(g) Without such a paragraph, aren't the notices defective?

(h) When must one request a public hearing in the case of the other petitions where the notice or the March 28 regulations do not indicate the time for making such a request?

4. The first petition alleges that the application of a particular standard to its mine "would . . . result in diminution of safety to the miners." No similar allegation appears in the case of the other petitions. In fact, unlike the first petition, the other petitioners seek to modify the statutory language.

(a) Why don't the notices of all the petitions contain allegations of what will happen at the particular mine if the standard is applied to it?

(b) Are not the notices therefore defective?

(c) Since section 301(c) merely authorizes the Secretary to *"modify* the application of any" statutory safety standard, are not the petitions defective for seeking, not a modification in application of the standard, but a change in its wording which can only be accomplished under section 101 of the Act?

(d) If the answer to (c) is no, please state why not.

5. Several of the petitions for which notices were issued appear to cover more than one coal mine. Section 301(c) only permits a modification on a mine-by-mine basis.

(a) Are not the notices, and possibly the petitions themselves, defective for not indicating that the petitions are for a modification of a standard on a mine-by-mine basis?

(b) If the answer to (a) is no, please state why not.

6. Please provide copies of (a) the petitions shown on the enclosed list, and (b) the answers filed by the Bureau of Mines.

I appreciate your cooperation in this matter.

Sincerely,

KEN HECHLER.

LIST OF PETITIONS FOR MODIFICATION OF INTERIOR MANDATORY SAFETY STANDARDS

1. Petition of Carbon Fuel Co. (35 F.R. 10035) Doc. No. H70–417.

2. Petition of Armco Steel Corp. et al. (35 F.R. 10383) Doc. No. M70–1.

3. Petition of Kentucky Carbon Corp. (35 F.R. 10383) Doc. No. N70–199.

4. Petition of Armco Steel Corp. et al. (35 F.R. 12290) Doc. No. M70–2.

5. Petition of Armco Steel Corp. et al. (35 F.R. 12290) Doc. No. M71–1.

6. Petition of Armco Steel Corp. et al. (35 F.R. 12291) Doc. No. M71–2.

7. Petition of Armco Steel Corp. et al. (35 F.R. 12291) Doc. No. M71–3.

8. Petition of Carbon Fuel Co. (35 F.R. 12292) Doc. No. M71–4.

9. Petition of Jewell Ridge Coal Corp. (35 F.R. 12292) Doc. No. 70–207.

10. Petition of Jewell Ridge Coal Corp. (35 F.R. 12292) Doc. No. 70–208.

11. Petition of Jewell Ridge Coal Corp. (35 F.R. 12292) Doc. No. 70–209.

12. Petition of Jewell Ridge Coal Corp. (35 F.R. 12292) Doc. No. 70–210.

13. Petition of United States Steel Corp. (35 F.R. 12729) Doc. No. M71–5.

14. Petition of Lanscoal Mining Co., Inc. (35 F.R. 14224) Doc. No. M71–6.

15. Petition of Clinchfield Coal Corp. (35 F.R. 14409) Doc. No. Nort 70–185.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 24, 1970.

DEAR MR. HECHLER: This is in reply to your letter of September 14, 1970, concerning the administration of the Federal Coal Mine Health and Safety Act of 1969. For your convenience, our reply is keyed to the numbered paragraphs in your letter.

I

1. The regulations will be published and made effective at the earliest possible time, without regard to the scheduled hearing in the pending litigation.

2. There possibly remain pending in the litigation issues as to the constitutionality of the Act.

3. Copies of the proposed regulations have been mailed to each coal mine operator and the counsel for plaintiffs have assured the Department that a copy has been personally delivered to the Court. Comments from all interested persons will be received through September 30, 1970.

4. The validity of the March 28, 1970 safety regulations is in issue in the litigation. Republication of the safety regulations should preclude further litigation. No assurances have been received from plaintiffs "that they will not again seek to enjoin enforcement of these regulations."

5. The new safety regulations were not designed to meet the objections of the plaintiffs. Rather, they reflect changes and additions which the Department, in light of experience and further study, feels are appropriate for the effective enforcement of the Act.

6. Revised procedural rules will be published in the very near future.

II

1(a). Only one case is pending before the Board of Mine Operations Appeals. The appeal was filed under section 300.1a(5) by the Solicitor on behalf of the Bureau of Mines from an adverse decision of a hearing examiner in the matter of Freeman Coal Mining Corporation. (Docket Nos. VINC 70–145/6) Oral argument on the case was heard on September 18. A decision will be rendered in the near future.

2(a). The Board cannot deny a party his right to public hearing. Where such hearings are requested they are referred to the Hearings Division of the Office of Hearings and Appeals. All hearings are conducted by examiners appointed under the Administrative Procedure Act. A party may appeal the examiner's initial decision to the Board of Mine Operations Appeals. The Board in its discretion may or may not permit oral argument in determining such an appeal. This in no way affects a party's opportunity for public hearing.

2(b). The Board's power of review is limited to the record certified by a hearing examiner unless a hearing has been waived and the parties stipulate or agree as to the facts. The Board may remand a case to the hearing examiner for the purpose of ascertaining necessary facts at issue.

2(c). See 2(b).

2(d). The Board is authorized to exercise in accordance with existing regulations and procedures of the Department the authority of the Secretary to hear and decide all appeals under the Act. Thus, the Board provides a review independent of the Bureau of Mines and Office of the Solicitor.

2(e). Yes.

2(f). Not Applicable.

3(a). No.

3(b). Names of members of the Board have been forwarded to the Senate. A brief biography of each member is attached.

3(c). No. The primary review functions of the Federal Metal and Nonmetallic Mine Safety Act are under the jurisdiction of the Federal Metal and Nonmetallic Mine Safety Board of Review. In addition, the review function of the Interior Board would be limited to a review of the report of the three man inspection team appointed under section 9 except in rare cases where issues of law are involved. Further, section 18 of the Act states the Administrative Procedure Act does not apply to the making of any findings or orders. Therefore, hearing examiners are not involved under the section 9 review of the Secretary.

3(d). Following is a list of the Board of Mine Operations Appeal Members all of whom are Federal full time employees:

Christian E. Rogers, Jr., Chairman, 55 years of age, formerly an Attorney Advisor with the Bureau of Mines and a Federal employee since 1946;

Emery David Doane, Jr., 50 years of age, formerly Legislative Assistant to Senator Len Jordan of Idaho, Attorney and member of the Bar since 1946;

George V. Allen, Jr., 35 years of age, formerly practicing Attorney with 8 years experience, member of the Bar since 1962;

James M. Day, ex officio member, 40 years of age, practicing Attorney and member of the Bar for 11 years.

3(e). While the safety standards and mining problems under the two Acts are such as to require an array of specialized knowledge and experience, the legal issues arising from the cases will be similar. In addition, it is felt that unless the caseload warrants separate boards, it would be inefficient and costly to the taxpayer to establish a separate board at this time. However, should the caseload develop and increase substantially as to warrant the organization of a separate board, please be assured we shall act accordingly.

We hope that this information is fully responsive to your inquiry.

Sincerely yours,

GENE P. MORRELL,
Assistant Secretary for Mineral Resources.

SEPTEMBER 25, 1970.

Mr. HOLLIS DOLE,
Assistant Secretary of Interior, Department of the Interior, Washington, D.C.

DEAR MR. DOLE: Thank you for your letter of September 22, 1970, in reply to my letter of August 31 concerning the now terminated Department's policy of requiring Federal coal mine inspectors to call Washington officials before issuing closing orders in non-imminent danger cases.

I am puzzled by your statement that while you recognize that the Federal coal mine inspectors have the responsibility under the statute to prescribe "reasonable time" for abatement of health and safety violation and for the issuance of closing orders where such abatement is not completed within that time you also state, "our officials in Washington also have the responsibility and the authority to inform the inspectors regarding the *factors* which shall be considered in determining "reasonable time". It is my understanding that the Federal Coal Mine Health and Safety Act very clearly states that if a violation of any mandatory health and safety standard occurs, which has not created an imminent danger, the

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inspector who is on the scene must issue a notice of violation prescribing the reasonable time for abatement. It is his judgment that determines what that reasonable time is.

The above quoted language, however, indicates that the Department has prescribed "factors" which the inspectors must consider "in determining reasonable time."

Please provide to me a statement indicating in detail what these factors are and whether or not they have been set forth in any publication or manual of the Department or Bureau of Mines and, if so, please provide to me a copy of such publication.

The penultimate paragraph of your September 22 letter states that in every case "either the violation was abated in a reasonable time or a withdrawal order was issued." Please provide to me a list of each instance in which the inspector telephoned Washington since the Act became effective April 1, 1970, and include in that list the names and addresses of each coal mine involved, the date of each violation, the reasonable time prescribed by the inspector, the section of the statute violated and the date of the telephone call and the action taken by Washington officials.

Sincerely,

KEN HECHLER.

BUREAU OF MINES DIRECTOR

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, I have this comment concerning the President's new appointee as Director of the Bureau of Mines, Dr. Elburt F. Osborn of Pennsylvania State University.

I simply want to ask Dr. Osborn personally whether he fully subscribes to the spirit and letter of the preamble to the Federal Coal Mine Health and Safety Act of 1969, which states:

> Congress declares that the first priority and concern of all in the coal mining industry must be the health and safety of its most precious resource—the coal miner.

Dr. Osborn has publicly stated that he plans to enforce the law, and it is a sad commentary that such a statement has to be considered newsworthy because the general practice has been for the Department of the Interior and Bureau of Mines to flout and circumvent the law.

There is a tremendous vacuum of leadership on behalf of protecting those human beings who dig coal in this most hazardous occupation in the United States of America. After all, the new law was passed primarily to protect the lives, health, and safety of coal miners. Those narrow bureaucrats and insensitive coal operators resisting enforcement of the law are desperately trying to turn the clock back to the time when production reigned supreme over protection.

There will be heavy pressure on Dr. Osborn by coal operators who feel the new law is too strict, by those who say the coal shortage is caused by strong health and safety regulations, by higher-ups in the Nixon administration who yield to demands for dangerous mining-as-usual, and by superannuated bureaucrats who shun new ideas for the protection of human beings. The entire attitude in the Bureau of Mines must change to give the benefit of the doubt to the protection of the health and safety of human beings, instead of the traditional bowing and scraping whenever a coal operator puts the heat on to protect high production and high profits at the expense of the coal miners.

WAY DOWN YONDER IN NOSTALGIA, LA.

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, one of the most delightful and nostalgic pieces of journalism that I have seen in many years appeared recently in the Meriden, Conn., Journal and I want to share it with my colleagues.

This article which purports to be about New Orleans cooking but really concerns a man's youth in that romantic old city was whipped up by a skillful creator of verbal soufflé, Gerard Harrington, managing editor of the Meriden Morning Record. Mr. Harrington is no stranger to the House, having served at one time as administrative assistant to a predecessor of mine, J. Joseph Smith, now a Judge of the Circuit Court of Appeals for the Second Circuit. In the introduction to the article Mr. Harrington is labeled as "a past master" of the art of good living. I must question this description since no one who knows Mr. Harrington would apply the adjective "past" to any of his activities and particularly to his getting the maximum enjoyment out of life.

Gerry Harrington's love of good English and his reverence for its effective expression are evident throughout this article. I hope that my colleagues will enjoy it as much as I have. The article follows:

SAMPLING OF NEW ORLEANS CUISINE

(EDITORS NOTE.—Gerard Harrington is Managing Editor of the Morning Record and a past master of the art of good living.)

(By Gerard Harrington)

Of new cookbooks there is no end. Year after year they gush from the presses, and sometimes one wonders why.

In fact it was while wondering why the other day that I hunted out my copy of the most extraordinary cookbook I have ever looked at. I finally found our "Sixth Edition of The Picayune Creole Cook Book," first published in 1901 by The New Orleans Times-Picayune, a newspaper. My edition, the fifth revision, was copyrighted in 1922.

The book has been much handled since 1927, when I bought it in New Orleans, but it's still all there, if a bit battered.

This must be one of the most conscientious and meticulous cookbooks ever compiled. And its editors' regard for the art of Creole cookery is so reverential as to stop just short of worship.

The Creole Cook Book is a great curiosity as we pore over it again, with its scores of recipes for those hybrid but French-oriented dishes that distinguish the New Orleans cuisine.

And at the Menu Section one can only gasp.

In this age of the TV dinner and canned soft drinks, who could imagine this dinner menu "for Thursday?"

Green Turtle Soup. Croutons. Radishes. Celery. Olives. Pickles. Vol-au-Vent of Oysters. Veal Saute aux Champignons. Rice. Squash. Potatoes a la Creme. Roast Mallard Duck. Green Peas. Banana Fritters. Watercress Salad. Asparagus. Peach Pie. Roquefort. Biscuit Glace. Assorted Cakes. Cafe Noir.

Verily the senses reel. This was just an old Thursday dinner.

The recipes for oysters alone fill nine pages. And there are six recipes for frogs.

"Huitres en Brochettes" calls for 3 Dozen Large, Fat Oysters. Thin Slits of Bacon. A Tablespoon of Butter. 1 Tablespoon of Minched Parsley. Sliced Lemon and Olives to Garnish.

And here is what you do:

"Have ready a furnace with redhot coals; take fine sliced breakfast bacon and cut into thin slits about the size of the oyster. Drain three dozen large fat oysters; take a long skewer of silver or metal that is not dangerous, and string it first with a slit of bacon and then an oyster, alternating this until it is filled, the extreme ends terminating with the bacon.

"Then hold the oysters over the clear fire and broil until the edges begin to ruffle, when they are done. In the meantime prepare some drawn butter by placing about a tablespoon in a cup before the fire to melt; place the oysters in a hot dish, alternating with slices of bacon, sprinkle with pepper and salt, and pour over the drawn butter mixed with about one tablespoonful of parsley chopped fine; garnish with slices of lemons and whole olives and serve. The oysters and bacon may be served on the skewers if they are not charred or blackened, but the other is the far daintier method."

There is a great deal of frying in the book, and most of it is with lard. This seems to be still true in New Orleans. Some time ago the proprietor of one of the famous NEW high-priced restaurants told an interviewer that his frying was exclusively with lard, which he called one of the great secrets of New Orleans cookery.

When we lived in New Orleans we went by the book and enjoyed a lot of food cooked in lard. In an experiment of our own, we even cooked a whole medium-sized chicken in a big iron pot of bubbling lard. It was great.

Mention of New Orleans food brings back a flood of memories of a time which has receded with incredible speed.

In the middle twenties in New Orleans, food was cheap and almost always good—in the markets and the restaurants.

Even the smaller eating places served incomparable coffee, and such Creole dishes as chicken gumbo, sweet fresh fish, all varieties of meat. Specialities were saucissons and chaurices (two types of sausage) and jambalaya—made with chopped-up ham, pork, pork sausage and rice, all highly seasoned.

The rice always came up hot and steaming, each grain mysteriously standing alone, firm as a sunflower seed kernel.

Consider the coffee. Most of the brands were blended with chicory. This very subtly strengthened the flavor and gave the coffee a rich, dark-brown color that was good to look at in the cup.

To the New Orleans housewife of that day, making coffee was a ritual of the utmost seriousness. The pot was tall, quite narrow at the top and flaring gradually to a wide base. The spout was a tall curve.

Dark powdery coffee filled a very deep basket with perforations so small that the dripping went on forever, as the wife stood by with her kettle of boiling water, patiently pouring it in by the ounce during the slow seepage.

It was also customary to take half of a small raw potato and spear it on the top of the spout to prevent the escape of flavor in the steam.

We had a few friends in the French Quarter's painting and writing set who introduced us to some eating places never discovered by visiting firemen. In a second-floor spot on Royal Street, one of the specialties was a rabbit stew made with wild rabbits from the French Market, and spiced with garlic, onions and herbs. Good gin drinks were also available.

These hideaways had a kind of family resemblance—plain and informal with red check tablecloths, and an invisible cloud of pungence floating in the air. The ingredients were obviously onion, garlic and assorted herbs. There was always good, cheap, white wine, and as everywhere else in town, crisp French bread. There was no menu; just a couple of specialties of the house. Where you went was what you were going to eat.

Eating almost anywhere was a pleasure because the cooks were serious people and they wanted to win all the ball-games.

Garlic was well understood in New Orleans. Most meat recipes called for one or two cloves of it. A judicious touch of garlic added savor, and the barely perceptible aroma somehow sharpened the appetite.

Scattered through the city, in neighborhoods where working people lived, there were outdoor markets that gave stuff away. At one of them we could pick up a couple of good rabbits for 30 cents. (When we got home we had to pick out the shotgun pellets.) We actually got a loin pork roast for 50 cents. Chickens were cheap, too.

We found a neighborhood eating place that sold only "oyster loaves." The man cut a long loaf of French bread in half, split it vertically and hollowed out the center. This he filled with oysters fried in batter to produce a kind of Creole grinder. In good weather you devoured these at a table in the owner's back garden, or you could take them home and have them with ice cold home brew.

Oyster bars were big in New Orleans. In streets branching off Canal Street toward the French Quarter there were many of them, with white-coated oyster-openers standing behind long bars, springing the shells and serving them by the dozen, ice-cold in the half-shell. Tabasco sauce and horseradish stood by every elbow. These spots were usually crowded, with a constantly changing cast of characters, all talented performers, some of whom were not fazed by three dozen at a time.

Strangely enough, I don't remember the price of the bi-valves.

This all started with a cookbook, which I did not in any case intend to review. I am pleased, however, to reprint one small recipe to illustrate the elegance of the style as well as the delicacy of the dish.

ELDERFLOWER FRITTERS

Beignets a la Fleur de Sureau 1 Cup of Tender White Elder Flowers, 1 Cup of Sugar, White of 2 Eggs, Creole Fritter Batter.

"Select a sufficient quantity of beautiful, tender white flowers, and soak them in the white of two eggs, beaten to a snowy froth, and well blended with white sugar. Dip them by spoonfuls into the fritter batter, and fry according to directions."

And if you ever run across a copy of the book, you might look into Pigeons Broiled a la Crapaudine or Stewed Squirrel (Salmi d'Ecureuil) or even Frogs Saute a la Creole (Grenouilles Sautees a la Creole).

As the editors say, this "is more than a cook book. It is, in fact, the record of a school of cookery, the most savory and yet the most economical ever devised."

TRIBUTE TO WALTER S. SMITH

(Mr. HANSEN of Idaho asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANSEN of Idaho. Mr. Speaker, we were saddened to receive the news last weekend of the death of Walter S. Smith, one of the most widely known and highly respected men on Capitol Hill.

"Smitty" as he was affectionately known to thousands of friends was 74 at the time of his death on October 3, 1970.

Walter Smith's roots were deep both in Idaho and in the Nation's Capital. He not only was a witness to much of the history of our Nation, he was a participant in it. He was born in Washington, D.C. on August 15, 1896. In fact, he was born on Capitol Hill at the site of the present New Senate Office Building where his parents were living at the time. His father, Addison T. Smith, served as a secretary to Senator George Shoup of Idaho. His father was later elected to the Congress from Idaho and became the first Member of Congress to serve the district that it is now my privilege to represent.

Walter Smith spent much of his early life in Idaho, graduating from the Twin Falls High School. He served in the Army during World War I. He later attended the University of Idaho where he met and married Mable Sweeney from St. Maries, Idaho. The couple were married on November 25, 1920, and would have observed their golden wedding anniversary next month.

In 1929 the Smith family moved back to Washington where he was employed by the Washington Gas Light Co. until 1942. A strong interest in public service motivated him to accept a position with the Veterans' Administration at the regional office in Kentucky. For over 6 years he served on a rating board and because of his understanding and compassionate nature he found great satisfaction in aiding veterans and their dependents as well as members of the Armed Forces. This experience led naturally to the later legislative specialty that became his first love.

In 1949 Walter Smith was appointed as a staff assistant to Senator Henry Dworshak of Idaho. Upon Senator Dworshak's death "Smitty" continued to serve his successor Senator LEN B. JORDAN. He specialized in veterans and armed services matters and gained a reputation as one of the most knowledgeable men on that subject on Capitol Hill. His advice and assistance was sought by those not only in Washington but throughout the Nation. It was my privilege to get to know and work with "Smitty" during the 4 years we both served as members of the staff of the late Senator Dworshak.

Walter Smith retired in 1965 but in order to give much-needed assistance following my election to Congress in 1968, he came out of retirement and served as a part-time assistant to me specializing in veterans and armed services matters. Again, he performed outstanding service in this area and added great strength to our staff. His knowledge of Congress and Government and his wide acquaintance were of great value to us in organizing our congressional office. His service continued until a few weeks ago when declining health made it necessary for him to limit his activities.

Walter Smith will be remembered by thousands of veterans and servicemen who are deeply indebted to him for the interest and understanding that characterized his faithful service to them.

He was an active member of the American Legion which presented him with a life membership. He helped to organize and served as the first commander of the Washington Gas Light Post No. 44. He was a member of Phi Delta Theta Fraternity, one of the founders and active members of the Idaho State Society and a member of the Holy Name Society of Blessed Sacrament Church.

Besides his wife Mable, he is survived by a son, Ben J. Smith of Scottsdale, Ariz., Mrs. Martha Whalen of Rockville, Md., Mrs. Patricia Daley now living in Oslo, Norway, and 14 grandchildren.

Mr. Speaker, Walter Smith lived a rich and full life that was devoted to the service of others. He was motivated by a deep love of our country and a determination to help his fellow man. He set a high standard in personal integrity, patriotism, loyalty and service that all Americans can do well to follow. He will be missed by the many who knew and loved him and the legacy that he left will be long remembered and will be a source of inspiration to all of us.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a Nation. The average nonfarm income in the United States is $468 a month compared to $125 a month in the Soviet Union.

FEDERAL EVALUATION POLICY

(Mr. BELL of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BELL of California. Mr. Speaker, I would like to bring to the attention of my colleagues an excellent document recently published in book form by the Urban Institute. "Federal Evaluation Policy" contains the results of Department of Housing and Urban Development-funded evaluation of the Federal Government's ability to evaluate. I believe the recommendations set forth can, if implemented, provide a comprehensive, orderly system which will greatly enhance the possibility of genuinely rational decisionmaking based on program-impact data.

Every committee of this House can benefit from data which allow not only a measure of the effectiveness of a given program, but a comparison with other programs having similar objectives. The impact of such capability on both the executive and legislative functions cannot be overestimated. Few would argue with the notion that much of what we appropriate does not accomplish its intended result. The ability to filter out weak areas and reinforce strong ones can derive only from objective and reliable data—data made possible by new evaluative techniques which have, to a large extent, been borrowed from space technology and applied to domestic programs in a manner which does not lose sight of people as individuals.

"Federal Evaluation Policy" sets forth cogent, step-by-step recommendations on how Government agencies can actually achieve this objective ideal. It is my understanding that many of these recommendations have already been adopted by various Departments. I believe that each of us should further encourage implementation of the institute's recommendations by agencies whose executive functions fall under our respective committee jurisdictions . . . and that we should provide the agencies with the resources necessary to the task. Spending money in this area could be the most economy-minded requirement of authorizing legislation.

Following are excerpts from the summary of recommendations which discuss the roles of the Executive Office, the Congress, and the agencies in the evaluation process:

Federal Evaluation Policy—Analyzing the Effects of Public Programs

(By Joseeph S. Wholey, John W. Scanlon, Hugh G. Duffy, James S. Fukumoto, Leona M. Vogt)

ROLE OF THE EXECUTIVE OFFICE

The Executive Office plays a critical role in the evalution process. It must provide leadership, set priorities among studies and establish a federal evaluation system.

Leadership

S1. The President should continue to emphasize to federal agencies his determination to require and use objective evidence of program effectiveness in drawing up the Administration's budget and legislative program.

Priorities

S2. Both the Council for Urban Affairs and the Bureau of the Budget periodicaly should state the major questions on the effectiveness and appropriateness of existing programs that face the Executive Office.

Federal Evaluation System

S3. The federal government needs a system that provides timely answers to major questions on the effectiveness and appropriateness of existing programs. The Bureau of the Budget should develop such a system. To do so it must have the resources and authority to require, review and approve agency evaluation plans, to prepare overall federal evaluation plans, and to undertake evaluation studies itself.

To accomplish these tasks, the Budget Bureau should first require each federal agency to submit, as part of its annual budget justification, a two- to three-year plan for evaluating each of its major programs.

Second, on the basis of these agency plans and inputs from the White House and Council for Urban Affairs, the Budget Bureau should prepare annually its own comprehensive two- to three-year evaluation plan. For each major federal program (or set of related programs) the plan should show the national program impact and program strategy evaluations required and under way; the questions to be answered and by what dates; and the major assumptions and measures to be used. The Bureau's evaluation staff, in preparing the plan, should solicit the BOB examining divisions and the agencies for indications of priorities and timing requirements.

Third, through the Bureau of the Budget, the President should require initiation of (1) national program impact evaluation that cross agency lines to compare the effectiveness of related programs in achieving common objectives and (2) evaluations of how different federal programs can be used together to create effective local programs. The Bureau of the Budget should attempt to have such evaluation studies accomplished through cooperative efforts of the agencies concerned. If the agencies concerned are unable or unwilling to undertake high priority interagency evaluations of these kinds, the Bureau of the Budget should be given the resources to accomplish the required studies.

A budget on the order of $3 million per year and six staff members should be provided for Bureau of the Budget evaluation activities.

Requests for resources

S4. To give life to an evaluation system, the Administration should request the necessary evaluation staff and funds from Congress for the Bureau of the Budget, agencies and operating organizations. The President also should encourage Cabinet officials to allocate existing staff and money to major evaluation efforts.

ROLE OF THE CONGRESS

Congress, as one of the primary users of evaluation studies, has a large stake in the active support and guidance of a federal evaluation system.

National impact evaluations

S5. Congress should require, every two to three years, program impact evaluations of each major federal program. When appropriate, Congress should specify that such studies be based on follow-up of samples of program participants and members of relevant comparison groups. These evaluations should be done at a level removed from direct control of the program manager—at department level, in the Bureau of the Budget or in an office directly responsible to Congress. Congress should provide funds and staff to design, supervise, execute and disseminate these evaluation studies.

Program strategy evaluation

S6. Congress should make available, in each major program, funds and staff for program strategy evaluation (unless the studies would not be expected to be worth the cost). In particular, in each demonstration or pilot program, Congress should require a statement of the projects planned and a description of the system to be used for comparing the relative effectiveness of the different strategies and techniques to be tested.

ROLE OF THE FEDERAL AGENCIES

The responsibilities of a federal agency can be broadly categorized as follows: definition of program objectives, development of agency-wide evaluation work plans, carrying out comprehensive evaluation efforts, and dissemination and use of evaluation studies. The agency head must provide official support and assign responsibility and resources among various agency offices.

Agency head support

S7. Each department head should establish an evaluation system with adequate staff and money to measure the effectiveness of major agency programs. Evaluation results should be required in the drawing up of budgets and legislative proposals.

S8. Agency heads should require program managers to conduct the evaluation activities necessary to operate their programs effectively and efficiently.

Evaluation plan

S9. At the beginning of each fiscal year, each agency should develop or update a two- to three-year evaluation work plan stating which studies are in progress and which are projected. Approval of this plan should be required at the beginning of each fiscal year as a condition for authority to spend evaluation funds. This plan should be prepared by the agency-level evaluation staff in cooperation with policy makers, budget staff, program managers and operating-level evaluation staffs. Evaluation planning is a continual process: when the agency appropriation is known, the evaluation plan should be reassessed in light of firm budget figures.

S10. Since useful evaluation studies are likely to be costly, agencies should place emphasis on *feasible* studies of *major* programs where the value of the findings would outweigh the costs.

S11. For each of the agency's major programs or groups of related programs, the agency work plans should address the question of priorities among the following tasks:

a. program impact evaluation
b. program strategy evaluation
c. field experiments and experimental demonstration projects
d. project rating
e. local project evaluation
f. monitoring
g. routine reporting
h. cost analysis
i. development of evaluation methodology
j. development and demonstration of incentive systems that would reward project managers for productivity.

ADDRESS OF DAN DANIEL

(Mr. DANIEL of Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DANIEL of Virginia. Mr. Speaker, I include at this point an address I made before the American Legion:

Address of Dan Daniel, Past National Commander of the American Legion and Member of Congress to the Joint Session of the National Security and Foreign Relations Commissions of the American Legion, Portland, Oreg., August 30, 1970

The historian Mark Watson wrote, in discussing the adoption of a draft law just prior to World War Two, ". . . this measure, a vital impulse to the upbuilding of American defenses more than a year before Pearl Harbor, was designed and given its initial push, not by the Army or Navy or White House, but by a mere handful of farsighted and energetic civilians."

That is in the tradition of the American Legion, as served by this National Security Commission and its predecessor committees. It was in 1919 that Frank Knox and Henry Stimson were members of an American Legion committee whose report became the National Defense Act of 1920. America entered World War Two with that Act still in effect, with the same Henry Stimson as Secretary of War and the same Frank Knox as Secretary of the Navy. How different history may have been if the other Legion recommendations had been followed also; in 1919, you called for Universal Military Training; in 1921, for a strong Navy to counter the growing power of Japan, in 1923, for a separate Air Force; in 1925, for fortification of Guam and Hawaii; in 1932 for civil defenses, in 1936, for a mechanized Army with antitank and antiaircraft weapons; in 1939, you warned the nation to watch Japan as well as Europe; in 1941, you fought to retain the draft law; in 1932, you had asked for immediate building of 2500 airplanes, with a yearly addition of 800 planes, and since that was not followed, in 1938 you called for 8000 planes at once plus a yearly addition of 1500, which would have given the nation 12,500 planes on Pearl Harbor day.

In 1939 the aircraft industry had its best year with an output of 5,856 planes, but only 940 of those were military types, and this in spite of General Hap Arnold's statement that in 1938 "we had no Air Force." The Navy, and the rest of the Army in addition to its Air Corps, were in deplorable condition in view of the erupting world war. But that was in spite of your work, and you can rightfully be proud that you had done your best to alert the nation, and that even now in your 51st year you continue to bring a keen selfless devotion and an informed opinion to the problems of maintaining security for the nation.

Your resolution, adopted at the National Convention in Atlanta last year, which sought to bring reason to the consideration of the unfairly maligned "military-industrial complex," deserved even wider dissemination and more thoughtful consideration by everyone than it received. As I speak to you now about the American military, I intend no slight to the industries, large and small, and their millions of employees, who are absolutely vital to meeting the needs of national security. The man who uses the weapons is dependent on the man who makes the weapons, and the American public must never forget that.

But let me talk to you, and through you and your comrades to the nation, about the American military establishment. It is under attack. Loud and raucous voices seek to discredit the United States by trying to bring disrepute upon the men who either *give* their lives, or *spend* their lives, defending the nation in military service.

From hippie coffee houses to the halls of Congress, catch-phrases, emotion laden words, twisted facts, false allegations and complete misrepresentation are used in an attempt to discredit the American military man.

The vast majority of American citizens, those of varying political persuasion as well as those indifferent to politics, those of economically deprived and socially handicapped groups as well as the affluent and privileged, those with little or no formal education as well as those of intellectual attainment, need and will welcome some simple facts and common-sense reasoning on this subject.

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Reasonable words will not appeal to those extremists who seek to disrupt, uproot, or overthrow the Government of the United States. Some of them follow the plea of people like the folk-singer, Joan Baez, who calls for a revolution by what she terms non-violent means. She wants others to follow the example of her husband, David Harris, now in Federal prison for draft evasion, in refusing to support the Government by obeying its laws. There is room for others in prison, and some of us would like to see the laws applied more expeditiously to those lawless slackers who refuse to serve their country when ordered.

Then there are those whose twisted emotions and deranged minds have led them to defy society and the law which protects society by taking up arms against the forces of law and their fellow citizens. Like the murderous bomb-makers of the Weatherman faction of the Students for a Democratic Society, their course is suicidal, and they well know it. It is not repression for society to protect itself. We make here no appeal to unreasoning and irrational persons who deny the nation and its historic fulfillment of the national hopes of mankind for freedom and advancement.

Today I speak to the question of men of intellectual pretension, those with the responsibility of elective positions, those whose words seek to influence the climate of national opinion, those charged with the education of the youth of the nation.

I charge them with intellectual dishonesty when they constantly deplore the influence of "military experts" in relation to military forces, equipment, strategy, and tactics. Why is it they never question the influence of economists on fiscal and monetary policies. Why don't they question the influence of "urban experts" on the growing problems of our cities? Why haven't they questioned the influence of experts in science and medicine on the questions of food and drugs, or pollution? Why don't they deplore the influence of management experts on computer use or corporate operations?

It is our military leadership which they constantly seek to denigrate and degrade. Such efforts cast unwarranted aspersions on the great military men of American history, such as Pershing, MacArthur, Eisenhower, Arnold, Nimitz, Halsey, and Vandenberg, for it is in the great tradition of such men that our present military leadership carries on. Such attacks not only deny a fair evaluation of present military leaders, they viciously downgrade the magnificent junior officers now in service. These young men, from our service academies and ROTC programs, not only enter operational commands and do a tremendous job in the air, on the seas, and in the jungles of Southeast Asia. They not only man the deterrent forces in the United States and within the NATO command, they also are certainly as well educated as their civilian peers and undoubtedly as thoughtful and informed about the issues and challenges confronting our Nation in a troubled world.

Note the disproportionate number of service academy graduates who have been chosen as Rhodes scholars. One of these, for example, was Pete Dawkins, U.S. Army, who was so brilliant at West Point that it has been said, not entirely in jest, that if he and MacArthur had been classmates, MacArthur would have been second-in-command to Dawkins in the Corps of Cadets. An "All-American" in football at the Point, Dawkins also "won his blue" in soccer at Oxford. A man with guts to match his brain, Dawkins while a company commander in Vietnam called for an American airstrike right on his own position when he and his men were overrun by enemy forces.

It is with pride that I defend these men of the American Armed Forces, from Chiefs of Staff, to the largest single group of officers who are lieutenants and captains ranging from about 22 to 30 years of age, to the eighteen year old enlisted men pushing their way through jungle with rifles while toting ninety pound packs. In my book, they are better men than those who seek to discredit them.

The fundamental principle in the conduct of war is the selection and maintenance of the *objective*. The objective is selected as a matter of policy, and as one senior officer told his staff in the Pentagon: "Never forget that national policy is determined by the Administration. So we respond to those who criticize the military because air power did not end the war by bombing North Vietnam with a simple, well-known fact: that fact is that the President of the United States decided NOT to destroy the government of North Vietnam. That government exists today, not because it was able to defend itself, but simply by virtue of a policy decision made by the civilian head of the government of the United States, who is also, by virtue of his office, the Commander-in-Chief.

The planes of the U.S. Navy and the U.S. Air Force had almost uncontested supremacy of the air over North Vietnam. No one with the slightest knowledge of military operations has any reason to doubt that the government, the war-making power, and the people of North Vietnam could all have been destroyed, and without the use of other than conventional weapons.

Even in the last days before the bombing halt, when the Soviet Union and Communist China had supplied tremendous aid to North Vietnam, American planes hit their targets. A relative handful of men, as military forces are reckoned, tied down three-quarters of a million North Vietnamese by American bombing of the North.

General "Chappie" James spoke to you yesterday. When he returned in December 1968 from a tour as a tactical fighter pilot, he said in a press conference at the White House: "Speaking of the Hanoi, Haiphong area and around there . . . we have standing orders that if you cannot positively identify your target, you don't strike. You bring the weapons all the way back. That is a tough thing to do when you have fought flak and stuff to get all the way up there." He further said he didn't hear any fighter pilots asking, "Why am I here?" "All we want to know is 'Where the hell are they at?' "

American pilots hit their targets, restricted as those targets were, and they cut down the flow of men and materiel to be used against our troops and allies in South Vietnam. We lost planes; we lost men, some of them among those suffering inhuman treatment now in the "Hanoi Hilton", and the war will not be over, peace will not be reached, until the North Vietnamese repatriate them. We "spent" the equivalent of a good air force, but the job assigned was done. The civilian-directed policy was carried out in a professional manner and no criticism of our military forces on this matter can be fair.

Another criticism of the military is based on the procurement of weapons systems. You are well aware that the Congress, following full hearings and adequate consideration, repeatedly authorized and appropriated funds for an advanced bomber; you also remember that civilian leadership in the Executive branch refused to proceed with the program provided by the legislature. You know that civilian leadership chose the source for the F-111 and decided on a bomber version, the FB-111. You know that a former Secretary of Defense directed the "Total Procurement Package" on the C-5, about whose costs so much has been said, much of it obviously uninformed or biased. The "Cheyenne" helicopter program, nuclear powered naval vessels, especially aircraft carriers, a whole generation of aircraft such as the B-1, the A-X, the A7, the F-14 and F-15, the ABM system. The Poseidon and Minuteman-Three missiles, and many others, are known to many Americans primarily as matters used to criticize the military.

The military responsibility is to identify and describe an operational requirement, based on assigned missions. Take the F-111 for an example. "The basic goal set for this aircraft at the outset of the program (included) a severalfold increase in tactical striking power without sacrifice of the characteristics required for deployment flexibility such as long, unrefueled ferry ranges, short takeoff and landing distances, and operation from forward bases with high reliability and ease of maintenance." It's all-weather and night capability were to exceed anything ever before demanded of avionics and aeronautics. The contractor given the Herculean task of producing such a plane was chosen by a civilian Secretary of Defense. Regardless of the reasons for the Secretary's choice, the contractor faced the necessity for building an aircraft beyond the "state of the art," that is, that no one knew how to build, but that required new techniques, new scientific applications, and all this not only from the prime contractor but also from thousands of sub-contractors. It is pointless here to express a judgment on the awarding of the contract; that has been publicized, investigated, and discussed for over seven years, and the end is not yet in sight. It is important here, however, to take a look back and to stress two aspects: first, the civilian Secretary of Defense, Mr. McNamara, made the two crucial decisions, each of them contrary to the military advice he received; second, the civilian secretary's approach was based on a premise foreign to military responsibility. He decided on "commonality", in essence, one plane to meet the widely differing needs of both the Navy and the Air Force, and he imposed that decision on the military. He decided on a prime contractor contrary to the recommendation, made four different times, by the Source Selection Board composed of five general and flag officers; contrary also to the Air Council composed of ten generals and admirals; contrary to the Chief of Staff of the Air Force, to the Chief of Naval Operations, and their subordinate commanding generals and admirals with responsibility on the matter.

History has already indicated that the decision for a common plane for both services has been superseded, and so it would be fair to say that thereby McNamara lost what has been termed his "$1 billion gamble."

As to the second of those two decisions, regardless of whether one agrees with and approves it or thinks it one of the historic blunders, one fact still remains unquestioned: it was not a *military* decision, and praise or blame for it do not belong to the military leadership.

The second aspect, that of the contrast between the basic premise of the civilian secretary which was that cost was of more importance than performance, and the approach of the military, which was that performance must be good enough to meet operational requirements if a weapons system is to be procured, is even more important. It is more important because the basis of decision continues to affect our planning and procurement.

"Cost effectiveness" has an impressive sound. Everyone will agree that to be effective at a lower cost is desirable in all realms of life. But is there really gold behind the glitter of that phrase? Take one of McNamara's own illustrations to prove his point; he pointed out that to improve the speed of a jet fighter plane from mach 2 to mach 2.1 gives only 5% more speed and might cost 20% more. That sounds sensible, but can be gross stupidity if the lack of 5% more speed means losing 100% of the battle.

Allow no one to tell you that military men are not cost conscious. Certainly they make mistakes and miscalculations, who doesn't? One of the most widely issued and repeated instructions in the armed forces is "we must do the job at the lowest possible cost." But in the national defense, "doing the job" must have priority over cost, not ony in dollars, but also in equipment and in the lives of American servicemen.

No wonder that a curent Chief of Staff recently wrote:

"The lessons of history are clear. They tell us that weakness in the face of strength possessed by potential conquerors is an open invitation to disaster. Is strength worth its price? The British author Oscar Wilde has said that a cynic is a man who knows the price of everything and the value of nothing. In America today, a growing number of responsible people are taking long, hard looks at the costs of national defense. They are asking, 'Is it worth the price?' It is a valid question. But the correct answer must necessarily lie somewhere within the answer to another question. 'What is the value of liberty?' "

Civilian control of the military has been a fact of life in America ever since George Washington relinquished command of the Continental Army to become President. The National Security Act of 1947 imposed still another layer of civilian control by establishing the Department of Defense. The Defense Reorganization Act of 1958 so expanded the powers of the Secretary of Defense that, under McNamara, official briefing from his office referred to him as "the highest ranking military man in the Pentagon." He was, in truth, a civilian, appointed to a civilian office, but no one in the military had the authority to rebuke or correct him; only the President of the United States was in a position to do so with effect. Subsequent Secretaries of Defense may have a different approach to the management of the Department, but the precedent has not been destroyed or repudiated. When the press says "Pentagon," the impression of many people is "military," and we can benefit the nation, as well as the members of the armed forces, by making the proper distinction between the layers of civilian bosses, distinguished public servants though they may be, and the men in uniform who follow the policy decisions of appointed civilians. And this is particularly true on the procurement of weapons, systems. Let's help the American public to place the credit, or the blame, where it belongs.

From newest recruit to the Chairman of the Joint Chiefs of Staff, all military men are subject to the Uniform Code of Military Justice. Your National Security Commission has had a special committee give study over the years to this specially designed body of law, and I congratulate you for your attention to it.

Now that a tide of publicity and propaganda has swept over the public in regard to forthcoming courts-martial, those who would weaken or destroy the military establishment seek to discredit it by attacks on the system of military justice. Writers and speakers of the rebellious Left lead such attacks.

A strong case can be made, by those familiar with both the military justice system and the civilian justice system, for judging the military system far superior to the civilian system in protecting the rights of the accused. Five features of the military system are important in this regard.

First, military accused have a far greater right to counsel than their civilian counterparts. The military member's right to counsel applies not only to felonies but to misdemeanors tried at special court-martial—the second of the three types of military courts. If a member is referred to the less serious one officer summary court, where he has not absolute right to counsel, he can refuse trial in the forum and go to trial at special court-martial, where he will be represented by counsel. In the civilian system, providing defense counsel is an acute problem, not always satisfactorily resolved.

Second, the military system has an elaborate procedure prior to trial by General court-martial for investigation of the charges to determine whether trial is appropriate. Quite often, based on this investigation, charges will be dropped or handled by lesser disciplinary means. This investigation is far more protective of the defendant's rights than is a civilian grand jury proceeding. A grand jury meets without the defendant present; the defendant is not allowed to present evidence or to cross-examine witnesses and it is usually shrouded in tight secrecy. In the military investigation, the defendant is present, represented by counsel, can cross-examine all witnesses and can call witnesses on his behalf. This provides the accused and his counsel with all the basic information about the government's case, so that if the charges do go to trial, the accused is better able to defend himself.

This procedure is closely tied to the right of the accused to a speedy trial, which is not only guaranteed by the 6th Amendment but by the Uniform Code of Military Justice. The Code demands that immediate steps be taken to try him or dismiss the charges and release him from any restraint imposed. By comparison, speedy trial protection offered a civilian is feeble. A comparison of the military and federal cases makes that abundantly clear.

Third, the military system has a comprehensive procedure for review of both the findings and the sentence after a trial. This includes review by the convening authority, and an automatic review by the Court of Military Review for most significant cases. During these reviews, the sentence as well as the finding of guilty may be reduced or dismissed, but cannot be increased. This possibility for quick review shortly after trial is also an important protection which is not found in the civilian system. The Court of Military Review is a panel of highly qualified judges in Washington. Beyond their review, a case may be further reviewed by the Court of Military Appeals which consists of three civilian judges appointed by the President with the advice and consent of the Senate. That court has the power of discretionary review of many classes of the more serious court-martial cases, and is required by law to review certain other cases.

Some of you may well be saying to yourselves that while the case for military justice is convincing as stated, it doesn't serve alone to enable you to give proper consideration and handling to resolutions which are before you. The General Counsel of the Department of the Army, Robert E. Jordan III, a distinguished man from my own Fifth District of Virginia, in a recent speech said this, and I commend it to your attention:

"Many people these days ask me for advice as individual citizens, concerning how they should proceed in making judgments about the Son My Matter. My advice to them, which may be helpful to you and others with similar concerns, is that judgment be reserved until the military justice system has had an opportunity to function through the normal trial process. The trials in question will be public trials. The evidence will be produced in accordance with the traditions and rules of the Anglo-American justice system. Both the prosecution and the defense will be given an opportunity to present their sides. I believe that when the American people become fully familiar with the evidence in these cases, many of them will want to reassess judgements which may have been hastily made on the basis of incomplete and sometimes inaccurate accounts which have appeared in the news media."

The recent acquittal in one of the Marine murder trials in Vietnam gives substance to that statement.

You can be certain that no one of the Armed Forces ever loses sight of the important *positive* requirement of military justice, which includes obedience to lawful orders and regulations. What a tremendous thing this is, when we realize that thousands, yea millions, of Americans have repeatedly risked their lives, aware of the risk, and all too often given their lives to carry out commands.

As Americans should be, you are concerned both with the rights of the individual and with maintaining proper military discipline. So are the United States Army, Navy, Marine Corps, and Air Force. So are the President and the Congress of the United States. Together we shall protect them, and we shall also protect ourselves from becoming the unwitting tools of those who care nothing for the nation, its military, or the rights of individuals.

Another unfair attack upon the military is based on manpower policies, especially the draft. Since almost 10 million young men and women have entered the enlisted ranks of the armed forces in the past fifteen years, and it is estimated that over half of these were either drafted or volunteered because of the draft, it is to be expected that many people equate the draft with the military. The fact is that the draft laws, and their extensions, have been enacted by the Congress and signed into law by the President. The military calculates its need for men, and the kind of men and skills needed to carry out assigned missions. How they are obtained must take second-place in military thinking.

As I stated before, the American Legion called for Universal Military Training in 1919. It kept working toward that goal, and renewed the effort after World War Two. Our departed comrade, National Commander Louis Gough, had a special committee hard at work preparing a nationwide effort. The concept met a sudden death when General Eisenhower repudiated Universal Military Training in a presidential campaign speech at Baltimore. Your work to improve manpower policies continued, however, and with pleasure we acknowledge the many years of effort by Judge Granville Ridley of Tennessee. It is ironic to remember that educational groups were in the forefront of opponents of UMT. How different may have been the condition on American college campuses in the last few years if UMT had been in effect for the last twenty years.

At this time, it would be audacious to predict what changes will be made in manpower policies, outright repeal of the draft laws, a modified draft, or an all-volunteer force. Your interest and study will continue and you will contribute to governmental thinking and the attitude of the American people. But you will also recognize that the *need* for men is military and the *decisions* as to how they shall be obtained will continue to be *civilian* decisions. Here you can raise your voice against those who seek to discredit the military for the inherent inequities and uneven civilian administration of a civilian draft law.

Abraham Lincoln said: "With public opinion, nothing can fail; against public opinion, nothing can succeed." It is deplorable that just now, when dissident and destructive elements seek to undermine the Armed Forces, unreasonable and non-factual attacks have been made in both houses of the Congress on the information activities of the military.

Defense is the biggest business in America; supported by the tax dollars of our citizens, it can be said to have 200 million stockholders. Far more important to millions of Americans than the dollars spent are the investment of years of the lives of sons and daughters, brothers, fathers and husbands. The safety of the nation and its people, as well as the people and national existence of all free countries, depend upon the ability of the Armed Forces of the United States to deter aggression or to win a war. As a former Chief of Staff put it:

"A highly motivated military force is essential to superior combat capability—the kind of capability that can deter aggression. Equally essential is a resolute and self-possessed citizenry. Constant esprit de corps and determination in a military force and calm resolution in the citizenry are founded on understanding. And understanding of the ever-changing situation is dependent upon information—truthful, current information."

Americans need more, not less, information on the armed forces. That is why I speak to you today. The News Editor of the Washington Bureau of the New York Times, Robert Phelps recently said to military information people:

"This country must believe in its armed forces, they must believe that you are good men and true, and you are good for your country. I know that you are, but you are in serious trouble with large numbers of people in this land . . . The only way to win the hearts and minds of these people is to tell the truth, even when it hurts."

An outstanding reporter from the Baltimore Sun added that "the press probably could not cover the government without the assistance of information people."

Maybe the distinguished Senator who made the attack on military information activities last December needs to have pointed out to him that practically all the material he used in that assault was furnished him by the very people he sought to discredit. It would appear that the Senator not only wishes to usurp the President's constitutional authority to make foreign policy, but that he wants public discussion confined to his point of view. Rather than the fine military men who addressed this Commission in the past two days, maybe the Senator would have chosen for you to hear Abbie Hoffman, Eldridge Cleaver, or Norman Mailer. That seems not unlikely since he objected to the appearance of General William C. Westmoreland, Chief of Staff, U.S. Army, before the American Legion convention in New Oreans on September 10, 1968. Of the fifty-nine appearances of General Westmoreland, where the Senator thought he could "promote a military point of view," twenty-five were strictly military related audiences, ten were veterans affairs, and the others were "public", such as the annual meeting of the Boy Scouts of America.

You are correct, of course, in thinking that such an attack doesn't deserve to be dignified by a reply, that General Westmoreland and the other Chiefs are due commendation for their adding to their heavy responsibilities and duties in an effort to serve the American public. But I refer to it as symptomatic of the multitudinous, and sometimes nefarious, methods being used in an attempt to discredit the American military man and then to deny him even the right to defend himself and his service to the nation.

Contrast that, if you will, with the American Forces Radio and Television Service. On a twenty-four hour a day schedule, seven days a week, the service beams to our servicemen around the world the news *as received* from the Associated Press, United Press International, American Broadcasting System, Columbia Broadcasting System, Mutual Broadcasting System, Group W, and Metromedia news sources. They hear Huntley & Brinkley, (or did until Huntley retired), Walter Cronkite, Howard K. Smith. They hear "Meet the Press," "Face the Nation," "Issues and Answers." This is great, because our servicemen are Americans, and Americans like to hear all sides and make their own judgments.

This is what we ask for the American military man. Let him be judged by the people of his nation; but let him be judged on the facts. Where there is innuendo and misrepresentation, let the true be blazened forth. The judgment of his fellow citizens then will be that the composite American military man is magnificent, worthy today as he has been throughout our history, to be trusted not only with our lives, but with that which is even dearer to us, our country.

ROGERS WELCOMES PRESIDENT'S ENDORSEMENT OF CLEAN WATER BILL

(Mr. ROGERS of Florida asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ROGERS of Florida. Mr. Speaker, I was delighted to see the President's endorsement of legislation which I have introduced dealing with the prohibition of ocean dumping and banning of hazardous materials into the Nation's waterways.

I am, however, disappointed that the administration's spokesman could not endorse these proposals last week when the Committee on Fish and Wildlife Conservation held hearings on legislation reflecting the ideas which the President endorsed yesterday.

The ideas expressed in the President's message are already embodied in the legislation discussed last week. Unfortunately, Dr. Leslie L. Glasgow, Assistant Secretary of the Interior for Fish and Wildlife and Parks, was unable to comment fully or properly on the points included in the bills which were discussed.

Indeed, he repeatedly asked that the committee defer action on these proposals.

I think that now that the President has expressed his approval of these concepts we can move quickly to pass them into law. Chairman DINGELL has already announced that our committee will meet after the recess to pass a strong bill. The President's support will only act to speed our efforts.

Mr. Speaker, as you know, the bills under consideration to clean up our marine environment and preserve the life web associated with it establish areas where no dumping would be allowed. It would also establish standards for the various materials now permitted to be dumped and would establish a three-step timetable after which all effluents dumped would be treated in a manner of at least tertiary nature.

There are many other provisions in this bill, but basically what we are saying is we are going to create clean water areas by prohibiting the dumping of sewage and hazardous materials into our waterways, and ultimately by 1976, we will return clean water to all of our waterways.

I certainly welcome the President's endorsement of this legislation as I am sure the members of the committee do.

RESOLUTION ON DISMISSAL OF PROFESSIONAL AIR TRAFFIC CONTROLLERS BY THE FEDERAL AVIATION ADMINISTRATION

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, members of this body would have to think long and hard to recall any instances in the history of our country in which career Government employees protected by the standards of civil service were treated as unconstitutionally and unfairly as through the deplorable actions of the Federal Aviation Administration in purging officials of the Professional Air Traffic Controllers Organization (PATCO).

There are facts which may have justified such action in the judgment of certain officials in the case of the air traffic controllers "sick-out" which has resulted in the firing of 58 controllers who were among the leadership of PATCO.

The dispute arose over certain conditions in air traffic control systems which parties to the dispute agreed were serious and required attention. Certain officials of FAA in hearings on problems confronting the Federal Aviation Administration in the development of an air traffic control system for the 1970's, testified before the Committee on Government Operations in July of this year, substantiating the concern of the controllers and, I quote from page 7 of those hearings, Union Calendar No. 623:

> It is the committee's conclusion that the lack of adequate airport capacity will continue to place a heavy strain on the nation's air traffic control system throughout the 1970's. . .

Controllers most concerned and most exposed to the strain dramatized their concern, not for monetary or selfish reasons, but for their concern as human beings for public safety and the need for

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more Federal priority in alleviating the conditions.

It will be of interest to my colleagues to know that the decision in a hearing before the U.S. Department of Labor, just published this week, calls for a maturing relationship between the Federal Aviation Administration and the controllers through collective bargaining. The decision states:

> This should not be begun in an atmosphere of acrimony, with one party wearing the black hat of an outlaw. The recent postal situation is a good example of looking to the future. There, the consequences would have been catastrophic had the unions been branded outlaws, and their representation status challenged or undermined. The resolution of that dispute turned on each side's recognition of the representative status of the other, irrespective of the antecedent events.

I urge my colleagues to join me and the cosponsors in the House Resolution No. 1234 on the dismissal of professional air traffic controllers by the Federal Aviation Administration, introduced Monday, October 5, 1970.

In conclusion I would like to say that fortunately the outrageous action of the FAA has not gone unnoticed by those persons in the public media who view the total situation from an objective third-party viewpoint. As an example, I point to the recent article by an eminent writer, Charles Whited, for one of the country's most outstanding newspapers—the Miami Herald—which dramatizes from a local level the effect such precipitous acts have on destroying the careers of dedicated public employees.

The article referred to follows:

Air Traffic Controllers Feel Ax

(By Charles Whited)

Three senior air traffic controllers in Miami have been fired by the Federal Aviation Administration for leading last spring's "sick-out" here protesting air safety practices.

Another 48 Miami men have spent the past six months sweating out suspension notices, and some actually were suspended briefly for their part in the work slowdown last March.

The firings are part of a nationwide series of actions by the FAA.

In all, the huge agency dismissed 58 leaders of the Professional Air Traffic Controllers Organization who staged the coast to coast protest for better work conditions and better relations with the FAA.

Ironically, the action is aimed at some of the most experienced men who direct airplanes in the crowded skies.

The three PATCO leaders dismissed were—Edgar Hunt, Gerald L. Seeley, and Robert C. Eberst—each had about 14 years of FAA service, plus military experience.

Eberst held three sustained superior performance awards from the FAA and had developed several new systems for traffic control. Hunt also had superior performance ratings and, in the Miami International Airport Tower, was acting crew chief and assistant training officer. All three men are Air Force veterans of the Korean War. The basic charge against them: they went on TV news broadcast urging public support and condemning existing air traffic control manpower and methods as inadequate.

Going to bat for the ousted men in Washington is U.S. Representative Claude Pepper, who introduced a House resolution calling for suspension of the firings pending an investigation.

Pepper said that apparently the FAA is "violating its own standards" by dismissing the men on the basis of allegations only, and without a hearing.

Air traffic controllers across the country complained at the time that tremendous pressures under which they work jeopardized public safety in the air.

Miami area manager Richard Skully of the FAA was vague Tuesday when I asked him about the local firings, even to the point of declining to name the three controllers dismissed here.

Q—Mr. Skully, who were the men dismissed?

A——I'd rather not say. I am not in a position to give out that information.

Q—What are the charges against them?

A—I don't have that before me at this time. I don't know. I'd have to look at each individual case.

Q—Was the action ordered by higher authority, or did it originate in the local FAA office?

A—I was the deciding officer in the cases.

Eberst, Hunt and Seeley had been instructed by their attorney not to discuss the matter for fear of jeopardizing their appeals.

Other air traffic controllers would talk, however, provided they were not identified by name.

"Money wasn't the issue. It never was", said one. "These guys all over the country, stuck their necks out for a principle. Now they are getting hacked to pieces for it.

"I'd say to risk a $20,000 a year job on principle is being pretty idealistic. The government is being cruel to some of its most dedicated employees.

"There were 200,000 postal workers who said, blatantly, 'strike!' Nothing happened to them. Nobody was fired. The Government Printers Union, same thing. But air traffic controllers? That's something else again."

The shock of the dismissals was described this way:

"For an air traffic controller, there's no other employer but the FAA. When he's fired, he's destroyed."

RESOLUTION OF MIAMI DOWNTOWN LIONS CLUB

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, we all agree that one of the great needs to curb crime in the country today is to speed up the trial of criminal cases. I believe that the goal of every court in the country, except in exceptional cases, should be to provide trial for a person charged with a crime within 60 days after the charge is filed. The Miami Lions Club has just passed a strong resolution supporting the Chief Justice of the United States in this view and I commend this resolution to my colleagues. The subject of speeding up the trial of criminal cases is one of the primary objectives of the House Select Committee on Crime of which I am chairman.

The resolution follows:

Resolution

Whereas, the Downtown Lions Club of Miami is most concerned about the increasing rate of crime in our City and County, and

Knows that one reason crime flourishes is because of delays and the needs for reform in our criminal court systems, and

Knows that justice delayed is justice denied, and

Knows that every American is threatened when justice is threatened, and

Knows that one of the genuine deterrents to criminal conduct is bringing on criminal cases for trial within sixty days after indictment, and

Knows that the thinking and recent proposals of United States Supreme Court Justice Warren E. Burger are along such lines;

Now, therefore,

Be It Resolved that the Downtown Lions Club of Miami, by unanimous vote, approves and backs the thoughts expressed above, and those of Mr. Chief Justice Burger, and it is further

Resolved that a copy of this Resolution be sent to every civic club in the greater Miami area, as well as to all local governments.

GENERAL LEAVE TO EXTEND REMARKS IN THE RECORD ON THE SUBJECT OF THE PRESIDENT'S ADDRESS OF LAST EVENING

Mr. STEIGER of Wisconsin. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to extend their remarks in the Record on the subject of the President's address last evening.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Blanton (at the request of Mr. Boggs), for today, on account of official business.

Mr. Flynt (at the request of Mr. Boggs), for today, on account of official business.

Mr. Jonas (at the request of Mr. Arends), for October 6 and balance of week, on account of illness in family.

Mr. Hagan (at the request of Mr. Hamilton), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Steiger of Wisconsin) and to include extraneous matter:)

Mr. MacGregor, for 10 minutes, today.

Mrs. Heckler of Massachusetts, for 10 minutes, today.

Mr. Hogan, for 30 minutes, today.

Mr. Gerald R. Ford, for 5 minutes, today.

Mr. Price of Texas, for 30 minutes today.

Mr. Cramer, for 30 minutes, on Monday, October 12.

(The following Members (at the request of Mr. Stokes) and to include extraneous matter:)

Mr. Giaimo, for 10 minutes, today.

Mr. Boland, for 10 minutes, today.

Mr. Koch, for 30 minutes, today.

Mr. Rarick, for 10 minutes, today.

Mr. Vanik, today, for 15 minutes, to revise and extend his remarks and to include extraneous matter.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Gude to extend his remarks prior to the vote on the Moorhead amendment today.

Mr. Rivers (at the request of Mr. Daniel of Virginia) in his remarks in the Committee of the Whole on the bill H.R. 19590.

(The following Members (at the request of Mr. Steiger of Wisconsin) and to include extraneous matter:)

Mr. Wyman in two instances.
Mr. Gude.
Mr. Wold.
Mr. Chamberlain.
Mr. Button in two instances.
Mr. Burke of Florida.
Mr. Goodling.
Mr. Landgrebe.
Mr. Scherle.
Mr. Broomfield in two instances.
Mr. Schwengel.
Mr. Hogan.
Mr. Carter.
Mr. Schmitz.
Mr. Talcott in two instances.
Mr. Whitehurst.
Mr. Anderson of Illinois in two instances.
Mr. Horton in 11 instances.
Mr. Price of Texas in two instances.
Mr. Roth in two instances.
Mrs. May.
Mr. Bow.
Mr. Hosmer in two instances.
Mr. Fish in two instances.
Mr. Collier in three instances.
Mr. Duncan.

(The following Members (at the request of Mr. Stokes) and to include extraneous matter:)

Mr. Philbin in two instances.
Mr. Annunzio in eight instances.
Mr. William D. Ford in two instances.
Mr. Symington.
Mr. Friedel in three instances.
Mr. Fisher in three instances.
Mr. Eilberg in two instances.
Mr. Wolff.
Mr. Ichord in two instances.
Mr. Minish in three instances.
Mr. Pryor of Arkansas.
Mr. Bingham in six instances.
Mr. Rooney of New York in two instances.
Mr. Abbitt in two instances.
Mr. Meeds in two instances.
Mr. Pickle in six instances.
Mr. Rarick in three instances.
Mr. Bolling in two instances.
Mr. Dorn.
Mr. Rogers of Florida in five instances.
Mr. Pepper in two instances.
Mr. Fulton of Tennessee in three instances.
Mr. Kastenmeier in three instances.
Mr. Zablocki in two instances.
Mr. Ryan in five instances.
Mr. Murphy of New York.
Mr. Smith of Iowa in four instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 60. An act to create a catalog of Federal assistance programs, and for other purposes; to the Committee on Government Operations.

S. 3389. An act to provide for the protection, development, and enhancement of the public recreation value of the public lands; to the Committee on Interior and Insular Affairs.

S. 4090. An act to preserve and promote the resources of the Connecticut River Valley, and for other purposes; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 140. An act to authorize the establishment of the Andersonville National Historic Site in the State of Georgia, and for other purposes;

H.R. 4172. An act to authorize the Secretary of the Interior to provide financial assistance for development and operation costs of the Ice Age National Scientific Reserve in the State of Wisconsin, and for other purposes;

H.R. 9548. An act to amend section 15–503 of the District of Columbia Code with respect to exemptions from attachment and certain other process in the case of persons not residing in the District of Columbia;

H.R. 10837. An act to provide for the conveyance to Pima and Maricopa Counties, Ariz., and to the city of Albuquerque, N. Mex., of certain lands for recreational purposes under the provisions of the Recreation and Public Purposes Act of 1926;

H.R. 12960. An act to validate the conveyance of certain land in the State of California by the Southern Pacific Co.;

H.R. 13125. An act to amend section 11 of the Act approved February 22, 1889 (25 Stat. 676) as amended by the Act of May 7, 1932 (47 Stat. 150), and as amended by the Act of April 13, 1948 (62 Stat. 170) relating to the admission to the Union of the States of North Dakota, South Dakota, Montana, and Washington, and for other purposes;

H.R. 14685. An act to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes;

H.R. 15012. An act to authorize a study of the feasibility and desirability of establishing a unit of the national park system to commemorate the opening of the Cherokee Strip to homesteading, and for other purposes;

H.R. 17575. An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1971, and for other purposes;

H.R. 18410. An act to establish the Fort Point National Historic Site in San Francisco, California, and for other purposes;

H.R. 18776. An act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes; and

H.J. Res. 1396. Joint resolution to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1971.

ADJOURNMENT

Mr. STOKES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until Monday, October 12, 1970, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2448. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the annual report of the Corporation for calendar year 1969, pursuant to section 17(a) of the Federal Deposit Insurance Act; to the Committee on Banking and Currency.

Received From the Comptroller General

2449. A letter from the Comptroller General of the United States, transmitting a report on opportunities for improvement in the administrative and financial operations of the U.S. District Courts; to the Committee on Government Operations.

2450. A letter from the Comptroller General of the United States, transmitting a report of management improvements needed at the U.S. Armed Forces Institute; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DAWSON: Committee on Government Operations. Report on environmental pollution: discharge of raw human wastes from railroad (Rept. No. 91–1581). Referred to the Committee of the Whole House on the State of the Union.

Mr. DAWSON: Committee on Government Operations. A review of steel purchased for the commercial barge construction program in Vietnam (Rept. No. 91–1582). Referred to the Committee of the Whole House on the State of the Union.

Mr. DAWSON: Committee on Government Operations. Commercial (Commodity) import program for Vietnam (followup investigation) (Rept. No. 91–1583). Referred to the Committee of the Whole House on the State of the Union.

Mr. DAWSON: Committee on Government Operations. Civilian medical program for Vietnam (followup investigation) (Rept. No. 91–1584). Referred to the Committee of the Whole House on the State of the Union.

Mr. DAWSON: Committee on Government Operations. Regulation of cyclamate sweeteners (Rept. No. 91–1585). Referred to the Committee of the Whole House on the State of the Union.

Mr. DAWSON: Committee on Government Operations. Military supply systems: lessons from the Vietnam experience (Rept. No. 91–1586). Referred to the Committee of the Whole House on the State of the Union.

Mr. PATMAN: Committee of Conference. Conference report on H.R. 15073 (Rept. No. 91–1587). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on S. 3586 (Rept. 91–1588). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on S. 2846 (Rept. No. 91–1589). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 17570 (Rept. No. 91–1590). Ordered to be printed.

Mr. YOUNG: Committee on Rules. House Resolution 1245. Resolution for consideration of H.R. 16443, a bill to amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government (Rept. No. 91–1591). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 1246. Resolution for consideration of H.R. 18884, a bill to amend section 8c(6) (I) of the Agricultural Marketing Agreement Act of 1937, as amended, to permit projects for paid advertising under marketing orders, to provide for a potato research and promotion program, and to amend section 8e of the Agricultural Marketing Agreement Act of 1937, as amended, to provide for the extension of restrictions on imported commodities imposed by such section to imported raisins, olives, and prunes (Rept. No. 91–1592). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of North Carolina:

H.R. 19649. A bill to direct the Secretary of Commerce to conduct a comprehensive study and investigation of the allocation of frequencies for telecommunications for the purpose of formulating an allocation system to achieve the maximum use of the frequencies for such communications; to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH:

H.R. 19650. A bill to amend chapter 83, title 5, United States Code, to eliminate the reduction in the annuities of employees or Members who elected reduced annuities in order to provide a survivor annuity if predeceased by the person named as survivor and permit a retired employee or Member to designate a new spouse as survivor if predeceased by the person named as survivor at the time of retirement; to the Committee on Post Office and Civil Service.

By Mr. FRASER:

H.R. 19651. A bill to establish an Office of Consumer Affairs in the Executive Office of the President and a Consumer Protection Agency in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes; to the Committee on Government Operations.

By Mr. GALIFIANAKIS (for himself, Mr. ANDERSON of Tennessee, Mr. ANNUNZIO, Mr. BROCK, Mr. MILLS, Mr. MOLLOHAN, Mr. PRICE of Illinois, Mr. PUCINSKI, Mr. RAILSBACK, and Mr. SPRINGER):

H.R. 19652. A bill to amend the Public Health Service Act to encourage physicians, dentists, optometrists, and other medical personnel to practice in areas where shortages of such personnel exist, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HECHLER of West Virginia:

H.R. 19653. A bill to provide additional penalties for the use of firearms in the commission of certain crimes of violence; to the Committee on the Judiciary.

By Mr. ICHORD (for himself, Mr. WHITEHURST, Mr. BROOMFIELD, Mr. MCKNEALLY, Mr. CHAPPELL, Mr. BURLISON of Missouri, Mr. WYDLER, Mr. PIRNIE, Mr. TALCOTT, Mr. BIAGGI, Mr. NICHOLS, Mr. MONTGOMERY, Mr. HICKS, and Mr. PRICE of Texas):

H.R. 19654. A bill to make it a Federal crime to kill or assault a fireman or law enforcement officer engaged in the performance of his duties when the offender travels in interstate commerce or uses any facility of interstate commerce for such purpose; to the Committee on the Judiciary.

By Mr. McDADE:

H.R. 19655. A bill to amend chapter 73 of title 10, United States Code, to establish a survivor benefit plan; to the Committee on Armed Services.

By Mr. MIKVA (for himself and Mr. OLSEN):

H.R. 19656. A bill to carry out the recommendations of the Presidential task force on women's rights and responsibilities, and for other purposes; to the Committee on the Judiciary.

By Mr. PERKINS:

H.R. 19657. A bill to amend the Flood Control Act of 1936 to authorize relocation work on the Levisa Fork of the Big Sandy River and for other related purposes; to the Committee on Public Works.

By Mr. PUCINSKI:

H.R. 19658. A bill to amend the Federal Water Pollution Control Act in order to authorize the Secretary of the Interior to incur obligations for construction grants under section 8 of such act, and for other purposes; to the Committee on Public Works.

By Mr. BINGHAM:

H.R. 19659. A bill to amend the Public Health Service Act in order to provide for the establishment of a National Health Service Corps; to the Committee on Interstate and Foreign Commerce.

By Mr. CRANE:

H.R. 19660. A bill to amend the Labor-Management Reporting and Disclosure Act of 1959 so as to prohibit the use for political purposes of certain funds collected by labor organizations from their members, and for other purposes; to the Committee on Education and Labor.

By Mr. FRASER (for himself, Mr. OLSEN, and Mr. ROSENTHAL):

H.R. 19661. A bill to protect the rights of employees of air carriers involved in mergers; to the Committee on Interstate and Foreign Commerce.

By Mr. GONZALEZ:

H.R. 19662. A bill to provide greater protection for customers of registered brokers and dealers and members of national securities exchanges; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRINGTON:

H.R. 19663. A bill to amend the Fish and Wildlife Coordination Act to provide additional protection to marine and wildlife ecology by requiring the designation of certain water and submerged land areas where the depositing of certain waste materials is prohibited, to require the establishment of standards with respect to such deposits in all other areas, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mrs. HECKLER of Massachusetts:

H.R. 19664. A bill to increase the investment credit allowable with respect to facilities to control water and air pollution; to the Committee on Ways and Means.

H.R. 19665. A bill to amend the Small Business Act to encourage the development and utilization of new and improved methods of waste disposal and pollution control; to assist small business concerns to effect conversions required to meet Federal or State pollution control standards; and for other purposes; to the Committee on Banking and Currency.

H.R. 19666. A bill to amend the Internal Revenue Code of 1954 to authorize an incentive tax credit allowable with respect to facilities to control water and air pollution; to encourage the construction of such facilities, and to permit the amortization of the cost of constructing such facilities within a period of from 1 to 5 years; to the Committee on Ways and Means.

By Mr. VANDER JAGT:

H.R. 19667. A bill to require the Secretary of Transportation to prescribe regulations governing the humane treatment of animals transported in air commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. COLLINS:

H.R. 19668. A bill to make it a Federal Crime to kill or assault a fireman or law enforcement officer engaged in the performance of his duties when the offender travels in interstate commerce or uses any facility of interstate commerce for such purpose; to the Committee on the Judiciary.

By Mr. FULTON of Pennsylvania:

H.R. 19669. A bill to amend section 4(c) of the Small Business Act and sections 302 and 304 of the Small Business Investment Act of 1958; to the Committee on Banking and Currency.

By Mr. FULTON of Tennessee:

H.R. 19670. A bill to suspend the duties on certain bicycle parts and accessories until the close of December 31, 1973; to the Committee on Ways and Means.

By Mrs. HECKLER of Massachusetts:

H.R. 19671. A bill to provide benefits for sufferers from byssinosis; to the Committee on Education and Labor.

By Mrs. MINK (for herself, Mr. BROYHILL of North Carolina, Mr. BURTON of California, Mr. DENT, Mr. HALPERN, Mr. HARRINGTON, Mr. MORSE, and Mr. MOSS):

H.R. 19672. A bill to amend title II of the Social Security Act to provide in certain cases for an exchange of credits between the old-age, survivors, and disability insurance system and the civil service retirement system so as to enable individuals who have some coverage under both systems to obtain maximum benefits based on their combined service; to the Committee on Ways and Means.

By Mr. WHITEHURST:

H.R. 19673. A bill to provide that small-businesses concerns providing training under Federal manpower program shall receive credit therefor when bidding on Federal contracts; to the Committee on the Judiciary.

By Mr. BROCK:

H.J. Res. 1397. Joint resolution authorizing the President to declare November 11 (also known as Veterans Day) as a National Day in Support of U.S. Prisoners of War in Southeast Asia; to the Committee on the Judiciary.

By Mr. FULTON of Pennsylvania:

H.J. Res. 1398. Joint resolution authorizing the President to proclaim the period October 25 through 31, 1970, as Law Officers Appreciation Week; to the Committee on the Judiciary.

By Mr. FISH:

H. Con. Res. 776. Concurrent resolution regarding persecution of Jews in Russia; to the Committee on Foreign Affairs.

By Mr. GROSS:

H. Con. Res. 777. Concurrent resolution expressing the sense of the Congress with respect to sanctions against Rhodesia; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROCK:

H.R. 19674. A bill for the relief of Jesse McCarver, Georgia Villa McCarver, Kathy McCarver, and Edith McCarver; to the Committee on the Judiciary.

By Mr. OTTINGER:

H.R. 19675. A bill for the relief of Amy Estelle Sebro; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

617. The SPEAKER presented a petition of Orville L. Cain, Grass Valley, Calif., relative to redress of grievances, which was referred to the Committee on the Judiciary.

XUM

EXTENSIONS OF REMARKS

VIEWS AND RECOMMENDATIONS CONCERNING EXTENSION OF SECTION 8 OF FEDERAL WATER POLLUTION CONTROL ACT

HON. JACOB K. JAVITS

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Wednesday, October 7, 1970

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the Extensions of Remarks material relating to legislation proposed to amend and extend section 8 of the Federal Water Pollution Control Act, to finance the construction of waste treatment facilities.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 7, 1970.

Hon. EDMUND S. MUSKIE,
Chairman, Subcommittee on Air and Water Pollution, Senate Committee on Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We are writing to express our views and to make recommendations with regard to legislation proposed to amend and extend Section 8 of the Federal Water Pollution Control Act, to finance the construction of waste treatment facilities.

I. THE NATIONAL NEED

Various estimates have been made to establish the need for facilities to clean up our waters:

A. *State Investment Intentions,* as of December 31, 1969:

This estimate, issued by the Department of the Interior early this year, totals $10.2 billion for a five-year period, 1970–1974 (See Enclosure 1.) The Department has since defined this total as the "need" to "close the gap" over a four-year period. On the basis of this estimate the Department proposed legislation for Federal commitments of $4 billion and State/local commitments of $6 billion.

Comments: It should be noted that these figures are probably understated, since investment intentions have little relationship to need. The figures on "intentions" submitted by the States were based upon a number of factors, including:

(1) The amount of funds the States estimated would be available to finance the Federal share of the costs;

(2) The amounts States were willing to prefinance for the Federal government, in view of the then-estimated shortage of Federal funds.

States which could not, or would not for one reason or another, prefinance any portion of the Federal share, obviously pegged their "intentions" to the Federal funds they believed would be available to share in the cost of the projects.

Other States pegged their "intentions" on the amounts they estimated they would have available to prefinance for the Federal government. We will explain later that many States have now halted or slowed down their efforts to prefinance any portion of the Federal share of the cost.

(3) Willingness of the States to provide a basic grant to their municipalities to assist them in financing their systems.

As of September 10, 1970, only 16 States and the four Territories had active matching grant programs, thus making them eligible for the maximum of 50/55 percent Federal grants (*see Enclosure 2*).

Without State matching programs, the Federal share is limited to 30/33 percent of the cost.

A dozen or so other states are now taking the necessary steps to provide matching grants, as indicated in Enclosure 2. If the FWQA approves these plans, those states will also be eligible for 50/55 percent Federal funds.

Meanwhile, in the past three fiscal years, only 174 projects have been financed at the 50/55 percent level, out of a total of 2,650 grants approved for those years through June 30, 1970. (see Enclosure 2).

(4) Inflationary costs of treatment facilities: In estimating costs the Administration used the post-war period average rate of 3.5 percent a year increase. Since costs for these facilities are increasing at the rate of 12 percent a year in the Northeastern states, we believe it would be more realistic to use the average increase since 1966, when the truly "national" cleanup program got under way.

B. *National League of Cities and U.S. Conference of Mayors:*

As you know, these organizations estimated in July that between $33 billion and $37 billion would be needed over a 6-year period. The estimate, however, included such things as separation of storm and sanitary sewers, which are not eligible for Federal assistance under the current Act.

At the same time, the estimate did not include funds prefinanced by the States and their municipalities. The total committed for prefinancing by December 31, 1969 was $794 million, and this had increased to $1.34 billion by June 30, 1970.

If this rate of increase continues, a total of approximately $3 billion will have been prefinanced by June 30, 1971, and this figure should surely be included in the total "need."

To provide Federal funds for 50 percent of the average of the NLC estimate would require $3 billion a year for six years, plus a commitment to reimburse about $3 billion that will have been prefinanced by June 30, 1971.

II. NEEDS OF SELECTED STATES

A. *New York State:*

New York has projected a $1.5 billion program for fiscal year 1971. Since the State is eligible for 55 percent financing from the Federal government, the State's requirement for Federal funds for this year alone is $825 million.

In addition, the State's prefinancing commitments through June 30, 1970, totaled $775 million, to bring the total Federal funds required by next July 1 to $1.6 billion.

The Federal funds that will be available, however, are estimated at $182 million (*see Enclosure 5.*)

For the future, the State's needs will be based upon such things as rising costs due to higher treatment requirements in many locations, i.e., tertiary treatment for oxygen demanding substances and nutrient removal, inflation, the inclusion of separation of storm and sanitary sewers as an "eligible" cost, and so on.

B. *Maryland, Virginia, and the District of Columbia:*

On September 18 the Federal Water Quality Administration approved a $530 million expansion of the Blue Plains plant, which is the principal facility serving the Washington Metropolitan Area. A promise was made that 55 percent of the cost would be provided by the Federal government if Maryland, Virginia, and the District of Columbia could provide their 45 percent share of the costs.

The Federal share of $291.5 million, or 55 percent of the cost of the project, must come from FWQA allocations to Maryland, Virginia and the District of Columbia. Yet, Federal funds available through next June 30 to those three jurisdictions total only $65.5 million. (*Enclosure 6* gives a breakdown of the allocations to the three jurisdictions.)

Even if the three jurisdictions agree to commit their entire Federal allocations of $65.5 million to the project, this is only 12.2 percent of the cost, rather than 55 percent for which the project is eligible. Therefore, the only avenue the three jurisdictions can take if they wish to go ahead with the improvement of the Blue Plains plant is to agree to prefinance the remaining 42.8 percent of the cost for the Federal government, or $226 million, along with $238.5 million for the "local" share of 45 percent. This is a total of $465 million that must be raised by the three jurisdictions through high-cost municipal bond issues.

Their alternative is to postpone upgrading of the plant for several years until adequate resources are available to finance it.

C. OTHER STATES

In July of each year the States are required to submit for FWQA approval its plans for the current fiscal year.

We have requested a tabulation of these plans and will advise you as soon as it is available.

Meanwhile, we believe the example we have cited above could probably be repeated many times in most of the other States.

III. METHODS OF FEDERAL FINANCING

The proposal in the Administration bill, S. 3472, would enable the Federal government to enter into "grant agreements" with municipalities. This is a landmark approach, and we strongly favor its adoption.

Fixed authority to enter into "grant agreements" will provide assurances to municipalities they will be able to move ahead at a steady pace with their projects, and will enable States to plan their programs much earlier than under the present system. Most importantly, this proposal would assure that financing would be available for the amounts authorized each year.

Because of the long lead-time between obligations and expenditures, funds committed for waste treatment works would have little effect on current inflationary trends.

We believe Congress is prepared to accept the principle of "grant commitment" authority to finance construction of anti-pollution projects. This was evidenced by a recent House vote of 327 to 16 to provide $3.1 billion for grant commitments for urban mass transit over the next five years.

Such authority would be a tremendous breakthrough in relieving the uncertainties that surround the present method of financing, which makes long-range planning nearly impossible.

Finally, we believe it is politically unrealistic to expect a State to project its "needs" over a number of years if the means of financing those needs remain so uncertain. Indeed, the uncertainty over Federal funds tends to inhibit the States from projecting their true needs for longer than the immediate future.

Recommendation.—We recommend authorizations for contract authority consistent with future needs, and the ability of the States to effectively use the money to achieve the best and most efficient results.

IV. APPROPRIATIONS, AND THE EFFORTS OF THE STATES

Although Congress appropriated $800 million for fiscal year 1970, only $214 million was originally allocated to the States. It was not until February of this year that the balance of $586 million was allocated to the States.

XUM

Assistant Secretary Klein provided a table to Congress to show a total of only $365 million had been granted by June 30, 1970 (*see Enclosure 8*). This table was used to reflect the "poor showing" by the States, and as "proof" that no more than $1 billion could be used in fiscal year 1971.

No mention was made that over two-thirds of the allocation had been available for only four months, leaving insufficient lead-time for the States to process applications for FWQA approval by June 30.

Secretary Klein provided another table, indicating on June 30 there were 524 applications being processed by the FWQA, with a total grant entitlement of $344 million (*see Enclosure 9.*) However, no explanation is given to indicate there is a vast difference between "grant entitlement" and the amount the actual Federal grant is to be.

For example, New York's grant entitlement is shown as $103,371,860, or 55 percent of the cost. This is correct. But, since New York receives only an average of 7 percent of the cost from the Federal government, the actual grant anticipated by New York for these applications is $13 million, and the State prefinances the balance of the "entitlement."

Similar calculations can be made for other states by using the "Grant Percentage Range of Awards," as shown in Enclosure 2.

Tables such as these, therefore, are practically worthless in attempting to determine the effort being made by the various states to resolve their pollution problems. It is a gross misrepresentation of the facts to provide such tables as these to Congress to prove the "poor showing" by the States, and to "prove" that not very much is really needed for the next year.

For example, we would like to review the effort that is being made by Connecticut:

The State's allocation for fiscal year 1970 was $11,117,600, and a total of $1,610,661 in Federal grants had been made by June 30, 1970. Indeed, this does appear to be a "poor showing."

But when a combination of tables is analyzed, we find the State had three applications pending FWQA approval on June 30. The total cost is $9.5 million, and the grant entitlement is $4.7 million.

It would therefore *appear Connecticut* had a balance of $4.8 million from its Federal allotment for Fiscal year 1970 to help pay for additional facilities.

The actual situation in Connecticut is quite different, however. The Federal grant range used for projects in Connecticut is .4 to 9.3 percent, rather than 55 percent for which the State is eligible. To provide for the difference between the grant range and the eligibility of 55 percent, Connecticut prefinanced $29 million for the Federal government between January 1 and June 30, 1970. This brings the Federal obligation for Connecticut's projects to approximately $30 million, with the State and its municipalities paying their share of $25 million. Connecticut's program thus was $55 million in six months, and not a mere $1.6 million.

Similar comparisons can be made to reflect the massive effort being made by other States. Many States have struggled to pay a large measure of the Federal share of the cost, and they have therefore moved ahead far more rapidly than these tables indicate.

It does a disservice to all parties involved to rely on tables that do not accurately reflect the true situation.

V. PREFINANCING/REIMBURSEMENT

We have already mentioned a number of problems encountered due to prefinancing by the States of a portion of the Federal government's share of the cost.

Seldom has any issue been more misunderstood or more subject to misinterpretation. It is an exceedingly complex mechanism, but without it—and the promise the Federal Government would honor its obligation—progress over the past four years would have been a fraction of the effort that has been made.

We believe, however, the time has now arrived when this process should be reviewed. No form of government—local, State or Federal—can make adequate plans for the future if they must deal with the uncertainties that exist with this authority.

It was not until September 18, when Assistant Secretary Klein finally responded to requests for figures showing the total prefinancing commitments by the States that a clear picture began to emerge to indicate the financing problem faced by the States is much more severe than we had been led to believe (*see Enclosure 4.*)

The total committed by 34 states and the District of Columbia by June 30, 1970 was $1.34 billion. This is a 69 percent increase over the amounts that had been committed six months previously. If this rate continues, commitments will total nearly $3 billion by June 30, 1971.

It appears a number of States are postponing many new projects until the full Federal share of the cost is available. An analysis of State totals for December 31, 1969 and June 30, 1970 (*see Enclosure 7*) indicates the following developments over the past six months:

1. 10 States have used current allotments to reduce their prefinancing commitments and eligible reimbursables by $50 million.

2. 4 States have halted prefinancing, but had not at that time (June 30) used current allotments to reduce eligible reimbursables.

3. 5 States, while increasing their prefinancing commitments, had used current allotments to reduce eligible reimbursables.

4. 17 (16 States and the District of Columbia) have increased their prefinancing commitments. At the same time, their eligible reimbursables have increased.

Also, it is apparent several of these 17 States have "slowed down" considerably in their prefinancing efforts.

5. 18 (15 States and 3 Territories) have not prefinanced. They apparently are building only those facilities that can be financed with the full Federal share of the cost.

It should be readily apparent that many States have observed the experience of some of the large industrial States, such as New York, Connecticut, Maryland, Michigan, New Jersey and Ohio, to justify "no more prefinancing."

Consequently, there has been a massive slowdown in the National effort that could have been made. Many States are using current allotments to reduce prefinancing commitments, and to limit approval of new projects to those for which the full Federal share can be committed.

The experience of New York could be cited as justification for these and future delays.

Although the lion's share of the National prefinancing debt is for commitments by New York, it is clear other States are or will soon face the same financing dilemma as New York.

To illustrate the dilemma New York faces, we are enclosing a table of New York's program commitments as planned through June 30, 1971, and the financing that has been approved for these commitments (*see Enclosure 10.*)

New York will have obligated by next June 30 nearly all the funds that have been authorized to meet its commitment of a 30 percent basic grnat for all projects ($988 million will be committed by June 30, 1971 from $1 billion bond authority approved in 1965).

In addition, the State will be $678 million in the red for underwriting a portion of the Federal share, for which $750 million in "First Instance" authority was approved by the State Legislature last winter.

Consequently, New York will be unable to continue its anti-pollution program at its present pace unless there is a far larger Federal commitment to share the costs, both past and future.

As we understand legislation that has been proposed, however, New York and other States would be expected either to continue to prefinance a portion of the Federal share for an indefinite period, or to slow down its program to the level full Federal funding would permit.

The State's allocation for fiscal year 1971 is estimated at $182 million (*see Enclosure 5.*) If the State stood absolutely still and did not approve a single new grant after June 30, 1970, and if allocations remain at the $182 million level, it would take over four years' waiting for allocations adequate to fill its previous years' commitments of $775 million prefinanced for the Federal government.

To an extent this same dilemma is already being faced by other States—whether to continue to prefinance with an oblique promise of reimbursement, to halt their progress entirely in order to "catch up" with their prefinancing commitments, or to slow down their programs and approve only those for which the full Federal share is available.

At the present rate of Federal funding (*see Enclosure 5*) it would take 3½ years for Connecticut to wait for adequate Federal allocations just to meet its prefinancing commitments, 12 years for the District of Columbia, 3 years for Maryland, 2½ years for Michigan, and nearly a year for New Jersey, Tennessee and Wisconsin.

To halt progress entirely or to slow down progress is an almost unthinkable course, but we must face the fact these courses are being taken or considered now by a number of States, as noted earlier.

And who can really fault them? While observing the Federal government payment of only 7 percent of the cost of cleaning up the Hudson River, if other States wait long enough the 21 other major rivers in the Nation will be cleaned up with the Federal government picking up 55 percent of the tab.

After passage of the 1966 Federal Act, which authorized grants up to 55 percent of the cost regardless of the size of the projects, cities were able to move ahead to resolve their pollution problems. New York and a few other states moved quickly on the assumption the Federal government would eventually pay its share of the costs.

New York voters approved a $1 billion bond issue, under which a municipality qualifies for a 30 percent basic State grant, and the State in addition guarantees underwriting an additional 30 percent to prefinance the minimum Federal share. The municipality pays the balance of 40 percent, of which half or more is for underwriting the remainder of the Federal share.

Since it was obvious early this year that $1 billion would be inadequate to finance both the State's basic grant and up to 30 percent for the Federal government, the New York State Legislature approved an additional $750 million to underwrite the Federal government's share until such time as Federal payments are made.

In order for New York and a few other states to proceed over the past five years at the fastest possible rate with their antipollution efforts, they found it necessary to spread the available supply of Federal funds over the greatest possible number of projects. As a result, Federal commitments for large projects in New York have been as low as one percent of the eligible cost. The remainder must be paid through borrowings at very high rates of interest.

As a result of this decision, New York State expects to win its anti-pollution battle by 1972 or 1973.

Prefinancing of the Federal share was a short-term expedient, with the long-range solution entirely dependent upon the Federal government honoring its commitment to pay its full share of the cost.

This commitment has not been honored, and as a result the debt to New York and its municipalities was $775 million by June 30, 1970. This debt will increase to nearly $1.5 billion by the end of the current fiscal year if New York carries out the program it has projected.

Huge debts are also owed to 34 other States, and these totals are shown in *Enclosure 3*.

The day of reckoning in New York is fast approaching. In addition to commitments by the state to underwrite a portion of the Federal share, as noted previously, New York's municipalities have committed $403 million to underwrite the remaining portion of the Federal government's share. They must sell bonds to finance not only their own 15/20 percent share of the cost but also for 20/25 percent they have underwritten for the Federal government. The interest on the bonds to pay the Federal share will never be redeemed by the State or its municipalities. This is a considerable additional cost.

It is clear that methods proposed to reimburse the States and municipalities are entirely dependent upon Congressional appropriations. The outlook for adequate appropriations for this purpose is, we believe you will agree, quite uncertain and unpredictable.

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When the Public Works appropriation bill for fiscal year 1971 was recently before the Senate, for example, we were advised that an amendment to provide an additional $250 million for sewage treatment construction grants would be vetoed, since such an increase would mean an unacceptable increase in spending and thus contribute to inflation. Besides, we were told, because of the "poor showing" by the States for the previous year, additional funds were not needed. It was impossible to refute this claim until we recently received the prefinancing figures from Secretary Klein.

Funds for these facilities are or will be spent at other levels of government. Consequently, the overall impact on the national economy of $250 million to reimburse the States would have been minimal.

What is really at issue, it seems to us, is whether or not the Federal government will meet its obligation to pay not only the funds that have been prefinanced by the State and municipalities, but will meet its obligation to pay the full Federal share for projects in all the States. To do otherwise would slow down the anti-pollution efforts in the Nation to an unacceptable point.

We do not believe the taxpayers of New York, the New York State Legislature or the State Administration—which have approved such vast sums in the past—would agree to carrying the brunt of the Federal government's obligation beyond the present indebtedness.

If the State does not go deeper into debt, New York's antipollution effort would be reduced to one-eighth of its current rate, since Federal financing now provides only an average of 7 percent of the cost, whereas the State is entitled to 55 percent under the Act.

The Public Works appropriation bill for fiscal year 1971 earmarks $200 million for States having commitments to prefinance Federal funds or for those states in greatest need. Tables from the Federal Water Quality Administration indicate the allocation for New York will be $111,660,000 (*see Enclosure 5*.)

It has been suggested the States use these additional funds for reimbursement of projects they have prefinanced for the Federal government. To do so, however, would only shift the debt from one place to another on the books, if construction of projects is to proceed and the States continue to prefinance a large portion of the Federal government's share of the cost.

New York, for example, plans to use these additional funds to increase the Federal commitment for the very large projects it has planned for this fiscal year, such as a $395 million project in New York City, from one percent to perhaps five percent. The amount the State would be obliged to commit for prefinancing would be correspondingly decreased. (*See Enclosure 10* for New York's Program commitments.) This plan will permit New York to carry out its $1.5 billion program projected for fiscal year 1971.

RECOMMENDATIONS

We do not believe it is in the National interest to write legislation that would encourage States to slow their antipollution efforts.

We believe it would be in the National interest to abolish the present system of prefinancing, but only if it were replaced by the following:

1. Authority to commit Federal funds adequate to fulfill the full Federal obligation to all states, beginning with fiscal year 1972.

Cost.—We recommend $12½ billion over a five-year period in Federal grant commitment authority, of which $2½ billion would be available for each of five consecutive fiscal years beginning with the fiscal year ending June 30, 1972, to remain available until obligated.

If separation of storm and sanitary sewers is included as an eligible item (as recommended on page 14), the cost would increase to at least $15 billion over a five-year period, with $3 billion available each year.

2. Authority to commit Federal funds to assume State and local prefinancing commitments for the period July 1, 1966 through June 30, 1971.

Cost.—As noted earlier, $3 billion will be required to liquidate these commitments.

We therefore recommend your Subcommittee approve an amendment along the lines of the attached, to assure full Federal funding of projects for the period July 1, 1966 through June 30, 1971.

The intent of this amendment is to fulfill the following purposes:

1. A commitment for the Federal government to pay its full share of the cost of projects under construction or on which construction has been completed, or those which have been approved by the Federal government, but for which commitments for permanent financing have not been made.

2. A commitment for the Federal government to pay its full share of the cost of projects, including debt service, for which commitments for permanent financing have been made, over a period of up to, say, 40 years.

The majority of the bond issues in New York State are for 30 years, but some municipalities have gone to the maximum of 40 years permitted in order to reduce annual payments and interest on unpaid balances.

At the present time, municipalities are financing construction through bond anticipation notes, but they are required to sell permanent bonds within 5 years. Many municipalities have elected to sell bond anticipation notes—at a higher rate of interest than is available under permanent financing—while awaiting Federal redemption of its promise to pay the full Federal share of the cost.

It would, of course, be useful to many States, including New York, if the date of June 30, 1966 in this section of the Act could be changed to be more retroactive to an earlier date. It was during the two years previous to 1966 that the law authorized only 30 percent of a project, up to a maximum of $1,200,000 for individual projects and up to $4,800,000 for multi-municipal projects. Such a change would, for example, provide additional Federal assistance for a multi-million dollar project in Brooklyn.

This amendment, along with adequate commitment authority to assure financing of the full Federal share of all projects beginning in fiscal year 1972, will assure the antipollution program will go forward at the greatest possible speed.

Authorization carryover.—As noted earlier, we believe Congress is ready to accept grant commitment authority. However, if the final bill retains the present authorization/appropriation route, we propose that authorizations for any fiscal year from which appropriations have not been made be carried over to each succeeding fiscal year.

If such authority were now available, Congress would be able to appropriate an additional $1.3 billion for fiscal year 1971—an amount adequate to liquidate the prefinancing commitments as of June 30, 1970. However, since $250 million in authority actually remains available, we recommend this amount be appropriated in the supplemental appropriation bill for fiscal year 1971.

Report on financial requirements.—We endorse the proposal in the Administration bill to require a report by January 10, 1973, on the financial requirements for the construction of waste treatment facilities. This report should cover the five years after the expiration of legislation that is enacted.

We believe an estimate of the requirements will be far more realistic if grant commitment authority is provided, as such authority will enable the States to make judgments based on more accurate estimates of the Federal financing that will be available to match state and local efforts.

We would appreciate an opportunity for staff discussions of these proposed amendments.

VI. ALLOCATION FORMULA

The allocation formula in the President's proposal provides 60 percent of the funds be allocated on the basis of population, 20 percent for States that pay at least 25 percent of the cost of the systems, and 20 percent for States that have the most severe problems or that can best use such funds to fulfill a basin-wide pollution abatement plan.

We favor this formula with a modification. It could justifiably be changed so that 40 percent could be allocated to the States that have agreements to pay at least 25 percent of the cost. The fact that projects are under design or construction in accord with a water quality standards implementation plan is the best measure of both the existence of water pollution control need and the ability of a state to use construction funds to fulfill a basin-wide pollution abatement plan.

However, we believe the Secretary should have discretionary authority to grant funds for emergency situations that might arise.

Recommendation

We therefore recommend a 55-35-10 allocation formula, as we believe this will more nearly accommodate not only the needs but the ability of the States to carry out a program of cleaning up the environment at the fastest possible speed.

LIMIT ON TOTAL ALLOCATION IN A YEAR

The provision in the Administration's bill to limit the total allocation in a year to no more than that of the previous year should be modified to allow for a greater amount if a State has previously approved projects for which a larger allocation is justified for reimbursement of State or municipal prefinanced Federal shares.

VIII. CUTOFF OF 1973 IN ADMINISTRATION BILL FOR AUTHORITY TO PREFINANCE

The Administration bill would provide reimbursement of funds for projects prefinanced prior to July 1, 1973, whereas the expiration date of the bill would be a year later.

Unless our previous recommendations are adopted, we recommend and urge that this date be consistent with the expiration date of the legislation that is enacted.

IX. BONUSES

A. *River basin plans:*

S. 3687: Provides that a maximum of 60 percent grant would be authorized if the works are in an approved river basin plan.

S. 3472: Provides that 20 percent of the authority would be allocated to those States that have the most severe water pollution problems and can best use such funds to meet the requirements of a basinwide pollution abatement plan.

B. *Metropolitan regional plan.*—S. 3472 would terminate present authority. S. 3687 would continue present authority for a ten percent bonus for compliance with metropolitan or regional plan. With the bonus for river basin plan, this would bring the total eligible share under S. 3687 to 66 percent.

We believe all States should strive for the ultimate in planning, and they should be encouraged to comply with a river basin and a metropolitan or regional plan.

However, if the funds are not available to pay these bonuses, they only serve to confuse the municipalities. They believe 55 percent of the cost is available now from the Federal government, they spend money to set up planning boards, they cooperate and comply in every way possible, and then they are confronted with the news that money for the bonus is not available after all.

Over the past three years only 174 grants for up to 50/55 percent have been approved (*See enclosure 2.*) The remainder of the 2,650 grants approved were, at best, for 30/33 percent, and some were as low as 1 percent.

The objective, we believe, should be to clean up pollution, and we therefore recommend full funding of present authorizations before we embark upon new ones, worthy though they may be.

Nevertheless, should the basin plan bonus be added, the requirement that each user pay the cost of new treatment works constructed after fiscal year 1976 would be unfairly restrictive by precluding forms of financing other than user financing that might be justified by the regional development and general benefits of the pollution control projects.

X. PROJECTS ELIGIBLE FOR GRANT ASSISTANCE

A. *Eligibility of storm and sanitary sewers:* Senator Magnuson's bill, S. 4206, would permit Federal funding of projects directed toward the solution of combined sewer problems.

We urge that separation of storm and sanitary sewers be included as an eligible item for Federal assistance, and endorse the language in Section 3 of Senator Magnuson's bill.

B. *New and improved treatment processes and procedures:* Specific reference is made in S. 3687 to "new and improved treatment processes and procedures" as being eligible for grants.

The full-scale application of newly developed treatment methods from research and demonstration programs would be expedited by the special acknowledgement of their eligibility for construction grants.

There are a number of other provisions in pending legislation that are worthy of comment. We believe it would be useful and would appreciate the opportunity for staff level meetings to discuss these and the recommendations in this letter.

Thank you very much for your consideration of our views.

Sincerely,

JACOB K. JAVITS.
CHARLES E. GOODELL.

S. 3687

On page 18, beginning with line 1, strike out all through line 7 and insert in lieu thereof the following:

"(5)(A) A finding by the Secretary that a project on which construction was initiated in a State after June 30, 1966, and which was constructed with assistance pursuant to this section but the amount of such assistance was a lesser per centum of the cost of construction than was allowable pursuant to this section, and which meets the requirements of this subsection, and any other provision of this subsection, shall be construed to constitute a commitment or obligation of the United States to make payments in reimbursement of, or for commitments made by, State and local governments for projects that have been approved prior to July 1, 1971, by the Federal government, to the extent that assistance could have been provided under this section if adequate funds had been available.

"(B) There are authorized to be appropriated such amounts as are necessary to liquidate obligations incurred pursuant to this paragraph."

ENCLOSURE 1

State investment intentions

	Millions of dollars
Alabama	35.0
Alaska	12.0
Arizona	86.0
Arkansas	33.0
California	651.8
Colorado	133.0
Connecticut	280.5
Delaware	28.0
District of Columbia	355.0
Florida	200.0
Georgia	150.0
Hawaii	14.4
Idaho	0.5
Illinois	437.2
Indiana	152.6
Iowa	33.3
Kansas	61.0
Kentucky	62.6
Louisiana	140.0
Maine	140.9
Maryland	236.9
Massachusetts	438.0
Michigan	253.7
Minnesota	136.3
Mississippi	40.0
Missouri	390.0
Montana	13.5
Nebraska	62.0
Nevada	28.6
New Hampshire	138.0
New Jersey	880.0
New Mexico	9.9
New York	1900.1
North Carolina	69.3
North Dakota	22.0
Ohio	432.5
Oklahoma	65.3
Oregon	135.0
Pennsylvania	432.0
Rhode Island	51.5
South Carolina	75.0
South Dakota	27.0
Tennessee	105.5
Texas	525.0
Utah	11.7
Vermont	70.0
Virginia	151.0
Washington	160.0
West Virginia	44.3
Wisconsin	243.7
Wyoming	12.0
Guam	6.2
Puerto Rico	28.9
Virgin Islands	15.4
Total	10217.1

ENCLOSURE 2

I. STATES ELIGIBLE FOR 50X55 PERCENT FEDERAL GRANTS

A. NEW GRANTS AT 50X55 PERCENT LEVEL APPROVED AS FOLLOWS (11 STATES; 3 TERRITORIES)

State	Fiscal year— 1968	1969	1970	Total for 3 years	Grant percentage range of awards fiscal year 1970
*Connecticut	3	2	3	8	0.4 to 9.3.
*Indiana	22	11	15	48	30 to 33.
*Maine			2	2	Do.
*Maryland		3	10	13	1.4 to 9.
*Massachusetts	5	3	6	14	5 to 5.3.
*Missouri		14	35	49	30 to 33.
*New Hampshire		1	1	2	2.5 to 27.
*Oregon [1]	3	5		8	30 to 33.
*Rhode Island		2		2	Do.
*Vermont		3	1	4	0.5 to 3.1.
*Wisconsin			10	10	30 to 33.
Guam		1		1	Do.
Puerto Rico	1	4	6	11	Do.
Virgin Islands		1	1	2	Do.
Total	27	50	97	174	
Total projects financed (all United States)	785	685	[2] +1,000	4,650	

B. STATES ELIGIBLE FOR 50 TO 55 PERCENT GRANTS, BUT NO PROJECTS FINANCED AT THAT LEVEL (6 STATES AND DISTRICT OF COLUMBIA)

*District of Columbia	30 to 33.
*Iowa	Do.
*Michigan	1.1 to 5.5.
*New Jersey	25 to 30.
*New York	1 to 30.
*Pennsylvania	4.5 to 11.4.
*Tennessee	14.3 to 33.

*States that have refinanced up to their full eligible share of Federal funds.

[1] See footnote 1 following.

[2] As of June 30, 1970.

II. States eligible for 30–33 percent Federal grants:

A. States awaiting FWQA approval of enabling legislation for 50–55 percent grants (5 States).

(Grants percentage range of New Awards was 30–33% for all).

*Alaska.
*Hawaii.
Idaho.
*Louisiana.
New Mexico.

B. States that have authorized matching State grants, but no funds have been appropriated; they are thus not now eligible for 50–55% grants. (6 States, now funded 30–33% level).

California ($250 million bond issue before voters Nov. 3 to provide 25% state matching).

* Delaware (State program matching at 40%, up to a maximum of $100,000. In addition, the appropriation is limited, and not all projects are matching at 40% state funds).

*Georgia.
Nebraska.
*Oregon (see footnote [1]).
*Texas.

C. Other States eligible for 30–33 percent Federal grants (23 States) (New grants are awarded at 30–33% level).

*Alabama.
Arizona.
*Arkansas.
*Colorado.
*Florida.
*Illinois.
*Kansas.
Kentucky.
*Minnesota.
Mississippi.
Montana.
*Nevada.
*North Carolina.
North Dakota.
*Ohio (Grant percentage range: 10–10.5%).
Oklahoma.
*South Carolina.
South Dakota.
Utah.
*Virginia [2]
*Washington.
West Virginia.
Wyoming.

ENCLOSURE 3

PREFINANCING—CONSTRUCTION OF SEWAGE TREATMENT PLANTS, DEC. 31. 1969

State	Number of projects	Total prefinanced	Now eligible for reimbursement
Alabama	2	$5, 308, 000	$138, 000
Alaska	3	1, 269, 600	
Arizona			
Arkansas	1	60, 600	46, 056
California			
Colorado	1	13, 842	13, 842
Connecticut	47	72, 048, 886	6, 775, 861
Delaware	5	895, 600	
District of Columbia	4	2, 918, 050	703, 373
Florida	6	956, 584	339, 280
Georgia	15	17, 529, 124	4, 773, 012
Hawaii			
Idaho			
Illinois	59	$27, 459, 139	$2, 279, 790
Indiana	13	4, 116, 258	2, 152, 168
Iowa	13	1, 336, 260	26, 990
Kansas	9	252, 728	87, 426
Kentucky			
Louisiana			
Maine	11	5, 278, 840	832, 575
Maryland	75	55, 872, 720	22, 322, 888
Massachusetts	13	14, 332, 670	
Michigan	10	6, 154, 910	1, 549, 380
Minnesota	10	9, 253, 490	1, 156, 760
Mississippi			
Missouri	23	13, 131, 927	10, 502, 410
Montana			
Nebraska			
Nevada	1	1, 925, 550	
New Hampshire	9	6, 476, 285	2, 450, 550
New Jersey	40	12, 091, 850	1, 693, 031
New Mexico			
New York	217	459, 402, 189	64, 307, 426
North Carolina			
North Dakota			
Ohio	7	4, 793, 797	924, 261
Oklahoma			
Oregon	7	2, 322, 960	408, 660
Pennsylvania	100	30, 143, 740	10, 982, 707
Rhode Island	2	370, 660	150, 000
South Carolina	3	5, 243, 980	617, 890
South Dakota			
Tennessee	11	3, 419, 016	332, 759
Texas	26	3, 684, 206	203, 774
Utah			
Vermont	4	1, 181, 010	
Virginia	16	5, 828, 980	2, 205, 504
Washington	27	5, 919, 910	4, 394, 020
West Virginia			
Wisconsin	25	13, 048, 060	2, 923, 740
Wyoming			
Guam			
Puerto Rico			
Virgin Is.ands			
Total (33 States and District of Columbia)	815	794, 041, 421	145, 312, 133

PREFINANCING—CONSTRUCTION OF SEWAGE TREATMENT PLANTS—STATUS, JUNE 30, 1970

State	Number of projects	Total prefinanced	Now eligible for reimbursement
Alabama	2	$5, 308, 000	$138, 000
Alaska	4	2, 354, 270	175, 720
Arizona			
Arkansas (dropout)			
California			
Colorado	1	15, 226	15, 226
Connecticut	54	101, 128, 100	14, 285, 136
Delaware	5	895, 600	
District of Columbia	7	52, 788, 250	712, 306
Florida	3	7, 510, 100	
Georgia	4	10, 736, 250	59, 400
Hawaii	1	1, 490, 610	44, 700
Idaho			
Illinois	46	12, 671, 785	3, 421, 935
Indiana	13	4, 373, 815	2, 552, 185
Iowa	69	3, 361, 629	1, 012, 641
Kansas	12	436, 010	205, 082
Kentucky			
Louisiana			
Maine	12	7, 050, 490	1, 694, 367
Maryland	83	74, 325, 541	26, 692, 654
Massachusetts	9	8, 683, 250	
Michigan	137	121, 951, 721	19, 052, 214
Minnesota	17	14, 453, 130	317, 700
Mississippi			
Missouri	5	6, 708, 000	6, 181, 320
Montana			
Nebraska			
Nevada	1	1, 925, 560	
New Hampshire	10	6, 360, 285	3, 706, 650
New Jersey	51	31, 415, 270	3, 811, 309
New Mexico			
New York	263	774, 783, 417	93, 575, 734
North Carolina	2	1, 496, 240	
North Dakota			
Ohio	28	17, 043, 520	2, 075, 340
Oklahoma			
Oregon	5	6, 240, 630	95, 840
Pennsylvania	99	30, 418, 197	13, 335, 830
Rhode Island	3	2, 115, 860	220, 000
South Carolina	1	26, 730	6, 682
South Dakota			
Tennessee	13	12, 145, 295	32, 397
Texas	33	$5, 501, 490	$368, 700
Utah			
Vermont	2	119, 060	
Virginia	7	969, 050	917, 679
Washington	10	791, 080	529, 510
West Virginia			
Wisconsin	26	13, 534, 912	2, 477, 210
Wyoming			
Guam			
Puerto Rico			
Virgin Islands			
Total (34 States and District of Columbia)	1, 038	1, 341, 028, 383	197, 713, 467

Note: 547,000,000 increase in 6 months—69 percent.

ENCLOSURE 4

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., Sept. 18, 1970.

HON. CHARLES E. GOODELL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GOODELL: This will acknowledge your telegram of September 12 and expand on advice given your office by telephone late Wednesday afternoon. You requested figures by state of the potential reimbursement entitlement; i.e., the total amounts for which the projects could be eligible when construction of sewage treatment plants is completed and the full Federal share has been expended by state and local agencies. You further acknowledged receipt of information from us on the amounts eligible for reimbursement as of December 31, 1969, and as of June 30, 1970.

For purposes of clarity, we presently refer to future entitlement as new obligations rather than potential reimbursements since the language of the act is quite clear that a reimbursement is a repayment of a state or local expenditure. Reimbursements are, therefore, defined as being money from any allotment made under Section 8 of P.L. 84–660, as amended, for the repayment of state or local prefinancing of the Federal share of the cost of construction, subject to the following criteria:

1. Proper audit.
2. Appropriate state water pollution control agency approval.
3. Determination by the Secretary:

(a) As meeting requirements of Section 8, and

(b) Having been built without Federal assistance partially or in toto.

4. For those construction costs actually paid out.

New obligations cannot and shall not be qualified for or designated as reimbursements until such time as payment shall have been made by the state or local government and then (1) only to the amount of the Federal share of the actual payment, and (2) only to the extent that actual payments exceed the state's allotment for the program.

With these definitions in mind, the Federal Water Quality Administration determination of reimbursements and their estimates of new obligations have been prepared and are tabulated by states from the enclosed sheets.

I trust that this is the information and material that you are seeking, and if we may be of furher service, please do not hesitate to call.

Sincerely yours,

CARL L. KLEIN,
Assistant Secretary, Water Quality and Research.

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*States that have prefinanced up to their full eligible share of Federal funds.

[1] *Oregon* had a matching grant program prior to FY '70, but dropped out because of low Federal appropriations. State now has a bond issue pending, and will return to 50–55% category next year.

[2] *Virginia* approved $7.8 million in State funds July 1970; funds were spent by mid-August.

DIVISION OF STATE AND LOCAL PROGRAMS CONSTRUCTION GRANTS AND ENGINEERING BRANCH—EVALUATION AND RESOURCE CONTROL OPERATIONS

REIMBURSABLES, BASED UPON ACTUAL PAYMENTS, AND RELATED NEW OBLIGATIONS STATUS AS OF DEC. 31, 1969

	Number of projects	Reimbursement	New obligation
Total	815	$145, 312, 133	$648, 729, 288
Northeast	348	76, 209, 443	495, 868, 547
Connecticut	47	6, 775, 861	65, 273, 025
Delaware	5	0	895, 600
Maine	11	832, 575	4, 446, 265
Massachusetts	13	0	14, 332, 670
New Hampshire	9	2, 450, 550	4, 025, 735
New Jersey	40	1, 693, 031	10, 398, 819
New York	217	64, 307, 426	395, 094, 763
Rhode Island	2	150, 000	220, 660
Vermont	4	0	1, 181, 010
Middle Atlantic	198	36, 832, 362	63, 175, 108
Maryland	75	22, 322, 888	33, 549, 832
North Carolina	None	None	None
Pennsylvania	100	10, 982, 707	19, 161, 033
South Carolina	3	617, 890	4, 626, 090
Virginia	16	2, 205, 504	3, 623, 476
District of Columbia	4	703, 373	2, 214, 677
Southeast	34	5, 583, 051	21, 629, 673
Alabama	2	138, 000	5, 170, 000
Florida	6	339, 280	617, 304
Georgia	15	4, 773, 012	12, 756, 112
Mississippi	None	None	None
Tennessee	11	332, 759	3, 086, 257
Puerto Rico	None	None	None
Virgin Islands	None	None	None
Ohio Basin	20	3, 076, 429	5, 833, 626
Indiana	13	2, 152, 168	1, 964, 090
Kentucky	None	None	None
Ohio	7	924, 261	3, 869, 536
West Virginia	None	None	None
Great Lakes	117	$7, 954, 660	$49, 297, 199
Illinois	59	2, 297, 790	25, 161, 349
Iowa	13	26, 990	1, 309, 270
Michigan	10	1, 549, 380	4, 605, 530
Minnesota	10	1, 156, 760	8, 096, 730
Wisconsin	25	2, 923, 740	10, 124, 320
Missouri Basin	33	10, 603, 678	2, 794, 819
Colorado	1	13, 842	0
Kansas	9	87, 426	165, 302
Missouri	23	10, 502, 410	2, 629, 517
Nebraska	None	None	None
North Dakota	None	None	None
South Dakota	None	None	None
Wyoming	None	None	None
South-Central	27	249, 830	3, 494, 976
Arkansas	1	46, 056	14, 544
Louisiana	None	None	None
New Mexico	None	None	None
Oklahoma	None	None	None
Texas	26	203, 774	3, 480, 432
Southwest	1	None	1, 925, 550
Arizona	None	None	None
California	None	None	None
Hawaii	None	None	None
Nevada	1	None	1, 925, 550
Utah	None	None	None
Guam	None	None	None
Northwest	37	4, 802, 680	4, 709, 790
Alaska	3	0	1, 269, 600
Idaho	None	None	None
Montana	None	None	None
Oregon	7	408, 660	1, 914, 300
Washington	27	4, 394, 020	1, 525, 890

TOTAL REIMBURSABLES, BASED UPON ACTUAL PAYMENTS, AND RELATED NEW OBLIGATIONS STATUS, AS OF JUNE 30, 1970

	Number of projects	Reimbursement	New obligation
Total	1, 038	$197, 713, 467	$1, 143, 314, 916
Northeast	409	117, 293, 196	815, 258, 136
Connecticut	54	14, 285, 136	86, 842, 964
Delaware	5	0	895, 600
Maine	12	1, 694, 367	5, 356, 123
Massachusetts	9	0	8, 682, 250
New Hampshire	10	3, 706, 650	2, 653, 635
New Jersey	51	3, 811, 309	27, 603, 961
New York	263	93, 575, 734	681, 207, 683
Rhode Island	3	220, 000	1, 895, 860
Vermont	2	0	119, 060
Middle Atlantic	199	41, 665, 151	118, 358, 857
Maryland	83	26, 692, 654	47, 632, 887
North Carolina	2	0	1, 496, 240
Pennsylvania	99	13, 335, 830	17, 082, 367
South Carolina	1	6, 682	20, 048
Virginia	7	917, 679	51, 371
District of Columbia	7	712, 306	52, 075, 944
Southeast	22	229, 797	35, 469, 858
Alabama	2	138, 000	5, 170, 000
Florida	3	0	7, 510, 110
Georgia	4	59, 400	10, 676, 850
Mississippi			
Tennessee	13	32, 397	12, 112, 898
Puerto Rico			
Virgin Islands			
Ohio Basin	41	4, 627, 525	16, 789, 810
Indiana	13	2, 552, 185	1, 821, 630
Kentucky			
Ohio	28	2, 075, 340	14, 968, 180
West Virginia			
Great Lakes	295	$26, 281, 700	$139, 591, 477
Illinois	46	3, 421, 935	9, 249, 850
Iowa	69	1, 012, 641	2, 348, 988
Michigan	137	19, 052, 214	102, 799, 507
Minnesota	17	317, 700	14, 135, 430
Wisconsin	26	2, 477, 210	11, 057, 702
Missouri Basin	18	6, 491, 628	757, 608
Colorado	1	15, 226	0
Kansas	12	205, 082	230, 928
Missouri	5	6, 181, 320	526, 680
Nebraska			
North Dakota			
South Dakota			
Wyoming			
South Central	33	368, 700	5, 132, 790
Arkansas			
Louisiana			
New Mexico			
Oklahoma			
Texas	33	368, 700	5, 132, 790
Southwest	2	44, 700	3, 371, 470
Arizona			
California			
Hawaii	1	44, 700	1, 445, 910
Nevada	1	0	1, 925, 560
Utah			
Guam			
Northwest	19	801, 070	8, 584, 910
Alaska	4	175, 720	2, 178, 500
Idaho			
Montana			
Oregon	5	95, 840	6, 144, 790
Washington	10	529, 510	261, 570

DEPARTMENT OF INTERIOR FEDERAL WATER QUALITY ADMINISTRATION CONSTRUCTION GRANTS FOR WASTE TREATMENT WORKS—STATUS OF REIMBURSEMENT ELIGIBILITY

	Number of projects as of Dec. 31, 1969	Number of projects as of June 30, 1970	Difference	Reimbursement eligibility as of Dec. 31, 1969	Reimbursement eligibility as of June 30, 1970	Difference
Total	815	1,038	+223	145,312,133	197,713,467 197,803,467	+52,491,334
Northeast	348	409	+61	76,209,443	117,293,196	+41,083,753
Connecticut	47	54	+7	6,775,861	14,285,136	+7,509,275
Delaware	5	5	0	0	0	0
Maine	11	12	+1	832,575	1,694,367	+861,702
Massachusetts	13	9	−4	0	0	0
New Hampshire	9	10	+1	2,450,550	3,706,650	+1,256,100
New Jersey	40	51	+11	1,693,031	3,811,309	+2,118,278
New York	217	263	+46	64,307,426	93,575,734	+29,266,308
Rhode Island	2	3	+1	150,000	220,000	+70,000
Vermont	4	2	−2	0	0	0
Middle Atlantic	198	199	+1	36,832,362	41,665,151	+4,832,789
Maryland	75	83	+8	22,322,888	26,692,654	+4,369,766
North Carolina	0	2	+2	0	0	0
Pennsylvania	100	99	−1	10,982,707	13,335,830	+2,353,123
South Carolina	3	1	−2	617,890	6,682	−611,208
Virginia	16	7	−9	2,205,504	917,679	−1,287,825
District of Columbia	4	7	+3	703,373	712,306	+8,933
Southeast	34	22	−12	5,583,051	229,797	−5,353,254
Alabama	2	2	0	138,000	138,000	0
Florida	6	3	−3	339,280	0	−339,280
Georgia	15	4	−11	4,773,012	59,400	−4,713,612
Mississippi	0	0	0	0	0	0
Tennessee	11	13	+2	332,759	32,397	−300,362
Puerto Rico	0	0	0	0	0	0
Virgin Islands	0	0	0	0	0	0
Ohio Basin	20	41	+21	3,076,429	4,627,525	+1,551,096
Indiana	13	13	0	2,152,168	2,552,185	+400,017
Kentucky	0	0	0	0	0	0
Ohio	7	28	+21	924,261	2,075,340	+1,151,079
West Virginia	0	0	0	0	0	0
Great Lakes	117	295	+178	7,954,660	26,281,700	+18,327,040
Illinois	59	46	−13	2,297,790	3,421,935	+1,124,145
Iowa	13	69	+56	26,990	1,012,641	+935,651
Michigan	10	137	+127	1,549,380	19,052,214	+17,902,834
Minnesota	10	17	+7	1,156,760	317,700	−839,060
Wisconsin	25	26	+1	2,923,740	2,477,210	−446,530
Missouri Basin	33	18	−15	10,603,678	6,401,628	−4,112,090
Colorado	1	1	0	13,842	15,226	1,384
Kansas	9	12	+3	87,426	295,082	+207,656
Missouri	23	5	−18	10,502,410	6,181,320	+4,321,000
Nebraska	0	0	0	0	0	0
North Dakota	0	0	0	0	0	0
South Dakota	0	0	0	0	0	0
Wyoming	0	0	0	0	0	0
South Central	27	33	+6	249,830	368,700	+118,870
Arkansas	1	0	−1	46,056	0	−46,056
Louisiana	0	0	0	0	0	0
New Mexico	0	0	0	0	0	0
Oklahoma	0	0	0	0	0	0
Texas	26	33	+7	203,774	368,700	+164,926
Southwest	1	2	+1	0	44,700	+44,700
Arizona	0	0	0	0	0	0
California	0	0	0	0	0	0
Hawaii	0	1	+1	0	44,700	+44,700
Nevada	1	1	0	0	0	0
Utah	0	0	0	0	0	0
Guam	0	0	0	0	0	0
Northwest	37	19	−18	4,802,680	801,070	−4,001,610
Alaska	3	4	+1	0	175,729	+16,700
Idaho	0	0	0	0	0	0
Montana	0	0	0	0	0	0
Oregon	7	5	−2	408,660	95,840	−312,800
Washington	27	10	−17	4,394,020	529,510	−3,864,510

ENCLOSURE 5

FEDERAL WATER QUALITY ADMINISTRATION

EXPLANATION OF TABLE

This table gives State allotments for fiscal year 1971 under several plans.

Column 1 is the allocation under the continuing resolution.

Columns 1, 2, and 3 show allocations on the basis of the fiscal year 1971 appropriation bill.

Column 4 shows allocations as they would be under the existing formula.

Column 5 lists allocations under the President's proposed legislation with need being determined on the basis of reimbursables.

Column 6 Lists allocations under the President's proposal using pending projects to reflect needs.

FEDERAL WATER QUALITY ADMINISTRATION CONSTRUCTION GRANTS AND ENGINEERING BRANCH EVALUATION AND RESOURCE CONTROL SECTION

[Comparison of State allotments using 2 methods of computing entitlements

	Allocation of $800,000,000 under formula (1)	Allocation based on States' earned reimbursable grants to total ERG (May 31, 1970) (2)	Total 1971 allocation (1)+(2) (3)	Allocation of $1,000,000,000 under existing formula (4)	60 percent as in (1), 20 percent matching grants, 20 percent reimbursables (5)	60 percent as in (1), 20 percent matching grants, 20 percent need (Jan. 1, 1970) (6)
Total	$800,000,000	$200,000,000	$1,000,000,000	$1,000,000,000	$1,000,000,000	$1,000,000,000
Alabama	14,680,000	1,440,000	16,120,000	18,274,400	10,683,600	11,368,800
Alaska	1,622,500	320,000	1,942,500	1,871,300	1,766,800	1,682,200
Arizona	6,316,000		6,316,000	7,748,800	5,489,900	7,173,300
Arkansas	8,580,800		8,580,800	10,546,300	6,568,200	7,213,200
California	65,557,000		65,557,000	82,850,500	53,281,600	65,681,400
Colorado	8,084,200		8,084,200	10,013,900	6,487,100	9,090,500
Connecticut	11,117,800	17,780,000	28,897,800	13,907,300	36,059,200	21,349,400
Delaware	2,571,000	60,000	2,631,000	3,062,000	2,320,100	2,728,300
District of Columbia	3,788,000	600,000	4,388,000	4,628,700	6,039,200	11,628,400
Florida	21,331,100	740,000	22,071,100	26,779,300	18,684,100	21,879,100
Georgia	17,289,000	3,240,000	20,529,000	21,627,500	16,442,800	16,419,000
Hawaii	3,410,900	220,000	3,630,900	4,107,100	2,932,400	3,215,200
Idaho	3,787,400		3,787,400	4,521,400	2,963,200	2,972,800
Illinois	42,294,100	1,800,000	44,094,100	53,386,300	31,885,300	38,924,100
Indiana	20,052,000	700,000	20,752,000	25,182,000	27,508,800	29,735,600
Iowa	12,221,800		12,221,800	15,255,800	8,352,700	8,965,300
Kansas	9,852,200	60,000	9,902,200	12,239,200	7,166,500	8,280,500
Kentucky	13,609,300		13,609,300	16,952,100	9,753,400	10,978,800
Louisiana	14,510,200		14,510,200	18,093,800	11,129,000	13,869,600
Maine	4,994,600	920,000	5,914,600	6,061,000	7,111,200	8,709,800
Maryland	13,550,700	10,680,000	24,230,700	16,962,300	38,055,600	24,473,000
Massachusetts	21,980,200	1,460,000	23,440,200	27,645,000	30,599,900	37,014,700
Michigan	33,043,400	16,720,000	49,763,400	41,651,200	57,523,700	50,149,500
Minnesota	14,930,100	20,000	14,950,100	18,686,300	10,820,600	13,448,000
Mississippi	10,359,900		10,359,900	12,756,600	7,710,400	8,493,400
Missouri	18,690,300	2,620,000	21,310,300	23,443,300	26,674,600	32,068,800
Montana	3,724,200		3,724,200	4,466,600	2,804,200	3,067,600
Nebraska	6,674,300		6,674,300	8,227,100	4,742,500	5,956,100
Nevada	1,888,000		1,888,000	2,201,700	2,218,200	2,497,000
New Hampshire	3,367,200	1,500,000	4,867,200	4,035,000	7,476,000	7,197,800
New Jersey	25,741,700	13,500,000	39,241,700	32,416,900	48,850,600	54,156,600
New Mexico	4,976,300		4,976,300	6,022,700	6,088,800	6,282,800
New York	69,927,900	111,660,000	181,587,900	88,393,100	196,580,700	130,715,500
North Carolina	19,863,000		19,863,000	24,876,000	15,042,400	16,398,200
North Dakota	3,632,000		3,632,000	4,327,800	2,674,500	3,105,100
Ohio	40,849,800	2,040,000	42,889,800	51,529,600	31,803,200	38,109,600

FEDERAL WATER QUALITY ADMINISTRATION CONSTRUCTION GRANTS AND ENGINEERING BRANCH, EVALUATION AND RESOURCE CONTROL SECTION—Continued

[Comparison of State allotments using 2 methods of computing entitlements]

	Allocation o. $800,000,000 under formula (1)	A location base on States' earned reimbursable grants to total ERG (May 31, 1970) (2)	Total 1971 allocation (1)+(2) (3)	Allocation of $1,000,000,000 under existing formula (4)	60 percent as in (1), 20 percent matching grants, 20 percent reimbursables (5)	60 percent as in (1), 20 percent matching grants, 20 percent need (Jan. 1, 1970) (6)
Oklahoma	10, 588, 200		10, 588, 200	13, 149, 900	7, 877, 800	9, 156, 600
Oregon	8, 138, 900	1, 180, 000	9, 318, 900	10, 084, 900	6, 658, 500	8, 941, 100
Pennsylvania	47, 525, 100	6, 700, 000	54, 225, 100	49, 979, 500	66, 929, 900	69, 086, 300
Rhode Island	4, 338, 400	80, 000	4, 418, 400	5, 284, 000	5, 628, 600	6, 417, 400
South Carolina	11, 021, 800		11, 021, 800	13, 643, 400	8, 460, 000	9, 888, 200
South Dakota	3, 799, 800		3, 799, 800	4, 548, 600	2, 761, 700	3, 290, 300
Tennessee	15, 814, 700	20, 000	15, 834, 700	19, 739, 500	21, 549, 800	23, 355, 800
Texas	40, 467, 200	160, 000	40, 627, 200	51, 007, 600	30, 983, 400	41, 260, 400
Utah	4, 672, 900		4, 672, 900	5, 652, 900	3, 804, 000	4, 032, 600
Vermont	2, 528, 700		2, 528, 700	2, 957, 700	3, 144, 700	4, 514, 900
Virginia	17, 295, 300	1, 160, 000	18, 455, 300	21, 660, 100	13, 466, 200	16, 422, 000
Washington	12, 536, 600	300, 000	12, 836, 600	15, 675, 900	12, 519, 800	13, 031, 800
West Virginia	8, 805, 000		8, 805, 000	10, 852, 000	6, 013, 900	6, 881, 100
Wisconsin	17, 137, 900	2, 320, 000	19, 457, 900	21, 485, 900	27, 462, 900	27, 053, 700
Wyoming	2, 248, 600		2, 248, 600	2, 611, 800	1, 745, 700	1, 980, 700
Guam	1, 649, 400		1, 649, 400	1, 723, 200	1, 879, 300	1, 999, 900
Puerto Rico	11, 067, 200		11, 067, 200	13, 652, 400	15, 170, 900	15, 736, 300
Virgin Islands	1, 505, 400		1, 505, 400	1, 540, 800	1, 651, 500	1, 951, 900

ENCLOSURE 6

*Federal grants available through June 30, 1971 to Maryland, Virginia, and the District of Columbia for construction of sewage treatment facilities***

Maryland's allocations:

Fiscal year 1970 allocation	$13, 550, 900
Granted by June 30. 1970	9, 956, 777
Balance for use until May 15, 1971	3, 594, 123
Fiscal year 1971 original allocation	13, 550, 700
Additional allocation anticipated	*10, 680, 000
Total available to June 30, 1971	27, 824, 823

Virginia's allocations:

Fiscal year 1970 allocation	$17, 302, 800
Granted by June 30, 1970	6, 257, 947
Balance for use until May 15, 1971	11, 044, 853
Fiscal year 1971 original allocation	17, 295, 300
Additional allocation anticipated	*1, 160, 000
Total available to June 30, 1971	29, 500, 153

District of Columbia's allocations:

Fiscal year 1970 allocation	3, 780, 500
Granted by June 30, 1970	0
Balance for use until May 15, 1971	$3, 780, 500
Fiscal year 1971 original allocation	3, 788, 000
Additional allocation anticipated	*600, 000
Total available to June 30, 1970	8, 168, 500
Total for above three jurisdictions	65, 493, 476

*From $200 million earmarked in Public Works Appropriation bill for fiscal year 1971 based on earned reimbursable grants.

**Sources: Tables on all states provided by the Federal Water Quality Administration.

ENCLOSURE 7

State	Grant range (percent)	Status, Dec. 31, 1969		Status, June 30, 1970	
		Prefinancing commitments	Eligible reimbursables	Prefinancing commitments	Eligible reimbursables
I.—10 States that have reduced their prefinancing commitments (all but 2 have reduced the r eligible reimbursables):					
Arkansas	30 to 33	60, 600	46, 056		
Illinois	do	27, 459, 139	2, 297, 790	12, 671, 785	3, 421, 935
Georgia	do	17, 529, 124	4, 773, 012	10, 736, 250	59, 400
Massachusetts [1]	5 to 5.3	14, 332, 670		8, 683, 250	
Missouri [1]	30 to 33	13, 131, 927	10, 502, 410	6, 708, 000	6, 181, 320
New Hampshire [1]	2.5 to 27	6, 476, 285	2, 450, 550	6, 360, 285	3, 706, 650
South Carolina	30 to 33	5, 243, 980	617, 890	26, 730	6, 682
Vermont [1]	0.5 to 3.1	1, 181, 010		119, 060	
Virginia	30 to 33	5, 828, 980	2, 205, 504	969, 050	917, 679
Washington	do	5, 919, 910	4, 394, 020	791, 080	529, 510
Total		97, 163, 625	27, 287, 232	47, 065, 490	14, 823, 176
II.—4 States that have not significantly increased prefinancing commitments, and eligible reimbursements remain essentially the same:					
Alabama	30 to 33	5, 308, 000	138, 000	5, 308, 000	138, 000
Colorado	do	13, 842	13, 842	15, 226	15, 226
Delaware	do	895, 600		895, 600	
Nevada	do	1, 925, 550		1, 925, 560	
Total		8, 142, 992	151, 842	8, 144, 386	153, 226
III.—5 States that have increased their prefinancing commitments, and at the same time have reduced amounts eligible for reimbursement:					
Florida	30 to 33	956, 584	339, 280	7, 510, 110	
Minnesota	do	9, 253, 490	1, 156, 760	14, 453, 130	317, 700
Oregon	do	2, 322, 960	408, 660	6, 240, 630	95, 840
Tennessee [1]	14.3 to 33	3, 419, 061	332, 759	12, 145, 295	32, 397
Wisconsin [1]	30 to 33	13, 048, 060	2, 923, 740	13, 534, 912	2, 477, 210
Total		29, 000, 110	5, 161, 199	53, 884, 077	2, 923, 147
IV. 17 (16 States and District of Columbia) that have increased prefinancing commitments and also increased their eligible reimbursables:					
Alaska	30–33	1, 269, 600		2, 354, 270	1, [illegible]5, 720
Connecticut [1]	0.4 to 9.3	72, 048, 886	6, 775, 861	101, 128, 100	14, 285, 136
District of Columbia [1]	30 to 33	2, 918, 050	703, 373	52, 788, 250	712, 306
Hawaii	do			1, 490, 610	44, 700
Indiana [1]	do	4, 116, 258	2, 152, 168	4, 373, 815	2, 552, 185
Iowa [1]	do	1, 336, 260	26, 990	3, 361, 629	1, 012, 641
Kansas	do	252, 728	87, 426	436, 010	205, 082
Maine [1]	do	5, 278, 840	832, 575	7, 050, 490	1, 694, 367
Maryland [1]	1.4 to 9	55, 872, 720	22, 322, 888	74, 325, 541	26, 692, 654

Footnote at end of table.

State	Grant range (percent)	Status, Dec. 31, 1969		Status, June 30, 1970	
		Prefinancing commitments	Eligible reimbursables	Prefinancing commitments	Eligible reimbursables
Michigan [1]	1.1 to 5.5	6,154,910	1,549,380	121,851,721	19,052,214
N. Jersey [1]	25 to 30	12,091,850	1,693,031	31,415,270	3,811,309
N. York [1]	1 to 30	450,402,189	64,307,426	774,783,417	93,575,734
North Carolina	30 to 33			1,496,240	
Ohio	10 to 10.5	4,793,797	924,261	17,043,520	2,075,340
Pennsylvania [1]	4.5 to 11.4	30,142,740	10,982,707	30,418,197	13,335,830
Rhode Island [1]	30 to 33	370,660	150,000	2,115,860	220,000
Texas	do	3,684,206	203,774	5,501,490	368,700
Total		659,734,694	112,711,860	1,231,934,430	179,813,918

V.—18 (15 States and 3 territories) that have not prefinanced:

Arizona.
California.
Idaho.
Kentucky.
Louisiana.
Mississippi.
Montana.
Nebraska.
New Mexico.
North Dakota.
Oklahoma.
South Dakota.
Utah.
West Virginia.
Wyoming.
Guam.[1]
Puerto Rico.[1]
Virgin Islands.[1]

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[1] 16 States and 4 territories eligible for 50 to 55 percent Federal funds. See table 2 for breakdown of 174 projects financed at that level over a 3-year period. All other states eligible for 30 to 33 percent Federal financing.

ENCLOSURE 8

TABLE 1.—STATUS OF FUNDS AS OF JUNE 30, 1970

	Allotments, fiscal year 1970	Grants, 1970	Percent 1970
Total	$800,000,000	$364,388,220	45
Alabama	14,672,000	1,453,307	10
Alaska	1,637,900	1,041,680	64
Arizona	6,327,100	948,621	15
Arkansas	8,599,200	1,469,863	17
California	65,554,900	22,589,528	34
Colorado	8,072,600	1,281,240	16
Connecticut	11,117,600	1,610,661	14
Delaware	2,541,600	0	
District of Columbia	3,780,500	0	
Florida	21,353,200	11,840,166	55
Georgia	17,305,100	12,269,626	71
Hawaii	3,398,600	116,310	3
Idaho	3,743,800	172,055	5
Illinois	42,287,100	39,660,993	94
Indiana	20,042,500	13,067,840	65
Iowa	,2,203,800	2,389,156	20
Kansas	9,839,400	103,000	1
Kentucky	13,625,800	630,375	5
Louisiana	14,513,900	1,107,870	8
Maine	4,981,500	522,710	10
Maryland	13,550,900	9,956,777	73
Massachusetts	21,983,500	12,313,567	56
Michigan	33,033,200	5,473,897	17
Minnesota	14,928,100	12,492,756	84
Mississippi	10,377,700	2,744,780	26
Missouri	18,690,000	11,969,460	64
Montana	3,714,500	211,192	6
Nebraska	6,668,600	151,276	2
Nevada	1,881,900	1,574,321	84
New Hampshire	3,369,200	2,770,318	82
New Jersey	25,737,700	23,761,774	92
New Mexico	4,958,900	1,189,005	24
New York	69,938,200	51,839,413	74
North Carolina	19,881,800	3,623,002	18
North Dakota	3,626,400	52,990	1
Ohio	40,850,400	7,895,158	19
Oklahoma	10,596,800	833,210	8
Oregon	8,134,100	8,101,700	99
Pennsylvania	47,524,200	24,094,024	51
Rhode Island	4,341,100	15,174	
South Carolina	11,028,700	9,220,938	84
South Dakota	3,815,600	172,210	5
Tennessee	15,815,700	12,830,251	81
Texas	40,479,900	8,364,590	21
Utah	4,655,900	273,793	6
Vermont	2,542,800	1,818,440	72
Virginia	17,302,800	6,257,947	36
Washington	12,528,700	11,984,693	96
West Virginia	8,798,000	196,143	2
Wisconsin	17,130,900	17,130,900	100
Wyoming	2,240,300	114,840	5
Guam	1,667,200	0	
Puerto Rico	11,085,000	1,919,000	17

ENCLOSURE 9

CONSTRUCTION GRANTS AND ENGINEERING BRANCH PENDING APPLICATIONS AS OF JUNE 30, 1970

	Applications being processed in regional office		
	Number	Estimated total cost	Grant entitlement
Total	524	$788,184,441	$343,855,839
Northeast	61	269,343,910	145,187,715
Connecticut	3	9,489,300	4,744,700
Delaware	4	19,598,000	6,467,340
Maine	1	284,700	142,350
Massachusetts			
New Hampshire	8	3,475,510	1,759,260
New Jersey	21	43,685,000	26,246,545
New York	20	187,949,200	103,371,860
Rhode Island	4	4,862,200	2,455,660
Vermont			
Middle Atlantic	62	159,122,384	80,401,820
Maryland	7	22,152,700	12,458,970
North Carolina	11	8,254,500	2,715,590
Pennsylvania	28	32,475,900	13,576,630
South Carolina	10	4,651,900	1,509,490
Virginia	3	914,300	270,940
District of Columbia	3	90,673,084	49,870,200
Southeast	72	68,253,159	18,952,512
Alabama	2	1,582,900	183,090
Florida	15	30,234,734	8,873,182
Georgia	37	19,839,050	4,516,645
Mississippi	5	2,260,900	703,470
Tennessee	9	10,697,250	2,828,925
Puerto Rico	3	3,479,325	1,768,000
Virgin Islands	1	159,000	79,200
Ohio Basin	46	43,818,888	14,016,994
Indiana	11	4,356,671	2,178,335
Kentucky	6	1,999,100	599,730
Ohio	24	36,156,917	10,847,069
West Virginia	5	1,306,200	391,860
Great Lakes	115	138,498,251	46,985,030
Illinois	46	41,875,255	12,475,619
Iowa	8	1,676,644	510,786
Michigan	34	29,113,100	14,454,400
Minnesota	16	45,065,866	8,905,483
Wisconsin	11	20,767,386	10,638,742
Missouri Basin	52	18,869,218	9,398,226
Colorado	6	750,685	247,753
Kansas	15	1,753,422	574,058
Missouri	21	15,470,316	8,305,687
Nebraska	6	693,305	225,770
North Dakota			
South Dakota	1	85,930	25,779
Wyoming	3	115,560	19,179
South Central	76	39,408,841	12,199,585
Arkansas			
Louisiana	3	1,377,450	448,464
New Mexico	2	185,164	58,967
Oklahoma	6	1,006,401	293,496
Texas	65	36,839,826	11,398,658
Southwest	22	21,498,290	7,150,347
Arizona	1	300,000	100,000
California	10	6,595,863	1,978,750
Hawaii	4	5,247,601	1,576,840
Nevada	4	7,217,500	2,381,769
Utah	2	256,326	78,438
Guam	1	1,881,000	1,034,550
Northwest	18	29,371,500	9,563,610
Alaska	5	7,338,300	2,414,270
Idaho			
Montana			
Oregon	6	19,366,700	6,301,710
Washington	7	2,666,500	847,630

NEW YORK STATE'S PROGRAM COMMITMENTS—1965 THROUGH JUNE 30, 1971

	Amount
I. State financing approved:	
Pure Waters Bond Authority of 1965	$1, 000, 000, 000
First Instance appropriation, 1970 (i.e., authority to underwrite a portion of the Federal share of the cost)	750, 000, 000
Total financing available	1, 750, 000, 000
II. State commitments:	
A. Approved projects: 1965–June 30, 1970—$1,776,733,263:	
State's basic 30 percent grant	533, 019, 978
State prefinancing (23 percent)	405, 158, 727
B. Planned projects: Fiscal year 1971—$1,515,330,000:	
State's basic 30 percent grant	454, 599, 000
State prefinancing (18 percent)	[1]273, 000, 000
Total	[1]1, 665, 777, 705
Recap:	
State basic 30 percent grant (from $1,000,000,000 bond authority)	
Approved projects	533, 019, 978
Planned projects	454, 599, 000
Total	987, 618, 978
State prefinancing (from $750,000,000 First Instance)	
Approved projects	405, 158, 727
Planned projects	[1]273, 000, 000
Total	[1]678, 158, 727
III. Prefinancing, New York and its municipalities (by June 30, 1971):[1]	
A. State:	
1965–June 30, 1970	405, 158, 727
Fiscal year 1971	[1]273, 000, 000
Subtotal	[1]678, 158, 727
B. Local:	
1965–June 30, 1969	369, 624, 690
Fiscal year 1971	378, 832, 500
	748, 467, 190
Total prefinancing	[1]1, 426, 615, 917

[1] These figures assume an additional allocation of $112,000,000 in fiscal year 1971. If not, they will be correspondingly higher.

FIREMEN'S COMPENSATION

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. EILBERG. Mr. Speaker, on October 7, I testified before Subcommittee No. 2 of the House Committee on the Judiciary in support of H.R. 795, which I have sponsored. This is similar to H.R. 7989 and related bills.

H.R. 795 has as its purpose to provide compensation for firemen not employed by the United States killed or injured in the performance of duty during a civil disorder, and also for their dependents.

Since this issue is so timely, I take the liberty of spreading my statement on the RECORD for the possible reading of all my colleagues:

STATEMENT IN SUPPORT OF H.R. 795 HOUSE JUDICIARY SUBCOMMITTEE NO. 2

Mr. Chairman and Members of the Subcommittee, I appreciate this opportunity to testify in support of H.R. 795, a bill which would provide compensation for firemen not employed by the United States who are killed or injured in the performance of duty during a civil disorder. May I begin by extending my compliments to the Chairman of this Subcommittee, the Honorable Gentleman from Massachusetts, for his foresight in holding these hearings.

In recent months, particularly with the competition of university sessions last spring, there were many incidents involving the safety of firemen.

In Washington, D.C. firemen trying to reach arsonists blazes on the American University campus were pelted with stones until the police moved in with tear gas.

Earlier, youths at Howard University in the Capital drove off firemen responding to an alarm, then set the fire truck afire.

While most jobs are becoming safer, fighting fires is growing steadily more hazardous, a situation that is severely hampering recruiting. The number of fire fighters killed annually in line of duty since 1964 has more than doubled, from under 40 to 92 last year.

The major cause of such deaths used to be smoke inhalation, according to a spokesman for the International Association of Fire Fighters. More recently, however, the fireman is in peril due to his assistance in civil disorders besetting the country. The disorders of 1969–70 have shown sporadic fires set purposely. Over 600 firemen were injured due to civil disorders last spring alone.

In fact, the United States Department of Labor rates fire fighting as the second most hazardous occupation after mining.

The recent harassment of the firefighting approaches guerrilla war. Rocks and bottles are commonplace; Molotov cocktails have been thrown at trucks; windshields have been shattered by snipers' bullets. Firemen entering a burning building have had to dodge heavy objects hurled from the roof. A major problem is that arsonists lure firemen out of position with false alarms before applying their torches, and then set booby traps: loosened fire escapes, weakened stairs, and sheets of cardboard placed over holes in the floor.

State laws providing benefits for the dependents of policemen and firemen killed in the line of duty vary widely. A survey conducted by the American Law Division of the Legislative Reference Service in mid-1969 indicated that, exclusive of workmen's compensation laws or general pension plans, nineteen States provided no special benefits. Twenty-four states did provide benefits to dependents of firemen and policemen in the event of death in the line of duty though some restricted availability of benefits on the basis of the cities the men served. Three States restricted the benefit program to firemen, and four States limited it to policemen. While there may have been changes in the past year, this is an indication of the wide range of variations in the programs in the different States.

The legislation I am sponsoring would provide security for the firemen and the families of these men, who must face the anxiety of harassment, injury and sometimes death, each time a fire alarm is pulled in a local neighborhood. Security would be provided for this civil servant who willingly extinguishes the fires of his city, his State and his nation.

The 90th Congress enacted legislation—Public Law 90–291—which became law on April 19, 1968, which, for the first time, provided benefits for law enforcement officers employed by State or local governments who might be killed or seriously injured while apprehending violators of national law. I had the pleasure of co-sponsoring this legislation. While this was a step forward, it did not apply to firemen who are injured or killed while on duty, or to policemen fatally injured while performing non-Federal duties.

Such expanded coverage would be justified because the job of law enforcement and fire protection has, in many respects, become a national responsibility.

In 1969, while introducing similar legislation, Senator Birch Bayh pinpointed the issue: "Whenever a public safety officer dies or is seriously injured while protecting his fellow man, his sacrifice and that of his family have been in the interest of the whole Nation."

He continued, "Accordingly Congress should recognize this national responsibility by helping compensate those who become casualties in the common task of preserving law and order. Our country owes them no less than a guarantee that neither they nor their dependents will suffer undue economic disadvantage because of physical harm which has befallen them while answering their call to duty."

As President Johnson observed in his 1966 crime message to Congress, "Crime does not observe neat jurisdictional lines between city, State and Federal Governments."

Therefore, it is a responsibility of the Federal government to help relieve the suffering and loss of earning power resulting from deaths or injuries suffered by firemen, whether or not a specific attributable Federal function can be proven to be involved.

A chief sponsor of this legislation, the Honorable Andrew Jacobs, explains the underlying premise of such Federal legislation saying, "Congress has made the determination in its passage of legislation creating the Law Enforcement Assistance Administration that there is a Federal interest in the fight against crime. It seems most callous for the Federal Government to aid in the funding of the fight against crime, yet turn its back when one of our law enforcement officers should fall in that battle."

The benefit program provided by H.R. 795 would be supplementary to and adjusted in accordance with any State or local compensation to which a fireman was already entitled, except that any amounts which the employees had contributed to the fund would not be deducted from the Federal payment.

While H.R. 795 applies specifically to firemen, the exact procedure by which assistance is extended to the families of public safety officers killed in the line of duty or to those who become totally disabled is basically immaterial. I will support any plan that would give aid and comfort to police and firemen who face such daily dangers.

In sifting through the ashes of the recent civil disturbances, this man on the front lines of the urban and university crisis is a human factor that cannot and must not be overlooked. I urge immediate passage of this protective legislation to which he is entitled and which is long overdue.

Thank you.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,500 American prisoners of war and their families.

How long?

XUM

HOPE FOR THE ENVIRONMENT

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. ROBISON. Mr. Speaker, it has only been recently that we as a nation have taken a good hard look at our environment and what man has done to degrade the bounty of nature, but fortunately when we took that hard look, what we saw scared us into action. In our growing affluence, we had forgotten the first rule of the road that you do not—indeed cannot—destroy the system upon which you rely for your very existence. There is much that must be done to correct past abuses, some of which may not bear fruit in our lifetimes; but unless we wish to pass to our children the legacy of a dying planet, we must deal with the problem now. Rhetoric and hysterics are not needed—what is needed is a reasoned attack on the problem.

I offer for the consideration of my colleagues an article written by the president of the Conservation Foundation, Mr. Sydney Howe, which appeared in the fall 1970 issue of Water Spectrum. This article, better than any other which I have seen, describes the need for a balanced and rational approach to our environmental problems. Mr. Howe sees the recent concern over the environment as giving us new hope for environmental quality. Mr. Howe's article follows:

NEW LOOK IN CONSERVATION BRINGS NEW HOPE FOR ENVIRONMENTAL QUALITY

(By Sydney Howe)

We are in a time of exploding public recognition that the house of man has some rotten beams. The decay is not news to early observers of pollution, blight and unbalanced human crowding, but the vast new public recognition is their best news in years. Now we have a chance to stop decay, perhaps even to restore our house for those who follow.

Historically, American conservation has focused upon the preservation of wildlife and wild places, the productivity of soils, forests and waters, and recreation for mobile people. Great accomplishments by dedicated workers in these fields have given the country a singular heritage which must be conserved and expanded. But now there is a "new look" in conservation.

Charles C. Johnson, Jr., head of HEW's Environmental Health Service and an outspoken new conservationist, described it well when he commented recently that the "narrower ethic of the conservation movement which emphasized rural or wilderness preservation [has] of necessity been broadened to encompass the whole environment of man."

The new litany of environmental issues is recited often. For the sake of definition, I would emphasize air, water and noise pollution, solid waste disposal, metropolitan crowding and blight, urban recreation demands, highway location and design, and pervasive pesticides and radioactivity. All stem from a rampant technology which, with all its blessings, brings unwanted or unsensed byproducts. The same technology multiplies pressures upon basic natural resources, making their conservation more complex.

As the concerns of conservation have broadened, so has the variety of people and groups striving to respond. Citizens are reacting to signs of change they do not like by voting increasingly for environmentally aware candidates and for bond issues to treat waste and save open space. When given the opportunity, they turn out in surprising numbers to testify for a better environment. More and more frequently, the activists include professionals in law, biology, engineering, chemistry, economics, government, medicine and many other fields. In many communities across the Nation, sophisticated volunteer experts are bringing a potent new dimension to public concern.

New organizations and new coalitions are forming to fight environmental battles. Perhaps most conspicuous are the new regional groups demanding strict air pollution control at State hearings required by the (Federal) Air Quality Act of 1967. These coalitions include familiar conservation forces, health groups, women's clubs, civic organizations, students and union members. With the backing of scientific and legal expertise, they add up to political clout that is heard and felt where decisions on clean air standards are made.

On a national level, a confrontation with Federal budget restrictions on grants for municipal waste treatment was pressed by an ad hoc "Citizen's Crusade for Clean Water" in the spring of 1969. The Crusade was conceived among more or less traditional conservation groups, which have fought long and hard for clean water, but with the wisdom that others who now share their conviction are more powerful. The resulting lineup included the National Association of Counties, National League of Cities, U.S. Conference of Mayors, League of Women Voters, Consumer Federation of America, U.S. Conference of City Health Officers, AFL–CIO, United Automobile Workers and the United Steelworkers of America.

As the Crusade's huge constituency piled messages into Washington from across the country, legislators already seeking an expanded grant program began to get through to their colleagues—ultimately a majority of them. Congress turned an Administration request for $214 million in fiscal 1970 into an appropriation of $800 million.

There will be many more ad hoc coalitions in the future as specific environmental issues face decision or neglect. There will be more permanent coalitions, as well, of the kind originated by the California Planning and Conservation League, The Colorado Open Space Council, and Conservation 70's in Florida. These and other councils forming almost daily are meeting grounds of broad environmental interest, where common positions are hammered out, following study and discussion, and then are advanced in unison by many groups.

Equally important will be the emergence of staffed "environmental service centers" which provide information, hold training workshops and sponsor studies for which a wide range of environmental interests have common need. The Rocky Mountain Center on Environment and the Potomac Basin Center have been created solely to serve others. Many good membership organizations, local and national, also extend such services far beyond their own constituencies.

In the northeast States there are already hundreds of town conservation commissions—units of local government which enable citizens to participate effectively in decisions on their environment. There are efforts afoot to spread this concept to county and municipal governments throughout the country, and the time is just right.

More lawyers are applying themselves to environmental problems, both as paid counsel to citizen groups and as volunteers. They are filing many legal actions to halt environmental degradation. They constitute a force which, in the next 5 or 10 years, may well change the rules of environmental management, especially by tying down constitutional interpretations defining the public's right to a clean environment.

Consumers and their organizations are espousing environmental causes as pollutants extend into almost every realm of life. And, of course, the students of the country are fast becoming one of the most potent forces for restoration of man's home. They are just organizing, but the ferment on college campuses is loud and growing, and is quite properly leveled at past errors of the "establishment." The Environmental Teach-Ins held on many campuses are just a beginning.

Another kind of broadening of the conservation base should be expected. So far, this field has been largely the terrain of middle and upper class whites. But the poor and the immobile have an equal stake in environmental quality. They have been preoccupied by other pressing problems, but their interest in the urban environment is bound to expand. Inadequate open space and fouled air and water do their greatest harm to those who lack the outlets of escape.

Many persons consider the present proliferation of environmental organizations to be confusing and inefficient. Sometimes it is both. But there may be strength and health in such diversity. In my experience, the useful organizations survive because they have good people who advance their missions well. They find, almost by tacit agreement, that each organization has a special arena in which it excels, and that there are many ways to scratch one another's back. And, with so many persons seeking vehicles to press their own concerns for the world around them, it should not be surprising that the existing ones do not always suffice. The upshot is many "conservation" voices, more often in unison than not, with generally positive effects.

I do worry about the newly concerned citizen who feels he must sort it all out before he accepts the word of this or that group. There are great needs for broadly-based, nongovernmental national and regional centers of information and guidance on environmental issues.

It goes without saying that governments at all levels are beginning to reflect public impatience with environmental insults. As President Nixon signed the National Environmental Policy Act of 1969, he said, "The 1970's absolutely must be the years when America pays its debt to the past by reclaiming the purity of its air, its waters, and our living environment. It is literally now or never." The Act not only establishes a high-level Council on Environmental Quality to advise the President, it also directs all Federal agencies, to the fullest extent possible, to include in every recommendation for legislation and other actions significantly affecting the human environment detailed statements of their probable impacts. These statements must define alternatives to the proposed action and the relationship between local short-term environmental effects and the maintenance and enhancement of long-term productivity. Agencies are also directed to review their present authority and regulations, policies and procedures, to see if they are consistent with the purpose of the new law.

In sum, then, there is a broad environmental awakening across the land. It in-

XUM

volves new people, new coalitions and new laws. It is fueled by impatience and intolerance for continued environmental degradation, and by determination to do something about it. As a result, environmental conservation has achieved a great momentum.

What, then, does all this portend? What does it mean for those government agencies, such as the Corps of Engineers, which have important mandates and duties which do not necessarily blend smoothly with values dear to environmentalists? Put another way, "How can development and conservation organizations work more effectively together to serve the public interest? Indeed, can they? Or must they always be on opposite sides of the ramparts?"

To this, I can only answer no, they need not always be on opposite sides. And even when they are, this is not necessarily bad.

Much of the democratic system is based on healthy confrontation between men of strongly opposed views. This is not only stimulating and interesting; it also aids the search for right answers. There are two sides—or more—to every question, and it is important that all sides see the light of day in close examination. In the evaluation of any project affecting the environment, it is important to assess all the costs and all the benefits, and there is a sensible trend in this direction.

When I say healthy confrontation, I mean several things. I mean an honest and responsible espousal of differing opinions and alternatives; a mutual respect for the assessments of others; a patient willingness to sit down and talk, and to listen; an honest attempt to cooperate and, in many cases, to discover what the other fellow and his constituency will swallow as a credible compromise!

Before discussing some techniques for cooperation, I would like to digress for a moment, into personalities, as it were. There is often a tendency to condemn or belittle conservationists as over-excited, negative and irresponsible, blindly opposing any project or program involving development. In other quarters, there is a tendency to condemn all "developers" as destroyers and polluters of the environment. There have been excesses, certainly, in both directions. This should not be surprising in view of the fact that environmental quality—so important and personal to almost everyone—is at stake.

Clouds of pollution, filthy and smelly waters, ugly strips of land along highways, destruction of natural valleys—all these products of growth and development trigger emotional reactions in people. This is perfectly natural. People who get riled up and do things are important in our society. I would make two observations on this. First I would suggest that, even in cases where emotion seems to grab the upper hand over reason, those who disagree with the emotions expressed do so with some tolerance for the vehemence or lack of objectivity that may accompany them. There are few in this world who can maintain both a supreme calm and objectivity when dealing with complex, emotion-laden issues. It is only natural to fight for one's views aggressively (and we are speaking of verbal, not physical militancy), if only to effectively counter those of the opposition.

Secondly, I would suggest that conservationists—while not abandoning the emotional involvement which gives rise to their efforts—take pains to educate themselves on their subjects, so that their arguments are as knowledgeable and responsible as possible, and their suggestions are rational and positive. Indeed, this is the approach which they are rightfully demanding of those they criticize.

We sometimes hear such statements as "Lake Erie is dead," and others which have a categorical, doomsday ring. A responsible conservationist may find such statements unnerving, because they are not completely true, or not provable, or not technically accurate. In short, they are rhetorical rallying cries. Few would argue with "Much of Lake Erie is dead or dying and is beyond restoration in our time," but who wants to rally under that? At the same time, those who present or pursue slogans alone will and should find the real environmental infighting beyond them. I know and admire many erstwhile laymen who, having versed themselves in the basic knowledge of environmental science, law and government, influence public policy constantly because legislators and administrators respect them. These people don't worry much about slogans.

The question we need to come to grips with is this: How can conservation and development interests come together for effective problem-solving? One basic need, whenever "the public interest" is at stake, is greater effort to involve the public in decision-making. And as early as possible. Not after plans have been firmed up, priorities set, preliminary decisions made. Not when there is nothing left for the public to do but react, because this automatically induces the negative response so widely decried by would-be developers. It is illustrative to recall that years of bitterness, court fighting and administrative turmoil went by before the public won the right, by Federal law, to meaningful participation in highway planning.

Developers and planners should learn what all kinds of people really want, even if this means reaching out beyond the public hearing process. They should welcome the give-and-take, for it is a challenge, and a more interesting challenge than parochial, in-house decision-making. Developers and planners should give the public complete and unbiased information, so that the public interest can be recognized in full. There can be great value, also, in regular informal dialogue between conservationists and developers. There must be open doors and open minds, as well as open hearings.

On the institutional side, there is no doubt that development-oriented agencies, including the Corps of Engineers, are expanding their own environmental outlook and staff capacities. Some special agencies have been created to let diverse interests share in environmental judgments. One such agency is the San Francisco Bay Conservation and Development Commission, whose name is significant—conservation and development. Last year, the BCDC was given permanent status by the California legislature. Its plans for San Francisco Bay involve not only a large measure of beauty and human enjoyment, but sensible allowances for commercial development which meets carefully conceived qualifications.

The BCDC has had no less than 27 members, representing almost every conceivable viewpoint on San Francisco Bay. They met frequently while developing an initial plan, and every member was subjected to the same exhaustive information concerning the Bay and pressures upon it. Their ultimate agreement on a plan that would conserve the Bay was almost unanimous. I know of no more vivid, current and promising convergence of conservation and development forces.

The Conservation Foundation is engaged in a series of demonstrations which may help resolve conflicts between conservation and development. One Foundation project is concerned with development-prone lands surrounding the National Audubon Society's Rookery Bay Sanctuary, just south of Naples, Fla., on the gulf coast. We have concluded that the area "can be profitably developed by private owners and at the same time the Sanctuary can be safeguarded by proper planning and development." In fact, we found that protection and enhancement of the Sanctuary are basic to profitable quality development of the surrounding area and will advance the economic self-interest of the developers. Our report recommends creation of a single mechanism to coordinate planning and development, and suggests specific actions by local authorities, landowners and developers. The county board has passed a resolution supporting these recommendations, which, we are advised, have influenced a number of other development projects.

Another Foundation project in the series involves the Tinicum Marsh area adjacent to the Philadelphia airport. In addition to planning for wise use of the marsh, there is concern for disruptive effects of interstate highway I-95. Significantly, the Tinicum Project Committee is not fighting the location of the highway, but is merely seeking adoption of techniques to minimize its environmental damage.

At Bolinas Lagoon, on the Pacific shore just north of San Francisco, the Foundation is engaged in evaluation of ecological factors attending dredging, highway-fill and other development proposals. Ecologists, possessing a still very inexact science, are reluctant to predict the impacts of alternative development schemes, but planners and the public have great need for their best possible estimates. So we are sticking our necks out at Bolinas, hoping to sharpen decision-making criteria for local citizens and planners.

A few years ago the Foundation sponsored a study by the Landscape Architecture Research Office of Harvard University's Graduate School of Design. The result was a report entitled "Three Approaches to Environmental Resource Analysis," focusing on a portion of the Delmarva Peninsula between Chesapeake Bay and the Atlantic. We were pleased that the Corps of Engineers (New England Division) thought enough of the study to contract with the Research Office at Harvard to do a sequel. One report was published last August—"A Comparative Study of Resource Analysis Methods."

Given the history of American conservation and development, it is hard to envision a time in the future at which there will not be contending forces in the quest for environmental quality—be it flood control, recreation development, preservation of natural areas, or even pollution control. With the growing demand for stricter, more comprehensive analysis of alternatives, there must be more attempts by all sides to cooperate in finding solutions.

Population must be controlled, but for the visible future we must expect great development to serve those already born. There are more than enough of us here now to mess up the land we have left, unless we find and adopt forms of development which respect natural systems and human needs.

A lot of money and seemingly endless time are involved in environmental decisions. Both the benefits and the costs are measured on a massive scale. The impact of many individual projects and the broad development policies applied by public and private authorities are shaping our future. There will be many more squabbles and some knock-down, drag-out brawls, but these can be minimized by men of good will who strive for understandings which can endure.

This is a time for rational application of resource management principles and techniques based on ecological imperatives, while there is still time to reverse the process of environmental destruction.

XUM

OUR NATION IN PERIL

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. FISHER. Mr. Speaker, the Daily Oklahoman of Oklahoma City, one of the great newspapers in the United States, carried a front page editorial on the 30th of September which I think should be brought to the attention of all of the Members of the House. The editorial writer for the Oklahoman got the message of Chairman L. MENDEL RIVERS' great speech on the floor of the House on September 28 and performed an important service in bringing this message in crisp language to the attention of his readers. The editorial will provoke thoughtful reflection in the minds of all who read it. I call it to the attention of all my colleagues.

OUR NATION IN PERIL

The United States is "in terrible jeopardy and the future of this nation hangs by a thread." This is the statement of the man who should know better than perhaps anyone else the overwhelming superiority of Russian military power on land and sea as compared to the deteriorating and enfeeebld condition of our Navy and to a considerable extent, our Air Force.

Congressman L. Mendel Rivers, chairman of the House Armed Services committee, in a speech to the Congress, at long last made public the deplorable deterioration of our military power. Chairman Rivers declared, "We seem hell-bent on national suicide."

This is the first time that a congressman has sounded such a warning of our national danger while the majority of congressmen are still clamoring for further reductions in our defense budget in order that money may be switched to other channels to create more popular votes for their reelection.

For five years, the United States built no submarines and during the same period Russia has built hundreds. It now has an assembly line producing one new nuclear submarine each month. The United States has a thousand Minuteman missiles in place, each Minuteman about one megaton in size while Russia has hundreds of SS–9 missiles each carrying a warhead of 25 megatons.

Secretary of Defense Laird announced last April that the United States had reduced its megatonnage by more than 40 per cent. Russia has now deployed 10,300 megatons compared to the United States' total of 3,500. Russian surface ships, both Navy and some merchant marine, are equipped with nuclear missiles while our navy has not been allowed to place nuclear missiles on surface ships.

Just last week it was announced that Russia is building a submarine base in Cuba. We know that the Gulf of Mexico is now a playpool for Russian submarines armed with nuclear missiles and Russian submarines are frequently seen off our Atlantic coast.

Since the Air Force first deployed our B–52 bombers, Russia has produced three new types of bombers and our only new bombers are scheduled for production in 1974.

Nearly all our Navy surface vessels are old, many of them over 20 years, and we are continually discarding ships to the mothball fleet.

For our nation there is nothing so important as the ability to survive but Chairman Rivers says, "We seem hell-bent on national suicide."

The question is, will Congress or the people of this nation wake up in time to prevent our national destruction?

XUM

THE SIDE-LINES ARMY

HON. WILLIAM T. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. MURPHY of Illinois. Mr. Speaker, I recently came across an interesting article in a September issue of the Oil Daily. The article deals with the tragic waste, both in the military and in industry, of many capable and qualified people who have had to retire from positions that they have had for many years. In a large number of cases, the military and industries have turned away people who are both physically and mentally willing and able to continue with their work and the employees are forced to leave their life's work at a time when their interest and abilities are still good. I believe the following article expresses this problem quite clearly:

THE SIDE-LINES ARMY

(By Keith Fanshier)

One may have frequent opportunity in goings—and—comings around the country to make contact with longtime oil industry friends now on the retiree list, and not simply those active in industry responsibilities. This writer has such privilege.

These people are not exactly the forgotten men. Most still receive annuity payments. Yet strangely enough all too many of the thousands upon many thousands of these people seem to make up a decidedly reserved sort of "silent majority" insofar as concerns any meaningful continuing relation with the industry and its affairs.

It is striking, and not too comforting to the good of the industry, that all too many of these vast army are far from happy with their old industry—or certainly not with their specific former employer. They do not feel a part. They not only are in a sense withdrawn from constructive relationships. Many of them are decidedly a negative factor, not just capable of, but actually, wielding unfavorable attitudes with their "public" and in their general social relationships toward this same oil industry.

The subject admittedly is too complex to cut across it with a single stroke applicable to all cases and the whole phenomenon. And admittedly, there are still many loyal old-time industry and company "fans." These are bound to be a fine asset. But our own concern, and we think it should be one of the whole industry, is the waste and the loss and the danger to industry well-being represented by the others.

In the many problems and needs of this industry, with its perils and its enemies, one of the most potent positive forces for helping to protect and aid it should be this vast number of "graduates." They in effect are a potential "Peace Corps" out where the generally-thought-of kind of action doesn't happen, but in a grass-roots environment where another kind of action very definitely does happen. Not only is their total accumulative influence enormous, but each individual impact upon his personal world of contact is peculiarily influential. To all his acquaintances, he in effect is this industry.

All this is not to berate industry and company policy. Such policy embraces heavy and complex responsibility, especially in these days of extraordinary pressures on all sides. And it is true that apparently there are many relatively and reasonably happy members of this "army." It also is true that it is true that it is the nature of the human animal to tend to criticize and to magnify the ills of a situation.

But, instead, this is simply a current report that in this vital segment of industry people, good will is not as extensive as it should be in particularly sensitive but oft-overlooked potential element for advancing the cause of this great industry.

At a time when the industry certainly needs every friend it can have, every erg of energy industry management can apply in any direction that could enhance this situation—would seem capable of manifold return.

NATIONAL GALLERY OF ART CALENDAR OF EVENTS: OCTOBER 1970

HON. JAMES G. FULTON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. FULTON of Pennsylvania. Mr. Speaker, it is a pleasure to place in the CONGRESSIONAL RECORD the Calendar of Events for the month of October 1970 of the National Gallery of Art.

In addition to the outstanding schedule of events, the National Gallery now has on exhibition its most recent acquisition "The Artist's Father" by Paul Cezanne, which was acquired through the generosity of Paul Mellon. Also, during the month of October, the Gallery will continue the fall showings of "Civilisation," Sir Kenneth Clark's excellent film series.

The calendar follows:

NATIONAL GALLERY OF ART—CALENDER OF EVENTS

RECENT ACQUISITION

The Artist's Father by Paul Cézanne, the Gallery's most important single acquisition since the Leonardo da Vinci in 1967, goes on exhibition September 29 in Lobby D. The painting, shown only twice publicly and never in the United States, was acquired through the generosity of Paul Mellon, President of the National Gallery.

The life-size portrait is the earliest (1866) and largest (78⅛ x 47 inches) of the Gallery's twelve paintings by Cézanne, the most important and influential of those artists working in the late 19th-century. The portrait was painted when Cézanne was only twenty-seven and just beginning to gain a small amount of recognition—this in part due to Émile Zola, the novelist and at the time a critic for the widely read Paris newspaper *L'Evénement*.

In May of 1866, Zola had published a letter supporting Cézanne and stressing how much he had profited from their ten-year-old friendship. In reply to this tribute, Cézanne, according to the noted art historian John Rewald, portrayed his banker father reading *L'Evénement*.

Posed frontally and painted with sharp contrasts, Louis-Auguste Cézanne is seen as a strong and distant personality, which indeed he was. He controlled his son's life, but at least allowed him financial security so that he never had to think of customers for his pictures.

MARY CASSATT 1844–1926

Continuing on view in the Central Galleries through November 8, an exhibition of one hundred works by Mary Cassatt, including oils, pastels, and graphics, the largest exhibition ever held of the work of this important American Impressionist. Included are a number of paintings never before shown in the United States as well as seldom-seen pictures from the Cassatt family and several European collections.

This exhibition is being shown only in

Washington and is the sixth in a series of retrospectives which the National Gallery has organized honoring important American artists, the first to honor a woman. A fully-illustrated catalog ($4.75) and a full color poster in a limited edition, featuring *The Boating Party*, a painting in the collection of the National Gallery, are available in the Gallery's publications rooms adjacent to the exhibition. The poster is on sale for $5.00 during the exhibition, $10.00 afterward.

RECENT GRAPHIC ARTS ACQUISITIONS

This exhibition, featuring an important and rare landscape drawing by Sir Anthony van Dyck, formerly in the collection of Jonathan Richardson, Sr., and Sir Joshua Reynolds, will be on view in Gallery G–19 from October 5 through November 15. Other works include prints by Pieter Brugel the Elder, José Ribera, Salomon Koninck, Jean-Baptiste Oudry, Camille Pissarro, John Sloan, and Max Beckmann.

THE INFLUENCE OF REMBRANDT ON 19TH-CENTURY LANDSCAPE PRINTS

This exhibition, exploring the impact of Rembrandt's treatment of nature upon the landscape prints of several 19th century and early 20th century artists, will be on view in the east ground floor corridor from October 10 through November 30. These include Jean-Baptiste-Camille Corot, Seymour Haden, Charles Francois Daubigny, Alphonse Legros, and Muirhead Bone.

FALL "CIVILISATION" SHOWINGS CONTINUE

The Fall showings of "Civilisation," which began on September 13, will continue through December 12. Each week, one film of the thirteen part series by art historian Kenneth Clark will be shown daily at 12:30 and 1:30 p.m. in the Auditorium. No tickets needed for admission, which is on a first-come, first-served basis.

GALLERY AND CAFETERIA HOURS

The Gallery is open weekdays and Saturdays, 10:00 a.m. to 5:00 p.m., and Sundays, 12 noon to 10:00 p.m. Cafeteria hours: weekdays, 10:00 a.m. to 4:00 p.m.; luncheon service 11:00 a.m. to 2:30 p.m.; Sundays, dinner service 1:00 to 7:00 p.m.

Monday, September 28, Through Sunday, October 4

*Painting of the Week: Degas. *Four Dancers*, (Chester Dale Collection), Gallery 85, Tues. through Sat. 12 & 2; Sun. 3:30 & 6.

Tour of the Week: *Classical Subjects Outside of Italy*. Rotunda, Tues. through Sat. 1; Sun. 2:30.

Tour: *Introduction to the Collection*. Rotunda, Mon. through Sat. 11 & 3; Sun. 5.

Sunday lecture: *Degas: Movement, Space, and Time, Guest Speaker:* Lincoln F. Johnson, Professor of Fine Arts, Goucher College, Baltimore, Auditorium 4.

Weekday Film—"*Civilisation*," III: *Romance and Reality*, 12:30 & 1:30.

Sunday film—*Civilisation*," IV: *Man—The Measure of All Things*, 12:30 & 1:30.

Sunday concert: *Beethoven and His Contemporaries*, National Gallery Orchestra, Richard Bales, *Conductor*, Virginia Eskin, *Pianist*, East Garden Court 7.

*11" x 14" reproductions with texts for sale this week—15c each. If mailed, 25c each.

MONDAY, OCTOBER 5, THROUGH SUNDAY, OCTOBER 11

*Painting of the Week: Piero della Francesca. *Saint Apollonia* (Samuel H. Kress Collection) Gallery 4 Tues. through Sat. 12 & 2; Sun. 3:30 & 6.

Tour of the Week: *The Mary Cassatt Exhibition*. Central Gallery Tues. through Sat. 1; Sun. 2:30.

Tour: *Introduction to the Collection* Rotunda Mon. through Sat 11 & 3; Sun. 5.

Sunday lecture: *Women Artists, Speaker:* Margaret Bouton, Curator in Charge of Education National Gallery of Art, Auditorium 4.

Weekday film—"Civilisation," IV: *Man-The Measure of All Things*, 12:30 & 1:30.

Sunday film—"CIVILISATION," V, *The Hero as Artist*, 12:30 & 1:30.

Sunday concert: *Beethoven and His Contemporaries*, National Gallery Orchestra, Richard Bales, *Conductor*, East Garden Court 7.

Inquiries concerning the Gallery's educational services should be addressed to the Educational Office or telephoned to (202) 737–4215, ext. 272.

MONDAY, OCTOBER 12, THROUGH SUNDAY, OCTOBER 18

*Painting of the Week: Nattier. *Joseph Bonnier de la Mosson*, (Samuel H. Kress Collection) Gallery 53, Tues. through Sat. 12 & 2 ; Sun. 3:30 & 6.

Tour of the Week: *Late Nineteenth-Century French Painting*. Rotunda, Tues. through Sat 1; Sun. 2:30.

Tour: *Introduction to the Collection*, Rotunda, Mon. through Sat. 11 & 3; Sun. 5.

Sunday Lecture: *Mary Cassatt and Degas, Guest Speaker:* Adelyn D. Breeskin, Curator of Contemporary Art, National Collection of Fine Arts, Washington, Auditorium 4.

Weekday film—"Civilisation," V: *The Hero as Artist*, 12:30 & 1:30.

Sunday film—"Civilisation," VI; *Protest and Communication*, 12:30 & 1:30.

Sunday concert: *Beethoven and His Contemporaries, Zsigmondy Violin-Piano Duo*, East Garden Court 7.

All concerts, with intermission talks by members of the National Gallery Staff, are broadcast by Station WGMS–AM (570) and FM (103.5).

MONDAY, OCTOBER 19 THROUGH SUNDAY, OCTOBER 25

*Painting of the Week: Rubens. *The Meeting of Abraham and Melchizedek* (Gift of Syma Busiel) Gallery 41A, Tues. through Sat. 12 & 2; Sun. 3:30 & 6.

Tour of the Week: *The Mother and Child Theme*. Rotunda. Tues. through Sat. 1; Sun. 2:30.

Tour: *Introduction to the Collection*. Rotunda. Mon. through Sat. 11 & 3; Sun. 5.

Sunday lecture: *The Formation of "Art Galleries" in European Palaces, Guest Speaker:* Wolfram Prinz, Art History Institute Johann Wolfgang Goethe University, Frankfort, Auditorium 4.

Weekend film—"Civilisation," VI: *Protest and Communication*, 12:30 & 1:30.

Sunday film—"Civilisation," VII: *Grandeur and Obedience*, 12:30 & 1:30.

Sunday concert: *Beethoven and His Contemporaries*, Philip Lorenz and Ena Bronstein, *Pianists*, East Garden Court 7.

For reproduction and slides of the collection, books and other related publications, self-service rooms are open daily near the Constitution Avenue Entrance.

SEEKS TO IMPROVE PLIGHT OF AMERICAN POW

HON. GEORGE BUSH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. BUSH. Mr. Speaker, today I sent the Honorable Charles Yost, U.S. Ambassador to the United Nations, a letter urging that he use all powers of his office to obtain the cooperation of that organization in working to see that the plight of American prisoners of war in North Vietnam is improved. In the hope that this action might precipitate other innovative actions, I include this letter in the RECORD at this time:

October 7, 1970.

Hon. CHARLES YOST,
Ambassador to the United Nations,
United Nations Building,
New York, N.Y.

DEAR MR. AMBASSADOR: The horror of the treatment American Prisoners of War are receiving at the hands of the Viet Cong and the North Vietnamese is, I think you will agree, appalling.

The use of United States prisoners of war as a negotiating pawn is an unforgivable breach of the elementary rules of conduct between civilized peoples and totally disregards the Geneva Convention on Humane Treatment of Prisoners signed by North Vietnam and 125 other countries. Secluding the prisoners, depriving him of all contact with the outside world, and not permitting him to receive mail or packages, not informing his family whether he is well or alive, are indeed, most inhumane.

I strongly urge that you use the powers of your office to bring this deplorable situation before the United Nations, urging that the North Vietnamese comply with the Geneva Convention provisions on POWs which they signed in 1957. This includes the identification of prisoners, free exchange of mail between POWs and families, impartial inspection of POW camps, and release of seriously ill or injured prisoners. I also urge that you call upon the other countries, who were parties to the 1949 Geneva Convention, to pursue this same goal.

With best wishes, I am
Yours very truly,
GEORGE BUSH,
Member of Congress.

STATEMENT OF MR. ASHLEY ON LEGISLATION TO AUTHORIZE A MID-DECADE CENSUS OF POPULATION, EMPLOYMENT, AND HOUSING

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1970

Mr. ASHLEY. Mr. Speaker, I introduce, for appropriate reference, a bill to provide a mid-decade census of population, employment, and housing in 1975 and every 10 years thereafter. This bill is sponsored by 21 members of the House Banking and Currency Committee, which feels very strongly that, at least in the field of housing, the Federal Government simply must have more recent and useful basic data to legislate effectively in our housing programs. This legislation has been considered by the Subcommittee on Census and Statistics of the House Post Office and Civil Service Committee over several Congresses, and, in fact, was once passed by the House. The Senate, however, did not take action. The Subcommittee on Census and Statistics has recently completed hearings on the need for a mid-decade census. I am authorized by the House Banking and Currency Committee to introduce this bill and subsequently to submit a statement to that subcommittee. On behalf of the House Banking and Currency Committee, I urge favorable action on this legislation.

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